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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS
SECOND SESSION

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United States
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# Congressional Record

PROCEEDINGS AND DEBATES OF THE *101st* CONGRESS, SECOND SESSION

## HOUSE OF REPRESENTATIVES—*Wednesday, May 16, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Give us, O God, the spiritual maturity to recognize our weaknesses, the honesty to see our own faults, and the integrity to admit that we are not always the people You would have us be. We realize that it is easier to see the sins of someone else and to miss the selfishness in our own hearts. May Your grace, O God, so enlighten our very souls that we may seek Your forgiveness and thus be renewed in mind and spirit. This is our earnest prayer. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SLAUGHTER of Virginia. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SLAUGHTER of Virginia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 267, nays 113, not voting 52, as follows:

[Roll No. 109]

YEAS—267

Anderson
Andrews
Annunzio
Applegate
Archer
Aspin
Atkins
Barnard
Bartlett
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clement
Clinger
Coleman (TX)
Combest
Conte
Cooper
Costello
Coyne
Crockett
Darden
Davis
de la Garza
DeFazio
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Luken, Thomas
Lukens, Donald
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Miller (CA)
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Patterson
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Richardson
Rinaldo
Robinson
Roe
Rose
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schulze
Schumer
Serrano
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Solarz
Spence
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—113

Armey
Baker
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Courter
Cox
Crane
Dannemeyer
DeLay
DeWine
Dickinson
Douglas
Dreier
Duncan
Edwards (OK)
Fawell
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hawkins
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hyde
Inhofe
Ireland
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McGrath
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Oxley
Pashayan
Paxon
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)

NOT VOTING—52

Ackerman
Alexander
Anthony
AuCoin
Ballenger
Bates
Brown (CA)
Collins
Condit
Conyers
Craig
Dellums
Dixon
Dymally
Dyson
Engel
Flippo
Ford (TN)
Gilman
Hastert
Hayes (IL)
Hunter
Kolter
Leath (TX)
Levine (CA)
Lowey (NY)
Manton
Markey
McCrery
Mfume
Mineta
Morrison (CT)
Murphy
Nagle
Neal (NC)
Nelson
Parris
Payne (NJ)
Porter
Poshard
Rangel
Rhodes
Ritter
Rostenkowski
Sharp
Stark
Traxler
Unsoeld
Walsh
Washington
Williams
Young (FL)

□ 1022

Mr. BOSCO changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, this morning I was unavoidably detained away from the Capitol while participating in a seminar in Arlie, VA. Unfortunately, I was not present to vote on rollcall No. 109, regarding the Speaker's approval of the Journal. Had I been present, I would have voted "yea."

## PERSONAL EXPLANATION

Mr. ACKERMAN. Mr. Speaker, it has come to my attention that I was recorded as not voting when, in fact, I was present and voting in the Chamber.

I was marked as "not voting" on the Speaker's approval of the Journal—presumably rollcall No. 109. I was present, I did insert my voting card, and I did vote "yea." My votes apparently were not recorded due to a malfunction of the voting system.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Maryland [Mrs. MORELLA] please come forward and lead the House in the Pledge of Allegiance.

Mrs. MORELLA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2584

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 2584.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

## THE BUDGET SUMMIT

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, the administration has called a budget summit due to a weakening economy which is leading to greater deficits. They say the assumptions used for unemployment, interest rates and inflation have changed for the worse, so rather than go back to submit a new budget President Bush has summoned the elders to a private summit.

But what about the American people? Do they not have a right to know what is going on in the economy? Our chairman of the Budget Committee, the gentleman from California [Mr. PANETTA] asked Richard Darman, OMB Director, to come before the Budget Committee and the American people to detail the changes in the economy that are leading to this private summit. Darman will only come to a private meeting which he will do this afternoon with the Budget Committee.

But why not a public meeting, I ask? Could it be that Mr. Darman is embarrassed about the illogical assumptions he put before the Congress just a few months ago, or could it be he does not want to talk about the savings and loan mess or the billions in interest on the national debt which buys nothing but a credit crunch?

Mr. Speaker, if we are in such bad straits I think Mr. Darman ought to come forward in public. The American people ought to hear, and let us get on with fixing the crisis.

## REPORT ON ANTI-DRUG-ABUSE EFFORTS IN EDUCATION

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, last Wednesday the Secretary of Education reported to the Select Drug Committee about anti-drug-abuse efforts in our education system.

The report was good. A model drug prevention curriculum for grades K-12 is soon to be released and interagency coordination has increased.

However, I am here today to discuss another issue of importance.

Schools, colleges and universities that have not implemented drug prevention programs and policies by October 1 will lose all Federal funds.

I repeat, all Federal funds.

It is the kind of get-tough attitude we have needed for a long time, but we must do everything we can to get the word out to our schools to put these important programs in place so our children do not pay such an expensive price.

The Department of Education is getting the word out. I am telling all my schools. I urge you to do the same. Let our children know about the devastation of drugs before they use them.

## WHAT HAS CHANGED IN OUR ECONOMY?

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, a question for the Bush administration: What has changed? They say there is economic trouble ahead and we need a summit on the deficit, and when we have asked what trouble, what has changed, we are told by the administration, "Well, we'll tell you, but in secret, behind closed doors."

How about whispering this fiscal policy secret to the American people? We can handle it. What has changed? What is different?

Do Members know what I think? I think it is a softening economy and an exploding, expanding savings and loan scandal, and means potential, very troublesome expanding Federal deficits.

But why not share this with the American people? Adlai Stevenson said trust the American people, trust the American people with the facts, trust the American people to make the right decisions.

Share the secret with us, Mr. President, so we can make the right decisions about America's future.

## THE IMPORTANCE OF BIPARTISANSHIP TO ENACT COMPREHENSIVE CAMPAIGN FINANCE REFORM

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, as Congress begins debating comprehensive campaign finance reform, I rise today to stress the importance of bipartisanship to achieve this significant goal.

To be successful, we must not act in the interest of our parties, but in the best interest of our country and our democratic process. Only then can we act decisively to enact the legislative changes needed to ensure greater public participation, to reduce the influence of special interests upon incumbents and challengers for office, and to increase the competitiveness of our elections. We need negotiations and actions, not partisan posturing to counteract the prevailing public belief that excessive campaign contributions may be corrupting our election and legislative process.

Criticism of our present system of congressional elections has been bipartisan. The public's eroding faith in Congress has been bipartisan. The solution to these problems should, therefore, also be bipartisan.

Mr. Speaker, let us now act with foresight, so that we can enact reforms in this Congress. I urge my colleagues to improve the confidence of the American people in this institution, and rekindle the spirit of comity which has carried us through this session, by engaging in serious bipartisan negotiations to construct comprehensive campaign finance reform legislation.

□ 1030

## WHAT ARE THE INTENTIONS OF THE ADMINISTRATION AT THE SUMMIT?

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, the first summit has ended. Having reviewed the comments offered by members of the administration, nothing appears clearer to me now than before it began. This it would appear is a summit without substance.

What circumstances are there that have called the administration to bring together this extraordinary meeting? What is it that happened with our economy and our budget? Mostly, what ideas do they propose to bring forward?

Nothing is clearer now than it was before. Indeed Mr. Darman, the Director of the OMB, has refused to come to the Budget Committee before the American people and give any explanation about why the President's previous assumptions are wrong or what it is he intends to do.

Mr. Speaker, summits have their value but they are not an excuse to avoid accountability or to have failed to answer the American people about the state of our economy or our budget.

## LET US PASS AID FOR PANAMA-NICARAGUA TODAY

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, on December 20 American forces liberated Panama. Twenty-three Americans lost their lives making the supreme sacrifice for this effort.

On January 4 a congressional delegation headed by the majority leader of the House of Representatives went to Panama and promised quick aid.

On February 6 the President requested $500 million for Panama. On March 13 the President requested $300 million for Nicaragua. On March 27, H.R. 4404 was reported by the Committee on Appropriations. On April 3 H.R. 4404 passed the House.

On April 24, H.R. 4404 was reported by the Senate Appropriations Committee. On May 1, H.R. 4404 passed the Senate. On May 3, H.R. 4404 was sent to conference. The House adopted the Conte motion to instruct the conferees to agree to census, food stamps, and veterans' amendments and to insist against any non-dire-emergency items by a vote of 388 to 8.

On May 9 the conferees met. They adjourned subject to the call of the Chair. Mr. Speaker, the conferees are scheduled to meet this afternoon at 3 p.m. It is time to pass this aid for Panama-Nicaragua or stay here until we get it done.

## CRIME PAYS UNLESS WE PAY TO STOP IT

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, you have to spend money to make money. Nowhere is this truer than in the savings and loan crisis. The crooks who saddled us with this debt are getting away because the administration refuses to spend the money to catch them and recover the money.

The crooks who plundered the savings and loan industry are enjoying their gains and laughing at the taxpayers.

More than 21,000 criminal referrals involving financial institutions have been made, but the Justice Department is actively pursuing only about 6 percent of them. Nearly 20,000 crooks will apparently get to keep and enjoy their thefts. Yet the administration opposes appropriating $25 million of the $75 million authorized by the thrift bill to prosecute bank fraud and recover the stolen loot.

We are facing a possible bailout expense of $500 billion. How can the administration claim that the additional $25 million is not needed, when nearly 20,000 criminal referrals will not be investigated? The administration's enthusiasm for prosecuting these crooks lasted only as long as it was front-page news.

Let us appropriate the additional $25 million and go after the savings and loan crooks.

## BALANCED-BUDGET AMENDMENT SHOULD BE ON TABLE

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the budget summit has begun because we have not been able to come to terms on our own about the deficit which is consuming us from within. The interest on our debt alone is almost beyond comprehension. The cash outlay for the interest in fiscal 1990 is $175 billion, but if you read the fine print and include all interest, including interest for off-budget obligations, the figure would be in excess of $240 billion or more than we shall pay for Social Security. Everything is supposed to be on the table.

Well, is it? Nobody wants to mention taxes; the President is waiting for suggestions from Congress, and the majority is gleefully waiting for the President to impale himself on the T word.

There is a crisis; and it is time we need to face up to it. We need to do one of two things: Either freeze all spending at last year's levels, or increase taxes—but couple this with a constitutional amendment to balance the budget or a line-item veto.

I favor and again am advocating a budget freeze—everyone easily could realize the fairness of this—everyone would tighten their belts together.

But if we cannot do this—we must pass an amendment to force the issue—Americans work until May 5 for tax freedom day. We cannot push this date into July while we increase spending for everybody's pet project. It is time to bite the budget bullet.

## THE SECRET IS OUT OF THE BAG—LAST YEAR'S DEFICIT OVER $200 BILLION

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the big secret is out of the bag. Richard Darman said last year's deficit will be over $200 billion.

Now what a surprise. Even the bag ladies knew that in January.

Ladies and gentlemen, America is going bankrupt and it is not hard to figure out. We borrow $200 billion a year and then we take that borrowed money from the rich countries and give it away in the form of foreign aid to the so-called poor countries.

But that does not just take the cake: We then borrow hundreds of billions of dollars from the rich countries and then we take that borrowed money and then we defend those same rich countries that lend us the borrowed money in the first place.

Now figure it out: Americans are living on borrowed time. Maybe Mr. Darman's plan is to take the debts off budget.

Ladies and gentlemen, I say that America does not need a tax increase; America needs some common sense. The tragedy is we do not even spend this borrowed money to help the people in our own country who are now living on borrowed money.

## LET US NOT LEAVE HERE UNTIL WE PROVIDE THAT BRIDGE LOAN FOR NICARAGUA

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, I just came from a meeting 45 minutes ago with Secretary Eagleburger of the Department of State who read a letter from Mrs. Chamorro, the newly elected President of Nicaragua, in which she said her country is bankrupt, liter-

ally out of money, unable to bring in food, fertilizer for the farmers, seeds so they can grow their crops.

Now the Democratic side of the aisle fought Contra aid and said the real answer is free elections in Nicaragua. They got it.

Their President said there were free and fair elections there. Now they are going to starve the people of Nicaragua for voting wrong. That is an outrage.

The people of Nicaragua deserve to eat. The farmers deserve to grow their crops and we should have voted a month ago on that aid package and gotten it to the White House for signature.

The President wanted it by April 15. This is May 16. If we have any compassion for people, children, women who are at home trying to eat in a country that has been destroyed and looted by a Communist government, let us put it on the line, let us vote today and let us not leave here until we provide that bridge loan for Nicaragua.

□ 1040

## ABOLISH DRAFT REGISTRATION

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, draft registration is a symbol that has outlived its usefulness. President Carter announced the resumption of a draft registration in response to the Soviet invasion of Afghanistan, and President Reagan supported it following the crackdown on Solidarity. The Soviets have left Afghanistan, and Solidarity now runs the Polish Government.

The Pentagon is furiously planning for reductions in force in a belated reaction to a changed world order. So why are we still paying $26.3 million a year to plan for a massive mobilization that will not happen? The fact is, draft registration has nothing to do with military readiness. If there were a true national emergency, draft registration would not put a single soldier on the front line 1 hour earlier.

Mr. Speaker, registration for the draft is a $26.3 million symbol that we do not need, we cannot afford. Let Members end the permanent authorization for registration for the draft, and reduce the real threat to America's security—the deficit.

## CONGRESS SHOULD BE EMBARRASSED

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, the Congress of the United States ought to be embarrassed. The Congress of the United States ought to be embarrassed. The people of Nicaragua vote for democracy and the Congress of the United States tries to kill it. The Congress of the United States ought to be embarrassed. The people of Nicaragua vote for democracy and the Congress tries to kill it.

Way back in March, the President asked for $300 million in emergency economic aid. Why? Because the Sandinistas looted government property before they left office. They granted huge pay raises to their Sandinista bureaucracy before they left office, and they passed lameduck laws aimed at preventing the new government from trimming the bloated bureaucracy. They put the country into bankruptcy. The democracy has asked for our help. The President has asked for help, and the Congress has not responded.

The Congress of the United States ought to be embarrassed. The people of Nicaragua voted for democracy and we are trying to kill it. The Congress ought to be embarrassed.

## THE DEFICIT IS WORST TAX OF ALL

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, all this talk about who wants new taxes, Democrats or Republicans, misses the essential point. With the economy faltering and the administration's earlier rosy projections failing, either revenues rise or deficits rise. Take your choice. It is not what anyone, Republicans or Democrats, want to happen. It is what will happen.

So which is worse—a rise in deficit or a rise in taxes? Here, the key is to remember that the deficit is a tax by another name. It is a tax to the monetary system instead of through the fiscal system. Many experts believe that the deficit of the United States causes our interest rates to be about 2 percentage points higher than they would otherwise be. If a person has a $40,000 home mortgage, that is $800 per year tax on your family due to the deficit. If a person has a $10,000 car note, about a $200 tax is due to the deficit. But note, a deficit through the interest rate system is a tax without revenues. It does not help the Government get out of the deficit. So taxophobia is great for colorful political rhetoric like "Read my lips," but fails to reduce the deficit or cut the deficit, and continue to compound the worst tax of all—the deficit.

## AID TO NICARAGUA NOW

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, why are we willing to humiliate our allies? Why are we willing to humiliate our friends? Why are we willing to hold the hopes of a war-weary people hostage to narrow partisan politics here in the House? Why are we willing to disgrace our President by not allowing him to fulfill a promise we have all said we stood behind, of a mere $300 million in bridge aid to Nicaragua, so a new democracy can turn the fortunes of that war-torn nation and can provide the peace and economic opportunity that we know those people so desperately want.

Why are we willing to disgrace our own leadership? After all, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Georgia [Mr. GINGRICH] promised speedy action a couple of months ago when they were down there, face to face. Why do we humiliate our friends when we could break loose that aid tonight?

## MYSTERY SURROUNDS 1985 GANDER PLANE CRASH

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, I rise today with a sense of sadness and disbelief with yet another example of how our government agencies want to continue to hide the truth about the 1985 Gander plane crash which killed 248 of our elite soldiers of the 101st Airborne Division.

Last week, customs officials seized personal papers of Arif Durrani, a convicted arms dealer, who is in prison for his role in selling weapons to Iran.

In the search warrant, customs cited and then seized documents of concern to the press and investigative persons who have been working with me and who interviewed Durrani concerning his knowledge of the Gander crash.

Mr. Speaker, I cannot help but suspect that the Customs Service, the administration, as well as other government agencies are very anxious to find out what the press knows, what Durrani knows, and what I know about the mystery surrounding the Gander crash.

## TRANSPORTATION EMPLOYEE ALCOHOL AND DRUG TESTING ACT OF 1990

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, I am delighted to be joined today by my colleague and friend, Mr. HUGHES, to introduce critically important legislation

requiring mandatory drug and alcohol testing of transportation professionals.

The Transportation Employee Alcohol and Drug Testing Act of 1990 will require testing for drug and alcohol use by the operators of aircraft, railroads, commercial motor vehicles, and mass transportation vehicles. It protects the rights of those tested by incorporating guidelines established by the Department of Health and Human Service [HHS] on laboratory accuracy, as well as protections for individual privacy.

In 1988, the Department of Transportation [DOT] issued rules—most of which became effective last December—to require drug testing of nearly 4 million transportation workers. While this is certainly a step in the right direction, our legislation will provide the DOT with the statutory authority necessary to prevent court challenges. It will also require the DOT to supplement their program with requirements for alcohol testing.

The evidence of drug and alcohol use in the transportation industry is overwhelming. In January 1987, a crash between a Conrail freight train and an Amtrak passenger train at Chase, MD resulted in 16 fatalities and 170 injuries.

The Conrail train's engineer and brakeman subsequently testified that they had been smoking marijuana in the cab prior to the fatal accident. Since this tragedy, there has been an average of one railroad accident every 10 days involving drugs or alcohol.

In March, a Southeast Pennsylvania Transportation Authority [SEPTA] train crashed killing three people and injuring 94. Transit authorities subsequently announced that one of the motormen on the subway train tested positive for cocaine use.

A Northwest Airlines crew was recently arrested for operating a jetliner with 91 passengers on board while under the influence of alcohol. All three pilots were found to have blood alcohol levels above Federal Aviation Administration [FAA] limits. Fortunately, the aircraft landed without incident.

In February, the National Transportation Safety Board [NTSB] announced the results of a 1 year study of fatal truck crashes in eight States. The NTSB found that 33 percent of the truck drivers who were killed in these crashes were drug or alcohol impaired.

These threats to public safety are why the Supreme Court has found testing programs to be within the limits of the Constitution—both Federal Railroad Administration post-accident testing of railway workers and U.S. Customs Service drug testing requirements for employees seeking promotions. Moreover, the court has let stand several appeals court rulings allowing random tests for those in safety-related positions.

The fact is that large numbers of transportation employees work in an environment with little, if any, direct supervision. A strong deterrent, such as the threat of being detected and sanctioned for drug and alcohol use is, therefore, a necessity.

We rely upon the vigilance of trained employees to remain alert to occurrences that might endanger our safety. Those who drink alcohol or use illegal drugs simply have no business holding a sensitive travel or public-safety job through which they assume responsibility for innocent lives.

Mr. Speaker, the presence of alcohol and illegal drug use in the transportation industry poses far too serious a threat to ignore. Drug and alcohol testing is the only method we have to reasonably ensure that transportation professionals will not use drugs or alcohol.

The fact is that random testing works. Since the Department of Defense instituted random testing, drug use has dropped from 27.6 percent in 1980 to 4.8 percent in 1988. The Coast Guard started random testing in 1983 and has seen a drop in drug use from 10.3 percent to 2.8 percent in 1988.

Further, the public supports testing. A recent Gallup Poll found that 80 percent of all Americans surveyed favored testing of those in public safety positions. Moreover, our bill will require rehabilitation programs that give employees the opportunity to come forward and get help before they are identified through testing as a drug or alcohol abuser.

While our legislation is substantially the same as S. 561, introduced by my colleagues, Senators HOLLINGS and DANFORTH, it goes beyond this Senate bill by including Urban Mass Transit systems. The Hollings/Danforth legislation has passed the Senate nine times since it was first introduced in 1987.

Mr. Speaker, the need for this legislation is obvious and the time for action is now. Enactment of this legislation will strengthen efforts already underway in the transportation industry. The potential for disaster created by those who abuse alcohol and illegal drugs while employed in safety sensitive transportation positions mandates that we do everything we can to eliminate the cause of the threat. I urge my colleagues to consider the importance of this issue and join us in this bipartisan effort.

## PRELIMINARY ACID RAIN STUDY COMPLETED

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the $600 million acid rain study is not officially out until September. But here are the preliminary results. This 10-year study, which was supported by the environmentalists in 1980, now opposes it, because it does not say what they wanted it to say. If Congress disregards this, then they are throwing $600 million of your good, hard-earned tax money down the tube. This cockamamy idea that the sky is falling is nothing but hogwash, and here is what it says right here, if Members take a look. "Worst fears on acid rain are unfounded." And the study finds no environmental crisis.

Yes, there is a problem, but not to the degree that it should cause taxpayers 750,000 jobs, which is what the Carnegie-Mellon University says. Consider your vote. We need a workable solution to this, but do not destroy an economy because of bad faith.

## THE ROLE OF CONSTITUENCY IN LOCAL POLITICS

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, what has traditionally made America unique and truly democratic is grassroots involvement in politics. It is local politics that creates an aware and informed citizenry. What we are witnessing now, however, is a crisis in local politics. Campaigns are relying less on volunteer organizations from their constituency, and more on national media consultants.

We must again localize congressional elections. We must again provide an elections process that truly represents the will of the people. We must serve and be beholden to our constituents, as the Founding Fathers intended. As a major step in this direction, we should require Members to raise at least a majority of their campaign funds from individuals in their home district.

Unless we encourage constituent participation in campaign finance, we are saying to the American people that special interest money from Washington, not local participation, counts most in elections for Congress.

Mr. Speaker, to preserve the great American tradition of local involvement in politics, we must increase the role of constitutents in campaign finance.

□ 1050

## THE HEALTH INSURANCE COUNSELING AND ASSISTANCE ACT

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, I am pleased to be introducing today, along

with my colleagues, JIM MOODY and MARILYN LLOYD, the Health Insurance Counseling and Assistance Act. I believe this bill will help senior citizens make the best and most cost-effective decisions about their health insurance needs.

The Health Insurance Counseling and Assistance Act will provide grants to the States for the establishment or improvement of programs providing one-on-one health insurance assistance and counseling to the elderly.

This bill is needed because there is currently widespread confusion about what exactly Medicare covers. For instance, a recent study by AARP discovered that more than one-third of older Americans believe that Medicare will cover long-term nursing home expenses. Counseling programs can correct such misconceptions by offering independent, objective information about the Medicare program and its benefits.

Misinformation about Medicare contributes to a second problem: duplicative purchasing. Many Medicare beneficiaries purchase policies that cover benefits already provided for by Medicare or purchase duplicative or unneeded policies to fill in the gap between Medicare coverage and their health needs. Unfortunately, we have all heard too many stories about high-pressure sales tactics causing Medicare recipients to purchase policies that they do not need.

Counseling has proven to be a cost-effective way to inform seniors and prevent multiple coverage under Medigap policies. For instance, in Maryland, as a result of counseling, a woman with duplicative coverage was advised to drop one policy, resulting in savings of $2,000. And in Idaho, counseling program volunteers referred a man with duplicative policies to the insurance commissioner's investigative office, whose efforts resulted in a refund of $11,000 to the man. Unfortunately, not all States have these programs in place.

I must note that we have a very effective program in North Carolina run by Insurance Commissioner Jim Long. The Seniors Health Insurance Information Program [SHIIP] trains volunteers to help senior citizens review policies and to answer their questions about their rights and the insurance agent's responsibilities in marketing health care policies.

I am enthused about this bill because it can help the North Carolina program expand its reach and help other States to join this effort. The bill includes specific language to encourage States with existing programs to offer more health insurance information services, experiment with new methods of outreach and expand programs to geographic areas currently underserved.

We all know that most people—particularly retirees—feel vulnerable because of the cost of health care and insurance in this country. While this legislation does not begin to address all these problems, it does take a solid step to ensure that consumers have adequate and accurate information when they make decisions about health care insurance policies. I hope my colleagues will join us in this effort.

## A PLEA FOR AID TO CENTRAL AMERICAN NATIONS

(Mr. KYL asked and was given permission to address the House for 1 minute, and revise and extend his remarks.)

Mr. KYL. Mr. Speaker, we are all heartened by the events in Eastern Europe where democracy has seemed to break out, and we want to assist those people to begin to develop their economies and further guarantee freedoms for their people. Then why are we turning our backs on the people in our own hemisphere, the people in Panama and in Nicaragua?

It was February 6 when the President sent to us his aid request for the people in Nicaragua and Panama. Our soldiers helped the Panamanians gain their freedom from the grip of the pressure that Manuel Noriega has held them in, and our country backed the process that led to democracy in Nicaragua. Why are we turning our backs on these people now?

Surely it is not because the Congress does not support democracy in this hemisphere. Surely it is not because the Congress wants to go back on the commitments we have made. Surely it is not because the Congress wants to embarrass President Bush. His policies in Panama and Nicaragua have been supported in the Congress. Surely it is not because we are too busy with other things. We could do this in just a matter of minutes. We could do it right now. As my colleague previously said, Congress ought to be embarrassed. America is embarrassed.

Mr. Speaker, let us get the President's request for aid acted on before we go home for the Memorial Day recess. Not to do so is to turn our backs on democracy in this hemisphere.

## A TRIBUTE TO MS. HATTIE FRANKLIN

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, today I would like to rise in recognition of Ms. Hattie Franklin. Ms. Franklin is a constituent in my district, as well as a close friend.

Ms. Franklin's dedication and spirit of volunteerism has reached and positively impacted thousands of upper elementary, middle, and high school students in my district. These students have had the opportunity to learn the curriculum of the We The People Bicentennial Program. These materials introduced the students to the Founders of our country, historical background of the Philadelphia Convention, and the issues and philosophies that shaped the writing of our Constitution. Students learn how our Government is organized and how it protects the rights and liberties of all citizens. Students learn of the responsibilities which accompany the rights of citizenship in a democracy. We cannot expect students to be appreciative of democracy unless they learn what democracy entails and of the price that our ancestors paid to obtain democracy. This lesson is especially important and relative to their lives as people throughout the world are struggling and dying for an opportunity too participate in a democracy.

Creative and pertinent lessons are imperative in peaking student's interests in learning and this program has been a success in this effort. The Sixth District of New York and I personally thank Ms. Franklin for her initiative to share herself with our children. Ms. Franklin is a true inspiration to our community.

## COMMEMORATING ASIAN-PACIFIC AMERICAN HERITAGE MONTH

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I was privileged to have been able to attend a special ceremony this past Monday, May 7, 1990, at the White House where the President signed an official proclamation to proclaim this month as Asian-Pacific American Heritage Month, a special tribute to all Americans who are of Asian-Pacific heritage descent.

Mr. Speaker, I hope you will join hands in celebrating this historical event. As Asian-Pacific Americans, we have a key role to play in helping America maintain its world leadership into the Pacific century, otherwise known as the next American century.

The Federal Asian-Pacific American Council is an interagency group organized to provide a focus for Asian-Pacific American activities within the Federal Government. The Council, through its interagency membership, is responsible for spearheading training awareness of the impact of Asian and Pacific cultures, work ethics, and behavior as related to employment in the Federal work force.

Over the past 5 years, the ability of the Council to plan, coordinate, and implement successfully, ambitious activities—including the first 1986 national training conference and the 1987 and 1989 recognition luncheons for Asian-Pacific Americans holding senior military, public health, civil, and foreign service executive positions—is attributed to, first, the enthusiasm and dedication of Council members and, second, their overwhelming agency support. I can state with confidence that both are essential to the Council's continued success.

Asian-Pacific Americans bring to the national workplace a diversity of cultural perspectives and work ethics; however, they are often misinterpreted which results in barriers to communication, productivity, and advancement.

In an effort to overcome these barriers, I am proud to announce the Council's sponsorship of the third national Federal Asian-Pacific American heritage training conference. The conference will be held in Bethesda, MD, May 30 through June 1, 1990.

Mr. Speaker, I would call upon my esteemed colleagues to commend the Federal Asian-Pacific American Council for their past accomplishments, their efforts to enhance educational and employment opportunities for Asian-Pacific Americans, and to actively support their endeavors.

## EARNINGS TEST

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I just returned from a rally that was held on the steps of the Capitol to raise awareness for a very large inequity that currently exists for retirees. I am speaking of the unfair and inequitable Social Security earnings test. Not only is this elderly tax discriminatory against our senior citizens, but also hurts America as well. By applying effective tax rates of over 50 percent on meager salaries earned by the working elderly, the Federal Government effectively holds many retirees in poverty. Just as badly, America loses valuable skills and extra tax revenue by forcing its most experienced workers into a life of inactivity.

The solution is to repeal the earnings test and allow retirees to work for an honest dollar. I want to urge all of you here who have not already cosponsored H.R. 2460 to do so now. The retirees in your district are waiting.

## HOPE LOOMS FOR DISABLED AMERICANS

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, 26 years ago, Congress enacted the historic Civil Rights Act of 1964. This sweeping legislation bars discrimination on the basis of race, color, religion, sex, or national origin. Unfortunately, the largest minority group in America, people with disabilities, were excluded from the act.

Today, thanks to the leadership of STENY HOYER, GUS HAWKINS, JOHN DINGELL, JACK BROOKS, GLENN ANDERSON, our former colleague, Tony Coehlo, and others, we have the opportunity to extend the same basic civil rights that other members of our country enjoy, to our Nation's forgotten minority, the handicapped.

All too often in our society people who do not have a disability tend to ignore the needs of their disabled brethren. They look past them, or through them. They become irritated because the disabled cannot move as fast as they do. They grow impatient when asked to hold the door for an extra second or two.

Many people look at me, observe me walking with two canes, and attribute my gait, and my hesitancy, to old age. Sometimes I wish that were true and wish that the freedom and joy of running through a park, or playing touch football with children, was not taken from me in my youth. But, as fate would have it, that was not what was in store for my life. As a young man fighting in the Philippines during World War II, I contracted polio. Doctors at first said I may never walk again, but 2 years later, with the assistance of canes like these, I was able to walk, and with these canes I have walked every step of the past 42 years.

However, do not mistake my candor for bitterness—I have no bitterness. I have been blessed in many, many ways. I have a beautiful and loving wife. I have three beautiful children. I have been able to touch the lives of untold thousands of men and women and feel that in some small way I have made their life a better one.

And I am just one person with a disability. There are thousands of disabled Americans like myself who dedicate their lives to helping others. But what if we had not been given an opportunity because of our disability? What if roadblocks had been put up everywhere, what if we were denied access? Many of the 43 million Americans with disabilities face a lifetime of roadblocks, or hurdles they must overcome. For many disabled Americans the hurdles are too high to jump over, the doors are too narrow, or shut in their faces.

The Americans With Disabilities Act removes the hurdles and opens the door—the door to opportunity. Reflect, if you will, on the number of eminently qualified men and women who are disabled. Reflect on the vast contributions these men and women have had on our quality of life. With that type of reflection, I believe you would agree with me that we can ill-afford not to open our arms and embrace disabled Americans. We disabled can contribute. The Americans With Disabilities Act gives disabled Americans those same opportunities and privileges enjoyed by the rest of society. It does nothing more, and should not do anything less.

I urge you to support passage of this deserving legislation.

## AMERICANS WITH DISABILITIES ACT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, when we take up the Americans With Disabilities Act, we should help the disabled but not harm small business in the process. To encourage compliance with the requirements of the new law, a tax credit for small businesses must be provided.

A bipartisan bill to provide a tax credit to small businesses has been introduced and enjoys the support of 186 cosponsors. H.R. 3500, the Small Business Access Improvement Act of 1989, would provide a tax credit for some of the businesses that will be forced by the courts to spend money because of the ADA.

Mr. Speaker, this tax credit is not just a good idea, it is essential. The Rules Committee should allow for the full House to vote on the tax credit. If the rule on the ADA does not allow for a vote on a tax credit for small business, we should oppose the rule and encourage our colleagues to do likewise.

Times may be good for the big guys, Mr. Speaker, the New York Stock Exchange companies, but thousands, maybe even hundreds of thousands of small businesses are struggling. I hope we will not hurt them further by any bills or legislation we pass here in the Congress.

□ 1100

## IN SUPPORT OF AMERICANS WITH DISABILITIES ACT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I would like to salute my colleague, the gentleman from Florida [Mr. BENNETT] for his moving and touching words about the potential for service of people with disabilities.

I, too, suffered from polio that I contracted in 1948 just after my military

service. Doctors told my wife at that time, we were on our honeymoon, that I would never sit up in a chair unless I was strapped up. I made a remarkable recovery, thanks to God, not due to any particular efforts or talents on my own, because the gentleman from Florida [Mr. BENNETT] will attest, I think, that all the people who were afflicted with polio at that time wanted to get better, wanted to have productive lives, wanted to express themselves, wanted to exercise their talents. Some of us were lucky and some of us were not.

But I think this bill is a hallmark piece of legislation that will encourage the integration of people with disabilities into the mainstream of American life.

I congratulate my colleague, the gentleman from Florida [Mr. BENNETT] for his remarks, and I hope it will have smooth sailing through the House.

## CONGRESS DENIES NEEDED HELP TO CENTRAL AMERICA

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, when Congress knowingly denies emerging democracies the help they need in order to just survive, Congress is being destructively irresponsible. That is precisely the situation with regard to Panama and Nicaragua. For weeks this Congress has ignored the pleas of President Bush and the pleas of the democratically elected Presidents of those two Central American countries for the help that they need in order to just survive.

We must act. Democracy could be lost because Congress is playing politics with the help that everyone can see is needed.

## DEMOCRATS WANT TO RAISE TAXES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Democrats want to raise America's taxes.

Let me repeat that again. Democrats want to raise America's taxes. Over the past 10 years on average, revenues to the Treasury have been increased $56 billion a year. That is $560 billion in new revenues over the past 10 years; but Democrats who control Congress have been spending more and more each year on pork barrel projects and new spending programs.

The President does not spend money, the taxpayers' dollars, Congress does. Congress has control of the purse, so do not try to hoodwink the American people.

Democrats do not want to cut spending. Democrats want to spend more and Democrats want to raise America's taxes.

Now, in 1982 we passed the Tax Reform Act, and the agreement was that for every $1 in new taxes they would cut spending by $3. They not only did not cut the spending, they spent the $1 in new taxes and that will happen again. We must not raise taxes. We must cut spending.

## AID FOR CENTRAL AMERICA—DRUG LORDS STILL SLAUGHTERING PEOPLE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, I want to add my voice to the chorus of voices this morning asking the leadership on the other side of the aisle and the moderate wing of their party to get busy and send this money down to Central America. I do not know what the obsession is with Central America, and most of the Democrats in this House being driven by a small band of radical liberals, that no matter how history takes its course toward democracy in Central America, they want to sock it to Honduras, sock it to El Salvador, screw up Nicaragua yet, cut off Panama even in spite of the fact that almost 30 Americans gave their lives down there trying to win freedom.

Mr. Speaker, I came to the floor this morning for a different subject. Two nights ago I saw Chuck Norris film, "Delta Force 2," an excellent job of direction by his brother, Aaron, who is a combat veteran of Vietnam.

The one criticism I had of the film I have to eat today. I thought that the villain in their film, patterned after Pablo Escabar, of the drug leader, Lederer, was overdone; not when you read this morning's paper, 280 people killed in the last few months in Colombia, 10 car bombings, over 300 bombings in all and 28 people murdered just in the last 72 hours.

Mr. Speaker, the drug lords are still slaughtering people, trying to send a message to us that Americans are going to get drugs no matter what we do in this Congress.

## SUPPORT BILL TO REPEAL EARNINGS LIMIT ON SOCIAL SECURITY

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, it is time to repeal the limit on the amount our senior citizens can earn to supplement their Social Security. As of today, there are no more excuses.

A majority of House Members—220—have now cosponsored Congressman HASTERT's bill to repeal the earnings limit. It is wrong to hold up this bill when a majority of the Members support repeal of the earnings limit now.

The evidence from the economists is also now in. There is clearly no truth to the claim that repeal of the earnings limit will lose Government revenue. The facts clearly show, instead, that Government will receive a net increase in revenue from the economic activity spurred by repeal of the earnings limit.

Yes, there are no more excuses. The time to relieve our senior citizens and free them to earn a living without penalty is now. A majority of House Members supports it. Government revenues would be increased in the long run. And our senior citizens deserve to be treated fairly.

There is no reason why we should not repeal the earnings limit this year. It is the right thing to do.

## PROVIDING FOR CONSIDERATION OF H.R. 4151, HUMAN SERVICES REAUTHORIZATION ACT OF 1990

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 392 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 392

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981, and the Low-Income Home Energy Assistance Act of 1981, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor printed in the bill as an original bill for the purpose of amendment under the five-minute rule, by title instead of by section and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may

demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. DURBIN). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. PASHAYAN] for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 392 is an open rule providing for the consideration of H.R. 4151, the Human Services Reauthorization Act of 1990. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The rule also makes in order the Education and Labor Committee amendment in the nature of a substitute now printed in the bill as an original text for the purpose of amendment under the 5-minute rule, amendable by title instead of by section. Each title shall be considered as having been read.

The rule also waives all points of order against the substitute for failure to comply with the provisions of clause 7 of rule XVI. Mr. Speaker, this is a technical waiver of germaneness which is necessary to allow the Education and Labor Committee amendments to be added to the original bill as it was introduced.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 4151 reauthorizes for several important educational and social programs. It is appropriate that we consider this measure today since we are celebrating the 25th anniversary of the Head Start Program this week. This is an excellent program which has helped 11 million poor children since its inception in 1965.

I, personally, have visited Head Start programs in my district of Dayton, OH, and am well aware of the excellent range of services. These children are getting comprehensive education, health, and social services which will make a difference in their lives. It is cost-effective in the long run for us to invest in our children when they are young.

This bill authorizes funds for several other worthwhile programs including Follow Through, State Dependent Care Development Grants, the Community Services Block Grant, and the Community Food and Nutrition Program. As chairman of the House Select Committee on Hunger, I am pleased to see Federal funds going for nutrition education and hunger prevention to complement the other needed poverty programs.

Mr. Speaker, H.R. 4151 is the result of the hearings and careful consultations. I am pleased that we have an open rule, and I urge my colleagues to adopt it.

□ 1110

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 392 makes in order for consideration H.R. 4151, Human Services Reauthorization Act of 1990, under an open rule, with 1 hour of general debate. The rule makes in order the Education and Labor Committee's amendment in the nature of a substitute now printed in the bill as original text to be considered by titles, each title considered as read. Mr. Speaker, this rule waives clause 7, rule XVI, which prohibits nongermane amendments, against the substitute only. And finally, Mr. Speaker, House Resolution 392 makes in order one motion to recommit with or without instructions.

The bill made in order by this rule reauthorizes funding for important human-service programs, such as Head Start, Follow Through, Community Service Block Grants, State Dependent Care Development Grants, the Community Food and Nutrition Program, the Child Care Development Associate Scholarship Assistance Program, and the Demonstration Partnership Agreements.

Mr. Speaker, I support this open rule and urge my colleagues to do the same, so that the House can proceed and debate the provisions of this important legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 8 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, today is a day I have waited for for 25 years. When I first came to Congress in 1965, I was fortunate to be assigned to the Committee on Education and Labor and it was my pride and joy to work as my first major project in the Congress on the Elementary and Secondary Education Act of 1965, which included the Head Start Program, which has since become the jewel in the crown of the antipoverty program.

Mr. Speaker, it is an enriched Head Start Program that is the subject of the amendment sponsored by the Committee on Education and Labor under the leadership of the distinguished gentleman from Michigan [Mr. KILDEE] that I wish to address my remarks to.

I want to pay tribute to the gentleman from Michigan [Mr. KILDEE] for his superb leadership efforts and his unrelenting determination to see Head Start become a reality for every American child. That has really been the driving force in bringing this legislation to the floor today.

Mr. Speaker, not since the GI bill of rights has there been a Government program providing such a rich return. Of the $7 billion in the GI bill spent on college and graduate school, the ratio of benefits to costs per dollar was a minimum of 5 to 1 and a maximum of 12.5 to 1. This means that for every Government dollar spent, the Nation received from $5 to $12.50 in return benefits. And this figure does not include the tax dollars these soldiers-turned-students paid in taxes over their lives. The Head Start Program similarly has an enormous benefit-to-cost ratio.

Over 10 million preschool children have been given the Head Start experience in this country since the program's inception. Studies of the program have revealed remarkable results. Among Head Start graduates, there have been dramatic drops in the need for remedial training, in truancy, in teenage pregnancy, and teenage criminal activity. At the same time, significant gains have been documented in enrollment in Gifted and Talented Programs, scholastic achievement in general, and success in later life.

Head Start is a family program as well as an educational one. It stresses parental involvement, and provides a comprehensive range of services which address not only educational needs and growth, but also social, nutritional, and health needs as well. Head Start students have developed an amazing advantage over their non-Head Start counterparts. The chart that I have brought before you today illustrates the startling evidence that Head Start works. Head Start graduates have a 20 percent better chance of graduating from high school, and are twice as likely to go to college or get jobs than their non-Head Start counterparts. Conversely, Head Start students are much less likely to be arrested or go on welfare.

Mr. Speaker, we are the wealthiest Nation in the world. Yet, up until now, we have refused to make an adequate investment in our country's greatest asset: Our children. How can we be so contemptuous of our own futures? The financial impact of unprepared students entering the job market is staggering. Business coffers are being emptied into remedial training and education for people that were never taught skills as children.

Can we continue to condemn so many disadvantaged youth to futures without hope? The administration proposes a funding level that would provide Head Start to about 20 percent of the young people that need it. Are we to consign the other 80 percent

to failure? But it is not too late for them. My colleagues have a rare opportunity today. By voting for this measure, and fully funding Head Start, we will be investing not only in our children, but in our economy.

For every $1 we spend on Head Start, there is an average return of about $6 in generated revenue. Head Start is the ultimate "bang for the buck" educational program. But it goes further than that. We not only see an economic benefit, but we have a moral imperative to provide a quality education to our youth, and this includes Head Start.

Let us go to the children living on the edge of educational disaster, and fund all young people in need of Head Start training. Since its inception, 11 million children have successfully gone through the Head Start Program.

Mr. Speaker, millions of success stories don't lie. Full funding of Head Start is a necessity we can't afford to pass up. Otherwise, we will end up with a society divided into two structured groups—the haves and have-nots—with have-nots doomed to low or no education and doomed not to receive the benefits and increased productivity that quality education brings.

I do not think we want that kind of a society, Mr. Speaker, either in terms of failing to produce the work force for a productive economy, or moving rapidly toward a two-tiered society of haves and have-nots.

Opponents of this legislation miss the stark reality that we are systematically undereducating millions of young people, many of whom are minorities, and crippling their chances for success in school, at work, as parents and as citizens. Despite the 25-year success of the Head Start enriched preschool program, our society pays for such an indispensable aid to learning for only one out of six impoverished American children at severe educational risk.

This means our society denies more then 80 percent of kids 3, 4, and 5 years old from educationally deprived homes of the basic education skills, nurturing, nutrition and health care that are almost certainly indispensable preconditions to educational success in their elementary and secondary schools, without which these kids are almost doomed to educational failure.

It is a disgrace that so many children from low-income, educationally and culturally deprived families who most need an enriched preschool experience, a disproportionately large share of whom are black and Hispanic, are being denied access to Head Start, at untold cost to the health, vitality and competitiveness of our society.

H.R. 4151 will break this cycle of poverty and low education attainment by authorizing appropriations to allow all eligible 3- and 4-year-olds to participate in Head Start by 1994 along with the 30 percent of eligible 5-year-olds who are not in a public school program. It will also provide funds to improve the quality of Head Start Programs, to improve staff salaries, to upgrade facilities, and to hire additional staff.

As an original cosponsor of this bill, I am very pleased to see it come to the floor this morning.

Mr. President, an important part of the groundwork leading up to passage this morning of H.R. 4151 was laid during more than a dozen hearings on the economic value of education, and early childhood education in particular, conducted during the past few years by the Joint Economic Committee. Many of these hearings were held before the Committee's Subcommittee on Education and Health, which I chair.

During these hearings, an impressive series of corporate chief executive officers from the Fortune 500 group testified passionately about the consensus of business leadership in our country that improving the quality of education for all young people and especially provision of a Head Start experience for deprived minority youth is imperative for our society—a moral challenge to our commitment to education equality and a productive, healthy society.

Mr. Harold McGraw, chairman of McGraw-Hill, Inc., testified that one out of every five workers reads at no more than an eighth grade level, and one out of eight at the fourth grade level, while most of the jobs have considerably higher requirements than that. There are far too many dropouts, who are woefully unprepared to cope, and there are large numbers who finish high school with barely marginal literacy skills. In his testimony, Mr. McGraw said:

> We need to improve the teaching of basic skills in the schools and in particular to reach at an earlier age those children who are at risk for dropping out. And we need to bring parents and children together in literacy and Head Start programs, for most literacy problems have their roots in the home.

Mr. Richard Heckert, chairman of the board of E.I. du Pont de Nemours, Inc., testified that the declining quality of entry-level workers will impair Du Pont's competitiveness in years to come. He said:

> The place to begin improving future competitiveness is in the classroom at the earliest possible point in the education system, teaching clear, two-way communication in standard English and then going on to math and the other disciplines.

Mr. Owen Butler, former chairman of the board of Procter & Gamble Co., testified:

> I am thoroughly convinced that the place where we must change our approach in order to adequately educate those young people is to intervene in early childhood. Many of the high school dropouts, we are convinced, really dropped out in first grade. They cannot compete and nobody likes to do something at which he or she continually loses. The most profitable investment we can make to improve education for that group of children is to intervene early. The evidence, though small, is compelling that the taxpayers' money invested in that kind of early childhood intervention is returned to the taxpayer four times over, plus interest and inflation. There is no better investment in this country.

Other business leaders who testified on the need for early childhood education included Mr. Alan Campbell, vice chairman of the board for ARA Services, Inc.; Mr. Badi Foster, of the Aetna Life & Casualty Co.; Mr. William Wigginhorn, vice president of Motorola Inc.; Mr. James Dezell, of IBM Corp.; Mr. Edward Donley, chairman of the executive committee of Air Products & Chemicals; and Mr. Jack MacAllister, chairman and CEO of U.S. West.

On February 26, 1990, the Subcommittee on Education and Health of the Joint Economic Committee conducted a hearing on The Future of Head Start. The subcommittee heard from six outstanding witnesses, including two eloquent spokesmen for the Nation's business community and four experts on the Head Start Program. The witnesses included Mr. Frank Doyle, senior vice president, General Electric Co.; Mr. William Kolberg, president, National Alliance of Business; Dr. Lynn Kagan, assoc. director, Bush Center for Child Development and Social Policy, Yale University; Dr. David Weikart, president, High/Scope Educational Research Foundation, Ypsilanti, MI; Ms. Patrice Carter, attorney, Raleigh, NC, and a former Head Start participant; and Ms. Sandra Waddell, Head Start director, Beverly, MA.

The witnesses made a number of recommendations during the hearing, and I would like to discuss them briefly here.

Federal spending on Head Start should not be viewed as an expenditure, but as an investment that will have a significant payoff for the Nation in the years ahead.

On this issue, the witnesses testified that spending more for high-quality preschool education today will pay off may times for the Nation and the Nation's businesses in the future by increasing future output and by reducing the economic and social costs that result when large numbers of people cannot read or write or count or are unable to learn.

American businesses currently spend $30 to $40 billion each year on education and training for workers. This is projected to double during the next decade. Mr. Doyle and Mr. Kolberg testified that the positive effect which Head Start has on the effectiveness of

elementary and secondary education for disadvantaged children means that an expanded program would significantly reduce the amount of money businesses must spend on remedial education and thus allow businesses to better target their education and training efforts.

Disadvantaged children who have had a Head Start experience have much lower dropout rates than those who have not. The 700,000 dropouts from each high school class represent, according to Mr. Doyle, a $240 billion economic loss over the course of their lifetimes in the form of wages not earned and taxes not paid. The small investment it would require to fully fund Head Start would thus have a tremendous impact on the Nation's future economic growth simply by reducing the number of youths who drop out of school before earning their high school diploma.

In summary, as Mr. Doyle testified, "investment in education is government at its best and most needed. When it's done right, early investing in education is the best investment of all."

Increased funding for Head Start is an absolutely essential first step in making the United States competitive in world markets.

Major changes are occurring in the American economy that is making Head Start an increasingly important investment for the years ahead. Between now and the year 2000, almost all of the new jobs will require a high school education and most will require a college education. Prospective employees who arrive at the workplace unable to learn and unable to be trained will not find jobs. During the 1970's and 1980's public policy needed to focus on generating jobs for the growing number of people entering the labor force. But labor force growth will be much slower during the 1990's. Public policy must focus on equipping our workers for the millions of new jobs that will be created. As Mr. Doyle testified, our Nation is going to be faced with the tragic situation in coming decades of terrible labor shortages at the same time that may well have rising unemployment.

Unfortunately, we do not have the luxury of time to solve this problem. The globalization of markets and businesses means that employers will take the high-value-added work where there are trained workers; today that not only includes Western Europe and Japan, it also includes the newly industrializing countries of Southeast Asia and Eastern Europe. We are becoming increasingly uncompetitive in the world economy because our workers are not adequately educated.

As Mr. Kolberg testified:

> Head Start is a critical investment in our economic future as we enter a new era of global competition based on technical competence and work force quality. * * * [We must] improve the quality of American public education in order to enhance America's ability to remain competitive and productive in today's world markets.

The President's recommendation to provide $500 million more for Head Start is welcome, but it is only a first step.

According to the 1991 budget, the additional funding proposed for Head Start for fiscal year 1991 will expand the program only to cover 70 percent of eligible 4-year-olds. However, as the rest of this summary explains, much more is needed. To fully fund Head Start, so that it serves all eligible disadvantaged 3-, 4-, and 5-year-olds will require an annual investment of approximately $7 billion. To improve the quality of the program as well may bring the required annual investment up to $10 billion.

Head Start should be available to every eligible disadvantaged 3-, 4-, and 5-year-old.

The Administration's focus on funding Head Start primarily for 4-year-olds derives, according to Dr. Weikart, from a study of the Ypsilanti Perry Preschool project which found that a 2-year program for both 3- and 4-year-olds would be optimal but that if only a 1-year program were available it should be for 4-year-olds. The Perry preschool study thus focused primarily on the benefits of Head Start for 4-year-olds, but it also found substantial benefits for 3-year-olds. Dr. Kagan testified that for certain disadvantaged children, early intervention through a preschool program should begin even before age 3.

Many 5-year-old disadvantaged children would also benefit from continued enrollment in Head Start. Though most States provide kindergarten to 5-year-olds, these programs do not provide the social services and parental involvement that is central to Head Start. As Ms. Waddell testified, "I find that some children need the extra year in Head Start; the parents need the extra year or support in Head Start, and they need more than that 2½ hours in kindergarten." Dr. Kagan testitied, "It's not just children who make the transition from preschool into regular school. Parents do as well, and many parents feel abruptly and artificially cut off from the Head Start home and the Head Start community when the children move on to kindergarten." Head Start should be available to all eligible 3-, 4-, and 5-year-olds if we want to be sure these children are adequately prepared for entrance into the first grade.

Some additional funds should be provided for increasing salaries and benefits of teachers, improving training programs, upgrading facilities, and improving the quality of Head Start Programs.

The witnesses were virtually unanimous in testifying that additional funds should be made available not only to increase enrollments but also to improve the quality of Head Start Programs. Mr. Doyle testified:

> It is important that the additional funds are not solely earmarked to create additional half day program slots for 4-year-olds. Some of these new funds should be constructively spent on increasing salaries and benefits, improving staff training and upgrading facilities. It is imperative that as Head Start is reauthorized and additional money appropriated, that as much emphasis is paid to raising quality as to broadening access.

Dr. Kagan and Ms. Waddell urged that 20 to 30 percent of new funds be earmarked to improve quality. The first priority in their view is additional funds for staff salaries and staff training, to reduce the teacher turnover rate and assure the highest quality education for Head Start participants. Facilities are also becoming an important problem; many school systems and churches have begun reclaiming Head Start space for other educational and social programs. A third priority is additional social service support for parents, many of whom are alone, poorly educated, often homeless and addicted to drugs and alcohol. As Ms. Waddell testified.

> The key to quality is the ability to attract and maintain trained and experienced staff, provide on-going training to staff, establish staffing patterns to meet family needs, ensure transportation systems are updated on a regular basis, and to provide funding so facilities are well-maintained.

Head Start should be fully funded by fiscal year 1994.

The most serious constraint to an expansion of Head Start is the need to train new teachers and find new facilities. Nevertheless, the witnesses urged that Head Start be fully funded as quickly as possible. The fiscal 1991 budget for Head Start should thus include funds not only to expand the program today but also to remove the constraints to full funding by 1994.

Ms. Waddell's statement summarizes the need for full funding as soon as possible: "It is very difficult to have children on a waiting list, knowing they will never have a Head Start experience. Because we know that Head Start benefits children and families, and $1 spent now will save $7 in the future, I urge you to fully fund Head Start."

As Mr. Butler pointed out in his statement to the Subcommittee on Education and Health, investment in education pays a tremendous return to the Nation.

In his February 29, 1990, testimony before the Subcommittee on Education and Health of the Joint Economic Committee, David Weikart, president of the High/Scope Educational Research Foundation, presented detailed

data on the benefits and costs of early preschool programs, based on his 1984 study of the Ypsilanti Perry Preschool Program.

The Perry preschool project is a study begun in 1962, in which 123 black youths from low income families who were at risk of failing in school were divided into two groups at ages 3 to 4 years old—an experimental group which received a high-quality preschool program and a control group that received no program. Information was collected on these children annually from ages 3 to 11, and again at ages 14, 15, 19, and recently at 28.

The study found that, on the whole, early preschool education significantly alters the child's performance later in life. Results at age 19 comparing those who attended preschool and those who did not can be summarized as follows:

In education: Fewer were classified as mentally retarded, 15 percent versus 35 percent. More completed high school, 67 percent versus 49 percent. More attended college or job training programs, 39 percent versus 21 percent.

Concerning work experience: More hold jobs, 50 percent versus 32 percent. More support themselves, 45 percent versus 25 percent. More are satisfied with their jobs, 42 percent versus 26 percent.

In the community: Fewer were arrested for criminal acts, 31 percent versus 51 percent. Lower birthrate, 64 versus 117 per 100 women. Fewer on public assistance, 18 percent versus 32 percent.

The study's benefit/cost analysis of the program show that preschool education is a good investment for taxpayers.

The study found that the cost per participant per program year was about $5,000 in 1981 dollars, properly discounted. This includes costs often overlooked by benefit/cost studies, such as building depreciation, clothing, and volunteer time.

The benefits include a $5,000 savings in compensatory and special education programs per participant, $3,000 in the cost of crime, and $16,000 in welfare savings. In addition, the participants paid approximately $5,000 more in taxes than nonparticipants from their improved lifetime earnings—all figures are properly discounted—for a net benefit of $28,000 per participant.

The benefit/cost ratio was about 6 to 1; that is each $1 invested in preschool programs produced $6 in benefits to society. Since a $5,000 investment would generate $5,000 in additional taxes from participants' improved lifetime earnings, again properly discounted, the program would break even for the Government.

Other studies have also shown a very high return to investment in education. Following the end of World War II, the Federal Government provided $14 billion in education and job training benefits for 7.8 million veterans under the Servicemens' Readjustment Act or, as it was popularly known, the GI bill of rights.

Just over a year ago, the staff of the Joint Economic Committee prepared a benefit/cost analysis of the portion of that total—an estimated $7 billion—that was invested in the 2.2 million GI's who used the funds to attend college or graduate school.

Based on an estimate of the increase in the Nation's total output of goods and services produced by GI bill beneficiaries, this analysis found that the ratio of benefits to costs for the Government's investment in education under the GI bill was a minimum of 5 to 1 and as high as 12.5 to 1. That is, for every dollar the Government invested in education under the GI bill, the Nation received at least $5 in benefits and as much as $12.5 in benefits, properly discounted. These are extraordinarily high ratios of benefits to costs, far above the returns earned by most other forms of investment, either Government or private.

Furthermore, the additional taxes paid by the college-educated veterans during their working lives more than paid for the cost of the program.

Altogether, the extraordinarily high ratio of benefits to costs that this analysis found for the GI bill program suggests that postsecondary education has been, and probably remains, a highly productive form of Government investment for the Nation.

Mr. Speaker, H.R. 4151 is an example of Government investment at its best—investment in children who are in the more risk of education failure and who need the most help in achieving useful and productive lives. This bill will provide extraordinary returns to the American taxpayer and help keep America competitive and vital in the world economy.

Mr. Speaker, I urge my colleagues to observe this moral imperative and to pass this bill.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the eyes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. DURBIN). Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 24, as follows:

[Roll No. 110]

YEAS—408

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|---|---|---|
| Ackerman | Downey | Johnson (SD) |
| Anderson | Dreier | Johnston |
| Andrews | Duncan | Jones (GA) |
| Annunzio | Durbin | Jones (NC) |
| Anthony | Dwyer | Jontz |
| Applegate | Dymally | Kanjorski |
| Archer | Dyson | Kaptur |
| Armey | Early | Kasich |
| Aspin | Eckart | Kastenmeier |
| Atkins | Edwards (CA) | Kennedy |
| AuCoin | Edwards (OK) | Kennelly |
| Baker | Emerson | Kildee |
| Ballenger | English | Kleczka |
| Barnard | Erdreich | Kolbe |
| Bartlett | Espy | Kostmayer |
| Bateman | Evans | Kyl |
| Bates | Fascell | LaFalce |
| Beilenson | Fawell | Lagomarsino |
| Bennett | Fazio | Lancaster |
| Bentley | Feighan | Laughlin |
| Bereuter | Fields | Leach (IA) |
| Berman | Fish | Lehman (CA) |
| Bevill | Flake | Lent |
| Bilbray | Foglietta | Levin (MI) |
| Bilirakis | Ford (MI) | Levine (CA) |
| Bliley | Frank | Lewis (CA) |
| Boehlert | Frenzel | Lewis (FL) |
| Boggs | Frost | Lewis (GA) |
| Borski | Gallegly | Lightfoot |
| Bosco | Gallo | Lipinski |
| Boucher | Gaydos | Livingston |
| Boxer | Gejdenson | Lloyd |
| Brennan | Gekas | Long |
| Brooks | Gephardt | Lowery (CA) |
| Broomfield | Geren | Luken, Thomas |
| Browder | Gibbons | Lukens, Donald |
| Brown (CA) | Gillmor | Machtley |
| Brown (CO) | Gilman | Madigan |
| Bruce | Gingrich | Markey |
| Bryant | Glickman | Marlenee |
| Buechner | Gonzalez | Martin (IL) |
| Bunning | Goodling | Martin (NY) |
| Burton | Gordon | Martinez |
| Bustamante | Goss | Matsui |
| Byron | Gradison | Mazzoli |
| Callahan | Grandy | McCandless |
| Campbell (CA) | Grant | McCloskey |
| Campbell (CO) | Gray | McCollum |
| Cardin | Green | McCrery |
| Carper | Guarini | McCurdy |
| Carr | Gunderson | McDade |
| Chandler | Hall (OH) | McDermott |
| Chapman | Hall (TX) | McEwen |
| Clarke | Hamilton | McGrath |
| Clay | Hammerschmidt | McHugh |
| Clinger | Hancock | McMillan (NC) |
| Coble | Hansen | McMillen (MD) |
| Coleman (MO) | Harris | McNulty |
| Coleman (TX) | Hastert | Meyers |
| Collins | Hatcher | Mfume |
| Combest | Hawkins | Michel |
| Condit | Hayes (IL) | Miller (CA) |
| Conte | Hayes (LA) | Miller (OH) |
| Conyers | Hefley | Miller (WA) |
| Cooper | Hefner | Mineta |
| Costello | Henry | Moakley |
| Coughlin | Herger | Molinari |
| Courter | Hertel | Mollohan |
| Cox | Hiler | Montgomery |
| Coyne | Hoagland | Moody |
| Crane | Hochbrueckner | Moorhead |
| Crockett | Holloway | Morella |
| Dannemeyer | Hopkins | Morrison (WA) |
| Darden | Horton | Mrazek |
| Davis | Houghton | Murphy |
| de la Garza | Hoyer | Murtha |
| DeFazio | Hubbard | Myers |
| DeLay | Huckaby | Nagle |
| Dellums | Hughes | Natcher |
| Derrick | Hunter | Neal (MA) |
| DeWine | Hutto | Neal (NC) |
| Dicks | Hyde | Nielson |
| Dingell | Inhofe | Nowak |
| Dixon | Ireland | Oberstar |
| Donnelly | Jacobs | Obey |
| Dorgan (ND) | James | Olin |
| Dornan (CA) | Jenkins | Ortiz |
| Douglas | Johnson (CT) | Owens (NY) |

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|---|---|---|
| Owens (UT) | Sarpalius | Stokes |
| Oxley | Savage | Studds |
| Packard | Sawyer | Stump |
| Pallone | Saxton | Sundquist |
| Panetta | Schaefer | Swift |
| Parker | Scheuer | Synar |
| Pashayan | Schiff | Tallon |
| Patterson | Schneider | Tanner |
| Paxon | Schroeder | Tauke |
| Payne (NJ) | Schuette | Tauzin |
| Payne (VA) | Schulze | Taylor |
| Pease | Schumer | Thomas (CA) |
| Pelosi | Sensenbrenner | Thomas (GA) |
| Penny | Serrano | Thomas (WY) |
| Perkins | Shaw | Torres |
| Petri | Shays | Torricelli |
| Pickett | Shumway | Towns |
| Porter | Shuster | Traficant |
| Poshard | Sikorski | Traxler |
| Price | Sisisky | Udall |
| Pursell | Skaggs | Unsoeld |
| Quillen | Skeen | Upton |
| Rahall | Skelton | Valentine |
| Rangel | Slattery | Vander Jagt |
| Ravenel | Slaughter (NY) | Vento |
| Ray | Slaughter (VA) | Visclosky |
| Regula | Smith (FL) | Volkmer |
| Rhodes | Smith (IA) | Vucanovich |
| Richardson | Smith (NE) | Walgren |
| Ridge | Smith (NJ) | Walker |
| Rinaldo | Smith (TX) | Walsh |
| Ritter | Smith (VT) | Watkins |
| Roberts | Smith, Denny (OR) | Waxman |
| Robinson | Smith, Robert (NH) | Weber |
| Roe | Smith, Robert (OR) | Weiss |
| Rogers | Snowe | Weldon |
| Rohrabacher | Solarz | Wheat |
| Ros-Lehtinen | Solomon | Whittaker |
| Rose | Spence | Whitten |
| Rostenkowski | Spratt | Williams |
| Roth | Staggers | Wilson |
| Roukema | Stallings | Wise |
| Rowland (CT) | Stangeland | Wolf |
| Rowland (GA) | Stark | Wolpe |
| Roybal | Stearns | Wyden |
| Russo | Stenholm | Wylie |
| Sabo | Strang | Yates |
| Saiki | Studds | Yatron |
| Sangmeister | Stump | Young (AK) |

NAYS—0

NOT VOTING—24

| | | |
|---|---|---|
| Alexander | Ford (TN) | Morrison (CT) |
| Barton | Kolter | Nelson |
| Bonior | Lantos | Oakar |
| Clement | Leath (TX) | Parris |
| Craig | Lehman (FL) | Pickle |
| Dickinson | Lowey (NY) | Sharp |
| Engel | Manton | Washington |
| Flippo | Mavroules | Young (FL) |

□ 1144

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REMOVAL OF NAME OF MEMBER OF COSPONSOR OF H.R. 3732

Mr. ANDREWS. Mr. Speaker, I ask unanimous consent that the name of the gentlewoman from Kansas [Mrs. MEYERS] be removed as a cosponsor of H.R. 3732.

The SPEAKER pro tempore (Mr. DURBIN). Is there objection to the request of the gentleman from Texas?

There was no objection.

## HUMAN SERVICES REAUTHORIZATION ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 392 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4151.

□ 1145

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981, and for other purposes, with Mr. PRICE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule the gentleman from Michigan [Mr. KILDEE] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is truly a pleasure to bring to the House floor a strong bipartisan bill to reauthorize several important education and social programs for 4 years.

The Subcommittee on Human Resources has a history of reporting bipartisan bills and H.R. 4151 is one of the most successful efforts.

Its provisions reflect the input of Members on both sides of the aisle.

Mr. TAUKE, Mr. GOODLING, Mr. HAWKINS, and all the Members of the subcommittee, Democrat and Republican, were extremely helpful in developing the bill before us today, and I thank them for the good will they brought to the process.

Mr. Speaker, I also would like to recognize the gentleman from New York, Mr. SCHEUER. He has been at the forefront in support of Head Start since coming to Congress 25 years ago. As a freshman in 1965, Congressman SCHEUER served on the Education and Labor Committee and helped draft the first Head Start bill. He has been a strong supporter of Head Start ever since.

My colleague and I have worked together long and hard to fully fund the Head Start Program. Not long ago, SCHEUER held 9 days of hearings on the education deficit. As Chair of the Joint Economic Committee's Subcommittee on the Health and Education, he documented the troubled times of the educational system, and provided a wealth of information on the economic benefits of an enriched, preschool experience.

He also brought in the CEO's of major Fortune 500 companies, who all testified on the enormous benefit of an early education. The report he created as a result of these hearings is a blueprint for a superior educational system in America.

For 25 years, Representative SCHEUER has been a powerful advocate for children at economic and educational risk. The work we have done together to provide full-funding for Head Start will go a long way toward breaking the cycle of poverty in this generation.

I wish to commend him again for his fine leadership and unremitting efforts on behalf of Head Start and of educational opportuntiy for all Americans.

The Joint Economic Committee's Subcommittee on Education and Health, which he chairs, held a hearing on Head Start earlier this year.

The testimony from that hearing further reinforced the need for many of the amendments included in H.R. 4151.

Before discussing the provisions of H.R. 4151, I would like to note for the record that Mr. TIM JOHNSON of South Dakota is a cosponsor of the bill. It was only by error that his name was omitted.

H.R. 4151 reauthorizes Head Start, the Follow Through Act, the State Dependent Care Development Grants Act, the community services block grant including the Community Food and Nutrition Program and Demonstration partnership agreements addressing the needs of the poor, and the Child Development Associate Scholarship Assistance Act of 1985.

In 1965, President Johnson created Head Start as a pilot program under the Economic Opportunity Act of 1964.

Since then it has provided more than 11 million preschool-aged children from low-income families with comprehensive services to address their educational, social, nutritional, health, and other needs to help them begin school on an equal basis with their more advantaged peers.

Head Start has an impressive record of achievement and a new set of challenges.

H.R. 4151 addresses these challenges by providing authorizations at levels which will enable the program to serve all eligible 3 and 4 year olds, and 30 percent of the 5 year olds.

It would also target a portion of Head Start funds for quality improvement activities including improvements in staff salaries.

□ 1150

Mr. Chairman, in addition to targeting funds for maintaining and improving program quality, H.R. 4151 requires that each grantee be evaluated at least once every 3 years.

To the maximum extent practicable, this monitoring is to be carried out by

Department of Health and Human Services [DHHS] employees who are knowledgeable about Head Start.

HHS personal are to supervise the evaluation at each site and the monitoring devices used to conduct the evaluations are to be as comprehensive as the program performance standards.

Routine and comprehensive evaluations are an important part of ensuring program quality. To maximize the impact of these evaluations, they are to be accompanied by proper technical assistance, training, and support to assist grantees in providing high quality services.

Mr. Chairman, it is very fitting that the Head Start reauthorization be considered this week as Friday, May 18, 1990, marks the 25 anniversary of the Head Start Program.

During all those 25 years, Mr. Chairman, I have served in a legislative body. I have had contact with people who have benefited by this Head Start Program, people who now are approaching 30 years of age and whose lives have literally been turned around and pointed in the right direction, people who are productive citizens, taxpaying citizens, because of Head Start. I met them legislatively as they appeared before our subcommittee hearings, and I have met them in my community and in communities in Iowa, Pennsylvania, California, and throughout his country. This has truly been a success story. It has been a success story that for 25 years has had support on both sides of the aisle.

Mr. Chairman, the Follow Through Program operates in kindergarten through the third grade and is specifically designed to consolidate and build upon the gains that low-income children have made in Head Start.

Both in purpose and in operation, it is unique among Federal education programs.

It is complete, full day educational program providing a wide range of services.

H.R. 4151 would substantially improve the Follow Through Act.

Title II contains amendments which emphasize the provision of direct services, improve the coordination of Follow Through with Head Start and several other education programs, and authorize new program improvement activities.

H.R. 4151 also extends the State Dependent Care Development Grants Act which has been extremely effective in assisting States to expand the availability of before and after school child care and resource and referral programs for families needing these services.

The Community Services Block Grant Program is the only Federal program specifically mandated to provide a range of services having a measurable and potentially major impact on the causes of poverty.

H.R. 4151 contains several amendments to strengthen CSBG and better enable community action agencies [CAAs], which administer the vast majority of its programs, to serve low-income families.

The Child Development Associate Scholarship Assistance Act distributes funds to States to provide scholarships to low-income individuals to cover credentialing costs of the Child Development Associate credential [CDA].

H.R. 4151 removes two barriers to obtaining the CDA credential.

First, it allows States to use up to 20 percent of its grant to assist DCA candidates pay for the training necessary to obtain the CDA credential.

Second, it raises the eligibility level to 125 percent of the lower living standard.

Mr. Chairman, each of the programs in H.R. 4151 enable important services to children and their families.

I urge my colleagues to join me in supporting the reauthorization of these critical programs.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to speak in support of H.R. 4151, the Human Resources Reauthorization Act of 1990. First, let me congratulate Mr. KILDEE, the subcommittee chair, and Mr. TAUKE, the ranking Republican member on the subcommittee, for their fine work in bringing this bill to the floor. Through much discussion and good faith bargaining, they have worked out their differences and arrived at a package that deserves bipartisan support. These two gentlemen have been doing yeomen's work of late with responsibility for this reauthorization and the child care bill as well.

Congratulations are also in order to the majority and minority staff who have worked very hard to improve these programs and smooth out the differences between the Members.

The centerpiece of H.R. 4151 is the Head Start Program. Head Start is the major Federal program designed to help us reach our national goal of preparing all children for school. The President has endorsed Head Start and asked for the single biggest increase, $500 million, in its history.

Mr. Chairman, I want to point out that I have been trying to say to our committee over and over again that we have to stop just saying that if we just had more money and if we served more people, somehow or other we would cure all the ills. This program needed to be improved. It needed to be improved dramatically. This committee, I believe is bringing forth legislation that will do that.

Several amendments to the Head Start Program before us deal strictly with quality and strictly with improvement, and that has to be our theme if we are going to turn things around. All new and current Head Start grantees will have to involve parents in the education program at the site and refer parents to other education activities in the community. In the past what we have done is to say that parents must participate. In many instances, what they needed most of all was an education. This bill is now strengthened to say, yes, they participate, but they participate by becoming better educated so that when these youngsters go home, they can be the reinforcement they will have to be in order to have these young people improve.

Another amendment will require all Head Start grantees to work with the schools that will receive Heat Start "graduates" so that these young children receive a smooth transition and the progress they have made is not lost. Again, unfortunately, we started out with sort of an adversarial relationship many, many years ago. This is working quite well now, and this reauthorization will say positively that they will work very closely together so there is a smooth transition, because we have discovered that unfortunately we have brought these youngsters along well enough in Head Start that by and large they do not qualify for chapter 1, so by the end of the third grade, after having thrown them in this big pool out there to swim or sink, a lot have sunk.

So this legislation will make sure that there is a good transition and that Follow Through will become part of the transition rather than some independent entity out there, because we must follow the youngsters through so that by the end of the third grade they have not lost all they have gained prior to coming into Head Start.

Let me just mention one thing also about the Community Block Grant Program. It reauthorizes the Community Services Block Grant Program. In my congressional district this is an important program. The Community Action Agency in York has done magnificant things to help the disadvantaged. They have just celebrated their 25th anniversary. They have given us 25 years of outstanding services. They have one program which provides day care to young mothers so they can continue their education and obtain the skills they need to be contributing members of society. They also use their services to send a former drug addict out into the schools to try to deal with the children so they can see firsthand someone who has made a mistake, someone who has changed his life, so they can relate to him, where you and I possibly could not do that.

Again, Mr. Chairman, I could not thank the gentleman from Iowa [Mr. TAUKE] and the gentleman from

Michigan [Mr. KILDEE] enough for their efforts to bring this bipartisan bill to us, a bill that deserves the support of all of us.

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I want to thank the gentleman from Pennsylvania [Mr. GOODLING] for his tremendous support for this bill, especially for Head Start. There has been no greater supporter of Head Start in this House than the gentleman from Pennsylvania, and no one understands it better than he. I appreciate his constant support of this legislation.

Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I want to thank the gentleman for yielding time to me.

Mr. Chairman, I want to say to the gentleman from Michigan [Mr. KILDEE] and the gentleman from Pennsylvania [Mr. GOODLING] also that I want to congratulate both of them for having brought this very worthwhile program forward in a constructive manner. If I have any criticism, it is a criticism of the Congress on the setting of our priorities. We should be doing much more in this area.

When we first put this program into operation about 25 years ago, we had high hopes that we could cover all the target group of people who were eligible, and we selected this rather small target group to work on because of the lack of resources at that time.

□ 1200

Unfortunately the Korean war came along, or the Vietnamese war came along, and we devoted too much of our resources unproductively to that war, and since that time the cold war has attracted our attention, and all of the resources that we should have been putting into this fine program have been siphoned away.

Mr. Chairman, this group of programs builds better individuals, it builds better families, it builds better communities and a better nation, and all of us know that we have got problems in this Nation, problems that need to be corrected.

We look too often to the quick fix, but we know from bitter experience that there is no quick fix, that we have got to do it the hard, constructive way, through better education, better family building, better community building, and the blocks that are in this program are what make for a better individual, a better community, and a better nation.

So, Mr. Chairman, in this debate today let us decide that this is going to be the last time we go ahead in this manner, that we go ahead much more vigorously in the future now that our priorities have had a chance to change.

I would call my colleagues' attention to the fact that so much more needs to be done in the area of medical care and to the legislation which the gentleman from California [Mr. STARK] has proposed that would begin Medicare-type coverage for individuals at the time of pregnancy and take those dependent people through to the time of life when they should be independent and are able to stand on their own feet. We need that along with this fine set of programs here.

So, Mr. Chairman, I congratulate the committee for its shepherding this program for a long period of time in a constructive manner, for the harmonious relationship that it has developed without partisanship and for the skill and the knowledge that has been built up in this program.

However, Mr. Chairman, I say to my colleagues, "We've had enough experience now. Let's move out in this area far more vigorously than we have in the past."

Mr. Chairman, that is going to require that we redirect our priorities, and we can redirect them. This is a strong economic system that we are working from, and we can collect the revenue that is needed for this kind of very needed program. This is the kind of war on drugs that will be successful. This is the kind of war on poverty that will be successful, and we will build a better nation by doing all of it.

So, on the 25th anniversary of Head Start and the probably less than 25 years on some of the other programs that are included in here, we are building on a good foundation, and let us move ahead.

Mr. Chairman, I am going to vote for this bill. I hope all other Members will vote for it.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. TAUKE], the ranking member on the subcommittee, who was very responsible, along with the gentleman from Michigan [Mr. KILDEE], for this legislation.

Mr. TAUKE. Mr. Chairman and members of the committee, the bill that is before us today, the Human Resources Authorization Act of 1990, is the result of months of bipartisan cooperation among the members of the Committee on Education and Labor, and I want to thank the gentleman from Michigan [Mr. KILDEE], the chairman of our subcommittee, for his tireless pursuit of a human resources package that we could all support and champion. And I want to commend his staff and the staff on the minority side of the aisle for their tremendous work in making this a good piece of legislation.

The bill, as my colleagues know, reauthorizes several programs including not just Head Start, but also Follow Through, the Community Services Block Grant [LIHEAP], the State Dependent Care Development Grants and the Child Development Associate Scholarship Assistance Program, and it makes some important policy changes in all those programs.

First, Mr. Chairman, let me take a few moments to address the Head Start Program. Head Start is a wonderful program. We all acknowledge that, and we all support its expansion.

However, Mr. Chairman, it is important at the same time that we acknowledge the wonderful achievements of the Head Start Program, that we recognize, too, that there have been some problems with the Head Start Program. This legislation attempts to address some of the concerns.

First, we have known that we wanted to expand the Head Start Program in order to cover more children. Everybody keeps talking about expanding it, but we also have recognized that, while expansion is necessary, we also had to address quality concerns.

The gentleman from Michigan [Mr. KILDEE] really championed the quality cause. He wanted to insure that we had better salaries for those who were in the Head Start Program, tried to insure that we had a better program, quality program, for those who are participating in Head Start, and, although we had a few rocky moments over the last few months in trying to work out a quality package, I think the bill that we have before us today does insure that we improve the quality of the program that is serving those students who are signed up for Head Start.

At the same time, however, we wanted to expand in order to reach that goal of giving every eligible child access to the Head Start Program. I will say to my colleagues that I am less than comfortable with the expansion of the authorization by over $6 billion. Given our current budget situation, and the deficit and so on, a $6 billion increase in the authorization in just this program was something that I swallow twice when I think about it.

However, Mr. Chairman, I did not oppose this amendment in the subcommittee because I do believe that it is important that we move in the direction of achieving the goal of serving everybody. Whether or not a $6 billion increase in the authorization does that, I plain do not know. I think we kind of pulled that figure out of the air. It is subject to a lot of debate, but, in any event, I believe it should be looked at as an effort on the part of our subcommittee and committee to say to the Members of the House, "We want to insure that we improve the quality of the program on the one

hand and expand it to serve all eligible individuals on the other."

There are a couple of amendments that were offered by the gentleman from Pennsylvania [Mr. GOODLING], my good friend and our ranking member of the full committee, that deserve attention. The first has to do with parental involvement in education.

Mr. Chairman, I applaud the gentleman from Pennsylvania [Mr. GOODLING] for his continued leadership in this area. This is one of his causes, and, due to his diligence, we have amendments to the human resources bill calling for the elevation of the parental role in children's education and the requirement that Head Start grantees assist parents in obtaining necessary education services so that they could help their children achieve full potential, and I think that is a giant step in the right direction.

The second change proposed by the gentleman from Pennsylvania [Mr. GOODLING] is in the area of transition to elementary schools. We will now require that Head Start grantees coordinate with the schools that will ultimately serve the children who are currently in a Head Start Program, and I think that it is very important that we have that kind of coordination and that we make special efforts to prepare the children and their families for the transition to elementary school.

The next area that should be mentioned, Mr. Chairman, is the Follow Through Program. Follow Through has been the subject of controversy for almost as long as I have been in the Congress. It is a program that has wonderful intentions. It has done some good things, but it has been a program that is in limbo. Essentially it was a demonstration grant program, and we have been demonstrating for almost a quarter of a century, and we have not, as a result of those demonstrations, ever moved to a program that served all of those who were in Head Start and followed through on them, if my colleagues will, to make certain that the benefits of Head Start carried over. What we find, as we looked at those who had gone through the Head Start Program, is they had great improvement in their skills, in their socialization, in health and nutrition, after they got out of the Head Start Program, but by the time they reached third or fourth grade, one could not tell the difference between those who had gone through Head Start and those who had not.

Mr. Chairman, clearly what we need is a strong Follow Through Program and one that ties in with the chapter one program, which is actually where the big bucks are in providing assistance to the those students in the early elementary grades who are educationally disadvantaged, and, by tying them together through Follow Through, as this bill will do when we finish with it today as a result of a compromise worked out between the majority and minority, I think we will have helped make the Follow Through Program a workable program, and we will have done a great deal to sustain the benefits of the Head Start Program.

Mr. Chairman, let me touch next on the community services block grant. That program has been subject to a lot of criticism in the recent years, and I noticed the administration in its sheet to us on this piece of legislation says that we should be cutting out the Community Services Block Grant Program. I think that would be very misguided policy. The Community Services Block Grant Program is the glue that holds together the community action agencies around the country, and I do not know what the community action agencies are like in my colleagues' areas, but I know what they do in the State of Iowa. They are the agencies that pull together an array of services for those families who need help. They can go to the local welfare or social service offices, if my colleagues will, and they can apply to one program, and they are run through all of those hoops to see if they qualify.

□ 1210

Then if you do, they say yes. If you do not, they say no; but they do not seem to ever get around to saying what kind of an array of services can we put together to actually help you through this trouble, and that is what the Community Action Agencies do. They only do it because they have the community service block grant funds. If we eliminate that, they are not going to be there to administer all the other programs that we want them to administer, like the low-income heating assistance program or the Head Start Program. So I think that it is important that we not only endorse the Community Services Block Grant Program, but take it out of limbo and increase the funding for it. That is what we are attempting to do here.

Well, there are lots of other wonderful things in this bill. Let me just say, however, that we have attempted with this measure to try to address the concerns that have been raised about the ways some of these programs are run in order to insure that they function properly. I am not saying this is the answer to all our prayers or that it is the greatest piece of legislation that ever hit the floor, but I am saying that it is a strong bipartisan effort to shape these programs in a way that can command consensus accord and try to build on something that is good and make it a little better.

Mr. KILDEE. Mr. Chairman, I want to thank the gentleman from Iowa [Mr. TAUKE], the ranking Republican member of the subcommittee. He has been extremely helpful in the years I have served with him. He is going to be leaving this House in one way or another seeking another office. He is a bona fide Republican. He is more conservative than I, but he has brought into the process a balance and a zeal that has been very, very helpful before.

I have said before that if we had more TOM TAUKES in the Congress, we could get a lot more done around here and do less growling and shouting at one another.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I thank the gentleman for giving me this time.

I rise in support of this very important piece of legislation. I am confident that the Congress is going to give it one of the highest votes of approval of any piece of legislation we have this year.

I take this occasion, though, to depart a little bit from this debate to tell you that these programs are a product of a period of time in American history of which we can all be proud. A couple of weeks ago in Austin, TX, we had a ceremony in celebration of the 25th year anniversary of the inauguration of President Lyndon Johnson and Vice President Hubert Humphrey. It was a large crowd of people who gathered from all over America just to commemorate the fact that this was a period of time in our history when so many productive pieces of legislation passed. Head Start is one of them, and it was certainly the centerpiece of part of our discussion.

Two weeks ago on a Friday evening over 1,600 people gathered at the LBJ Library just to participate in the remembrances. We had so many people, the largest crowd that ever gathered for a ceremony in Austin at that library, that we had to put them in three or four different rooms throughout the building and hook them up by television so they could just see the program and enjoy it. There was more hugging and kissing and shaking of hands and slapping of backs and laughter and tears during that 2-day ceremony than any period I have experienced in my years as a legislator in this body.

We were proud of the programs we started. Think of them, not just Head Start, but the Civil Rights bill of 1964, the grandaddy of all civil rights programs; Medicare; Community Action; the Job Corps; voting rights; fair housing; elementary and secondary education; higher education; and a host of other programs that represent the most productive period in the history of this great Republic.

The people who came to Austin went back with pride. They were not disillu-

sioned by any of the personal negative comments that you see or read about these days. They were hugging each other because they were proud to have been a part of a period of time that did so much for the individual.

Now, the Head Start Program is one that Lady Bird Johnson inspired and put her emphasis behind. It was her program during the time she was our First Lady. We paid our respects to her on behalf of the President and Vice President Humphrey.

It is good then for us to come back and celebrate this kind of achievement and it is good at this particular time to say we have a program again that this committee has brought forth.

I commend the chairman for this piece of legislation and say to you that as long as we look after our young people, the preschool children, and we give them a little Head Start against the big challenges they have in life, then we are worthy of being proud of our own heritage and our democracy.

So this is a good program and I am proud to support it.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. COLEMAN], a member of the subcommittee.

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. GOODLING] for yielding me this time.

Mr. Chairman, I would like to join in the commendation of the gentleman from Michigan [Mr. KILDEE] and the gentleman from Iowa [Mr. TAUKE] for working out a bill which I think all of us can agree to and support. It shows what putting aside differences in the spirit of compromise can accomplish in this House. I would like to see more of it and hope that we might be able to see more of it.

Mr. Chairman, the mission of Head Start is to prepare youngsters mentally, physically and emotionally, for schooling. Now it is more critical probably than the day that the gentleman from Texas said 25 years ago, because today many of our Nation's children are facing overwhelming odds in developing skills and knowledge necessary to succeed in the early most critical years of their education.

Head Start has indeed compiled an outstanding record of achievement for children who receive the full benefit of its services, but at current funding levels less than 20 percent of the eligible young children are really in the Head Start Program. That is why I am so happy that not only did the committee ask for and seize the initiative on this by increasing the authorization level, but also that the President, the White House and the Administration, has proposed a significant increase in Head Start in this budget of $500 million to expand and allow 180,000 youngsters to be put into the program.

I think the first priority must be to bring as many eligible children into the program as possible, but also the services and instructors training have to be upgraded and increased as well.

We have research that shows children enrolled in Head Start achieve substantial gains in learning skills and personal development and are significantly better prepared for the demands of elementary school. For many children, Head Start is the first link in a chain which must bear much weight and repeated testing during their education.

I am very happy to hear that we have an agreement on the Follow Through Program, because they say the efforts of Head Start kind of wear off after you get into the 8 or 9 years of age, unless there is more involvement and more effort. The Follow through Program ought to be able to take that up. I think with this we have been able to do that and make this a worthwhile program.

The one thing I want to conclude with is that I visited about eight Head Start centers in my district during this reauthorization process. I was struck with the commitment of the instructors and the people that were there and the learning atmosphere that I found.

One of the things I also found was concern about expansion of the funds which we know will be coming and how do we get those out to the people; especially in rural areas, we have found great concern expressed that they may have to compete for grants, even though they may have lower numbers of children, but they have a very high percentage of unmet need. At the same time, others might get in more urban areas direct grants given to grantees with high numbers of unserved children, and a waiting list as well.

I hope that the administration of this program will work out to show that the youngster in a small town and a small rural community has a need for these services as much as people in our urban areas as well.

Mr. KILDEE. Mr. Chairman, I thank the gentleman from Missouri [Mr. COLEMAN]. The gentleman preceded me in the Congress by a few months, but we have always considered ourselves classmates and have worked well together, and I appreciate his good work.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor, one of my mentors. If I were to count my mentors critically and morally, I would put this gentleman in the top 1 percent.

□ 1220

Mr. HAWKINS. Mr. Chairman, I thank the gentleman from Michigan [Mr. KILDEE] for his generous remarks. I commend him and the gentleman from Iowa [Mr. TAUKE] for bringing this legislation to the floor.

I rise in strong support of the Human Resources Reauthorization Act of 1990 which strengthens many important programs designed to help low-income families and children. The reauthorization package includes Head Start, Follow Through, State Dependent Care Development Grants, Community Service Block Grants, and the Child Development Associate Scholarship Assistance programs.

The cornerstone of this bill is the expansion and improvement of the Head Start Act. When President Lyndon Johnson signed the Head Start Program into law on May 18, 1965, he proclaimed that the services provided to poor children would "make certain that poverty's children would not be forevermore poverty's captives." Over the years, Head Start Program has demonstrated its success in improving the lives of poor children and their families. Extensive research proves that children who have attended quality early childhood programs develop social and academic skills that result in increased school success.

As we mark the 25th anniversary of Head Start later this week, it is particularly fitting that Congress, in a bipartisan fashion, is authorizing full funding for the program by 1994.

In addition to expanding access to Head Start, we also address the need to ensure the program's quality. During reauthorization hearings, many witnesses, including business representatives, urged Congress to place as much emphasis on quality as on access. I am pleased that the committee's bill provides for a set-aside of funds to improve salaries, expand staff, improve training and pay for transportation, facilities, and other quality improvements.

Today, our country is faced with a growing number of dysfunctional families. There are increasing incidences of substance abuse, teenage pregnancies, school dropouts, gang violence, and homelessness. The future of this country—our children—comprise the poorest group in America. One out of every five American child lives in poverty. We need to provide early intervention for families and to provide more comprehensive services to children under the age of three. For these reasons, I have proposed an expansion of the Parent Child Centers under Head Start which strengthen the family unit by providing opportunities for increasing parents' skill and knowledge of their own children's development. The centers also provide early childhood intervention programs to enhance the development of these young children.

Before I conclude my remarks, I want to commend the distinguished chairman of the Subcommittee on Human Resources, Mr. KILDEE, for his fine leadership in fashioning this important reauthorization proposal. Many of these programs have been in existence since the days of the War on Poverty. These programs have a demonstrated record of cost-effectiveness and meet the most stringent tests. They have become a symbol of hope for millions of Americans and should be continued. I urge my colleagues to support the Human Services Reauthorization Act.

Mr. GOODLING. Mr. Chairman, I want to agree with the gentleman from Michigan [Mr. KILDEE] in what he had to say about our wonderful chairman, the gentleman from California [Mr. HAWKINS]. The gentleman is doing this country a great disservice by retiring, but I suppose Elsie figures he has given enough time to everybody else, and she would like to have a little more of his time. He has fought long and hard for equal opportunities for all children, and all Members are going to miss him.

Mr. Chairman, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I almost approached the gentleman from Pennsylvania [Mr. GOODLING] to rescind my request for time to speak on this subject, because I will be the only one apparently thus far at least who may drop a little cold water on the nice atmosphere that has been created by the proponents of the legislation.

I to am one of those in the Congress, and I do not think there is anyone who is not, who is totally in favor of the Head Start Program, its proven results, its coverage, its intentions, its overall comprehensive plan for making sure that our youngsters get that head start for which the title is so aptly put. But there is a dilemma, and that dilemma is one that faces us constantly on the floor of the House, and it is important that we articulate that dilemma.

This program is not only endorsed by Members of Congress, but the President of the United States in the State of the Union Message, in one of the few areas in which he proposed an increase in the budget, singled out Head Start for a one-half billion dollar increase in his own very draconian budget, one in which his Gramm-Rudman deadlines are met, but nevertheless allowed an increase in his planned Head Start budget by half a billion dollars.

But this bill that comes before us now, where all Members endorse Head Start, doubles the ante, increases that funding, and goes beyond what is expected by the administration for a program which it endorses.

Therein lies the dilemma. What do many of us want to do who support Head Start, but at the same time want to support the administration's yeoman efforts to bring this deficit under control?

What a dilemma. It appears to me that because I support generally the gentleman from Michigan [Mr. KILDEE] and the gentleman from Pennsylvania [Mr. GOODLING] in their efforts on these programs and others, that I must indicate my strong support again for Head Start, indicate my cooperative spirit with the gentlemen who brought this bill to the floor, and then register my reservations until such time as the spirit of bipartisanship which has brought us thus far will prevail in those summit meetings that are being held, or hopefully are going to be held, also on a bipartisan basis, which will keep in mind the strong input that the two gentlemen, along with their members and chairmen, have put into the program, so that it can survive.

Until that time, I have to maintain that balance and throw that little cold water by maintaining reservations about the ultimate support of the legislation which is now in front of us.

Mr. KILDEE. The gentleman from Pennsylvania [Mr. GEKAS] may wish to move that the gentleman from California [Mr. HAWKINS], and the gentleman from Iowa [Mr. TAUKE], and the gentleman from Pennsylvania [Mr. GOODLING], and myself be sent to that summit conference at the White House so we can maybe work that out also.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I would like to congratulate the gentleman from Michigan [Mr. KILDEE] and Members on both sides of the aisle that brought this bill together and have given Members the chance to make these improvements.

Mr. Chairman, I rise in support of the bill, H.R. 4151, and urge its passage. Although all the programs reauthorized in this bill are very fine programs that benefit society, I have a special interest in Head Start. One of the most exciting things about this bill is that it would authorize sufficient appropriations so that Head Start could reach all eligible children by fiscal year 1994. Right now, only about 20 percent of the eligible children are served by Head Start. Considering the advantages Head Start provides, enrolling all at-risk children in Head Start is one of the wisest things we can do in both human and economic terms.

H.R. 4151 provides for the expansion of Head Start to all eligible children while, at the same time, providing sufficient funds for a high-quality program. In recent years, budget restrictions and inflation have forced many Head Start centers to cut back on such critical elements as health, nutrition, parental involvement, and social services. This bill sets aside funds for quality improvements assuring that Head Start will remain the high-quality program that it was originally designed to be. Quality components of Head Start cost more, but they are well worth it. According to the Children's Defense Fund:

> Every $1 invested in high-quality preschool programs such as Head Start saves $6 in lowered costs for special education, grade retention, public assistance, and crime later on.

The CDF goes on to say.

> Children formerly enrolled in these programs are more likely than other poor children to be literate, employed, and enrolled in postsecondary education. They are less likely to be school dropouts, teen parents, dependent on welfare, or arrested for criminal or delinquent activity.

I know these statements are true. My wife spent 11 years as a psychologist in Head Start. This bill will make possible what she has been working for the last 20 years.

Another feature of H.R. 4151 that is crucial is the language that reinforces the right of local Head Start centers to serve children for more than 1 year if they believe it necessary. In many cases, it takes more than 1 year to overcome the disadvantages at-risk children come with. Local Head Start centers need the discretion to serve children for more than 1 year in order to overcome the problems many of these children have.

Finally, I would like to note that this bill calls for a higher appropriation for Head Start than we have had before. It is well worth the investment, and I will be working to make sure the revenue is available. Again, Mr. Chairman, I urge the passage of H.R. 4151.

□ 1230

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I do support this piece of legislation. It is good and I urge my colleagues to support it.

Mr. Chairman, I rise today to urge my strong support of H.R. 4151, the Human Services Reauthorization Act. I commend the outstanding leadership of my good friend, DALE KILDEE, Mr. GOODLING, and members of the committee, who have put a lot of time and work into this legislation.

This important piece of legislation includes the Head Start Program, which is vital to the education of our youngest people.

Since its inception in 1965, Head Start has emphasized strong parental involvement in learning, as well as a wide range of services to address the other needs of low-income preschool children.

Head Start was the first program to recognize the need for social, nutritional, and health needs for these children.

Since our educational system has recently been criticized for its shortcomings, it is imperative that we combat this lack of education in the early development years of our children.

Children who attend Head Start are more likely to excel in classes and are less likely to drop out of school.

Additionally, and most importantly, children in Head Start are less likely to experiment with drugs.

They are safer, smarter, and happier.

I urge the House to adopt H.R. 4151.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I thank the gentleman from Michigan for yielding time to me, and I rise in strong support of H.R. 4151, the Human Services Reauthorization Act of 1990, a bill which enables Head Start to serve all eligible preschool children by 1994.

Mr. Chairman, I rise in support of H.R. 4151, the Human Services Authorization Act of 1990. This bill will enable Head Start to serve all eligible preschool children by 1994. I have witnessed firsthand the remarkable effect the Head Start Program has had in southwestern Indiana.

Since its establishment 25 years ago, Head Start has been one of the Federal Government's most effective programs. Low-income children are given the special attention they need to be prepared for kindergarten and elementary school. Head Start gives young children the self-confidence that is so essential at this critical stage of development.

Studies have shown that children enrolled in Head Start are more likely to succeed educationally and to stay in school. Head Start graduates also are less likely to require remedial courses.

H.R. 4151 also increases funds for the Follow Through Program, which allows kindergarten through third-grade students to continue the progress they made in Head Start. Head Start students should not be abandoned after they leave the program and advance to elementary school. Without the right encouragement, these children could lose all that they gained from Head Start.

Mr. Chairman, as it is often said, our children are our future. I urge my colleagues to support H.R. 4151 to protect our country's future.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the distinguished gentleman for yielding time to me.

Mr. Chairman, I would like to express my strong support for H.R. 4151, the Human Services Reauthorization Act of 1990, and to urge my colleagues to support this bill.

Over a quarter century ago, the United States declared war against poverty. The force behind that declaration was the Economic Opportunity Act—education and training programs designed to open to everyone "the opportunity for education and training, the opportunity to work and the opportunity to live in dignity."

We have fought hard, but we have not won that war yet.

The average income for the poorest families has resumed a very troubling decline, and the number of children living in poverty has been growing at an alarming rate. For those children, the chances of breaking the cycle of poverty are getting slimmer. That's not what this country is supposed to be about. What do we do?

Without adequate health and nutrition care, children cannot grow and develop normally. Without a stable home environment, children are less likely to enter school prepared to learn. And without an education, they cannot develop the skills necessary to earn a living and rise above poverty.

We've got to break the old, disabling cycle and replace it with a new, enabling one. We have got to wake up to the fact that our children are our future. And it's up to us—all of us—to make sure they're prepared to meet the challenges of the future.

That's why this legislation is so important.

One of the programs reauthorized in this bill is Head Start, a program particularly successful in reaching children early on. It's not enough that we ask how Johnny was able to graduate from high school without learning to read. Chances are, Johnny was already way behind other kids before he even reached high school. We have to provide services today for 3-year old Johnny and 4-year old Johnny and help him before he falls behind—give him an environment that will teach him how to learn, an environment that will help him learn, and most important, an environment that will make him want to learn. Twenty-five years after its beginning, Head Start has a record of success in doing just that.

More than just an education program, Head Start is a comprehensive child development program that provides supporting services such as health care, dental care, and hot meals. The program continues to help kids from low-income families start school on an equal footing—before they fall behind.

The Human Services Reauthorization Act would expand funding for Head Start so that the program is available to all children who are eligible. Today, Head Start serves less than 20 percent of eligible 3 and 4 year olds. With this bill and with appropriations to fulfill its promise, we can hope to reach the other 80 percent by 1994.

I'm pleased that this bill also targets funds to improve the quality of Head Start programs. If Head Start is to continue its record of success, serving more children has to be combined with serving all children better.

This bill also reauthorizes Follow Through, an important program designed to build on the gains children make in Head Start. In my own district of Colorado, INREAL Follow Through is working with elementary schools to improve children's communications skills, problem solving skills, and language proficiency, and to increase children's motivation and thus their chances for success.

Head Start and Follow Through are just two of the seven programs reauthorized by this bill. They're all important.

Failure to invest today will result in much greater costs in the future—the costs of public assistance, the costs of crime, the costs of a poorly prepared work force. Conversely, the national gains from our investment today will be enormous. We'll all benefit.

Enacting this legislation perhaps represents one of the few times we demonstrate the good judgment to take preventive steps—acting on solid information and experience about how to keep the circumstances of our poor children from deteriorating further. In so doing, I wish we could say this shows Congress can on occasion act to avoid crises, rather than waiting for the crisis before we act. But no, that's too kind. Our kids are at the crisis point, and we'd better not pretend otherwise. At least this bill shows we can respond.

No, we haven't won the fight against poverty that we declared a quarter of a century ago. But neither have we lost it. The Human Services Reauthorization Act will give us some necessary resources to continue fighting poverty and its effects on children and families. Let's get on with it.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD], a faithful and effective member of the subcommittee.

Mrs. UNSOELD. Mr. Chairman, I want to thank the chairman of my subcommittee, the gentleman from Michigan [Mr. KILDEE] and the ranking minority member, the gentleman from Iowa [Mr. TAUKE] for their leadership. I also want to thank the chairman of our full committee, the gentleman from California [Mr. HAWKINS]. I only regret that I delayed so long coming here that I have a very short time to make him my mentor.

Mr. Chairman, I join my colleagues today in enthusiastically endorsing the Human Services Reauthorization Act which extends some of our most successful education and social service programs, including Head Start, the Community Service Block Grant and the Community Food and Nutrition Program.

If I hadn't already been a supporter, I would have become so as I listened to

the personal testimony given at our hearings. These programs make a real difference in people's lives. The community action agency who lent a helping hand to the Iowa farmer and his family during tough times, the young man from Alabama who got a "Head Start" at the age of five and has gone on to finish college and work in the Peace Corps, and the CEO from Honeywell who became compelled by the inadequacy of his workforce to get involved in the Head Start Program.

Mr. Chairman, Head Start is receiving praise and accolades from almost everyone these days and deservedly so. It is everything that is right about making an early investment in our children's education. As Head Start enters its 25th year, we must not only celebrate its triumphs but extend its crucial successes to all eligible children. Right now, only 18 percent of those eligible are served. We must fully fund Head Start for 3, 4 and 5 year-olds. If we are to be successful in an increasingly competitive world, our children must first succeed in the classroom. We can pay now or pay later, but we will end up paying. Let us make the smart investment on the front end.

The Community Service Block Grant is another remarkable program that uniquely brings together a broad range of critical services to families during tough times. In my State of Washington, we face a timber shortage. Mills are closing, family breadwinners are losing their jobs, and communities are on the brink of collapse. We need CSBG. CSBG has helped 31 community action agencies in Washington provide vital food, housing, employment, health and day care services. The most important aspect of CSBG is that it helps families retain their dignity. It is not a hand-out, but a helping hand-up to self-sufficiency.

I strongly urge my colleagues to support this important package because it makes an investment in life.

Mr. KILDEE. Mr. Chairman, I deeply appreciate the kind, personal remarks of the gentlewoman from Washington.

Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, a friend of mine, who is a minister, said to me not long ago it does not really matter how high we jump up in church, what matters is what we do when our feet hit the ground.

Today as I listened to the bipartisan harmony on this particular issue, Head Start, I am reminded of what my minister friend likes to say. Today we are jumping up high in church, and what really matters is what we do when our feet hit the ground on this issue.

In a month or two from now we will have the opportunity to hit the ground. In a month or two from now we will have the opportunity to gather here once again to discuss not a level of authorization for Head Start, but a level of appropriation for Head Start, real money, not play money, not monopoly money, real money. My friends and colleagues, my hope is that those of us who marched to this well today trumpeting the glories and triumphs of Head Start will remember our words when our feet hit the ground, and when we debate and vote on that appropriation bill later this summer.

Mr. GOODLING. Mr. Chairman, I would like to say to the gentleman from Delaware that I have already had my feet on the ground before the Appropriations Committee, encouraging them to give us this additional amount.

Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this is a wonderful program. I think everyone here realizes fully and exactly the tremendous effect that this is having on the American public. It is just doing wonderful things.

But let us trace a little bit about how this program has come into being and the numbers it has served over the years. When it first came into existence in 1965 it served well over 700,000 people. It went down over the years to finally serving just a little over 300,000 students somewhere around 1977, and it has increased over the years slowly until today it serves about 488,000 students. So we have seen, indeed, the program go from its high point in the Great Society years down to its nadir I guess in 1977, the first year of the Carter administration, and then it has come back somewhat.

But a disturbing thing from 1981 to 1989 was the fact that we see the expenditure per pupil has gone down by around 13 percent, and this is a quality problem. We are having over half of the teachers making less than $10,000 a year on this Head Start Program.

□ 1240

And this is something that is troublesome. I want to thank very much the gentleman from Michigan [Mr. KILDEE] and the gentleman from Pennsylvania [Mr. GOODLING] for all of the assistance they have given in the quality aspect of this bill, and also to the gentleman from Iowa, Mr. TAUKE, for their quality assistance on this program.

Trying to increase the quality of the program that is being presented is going to be extremely important to the success of this program.

There is something else I have got to talk about. In this bill we have some learning centers for those students from zero to age 2 that are going to be getting some full-time assistance which they would not be given otherwise.

We also have the Follow-Through Program which I have always viewed as an absolutely essential tool.

So in essence we are going to be going now for some very few students from birth to the third grade. It will be interesting to follow maybe in a longitudinal study as to what sort of effect these continuing programs have upon them as they go through their lives.

This is something that I think is very important. I think this is going to be extremely important as we look at the overall effect of this program in the long term.

But indeed we have, with the Head Start portion, a tremendous thing there. We are going to 100 percent for all 3-year-olds and 4-year-olds by the year 1994.

You know, we only serve a half million out of 2.5 million to 3 million kids with this program that are eligible and should be served. That is tragic in a country that has as many resources as we do.

We have got to invest in our future. We have got to invest in our children. And this bill makes a major stride towards insuring quality educational benefits for all children who need that sort of assistance in these crucial years.

Five years from now I hope we can expand the Follow-Through Program and see more of those learning centers. That would be my goal now.

But right now this is a major step that is going to make the future of America that much brighter for so many more deserving children in this country.

I again congratulate the sponsors on their fine work on this legislation.

Mr. KILDEE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY], a strong supporter of the Head Start Program.

Mr. PENNY. Mr. Chairman, I first want to compliment the gentleman from Michigan [Mr. KILDEE] and other members of the Committee on Education and Labor for their splendid work on this legislation. I do want to express my strong support for the human services reauthorization bill, similar to legislation which I introduced a year ago.

H.R. 4151 authorizes funds sufficient to allow all eligible children to participate in the Head Start Program by fiscal year 1994. Head Start is obviously a popular program with strong support here in this Congress and on the part of the administration. It has proven its effectiveness over its 25-year history.

I have visited many Head Start sites in my district and can attest to the value of this program. However, the appropriation is the real challenge. Honest cuts have to be made in other areas of the budget so we can make good on our commitment to Head Start. Otherwise a "yes" vote on this bill today is nothing more than a feel-good vote.

I trust that the budget summit proceeds and that appropriation priorities are established and that room will be made in the budget to make the promise of full funding of Head Start a reality.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. GRANDY], a distinguished member of the subcommittee.

Mr. GRANDY. Mr. Chairman, I am pleased to join this bipartisan group of members of the Committee on Education and Labor who, unfortunately, more and more are not agreeing on issues of this nature. We are deeply divided on other subjects.

I think it is important to point out how united we are on the substance and sum of this program. I am a member who supports Head Start full funding, because it is a program that works and it works because it is a hand up and not a handout.

We rely on self-sufficiency in this program. It is accomplished in two ways: By focusing on both the individual and local efforts. Head Start is mandated by law to involve parents in almost every facet of the program, including decisionmaking about the structure and operation of the program, decisionmaking about employment and volunteer opportunities as well as encouraging parents to serve on the local advisory committees.

As a sign of success, 36 percent of Head Start staff were or still are Head Start parents.

Now that is worth investing in. Secondly, it is worth investing in it because the delivery mechanism for Head Start is at a local level through Community Action agencies.

The CAA's in my district are doing a very effective job. I was pleased to have the chairman of our subcommittee, the gentleman from Michigan [Mr. KILDEE] come out to Sioux City, IA, and see how well the community cosponsorship of this program is working and how important it is to underwrite this concept.

Because the CAA is locally controlled, it is more efficient, bypassing the bureaucratic process to mobilize resources and more flexible in targeting solutions to unique local problems.

Now a word about funding, Mr. Chairman, because obviously this is a big-ticket item and we bring to the floor a bill that will probably over the next 5 years cost the taxpayers roughly $22 billion if you add up all the annual costs.

I support full funding. I attempted to offer to this committee a pay-as-you-go amendment, which was ruled nongermane, but I do want to emphasize to my colleagues that we should encourage only fiscally responsible methods for this funding.

Expanding social programs cannot come at the cost of increased debt. We need to be honest with the American people. Increased funding for Head Start has to be done on a pay-as-you-go basis, Mr. Chairman, whether amendments to that effect are ruled in order or not.

That means spending reductions, as the gentleman from Minnesota just specified in his remarks, or some kind of revenue enhancement, which is a 15-cent word for you-know-what.

Fiscal prudence applied, Head Start is an investment in the younger generation of today which will build a generation of tomorrow. I encourage all of our colleagues on both sides of the aisle to join together in giving strong support to H.R. 4151.

Mr. KILDEE. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Michigan [Mr. KILDEE] has 1 minute remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 6 minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan [Mr. KILDEE].

I might say that an important appropriator is on his way, and I am stalling.

Mr. KILDEE. Mr. Chairman, that has been done before around here, and that is a very good procedure.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to join with the gentleman from Iowa [Mr. GRANDY] for his support of Head Start. Mr. GRANDY is a member of the subcommittee, he has been very regular in his attendance, regular in attendance at our hearings and has really helped us to reach the point that we are at today.

I enjoyed very much traveling out to his district, to Sioux City, IA, where we looked at some of the programs out there.

I will say in general I think I have been on both sides of Iowa, east to west, and the State there really knows how to make these programs work.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, I would make inquiry of the gentleman as to the procedure as this bill moves to conference. I support the bill in its present form and the committee on which I serve has done an excellent job on it.

As the bill moves to conference, I would inquire of the gentleman as to whether the gentleman and the conferees intend to resist that whole body of extraneous amendments that the other body's conferees have begun to try to add to education bills in the last 2 years? Some of the amendments relate to specific special interest projects that are in a conferee's district. Other amendments relate to expanding education programs to other nations; in one case I recall it was Ireland and in another case it was Micronesia, separate and sovereign nations that should be a part of the foreign affairs process.

So I would inquire of the gentleman as to whether it is the gentleman's intention to resist the entreaties of the other body at the conference to add extraneous amendments to what is currently a clean bill?

Mr. KILDEE. I cannot think of any amendment—in general that has been my approach. We are generally guided by tighter rules of germaneness in this body and I would certainly try to uphold that as we enter the conference.

Mr. BARTLETT. I would just hope that the gentleman could, if in fact, those entreaties of special particular interest amendments are offered in the conference, I would hope that the gentleman would notify other Members of the House as to those facts prior to any agreement or any decision by the conferees and surely prior to consideration of the conference report.

□ 1250

Mr. KILDEE. I will do that before we return here in a formal matter to inform the gentleman of that. I pray that leads us not into temptation during that conference.

Mr. BARTLETT. I share the gentleman's prayers.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to a distinguished Member and a great Red Sox fan, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, I rise in warm support of H.R. 4151, the Human Services Reauthorization Act of 1990.

My good friends, Mr. HAWKINS, Mr. GOODLING, Mr. KILDEE, Mr. TAUKE, and their staffs did an outstanding job in crafting this important piece of legislation and bringing it to the floor today.

This bill reauthorizes two important programs which are near and dear to my legislative agenda—Head Start and the Community Services Block Grant. Each program has contributed to the well-being of millions of families and children across America.

As a member of the House Appropriations Committee and the subcom-

mittee which is responsible for these programs, I have been impressed with the progress being made in helping the disadvantaged to acquire the skills to become self-sufficient.

I am especially happy to note the provisions in the bill which will continue to expand Head Start not only to serve more economically disadvantaged children, but to improve the quality and range of services as well. This bill also reauthorizes the Community Services Block Grant Program and makes several improvements to improve participation by nonprofit organizations.

These provisions will expand the range of community services in nutrition, health education, and many other important activities.

I would like to draw the House's attention to one special program funded by the community services block grants—the National Youth Sports Program. The NYSP through a unique partnership combining * * * Federal, State, local, and private resources. Each summer, NYSP brings more than 55,000 disadvantaged boys and girls, ages 10 to 16, onto college campuses. There they receive high quality instruction in competitive and lifetime sports, and a daily enrichment component—instruction in such areas as health and nutrition, educational and job opportunities, drug abuse prevention, AIDS, and teen pregnancy.

At the same time, NYSP allows the students to take advantage of free medical examinations and followup, and free daily USDA-approved meals.

The NYSP exposes disadvantaged youngsters to college environments to which few would otherwise have access. It also provides employment for many residents of poverty-stricken areas.

This serves NYSP's goal of motivating needy young people to better their opportunities for the future and pursue advanced education.

With this bill's reauthorization of community service block grants, the National Youth Sports Program will continue its mission in new and innovative ways. I am heartened by the enthusiastic participation of all those involved: young people, teachers, administrators, athletes, and counselors. This bill will allow their energy and dedication to sustain the program in the coming years, and I urge all my colleagues to support it.

Mr. KILDEE. Mr. Chairman, I take note that the gentleman from Massachusetts [Mr. CONTE] has been a strong supporter of the NYSP program and the increase in CSBG will enable that program to grow. When I was in Sioux City, IA, we heard testimony on that program.

I have said it before, but I want to say it again, the gentleman from California [Mr. HAWKINS] has been very important to me. I clearly am a better person because of GUS HAWKINS. He has been a very important part of my own personal formation, and I am very grateful to him for that.

Mr. WEISS. Mr. Chairman, hundreds of thousands of American children are born impoverished. The United States ranks first among industrialized nations in child poverty. Without help, these economically disadvantaged children face problems in school and often do not receive an adequate education. As uneducated adults, these individuals find it difficult to become self-sufficient. They get caught in the treacherous cycle of poverty.

The programs reauthorized in H.R. 4151, such as Head Start, Follow Through and the Community Services Block Grant Program, help many children break out of this cycle of poverty. Studies show that young children who receive regular health care, proper nutrition and the special attention they need will have better school attendance records, more energy and heightened attention in class, and improved performance throughout their school careers.

The Head Start Program comprehensively addresses the needs of children and families. It provides low-income families with a wide range of services to meet the educational, social, nutritional, health, and other needs of pre-school low-income children and families. Studies show that Head Start students, as compared to other students, are less likely to be held back a grade, to be assigned to remedial or special education classes, and more likely to be enrolled in gifted and talented programs. They are also less likely to drop out of school or become involved in crime or receive welfare. H.R. 4151 authorizations for Head Start are sufficient to allow all eligible preschool children to participate in the program by fiscal year 1994.

To build on the gains these low-income children made in Head Start, the Follow Through Program provides children in kindergarten through third grade with a full-day educational program including classroom instruction in basic academic areas, access to health, social, nutritional, psychological services, and strong parental involvement.

The Community Service Block Grant Program provides funds to local community action agencies for activities to promote economic self-sufficiency, such as job training and placement, child care, emergency food shelter and drug prevention education.

I urge my colleagues to support H.R. 4151, the Human Services Reauthorization Act, and help break the cycle of poverty. With the passage of H.R. 4151, the recommendations of a broad range of policymakers, child development experts, business leaders, and children's advocates can be translated into new opportunities for millions of low-income children.

Mr. WOLPE. Mr. Chairman, I rise in support of H.R. 4151, legislation that would reauthorize the vital Head Start Program and, for the first time, provide insufficient budet authority to enable Head Start to serve all eligible preschool children by fiscal year 1994.

This week we celebrate the 25th anniversary of Head Start. This important program has served over 11 million children from low-income families, allowing them to begin school on an equal footing with children from more advantaged homes. As we reflect on the last 25 years of Head Start, the merits of this overwhelmingly successful program are clear.

Head Start children are more likely to meet the basic requirements for elementary school, showing significant improvement in school readiness and achievement on standardized tests.

Head Start provides quality health service to poor children, with over 90 percent of all Head Start children receiving medical and dental screening and treatment. In 1986, 98 percent of Head Start children were up to date on their immunizations.

Head Start provides jobs for Head Start parents and community residents. In 1988, 78,000 people were employed in Head Start programs.

An important study undertaken in Ypsilanti, MI, recently reported these dramatic findings. The Ypsilanti study found that students participating in high quality early intervention programs like Head Start made substantial gains in many areas of development: Those students who participated in early intervention programs were almost 50 percent less likely to be arrested as a young adult and were 20 percent more likely to graduate from high school. At age 19, over 45 percent of students who participated in an early development program were fully employed and self-sufficient, whereas only 25 percent of students who did not participate in such a program were self-sufficient.

Despite the overwhelming successes of Head Start, funding for this program has been shamefully inadequate. Less than 20 percent of eligible children currently can participate—a small proportion of participating children than a decade ago. The increase proposed by President Bush for Head Start funding leaves the program with fewer inflation adjusted dollars per child than it received from the 1978 appropriations.

We have taken important steps to improve and expand the Head Start Program—and the lives of our children—by passing comprehensive child care legislation. We cannot, however, stop now. Inadequately funding the Head Start Program only means that our children will suffer and that our Nation will be denied the possibility of having a quality and productive work force in the 21st century. I strongly urge support of this critical legislation.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 4151, The Human Services Reauthorization Act of 1990.

The children of America and their families who will be given an opportunity to participate in Head Start as a result of this legislation join with me in thanking my colleagues on the Education and Labor Committee, and especially Mr. KILDEE, for working so hard to bring this measure before us for consideration today.

This week, as we celebrate Head Start's 25th anniversary, I am particularly pleased that this historic legislation builds on the Child Investment and Security Act, which I introduced last year, and provides a multiyear funding strategy for Head Start so that by 1994 all eligible, low-income preschool children can participate.

For the past 25 years, Head Start has been providing an invaluable service to millions of low-income children and their families. Today, 450,000 low-income children are served by more than 1,285 grantees.

Head Start is not just a preschool program. In addition to providing the educational experiences that prepare the most vulnerable children for kindergarten, Head Start provides a wide range of social, nutritional, medical, and dental services. Head Start parents are also engaged in a unique way—through the establishment of parent advisory councils and employment training and job opportunities.

The benefits of Head Start are well documented. Studies are virtually unanimous that children show significant immediate gains in cognitive ability, self-esteem, achievement motivation, and social behavior as a result of Head Start participation. According to the administration's own study, Head Start also affects the long-term success of its enrollees. Children who attended Head Start are less likely to fail a grade in school or to be assigned to special education than children never enrolled in Head Start.

Given that only the most severely disadvantaged children currently can be served by the program—in 1988, 75 percent of all Head Start families had incomes below $9,000—the gains Head Start children receive are even more impressive.

Despite the increase Congress afforded Head Start last year, 80 percent of eligible, low-income children ages 3 to 5 are still excluded from the program.

Last September, the President convened an education summit for the Nation's Governors. The No. 1 educational priority identified by that group was to improve "the readiness of children to start school." The national education goals approved at that historic meeting stated explicitly that "all eligible children should have access to Head Start * * * or some other successful preschool program with strong parental involvement."

Increasingly, States are beginning to implement high, quality preschool programs for disadvantaged children. But according to the National Association of State Boards of Education Task Force on Early Childhood Education, "the combination of State, Federal, and local programs falls far short of meeting the needs of at-risk children for preschool. * * *."

The Federal Government has to rise to the challenge and meet its part of the bargain.

Head Start gives us that opportunity. And it is a sound investment. Report after report from government, universities, medical schools, business groups, and think tanks demonstrate that investments in prevention for our youngest, most vulnerable children can save their lives—and save billions of dollars, too.

The Select Committee on Children, Youth, and Families documented in its report, "Opportunities for Success: Cost-Effective Programs for Children, Update 1988," every dollar invested in high quality preschool programs saves at least $6 in reduced special education, welfare assistance, and crime. Head Start is part of the Federal Government's blue-chip portfolio.

Mr. Chairman, as important as ensuring that all eligible children have access to Head Start, is meeting our obligation to Head Start's legacy of comprehensive, high quality early intervention. But with dwindling resources over the last quarter century, Head Start has had to struggle to maintain the high standards that have become its hallmark.

This week, the Silver Ribbon Panel on Head Start, a panel of distinguished advisers that met to develop recommendations for the future of Head Start will release a critical and timely report. As it first recommendation, the Silver Ribbon Panel calls for investments in the quality of Head Start by increasing staff compensation, training, family support and developmentally appropriate practices.

There is now a chorus of experts calling for significant improvements in training and enhanced salaries for early childhood professionals. The Head Start Silver Ribbon Panel is joined by other notable researchers and clinicians, including those who compiled the National Child Care Staffing Study, and members of the National Academy of Sciences Child Care Panel and the National Center for Clinical Infant Programs, who have documented that education and ongoing training of child care teachers, regardless of their experience, are the key to the quality of services children receive, and that wages are the most important predictor of quality.

The Panel also recommends increased funding so that all eligible children who need Head Start can participate and local programs can provide services that meet the needs of today's families. The Panel further underscores the need for leadership to build a more coordinated and effective system of services for children and families through collaboration and research.

Mr. Chairman, this legislation addresses all of the recommendations of the Silver Ribbon Panel, and I am especially pleased that the bill allows funds—when appropriations are sufficient—to be set aside to improve teacher salaries and benefits, and hire and train staff.

In addition, the Child Development Associate Scholarship Assistance Program for low-income child care providers seeking the CDA credential, the only nationally recognized child care "seal of approval," has been expanded to underwrite the critical training necessary to attain the credential.

The remaining provisions of this legislation provide funding for other extremely important programs targeted to low-income families: Follow Through, which provides Head Start type services to children once they enter school; the community services block grant, which funds community agencies providing a wide range of services in low-income neighborhoods and the Community Food and Nutrition Program, which helps meet the nutritional needs of low-income families. All of these programs have a long track record of providing low-cost services to meet a wide range of needs in low-income communities. They deserve our support and admiration—for accomplishing so much with a minimal amount of funding.

When it comes to cost-effective programs, we know Head Start and these other programs work. We know they are successful. Let's do what we know is right. Vote with me to support the increased funding levels and quality improvements for Head Start contained in H.R. 4151. The future of Head Start, and of our children, depend on your support.

Mr. PENNY. Mr. Chairman, I would like to express my support for the human services reauthorization bill which authorizes appropriations for Head Start.

Similar to legislation I introduced a year ago (H.R. 2373), H.R. 4151 authorizes funds sufficient to allow all eligible children to participate in the Head Start Program by fiscal year 1994. In addition, the bill sets aside 10 percent of the appropriated funds to ensure for program quality such as improving teachers' salaries, transportation, and facilities.

Head Start is a popular program with strong support in Congress and the administration. However, appropriations is the real challenge.

Honest cuts have to be made in other areas of the budget so that we can make good on our commitment to Head Start. Otherwise, a yes vote on this bill is nothing more than a feel-good vote.

For starters, I suggest that we eliminate the Follow Through Program. Over 20 years ago, Follow Through began as a demonstration program for former Head Start children but has never gone away. It only serves a small number of students in 68 districts of the country. The authorization level for fiscal year 1991 under this bill is $20 million—and the number increases to $50 million by fiscal year 1994—if the fiscal year 1991 level were translated into Head Start dollars, then an additional 7,000 children could be served by Head Start.

This Follow Through Program has outlived its purpose. By the end of the current grant period the program will have had 24 years to test and disseminate its models on compensatory education. The remaining task is for school districts to adopt the various models. The chapter 1 basic grants program is a logical source of support for these models, particularly with its emphasis on program improvement.

President Bush has recommended that Follow Through be allowed to expire. Given the challenge we face in actually obtaining the funds to successfully expand Head Start and other programs with severe needs, we should vote to strike Follow Through from this reauthorization.

Eliminate Follow Through. This demonstration program has outlived its purpose. It is amazing that what began as a demonstration program has been on the books for 24 years. We now have chapter 1 and chapter 2 and Even Start. We no longer need Follow Through.

Let's transfer the savings into Head Start. When you get down to the bottom line, dollars for the continuation of Follow Through are dollars subtracted from other needy programs—like Head Start.

The administration opposes Follow Through. Education Secretary Cavazos has indicated that programs such as chapters 1 and 2 and Head Start can fulfill the same purpose. The President's budget eliminated Follow Through funding.

Mr. FRENZEL. Mr. Chairman, I want to thank my colleagues on the Education and Labor Committee who worked diligently on this important bill.

H.R. 4151 reauthorizes appropriations for a number of programs designed to assist the poor or otherwise disadvantaged. Among these are Head Start, the Community Services Block Grant and Follow Through. All the programs I am familiar with here are based on noble motivation, and some are even carried out well.

I realize that this bill does not violate the Budget Act because sufficient funds are assumed in the already irrelevant House budget resolution. H.R. 4151 merely sets authorization levels which are subject to appropriations. Moreover, the House budget resolution assumes sufficient money to fund the expansion in Head Start.

Nevertheless, I am bothered by the budgetary implications of this bill. If Congress appropriate the full amount for Head Start, this one provision would cost $1 billion in fiscal year 1991. But this is only the beginning: the costs snowball to over $6 billion by fiscal year 1994! And don't forget that we already authorized another $3.3 billion for Head Start in the child care bill.

Of course when we view this bill in a vacuum these authorization levels may not appear excessive. Personally, I would give these programs, or at least the ones that prove by test to be effective, the very highest spending priority. Unfortunately, we must balance the funding requirements of Head Start with that of a multitude of other worthy programs. Early this year the House passed a child care bill which would cost around $27 billion over 5 years. I understand the Banking, Finance, and Urban Affairs Committee plans to report out a subsidized housing bill which would annually raise authorization levels by three $3 billion beginning in fiscal year 1991. Ways and Means has moved forward with a number of expensive initiatives including liberalization of the Social Security earnings test. I won't even mention such really big ticket items as long-term health care.

The net of all these congressional letters to Santa Claus is that we have made promises, and raised aspirations, well beyond our ability, or the people's willingness, to deliver.

It is time to get serious. Our leadership has just entered into discussions with the administration over the budget. How can we ask all of our constituents to make sacrifices to reduce the deficit at the same time we are promising a few of our constituents programs which will increase the deficit by over a billion in the same year?

These authorization levels are outrageous, and they are terribly dangerous. Authorizations imply a promise or willingness to actually spend the sums as indicated. But we all know that our ability to carry out the promises in this bill are limited by our unwillingness either to cut other programs or to come up with new revenue.

In conclusion, I reject the argument that we should not be too concerned with these authorization levels because the appropriators will save us by less than full funding. In fact, authorization bills measure our ability to meet both domestic and fiscal needs. The authorization levels in this bill simply prove again that we are not up to the task.

It is, regrettably, again my futile duty to be the onion in the petunia patch. There will be precious few votes against this bill, but one of them will be mine.

Mr. RAHALL. Mr. Chairman, I rise in strong support of H.R. 4151, a bill reauthorizing such human services programs as Head Start, the Community Services Block Grant Program, Follow Through, and for other purposes.

We are all intensely aware of the highly successful outcomes of children who, over the past 25 years, have benefited by being able to participate in Head Start. This program serves not only low-income children by providing educational, social and health services, it also serves their parents. The parental involvement practiced, indeed required, by the Head Start Program I am convinced is the secret of its success. I wish we could successfully impose that degree of parental involvement elsewhere in education. If we did, I am confident we would see a vast change for the better in our public school system throughout the Nation.

Mr. Chairman I was deeply pleased to have been able to join with our chairman, Mr. HAWKINS, in expanding and improving the Parent Child Center Program under Head Start. This little known program which serves children from birth to 3 years of age, has been funded since 1967 out of the Secretary's discretionary fund. There are only 37 such PCC's in the Nation. I am proud to say that we have two of them in West Virginia, and I was able to visit them recently to see first hand how these parents and children thrive because of the program's focus on parenting skills and early childhood development for these children from birth to the age of 3 years.

The Hawkins-Rahall amendment adopted in committee expands the current funding of $15 million for parent child centers to $30 million in the coming fiscal year, rising incrementally to $33.7 million in fiscal year 1994.

Mr. Chairman, I am also pleased that we are focusing more of our attention on the outstanding work that has been done over the past 25 years by community action agencies for the families and individuals in their communities living at and below poverty, and that this bill calls the attention of the Members of this body to the need to increase funding for the Community Services Block Grant Program. No where is there more need for community action agencies and the wide array of personal services they provide to the poor than in West Virginia. Community action in West Virginia means food on the table, shelter, home repairs, and weatherization services for better home heating during bitterly cold winters. It often means that the first person a family sees after a devastating home fire, or a flood that wipes out their homes, is a representative from the local community action agency that serves them.

Community action agencies are also, the extent possible, involved in serving the homeless, and in fighting against substance abuse in the communities they serve.

H.R. 4151 calls for full funding of the Head Start Program by fiscal year 1994. I deeply and sincerely hope that this goal is realized, and that the administration continues its strong support for increased funding each year until we are serving all eligible children who need, want, and can benefit from Head Start services.

The bill also addresses the need and calls for added spending for the salaries of those devoted teachers and teacher aides that make Head Start work wherever it exists. I know that the women and men who serve Head Start Programs in West Virginia are dedicated to what they do, and to the children they care for each and every day. We are lucky to have people at the helm of Head Start in our State who have been with the program from its very inception 25 years ago. One of them I will single out for special mention, Mary Jane Bevins who works out of the Southwestern Community Action Council in Huntington, WV, has been with the program for 25 years, and is a nationally recognized expert on parent child centers who serve children from birth to the age of 3. I know she will be, as will those directors of the other 35 PCC's across the country, extremely pleased to note the expansion of the Parent Child Center Program in the coming years, as well as the upgrading of Head Start teachers and teacher aide salaries.

Mr. Chairman, this is an important and urgently needed measure, and I commend my chairman, Mr. HAWKINS, and the subcommittee chairman Mr. KILDEE, for their hard work and perseverance in bringing this bill to the floor today, and I urge my colleagues to support it.

Ms. LONG. Mr. Chairman, I rise today to express my strong support for the Head Start Program and for H.R. 4151, the Human Services Reauthorization Act. This bill will provide for the expansion of Head Start, as well as for the continuation of other programs crucial to the well-being of underprivileged children and their families.

I am a cosponsor of H.R. 4151 and I support its goals. I believe that early childhood education is crucial for ensuring the success of children later in life. Such a start is especially important for those children who need extra attention and care in order to reach their full potential. Head Start provides a strong beginning for children who truly need it.

Unfortunately, Head Start has not received enough Federal funding in the past. The bill being considered today would remedy this problem. This legislation would dramatically increase funding for Head Start, raising the funding level for the program to $4.3 billion in 1992. This amount represents an increase of $2.4 billion over the amount suggested for 1991 by President Bush.

As many of you know, only 25 percent of the children eligible for Head Start have ever been served by the program during its 25 years of existence. Under this bill, funding would be increased over the next few years to allow all eligible 3- and 4-year-olds, as well as 30 percent of eligible 5-year-olds, to be enrolled in Head Start Programs by 1994.

I believe that every child deserves the foundation that a good early childhood education can provide. Children who have been given the opportunity to benefit from the Head Start Program have gone on to success in the higher grades and have shown greater confidence in their own abilities. I believe that all eligible children should be given that opportunity. I urge my colleagues to support H.R.

4151 and provide each and every child with the educational opportunities they deserve.

Mrs. ROUKEMA. Mr. Chairman, we are today considering reauthorization of several very important social service programs that have had a great positive impact on many people in many regions of the Nation. Perhaps the most important of these programs in its scope and effect on the future of its beneficiaries is Head Start.

Head Start has been the focus of much attention over the past couple of years due to the Bush administration's pledge to work for a "kinder and gentler" America and last year's request for an additional $250 million for the program. More attention will be focused on Head Start in the coming months and years as the President, the Governors, and Congress begin to implement strategies for achieving the education goals recently set forth by the National Governor's Association. To achieve 90 percent high school graduation rates—one of the Governor's association education goals—will necessitate increased efforts in early childhood education and intervention through programs like Head Start.

In addition, democratic studies showing a steady increase in the proportion of mothers of young children entering the work force, and an increase in the number of young children in single-parent households, point to a need to expand comprehensive early childhood development programs. These facts, along with criticisms of the educational achievement of American students, have elicited a search for ways to improve educational programs, particularly prekindergarten programs that offer a comprehensive approach to improving the prospects for the children enrolled. By comprehensive I mean programs that address a broad range of problems including health care, drug abuse prevention and education, and nutrition to name a few.

There is no doubt that Head Start has been successful in offering comprehensive services to the educationally and economically disadvantaged over the years since its humble beginnings in 1964. One of the best features of Head Start has been its emphasis on parental involvement which has proven to be beneficial for both the enrolled child and the parent. Many Head Start parents, because of their involvement in the program, become Head Start volunteers. Because of this positive experience, many then go on to pursue an education in early childhood development, often becoming paid Head Start staff. As a testament to its impact, Head Start Programs will employ nearly 25,000 parents of current or former Head Start children in 1990.

Given the success of Head Start, it is no surprise that State and Federal legislators, State governments, child development specialists, and business leaders alike are unanimous in their support for increased funding for Head Start. I, too, believe that more needs to be done to expand Head Start to serve more eligible children. The President made a substantial step last year by proposing a $250 million increase and delivered on the promise of continued support for Head Start by recommending a $500 million increase for fiscal year 1991.

I must express concern, however, with the funding authorization levels in this bill. The committee approved a $1 billion increase for fiscal year 1991. This represents a 72-percent increase over last year's post-sequester funding level. Is this a realistic authorized funding level increase in light of the Gramm-Rudman budget deficit target? I think not. Is it a responsible funding increase recommendation in light of our fiscal limitations? I think not. Furthermore, these unrealistic funding levels increase to over $7 billion by 1994.

The unfortunate consequence of such an unrealistic funding level recommendation is to place Head Start funding level decisions solely within the province of the Appropriations Committee. Everyone would like to be generous with Head Start and other successful programs, but I would rather see a serious request that will get the attention of the members of the Appropriations Committee.

There is a further, more important, consequence to unrealistic funding levels. Should Head Start receive a substantial increase, program expansion may move too quickly, without focusing on the aspects of the program that make it successful. If Head Start were to expand too quickly, it is possible that the quality of services to the children could suffer. Since there is a current shortage of early childhood development professionals, it would be impossible to expand Head Start quickly and also maintain beneficial child/staff ratios. While I do not know the optimal funding increase that would allow expansion of services in an orderly manner without hurting the quality of the program, I feel confident that a 72-percent increase is not the optimal level.

Aside from the authorization levels, I am pleased to support this reauthorization bill. I am particularly pleased that parent education and referral services have been accepted by the majority along with a one-time national assessment of Head Start and a longitudinal study. While all agree that Head Start is a good program, we lack statistical analysis of this. Moreover, we do not have any reliable comprehensive study on the long-term effectiveness of different Head Start approaches. I thank the ranking minority member, Mr. GOODLING, for his work in these areas and the majority for accepting these important changes.

In summary, Mr. Chairman, I want to lend my support to this legislation while noting my disagreement with the funding authorization levels that have been adopted. Head Start is deserving of congressional support and a responsible level of increased funding.

Mr. OWENS of Utah. Mr. Chairman, I rise in support of expansion of one of our most effective Federal programs. Twenty-five years ago, President Lyndon B. Johnson launched the national Head Start Program as part of this country's war on poverty. This year as we celebrate its silver anniversary, we can proudly say that the Head Start Program has achieved distinction of the highest merit. We acknowledge this program as one of our best success stories, and yet, we are serving less than 20 percent of all eligible candidates. Utah has a relatively small population, but there are nearly 5,000 eligible students who are not getting the opportunity for advancement that they deserve.

Since 1965, Head Start has provided educational, social, medical, dental, nutritional, and mental health services to more than 11 million children and their families across the Nation. Since 1965, this program has served more than 450,970 children each year. In Salt Lake County this year, 888 children are being assisted by the Head Start Program.

I would like to share with you one of Salt Lake County's Head Start success stories. Marie Augustine was a high school dropout with three daughters when her husband left her. Her family, and others' families in similar circumstances, were dependent on welfare until Marie and others helped organize the area's first Head Start Program. With local, State, and Federal assistance due in large part to Marie's perseverance, the program became a success. Marie became executive director of the program, and in 1985, she became director of the Salt Lake Area Community Action Agency Head Start Program, the second largest program in the Western States region.

Today I wish to commend Congressman KILDEE and especially Marie Augustine and all those involved in Salt Lake County who have made this program so successful that it is now almost unanimously and bipartisanly endorsed.

Mr. OWENS of New York. Mr. Chairman, I am pleased and proud to rise in support of H.R. 4151, the Human Services Reauthorization Act of 1990. While all of the programs reauthorized by this legislation are of immense importance to the people of the 12th Congressional District, including the Community Services Block Grant, Child Development Associate Scholarships, and Community Food and Nutrition Programs, I want, in particular, to highlight the breakthrough improvements H.R. 4151 makes in two programs that are vital to the education of disadvantaged children in this country: Head Start and Follow Through.

The bold, progressive vision of this legislation makes me optimistic about the future. With this initiative, there are faint signs that a perestroika U.S.A. may at last be emerging, that the tide is indeed turning, that we are reaching an end to the policies of neglect that have starved the minds, bodies, and spirits of millions of poor children in this country during the last decade.

Poverty is not an act of God; it is an act of state. The Government of the United States has the power and the resources to wipe out poverty. It has always had them. But it has not used them because a big lie has always blocked the way.

During the 1950's and 1960's we confronted and defeated the first big lie—the lie that there was no poverty in America. We won that battle only to find that the path was not—and still is not—clear. Effective action to eradicate poverty and end the misery that depletes America has since that time been obstructed by two more big lies—the lie that nothing works and the lie that we cannot afford to act.

Head Start has met and bested the big lie that nothing works. Stacks upon stacks of evaluation studies have documented its shining success in changing the lives of disadvantaged young people. Children who have participated in Head Start perform better in school; they are less likely to be placed in special education or held back a grade; they are more likely to complete high school and

pursue college or other postsecondary education; and they are less likely to be arrested for delinquent or criminal behavior, become teen parents, or be dependent on welfare. On average each dollar invested in Head Start yields a total return of $6 in additional tax receipts generated by better and greater employment and earnings and in savings in public assistance and costs associated with criminal activity and special education. Head Start works.

This reauthorization shoves aside the second big lie that we cannot afford to act against poverty. Sufficient funding is authorized by H.R. 4151 to provide Head Start services to every eligible 3- and 4-year-old and 30 percent of eligible 5-year-olds by fiscal year 1994. This legislation affirms that we can afford to act. We can do what is right for the poor children of America.

From the first day I joined the House in 1983, the conventional wisdom, uttered over and over and again and again, has been that the U.S. Government cannot afford to adequately fund programs for people in general—and poor people in particular—because of the monumental size of the budget deficit. But when we really want to find the money for something, we do; exceptions to the conventional wisdom have often been made. There have been few major natural disasters over the last decade that the Congress and President have not responded to with generosity, compassion, and great speed. Budget deficit or not, we find the money to help when people are victimized by droughts, floods, and hurricanes.

But there are other disasters ripping through America today and none is more pernicious than poverty. H.R. 4151 recognizes that we can and must find the money to help the youngest and most vulnerable victims of this awful man-made disaster. Warping and abbreviating lives in neighborhoods across America, the destructive force of poverty is just a terrible as that of any tornado or earthquake you will ever see. And with this legislation the Congress can begin to respond to the plight of poor children in America with just a portion of the compassion and generosity with which we reflexively shower Americans who are victims of natural disasters.

Authorizing full funding for Head Start is a momentous step in and of itself, but H.R. 4151 goes beyond that to also assure that Head Start services will continue to be of the highest quality. It does this by targeting a share of the program's annual appropriations for activities necessary to maintain and improve the quality of local Head Start Programs. This provision has been made necessary by the administration's cynical and politically expedient efforts to squeeze program costs, shortchanging training and staff salaries, in order to drive up the number of children enrolled in Head Start. This short-sighted cost-cutting has caused serious problems for Head Start Programs in New York, making it impossible for them to provide the kind of salaries they need to attract and retain quality personnel. Countless able and committed Head Start teachers and aides have had to leave the program in recent years to take jobs in the public schools or other child development programs because they could not afford to live on the meager salaries offered by Head Start. H.R. 4151 responds to this growing crisis by setting aside 10 percent of Head Start's appropriations in fiscal year 1991 and 25 percent in subsequent years for salary increases and other quality improvement activities. These funds would be allocated among the States according to the existing formula. During the first 2 years these funds would be distributed among grantees in each State based on the relative number of children they serve; in later years, the amount each grantee receives would be negotiated as part of the regular process for determining grantee funding levels, although every grantee must receive some share of the funds. These funds would be in addition to the cost-of-living increases the Department is already required to provide to grantees.

Grantees must use at least half of the quality improvement funds they receive to increase staff salaries. The remaining funds could be used for hiring additional staff, transportation, insurance, modest facility improvements, and other uses which would be determined by the Secretary.

FOLLOW THROUGH

The only serious criticism or complaint that has been registered against Head Start in recent years has been that its effects on children do not last long enough. What we have seen in some studies is that the great intellectual and social gains some children make as a result of their participation in Head Start can be lost within a few years unless they receive appropriate followup services in elementary and secondary school. Missing the point entirely, some neanderthals on the far right have tried to use these studies to argue against funding Head Start at all. H.R. 4151 offers a more thoughtful and appropriate response to this problem by reauthorizing and revitalizing the Follow Through Program.

Follow Through was originally created during the Johnson administration to literally follow through and build upon the developmental gains children made in Head Start. It was envisioned as a direct service program for elementary school children that would be comparable to Head Start in its size and in the extent of services offered to children and their parents. Unfortunately, however, the program has never attained the funding it has needed to fullfill this kind of role and in recent years has been struggling for survival against constant assaults by the Reagan and Bush administrations.

Even under these very difficult circumstances, Follow Through has still managed to be remarkably effective. The Follow Through Program sponsored by the Bank Street College of Education at PS 243 in the Bedford-Stuyvesant neighborhood of my congressional district, for example, has made an important difference in the lives of the children and families it serves. Approximately 450 low-income youngsters enrolled in kindergarten through third grade are served at PS 243; about 80 percent of them previously participated in Head Start, Project Giant Step, or other comparable preschool programs. Follow Through has enabled these children to maintain and strengthen the gains they made in preschool and has helped PS 243 to become a successful school in an extraordinarily difficult environment. More than 70 percent of its students continue to achieve at or above grade level on city-wide tests at the second grade.

Through a rich curriculum, Follow Through students at PS 243 are encouraged to use language, writing, drawing, and other forms of representations to communicate their understanding to each other and to the adults who work with them. Recognizing the importance of experience to the healthy development of children, the curriculum attempts to provide firsthand experiences that allow children to expand their understanding of the world. Follow Through students, for example, have been active participants in anthropological digs at the nearby Weeksville Houses, one of the oldest free African-American communities in the United States. Artifacts collected by the children have become part of a minimuseum which is maintained at the school.

Follow Through has also dramatically strengthened the involvement of parents and other family members in the education of the school's students. On a recent night, more than 270 fathers and father surrogates came out with their children to participate in "Fathers' Night" at the school. "Grandparents' Day" brings out hundreds of grandparents to the school every year to visit with their grandchildren and participate in other events.

Follow Through and other staff have also made many efforts to address the serious, unmet health and social services needs of many of the school's students. The effects of the "crack" epidemic on this neighborhood have been devastating. Many children live in formal, as well as informal foster care situations because their parents have died or are unable to care for them. Some teachers try to address the unique needs of these and other students by making home visits accompanied by the Follow Through neighborhood worker; other teachers show their special concern for these children and families in other ways. The program sponsor and the principal of PS 243 have also been active in trying to locate alternative sources of funding for the special health and social services the children need but do not now receive. Many of these services had been provided through the original Follow Through Program, but are now no longer encouraged by the Department of Education because of the program's very limited funding in recent years.

H.R. 4151 recognizes the unrealized potential of the Follow Through Program and seeks to restore its originally envisioned role as an important partner with Head Start in the education of low-income children. Sufficient funding is authorized to dramatically expand the program to provide services in many more schools and to permit existing programs to provide the more enriched and comprehensive services that they have been unable to offer in recent years. The legislation also encourages the provision of services at more than one school site and during the summer months to meet the educational needs of children when they are not in school.

This is an important, ground-breaking initiative and I salute the chairman of the subcommittee, Mr. KILDEE, for his leadership in making it happen. I urge my colleagues to support H.R. 4151 without amendment.

Mr. MATSUI. Mr. Chairman, this year as we celebrate the 25th anniversary of Head Start we have the opportunity to reaffirm our commitment to this important program and to the low-income youth who benefit from the services provided by Head Start.

Since its creation, Head Start has reached more than 11 million children through the educational, health, nutritional, and social services the program provides. Sadly, this figure is only a small portion of the children who are eligible and would benefit from these services.

Before us today is a bill that gives us the opportunity to improve on this figure. H.R. 4151 would reauthorize and expand the Head Start Program so that by 1994, all eligible children will be able to participate in Head Start and receive the services so critical to their development.

The Head Start Program has a proven track record in getting low-income children off to a solid educational start. It has been shown through many studies that children who have participated in Head Start are more likely to succeed educationally than are their peers who do not have this advantage. It is time to act on this commitment to early childhood education and pass H.R. 4151.

The future of the United States is dependent upon the success of programs such as Head Start. If the children of today are to be adequately prepared to become the work force of the future, Congress must reaffirm its commitment to Head Start and the other social services programs included in H.R. 4151. These programs all serve a tremendous need throughout the country, in the form of community-based child care resource and referral programs under the State Dependent Care Development Grants Act and nutritional services and drug prevention and education services provided by the Community Services Block Grant.

Taken together, programs like these—Head Start, the Follow Through Program, the Community Services Block Grant, the State Dependent Care Development Grants Act, and the Community Food and Nutrition Program—make a tremendous contribution to the well-being and social and economic development of the Nation's low-income children, and to the economic well-being of the country.

Now is the time for Congress to act on its commitment to children and families across the country and pass this important human resources reauthorization legislation.

Mr. BRENNAN. Mr. Chairman, I support H.R. 4151, the 1990 Human Services Reauthorization Act. This is one of the more critical bills for low-income families, children, and individuals throughout the Nation. This is a bill which can help people themselves. It can move people off public assistance and into independent living situations.

The largest portion of this bill is for Head Start. Mr. Chairman, I have spoken on this floor previously about the positive effect Head Start has on at-risk youth. Only about 1,600 kids in my home State of Maine receive Head Start services. But these kids have that educational, social, and nutritional edge to carry with them as they meet new challenges. In addition to the quality improvements, I urge my colleagues to support expansion of Head Start so that by 1994 all eligible families and children will have access to these proven effective, life-long services.

Another highlight in this bill is the Community Services Block Grant Program. Maine has been a consistent beneficiary of this program. Corporations in my home State use these funds to leverage outside resources to build jobs and opportunities for low-income and disadvantaged individuals. These funds provide employment, self-employment, and job training, for AFDC recipients and people with disabilities.

I believe the greatest human service the Federal Government can offer our people is a job. The greatest human service department we can offer is a family whenever possible. I urge support of H.R. 4151 as a positive step toward ensuring educational and economic opportunities exist for individuals and families throughout the United States.

Mr. CRAIG. Mr. Chairman, today we will consider the Human Services Reauthorization Act of 1990. This reauthorization covers a number of important programs, including Head Start. While I am a strong supporter of the Head Start Program, I have a number of concerns regarding technical problems with the bill, as well as the increases in spending on a number of the programs that this bill authorizes.

I am not here to dispute the importance of the Head Start Program, or the other worthy programs this bill reauthorizes. But we must balance the needs of Federal programs within the limits of the Federal budget. We are already seeing Congress head down the road to overspending—the kind of overspending, Mr. Speaker, that leads to sequestration. H.R. 4151 reauthorizes the Head Start Program at $2.4 billion in fiscal year 1991—above the targets this House set in the 1991 budget resolution.

Congress can work toward achieving our Nation's goals in education without contributing to our spiraling budget deficit. The President's budget request for Head Start was the largest single funding increase in the history of the program—$500 million or 36 percent, providing access for 180,000 new children. This expansion was a fiscally responsible move toward our goal to provide a Head Start experience to every eligible child.

Mr. RANGEL. Mr. Chairman, I am pleased to support passage of H.R. 4151, the Human Services Reauthorization Act of 1990. In particular, I want to comment on the provisions of the bill which reauthorize the Head Start Program through 1994. This year Head Start is celebrating its 25th year of success. For fiscal year 1991, $2,386,000,000 is provided and in fiscal year 1992 the figure is $4,273,000,000. The purpose of the Head Start Program is to improve the delivery of comprehensive health, educational, nutritional, social, and other services to economically disadvantaged children and their families.

The Head Start Program has laid the foundation for a successful life by many minority and disadvantaged children. There is a need, however, to expand the program, because despite its successful track record, Head Start has never served more than a quarter of eligible children.

H.R. 4151 provides for the authorization of appropriations sufficient to enable all eligible 3- and 4-year-olds and 30 percent of 5-year-olds to participate in the Head Start Program by 1994. Head Start funding would also be used to increase the abysmally low salaries paid to Head Start teachers, improve facilities, and pay transportation expenses of children.

H.R. 4151 also reauthorizes through fiscal year 1994 the Parent-Child Centers within the Head Start Program. For fiscal year 1991, $30 million would be authorized and for fiscal year 1992 the figure would be $31,200,000. The purpose of the Parent-Child Center is to provide early childhood intervention programs to enhance the development of children from birth to age 3. Many Head Start teachers found that children ages 3 to 5 who were enrolled in their programs were suffering from nutrition, health, and developmental deficits. Earlier intervention with younger children should help prevent these situations from occurring. I urge my colleagues to support passage of H.R. 4151.

As chairman of the Select Committee on Narcotics, I strongly support the expansion of early intervention and prevention programs like Head Start and the Parent-Child Centers. We are spending billions of dollars on drug interdiction, law enforcement, prisons, jails, and treatment to address the symptoms and consequences of the drug problem. These are necessary components of a strategy to fight drugs. We must however, also recognize and begin to address the underlying social and economic conditions that often make disadvantaged communities and individuals especially vulnerable to drug abuse and drug crime. These root causes include lack of educational opportunities, lack of access to health care, homelessness, joblessness, poverty—in short the lack of hope for a better future that leads to drugs and crime.

The preschool education and enrichment opportunities for poor and minority children that Head Start offers are the types of long-term antidotes to the rising problem of drugs and crime that we need to be supporting. Head Start has been one of the most successful crime and drug prevention programs of the last 25 years. The Committee for Economic Development [CED], a prestigious organization of over 200 business executives and educators, has called for full funding of Head Start, citing the need for an educated and qualified work force for our Nation to compete in global markets. In a 1985 report, the CED concluded that every dollar spent on prevention and early intervention through preschool for at-risk children can save $4.75 down the road in the costs of remedial education, welfare, and crime.

We will never win the drug war just by building more prisons, buying more planes, boats, radar, and sophisticated technology to interdict drugs or increasing the number of law enforcement officers on the streets. If we are serious about defeating drugs, we need to increase our investments in people to ensure opportunities for all our citizens to participate productively in society. Head Start exemplifies this type of investment. I urge all Members to support this important legislation.

Mr. DUNCAN. Mr. Chairman, I strongly support the Head Start Program. I think it is one of the finest programs the Federal Govern-

ment has. I want to do all we can for poor and disadvantaged children.

Yet, we harm all children if we destroy this Nation by adding on debts that are impossible to handle. Our national debt is presently $3.12 trillion. We cannot afford to keep adding billions and billions more to this staggering total.

That is why I cannot support an increase of over 300 percent during the next 2 years for the Head Start Program.

No matter how good a program is, with our current financial condition, this Nation simply cannot afford to double and even triple certain Federal departments or agencies.

This bill will increase Head Start funding from $1.4 billion in fiscal 1990 to $4.3 billion in fiscal 1992.

The President recommended a $500 million increase for Head Start for this fiscal year. This would be a 36 percent increase from $1.4 billion to $1.9 billion. I would have been pleased to have supported this recommendation even though this is far more than we can give to most programs.

The President's proposal would have provided for an expansion of 180,000 new eligible children and would have been more fiscally responsible.

To more than triple the Head Start Program over the next 2 years, funds will have to be taken from many other good, worthwhile projects.

I simply cannot support this huge an increase for any program when our country is so deeply in debt.

As we so often do here in the Congress, we are spending money we do not have.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. FLAKE). Pursuant to the rule, the bill is considered under the 5-minute rule by titles, and each title shall be considered as having been read.

The Clerk will designate section 1.

Mr. KILDEE. Mr Chairman, I ask unanimous consent that the committee amendment in the nature of a substate be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

*SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Human Services Reauthorization Act of 1990".*

*TITLE I—AMENDMENTS TO THE HEAD START ACT*

*SEC. 101. AUTHORIZATION OF APPROPRIATIONS.*

*Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—*

*(1) by striking "$1,198,000,000" and all that follows through "1989, and", and*

*(2) by inserting after "1990" the following: ", $2,386,000,000 for fiscal year 1991, $4,273,000,000 for fiscal year 1992, $5,924,000,000 for fiscal year 1993, and $7,660,000,000 for fiscal year 1994".*

*SEC. 102. RESERVATION OF FUNDS.*

*(a) RESERVATION OF FUNDS.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—*

*(1) in paragraph (1) by striking "and (3)" and inserting "through (5)",*

*(2) in paragraph (2)—*

*(A) in subparagraph (A)—*

*(i) by inserting "for each fiscal year" after "available", and*

*(ii) by striking "no less" and all that follows through "1985", and inserting "not less than the amount that was obligated for use by Indian and migrant Head Start programs for fiscal year 1990",*

*(B) in subparagraph (C) by striking "1982" and inserting "1990",*

*(C) by striking the penultimate sentence, and*

*(D) in the last sentence by inserting "or paragraph (3)" after "this paragraph",*

*(3) in paragraph (3) by striking "87 percent of the",*

*(4) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively, and*

*(5) by inserting after paragraph (2) the following:*

*"(3)(A) For any fiscal year for which the amount appropriated under section 639(a) exceeds the adjusted appropriation, the Secretary shall reserve the quality improvement funds for such fiscal year, for one or more of the following quality improvement activities:*

*"(i)(I) Not less than one-half of the amount reserved under this subparagraph, to improve the compensation (including benefits) of staff of Head Start agencies and thereby enhance recruitment and retention of such staff. The expenditure of funds under this clause shall be subject to section 653.*

*"(II) If a Head Start agency certifies to the Secretary for such fiscal year that part of the funds set aside under subclause (I) to improve wages cannot be expended by such agency to improve wages because of the operation of section 653, the such agency may expend such part for any of the uses specified in the subparagraph (other than wages).*

*"(ii) To pay transportation costs incurred by Head Start agencies to enable eligible children to participate in a Head Start program.*

*"(iii) To employ additional Head Start staff, including staff necessary to reduce the child-staff ratio and staff necessary to coordinate a Head Start program with other services available to children participating in such program and to their families.*

*"(iv) To pay costs incurred by Head Start agencies to purchase insurance (other than employee benefits) and thereby maintain or expand Head Start services.*

*"(v) To make nonstructural and minor structural changes, and to acquire and install equipment, for the purpose of improving facilities necessary to expand the availability, or enhance the quality, of Head Start programs.*

*"(vi) Additional uses related to quality, as determined by the Secretary.*

*"(B)(i) Funds reserved under subparagraph (A) for a fiscal year shall be allotted by the Secretary among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for such fiscal year.*

*"(ii) To be expended for the activities specified in subparagraph (A) in the first fiscal and second fiscal years for which funds are required by such subparagraph to be reserved, the Secretary shall make a grant to each Head Start agency that receives a grant from funds allotted under paragraph (5) for such fiscal year, in the amount that bears the same ratio to the amount allotted under clause (i) for such fiscal year for the State in which such agency is located as the number of children participating in the Head Start program of such agency in such fiscal year bears to the number of children participating in all Head Start programs in such State in such fiscal year.*

*"(iii) To be expended for the activities specified in subparagraph (A) in each subsequent fiscal year for which funds are required by such subparagraph to be reserved, the Secretary shall make a grant to each Head Start agency that receives a grant from funds allotted under paragraph (5) for such fiscal year, in such amount as the Secretary considers to be appropriate. The aggregate amount of grants made under this clause to Head Start agencies in a State for a fiscal year may not exceed the amount allotted under clause (i) for such State for such fiscal year.*

*"(iv) If a Head Start agency certifies for such fiscal year to the Secretary that it does not need any funds under subparagraph (A), or does not need part of such funds it would otherwise receive under clause (ii) or (iii), then unneeded funds shall be used by the Secretary to make grants under this subparagraph without regard to such agency.*

*"(v) Funds received under this subparagraph shall be used to supplement, not to supplant, funds received under paragraphs (2), (4), and (5).*

*"(4)(A) The Secretary shall reserve $30,000,000 for fiscal year 1991, $31,200,000 for fiscal year 1992, $32,448,000 for fiscal year 1993, and $33,745,920 for fiscal year 1994 to make grants to Head Start agencies to carry out early childhood intervention programs, to be known as 'Parent-Child Centers', within Head Start programs.*

*"(B)(i) Such programs shall be designed—*

*"(I) to enhance the development of children who are less than 3 years of age; and*

*"(II) to strengthen the family unit by providing opportunities for increasing the child development skills and knowledge of their parents.*

*"(ii) Such programs shall provide comprehensive services (such as social, health, and educational services) to low-income families with children who are less than 3 years of age. Notwithstanding section 645(c), such programs may provide such services to any eligible family during any period of time and may be center-based, home-based, or a combination of both.*

*"(C) Funds reserved under subparagraph (A) for a fiscal year shall be allotted as follows:*

*"(i) 87 percent of such funds shall be allotted among the States in the same proportion as funds are allotted among the States under paragraph (5).*

*"(ii) 13 percent of such funds shall be used to—*

*"(I) increase the allotments made under clause (i) so that the allotment made under clause (i) for each State is not less than the amount expended in fiscal year 1990 by Head Start agencies in such State to carry out early childhood intervention programs of the kind described in subparagraph (B); and*

*"(II) to make payments for programs and services specified in paragraph (2)(A) and to make payments to entities specified in paragraph (2)(B) to carry out such programs.*

*"(D) The Secretary may not make a grant under this paragraph to a Head Start agency for a fiscal year unless such agency*

certifies that carrying out the early childhood intervention program for which such grant is requested will not reduce services provided by such agency to children who participate in its other programs under this subchapter.

"(E) For purposes of this paragraph, the term 'low-income family' means a family that satisfies the eligibility requirements applicable under section 645(a).".

(b) DEFINITION.—Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4),

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) The term 'adjusted appropriation' means—

"(A) with respect to the first fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 110 of the amount appropriated under section 639 for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers (issued by the Bureau of Labor Statistics) occurring in the 1-year period ending immediately before the fiscal year with respect to which a determination is made under section 640(a)(3)(A); and

"(B) with respect to the each subsequent fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, the amount appropriated under section 639 for the preceding fiscal year adjusted to reflect the precentage change in the Consumer Price Index For All Urban Consumers (issued by the Bureau of Labor Statistics) occurring in the 1-year period ending immediately before the fiscal year with respect to which a determination is made under section 640(a)(3)(A).", and

(3) by adding at the end the following:

"(6) The term 'quality improvement funds' means—

"(A) with respect to the first fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 10 percent of the amount appropriated under section 639 for such fiscal year; and

"(B) with respect to the each subsequent fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 25 percent of the portion of the amount appropriated under section 639 for such fiscal year that eceeds the adjusted appropriation for such fiscal year.".

SEC. 103. REQUIREMENTS APPLICABLE TO THE SECRETARY.

(a) REPORT ON STATUS OF CHILDREN.—Section 640(d) of the Head Start Act (42 U.S.C. 9835(d)) is amended—

(1) in the last sentence—

(A) by inserting "submit a comprehensive" after "shall",

(B) by striking "handicapped children" and inserting "children (including handicapped children)", and

(C) by striking ", their handicapping conditions,", and

(2) by adding at the end the following:

"Such report shall include—

"(1) a statement for the then most recently concluded fiscal year specifying—

"(A) the amount of funds received by Head Start agencies designated under section 641 to provide Head Start services in a period before such fiscal year; and

"(B) the amount of funds received by Head Start agencies newly designated under section 641 to provide such services in such fiscal year;

"(2) a description of the distribution of Head Start services relative to the distribution of children who are eligible to participate in Head Start programs;

"(3) a statement identifying how funds expended under section 640(a)(2), and grants made under section 640(a)(3), were distributed and used as national, regional, and local levels;

"(4) a statement specifying the amount of funds provided by the State, and by local sources, to carry out Head Start programs;

"(5) cost per child and how such cost varies by region;

"(6) employment status of parents;

"(7) teacher salaries and educational level;

"(8) number of recipients of benefits under title IV of the Social Security Act participating in Head Start programs;

"(9) the source of non-Federal funds used in such programs; and

"(10) the use and source of funds to extend Head Start services to operate full-day and year round.

Promptly after submitting such report to the Congress, the Secretary shall publish in the Federal Register a notice indicating that such report is available to the public and specifying how such report may be obtained.".

(b) GUIDELINES.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(f) The Secretary shall develop guidelines that define criteria to enable Head Start agencies to modify or implement their service delivery models.".

SEC. 104. COMPREHENSIVE HEAD START REPORT.

The Head Start Act (42 U.S.C. 9801 et seq.) is amended by inserting after section 640 the following:

"COMPREHENSIVE REPORT

"SEC. 640A. (a) The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(1) not later than July 1, 1993, an interim comprehensive report; and

"(2) not later than January 1, 1994, a final comprehensive report;

in accordance with this section.

"(b) The reports required by subsection (a) shall contain—

"(1) the information contained in the documents entitled 'Program Information Report' and 'Head Start Cost Analyses System' (or any document similar to either), prepared with respect to Head Start programs;

"(2) a description of the effect of the 1990 Decennial Census on the allotment of funds under this subchapter;

"(3) a description of the extent to which Head Start programs and local elementary schools coordinate their respective activities with each other and cooperate in providing activities;

"(4) a description of the extent to which social services in the communities are used by children who participate in Head Start programs and by their families;

"(5) separate descriptions of how this subchapter is administered by the headquarters of the Department of Health and Human Services and by its regional offices, including an analysis of the negotiations that occur between such regional offices and applicants for grants under this subchapter;

"(6) a description of the condition of facilities used by Head Start programs;

"(7) the results of recent studies evaluating the effectiveness of Head Start programs in meeting their goals;

"(8) a description of the impact of expending funds under paragraph (3) on staff qualifications, staff wages, and staff turnover of Head Start agencies; and

"(9) the matters specified in paragraphs (1) through (4) of section 640(d).

"(c) The Secretary shall meet periodically with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate to inform the committees of the progress made in preparing the reports required by subsection (a).".

SEC. 105. DESIGNATION OF HEAD START AGENCIES.

Section 641(d) of the Head Start Act (42 U.S.C. 9836(d)) is amended by adding at the end the following: "In selecting from among qualified applicants for designation as a Head Start agency and subject to the preceding sentence, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

"(1) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

"(2) the plan of such applicant to provide comprehensive health, nutritional, educational, social, and other services needed to aid participating children in attaining their full potential;

"(3) the plan of such applicant to coordinate the Head Start program it proposes to carry out, with other preschool programs and with the educational programs such children will enter at the age of compulsory school attendance;

"(4) the plan of such applicant to involve parents of children who will participate in the proposed Head Start program in appropriate educational services (in accordance with the performance standards in effect under section 651(b) or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential;

"(5) the ability of such applicant to carry out the plans described in paragraphs (2), (3), and (4); and

"(6) other factors related to the requirements of this subchapter.".

SEC. 106. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended—

(1) in subsection (b) by striking "and (4)" and inserting the following: "(4) involve parents of children participating in its Head Start program in appropriate educational services (in accordance with the performance standards in effect upon section 651(b) or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential; and (5)", and

(2) in subsection (c)—

(A) by inserting ", and schools that will subsequently serve," after "serving", and

(B) by striking "agency to carry out the provisions of this subsection" and inserting "program, to carry out this subchapter".

SEC. 107. ADMINISTRATIVE COSTS.

The first sentence of section 644(b) of the Head Start Act (42 U.S.C. 9839(b)) is amended by inserting "the required" after "including".

SEC. 108. NEUTRALITY.

Section 644 of the Head Start Act (42 U.S.C. 9839) is amended by adding at the end the following:

"(e) Funds appropriated to carry out this subchapter shall not be used to assist, promote, or deter union organizing.".

SEC. 109. PARTICIPATION IN HEAD START PROGRAMS.

The last sentence of section 645(a)(2) of the Head Start Act (42 U.S.C. 9840(a)(2)) is amended by striking "1990" and inserting "1994".

SEC. 110. NOTICE AND HEARING.

Section 646 of the Head Start Act (42 U.S.C. 9841) is amended—

(1) by inserting "(a)" after "SEC. 646.",

(2) in paragraph (3) by inserting "or reduced" after "terminated", and

(3) by adding at the end the following:

"(b) The Secretary may not prescribe any procedure that would modify the operation of section 1303.21 or 1303.33, or any of subdivisions (a) through (f) of section 1303.35, of part 1303 of chapter XIII of the Code of Federal Regulations as in effect on April 1, 1990.".

SEC. 111. ROUTINE EVALUATIONS.

Section 651 of the Head Start Act (42 U.S.C. 9846) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively, and

(2) by inserting after subsection (b) the following:

"(c)(1) Subject to paragraph (3) and in addition to evaluations carried out under subsection (a), the Secretary shall carry out in each fiscal year a comprehensive evaluation of not less than one-third of the Head Start programs for which funds are received under this subchapter in such fiscal year.

"(2) In carrying out an evaluation under paragraph (1) of each Head Start program, the Secretary shall—

"(A) to the maximum extent practicable, carry out such evaluation by using employees of the Department of Health and Human Services who are knowledgeable about Head Start programs;

"(B) ensure that an employee of the Department of Health and Human Services who is knowledgeable about Head Start programs supervises such evaluation at the site of such program; and

"(C) measure the compliance of such program with the performances standards in effect under subsection (b).

"(3) Each Head Start program shall be evaluated under paragraph (1) not less frequently than once in each 3-year period.".

SEC. 112. LONGITUDINAL STUDY OF HEAD START PARTICIPANTS.

"(a) STUDY REQUIRED.—The Head Start Act (42 U.S.C. 9801 et seq.) is amended by inserting after section 651 the following:

"LONGITUDINAL STUDY OF HEAD START PARTICIPANTS

"SEC. 651A. (a) The Secretary shall conduct, through contracts with qualified persons, a longitudinal study of the effects that the participation in Head Start programs has on the development of children and their families.

"(b) In carrying out the study required by subsection (a), the Secretary shall establish an advisory panel to provide advice and guidance to the Secretary and to the persons who carry out such study, regarding the design and execution of such study. Such panel shall be composed of—

"(1) individuals who have—

"(A) expertise in the current operation of Head Start programs;

"(B) professional background in child development and related fields,

"(C) experience in the evaluation of Head Start programs and comparable programs; and

"(2) individuals who have expertise in designing and executing large-scale longitudinal studies.

"(c) Each study required by subsection (a) shall be carried out during a period of not less than 20 years, shall be based on a sample representing the national population and various subpopulations, and shall include information on—

"(1) the characteristics of the Head Start program included in such study;

"(2) the children participating in such programs and their families;

"(3) the effects of each Head Start program included in such study on the children participating in such program and on their families, including—

"(A) the effects of receiving Head Start services during more than one year;

"(B) the effects of such program on the parent-child relationship;

"(C) the long-term and short-term effects of such program on the health of such children and their families; and

"(D) changes that occur in the community in which such program operates, caused by the effects described in subparagraphs (A), (B), and (C);

"(4) the school grades, grade retention, motivation, special education placement, secondary school graduation, delinquency, college attendance, welfare participation and employment of such children; and

"(5) variables that sustain gains as such children move through the primary grades.

"(d) To the maximum extent feasible, the study required by subsection (a) shall provide for comparisons with appropriate control groups composed of individuals who do not participate in Head Start programs.

"(e) While each study required by subsection (a) is being carried out, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(1) periodic reports on the progress of such study; and

"(2) for the Head Start programs included in such study, the information specified in subsection (c).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) by inserting "(a)" after "SEC. 639.",

(2) by inserting "(other than section 651A)" after "subchapter", and

(3) by adding at the end the following:

"(b) There are authorized to be appropriated such sums as may be necessary to carry out section 651A for fiscal years 1991 through 2011.".

SEC. 113. POVERTY LINE.

(a) ISSUANCE OF POVERTY LINE.—Subsection (a) of section 652 of the Head Start Act (42 U.S.C. 9847(a)) is amended to read as follows:

"(a) The Secretary shall issue annually (or at any shorter interval the Secretary considers to be feasible and desirable) a poverty line which, except as provided in section 645, shall be used as a criterion of eligibility for participation in Head Start programs.".

(b) DEFINITION.—Section 637 of the Head Start Act (42 U.S.C. 9832), as amended by section 102(b), is amended by adding at the end the following:

"(5) The term 'poverty line' means—

"(A) the official poverty line (as defined by the Office of Management and Budget) adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the 1-year period or other interval immediately preceding the date such adjustment is made; or

"(B) the poverty line (including any revision thereof) applicable to this subchapter for fiscal year 1990, adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the period beginning October 1, 1989, and ending immediately before the date such adjustment is made;

whichever is greater.".

(c) TECHNICAL AMENDMENTS.—Section 652 of the Head Start Act (42 U.S.C. 9847) is amended—

(1) by striking subsection (b), and

(2) in subsection (c) by striking "(c) Revisions required by subsection (a) shall be made and issued" and inserting "(b) The poverty line shall be determined by the Secretary".

SEC. 114. AUTHORITY OF SECRETARY.

Section 645(c) of the Head Start Act (42 U.S.C. 9840(c)) is amended by adding at the end the following: "The Secretary may not issue or enforce any rule (as defined in section 551(4) of title 5 of the United States Code) or guideline that forbids any Head Start agency to carry out a Head Start program in accordance with the authority described in the preceding sentence.".

SEC. 115. DETERMINATION REQUIRED.

Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall—

(1) determine—

(A) whether Head Start services are provided effectively nationwide in family day care settings, and

(B) how such services should be designed to be provided in such settings to ensure their high quality and comprehensiveness, and

(2) publish in the Federal Register the determination made under paragraph (1) and a summary of the facts relied upon by the Secretary to reach such determination.

SEC. 116. TECHNICAL AMENDMENTS.

Section 643 of the Head Start Act (42 U.S.C. 9838) is amended—

(1) by striking "Governor" the first place it appears and inserting "chief executive officer", and

(2) by striking "Governor" the second and third places it appears and inserting "such officer".

## TITLE II—AMENDMENTS TO THE FOLLOW THROUGH ACT

SEC. 201. TECHNICAL AMENDMENTS.

Subchapter C of Chapter 8 of Subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9801–9861) is amended—

(1) by inserting after section 661 the following: "PART I—DIRECT SERVICES", and

(2) in section 668 by striking "this subchapter" each place it appears and inserting "part I".

SEC. 202. FINANCIAL ASSISTANCE FOR FOLLOW THROUGH PROGRAMS.

(a) PROVISION OF ASSISTANCE.—Section 662 of the Follow Through Act (42 U.S.C. 9861) is amended—

(1) in the first sentence of subsection (a) by inserting "quality pre-school" after "similar",

(2) in subsection (c)—

(A) in the first sentence by striking "this section shall provide such" and inserting "this part shall use model Follow Through approaches for which financial assistance is provided under section 664A and shall provide", and

(B) by striking "project" and inserting "program", and

(3) by adding at the end the following:

"(d) The Secretary may not refuse to provide financial assistance under subsection (a) to an applicant solely because such applicant proposes to carry out a Follow Through program during a period in which school is not in regular session, at more than one site, or both.

"(e)(1) In making grants under subsection (a), the Secretary shall provide sufficient funds to enable programs to meet the requirements of subsection (c).

"(2) If the aggregate amount appropriated for a fiscal year to carry out this subchapter exceeds $15,000,000, the amount of each such grant shall be not less than $200,000.".

(b) TECHNICAL AMENDMENT.—Section 662(c) of the Follow Through Act (42 U.S.C. 9861(c)) is amended by striking "projects" and inserting "programs".

SEC. 203. APPLICATIONS AND FUNDING.

The Follow Through Act (42 U.S.C. 9801-9861) is amended by striking section 663 and inserting the following:

"CONSIDERATION OF APPLICATIONS

"SEC. 663. (a) IN GENERAL.-A grant under this part may be made only to an applicant that submits an application to the Secretary containing such information as may be required by the Secretary by rule.

"(b) CONTENTS OF APPLICATION.—Each application shall—

"(1) provide that the program for which assistance is requested will be administered by or under the supervision of the applicant;

"(2) provide for the proper and efficient administration of such program;

"(3) provide for regular evaluation of such program;

"(4) provide that regular reports on such program shall be sent to the Secretary;

"(5) estimate the number of children who are eligible for Follow Through services in the geographical area served by such program and the approximate number to be served by such program;

"(6) describe which model Follow Through approach the applicant intends to use, and the manner in which the applicant will implement such approach;

"(7) provide evidence that the applicant has made a formal arrangement to receive technical assistance and training relative to such approach from an appropriate agency, institution, or organization that receives funds under section 664A;

"(8) provide an assurance that the instructional program, including textbooks and other materials provided by the applicant, is appropriate to the ages and developmental needs of the children to be served by such program and to the model Follow Through approach selected;

"(9) provide for direct participation of parents, as provided in section 662(c), and include a certification that such application has been approved by a committee (established in accordance with rules issued by the Secretary) that represents parents of children who participate, and parents of children who are likely to participate, in such program;

"(10) describe how the applicant proposes to coordinate services under this part with services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Bilingual Education Act, and the Education of the Handicapped Act;

"(11) provide evidence that the applicant has formally arranged with local Head Start programs and other preschool programs for such cooperation and activities as will ensure an effective transition of eligible children entering the Follow Through program carried out by such applicant; and

"(12) describe the expected or, if possible, actual impact of such program on the applicant's regular school program.".

SEC. 204. PROGRAM IMPROVEMENT.

(a) RESEARCH, EVALUATION, AND RELATED MATTERS.—The Follow Through Act (42 U.S.C. 9801-9861) is amended by striking section 664 and inserting the following:

"PART II—PROGRAM IMPROVEMENT

"RESEARCH

"SEC. 664. (a) The Secretary may provide financial assistance, through grants and contracts, to public and private nonprofit agencies, institutions, and organizations to conduct research—

"(1) to improve Follow Through approaches; and

"(2) to meet the special needs of children who are eligible to participate in Follow Through programs.

"(b) In providing assistance under this subsection (a), the Secretary shall give priority to applicants that have experience in developing, administering, or evaluating Follow Through programs or model Follow Through approaches.

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 664A. The Secretary shall make grants to public and private nonprofit agencies, institutions, and organizations—

"(1) to provide technical assistance to assist in the development, implementation, and expanded use of model Follow Through approaches; and

"(2) to provide training in conjunction with the operation of Follow Through programs or other programs that adopt such approaches.

"RESOURCE AND EXPANSION

"SEC. 664B. The Secretary may make grants to entities which operate, or previously operated, Follow Through programs that the Secretary had found to be effective—

"(1) to act as Follow Through resources to develop and provide information on the operation of their respective programs;

"(2) to promote the adoption of similar programs by local educational agencies; and

"(3) to assist agencies, institutions, and organizations that receive funds under section 664A, in providing technical assistance and training.

"NATIONAL CLEARINGHOUSE

"SEC. 664C. (a) If the amount appropriated to carry out this subchapter exceeds $19,000,000, then the Secretary shall make a grant to an organization that represents entities referred to in sections 662, 664A, and 664B to establish a national clearinghouse on Follow Through programs (hereinafter in this section referred to as the clearinghouse), which shall provide information, without charge or at such reasonable cost as the Secretary may determine, to the public concerning—

"(1) programs that receive financial assistance under section 662;

"(2) model Follow Through approaches;

"(3) the kinds of technical assistance and training available under section 664A;

"(4) the procedure to obtain technical assistance and training available under section 664A; and

"(5) Follow Through research and evaluations.

"(b) The Secretary shall make available to the clearinghouse all research and evaluations that relate to Follow Through programs and for which the Secretary provides, or has ever provided, funds.

"(c)(1) The Secretary shall promote the awareness and use of model Follow Through approaches by—

"(A) informing recipients of grants and contracts under section 1562 of the Elementary and Secondary Education Act of 1965 of the types of information received by the clearinghouse; and

"(B) making all information received by the clearinghouse available without charge to such recipients.

"(2) From the funds appropriated for each fiscal year to carry out this part, the Secretary shall expend—

"(A) not less than $100,000 to pay the costs incurred by such recipients to disseminate information relating to such approaches; and

"(B) not less than $300,000 to carry out this section.".

(b) CONFORMING AMENDMENT.—The Follow Through Act (42 U.S.C. 9801-9861) is amended by striking section 667.

SEC. 205. RESEARCH AND EVALUATION CONTRACTS.

Section 665 of the Follow Through Act (42 U.S.C. 9864) is amended—

(1) in the heading of such section by striking ", DEMONSTRATION, AND PILOT PROJECT" and inserting "AND EVALUATION", and

(2) in subsection (a)(1) by striking ", demonstration, or pilot project" and inserting "or evaluation".

SEC. 206. EVALUATION.

Section 666(a) of the Follow Through Act (42 U.S.C. 9865(a)) is amended by striking the last sentence.

SEC. 207. GENERAL AND ADMINISTRATIVE PROVISIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The Follow Through Act (42 U.S.C. 9801-9861) is amended by inserting after section 666 the following:

"PART III—GENERAL AND ADMINISTRATIVE PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 667. (a) There are authorized to be appropriated to carry out this subchapter $8,436,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, $30,000,000 for fiscal year 1992, $40,000,000 for fiscal year 1993, and $50,000,000 for fiscal year 1994.

"(b) Of the amount appropriated for each fiscal year to carry out this subchapter—

"(1) 70 percent shall be available to carry out part I; and

"(2) 30 percent shall be available to carry out part II.

"(c)(1) Financial assistance provided under part I for a Follow Through program shall not exceed 80 percent of the approved costs of the program assisted, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines, in accordance with rules establising objective criteria, that such action is required to carry out such part.

"(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

"(3) The Secretary may not require non-Federal contributions in excess of 20 percent of the approved costs of the Follow Through program assisted.

"(d) An application for assistance under this subchapter may not be approved unless the Secretary is satisfied that the services to be provided under this chapter by such applicant will be in addition to, and not in substitution for, services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such rules as the Secretary may issue.".

(b) CONFORMING AMENDMENT.—Section 670 of the Follow Through Act (42 U.S.C. 9861 note) is repealed.

SEC. 208. PARTICIPATION IN OTHER EDUCATIONAL ACTIVITIES.

The Follow Through Act (42 U.S.C. 9801-9861) is amended by inserting after section 669 the following:

"PARTICIPATION IN OTHER EDUCATIONAL ACTIVITIES

"SEC. 669A. The Secretary shall facilitate the participation of entities that receive funds under sections 664A and 664B in training and technical assistance activities carried out under other Federal programs that provide assistance to children in elementary schools.".

SEC. 209. TECHNICAL AMENDMENT.

Section 668(a) of the Follow Through Act (42 U.S.C. 9867(a)) is amended by inserting "programs and" before "projects".

TITLE III—AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT

SEC. 301. AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended—

(1) by striking "is authorized" and inserting "are authorized",

(2) by striking "1987, 1988, 1989, and", and

(3) by inserting after "1990" the following: "and 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

SEC. 302. WAIVER OF EXISTING PERCENTAGE SET-ASIDE OF ALLOTMENTS.

(a) AUTHORITY TO GRANT WAIVER.—Section 670D(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by striking "Of" and inserting "(1) Except as provided in paragraph (2), of", and

(3) by adding at the end the following:

"(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

"(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal year for the activities for which such amount is so made available; and

"(B) the adequacy of the alternative percentages, relative to need, the State specifies the State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.".

(b) SITES OF SCHOOL-AGE CHILD CARE SERVICES.—Section 670D(b)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(b)(1)) is amended by striking "in public" and all that follows through "communities".

SEC. 303. TECHNICAL AMENDMENTS.

(a) USE OF ALLOTMENTS.—Section 670D of the State Dependent Care Development Grants Act (42 U.S.C. 9874) is amended—

(1) in the first sentence of subsection (a)(1) by striking "for fiscal year 1985 and fiscal year 1986",

(2) in the first sentence of subsection (b)(1) by striking "for fiscal year 1985 and fiscal year 1986",

(3) in subsection (b)(2)—

(A) in subparagraph (D)—

(i) by inserting "school-age children," after "diverse", and

(ii) by inserting a comma after "children" the last place it appears, and

(B) in subparagraph (F)—

(i) by striking "Governor" and inserting "chief executive officer of the State", and

(ii) by striking "the provisions of",

(4) in subsection (d)(1) by striking "subsection (a)" and inserting "subsections (a) and (b)",

(5) in subsection (f) by striking ", which prior to the date of enactment of this subchapter, are provided" and inserting "which are provided before the date of the enactment of this subchapter,", and

(6) in subsection (g) by striking "operating activities to be carried out" and inserting "carrying out activities".

(b) APPLICATION AND DESCRIPTION OF ACTIVITIES.—The last sentence of section 670E(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)) is amended by striking "until September 30, 1987,".

(c) DEFINITIONS.—Section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877), is amended—

(1) in paragraph (2)(C) by striking "a person" and inserting "an individual",

(2) in paragraph (7) by inserting "in" after "State" the first place it appears, and

(3) in paragraph (10) by striking "Trust Territory of the Pacific Islands," and inserting "Federated States of Micronesia, the Republic of the Marshall Islands, Palau,".

TITLE IV—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Section 672(b) of the Community Services Block Grant Act (42 U.S.C. 9901(b)) is amended—

(1) by striking "is authorized" and all that follows through "1989, and", and inserting "are authorized to be appropriated",

(2) by inserting after "1990," the following: "$451,500,000 for fiscal year 1991, $460,000,000 for fiscal year 1992, $480,000,000 for fiscal year 1993, and $500,000,000 for fiscal year 1994", and

(3) by inserting "(other than section 681A)" after "subtitle".

(b) AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY FOOD AND NUTRITION PROGRAMS.—Section 681A(c) of the Community Services Block Grant Act (42 U.S.C. 9910a(c)) is amended—

(1) by striking "each of the fiscal years 1987, 1988, 1989, and" and inserting "fiscal year", and

(2) by inserting after "1990" the following: ", $10,000,000 for fiscal year 1991, $15,000,000 for fiscal year 1992, $18,000,000 for fiscal year 1993, and $20,000,000 for fiscal year 1994".

SEC. 402. ELIGIBLE ENTITIES.

(a) DEFINITION.—The second sentence of section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)) is amended—

(1) by inserting "and" before "any grantee", and

(2) by striking ", and any organization" and all that follows through "1984".

(b) METHOD OF DESIGNATION.—The third sentence of section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)) is amended—

(1) by striking "In" and inserting "If",

(2) by striking "not presently" and inserting "is not, or ceases to be,",

(3) by striking "Governor" and inserting "chief executive officer",

(4) in subparagraph (C) by inserting after "new area." the following: "In making a designation under this subparagraph, such chief executive officer shall give priority to such organization.", and

(5) by striking "The Governor's" and inserting "Such officer's".

SEC. 403. STATE ALLOCATIONS.

Section 674(a) of the Community Services Block Grant Act (42 U.S.C. 9903(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) the following:

"(2)(A) Subject to subparagraph (B), if the amount appropriated under section 672 for each fiscal year which remains after—

"(i) the Secretary makes the apportionment required in subsection (b)(1); and

"(ii) the Secretary determines the amount necessary for the purposes of section 681(c); exceeds $345,000,000, the Secretary shall allot to each State not less than one-half of 1 percent.

"(B) Subparagraph (A) shall not apply with respect to a fiscal year if the amount allotted under paragraphs (1) to any State—

"(i) is less than the amount allotted under such paragraph to such State for fiscal year 1990; or

"(ii) exceeds 140 percent of the amount allotted under such paragraph to such State for the fiscal year preceding the fiscal year for which a determination is made under this paragraph.".

SEC. 404. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) PLANNING AND DEVELOPMENT OF RURAL RENTAL HOUSING.—Section 681(a)(2)(D) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)(D)) is amended by striking "rural housing and community facilities development" and inserting "the planning and development of rural housing (including rental housing for low-income individuals) and community facilities".

(b) ACTIVITIES FOR LOW-INCOME YOUTH.—Section 681 of the Community Services Block Grant Act (42 U.S.C. 9910) is amended—

(1) is subsection (a)(2)(F) by striking "recreational activities" and inserting "instructional activities described in subsection (b)",

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(3) by inserting after subsection (a) the following:

"(b) Any instructional activity carried out under subsection (a)(2)(F) shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) and shall include—

"(1) access to the facilities and resources of such institution;

"(2) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(3) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(4)(A) high quality instruction in a variety of sports, provided by coaches and teachers from institutions of higher education and from secondary schools (as defined in section 1471(21) of the Elementary and Secondary Education Act of 1965); or

"(B) another high quality recreational activity; and

"(5) enrichment instruction and information on matters relating to the well-being of

youth, such as educational opportunities and study practices, the prevention of drug and alcohol abuse, health and nutrition, career opportunities, and job opportunities.".

SEC. 405. COMMUNITY FOOD AND NUTRITION.

Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended—

(1) by striking subsection (b),

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (a) the following:

"(b)(1) Of the amount appropriated for a fiscal year to carry out this section, the Secretary shall allot funds for grants under subsection (a) as follows:

"(A) From 60 percent of such amount (but not to exceed $6,000,000), the Secretary shall allot for grants to eligible agencies for statewide programs in each State the amount that bears the same ratio to 60 percent of the amount appropriated for such fiscal year as the low-income and unemployed populations of such State bear to the low-income and unemployed populations of all the States.

"(B) From 40 percent of such amount (but not to exceed $4,000,000), the Secretary shall allot for grants on a competitive basis to eligible agencies for local and statewide programs.

"(2) Of the amount appropriated for a fiscal year to carry out this section that remains after making the allotments required by paragraph (1), the Secretary shall allot funds for grants under subsections (a) and (c) as follows:

"(A) From 50 percent of such remaining amount, the Secretary shall allot funds for the purpose and in the manner specified in paragraph (1)(A).

"(B) From 50 percent of such remaining amount, the Secretary shall allot funds for the purpose and in the manner specified in paragraph (1)(B), and for the purposes specified in subsection (c).

"(3) The Secretary may not make a grant to an eligible agency with funds allocated under paragraphs (1)(A) or (2)(A) unless such agency demonstrates to the Secretary that the statewide program such agency proposes to carry out with such grant consists of activities that—

"(A) represent a comprehensive and coordinated effort to alleviate hunger throughout the State involved; and

"(B) will be carried out throughout such State.

"(4) Except as provided in subsection (c), from funds allotted under paragraphs (1)(B) and (2)(B) in any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $50,000.

"(c) From funds allotted under subsection (b)(2)(B) for a fiscal year, the Secretary shall make—

"(1) one or more grants, in an aggregate amount of not less than $50,000 and not more than $250,000, to public and private nonprofit agencies to provide, to entities that provide nutrition-related services to low-income individuals, training and technical assistance that focus on nutrition needs that are common to several regions of the United States or that require a national strategy; and

"(2) one or more grants, in an aggregate amount of not less than $100,000 and not more than $500,000, to public and private nonprofit agencies to carry out research and demonstration projects designed to develop knowledge, or demonstrate new approaches, that are relevant to alleviating hunger and malnutrition in the United States. Such grants shall be made to applicants based on—

"(A) the extent to which the proposed projects will effectively alleviate hunger nationwide; and

"(B) the ability of the applicants to carry out their respective proposed projects.".

SEC. 406. ANNUAL REPORT.

(a) REPORT REQUIRED.—The Community Services Block Grant Act (42 U.S.C. 9901-9912) is amended by striking section 682 and inserting the following:

"ANNUAL REPORT

"SEC. 682. (a)(1) For each fiscal year beginning after September 30, 1991, the Secretary shall, by contract with an entity that is knowledgeable about programs and projects assisted under this subtitle, prepare a report containing the following information:

"(A) The identity of each eligible entity, agency, organization, and person that receives, directly or indirectly, funds to carry out this subtitle in such fiscal year.

"(B) With respect to each particular purpose or activity referred to in section 675(c)(1)—

"(i) the aggregate amount of such funds expended in such fiscal year to achieve such purpose or carry out such activity; and

"(ii) the number of individuals who directly benefited from the amount so expended.

"(2) For any fiscal year beginning after September 30, 1991, the Secretary may, by contract, include in such report any additional information the Secretary considers to be appropriate to carry out this subtitle, except that the Secretary may not require a State to provide such additional information until the expiration of the 1-year period beginning on the date the Secretary notifies such State that such additional information will be required to be provided by such State.

"(3) The Secretary may not carry out this subsection by entering into a contract with any State, eligible entity, agency, organization, or person that receives, directly or indirectly, funds to carry out this subtitle.

"(b) Not later than 60 days after the end of the fiscal year for which a report is required by subsection (a) to be prepared, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(1) such report in the form in which it was received by the Secretary; and

"(2) any comments the Secretary may have with respect to such report.

"(c) Of the funds made available under section 681(d), not more than $250,000 shall be available to carry out this section.".

"(b) CONFORMING AMENDMENT.—Section 681(d) of the Community Services Block Grant Act (42 U.S.C. 9910), as so redesignated by section 404(b)(2), is amended by inserting ", section 682," after "this section".

SEC. 407. TECHNICAL AMENDMENT.

Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) is amended by striking "for all Urban" and inserting "For All Urban".

## TITLE V—AMENDMENTS TO THE CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985

SEC. 501. ADEQUACY OF SCHOLARSHIPS.

(a) TRAINING ASSISTANCE.—Section 603(b)(1)(C) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10902(b)(1)(C)) is amended by inserting "(including, at the option of the State, any training necessary for credentialing)" after "credentialing".

(b) LIMITATION.—Section 603(b) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10902(b)) is amended—

(1) in paragraph (1)(C) by striking "and" at the end,

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following:

"(2) not more than 20 percent of the funds received under this title by a State may be used to provide scholarship assistance under paragraph (1) to cover the cost of training described in paragraph (1)(C); and".

SEC. 502. DEFINITIONS.

Section 604 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10903) is amended—

(1) is paragraph (1) by striking "poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))" and inserting "125 percent of the lower living standard income level",

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(3) by inserting after paragraph (1) the following:

"(2) the term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor;".

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10904) is amended—

(1) by striking "is authorized" and inserting "are authorized",

(2) by striking "each of the fiscal years 1987, 1988, and 1989, and" and inserting "fiscal year", and

(3) by inserting after "1990" the following: ", $3,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

## TITLE VI—AMENDMENTS RELATING TO DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

Section 408(g) of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b(g)) is amended—

(1) by striking "$5,000,000" and all that follows through "1989, and",

(2) by inserting after "1990," the following: "$10,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

## TITLE VII—EFFECTIVE DATES

SEC. 701. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1990.

(b) SPECIAL EFFECTIVE DATES.—(1) The amendments made by sections 101, 207(a), 301, 401, 503, and 601 shall take effect on the date of the enactment of this Act.

(2) The amendment made by section 207(b) shall take effect immediately before October 1, 1990.

*(3) Section 646(b) of the Head Start Act, as added by section 110, shall take effect on April 1, 1990.*

AMENDMENTS OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Page 19, line 12, strike "9801 et seq." and insert "9831-9852".

Page 25, strike lines 4 through 6 and insert the following:

The Follow Through Act (42 U.S.C. 9861-9877) is amended—

Page 26, line 16, strike "9801-9861" and insert "9861-9877".

Page 29, line 3, strike "9801-9861" and insert "9861-9877".

Page 32, line 7, strike "9801-9861" and insert "9861-9877".

Page 32, line 22, strike "9801-9861'" and insert "9861-9877".

Page 34, line 14, strike "9801-9861" and insert "9861-9877".

Mr. KILDEE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments offered en bloc be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Chairman, these amendments are purely technical. They simply correct several section references. The minority has seen the amendments, and I know of no objection to their adoption.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Michigan [Mr. KILDEE].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUKE:

Page 25, after line 12, insert the following:

(a) PRIORITY.—Section 662(a) of the Follow Through Act (42 U.S.C. 9861(a)) is amended by adding at the end the following: "For the purpose of making grants under this section, the Secretary shall give priority to any local educational agency that requests the grant for purposes of carrying out a Follow Through program in a school that—

"(1) is designated as a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965; and

"(2) has a high concentration of children described in the first sentence of this subsection.".

Page 25, line 13, strike "(a)" and insert "(b)".

Page 26, line 11, strike the closing quotes and the second period.

Page 26, after line 11, insert the following:

"(f) Notwithstanding subsection (c), any local educational agency that receives a grant under subsection (a) for purposes of carrying out a Follow Through program in an elementary school that—

"(A) receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(B) is designated as a schoolwide project under section 1015(a) of such Act;

may use such grant to serve all children attending such school in kindergarten through grade 3.

Page 26, line 12, strike "(b)" and insert "(c)".

Page 28, line 20, strike "and".

Page 28, strike line 23 and insert the following:

school program; and

Page 28, after line 23, insert the following:

"(13) contain—

"(A) a certification that the applicant submitted such application to the State educational agency (as defined in section 1471(23) of the Elementary and Secondary Education Act of 1965) for a reasonable period for comment before submitting such application to the Secretary; and

"(B) any comments received from such agency during such period;

if such application is for a grant under sectoin 662.".

Page 29, line 7, strile "(a)".

Page 29, line 11, strike "and" at the end.

Page 29, after line 11, insert the following:

"(2) to develop model follow through through approaches; and

Page 29, line 12 strike "(2)" and insert "(3)".

Page 29, strike lines 14 through 17.

Page 30, after line 3, insert the following:

"(b) Technical assistance with respect to a particular model Follow Through approach may not be provided under subsection (a)(1) in more than 5 fiscal years to a particular recipient of financial assistance under section 662(a).

Page 30, line 18, strike "exceeds $19,000,000" and insert "is not less than $3,000,000".

Page 32, strike lines 18 and 19, and insert the following:

Section 666(a) of the Following Through Act (42 U.S.C. 9865(a)) is amended—

(1) by striking the last sentence and inserting "Such continuing evaluation shall measure the impact of such programs on participating parents and on entire schools and school districts in which such programs are carried out.",

(2) by inserting "(1)" after "(a)", and

(3) by adding at the end the following:

"(2) The evaluation required by paragraph (1) shall include evaluations of local educational agencies that receive Follow Through grants for use in a school that is designated as a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965. Such evaluation shall compare children who only receive services under a grant under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 with children who receive services under such a grant and under a Follow Through grant for the purpose of determining whether the comprehensive services provided to the latter children through the model Follow Through approach had a positive effect on their educational progress and overall developmental progress. To the extent practicable, such comparison shall be made on the basis of results of evaluations conducted under such chapter and evaluations conducted under this subsection, and shall take into account the amount of funds provided to the project.".

Page 33, line 5, strike "$84,436,000" and insert "$10,000,000".

Page 33, line 15 strike "Financial" and insert "Except as provided in paragraph (4), financial".

Page 34, after line 3, insert the following:

"(4) Financial assistance provided under part I for a Follow Through program carried out in an elementary school that—

"(A) receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(B) is designated as a schoolwide project under section 1015(a) of such Act;

may be expended to pay 100 percent of the approved costs of the program assisted.

Page 34, line 21, insert the following before the first period:

, including programs and activities carried out under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, this amendment reflects the agreements that have been struck between the majority and the minority on the follow through program. It is an attempt to build on the efforts of Congressman KILDEE to strengthen the Follow Through Program. This amendment has strong bipartisan support on the committee and it is enthusiastically supported by the National Follow Through Association.

Follow Through was a program established almost simultaneously with Head Start in order to follow up on Head Start graduates as the entered elementary school.

Follow Through, because of departmental regulations, became more of a demonstration project for effective educational strategies and has never fulfilled its initial purpose. Its current funding level is approx. $7.6 million.

Now 20 years later, our biggest and most steadfast education program for disadvantaged elementary school students is not Follow Through, it is chapter 1 funded at over $5 billion.

Even with chapter 1's presence felt in so many schools across the Nation, we still have a problem with follow up on Head Start Kids and other children from compensatory preschool programs.

This is partly because Head Start has done a good job for these children and in many cases the children do not have the educational deficiencies required to participate in chapter 1.

However, it is clear that these children need additional services because studies show that while it is clear that Head Start graduates achieve immediate gains in IQ tests and school per-

formance, the progress gained in Head Start is lost only after a few years. Focusing on this fact does not mean we lessen our support for Head Start it means that we take a hard look at what is needed to ensure that student progress is maintained.

Chapter 1, if expanded, could have something to offer these children. We should not attempt to expand a $7 million program to the size and scope of Head Start and Chapter 1 when we would do better to develop ways to coordinate these two very large programs. The theory behind my amendment is that in years to come chapter 1 should provide a continuum of services to Head Start children but this will take time. What my amendment propose to do is to allow the Follow Through Program, which has been built on the strengths of Head Start to serve as a bridge between Head Start and chapter 1 as we more toward our goal.

The Tauke amendment requires the Secretary of Education to give priority to grants going to school-wide project schools that have a high concentration of Head Start or other preschool children. A chapter 1 school is designated a school-wide proejct if it has a population of 75 percent or more in poverty. School-wide projects receive chapter 1 funds in a block grant form. They can serve all children in the school, not only those determined to be educationally disadvantaged, and they can use the funds for virtually any purpose, so long as they can demonstrate that they have improved the overall education program in the school.

The amendment targets these schools because they will be able to serve Head Start children and other chapter 1 eligible students together, using an innovative Follow Through approach.

However, in making this priority we must make clear that it is not our intent to direct the Secretary to make Follow Through grants only to schoolwide projects and it is our hope that the Secretary will give equitable consideration to school districts in both rural and urban areas.

Chapter 1 has enormous flexibility in how it structures a school-wide project. My amendment removes certain eligibility restrictions in Follow Through so that Follow Through will be able to serve all children K-3 in a school. While Follow Through funds must be used to implement a model education approach for children in grades K-3, there are no remaining restrictions in Follow Through that would prohibit chapter 1 school-wide funds from being combined with Follow Through funds to apply the same educational approach to a wider population in the school and this is our hope and our reason for targeting schoolwide projects.

This approach will allow us to look at the ability and the efficacy of chapter 1 to serve a broader population with more comprehensive services like that of Follow Through and Head Start.

The amendment allows for the development of new Follow Through approaches. We have models that are effective but that have been in existence for 20 years. It's important to open up the field for innovative thinkers.

The amendment would limit the amount of time a school could receive technical assistance to 5 years. If a school cannot implement an educational model in 5 years, it's probably time to try a new approach or new school.

The amendment raises the funding trigger for a National Clearinghouse on Follow Through from $19 million to $30 million. There are many who would like to see this program dissolve. We are at the early stages to this effort and a clearinghouse for such a small and somewhat shaky program is not appropriate at this time.

A cornerstone of the amendment is a strong evaluation component which will attempt to assess the impact of additional comprehensive services found in Follow Through on chapter 1 students who might normally only receive educational assistance. The evaluation would consider the extent to which these additional services have a demonstrable impact on the educational progress of these children. The evaluation will also measure the impact of the Follow Through program on parents and school districts in which the program is found.

The amendment would raise the first year authorization level from $8.436 million to $10 million. This sends a message to the Appopriations Committee that this proposal deserves their serious consideration and support as it does yours.

I urge my colleagues to vote yes on this amendment.

□ 1300

Mr. KILDEE. Mr. Chairman, I rise in support of the Tauke amendment.

Mr. Chairman, the Tauke amendment provides that a school district which operates a school-wide chapter 1 program and has a high concentration of former Head Start children will be given priority in its application for a Follow Through grant.

This is an excellent addition to the bill, and I want to express my appreciation to the gentleman from Iowa [Mr. TAUKE] for his hard work on this amendment. The gentleman from Iowa [Mr. TAUKE], the gentleman from Pennsylvania [Mr. GOODLING], myself, and our respective staffs really worked hard and, I think, created a good amendment here. I think we also created some good will so we can look at things in the future in the fashion that we have looked at them here.

While preserving the programmatic integrity of a local Follow Through Program, this promotes a more coordinated use of Follow Through in chapter 1 schoolwide project funds. The amendment does not require school districts to use their chapter 1 funds to support the Follow Through Program. It is logical, however, to assume that based upon the needs of their students, some districts may choose to do so.

In agreeing to this amendment, it is my understanding that the Department of Education is to administer this new requirement as a simple application priority and not as a directive to fund only applications for school-wide projects.

Mr. Chairman, I again thank the gentleman from Iowa [Mr. TAUKE] for his contribution in offering this amendment, and I urge its adoption.

The CHAIRMAN pro tempore (Mr. FLAKE). The question is on the amendment offered by the gentleman from Iowa [Mr. TAUKE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUKE: Page 39, strike lines 10 through 15, and insert the following:

(a) DEFINITION.—The second sentence of section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)) is amended by inserting before the period at the end the following: "(or if such organization declines to serve as an eligible entity, any community action agency that operates in the geographic area under the jurisdiction of such organization shall be an eligible entity)".

Page 41, after line 4, insert the following (and make such technical changes as may be necessary):

SEC. 404. APPLICATIONS AND REQUIREMENTS.

Section 675(c) of the Community Services Block Grant Act (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (10) by striking "and" at the end,

(2) in paragraph (11) by striking the period at the end and inserting a semicolon, and

(3) by inserting after paragraph (11) the following:

"(12) in the case of a State which applied for and received a waiver from the Secretary under Public Law 98-139, provide assurances that any community action agency that received funding in the previous fiscal year under this Act, from an organization to which such State made a grant under this subtitle in fiscal year 1984, will not have its present or future funding substantially reduced unless—

"(A) after notice, and the opportunity for hearing on the record, such organization determines; and

"(B) after notice, and the opportunity for hearing on the record, such State determines;

that cause existed for such reduction subject to the procedures and review by the Secretary as provided in section 676A; and

"(13) in the case of a State which applied for and received a waiver from the Secretary under Public Law 98-139, provide assurances that funds will not be provided under this subtitle by such State to an organization to which such State made a grant under this subtitle in fiscal year 1984 unless such organization allows, before expending such funds, low-income individuals to comment on the uses for which such organization proposes to expend such funds.".

SEC. 405. PROCEDURES FOR REVIEW OF TERMINATION OF FUNDING.

Section 676A the Community Services Block Grant Act (42 U.S.C. 9906) is amended—

(1) in the heading by inserting "OR SUBSTANTIAL REDUCTION" after "TERMINATION",

(2) in subsection (a) by inserting ", or the assurances contained in section 675(c)(12) and substantially reduces the funding of a community action agency," after "organization" the first place it appears, and

(3) by inserting ", or any substantial reduction of funding to a community action agency protected by a State's assurances under section 675(c)(12)" before the period at the end.

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, one provision of H.R. 4151 eliminates the waiver language in current law which affects the CSBG Program in Colorado, Utah, and Wyoming. Although the situation in Colorado, Utah and Wyoming in 1984 justified granting them a waiver, it was never our intention to directly or indirectly have them replace existing community action agencies. Community action agencies have always been the intended recipients of CSBG funds.

Our goal in eliminating the waiver was to restore some stability to the existing private community action agencies. I will agree this may not have been the best solution to the problem and am, therefore, offering an amendment to restore the waiver and make several perfecting changes in the existing law.

The first part of the amendment will provide private community action agencies with the right to appeal to the county, the State, and ultimately HHS if their basic CSBG block grant funds are substantially reduced. It is difficult for community action agencies to provide consistent, effective services to the low-income community if they are uncertain from year to year as to the amount of CSBG fund they will receive. This amendment at least provides them the opportunity to appeal a substantial cut in funding if they believe their performance has not warranted such a reduction in funds.

The second part of my amendment permits those counties which receive funds in the waiver States to request that the State directly fund an eligible community action agency rather than have the funds first passthrough the county—as is currently the case. This language allows the counties in the waiver States to continue to make decisions about the use of CSBG funds—including decisions about whether or not they wish to continue administering the funds.

The final part of my amendment requires eligible entities in waiver States to involve low-income people in deciding how to best use CSBG funds to serve the needs of the low-income community. Currently, in the remaining 47 States members of the low-income community sit on a tripartite board and help decide what services are most needed by low-income individuals. This would allow similar participation by the low-income community in the waiver States. People who live in a community can often point out needs which would otherwise never have been considered. I believe this amendment will assist in assuring CSBG funds are used in the most effective manner.

Mr. Chairman, this amendment attempts to address the concerns of Representatives from the waiver States. I, of course, am quite willing to address any additional concerns in this regard during the House/Senate conference on H.R. 4151.

I believe this is a good faith effort to compromise on this issue and I urge my colleagues to adopt this amendment.

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I want to express my thanks to the chairman of the subcommittee and the gentleman from Iowa [Mr. TAUKE] for taking our unique interests into account.

This waiver does apply to low-density States such as Wyoming, and the legislation fits our needs much more with this amendment than it does without the waiver. So we appreciate very much the consideration that has been given to us here. It gives us the opportunity to touch the low-income people throughout our State even though the organization specifically represents only about 25 percent of Wyoming.

So we agree with the perfecting amendment the gentleman from Iowa [Mr. TAUKE] has offered here, and I certainly urge support of the amendment.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I wish to commend the gentleman from Wyoming [Mr. THOMAS] for his untiring efforts to make sure this issue is properly addressed. I hope now that we have reached an accord that will resolve the concerns of all the interested parties.

Mr. THOMAS of Wyoming. Mr. Chairman I thank the gentleman from Iowa, and I appreciate very much his efforts.

□ 1310

Mr. KILDEE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as the gentleman from Iowa [Mr. TAUKE] mentioned, there is no question about the efforts of the gentleman from Wyoming [Mr. THOMAS] which were untiring; he prevailed, the gentleman from Iowa [Mr. TAUKE] actually crafted the language, and I support the language. I think it is a good addition to the bill.

Mr. Chairman, I urge the adoption of this amendment.

Mr. CAMPBELL of Colorado. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Iowa [Mr. TAUKE].

Mr. Chairman, I rise today in support of Mr. TAUKE's amendment that addresses the way the community services block grant is administered. Colorado, along with Utah and Wyoming, have been operating their CSBG programs under a waiver provision that allows the grant money to be distributed through local county departments rather than a community action agency. Somehow, during the reauthorization process of this act, the waiver was dropped and it is extremely critical to restore it, which is one of the goals Mr. TAUKE's amendment accomplishes.

It is critical for Colorado to maintain this waiver, because it is my understanding that without it, only 20 percent of Colorado would be eligible to receive CSBG funding. That would be a devastating blow to many of the rural communities in my district that depend on these funds to promote economic self-sufficiency through such programs as job training and placement, child care, emergency services, drug prevention programs, and weatherization services.

I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore (Mr. FLAKE). The question is on the amendment offered by the gentleman from Iowa [Mr. TAUKE].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to the bill? If not, the question is on the committee amendment, in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the SPEAKER pro tempore (Mr. JACOBS) having assumed the chair, Mr. FLAKE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981, and for other purposes, pursuant to House Resolution 392, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The CHAIRMAN pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KILDEE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 14, not voting 14, as follows:

[Roll No. 111]

YEAS—404

| | | |
|---|---|---|
| Ackerman | Boxer | Conte |
| Anderson | Brennan | Conyers |
| Andrews | Brooks | Cooper |
| Annunzio | Broomfield | Costello |
| Anthony | Browder | Coughlin |
| Applegate | Brown (CA) | Cox |
| Aspin | Brown (CO) | Coyne |
| Atkins | Bruce | Crockett |
| AuCoin | Bryant | Darden |
| Baker | Buechner | Davis |
| Ballenger | Bunning | de la Garza |
| Barnard | Burton | DeFazio |
| Bartlett | Bustamante | Dellums |
| Barton | Byron | Derrick |
| Bateman | Callahan | DeWine |
| Bates | Campbell (CA) | Dickinson |
| Beilenson | Campbell (CO) | Dicks |
| Bennett | Cardin | Dingell |
| Bentley | Carper | Dixon |
| Bereuter | Carr | Donnelly |
| Berman | Chandler | Dorgan (ND) |
| Bevill | Chapman | Dornan (CA) |
| Bilbray | Clarke | Douglas |
| Bilirakis | Clay | Downey |
| Bliley | Clinger | Dreier |
| Boehlert | Coble | Durbin |
| Boggs | Coleman (MO) | Dwyer |
| Bonior | Coleman (TX) | Dymally |
| Borski | Collins | Dyson |
| Bosco | Combest | Early |
| Boucher | Condit | Eckart |
| Edwards (CA) | Leach (IA) | Rahall |
| Edwards (OK) | Leath (TX) | Rangel |
| Emerson | Lehman (CA) | Ravenel |
| English | Lehman (FL) | Ray |
| Erdreich | Lent | Regula |
| Espy | Levin (MI) | Rhodes |
| Evans | Levine (CA) | Richardson |
| Fawell | Lewis (CA) | Ridge |
| Fazio | Lewis (FL) | Rinaldo |
| Feighan | Lewis (GA) | Ritter |
| Fish | Lightfoot | Roberts |
| Flake | Lipinski | Robinson |
| Foglietta | Livingston | Roe |
| Ford (MI) | Lloyd | Rogers |
| Ford (TN) | Long | Rohrabacher |
| Frank | Lowery (CA) | Ros-Lehtinen |
| Frost | Lowey (NY) | Rose |
| Gallegly | Luken, Thomas | Rostenkowski |
| Gallo | Lukens, Donald | Roth |
| Gaydos | Machtley | Roukema |
| Gejdenson | Madigan | Rowland (CT) |
| Gephardt | Manton | Rowland (GA) |
| Geren | Markey | Russo |
| Gibbons | Martin (IL) | Sabo |
| Gillmor | Martin (NY) | Saiki |
| Gilman | Martinez | Sangmeister |
| Gingrich | Matsui | Sarpalius |
| Glickman | Mavroules | Savage |
| Gonzalez | Mazzoli | Sawyer |
| Goodling | McCandless | Saxton |
| Gordon | McCloskey | Schaefer |
| Goss | McCollum | Scheuer |
| Gradison | McCrery | Schiff |
| Grandy | McCurdy | Schneider |
| Grant | McDade | Schroeder |
| Gray | McDermott | Schuette |
| Green | McGrath | Schulze |
| Guarini | McHugh | Schumer |
| Gunderson | McMillan (NC) | Sensenbrenner |
| Hall (OH) | McMillen (MD) | Serrano |
| Hall (TX) | McNulty | Shaw |
| Hamilton | Meyers | Shays |
| Hammerschmidt | Mfume | Shumway |
| Hansen | Michel | Shuster |
| Harris | Miller (CA) | Sikorski |
| Hastert | Miller (OH) | Sisisky |
| Hatcher | Miller (WA) | Skaggs |
| Hawkins | Mineta | Skeen |
| Hayes (IL) | Moakley | Skelton |
| Hayes (LA) | Molinari | Slattery |
| Hefley | Mollohan | Slaughter (NY) |
| Hefner | Montgomery | Slaughter (VA) |
| Henry | Moody | Smith (FL) |
| Herger | Moorhead | Smith (IA) |
| Hertel | Morella | Smith (NE) |
| Hiler | Morrison (CT) | Smith (NJ) |
| Hoagland | Morrison (WA) | Smith (TX) |
| Hochbrueckner | Mrazek | Smith (VT) |
| Hopkins | Murphy | Smith, Denny (OR) |
| Horton | Murtha | Smith, Robert (NH) |
| Houghton | Myers | Smith, Robert (OR) |
| Hoyer | Nagle | Snowe |
| Hubbard | Natcher | Solarz |
| Huckaby | Neal (MA) | Solomon |
| Hughes | Neal (NC) | Spence |
| Hunter | Nielson | Spratt |
| Hutto | Nowak | Staggers |
| Hyde | Oakar | Stallings |
| Inhofe | Oberstar | Stangeland |
| Ireland | Obey | Stark |
| Jacobs | Olin | Stearns |
| James | Ortiz | Stenholm |
| Jenkins | Owens (NY) | Studds |
| Johnson (CT) | Owens (UT) | Sundquist |
| Johnson (SD) | Oxley | Swift |
| Johnston | Packard | Synar |
| Jones (GA) | Pallone | Tallon |
| Jones (NC) | Panetta | Tanner |
| Jontz | Parker | Tauke |
| Kanjorski | Pashayan | Tauzin |
| Kaptur | Patterson | Taylor |
| Kasich | Paxon | Thomas (CA) |
| Kastenmeier | Payne (NJ) | Thomas (GA) |
| Kennedy | Payne (VA) | Thomas (WY) |
| Kennelly | Pease | Torres |
| Kildee | Pelosi | Torricelli |
| Kleczka | Penny | Towns |
| Kolbe | Perkins | Traficant |
| Kolter | Petri | Traxler |
| Kostmayer | Pickett | Udall |
| Kyl | Pickle | Unsoeld |
| LaFalce | Porter | Upton |
| Lagomarsino | Poshard | Valentine |
| Lancaster | Price | Vander Jagt |
| Lantos | Pursell | Vento |
| Laughlin | Quillen | Visclosky |
| | | Volkmer |
| | | Walgren |
| | | Walsh |
| | | Washington |
| | | Watkins |
| | | Waxman |
| | | Weber |
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| | | Weldon |
| | | Wheat |
| | | Whittaker |
| | | Whitten |
| | | Williams |
| | | Wilson |
| | | Wise |
| | | Wolf |
| | | Wolpe |
| | | Wyden |
| | | Wylie |
| | | Yates |
| | | Yatron |
| | | Young (AK) |

NAYS—14

| | | |
|---|---|---|
| Archer | Duncan | Marlenee |
| Armey | Fields | McEwen |
| Crane | Frenzel | Stump |
| Dannemeyer | Gekas | Walker |
| DeLay | Hancock | |

NOT VOTING—14

| | | |
|---|---|---|
| Alexander | Fascell | Roybal |
| Clement | Flippo | Sharp |
| Courter | Holloway | Vucanovich |
| Craig | Nelson | Young (FL) |
| Engel | Parris | |

□ 1332

Mr. SAWYER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes.".

A motion to reconsider was laid on the table.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4151, HUMAN SERVICES REAUTHORIZATION ACT OF 1990

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4151, the Clerk be authorized to correct section numbers. punctuation, and cross-references, and to make such other conforming changes as may be necessary to reflect the actions of the House in amending and adopting the bill, H.R. 4151.

The SPEAKER pro tempore (Mr. NAGLE). Is there objection to the request of the gentleman from Michigan?

There was no objection.

## GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 4151, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcalls 109, 110, and 111.

## PERSONAL EXPLANATION

Mr. CLEMENT. Mr. Speaker, I was unable to be present for rollcalls 110 and 111. If I had been present, I would have voted "yea" on rollcall 110 and "yea" on rollcall 111.

## PERSONAL EXPLANATION

Mr. McEWEN. Mr. Speaker, recently it has come to my attention that I was recorded as having voted in the negative on rollcall 111, for H.R. 4151, the "Human Services Reauthorization Act of 1990." As a constant supporter of the programs encompassed in this legislation, and of the stability that they bring to lower income families in our Nation, this was neither my intent nor my desire, and I wish for the permanent record to reflect my position on this matter.

## PERSONAL EXPLANATION

Mr. OBERSTAR. Mr. Speaker, yesterday when the House of Representatives passed House Resolution 381, relating to human rights abuses by Cuba, rollcall No. 108, my vote was not recorded.

I was involved with the activities of the President's Commission on Aviation Security and Terrorism to which the Speaker appointed me, and was unable to attend that vote.

Had I been present, I would have voted "aye."

## PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, yesterday I was unavoidably detained and missed the vote on House Resolution 381, human rights abuses in Cuba, rollcall vote No. 108. If I had been present yesterday, I would have voted in favor of the resolution.

## IN SUPPORT OF THE AID PACKAGE FOR PANAMA, EL SALVADOR, AND NICARAGUA

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and to include extraneous material.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, Congress ought to be ashamed. The United States is embarrassed. We have a moral commitment to Panama, to the people of Panama, the people of El Salvador, and the people of Nicaragua in Central America. They are our neighbors. For years we have talked about the good neighbor policy.

When the time comes to produce the minimum amount of dollars for people who really fought for freedom, Congress is not there. We really ought to accede to the President's request and pass the emergency package of aid for Central America as soon as possible for four reasons:

First, they have solved the military problem basically themselves in Panama with the help of American boys.

Second, economically they are in dire need of jump start money—not a lot. But it would pay off the United States, because in the 1980's when we had a positive balance of trade, Central America and Latin America accounted for 40 percent of that. As soon as they are back on their feet where they can choose to buy what they want, America is helped. This is a place where our pelple can benefit, and if for no other reason than that, aside from the moral reasons, the economic reason, and the political reason, certainly the purpose of helping ourselves, our own farmers and our own producers, is sufficient.

Mr. Speaker, we ought to pass that aid package now for Latin America and Central America, particularly Panama, El Salvador, and Nicaragua.

Following is a list of reasons we should consider while studying the need for immediate action on the administration's aid package for Central America.

### URGENCY OF AID PACKAGE FOR NICARAGUA

### ECONOMIC CRISIS

Without an immediate infusion of aid, farmers will not be able to buy the agricultural inputs—seeds, fertilizers, machinery, parts—necessary for a successful spring planting.

This would deal a severe blow to the Chamorro government's recovery program, which is based heavily on sharply increased agricultural production.

A slow start on economic recovery provides a golden opportunity for Sandinista efforts to undermine the new government.

The Sandinistas launched their obstructionist program well before the inauguration—looting government property, granting pay raises to state employees despite a bankrupt treasury, and passing lame-duck laws aimed at preventing the new government from trimming the bloated bureaucracy.

Those efforts are continuing: The Sandinistas have called widespread strikes among state workers to prevent Chamorro from revamping the civil service.

In view of this Sandinista obstructionism, we must move even more quickly to help Chamorro meet the expectations raised by her victory.

Rapid delivery is the key to the effectiveness of our assistance.

### CONTRA DEMOBILIZATION

According to the OAS, current food stocks in the security zones will last about 2 to 3 more weeks.

Food must be ordered 2 to 4 weeks in advance—cash up front.

Therefore, money is needed immediately to prevent a gap in food supplies.

If resistance members must forage for food, they could turn into bands of hungry marauders outside the security zones, risking contact with the Sandinista Army.

This could mean the unraveling of the demobilization process, a serious blow to what we have been working for under the bipartisan accord.

National reconciliation—a centerpiece of the Chamorro government's program and another key element of our own bipartisan accord—would be the likely casualty of a derailed demobilization process.

### EL SALVADOR NEGOTIATIONS AND ASSISTANCE

Both the government and the military want upcoming talks to succeed. We believe these talks are the best chance for achieving real peace since the conflict began.

As we here in Washington discuss military assistance for El Salvafor and how this may best achieve peace, I am concerned that the FMLN is playing a double game. They are talking peace while waging war and targeting the military and their families in order to provoke them into human rights abuses.

The guerrillas claim to be serious about these talks and have even pledged publicly to stop destroying the country's economic infrastructure and killing civilians, but are continuing to bomb, burn, and assassinate.

In March, the young, civilian son-in-law of the head of the Air Force was assassinated.

On April 3, the day before the U.N. Secretary-General announced the talks, an FMLN car bomb killed 6 policemen and 1 civilian and wounded over 40 policemen and civilians.

On May 1-2, the FMLN staged a series of military attacks across the country which left dozens dead and wounded, including civilians, and destroyed key facilities of the economic infrastructure.

These actions violate commitments by the FMLN to the Central American presidents and to the United Nations to cease attacks which affect the civilian population, and do not further the prospects for peaceful resolution of the conflict.

At the same time, the FMLN is playing to a Washington audience.

The most recent example of playing to the Washington audience came on May 9 when a senior guerrilla leader offered that the FMLN would cease receiving military aid from outside El Salvador if the United States terminated military aid to the Salvadoran Government.

This is an effort to negotiate with the United States directly, instead of seriously engaging the government. In addition, the proposal is fundamentally inequitable because our assistance is easily verifiable while FMLN resupply is clandestine.

### PANAMA TALKING POINTS

The United States has a moral and political obligation to help make Panama whole again, otherwise the 23 valiant young Americans who died there and the Panamanians who also gave their lives will have died in vain.

The need for assistance is not fictional; it is increasingly urgent.

The economic situation now is grave.

Unemployment, now at about 25 percent, is a real economic and political problem. In 1987, it was only 12 percent.

Panama's real GDP is down by over 27.5 percent since 1987.

Real and private investment has dropped to less than half its 1987 level.

Panama is 540 million USD in arrears with international financial institutions.

Given a one-time cash infusion to provide an economic "jump-start," Panama can use

its economic and financial infrastructure to recover quickly.

Without such a "jump-start" we run the risk that Panama will simply sink into an economic morass from which it will take many years to recover. That type of situation may eventually require a much larger U.S. contribution.

Panama's efforts to establish a truly professional civilian police agency to replace Noriega's corrupt and discredited defense forces also are placed increasingly at risk by the delays in our supplemental.

## INTRODUCTION OF THE AMERICAN JOBS STABILITY ACT

(Mr. HILER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, I introduce today the American Jobs Stability Act to help guard against plant relocations undertaken because of the Federal tax code.

As my colleagues know, under the possessions tax credit, or section 936 of the Internal Revenue Code, domestic companies can eliminate any Federal taxes owed on income generated by operations located in certain U.S. possessions, including Puerto Rico.

Creating a special category for business income earned in a U.S. possession was first codified in the Revenue Act of 1921. Since then, Congress reviewed the possessions credit in 1976, revised it in the Tax Equity and Fiscal Responsibility Act of 1982, and revised it again in the Tax Reform Act of 1986. In each of those instances, Congress decided that the credit served important roles in improving the quality of life for residents of possessions and in creating economic growth for them. These are individual goals.

However, the credit has been used in a way that Congress did not intend. Some companies are closing down plants and terminating jobs, and relocating them in U.S. possessions simply to take advantage of the favorable tax treatment.

Mr. Speaker, as I noted, two goals of the credit are to create new jobs and economic growth in U.S. possessions. But when jobs are created in one place only because they were cut in another, there is no net gain in employment, and the goal of creating new jobs is not met. If a plant is closed in one place and moved to another, economic activity has shifted, not grown, and our second goal is lost as well.

With this in mind, my bill simply denies the credit to companies that move their business operations to a possession if the relocation significantly and adversely affects the economy and employment of the area from which they moved: in other words if the operations are relocated or dramatically altered simply to take advantages of the credit. In short, the bill would extend to the possessions tax credit a similar prohibition against relocations that Congress has applied to other Federal programs, like Urban Development Action Grants.

Mr. Speaker, let me note in closing that Federal policies that award substantial competitive advantages to one group at the expense of another serve workers and our economy poorly and should be eliminated. This is especially true when people's livelihoods are threatened. By adopting this bill, Congress can close a loophole that has allowed companies to wander much too far from the intentions of section 936, and can help ensure that the credit is used to create true economic growth and new employment opportunities. I encourage my colleagues to support this measure.

The text of the bill follows:

H.R. 4831

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Jobs Stability Act of 1990".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that the use of the possessions tax credit to assist the transfer of business operations from the United States to a possession (whether by direct relocation or by expansion) does not create new jobs and true economic growth, is contrary to the intent of the Congress in establishing the credit, and is harmful to workers in the United States when existing jobs are lost.

SEC. 3. DENIAL OF POSSESSIONS TAX CREDIT FOR CERTAIN RELOCATED BUSINESS OPERATIONS.

(a) IN GENERAL.—Subsection (a) of section 936 of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF CREDIT FOR CERTAIN RELOCATED BUSINESS OPERATIONS.—

"(A) IN GENERAL.—For purposes of paragraphs (1) and (2), any income attributable to a disqualified relocated business operation shall be treated as income from sources within the United States.

"(B) DISQUALIFIED RELOCATED BUSINESS OPERATION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'disqualified relocated business operation' means any business operation which is relocated (whether directly or by expansion) from the United States after the date of the enactment of the American Jobs Stability Act of 1990.

"(ii) BUSINESS OPERATION.—The term 'business operation' means any operation of a trade or business. The term includes any industrial or commercial plant, equipment, facility, position, employment opportunity, production capacity, or product line.

"(C) EXCEPTION.—Subparagraph (A) shall not apply to any taxable year for which the taxpayer establishes to the satisfaction of the Secretary that the relocation of the business operation—

"(i) did not, during such taxable year, significantly and adversely affect the level of employment, or the economic base, of the area from which the operation was relocated, and

"(ii) is not likely to have such effect during any subsequent taxable year."

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1989.

## A TRIBUTE TO BILL PHILLIPS

The SPEAKER pro tempore (Mr. PICKETT). Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

Mr. FORD of Michigan, Mr. Speaker, Members who have been active in the Democratic Study Group and worked with or knew Bill Phillips were saddened by his unexpected death a few weeks ago. On March 29, family, friends, and colleagues met and exchanged remembrances of this former staffer who was so dedicated and highly respected.

Through Bill's tireless work, the DSG became the influential and indispensible organization we have all come to rely on today. Bill also served with distinction and honor in key staff positions on several House committees, and then went into the private sector where he continued working for the public good.

Because I am among those who worked with and admired Bill so much, I want to share with my colleagues what I think is an especially poignant tribute paid to Bill at that March 29 gathering. The eulogy to Bill from his friend and former associate, Jerry Zeifman, follows:

EULOGY FOR WILLIAM G. PHILLIPS

I am Jerry Zeifman. During the past few years Bill Phillips became both my closest friend, and my closest professional colleague. Our friendship and professional association, which began thirty years ago, were among the most gratifying of my life. For the rest of my own days I shall be forever grateful for having known and worked with Bill.

When I first came to Washington in the spring of 1961 to serve on the staff of the House Judiciary Committee, Bill Phillips had already been here for a number of years, and was then serving as the first Staff Director of the Democratic Study Group. I cannot remember the first time I met Bill—any more than I can remember the first time I had coffee in the Longworth cafeteria, had lunch at the Democratic Club, or walked through the rotunda of the Capitol. For me Bill has always been a major part of the landscape of Capitol Hill.

Before I came to Washington I had never heard of Bill Phillips or the Democratic Study Group. I was young, ignorant of legislative politics, and awe-struck to find myself here. I soon learned at least two of the lessons that Bill had learned much sooner than I: First, that everyone on Capitol Hill gets into their pants one leg at a time; and second, that what separates the men from the boys is that the boys all want to "be somebody," whereas the men want to "do something." In those years the founders of the Democratic Study Group were obviously among the men—and walking among the tallest of them in both a physical and moral sense was their very humane Staff Director, Bill Phillips.

The accomplishments of the Democratic Study Group during the sixties have had an indelible impact on all of our lives. It was the Democratic Study Group that paved the way for the enactment of the major civil rights laws and great social programs of our

century. Those of us who were here at the time still recall, with great pride, the stunning success of the 89th Congress whose achievements now stand as a monument to those good men and women who, with Bill, were among the early pioneers of the Democratic Study Group.

Let me just name a few of those wonderful human beings of whose contributions I have some personal knowledge, including such former Congressmen as Frank Thompson, Jim O'Hara, Lee Metcalf, George Rhodes (for whom Bill had previously served as an Administrative Assistant) Gene McCarthy, Dick Bolling and Charlie Vanik—as well as such extraordinarily gifted and dedicated staff members as Gene Krizek, John Morgan, Katie Miller-Johnson, Terry Corum, Bill Dietz, Fred Marshall, and Dick Warden.

Since John Morgan, who worked much more closely with Bill in those years than I, has already shared his memories with us today, I would like to talk about Bill as I came to know him in more recent years.

One morning five years ago, while walking toward the Rayburn Building, Bill and I met on Fourth Street and learned to our delight that each of us was looking for a person with whom we could share an office. Out of that meeting grew the opportunity for me to enjoy an association and friendship with Bill on a new and closer level.

I soon came to perceive Bill as the kindest man and the greatest gentleman I have known. Bill's demeanor often reminded me of a definition of the word "gentleman" that I first heard during World War II from a Navy Captain of the "old school"—who defined a "gentleman" as a "man who never unintentionally offended anyone." In that sense Bill himself was also very much of the "old school"—and truly believed that kindness, courtesy, and generosity of spirit are the hallmarks of virtue, and not the signs of weakness.

I also came to know Bill as a man of great, quiet strength and intense passions. He was passionately committed to his family, his friends, his country, his political party, and yes, the political institution that he loved and had served wholeheartedly, the United States House of Representatives.

I also knew Bill Phillips as a man who was devoid of avarice—who refused to subordinate his talents and his passions to the pursuit of wealth. Even after he left his position as Staff Director of the Committee on House Administration and entered the so-called "private sector", he remained truly a "public servant." As a lobbyist he put his clients' interests before his own and advocated only those causes in which he believed—the causes of education, health, safety, the environment, and of working men and women.

Finally, there was one cause in particular that Bill championed zealously and doggedly—and for which he never received any financial compensation. That cause was the National Council for Industrial Defense—of which he was a founder and served pro bono as president. The National Council was born in our office in 1986 out of Bill's irrevocable commitment to the cause of those Americans who contribute to the strength of our industrial base. Since then the National Council has consumed much of our time and energies. However, if we apply Mark Twain's definition of work as "whatever you are doing when you would rather be doing something else," the National Council has involved very little "work." It has been with relish and considerable delight that Bill has been intensively lobbying for our cause on Capitol Hill and has been the major force in investigating the unlawful procurements of foreign-made products which provided the basis for our pending law suit against the Department of Defense.

On January 12th the day before his untimely death, it was with exuberance that Bill reported our progress at a meeting of the National Council's Board of Directors. The next morning he appeared in our office and with similar exuberance reported to me he had won at poker the night before. A few minutes later, seated at his desk with his typewriter turned on and a lit cigar in the ash tray by his side, Bill died suddenly and quietly.

For Bill's family—his wife Maggie, her mother and her sons, and for his wonderful daughters Susan and Patricia—and for his friends of which I am proud to be but one of very many—the loss of Bill grieves us beyond words and beyond consoldation. Yet we can all take pride and still take joy from having known Bill. I suspect that in the future we may also enjoy a special benefit and blessing from having known Bill. If heaven in any way resembles the Congress of the United States—May God forbid—each of us may need at least one good lobbyist to help us gain access. In my view, the one lobbyist who has amassed the greatest measure of good will among the angels is Bill Phillips.

## NATIONAL GUARD AND RESERVES IN A CHANGING WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to continue to share with my colleagues a series of articles which appeared in the Roll Call newspaper in the April 30, 1990 edition in a special policy brief, titled "National Guard and Reserves In a Changing World." This brief was developed to describe the roles and missions of the Reserve components and to educate the readers. I wrote the lead article in hopes of generating interest by the readers to learn more about the Guard and Reserve. I commend by colleagues to read these articles to gain a better appreciation of the Guard and Reserve. Today I'm sharing another in the series of articles that appeared in that April 30 Roll Call edition.

### ARMY, NAVY, AIR FORCE—ALWAYS READY, WILLING, AND ABLE

Component chiefs are the senior officers responsible for the administration, training, and logistics for their respective components.

Here, Roll Call offers seven views from component chiefs on how things stand. The first item, by Lt. Gen. John Conaway, introduces these updates on the Guard and Reserves:

*Lt. Gen. John Conaway, National Guard Bureau:*

In 1989 it was commonplace to find Guardmembers training throughout the nation and the world, in virtually every theater of US military operations.

Roughly 40,000 Army and Air Guardmembers trained last year in 58 countries throughout Europe, Asia, the Caribbean, and Central and South America.

Last July, America was held in suspense as a United Airlines DC-10 made its fiery crash landing in an open cornfield in Sioux City, Iowa. Within minutes, Iowa Air National Guardmembers from the 185th Tactical Fighter Group were on the scene with fire and rescue teams, medical personnel, and volunteers.

On the West Coast, northern California witnessed the most powerful and destructive earthquake to hit the region in close to a century. Within the first hour of the quake, every unit in the California National Guard was alerted for possible activation.

Working through the night, Guardmembers from the Sacramento and San Francisco Bay areas assisted in relief efforts, providing vital services and resources not available to civilian agencies.

And one year ago this month, an oil spill the magnitude and size of which was never before seen in the US, crippled Prince William Sound, Alaska. The Alaska National Guard, in cooperation with the US Coast Guard and elements of the Active Army and Air Force, assisted in the massive clean-up efforts.

The threat to our environment is another emerging public policy issue that will dominate the American agenda in the next century. We in the Guard recognize the importance of protecting our environment and are committed to directing dedicated resources to identify and correct potential hazards to the environment.

We are confident that with the resources to back us, the '90s can be an era when civilian, military, and business communities pull together to institute proactive change in order to protect this most precious resource.

*Rear Admiral John Faigle, Office of Readiness & Reserve, Coast Guard:*

The Coast Guard has operated as a "Total Force" since long before the term came into vogue. While our primary mission is to maintain a high state of readiness in the event of mobilization for national security, it is the by-product of this mobilization for which our reservists are best known to the public.

Coast Guard reservists receive excellent training in operational skills necessary for mobilization, and the Coast Guard simultaneously receives additional support in carrying out assigned missions.

With augmentation training, the Coast Guard Reserve does not reduce its readiness to respond to national security threats. In fact, augmentation training has proven to be the most effective means of providing Reservists with those skills required for mobilization.

In 1984, the secretaries of the Navy and Transportation entered into a memorandum of agreement which established the framework for the orderly control and security of this nation's critical ports and waterways, which tie our country economically to the rest of the world.

This important organizational command structure—with two Maritime Defense Zones (MDZ), one for the Atlantic and Gulf Coasts, and the other for the Pacific Coast, Alaska, and Hawaii—is just as inextricable to this nation's future national maritime strategy is it was upon its inception.

The Coast Guard Reserve's role in MDZ is a major one. Reservists provide almost 85 percent of the Coast Guard's MDZ-related personnel requirements. As a result, approximately 90 percent of the Coast Guard's Selected Reserve is organized and trained to provide an almost tenfold in-

crease in ports security forces under the MDZ.

By providing 2.6 million man-hours annually to support the Active Duty in accomplishing its missions, Reservists have long been a vital part of the Coast Guard, in peace and during times of national security operations and natural disasters.

*Maj. Gen. Edmund Looney, Manpower & Reserve Affairs:*

The Marine Corps Reserve role is to:

augment selectively the Active Force in order to field three Marine Expeditionary Forces (MEFs) at full wartime structure;

to reinforce selectively the Active MEFs with Selected Marine Corps Reserve (SMCR) units;

provide the capability to field a Marine Expeditionary Brigade (MEB) to reinforce an Active MEF;

be prepared to field a Division, Wing and Force Service Support Group (FSSG) with reduced capability if augmentation/reinforcement is not ordered;

provide a nucleus to reconstitute a Division, Wing and FSSG if augmentation/reinforcement is ordered.

The organization of the Selected Marine Corps Reserve (SMCR) as the Fourth Division, Wind and FSSG capable of providing trained units to the Active Force provides unparalleled flexibility in employing Reserve assets.

The fiscal year 1990 SMCR manpower plan calls for an end strength goal of 44,000, a growth of 400 over fiscal year 1989.

When possible, the Marine Corps follows a horizontal fielding plan for weapons systems and other equipment. Distribution of equipment to the Reserves generally follows mobilization priorities based upon the three most demanding planning scenarios, i.e., the "First to Flight" Active or Reserve will be the "First to be Equipped."

Programs aimed at professional development and assignment of military occupational specialties are also an integral part of the equation.

In keeping with the Total Force Policy, the Marine Corps Reserve complements the Active Force as a fully integrated partner.

We believe we are on track with an affordable and executable program that maximizes the Reserve contribution to the nation's defense. Congressional support in the past has reaped dividends that will continue to appreciate in value. In the future, continued support will be required. In the final analysis, the value of the Marine Corps Reserve lies in its preparedness.

*Maj. Gen. Donald Burdick, Army National Guard:*

For the past 353 years this country has relied on the Army National Guard to provide an "Army on Call" made up of citizen-soldiers. The Guard, in fact, is a direct descendant of the mid-17th century colonial militia.

Of the 28 Divisions in the Total Force, ten are in the Army National Guard and of the remaining 18, Army Guard units round out an additional eight Active Army Divisions.

Our citizen-soldier "Army on Call" provides 44 percent of the combat units, 31 percent of the combat support, and 25 percent of the combat service support units of the Total Army.

In addition 20 percent of the Air Defense Batteries, 50 percent of the Field Artillery Battalions, 33 percent of the Aviation units, 41 percent of the Engineer Battalions, and 25 percent of the Special Force Groups are also assigned to the Army National Guard. These units are located in over 3,000 facilities in towns and cities nationwide.

New and modernized equipment provided to Army Guard untis incldues M-1 tanks, Apache Helicopters, Multiple Rocket Launch Systems, new radios, computer systems, and a multitude of other state-of-the-art equipment items.

The Army National Guard also plays an acitve role in support of federal and state authorities in counter-narcotics efforts. Initial efforts to support the counter-narcotics efforts began with four states in 1983 and has grown to a current level where 53 states and territories are involved in drug suppression operations.

The Army National Guard is also cost effective. This citizen-soldier force is manned and trained at approximately 25 percent of the cost of an Active Army Unit of the same type and size. Dollar for dollar the Army Guard is a bargain when you consider that it provides the property mix of forces with the Active Army and Army Reserve to meet the strategic goals of this nation.

*Maj. Gen. Philip Killey, Air National Guard:*

Shortly after the Wright Brothers' first flight, Guardsmen were spurred to investigate ballooning and to train in borrowed biplanes. Those early pioneers built the foundation for today's modern Air National Guard.

The Total Force Policy works well in the Air Force, as the recently completed Operation Just Cause vividly demonstrates.

Ohio Guard A-7 tactical fighters were on duty providing air support in defense of the Panama Canal as our A-7 units had been since 1978.

Three days after the operation began, the A-7s and their people were replaced by my old home unit from South Dakota as part of the normal rotation schedule. The tempo of close-air-support sorties for the soldiers on the ground was maintained at the same high level even with the change of unit.

Similarly, the Guard C-130s were also scheduled to end their rotation at that time and return to California, Delaware, Missouri, and Texas. This transfer to an Air Reserve unit was accomplished smoothly and professionally. No sorties were lost; all assigned missions were flown, all responsibilities met.

Stateside, the New York Guard C-5 unit and the Mississippi Guard C-141 unit were flying missions in support of Just Cause from the beginning of the operation. We even "loaned" a C-5 to the Military Airlift Command so they could meet an operational commitment.

ANG contributions to today's Total Air Force are significant: 116,000 members, 92 percent of continental air defense forces, 70 percent of reconnaissance forces, 38 percent of tactical airlift, one-third of the air rescue capacity, 24 percent of the tactical fighter force.

Air Guard flying units have a commitment right now to mobilize and deploy their people and aircraft anywhere in the world within 72 hours in support of the Active component.

Just as the Air Force relies heavily on the ANG to perform key wartime tasks, we rely even more heavily on them to provide us with equipment, training, and management support to perform our missions. F-15s, F-16s, C-130H-models, communications and radar equipment modifications and modernization do not just happen. They come from decade-long USAF commitment to making the Guard and Reserve full partners in the Total Force.

*Maj. Gen. Roger Scheer, Air Force Reserve:*

By the time Americans were rising on Dec. 20, 1989, Air Force Reservists already had flown and supported numerous missions in support of Operation Just Cause, the U.S. intervention in Panama.

This final U.S. military combat operation of the '80s and first of the '90s underscored the message the Air Force has been transmitting for years: "When we're needed, we'll be there."

Air Force Reservists volunteered for and served proudly in every major U.S. military action in the 1980s: the liberation of Grenada in 1983, the 1986 retaliatory strike on Libya, the evacuation of wounded Marines from Lebanon in 1983, and the 1988 dispatch of American troops to Honduras.

A former Congressional staffer, Maj. Tom Carter, a pilot with our C-141 airlift unit at Andrews Air Force Base in Maryland, flew the first plane into Honduras on that operation.

Our airlifters, flying and supporting C-5s, C-130s, and C-141s, fly missions all over the world, on every continent. Our airlifters perform missions ranging from bringing supplies to Antarctica to ferrying American verification teams to the Soviet Union in support of On Site Inspection Agency requirements.

The success of the Air Force Reserve is a tribute not only to America's Total Force Policy, but also to what can be termed the "Total Reserve Force."

That's the unique mixture of a Reservist's military skill blended with the three-way support of the Reservist's family and employer and the regular Air Force.

That successful mixture was most noticeable during Operation Just Cause. Many Reservists couldn't tell their families where they were going when they were notified of a mission. Many of them had to call their employers from their units or from a flightline to tell them they wouldn't be into the office or the shop that day. Their nation had called; they answered.

It's not unusual to find Air Force Reservists who put in more than 100 days a year in the Reserve, and that's beyond the civilian jobs they hold.

Our Air Force Reservists are combat ready. They can be mobilized in 24 hours and deployed within 72 hours.

*Maj. Gen. William Ward, Army Reserve:*

Of the 600,000 men and women who make up the Army Reserve, slightly more than half are members of units or have assignments as Individual Mobilization Augmentees (IMA).

Together, these two groups make up the Selected Reserve. The remainder are assigned to the Individual Ready Reserve (IRR).

The Army Reserve provides 53 percent of the Total Army's combat support elements, such as military police, military intelligence, and signal units and combat service support units, including transportation, supply, maintenance, and medical units.

Readiness has benefited from emphasis on getting Reserve units the equipment they need through the Dedicated Procurement Program and through providing units with Minimum Essential Equipment for Training (MEET) sets so that they have the equipment they need for effective training.

On the training side, the Overseas Deployment Training (ODT) program has allowed many units with an overseas mission to train in the area where they could go in wartime. During fiscal year 1989, 1,100 units participated in ODT in Europe, Southwest Asia, Korea, Latin America, and other areas.

As a result of increased attention to job training, the percentage of Reservists who are qualified in their Military Occupational Specialty (MOS) has risen from 65 percent to 75 percent since fiscal year 1986. We also have increased the emphasis on leadership training for non-commissioned officers (NCOs) and junior officers.

The quality of young people enlisting in the Army Reserve has increased, too. Since 1984 the percentage of high school graduates has gone from 82 to 86 percent in 1989, with a high of 94 percent at one point. At the same time, the number of enlistees in the higher mental categories has increased and the number of the lower categories has decreased.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2273, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-488) on the resolution (H. Res. 394) providing for the consideration of the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, which was referred to the House calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR THE CONSIDERATION OF H.R. 4636, SUPPLEMENTAL ASSISTANCE FOR EMERGING DEMOCRACIES ACT FOR 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-489) on the resolution (H. Res. 395) providing for the consideration of the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990, to support democracy in Panama and Nicaragua, and for other purposes, which was referred to the House calendar and ordered to be printed.

## REPORT OF LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. ESPY] is recognized for 60 minutes.

Mr. ESPY. Mr. Speaker, I would like to take this time to introduce to the Congress a report which was formally presented yesterday to the administration and to the House and Senate leadership regarding the development of an area in the Lower Mississippi River Valley. This is pursuant to a commission which was created at the end of the 100th Congress last year to create a commission called the Lower Mississippi Delta Development Commission, which for the last 18 months or so has been moving around the country having hearings under our authority and receiving recommendations that they then presented yesterday on how to bring this region, which is the poorest region in America, a region of 219 counties, parts of seven States, where the per capita income average is now, Mr. Speaker, about $8,000 per person per year.

□ 1340

The thesis of this action was to bring to the Congress an economic blueprint, an action plan, if you will, as to how to bring this region out from the doldrums, out from poverty by the year 2001.

We have had a very eventful couple of days. We had a very successful press conference yesterday on the Senate side where we were joined by the Senate sponsor of this, Senator DALE BUMPERS from the great State of Arkansas, and for those of us who work in this Lower Mississippi River Valley region, yesterday we did have an unveiling of this report over in the other body to bring to their attention this particular report.

This morning, Mr. Speaker, we had a meeting of the newly created working group. This is a group made up of 24 Members of Congress, about 17 Democrats and 7 Republicans, all with the express purpose of bringing this region up from poverty and promoting this economic blueprint, if you will. We had a working group with Governor Clinton who is the current chairman of this particular commission, the Lower Mississippi Delta Development Commission.

We have just now completed this morning a joint hearing held by the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs and the Subcommittee on Economic Development of the Committee on Public Works and Transportation.

This joint hearing was chaired by our friend and colleague, the gentleman from Illinois [Mr. SAVAGE]. It was a marvelous hearing, Mr. Speaker, and it was attended by many Members of this working group as well as members of each one of their respective committees.

My statement today, as I await the presence of other Members of Congress who might wish to join me in this special order, is that we commend them for bringing this important issue before Congress in this forum, and every one of them is credited with a series of successful legislation which has rekindled economic growth in communities all across America, and some programs which had a clear and decided regional focus will look to the subcommittee for continued leadership and guidance on community and regional economic development and stabilization legislation.

Let me say, Mr. Speaker, the contents of this final report, which contains some 400 recommendations and 68 goals, will be analyzed by this delta working group and before the appropriate committees of Congress. The 400 recommendations and 68 goals are directed to Congress, the President, mayors, county supervisors, churches, private and public community-based organizations, educational institutions, and all segments of society. In essence, what we have done, Mr. Speaker, through the submission of this report is not to come to Congress, not to come to the Federal Government asking for a handout. We are asking the Federal Government to join in a cohesive partnership with local entities, with regional entities to make sure that this report means something. It is not an offer of a handout, Mr. Speaker. It is, as has been said before, an offer for a hand up.

The first thing that comes to mind in the minds of most people watching this saga unfold is how much will it all cost. We know it will not be cheap. We know it will not be free. It depends on how much you do and when you decide to do it. It is like the famous commercial, Mr. Speaker, where the mechanic says you can see me now or you can see me later.

The longer we wait the more it will cost. Of course, we are talking today about the cost of raising this Lower Mississippi River Valley area up from the depths of poverty. But more importantly, right now we have the most comprehensive and current volume of information on the lower delta region, and just in time, because it will be outdated if we wait a long period of time, Mr. Speaker.

So I urge that we use this information as wisely as we can and allocate our resources as judiciously as matters warrant.

Mr. Speaker, I think we are off to a good start. There is a desperate urgency in the eyes of the youth in the delta, with the deaths of young babies, in the despair of chronic unemployment and in the wasted minds of high school dropouts. I know it takes a personal and an individual effort to overcome the economic stagnation of the region, but I know to the core of my being that the people in this region will be receptive to our movement. They do not want to be humiliated by a Federal handout, but they want to retain and regain a sense of self-worth and dignity by contributing to the betterment of their communities and the betterment of their State, and Mr. Speaker, even to the improvement of this Nation.

They will feel the obligation and the resonsibility that comes with being a contributing member of society, whether it is rebuilding local schools, or paying taxes. We know that those who live and breathe and work and inhabit this region yearn to be full participants in what this Nation has to

offer. This is basic to America's community values, and it is after all a centerpiece in the values of this delta region.

For many observers, some in close proximity to the problem, the crisis is viewed with commonplace concern, too often forgotten. It is a scene without change. This is one of the most serious barriers facing the rebirth of the delta region. Only when America realizes that there is a third world within its borders will it know that there is a quiet crisis that has dulled their senses and will no longer take wait for an answer.

I believe it is our responsibility to raise the volume, and let America know that a region of this great Nation needs their attention. My hope and my belief is that America will answer with the warm hand of a neighbor.

Mr. Speaker, today we are talking about the announcement of a report which I think will benefit this entire Nation because this region of which I speak could be characterized as a third world in America. In this region, Mr. Speaker, per capita income is about $3,000 below what it is for the rest of the Nation. In this region, Mr. Speaker, about one-fifth of all of the housing is classified as substandard or dilapidated. In this region, Mr. Speaker, out of every thousand live births in the delta, in the region that we represent, about 33 babies will not live to blow out the candle on their first birthday cake. In this region, Mr. Speaker, when it comes to diarrhea and dying from dehydration, we have about 500 children that die every 4-year period in this region, and about 56 of them live, and unfortunately die in the region that 24 Members of Congress represent.

Mr. Speaker, when we talk about these kinds of sad and sordid statistics, one would think that we were referring to Cuba, or Costa Rica, or Nicaragua, or some Third World nation in Africa. But Mr. Speaker, we are talking about current statistics in the Lower Mississippi River Valley, and that is really what we are here trying to speak of. This is here what we are trying to ameliorate.

If I were assessing the cost/benefit ratio of the commission's activities to date, I would judge it to be a worthwhile expenditure for the State of Mississippi. I base this on an experience that I had in Itta Bena, Mississippi during a major commission hearing where I saw several hundred people, both black and white. Many of them would never have seen one another but for the opportunity to share some common concerns and to realize that they were common allies.

For the Commission, these were some of the earliest signs of progress, a fusing and a unification in the identity of a region. These people were similar in their discussions about their community needs, and they spoke openly, and they spoke passionately, and but for the color of their skin, the message was all the same, that we might have come over here on different ships, some on the *Mayflower*, and some in the holds of slave ships, but Mr. Speaker, we are all in the same boat now. And if the color of their skin was secondary to their mutual interests in good schools, economic development, the need for housing, the shame of infant mortality and growing illegal drug use, these people found a new sense of strength in their numbers, a mutual identity, a sharing of common goals and a sense of community that transcended race and was growing among them.

□ 1350

One of the greatest divisions within the delta was dissolving, this Berlin Wall of race relations has now started to crumble within this particular region. In large measure, I credit the Delta Commission's grassroots approach in the conduct of this study and in its methodology.

At this time the critical question, aside from obvious apparent need within the region, is, "the appropriate allocation of resources." Are we ready to direct fuding and service supports to this region of America that will be commensurate with its needs?

This is not just a policy question, it is also a moral question and certainly a political question. But, Mr. Speaker, when Hurricane Hugo ravaged the east coast of the United States, it was appropriate that several assessments were made and assistance was quickly dispatched. That is great.

I voted for that. I think that that assitance was valid and certainly needed.

It was imperative that Federal aid be forwarded to the west coast when an earthquake measuring 7.1 on the Richter scale crumbled bridges, highways, and buildings in the city of San Francisco and in the bay area. That is fine. It was necessary, it was valid, and I voted for this aid as well.

In our sister States of Louisiana, Arkansas, and Texas, we now suffer a deluge of water. It is also incumbent now for the Federal Government to respond to alleviate human suffering during this time of crisis and to respond expeditiously.

If Congress can authorize nearly $5 billion for the concept of a superconducting super collider, a research project sending subatomic particles speeding around a 54-mile circle to collide and, hopefully, provide insight into the origins of the universe, that is fine. That is also valid, something which I also voted for.

I believe now that Congress must also consider building a protective ring around the delta to perhaps invigorate a region of this country that hungers for economic parity.

Mr. Speaker, we can build a superconducting network of 219 counties which contain 8.3 million people; we can generate economic activity that sparks housing, education, health care; we can create an industry that expands businesses and provides leadership development.

This superconducting region can be the beneficiary of America's interfocusing electricity and will produce substantive changes for the region.

I believe that the time has come for a report like this, and I hope that ameliorating legislation will follow soon on its heels.

For the Lower Mississippi Delta region, the needs are dramatic, just like the effects of this hurricane. The human misery is just as compelling as the devastation of the San Francisco earthquake and the call to the Federal Government is just as loud as the thunder of flooding water. Many who have been witness to the Third World conditions of this region know the chronic and persistent poverty that devastates lives and cripples coming generations.

It has been the responsibility of the Delta Commission to generate new data, to consolidate a host of new ideas and to recommend ways to correct 200 years of neglect.

We can no longer be callous to the human misery of this region, and it simply must be tended.

The young lives destined for the welfare lines must be embraced and shown that in this great Nation, they matter and they can make a difference.

The bountiful resources and untapped human potential can be developed but not to the detriment of the environment.

So I think we have an extraordinary opportunity to make an impact through this report and through our actions that will follow soon thereon.

Later today or tomorrow, Mr. Speaker, we will be considering for passage H.R. 4636, which is the Supplemental Assistance for Emerging Democracies Act for 1990, which will authorize an additional $1 billion in foreign aid appropriations to strengthen democracies abroad. That is fine. I am sure that when it comes on this floor, I will be one of those who will enthusiastically vote for this particular aid.

But, Mr. Chairman, I know a region of America that is already a democracy and which is eager to emerge, to emerge as a full economic partner in the American economic mainstream; $1 billion could be a tremendous investment and would pay dividends for generations. An embarrassing idea, but one which is easy to conclude, is for this impoverished region to apply for foreign aid from cash-rich nations

such as Japan, Taiwan, the Republic of Germany.

I have reviewed this report and found several areas in particular that I feel need to be a focus in our future discussions.

I am principally interested in housing, the formation of a regional development authority, a regional development or fiscal entity, if you will, and the enhancement of tourism. These elements of economic development can be a foundation for generating a regional economy.

I would like just for the next few moments, while we are awaiting the rest of our colleagues from the impacted area to arrive, I would like to spend just a few minutes highlighting the three areas of special interest to this Member:

Housing, developing a regional economic fiscal authority, and, of course, the development of tourism opportunities.

New housing: Housing is highlighted in the Commission report, and appropriately so. I would like to see housing lead the region out of its economic doldrums as it has generally led the Nation out of recessionary periods.

Housing is one of the macroeconomy's most reliable leading indicators. I believe housing construction could help lead the delta out of economic stagnation.

Mr. Speaker, we are awaiting other members of this region, the lower Mississippi delta working group, to appear. I see now there are several making their way in the Chamber. We do have 24 Members of Congress who work for districts within this impacted area; about 17 Democrats and about 7 Republicans, all energetic in a very bipartisan effort to bring this region up from the depths of poverty.

Before we were interrupted, and reasonably so, by the chairman of the Committee on Rules, I had been outlining three areas in which I have special interest: Housing, formation of a fiscal economic authority to generate capital within this impoverished region, and, third, using our unique situation with respect to tourism to develop our economic opportunities.

Now, with regard to housing, the current need to increase the region's housing stock is an urgent and pressing demand.

The Commission report establishes 10-year goals of 400,000 units of affordable rental housing for low-income delta residents.

Mr. Speaker, I have heard current estimates for substandard units in the delta may exceed 900,000. In my district alone, 27 percent of the housing is considered dilapidated and substandard, but our vacancy rates, for all units, is only 6 percent.

A lot of folks in my district are living in conditions our Federal housing policy considers to be unacceptable. Housing construction can be sparked and initiated in a number of ways, several of which are recommended by the commission.

□ 1400

The establishment of high in-rental escrow accounts to be used as downpayments for home purchases, another idea promulgated by this commission, is to create State-run housing trust funds to assist first-time low-income and moderate-income families to become homeowners, and a number of tax law changes that would encourage private investments in rental housing. I think that these initiatives are eminently doable, and the role of community-based organizations, conventional lenders, and investors insure that the public sector's responsibility to engender full exercise of their involvement will lead to increased affordable housing for purchase and for rent.

Housing as a leading economic indicator is part of the picture. The panoramic view, in my opinion, must include a regional development authority.

Mr. Speaker, I see members of the working group who have made their way to the floor. I yield to hear the viewpoint of a distinguished colleague, one who has worked diligently with Members on creating a Lower Mississippi Delta Working Group, the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, first of all, I would like to associate myself with the trenchant comments of the gentleman from Mississippi, the chairman of the working group that has been formed to deal with, to manage, to review, and to recommend for legislative action certain recommendations of the Lower Mississippi Delta Region Commission which made its report to Congress today.

I think that the Commission has done an outstanding job in the work in which it has been engaged over the course of the last 2 years. All of the commissioners or most of the commissioners were present this morning at a joint hearing of the Committee on Public Works and Transportation, the Subcommittee on Economic Development, and from the Committee on Banking, Finance and Urban Affairs, the Subcommittee on Economic Stabilization. It was most impressive. The substance of the remarks delivered by members of the Commission headed by Governor Clinton of Arkansas, the substance of their comments and the convictions of their delivery. I got the feeling that this Commission had indeed, as it was charged to do, spent a lot of time reviewing, listening to, analyzing grassroots comments about the needs of the delta region.

I think it is no secret that the delta region has long lagged behind the rest of the country in terms of economic development. I think that part of the reason for this lies in the fact that agriculture always has been the No. 1 industry of the delta region. Until the mechanization of agriculture which really followed World War II, there was economic activity to be pursued by most of the residents of the region, but with the mechanization of agriculture, there was a large displacement of the labor force, some of which emigrated from the area; other elements remaining, to the point that we have more than our fair share of poverty, proportionate to the rest of the country.

In saying that part of our problems stem from the fact that there was a displacement of workers following the mechanization of agriculture. I think also that we never, relying heavily as we did on agriculture, probably efforts were not made back when, back when to industrialize as perhaps much of the rest of the country has done. So that in this day we do find the delta region suffering certain disadvantages that the rest of the country as a whole does not find itself in.

I think that the recommendations made by the Commission today are realistic and obtainable goals. They are not pie in the sky. I think it is important to note that many of our options for opportunity are going to lie in legislative victories that are already in process. One example comes to mind. We are in the process now of holding hearings, looking toward the reauthorization of the Federal Highway Act next year. A number of the recommendations made by this Commission have to do with infrastructure needs, most particularly highway needs. Therefore, I would hope with the Committee on Public Works and Transportation, the Subcommittee on Surface Transportation, we could get a fair hearing, as I believe we will, for the recommendations of the delta commission vis-a-vis highway needs in the area. Of course, the Committee on Public Works and Transportation is also dealing in an ongoing way with the subject of water resources.

Mr. Speaker, a key to the entire delta region, of course, and part of the delta region comes from the Mississippi River. The key is the Mississippi Delta. Therefore, the Mississippi River is key and heart to the entire region. The river, this artery of commerce and industry that goes down the midsection of our country is, on some occasions our best friend and on other occasions our worst enemy. We have a vital need for flood control in the region. The Mississippi River and Tributaries Act, which is the key generic act that we refer to when we refer to flood control problems on the Mississippi River, has been in existence now ongoing of 65 or 70 years. Virtually 75 to 80 percent of the Mis-

sissippi and tributaries project was completed by the early 1980's. In the mid-1980's, we changed the policy on how the projects that are a part of the Mississippi River and tributaries project would be completed. We instituted for the first time in the 65-to-70-year history of the project the need for local cost sharing.

I submit that many of the communities that have projects remaining that are part of the Mississippi River and tributaries project do not have the funds, and we will never be able to complete this vital project unless we remove the need for local cost sharing of the MR&T project. A lot of people inside the Congress, and outside the Congress, from time to time, have indicated that the Mississippi River and any problems or benefits that it may generate should be regarded as local in nature. The fact of the matter is, Mr. Speaker, that the Mississippi River drains 41 percent of the continental United States. If anyone doubts the importance of the Mississippi River to this country as a whole, I would recommend their reading the first paragraph of Mark Twain's "Life of the Mississippi," a great bestseller that he wrote well over 100 years ago. It has been a bestseller in every generation since, yet many people have refrained from being educated about the importance of the Mississippi River to the country as a whole.

□ 1410

This great artery is not a local item. We do ask that the waters of 41 percent of the continental United States be sent down upon us, but come down upon us it does nevertheless. So one of the recommendations of the Commission is that we go back to the old policy and complete the MR&T project without the necessity of local cost sharing. This would be of enormous benefit to our No. 1 industry, agriculture, and to the ability of towns and communities in this economically depressed region to attract business and industry to the region, some of which are reluctant to locate there because of the potential of flood control problems. Properly completing the MR&T project would greatly enhance the economic viability of the region.

The gentleman from Mississippi referred to some social and human needs that exist in the area as a result of the fact that the entire region is not economically developed on a par with the rest of the country. These, of course, relate to problems of education, of drugs, of malnutrition, of infant mortality, and of all other social problems that plague us and which we in this body are continually trying to address.

Mr. Speaker, I think that the gentleman from Mississippi [Mr. ESPY] has given us a catalog of those problems, and I look forward to working with him. The gentleman mentioned most recently housing issues. I look forward to working with him in trying to find targeted solutions to these problems in this region.

Finally, I would like to say, Mr. Speaker, that one of the impressive aspects of this report is that it is not asking for a Federal handout to accomplish or to achieve all of the goals that it sets out. In order for the recommendations of the Commission to be fully implemented, it is going to require the best efforts, the very best efforts of the private sector, of local government, of State government, and of the Federal Government, all pulling together. There is a role for each entity in pursuing the goals of this Commission which I earlier said were not pie-in-the-sky goals. They are realistic, attainable goals, and if we are pulling together, the private sector working with different levels of government, I believe we will be able to achieve the recommendations of the Commission within the timeframe that it has set out.

Working with this Commission and with the Representatives who comprise the representation in Congress of the entire delta region has been one of the more rewarding experiences of my tenure in Congress. We are proceeding apace with our commitment to help to solve the problems of the region, and we are doing so on basically a bipartisan, nonideological basis.

We all recognize that there are problems. We know that these problems need to be solved. They must be solved. There is a broad and deep-seated commitment to solving these problems, and I want to thank the gentleman from Mississippi for the leadership that he has taken in forming the working group to work on behalf of the Commission's recommendations. I thank the gentleman for the leadership that he has provided, and I wish to extend my commitment to him to work in the immediate term and the long term to achieve the goals that have been set forth by the Commission and which will result in the attaining of those goals, which will result in turn in a better life for hundreds of thousands, indeed probably millions of people, who inhabit that region known as the Mississippi Delta.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. ESPY. Mr. Speaker, I thank the gentleman from Missouri [Mr. EMERSON] for his compliment, and I thank him for his very thoughtful comments. I would just like to say that it has been a pleasure to work with the gentleman thus far in making sure that we receive the report which we now have presented to Congress and to make sure that he knows I look forward to working with him in the future so that we may be sure that the 400 or so recommendtions contained in this report become reality. We think they are reasonable, and we hope they become a reality. I thank the gentleman for participating.

Mr. Speaker, I now wish to yield to a colleague of mine, the gentleman from Mississippi [Mr. PARKER], who represents the Fourth District of the State of Mississippi and who is also a very active member of this congressional group.

Mr. PARKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me first commend the chairman of our working group, the gentleman from Mississippi. He has done an extremely effective job as far as working on this task force. The interest and involvement and leadership he has shown have been significant, and we as the people in the Mississippi River Delta area will feel the effects of his work for many, many generations to come.

This morning we had a working breakfast, and Governor Bill Clinton came and spoke to us. Some of the comments he made this morning were, I think, very personal, and they also stressed the importance of the work we are trying to achieve with this commission. It is with a great deal of pleasure that I publicly commend the Commissioners and the staff of the Commission itself for their efforts to resolve the plight of so many of the people in the lower Mississippi Delta region.

I have always thought it was very ironic that in a nation renowned for its freedom and prosperity, a land truly blessed with opportunity, there should exist a region that is so bound and so destitute, lacking in hope primarily, with individual incomes so well below the national poverty level, with unemployment rates in some areas averaging more than four times the national average, and infant mortality in some areas greater than that in some Third World countries. The statistics themselves are alarming.

Even more alarming, I think, is our witnessing of lost dreams in the eyes of children who have faced too many sorrows in their young lives, and it is discouraging to talk to people who have lost all hope that a better day will come.

Many people have said that awareness is the answer, that if more people realize the extent of the problems we have in the region, that if we can raise the social conscience of the American people, something would be done. Congress gave our region hope when in 1988 the Delta Commission was created and charged with identifying the needs of the region stretched across 219 counties in 7 States and making recommendations to meet those needs.

It is my goal to see that the hope that we feel is turned into reality and to see the Commission's recommendations and strategies implemented. A

perfect example, a classic example of what we need is occurring in my district now, and that is the beginning of the Natchez National Historical Park. I believe that the bodies of legislative branch of this Government, this House and the other body, must come to the realization and must explain to the American people the difference between what is commonly referred to as a pork barrel project and a true investment. Most people make the delineation somewhat like this: If it is in my district, it is an investment; if it is in your district, it is a pork barrel project. That is not the correct way to look at it.

We have forgotten what a true investment in America is today. Every business person out there in the country realizes that in order to have a true investment, we must have a return on that investment. The American people must realize that every city in this country is not doing well financially. We do have some areas of this country that are doing very well, but we are economically deprived in the Mississippi River Delta region. Because of that, we do not have the tax base to levy the taxes in order to implement some of the projects we need. The Natchez National Historical Park is a perfect example. We have tremendous resources in Mississippi all through the region, but in that particular area, in Natchez, we had a situation where it was deemed responsible on our part to authorize and fund the Natchez National Historical Park.

□ 1420

From an economic standpoint, Mr. Speaker, we do not have the tax base to implement it. We do not have enough people, and they do not make enough money, and, because of that, our tax base is too low. We are in a situation now with the implementation of the Natchez National Historical Park where we are going to be creating by the year 2000, by conservative estimates, over 1,000 jobs for the park and its peripheral business. An additional $18 million of personal income will be coming into that area each year because of that park. It is an investment in the future. We will get a return on the investment that we make.

Mr. Speaker, many of the projects that are discussed in the report of the Commission are centered around that type of ideology. We in Mississippi realize that our State will not prosper by relying solely on Federal assistance. We have begun an aggressive campaign to establish partnerships with the private sector with State and local Federal officials and the communities themselves. It is that kind of effort that is needed to pull the region out of the claws of poverty.

Mr. Speaker, I am looking forward to seeing the Mississippi River Delta grow, and I am looking forward to see it prosper as we, as a body, implement the strategies and recommendations of the committee.

Again, Mr. Speaker, I want to commend the chairman of our working group, congressional working group, the gentleman from the Second District of Mississippi [Mr. ESPY], and I appreciate the good work he has done, and I appreciate the fact that he called this special order together today.

Mr. ESPY. Mr. Speaker, I say, "Thank you," to the gentleman from Mississippi [Mr. PARKER], my friend and my colleague who is a distinguished Member of Congress and who has served very well making sure that we create some spark and enthusiasm to make sure that that manifests itself into some action through the work of the Lower Mississippi Delta Working Group.

Mr. Speaker, we have two other Members, distinguished Members of Congress, who also work within this particular region. I would like to call upon them at this time.

Mr. Speaker, I would like to yield first to the gentleman from the great State of Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I would like to thank the distinguished gentleman from Mississippi [Mr. ESPY] for the tremendous work that he has accomplished in leading this working group and helping to get this report together. I thank him also for allowing me to participate in this special order.

Mr. Speaker, I am pleased to join my colleagues from the Mississippi Delta region to speak about this report, and I applaud, as I have said in the beginning, the leadership of our colleague, the gentleman from Mississippi [Mr. ESPY], on this issue.

When I walked into the meeting yesterday where the press conference was taking place and the results of the report were being given to the press, one of my colleagues from Tennessee looked at me, and he said. "I'd like to know how a Yankee and his district got included in a report on the Mississippi Delta region."

Well, Mr. Speaker, let me talk to my colleagues about that for just a second, if I may.

Mr. Speaker, I represent the southern 21 counties of Illinois. My district, almost all of it, lies farther south than Richmond, VA. It is 350 miles from my home to Chicago. It is less than 200 miles from my home to Memphis, TN, to Louisville, KY, or to Nashville, TN. So, in many ways, Mr. Speaker, we are very much oriented in our culture, in our economic potential, and in much of our history, to those States that are included in this report from the Southland of our great country.

I reviewed this report in a variety of ways, but let me identify some primary observations that I would like to emphasize.

Mr. Speaker, this, most importantly, is a blueprint for action. It is not and should not be received as another government think-tank study that we spent a lot of money on just to have a study. It is concise, precise, and specific. It identifies problems in health care, in infrastructure, in education, in public facilities, agriculture, and a host of other areas. Then it follows with real recommendations for change.

It must be pointed out that these suggestions do not always ask for additional Federal Government assistance, although we certainly have a role to play in that respect along with our individual States. In many of these areas my colleagues will see the importance that has been placed on community involvement, in solving problems and moving forward, and I might say to the distinguished gentleman from Mississippi [Mr. ESPY] also, "If your counties in your district are anything like mine, the areas that we represent have a history of pride, have a history of rugged individualism, of doing it on their own.

Mr. Speaker, it is very difficult for us to sit down with our individual counties and convince them that it is more cost effective, more cost efficient, to cooperate across county lines on any number of important economic development issues and other kinds of development strategies. It is the same thing with this area of the country.

The thing that we need to emphasize more than any other is a regional cooperative approach toward settling our economic, our social problems in this area of the world. This report, Mr. Speaker, emphasizes the cooperative nature of a regionalism, of a regional outlook, in terms of looking at the issues that have traditionally, perhaps, divided us, and deciding on effective, cost efficient ways to solve those issues.

Mr. Speaker, that is the importance of this report, encouragement and cooperation across artificial lines that have divided us in the past between States, between counties that serve the citizens along the Mississippi River.

It is also, Mr. Speaker, a strategy for investment. As my colleagues know, there is a great deal of Federal money coming to the delta region already. But a lot of that is tied up in the variety of public assistance problems that help sustain people through their daily lives. Understand, we are grateful for that assistance, but real investment in providing jobs, housing, economic opportunity, would help take those people off the public assistance and provide them the opportunity to contribute in real substantial jobs

through which they can support their families.

In the long run, Mr. Speaker, it could lessen the burden of the Federal Government in this area, which brings me to my final point.

This report is really about people. Other witnesses and members of the Delta Commission will make this point. So, I just want to reemphasize it.

This region of the country is hurting. Unemployment in my counties runs almost unanimously in the double digits, up to 28-percent unemployment in some of my counties, and with the Clean Air Act on the horizon, those numbers are only going to increase, because large numbers of coal miners are going to be put out of work. But I guarantee that the people of this region want to work. They want to contribute. We are tired of living in the middle of the most prosperous country on Earth and watching it all pass us by. We accept our responsibility for how that has happened, and this report shows that we are willing to work to make changes.

However, Mr. Speaker, it has to involve a partnership at the local, State, and Federal levels, and I have visited many of the towns in my district for many years now in areas that I would swear were not a part of the United States of America if I did not know better, if I did not live there, places where small house trailers sit on muddy lots next to the railroad tracks, places where every face is the face of desperation and fear that maybe tomorrow will not bring the necessary food on the table, or clothes on the back or school for the children.

□ 1430

I look at those faces, and it works on me. My goodness, how can we tolerate this in the richest, most prosperous nation on the face of the Earth.

I come away from those visits tremendously moved by the plight of our people and I find it hard to say that it is all their fault; but the last look I take before I leave those homes and those villages somehow always finds the face of a child or a working mother or the proud father of a family who is working at every job that he can find to make ends meet. I see courage and I see promise and I gain inspiration from those visits, as poor and as desperate as our people may be.

I hope that we will see those same faces in this report.

The people of the delta are wonderful people. They are caring. They are loving people who only want the chance to make a contribution to the greatness of this country.

This report outlines a plan that we can all follow to invest in their futures. That investment will produce returns in human dignity and an improved quality of life for the people of the delta and all our neighbors in this great country.

Mr. Speaker, I thank the gentleman again for this time and attention. I look forward to continuing to work with the gentleman to achieve the goals set forth in this report.

Mr. ESPY. Mr. Speaker, I thank the gentleman from Illinois for participating. I would like to associate myself with his very eloquent statement.

Let us assure those who doubt that the district he represents is within the impact area of this region, it certainly is, and the gentleman from Illinois has made substantial efforts thus far to beneift our work in this area.

Mr. Speaker, I would like also at this time to yield to another distinguished colleague who represents certainly a district within the impact area covered in this region and under the mandate of this report, and that is District 1 of the great State of Kentucky, ably represented by our good friend, the gentleman from Kentucky [Mr. HUBBARD], and I yield to the gentleman.

Mr. HUBBARD. Mr. Speaker, I would like to commend my friend and colleague, the gentleman from Mississippi [Mr. ESPY] for taking this 1-hour special order in order for us to discuss the delta initiatives, the Lower Mississippi Delta Development Commission, and this beautiful book which has been published and edited by David Wayne Brown. This is the report we have heard so much about in the last 53 minutes of this special order.

I would also like to commend a friend of mine, a former constituent of mine from Hopkinsville, KY, named Wilbur Hawkins, the executive director of the Commission, for the excellent work he continues to do.

I want to explain to Wilbur Hawkins and the gentleman from Mississippi [Mr. ESPY] and others why this Member of Congress had to miss an important breakfast meeting this morning. We had 158 Kentuckians on the Senate side for a breakfast sponsored by the Kentucky Rural Electric Cooperative, and I had to be at that breakfast, with about 30 constituents present in that group.

We are so proud in Kentucky to be a part of the Delta Commission—21 of the 24 counties which I represent are a part of this Commission. Four of the counties I represent are actually bordering the Mississippi River; namely, Ballard, Carlisle, Hickman, and Fulton Counties.

As Joey Lucas, a member of my staff, pointed out earlier today in helping me prepare these remarks, the representatives of the Lower Mississippi Development Commission recently indeed have completed a monumental task. The members of the Commission presented to President Bush their final report, as was required by legislation adopted by this body in 1988. I believe that is Public Law 100-460 in October 1988. This final report is based upon their exhaustive research efforts which have taken place over the last 18 months. In compiling this report, the members of the Commission listened to many hours of testimony that were offered in public hearings by those who live in this region that is so plagued by poverty and depressed economic conditions.

While the contents of the report are very detailed and informative, the underlying issues that are talked about in the report are not new to those of us who represent communities in this region. As I said before, 21 of the 24 counties in my western Kentucky congressional district are included in the delta region. I, like my colleagues who have spoken earlier this afternoon, recognize that the social and economic needs of this region are indeed unique. The problems of illiteracy, inadequate transportation, and the underdeveloped economic potential are just a few of the common problems that affect this region which spans seven States.

Actually, this beautiful report of which we are so proud and we have copies at our office, is actually a handbook for action, one that could turn the delta and its 8.3 million people into full partners in America's exciting future.

Mr. Speaker, I close by again commending the efforts of the Lower Mississippi Development Commission for their work in identifying the problems and possible solutions to these problems. I urge my colleagues in the House to take special note of the report's recommendations and to help us start looking for ways in which we in Congress can start to address the problems which have plagued this region throughout its history.

Yes, I am proud to represent western Kentucky and proud that we are a part of this Commission, and again to my colleague, the gentleman from Mississippi, my thanks for taking this special order.

Mr. ESPY. Mr. Speaker, I thank my friend from the great State of Kentucky. I look forward to working with him to make sure that the recommendations contained in this report become a reality.

Mr. Speaker, there are several Members of Congress representing districts within this impact area who were unable to be with us at this time, but have since we began this special order brought to their floor their own particular statements.

The specific statements that I have to present under the authority of general leave is a statement from the chairman of the Appropriations Committee, our colleague, the gentleman from Mississippi [Mr. WHITTEN]; the gentleman from Louisiana [Mr. BAKER]; the gentleman from Tennes-

see [Mr. FORD]; the gentleman from Arkansas [Mr. ALEXANDER]; and the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. Speaker, with about 2 minutes or so left, not a whole lot of time to complete the unfinished portion of my own particular statement, but I would just like to mention two things. The first is that before we recognized and yielded to other Members, I had started to talk about my three interest areas.

One was, of course, housing. Inasmuch as about one-fifth of all the housing existing within my district are substandard and dilapidated, I have to mention that in communities all across my district, one in particular, a district called Blue Hill, MS, there are people living there, both black and white, who are still without running water in their homes. Some have fresh water wells. Others are reduced to having to collect rainwater for their sustenance.

Others, Mr. Speaker, have culverts, but there are a few who have to actually take buckets and go to the nearest stream to collect water, so that they might bathe, wash, cook, and clean.

Mr. Speaker, this is not certain Third World States. This is America, and I certainly think we can do better with regard to housing.

□ 1440

A second concern is to form a regional financial authority with the mandate and power to either capitalize or discount money to local lenders. We do not envision that this entity will supplant or displace our region's current lending and development structure. We believe that it should serve as an enabler, providing the circumstances and affordable capital infusion that will serve to ignite economic expansion.

This again is discussed in detail in the Commission report, and I am certain that it will be discussed, and I hope early on discussed, in the progress of the delta working group.

The third point that we want to emphasize is quick exploration in providing assistance in the further development of the tourism industry in the Mississippi Delta. This can be seen as economic growth in dormancy.

The ideas and strategies offered in the Commission report are varied and thoughtful. The Commission calls upon States, local governments, and the Federal Government to recognize tourism as a viable sector in the region's economy, and it takes steps to enhance the industry.

The endorsement of the tourism initiative for the delta is an endorsement of current legislation which I introduced last year and is nearing floor consideration. I make special mention of H.R. 2174, the Mississippi River National Heritage Corridor Act of 1989, which, if passed into law, would accomplish several recommendations offered in the Commission report.

A corridor commission would consolidate information about the historic, environmental, and commercial activities along the river in one place. For instance, Mr. Speaker, when Japanese tour companies came to America, to the Mississippi River Parkway Commission, 2 years ago seeking information about this great resource, they were disappointed and inconvenienced because they had to go to 10 different States for tourism and commercial information.

The same can be said for wildlife, hunting, swimming, boating, manufacturing, agricultural, and other types of information about the river. So this is simply a law to gather, consolidate and disseminate information to international or national inquiries which would be very helpful to develop a dormant tourism industry in the lower Mississippi Delta.

Mr. Chairman, I would like to read into the record comments from one of the Governors that serves on this particular Commission. I might add that the gentleman from Kentucky [Mr. HUBBARD] in his eloquent comments really did commend the Commission and the staff of this Federal Commission. I would just like to associate myself with his comments.

This Commission is made up of nine members, two Presidential appointees, a former Congressman, Webb Franklin, and Mr. Shepherd from the great State of Louisiana. It also contains participation by three sitting Governors, the Governor of my State, Gov. Ray Mavis from the State of Mississippi, Bill Clinton, who serves as its chairman, from the State of Arkansas, and, of course, Buddy Roemer.

We would like, of course, to read Buddy Roemer's comments before I conclude this special order.

One glance at a map of our Nation clearly illustrates that the Mississippi delta region, if not the body of the Nation, certainly is its major artery through which life can and should flow to all parts of our land.

However, I wish to advise you that much of this artery is clogged with obvious signs of abject poverty, pervasive illiteracy and lack of education, inadequate access to health care services, and scarcity of economic opportunity.

If untreated, the prognosis for the delta is bleak, for its youth will migrate top communities elsewhere offering a better quality of life and meaningful employment opportunities or remain to forfeit their future and concede to the prospects of never approaching the realization of the American dream as promised attainable by our Nation's forefathers, unless a combination of practical and creative remedies are applied immediately and generously, our Nation will be handicapped in its quest to compete and maintain a dominant position in the dynamics of the global economy due to its failure to capitalize on the wealth of human and natural resources within the delta region.

So as we conclude this special order, Mr. Speaker, and I cannot say it any better than that said by all of those participating in this last hour, except to say that we now have the mandate, we now have the charge. The Commission has fulfilled its goal, I think, and they did a pretty good job in doing this over an 18-month period. We have the call to action, Mr. Speaker, and now we have to respond.

Every night there is a very popular talk show host named Arsenio Hall. After he finishes his monolog and before he begins to introduce his first guest he raises his fist and he says to the audience there, he utters a now popular phrase. He says, "Let's get busy."

That is simply what we are saying to this Congress at this time. We now have the knowledge of poverty. We have the call to action, the handbook, the map, if you will. I say, Mr. Speaker, to this Congress at this time, let's get busy.

Thank you for allowing me to participate in this special order, and I thank all those who could come to the floor and share with us in this last hour. I want to thank them for doing so.

Mr. TAYLOR. Mr. Speaker, I am proud to join in this special order marking the release of the report of the Lower Mississippi Delta Development Commission.

I want to thank everyone from this seven-State region who contributed to the report we have before us. I would particularly like to commend my distinguished colleagues and fellow Mississippians, MIKE ESPY and JAMIE WHITTEN, for sponsoring the enacting legislation, and for their constant support and assistance to the Commission and the cause of the Lower Mississippi Delta.

I also wish to congratulate the efforts of the two Mississippians who served on the Commission, our Governor Ray Mabus, who served as vice chairman, and former Congressman Webb Franklin.

Mr. Speaker, the Commission has done its job and done it well. But a study is not a solution, and a report is not a remedy. This report is a call to action. I implore my colleagues to read the Commission's report and carefully consider the initiatives it proposes.

The Commission has identified the alarming problems facing the people of the lower Mississippi region. These are American citizens who are living in poverty, in grossly inadequate housing, without decent health care, and without properly funded schools.

The trends are ominous. If we ignore this report, the delta will continue to decline. The poor will get poorer, and another generation of children will suffer.

That does not have to happen. Trends are not destiny. Isn't it time that we focused our attention on solving the problems in our own country and helping our own people? I believe that it is, and the Lower Mississippi Delta is the best place to start.

Some Members of Congress may interpret the initiatives in this report as an appeal by these States for pork-barrel Federal projects. This is not the case. We are not asking for a

free ride. We are asking the Government of the United States to make a wise investment in the economic future of this country.

Before I was granted the privilege to serve south Mississippi in Congress, I served for 6 years in the Mississippi State Senate. During that time, I was fortunate to participate in the progressive movement in our State's government. We enacted improvements in education, in health care, and in economic development. The State government continues to address these concerns, and will do so for years to come.

But, Mr. Speaker, Mississippi and these other six States need some help. If the financial burden for necessary services rests on the shoulders of the States, then the poorest States will tend to afford the poorest services.

If we truly wish to combat poverty in this country, then we must take the necessary actions to alleviate the poverty of the Mississippi Delta. The rural poor of the delta live with little hope for jobs, for quality education, or for the future of their children. For the past 30 years, the primary means of escape for the rural poor has been to move to a city to join the ranks of the urban poor. That migration continues and will continue until we rebuild our rural economies.

Meanwhile, the best and brightest of the region have had little choice but to leave home to find opportunities. They have contributed to the growth and progress of almost every city and State in America. Now it is time for America to contribute to the growth and progress of the Mississippi Delta.

Mr. WHITTEN. Mr. Speaker, I would like to take this opportunity to join with my colleagues from the Mississippi Delta regions in commending the Lower Mississippi Delta Development Commission for the work it has done in pointing out the dire situation that exists.

The delta commission has done a rather thorough job of showing what the needs are, much of it caused by our open-door policy for imports, while failing to use the authority of law to provide for our producers the same protection other countries provide for their producers.

I hope the findings of the commission will help bring about policy changes and a return to a prosperous agriculture and increased production in industry. In view of our debt, the delta must be able in the future to join the rest of the country to produce more than we need and sell it in world trade, which under existing law is possible.

I speak to you as one who has had a lifelong relationship with the outstanding people of the region known as the Lower Mississippi Delta. My hometown of Charleston and my birthplace of Cascilla are nestled in the hills of Tallahatchie County, MI, overlooking the flat, fertile cotton and soybean fields of the Mississippi Delta.

I have lived and worked with the people of this region all my life, having served as a school principal, a district attorney, and as their Congressman. Until 1966, when Mississippi districts were altered, my district was composed mostly of delta counties. My current district includes several counties that are still tied to the economy of the Mississippi Delta.

That economy has been weakened for several years now, despite the best efforts and hard work of the area's people, by the failing of the farm economy and, I must add, the failure of the Federal Government to respond to the crisis in our rural areas.

Our people have done everything in their power to try to pull themselves out of this state. But many of the factors that affect the area go beyond the limits of human capabilities. That is why I am glad to have this kind of commission to bring the resources of the Federal Government together in a partnership with people who have already demonstrated their desire to improve their region.

As I have often said, we need to promote the kind of development this Commission points to: productive jobs and improved infrastructure, including highways, bridges, harbor development, water systems, and sewerage projects.

Looking back on the record, in 1940 we in Mississippi were in pitiful condition—our roads, housing, indoor conveniences, and just about everything lagged way behind. Since 1940, our material wealth, our schools, our factories, highways and airports, navigable rivers and harbors, many hospitals, and all the rest have multiplied 47 times. That has largely been through Federal programs of the United States, which tend to equalize opportunities of our people with the rest of the Nation. The improvements are never more apparent than in the delta region.

In northeast Mississippi, similar economic declines have been partially offset in recent years by a Federal program, the Appalachian Regional Commission. Congress recognized the need of the poverty-ridden area of Appalachia for special assistance, and that extra step has provided highways, development, improved health care, and increased opportunities for the people of the area. It is apparent that similar action is needed in the delta region.

Like the region of Appalachia, the delta region is largely a rural region, facing all the collective problems that face rural areas in a society that is moving more and more of its resources to larger urban centers. We cannot continue to neglect rural America without courting certain disaster.

I would like to point out, Mr. Speaker, that ours is an agricultural region, and agriculture has fallen on hard times in the last several years. Nationwide, millions of acres have been foreclosed or taken over by the lenders under the threat of foreclosure.

Our people and their livelihood are not only at the mercy of low farm prices, but also such variables as weather and insect infestation. Such a disaster also impacts surrounding communities and related industries. The delta region has suffered more than any section of the country.

Again, Mr. Speaker, I commend the Delta Commission for the work it has done in trying to bring relief to an area of our country that desperately needs it.

Mr. FORD of Tennessee. Mr. Speaker, I would like to applaud the efforts of the commission for the fine work they have conducted. Looking at statistical data of the delta region exemplifies the intensive need for this commission. A poverty rate for the delta region of 20.9 percent compared to a national average of 12.4 percent is unacceptable. A median income of $6,907 compared to a national average of $9,441 is unacceptable. A high school dropout rate of 28 percent for my own State of Tennessee is unacceptable. The Delta Commission was given a charge to tackle tough problems such as these and to provide some answers. They have met that charge.

The Commission has worked extensively to develop not just another report, but a comprehensive plan of action. Further, I would like to commend the approach undertaken for the research and recommendations for this report. From the outset, the Commission has worked to receive input and instruction from the people. The Commission understands that it is the local citizens who comprise the area and thus know the problems that they face and what is needed to help the area to solve those problems. This emphasis is what makes this report a unique document to be used by national legislators, State leaders, and local community residents alike.

Now it is our turn. The Commission has expeditiously and thoroughly prepared the way for progress, now we must proceed. It is important that we continue to work together on our problems. We must remember the binding forces that prompted the area to join efforts to form the Delta Development Commission as we begin to implement the many recommendations. The report should be used in the same manner as the method of research undertaken by the Commission, through a bottom-up approach with collaboration of all parties.

I look forward to working with my colleagues in the Congress. I am particularly interested in one of the recommendations which would require HUD, working with local housing authorities, to establish escrow accounts of a percentage of monthly rent for higher rent paying tenants to be used later for down payments on homes. This recommendation was also included in housing initiatives submitted to me by the Memphis Area Housing Authority. I have already begun the preliminary steps to introducing this initiative as legislation. In fact, I recently sent a letter to Chairman GONZALEZ asking for his comments on a similar proposal. This is but one recommendation. Yet, if we continue to involve all levels and work together, a brighter future is ahead for the delta region.

Historically, the delta region has lagged behind the rest of the Nation in all other areas. The delta continues to be the poorest of all sectors of the country. However, history does not have to continue to repeat itself. The delta region is an area of superior assets and untapped resources. Through careful management and planning, as the report submitted before us, this area can take the lead in economic growth and prosperity. A challenge is set before us today to help the delta region catch up with the rest of the country, to erase the afflictions that have continued to plague this area. I look forward to meeting this challenge.

Mr. COSTELLO. Mr. Speaker, today we are focusing our attention on a region of the United States that for too long has been ne-

glected. The Lower Mississippi Delta area, which includes my State of Illinois, is one of the most impoverished corridors in the country.

Throughout the States that make up this region, we have seen chronic symptoms of decline: a lack of quality health care, high unemployment rates, high infant death rates, an eroding of the industrial base, and a general decline in social services.

During the last 2 years, the Lower Mississippi Delta Commission has held field hearings and has heard testimony from the people of this area about their regional problems. This week, the Commission released its report and recommendations on ways to improve the economic standing in the Lower Mississippi Delta.

Mr. Speaker, the Midwest and many areas along the Mississippi River have been hit hard in the last 20 years by an enormous decline in America's industrial base. We must begin to address this decline and examine ways to rebuild economic strength in these areas.

The Lower Mississippi Delta Commission has given Congress and the President direction in the ways to address these problems. In particular, I am concerned about ways to improve our educational standards and prenatal care in the delta region.

I look forward to working with my colleagues to address these issues so that we can relieve some of the hardship that has been borne by the States in the Lower Mississippi Delta for too long.

Mr. MONTGOMERY. Mr. Speaker, I want to join my colleague from Mississippi today in this special order to bring attention to the Delta Initiatives and to the problems faced by the people who live in this region.

I want to commend Mr. ESPY for his leadership in this effort and I look forward to working with him and others who represent delta counties to help improve the opportunities for this region by laying out and developing a comprehensive long-range plan for economic development.

This project will require a team effort on the part of people on the local, State, and Federal level and it won't be done overnight. But this report is a good start and I congratulate the Commission for the work it has done to get things underway.

Mr. BAKER. Mr. Speaker, I am honored to be a colleague on the Lower Mississippi Delta Congressional Working Group and proud of the comprehensive economic development report, The delta initiatives, that addresses the vital problems of this region.

The Lower Mississippi River corridor contains nationally significant historic, economic, recreational, scenic, and natural resources, but this region is also plagued in pockets of severe levels of poverty, illiteracy, unemployment, infant mortality, and substandard housing. This 18-month study outlines the social, environmental, and economic problems and solutions for over 8 million residents of the United States' poorest region. Educating the future work force, combined with the development of business and technology, must be a No. 1 priority in order to help this poverty-stricken region. We need to use our abundant human and natural resources to help make these necessary changes. Therefore, I wholeheartedly support the findings of this Commission, and I look forward in the forthcoming days to work with the other Members of Congress to make this 10-year plan a success.

Mr. HOLLOWAY. Mr. Speaker, I am proud to pay tribute to the Lower Mississippi Delta Development Commission and its newly released report, "The Delta Initiatives: A Report by the Lower Mississippi Delta Development Commission—Realizing The Dream * * * Fulfilling The Potential." I appreciate the diligence with which Commissioners developed the recommendations made in the report. I salute the hard work of the Commission. At the same time, Mr. Speaker, I do not underestimate either the need for the delta region to grow, develop, and become a full partner in America's future or the difficulty of the challenge to do so. I look forward to the day when the poverty and dim expectations which have for so long plagued the delta are memories of a time gone and never to return.

Mr. Speaker, I look forward to the implementation of various recommendations by the Lower Mississippi Delta Development Commission. Among other themes, the report calls for the development of leadership; improvement of education at all levels; the need to build on and protect existing resources; improvement of physical infrastructure, levels of technical competence, and the creation and penetration of new markets for goods and services.

I take this opportunity to laud these recommendations and others as a harbinger of things to come. I believe in particular that advantage should be taken of the delta region's natural assets and resources. Foremost among them are its residents—people with demonstrated skill, ability, and limitless potential to succeed. That's why I believe priority should be given to reducing unemployment and developing a fiscal base which will stand the test, and stress, of time. I'm talking about creating a strong, viable economy the strength of which will continue to grow well into the next century—and beyond.

With the expanded economy will come an added benefit, one which will reap long-term dividends. Instead of establishing careers elsewhere, young people—natives of the delta—will be in a position to give something back to the region and its people. That is vital, Mr. Speaker, for the people of the Lower Mississippi Delta are its greatest asset. They are caring, industrious, God-fearing, moral people with hearts of gold and skills to match, who dream of a better future for themselves and their loved ones.

Mr. Speaker, of course the people of the delta have high hopes for the days and years ahead. They deserve a bright and prosperous future. They should have one. In time, they will. However, as a summary of the Delta Commission recommendations suggests, this report is not for anyone seeking easy answers or quick fixes. Instead, the Commission report is what it must be: a long-term plan of action for a better future. It should not be ignored. Time won't wait. The report, Mr. Speaker, is a blueprint for opportunity for this generation and those yet to come. We must meet the challenge of doing what we can to make the blueprint real.

Mr. ANTHONY. Mr. Speaker, the recommendations of the Delta Commission include a number of items that will greatly assist the economic and social infrastructure of the eastern portion of the Fourth Congressional District. Among the projects listed are several that have already been priorities of mine.

Economic development is closely related to an efficient transportation system. The Delta Commission's recommendations include development of a four-lane divided north-south corridor west of the Mississippi River. This will greatly improve the linkage of growing commercial activity in southeast Arkansas with the interstate network of I-40 and I-30 to the north and I-10 in Louisiana. In addition, highway transportation will also be aided by completion of the Great River bridge which will link Rosedale, MI, with Dumas, AK, to better coordinate east-west travel between the Eastern and Western United States.

Another item of highway transportation of which I have been personally involved is the construction of a bridge across Lock and Dam No. 4, recently designated as Emmett Sanders Lock and Dam. When the McClellan-Kerr Navigation System was designed earlier this century, this lock and dam was constructed with the capability of serving as the base of a bridge across the Arkansas River. Such a bridge will do much to provide safe passage from eastern Arkansas to the Pine Bluff area and beyond and fits in perfectly with the ongoing highway bypass construction in the Pine Bluff area.

Transportation is also served by the Arkansas River. Recent changes in the river's hydrology, however, threaten the long-term reliability of the navigation system. The Delta Commission recognizes the need to preserve the integrtity of the navigation system and recommends the construction of a lock and dam at Montgomery Point. This improvement is much needed to ensure that proper water levels can be maintained to support navigation along the river and provide access into the Mississippi now and in the future.

In addition to navigation along the McClellan-Kerr System, the Delta Commission also supports expansion of facilities along the Mississippi. For many years, I have worked with local sponsors and the U.S. Corps of Engineers to develop a slackwater port at Yellow Bend. Much work has been done to make this project a reality. The Delta Commission's recommendation to further develop this facility will greatly expand the ability of southeast Arkansas to access new markets through the diversity offered by different modes of transportation.

While the Delta Commission looks toward the expansion of new commercial activity, the Commission does not ignore the most dominant economic force in the region, agriculture. The delta of southeast Arkansas is right in water resources which are vital to reduce the risks of agricultural production. The Arkansas River to the north, Mississippi to the east, and Bayou Bartholomew to the west surround the row crop areas of southeast Arkansas with an abundant water supply.

Last year I worked with area farmers, the Soil Conservation Service, and other agencies to devise a demonstration project to provide a

system of water conservation, delivery, and storage to best take advantage of water resources. I was very pleased that the Delta Commission recommends the funding of this project as the first step in a deltawide water management system.

Economic development alone will not achieve a full revitalization of the quality of life in the delta. The Delta Commission makes several recommendations to develop the rich social and cultural resources of the area. The establishment of a system of parks along the Mississippi River will give residents and those traveling through the delta a better recognition of the rich history and natural beauty of the area.

The Delta Commission also recognizes the most valuable resource the delta has to offer, her people and, in particular, the children. No one can ignore the problems associated with an inferior education system. The Delta Commission supports funding for education and the creation of a regional magnet school in southeast Arkansas. The overall purpose of the Delta Commission is to provide a better future for her people. Without a solid educational foundation, all the other projects will serve as little more than a shell of concrete and steel. It is the people of the delta that give it life.

This is a summary of the recommendations of the Delta Commission that have a direct impact on my congressional district. The full force of the Commission's accomplishments must be gaged in respect to how all the pieces fit together throughout the region. This is the starting point from which the challenges are heard and it is now time for the Congress to act.

Mr. ALEXANDER. Mr. Speaker, I am pleased to participate in this special order to mark the release of the report of the Lower Mississippi Delta Development Commission.

I want to extend my congratulations and thanks to the staff of the Delta Commission and to all of those who participated in putting together the report we now have before us. I am proud that Bill Clinton, Governor of my State of Arkansas, serves as Commission Chairman.

This report represents a blueprint for economic expansion of the Mississippi River Delta. The plan is before us. Now, we must do something about it. As we say in Arkansas, it is time to fish or cut bait.

We cannot allow this to become just another study, just so many words. We must breathe life into the words because to do less would allow serious problems to fester and leave in doubt the future of an entire region—the heartland of America.

There are specific steps recommended in this study, representing a path to an economic revival in the delta. I am happy to see that the report accepts language I recommended that our region move to participate fully in the Nation's switch to cleaner burning, farm-grown ethanol.

I have worked to expand ethanol use and, in turn, the farm economy of our region for 15 years. It is not pie-in-the-sky. It is coming—accelerated by the public demand for clearer air. We must now ensure that our farmers are postitioned to take advantage of this significant change in our fuel consumption habits.

Mr. Speaker, as in the case of working to expand ethanol, we in the delta will do our part to implement this study, to build on this blueprint.

We have never been afraid of hard work, but bringing this plan to life will require outside assistance. The States do what they can, but this will require a national commitment. I pledge today to do my part here in Congress, in concert with my colleagues, to see that the assistance is available.

The delta is full of promise—a promise exemplified by the people who call the region home, the river which ties us all together, our agricultural bounty and business climate.

Our challenge is to build on our assets and unlock the full potential of the region.

To provide Federal money to implement this plan represents an investment in America. Our investments here at home have been lagging behind over the last decade, leaving our bridges crumbling, our roads in poor shape, and many of our people not getting the education and training they need.

We cannot allow what has been termed the "Decade of Disinvestment" to continue into the 1990's.

To do so would perpetuate the continuance of a healthy bicoastal economy—with things going well on the east and west coast—while the heartland suffers.

It would mean that America will not be in the best position to compete in today's global economy.

I read with interest recently a five-part newspaper series entitled "Children of the Delta." I believe one of the headlines said a great deal about the dichotomous situation we face in our region of the country.

It read "Children of the rich delta are among the poorest in the Nation."

The rich delta? Those words go to the potential I spoke about earlier, while poverty is the reality in too much of the region today.

A mother was quoted in this series of articles as saying her children didn't have much chance in life and another said life was just something which happened to them, not something over which they had much control.

These are cries for help, Mr. Speaker.

We must heed the cries and reach down with the type of assistance which will help alleviate these problems. We must take action so these children will have a chance, so life won't just happen to them.

The daily grind of poverty, lack of education, poor housing, and a feeling of hopelessness are eating at the heartland of America, Mr. Speaker.

And, we know what happens to the body when the heart dies.

We have a chance to make a real difference by assisting in the implementation of the Delta Commission plan. Let us not be hesitant to accept the challenge before us.

## GENERAL LEAVE

Mr. ESPY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

## SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Kalbaugh, one of his secretaries.

## HOUSE CONCURRENT RESOLUTION 330, THE VICTIMS OF CRIME BILL OF RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, on October 10, 1988, Presidential candidate George Bush declared "I'm going to bring an attitude to the White House that has more sympathy for the victims of crime than for the criminal."

It is time the Congress takes up President Bush's pledge, and offers innocent victims of crime the light of justice.

Does the current criminal justice system do enough to protect the rights of victims of crime? If you think it does, ask Jacob McGrogan, John and Maureen Woods, or the countless thousands who are sure it does not. Mr. McGrogan would tell you how he was beaten blind by a man who had just been released from prison pending another assault case trial. The Woods' will tell you how their son, a 16-year-old honor student, was stabbed to death for trying to break up an argument, and how the murderer was able to plea bargain to a 4-to-12-year prison term from a 25-year prison term. As Mrs. Woods put it, "We have been victimized twice—by the killer and by the system." Another woman told President Reagan's Victims of Crime Task Force, after describing her victimization, "[My] sense of disillusionment in the judicial system is many times more painful [than the crime]. I could not in good faith urge anyone to participate in this hellish process."

Statistics show that of the 8.1 million serious crimes like murder, assault, and burglary, only 149,000 criminals actually spend any time in jail, of which 36,000 serve less than a year. They also show that one in six defendants who are free on bail are arrested for new crimes, and that up to 90 percent of the cases in some cities end in plea bargains.

Over 7,000 victims' organizations have found these numbers add up to one thing: The system needs reform. In fact great progress has been made at the State level. Thirty-three State legislatures have passed victims' bills of rights, 45 States have comprehensive victims' rights legislation, and 46 have victims' compensation programs. Victims' rights are spelled out in 1,500 laws passed by these legislatures in recent years. Unfortunately, these regulations are different in every State, resulting in victim ignorance and apathy. Greater awareness and uniformity are needed to eliminate ignorance of existing

rights and to promote a better distribution of fundamental victims' rights.

To reform the system and to increase awareness of victims' rights, I am proposing model legislation to be adopted by the States for a Victims of Crime Bill of Rights. If every State adopts the suggested Victims of Crime Bill of Rights, uniformity, as well as real progress for victims, will result.

The model I have proposed would redress the current imbalance which favors the criminals in the criminal justice system and would seek to better protect the victims of crime from both the criminal and from the system. If enacted, this model legislation would seek to give the victim compassion, information, protection, and, where possible, compensation, while reestablishing a true sense of justice in the public's mind.

The 10 provisions of this model legislation share a common purpose: To make the system more responsive to the needs of victims. Included in these provisions are guarantees that victims will be treated with respect and dignity, and that they will be protected from the accused throughout the process. There are also calls for reform of the exclusionary rule and habeas corpus procedures. Finally, there are demands that the victim be included more in the entire process, from the conviction, through the sentencing, and to the parole of the criminal.

The 10 provisions are as follows:

First, a victim of crime should be treated with compassion, respect, and dignity throughout the criminal justice process.

According to "The Crime Victim's Book," authored by Morton Bard and Dawn Sangrey, emotional support by the police and the courts can be vital to the victim's recovery. Fully informing victims how the system works and their rights in the system would contribute much to the healing process. This support should become a required part of the process in every State.

Second, a victim of crime should be reasonably protected from the accused throughout the criminal justice process.

This provision was addressed in part by the Victim Witness Protection Act of 1984, and must be expanded on the State level to guarantee the safety of all victims of crime.

Third, a victim of crime should have a statutorily designated advisory role in decisions involving prosecutorial discretion such as the decision to plea bargain.

This provision has been intimated in various State amendments, but never clearly spelled out. President Reagan's Task Force on Victims of Crime recommended that the sixth amendment be modified to guarantee that "the victim, in every criminal prosecution shall have the right to be heard at all critical stages of judicial proceedings." The victim should be fully briefed and consulted about decisions made in the prosecution process.

Fourth, a victim of crime deserves comprehensive reform of the exclusionary rule, the application of which often results in the release of criminals on technicalities, rather than for substantive reasons.

The exclusionary rule requires that evidence obtained in violation of the fourth amendment to the Constitution be suppressed at trial. This doctrine has been fashioned not by the legislative branch, but by the judicial branch. This rule, which releases suspected criminals on technical judgments, needs to be reformed. When law enforcement officers take action based on the objective, good faith belief that their conduct conforms with the fourth amendment, then evidence seized from defendants should not be excluded in criminal proceedings.

Fifth, a victim of crime has the right to a reasonable assurance that the accused will be tried in an expeditious manner.

This provision has long been a dream of judicial reformers. Habeas corpus reform, as proposed by Senator STROM THURMOND, would streamline and speed the criminal justice process. Long delays currently make a mockery of that system.

Sixth, a victim of crime has the right to be present at all proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected by other testimony heard at the trial.

This provision comes straight from the recently passed Texas constitutional amendment, and its aim is to futher include the victims of crime in the criminal justice process.

Seventh, a victim of crime has the right to information about the conviction, sentencing, and imprisonment of the person who committed the crime.

This provision also comes straight from the recently passed Texas constitutional amendment. Fully informing the victim about the final justice accorded should be a basic element of the criminal justice system.

Eighth, a victim of crime should be compensated for the damage resulting from the crime, and to the fullest extent possible, the person convicted of the crime should provide at least part of that compensation.

Such compensation will come from the criminal, where possible, and by expanding the victim's compensation fund by including matching Federal and State grants, and a percentage of money generated from prison labor.

Compensation programs that are currently part of the American criminal justice system need expansion. Today, 44 States have established victim compensation programs. These programs could be greatly expanded by erasing the current cap on the fund, which is now at $150 million.

Restitution should be a mandatory part of the American criminal justice system. The necessary link between criminal damage and prison labor has not been sufficiently made in the Federal system. The framework is there, in the form of UNICOR, the federally owned prison industries corporation established in 1934, to get productive labor from the prisoners. The current prison system has not adequately promoted the benefits of restitution for both the victim and the criminal. An effort must be made to find work for the criminals that does not compete with labor, yet still promotes increased prison industries. Efforts have been made to allow products produced by prison labor to be sold on the open market. Those kinds of proposals should also be pursued. Finally, sentencing guidelines should be revised to promote a real connection between the criminal damages and the restitution.

Ninth, a victim of crime should have a statutorily designated advisory role in deciding the early release status of the person convicted of the crime.

Justice is not served if a criminal is paroled without the knowledge or consent of the victim, especially if the criminal has threatened the victim. This provision would reaffirm the necessity of including the victim in that determination. It is the duty of the criminal justice system to ensure that the victim will be fully informed and protected from the perpetrator after the criminal is released from prison. It makes no sense to release a criminal who is perhaps even more dangerous from prison to the streets without taking necessary precautions to protect the victim.

Tenth, a victim of crime should never be forced to endure again the emotional and physical consequences of the original crime.

Safeguards must be made to ensure that victims of crime wil never be forced to suffer the emotional or physical results of the original victimization. This includes adequate protection from being punished by the criminal once that criminal is released from prison.

The current criminal justice system does not offer enough bright light of true justice to victims of crime. Instead, it is a system that keeps victims in the darkness of fear and ignorance. It is time this system change to reflect the needs and demands of the innocent public at large, and victims in particular. It is time that our criminal justice system be a beacon of light to victims of crime, and not to the criminals. The innocent people of this country, like Jacob McGrogan and Mr. and Mrs. Woods, demand it.

H. CON. RES. 330

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of Congress that the States should make every effort to adopt the goals of the following Victims of Crime Bill of Rights:

(1) A victim of crime should be treated with compassion, respect, and dignity throughout the criminal justice process.

(2) A victim of crime should be reasonably protected from the accused throughout the criminal justice process.

(3) A victim of crime should have a statutorily-designated advisory role in decisions involving prosecutorial descretion such as the decision to plea-bargain.

(4) A victim of crime deserves comprehensive reform of the exclusionary rule, the application of which often results in the release of criminals on technicalities, rather than for substantive reasons.

(5) A victim of crime has the right to a reasonable assurance that the accused will be tried in an expeditious manner.

(6) A victim of crime has the right to be present at all proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be marterially prejudiced by hearing other testimony at the trial.

(7) A victim of crime has the right to information about the conviction, sentencing, and imprisonment of the person who committed the crime.

(8) A victim of crime should be compensated for the damage resulting from the crime, and to the fullest extent possible, the person convicted of the crime should be required to provide at least part of the compensation.

(9) A victim of crime should have a statutorily-designated advisory role in deciding the early release status of the person convicted of the crime.

(10) A victim of crime should never be forced to endure again the emotional and physical consequences of the original crime.

## LETTER TO PRESIDENT CONCERNING LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 15 minutes.

Mr. HUBBARD. Mr. Speaker, I have been requested by the staff of the Lower Mississippi Delta Development Commission to share with Members and others an important letter to the President of the United States from the Governor of Arkansas and the chairman of the Lower Mississippi Delta Development Commission. This letter is dated May 14 of this year.

LOWER MISSISSIPPI DELTA
DEVELOPMENT COMMISSION,
*Memphis, TN, May 14, 1990.*

The PRESIDENT,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: This is the final report to you and the Congress of the United States of America on the work of the Lower Mississippi Delta Development Commission. It is more than just another government report to be added to countless shelves of government studies that have gone before.

This is a Handbook for Action—one that can turn the Delta and its 8.3 million people into full partners in America's exciting future, full participants in the changing global economy.

The Lower Mississippi Delta Development Commission was established under Public Law 100-460 in October 1988 through legislation introduced by a bi-partisan group of senators and representatives from the seven states making up the Lower Mississippi Delta region, as well as Congressmen from other parts of the nation. The Lower Mississippi Delta area is comprised of 219 counties in Arkansas, Louisiana, Mississippi, Missouri, Illinois, Tennessee and Kentucky. Together they form the poorest region of the United States.

The Commission was given this mission: to study and make recommendations regarding economic needs, problems, and opportunities in the Lower Mississippi Delta region, and to develop a ten-year regional economic development plan.

To begin its work, the Commission had to collect all the information, opinions and ideas available in the region. And that is exactly what has been done. We have blanketed the Delta, seeking input from many thousands of people who attend public hearings, spoke to us, gave us written testimony or participated through providing research and statistical information. We have reviewed a mountain of material and considered every single, specific suggestion made by the citizens of the Delta—and they had many ideas on how to improve the overall quality of life for all the people of the region.

In October 1989, we issued an interim report entitled "The Body of the Nation", which outlined the problems and opportunities of the Delta, the vast human and natural resources and many impressive efforts now underway to move our region forward.

We agreed that the Delta was an enormous, untapped resource for America, that it can and should be saved. We agreed that our goal should be nothing less than full partnership for the Delta: rates of employment and income at or better than the national average.

Now, in this Final Report, all of the information, all of the opinions and ideas we have collected have been put together into an ambitious, aggressive plan for the development of the region.

It is a handbook for action that anybody can pick up—a congressman, a governor, a legislator, a chamber of commerce president, a mayor, a teacher, or a student—and see what he or she can do to help.

We also believe the plan comes just in time for the Delta and its people. The 1990s have brought us an entirely new world marked by the triumph of democracy and market economies. This new world provides economic opportunities for Americans prepared to compete in it, and enormous challenges for those who are not. The people of the Delta cannot become full partners in America's future without an honest assessment of where we are in the emerging global economy and what we have to do to increase the capacity of all our people to succeed in it. That is what we have tried to do in our interim report of October 1989 and in this final report.

If we do not implement a single recommendation made in this report, a lot of Americans who live in the Delta are going to do fine in the 1990s: those who are well-educated, on the cutting edge of change, and able to take advantage of the emerging global economy. But millions of people will be left behind, and the region as a whole, including its successful residents, will not achieve its full potential.

We call on you, our Congress, our state and local leaders, and our citizens to assume responsibility for the Delta's future.

Being in the vanguard of change need not be a distinction limited to the freedom-hungry citizens of Eastern Europe or Poland or the aggressive business people of Singapore or Korea. The people of the Delta belong in that vanguard. They want to be there, and they can be if each of us will do our part.

Respectfully,

BILL CLINTON,
*Chairman.*

□ 1450

Mr. ESPY. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I am happy to yield to my friend, the gentleman from Mississippi.

Mr. ESPY. I thank the gentleman for yielding. The gentleman from Kentucky says he was asked by the staff of the Delta Commission to make this particular insertion at this time, which prompted a need for me to compliment the staff. Earlier I raised the name of the commissioners themselves, but certainly I want to compliment Wilbur Hawkins, the executive director of the Delta Commission, for his excellent work and his expertise in shepherding this report to fruition, and for that matter to thank the entire staff, most of them working out of the Office of the Agrocenter in Memphis, TN. These are unparalled experts gathered from all around this particular region, and they gave of their time, their sweat, and their labor and resources to make sure that this report is one that was presented today, and one that is really an excellent piece of work.

So with that, I want to compliment Wilbur Hawkins because I know how hard he worked, and also the staff under his direction and control.

Mr. HUBBARD. It will not be any surprise to anyone to know that the executive director, Wilbur Hawkins, and the staff are extremely complimentary of the young Congressman from Mississippi named MIKE ESPY. They are very proud of him, and they appreciate the work he has done.

I know that one Kentuckian serves on the lower Mississippi Delta Development Commission as a member, and that is my friend, Lee Troutwine. Lee and his wife, Betty, were in my office yesterday. Lee Troutwine is from the Kentucky Department of Local Government and serves as a commissioner. Other State Commissioners are Chairman Bill Clinton, the Governor of Arkansas; Vice Chairman Ray Mabus, Governor of Mississippi; Secretary Ed Jones, a former U.S. Congressman from Northwest Tennessee; Charlie Kruse of the Missouri Department of Agriculture; Buddy Roemer, our former colleague who is now Governor of Louisiana; Dr. Rhonda Vinson of the Department of Economic Development, Southern Illinois University at Carbondale; and the presidential appointees include, as MIKE ESPY earlier said, former Congressman from Mississippi Webb Franklin, and also John Shepherd, an attorney-at-law.

If I could close by giving my colleagues the themes of the report.

Twelve central themes came to light through the course of the work of the Lower Mississippi Delta Development Commission. These themes depict the most fundamental needs in the region, needs whose resoluton would help the Delta reach its potential and fulfill its promise. The 12 themes call for the following:

(1) Develop leadership.

(2) Change attitudes regarding tradition and image.

(3) Improve education at all levels.

(4) Build institutional know-how and capacity.

(5) Achieve comprehensive approaches to solving problems.

(6) Improve abilities to function in a multicultural society; face race and class problems and bridge the gap.

(7) Build on and protect existing resources.

(8) Streamline institutional processes.

(9) Increase capital for development.

(10) Create and penetrate markets.

(11) Improve physical infrastructure.

(12) Build technical competence.

Those major themes weave their way through the issues and the recommendations like golden threads which, when sewn

together, give form and strength to the fabric of this plan, truly making it a handbook for action.

All the recommendations that accompany the 68 goals are in some way related to the central needs of the region. Some require action by the federal government. Some place responsibility with state and local governments. Some require response by the private sector, by institutions of higher learning, by businesses and industries, by foundations and other non-profit organizations, by churches, schools and above all, by the people.

Mr. Speaker, I would mention to my colleagues that there is a reason why we are not adjourning soon. We are awaiting other Members to come to the Chamber. We have had now an hour and 10 minutes of this wonderful Lower Mississippi Delta Development Commission report, and I look over and see colleagues of mine from Maryland and California and others who perhaps would want to mention that there is another region in the United States other than the Lower Mississippi Delta Development Commission area, and we appreciate their efforts on behalf of their respective States.

Mr. Speaker, I am proud to represent 24 counties in western Kentucky, 21 of whom are members of this lower Mississippi Delta Development Commission.

Let me share with my colleagues another portion of this report while we are awaiting other Members. I am going to mention agriculture, because agriculture is central to each of the seven States in the region. Indeed, the most important issue in the district I represent is agriculture, and on page 78 of the Commission report the 10-year goal is listed as an agriculture technology development system with a comprehensive database will be created and made available to delta farmers by the year 2001.

Over the next decade, technological advancement in agriculture is expected to continue to accelerate to meet a growing demand. Research is being conducted by all Land Grant Institutions and other colleges of agriculture, private sector scientists and others to address the demand of technology advancement. The Delta lacks the ability to make full use of new technologies.

Mr. Speaker, I yield back the balance of my time.

□ 1500

## REAUTHORIZATION OF THE HIGHWAY AND MASS TRANSIT BILL

The SPEAKER pro tempore (Mr. PICKETT). Under a previous order of the House, the gentleman from California [Mr. MINETA] is recognized for 5 minutes.

Mr. MINETA. Mr. Speaker, I appreciate this opportunity to address the House on a matter that will be very important in 1991. As many are aware, the present highway authorization bill will be expiring on September 30, 1991, and at that time we will be then entering a new era, I guess, known as the postinterstate era in terms of the kind of highway and mass transportation program that we would like to see as we enter the 1990's and prepare ourselves for the 21st century.

The present highway bill that we have was actually instituted by President Eisenhower in 1955, as the National Interstate and Defense Highway System. So under that program, we have now constructed 42,500 miles of interstate highways at an investment of some $127 billion on the part of U.S. taxpayers.

Now, this is probably the most expensive public works project that has been undertaken; it is one that has served our country very well. But unfortunately it is also very fragile.

So we are in the process now of conducting hearings in the Committee on Public Works and Transportation to try to get a good insight as to what the public would like to see in their Highway and Mass Transit Program in the next 5-year authorization period.

In conjunction with this kind of an overview of what is happening in the field of transportation, the Secretary of Transportation Sam Skinner undertook a very ambitious program to get public input that culminated in his issuance, with the President announcing it on the 8th of March of this year, the National Transportation Strategy.

I would like to commend the Secretary of Transportation for his vision in terms of what he wanted to see in a national transportation program. It was one in which he had hearings across the country. As I recall, it was something like 146 public hearings across the country where he listened to those who are from the private sector, including contractors, manufacturers of equipment, and the business community, as well as from the public sector, those who are from the State highway officials to people who operate transit districts across the country.

Now I think the fact that the Secretary undertook this kind of a program is commendable. The problem I have is with the final work product that came out on March 8, known as the national transportation strategy and policy as it relates to highway and transportation development.

I thought it was long on rhetoric and not very explanatory in terms of what they would like to see. It was a good analysis of the problems we are facing in transportation, but when it came to solutions it really lacked a great deal of thought and insight.

So through our Public Works and Transportation Committee, we are going to use that as a basic document. It is a good start.

We are using that as a basis for our public hearings that will continue on the balance of this year. Our Subcommittee on Surface Transportation of the Committee on Public Works and Transportation will be holding regional hearings across the country as we try to get public input as to what kind of a reauthorization bill we would like to have starting October 1, 1991.

Now in conformance with the Secretary's program, I think we have to look beyond just the reauthorization of a highway and mass transit program.

So I think that what we have to do is to build the new program around several principles. Those general principles include: What will the next transportation bill do to help us in terms of being able to compete in an international global marketplace? Second, what will the next highway and mass transportation bill do to help local and State economic development? Third, what will this bill do to help the safety of the public? Fourth, what will the next highway and mass transit bill do to help us in terms of improving the quality of life for all of us? Fifth, what will the bill do in terms of helping to provide consistent and stable funding for highway and mass transit programs?

I think, given those five principles, we should be able to build a very, very fine program. I know that in our Public Works and Transportation Committee, through the leadership of our chairman, the very able chairman, the gentleman from California [Mr. ANDERSON], and our ranking Republican Congressman, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the ranking Republican on my subcommittee, the gentleman from Pennsylvania [Mr. SHUSTER], who is probably as knowledgeable as anybody is about surface transportation law in this Congress, that through their efforts we will be able to devise a program starting October 1, 1991, that will really give this country an edge in terms of being competitive in the international marketplace as well as being able to give our State and local governments the ability to do what they do best, and that is to provide a quality of life and economic development at the local level.

## THE DECADE OF THE TROJAN HORSE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent to speak briefly on two subjects and then on my main subject.

### HUMAN RIGHTS ABUSES IN KASHMIR

Mr. Speaker, reports of human rights abuses in the Kashmir region of India have been pouring into my office—not only from my constituents,

but also from people across the Nation.

Although I have not taken a position on the territorial dispute between India and Pakistan, I am concerned that the people of Kashmir may not be receiving medical attention and medical supplies.

Over the past 4 months, I have urged the Indian Embassy and the State Department several times to monitor and comment on the situation.

My constituents have arranged, at no expense to the U.S. Government, for a shipment of medical supplies to be flown to Kashmir. Time and time again, I have requested that the Indian Government allow these supplies to be delivered to Kashmir. The official Indian Government response was: "We (India) are not experiencing a shortage of medical supplies, but thank you for your attention and concern."

Contrary to this reply, we continue to have complaints about medical shortages from constituents whose families live in Kashmir. By phone, residents of Kashmir have told family members residing in the United States about the shortage of medical supplies. Unfortunately, our Government cannot send medical supplies to Kashmir without Indian Government consent.

Since this reply, I again have met with officials from the Indian Embassy and have requested another formal response regarding the shortage of medical supplies in Kashmir. To date, the Indian Government has not replied to my request.

Just today, I received word that President Bush has formed a Commission which will travel to Kashmir this weekend to evaluate the situation. If a shortage of medical supplies is found to exist, I recommend that the Indian Government accept any assistance being offered.

Mr. Speaker, we must act to ensure that the Kashmir region has adequate medical supplies. Denying medical supplies is inhumane, especially when assistance is being offered with no strings attached.

## THE FARM LOBBY VERSUS WHAT'S BEST FOR AMERICA

Mr. Speaker, it is a matter of great concern for every Member of Congress that the looming debate over carriage of American Government-donated food cargoes by U.S.-flag vessels has pitted farm interests versus maritime interests.

Despite the compromise that was worked out by maritime and agricultural groups regarding cargo preference in the 1985 farm bill, certain commodity interests are determined to launch another attack this year on a law that plays a vital role in ensuring our Nation's shipping capabilities.

The refusal of the big commodity traders and their friends to accept the results of the 1985 compromise has resulted in the question being rasised: If we are determined to ship Government-generated food cargoes as cheaply as possible, then why not let the aid recipients purchase the commodities for the lowest cost available anywhere in the world?

It is unfortunate that the debate has reached this point. It seems to me this Nation has the ability to sustain viable and strong agricultural and maritime sectors. After all, both communities are vital to our national interest.

Those who are tying to roll back the 1985 cargo preference compromise have galvanized the maritime community to take a look at the subsidies that agricultural export groups receive from the U.S. Government.

Mr. Speaker, I would like to submit for the RECORD an article on this subject that appeared in the April edition of the Seafarers Log, the offical publication of the Seafarers International Union; and I urge my colleagues to read this very informative article and to give it serious consideration in future debates on the cargo preference issue.

[From the Seafarers Log, April 1990]

### THE FARM LOBBY VERSUS WHAT'S BEST FOR AMERICA—BLIND TO THE NATIONAL INTEREST, COMMODITY PROFITEERS WOULD DESTROY AMERICAN FLEET

Heavily subsidized by the American government so they can sell farm commodities overseas, profit-swollen agribusiness interests are scheming on Capitol Hill to eliminate U.S.-flag shipping from carrying these taxpayer-supported cargoes.

In what would amount to torpedoing a five-year-old pact between farmers and the maritime industry, agricultural and commodity interests are gearing up to wipe out cargo preference laws which mandate that 75 percent of government-subsidized cargoes must be carried on American bottons.

The goal of these agricultural giants is to completely eliminate U.S.-flag shipping as a factor in this nation's aid programs. In search of added profits, they apparently are willing not only to destroy American shipping but also to sacrifice national security, since the presence of a domestic fleet in peacetime is vital to assure the carriage of military cargo in time of crisis. Additionally, a U.S. fleet ensures that essential products can reach America even in the event of economic embargoes and boycotts called by foreign interests.

As Congress prepares to debate renewal of the 1985 Food Security Act, giant farm groups are trying to line up support in the House and Senate to change the rules so that they will have unlimited freedom to use foreign-flag ships exclusively in carrying their cargo to overseas markets.

In fiscal 1989, the Department of Agriculture spent nearly $1.4 billion of the taxpayers' money to underwrite the foreign sales of agricutural products by the giant commodity brokers under the provisions of P.L. 480.

Subsidies to American shipping for the carriage of these cargoes cost Agriculture a mere $72.2 million in that same year. That represented the Department's share of the differential between American and foreign ocean freight costs involved in carrying 50 percent of P.L. 480 cargoes in American vessles.

The Department of Transportation laid out an additional $448 million in maritime subsidies that same year to cover the remaining 25 percent of the Government-impelled cargo reserved for American-flag vessels under the terms of the 1985 Food Security Act.

In other words, the total ocean freight differential paid to carry farm commodities in American-flag vessels amounted to approximately $116 million—a scant 8 percent of what the American taxpayers shelled out to farm interests to subsidize the sale of their products overseas.

The huge sums of money handed over to agribusiness for P.L. 480 sales abroad are dwarfed by the total amount of tax dollars shelled out to the agricultural industry to help it compete in the world market.

In addition to the $1.4 billion to cover the P.L. 480 shipments, 1989 outlays to promote the sale of American farm products overseas included:

More than $5.1 billion in export credits to assure that the agricultural giants were paid even when foreign purchasers defaulted on their debts.

$338.3 million for an "export enhancement program" and $200 million for "targeted export assistance"—both expenditures for the purpose of making American farm commodities more attractive to foreign buyers.

$95.1 million for the Foreign Agricultural Service, which places American representatives in key embassies and consulates around the world, whose fulltime job is to represent American agricultural interests abroad.

$37.6 million for the Office of International Cooperation and Development to provide market development and trade promotion services for American agribusiness.

All this adds up to 1989 outlays totaling $7.26 billion for farm interests—just to promote and sell American farm products in foreign countries. That doesn't include any of the billions of dollars spent by the government annually to stabilize domestic agricultural prices to assure a profitable existence for the farm industry.

Those sums stand in sharp contrast to the pittance the federal government allocates to the entire maritime industry. In addition to the $115.9 million which the government spent in 1989 for the ocean freight differential under cargo preference, it invested $220.4 million in operating differential subsidies. That's an annual total of just over $336 million for all of maritime—compared with the $7.6 billion just to cover subsidies for the agricultural commodity industry's foreign sales.

Why do these agricultural giants—whose subsidies for overseas sales are more than 22 times the total government outlay for the maritime industry—want to write American-flag shipping out of the next farm bill?

Their argument is that the national interest would better be served if the tax dollars which now go to maritime's ocean freight differential subsidies were used, instead, to buy additional agricultural commodities.

The ploy is not a new one. Last year, during debate on legislation to provide emergency aid to Poland, the maritime industry had to beat back efforts on the floor of both the House and Senate to waive U.S. maritime policy reserving a portion of that cargo for American-flag vessels.

Proponents of the scheme to delete cargo preference requirements on food shipments to Poland claimed that such action was necessary to maximize the amount of commodities being made available to the Polish people.

The maritime industry's supporters on Capitol Hill pointed out that if it was logical to target U.S.-flag shipping for supposed economies, it would make equal sense to deny the participation of American agricultural interests in the emergency aid program.

In theory, they pointed out, the federal government could maximize food allocations to Poland by purchasing less expensive agricultural products from foreign nations.

But, said these members of Congress, agriculture is vital to the U.S. economy, and so is the merchant marine because it is a vital component of our national defense structure.

The giant agribusiness interests were defeated as Congress rejected efforts to waive, weaken or undermine cargo preference requirements on food aid for Poland.

The maritime industry will be looking to these same enlightened House and Senate members to turn back this new effort by the heavily subsidized commodity dealers to sink the American-flag fleet.

The national interest is all-embracing and covers the public welfare, security and economic considerations.

In the case of both the agricultural export and maritime communities, each is forced to do business in a world where no level playing field exists.

The 1985 Food Security Act was enacted at a time when America's share of commercial wheat and flour exports dropped from 50 percent to about 33 percent between 1981 and 1984. The law was designed to assist American food producers to compete in a world market in which many governments subsidize their agricultural exports even more liberally than does the United States.

The success of that legislation can be measured by the fact that American wheat exports have increased by 30 percent since that time, proving that government policy can have a major effect on supporting a domestic industry.

The maritime industry understands a world trade dominated by protectionist policies of governments. It is forced to operate in a market that includes direct subsidies, tax credits and preference systems designed by many nations to promote their own fleets.

Failure to help American-flag shipping compete in that world market would do more than merely endanger the maritime industry itself.

At stake is the ability of the merchant marine to fulfill its historic role as the nation's fourth arm of defense in time of crisis. To have a fleet in readiness to carry out its national defense requirements means that America must have an active merchant marine functioning in the peacetime carriage of cargo to and from our shores.

No political considerations—and certainly no considerations of the need to gain special favor for other segments of the American economy—can justify trading off the nation's maritime capabilities.

## THE DECADE OF THE TROJAN HORSE

Mr. Speaker, every 10 years a national phenomenon takes place—decade naming. Trend watchers trip over each another to categorize and stereotype the decade—Roaring Twenties, Depression thirties and so on, are just a few of the labels thrown about to describe a generation and its socioeconomic preferences.

When fishing for labels, trend watchers look for a variety of things, but they pay special attention to what we do in our spare time because it is indicative of America's personality. What movies do we watch, what cars to we drive and what music do we listen to.

To me, music seems an especially appropriate barometer of the American psyche. One pop song, entitled, "Don't Worry, Be Happy," struck me as ironic. I thought, if this is what America is thinking and feeling, where is our country headed, and how can we function if people are living day-to-day without caring to look ahead and think about the future? Were the eighties the decade of "Don't Worry, Be Happy?"

Recent headlines have been telling us that corporations are making less money; that foreigners are gobbling up our firms because American investors can't afford them; that foreign car manufacturers are selling more cars in the United States than the big three; and, that the Japanese are bankrolling the resurgence of the U.S. steel industry. We are bombarded by these headlines daily, yet we are told—"Don't Worry, Be Happy."

Like Dorothy in the Wizard of Oz, we think that closing our eyes real tight and clicking our heels together three times, while repeating, Don't Worry, Be Happy, will make the reality of our situation go away.

In my speeches, I repeatedly have called attention to the continuing takeover of American resources and talents by foreign interests, primarily the Japanese. On September 19, 1989, I spoke of the efforts being made by Japanese investors to take over New York University Medical Center-Tisch Hospital.

I pointed out how the takeover of such an important university research hospital would give the Japanese access into the new ideas and technical innovations spawned by our medical university laboratory system.

In the same speech, I reviewed the sale of a major portion of the American rubber and tire industry to Japanese interests. Already, three giants of that industry, Mohawk Rubber, Firestone and Dunlop, are gone. I also discussed the shadow warriors, individuals, both American and Japanese, who are engaged in selling America to the Japanese in the imagemaking, lobbying and public-relations aspects of Japanese interests, and in the operation of Japanese-owned factories and businesses in the United States.

These shadow warriers, as described by Edward Klein in the May 1989, issue of Manhattan, Inc., "are the shock troops of Japan's campaign to buy into America. They constitute a unique sort of intermediary—a whole army of buffers, front men and stand-ins.

"They are the men who sniff out the best deals, who make the first approach, who protect the final decision-makers from mistakes or embarrassments of any kind."

For the record, I enumerated a number of the key American shadow warriors, all based in New York. Many of these shadow warriors are former Government officials. Could the eighties have been the decade of economic treason?

Should anyone doubt the power of foreign interests in this country, indeed within our own Government, I refer them to the reauthorization of the Technology Administration Act.

The first draft of the Technology Administration Act, which appropriates funds for research and development, limited foreign participation to North American Companies with the stipulation that majority ownership in the company be American.

This was not good enough for foreign companies and, surprisingly enough, it was not good enough for the AFL-CIO. Intense lobbying by foreign firms and the AFL-CIO brought about one very important change in the legislation.

Namely, foreign-owned firms would be eligible for U.S. R&D money to help develop high-definition television [HDTV] and other important technologies.

My first reaction to the change in the Technology Authorization Act was that I was confusing the bill with a foreign aid package. Why would the U.S. Government be funding foreign companies' research and development efforts?

I have been told that American industry is not capable of handling HDTV R&D on its own. Industry and labor representatives have said, "We need foreign expertise."

I also have been told that Sony Inc. of Japan was barred from participation in domestic Japanese R&D programs—that is why Sony located its HDTV R&D center in the United States. It wasn't because of any love of America, it was because they could not set up shop in Japan. And now, Sony may be eligible to receive American taxpayer dollars.

This is an issue that the American Electronics Association and the Electronics Industry Association should be monitoring closely. They should ask themselves what kind of future they can expect if they cannot compete with foreign technology advancements.

As I remarked on September 20, we have heard so much about HDTV and its importance as the linchpin of the electronics industry in the future, that

investments in HDTV today, will determine who controls that very vital market in the future.

Efforts by former DARPA director Craig Fields to spur HDTV research and development initially were greeted with enthusiasm—a pat on the back from the Pentagon for HDTV was like a gold seal of approval—it spurred interest and investment in HDTV technologies.

Now, however, the administration has moved the Pentagon away from HDTV research and we are left to wonder about the taboos of managed trade for industry by our left hand while our right hand manages agricultural trade.

While our technology base suffers setback after setback, foreign companies have been acquiring trendy American assets. The Japanese have purchased Rockefeller Center, Columbia Pictures, a minor league baseball team called the Birmingham Barons, Firestone, 7-Eleven—and the list goes on and on—where will it end? Were the eighties the decade of the colonization of America? Where we sell everything and own nothing?

We are selling our factories, importing our goods, selling our properties, and codeveloping and coproducing our weapons. We create less real wealth each year and, if we were ever challenged militarily, we would not be able to protect ourselves without the assistance of Japan and Europe.

David Geffen, chief executive officer of an independent record and film company, told the Washington Post: "If the Japanese came in and bought all the textbook manufacturers in this country, you can be sure someone in Congress would complain about the potential for abuse."

He continued saying, "Well, a giant part of the education of young people in this country comes from film and TV and someone should be paying attention to what is going on." Couple that remark with an earlier observation by Washington Post reviewer Jonathon Yardley, who said, "Hollywood not merely manufactures dreams but fixes them in the national psyche."

The potential for this industry to affect both how we view ourselves and our moral principles is troubling to me. Other countries have laws precluding the selling off of their communications and cultural businesses. In Canada you must have government approval to buy a distribution system for any cultural industry.

Americans or any other nationality cannot buy into the Japanese entertainment industry. Even in business, as T. Boone Pickens has found out, foreign shareholders of Japanese corporate stock are excluded from participation in the corporate decisionmaking process. Were the eighties the decade of the "One Way Street?"—where others can buy and sell anything in the United States, but the United States is not given the same prerogative abroad?

Sony's acquisition of Columbia Pictures provides them with a rich harvest for several reasons. First, they become the owners of one of the best and largest film libraries in the world, with 27,000 hours of television programs, 40 years' worth of films—including some of the great classics such as "Bridge Over the River Kwai"—and over 300 television series. Second, they become proprietors of the Loew's movie theater chain.

Third, with our American films, Sony Inc., can also penetrate the Asian market, where American films are beginning to do well. More importantly, they can now use our 2,500 plus American film properties to put themselves in the network business in Europe.

Fourth, owning Columbia's software—movies—will enhance greatly Sony's marketing and sales potential for its hardware, including cameras, VCR's, and advanced television products. In fact, the software or movies are critical to the Sony hardware. Each step of the way, Sony has integrated itself vertically to control software and hardware associated with movies and television.

Only a Japanese company could get away with such a feat because American companies are proscribed by the Justice Department from vertically integrating their companies. Although they call themselves American, a truly American Sony would have been in violation of U.S. antitrust laws and would have been barred from purchasing Columbia Pictures.

In fact, I wrote to the U.S. Attorney General and requested that the Justice Department investigate the antitrust implications of this acquisition. They replied, "Thank you for your letter * * * but pursuant to a longstanding liaison agreement with the Federal Trade Commission [FTC], the Commission rather than the Department will investigate the matter." The Justice Department referred my letter to the FTC and typically no action was taken.

Another difficult situation for America is the state of the semiconductor industry. Semiconductors are critical components of virtually every electronic device.

Sony, by immensely increasing its market for VCR's through the acquisition of Columbia Pictures, further tightens the noose. Even more ominous, almost all of our weapon systems, our first line of defense, require semiconductors.

In the 1980's we spent $2 trillion reequipping our country to meet aggression abroad. How can we meet foreign aggression when we have placed ourselves at the mercy of foreign technology and suppliers to keep our defense operational?

Some policy people claim these developments are just a matter of the inevitable march of history—that we must accept the decline of our country and now it is someone else's turn to take world leadership. Were the eighties the decade of the "Hollowing Out of America?"—where our components are purchased overseas?

The A, the M, the E, and the R are made in Kyoto and the I, the C, and the A are made in Tokyo. The components are shipped to the United States, assembled and stamped—Made in the U.S.A.—but the product was actually made in Japan. Is this part of the inevitable march of history?

I reject this, emphatically, as do most Americans. I say no to this reasoning, or perhaps I should call it lack of reasoning. We are the captains of our fate, but we first must recognize what is happening—then we can do something about it. Drift is fatal. While we have permitted our trading partners and competitors to operate in this country under the world's most open, generous, and liberal rules, we have in turn been shut out of markets in other countries through nontariff barriers to trade.

In stark contrast to our competitors, we have provided little or no export infrastructure for American companies. My colleague from Pennsylvania, Mr. RIDGE, is trying to remedy this situation and has introduced legislation to provide a central export infrastructure. Rather than push exports made in the USA by American companies, our tax laws and costs of doing business have encouraged industry to locate their factories abroad.

Make no mistake about it: We are up against formidable competitors who are relentless and understand how to compete as a nation. They know what governance and ownership of property means in being a strong country. The acquisitions America has allowed would never be permitted in France, Italy, or Japan.

Foreign acquisitions of American assets, lobbying through trade unions, dominance in fields such as semiconductors, vertical integration of corporations, monetary donations to schools and charities, all are interrelated. We must not sit still and watch this happen.

Time is short. It is time we face the fact that we are engaged in an economic struggle—that to survive in the 21st century we must think of America as a nation—not a Monopoly board for the rest of the world.

In 1986, I introduced a bill to create a Marshall plan for America, just as we created a plan to revitalize Europe and Japan after World War II.

We helped build up Europe and Japan after the war; surely we can do

as much for ourselves. Although my Marshall plan for America has lain by the wayside, the premise is correct—before we decide to build up another competitive block in Eastern Europe, we should not neglect our own foundation; neglect surely will destroy our country.

Although much has been said about education in America, I see many Japanese, Korean, and other foreign students in our private and public graduate and undergraduate universities. The majority of our schools, professors and students are good—we cannot blame them for the problems Government and private business have created.

After all, it was Americans who discovered the use of semiconductors for electronic circuitry and who invented transistors, microelectronics, lasers, VCR's, and electronic digital computers. The irony, of course, is that so many of these innovations are produced efficiently by other countries. We have the technology, but oftentimes we lack the engineering processes that were the hallmark of production in the eighties.

Given a sense of mission and direction, Americans can lead the world. The brilliant teams that created new technologies can use their skills to revolutionize production of commercial products. We have not lost our touch.

The problem of international competitiveness only can be challenged by bringing these issues to the attention of the voters and the policymakers. I look forward to the day when no self-respecting American will consider serving as a "shadow warrior" for any foreign country, no matter what the financial reward.

As Mr. James Fallows said in his piece in the Atlantic Monthly entitled "Containing Japan,"

> There is a basic conflict between Japanese and American interests and it would be better to face it directly rather than pretend it doesn't exist.

He also says,

> Americans who promote Japan's acquisitions and interests in our country do not serve the best interests of the United States and would be well advised to look to other pursuits.

We will never reform or fundamentally change Japanese culture—we can only ask that they accept the premises of free and fair trade or accept the consequences of Section 301 of our trade laws.

For, in reality, when considering the differences between American and Japanese trade policies, we should label the eighties "The Decade of the Trojan Horse."

We opened our arms, our markets, and our wallets to imported gifts; but we did not realize that these gifts contained the chains of our economic subserviance.

Americans came to these shores to be free—and for over 200 years they continued to come here for freedom and opportunity. We should never change our values to become "more like the Japanese." It just won't work. Instead, we must take control of our economic ship and guide it to the course of economic productivity and prosperity.

If we do not take the helm, I fear that we will become an international labor pool from which the rest of the world drinks, but to whom no one is responsible.

□ 1530

## MILITARY SPENDING AND THE BUDGET

The SPEAKER pro tempore (Mr. PICKETT). Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK. Mr. Speaker, the President has acknowledged a need to revisit the budget figures. One of the major points of difference between ourselves on the majority side and the President had to do with the military spending numbers. The budget crisis that now appears to be upon us in my mind reinforces the points that many of us have made earlier about the urgency of beginning a path of reducing military spending. We will not solve the budget crisis by military spending alone, and military spending reductions have to be done in a reasonable way. We do not want to cause disruption in communities, and we certainly do not want to break faith with the young people who volunteer to serve in the armed services. Those who volunteered to serve for a particular period in my judgment are entitled to have that respected.

However, Mr. Speaker, as we look at a 3- and 4-year budget picture, military spending becomes very relevant.

Let me begin making one suggestion, Mr. Speaker, as to where we would save, it seems to me, a considerable amount of money: the Philippines. We are in the Philippines today in the posture that the kids in, I think it was Hannibal, MO, were to Tom Sawyer. We are begging and begging to be allowed to paint their fences. The United States is there in a very substantial way benefiting the Philippines.

What we see now is that Filipino leaders on both the opposition and government side are highly critical of us. Our Armed Forces personnel have recently been murdered, and their lives have been threatened, and certainly it is our obligation to protect people in the armed services from situations where they walk unarmed and are set upon by murderers.

Mr. Speaker, I do not understand why we continue to act as if the people of the Philippines are doing us an enormous favor by allowing us to spend I do not know how many billions of dollars that we spend there. The military picture has improved some. We have Trident submarines; we have other means available to us.

I must say that it seems to me that the likelihood that either the People's Republic of China or the Soviet Union plans a massive, seaward invasion of our allies has diminished, and this is an example of, it seems to me, cultural lag that is putting strains on us financially when, as the President has acknowledged, we need to be going the other way.

Let us move geographically to Japan. A very instructive document was prepared by the General Accounting Office at the request of our colleague, the gentlewoman from Colorado [Mrs. SCHROEDER] who chairs a subcommittee of the Committee on Armed Services, and she and her ranking member, I believe the gentleman from Flordia [Mr. IRELAND], have done some very good work on this burden sharing.

The General Accounting Office has documented that in today's dollars we are spending, if I recall correctly, about $8 billion in Japan. Now the primary beneficiary of that is Japan. We are there primarily defending Japan, although it has some associated defense benefits to us. The Japanese, as I recall the number, pay out $3 billion in compensation. It was appropriate 45 years ago for the United States to provide subsidies to Japan, as we did, in an act of real generosity. After World War II, the United States set an extraordinary example of generosity by helping, not just our former friends, but our former enemies, Germany and Japan. Now, thanks in part to enlightened policies on the part of the United States, Japan is an extraordinarily prosperous and democratic nation. We can take pride in our contributions to that fact.

What we should not do is continue to subsidize the Japanese as if this were 45 years ago when they were impoverished.

□ 1540

We are subsidizing our competition. There is not a sensible reason that I can think of why United States taxpayers should be putting $8 billion a year into the defense of Japan, primarily for its benefit, although we get some secondary benefits, while they pay us merely $3 billion in compensation.

Mr. Speaker, what has been distressing to me is the mind-set of some of those in our national security apparatus when this issue was raised. In a General Accounting Office report, the Defense Department said that we were being unkind to the Japanese, or

rather the General Accounting Office was, by giving them credit for only about $3 billion in spending. They said the Japanese in fact are spending more than $3 billion. There is an additional $600 million, they said, in this spending. They documented that.

The General Accounting Office was told by the Defense Department that the Japanese should get credit in this accounting and burden-sharing because when American troops ride in American vehicles on Japanese roads, they are not required to pay tolls.

Now, Mr. Speaker, that seems to me rather odd to be giving the Japanese credit, because when our troops who are stationed there at their request to protect them primarily, although also to help us, when our troops who are stationed there at our expense to help protect them ride the roads, they are not charged tolls. They also said the Japanese should get credit because after all when we have bases, they do not levy property taxes, and they said the Japanese do us the favor of not charging us taxes on fuel.

Mr. Speaker, that is absurd. It is absurd that we should consider they are doing us a favor when they simply do not charge us for the privilege of defending them. That would be equivalent to owning a movie theater, having a fire and then when you paid your property tax bill, deducting a sum equivalent to the amount of admissions you did not charge the firefighters when they came in to put out the fire.

We have people there in Japan to help Japan and we are told by our Defense Department that we ought to give them some kind of financial credit because they do not charge us for the privilege of defending them.

Western Europe, of course, is the most glaring example. Once again policies that were appropriate 40 years ago are wholly inappropriate today. President Bush says yes, he accepts the fact that we can diminish our troops in Western Europe, but not the whole 225,000.

Mr. Speaker, there is no valid military purpose for those 225,000 troops. We do not know what is going to happen forever in the Soviet Union, but that troop placement there is aimed at preventing a land attack by the Soviet Union and its allies against Western Europe.

Mr. Speaker, I am prepared to make a very radical and bold statement. Poland and Hungary do not intend in the foreseeable future to invade France; but President Bush's budget assumes that is something against which we must still guard. There is no reason whatsoever for us to keep 225,000 troops in Europe at a cost of tens of billions of dollars when you look at the troops and the civilian and the supporting personnel. Tens of billions of dollars are now being spent by the United States each year to protect France, Germany, and Denmark, against an invasion by Poland, Hungary, Bulgaria, and the Soviet Union. I do not believe there is any likelihood of that.

We need to keep up our defenses vis-a-vis the Soviet Union. There are needs for us to keep a nuclear deterrent, but a land-based war in Europe is not a reasonable prospect.

Well, we are told we have to keep 225,000 troops in Europe anyway because we have to reassure the allies.

Mr. Speaker, I am very skeptical of the argument that we always have to keep reassuring our allies, particularly when it costs us billions of dollars. I do not know why our allies do not take a turn at reassuring us.

We will be returning to these issues.

I acknowledge that some of these savings cannot be accomplished in this fiscal year, but many of them can be accomplished in the fiscal year to come and immediately thereafter. The fact is that we have made only a start in reducing military spending. We ought to be the strongest nation in the world and well able to protect the interests of our vulnerable allies. We have budgetary plans now to do far more than that, including the subsidy of some very wealthy allies.

I strongly urge, Mr. Speaker, that the President and the Armed Services Committees as part of these budget negotiations take realistic look at what our military needs are, and I believe that we will be able to substantially reduce them and that will help, it will not by itself solve, but it will help resolve our crisis.

## NEED FOR NUCLEAR STANDARDIZATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. CLEMENT] is recognized for 10 minutes.

Mr. CLEMENT. Mr. Speaker, today I had a real opportunity. I feel like I made history. I had the privilege of speaking before 2,000 women at the First Lady's luncheon today honoring First Lady Barbara Bush. I had the honor of getting the entertainment for the event, since I represent Nashville, TN, "Music City, U.S.A.," or what I might refer to as Andrew Jackson's district.

Andrew Jackson was a man of great vision, a man who served his country well. He was the first Congressman from Nashville, or what is called the Hermitage District.

Well, Gary Morris was the entertainment today at the First Lady's luncheon. Gary is a native of Texas, but he calls Tennessee his home now. He has had many No. 1 recording hits, one of which was "Wind Beneath My Wings," which he recorded in 1983 and for which he was awarded the Country Music Association Song of the Year. He has been in the Broadway cast of "Les Mis." He starred opposite Linda Ronstadt in the Joseph Papp production of La Boheme. He is seen on TV and has starred on the Colbys and Another World. He is an artist, an entertainer, and singer, and actor. And he is very active in environmental issues.

I know he is very concerned, as we all are, about clean air and whether we are going to pass a clean air bill. I think and feel very strongly that Congress will pass a clean air bill presently.

I also want to talk about another subject that I had an opportunity to get to know, and that is nuclear energy. I had the opportunity to be on the TVA Board of Directors for 2 years. I am the only TVA Director ever elected to the U.S. Congress. Because of my service, I also came to the conclusion that we need nuclear, we need coal, we need hydro, we need all sources of energy for our future energy needs. We should not put all our eggs in one basket. We should not be all nuclear. We should not be all coal. Surely, we should not be all oil.

We are too dependent on foreign oil. I think all of us believe that very strongly. As a matter of fact, we are 42 percent dependent on foreign oil.

You know, if you look at the facts and what has been happening to us, a lot of these oilspills that have occurred, have involved foreign oil being transported to the United States. As I mentioned, we are 42 percent dependent on foreign oil today. If we do nothing between now and the year 2000, we are going to be 60 percent dependent on foreign oil.

Have we forgotten about those long lines? Have we forgotten about the inconveniences that we have had in the past? I think probably we have. I hate to say that, but we have.

That is why I have introduced a piece of legislation called nuclear standardization. If we had standardized nuclear designs a decade or two ago, nuclear would have been safer and it would have been cheaper. Today if we adopt the Clement legislation on nuclear standardization, we could save 55 percent of the capital costs of what it costs to build a nuclear plant so we can have nuclear energy for the future—so we do not have to be dependent on foreign oil.

Oil dependency is dangerous. It is not in the best interests of our national security.

Therefore, I ask my colleagues to look seriously at the facts, at my bill on standardization and at the future of nuclear energy so we will not put all our eggs in one basket, so we will be diversified, so we will be energy independent.

□ 1550

## ANNUAL REPORT OF DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. PICKETT) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce. The Committee on Merchant Marine and Fisheries, and the Committee on Public Works and Transportation:

(For message, see proceedings of the Senate of today, Wednesday, May 16, 1990.)

## REPORT ON MEASURES TAKEN IN RESPONSE TO MILITARY CRACKDOWN IN CHINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-192)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

(For message, see proceedings of the State of today, Wednesday, May 16, 1990.)

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PARRIS (at the request of Mr. MICHEL), for today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCEWEN) to revise and extend their remarks and include extraneous material:)

Mr. EMERSON, for 60 minutes, on May 22.

(The following Members (at the request of Mr. SKAGGS) to revise and extend their remarks and include extraneous material:)

Mr. FORD of Michigan, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. DORGAN of North Dakota, for 60 minutes, today.

Mr. ECKART, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. GAYDOS, for 5 minutes, on May 22 and 23.

Mr. ESPY, for 60 minutes, on May 22.

(The following Member (at the request of Mr. EMERSON) to revise and extend his remarks and include extraneous material:)

Mr. MICHEL, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks.)

Mr. MINETA, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HUBBARD, for 15 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FRANK, for 60 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CLEMENT, for 10 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCEWEN) and to include extraneous matter:)

Mr. MADIGAN.
Mr. HILER.
Mr. COUGHLIN.
Mr. GALLEGLY.
Mr. CRANE in two instances.
Mr. GILMAN in two instances.
Mrs. ROUKEMA.
Mrs. SAIKI.
Mr. ROTH.

(The following Members (at the request of Mr. SKAGGS) and to include extraneous matter:)

Mr. DARDEN.
Mr. ATKINS in 12 instances.
Mr. WISE.
Mr. ROE.
Mr. BOSCO.
Mr. MRAZEK.
Mr. HAMILTON.
Mr. LAFALCE in two instances.
Mr. TORRICELLI.
Mr. MATSUI in two instances.

## ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1805. An Act to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and for other purposes; and

H.R. 3961. An Act to redesignate the Federal building at 1800 5th Avenue, North in Birmingham, AL, as the "Robert S. Vance Federal Building and United States Courthouse."

## BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2364. An act to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

## ADJOURNMENT

Mr. CLEMENT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 51 minutes p.m.) the House adjourned until tomorrow, Thursday, May 17, 1990, at 10 a.m.

## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning foreign currencies and U.S. dollars utilized by them during the second, third and fourth quarters of 1989 and the first quarter of 1990 in connection with foreign travel pursuant to Public Law 95-384, as well as 1989 foreign travel reports for various miscellaneous groups of the U.S. House of Representatives, are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Visit to France and United Kingdom Apr. 20–24, 1989: Delegation Expenses. | 4/20 | 4/23 | France | | | | | | 1,599.02 | | 1,599.02 |
| Committee total | | | | | | | | | 1,599.02 | | 1,599.02 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Apr. 26, 1990.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Visit to Philippines, Taiwan, Thailand, Japan and Korea, Aug. 10–20, 1989: Delegation expenses. | 8/14 | 8/17 | Thailand | | | | 817.71 | | 1,552.66 | | 2,370.37 |
| Committee total | | | | | | | 817.71 | | 1,552.66 | | 2,370.37 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Apr. 26, 1990.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 and DEC. 31, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Visit to Morocco, Egypt, Oman, and Portugal, Nov. 26–Dec. 5, 1989: Delegation expenses. | 11/28 | 12/1 | Egypt | | | | 550.00 | | 432.79 | | 982.79 |
| Visit to Korea and Thailand, Dec. 9–Dec. 15, 1989: Delegation expenses. | 12/12 | 12/15 | Thailand | | | | 889.87 | | 901.69 | | 1,791.56 |
| Visit to West Berlin, Germany, Czechoslovakia, and Austria, Dec. 13–17, 1989: Delegation expenses. | 12/15 | 12/16 | Czechoslovakia | | | | 754.97 | | | | 754.97 |
| Committee total | | | | | | | 2,194.84 | | 1,334.48 | | 3,529.32 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Apr. 26, 1990.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND DEC. 31, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Bruce Chafin | 4/1 | 4/9 | Egypt | | 1,184.00 | | | | | | 1,184.00 |
| Commercial air fare | | | | | | | 2,284.00 | | | | 2,284.00 |
| Joe Barton, MC | 11/12 | 11/14 | Switzerland | | 498.00 | | | | | | 498.0 |
| Al Swift, MC | 12/18 | 12/20 | Cuba | 286.00 | | | | | | | 286.00 |
| Commercial air fare | | | | | | | 567.00 | | | | 567.00 |
| John Orlando | 12/18 | 12/20 | Cuba | | 286.00 | | | | | | 286.00 |
| Commercial air fare | | | | | | | 567.00 | | | | 567.00 |
| David Leach | 12/18 | 12/20 | Cuba | | 286.00 | | | | | | 286.00 |
| Commercial air fare | | | | | | | 567.00 | | | | 567.00 |

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Terry Haines | 12/18 | 12/20 | Cuba | | 286.00 | | | | | | 286.00 |
| Commercial air fare | | | | | | | 567.00 | | | | 567.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
Note.—The above represents supplemental information to previously submitted reports.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990.

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Visit to Belgium, Italy, Hungary, Federal Republic of Germany, and Austria, Jan. 4–14, 1990: | | | | | | | | | | | |
| Hon. Ike Skelton | 1/4 | 1/6 | Belgium | | 400.00 | | | | | | 400.00 |
| | 1/6 | 1/9 | Italy | | 645.00 | | | | | | 645.00 |
| | 1/9 | 1/10 | Hungary | | 174.00 | | | | | | 174.00 |
| | 1/10 | 1/11 | Germany | | 118.00 | | | | | | 118.00 |
| | 1/11 | 1/14 | Austria | | 561.00 | | | | | | 561.00 |
| Hon. Richard Ray | 1/4 | 1/6 | Belgium | | 400.00 | | | | | | 400.00 |
| | 1/6 | 1/9 | Italy | | 645.00 | | | | | | 645.00 |
| | 1/9 | 1/10 | Hungary | | 174.00 | | | | | | 174.00 |
| | 1/10 | 1/11 | Germany | | 118.00 | | | | | | 118.00 |
| | 1/11 | 1/14 | Austria | | 561.00 | | | | | | 561.00 |
| Hon. Ben Blaz | 1/4 | 1/6 | Belgium | | 400.00 | | | | | | 400.00 |
| | 1/6 | 1/9 | Italy | | 645.00 | | | | | | 645.00 |
| | 1/9 | 1/10 | Hungary | | 174.00 | | | | | | 174.00 |
| | 1/10 | 1/11 | Germany | | 118.00 | | | | | | 118.00 |
| | 1/11 | 1/12 | Austria | | 187.00 | | | | | | 187.00 |
| Commercial transportation | | | | | | | 4,785.00 | | | | 4,785.00 |
| Hon. Owen B. Pickett | 1/4 | 1/6 | Belgium | | 400.00 | | | | | | 400.00 |
| | 1/6 | 1/9 | Italy | | 645.00 | | | | | | 645.00 |
| | 1/9 | 1/10 | Hungary | | 174.00 | | | | | | 174.00 |
| | 1/10 | 1/11 | Germany | | 118.00 | | | | | | 118.00 |
| | 1/11 | 1/14 | Austria | | 561.00 | | | | | | 561.00 |
| Hon. Ronald K. Machtley | 1/4 | 1/6 | Belgium | | 400.00 | | | | | | 400.00 |
| Mr. Archie D. Barrett | 1/4 | 1/6 | Belgium | | 400.00 | | | | | | 400.00 |
| | 1/6 | 1/9 | Italy | | 645.00 | | | | | | 645.00 |
| | 1/9 | 1/10 | Hungary | | 174.00 | | | | | | 174.00 |
| | 1/10 | 1/11 | Germany | | 118.00 | | | | | | 118.00 |
| | 1/11 | 1/12 | Austria | | 561.00 | | | | | | 561.00 |
| Commercial transportation | | | | | | | 664.00 | | | | 664.00 |
| Delegation expenses | 1/6 | 1/9 | Italy | | | | 1,243.21 | | | | 1,243.21 |
| | 1/11 | 1/12 | Austria | | | | 2,057.00 | | 507.32 | | 2,564.32 |
| Visit to Federal Republic of Germany, Feb. 2–4, 1990: | | | | | | | | | | | |
| Hon. Les Aspin | 2/2 | 2/4 | Germany | | 174.00 | | | | | | 174.00 |
| Hon. William L. Dickinson | 2/2 | 2/4 | Germany | | 174.00 | | | | | | 174.00 |
| Hon. Beverly B. Byron | 2/2 | 2/4 | Germany | | 174.00 | | | | | | 174.00 |
| Mr. Andrew K. Ellis | 2/2 | 2/4 | Germany | | 348.00 | | | | | | 348.00 |
| Visit to Federal Republic of Germany, Feb. 11–17, 1990: | | | | | | | | | | | |
| Mr. Williston B. Cofer, Jr | 2/11 | 2/17 | Germany | | 1,200.00 | | | | | | 1,200.00 |
| Commercial transportation | | | | | | | 2,486.00 | | | | 2,486.00 |
| Mr. James C. Waters | 2/11 | 2/17 | Germany | | 1,200.00 | | | | | | 1,200.00 |
| Commercial transportation | | | | | | | 2,486.00 | | | | 2,486.00 |
| Visit to Federal Republic of Germany, and Switzerland, Feb. 10–16, 1990: | | | | | | | | | | | |
| Hon. H. Martin Lancaster | 2/10 | 2/12 | Germany | | 400.00 | | | | | | 400.00 |
| | 2/12 | 2/16 | Switzerland | 514.00 | | | | | | 514.00 | |
| Commercial transportation | | | | | | | 2,420.00 | | | | 2,420.00 |
| Committee total | | | | | 13,700.00 | | 16,141.21 | | 507.32 | | 30,348.53 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Apr. 26, 1990.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Congresswoman M.R. Oakar | 1/7 | 1/10 | Poland | | 375.00 | | | | | | 375.00 |
| | 1/10 | 1/12 | Germany | | 398.00 | | [3] 4,303.00 | | | | 4,701.00 |
| Earl Rieger | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | 47.07 | | 209.07 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |
| | 1/5 | 1/7 | Czechoslovakia | | 392.00 | | | | 74.59 | | 466.59 |
| | 1/7 | 1/10 | Poland | | 375.00 | | | | | | 375.00 |
| | 1/10 | 1/12 | Germany | | 393.00 | | [3] 7,876.67 | | 95.60 | | 8,370.27 |
| Congresswoman M. Kaptur | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | 47.07 | | 209.07 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| | 1/5 | 1/7 | Czechoslovakia | | 392.00 | | | | 74.59 | | 466.59 |
| | 1/7 | 1/10 | Poland | | 375.00 | | | | | | 375.00 |
| | 1/10 | 1/12 | Germany | | 398.00 | | [3] 7,876.67 | | 95.60 | | 8,370.27 |
| Congressman Jim McDermott | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | 47.07 | | 209.07 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |
| | 1/5 | 1/7 | Czechoslovakia | | 392.00 | | | | 74.59 | | 466.59 |
| | 1/7 | 1/10 | Poland | | 375.00 | | | | | | 375.00 |
| | 1/10 | 1/12 | Germany | | 398.00 | | [3] 7,876.67 | | 95.60 | | 8,370.27 |
| Congressman P. Kanjorski | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | | | 162.00 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |
| | 1/5 | 1/10 | Poland | | 550.00 | | 145.00 | | | | 695.00 |
| | 1/10 | 1/12 | Germany | | 398.00 | | [3] 7,050.00 | | | | 7,448.00 |
| Congressman Esteban Torres | 1/5 | 1/11 | United Kingdom | | 1,156.00 | | | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | | 748.00 | | [3] 5,055.38 | | | | 5,803.38 |
| Congressman Bill Paxon | 1/17 | 1/18 | Colombia | | 98.00 | | | | | | 98.00 |
| | 1/18 | 1/20 | Peru | | 204.00 | | | | | | 204.00 |
| | 1/20 | 1/20 | El Salvador | | 77.00 | | [3] 5,568.79 | | | | 5,645.79 |
| Robert Browne | 2/22 | 2/25 | Great Britain | | 88.88 | | [4] 552.00 | | | | 640.88 |
| | | | | | | | [5] 28.51 | | | | 28.51 |
| Congressman Gerald Kleczka | 3/1 | 3/2 | Panama | | | | [3] 6,811.00 | | | | 6,811.00 |
| Congressman Kweisi Mfume | 3/15 | 3/17 | Saint Lucia | | 400.00 | | | | | | 400.00 |
| | 3/17 | 3/20 | Dominican Republic | | 459.00 | | [3] 2,432.57 | | | | 2,891.57 |
| Committee total | | | | | 10,878.88 | | 55,576.26 | | 651.78 | | 67,106.92 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Denotes military transportation.
[4] Airfare.
[5] Local transportation.

HENRY GONZALEZ, Chairman, Apr. 24, 1990.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Representative Tom Sawyer | 1/5 | 1/11 | England | | 1,156.00 | | [3] 4,666.50 | | | | 5,822.50 |
| | | | Czechoslovakia | | 392.00 | | [4] 377.44 | | | | 769.44 |
| | | | Austria | | 187.00 | | | | | | 187.00 |
| Representative Cass Ballenger | 1/11 | 1/15 | Nicaragua | | 251.58 | | [5] 10,140.00 | | | | 10,391.58 |
| | | | El Salvador | | | | | | | | |
| Committee total | | | | | 1,986.58 | | 15,183.94 | | | | 17,170.52 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.
[4] Commercial transportation.
[5] Military transportation, prorated cost.

AUGUSTUS F. HAWKINS, Chairman, Apr. 30, 1990.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| John Riggs | 1/3 | 1/13 | India | | 1,530.00 | | | | | | 1,530.00 |
| Conference fee | | | | | | | | | 100.00 | | 100.00 |
| Commercial air fare | | | | | | | 2,134.81 | | | | 2,134.81 |
| Gerry Sikorski, M.C. | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | | | 162.00 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |
| | 1/5 | 1/7 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/7 | 1/10 | Poland | | 375.00 | | | | | | 375.00 |
| | 1/10 | 1/10 | Germany | | 398.00 | | | | | | 398.00 |
| Military air fare | | | | | | | 7,876.67 | | | | 7,876.67 |
| Michael Barrett | 1/15 | 1/18 | Korea | | 600.00 | | | | | | 600.00 |
| | 1/19 | 1/20 | Japan | | 490.00 | | | | | | 490.00 |
| Commercial air fare | | | | | | | 2,842.00 | | | | 2,842.00 |
| Peter Stockton | 1/15 | 1/18 | Korea | | 600.00 | | | | | | 600.00 |
| | 1/19 | 1/19 | Japan | | 245.00 | | | | | | 245.00 |
| | 1/19 | 1/26 | Australia | | 928.00 | | | | | | 928.00 |
| Photocopy and shipping charges | | | | | | | | | 335.34 | | 335.34 |
| Commercial air fare | | | | | | | 5,768.00 | | | | 5,768.00 |
| Dennis B. Wilson | 1/15 | 1/18 | Korea | | 600.00 | | | | | | 600.00 |
| | 1/18 | 1/19 | Japan | | 245.00 | | | | | | 245.00 |
| | 1/19 | 1/27 | Australia | | 928.00 | | | | | | 928.00 |
| Air fare (within Australia) | | | | | | | 160.00 | | | | 160.00 |
| Commercial air fare | | | | | | | 5,477.00 | | | | 5,477.00 |
| J. Roy Rowland, MC | 1/3 | 1/5 | Taiwan | | 250.00 | | | | | | 250.00 |
| | 1/5 | 1/8 | Hong Kong | | 630.00 | | | | | | 630.00 |
| | 1/8 | 1/11 | Bangkok | | 510.00 | | | | | | 510.00 |
| | 1/11 | 1/14 | Singapore | | 438.00 | | | | | | 438.00 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| | 1/14 | 1/15 | Kuala Lumpur | | 94.00 | | | | | | 94.00 |
| | 1/15 | 1/16 | Bangkok | | 170.00 | | | | | | 170.00 |
| Cumulative returned per diem | | | | | 53.00 | | | | | | 53.00 |
| Commercial air fare | | | | | | | 3,232.00 | | | | 3,232.00 |
| Codel expenses | | | Taiwan | | | | | | 149.00 | | 149.00 |
| Codel expenses | | | Kuala Lumpur | | | | | | 20.39 | | 20.39 |
| Donald Shriber | 1/3 | 1/5 | Taiwan | | 250.00 | | | | | | 250.00 |
| | 1/5 | 1/8 | Hong Kong | | 630.00 | | | | | | 630.00 |
| | 1/8 | 1/11 | Bangkok | | 510.00 | | | | | | 510.00 |
| Commercial air fare | | | | | | | 2,636.00 | | | | 2,636.00 |
| John D. Dingell, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.00 | | | | 3,819.87 |
| Henry A. Waxman, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| Edward Markey, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| Doug Walgren, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| Al Swift, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| John Bryant, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| Edolphus Towns, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| Norman Lent, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| [HAlex McMillan, MC | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| Sharon E. Davis | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| Richard Frandsen | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| David Leach | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| John Shelk | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| Eleanor Lewis | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| | 2/15 | 2/16 | Switzerland | | 207.00 | | | | | | 207.00 |
| | 2/16 | 2/20 | United Kingdom | | 892.00 | | | | | | 892.00 |
| Military air fare | | | | | | | 3,819.87 | | | | 3,819.87 |
| John Orlando | 2/11 | 2/13 | Belgium | | 400.00 | | | | | | 400.00 |
| | 2/13 | 2/15 | France | | 386.00 | | | | | | 386.00 |
| Military air fare | | | | | | | 1,586.61 | | | | 1,586.61 |
| Commercial air fare | | | | | | | | | | | |
| Committee total | | | | | 41,272 | | 89,743.27 | | 604.92 | | 131,620.19 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman, May 4, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| P. Abbruzzse | 2/12 | 2/14 | France | | 440.00 | | | | | | 440.00 |
| | 2/14 | 2/17 | Belgium | | 600.00 | | | | 46.66 | | 646.66 |
| Commercial transportation | | | | | | | 3,387.30 | | | | 3,387.30 |
| | 3/16 | 3/19 | Germany | | 618.00 | | | | | | 618.00 |
| | 3/22 | 3/23 | Germany | | — | | | | | | — |
| | 3/19 | 3/22 | Bulgaria | | [3] 603.00 | | | | 38.00 | | 641.00 |
| Commercial transportation | | | | | | | 1,880.00 | | | | 1,880.00 |
| Military transportation | | | | | | | 2,616.00 | | | | 2,616.00 |
| Hon. G. Ackerman | 1/15 | 1/11 | United Kingdom | | 1,156.00 | | | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | | 748.00 | | | | | | 748.00 |
| Military transportation | | | | | | | 5,055.38 | | | | 5,055.38 |
| | 2/9 | 2/11 | El Salvador | | 254.00 | | | | | | 254.00 |
| Total | | | | | 4,811.00 | | 12,938.68 | | 84.66 | | 17,834.34 |
| | 2/11 | 2/14 | Nicaragua | | 290.00 | | | | | | 290.00 |
| Commercial transportation | | | | | | | 1,653.00 | | | | 1653.00 |
| N. Agris | 2/11 | 2/14 | El Salvador | | 322.40 | | | | | | 322.40 |
| Military transportation | | | | | | | 300.00 | | | | 300.00 |
| D. Barton | 2/12 | 2/18 | Switzerland | | 1,242.00 | | | | | | 1,242.00 |
| Commercial transportation | | | | | | | 4,284.00 | | | | 4,284.00 |
| Hon. D. Bereuter | 1/15 | 1/10 | United Kingdom | | 827.40 | | | | | | 827.40 |
| Military transportation | | | | | | | 1,508.00 | | | | 1,508.00 |
| Commercial transportation | | | | | | | 1,424.00 | | | | 1,424.00 |
| | 1/26 | 1/29 | Nicaragua | | 400.00 | | | | | | 400.00 |
| Military transportation | | | | | | | 3,958.33 | | | | 3,958.33 |
| | 2/23 | 2/26 | Nicaragua | | 308.90 | | | | | | 308.90 |
| Military transportation | | | | | | | 654.94 | | | | 654.94 |
| K. Bertelsen | 2/14 | 2/17 | Panama | | 500.00 | | | | 194.95 | | 694.95 |
| Commercial transportation | | | | | | | 1,598.00 | | | | 1,598.00 |
| Total | | | | | 3,890.70 | | 15,380.57 | | 194.95 | | 19,466.22 |
| K. Bolognese | 7/8 | 7/14 | Germany | | 1,200.00 | | | | | | 1,200.00 |
| Commercial transportation | | | | | | | 4,412.00 | | | | 4,412.00 |
| Hon. D. Bosco | 2/9 | 2/11 | El Salvador | | 113.12 | | | | | | 113.12 |
| | 2/11 | 2/14 | Nicaragua | | 159.83 | | | | | | 159.83 |
| | 2/14 | 2/15 | Costa Rica | | 164.00 | | | | | | 164.00 |
| Commercial transportation | | | | | | | 1,944.63 | | | | 1,944.63 |
| R.K. Boyer | 1/7 | 1/11 | Spain | | 1,063.00 | | | | 86.64 | | 1,149.64 |
| | 1/12 | 1/16 | France | | 1,110.00 | | 35.00 | | 70.00 | | 1,215.00 |
| | 1/17 | 1/20 | United Kingdom | | 868.00 | | | | 80.10 | | 948.10 |
| Commercial transportation | | | | | | | 4,789.00 | | | | 4,789.00 |
| T. Bruce | 1/7 | 1/9 | United Kingdom | | 434.00 | | | | | | 434.00 |
| | 1/9 | 1/20 | Germany | | 2,092.50 | | | | | | 2,092.50 |
| Commercial transportation | | | | | | | 4,956.00 | | | | 4,956.00 |
| Total | | | | | 7,204.45 | | 16,136.63 | | 236.74 | | 23,577.82 |
| | 3/1 | 3/4 | Hungary | | 522.00 | | | | | | 522.00 |
| | 3/4 | 3/6 | Romania | | 384.00 | | | | | | 384.00 |
| | 3/6 | 3/8 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 3/8 | 3/11 | Germany (East) | | 621.00 | | | | | | 621.00 |
| Commercial transportation | | | | | | | 3,044.00 | | | | 3,044.00 |
| Hon. D. Burton | 2/9 | 2/11 | Peru | | 152.00 | | | | | | 152.00 |
| No transportation cost | | | | | | | | | | | |
| | 2/22 | 2/23 | Switzerland | | 207.00 | | | | | | 207.00 |
| Commercial transportation | | | | | | | 4,284.00 | | | | 4,284.00 |
| R. Bush | 2/9 | 2/11 | El Salvador | | 254.00 | | | | | | 254.00 |
| | 2/11 | 2/14 | Nicaragua | | 380.00 | | | | | | 380.00 |
| | 2/14 | 2/14 | Costa Rica | | | | | | | | |
| | 2/14 | 2/14 | Panama | | 528.00 | | | | 194.95 | | 1,773.00 |
| Commercial transportation | | | | | | | 1,773.00 | | | | 1,773.00 |
| Total | | | | | 3,440.00 | | 9,101.00 | | 194.95 | | 12,735.95 |
| N. Carman | 2/8 | 2/17 | Costa Rica | | [3] 1,307.09 | | | | | | 1,307.09 |
| Commercial transportation | | | | | | | 1,327.00 | | | | 1,327.00 |
| F.M. Chambers | 1/9 | 1/10 | United Kingdom | | 217.00 | | | | | | 217.00 |
| | 1/11 | 1/14 | Kenya | | 576.00 | | | | | | 576.00 |
| | 1/15 | 1/17 | Italy | | 430.00 | | | | | | 430.00 |
| | 1/17 | 1/21 | Portugal | | 870.00 | | | | | | 870.00 |
| | 1/22 | 1/26 | Spain | | 844.00 | | | | | | 844.00 |
| Commercial transportation | | | | | | | 5,451.00 | | | | 5,451.00 |
| Hon. G. Crockett | 3/15 | 3/17 | Saint Lucia | | 400.00 | | | | | | 400.00 |
| | 3/17 | 3/20 | Dominican Republic | | 459.00 | | 37.55 | | 373.22 | | 869.77 |
| Military transportation | | | | | | | 2,432.57 | | | | 2,432.57 |
| E. Daoust | 1/5 | 1/11 | United Kingdom | | 1,156.00 | | | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | | 748.00 | | | | | | 748.00 |
| Total | | | | | 7,399.09 | | 9,248.12 | | 373.22 | | 17,020.43 |
| Military transportation | | | | | | | 5,055.38 | | | | 5,055.38 |
| B. Davidson | 1/5 | 1/11 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | | 748.00 | | | | 3.08 | | 751.08 |
| Military transportation | | | | | | | 4,666.50 | | | | 4,666.50 |
| Commercial transportation | | | | | | | 2,818.00 | | | | 2,818.00 |
| A. Dunn-Mouton | 1/2 | 1/3 | United Kingdom | | 217.00 | | | | | | 217.00 |
| | 1/4 | 1/9 | South Africa | | 730.00 | | | | | | 730.00 |
| | 1/9 | 1/13 | Zimbabwe | | 684.00 | | | | | | 684.00 |
| Commercial transportation | | | | | | | 6,185.00 | | | | 6,185.00 |
| Hon. M. Dymally | 1/3 | 1/7 | Saudi Arabia | | 562.50 | | | | 65.07 | | 627.57 |
| | 1/7 | 1/8 | Bahrain | | 144.00 | | | | 8.95 | | 152.95 |
| | 1/8 | 1/12 | United Arab Emirates | | 482.00 | | | | | | 482.00 |
| | 1/12 | 1/14 | Kuwait | | 386.00 | | | | | | 386.25 |
| | 1/14 | 1/16 | Iraq | | [3] 201.25 | | | | | | 201.25 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Total | | | | 4,546.75 | 18,724.88 | 77.10 | | 23,348.73 |
| Hon. M. Dymally | 1/16 | 1/18 | United Kingdom | 434.00 | | | | 434.00 |
| | 1/18 | 1/20 | France | 444.00 | | 101.66 | | 545.66 |
| Commercial transportation | | | | | 6,769.36 | | | 6,769.36 |
| | 3/2 | 3/2 | Germany | 137.00 | | | | 137.00 |
| | 3/2 | 3/3 | France | 222.00 | | | | 222.00 |
| Commercial transportation | | | | | 5,208.32 | | | 5,208.32 |
| M. Ennis | 1/5 | 1/11 | United Kingdom | 1,156.00 | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | 392.00 | | | | 392.00 |
| | 1/13 | 1/17 | Austria | [3] 680.00 | | | | 680.00 |
| Commercial transportation | | | | | 2,818.00 | | | 2,818.00 |
| Military transportation | | | | | 4,666.50 | | | 4,666.50 |
| Hon. E. Feighan | 2/13 | 2/16 | Israel | 498.00 | | 59.35 | | 557.35 |
| Commercial transportation | | | | | 5,366.00 | | | 5,366.50 |
| Total | | | | 3,963.00 | 24,828.18 | 161.01 | | 28,952.19 |
| M. Finley | 3/15 | 3/17 | Saint Lucia | 330.00 | | | | 330.00 |
| | 3/17 | 3/19 | Barbados | | | | | |
| | 3/19 | 3/20 | Antigua | [3] 55.00 | | | | 55.00 |
| Commercial transportation | | | | | 817.00 | | | 817.00 |
| Military transportation | | | | | 1,216.29 | | | 1,216.29 |
| D. Finn | 2/11 | 2/17 | Morocco | [3] 793.65 | | | | 793.65 |
| Commercial transportation | | | | | 2,209.00 | | | 2,209.00 |
| | 3/23 | 3/26 | Soviet Union | 550.00 | | | | 550.00 |
| Commercial transportation | | | | | 2,312.00 | | | 2,312.00 |
| Military transportation | | | | | 524.62 | | | 524.62 |
| B. Ford | 1/5 | 1/10 | United Kingdom | 939.00 | 168.96 | 105.00 | | 1,212.96 |
| | 1/5 | 1/14 | Kenya | 576.00 | | | | 576.00 |
| | 1/15 | 1/17 | Italy | 430.00 | | | | 430.00 |
| | 1/17 | 1/21 | Portugal | 870.00 | | | | 870.00 |
| Total | | | | 4,543.65 | 7,247.87 | 105.00 | | 11,896.52 |
| | 1/22 | 1/26 | Spain | 844.00 | | | | 844.00 |
| Commercial transportation | | | | | 5,451.00 | | | 5,451.00 |
| Hon. J. Fuster | 3/15 | 3/17 | Saint Lucia | 400.00 | | | | 400.00 |
| | 3/17 | 3/20 | Dominican Republic | 459.00 | 37.55 | 373.22 | | 869.77 |
| Military transportation | | | | | 2,432.47 | | | 2,432.57 |
| Hon. E. Gallegly | 2/11 | 2/14 | France | 660.00 | | | | 660.00 |
| | 2/14 | 2/16 | Belgium | 400.00 | | | | 400.00 |
| Military transportation | | | | | 6,662.00 | | | 6,662.00 |
| | 2/23 | 2/26 | Nicaragua | 298.25 | | | | 298.25 |
| Military transportation | | | | | 654.94 | | | 654.94 |
| Hon. B. Gilman | 1/5 | 1/11 | United Kingdom | 1,156.00 | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslavakia | 392.00 | | | | 392.00 |
| | 1/13 | 1/17 | Austria | 748.00 | | | | 748.00 |
| Military transportation | | | | | 5,055.38 | | | 5,055.38 |
| Total | | | | 5,357.25 | 20,253.44 | 373.22 | | 25,983.91 |
| Hon. P. Goss | 1/12 | 1/15 | Nicaragua | | | | | |
| | 1/15 | 1/15 | El Salvador | | | | | |
| Military transportation | | | | | 27,353.00 | | | 27,353.00 |
| M. Gueye | 3/3 | 3/4 | France | 222.00 | | | | 222.00 |
| | 3/4 | 3/7 | Israel | 728.00 | | | | 728.00 |
| | 3/7 | 3/8 | France | 222.00 | | | | 222.00 |
| Commercial transportation | | | | | 5,090.60 | | | 5,090.60 |
| B. Hammond | 1/9 | 1/10 | United Kingdom | 217.00 | | | | 217.00 |
| | 1/11 | 1/14 | Kenya | 576.00 | | | | 576.00 |
| | 1/15 | 1/17 | Italy | 430.00 | | | | 430.00 |
| | 1/17 | 1/21 | Portugal | 870.00 | | | | 870.00 |
| Commercial transportation | | | | | 5,477.00 | | | 5,477.00 |
| Total | | | | 3,265.00 | 37,920.60 | | | 41,185.60 |
| R. Harmon | 1/3 | 1/3 | United Kingdom | 217.00 | | 57.30 | | 274.30 |
| | 1/4 | 1/9 | South Africa | 730.00 | | | | 730.00 |
| | 1/9 | 1/13 | Zimbabwe | 684.00 | 8.69 | | | 692.69 |
| Commercial transportation | | | | | 6,185.00 | | | 6,185.00 |
| J. Hatcher | 1/18 | 1/21 | Hungary | 522.00 | | | | 522.00 |
| | 1/21 | 1/26 | Soviet Union | 900.00 | | | | 900.00 |
| Commercial transportation | | | | | 4,614.00 | | | 4,614.00 |
| L. Heyes | 1/5 | 1/10 | Malaysia | [3] 696.00 | | | | 696.00 |
| | 1/10 | 1/12 | Hong Kong | [3] 630.00 | | | | 630.00 |
| Commercial transportation | | | | | 4,979.00 | | | 4,979.00 |
| Hon. A. Houghton | 2/23 | 2/27 | Nicaragua | | | | | |
| Commercial transportation | | | | | 703.00 | 5.00 | | 708.00 |
| Total | | | | 4,379.00 | 16,489.69 | 62.30 | | 20,930.99 |
| W. Inglee | 1/21 | 1/26 | Soviet Union | [3] 744.00 | | | | 744.00 |
| Commercial transportation | | | | | 3,703.00 | | | 3,703.00 |
| B. Jenkins | 1/15 | 1/20 | France | 1,110.00 | | 101.66 | | 1,211.66 |
| Commercial transportation | | | | | 4,476.00 | | | 4,476.00 |
| R. Jenkins | 1/5 | 1/11 | United Kingdom | 1,156.00 | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | 392.00 | | | | 392.00 |
| | 1/13 | 1/17 | Austria | 748.00 | | | | 748.00 |
| Commercial transportation | | | | | 3,026.00 | | | 3,026.00 |
| V. Johnson | 2/14 | 2/17 | Panama | [3] 434.25 | | 194.95 | | 629.20 |
| Commercial transportation | | | | | 1,598.00 | | | 1,598.00 |
| | 3/15 | 3/17 | Saint Lucia | 400.00 | | | | 400.00 |
| | 3/17 | 3/20 | Dominican Republic | [3] 343.40 | 37.55 | 373.22 | | 754.17 |
| Military transportation | | | | | 2,432.57 | | | 2,432.57 |
| Total | | | | 5,327.65 | 15,273.12 | 669.83 | | 21,270.60 |
| G. Kapen | 1/11 | 1/23 | Sudan | 302.00 | | | | 302.00 |
| | 1/23 | 1/25 | United Kingdom | 434.00 | | | | 434.00 |
| Commercial transportation | | | | | 4,956.00 | | | 4,956.00 |
| | 2/21 | 2/22 | Switzerland | 207.00 | | | | 207.00 |
| Commercial transportation | | | | | 4,284.00 | | | 4,284.00 |
| Hon. R. Lagomarsino | 1/5 | 1/11 | United Kingdom | 1,156.00 | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | 392.00 | | | | 392.00 |
| | 1/13 | 1/17 | Austria | 748.00 | | | | 748.00 |
| Military transportation | | | | | 5,055.38 | | | 5,055.38 |
| Hon. T. Lantos | 12/9 | 12/12 | East Germany | 573.00 | | 7.84 | | 580.84 |
| | 12/13 | 12/14 | Poland | 125.00 | | | | 125.00 |
| | 12/14 | 12/15 | Czechoslovakia | 196.00 | | | | 196.00 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 12/15 | 12/16 | Hungary | 174.00 | | | | 174.00 |
| | 12/17 | 12/19 | Israel | | | | 75.71 | 75.71 |
| | 12/19 | 12/20 | Cyprus | 302.00 | | | 57.27 | 359.27 |
| Total | | | | 4,609.00 | 14,295.38 | | 140.82 | 19,045.20 |
| Hon. T. Lantos | 12/21 | 12/23 | Bulgaria | 364.00 | | | | 364.00 |
| | 12/24 | 12/27 | Greece | 163.13 | | | 205.93 | 369.06 |
| | 12/18 | 12/30 | Hungary | 348.00 | | | | 348.00 |
| Commercial transportation | | | | | 2,114.00 | | | 2,114.00 |
| Hon. T. Lantos | 1/5 | 1/11 | United Kingdom | 1,156.00 | 94.94 | | | 1,250.94 |
| | 1/11 | 1/13 | Czechoslovakia | 392.00 | | | | 392.00 |
| | 1/13 | 1/17 | Austria | 748.00 | | | | 748.00 |
| Military transportation | | | | | 4,666.50 | | | 4,666.50 |
| M. Levine | 1/14 | 1/15 | Hong Kong | 210.00 | | | | 210.00 |
| | 1/15 | 1/16 | Taiwan | 309.00 | | | | 309.00 |
| | 1/15 | 1/20 | Japan | 980.00 | | | | 980.00 |
| Commercial transportation | | | | | 4,527.00 | | | 4,527.00 |
| Total | | | | 4,670.13 | 11,402.44 | | 205.93 | 16,278.50 |
| R. McBride | 3/23 | 3/26 | Soviet Union | 550.00 | | | | 500.00 |
| Military transportation | | | | | 524.62 | | | 524.62 |
| Commercial transportation | | | | | 2,312.00 | | 2,312.00 | |
| F. Marshall | 3/15 | 3/17 | Saint Lucia | 400.00 | | | | 400.00 |
| | 3/17 | 3/20 | Dominican Republic | 459.00 | 37.55 | | 373.22 | 869.77 |
| Military transportation | | | | | 2,432.57 | | | 2,432.57 |
| N. Mims | 2/11 | 2/14 | France | 660.00 | | | | 660.00 |
| | 2/14 | 2/17 | Belgium | 600.00 | | | | 600.00 |
| Military transportation | | | | | 425.70 | | | 425.70 |
| Commercial transportation | | | | | 2,339.20 | | | 2,339.20 |
| S. Morrison | 1/11 | 1/24 | Sudan | 1,660.00 | | | | 1,660.00 |
| | 1/24 | 1/30 | Ethiopia | 835.00 | | | | 835.00 |
| | 1/31 | 2/2 | Holland | 350.00 | | | | 350.00 |
| | 2/2 | 2/3 | United Kingdom | 223.00 | | | | 223.00 |
| Commercial transportation | | | | | 4,918.00 | | | 4,918.00 |
| Total | | | | 5,737.00 | 12,989.64 | | 373.22 | 19,099.86 |
| R. S. Oliver | 2/9 | 2/13 | France | 888.00 | | | | 88.00 |
| | 2/13 | 2/17 | Belgium | 800.00 | | | | 800.00 |
| Commercial transportation | | | | | 2,870.00 | | | 2,870.00 |
| R. S. Oliver | 3/23 | 3/26 | Soviet Union | 550.00 | | | | 550.00 |
| Military transportation | | | | | 524.62 | | | 524.62 |
| Commercial transportation | | | | | 2,312.00 | | | 2,312.00 |
| Hon. W. Owens | 2/9 | 2/16 | Soviet Union | 1,200.000 | 989.60 | | 267.79 | 2,457.39 |
| | 2/16 | 2/17 | France | 172.00 | | | | 172.00 |
| | 2/17 | 2/18 | Israel | 182.00 | | | 211.00 | 393.00 |
| | 2/18 | 2/19 | Egypt | 80.02 | | | | 80.02 |
| | 2/19 | 2/20 | Israel | 182.00 | | | | 182.00 |
| Commercial transportation | | | | | 4,019.93 | | | 4,019.93 |
| B. Paolo | 3/4 | 3/7 | Israel | 728.00 | | | | 728.00 |
| | 3/7 | 3/8 | France | 222.00 | | | | 222.00 |
| Commercial transportation | | | | | 5,178.00 | | | 5,178.00 |
| Total | | | | 5,004.02 | 15.894.15 | | 478.79 | 21,376.96 |
| Hon. D. Payne | 3/15 | 3/17 | Saint Lucia | 400.00 | | | | 400.00 |
| | 3/17 | 3/20 | Dominican Republic | 459.00 | 37.55 | | 373.22 | 869.77 |
| Military transportation | | | | | 2,432.57 | | | 2,432.77 |
| K. Peel | 1/7 | 1/9 | United Kingdom | 434.00 | | | | 434.00 |
| | 1/9 | 1/20 | West Germany | 1,592.50 | | | | 1,592.50 |
| Commercial transportation | | | | | 4,956.00 | | | 4,956.00 |
| A. Roberts | 2/11 | 2/14 | France | 660.00 | | | | 660.00 |
| | 2/14 | 2/17 | Belgium | 600.00 | | | | 600.00 |
| Military transportation | | | | | 3,452.90 | | | 3,452.90 |
| Commericial transporttion | | | | | 1,168.60 | | | 1,168.60 |
| A. Roberts | 3/27 | 3/29 | United Kingdom | 669.00 | | | | 669.00 |
| Commericial transportation | | | | | 4,377.00 | | | 4,377.00 |
| Total | | | | 4,814.50 | 16,424.62 | | 373.22 | 21,612.34 |
| S. Roth | 1/4 | 1/10 | United Kingdom | 1,302.00 | 723.12 | | | 2,025.12 |
| | 1/10 | 1/12 | Belgium | [3] 200.00 | | | | 200.00 |
| | 1/12 | 1/14 | East Germany | 398.00 | | | | 398.00 |
| | 1/14 | 1/17 | West Germany | 396.00 | 58.68 | | | 454.68 |
| | 1/17 | 1/19 | France | 444.00 | | | 418.62 | 862.62 |
| | 1/19 | 1/20 | Czechoslovakia | 196.00 | | | | 196.00 |
| Commercial transportation | | | | | 4,285.00 | | | 4,285.00 |
| E. Schwartz | 12/16 | 12/19 | Pakistan | 343.00 | | | | 343.00 |
| | 12/19 | 12/21 | Nepal | 75.00 | | | | 75.00 |
| | 12/21 | 1/5 | India | [3] 1,046.00 | | | | 1,046.00 |
| | 12/28 | 12/31 | Sri Lanka | [3] 76.71 | | | | 76.71 |
| Commercial transportation | | | | | 4,149.00 | | | 4,149.00 |
| Total | | | | 4,476.71 | 9,215.80 | | 418.62 | 14,111.13 |
| M. Sletzinger | 1/8 | 1/11 | United Kingdom | 651.00 | | | | 651.00 |
| | 1/11 | 1/13 | Czechoslovakia | 392.00 | | | | 392.00 |
| | 1/13 | 1/17 | Austria | 748.00 | | | | 748.00 |
| Military transportation | | | | | 4,666.50 | | | 4,666.50 |
| Commercial transportation | | | | | 1,508.00 | | | 1,508.00 |
| Hon. C. Smith | 2/12 | 2/14 | Siwitzerland | 400.00 | | | | 400.00 |
| | 2/14 | 2/16 | Romania | 336.00 | | | | 336.00 |
| Commerical transportation | | | | | 2,804.00 | | | 2,804.00 |
| Hon. L. Smith | 2/11 | 2/14 | France | 660.00 | | | | 660.00 |
| | 2/14 | 2/16 | Belgium | 400.00 | | | | 400.00 |
| Military transportation | | | | | 7,047.00 | | | 7,047.70 |
| Hon. S. Smith | 1/3 | 1/7 | Saudi Arabia | 567.00 | | | | 567.00 |
| | 1/7 | 1/8 | Bahrain | 144.00 | | | | 144.00 |
| | 1/8 | 1/12 | United Arab Emirates | 482.00 | | | | 482.00 |
| | 1/12 | 1/14 | Kuwait | 386.00 | | | | 386.00 |
| Total | | | | 5,166.00 | 16,026.20 | | | 21,192.20 |
| | 1/14 | 1/16 | Iraq | [3] 185.12 | 96.00 | | | 281.12 |
| | 1/16 | 1/18 | United Kingdom | 434.00 | | | | 434.00 |
| | 1/18 | 1/20 | France | 444.00 | | | 101.66 | 545.66 |
| Commercial transportation | | | | | 4,923.00 | | | 4,923.00 |
| | 3/2 | 3/2 | Germany | 137.00 | | | | 137.00 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 3/2 | 3/3 | France | 222.00 | | | | 222.00 |
| Commercial transportation | | | | | 4,463.00 | | | 4,463.00 |
| Hon. O. Snowe | 2/3 | 2/26 | Nicaragua | 296.25 | | | | 296.25 |
| Military transportation | | | | | 654.94 | | | 654.94 |
| Hon. S. Solarz | 12/16 | 12/19 | Pakistan | 343.00 | | | 31.00 | 374.00 |
| | 12/19 | 12/21 | Nepal | 75.00 | | | | 75.00 |
| | 12/21 | 12/23 | India | 281.16 | | | | 281.16 |
| | 12/29 | 12/31 | Sri Lanka | 100.00 | | | | 100.00 |
| | 12/31 | 1/5 | India | 285.00 | | | | 285.00 |
| Total | | | | 2,803.03 | 10,136.94 | | 132.66 | 13,072.63 |
| | 1/5 | 1/10 | United Kingdom | 1,085.00 | 723.12 | | | 1,808.12 |
| | 1/10 | 1/12 | Belgium | 200.00 | | | | 200.00 |
| | 1/12 | 1/14 | East Germany | 398.00 | | | | 398.00 |
| | 1/14 | 1/17 | West Germany | 396.00 | | | | 396.00 |
| | 1/17 | 1/19 | France | 444.00 | | | | 444.00 |
| | 1/19 | 1/20 | Czechoslovakia | 196.00 | | | 26.00 | 222.00 |
| Commercial transportation for December and January trip. | | | | | 6,559.00 | | | 6,559.00 |
| | 2/9 | 2/11 | El Salvador | 254.00 | | | | 254.00 |
| | 2/11 | 2/14 | Nicaragua | 290.00 | | | | 290.00 |
| | 2/14 | 2/14 | Costa Rica | 164.00 | | | | 164.00 |
| | 2/14 | 2/16 | Panama | 364.00 | | | 194.95 | 558.95 |
| Commercial transportation | | | | | 1,213.00 | | | 1,213.00 |
| I. Spalatin | 1/18 | 1/21 | Hungary | 522.00 | | | | 522.00 |
| | 1/21 | 1/26 | Soviet Union | 900.00 | | | | 900.00 |
| Commercial transportation | | | | | 4,614.00 | | | 4,614.00 |
| Total | | | | 5,213.00 | 13,109.12 | | 220.95 | 18,543.07 |
| M. Tavlarides | 2/9 | 2/13 | Switzerland | 828.00 | | | | 828.00 |
| Commercial transportation | | | | | 4,284.00 | | | 4,284.00 |
| Hon. R. Torricelli | 1/5 | 1/7 | France | 444.00 | | | 325.00 | 769.00 |
| | 1/7 | 1/9 | Germany | 398.00 | | | | 398.00 |
| | 1/9 | 1/10 | Czechoslovakia | 196.00 | 391.00 | | | 587.00 |
| | 1/10 | 1/11 | France | 222.00 | | | | 222.00 |
| | 1/11 | 1/14 | Zaire | 903.00 | | | | 903.00 |
| Commercial transportation | | | | | 4,535.80 | | | 4,535.80 |
| T. Verstandig | 1/7 | 1/11 | Spain | 1,063.00 | | | 86.64 | 1,149.64 |
| | 1/12 | 1/16 | France | 1,110.00 | 35.00 | | 70.00 | 1,215.00 |
| Commercial transportation | | | | | 4,473.00 | | | 4,473.00 |
| J. Weber | 2/11 | 2/14 | France | 660.00 | | | | 660.00 |
| | 2/14 | 2/17 | Belgium | 600.00 | | | | 600.00 |
| Military transportation | | | | | 425.70 | | | 425.70 |
| Commercial transportation | | | | | 2,339.20 | | | 2,339.20 |
| Total | | | | 6,424.00 | 16,483.70 | | 481.64 | 23,389.34 |
| D. Weiner | 1/17 | 1/11 | United Kingdom | 868.00 | | | | 868.00 |
| Commercial transportation | | | | | 3,042.00 | | | 3,042.00 |
| P. Weir | 3/15 | 3/17 | Saint Lucia | 400.00 | | | | 400.00 |
| | 3/17 | 3/20 | Dominican Republic | 339.00 | 37.55 | | 373.22 | 749.77 |
| Military transportation | | | | | 2,432.57 | | | 2,432.57 |
| S. Weissman | 1/3 | 1/8 | United Kingdom | 434.00 | | | 57.30 | 491.30 |
| | 1/13 | 1/14 | United Kingdom | | | | | |
| | 1/4 | 1/9 | South Africa | 730.00 | | | | 730.00 |
| | 1/9 | 1/12 | Zimbabwe | 532.00 | | | 8.69 | 540.69 |
| Commercial transportation | | | | | 6,185.00 | | | 6,185.00 |
| K. Wilkens | 1/7 | 1/11 | United Kingdom | 900.18 | | | | 900.18 |
| Commercial transportation | | | | | 3,042.00 | | | 3,042.00 |
| Total | | | | 4,203.18 | 14,739.12 | | 439.21 | 9.381.51 |
| R. Wilson | 1/5 | 1/11 | United Kingdom | 1,156.00 | 99.77 | | 62.00 | 1,317.77 |
| | 1/11 | 1/13 | Czechoslovakia | 392.00 | | | | 392.00 |
| | 1/13 | 1/16 | Austria | 561.00 | | | | 561.00 |
| | 1/16 | 1/17 | Italy | 215.00 | | | | 215.00 |
| | 1/17 | 1/21 | Portugal | 870.00 | | | | 870.00 |
| | 1/22 | 1/26 | Spain | 844.00 | | | | 844.00 |
| Commercial transportation | | | | | 3,867.00 | | | 3,867.00 |
| Military transportation | | | | | 1,555.50 | | | 1,555.50 |
| Hon. H. Wolpe | 1/3 | 1/3 | United Kingdom | 217.00 | | | 57.30 | 274.30 |
| | 1/4 | 1/9 | South Africa | 730.00 | | | 81.95 | 811.95 |
| | 1/9 | 1/11 | Zimbabwe | 380.00 | 8.69 | | | 388.69 |
| Commercial transportation | | | | | 6,385.00 | | | 6,385.00 |
| Total | | | | 5,365.00 | 11,915.96 | | 201.25 | 17,482.21 |
| Grand Total for 1st quarter | | | | | | | | 488,788.25 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refund of unused per diem.

DANTE B. FASCELL, Chairman, Apr. 30, 1990.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| John Cullather | 6/18 | 6/21 | England | 337.88 | 507.00 | 8.00 | [3] 12.00<br>[4] 3,039.00 | | | | 3,558.00 |
| James K. McCallum | 6/11 | 6/18 | Scotland | 450.62 | 705.00 | 11.30 | [3] 17.68<br>[4] 3,217.00 | | | | 3,939.68 |
| Brian J. O'Malley | 4/20 | 4/22 | France | 4,101.30 | 651.00 | | [5] | | | | |
| | 4/23 | 4/24 | England | | 226.00 | | [5] | | | | 877.00 |
| Committee total | | | | | 2,089.00 | | 6,285.68 | | | | 8,374.68 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Ground transportation.
[4] Commercial airfare.
[5] Military transportation provided by DOD.

WALTER B. JONES, Chairman, May 9, 1990.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Richard J. Daschbach | 7/16 | 7/20 | Switzerland | 1,104.68 | 684.00 | | [3] 2,380.70 | | | | 3,064.78 |
| Thomas O. Melius | 8/21 | 8/23 | Canada | | 250.00 | | [3] 312.68 | | | | 562.68 |
| Committee total | | | | | 934.00 | | 2,693.46 | | | | 3,627.46 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial airfare.

WALTER B. JONES, Chairman, May 9, 1990.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Donald J. Barry | 10/7 | 10/21 | Switzerland | | [3] 2,500.00 | | [4] 2,417.00 | | | | 4,917.00 |
| Joan M. Bondareff | 10/10 | 10/15 | Yugoslavia | | [3] 900.00 | | [4] 2,651.00 | | | | |
| | 10/15 | 10/20 | France | 6,534.70 | 1,010.00 | | | | | | 4,561.00 |
| Hon. Jim Bunning | 10/27 | 10/28 | Panama | | 116.00 | | ([5]) | | | | |
| | 10/28 | 10/29 | Nicaragua | | 190.00 | | | | | | |
| | 10/29 | 10/30 | El Salvador | | 127.00 | | | | | | 433.00 |
| Gina DeFerrari | 10/7 | 10/18 | Switzerland | | [3] 2,500.00 | | [4] 2,417.00 | | | | 4,917.00 |
| James K. McCallum | 11/12 | 11/18 | Madeira | | [3] 800.00 | | 2,564.00 | | | | |
| | | | | | [6] 91.22 | | [7] 18.00 | | | | 3,473.22 |
| Thomas O. Melius | 10/6 | 10/21 | Switzerland | | [3] 2,500.00 | | [4] 2,417.00 | | | | 4,917.00 |
| Charles O. Moore | 10/1 | 10/6 | Switzerland | 258.93 | 948.00 | | [4] 2,464.00 | | | | |
| | | | | | | | [7] 53.09 | | | | 3,465.09 |
| Brian J. O'Malley | 12/14 | 12/15 | West Germany | 334.06 | 191.00 | | ([5]) | | | | |
| | 12/15 | 12/16 | Czechoslovakia | 939.00 | 146.00 | | | | | | 337.00 |
| Jeffrey R. Pike | | 11/17 | Madeira | | [3] 700.00 | | [4] 2,564.00 | | | | 3,264.00 |
| Committee total | | | | | 12,719.22 | | 17,565.09 | | | | 30,284.31 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Cash advance issued by State Department.
[4] Commercial airfare.
[5] Military transportation provided by Department of Defense.
[6] Official telephone expenses—reimbursement.
[7] Ground transportation.

WALTER B. JONES, Chairman, May 9, 1990.

## REPORT OF EXPENDITURES FOR OFFICIAL TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Barbara L. Cavas | 3/1 | 3/2 | Panama | | [3] 9.00 | | [4] 7,336.11 | | | | 7,345.11 |
| Hon. Roy Dyson | 3/1 | 3/2 | Panama | | [3] 9.00 | | [4] 7,336.11 | | | | 7,345.11 |
| Hon. Dennis Hertel | 3/1 | 3/2 | Panama | | [3] 9.00 | | [4] 7,336.11 | | | | 7,345.11 |
| Brian J. O'Malley | 3/1 | 3/2 | Panama | | [3] 9.00 | | [4] 7,336.11 | | | | 7,345.11 |
| Charles R. Ulrich | 3/1 | 3/2 | Panama | | [3] 9.00 | | [4] 7,336.11 | | | | 7,345.11 |
| David S. Whaley | 3/1 | 3/2 | Panama | | [3] 9.00 | | [4] 7,336.11 | | | | 7,345.11 |
| Committee total | | | | | 54.00 | | 44,016.66 | | | | 44,070.66 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Cost of housing at Panama Canal Commission Headquarters; paid by Department of Defense.
[4] Prorated share of military transportation provided by Department of Defense.

WALTER B. JONES, Chairman, May 9, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Ben Jones | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | 47.07 | | 209.07 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |
| | 1/5 | 1/7 | Czechoslovakia | | 392.00 | | | | 74.59 | | 466.59 |
| | 1/7 | 1/10 | Poland | | 375.00 | | | | | | 375.00 |
| | 1/10 | 1/12 | Germany | | 398.00 | | | | 95.60 | | 493.60 |
| Military transportation | | | | | | | 7,876.67 | | | | 7,876.67 |
| Hon. Ben Jones | 2/23 | 2/26 | Nicaragua | | | | | | | | |
| Military transportation | | | | | | | 424.23 | | | | 424.23 |
| Committee totals | | | | | 1,675.00 | | 8,300.90 | | 217.26 | | 10,193.16 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

GLENN M. ANDERSON, Chairman, Apr. 30, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Robert A. Roe | 12/27 | 1/1 | Germany | 634.96 | 955.00 | | | | | 1,634.96 | 955.00 |
| | 1/1 | 1/3 | Austria | 9,125.60 | 748.00 | | | | | 9,125.60 | 748.00 |
| | 1/3 | 1/3 | Hungary | 5,535.80 | 87.00 | | | | | 5,435.80 | 87.00 |
| | 1/3 | 1/5 | Austria | | | | | | | | |
| Commercial air | | | | | | | 587.00 | | | | 587.00 |
| Military air | | | | | | | 1,126.67 | | | | 1,126.67 |
| Robert W. Maitlin | 12/27 | 1/1 | Germany | 1,634.96 | 955.00 | | | | | 1,634.96 | 955.00 |
| | 1/1 | 1/3 | Austria | 9,125.60 | 748.00 | | | | | 9,125.60 | 748.00 |
| | 1/3 | 1/3 | Hungary | 5,435.80 | 87.00 | | | | | 5,435.80 | 87.00 |
| | 1/3 | 1/5 | Austria | | | | | | | | |
| Commercial air | | | | | | | 707.00 | | | | 707.00 |
| Military air | | | | | | | 1,126.67 | | | | 1,126.67 |
| James R. Miller | 12/27 | 1/1 | Germany | 1,634.96 | 955.00 | | | | | 1,634.96 | 955.00 |
| | 1/1 | 1/3 | Austria | 9,125.60 | 748.00 | | | | | 9,125.60 | 748.00 |
| | 1/3 | 1/3 | Hungary | 5,435.80 | 87.00 | | | | | 5,435.80 | 87.00 |
| | 1/3 | 1/5 | Austria | | | | | | | | |
| Commercial air | | | | | | | 707.00 | | | | 707.00 |
| Military air | | | | | | | 1,126.67 | | | | 1,126.67 |
| Hon. Ron Packard | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | 47.07 | | 209.07 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |
| | 1/5 | 1/7 | Czechoslovakia | | 392.00 | | | | 74.59 | | 466.59 |
| | 1/7 | 1/0 | Poland | | 375.00 | | | | | | 375.00 |
| | 1/10 | 1/12 | Germany | | 398.00 | | | | 95.60 | | 493.60 |
| Military air | | | | | | | 7,876.67 | | | | 7,876.67 |
| Hon. Constance A. Morella | 1/3 | 1/3 | England | | 217.00 | | | | | | 217.00 |
| | 1/4 | 1/9 | South Africa | | 730.00 | | | | | | 730.00 |
| | 1/9 | 1/11 | Zimbabwe | | 380.00 | | | | 57.30 | | 437.30 |
| Commercial air | | | | | | | 6,185.00 | | | | 6,185.00 |
| Hon. James H. Scheuer | 1/3 | 1/7 | Israel | | 728.00 | | | | 40.35 | | 768.35 |
| | 1/7 | 1/10 | Egypt | 1,241.82 | 481.70 | | | | | 1,241.82 | 481.70 |
| | 1/10 | 1/12 | Jordan | 277.09 | 410.50 | | | 53.02 | 78.57 | 330.11 | 489.07 |
| | 1/12 | 1/14 | Austria | 4,450.60 | 374.00 | | | 1,225.00 | 103.79 | 5,675.60 | 477.79 |
| Commercial air | | | | | | | 4,859.00 | | | | 4,859.00 |
| Michael Rodemeyer | 1/3 | 1/7 | Israel | | 728.00 | | | | 40.35 | | 768.35 |
| | 1/7 | 1/10 | Egypt | 1,241.82 | 481.70 | | | | | 1,241.82 | 481.70 |
| | 1/10 | 1/12 | Jordan | 277.09 | 410.50 | | | 53.02 | 78.57 | 330.11 | 489.07 |
| | 1/12 | 1/14 | Austria | 4,450.60 | 374.00 | | | 1,225.00 | 103.79 | 5,675.60 | 477.79 |
| Commercial air | | | | | | | 3,551.00 | | | | 3,551.00 |
| Regina M. Gorman | 1/3 | 1/7 | Israel | | 728.00 | | | | 40.35 | | 768.35 |
| | 1/7 | 1/10 | Egypt | 1,241.82 | 481.70 | | | | | 1,241.82 | 481.70 |
| | 1/10 | 1/12 | Jordan | 277.09 | 410.50 | | | 53.02 | 78.57 | 330.11 | 489.07 |
| | 1/12 | 1/14 | Austria | 4,450.60 | 374.00 | | | 1,225.00 | 103.79 | 5,675.60 | 477.79 |
| Commercial air | | | | | | | 3,474.00 | | | | 3,474.00 |
| Robert E. Palmer | 1/17 | 1/19 | Singapore | 827.03 | 438.00 | | | | | 827.03 | 438.00 |
| | 1/19 | 1/21 | Hong Kong | 4,921.60 | 630.00 | | | | | 4,921.60 | 630.00 |
| Commercial air | | | | | | | 3,165.00 | | | | 3,165.00 |
| John D. Holmfeld | 3/10 | 3/15 | Germany | 1,745.24 | 1,023.00 | | | | 89.35 | 1,745.24 | 1,112.35 |
| | 3/15 | 3/18 | Portugal | 79,200.00 | 528.00 | | | | | 79,200.00 | 528.00 |
| Commercial air | | | | | | | 3,170.00 | | | | 3,170.00 |
| Ronald E. Williams | 3/9 | 3/17 | Germany | 2,424.23 | 1,421.00 | | | | 128.59 | 2,424.23 | 1,549.59 |
| Commercial air | | | | | | | 2,604.00 | | | | 2,604.00 |
| Committee total | | | | | 18,394.60 | | 40,265.68 | | 1,160.63 | | 59,820.91 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT A. ROE, Chairman, Apr. 30, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON VETERANS AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 30, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Bob McEwen | 1/5 | 1/11 | United Kingdom | | $1,156.00 | | | | | | $1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON VETERANS AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 30, 1990—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| | 1/13 | 1/17 | Austria | | 748.00 | | | | | | 748.00 |
| Army | | | | | | | 5,055.38 | | | | 5,055.38 |
| Committee total | | | | | 2,296.00 | | 5,055.38 | | | | 7,351.38 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

G.V. MONTGOMERY, Chairman, Apr. 26, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Bill Frenzel | 1/5 | 1/11 | United Kingdom | 718.37 | 1,156.00 | | | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | | 748.00 | | | | | | 748.00 |
| Military transportation | | | | | | | 5,055.38 | | | | 5,055.38 |
| Hon. Sam Gibbons | 1/5 | 1/11 | United Kingdom | | 1,156.00 | | | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | | 748.00 | | | | | | 748.00 |
| Military transportation | | | | | | | 5,055.38 | | | | 5,055.38 |
| Hon. Frank Guarini | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | 47.07 | | 209.07 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |
| | 1/5 | 1/7 | Czechoslovakia | | 392.00 | | | | 74.59 | | 466.59 |
| | 1/7 | 1/10 | Poland | | 375.00 | | | | | | 375.00 |
| | 1/10 | 1/12 | Germany | | 398.00 | | | | 95.60 | | 493.60 |
| Military transportation | | | | | | | 7,876.67 | | | | 7,876.67 |
| Hon. Nancy Johnson | 1/2 | 1/3 | Yugoslavia | | 162.00 | | | | 47.07 | | 209.07 |
| | 1/3 | 1/5 | Hungary | | 348.00 | | | | | | 348.00 |
| | 1/5 | 1/7 | Czechoslovakia | | 392.00 | | | | 74.59 | | 466.59 |
| | 1/7 | 1/10 | Poland | | 250.00 | | | | | | 250.00 |
| Military transportation | | | | | | | 4,071.67 | | | | 4,071.67 |
| Commercial transportation | | | | | | | 1,598.00 | | | | 1,598.00 |
| Hon. Jim Moody | 1/14 | 1/17 | Austria | 6,675.90 | 561.00 | | | | | | 561.00 |
| | 1/18 | 1/19 | Switzerland | 309.05 | 207.00 | | | | | | 207.00 |
| | 1/22 | 1/23 | Morocco | 2,630.43 | 326.00 | | | | | | 326.00 |
| Commercial transportation | | | | | | | 3,252.00 | | | | 3,252.00 |
| Hon. Don Pease | 1/5 | 1/11 | United Kingdom | | 1,156.00 | | | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | | 748.00 | | | | | | 748.00 |
| Military transportation | | | | | | | 5,055.38 | | | | 5,055.38 |
| Hon. William Thomas | 1/5 | 1/11 | United Kingdom | | 1,156.00 | | | | | | 1,156.00 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | | 748.00 | | | | | | 748.00 |
| Military transportation | | | | | | | 5,055.38 | | | | 5,055.38 |
| Thelma Askey | 1/6 | 1/9 | United Kingdom | 404.54 | 651.00 | | | | | | 651.00 |
| | 1/9 | 1/11 | Belgium | 14,240 | 400.00 | | | | | | 400.00 |
| | 1/11 | 1/13 | Switzerland | 631.35 | 414.00 | | | | | | 414.00 |
| Commercial transportation | | | | | | | 3,000.57 | | | | 3,000.57 |
| Charles Brain | 1/6 | 1/9 | United Kingdom | 404.54 | 651.00 | | | | | | 651.00 |
| | 1/9 | 1/11 | Belgium | 14,240 | 400.00 | | | | | | 400.00 |
| | 1/11 | 1/13 | Switzerland | 631.35 | 414.00 | | | | | | 414.00 |
| Commercial transportation | | | | | | | 3,000.57 | | | | 3,000.57 |
| Robert Leonard | 1/7 | 1/9 | United Kingdom | 269.70 | 434.00 | | | | | | 434.00 |
| | 1/9 | 1/11 | Belgium | 14,240 | 400.00 | | | | | | 400.00 |
| | 1/11 | 1/13 | Switzerland | 631.35 | 414.00 | | | | | | 414.00 |
| Commercial transportation | | | | | | | 3,000.57 | | | | 3,000.57 |
| Phillip Moseley | 1/6 | 1/9 | United Kingdom | 404.54 | 651.00 | | | | | | 651.00 |
| | 1/9 | 1/11 | Belgium | 14,240 | 400.00 | | | | | | 400.00 |
| | 1/11 | 1/13 | Switzerland | 631.35 | 414.00 | | | | | | 414.00 |
| Commercial transportation | | | | | | | 3,000.57 | | | | 3,000.57 |
| Janet Nuzum | 3/20 | 3/28 | Switzerland | 2,918.52 | 1,935.00 | | 2,420.00 | | 126.84 | | 4,481.84 |
| Frank Phifer | 1/6 | 1/11 | United Kingdom | 674.25 | 1,085.00 | | 35.40 | | | | 1,120.40 |
| | 1/11 | 1/13 | Czechoslovakia | | 392.00 | | | | | | 392.00 |
| | 1/13 | 1/17 | Austria | 8,901.20 | 748.00 | | | | | | 748.00 |
| Commercial transportation | | | | | | | 1,743.00 | | | | 1,743.00 |
| Military transportation | | | | | | | 4,666.50 | | | | 4,666.50 |
| | 1/21 | 1/26 | Canada | | 900.00 | | 382.60 | | | | 1,282.60 |
| Brenda Swygert | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 187.87 | | 884.32 |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| George Weise | 1/9 | 1/11 | Belgium | 14,240 | 400.00 | | | | | | 400.00 |
| | 1/7 | 1/9 | United Kingdom | 269.70 | 434.00 | | | | | | 434.00 |
| | 1/11 | 1/13 | Switzerland | 631.35 | 414.00 | | | | | | 414.00 |
| Commercial transportation | | | | | | | 3,000.57 | | | | 3,000.57 |
| Committee total | | | | | 26,586.00 | | 71,480.78 | | 1,115.08 | | 99,181.86 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Apr. 24, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Robert Spencer Oliver | 2/7 | 2/10 | Austria | | 426.00 | | | | | | 426.00 |
| Representative Bill Richardson | 3/17 | 3/18 | Germany | | 414.00 | | 5,814.00 | | | | 6,228.00 |
| Erika B. Schlager | 3/17 | 3/18 | Germany | | 414.00 | | 5,814.00 | | | 6,228.00 | |
| Jane S. Fisher | 3/17 | 3/18 | Germany | | 414.00 | | 2,616.00 | | | | 3,030.00 |
| Samuel G. Wise | 3/17 | 3/18 | Germany | | 414.00 | | 2,616.00 | | | | 3,030.00 |
| Committee total | | | | | 2,082.00 | | 16,860.00 | | | | 18,942.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY H. HOYER, Chairman, Apr. 30, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Charles Wilson | 1/2 | 1/12 | Europe | | 2,725.00 | | | | 124.57 | | 2,849.57 |
| Commercial airfare | | | | | | | 3,310.00 | | | | 3,310.00 |
| Richard H. Giza, staff | 1/2 | 1/13 | Europe | | 2,725.00 | | | | 124.57 | | 2,849.57 |
| Commercial airfare | | | | | | | 4,597.00 | | | | 4,597.00 |
| Hon. Bill Richardson | 1/26 | 1/28 | Central America | | 380.00 | | | | | | 380.00 |
| Military aircraft | | | | | | | 473.00 | | | | 473.00 |
| Bernard Raimo, staff | 2/10 | 2/16 | Africa | | 701.00 | | | | | | 701.00 |
| Commercial airfare | | | | | | | 4,548.00 | | | | 4,548.00 |
| Stephen D. Nelson, staff | 2/10 | 2/14 | Africa | | 701.00 | | | | | | 701.00 |
| | 2/15 | 2/17 | Europe | | 344.00 | | | | | | 344.00 |
| Commercial airfare | | | | | | | 4,548.00 | | | | 4,548.00 |
| Calvin R. Humphrey, staff | 2/10 | 2/14 | Africa | | 701.00 | | | | | | 701.00 |
| | 2/15 | 2/18 | Europe | | 516.00 | | | | | | 516.00 |
| Commercial airfare | | | | | | | 4,548.00 | | | | 4,548.00 |
| Hon. Bill Richardson | 2/23 | 2/26 | Central America | | 420.00 | | | | | | 420.00 |
| Military aircraft | | | | | | | 424.22 | | | | 424.22 |
| Hon. Bill Richardson | 3/17 | 3/19 | Europe | | 414.00 | | | | | | 414.00 |
| Military aircraft | | | | | | | 5,814.00 | | | | 5,814.00 |
| John G. Keliher, staff | 3/17 | 3/19 | Europe | | 414.00 | | | | | | 414.00 |
| Military aircraft | | | | | | | 5,814.00 | | | | 5,814.00 |
| Lawrence B. Prior III, staff | 3/22 | 3/26 | Europe | | 550.00 | | | | | | 550.00 |
| Commercial airfare | | | | | | | 2,312.00 | | | | |
| Military aircraft | | | | | | | 524.62 | | | | 2,836.62 |
| Committee total | | | | | 10,591.84 | | 36,912.84 | | 249.14 | | 47,752.98 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ANTHONY C. BEILENSON, Chairman, Apr. 27, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Charles B. Rangel, MC | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Commercial transportation | | | | | | | 2,296.00 | | | | 2,296.00 |
| Military transportation | | | | | | | 5,930.36 | | | | 5,930.36 |
| Lawrence Coughlin, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| Stan Parris, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| Jim Inhofe, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| Jim Sensenbrenner, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| Wally Herger, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| Edward H. Jurith, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| Nancy Hobbs, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1990—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| Rebecca Hedlund, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Military transportation | | | | | | | 7,716.59 | | | | 7,726.59 |
| Melanie Young, MC | 1/4 | 1/7 | Korea | | 600.00 | | 35.00 | | 202.60 | | 837.60 |
| | 1/7 | 1/9 | Hong Kong | | 420.00 | | 78.14 | | 258.85 | | 756.99 |
| | 1/9 | 1/12 | Thailand | | 510.00 | | 186.45 | | 186.87 | | 883.32 |
| Military transportation | | | | | | | 9,910.98 | | | | 9,910.98 |
| Committee total | | | | | 14,700.00 | | 98,191.69 | | 6,280.60 | | 119,182.29 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLES B. RANGEL, Chairman, Apr. 30, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CANADA—U.S. INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Peter DeFazio | 6/1 | 6/5 | Canada | | 474.57 | | 328.17 | | | | 802.74 |
| Kika (E) de la Garza | 6/1 | 6/5 | Canada | | 447.49 | | 328.17 | | | | 775.66 |
| Sam Gejdenson, Chairman | 6/1 | 6/3 | Canada | | 231.32 | | 220.29 | | | | 451.61 |
| Frank Guarini | 6/1 | 6/4 | Canada | | 419.82 | | 220.29 | | | | 640.11 |
| John LaFalce | 6/1 | 6/2 | Canada | | 98.36 | | 220.29 | | | | 318.65 |
| Bill Paxon | 6/1 | 6/2 | Canada | | 225.67 | | 220.29 | | | | 445.96 |
| J.J. Pickle | 6/1 | 6/3 | Canada | | 453.36 | | 220.29 | | | | 673.65 |
| Mike Synar | 6/1 | 6/3 | Canada | | 410.64 | | 220.29 | | | | 630.93 |
| Frederick Upton | 6/1 | 6/5 | Canada | | 477.81 | | 328.17 | | | | 805.98 |
| James T. Walsh | 6/1 | 6/4 | Canada | | 326.18 | | 220.29 | | | | 546.47 |
| Stephen K. Berry | 6/1 | 6/5 | Canada | | 449.39 | | 328.17 | | | | 777.56 |
| Kathleen Bertelson | 6/1 | 6/5 | Canada | | 426.02 | | 328.17 | | | | 754.19 |
| Elizabeth Daoust | 6/1 | 6/5 | Canada | | 416.24 | | 328.17 | | | | 744.41 |
| | 12/6 | 12/8 | United States | | 371.95 | | 200.00 | | | | 571.95 |
| Deborah Hickey | 6/1 | 6/5 | Canada | | 456.96 | | 328.17 | | | | 785.13 |
| George Ingram | 6/1 | 6/5 | Canada | | 420.55 | | 328.17 | | | | 748.72 |
| | 12/7 | 12/8 | United States | | 271.35 | | 200.00 | | | | 471.35 |
| Walker Roberts | 6/1 | 6/5 | Canada | | 408.28 | | 328.17 | | | | 736.45 |
| John Schiebel | 6/1 | 6/5 | Canada | | 415.50 | | 328.17 | | | | 743.67 |
| Michael VanDusen | 6/1 | 6/5 | Canada | | 466.04 | | 328.17 | | | | 794.21 |
| Delegation expenses: | | | | | | | | | | | |
| Coffee for briefing 5/18/89 | | | | | | | | | 105.00 | | 105.00 |
| Inflight, control room, and miscellaneous expenses, tips, etc. | | | | | | | | | 369.31 | | 369.31 |
| Committee total | | | | | 7,667.50 | | 5,551.90 | | 474.31 | | 13,693.71 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SAM GEJDENSON, Chairman, Mar. 23, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO—U.S. INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Daniel K. Akaka | 4/27 | 5/1 | Mexico | | 467.26 | | [3] 597.53 | | | | 1,064.79 |
| Ronald D. Coleman | 4/27 | 5/1 | Mexico | | 416.30 | | [3] 597.53 | | | | 1,013.83 |
| E de la Garza | 4/27 | 5/1 | Mexico | | 1,188.48 | | [3] 597.53 | | | | 1,786.01 |
| David Dreier | 4/27 | 5/1 | Mexico | | 433.34 | | [3] 597.53 | | | | 1,030.87 |
| Sam Gejdenson | 4/27 | 5/1 | Mexico | | 490.03 | | [3] 597.53 | | | | 1,087.56 |
| Benjamin A. Gilman | 4/28 | 5/1 | Mexico | | 323.93 | | [4] 351.00 | | | | 674.93 |
| | | | | | | | [3] 254.39 | | | | 254.39 |
| Jim Kolbe | 4/27 | 5/1 | Mexico | | 445.97 | | [3] 597.53 | | | | 1,043.50 |
| Robert J. Lagomarsino | 4/27 | 5/1 | Mexico | | 414.00 | | [3] 597.53 | | | | 1,011.53 |
| George Miller | 4/28 | 5/1 | Mexico | | 325.68 | | [4] 478.00 | | | | 803.68 |
| | | | | | | | [3] 254.39 | | | | 254.39 |
| Charles Rangel | 4/28 | 4/30 | Mexico | | 207.00 | | [4] 507.00 | | | | 714.00 |
| Elliott Brown | 4/27 | 5/1 | Mexico | | 418.77 | | [3] 597.53 | | | | 1,016.30 |
| Elizabeth Daoust | 7/20 | 7/22 | United States | | 92.90 | | [4] 152.00 | | | | 244.90 |
| | 4/27 | 5/1 | Mexico | | 438.77 | | [3] 343.14 | | | | 781.91 |
| Xavier Equihua | 4/27 | 5/1 | Mexico | | 452.91 | | [3] 254.39 | | | | 707.30 |
| Ed Jurith | 4/27 | 4/30 | Mexico | | 310.50 | | [3] 343.14 | | | | 653.64 |
| Marshall Livingston | 4/27 | 5/1 | Mexico | | 432.31 | | [3] 397.53 | | | | 1,029.84 |
| Shelly Livingston | 7/20 | 7/22 | United States | | 105.52 | | [4] 152.00 | | | | 257.52 |
| | 4/27 | 5/1 | Mexico | | 447.16 | | [3] 343.14 | | | | 790.30 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO—U.S. INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1989—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Gerald Pitchford | 4/27 | 5/1 | Mexico | | 420.20 | | [3] 597.53 | | | | 1,017.73 |
| J. Walker Roberts | 4/27 | 5/1 | Mexico | | 417.18 | | [3] 597.53 | | | | 1,014.71 |
| Mark Tavlarides | 4/27 | 4/29 | Mexico | | 239.83 | | [3] 343.14 | | | | 582.97 |
| Delegation expenses: | | | | | | | | | | | |
| Control room, inflight, and interpreting expenses | | | | | | | | | 4,312.54 | | 4,312.54 |
| Stationery and administrative charges | | | | | | | | | 130.38 | | 130.38 |
| Official delegation functions | | | | | | | | | 2,008.14 | | 2,008.14 |
| Committee total | | | | | 8,488.04 | | 10,348.56 | | 6,451.06 | | 25,287.66 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Department of Defense.
[4] Commercial.

E de la GARZA, Chairman, Mar. 22, 1990.

REPORT ON EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO U.S.–EUROPEAN PARLIAMENT INTERPARLIAMENTARY EXCHANGE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1989

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| William Clinger | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | 24.30 | | 1,076.46 |
| Dr. James D. Ford, Chaplain | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Bill Frenzel | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Sam Gibbons, Cochairman | 9/22 | 9/24 | Los Angeles | | 180.00 | | 692.16 | | | | 872.16 |
| Benjamin A. Gilman, Cochairman | 9/22 | 9/24 | Los Angeles | | 180.00 | | 692.16 | | 19.80 | | 891.96 |
| Robert J. Lagomarsino | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | 10.75 | | 1,062.91 |
| Tom Lantos, Chairman | 9/22 | 9/24 | Los Angeles | | 180.00 | | 692.16 | | 14.70 | | 886.96 |
| Bob McEwen | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Donald Pease | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Thomas C. Sawyer | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Bill Richardson | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | 15.16 | | 1,067.32 |
| William Thomas | 9/22 | 9/24 | Los Angeles | | 120.00 | | 692.16 | | | | 812.16 |
| Esteban E. Torres | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | 82.51 | | 1,134.67 |
| Guy Vander Jagt | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Julie Armstrong | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | 26.51 | | 1,078.67 |
| Robert K. Boyer | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Elizabeth Daoust | 5/2 | 5/5 | Los Angeles | | 614.51 | | 472.80 | | | | 1,087.31 |
| | 8/4 | 8/5 | Chatauqua [3] | | 46.00 | | 199.00 | | | | 245.00 |
| | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Michael Ennis | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Beth Ford | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | 13.72 | | 1,065.88 |
| Frank Phifer | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Katherine Wilkens | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Russell Wilson | 9/22 | 9/24 | Los Angeles | | 360.00 | | 692.16 | | | | 1,052.16 |
| Interpretation expenses | | | | | | | | | 5,750.09 | | 5,750.09 |
| Ground transportation | | | | | | | | | 5,603.48 | | 5,603.48 |
| Official delegation function | | | | | | | | | 29,185.39 | | 29,185.39 |
| Official delegation expenses, 32d meeting (Paris, Jan. 6–10, 1989). | | | | | | | | | 457.59 | | 457.59 |
| Committee total | | | | | 7,800.51 | | 15,227.52 | | 41,204.00 | | 64,903.83 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] The expenditures for 1989 also include advance work done for both the 33d and the 35th annual meetings in Los Angeles and Chatauqua respectively.
[4] The expenditures for 1989 also include miscellaneous incidental official expenses incurred in connection with the 32d annual meeting held in Paris, France from January 6–10, 1989.

TOM LANTOS, Chairman, Apr. 26, 1990.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3186. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Norway for defense articles (Transmittal No. 90-33), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3187. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Denmark for defense articles (Transmittal No. 90-34), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3188. A letter from the Administrator, General Services Administration, transmitting the agency's 11th quarterly report on its administration of the Personal Property Donation Program and the identification and use of Federal real property to assist the homeless, pursuant to Public Law 100-77, section 501(e) (101 Stat. 510); to the Committee on Banking, Finance and Urban Affairs.

3189. A letter from the Secretary of Housing and Urban Development, transmitting a report on section 3 of the Housing and Urban Development Act of 1968; to the Committee on Banking, Finance and Urban Affairs.

3190. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Denmark for defense articles and services (Transmittal No. 90-34), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3191. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Norway for defense articles and services (Transmittal No. 90-33), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3192. A communication from the President of the United States, transmitting a copy of the President's determination that he has exercised the authority granted him under section 451(a)(1) of the Foreign Assistance Act of 1961, as amended, to provide

emergency assistance for Nicaragua, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on Foreign Affairs.

3193. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Robert E. Lamb, of Georgia, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Cyprus, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3194. A letter from the Secretary of Health and Human Services, transmitting a study on whether payments should be made under section 1886(d) of the Social Security Act to a hospital for administratively necessary days, pursuant to 42 U.S.C. 1935c; to the Committee on Ways and Means.

3195. A letter from the Chairman, Lower Mississippi Delta Development Commission, transmitting a final report on a 10-year strategic economic development plan for the lower Mississippi delta; jointy, to the Committees on Banking, Finance and Urban Affairs and Public Works and Transportation.

3196. A letter from the Chairman, Physician Payment Review Commission, transmitting a copy of recommendations on the Medicare volume performance standard for fiscal year 1991, pursuant to Public Law 101-239, section 6102(a) (103 Stat.; jointly, to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4205. A bill to authorize appropriations for fiscal year 1991 for the Maritime Administration, and for other purposes; with an amendment (Rept. 101-487). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORDON: Committee on Rules. House Resolution 394. Resolution providing for the consideration of H.R. 2273, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of disability (Rept. 101-488). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 395. Resolution providing for the consideration of H.R. 4636, a bill to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes (Rept. 101-489). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DYMALLY:

H.R. 4827. A bill to amend title 39, United States Code, to provide a means by which any municipality may elect to have its name included in all mailing addresses within its boundaries; to the Committee on Post Office and Civil Service.

By Mr. WHITTEN:

H.R. 4828. A bill making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes; to the Committee on Appropriations.

By Mr. DEFAZIO:

H.R. 4829. A bill to amend the Military Selective Service Act to prohibit registration and to halt the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System; to the Committee on Armed Services.

By Mr. FEIGHAN (for himself and Mr. MOAKLEY):

H.R. 4830. A bill to enhance the ability of law enforcement officers to combat violent crime in America by providing criminal and civil enforcement of standards established by the National Institute of Justice for body armor; to the Committee on the Judiciary.

By Mr. HILER:

H.R. 4831. A bill to amend the Internal Revenue Code of 1986 to deny the possessions tax credit for certain business operations relocated from the United States; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 4832. A bill to prohibit disposal of solid waste in any State other than the State in which the waste was generated; to the Committee on Energy and Commerce.

By Mr. MADIGAN:

H.R. 4833. A bill to amend the Internal Revenue Code of 1986 to treat as sale proceeds of a residence amounts paid by the Secretary of Defense representing the reduction in the value of the residence on account of a military base closing; to the Committee on Ways and Means.

By Mr. MAVROULES:

H.R. 4834. A bill to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts; to the Committee on Interior and Insular Affairs.

By Mr. MOODY (for himself, Mr. PRICE, and Mrs. LLOYD):

H.R. 4835. A bill to establish a grant program to provide health insurance information, counseling, and assistance to individuals eligible to receive benefits under title XVIII of the Social Security Act, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. MORRISON of Connecticut:

H.R. 4836. A bill to amend title 38, United States Code, to provide for adjustments on a State-by-State basis of income thresholds for eligibility for health care from the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. ROTH:

H.R. 4837. A bill to extend the temporary suspension of duty on power-driven weaving machines for weaving fabrics more than 4.9 meters in width; to the Committee on Ways and Means.

By Mrs. SAIKI:

H.R. 4838. A bill to prohibit the shipment of chemical munitions to Johnston Atoll for demilitarization or storage; to the Committee on Armed Services.

H.R. 4839. A bill to amend the Internal Revenue Code of 1986 to permit the use of an annual accrual method of accounting for the trade or business of farming bananas or pineapples; to the Committee on Ways and Means.

By Mr. WYDEN (for himself, Mr. WAXMAN, Mr. WALGREN, Mr. DINGELL, Mr. ROYBAL, Mr. SCHEUER, Mr. SIKORSKI, Mr. BATES, Ms. SLAUGHTER of New York, and Mrs. UNSOELD):

H.R. 4840. A bill to require Medicare supplemental insurance policies to meet standards relating to simplification, nonduplication, and minimum loss ratios, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MICHEL:

H. Con. Res. 330. Concurrent resolution to express the sense of the Congress that the States should make every effort to adopt a Victims of Crime Bill of Rights; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 41: Mr. DERRICK.
H.R. 51: Mr. SERRANO.
H.R. 132: Mr. SAXTON.
H.R. 446: Mr. TAUZIN, Mrs. SAIKI, and Mr. HORTON.
H.R. 523: Mr. JAMES.
H.R. 586: Mr. SERRANO.
H.R. 1180: Mr. OWENS of New York and Mr. SHAYS.
H.R. 1500: Mr. FRANK and Mr. FORD of Tennessee.
H.R. 1699: Mr. LAFALCE, Mr. WILLIAMS, and Mr. DEFAZIO.
H.R. 2041: Mr. PRICE.
H.R. 2353: Mr. GEREN and Mr. WYDEN.
H.R. 2460: Ms. SNOWE.
H.R. 2807: Mr. ALEXANDER, Mr. BONIOR, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. COOPER, Mr. DELAY, Mr. EARLY, Mr. GALLO, Mr. GEREN, Mr. LAUGHLIN, Mr. LIGHTFOOT, Mrs. MARTIN of Illinois, Mr. PAYNE of New Jersey, Mr. PICKETT, Mr. PURSELL, Mr. ROBERTS, Mr. SCHULZE, Mr. THOMAS of Wyoming, Mr. TORRICELLI, and Mr. WILLIAMS.
H.R. 3030: Mr. STEARNS.
H.R. 3595: Mr. STUMP and Mr. DELAY.
H.R. 3652: Mr. BRENNAN, Mr. FEIGHAN, and Mr. SHARP.
H.R. 3659: Mr. LANCASTER.
H.R. 3705: Mr. LEVINE of California and Mr. HARRIS.
H.R. 3711: Mr. GLICKMAN, Mr. BURTON of Indiana, and Mr. FLIPPO.
H.R. 3732: Mr. BRUCE, Mrs. JOHNSON of Connecticut, Mr. WHITTAKER, Mr. SMITH of New Jersey, Mr. PRICE, Mr. TAYLOR, Mr. BUNNING, and Mr. DEFAZIO.
H.R. 3768: Mr. DARDEN.
H.R. 3798: Mr. DREIER of California.
H.R. 3880: Mr. VALENTINE.
H.R. 3979: Mr. ENGEL.
H.R. 4000: Mr. BORSKI, Mr. CARPER, Mr. CONDIT, Mr. DICKS, Mr. DINGELL, Mr. ENGEL, Mr. HOAGLAND, Mr. LEHMAN of California, Mr. MANTON, Mr. MAZZOLI, Mr. OBERSTAR, Mr. PEASE, Mr. PERKINS, Mr. PRICE, Mr. SCHUMER, Mr. SERRANO, Mr. SHARP, Mr. SLATTERY, Mr. TORRICELLI, Mr. VENTO, Mr. WAXMAN, and Mr. YATRON.
H.R. 4042: Mr. HOCHBRUECKNER.
H.R. 4100: Mr. LIGHTFOOT and Mr. HUNTER.
H.R. 4224: Mr. FOGLIETTA, Mr. MINETA, Mr. MRAZEK, Mr. ROE, Mr. SAVAGE, Mr. WILLIAMS, Mr. FRANK, and Mr. KILDEE.
H.R. 4252: Mr. KILDEE.
H.R. 4254: Mr. NEAL of North Carolina, Mr. JONES of Georgia, and Mr. SUNDQUIST.
H.R. 4289: Mrs. COLLINS, Mr. ROWLAND of Connecticut, Mr. PAYNE of New Jersey, Mr.

RINALDO, Ms. PELOSI, Mr. LIPINSKI, Mr. ATKINS, Mr. OWENS of New York, Mr. WEISS, Mr. PALLONE, Mr. PANETTA, Mr. SCHEUER, Mr. FAUNTROY, and Mr. BENNETT.

H.R. 4322: Mr. KASICH.

H.R. 4330: Mr. BEILENSON, Mr. BERMAN, Mr. BOSCO, Mrs. BOXER, Mr. CONDIT, Mr. COYNE, Mr. DE LUGO, Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. FAZIO, Mr. FOGLIETTA, Mr. FRANK, Mr. HUGHES, Mr. LEHMAN of California, Mr. LEVINE of California, Mr. MARKEY, Mr. MATSUI, Mr. MAVROULES, Mr. MCDERMOTT, Mr. MINETA, Ms. PELOSI, Mr. RANGEL, Mr. ROYBAL, Mr. SAVAGE, Mr. SERRANO, Mr. SIKORSKI, Mr. SOLARZ, Mr. TOWNS, Mr. WAXMAN, and Mr. WISE.

H.R. 4365: Mr. ALEXANDER, Mr. BILIRAKIS, Mr. GEJDENSON, Mrs. MARTIN of Illinois, Mr. PAYNE of New Jersey, Mr. RITTER, Mr. ROWLAND of Georgia, Mr. SAVAGE, Mr. SCHUMER, Mr. SMITH of New Jersey, Mr. SMITH of New Hampshire, Mr. THOMAS of Wyoming, Mr. TORRICELLI, and Mr. WILLIAMS.

H.R. 4367: Mr. COLEMAN of Texas, Mr. NEAL of North Carolina, Mr. CAMPBELL of Colorado, Mr. LANCASTER, Mr. LEHMAN of Florida, Mr. DERRICK, Mr. RAVENEL, and Mr. PICKETT.

H.R. 4369: Mr. GUARINI, Mr. ROE, and Mr. WYDEN.

H.R. 4412: Mr. DWYER of New Jersey, Mr. ATKINS, Mr. WILSON, Mr. VENTO, Mr. MORRISON of Connecticut, Mr. MCNULTY, Mr. LANCASTER, Mr. KANJORSKI, Mr. ECKART, Mr. BUSTAMANTE, Mrs. BOXER, and Mr. LIPINSKI.

H.R. 4490: Mr. MARKEY, Mr. OWENS of New York, and Mr. OWENS of Utah.

H.R. 4496: Mr. MCDADE, Mr. FEIGHAN, Mr. CLINGER, Mr. KASTENMEIER, Mr. WHEAT, Mr. LANTOS, Mr. SIKORSKI, Mrs. LOWEY of New York, Mr. GONZALEZ, Mr. YATES, Mr. NEAL of Massachusetts, Mr. DURBIN, Mr. GEJDENSON, Mr. CARR, Mr. SMITH of Vermont, and Mr. RICHARDSON.

H.R. 4515: Mr. WHITTAKER, Mr. FAWELL, and Mr. FOGLIETTA.

H.R. 4531: Mr. ROSE, Mr. GEJDENSON, Mr. KENNEDY, Mr. DEFAZIO, Mr. TOWNS, Mr. GONZALEZ, Mr. ROYBAL, and Mr. BUSTAMANTE.

H.R. 4548: Mr. FOGLIETTA, Mr. FAZIO, Mr. BONIOR, and Mr. OWENS of Utah.

H.R. 4549: Mr. HAYES of Louisiana, Mr. NEAL of North Carolina, Mr. FAZIO, Mr. SERRANO, Mr. FOGLIETTA, and Mr. FAUNTROY.

H.R. 4565: Ms. ROS-LEHTINEN, Mr. HARRIS, Mr. FLIPPO, Mr. HEFNER, Mr. CLARKE, Mr. RHODES, Mr. FAZIO, Mr. RAVENEL, and Mr. COBLE.

H.R. 4603: Mr. FAUNTROY, Mr. STAGGERS, Mr. PENNY, Mr. HORTON, Mr. LEVINE of California, Ms. PELOSI, Mr. FRANK, Mr. FAZIO, Mr. HYDE, and Mr. LAGOMARSINO.

H.R. 4608: Mr. MILLER of Washington and Mr. STENHOLM.

H.R. 4621: Mr. SCHEUER, Mr. LEVINE of California, Mr. JONTZ, and Mr. OWENS of Utah.

H.R. 4627: Mr. SCHUETTE, Mr. AUCOIN, Mr. HORTON, Mr. BOUCHER, Ms. PELOSI, Mr. RANGEL, Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. PEASE, and Mrs. BOXER.

H.R. 4697: Mr. WOLF, Mr. DEFAZIO, and Mr. ESPY.

H.R. 4698: Mr. WOLF, Mr. DEFAZIO, and Mr. ESPY.

H.R. 4718: Mrs. ROUKEMA.

H.R. 4761: Mr. SUNDQUIST.

H.R. 4763: Mr. MFUME.

H.J. Res. 81: Mr. MORRISON of Washington.

H.J. Res. 418: Mr. LEWIS of Georgia, Mr. YATES, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. WALGREN, Mr. TOWNS, Mr. BORSKI, Mr. MAVROULES, Mr. DWYER of New Jersey, Mr. RINALDO, Mr. MARTINEZ, Mr. ENGEL, Mr. SOLARZ, Mr. WEISS, Mr. MATSUI, Mr. NAGLE, Mr. FALEOMAVAEGA, Mr. SHAYS, Mr. SKAGGS, and Mr. LEVINE of California.

H.J. Res. 518: Mrs. PATTERSON, Mr. BEVILL, Mr. GINGRICH, Mr. GUARINI, Mr. MONTGOMERY, Mr. TOWNS, and Mr. DARDEN.

H.J. Res. 519: Mr. QUILLEN and Mr. HAYES of Louisiana.

H.J. Res. 540: Mr. MAVROULES, Mr. DE LA GARZA, Mr. GALLO, and Mr. RICHARDSON.

H.J. Res. 555: Mr. PERKINS, Mr. ROBERTS, Mr. SKEEN, Mr. SKELTON, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mrs. SMITH of Nebraska, Mr. STALLINGS, Mr. BALLENGER, Mr. BROOKS, Mr. BROOMFIELD, Mr. BROWDER, Mr. BROWN of California, Mr. CARR, Mr. CHANDLER, Mr. CHAPMAN, Mr. DARDEN, Mr. DEFAZIO, Mr. DE LA GARZA, Mr. DELLUMS, Mr. FAZIO, Mr. FIELDS, Mr. FOGLIETTA, Mr. GONZALEZ, Mr. GRANDY, Mr. HASTERT, Mr. HOLLOWAY, Mr. HOUGHTON, Mr. KILDEE, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. THOMAS A. LUKEN, Mr. MACHTLEY, Mr. MANTON, Mrs. MARTIN of Illinois, Mr. MAVROULES, Mr. MCCOLLUM, Mr. MCEWEN, Mr. MCGRATH, Mr. MILLER of Ohio, Mr. MILLER of Washington, Mr. MONTGOMERY, Mr. MOORHEAD, Mrs. MORELLA, Mr. NATCHER, Mr. NEAL of Massachusetts, and Mr. PARRIS.

H. Con. Res. 128: Mr. ECKART and Mrs. KENNELLY.

H. Con. Res. 264: Mr. HORTON, Mrs. MARTIN of Illinois, and Mr. RIDGE.

H. Con. Res. 285: Mr. CRANE, Mr. WAXMAN, and Mr. PARRIS.

H. Con. Res. 312: Mr. ANDERSON, Mr. NEAL of North Carolina, and Mr. KANJORSKI.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. R. 2584: Mr. QUILLEN.

H. R. 3732: Mrs. MEYERS of Kansas.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

174. The SPEAKER presented a petition of the Board of County Commissioners, St. Johns County, FL, relative to the interstate allocation of Federal aid grant funds; which was referred to the Committee on Government Operations.

# SENATE—*Wednesday, May 16, 1990*

*(Legislative day of Wednesday, April 18, 1990)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we prepare to worship God, our shepherd and our shield, the Senate will be led in prayer by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*But thou, O Lord, art a God full of compassion, and gracious, longsuffering, and plenteous in mercy and truth.*—Psalm 86:15.

Gracious God our Father, perfect in truth, justice, love and compassion, rarely will the Senate be called upon to deal with an issue more complicated by prejudice, fear, and emotion, nor more presently or potentially destructive, than the issue of AIDS. Grant to Your servants and their leaders a full measure of Godly wisdom, love, and compassion as they discuss, debate, and decide this issue. Grant to them the courage not to yield to prejudice or political pressure. Give them the illumination of the Holy Spirit that they may deal objectively with the substance of the issue.

Mighty God, overrule all human frailty and let Thy will be done in the Senate. In His name whose love is unconditional, universal, and eternal. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

## THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders, there will be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10 this morning, the President pro tempore will swear in DANIEL K. AKAKA as the junior Senator from Hawaii. Following the swearing in and disposition of various related housekeeping resolutions, the Senate will then resume consideration of S. 2240, the AIDS CARE bill, at which time Senator HELMS will be recognized to offer an amendment. Other amendments are expected upon disposition of the Helms amendment, and rollcall votes are anticipated relative to some of these amendments.

## RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and all of the leader time of the Republican leader.

The PRESIDENT pro tempore. The time for the two leaders will be reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for morning business not to extend beyond the hour of 10 o'clock a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 10:30 a.m.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## SENATOR FROM HAWAII

The PRESIDENT pro tempore. The Chair lays before the Senate the Certificate of Appointment of the Honorable DANIEL K. AKAKA, as a Senator from the State of Hawaii.

Without objection, it will be placed on file, and the certificate of appointment will be deemed to have been read.

The certificate of appointment is as follows:

There being no objection, the certificate of appointment was ordered to be printed in the RECORD, as follows:

CERTIFICATE OF APPOINTMENT

*To the President of the Senate of the United States:*

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Hawaii, I, John Waihee, the governor of said State, do hereby appoint, effective May 16, 1990. Daniel K. Akaka a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the death of The Honrable Spark M. Matsunaga, is filled by election as provided by law.

Witness: His excellency our governor John Waihee, and our seal hereto affixed at Honolulu, Hawaii this Twenty-eighth day of April, in the year of our Lord 1990.

By the Governor:

JOHN WAIHEE,
*Governor.*

The PRESIDENT pro tempore. If the Senator-designate will present himself at the desk, the Chair will administer the oath of office as required by the Constitution and prescribed by law.

Mr. AKAKA, of Hawaii, escorted by Mr. INOUYE, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the President pro tempore; and he subscribed to the oath in the official Oath Book.

[Applause, Senators rising.]

The PRESIDENT pro tempore. The Senate will be in order.

Mr. INOUYE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Hawaii [Mr. INOUYE] is recognized.

Mr. INOUYE. Mr. President, I ask unanimous consent that I be given the privilege of addressing the body.

The PRESIDENT pro tempore. The Senator has that right.

## CONGRATULATIONS FOR SENATOR AKAKA

Mr. INOUYE. Mr. President, DANIEL KANIELA KAHIKINA AKAKA is a noble son of Hawaii. He is keiki o ka aina, child of our land, and he is the first native Hawaiian, a Polynesian, to serve in this body, and the first native American to serve in this body. Through his veins flow the blood of ancient navigators and brave warriors who sailed across uncharted waters of the Pacific to seek their promised land Hawai 'iki.

He has served our Nation in war on the battlegrounds of Saipan and Tinian; as a teacher; and he has served his people as a principal, as an administrator, and as a public servant.

He has served our people in Hawaii for seven terms in the U.S. House of Representatives.

Mr. President, you will find that he is a very gentle person. He is a gentleman, and he epitomizes the highest virtues of what we proudly call the aloha spirit of Hawaii.

A few moments ago, he took the oath of office to fill the chair that was recently and sadly vacated by our late and beloved colleague, Spark Matsunaga.

Mr. President, it is my high honor and great privilege to present to you, sir, and to this distinguished body, the new Senator from the State of Hawaii, the Honorable DANIEL KANIELA KAHIKINA AKAKA.

[Applause, Senators rising.]

Mr. AKAKA. Mr. President, I thank my senior Senator, DANIEL K. INOUYE, for his personal remarks. I also thank my senior Senator for the support that he has given me from day one. I also thank the majority leader and the Republican leader for their respect and support.

Mr. President, I cannot adequately describe my sense of pride and honor in serving as a Member of the Senate of the United States. I am proud, not only for my lady, Millie, the Akaka family, my loved ones, but also for the native-Hawaiian people and all of the citizens of Hawaii.

The Hawaiian people invested their trust in the Government of the United States, first, as a source of protection from other colonial powers, and now as a vehicle of fairness and opportunity. To serve as the first Senator of native-Hawaiian ancestry, to be in the highest legislative body of our land and in the world fills me with enormous pride and profound humility. To the citizens of Hawaii, who place their faith in me as their representative to our Nation's Capital, my deepest gratitude. I pledge to fill this high office with dignity and honor.

The circumstances that bring me to this office are tragic. The shoes of Senator Spark Matsunaga, a hero for peace, a champion of justice, and an international statesman and a dear, dear friend will never be filled.

I promise to do my best to carry on his legislative agenda and vision, including his efforts to establish an academy of peace, to deliver reparations to Japanese-Americans interned during World War II, to develop nonpolluting and renewable sources of energy, and to finally establish a veterans medical center in Hawaii for aging and ill military veterans. To Sparky's widow, Helene, his sons and daughters, the people of Hawaii, I promise his goals will be mine; his legislative legacy will endure.

Mr. President, the Hawaiian language has a wonderful word that is used on many occasions, "aloha." It means a fond farewell. It means welcome. It means a bond of friendship. It means a new beginning.

My fellow Senators, I extend to each of you my warmest aloha.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I want to extend, on behalf of all of my colleagues, a warm welcome to our new and distinguished colleague, Senator AKAKA. His remarks this morning demonstrate why the Governor and people of the State of Hawaii have entrusted him with this great responsibility. This is a moving moment for all of us, especially so for me, since it was almost exactly to the day 10 years ago that I was sworn into this Chamber under similar circumstances.

I was filled then with the same sense of awe and honor that Senator AKAKA has expressed, and I must say that I still am. It has been the greatest honor of my life to serve as a Member of this institution, and I know that Senator AKAKA feels the same way. I am confident that he will discharge his responsibilities with the dignity and honor which he pledges. We welcome him, we look forward to working with him, and we wish him the very best of success.

Might I also pause for a moment to again express to the Matsunaga family the deepest regret and sympathy of every Member of the Senate. Senator AKAKA does have enormous shoes to fill, as he indicated. Spark Matsunaga was loved by the people of Hawaii and by every Member of the Senate. But we know that Senator AKAKA will fill those shoes capably and with honor.

So, Senator AKAKA, on behalf of all of the Members of the Senate, we welcome you and look forward to serving with you, and we can say to you that you can do no more than follow the advice of the other DANIEL K. from Hawaii.

Mr. AKAKA addressed the Chair.

The PRESIDENT pro tempore. The Senator from Hawaii [Mr. AKAKA] is recognized.

Mr. AKAKA. Mr. President, I thank the majority leader very much for his kind remarks, and I will make every effort to live up to my pledge.

Mr. COATS addressed the Chair.

The PRESIDENT pro tempore. Senator COATS.

Mr. COATS. Mr. President, I want to join my colleagues and the majority leader in welcoming my friend and former House colleague, DANIEL AKAKA, to the U.S. Senate. We served 8 years together in the House and became close friends in a number of different ways. It is a happy day for me to have DANNY here, because I no longer am isolated in a special class as an appointed Senator. There are now two of us. And the Senator will find that there are special challenges facing those who are appointed and running statewide for election for the first time.

We now will be able to go jointly, on a bipartisan basis, to the majority leader and inquire about what time the Senate will be recessing so we can catch a plane back to our respective States, begging him for no votes on Monday, and I am happy to have the Senator join me in that quest.

Also, let me say that, obviously, being appointed to the Senate is not a barrier to success. Our distinguished majority leader has already indicated his appointment, and I believe our ranking member of the Appropriations Committee was initially appointed to the Senate, if my memory serves me correctly.

So, there is a small but growing caucus of appointed Senators here.

I personally welcome the Senator and look forward to working with him.

The PRESIDENT pro tempore. The Senator from Wyoming [Mr. SIMPSON] is recognized.

Mr. SIMPSON. Mr. President, on behalf of those on our side of the aisle we indeed welcome and greet Senator AKAKA. That was a very impressive ceremony. We have all come to have the deepest admiration and respect for the senior Senator from Hawaii. He is a role model for all of us and he has been that for me. So welcome.

It is good for us to kind of renew our vows when we hear you with the President pro tempore giving you the oath of office in his very, very precise and powerful way, especially that you well and faithfully discharge the duties of your office. So that is good for us to renew our vows.

Spark Matsunaga, our departed and lovely friend, would have been very

thrilled to hear you talk about carrying on the agenda, especially that VA veterans center in Hawaii. I remember that very well and he used to work me over on that, and now you will be doing the same. That will be good.

So welcome. It is a great pleasure and honor to have you, and we will look forward to serving with you.

Thank you.

The PRESIDENT pro tempore. The Senator from Georgia [Mr. FOWLER] is recognized.

Mr. FOWLER. Mr. President, let me just quickly join this extraordinary welcome for my friend and our friend from Hawaii, now Senator AKAKA.

As the Senator from Indiana was saying, "Not only do we now have a distinguished class of appointed Senators who will soon face the voters but in my mind the Senator from Hawaii was characteristically humble in his initial presentation to his new colleagues."

There are many of us in the House, many of us in this body who served in the House, with Senator AKAKA. We know him already to be a skilled legislator. We know him already to have promoted those goals that he shares with our departed colleague, and we know that he will continue, along with his senior colleague, in the great tradition of the distinguished Senators from the State of Hawaii. His legislative accomplishments already speak for themselves and there are many of us who had the distinct pleasure of serving with him who know that our body is enriched and our Nation will be enriched by his presence and service to the U.S. Senate.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, briefly, I wish to join in welcoming our new colleague. I had the privilege of serving in the House both with Spark Matsunaga and with the new Senator from Hawaii. They were both superb House Members. Then I had a chance to serve with Spark Matsunaga here, who was, as we all know, a very respected and effective Member of this body.

The senior Senator from Hawaii used the word "gentleman" to describe the new Senator from Hawaii. I cannot think of a better word. We use that word very loosely and very freely. Senator AKAKA is a gentleman in the finest sense. He will be effective, as my colleague from Georgia said. He is a skilled legislative craftsman, but he has the low-key style that I think will fit this body very, very well. I think he will be a superb U.S. Senator, and I am pleased to join in welcoming him.

The PRESIDENT pro tempore. The majority leader is recognized.

## APPOINTMENTS TO THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, THE COMMITTEE ON GOVERNMENTAL AFFAIRS, AND THE COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 285) making appointments to the Committee on Energy and Natural Resources, the Committee on Governmental Affairs, and the Committee on Veterans' Affairs.

*Resolved,* That the Senator from Hawaii (Mr. Akaka) is hereby appointed to serve as a member on the Committee on Energy and Natural Resources, the Committee on Governmental Affairs, and the Committee on Veterans' Affairs for the 101st Congress.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to the consideration of the resolution.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 285) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## ADDITIONAL MAJORITY APPOINTMENTS TO THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, THE COMMITTEE ON FINANCE, AND THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 286) making additional majority appointments to the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Labor and Human Resources.

*Resolved,* That the Senator from Ohio (Mr. Metzenbaum) is hereby appointed to serve as a member on the Committee on Environment and Public Works, in lieu of the Committee on Energy and Natural Resources; the Senator from Louisiana (Mr. Breaux) is hereby appointed to serve as a member of the Committee on Finance, in lieu of the Committee on Environment and Public Works; and the Senator from New Mexico (Mr. Bingaman) is hereby appointed to serve as a member on the Committee on Labor and Human Resources, in lieu of the Committee on Governmental Affairs.

SEC. 2. Strike in paragraph 4(h)(2) of rule XXV the words "Committee on Governmental Affairs" and insert in lieu thereof "Committee on Labor and Human Resources."

SEC. 3. Strike in paragraph 4(h)(9) of rule XXV all after "(9)" through the word "Judiciary" and insert the following: "A Senator who is appointed on May 16, 1990, to serve on the Committee on Environment and Public Works and is serving on the Committee on the Judiciary."

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to the consideration of the resolution.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 286) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The Senator from Alaska [Mr. STEVENS] is recognized.

Mr. STEVENS. Mr. President, I join in welcoming the new Senator from Hawaii. As has been stated, I also came to this Chamber by appointment, and I know the feelings that he has today.

I have also known him and his brother for many years. There are very few of us here that come from States, only two States that have just been Members of our Union for 31 years, and we have worked together for a long time, the Alaskans and Hawaiians, to demonstrate our willingness to be equal partners with the other States and to really honor the commitment that has been made to us by the Government of the United States by admitting our areas into this union.

I look forward to working with Senator AKAKA, and I am very pleased to have heard the statement he made here today. It was a true, warm Hawaiian statement and address. He, I think, will find that, as he says, those are big shoes he has to try to fill.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, I want to correct something I said a few moments ago referring to Senator STEVENS as initially appointed Senators. I forgot in insert the words "Defense Subcommittee ranking member." Senator HATFIELD called to remind me that he was elected. I indicated to him that he had an opportunity to join a very exclusive club of a limited number of appointed Senators. We were happy to welcome him for 5 minutes.

In order to correct the RECORD let me indicate that I was referring to the senior Senator from Alaska who is

ranking member of the Defense Appropriations Subcommittee.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The absence of a quorum has been suggested. The clerk will call the roll.

The asssistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. GARN. I thank the Chair.

(The remarks of Mr. GARN and Mr. WARNER pertaining to the introduction of S. 2636 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FREE AND FAIR ELECTIONS IN ROMANIA

Mr. KENNEDY. Mr. President, this Sunday, after a quarter century under the dictatorship of Nicolae Ceausescu, the people of Romania will go to the polls to elect the government which will oversee the drafting of a new constitution and the beginning of a new era for Romania. All friends of freedom and democracy hope that these elections will be free and fair.

While the democratic transformation of most of Eastern Europe was peaceful, the Romanian revolution of December 1989 was bloody and violent. The cost of life, human suffering, and emotion continues to have profound effects on that nation and its people.

Romanians under Ceausescu were more repressed than perhaps any other people in Eastern Europe. He destroyed entire villages in his effort to modernize Romania. He built grotesque monuments to himself while the people starved. He instituted harsh policies of discrimination and cultural destruction against Romania's ethnic groups.

He permitted the health care system to deteriorate to an extent that is only now beginning to be fully understood. High infant mortality, a high incidence of children with AIDS, orphanages filled with unwanted, abandoned children are tragic continuing reminders of the Ceausescu era.

Ceausescu's grip on power was so strong that he ruthlessly eliminated opposition leaders. Romanians did not have the benefit of a strong center of dissent within the church, or prominent dissidents ready to lead the country now. An entire generation of Romanians have no experience with democracy and little understanding of how it works. The last free elections were held in 1937. The void created by Ceausescu's harsh repression has contributed to the pervasive climate of fear, intimidation, and violence.

Yet the current provisional National Front Government has helped improve the situation in the aftermath of the revolution. Human rights conditions have improved, religious worship is permitted, Romanians are free to travel, and food is more available. While we welcome the progress which has been achieved during these difficult months, our concern remains about continuing violence, allegations that access to the media has not been equitable for all candidates, and reports of fear and intimidation used against the opposition.

Sunday's elections will be watched by many international observers, including the National Democratic Institute, the National Republican Institute, the International Human Rigths Law Group, a presidentially appointed observer group, and observers from other Western democracies and the newly established Eastern European democracies. All of us hope that free and fair elections will be held, so that the people of Romania can get on with the task of building a democracy and rebuilding their country.

Americans care about Romania, and we will watch these elections with high hopes and great expectations. The new Romanian Government will face many challenges. It must draft a new constitution, assure the compliance dismantlement of the Securitate, build democratic institutions and improve the quality of life for the people. These will not be easy tasks, but Romanians should know that they are not alone, and that the United States is prepared to help.

Following free and fair elections, the United States should restore MFN status to Romania. More than money and credits, however, Romania needs American know-how. We have an abundance of skills to make available—business executives, entrepreneurs, labor representatives, economists, engineers, consultants, accountants, managers, election experts, journalists, and professionals in countless other areas with a wide range of skills to assist Romania as it struggles to rebuild its society and economy.

In January, I introduced the Partnership for Democracy Act of 1990 to encourage Americans to join in the process of rebuilding Eastern Europe. This bill would match experts in a variety of fields with the specific requirements of those nations. The benefits would be significant for Romania, but they would also help the United States. The people-to-people contacts that take place will enhance the understanding between our two societies long divided by the Ceausescu regime. And private entrepreneurs in this country will be able to explore new business and investment opportunities for Romania.

U.S. businesses and labor organizations would be encouraged to participate in the program by contributing their skilled employees and other resources. Experts could be assigned to Romania on a project by project basis, or for specific periods of time.

Many of the provisions of this bill have been incorporated into the Support for Eastern Europe Democracy Act, which is currently pending in the Senate Foreign Relations Committee. I welcome the fact that President Bush has now endorsed this concept in his Citizen's Democracy Corps. It is my hope that such assistance will become law as soon as possible, and its benefits will soon begin flowing to the people of Romania and all the other new democracies of Eastern Europe.

## OPPRESSION OF CATHOLICS IN CHINA

Mr. PELL. Mr. President, I regret to report that the crackdown on Catholics in China has intensified recently. Over 30 Roman Catholic bishops, priests, and lay leaders are reported to have been arrested in recent months. Their only "crime" is remaining loyal to the teachings of the Vatican. Those who do not want to suffer under the tight surveillance imposed by the government-sponsored Catholic Patriotic Association are forced underground.

Many priests have been in prison since the 1950's, but despite decades of harsh conditions, have refused to renounce their religious faith. Many of these prisoners are now quite old and some in frail health, but their imprisonment continues.

One of these men was Father Philip Wang, who, according to human rights monitoring groups, recently died in a Chinese labor camp. Another is Bishop Fan Xueyuan, who is 83 years old and in desperate need of proper medical attention.

While recent moves by the Chinese leaders releasing political prisoners are welcome, the Chinese should also remember that the eyes of the world are still on prisoners held in violation of international norms of human rights. Mr. President, in order to draw attention to the plight of religious prisoners, I ask unanimous consent that a list compiled by Amnesty Internation-

al of those recently arrested and of long-term prisoners be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOSEPH LI SIDE, TIANJIN MUNICIPALITY

Joseph Li Side, Bishop of Tianjin diocese, is reported to have been arrested at his home during the night of 8 to 9 December 1989. According to information received, he was called to administer the last rites to a sick person in Hulu village, but as he was leaving his house he was met by a large contingent of Public Security personnel and arrested. He was consecrated bishop in 1982. Amnesty International first featured his case in an Urgent Action of 28 December 1989 when it first heard of his arrest and the arrests of Liu Guangdong, Li Side and Anthony Zhang Guangyi (AI Index: ASA 17/105/89).

LI YONGFU, TIANJIN MUNICIPALITY

Li Youngfu, a lay Catholic from Tianjin city, is reported to have been arrested in late December 1989 or early January 1990, but the exact date and circumstances of his arrest are not known. His arrest may be related to that of Bishop Li Side (see above).

PETER LIU GUANGDONG, HEBEI PROVINCE

Peter Liu Guangdong, First Bishop of Yixian diocese in Hebei province, was arrested in Baoding (Hebei) on 26 November 1989. According to information received, he was asked to present himself to Baoding Public Security Bureau on that date, which he did, and was arrested. According to reports, police later raided his house and took away books and a sum of 2,000 yuan (about US$540). Liu Guangdong had been consecrated bishop in 1982. He is one of those mentioned in the Urgent Action (AI Index: ASA 17/105/89) of 28 December 1989.

MATTHIAS LU ZHENSHENG, GANSU PROVINCE

Matthias Lu Zhensheng, second Bishop of Tiashui in Gansu province, is reported to have been arrested between mid-December 1989 and mid-January 1990. Now aged 71, he was ordained priest in 1981 and is reported to have been consecrated bishop in 1983 by Bishop Casimir Wang Milu. Wang Milu was himself arrested in 1984 and sentenced to 10 years' imprisonment (see the section entitled "Previous arrests and long-term prisoners").

PEI GUOJUN, HEBEI PROVINCE

Pei Guojun, a priest from Yixian diocese in Hebei province, is reported to have been arrested in December 1989 or January 1990. The precise date and circumstance of his arrest are not known.

PEI JIESHU AND PEI SHANGCHEN, HEBEI PROVINCE

Pei Jieshu and Pei Shangchen, two Catholic community leaders of Youtong village, Hebei province, are reported to have been arrested on 23 October 1989. There has been no news about them since. It is not known whether their arrest is related to that of Fr Pei Ronggui (see below).

PEI RONGGUI, FROM HEBEI PROVINCE, ARRESTED IN BEIJING

Pei Ronggui, a Trappist priest in his 50s, was arrested on 3 September 1989 by Public Security officers in Beijing after administering the last rites in Catholic's home. Father Pei was a priest in the village of Youtong, Hebei province, half of whose inhabitants have been Catholics for generations. On 18 April 1989, Youtong village was raided by police after villagers refused to demolish a tent erected on the site of their former church. The police raid reportedly left over 300 people injured and two dead, and 32 people were arrested. (Amnesty International issued an Urgent Action on the incident on 3 May 1989 (AI Index: ASA 17/17/89). The organization also featured Fr Pei's case in an Urgent Action on 28 December 1989 (AI Index: ASA 17/105/89). In that document he was incorrectly referred to him as Pei Konggui). Father Pei is reported to have escaped during the 18 April police raid and to have later gone to Beijing. He was reportedly arrested after being denounced by a Catholic in Beijing.

PEI SHANGCHEN (SEE PEI JIESHU AND PEI SHANGCHEN ABOVE)

PEI ZHEMPING, HEBEI PROVINCE

Pei Zhenping, the parish priest in the village of Youtong, Hebei province, is reported to have been arrested on 21 October 1989. Pei Zhenping is a priest from the Trappist order. There has been no news of him since his arrest.

SHI WANDE, HEBEI PROVINCE

Shi Wande, a priest from Baoding diocese in Hebei province, is reported to have been arrested on 9 December 1989 in Xushui county (in Hebei province, about 70 kilometres southwest of Beijing).

SU ZHIMIN, HEBEI PROVINCE

Su Zhimin, recently nominated Vicar-General of Baoding diocese in Hebei province, was arrested on 17 December 1989 in Baoding city. According to unconfirmed reports, he may have since died in prison as a result of a hunger-strike. After rumours of his death circulated his family reportedly tried to see him but were unsuccessful. His whereabouts are not known.

SUN XIMAN, GANSU PROVINCE

Sun Ximan, a priest from Tianshui diocese in Gansu province, is reported to have been arrested between mid-December 1989 and mid-January 1990. His arrest may be related to that of Bishop Matthias Lu Zhensheng (see above).

WANG RUOHAN (SEE WANG RUOWANG AND WANG RUOHAN BELOW)

WANG RUOWANG AND WANG RUOHAN, GANSU PROVINCE

Wang Ruowang and Wang Ruohan, two priests from Tianshui diocese in Gansu province, are reported to have been arrested between mid-December 1989 and mid-January 1990. They are the brothers of the imprisoned Bishop of Tianshui, Wang Milu (see the section entitled "Previous arrests and long-term prisoners").

WANG TIANZHANG, GANSU PROVINCE

Wang Tianzhang, a deacon from the diocese of Lanzhou in Gansu province, is reported to have been arrested between mid-December 1989 and mid-January 1990. His arrest is probably related to that of Wang Ruowang and Wang Ruohan (see above).

WANG TONGSHANG, HEBEI PROVINCE

Wang Tongshang, a deacon and community leaders working in Baoding diocese Hebei province, was arrested on 16 December 1989.

WEI JINGI, HEILONGJIANG PROVINCE

Wei Jingyi, a priest from Qiqihar in Heilongjiang province, is reported to have been arrested either in December 1989 or in January 1990. His arrest may be related to that of Bishop Guo Wenzhi (see above).

XIAO SHIXIANG, HEBEI PROVINCE

Xiao Shixiang, a priest from Yixian diocese, Hebei province, is reported to have been arrested on 20 October 1989 while he was on his way to Shandong province (east of Hebei). There has been no news of him since.

YANG LIBO, GANSU PROVINCE

Yang Libo, Bishop of Lanzhou, in Gansu province is reported to have been arrested between mid-December 1989 and mid-January 1990. He had been ordained priest in 1949 and was consecrated bishop in 1981. According to foreign press correspondents in Beijing, an official in Gansu province confirmed his arrest in late January 1990.

BARTHOLOMEW YU CHENGDI, SHAANXI PROVINCE

Bartholomew Yu Chengdi, Bishop of Hanzhong diocese in Shaanxi province, is reported to have been arrested between mid-December 1989 and mid-January 1990. He was consecrated bishop in 1981 and he in turn is reported to have consecrated other bishops and priests, including his brother, Yu Chengxin (see below).

YU CHENGXIN, SHAANXI PROVINCE

Yu Chengxin, a priest in Hanzhong diocese, Shaanxi province, is reported to have been arrested at the same time as his brother Bishop Yu Chengdi (see above).

ANTHONY ZHANG GANGYI, SHAANXI PROVINCE

Anthony Zhang Gangyi, a parish priest in a village from Sanyuan diocese, located some 40 kilometres from Xi'an city in Shaanxi province, he was originally from Ankang diocese, in the south of Shaanxi. He is reported to have been arrested at his home at 0200 hours on 11 December 1989. He was apparently released shortly afterwards on health grounds but was rearrested on 28 December 1989. Now aged 83, he was a chaplain in Italy during World War II and visited Italy again in 1988 to receive the "Heroes of the Resistance" medal for his activities during the war. He is reported to have spent some 30 years in prison off and on after he returned to China in 1949. Zhang Guangyi is one of those mentioned in an Urgent Action (AI Index: ASA 17/105/89) of 28 December 1989.

ZHANG LIREN, NEI MENGGU AUTONOMOUS REGION (INNER MONGOLIA)

Zhang Liren (or Jiang Liren), Bishop of Hohot in the Autonomous Region of Inner Mongolia (Nei Menggu), is reported to have been arrested in late December 1989 or early January 1990. He had been consecrated bishop in late June 1989.

ZHANG XIAOCHENG, GANSU PROVINCE

Zhang Xiaocheng, a priest in Tianshui diocese, Gansu province, is reported to have been arrest between mid-December 1989 and mid-January 1990. His arrest is probably related to that of Wang Ruowang and Wang Ruohan (see above).

BISHOPS UNDER SURVEILLANCE: FAN XUEYAN, GUO WENZHI, LI ZHENRONG

Three other bishops who were reported to have been detained since December 1989 are said to have been released recently. According to information received, they are still under police surveillance and restricted in their movements and contacts.

Peter Joseph Fan Xueyan, Bishop of Baoding in Hebei province, was reported to have been arrested in Baoding on 11 December 1989, when he was taken away by local police from his residence. He apparently returned to his residence in March 1990, but is still under police surveillance. The place where he was taken is not known. Now aged 82, Bishop Fan Xueyan was imprisoned

twice since the 1950s for his advocacy of religious freedom. He was one of the last Chinese bishops officially consecrated by the Vatican in 1951 and was first imprisoned from 1958 to 1979. Re-arrested a few years later, he was sentenced in 1983 to 10 years' imprisonment on charges of "colluding with foreign forces to jeopardize the sovereignty and security of the motherland", for maintaining links with the Vatican and secretly ordaining priests and bishops. He was released on parole in November 1987 and later placed under house arrest.

Since 1987, he went missing from his residence in Boading several times and was officially said on one occasion to be on a "sightseeing tour". According to unofficial sources, these enforced "absences" were ordered by the local Public Security (police) Bureau because he was too influential among Catholics in Baoding.

Guo Wenzhi, Bishop of Harbin in Heilonjiang province (northeast China), was arrested on 14 December 1989 in Qiqihar, some 270 kilometres from the provincial capital Harbin. He is reported to have been released in March 1990, and assigned to stay in his home village. Born on 11 January 1918, he was ordained priest in 1948 and consecrated bishop in May 1989. He had been imprisoned twice: from 1954 to 1964 and from 1966 to 1979. Following his release in 1979, he taught foreign languages in Hebei province until 1985 and then went to live in his home village of Qiqihar in Heilongjiang province.

Paul Li Zhenrong, Bishop of Xianxian diocese in Hebei province, was reported to have been arrested between mid-December 1989 and mid-January 1990. He was apparently released in March 1990 and ordered to stay in his home village. A Jesuit aged 70, he had been ordained a priest in 1951 and consecrated bishop in 1983. He had spent 23 years in prison between 1957 and 1980 and returned to Xianxian in Hebei province after his release in 1980.

PREVIOUS ARRESTS AND LONG-TERM PRISONERS

*Widespread arrests of lay Catholics in Hebei province during 1989*

Widespread arrests of lay Catholics are reported to have been carried out in Hebei province during 1989, though most of those detained are reported to have been released after periods in detention varying from a few days to a few months. According to some sources, 19 people were arrested in Handan diocese, 19 others in Xingtai diocese and 20 people in Shijiazhuang diocese during the year. All are believed to have been released.

Thirty-two Catholics from the village of Youtong (Luancheng county in Hebei province) were also arrested in April 1989 when police raided the village in an incident which reportedly left 300 people injured and two dead. (For further details on this incident see the case of Fr Pei Ronggui, above. Amnesty International issued an appeal about it on 3 May 1989 (AI Index: ASA 17/17/89.) Thirty of those detained in Youtong were released in several groups in May and June 1989.

Two of the villagers beaten during the 18 April police raid at Youtong were reported in late June 1989 to be still in a critical condition at the Second Provincial Hospital at Shijiazhuang. According to information received, they were not expected to recover; they had been beaten unconscious during the raid and by late June they had still not regained consciousness. According to information received, they are Dong Shuyuan, a 43-year-old man and Feng Jinfeng, a 38-year-old woman. No further news has been available about them.

DONG ZHOUXIAO, LAY CATHOLIC, AND PEI GUOXIN, LAY LEADER

Two men arrested in Youtong village in April 1989 had not yet been released by the end of June 1989: Dong Zhouxiao, aged 38, a lay Catholic, and Pei Guoxin, aged 35, a lay leader. According to unofficial sources, local police said at the time that the two men were still detained in Luancheng county Detention Centre, but there were rumours that they had been beaten to death. There has been no news of them since.

HOUSE ARREST: BISHOPS JIA ZHIQUO & LIU SHUHE & FR HUO BINZHANG

Two bishops and one priest who were detained in 1989 or previously and later released are also reported to be still under house arrest in Hebei province.

Julius Jia Zhiguo, aged 54, Bishop of Zhending in Hebei province, was arrested on 7 April 1989 and released on 11 September 1989. He is said to have been under house arrest since then. He was consecrated bishop in 1981.

Paul Liu Shuhe, Second Bishop of Yixian in Hebei province, was arrested in Beijing in late October 1988 and released on 16 January 1989. He is reported to have been placed under house arrest in his home village for a period of three years. He was consecrated bishop in 1982.

Father Huo Binzhang, Vicar-General of Baoding (Hebei) until his arrest in 1982, was arrested together with Bishop Fan Xueyan (see above, the section entitled "Recent arrests"). Huo Binzhang was sentenced to 10 years' imprisonment in 1983, but is believed to have been released in May 1988. He is said to have been under house arrest since then.

ARRESTS IN OTHER PROVINCES

Several other Roman Catholic priests and bishops are known to have been arrested in various provinces over the past few years. Some are serving long terms of imprisonment and are believed to be still detained. According to information received by Amnesty International, they include:

FROM HENAN: LI FANGCHUN, JIN DECHEN, ZHANG SHENGTANG, ZHU BAOYU

Four priests from Henan province in central China who are reported to have been arrested during the early 1980s. Some of them are reported to have been sentenced, but the dates and details of the trials are not known. They are: Father Li Fangchun of Guide diocese, Shangqin prefecture; Father Jin Dechen, Vicar General of Nanyang diocese (Nanyang is the provincial capital of Henan), he was arrested for the first time during the mid-1950s, released for a short period in 1982 and rearrested; he is reported to have been sentenced to 19 years' imprisonment for objecting to birth control and abortion; Father Zhang Shengtang, believed to be of Nanyang diocese, is reported to have been sentenced to 17 years' imprisonment for printing religious books without official permission; Father Zhu Baoyu, also believed to be of Nanyang diocese, is reported to have been sentenced to 10 years' imprisonment for taking Catholics to a pilgrimage in Sheshan, near Shanghai. They were reported to be still imprisoned in late 1988 but no news of them has been received since then.

FROM FUJIAN: YANG SHUDAO, WANG YIQI, WANG JINGJING, CHEN YOUPING

On bishop and several priests and lay Catholics were also arrested in Fujian province (on the east coast of China) in February and September 1988. Yang Xhudao, Bishop of Fuzhou (the provincial capital of Fujian), is reported to be still imprisoned, but the fate of the others is unknown. Bishop Yang had been imprisoned previously but was released around 1980. He is believed to have been consecrated bishop around 1987. According to information received, he was arrested at 0800 hours on 28 February 1988 in the village of Liushan, Heshang district, in Changle county of Fujian province.

One priest, Wang Yiqi, and a lay Catholic, Wang Jingjing, were reportedly arrested at the same time and place as bishop Yang Shudao. A lay Catholic, Chen Youping, was also arrested at the same place two days later (on 1 March 1988). Their present situation and whereabouts are unknown.

FROM FUJIAN: FENG YONGBING, GAO YIHUA, LIN SHANMING & LIN WENMING

Further arrests took place in Fujian province a few months later: two priests, Feng Yongbing, aged 35, and Gao Yihua, aged 29, both from Changle county, were arrested on 14 September 1988, as well as Lin Shanming, a 25-year-old seminarian from Pingtan county, and Lin Wenming, a 24-year-old lay Catholic from Fuqing county. Their present situation and whereabouts are unknown.

OTHER CLERGY DETAINED: LIAO HAIQING, WANG MILU AND WANG ZIYANQ

Liao Haiqing, aged about 50, a priest from Jiangxi province (in southeast China), is reported to have been arrested in Wuzhou (Jiangxi province) on 19 November 1981 during a wave of arrests of Roman Catholic priests throughout China on that date. Most of those arrested at that time were elderly priests who had remained loyal to the Vatican and had served previous terms of imprisonment from the 1950s to the late 1970s. Several of them were Jesuits from Shanghai who were tried and sentenced on "counter-revolutionary" charges in 1983. Most of those known to have been arrested in November 1981 were released in 1987 and 1988: some were released on parole before the end of their sentence, others had served their full sentence. Father Liao Haiqing, however, was reported to be still detained at the end of 1988. He was then held at Prison No. 4 in Nanchang, the capital of Jiangxi province. There has been no news of him since then.

Casimir Wang Milu, aged 48, Bishop of Tianshui in Gansu province (north China), was arrested in 1984 in his home province of Gansu. Officially labelled the "black bishop of Tianshui", he was tried the following year and sentenced to 10 years' imprisonment and four years' deprivation of political rights on charges of carrying out "counter-revolutionary propaganda and incitement." This charge was based on the following accusations: he had been secretly consecrated bishop in 1981 by Bishop Fan Xueyan of Baoding and subsequently sought recognition of his consecration from Rome; he himself had secretly ordained priests; he opposed an article of China's Constitution which prohibits "foreign domination" over the Chinese Churches, and he had criticized the official policy on religion and the government's interference into religious affairs. Following his trial, Wang Milu was sent to a penal institution in Ping Liang, Gansu province, where hs is reported to be still held.

Joseph Wang Ziyang, the former Vicar-General of Yanggu diocese in coastal Shangdong province, was last reported to be in a penal farm in the province in 1989. Now

in his 80s, Wang Ziyang was appointed Vicar-General of Yanggu at the time the People's Republic of China was established in 1949. According to some sources, he was arrested during the 1950s and sentenced to life imprisonment, but his sentence was later reduced to 15 years' imprisonment. He was last reported to be held in the May the First "reform through labour" farm in Guangzao county of Shangdong province. His sentence has long expired and it is believed that he may have refused conditions set by the authorities for his release. According to information received in March 1990, however, his release was said to be imminent.

## A WISCONSIN TRIBUTE TO THE AMERICAN FLAG

Mr. KOHL. Mr. President, this week the Supreme Court heard arguments about the constitutionality of a law to prohibit flag burning. I happen to believe that law is constitutional, and I hope the Court agrees.

Whatever the outcome of that case, I think we need to recognize that people have very strong feelings on this subject. Recently, one of my constituents, Mark Wolf, wrote an essay on this subject. Mark is currently in the Air Force. As he wrote this essay, he thought about his brother, Matthew, and his grandfather. Both of those fine men served this country and made real sacrifices to defend our flag. Mark's mother, Marietta Wolf, requested that I share this essay with my colleagues and I am happy to do so. I do not know what Mark thinks about the need to adopt a constitutional amendment to protect the flag—but this essay makes it clear how he feels about the freedom that our flag represents.

Mr. President, I ask unanimous consent that Mark Wolf's essay on our flag be printed in the RECORD.

There being no objection the essay was ordered to be printed in the RECORD, as follows:

SOLDIERS TORN

I am the American Flag. I was conceived long ago as a symbol of the American way. I stand for freedom, and represent those who fought and died for truth and justice. But I cannot rest easy, for some of you want to destroy me and all that I've stood for over the course of American history. I'm known the world over, and everyone knows that I stand for freedom. I was created by your forefathers as a remembrance of those who fell in battle in the name of freedom, the same freedom that allows you to destroy me. Withstanding all your abuse, I will still stand proud for you with dignity and honor. I will be sympathetic to you and try to understand your many reasons for hurting me.

Why do you hate me so? I've done nothing to hurt or disgrace you. I love each and every one of you. I admit, people have died in many battles and wars because of me, but I always led the way. I've stood tall and proud above many battles, gazing through the smoke at the dead who lie beneath me, feeling both sadness and pride of the same time. Even when bullets pierced me, and I was falling to the ground all tattered and torn, one of my sons or daughters was always there to catch me. Now, the very people who fought for what I stand have allowed you to burn me—Me, the one you stood in front of as children. So proud you were, with your little hands over your hearts, pledging allegiance to me. You were always loyal to me as you grew into adults, and I to you. I was there for you whenever you traveled, in good times and bad. I tried to protect you the best I knew how. I've always embraced those who fought for me and paid the ultimate price for what I stand for. I protected the dead bodies of my children so no more harm could come to them. I kept their bodies warm as I laid across their cold steel caskets and embraced them with all the love in the world until they could be brought home to the land they cherished so much. I weep each time one of my soldiers is torn, or when I must deliver him to the arms of his loved ones. I will never let you forget that he died out of loyalty for me, as well as you; he perished in the name of freedom.

It hurts me each time you abuse me, because you're not just abusing me, you're hurting the ones who died for your rights. You repay the memories of so many who thought nothing of dying for your well being, not with reverence, but by burning me.

But, understand this my children, I will defend freedom at all costs, and protect the ones I love—yes, even you, the one who wants to hurt me. So before you tear me down, burn me, and try to put me to death, remember whom you'll be hurting. You will be hurting your loved ones, friends, and your very existence. I hold America's hopes and dreams within me, and I'll always stand tall and proud in the minds of those who love me. I would never turn my stars and stripes on you.

T/SGT. MARK S. WOLF,
*USAF, Ankara, Turkey.*

## TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,887th day that Terry Anderson has been held in captivity in Beirut.

I would also like to remark that according to reports, British hostage Terry Waite, special envoy to the Archbishop of Canterbury, is alive and well. Not having received any word as to Mr. Waite's condition since he was abducted on January 20, 1987, that is indeed good news.

I ask unanimous consent that the New York Times article concerning Terry Waite be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 16, 1990]

WAITE SAID TO RECOVER IN LEBANESE CAPTIVITY

BEIRUT, LEBANON, May 15.—The Archbishop of Canterbury's special envoy, Terry Waite, is alive and well after 40 months as a hostage in Lebanon and has recovered from a recent illness, people with connections to pro-Iranian factions in Lebanon said today.

They said that two Iranian physicians regularly attended Mr. Waite until his condition worsened about a month ago, when he was treated by a doctor from Beirut's American University Hospital and recovered.

"Waite is being held in acceptable conditions in the southern suburbs and is receiving regular medical attention," one of the informants said.

These were the first reported details of Mr. Waite's welfare in captivity, and they appeared intended to dispel rumors that he was dead. But the informants would not say what the 50-year-old Mr. Waite suffered from, nor did they provide any evidence to support their assertions. No photograph of Mr. Waite in captivity has ever been released.

Mr. Waite, a layman who served as an intermediary in Lebanon for the Archbishop of Canterbury, the Most Rev. Robert Runcie, vanished on Jan. 20, 1987, when he left his West Beirut hotel for negotiations on the release of Western hostages.

## PUERTO RICAN STATEHOOD

Mr. HATCH. Mr. President, I would like to address briefly this morning an issue which the Senate is expected to consider sometime this year: the authorization of the plebiscite in 1991 that would allow the Puerto Rican people to determine their political future. As many of my colleagues know, the enactment of S. 712 would authorize balloting in which the Puerto Rican people would choose to become an independent nation-state, to continue Commonwealth status, or to become the 51st State of the Union.

While I have expressed my support for Puerto Rican statehood in the past, I strongly believe that this decision is not wholly ours to make. Instead, we must give the people of Puerto Rico the means by which to exercise their right to define their future relationship with the United States. As citizens of the United States, they must be accorded the same basic right of political choice as their compatriots. I therefore hope that the Senate will soon consider S. 712 as the best means to ensure that 3.5 million Hispanic Americans have the opportunity to decide the political future of their island.

In this respect, I have recently had brought to my attention an excellent letter to the editor by the former Governor of Puerto Rico, Luis A. Ferre, which recently appeared in the Washington Times. I would like to excerpt a few points from this letter. Ferre rightly reminds us of the great contributions made to our national security by the "200,000 veteran Puerto Ricans who have served in the U.S. military forces and * * * the thousands of dead and wounded who fought during all the wars our country has waged in this century"; by "such men as Fernando Ledesma, who won the Congressional Medal of Honor because he thrust himself upon a grenade to save the life of his companion in Korea * * * and Air Force Maj. Fernando Ribas Dominici, who gave his life to serve his country and his President, Ronald

Reagan, during the military against Moammar Gadhafi's Libya"; and by other "Puerto Ricans in the armed services—Adm. Horacio Rivero, Vice Adm. Diego Hernandez and Gen. Pedro del Valle."

He adds that other important contributions have been made by "professionals like Dr. Enrique Mendez, assistant secretary of health for the Defense Department, and Dr. Antonia Novello, who was just confirmed as U.S. surgeon general"; by "actors like Jose Ferrer and Raul Julia, opera singers Justino Diaz and Pablo Elviro, both of the Metropolitan Opera Co., and the brilliant pianist Jesus Sanroma of the Boston Symphony"; and by the "hundreds of thousands of Puerto Ricans who work in U.S. factories, as university professors, teachers and businessmen and who each, in his own way, contributes to the growth and prosperity of the country."

In closing, I would also like to insert former Governor Ferre's thoughtful views on Puerto Rico's future:

Puerto Rico is a community of loyal American citizens who have evolved within the American way of life and who seek to assume full responsibilities in the Union. We want to pay taxes, not to be an economic burden, as we are today . . .

We were brought into the American family, without our request, by unilateral action of the United States, which understood that Puerto Rico's position in the Caribbean was essential to its defenses.

Certainly we welcomed the U.S. soldiers as deliverers. We took at face value the promises of Gen. Nelson Miles, who upon arrival in 1898 proclaimed, 'We have come to bestow the immunities and blessings of our enlightenment and liberal institutions and government.'

Except for a handful, all Puerto Ricans living today were born under the American flag; most everyone speaks English. We pose no more of a threat to the use of English than do the other 15 million Hispanic Americans living in the United States. We feel we have the right now to achieve the goal that is due every U.S. citizen—equality through statehood.

Finally, we have faith and confidence in the spirit of Thomas Jefferson and Abraham Lincoln that has inspired Presidents Reagan and Bush to spread the winds of freedom and self-determination throughout the world.

The time has come to practice these same principles at home, with Puerto Rico.

## CONGRATULATING GORDON NEGUS

Mr. COHEN. Mr. President, it is my pleasure today to recognize the accomplishments of Gordon Negus, who has served since 1985 as the Defense Intelligence Agency's [DIA] Executive Director.

On April 30, 1990, Mr. Negus retired after 32 years of distinguished service to our Nation. For the past 5 years, he has been DIA's senior civilian executive, with responsibility for the day-to-day operations of the Agency, as well as for long-term planning and strategic resource management.

As vice chairman of the Senate Select Committee on Intelligence, I have had the pleasure and opportunity to work with Mr. Negus and to observe firsthand the significant contribution he made to the intelligence community and the Nation. His leadership at DIA has been appreciated by members of the committee, and his accomplishments have been recognized within the executive branch throughout his career. A measure of this came in 1985, when he was awarded the Presidential Rank of Distinguished Executive.

Mr. Negus began his Government career at the Rome Air Development Center's Directorate of Communications in 1958, and he has held increasingly responsible positions within the civil service since that time. He joined DIA in 1967, and he was named Defense Intelligence Officer for Strategic Forces and Strategic Arms Limitation in 1975.

Later, as Assistant Deputy Director for Research, he prepared a major study for the Chairman of the Joint Chiefs of Staff prior to the strategic arms reduction talks [START] with the Soviets. After a brief assignment as Vice Deputy Director for Foreign Intelligence, he was named the Agency's Executive Director.

Too often, Mr. President, we fail to acknowledge the contributions of dedicated civil servants such as Mr. Negus whose efforts are so critical to our Nation. As he retires, I am pleased to add my congratulations to him for his many substantial and lasting contributions to our national security.

## FAIR TRADE IN FINANCIAL SERVICES ACT

Mr. GARN. Mr. President, 6 weeks ago the Banking Committee held a hearing on the Fair Trade in Financial Services Act. This legislation is designed to strengthen the negotiating position of the Treasury Department in seeking full national treatment for U.S. financial institutions in foreign markets.

At our hearing, the Treasury Department rejected any new authority, even discretionary authority, to take action against countries that deny national treatment. Their fear is that other countries will retaliate against U.S. firms in their markets. During my 15 years in the Senate, I have watched four Presidents and countless Secretaries of the Treasury take this same timid approach. We talk about open markets and equal access, while our competitive position declines and our domestic market is taken over by foreign institutions.

This weekend, I understand that Treasury Under Secretary David Mulford will return to Japan to continue his endless series of discussions on opening up the Japanese financial market. The Japanese are past masters at delaying reform of their markets while taking a major share of ours. They are apparently at it again. Rumor has it that they will pledge to open up their financial markets—but not for 3 more years.

This is a totally unacceptable basis for negotiations. What is the argument—that they need to protect their infant financial industry from rampaging U.S. banks? Fifteen of the world's top 20 banks are Japanese. Any step short of immediate liberalization is unacceptable. We have to put the Japanese on notice that we are not going to wait for 3 years—or for 1 year. If they do not play by the rules, Congress will take action.

I am sure this idea will sow panic at the Treasury, but I frankly don't share their fear of retaliation by Japan. What can they do to us? Market access for U.S. firms is already completely controlled by the Ministry of Finance.

I want to make myself as clear as possible on this point, to both our Treasury negotiators and the Japanese side. I have no patience left on this issue, nor does the rest of the Congress. No more talk. Don't come back without an agreement on full market access.

## FINANCIAL DISCLOSURE

Mr. LEAHY. Mr. President, my Senate public financial disclosure report is on file with the Secretary of the Senate's Office of Public Records. I am adding additional material relating to my net worth, beyond what is required by the U.S. Senate.

| | |
|---|---|
| Senate Salary | $89,500 |
| Additional income (honoraria, interest, et cetera, as reported on Senate Public Financial Disclosure Report) | 42,037 |
| Total income | 131,537 |
| Taxes | 38,594 |
| Charitable contributions | 1,690 |
| Equity in Middlesex, VT, residence | 105,036 |
| Equity in Washington, DC, area residence | 401,503 |
| Value of personal property (savings accounts, cars, furniture, books, et cetera) | 50,000 |

## FARMERS NEED HIGHER TARGET PRICES AND LOAN RATES

Mr. PRESSLER. Mr. President, rural Americans urgently need higher farm commodity prices. Because farm commodity prices in the past have been below production costs, talented young farmers and ranchers have been forced to leave their farm homes and find employment elsewhere. The aver-

age age of a farmer in my home State of South Dakota is 57 years of age. Mr. President, I cannot emphasize enough our tremendous responsibility as lawmakers to write Federal farm policy that will bring adequate income to the agricultural community.

As Members of Congress we have an overwhelming budget deficit to deal with. History shows that farm program budget outlays are easy targets of unsympathetic budget-cutting members of the administration and Congress. According to figures released in a recent Congressional Budget Office [CBO] report, spending by USDA on price support programs—which directly add to net farm income—fell from $25.8 billion in 1986 to $10.4 billion in 1989. This is a 60-percent decrease. In comparison, defense spending is projected to decline 22 percent in the period from 1985 through 1995.

The message I am trying to get across, Mr. President, is that we cannot be like the proverbial "dog that bites the hand that feeds it." We must responsibly take care of our farmers and ranchers, a very small segment of our population, who provide us with an inexpensive and dependable food supply.

Lowering loan rates and target prices from current levels seems like an easy way to cut costs and decrease our Federal budget deficit. Let me remind you that target prices and loan rates have been decreasing since 1986. Lowering them even further for another 5 years, as many advise we do, would result in 10 consecutive years of declining prices. The CBO study projects that, when adjusted for inflation, net cash income could decline by 18 percent and net farm income could decline by 20 percent between 1991 and 1995. The study also points out that if real incomes for farm producers were to fall to these projected levels, nearly 500,000 farms would be forced out of business or additional off-farm income would need to be realized. This analysis is based on the assumption that target prices remain at current levels. How can we in good conscience advocate farm policy that offers our farmers and ranchers a 20-percent drop in income for the next 5 years?

Mr. President, we must increase target prices and loan rates to levels that provide adequate income for those responsible for our food supply. I have sent letters to all members of the budget summit urging sensitivity to the needs of the agricultural community. I will fight unfair budget cuts to programs affecting rural America. I urge my colleagues to do likewise.

## ROLAND O. FERLAND: A TRUE HALL OF FAMER

Mr. PELL. Mr. President, it is a great pleasure for me to note the induction of Roland O. Ferland of Pawtucket, RI, into the National Housing Hall of Fame. The National Housing Hall of Fame honors individuals who have made a lasting and significant contribution to the American housing industry and is sponsored by the National Association of Home Builders.

No one in Rhode Island deserves this honor any more than Roland Ferland. A World War II Army Veteran, Roland Ferland joined his father's home building business, A. Ferland & Sons, and immediately set to work in providing attractive, low cost housing for other returning veterans. He established a visionary mortgage guarantee program similar to the modern FHA program which enabled many veterans to buy homes that would otherwise have been out of reach.

Many young Southeastern New England families of the 1940's and 1950's also benefited from Roland Ferland's streamlined development techniques. These techniques, which Ferland & Sons shared with other builders, facilitated the construction of enough well-constructed, afforable housing to meet needs of a growing society.

During the decades that followed, the Ferland Corp. has built more than 10,000 single family homes, apartment units and commercial structures. Roland Ferland has always stood squarely behind his work, even to the point of offering to buy back any home that was shown to be defective.

Roland Ferland is a member and past president of the Rhode Island Builders Association, an organization that has for decades served the housing needs of all Rhode Islanders. He is also a life director of the National Association of Home Builders, where he has served on numerous special committees throughout the years, helping the home builders in their efforts to meet the housing challenges of the future.

Along with his involvement in the housing industry, Roland Ferland has dedicated his time throughout the years to causes and organizations that truly benefit the State of Rhode Island. He have given his attention and expertise to hospitals, colleges and numerous charitable organizations such as the Rhode Island Heart Association and the United Way of Southeastern New England.

I am sure that I speak for all Rhode Islanders when I say how proud and happy I am for Roland Ferland. His contributions to his community are well known in Rhode Island and I am pleased that the rest of the country will now learn of the accomplishments of this outstanding Rhode Islander.

## THE FLAG AMENDMENT

Mr. DOLE. Mr. President, earlier this week, the Supreme Court heard oral argument on the constitutionality of the so-called Flag Protection Act of 1989.

Within 6 weeks or so, the Supreme Court will settle—once and for all—the question of whether the flag statute passes, or flunks, the constitutionality test.

I've predicted that the Supreme Court will affirm the two lower court opinions striking down the statute. Obviously, I am not a mindreader, and I could be dead wrong on this one.

But what the critics can't dispute is the simple fact that the American people still—to this day—stand foursquare behind a constitutional amendment to protect Old Glory from desceration.

Last Friday, the American Legion officially released the results of a Gallup poll testing the opinions of Americans on the flag-burning issue. And the results show that Old Glory—as well as the constitutional amendment—have won with landslide numbers.

According to the poll, an overwhelming 72 percent of the American people "disagree that burning the flag should be protected under the free speech guarantee of the first amendment;" 71 percent favor "a narrow constitutional amendment that would allow Federal and State governments to make flag-burning illegal," just like the amendment that the Senate considered last year.

And 73 percent of the American people do not "believe that a constitutional amendment would place our freedom of speech in jeopardy," while only 25 percent think it would.

So despite what you may hear or read in the media, the commitment of the American people to a constitutional amendment remains as strong as ever—almost a full year after the Texas versus Johnson decision. And this commitment will grow even stronger if, and when, the Supreme Court finally strikes down the so-called Flag Protection Act.

I commend the American Legion for its unrelenting work on behalf of the constitutional amendment. And I commend the legion for bringing the poll results to the attention of their elected representatives in Congress.

Mr. President, I ask unanimous consent that the text of the American Legion poll results be printed in the RECORD at this point.

There being no objection, the results were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
*Washington, DC, May 11, 1990*

DEAR SENATOR: Although it has been almost a year since the Supreme Court's controversial decision, 72 percent of the American public still believes that burning the American flag should not be a protected form of free speech as guaranteed by the Constitutions First Amendment. As a reinforcement of that belief, 71 percent of Americans favor a narrowly-drawn constitu-

tional amendment to make flag burning illegal, and 73 percent are convinced that such an amendment would not jeopardize their freedom of speech.

These are only three findings of a recent Gallup poll clearly showing that most Americans are still enraged over the whole matter of flag burning. In fact, 57 percent of them stated their intention to vote for or against elected officials because of where they stand on the issue. These are not "soft" opinions or attitudes because it was also found that only 15 percent of the poll participants expressed any uncertainty in stating their positions.

The American Legion is convinced that this poll, conducted April 11 through May 2, is a clear indicator of public opinion. We see it as proof that Americans have considered carefully all sides of the issue, they have made up their minds, and they are demanding that flag burners be dealt with as lawbreakers.

A more detailed presentation of the Gallup poll results is enclosed for your review.

Sincerely,

MILES S. EPLING,
*National Commander.*

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GALLUP POLL RESULTS ON AMERICANS' OPINIONS ON THE FLAG-BURNING ISSUE

Statistics just released to The American Legion by The Gallup Organization, Inc. show that a significant majority of Americans support a constitutional amendment to protect the United States Flag. The poll, which was conducted from April 11 through May 2, and has a "maximum standard-error rate of 2.7 percent at the 95 percent level of confidence, "reported that 71 percent favor a narrowly drawn constitutional amendment; 73 percent do not believe such an amendment would jeopardize their freedom of speech; and 57 percent would vote for or against an elected official because of his position on this issue.

The questions asked and the responses, by percentage, follow.

1. Do you agree that burning the American flag should be protected under the free speech guarantee of the First Amendment or do you disagree that burning the flag should be protected under the free speech guarantee of the First Amendment?

Agree, 25 percent; disagree, 72 percent; no opinion, 2 percent.

2. On May 14th the Supreme Court is going to hear final arguments on the Flag Protection Act of 1989, the law which was written to make flag burning a crime. If the Supreme Court finds the Act to be unconstitutional would you favor or oppose a narrow constitutional amendment that would allow federal and state governments to make flag burning illegal?

Favor, 71 percent; oppose, 26 percent; no opinion, 3 percent.

3. Do you believe that a constitutional amendment outlawing flag burning would place your freedom of speech in jeopardy?

Yes, 25 percent; No, 73 percent; don't know, 2 percent.

4. How strong is your opinion on the flag burning issue? On a 1 to 5 scale where 5 means you completely made up your mind on your position on the issue and 1 means you're unsure of your position on the issue, where would you rate yourself regarding the flag burning issue?

(1) Unsure of position, 3 percent; (2), 3 percent; (3), 9 percent; (4), 16 percent; (5) completely made up mind, 68 percent.

5. Please tell me yes or no if you would be likely to participate in the following activities as a result of your position on the flag burning issue. Would you be likely to:

A. Donate to a group that supported your position?

Yes, 53 percent; No, 44 percent; don't know, 3 percent.

B. Sign a petition that supported your position?

Yes, 86 percent; No, 13 percent.

C. Vote for or against an elected official because of his position on the issue?

Yes, 57 percent; No, 40 percent; don't know, 3 percent.

D. Do volunteer work for a group that supported your position?

Yes, 44 percent; No, 54 percent; don't know, 2 percent.

E. Write a letter to an elected official stating your position on the issue?

Yes, 65 percent; No, 34 percent.

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## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

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## COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT OF 1990

The PRESIDING OFFICER. The Senate will resume consideration of S. 2240 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2240) to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes:

The Senate resumed consideration of the bill.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator HELMS be recognized to offer his amendment and request with respect to the distribution of syringes and bleach, and that there be 30 minutes of debate equally divided on the amendment, with no second-degree amendments in order; that following the conclusion of debate on the Helms amendment, Senator KENNEDY be recognized to offer an amendment with respect to the provision of syringes and needles, on which there will be 30 minutes equally divided, and that no second-degree amendments be in order to the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, and I will not object, I wonder if I might see the Senator's amendment. He has seen mine.

Mr. President, I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, I thank the chair and the distinguished manager of the bill, Mr. KENNEDY.

An amendment which I will send to the desk will be on behalf of myself, Senator COATS, Senator NICKLES, Senator SYMMS, Senator THURMOND, and Senator LOTT.

I shall not send the amendment to the desk just now.

But let me tell you what it does. Then I will have the clerk read it.

It simply says to the American people that the U.S. Senate will not permit this Government to aid and abet drug abuse which is unlawful in every State and under Federal law, both State law and Federal law.

This amendment will put the Senate on record once more as opposing the distribution of money authorized under this law of the United States from going to any State metropolitan area or rural area if those entities carry out any program of distributing sterile needles for the hypodermic injection of any illegal drugs or distributing bleach to clean those needles.

The point is this: We have two crisis in this country—the drug crisis and the AIDS crisis.

And this Senate should not and has not in the past consented to swapping the devil for the witch. That is the point.

We all do what we can about AIDS, but we do not want to be on record as doing anything to permit the distribution and the use of drugs in any shape, fashion, or form.

The language of the amendment should be familiar to most Senators.

AMENDMENT NO. 1624

(Purpose: To prohibit the use of funds made available under this act for the distribution of needles or bleach for cleaning needles)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated, and in this case, I am going to ask the distinguished clerk to read it all.

The PRESIDING OFFICER (Mr. BREAUX). The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. COATS, Mr. NICKLES, Mr. THURMOND, Mr. SYMMS, and Mr. LOTT, proposes an amendment numbered 1624.

At the appropriate place, insert the following new section:

SEC. . PROHIBITION ON USE OF FUNDS.

None of the funds authorized by this Act, or an amendment made by this Act, shall be allocated to any State, metropolitan area, or rural area, if such State, metropolitan area, or rural area, carries out any program for the distribution of—

(1) sterile needles for the hypodermic injection of any illegal drug; or

(2) bleach for the purpose of cleansing needles for such hypodermic injection;

unless the President certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that the text of the amendment just read appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . PROHIBITION ON USE OF FUNDS.

None of the funds authorized by this Act, or an amendment made by this Act, shall be allocated to any State, metropolitan area, or rural area, if such State, metropolitan area, or rural area, carries out any program for the distribution of—

(1) sterile needles for the hypodermic injection of any illegal drug; or

(2) bleach for the purpose of cleansing needles for such hypodermic injection;

unless the President certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

Mr. HELMS. Mr. President, I am doing it this way so it will be in context in the RECORD tomorrow morning.

The language that the distinguished clerk just read is virtually identical to language which became law as part of the omnibus drug bill of 1988 and the language I introduced along with the distinguished Senator from Indiana [Mr. COATS] on September 21 of last year. And on that day, the Senate endorsed this amendment by a vote of 99 to nothing. It was a unanimous vote.

It is also important for Senators to know that I have retained the safety net which I included in my original amendment back in September on the recommendation of Senators SPECTER and HARKIN. I agreed to include a provision which would allow the President to release funds if the President determines that the distribution of needles does nothing to spread HIV.

Mr. President, the argument has been made that we should allow the Department of Health and Human Services to continue supporting programs for the distribution of bleach for the purpose of cleansing needles so that the drug addict can clean the instrument of his own destruction.

What kind of message does that send? We are saying that the disease AIDS is more important than the war on drugs, or the way it will be read among drug abusers is that, "Well, the Government is telling us how to avoid some difficulty. They are even furnishing us the bleach."

I think Senator KENNEDY and I agreed on the first part of the amendment. It is on bleach that we do not agree. I do not want to send a message to anybody that this Government is encouraging or assisting drug abuse.

But be it needles or bleach the outcome is the same. We would be facilitating the unlawful activities of an element in this country which is not only contributing to the rapid spread of AIDS but is the foundation of the growing crime wave we are now experiencing, and those of us who live in the Washington, DC, area know a little bit about that.

For the information of Senators, this get tough attitude toward drug abuse has the support of Bill Bennett and Secretary Sullivan. Furthermore, Congressman CHARLIE RANGEL has introduced what he calls the Drug Abuse Treatment Policy Act of 1989 which would prohibit the use of Federal money for the distribution of needles and bleach for the injection of unlawful drugs.

Mr. President, a few years ago I read a report—and I have it here somewhere in the file—recommending that the Government dispense clean needles to drug addicts as a method of AIDS prevention. I remember thinking what nonsense this is. Illegal drug use is killing and injuring literally thousands of Americans and this Nation is said to be in an all-out war with drugs. To date, we have spent more than $5 billion to prevent or control the use of narcotics and other dangerous drugs, but nobody in his right mind, or at least I thought, would embrace the idea of retreating from the drug war to take up arms against the disease AIDS.

Yet, that is exactly what is happening. State and local governments are now seriously reviewing, and many local governments have in fact approved, a clean needle program where drug addicts are given needles for illegal drug use.

My friend, Chubb Seawell, down in North Carolina, used to say that does not even make good nonsense, and it does not make sense or nonsense.

There are several Members of this body who apparently would cave in to the AIDS lobby rather than get tough on drugs. Make no mistake about it. The use of drugs is immoral; it is unlawful; it is killing thousands of Americans. We all know that. They run a toll every morning on the radio here in Washington reviewing how many people killed each other the night before as a result of drugs. I am saying that we should not give up one battle for the sake of another. Do not swap the Devil for the witch.

As a matter of fact, some Members of this body decried the so-called failure of President George Bush's war on drugs because the number of addicts is growing.

Well, I say to them, put up or shut up. Let me see what you are going to do behind your rhetoric. And I have heard a great deal about how the U.S. Government has to do more for treatment. Well, that is fine. But at the same time we need to take a closer look at what is happening to the average American.

Drug users, Mr. President, are not the only ones dying in the drug war. The shopkeeper, the gas station attendant, the bank teller, the pizza deliverer, the policeman, and thousands of others are dying at the hands of the drug addicts. Drug use is feeding the fires of crime. How many times have you picked up the paper or switched on your radio and read or heard about a violent crime linked to drug use? I think we cannot forget an innocent category of the drug war: the children who are being born right and left addicted to narcotics.

In New York State alone, the State Division of Substance Abuse estimates that less than 2 years ago, 8,000 children were born to drug addicts and over 500,000 children under 18 live with parents who are now drug addicts. That was 2 years ago. I wonder what the figures are now.

I think most people agree that distributing needles will not help diminish these atrocities, Mr. President. As our colleague on the House side, Mr. RANGEL, said in March of last year, "Needle distribution puts public authorities in the business of death on the installment plan."

New York City has the needles distribution program. It does not work. Police Commissioner Benjamin Ward condemns it, and Sterling Johnson, the chief prosecutor of the New York Special Narcotics Division, calls the logic of giving needles to addicts ridiculous.

As he said: "How does one expect addicts who do not clean themselves to clean their needles?"

I am pleased to say that the mayor of New York has called for a halt to the distribution of needles to addicts in his city.

In an effort to expedite the conclusion of this particular amendment, I will not say any more except to say that the issue is clear, and I feel we should get tough on drugs and not condone or appear to condone the use of unlawful drugs.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? The Chair would point out that there is an insufficient second at this time.

Mr. HELMS. Mr. President, I would say that the Chair has ruled properly. There is not a sufficient second. But I would indicate that Senator KENNEDY has agreed to this.

The PRESIDING OFFICER. That motion would be in order at an appropriate time.

Mr. HATCH. I ask unanimous consent that the yeas and nays be ordered on this amendment.

The PRESIDING OFFICER. The Chair would, reluctantly, acting as a Senator from Louisiana, be required to object at this point.

Mr. HELMS. Very well. I say to my friend from Utah that the Chair has ruled properly on that. There is not

any Member of the Democratic side here.

I reserve the remainder of my time.

By the way, Mr. President, how much more time do I have?

The PRESIDING OFFICER. The Senator from North Carolina has remaining 4 minutes.

Mr. HELMS. I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Who yields time? Time is controlled. Who yields time?

Mr. HATCH. Mr. President, I yield myself such time as I require.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I hate to, but I rise in opposition to the amendment of my distinguished colleague from North Carolina. I agree that no Federal funds should be used to distribute so-called clean needles. I do not think the Government should do anything to encourage or condone drug abuse. Drug abuse is killing people in America. It is killing our country. Drug abuse is ruining our neighborhoods. I believe drug abuse should be stopped.

Mr. President, I know what the distinguished Senator from North Carolina is trying to do, but I do not think his amendment does it in the way it should be done. I note that my colleague from Massachusetts will offer an amendment immediately following this amendment—upon which we are going to vote immediately following the vote on the Senator's amendment—which will bar free needle distribution. I believe Senator HELMS' amendment goes too far.

According to Dr. James Mason, who is the Assistant Secretary for Health at the Department of Health and Human Services, he is very concerned about prohibiting the use of HHS funds for any program of distributing bleach to IV drug users. Let me just read his letter. He said:

I am concerned about the effects on Public Health Service (PHS) AIDS Programs of any amendment to the Labor/HHS appropriations bill (H.R. 3566) that would prohibit the use of HHS funds for any program of distributing bleach to intravenous drug users.

There is a distinct difference between programs that distribute needles and those that distribute bleach to drug users. We agree that programs distributing clean needles could be interpreted as encouraging drug use by giving individuals the means to support their illegal use of drugs. However, bleach is readily available legally. In addition, providing bleach as part of a comprehensive drug abuse outreach program only gives drug users the means to protect themselves and others from a fatal infection until they can be brought into treatment. Programs of this type, currently funded by the Department, show no evidence of having contributed to the spread of drug abuse. If they did, we would not support them. Such comprehensive programs include services like referral for drug treatment and other medical services, and counseling regarding bleach use and the risks associated with needle-sharing, as well as sexual and perinatal transmission.

Mr. President, I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
*Washington, DC, Nov. 17, 1989.*

Hon. TOM HARKIN,
*U.S. Senate, Senate Hart Office Building, Washington, DC.*

DEAR SENATOR HARKIN: I am concerned about the effects on Public Health Service (PHS) AIDS Programs of any amendment to the Labor/HHS appropriations bill (H.R. 3566) that would prohibit the use of HHS funds for any program of distributing bleach to intravenous drug users.

There is a distinct difference between programs that distribute needles and those that distribute bleach to drug users. We agree that programs distributing clean needles could be interpreted as encouraging drug use by giving individuals the means to support their illegal use of drugs. However, bleach is readily available legally. In addition, providing bleach as part of a comprehensive drug abuse outreach program only gives drug users the means to protect themselves and others from a fatal infection until they can be brought into treatment. Programs of this type, currently funded by the Department, show no evidence of having contributed to the spread of drug abuse. If they did, we would not support them. Such comprehensive programs include services like referral for drug treatment and other medical services, and counseling regarding bleach use and the risks associated with needle-sharing, as well as sexual and perinatal transmission.

The PHS strongly supports projects whose purpose is to prevent the spread of HIV infection and to encourage intravenous drug users to enter drug abuse treatment and stop using drugs. We strongly support the President's National Drug Control Strategy, and our outreach efforts do reinforce that drug use is illegal and that the responsible course of action for the user is to stop using drugs and to get into treatment.

There is a limited and appropriate role for the distribution of bleach as one component of this type of comprehensive program to help contain the spread of HIV infection. Bleach distribution is only one small element, and not the primary focus of these programs. These programs represent a significant public health contribution in protecting the sexual contacts of drug users and their children from the risk of HIV infection by using bleach to break the chain of infection, and helping them to get into treatment.

Thank you for consideration of this concern.

Sincerely yours,
JAMES O. MASON, M.D., Dr.P.H.,
*Assistant Secretary for Health and Acting Surgeon General.*

Mr. HATCH. I think he makes a very important point.

In addition the author of that letter is, in my opinion, I think, the leading health authority, outside of Dr. Sullivan himself, the Secretary of Health and Human Services, in our country.

I also oppose the amendment of my good colleague, the Senator from North Carolina [Mr. HELMS] because he not only leverages the use of Federal funds, but also the use of State and local funds. He says that no funds could be used for bleach distribution.

I feel very uncomfortable in dictating to the States and local governments what they can and cannot do with their own funds. This amendment says to the States and our local communities that you cannot carry out certain prevention activities that you decide are improtant and necessary. If we adopt this amendment of the distinguished Senator from North Carolina, we are saying you cannot use your own State money or even private funds to carry out this activity even if you have decided as a State that it is necessary to do so.

Mr. President, I have to urge my colleagues to vote against the Helms amendment and to support the Kennedy amendment as an alternative because it preserves for our States and local communities the flexibility to carry out those prevention activities they have put in place to meet their own needs, and it does require that no funds under this act could be used to support activities that would provide clean needles to IV drug abusers or drug users.

So, Mr. President, we will be voting soon on two amendments. One will be the Helms amendment, which forbids the States to do what they think is in their best interests to do; and the other is the Kennedy amendment, which forbids the distribution of needles but allows the States the flexibility of distributing bleach, if they think that is a better program. And the Kennedy amendment follows the recommendations of the very distinguished Assistant Secretary for Health over at Health and Human Services.

I have to say, as much as I understand and admire and appreciate what the distinguished Senator from North Carolina is trying to do, the Kennedy amendment is superior because it does give the flexibility that the States need. I believe and hope our colleagues will support it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I want to address the comments of the Senator from North Carolina briefly, and then yield such time as the Senator might need.

Mr. President, I would like to bring the Senate up to speed about where we are about Federal funding for needle exchange programs. That is prohibited. There are no Federal funds now being used for needle exchange programs in any place in these United States. It was never intended that money would be used for a needle exchange program under this legislation, and the amendment which will

follow the vote on the Helms amendment will make it explicit. It will be introduced on behalf of the Senator from Utah and myself.

It did not seem to be necessary. That was never intended, but since the issue has been raised, that will be the result. After we dispose of the Helms amendment, that will be the question we will address.

But there is another part of the Helms amendment. The other part of the Helms amendment says if any local jurisdiction or any State jurisdiction is involved in providing bleach for IV drug users, they will not be eligible for any of the funding under this legislation. We are not talking about funding for the use of bleach under this legislation. But, under the amendment of the Senator from North Carolina, if any of the States on their own are making a decision to do this, they would not be eligible to receive any kinds of funds.

Some 16 States are already doing that, Mr. President. We believe that is a judgment that ought to be left up to the local States and communities, and public health officials. Frankly, there do seem to be some important reasons why, in a number of the communities, particularly where there is a high incidence of IV use, it is desirable.

The reason, as has been pointed out by Secretary Mason, is a recognition that in a number of communities there is a significant waiting time to get into various programs for rehabilitation and treatment. In the most recent study by State agencies, some 66,000 persons were on waiting lists in 44 States. The statistics from NASADAD, dealing with the survey that they have published in October of 1989 for alcohol and drug abuse directors indicates 66,000 persons are on waiting lists. That means they cannot get into treatment.

What have a number of jurisdictions suggested? They said, in many instances some of those individuals, if they have to go to outpatient care, they have to wait 22 days; if they are going to inpatient, residential treatment, 45 days. Here, individuals who effectively want to get free from the habit but are not getting the counseling, not getting treatment, and are not getting the care, in limited circumstances are protected because there is a program that permits the use of bleach.

Under the amendment of the Senator from North Carolina, he would say the benefits of this particular legislation would virtually be prohibited from any jurisdiction. What is the public health implication, if we follow the Helms amendment? I think it is spelled out very clearly in Secretary Mason's letter. I know it has been printed, but I would like to highlight the points which are relevant to this debate.

There is a distinct difference between programs that distribute needles and those that distribute bleach to drug users. We agree that programs distributing clean needles could be interpreted as encouraging drug use by giving individuals the means to support their illegal use of drugs. However, bleach is readily available legally. In addition, providing bleach as part of a comprehensive drug abuse outreach program only gives drug users the means to protect themselves and others from a fatal injection until they can be brought into treatment. Programs of this type, currently funded by the Department, show no evidence of having contributed to the spread of drug abuse.

It is additional protection before treatment for those who want to be free from drugs, and there is no expansion of use.

Finally, I think probably the most relevant part of the Secretary's letter is in the last paragraph.

These programs represent a significant public health contribution in protecting the sexual contacts of drug users and their children from the risk of HIV infection by using bleach to break the chain of infection, and helping them to get into treatment.

We have talked, during this debate, about the tragedy that exists in our country in so many communities that so many of the babies being born now in many of our urban areas are HIV positive. Here we have Secretary Mason, as well as the other public health officials, saying one of the ways to protect those babies from having it is through this continued use of bleach for those individuals who want to gain treatment.

Mr. President, I feel both because of the public health justification for this program and the fact that we are not funding it with this money, but it is being funded by the States, we should not say to the States, when we have this sound public health evidence, that they are going to be eliminated from any eligibility. We should not prevent them from developing more comprehensive programs that can reach out to rural areas of this country, to the teenage population where this scourge is growing, and to the pediatric AIDS victims.

It just seems to me to make no sense.

I hope that, at an appropriate time, Mr. President, under the agreement, we will vote in favor of the proposal of the Senator from Utah and myself and vote down the amendment of the Senator from North Carolina.

Mr. GORTON. Will the Senator from Massachusetts yield 5 minutes?

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER (Mr. SIMON). The Senator from Massachusetts controls 2 minutes, 40 seconds.

Mr. KENNEDY. I yield the remaining time to the Senator.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 minutes and 40 seconds.

Mr. GORTON. Mr. President, the distinguished Senator from Massachusetts knows that we do not always agree on matters coming before the Senate, but I wish to commend him for both his clarity and logic in connection with this amendment, as well as that of the distinguished Senator from Utah. The sponsor of the amendment, of course, has designed this amendment to discourage drug use by restricting the availability of needles and bleach to those who are drug addicts. The impact of his amendment, however, would, I believe, be exactly the opposite; that it would increase both drug use and diseases, most particularly AIDS. As a consequence, I firmly believe that this amendment should be rejected and the amendment of the distinguished Senators from Massachusetts and Utah be accepted.

I spoke at length, Mr. President, over the Christmas recess, to Dr. Robert Wood, of Seattle, on this subject, a major investigator of an outreach program which does distribute bleach and a man who is also the director of AIDS control for King County, WA. He has persuaded me that that program dramatically helps both to control the spread of AIDS and reduce drug use. Research has shown in five cities that between 15 and 50 percent of those who enter a bleach program have stopped IV drug use by the time of a follow-up interview 6 to 12 months later and that others have at least reduced that drug use.

Mr. President, that is dramatic success in connection with intravenous drug use. Very few programs will show a greater degree of success.

The rejection of this amendment and the adoption of the amendment by the distinguished Senators from Massachusetts and Utah will be important in our attempt to control and to limit drug use. I agree with them completely. This amendment should be defeated and their amendment should be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. As I understand it, Mr. President, all of the time that is under my control has expired; am I correct?

The PRESIDING OFFICER. The Senator has 15 seconds left.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I find a certain degree of novelty about the arguments against the amendment because all three of the Senators who have spoken against it voted for it last November. My suggestion is let us approve both amendments.

In talking about the bleach program, the point is, it is a flop, as I alluded in my earlier comments. New York City has such a program; it does not work. The police commissioner, Benjamin Ward, condemns it. The chief prosecutor of the New York special narcotics division, calls it ridiculous. Again how does one expect addicts who do not clean themselves to clean needles that they use? So, what we are doing, if this amendment is defeated, we are sending a message, go ahead and use drugs, but, just like safe sex, have safe drug abuse. I hope the Senate will not take that position.

This past November, the Senate took the opposite position; it supported my amendment unanimously—I think it was 99 to nothing. So what are we doing here? Are we going to have all sorts of rhetorical exercises that I have to believe that no Senator believes in?

We are going to have back-to-back rollcall votes, first on mine and then on the amendment of the distinguished Senator from Massachusetts. My recommendation to Senators is vote for both of them. The yeas and nays have been ordered on mine. Have they been ordered on Senator KENNEDY's?

The PRESIDING OFFICER. The yeas and nays have not been ordered on Senator KENNEDY's amendment.

Mr. HELMS. I ask for the yeas and nays on Senator KENNEDY's amendment.

The PRESIDING OFFICER. The Chair will advise the Senator from North Carolina they have not been ordered on his amendment yet.

Mr. HELMS. The Chair is correct. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina has 1 minute remaining.

Mr. HELMS. I reserve that time unless the Senator from Massachusetts wishes to yield back his time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. HELMS. I yield back my time.

The PRESIDING OFFICER. All time has expired.

AMENDMENT NO. 1625

(Purpose: To prohibit the use of funds for needle distribution programs)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 1625.

At the appropriate place insert the following:

SEC. . PROHIBITION ON USE OF FUNDS.

None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, I want the Senate to understand that the Helms amendment that was passed overwhelmingly last year applied to the ADAMHA Block Grant Program. That is different from the Helms amendment that is being offered here today. His amendment last fall applied to needles and bleach under the ADAMHA Program. I read the provisions of the amendment in the act: "A State may not use amounts under this subpart pursuant to this subsection." That is the ADAMHA Block Grant Program.

What his amendment effectively is saying today is you will not be eligible for any of the funding under this program if the State has made an independent judgment and a decision as part of a treatment program for drug addicts that they use bleach. Sixteen States have done so, and many of those States that have done so have had the highest incidence of IV drug users and have the longest waiting list. That is why Secretary Mason rejects the kind of proposal that is offered by the Senator from North Carolina and supports the kind of proposal that is offered by the Senator from Utah and myself, and that is why the AIDS Commission, as well, supports that different proposal.

So last year, the Helms amendment dealt with needles and bleach with regard to ADAMHA. Now he is saying he wants to deal with needles and bleach not just in the bill, but saying you cannot receive a cent under the bill if the State makes that judgment and decision. That is a good deal different, Mr. President. That is not the same question or vote. We are going to give the people an opportunity to ensure that no money in this bill will be used for clean needle exchange.

We never believed that it would be. We believe that it is prohibited under other provisions in Federal law, but we are glad to make that a part of the record so that members can make it very clear that they do not want money to be used under that.

But what we are not prepared to say is that if States in their own judgment, from the public health point of view, are going to use bleach in the limited circumstances while they are cutting down on the waiting list for IV drug users, they are going to be prohibited from the kind of emergency help and assistance that can make such a difference to thousands of pediatric children, to young teenagers, to those living in rural America with the kind of extensive program that we have developed in this bill for outreach.

So, Mr. President, that is essentially the issue. We have had an opportunity to discuss that earlier in the debate.

Mr. President, it would appear to me we are talking here 40 to 50 cities scattered across 16 different States where as part of the treatment program there is a limited use of the bleach, and the Public Health Service says these programs should continue or lives will be lost.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

If no Senator yields time, the time will be divided equally.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senator from Utah [Mr. HATCH] be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 10 minutes and 40 seconds remaining. The Senator from North Carolina has 15 minutes remaining.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair.

I say to the Senator from Massachusetts it would be my suggestion that since we have discussed this matter in the previous 30 minutes, I say a few words and we yield back the time and vote. I see him nodding his head.

Mr. KENNEDY. My only hesitancy is what those few words are going to be, but in basic concept I certainly would agree.

Mr. HELMS. Absolutely. That is a two-way street.

There is not any difference whatsoever in the implication of the amendment last November which passed unanimously on a rollcall vote and this one. We are talking about what kind of message we are sending.

Now, you can identify cities, but right and left law enforcement officials are saying this bleach proposition is a flop. I read in the RECORD twice in the previous half-hour about New York City.

So let me say just one last thing about what we are doing. We have, under the Kennedy-Hatch bill, which is S. 2240, a program to provide medical care. But the irony is that we want to send money for the treatment at the same time we are giving people the go ahead to keep on using drugs.

That is what this is all about. This is the argument. I do not have one scintilla of objection to Mr. KENNEDY's amendment. I shall vote for it with great pleasure, because it is a good amendment, but so is the so-called Helms amendment, which has a number of cosponsors who are distinguished members of this Senate.

So my suggestion to Senators, who might as well prepare to come over to vote twice, once on the Helms amendment first, second on the Kennedy amendment, is that you vote aye in both cases, and you will be doing something for the betterment of America.

Mr. KENNEDY. I ask the Senator, because I missed his earlier remarks, is he suggesting that Secretary Sullivan is supporting his position on bleach?

Mr. HELMS. I understand that Secretary Sullivan has now taken the position of Director Bennett on needles, and that Director Bennett supports my position on bleach.

Mr. KENNEDY. Just on the needles.

Mr. HELMS. Yes.

Mr. KENNEDY. Fine.

Mr. HELMS. I do not know what his position on bleach is.

Mr. KENNEDY. That is basically what this debate is about, because the question is, we are going to prohibit the use of needles. But the assistant Secretary of Health does not agree with the approach of the Senator.

I yield back the remainder of my time.

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Chair would advise both Senators that we do not have yet a request for a rollcall on the Kennedy amendment.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, let me be clear. I know what the answer is, but the first vote will be on the Helms amendment, the second vote will be on the Kennedy amendment?

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Chair advises the Senators that under the previous order the first vote will occur on the Kennedy amendment.

Mr. HELMS. Under unanimous consent. But in any case, I ask for the regular order.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1624, the Helms amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky [Mr. FORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 28, nays 70, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—28

| | | |
|---|---|---|
| Armstrong | Gramm | Nickles |
| Bond | Grassley | Pressler |
| Boschwitz | Heflin | Rudman |
| Burns | Helms | Shelby |
| Coats | Humphrey | Simpson |
| Cochran | Kasten | Symms |
| DeConcini | Lott | Thurmond |
| Dole | McClure | Wallop |
| Domenici | McConnell | |
| Garn | Murkowski | |

NAYS—70

| | | |
|---|---|---|
| Adams | Fowler | Metzenbaum |
| Akaka | Glenn | Mikulski |
| Baucus | Gore | Mitchell |
| Bentsen | Gorton | Moynihan |
| Biden | Graham | Nunn |
| Bingaman | Harkin | Packwood |
| Boren | Hatch | Pell |
| Bradley | Hatfield | Pryor |
| Breaux | Heinz | Reid |
| Bryan | Hollings | Riegle |
| Bumpers | Inouye | Robb |
| Burdick | Johnston | Rockefeller |
| Byrd | Kassebaum | Roth |
| Chafee | Kennedy | Sanford |
| Cohen | Kerrey | Sarbanes |
| Conrad | Kerry | Sasser |
| Cranston | Kohl | Simon |
| D'Amato | Lautenberg | Specter |
| Danforth | Leahy | Stevens |
| Daschle | Levin | Warner |
| Dixon | Lieberman | Wilson |
| Dodd | Lugar | Wirth |
| Durenberger | Mack | |
| Exon | McCain | |

NOT VOTING—2

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|---|---|
| Ford | Jeffords |

So the amendment (No. 1624) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I rise in support of the Kennedy amendment and in opposition to the Helms amendment. It would restate current law with regard to needle exchange programs. Although I would prefer to let the public health experts determine whether or not any of the clean needles or bleach programs can be effective in stopping the spread of AIDS and should receive Federal funding, I will support this amendment because it would allow research concerning bleach distribution to IV drug users to continue.

I would like to bring some important facts to the attention of my colleagues. The National Institute on Drug Abuse is currently supporting more than 60 research programs that involve the distribution of bleach to IV drug users as a means to stem the spread of AIDS among those individuals. If the Helms amendment had been adopted and enacted, this very valuable and important research would be abruptly halted.

How are we ever going to know if these programs work unless we allow the research to go on? How are we ever going to know if these programs are effective in bringing IV drug users into treatment programs or slow the spread of the AIDS virus unless we allow the research to go on?

Mr. President, preliminary results from one such program in San Francisco, called "Bleach and Teach," are very encouraging.

Dr. John Watters, assistant professor at the school of medicine, UCSF, reports that, among individuals who participated in the program, demand for drug treatment by addicts increased from 40 percent to 60 percent from 1986 to 1989. Disinfection of syringes by drug users has become a common practices, and needle sharing has dropped dramatically.

The most important question that the research addresses is can bleach distribution slow the spread of AIDS? Dr. Watters reports that HIV infection among heterosexual IV drug users in San Franscisco has remained stable since 1986, when the program was introduced. That's a remarkable finding given that the overall HIV infection rate among IV drug users has continued to rise.

Mr. President, I want to make clear that there is a significant distinction between a bleach distribution program and a needle exchange program. Bleach distribution does not place drug paraphernalia into the hands of drug users. Any concerns that a needle exchange program may contribute to greater drug usage simply do not apply to a bleach program. In the words of a recent New York Times editorial, "Whatever Congress thinks about needles, the ban on bleach is murderous mischief."

I urge my colleagues not to lose sight of the single most important issue that must be considered on any AIDS issue—whether a given policy will help save lives. We must be willing to look beyond the traditional way of doing things—if it will help stop the spread of this deadly virus. In particular, we need novel approaches to reach IV drug users—to encourage them to seek treatment and, where that's not possible, to encourage them to change behaviors that could spread the HIV virus. Bleach distribution programs appear to be successful on both counts.

Mr. President, I urge my colleagues to oppose the Helms amendment and support the Kennedy amendment.

AMENDMENT NO. 1625

The PRESIDING OFFICER. The question occurs on the amendment numbered 1625 offered by the Senator from Massachusetts [Mr. KENNEDY]. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky [Mr. FORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—98

| | | |
|---|---|---|
| Adams | Fowler | McConnell |
| Akaka | Garn | Metzenbaum |
| Armstrong | Glenn | Mikulski |
| Baucus | Gore | Mitchell |
| Bentsen | Gorton | Moynihan |
| Biden | Graham | Murkowski |
| Bingaman | Gramm | Nickles |
| Bond | Grassley | Nunn |
| Boren | Harkin | Packwood |
| Boschwitz | Hatch | Pell |
| Bradley | Hatfield | Pressler |
| Breaux | Heflin | Pryor |
| Bryan | Heinz | Reid |
| Bumpers | Helms | Riegle |
| Burdick | Hollings | Robb |
| Burns | Humphrey | Rockefeller |
| Byrd | Inouye | Roth |
| Chafee | Johnston | Rudman |
| Coats | Kassebaum | Sanford |
| Cochran | Kasten | Sarbanes |
| Cohen | Kennedy | Sasser |
| Conrad | Kerrey | Shelby |
| Cranston | Kerry | Simon |
| D'Amato | Kohl | Simpson |
| Danforth | Lautenberg | Specter |
| Daschle | Leahy | Stevens |
| DeConcini | Levin | Symms |
| Dixon | Lieberman | Thurmond |
| Dodd | Lott | Wallop |
| Dole | Lugar | Warner |
| Domenici | Mack | Wilson |
| Durenberger | McCain | Wirth |
| Exon | McClure | |

NAYS—0

NOT VOTING—2

| | |
|---|---|
| Ford | Jeffords |

So the amendment (No. 1625) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I wonder if I might proceed to use 5 minutes of my leader time on another subject, and have it not interrupt the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONGRESS "FIDDLES" WHILE CHAMORRO GOVERNMENT "BURNS"

Mr. DOLE. Mr. President, the U.S. Congress is fiddling, while Sandinista mobs, masquerading as labor union strikers, try to burn the 19-day-old democratic government of Violeta Chamorro.

Yesterday, I spoke briefly about Nicaraguan President Chamorro's urgent plea to President Bush for immediate economic assistance. As the President and others have, I urged the conferees on the dire emergency supplemental to complete its work.

I understand the conferees will meet today. I hope they will not only meet—but act. It is time to move the supplemental; get it to the President; and get the aid it provides to Violeta Chamorro and President Endara in Panama.

It is one of the understatements of the year to acknowledge that not every dire emergency supplemental we have acted on in this Senate dealt with a real dire emergency. It is an equally impressive understatement to say that not every appropriation in this supplemental responds to a real dire emergency.

But today's news stories demonstrate that there is a genuine dire emergency in Nicaragua. A fledgling democracy—19 days old—that we have spent hundreds of millions of dollars to help establish—is under direct assault. Unless we respond soon, President Chamorro's government could go down the tubes.

President Bush is reportedly considering a $40 million bridge loan, to help get the Chamorro government through these critical days. If the President can find the authority and the money to do that, I will support him strongly.

The other day, when there was some suggestion that part of a budget package might include things like a line-item veto, there were cries of outrage from some Members of Congress. It would undercut the power of Congress to appropriate, they cried.

I happen to think the line-item veto is a pretty good idea, and probably something the President has the power to do right now.

But in any case, it seems to me we ought to be concerned about what is happening in Nicaragua. I hope the conferees will take a look at this issue.

There is no more urgent issue. It is a dire emergency. It should be treated as a dire emergency. I suggested yesterday there ought to be some way to separate out at least the Nicaraguan part of the Panama part. If one emergency was more urgent than the other, just take out Nicaragua, if Panama can wait a few more days.

But if my colleagues read the lead story this morning in the Washington Post, "Sandinista-Led Union Paralyze Nicaragua," they would understand the problems the new President, Violeta Chamorro, is having.

Again I urge my colleagues. It seems to me this ought to be a bipartisan effort. I would think there are many Democrats who are also concerned about these fledgling democracies, and I hope we can have immediate action so this aid that has been promised and has been justified can be delivered to President Endara of Panama and President Violeta Chamorro in Nicaragua.

Mr. President, I reserve the remainder of my time, and I thank my colleagues.

Mr. KENNEDY. My President, for the benefit of the Members, we are making good progress toward hopefully completing this measure, in a timely way. We anticipate now, after a brief recess, we will reconvene to consider the Helms amendment, and I think we will dispose of that amendment and/or or substitute, or vote on the Helms amendment and then vote on the Kennedy-Hatch amendment after a time agreement. Then, after that we will vote, hopefully, on an amendment of the Senator from Indiana [Mr. COATS] and then a possible Nickles amendment. The one that has been submitted, we are, I believe, close to working out and accepting.

That is all we know of at the current time. We are not encouraging further amendments, but, if there are others, just to give the benefit of the information to my colleagues, I am hopeful we will be able to move along to complete this legislation.

I again want to thank all the Members for their cooperation.

## RECESS

Mr. KENNEDY. Mr. President, I ask unanimous consent the Senate stand in recess until the hour of 2 p.m., and at the hour of 2 p.m. the Senator from North Carolina be recognized to be able to offer his amendment.

There being no objection, the Senate, at 1:01 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the Senator from Nevada is recognized.

## CONTRA REFUGEES

Mr. REID. Mr. President, one of the oldest roots of the word "hunger" goes back to an ancient Lithuanian word meaning torment, suffering, ache.

There is a lot of suffering in the world—a lot of hunger. In at least one of these places, we, here in this body, have created that hunger.

In a place called Quilali, in the Yemales Valley of Honduras, we are responsible for over 2,000 starving people, though that figure decreases daily as babies die in their mother's arms.

The 2,000 I speak of are former Contras and their families in this remote spot in Honduras. I am talking about

525 men, some of them old, some of them suffering from wounds. I am talking about 760 women. I am talking about perhaps 1,000 children.

Mr. President, I have never supported the military aid for the Contras. From the time I was in the House of Representatives to my days here in the Senate, I was not a supporter of military aid to the Contras. But whether or not I believe in their military cause, I do believe they should not be forgotten and left to die in the jungles of Honduras.

AID, the Agency for International Development, has given over responsibility for the people in the Yemales to the U.N. High Commissioner for Refugees. I must say that, at this point, I think that is an unfortunate turn of events.

These Contras have given up their weapons, signed a cease-fire, and have been handed over to the United Nations with refugee status.

Under the care of AID, each person was allotted 7 ounces of rice per day. That is not much, but it is enough to get by on. The United Nations says it will provide only half that amount—3½ ounces per day per person. But pay attention to my verb tense: The United Nations says it will supply 3½ ounces of rice per day. At this moment, the warehouses are not being used. There are two that have nothing in them. There is one that has a lot of food in it, but the United Nations simply is not using that food. The food has not been forthcoming.

Mr. President, 3½ ounces of rice is not very much rice per day per person. Mr. President, this is 3½ ounces of rice. It certainly is not very much to feed one person for 1 day, no matter the size of that person. This is what has been promised. This is not what has been forthcoming.

Babies have had no milk for 3 weeks, for 21 days. Yet the United Nations promises a half ounce of powdered milk per day.

On contacting the U.N. Office of the High Commissioner for Refugees with these concerns, I was told: "We are still assessing the problem—we still don't know how many people are there—we are still counting." The more this agency assesses the situation, the less there will be to assess because people are dying on a daily basis.

Doctors from the International Medical Corps are there. They are doing the best they can. They are beginning to see the first signs of severe malnutrition, including the changing color of hair on the victims, which is one of the first signs of malnutrition.

Mr. President, you probably have not read about any of that about which I have spoken in any of the newspapers or watched any of it in the media or listened to it on the radio. I have not seen it reported anywhere. But I have been receiving reports from a former Governor of Nevada, Mike O'Callaghan, who is on the scene. Governor O'Callaghan was one of the members of President Carter's observation team for the Nicaraguan elections, and he has a long history of personal involvement in this area of the world.

Governor O'Callaghan, after hearing from his contacts about the suffering and starvation, flew to Honduras at his own expense to see what he could do. Governor O'Callaghan lost part of a leg as a result of combat in Korea, and it is difficult for him to get around. But it did not take 2 weeks for him to assess the situation in Yemales. He took action.

I received a call from him this morning, and he told me that the United Nations High Commissioner for Refugees received, on April 10, over 30 days ago, almost 10,000 pounds of rice, almost 10,000 pounds of beans, almost 16,000 pounds of cornmeal, almost 17,000 pounds of powdered milk, and a number of other items in bulk. He went on to say, and I repeat, that none of it has been distributed to date. And they have been promised, even though they have not received it, 3½ ounces of rice a day.

AID has calculated per person caloric requirements ranging from 2,200 calories per day for a woman to 3,500 calories per day for an active man. The United Nations High Commissioner for Refugees' allowances come nowhere near these requirements. For example, AID calculated that 8 ounces of beans per day would be required. The United Nations High Commissioner for Refugees will allot they say, in the future, only 2.3 ounces. But the food has not be allotted. For some reason that this Senator cannot determine, the food is being withheld. Soon UNHCR will be counting corpses instead of hungry people.

Governor O'Callaghan describes how mothers with their babies clinging to them have followed him around the camps begging him for milk. We have created this hunger. We have created this suffering. But what are we doing about it.

On Monday, two United States helicopters—two Chinooks—began evacuating another group of 1,600 Contras isolated in the Bocay region of Honduras and brought them to Las Vegas, Honduras. These people, too, have been low on food.

These Contras were given a choice. Those that were located in Bocay: First, remain in the Bocay and not be supplied; second, walk to Nicaragua; or third, be evacuated to Las Vegas, Honduras. Staying in the Bocay meant starving to death; walking through the jungle to Nicaragua with women and children seemed equally as deadly, and supplies for the Contras within Nicaragua will last only a few more days; their only choice was to be airlifted to a refugee camp in Honduras.

The U.S. military personnel involved in this operation have been doing a magnificent job. They have been working very hard with limited resources, and they deserve credit for their efforts.

The dirt field in Las Vegas where these people have been left is nothing more than that: a dirt field. There are no real tents, only some tarps pulled over some sticks. There are no water pipes. They promised to install some. The sanitation is very bad.

Mr. President, this U.S. Government needs to take action. President Chamorro has sent President Bush a telegram saying "My country is broke."

There is plenty of blame to pass around as to why Nicaragua is broke, and we need not go into that, as to whose fault it is that they are broke. The fact is they are broke. But there is no question that there are starving men and women and children left in various places, but I am talking today about the Yemales Valley.

Hunger and death are indiscriminate. Men, women, and babies are all its victims. Where is the President now on aid to the Contras—the freedom fighters he has so highly exalted? Where is he now? And where are the Members of this body and the other body who pressed for so hard for Contra aid? Will we leave them to die now that they have served their purpose?

While the administration is studying, as I read in the press this morning, the possibility of a loan to Nicaragua, while the Congress is arguing over the supplemental appropriations bill, while the U.N. is counting refugees, there are some people, like Mike O'Callaghan, who are taking action. I urge the United Nations High Commissioner for Refugees, Thorvald Stoltenberg, I urge President Bush, and I urge all of us here to follow the example of Mike O'Callaghan.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

## CAMPAIGN FINANCE REFORM DEMOCRATIC NEGOTIATING TEAM

Mr. MITCHELL. Mr. President, the distinguished Republican leader and I have been discussing for some time the status of the legislation regarding campaign finance reform. Today, Senator DOLE and I are each naming four Senators to participate with us in negotiations on campaign finance reform.

Senator DAVID BOREN of Oklahoma will be leading a group of Democrats that will include Senators JOHN KERRY of Massachusetts, JOHN BREAUX of Louisiana, and TOM DASCHLE of South

Dakota. Senator WENDELL FORD of Kentucky, as chairman of the Rules Committee, will be participating with me in actively monitoring and, hopefully, guiding these discussions.

I understand Senator DOLE will shortly announce that he is taking similar action in this regard.

Democrats and Republicans have each introduced substitutes to S. 137, the campaign finance reform bill. They will serve as the basis for negotiations.

None of us have any illusions about the difficulty of this process. Democrats and Republicans have tended to see this issue from vastly different perspectives, and even within our parties there are sharply divergent views about campaign reform which I understand, given its significance to each Senator. But I believe there is one thing that brings the two parties and all Senators together and that is dissatisfaction with the current system.

As I said on numerous occasions, I believe the current system does not serve our Nation well. It interferes with our ability to be effective legislators, representing our constituents' best interests, and it undermines the public's trust in the Congress.

S. 137 was brought up for floor consideration last Friday. I hope and expect that these talks will take place in a spirit of cooperation and good faith. We will have another day of debate this Friday, without amendments being offered, to permit Senators to offer their views on this issue. I hope we will be able to make progress in a responsible and constructive way, and I look forward to those discussions.

## CAMPAIGN FINANCE REFORM REPUBLICAN NEGOTIATING TEAM

Mr. DOLE. Mr. President, I thank the managers for yielding briefly to the leaders. I, too, want to join the majority leader in announcing the Republican team for the coming campaign finance reform negotiations.

I have asked Senators MCCONNELL, NICKLES, PACKWOOD, and RUDMAN to participate in these negotiations. Senator MCCONNELL will be the lead negotiator. I have also asked Senator STEVENS, ranking member of the Rules Committee, to serve as an adviser to the Republican negotiating team.

During their tenure in Congress, each of these five Senators has closely studied the campaign finance issue. It is fair to say that they are campaign finance experts and I have full confidence in their ability to strike a deal that will be strong on reform and fair to both parties.

Last week I said I was optimistic about the prospects for developing a comprehensive and bipartisan reform package. I still remain optimistic, but no one should expect any miracles from me and the majority leader, nor should anyone expect any miracles from the Senators who have been appointed to the two negotiating teams.

There are many differences. There are different points of view and many areas of disagreement. But, now that we have both reform bills introduced, it is my hope our negotiators—through some hard work and hard-nosed but good faith bargaining—will be successful in identifying those areas on which the two parties can find some common ground.

Again, I would think one cautionary note is there are 100 Senators here so there are 100 different plans for campaign finance reform. I have a perfect plan for myself and I am certain that other Senators can devise one for themselves. But, in the interests of good government and integrity of the process, I join the majority leader in hoping we can come to some successful closure on this issue in the near future.

## COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT OF 1990

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

## UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator HELMS be recognized to offer an amendment with respect to criminalization of blood donations; that there be 30 minutes of debate, equally divided, on the amendment; that no second-degree amendment be in order; that following the conclusion of time for debate on the Helms amendment, the Helms amendment be laid aside and that Senator KENNEDY be recognized to offer a Kennedy-Hatch amendment relating to the same subject matter of the Helms amendment on which there be 30 minutes of debate equally divided; that no second-degree amendment be in order; that, following the conclusion of the debate on the Kennedy-Hatch amendment, there be a vote, on or in relation to, the Helms amendment, to be followed, without any intervening action or debate, by a vote on, or in relation to Kennedy-Hatch amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HELMS. Is the request in order?

The PRESIDING OFFICER. The amendments are not yet offered.

Mr. HELMS. Mr. President, I ask unanimous consent it be in order to ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays are ordered on each amendment. Under the previous order of the Senate, the Senator from North Carolina is recognized.

AMENDMENT NO. 1626

Mr. HELMS. Mr. President, momentarily I shall send to the desk an amendment. First let me explain the purpose of it. Then I shall ask the distinguished clerk to read it all, as I did earlier this morning.

I want this amendment to be regarded as the Ryan White amendment. There is not a Senator who did not admire that young fellow. There is not a Senator who does not deeply regret the tragedy the befell him. And I hope there is not a Senator who is unwilling to do whatever is necessary to prevent happening to other children what happened to Ryan White.

The amendment I shall momentarily send to the desk is very simple. I tried to make it simple. It woud ensure the safety of the blood supply of this Nation. And it would do that by codifying a 1986 recommendation of the Public Health Service that individuals who know they have AIDS or know that they are at high risk of contracting AIDS, must not, and should not donate blood or tissues.

The amendment would simply ensure compliance with this recommendation by imposing a fine of up to $20,000 or a prison term of up to 10 years or both. And that ought to give pause to some of these people who have done, and might do again, this dastardly act of providinig the kind of blood that caused the death of little Ryan White.

This amendment has another purpose. I want to do everything I can to ensure that no family will ever again suffer the anguish that the family of Ryan White endured for 6 years. That is why I am specifying that this amendment be dedicated to young Ryan White, because he was young fellow with great courage and it is well known that he contracted this deadly disease from a blood transfusion contaminated by a donor with AIDS.

Mr. President, I send an amendment to the desk and ask for its immediate consideration. I will ask the clerk to read it all.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1626:

At the appropriate place, insert the following new section:

Chapter 51 of title 18, United States Code, is amended by adding at the appropriate place the following:

" . PROTECTION AGAINST THE HUMAN IMMUNODEFICIENCY VIRUS.

"(a) It shall be unlawful for any individual to knowingly donate, or sell, or to knowingly attempt to donate, or sell blood, semen, tissues, organs, or other bodily fluids if such individual—

"(1) knows on the basis of clinical or laboratory evidence, that such individual is infected with the Human Immunodeficiency Virus or;

"(2) is an individual who, on or after January 1, 1977, is or has been a user of any intravenous drug, the sale, distribution, or use of which is prohibited under Federal or state law at the time the individual injected the drug or;

"(3) is an individual who has engaged in prostitution on or after January 1, 1977 or;

"(b) Transmission of the Human Immunodeficiency Virus does not have to occur for a person to have committed a violation of this section.

"(c) Any person who violates the provisions of subsection (a) shall be subject to a fine of not less than $10,000 nor more than $20,000 and imprisoned for not less than 1 year nor more than 10 years, or both."

Mr. HELMS. Mr. President, I thank the distinguished clerk.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 30 minutes under the previous order.

Mr. HELMS. I thank the Chair. Mr. President, we are all familiar with Ryan White, and I suppose everybody in the Senate knows the story of the family of the Broadway and television actor Paul Glaser. Mr. Glaser's wife was infected by contaminated blood and she passed the AIDS virus on to two of their children, one of whom died. That is one additional reason for this amendment.

The second reason and equally important to me is I happen to have a daughter who is a registered nurse. As a matter of fact, she earned her master's degree in nursing just last week. I am very proud of her. But she and all the nurses and all doctors, all other people who work with patients in hospitals confront a situation that is almost a nightmare.

Some months ago, Nancy was inadvertently—Nancy being one of my daughters—pricked by a needle that had been left in a bed by a patient believed to have AIDS. Fortunately, it turned out that the needle had not been used on the patient and everything was all right with Nancy. But suppose she was dealing with tainted blood during a transfusion and somehow came in contact with that blood, which is not a rarity by any means in any hospital? So I am thinking about Ryan White; I am thinking about Paul Glaser's family; and I am thinking about Nancy Stuart, and everybody else who may innocently end up losing his or her life as a result of tainted blood.

Mr. President, the able Senator from Massachusetts has an amendment which states that States cannot get funds unless they have laws and punish those who donate blood knowing they have AIDS. Senator KENNEDY told me yesterday, and I believe him, that he wants to stop anyone who poses a threat to the blood supply. I commend him for his position, which I share, obviously. However, I am convinced Senator KENNEDY's approach will not do the job. So the question is do we want to have a feel-good amendment, or do we want to have an amendment that will work?

The point is this, Mr. President: At the present time, there are 20 States which have laws making it a crime to donate blood when the individuals know that they are infected with HIV. Senator KENNEDY's approach allows bureaucrats to write letters to Washington to say that a little creative prosecution they can—they can—put people in jail for knowingly giving tainted blood.

We are going to have a chance to vote on Senator KENNEDY's proposition and on my proposition. The first vote under the unanimous-consent agreement just reached will be on my amendment; the second on Senator KENNEDY's.

Despite the tragedies that I have alluded to and which have been alluded to in 2 or 3 days on the floor, I can already hear the knees jerking within the AIDS lobbies. When I began to ask questions of the national blood organizations, I found, to my astonishment, that elements of the lobby and certain allies in and out of the Senate had been there before me. These activists warned the blood banks that old Senator HELMS was up to some things. That is right; I am up to something.

As I pointed out yesterday, the radical elements of this lobby have almost written the rules of debate on this bill. As I said yesterday, a lot of things are unmentionable. They will tell you that we cannot pick on those who practice sodomy; we cannot criticize the IV drug users anymore because there is no longer a problem with donating infected blood. Bullfeathers. Let them read the April 25 Journal of the American Medical Association, or the recommendation of the AMA House of Delegates, released just a few weeks ago.

I have in hand, Mr. President, a study conducted for the AMA by Johns Hopkins Hospital in Baltimore. The Johns Hopkins researchers studying only blood banks and commercial plasma centers in the city of Baltimore found that the risk of individuals with HIV infecting the blood supply is very real despite the testing of individuals who sell, donate blood, or blood products.

The reseachers studied over 2,900 IV blood users, many of whom had sold blood to commercial blood plasma centers which generally pay about $10 or $15 for each donation. A smaller number of addicts had donated blood to nonpaying blood collection centers. According to the study, 11 percent of the subjects reporting donation since 1985 had tested positive for HIV. The researchers found that among the hard core addicts, education, counseling and treatment had little or no effect on the addict's habits or propensity to sell their blood.

The report concluded by saying that although HIV should be detected by current screening procedures, incidental infections that are in the so-called window period prior to the full development of the disease might just be missed. One wonders if little Ryan White would still be running around today, maybe wanting to be a pitcher for the Baltimore Orioles or maybe running for President of the United States someday. But hs is not going to be able to do that, because he died because he had tainted blood pumped into his system.

The Johns Hopkins team warned that the continued donation of blood and plasma by individuals at high risk for AIDS, particulary but not exclusively IV drug users, presents what they called a troubling problem for the future of our blood supply.

I think it is fair to conclude that if this problem exists to this extent in the city of Baltimore, what makes us think that the threat is any less when we take the Nation as a whole? Already States like California, Illinois, Texas, South Carolina, Oklahoma, among others, have enacted laws which punish those who donate or sell blood when that individual knows he or she has HIV.

Prosecutions have already begun in South Carolina and Oklahoma for violations of this law, but the point is that there are only 20 States out of the 50 that have such laws.

Some may say, "Look. What is the Senator from North Carolina doing about States rights on this?" I tell you what I am doing. I take a backseat to nobody in my belief that States have the right to govern their own affairs. But this is not a State problem as such. It is a national problem. Blood donors can slip over the border. So it is fair and reasonable to view this as a Federal issue because bloodbank safety is a national problem. We are talking about the national blood supply.

The CDC, the Centers for Disease Control, has reported that 3,040 cases of AIDS have been reported due to contaminated blood.

I do not believe the Senate should stand by and wait for another HIV drug user or high-risk user to donate or sell contaminated blood. I do not want any more Ryan Whites.

The American Medical Association itself recommended sanctions against those individuals who knowingly and willingly risk infecting an innocent, unsuspecting person. And this, by the way, includes sanctions against those who infect the blood supply knowing that they have AIDS.

Currently bloodbanks and hospitals using the enzyme-linked immunosorbent assay [ELISA] test can identify most blood donations contaminated with the human immunodeficiency virus. Although they do a pretty good job, these tests are not foolproof. The National Academy of Sciences has warned that all infected donors are not detected by the current tests. It states in the report titled, "Confronting AIDS":

The small fraction of false-negative test results and the length of time between infection with the virus and the appearance of antibodies underscore the need for those who have engaged in high-risk behaviors to refrain from donation; even with available screening techniques, this is still of paramount importance.

In addition, researchers continue to find new viruses associated with AIDS, making the current testing procedures dismally inadequate to prevent future contamination of our Nation's blood supply. Dr. Essex, of the Harvard School of Public Health, has been quoted as saying that the blood test used to detect antibodies against HTLV-III can only detect around 92 percent of individuals with antibodies against LAV-II or HTLV-IV, in contrast to 99 percent of individuals infected with HTLV-III. Researchers at the Pasteur Institute in Paris believe that the rate of detection of LAV-II may be as low as 30 to 50 percent.

Does that grab your attention, Mr. President?

In light of these facts, this country must do more to insure a safe blood and tissues supply. Imposing a criminal penalty on anyone who attemtps to contribute to a blood and tissues bank when that individual knows he or she is infected with the human immunodeficiency virus or is at high risk of infection should deter such individuals from donating, and ultimately insure a safer blood supply.

Mr. President, I ask unanimous consent that a report from the April 25 edition of the Journal of the American Medical Association entitled "Blood and Plasma Donations Among a Cohort of Intravenous Drug Users," and a summary of the 20 State laws regarding blood and tissue donations be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From JAMA, Apr. 25, 1990]

BLOOD AND PLASMA DONATIONS AMONG A COHORT OF INTRAVENOUS DRUG USERS

(By Kenrad E. Nelson, MD; David Vlahov, PhD; Joseph Margolick, MD, PhD; Marie Bernal; Ellen Taylor)

We evaluated the blood and plasma donation histories of a cohort of 2921 intravenous drug users in Baltimore, MD, and correlated these histories with their human immunodeficiency virus (HIV) serologic status, numbers of CD4 lymphocytes in the peripheral blood, and stigmata of intravenous drug use (scarred veins). Of the 793 intravenous drug users (27.1%) who had donated blood or plasma, 652 (82.2%) donated after they had started using intravenous drugs. Most subjects donated at commercial plasma centers, where they were paid $10 to $15 per donation. Although the HIV-1 seroprevalence of the entire cohort was 24.1%, the HIV-1 seroprevalence among those reporting plasma or blood donations declined progressively with time, from 17.1% in those who last donated in 1985 to 3.6% in those who last donated in 1988-1989. Many of the 437 intravenous drug users who had donated plasma or blood since 1985, when screening for HIV-1 was initiated, had not been notified and counseled about their HIV test results. Current programs to exclude individuals with a history of intravenous drug use from the plasma donor pool should be reevaluated and improved—(*JAMA*. 1990;263:2194-2197)

All blood and plasma donors in the United States have been screened for antibodies to human immunodeficiency virus, type 1 (HIV-1), since March 1985 to prevent transmission of HIV-1 by transfusion of blood or blood products.[1] While serologic screening of blood and plasma donors has reduced the risk of the transmission of HIV-1 by blood products, the risk has not been entirely eliminated.[2, 3] An important additional component of the strategy to increase the safety of the blood supply is voluntary deferral of individuals at high risk of HIV-1 infection. Voluntary deferral of homosexual/bisexual men as donors was instituted in the United States in early 1983. However, intravenous drug users (IVDUs) had been excluded as donors prior to that time because of their risk of carrying other agents, especially hepatitis B and hepatitis non-A, non-b viruses.

Despite these voluntary exclusion policies, blood and plasma donation centers that pay donors attract a clientele in need of money, including active or past users of illicit intravenous drugs. We were made aware of this potential problem when several IVDUs were referred for clinical evaluation to Johns Hopkins Hospital, Baltimore, MD, from the health department after having test results seropositive for HIV at plasma donation centers. Therefore, we studied a large chohort of IVDUs who had been recruited for a prospective study of the natural history of HIV infection to evaluate (1) the recent pattern and extent of blood and plasma donations among IVDUs, (2) demographic and socioeconomic characteristics of IVDUs that correlated with blood and plasma donation, and (3) the effectiveness of screening methods to exclude HIV-1-infected donors.

Footnotes at end of article.

SUBJECTS AND METHODS

*Study Population*

Intravenous drug users were recruited from the Baltimore metropolitan area between February 1988 and March 1989 for enrollment in a natural history study of HIV-1 infection among IVDUs, the ALIVE (AIDS Link to Intravenous Experiences) study. Eligibility criteria included residence in the Baltimore metropolitan area, age over 17 years, and a history of illicit drug injection any time in the previous 10 years. The ALIVE study recruited and screened 2921 IVDUs, of whom 703 (24.1%) were HIV-1 seropositive at baseline. The study population was recruited through drug treatment centers, street outreach, homeless centers, and emergency departments and clinics and by personal contact with participants who had already enrolled in the study. Subjects were reimbursed for each visit. Although the study population was chosen from a variety of sources, it was not possible to obtain a random sample of IVDUs in Baltimore since the identity and number of individuals who are drug users are unknown. The ALIVE population is predominantly male (82.5%) and black (88.6%), and nearly all the subjects are currently using illicit drugs—commonly both cocaine and heroin. Of the 2921 subjects, 2616 (89.6%) had most recently injected illicit drugs during the same year as the baseline visit, and 2252 (77.1%) reported their last injection during the month of enrollment. The median duration of use of illicit drugs was 12 years. Additional details of the ALIVE study protocol, recruitment procedure, and characteristics of the study population will be published elsewhere.[4] At the time of this report, about 85% of the initial sample had been followed for 6 to 18 months. The protocol, which included informed consent, pretest and post-test counseling, and assurances of strict confidentiality of all study data, was approved by the Institutional Review Board of The Johns Hopkins School of Hygiene and Public Health.

*Questionnaire Data and Phlebotomy Screening*

The baseline questionnaire for the study was administered by trained interviewers after informed consent and pretest counseling procedures were completed. In addition to demographic and socioeconomic data, the questionnaire included items on the history of illicit drug use in the past 10 years and details of the use of intravenous drugs in the past 6 months, sexual practices, and medical history. One item asked whether the participant had ever donated blood or plasma. If so, the participant was asked the year of his or her donation and whether he or she donated at a blood bank or a commercial plasma center. In addition, the study phlebotomist independently recorded the presence or absence of scarred veins on the upper extremities and other stigmata indicating long-term use of illicit drugs.

*Blood Bank and Plasma Center Characteristics*

In the Baltimore area, blood banks do not use paid donors. However, commercial plasma centers pay volunteers, typically $10 to $15, for each donation. All blood and plasma centers screen for HIV-1 antibodies using licensed enzyme-linked immunosorbent assay and Western blot methods.[1] Both blood and plasma centers maintain donor deferral lists based on medical history data and results of laboratory testing for

hepatitis B surface antigen, hepatitis B core antibody, antibodies to HIV-1, positive serologic test results for syphilis, and elevated alanine aminotransferase levels. However, separate donor deferral lists are kept by plasma centers and blood banks that are not shared (Paul Ness, MD, oral communication, 1989).

*Laboratory Tests*

In the ALIVE study, antibodies to HIV-1 were detected using a commercial enzyme-linked immunosorbent assay (Genetic Systems, Seattle, Wash), and all specimens that were repeatedly positive for HIV-1 by enzyme-linked immunosorbent assay were confirmed with a Western blot assay (DuPont Co, Wilmington, Del). Subsets of T cells were measured in subjects seropositive for HIV-1 and in a sample of seronegative subjects enrolled in the semiannual follow-up. Peripheral blood was stained with the monoclonal antibodies Leu-4 (total T cells), Leu-2 (suppressor-cytotoxic T cells), and Leu-3 (helper-inducer T cells), as previously described,[5] and stained cells were enumerated by flow cytometry, as previously described.[6] Absolute numbers of circulating T cells and T-cell subsets were obtained by multiplying the percentages of Leu-4-, Leu-3-, and Leu-2-positive cells by the absolute lymphocyte count, as determined from a complete blood cell count, including an automated 10,000-cell differential count.

*Data Analysis*

Frequency distributions were generated, and cross-classification of variables was performed using $\chi^2$ statistics to guide interpretation.

RESULTS

Data concerning the history of blood and plasma donation were obtained from 2921 participants in the ALIVE study. Blood or plasma donations between 1978 and 1988 were reported by 793 participants (27.1%). Of these, 97 (12.2%) reported that they last donated at least 1 year prior to first injecting drugs; 652 (82.2%) had been injecting drugs at least 1 year when they last donated. Four hundred thirty-seven participants (15.0%) reported donating since 1985, when routine HIV-1 screening was implemented. Of these, 385 (88.1%) donated at a commercial plasma center and 52 (11.9%) donated at a blood bank.

Forty-eight (11.0%) of those reported donations since 1985 had test results positive for HIV-1 antibody when they were screened at enrollment in the ALIVE study in 1988-1989. This is significantly less than the seroprevalence of 26.5% found among the 2126 subjects in the ALIVE population at baseline who did not have a history of blood or plasma donation since 1985 ($\chi^2 = 48.1$, $P<.0001$). Furthermore, HIV-1 seroprevalence among recent donors at the time of enrollment decreased progressively as the interval between our baseline HIV-1 screening and the last plasma or blood donation became shorter (Table 1).

TABLE 1.—HIV SEROLOGIC STATUS AT STUDY ENTRY (1988–89) AMONG INTRAVENOUS DRUG USERS (LAST BLOOD OR PLASMA DONATION BETWEEN 1985 AND 1989) [1]

| Year last donated | HIV serologic status | | | | Total No. |
|---|---|---|---|---|---|
| | Negative | Percent | Positive | Percent | |
| 1985 | 68 | 83 | 14 | 17 | 82 |
| 1986 | 73 | 79 | 19 | 21 | 92 |
| 1987 | 83 | 90 | 9 | 10 | 92 |
| 1988 | 140 | 96 | 6 | 4 | 146 |
| 1989 | 25 | 100 | 0 | | 25 |
| Total | 389 | 89 | 48 | 11 | 437 |

[1] HIV indicates human immunodeficiency virus, type 1.

There were 263 individuals in our study who last donated between 1987 and 1989. Of these, 206 (78.3%) had injected illicit drugs prior to their last donation, and 210 (79.8%) had scarred veins or other stigmata of long-term intravenous drug use at the time of their baseline screening visit to the ALIVE clinic. Fifteen subjects (5.7%) were seropositive for HIV-1 at the time of study enrollment in 1988-1989; 14 of these subjects reported illicit drug use at the time of their most recent donation, and 12 had stigmata of drug use on their upper extremities when they enrolled in our study in 1988-1989. The presence of stigmata suggests that the drug injection history of these individuals was not limited to the very recent past, confirming data obtained on interview. T-cell subset enumerations were performed for 11 of these 15 seropositive individuals; 5 had CD4 cell counts less than $0.5\times10^9$/L, and a sixth had a CD4 cell count of $0.513\times10^9$/L (Table 2). Taken together, these data suggest that the acquisition of HIV-1 infection probably preceded the most recent plasma donation in these 6 individuals.

In many seropositive individuals with a history of recent blood or plasma donation, notification and posttest counseling by plasma centers concerning HIV test results were ineffective. Seven of 15 individuals who reported donations in the previous 2 years denied that they had ever been tested for HIV infection (Table 2). Three seropositive individuals reported that they had been told their HIV serologic test results were negative in the previous 2 years. These 3 individuals might have had an incubating HIV-1 infection at the time of their most recent donation, or they might not have been infected, or their self-reports might have been inaccurate. Thirteen of 15 subjects reported that their most recent donation was at a plasma center; the other 2 had donated most recently at a blood bank.

It seems likely that the major motivation for donation in this population was economic. The ALIVE study population is quite poor; only 31.9% have an annual income above $5000. Homelessness, unemployment, and a history of imprisonment are common (Table 3). The socioeconomic characteristic that had the strongest correlation with a history of blood or plasma donation was a history of homelessness (Table 3). Duration of intravenous drug use, frequency of injection, age, and HIV seropositivity all had inverse associations with a history of plasma or blood donations (Table 3). The small number of individuals (n=28) who donated at blood banks since 1987 had demographic and socioeconomic characteristics similar to those of the larger number of plasma center donors (n=240), except that a history of homelessness in the past 10 years was more common among plasma center donors (57.1% vs. 77.9%, $P<.01$). Donation histories were more frequent among males and among nonblacks in the cohort (Table 3).

TABLE 2.—CHARACTERISTICS OF 15 HIV-SEROPOSITIVE INTRAVENOUS DRUG USERS (LAST DONATION OF BLOOD OR PLASMA IN 1987 OR 1 [1]

| Subject No. | Year last donated blood or plasma | Year of last injection | Year of first injection | Stigmata observed in 1988–89 | CD4 cell counts in 1988–89 $\times10^9$/L [2] | Type of donation center | Previous HIV serologic status, results/year [3] |
|---|---|---|---|---|---|---|---|
| 1 | 1988 | 1986 | 1983 | Yes | 0.448 | Plasma center | DK. |
| 2 | 1988 | 1988 | 1982 | Yes | ND | Plasma center | Negative/1987. |
| 3 | 1988 | 1988 | 1973 | Yes | 0.233 | Blood bank | Positive/1988. |
| 4 | 1988 | 1988 | 1978 | Yes | 0.698 | Plasma center | Positive/1988. |
| 5 | 1988 | 1988 | 1977 | Yes | 0.636 | Plasma center | DK. |
| 6 | 1988 | 1989 | 1988 | Yes | ND | Plasma center | Positive/1989. |
| 7 | 1987 | 1987 | 1974 | No | 0.141 | Plasma center | Positive/1987. |
| 8 | 1987 | 1988 | 1971 | Yes | 0.728 | Blood bank | DK. |
| 9 | 1987 | 1988 | 1976 | Yes | ND | Plasma center | Positive/1987. |
| 10 | 1987 | 1988 | 1973 | No | 0.409 | Plasma center | DK. |
| 11 | 1987 | 1988 | 1973 | No | 0.513 | Plasma center | DK. |
| 12 | 1987 | 1988 | 1980 | Yes | 0.070 | Plasma center | DK. |
| 13 | 1987 | 1988 | 1984 | Yes | 0.901 | Plasma center | Negative/1987. |
| 14 | 1987 | 1988 | 1970 | Yes | ND | Plasma center | DK. |
| 15 | 1987 | 1989 | 1988 | Yes | 1.427 | Plasma center | Negative/1988. |

[1] HIV indicates human immunodeficiency virus, type 1.
[2] ND indicates that the measurement was not done.
[3] DK indicates that the subject did not know the test results.

TABLE 3.—DEMOGRAPHIC AND SOCIOECONOMIC CHARACTERISTICS OF INTRAVENOUS DRUG USERS BY THEIR HISTORY OF BLOOD AND PLASMA DONATIONS

| | Nondonors (n=2126) | Donors before 1987 (n=530) | Donors from 1987 through 1989 (n=263) | Pr [2] Non-donors vs donors | Donors before 1987 vs donors from 1987 through 1989 |
|---|---|---|---|---|---|
| Male, percent | 76.4 | 93.8 | 93.2 | <.01 | NS |
| Black, percent | 91.1 | 88.1 | 68.1 | <.01 | <.01 |
| Age <34 y, percent | 46.6 | 54.0 | 55.9 | <.01 | NS |
| Unemployed, percent | 76.9 | 77.9 | 77.9 | NS | NS |
| Homeless, percent | | | | | |
| For the past 10 y | 43.7 | 56.8 | 74.9 | <.01 | <.01 |
| For the past year | 31.7 | 41.7 | 62.0 | <.01 | <.01 |
| Inject drugs daily, percent | 43.2 | 34.3 | 19.8 | <.01 | <.01 |
| Scarred veins, percent | 84.9 | 79.8 | 79.8 | <.01 | NS |
| HIV-seropositive, percent [1] | 26.5 | 23.0 | 5.7 | <.01 | <.01 |
| History of imprisonment, percent | 65.6 | 67.9 | 65.4 | NS | NS |
| Median age, y | 34 | 33 | 32 | | |
| Median duration of intravenous drug use, y | 13 | 11 | 8 | | |

[1] HIV indicates human immunodeficiency virus, type 1.
[2] NS indicates not significant.

COMMENT

Our data support the conclusion that the program to screen serologically all blood and plasma donors and to exclude donors from groups at high risk of HIV-1 infection has reduced the seroprevalence of HIV-1 among donors and has reduced the risk of HIV-1 transmission through blood or plasma components. Although a history of plasma donation was common among the IVDUs we studied, the rate of HIV-1 seropositivity among these donors had declined substantially since 1985. However, the continued donation of plasma among IVDUs is cause for some concern. Although virtually all prevalent infections with HIV-1 should be detected by the serologic screening process, incident infections that are in the "window period" prior to the development of antibodies might be missed.[7] We found an annual incidence of HIV-1 infection of 6.6% in our study cohort, so the risk of false-negative serologic test results in this population is substantial. Transmission of HIV-1 infections by the transfusion of blood that has been screened and found to be seronegative has been reported previously in the United States.[2,3]

Nearly 90% of the participants in our study gave a history of donation at a commercial plasma center rather than a blood bank. The financial reimbursement for each plasma donation would be attractive for an IVDU of lower socio-economic status seeking income and might also serve as a disincentive for candor about illicit drug use. Since donors at plasma centers commonly donate at frequent intervals, eg, twice weekly, in comparison to blood banks, where the interval is measured in months, the risk that individuals may donate while they are in the "window period" between infection and seroconversion may be greater in this population. Nevertheless, IVDUs might feel that the serologic screening would eliminate any risk associated with the transfusion of their blood or blood products.

It has been demonstrated that the Cohn fractionation process inactivates HIV-1 and hepatitis B virus.[8] Therefore, it could be argued that donors who are HIV-1 carriers but who are found to lack antibodies on the enzyme-linked immunosorbent assay present no risk of transmission as long as their plasma is processed by Cohn fractionation. However, preparation of fresh-frozen plasma and certain plasma protein fractions, such as factor VIII, bypasses the Cohn procedure and could allow transmission of HIV-1. Generally, commercial plasma centers do not prepare and sell fresh-frozen plasma, and plasma concentrates currently are pasteurized to reduce or eliminate the risk of transmission. However, the efficacy of pasteurization depends on the specific procedures used,[9] and transmission of HIV-1 by heat-treated clotting factor conjugates has been reported.[10-12] Therefore, effective measures to exclude IVDUs from the donor pool continue to be critically important.

We believe that voluntary self-deferral in populations of addicts along with serologic screening and Cohn fractionation of donated plasma to sterilize the components are insufficient to ensure that HIV-1 infected IVDUs do not enter the plasma donor pool. In our opinion, the most efficient method for minimizing the risks of transmission of HIV-1 and other infectious agents by blood and blood components would be to discontinue payment of plasmapheresis donors. However, it is extremely unlikely that a completely voluntary system of plasma donation would meet the demand for components. Given this dilemma, more effective deferral of plasma donation by IVDUs and other individuals at high risk of HIV-1 infection is needed, along with better screening tests and more effective notification and counseling of plasma donors who test seropositive. In this regard, our data indicate that only about half of the sero-positive IVDUs who donated at plasma centers in the 2 years before this article was written reporting having been notified of their test results. Although this could have occurred in part because the donors could not be located for counseling, these results are disturbing and underscore the need for more effective contact with and follow-up of potential donors.

Our data suggest that some plasma donors had physical stigmata of illicit drug use, ie, scarred veins, at the time they last donated plasma. Such stigmata might be more readily connected with a history of illicit intravenous drug use of the context of a clinic dealing specifically with IVDUs than in a plasmapheresis center, where intravenous drug use might have been denied. Nevertheless, phlebotomists at plasma centers should be able to exclude potential donors with such stigmata more effectively.

Our data suggest that there has been a progressive decline in the numbers of HIV-1 seropositive IVDUs who have donated plasma and blood in recent years. The recent decline in the HIV seroprevalence of voluntary blood donors[13,16] is most likely due primarily to improvements in procedures for the exclusion of high-risk donors. Although recent data on the seroprevalence of paid donors at plasma centers have not been reported, HIV seropositivity among this population was significantly greater (0.086%) than among voluntary blood donors in a population studied in 1987.[7] It is quite possible that serologic screening of potential donors has played an important role in the identification and exclusion of HIV-1 seropositive donors from repeated donations at plasma centers. General education of IVDUs about the risk of AIDS transmission by transfusion has also likely played an important role in this trend. Since our study population was recruited from a group of currently active IVDUs and we reimbursed subjects for their participation, our data may be biased in favor of detection of individuals who have a history of donating plasma to receive compensation. Nevertheless, the continued donation of plasma, and occasionally blood, by IVDUs, who are at high risk of HIV-1 infection, is troubling and warrants further attention.

(This research was supported in part by grant DA 04334 from the National Institute on Drug Abuse, Rockville, Md.)

(We thank Paul Ness, MD, director of the Blood Bank at Johns Hopkins Hospital and medical director of the Chesapeake Red Cross, for his advice.)

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WHICH STATES MAKE IT A CRIME TO KNOWINGLY EXPOSE ANOTHER TO HIV INFECTION?

Alabama, H.B. 338, Act 87-574 (87)—misdemeanor (risks transmitting or conducts himself in a manner likely to transmit the disease).

Arkansas, H.B. 1496, Act 614 (89)—felony—"sexual intercourse" (without 1st informing others).

California, S.B. 1002, Chapter 1154 (88)—felony, blood donation.

Delaware, H.B. 637, Chapter 335 (88)—felony, blood donation.

Florida, H.B. 1519 (88)—felony of the third degree, blood/body fluids donation.

Florida, H.B. 1313, Chapter 86-220 (86)—misdemeanor "sexual intercourse"; (88)—misdemeanor (if person has been informed of modes of transmission).

Georgia, H.B. 1281, Act 1440 (88)—felony (after obtaining knowledge of infection) knowing intercourse, donation, sharing syringes.

Idaho, H.B. 653, Chapter 70 (86)—prohibits knowing or willful exposure; H.B. 433 (88)—felony (provides affirmative defense if sexual activity occurred between consenting adults).

Idaho, H.B. 433 (88)—felony, knowing transmission or transmit with the intent of infection.

Illinois, H.B. 1871 (89)—class 2 felony for criminal transmission-intimate contact; blood, semen, tissue or organ donation; sell, exchange, etc. nonsterile IV drug paraphernalia. Provides an affirmative defense if the person exposed knew that the infected persons were infected with HIV, knew that the action could result in HIV infection and consented to the action with that knowledge.

Indiana, S.B. 9, Public Law 88-123 (88)—Class C felony, blood donation.

Kentucky, H.B. 50 (88)—Class C felony, blood donation (also any health facility, physician or health care worker who knowingly transfuses untested blood when there is not an emergency situation is guilty of Class C felony.

Louisiana, H.B. 1728, Act 663 (87)—fine of not more than $5,000, imprisonment with or without hard labor for not more than 10 years "sexual contact" without knowing consent of other person.

Maryland, S.B. 719, Chapter 789 (89)—misdemeanor (may not knowingly transfer or attempt to transfer).

Michigan, H.B. 5026, Public Act 490 (88)—felony, sexual penetration (if they do not inform other person of the presence of disease).

Mississippi, H.B. 515, chapter 557 (88)—knowingly and willfully violating health department orders.

Missouri, H.B. 1151 and 1044 (88)—Class D felony, donation of blood, organ, sperm, tissue; sexual contact.

Oklahoma, H.B. 1798 (88)—felony (with intent to infect).

South Carolina, H.B. 2807, Ramification 547 (88)—sale, donation, exchange of blood products; "exposing another person to HIV without first informing."

Texas, S.B. 959 (89)—felony for "engaging in conduct likely to transfer."

Source: AIDS Policy Center, Intergovernmental Health Policy Project, the George Washington University, October 1989.

Mr. HELMS. I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I rise in opposition to the Helms amendment because it is poor health policy and an unnecessary expansion of Federal Government authority in an area best left to State regulation. After the Senate disposes of that amendment, I intend to offer an alternative with Senator HATCH.

The Helms amendment would make it a Federal offense for an individual to give blood if: First, the person knows he is infected with the HIV virus; second, is or has been an intravenous drug user since January 1, 1977; or third, has engaged in prostitution since January 1, 1977.

Our alternative amendment would bar the Secretary of Health and Human Services from making grants to a State under this act unless the Secretary determines that the criminal laws of that State are adequate to prosecute any individual who knowingly and intentionally donates or attempts to donate blood, blood products, semen, tissues, organs, or other bodily fluids if the person has been diagnosed to have the HIV virus, and has been informed that he or she is infected and has knowledge of the risk of transmission of such virus through the donation of blood, blood products, semen, tissues, organs, or other bodily fluids.

In other words, no State could receive funds under the act, unless laws are in place to prosecute a person who donates blood or organs if one knows that he or she is infected with the HIV virus and knows of the risk of transmission from making such a donation.

In addition, our amendment makes it clear that nothing in the bill would preclude a State from making it a crime for an individual to donate blood or organs if the individual is or has been an intravenous drug user since January 1, 1977, or has engaged in prostitution since January 1, 1977.

The major organizations that deal with blood and organ donations strongly caution against the overly intrusive regulation of donations such as are included in the amendment of the Senator from North Carolina.

The American Red Cross says:

The American Red Cross opposes legislation which limits the right or ability of blood banks to exercise control over who may donate and to screen donated units for blood transmitted-diseases.

That means that the Red Cross wants to be able to devise the protocol by which they are going to screen donors and receive blood.

The American Association of Blood Banks writes that it "is concerned that criminal proceedings against donors who may have engaged in at-risk behavior may be inappropriate and would not be an effective measure to assure a safe blood supply."

Our amendment would ensure that States seeking Federal funds have adequate criminal sanctions against blood and organ donations by persons who know they are infected. That is fully appropriate.

At the same time, the amendment would preserve this as a matter of State regulation. The Senator from North Carolina has often complained about the size and intrusiveness of the Federal Government but his amendment would create a new Federal crime with new prosecutorial responsibility in an area where the States are fully capable of protecting public safety. The Helms amendment is also flawed in adopting a blanket criminal prohibition against blood or organ donation by persons in certain risk groups. The consequences could be tragic.

Suppose a former prostitute has a child who is in need of a kidney transplant. The Helms amendment would make it a Federal criminal offense, punishable by up to 10 years in jail, for that woman to donate her kidney to save the child's life, regardless of whether or not she is infected with the HIV virus.

Suppose a man who once used illegal intravenous drugs 12 years ago has a brother with a rare blood disease who needs a blood transfusion to live. The Helms amendment would make it a crime for that man to donate blood to save his brother's life, regardless of whether or not that man is infected with the HIV virus.

No one here approves of illegal drug use or prostitution. But make no mistake about it. If you vote for the Helms amendment, you will be making it a crime for someone who has never engaged in these activities to donate blood to save a life, even if they are not infected with the HIV virus.

Our amendment, by contrast, protects the blood and organ supply while permitting the States to exercise their criminal jurisdiction to pass sensible and responsible laws in this area.

I urge my colleagues to reject the Helms amendment, and to support our amendment.

Finally, Mr. President, I hope that after we dispose of these amendments, we can act on the suggestion that has

been made by the Senator from Utah, and approve an amendment which would add additional inspectors for these blood banks and provide funding to the Food and Drug Administration. I would hope this amendment would be unanimously accepted. That, quite frankly, would probably make a much greater difference than what the Senate ultimately determines on this particular amendment.

That is where you could really come to grips with gaining further assurance of the safety and the security of the blood supply. They do not have adequate personnel out there at the Food and Drug Administration. There have been cutbacks in the number of persons who are responsible for inspections and other oversight activities.

It seems to me that the kind of approach will be included in the amendment, which will be introduced momentarily, that represents the best judgment of the Senator from Utah and myself, combined with providing an increased authorization, and an increased authorization for inspectors for the FDA, is really the responsible and sensible way to go.

Mr. President, I also have a list here of those organizations that oppose the Helms amendment. They include the American Association of Blood Banks, American Bar Association, American Red Cross, the Association of State and Territorial Health Officers, National Conference of State Legislators, National Governors Association, and the National Hemophilia Foundation. I ask unanimous consent to include in the RECORD letters from some of those organizations that reflect their opinion in opposition to the Helms amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION
OF BLOOD BANKS,
*Arlington, VA, May 1, 1990.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

Dear Senator Kennedy: I understand that Senate Bill 2240, on disaster relief for those areas most affected by AIDS, is expected to be brought before the full Senate for a vote soon. I also understand that amendments dealing with the blood supply and blood banking may be proposed to the bill on the Senate floor.

I am writing to express the opposition of the American Association of Blood Banks (AABB) to attachment of these amendments to your bill. The amendments are expected to address important issues concerning blood donation and we believe it would be inappropriate for such provisions to become law as floor amendments to S. 2240. In addition, the amendments are unnnecessary and ill-advised.

The American Association of Blood Banks (AABB) is a private, nonprofit, voluntary health organization. AABB member facilities collect nearly half the nation's blood supply and transfuse over 80 percent of all the blood collected in the United States. AABB members are located in all 50 states and more than 40 foreign countries. The Association's 2400 institutional members include community blood centers, where blood and components are collected and prepared, and hospital blood banks and transfusion services, where patients are managed and components are transfused. AABB's individual membership, which approaches 8000, is multidisciplinary and includes physicians, scientists, technologists, nurses, donor recruiters as well as administrative and management personnel. Throughout its 42-year history, the AABB has worked to maintain an adequate blood supply and make it as safe as possible for the American people. Blood has saved thousands of lives that otherwise would have been lost.

An amendment to S. 2240 requiring testing of all donated blood for the Human Immunodeficiency Virus (HIV) would be unnecessary. All donated blood is routinely tested for HIV as required by the Food and Drug Administration (FDA), and mandatory testing of donors does not need to be legislated into this statute. Pre-donation testing, as would be required in the amendment language, would be extremely burdensome to both the blood banks and voluntary blood donors and could jeopardize the supply of blood for critically ill patients, without any evidence that it could improve blood safety. In addition, such a mandate would frighten patients into believing there are great risks involved in a blood transfusion from the public blood supply when in fact the risks are minimal, and are invariably much less than the risks of foregoing a necessary blood transfusion.

An amendment to S. 2240 requiring collectors and distributors of blood to provide patients with the option of using an autologous or directed donation would also be unnecessary and inappropriate.

The AABB recommends autologous donation of blood prior to surgery whenever possible. AABB sets standards for and accredits blood banks and transfusion services. AABB's publication, Standards for Blood Banks and Transfusion Services, now in its 13th edition, has included standards on the use of autologous blood since 1976. AABB established the National Autologous Blood Resource Center, which distributes information and patient brochures on autologous blood donation. The Center also assists institutions in setting up autologous blood programs.

Because of concerns that directed donations may promote the misconception that there are two levels of blood safety, and because of other potential legal and ethical problems, the AABB does not encourage the use of directed donations. In many cases, directed donations have proven less safe than blood donated voluntarily by the public. Nonetheless, if such donations are permitted by AABB member institutions in response to local demands or state law, they must meet all AABB standards for the protection of blood safety.

Both autologous and directed blood donations programs are widely available. Mandating these programs as a condition of licensure is not justified, considering the burden this would place on some providers.

Criminal proceedings against donors who may have engaged in at-risk behaviors may also be introduced as an amendment. An initial concern is that the criteria for high risk donors subject to penalties parallel the FDA criteria for high risk donors. The AABB is also concerned that such a policy may be inappropriate and would not be an effective measure to assure a safe blood supply. Offering penalties to prospective donors may create disincentives for persons who would otherwise be willing to be candid during their donor interview, where blood center efforts are made to encourage high risk persons to self-defer from blood donations. Several states have proposed or already promulgated criminal penalties for donating blood when knowingly infected with AIDS or the AIDS virus, but the value of these laws has not yet been determined.

We hope these comments have been helpful. Please keep us informed as to the status of your legislation, and let Cynthia Kelly of our national office staff know if we can assist you further in any way.

Sincerely,

TOBY L. SIMON, M.D.,
*President.*

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AMERICAN RED CROSS,
NATIONAL HEADQUARTERS,
*Washington, DC, May 1, 1990.*

Hon. EDWARD M. KENNEDY,
*Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: Thank you for sharing the information regarding possible amendments concerning blood banking to the AIDS Care Bill, Senate Bill 2240.

With respect to statutory requirements for HIV testing of blood donors, the American Red Cross has been and will continue to be committed to a safe blood supply. Like other blood banks, we currently perform extensive testing consistent with the best known medical practice and Federal Drug Administration requirements. Thus, from our perspective, such a federal law would be redundant to current practice and would not contribute to a safer blood supply.

With respect to a statutory requirement for blood banks to offer directed donation services, the American Red Cross opposes legislation which:

Limits the right or ability of blood banks to exercise control over who may donate and to screen donated units for blood-transmitted diseases.

Compromises the confidentiality of the donor.

Imposes implementation dates that do not provide sufficient time for planning and the development of adequate protocols.

Caps the amount that can be charged for directed donation services that is less than the real cost of the service.

We would welcome the opportunity to comment more extensively on these matters if circumstances permit.

Thank you again for bringing this matter to our attention.

Sincerely,

STEPHEN H. RICHARDS,
SENIOR VICE PRESIDENT,
*Secretary and General Counsel.*

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THE NATIONAL HEMOPHILIA
FOUNDATION,
*New York, NY, May 2, 1990.*

Hon. EDWARD M. KENNEDY,
*Chairman, Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: On behalf of the National Hemophilia Foundation, we share with you the importance of keeping intact S. 2240, the CARE Act of 1990, as reported by the Committee on Labor and Human Resources. This legislation is critical to providing comprehensive care to people with AIDS

and HIV disease without fear of discrimination or legal impediments. We are especially moved by the decision of the cosponsors to dedicate this major legislation to Ryan White, a young man with hemophilia, who fought the disease with courage and who dedicated his remaining time to dispel public ignorance and speak against discrimination against persons with this disease.

In giving our strongest support to Senate passage of S. 2240, we would be opposed to crippling floor amendments that would undermine the carefully interwoen fabric of this major legislation.

We look forward to working with you in the Conference Committee to ensure that comprehensive care for the hemophilia population is achieved.

Sincerely,

ALAN P. BROWNSTEIN,
*Executive Director.*

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, will the Senator from Massachusetts yield some time to me?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Senator KENNEDY has 7 minutes.

Mr. KENNEDY. I yield such time as the Senator may need.

Mr. HATCH. Mr. President, today is a banner day. In fact, the world is turned upside down because here we have one of the leading liberal Senators in the Senate arguing for States rights and here we have one of the leading conservative Senators in the Senate arguing for Federal preemption. I never thought I would see the day. It shows that we have diversity in the Senate, and that we have the ability to cut across what heretofore seemed to be rigid lines.

Mr. President, we have two amendments before us. Both amendments have a similar intent. I applaud the intent of the distinguished Senator from North Carolina. I certainly applaud the intent of both Sentor KENNEDY and myself on the second amendment. I have to say while they both have similar intent, they have differing meanings.

My distinguished colleague from North Carolina is offering an amendment to make it a Federal criminal offense to knowlingly or intentionally donate blood if such individual has AIDS. My distinguished colleague from Massachusetts requires the States to enact such laws.

I would note that the amendment of Senator KENNEDY is, if anything, more protective of a State's right to legislate as a criminal offense the contamination of the blood supply, and that is where it ought to be. While this amendment prohibits the Secretary of HHS from approving a grant to a State that fails to provide adequate criminal laws against the knowing and intentional donation of contaminated or suspect blood, it also specifies that nothing in this act shall preclude any State from making it a crime to donate blood on any basis that the State shall choose. For example, one State may decide that certain reckless or even grassly negligent behavior is criminally wrong and should be remedied. Even though that conduct will not cause the Secretary to refuse a grant, nothing in the act, as amended by the Kennedy-Hatch amendment, will affect the State's right to punish that conduct.

I note that nothing in the Helms amendment would provide such broad protection. I do not want our blood supply contaminated, and I want strong laws against those who would intentionally harm our blood supply. I am going to support the Kennedy-Hatch amendment because it will strengthen State efforts to arrest and convict those who intentionally donate infected blood.

In addition, I believe we must do more to inspect our current blood supply. I will propose an amendment, as Senator KENNEDY has indicated, to increase funding and manpower at the Food and Drug Administration to do such inspections. We must ensure that we take every step to protect the Nation's blood supply. The real issue is inspection of the blood supply. And the real issue is to let us allow the States to do that which they should do, and the Kennedy-Hatch amendment gives them plenty of flexibility to do tough things against those who knowingly or intentionally sell blood that is contaminated with AIDS.

Mr. President, we reserve the remainder of our time.

Let me just say I hope that our colleagues will vote for this second amendment. Even though the intent of the distinguished Senator from North Carolina is a good intent, and even though his amendment would normally be a good approach to this, the Kennedy-Hatch amendment is the better approach to solving the problem. It gives the power where it ought to be, and gives the flexibility where it ought to be; with the States.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes and 10 seconds.

Mr. KENNEDY. I yield myself the remainder of the time.

Mr. President, I just want to add one additional thought to the presentation that was made earlier; that is, if a person who knows that he or she is infected intentionally donates blood and knows of the risk of transmitting the AIDS virus, that conduct can be prosecuted under criminal laws banning murder, aggravated assault, and reckless endangerment. All States have adequate laws to carry out prosecutions of this type at the present time.

Mr. President, I am prepared to yield the remainder of our time on this amendment.

Mr. HELMS. Mr. President, I wonder if I might have 3 or 4 minutes off the bill. I have a few more things to say.

The PRESIDING OFFICER. there is no time off the bill. There is 1 minute left.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator HELMS be able to proceed for 5 minutes more.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The Senator is recognized for 5 minutes.

Mr. HELMS. Mr. President, Lewis Carroll wrote a fairy tale where Humpty-Dumpty said, "When I use a word it means precisely what I intend it to mean; nothing more, nothing less."

I thought I heard the words from the beginning of the debate on this bill that this is a national crisis being addressed by the Federal Congress, specifically the U.S. Senate. Now all of a sudden the people who are not noted for believing in States rights say let us let the States do it, when 30 States have not done it and are not going to do it, probably.

Mr. President, I do not know where anybody gets the idea that the Kennedy-Hatch amendment—and that is an odd couple—I do not know where they get the idea that the No. 2 amendment in line will be more protective of future Ryan Whites than the Helms amendment.

I am not a member of the State legislature of any State, and neither is Senator HATCH nor Senator KENNEDY.

We are addressing what has been described by the authors of the bill as a national crisis. Furthermore, with the crossing of State lines, there is nothing to prevent an individual with tainted blood from crossing the State line to give it. He can go into a State where there is no law, or his blood sent across State lines.

As Senators KENNEDY and HATCH did on yesterday, let me now refer again to the monthly report by the Centers for Disease Control. It is entitled, "HIV/AIDS Surveillance Report."

The Centers for Disease Control report 3,040 cases of AIDS due to contaminated blood. But in the fine print, there is an interesting footnote. The CDC states that six transfusion recipients and one tissue recipient received tainted blood that had already been screened for HIV antibody.

As I stated earlier, cases have been prosecuted in Oklahoma and South Carolina. There are people who will continue to threaten the safety of the American people. With my amendment, but not with the Kennedy-

Hatch amendment, we put the word out on the streets that if you know you have AIDS and you put the national blood supply at risk, you go to jail. We will take you off the street, and you will no longer be a threat to society. The Kennedy-Hatch amendment does no such thing.

Mr. President, I suppose the Senators who have not heard the debate will come in and vote along the party lines, and that is all right with me. I have done the best I can to try to protect children who may be tomorrow's Ryan Whites. My amendment will do that. The Kennedy-Hatch amendment will not do that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has 2 minutes 28 seconds remaining.

Mr. KENNEDY. Mr. President, I am prepared to yield back the time to be able to lay down our amendment.

The PRESIDING OFFICER. The time is yielded back. The Senator from Massachusetts is recognized pursuant to the prior order of the Chair.

AMENDMENT NO. 1627

(Purpose: To condition the receipt of grants on the provision of assurances by State officials that State laws are adequate to protected donated blood)

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself and Senator HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Helms amendment is laid aside. At this point, the clerk will report the Kennedy-Hatch amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. HATCH, proposed an amendment numbered 1627.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new subsection:

SEC. . REQUIREMENT OF STATE LAWS PROTECTING DONATIONS OF BLOOD.

The Secretary of Health and Human Services shall not make a grant to a State under this Act, or an amendment made by this Act, unless the Secretary determines that the criminal laws of the State are adequate to prosecute any indivudal who knowingly and intentionally donates, or knowingly and intentionally attempts to donate, blood, blood products, semen, tissues, organs, or other bodily fluids if such individual—

(1) has been diagnosed on the basis of laboratory evidence as infected with human immunodeficiency virus; and

(2) has been informed that he or she is infected with the human immunodeficiency virus and has knowledge of the risk of transmission of such virus, through donated blood, blood products, semen, tissues organs, or other bodily fluids.

Nothing in this Act shall preclude any State from making it a crime to donate, knowingly and intentionally donate, or knowingly and intentionally attempt to donate, blood, blood products, semen tissues, organs, or other bodily fluids by (1) an individual who, on or after January 1, 1977, is or has been a user of any intravenous drug, the sale, distribution, or use of which is prohibited under Federal or State law after the time the individual injected the drug or; (2) an individual who has engaged in prostitution on or after Janaury 1, 1977.

Mr. KENNEDY. Mr. President, just to address the concluding remarks of the Senator from North Carolina, the fact is that we are facing a national crisis on the delivery and the provisions of health services to deal with the HIV virus, and that is what this legislation is all about, making a national commitment, a national plan to try and deal with something that has hit our population with enormous speed and tragic and sad results.

We have a proposal for financing research, and now we have a proposal for services. I am sure that services need to be upgraded. That is the reason we want to have a national program on that. Historically, we have not relied on the FBI to be involved in every kind of implementation of every kind of law that is passed here in Congress. We find that we have relied upon local and State, as well as Federal, cooperation to try and deal with measures that have been introduced. That is very clearly involved in this legislation. Any preliminary reading of it would demonstrate that, Mr. President.

Very clearly, what our amendment does is say that States are going to have laws in place to be able to prosecute those individuals who test positive for HIV, and who are involved in donating blood to the various blood supplies. So we are leaving it up to the States to be able to develop adequate laws.

In our program, there is nothing that precludes the States from developing other kinds of protections in terms of blood supply. We leave that up to the States again.

The interesting fact is that the CDC, which has been concerned about the safety and the security of the blood supply, has never suggested the kind of Federal intervention that is suggested in the Helms amendment. Those organizations which historically have been committed to a safe blood supply oppose it, because they really feel that we are going to endanger the ability to be able to get blood; the experts' concern is that we are going to have individuals who, if they do not know about this prohibition, will lie in terms of their own kind of contacts or history, and thus constitute a greater risk to the blood supply.

Mr. President, we think that those kinds of issues and questions should be resolved at the State level. We make it very clear with regard to the intentional involvement of someone who does test positive and does contribute to the blood supply that they will be able to be prosecuted.

But as I illustrated before, there are instances in which people could have had contact with intravenous drug use 10 or 12 years before and are now completely reformed, and have rare blood, and a member of their family needs that transfusion. But if that person goes in there and gives blood, off they go to jail for 10 years.

So, Mr. President, I hope that the proposal we have advanced, Senator HATCH and I, is in response, basically, to the kinds of recommendations and suggestions that have been made by the Red Cross and by the other blood bank organizations that all of us are dependent upon in this country to provide the resources for blood donations.

They do not always have the answers to all these questions, but nonetheless, I think we should follow their guidance in this area. Moreover, the recommendations by the National Commission on AIDS indicate that the kind of approach that we have suggested, both in terms of this amendment and what we are committed to providing for in a follow-on amendment, to both increase the number of FDA inspectors of our blood supply by some 150 and increase the authorization by $1.5 million to permit the FDA to develop and hire those individuals. This is really the way to provide for the safety of the American blood supply.

So, Mr. President, I hope that the Senate will reject the amendment of the Senator from North Carolina and support our amendment.

Mr. HATCH. Mr. President, will the Senator yield a couple minutes to me?

Mr. KENNEDY. I yield such time as the Senator may desire.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the Senator from Massachusetts has made a very good case. The fact of the matter is the real question here is inspection of the blood supply. That is the real question. That is what we really ought to be trying to do. By giving the States flexibility to get tough in the areas where they should get tough and have flexibility in the areas where they need flexibility, the Kennedy-Hatch amendment does make sense. This is in contrast to what the distinguished Senator from North Carolina would do, even if it is well-intentioned, and that is to lay down hard rigid Federal criminal laws preempting the State laws in an area that is continually changing.

The real issue is, are we going to have contaminated blood, and the answer is inspection. It is not whether

or not we enforce tough criminal laws. That is going to happen regardless, because the States are going to get tough on those people who knowingly, willfully, and intentionally donate blood knowing they are infected with the AIDS virus. Some people, however, give contaminated blood not knowing they are HIV-infected. That is why inspection is the only meaningful answer.

This amendment is the type of an amendment that will lead to inspection. I intend to offer an amendment later that will give us the personnel and the people to do that inspection so that we have no more tragic cases such as Elizabeth Glaser, Ryan White, and my friend down in Texas—circumstances were they get contaminated blood and, through no fault of their own, they become infected with AIDS.

This is an intelligent, decent, reasonable, and really acceptable way to solve this problem. It has flexibility built in, and nobody in this body believes that the States are not going to be tough on those who knowingly and willfully donate contaminated blood. They ought to be tough.

Let us at last give the States flexibility as the Kennedy-Hatch amendment does. We are not trying to have a political contest here. This is not a political issue. This is compassionate and bipartisan issue and it should be a consensus issue. We think Kennedy-Hatch makes this a consensus issue, and, most important, it preserves the principle of federalism, the rights of the States to make their own determinations.

I thank the distinguished Senator for his work on this. I believe it is the right way to go. As I mentioned before, we will add an additional Kennedy-Hatch amendment so that we will have the necessary personnel to make sure we do not have contaminated blood in our Nation's blood supply, something that you cannot be absolutely sure of today because we do not have the necessary resources for adequate inspection.

I do not want my words to freighten people. In most instances the blood supply is just fine, but there are some isolated cases—they have been cited—where people have gotten AIDS through contaminated blood. And the contaminated blood supply was there because the inspection process was not in existence or because inspections were too infrequent.

Mr. President, I recommend that Senators vote down the Helms amendment, as well-intentioned as it is, because it is too rigid and it flies in the face of the principles of federalism. Immediately thereafter I recommend a vote for the Kennedy-Hatch amendment, which I think has all the flexibility that is needed to compassionately, reasonably, legally, and practically handle this problem.

I reseve the remainder of my time.

The PRESIDING OFFICER (Mr. SARBANES). Who yields time?

The Chair recognizes the Senator from North Carolina, who has 15 minutes under the agreement.

Mr. HELMS. Fifteen minutes?

The PRESIDING OFFICER. Fifteen minutes.

Mr. HELMS. I thank the Chair.

Mr. President, I am not going to take nearly that long. I appreciate the several references to my being well-intentioned. I will say the same thing about the authors of the Kennedy-Hatch amendment. They are well-intentioned, but they are wrong. They are sincere, but they are sincerely wrong.

All of a sudden there is this outburst of support for States' rights. This is a national crisis, and they have described it as a national crisis. Some think it is not. But I tell you any case of tainted blood is a crisis for the child who gets it or anybody else. It was a crisis, it was a tragedy, for Ryan White.

I say to the Senate that the Kennedy-Hatch amendment will not do the job. They may prevail with the vote, but Senators will regret having voted for it. They will not regret it today, but I content that down the line they will.

I have just had faxed up to me from Raleigh a letter from the chairman of the Governor's Committee on Drugs and AIDS, Mr. Bill Peace. I am not going to read it all because it will not be necessary, but in a moment I will ask unanimous consent that it be made a part of the RECORD at the conclusion of my remarks.

Mr. Peace, I reiterate, was chairman of the Governor's Committee on Drugs and AIDS. Incidentally, he is a black citizen, and a fine black citizen, of North Carolina. He says:

> The spread of AIDS in North Carolina continues to be quite small in actual numbers of reported cases. The disease continues to pose no appreciable health threat—

And he is talking about statistically.—

> No appreciable health threat to the State's minority communities. Only 23 women of all races, not found in the two major at-risk groups: IV drug users and/or sex partners with the disease, have to date contracted AIDS. To date, only 18 babies have been born with the disease, 15 had a parent with AIDS or HIV; and there have been three hemophiliacs born with the disease.

Mr. President, I think that I will not proceed further reading from the letter from Mr. Peace because one paragraph would require that I read the next one and by that time all time would have been exhausted.

So, I do ask unanimous consent that the full text of the letter from Mr. Peace be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Senator JESSE HELMS,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HELMS: Let me apologize for the length of this letter. It is composed of a report that I just completed, as Chairman of the Drugs and AIDS Committee/NC Governor's Council of Minority Executives.

On May 25, 1989, I submitted a report to the Council, "The Stats on Aids in North Carolina: 1980 through April 27, 1989". I summed the subject up as follows:

"Conclusions: If there is a so called AIDS Epidemic in North Carolina, the stats do not reflect it. With respect to the state's minority communities, the stats reveal only isolated cases of AIDS, appreciably quite small in numbers (399). As of this date through 1992, this will remain the case even though the numbers may increase."

Further investigation led me to discover that the hype about the AIDS epidemic was being fueled by money: an absolutely, incredible amount of money. According to the Health Care Financing Administration, total AIDS spending in America is projected to reach a whopping 12 billion dollars by FY 1992. Incredibly, it all began in 1982 with a portly $6 million allocation of federal dollars. After that the money for AIDS spending exploded.

Please note, that national AIDS spending has created an "AIDS industry". Led by AIDS advocacy groups and the nation's news media, the extent of the disease within the country's population as a whole has been sensationalized. This industry has fabricated "predictions" of Apocalyptic proportions, year after year for the spread of the disease; none of which have materialized to date.

Attached are copies of the April 27, 1989, and April 20, 1990 "Surveillance Reports" for your comparisons for the calendar year under security. There were 378 new cases of AIDS reported in North Carolina. The latest report shows the disease at 1289—up some 469 cases. However, 91 of them were reported late and cover past years. Of the 1289 cases to date, 645 are black, 17 are Hispanic and 9 are native Americans.

I am also attaching, for your very close examination, a statistical chart which I prepared based on the two Surveillance Reports currently under committee's security. The following conclusions are based on that security.

CONCLUSIONS

The spread of AIDS in North Carolina continues to be quite small in actual numbers of reported cases. The disease continues to pose no appreciable health threat to the state's minority communities. Only 23 women of all races, not found in the two major at-risk groups: IV drug users and/or sex partners with the disease, have to date contracted AIDS. To date, only 18 babies have been born with the disease, 15 had a parent with AIDS or HIV; and there have been 3 Hemophilias born with the disease.

This report is not intended to minimize the potential health threat that any life threatening disease can have on the general public, but rather is intended to put AIDS in perspective. Very few people are actually contracting the disease. True, there were noticeable increases in the number of female cases of AIDS from 1989 to 1990: 58 new cases. However, 50 of those cases were women who were in the two major female at-risk groups. Only 8 new cases were reported among females not at risk. Thus, for the not at risk female, Heterosexual population of North Carolina, AIDS is not a health

threat. AIDS in this population group can be construed as threat only by way of accidental exposure; which has thus far proved to be slight.

With respect to the state's male Heterosexual population, 85% of the 1128 cases of AIDS reported have been confined to three primary at-risk groups: Homosexuals or bisexuals, IV drug users, and/or combination of both. Only 37 cases of the disease in not at-risk males contracted it as a result of Heterosexual contact. The report shows that 162 other males contracted the disease through accidental contact.

Is the disease being spread into the state's Heterosexual population is the question that most of us are concerned about? Not according to the stats: 44 women and 37 men listed Heterosexual contact as the cause of the disease. That comes to a total 81 people out of Heterosexual population in North Carolina of over 6,000,000 people. After more than a decade of "the AIDS epidemic" and only 81 reported cases of the disease in a non-at risk population group as large as the aforementioned. These 81 AIDS cases must be regarded as "fluke" cases of the disease within the state's not at risk, Heterosexual population.

We are also concerned about the matter of babies in our state being born with AIDS. Is AIDS a health threat to North Carolina's newborn infants? A recent study, January 30, 1989, Study Tracks HIV Infection Among N.C. Women "A new study indicated that 12.4 of every 10,000 North Carolina women giving birth are infected with the AIDS virus." The study further on indicates that 30 to 50% of these women are going to pass the disease on to their unborn babies.

The estimated number of births in our state during 1989, was approximately 350,000. What does this figure mean in terms of the number of babies born with AIDS for the year, predicated on the study's dyer predictions?

10,000÷350,000=35x12.4 pregnant women=434 babies

30 percent of 434 babies=130.2 babies

The study is asking us to believe that by December 31, 1990, at the very least, 130.2 babies will be born with AIDS. Again, the numbers on the ground, 18 babies to date have been born with AIDS; this over an eleven year period. These tiny numbers simply do not support the study's predictions; no matter what the testing revealed.

Despite the study, for non-at-risk women in North Carolina, AIDS through April 20, 1990, continued to be a rare disease. As for babies born with AIDS, the disease continued to be so rare as to be labeled an "exocit" one in our state. AIDS posed little or no consequential health threat to the state's not at risk Heterosexual population during the period covered by this report. As of this date through 1992, this will likely remain the case even though the actual numbers of reported cases of AIDS may slightly increase, mainly within the three at-risk groups."

Is AIDS a health threat to the state's not at risk minority communities? Absolutely not. That the majority of the cases to date in the three major at risk groups are black becomes insignificant. Most of North Carolina's majority population is not gay/bisexual, IV drug users and/or a combination of same. For those few blacks, Hispanics, and native Americans who are, AIDS represents a definite health threat. However, the point is that AIDS represents such a threat to everybody, regardless of race, who falls within the three major at risk groups. Everyone already knew that prior to setting up my Drugs and AIDS Committee. The concern was that AIDS has spread into the Heterosexual population, and was at epidemic proportions within the state's black community. This has proved not to be the case. In my view, the question now becomes, how did such an assertion get started.

The North Carolina AIDS Control Program: This program is a state agency funded with both federal and state dollars. Its purpose is to inform the public about the danger of AIDS. It also monitors and tracks the disease, coordinates and funnels grants to various community action AIDS groups around the state. This it does. However, it also serves as an AIDS "advocacy group." Therein lies the problem.

Advocacy groups, no matter what it is they are advocating for or against all begin by exaggerating the extent of the problem; inflating the numbers by way of distorting "percentages" rather than presenting actual on the ground reported cases of AIDS, and followed by "the sky is falling" predictions for everyone unless their grants are funded. That is the nature of the beast. Advocacy groups just don't squeak, they scream. Grantees also become advocacy groups as well. Thus, everyone involved in and/or is receiving grant funds due to the problem becomes an advocacy group; including the likes of Duke University, North Carolina State University and University of North Carolina, the state's health care systems, research community, etc. No "AIDS epidemic," no more money; thus the continuation of the alarm about the AIDS epidemic in North Carolina spearheaded by the state's AIDS Control Program. With an estimated $33,000,000 in AIDS dollars spent in North Carolina during FY 1989, the cry about the AIDS epidemic will be heard all during 1990. The fact that just a hand full of people will contract the disease, will not mean a thing.

Why black folks and the AIDS epidemic? Why sick the disease on us? Start telling the whole country that AIDS is now primarily a disease that disproportionately effects blacks? Listen to the words taken from State AIDS Control Program's flyer on the study.

"Approximately twenty-three percent of the state's population is black, but 49 percent of its AIDS reported cases are black. Race is associated with certain socioeconomic conditions and behavior, such as drugs and unprotected sexual activity with other high risk for infection, which increases the likelihood of getting the AIDS virus, said Dr. Adaora Adimora, Assistant Chief for Science of the Department's (North Carolina) Communicable Disease Section."

In other words, black folks by nature engage in reprobate behavior more so than do whites. Everybody white in America believes and swears by that nonsense. White folks have demonstrated a history of excepting on face value any thing anyone says that is negative about black people. As we all know, you can get away with murder in this country, if you are white. If you are a white man, you want to murder your wife, mother, sister, anyone white and need enough time to make a clean get away, just say, "A black man did it." By the time somebody white stops and thinks about it, the guy would have enough time to go around the world twice, in a sail boat. Just ask anyone black from Boston, Mass.

What is the point, AIDS is a "dirty" disease. The gay community has long been offended that it was in effect tagged as "their disease." Therefore the attempt to claim that AIDS was spreading into the Heterosexual population. But again, why tag black folks with the disease? Money, that $12 billion dollars that is in the pipe line. That is a lot of money for a disease that very few people are actually getting. The Homosexual community is now practicing safe sex and is claim that they are not getting it anymore. "Shooting up" isn't the drug problem in this country; it's cocaine. However, you can't get AIDS from just snorting or smoking it. There are not enough "junkies" in America to warrant $12 billion dollar worth of concern.

White folks in the general public are not getting AIDS. If you are in the AIDS money chain, you know that with that with billions and billions of "unquestioned" dollars flowing in, at some point somebody is going to do a head count: a white head count. When they do, that will be the end of the so called AIDS epidemic and the money facet will get shut off. Well, somebody is going to have to come down with the disease in large numbers in order to prevent that white head count from happening. No problem, the AIDS advocacy groups then decided to do this:

"Let's all tell everybody, in the whole country, that AIDS is spreading in the black American community like wild fire. Since its a "known fact", that because of race, blacks engage in the type of behavior that brings on AIDS; therefore it must be true. And because black folks will be the ones now tagged with the disease, No ONE WHITE WILL BOTHER TO CHECK and see if it is, in point of fact, true".

That ladies and gentlemen, is how and why black America has been tagged with the "AIDS epidemic"; to keep the AIDS money flowing and to prevent anybody from doing a white Hetoresexual head count of the disease. It's working just like clock work. Only North Carolina, U.S. Senator, Helms has bothered to take a head count and he has found the exact same thing that I discovered. Folks who don't engage in Homosexuals/bisexual acts or shoot drugs are not at risk of contracting AIDS.

RECOMMENDATIONS

1. That the report be forwarded to the Governor with a request that it be made public upon his approval.

2. That no state funds be appropriated for further AIDS spending for FY 1990.

3. That the NC AIDS Control Program be ordered to publicly retract its claims that there is disease known as AIDS has reached epidemic proportions in North Carolina; retract its claims that AIDS is spreading into the not at-risk population of our state; and retract its claims that the state's not at-risk black community is being disproportionately effected by this disease.

4. That the NC AIDS Control Program be ordered to stop serving as an AIDS advocacy group; that it act in a more responsible manner in presenting the extent of the threat of the disease to the state's not at-risk population. That it get out of the "AIDS predicting" business, period.

5. That is develop reasonable "number of ceases" on the disease upon which to base, what constitute cases of AIDS at epidemic levels.

POSTSCRIPT

People do get AIDS in North Carolina, mainly people in the three major at-risk groups' but on a whole not many of them are contracting the disease either. In our state, as a disease, AIDS has never been nor is it today, within the general population of

North Carolina, a real health threat. AIDS continues to be what it has always been: a disease that predominately effect Homosexuals, bisexuals and IV Drugs users. And even so, AIDS is not readily contracted.

So, how do you get AIDS? I don't think anyone really knows because the disease is so uncommon within the Nation's population as whole. It seems to me that homosexual activity and shooting drugs are "links", but that's it. We know that lung cancer is "linked" to cigarette smoking, but for all of these many years nobody has yet to prove that smoking causes lung cancer. I am 54 years old, I have been smoking cigarettes for 42 years. To date, I have yet to come down with lung cancer, and there are millions of Americans in my age groups, who smoke and haven't got it yet, either. My dad smoked for almost 70 years. He died at age 82 of prostrate cancer.

My point is this with respect to AIDS; a lot of people, scores of millions of people, who smoke don't get lung cancer. And millions of other people, who engage in homosexual behavior and people who shoot drugs do not get AIDS. Like in the case of cigarette smoking, nobody really knows WHY?

Enclosed are copies of all of the documentation that I used in preparing my report to the council.

Sincerely yours,

WILLIAM H. PEACE III.

Mr. HELMS. I reserve the remainder of my time.

Mr. LEVIN. Mr. President, I think it ought to be a crime for individuals to donate or sell blood if they know that they have been infected with the AIDS virus.

However, the Helms amendment goes far beyond that point and is so extreme that it would under some circumstances make it a criminal offense for a parent who was not infected with the AIDS virus to donate blood to save his or her child's life. For example, take the case of an individual who in 1979 was a drug addict when 20 years old. Assume that individual successfully underwent drug rehabilitation in 1980 and later got married and had a child. Finally, assume that this parent's child suffered from an life-threatening illness in 1990 which required a blood transfusion for the child to survive and for which there was no other available donor or for which the blood-type involved was very rare. The Helms amendment would make this parent a criminal for trying to give the child a life saving blood transfusion, even though the parent had been tested for the virus and there is no evidence that the parent was infected with the AIDS virus and even though it had been more than a decade since the parent had used illegal drugs.

I agree that we must do what we can to effectively protect our Nation's blood supply. I believe that the Kennedy-Hatch amendment which was adopted by the Senate and which I supported will establish a way for this goal to be accomplished without running the risk of the tragic consequences that could arise if the Helms amendment were enacted.

The PRESIDING OFFICER. The Senator from North Carolina has 11 minutes and 20 seconds remaining, and the Senator from Massachusetts has 6 minutes and 27 seconds remaining.

Mr. HELMS. Mr. President, I am glad to yield back the remainder of my time.

Mr. KENNEDY. I am glad to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question now occurs on the Helms amendment on which the yeas and nays have been ordered. The yeas and nays have also been ordered on the Hatch-Kennedy amendment, which will follow immediately after the Helms amendment for voting.

VOTE ON AMENDMENT NO. 1626

The PRESIDING OFFICER. The question is on agreeing to the Helms amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. HEINZ] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—47

| | | |
|---|---|---|
| Armstrong | Exon | Murkowski |
| Baucus | Ford | Nickles |
| Bentsen | Garn | Pressler |
| Bond | Gramm | Rockefeller |
| Boren | Grassley | Roth |
| Boschwitz | Heflin | Rudman |
| Bumpers | Helms | Shelby |
| Burdick | Humphrey | Simpson |
| Burns | Johnston | Specter |
| Byrd | Kassebaum | Stevens |
| Coats | Kasten | Symms |
| Cochran | Lott | Thurmond |
| Danforth | Lugar | Wallop |
| Dixon | McCain | Warner |
| Dole | McClure | Wilson |
| Domenici | McConnell | |

NAYS—52

| | | |
|---|---|---|
| Adams | Gore | Metzenbaum |
| Akaka | Gorton | Mikulski |
| Biden | Graham | Mitchell |
| Bingaman | Harkin | Moynihan |
| Bradley | Hatch | Nunn |
| Breaux | Hatfield | Packwood |
| Bryan | Hollings | Pell |
| Chafee | Inouye | Pryor |
| Cohen | Jeffords | Reid |
| Conrad | Kennedy | Riegle |
| Cranston | Kerrey | Robb |
| D'Amato | Kerry | Sanford |
| Daschle | Kohl | Sarbanes |
| DeConcini | Lautenberg | Sasser |
| Dodd | Leahy | Simon |
| Durenberger | Levin | Wirth |
| Fowler | Lieberman | |
| Glenn | Mack | |

NOT VOTING—1

Heinz

So the amendment (No. 1626) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1627

The PRESIDING OFFICER. The question now is on agreeing to the Kennedy-Hatch amendment, No. 1627.

The yeas and nays on the amendment have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. HEINZ] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—99

| | | |
|---|---|---|
| Adams | Ford | McClure |
| Akaka | Fowler | McConnell |
| Armstrong | Garn | Metzenbaum |
| Baucus | Glenn | Mikulski |
| Bentsen | Gore | Mitchell |
| Biden | Gorton | Moynihan |
| Bingaman | Graham | Murkowski |
| Bond | Gramm | Nickles |
| Boren | Grassley | Nunn |
| Boschwitz | Harkin | Packwood |
| Bradley | Hatch | Pell |
| Breaux | Hatfield | Pressler |
| Bryan | Heflin | Pryor |
| Bumpers | Helms | Reid |
| Burdick | Hollings | Riegle |
| Burns | Humphrey | Robb |
| Byrd | Inouye | Rockefeller |
| Chafee | Jeffords | Roth |
| Coats | Johnston | Rudman |
| Cochran | Kassebaum | Sanford |
| Cohen | Kasten | Sarbanes |
| Conrad | Kennedy | Sasser |
| Cranston | Kerrey | Shelby |
| D'Amato | Kerry | Simon |
| Danforth | Kohl | Simpson |
| Daschle | Lautenberg | Specter |
| DeConcini | Leahy | Stevens |
| Dixon | Levin | Symms |
| Dodd | Lieberman | Thurmond |
| Dole | Lott | Wallop |
| Domenici | Lugar | Warner |
| Durenberger | Mack | Wilson |
| Exon | McCain | Wirth |

NAYS—0

NOT VOTING—1

Heinz

So the amendment (No. 1627) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The distinguished Republican leader is recognized.

Mr. DOLE. Mr. President, there is no question that there is a need to develop and sustain vital health and social service support to persons who are infected with [HIV] human immunodeficiency virus and for persons with the acquired immune deficiency

syndrome [AIDS]. The impact of the AIDS epidemic on our hospitals, nursing-subacute care facilities, clinics and community health centers is extraordinary. This impact will require heroic measures to overcome.

According to the National Commission on Acquired Immune Deficiency Syndrome, the epidemic of the 1990's will be far worse than what we have seen thus far.

I wholeheartedly agree with President Bush when he says:

In this Nation, in this decade, there is only one way to deal with an individual who is sick * * * with dignity, compassion, care, confidentiality and without discrimination.

This bill attempts to assist States in doing just that.

As noted in an article in the Atlanta Constitution:

The AIDS epidemic has slammed into the Nation's biggest cities, causing as much economic damage as any hurricane. * * *

This is the first major bill to authorize funds to care for people who are sick with AIDS and those at risk of disease with HIV infection. Funds are urgently needed to be targeted to avert collapse of our health care system and to help the sick and alleviate suffering.

This bill directs Federal support to the 13 metropolitan areas hardest hit by the epidemic. But it also appropriately notes the growing problem of rural communities. The local consortium of services envisioned by this bill should facilitate access to services in both rural and urban areas.

The bipartisan support for the bill in the Congress coupled with the support of more than 100 national organizations is a testament to the seriousness of the problem facing many citizens of this Nation.

Mr. President, it is clear that our current health care system is struggling to deal with the needs of people with HIV infection and their families. We have made some strides by directing resources toward education, prevention and research but additional attention to the complex needs of these families is essential. This bill provides for an array of services including respite care, home care, day care and psychosocial services which seek to decrease the number of hospitalizations of adults and children with AIDS.

In conclusion, Mr. President, I think it is fair to say, this bill is by no means perfect. It, unfortuantely, builds on to a health care delivery system that is already fragmented and not the most effective in delivering the essential health services for an increasingly uninsured population. And we have to recognize that we are faced with a severe budget deficit while the health industry is consuming greater and greater financial resources. We have to be cautious in what we do. Our willingness to scale back some other program while attending to this emergency is a challenge we all must face.

AMENDMENT NO. 1628

(Purpose: To provide resources to the Food and Drug Administration to assure a safe supply of blood and blood products.)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. KENNEDY, proposes an amendment numbered 1628.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

There is authorized an additional 150 full time equivalent positions to the Food and Drug Administration. The positions established by this authority are to be used for the inspection of blood banks and producers of blood products.

There is also authorized an appropriation of $1,500,000 to carry out this activity in fiscal year 1991 and such sums as may be necessary through fiscal year 1995.

Mr. HATCH. Mr. President, I filed this amendment on behalf of the distinguished Senator from Massachusetts and myself.

I have to say that the Senator from North Carolina has expressed his concern about the Nation's public health during the AIDS crisis. One of the major concerns that health officials have is the safety of the Nation's blood supply. We looked at that issue in the last debate, and it has been good that we did.

There are over 2,400 institutions throughout this country that process blood and blood products. We know that there is some risk associated with any kind of blood donation. However, through the efforts of professional and voluntary associations and the Food and Drug Administration, our blood supply is one of the safest in the world today. However, with the AIDS epidemic, we have found that we do not have the adequate resources to perform frequent enough inspections of the blood banks and blood product manufacturers.

The FDA needs additional resources for this effort. The FDA needs to assure that those who process blood supplies and blood products are technically proficient. The FDA needs to assure that recordkeeping is adequate to keep tainted blood and blood products away from patients.

We frequently hear about the risks to hemophiliacs. Hemophiliacs rely on a safe blood supply. Patients undergoing surgery frequently need additional blood to survive. Surgical patients should not be put at additional risks the way they have been in the past.

The way to avoid this is to increase the resources of the FDA so that the inspection process can be enhanced, and all fears regarding this country's blood supply can be allayed.

Mr. President, this amendment addresses this very shortage of personnel at the FDA.

So I encourage my colleagues to join me in support of the amendment. Specifically, this amendment increases the number of full-time inspectors by 150 and authorizes $1.5 million for such efforts.

Mr. KENNEDY. Mr. President, I will not take the time of the Senate at this moment. I indicated in the debate earlier this afternoon that quite frankly in the minds of most health professionals, the addition of some 150 inspectors who are carefully trained and have the support of the FDA will do more than either one of those previous amendments in terms of assuring the safety of the blood supply.

The Senate has made its decision in supporting our amendment, the Kennedy-Hatch amendment, which I think responds to the principal kinds of outrageous behavior that all of us want to prohibit, ensuring that the States are going to have adequate enforcement, or criminal laws, hopefully, with adequate enforcement to protect the blood supply.

But this amendment will make a very significant and important contribution. I hope the Senate will accept it.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 1628) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I enthusiastically support the Comprehensive AIDS Resource Emergency Act of 1990.

First, I would like to congratulate the chairman and ranking member of the Labor and Human Resources Committee, Senator KENNEDY and Senator HATCH, for their truly outstanding efforts in bringing this emergency legislation to the floor. They worked tirelessly in a bipartisan fashion to secure 64 cosponsors and the support of countless national organizations for this legislation. I am proud to be an original cosponsor of this important legislation.

I think the CARE bill is going to go a great way toward providing needed resources to combat the AIDS crisis. I

am very proud to be a Member of this body today, Mr. President, considering the strong votes that this measure is receiving on both sides of the aisle to provide needed resources for this particular problem.

Mr. President, I also want to pay tribute to the young man to whom this legislation is dedicated—Ryan White. Ryan died on April 8, 1990, after a 6-year battle against AIDS.

Beginning at the age of 13, Ryan valiantly fought not only the HIV virus itself but also fears about AIDS that were based on ignorance and senseless discrimination against people with AIDS and HIV disease. Ryan spent the last 6 years of his life not only fighting for his life, but also fighting for the lives of all people living with AIDS. Although we have now lost Ryan, we cannot lose sight of his courage and his hope. As Ryan himself said, we must fight the disease of AIDS and not the people who have it.

Mr. President, the AIDS epidemic has slammed into the Nation's largest cities, causing as much economic damage as any major hurricane or tornado. The AIDS crisis is an expanding emergency and each year, the sobering figures move inexorably higher.

As of March 31, 1990, it is estimated that about 1 million Americans are infected with the virus that causes AIDS. More than 128,000 cases of full-blown AIDS have been reported, and more than 78,000 people have died. By the end of this year, public health experts project that another 50,000 cases will be diagnosed. By next year AIDS will be the leading cause of death for Americans between the ages of 25 and 44.

One of the most tragic and disturbing developments is that there are almost 2,200 reported cases of children with AIDS. This number does not include children who are HIV infected. And it is estimated that for every child reported to have AIDS, there are 2 to 10 other unidentified cases. It is estimated that nearly 3,500 children will have AIDS by 1991 and approximately 20,000 will be HIV infected.

In my own State of Connecticut, every week, two children are born to HIV-infected mothers. Connecticut now ranks first in the Nation in the percentage of AIDS cases among children. The percentage of Connecticut women infected with the AIDS virus is double the national average.

This legislation and the money that will be provided by it will provide some needed resources in my home State of Connecticut as well as nationally for all of those affected with this disease.

The toll on individuals is, of course, indescribable. But there is a public health impact, too. Because the disease has struck so unevenly, just 4 percent of the Nation's hospitals are treating more than half the people with AIDS.

The burden of AIDS care threatens to overwhelm city hospitals, severely limiting their ability to help other seriously ill people. In addition, the low incomes of many AIDS patients and the high cost of their care threatens to drive public hospitals into insolvency.

As taxing as the epidemic has been to the public health system, the worst is yet to come. The first 100,000 cases of AIDS occurred over 9 years. The next 100,000 cases are expected to require only 15 months.

This legislation recognizes the urgent need we are confronted with. First, it would direct $300 million in emergency relief to the 13 cities with the highest number of AIDS cases. The money would pay for both hospital and outpatient care.

Next, the measure would distribute another $300 million to States to develop comprehensive programs to care for people with AIDS. One of the uses for the money might be to defray the high cost of drugs like AZT for people who cannot afford them.

The principles that underlie this bill are clear: Help those suffering from this devastating disease who have neither resources nor insurance; provide early intervention that can delay the onset of this disease; promote the development of alternatives to expensive hospital care clinics, home health services, and hospices; and save the big city hospitals that can no longer cope with the crisis unaided.

The CARE bill promotes aggressive management of the AIDS crisis rather than reactive management. Continued neglect of the need only compounds devastating disease with financial waste.

This legislation will allow us to follow the advice of President Bush when he said:

> In this Nation, there is only one way to deal with an individual who is sick—with dignity, compassion and care—with confidentiality, and without discrimination.

The CARE bill represents bold action to alleviate the tremendous suffering brought on by AIDS and to prevent further tragedy. I urge all of my colleagues in the Senate to support the enactment of this important legislation.

Mr. KENNEDY. Mr. President, I thank the Senator from Connecticut. As we all know, he is head of the children's caucus. No issue that involves the very young and most vulnerable escapes his very careful attention.

We appreciate all the work he has done in the development—particularly in those aspects—of the legislation. I thank him.

## THE REMARKS OF VICE PRESIDENT QUAYLE

Mr. MITCHELL. Mr. President, yesterday speaking at a cermony honoring National Police Memorial Day, Vice President QUAYLE criticized the Congress for failing to act on the President's crime legislation. He said that Congress has "sat on the package" for the past year, and "has done nothing at all during that time."

The Vice President's remarks were incomplete, inaccurate, and highly misleading.

Last June, President Bush submitted an anticrime proposal to Congress. Shortly thereafter, Drug Director William Bennett asked the chairman of the Judiciary Committee, Senator BIDEN, not to introduce anticrime/antidrug legislation until after the President's September drug strategy was released. Senator BIDEN consented. Meanwhile, the Senate Judiciary Committee reported an assault weapons bill, S. 747.

After the President's drug strategy was unveiled in September, the Judiciary Committee reported a death penalty bill, S. 32, and the full Senate considered—and went beyond—the funding elements of the President's request. Due in large part to the efforts of the President pro tem, Senator BYRD, moneys to fight crime were added to the transportation appropriations bill. The appropriation gave the President every penny he requested in his crime package—every FBI agent, every DEA agent, every Customs agent, every prison cell, every prosecutor and every marshall. It almost doubled the President's request for FBI drug fighters and Federal drug prosecutors. And it more than doubled the President's request for aid to State and local law enforcement.

The Senate also passed other tough anticrime legislation, S. 1711. Among other things, it would increase penalties for selling drugs to minors, authorize forfeited funds to be used to obtain guns for law enforcement officers, require drug testing for every Federal prisoner released on parole, give new power to the Attorney General to order the bulldozing of crack houses, and extend Medicaid to cover drug treatment.

What was left, Mr. President, was consideration on the Senate floor of legislation dealing with the following issues: further extension of the death penalty, habeas corpus reform, the exclusionary rule, Justice Department reorganization, international money laundering and the availability of firearms for purchase. On September 26, 1989, the Senate entered a unanimous consent agreement to take up these items before ajourning for the year. It was my intention to turn to these items the week of November 20, 1989.

When November came, Senator BIDEN was prepared to manage the legislation, and had ready for floor action a bill, S. 1970, which incorporated all six elements of the agreement. Howev-

er, on the Senate floor on November 19, 1989, I had the following exchange with the Republican leader and I quote that exchange in full because it demonstrates the inaccuracy of the Vice President's statement.

Mr. MITCHELL. Mr. President, on September 26 of this year, the Senate reached a comprehensive agreement on how to consider legislation dealing with the control of drugs and with the issue of crime and criminal sanctions and procedures. The funding portion of that proposal was sent to the President as part of the Transportation approriations bill; the several committees' legislative initiatives as well as certain of the legislative initiatives of the President's drug proposal, have been passed by both Houses and are now in conference. In addition, the House is considering the Senate's action on a bill containing several additional antidrug proposals.

The remaining portion of the agreement reached on September 26 provided that the majority leader, after consultation with the Republican leader, would determine a method for the consideration of a bill or a motion to proceed to such bill dealing with the death penalty, habeas corpus reforms, exclusionary rule, Justice Department reorganization, international money laundering, and the availability of firearms for purchase; and that this vehicle or motion to proceed to such vehicle shall occur not later than sine die adjournment.

I continued, and again I remind my colleagues I am quoting now from a statement I made on November 19, 1989. I said:

Mr. President, I had been preparing to proceed to this legislation on Monday, Tuesday, and Wednesday of this coming week. Senator Biden has told me that he is prepared to manage the legislation and has a bill that incorporates the elements of the agreement ready to introduce. However, the Republican leader asked me at the end of last week if, given the time constraints that are facing us all at this point and the need to give concentrated attention to this topic, I would mind deferring action on this legislation until just prior to the February recess. Mr. President, I have no problem agreeing to the Republican leader's proposal; I have checked with Senator Biden, and he indicated that if the joint leadership wished to defer action until February, he would accede to the request. I would ask the Republican leader if I have stated the situation as he understands it as well?

That is the end of my comments of last November 19, Mr. President.

In response to my question, the distinguished Republican leader, Senator DOLE, responded, and he said the following:

Mr. President, the majority leader is correct. I have discussed this with Senators on this side of the aisle and with officials in the administration, and they agree that it would be preferable to defer action on this important legislation until February. I believe that it needs more focused attention than time permits at this point, because, as indicated by the majority leader, we are under rather severe time constraints.

Mr. President, the above colloquy establishes two facts: First, the delay was requested by the Republican leader, and second, it followed his consultation with officials in the administration. For the Vice President to criticize Congress for delay without mentioning either of these facts is highly misleading. In an apparent effort to gain political advantage, he has omitted important and relevant facts. It is a most unfortunate way to proceed.

Following the above colloquy, the unanimous-consent agreement was modified to allow the majority leader to move to consider this legislation beginning any time on or after February 7, in consultation with the Republican leader. As Senators will recall, by February we were deeply involved in the clean air legislation—important to the administration as well as ourselves—and, therefore, we did not act on the crime legislation at that time.

On April 2, 1990, I had another colloquy with the Republican leader about the appropriate time to take up the crime bill. It was my view, and the view of the Republican leader, that there was not sufficient time before the Easter recess to take up the crime legislation, and so I suggested that we turn to the legislation on or about May 21, so as to permit nearly a full week's consideration of it before the Memorial Day recess. I asked the distinguished Republican leader to comment. After noting that he had discussed the issue with the ranking Republican member of the Judiciary Committee, Senator THURMOND, the Republican leader said: "I think we would prefer to have it set aside until late May."

Mr. President, I emphasize that the Republican leader and I have never had a disagreement on the scheduling of this matter. All decisions have been mine and mine alone. I take full responsibility for them. But as the RECORD shows, they have followed full and fair consultation with the Republican leader. My disagreement is not with him; it is with the inaccurate and highly misleading statements made by the Vice President.

It is time to stop playing politics with crime. We will take up the crime bill next week, and I hope that what is said in that debate will be accurate and focus on the issues in dispute.

Mr. President, I yield the floor.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

## COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT OF 1990

The Senate continued with the consideration of the bill.

Mr. HUMPHREY. Mr. President, the matter before us involves a great deal of emotion. It should, because it involves human suffering. Suffering on the part of those afflicted with AIDS, and suffering on the part of their families and friends. AIDS is a national tragedy. It is only natural that we would want to do something about it. And, even, absent this bill, we are. Of course, whatever we do, many will feel it is not enough. They will demand more be done. Under the circumstances, that is perfectly understandable.

My purpose today is to try and put things in perspective, if that is possible in an emotionally charged situation. Can we ask the question, are funds for various health programs being allocated according to medical need, or are they being allocated according to political pressure? It seems a fair question. We do not want to mix politics with medicine. But I am afraid we have. I am afraid we are allocating health funds according to which lobbying groups bring the most pressure to bear on Congress. I am afraid we are allocating health funds according to which organized groups have the most political clout in elections.

Let me cite some budget figures to illustrate the point. The White House has proposed 1991 spending of proposed $3,463,000,000 for AIDS-related expenditures—$1,245 million for research, $1,346 million for treatment, $567 million for prevention, and $305 million for income support. That is a total of $3.463 billion for AIDS programs of various kinds.

The same budget document proposes $603,185,000 for heart and vascular diseases within the National Heart, Lung, and Blood Institute. Heart disease will claim between 760,000 and 950,000 lives in 1990 alone—a figure far in excess of the 78,000 deaths from AIDS over the past 10 years. Yet we're spending only 17 percent as much on programs dealing with vascular disease as we are spending on AIDS programs.

Cancer is expected to kill 518,000 Americans this year. Yet, total funding for the National Cancer Institute, contained in the proposed budget is only $1,694,059,000.

Diabetes affects 11 million people. Approximately 36,000 of those afflicted with diabetes die each year. Yet, the budget for diabetes, endocrinology and skin diseases in the National Institute of Diabetes and Digestive and Kidney Diseases—contained on page A-702 of the President's budget—is $259,039,000.

In other words, these three diseases, which kill around 1½ million Americans each year—nearly 20 times the total AIDS fatalities over the past 10 years—collectively received nearly $1 billion less than the President had budgeted for AIDS. The bill before us would add $600,000,000 to the $3.463 billion for AIDS in 1991.

Is this rational? Is this a logical allocation of funds among the various programs dealing with major health af-

flictions? It does not seem so, if you relate the amounts to the numbers of Americans afflicted.

My second dissatisfaction with the bill is that it is unfair to the AIDS victims of my State. Based on its population, I expect that my State would spend roughlv $2,400,000 to pay for this bill, if it were fully funded. New Hampshire would almost certainly receive nothing under title I of the bill, which is directed to the 13 metropolitan areas with the highest number of AIDS cases. According to the committee, it would receive only $386,995 under title II. In other words, New Hampshire would receive only 16 cents for every dollar it paid. Little or none of the bill's funding would go to research on a cure for AIDS—money which could benefit the persons in my State suffering from AIDS.

Instead, New Hampshire would pay to fund New York's AIDS crisis—and San Francisco's. Even the committee concedes that the total cost of this epidemic will be at least $13 billion per year. This means that, if New Hampshire begins to undertake to solve New York's AIDS crisis, it will be more than a camel's nose under the tent.

New Hampshire has the resources to deal with its modest health crisis. But, even by sending 84 cents of every dollar to other parts of the country, it will not be able to tackle the Nation's AIDS crisis. And if ever there was a bill begging to increase twentyfold during the second and third years of its existence, this is such a bill. In the outyears, the bill authorizes "such sums as may be necessary." In other words, we are waiting a blank check, which, given the politics here, we can be assured will be generously filled out when the time comes.

But even with respect to the purported beneficiaries of this legislation, this bill would not guarantee that its funds would be directed to their health needs. Title I funds could be used to "enhance the quality of services, care, and treatment" by a broad range of facilities to low-income individuals. Nowhere is the funding limited to health care or health expenditures.

Title II is even more explicit. Its funding may go to health care and support services, including benefits advocacy and legal services. We have seen this shell game in operation before. Basically, we appropriate money to advocacy groups, which use our money to come back to us and lobby for more money.

What sorts of organizations will have their political lobbying and advocacy arms enhanced by this legislation? We can take a clue from the membership of the pediatric AIDS coalition, which includes the Children's Defense Fund and, yes, the Planned Parenthood Federation of America.

Mr. President, I will vote against S. 2240—not because I do not sympathize with the victims of the terrible AIDS epidemic. I will vote againt the bill because it is badly designed, and because our generous and ever-growing expenditures for AIDS programs are all out of proportion to our expenditures for other health programs which threaten many more Americans than does AIDS. Out of fairness, do we not owe our constituents a more even-handed allocation of funds for medical programs? Out of fairness to all of our constituents, should we not remove politics from medicine?

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). Who seeks recognition?

Mr. KENNEDY. Mr. President, In response to the remarks of the Senator from New Hampshire, I would like to outline the six very solid reasons why we should make a special effort in the area of AIDS CARE.

First, it is transmissible and accelerating in severity;

Second, in terms of years of life lost, it is one of the biggest killers;

Third, the impact of AIDS threatens the entire health care system;

Fourth, the impact of the epidemic is unevenly distributed across the Nation;

Fifth, carefully targeted aid can actually bring the Nation's total AIDS CARE bill down; and

Sixth, there is a long history of providing emergency Federal aid to relieve areas hit by disasters. AIDS is a disaster.

Let me explain each of these points.

AIDS IS TRANSMISSIBLE

AIDS is fundamentally different than the many other "big killer" diseases which confront the American people. Unlike heart disease, cancer, pulmonary disease, diabetes, and pneumonia, AIDS is a classic public health epidemic. It is a transmissible illness.

In the words of HHS Secretary Louis Sullivan, we must make a special effort in AIDS because "this is a problem which is growing and threatens to continue to grow at a rapid rate if we don't get control over it."

It is this acceleration in new AIDS cases that is imposing impossible burdens on the Nation's health care system.

Between 1988 and 1989, the change in disease-specific death rates was as follows:

Heart disease, −1.6 percent; cancers, +6.1 percent; cerebrovascular disease, −1.5 percent; and HIV disease, +31.0 percent.

In 1986, there were 14 times more deaths from cereberovascular disease than HIV and 7 times more deaths from pulmonary disease than HIV. But, by 1992, those ratios will have shrunk to about 2 to 1 and 1.3 to 1, respectively.

This acceleration is most prevalent in the minority community. AIDS is increasing disproportionately in black and Hispanic communities. Based on CDC data Hispanics are 8 percent of the population but have 14 percent of total AIDS cases. In the black population the numbers are more frightening—12 percent of the population and 25 percent of the AIDS cases.

THE TOLL IN YEARS OF LIFE LOST

In terms of total years of potential life lost, AIDS is particularly severe because of the young age at which it strikes.

Between 1986 and 1987, the change in disease-specific loss of potential years of life was:

Heart disease, −0.3 percent; cancers, −4.0 percent; cerebrovascular disease, +0.1 percent; and HIV disease, +44.8 percent.

AIDS THREATENS THE ENTIRE HEALTH CARE SYSTEM

There has been virtually no funding provided to help our Nation's health care system gear-up to meet the growing demand for services caused by AIDS and HIV. Thus, we are imperiling the system's ability to deliver services to everybody.

Overcrowded emergency rooms.

Burn-out of health care professionals.

Poor utilization of resources, including in-patient hospital beds.

Targeted assistance is needed where these problems are most severe.

THE IMPACT IS UNEVENLY DISTRIBUTED

One of the most compelling reasons for providing targeted, emergency AIDS CARE assistance is its uneven impact of the epidemic across the Nation.

Over 55 percent of all AIDS cases are concentrated in 13 cities in 6 States.

Moreover, AIDS is having a disproportionate and growing impact on the poorest members of society. These poor patient populations are ones that hospitals and health care providers already lose money serving—because of inadequate reimbursement or a total lack of insurance coverage.

We do not face that problem in cancer or heart disease or diabetes. Those illnesses are spread relatively equally across the entire population—economically and geographically.

AIDS, on the other hand, has literally drained the social and health service resources of the impacted areas—including the Medicaid system and local resources for providing uncompensated care.

The General Accounting Office, in its report on AIDS CARE issued last September, concluded:

As the epidemic progresses * * * Medicaid as well as private insurers will pay for more expensive AIDS health services if communities have not developed lower cost alternative delivery systems. The federal govern-

ment has a strong incentive to encourage less costly, quality conscious AIDS delivery systems.

TARGETED FUNDS CAN HELP CONTROL TOTAL COST

Our bipartisan AIDS CARE proposal is designed specifically to stimulate development of more affordable AIDS CARE options. The GAO report goes on to say:

Expanded assistance to more communities * * * [has] the potential to help many communities replicate successful AIDS delivery systems or create their own. Such assistance * * * can help control the costs of caring for people with AIDS.

AIDS IS A DISASTER

There are many precedents for providing special, targeted assistance to deliver health care services:

Black lung programs primarily assisting individuals in West Virginia, Kentucky, and other mining areas;

Hansen's disease (leprosy); and

Of course, Federal assistance is provided for other natural disasters, a primary use of such funds is for medical and support services for victims of the disaster.

For all six reasons, the Labor and Human Resources Committee unanimously recommends this measure for approval by the Senate.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES. Mr. President, I am not aware of the parliamentary position that we are in right now. I might inquire of the Chair are we considering the Coats amendment?

The PRESIDING OFFICER. The committee substitute to the bill is pending and is open for possible amendment.

AMENDMENT NO. 1629

(Purpose: To make various technical corrections in the Prison Testing Act of 1988)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 1629.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

TITLE —MISCELLANEOUS PROVISIONS

SEC. . TECHNICAL CORRECTIONS TO THE PRISON TESTING ACT OF 1988.

Section 902 of the Prison Testing Act of 188 (42 U.S.C. 300ee-6) is amended—

(1) in subsection (b)(2)—

(A) by striking out "may" in subparagraph (A) and inserting in lieu thereof "will"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) victims of aggravated sexual abuse, as described in subsection (c)(2), will be informed of the results of the test, if the person convicted of the aggravated sexual assault tests positive for exposure to the human immunodeficiency virus and if the victim requests to be so informed after the victim is notified of the right of the victim to be informed under this subparagraph.";

(2) in subsection (c)(2)—

(A) by striking out "99" and inserting in lieu thereof "109A"; and

(B) by striking out "rape" and inserting in lieu thereof "aggravated sexual abuse"; and

(3) in subsection (g), by striking out "1990" and inserting in lieu thereof "1995".

Mr. NICKLES. Mr. President, this is basically the same amendment that passed the Senate on April 28, 1988, by a vote of 97 to 0 which became title IX of the health omnibus programs extension of 1988.

My purpose today is to simply offer an amendment which would extend the authorization for the Prison Testing Act beyond 1990 to 1995. In doing so, I would like to make a few technical corrections which I feel will clarify my original intent. The Prison Testing Act establishes a program to assist the States in the confidential testing of persons convicted of IV drug- and sex-related crimes.

I have made two changes to my original language, the first change is necessary, because the original definition of rape under chapter 99 of the title 18 of the United States Code has been repealed. Therefore, in the definition section of this amendment, I am now referencing chapter 109A of title 18 of the United States Code. The definition of aggravated sexual abuse is now included in my amendment.

The second change is to clarify that victims of aggravated sexual abuse will be informed of the result of the HIV test if the person convicted of the aggravated sexual assault tests positive for exposure to the human immunodeficiency virus and if the victim requests to be so informed after the victim is notified of the right of the victim to be informed.

One of only two incidents, when the confidentiality of the test results should be waived, is in order to provide the victim with information that could drastically change her life. This is a very important clarification that I feel must be made. The anguish that a victim of a sex crime must experience need not be exacerbated by the fear of HIV infection. Married women who would fear infecting a spouse or might be planning a family should be provided that information.

Mr. President, I think that is the least we can do for victims of sexual abuse. If we find out that the convicted person tests positive of HIV, then the rape victim should be notified of the results of that test if they request.

An additional purpose of the amendment is to increase testing for two high-risk category groups, persons who are convicted IV drug users and people who are convicted of sex-related crimes, including prostitution. I think it is a commonsense amendment. It is an amendment that did pass previously. This would extend the authorization for 5 years.

Under the legislation, a drug or sex offense is defined as follows:

First, an offense that is punishable under State law relating to intravenous use of a controlled substance—other than a law relating to simple possession of a controlled substance—by imprisonment for a term exceeding 1 year;

Second, a State offense of the same type under chapter 109A of title 18, United States Code, relating to aggravated sexual abuse; or

Third, a State criminal offense involving prostitution.

DISCUSSION OF PRISON TESTING

According to the intergovernment health policy project, there are currently 15 States that have mass screening for HIV infection including Oklahoma. This means that at some time during the prisoner's incarceration, he or she will be tested. It may be upon conviction, during incarceration, or upon prior to release. Furthermore, nine States currently test individuals convicted of sex-related crimes. The State laws vary as to whether or not victims of rape are informed of the results of the perpetrator's test. Some States have a worker notification policy, so that if prison personnel may have been exposed to the virus, he or she could know of the results of the test of the aggressor.

The States are moving toward testing programs in the State correctional facilities. This act would encourage other States to follow suit.

The following is the most recent information from the National Institute of Justice on the current AIDS exposure in the prison systems:

As of November 1989, a total of 5,411 confirmed AIDS cases had been reported among inmates across the U.S. Federal, State, and larger city/county correctional systems. These represent cumulative totals since the beginning of the epidemic. Of these cases, 3,661 occurred in 45 State systems and the Federal system, while 1,750 occurred in 30 city/county jail systems.

Data suggests that IV drug use in the predominant exposure category. IV drug use is the leading risk factor for HIV infection and AIDS in all of these systems, although the actual percentages vary somewhat among the State institutions which provide information.

For the first time in the 5-year period the NIJ—National Institute of Justice—has sponsored this survey,

the percent increase in cumulative total correctional cases in the United States—72 percent—exceeded the increase in cases in the U.S. population at large—50 percent. The change results from a reduced rate of increase among cases in the population at large as well as a jump in the rate of increase in the correctional systems.

Mr. KENNEDY. Mr. President, this has been an area of public policy that the Senator from Oklahoma has been interested in for some time. He has raised this issue and similar issues on other legislation.

How we deal with those that are addicts in prisons is a sensitive and important issue, not only in our criminal justice system but for safety and security in our community. We want States to develop sensible programs, and we should recognize that the States will require resources to implement sound public health approaches to carry out testing, counseling, and also provide the treatment for them.

If sensibly implemented, there could be benefits that will come from this amendment. We are prepared to accept it and are grateful for the attention that the Senator has given to the question.

I understand there have been some technical changes and we are prepared to accept them as well.

Mr. NICKLES. I thank the Senator.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 1629) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. I thank my friend and colleague.

AMENDMENT NO. 1630

(Purpose: To remove the provision relating to the waiver of the infants and women set-aside requirement)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for himself, Mr. HELMS, and Mr. BRADLEY proposes an amendment numbered 1630.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, strike out lines 8 through 15.

Mr. COATS. Mr. President, I was especially pleased that this bill made a special provision for the most vulnerable victims of HIV infection so that they would not be overlooked in the distribution of these treatment funds. Section 2541(B) mandates that a State must use no less than 15 percent of the block grant funds to provide health and support services to infants, children, women, and families.

Every case of HIV infection is a tragedy, regardless of how contracted, and I trust that everyone agrees that we must provide every victim who is medically and economically eligible with the best possible treatment, and that is exactly what the CARE bill does.

However, the infants, children, families, and certainly many of the women with AIDS are different. They are the innocent victims. They never had a chance. They took no risk and did nothing to invite this calamity. Their suffering is especially poignant; and if you see them as I have in intensive care nurseries, they break your heart.

The vulnerability of these innocent victims calls us to take special measures to insure that they are given an appropriate level of care. Section 2541(B) gives them that protection.

There is a provision in the bill, Mr. President, that grants a waiver to States for transfer of funds if the funds are not fully used for this purpose.

However, as we have discovered in our State of Indiana, and in many, many other States, the cost of care for those victims that are classified under section 2541(B) is significantly more in most cases than it is for other victims of the disease. Therefore, we think the 15 percent is very appropriate.

In addition, if you count those with HIV infection, particularly the young who most likely will end up with the disease, you find that you are going to quickly use up the 15-percent funds. Given the broad definition of how these funds can be applied in support for the infants, children, and families of these victims, I think it is very appropriate that we set that level.

So my amendment merely would strike that section of the bill which would grant the waiver. I believe that it has been agreed to by the manager of the bill.

I wish to thank Senator HATCH for including section 2541(B) and working so hard to have it included in the bill and others who have supported this concept, including the chairman. They fought hard for this language. I commend them for their help for helpless victims. I thank them for their cooperation in helping us clarify this particular section.

Mr. KENNEDY. Mr. President, we feel the amendment of the Senator from Indiana is sensible. This whole issue of pediatric AIDS has really crashed into our society in a way that has brought an enormous amount of anguish and suffering to thousands of families. In the early days, say 3 years ago, it was extremely difficult to document the full extent of pediatric AIDS. Our committee was the first committee that actually allocated some direct funding in that area.

But to be able to get the documentation was extremely challenging. It was more, really, anecdotal information that was gained by our committee from different hospitals around the country. But over the period of these last 2 years, due to the Pediatric AIDS Foundation and Mrs. Elizabeth Glaser's group and others such as the Pediatric AIDS coalition who have been very much involved in these programs, there is a much wider understanding of both the need and the challenge that exists. We thank them for their help and support in shaping this legislation.

In my own city of Boston, the Boston City Hospital was the first hospital that had a pediatric AIDS clinic. People in the health care team who are part of that program are some of the most inspiring health professionals I have ever had the chance to meet.

The foster parents who come in there and work with these infants over a period of time are men and women of extraordinary compassion and decency. The particular burden that it has placed upon those different facilities has been absolutely extraordinary. And I think today there is a greater understanding and awareness of this particular aspect of the overall HIV problem we are facing in our society.

We had wanted to insist that there be a designated amount of resources for that particular effort in this legislation. Again, we were searching to make sure whatever moneys we did have were going to work effectively. But I am increasingly impressed that certainly the 15-percent set-aside is a clear indication of the importance we place on this particular aspect of the HIV and AIDS challenge. I believe, probably in a number of areas, more of the allocation will actually be spent on that particular function.

It is important to recognize that certainly there is no prohibition to a State including a greater percent of its allocation to work in the areas with the kinds of support programs that are included in the legislation.

We certainly urge the Senate to accept the amendment. The Senator can be assured we will make every effort to see it is maintained in the conference.

The PRESIDING OFFICER. The Senator from Utah, Mr. HATCH is recognized.

Mr. HATCH. Mr. President, I do not want to prolong this but I strongly support Senator COAT's amendment. It is well thought-out and it needed to be brought to the floor. I orginally authored the 15-percent set-aside for

children with AIDS because more State and Federal efforts really have to occur on their behalf. Children with AIDS are the most vulnerable. I want every State to dedicate at least 15 percent of their funds for those children and their families.

Today, we know of 2,200 reported cases of children with AIDS, but the real number is probably at least 10 times greater because of an inability to diagnose some cases. We must provide these children and their families with treatment. We must be advocates on their behalf.

I thank Senator COATS for this amendment which will not allow the States to waive this requirement. I did not realize the waiver was in the bill. Senator COATS has done us all a favor.

I thank Senator KENNEDY for his graciousness in recognizing this and recognizing the value of the 15-percent set-aside for children with AIDS and their families.

Again, I am very grateful to the distinguished Senator from Indiana and my colleague from Massachusetts and this side is prepared to accept this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I thank both the Senator from Massachusetts and the Senator from Utah for their kind words. I also want to note that, while yesterday we dedicated this bill to the memory of Ryan White, it is this very section that is applicable to the Ryan White case. His courage and his outspoken advocacy of the need for treatment of the victims of this disease I think touched millions of Americans, and his experience has made it graphically clear that AIDS has no mercy for the young.

Several weeks ago I had the pleasure of meeting Jean White, Ryan's mother. It had to be especially difficult for her to travel to Washington so shortly after her son's death. However, she was convinced that this AIDS CARE bill and particularly this section was important enough to make that sacrifice. She was a most convincing advocate. Even though I, early on, suggested that this particular section dealing with treatment help for children, infants, and families of victims of the disease be named the Ryan White section, Mrs. White wanted the entire bill to be named such and I certainly respect her wishes on that.

But it was Ryan's courageous example that galvanized the attention of millions of Americans to the tragedy of this disease and I think it is very appropriate that this legislation includes a section which dedicates a certain percentage of funds to provide treatment for the children, infants and families of those victims who have suffered this disease.

So I thank again Senator KENNEDY and Senator HATCH for their assistance in this.

I yield the remainder of my time.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Indiana.

The amendment (No. 1630) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, we know of no further amendments. We are prepared to move to final passage.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BRADLEY. Mr. President, I rise to support this bill because we need to do all we can to set up humane system of care for individuals who will be living with AIDS for many years. America's health care facilities that are buckling under the weight of caring for individuals with AIDS need the emergency relief provided in this bill. And communities need help to build a network of humane home and community systems to care for our citizens with AIDS.

Mr. President, many of my colleagues have spoken about the vast human tragedy that this epidemic has created in this country. Others have talked about the tragedy yet to unfold as hundreds of thousands of Americans infected with the virus develop the disease. This country has made remarkable strides in treating the deadly infections that accompany the disease and has developed treatments to mitigate the destruction that the virus brings to individuals. This progress is extremely costly. As we begin to be able to offer some hope to Americans with AIDS, the cost per case rises because victims will live longer. Many do not belong in hospitals. They have a substantial chance of leading a normal life. The crucial challenge for this country will be in our ability to support a health care system that will provide these patients with the valuable services needed to keep them alive and functioning members of our society. The task for communities will be to invite these citizens back to a full and productive life while supporting their health and service care needs brought about by the infection.

Mr. President, in my home State of New Jersey, nearly 9,000 citizens have been afflicted with the disease. The tragedy of AIDS in New Jersey is compounded by the high proportion of women and children among those affected. While AIDS in children constitutes less than 2 percent of the cases in the Nation, nearly 11 percent of the cases in New Jersey involve children. Heterosexuals and children constitute the highest proportion of cases in my State.

Mr. President, America needs this bill. Hospitals who treat AIDS patients are losing as much as $200 a day on each person that they treat. They need financial assistance to avoid buckling under the burden of this caseload. This bill also provides vital funds to help develop the community-based care system that is essential to provide needed services to victims of AIDS in a cost-effective, coordinated, and humane fashion. In the long run, these community-based systems will save money. An acute care hospital is not the provider of choice for most AIDS patients today. AIDS is clearly becoming a manageable chronic disease. Where community-based systems do not exist, hospitals are overwhelmed by AIDS patients who have nowhere else to go.

Mr. President, I urge my colleagues to expeditiously enact this important piece of legislation. It is a needed and humane measure that will help alleviate some of the misery inflicted by a tragic epidemic.

Mr. MOYNIHAN. Mr. President, I speak today to a subject which presents itself as a public health emergency. To wit: acquired immune deficiency syndrome or AIDS. Senators KENNEDY and HATCH have taken a bold first step in changing the way in which we provide compassionate and appropriate health care to people with AIDS and the human immunodeficiency virus, HIV. S. 2240, the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, of which I am proud to be an original cosponsor, begins the process whereby we will provide emergency assistance, by means of coordinated health care delivery systems, to areas of the country disproportionately impacted by this epidemic. The subject engages much emotion. But our response to it needn't nor should it. Rather, it is our Government's responsibility to see to it that this epidemic is contained.

It was stated:

> The present inadequacy of political strategies to deal with the AIDS epidemic is a concern around the world but nowhere more than in the United States. Politicians there have dealt haltingly with AIDS issues thus far, even when clear advice and consensus have been available from such credible sources as the Institute of Medicine, the National Academy of Sciences, and the Presidential Commission on the Human Immunodeficiency Virus Epidemic. This hesitancy is potentially disastrous, given the magnitude of the AIDS threat, and reflects both cultural confusion and inequity, brought into relief by the ferocity with which the epidemic has attacked the fringes of American society. Clearly, there has been a failure

of political will in proportion to the need for public understanding and compassionate response.

Dr. June Osborn, then dean of the School of Public Health at the University of Michigan and now our chairperson on the National Commission on Acquired Immune Deficiency Syndrome, wrote those words for an article which appeared in a series of articles on this subject in Daedalus in 1989. These opening words from her article, entitled "Public Health and the Politics of AIDS Prevention," on this labyrinthine issue serve to focus our attention on the unique characteristics of AIDS as a medical and social crisis, and the continued inability of some to recognize what any epidemiologist would subscribe to as a public health crisis.

AIDS is a public health emergency. This is where our debate must begin and where it should, for the moment, end. Some 128,000 Americans have, as of March 1990, been diagnosed with AIDS. Over 78,000 have died—men, women, and children. The Centers for Disease Control [CDC] estimate that as many as one and one-half million Americans may be infected with the human immunodeficiency virus [HIV]. As the committee report indicates, "while the first 100,000 cases of AIDS were reported from 1981 to 1989, another 50,000 are expected to be diagnosed in 1990 alone." As one witness recently testified before a congressional committee, "data recently released from the CDC indicate the expected number of new AIDS cases will increase 46 percent between 1990 and 1993." In short, this epidemic has not yet reached its peak. Indeed, the impact of it will be felt throughout this decade and possibly well into the next.

When I held the first and only hearing on this epidemic in the Committee on Finance in 1987, we had recorded 45,000 cases. That was as a matter of fact. Previously, in 1983, we had asked for research moneys to begin finding out what was happening. It was something new and extraordinary that had appeared. It was recognized as a disease, always fatal, which had already made its way into a large segment of the population in certain areas of the country. The research that commenced and has since provided us with major increases in both our knowledge of AIDS as well as in our ability to treat it is the result of our capacity to learn and understand the science involved. Nonetheless, AIDS remains incurable and always fatal.

We have appropriately devoted much of our scientific infrastructure to the cause and cure of AIDS. The residual benefits to medicine, generally, have also been invaluable. However, we have failed to take what we have learned in the research laboratory and provide it to many whose lives have been devastated by the opportunistic infections which constitute AIDS. This must change. This bill begins that process. It is a first step. And it is indeed a comprehensive one.

By providing emergency relief funds to cities which have a high incidence of AIDS we will begin to end the financial and medical impact the disease is having on our hosptials, and acute and subacute care facilities. In addition, moneys will be directed toward establishing new, more cost-effective and more humane coordinated outpatient health care services for people with AIDS. The second provision of the bill proposes establishing grants to States to be used for establishing community-based, consortia models of care which will serve to coordinate AIDS health care services.

In 1987, we began to hear about the specific financial burden of medical institutions this disease would impose. That burden is today a reality. I know this too well. Our hospitals in the city of New York—one of the two original epicenters of AIDS, the other being San Francisco—are now suffering the impact of this epidemic and its twin; crack cocaine abuse. Senator KENNEDY noted on Monday in his opening remarks that the two—AIDS and "crack"—have converged. This is indeed the case. For those who are increasingly becoming infected with this disease—the poor, children, women, and minorities—our emergency rooms are frequently their first entry into the health care system.

In New York City, we have on our hands a hospital crisis. Overcrowding is common. Many of those being treated simply do not have adequate health insurance if they have any at all. In addition, providing health care to the indigent population is threatening many of our institutions; filling a limited number of acute care beds when more appropriate, less costly, options could be and should be made available.

In short, the number of hospitals providing hospital-based AIDS services increased nearly 40 percent from 1987 to 1988. In 1988, 59.4 percent of hospitals provided general inpatient care for people with AIDS. Public hospitals are obviously feeling the impact most severely. Public hospitals treated on average more than twice as many AIDS patients as private hospitals in 1987.

In my State, in 1988, 34 hospitals provided care to almost 80 percent of the AIDS patients. Those 34 hospitals had, in aggregate, operating losses of over $740 million. A case in point is our own New York Hospital which received its charter in 1771 from King George III, making it the State's oldest hospital and the second oldest in the Nation. But this hospital—an institution founded in the years just preceding the establishment of our Republic—has, since 1988, been forced to transfer $41 million from its endowment of $170 million to its operating budget in part to pay the increasing demand of providing health care to people with AIDS, as well as other patients unable to pay for services. Certainly, this must change. And it just may, if we enact both Senator KENNEDY's authorization bill before us today and then achieve a full appropriation for it.

But I must also stress that this is only a beginning. We must turn to our entitlement programs, namely Medicaid, if we are to provide consistent, long-term access to cost-effective health care services for people with AIDS. Recently, I introduced a bill, S. 2536, the Medicaid AIDS and HIV Amendments of 1990, which would accomplish this goal.

In sum, Mr. President, we do not entirely know what we have at hand here nor do we know what the final impact will be. The disease continues to challenge our medical sciences, our institutions which must provide care, and our capacity for compassion as a people. Providing care and making care financially possible, with institutions and individuals, is something we can do and if we can, we ought.

AMENDMENT NO. 1619

Mr. ARMSTRONG. Mr. President, during yesterday's debate on S. 2240, I said that I would consider offering an amendment to clarify congressional intent with respect to State partner notification and reporting requirements under this act. Upon reflection, and after legal review, it appears this legislation, as amended by the Kennedy amendment No. 1619, sends a strong message to the States to adopt mandatory reporting requirements. Mandatory reporting is the only sure way for a State to collect accurate epidemilogical and demographic information that the Kennedy amendment requires. Mandatory reporting of positive HIV test results—along with identifying information—is also essential to carrying out the partner notification provisions of the Kennedy amendment. Although the Kennedy amendment could have been more explicit in requiring States to adopt a mandatory reporting program, I believe that it is virtually impossible for a State to meet the conditions of the amendment if it does not require reporting.

While requiring many States to change their policies with respect to reporting requirements and partner notification, this legislation is sensitive to the needs of local communities by granting health officers some discretion in fashioning partner notification programs. It is the clear intent of the Senate that such discretion cannot be arbitrary, however, and must be consistent with sound public health policies.

Mr. President, I do not share the concerns of some who feel that the reporting requirements contained in the Kennedy amendment would compromise the confidentiality of people who test positive for infection with HIV. To the contrary, the Kennedy amendment requires the reporting of only sufficient information needed to perform accurate epidemiological analysis and effective partner notification programs. As many of my colleagues are aware, Colorado State law requires mandatory reporting for the very reasons reporting would be required under the Kennedy amendment, but Colorado's program does not require an individual to submit their name when being tested; a pseudonym and a phone number would be acceptable. This approach protects privacy rights in a manner consistent with important public health goals. This program has successfully located many people who were unaware of their risks without compromising confidentiality, and without requiring the use of names.

The importance of requiring accurate epidemiological information cannot be overstressed. Tracking HIV infection is important to effectively target programs to slow the spread of the disease. This legislation requires the State receiving a grant to report to the public health officers information sufficient to perform statistical and epidemiological analyses of the incidence of cases with infection with the etiologic agent for the acquired immune deficiency. So that Members understand the impact of reporting requirements on accuracy I ask unanimous consent to have printed in the RECORD two letters concerning accuracy questions raised without mandatory reporting requirements.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

HOUSE OF REPRESENTATIVES,
*Washington, DC, May 9, 1990.*

Col. DONALD BURKE, M.D.,
*Walter Reed Army Institute of Research, Rockville, MD.*

DEAR COLONEL BURKE: As you may know, next week the full Energy and Commerce Committee will mark up H.R. 4470, the AIDS Prevention Act of 1990. It is my intention to offer several amendments to the bill, including one that would require states to confidentially report positive HIV test results to public health officials for purposes consistent with the public health (*i.e.*, partner notification, etc.)

I understand that several years ago the military briefly tested military applicants on an anonymous basis, and found that the data subsequently generated grossly overstated the true extent of HIV infection among military recruits. Could you describe the military's experience with such a system, and what pitfalls you encountered? Specifically, to what extent were seropositive individuals counted more than once, and what might explain such a result?

Do you believe that these concerns are unique to the military population, or do they apply to the civilian population as well?

H.R. 4470 includes a provision to require states to collect information with respect to positive HIV test results that is sufficient to perform statistical, demographic, and epidemiological analysis of the extent of HIV infection in the state. I have enclosed a copy of the relevant language for your review. It is my suspicion that this requirement implicitly requires states to maintain identity-coded reporting systems in order to guarantee that the data submitted pursuant to it is accurate. Do you agree?

Thank you for your prompt attention to this matter.

Sincerely,

WILLIAM E. DANNEMEYER,
*Member of Congress.*

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WALTER REED ARMY INSTITUTE OF RESEARCH, WALTER REED ARMY MEDICAL CENTER,
*Washington, DC, May 19, 1990.*

Hon. WILLIAM E. DANNEMEYER,
*House of Representatives, Rayburn House Office Building Washington, DC.*

DEAR CONGRESSMAN DANNEMEYER: In response to the questions you posed to me yesterday about the value of identifier-linked reporting of HIV infections, you may find the following information about our experience in the US Army to be of interest.

In early 1985, at the time that we began testing of blood donated at Army blood banks, the Army had not yet developed a specific requirement that a name or social security number must be provided for each specimen submited to our HIV testing laboratory. Most specimens arrived without any information that could be linked back to an individual donor or patient. Nonetheless, we though we could accurately measure the prevalence of HIV infections among Army donors because we knew the number of donations per month thoroughout the Army, and because we were keeping track of the number of specimens from positive donations we received. Based on this data, we originally estimated the prevalence of infected donors to be 5 to 7 per 1000, and we disseminated this data on a limited basis through our command channels. Subsequently, when an Army policy was implemented requiring that a name and/or social security number be provided for each specimen tested, we discovered that this original estimate was far too high, by a factor of 3 or 4 fold, and that the actual prevalence was 1.5 per 1000.

Why the discrepancy? Most of the overcounting errors came from the fact that several specimens were submitted and tested from each donor, without our knowing that this was occurring. In some instances multiple repeat samples were submitted from a single donor simply because the local blood bank wanted to be sure of the test results, and did so by using multiple samples. In some instances the individual had donated more than once, and was found to be positive on two or more occasions but was counted as a separate person each time. In other instances a single specimen was divided into two or more tubes before submission, without any clear indications that the two specimens in fact were both derived from the very same blood sample, and both tubes were counted as individual positive persons.

Accurate statistics on the prevalence of HIV among the population of Army donors became possible only when specimens were clearly marked with personal identifiers and records were kept by name and/or social security number, as is the standard laboratory and public health practice for all other diseases.

While the logistics of HIV testing and reporting by civilian public health agencies may of course differ in may respects from our circumstances in the Army in 1985, it seems to me that the lesson is quite clear: unless testing and reporting are done with individual identifiers, the accuracy of measurements of HIV prevalence will always be suspect.

Since 1985, all testing and reporting of HIV in the US Army has been done with all specimens clearly identified. Test results and individual identifier data have been kept in confidential records, just as is done with countless other types of personally sensitive information. I am convinced that the extraordinary success of HIV epidemiologic studies conducted by the Army could not have been possible without identifier-linked testing, reporting, and record keeping.

Please note that the comments in this letter are my own as an expert on diagnosis and epidemiology of HIV, and do not necessarily reflect the official positions of the Army or the Department of Defense.

Sincerely,

DONALD S. BURKE,
*Colonel, U.S. Army,*
*Director, Division of Retrovirology.*

Mr. ARMSTRONG. Mr. President, I think the Kennedy amendment represents a strong step toward instituting responsible public health measures to slow the spread of this devastating epidemic. The Kennedy amendment, agreed to by voice vote, will ensure the collection of accurate epidemiological information concerning the incidence of the HIV epidemic, and more importantly will allow those innocent individuals who are unknowing placed at risk of infection to be notified of their risk.

Mr. President, as policy makers, we will be asked in the future to target limited resources to areas most impacted by this virus. Accurate information on where the disease is and how it is spreading may now be assured because of the requirements of the Kennedy amendment. We are also faced with the responsibility of doing all we can to halt the spread of this disease, another goal which the Kennedy amendment may help reach.

Mr. ROTH. Mr. President, the legislation we are now considering, the Comprehensive AIDS Resources Emergency Act, sets out to achieve a worthy goal. However, while I have supported legislation in the past to combat the AIDS epidemic, I feel I cannot support the bill in its current form. For many States, this bill is a bill of compassion, yet my home State of Delaware will benefit very little from this proposal. Of the $600 million authorized under this bill, Delaware may only get $665,891 according to the State grant apportionment formula.

According to the Centers for Disease Control HIV/AIDS Surveillance Report of May 1990, Delaware now

has a cumulative caseload of 253 individuals reported as having AIDS. And unlike some of the Western States with similar prevalence numbers, my home State is contiguous with 3 of the 10 States with the highest significant incidence of AIDS—New Jersey, Maryland, and Pennsylvania. Four of the thirteen cities with the highest AIDS cases diagnosed are within 150 miles of Delaware. In fact, Delaware is located only 2 hours away from New York City by car, which is to receive $59.8 million next year under this bill—more than twice any other city will receive. Yet, of the $300 million allocated to States as block grants, Delaware will receive 0.22 percent of the total amount made available—less than a drop in the bucket. It seems to me that the bill does not adequately address my home State's particular situation.

In the past, my concerns with the tragedy of the AIDS epidemic led me to support legislation providing for education and research, and later to support legislation passed by the Senate to establish the AZT Program. I also supported the amendment to a prior Labor-HHS appropriations bill that provided $30 million to continue to make AZT available to persons with AIDS. Treatment which would have been suspended for thousands of individuals was maintained because those funds were made available. In my view, these measures brought more compassion and needed care to individuals in Delaware than this bill purports.

In addition to my concerns with the legislation's treatment of my small State, I do not believe this is the appropriate time for the consideration of an authorization bill prior to the completion of the budget resolution. I am well aware of the tragedy inflicted on individuals suffering with AIDS, but there are also hundreds of thousands of people suffering from cancer, people without homes, food programs, community care programs and health care programs—all matters of great merit which must wait their turn to be considered as part of the budget resolution.

While the $665,891 would help assist the State of Delaware in developing intervention and prevention programs, I do not believe the grant apportionment process is sensitive enough to meet the needs of States in an equitable manner.

Mr. CONRAD. Mr. President, as an original cosponsor of this legislation, I rise today to urge my colleagues to support this important bill.

This bill is an attempt to address some of the gaps in a health care system that has been beset by a difficult and growing public health threat, namely, the AIDS virus. As of March 31, 1990, over 128,000 cases of AIDS have been reported to the Centers for Disease Control. Over 78,000 Americans have died of the disease. The virus is growing at a rapid rate. The first 100,000 AIDS cases were reported to the CDC from 1981 to 1989; another 50,000 are expected in 1990 alone. By 1991, AIDS will far exceed all other causes of death for people ages 25 to 44.

The virus has literally taken this Nation's health care delivery system by surprise. As the Committee on Labor and Human Resources noted in its report:

> In 1980, no federal, state, or local health care planning agency could possible have foreseen the introduction of a novel and lethal infectious disease into 20th century society.* * * Neither health planners nor policy makers knew that—during the decade of the eighties—primary health providers, support agencies and major medical institutions would suddenly be required to gear up to provide desperately needed services to hundreds of thousands of Americans, most of whom had formerly had little contact with the health care system.

I believe that the legislation before us today will help the Nation cope with this growing public health threat and ease what has become crushing financial burdens for health care facilities and providers in many part of this country.

Title I of the bill will provide emergency assistance to those cities hardest hit by the AIDS crisis. Because many AIDS patients are lower income or have been reduced to a state of poverty because of their health care bills, the facilities which provide care to them are facing growing—and potentially crippling—debts. The title will send urgently needed financial relief to health and service providing agencies and institutions in those areas of the Nation that have been struck most severely by the HIV epidemic.

Title II of the bill provides grants to States to improve care for HIV-infected persons in both urban and rural areas. The grants will be used to develop a more comprehensive continuum of care for HIV-infected persons. The funds can be used for the development, organization, coordination and delivery of health care and support services to individuals and families with HIV disease.

Because the current health care system lacks adequate long-term, home, hospice, and community-based care for AIDS patients, many of those infected are given care in an acute care setting like a hospital. This overly taxes the acute care system and can diminish the quality of life of AIDS patients by keeping them in a dependent state. The Committee on Labor and Human Resources was told that approximately 10 percent of hospitalized AIDS patients could be released if there were community-based care systems in place.

Finally, title III of the bill continues the commitment to research by directing the Agency for Health Care Policy and Research to evaluate the impact and cost effectiveness of various models of AIDS care.

I applaud the work of my colleagues from Massachusetts and Utah for their work on this important bill. I especially want to thank them for agreeing to accept the amendment introduced by Senator MCCAIN regarding the eligibility of Indian reservations to receive some of the funding proposed in this act. This amendment will make clear that those living on Indian reservations will have the same access to the new programs authorized in this act as the rest of the population.

I urge my Senate colleagues to support this legislation and hope it will soon become law.

PARTNER NOTIFICATION

Mr. KENNEDY. Mr. President, before we vote for final passage on this bill, I want to respond to some concerns raised yesterday by Senator CRANSTON. This provision was designed to assure that States collect such information regarding their HIV caseload as necessary for statistical and epidemiological purposes, and that States establish partner-notification programs as appropriate given their demographic and resource concerns. The amendment allows for the reporting of cases of HIV infection to the extent such reporting is determined necessary by the public health officer of the State for purposes of implementing the partner-notification efforts.

In response to the Senator from California's concerns, this provision does not require the reporting of names of people who are HIV-infected. As the Senator knows, the presence of names reporting requirements in certain jurisdictions has in fact discouraged people from coming forward to get testing and the kinds of services this bill will fund. In fact, the State of Colorado, recognizing the problems their own names reporting requirement has created, just passed into law last month an anonymous testing provision. Another startling example of the negative effect names reporting can have on testing decisions was in Oregon. When that State adopted anonymous testing options, testing rose by as much as 125 percent in risk groups.

In contrast, when the State of South Carolina switched from anonymous to confidential testing, the number of individuals coming forward for testing decreased by more than 50 percent.

Clearly, the experience in our States shows the seriously negative effects of requiring names reporting.

Ms. MIKULSKI. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Ms. MIKULSKI. Is there any other disease for which the Federal Govern-

ment requires the reporting of names or identifiers?

Mr. KENNEDY. No; in fact, the Centers for Disease Control, which has jurisdiction over such matters, has not found a need for such a Federal mandate. In addition, the American Medical Association has opposed such a Federal mandate.

Ms. MIKULSKI. Can public health officials achieve partner-notification without identifiers or names?

Mr. KENNEDY. Absolutely. In fact, partner-notification for all sexually transmitted diseases traditionally occurs without acquiring the name of the index case. Indeed, confidence in partner-notification programs may be greater if the public health officials do not know the name of the index case. The Institute of Medicine has said, "Contact notification does not necessarily demand the reporting of seropositive cases with identifiers. Furthermore, for determining seroprevalent rates well designed population studies are more useful than ad hoc collections of cases."

Ms. MIKULSKI. Then, as I understand it, the Senator does intend for State public health officials to exercise their own discretion regarding the information they need to adequately meet their statistical and notification needs.

Mr. KENNEDY. Yes; these decisions must be left in the province of the State public health officials who best know the needs of their jurisdiction.

Mr. CRANSTON. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. CRANSTON. I appreciate, the colloquy of my colleagues from the States of Massachusetts and Maryland. I am satisfied that the intent of the Kennedy amendment does nothing to require or prompt States to establish procedures for the collection of names or identifiers.

WHAT THE KENNEDY PARTNER NOTIFICATION AMENDMENT DOES

Mr. KENNEDY. Mr. President, as a condition of funding under the AIDS CARE Act, each State must institute a program of tracing and notifying partners of individuals testing positive for HIV.

In unanimously approving the amendment, the Senate has made it clear that we want the public health officers in all States to have this important tool at their disposal.

The amendment also requires that every State receiving funds under the AIDS CARE Act collect the case information that is needed to carry out its program of partner notification.

Our amendment differs only slightly from the proposed amendment that was developed by Senator Armstrong.

It is very important that Senators understand this difference:

The Kennedy amendment leaves to the State public health officer the decision of how to implement the State's partner-notification program. It allows each State to make its own determination about how much of its resources to devote to notification efforts—versus other testing and prevention approaches.

Similarly, the Kennedy amendment leaves to the State the decision on exactly how it will gather the case information that will be needed to carry out its notification program.

We agree with Senator ARMSTRONG that partner notification is an essential tool in the fight against AIDS. The question for the Senate is whether we should micro-manage the details of each States program.

Given the very different situations that exist in the various States, we say let us not take away the ability of State public health officers to design a program that works best for their area.

The Kennedy amendment responds to the recommendations of the American Medical Association, the Association of State and Territorial Health Officers, and the National Governor's Association. In unanimously approving the amendment yesterday, I believe the Senate has done what is responsible and necessary on this important question.

I ask unanimous consent that various letters and reports on this topic be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE NATIONAL HEMOPHILIA FOUNDATION,
*New York, NY, May 2, 1990.*

Hon. HENRY WAXMAN,
*Subcommittee on Health and the Environment, Committee on Energy and Commerce, Washington, DC.*

DEAR MR. CHAIRMAN: The National Hemophilia Foundation (NHF) supports the establishment of a nationwide program of providing preventive health services for persons with AIDS as provided for in H.R. 4470. The bill is comprehensive in scope which NHF believes is critical to achieving effective risk reduction. H.R. 4470 provides for confidentiality and informed consent protections for pre- and post-test counseling services, a prerequisite to encouraging individuals voluntarily to seek preventive health services.

The maintenance of confidentiality is a matter of utmost importance to patients with hemophilia, their families and partners, as well as the hemophilia treatment team. There is no question that inadvertent release of test results increases risk of discrimination, exclusion and expulsion for individuals with hemophilia, their family members and partners. The serious consequences of such disclosure encompass the loss of insurability, housing and employment for people with hemophilia. The most public examples of such acts of discrimination—the senseless expulsion of Ryan White from his school and the burning of the Ray family home—have tragically occurred to families with hemophilia.

For these reasons NHF would oppose any amendments requiring that the names of persons who test positive for HIV be reported to state or federal health officials. The members of the Foundation believe that persons within the hemophilia community at risk of AIDS will not avail themselves of testing and counseling programs, no matter how well conceived and no matter how accessible, if confidentiality is not guaranteed and the likelihood of discrimination eliminated.

We look forward to working with you as H.R. 4470 proceeds through the legislative process to ensure that the HIV/AIDS service needs of the hemophilia population are fully addressed.

Sincerely,

ALAN P. BROWNSTEIN,
*Executive Director.*

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THE UNITED STATES CONFERENCE OF MAYORS,
*Washington, DC, May 8, 1990.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: The United States Conference of Mayors is a strong supporter of your legislation, the Comprehensive AIDS Resource Emergency Act of 1990, which is well designed to assist cities and states facing the ever increasing burden of AIDS. With its current provisions, the CARE Act recognizes the importance of providing localities the resources necessary to implement their own course of action against HIV infection and its devastating effects on health care.

As the bill now moves toward floor action, it is vitally important that the degree of local flexibility presently contained in S. 2240 be retained. It is my understanding that there exists the possibility of damaging amendments which would restrict or otherwise hamper local decision making on how best to use the funding authorized by the CARE Act. Senator, such limiting amendments strike at the very heart of the CARE Act, which appropriately recognizes that the best solutions to local problems are locally designed. Amendments to S. 2240 which would mandate a federally imposed course of action at the local level are contrary to the spirit of the CARE Act and must be opposed. The Conference of Mayors urges your support in defeating all amendments designed to coerce local governments into a particular course of action against the AIDS epidemic.

The United States Conference of Mayors commends you, Senator Hatch and the 61 cosponsoring Senators for your leadership in developing the concept of the CARE bill. Let us continue to work together to ensure that this vital legislation is enated without amendments which would severely hamper its effectiveness.

Sincerely,

J. THOMAS COCHRAN,
*Executive Director.*

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NATIONAL GOVERNORS ASSOCIATION,
*Washington, DC, May 2, 1990.*

Hon. EDWARD M. KENNEDY,
*Chairman, Committee on Labor and Human Resources, Washington, DC.*

DEAR MR. CHAIRMAN: On behalf of the National Governors' Association, I am writing to request your assistance in assuring passage of S. 2240, the "Comprehensive AIDS Resources Emergency (CARE) Act" as reported out of the Senate Labor and Human Resources Committee. The nation's Governors would strongly oppose any floor amendment which would deny states the flexibility to administer state programs and interfere with state public health policy.

S. 2240 provides a comprehensive and coordinated national response to the present and future AIDS epidemic under which state and federal governments work in true partnership to channel appropriately scarce public health dollars. This bill recognizes the vital role of state and local governments in designing the most efficient and effective means of delivering AIDS care. Any amendment which inhibits the ability of state or local governments to plan a continuum of care delivery system or allocate resources for AIDS treatment would undermine the intent of this important legislation.

Further, the autonomy of state public health laws should be respected. Since the onset of AIDS, states have enacted laws based on specific need. We strongly oppose any amendment that would place conditions on the receipt of grant funding beyond current grant application requirements.

We ask for your help in opposing possible amendments which would override state law and undermine the very premises of this important legislation. State flexibility to administer HIV-disease programs and establish HIV public health policy should be protected if we are to continue to effectively help individuals and families with HIV-disease.

Sincerely,

GOV. RICHARD F. CELESTE,
*Chairman, Committee on Human Resources.*

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NATIONAL ASSOCIATION OF COUNTIES,
*Washington, DC, May 3, 1990.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: When the Comprehensive AIDS Resources Emergency Act of 1990 (S. 2240) reaches the floor, we urge you and Senator Hatch to reject any amendments restricting state and county flexibility in fighting this public health crisis. In particular, we oppose any amendments requiring states and counties to administer mandatory testing for specific populations or the imposition of mandatory contact tracing. Moreover, we oppose tying the receipt of federal funds to requirements not already in the bill as it passed the Committee. Such amendments would be a poor and inefficient use of scarce federal dollars. State legislatures, governors and local officials should continue to have flexibility in responding to the epidemic.

Thank you for your efforts.

Sincerely,

JOHN P. THOMAS,
*Executive Director.*

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ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS,
*McLean, VA, April 30, 1990.*

Hon. EDWARD M. KENNEDY and ORRIN HATCH,
*Chairman and Ranking Minority Member, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR SENATORS: On behalf of the Association of State and Territorial Health Officials (ASTHO), which represents the chief health officer from each state, I am writing in strong support of S. 2240, the Comprehensive AIDS Resources Emergency (CARE) Act, as a long awaited infusion of desperately needed federal dollars to support the delivery of health and social services to individuals and families with HIV disease. ASTHO applauds the sponsors of this legislation for allowing flexibility for states to fashion care networks responsive to their individual needs. To this end, ASTHO opposes any amendments to this bill that would mandate specific state spending and regulatory activities such as mandatory contact tracing and partner notification, mandatory HIV testing, and criminalization procedings against HIV positive individuals.

Requiring the implementation of specific laws and administrative policies as a precondition of receiving federal funds will defeat the intent of this much-needed legislation. In addition, federal public health requirements are counter to the longstanding tradition that state government is charged with the protection of the public health. States take this responsibility very seriously and have worked diligently, since the onset of the AIDS epidemic, to put in place laws which take action based on specific needs and availability of resources.

For these critical reasons, we urge you to quickly pass the Comprehensive AIDS Resources Emergency Act of 1990 without amendments.

Sincerely,

H. DENMAN SCOTT, M.D.,
*President, Association of State and Territorial Health Officials.*

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NATIONAL CONFERENCE OF STATE LEGISLATURES,
*Washington, DC, May 4, 1990.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: On behalf of the National Conference of State Legislatures, I am writing to reaffirm our support of S. 2240, the Comprehensive AIDS Resources Emergency Act, and to urge prompt consideration of this important legislation. NCSL supports the CARE bill because it provides needed federal resources, and it permits states and localities to design innovative programs and services for members of their communities.

The CARE bill recognizes that states and localities are best equipped to determine the special needs of the citizens in their jurisdictions, the most effective methods for reaching special populations, and the types of services they need. Restrictive amendments, mandating who should be served and the types of services provided, will limit the ability of states and localities to establish effective programs responsive to the special needs of their citizens.

We urge you to support S. 2240 without amendments that would impede the flexibility of states and localities to design and implement programs designed to meet the particular needs of the citizens in their jurisdictions and address the special challenges that AIDS brings to every state and community.

Sincerely,

CARL D. TUBBESING,
*Director, Washington Office.*

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THE IMPACT OF MANDATORY REPORTING OF HIV SEROPOSITIVE PERSONS IN SOUTH CAROLINA

(By Wayne D. Johnson, *Francisco S Sy*, KL Jackson University of South Carolina School of Public Health, Columbia SC)

*Objective.* To characterize changes in attendance at an alternate HIV test site in Charleston, SC, after implementation of a statewide policy effective Feb. 17, 1986, which requires that the name and address of persons found seropositive in any public or private setting be reported to the state health department.

*Methods.* Demographics including age, sex, race, and risk behavior were gathered on 990 clients at the alternate test site in the first 24 months of testing from May 1985 to May 1987. Poisson analysis was used to describe changes in the monthly rate of attendance by each demographic and risk behavior group and by HIV antibody status.

*Results.* The rate of monthly attendance by men reporting homosexual activity decreased by 51%. Attendance by persons with HIV antibody positive results decreased by 43%. Blood transfusion recipients and persons reporting no known risk contributed to an overall increase in clinic attendance of 8%.

*Conclusion.* The current policy of mandatory reporting of HIV seropositive persons in South Carolina is associated with a decrease in attendance for testing and counselling by individuals most at risk for exposure to HIV.

SURVEILLANCE OF AIDS AND MARKER INFECTIONS

UNDERREPORTING OF AIDS CASES, SOUTH CAROLINA, 1986–1987

(*Conway, George A.**, and **, Niemeyer BL**, Rion P**, Pursley C**, Cruz C**, Heath CW, Jr.**, et al.)

*Centers for Disease Control, Atlanta, Georgia, USA, **South Carolina Department of Health and Environmental Control, Columbia, SC.

*Objectives:* To assess the completeness and accuracy of AIDS case reporting in South Carolina.

*Methods:* Approximately 600,000 hospital discharge billing records from January 1986 through June 1987 were searched by computer for AIDS-defining conditions. The resulting 1,513 clinical records were manually reviewed.

*Results:* Of these, records for 351 discharges for 163 individuals were classified as being definitely AIDS-related by the 8/87 revised CDC AIDS case definition. 153 of these individuals met the older (pre 8/87) case definition, and should have been reported to the State AIDS case registry. After controlling for reporting lags, 92 of these were indeed reported. Thus, 39.9% of all AIDS cases from the State for the study interval were not reported. Reported versus non-reported groups were not significantly different by age, race, sex, risk behavior, primary clinical diagnosis, or employment status. Individuals receiving AZT were significantly more likely to have been reported ($p < .001$). Percentage reporting by hospital ranged from 18/20 (90%) down to 0/4 (0%). There was also a considerable range in reporting compliance among physicians.

*Conclusions:* There was considerable underreporting of AIDS cases in South Carolina for the study interval. Similar studies should be repeated in other states, and may have important implications for the interpretation of surveillance data and for planning in the epidemic.

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ANONYMOUS VS CONFIDENTIAL HUMAN IMMUNODEFICIENCY VIRUS (HIV) TESTING: RESULTS OF A TRIAL IN OREGON

(*LJ Fehrs1*, D Fleming2, LR Foster2, RO McAlister2, V Fox3, R Conrad2 1Centers for Disease Control 2Oregon State Health Division 3Multnomah County Health Department.)

*Objective.* From August 1986 to March 1987, a trial was conducted in Oregon to determine whether the availability of anonymous HIV counseling and testing draws clients who would not otherwise seek services.

*Methods.* Before December 2, 1986, all public HIV testing was confidential (named). Demographic and risk factor information for all clients was collected. Beginning in December, clients were offered the option of either anonymous or confidential services. A supplemental questionnaire was administered to all clients. *Results.* Questionnaire responses indicated that the availability of anonymity resulted in an increase in demand for testing of 125% for homosexual men, 56% for female prostitutes, 17% for IV drug users, and 32% for other clients. The number of homosexual clients tested per month increased in a step-wise fashion from a mean of 42 during the 4 months before the trial to 108 during the 4 months after (P=0.003). During the same time, the number of homosexual clients tested did not increase at public sites in Colorado or California or private sites in Oregon. The number of seropositive persons identified during the 3.5 months after anonymity became available doubled from the 3.5 months before. The average time that homosexual men drawn by anonymity reported that they waited between deciding that they wanted testing and being tested dropped from 12 months in December to 5 months in February (P=0.001). *Conclusion.* The availability of anonymous HIV counseling and testing preferentially drew homosexual men, the population currently at highest risk for infection in Oregon.

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[From the Lancet, Aug. 13, 1988]

TRIAL OF ANONYMOUS VERSUS CONFIDENTIAL HUMAN IMMUNODEFICIENCY VIRUS TESTING

Laura J. Fehis, Division of Field Services assigned to Oregon State Health Division, Epidemeology Program Office, Centers for Disease Control, Atlanta, Georgia, USA; David Fleming, Laurence R. Foster, and Robert O. McAlister, Office of Health Status Monitoring, Oregon State Health Division, Portland Oregon; Victor Fox and Steven Modesitt, Multnomah County Health Department, Portland, Oregon; Robert Conrad, Public Health Laboratory, Oregon State Health Division, Portland, Oregon.

Before December, 1986, all public human immunodeficiency virus (HIV) testing in Oregon was done confidentially (using names). In December, clients were offered the option of either anonymous or confidential services. As judged by questionnaire responses, the availability of anonymity increased overall demend for testing by 50%: 125% for homosexual/bisexual (gay) men, 56% for female prostitutes, 17% for intravenous drug users, and 32% for other clients. The number of gay clients who had tests increased from a mean of 42 per month during the 4 months before anonymity was available to 108 per month during the 4 months after, whereas, at public sites in Colorado or California and private sites in Oregon, the number of gay clients tested did not increase. Twice as many seropositive persons were indentified during the 3½ months after anonymity became available (n=85) as in the 3½ months before (n=36). Thus, availability of anonymous HIV testing and counselling drew gay men who had not sought services under a confidential testing system.

INTRODUCTION

In 1985, state and local health departments in the United States made antibody testing for human immunodeficiency virus (HIV) infection available at public testing sites. These programmes were designed to provide an alternative to blood donation for persons who wanted to know their HIV antibody status, but they now offer comprehensive counselling and testing and are thus a primary means of preventing the spread of HIV infection. However, there has been controversy over whether these programmes should offer annonymous testing. In some states public HIV testing is offered only after clients have been asked for personal identifying information, while in others some or all of public HIV testing is offered anonymously and clients are identified by number only.

Those who favour the latter system claim that the option of anonymity attracts clients who would not otherwise present for counselling and testing. We examined this notion by conducting a trial of offering anonymous testing in Oregon.

METHODS

From August, 1986, to March, 1987, county health departments provided all public HIV counselling and testing in Oregon. Before December, 1986, only confidential HIV counselling and testing were offered. Under confidential testing, clients were asked for their name, birthdate, address, and telephone number, but no attempt was made to verify responses. The information was stored confidentially and was not forwarded to the testing laboratory or to the Oregon State Health Division.

In December, 1986, 25 Oregon counties, including the city of Portland, began offering anonymous as well as confidential HIV counseling and testing. The availability of anonymous testing was first announced to the public through a press release on the day before anonymous testing became available and was widely publicised in the media. Three sites that tested small numbers of clients declined to participate.

From the start of the trial, clients received pre-test counseling without being asked to identify themselves. They were then provided with an information sheet describing the differences between anonymous and confidential testing and were asked to choose one option. Clients who chose anonymous testing were identified by number only. Clients who chose confidential testing were handled as before the trial. Demographic and risk factor data were collected from the serology form submitted by the testing site to the Public Health Laboratory. Men who reported that they had a history of homosexual or bisexual contact were defined as gay. Analysis of demographic, risk factor, questionnaire, and serological data was restricted to clients being tested for HIV antibody for the first time. Additional information was collected from a self-administered client questionnaire. This information included knowledge of the availability of anonymous testing, assessment of whether it was the availability of anonymity that had drawn the client to testing, self-assessed risk of exposure to someone with HIV infection in such a way that client could be infected, and waiting time for client between first deciding that he or she wanted testing and actually coming in for testing. On March 15, 1987, use of the questionnaire was discontinued because of the increase in demand for testing that occurred after the Centers for Disease Control recommendations on testing of multiply-transfused persons.

According to responses to these questions, clients were classified into three groups: those stating that they knew anonymous testing was available and that they would not otherwise have come for counselling; those who either did not know anonymous testing was available, or did know but stated that they would have come anyway; and those who stated that they knew anonymous testing was available, but were not sure whether they would have come if the only option had been confidential testing. We estimated the impact of anonymous testing by calculating the ratio of the number of persons who would not have come in the absence of anonymous testing to the number who would have come if confidential testing had been the only option. This ratio excluded those clients who were undecided.

All blood specimens were tested for HIV antibody by enzyme immunoassay (EIA). Specimens non-reactive by EIA were reported as negative. Repeatedly reactive specimens were tested by immunofluorescent antibody or western blot. A positive specimen was defined as one repeatedly reactive by EIA and either positive or equivocal on confirmatory testing.

RESULTS

From August to November, 1986, 363 first-time clients were tested. From December, 1986, to March 15, 1987 (after the anonymous testing option was available) the number was 1250. Of the 1613 total clients, 63.5% were male and 96.2% were white. Percentages positive for HIV antibody are shown in table I.

TABLE I—SEROPREVALENCE BY RISK FACTOR, FIRST-TIME CLIENTS, AUGUST 1986 TO MARCH 15, 1987

| Risk factor | No. | Percent of all clients | HIV antibody positive | |
|---|---|---|---|---|
| | | | No. | Percent of risk group |
| Gay non-iv drug user | 468 | 29–0 | 88 | 18–8 |
| Gay iv drug user | 70 | 4–3 | 23 | 32–9 |
| Heterosexual IV drug user | 212 | 13–1 | 4 | 1–9 |
| Female prostitute [1] | 51 | 3–2 | 1 | 2–0 |
| Hemophiliac | 2 | 0–1 | 2 | 100–0 |
| High-risk partner only | 627 | 38–9 | 4 | 0–6 |
| Other | 214 | 13–3 | 1 | 0–5 |
| Overall | 1,613 | 100–0 | 122 | 7–6 |

[1] Includes 31 who were also iv drug users.

Of the 1250 clients tested after anonymous testing was available, 1198 provided information on both their awareness of the availability of anonymous testing and whether they would have come for testing if only confidential testing had been offered. 29% stated that they would not have come if the option had been only confidential testing; 58% either did not know that anonymous testing was available (307) or stated that they would have come anyway (388); and 13% were unsure whether the option of anonymity had drawn them to testing. 11% of the clients drawn by anonymity ultimately chose confidential testing. Conversely, 47% of the clients who stated that they would have come under a confidential system chose to be tested anonymously (table II).

TABLE II—CHOICE OF TESTING BY CLIENT GROUP DEC. 2, 1986 TO MAR. 15, 1987 [1]

| Client group | No. | Percent of all clients | Testing option selected No. |
|---|---|---|---|
| Would not have come without anonymity. | 343 | 29 | Anonymous 305 (89%). Confidential 38 (11%). |
| Would have come without anonymity. | 695 | 58 | Anonymous 323 (46%). Confidential 372 (54%). |

TABLE II—CHOICE OF TESTING BY CLIENT GROUP DEC. 2, 1986 TO MAR. 15, 1987 [1]—Continued

| Client group | No. | Percent of all clients | Testing option selected No. |
|---|---|---|---|
| Undecided | 160 | 13 | Anonymous 142 (89%). Confidential 18 (11%). |

[1] Excludes 52 persons for whom complete data were not available.

Risk factor for HIV infection was strongly associated with the likelihood that a client had been drawn to testing by the option of anonymity: 49% of gay men tested after anonymous testing became available said that they would not have come if only confidential testing had been offered, compared with 13% of iv drug users, 30% of female prostitutes, 21% of persons with a heterosexual high-risk partner, and 21% of other clients. Gay men were 2:4 times more likely than non-gay men to say that they would not have been tested had anonymous testing not been offered ($p<0.001$). As judged by these subjective responses, demand for testing among gay men increased 125% as a result of the availability of anonymity, compared with 17% for heterosexual iv drug users, 56% for female prostitutes, 33% for persons with high-risk heterosexual partners only, and 31% for other persons.

The validity of these subjective data was assessed by examining the temporal relation between demand for testing and availability of anonymity. Demand for testing among gay men increased sharply from a median of 42 per month in the 4 months before anonymity was offered to a mean of 108 per month in the 4 months after anonymous testing became available ($p=0.03$, Mann-Whitney-U test). In contrast, the demand for testing in non-gay clients increased steadily throughout this period, and was not similarly affected by the anonymous option.

The conclusion that the sharp increase in demand from gay clients resulted from the anonymous option depends on the assumption that demand among gay clients would have remained constant had anonymous testing not been available. Data on number of clients tested, by risk group, were examined for three settings in the western United States—Colorado, here confidential testing is the only public testing option; California, where state-funded HIV testing is conducted anonymously; and private sites in Oregon that use the state Public Health Laboratory for testing. In all three settings, testing among gay men remained steady from August, 1986, through March, 1987 (Dillion B, AIDS Education and Risk Reduction, Colorado Department of Health, and Ramirez-Rude A, Office of AIDS, Department of Health Services, State of California, personal communications). Demand among non-gay clients in all three settings showed the steady increase seen in Oregon public sites.

The availability of an anonymous testing option in Oregon was also associated with a decrease in the length of time that gay clients reported waiting between deciding that they wanted testing and obtaining counselling and testing. In December, gay clients who would not have come in but for anonymity stated that they had been waiting a mean of 12 months; this waiting period decreased to a mean of 5 months by February. In contrast, the average waiting period for gay clients who stated that they would have come even if only confidential testing had been available remained constant at 4 months from December through February.

Gay men who judged themselves likely to be exposed to someone with HIV infection in such a way that they could be infected were more likely to be antibody positive. 55% (16/29) of those who stated that they were certain that they could have been so exposed were antibody positive compared with 27% (42/154) of those who thought that it was likely, 11% (11/99) of those who thought it was unlikely, and 7% (4/58) of those who thought it was very unlikely. 18% (12/67) of clients who did not know their likelihood of exposure and 25% (1/4) of clients who gave no response were antibody positive. Neither actual nor perceived antibody status was associated with the choice of anonymous or confidential testing.

85 clients tested positive during the 31 months after the trial of anonymous testing began, compared with 36 positive in the 3½ months before the trial—an increase of 136%. 95% (81/85) of the clients who tested positive after the trial began were gay; of these, (39/81) stated that they would not have come in if the only option had been confidential testing, 41% (33/81) said they would have, and 11% (9/81) were undecided.

94% of clients received pre-test counseling and testing returned for test results and post-test counseling, and this proportion was almost identical for the anonymous and confidential groups and for gay and non-gay clients.

DISCUSSION

In this trial, the option of anonymity seems to have increased testing by 50% overall and by 125% among gay men. There was less impact on demand for testing among female prostitutes and still less among IV drug users. The number of seropositive persons identified was twice that before the trial.

As well as drawing clients who were averse to confidential testing, the option of anonymous testing shortened the time that gay clients said they waited before coming for counselling and testing. To the extent that HIV counselling and testing is of value in changing behaviours that lead to the spread of HIV infection, the ability to draw high-risk clients without delay is advantageous.

The effect of an anonymous testing option on demand for HIV counselling and testing may differ in other areas. We tried to limit the ability of individuals to affect the outcome of the study by giving no advance notice to the public of the trial of anonymous testing and by restricting our analyses to clients being tested for the first time. The effect of anonymity on demand for testing may be time-limited; however, demand for testing among Oregon gay men through September, 1987, has continued to be more than double that seen before anonymity became available. Furthermore, some of the clients who stated that they would not have come for testing unless assured of anonymity might eventually have come anyway, but anonymity seems to have drawn them sooner to counselling and testing.

There are potential disadvantages as well as advantages to anonymity. In particular, it prevents a counsellor from contacting clients who do not return for test results from recontacting clients in cases of laboratory error. HIV counselling and testing centres in other areas might evaluate the results in Oregon in the light of the goals of their testing programme. A flexible HIV testing programme should consider offering both confidential and anonymous HIV testing—confidential testing in some settings such as prenatal or sexually transmitted disease clinics, and an option of either anonymous testing or confidential testing in others.

In Oregon, anonymity provided a strategy that preferentially drew gay males, the population in the state currently at highest risk for infection. As groups at risk for HIV infection and public perception of AIDS change over time, it will be necessary to periodically re-evaluate the impact of anonymous testing:

We thank the county health departments of Oregon for their cooperation with this study; the AIDS programmes in Colorado and California for providing data on demand for HIV testing in their states; and Derrick Diggs, Peg Murray, Geri Washington, and Joyce Grant-Worley for their assistance with data management and entry.

Mr. LAUTENBERG. Mr. President, are the chairman and ranking minority member of the Senate Labor and Human Resources Committee aware of the concern I have with title I of this legislation?

Mr. KENNEDY. Yes. I am well aware of the concern the Senator has with the provision under title I that requires a primary metropolitan statistical area to have 2,000 AIDS cases reported to the Centers for Disease Control in order to qualify for emergency relief under title I of the bill. The Senator has made it very clear to me that he is concerned that the bill overlooks the PMSA of Jersey City, NJ, because it considers only numbers of reported AIDS cases and does not take the population of the area into consideration. The Senator has made it clear that he thinks consideration should be given to incidence rates in determining title I eligibility.

The PMSA of Jersey City, which includes all of Hudson County, has the third highest incidence rate in the Nation, according to the Centers For Disease Control. It has more than 1,440 AIDS cases. And it has a population of 543,076. This means that 0.265 percent of the population in the PMSA of Jersey City has AIDS. Clearly, this is one of the most heavily impacted areas in the Nation. I understand the Senator has submitted for the RECORD an analysis prepared by the Centers for Disease Control of the AIDS incidence rates of metropolitan areas with more than 500,000 residents which confirms Jersey City's incidence rate.

Mr. HATCH. The Senator from New Jersey has made a very persuasive case that incidence rates should be considered and that Jersey City should be eligible to receive assistance under title I of the bill of S. 2240.

Mr. LAUTENBERG. Are the chairman and ranking minority member aware that the House version of this bill, H.R. 4785, which was reported by the House Energy and Commerce Committee yesterday, includes language I proposed that would make an area's incidence rate a factor in determining eligibility for emergency relief grants? This was a matter that had

the active and critical support as well as Representative GUARINI and Representative RINALDO. Are they prepared to accept this language in conference?

Mr. KENNEDY. Yes. I am aware that the bill reported by the Energy and Commerce Committee includes language that would enable a PMSA that has an AIDS incidence rate that exceeds 0.25 percent of the population to qualify for emergency relief under title II of the House bill. Title II is very similar to title I of S. 2240.

The Senator urged the Senate Labor and Human Resources Committee to include this language in title I of S. 2240 before the full committee marked up the bill. He wrote me a persuasive letter submitted the amendment to me. He also testified before the House Health and Environment Subcommittee of the Energy and Commerce Committee on this amendment, and asked that the language be included in the House version of the bill.

The Senator has succeeded. The language he proposed is included in the House version of the bill. I am prepared to accept this language that would make Jersey City eligible for emergency relief grants under title I of the Senate bill during the conference on this legislation.

The Senator has been a strong advocate for Jersey City. He has raised Jersey City's case with me at every available opportunity. He has been tireless in his efforts to make a modification to title I of S. 2240 so Jersey City can receive the emergency relief it needs. He has convinced me that incidence rates should be a consideration for determining title I eligibility and that we should not overlook Jersey City in title I of the bill. I will make the necessary modification during the conference to ensure that an area with more than 0.25 percent of its population infected with AIDS will be eligible for relief under title I of the bill.

The Senator has been a strong advocate for this entire bill. He was one of the original cosponsors of this legislation.

Mr. LAUTENBERG. I can assure the chairman that as a member of the Senate Appropriations Committee I plan to work vigorously with my colleagues in an effort to secure adequate funding for this landmark legislation.

Mr. HATCH. I am prepared to accept the House language on incidence rates during the conference on this legislation as well. I think it is good language and that it addresses an area that has been overlooked in the Senate version of the bill.

JERSEY CITY INCLUSION IN TITLE I

Mr. BRADLEY. Mr. President, I join my distinguished colleague from my home State of New Jersey, Senator LAUTENBERG, to urge the distinguished chairman of the Committee on Labor and Human Resources, Mr. KENNEDY to resolve the issue of Jersey City's eligibility for CARE title I funds in conference.

The thrust of this very important bill is to provide emergency funds to health care facilities that are disproportionately serving large numbers of AIDS patients. The definition of eligibility for communities who can apply for emergency relief funds does not fully take into account the impact of the disease on Jersey City, NJ. Jersey City has nearly 1,500 AIDS cases and a per capita incidence that is among the highest in the country. Nearly 0.26 percent of the Jersey City population has AIDS. This enormous incidence of disease places a tremendous burden on the health facilities serving the Jersey City population. The percentage of patients that these facilities see with AIDS is among the highest in the Nation and thus the financial impact to them is considerable. By all counts, Jersey City facilities need emergency relief as much, if not more so, than facilities in larger cities and communities.

Mr. President, I understand that the House bill does accommodate funding for Jersey City. I urge my colleague the distinguished chairman of the Committee on Labor and Human Resources, as part of the conference on the bill, to include Jersey City for eligibility for the emergency relief funds.

Mr. KENNEDY. I have already given that commitment.

Mr. BRADLEY. I wish to thank the distinguished senior Senator from Massachusetts [Mr. KENNEDY] for recognizing the special need of Jersey City for emergency AIDS relief. I thank him for his willingness to support the House provision that allows Jersey City to access these funds.

Mr. LAUTENBERG. Mr. President, I rise in strong support of the Comprehensive AIDS Resources Emergency Act.

I want to congratulate the chairman and ranking minority member of the Senate Labor and Human Resources Committee for the leadership they have demonstrated in putting this legislation together. We need AIDS disaster relief and we need it now. That is why I joined as an original cosponsor of this legislation.

The AIDS epidemic in this Nation has reached crisis proportions. To date, more than 121,000 AIDS cases have been reported to the Centers for Disease Control. Unfortunately, more than 8,000 of those cases have been reported from my own State of New Jersey—one of the five States nationwide that account for 64 percent of all AIDS cases.

In our cities and counties throughout the Nation, hospitals, clinics, and health care providers are struggling to provide services to AIDS victims. But in many areas hardest hit by the AIDS epidemic—particularly our urban areas—it has been an uphill battle.

Public health systems are being pushed to the absolute limits as they struggle to fight the AIDS epidemic. Our urban hospitals—already overcrowded and short of staff—are bursting at the seams trying to serve increasing numbers of AIDS patients. It is hard to find the beds. It is hard to find the money to care for AIDS victims who lack insurance—a job, even a home.

The AIDS epidemic is a national disaster and we need to treat it that way. We must respond quickly.

When Hurricane Hugo struck South Carolina, we responded immediately with assistance to help devastated cities and counties recover from the damage.

When an earthquake rocked northern California, we responded immediately with the assistance needed to rebuild roads and bridges—to help San Francisco pick up the broken pieces.

When a drought threatened our farm States, we responded with assistance to avert a crisis in the agricultural community—to sustain the livelihood of our farmers.

The AIDS disaster is no different. And we must respond in the same way. We must provide relief to the areas that have been hard struck by the AIDS epidemic. We must provide relief to the areas where the epidemic is threatening public health systems and devastating entire communities.

Our hospitals and cities and counties desperately need the help offered by the Comprehensive Aids Resources Emergency Act of 1990. We should give them that help immediately.

Mr. President, one area that is in desperate need of the emergency relief this bill would provide is Newark, NJ. Newark is truly facing a crisis in AIDS care. It houses the only State public hospital in all of New Jersey, which provides more indigent care and services more patients than any other facility in the entire State.

Newark has one of the highest rates of AIDS related to intravenous drug use in the Nation as well as one of the most severe homeless problems. It also has one of the most severe indigent care problems in the country; 80 percent of all Newark cases are directly or indirectly intravenous drug related.

Newark also treats a staggeringly high number of pediatric AIDS babies; 600 babies on average are born annually in New Jersey to HIV-infected mothers and are symptomatically -infected children. The majority of these births are in the Newark area.

A recent survey of babies born at Newark's University Hospital showed that 1 in 22 was born to an AIDS-infected mother. That is 1 in 22 too many for this Senator. Newark's prevalency rate is said to be closer to the terrifying prevalency rates in central Africa.

In 1988, for the AIDS cases served by UMDNJ/University Hospital, 91 percent with a known route of transmission were attributable to intravenous drug abusers, 60 percent were male and 40 percent were female. Nationally 91 percent of cases have occurred in males, and only 9 percent in females, 92 percent were members of minority groups, 49 percent had no insurance, and 60 percent were in tenuous housing or homeless.

Clearly, Newark is facing a range of AIDS-related problems and is in dire need of emergency relief that this bill would provide. An article from the Washington Post from last year highlights the AIDS problems facing Newark and underscores the desperate need for the funds this legislation would provide. A recent article from the New York Times highlights the tremendous need for assistance as well. I ask unanimous consent that copies of these articles be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. LAUTENBERG. Mr. President, while I strongly support this legislation and am convinced that the resources it would provide are sorely needed by cities and counties that are facing an AIDS health care crisis, I do have a serious concern with the bill. I intended to offer an amendment to address my concern. The concern I have with this legislation, and which my amendment would have addressed, is with title I of the bill. Title I is the section of the legislation that would provide grants for emergency assistance to areas with substantial need for services for AIDS.

To qualify for assistance under title I, a metropolitan area must have reported more than 2,000 cases of AIDS to the Centers for Disease Control. Under the bill, 13 areas—including Newark, NJ—would automatically qualify for emergency grants to provide relief for their public health systems, because they have more than 2,000 cases.

This type of assistance is critical. But I am concerned that the bill misses one of the hardest hit areas in the country. It misses that area because it looks at just one factor—total number of cases, 2,600 cases in an area of 5 million people—like Philadelphia—just is not the same as 2,000 cases, or even 1,500 cases in an area of 500,000—like Jersey City—Hudson County, NJ.

Jersey City is reeling under a much bigger burden. And it is our job to help that smaller city. In Philadelphia, those 2,600 cases are spread over 8 counties with almost 5 million people. In Chicago, there are 3,100 cases among over 6 million people. In Washington, DC there area 3,600 cases among nearly 4 million people. It is the same with most of the other areas that qualify for emergency relief under title I of the bill.

The burden of caring for these cases is shared by a broader base of governments and taxpayers. These larger cities need help. But so does Jersey City.

It is a much different story in Jersey City—Hudson County. It is one of the hardest hit areas in the country. The Centers for Disease Control says that it is the third most heavily impacted area in the Nation.

The area has had to cope with over 1,400 AIDS cases. But it is a small area of just over 500,000. This means that 0.26 percent of the population suffers from AIDS. That is five times the incidence rate of Philadelphia or Chicago. It's 2½ times the incidence rate of Washington, DC. In fact, its incidence rate is higher than all but two of the areas that qualify for title I assistance under the bill.

Unlike many of the areas that will receive title I assistance under the legislation, only one county is in the primary metropolitan statistical area [PMSA] that includes Jersey City. For that reason, only AIDS cases in that one county are counted toward the 2,000 threshold.

At the same time, because of the Census Bureau's definition of PMSA's other areas that qualify for title I assistance can count AIDS cases from several counties—including a total population several times the size of Jersey City—to reach the 2,000 threshold. For example, the PMSA in which the city of which Philadelphia is included includes eight counties, three of which are in my State of New Jersey.

Jersey City should not be prevented from qualifying under title I of the bill because the Census Bureau has included only one county in that particular PMSA. If for example, the PMSA in which Jersey City is located included two other counties, neighboring Bergen and Passaic Counties, nearly 2,500 AIDS cases would be attributed to the area, more than the 2,000 needed to qualify for title I funding. The total population for the three counties—roughly 1.3 million—would still be less than the population of other PMSA's that are eligible for title I assistance.

Mr. President, the modification to the bill that I intended to propose would simply have made incidence rates a factor in determining title I eligibility. It would have enabled an area to qualify for title I emergency relief assistance if it has 2,000 cases or if it has an incidence rate of AIDS that exceeds 0.2 percent of the population.

Incidence rates are a better indicator than raw numbers of cases of true burden that is being placed on an area. The whole rationale for title I assistance is to help areas that are disproportionately affected by AIDS. But we cannot really determine which areas are disproportionately affected by AIDS if we do not take the population of AIDS inflicted areas into consideration.

The amendment I intended to offer would have changed the inequity of targeting funds to cities that have the highest numbers of AIDS cases ever reported to the Centers for Disease Control, while failing to provide emergency relief to the area in the Nation with the third highest AIDS incidence rate in the Nation.

It would have enabled the heavily impacted area of Jersey City, Hudson County to qualify for assistance under title I of the bill. No other areas would been added. The only other areas that could possibly meet that standard—San Francisco, New York, Newark, Miami, and San Juan—already qualify under the 2,000 threshold. Making this modification to include Jersey City would certainly be consistent with the goal of providing assistance to the areas in greatest need.

Jersey City—because of its high incidence rate—is truly an AIDS epicenter and we have an obligation to provide it with emergency relief. I ask unanimous consent that a copy of an analysis prepared by the Centers for Disease Control which shows Jersey City's AIDS incidence rate relative to all other areas be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2)

Mr. LAUTENBERG. Mr. President, I urged the Senate Labor and Human Resources Committee to include this language in title I of the bill before full committee markup. I wrote a letter and submitted an amendment to the chairman and ranking minority member of the committee urging that a modification be made to include incidence rates in title I of the bill. I ask unanimous consent that a copy of that letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. LAUTENBERG. I also testified before the House Health and Environment Subcommittee of the Energy and Commerce Committee on this amendment and asked that the language be included in the House version of the bill, H.R. 4785. I ask unanimous consent that a copy of the letter I submitted to the chairman of the House Health and Environment Subcommittee during my testimony urging the chairman to address this issue be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. LAUTENBERG. The House Energy and Commerce Committee re-

ported the House version of this legislation yesterday. I am very pleased that the House bill includes a provision that addresses this concern. The chairman and ranking minority member of the Labor and Human Resources Committee are aware that this provision has been included in the House bill and have given me assurance that they will accept this language during conference. For that reason, I am not going to offer an amendment to title I of this bill.

Mr. President, I am not alone in wanting modify title I to include incidence rates. The Citizens Commission on AIDS for New York City and northern New Jersey strongly supports my effort to have Jersey City included in title I of the bill. Like me, the Citizens Commission supports the CARE bill. But it shares my deep concern about the fact that Jersey City does not qualify for emergency relief under title I of the bill.

In a May 11 letter to the chairman of the Labor and Human Resources Committee in support of the language I am proposing, the Citizens Commission wrote "Jersey City is desperately struggling to meet the health care and social services needs resulting from the epidemics of AIDS and drug use. Its hospitals, clinics, and community-based organizations are as overcrowded and underfunded as those of cities meeting the bill's current eligibility criteria. We strongly recommend that Jersey City be included in title I among the localities in greatest need of Federal assistance."

The letter says "* * * the rationale for targeting emergency assistance to cities under title I—to assist localities disproportionately affected by HIV—applies equally to Jersey City. And because of its extremely high incidence rate, perhaps more so than most of the cities which meet the threshold of 2,000 cases." It goes on to say that the amendment "rectifies the inequity of targeting funds to localities with the highest actual numbers of AIDS cases, while failing to sustain the city with the third highest rate of AIDS in the country."

The New Jersey Hospital Association—a member of the American Hospital Association and a strong supporter of the CARE bill—supports this amendment as well. In a May 9 letter to the chairman, the president of the New Jersey Hospital Association said that "as the bill is currently drafted, hospitals in Jersey City, Hudson County would be excluded from Title I assistance of that Act. If one looks at the per capita rate of AIDS in Jersey City, it becomes apparent that the area is one of the most heavily impacted metropolitan areas in the country * * * I respectfully ask that you support Senator FRANK LAUTENBERG'S amendment which would make hospitals in this heavily impacted area eligible for the resources they need."

Listen to what a constituent of mine who lives in Hoboken, NJ, and who works for the American Foundation for AIDS Research [AmFAR]—another very strong supporter of this legislation—has to say about the AIDS situation in Hudson County and the need for my amendment. In a letter to Senator KENNEDY, this person wrote:

"I'm well versed in the complexities of AIDS and am familiar with the situation in Hudson County. Quite simply, it is the worst-case AIDS scenario. Most of Hudson County's people with AIDS and people who are HIV-positive are IV drug users, yet there is almost no available addiction treatment in the area. There is very little public education about AIDS * * * And because most of these people are poor, the health care they already receive is inadequate to begin with."

The letter goes on to say that "* * * granting funds to Jersey City is not making an exception; it is correcting an error in the process by which cities and areas were chosen to receive title I funds * * * Jersey City has the third highest AIDS incidence rate in the country. That it doesn't qualify for title I funds under the CARE Act is a result of the rather arbitrary way in which the Census Bureau chose to designate PMSA's, and that fact that you chose to use PMSA's as the basis for determining which cities and areas would receive funds. In most cases, your system works. But because Jersey City's PMSA is unusually small, it has a much smaller population than other PMSA's, and so its AIDS caseload doesn't reach the cutoff level * * *"

In closing, the letter says "Please do not let an arbitrary quirk of the Census Bureau keep you from fulfilling the stated goal of the CARE Act: to provide emergency funds to those cities in the United States hardest hit by the AIDS epidemic. By any rational standard, Jersey City qualifies. And if you wait, and deny Jersey City the help it needs, its AIDS caseload will rise above your cutoff line much faster than it needs to.

The modification which I proposed has support from others groups as well. The Jersey City Medical Center, a New Jersey member of the National Federal Club Executive Committee of the Human Rights Campaign Fund, and the Hudson County Executive. I ask unanimous consent that copies of their letters in support of the modification, as well as the letters that I have quoted, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. LAUTENBERG. Mr. President, New Jersey's newspapers are filled with stories about the personal tragedies of AIDS victims in Jersey City and Hudson County. They tell stories about pediatric AIDS victims, about homeless AIDS victims, about the large numbers of women and IV drug users in Hudson County who are being devastated by the epidemic. They tell of hospitals that are knuckling under from the pressure of serving indigent AIDS victims.

People in the county who are on the front lines in the battle against AIDS—the doctors, the social workers, the community organizers, the public health workers—have told me personal stories about how the epidemic is tearing the area apart. They wonder where the money will come from to pervent the impending collapse in the health care system in the county. They wonder where they will find the money to serve the evergrowing numbers of AIDS victims, to keep the disease from spreading, and from taking more lives.

It is these people—the AIDS victims, their families, and those that are trying to help them—whom I want to help. And it is for these people, who are in dire need of emergency relief, that I have been working to modify title I of this bill to include incidence rates.

It is for people like 7-year-old Kalikique from Jersey City who died of AIDS a few years that I have been working to make this modification. Kalikique's father became infected with the AIDS virus when he was a drug user. He passed the disease onto his wife, Diane, who in turn, passed the virus through her womb to Kalikique.

When Diane and her daughter, Kalikique, were diagnosed as having AIDS, the father was near death. He weighed only 95 pounds, had to wear diapers, and gasped for breath. Just before her father died, this 7-year-old girl, knowing she would die herself from AIDS, looked at her mother and said "Mommy, mommy, I don't want to die like my daddy."

In the months leading to her death, Kalikique was in a tremendous amount of pain. She was in and out of the hospital and doctors tried to slow the disease. Obviously terrified of dying, she woke up one night and cried: "Leave me alone, God, leave me alone. I don't want to go to heaven yet."

Weakened by the disease, Kalikique ultimately died of a heart attack. She was only 7 years old.

It is for people who are trying to help and prevent tragedies like another Jersey City case, Gloria and her son, that I have been working to make this modification. Gloria is a heroin addict. She has AIDS. And she passed the disease onto her son before he was even born.

When her son was only 6 months old, he suffered a crippling stroke. Only afterward did the doctors discov-

er the cause: AIDS had ravaged his brain and spinal cord.

After suffering from the stroke, the 3-year-old child could not walk. He had to be held up by the arms because he lost control of his feet. He lost control of his mouth and he could no longer speak.

Because of AIDS, he lived his short life as a cripple. He died when he was 3.

The emergency resources provided in the CARE bill would help Jersey City combat the tragedy of pediatric AIDS. It would get more money to the hospitals and social services agencies that are treating these innocent young victims who suffer because they had the misfortune of being born to an AIDS-inflicted mother. It would provide sorely needed resources to help prevent additional youngsters like Kalikique and the crippled young boy in Jersey City from being inflicted with this deadly disease in the future.

I have been working to make this modification for those who are trying to serve homeless AIDS victims in Jersey City. Many AIDS victims in the area simply do not have anywhere to go. They are forced to live on the streets, in parks. Their families have thrown them out. They are too sick and weak to hold a job.

One former IV drug user in Hudson County summed up the tragedy by saying "If there is anything to break your will to live, it's lying on a concrete floor with no food and no friends, and worried that the one jacket or blanket that's on your back will get ripped off. It's sadder when you've been given a death sentence and you've got no place to go."

Another Jersey City AIDS victim recalled her desperate search for housing. In an interview with a New Jersey newspaper, she said, "I went through living hell. I did more running around begging, pleading, and crying for housing than anyone I know. I dragged myself. You don't even have the strength to drink a can of soda and you're running a 102 temperature. I've passed out on the busses a few times."

Community outreach workers in Hudson County tell stories about homeless AIDS victims in Hudson County who are so desperate for housing that they break the law so they will have a place to sleep. One person threw a brick through a store window so he would be arrested and have a place to sleep. Another robbed a jewelry story for the same reason. These people are so desperate and are in tremendous need of emergency relief.

The emergency resources in the CARE bill will help Jersey City combat the tragedy of homeless AIDS victims that pervades the community. By creating more treatment options for victims, it would take a huge burden off of inner-city hospitals. Hospitals will no longer be forced to choose between hospitalizing AIDS victims that no longer require hospitalization and sending them back to the streets. Emergency relief grants would provide Jersey City with resources to develop long-term care facilities for AIDS victims. It could enable Jersey City AIDS victims to receive services in nursing homes, and hospice care, and subacute facilities, and medically supported residential facilities.

It is for the people in the Hispanic Community in Jersey City who have been hard hit by the AIDS epidemic that I have been working to make this modification.

One of these victims died at Jersey City Medical Center a few years ago. He was a 36-year-old Hispanic male, homosexual, IV drug user. He was diagnosed with AIDS in 1986. For a while, he lived alone in an apartment in Jersey City, and went to the hospital for treatment. Like many AIDS victims, he was poor and was rejected by his family. Although he received Social Security and Disability, he did not have Medicaid or other health coverage to help pay the bills for his treatment.

Several months before he died, he became anemic and was going blind. His AZT therapy was discontinued, and his health continued to deteriorate rapidly. He could no longer live alone at home. But there was nowhere for him to go because there are few housing alternatives and stepdown facilities for AIDS victims in Jersey City. Consequently, he spent most of the remainder of his life in the Jersey City Medical Center until he died in December of 1988.

Brother Bob Reinke, is the director of the Franciscan Aids Initiative to Help in Hoboken, NJ, which provides services to AIDS victims. "Brother Bob" as they call him in Hudson County, says that because so much of the Hispanic community in the area is infected with AIDS, there is a greater need to make agencies more culturally sensitive, to help them overcome language barriers, to get more information about services out. The will is certainly there. Unfortunately the resources are not.

Brother Bob told me that one client had recently come across a desperate infected man who, because he could only speak Spanish, did not understand what was happening to him or where to go for help.

Another one of his clients told a story about a man in his neighborhood who committed suicide after learning he was infected. He did not know where to go for help.

Yet another Hispanic man in Hudson County committed suicide rather than endure the pain of living with AIDS. His wife, knowing that his family would not understand, told the family that their son had died of cancer in the hospital.

The emergency resources in the CARE bill will help Jersey City address these cultural and social issues. It would enable communities to expand social services and get the word out about the kind of services that are available for AIDS victims. It would enable them to provide more education about AIDS and get out more information about ways to prevent and combat the disease. It would enable those on the front lines in the battle against AIDS in Hudson County to reach more people—Hispanic, white, black.

I have been working to make this modification for those who are trying to serve the women and their families in Hudson County that have been hard hit by the AIDS epidemic. Most of these women are IV drug users. New Jersey has a very high number of women, IV drug users that are AIDS victims.

One victim is a 35-year-old white female. She is a widow. Her husband, who was also an IV drug user, died of AIDS. She lives in Hudson County with her father, mother and 14-year-old daughter. Her father has very serious health problems. And her mother is schizophrenic. So it is really the 14-year-old daughter who is taking care of her AIDS inflicted mother as well as her grandparents. It is the 14-year-old daughter who stays home from school to care for her mother who encourages her mother to go to her drug treatment program.

As this woman continues to deteriorate she will need to be moved to a facility where she can receive treatment and care that her 14-year-old daughter will no longer be able to provide. And her daughter, will need help as well. She'll need help with education and social services and mental health services, and possibly foster home placement.

But the current system in Hudson County can't provide these things. It lacks the resources. The emergency resources provided in the CARE bill would provide resources to expand social services and mental health services and support systems for the countless mothers and daughters in Jersey City that are confronting the same problem.

Jersey City Medical Center in Hudson County is also in dire need of emergency relief. The hospital serves a disproportionate share of AIDS victims. It has spent millions because so many of its patients lack health insurance. The hospital is overcrowded with AIDS patients, and it is short on staff. Ever growing numbers of AIDS patients are interfering with its ability to provide quality care for all those in need.

It deserves and needs emergency relief under title I of the bill. The emergency relief provided in the CARE bill would take a tremendous burden off this hospital which serves so many of the county's AIDS victims. It would help expand alternatives to long-term hospitalization for the county's AIDS victims. It would help relieve the hospital from the burden it faces serving countless poor patients who lack insurance.

Mr. President, it simply makes sense to modify title I to include Jersey City. The whole purpose of title I, as the committee's own report states, is to provide emergency relief to areas hardest hit by AIDS. I think the area that the Centers For Disease Control has identified as the third most heavily impacted area in the Nation should be able to qualify for title I emergency relief. That is what the language that has been included in the House bill and which the chairman and ranking minority member of the Labor and Human Resources Committee have agreed to accept in conference would do.

Mr. President, the need for assistance in heavily impacted areas is tremendous. Our cities and counties are struggling to provide sorely needed services to AIDS victims and their families. For all the people who are on the front lines in the battle against the AIDS crisis, we should pass this bill immediately.

EXHIBIT 1

[From the Washington Post, Sept. 5, 1989]

UP AGAINST IT—IN NEWARK, A PUBLIC HOSPITAL FIGHTS THE TWIN PLAGUES OF AIDS AND DRUGS

(By Sandra G. Boodman)

NEWARK.—To Juella, who is 35, AIDS seems to run in the family. Her 42-year-old husband died of the disease. So did her 27-year-old brother and her aunt. Several weeks ago, her terminally ill younger sister was released from New York's Bellevue Hospital after months of treatment for AIDS.

Unlike her relatives, Juella says, she never used intravenous drugs, which can spread the fatal virus. "I was the straight one, the one who did well in school," said Juella, who agreed to be identified only by her commonly used nickname. "I never even smoked [cigarettes] or drank."

Nonetheless she has not escaped: She apparently contracted the AIDS virus through sex with her husband. Several weeks ago, she developed a throat infection, and now she is a patient on the same floor of the same hospital where her husband died on July 6. She spends most of her time thinking about how her death will affect their three healthy children, who range in age from 10 to 19.

"The kids are always on my mind," said Juella, who became a grandmother at 32. "I worry about how they're going to handle this. They lost their father; now they're going to lose their mother. I know it's going to be very hard for them."

FUTURE OF THE EPIDEMIC

In Newark, one of the nation's poorest and most blighted cities, entire families are dying from the twin plagues of poverty: drug abuse and AIDS. Doctors here and in drug-ravaged neighborhoods of nearby New York City say it is not uncommon to see several members of the same family—typically a mother, father and several small children—dead or dying from AIDS. Nearly all are black or, like Juella, Hispanic.

AIDS, public health officials say, is decimating the population of Newark, which is believed to have one of the highest rates of infection in the world. A recent survey of babies born at Newark's University Hospital showed that 1 in 22 was born to a mother infected with the Human Immunodeficiency Virus that causes AIDS. That is similar to reports from some cities in Central Africa, where up to 25 percent of all child-bearing women are believed to be infected.

"What you're seeing here is the future of AIDS," said Eric Munoz, medical director of University Hospital.

Public hospitals like University have always taken care of the poor. But officials at dozens of public hospitals around the country say that the rapidly growing numbers of AIDS patients—many of them uninsured, desperately ill intravenous drug users, their sexual partners and babies—represent an unprecedented strain.

"The magnitude of what's happening now is amazing," said Marc H. Lory, chief executive officer of University Hospital, Newark's only public facility. "It could mean destruction for us."

Lory said his hospital is losing $30 million a year, about one fifth of its annual operating budget, caring for indigent patients, many of whom have AIDS. During one recent week, 43 percent of tested patients at the hospital had HIV and more than 400 others were enrolled in various outpatient AIDS clinics.

The impact of AIDS is not just economic. AIDS is also influencing the kind of care other patients receive, as staff and resources are shifted to the growing epidemic. And that, in turn, alters the training of a new generation of physicians.

"Every part of this hospital has been affected by this disease," Munoz said. "I think AIDS is ultimately going to be the thing that changes the rules about who gets care and what kind of care they get."

That is the conclusion of a study published last month in the Journal of the American Medical Association. That survey showed that 20 percent of urban public hospitals treat nearly 80 percent of all AIDS patients and that 5 percent of hospitals treat more than 50 percent of AIDS patients. The authors say that the demographics of AIDS, combined with the lack of housing and other less expensive alternatives to hospitalization, are precipitating major financial losses and squeezing out patients with other illnesses.

"The great concentration of AIDS patients in a few hospitals is threatening to overwhelm these [hospitals] and limit their ability to treat other patients, bringing many to the brink of rationing," said Dennis P. Andrulis, the study's principal author and president of the National Public Health and Hospital Institute.

Officials at University Hospital, a 501-bed teaching hospital for the University of Medicine and Dentistry of New Jersey, say that the AIDS patients they see tend to be poorer, sicker and harder to manage than patients they have treated in the past.

The spread of AIDS, officials say, is also making it harder to properly train University's 250 residents, who are largely seeing AIDS-related diseases rather than a broad spectrum of illness. AIDS is also complicating the already difficult problem of recruiting nurses, some of whom find caring for drug users physically and emotionally overwhelming.

MEDICAL UNDERCLASS

In New Jersey, and especially Newark—the state's largest city with a population of 312,000—drugs and AIDS are inextricably linked. Unlike most American cities, including Washington, where gay men account for at least two thirds of AIDS cases, more than 75 percent of Newark's 1,409 cases are drug-related and 90 percent are black or Hispanic. By comparison the District, which has more than twice the population of Newark, has reported 1,796 cases, 83 percent among gay men and 14 percent among drug users. Of the District's cases, 41 percent were white and 59 percent were black or Hispanic.

New Jersey also has the largest number of AIDS cases among women and ranks second in the number of pediatric cases. The Newark area ranks fourth in the number of AIDS cases reported nationally.

But unlike Washington, New York and San Francisco, all of which have large, affluent, politically sophisticated communities of gay men who founded pioneering AIDS organizations, AIDS patients in Newark are nearly always politically powerless addicts who typically avoid institutions, however well-meaning they appear to be.

"We didn't have the gay men to balance off the IV drug users," said Patricia C. Kloser, an infectious disease specialist who is clinical director of AIDS services at University, which treats more AIDS patients than any hospital in New Jersey. Because poor people traditionally delay seeking medical treatment largely because they have no money to pay for it, many AIDS patients arrive at University in terrible shape.

"We see a lot of end-stage cases where the first admission is their last," Kloser said. Last year, she said, the average span from diagnosis to death among women with AIDS at University was less than four months, far below the national average of 18 months.

The poverty of the hospital's patients is reflected in the paucity of resources available in Newark. One third of the population lives below the federal poverty line, the infant mortality rate is double the national average, the wait for drug treatment ranges from three to nine months and the percentages of homeless people is three times that of New York City.

There is no housing for AIDS patients, no hospice care and no place other than a nursing home 30 miles away that will accept patients who don't need the expensive technology of a teaching hospital and trauma center. The city's fledgling AIDS organization, the Newark Community Project for People With AIDS, was founded only last year. By contrast, its counterparts in San Francisco and New York began operating in 1981, before AIDS had been named.

Located in a mammoth L-shaped concrete complex that also houses the state's medical and dental schools, University Hospital operates at 100 percent capacity, a rate that far exceeds that of most institutions. Sometimes, the hospital is so swamped with AIDS patients, who stay an average of 19 days, more than double the national average, that they are placed in beds on surgical floors in in the recovery room. Recently, 18 people waited in the emergency room for a bed.

One of the reasons AIDS spread so quickly here, experts say, is the large number of

intravenous drug users, the popularity of shooting galleries where addicts rent or share needles and the proximity to New York City with its 200,000 intravenous drug users. Addicts commonly travel from Newark to New York City, an 18-minute train ride, to buy and use drugs.

The scars of the 1967 race riots that convulsed Newark are still visible in the blocks surrounding University. The hospital is located in the city's central ward, the most impoverished section of Newark, which has been designated by the federal government as medically underserved.

The city's first new supermarket in 20 years is being built opposite the hospital, on a street pockmarked with abandoned buildings sprayed with graffiti, vacant lots choked with weeds and sidewalks strewn with broken glass, discarded tires and stained clothing. Among the few businesses that have not fled to the suburbs are discount furniture stores, bars and "Checks 'R Us," which cashes welfare checks.

"We deal with a lot of problems that you can't fix from the inside of a hospital," said Munoz. "The fact is that you can't make people that much better by treating them in an acute care hospital and sending them back into that horror."

HOSPITAL WAR ZONE

Nowhere is that more apparent than on I-Blue, a 30-bed medical service that treats patients for cancer, heart and liver disease, diabetes, hepatitis, tuberculosis and AIDS.

"In the last two years, the whole complexion of this unit has flip-flopped," said Peggy Moore, the unit's head nurse who has worked at University since 1963. "We now consider it a rarity when a patient doesn't have AIDS."

One day last month, 20 patients on the unit had AIDS or HIV. Some were being treated for AIDS infections, others for problems that were complicated by the virus. About 10 were homeless, and most were ready for discharge but had nowhere to go. The emergency room staff was clamoring to free beds for new patients.

"Recently, I had to tell one man, 'Sir, you're either going to a shelter or you're on the street, but you have to leave," said Moore, shaking her head. "We never used to have to do that."

Because of the nature of HIV—the emaciation, incontinence and dementia that often accompany the later stages of illness—nurses spend more time with AIDS patients. Some nurses say they dislike the fact that they must neglect other patients or must spend their time caring for people whose primary goal may be shooting up, not getting better.

"It's hard on the nurses when they get somebody ambulatory again and their first priority is to get out and get more drugs," said Darlene L. Cox, the hospital's associate nursing administrator. "Nurses are only human, and they resent it."

Doctors, nurses and social workers say University's AIDS patients tend to be young and belligerent. Some attribute it to the proliferation of crack, which often renders its users violent and hypersexual, not at all like the heroin addicts the hospital is used to treating. Frequently, social workers say, addicts try to blunt the stimulating effects of crack with heroin, which acts as a sedative.

Some patients who discover they are infected with HIV increase their use of intravenous drugs. In some instances, patients get better, then disappear for a few hours to buy drugs across the street or meet a friend and shoot up in the stairwell. Some patients deal drugs out of their hospital rooms or inject heroin or cocaine smuggled in by friends directly into their intravenous lines.

A few months ago, hospital security guards broke up a drug ring operating out of one room; three other patients in adjacent rooms immediately checked out. Recently, several members of a drug gang smuggled a rifle hidden in a suitcase onto the ward, then barricaded themselves in the hospital room of a rival gang member and threatened to shoot him over a bad drug deal.

"Sometimes, I feel like I'm in Vietnam," said Moore. "But this hospital is just a microcosm of what's going on out there."

BORN DYING

The chasm between the dazzling sophistication of medical technology and the inability of a health care system to provide basic services to those who most need them is glaringly apparent in the hospital's 28-bed intensive care nursery.

This is the home of the most pitiful victims of drug-related AIDS, newborn infants little larger than squirrels, most of whose mothers are regular cocaine users. Approximately one-third were born to mothers who are also infected with HIV. Among the smallest of the so-called "cocaine babies" is a five-week-old girl who was born weighing 540 grams—1.3 pounds. She has gained 200 grams and looks barely human. Her tiny, scaly body is covered with downy black hair and bristles with needles and tubes and intravenous lines that are keeping her alive.

The only sound in the nursery, which is crammed with sophisticated equipment and an incongruous rocking chair, is the insistent beeping of monitors and the murmured conversation of the staff. Nearly all of the babies are too weak to cry. Some have heads that are flattened on one side, a consequence of the weeks they have spent lying in one position. A few are already orphans or will be soon.

"We're seeing an awful lot of babies born two or three months preterm," said nurse Evelyn J. Russell. "Mothers on the street are told, 'If you want to have an easy time, take cocaine,'" which induces premature labor, Russell added.

"Most of these babies are so sick from their respiratory problems," she continued, peering into an isolette at a baby who breathes unusually rapidly, a ventilator attached to her throat. "They can't suck properly, and they have swallowing problems." Most of these babies will remain in intensive care for at least three months, at a cost of hundreds of thousands of dollars.

The difficulty of caring for infants in such precarious health is further complicated by the chaotic life style of their mothers, some of whom are as young as 11. "Just trying to find a mother who's using drugs for a consent [to perform certain tests] is a major job," Russell said. Few mothers and virtually no fathers, visit regularly. Many are homeless and trying, themselves, to survive.

Some women who know they have AIDS or HIV continue to get pregnant, even though they know their baby has at least a 50 percent chance of contracting the disease.

Kloser treated one such woman, who contracted AIDS from her drug-using husband and proceeded to bear three children, all of whom are now dead. The mother died several months ago, a year after her husband. "She used to carry around the pictures of the kids in her wallet and show them to people," Kloser recalled. "If you didn't know, you'd think they were alive. Even though she knew she was HIV positive, she told me she just wanted a baby who would live."

Treating such patients takes an enormous emotional toll on the staff, particularly nurses, who typically have the most intimate contact with patients. The prevalence of AIDS has made recruiting for its 60 nursing vacancies even more difficult. Several months ago, staff shortages forced the administration to close one 30-bed medical unit, which Lory hopes to reopen later this year as an AIDS ward. Administrators hope that a dedicated unit will attract nurses and other staff who want to specialize in AIDS care and will free beds in other parts of the hospital.

"We do not want to be the dumping ground for the city of Newark," said Lory, who is alarmed by the impact AIDS is having on University Hospital. "If I have 300 AIDS patients in my beds, I am no longer a major trauma center, I'm no longer a teaching hospital, all I am is an AIDS hospital, and that is not the purpose of this hospital."

THE HIGH COST OF AIDS

The average lifetime cost of caring for an AIDS patient—about $200,000—is increasingly being borne by the hospital. Nearly half of University's AIDS patients are uninsured, and Medicaid, which covers many others, does not reimburse for the full cost of caring for AIDS patients.

When it comes to health care financing, New Jersey is far more progressive than most states. Its Medicaid program covers the cost of the drug AZT for most University patients, and an uncompensated care fund reimburses private hospitals that admit uninsured AIDS patients. Medicaid has recently agreed to pay for a new home-care nursing program for AIDS patients, providing the patients have homes. That is a serious problem for 60 percent of University's patients whose living situations are so tenuous that they could be homeless in less than three months.

State health officials and administrators at University Hospital complain that Newark's sensitivity about its image and its eagerness to encourage development have been disastrous for AIDS services. Recently, the mayor's office killed a proposal by the state to open a long-term care facility for AIDS patients in a defunct hospital, down the street from University. Housing for AIDS patients had also met with considerable resistance.

"It's the same argument about providing services for the homeless—you know, 'we don't want to become a magnet,'" said one city health official. "The fact is that people aren't traveling here for AIDS services. Many of them were born and raised here."

Despite the magnitude of the problem, there are some hopeful signs. The hospital recently opened a clinic that provides aerosolized pentamidine, a newly approved treatment that helps prevent a recurrence of the pneumonia that kills most AIDS patients.

Because many patients don't keep follow-up appointments, Kloser recently tried an experiment. "Everyone says, 'Oh, drug addicts won't come, they won't keep appointments,'" she said. "I figured I would try something different. The night before," she said, "the clinic manager called all 15 patients to remind them of their appointments. The next day everyone showed up."

Even for those who faithfully keep appointments, their options outside the hospital remain limited at best.

James Caldwell, Jr., a 41-year-old addict, isn't sure what he will face when he is discharged after his six-week hospitalization. He learned he was infected when he was first hospitalized for treatment of endocarditis, a potentially fatal heart infection related to intravenous drug use. His immediate reaction was to do more drugs.

"I figured I was a walking dead man anyway, so what did it matter," said Caldwell, who has supported his habit by running a shooting gallery out of his basement apartment.

Several weeks ago, Caldwell was readmitted, again for treatment of endocarditis. He says that since he learned he had HIV, he no longer shares needles and he has no plans to continue operating a shooting gallery out of his apartment, less than a mile from the hospital.

In fact, he isn't sure he still has an apartment. His brother told him that while he was in the hospital, junkies broke in and stripped the place clean.

Caldwell, an addict for 26 years, says he hasn't done any drugs since he arrived at University Hospital several weeks ago. "I don't think I'll mess with them when I get out of here," he said.

Caldwell isn't sure how he will survive when he is discharged. He is a high school dropout, he has spent 14 years in prison and he has never held a job. Drugs, he says sadly, have ruined his life. Both his wives left him because of his addiction. He has no contact with his five daughters.

Although he is grateful for the medical attention he received at University Hospital, his biggest fear is dying there. "I'm afraid I will be hospital-bound," he says. "If I get AIDS, I just want someone to take me away from here."

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[From the New York Times]

TWO URBAN AIDS TROUBLESPOTS FOUND

(By Bruce Lambert)

A nationwide study of hospital patients suggests that one of every four men 25 to 44 years old in the area served by a northern New Jersey hospital is infected with the AIDS virus.

In the community served by a hospital in the Bronx, the rate was one in five for the same age group of men.

These results come from a survey of 40 hospitals around the nation that are being studied by the Federal Centers for Disease Control to track the prevalence of the AIDS virus.

The survey of these hospitals, which the agency refers to as "sentinel hospitals," analyzes how many patients admitted to the hospitals for illnesses other than AIDS are infected with the AIDS virus and thus likely to come down with the disease eventually. The findings are designed to reflect, as well as possible, the infection rate in the community that the hospital serves, Federal health officials said.

DISTURBING BUT EXPECTED

Dr. James W. Curran, the top AIDS official at the Federal Centers for Disease Control in Atlanta, said the high rates at the two hospitals in the New York-New Jersey area were disturbing but in line with what AIDS experts had expected to find in the communities struck hardest by the disease. He said the study was designed so that the infection rates at the hospitals would offer a rough approximation of the infection rates in the communities they served.

The survey did not find that one in every four New York City men from the ages of 25 and 44 was infected with the AIDS virus, as was widely but erroneously reported yesterday. That rate applied only to the area served by a northern New Jersey hospital. Nationwide, the median infection rate for all patients tested at the hospitals surveyed was 2 percent. Significantly, all hospitals in the study found some patients infected with the virus.

But markedly higher concentrations were found in the regions and the demographic groups where recorded AIDS cases are the highest.

The Federal agency has not released its final report on the study, technically called the sentinel hospital surveillance, and officials have been reluctant to discuss its findings.

But critical details have emerged in data made public by participating hospitals in the Bronx and Newark and by the New York City Department of Health on three unidentified city hospitals.

The blood samples were tested without personal identification of the patients, to avoid issues of consent and confidentiality.

In Newark, the University Hospital of the University of Medicine and Dentistry of New Jersey reported at the international AIDS conference in Montreal last year that its initial testing found an infection rate of 7.9 percent.

A recent issue of the institution's publication Healthstate reported that more than 3,000 specimens had so far been tested. Dr. Joseph M. Lombardo, who is supervising the testing, said the results were running a "consistent" 7 percent to 8 percent.

"This figure is disturbingly high," Dr. Lombardo said, "and this data, in part, has prompted a policy of offering voluntary HIV testing to all patients admitted to University Hospital."

Although University Hospital declined to reveal a detailed breakdown of its infection rates, other researchers said that 24 percent of the male patients aged 25 to 44 who were tested at one unidentified New Jersey hospital were infected with the AIDS virus.

Bronx Lebanon Hospital Center in the Bronx has also identified itself as a sentinel hospital and reported an infection level of about 6 percent over all. But the rate was about 19 percent among men aged 25 to 44, and 8 percent among women in that age group.

FEAR OF IMPENDING DISASTER

"We are rapidly reaching a point where we are going to have a disaster, especially if we do not get more Federal aid," said Dr. Jerome A. Ernst, who runs the AIDS program at Bronx Lebanon.

Both Bronx Lebanon and the University Hospital in Newark serve impoverished inner city neighborhoods with inadequate health services and a high rate of drug abuse, which is strongly linked to AIDS transmission.

New York City's Department of Health reported last week that three unidentified hospitals in the city were part of the survey and were finding infection rates of 1 percent, 3 percent and 6 percent.

Federal health officials sought yesterday to set the record straight on recent reports about the study.

The hospital study is part of the disease-control agency's "family of surveys" to measure the extent of infection with the AIDS virus. Other parts of the project include data on military recruits, prisoners, college students, newborn infants and their mothers and a household survey in Dallas.

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EXHIBIT 2

CENTERS FOR DISEASE CONTROL AIDS SURVEILLANCE FILE—LISTING OF METROPOLITAN AREAS TOTAL AIDS CASES AND PERCENT OF THE POPULATION AS OF 4/90

| | Metropolitan area of patients residence | Percent | Total AIDS cases | 1989 population estimate |
|---|---|---|---|---|
| ( 80) | Akron, OH | 0.012547 | 81 | 645,588 |
| ( 160) | Albany-Schenectady-Troy, NY | .030497 | 259 | 849,273 |
| ( 200) | Albuquerque, NM | .025611 | 131 | 511,489 |
| ( 240) | Allentown-Bethlehem, PA–NJ | .018655 | 126 | 675,419 |
| ( 360) | Anaheim-Santa Ana, CA | .042792 | 983 | 2,294,810 |
| ( 520) | Atlanta, GA | .091313 | 2,584 | 2,829,827 |
| ( 640) | Austin, TX | .068946 | 546 | 791,924 |
| ( 680) | Bakersfield, CA | .015687 | 83 | 529,091 |
| ( 720) | Baltimore, MD | .058825 | 1,378 | 2,342,533 |
| ( 760) | Baton Rouge, LA | .027247 | 149 | 546,856 |
| ( 875) | Bergen-Passaic, NJ | .082858 | 1,074 | 1,296,200 |
| (1000) | Birmingham, AL | .024527 | 228 | 929,586 |
| (1123) | Boston/Lawrence/Salem, MA NECMA | .057421 | 2,157 | 3,756,494 |
| (1163) | Bridgeport/Stamford, CT NECMA | .055724 | 457 | 820,111 |
| (1280) | Buffalo, NY | .019498 | 184 | 943,677 |
| (1440) | Charleston, SC | .034311 | 179 | 521,692 |
| (1520) | Charlotte-Gast.-Rock Hill, NC–SC | .022757 | 257 | 1,129,331 |
| (1600) | Chicago, IL | .050296 | 3,134 | 6,231,079 |
| (1640) | Cincinnati, OH–KY–IN | .017459 | 254 | 1,454,798 |
| (1680) | Cleveland, OH | .025860 | 476 | 1,840,680 |
| (1840) | Columbus, OH | .028676 | 386 | 1,346,065 |
| (1920) | Dallas, TX | .082080 | 2,138 | 2,604,774 |
| (2000) | Dayton-Springfield, OH | .019213 | 181 | 942,073 |
| (2080) | Denver, CO | .063012 | 1,069 | 1,696,492 |
| (2160) | Detroit, MI | .025078 | 1,094 | 4,362,378 |
| (2320) | El Paso, TX | .012779 | 77 | 602,549 |
| (2680) | Ft. Lauderdale-Hollywood-Pompano Beach, FL | .139848 | 1,677 | 1,199,160 |
| (2800) | Forth Worth-Arlington, TX | .033856 | 460 | 1,358,697 |
| (2840) | Fresno, CA | .023962 | 148 | 617,656 |
| (2960) | Gary-Hammond, IN | .011995 | 71 | 591,910 |
| (3000) | Grand Rapids, MI | .010950 | 74 | 675,779 |
| (3120) | Greensboro/Winston-Salem/H.Pt., NC | .020577 | 193 | 937,933 |
| (3160) | Greenville-Spartanburg, SC | .014134 | 88 | 622,613 |
| (3240) | Harrisburg-Lebanon-Carlisle, PA | .023448 | 138 | 588,533 |
| (3283) | Hartford/N. Britain NECMA | .039557 | 442 | 1,117,387 |
| (3320) | Honolulu, HI | .046296 | 394 | 851,042 |
| (3360) | Houston, TX | .112936 | 3,746 | 3,316,911 |
| (3480) | Indianapolis, IN | .028035 | 350 | 1,248,435 |
| (3600) | Jacksonville, FL | .060163 | 554 | 920,832 |
| (3640) | Jersey City, NJ | .265340 | 1,441 | 543,076 |
| (3760) | Kansas City, MO–KS | .048196 | 763 | 1,583,116 |
| (3840) | Knoxville, TN | .014654 | 88 | 600,509 |
| (3965) | Lake County, IL | .012069 | 62 | 513,713 |
| (4120) | Las Vegas, NV | .055112 | 350 | 635,067 |
| (4400) | Little Rock-N. Little Rock, AK | .024469 | 128 | 523,102 |
| (4480) | Los Angeles-Long Beach, CA | .099370 | 8,739 | 8,794,363 |
| (4520) | Louisville, KY–IN | .016684 | 162 | 971,016 |
| (4920) | Memphis, TN–AR–MS | .027349 | 271 | 990,889 |
| (5000) | Miami-Hialeah, FL | .170825 | 3,117 | 1,824,671 |
| (5015) | Middlesex-Somerset-Hunterdon, NJ | .068221 | 680 | 996,756 |
| (5080) | Milwaukee, WI | .018774 | 261 | 1,390,231 |
| (5120) | Minneapolis-St. Paul, MN–WI | .024292 | 583 | 2,399,951 |
| (5190) | Monmouth-Ocean, NJ | .051153 | 509 | 995,054 |
| (5360) | Nashville, TN | .028210 | 280 | 992,541 |
| (5380) | Nassau-Suffolk, NY | .051624 | 1,357 | 2,628,626 |
| (5483) | New Haven/Waterbury CT NECMA | .063660 | 508 | 797,985 |
| (5560) | New Orleans, LA | .084924 | 1,134 | 1,335,310 |
| (5600) | New York, NY | .290947 | 24,935 | 8,570,285 |
| (5640) | Newark, NJ | .188390 | 3,580 | 1,900,310 |
| (5720) | Norfolk-VA Beach-Newport News, VA | .024153 | 337 | 1,395,282 |
| (5775) | Oakland, CA | .074935 | 1,513 | 2,019,073 |
| (5880) | Oklahoma City, OK | .015297 | 152 | 993,672 |
| (5920) | Omaha, NE–IA | .016323 | 102 | 624,868 |
| (5960) | Orlando, FL | .052704 | 525 | 996,131 |
| (6000) | Oxnard-Ventura, CA | .018207 | 119 | 653,598 |
| (6160) | Philadelphia, PA–NJ | .054700 | 2,687 | 4,912,231 |
| (6200) | Phoenix, AZ | .038126 | 805 | 2,111,435 |
| (6280) | Pittsburgh, PA | .022435 | 463 | 2,063,784 |
| (6440) | Portland, OR | .050328 | 597 | 1,186,218 |
| (6483) | Providence/Pawtucket, RI NECMA | .032027 | 290 | 905,489 |
| (6640) | Raleigh-Durham, NC | .040795 | 285 | 698,618 |
| (6760) | Richmond-Petersburg, VA | .037518 | 317 | 844,922 |
| (6780) | Riverside-San Bernardino, CA | .032461 | 744 | 2,291,978 |
| (6840) | Rochester, NY | .030031 | 294 | 979,001 |
| (6920) | Sacramento, CA | .036922 | 518 | 1,402,944 |
| (7040) | St. Louis, MO–IL | .023876 | 594 | 2,487,863 |
| (7160) | Salt Lake City-Ogden, UT | .020865 | 229 | 1,097,521 |
| (7240) | San Antonio, TX | .045700 | 631 | 1,380,745 |
| (7320) | San Diego, CA | .073254 | 1,765 | 2,409,416 |
| (7360) | San Francisco, CA | .489781 | 7,894 | 1,611,740 |
| (7400) | San Jose, CA | .039475 | 568 | 1,438,902 |
| (7440) | San Juan, PR | .147617 | 2,305 | 1,561,478 |
| (7560) | Scranton—Wilkes-Barre, PA | .013539 | 99 | 731,238 |
| (7600) | Seattle, WA | .069418 | 1,284 | 1,849,667 |
| (8003) | Springfield, MA NECMA | .024726 | 145 | 586,416 |
| (8160) | Syracuse, NY | .019964 | 129 | 646,173 |
| (8200) | Tacoma, WA | .019787 | 111 | 560,966 |
| (8280) | Tampa-St. Pete.-Clearwater, FL | .060067 | 1,233 | 2,052,710 |
| (8400) | Toldeo, OH | .013434 | 82 | 610,400 |
| (8520) | Tucson, AZ | .031156 | 203 | 651,566 |
| (8560) | Tulsa, OK | .020992 | 157 | 747,917 |

CENTERS FOR DISEASE CONTROL AIDS SURVEILLANCE FILE—LISTING OF METROPOLITAN AREAS TOTAL AIDS CASES AND PERCENT OF THE POPULATION AS OF 4/90—Continued

| Metropolitan area of patients residence | Percent | Total AIDS cases | 1989 population estimate |
|---|---|---|---|
| (8840) Washington, DC-MD-VA | .095423 | 3,595 | 3,767,451 |
| (8960) W. Palm Beach-Boca Raton-Delray Beach, FL | .131235 | 1,112 | 847,332 |
| (9160) Wilmington, DE-NJ-MD | .035216 | 201 | 570,760 |
| (9243) Worchester/Fitchburg, MA NECMA | .019521 | 131 | 671,065 |

EXHIBIT 3

U.S. SENATE,
*Washington, DC, April 2, 1990.*

Hon. EDWARD M. KENNEDY,
*Chairman, Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.*

DEAR TED: When the Labor and Human Resources Committee marks up the Comprehensive AIDS Resources Emergency Act of 1990 this week, we urge you to include a provision that would enable the PMSA of Jersey City in Hudson County, New Jersey to qualify for Title I assistance.

Under the bill as drafted, the area does not qualify for Title I funding because it does not meet the 2,000 AIDS case threshold. However, Jersey City is clearly one of the most heavily impacted metropolitan areas in the country and is deserving of Title I aid. The PMSA of Jersey City currently has 1,428 AIDS cases. Its estimated population is about 550,000. This means that .26% of the population in Jersey City suffers from AIDS.

Jersey City's .26% incidence rate is higher than all but two of the areas that do qualify for Title I assistance under the bill. It is five times the incidence rate in Chicago, four times the incidence rate in Los Angeles, and two and a half times the incidence rate in Washington, D.C. Because of the extremely high numbers of AIDS victims in the area compared to the population, it is undeniable that the area is heavily impacted and in need of the kind of emergency assistance that would be available under Title I of the CARE bill.

Unlike many of the areas that will receive Title I assistance under the legislation, only one county is in the PMSA that includes Jersey City. For that reason, only the AIDS cases in that one county are counted toward the 2,000 threshold. At the same time, because of the Census Bureau's definition of PMSAs, other areas that qualify for Title I assistance can count AIDS cases from several counties—including a total population several times the size of Jersey City—to reach the 2,000 threshold. For example, the PMSA in which the city of Philadelphia is included includes eight counties, three of which are in my state of New Jersey.

We do not believe that Jersey City should be prevented from qualifying under Title I of the bill because the Census Bureau has included only one county in that particular PMSA. If for example, the PMSA in which Jersey City is located included two other counties, neighboring Bergen and Passaic Counties, nearly 2,500 AIDS cases would be attributed to the area, more than the 2,000 needed to qualify for Title I funding. The total population for the three counties—roughly 1.3 million—would still be less than the population of other PMSAs that are eligible for Title I assistance.

We propose that the Committee include language in the bill to provide assistance to any metropolitan area with a population of 500,000 or more with an incidence rate of AIDS that exceeds .2% of the population. This would enable the heavily impacted PMSA of Jersey City to qualify for assistance under Title I of the bill. No other areas would be added under Title I because San Francisco, San Juan, New York, Newark, and Miami—the only other areas that also meet that standard—already qualify under the 2,000 threshold. Making this modification to include Jersey City would certainly be consistent with the goal of providing assistance to the areas in greatest need.

The need for assistance in heavily impacted metropolitan areas like Jersey City is tremendous. Our cities and counties are struggling to provide sorely needed services to AIDS victims and their families. We applaud your initiative in developing the CARE legislation and were pleased to join as original cosponsors of your legislation. We hope you will agree that Jersey City is among those cities that are in greatest need and that we can work together to include the area under Title I of the legislation.

We appreciate your consideration.

Sincerely,

BILL BRADLEY.
FRANK R. LAUTENBERG.

EXHIBIT 4

U.S. SENATE,
*Washington, DC, April 19, 1990.*

Hon. HENRY A. WAXMAN,
*Chairman, Subcommittee on Health and the Environment, House Committee on Energy and Commerce, House of Representatives, Washington, DC.*

DEAR CHAIRMAN WAXMAN: When the Subcommittee on Health and the Environment marks up H.R. 4470, the AIDS Prevention Act of 1990, we urge you to include a provision that would enable the PMSA of Jersey City in Hudson County, New Jersey to qualify for Title III assistance.

Under the bill as drafted, the area does not qualify for Title III funding because it does not meet the 2,000 AIDS case threshold. However, Jersey City is clearly one of the most heavily impacted metropolitan areas in the country and is deserving of Title I aid. The PMSA of Jersey City currently has 1,428 AIDS cases. Its estimated population is about 550,000. This means that .26% of the population in Jersey City suffers from AIDS.

Jersey City's .26% incidence rate is higher than all but two of the areas that do qualify for Title III assistance under the bill. It is five times the incidence rate in Chicago and Philadelphia, three times the incidence rate in Dallas, and two and a half times the incidence rate in Washington, D.C. Because of the extremely high numbers of AIDS victims in the area compared to the population, it is undeniable that the area is heavily impacted and in need of the kind of emergency assistance that would be available under Title III of the bill.

Unlike many of the areas that will receive Title III assistance under the legislation, only one county is in the PMSA that includes Jersey City. For that reason, only the AIDS cases in that one county are counted toward the 2,000 threshold. At the same time, because of the Census Bureau's definition of PMSAs, other areas that qualify for Title III assistance can count AIDS cases from several counties—including a total population several times the size of Jersey City—to reach the 2,000 threshold. For example, the PMSA in which the city of Philadelphia is included includes eight counties, three of which are in my state of New Jersey.

We do not believe that Jersey City should be prevented from qualifying under Title III of the bill because the Census Bureau has included only one county in that particular PMSA. If for example, the PMSA in which Jersey City is located included two other counties, neighboring Bergen and Passaic Counties, nearly 2,500 AIDS cases would be attributed to the area, more than the 2,000 needed to quality for Title II funding. The total population for the three counties—roughly 1.3 million—would still be less than the population of other PMSAs that are eligible for Title III assistance.

We propose that the Committee include the attached language in the bill to provide assistance to any metropolitan area with a population of 500,000 or more with an incidence rate of AIDS that exceeds .2% of the population. This would enable the heavily impacted PMSA of Jersey City to qualify for assistance under Title I of the bill. No other areas would be added under Title III because San Francisco, San Juan, New York, Newark, and Miami—the only other areas that could also meet that standard—already qualify under the 2,000 threshold. Making this modification to include Jersey City would certainly be consistent with the goal of providing assistance to the areas in greatest need.

The need for assistance in heavily impacted metropolitan areas like Jersey City is tremendous. Our cities and counties are struggling to provide sorely needed services to AIDS victims and their families. We applaud your initiative in developing this legislation. We hope you will agree that Jersey City is among those cities that are in greatest need and that we can work together to include the area under Title III of the legislation.

We appreciate your consideration.

Sincerely,

BILL BRADLEY.
FRANK J. GUARINI.
FRANK R. LAUTENBERG.
ROBERT G. TORRICELLI.

EXHIBIT 5

CITIZENS COMMISSION ON AIDS FOR NEW YORK CITY AND NORTHERN NEW JERSEY,
*New York, NY, May 11, 1990.*

Re. The Comprehensive AIDS Resources Emergency Act of 1990, S. 2240.

Hon. EDWARD M. KENNEDY,
*Chairman, Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: On April 12, 1990, we sent you a letter strongly endorsing your efforts to pass the CARE bill, which will provide critical financial support to areas heardest hit by the HIV/AIDS epidemic. We continue to strongly support these efforts, as well as your attempt to deflect harmful and diverting amendments to this bill.

We have an additional concern about this proposal. Under Title 1, emergency funding is provided to metropolitan areas reporting at least 2,000 AIDS cases to the Centers for Disease Control. However, we urge you to modify this language to enable the PMSA of Jersey City to additionally qualify under this title. Jersey City has the third highest incidence of AIDS in the country; its incidence rate is surpassed only by New York City and San Francisco. With a population of approximately 540,000 and over 1440 re-

ported AIDS cases, the city has a incidence rate of 0.26 percent. While Jersey City would receive funding from the State of New Jersey under Title II, the rationale for targeting emergency assistance to cities under Title I—to assist localities disproportionately affected by HIV—applies equally to Jersey City. And because of its extremely high incidence rate, perhaps more so than most of the cities which meet the threshold of 2,000 cases.

We support the amendment recommended by New Jersey Senators Frank Lautenberg and Bill Bradley as follows:

On page 29, line 19, after the words "Disease Control," insert "or is a metropolitan area with a population of 500,000 or more with an incidence rate of AIDS that exceeds .2 percent of the population.

This lauguage rectifies the inequity of targeting funds to localities with the higest actual numbers of AIDS cases, while failing to sustain the city with the third highest rate of AIDS in the country. Furthermore, with the exception of Jersey City, this language would not result in having to add additional cities to Title 1.

Jersey City is desperately struggling to meet the health care and social service needs resulting from the epidemics of AIDS and drug use. Its hospitals, clinics, and community-based organizations are as overcrowded and underfunded as those of cities meeting the bill's current eligibility criteria. We strongly recommend that Jersey City be included in Title I among the localities in greatest need of federal assistance.

Sincerely,

GARY L. STEIN, Esq.,
*Policy Director.*

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NEW JERSEY HOSPITAL ASSOCIATION,
*Princeton, NJ, May 9, 1990.*

Hon. EDWARD M. KENNEDY,
*Russell Senate Office Building, Washington, DC.*

DEAR SENATOR KENNEDY: On behalf of our 119 member hospitals thank you for introducing S. 2240, the "Comprehensive AIDS Resources Emergency Act of 1990." Caring for AIDS patients places an extreme burden on hospitals, particularly those in our inner city areas. Your bill would provide the resources hospitals in New Jersey so sorely need.

However, as the bill is currently drafted, hospitals in Jersey City, Hudson County would be excluded from Title I assistance of that Act. If one looks at the per capita rate of AIDS in Jersey City, it becomes apparent that the area is one of the most heavily impacted metropolitan areas in the country.

During our most recent count, Jersey City had approximately 1,428 reported cases of AIDS. The city's population stands at about 550,000, which means 2.6 people of every thousand are infected. This 2.6 incidence rate is higher than all but two of the areas that do quality under the Title I provision.

I respectfully ask that you support Senator Frank Lautenberg's amendment which would make hospitals in this heavily impacted area eligible for the resources they need.

Thank you for your consideration.

Sincerely,

LOUIS P. SCIBETTA, FACHE,
*President.*

HOBOKEN, NJ, *May 9, 1990.*

Hon. EDWARD M. KENNEDY,
*Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.*

DEAR KENNEDY: I am writing to you regarding the Comprehensive AIDS Resources Emergency Act of 1990, specifically that you include a provision to provide funds to the Jersey City/Hudson County, New Jersey area. I know that Sen. Lautenberg's office has spoken to you about this issue, but has not succeeded in convincing you to make the requested change in the CARE Act. I'd like to add my support to their position.

I have lived in Hudson County, New Jersey for the last four years. I have also worked with ACT UP/New York for the last three years. I currently work for the American Foundation for AIDS Research (AmFAR). In other words, I'm well versed in the complexities of AIDS and am familiar with the situation in Hudson County. Quite simply, it is the worse-case AIDS scenario. Most of Hudson County's people with AIDS and people who are HIV-positive are IV drug users, yet there is almost no available addiction treatment in the area. There is very little public education about AIDS, so that the sex partners of these people do not know how to protect themselves or, in many cases, that they even need to protect themselves. And because most of these people are poor, the health care they already receive is inadequate to begin with.

You may be saying, "We sympathize, but we can't give money to every city in the country. If we make an exception for Jersey City/Hudson County, we'll have to make exceptions for the constituents of every other Senator." The problem with this reasoning is that granting funds to Jersey City is not making an exception; it is correcting an error in the process by which cities and areas were chosen to receive Title I funds. As Senators Lautenberg and Bradley have pointed out to you, Jersey City has the third highest AIDS incidence rate in the country. That it doesn't qualify for Title I funds under the CARE Act is a result of the rather aribitrary way in which the Census Bureau chose to designate PMSAs, and the fact that you chose to use PMSAs as the basis for determining which cities and areas would receive funds. In most cases, your system works. But because Jersey City's PMSA is unusually small, it has a much smaller population then other PMSA's and so it's AIDS caseload doesn't reach the cut-off level of 2,000. However, as has been pointed out to you, if the two neighboring counties of Bergen and Passaic were included, this area of New Jersey would have 2,500 AIDS cases, making it eligible for Title I funds.

Please do not let an arbitrary quirk of the Census Bureau keep you from fulfilling the stated goal of the CARE Act; to provide emergency funds to those cities in the U.S. hardest hit by the AIDS epidemic. By an rational standard, Jersey City qualifies. And if you want, and deny Jersey City the help it needs, its AIDS caseload wil rise above your cut-off line much faster than it has to.

Thank you for your attention.

Sincerely,

DAVID ROBINSON.

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JERSEY CITY MEDICAL CENTER,
*Jersey City, NJ, April 26, 1990.*

Hon. EDWARD M. KENNEDY,
*Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: As the CEO of a 450 bed, urban teaching hospital in Hudson County, New Jersey, which serves a large AIDS population, I am acutely aware of the increased need for federal assistance for this epidemic and strongly support your proposed legislation. The Comprehensive AIDS Relief Emergency Act of 1990 (CARE) addresses the most critical needs of many institutions and cities in the nation which are providing the majority of care to patients with Acquired Immune Deficiency Syndrome (AIDS) and AIDS Related Complex (ARC). However, I feel that the methodology utilized to determine the areas which would quality for Title I funding should be amended as was proposed by New Jersey Senators Frank Lautenberg and Bill Bradley.

While all states in the nation have now been affected by the AIDS crisis, New Jersey is one of the five states which comprise 70 percent of all AIDS cases nationally. In addition to the 8,000 AIDS cases reported in New Jersey since 1981, it is estimated that there are another 50,000 to 70,000 persons who have been infected by the virus. Jersey city, a municipality of 204,000 and largely comprised of poor minority groups, has identified over 1,000 AIDS patients. The PMSA which includes Jersey City has a total population of 550,000 and 1,428 reported cases of AIDS. This represents an incidence rate of 0.26 percent of the population. Under the guidelines of your legislation, funding would only be provided to discrete areas with over 2,000 cases of AIDS. This methodology results in funding cities with much lower rates. Out of the thirteen (13) areas designated to receive the proposed funds, only two areas have higher per capita rates of HIV illnesses greater than that found in Jersey City. Only one other area has a more rapid rate of spread of the disease.

As an area so heavily populated with AIDS patients, the financial stress on Jersey City Medical Center is overwhelming. The Medical Center maintains an average AIDS inpatient census of 50 patients. Through 1988 the cost of providing inpatient services to AIDS patients exceeded what the Medical Center was reimbursed by $2 million. It is very difficult for an inner city institution like Jersey City Medical Center to underwrite this much care when our community has a multitude of other, equally threatening health care problems. In addition to providing the majority of inpatient care to AIDS patients in Hudson County, Jersey City Medical Center provides outpatient services to over 600 adult and 100 pediatric patients who are HIV positive. Given the complex medical and social needs of our patients, the need for primary care, case management and drug treatment programs is essential. The majority of the HIV patients managed at our facility are poor, minority and substance abusers. While the need for case management services to facilitate coordination between primary care, drug treatment and home care, when indicated, is clear, it is difficult to afford. Current staffing includes 3 Registered Nurses, 3 physicians and 3 case managers. Not only is there limited funding for staff expansion, but our physical space is inadequate and antiquated. Overcrowding in the Medical Center's Infectious Disease Outpatient Clinic has interfered with the institution's ability to provide quality care to all those in need.

As a recipient of a state and federally funded Treatment Assessment Program (TAP) grant, the number of patients seen in our clinic has increased rapidly. While we

enrolled 450 people in the first three months of operation, and continue to see an average of 5-7 new patients each week, there is almost no funding for capital improvement provided in this grant. Without additional operating and capital funding to expand our current services and allow for the development of others, AIDS care will continue to be compromised. The possibility of having to discontinue some of our AIDS services so that the Medical Center can maintain its fiscal solvency is real, and has been discussed with the State of New Jersey Department of Health. If this occurs, patients will become sicker and will become more frequent utilizers of acute care and emergency services, resulting in a more costly drain on both the State and Federal government. HIV service provision has finally begun to make significant strides in the past few years, in part due to the effects of early intervention and prophylactic treatment. To deny provision of these essential services would mark a return to earlier years, when the most efficient and effective care was unknown and the epidemic seemed uncontrollable.

It is essential that we all work together to provide effective and efficient health services to HIV patients. The State of New Jersey has been very generous in its financial support of AIDS programs and services in an era of tight financial resources. However, New Jersey has other areas which have large AIDS populations, although not as severe as incidence rate as Jersey City. The State should not be the sole provider of funding. Individuals need increased federal assistance in planning and implementing these essential programs. Without federal support, we will continue to "put out fires" but never gain control over the entire epidemic. I appreciate your effort to augment federal support for AIDS care and focus on the epidemic. However, without consideration for area-wide incidence rates, the proposed initial funding distribution is inequitable. Hospitals such as Jersey City Medical Center, serving a large, indigent, medically and socially needy population, cannot continue to meet the needs of its current and anticipated HIV patient population without increased federal involvement.

Consequently, I strongly support your 1990 CARE bill but am concerned that the amendment proposed by Senators Lautenberg and Bradley did not pass in the Senate. I understand that Representative Henry Waxman has introduced a companion bill in the House of Representatives. It is my hope that Chairman Waxman will recognize the needs of smaller Metropolitan Statistical Areas with high AIDS incidence rates (i.e. over 0.20 percent) and that House Resolution 4470 will include a provision to provide funding to regions, such as Jersey City.

I would be honored to visit you in Washington to review in greater detail the status of HIV services and programs at Jersey City Medical Center and the need for increased federal support for this critical problem.

Thank you for focusing attention on the AIDS problem, especially as it relates to the unique demands placed upon urban health care providers.

Sincerely,

JONATHAN M. METSCH, DR.P.H.
*President & Chief Executive Officer.*

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COUNTY OF HUDSON,
OFFICE OF THE COUNTY EXECUTIVE,
*Jersey City, NJ, April 3, 1990.*

Re: S. 2240

Hon. EDWARD M. KENNEDY,
*Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: On behalf of the residents of Hudson County and particularly those who suffer from the AIDS virus, I commend your sensitivity and compassion as expressed through your sponsorship of the Comprehensive AIDS Resources Emergency Act of 1990.

The Current draft of the legislation, however, would offer neither assistance nor hope to the thousands of AIDS impacted families in our community. On their behalf, I urgently request that you consider amendment of the bill as suggested by Senators Bradley and Lautenberg via their letters of April 2, 1990, (enclosed).

Hudson County is the most densely populated County in America. Some 540,000 residents occupy 46 square miles producing a density of 12,000 per square mile. As an older urban center, our community is excessively stressed by poverty and a broad variety of related social and health problems. This past year, Hudson County and Jersey City achieved the sad distinction of achieving the rank of second in the nation in per capita incidence of AIDS.

Between 1988 and 1989, the number of AIDS cases increased by 78%. At the present time 1 of 100 infants are born with this deadly disease. Generally, our AIDS population, unlike several other urban centers, is a result of drug abuse.

During the past year my administration, in cooperation with the City of Jersey City and a broad variety of community-based health care agencies, competed successfully for grant dollars to combat the AIDS menace. After several years of frustration, we succeeded in this national competition this year. The Hudson County Aids Consortium became one of seven grants given in 1989 as awarded by the Health Resources Services Administration (HRSA), Bureau of Maternal and Child Health Care.

In addition, Hudson County has become a part of the AZT research project, sponsored by the National Institute of Health (NIH), and has undertaken a Perinatal Aids Project (PAP) in response to our alarming member of infant cases.

We have certainly come a long way in crafting broad-based community involvement and unprecedented cooperation between levels of local government. Still, we have a long road ahead. We desperately need your help.

As outlined by Senators Bradley and Lautenberg, .26% of our population has been affected by AIDS. This per-capita measure of community impact is 5 times that of Chicago, 4 times the incidence rate in Los Angeles, and 2½ times the rate in Washington, D.C. These statistics offer irrefutable proof of the pressing community emergency which exists here. Title I of the bill is our only hope.

The proposed modification would provide much needed relief to Hudson County and I understand that all other areas impacted by the formula change already qualify for support under other provisions of the legislation.

On the eve of the mark-up, this plea and your willingness to assist, is our last hope.

Thank you for all that you have done for urban America in the past. I trust that you will continue to respond in crafting much needed relief and assistance in the future.

Sincerely,

ROBERT C. JANISZEWSKI,
*Hudson County Executive.*

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H. D. AUERBACH,
*May 11, 1990.*

Hon. EDWARD M. KENNEDY,
*Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: I want to take this opportunity to thank you for the leadership role you continue to play in the AIDS crisis that our country is currently facing. I am especially appreciative of your sponsorship of the Comprehensive AIDS Resources Emergency Act of 1990 (C.A.R.E.). As a resident of New Jersey and an advocate of human rights issues, there is one area that I feel should be modified. I refer to the provision for qualifying for Title I funding. As presently written, Jersey City fails to qualify under the bill for this assistance.

Statistically, Jersey City's population is 550,000 and reports 1,428 AIDS cases, which under the current draft does not meet the 2,000 case threshold of the bill. These figures, however, equate out to .26% incidence rate which is higher than all but two of the areas qualifying for Title I funds with larger populations. Due to a series of unique circumstances concerning a population of only 550,000 and a census reporting system that has Jersey City as part of only one county, it is left "out in the cold."

A simple modification to the language of the bill to provide assistance to any metropolitan area with a population of 500,000 or more with an incidence rate exceeding .2% of the population would rectify this inequity.

You are well known for your sense of compassion and fairness, and I would ask you to apply those qualities in considering this modest amendment to the bill.

Again, I want to commend and thank you for your long standing work in the area of AIDS. Your championship is appreciated by all Americans who are touched by this epidemic.

Thank you in advance for your consideration.

Sincerely yours,

WARD AUERBACH.

Mr. JOHNSTON. Mr. President, I take this opportunity to clarify an aspect of this legislation that is important to the city of New Orleans and the State of Louisiana. Within title II of this act, up to 10 percent of the funds are reserved for special projects of a national significance. One of the projects delineated concerns the establishment of an incentive system designed to increase the number of health care facilities willing and able to serve low-income individuals and families with HIV disease. Can the Senator explain what the committee had in mind when drafting this provision.

Mr. KENNEDY. Yes. It is the intent of the committee to employ creative techniques for decreasing the burden placed on the small number of institutions currently caring for the bulk of people living with AIDS. A recent study done by the National Public

Health and Hospital Institute found that less than 4 percent of U.S. hospitals were caring for more than 50 percent of the country's people with AIDS. As you have told the committee, this has been a particular problem for institutions such as Charity Hospital in New Orleans. Because of the fine care delivered at Charity and because of its commitment to serving all citizens of Louisiana regardless of their ability to pay—Charity Hospital is currently on the brink of collapse. We have been informed that Charity Hospital is currently exploring innovative approaches to enhance the availability of HIV care services in other urban and rural hospitals, reducing the distances people must travel to obtain needed health care. The committee would find a project that allowed Charity physicians to provide specialized care through a network of local or regional clinics to be an extremely worthwhile use of these funds and in line with the committee's intent.

Mr. JOHNSTON. Does Senator HATCH agree?

Mr. HATCH. I certainly agree with Senator KENNEDY's explanation. The committee wishes to continue to find ways to deliver high quality health care services in both small towns and rural areas. Because the care of AIDS patients often involves highly specialized treatment, people who do not live near major medical institutions often find themselves traveling a considerable distance during an acute episode of illness. To the extent that hospitals, such as Charity Hospital in New Orleans, can use these funds to send a physician on the road who helps enhance the capacity of local hospitals to respond, the pressure on their own institution will be diminished. The committee believes that this is sound policy from both a fiscal and health care delivery perspective.

Mr. JOHNSTON. I thank the managers for their explanation, and I look forward to working closely with them to ensure that New Orleans and all of Louisiana receives the assistance it needs to provide quality care to its citizens with AIDS.

Mr. KENNEDY. I would like to thank Mr. JOHNSTON for his comments. The Senator from Louisiana has also made another valuable contribution in bringing to the attention of this committee the importance of using relative per capita income as a factor in determining programmatic needs at the State and local level.

CARING FOR THE TERMINALLY ILL

Mr. DANFORTH. Mr. President, Walker Percy, the great literary figure whose passing we have mourned this week, pointed out a paradox in our modern world: "that the more science progresses and even as it benefits man, the less is said about what it is like to be a man living in the world."

Walker Percy's wise words can be applied to the way we care for our terminally ill. So often, we do not care for people who are dying, we try to cure them. Advances in medical technology have allowed us to provide hope and life to those who, 50 years ago, would never have been able to survive critical illnesses. And this fact should be celebrated. But our capabilities have also brought us to the absurd point of prolonging life without paying attention to whether that is what is best for or wanted by the patient—without asking what it is to be that person living in the world.

In the year I was born, most people died at home in the company of their families and friends. Now, in this country, 80 percent of people die in hospitals and other medical facilities. AIDS patients are not an exception to this trend. Hospital-based treatment is a primary and often only source of care for people with AIDS. But hospitalization is costly, and more importantly, it is often not what is best for or what is wanted by the patient, especially in the last months of life. I have seen many people at the end of their lives. Often, without asking for it, they have been hooked up to machines, having procedure after procedure done to them. That is the way the system works.

Mr. President, the Comprehensive AIDS Resources Emergency [CARE] Act of 1990 goes a long way in promoting options other than hospitalization: early intervention, case management, community and home-based options for AIDS patients. Although the bill does not specifically mention hospice care in title I, I hope that hospice care will be included in the definition of home care and subacute long-term care facilities eligible to receive funds.

Hospice care, a house of rest, provides a caring and supportive setting, an alternative to intensive and critical care, for dying patients.

There are barriers to receiving hospice care. Twenty-seven State Medicaid programs do not pay for hospice care. Almost half of all AIDS patients—44 percent are Medicaid recipients. We are denying AIDS patients in those States the option of choosing to spend the last months of their lives in a supportive and nontechnological setting.

States should be required to include the hospice benefit in their Medicaid State plan. Congressman PANETTA has a bill in the House—H.R. 3935—that would mandate this benefit, and I think this is a good idea.

Twenty-three States do include hospice in their Medicaid Program. Yet even in States where Medicaid will reimburse for hospice care, hospice are being overwhelmed by the AIDS crisis. They simply cannot serve all those with AIDS who wish to become hospice patients. I want to ensure that hospices in all States will benefit from the emergency funds being provided in this important legislation.

We must do whatever we can to allow people who are terminally ill to decide how much treatment they want and where they want to be. For most AIDS patients, the end of life comes at a tragically young age. From being vital and healthy, people with AIDS move rapidly to being frail and ill. The final tragedy comes when all choice and dignity are wrested from them.

Senator MOYNIHAN and I have legislation in the Finance Committee, on which we will soon hold hearings, that would require many of the facilities receiving money under this legislation—hospitals, nursing homes, clinics, and home health agencies that receive Medicare and Medicaid—to tell patients about how they can ensure that their wishes will be respected. AIDS patients who want to spend their last months outside the hospital without any intrusive medical care should know that they can execute living wills, they can appoint someone close to them to make decisions when they no longer can decide for themselves, and they can choose to be cared for in a hospice setting.

There is a wonderful little book written by the Dominican Nuns of Our Lady of Perpetual Help Home in Atlanta, GA, called "A Memoir of Mary Ann." The Dominician Nuns tell the story of a litle girl in their hospice, who was born with a tumor on the side of her face, "one eye had been removed, but the other eye sparkled, twinkled, danced mischievously, and after one meeting one never was conscious of her physical defect but recognized only the beautiful brave spirit and felt the joy of such contact." At the age of 3, Mary Ann was given 6 months to live. All heroic measures to try to save her life were abandoned, and she then spent the next 9 years in Our Lady of Perpetual Help Home where she died at the age of 12. In her 9 years at this hospice, caring for Mary Ann meant making her happy, not making her well. The sisters who cared for Mary Ann would have thought it a tragedy if her short life were filled with extensive hospital stays and intrusive procedures that would have dimmed her sparkle and would ultimately have proved futile.

Many AIDS patients would echo the sentiment of the Dominican Nuns, and of a character in Alexandr Solzhenitsyn's novel, "Cancer Ward," who said,

> What, after all, is the highest price one should pay for life? How much should one pay, how much is too much? * * * to save one's life at the cost of surrendering everything that gives it color, flavor, and sparkle * * * isn't that an exorbitant price?

AIDS patients, all patients, should be given the opportunity, if they wish, to look at their lives with steady eyes

and to decide what kind of care they do or do not want for themselves. I hope that the CARE legislation before us today will help provide those opportunities to AIDS patients through providing assistance to hospice programs throughout the country.

I would like to thank the managers of the bill for their work in developing this critical and comprehensive AIDS legislation and I would like to ask the managers if they intend for hospice programs to be eligible for funds both in title I and title II of this legislation. Will hospices be eligible under title I to be a part of the HIV Health Services Planning Council and to receive grants to institutions, and under title II, will hospice programs be eligible to be part of the HIV Care Consortia and to receive grants for home and community-based care?

Mr. MACK. Mr. President, I want to first commend the managers of this bill for the leadership they have provided in bringing the plight of health care providers assisting persons with AIDS to the forefront of the Senate's attention. I have received numerous letters from doctors, nurses, hospital administrators, and other health care professionals throughout Florida expressing the critical need for this type of legislation.

Mr. President, I would like to clarify one point regarding this legislation as it applies to an important component of our Nation's health care system. I believe S. 2240 contemplates a comprehensive approach to the HIV epidemic. I want to clarify that, along with inpatient hospitals, alternative health care organizations who are providing comprehensive care management and those organizations which develop and coordinate such comprehensive HIV care systems are to be included within the provisions of this act.

It is vitally important that health care providers and other health care organizations work together to address the unique needs of each individual. As a necessary extension or alternative to the care given at hospitals, there are various health care providers and organizations which are providing comprehensive case management and care delivery. Many such organizations operate their own inpatient facilities and provide home health care through their own employees. These providers employ such professionals as physicians, nurses, social workers, and counselors.

In addition, there are charitable organizations which have demonstrated experience in AIDS counseling and in the research, development and coordination of alternative comprehensive health care systems for HIV patients. My home State of Florida, and specifically the south Florida area, has been particularly hard hit by the AIDS epidemic. One hospice care organization in this area has funded and developed the largest hospice-type inpatient and home care program for persons with AIDS in the United States.

I believe it is critical for hospice programs to be an integral component of this legislation's provisions. For example, the chief elected officials who will be appointing the HIV health services planning councils as outlined in title I should have the option to include hospice care providers, particularly those with experience in caring for persons with AIDS, as well as other organizations, while not necessarily providers per se, that have experience in developing and coordinating alternative comprehensive care systems for AIDS patients.

I want there to be no doubt that these organizations be included for consideration as full participants in the HIV grant programs. The bill uses terms such as "health care service providers," "community-based service organizations," "community health center," "outreach services" and the like. Further, the committee report on S. 2240 highlights, as a committee goal, the participation of hospice care facilities in a multitiered system to be a part of the development and operation of community-based consortia.

Am I correct in concluding that alternative health care providers of comprehensive home and inpatient care such as hospice organizations, visiting nurses associations and home care agencies, as well as nonprovider organizations which develop and coordinate comprehensive care programs for AIDS patients, are intended to be included in this bill as full participants in the HIV planning councils, and the grant programs as well as the other provisions in S. 2240?

Mr. KENNEDY. Mr. President, I thank the Senators from Missouri and Florida for their support for this legislation and for bringing this important aspect of a comprehensive continuum of care to the attention of the full Senate.

It is the committee's intent that hospice programs serving individuals with HIV disease be eligible under the provisions of this act. Further, it is the committee's intent that organizations that have been on the front lines assisting in the development, organization, and coordination of services for individuals and families with HIV disease, be eligible under the provisions of this act.

This legislation is about care, it is about options, and it is about a tradition of caring for those who are sick with dignity.

As the Senators have indicated, hospice programs play an important role in providing humane care to individuals with AIDS in the final stages of the illness. I encourage their participation.

Mr. MURKOWSKI. Mr. President, I had intended to offer an amendment to S. 2240 which would have required the transfer of certain funds authorized under this bill to the Department of Veterans Affairs [VA] for the treatment of veterans with AIDS.

In lieu of offering this amendment, I will speak briefly about VA's role in treatment of AIDS patients and discuss the possibility of VA obtaining funds provided under S. 2240.

Simply put, VA treats about 7 percent of the AIDS patients in our Nation. In fact, the VA's AIDS program is the largest single source of direct health-care services available in the United States. At the end of fiscal year 1989, 7,319 cases of AIDS had been reported by 148 VA medical facilities—2,246 of these cases were reported in 1989 alone. If VA continues to treat 7 percent of the AIDS population, they could treat about 27,000 AIDS patients by 1993.

Thus, the VA is part of our Nation's treatment response and should be considered when funding for AIDS is discussed. AIDS is one of the most serious health threats to or Nation. However, VA's role cannot be considered in isolation but must be part of a national response.

VA spent some $165 million in fiscal year 1990 for AIDS treatment and that will rise to $215 million in fiscal year 1991. This amount is not, however, new moneys. The resources will be shifted from the care of other veteran patients.

In the committee's budget views and estimates, the majority of members of the committee recommended direct funding of the additional AIDS care costs rather than relying on VA facilities producing the necessary resources through cutbacks in care to other veterans. In addition, the independent budget of the major veterans service organizations recommended an additional $60 million for the treatment of veterans with AIDS.

As I previously stated, I will not offer my amendment. However, it is my understanding that under the pending bill, a State could provide moneys to VA medical facilities if they so desired. I want to clarify this issue with Senator KENNEDY.

Mr. President, I ask Senator KENNEDY, if my description of the bill with regards to VA is accurate.

Mr. KENNEDY. Yes.

Mr. MURKOWSKI. I thank the Senator. If this legislation is enacted, I will encourage VA officials to work with the States to see if some money could be utilized in VA hospitals—especially in those geographic regions with the largest percentage of AIDS patients.

THE AIDS EPIDEMIC IN SAN DIEGO

Mr. CRANSTON. Mr. President, I would like to ask the chairman of the Labor Committee, Mr. KENNEDY, for his assistance regarding a certain pro-

vision that concerns eligibility for funding under title I. I recognize the difficult task the chairman was faced with in deciding how to distribute funds under both title I and II to ensure that the needs of various cities and communities are met, so that assistance is targeted to the cities hardest hit by the epidemic as well as to cities where disaster is looming. I believe the committee arrived at a reasonable balance, and I congratulate the chairman.

However, as I know the chairman is aware, San Diego presents a rather unique and difficult situation. San Diego County's case load falls just short of the eligibility requirements for funding under title I. Yet, it is experiencing a rapid increase in AIDS cases. In addition, because San Diego often provides medical and social services to HIV-exposed Mexican nationals and to military personnel who may be temporarily stationed in San Diego, the official numbers may be a serious underestimation of the county's load. Although, I recognize that it was not possible to open up eligibility under title I of the Senate bill for this year, I understand that the House Energy and Commerce Committee adopted an amendment to allow metropolitan areas that have 2,000 reported cases by June 1 of fiscal year 1991 to qualify for assistance. This would permit San Diego to be eligible.

I would like to ask the distinguished chairman of the Labor Committee whether, given the unique circumstances of San Diego and its urgent need for direct assistance, he would agree to the House position in conference.

Mr. KENNEDY. I share the concerns raised by the Senator from California [Mr. CRANSTON] about the special circumstances that confront San Diego and want to assure him that I think the amendment he described would be a constructive addition to the bill and will do everything I can to support that position.

Mr. CRANSTON. I thank the Senator.

Mr. WILSON. Mr. President, I want to associate myself with the remarks of my colleague from California, Mr. CRANSTON. As Senator CRANSTON notes, the area of San Diego presents a unique and difficult situation. Not only does its caseload place it just short of eligibility for title I funds, but it is faced with the daily challenge of providing medical and social services to HIV infected military personnel and Mexican citizens.

I appreciate the recognition of the Senator from Massachusetts, [Mr. KENNEDY], of the special circumstances that face San Diego and his willingness to support in conference the House Energy and Commerce Committee amendment that would permit San Diego to be eligible for direct assistance under title I.

Mr. President, I would also like to ask the chairman of the Labor Committee, Mr. KENNEDY, for his clarification of the committee's intent as it relates to providing assistance to areas with caseloads between 1,000 and 2,000. As the chairman well knows, high incidence areas not eligible for title I funds—such as Oakland, San Bernadino/Riverside and Orange County in California—are challenged daily to meet mounting demands with limited resources.

I would like to ask the distinguished chairman of the Labor Committee the extent to which he believes States should give special consideration to these burdened localities in the distribution of title I.

Mr. KENNEDY. I share the concerns raised by the Senator from California [Mr. WILSON]. The committee recognizes that areas with between 1,000 and 2,000 reported AIDS cases face a disaster that is unfolding daily and thus specifically directs States to give priority to such localities in the distribution of title II funds.

Mr. WILSON. I thank the Senator and congratulate Senator WILSON and our colleague from Utah, Senator HATCH, for their leadership of this important bill.

Mr. BIDEN. Mr. President, I opposed the amendment offered by Senator HELMS which would have made it a Federal crime for an individual to donate blood, semen, organs, tissue, or other bodily fluids, if that individual knew he or she was infected with the human immunodeficiency virus [HIV], or if he or she had used intravenous drugs or had engaged in prostitution on or after January 1, 1977.

Even though I believe that it should be a Federal crime to knowingly and intentionally transmit HIV, the Helms amendment could have subjected to criminal prosecution individuals who were unaware of being infected. This could have had terrible repercussions. For example, a parent, who at one time engaged in prostitution or I.V. drug use, but had stopped, might donate blood or an organ to save his or her child's life. If that individual was unaware of being infected with HIV, I do not believe he or she should be subjected to criminal prosecution.

Mr. SPECTER. Mr. President, the bill before us today is an important first step in assuring that care will be provided to individuals and families with HIV disease. S. 2240, the Comprehensives AIDS Resources Emergency Act of 1990, authorizes $600 million in each of fiscal years 1991 and 1992 to improve the quality and availability of care to individuals and families with HIV disease. This objective is accomplished in two ways.

First, the legislation provides $300 million in emergency assistance grants to cities that have reported 2,000 or more cases of AIDS since 1981. Thirteen cities, including Philadelphia, currently qualify for such grants. Cities must use these funds to assist public or private nonprofit health facilities that serve a disproportionate share of low-income people with HIV disease. Some of these funds may also be used to assist community-based agencies that provide case-managed health and support services, and to renovate residential or long-term care facilities.

Second, the legislation authorizes $300 million primarily for a block grant to States to improve HIV care in rural and urban areas. States may use these funds to establish HIV care consortia, provide home and community-based services, provide HIV therapies to low-income people, integrate diagnosis of HIV disease and early intervention with existing primary care and support services, and develop and support mechanisms to assure continued health insurance coverage for people with HIV disease. Fifteen percent of a State's allocation must be set aside to fund services to infants, children, women, and families.

I am particularly pleased that S. 2240 has retained my provision that "family centered" care be provided to infants, children, women, and families with HIV disease. Data from the Centers for Disease Control show that of the 132,510 cases of AIDS diagnosed in this country, over 36,000 of these cases could necessitate family centered services. A review of the 36,000 cases in question indicate that over 24,000 adult males and over 10,000 women contracted the AIDS virus through intravenous drugs use or heterosexual contact. Children under 13 account for the remaining 2,258 cases.

Individuals engaging in high-risk behaviors such as drug use or having multiple sex partners represent an alarming increase in the number of people with HIV disease. Women who are drug users and who prostitute themselves for a fix, women who are the sexual partners of intravenous drug users [IVDU's], men who are IVDU's who have sexual relations with women, and individuals who have multiple sex partners increase the risk of spreading the AIDS virus and of producing children who may become infected. In some instances these children are abandoned and become "boarder" babies in hospitals until they can be placed in foster care or a group home setting. Sometimes, however, the mother or both parents may want to maintain a family structure and care for the child. The problems faced by these families in their attempt to receive community-based, coordinated, comprehensive services which address the health and social service needs of both adults and chil-

dren are tremendous. Providing care that focuses on the needs of the family—services that help these families stay together as long as possible is vital, as this Nation attempts to cope with the changing demographics of AIDS.

Providing services to infants, children, women, and families with HIV disease is the subject of S. 896, the Pediatric AIDS Resource Centers Act legislation which I introduced on May 2, 1989. S. 896 authorizes $100 million to fund consortia to provide health and social services to children and families with AIDS. The services which I outlined in S. 896 have been incorporated into the mix of services to be provided under S. 2240.

Mr. President, providing services to infants, children, women, and families with HIV disease presents major challenges to local service delivery systems. Traditionally, AIDS related services have been targeted to adult males. Under the leadership of the Office of Maternal and Child Health, however, successful demonstration programs have been funded throughout the country that are providing services targeted to children and families. It is hoped that these service models will be expanded through the resources provided in S. 2240.

Mr. President, I urge my colleagues to vote in favor of this important bill.

Mr. KENNEDY. Mr. President, before that time, I wish to make some final comments about this legislation.

First of all, I want to commend my colleague and friend, the Senator from Utah, for the very substantial contribution he made in the formulation of this legislation and for all the work he has been involved in during the course of the debate during these past few days in helping to bring light to many of these matters which have been in dispute, rather than bring fire. His involvement in the debate and the discussion has, I think, brought a much greater understanding to all of our Members about the various provisions included in this legislation. I acknowledge his very extraordinary contribution to the fashioning and the shaping of what, hopefully, in a few moments will be a successful passage of the legislation.

Mr. President, I commend the Senate for facing up to its responsibility on approving this long overdue legislation. It offers the real possibility that Congress is at last prepared to deal realistically with the worsening crisis in our health care system because of the AIDS epidemic. By providing emergency relief to the cities hardest hit by AIDS, and substantial assistance to all States for more effective and more cost-efficient health care services for infected individuals, we are acting in the best interests of the Nation—by fighting AIDS and not people with AIDS.

The AIDS epidemic is now a disaster as devastating as any natural catastrophe that has ever afflicted the Nation. For nearly a decade, we have debated ideological considerations, and we have ignored the warning signs. Now, at last, the vast majority of the Senate is prepared to put ideology aside, and take the steps needed to deal effectively with this crisis—before it overwhelms our health care system.

I commend the Senate for dealing wisely and sensitively with this issue, and for rejecting extremist proposals that would only make the problem worse. Slowly but surely, all of us are learning what it takes to win the battle against AIDS, and the Senate deserves great credit for the progress we have just made.

Mr. President, I want, at this time, to recognize some of the individuals on the staff. Senator HATCH may comment about his own staff, but I want to state my own personal appreciation to Nancy Taylor, Sue Whitaker, and Judy Lewis. They are find and caring health care staff. It always appears to me when Senator HATCH and I agree to work together, these staff people are virtually interchangeable, in terms of both their working together and being of help and assistance to all the members of our committee. We truly are benefited by some of the really more talented members of the U.S. Senate staff that work on these health issues.

On my own staff, I would like to mention Michael Iskowitz, Terry Beirn, Deborah Von Zinkernagel, Cheron Morris, Nick Littlefield, Joel Ginsberg, Claire Feinson, and Steven Keith, who all have been enormously helpful.

I would like to recognize the major contributions made by Senators CRANSTON and SPECTER who each introduced legislation which has been drawn upon to develop the Ryan White AIDS CARE Act. Staff members Barbara Masters and Eartha May Isaacs worked to help us. Of the many people and organizations who worked so hard to shape the critical legislation, two individuals deserve special recognition: Mrs. Jeannie White worked to build support for this measure named for her son Ryan, and Tom Sheridan of the AIDS Action Council has been tireless in his efforts coordinating the activities of the more than 140 organizations of NORA, the National Organizations Responding to AIDS.

To those, to all the members of our committee, Democrat and Republican, to our majority and minority leaders, we are very much in their debt. We look forward to the House taking action and moving this legislation forward to its next step.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH.]

Mr. HATCH. Mr. President, I want to associate myself with the remarks of my colleague from Massachusetts, both with regard to the bill and with regard to staff and fellow Senators.

Mr. President, this is a landmark piece of legislation. This legislation is public health legislation of the highest sort. Its purpose is to alleviate pain and suffering, to find ways of ending this pain and suffering and the difficulties that AIDS has brought throughout this country. It has injured so many people and so many families across this country.

This is a very, very important bill. I think the Senate can take a great deal of pride in it because we have had important debates on this floor. Everybody who has participated in authoring the bill and in the debate have contributed to this success. I believe the bill has been strengthened in many, many ways because of the work of my colleagues; some of them brought amendments to the floor which were agreed to, and others brought amendments that were rejected. They in their own way have helped make this a better bill.

In closing, I would like to thank Senator KENNEDY for the nonpolitical, compassionate approach to this particular health issue which has made it possible for us to be here today. I want to commend his staff for the work they put into this substitute bill. I think it is worth our effort to see this legislation passed, and I want to thank all the Senators for their support, including the majority and minority leaders.

In particular, I would like to mention Senator KENNEDY's staff, or at least a few of them. I hesitate to leave anybody out; there are always so many of them. But in particular, I want to mention Michael Iskowitz, Terry Beirn and Nick Littlefield. And bridging the gap between both staffs, somebody I always enjoy working with, as well as these gentlemen, is Dr. Stephen Keith who has always worked hard on all of these issues with us.

My own staff, Judy Lewis and Sue Whitaker, have done a terrific job. And, above all, Nancy Taylor. I am proud of Nancy. Nancy is expecting twins and yet has sat throughout this whole debate, and worked on this matter as hard or as much as anybody possibly could. She, I think, as much as anybody realizes the compassionate nature of this particular legislation. So I want to thank her for the effort she has put forth and for the sacrifices that she, and her husband, and future family have made.

I also want to thank a number of Senators, in particular Senator D'AMATO, Senator MACK, Senator DOLE, Senator WILSON, Senator COATS, and others. The Senators have been very cooperative working on this bill and it is a difficult one. It is always difficult when there are differing be-

liefs with regard to these matters. I think we have had the cooperation of a wonderful group of Senators who have played an exceedingly difficult role in finalizing and passing this bill.

Finally, this bill is dedicated to Ryan White because of the courage that he displayed and because of the life that he lived. And because of the influence that he has had upon all of us because of being infected with AIDS. I want to pay a particular tribute to him and to his mother and family for the example that they have set for all of us.

I think this bill is a fitting tribute to Ryan White, although it is not nearly what he deserves. But it is one of the finest pieces of legislation to come out of this body. I think it is something that hopefully will bring some peace and some solace and some happiness to his family, knowing that it will do good.

Mr. President, I am very proud of this bill. I am proud of all who have worked on it. We are prepared to go to final passage.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. HEINZ] is necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. HEINZ] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—95

| | | |
|---|---|---|
| Adams | Byrd | Exon |
| Akaka | Chafee | Ford |
| Armstrong | Coats | Fowler |
| Baucus | Cochran | Garn |
| Bentsen | Cohen | Glenn |
| Biden | Conrad | Gore |
| Bingaman | Cranston | Gorton |
| Bond | D'Amato | Graham |
| Boren | Danforth | Gramm |
| Boschwitz | Daschle | Grassley |
| Bradley | DeConcini | Harkin |
| Breaux | Dixon | Hatch |
| Bryan | Dodd | Hatfield |
| Bumpers | Dole | Heflin |
| Burdick | Domenici | Hollings |
| Burns | Durenberger | Inouye |
| Jeffords | McClure | Rockefeller |
| Johnston | McConnell | Rudman |
| Kassebaum | Metzenbaum | Sanford |
| Kasten | Mikulski | Sarbanes |
| Kennedy | Mitchell | Sasser |
| Kerrey | Moynihan | Shelby |
| Kerry | Murkowski | Simon |
| Kohl | Nickles | Simpson |
| Lautenberg | Nunn | Specter |
| Leahy | Packwood | Stevens |
| Levin | Pell | Symms |
| Lieberman | Pressler | Thurmond |
| Lott | Pryor | Warner |
| Lugar | Reid | Wilson |
| Mack | Riegle | Wirth |
| McCain | Robb | |

NAYS—4

| | |
|---|---|
| Helms | Roth |
| Humphrey | Wallop |

NOT VOTING—1

Heinz

So the bill (S. 2240) as amended was passed.

S. 2240

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ryan White Comprehensive AIDS Resources Emergency Act of 1990".

SEC. 2. PURPOSE.

It is the purpose of this Act to provide emergency assistance to localities that are disproportionately affected by the Human Immunodeficiency Virus epidemic and to make direct financiali assistance available to States to provide for the development, organization, coordination and operation of more effective and cost efficient systems for the delivery of essential services to individuals and families with HIV disease in urban and rural areas.

TITLE I—HIV EMERGENCY RELIEF GRANT PROGRAM

SEC. 101. HIV EMERGENCY RELIEF GRANT PROGRAM.

Title XXV of the Public Health Service Act (42 U.S.C. 300ee et seq.) is amended by adding at the end thereof the following new part:

"PART C—EMERGENCY RELIEF AND CARE ACCESS GRANTS

"Subpart 1—Emergency Relief Program

"SEC. 2531. GRANTS TO ELIGIBLE METROPOLITAN STATISTICAL AREAS.

"The Secretary shall award emergency relief grants to any metropolitan area as reported in the HIV/AIDS Surveillance Report of the Centers for Disease Control, that, as of March 31, 1990, 1991, 1992, 1993 or 1994, has reported more than 2,000 AIDS cases (hereinafter referred to in this subpart as the "eligible area"), and that otherwise meets the requirements of this subpart.

"SEC. 2532. ADMINISTRATION AND PLANNING COUNCIL.

"(a) ADMINISTRATION.—

"(1) IN GENERAL.—Assistance made available under grants awarded under this subpart shall be directed to the chief elected official of the city or urban county that administers the public health agency serving the greatest number of individuals with AIDS, as reported to the Centers for Disease Control, in the eligible area that is awarded such a grant.

"(2) REQUIREMENTS.—To receive assistance under paragraph (1), the administering local political subdivision shall—

"(A) establish, through intergovernmental agreement with the chief elected officials of all local political subdivisions that have in excess of 10 percent of all individuals with AIDS, as reported to the Centers for Disease Control, in such subdivision within the eligible area, an administrative mechanism to allocate funds based on the number of AIDS cases and severity of need of such subdivisions; and

"(B) establish an HIV health services planning council.

"(b) HIV HEALTH SERVICES PLANNING COUNCIL.—

"(1) ESTABLISHMENT—To be eligible for assistance under this subpart, the chief elected offical described in subsection (a)(1) shall establish or designate an HIV health services planning council that shall include representatives of—

"(A) health care providers;

"(B) community based and AIDS service organizations;

"(C) social service providers;

"(D) mental health providers;

"(E) local public health agencies;

"(F) hospital or health care planning agencies;

"(G) affected communities;

"(H) non-elected community leaders; and

"(I) State government.

"(2) PRIORITY.—In designating a planning council under paragraph (1), priority shall be provided to any existing entity that has demonstrated experience in assessing and planning for HIV health care service needs within the eligible area, except that such existing entity shall include representatives of the full range of service providing agencies and institutions within such eligible area.

"(3) DUTIES.—The planning council established or designated under paragraph (1) shall—

"(A) establish priorities for the allocation of funds within the eligible area; and

"(B) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area.

"SEC. 2533. TYPE AND DISTRIBUTION OF GRANTS.

"(a) GRANTS BASED ON RELATIVE NEED OF AREA.—

"(1) IN GENERAL.—Not later than 60 days after an appropriation becomes available to carry out this subpart, the Secretary, acting through the Health Resources and Services Administration, shall use 50 percent of the amount appropriated under section 2536 for such fiscal year, to make grants to eligible areas under section 2531.

"(2) AMOUNT OF GRANT.—

"(A) GENERAL RULE.—The Secretary shall make a grant to each eligible area under paragraph (1) in an amount that bears the same ratio to the amount available under paragraph (1) as the sum of—

"(i) the relative cases per area factor for such area as multiplied by three; and

"(ii) the relative cases per area factor for such area as multiplied by the relative per capita factor for such area; divided by

"(iii) four;

bears to 100.

"(B) RELATIVE CASES PER AREA FACTOR.—As used in this paragraph, the term 'relative cases per area factor' means the ratio of the number of individuals with AIDS in an eligible area, as reported to the Centers for Disease Control, to the number of such individuals in all eligible areas.

"(C) RELATIVE PER CAPITA FACTOR.—As used in this paragraph, the term 'relative per capita factor' means the ratio of the per capita incidence of individuals with AIDS in

an eligible area, as reported to the Centers for Disease Control, to the per capita incidence of such individuals in all eligible areas.

"(D) ADJUSTMENTS.—The Secretary shall make such proportionate adjustments in amounts allocated for grants to eligible areas as shall be necessary to ensure that total amount of such grants are neither more or less than the amount available for grants under this subsection.

"(b) SUPPLEMENTAL GRANTS.—

"(1) IN GENERAL.—Not later than 150 days after the first day of each fiscal year, the Secretary shall use the remainder of the amounts made available under section 2536 for such fiscal year, to make grants under section 2531 to eligible areas that submit an application to the Secretary that—

"(A) contains a report concerning the dissemination of emergency relief funds under section 2533(a) and the plan for utilization of such funds;

"(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

"(C) demonstrates the commitment of the local resources of the area, both financial and in-kind, to combatting the HIV epidemic;

"(D) demonstrates the ability to the area to utilize such supplemental financial resources in a way that is immediately responsive and cost effective; and

"(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including funds for services for infants, children, women, and families with HIV disease.

"(2) AMOUNT OF GRANT.—The amount of each grant made by the Secretary based on the application submitted by the eligible area.

"SEC. 2534. USE OF AMOUNTS.

"(a) GRANT TO INSTITUTIONS.—

"(1) IN GENERAL.—Amounts received under a grant awarded under this subpart may be used by the grantee to provide direct financial assistance to any public or not-for-profit private hospital, clinic, nursing home, subacute care facility, or community health center, that demonstrates that such entity—

"(A) is providing care or services to a disproportionate share of low income individuals and families with HIV disease; and

"(B) is expending resources in the provision of services to such low income individuals and families which exceed reimbursement;

"(2) USE OF FUNDS BY INSTITUTIONS.—An institution that receives assistance under paragraph (1) shall use such amounts to—

"(A) enhance the quality of services, care, and treatment of low-income individuals and families with HIV disease; and

"(B) deliver outpatient and ambulatory care services including case management to such individuals and families, including comprehensive treatment and support services.

"(3) PRIORITY.—In allocating assistance received under a grant awarded under section 2531, the grantee shall give priority to those eligible institutions under paragraph (1) that—

"(A) have established a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

"(B) have established a system designed to ensure that such individuals and families are referred or discharged to the most medically appropriate level of care as soon as such referral or discharge is medically indicated.

"(b) GRANT TO AGENCIES.—Amounts received under a grant awarded under this subpart may be used by the grantee to provide direct financial assistance to any public or non-profit agency, clinic, community based organization, or community health center that has the capacity to provide case managed outpatient health and support services to individuals and families with HIV disease that are critical to—

"(1) prevent unnecessary in-patient hospitalization; and

"(2) expedite the discharge of the individual to the most medically appropriate level of service.

"(c) ADDITIONAL USES.—

"(1) RENOVATION OF REHABILITATION.—In addition to the use specified in subsection (a), amounts received under a grant awarded under this subpart may be used by the grantee to renovate or rehabilitate congregate care housing units, long-term care facilities, transitional care facilitieacute care facilities for the treatment of individuals with HIV disease, if the grantee demonstrates that—

"(A) an adequate number of—

"(i) congregate care residential units; or

"(ii) long term care or sub acute care nursing beds

are not available within the grantee eligible area for occupancy by individuals with HIV disease;

"(B) it has made a good faith effort to identify and eliminate local regulatory barriers that have impeded the creation, and utilization by individuals with HIV disease, or such facilities; and

"(C) it has exercised its authority to insure that individuals with HIV disease have access to such facilities.

"(2) MATCHING REQUIREMENT.—The Secretary shall not permit a grantee to use amounts received under a grant awarded under section 2531 for renovation or rehabilitation under paragraph (1) unless the local political subdivision with jurisdiction over the grantee area provides the grantee with local or State funds in an amount equal to the amount of the grant that is used under paragraph (1). Such local or State contribution to such renovation or rehabilitation program may be in the form of in kind services, goods or real property.

"(3) ADMINISTRATION AND PLANNING.—Not more than 5 percent of amounts received under a grant awarded under this subpart shall be utilized to carry out the administrative and planning activities described under section 2532.

"SEC. 2535. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant under this subpart, an eligible area shall prepare and submit, to the Secretary, an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

"(1) that funds received under a grant awarded under this subpart will be used to supplement not supplant State and local funds currently utilized to provide health and support services to individuals with HIV disease;

"(2) that the eligible area has an HIV planning council, pursuant to section 2532, and has developed or will develop a comprehensive plan for the organization and delivery of HIV services that is compatible with any existing State or local HIV care plans; and

"(3) that agencies and institutions within the eligible area that will receive funds under a grant provided under this subpart shall participate in any established HIV community based continuum of care.

"(b) ADDITIONAL APPLICATION.—An eligible area that desires to receive a grant under section 2533(b) shall prepare and submit, to the Secretary, an additional application at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection.

"SEC. 2536. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to make grants under this subpart, $300,000,000 in each of the fiscal years 1991 and 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

## TITLE II—HIV CARE GRANTS

SEC. 201. HIV CARE GRANTS.

Part C of title XXV of the Public Health Service Act (as added by section 101) is amended by adding at the end thereof the following new subpart:

"Subpart 2—Care Grant Program

"SEC. 2540. GRANTS.

"The Secretary shall make grants to States to enable such States to improve the quality, availability and organization of care, treatment and support services for individuals and families with HIV disease in urban and rural areas.

"SEC. 2541. GENERAL USE OF GRANTS.

"(a) IN GENERAL.—A State shall use amounts provided under grants made under this subpart—

"(1) to establish and operate HIV care consortia within areas most affected by HIV disease that shall be designed to provide a comprehensive continuum of care to individuals and families with HIV disease in accordance with section 2542;

"(2) to provide home- and community-based care services for individuals with HIV disease in accordance with section 2543;

"(3) to develop and provide assistance to mechanisms that assure the continuity of health insurance coverage for individuals with HIV disease in accordance with section 2544;

"(4) to provide therapeutic treatments, that have been determined to prolong life or prevent serious deterioration of health, to low-income individuals with HIV disease in accordance with section 2545; or

"(5) to integrate early diagnosis and early intervention services for individuals with HIV disease with primary health care and support services provided in existing health care settings, in accordance with section 2564.

"(b) INFANTS AND WOMEN, ETC.—A State shall use not less than 15 percent of funds allocated under this subpart to provide health and support services to infants, children, women, and families with HIV disease.

"SEC. 2542. GRANTS TO ESTABLISH HIV CARE CONSORTIA.

"(a) CONSORTIA.—To be eligible to receive a grant under section 2541(1), an application shall—

"(1) be a consortia of public and nonprofit private health care and support service providers and community based organizations; and

"(2) agree to use funds received under such a grant for the planning, development and delivery of comprehensive outpatient and support services for individuals with HIV disease, including—

"(A) essential health services such as case management services, medical, nursing, and dental care, diagnostics, monitoring, and medical follow-up services, mental health, developmental, and rehabilitation services, home health and hospice care; and

"(B) essential support services such as transportation services, attendant care, homemaker services, day or respite care, nutrition services, child welfare and family services (including foster care and adoption services), housing services, benefits advocacy, and legal services.

"(b) ASSURANCES.—

"(1) REQUIREMENT.—To receive a grant under section 2541(1), an applicant consortium shall provide assurances that—

"(A) within any locality in which such applicant consortium is to operate, the specific populations and subpopulations of individuals and families with HIV disease have been identified;

"(B) the services plan developed by such applicant consortium addresses the special care and service needs of the populations and subpopulations identified under subparagraph (A); and

"(C) when practicable, within each locality served by such applicant consortium, a single coordinating entity will be established that shall be capable of integrating the delivery of services to the populations and subpopulations identified under subparagraph (A).

"(2) EXCEPTION.—Subparagraph (C) of paragraph (1) shall not apply to any applicant consortium that will operate in a community or locality in which it has been demonstrated by the State, by the locality, or by the applicant consortium that—

"(A) subpopulations exist within the community to be served that have unique service requirements; and

"(B) such unique service requirements cannot be adequately and efficiently addressed by a single consortium serving the entire community or locality.

"(c) APPLICATION.—To receive a grant from the State under section 2542(1), a consortium shall prepare and submit, to the State, an application that—

"(1) demonstrates that the consortium includes those agencies and community-based organizations—

"(A) with a record of service to populations and subpopulations with HIV disease requiring care within the community to be served; and

"(B) located in and representation of populations and subpopulations reflecting the local incidence of HIV;

"(2) demonstrates that the consortium has carried out an assessment of service needs within the geographic area to be served and has established a plan to insure the delivery of services to meet such identified needs, including—

"(A) assurances that service needs will be addressed through the coordination and expansion of existing services before new services are created;

"(B) assurances that, in metropolitan areas, the geographic area to be served by the consortium corresponds to the geographic boundaries of local health and support services delivery systems to the extent practicable;

"(C) assurances that, in the case of service for individuals residing in rural areas, the applicant consortium shall be capable of delivery case management services that link available community support services to specialized regional medical services; and

"(D) assurances that the assessment of service needs and the delivery of services will include participation by affected populations.

"(3) demonstrates that adequate planning has occurred to meet the special needs of families with AIDS, including family centered care for infants, children, women, and families;

"(4) demonstrates that the consortium has created a mechanism to periodically evaluate—

"(A) the success of the consortium in responding to such identified needs; and

"(B) the cost-effectiveness of the mechanisms employed by the consortium to deliver comprehensive care; and

"(5) demonstrates that the consortium will report to the state the results of the evaluations described in subsection (d).

"(d) DEFINITION.—As used in this subpart, the term 'family centered care' means the system of services described in section 2542 that is targeted specifically to the special needs of infants, children, women, and families. Family centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV diseases.

"(e) PRIORITY.—In awarding grants under section 2541(1), the State shall give priority to existing HIV care consortia so that such consortia may build on existing systems and experience and avoid duplication of efforts.

"SEC. 2543. GRANTS FOR HOME- AND COMMUNITY-BASED CARE.

"(a) USES.—A State may use amounts provided under a grant awarded under this subpart to make grants under section 2541(2) to entities to—

"(1) provide home and community-based health services for individuals with HIV disease pursuant to written plans of care prepared by health care professionals in such State for providing such services to such individuals;

"(2) provide for the identification, location, and provision of outreach services to individuals with HIV disease, including those in rural areas;

"(3) provide for the coordination of the provision of services under this subpart with the provision of similar or related services provided by public and private entities; and

"(4) give priority to the provision of outreach and home and community-based services to individuals with HIV disease who are low-income individuals.

"(b) DEFINITION.—As used in this subpart, the term "home and community-based health services"—

"(1) means, with respect to an individual with HIV disease, skilled health services furnished to the individual in the individual's home pursuant to a written plan of care established by a health care professional for the provision of such services and items described in paragraph (2);

"(2) includes—

"(A) durable medical equipment;

"(B) homemaker or home health aide services and personal care services furnished in the home of the individual;

"(C) day treatment or other partial hospitalization services;

"(D) home intravenous and aerosolized drug therapy (including prescription drugs administered intravenously as part of such therapy);

"(E) routine diagnostic testing administered in the home of the individual; and

"(F) mental health, developmental, and rehabilitation services; and

"(3) does not include—

"(A) inpatient hospital services; and

"(B) nursing home and other long term care facilities.

"SEC. 2544. CONTINUUM OF HEALTH INSURANCE COVERAGE.

"(A) State may use amounts received under a grant awarded under this subpart to establish a program of financial assistance under section 2541(3) to assist eligible low income individuals with HIV disease in—

"(1) maintaining a continuing of private health insurance; or

"(2) receiving medical benefits under a health insurance program established by the State.

"SEC. 2545. PROVISION OF THERAPEUTICS.

"(a) IN GENERAL.—A State may use amounts provided under a grant awarded under this subpart to establish a program under section 2541(4) to provide therapeutic care that has been determined to prolong life or prevent the serious deterioration of health arising from AIDS or HIV disease in eligible individuals.

"(b) ELIGIBLE INDIVIDUAL.—To be eligible to receive assistance from a State under this section an individual shall—

"(1) have a medical diagnosis of AIDS or HIV disease; and

"(2) be a low income individual, as defined by the State.

"(c) STATE DUTIES.—In providing assistance under this section the State shall—

"(1) determines, in accordance with guidelines issued by the Secretary, which therapies are eligible to be included under the program established under this section;

"(2) permit assistance to be made available under the program established under this section to purchase the therapies determined to be eligible under paragraph (1), and provide such ancillary devices that are essential to administer such therapies; and

"(3) provide outreach to individuals and families with HIV disease in rural areas and establish a distribution system that facilitates access to therapeutics for such individuals.

"SEC. 2546. PROGRAMS FOR EARLY INTERVENTION.

"A State may use amounts provided under a grant awarded under this subpart to establish a program under section 2541(5) to integrate early diagnosis and early intervention services with primary health care and support services, including drug treatment services, that are delivered in existing public health an medical care facilities for the purpose of—

"(1) providing outreach services to individuals with HIV disease and health care professionals who are unaware of the availability and potential benefits of early treatment of HIV infection, including those in rural areas;

"(2) offering clinical, diagnostic, and periodic medical monitoring services to such individuals; and

"(3) providing appropriate therapeutics that have been determined to prolong life or prevent serious deterioration of health in individuals with HIV disease.

"SEC. 2547. STATE APPLICATION.

"(a) IN GENERAL.—The Secretary shall not make a grant to a State under this subpart for a fiscal year unless the State prepares and submits, to the Secretary, an application at such time, in such form, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

"(b) DESCRIPTION OF INTENDED USES AND AGREEMENTS.—The application submitted under subsection (a) shall contain—

"(1) a description of the purposes for which the State intends to use the assistance provided to the State under this subpart, including—

"(A) information relating to the services and activities to be provided;

"(B) a description of the manner in which such services and activites will be coordinated with other services and activities of public and private entities to provide a comprehensive continuum of care; and

"(C) information relating to the process for coordinating the various program options provided for in this subpart to maximize the effectiveness of the services provided; and

"(2) an assurance by the State that—

"(A) the legislature of the State will conduct public hearings concerning the proposed use and distribution of the assistance to be received under this subpart;

"(B) the State will, to the maximum extent practicable, ensure that services provided to an individual pursuant to a program established with assistance provided under this subpart will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual;

"(C) if any charges are imposed for the provision of services for which assistance is provided under this subpart, such charges—

"(i) will be pursuant to a public schedule of charges;

"(ii) will not be imposed on any eligible individual with an income that does not exceed 200 percent of the official poverty line as determined by the Secretary; and

"(iii) for an eligible individual with an income that exceeds 200 percent of the official poverty line, will be adjusted to reflect the income of such individual;

"(D) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the State under this subpart;

"(E) the State will permit and cooperate with any Federal investigations undertaken under this subpart;

"(F) the State will maintain State expenditures for health and support services for individuals with AIDS or HIV disease at a level that is equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive a grant under this part;

"(G) the State will not make payments from assistance provided under this subpart for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

"(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(ii) by an entity that provides health services on a prepaid basis; and

"(H) the State shall establish a comprehensive plan for the organization and delivery of HIV health care and support services, in urban and rural areas, including provisions for the delivery of services to populations and subpopulations identified through the needs assessment required by section 2542.

"SEC. 2548. DISTRIBUTION OF FUNDS.

"(a) SPECIAL PROJECTS OF A NATIONAL SIGNIFICANCE.—

"(1) IN GENERAL.—Of the amount appropriated under section 2549, the Secretary shall use not to exceed 10 percent of such amount to—

"(A) provide technical assistance in administering and coordinating the activities authorized under section 2541; and

"(B) establish and administer a Special Projects of National Significance Program to award direct grants to States, localities, or community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

"(2) GRANTS.—The Secretary shall award grants under subsection (a) based on—

"(A) the need of the applicant to establish a demonstration project to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

"(B) the innovative nature of the proposed activity of the applicant; and

"(C) the potential replicability of the proposed activity in other similar localities or nationally.

"(3) SPECIAL PROGRAMS.—Special programs of a national significance may include those that are designed to—

"(A) deliver drug abuse treatment and HIV health care services at a single location, through either an outpatient or residential facility;

"(B) establish an incentive system designed to increase the number of health care facilities willing and able to serve low-income individuals and families with HIV diseases;

"(C) create a structure for the support and respite of informal and family-based care networks in the minority community critical to the delivery of comprehensive care;

"(D) create the capacity to deliver health and support services to individuals and families with HIV disease located in rural areas, and Indians (both Reservation and non-Reservation based), and/or deliver;

"(E) deliver health care and support services to homeless individuals and families with HIV diseases; and

"(F) deliver health and support care services to individuals with HIV disease who are incarcerated.

"(b) AMOUNT OF GRANT TO STATE.—

"(1) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available under section 2549, the amount of a grant to be made under this subpart for—

"(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of—

"(i) $100,000, and

"(ii) an amount determined under paragraph (2); and

"(B) each territory of the United States, as defined in paragraph 3, shall be an amount determined under paragraph (2).

"(2) DETERMINATION.—

"(A) FORMULA.—The amount referred to in paragraph (1)(A)(ii) for a State and paragraph (1)(B) for a territory of the United States shall be the product of—

"(i) an amount equal to the amount appropriated under section 2549 for the fiscal year involved; and

"(ii) the ratio of the distribution factor for the State or territory to the sum of the distribution factors for all the States or territories.

"(B) DISTRIBUTION FACTOR.—As used in subparagraph (A)(ii), the term 'distribution factor' means)—

"(i) in the case of a State, the product of—

"(I) the number of additional cases of AIDS in the State, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data is available; and

"(II) the cube root of the ratio (based on the most recent available data) of—

"(aa) the average per capita income of individuals in the United States (including the territories); to

"(bb) the average per capita income of individuals in the State; and

"(i) in the case of a territory of the United States the number of additional cases of AIDS in the specific territory, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data is available.

"(3) DEFINITIONS.—As used in this subsection, the term 'territory of the United States' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and Puerto Rico.

"(c) ALLOCATION OF ASSISTANCE BY STATES.—

"(1) CONSORTIA.—In a State that has reported 1 percent or more of all AIDS cases reported to the Centers for Disease Control in all States, not less than 50 percent of the amount received by the State under a grant awarded under this subpart shall be utilized for the creation and operation of community-based comprehensive care consortia under section 2542, in those areas, including rural areas, within the State in which the largest number of individuals with HIV disease reside.

"(2) ALLOWANCES.—In allocating assistance under this subsection, a State shall take into account which areas received financial assistance under subpart 1.

"(3) PLANNING AND EVALUATIONS.—A State shall not use in excess of 5 percent of amounts received under a grant awarded under this subpart for planning and evaluation activities.

"(4) ADMINISTRATION.—A State shall not use in excess of 5 percent of amounts received under a grant awarded under this subpart for administration, accounting, reporting, and program oversight functions.

"(d) EXPEDITED DISTRIBUTION.—Not less than 75 percent of the amounts received under a grant awarded to a State under this subpart shall be obligated to specific programs and projects and made available for expenditure not later than 120 days after the receipt of such amounts by the State. Within such 120 day period, the State shall invite and receive public comment concerning methods for utilizing such amounts.

"(e) REALLOCATION.—Any amounts appropriated in any fiscal year and made available to a State under this subpart that have not been obligated as described in section 2548(d) shall be recaptured by the Secretary and reallotted to other States in proportion to the original grants made to such States.

"SEC. 2549. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to make grants under this subpart, $300,000,000 in each of the fiscal years 1991 and 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

"SEC. 2550. DEFINITION.

"As used in this subpart except as otherwise specifically provided, the term 'State' means each of the 50 States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Commonwealth of the

Northern Mariana Islands and Puerto Rico.".

## TITLE III—TREATMENT AND NOTIFICATION OF INDIVIDUALS WITH HIV DISEASE AND THEIR FAMILIES

SEC. 301. REQUIREMENT OF REPORTING AND PARTNER NOTIFICATION WITH RESPECT TO CASES OF INFECTION.

(a) REPORTING.—

(1) IN GENERAL.—The Secretary may not make a grant under title II of this Act unless, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, the State involved requires that—

(A) any entity carrying out such testing confidentially report to the State public health officer information sufficient—

(i) to perform statistical and epidemiological analyses of the incidence in the State of cases of such infection; and

(ii) to perform. statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State with such infections:

(B) the public health officer of such State establishes a system of reporting cases of individuals infected with the etiologic agent for acquired immune deficiency syndrome that is necessary to the extent appropriate in the determination of such officer, for the State to carry out the notification of unsuspecting persons at risk for exposure to the etiologic agent for acquired immune deficiency syndrome.

(2) PROVISION OF CERTAIN INFORMATION TO CENTERS FOR DISEASE CONTROL.—The Secretary may not take a grant under Title II of this Act unless the State involved agrees to provide to the Director of the Centers for Disease Control all information received by the State pursuant to the requirement described in clauses (i) and (ii) of paragraph (1)(A).

(b) PARTNER NOTIFICATION.—

(1) IN GENERAL.—The Secretary may not make a grant under title II of this Act unless—

(A) the State involved requires that the appropriate state or local public health officer (as determined by the State) carry out, to the extent appropriate in the determination of such officer, a program of partner notification with respect to cases of exposure to the etiologic agent acquired immune deficiency syndrome; and

(i) advises all such individuals, regarding the benefits to undergo testing for such infection; and

(ii) provides to all such individuals information on the medical benefits of diagnosing such infection in the early stages of infection and of the availability of treatment and support services for individuals and families with HIV disease.

(2) RULE OF CONSTRUCTION WITH RESPECT TO RESPONSIBILITY FOR MAKING NOTIFICATIONS.—With respect to compliance with paragraph (1) as a condition of receiving a grant under title II of this Act, such paragraph may not be construed to require that a State establish a requirement that any entity, other than the public health official referred to in such paragraph, make the notifications required under such system.

SEC. 302. EFFECTIVE DATE.

This title shall be effective for all fiscal years beginning after September 30, 1992.

## TITLE IV—HIV DISEASE HEALTH SERVICES RESEARCH, EVALUATION, AND ASSESSMENT

SEC. 401. PURPOSE.

It is the purpose of this section to develop, as rapidly as practicable, information concerning the organization, impact, efficacy, and cost effectiveness of various health care service delivery and financing systems for the care of individuals with HIV disease.

SEC. 402. RESEARCH, EVALUATION, AND ASSESSMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, acting through the Agency for Health Care Policy and Research, shall establish a program to enable independent research to be conducted by individuals and organizations with appropriate expertise in the fields of health, health policy, and economics (particularly health care economics) to develop—

(1) a comparative assessment of the impact and cost-effectiveness of major models for organizing and delivering AIDS and HIV health care, mental health, early intervention, and support services, that shall include a report concerning patient outcomes, satisfaction, perceived quality of care, and total cumulative cost;

(2) a review of major health services financing mechanisms, including private health insurance policies, self pay options, health maintenance organization plans financed under the Social Security Act, and State and local government funding options, and the relative contribution of each of such payment options;

(3) an assessment of how point-of-entry procedures for obtaining HIV health care treatment and support services impacts the cost, quality, and outcome of the care and treatment of HIV individuals and families and the extent to which the overall quality, cost, and outcome of such care can be related to the source of payment for treatment;

(4) a comprehensive report of the significant financial, regulatory, organizational, and social barriers that serve to limit the delivery of high quality care services to individuals and families with HIV disease, with special emphasis being placed on the extent to which disadvantaged status impacts such service delivery; and

(5) a summary report concerning the major and continuing unmet needs in health care, mental health, early intervention, and support services for individuals and families with HIV disease in urban and rural areas.

(6) a review and assessment of models for the delivery of health and support services to infants, children, women, and families with HIV disease.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committee on Energy and Commerce, and Ways and Means of the House of Representatives and the Committee on Labor and Human Resources, and Finance of the Senate, a report that contains the reports, evaluations and assessments required under subsection (a).

## TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. ADAMHA IV DRUG ABUSE WAIVER.

(a) INTRAVENOUS DRUG USER.—Section 1916(c)(7) of the Public Health Serivces Act (42 U.S.C. 300x-4(a)(7)) is amended by adding at the end thereof the following new sentence; "The Secretary shall waive the provisions of the preceding sentence for any State which has submitted application for such a wavier to the Secretary prior to September 30, 1989.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of October 1, 1989.".

SEC. 502. PROHIBITION ON USE OF FUNDS.

None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

SEC. 503. REQUIREMENT OF STATE LAWS PROTECTING DONATIONS OF BLOOD.

The Secretary of Health and Human Services shall not make a grant to a State under this Act, or an amendment made by this Act, unless the Secretary determines that the criminal laws of the State are adequate to prosecute any individual who knowingly and intentionally donates, or knowingly and intentionally attempts to donate, blood, blood products, semen, tissue, organs, or other bodily fluids if such individual—

(1) has been diagnosed on the basis of laboratory evidence as infected with the human immunodeficiency virus; and

(2) has been informed that he or she is infected with the human immunodeficiency virus and has knowledge of the risk of transmission of such virus, through donated blood, blood products, semen, tissues, organs, or other bodily fluids.

Nothing in this Act shall preclude any State from making it a crime to donate knowingly and intentionally, or knowingly and intentionally attempt to donate, blood, blood products, semen, tissues, organs, or other bodily fluids by (1) an individual who, on or after January 1, 1977, is or has been a user of any intravenous drug, the sale, distribution, or use of which is prohibited under Federal or State law after the time the individual injected the drug or; (2) an individual who has engaged in prostitution on or after January 1, 1977.

SEC. 504. INSPECTION OF BLOOD BANKS AND PRODUCERS OF BLOOD PRODUCTS.

(a) There is authorized an additional 150 full time equivalent positions to the Food and Drug Administration. The positions established by this authority are to be used for the inspection of blood banks and producers of blood products.

(h) There is also authorized an appropriation of $1,500,000 to carry out this activity in fiscal year 1991 and such sums as may be necessary through fiscal year 1995.

SEC. 505. TECHNICAL CORRECTIONS TO THE PRISON TESTING ACT OF 1988.

Section 902 of the Prison Testing Act of 1988 (42 U.S.C. 300ee-6) is amended—

(1) in subsection (b)(2)—

(A) by striking out "may" in subparagraph (A) and inserting in lieu thereof "will"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) victims of aggravated sexual abuse, as described in subsection (c)(2), will be informed of the results of the test, if the person convicted of the aggravated sexual assault tests positive for exposure to the human immunodeficiency virus and if the victim requests to be so informed after the victim is notified of the right of the victim to be informed under this subparagraph.";

(2) in subsection (c)(2)—

(A) by striking out "99" and inserting in lieu thereof "109A"; and

(B) by striking out "rape" and inserting in lieu thereof "aggravated sexual abuse"; and

(3) in subsection (g), by striking out "1990" and inserting in lieu thereof "1995".

Mr. MITCHELL. I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 296, S. 195, the chemical and biological weapons control bill.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 195) entitled the "Chemical and Biological Weapons Control Act of 1989."

The Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

*SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Chemical and Biological Weapons Control Act of 1989".*

*SEC. 2. FINDINGS.*

*The Congress finds that—*

*(1) chemical weapons were employed in the recent Iran-Iraq war and by Iraq in attacks against its Kurdish minority;*

*(2) the use of chemical and biological weapons in violation of international law is abhorrent and requires immediate and effective sanctions;*

*(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately "appropriate and effective" sanctions against any country using chemical and biological weapons in violation of international law;*

*(4) the Declaration of the Paris Conference on the Prohibition of Chemical Weapons demonstrates the resolve of most countries to reaffirm support for the 1925 protocol banning the use of chemical and bacteriological weapons and to press for attainment of a ban on the production and possession of chemical weapons;*

*(5) as many as 20 countries, including Iran, Iraq, Syria, and Libya have or are seeking the capability to produce chemical weapons;*

*(6) as many as 10 countries are working to produce biological weapons;*

*(7) by the year 2000, at least 15 developing countries will have the ability to produce ballistic missiles capable of carrying chemical or biological warheads;*

*(8) the further spread of chemical or biological weapons capabilities would pose a threat of incalculable proportions to friends and allies of the United States and undermine the national security of the United States;*

*(9) the United Nations should create an effective means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and*

*(10) every effort should be made to conclude an early agreement banning the production and stockpiling of chemical or biological weapons.*

*SEC. 3. PURPOSE.*

*It is the purpose of this Act—*

*(1) to mandate United States sanctions and to encourage international sanctions against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals;*

*(2) to require presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, and deliver chemical and biological weapons;*

*(3) to urge cooperation with other supplier nations to devise effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production;*

*(4) to promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;*

*(5) to encourage an early agreement banning the development, production, and stockpiling of chemical weapons; and*

*(6) to seek effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability.*

*TITLE I—SANCTIONS AGAINST THE USE OF CHEMICAL AND BIOLOGICAL WEAPONS*

*SEC. 101. SANCTIONS FOR THE USE OF CHEMICAL WEAPONS.*

*(a) DETERMINATION BY THE PRESIDENT.—(1) Whenever information becomes available to the United States Government indicating the substantial possibility that, on or after the date of enactment of this Act, a foreign country has used chemical or biological weapons, the President shall, within 60 days of the receipt of such information by the United States Government, make a determination as to whether that foreign country, on or after such date, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.*

*(2) Not later than 60 days after the chairman of the Committee on Foreign Relations of the Senate, upon consultation with the ranking minority member of such Committee, or the chairman of the Committee on Foreign Affairs of the House of Representatives, upon consultation with the ranking minority member of such Committee, request the President to make a determination as to whether or not a foreign country, on or after the date of enactment of this Act, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals, the President shall make such determination and so report in writing to the chairmen of such Committees.*

*(3) In making the determination under paragraph (1) or (2), the President shall consider the following:*

*(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.*

*(B) All information provided by alleged victims, witnesses, and independent observers.*

*(C) The extent of the availability of the weapons in question to the purported user.*

*(D) All official and unofficial statements bearing on the possible use of such weapons.*

*(E) Whether, and to what extent, the country in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.*

*(b) SANCTIONS.—In the event of a Presidential determination under subsection (a) that, on or after the date of enactment of this Act, a foreign country has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals, then the President shall—*

*(1) terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance, or for the purpose of purchasing food or other agricultural products;*

*(2) terminate all foreign military sales financing under the Arms Export Control Act with respect to that country;*

*(3) terminate United States Government sales to that country of any defense articles or defense services;*

*(4) prohibit the issuance of any licenses for the export to that country of any item on the United States Munitions List;*

*(5) prohibit, under the authorities of section 6 of the Export Administration Act of 1979, the export to that country of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act;*

*(6) oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance to that country by international financial institutions;*

*(7) prohibit the import of any good, commodity, or service from that country;*

*(8) deny that country any credit or credit guarantees through the Export-Import Bank of the United States;*

*(9) prohibit, under the authorities of the International Emergency Economic Powers Act, any United States bank from making any loan or providing any credit to that country, except for loans or credits for the purpose of purchasing food or other agricultural products; and*

*(10) terminate, consistent with international law, the landing rights in the United States of any airline owned by the government of that country at the earliest practicable date.*

*SEC. 102. WAIVER.*

*The President may waive the applicability of some or all of the sanctions listed in section 101 with respect to a specific country for a period of not to exceed nine months beginning on the date of the determination by the President of use by that country of chemical or biological weapons in violation of international law, or the use of lethal chemical or biological weapons against its own nationals, if he determines that such waiver is in the national interest of the United States and so certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate. Together with such certification, the President shall submit in writing a statement containing a detailed explanation of the national interest requiring a waiver, which may include a classified addendum if necessary.*

*SEC. 103. NOTIFICATION.*

*Not later than five days after he imposes any sanction described in section 101 against a country or waives under section 102 the applicability of any such sanction, the President shall so notify in writing the Speaker of the House of Representatives and*

the chairman of the Committee on Foreign Relations of the Senate.

SEC. 104. CONTRACT SANCTITY.

(a) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—No sanction described in paragraphs (5) through (10) of section 101 shall apply to any activity pursuant to any contract or international agreement entered into before the date of the appropriate presidential determination under section 101(a) unless the President determines, on a case-by-case basis, that to so apply such sanction would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(b) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), (3), and (4) of section 101 shall apply to contracts and agreements, without regard to the date such contracts or agreements were entered into, except that such sanctions shall not apply to any contract or agreement entered into before the date of the appropriate presidential determination under section 101(a) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 105. REMOVAL OF SANCTIONS.

The President may remove the sanctions imposed pursuant to section 101 of this Act if the President determines and so certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that the country under sanction—

(1) has renounced any use of chemical or biological weapons in violation of international law, or any use of lethal chemical or biological weapons against its own nationals, and has provided reliable assurances to that effect; and

(2) has made satisfactory restitution to those affected in its earlier use of chemical or biological weapons in violation of international law or in its earlier use of lethal chemical or biological weapons against its own nationals.

SEC. 106. PRESIDENTIAL REPORTS.

Not later than 90 days after the date of enactment of this Act, and every 12 months thereafter, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a report—

(1) detailing efforts by countries or subnational groups that threaten United States security interests or regional stability (including efforts by Iran, Iraq, Libya, and Syria and other developing countries or subnational groups) to acquire the materials and technology to develop, produce, stockpile, and deliver chemical and biological weapons, together with an assessment of the present and future capabilities of such countries or subnational groups to develop, produce, stockpile, and deliver chemical and biological weapons; and

(2) describing the degree to which any country or foreign person has aided or abetted the government of any country or a subnational group to engage in any activity in connection with the acquisition of any such chemical or biological weapon.

To the extent practicable, reports submitted pursuant to this section should be based on unclassified information. Portions of each such report may be classified.

SEC. 107. MULTILATERAL EFFORTS.

The President is urged—

(1) to continue close cooperation with others in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals applicable to weapons production to Iraq, Iran, Syria, and Libya—countries that currently support or have recently supported acts of international terrorism;

(2) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to chemical or biological weapons production to devise the most effective controls possible on the transfer of such materials, equipment, and technology;

(3) to seek agreements with countries that produce ballistic missiles suitable for carrying chemical or biological warheads that would prevent the transfer of such missiles; and

(4) to take the initiative in pressing for early conclusion of an international agreement banning the development, production, and stockpiling of chemical weapons.

SEC. 108. UNITED NATIONS INVOLVEMENT.

The President is urged to give full support to—

(1) the United Nations Security Council, in furtherance of Security Council Resolution 620, adopted August 26, 1988, in developing sanctions comparable to those enumerated in section 101 of this Act, to be imposed in the event that any country uses chemical or biological weapons in violation of international law; and

(2) the creation of an effective multilateral means of monitoring and reporting regularly on commerce in chemical equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability.

## TITLE II—MEASURES TO PREVENT THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 201. MULTILATERAL EFFORTS.

It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons.

SEC. 202. EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technologies,

that the President determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended by adding at the end the following:

"(q) CHEMICAL AND BIOLOGICAL WEAPONS.—A validated license shall be required under this section for the export of any goods or technology that the President determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons, unless the destination of such export is a country with whose government the United States has entered into bilateral or multilateral arrangements for the control of chemical or biological weapons related goods or technology.".

SEC. 203. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) IMPOSITION OF SANCTIONS.—The President, subject to subsection (d), shall impose on a foreign person the sanctions under subsection (b) if the President determines that the foreign person, on or after the date of the enactment of this Act, has knowingly and substantially contributed to the efforts to use, develop, produce, stockpile, otherwise acquire chemical or biological weapons by any country that the President has determined has at any time after January 1, 1980—

(A) used chemical or biological weapons in violation of international law;

(B) used lethal chemical or biological weapons against its own nationals;

(C) made substantial preparations to do the activities described in clause (A) or (B); or

(D) been designated pursuant to section 6(j) of the Export Administration Act of 1979 as a country which supports international terrorism.

(2) CONSULTATIONS WITH AND ACTIONS BY GOVERNMENT OF JURISDICTION.—In the event the President has consulted with the government with primary jurisdiction over that foreign person involved in the activities cited in paragraph (1), the President may decide not to impose sanctions if he has determined and certified to the Congress that such government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in such activities.

(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 30 days after making a determination under paragraph (1), on the status of consultations with the appropriate government under paragraph (2), and the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

(b) SANCTIONS.—The sanctions to be imposed on a foreign person under subsection (a) are the following:

(1) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from that foreign person.

(2) IMPORT SANCTION.—The importation into the United States of products produced by that foreign person is prohibited.

(c) TERMINATION OF SANCTIONS.—A sanction imposed on a foreign person under this section shall cease to apply to that foreign person after two years if the President determines and certifies to the Congress that the foreign person has ceased all activities described in subsection (a)(1).

(d) EXCEPTIONS.—The President shall not be required under this section to apply sanctions—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

*(3) to—*

*(A) spare parts,*

*(B) component parts, but not finished products, essential to United States products or production, or*

*(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;*

*(4) to information and technology not directly useful for the development, production, or stockpiling of chemical or biological weapons; or*

*(5) to medical or other humanitarian items.*

*SEC. 204. DEFINITIONS.*

*For the purposes of this Act—*

*(1) the term "foreign person" means—*

*(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or*

*(B) a corporation, partnership, or other entity, including any parent or subsidiary entity thereof, which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and*

*(2) the terms "defense article" and "defense service" have the same meanings as are given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.*

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

## TRIBUTE TO JOSEPH CAMPBELL

Mr. KERRY. Mr. President, yesterday after battling for 2 years against central nervous system lumphoma, a Hingham, MA, native and Vietnam veteran by the name of Joseph Campbell died at the Spalding Rehabilitation Hospital in Boston. I want to share with the Senate the obituary, which was distributed by his brother, which I received today.

It says that Mr. Campbell gained notoriety in the last years of his life campaigning with Senator JOHN KERRY and fellow Hingham veteran, Jim Kilroy, on behalf of a bill that would extend veterans benefits to victims of relatively rare forms of soft tissue cancers, who were exposed to the defoliant agent orange during service in Vietnam.

Mr. Campbell, in his last appearance at a news conference, shortly after undergoing extensive radiation and chemotherapy, told the assembled reporters in halting speech that Vietnam veterans should not be denied benefits because scientists held differing opinions on the relationship between exposure to agent organge and such rare cancers. Mr. Campbell believed that any doubt on the issue should be resolved in favor of the veterans who, he believed, lived dramatically altered lives, as a result of their service to their country.

Mr. Campbell was raised in Medford and graduated from Malden Catholic High School and Salem State College. He enlisted in the U.S. Army in 1968, graduated from officer candidate school at Fort Benning, GA, and was commissioned in 1969. He served as an infantry officer and adviser to the South Vietnamese army in Vietnam's delta region in 1970 and 1971, where he was exposed to agent orange.

On his discharge form the army, Mr. Campbell founded CAMCO, Inc., a janitorial supply sales and distribution company located in Norwalk.

Mr. Campbell was a communicant of the Church of the Resurrection in Hingham, a member of the Knights of Columbus and the Hingham Post of Veterans of Foreign Wars, Vietnam Veterans of America, and formerly the Irish-American Club of Malden.

He was 44 years old at his death; never received any veterans benefits, despite his efforts, and he is survived by his wife, Mary, and four children, Jay 19; Karen, 16; Allison, 13 and Megan, 9.

Mr. President, Joe's brother, Richard, was kind enough to write me a personal letter of gratitude. I will not share the personal parts of it, but he said that Joe died on May 15, 1990, yesterday, from central nervous system lymphoma.

To my knowledge, he is the only member of our family ever to develop any form of cancer, let alone this relatively rare lumphoma, and like Joe before his death, I am convinced to a moral certitude that resulted from his exposure to Agent Orange.

While the ideology of Joe's disease is of no consequence to him now, he would certainly want you to continue your efforts for other veterans, because he believed passionately in the righteousness of the cause. His intense feelings on the issue were exemplified by his willingness to appear with you and Jim Kilroy before the news media to advance the bill you proposed, even though the disease wracked him physically and intellectually. He did not allow humiliation, attendant to his altered appearance and his difficulty in expressing his thoughts, to interfere with his obligation to assist you and Mr. Kilroy.

Indeed, Mr. President, he assisted. He was brave and courageous to the last, believing that it was his role to try to guarantee that other veterans did not have to suffer as he did, and that other families did not have to be left without a Government that was willing to respond to their needs.

I think what Joe said is so important for people to think about. There may be some scientific controversy and some scientists may differ. But what we are talking about is an issue of a relationship between this Government, our Government, and people who were willing to resolve their doubts in favor of service to that Government. There are not that many veterans who are subject to these very rare diseases. Very few veterans are claiming the right to benefits for anything except these very rare diseases.

It seems to me fundamental to the nature of the relationship between a Government which is willing to send people thousands of miles away to fight and die in jungles of other countries that when they return to this country they ought to have those doubts resolved in their favor. It is now 20 years since the first defoliant was sprayed in Vietnam and too many veterans have been allowed to die with the belief, deep rooted total belief in their mind, that they were dying because of an injury that was done to them in the course of the service to their country.

This country is not so poor either in spirit or in monetary terms that we cannot afford to uphold the nature of that relationship between those who serve and the Nation that they serve.

This Senate has twice passed overwhelmingly legislation that would recognize the nature of that relationship and do it appropriate honor, and that has been held up now in the House of Representatives for too long.

So I come to the floor today to say that in the memory of Joseph Campbell that fight is going to go on, that his fight is going to go on, and that ultimately we are going to do justice to that relationship.

Mr. President, it is long time overdue. I think that the family of Joseph Campbell could still do well to know that his efforts were not in vain.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the distinguished Senator from Rhode Island [Mr. PELL].

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. PELL. What is the pending business?

The PRESIDING OFFICER. The pending question is the committee substitute to the bill S. 195.

Mr. PELL. I thank the Chair.

Mr. President, I am very pleased that the Senate has today for its consideration S. 195, the Chemical and Biological Weapons Control Act of 1989.

This bill will put the United States clearly in the lead of those nations willing to take strong action to prevent ever again the illegal use of deadly chemical weapons. S. 195 was approved unanimously by the Committee on Foreign Relations on October 6, 1989.

Subsequently, the Committee on Banking, Housing and Urban Affairs suggested certain changes. The Senator from North Carolina [Mr. HELMS] and I are prepared to accept 14 of those suggested changes which we believe are consistent with the intent and purpose of the bill. We have incorporated these changes in a text we will offer shortly.

The resulting bill is a strong piece of legislation. Although it has not been marked by the sound and fury surrounding recent legislation, it is no less important. Indeed, time may prove this legislation one of the most significant achievements of this session. It enjoys support across a broad political spectrum by Senators on both sides of the aisle who have chosen to stand for high principle.

I am pleased that this vital legislation is cosponsored by Senators HELMS, KERRY, MCCAIN, GORE, SIMON, BOSCHWITZ, DODD, KASSEBAUM, BURDICK, HUMPHREY, SANFORD, BIDEN, COHEN, HARKIN, DOLE, STEVENS, MURKOWSKI, LUGAR, LEAHY, BINGAMAN, BOREN, BREAUX, DASCHLE, FORD, LEVIN, WIRTH, LOTT, GORTON, LIEBERMAN, MACK, ROBB, CONRAD, KERREY, and AKAKA.

I am delighted that our new colleague from Hawaii [Mr. AKAKA] has become a cosponsor of S. 195 as one of his first acts today. We are all pleased to welcome him to this body and in particular to congratulate him for his wisdom in joining us in this endeavor. His predecessor, our beloved former colleague, the late Senator Matsunaga, was a cosponsor of this legislation.

The underlying and simple message of this bill is: the United States, which has forsworn the use of chemical and biological weapons, will do its utmost to erect effective barriers against the illegal use of chemical and biological weapons by one nation against another.

The bill has two major purposes:

To establish sanctions against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own citizens.

To establish sanctions against foreign countries that assist certain countries in acquiring a chemical or biological weapons capability.

These are the principal provisions of the bill:

TITLE ONE

Whenever information becomes available that a country may have used chemical or biological weapons, the President shall, within 60 days, make a determination as to whether such weapons have been used by a nation in violation of international law or against its own citizens.

Not later than 60 days after receipt of a request by the chairman of the Senate Foreign Relations Committee or the House Foreign Affairs Committee, acting after consultation with the ranking minority members, the President must determine whether a country has used such weapons and report back to the committees.

The President must consider certain criteria in making a determination to ensure that the determination is judicious and well-grounded.

If the President determines that a country has used chemical or biological weapons in violation of international law or has used lethal chemical weapons or biological weapons against its own citizens, the President shall impose specific sanctions.

A country sanctioned for chemical or biological weapons use would automatically face:

The termination of U.S. economic and military assistance;

The termination of U.S. Government or commercial arms sales;

The initiation of export controls and an import prohibition;

U.S. opposition to loans by international financial institutions;

Denial of credit through the U.S. Eximbank and the prohibition of loans or credit from U.S. banks; and

The termination of landing rights in the United States.

There are appropriate exceptions for humanitarian assistance, food, and agricultural products. Provision is made for contract sanctity.

The President can waive imposition of sanctions for 9 months and can remove the sanctions only after the offending country renounces the use of chemical and biological weapons and provides restitution to those affected by such use.

TITLE TWO

Sanctions would be imposed on foreign companies which knowingly and materially contribute to efforts to use, develop, produce, stockpile or otherwise acquire chemical weapons by any country that the President has determined has since January 1, 1980—

Used chemical or biological weapons in violation of international law;

Used lethal chemical or biological weapons against its own nationals;

Made substantial preparations to do the described activities; and

Been designated pursuant to section 6(j) of the Export Administration Act of 1979 as a country which supports international terrorism.

Sanctions would include:

A prohibition on procurement of goods and services from sanctioned company; and

A prohibition on imports of that company's products.

The President may waive these sanctions if he determines that the government with jurisdiction over the company involved has taken specific and effective actions, including appropriate penalties, to terminate involvement.

The sanctions would be lifted after 2 years if all proscribed activities have ceased.

The President may take several exceptions to applying sanctions in the cases where there are existing contracts to procure defense articles or services, or, if the company is the sole source supplier of defense articles or services, or of other essential products.

Mr. President, including myself, this bill has 32 cosponsors and many more supporters. I know that most Senators will gladly support this legislation.

The text under consideration was carefully negotiated and changed to meet suggestions within the Committee on Foreign Relations, requests by the executive branch, and suggestions made by the Senate Committee on Banking, Housing, and Urban Affairs. Executive branch representatives had requested that the bill be modified to allow an administration the freedom to decide whether or not sanctions would be appropriate. This leeway would save the President the embarrassment of seeking a waiver of sanctions when a country has aroused public ire by using poison gas to kill people. Mr. President, the illegal use of poison gas is not an activity for which there should be any doubt about where the United States stands. Since the President already has the authority to impose the provisions of this bill, eliminating the requirement that sanctions be imposed under certain specified circumstance would eviscerate the bill and constitute an act of bad faith to all those who stand with us on this bill.

It is with some regret that I must remind my fellow Members that, when Iraq repeatedly used lethal chemicals on the battlefield and tried to resolve political grievances with its own citizens by gassing them to death, the United States stood idle and countenanced the heinous outrage, despite the expressed desire of the Congress that the United States take a firm stand and impose sanctions. There is, perhaps, cause for hope—but no reason to expect—that an administration would act differently than the last administration if there was another such outrage. Against that background, it is imperative that the United States erect barriers against the use of chemical and biological weapons now and make it clear that those barriers will stand in place. I would remind my fellow Senators that in the past few weeks Iraq's President, Saddam Hussein, has been boasting about his ability to attack our ally, Israel, with chemical weapons. The legislation before us now sends a clear message that he should not stoop to such vile threats and deeds.

Mr. President, some years ago the Congress of the United States decided that it would erect strong, immovable barriers against the use of nuclear weapons. We have learned anew in recent years of the ghastly and indisputable horror of the use of chemical weapons in violation of international law. We must not apply a lesser standard against chemical weapons use than the use of nuclear weapons. Both can be used for the indiscriminate oblitera-

tion of towns, villages, cities, and whole groups of people.

If we stand for anything, we must stand for a uniting of the world against those who would give themselves the right to use chemical weapons against any other people.

Mr. HELMS. Mr. President, today the Senate begins consideration of legislation to stem the proliferation of chemical weapons.

The bill before us is bipartisan. It combines S. 195 as introduced by Senator PELL and 18 cosponsors and S. 238 as introduced by me with 3 cosponsors.

The Foreign Relations Committee spent a lot of time developing this legislation now before the Senate. The bills upon which this legislation is based were introduced in January 1989 It took 9 months of hearings and staff discussions for the committee to report legislation.

The legislation we reported—the bill before us today—was voted out of our committee unanimously. The Foreign Relations Committee, to say the least, is a diverse committee. Anyone who has observed us knows how difficult it must have been to produce legislation of this magnitude capable of passing unanimously.

Senate consideration of this issue is occurring not a moment too soon. The proliferation of chemical and biological weapons in the Middle East poses a serious and immediate threat to America's interests in that vital region. Today the Senate has the chance to do something about this threat.

In 1988 the world became aware of Iraq's use of chemical weapons against its own civilians. On three occasions, the Senate passed Pell-Helms legislation placing sanctions on Iraq in response. Unfortunately, State Department efforts torpedoed this legislation in the House.

The failure of the United States—or any other country—to place sanctions on Iraq sent a clear signal to the Middle East: "you can use chemical weapons and get away with it."

Congress must take action during this session to make it clear to countries that future use of chemical weapons will be met with stiff penalties. The bipartisan legislation before the Senate today aims to do just that.

Shortly after Iraq's use of chemical weapons was exposed, the world became aware of an international conspiracy of supposedly legitimate foreign industrial concerns who have reaped handsome profits by providing the capability to produce chemical weapons to such radical regimes as Iraq, Libya, Syria, and Iran.

The discovery of this international conspiracy of industrial firms, and the possible complicity of foreign government officials in this conspiracy sends a clear message to Americans: The United States cannot rely solely on the assurances of foreign governments if we are to be serious about stopping trade in chemical and biological weapons.

For this reason, this legislation would place tough sanctions on those foreign companies which insist upon assisting the chemical weapons programs of radical regimes.

It is vital that the Congress enact legislation to place sanctions on countries which use chemical weapons, or upon the foreign companies which help certain countries obtain such weapons. The longer we delay, the greater the likelihood that some of the most brutal regimes of the Middle East will successfully obtain the knowledge and personnel necessary to produce such weapons without Western assistance—and this is something we must not permit to occur if we can at all help it.

Countries such as Libya, Iraq, Syria, and Iran are reportedly all working on chemical weapons programs. Ironically, all four of these countries are up to their necks supporting terrorism. Is it conceivable that any of these countries will give chemical weapons to terrorists for their use? This is something the United States cannot risk.

In addition, Israel is particularly vulnerable to a chemical weapons attack. Israel's defense forces are made up mostly of reservists. A chemical attack against mobilization centers, or key population centers, would be disastrous.

A chemical or biological weapons attack on Israel could cost Israel the time and human resources which mean the difference between successful defense and shattering defeat. A shattering defeat of Israel would set the stage for Soviet domination of the Middle East and its oil supplies.

That is the bottom line: the proliferation of missiles, and chemical and biological weapons in the Middle East poses a direct threat to America's long-term access to the vital oil resources of that region.

The legislation before the Senate is bipartisan. It represents compromises made by all sides in our committee. And it includes two, complementary and integral approaches to stem the proliferation of chemical weapons. Title I provides for sanctions against countries which use chemical weapons and title II provides for sanctions against companies which would assist them.

Together, the two approaches send a clear signal to countries which may contemplate using chemical weapons and to the companies which may want to help them: There will be a steep price to pay from the United States.

Mr. President, if the interests of the United States in the Middle East is to be preserved and protected, it is clear that Congress must act quickly against those countries which would use chemical weapons, and those companies which would help them along the way. Congress can do so by enacting S. 195.

In order that Senators may be made fully aware of how S. 195 would undertake such action, I will now summarize S. 195, based on the committee report.

SUMMARY OF S. 195

In recognition of the nature and extent of the threat posed by the proliferation of chemical and biological weapons, S. 195 takes a two-tiered approach to halt the use of and prevent the spread of chemical and biological weapons.

SANCTIONS AGAINST USE

First, the bill requires the President to impose sanctions against countries that use chemical or biological weapons in violation of international law, or use lethal chemical weapons against their own nationals. Second, the committee bill provides for sanctions to be imposed against foreign companies that aid or abet countries in the pursuit of a chemical or biological weapons capability.

The use of chemical weapons in violation of international law, and the use of lethal chemical or biological weapons against a nation's own citizens is morally repugnant and indefensible. Accordingly, the bill provides for a number of significant sanctions against use to be specified in law. These sanctions would provide a strong deterrent to use and make it abundantly clear that the United States is unalterably opposed to the illegal use of chemical and biological weapons.

Iraq's heinous use of lethal agents against its own citizens and its earlier use of chemical agents in the Iran-Iraq war was met by no formal penalties from the United States or other nations, despite the fact the Senate on three occasions passed legislation providing that sanctions be imposed. It is imperative that barriers to use be erected now, lest the clear message remain that chemical warfare can be used without penalty.

William Webster, Director of the Central Intelligence Agency, confirmed the value of sanctions when he told the Foreign Relations Committee last year that sanctions "bring home the official position of the country with respect to the production and use of chemical warfare, and that provides an opportunity for sustained moral suasion, putting the spotlight on these activities."

In crafting this bill, the committee was mindful of the importance of ensuring that a Presidential determination of use would be made when the facts warranted, but also wanted to ensure that no bureacracy would be able to succeed in pressing a President to make an erroneous or capricious determination. Accordingly, the bill spells out the standards to be met in

determining use. The executive branch and the Congress may not be in agreement over the possibility of chemical or biological weapons use. In recognition of that, this bill provides the Congress, through the chairmen of the Senate Foreign Relations Committee and the House Foreign Affairs Committee, in consultation with the respective ranking minority members, with the means to initiate the process for a Presidential determination on such use.

In order to ensure the availability of information on dangerous activities and potential problems, S. 195 provides for annual Presidential reports on efforts by countries to develop, produce, stockpile, and deliver chemical and biological weapons. The reports shall detail the extent to which such countries were aided or abetted by foreign governments, suppliers, or companies.

SANCTIONS TO PREVENT PRODUCTION

The proliferation of chemical and biological weapons among developing countries poses a serious threat to the national security interests of the United States. This is especially the case where efforts by anti-Western regimes such Libya, Iran, Iraq, and Syria reportedly have obtained or are rushing to obtain a chemical weapons capability.

Chemical weapons such as mustard gas, nerve gases, and phosgene are relatively easy to produce, hence their nickname, "the poor man's nuclear bomb." However, developing countries often need the assistance of Western industrial firms to obtain the capability to produce chemical weapons.

S. 195 reinforces these existing authorities for the President to control the export of chemical and biological weapons technologies from the United States. In addition, the committee bill creates a new authority under the Export Administration Act, whereby the President can require a validated license for the export of any good or technology that he deems would assist a country in the development, production, stockpiling, or delivery of chemical or biological weapons.

While export controls are a useful deterrent to the further spread of chemical and biological weapons, such controls in and of themselves are only partially effective in that they do not cover foreign firms.

Foreign suppliers—which operate outside the purview of domestic export controls—have contributed significantly to the proliferation of chemical and biological weapons among developing nations, particularly in the Middle East. In his testimony before the Foreign Relations Committee, Judge Webster reported that:

* * * assistance provided by foreign suppliers, many of whom were fully witting of the intentions of the Middle East countries to produce chemical weapons, has been the key element that has enabled these nations to develop a capability to produce chemical weapons within only a few years.

Mr. President, I ask unanimous consent that a list of 68 companies implicated in press reports be inserted in the RECORD at the conclusion of my remarks.

(See exhibit 1.)

While the list placed in the RECORD is only a compilation of news reports, combined with Judge Webster's testimony, it does suggest that the participation of foreign corporations in the chemical weapons program of Iran, Iraq, Syria, and Libya is quite extensive. But possibly the most serious implications of this scandal are the allegations of knowledge and involvement by government officials of West Germany. According to Der Stern magazine, the Libyan gas plant was actually designed by a German state-owned engineering firm. And New York Times columnist William Safire wrote on January 16, 1989:

Certainly for months and probably for years, the Kohl-Genscher-Stoltenberg Government had evidence that the German merchants of death were illegally supplying the technical know-how and materials for the production of poison gas in Iraq, Syria and Libya, as well as missile technology that could help Third World dictators hold the world's cities hostage to the poor man's atomic bomb.

The discovery of this international conspiracy of industrial firms and the possible complicity of foreign government officials in this conspiracy sends a clear message to Americans: The United States cannot rely solely on the assurances of foreign governments if we to be serious about stopping trade in chemical and biological weapons.

Rather, the United States must itself take actions against the companies involved if we are to expect action to stem trade in these weapons of mass destruction. Title II of this act provides for such action by informing the American people of, and placing sanctions upon, those companies which aid, assist, or abet the chemical or biological warfare programs of countries which have used chemical weapons in violation of international law or have been involved in state-supported terrorism.

If invoked, the sanctions would prohibit the procurement by the U.S. Government of any goods or services produced by the offending party, and would bar the import of such goods and services into the United States. Appropriate exceptions are available to the President in cases where the producer is the sole source supplier of military goods and services deemed essential to U.S. security interests.

The legislation before the Senate recognizes that the host government of the offending company may have taken appropriate steps, including penalties, to terminate the involvement of the company in the activities covered by S. 195. If, in consultation with the host government, the President makes such a determination, the bill gives him the authority not to impose sanctions.

U.S. policy on the use and proliferation of chemical and biological weapons should be clearly stated and consistently applied. Unilateral U.S. sanctions against the use and production of chemical and biological weapons are widely accepted as an effective policy instrument by the administration, the Congress, and the private industrial sector. This broad coalition of support was evident throughout the course of the Foreign Relations Committee's hearings and consideration of S. 195, where all of the witnesses expressed support for the idea of U.S. sanctions against use and production of chemcial and biological weapons.

The sanctions in this bill create a clear and serious deterrent against countries which would use chemical weapons, and the companies that would help them along the way. But more is needed above and beyond these sanctions.

The challenge posed by the proliferation of chemical and biological weapons among radical regimes in the Middle East is grave. If America's vital interests in the Middle East and elsewhere in the world are to be preserved, it will take concerted action on the part of Congress to inhibit the trade of chemical and biological weapons. S. 195 represents such concerted action.

EXHIBIT 1

The list of foreign corporations implicated in press reports as assisting the chemical weapons programs of Middle Eastern countries includes:

Siemens, W. Germany (Libya—telecommunications equipment, der Spiegel, Jan. 23, 1989).

Deustche Bank, W. Germany (Libya—banking services, Stern, Jan. 12, 1989).

E. Merck, W. Germany (Libya—Precursor chemicals, Wall Street Journal, Jan. 18, 1989).

Imhausen-Chemie, W. Germany (Libya—chemical warfare plant, N.Y. Times, Jan. 1, 1989).

Alfred Teves GmbH, W. Germany (Libya—industrial cooling equipment, Wall Street Journal, Jan. 18, 1989).

Pawling and Harnishchfeger,, W. Germany (Libya—mobile cranes, Washington, Times, Jan. 16, 1989).

Kone, W. Germany (Libya—overhead cranes, Washington Times, Jan. 16, 1989).

Karl Kolb, W. Germany (Iraq—chemical warfare plant, Christian Science Monitor, Dec. 13, 1988).

Pilot Plant, W. Germany (Iraq—chemical warfare plant, Christian Science Monitor, Dec. 13, 1988).

Hebenger Bau, W. Germany (Libya—The Times, London, Jan. 7, 1989).

Krauss Kopf, W. Germany (Iraq—International Herald Tribune, Jan. 7-8, 1989).

Ludwig Hammer, W. Germany (Iraq—International Herald Tribune, Jan. 7-8, 1989).

Quast, W. Germany (Iraq—corrosion-resistant alloy parts, Christian Science Monitor, Dec. 13, 1988).

Salzgitter Industriebau GmbH, W. Germany (Libya—industrial planning, Washington Post, Jan. 17, 1989).

OSTRAG, W. Germany (Libya—ballistic missiles, Stern, Jan. 12, 1989).

Zink, W. Germany (Libya—gas burning equipment, Stern, Jan. 12, 1989).

Gesellschaft fur Automation, W. Germany (Libya—computers, Stern, Jan. 12, 1989).

Krebs und Kiefer, W. Germany (Libya—stress engineering, Stern, Jan. 12, 1989).

J. Sartorius, W. Germany (Libya—construction materials, Stern, Jan. 12, 1989).

Bischoff, W. Germany (Libya—tools and machinery, Stern, Jan. 12, 1989).

Hunnebeck, W. Germany (Libya—building materials, Stern, Jan. 12, 1989).

INTEC Technical Treading Logistik, W. Germany (Libya—air-to-air refueling, Stern, Jan. 12, 1989).

Raab Karcher, W. Germany (Libya—building materials, Der Speigel, Jan. 15, 1989).

Schott Glasswerke, W. Germany (Syria—corrosion-resistant glass pipes, Wall Street Journal, Sept. 16, 1988).

Rhema-Labortechnik, W. Germany (Libya—laboratory equipment, der Spiegel, Jan. 23, 1989).

Stietzel and Diedrich, W. Germany (Libya—flight technology, CBSN, Bonn, W. Germany, Jan. 23, 1989).

Joseph Mulbauer Machine, W. Germany (Libya—precision technology, CBSN, Bonn, W. Germany, Jan. 23, 1989).

Becker Kabel und Lamper, W. Germany (Libya—surveillance cameras, Stern, Jan. 19, 1989).

Rhenus, W. Germany (Libya—transport firm, Stern, Jan. 19, 1989).

Chemco GmbH, W. Germany (Iran—chemical precursors, NYT, Jan. 29, 1989).

Sigma Chemie, W. Germany (Iraq—chemical precursors-biological, Washington Times, Jan. 31, 1989).

Messerschmitt Bolkow-Blohm (MBB), W. Germany (Iraq—lab equipment, Stern Magazine, Jan. 26, 1989).

Gildemeister Projecta, W. Germany (Iraq—computer programs, Stern, Jan. 26, 1989).

Integral/Sauerinformatic/CME, W. Germany (Iraq—computer programs, Stern, Jan. 26, 1989).

WTB Walter Thosti Boswau, W. Germany (Iraq—construction of four nerve gas plants, Der Spiegel, Jan. 23, 1989).

Anton Eyerle, W. Germany (Iraq—mobile toxicological labs, Der Spiegel, Jan. 23, 1989).

Magirus Deutz, W. Germany (Iraq—vehicles for mobile toxicological labs, Der Spiegel, Jan. 23, 1989).

Eshborn Chemical Marketing and Machinery Agency, W. Germany (Libya—precursor chemicals, Der Spiegel, Jan. 23, 1989).

Plato-Kuehn, W. Germany (Iraq—toxins, Der Spiegel, Jan. 30, 1989).

Linde, W. Germany (Libya—oxygen unit, Washington Times, Jan. 16, 1989).

Preussag, W. Germany (Libya—water purification system, Stern, Jan. 12, 1989).

Globsat, W. Germany (Libya—missile parts, DPA, Jan. 31, 1989).

VEB Stahlbau, E. Germany (Libya—steel fabrication, Stern, Jan. 12, 1989).

New Berger, Austria (Iraq—precursor chemicals, Austria State Radio, Jan. 4, 1989).

Consultatio, Austria (Iraq—buildings, Stern, Jan. 26, 1989).

Schweizerischen Kreditanstalt, Switzerland (Libya—banking services in Zurich, Der Spiegel, Jan. 23, 1989).

Companies Inc., Switzerland (Iraq—chemical precursors, NYT, Jan. 31, 1989).

FCA Contractor, Switzerland (Iran-chemical precursors, Neue Zuercher Zeitung, Feb. 2, 1989).

Krebs A.G., Switzerland (Egypt—chemical plant, NYT, March 10, 1989).

Japan Steel Works, Japan (Libya—bombs, Mainichi, Sept. 15, 1988).

Toshiba, Japan (Libya—power plant, NYT, Feb. 17, 1989).

Marubeni, Japan (Libya—Christian Science Monitor, Dec. 13, 1988).

Mitsuibishi, Japan (Libya—metallurgical plant, Kyodo News Service, Feb. 28, 1989).

C. Itoh, Japan (Libya—metallurgical plant, Kyodo News Service, Feb. 28, 1989).

Melchemie, Holland (Iraq—chemical precursors, Christian Science Monitor, Dec. 13, 1988).

De Dietrich, France (Libya—supplied glass-lined caldrons, N.Y. Times, Jan. 1, 1989).

Flaekt, Belgium (Libya—cooling tower, Washington Times, Jan. 16, 1989).

Cross Link, Belgium (Libya—freight forwarding, Stern, Jan. 12, 1989).

J.G. Trading, Britain (Libya—freight forwarding, Stern, Jan. 12, 1989).

Ihsan Barbouti International, Britain (Libya—general contractor, Washington Times, Jan. 16, 1989).

RTZ Ltd., Britain (Iran—precursor chemicals, Baltimore Sun, Jan. 31, 1989).

DISA, Denmark (Libya—foundry equipment, Washington Times, Jan. 16, 1989).

Cy Savas Oikonomidis E.E., Greece (Iran—shipping company, NYT, Jan. 29, 1989).

Energoinvest, Yugoslavia (Libya—power substation, Washington Times, Jan. 16, 1989).

Pen Tsao, Hong Kong (Libya—document handling, Stern, Jan. 12, 1989).

Alcolac International, United States (Iran—chemical precursors, NYT, Jan. 29, 1989).

Nu Kraft Mercantile Corp., United States (Iran—precursor chemicals, NYT, Jan. 31, 1989).

United Steel and Strip Corporation, United States (Iraq—chemical precursors, NYT, Jan. 31, 1989).

Interchem Inc., United States (Iran—precursor chemicals, NYT, Jan. 31, 1989).

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1631

(Purpose: To provide substitute language)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration in lieu of the one that is already there.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for himself and Mr. HELMS, proposes an amendment numbered 1631.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment (No. 1613) is printed in today's RECORD under "Amendments Submitted.")

PRIVILEGES OF THE FLOOR

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that Mark Menefee be allowed privileges of the floor during debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2639 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I rise in support of S. 195, the Chemical and Biological Weapons Control Act of 1990.

I would like at the very outset to commend the distinguished chairman of the Foreign Relations Committee, Senator PELL, for the outstanding leadership he has provided the Senate on this very important, indeed some would say critical, issue. He, in fact, has had a longstanding interest in controlling the proliferation of chemical and biological weapons, an interest extending over a very sustained period of time. It is a matter which again and again he has brought to our attention and on which he has sought to move legislation through the Senate to address the issue. He deserves much credit for bringing this bill to the Senate floor.

This is a particularly opportune time for the Congress to be acting on this legislation. The United States and the Soviet Union are in the process of ne-

gotiating an agreement to end the production of chemical weapons by the two countries and to reduce drastically their stockpiles of chemical weapons. In addition, and most importantly, negotiations are going forward in Geneva on a comprehensive ban on the production and use of chemical weapons. As we know, there have been extended discussions there amongst a large number of nations trying to bring this scourge under control.

Yet, despite all of these efforts, the possible use of chemical weapons by irresponsible governments and the sale of chemicals used in the production of chemical weapons to such governments by foreign companies remain a source of concern. The bill which is before the Senate today, S. 195, the Chemical and Biological Weapons Control Act of 1990, responds directly to these concerns.

The first title of the bill would require the President, if he determines that a foreign country has used chemical or biological weapons in violation of international law or against its own citizens, to impose an extensive set of sanctions against the country. The sanctions would include the termination of all foreign aid and military sales to the country, the prohibition of the export to that country of any goods or technology, as well as the prohibition of the import into the United States of any goods or services from that country. It includes the denial of credit to that country from the Export-Import Bank of the United States and a prohibition on all lending by U.S. banks to that country.

So, as one can see, these are far-reaching sanctions which would come into effect against a foreign country that used chemical or biological weapons in violation of international law or used them against its own citizens. The bill would give the President discretion to waive the applicability of some or all of the sanctions with respect to a specific country for a period not to exceed 9 months from the date of the determination of chemical or biological weapons use if the President found such a waiver to be in the national interest of the United States.

The President would also have authority to remove sanctions if he determines that the country has renounced use of chemical or biological weapons and has provided reliable assurance to that effect and that the country has made satisfactory restitution to those affected by earlier use of chemical or biological weapons.

This first title of the bill also urges the President to continue close cooperation with the Australian group to monitor and control the supply of chemicals applicable to weapons production to countries that support international terrorism and to work closely with other countries capable of supplying equipment or technology applicable to chemical or biological weapons production to devise the most effective controls possible on the transfer of such equipment or technology.

Mr. President, title II of the bill would require the President to impose sanctions on a foreign company if the President determines that the company has knowingly and materially contributed to the efforts to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons by any country that the President determines has used such weapons in violation of international law or against its own nationals or has been designated as a country which supports international terrorists.

In other words, title I addresses the country sanctions. Title II addresses the company sanctions to get at those companies that, in effect, are engaged in trade knowingly and materially contributing to the development of such weapons with respect to countries that have violated international law or to a country that has been designated as supporting international terrorism.

Again, the President would have authority under the legislation to delay sanctions against the foreign company for up to 90 days in order to pursue consultation with the government of the country with primary jurisdiction over the foreign company. Following such consultation the bill requires the President to impose sanctions on that company unless he determines and certifies to the Congress that the government with primary jurisdiction has taken specific and effective actions to end the involvement of the company in the activities under question.

The sanctions required by the bill with respect to such companies would be a ban on U.S. Government procurement by the foreign company and on imports into the United States of products produced by the company. The sanctions would apply for a period of at least 24 months.

This bill was, of course, reported out by the Senate Foreign Relations Committee. The Banking Committee also has a strong interest in the issue of chemical and biological weapons proliferation, in part because the bill amends statutes, including the Export Administration Act, under the jurisdiction of the Banking Committee.

So there is a jurisdictional issue here, although I am quick to point out that the substance of this legislation with which we are dealing, in my judgment, is critical at this time, particularly since we now are both dealing in a bilateral way with the Soviet Union on chemical weapons production and stockpiling. And we hope to use that agreement, which we hope will be forthcoming, as an impetus to give momentum to the broader talks which are taking place in Geneva.

Last June I chaired a hearing within the Banking Committee, an oversight hearing on chemical and biological weapons proliferation. Testimony was taken from administration witnesses as well as outside experts and industry representatives. Sequential referral was sought by some on the Banking Committee. Agreement could not be reached, as my distinguished colleague from Utah knows. That required, in effect, a unanimous consent. That was not forthcoming.

In order to continue to try to move this matter forward, given its importance—indeed I would say its urgency—the Banking Committee developed a package of 17 amendments to this bill which reflect the changes that the committee thought ought to take place.

A series of discussions then took place at the staff level over a lengthy period of time with respect to these amendments. In fact, the substitute offered by the able and distinguished chairman of the Foreign Relations Committee here today incorporates all of those amendments with the exception of the few dealing with the jurisdictional issue. That revolves around the question of whether the company sanctions contained in this bill should be a freestanding provision, or whether it should be included as amendments to the Export Administration Act and the Arms Export Control Act.

The original bill reported out by the Senate Foreign Relations Committee would have made the company sanctions new freestanding provisions of the law. That, of course, raised, as was indicated in the package the Banking Committee came forward with, some very serious jurisdictional questions.

One alternative approach that was suggested—in fact in the amendments of the Banking Committee—would have provided that sanctions on foreign companies which sold dual use commerical goods would be placed in the Export Administration Act, which falls under the jurisdiction of the Banking Committee. Sanctions on sales of goods which are munitions list items would be made part of the Arms Export Control Act which falls under the Foreign Relations Committee jurisdiction.

That encountered difficulties. So you had a proposal by the Foreign Relations Committee contained in the legislation which came out of that committee which encountered difficulties. You had a proposal by the Banking Committee which encountered difficulties. The difficulties in each instance came from the other committee.

What is now contained in the substitute which the chairman of the Foreign Relations Commmittee has put forward is that the compromise in the substitute replaced identical language

on company sanctions in both the Export Administration Act and the Arms Export Control Act, thereby protecting, in effect, the jurisdiction of both committees, leaving that jurisdictional issue perhaps to be fully resolved on some other occasion in a different context. But at least this legislation would not become the vehicle for a major determination on jurisdiction either as reported out, or as contained in the amendments which came from the Banking Committee.

I have to say, it seems to me this represents a good-faith effort to try to resolve this situation, particularly to resolve it in a way that we could move the legislation forward. I appreciate the jurisdictional issues. I am in the position of serving on both committees, which is either a blessing or a curse depending on how one looks at this matter. It seems to me what we have here in the substitute—and I think under the circumstance, because I feel strongly we need to move with the substance of this legislation, and that it no longer should be delayed or impeded or hindered by the jurisdictional question—is an approach which, in effect, preserves that issue for both committees. It can be, as I said, resolved on some other occasion and in a different context.

I want to point out that the substitute offered by the chairman of the Senate Foreign Relations Commimttee encompasses all of the substantive amendments which the Banking Committee put forward for inclusion in this legislation.

So, the substantive position of the Senate Banking Committee with respect to this legislation in terms of changes they wish to see made in the substance of the bill have been included in the substitute, and it, therefore, fully reflects the judgment of the Banking Committee on those substantive matters.

I very much hope that the concern of some over the jurisdictional question would not preclude us from moving forward on legislation, whose substance I think is very important, and which, I think, is extremely timely at this juncture given what has taken place, not only at the bilateral level between the United States and the Soviet Union over chemical weapons, but also with the very important and very sensitive negotiations that are taking place in Geneva.

Mr. President, I close again by expressing my appreciation and respect to the chairman of the committee, Senator PELL, for his determination and commitment on this very, very important issue over the years, and for crafting what I think substantively is a very positive and constructive contribution to addressing this very critical issue of chemical and biological weapons proliferation.

Mr. President, I yield the floor.

Mr. GARN. Mr. President, I would like to rise at this point to join my colleagues in support of adopting S. 195, the Chemical and Biological Weapons Control Act of 1989. I would like to be, but I cannot without further modification of the bill. I will speak further on these points later in this debate.

I hope that the bill can be perfected, because I believe that well-crafted legislation will put both countries that consider using chemical weapons, and companies who would help them develop such weapons, on notice that they face international isolation and stern economic penalties. My work on this legislation represents the continuation of a 15-year personal effort in the Senate to stop the transfer of sophisticated Western technology into the arsenals of our enemies. More specifically, it is an extension of my efforts to stop such transfers by punishing the companies that profit from them. Those efforts began with my 1987 Toshiba amendment on which the company sanctions title of this bill is closely modeled.

The effort to apply sanctions to chemical weapons proliferation originated with the Republican leader with whom I worked in crafting this original sanction bill, S. 8. The bill we are considering today, S. 195, combines company sanctions which I believe are necessary with a country sanctions title that, though flawed, includes a series of amendments I proposed and which were adopted by the Banking Committee.

I believe that country and company sanctions approaches are a logical combination. Taken together, they represent the basis for legislation that attempts to ensure that we not arm terrorists, trade with murderers, or condone the spread of horrendous weapons that civilized nations have agreed for 60 years should be banned.

The legislation would do this by placing sanctions on countries that use chemical weapons and the same type of economic penalties in my Toshiba amendment on companies that assist the spread of chemical and biological weapons capabilities to terrorist states. The major problem with the bill is that, unlike my Toshiba amendment, the company sanctions title establishes confusing and duplicative authority to sanction foreign persons that assist proliferation and places authority in both the Export Administration Act and the Arms Export Control Act. But does not differentiate between sales of so-called dual use technology and munitions that form the line of demarcation between the two laws. The second flaw in the bill is that the sanctions provisions are substantially weaker than the sanctions I put forward in the Toshiba provision.

The task of stemming chemical proliferation is very difficult. We are attempting, in the case of chemical production technologies, to control the spread of technology that is in many cases relatively unsophisticated. The task of doing so has been made much more complicated by providing weak and confusing legislative authority for the principal mechanism, the threat of sanctions, that has a real chance of making a difference, as it did in the Toshiba case.

Based on my 15 years on this issue, the greatest criticism of our export control system is that it simply does not produce sensible, timely, or consistent policy that protects our security while permitting legitimate trade. We will do a disservice to America unless we produce legislation that is clear, free of confusion and overlap, and strong enough to work. Because sanctions against companies do work; they worked with Toshiba and the Governments of Japan and Norway; they worked with Cocom; and the threat of sanctions worked with the Germans. If we put the world on notice that there are some crimes we will not tolerate, that we stand ready to take unilateral action, we can affect the spread of this deadly technology. I will speak to specific changes I believe are needed in the bill as the debate proceeds.

I certainly would not like to end my opening statement without conceding that the Foreign Relations Committee, as Senator SARBANES of Maryland mentioned, was cooperative in adopting many of the amendments that I suggested and that were unanimously adopted by the Banking Committee.

However, I do believe that there is still one major flaw, and that is in the issue of jurisdiction. It could be converted very easily if the Foreign Relations Committee would be willing to separate company and country sanctions. It is clear that the country sanctions section of the bill is within the jurisdiction of the Senate Foreign Relations Committee. There is no doubt about that. Certainly, as a member of the Senate Banking Committee, I would not be trying to encroach on their jurisdiction. However, it is also clear that the Senate Banking Committee has jurisdiction over the Export Administration Act and wrote the company sanctions of the bill. We are in fact currently engaged in the process of renewing authorization for the Export Administration Act this year. And it is clear that sanctions on companies such as Toshiba are within the jurisdiction of the Senate Banking Committee.

It is rare that I attempt to stall a bill. I have not, as I mentioned to the majority leader, done so since October 1975. So I suppose once every 15 years a Senator is entitled to his rights. I am not promising, Mr. Majority Leader, not to do it for another 15 years, but I do not look for opportunities to stall.

I sincerely feel that this jurisdictional issue gives rise to an important policy issue, am also not one who cares very much about turf battles. We have enough of them around here without me adding to that burden. However, in this case the distinction between country and company sanctions is definite, and certainly no one would doubt either the ability of the Senate Banking Committee or the jurisdiction of the Senate Banking Committee over the Export Administration Act.

Because I feel very strongly, I must persist. I certainly do not intend to have this bill stalled in the traditional way. As I told the majority leader, I could have objected to proceeding to the bill and we could have debated that motion rather than the substance of the bill. I certainly had no intention of delaying Senate proceedings with that method, taking up the time, or taking two bites out of the apple. I do not intend to stand up here at length and talk just to stall.

I hope that tomorrow we can proceed with amendments and continue to work in processing the bill. But I simply do not want anybody to mistake my intentions. I feel overall, this bill is a good bill, there is no doubt about that. I commend the chairman of the Senate Foreign Relations Committee for his work on this and the recommendations of the Senate Foreign Relations Committee.

As two or three speakers mentioned, the Foreign Relations Committee has adopted 16 out of the 17 amendments that the Banking Committee proposed. Certainly on the surface, at least in numbers that seems very generous, and it has been. But the jurisdictional issue is very important to this Senator, and I believe, beyond the jurisdictional issue, we must tighten up and make the company sanctions area stronger, at least as strong as the Toshiba amendment. Otherwise this bill simply will not have the effect that both the Senate Banking Committee and the Senate Foreign Relations Committee hope for in controlling the proliferation of these types of weapons.

With that, Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, I ask unanimous consent that privileges of the floor be granted to David Loevinger, a member of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that we proceed as in morning business for something less than 10 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The Senator from New Jersey.

## VLADIMIR TSIVKIN

Mr. LAUTENBERG. Mr. President, I rise to draw my colleagues' attention to the case of Vladimir Tsivkin, a Soviet refusenik from Leningrad who has repeatedly been denied permission to emigrate but has already been granted status as a refugee. I urge the Soviet Union to resolve this case and grant Vladimir permission to leave the Soviet Union. Frankly I will not rest until he does get permission.

Mr. President, this case is one of the few sour notes in an otherwise harmonious attitude about emigration. Soviet Jews have been granted permission to leave the Soviet Union in record numbers over the last year, and we are grateful to see them adhere to that fundamental right among human rights we insist upon as the Helsinki accords dictate.

Thousands upon thousands make the pilgrimage to either the promised land or to a country of their choice every month.

Most favored nation status looms on the horizon, as a trade agreement with Moscow is signed in preparation for the upcoming summit. The era of good feelings between the Soviet Union and America albeit with some exceptions, is upon us. In this heady rush to freedom, it is easy, even tempting, to forget about those who have been refused emigration rights and who are left behind.

But we cannot forget. The cases of hardcore refuseniks who continue to be denied permission to emigrate must be resolved. We must make sure that every Soviet citizen who wants to leave is granted permission to do so. For if even one person is arbitrarily denied permission to leave, there is no true freedom of emigration. A life is a terrible thing to waste.

This is even truer today than before as storm clouds gather over the remaining shreds of the Jewish population left in the Soviet Union.

Anti-Semitic hate groups like Pamyat gain strength and grow bolder in their willingness and ability to terrorize the remaining Jewish population. Anti-Semitic violence and harassment grow more menacing each day. Rumors of programs continue to circulate. In this atmosphere, it is imperative that those Jews who seek to leave are free to go.

In this vein, I make a special plea to the Soviet Union to grant Vladimir Tsivkin permission to emigrate. I met Vladimir when I was in Moscow just this past March. Although he lives in Leningrad, he traveled to Moscow in the hope that I could help him. I was impressed by his keen intelligence and by the desperation of his plight. As more and more of his friends were granted permission to leave, his hope began to ebb.

Vladimir Tsivkin is a case of special humanitarian interest. Not only has he been in refusal for more than 10 years, making him one of the longest remaining Soviet Jews denied, he has a special claim to emigrate because his family aleady lives in the United States.

Vladimir's wife and daughter left the Soviet Union on a tourist visa and now live in this country. It is very hard on him to be separated from his family, especially since his health is not good. He suffers from an endocrine disorder and needs surgery.

Vladimir has been repeatedly refused permission to emigrate since 1979 on the grounds of state secrets although he has not worked at the Defense Ministry since 1978. Now Vladimir has no military card, and therefore he has no way to earn a living. This situation makes him liable to criminal prosecution.

Despite repeated refusal, the Tsivkin family received official permission to emigrate on March 14, 1989, more than 1 year ago. Based on this permission, they relinquished their jobs, sold almost all their belongings and returned their official documents. Eight days later the Soviet Visa Department called to inform the family that the permission had been granted "by mistake." No additional information was given.

Although when I was in the Soviet Union I gave Mr. Tsivkin an invitation to visit me in the United States, I learned that my invitation was rejected because it was not in the proper form. Then, the authorities told Mr. Tsivkin his case would not be reconsidered for at least 6 months.

There is no purpose served by keeping Vladimir Tsivkin in the Soviet Union against his will. He cannot work. His family is gone. Through no fault of his own, he is not a productive member of Soviet society any longer. As for State secrets, I spent a day with him and I can testify that he has no secrets to tell. I spent time with him, as did a member of my staff, 2 days in Leningrad. He disclosed no State secrets to us or no knowledge of State secrets, and he is holding none back.

Quite simply, the Soviets have nothing to lose and everything to gain by resolving this case—the goodwill of Americans, the gratitude of the Tsivkin family and those who care about his fate all over the world. If there is some bureaucratic snag somewhere in the vast Soviet bureaucracy that is holding Vladimir Tsivkin back from emigrating, I am sure that a little creativity and just plain effort on the Soviets part can resolve that problem quickly. If there is someone who has a grudge against Tsivkin and just does not want to see him go, it is time that person was overrulled.

As a matter of fact, there is legislation pending before the Soviet body of deputies that says that anyone who

has been away from a significant state job for more than 5 years is no longer expected to have any kind of secrets and further that if there is anyone who has a grudge, be it financial or otherwise, that it will be subject to an impartial arbitration group and a decision made.

As we say here in America, and I am sure it applies to this problem, where there is a will, there is a way.

I have raised this case repeatedly with various Soviet officials, including former Soviet Ambassador to the United States, Yuri Dubinin, and have also urged the President to add Vladimir Tsivkin to his personal list of refuseniks. I know that if the Soviets make the determination to release him, it will happen very quickly.

As we move toward the summit, it becomes even more critical to resolve cases such as Mr. Tsivkin's and others unfairly denied permission to leave.

Mr. President, it is the kind of thing that will continue to improve our image of the Soviet Union's determination to have a human rights agenda that compares with other free and democratic societies and I think it would do them well to take this step.

I hope that every effort will be made to resolve this case before the summit.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 2642 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. PELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

*To the Congress of the United States:*

In accordance with section 308 of Public Law 97-449 (49 U.S.C. 308(a)), I transmit herewith the 22d annual report of the Department of Transportation, which covers fiscal year 1988.

GEORGE BUSH.

THE WHITE HOUSE, *May 16, 1990.*

## REPORT ON ACTIONS TAKEN IN RESPONSE TO THE MILITARY CRACKDOWN IN CHINA—MESSAGE FROM THE PRESIDENT—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

I am transmitting herewith the report on bilateral and multilateral measures taken in response to the military crackdown in China in June 1989, pursuant to Title IX, subsection 902(c), of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (P.L. 101-246).

GEORGE BUSH.

THE WHITE HOUSE, *May 16, 1990.*

## MESSAGES FROM THE HOUSE

### ENROLLED BILLS SIGNED

At 11:13 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1805. An act to amend title, 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and for other purposes; and

H.R. 3961. An act to redesignate the Federal building at 1800 5th Avenue, North in Birmingham, Alabama, as the "Robert S. Vance Federal Building and United States Courthouse."

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 2:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 117. A concurrent resolution expressing the appreciation of Congress for the contributions of the Friends of the National Arboretum in providing for the preservation and public display of 22 of the original columns of the East Front Portico of the United States Capitol Building.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2981. A communication from the Administrator of the Environmental Protection Agency, transmitting pursuant to law, the annual report on the total number of applications for conditional registration of certain products under the Federal Insecticide, Fungicide, and Rodenticide Act for fiscal year 1989; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2982. A communication from the Acting Administrator of General Services, transmitting pursuant to law, the eleventh quarterly report on Federal actions taken to assist the homeless; to the Committee on Banking, Housing, and Urban Affairs.

EC-2983. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting pursuant to law, a report entitled "Progress in the National Estuary Program"; to the Committee on Environment and Public Works.

EC-2984. A communication from the Secretary of Health and Human Services, transmitting pursuant to law, a report entitled "Administratively Necessary Days"; to the Committee on Finance.

EC-2985. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting pursuant to law, the semi-annual reports for the period April 1989-September 1989 listing voluntary contributions made by the United States Government to International Organizations; to the Committee on Foreign Relations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. 2354. A bill to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to Indian tribes, and for other purposes (Rept. No. 101-293).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 685. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to clarify the applicability of rules re-

lating to fiduciary duties in relation to plan assets of terminated pensions plans and to provide for an explicit exception to such rules for employer reversions meeting certain requirements (Rept. No. 101-294).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

S. 2075. A bill to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality (Rept. No. 101-295).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for the remainder of the term expiring April 27, 1991; and

Donald G. Wiseman, of North Carolina, to be a Member of the Occupational Safety and Health Commission for the remainder of the term expiring April 27, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GARN (for himself, Mr. MOYNIHAN, Mr. WARNER, and Mr. ROBB):

S. 2636. A bill to authorize the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport, and for other purposes; to the Committee on Rules and Administration.

By Mr. REID (for himself, Mr. LIEBERMAN, Mr. BRADLEY, and Mr. MOYNIHAN):

S. 2637. A bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 2638. A bill to authorize the Secretary of the Army to provide shoreline projects to maintain certain flood control projects on the Mississippi and Iowa Rivers; to the Committee on Environment and Public Works.

By Mr. DECONCINI (for himself, Mr. KENNEDY, Mr. HARKIN, Mr. METZENBAUM, Mr. KOHL, and Mr. SIMON):

S. 2639. A bill to enhance the ability of law enforcement officers to combat violent crime in America by providing criminal and civil enforcement of standards established by the National Institute of Justice for body armor; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. HEINZ, Mr. RIEGLE, Mr. PRYOR, Mr. DURENBERGER, and Mr. ROCKEFELLER):

S. 2640. A bill to amend title XVIII of the Social Security Act to prevent fraud and abuse and encourage competition in the sale of Medicare supplemental insurance; to the Committee on Finance.

By Mr. RIEGLE (for himself, Mr. PRYOR, Mr. DASCHLE, and Mr. ROCKEFELLER):

S. 2641. A bill to amend title XVIII of the Social Security Act to provide for simplification in the purchase of Medicare supplemental insurance; to the Committee on Finance.

By Mr. EXON (for himself and Mr. DASCHLE):

S. 2642. A bill entitled "The Grown in the United States Food Labeling Act of 1990"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRYAN (for himself and Mr. REID):

S. 2643. A bill to improve source separation and recycling of paper products by Federal agencies and the Congress, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LUGAR (for himself and Mr. COATS):

S. 2644. A bill to amend the Food Stamp Act of 1977 to make clarifications in provisions relating to general assistance vendor payments, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INOUYE:

S. 2645. A bill to improve the health status of the urban Indian population and to enhance the quality and scope of health care services, disease prevention activities, and health promotion initiatives targeted at the urban American Indian population; to the Select Committee on Indian Affairs.

By Mr. HATFIELD (for himself and Mr. BRADLEY):

S.J. Res. 316. Joint resolution to designate the second Sunday in October of 1990 as "National Children's Day"; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. WARNER, Mr. BURDICK, Mr. CHAFEE, Mr. BAUCUS, Mr. BRADLEY, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DODD, Mr. GORE, Mr. GORTON, Mr. HEFLIN, Mr. JOHNSTON, Mr. KENNEDY, Mr. LIEBERMAN, Mr. MCCLURE, Mr. MOYNIHAN, Mr. PELL, Mr. ROCKEFELLER, Mr. SPECTER, Mr. STEVENS, and Mr. WILSON):

S.J. Res. 317. Joint resolution to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Res. 285. Resolution making appointments to the Committee on Energy and Natural Resources, the Committee on Governmental Affairs, and the Committee on Veterans' Affairs; considered and agreed to.

By Mr. MITCHELL:

S. Res. 286. Resolution making additional majority appointments to the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Labor and Human Resources; considered and agreed to.

By Mr. DOLE:

S. Con. Res. 130. Concurrent resolution to express the sense of the Congress that the States should make every effort to adopt a Victims of Crime Bill of Rights; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARN (for himself, Mr. MOYNIHAN, Mr. WARNER, and Mr. ROBB):

S. 2636. A bill to authorize the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport, and for other purposes; to the Committee on Rules and Administration.

### EXTENSION OF NATIONAL AIR AND SPACE MUSEUM

Mr. GARN. Mr. President, I think everyone in the country is aware that the National Air and Space Museum is the most successful museum not only in the United States but in the world, and has more visitors come to it. It has been successful for a long number of years, but as successful as it is, remarkable a museum as it is, nevertheless, it is inadequate.

Silver Hill's National Air and Space Museum stores far more exhibits than perhaps we possibly have space for on The Mall. Therefore it has been in planning stages in all the years I have been a Regent at the Smithsonian and most of the years that I have been a Senator. It has had difficulties over the years.

The Board of Regents most recently has once again reaffirmed unanimously their desire to extend the Air and Space Museum at Dulles International Airport.

I personally feel that this is the best and most useful place to have the extension of the museum. It will allow many more of the exhibits that have been stored and not available to the public, such as the *Enola Gay*, the space shuttle *Enterprise*, which I was able to get delivered to Dulles several years ago, as well as the most recent exhibit, the SR-71 that has been donated to the Smithsonian.

So I am very pleased that we have reached this point where we can once again submit a bill to authorize the Air and Space Museum to proceed with the planning for this much-needed facility.

Mr. President, Senator MOYNIHAN, Senator WARNER, and Senator ROBB have joined with me today as original cosponsors to legislation authorizing the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

I am pleased that we are once again taking a positive step toward the completion of the Air and Space Museum extension and, particularly, that we are authorizing the planning and

design of this facility at Dulles International Airport. This project has been in the works since 1983, when discussions about a Dulles extension began.

On three occasions over the past 7 years, the Board of Regents of the Smithsonian Institution has recommended that an extension of the National Air and Space Museum be constructed at Washington Dulles International Airport so that the museum may continue to fulfill its historic mandate to "memorialize the national development of aviation and space flight * * *" I was involved with NASA in their donation of the space shuttle *Enterprise* to the Smithsonian. *Enterprise* was delivered to Dulles in December 1985, in anticipation of the museum's extension being located at that site. The Senate passed legislation in 1986, authorizing the planning, design, and construction of this facility at Dulles and the Rules Committee reported similar legislation in the 100th Congress.

In reaffirming the preference for the Dulles location at their meeting on January 29 of this year, the Regents also asked Smithsonian Secretary Robert McC. Adams to negotiate further with representatives of the Commonwealth of Virginia regarding its commitment of financial assistance and to develop a legislative proposal in order to carry the project forward.

On April 13, Secretary Adams met with Gov. Lawrence Douglas Wilder of Virginia to discuss issues and strategies associated with the contribution of the Commonwealth to the extension. The outlines of that contribution are embodied in a letter from the Governor dated April 20, 1990, which I shall include following my remarks. In essence, Virginia will perform necessary sitework improvements; coordinate development of the shuttle and rail passenger service to the extension with appropriate local authorities; continue progress on highway improvements; and provide $6 million in construction funding that would be matched by contributions from private sources and units of local government. Legislative approval of these contributions by the Virginia General Assembly will be requested by the Governor in 1991.

The 1990 session of the Virginia General Assembly provided authority for an interest-free loan for extension planning purposes that could be accessed by the Smithsonian after July 1. It also provided bonding authority for construction.

Inasmuch as the Smithsonian has not identified any means of repaying the loan and the costs entailed in bonding are likely to be substantial, the Institution's Board of Regents at their meeting on May 7, approved introduction of the legislation we are presenting today providing Federal authority for planning and design and for the appropriation of $9,000,000 in fiscal year 1992. In the processes of planning and design, current estimates are likely to be refined, while parallel processes will be developed to identify various means for completing construction financing of the extension.

Funds amounting to $300,000 in the Institution's fiscal year 1990 appropriation will be applied to master planning of the Dulles site. In fiscal year 1991, the sum of $375,000 is expected to be available to continue that planning and to undertake necessary environmental analyses. Thus, with approval and funding of the legislation recommended by the Board of Regents, planning for realization of the extension can move forward in a prudent and timely manner.

Mr. President, it is an unusual and fortunate circumstance when the public need for a facility and a public desire to support its creation coincide. Such is the case with the extension of the Air and Space Museum at Dulles.

The existing National Air and Space Museum on the Mall is the most popular museum in the world. Its approval stems from the manner in which its artifacts, from the Wright Flyer to the Pioneer 10 spacecraft, are exhibited to the public, as well as from the fact that the American people are caught up with the idea of flights and space exploration.

The crucial matter of preserving a collection is the heart of any museum's function. In spite of the wonderful job that is currently being done, one can tell by inspection that the present site of the museum's restoration and preservation activities, the Paul E. Garber facility at Silver Hill, is totally inadequate for the existing collection, and absolutely unsuitable for the collection in the future.

It is a fact of life that the very subject matter of the museum, the artifacts of air and space, are by their nature large. The prototype Boeing 707 which introduced the jet age, generated billions of dollars for the United States and revolutionized man's travel by making it possible for the average citizen to trade in his shopping bags for luggage, should be available for viewing as an example of our aviation heritage. The space shuttle, as the symbol of the conversion of space from experimental to business status, should be there, too. Unfortunately, both of these—and many other similar inspirational craft—are not only too large to be exhibited in the museum on the Mall, they cannot be disassembled for transportation to the Mall. They, and others in the collection, must be exhibited at a location where there is a runway; the perfect location, one that has been advocated by the public, by business, by State and local authorities, and by the Smithsonian, itself, is Dulles Airport.

Let's get on with this exciting project and allow the American public to be able to personally view their heritage of flight. I appreciate the gentlemen who have joined me today as cosponsors and I ask the Senate for its early and positive consideration of this bill. In addition, I ask unanimous consent that a copy of the letter from the Governor of Virginia, as well as a copy of the bill be included in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2636

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Board of Regents of the Smithsonian Institution is authorized to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

SEC. 2. Effective October 1 1991 there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $9,000,000 to carry out the purposes of this Act.

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COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
*Richmond, VA, April 20, 1990.*

Hon. ROBERT MCC. ADAMS,
*Secretary, Smithsonian Institution, Washington, DC.*

DEAR SECRETARY ADAMS: Over the last two months, members of my Administration have met with Dr. Harwit and Smithsonian staff to discuss Virginia's contribution to the construction of the National Air and Space Museum Extension to be located at Washington Dulles International Airport. These frank and cordial discussions have enabled us to make considerable progress in our respective positions and laying the groundwork for future negotiations.

I want to reiterate my support for the Regents' decision to locate this national treasure at Washington Dulles Airport. I am gratified by the selection of Dulles and pledge to exercise my authority as Governor of Virginia to do everything I can to make the Extension a reality.

I write now to elaborate on all components of the Commonwealth's offer, as requested by Dr. Harwit. I will begin with a discussion of actions taken by the 1990 General Assembly; details of the more recent issues under discussion below.

ACTIONS OF 1990 GENERAL ASSEMBLY

Interest Free Loan. Governor Baliles' initial offer on August 28, 1989 included a $3 million interest free loan for planning and design in the introduced version of the 1990-92 budget (Attachment A). The loan can be accessed any time after July 1 1990. The loan would be made from the aviation trust fund and is to be repaid by the Smithsonian no later than June 30, 1996.

The General Assembly accepted the language pertaining to the loan. I expect to sign the 1990-92 budget shortly after the April 18, 1990 Reconvened Session of the 1990 General Assembly.

Bonding Authority. At the suggestion of the Smithsonian, legislation (Attachment B—SB 323) was passed by the 1990 General Assembly to enable the Virginia Public Building Authority to issue up to $100 million in bonds toward construction of the Ex-

tension. If this approach were utilized, the Commonwealth would hold title to the Extension and lease it to the Smithsonian until the bonds were retired. Lease payments made by the Smithsonian would cover all of the Commonwealth's debt service. Title would be transferred to the Smithsonian once the bonds were retired.

Closing expenses on a $141 million issue, the example discussed with Dr. Harwit, are shown to range from $1.7 to $2.3 million (Attachment C); expenses on a $100 million issue would be somewhat less.

PENDING ISSUES

Before specifying the content of Virginia's offer, it is necessary to review the status of two pending issues: Virginia's position on sitework improvements; and, anticipated transportation improvements required by the Smithsonian.

Sitework. Former Governor Baliles' August and December 1989 offers included a commitment to pay for all necessary site improvements identified in a letter from NASM Director, Dr. Harwit. At that time, the cost of sitework was preliminarily estimated to be $15.9 million.

As a result of further detailed review, the preliminary cost estimates are estimated to cost $26.2 million over a period of years, once Congress has approved the project. The table on Attachment D compares these three estimates for sitework.

Required Transportation Improvements. The Commonwealth agrees completely that the new Museum must be readily accessible to all people, and my administration will work closely with the Smithsonian toward that end.

I have instructed the Virginia Department of Transportation, in cooperation with appropriate local and regional entities, to develop a proposal for shuttle bus service between the West Falls Church Metro station and the Museum site and between the Dulles Airport terminal and the Museum site. The proposal is to be completed in draft form by July 1, 1990.

We will also work with local governments, the Washington Metropolitan Area Transit Authority and others interested in developing rail passenger service in the Dulles Access Road corridor, and I believe it is reasonable to anticipate such service to be operating by the year 2000.

Major highway improvements in the area are progressing well. The 14-mile segment of Route 28 between I-66 and Route 7 is being widened to six lanes at a cost of $117 million, and is on schedule for completion in the summer of 1991. The Dulles Toll Road is also being widened to six lanes, at a cost of $43 million, and is scheduled for completion in the fall of next year.

These two improvements, as well as others underway and planned, will greatly enhance access to the Museum.

I am aware of the Smithsonian's particular interest in the Route 28/Barnsfield Road interchange. This project, which is estimated to cost $15 million, has been planned for construction at some point after 1995. I have asked the Department of Transportation for its recommendations as to whether the interchange might be expedited to more nearly correspond with the opening of the Museum.

COMMONWEALTH'S OFFER

In the financial arena, the Commonwealth's offer consists of sitework and general purpose construction. Beyond these discrete issues, the Smithsonian has requested information on the ability of one General Assembly to preserve a commitment made by a previous General Assembly. Each of these issues is taken up in the order mentioned here.

Sitework. In view of the increased estimate for sitework, and without assurances on the extent of private donations, I intend to explore a range of financing options with members of the Virginia Congressional Delegation and our General Assembly in the coming months. Each option will include revenues derived from within the Commonwealth and several will also include additional federal aid for transportation which might be appropriated to Virginia by Congress. Clearly, Virginia's ability to finance sitework and transportation improvements in and around the Extension would be enhanced by additional federal appropriations for transportation.

Construction Match. In recent years, the policy of the Commonwealth (as specified in the Appropriation Act) has required an equal match from non-state sources, whether private donations, localities, or a combination of the two. Moreover, as indicated in Attachment E, the maximum general fund contribution donated by the Commonwealth to any single non-state museum has been $6 million.

Based on this precedent, I am prepared to propose to the 1991 Session of the General Assembly that Virginia appropriate up to $6 million in general funds, to be matched by an equal amount from local government and/or private sector donations. This contribution for construction, when added to estimated sitework costs of $26.2 million, could take state government's contribution to as much as $32.2 million and the total of public and private contributions from Virginia to as much as $38.2 million.

Timing. In view of our intent to work with Virginia's General Assembly to identify acceptable financing options, as well as our interest in pursuing additional federal appropriations for transportation purposes, I suggest your enabling legislation provide maximum flexibility in establishing requirements for the timing of the Commonwealth's contributions.

General Assembly's Commitment. The key to ensuring that commitments are maintained by future Governors and General Assemblies is the development of a sound and equitable plan for financing the Extension. There is ample precedent for multi-year financial commitments to capital projects. For example, over a six-year period (three biennial budgets), successive sessions of the General Assembly appropriated a multi-million dollar contribution toward construction of a replacement hospital at the University of Virginia.

Once the Assembly decided that it was in the best interests of the Commonwealth to help fund the hospital, there was no resistance to any of the three biennial appropriations.

SUMMARY

From the Commonwealth's perspective, the offer for Phase I of the Extension is truly ambitious. Including the value of the interest-free loan for planning, our offer to the Smithsonian would match the entire value of all money Virginia now intends to spend in fiscal 1991 and 1992 for state museums, non-state museums and historic landmarks. I hope you will concur in the generosity of this offer and be assured of our interest in developing additional ones for later phases.

Sincerely,

LAWRENCE DOUGLAS WILDER.

ATTACHMENT A

| Item | | Item detailed | | Appropriations | |
|---|---|---|---|---|---|
| | | First year | Second year | First year | Second year |
| | Authority: Title 5.1, Chapter 1, Code of Virginia. | | | | |
| | Out of the amounts included in Air Transportation Environmental and Community Affairs shall be paid to the Washington Airports Task Force from the special funds in this appropriation $375,000 the first year and $375,000 the second year. | | | | |
| 733. | Airport Assistance (6540000) | | | $12,832,410 | $12,882,390 |
| | Financial Assistance to Airports (6540100) | $12,479,900 | $12,479,909 | | |
| | Navigational Aid Services (6540300) | 352,510 | 402,495 | | |
| | Fund Sources: | | | | |
| | Special | 727,510 | 777,495 | | |
| | Commonwealth Transportation | 12,104,900 | 12,104,900 | | |
| | Authority: Title 5.1, Chapters 3 and 5, and Title 58.1, Chapter 24, Code of Virginia. | | | | |
| | A. It is declared to be legislative intent that the Department of Aviation match federal funds for Airport Assistance to the maximum extent possible. Provided, however, that the legislative intent expressed herein shall not be construed to prohibit the Virginia Aviation Board from allocating funds for promotional activities in the event that federal matching funds are unadvisable. | | | | |
| | B. Out of the amounts of Financial Assistance to Airports, the Department of Aviation is authorized to transfer from the Commonwealth Transportation Fund an amount not to exceed $3 million in the first year to the Smithsonian Institution to assist in planning and design of the expansion of the National Air and Space Museum at Washington Dulles International Airport. | | | | |
| | The transfer shall be made only under the following conditions: | | | | |
| | 1. The Department of Aviation shall have received certification from the Smithsonian Institution that Washington Dulles International Airport has been selected as the site for the expanded Museum. Any funds not required from the appropriation for planning and design shall be spent for no other purposes and shall revert to the Commonwealth Transportation Fund on June 30, 1992. | | | | |
| | 2. The Department of Aviation and the Smithsonian Institution shall have executed an agreement providing for the repayment of the state funds expended under the provisions of this item, from bond proceeds, Congressional appropriations or any other source of funds, the repayment to be accomplished not later than June 30, 1994. | | | | |
| | 3. The Governor shall have given his prior written approval, which shall be granted only after consultation with the Chairman of the House Appropriations and Senate Finance Committees, and only after the two preceding requirements shall have been satisfied. | | | | |
| 734. | Executive Management (7130000) | | | (1,080) | (1,080) |
| | Savings from Management Actions (7130100) | (1,080) | (1,080) | | |
| | Fund Sources: General | (1,080) | (1,080) | | |
| | Authority: Discretionary Inclusion. | | | | |
| | This appropriation is subject to § 4-1.00 of this act. | | | | |

ATTACHMENT B

VIRGINIA SENATE BILL NO. 323

*Be it enacted by the General Assembly of Virginia:*

1. That §§ 2.1-234.13 and 2.1-234.21 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-234.13. Purposes and general powers and duties of Authority.—The Authority is created for the purpose of constructing, improving, furnishing, maintaining, acquiring, and operating public buildings for the use of the Commonwealth (heretofore or hereafter constructed), state arsenals, armories, and military reserves, state institutions of every kind and character (heretofore and hereafter constructed), additions and improvements to land grant colleges, state colleges, universities and medical colleges, and the purchase of lands for rehabilitation purposes in connection with state institutions for the use of state colleges *and museum facilities for a trust instrumentality of the United States* (any and all the foregoing being herein called "projects"), the purpose and intent of this article being to benefit the people of the Commonwealth by, among things, increasing their commerce and prosperity. The Authority shall not undertake any project or projects which are not specifically included in a bill or resolution passed by a majority of those elected to each house of the General Assembly, authorizing such project or projects and as to any project relating to a state institution of higher education, not specifically designated by the board of visitors of that institution as a project to be undertaken by the Authority. The Authority is hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including, but without limiting the generality of the foregoing, the following rights and powers:

1. To have perpetual existence as a corporation.

2. To sue and be sued, implead and be impleaded, complain and defend in all courts.

3. To adopt, use, and alter at will a corporate seal.

4. To acquire, purchase, hold and use any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and (without limitation of the foregoing) to lease as lessee, with the approval of the Governor, any property, real, personal or mixed, or any interest therein for a term not exceeding ninety-nine years at a nominal rental or at such annual rental as may be determined and, with the approval of the Governor, to lease as lessor to the Commonwealth of Virginia and any city, county, town or other political subdivision, or any agency, department, or public body of the Commonwealth, or land grant college, any project at any time constructed by the Authority, and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, and with the approval of the Governor, to sell, transfer and convey to the Commonwealth of Virginia, any project at any time constructed by the Authority, and with the approval of the Governor, to sell, transfer and convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority.

5. To acquire by purchase, lease, or otherwise, and to construct, improve, furnish, maintain, repair, and operate projects.

6. To make bylaws for the management and regulation of its affairs.

To fix, alter, charge, and collect rates, rentals, and other charges for the use of the facilities of, or for the services rendered by, the Authority, or projects thereof, at reasonable rates, to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the construction, improvement, repair, furnishing, maintenance, and operation of its facilities and properties, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchaser or holders of any such obligations.

8. To borrow money, make and issue negotiable notes, bonds, and other evidences of indebtedness or obligations therein called "bonds") of the Authority, and in addition thereto. Such bonds as the Authority may, from time to time, determine to issue for the purpose of refunding bonds previously issued by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts, and to make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable, and in general to provide for the security for said bonds and the rights of holders thereof; provided, that the total principal amount of such bonds outstanding at any time shall not exceed $335 million.

The Authority shall, on or before January 1 in each odd-numbered year, submit to the General Assembly its construction report and estimate of cost thereof for the coming biennium. The Authority shall also submit an annual report to the Governor and General Assembly on or before November 1 of each year, such report to contain, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30. The annual report shall be distributed in accordance with the provisions of § 2.1-467.

9. To make contracts of every name and nature, and to execute all instruments necessary or convenient for the carrying of its business.

10. Without limitation of the foregoing, to borrow money and accept grants from, and to enter into contracts, leases or other transactions with, any federal agency.

11. To have the power of eminent domain.

12. To pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority.

13. To do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other acts.

14. To acquire, by assignment from the Commonwealth or the Virginia Supplemental Retirement System, all contracts, including those which are not completed, and which involve constructing, improving, furnishing, maintaining, and operating the structures, facilities, or undertakings similar to those designated herein as projects.

Except as otherwise provided by law, when projects are to be constructed, improved, furnished, maintained, repaired or operated for the use of any department of the Commonwealth, as hereinbefore listed in this section, no plans or specifications therefor shall be presented for quotations or bids until such plans and specifications shall have been submitted to and approved by the Department of General Services and any other department of the Commonwealth having any jurisdiction over the projects, so that the project will conform to standards established by such departments.

§ 2.1-234.21. Contracts, leases and other arrangements.—A. In connection with the operation of a facility owned or controlled by the Authority, the Authority may enter into contracts, leases, and other arrangements with any person or persons (i) granting the privilege of using or improving the facility or any portion or facility thereof or space therein consistent with the purposes of this article; (ii) conferring the privilege of supplying goods, commodities, things, services, or facilities at the facility; and (iii) making available services to be furnished by the Authority or its agents at the facility.

In each case the Authority may establish the terms and conditions and fix the charges, rentals, or fee for the privilege or service, which shall be reasonable and uniform for the same class of privilege or service at each facility and shall be established with due regard to the property and improvements used and the expenses of operation to the Authority.

B. Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by § 2.1-234.23, the Authority may by contract, lease, or other arrangements, upon a consideration fixed by it, grant to any qualified person, for a term not to exceed thirty years, the privilege of operating, as agent of the Authority or otherwise, any facility owned or controlled by the Authority; provided that no person shall be granted any authority to operate a facility other than a public facility or to enter into any contracts, leases, or other arrangements in connection with the operation of the facility which the Authority might not have undertaken under subsection A of this section.

C. In connection with a project leased to a trust instrumentality of the United States where such trust instrumentality has agreed with the Authority to pay rent which together with payments or contributions by the Commonwealth and any political subdivision are sufficient to pay the principal of and interest on the Authority's bonds issued to finance such project, the Authority may agree that such trust instrumentality shall assume a responsibility for the acquisition, construction, operation, maintenance, and repair of the project and may further agree that when the principal of all such bonds of the Authority and the interest thereon have been paid in full or provision made therefor satisfactory to the Authority, the trust instrumentality may acquire the Authority's interest in such project without payment of additional consideration.

Mr. WARNER. Mr. President, I thank my distinguished colleague, the Senator from Utah, together with the Senator from New York, Mr. MOYNIHAN. They, as members by law of the Board of Regents, have worked very carefully, fairly, and objectively on behalf of the U.S. Senate; and now the Board of Regents has reached its decision to locate this adjunct museum de-

scribed by my distinguished colleague at a site in the vicinity of the Dulles International Airport, Virginia.

It is most appropriate that Senator GARN be associated with this legislation, for he is a pioneer in his own right in aviation, having started as a young naval aviator, flying in the old SNJ's, transitioning from propellers to jets, and eventually becoming the only Member of Congress to have flown in space. That span of activities, I think, qualifies him in every respect to participate in this momentous decision to provide America, and indeed the millions of foreign visitors who join us each year, with an opportunity to study firsthand the history of aviation in the United States.

We should also respectfully cite Senator Barry Goldwater, for he was, from the very beginning, a sponsor of the concept to have an adjunct museum erected, and indeed worked to have the decision expedited for a location at Dulles. The museum now in Washington, DC, was also the beneficiary of his foresight. I hope that at some future date the Board of Regents will consider the incorporation of his name at some appropriate position in this new building.

Mr. President, I should also acknowledge that the Presiding Officer today, in his capacity as former Governor of Virginia, together with his predecessor, Governor Dalton, successor Governor Baliles, and the current Governor Wilder, of Virginia, have consistently been strong backers of the concept of this museum and to have it located in the Commonwealth of Virginia.

Mr. President, special recognition should also be given to the Secretary of the museum, Robert Adams. I have worked with him, as have other Members of the Senate, and throughout these deliberations I can say without reservation that he has been fair, objective, thorough, and firm with the leadership in the decision process. Now the implementation of this decision, subject to the passage of this bill, and such appropriations as are appropriate, will be implemented by Mr. Harwit the distinguished Director of the Air and Space Museum.

Last, I wish to recognize the leadership provided at the local level since this effort began. Carrington Williams, who is chairman of the Washington Airports Task Force and a member of the Metropolitan Washington Airports Authority Board of Directors, has been a driving force among those local officials who have emphasized the advantages of locating the museum expansion at Washington-Dulles. He has served honorably in this capacity, just as he did during his five terms in the Virginia State House of Delegates.

The president of the Airports Task Force, Leo Schefer, has worked with Carrington Williams at the grassroots level to solidify community and private sector support. From what I've seen and heard in the community, the support is overwhelming and the citizens are excited.

In September 1983 the Smithsonian Board of Regents first approved the National Air and Space Museum plan to expand at the Washington-Dulles International Airport. Since then the Board's commitment to the project and location has been confirmed repeatedly. Likewise the commitment by the Commonwealth of Virginia under the distinguished Governors that I have mentioned has been consistent. That commitment by Virginia is just not encouragement and sentiment, but a commitment to help finance this Federal museum.

Yesterday representatives of the Governor of Virginia, headed by the Secretary of Education, who has a specific responsibility for the museum, met with Members of the Congress, the Virginia delegation, together with their staffs, and at that time the announcement was made that there has been a complete understanding and agreement with respect to the specific details of the obligations, financial and otherwise, of the Commonwealth of Virginia. Those agreements are reflected in correspondence which I now ask unanimous consent to have printed at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mention should also be made of the very fair and objective approach taken by our colleagues from the State of Maryland. They, very vigorously and fairly, participated in the site selection, and now it is my understanding—and we have talked with several of them—that they accept this decision of the Board and will hopefully be supportive, as this legislation and the appropriation move through the Congress.

Back in 1826 James Smithson of England bequeathed his property to the U.S. Government, "To found at Washington, under the name of the Smithsonian Institution, an Establishment for the increase and diffusion of knowledge among men."

I am certain that when the ribbon is cut and the doors of this new facility are opened, the American public will be treated to one of the most fascinating, inspirational, educational museums to be found anywhere in the world, the type of museum James Smithson would have respected and admired.

EXHIBIT 1

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
*Richmond VA, April 20, 1990.*

Hon. ROBERT MCC. ADAMS,
*Secretary, Smithsonian Institution, Washington, DC.*

DEAR SECRETARY ADAMS: Over the last two months, members of my Administration have met with Dr. Harwit and Smithsonia staff to discuss Virginia's contribution to the construction of the National Air and Space Museum Extension to be located at Washington-Dulles International Airport. These frank and cordial discussions have enabled us to make considerable progress in clarifying our respective positions and laying the groundwork for future negotiations.

I want to reiterate my support for the Regents' decision to locate this national treasure at Washington-Dulles Airport. I am gratified by the selection of Dulles and pledge to exercise my authority as Governor of Virginia to do everything I can to make the Extension a reality.

I write now to elaborate on all components of the Commonwealth's offer, as requested by Dr. Harwit. It will begin with a discussion of actions taken by the 1990 General Assembly; details of the more recent issues under discussion follow.

ACTIONS OF 1990 GENERAL ASSEMBLY

Interest Free Loan. Governor Baliles' initial offer on August 28, 1989, included a $3 million interest free loan for planning and design in the introduced version of the 1990-92 budget (Attachment A). The loan can be accessed any time after July 1, 1990. The loan would be made from the aviation trust fund and is to be repaid by the Smithsonian no later than June 30, 1996.

The General Assembly accepted the language pertaining to the loan. I expect to sign the 1990-92 budget shortly after the April 18, 1990 Reconvened Session of the 1990 General Assembly.

Bonding Authority. At the suggestion of the Smithsonian, legislation (Attachment B-SB 323) as passed by the 1990 General Assembly to enable the Virginia Public Building Authority to issue up to $100 million in bonds toward construction of the Extension. If this approach were utilized, the Commonwealth would hold title to the Extension and lease it to the Smithsonian until the bonds were retired. Lease payments made by the Smithsonian would cover all of the Commonwealth's debt service. Title would be transferred to the Smithsonian once the bonds were retired.

Closing expenses on a $141 million issue, the example discussed with Dr. Harwit, are shown to range from $1.7 million to $2.3 million (Attachment C); expenses on a $100 million issue would be somewhat less.

PENDING ISSUES

Before specifying the content of Virginia's offer, it is necessary to review the status of two pending issues: Virginia's position on sitework improvements; and, anticipated transportation improvements required by the Smithsonian.

Sitework. Former Governor Baliles' August and December 1989 offers included a commitment to pay for all necessary site improvements identified in a letter from NASM Director, Dr. Harwit. At that time, the cost of sitework was preliminarily estimated to be $15.9 million.

As a result of further detailed review, the preliminary cost estimates are estimated to

cost $26.2 million over a period of years, once Congress has approved the project. The table on attachment D compares these three estmates for sitework.

Required Transportation Improvements. The Commonwealth agrees completely that the new Museum must be readily accessible to all people, and my administration will work closely with the Smithsonian toward that end.

I have instructed the Virginia Department of Transportation, in cooperation with appropriate local and regional entities, to develop a proposal for shuttle bus service between the West Falls Church Metro station and the Museum site and between the Dulles Airport terminal and the museum site. The proposal is to be completed in draft form by July 1, 1990.

We will also work with local governments, the Washington Metropolitan Area Transit Authority and others interested in developing rail passenger service in the Dulles Access Road corridor, and I believe it is reasonable to anticipate such service to be operating by the year 2000.

Major highway improvements in the area are progressing well. The 14-mile segment of Route 28 between I-66 and Route 7 is being widened to six lanes at a cost of $117 million, and is on schedule for completion in the summer of 1991. The Dulles toll road is also being widened to six lanes, at a cost of $43 million, and is scheduled for completion in the fall of next year.

These two improvements, as well as others underway and planned, will greatly enhance access to the Museum.

I am aware of the Smithsonian's particular interest in the Route 28-Barnsfield Road interchange. This project, which is estimated to cost $15 million, has been planned for construction at some point after 1995. I have asked the Department of Transportation for its recommendations as to whether the interchange might be expedited to more nearly correspond with the opening of the Museum.

COMMONWEALTH'S OFFER

In the financial arena, the Commonwealth's offer consists of sitework and general purpose construction. Beyond these discrete issues, the Smithsonian has requested information on the ability of one General Assembly to preserve a commitment made by a previous General Assembly. Each of these issues is taken up in the order mentioned here.

Sitework. In view of the increased estimate for sitework, and without assurances on the extent of private donations, I intend to explore a range of financing options with members of the Virginia Congressional Delegation and our General Assembly in the coming months. Each option will include revenues derived from within the Commonwealth and several will also include additional federal aid for transportation which might be appropriated to Virginia by Congress. Clearly, Virginia's ability to finance sitework and transportation improvements in and around the Extension would be enhanced by additional federal appropriations for transportation.

Construction Match. In recent years, the policy of the Commonwealth (as specified in the Appropriate Act) has required an equal match from nonstate sources, whether private donations, localities, or a combination of the two. Moreover, as indicated in Attachment E, the maximum general fund contribution donated by the Commonwealth to any single nonstate museum has been $6 million.

Based on this precedent, I am prepared to propose to the 1991 Session of the General Assembly that Virginia appropriate up to $6 million in general funds, to be matched by an equal amount from local government and/or private sector donations. This contribution for construction, when added to estimated sitework costs of $26.2 million, could take state government's contribution to as much as $32.2 million and the total of public and private contributions from Virginia to as much as $38.2 million.

Timing. In view of our intent to work with Virginia's General Assembly to identify acceptable financing options, as well as our interest in pursuing additional federal appropriations for transportation purposes, I suggest your enabling legislation provide maximum flexibility in establishing requirements for the timing of the Commonwealth's contributions.

General Assembly's Commitment. The key to ensuring that commitments are maintained by future Governors and General Assemblies is the development of a sound and equitable plan for financing the Extension. There is ample precedent for multi-year financial commitments to capital projects. For example, over a six-year period (three biennial budgets), successive sessions of the General Assembly appropriated a multi-million dollar contribution toward construction of a replacement hospital at the University of Virginia.

Once the Assembly decided that it was in the best interests of the Commonwealth to help fund the hospital, there was no resistance to any of the three biennial appropriations.

SUMMARY

From the Commonwealth's perspective, the offer for Phase I of the Extension is truly ambitious. Including the value of the interest-free loan for planning, our offer to the Smithsonian would match the entire value of all money Virginia now intends to spend in fiscal 1991 and 1992 for state museums, non-state museums and historic landmarks. I hope you will concur in the generosity of this offer and be assured of our interest in developing additional ones for later phases.

Sincerely,

LAWRENCE DOUGLAS WILDER.

| Item | | Item detailed | | Appropriations | |
|---|---|---|---|---|---|
| | | First year | Second year | First year | Second year |
| | Authority: Title 5.1, Chapter 1, Code of Virginia. | | | | |
| | Out of the amounts included in Air Transportation Environmental and Community Affairs shall be paid to the Washington Airports Task Force from the special funds in this appropriation $375,000 the first year and $375,000 the second year. | | | | |
| 733. | Airport Assistance (6540000) | | | $12,832,410 | $12,882,390 |
| | Financial Assistance to Airports (6540100) | $12,479,900 | $12,479,909 | | |
| | Navigational Aid Services (6540300) | 352,510 | 402,495 | | |
| | Fund Sources: | | | | |
| | Special | 727,510 | 777,495 | | |
| | Commonwealth Transportation | 12,104,900 | 12,104,900 | | |
| | Authority: Title 5.1, Chapters 3 and 5, and Title 58.1, Chapter 24, Code of Virginia. | | | | |
| | A. It is declared to be legislative intent that the Department of Aviation match federal funds for Airport Assistance to the maximum extent possible. Provided, however, that the legislative intent expressed herein shall not be construed to prohibit the Virginia Aviation Board from allocating funds for promotional activities in the event that federal matching funds are unadvisable. | | | | |
| | B. Out of the amounts for Financial Assistance to Airports, the Department of Aviation is authorized to transfer from the Commonwealth Transportation Fund an amount not to exceed $3 million in the first year to the Smithsonian Institution to assist in planning and design of the expansion of the National Air and Space Museum at Washington Dulles International Airport. | | | | |
| | The transfer shall be made only under the following conditions: | | | | |
| | 1. The Department of Aviation shall have received certification from the Smithsonian Institution that Washington Dulles International Airport has been selected as the site for the expanded Museum. Any funds not required from the appropriation for planning and design shall be spent for no other purpose and shall revert to the Commonwealth Transportation Fund on June 30, 1992. | | | | |
| | 2. The Department of Aviation and the Smithsonian Institution shall have executed an agreement providing for the repayment of the state funds expended under the provisions of this Item, from bond proceeds, Congressional appropriations or any other source of funds, the repayment to be accomplished not later than June 30, 1996. | | | | |
| | 3. The Governor shall have given his prior written approval, which shall be granted only after consultation with the Chairman of the House Appropriations and Senate Finance Committees, and only after the two preceding requirements shall have been satisfied. | | | | |
| 734. | Executive Management (7130000) | | | (1,080) | (1,080) |
| | Savings from Management Actions (7130100) | (1,080) | (1,080) | | |
| | Fund Sources: General | (1,080) | (1,080) | | |
| | Authority: Discretionary Inclusion. | | | | |
| | This appropriation is subject to § 4-1.00 of this act. | | | | |

VIRGINIA SENATE BILL NO. 323

*Be it enacted by the General Assembly of Virginia:*

1. That §§ 2.1-234.13 and 2.1-234.21 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-234.13. Purpose and general powers and duties of Authority.—The Authority is created for the purpose of constructing, improving, furnishing, maintaining, acquiring, and operating public buildings for the use of the Commonwealth (heretofore or hereafter constructed), state arsenals, armories, and military reserves, state institutions or every kind and character (heretofore and hereafter constructed), additions and improvements to land grant colleges, state colleges, universities and medical colleges, and the purchase of lands for rehabilitation purposes in connection with state institutions and for use of state colleges, *and museum facilities for a trust instrumentality of the United States* (any and all the foregoing being herein called "projects"), the purpose

and intent of this article being to benefit the people of the Commonwealth by, among other things, increasing their commerce and prosperity. The Authority shall not undertake any project or projects which are not specifically included in a bill or resolution passed by a majority of those elected to each house of the General Assembly, authorizing such project or projects and as to any project relating to a state institution of higher education, not specifically designated by the board of visitors of that institution as a project to be undertaken by the Authority. The Authority is hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including, but without limiting the generality of the foregoing, the following rights and powers:

1. To have perpetual existence as a corporation.

2. To sue and be sued, implead and be impleaded, complain and defend in all courts.

3. To adopt, use, and alter at will a corporate seal.

4. To acquire, purchase, hold and use any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and (without limitation of the foregoing) to lease as lessee, with the approval of the Governor, any property, real, personal or mixed, or any interest therein for a term not exceeding ninety-nine years at a nominal rental or at such annual rental as may be determined and, with the approval of the Governor, to lease as lessor to the Commonwealth of Virginia and any city, county, town or other political subdivision, or any agency, department, or public body of the Commonwealth, or land grant college, any project at any time constructed by the Authority, and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, and with the approval of the Governor, to sell, transfer and convey to the Commonwealth of Virginia, any project at any time constructed by the Authority, and with the approval of the Governor, to sell, transfer and convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority.

5. To acquire by purchase, lease, or otherwise, and to construct, improve, furnish, maintain, repair, and operate projects.

6. To make bylaws for the management and regulation of its affairs.

7. To fix, alter, charge, and collect rates, rentals, and other charges for the use of the facilities of, or for the services rendered by, the Authority, or projects thereof, at reasonable rates, to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the construction, improvement, repair, furnishing, maintenance, and operation of its facilities and properties, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations.

8. To borrow money, make and issue negotiable notes, bonds, and other evidences of indebtedness or obligations (herein called "bonds") of the Authority, and in addition thereto, such bonds as the Authority may, from time to time, determine to issue for the purpose of refunding bonds previously issued by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts, and to make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable, and in general to provide for the security for said bonds and the rights of holders thereof; provided, that the total principal amount of such bonds outstanding at any time shall not exceed $335 million.

The Authority shall, on or before January 1 in each odd-numbered year, submit to the General Assembly its construction report and estimate of cost thereof for the coming biennium. The Authority shall also submit an annual report to the Governor and General Assembly on or before November 1 of each year, such report to contain, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30. The annual report shall be distributed in accordance with the provisions of § 2.1-467.

9. To make contracts of every name and nature, and to execute all instruments necessary or convenient for the carrying on of its business.

10. Without limitation of the foregoing, to borrow money and accept grants from, and to enter into contracts, leases or other transactions with, any federal agency.

11. To have the power of eminent domain.

12. To pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority.

13. To do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other acts.

14. To acquire, by assignment from the Commonwealth or the Virginia Supplemental Retirement System, all contracts, including those which are not completed, and which involve constructing, improving, furnishing, maintaining, and operating the structures, facilities, or undertakings similar to those designated herein as projects.

Except as otherwise provided by law, when projects are to be constructed, improved, furnished, maintained, repaired or operated for the use of any department of the Commonwealth, as hereinbefore listed in this section, no plans or specifications therefor shall be presented for quotations or bids until such plans and specifications shall have been submitted to and approved by the Department of General Services and any other department of the Commonwealth having any jurisdiction over the projects, so that the project will conform to standards established by such departments.

§ 2.1-234.21. Contracts, leases and other arrangements.—A. In connection with the operation of a facility owned or controlled by the Authority, the Authority may enter into contracts, leases, and other arrangements with any person or persons (i) granting the privilege of using or improving the facility or any portion or facility thereof or space therein consistent with the purposes of this article; (ii) conferring the privilege or supplying goods, commodities, things, services, or facilities at the facility; and (iii) making available services to be furnished by the Authority or its agents at the facility.

In each case the Authority may establish the terms and conditions and fix the charges, rentals, or fee for the privilege or service, which shall be reasonable and uniform for the same class of privilege or service at each facility and shall be established with due regard to the property and improvements used and the expenses of operation to the Authority.

B. Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by § 2.1-234.23, the Authority may be contract, lease, or other arrangements, upon a consideration fixed by it, grant to any qualified person, for a term not to exceed thirty years, the privilege of operating, as agent of the Authority or otherwise, any facility owned or controlled by the Authority; provided that no person shall be granted any authority to operate a facility other than as a public facility or to enter into any contracts, leases, or other arrangements in connection with the operation of the facility which the Authority might not have undertaken under subsection A of this section.

C. In connection with a project leased to a trust instrumentality of the United States where such trust instrumentality has agreed with the Authority to pay rent which together with payments or contributions by the Commonwealth and any political subdivision are sufficient to pay the principal of and interest on the Authority's bonds issued to finance such project, the Authority may agree that such trust instrumentality shall assume all responsibility for the acquisition, construction, operation, maintenance, and repair of the project and may further agree that when the principal of all such bonds of the Authority and the interest thereon have been paid in full or provision made therefor satisfactory to the Authority, the trust instrumentality may acquire the Authority's interest in such project without payment of additional consideration.

VIRGINIA PUBLIC BUILDING AUTHORITY SMITHSONIAN INSTITUTION—ESTIMATED EXPENSES

| Par: $141,000,000 | Cost (per bond) | | Low range | High range |
|---|---|---|---|---|
| | Low range | High range | | |
| Underwriter spread | $7.50 | $9.00 | $1,057,500 | $1,269,000 |
| Risk | 0.25 | 0.50 | 35,250 | 70,500 |
| Management fee | 1.00 | 2.00 | 141,000 | 282,000 |
| Expenses | 0.90 | 1.25 | 126,900 | 176,250 |
| Issuance expenses | 0.75 | 1.00 | 105,750 | 141,000 |
| Financial adviser | 0.50 | 1.00 | 70,500 | 141,000 |
| Bond counsel | 1.00 | 1.50 | 141,000 | 211,500 |
| Total | | | 1,677,900 | 2,291,250 |
| Dollars per bond | | | 11.90 | 16.25 |

ATTACHMENT D.—COMPARISON OF COST ESTIMATES FOR SITE IMPROVEMENTS AT DULLES AIRPORT

| | Smithsonian estimate | Current Virginia estimate | Original Virginia estimate | |
|---|---|---|---|---|
| Site Preparation | $20,560,000 | $12,500,000 | Taxiways: 5,000 LF—75 ft 5,000 LF—45 ft | $6,500,000 |
| Utilities | 4,410,000 | 4,410,000 | | |

ATTACHMENT D.—COMPARISON OF COST ESTIMATES FOR SITE IMPROVEMENTS AT DULLES AIRPORT—Continued

| | Smithsonian estimate | Current Virginia estimate | Original Virginia estimate | |
|---|---|---|---|---|
| Design Reserve (10%) | 2,500,000 | 1,250,000 | | |
| Subtotal | 27,470,000 | 18,160,000 | Parking 2,020 spaces | 3,800,000 |
| Overhead (9%) | 2,472,000 | 1,634,000 | | |
| Construction Contingency (5%) | 1,497,000 | 989,700 | Road Access | 2,500,000 |
| Subtotal (1989 $) | 31,439,000 | 20,783,000 | From Route 50 to Museum: 2-lane shoulder and swale 3-lane throat at Route 50 | |
| Escalation to Mid-Point (16%) (4%/yr to 1993) | 5,030,000 | 3,325,400 | From Route 28 to Museum: 4-lane divided parkway, wide median 4-lane throat at Route 28 | |
| Total Site Construction Cost | 36,469,000 | 24,109,100 | Site Preparation: Grading $1,800,000 Fencing $420,000 | 2,200,000 |
| A/E Fee (6%) | 2,188,000 | 1,446,500 | | |
| Subtotal | 38,657,000 | 25,555,600 | | |
| Construction Management (2½%) | 912,000 | 638,900 | Utilities: Water $350,000 Sewer $235,000 Electric $120,000 Gas $25,000 Phone $10,000 | 900,000 |
| Total site construction budget (1993 $) | 39,569,000 | 26,194,500 | | 15,900,000 |

CAPITAL OUTLAY FUNDING FOR NONSTATE AGENCIES

| Nonstate agency | Chapter | Bennium | Item No. | Appropriation |
|---|---|---|---|---|
| Peninsula Nature and Science Center | 519 | 1984–86 | 374 | $1,000,000 |
| Virginia Peninsula Vocational Technical Center | 519 | 1984–86 | 377 | 2,500,000 |
| The Chrysler Museum | 519 | 1984–86 | 368 | 2,000,000 |
| Norfolk Recreation Fac Authority | 519 | 1984–86 | 370 | 564,000 |
| Science Museum Association of Roanoke | 519 | 1984–86 | 373 | 250,000 |
| Total | | | | 6,314,000 |
| Virginia Horse Center | 723 | 1986–88 | 143.1 | 2,500,000 |
| Mariner's Museum | 723 | 1986–88 | 351 | 1,500,000 |
| Peninsula Nature and Science Center | 723 | 1986–88 | 347 | 375,000 |
| Roanoke River Foundation | 723 | 1986–88 | 344 | 2,000,000 |
| The Chrysler Museum | 723 | 1986–88 | 344 | 2,000,000 |
| Total | | | | 8,375.000 |
| Virginia Museum of Natural History [1] | 668 | 1988–90 | 336 | 5,000,000 |
| Roanoke River Foundation | 668 | 1988–90 | 334 | 5,000,000 |
| Center in the Square | 668 | 1988–90 | 338 | 1,500,000 |
| Virginia Beach Arts Center | 668 | 1988–90 | 339 | 1,500,000 |
| Virginia Air and Space Center | 668 | 1988–90 | 343 | 5,000,000 |
| National Maritime Center | 668 | 1988–90 | 344 | 3,000,000 |
| Virginia Horse Center | 668 | 1988–90 | 123.6 | 2,754,000 |
| Total | | | | 24,754,000 |

[1] Now a State agency.

SMITHSONIAN INSTITUTION,
*Washington, DC, May 9, 1990.*

Hon. LAWRENCE DOUGLAS WILDER,
*Governor, Commonwealth of Virginia, Richmond, VA.*

DEAR GOVERNOR WILDER: Thank you very much for your letter of April 20 outlining Virginia's proposed contribution to construction of the extension of the Smithsonian's National Air and Space Museum that we are planning for Washington Dulles International Airport. Your letter has been shared with the Institution's Board of Regents which met on Monday, May 7th, and approved introduction of legislation to authorize further planning and design of the extension, as well as $9,000,000 in Fiscal Year 1992 to carry that work forward.

In the current fiscal year the Smithsonian expects to apply $300,000 from available funds to development of a master plan for the Dulles site. In Fiscal Year 1991 we would hope to complete that plan and the environmental analyses that must of necessity precede construction.

As these activities proceed, the Institution also will develop a financing plan for construction. We expect that, in addition to the Virginia contribution, the plan will include a combination of Federal appropriations, donations, and other forms of private sector support that have yet to be identified and explored.

I shall, of course, keep you informed of these matters, and look forward to working with you and your colleagues in bringing the extension at Dulles to its full realization.

Sincerely,

ROBERT MCC. ADAMS,
*Secretary.*

Mr. ROBB. Mr. President, I am pleased today to join the Senate Regents for the Smithsonian and my colleague, the senior Senator from Virginia, in introducing legislation to begin the process of constructing an extension to the National Air and Space Museum at Washington-Dulles International Airport.

The Commonwealth of Virginia and I have been avid supporters of this project since the Smithsonian first broached the idea in 1983, while I was Governor. My successors in that office have maintained the Commonwealth's commitment to the project.

Mr. President, this legislation represents the first critical step toward making this expansion of the Smithsonian's most popular museum a reality. From the *Enola Gay* to the SR–71 to the shuttle *Enterprise*, there are simply too many dreams, too many adventures that we don't get to share, because these planes and rockets and satellites simply don't fit into the Air and Space Museum down the street.

I am confident that the American people will flock to this extension, as they have to the main facility on the Mall, and that the bill we introduce today, will inspire a whole new generation of kids—and parents—with the wonders of flight. Echoing the title of one of the popular IMAX Movies at the Air and Space Museum, "the dream is alive," and this extension will help to keep it so.

I urge my colleagues to support this measure, and hope that the Senate can act upon it quickly.

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By Mr. REID (for himself, Mr. LIEBERMAN, Mr. BRADLEY, and Mr. MOYNIHAN):

S. 2637. A bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes; to the Committee on Environment and Public Works.

LEAD EXPOSURE REDUCTION ACT OF 1990

Mr. REID. Mr. President, on behalf of myself, Mr. LIEBERMAN, Mr. BRADLEY, and Mr. MOYNIHAN, I rise today to introduce the Lead Exposure Reduction Act of 1990.

Lead poisoning is something which many people believe belongs to the past. Unfortunately, this is not the case. Despite some reduction in the amount of lead in our environment, lead poisoning remains a major public health problem.

On March 8, 1990, the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, which I chair, held a hearing on the long-term health effects of lead exposure. The testimony presented at this hearing was truly disturbing.

Far from being a disease of the past, the testimony revealed that lead poisoning is widespread. Particularly at risk are children under 7 years of age. Some 3 to 4 million of our children have levels of lead in their blood that may adversely affect their health.

At exposure levels that are commonly experienced, the effects of lead on young children include permanent, significant neurologic impairment. Translated, this means lower IQ levels

and behavioral problems for many of our children. As a recent article in the Washington Post stated, what we have is "a national recipe for stupidity."

Although lead's adverse health effects are abundantly documented, the United States continues to use over 1.4 million tons of lead each year. While three-quarters of that lead is used in large storage batteries, the remainder is used in a large variety of products.

The manufacture, use, and disposal of these products means that more and more lead is being released into the environment. For most of these products, nonleaded substitutes are already available. In addition, Government agencies are seriously behind in revising standards for occupational and environmental lead exposure. More resources are also needed to improve abatement methods and technologies to minimize exposure to lead.

The Lead Exposure Reduction Act of 1990 addresses these problems in turn.

Title II of the act is designed to reduce the use of lead products where substitutes are available. For lead-containing products that are extremely likely to contaminate the environment as a result of their use, or misuse, legislative bans are included.

In order to identify the complete range of products in which lead is currently used, manufacturers and importers are directed to notify the Administrator of the EPA of the lead content of their products. Thereafter, new lead-containing products could only be marketed if the Administrator concluded they were not dispersive, and that no comparable product was already available.

Title II also mandates that lead-acid batteries be recycled, that leaded gasoline be sold only at a price equal to or greater than unleaded gasoline, and that all products containing lead bear a label indicating the presence and percentage of lead.

Title III requires the EPA to promulgate revised ambient air and drinking water standards for lead. If the EPA fails to meet specified deadlines, legislative standards will take effect.

In addition, title III requires the Director of the Centers for Disease Control to encourage State public health officials to report blood-lead levels. The Agency for Toxic Substances and Disease Registry is also directed to update its report to Congress on childhood lead poisoning every 2 years.

The purpose of these last two provisions is to obtain and publicize statistics on the extent of lead poisoning in the United States. The public must be made aware of the dangers of lead.

Finally, title IV addresses the critical need for identifying and removing the technological constraints to safe, effective, and affordable abatement of lead-based paint. By promoting research, the provisions of title IV will help lower the costs of safe and effective abatement by promoting the development and testing of more cost-effective abatement methods and strategies.

The Lead Exposure Reduction Act of 1990 authorizes a total of $95 million over 4 years for the purpose of carrying out the provisions of the act. In light of the stakes involved—the health and intelligence of our children—I believe this to be a small price to pay, and I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the bill and an accompanying editorial from the Reno Gazette-Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2637

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Lead Exposure Reduction Act of 1990".

SEC. 2. AMENDMENT OF THE TOXIC SUBSTANCES CONTROL ACT.

(a) AMENDMENT OF THE TOXIC SUBSTANCES CONTROL ACT.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding after title III the following new title:

"TITLE IV—LEAD EXPOSURE REDUCTION

"SEC. 401. FINDINGS AND POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) lead poisoning is the most prevalent disease of environmental origin among American children today, and children under 7 years of age are at special risk because of their susceptibility to the potency of lead as a neurologic toxin;

"(2) at exposure levels that are commonly experienced, the effects of lead on children include permanent, significant neurologic impairment, and additional health effects occur in adults exposed to similar exposure levels;

"(3) because of the practical difficulties of removing lead already dispersed into the environment, children and adults will continue to be exposed to such lead for years;

"(4) as a result of decades of highly dispersive uses of lead in a variety of products, contamination of the environment with unacceptable levels of lead is widespread;

"(5) the continued manufacture, import, processing, use, and disposal of lead-containing products causes further releases of lead to the environment, and such releases contribute to further environmental contamination and resultant exposure to lead; and

"(6) methods to reduce existing lead exposure levels must be improved, especially through the development of more effective and affordable methods for abating lead-based paint, which continues to be a major cause of childhood lead poisoning.

"(b) POLICY.—It is the policy of the United States that further releases of lead to the environment should be minimized, and means should be developed and implemented to reduce exposures to existing sources of environmentally dispersed lead.

"SEC. 402. RESTRICTIONS ON CONTINUING USES OF CERTAIN LEAD-CONTAINING PRODUCTS.

"(a) GENERAL RESTRICTIONS.—Except as provided under subsections (b), (c), and (d) of this section, beginning on the date that is 1 year after the date of the enactment of the Lead Exposure Reduction Act of 1990, no person may manufacture, process, or distribute in commerce any of the following product categories:

"(1) Paint containing more than 0.06 percent lead by dry weight.

"(2) Solder containing more than 0.1 percent lead by dry weight.

"(3) Plastic additives, printing inks, or pigments containing more than 0.06 percent lead by dry weight.

"(4) Plumbing fittings containing more than 2 percent lead by dry weight.

"(5) Pesticides (as defined in section 2(u) of the Federal Insecticide, Rodenticide, and Fungicide Act (7 U.S.C. 136(u)) containing more than 0.1 percent lead by dry weight.

"(6) Construction materials (including roofing, siding, and soundproofing materials) containing more than 0.1 percent lead by dry weight.

"(7) Fertilizers containing more than 0.1 percent lead by dry weight.

"(8) Glazes, enamels, and frits containing more than 0.06 percent lead by dry weight.

"(9) Toy and recreational game pieces containing more than 0.1 percent lead by dry weight.

"(10) Curtain weights containing more than 0.1 percent lead by dry weight.

"(11) Fishing weights containing more than 0.1 percent lead by dry weight.

"(12) Stained-glass came containing more than 0.1 percent lead by dry weight.

"(13) Foils for wine bottles containing more than 0.1 percent lead by dry weight.

"(b) MODIFICATION OF RESTRICTIONS.—(1) The Administrator may, after public notice and opportunity for comment, promulgate regulations to modify, pursuant to paragraphs (2) and (3) of this subsection, the percentage of the allowable lead content for a product category described in paragraphs (1) through (13) of subsection (a).

"(2) The Administrator may, pursuant to paragraph (1), establish by regulation a percentage of the allowable lead content that is less than the percentage specified under subsection (a) for any product category described in paragraphs (1) through (13) of such subsection if the Administrator determines that a reduction in the percentage of allowable lead content is necessary to protect human health or the environment.

"(3)(A) The Administrator may, pursuant to paragraph (1), establish by regulation a percentage by dry weight of the allowable lead content for a product category described in paragraphs (1) through (13) of subsection (a) that is greater than the percentage specified for the product category under such subsection if the Administrator determines that—

"(i) increasing the percentage of the allowable lead content for the product category will promote the protection of human health and the environment; and

"(ii) no comparable substitute is available at the time of the promulgation of such regulation.

"(B) If the Administrator establishes by regulation an increased percentage of the allowable lead content for a product category pursuant to this paragraph, the regulation establishing such percentage shall terminate on the date that is 3 years after the date such regulation becomes final.

"(c) STATEMENTS BY ADMINISTRATOR RELATING TO MODIFICATIONS OF RESTRICTIONS.—In promulgating any regulation under subsection (b) or (d) of this section with respect to the allowable lead content under a product category, the Administrator shall, prior to the promulgation of a final regulation, consider and publish a statement with respect to—

"(1) the effects of the proposed allowable lead content level for the product category on human health and the magnitude of the exposure of human beings to such lead content; and

"(2) the effects of the proposed allowable lead content level for the product category and the magnitude of the exposure of the environment to such proposed allowable lead content level for the product category.

"(d) REVIEW OF INVENTORIED PRODUCTS.—(1) Not later than 18 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall review the products identified in the compilation of inventory information described in section 403(b), and identify the percentages of lead used in such products.

"(2) Upon completion of the review under paragraph (1), if the Administrator determines that a reduction in the percentage of the allowable lead content for a product category is necessary to protect human health or the environment, or that a comparable substitute product for a product category is available at the time of completion of the review, the Administrator shall promulgate a regulation to reduce the percentage of the allowable lead content for such category, or to prohibit any lead content in the product category.

"(e) CANS FOR FOOD.—(1) Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, no person may manufacture or import any can containing food for human consumption (or intended for such use) containing solder that has a lead content greater than 0.1 percent by dry weight.

"(2) Beginning on the date that is 18 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, no person may distribute in commerce any can containing food for human consumption (or intended for such use) containing solder that has a lead content greater than 0.1 percent by dry weight.

"SEC. 403. INVENTORY OF LEAD-CONTAINING PRODUCTS; EMISSIONS REPORTING REQUIREMENTS.

"(a) INVENTORY OF LEAD-CONTAINING PRODUCTS.—(1) Not later than 12 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, each person who manufactures, processes, or imports any product that contains more than 0.1 percent lead by dry weight shall notify the Administrator of such manufacture, processing, or importing. Such notification shall be in writing and shall specify the following inventory information:

"(A) the type of product manufactured, processed, or imported;

"(B) the quantity of such product manufactured, processed, or imported;

"(C) the amount of lead used in the manufacturing or processing of the product, or the amount of lead contained in the imported product; and

"(D) such other information as the Administrator may, by regulation, require.

"(2) Not later than 3 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall publish in the Federal Register notice of the requirements under paragraph (1) of this subsection and other related information that the Administrator determines to be appropriate.

"(b) COMPILIATION OF INVENTORY INFORMATION.—Not than later 15 months after the date of enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall publish a compilation of the inventory information reported under paragraph (1) of subsection (a). In compiling such information the Administrator may, to the extent consistent with the purpose of this section, in lieu of listing a product individually, list a category of products in which such product is included. The Administrator shall list such inventory information in such a manner as to ensure the protection of classified information and trade secrets and privileged or confidential commercial or financial information described in paragraphs (1) and (4), respectively, of section 552(b) of title 5, United States Code.

"(c) LEAD EMISSION REPORTS FROM CERTAIN FACILITIES.—(1) Beginning on the date that is 12 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, and annually thereafter, the owner or operator of any—

"(A) primary lead smelter or primary lead refiner (as defined by the Administrator);

"(B) secondary lead smelter (as defined in section 6(i)(2)) or secondary lead refiner; and

"(C) battery manufacturing operation (as defined by the Administrator),

shall report to the Administrator concerning emissions of lead to air, water, and land from each such facility.

"(2) The reports described in paragraph (1) shall—

"(A) be in such form as the Administrator shall require by regulation; and

"(B) be based on monitoring of point-source emissions and estimates of fugitive emissions.

"(3) Each smelter, refinery, or facility described in subparagraphs (A) through (C) shall, not later than 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, be equipped with emissions monitoring devices that meet requirements that the Administrator shall require by regulation.

"(4) Not more than 6 months after receiving the reports required under paragraph (1), the Administrator shall publish the emissions data in such reports.

"(5) Not later than 3 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall publish in the Federal Register notice of the requirements of this subsection and other related information that the Administrator determines to be appropriate.

"(d) DEFINITIONS.—For the purposes of this section, the terms 'manufacture' and 'process' mean manufacture or process for commercial purposes (as defined in section 8(f)).

"SEC. 404 PRODUCT LABELING.

"(a) IN GENERAL.—(1) Not later than 12 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, each person who manufactures or imports any product that contains more than 0.1 percent lead by dry weight shall indicate on the product label the percentage of lead content in the product.

"(2) Not later than 3 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall publish in the Federal Register notice of the requirements under paragraph (1) and other related information that the Administrator determines to be appropriate.

"(b) LABELING REGULATIONS.—Not later than 9 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall promulgate regulations with respect to the wording, type size, and placement of the labels described in subsection (a).

"(c) INTERIM REQUIREMENTS.—If the promulgation of a final regulation with respect to a product described in subsection (a) is delayed beyond the date specified under subsection (b), then until such time as a final regulation is promulgated, a label shall be affixed to the product and shall contain the words 'Warning; Contains Lead' in letters the same size as the largest letter otherwise affixed to the label or packaging of the product.

"SEC. 405. MANUFACTURING OR PROCESSING NOTICES FOR NEW LEAD-CONTAINING PRODUCTS.

"(a) IN GENERAL.—(1) Beginning on the date that is 30 days after the date of the publication of the compilation of inventory information described in section 403(b), no person may manufacture or process a product that has a lead content of greater than 0.1 percent unless such product is described in the compilation of inventory information, or unless—

"(A) such person submits to the Administrator, not later than 120 days before commencing such manufacture or processing, a notice in the same manner as described in the requirements for a notice under section 5(d);

"(B) such person complies with any applicable requirements for the submission of test data described in section 5(b); and

"(C) the Administrator has determined that—

"(i) the manufacture, processing, use, and disposal of the product is not likely to contribute to the dispersion of lead into the environment; and

"(ii) no comparable product is available in commerce.

"(2) Not later than 15 days after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall publish in the Federal Register notice of the requirements of this subsection and other related information that the Administrator determines to be appropriate.

"(b) EFFECT OF FAILURE OF THE ADMINISTRATOR TO ISSUE A DETERMINATION.—The failure of the Administrator to issue a determination under paragraph (3) of subsection (a) within 60 days after receiving of the notice described in paragraph (1) of such subsection shall be deemed a denial of such a determination.

"SEC. 406. RECYCLING OF LEAD-ACID BATTERIES.

"(a) PROHIBITIONS.—(1) Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the placement of lead-acid batteries in any landfill and the incineration of such batteries are prohibited.

"(2) No person shall discard or otherwise dispose of a lead-acid battery in mixed municipal solid waste or discard or otherwise dispose any such battery in a manner other than by recycling in accordance with this subsection.

"(b) GENERAL DISCARD OR DISPOSAL REQUIREMENTS.—Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, a person (except a person described in subsection (c), (d), or (e)) shall discard or other-

wise dispose of used lead-acid batteries only by delivery to one of the following:

"(1) A person who sells lead-acid batteries at retail or wholesale.

"(2) A secondary lead smelter permitted by a State or the Administrator under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(3) A collection or recycling facility permitted by a State or by the Administrator.

"(c) DISCARD OR DISPOSAL REQUIREMENTS FOR RETAILERS.— Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, a person who sells lead-acid batteries at retail shall discard or otherwise dispose of used lead-acid batteries only by delivery to one of the following:

"(1) A person who sells lead-acid batteries at wholesale.

"(2) A secondary lead smelter permitted by a State or the Administrator under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(3) A battery manufacturer.

"(4) A collection or recycling facility permitted by a State or by the Administrator.

"(d) DISCARD OR DISPOSAL REQUIREMENTS FOR WHOLESALERS.—Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, a person who sells lead-acid batteries at wholesale shall discard or otherwise dispose of used lead-acid batteries only by delivery to one of the following:

"(1) A secondary lead smelter permitted by a State or the Administrator under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(2) A battery manufacturer.

"(3) A collection or recycling facility permitted by a State or by the Administrator.

"(e) DISCARD OR DISPOSAL REQUIREMENTS FOR MANUFACTURERS.—Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, a person who manufactures lead-acid batteries shall discard or otherwise dispose of used lead-acid batteries only by delivery to one of the following:

"(1) A secondary lead smelter permitted by a State or the Administrator under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(2) A collection or recycling facility permitted by a State or by the Administrator.

"(f) COLLECTION REQUIREMENTS FOR RETAILERS.—Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, a person who sells, or offers for sale, lead-acid batteries at retail shall accept from customers, if offered by customers, used lead-acid batteries of the same type as the batteries sold and in a quantity approximately equal to the number of batteries sold. The used lead-acid batteries shall be accepted at the place where lead-acid batteries are offered for sale.

"(g) COLLECTION REQUIREMENTS FOR WHOLESALERS.—(1) Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, a person who sells, or offers for sale, lead-acid batteries at wholesale (hereinafter referred to as a 'wholesaler') shall accept from customers, if offered by customers, used lead-acid batteries of the same type as the batteries sold.

"(2) In the case of a wholesaler who sells, or offers for sale, lead-acid batteries to a retailer, such wholesaler shall also provide for removing used lead-acid batteries at the place of business of the retailer. Such removal shall occur not later than 90 days after the retailer notifies the wholesaler of the existence of such used lead-acid batteries for such removal.

"(h) COLLECTION REQUIREMENTS FOR MANUFACTURERS.—Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, a person who manufactures lead-acid batteries shall accept from customers, if offered by customers, used lead-acid batteries of the same type as the batteries sold.

"(i) WRITTEN NOTICE REQUIREMENTS FOR RETAILERS.—(1) Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, a person who sells, or offers for sale, lead acid-batteries at retail shall post written notice that—

"(A) is clearly visible in a public area of the establishment in which such lead-acid batteries are sold or offered for sale;

"(B) is at least 8½ inches by 11 inches in size; and

"(C) contains the following language:

"(i) 'It is illegal to throw away a motor vehicle battery or other lead-acid battery.'.

"(ii) 'Recycle your used batteries.'.

"(iii) 'Federal law requires battery retailers to accept used lead-acid batteries for recycling in exchange for new batteries purchased.'.

"(2) Any person who, after receiving a warning by the Administrator, fails to post a notice required under paragraph (1) shall be subject to a civil penalty of not more than $1,000 per day.

"(j) LEAD-ACID BATTERY LABELING REQUIREMENTS.—(1) Beginning on the date that is 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, it shall be unlawful to sell a lead-acid battery that does not bear a permanent label that states the following:

"(A) 'It is illegal to throw away a motor vehicle battery or other lead-acid battery.'.

"(B) 'Federal law requires battery retailers to accept used lead-acid batteries for recycling in exchange for new batteries purchased.'.

"(2) Not later than 3 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall publish in the Federal Register notice of the requirements of this section and other related information that the Administrator determines to be appropriate.

"(k) PUBLICATION OF NOTICE.—Not later than 3 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall publish in the Federal Register notice of the requirements of this section and other related information that the Administrator determines to be appropriate.

"(l) DEPOSITS.—Nothing in this Act shall be construed to prohibit a government of a State or a political subdivision of a State from requiring the payment of a deposit upon the sale of a lead-acid battery.

"(m) INSPECTION.—The Administrator may inspect any establishment subject to this section and may issue warnings and citations to any person who fails to comply with any provision of this section.

"(n) DEFINITIONS.—For the purposes of this section:

"(1) The term 'lead-acid battery' means a battery that—

"(A) consists of lead and sulfuric acid;

"(B) is used as a power source; and

"(C) has a capacity of 6 volts or more.

"(2) The term 'secondary lead smelter' means a facility which produces metallic lead from various forms of lead scrip, including used lead-acid batteries. Such a facility also may produce plastic chips that are sent for reprocessing.

"SEC. 407. PROHIBITED ACTS, PENALTIES.

"(a) IN GENERAL.—It shall be unlawful for any person to fail or refuse to comply with a provision of sections 402 through 406.

"(b) CIVIL PENALTIES.—(1) A person who violates a provision of section or shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each such violation. Each instance of violation shall constitute a separate violation, and each day a violation continues shall, for the purposes of this section, constitute a separate violation.

"(2) A civil penalty for a violation of this section shall be assessed, and an order assessing a civil penalty shall be issued according to the procedure described in section 16(a)(2) of this Act. A person assessed such a penalty may file a petition for judicial review in accordance with the procedures described in section 16(a)(3). If a person fails to pay an assessment of a civil penalty the Attorney General may recover the amount assessed under the procedures described in section 16(a)(4).

"(c) CRIMINAL PENALTIES.—Any person who knowingly or wilfully violates any provision of this section, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (b) for such violation, be subject, upon conviction, to a fine of not more than $25,000 for each such violation, or to imprisonment for not more than one year, or both.

"SEC. 408. LEAD ABATEMENT AND MEASUREMENT.

"(a) PROGRAM TO PROMOTE LEAD EXPOSURE ABATEMENT.—The Administrator, in cooperation with the Secretary of Housing and Urban Development, the Secretary of Commerce, and the Secretary of Health and Human Services, shall undertake a comprehensive program to promote safe, effective, and affordable monitoring, detection and abatement of lead-based paint and other lead exposure hazards. Such program shall, at a minimum, include the components described in subsections (b) through (k) of this section.

"(b) STANDARDS FOR ENVIRONMENTAL SAMPLING LABORATORIES.—In consultation with the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), the Administrator shall establish protocols, criteria and minimum performance standards for laboratory analysis of lead in paint films, soil and dust. Not more than 18 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall establish certification programs to assure the quality and consistency of laboratory analyses, unless the Administrator determines, by the date specified in this subsection, that effective voluntary accreditation programs are in place and operating on a nationwide basis at the time of such determination.

"(c) STANDARDS FOR BLOOD ANALYSIS LABORATORIES.—(1) In consultation with the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, the Administrator shall establish protocols, criteria and minimum performance standards for laboratory analysis of lead in blood. Not later than 18 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall establish certification programs to assure the quality and con-

sistency of laboratory analyses, unless the Administrator determines, by the date specified in this subsection, that effective voluntary accreditation programs are in place and operating on a nationwide basis at the time of such determination.

"(2) An accreditation or certification program under this subsection shall include provisions for reporting results of blood-lead analyses to the Administrator and to the Director of the Centers for Disease Control on an ongoing basis, in such form as the Administrator shall require by regulation.

"(d) CONTRACTOR TRAINING AND CERTIFICATION.—(1) Not later than 12 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator in consultation with the Secretary of Housing and Urban Development and the Secretary of Health and Human Services (acting through the Director of National Institute for Occupational Safety and Health), shall develop minimum core curricula for technical training courses for lead-based paint abatement workers, supervisors, designers, inspectors and building owners.

"(2) The courses described in paragraph (1) shall address generic factors associated with lead testing and abatement in various types of housing units, including public and private single and multi-family, housing units (as determined by the Administrator, in consultation with the individuals described in paragraph (1)).

"(3) The Administrator shall assure the quality and comprehensiveness, and effectiveness of the training courses described in paragraph (2) by evaluating training programs, and shall encourage State certification programs, or the development of national proficiency tests.

"(4) Not later than April 1, 1992, the Administrator and the Secretary of Housing and Urban Development shall jointly report to the Congress their assessment of abatement training capacity and the quality of ongoing abatement work.

"(e) DETECTION TECHNOLOGIES.—(1) In consultation with the Secretary of Housing and Urban Development and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), the Administrator shall evaluate emerging products and emerging techniques (as defined by the Administrator) for detecting lead in paint films and dust, including x-ray fluorescence devices, on-site chemical spot testers, and laboratory methods.

"(2) In consultation with the Secretary of Housing and Urban Development and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), the Administrator shall develop criteria, standards, and testing protocol to assure reliable, accurate and effective detection technologies.

"(f) EVALUATION OF ABATEMENT AND IN-PLACE MANAGEMENT TECHNIQUES TO REDUCE LEAD DUST LEVELS.—(1) Not later than 36 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator, in consultation with the Secretary of the Department of Housing and Urban Development, shall submit a report to the Congress concerning the short-term and long-term efficacy and effectiveness of various abatement and in-place management techniques in reducing lead dust levels. The assessment of such in-place management techniques shall be based on resultant and subsequent levels of lead dust.

"(2) The report described in paragraph (1) shall review the cost effectiveness and reasonableness of State standards for post-abatement lead dust levels in effect immediately preceding the date of the issuance of such report.

"(g) EVALUATION OF EMERGING ABATEMENT TECHNOLOGIES.—(1) In consultation with the Secretary of Housing and Urban Development and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), the Administrator shall establish a program for the evaluation of existing and new products and procedures for encapsulating or removing lead-based paint.

"(2) The products and procedures described in paragraph (1) shall be evaluated for safety, effectiveness, durability, and other relevant performance characteristics (as determined by the Administrator, in consultation with the individuals described in paragraph (1)) and based on written performance criteria and standards that the Administrator shall develop (in consultation with the individuals described in paragraph (1)).

"(3) Not later than 18 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall publish in the Federal Register a list of the products and procedures that the Administrator has determined to meet the performance standards and criteria developed by the Administrator.

"(4) The Administrator shall update and publish the list described in paragraph (3)—

"(A) on the date that is 30 months after the date of the enactment of the Lead Exposure Reduction Act of 1990;

"(B) on the date that is 42 months after the date of the enactment of such Act; and

"(C) at any time subsequent to the date under subparagraph (B), as the Administrator determines to be appropriate.

"(h) CLASSIFICATION OF ABATEMENT WASTES.—(1) Not later than 6 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall issue guidelines for the management of lead-based paint abatement debris. Such guidelines shall describe steps for segregating wastes from lead-based paint abatement projects in order to minimize the volume of material qualifying as hazardous solid waste.

"(2) Beginning on the date that is 7 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, if the requirements of paragraph (1) have not been met, no appropriated monies may be expended by the Environmental Protection Agency for the purpose of funding travel for employees to engage in official business of the Environmental Protection Agency outside of the United States and the Territories of the United States. The prohibition under this paragraph shall terminate on the date that the requirements of paragraph (1) are met.

"(i) EXPOSURE STUDY.—(1) In consultation with the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), the Administrator shall undertake a long-term research project to study the sources of lead exposure in children who have elevated blood lead levels (or other indicators of elevated lead body burden), as defined by the Centers for Disease Control.

"(2) The research project described in paragraph (1) shall examine the relative contributions to lead body burden from the following:

"(A) Drinking water.

"(B) Food.

"(C) Lead-based paint and dust from lead-based paint.

"(D) Exterior sources such as ambient air and lead in soil.

"(3) Not later than 18 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, and every 12 months thereafter, the Administrator shall submit a report to the Congress concerning the research project described in paragraph (1).

"(j) PUBLIC EDUCATION.—(1) The Administrator, in consultation with the Secretary of Housing and Urban Development and the Secretary of Health and Human Services, shall sponsor public education and outreach activities to increase public awareness of—

"(A) the scope and severity of lead poisoning from household sources;

"(B) the need for careful, quality, abatement and management actions.

"(2) The activities described in paragraph (1) shall be designed to provide educational services and information to—

"(A) health professionals;

"(B) other groups that the Administrator, in consultation with the individuals described in paragraph (1) determines to be appropriate; and

"(C) the general public.

"(k) SOIL LEAD GUIDELINES.—Not later than 18 months after the date of the enactment of the Lead Exposure Reduction Act of 1990, the Administrator shall issue guidelines concerning the action levels for lead in soil, at which appropriate action (as required by regulations that the Administrator shall promulgate) must be taken.

"SEC. 409. ESTABLISHMENT OF NATIONAL CENTERS FOR THE PREVENTION OF LEAD POISONING.

"(a) ESTABLISHMENT AND RESPONSIBILITIES.—(1) There is established a grant program to establish one or more Centers for the Prevention of Lead Poisoning (hereinafter referred to as a "Center".

"(2) The Administrator shall award grants to one or more institutions of higher education in the United States for the purpose of establishing and funding a Center. Each such Center shall assist the Administrator in carrying out the functions of this title.

"(b) APPLICATIONS.—The head of any institution of higher education in the United States may submit to the Administrator an application to be designated as a site of a Center. The application shall be in such form and containing such information as the Administrator may require by regulation.

"(c) SELECTION CRITERIA.—The Administrator shall select grant recipients from the applicants in accordance with the following criteria:

"(1) The capability of the applicant institution to provide leadership in making national contributions to the prevention of lead poisoning.

"(2) The demonstrated capacity of applicant institution to conduct relevant research.

"(3) The appropriateness of the projects proposed to be carried out by the applicant institution.

"(4) The assurance of the applicant institution of a commitment of at least $100,000 in budgeted institutional funds to relevant research upon receipt of such grant.

"(5) The presence at the applicant institution of an interdisciplinary staff with demonstrated expertise in lead poisoning prevention.

"(6) The demonstrated ability of the applicant institution to disseminate results of relevant research and educational programs

through an interdisciplinary continuing education program.

"(d) FEDERAL SHARE.—The Federal share of a grant under this section shall not exceed 80 percent of the costs of establishing and operating a Center and related research activities carried out by the Center.".

(b) TECHNICAL AMENDMENTS.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end of the table of contents in section 1 the following:

"TITLE IV—LEAD EXPOSURE REDUCTION

"Sec. 401. Findings and policy.
"Sec. 402. Restrictions on continuing uses of certain lead-containing products.
"Sec. 403. Inventory of lead-containing products.
"Sec. 404. Product liability.
"Sec. 405. Manufacturing or processing notices for new lead-containing products.
"Sec. 406. Recycling of lead-acid batteries.
"Sec. 407. Prohibited acts; penalties.
"Sec. 408. Lead abatement and measurement.
"Sec. 409. Establishment of national centers for the prevention of lead poisoning.".

SEC. 3. REPORTING OF BLOOD-LEAD LEVELS; BLOOD LEAD LABORATORY REFERENCE PROJECT.

(a) REPORTING OF BLOOD-LEAD LEVELS.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), acting through the Director of the Centers for Disease Control (hereafter in this section referred to as the "Director"), shall encourage State public health officials to report blood-lead measurements to the Director.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit a report to the Congress that—

(A) describes the status of blood-lead reporting; and

(B) evaluates the feasibility and desirability of instituting a national requirement for mandatory preschool blood-lead screening.

(3) Not later than 24 months after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit a report to the Congress that assesses the effectiveness of the blood-lead reporting provisions under regulations establishing the accreditation and certification programs for blood analysis laboratories described in section 408(c) of the Toxic Substances Control Act, as added by this Act.

(c) ESTABLISHMENT OF BLOOD-LEAD LABORATORY REFERENCE PROJECT.—Subpart 2 of part C of title IV the Public Health Service Act (42 U.S.C. 258b et seq.), is amended by adding at the end thereof the following new section:

"SEC. 424. BLOOD-LEAD LABORATORY REFERENCE PROJECT.

"The Secretary of Health and Human Services acting through the Director of the Centers for Disease Control, shall establish a blood-lead laboratory reference project to assist States and local governments to establish, maintain, improve, and assure the quality of laboratory measurements performed for childhood lead poisoning prevention programs. Such project shall include—

"(1) collaboration with manufacturers of analytical instruments to develop blood lead measurement devices that are accurate, portable, precise, rugged, reliable, safe, and of reasonable cost;

"(2) the development of improved techniques for safe, contamination-free blood sample collection; and

"(3) assistance to State and local laboratories in the form of reference materials, equipment, supplies, training, consultation, and technology development for quality assurance, capacity expansion, and technology transfer.".

SEC. 4. REVISED NATIONAL AMBIENT AIR QUALITY STANDARD FOR LEAD.

Section 109 of the Clean Air Act (42 U.S.C. 7409), is amended by adding at the end thereof the following new subsection:

"(e) REVISED NATIONAL AMBIENT AIR QUALITY STANDARD FOR LEAD.—If the Administrator does not promulgate a revised national ambient air quality standard for lead pursuant to subsection (d) of this section on or before the date that is 12 months after the date of enactment of the Lead Exposure Reduction Act of 1990, the revised national ambient air quality standard for lead shall be 0.5 micrograms per cubic meter over a quarterly averaging period. Such standard may subsequently be revised by the Administrator by regulation.".

SEC. 5. REVISED NATIONAL PRIMARY DRINKING WATER REGULATION FOR LEAD.

Section 1412 of the Safe Drinking Water Act, (42 U.S.C. 300g-1) is amended by adding at the end thereof the following new subsection:

"(f) REVISED NATIONAL PRIMARY DRINKING WATER REGULATION FOR LEAD.— If, on or before the date that is 12 months after the date of the promulgation of the Lead Exposure Reduction Act of 1990, the Administrator does not promulgate under this section a revised national primary drinking water regulation for lead that includes a maximum contaminant levels measured at the end-user's tap, a revised national primary drinking water regulation for lead shall be promulgated to—

"(1) include a maximum contaminant level of 5 micrograms per liter measured at the end-user's tap; and

"(2) require quarterly monitoring of lead at end-users' taps pursuant to guidelines issued by the Administrator. Such standard may subsequently be revised by the Administrator by regulation.".

SEC. 6. UPDATE OF 1988 REPORT TO CONGRESS ON CHILDHOOD LEAD POISONING.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, and every 24 month thereafter, the Administrator of the Agency for Toxic Substances and Disease Registry shall submit to Congress a report updating the report submitted pursuant to subsection (f)(1) of section 118 of the Superfund Amendments and Reauthorization Act of 1986. Such updated report shall include, at a minimum, revised estimates of the prevalence of elevated lead levels among children in the population of the United States.

(b) FUNDING.—The costs of preparing and submitting such updates shall be borne by the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the purposes of this Act—

(1) $25,000,000 for fiscal year 1991;
(2) $24,000,000 for fiscal year 1992;
(3) $24,000,000 for fiscal year 1993, and
(4) $22,000,000 for fiscal year 1994.

[From the Reno Gazette-Journal, May 15, 1990]

FEDERAL LIMITS ON USE OF LEAD LONG OVERDUE

With compelling evidence of the health threat posed by lead in recent years—especially to children—legislation proposed by Sen. Harry Reid of Nevada and two colleagues is certainly welcome.

The legislation would ban the use of lead in many commonly used products, such as paint and plumbing fixtures and even gasoline. It would also mandate that lead batteries be recycled and would require labeling for all products containing lead. Stricter federal standards for the use of lead would be imposed.

Health officials estimate that more than 4 million U.S. children are suffering from the subtle but debilitating effects of lead poisoning. This is known to cause brain damage, lower intelligence scores and cause comas, convulsions and even death among children.

Legislation such as the bill proposed by key members of the Senate Environment Subcommittee on Toxic Substances is long overdue.

Mr. LIEBERMAN. Mr. President, the legislation being introduced today by Senator REID, Senator BRADLEY, Senator MOYNIHAN, and myself is designed to get as much lead as possible out of paint, solder, plumbing, construction materials, packaging, and pesticides. By doing this, we can get the lead out of the ground, air, water, and we can get the lead out of the bodies of our children.

In addition to getting the lead out, this legislation is designed to get the Government more involved in fighting the national lead poisoning crisis. Our bill requires that the Environmental Protection Agency place someone in the administrator's office in charge of all lead-related activities. This individual will ensure that the EPA has a comprehensive, consistent lead program, will oversee efforts to keep new lead out of consumer products, and research ways to get old lead out of buildings and other places where it threatens our children.

In a hearing held by the Toxic Substances, Environmental Oversight, Research and Development Subcommittee of the Environment and Public Works Committee, chaired by Senator HARRY REID, we learned that lead poisoning is the most common environmental disease afflicting the children of America today. And it is totally preventable. Lead poisoning is an insidious disease, slow acting, invisible, and tragic in its consequences. We cannot look at some of the serious problems affecting our society today—high dropout rates, reduced educational preformance in our schools, and increased drug abuse—without looking at lead poisoning as one of the causes of these societal ills.

Lead gets into the blood, bones, and minds of young people and it stays there for life. The more lead that gets

into the body, the lower the quality of that life. Our Government has failed to act quickly enough, or effectively enough, to counter the threat of lead poisoning. The legislation we are introducing today seeks to get Government moving again, actively working to reduce the amount of lead we put into the environment, and working on ways to remove the lead that is already in our environment.

The bill presents new solutions to an old problem by limiting new uses of lead to those cases where there is no comparable product made without lead, reducing the new lead introduced into our environment, and developing new technologies for testing and abatement. I am proud to be associated with Senator REID, Senator BRADLEY, and Senator MOYNIHAN in working on putting these solutions into law.

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By Mr. DECONCINI (for himself, Mr. KENNEDY, Mr. HARKIN, Mr. METZENBAUM, Mr. KOHL, and Mr. SIMON):

S. 2639. A bill to enhance the ability of law enforcement officers to combat violent crime in America by providing criminal and civil enforcement of standards established by the National Institute of Justice for body armor; to the Committee on the Judiciary.

POLICE PROTECTION ACT

Mr. DECONCINI. Mr. President, the statistics speak for themselves. Violent and drug-related crimes have soared 30 percent in the last decade. Every 20 seconds a violent crime is committed in America. Our children are scared to play in neighborhood streets.

Police officers are the blue line of courage that stands between us and violence. As President Bush says, our police officers are "the foot soldiers in the battle against lawlessness."

According to FBI figures, police officers are 5.4 times more likely to suffer injuries as a result of criminal behavior than the average citizen. Every day police officers put their lives on the line for us.

This week is National Police Officers' Week. We are taking the time to recognize the fine service these courageous individuals provide for all Americans. The least we can do in return is to provide them with the best protection.

It is for this reason that I rise today with my colleagues, Senator KENNEDY, as well as Senators HARKIN, METZENBAUM, and KOHL to introduce the Police Protection Act of 1990. This bill has received endorsements from several of the leading police organizations, including the International Brotherhood of Police Officers, the Fraternal Order of Police, and the National Association of Police Organizations. They are all concerned about the lack of Federal regulation in the protection of our law enforcement.

The bill will establish Federal regulations for the sale of body armor to the general public, and most importantly, to police departments and other law enforcement agencies. Through this legislation, police officers and their departments will be able to purchase protective vests with the assurance that the product has been tested and approved by a Government agency. No longer will police departments and officers purchase body armor without certification of Government testing.

Presently, no enforceable Federal regulations exist for the sale of body armor. I say enforceable, Mr. President, because the National Institute of Justice does issue standards for body armor performance through its technology assessment program. However, NIJ's standards are voluntary; thus manufacturers are not required to comply with NIJ's standards.

Over the years, the selection of protective vests has become increasingly complex. With the escalation of firearm violence in this country, police officers are facing greater danger and increased chances of a lethal gun attack. As the protection requirements of police officers rise, so do the number and variety of models and designs of body armor. These developments have necessitated changes in the NIJ body armor standard. The most current standard, which is commonly referred to as the .03 standard, was issued in April 1987.

In the past, NIJ and the body armor manufacturers have agreed upon the voluntary standards for protective vests. Indeed, the body armor manufacturers, through their association, the Personal Protective Armor Association [PPAA], unanimously approved NIJ's .03 standard when it was initially issued 3 years ago. It was then discovered that almost two-thirds of the body armor tested by NIJ failed to meet the .03 standard. At that point, PPAA turned around and announced an industry-devised standard. They decided they wanted to regulate themselves.

This action by the body armor industry resulted in the existence of two different standards for determining the adequacy and protective capability of body armor. As I have said, with the various levels of ballistic protection that are offered, choosing the proper jacket can be a complex and confusing choice for an officer or department. You can imagine what purchasing agents for police departments are going through having to decide between the two standards. This cannot compare to the confusion of the individual beat cop, who is searching for the jacket that may save his life.

Mr. President, I think that the body armor industry was wrong in setting its own performance standard for this lifesaving product. I hope that industry will come forward and work with us to pass this needed legislation. Law enforcement needs its assistance. We cannot allow the confusion they have created to continue. This bill will establish one safety standard. It will thereby restore the confidence of the law enforcement community. It would assure them that the lifesaving device they are buying will do just that: save their lives.

The Police Protection Act of 1990 would give NIJ the authority to set performance standards for the sale of protective vests as well as the power to enforce those standards. The safety standards for body armor would be expressed in terms of performance standards. The bill also directs NIJ to establish requirements for the labeling of the vests regarding the level of ballistic protection. Civil penalties can be sought for the knowing violation of noncompliance; if violations continue after notification of noncompliance from NIJ, then criminal penalties are applicable.

The legislation mandates the Government Accounting Office to conduct a study of any standards for body armor that have been developed in the past and gives the GAO 6 months to report back to Congress and NIJ. NIJ will then be required to review the study to determine whether changes should be made in the standards. The bill sets NIJ's present .03 standard as the interim standard until the GAO reports back its findings.

Mr. President, Government regulation is not always the answer to a problem. There are so many areas in which Government intervention is unnecessary and counterproductive. But here we are talking about a lifesaving product; there is no room for error or confusion. This is a situation where enforceable Federal guidelines are necessary. It is essential that we ensure that our officers are provided the safest and most wearable body armor that technology can provide. The continued existence of alternative standards for body armor is detrimental to the safety of law enforcement. We can no longer afford to place police officers' lives needlessly at risk.

I want to thank Karen Robb, Dennis Burke, and members of the Judiciary staff who have helped us in this legislation.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2639

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Police Protection Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) violence in this country continues to escalate,

(2) law enforcement officers put their lives on the line every day to protect the public from violent crime,

(3) law enforcement officers should have effective body armor which protects them from firearm violence,

(4) the complexities of body armor and the diverse nature and abilities of law enforcement officials to purchase and test it result in unnecessary risk, and

(5) Congress has a responsibility to ensure that our Nation's law enforcement officers have available to them the best protection that current technology allows.

SEC. 3. NATIONAL INSTITUTE OF JUSTICE ISSUANCE OF STANDARDS.

Part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3721 et seq.) is amended by adding at the end the following:

BODY ARMOR SAFETY STANDARDS

"SEC. 204. (a) STANDARDS AND TEST PROTOCOLS.—

"(1) IN GENERAL.—The National Institute of Justice shall by regulation establish performance standards and test protocols—

"(A) for the capability of body armor to withstand bullets fired from firearms and for other matters relating to the effectiveness of body armor to protect law enforcement officers, and

"(B) for labels to be affixed by body armor manufacturers to armor which is manufactured in compliance with the standards described in paragraph (1).

"(2) TYPES OF STANDARDS.—A performance standard established under paragraph (1)(A) shall consist of the following types of requirements—

"(A) standards expressed in terms of performance requirements, and

"(B) requirements that vests be labeled with the noted level of ballistic protection and other appropriate warnings and instructions, including the manufacturing date.

"(b) REVIEW.—The Director shall review the study of standards and test protocols by the General Accounting Office under subsection (j) in determining appropriate standards and test protocols.

"(c) REGULATIONS AND PROCEDURES.—The Director is authorized to establish such regulations and procedures as may be necessary to carry out this section, including procedures for certification and, when necessary, decertification of body armor models.

"(d) SAFETY OF OFFICERS STANDARD.—In developing standards for body armor under subsection (a), the Director shall rely upon the needs of the criminal justice agencies and the safety and welfare of both male and female officers wearing body armor.

"(e) CONSULTATIONS.—In developing standards and test protocols under subsection (a) for body armor, the National Institute of Justice shall consult with—

"(1) the Law Enforcement Standards Laboratory of the National Institute of Standards and Technology of the Department of Commerce,

"(2) the Department of Defense,

"(3) the Federal Bureau of Investigation,

"(4) the Bureau of Alcohol, Tobacco, and Firearms,

"(5) the Secret Service and the United States Marshal's Service,

"(6) any other Federal agency which purchases body armor for its employees,

"(7) representatives from labor organizations representing law enforcement personel, law enforcement management organizations, and law enforcement fraternal and professional associations,

"(8) State and local law enforcement officers from police departments in the United States, and

"(9) representatives of the major manufacturers of body armor.

"(f) INTERIM STANDARD.—Beginning on the date of the enactment of this Act and ending on the date standards take effect under subsection (a), the National Institute of Justice standard number 0101.03 entitled 'Ballistic Resistance of Police Body Armor' shall apply to the manufacture, sale, or distribution in commerce of body armor.

"(g) TESTING.—The manufacturers of body armor subject to the performance standards established under subsection (a) shall submit to the National Institute of Justice on a periodic basis (established by the National Institute of Justice) representative samples of armor to be tested for compliance with such standards. The National Institute of Justice may take such other action as may be appropriate to determine if such armor is in compliance with such standards.

"(h) SANCTION.—

"(1) IN GENERAL.—No person may manufacture for sale, offer for sale, or distribute in commerce any body armor which is not in compliance with the interim standards in effect under subsection (f) or the standards established under subsection (a).

"(2) CIVIL PENALTIES.—Any person who knowingly violates paragraph (1) shall be subject to a civil penalty not to exceed $2,000 for each such violation.

"(3) CRIMINAL PENALTIES.—

"(A) PENALTY.—Any person who knowingly and willfully violates paragraph (1) after receiving notice of noncompliance from the National Institute of Justice shall be fined not more than $45,000 or be imprisoned not more than one year, or both.

"(B) OFFICER OR DIRECTOR OF A CORPORATION.—Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes orders, or performs any of the acts or practices constituting in whole or in part a violation of paragraph (1) and who has knowledge of a notice of noncompliance received by the corporation from the National Institute of Justice shall be subject to penalty under this subsection without regard to any penalties to which that corporation may be subject under this subsection.

"(j) REPORT.—

"(1) STUDY.—The General Accounting Office shall compile, review, and compare any standards and test protocols for body armor issued by the National Institute of Justice, manufacturers, and any other standards and test protocols issued by law enforcement and military entities.

"(2) SUBMISSION OF STUDY.—Not later than 6 months after the date of enactment of this section, the General Accounting Office shall complete the study required in subsection (a) and submit the study to the National Institute of Justice and the Judiciary Committees of Congress.

"(k) DEFINITION OF BODY ARMOR.—For purposes of this section, the term 'body armor' means any product sold or offered for sale as personal protective body armor whether the product is to be worn alone or is sold as a complement to other products or garments.".

Mr. HARKIN. Mr. President, I join my colleagues from Arizona [Mr. DECONCINI], Massachusetts [Mr. KENNEDY], in introducing the Police Protection Act of 1990. I am proud to announce that a number of leading police organizations have already endorsed this bill. Included on the list are the International Brotherhood of Police Officers, the Fraternal Order of Police, and the National Association of Police Organizations.

The Police Protection Act would give the National Institute of Justice authority to set performance standards for the manufacture of protective vests as well as the power to enforce those standards.

The bill requires the Director of NIJ to produce law enforcement safety standards for body armor expressed in terms of performance standards. The bill also establishes civil penalties for knowing violations of noncompliance, and if violations continue, then criminal penalties can be applied.

To date, no Federal regulations exist for the manufacture of body armor for police departments or other law enforcement agencies. The National Institute of Justice has issued standards for body armor performance. However, those standards are voluntary and no Federal law exists for manufacturers to comply.

In the absence of a Federal standard, the vest industry has developed its own, significantly weaker, standard. Obviously, this makes purchasing high-quality vests even more difficult and confusing than ever before.

Our police deserve better than that. Police officers risk their lives every day making our streets safe, keeping drugs out of our schools and communities, and helping put criminals in jail.

I've learned first hand the problems and personal risks faced by Iowa's police officials. Last year, in Bettendorf, IA, I spent a day with the local police force. At one point, I accompanied officers who charged into the home of a suspected drug dealer—not knowing if the person on the other side of the door was pointing a loaded gun.

That day brought home to me the debt Iowans—indeed all Americans—owe the men and women who serve us in our local law enforcement agencies.

We owe it to our police officers to give them the tools they need to feel more secure while doing their job.

For this reason, I am sponsoring the Police Protection Act, which would establish the necessary minimum level of protection for all protective vests sold in this country, and would establish penalties for the knowing violation of noncompliance.

We can no longer permit the safety or effectiveness of protection vests to be compromised under the guise of an industry-devised standard.

Nor can we afford to place police officers' lives needlessly at risk.

I ask my colleagues to join us in sponsoring the Police Protection Act of 1990.

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By Mr. DASCHLE (for himself, Mr. HEINZ, Mr. RIEGLE, Mr. PRYOR, Mr. DURENBERGER, and Mr. ROCKEFELLER):

S. 2640. A bill to amend title XVIII of the Social Security Act to prevent fraud and abuse and encourage competition in the sale of Medicare supplemental insurance; to the Committee on Finance.

MEDIGAP FRAUD AND ABUSE PREVENTION ACT

● Mr. DASCHLE. Mr. President, I rise today to introduce with Senators HEINZ, RIEGLE, PRYOR, DURENBERGER, and ROCKEFELLER the Medigap Fraud and Abuse Prevention Act of 1990, a companion measure to a bill that Congressmen WYDEN and DINGELL are introducing in the House of Representatives. In doing so, I would like to commend my colleagues in the House for their history of leadership on this issue. Our common goal in introducing this legislation is to rid the Medigap market of the fraud and abuse that has plagued this industry since the inception of the Medicare program.

I would also like to recognize Senator RIEGLE for the prominent role he played in devising a method for simplifying the Medigap market—arguably one of the most important aspects of addressing problems in this complicated and fragmented industry. Senator RIEGLE's leadership in this matter was essential to our efforts.

The performance of the Medigap industry is of interest to the majority of Medicare beneficiaries. About three-quarters of our Nation's senior citizens purchase supplemental insurance—commonly called Medigap—to fill in the gaps in Medicare. Medigap has grown into a $15 billion industry that provides coverage to senior citizens across the country. My State of South Dakota alone has over 50 Medigap plans from which seniors can choose.

The majority of insurance companies and their agents strive to provide high value insurance policies to their customers. However, a growing body of evidence suggests that millions of seniors every year are victimized by marketing and sales abuses from a minority of companies who take advantage of the fragmented and poorly regulated nature of this industry.

For example, Ruth Hotchkiss, an elderly woman from the town of Humboldt, SD, was pressured into buying 45 Medigap and life insurance policies over a 10-year period. She spent over half of her income on this coverage, even though she only needed one of each policy. And this example is not unique. Across the country seniors are buying overlapping policies that provide unnecessary coverage. At an average cost of about $800 per policy, with many plans costing as much as $1,200 per year, this is a serious concern for many senior citizens, especially those who live on fixed incomes.

Equally disturbing are the results of an AARP study revealing that 50 percent of low-income seniors who qualify for Medicaid purchase Medigap insurance, despite the fact that Medigap coverage duplicates benefits they are offered under Medicaid.

Though evidence of abuses in the marketing and sale of Medigap policies has existed for years, recent Medigap premium increases have focused attention on the need to explore ways to control spiraling costs and ensure that seniors are able to purchase high value policies that best suit their needs and resources. I believe the Federal Government has a special obligation to monitor the performance of this market, since the design of the Medicare program has created the need for this insurance.

State regulation of the Medigap industry is governed by guidelines set out in section 1882 of the Social Security Act, now referred to as the "Baucus amendments." Enactment of these amendments 10 years ago was greeted with relief and hope by both consumers and legislators. But a decade and dozens of investigations later, it is clear that this legislation is not enough to stem the abuses characterizing this market.

Studies of the Medigap industry reveal a pattern of high pressure marketing techniques, agents who sell unnecessary and duplicative policies, frivolous variation between policies, and a market characterized by confusion rather than clarity. For a product that is supposed to provide peace of mind, Medigap is clearly making too many seniors far too anxious.

The industry continues to assert that Medigap is the most highly regulated industry. They claim Congress and the media have "blown a fringe problem out of proportion." A recent edition of Consumer Reports, however, paints a very different picture. That report tells us that abuses abound and States are regulating this market with a velvet glove. Indeed, the cost of Medigap policies is projected to soar 20 to 30 percent this year, even as a third of the companies which sell that coverage stand accused of failing to meet minimum Federal pricing standards.

I believe it's time to take the velvet gloves off and crack down once and for all on the perpetrators of this fraud.

The bill I am introducing today strengthens and builds on the Baucus amendments by closing some of the gigantic loopholes that have prevented one single Federal prosecution of Medigap fraud and abuse in 10 years. The bill also provides new and stronger beneficiary protections, especially in the area of preventing the sale of duplicative policies, raises loss ratios and establishes a system for ensuring they are met, limits incentives for agents to "churn" customers, and sets criminal and civil penalties for violations of these new standards.

In sum, this is a comprehensive piece of legislation designed to attack the major problems plaguing this industry. The ultimate goal of this bill is to ensure that Medigap policies are of high value, that a meaningful range of choices is available, and that seniors have the information they need to buy the policy that best suits their needs and resources.

Congress can no longer sit back complacently while senior citizens are left vulnerable to the abuses of this industry. What better way to celebrate the 25th anniversary of the Medigap program, than with true reform of the Medigap market?

I hope my colleagues in the Senate will join me in cosponsoring this legislation to assure that Medigap provides the peace of mind for seniors that they need and deserve. I ask unanimous consent that the full text and summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2640

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medigap Fraud and Abuse Prevention Act of 1990".

SEC. 2. SIMPLIFICATION OF POLICIES.

(a) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 203(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) in subsection (b)(1)(B), by striking "through (4)" and inserting "through (5)";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of subsection (o)."; and

(3) by adding at the end the following new subsections:

"(o) The requirements of this subsection are as follows:

"(1)(A) Each medicare supplemental policy shall provide for coverage of a group of benefits consistent with subsection (p)(1).

"(B) If the medicare supplemental policy provides for coverage of a group of benefits other than the core group of basic benefits described in subsection (p)(2)(B), the issuer of the policy must make available to the individual a medicare supplemental policy with only such core group of basic benefits.

"(C) The issuer of the policy has provided, before the sale of the policy, a summary information sheet which describes—

"(i) the benefits (including any optional benefits) under the policy and which specifies the amount of any premiums attributable to any such optional benefits, and

"(ii) the average ratio of benefits provided to premiums collected for the most recent 3-year period in which the policy is in effect (or, for a policy that has not been in effect for 3 years, the average ratio of benefits provided to premiums collected that is expected during the 3rd year of the policy).

Such summary information shall be on a standard form approved by the State (in consultation with the Secretary) consistent with the subsection (d)(3)(D).

"(2)(A) Each medicare supplemental policy shall be guaranteed renewable.

"(B) If the medicare supplemental policy is terminated by the group policyholder and is not replaced as provided under subparagraph (D), the issuer shall offer certificateholders an individual medicare supplemental policy which (at the option of the certificateholder)—

"(i) provides for continuation of the benefits contained in the group policy, or

"(ii) provides for such benefits as otherwise meets the requirements of this section.

"(C) If an individual is a certificateholder in a group medicare supplemental policy and the individual terminates membership in the group, the issuer shall—

"(i) offer the certificateholder the conversion opportunity described in subparagraph (B), or

"(ii) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

"(D) If a group medicare supplemental policy is replaced by another group medicare supplemental policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

"(3) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended for any period in which the policyholder indicates that the policyholder was entitled to medical assistance under title XIX. If such suspension occurs and if the policyholder loses entitlement to such medical assistance, such policy shall be automatically reinstated as of the termination of such entitlement if the policyholder provides notice of loss of such entitlement within 90 days after the date of such loss.

"(p)(1)(A) If, within 9 months after the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') promulgates—

"(i) limitations on the benefits that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection,

"(ii) uniform language and format to be used with respect to such benefits, and

"(iii) transitional requirements consistent with paragraph (4),

(such limitations, language, format, and requirements referred to collectively in this subsection as 'NAIC simplification standards'), subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the NAIC simplification standards. The Association shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate, not later than 6 months after the date of the enactment of this subsection, on its progress in developing such standards and, not later than 9 months after such date, on its promulgation of such standards.

"(B) If the Association does not promulgate NAIC simplification standards within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, limitations, language, format, and requirements described in clauses (i) through (iii) of such subparagraph (in this subsection referred to collectively as 'Federal simplification standards') and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the Federal simplification standards.

"(C)(i) Subject to clause (ii), the date specified in this subparagraph for a State is the date the State adopts the NAIC simplification standards or the Federal simplification standards or 1 year after the date the Association or the Secretary first adopts such standards, whichever is earlier.

"(ii) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(I) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the NAIC or Federal simplification standards, but

"(II) having a legislature which is not scheduled to meet in 1991 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1991. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(D) Notwithstanding any other provision of this section, no medicare supplemental policy may be sold or issued in a State unless—

"(i) the State's regulatory program under subsection (b)(1)(A) provides for the application of the NAIC simplification standards or the Federal simplification standards (as the case may be) by the date specified in subparagraph (C); or

"(ii) if the State's program does not provide for the application of such standards, the Panel has determined that the policy meets the applicable simplification standards by such date.

The Panel periodically shall review each State regulatory program's application of the NAIC or Federal simplification standards. Any person who issues or sells a medicare supplemental policy, after the effective date of the NAIC or Federal simplification standards with respect to the policy, in violation of this subparagraph is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(E) In promulgating simplification standards under this paragraph, the Association or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

"(F) If benefits under this title are changed and the Secretary determines, in consultation with the Association, that changes in the NAIC or Federal simplification standards are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of simplification standards previously established in the same manner as they applied to the original establishment of such standards.

"(2) The benefits under the NAIC or Federal simplification standards shall provide—

"(A) for such groups of basic benefits, and such riders or additional, optional groups of benefits, as may be appropriate taking into account the considerations specified in paragraph (3) and the requirements of the succeeding subparagraphs;

"(B) for identification of a core group of basic benefits, common to all policies, which includes only the minimum benefits required of a medicare supplemental policy (as of the date of the enactment of this subsection and not including payment of any deductibles);

"(C) that, in the case of any policy in which benefits are provided in addition to the core group of basic benefits identified under subparagraph (B), the portion of the premium related to such additional benefits is separately stated; and

"(D) that, subject to paragraph (5), the total number of different benefit packages (counting the core group of basic benefits and counting each combination of benefits that may be offered as a separate benefit package) that may be established shall not exceed 10.

"(3) The benefits under paragraph (2) shall, to the extent possible—

"(A) provide for benefits that offer consumers the ability to purchase the benefits that are available in the market as of the date of the enactment of this subsection; and

"(B) balance the objectives of (i) simplifying the market to facilitate comparisons among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, and (iv) promoting market stability.

"(4) The transitional requirements of this paragraph are that, in the case of a medicare supplemental policy which was issued to a policyholder before the effective date of the NAIC or Federal simplification standards and which do not meet such standards, any renewal of such policy shall be deemed to be the issuance of a policy in violation of this subsection unless the issuer offers to the policyholder, not later than 60 days before the effective date of the renewal, a medicare supplemental policy that—

"(A) complies with such standards, and

"(B) does not provide for any waiting period with respect to treatment of pre-existing conditions.

"(5)(A) Except as provided in subparagraph (B), a State may not provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy unless such grouping meets the applicable NAIC or Federal simplification standards.

"(B)(i) The Association or the Secretary, respectively, may, upon application by a State, waive the requirements of this subsection to permit the issuance and sale of a medicare supplemental policy which does not comply with the respective NAIC or Federal simplification standards for a period of up to 3 years in order to demonstrate the offering of new or innovative benefits as part of the policy. Such new or innovative benefits may include cost-control or managed care features.

"(ii) In the case of any such waiver by the Association or Secretary, the Association or Secretary, respectively, shall evaluate the appropriateness of the new or innovative benefits offered and determine if the addition of a new group of such benefits to the NAIC or Federal simplification standards previously established would further the purposes of this subsection. If such determination is made, subject to clause (iii), the Association or Secretary shall modify the NAIC or Federal simplification standards to include such an additional group of benefits (and accompanying language and format with respect to such benefits) as may be appropriate.

"(iii) Not more than 3 additional groups of benefits may be added under clause (ii).

"(6)(A) Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups of benefits that may be offered in medicare supplemental policies in the State.

"(B) A State may not restrict under subparagraph (A) the offering of a medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B).

"(7) The Association shall establish an educational program and an ongoing evaluation process for medicare beneficiaries in order to educate them on the simplification standards developed and applied under this subsection.

"(8) The Comptroller General shall examine the effectiveness of the medicare supplemental policy simplification program established under this subsection and the impact of the program on consumer protection, health benefit innovation, consumer choice, and health care costs. By not later than 4 years after the date of the enactment of this subsection, the Comptroller General shall submit to Congress a report on such examination and shall include in the report such recommendations on the appropriate roles of the Association, States, and the Secretary in carrying out such a program as he deems appropriate.".

SEC. 3. REQUIRING APPROVAL OF STATE FOR SALE IN THE STATE.

(a) IN GENERAL.—Section 1882(d)(4)(B) of the Social Security Act (42 U.S.C. 1395ss(d)(4)(B)) is amended by striking the second sentence.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to policies mailed, or caused to be mailed, on and after July 1, 1991.

SEC. 4. PREVENTING DUPLICATION.

(a) IN GENERAL.—Subsection (d)(3) of section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subparagraph (A)—

(A) by striking "Whoever knowingly sells" and inserting "It is unlawful for a person to sell or issue",

(B) by striking "substantially",

(C) by striking ", shall be fined" and inserting ". Whoever violates the previous sentence shall be fined",

(D) in subparagraph (A), by inserting "or title XIX" after "other than this title", and

(E) in subparagraph (A), by striking "$5,000" and inserting "$25,000";

(2) by amending subparagraph (B) to read as follows:

"(B)(i) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A or enrolled under part B, whether directly, through the mail, or otherwise, unless—

"(I) the person obtains from the individual, as part of the application for the issuance or purchase and on a form described in subclause (II), a written statement signed by the individual stating, to the best of the individual's knowledge, what medicare supplemental policies the individual has, from what source, and whether the individual is entitled to any medical assistance under title XIX, whether as a qualified medicare beneficiary or otherwise, and

"(II) the written statement is accompanied by a written acknowledgment, signed by the seller of the policy, of the request for and receipt of such statement.

"(ii) The statement required by clause (i) shall be made on a form that—

"(I) states that a medicare-eligible individual does not need more than one medicare supplemental policy,

"(II) states that individuals 65 years of age or older may be eligible for benefits under the State medicaid program under title XIX and that such individuals who are entitled to benefits under that program do not need a medicare supplemental policy and that benefits and premiums under any such policy shall be suspended during the period of entitlement to benefits under such title, and

"(III) includes the address and local telephone number of any counseling program offered by (or with the assistance of) the State under title XIX, under its State insurance department, or under a State agency on aging for individuals considering purchase of a medicare supplemental policy and the address and local telephone number of the State medicaid office.

"(iii)(I) Except as provided in subclause (II), if the statement required by clause (i) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual is entitled to any medical assistance under title XIX, the sale of such a policy shall be considered to be a violation of subparagraph (A).

"(II) Subclause (I) shall not apply in the case of an individual who has another policy, if the individual indicates in writing, as part of the application for purchase, that the policy being purchased replaces such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective and the issuer or seller certifies in writing that such policy will not, to the best of the issuer or seller's knowledge, duplicate coverage (taking into account any such replacement).

"(iv) Whoever issues or sells a medicare supplemental policy in violation of this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such failure."; and

(5) by adding at the end the following:

"(D)(i) It is unlawful for an issuer or seller of a medicare supplemental policy to distribute information describing the benefits in such a policy unless such information is specified in a uniform language and format approved by the State (in consultation with the National Association of Insurance Commissioners) that facilitates comparison among medicare supplemental policies and comparison with benefits under this title.

"(ii) Any issuer or seller that distributes information in violation of clause (i) is subject to a civil money penalty of not to exceed $25,000 for each such failure.".

(b) CONFORMING AMENDMENT.—Section 1882(d)(5) of such Act is amended by inserting "(3)(B), (3)(D)," after "(3)(A),".

(c) INCREASE IN OTHER CIVIL MONEY PENALTIES.—Paragraphs (1) and (4)(A) of section 1882(d) of such Act are amended by striking "$5,000" and inserting "$25,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued or sold more than 1 year after the date of the enactment of this Act.

SEC. 5. LOSS RATIOS.

(a) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (c), by amending paragraph (2) to read as follows:

"(2) meets the requirements of subsection (q);";

(2) by striking the last sentence of subsection (c); and

(3) by adding at the end the following new subsection:

"(q)(1) A medicare supplemental policy or health insurance policy that is an indemnity policy or a dread disease policy (as defined by the Secretary in consultation with the National Association of Insurance Commissioners) may not be issued or sold in any State unless—

"(A) the policy can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such periods and in accordance with accepted actuarial principles and practices and standards developed by the National Association of Insurance Commissioners) to return to policyholders in the form of aggregate benefits provided under the policy, at least 80 percent of the aggregate amount of premiums collected in the case of group policies and at least 70 percent in the case of individual policies;

"(B) any premium increase (or the initial establishment of the premium) is made in a manner consistent with paragraph (2); and

"(C) the issuer of the policy provides for the issuance of a proportional refund, based on the premium paid and in accordance with paragraph (3), of the amount of premiums received necessary to assure that the ratio of aggregate benefits provided to the aggregate premiums collected (net of such refunds) complies with the expectation required under subparagraph (A).

For purposes of applying subparagraph (A) only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

"(2)(A) It is unlawful for an insurer to increase the premiums charged for a medicare supplemental policy (or to issue a policy and charge premiums) unless the increase or premium amount, respectively, has received prior approval by the State in which the policy is issued in accordance with subparagraph (B).

"(B) In order to comply with this subparagraph, with respect to the prior approval of a premium increase or premium—

"(i) the issuer shall submit to the State (at such time as the State may specify, but not earlier than 90 days in advance of such proposed effective date) the proposed premium amounts in advance of the proposed effective date of the premiums;

"(ii) the issuer shall include, as part of the submission under clause (i), information, certified as accurate by an actuary, that establishes that the premium amounts are reasonable in relation to the benefits and that the resulting ratio of benefits to premiums will meet the expectations specified in paragraph (1)(A); and

"(iii) in the case of a premium increase that is significant (as determined under subparagraph (C)), there has been public notice and the holding of a public hearing before the proposed increase may take effect.

In applying this subparagraph, a proposed premium amount submitted may be treated as approved by a State, unless disapproved by the State.

"(C) For purposes of subparagraph (B)(iii), a premium increase is considered significant if the proposed percentage increase exceeds twice the percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average, as published by the Bureau of Labor Statistics) for the period (i) that ends with the month before the month of the submission of the proposed increase and (ii) that is a number of months equal to the number of months during which the most recent previous increase (or establishment) will have been effective before the month of the proposed increase.

"(3)(A) Paragraph (1)(C) shall be applied with respect to each type of policy by policy number. Paragraph (1)(C) shall not apply to a policy with respect to the first 2 years in which it is in effect. The National Association of Insurance Commissioners is requested to submit to Congress a report containing recommendations on adjustments in the percentages under paragraph (1)(A) that may be appropriate in order to apply paragraph (1)(C) to the first 2 years in which policies are effective.

"(B) A refund required under paragraph (1)(C) shall be made to each policyholder insured under the applicable policy as of the last day of the year involved.

"(C) Such a refund shall include interest from the end of the policy year involved until the date of the refund at a rate as specified by the Secretary for this purpose from time to time which is not less than the average rate of interest for 13-week Treasury notes.

"(D) For purposes of this paragraph and paragraph (1)(C), refunds may be in the form of a credit against premiums due in the case of an individual who continues to be a policyholder and shall be made, with respect to a policy year, not later than the third quarter of the succeeding policy year.

"(4) The provisions of this subsection do not preempt a State from—

"(A) requiring a higher percentage than that specified in paragraph (1)(A), or

"(B) requiring the review or approval of premiums not otherwise required to be reviewed or approved under paragraph (2) or providing additional requirements for the approval of premiums.

"(5)(A) The Comptroller General shall periodically, not less often than once every 3 years, perform audits with respect to the compliance of medicare supplemental policies with the requirements of paragraph (1) and shall report the results of such audits to the State involved and to the Secretary.

"(B) The Secretary may independently perform such compliance audits.

"(6)(A) A person who issues or sells a policy in violation of paragraph (1) is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(B) Each issuer of a policy subject to the requirements of paragraph (1)(C) shall be liable to policyholders for refunds required under such paragraph.".

(b) ASSURING ACCESS TO LOSS RATIO INFORMATION.—Section 1882(b)(1)(C) of such Act (42 U.S.C. 1395ss(b)(1)(C)) is amended by striking the semicolon at the end and inserting a comma and the following:

"and that a copy of each such policy, the most recent premium for each such policy, and a listing of the ratio of benefits provided to premiums collected for the most recent 3-year period for each such policy issued or sold in the State is maintained and made available to interested persons;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies sold or issued more than 1 year after the date of the enactment of this Act.

SEC. 6. LIMITATIONS ON CERTAIN SALES COMMISSIONS.

(a) IN GENERAL.—Section 1882(d) of the Social Security Act is amended—

(1) in paragraph (5)—

(A) by striking "and (4)(A)" and inserting "(4)(A), and (5)(A)", and

(B) by redesignating such paragraph as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5)(A) It is unlawful for a person who provides for a commission or other compensation to an agent or other representative with respect to the sale of a medicare supplemental policy (or certificate)—

"(i) to provide for a first year commission or other first year compensation that exceeds 150 percent of the commission or other compensation for the selling or servicing of the policy or certificate in a second or subsequent year, or

"(ii) to provide for compensation with respect to replacement of such a policy or certificate that is greater than the compensation that would apply to the renewal of the policy or certificate.

Whoever violates the previous sentence shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such prohibited act.

"(B) In this paragraph the term 'compensation' includes pecuniary and nonpecuniary compensation of any kind relating to the sale or renewal of a policy or certificate and specifically includes bonuses, gifts, prizes, awards, and finders' fees.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to compensation provided on or after 1 year after the date of the enactment of this Act.

SEC. 7. CONSUMER EDUCATION.

(a) GRANT PROGRAM.—The Secretary of Health and Human Services shall establish a program of grants to States to assist States in establishing counseling programs (including toll-free consumer hotlines) to aid medicare-eligible individuals in choosing and comparing medical supplemental policies.

(b) MATCHING OF FUNDS REQUIRED.—Funds shall not be made available to a State under this section for a counseling program unless the Secretary has received satisfactory assurances that the State will make available from non-Federal funds for such program amounts at least equal to the amount of funds provided under this section to the State for the program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in equal proportions from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $20,000,000 in each of fiscal years 1991, 1992, and 1993 to carry out this section.

SEC. 8. CLARIFICATION OF TREATMENT OF PLANS OFFERED BY HEALTH MAINTENANCE ORGANIZATIONS.

(a) IN GENERAL.—The first sentence of section 1882(g)(1) of the Social Security Act is amended by inserting before the period at the end the following: "and does not include a policy or plan of a health maintenance organization or other direct service organization which offers benefits under this title, including such services under a contract under section 1833 or 1876".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 9. PREEXISTING CONDITION LIMITATIONS.

(a) IN GENERAL.—Section 1882(o) of the Social Security Act, as added by section 2(a)(2) of this Act, is amended by inserting after paragraph (4) the following new paragraph:

"(5)(A) A medicare supplemental policy may not deny a claim for losses incurred more than 6 months from the effective date of coverage for a preexisting condition and may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.

"(B) If a medicare supplemental policy or certificate replaces another such policy or certificate which was in effect for 6 months or longer, the replacing policy may not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new policy or certificate for similar benefits.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

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MEDIGAP FRAUD AND ABUSE PREVENTION ACT

SUMMARY

(1) SIMPLICATION

Incorporates Senator Riegle's language which requires the National Association of Insurance Commissioners [NAIC], in consultation with representatives of consumers, insurers, and Medicare beneficiaries, to amend its model regulation and law within nine months to provide simplified Medigap benefit packages and establish uniform format and standard terminology for Medigap policies. In the absence of NAIC action, the Secretary of Health and Human Services would develop the simplification model.

In developing the regulation, NAIC would have to balance the objectives of simplifying the Medigap market to facilitate comparisons between policies, avoiding adverse se-

lection, and providing consumer choice. Either a limited number of benefit packages or one or more core packages with a limited number of optional riders would be developed.

In addition, NAIC would develop an amendment process to permit modifications such as new, innovative benefits or cost control features. In the absence of NAIC action to amend the model regulation and law, the Secretary of Health and Human Services would develop the simplification model.

(2) GUARANTEED RENEWABILITY

This section codifies a number of NAIC consumer protection standards. First, it requires that all policies be guaranteed renewable. Second, it ensures continuation of Medigap coverage when group coverage is terminated.

Specifically, each member of a group must be given the right to convert to an individual policy if a group policy is terminated. If a group policy is terminated and replaced by another group policy, the new insurer must offer coverage to all persons covered under the old group policy, without new waiting periods for pre-existing conditions.

(3) MEDICAID ELIGIBILITY

Gives policyholders the right to suspend their Medigap benefits and premiums for any period during which they are entitled to Medicaid benefits. If the policyholder subsequently loses Medicaid eligibility, benefits and premiums must be automatically reinstated if the policyholder notifies the insurer.

(4) EXTRATERRITORIALITY

Empowers State Insurance Commissioners with the right to approve policies mailed into their state from another jurisdiction. Removes the loophole in current law which deems a policy to have met a state standard if the state in which it originates has passed the NAIC model standard.

(5) DUPLICATION

Before selling a policy, insurers would be required to ask the beneficiary in writing two questions:

Do you currently own another Medicare supplemental policy? and

Are you currently receiving Medicaid benefits?

If the beneficiary indicates that he/she has another Medicare supplemental policy, then the insurer would be prohibited from selling the beneficiary an additional policy unless the beneficiary indicated the new policy replaced the old policy. If the beneficiary indicates that he/she is receiving Medicaid benefits, the insurer could not sell them a Medigap policy.

In addition, insurers would be required to prominently display the following advisory statements on the application for a Medigap policy:

No one needs more than one Medicare supplemental policy;

Individuals entitled to Medicaid do not need to purchase a Medigap policy and benefits and premiums may be suspended during the period of entitlement;

The address and local phone numbers of the state Medicaid office and any counseling program offered in the state.

(6) LOSS RATIOS

For mature policies (defined as policies which have been in effect for at least three years), loss ratios would be increased from 60 percent to 70 percent for individual policies and from 75 percent to 80 percent for group policies. The NAIC would be required to make recommendations to Congress within nine months on a method for ensuring the value of policies in effect for fewer than three years. Hospital indemnity and disease-specific policies would be required to comply with these standards.

States would be required to publish and make available information to consumers about 3-year average loss ratios, and insurers would be required at the time of solicitation to provide 3-year average loss ratios for their policies.

If a policy's loss ratio falls below the minimum standard in a given year, all policyholders would be issued a refund in the amount necessary to bring the policy into compliance.

(7) PRIOR APPROVAL

States would be required to review and approve all rate increase requests to ensure annual compliance with minimum loss ratios. All premium increase requests would have to be accompanied by loss-ratio information, certified as accurate by an independent actuary, demonstrating that the premium would result in compliance with minimum loss ratio standards. Public hearings would be required for any premium request exceeding twice the Medical Care Component of the Consumer Price Index (MCCPI).

(8) SALES COMMISSIONS

Strengthens the NAIC consumer protection standard and discourages policy churning by limiting sales commissions on new policies to no greater than 150 percent of the commission provided for renewals.

(9) CONSUMER COUNSELING

Authorizes $20 million for grants to states who wish to establish counseling programs for Medicare beneficiaries. States would be required to match federal dollars 1:1.

(10) LIMIT ON WAITING PERIODS

Codifies the NAIC standard which establishes a maximum six-month waiting period for pre-existing conditions, even if a policy is replaced by different company.●

● Mr. PRYOR. Mr. President, as chairman of the Senate Special Committee on Aging, I am pleased to join my colleagues Senators DASCHLE, RIEGLE, HEINZ, and DURENBERGER in introducing legislation that will make important improvements to the Medigap market. All have played leadership roles on this issue and I look forward to working with them on this greatly needed legislation. I would also like to take this opportunity to applaud Congressman WYDEN's ongoing efforts and commitment to address the complexities of the Medigap market.

We are all deeply concerned about the understandable confusion many older persons have about their health insurance needs and coverage, as well as their vulnerability to high pressure, and sometimes unscrupulous, sales practices. At a March 1990 Aging Committee hearing, we heard about how some of the most vulnerable of our society—the elderly—are victimized by insurance marketing abuses.

During the hearing, Charlene Blackburn, an 80-year-old resident of Santa Cruz, CA, told us she was sold over 13 Medigap policies in the course of less than 4 years. We also received testimony from an incarcerated insurance agent in Florida. This agent, due to extraordinarily high commission structures, made more than $245,000 in 1 year. At this same hearing, we also heard about the use of slick, misleading come-ons that are used to scare or trick vulnerable consumers into buying something of questionable value that they don't need and can't afford.

The use of these misleading come-ons has no bounds. For example, we have seen the establishment of questionable senior citizens' organizations whose main purpose is to develop mailing lists to target insurance leads. Just last week, a confused constituent who had seen a television commercial selling Medigap by the "Association of Retired Americans" called to ask if this organization is affiliated with the American Association of Retired Persons. This is one of the many tactics used to confuse consumers buying Medigap.

The legislation being introduced today represents a bipartisan, cooperative effort on the part of Congress, the health insurance industry, and consumer groups to craft a reasonable, effective approach to remedying the ills of the Medigap market. The bills address crucial areas for reform: simplification, duplication, loss ratios, agent commission structures, counseling programs, and premium increases. By focusing on these areas, the legislation will bring effective, comprehensive reform to this market.

I am particularly appreciative that Senator DASCHLE's bill incorporates my proposed legislation, S. 2189, which gives States the ability to establish health insurance counseling and assistance programs. Today, in the House, Representative JIM MOODY will introduce a companion bill. I commend him for taking a leadership role in this area.

A counseling and assistance program provides the opportunity for a senior to seek objective advice about the adequacy of their current coverage. Counseling programs can be an effective remedy, coupled with today's proposed Medigap market reform, to some of these marketing and sales abuses we hear about.

Mr. President, in spite of over a decade of State and Federal regulatory efforts, we continue to face severe problems surrounding the affordability and marketing of Medigap insurance policies. We will not be satisfied until these large premium increases and continued marketing abuses are alleviated. If the measures introduced today do not go far enough, you can rest assured that we will be back here again with even stronger measures to protect older Americans.●

By Mr. RIEGLE (for himself, Mr. PRYOR, Mr. DASCHLE, and Mr. ROCKEFELLER):

S. 2641. A bill to amend title XVIII of the Social Security Act to provide for simplification in the purchase of Medicare supplemental insurance; to the Committee on Finance.

MEDIGAP SIMPLIFICATION ACT OF 1990

● Mr. RIEGLE. Mr. President, I rise today to introduce the Medigap Simplification Act of 1990. This bill was developed to assist senior citizens in the purchase of Medigap supplemental health insurance coverage consistent with individual needs and resources. I am pleased to acknowledge Senators PRYOR, DASCHLE, and ROCKEFELLER who join me today in introducing this important piece of legislation.

The current Medigap market is confusing to seniors. It is not easy to make comparisons in benefits and price among different policies; and materials explaining benefits use different terminology and formats that add to confusion. Under these circumstances, no wonder some seniors buy more policies than they need or ones that don't meet their needs.

Rate increases, after repeal of catastrophic, have generated more confusion and anger among some senior citizens. In Michigan, rates have increased for some Medigap policies by as much as 45 percent. Of over 1 million Michigan seniors, it is estimated that close to 350,000 seniors have Medigap policies that would be helped by this bill. But close to 240,000 have no Medigap or Medicaid. So it's important that Medigap policies are appropriate and affordable and that information on benefits and price are clear.

A Michigan caseworker for the insurance commissioner told us that in 1989 he saw over 1,300 seniors. Problems include buying too many policies, a lack of understanding of Medigap and Medicare benefits. Seniors also feel that available benefits are inadequate, for example, currently drug benefits are not available.

Mr. President, the Medigap Simplification Act was developed to eliminate confusion about available Medicare supplemental insurance coverage. It provides uniformity across all States in the types of benefits provided, and uniformity in the language and format used to inform seniors about their choices, so that older Americans can feel confident when they choose their medical coverage. This simplification will facilitate meaningful comparisons of competing benefit packages.

Specifically, this legislation provides a mechanism for developing a national model benefits package for Medigap insurers. The model benefits package will be developed through the cooperative efforts of State insurance commissioners, consumer groups, Medicare beneficiaries, insurers and others. We rely on these experts to come up with the best structure. Massachusetts, Wisconsin, and Minnesota have already moved forward on this and would serve as excellent models. In absence of such action within 9 months, the Department of Health and Human Services would develop the simplification regulation.

In addition, an amendment process is outlined that would permit future modification of established simplified Medigap benefit packages and allow for innovation, including managed care programs and cost control features. Current Medigap policy owners would have the option of keeping old policies, or switching to one of the new simplified benefit packages.

This legislation would also provide grants for State toll-free hotlines to provide information about State Medigap policies, Medicare, and Medicaid benefits. These hotlines would complement counseling programs. I would like to commend Senator PRYOR on his leadership role in developing a counseling program proposal of which I am also a cosponsor.

In addition, Medicaid is intended to fill in the gaps in Medicare coverage for low-income senior. Some States, however, do not pay the physician deductible and coinsurance and the bad debt that may result creates problems in terms of access to providers.

To protect low-income seniors, under this bill, the sale of Medigap policies to Medicaid beneficiaries that duplicate entitled benefits would be prohibited. Also, a warning on the face page of Medigap policies would be displayed stating that individuals on Medicaid do not usually need Medigap benefits. The Congress will instruct HCFA to do a study of Medigap use by Medicaid beneficiaries.

In developing the bill, we worked with consumer groups, including Consumer Union and Families U.S.A.; the National Association of Insurance Commissioners; Blue Cross/Blue Shield; and the Health Insurance Association of America. We also had valuable input from the Michigan Blue Cross/Blue Shield.

I would like to commend Senator DASCHLE and Congressmen WYDEN and DINGELL for their significant leadership roles in developing bills to rid the Medigap market of fraud and abuse. Their bills provide additional protection for seniors including preventing unnecessary rate increases, duplicative policies, and abuses in the sale of policies. I am also a cosponsor of Senator DASCHLE's bill, the Medigap Fraud and Abuse Prevention Act and am pleased that they have incorporated the simplification bill in their comprehensive legislation. These bills together are part of an effort in Congress to ensure high quality health care to seniors in this country.

I would like to note that I do take exception to one provision in the Medigap Fraud and Abuse Prevention Act. This bill imposes financial penalties on insurers selling nonapproved policies in States that do not adopt the model simplification regulation. Based no past experience, States have adopted the model regulation on a voluntary basis. In fact, the record shows that 46 States have passed the current model regulation and in the case of the 4 States that have not, their policies are generally more restrictive. So, as long as this remains the case, I do not believe financial penalties are necessary.

I am deeply concerned about the confusion many seniors have about their health insurance needs and available insurance coverage. I believe this and other Medigap proposals represent a mechanism for significantly reducing the potential for abusive sales practices in the Medigap market and ensure that reasonably priced and quality insurance products are sold.

I hope that my colleagues in the Senate will join me in cosponsoring this important piece of legislation to ensure affordable high quality health care for our senior citizens. I ask unanimous consent that a summary of the bill and the full text of the bill be printed in the RECORD.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

S. 2641

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medigap Simplification Act of 1990".

SEC. 2. REQUIRING SIMPLIFICATION OF MEDIGAP POLICIES.

(a) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 203(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) in subsection (b)(1)(B), by striking "through (4)" and inserting "through (5)";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of subsection (o)."; and

(3) by adding at the end the following new subsections:

"(o) The requirements of this subsection are as follows:

"(1) Each medicare supplemental policy shall provide for coverage of a group of benefits consistent with subsection (p)(1).

"(2) If the medicare supplemental policy provides for coverage of a group of benefits other than the core group of basic benefits described in subsection (p)(2)(B), the issuer of the policy must make available to the individual a medicare supplemental policy with only such core group of basic benefits.

"(3) The issuer of the policy has provided, before the sale of the policy, a summary information sheet which describes the bene-

fits (including any optional benefits) under the policy and which specifies the amount of any premiums attributable to any such optional benefits.

"(p)(1)(A) If, within 9 months after the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') promulgates—

"(i) limitations on the benefits that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection,

"(ii) uniform language and format to be used with respect to such benefits, and

"(iii) transitional requirements consistent with paragraph (4),

(such limitations, language, format, and requirements referred to collectively in this subsection as 'NAIC simplification standards'), subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the NAIC simplification standards. The Association shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate, not later than 6 months after the date of the enactment of this subsection, on its progress in developing such standards and, not later than 9 months after such date, on its promulgation of such standards.

"(B) If the Association does not promulgate NAIC simplification standards within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, limitations, language, format, and requirements described in clauses (i) through (iii) of such subparagraph (in this subsection referred to collectively as 'Federal simplification standards'), and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the Federal simplification standards.

"(C)(i) Subject to clause (ii), the date specified in this subparagraph for a State is the date the State adopts the NAIC simplification standards or the Federal simplification standards or 1 year after the date the Association or the Secretary first adopts such standards, whichever is earlier.

"(ii) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(I) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the NAIC or Federal simplification standards, but

"(II) having a legislature which is not scheduled to meet in 1991 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1991. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(D) The Panel periodically shall review each State regulatory program's application of the NAIC or Federal simplification standards.

"(E) In promulgating simplification standards under this paragraph, the Association or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

"(F) If benefits under this title are changed and the Secretary determines, in consultation with the Association, that changes in the NAIC or Federal simplification standards are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of simplification standards previously established in the same manner as they applied to the original establishment of such standards.

"(2) The benefits under the NAIC or Federal simplification standards shall provide—

"(A) for such groups of basic benefits, and such riders or additional, optional groups of benefits, as may be appropriate taking into account the considerations specified in paragraph (3) and the requirements of the succeeding subparagraphs;

"(B) for identification of a core group of basic benefits, common to all groups of benefits, which includes only the minimum benefits required of a medicare supplemental policy (as of the date of the enactment of this subsection and not including payment of any deductibles);

"(C) that, in the case of any policy in which benefits are provided in addition to the core group of basic benefits identified under subparagraph (B), the portion of the premium related to such additional benefits is separately stated; and

"(D) that, subject to paragraph (5), the total number of different benefit packages (counting the core group of basic benefits and counting each combination of benefits that may be offered as a separate benefit package) that may be established shall not exceed 10.

"(3) The benefits under paragraph (2) shall, to the extent possible—

"(A) provide for benefits that offer consumers the ability to purchase the benefits that are available in the market as of the date of the enactment of this subsection; and

"(B) balance the objectives of (i) simplifying the market to facilitate comparisons among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, and (iv) promoting market stability.

"(4) The transitional requirements of this paragraph are that, in the case of a medicare supplemental policy which was issued to a policyholder before the effective date of the NAIC or Federal simplification standards and which do not meet such standards, any renewal of such policy shall be deemed to be the issuance of a policy in violation of this subsection unless the issuer offers to the policyholder, not later than 60 days before the effective date of the renewal, a medicare supplemental policy that—

"(A) complies with such standards, and

"(B) does not provide for any waiting period with respect to treatment of pre-existing conditions.

"(5)(A) Except as provided in subparagraph (B), a State may not provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy unless such grouping meets the applicable NAIC or Federal simplification standards.

"(B)(i) The Association or the Secretary, respectively, may, upon application by a State, waive the requirements of this subsection to permit the issuance and sale of a medicare supplemental policy which does not comply with the respective NAIC or Federal simplification standards for a period of up to 3 years in order to demonstrate the offering of new or innovative benefits as part of the policy. Such new or innovative benefits may include cost-control or managed care features.

"(ii) In the case of any such waiver by the Association or Secretary, the Association or Secretary, respectively, shall evaluate the appropriateness of the new or innovative benefits offered and determine if the addition of a new group of such benefits to the NAIC or Federal simplification standards previously established would further the purposes of this subsection. If such determination is made, subject to clause (iii), the Association or Secretary shall modify the NAIC or Federal simplification standards to include such an additional group of benefits (and accompanying language and format with respect to such benefits) as may be appropriate.

"(iii) Not more than 3 additional groups of benefits may be added under clause (ii).

"(6)(A) Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups of benefits that may be offered in medicare supplemental policies in the State.

"(B) A State may not restrict under subparagraph (A) the offering of a medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B).

"(7) The Association shall establish an educational program and an ongoing evaluation process for medicare beneficiaries in order to educate them on the simplification standards developed and applied under this subsection and an ongoing evaluation process to ensure compliance with the model regulation and effectiveness of its policies.

"(8) The Comptroller General shall examine the effectiveness of the medicare supplemental policy simplification program established under this subsection, shall identify those States which have (or have not) established regulatory programs which include such simplification program and the reasons for any failure to include such simplification program, and shall examine the impact of the program on consumer protection, health benefit innovation, consumer choice, and health care costs. By not later than 2 years after the date of the enactment of this subsection, the Comptroller General shall submit to Congress a report on the effectiveness of the simplification program including an identification of those States which have or have not established regulatory programs which include such simplification program. By not later than 4 years after the date of enactment of this subsection, the Comptroller General shall submit to Congress a report describing the impact of the program on consumer protection, health benefit innovation, consumer choice, and health care costs and shall include in the report such recommendations on the appropriate roles of the Association, States, and the Secretary in carrying out such a program as he deems appropriate.".

SEC. 3. PREVENTING DUPLICATION WITH MEDICAID BENEFITS.

(a) IN GENERAL.—Subsection (d)(3) of section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subparagraph (A), by inserting "or title XIX" after "other than this title", and

(2) by adding at the end the following new subparagraph:

"(D)(i) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A or enrolled under part B, whether directly, through the mail, or otherwise, unless—

"(I) the person obtains from the individual, as part of the application for the issuance or purchase and on a form described in subclause (II), a written statement signed by the individual stating whether, to the best of the individual's knowledge, whether the individual is entitled to any medical assistance under title XIX, whether as a qualified medicare beneficiary or otherwise, and

"(II) the written statement is accompanied by a written acknowledgment, signed by the seller of the policy, of the request for and receipt of such statement.

The written acknowledgment under subclause (II) does not constitute a written verification or affirmation of the truth of any facts stated in the written statement described in subclause (I).

"(ii) The statement required by clause (i) shall be made on a form that—

"(I) states that individuals 65 years of age or older may be eligible for benefits under the State medicaid program under title XIX and that such individuals who are entitled to benefits under that program may not need a medicare supplemental policy, and

"(II) includes the address and local telephone number of any counseling program offered by (or with the assistance of) the State under title XIX, under its State insurance department, or under a State agency on aging for individuals considering purchase of a medicare supplemental policy and the address and local telephone number of the State medicaid office.

"(iii) If the statement required by clause (i) is not obtained or indicates that the individual is eligible for medical assistance under a State plan under title XIX which which would duplicate those in the policy proposed to be issued or sold, the sale of such a policy shall be considered to be a violation of subparagraph (A).

"(iv) Whoever issues or sells a health insurance policy in violation of this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such failure.".

(b) CONFORMING AMENDMENT.—Section 1882(d)(5) of such Act is amended by inserting "(3)(D)," after "(3)(A),".

(c) STUDY ON MEDIGAP USE BY MEDICAID BENEFICIARIES.—

(1) IN GENERAL.—The Administrator of the Health Care Financing Administration shall conduct a study of the use of medicare supplemental policies (in this subsection referred to as "medigap policies") by individuals entitled to medical assistance, whether as a qualified medicare beneficiary or otherwise, under a State plan under title XIX of the Social Security Act. In conducting the study, the Administrator shall—

(A) determine, by State, (i) the number of medicare beneficiaries who are entitled to such assistance and who also own medigap policies (such individuals in this subsection referred to as "medicaid-medigap beneficiaries") and (ii) the number of medicare beneficiaries who are eligible (but have not enrolled) for such assistance and who own medigap policies;

(B) determine the types of coverage under medigap policies that are most important to medicaid-medigap beneficiaries;

(C) determine each State's policies regarding coverage of medicare cost-sharing under its medicaid program and the percentage of physicians in each State who participate in the State's medicaid program;

(D) assess the relationship between medicaid-medigap beneficiaries' ownership of medigap policies and the policies and percentage described in subparagraph (C);

(E) determine the amount medicaid-medigap beneficiaries pay for medigap policies, both in the aggregate and as a percent of income;

(F) determine what the difference in impact on health care service is between State medicaid programs that cover the cost of premiums for medigap policies for individuals entitled to both medicare and medicaid benefits and State medicaid programs that pay directly for medicare cost-sharing; and

(G) determine the use and cost of health care services by medicaid-medigap beneficiaries and by medicare beneficiaries who are entitled to medicaid assistance but do not own medigap policies.

(2) REPORT.—By not later than 1 year after the date of the enactment of this Act, the Administrator shall report to Congress on the study conducted under paragraph (1) and shall include in the report such recommendations for changes in the regulation of the sale of medigap policies to medicaid beneficiaries and in medicaid program requirements (including the coverage of medicare cost-sharing) as the Administrator deems appropriate.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued or sold more than 6 months after the date of the enactment of this Act.

SEC. 4. TOLL-FREE CONSUMER HOT-LINE GRANT PROGRAM.

(a) GRANT PROGRAM.—The Secretary of Health and Human Services shall establish a program of grants to States to assist States in establishing toll-free consumer hotlines to provide information on medical supplemental policies issued in States and benefits available under the medicare program and under the medicaid program to medicare-eligible individuals.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in equal proportions from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $5,000,000 in each of fiscal years 1991, 1992, and 1993 to carry out this section.

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THE MEDIGAP SIMPLIFICATION ACT OF 1990—SUMMARY

This bill provides a process for simplifying the Medicare Supplemental Insurance market (Medigap) for senior citizens. The goal of simplification is to permit meaningful comparisons of Medigap insurance policies and enhance consumer choice, and help ensure that purchases of policies are consistent with individual health needs and resources.

Specifically, the National Association of Insurance Commissioners (NAIC), in consultation with a working group (of beneficiaries, insurers, consumer groups, others) would develop simplified Medigap benefit packages and establish uniform format and standard terminology for Medigap policies across states. In absence of NAIC action within 9 months, the Department of Health and Human Services would develop the simplification regulation.

In developing the simplification regulation and law, the NAIC and the working group would be required to address the following:

1. Balance the objectives of simplifying the Medigap market, avoiding adverse selection, providing consumer choice and promoting market stability.

2. Establish benefit packages with maximum flexibility. As an upper limit, the combination of benefit choices would be limited to 10 and would include making available a low benefit package covering all of the Baucus minimum benefits except the Part A and B deductibles.

3. Include an educational program to assure a smooth transition to a simplified market and establish on-going evaluation.

The bill includes an amendment process to permit future modification of established simplified Medigap benefit packages and allow for innovation, including cost-control features and managed care programs. Current Medigap policy owners would have the choice of keeping old policies, or switching to one of the new simplified benefit packages.

The General Accounting Office would report to the Congress on the effect of Medigap simplification within 4 years of enactment of this section. The study would assess this law's impact on providing consumer protection, health benefit innovation, consumer choice, and health care costs.

STATE TOLL-FREE HOTLINE TO PROVIDE COMPARISON INFORMATION

For 3 years, grants ($5 million/yr) would be made available to states to establish toll-free hotlines to provide information about state Medigap policies, Medicaid and Medicare benefits.

PROTECTING MEDICAID RECIPIENTS

The sale of Medigap policies to Medicaid beneficiaries that duplicates entitled benefits would be banned. Also, a warning on the face page of Medigap policies and application for coverage would state that individuals on Medicaid do not usually need Medigap benefits. The Health Care Financing Administration would be required to do a study of Medigap use by Medicaid recipients.●

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By Mr. EXON (for himself and Mr. DASCHLE):

S. 2642. A bill entitled the "Grown in the United States Food Labeling Act of 1990"; to the Committee on Agriculture, Nutrition, and Forestry.

GROWN IN THE UNITED STATES FOOD LABELING ACT

Mr. EXON. Mr. President, I rise to introduce legislation which will initiate a Grown in the United States Food Labeling Program. This legislation instructs the Secretary of Agriculture and the Commissioner of the Food and Drug Administration to establish the Grown in the United States Food Labeling Program.

The program will define conditions under which food producers, processors, and sellers may label food products as grown in the United States or

as made of ingredients grown in the United States. Any food product which contains a significant amount of imported ingredients would not be permitted to participate in the grown in the United States Program.

The legislation also instructs the Secretary of Agriculture and the Commissioner of the Food and Drug Administration to conduct a comprehensive review of all existing Federal country of origin food labeling requirements and issue a report which analyses the adequacy of current Federal country of origin food labeling requirements and make recommendations to the Congress to improve country of origin information available to American consumers.

Mr. President, this compromise legislation creates a voluntary program to highlight the wholesomeness of home grown American products. Imported food ingredients are increasingly found in American-branded food products. Americans are generally unaware when they purchase products with significant amounts of imported ingredients. If consumers were fully informed, I believe that they would actively seek products containing home grown American food products.

Mr. President, agriculture practices in many foreign lands do not meet the top quality and safety standards of American farm and ranch operations. Americans are very health conscious. They want wholesome American products. Under present circumstances, consumers are not given sufficient information to be able to choose American products. This legislation will help American food producers make their products stand out in the marketplace. I expect consumers to respond favorably.

I ask my colleagues to review the Grown in the United States Food Labeling Act. It will give the American consumer an opportunity to chose home grown American products.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2642

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION. 1. That this Act may be cited as the "Grown in the United States Food Labeling Act of 1990."

SEC. 2. The Secretary of Agriculture and the Commissioner of the Food and Drug Administration shall within six months of the date of enactment of this act issue regulations which will establish a program known as the "Grown in the United States Food Labeling Program." The regulations shall define conditions under which food producers, processors and sellers may label food products as "Grown in the United States" or label food products as "Made of Ingredients Grown in the United States." Any food product which contains a significant amount of imported ingredients shall not be permitted to participate in the Grown in the United States Food Labeling Program.

SEC. 3. The Secretary of Agriculture and the Commissioner of the Food and Drug Administration shall conduct a comprehensive review of all existing federal country of origin food labeling requirements and within six months of the date of enactment of this act shall issue a report which analyses the adequacy of current federal country of origin food labeling requirements and makes recommendations to the Congress to improve country of origin information available to American consumers.

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By Mr. BRYAN (for himself and Mr. REID):

S. 2643. A bill to improve source separation and recycling of paper products by Federal agencies and the Congress, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL PAPER SEPARATION, RECYCLING, AND WASTE SOURCE REDUCTION ACT

Mr. BRYAN. Mr. President, I rise today to address a growing concern for all Americans. Landfills all across our country are being filled to capacity by the 3.6 pounds of garbage produced daily by each American. It is estimated that within the next 4 years, one-third of all landfills, the final destination for 80 percent of our garbage, will close. Not surprisingly, few of us look forward to the opening of new landfills in our neighborhoods. We must find a better way to manage solid waste disposal.

Recycling and source reduction, the reuse of our waste and the elimination of unnecessary packaging, has become a theme for many in this environmentally aware year. In Congress, countless bills have been introduced to encourage recycling by private industry, and to mandate it by State governments. I support many of these efforts. However, I believe that the Federal Government must provide leadership by example.

It is easy to direct others to do what we would rather not do ourselves. However, as the Nation's largest consumer of paper, it is up to the Federal Government to show leadership in solving what has become a national municipal waste crisis. Today, I am introducing the Federal Paper Separation, Recycling, and Waste Source Reduction Act of 1990, a bill requiring Congress and Federal agencies to separate and recycle wastepaper, and to encourage them to purchase recycled paper products.

Paper alone accounts for more than 45 percent of our landfill space. In Federal office buildings, up to 85 percent of all garbage is wastepaper. This alone shows the importance of a successful Government recycling program.

However, there are other reasons. The paper industry has declared its intention to increase paper recycling capacity through the 1990's. What is needed is a dependable supply of reusable paper, and a sustainable demand for recycled products. Given its enormous consumption of paper, the Federal Government must set the standard for creating both supply and demand.

Recycling makes good sense. Trash disposal costs will continue to increase as old landfills shut down, but a properly run separation and recycling program is a moneymaker. In one agency here in Washington, employees bring reusable items to an office recycling bin, and the proceeds funds an office day care center. Under my bill, agencies will be able to use proceeds from their recycling program to fund further recycling activities, making the program self-sustaining and decreasing trash disposal costs.

Buying recycled paper is equally important to any recycling effort, because paper will only be reused when there is demand for the recycled product. EPA has already laid the groundwork for purchasing recycled paper by issuing recycled content guidelines for paper products. My bill will build on that by allowing agencies to spend up to 5 percent more for recycled paper, a price preference that the experience of several States shows to be an inexpensive way to promote recycling.

Recycling alone cannot solve our solid waste problems. Most of us are already familiar with oversized and often redundant packaging of products, most of which takes up valuable landfill space. Disposables have replaced longer lived product, and have also added to the growing amount of trash generated per person in this country. My bill begins the overdue process of finding ways to reduce the amount of garbage produced at its source. By purchasing appropriately packaged and more durable goods, we can lead the Nation to better waste management.

Managing our resources in an ecologically responsible and cost-effective way is a goal I know I share with most Americans. Passage of this bill shows our determination to conserve our precious timber resources. It demonstrates our resolve to meet the challenges of solid waste management in the 1990's. And, most importantly, it puts our National Government out front as the leader in a crucial environmental effort.

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By Mr. LUGAR (for himself and Mr. COATS):

S. 2644. A bill to amend the Food Stamp Act of 1977 to make clarifications in provisions relating to general assistance vendor payments, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AMENDING THE FOOD STAMP ACT OF 1977

● Mr. LUGAR. Mr. President, I rise today, along with my colleague from

Indiana, Senator COATS, to introduce a bill to correct an inequity in the operation of the Food Stamp Program. This inequity hits hardest in my home State of Indiana. However, portions of other States are affected as well.

Under the Food Stamp Program, the benefit level is decided in large part on the basis of family income where benefits are reduced as income increases. Under current food stamp rules, certain payments made to third parties on behalf of the poor are counted as income. Other such payments are not counted. The treatment of these so-called vendor payments is the source of my concern.

Indiana does not have a general assistance program that provides for direct cash transfers to needy, low-income households. Rather, Indiana dispenses aid in these circumstances through its township by way of a program known as poor relief assistance. There are 1,008 township trustees in Indiana, each operating an autonomous poor relief program, funded by tax assessments on the township's property tax base.

Poor relief is provided for many purposes, including housing, utilities, food, medical care, household goods and furnishings, clothing, and school textbooks. While the details of poor relief assistance vary from township to township, one characteristic is universal—poor relief is never paid in the form of a cash grant directly to the poor household. Assistance is occasionally given in the form of in-kind donation of goods. More often, assistance is provided by way of vendor or third-party payments. When a poor family qualifies for a specific type of assistance, the trustee issues a voucher made out to the vendor of the needed goods or services. The vendor provides the goods or services to the eligible family and turns in the voucher for reimbursement from township funds.

Effective in 1985, due to a policy change, Indiana began counting the value of poor relief assistance as income under the Food Stamp Program.

The nutritional well-being of poor families in Indiana is in jeopardy as a result of this policy. The key point here is that assistance in the form of a voucher or vendor payment is assistance that is targeted for a specific purpose whether that be school textbooks, clothing, heating oil, or shelter. A voucher or vendor payment is just like in-kind assistance. The use of the voucher is simply a convenience for the township trustee that eliminates the need for the trustee to directly distribute the range of goods and services that the Poor Relief Act calls upon him to supply to eligible families. The poor family's food purchasing power is not enhanced by the assistance when it is paid in this form. When food stamp benefits are reduced due to the receipt of the assistance, the family is without additional cash resources to make up the shortfall in food purchasing power.

Under current food stamp rules, many types of vendor payments are excluded from income. For example, vendor payments for medical assistance, child care assistance, energy assistance, certain housing assistance, farmworker assistance, and emergency and special assistance are now excluded. In my view, the vendor payments in Indiana are analogous to emergency and special assistance.

My bill would return Indiana to its treatment prior to 1985. But it would also do more. Some jurisdictions in other States also use vendor payments. In those situations, the bill would exclude the value of the vendor payments to the extent they were not for housing assistance, excluding energy assistance.

Mr. President, I ask that the text of the bill be printed in the RECORD and I encourage my colleagues to support this bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2644

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. GENERAL ASSISTANCE VENDOR PAYMENTS.

(a) IN GENERAL.—Paragraph (1) of section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(1) is amended to read as follows:

"(1) For purposes of subsection (d)(1), assistance provided to a third party on behalf of a household by a State or local government shall be considered money payable directly to the household if assistance is provided in lieu of a regular benefit payable to the household for living expenses under a State plan for aid to families with dependent children approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)."

(b) CLARIFICATION.—Section 5(k) of such Act (7 U.S.C. 2014(k)) is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of subsection (d)(1)—

"(A) except as provided in subparagraph (B), assistance provided to a third party on behalf of a household by a State or local government shall be considered money payable directly to the household if such assistance is provided as part of a benefit to the household for housing expenses, not including energy or utility-cost assistance, under a State or local general assistance program or another basic assistance program comparable to general assistance (as determined by the Secretary); and

"(B) assistance provided to a third party on behalf of a household under a State or local general assistance program, or another local basic assistance program comparable to general assistance (as determined by the Secretary), shall not be considered money payable to a household if, under State law, no assistance under such program may be provided directly to the household in the form of cash payment.".●

By Mr. INOUYE:

S. 2645. A bill to improve the health status of the urban Indian population and to enhance the quality and scope of health care services, disease prevention activities, and health promotion initiatives targeted at the urban American Indian population; to the Select Committee on Indian Affairs.

URBAN INDIAN HEALTH EQUITY ACT

● Mr. INOUYE. Mr. President, I am today introducing a bill that I hope will begin to lay the foundation of our efforts to address the health care needs of American Indians residing in urban areas. While there are extensive programs administered by the Indian Health Service to provide for the health care of those Indian people residing on reservations, relatively little has been done to extend these same services to the over 50 percent of the Indian population that resides in urban settings.

Statistics indicate that urban Indians suffer an equally poor health status as their reservation-based brothers and sisters, but their access to health care services is in many cases much more difficult. The transition from reservation to urban life is difficult—cut off from their families, their culture, and their reservations, urban Indians find themselves isolated and alienated, without resources to adapt and cope with the dramatic changes in their environment. There is a high incidence of child abuse and spousal abuse, alcohol and drug abuse amongst urban Indian populations, and few if any services available to address these needs.

If enacted, this bill would provide health promotion and disease prevention services, much-needed mental health services, and child sexual abuse prevention services. Additionally, it will authorize support for urban health care facilities that are in a serious state of disrepair. Finally, the bill will provide for an assessment of child welfare services available to the urban Indian population.

Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

PURPOSE

To improve the health status of the urban Indian population and to enhance the quality and scope of health care services, disease prevention activities and health promotion initiatives targeted at the urban American Indian population.

SECTION 1. SHORT TITLE

This Act may be cited as the "Urban Indian Health Equity Act".

SECTION 2. FINDINGS

1. The urban Indian population as a result of Federal relocation initiatives represent up to 50 percent of the total American

Indian population and receives comparatively minimal assistance through the Indian Health Service (IHS).

2. The American Indian Policy Review Commission reported to the Congress that up to 160,000 Indian people were relocated under the Bureau of Indian Affairs (BIA) relocation program.

3. That one-half of the 1.7 million Indian people in the United States reside in urban areas.

4. Less than one percent of the IHS annual budget provides for health services to urban Indians.

5. Annual funding for urban Indian health programs has not been comparatively consistent with other IHS programs.

6. The purchasing power of annual appropriations for urban Indian health care has decreased by 70 percent from 1978 to 1988.

7. Urban Indian people suffer from the same low health status which affects Indian people on reservations caused primarily from lifestyle factors, including alcoholism, substance abuse, poor diet, family instability and mental health problems.

## TITLE I.—HEALTH PROMOTION AND DISEASE PREVENTION

### SECTION 101. SERVICES

(a) CONTRACTS. THE SECRETARY, ACTING THROUGH THE IHS, SHALL PROVIDE HEALTH PROMOTION AND DISEASE PREVENTION SERVICES TO URBAN INDIANS THROUGH CONTRACTS WITH THE URBAN INDIAN HEALTH ORGANIZATIONS FUNDED UNDER SECTION 503(A) OF THE INDIAN HEALTH CARE AMENDMENTS ACT OF 1988, FOR THE PROVISION OF HEALTH PROMOTION AND DISEASE PREVENTION ACTIVITIES.

(b) Health promotion and disease prevention is defined as: (1) Services that improve the health and well being of Indians, and (2) Services that reduce the expenses for medical care.

(c) Health Promotion includes:

1. Cessation to tobacco smoking and chewing,
2. Reduction in the misuse of alcohol and drugs,
3. Improvement in nutrition,
4. Improvement in physical fitness,
5. Family planning,
6. Control of stress, and
7. Pregnancy and infant care (including prevention of Fetal Alcohol Syndrome).

(d) Disease Prevention includes:

1. Immunizations,
2. Control of high blood pressure,
3. Control of sexually transmittable diseases,
4. Prevention and control of diabetes,
5. Control of toxic agents,
6. Occupational safety and health,
7. Accident prevention,
8. Control of infectious agents, and
9. AIDS Prevention and Education.

(e) Authorization Levels. There are authorized to be appropriated such sums as may be necessary for each fiscal year 1991, 1992, and 1993 for the purpose of carrying out this section. Sums appropriated pursuant to this authorization shall remain available without fiscal year limitation.

## TITLE II.—IMMUNIZATION INITIATIVE

### SECTION 201. FUNDING

(a) Contracts. The Secretary, acting through the IHS, shall provide funding for immunization services and immunization initiatives to urban Indians through contracts with the Urban Indian Health organizations funded under section 503 (a) of the Indian Health Care Amendments Act of 1988.

(b) Criteria. In entering into contracts pursuant to subsection (a), the Secretary of Health and Human Services shall take into consideration, the:

1. Size of the Urban Indian population,
2. Immunization levels of patient population,
3. Available alternate resources, and
4. Capability of the organization.

(c) Services. Immunization services for which funding will be provide shall include:

1. Purchase of vaccines and other supplies needed to provide immunization services for infants and children,
2. Staffing to deliver immunization services,
3. Printing and dissemination of educational materials.

(d) Authorization Levels. There are authorized to be appropriated such sums as may be necessary for each fiscal year 1991, 1992, and 1993 for the purpose of carrying out this section.

## TITLE III.—MENTAL HEALTH SERVICES

### SECTION 301. GRANTS

(a) Contracts. The Secretary, acting through the IHS, shall make grants available to urban Indians organizations contracted under section 503(a) of the Indian Health Care Amendments Act of 1988, for the provision of mental health services to urban Indian populations.

(b) Services. Such grants shall be available, among other mental health needs, for the following:

1. To conduct mental health need assessments of urban Indian communities, to assess the mental health needs in the community, the available resources, discrepancies in health services, and to develop and implement plans to improve health delivery;
2. To provide outreach, education, and referral services to urban Indian populations providing a linkage to available direct services, educating the community about mental health issues and services, and networking to improve health delivery;
3. Provide outpatient mental health services including identification, assessment, therapeutic treatment, case management, supports groups, family treatment, and other services; and
4. To develop innovative mental health service delivery models which incorporate cultural support systems and resources.

(c) Authorization Levels. There are authorized to be appropriated such sums as may be necessary for each fiscal year 1991, 1992, and 1993 for the purpose of carrying out this section.

## TITLE IV.—SPECIAL INITIATIVE TO TREAT AND PREVENT INDIAN CHILD SEXUAL ABUSE IN URBAN INDIAN COMMUNITIES.

### SECTION 401. CHILD SEXUAL ABUSE

(a) Contracts. The Secretary, acting through the IHS, shall provide contracts to urban organizations contracting under section 503(a) of the urban Indian Health Care Amendments Act of 1988, for the provision of services to prevent or treat child sexual abuse in urban Indian communities.

(b) Services. Services eligible to funded under this section include:

1. Services involving needs assessments to assess the prevalence of child sexual abuse; and to determine resources available to treat child victims, families, and perpetrators of child sexual abuse; to determine barriers to access of these services; and the development and implementation of plans to prevent and treat child sexual abuse in urban Indian communities.
3. Services to develop prevention, training, and education programs targeted at urban Indian communities, to include:
   a. Child education,
   b. Parent education,
   c. Provider training on identification,
   d. Education on reporting requirements, and
   e. Prevention campaigns.
3. Services to provide direct outpatient treatment services to child victims of sexual abuse, adult survivors of child sexual abuse, families of child victims, and perpetrators of child sexual abuse in urban Indian communities, to include:
   a. Individual mental health treatment,
   b. Family mental health treatment,
   c. Group Therapy, and
   d. Support groups.

(c) Criteria. The Secretary of Health and Human Services, in making contracts with urban Indian organizations for the provision of services, shall take the following criteria into consideration:

1. The urban Indian organization must demonstrate support from the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act
2. The urban Indian organization must demonstrate the capability and expertise to address the complex problem of child sexual abuse in their community;
3. Before being considered for funding under this section, the urban Indian organization must have completed a needs assessment which meets the approval of the IHS.

(d) Authorization Levels. There are authorized to be appropriated such sums as may be necessary for each fiscal year 1991, 1992, and 1993 for the purpose of carrying out this section.

## TITLE V—FACILITIES IMPROVEMENT FUND

### SECTION 501. FACILITIES

(a) Contracts. The Secretary, acting through the IHS, shall provide contracts to urban Indian organizations contracting under section 503(a) of the Indian Health Care Amendments Act of 1988, for the purposes of renovating, expanding, or relocating facilities for the delivery of health services and for the purposes of purchasing equipment.

(b) Criteria. The Secretary shall establish criteria for the contracting of services under this title, which shall include:

1. A needs assessment which documents the need, cost effectiveness, capability of the organization, and acceptability of the development plans for the capital project;
2. Assurances that the urban Indian organization meets acceptable standards of performance, evaluations and fiscal responsibility; and
3. Assurances that alternate resources have been examined and have been factored into the capital project or have been shown to be available.

(c) Authorization Levels. There are authorized to be appropriated such sums as may be necessary for each fiscal year 1991, 1992, and 1993 for the purpose of carrying out this section.

## TITLE VI.—EQUITY FUNDING

### SECTION 601. FUNDING INCREASES

The Congress finds and declares that funding for urban Indian health programs should increase, on the annual basis, at least

at the same rate as the overall Indian Health Service.

TITLE VII.—REPORTS

SECTION 701. REPORTS TO THE CONGRESS

(a) The Secretary, acting through the IHS, shall report to Congress no later than March 1992 an assessment of the health status of the urban Indian population, the utilization of health services by urban Indians and legislative recommendations for improving the health status of urban Indians.

(b) The Secretary of Health and Human Services and the Secretary of Interior shall report to Congress no later than March 1992 their assessment of the status of Indian child welfare in urban Indian communities, including informaiton on the volume of child protection cases, the prevalence of child sexual abuse, the extent of urban coordination with tribal authorities, and their legislative recommendations to imporove Indian child protection in urban communities.●

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By Mr. HATFIELD (for himself and Mr. BRADLEY):

S.J. Res. 316. Joint resolution to designate the second Sunday in October 1990 as "National Children's Day"; to the Committee on the Judiciary.

NATIONAL CHILDREN'S DAY

● Mr. HATFIELD. Mr. President, countless times over the years I have come to this floor to point out the obvious: the foundation of this Nation's security rests not in well-stocked arsenals but in the health and education and housing of its citizens. And I have come to this floor time and time again to speak of peace through strength: the peace which comes through strong schools, strong social services, and strong families—the peace which can only be achieved by addressing human needs and the root human causes of violence and despair.

This time, Mr. President, the verse is a little different but my tune is exactly the same. I rise today to introduce a joint resolution designating the second Sunday in October as National Children's Day. I do so because I believe that our children are this Nation's most valuable resource—and because I believe that we ought to set aside a day to recognize that simple fact.

The premise of this joint resolution is captured by a comment made by President Herbert Hoover at his White House Conference on the Health and Protection of the Child six decades ago:

> If we could have but one generation of properly born, trained, educated and healthy children, a thousand other problems of government would vanish.

I ask unanimous consent that a copy of the Children's Charter developed during that conference be included in the RECORD following my remarks. Those of my colleagues who are familiar with the Children's Charter know that it is a remarkable document.

Unfortunately, however, it is a document of goals which remain unmet—six long decades after they were put forward. From prenatal care to child care, from safe housing to secure streets: we know the needs, but they remain unmet.

Let me offer my colleagues a vision of our children on the eve of the 21st century. Today, 1 in 5 children lives in poverty—and 1 in 5 children lives with a single parent. By the year 2000, both numbers will be 1 in 4. And by the year 2000, 1 in every 5, 20-year-old woman will be a mother—4 in 5 will not be married, and only 6 in 10 will have a high school diploma.

These numbers are horrifying, Mr. President, but it seems all too easy to think of them as just that: numbers. What we must do is add the human dimension to this vision.

Every day—every single day—in this country, 27 children die in poverty because they were not immunized, because they were not fed, because they were not sheltered. Every day nine children are killed by a bullet—nine young lives are snatched from us by the random violence of our streets. And every day, Mr. President, six children across this Nation commit suicide.

We are not just talking about quality of life—we are talking about life itself. Individual human lives—individual children with real names and real faces who are being swallowed up by violence and despair. And the toll—the human toll—rises every day.

This joint resolution is not going to change those facts. That, Mr. President, is partially our job—and partially the job of parents, teachers, business, and community leaders across this country. But this joint resolution is going to make us stop and think—about the precious resources we have and about our stewardship responsibilities as a nation and as individuals.

I introduce this joint resolution with a heavy heart—the unmet human needs in our midst are growing every day. But I also introduce this joint resolution with great joy—as the father of four children, I know first hand the hope our children represent. In the words of Abraham Lincoln:

> A child is a person who is going to carry on what you have started. He is going to sit where you are sitting and when you are gone, attend to those things which you think are important. You may adopt all the policies you please, but how they are carried out depends on him. He will assume control of your cities, your States, your Nation. He is going to move in and take your churches, your schools, your university, your corporations. * * * The fate of humanity is in his hands.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CHILDREN'S CHARTER—PRESIDENT HOOVER'S WHITE HOUSE CONFERENCE ON CHILD HEALTH AND PROTECTION RECOGNIZING THE RIGHTS OF THE CHILD AS THE FIRST RIGHTS OF CITIZENSHIP PLEDGES ITSELF TO THESE AIMS FOR THE CHILDREN OF AMERICA

I. For every child spiritual and moral training to help him to stand firm under the pressure of life.

II. For every child understanding and the guarding of his personality as his most precious right.

III. For every child a home and that love and security which a home provides; and for that child who must receive foster care, the nearest substitute for his own home.

IV. For every child full preparation for his birth, his mother receiving prenatal, natal, and postnatal care; and the establishment of such protective measures as will make child-bearing safer.

V. For every child health protection from birth through adolescence, including: periodical health examinations and, where needed, care of specialists and hospital treatment; regular dental examination and care of the teeth; protective and preventive measures against communicable diseases; the insuring of pure food, pure milk, and pure water.

VI. For every child from birth through adolescence, promotion of health, including health instruction and a health program, wholesome physical and mental recreation, with teachers and leaders adequately trained.

VII. For very child a dwelling place safe, sanitary, and wholesome, with reasonable provisions for privacy, free from conditions which tend to thwart his development; and a home environment harmonious and enriching.

VIII. For every child a school which is safe from hazards, sanitary, properly equipped, lighted, and ventilated. For younger children nursery schools and kindergartens to supplement home care.

IX. For every child a community which recognizes and plans for his needs, protects him against physical dangers, moral hazards, and disease; provides him with safe and wholesome places for play and recreation; and makes provision for his cultural and social needs.

X. For every child and education which, through the discovery and development of his individual abilities, prepares him for life; and through training and vocational guidance prepares him for a living which will yield him the maximum of satisfaction.

XI. For every child such teaching and training as will prepare him for successful parenthood, homemaking, and the rights of citizenship; and, for parents, supplementary training to fit them to deal wisely with the problems of parenthood.

XII. For every child education for safety and protection against accidents to which modern conditions subject him—those to which he is directly exposed and those which, through loss or maiming of his parents, affect him indirectly.

XIII. For every child who is blind, deaf, crippled, or otherwise physically handicapped, and for the child who is mentally handicapped, such measures as will early discover and diagnose his handicap, provide care and treatment, and so train him that he may become an asset to society rather than a liability. Expenses of these services should be borne publicly where they cannot be privately met.

XIV. For every child who is in conflict with society the right to be dealth with intelligently as society's charge, not society's outcast; with the home, the school, the church, the court and the institution when needed, shaped to return him whenever possible to the normal stream of life.

XV. For every child the right to grow up in a family with an adequate standard of living and the security of the stable income as the surest safeguard against social handicaps.

XVI. For every child protection against labor that stunts growth, either physical or mental, that limits education, that deprives children of the right of comradeship, of play, and of joy.

XVII. For every rural child as satisfactory schooling and health services as for the city child, and an extension to rural families of social, recreational, and cultural facilities.

XVIII. To supplement the home and the school in the training of youth, and to return to them those interests of which modern life tends to cheat children, every stimulation and encouragement should be give to the extension and development of the voluntary youth organizations.

XIX. To make everywhere available these minimum protections of the health and welfare of children, there should be a district, county, or community organization for health, education, and welfare, with full-time officials, coordinating with a state-wide program which will be responsive to a nation-wide service of general information, statistics, and scientific research. This should include:

(a) Trained, full-time public health officials, with public health nurses, sanitary inspection, and laboratory workers

(b) Available hospitals

(c) Full-time public welfare service for the relief, aid, and guidance of children in special need due to poverty, misfortune, or behavior difficulties, and for the protection of children from abuse, neglect, exploitation, or moral hazard.

For every child these rights, regardless of race, or color, or situation, wherever he may live under the protection of the American Flag.●

## ADDITIONAL COSPONSORS

S. 345

At the request of Mr. DODD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 345, a bill to grant employees family and temporary medical leave under certain circumstances, and for other purposes.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 1207

At the request of Mr. PACKWOOD, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1207, a bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process and for other purposes.

S. 1384

At the request of Mr. DASCHLE, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1860

At the request of Mr. BOREN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1860, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 1974

At the request of Mr. HARKIN, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1974, a bill to require new televisions to have built in decoder circuitry.

S. 2044

At the request of Mr. BIDEN, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2056

At the request of Mr. HARKIN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2056, a bill to amend title XIX of the Public Health Service Act to provide grants to States and implement State health objectives plans, and for other purposes.

S. 2097

At the request of Mr. PELL, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2097, a bill to promote and encourage alternative nondefense uses of defense facilities, to provide assistance for the retraining of unemployed defense workers whose employment is terminated, and to provide adjustment assistance to communities adversely affected by the termination or curtailment of defense contracts or the closure or realignment of military installations.

S. 2112

At the request of Mr. METZENBAUM, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2112, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

S. 2125

At the request of Mr. DODD, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2125, a bill to condition the availability of United States assistance for El Salvador.

S. 2146

At the request of Mr. DASCHLE, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 2146, a bill to clarify the authority of the Small Business Administration to make disaster assistance loans to small businesses in case of disasters determined by the Secretary of Agriculture.

S. 2240

At the request of Mr. KENNEDY, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2240, a bill to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes.

S. 2274

At the request of Mr. GLENN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2274, a bill to establish a Federal pay system with locality-based adjustments.

S. 2284

At the request of Mr. KASTEN, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2284, a bill to amend the Federal Food, Drug, and Cosmetic Act to define the term light or reduced fat butter, and for other purposes.

S. 2365

At the request of Mr. DECONCINI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2365, a bill to amend the Controlled Substances Act to prohibit advertisements intended to promote or facilitate the distribution or transfer of a schedule I controlled substance.

S. 2385

At the request of Mr. DOMENICI, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2385, a bill to establish the National Forest Foundation.

S. 2387

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2387, a bill to amend the Internal Revenue Code of 1986 to exempt Federal law enforcement officers and firefighters from the penalty tax on early distributions from retirement plans.

S. 2561

At the request of Mr. GORTON, the name of the Senator from California [Mr. WILSON] was added as a cospon-

sor of S. 2561, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals.

S. 2595

At the request of Mr. MCCONNELL, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2595, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the names of the Senator from Wyoming [Mr. WALLOP] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE JOINT RESOLUTION 292

At the request of Mr. PELL, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 292, a joint resolution to designate the year 1991 as the "Year of the Lifetime Reader."

SENATE JOINT RESOLUTION 295

At the request of Mr. DANFORTH, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resolution 295, a joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes.

SENATE JOINT RESOLUTION 301

At the request of Mr. PELL, the names of the Senator from Illinois [Mr. DIXON], the Senator from Alabama [Mr. SHELBY], the Senator from New York [Mr. MOYNIHAN], the Senator from Arizona [Mr. DECONCINI], the Senator from Arkansas [Mr. BUMPERS], the Senator from Virginia [Mr. WARNER], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Michigan [Mr. LEVIN], the Senator from Idaho [Mr. MCCLURE], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 301, a joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 311

At the request of Mr. INOUYE, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 311, a joint resolution to designate the month of November 1990 as "National American Indian and Alaska Native Heritage Month."

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 96, a concurrent resolution to urge the administration in the strongest possible terms not to propose civil air transport services for inclusion under the General Agreement on Tariffs and Trade [GAFT], or the proposed General Agreement on Trade in Services [GATS], and to actively oppose any proposal that would consider civil air transport services as a negotiation item.

At the request of Mr. FORD, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Concurrent Resolution 96, supra.

SENATE CONCURRENT RESOLUTION 99

At the request of Mr. PRYOR, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Concurrent Resolution 99, a concurrent resolution expressing the sense of the Congress concerning the 25th anniversary of the Older Americans Act of 1965.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

## SENATE CONCURRENT RESOLUTION 130 URGING THE ADOPTION OF A VICTIMS OF CRIME BILL OF RIGHTS

Mr. DOLE submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 130

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that the States should make every effort to adopt the goals of the following Victims of Crime Bill of Rights.

(1) A victim of crime should be treated with compassion, respect, and dignity throughout the criminal justice process.

(2) A victim of crime should be reasonably protected from the accused throughout the criminal justice process.

(3) A victim of crime should have a statutorily-designated advisory role in decisions involving prosecutorial discretion such as the decision to plea-bargain.

(4) A victim of crime deserves comprehensive reform of the exculsionary rule, the application of which often results in the release of criminals on technicalities, rather than for substantive reasons.

(5) A victim of crime has the right to a reasonable assurance that the accused will be tired in an expeditious manner.

(6) A victim of crime has the right to be present at all proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially prejudiced by hearing other testimony at the trail.

(7) A victim of crime has the right to information about the conviction, sentencing, and imprisonment of the person who committed the crime.

(8) A victim of crime should be compensated for the damage resulting from the crime, and to the fullest extent possible, the person convicted of the crime should be required to provide at least part of the compensation.

(9) A victim of crime should have a statutorily-designated advisory role in deciding the early release status of the person convicted of the crime.

(10) A victim of crime should never be forced to endure again the emotional and physical consequences of the original crime.

Mr. DOLE. Mr. President, I join today with the distinguished Republican leader of the House of Representatives, BOB MICHEL, in introducing the victims of crime bill of rights.

WHAT ABOUT THE VICTIMS

Next week, the Senate is scheduled to consider comprehensive crime legislation. The various bills now on the table cover such diverse topics as habeas corpus reform, the exclusionary rule, the death penalty, prison construction, and the enforcement of our Nation's gun and drug laws.

No doubt about it, these are all important subjects that deserve the serious attention of Congress. And hopefully next week these subjects will indeed get our serious attention.

But when the Senate dives into some of the very technical and complex aspects of criminal justice reform, I hope that we don't lose sight of the most important reason for taking up crime legislation.

Any crime bill should assist our law enforcement agencies. It should help the cop on the beat. And it should make the criminal justice system more accessible and more reliable.

But, most importantly, any crime bill must respect, protect, and yes, enhance the often-overlooked rights of the real-life victims of crime.

THE SCOPE OF THE PROBLEM

The Justice Department recently released statistics showing that an alarming 36.1 million crimes were committed in 1989. Although the total number of crimes committed in 1989 was generally unchanged from 1988, certain types of crimes are—unfortunately—on the rise.

Completed robbery was up by 21 percent. Household larceny was up by 4

percent. And motor vehicle theft was up by 5.5 percent.

What is probably most disturbing is the fact that almost 23 million crimes were not reported to the police last year. Some attribute the underreporting to a lack of faith in the criminal justice system. And some victims of crime are just too afraid to bring their dreadful experiences to the attention to the local law enforcement authorities.

Congress must change this. It must embolden the victims of crime. And it must make the American people aware that victims of crime have rights too, and that these rights deserve the protections of our Nation's laws.

Mr. President, that's what the victims of crime bill of rights is all about.

THE SCOPE OF THE CONCURRENT RESOLUTION

The resolution that I am introducing today simply suggests to the States that they should make every effort to adopt the goals of the victims of crime bill of rights.

Mr. President, these goals are simple and straightforward. Nothing fancy.

Victims of crime should be treated with compassion, respect and dignity throughout the criminal justice process.

Victims of crime should have a statutorily designated advisory role in decisions involving prosecutorial discretion such as the decision to plea bargain.

Victims of crime have the right to a reasonable assurance that the accused will be tried in an expeditious manner.

Victims of crime have the right to information about the conviction, sentencing, and imprisonment of the person who committed the crime against them.

And victims of crime should be compensated, to the fullest extent possible, by the person who actually committed the crime against them.

These are the ideals of the victims of crime bill of rights. And these are the goals for which our Nation's criminal justice system should strive.

CONCLUSION

Mr. President, 83 percent of all Americans will be victimized by violent crime during their lifetimes, and a violent crime affects one person in this country every 20 seconds.

Obviously, crime victimization is not a special interest issue. It is an issue that—sadly—effects every citizen of this country.

America is still the land of the free. But our precious freedoms will dwindle away, if we do not take a firm stand against the plague of crime and a firm stand on behalf of those who are its unfortunate victims.

Mr. President, I ask unanimous consent that the full text of the Justice Department statistics be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—NATIONAL CRIME SURVEY: VICTIMIZATION LEVELS AND RATES, PRELIMINARY 1989

| Type of crime | Number of victimizations | | | Victimization rates | | |
|---|---|---|---|---|---|---|
| | 1988 | Preliminary 1989 | Percent change | 1988 | Preliminary 1989 | Percent change |
| All crimes | 35,795,820 | 36,077,630 | +0.8 | | | |
| Personal crimes | 19,965,940 | 20,315,360 | +1.8 | 100.1 | 100.9 | +0.8 |
| Crimes of violence | 5,909,560 | 5,933,070 | +.4 | 29.6 | 29.4 | −.6 |
| Completed | 2,179,980 | 2,224,360 | +2.0 | 10.9 | 11.0 | +1.1 |
| Attempted | 3,729,580 | 3,708,270 | −.6 | 18.7 | 18.4 | −1.5 |
| Rape [1] | 127,360 | 116,560 | −8.5 | .6 | .5 | −9.4 |
| Robbery | 1,047,980 | 1,162,240 | +10.9 | 5.3 | 5.8 | +9.8 |
| Completed | 684,260 | 829,770 | [2] 21.3 | 3.4 | 4.1 | +20.1 |
| Attempted | 363,720 | 337,570 | −7.2 | 1.9 | 1.8 | −8.1 |
| Assault | 4,734,180 | 4,660,530 | −1.6 | 23.8 | 23.2 | −2.5 |
| Aggravated | 1,741,380 | 1,691,380 | −2.9 | 8.8 | 8.5 | −3.8 |
| Completed with injury | 570,580 | 559,270 | −2.0 | 2.9 | 2.8 | −2.9 |
| Attempted with weapon | 1,170,800 | 1,131,790 | −3.3 | 5.9 | 5.7 | −4.2 |
| Simple | 2,992,800 | 2,968,790 | −.8 | 15.0 | 14.7 | −1.7 |
| Completed with injury | 859,580 | 808,960 | −5.9 | 4.3 | 4.0 | −6.8 |
| Attempted without weapon | 2,133,220 | 2,161,470 | +1.3 | 10.7 | 10.7 | +.4 |
| Crimes of theft | 14,056,380 | 14,384,770 | +2.3 | 70.5 | 71.5 | +1.4 |
| Completed | 13,241,810 | 13,537,450 | +2.2 | 66.4 | 67.2 | +1.3 |
| Attempted | 814,570 | 847,050 | +4.0 | 4.1 | 4.2 | +3.0 |
| Personal larceny with contact | 489,360 | 559,820 | +14.4 | 2.5 | 2.8 | +13.3 |
| Personal larceny without contact | 13,567,000 | 13,824,960 | +1.9 | 68.1 | 68.7 | +.9 |
| Completed | 12,795,380 | 13,018,320 | +1.7 | 64.2 | 64.7 | +.8 |
| Attempted | 771,620 | 806,300 | +4.5 | 3.9 | 4.0 | +3.5 |
| Household crimes | 15,829,880 | 15,768,110 | −.4 | 169.6 | 166.0 | −2.1 |
| Completed | 13,554,670 | 13,481,600 | −.5 | 145.2 | 141.9 | −2.3 |
| Attempted | 2,275,210 | 2,285,650 | +.5 | 24.4 | 24.1 | −1.3 |
| Burglary | 5,776,770 | 5,274,690 | [2] −8.7 | 61.9 | 55.5 | [2] −10.3 |
| Completed | 4,585,330 | 4,165,270 | [2] −9.2 | 49.1 | 43.8 | [2] −10.8 |
| Attempted forcible entry | 1,191,440 | 1,108,410 | −7.0 | 12.8 | 11.7 | −8.6 |
| Household larceny | 8,419,000 | 8,779,800 | [2] +4.3 | 90.2 | 92.4 | +2.5 |
| Completed | 7,896,430 | 8,225,930 | +4.2 | 84.6 | 86.6 | +2.3 |
| Attempted | 522,570 | 553,050 | +5.8 | 5.6 | 5.8 | +4.0 |
| Motor vehicle theft | 1,634,060 | 1,723,160 | +5.5 | 17.5 | 18.1 | +3.6 |
| Completed | 1,072,870 | 1,094,880 | +2.1 | 11.5 | 11.5 | +.3 |
| Attempted | 561,190 | 628,780 | +12.0 | 6.0 | 6.6 | +10.1 |

[1] Includes completed and attempted rape.
[2] The preliminary differences is statistically significant at the 95% confidence level.

Note.—Detail may not add to total shown because of rounding. Percent change is based on unrounded numbers. Victimization rates are calculated on the basis of the number of victimizations per 1,000 persons age 12 or over (personal crimes) or per 1,000 households (household crimes). If the trends that occurred during the first part of 1989 were to be reversed during the latter half, especially during the final 3 months, then it likely that some of the changes seen in the preliminary estimates would no longer be statistically significant in the final data.

TABLE 2. NATIONAL CRIME SURVEYS: NUMBER AND PROPORTION OF CRIMES REPORTED TO POLICE, PRELIMINARY 1989

| Type of crime | Number of crimes reported to police | | | Proportion reported to police | | |
|---|---|---|---|---|---|---|
| | 1988 | Preliminary 1989 | Percent change | 1988 | Preliminary 1989 | Percent change |
| All crimes | 13,032,240 | 13,141,670 | +.8 | 36.4 | 36.4 | +.1 |
| Personal crimes | 6,689,490 | 6,735,620 | +.8 | 36.4 | 36.4 | +.1 |

TABLE 2. NATIONAL CRIME SURVEYS: NUMBER AND PROPORTION OF CRIMES REPORTED TO POLICE, PRELIMINARY 1989—Continued

| Type of crime | Number of crimes reported to police | | | Proportion reported to police | | |
|---|---|---|---|---|---|---|
| | 1988 | Preliminary 1989 | Percent change | 1988 | Preliminary 1989 | Percent change |
| Crimes of violence | 2,829,900 | 2,728,000 | −3.6 | 47.9 | 46.0 | −4.0 |
| Completed | 1,257,910 | 1,253,110 | −.4 | 57.7 | 56.3 | −2.4 |
| Attempted | 1,571,990 | 1,474,550 | −6.2 | 42.2 | 39.3 | −5.7 |
| Rape | 57,210 | 51,120 | −10.7 | 44.9 | 43.9 | −2.4 |
| Robbery | 597,870 | 663,780 | +11.0 | 57.1 | 57.1 | +.1 |
| Completed | 440,750 | 512,380 | +16.3 | 64.4 | 61.8 | −4.1 |
| Attempted | 157,120 | 150,290 | −4.3 | 43.2 | 44.5 | +3.1 |
| Assault | 2,174,780 | 2,019,660 | −7.1 | 45.9 | 43.3 | −5.7 |
| Aggravated | 945,910 | 887,060 | −6.2 | 54.3 | 52.5 | −3.4 |
| Completed with injury | 331,350 | 335,830 | +1.4 | 58.1 | 60.1 | +3.4 |
| Attempted with weapon | 614,560 | 550,350 | −10.4 | 52.5 | 48.6 | −7.4 |
| Simple | 1,228,870 | 1,132,430 | −7.8 | 41.1 | 38.1 | −7.1 |
| Completed with injury | 443,440 | 383,700 | −13.5 | 51.6 | 47.4 | −8.1 |
| Attempted without weapon | 785,430 | 749,580 | −4.6 | 36.8 | 34.7 | −5.8 |
| Crimes of theft | 3,859,590 | 4,008,670 | +3.9 | 27.5 | 27.9 | +1.5 |
| Completed | 3,667,820 | 3,793,690 | +3.4 | 27.7 | 28.0 | +1.2 |
| Attempted | 191,770 | 216,080 | −12.7 | 23.5 | 25.5 | +8.4 |
| Personal larceny with contact | 172,280 | 189,410 | +9.9 | 35.2 | 33.8 | −3.9 |
| Personal larceny without contact | 3,687,290 | 3,819,200 | +3.6 | 27.2 | 27.6 | +1.6 |
| Completed | 3,499,340 | 3,607,620 | +3.1 | 27.4 | 27.7 | +1.3 |
| Attempted | 187,950 | 213,020 | +13.3 | 24.4 | 26.4 | +8.5 |
| Household crimes | 6,342,750 | 6,405,960 | +1.0 | 40.1 | 40.6 | +1.4 |
| Completed | 5,593,890 | 5,640,450 | +.8 | 41.3 | 41.8 | +1.4 |
| Attempted | 748,860 | 765,010 | +2.2 | 32.9 | 33.5 | +1.7 |
| Burglary | 2,931,460 | 2,667,220 | [2] +9.0 | 50.8 | 50.6 | −.4 |
| Completed | 2,553,610 | 2,312,090 | [2] −9.5 | 55.7 | 55.5 | −.3 |
| Attempted forcible entry | 377,850 | 354,390 | −6.2 | 31.7 | 32.0 | +.8 |
| Household larceny | 2,215,970 | 2,463,500 | [2] +11.2 | 26.3 | 28.1 | +6.6 |
| Completed | 2,079,170 | 2,327,850 | [2] −12.0 | 26.3 | 28.3 | +7.5 |
| Attempted | 136,800 | 138,200 | +1.0 | 26.2 | 25.0 | −4.5 |
| Motor vehicle theft | 1,195,280 | 1,286,120 | −7.6 | 73.2 | 74.6 | +2.0 |
| Completed | 961,080 | 1,009,700 | +5.1 | 89.6 | 92.2 | +2.9 |
| Attempted | 234,000 | 277,570 | +18.5 | 41.7 | 44.1 | +5.8 |

[1] Includes completed and attempted rape.
[2] The preliminary difference is statistically significant at the 95 percent confidence level.
Note.—Detail may not add to total shown because of rounding. Percent change is based on unrounded numbers. Also see note on table 1.

## SENATE RESOLUTION 285—MAKING APPOINTMENTS TO CERTAIN COMMITTEES

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 285

*Resolved,* That the Senator from Hawaii (Mr. Akaka) is hereby appointed to serve as a member on the Committee on Energy and Natural Resources, the Committee on Governmental Affairs, and the Committee on Veterans Affairs for the 101st Congress.

## SENATE RESOLUTION 286—MAKING ADDITIONAL MAJORITY APPOINTMENTS TO CERTAIN COMMITTEES

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 286

*Resolved,* That the Senator from Ohio (Mr. Metzenbaum) is hereby appointed to serve as a member on the Committee on Environment and Public Works, in lieu of the Committee on Energy and Natural Resources; the Senator from Louisiana (Mr. Breaux) is hereby appointed to serve as a member of the Committee on Finance, in lieu of the Committee on Environment and Public Works; and the Senator from New Mexico (Mr. Bingaman) is hereby appointed to serve as a member on the Committee on Labor and Human Resources, in lieu of the Committee on Governmental Affairs.

SEC. 2. Strike in paragraph 4(h)(2) of Rule XXV the words "Committee on Governmental Affairs" and insert in lieu thereof "Committee on Labor and Human Resources".

SEC. 3. Strike in paragraph 4(h)(9) of Rule XXV all after "(9)" through the word "Judiciary" and insert the following: "A Senator who is appointed on May 16, 1990 to serve on the Committee on Environment and Public Works and is serving on the Committee on the Judiciary".

## AMENDMENTS SUBMITTED

## COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT

### HELMS (AND OTHERS) AMENDMENT NO. 1624

Mr. HELMS (for himself, Mr. COATS, Mr. NICKLES, Mr. THURMOND, Mr. SYMMS, and Mr. LOTT) proposed an amendment to the bill (S. 2240) to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . PROHIBITION ON USE OF FUNDS.

None of the funds authorized by this Act, or an amendment made by this Act, shall be allocated to any State, metropolitan area, or rural area, if such State, metropolitan area, or rural area, carries out any program for the distribution of—

(1) sterile needles for the hypodermic injection of any illegal drug; or

(2) bleach for the purpose of cleansing needles for such hypodermic injection;

unless the President certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

### KENNEDY (AND HATCH) AMENDMENT NO. 1625

Mr. KENNEDY (for himself and Mr. HATCH) proposed an amendment to the bill S. 2240, supra, as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITION ON USE OF FUNDS.

None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

### HELMS AMENDMENT NO. 1626

Mr. HELMS proposed an amendment to the bill S. 2240, supra, as follows:

At the appropriate place, insert the following new section:

Chapter 51 of title 18, United States Code, is amended by adding at the appropriate place the following:

"SEC. . PROTECTION AGAINST THE HUMAN IMMUNODEFICIENCY VIRUS.

"(a) It shall be unlawful for any individual to knowingly donate, or sell, or to knowingly attempt to donate, or sell blood, semen, tissues, organs, or other bodily fluids if such individual—

"(1) knows on the basis of clinical or laboratory evidence, that such individual is infected with the human immunodeficiency virus or;

"(2) is an individual who, on or after January 1, 1977, is or has been a user of any intravenous drug, the sale, distribution, or use of which is prohibited under Federal or State law at the time the individual injected the drug or;

"(3) is an individual who has engaged in prostitution on or after January 1, 1977, or;

"(b) Transmission of the human immunodeficiency virus does not have to occur for a person to have committed a violation of this section.

"(c) Any person who violates the provisions of subsection (a) shall be subject to a fine of not less than $10,000 nor more than $20,000 and imprisoned for not less than 1 year nor more than 10 years, or both.

"(d) For purposes of this section the term "sexual intercourse" includes the acts described in section 2256(2)(A) of this title.".

## KENNEDY (AND HATCH) AMENDMENT NO. 1627

Mr. KENNEDY (for himself and Mr. HATCH) proposed an amendment to the bill S. 2240, supra, as follows:

At the appropriate place, insert the following new subsection:

SEC. . REQUIREMENT OF STATE LAWS PROTECTING DONATIONS OF BLOOD.

The Secretary of Health and Human Services shall not make a grant to a State under this Act, or an amendment made by this Act, unless the Secretary determines that the criminal laws of the State are adequate to prosecute any individual who knowingly and intentionally donates, or knowingly and intentionally attempts to donate, blood, blood products, semen, tissues, organs, or other bodily fluids if such individual—

(1) has been diagnosed on the basis of laboratory evidence as infected with the human immunodeficiency virus; and

(2) has been informed that he or she is infected with the human immunodeficiency virus and has knowledge of the risk of transmission of such virus, through donated blood, blood products, semen, tissues, organs, or other bodily fluids.

Nothing in this Act shall preclude any State from making it a crime to donate, knowingly and intentionally, or knowingly and intentionally attempt to donate, blood, blood products, semen, tissues, organs, or other bodily fluids by (1) an individual who, on or after January 1, 1977, is or has been a user of any intravenous drug, the sale, distribution, or use of which is prohibited under Federal or State law after the time the individual injected the drug or; (2) an individual who has engaged in prostitution on or after January 1, 1977.

## HATCH (AND KENNEDY) AMENDMENT NO. 1628

Mr. HATCH (for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 2240, supra, as follows:

At the appropriate place insert the following:

There is authorized an additional 150 full-time equivalent positions to the Food and Drug Administration. The positions established by this authority are to be used for the inspection of blood banks and producers of blood products.

There is also authorized an appropriation of $1,500,000 to carry out this activity in fiscal year 1991 and such sums as may be necessary through fiscal year 1995.

## NICKLES AMENDMENT NO. 1629

Mr. NICKLES proposed an amendment to the bill, S. 2240, supra, as follows:

At the appropriate place insert the following:

TITLE —MISCELLANEOUS PROVISIONS

SEC. . TECHNICAL CORRECTIONS TO THE PRISON TESTING ACT OF 1988.

Section 902 of the Prison Testing Act of 1988 (42 U.S.C. 300ee-6) is amended—

(1) in subsection (b)(2)—

(A) by striking out "may" in subparagraph (A) and inserting in lieu thereof "will"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

(B) victims of aggravated sexual abuse, as described in subsection (c)(2), will be informed of the results of the test, if the person convicted of the aggravated sexual assault tests positive for exposure to the human immunodeficiency virus and if the victim requests to be so informed after the victim is notified of the right of the victim to be informed under this subparagraph.";

(2) in subsection (c)(2)—

(A) by striking out "99" and inserting in lieu thereof "109A"; and

(B) by striking out "rape" and inserting in lieu thereof "aggravated sexual abuse"; and

(3) in subsection (g), by striking out "1990" and inserting in lieu thereof "1995".

## COATS (AND HELMS) AMENDMENT NO. 1630

Mr. COATS (for himself and Mr. HELMS) proposed an amendment to the bill, S. 2240, supra, as follows:

On page 57, strike out lines 8 through 15.

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT

## PELL (AND HELMS) AMENDMENT NO. 1631

Mr. PELL (for himself and Mr. HELMS) proposed an amendment to the bill, S. 195, entitled the "Chemical and Biological Weapons Control Act of 1989", as follows:

In lieu of the matter proposed to be inserted by the Committee amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical and Biological Weapons Control Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) chemical weapons were employed in the recent Iran-Iraq war and by Iraq in attacks against its Kurdish minority;

(2) the use of chemical and biological weapons in violation of international law is abhorrent and requires immediate and effective sanctions;

(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately "appropriate and effective" sanctions against any country using chemical and biological weapons in violation of international law;

(4) the Declaration of the Paris Conference on the Prohibition of Chemical Weapons demonstrates the resolve of most countries to reaffirm support for the 1925 protocol banning the use of chemical and bacteriological weapons and to press for attainment of a ban on the production and possession of chemical weapons;

(5) as many as 20 countries, including Iran, Iraq, Syria, and Libya have or are seeking the capability to produce chemical weapons;

(6) as many as 10 countries are working to produce biological weapons;

(7) by the year 2000, at least 15 developing countries will have the ability to produce ballistic missiles capable of carrying chemical or biological warheads;

(8) the further spread of chemical or biological weapons capabilities would pose a threat of incalculable proportions to friends and allies of the United States and undermine the national security of the United States;

(9) the United Nations should create an effective means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(10) every effort should be made to conclude an early agreement banning the production and stockpiling of chemical or biological weapons.

SEC. 3. PURPOSE.

It is the purpose of this Act—

(1) to mandate United States sanctions and to encourage international sanctions against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals;

(2) to require presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, and deliver chemical and biological weapons;

(3) to urge cooperation with other supplier nations to devise effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production;

(4) to promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(5) to encourage an early agreement banning the development, production, and stockpiling of chemical weapons; and

(6) to seek effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability.

TITLE I—SANCTIONS AGAINST THE USE OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 101. SANCTIONS FOR THE USE OF CHEMICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—(1) Whenever information becomes available to the United States Government indicating the substantial possibility that, on or after the date of enactment of this Act, a foreign country has used chemical or biological weapons, the President shall, within 60 days of the receipt of such information by the United States Government, make a determination as to whether that foreign country, on or after such date, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) Not later than 60 days after the chairman of the Committee on Foreign Relations of the Senate, upon consultation with the ranking minority member of such Committee, or the chairman of the Committee on Foreign Affairs of the House of Representatives, upon consultation with the ranking minority member of such Committee, re-

quests the President to make a determination as to whether or not a foreign country, on or after the date of enactment of this Act, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals, the President shall make such determination and so report in writing to the chairmen of such Committees.

(3) In making the determination under paragraph (1) or (2), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the country in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(b) SANCTIONS.—In the event of a Presidential determination under subsection (a) that, on or after the date of enactment of this Act, a foreign country has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals, then the President shall—

(1) terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance, or for the purpose of purchasing food or other agricultural products;

(2) terminate all foreign military sales financing under the Arms Export Control Act with respect to that country;

(3) terminate United States Government sales to that country of any defense articles or defense services;

(4) prohibit the issuance of any licenses for the export to that country of any item on the United States Munitions List;

(5) prohibit, under the authorities of section 6 of the Export Administration Act of 1979, the export to that country of any goods or technology except food or other agricultural products;

(6) oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance to that country by international financial institutions;

(7) prohibit the import of any good, commodity, or service from that country;

(8) deny that country any credit or credit guarantees through the Export-Import Bank of the United States;

(9) prohibit any United States bank from making any loan or providing any credit to that country, except for loans or credits for the purpose of purchasing food or other agricultural products; and

(10) terminate, consistent with international law, the landing rights in the United States of any airline owned by the government of that country at the earliest practicable date.

SEC. 102. WAIVER.

The President may waive the applicability of some or all of the sanctions listed in section 101 with respect to a specific country for a period of not to exceed nine months beginning on the date of the determination by the President of use by that country of chemical or biological weapons in violation of international law, or the use of lethal chemical or biological weapons against its own nationals, if he determines that such waiver is in the national interest of the United States and so certifies to the Speaker of the House of Representatives and the President of the Senate. Together with such certification, the President shall submit in writing a statement containing a detailed explanation of the national interest requiring a waiver, which may include a classified addendum if necessary.

SEC. 103. NOTIFICATION.

Not later than five days after he imposes any sanction described in section 101 against a country or waives under section 102 the applicability of any such sanction, the President shall so notify in writing the Speaker of the House of Representatives and the President of the Senate.

SEC. 104. CONTRACT SANCTITY.

(a) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(1) No sanction described in paragraphs (6) through (10) of section 101(b) shall apply to any activity pursuant to any contract or international agreement entered into before the date of the appropriate presidential determination under section 101(a) unless the President determines, on a case-by-case basis, that to so apply such sanction would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(2)(A) The same restrictions of section 6(m) of the Export Administration Act of 1979 which are applicable to exports prohibited under section 6 of that section shall apply to exports prohibited under section 101(b)(5).

(B) For purposes of subparagraph (A) of this paragraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(m) of that Act.

(b) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), (3), and (4) of section 101 shall apply to contracts and agreements, without regard to the date such contracts or agreements were entered into, except that such sanctions shall not apply to any contract or agreement entered into before the date of the appropriate presidential determination under section 101(a) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 105. REMOVAL OF SANCTIONS.

The President may remove the sanctions imposed pursuant to section 101 of this Act if the President determines and so certifies to the Speaker of the House of Representatives and the President of the Senate that the country under sanction—

(1) has renounced any use of chemical or biological weapons in violation of international law, or any use of lethal chemical or biological weapons against its own nationals, and has provided reliable assurances to that effect; and

(2) has made satisfactory restitution to those affected in its earlier use of chemical or biological weapons in violation of international law or in its earlier use of lethal chemical or biological weapons against its own nationals.

SEC. 106. PRESIDENTIAL REPORTS.

Not later than 90 days after the date of enactment of this Act, and every 12 months thereafter, the President shall submit to the Speaker of the House of Representatives and the President of the Senate, a report—

(1) detailing efforts by countries or subnational groups that threaten United States security interests or regional stability (including efforts by Iran, Iraq, Libya, and Syria and other developing countries or subnational groups) to acquire the materials and technology to develop, produce, stockpile, and deliver chemical and biological weapons, together with an assessment of the present and future capabilities of such countries or subnational groups to develop, produce, stockpile, and deliver chemical and biological weapons;

(2) describing the degree to which any country or foreign person has aided or abetted the government of any country or a subnational group to engage in any activity in connection with the acquisition of any such chemical or biological weapon; and

(3) listing all United States persons against whom administrative, civil, or criminal penalties have been applied for shipment of goods and technology controlled for chemical and biological weapons proliferation purposes pursuant to the Export Administration Act of 1979 or the Arms Export Control Act.

To the extent practicable, reports submitted pursuant to this section should be based on unclassified information. Portions of each such report may be classified.

SEC. 107. MULTILATERAL EFFORTS.

The President is urged—

(1) to continue close cooperation with others in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals applicable to weapons production to Iraq, Iran, Syria, and Libya—countries that currently support or have recently supported acts of international terrorism;

(2) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to chemical or biological weapons production to devise the most effective controls possible on the transfer of such materials, equipment, and technology;

(3) to seek agreements with countries that produce ballistic missiles suitable for carrying chemical or biological warheads that would prevent the transfer of such missiles; and

(4) to take the initiative in pressing for early conclusion of an international agreement banning the development, production, and stockpiling of chemical weapons.

SEC. 108. UNITED NATIONS INVOLVEMENT.

The President is urged to give full support to—

(1) the United Nations Security Council, in furtherance of Security Council Resolution 620, adopted August 26, 1988, in developing sanctions comparable to those enumerated in section 101 of this Act, to be imposed in the event that any country uses chemical or biological weapons in violation of international law; and

(2) the creation of an effective multilateral means of monitoring and reporting regularly on commerce in chemical equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability.

## TITLE II—MEASURES TO PREVENT THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

### SEC. 201. MULTILATERAL EFFORTS.

It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons.

### SEC. 202. EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technologies,

that the President determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended by adding at the end thereof the following new subsection:

"(q) CHEMICAL AND BIOLOGICAL WEAPONS.—(1) The Secretary, in consultation with the Secretary of State, shall establish and maintain a list of goods and technology that would directly and substantially assist a country or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability;

"(2) The Secretary shall require a validated license for any export of goods or technology listed under paragraph (1) to any country except those with whose governments the United States has entered into bilateral or multilateral arrangements for the control of such goods or technology and such other countries as the President shall designate consistent with the purposes of this Act.

"(3) Notwithstanding any other provision of this Act, a determination of the Secretary to approve or deny an export license for the export of goods or technology under this subsection may be made only after consultation with the Secretary of State. If the Secretary disagrees with the Secretary of State regarding any determination under paragraph (1) or (2), the matter shall be referred to the President for resolution.".

### SEC. 203. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

The Arms Export Control Act is amended by inserting after section 38 the following new section:

"SEC. 38A. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) DETERMINATION BY THE PRESIDENT.—

"(1) IMPOSITION OF SANCTIONS.—The President, subject to subsection (d), shall impose on a foreign person the sanctions under subsection (b) if the President determines that the foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed to the efforts to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons by any country that the President has determined has at any time after January 1, 1980—

"(A) used chemical or biological weapons in violation of international law;

"(B) used lethal chemical or biological weapons against its own nationals;

"(C) made substantial preparations to do the activities described in clause (A) or (B); or

"(D) been designated pursuant to section 6(j) of the Export Administration Act of 1979 as a country which supports international terrorism.

"(2) CONSULTATIONS WITH AND ACTIONS BY GOVERNMENT OF JURISDICTION.—The President may delay imposition of sanctions against a foreign person for a period of up to 90 days in order to pursue consultations with the government with primary jurisdiction over that foreign person involved in the activities cited in paragraph (1). Following these consultations, the President shall impose sanctions against the foreign person unless he has determined and certified to the Congress that such government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in such activities.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 30 days after making a determination under paragraph (1), on the status of consultations with the appropriate government under paragraph (2), and the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

"(b) SANCTIONS.—The sanctions to be imposed on a foreign person under subsection (a) are the following:

"(1) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from that foreign person.

"(2) IMPORT SANCTION.—The importation into the United States of products produced by that foreign person is prohibited.

"(c) TERMINATION OF SANCTIONS.—A sanction imposed on a foreign person under this section shall apply for a period of at least 24 months and in no case shall cease to apply to that foreign person until the expiration of the 12-month period beginning on the date the President determines and certifies to the Congress that the foreign person has ceased all activities described in subsection (a)(1).

"(d) EXCEPTIONS.—The President shall not be required under this section to apply sanctions—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(3) to—

"(A) spare parts,

"(B) component parts, but not finished products, essential to United States products or production, or

"(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(4) to information and technology not directly useful for the development, production, or stockpiling of chemical or biological weapons; or

"(5) to medical or other humanitarian items.

"(e) DEFINITION.—For the purposes of this section, the term 'foreign person' means—

"(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(B) a corporation, partnership, or other entity, including any parent or subsidiary entity thereof, which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

### SEC. 204. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

The Export Administration Act of 1979 (50 U.S.C. App. 2410) is amended by inserting after section 11A the following new section:

"CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 11B. (a) DETERMINATION BY THE PRESIDENT.—

"(1) IMPOSITION OF SANCTIONS.—The President, subject to subsection (d), shall impose on a foreign person the sanctions under subsection (b) if the President determines that the foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed to the efforts to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons by any country that the President has determined has at any time after January 1, 1980—

"(A) used chemical or biological weapons in violation of international law;

"(B) used lethal chemical or biological weapons against its own nationals;

"(C) made substantial preparations to do the activities described in clause (A) or (B); or

"(D) been designated pursuant to section 6(j) of this Act as a country which supports international terrorism.

"(2) CONSULTATIONS WITH AND ACTIONS BY GOVERNMENT OF JURISDICTION.—The President may delay imposition of sanctions against a foreign person for a period of up to 90 days in order to pursue consultations with the government with primary jurisdiction over that foreign person involved in the activities cited in paragraph (1). Following these consultations, the President shall impose sanctions against the foreign person unless he has determined and certified to the Congress that such government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in such activities.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 30 days after making a determination under paragraph (1), on the status of consultations with the appropriate government under paragraph (2), and the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

"(b) SANCTIONS.—The sanctions to be imposed on a foreign person under subsection (a) are the following:

"(1) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from that foreign person.

"(2) IMPORT SANCTION.—The importation into the United States of products produced by that foreign person is prohibited.

"(c) TERMINATION OF SANCTIONS.—A sanction imposed on a foreign person under this section shall apply for a period of at least 24 months and in no case shall cease to apply to that foreign person until the expiration of the 12-month period beginning on the date the President determines and certifies to the Congress that the foreign person has ceased all activities described in subsection (a)(1).

"(d) EXCEPTIONS.—The President shall not be required under this section to apply sanctions—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(3) to—

"(A) spare parts,

"(B) component parts, but not finished products, essential to United States products or production, or

"(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(4) to information and technology not directly useful for the development, production, or stockpiling of chemical or biological weapons; or

"(5) to medical or other humanitarian items.

"(e) DEFINITION.—For the purposes of this section, the term 'foreign person' means—

"(1) the term 'foreign person' means—

"(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(B) a corporation, partnership, or other entity, including any parent or subsidiary entity thereof, which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and

"(2) the terms 'defense article' and 'defense service' have the same meanings as are given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.".

SEC. 205. DEFINITIONS.

For the purposes of this Act—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity, including any parent or subsidiary entity thereof, which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and

(2) the terms "defense article" and "defense service" have the same meanings as are given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

## TOURISM POLICY AND EXPORT PROMOTION ACT

### ROCKEFELLER AMENDMENT NO. 1632

Mr. PELL (for Mr. ROCKEFELLER) proposed an amendment to the bill (S. 1791) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes, as follows:

Strike section 5 and insert in lieu thereof the following:

TOURISM TRADE BARRIERS

SEC. 5. (a) ANALYSIS AND ESTIMATES.—For calendar year 1990 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1991 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

### STEVENS AMENDMENT NO. 1633

Mr. GARN (for Mr. STEVENS) proposed an amendment to the bill S. 1791, supra, as follows:

On page 25, line 1, insert the phrase "or lands owned by an Alaska Native Corporation" after the word "reservation".

On page 32, line 7, insert the phrase "or lands owned by Alaska Native Corporations" after the word "reservations".

On page 32, line 10, insert the phrase "or lands owned by Alaska Native Corporations" after the word "reservations".

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. PELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., May 16, 1990, for a business meeting to conduct pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HUD INVESTIGATIONS

Mr. PELL. Mr. President, I ask unanimous consent that the HUD Investigations Subcommittee of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, May 16, 1990, at 10:30 a.m. to conduct an oversight hearing on the rebuilding of the Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Consumer and Regulatory Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, May 16, 1990, at 9:30 a.m. to conduct an oversight hearing on mortgage discrimination.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Consumer of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 16, 1990, at 9:30 a.m. to hold a hearing on environmental labeling.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. PELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 16, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. PELL. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, May 16, 1990, at 2 p.m. The committee will hold a hearing on the Small Business Administration's Small Business Investment Companies Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, May 16, at 9:30 a.m. for a hearing on the legislation, S. 1235, relating to minority set-asides.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, May 16, beginning at 10 a.m., to conduct a hearing on the Hell Gate Bridge.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MERCHANT MARINE

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Merchant Marine, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 16, 1990, at 2 p.m. to hold a hearing on S. 2170, a bill to change the conditions under which carriers receiving operating differential subsidy can participate in domestic trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. PELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 16, 1990, at 2 p.m. to receive testimony on the space launch and command, control, communications and intelligence programs in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### TRIBUTE TO HOUSTON PEARCE

● Mr. SHELBY. Mr. President, it is with a great deal of pride that I rise today to pay tribute to Houston L. Pearce, one of Alabama's outstanding broadcasters, who was recently appointed to serve on the Board of Directors for the National Association of Broadcasters [NAB]. As one of the exceptional leaders in Alabama and Mississippi broadcasting over the years, the NAB recognized that Houston Pearce because of his vision for the future of the broadcasting industry would be a tremendous asset to the national association.

Houston is an extremely modest individual who claims that he is not a pioneer in the radio industry. I think that many people would disagree with his statement. Houston is indeed a pioneer in Alabama's radio history. He has always had a unique vision about the future of the broadcasting industry and has always had the courage and determination to make his ideas reality.

Houston began his career in radio as a young man with a dream—a dream to build a reputable radio network that would provide service to parts of rural Alabama. In 1959, his dream came true, when he and two business associates built WPRN in Butler, AL, and in 1964 built WBIB in Centreville, AL. These two stations were the first to provide radio service to these two areas of Alabama.

Houston Pearce gave the individuals living in these areas a special gift. For the first time, area residents were able to hear in their homes and cars news as it happened around the country and world. In addition, area residents were able to enjoy listening to music, as well as interesting and educational programming.

Having successfully entered the broadcast industry in Alabama in 1959, Houston formed Radio South, Inc., which is currently comprised of four stations, two sister stations in Jasper (WARF-AM and WFFN-FM) and two sister stations in Tuscaloosa (WTSK-AM and WTUG-FM). He is also the owner of WJDQ-AM-FM in Meridian, MS and has an interest in WGUD-FM-AM in Pascagoula, MS. Houston Pearce had the foresight to realize how important a medium FM would be long before it became popular, and he utilized the medium to ensure that Alabamians were well-informed and entertained.

To further his dream, Houston Pearce has been an active supporter of both the Alabama and Mississippi Broadcasters Associations. He has committed himself to improving the Alabama broadcast industry. For several years, he served as a board member of the Alabama Broadcasters Association [ABA] and is presently serving as president of that organization. In addition, he has worked to improve the broadcast industry across the country. Over the years, he has been an active supporter of the National Broadcast Association and has served on the legislative liaison committee.

Although business has been an important focus for Houston, he has also dedicated himself to helping others through the years. Houston is extremely involved in civic and professional activities. He has served as chairman of the Red Cross; as president and member of the board of directors for the Jasper Area Chamber of Commerce; and a member of the board of directors for the Jefferson-Walker-Shelby United Way. Houston Pearce is known by his friends and colleagues as a caring man and a concerned citizen who is committed to improving the quality of life for all Alabamians.

Mr. President, Houston Pearce embodies the very characteristics that identify the American spirit—faith, courage, and determination. He is a great source of pride for the State of Alabama and has given Jasper the opportunity to add yet another outstanding citizen to that city's history. I know that I join Houston's wife, Voncile, and his three children, Christie, Susan, and Dean, in sharing their pride in Houston's many accomplishments. I salute Houston as a man of great personal character, and I am honored to serve as one of his Representatives in Washington.●

### RETIREMENT OF DR. JAMES L. ROBINSON

● Mr. GRASSLEY. Mr. President, upon his retirement in June of 1990, Dr. James L. Robinson will complete 35 years of dedicated service toward quality education for Iowa's students. His relentless demand of the best for and from all students and teachers has resulted in high standards of achievements for thousands of young people who have grown up to appreciate and build on a good educational foundation.

Mr. President, James Robinson has been superintendent of schools in Cedar Falls, IA, since 1971. He was also superintendent for Vinton Community Schools and Radcliffe Community Schools and was principal at Galva Community High School. Dr. Robinson began his career as a social studies teacher in Glidden High School after receiving his B.A. from the University of Northern Colorado. He was selected to receive a fellowship school administration at Iowa State University, where he earned his doctoral degree in 1966. He is widely respected as a professional educator and as a humanitarian. His accomplishments will be long appreciated and remembered.●

### FORMER MEMBER OF CONGRESS JOHN S. WOLD ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, I would like to share with Senators another letter I have recently received from a former Member of Congress who supports term limitation. This one is from former Member John S. Wold, who represented Wyoming from 1969 to 1971.

I ask that former Member Wold's letter appear in the RECORD immediately following my remarks.

The letter follows:

CASPER, WY,
*May 7, 1990.*

Hon. GORDON J. HUMPHREY,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR HUMPHREY: I want to congratulate you on your Congressional Term Limitation work. Your program for adoption of S.J. Resolution 235 has my full support.

As a former representative from Wyoming, I am very much aware of the many undesirable aspects of unlimited tenure of congressional membership.

Please list me as former Member of Congress who enthusiastically endorses your program. If I can be of assistance in furthering it, please let me know.

With kindest regards,

JOHN S. WOLD.●

## OPERATION EXODUS

● Ms. MIKULSKI. Mr. President, we have all rejoiced at the Soviet policy which allows Jews to emigrate more freely than in the past. Many Jews are choosing to make aliyah, and an expected 100,000 or more will arrive in Israel this year.

While the Israelis see this influx as a blessing, there are serious burdens as well. It will cost $3 billion to absorb the new immigrants. Forty thousand new housing units will have to be constructed. Job retraining and infrastructure improvements will be costly.

As you may know, the United States Jewish community has pledged to raise $420 million over the next 3 years to finance the resettlement of Soviet Jews. This effort has been named "Operation Exodus."

On May 6, I was honored to speak at a major fundraising event for Operation Exodus at Har Sinai in Baltimore. The Jewish community there will welcome 1,000 new immigrants and will contribute to resettlement costs in Israel.

Also addressing the gathering was Leon Uris, author of "Exodus." Mr. Uris reminded us of the refuseniks, left in the Soviet Union and the difficulty which Soviet Jews face in trying to practice their religion and keep their traditions. He analyzed the state of Soviet society today. And he discussed the ever-recurrent issue of anti-Semitism.

Mr. President, I ask that Leon Uris' remarks be printed in full in the RECORD at this point.

The remarks follow:

KEYNOTE ADDRESS, LEON URIS, OPERATION EXODUS, RALLY FOR SOVIET JEWS, MAY 6, 1990, BALTIMORE

Back in 1956 when I was writing "Exodus," my editor would phone me frantically whenever trouble broke out in the Middle East and he would plead with me to hurry and complete the manuscript.

I told him, "don't worry, whenever I finish it, the Jews will still be in trouble."

"Exodus" accomplished everything that I had hoped for it. But never in my wildest fantasy, did I believe my words would reach out and find the Lost Tribe of Israel entombed in the Soviet Union.

When the Communists took power after the First World War, the Jews were stripped of Torah and synagogue, of their press and educational facilities and every vestige of Jewish life. Morever, contact with the outside world was lost. We did not know for decades if there was a Jewish identity still in existence.

We were to get a resounding affirmation on Simchat Torah, forty years ago, when Golda Meir attended Moscow's lone synagogue. Thousands of Jews, in defiance of the authorities, came forth in one of the great moments of our history.

Some time afterwards, an incredible odyssey began. Israeli diplomats in the Soviet Union began passing around copies of "Exodus." It underwent dozens of secret and illegal translations and eventually became known as "the book." My proudest achievement is that "Exodus" was among the strongest catalysts in re-uniting the Jews of the Soviet Union with their history and stirred thousands of make aliyah. These translations were done at enormous risk. Typewritten manuscripts were passed from hand to hand in clandestine drop spots and had to be read throughout a single night, then passed along the next day for another family or group. Eighteen months ago in Boston, a well-known refusenik, Leonid Volvovsky presented me with a Medal of Freedom.

He had spent three years in a Siberian labor camp for the crime of dealing in "Exodus." And I am sorry to say there were many more who suffered his fate.

I was elated when B'nai B'rith asked me to travel to the Soviet Union to speak in their new lodges, as I had been denied a visa on several previous occasions.

Once inside the Soviet borders, it became clear that I had been allowed to enter because the masters of deceit who ruled the land that felt that I could serve their new glasnost propaganda drive in the West. "See, we have an open society now. We even welcome a Zionist enemy like Leon Uris." I was artfully separated from my people by manipulation and intimidation.

Large meeting halls in the center of Moscow and Leningrad were suddenly switched by the authorities at the last moment, to little rooms in the suburbs.

In Leningrad, two meetings were set in areas where gangs of fascist punks called the pamyat hung out and the unwritten message was clear, "Go hear Uris at your own risk." Likewise, I had been briefed about a number of Jews who worked for KGB front organizations. Sure enough they tried to arrange peace and brotherhood meetings with me with the intention of photographing me shaking their hands. Fortunately, my intelligence had been good and I was able to avoid them.

Refusniks who had accompanied me and dissident journalists scheduled to interview me were suddenly whisked away to KGB headquarters.

An airline flight was changed arbitrarily forcing me to cancel a precious appearance on Latvian TV.

In Moscow, I was to speak at the Macoile House, the new Jewish cultural hall which had opened its doors to millions of words of praise in the Western press.

My party was driven so far from the center of the city, I thought surely we must be nearing the Siberian border. We arrived at a nondescript building which bore no sign of Jewish life and I was led to a meeting room that held, perhaps a hundred people. We expressed our suspicion and an anguished argument followed.

The director of the Macoile Center finally admitted we had been moved to a neighborhood "Hall of Atheism." The Macoile Center, we learned had been selectively padlocked a week after it was opened. Foreign speakers were re-routed at the last minute on some flimsy pretext. The bottom line to all this is that there is no ongoing Jewish cultural institution in Moscow.

It was a fraud established to deceive the Western world. The Jews are still under very tight control, are universally considered to be the enemy of Russia and in the new era of glasnost, the KGB has not suddenly dissolved its four million or so agents and vanished into the night.

The KGB is still the fact of Soviet life, as we are going to learn over and over again, in the coming days and months. I did realize a moment of exaltation in Moscow that made the long and grueling journey worth while. On Simchat Torah I attended the same synagogue as Golda had forty years earlier.

This particular holiday has become a special day of Jewish recognition and a sea of people, perhaps fifteen or twenty thousand, flooded the street outside and thousands more were inside.

However, my presence was the best kept secret in Moscow. When I worked my way to a seat near the bimah, television camera lights suddenly went dark and I could see visible discomfort by the rabbi at my being there. A few minutes later, some brave soul grabbed the microphone and announced I was worshipping with them. After a gasp of silence, pandemonium erupted.

I was invited to carry a Torah through the temple, but the moment had become too awesome and I declined. Seated next to me was Connie Smukler of Philadelphia, who is a saint in the Russian Jewry movement. She turned to me and said, "Leon, just because you didn't write it, doesn't mean you can't carry it."

I took the scrolls and walked into a crush of humanity. Faces and hands blurred as they reached out to touch the Torah and then, they touched me and kissed me until I was almost drowned in their tears.

Outside the synagogue, TV cameras from CNN and foreign networks had been turned back by the ever-present KGB. As we have come to learn, the Soviet Union is a house about to collapse. It is a dreary and depressed land that cannot feed, house or clothe its citizens, or give them the smallest vestiges of pleasure.

Virtually nothing of physical beauty has been built by human hands since nineteen twelve, except the vaunted Metro, which runs on time. Every forty seconds its doors open with precision and disgorge dull-eyed, silent people, devoid of laughter, or smiles, or even conversation.

The escalators carry them up to the streets of mustard colored buildings about to crumble and they wear their weariness as though it were the national emblem. The currency is valueless, the ideals are bankrupt, the black market is rampant. Food is rationed to long lines of listless people who wait for everything, particularly vodka. The highways and the mines are obsolete.

The factories are the worst polluters in the world, lest we forget Chernobyl.

Hard currency hookers jam the lobbies of all the foreign hotels.

These are citizens largely without a work ethic, subservient to authority, fear-filled, who sold themselves for the illusion of birth to death security.

Perestroika is a contradiction in terms. One cannot restructure a house with a rotten foundation, by using the same gang of architects who built it in the first place. The Russian people have no central force to gravitate to, except the Communist Party that got them into this mess in the first place. It is a land that has never had a democratic experience in its past to light the way to its future. Here are people and groups and republics pulling in every direction being sucked into a vortex of ideological chaos. Comrade Gorbachev dances on the head of a pin, every day trying to plug up leaks in a dam that is about to burst. Is it going to be possible for Russia to survive the imminent collapse of communism without convulsions of earthquake magnitude and bloodshed?

How can we in the West expect a democracy to emerge where none has ever existed and by a people with no basic understanding of how a democracy works? On whose side will the military come down? Where will the KGB come down? Where will sixty million Moslems come down?

We have seen only the tip of the iceberg insofar as the rebellious republics are concerned. Lithuania and the Baltics will be peanuts when the Ukraine gets restless and wants independence.

Is it not likely that some extreme form of government will emerge, perhaps after a coup or a civil war?

The scent of fascism and ultra nationalism is everywhere. And do not expect the old line Stalinists to slink off quietly. The pendulum can swing in an instant like a sudden summer lightning and with the military or KGB, the Stalinists can bully their way back into power with a new era of terror. I don't know, you don't know, President Bush doesn't know and Gorbachev doesn't know.

To know this. All of it spells bad news for the Jews. Glasnost, the new free speech, was not a benevolent gift from the Communist Party to the people, but an admission that they no longer have the power to govern.

Despite this, Russian says to its Jews, "If you stay here we will continue to abuse you and if you leave you are traitors, because we need your brains."

The vile, vicious, violent by-product of glasnost is plain old down home Russian anti-Semitism, bubbling up toward a national eruption.

A pogrom was rumored for yesterday, but there is nothing in Russian history to indicate it won't happen tomorrow or next week or next month. It is now legal to hate Jews publicly and the Soviet citizenry cannot and will not look into themselves and take responsibility for this monstrous system they have created. They need to assign blame and they're going to use the big lie one more time as they have done throughout their tortured history and blame the Jews.

Thus it has always been in Mother Russia, in Poland, in the Ukraine, in the Baltics, who now beg us to assist them to find their own freedom.

On the streets of Moscow and Leningrad and Kiev, the pamyat gangs scream slogans that the Jews have brought on the ruin of Russian.

Their black T-shirts and symbols smell of the Nazi thugs of Munich in 1922.

But, it is not only in the gutters that anti-Semitism is swelling. It is found in every level of the culture and society.

American diplomats and foreign journalists I have spoken to, tell me of the shock and alarm they felt at the rank Jew baiting by Russian intellectuals, scholars, writers and politicians.

Gorbachev has put on a dazzling display of talent. Any leader can look good when he is a winner, but it takes a real genius to lead a nation in defeat.

At this moment in history, he represents the only possibility to a peaceful transition. But no matter how brilliant he is, he cannot re-write nine centuries of history in which the Jew has been the scapegoat for Russian disasters.

Nor can he legislate the cancer of anti-Semitism out of the soul and mind of the Russian people. One dissident told me, "Jew hating is part of the air we breathe." For me the message is loud and clear. Our brothers and sisters in the Soviet Union do not need an emigration, they need an evacuation.

In Poland, I joined a UJA mission led by Ernie Michel, a survivor and a devoted and prominent servant of the Jewish people. I had visited many concentration camps and extermination facilities in my research, and I had never gone into a barrack with a survivor, who told us what day-to-day life was like. Every person who survived was blessed by hand of fate.

Ernie is no exception.

I have two particular friends in New York who are survivors. One of them collected the dead bodies from the barracks each morning and took them to the crematoria. The other took them out of the gas chambers with grappling hooks. The sheer physical enormity of the Birkenau operation, holding hundreds of thousands of human fodder, was dark testimony to the insane and diabolical mentality of its perpetrators.

The new Germans tell us not to fear reunification. We fear. And on this question, we are not in the minority. The world fears.

Later, in Warsaw, I was asked by Solidarity to give my assessment of the Jewish problem in Poland. After World War II, many thousands of Jews returned to Poland, only to be driven out again. The few remaining are old, the keepers of the ashes. I told the Solidarity people: "You no longer have a Jewish problem here. There are no Jews. Our continuity is finished.

But suppose you had kept the Jews?

Suppose the children and grandchildren of the million and a half Jews who fled your pogroms at the turn of the century were here now?

Suppose you had the doctors and musicians and merchants and teachers and scientists and writers an all the decency and all the devotion and beauty that the Russian and Polish Jews brought to the American Nation?

Suppose you had some of the sixty odd Nobel Prize laureates from American Jewry and Eastern European descent?

So, who lost? The Jews, or Poland?"

In Budapest, at last, I got to run a victory lap, where I celebrated the first legal publication of "Exodus" in Eastern Europe.

There is a revitalized Jewish community, a proud and newly free people, who will make a tremendous contribution to the recovery and future of Hungary, if they are only allowed to live in peace.

I made a final pilgrimage to the site where Raoul Wallenberg struggled to save Jewish lives. Lest we forget, six hundred thousand Hungarian Jews had been murdered and Hungary is a nation easily given to anti-semitism.

I thought of my visit earlier to Riga and I wondered. How could Jews re-build their community near an extermination facility operated and guarded by Latvian auxiliaries in the Nazi SS? What of those foolish Jews who returned to Poland? What is it that demands of us that we reconstruct our desecrated synagogues and revere our past in hostile lands? We erect monuments on the sites of ghettos and we give loyalty again to people who have betrayed us.

At this very moment there are rumbles of coming pogroms in Riga and Budapest.

Our strange, wonderful, terrible journey is carved in stone in the Book of Man. As a people we have enriched every land where we have set down. We all became Jews after the Holocaust and we became sons and daughters of Israel in 1948. We are the oldest players in the world in the game of survival. Rome and Egypt and ancient Greece have fallen and disappeared, but we have survived—not because of our armies, but because of our ideas.

Yes, we must support Jewish life wherever it exists, in Moscow, in Riga, In Krakow. However, it is my personal belief that there will be a decent life for Jews in Eastern Europe when you can grow onions in the palm of your hand.

I returned from my journey with three gifts. In Budapest, I received a piece of the Iron Curtain from the Government for shooting a million words over the borders. In Moscow, in a small meeting room in the middle of nowhere, I was presented with a Samidzat copy of "Exodus." An illegal translation. Its covers were worn from a thousand pairs of hands who had touched it and I thought of the other thousands who had read my words in dim light, behind drawn curtains, passing the book from mother to son, from father to daughter and I told my audience that night, I would rather have this volume than a Nobel Prize, and I meant it.

There was final momento from Poland. I was to give a presentation before the monument to the Warsaw ghetto uprising a few blocks from Mila 18. By the time I was called to the rostrum, it had turned dark. A number of people in the mission lit torches and formed a semi-circle around me so I could read my notes.

The monument wavered in eerie shadows as I read a passage where a young boy had been taken from the ghetto because he was deemed to have the best chance to survive because of his strength of character. His uncle, a commander of the Jewish forces ordered him to survive for a hundred thousand children who would be murdered in Treblinka. At that instant, I felt something hot on my hand, and saw it splatter on the page of notes written on Warsaw Holiday Inn stationery.

At first it appeared to be blood, but as it hardened, like a seal, I realized it was wax dripping from someone's torch. I looked up and saw Ernie Michel holding the torch over me. That boy I was reading about could have been Ernie, being ordered to survive. In that sacred instant, I felt the embodiment of the miraculous passage of Jewish life.

And so it is. Every generation of Jews since the fall of the second temple has been both blessed and burdened with the commission of doing what is necessary in their times for the survival of our people.

It is tragic to note that too many of our people blessed with comfort and freedom will seize upon any debatable Israeli decision and use it as an excuse not to fulfill their obligation as Jews.

The last great Jewish community under tyranny is in imminent peril. We have endured one Holocaust in our lives. We must never again bear witness to our women and children being paraded naked before the enemy. Otherwise we can no longer endure with human dignity. Many years ago, I was going through a deep personal crisis and desperately needed words of advice. I had been a marine in the Second World War and my own commander had become a role model in life. He had fought three wars and witnessed thousands of his men go down before retiring as a major general. I told him of my dilemma. He gave it to me in a few words that I have called upon for courage all my life. "Lee," he said, "be a marine," and I knew what he meant. And I say to you, "Be a Jew," and you know what I mean.●

## REFORMULATED GASOLINE: WHOSE RECIPE IS IT ANYWAY, AND WILL IT WORK?

● Mr. DASCHLE. Mr. President, I wish to address again the subject of reformulated gasoline, and, in particular, the outrageous accusations being made by the American Petroleum Institute in an attempt to deflect attention from the toxic gasoline they continue to peddle to the American public. I have several inserts that I would like to have included in the RECORD.

Most of my colleagues have seen the multimillion-dollar Government gas ad campaign that is being orchestrated by the API in the media. These advertisements make several claims, none of which are true. I would like to set the record straight.

Claim No. 1: Politicians are writing the chemical formula for gasoline, yet no testing has been done to show Government gas is less polluting, more efficient or affordable.

The truth: First, the reformulated gasoline specifications in the Senate bill are the result of many months of working with petroleum experts, auto industry representatives, and environmentalists. At the April 25 Auto/Oil Forum, Joseph M. Colucci, head of fuels and lubricants for General Motors and cochairman of the Joint Auto/Oil Testing Program, put forward the specifications for the ideal reformulated gasoline from his company's standpoint. Those specifications are almost identical to the major specifications for the reformulated gasoline in my amendment. Specifically, General Motors recommends the following specifications:

Volatility, 9 psi max.
Aromatics, vol. %, 25 max.
Benzene, vol. %, 0.8 max.
Olefins, vol. %, 5 max.
90% Dist. Temp. °F, 280-300 max.
Sulfur, ppm, 300 max.
Oxygenates, wt. %, 2.5 min.

Second, I would like to call my colleagues attention to a December 6, 1989, paper by ARCO chemical scientists, William Piel, that appeared in the Oil and Gas Journal. The article shows that $NO_x$, hydrocarbons, and carbon monoxide are dramatically reduced by adding the oxygenate MTBE to gasoline. In its ads, API claims that adding oxygen and not increasing $NO_x$ "defies science." It is a shame that API does not listen to its own scientists.

Claim No. 2: Government gas will increase smog.

The truth: As the ARCO paper shows, oxygen decreases smog, including the smog precursors of $NO_x$, hydrocarbons, and carbon monoxide. But the API will argue that their assertion is based on the amendment being met only by spash blended ethanol. This is a creative reading of the amendment and, while it may make for good headlines, it bears no relationship to the reality of what will occur when the standards are implemented.

First, anyone familiar with the debate knows that a 2.7 weight percent oxygen standard can be met by a variety of fuels. To demonstrate this point, I would like to cite an article that appeared in the Oil Daily on March 23. In reporting on the then-proposed Daschle amendment, the newspaper stated that, "The Daschle amendment does not appear to push ethanol, which would benefit grain States like South Dakota, any more than does the current Senate bill. The 2.7-percent oxygenate requirement could be met by either ethanol, made from grain, or methanol, made from natural gas." EPA predicts that the amendment will be met almost exclusively by MTBE, a methanol derivative.

Second, by using a hired gun to quickly produce the scientific results it wanted within a few weeks of the Senate vote on the Clean Air Act, API chooses to ignore various reports from EPA and other technical experts showing that the use of ethanol blends either has no effect on, or actually decreases, ozone emissions. I would like to submit for the RECORD an annotated bibliography of some of these studies, compiled by the Renewable Fuels Association. Sierra Research, API's hired gun, was recently criticized by EPA and the California Air Resources Board for its efforts to discredit methanol on the same grounds, namely that it increases ozone formation. I would like to insert an article from the trade publication New Fuels Report on the EPA and CARB critiques of the Sierra Research study. Among other things, the air quality officials criticized the study as being inaccurate and misleading, and dramatically skewed.

The fact is, and I doubt even Sierra Research would deny this, that if the same skewed tests had been run using EPA-approved emissions numbers—and I remind my colleagues that EPA and EPA numbers will be used to implement the Clean Air Act—then the results would have shown a 2-percent decrease in ozone formation.

In summary, the American Petroleum Institute is in a box. They cannot deny the increased toxicity of gasoline. They cannot deny that gasoline combustion and evaporation are now responsible for 85 percent of the benzene in the air. They cannot deny that today's high aromatic, high octane gasoline is unneeded, often damaging to your car, and always damaging to the environment and human health. Instead, they have set out to misrepresent what the Clean Air Act would do, misinterpret well documented science, and scare consumers with grossly overstated cost estimates.

Such an attempt to maintain market share and increase profits at the expense of human health and the environment is reprehensible, and should be viewed as such.

The material follows:

ENVIRONMENTAL FACTSHEET FOR ETHANOL BLENDS—WHAT EPA AND THE TECHNICAL EXPERTS HAVE TO SAY

I. ETHANOL BLENDS DO NOT WORSEN THE OZONE PROBLEM

1. "A 1988 EPA technical guidance document permits all fifty state air quality control agencies to count that percentage of the motor vehicle fleet in their State using 10-percent ethanol blends as helping to achieve the federally mandated ozone air quality standard."—EPA Guidance Document To The States On Emissions Factors For Motor Vehicles Using Ethanol Blends, EPA Report # AA-TSS-PA-87-4.

2. "A 1989 EPA technical report using the most sophisticated air quality computer model available concluded that in a simulated 1995 scenario for New York City with a 100-percent market penetration of a 10-percent ethanol blend, and a 1995 scenario for St. Louis with a 50-percent market penetration of a 10-percent ethanol blend, the measurable concentration of ozone that was attributable to using the ethanol blend was insignificant—less than one part per billion (the federal ozone standard is measured in parts per million)."—Application Of The Urban Airshed Model To The New York Metropolitan Area And The City Of St. Louis, EPA Report # 450/4-90-006e.

3. "A 1988 technical report, using the Empirical Kinetics Modeling Approach (EKMA) computer model, determined that the ozone-decreasing potential attributable to reduced CO exhaust emissions from 100-percent use of ethanol blends would result in less ozone formation in the modeled cities of Chicago, Tulsa, Nashville, and St. Louis."—Evaluation of the Impact of Ethanol/Gasoline Blends on Urban Ozone Formation, Systems Applications, Inc., February 1988.

4. "A 1990 technical report, prepared by the consulting firm with whom EPA contracted to design and develop the air quality computer model recognized as the most sophisticated computer model in existence, concluded by using this computer model that if ethanol were used (up to 10 percent)

in a one-for-one replacement of the xylene fraction in unleaded gasoline in 100 percent of the motor vehicles in the City of Los Angeles that ozone levels would be reduced by 9.2 percent."—Impacts Of Ethanol Fuel Use On Air Quality In Los Angeles, March 1990.

II. ETHANOL BLENDS REDUCE CARBON MONOXIDE EXHAUST EMISSIONS

1. "10-percent ethanol blends reduce carbon monoxide exhaust emissions from pre-1975 motor vehicles (non-catalytic converters) by 22.8 percent; reduce carbon monoxide exhaust emissions from 1976-1980 motor vehicles (open-loop catalytic converters) by 33.4 percent; and reduce carbon monoxide exhaust emissions from post-1980 motor vehicles (closed-loop catalytic converters) by 17.2 percent."—EPA Guidance Document To The States On Emissions Factors For Motor Vehicles Using Ethanol Blends, EPA Report # AA-TSS-PA-87-4.

2. In January 1988, EPA published a technical guidance document to be used by all state and local air quality control agencies in preparing their current and future emissions inventories for motor vehicles using alternative fuels. States must now include these emissions inventories in revised State Implementation Plans for compliance with the federal Clean Air Act. The emissions factors for motor vehicles using alternative fuels are to be used in conjunction with EPA's "MOBILE 4" computer model, which determines the emissions inventories for all motor vehicles in an urban area. For example, using the EPA technical document and the MOBILE 4 computer program, it can be determined that in calendar year 1990, if all cars (MOBILE 4 would assume all 1971-1990 models) were using an 11.5 RVP gasoline, and switched to a splash-blended 10-percent ethanol blend, average per vehicle carbon monoxide exhaust emissions would be reduced from 18.19 grams per mile to 13.71 grams per mile—a 25.1 percent reduction.

3. To help reduce the ozone problem in this country, EPA published on March 22, 1989, a federal rule imposing nationwide fuel volatility (RVP) controls on all motor vehicle gasoline. Among other reasons, but also in recognition of the fact that the use of ethanol blends can reduce ozone levels, EPA provided in the fuel volatility rule a one-pound RVP tolerance for ethanol blends. Ethanol blends can reduce ozone because they significantly reduce carbon monoxide emissions, a precursor of ozone formation. In making this determination, the rulemaking record reveals that EPA analyzed at least thirteen technical reports, the data from which indicated that ethanol blends reduced carbon monoxide exhaust emissions in 43 pre-1975 test vehicles between 17.8 and 50.1 percent; reduced carbon monoxide exhaust emissions in 116 1975-1980 test vehicles between 25.3 and 45.6 percent; and reduced carbon monoxide exhaust emissions in 58 post-1980 test vehicles between 13.1 and 30.2 percent.

III. ETHANOL BLENDS REDUCE HYDROCARBON EXHAUST EMISSIONS

1. "10-percent ethanol blends reduce hydrocarbon exhaust emissions from pre-1975 motor vehicles (non-catalytic converters) by 4.2 percent; reduce hydrocarbon exhaust emissions from 1976-1980 motor vehicles (open-loop catalytic converters) by 14.5 percent; and reduce hydrocarbon exhaust emissions from post-1980 motor vehicles (closed-loop catalytic converters) by 2.4 percent."—EPA Guidance Document To The States On Emissions Factors For Motor Vehicles Using Ethanol Blends, EPA Report # AA-TSS-PA-87-4.

2. In January 1988, EPA published a technical guidance document to be used by all state and local air quality control agencies in preparing their current and future emissions inventories for motor vehicles using alternative fuels. States must now include these emissions inventories in revised State Implementation Plans for compliance with the federal Clean Air Act. The emissions factors for motor vehicles using alternative fuels are to be used in conjunction with EPA's "MOBILE 4" computer model, which determines the emissions inventories for all motor vehicles in an urban area. For example, using the EPA technical document and the MOBILE 4 computer program, it can be determined that in calender year 1990, if all cars (MOBILE 4 would assume all 1971-1990 models) were using an 11.5 RVP gasoline, and switched to a splash-blended 10-percent ethanol blend, average per vehicle hydrocarbon exhaust emissions would be reduced from 1.043 grams per mile to 0.961 grams per mile—an 8.5 percent reduction.

3. To help reduce the ozone problem in this country, EPA published on March 22, 1989, a federal rule imposing nationwide fuel volatility (RVP) controls on all motor vehicle gasoline. Among other reasons, but also in recognition of the fact that the use of ethanol blends reduce hydrocarbon exhaust emissions, EPA provided in the fuel volatility rule a one-pound RVP tolerance for ethanol blends. In making this determination, the rulemaking record reveals that EPA analyzed at least thirteen technical reports, the data from which indicated that ethanol blends reduced hydrocarbon exhaust emissions in 43 pre-1975 test vehicles an average of 3.7 percent; reduced hydrocarbon exhaust emissions in 116 1975-1980 test vehicles an average of 15.6 percent; and reduced hydrocarbon exhaust emissions in 60 post-1980 test vehicles an average of 3.5 percent.

IV. ETHANOL BLENDS REDUCE NITROGEN OXIDES EXHAUST EMISSIONS

1. "A report prepared by researchers from the Tennessee Valley Authority which analyzed five technical reports reporting the exhaust emissions from motor vehicles using 10-percent ethanol blends revealed that nitrogen oxides ($NO_x$) emissions in pre-1975 test vehicles were reduced 6.0 percent."—Modeling The Effect Of Ethanol/Gasoline Blend Usage, prepared by Tennessee Valley Authority, 1986.

2. "A report prepared by engineers from General Motors Research Laboratories revealed that GM production vehicles with closed-loop catalytic converters (1975-1980 models) operating on 10-percent ethanol blends had "significantly lower" exhaust emissions of nitrogen oxides (22 percent) when compared to non-alcohol base gasoline exhaust emissions."—Exhaust Emissions From Cars Fueled With Gasoline Containing Ethanol, prepared by General Motors Research Laboratories, 1980.

3. "A report prepared by the Department of Chemical Engineering of the University of Nebraska revealed that pre-1975 test vehicles operating on 10-percent ethanol blends showed no net increase in nitrogen oxides emissions."—Tests On Unleaded Gasoline Containing Ten Percent Ethanol, prepared by the University of Nebraska, 1977.

4. "A report prepared by the U.S. Department of Energy revealed that nitrogen oxides exhaust emissions from 53 test vehicles operating on 10-percent ethanol blends were reduced an average of 5.7 percent when compared to the non-alcohol base gasoline exhaust emissions."—Laboratory and Fleet Test Evaluation of Ethanol Blends, prepared by the U.S. Department of Energy, 1980.

5. "A report prepared by the Southwest Research Institute for the U.S. Environmental Protection Agency revealed that the use of 10-percent ethanol blends in 1975-1980 test vehicles exhibited "little or no effect" on nitrogen oxides exhaust emissions."—Gasohol Effects On Light-Duty Emissions, Southwest Research Institute, 1979.

6. "A technical report, prepared by the consulting firm with whom EPA contracted to design and develop the air quality computer model recognized as the most sophisticated computer model in existence, concluded by using this computer model that if ethanol were used (up to 10 percent) in a one-for-one replacement of the xylene fraction in unleaded gasoline in 100 percent of the motor vehicles in the City of Los Angeles that nitrogen oxide levels would be reduced by 8.8 percent."—Impacts of Ethanol Fuel Use Air Quality In Los Angeles, prepared by Systems Applications, Inc., March 1990.

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[From New Fuels Report, May 7, 1990]

EPA, CARB Blast Study Showing Methanol May Form More Ozone Than Gasoline

U.S. Environmental Protection Agency and California air quality officials are blasting as inaccurate and misleading a recent study by the Sacramento, CA-based Sierra Research, Inc. which states that there is "grave doubt" regarding the benefits of methanol fuels in automobiles because methanol may lead to more ozone formation than conventional gasoline.

These officials see Sierra Research's report as another attempt to derail moves underway in Congress and in California to set tough vehicle emissions standards that will require the use of cleaner-burning fuels, such as methanol. The officials charge that to a large extent Sierra Research represents the petroleum industry, which opposes the mandated use of methanol.

The report, Ozone Benefits of Alternative Fuels: a reevaluation based on actual emissions data and updated reactivity factors, finds that if both methanol and gasoline-fueled vehicles meet the most stringent emissions standards yet adopted, those fueled by methanol will form the same or slightly more ozone, not less. The authors conclude that this, "is in stark contrast to previous and more simplistic estimates of methanol's air quality impact. Plans based on the assumed air quality benefits of methanol need immediate reevaluation." The analysis is based on the "maximum incremental reactivity" method used by the California Air Resources Board to establish "ozone equivalent" emission standards for volatile organic compound (VOC) emissions from cars running on alternative fuels.

The Sierra Research analysis applies CARB's method to emissions data from vehicles running on gasoline, 85% methanol-15% gasoline (M85), 100% methanol (M100), compressed natural gas, and liquefied petroleum gas fuels in a flexible-fueled vehicle. Sierra Research calculated the ozone reactivity of the vehicle exhaust produced by each fuel, based on the VOC-related quantities specified by CARB. The study explains that for cars running on gasoline, LPG or CNG, the regulated quantity is the non-methane hydrocarbon emissions (NMHC), while for methanol-fueled vehicles it is the organic material hydrocarbon equivalent

(OMHCE). The exhaust reactivity values were then expressed by Sierra Research as grams of ozone formed per gram of NMHC or OMHCE emitted.

For the methanol-fueled vehicles, Sierra Research observed the same or a slight increase in reactivity compared with those fueled by gasoline. However, the study notes that other alternative fuels saw a benefit in reduced reactivity. Sierra Research finds a 10% to 18% reduction in LPG reactivity and as much as a 50% reduction in CNG.

An EPA official blasted the Sierra Research report as having "no relevancy" to how clean methanol can be compared with gasoline. The main point of inaccuracy in Sierra Research's study is the comparison of methanol and gasoline emissions based on current standards, he said. EPA established emissions standards for methanol vehicles several years ago so that the absence of standards would not impede the introduction of methanol-fueled cars. It is currently drafting regulations for CNG vehicles. Under current rule for methanol, any methanol-fueled vehicle produced has to be certified to meet emissions standards of "equal stringency" to that of a gasoline-powered car. The EPA source said the intention of this rule was to require an emission standard for methanol that would equal the standard for gasoline because it would not have been fair to require methanol to meet a tougher standard, such as those under consideration in the Clean Air Act and at CARB, because it would have placed a competitive restriction on methanol.

Comparing methanol emissions to that of gasoline based on the most stringent standards in place will not result in methanol showing a greater benefit in ozone reduction than gasoline because the emissions standards are of equal stringency, according to the source. It is misleading to say that methanol will produce the same or slightly higher ozone emissions as gasoline, based on the use of current emission standards, he said. When more stringent emission standards are imposed, methanol produces significantly less ozone-forming compounds than gasoline.

California air quality officials say Sierra Research inappropriately used the "maximum incremental reactivity" methodology. A source noted that Sierra Research used total volumes of hydrocarbons in its calculation of reactivity which included methane content. By including methane content, which is less reactive than the non-methane content of hydrocarbons, the results of the Sierra Research analysis were "dramatically skewed," the source said.●

## MADISON POLICE DEPARTMENT CELEBRATES 100 YEARS

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the Madison, NJ, Police Department as they join together with State and county police departments to celebrate 100 years of dedicated service to their community.

Madison's Police Department was established on January 24, 1890, with two uniformed marshals performing the police duties. Today, the police department stands strong with 25 patrol officers, 4 sergeants, 4 lieutenants, 1 captain, and 1 chief.

The duties of today's officer are far more diversified and complex than the marshals of 100 years ago. Today's unrest is not the same as that of the early 1900's when new settlers and immigrants flocked into town. In those days, fighting, and stealing of produce and poultry were common crimes. Today's police officers are asked to protect our children from drugs and battle crime related to drugs. Despite these differences, the Madison police of yesterday and today still perform the same basic functions—to protect our families and homes, answering the public's calls for help and properly enforcing the law.

Every day for the past 100 years the Madison police officers have put their lives on the line to protect their community. And their accomplishments as policemen are a testament to their commitment. They should be proud of what they and over half a million men and women who devote themselves to law enforcement have chosen to do with their lives. They are a special group of American heroes, an elite corps who deserve the thanks and support of us all.

As the town of Madison gathers to celebrate its police department's 100th anniversary and various units throughout the State join in on this momentous occasion, I extend my congratulations to all of Madisons law enforcement officials, past and present and to Chief of Police Donald Capen and Capt. John Salmon for their dedicated efforts.●

## HEALTH REFERRAL SERVICE

● Mr. LUGAR. Mr. President, I would like to take this opportunity to inform my colleagues of the Health Referral Service. This agency, in operation since 1979, serves the Indiana communities of Lafayette and West Lafayette, and Tippecanoe County.

The Health Referral Service, a division of the Visiting Nurse Home Health Service, Inc., is a not-for-profit organization. The service is funded through Federal community block grants but relies heavily on a core of over 120 volunteer physicians, dentists, nurses, and community servants. It provides health and health-related screening and referral to low-income individuals and families. The 60-percent of all clients who cannot be treated in the service's office are referred to a physician or dentist and assisted in making necessary appointments. The director of the Service also performs follow-up treatment that may be required.

The Health Referral Service is based on the belief that a healthy community is one which can take care of its own. The Service maintains that reaching the goal of a healthy community which can meet the health care needs of low-income families requires the active participation not only of volunteers but also of local leaders, churches, and philanthropic organizations. Accordingly, the Health Referral Service works with religious and philanthropic groups to help offset the costs of prescription medications and medical appliances.

I ask my colleagues to join me in saluting the Health Referral Service and its many volunteers on the occasion of their 10-year anniversary.●

## VISIT BY THE PRESIDENT OF TUNISIA

● Mr. INOUYE. Mr. President, I rise today in recognition of the visit to the United States of His Excellency Zine el Abidine Ben Ali, President of the Republic of Tunisia. It is a pleasure to welcome him to our shores and to have the opportunity to publicly express our appreciation for his leadership in the cause of peace in the Middle East.

Since assuming the Presidency of his country 2½ years ago, President Ben Ali has demonstrated his commitment to building democracy, improving the social conditions of his people and liberalizing Tunisia's economy. His efforts have been impressive, and despite several recent setbacks, should result in a renewed confidence in the stability and vitality of the country.

The elections held in April 1989 were Tunisia's most open and free since achieving independence in 1956. A wide range of opposition political parties participated with over 10,000 political prisoners released and their full civil rights restored. Since then, most political parties and associations have been legalized, including the independent Democratic Women's Association. The Department of State cited these and other significant improvements in its human rights report for 1989, and I am confident that with the continued support of the United States, President Ben Ali will remain committed to these noble reforms.

On the economic front, President Ben Ali is to be commended for taking a number of difficult steps to restore prosperity to the country. He has done this despite numerous setbacks in recent years which have included: the loss of approximately 50,000 agricultural jobs on top of already high unemployment, a drop in grain production by 85 percent, and an unanticipated Government expenditure of 10 percent for food imports, due to a drought which has plagued the country for over 2 years.

Nevertheless, President Ben Ali has not strayed from his original reform path which consists of moving from the wide-ranging Government regulation of his predecessor to a more a liberal, open economy with minimum of pricing controls. On August 12 of last year, the President announced price increases to several heavily subsidized

products in an effort to reduce the country's deficit. Remaining subsidies will now be targeted to the most socially disadvantaged segments of society.

In addition, Tunisia also is in the process of gradual currency devaluation as part of its effort to move toward a convertible currency in its next 5-year plan. These economic reforms have begun to pay off, with significantly new foreign investment in the country being reported. Exports increased by 40.2 percent from 1988 to 1989 despite a decline in petroleum production, an impressive achievement. Similarly, in the first half of last year, imports rose 44.5 percent suggesting a future expansion of the agro-industry and textile sectors.

Tunisia is still on the road to recovery after suffering significant crop losses during the 1988 locust infestation. With the close cooperation of the United States, Tunisia was able to initiate an eradication effort which limited the extend of the damage. Long-term planning and close collaboration will be needed to prevent a recurrence of this problem. Tunisia is one of the few countries which responded impressively to the infestation, and in doing so, helped to lessen the impact on its neighbors.

United States-Tunisian cooperation also extends to the military sphere where, for nearly a decade, the two nations have worked to bring stability to the region through the Joint Military Commission. I am confident the United States will continue to contribute the necessary resources to the Government of Tunisia to enable it to meet its ongoing defense requirements.

Lastly, I would like to offer my personal appreciation to President Ben Ali and the people of Tunisia for their efforts on behalf of Middle East peace. In these difficult times, peacemakers and moderate statesmen are rare and deserve our encouragement and support. President Ben Ali has demonstrated these qualities in his encouragement of the five nation Arab Maghreb Union. In the words of the President, the union marks a "turning point in the destiny of our peoples," and I agree.

Tunisia also has played an important role in some of the region's more intractable conflicts. We all recall that in 1982, the Government of Tunisia demonstrated its leadership role by accepting, at the request of the United States, elements of the Palestine Liberation Organization [PLO] evacuated from Beirut. More recently President Ben Ali has been active in trying to normalize relations between the United States and Libya and has offered to mediate the ongoing dispute between our two countries.

I believe that President Ben Ali has proven himself a valued friend and ally of the United States. It is with great pleasure that I extend my warm welcome and best wishes to him in the hope that our two countries will continue to maintain a close and supportive relationship in the future.●

## NIGHT OF 100 STARS III

● Mr. LAUTENBERG. Mr. President, I want to call my colleagues' attention to an extraordinary benefit held in New York the evening of May 5 at Radio City Music Hall. The "Night of 100 Stars III" was held to benefit the entertainment world's own charity, the Actors' Fund of America, to support its AIDS assistance programs.

Established 108 years ago, the Actors' Fund is the oldest theatrical charity in the world. The fund provides timely and confidential help through many comprehensive programs and services to the entertainment professional working in any capacity of the entertainment industry.

The Actors' Fund maintains a complex in my home State in Englewood, NJ, consisting of a retirement residence—the Actors' Fund Home, and a 50-bed extended care facility offering the finest in skilled nursing care.

In 1982, the Actors' Fund celebrated its centennial by staging the first "Night of 100 Stars" to benefit the needy of show business. A sequel, "Night of 100 Stars II" was held in 1985. The productions of these two benefits enabled the Actors' Fund of America to build their current extended care facility. This state of the art facility is now fully occupied.

The AIDS epidemic has hit the entertainment industry hard. To meet the challenge of the AIDS crisis, The Actors' Fund provides a comprehensive assistance Project for People With AIDS. The program is also designed to assist individuals diagnosed as HIV positive, with ARC, or AIDS and to assist their families as well. This program is administered by professional social workers, and provides care and support while bridging the gaps in government and community services. Currently one-fourth of the Actors' Fund's annual budget goes to provide care and housing for entertainment professional affected by AIDS.

More than $4 million was spent last year as the fund answered the growing needs of its constituency, and the proceeds from the "Night of 100 Stars III" will help meet these continuing needs.

On the "Night of 100 Stars III" the entertainment industry turned out in full force to show their support and to raise funds to combat this terrible disease that has claimed the lives of so many talented individuals.

Living legends, Helen Hayes, Katherine Hepburn and Jimmy Stewart were cochairpersons of this fundraising extravaganza. I was honored to serve with my Senate colleagues from the tristate region as an honorary cochairperson for the benefit.

May the fine work of this outstanding organization continue in the fight against AIDS.●

## ORDER FOR STAR PRINT—S. 2112

Mr. PELL. Mr. President, I ask unanimous consent that S. 2112 be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MULTIPLE-USE SUSTAINED-YIELD WEEK

Mr. PELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 240, designating Multiple-Use Sustained-Yield Week, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 240) designating the week of June 10, 1990, through June 16, 1990, as "Multiple-Use Sustained-Yield Week."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 240), with its preamble, is as follows:

S.J. RES. 240

Whereas 1990 marks the 30th anniversary of enactment of the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 through 531);

Whereas national forests were established to improve and protect the forests within their boundaries;

Whereas national forests are managed to meet outdoor recreation, range, timber, watershed, wildlife, fish, wilderness, and other needs including those set forth in the Act of June 4, 1897;

Whereas the Multiple-Use Sustained-Yield Act of 1960 was enacted by Congress to enhance and supplement the purposes for which the national forests were established.

Whereas under the Multiple-Use Sustained-Yield Act of 1960, the term "multiple use" includes the management of all the various renewable surface resources of the national forests so that such resources are

utilized in the combination that will best meet the needs of the American people;

Whereas multiple use management of Government lands accommodates the needs of various land uses by reducing conflict between such uses, and by providing for harmonious and coordinated management of resources;

Whereas under the Multiple-Use Sustained-Yield Act of 1960, the term "sustained yield of several products and services" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land;

Whereas it is the duty of the Secretary of Agriculture to protect and manage the lands of the national forests, under a multiple-use, sustained-yield basis, and such duty is essential to the continued welfare and security of this Nation; and

Whereas the Multiple-Use Sustained-Yield Act of 1960 was signed into law on June 12, 1960 by President Dwight D. Eisenhower: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week of June 10, 1990, through June 16, 1990, is designated as "Multiple-Use Sustained-Yield Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities and programs.

Mr. PELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## TOURISM POLICY AND EXPORT PROMOTION ACT OF 1990

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 526, S. 1791, the Tourism Policy and Export Promotion Act of 1990.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1791) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

*That this Act may be cited as the "Tourism Policy and Export Promotion Act of 1990".*

*FINDINGS*

*SEC. 2. The Congress finds that—*

*(1) the travel and tourism industry is the second largest retail or service industry in the United States;*

*(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;*

*(3) travel and tourism expenditures last year were approximately $350 billion;*

*(4) in 1988 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;*

*(5) international visitors spent approximately $43 billion in the United States last year;*

*(6) travel and tourism services ranked as the largest United States export in 1989;*

*(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States; and*

*(8) although the trade deficit is shrinking, imports continue at record levels, and therefore, export expansion must remain a national priority.*

*NATIONAL GOAL*

*SEC. 3. It shall be the national goal under this Act to increase and sustain United States export earnings from United States tourism and transportation services traded internationally and to maintain a travel and tourism export surplus in order to help eliminate the overall United States trade deficit.*

*STATISTICAL REPORT*

*SEC. 4. (a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—*

*(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and*

*(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.*

*The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.*

*(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on—*

*(1) the status of the efforts required by subsection (a); and*

*(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.*

*TOURISM TRADE BARRIERS*

*SEC. 5. (a) NATIONAL TRADE ESTIMATES.—Section 181(a)(1)(A)(i) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1)(A)(i)) is amended by inserting "travel and tourism;" immediately after "commodities;".*

*(b) REPORT ON TRADE BARRIERS.—Section 181(b)(1) of the Trade Act of 1974 (19 U.S.C. 2241(b)(1)) is amended by inserting "and Committee on Commerce, Science, and Transportation" immediately after "Finance".*

*ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS*

*SEC. 6. (a) FINDING.—The Congress finds that foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border.*

*(b) ACTION BY SECRETARY.—The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States.*

*TOURISM TRADE DEVELOPMENT*

*SEC. 7. (a) ANNUAL PLAN.—(1) Section 202(a)(15) of the International Trade Act of 1961 (22 U.S.C. 2123(a)(15)) is amended by striking "marketing" and inserting in lieu thereof "tourism trade development".*

*(2) Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:*

*"(e) Beginning with fiscal year 1991, each annual tourism trade development plan developed and submitted to the Congress by the Secretary under subsection (a)(15) of this section shall focus on those countries with respect to which tourism trade development has the greatest potential for increasing travel and tourism export revenues.".*

*(b) ADVISORY BOARD.—(1) Section 303(a)(3) of the International Trade Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—*

*(A) in subparagraph (A), by striking "and";*

*(B) in subparagraph (B), by striking "one" and inserting in lieu thereof "two" and by striking the period at the end and inserting in lieu thereof "; and"; and*

*(C) by adding at the end the following new subparagraph:*

*"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".*

*(2) The last sentence of section 303(b) of the International Travel Act of 1961 (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years overall".*

*(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended—*

*(A) by striking "and" and inserting in lieu thereof a comma; and*

*(B) by inserting immediately before the period at the end the following: ", and when the plan is submitted to the Congress, shall send to the Congress by separate communication the comments of the Board on the plan".*

*(c) CONFORMING AMENDMENTS.—(1) Section 204 of the International Travel Act of 1961 (22 U.S.C. 2123b) is amended by striking "marketing" each place it appears and inserting in lieu thereof "tourism trade development".*

*(2) Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—*

*(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and*

*(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".*

*(3) Section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended—*

*(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and*

*(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".*

COORDINATION

SEC. 8. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that the services of the United States and Foreign Commercial Service continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM DEVELOPMENT FOUNDATION

SEC. 9. (a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereinafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequests which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

(h) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(i) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(j) ADMINISTRATION.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(k) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay with government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived there-

*from if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.*

*(l) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.*

*(m) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.*

*(n) DEFINITIONS.—As used in this section, the term—*

*(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));*

*(2) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));*

*(3) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and*

*(4) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.*

*(o) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—*

*(1) by striking "and" at the end of paragraph (14);*

*(2) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and*

*(3) by adding at the end the following new paragraph:*

*"(16) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1990, in the development and promotion of rural tourism.".*

TOURISM DEVELOPMENT STUDY

*SEC. 10. (a) REQUIREMENT TO ASSEMBLE INFORMATION.—The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel, including but not limited to case studies of existing scenic byways. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.*

*(b) STUDY.—The Secretary of Commerce shall conduct a study regarding—*

*(1) economic effects associated with the public identification and promotion of scenic byways as tourist attractions;*

*(2) techniques for incorporating scenic byways into tourism development programs;*

*(3) economic effects associated with the public identification and promotion of Indian reservations as tourist attractions; and*

*(4) techniques for incorporating Indian reservations into tourism development programs.*

*(c) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Commerce shall transmit to the Congress a report on the information assembled under subsection (a) and the results of the study conducted under subsection (b), including any recommendations based on that study.*

POLICY CLARIFICATIONS

*SEC. 11. (a) NATIONAL TOURISM POLICY.—(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:*

*"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"*

*(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—*

*(A) by redesignating paragraphs (2) through (12) as paragraphs (5) through (15), respectively; and*

*(B) by inserting immediately after paragraph (1) the following new paragraphs:*

*"(2) increase United States export earnings from United States tourism and transportation services traded internationally;*

*"(3) ensure the orderly growth and development of tourism;*

*"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".*

*(b) DUTIES OF SECRETARY OF COMMERCE.—(1) Section 201 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended—*

*(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;*

*(B) in paragraph (3), as so redesignated, by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;"; and*

*(C) by inserting immediately after paragraph (1) the following new paragraph:*

*"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;".*

*(2) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".*

*(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by section 7(a) of this Act, is further amended by adding at the end the following new subsection:*

*"(f) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".*

*(d) REPEAL.—The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by repealing section 203.*

*(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—*

*(A) by redesignating subparagraphs (H) and (I) as subparagraphs (L) and (M); and*

*(B) by inserting immediately after subparagraph (G) the following new subparagraphs:*

*"(H) the Secretary of Agriculture;*

*"(I) the Chairman of the Tennessee Valley Authority;*

*"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;*

*"(K) the Administrator of the Small Business Administration;".*

*(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:*

*"(4)(A) Every year, upon designation by the Secretary of Commerce in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.*

*"(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".*

AUTHORIZATION OF APPROPRIATIONS

*SEC. 12. (a) IN GENERAL.—Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended—*

*(1) in the first sentence by inserting immediately before the period the following: ", not to exceed $15,000,000 for the fiscal year ending September 30, 1990, not to exceed $18,000,000 for the fiscal year ending September 30, 1991, and not to exceed $21,000,000 for the fiscal year ending September 30, 1992"; and*

*(2) by striking the last two sentences.*

*(b) FUNDS FOR FOUNDATION.—Of the funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a), there are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1990, 1991, and 1992 not to exceed $500,000 to—*

*(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and*

*(2) provide administrative services for the Rural Tourism Development Foundation.*

*(c) FINANCIAL ASSISTANCE FOR STATE PROGRAMS.—There is authorized to be appropriated to the Secretary of Commerce not to exceed $10,000,000 for the period beginning October 1, 1989, and ending September 30, 1992, for the purpose of providing financial assistance for States whose tourism promotion needs have increased due to disasters. The funds authorized under this subsection shall be in addition to any funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a).*

The PRESIDING OFFICER. Are there amendments to the substitute?

AMENDMENT NO. 1632

(Purpose: To make a substitute amendment for section 5)

Mr. PELL. Mr. President, on behalf of the Senator from West Virginia [Mr. ROCKEFELLER] I send an amend-

ment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for Mr. ROCKEFELLER, proposes an amendment numbered 1632.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike section 5 and insert in lieu thereof the following:

TOURISM TRADE BARRIERS

SEC. 5. (a) ANALYSIS AND ESTIMATES.—For calendar year 1990 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1991 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1632) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1633

Mr. GARN. Mr. President, on behalf of Senator STEVENS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. STEVENS, proposes an amendment numbered 1633.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 1, insert the phrase "or lands owned by an Alaska Native Corporation" after the word "reservation".

On page 32, line 7, insert the phrase "or lands owned by Alaska Native Corporations" after the word "reservations".

On page 32, line 10, insert the phrase "or lands owned by Alaska Native Corporations" after the word "reservations".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1633) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROCKEFELLER. Mr. President, today I rise to support the passage of S. 1791, the Tourism Policy and Export Promotion Act of 1990. This bill will maximize the export potential of the tourism industry.

At a time when our balance of payments is awash in red ink, the travel and tourism industry stands as a net exporter generating a surplus of over $1.3 billion in 1989. My State of West Virginia has experienced the tangible benefits of a healthy tourism industry. Tourists spend nearly $4 million a day in my State and tax revenues generated by the tourist industry amount to almost $104 million a year. Most importantly in a State where employment has been battered by imports, this export industry employs over 38,000 West Virginians.

If this industry is to continue to be an engine of economic growth and export expansion, then there must be a vigorous and coordinated Federal policy. S. 1791 sets the proper course. It provides the first 3-year reauthorization of the U.S. Travel and Tourism Agency [USTTA] in 9 years. It recognizes the importance of this industry as a net exporter. To achieve its stated goal of expanding upon our recent surplus in travel and tourism revenues, the major provisions of S. 1791 will:

Require the USTTA to concentrate its efforts on those countries that have the greatest potential for increasing travel and tourism expenditures; further, in order to target the appropriate markets for expansion, the Commerce Department will be required to improve its data collection process.

The Secretary of Commerce is directed to take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States. This problem is particularly acute at points of entry along the Canadian border and at the Honolulu airport.

In addition, for those of us from rural States whose economies desperately need economic diversification, the bill establishes a Rural Tourism Foundation.

I am offering an amendment to section 5 of the bill to require the Department of Commerce to do an annual study of trade barriers to travel services and tourism. The committee bill required USTR to include this information in their National Trade Estimates. After discussions with the industry and the administration, I have come to the conclusion that it is more appropriate for USTTA to compile and report this information.

So, Mr. President, what we will pass here today is a trade bill with no quotas, requiring no convoluted negotiations and threatening no retaliation. Instead, we have an export promotion act that has bipartisan support in this body and strong support from the tourism industry. Mr. President, with the enactment of this bill, we will finally have a Federal policy which is fitting of an industry which represents growth, employment, and revenues.

Mr. BURNS. Mr. President, I rise today to applaud my colleagues for joining with Senator ROCKEFELLER and me on S. 1791, the Travel Policy and Export Promotion Act of 1990.

I am proud to have been a part of updating the tourism policy for this great country of ours. Tourism is an industry that involves so many segments of our work force and yet it is taken for granted by leaders of our country, industry itself, and the general populous.

Those of us who rely on tourism for our States' well-being and economic health need to work double time to increase the awareness and appreciation for what a large industry tourism is.

In March of this year, the Department of Commerce reported that travel and tourism commanded a trade surplus for the first time in 29 years, to the tune of $1.2 billion. It led agriculture in export earnings.

This gives us living proof that tourism is alive and well in America today. Now our job and commitment is to make sure that tourism is given every chance to maintain and even increase its performance.

It is only proper that we are passing this bill the week before National Tourism Week. I encourage all of my colleagues as well as those who make their living from tourism to get out next week and promote your industry. It all counts, and every little effort makes a difference.

Many people do not know they belong to such a fast growing and lucrative business. The guy who fries hamburges at the local fast food restaurant, the housekeeper who cleans rooms in the local motels, the guy who works road construction in Montana, or the airline pilot who flies businessmen and vacationers into West Virginia; they are all a part of this great

business of tourism and probably do not even think about it.

We have to make everyone working in these types of jobs aware of themselves and the important job they do to produce a $1.2 biliion surplus in U.S. tourism. It takes all of us.

I am glad to see the efforts that USTTA and others are making to develop tourism through small business in rural America. Their national rural tourism study has been a great step forward in bringing growth to the rural areas of this country.

There are many states like Montana, Wyoming, the Carolinas, and others that have a hard time drawing visitors away from the crowded metropolitan hot spots. Especially the foreign visitors.

It takes a concentrated effort to build awareness and educate travelers, whether they are business or pleasure travelers, to the idea of venturing into the unknown, lesser traveled areas of our country. We are pretty good folks once you get out and meet us. I know they will like us once they find us.

Today it is more important than ever that rural States like my home of Montana and others look seriously at diversifying their economic development resources. In my home State we have miles and miles of open roads and beauty and splendor that not many States have left to offer.

It is important that we do not stop with this one piece of legislation to support tourism. In future months I will be working with my colleagues to bring about changes that will help support the changes that are needed to encourage growth and prosperity in tourism. We need to build incentive for businessmen and businesswomen to open businesses and and take on leadership roles that will help build this industry's future.

We need to encourage innovative and creative thinking and action. But in order for this creativity to succeed we need to offer support and leadership in the right places. We need to be creative in our thinking here in the Congress.

I ask my colleagues here today to act with me in the future. I know we can make a difference.

Mr. STEVENS. Mr. President, today we consider the Tourism Policy and Export Promotion Act. I am delighted to be an original cosponsor of the measure.

The tourism industry is important nationwide, but it is especially important in Alaska. It is our third largest industry and has created some 20,000 jobs. Last year Alaska had more visitors than we have people with nearly 800,000 visitors touring our State. Together, they spent half a billion dollars in Alaska. That is one-quarter of our entire State budget.

This bill will go a long way in promoting tourism in this country, particularly in rural areas like Alaska. It establishes a Rural Tourism Development Foundation to develop and implement programs and projects to attract foreign visitors to remote areas.

The foundation would help promote our national parks, national forests, and national recreation areas. This function is critical in a State like Alaska where we have 70 percent of the Nation's park lands, a quarter of our national forests, and one-third of our public lands under the stewardship of the Bureau of Land Management.

This legislation also encourages development of the tourism industry in rural communities which have been severely affected by the decline of mining activities. The National Park Service has effectively shut down mining in Alaska's national parks. Many are converting their mining camps into wilderness retreats for tourism. It is my hope that those miners can take advantage of this program to help them make the transition from a mining to a tourism based economy.

Finally, the bill includes a provision that Senator HOLLINGS and I added in committee. It provides $10 million to promote tourism in States that have been struck by disasters. South Carolina is still struggling to recover from Hurricane Hugo. And Alaskans are trying to recuperate from the effects of the *Exxon Valdez* oilspill.

This money will help our States let visitors know that South Carolina and Alaska are still great vacation destinations.

I thank Senator HOLLINGS for his leadership on this issue and want to express my appreciation to Senator DANFORTH for supporting our amendment. I also want to express my gratitude to Senator ROCKEFELLER for all his hard work in drafting the bill.

Mr. HOLLINGS. Mr. President, I support the passage of S. 1791, the Tourism and Export Promotion Act of 1990, which recognizes the importance of tourism to our economy. Tourism is not just Bermuda shorts, cameras, golf clubs, and tennis. This is an industry that means millions of jobs and billions of dollars a year. Last year, tourism was responsible for creating 6.6 million jobs and bringing in $36 billion in revenue. In my State, tourism is now the second largest employer. As an export, the travel and tourism industry just recently posted a $1.3 billion surplus in our balance of payments.

Mr. President, with the exception of the aircraft industry, this is the only industry in which we are running a positive balance of trade, and yet, our Federal tourism policy has not been changed for over 10 years. Furthermore, the U.S. Travel and Tourism Administration [USTTA] has not been reauthorized in 9 years.

S. 1791, introduced by my colleague, Senator ROCKEFELLER, provides for a 3-year authorization for the USTTA of $15 million, $18 million, and $20 million. In constant dollars, this funds the agency at 1978 levels. The bill also changes the focus of our national tourism policy from marketing to its rightful place, trade promotion. I applaud my colleague's important efforts to bring tourism the attention it deserves.

In addition, Mr. President, S. 1791 recognizes the special needs that arise when a disaster strikes a major tourist area. The Alaskan oilspill, the San Francisco earthquake, and Hurricane Hugo all resulted in physical devastation to some of the most beautiful and popular tourist centers in the United States. But what can be even more devastating to the tourism industries—after the debris is cleared and the beaches are cleaned—is the false perception that the areas have been destroyed. For example, nearly 8 months after the San Francisco earthquake, tourism to the bay area has suffered a precipitous decrease in visitors to the area. Unfortunately, people do not realize that San Francisco, and the areas in my own State of South Carolina hit so hard by Hurricane Hugo, are in fact cleaned up and ready for business. Restoration of the tourism industry in my State alone will preserve the jobs of over 96,000 residents of my State employed in the industry and sustain the $4.5 billion in revenue that South Carolina receives from tourists. This economic impact is not only important to my State but to the economic well-being of the rest of the Nation.

Thus, Mr. President, S. 1791 will authorize up to $10 million for a 3-year period to States whose tourism and promotional needs have increased as a result of a disaster. This modest sum will pay a handsome dividend by restoring jobs and revenues to States which have suffered from the ravages of disasters, and preserving an important national industry.

Mr. President, S. 1791 sets a course for a vigorous and coordinated Federal tourism policy to expand upon a bright, shining light in our otherwise dismal trade picture. I ask my colleagues to join me in supporting this important measure.

Mr. DANFORTH. Mr. President, I urge my colleagues to join me in support of the Tourism Policy and Export Promotion Act of 1990, a bill to help the United States capture its share of the international tourism market.

At this time, the United States lags behind in this fast growing and lucrative economic market. While Western Europe attracts between half and two-thirds of all world tourism earnings, the United States attracts only about 10 percent, or $43 billion. In spite of our poor showing, at $43 billion, tour-

ism by foreign visitors generated our Nation's largest export revenue earnings last year, followed by agriculture, chemicals, and motor vehicles. In fact, in 1989, the U.S. tourism industry achieved its first international trade surplus of $1.2 billion.

Enactment of S. 1791 would help us hang on to that long-awaited tourism trade surplus. Specifically, S. 1791 directs the U.S. Travel and Tourism Administration to increase and sustain our export earnings by focusing our promotional activities on countries with the greatest potential for increasing our market share.

Another important provision in S. 1791 creates a Rural Tourism Development Foundation to help the USTTA spread the benefits of foreign tourism to every part of the U.S.A. In 1987, the most recent year for which statistics are available, foreign visitors spent over $107 million in Missouri. Missouri has a first-rate product to offer—our State is rich in terms of history and cultural heritage, scenic beauty and recreational opportunities, events ranging from first-rate major league baseball to world renowned symphony orchestras, experiencing life in both big cities and small towns. We are telling the world about the Show Me State through USTTA's overseas marketing campaign involving Missouri and other States in America's Heartland. With the help of the Rural Tourism Development Foundation, Missouri—and other States that offer foreign tourists a unique chance to get into the country—can do even more.

Finally, I am proud to recognize the vital role that a fine Missourian has played in bringing S. 1791 to a vote in the Senate. Peter Herschend, who serves on the Senate Commerce Committee's Travel and Tourism Industry Advisory Council, has been a key source of inspiration and energy as we have worked to get this bill written, introduced, and approved. I urge my colleagues to support S. 1791 and help us take one more step toward its enactment.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1791), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1791

That this Act may be cited as the "Tourism Policy and Export Promotion Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) travel and tourism expenditures last year were approximately $350 billion;

(4) in 1988 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(5) international visitors spent approximately $43 billion in the United States last year;

(6) travel and tourism services ranked as the largest United States export in 1989;

(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States; and

(8) although the trade deficit is shrinking, imports continue at record levels, and therefore, export expansion must remain a national priority.

NATIONAL GOAL

SEC. 3. It shall be the national goal under this Act to increase and sustain United States export earnings from United States tourism and transportation services traded internationally and to maintain a travel and tourism export surplus in order to help eliminate the overall United States trade deficit.

STATISTICAL REPORT

SEC. 4. (a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

TOURISM TRADE BARRIERS

SEC. 5. (a) ANALYSIS AND ESTIMATES.—For calendar year 1990 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1991 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS

SEC. 6. (a) FINDING.—The Congress finds that foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border.

(b) ACTION BY SECRETARY.—The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States.

TOURISM TRADE DEVELOPMENT

SEC. 7. (a) ANNUAL PLAN.—(1) Section 202(a)(15) of the International Trade Act of 1961 (22 U.S.C. 2123(a)(15)) is amended by striking "marketing" and inserting in lieu thereof "tourism trade development".

(2) Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e) Beginning with fiscal year 1991, each annual tourism trade development plan developed and submitted to the Congress by the Secretary under subsection (a)(15) of this section shall focus on those countries with respect to which tourism trade development has the greatest potential for increasing travel and tourism export revenues.".

(b) ADVISORY BOARD.—(1) Section 303(a)(3) of the International Trade Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking "and";

(B) in subparagraph (B), by striking "one" and inserting in lieu thereof "two" and by striking the period at the end and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) of the International Travel Act of 1961 (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years overall".

(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended—

(A) by striking "and" and inserting in lieu thereof a comma; and

(B) by inserting immediately before the period at the end the following: ", and when

the plan is submitted to the Congress, shall send to the Congress by separate communication the comments of the Board on the plan".

(c) CONFORMING AMENDMENTS.—(1) Section 204 of the International Travel Act of 1961 (22 U.S.C. 2123b) is amended by striking "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—

(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and

(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".

(3) Section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended—

(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and

(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".

COORDINATION

SEC. 8. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that the services of the United States and Foreign Commercial Service continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM DEVELOPMENT FOUNDATION

SEC. 9. (a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereinafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation or lands owned by an Alaska Native Corporation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequests which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

(h) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(i) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(j) ADMINISTRATION.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and

the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(k) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay with government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(l) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(m) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(n) DEFINITIONS.—As used in this section, the term—

(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(4) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(o) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

(1) by striking "and" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1990, in the development and promotion of rural tourism.".

TOURISM DEVELOPMENT STUDY

SEC. 10. (a) REQUIREMENT TO ASSEMBLE INFORMATION.—The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel, including but not limited to case studies of existing scenic byways. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.

(b) STUDY.—The Secretary of Commerce shall conduct a study regarding—

(1) economic effects associated with the public identification and promotion of scenic byways as tourist attractions;

(2) techniques for incorporating scenic byways into tourism development programs;

(3) economic effects associated with the public identification and promotion of Indian reservations or lands owned by Alaska Native Corporation, as tourist attractions; and

(4) techniques for incorporating Indian reservations or lands owned by Alaska Native Corporation, into tourism development programs.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Commerce shall transmit to the Congress a report on the information assembled under subsection (a) and the results of the study conducted under subsection (b), including any recommendations based on that study.

POLICY CLARIFICATIONS

SEC. 11. (a) NATIONAL TOURISM POLICY.—(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"

(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (5) through (15), respectively; and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".

(b) DUTIES OF SECRETARY OF COMMERCE.—(1) Section 201 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(B) in paragraph (3), as so redesignated, by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;"; and

(C) by inserting immediately after paragraph (1) the following new paragraph:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;".

(2) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by section 7(a) of this Act, is further amended by adding at the end the following new subsection:

"(f) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEAL.—The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by repealing section 203.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by redesignating subparagraphs (H) and (I) as subparagraphs (L) and (M); and

(B) by inserting immediately after subparagraph (G) the following new subparagraphs:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;".

(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Every year, upon designation by the Secretary of Commerce in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) IN GENERAL.—Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended—

(1) in the first sentence by inserting immediately before the period the following: ", not to exceed $15,000,000 for the fiscal year ending September 30, 1990, not to exceed $18,000,000 for the fiscal year ending September 30, 1991, and not to exceed $21,000,000 for the fiscal year ending September 30, 1992"; and

(2) by striking the last two sentences.

(b) FUNDS FOR FOUNDATION.—Of the funds authorized under section 304 of the Interna-

tional Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a), there are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1990, 1991, and 1992 not to exceed $500,000 to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(2) provide administrative services for the Rural Tourism Development Foundation.

(c) FINANCIAL ASSISTANCE FOR STATE PROGRAMS.—There is authorized to be appropriated to the Secretary of Commerce not to exceed $10,000,000 for the period beginning October 1, 1989, and ending September 30, 1992, for the purpose of providing financial assistance for States whose tourism promotion needs have increased due to disasters. The funds authorized under this subsection shall be in addition to any funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a).

Mr. PELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar 770. Michael P. Galvin, to be an Assistant Secretary of Commerce; Calendar 772. David W. Mullins, Jr., to be a member of the Board of Governors of the Federal Reserve System; Calendar 773. Jessica L. Parks, to be a member of the Merit Systems Protection Board, and Calendar 774. Anthony J. Hope, to be Chairman of the National Indian Gaming Commission.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Michael Paul Galvin, of Illinois, to be an Assistant Secretary of Commerce.

FEDERAL RESERVE SYSTEM

David W. Mullins, Jr., of Arkansas, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1982.

MERIT SYSTEMS PROTECTION BOARD

Jessica L. Parks, of Georgia, to be a member of the Merit Systems Protection Board for the remainder of the term. expiring March 1, 1995.

DEPARTMENT OF THE INTERIOR

Anthony J. Hope, of California, to be Chairman of the National Indian Gaming Commission for a term of 3 years.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, The Senate will resume legislative session.

## SYMPOSIUM ON SENATE LEADERSHIP

Mr. MITCHELL. Mr. President, I wish to call to Members' attention a special day-long symposium on the history of Senate party leadership, which will take place this Thursday. This event is jointly sponsored by the Senate Bicentennial Commission and the Dirksen Congressional Center.

The conference will profile the contributions of nine distinguished 20th-century Senate floor leaders, beginning with John W. Kern, who served in the Woodrow Wilson era, and concluding with Mike Mansfield, who left the Senate in 1977.

The speakers were selected from among the Nation's leading journalists, historians, and political scientists. Each is a specialist on the operations of the U.S. Congress.

Sessions will be held between 9:15 a.m. and 4:30 p.m. in the auditorium of the Dirksen Senate Office Building. At 4:30 former Senate Majority Leader Howard Baker will present to Mike Mansfield the first annual Dirksen Center Award for Meritorious Service.

All Senators are invited to join Senator Baker and Senator Mansfield at a reception beginning at 5 p.m. in room S-146 of the Capitol Building.

## ORDERS FOR TOMORROW

MORNING BUSINESS

Mr. PELL. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate recesses today, it stand in recess until 9:30 a.m. Thursday, May 17, 1990; following the time for the two leaders, there be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each and that the Senate resume consideration of S. 195, the chemical and biological weapons bill, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL 9:30 A.M. TOMORROW

Mr. PELL. Mr. President, if the acting Republican leader has no further business and if no Senator is seeking recognition, I now ask unanimous consent the Senate stand in recess under the previous order until 9:30 a.m., Thursday, May 17, 1990.

There being no objection, the Senate, at 6:48 p.m., recessed until Thursday, May 17, 1990, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate May 16, 1990:

DEPARTMENT OF STATE

G. PHILIP HUGHES, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BARBADOS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE COMMONWEALTH OF DOMINICA, AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SAINT LUCIA, AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SAINT VINCENT AND THE GRENADINES.

DAVID PASSAGE, OF NORTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOTSWANA.

RICHARD WAYNE BOGOSIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHAD.

PHILIP S. KAPLAN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS DEPUTY UNITED STATES REPRESENTATIVE TO THE NEGOTIATIONS ON CONVENTIONAL ARMED FORCES IN EUROPE (CFE).

FEDERAL EMERGENCY MANAGEMENT AGENCY

RUSSELL FLYNN MILLER, OF MARYLAND, TO BE INSPECTOR GENERAL, FEDERAL EMERGENCY MANAGEMENT AGENCY (NEW POSITION).

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be lieutenant general*

LT. GEN. THOMAS R. FERGUSON, JR., [redacted], U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHN E. JAQUISH, [redacted], U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3383:

ARMY PROMOTION LIST

*To be colonel*

FRANK Q BERTAGNOLLI, [redacted]
GILBERT E COPELAND, [redacted]
MICHAEL R FIELDING, [redacted]
ALBERT P GRUPPER, [redacted]
ROBERT L LELLI, [redacted]
ROELIFF L LOOMIS, [redacted]
LEE J PRYOR, [redacted]
DAVID A RAY, III, [redacted]
THEODORUS VEENHUIS, [redacted]
GERALD E ZIMMER, [redacted]

CHAPLAIN

*To be colonel*

WILLIAM GRAHAM, [redacted]
MARVIN SCHNEIDER, [redacted]

MEDICAL CORPS

*To be colonel*

DOUGLAS P DAVIS, [redacted]
JUAN A RUIZ BETANCES, [redacted]

MEDICAL SERVICE CORPS

*To be colonel*

DENNIS P SMITH xxx-xx-xxxx

ARMY PROMOTION LIST

*To be lieutenant colonel*

DAVID E BOCHNA xxx-xx-xxxx
JAMES M BOERSEMA xxx-xx-xxxx
ROBERT D CARMAN xxx-xx-xxxx
CHARLES J CWENAR xxx-xx-xxxx
WILLIAM B DEVOS xxx-xx-xxxx
WAYNE A ELLIS xxx-xx-xxxx
RICHARD L ELLWOOD xxx-xx-xxxx
ROBERT J FREEMAN xxx-xx-xxxx
KEVIN F HARRINGTON xxx-xx-xxxx
JOHN M HUGHES xxx-xx-xxxx
RANDALL J KOPITZKE xxx-xx-xxxx
CALVIN C KOSEKI xxx-xx-xxxx
JOSEPH M LAURA xxx-xx-xxxx
PATRICK W LEDRAY xxx-xx-xxxx
ELON W MADDOX, JR. xxx-xx-xxxx
DAVID R MCWHORTER xxx-xx-xxxx
PHILIP E MULLIN xxx-xx-xxxx
ANDREW C OLIVO xxx-xx-xxxx
WILLIAM L ROBBINS xxx-xx-xxxx
ROBERT E RUDOLPH xxx-xx-xxxx
WALTER R SCHUMM xxx-xx-xxxx
MICHAEL J SCHWEIGER xxx-xx-xxxx
RICHARD J SNYDER xxx-xx-xxxx
WILLIAM J TROY xxx-xx-xxxx
JAMES A TURPIANO xxx-xx-xxxx
ANTHONY P WASSON xxx-xx-xxxx
CLYDE YOSHIMURA xxx-xx-xxxx
RAYMOND C ZIMMERMAN xxx-xx-xxxx

CHAPLAIN

*To be lieutenant colonel*

RAYMOND J OGE xxx-xx-xxxx

MEDICAL CORPS

*To be lieutenant colonel*

RICKY D WILKERSON xxx-xx-xxxx

MEDICAL SERVICE CORPS

*To be lieutenant colonel*

JAMES L HESLOP xxx-xx-xxxx

VETERINARY CORPS

*To be lieutenant colonel*

WILLIAM B WALTON xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3370:

ARMY PROMOTION LIST

*To be colonel*

GEORGE CHALUSTOWSKI xxx-xx-xxxx
ROBERT P FAIRCHILD xxx-xx-xxxx
MALVOICEN C HART xxx-xx-xxxx
HAROLD F LYON xxx-xx-xxxx
JAMES T MCCANDLESS xxx-xx-xxxx
WALTER S TOWNS xxx-xx-xxxx
ALBERT C ZAPANTA xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3366:

ARMY PROMOTION LIST

*To be lieutenant colonel*

PHILIP D ANDREWS xxx-xx-xxxx
HARRIS D ARLINSKY xxx-xx-xxxx
ELWOOD W CARTER xxx-xx-xxxx
JOHN B CONLEY xxx-xx-xxxx
GREGORY B COX xxx-xx-xxxx
JOE W ESTES xxx-xx-xxxx
RONALD T HOLLINGSWORTH xxx-xx-xxxx
WILLIAM R POWELL xxx-xx-xxxx
DENNIS M SHAW xxx-xx-xxxx
ERIC K WHINSTON xxx-xx-xxxx
RAYMOND A YANCEY xxx-xx-xxxx

MEDICAL CORPS

*To be lieutenant colonel*

WALLACE N WEBER xxx-xx-xxxx

MEDICAL SERVICE CORPS

*To be lieutenant colonel*

ERICH MENGER, III xxx-xx-xxxx

THE FOLLOWING-NAMED INDIVIDUALS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A), 594(A), AND 3359:

MEDICAL CORPS

*To be lieutenant colonel*

ENID A KURTZ xxx-xx-xxxx
DOMINICK A MINOTTI xxx-xx-xxxx

## CONFIRMATIONS

### Executive nominations confirmed by the Senate May 16, 1990:

DEPARTMENT OF COMMERCE

MICHAEL PAUL GALVIN, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

FEDERAL RESERVE SYSTEM

DAVID W. MULLINS, JR., OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1982.

MERIT SYSTEMS PROTECTION BOARD

JESSICA L. PARKS, OF GEORGIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE REMAINDER OF THE TERM EXPIRING MARCH 1, 1995.

DEPARTMENT OF THE INTERIOR

ANTHONY J. HOPE, OF CALIFORNIA, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR A TERM OF 3 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

# EXTENSIONS OF REMARKS

## INDUSTRIAL POLICY REVISITED

### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. LaFALCE. Mr. Speaker, beginning in 1983 I held over 100 hearings on the issue of industrial competitiveness, which many called industrial policy. I called for creation of a committee of business, labor, and academic leaders to analyze industrial, competitiveness and recommend necessary steps, sector by sector.

One of the key economists in the Reagan White House, Dr. Paul Krugman, who served with the Office of Management and Budget, adamantly opposed my efforts to set goals for the economy.

Now, Dr. Krugman has changed his mind. In the Journal of Commerce of Tuesday, May 8, Dr. Krugman says that he now believes "that U.S. interests would be served by adoption of a limited, explicit, industrial policy for high-technology sectors."

Welcome aboard, Dr. Krugman. I would be delighted if he would try to convince the current Bush White House to adopt his new posture.

The following is Dr. Krugman's article from the Journal of Commerce:

[From the Journal of Commerce, May 8, 1990]

INDUSTRIAL POLICY'S NOT SO BAD

(By Paul Krugman)

In the early 1980's there was widespread support for a U.S. industrial policy. Economists, however—myself included—roundly denounced the industrial policy enthusiasts.

There is a respectable intellectual case for government intervention to promote some industries, especially those likely to generate important technology spillovers, but seven or eight years ago it seemed unlikely that our government would have the knowledge to pursue a useful industrial policy or the will to avoid turning it into a political pork barrel.

This article represents a partial recantation. I now believe that U.S. interests would be served by adoption of a limited, explicit industrial policy for high-technology sectors.

The reason is only to a small extent that I have changed my views about the economics of industrial policy. It is true that even while the general public's faith in free markets has been growing, economic theory has in recent years moved increasingly away from the kind of models that justify that faith.

The real reason that we need an industrial policy, however, is political. It is the only realistic answer to what otherwise will be a growing confrontation with Japan.

This is not the place to recapitulate the endless arguments over how Japan works. Let me simply assert that the widespread perception that Japan plays by different rules from the rest of us is basically right. This is not a moral judgment, a question of what's right or what's fair. It is just a statement of fact. Japan's market is not open to foreigners in the way that the U.S. or West Germany markets are open.

How much of a problem does the Japanese difference pose for the United States? To defenders of Japan, and to those who believe that a restructured U.S. economy is about to enter a golden age, there is no problem at all.

To alarmists, Japan's challenge is undermining America's economic prospects. The reality is more mundate. Japan's difference hurts the U.S. economy, but only a little. The Japan problem is real, but it is not central.

Yet the problem cannot be dismissed. Japan is a great economic power that does not play by the same rules as the other great economic powers. Economically, and above all politically, that is a fact that cannot be ignored. One way or another, the United States has got to find a way of dealing with Japan.

There are two extreme views about what to do. On one side are the old-time free traders, who want us in effect to turn the other cheek. On the other side are the bashers, who want us to confront Japan and demand massive change, or else.

For those of us in neither camp, the whole issue is agonizing. The old-time free-trade position seems naive, reflecting neither the realities of Japan nor the political possibilities for America. Yet the basher program does not seem very appealing either. Above all, it is virtually certain to fail in its premise: Japan will not change all of a sudden, and we therefore will be stuck with the "or else."

My political forecast is that the bashers will more or less have their way, and that the next decade will be one of growing economic nationalism. This nationalism will be expressed in a demand for import restrictions that will hurt our own economy at least as much as they hurt Japan's.

But this is an outcome that might be avoided if, instead of trying to bully the Japanese into acting like us, we adopt an explicit, but limited, industrial policy. That is, the U.S. government should make a frank decision to subsidize a few sectors, especially in the high-technology area, that may be described plausibly as "strategic," and in which there is a perceived threat from Japanese competition.

I am not at all sure that the actual economic benefits of such a policy will exceed its costs. However, the downside would be limited: federal expenditures of, say, $10 billion a year to support industrial research and development consortia would produce at least some benefits, so that even at worst the net cost of the program to the economy would be a few billion a year—that is, less than 0.1% of the gross national product.

At the same time, such a limited industrial policy could serve a double-edged political purpose. It could be an answer to those who fear that Japanese strategic trade policy is squeezing the United States out of all the key sectors, and it could provide an incentive for the Japanese to find ways to open up their system, if only to persuade the United States not to subsidize industries that complete with Japanese exports.

An on-budget program would be less likely to turn into a pure tool of special interests that a program of import restrictions whose costs consist of higher prices that are virtually invisible to consumers.

I am not advocating some form of "managed trade"—nor would managed trade be an acceptable second-best alternative to the proposed industrial policy. One of the main purposes of the policy proposal is precisely to provide an alternative to managed trade, with its hidden costs and near-total dominance by interest-group politics.

Viewed from the right perspective, then, a limited U.S. industrial policy could be a relatively inexpensive way to cope with the stresses produced by relative U.S. decline and the special problem of dealing with Japan.

This is a safe policy proposal to make, since it seems unlikely that such a clean solution will be adopted. Bashers prefer managed trade, perhaps because its costs are less indentifiable; politicians prefer it for the same reason; and in the 1990s anything that raises the current budget deficit is avoided whatever its future costs. But I am now convinced that industrial policy is the lesser of several evils.

## EL SALVADOR: A DEFENSE

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday May 16, 1990*

Mr. CRANE. Mr. Speaker, I am confused. In a few days my colleagues and I will be asked to vote on a bill which authorizes emergency assistance to emerging democracies and at the same time eliminates some of the funds to the struggling democracy in El Salvador. Is it, or is it not, our goal to promote democracy throughout the world? Or do we only support those countries which are in the first stages of reform, and desert them when they truly need us the most?

I would like to share with my colleagues who continue to question whether our money has been used to improve conditions in El Salvador the following article written by President Cristiani. The piece, which appeared in the Washington Post, highlights a number of positive changes that have taken place in El Salvador since General Romero was overthrown in 1979 and gives much of the credit for these changes to the United States. The President specifically states in the article that our aid has been particularly useful in helping out the most impoverished Salvadorans.

In his inaugural address 11 months ago, President Cristiani unveiled a five-point plan to achieve lasting peace in his country and, to date, there is every indication that he is sin-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cerely committed to this goal. With this in mind, it is easy to understand why President Cristiani questions, as do I, why the United States would consider withdrawing support from his government now when "there has never been so much encouraging progress on all fronts to demonstrate that U.S. aid is being well spent and U.S. policy is well conceived."

I urge my colleagues to take a moment to consider President Cristiani's remarks before the vote on H.R. 4636.

[From the Washington Post, Apr. 27, 1990]

EL SALVADOR: A DEFENSE

(By Alfredo Cristiani)

Many Americans, including some in Congress, as evidenced by a vote yesterday in a House committee, sharply question whether all the aid the United States has provided for El Salvador has accomplished anything at all. After a decade of U.S. support, they argue, nothing has changed. The guerrilla war and abuse of human rights by government forces continue, while nothing is done for the one-quarter of Salvadoran families living in extreme poverty.

In El Salvador we find it odd that this question is raised at this time, because from our perspective there has never been so much encouraging progress on all fronts to demonstrate that U.S. aid is being well spent and U.S. policy is well conceived.

For example:

El Salvador has become a functioning democracy.

We have had six elections in the past 10 years, and when I took office last year after winning 54 percent of the vote, it was the first time in our history that the reins of government had passed from one civilian to another through popular elections. Our constitutional democracy had passed a crucial test that should please all Americans.

The prospects of peaceful settlement of the war have never looked better.

In my inaugural address 10 months ago I declared that the quest for a peaceful settlement to the decade-long conflict with the Marxist terrorist Farabundo Marti Liberation Front (FMLN) was my top priority, and I outlined a five-point plan to achieve it. Talks began last year, but the FMLN broke them off in November by launching its biggest offensive of the war at the heart of our cities, thinking it could touch off a popular uprising against the elected government. But the people refused, and the FMLN was driven back.

In December the presidents of the five Central American countries meeting in San Isidro de Coronado, Costa Rica, issued a direct statement of support for my government, which it characterized as the product of "democratic, pluralistic and participative processes." The presidents asked the U.N. secretary general to urge both sides to resume the peace negotiations. Without hesitation I set aside any bitterness over the terrorist attacks and went to United Nations headquarters in New York to ask for Secretary General Javier Perez de Cuellar's intermediation. His efforts produced our first session with the FMLN in Geneva two weeks ago, in which both sides agreed to work toward a U.N.-verified truce and to continue talks scheduled to resume during the next few weeks at a time and place yet to be decided. This progress in our quest for peace should spark hope in everyone who genuinely wants a decent end to our agony.

The army is more disciplined and has proved itself willing to investigate abuses of human rights within its ranks.

Ten years ago Archbishop Oscar A. Romero was gunned down by a death squad widely suspected to have been made up of military men. No official attempt was ever made to find the killers. During the guerrilla offensive last November six Jesuit priests, their housekeeper and her daughter were barbarously murdered at the University of Central America in San Salvador. Within hours I ordered a full-scale investigation by our U.S.-funded and trained Special Investigative Unit and requested further technical assistance from the FBI, Scotland Yard and the Canadian and Spanish police. With this international help, we ran more than 300 ballistic tests on the weapons of soldiers near the university at the time. Within two months, an army colonel, three lieutenants and five enlisted men were indicted for the crime. Meanwhile, the search continues for evidence that may link others to the crime, and our offer of a $250,000 reward for information that would lead to additional arrests is still open. There has not been and will not be any cover-up to protect anyone we can get evidence against.

Our critics may say that nothing has changed in El Salvador since Archbishop Romero's assassination in 1980, but our actions should indicate that everything has changed since then. The high command has cooperated fully in the effort to root out the killers within its ranks. This has never happened before. It sends the message to the other military people that such crimes will not be tolerated. It also tells the vast majority of the military, who are good people, that the bad apples are going to get caught.

While it is true we cannot guarantee that a judge or jury will convict these men for this outrageous crime (we wouldn't be a democracy if we could), we will vigorously prosecute the case to the full extent of the law. We are limited by a legal system that has been described as flawed, but I am pushing ahead with legislation to correct these shortcomings.

Our economic and social programs are directed toward the most impoverished Salvadorans.

We are in the first and most difficult stages of a structural adjustment program to correct the economic mistakes of the past and introduce the kind of competitive free enterprise system that is the only proven way to bring about development and prosperity. But to avoid further burdening our poorest people, we have exempted them from major price increases for services resulting from the ending of government subsidies. Moreover, we have given out almost 15,000 land ownership titles to landless farmers who couldn't get their titles under the existing land reform program, which made it difficult for them to get credit to finance their crops. This should rejuvenate the land-reform system.

U.S. economic aid has played a key role in helping our poor, because they are the most directly affected when the guerrillas blow up rural buses and electric power lines. U.S. funds enable us to repair critical infrastructure quickly to minimize the effect on these people and their livelihoods.

Can we say here in 1990 that we are a perfect democracy with no human rights problems? Of course not. But we are making progress, and nothing is more important to continued advancement than a peace settlement. But let me be clear about this: it would be a serious mistake to cut or curtail aid at this crucial moment in the peace process. It would lead those who want to overthrow our democracy by violent means to believe that they can achieve in Washington what they could not achieve in El Salvador.

If these talks succeed and the FMLN guerrillas agree to join with us in our democracy, our goal is to reduce the size of our military substantially and convert U.S. military aid into education, health and other programs for the most needy, including job training for former combatants.

We know that El Savador's problems cannot be solved by violence. Rather, we are convinced that economic progress measured by social justice for all Salvadorans can only be obtained within the framework of constitutional democracy.

## A TRIBUTE TO THE PEPPERELL POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Pepperell Police Department for their dedicated and outstanding service to the people of Pepperell, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Pepperell Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief David Young and those who serve in the Pepperell Police Department:

Thomas Lane, James Scott, Allen Davis, Benjamin McDonald, Kenneth Beers, Steven Bezanson, James Peters, Armando Herrera, Peter Gibbs, Jessica Leblanc, Brian Goldman, Alan Lessieur, and Kevin Cooney.

## A NEED FOR A CHANGE OF U.S. FOREIGN POLICIES IN THE SOUTH PACIFIC

### HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FALEOMAVAEGA. Mr. Speaker, I was privileged recently to have accompanied Chairman STEPHEN SOLARZ of the House Foreign Affairs Subcommittee on Asia-Pacific, and Congressman ROBERT DORNAN of the

House Armed Services Committee, in August of last year to review U.S. policies toward the Pacific Region on Oceania.

Mr. Speaker, I am pleased to share with my colleagues a summary analysis and our findings as a result of our meeting with several of the leaders of Pacific nations.

Mr. Speaker, I submit for the RECORD an excellent summary of our findings as so eloquently stated by Chairman SOLARZ.

PROBLEMS IN PARADISE: UNITED STATES INTERESTS IN THE SOUTH PACIFIC

(Statement by Representative Stephen J. Solarz)

For four decades and more, ever since the end of World War II, American policy and American policymakers have largely ignored the South Pacific. At best our policy toward the region has been one of benign neglect. As a consequence, the tremendous store of goodwill that our wartime liberation of the region gained us in the South Pacific has gradually diminished, until today that reservoir of friendliness and sympathy toward the United States is in danger of drying up.

The peoples of the South Pacific correctly point out that U.S. aid to the 17 countries and entities of the region, exclusive of $10 million provided under the South Pacific Fisheries Treaty, totals a paltry $6.9 million. By way of comparison, Australia, according to the latest available figures, provides well over $250 million; Japan, $66 million; and New Zealand, with a population smaller than Kentucky's or Arizona's, over $40 million.

In other respects, as well, there is a growing perception in the region that the United States is not responsive to the needs or the sensibilities of the inhabitants of the South Pacific. Included among their grievances are the failure of the United States to ratify the protocols to the Treaty of Rarotonga establishing a South Pacific Nuclear Free Zone; perceived U.S. support for France's program of nuclear testing in the region; the absence of permanent U.S. diplomatic missions in many of the countries of the region; and a belief that Washington is not sufficiently responsible to the region's environmental concerns.

Some will ask why we should care about the South Pacific. Why, in an era of budgetry constraints, should the United States adopt a more visible and active role in the region? The answer, simply stated, is that it is in our interests to do so. Indeed the United States has a wide range of political, security, economic, and humanitarian interests in the region that would be well served by a new policy that gives higher priority to the South Pacific.

Politically, we have an interest in sustaining sister democracies around the world.

Strategically, we have an interest in keeping open the air and sea lanes connecting Australia, New Zealand, and the United States, and in maintaining our long-standing policy of strategic denial vis-a-vis the Soviet Union.

Economically, we have an interest in the rich marine and mineral resources of the region.

And from a humanitarian point of view, we have an interest in helping the people of the South Pacific, many of whom subsist on a per capita income considerably below $1,000 a year, overcome the often harsh conditions under which they live.

Convinced of the importance of the region for the United States, and believing that the time was ripe for a new look at American interests and policies in the South Pacific, two of my colleagues and I made a trip to the region last August. Joining me were Congressman Robert K. Dornan (R-Calif.) of the House Armed Services Committee and Congressman Eni Faleomavaega (D-American Samoa) of the House Foreign Affairs Committee. Over the course of twelve days we visited seven countries: Kiribati, Fiji, Western Samoa, New Caledonia, Vanuatu, Papua New Guinea, and the Solomon Islands.

Today we are releasing a formal report on our trip, entitled "Problems in Paradise: United States Interests in the South Pacific." I believe I am correct in saying that this document is the most comprehensive study of U.S. interests in the South Pacific and U.S. relations with the countries of the South Pacific ever produced by the Congress. Certainly it is the most up-to-date.

As part of our report, we have offered a number of recommendations of both a regional and a country-specific nature. Among those recommendations are the following:

The U.S. should continue its leadership role on the driftnet fishing issue.

The Administration should submit the Protocols of the Treaty of Rarotonga to the Senate for ratification.

The U.S. should beef up its diplomatic presence in the region.

The U.S. should establish additional bilateral aid missions in the region.

The U.S. should initiate a South Pacific scholarship program.

Acting in cooperation with our friends in the region, the U.S. should plan special ceremonies commemorating the 50th anniversaries of the major World War II battles of the South Pacific.

The Administration should submit the South Pacific Regional Environmental Program Convention and the associated Protocols to the Senate for ratification.

The U.S. should expand high level contacts between American and South Pacific leaders.

The U.S. should increase the level of U.S. representation at meetings of the regional organizations.

The U.S. should take steps to see that Voice of America broadcasts are available to a larger regional audience.

The Peace Corps should expand its presence in the region.

The Administration should prepare a strategy for the promotion of trade, investment, and tourism in the South Pacific.

The U.S. should reorganize its current diplomatic posts in the region.

It is our firm conviction that the time has come for the United States to rediscover the South Pacific. It is high time for a new, comprehensive American strategy toward the region. The starting point for such a strategy would be a greater sensitivity to South Pacific views on a variety of issues, most particularly the Treaty of Rarotonga. Another component in the strategy would be a systematic effort to project a higher U.S. profile in the region, not so much through increased aid resources as through a greater diplomatic presence, higher-level official contacts, enhanced people-to-people programs, and more active U.S. participation in South Pacific regional organizations.

We feel confident that my drawing up such a strategy for the South Pacific, based upon the recommendations contained in this report, the United States could get considerable mileage from a relatively modest investment of resources and attention. In this fashion, not only would American interests be furthered, but those of our friends in the South Pacific as well.

## WELCOMING HIS EXCELLENCY ZINE EL ABIDINE BEN ALI, PRESIDENT OF THE REPUBLIC OF TUNISIA

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. CONTE. Mr. Speaker, it is my pleasure to welcome to the United States, His Excellency Zine el Abidine Ben Ali, President of the Republic of Tunisia. President Ben Ali is an important friend of the United States and an outspoken proponent of free and democratic government in a region of the world which often sees too few democratic leaders.

Since assuming the Presidency in November 1987, in accordance with the Tunisian Constitution, President Ben Ali has instituted a number of reforms designed to restore freedoms which had eroded over the last several years. Among the political reforms implemented are the opening of the democratic process to other political parties, greater freedom of the press, the release of thousands of political prisoners, and limiting the presidential terms in office to two. All of these initiatives have combined to ensure that Tunisia maintains a government that is responsive to its citizens.

Tunisia, however, faces many challenges. The rise of Islamic fundamentalism, which espouses anti-democratic reforms, could endanger the political progress thus far achieved.

In order to address the need for economic reform, President Ben Ali has instituted a major structural adjustment plan supported by the World Bank, the IMF, and the United States. Commendably, President Ben Ali has not restored to heavy-handed measures to meet these political and economic challenges. Instead he has chosen to expand democratic and economic freedoms for the people of Tunisia so that they can collectively benefit from these measures.

For many years I have followed the progress, and at times the problems, of the Tunisian people. They have placed great emphasis on education rather than costly military buildups.

Mr. Speaker, and my colleagues, I hope that you will join me in extending a warm welcome to His Excellency Zine el Abidine Ben Ali, President of Tunisia, a friend of the United States, and an example of democratic leadership for the world.

## TRIBUTE TO THE ASIAN-PACIFIC STATE EMPLOYEES ASSOCIATION

### HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MATSUI. Mr. Speaker, I rise today to bring to my colleagues' attention the work of a

distinguished public service organization, the Asian-Pacific State Employee Association.

Over the years, the association had dedicated itself to improve the quality of life for all members of the Sacramento community. Through their commitment, the association has assisted many young students in furthering their education by offering scholarships to distinguished college-bound students.

The Asian-Pacific State Employee Association is most deserving of our thanks and our praise for their efforts and compassion. There are few cases more worthwhile than encouraging our young people in their efforts to enhance their education and contribute in a meaningful way to society. Given the unprecedented challenges arising from the vast and significant changes which are taking place in our society, the importance of an advanced education is greater now than ever before.

I wish to commend the association on this act of public service, and extend my personal congratulations to each of these students for their academic excellence. Being honored with scholarships by the Asian-Pacific State Employee Association Scholarship Committee are Ms. Thu Tran of Encina High School, Ms. Julia Fong of C.K. McClachy High School, and Ms. Jennifer Ouchida of rio Americano High School. Mr. Scott Ichikawa of C.K. McClatchy High School is the recipient of the KCRA TV Channel 3 scholarship and Mr. Somwang Hingkham of Cordova Senior High School is the recipient of the Aerojet scholarship.

Mr. Speaker, I know my colleagues join me in wishing these students continued success in their academic endeavors.

## HONORING CAPTAIN RICHARD A. STRATTON

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to honor Capt. Richard A. Stratton, of Newport RI, who is being honored by Rhode Island Military Order of the Purple Heart for his years of dedicated and distinguished service in the U.S. Navy.

Captain Stratton began his military career in 1948 in the Massachusetts National Guard. He then enlisted in the Navy and was commissioned in 1955 through the Naval Aviation Cadet Program. He has served as executive assistant to the deputy director Joint Strategic Target Planning Staff, Strategic Air Command Headquarters, a commanding officer for two Navy recruiting districts, and as deputy for operations at the U.S. Naval Academy. From 1967 to 1973, he was a prisoner of war in Vietnam. In 1975, he was promoted to the rank of Captain. He has been the director at the Naval Academy Prep School in Newport. He retired from active service in 1986.

Captain Stratton has received several medals and commendations during his career. Among these are the Purple Heart, the Navy Commendation Medal, the Air Medal, the Meritorious Service Medal, the Legion of Merit, the Bronze Star, and the Silver Star. In addition, he was appointed an honorary Chief Petty Officer and is a member of the U.S. Coast Guard CPO Association, the Fleet Reserve Association, and the Navy Enlisted Reserve Association.

For his years of dedicated and loyal service to our Nation both in times of war and of peace, it is with great pleasure that I salute Captain Stratton. I wish him all the best and continued success in the future.

## A TRIBUTE TO THE BOXBOROUGH POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Boxborough Police Department for their dedicated and outstanding service to the people of Boxborough, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Boxborough Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order, that our neighborhoods are not held hostage to the threats of criminals, and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief William Morrison and those who serve in the Boxborough Police Department:

Ralph E. Kelley, Stephen P. Trefry, Michael J. Edmonds, Michael R. Grill, Scott J. Camilleri, John W. Deasy, William N. Rowe, Stephanie M. Baker, Erik Ramsland, Harold W. Curtis, Richard N. Priest, Paul A. Wilson, Robert Nugent, and Raymond Eyles.

## TRIBUTE TO ESTHER AND BEN GEIZHALS

### HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MRAZEK. Mr. Speaker, on the evening of May 20, 1990, the American Friends of Bnai Zion Haifa Medical Center in New York City will honor two dear friends of mine, Esther and Ben Geizhals. The Geizhals will be feted at a black-tie dinner in Queens for their dedication, devotion, and commitment to the medical center and their years of service to Bnai Zion.

The Geizhals' story, Mr. Speaker, is a compelling one. Ben, a native of Cracow, Poland, survived the horrors of four concentration camps during World War II, and Esther is a survivor of Auschwitz. They moved to the United States after the war and live in New Hyde Park, Queens. The couple has three children, one of whom resides in Israel.

For nearly 20 years, Mr. Speaker, my predecessor in Congress and I have been the beneficiaries of Ben's wise counsel on matters concerning Israel and the Middle East. After serving as a congressional aide to our former colleague Lester Wolff for 12 years, he has continued to impart his special view of world events to me, and I am grateful for this guidance.

Ben also has thrown himself into community service with a rare vigor. Among the positions he has held or continues to hold are president of Young Israel of New Hyde Park; president of the Cracow Society; board member of Queens College Speech and Hearing Center, the American Federation of Polish Jews, the American Federation of Concentration Camp Survivors, and the Salute to Israel Parade, and executive board member of Bnai Zion and of Friends of IDF.

Through all of his good works, Mr. Speaker, Ben has recognized the strength and companionship of his wife Esther as a driving force. Indeed, they are a team, and it is only fitting that they will be honored as such on May 20. I'm sure my colleagues in the House join with me in sending best wishes to my good friends Esther and Ben Geizhals at this proud moment in their lives. I look forward to their continuing friendship in the years ahead.

## AFL-CIO'S LANE KIRKLAND RECEIVES INTERNATIONAL HUMAN RIGHTS AWARD

### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FASCELL. Mr. Speaker, last evening I had the honor of presenting to Lane Kirkland, president of the AFL-CIO, a 1990 International Human Rights Award in behalf of the International Human Rights Law Group. It was an honor for me to present such a significant award to one of the most distinguished citizens of this country and of the entire world.

The International Human Rights Law Group is a nonprofit public interest law center which serves as a catalyst to mobilize the skills of the legal community to promote and protect human rights. The Law Group has worked in more than 40 countries to investigate human rights abuses, to monitor elections, and to support the independence of judiciaries. The Law Group's wise counsel, as a nonpartisan, nonideological advocate, has contributed greatly to the work of the Congress through its testimony before the Committee on Foreign Affairs and especially our Subcommittee on Human Rights and International Organizations. Under the able leadership of it's executive director, Amy Young, and the direction of a distinguished board of directors chaired by Robert Herzstein the International Human Rights Law Group has made a very real differ-

ence in the lives of thousands and thousands of men and women around the globe.

Last night, along with other distinguished honorees Yelena Bonner and Alexander Dubchek, the Law Group paid tribute to a man who reflects, if not personifies, the American labor movement which has contributed so very much to making this country the envy of the globe. In honoring Lane Kirkland the Law Group also honored the men and women of the AFL–CIO whose support, whose dues, and whose hard work on the job and in union activities have enabled Lane Kirkland's unique talents to touch the lives of millions in distant lands.

It is easy, inside the beltway, to see organized labor only as an interest group—though larger and more powerful than most, perhaps all. But those of us in elective politics who have the opportunity to meet with workers one on one see organized labor for what it really is: part of mankind's ancient struggle to bring dignity to the life of each and every individual. It is a noble task which lies at the very heart of what members of the Law Group and we in Congress mean when we speak of human rights. And all too often the struggle for workers rights today—even in the United States—is about fundamental rights, issues of individual dignity and worth, and not simply questions of pay.

It is a mighty statement to the selflessness of the American worker that when a group of workers has succeeded in ending abuses they have not stopped, satisfied with their own achievements. American workers, through their unions, have reached out to others to help them in their struggle. Last night's award to Lane Kirkland was made possible because America's workers have had the vision to recognize that the fabric of human rights cannot stop at national boundaries, that one person's rights are not fully secured while those of his neighbors are at risk.

It is in the spirit of concern for fellow workers around the globe that the American labor movement and especially the AFL–CIO has involved itself in the struggle for workers rights, for human rights, in Poland, Chile, Guatemala, El Salvador, Korea, the Soviet Union, and dozens of other nations.

When Lech Walesa and the then small Solidarity movement were unlikely winners against the monolith of Communist dictatorship, Lane Kirkland was there with financial, organizational, and especially fraternal moral support. It was his vision that provided critical support to workers in Poland and it is their example that proved so powerful throughout Eastern Europe. Lane Kirkland and the men and women of the AFL–CIO through their actions and example helped to turn the web of possibility inherent in the Helsinki process into concrete achievements.

Over the years Lane Kirkland and the AFL–CIO have been in the forefront of struggle for rights in the Soviet Union, from workers rights to championing the right of Soviet Jews and others to freely emigrate.

When the dark night of the Pinochet government fell over Chilean democracy, the AFL–CIO was there with critical support for Chilean free labor unions. When the opportunity for a new day drew nearer, Lane Kirkland was in the forefront of those helping Chilean Democrats to regain their democracy.

The list of nations where Lane Kirkland has made a very real difference is a long one. Wherever progress on human rights can be made, you will see labor leaders in the front ranks. And wherever labor leaders are struggling for human rights, there you will find Lane Kirkland and the members of the AFL–CIO.

As a former board member of the National Endowment for Democracy I have had the opportunity to work closely with Lane Kirkland and to see firsthand the unique contribution he as an individual makes to the tasks to which he sets in hand. He is truly a champion of human rights. His vision, courage, and tenacity have been rewarded in large measure by the events of this last remarkable year. Yet he would be the first to say that in many ways our job has only begun.

Last night's award ceremony was a joyful occasion but our enthusiasm was tempered by the realization that, even as we celebrated, all too many of our fellow human beings do not have the fundamental rights, the basic dignity, to which their humanity entitles them. But last night's awards ceremony was their celebration too, for the energy and dynamism and dedication we recognized through the awards lives in the hearts and minds of untold millions. And one day, thanks to people like Lane Kirkland, they, too, will have their day in the sunshine.

## HONORING THE 35TH ANNIVERSARY OF THE BRONX MUNICIPAL HOSPITAL CENTER

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ENGEL. Mr. Speaker, today I would like to recognize the quality patient care that is being provided at the Bronx Municipal Hospital Center, which is celebrating its 35th anniversary of service to the people of the Bronx.

Since 1955, the success of BMHC has truly been a community effort. Hospital workers, medical staff, elected officials, labor unions and community organizations have all contributed their special skills and commitment to excellence.

BMHC is a 776-bed teaching hospital affiliated with the Albert Einstein College of Medicine, and it is the largest municipal hosptial in the Bronx. Its residency training programs involve 40 medical specialties and subspecialties.

A long list of important and innovative medical work has been performed at the center. Its burn service, first established in 1961, is the only service of its kind in the borough. The hyperbaric center is a leader in the treatment of victims of smoke inhalation and carbon monoxide poisoning. Since 1986, BMHC has run a pediatric AIDS day care center that provides both educational and clinical support for children with AIDS.

Over the past few years, BMHC has expanded its home health care services and taken an active role in the recruitment and retention of nurses. All of these programs are just a fraction of the quality health care provided by the dedicated professionals at BMHC.

I congratulate all the staff and supporters of BMHC on this festive occasion, and thank you on behalf of my Bronx constituents. I pledge my support for your important programs and wish you continued success in the years ahead.

## DOROTHY ALLENSWORTH: MAKING DREAMS COME TRUE

### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mrs. LOWEY of New York. Mr. Speaker, I rise today to pay tribute to an outstanding American who has dedicated her life to helping those who are working to make a better life for themselves through education.

Dorothy Allensworth is the executive director of College Careers, an organization which helps severely disadvantaged young people lift themselves out of poverty by offering them the opportunity to secure a college education.

College Careers' sponsorship goes far beyond simply helping a person enter college. It provides assistance in resolving personal problems, guidance in selection of a college, help with admissions and financial aid, and help with tuition, room, and board. Dorothy's leadership in this organization has been instrumental in its outstanding success record. Starting with 22 students in 1967, College Careers has grown to sponsor approximately 150 students from 60 to 70 different colleges and technical schools each year.

On Saturday, May 19, 1990, Dorothy will receive the prestigious "Ethics in Action" award by the Ethical Culture Society of Westchester. This award is presented each year to no more than two individuals in recognition of their outstanding community service. The recipients of this award have demonstrated through their work unusual dedication and commitment toward improving the human condition.

I have had the privilege of knowing Dorothy for several years, and I know that her leadership and commitment in helping fulfill the dreams of young people to attend college grows from her personal belief that individuals can make a difference, that they can improve the lives of those they are willing to reach out and help. Her work has helped hundreds and hundreds of young people and thereby make this a better world.

## A TRIBUTE TO THE LITTLETON POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Littleton Police Department for their dedicated and outstanding service to the people of Littleton, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Littleton Police Department—the public servants on the frontline who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Thomas Odea and those who serve in the Littleton Police Department:

Joseph Lombardo, Robert Romilly, Steven Ziegler, John Hagan, Paul Hollingsworth, Greg Irvine, John Kelly, Mathew King, Paul Baratta, and Thomas Delegge.

## THE NATIONAL PEACE OFFICERS MEMORIAL DAY CEREMONY

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a touching police memorial service I attended on Tuesday, May 15, 1990, commemorating the 163 men and women who made the supreme sacrifice in the line of duty last year.

I would also like to share with my colleagues the moving remarks given at the memorial by Vice President QUAYLE.

The National Peace Officers Memorial Service takes place on May 15 of each year during National Police Week. Each year, survivors, police officers, officials, and friends gather in order that we may commemorate the courageous service of those we have lost, and to express our gratitude for those who place their lives on the line every day.

Mr. Speaker, I insert at this point in the CONGRESSIONAL RECORD the full text of Vice President QUAYLE's remarks at the memorial ceremony:

REMARKS BY VICE PRESIDENT DAN QUAYLE

Thank you, Dewey, for those inspiring and though provoking words. You are all lucky to have found a great and tough leader in Dewey Stokes.

We are gathered here today in the name of the American people. We have come to commemorate 163 men and women who have made the highest sacrifice that any human being can make. These men and women, whose names will be read shortly, gave their lives so that we, their fellow citizens, could live freely and in peace. We are moved by what they have done for us, by the love we feel for them, and in the cases of the family members present by the memories of those who were most treasured by them in life.

And so it is that we have set aside this day every year to come together as a nation to honor those who have fallen in the line of duty. We come here seeking each other's company, to contemplate the terrible loss we have suffered, to express our frustration over the senseless violent acts of criminals, and to ask why God in His infinite widom has taken from us those who were so good and who we most loved.

There are no easy answers to questions such as these. But perhaps we should begin by keeping in mind the example set by the men and women who founded this country. They handed this special land on to us as a sanctuary of freedom, a "Shining City on a hill." But they did so only at a great cost in lives lost, both in wars overseas and in the struggle against crime at home.

We face the same reality that our forefathers confronted—that freedom is dearly bought and dearly maintained. And, that the price is paid in a never ending war against crime, as well as in ceaseless vigilance against threats from our enemies overseas.

The war against crime and drugs, which so taxes our patience and ability to persevere as a nation, is every bit as much a struggle for national survival as any other that this country has faced. The enemy within—the violent criminal and the drug dealer—threatens not only our freedom and way of life, but the very idea of civilization itself.

We who have not made the ultimate sacrifice must resolve to be as brave, as dutiful, and as generous as those whom we now honor. Let us live up to that obligation by leaving this Ceremony today pledged to do three things: First, to honor those who have died; second, to carry on their life's work; and third, to learn from their example.

We should begin by honoring those who have died this past year with the recognition that they are in fact American heroes. The fallen peace officers of 1989, and of every other year, gave their lives for their country as valiantly and as courageously as any of America's war heroes have done.

Today, we formally recognize and express our gratitude for that sacrifice. The National Law Enforcement Memorial, which will be completed soon, and which will be the site of this Ceremony in future years, will further express our admiration as a nation for the bravery, character, and love shown in the line of duty by these men and women.

Second, we should leave this Ceremony today pledged to carry on the life's work of those who have died. There is one piece of unfinished business in particular that, above all others, we should pledge to complete.

One year ago today, President Bush spoke at this Ceremony. He urged us to keep faith with the sacrifice of those peace officers who've died in the line of duty by waging a renewed and total war on crime. He called for "a national strategy, a partnership with America's cities and States, to take back the streets." And, he proposed a broad legislative initiative to fight violent crime which he sent to the Congress.

This Comprehensive Violent Crime Control Act would fight crime: by greatly broadening the availability of the death penalty, by reducing the power of judges to exclude evidence of crimes, by reforming overly complicated habeas corpus procedures, and by keeping firearms out of the hands of criminals.

For one whole year, the Congress of the United States has sat on the President's anti-crime package. And it has done nothing at all during that time. It has not even scheduled a floor vote in either House.

Ladies and gentlemen, Congress needs to quit footdragging on the President's violent crime control package and pass it NOW! We owe it to the men and women whose deaths we now commemorate to do everything we can to stop violent crime.

Third, let's leave this Ceremony today having learned from the example of those who have died. Let's depart here determined to remember that there are heroes and villains in this world just as surely as there is good and evil. And, let's remember that just as we should emulate the heroes who we commemorate today, we should have no compunctions about punishing the villains.

Unfortunately, it sometimes seems that as a society we have forgotten some simple, basic truths one of which is that there are evil people in the world who are intent on doing wicked things.

We sometimes hear it said that society is more to blame for crimes than are criminals. Or that crime is caused by parents who are too distant or who pamper their children too much. Or that crime is caused by America's poverty, or that it's actually America's prosperity that is to blame. TV violence, boredom, passionate impulses—everything and everyone is blamed. Everyone—except the criminal.

However, those who have been out on the streets know better. They know, as President Bush has said many times, that the criminal chooses his way of life, his companions, and the kinds of crimes he commits. They know that it is the criminal who chooses to reject society and its values. And, they know the criminal is not the victim, he is the victimizer. Any law-abiding society has a duty to punish wrongdoers. And punishment is not an unseemly indulgence in revenge but a civilized response to wrongdoing.

At the same time, let us not forget that there are many good people in the world as well as the evildoers. And, let's be proud that among those good people, there are the heroes who we honor with this Ceremony today.

We should be proud that our history shows some 30,000 heroes have given their lives in the war against crime. That staggering number does not even include those law enforcement officers who were wounded or disabled.

It does include many men like Charlie Hill, a good family man, who was active in his church and neighborhood and was loved by all who knew him. On March 23 of last year, Charlie Hill went to serve an eviction notice and ended up losing his life. He was killed in a shootout with a thug, who was holding a hostage in a crack house. Another officer, Andrew Chelchowski, was seriously wounded in the exchange. Charlie Hill's mother, his wife Virginia, and his sons Robert and Charles, Jr., are here with us today.

Another of the heroes we honor with this Ceremony is State Trooper Jerry Hines. On February 20th of last year, at 11:55 p.m., he pulled a car over on the Interstate because he suspected the driver was drunk. The driver, who had committed several other murders only hours before, shot Jerry Hines respeatedly with a hand gun and left him to die. Jerry Hines' wife, Carol, his daughter, Jennifer, and his sister, Maria, are also with us today.

Sadly, there are so many other families, like Charlie Hill's and Jerry Hines', repre-

sented and honored here today. Next year, they may be joined by the families of the two latest heroes, Greg Hauser and Ray Kilroy of Chicago, who lost their lives just this past Sunday night when they responded to a plea for help from a grandmother who was being harassed by her own grandson.

Let us resolve, as a society, to do more for the families of these fallen law enforcement heroes—and for all the other victims of crime. As far as I am concerned, we have spent far too much time worrying about the rights of criminals and not nearly enough time worrying about the rights of victims.

We need to restore some balance to the scales of justice by putting victims' rights first—where they belong. Let us leave this place inspired by the example of sacrifice and love set by those whom we honor, like Charlie Hill and Jerry Hines. Let us commit ourselves to carry on their life's work by passing tough anticrime laws and by winning the war on crime. And, let us determine never to forget that there are heroes and villians in the world, and that we are privileged to walk in the footsteps of some of the finest and bravest men and women this country has ever produced. These men and women honored us by the manner in which they lived and by the manner in which they died.

Receive them, O Lord, into your heavenly kingdom, and hold them in Your arms while they await us, and the day when we shall all be together again.

Thank you all, and God bless you.

## THE REPUBLIC OF CHINA INAUGURATES PRESIDENT LEE

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. CRANE. Mr. Speaker, it gives me great pleasure and honor to wish my friends in the Republic of China on Taiwan good luck as they inaugurate their eighth President, Mr. Lee Teng-hui, on May 20, 1990.

In the last 10 years the Republic of China has been standing tall: First as a developing democracy, and second as a major economic power in the world. Its living standards are among the highest in the world, and its economic growth, averaging more than 8 percent a year since 1981, has been the envy of the world as well. At present it has a foreign reserve of more than $75 billion and the ROC Government has established a $1.2 billion international economic cooperation and development fund, the purpose of which is to strengthen overseas economic cooperation or joint planning of economic development in the form of direct and indirect loans, technical assistance, or guaranteed investments.

Despite our lack of a formal relationship with the Republic of China, the United States has a strong "unofficial" relationship with the ROC. In recent years we have had a number of trade consultations with the ROC Government regarding their continuing trade surplus with us. Recent trade figures show, however, that there has been a decline in their trade surplus, and it is conceivable that a trade balance between our countries can be achieved at some future date.

Mr. Speaker, the Republic of China is a responsible international country and our fifth largest trading partner. As its economy continues to expand, it is the duty of all Western nations, and especially of the United States to help it return to all proper international organizations. ROC's application to join GATT has been temporarily blocked, but no effort should be spared in helping the Republic of China attain its goal of being a major international player.

As we congratuate the people on Taiwan and President Lee Teng-hui, the first elected Taiwanese president, on President Lee's May 20th inauguration, I wish to say that my colleagues and I have always enjoyed working with ROC's representatives in Washington. They are a dedicated crew and they have helped us understand their country throughout the years.

## THE SOCIAL SECURITY TEST REPEAL RALLY

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to commend the work of many of my colleagues in arranging the Social Security earnings test repeal rally, showing support for the Older Americans Freedom To Work Act. I was honored to be able to speak in favor of repealing this earnings test.

This obvious disincentive to work has been a thorn in the side of senior citizens. Those reaching retirement age should not be forced to stop working. Removing this barrier can foster more independent, confident seniors. Older Americans can and should participate as productive members of society.

This legislation would benefit those seniors who need it most. Two-thirds of the benefit from repeal would go to those with income of less than $40,000. Working without added penalties such as the earnings test gives seniors independence from Federal programs. Nobody should be dependent upon the Federal Government in their everyday lives.

The repeal of the earnings test also makes economic sense. Keeping in mind the social costs of retirement, encouraging productivity increases overall benefits. Instead of contributing to the Nation's output of goods and services, a retiree receives a pension and health care benefits paid for by working taxpayers—thus affecting the economy.

Removing the earnings test barrier makes sense for individuals and the economy. It seems that we have an opportunity to help a large group of people without burdensome complications. I believe it is about time we took this step.

## "RAPPIN" FOR THE ENVIRONMENT

### HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. HOCHBRUECKNER. Mr. Speaker, I would like to take this opportunity to share with my colleagues the concerns expressed by one young person in my district for a clean, safe environment.

Wanting to help other students realize the importance of environmental issues, Raheam Brown, a constituent of mine from the Westhampton Beach Junior High School, in Westhampton Beach, NY, composed a rap song about recycling. I am proud to include his message in today's CONGRESSIONAL RECORD.

Untitled

White paper thrown into cans,
A wine glass for the woman and man.
It's all about recycling and how we can help,
Hey, look this ain't no history class so don't yelp.
Listen to a little story 'bout a kid named Jay,
Yo, here's the story.
One day I saw him walkin' down the street,
Bobbin' his head to a strange beat.
Eatin' his hotdog and sippin' his drink,
Everyone thought that he was a big fink.
Throwin' paper is what the boy was doin'
Walkin' down the street while he was chewin'.
Didn't realize what was goin' on,
As you can hear he was wrong.
He didn't recycle that was his mistake,
A mistake that you really shouldn't make.
So Recycle! Recycle! Recycle! Recycle!
When we recycle paper we save trees,
And make goods that get shipped overseas.
And not only that we make the air better too,
All by the help of what we can do.
So don't be frontin' or even casin',
Jus' help out with the U.S. Nation.
And Recycle! Recycle! Recycle! Recycle!
Peace!

## A TRIBUTE TO THE DRACUT POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Dracut Police Department for their dedicated and outstanding service to the people of Dracut, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Dracut Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a Nation ruled

by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Louis Panas and those who serve in the Dracut Police Department:

Robert Paquin, Lawrence Veino, Kevin Rowe, Thomas McNiff, Raymond Jones, Paul Charbonneau, David Courtenay, Joseph Shurtleff, Thomas Barker, Anthony Archinski, Charles Cregg, William Dubois.

Pasquala DeCunto, Brendon Loughran, Robert Hoag, Leonard Flanagan, Barry Cregg, Peter Apostolas, Kevin Richardson, Richard Bergeron, Gerald Surprenant, Gerard Dauphinais, James Wagner, Harry Curtis.

Rogert Brissette, Stephen Araskiewicz, Phillip Berard, Ralph Garland, Stephen Chaput, Donna Guziejka, Leonard Wagner, Thomas Cappelluzzo, Peter Kelleher, David O'Brien.

## EXIMBANK OPENS NEW LINE OF CREDIT FOR POLAND

### HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FAUNTROY. Mr. Speaker, in an effort to support Poland's transformation to a free market economy, President Bush has announced that Eximbank will begin to offer Poland medium-term credit for financing projects and supporting United States exports. Previously, legal restraints prohibited Eximbank from doing business in Poland on a medium-term basis and limited financing to a short-term basis of 1 year or less. The Export-Import Bank Act, requiring Eximbank to have "reasonable assurance of repayment," prevented Poland from buying United States exports. However, in light of Poland's progress in complying with the austerity program required by the IMF, Eximbank's Board of Directors explored various possibilities in which the United States could provide Poland with the means to purchase American capital equipment and services. I commend the Board's decision and hope that American manufacturers will take advantage of Poland's open market. I encourage my colleagues to review the following article explaining this recent development in United States lending policy toward Poland and communicate the news to their constituents.

[From the Wall Street Journal, May 14, 1990]

EX-IM BANK TO EXPAND LOANS TO POLES; BUSH SETS OTHER EAST BLOC INITIATIVES

(By Gerald F. Seib)

COLUMBIA, SC.—President Bush, as part of an effort to show broader American support for nascent democracies in Eastern Europe, said the U.S. Export-Import Bank is opening a new line of credit for Poland.

Mr. Bush said the bank, an independent government agency that finances exports of American goods, will begin offering medium-term loans and loan guarantees and medium-term credit insurance for projects in Poland. Previously, the Ex-Im Bank was providing only short-term credit insurance, the White House said.

Short-term financing generally is extended for only one year, while medium-term financing can be repaid over roughly five to seven years, White House officials said. They added that any new financing for projects in Poland would have to come out of existing Ex-Im Bank funds, meaning that the administration won't seek additional funds for the president's initiative.

Mr. Bush announced the step at a commencement address here at the University of South Carolina. He said the move was part of an American effort to "export our experience" to help Eastern Europe nations that are shucking their Communist systems.

All told, the modest package of initiatives announced by the president amount to a relatively low-cost attempt to counter assertions that he hasn't been aggressive enough in helping Eastern Europe pull away from Soviet Control.

In addition to the new Ex-Im Bank financing, Mr. Bush said that the U.S. will be sending delegations to observe coming elections in Romania and Bulgaria and will participate in a meeting of the Conference on Security and Cooperation in Europe in a few weeks to draw up guidelines on free elections and political pluralism.

Mr. Bush also announced the formation of a Citizens Democracy Corps, which will consist of private-sector volunteers who will help East Europeans develop democracies and market-oriented economies. Officials said the administration will seek $300,000 in government, funding to get the Democracy Corps started.

The White House didn't say how much new Ex-Im Bank financing will be available for Poland. The bank's exposure in Poland now is $52 million, mostly in financing arranged before 1982.

Offering new financing is a way for the U.S. to reward and support Poland's painful decision to put its sagging socialist economy through "shock therapy" of rapid change toward a free-market system. U.S. officials want to encourage other East European nations—as well as the Soviet Union—to launch similar programs of radical economic change.

The new Ex-Im financing will be earmarked primarily for projects involving Poland's small but growing private sector or involving state enterprises that have put forth plans to go private. Mr. Bush said the financing "will provide Poland a new line of medium-term export credits and loan guarantees for purchasing machinery, technology and services from American suppliers."

## TRIBUTE TO THE SACRAMENTO CHAPTER OF THE JAPANESE-AMERICAN CITIZENS LEAGUE

### HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MATSUI. Mr. Speaker, I am honored to rise today to bring to my colleague's attention the work of a distinguished public service organization, the Sacramento Chapter of the Japanese-American Citizens League.

Over the years, the league has dedicated itself to improve the quality of life for all members of the Sacramento community. Through their commitment, the league has assisted many young students in furthering their education by offering scholarships to distinguished college-bound students.

The Japanese-American Citizens League is most deserving of our thanks and our praise for their efforts and compassion. There are few causes more worthwhile than encouraging our young people in their efforts to enhance their education and contribute in a meaningful way to society. Given the unprecedented challenges arising from the vast and significant changes which are taking place in our society, the importance of an advanced education is greater now than ever before.

I wish to commend the league on this act of public service, and extend my personal congratulations to each of these students for their academic excellence. Being honored with scholarships are: Ms. Shannon Suo of Casa Roble High School, Ms. Debra Childers of El Camino High School, Ms. Jennifer Ouchida of Rio Americano High School, Mr. Scott Ichikawa of C.K. McClatchy High School, Ms. Carolyn Aoki of Rio Americano High School, Ms. Jennifer Shoda of El Campo High School, Mr. Allen Kobayashi of J.F. Kennedy High School, Rie Taniguchi of Grant Union High School, Mr. Kevin Yasumura of J.F. Kennedy High School, Mr. Jason Uyeyama of Sacramento Adventists Academy, Mr. Kevin Toyama of C.K. McClatchy High School, Ms. Jill Yamada of J.F. Kennedy High School, Ms. Diane Matsuo of J.F. Kennedy High School, Mr. Todd Otani of J.F. Kennedy High School, Ms. Ann Yoshikawa of C.K. McClatchy High School, Ms. Jennifer Kojima of C.K. McClatchy High School, Ms. Nicole Taniguchi of Del Campo High School, Mr. Koichi Mizushima of C.K. McClatchy High School, Ms. Irene Ohara of J.F. Kennedy High School, Ms. Melanie Childers of El Camino High School, Mr. James Young of Luther Burbank High School, Ms. Janette Hashimoto of Sacramento City College, Mr. Rickey Tadokoro of Sacramento City College, and Ms. Ronda Hirata of Sacramento City College.

Mr. Speaker, I know my colleagues join me in wishing these students continued success in their academic endeavors.

## TRIBUTE TO MSGR. ROBERT J. KIRWIN

### HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MRAZEK. Mr. Speaker, I rise today in recognition of Msgr. Robert J. Kirwin of St. Aidan's Roman Catholic Church of Williston Park, NY. Monsignor Kirwin will be retiring after 45 years of distinguished service to the diocese of Rockville Centre.

Monsignor Kirwin was born on December 27, 1919 in Brooklyn. He graduated from St. Anthony of Padua School, Bishop Loughlin

High school, and St. Francis College, and Immaculate Conception Seminary. He was ordained on April 3, 1945. Monsignor Kirwin has served as associate pastor at St. Philomena in East Hampton, chaplain of St. John the Baptist High School, founding pastor of St. Thomas More in Hauppauge, and associate pastor and pastor of St. Aidan's. He also served as a member of the Senate of Priests, Priests' Personnel Policy Board, Diocesan Task Force on Priorities, Deacon Advisory Board, board of governors of Smith Haven Ministries, and the Priest' Advisory Board.

Mr. Speaker, Monsignor Kirwin has touched the lives of thousands of people through his service to the church. He has demonstrated his deep commitment to the tenets of his faith and profound compassion for his fellow man. His concern for all peoples has earned him the respect of Long Islanders of all faiths and backgrounds.

On June 19, the St. Aidan's community and friends throughout the New York area will join to honor and pay thanks to Monsignor Kirwin for his service. I am proud to join in this richly deserved tribute and wish Monsignor Kirwin well in all his future endeavors.

## A TRIBUTE TO THE CHELMSFORD POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Chelmsford Police Department for their dedicated and outstanding service to the people of Chelmsford, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Chelmsford Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Raymond P. McKeon and those who serve in the Chelmsford Police Department:

James C. Greska, Pennryn D. Fitts, Philip N. Molleur, Armand J. Caron, John J. Mack, Leslie Adams, William McAllister, Raymond McCusker, John Walsh, Steven Burns, Francis Roark, Lance Cunningham.

Robert Burns, James F. Midgley, Edgar L. Auger, William E. Strobel, Jr., Roland E. Linstad, Patrick W. Daley, Thomas A. Niemaszyk, Francis P. Kelly, Bruce A. Darwin, Edward A. Rooney, Richard A. Adams, Eugene W. Walsh.

Michael E. Rooney, Robert J. Trudel, John E. Redican, Russell H. Linstad, William F. Walsh, Timothy F. O'Connor, John J. Donovan, William J. Floyd, Kenneth P. Duane, Ernest R. Woessner, Jr., Joseph R. Gamache, James Finnegan, Jared Finnegan, Chandler Robinson.

John McGeown, Michael Stott, Peter McGeown, James Murphy, Brian Mullen, Paul Cooper, Paul Richardson, Francis Teehan, Alan Cote, Scott Ubele, Martin Krikorian, Debra Metcalf, Gail Mullen, Mark St. Hilaire, Robert Villare.

## TRIBUTE TO ANNE P. LEYS, RN

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate a member of my community who is being recognized for her outstanding service to her fellow citizens.

Anne P. Leys, RN, of Middletown, RI, is receiving the Mary A. Dwyer Award from the Visiting Nurse Service of Newport County. The award is named in memory of Mary A. Dwyer, the agency's executive director from 1954 to 1979. The award is presented to an individual who has displayed a history of outstanding service to the agency.

Mrs. Leys' career with the agency has truly been outstanding. In 1950, Anne helped create the agency as one of the original four charter members of the Visiting Nurse Service. Today, 40 years after its inception, Anne still attends every board meeting and actively participates in all of the daily operations of the agency. During her time with the agency, its services have constantly expanded to include not only the city of Newport but also all of Newport County.

In addition to Mrs. Leys' dedication to the Visiting Nurse Service, she has also contributed countless hours to other civic groups. She served on the Red Cross Board for several years and trained nurses during the war effort. She was the school nurse at St. George's School in Newport for 23 years. She has served on the Girl Scout Council, the Rhode Island State Nurses Board, and the board of education where she was the first woman to be appointed there. A gifted artist and floral arranger, Anne has taught flower arranging throughout Rhode Island. Besides her current role with the Visiting Nurse Service, she is presently the president of the Newport Hospital Nurses Alumni.

It is with great pleasure that I recognize Anne Leys for her tremendous career as a member of the Visiting Nurse Service. Her devotion to her community serves as a model for us all. I wish her the best and continued success in the future.

## SALUTING FATHER DAN O'HARE

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. GILMAN. Mr. Speaker, please allow me to take this opportunity to call to the attention of all of our colleagues one of my outstanding constituents, Father Daniel M. O'Hare, who, on this weekend, will be celebrating the 25th anniversary of his ordination to the priesthood.

St. Francis of Assisi once wrote:

Where there is charity and wisdom, there is neither fear nor ignorance. Where there is patience and humility, there is neither anger nor vexation. Where there is poverty and joy, there is neither greed nor avarice. Where there is peace and meditation, there is neither anxiety nor doubt.

When he wrote those words, St. Francis of Assisi may well have been predicting the career of Father Dan O'Hare. His entire life has been devoted to charity and wisdom, to patience and humility, and to poverty and joy.

Father Dan, as he is affectionately known throughout our mid-Hudson region of New York, is especially noted for founding AMEN—Americans Mobilized to End Narcotics Abuse. This organization, which Father Dan founded back in the apathetic 1970's when few in our society recognized the dangers inherent in narcotics and substance abuse, has been the model for similar organizations througout the United States. It was Father Dan's philosophy that our young people should be presented with the alternatives to drug and alcohol use before peer pressures made them victims of these dead-end avenues. Next year, we will be celebrating the 20th anniversary of the founding of AMEN, but it would be impossible to count or catalogue the countless lives that were saved by Father Dan through this outstanding organization.

Father Dan's perseverance and expertise have been manifested in many other ways. He has hosted a weekly radio program on station WKIP which has educated many people regarding the danger signs of substance abuse. He has served with distinction as vice president of the Orange County Council on Alcoholism. His parishoners at Most Sacred Heart Church in Port Jervis, as well as his former parishoners at St. Patrick's Church in Newburgh, can attest to his dedication to his flock.

In January 1988, Father Dan O'Hare was appointed to the White House Conference for a Drug Free America [WHCDFA]. In this capacity, Father Dan was able to share his experiences and observations with caring people from throughout all 50 States. His willingness to share and help others has been a major factor in formulating our Nation's war on drugs.

In many ways, Father Dan has been an inspiration to all of us because of his candor in recounting his own personal struggle with alcohol. The fact that this giant of a man is willing to use his own problems as an example to others of how such problems can be overcome is perhaps the greatest tribute to his contributions.

Mr. Speaker, on Sunday, May 20, Father Dan O'Hare is offering a special mass of thanksgiving to commemorate and consecrate the 25th anniversary of his ordination to the priesthood. I will be on hand, as will many of the grateful people whose lives he has touched during his quarter century of giving to others.

Accordingly, I invite my colleagues to join with me in congratulating Father Dan for his dedication in making our world a better place in which to live.

## SMITHTOWN HIGH SCHOOL EAST VICTORS IN CONSTITUTIONAL COMPETITION

### HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. HOCHBRUECKNER. Mr. Speaker, I would like to personally commend the 20 students of Smithtown High School East, in Saint James, NY, who were the winners in the New York State National Bicentennial Competition on the Constitution and Bill of Rights, and who captured fourth place in the national competition held in Washington, DC, on May 5 through 7.

The competitive program is designed to provide students with a fundamental understanding of the Constitution and the Bill of Rights, and with the principles and values they embody, and an understanding of the rights and responsibilities of citizens in our constitutional democracy. Over 800,000 secondary students studied for months to prepare for their role as experts testifying on selected constitutional issues.

These 20 high school seniors' dedication and enthusiasm thrust them to the top of a competitive national group. Their scholarly achievements provide a shining example to the St. James community, to New York State, and to our entire country. Their performance indicates the high caliber of our Long Island educational programs.

Mr. Speaker, I would also like to recognize the efforts of their instructor, Mr. Alan McKeeman, whose personal leadership and guidance in the students' preparation played a large role in their success. Congratulations, Smithtown High School East, and best wishes in your future endeavors. The people of the First Congressional District on eastern Long Island are very proud of you.

## HONORING THE COMMUNITY CENTER OF ISRAEL

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ENGEL. Mr. Speaker, this Sunday in my district, a leading religious institution, the Community Center of Israel, is installing its new officers for the coming year. I wish to recognize the outstanding community service performed by the outgoing officers and wish the new officers, led by President Arnold Hyman, continued success.

Arnold Hyman is a lifelong resident of the Bronx who has been active in the community for many years. He has championed many Jewish causes, from working to revitalize the Jewish community in the Bronx to aiding newly arrived Jewish immigrants from Eastern Europe.

I also congratulate the Community Center of Israel for being active and involved in the Bronx community. The CCI has promoted positive community values and worked to improve the lives of its members and its neighbors in the Bronx. I look forward to working closely with the Community Center of Israel and its officers in the months and years ahead.

## A TRIBUTE TO THE TOWNSEND POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Townsend Police Department for their dedicated and outstanding service to the people of Townsend, MA in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Townsend Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, Are you prepared to offer your life in service to your community?

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief William May and those who serve in the Townsend Police Department.

Richard Vance, Barry Brown, Erving Marshall, David Profit, John Johnson, John Carter, Paul Morrison, James Marchand, Cheryl Mattson, Thaddeus Rochette.

## JC NALLE ELEMENTARY SCHOOL CELEBRATES THE 10TH ANNUAL AFRICA DAY

### HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FAUNTROY. Mr. Speaker, I rise today to bring to the attention of my colleagues to JC Nalle Elementary School, located in the District of Columbia, as they celebrate their 10th Annual Africa Day.

Now in its 10th year, Africa Day has served to build bridges of friendship, self esteem and cultural understanding among the students, teachers, parents and administrators at Nalle Elementary. The students of Nalle Elementary are in essence goodwill ambassadors who love and respect their history and have the desire to promote youth exchange between the United States and Africa, and envision a world made stronger through cooperation, dialog, and mutual exchange.

As a product of the District of Columbia public school system, I am very proud of the talented professionals who are committed to providing a quality education for our young people.

## TRIBUTE TO TRAVELERS AID SOCIETY OF RHODE ISLAND

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize the Travelers Aid Society of Rhode Island, an organization that has helped thousands of people of Rhode Island for the past 16 years.

Travelers Aid Society is a multiservice agency that provides a wide variety of programs to persons in crisis. Travelers Aid volunteers provide these service through four major units. The first of these is the social service unit, comprised of social workers in housing, substance abuse, and mental illness. They provide 24-hour service to anyone who needs assistance with food, shelter, clothing, medical care, family resettlement, and alcohol, and substance abuse treatments. Traveler's Aid Society also provides educational and employment and opportunities.

Also available at the Providence office is a community room. This is open 24 hours a day, serving not only as a respite from the weather, but also as a place to have a snack and find out about the services available with Traveler's Aid Society.

The Travelers Aid runaway youth project [RYP] has been established to help give guidance and support to those who need it. It aids not only runaways, but also homeless, young people, and throwaways. Outreach workers canvas the streets from 1 p.m. to 10 p.m. everyday, telling youngsters about the services that they provide.

Nonemergency medical care is also available for people of all ages through the medical van project. This medical office on wheels makes rounds 5 nights a week in the greater Providence area. Anybody who needs minor medical help is treated. The van offers a wide variety of tests, as well as treatments of cuts, bruises, and upper respiratory ailments. If treatment cannot be provided in the van, referrals are made to a variety of facilities. All of the workers are volunteers. Travelers Aid Society also provides literacy classes, as well as higher education counseling and support for young people.

On behalf of all Rhode Islanders, I would like to thank Travelers Aid Society for all of their efforts. I wish them continued growth and success in the future.

## GREGORIO PEREZ RICARDO FREEDOM TRIANGLE

### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FASCELL. Mr. Speaker, I rise today to inform the Members of this body about a moving and important event soon to transpire in the international waters off Cuba. On May 20, 1990, the anniversary of Cuban independence, a triangular stretch of ocean, demarked by only points of latitude and longitude, is being named the "Gregorio Perez Ricardo Freedom Triangle."

To understand the deep significance of this event, one must know who Gregorio Perez Ricardo was and what he represents. Gregorio was a citizen of Castro's Cuba. Like many before him, and the many who will certainly follow him, life there had become so repelling, and freedom here so attractive, that Gregorio and two companions went down to the sea to board a raft for the perilous voyage to the United States.

Hunger, thirst, and the unrelenting Sun took their terrible toll. One of the three was lost at sea. The brave and determined Gregorio manfully endured, finally arriving on our shores. But his taste of freedom was destined to be brief and had been purchased at the highest price. Gregorio, age 15, was buried in Miami on March 1, 1990.

Gregorio's odyssey, alone, would warrant this memorial event, but he is just one of unknown hundreds who have died in the attempt to flee tyranny and repression. The Gregorio Perez Ricardo Freedom Triangle made not of marble, but of wind and waves, is a fitting memorial to those who perished, often alone and anonymously, in this particular stretch of water, in their failed but valiant bids for freedom.

The memorial event is also a timely and necessary reminder that an island prison need not have the barbed wire and machineguns that were the mark of shame in Eastern Europe. Castro has the Sun, the sea, and the sharks to do the dirty work of keeping the Cuban people imprisoned.

I applaud the diligent efforts of Mr. Humberto Cancio who organized this moving memorial. I also salute the many organizers of, and participants in the Cuban Brotherhood Flotilla which will sail the waters of the Gregorio Perez Ricardo Freedom Triangle and those foreign vessels which have pledged to symbolically sail with the flotilla to commemorate all those who have died in the name of freedom.

As we look back in remembrance of Cuban Independence Day and in commemoration of Gregorio Perez Ricardo and his compatriots, we must, at the same time, renew our determination to see a future Cuba in which children are not forced to choose between a lifetime of repression and the peril of the sea.

## MRS. LEE PARSONS DAVIS: A LIFETIME OF SERVICE

### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mrs. LOWEY of New York. Mr. Speaker, I rise today to pay tribute to an outstanding American who has dedicated her life to helping those in need.

On Thursday, May 17, 1990, the Salvation Army of New Rochelle, NY, will honor Mrs. Lee Parsons Davis for her 40 years of service. Since 1943, she has been active in the Salvation Army. She will be the member with the longest service record in the history of that organization which has served so many over the years. She has been instrumental in countless Salvation Army achievements including the acquisition of their present property.

In addition to her work with the Salvation Army, she has been actively involved with many other worthwhile community organizations including the Presbyterian Church of New Rochelle and the Garden Club of New Rochelle.

Mrs. Davis came to New Rochelle with her husband, the late Supreme Court Justice Lee Parsons Davis, in 1943. Since then, she has been unswerving in her commitment and dedication to helping those in need. Her work serves as a shining example to us all, and the honor she is receiving is richly deserved.

## A TRIBUTE TO THE TYNGSBORO POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Officer's Week to pay tribute to the Tyngsboro Police Department for their dedicated and outstanding service to the people of Tyngsboro, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Tyngsboro Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, Are you prepared to offer your life in service to your community?

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Charles C. Chronopoulos and those who serve in the Tyngsboro Police Department:

Howard F. Given, William McAnistan, Charles C. Chronopoulos, Jr., Paul Larkham, Brian Alley, Roger Boulette, Richard Burrows, Christopher Chronopoulos, Joanne Coulter, John Georges, Daniel Larocque, Michael Leclair, John Manning, Joseph Pivirotto.

Thomas Walsh, Thomas Casper, Eileen Castonguay, Robert Gray, Raymond Grenier, M. Michael Johnson, Gregory Kasabian, Betty Maille, Steven Manning, John Martin, Robert Prescott, Ronald Provost, Joseph Reidy, Joseph Taff.

## THE CRISIS IN KASHMIR PROVINCE

### HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FALEOMAVAEGA. Mr. Speaker, I want to share with my colleagues the grave and most serious situation now developing in India, relative to the killings and denial of human rights by the Indian Government against the provinces of Kashmir and Punjab in India.

Mr. Speaker, I want to submit for the record several relevant newspaper accounts of the problems of Kashmir.

Mr. Speaker, I call upon Secretary Baker and the Bush administration to take action and find out what is happening in Kashmir and Punjab.

[From the Washington Times, May 11, 1990]

UNEASY EYES ON KASHMIR IMPASSE

(By Cord Meyer)

Having been the cause of war between India and Pakistan at least twice before, the tense situation in Kashmir is moving toward the top of the Bush administration's foreign policy agenda.

As the Indian Government deploys some 20,000 army and paramilitary forces to restore order in the Indian-ruled northern state of Jammu and Kashmir, the largely Moslem Kashmir population looks increasingly to Pakistan for moral and material support.

In their diplomatic efforts behind the scenes to defuse a conflict that could involve one-fifth of the world's population, senior Bush officials feel they have one significant advantage in that neither side believes it has anything to gain from a war.

Pakistan diplomats declare, "War would be an unmitigated disaster," and Indian officials in Washington soberly admit, "War would set us back a decade." With this recognition by democratically elected and responsible governments that war is no solution, Bush officials hope at best not to solve the complex issue of Kashmir's future but to stabilize a deteriorating situation.

Unfortunately, neither the Pakistani government of Prime Minister Benazir Bhutto nor the Indian government of Prime Minister V.P. Singh enjoy secure majorities in their respective parliaments, and both leaders are under heavy pressure from more extreme nationalists to escalate the conflict. U.S. diplomats have quietly pointed out how dangerous this pressure is.

The historic roots of the dispute go back to the division of the princely state between

India and Pakistan at the time of the British departure. The Pakistanis believe that the Moslem majority in Kashmir should have had the right by plebiscite to join Pakistan, while the Indians claim that Kashmir historically has been part of India and voted to accept its current constitution.

Objective observers believe that the Indian government bears a full share of the blame for the polarization of the situation inside Kashmir. The 70 percent Moslem majority was antagonized by what it considered to be a rigged election of 1987, and in 1989 there was growing resentment against an Indian administration that provided few resources for the growth and development of the country.

Among the unemployed Kashmiri youth, the flames of Moslem fundamentalism spread quickly from Pakistan, Iran and Afghanistan, while the events in Eastern Europe and the toppling of the Berlin Wall encouraged the belief that massive demonstrations could change the course of history.

Responding with round-the-clock curfews and harsh repression, the Indian authorities have tried to disband the huge demonstrations. In the process, they imposed martial law under Gov. Jagmohan, who has asked rhetorically how many people Abraham Lincoln killed in the U.S. Civil War.

In Pakistan, Mrs. Bhutto claims that she is only providing moral and political support to the Kashmiri resistance, but organizations like the Jammu and Kashmir Liberation Front have their supply lines into Pakistan. The Indian government has demanded an end to this covert support as a condition for further talks.

Bush officials feel under heavy pressure to move quickly to get negotiations going between the Pakistani and Indian governments. They fear with good reason the rapid radicalization of the Kashmiri resistance into fundamentalist and terrorist organizations. There already are more than 20 of these extremist groups, and they specialize in the kidnapping and assassination of Indian officials.

With very little time remaining before the Kashmiri population has been radicalized beyond the point of no return, the U.S. State Department is pressing both New Delhi and Islamabad for early and constructive talks. The Indians are being urged to grant much wider autonomy to locally elected officials and to increase substantially Indian economic assistance.

Mrs. Bhutto is being asked to move decisively against the flow of arms that is reaching the extremist groups in Kashmir. Progress on both sides can lead to peaceful dialogue and an end to the escalation of threat and counterthreat.

Perhaps this is the most that can be achieved at this time, but Bush officials would like to see a reduction of tension lead to the withdrawal of troops from the advanced positions both sides occupy on the border, to reduce the chance of war beginning by accident.

Finally, the fact that both Pakistan and India have the capacity to produce nuclear weapons within a few months adds an extra element of urgency to this peacekeeping effort.

SOUTH ASIAN SOLUTION IS REAL AUTONOMY

*To the Editor:*

"At the Brink in Kashmir" (editorial, April 22) was insightful. It gave a clear historical perspective and a sense of urgency in avoiding a conflict. However, it sidestepped the fundamental issue in the Kashmir problem, and that is the free will of the Kashmiri people, continual disregard of which by India has led to the present internal violence. India holds onto Kashmir at all costs.

A quick review of Indian history will help in understanding the situation. The British rule in India was a result of territorial acquisitions, spanning over a century, of independent states. Many such states were conquered in bloody wars. For example, the Punjab was annexed after two Anglo-Sikh wars. In 1947 the British left behind an Indian subcontinent comprised of different states with distinct cultures, languages and customs. The rulers changed from alien "white" to native "brown" sahibs. In the more than 40 years since then, there has been an increasing sense of frustration among the individual states that crave greater autonomy.

In this context, the Punjab and Kashmir have been in the forefront in expressing their demands for change. Their desire for self-rule is strong and has been further fanned by the events in Eastern Europe.

What the joint effort by the United States and the Soviet Union should aim for is not just the avoidance of a conflict between India and Pakistan, but the creation of a genuine autonomy for the individual states in both these countries. Otherwise, the threat of violence within and without their borders will remain. Unfortunately, Representative Stephen Solarz, whom you call one of Washington's wiser voices on Asia, has all but failed to recognize this.—PRITPAL S. KOCHHAR

New York, April 26, 1990

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WEAK PAKISTANI CLAIMS

*To the Editor:*

"India and Pakistan Make the Most of Hard Feelings" (The Week in Review, April 22) is somewhat misleading. First, contrary to the assertion that Pakistan occupies a stronger legal position, its historical claims to Kashmir are weak. When British paramountcy lapsed in 1947, the nominally independent princely states were given the option to join either India or Pakistan. Maharajah Hari Singh, the monarch of Kashmir, had sought to maintain his independence despite pressure from both sides. However, the Pakistani leadership, unwilling to await his final decision, fomented a tribal revolt and provided military support to the insurgents.

Second, Indian and Chinese forces did not clash in Kashmir in 1962. When the Chinese attacked India, the fighting was confined to a region known as the Aksai Chin in the west (near Tibet) and the then-Northeast Frontier Agency, or the present-day Arunachal Pradesh in the east.

One must take issue, too, with the article's subtle distortions. Your chronology states that in 1971 "India again fights Pakistan." This formulation implies that India initiated the conflict and glosses over the real precipitating element—the genocidal policies of the West Pakistani regime.

Finally, it is patronizing to label India as "Hindu-dominated." India has shown a commitment to secularism, however flawed. Would one speak of the United States as "Christian-dominated"?—SUMIT GANGULY

New York, April 25, 1990

*(The writer is associate professor of political science, Hunter College.)*

[From the New York Times, Jan. 22, 1990]

25 REPORTED DEAD AS INDIAN ARMY OPENS FIRE ON KASHMIR PROTESTERS

(By Barbara Crosette)

NEW DELHI, Jan. 21—The Indian Army opened fire today on demonstrators defying a curfew in the Kashmiri city of Srinagar, and at least 25 people were killed and 60 wounded, Government-controlled television reported.

If the death toll is confirmed, the violence would be the worst reported in Jammu and Kashmir the only state with a Muslim majority in predominantly Hindu India, in the nearly two years since a resurgence of secessionist sentiment began. Since 1947, Muslim militants have been demanding independence or union with Islamic Pakistan.

The Foreign Minister of Pakistan, Sahabzada Yaqub Khan, arrived in New Delhi today for talks. But the continuing trouble in Kashmir, the first serious challenge to the new Government of Prime Minsiter V.P. Singh, has dampened hopes for a fresh start in Indian-Pakistani relations.

LOCUS OF THREE WARS

New Delhi says that the Pakistani Government supports the Muslim separatists, a charge that Islamabad denies. India and Pakistan have fought two of their three wars over Kashmir since the two countries gained independence from Britain in 1947.

The army's introduction into the conflict, with orders to shoot on sight marked the first widespread use of troops to be reported in Srinagar. It suggested that the troops of the Central Police Reserve Force, a national organization used in troubled areas, has been unable to contain rapidly growing separatist sentiment in the Kashmir Valley.

Srinagar, the state's summer capital and one of India's prime tourist areas, has been under a curfew since last month. But crowds have been surging into the streets to defy federal and state police forces charged with enforcing it, residents of the city say.

Indian television reported that troops were responding to "pillaging" by mobs in parts of the city. The demonstrations are leading up to a public display of anti-Indian feeling planned for the country's most important national holiday, Republic Day on Friday.

The unrest in India's Kashmir Valley was fed by dissatisfaction with the state government under Chief Minister Farooq Abdullah, who resigned on Thursday night.

Dr. Abdullah stepped down after the Government of Prime Minister Singh announced the reappointment of a former governor, Jagmohan, for Jammu and Kashmir state. Mr. Jagmohan, who served as the state's governor from 1984 until last year, arrived in Srinagar today to take up his post.

The national Government led by Mr. Singh, which took office last month, has taken control of Kashmir under a constitutional arrangement known as governor's rule.

The new Governments in New Delhi and Jammu and Kashmir face a critical situation that by most accounts was allowed to deteriorate and drift in the last years of Rajiv Gandhi's Administration. Mr. Gandhi's Congress Party had clung to power in the state through an alliance with Dr. Abdullah's National Conference, a Kashmiri party.

The coalition, formed by the Congress Party and Dr. Abdullah in a 1987 election that was locally regarded as having been

rigged, soon lost the confidence of many Kashmiris. In the absence of other strong local parties, disaffected residents of the valley began to sympathize with, if not actually support, the armed resistance groups.

The extent of the valley's alienation was demonstrated in December, when after five detained militants were freed in return for the release of the kidnapped daughter of India's Home Minister, crowds came out to celebrate the freeing of the separatists. The demonstrations persisted, prompting the authorities to re-imposed the curfew.

Kashmir is now being described by officials here as "worse than Punjab," another state torn by a militant separatist movement.

Adding to the problems facing Prime Minister Singh, leaders of Buddhist militants in Ladakh, a mountainous region that is also part of Jammu and Kashmir state, have indicated that they might renew their campaign for a new political order, which had been dormant since last fall.

Parts of Kasmir are claimed by both India and Pakistan. Both countries keep large forces on either side of a United Nations line of control that serves as a border, and they have occasionally exchanged fire.

Some of the Kashmiri guerrilla groups are openly pro-Pakistani and militantly Islamic. Pakistan denies any official role in the state's problems, but leaders of Pakistani Kashmir acknowledge their willingness to assist rebels on the Indian side of the United Nations boundary.

The United Nations says that India has refused for 40 years to allow a plebiscite on the future of the disputed territory.

Western diplomats here say that while Pakistanis in Government or the opposition may use the Kashmiri issue for domestic political gains, playing on a deep distrust of India, there is no evidence that Islamabad is to blame for fomenting the trouble, which has indigenous roots.

[From the Washington Post, Apr. 19, 1990]

U.S. VOICES CONCERN OVER KASHMIR—STATE DEPARTMENT CAUTIONS INDIA AND PAKISTAN

(By Al Kamen)

The Bush administration last night called on India and Pakistan to "take immediate steps to reduce the level of tension" between them over Kashmir, saying "there is a growing risk of miscalculation which could lead events to spin dangerously out of control."

The unusual public warning came from Undersecretary of State Robert M. Kimmitt, the No. 3 official in the department, in a statement volunteered to the Asia Society's Washington Center.

It was the most explicit public expression of U.S. concern since the long-simmering dispute over the northern Indian state began to heat up several months ago.

The Indian government has accused Pakistan of arming and training militant Moslem separatists in Kashmir. Pakistan denies the charge and urges that Kashmir be allowed to decide its future in a plebiscite.

Indian Prime Minister V.P. Singh last week said Indians should prepare themselves psychologically for war with Pakistan, and his home minister, Mufti Mohammed Sayed, was quoted as saying war with Pakistan "would be fully justified" to defeat Pakistani-backed separatists.

In recent days the United States has consulted with Indian and Pakistani diplomats in Washington and sent messages to New Delhi and Islamabad through U.S. ambassadors.

Secretary of State James A. Baker III discussed the situation with Soviet Foreign Minister Eduard Shevardnadze in Washington earlier this month. The superpowers, who previously backed opposing sides, are exchanging information and have agreed to seek to head off armed conflict, U.S. officials said.

"We believe that neither the Indian nor Pakistani governments seek a confrontation on this divisive issue," but the dangers of miscalculation are growing, Kimmitt said. He called on the two sides to "take immediate steps to reduce the level of tension by lowering rhetoric and avoiding provocative troop deployments, and instead to devote their energies to addressing this issue through dialogue and negotiations."

Indian and Pakistan have gone to war three times along the Kashmir border: in 1949, 1965 and 1971. Kimmitt said the dispute will be difficult to resolve, but that a reason for optimism "is the desire among many members of the international community to work to lessen tension.

Kimmitt said "the Indians themselves will admit that most of the problems in Kashmir are internal." He called on the governments of both countries to "make the political decision to lower the rhetoric . . . we want to make sure that each side keeps open lines of communication not just between political but also between military establishments," he said, so that any military "deployments, particularly as we move to the season where the snows are melting and so forth, are not seen by the other side as intentionally or unintentionally provocative."

[From the New York Times, Apr. 23, 1990]

KASHMIRIS FLEE TO THE PAKISTAN SIDE WITH TALES OF INDIAN ARMY BRUTALITY

(By Barbara Crosette)

Islamabad, Pakistan, April 22—Thousands of Kashmiris have fled the Indian-controlled Kashmir Valley and crossed into Pakistan in recent weeks, bringing stories of atrocities by Indian troops and paramilitary forces, the leader of Pakistani-controlled Kashmir says.

The official, Abdul Qayyum Khan, president of the part of Kashmir under Pakistan, said in an interview here on Wednesday that about 4,000 Kashmiris, mostly young men, were staying in Muzzafarabad, the capital of the territory. An unknown number of others are scattered across Pakistan with relatives or sympathizers, he said.

A large contingent of exiled Kashmiris from the state controlled by India, including whole families, is beginning to grow around the Pakistani city of Rawalpindi, the country's military headquarters. Among them are young men seeking firearms and training, which Pakistani opposition politicians are increasingly willing to provide.

Prime Minister Benazir Bhutto, whose Pakistan People's Party hopes to gain control of Kashmir through an allied local party in May elections, has been vocal in her support of Kashmiris from Kashmir state, describing them as "freedom fighters" akin to Palestinians, and pledging $5 million to their cause.

ASSERTIONS AGAINST INDIAN TROOPS

A recent opinion survey by Gallup Pakistan indicated that 78 percent of people polled thought that Islamabad should give Kashmir state military supplies. The poll, taken in February, when New Delhi began to increase pressure on the separatists in the valley, also found that support for talks with India to resolve the dispute had dropped to half of what it was a few years ago.

The exiles from the Kashmir Valley say Indian forces are destroying property, terrorizing families and abusing women, Mr. Qayyum Khan said.

"Repression unknown in our history is being carried on by Indians," he said. "They are trying to encircle the valley."

Mr. Qayyum Khan said morale on the Pakistani side is "getting worse every day" as worries about relatives in the valley and fears of an Indian military strike on this side are growing. Some Indian politicians, blaming Islamabad for the Kashmiris' uprising—an assertion most diplomats question—have threatened to "teach Pakistan a lesson."

SEPARATIST MOVEMENT GROWS

"The least they can do in a war is attack Azad Kashmir," Mr. Qayyum Khan said, using the Pakistani name for his territory, which means "free Kashmir." "Even if they wanted to give up the valley, they would give us a final blow, a parting kick."

He said New Delhi was deliberately portraying the Kashmiri separatist movement, which has been growing rapidly for more than a year, as an Islamic fundamentalist crusade in order to discredit it among Western human-rights groups.

Foreign reporters are not permitted to visit Kashmir state to verify or dispute Kashmiri accusations against India. Access to the Pakistani side is unlimited, except along the cease-fire line, where there has been shooting.

Pakistani troops continue to prevent groups of Kashmiris from crossing into India, fearful of provoking Indian forces entrenched in bunkers along the hilly border. Some Pakistanis have already been killed there. People from Kashmir state who come here arrive mostly in small groups through traditional routes that evade border patrols.

NO JAMMU AND KASHMIR VOTE

Mr. Qayyum Khan, who was among those Kashmiris who fought against Indian forces in 1947 in an unsuccessful effort to wrest the valley from New Delhi's control, said many more people from Kashmir state may now cross into Pakistan after New Delhi's banning last week of most Kashmiri organizations it accuses of advocating separatism.

A cease-fire line through mountainous terrain separates the two Kashmirs after three Indian Pakistan wars in the disputed territory New Delhi has refused to allow a plebiscite called 10 years ago by the United Nations that would allow residents of India's Jammu and Kashmir state to choose the country to which they want to belong.

Jammu and Kashmir is India's only Muslim majority state. Pakistan, an Islamic nation created from the partition of British India in 1947, has always held that the Kashmir Valley should have been ceded to Pakistan. The two countries fought over the territory in 1947, 1965 and in 1971, as a second front of a war that was centered in what is now Bangladesh.

## INTRODUCTION OF THE POLICE PROTECTION ACT OF 1990

**HON. EDWARD F. FEIGHAN**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FEIGHAN. Mr. Speaker, "our society is increasingly violent. * * * The drug war is escalating. * * * Firearms are ever more powerful. * * * Criminals are better armed and more violent than ever before * * *." We hear these phrases often, but do we truly take time to think about those men and women who are out on the streets each day fighting crime and facing guns held by deranged criminals? Do we really think about the danger these public servants face each and every day?

One of the most effective developments in the last two decades has been the invention of fibers that are bullet-resistant. Literally thousands of lives have been saved by personal protective body armor, or bullet-proof vests. While these vests do not turn their wearer into Superman, able to deflect any and every bullet, they do provide significant protection against gunshots.

Since bullet-resistant vests were first developed in the early 1970's, the National Institute of Justice has provided assistance to the law enforcement community by developing voluntary standards for the vests. These standards have been developed in consultation with the law enforcement standards lab at the National Institute of Standards and Technology. In addition, law enforcement officers from across the country have been consulted for their unique expertise.

Unfortunately, a controversy has developed recently over the current standard, and an industry group has developed a separate standard. Police departments are now confused about which type of vest to buy: one that complies with the NIJ standard, or one that complies with the industry standard. But a more dangerous consequence is that officers are confused and confidence in the vests is waning. We cannot allow this to happen. Congress has a responsibility to ensure that bullet-resistant vests are manufactured so as to provide a high level of protection for law enforcement officers. We must end this confusion, establish a clear Federal standard, and then set about encouraging officers to wear vests whenever they are on duty.

I am convinced that the National Institute of Justice, working with the law enforcement standards lab, is the best agency to accomplish this task. NIJ has been developing voluntary standards for over 10 years. NIJ staff has the expertise, has set up the procedures, and has personnel on staff already devoted to personal protective armor standard-setting.

Today I am introducing the Police Protection Act of 1990, legislation to establish mandatory standards for bullet-resistant vests. My bill will formalize the current standard-setting procedure. It requires that NIJ consult with all other Federal agencies that might have an interest, either because of their law enforcement functions or because they purchase bullet-resistant vests for their employees. In addition, the legislation requires consultation with the true experts: our Nation's law enforcement officers. These are the people we are trying to protect, I think they ought to have some say in that protection.

The bill provides that the current National Institute of Justice standard, NIJ 0101.03, be established as the interim standard until an official standard is promulgated through the rulemaking process. I add this as the interim standard because I am convinced that it is the best standard currently available.

Mr. Speaker, I am pleased to note that my bill has the support of the Fraternal Order of Police, the International Brotherhood of Police Officers, and the National Association of Police Organizations. I would like to express my appreciation to these groups for their assistance and support in the development of this legislation. I would also like to express my appreciation to these groups for their assistance and support in the development of this legislation. I would also like to thank the distinguished chairman of the Rules Committee, Mr. MOAKLEY, for cosponsoring this measure. I look forward to working with my colleagues in both Houses and on both sides of the aisle to ensure that mandatory standards are developed for bullet resistant vests. This is a small part of the war on crime, but it is a most important step—a life-saving step.

This week, as we commemorate National Peace Officers Week, and pay tribute to the thousands of law enforcement officers who have been shot and killed in the line of duty, I urge my colleagues to take time to consider what the increasing violence of our society means to our Nation's law enforcement officers and support this effort to ensure that bullet resistant vests meet minimum Federal standards.

I ask that the full text of the legislation be included in the RECORD immediately following my remarks. Thank you, Mr. Speaker.

H.R. 4830

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Police Protection Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) violence in this country continues to escalate,

(2) law enforcement officers put their lives on the line every day to protect the public from violent crime,

(3) law enforcement officers should have effective body armor which protects them from firearm violence,

(4) the complexities of body armor and the diverse nature and abilities of law enforcement officials to purchase and test it result in unnecessary risk, and

(5) Congress has a responsibility to ensure that our Nation's law enforcement officers have available to them the best protection that current technology allows.

SEC. 3. NATIONAL INSTITUTE OF JUSTICE ISSUANCE OF STANDARDS.

Part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3721 et seq.) is amended by adding at the end the following:

"BODY ARMOR SAFETY STANDARDS

"SEC. 204. (a) STANDARDS AND TEST PROTOCOLS.—

"(1) IN GENERAL.—The National Institute of Justice shall by regulation establish performance standards and test protocols—

"(A) for the capability of body armor to withstand bullets fired from firearms and for other matters relating to the effectiveness of body armor to protect law enforcement officers, and

"(B) for labels to be affixed by body armor manufacturers to armor which is manufactured in compliance with the standards described in paragraph (1).

"(2) TYPES OF STANDARDS.—A performance standard established under paragraph (1)(A) shall consist of the following types of requirements—

"(A) standards expressed in terms of performance requirements, and

"(B) requirements that vests be labeled with the noted level of ballistic protection and other appropriate warnings and instructions, including the manufacturing date.

"(b) REVIEW.—The Director shall review the study of standards and test protocols by the Government Accounting Office under subsection (j) in determining appropriate standards and test protocols.

"(c) REGULATIONS AND PROCEDURES.—The Director is authorized to establish such regulations and procedures as may be necessary to carry out this section, including procedures for certification and, when necessary, decertification of body armor models.

"(d) SAFETY OF OFFICERS STANDARD.—In developing standards for body armor under subsection (a), the Director shall rely upon the needs of the criminal justice agencies and the safety and welfare of both male and female officers wearing body armor.

"(e) CONSULTATIONS.—In developing standards and test protocols under subsection (a) for body armor, the National Institute of Justice shall consult with—

"(1) the Law Enforcement Standards Laboratory of the National Institute of Standards and Technology of the Department of Commerce,

"(2) the Department of Defense,

"(3) the Federal Bureau of Investigation,

"(4) the Bureau of Alcohol, Tobacco, and Firearms,

"(5) the Secret Service and the United States Marshal's Service,

"(6) any other Federal agency which purchases body armor for its employees,

"(7) representatives from labor organizations representing law enforcement personnel, law enforcement management organizations, and law enforcement fraternal and professional associations,

"(8) State and local law enforcement officers from police departments in the United States, and

"(9) representatives of the major manufacturers of body armor.

"(f) INTERIM STANDARD.—Beginning on the date of the enactment of this Act and ending on the date standards take effect under subsection (a), the National Institute of Justice standard number 010.03 entitled 'Ballistic Resistance of Police Body Armor' shall apply to the manufacture, sale, or distribution in commerce of body armor.

"(g) TESTING.—The manufacturers of body armor subject to the performance standards established under subsection (a) shall submit to the National Institute of Justice on a periodic basis (established by the National Institute of Justice) representative samples of amor to be tested for compliance with such standards. The National Institute of Justice may take such other action as may be appropriate to determine if such armor is in compliance with such standards.

"(h) SANCTION.—

"(1) IN GENERAL.—No person may manufacture for sale, offer for sale, or distribute in commerce any body armor which is not in compliance with the interim standards in effect under subsection (f) or the standards established under subsection (a).

"(2) CIVIL PENALTIES.—Any person who knowingly violates paragraph (1) shall be subject to civil penalty not to exceed $2,000 for each such violation.

"(3) CRIMINAL PENALTIES.—

"(A) PENALTY.—Any person who knowingly and willfully violates paragraph (1) after receiving notice of noncompliance from the National Institute of Justice shall be fined not more than $45,000 or be imprisoned not more than one year, or both.

"(B) OFFICER OR DIRECTOR OF A CORPORATION.—Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes orders, or performs any of the facts or practices constituting in whole or in part a violation of paragraph (a) and who has knowledge of a notice of noncompliance received by the corporation from the National Institute of Justice shall be subject to penalty under this subsection without regard to any penalties to which that corporation may be subject under this subsection.

"(j) REPORT.—

"(1) STUDY.—The General Accounting Office shall compile, review, and compare any standards and test protocols for body armor issued by the National Institute of Justice, manufacturers, and any other standards and test protocols issued by law enforcement and military entities.

"(2) SUBMISSION OF STUDY.—Not later than 6 months after the date of enactment of this section, the General Accounting Office shall complete the study required in subsection (a) and submit the study to the National Institute of Justice and the Judiciary Committees of Congress.

"(k) DEFINITION OF BODY ARMOR.—For purposes of this section, the term 'body armor' means any product sold or offered for sale as personal protective body armor whether the product is to be worn alone or is sold as a complement to other products or garments.".

## A SALUTE TO HARRY A. GREENBERG

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pride that I rise today to share with my colleagues the life of an exceptional member of the Miami community. A resident of beautiful Bal Harbour, FL, Harry A. Greenberg is a true example of what our senior citizen community can give to all of us. I am proud to represent him and the thousands of senior citizens who live in the Miami area. Their contributions to our community are innumerable; their wisdom makes us a richer, better place to live.

A native of Newark, NJ, and later a resident of Orange, Mr. Greenberg worked for the Universal Match Co. for 43 years in New York City. When he retired, at the mandatory retirement age of 70, he turned his energies to art and what has developed into a most successful hobby. That hobby has helped many charitable organizations, since Mr. Greenberg turns over his beautiful oil paintings, watercolors and their proceeds to many diverse charities.

During his career at the Universal Match Co., his artistic talents led him to design matchbook covers used by the company's main institutional clients: large hotels and chain stores. Through his endeavors in creating striking-looking and innovative covers, matchbook collecting became a fad which intrigued people of all ages during the thirties, the forties, and even today. A status symbol to show off where the collector has been? Perhaps. Maybe others collect them merely for their visual appeal.

But Mr. Greenberg was painting more than matchbook covers. He participated in numerous shows and initiated art festivals in his hometowns. Some of the beneficiaries of his art include the Daughters of Israel, Bayle Seton League of Seton Hall University, the Rutgers Hillel Campus, and the Veteran's Hospital. In our community, his paintings hang at Mercy Hospital and the Douglas Gardens Home for the Aged.

Among his nonartistic accomplishments are: 42 years on the New Jersey State Athletic Commission and 45 with the State Boxing Commission. He was also chairman of the Milk Fund Boxing and Wrestling Shows during the depression, and organizer of various fund raisers for the poor.

After spending his winters in the Miami area for many years, Mr. Greenberg joined forces with Shirley Berger, art club president at Harbour House, to promote classes, trips, and other events of interest for art lovers. Mr. Greenberg says that the response to the art club has been very encouraging. So encouraging that he and Ms. Berger had to decide whether to keep the membership at the 450-member limit or expand. He goes on to say that he hopes the art club will provide something different for those residents interested in art, something to break the monotony.

Mr. Speaker, at age 88 Harry Greenberg is leading a full life. He is an inspiration not only to all our senior citizens, but especially for our young people to learn how important volunteer work and cooperation with our community is. Life could never be monotonous for Harry Greenberg, or any who followed his example, with his lust for living, his enthusiasm for art and for all of his fine deeds to help his fellow man. I salute him and thank him for truly making a difference.

## NATIONAL BREAST CANCER AWARENESS

### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mrs. MORELLA. Mr. Speaker, I will be introducing, with Congresswoman COLLINS, a bill commemorating October as National Breast Cancer Awareness Month. I feel this is especially appropriate in light of the fact that 1 in every 10 women will develop breast cancer in her lifetime. According to the American Cancer Society, 150,900 women will be diagnosed with breast cancer in 1990. In 1989, more than 40,000 women died of breast cancer, and in 1990, that number is expected to be 44,000. These are alarming statistics—but there is some good news. Although breast cancer is the most prevalent type of cancer in women, survival rate approaches 100 percent when the cancer is detected early.

Mammography, a low-dose x ray of the breast, in conjunction with physical examination by the health professional and self-examination by the woman, are the best tools we have for detecting this disease when it will do the least harm. Unfortunately most women do not take advantage of these procedures, either out of fear of the disease, ignorance of the exams, or concerns about the cost of the procedures.

That is why recognition of Breast Cancer Awareness Month is an important step toward prevention of the frightening number of deaths attributed to this disease each year. This resolution will give congressional support for programs undertaken by many health and women's organizations to make women aware of the risk factors and preventive measures they can take to protect themselves from breast cancer.

It is imperative that breast self-examination and mammography become common practices. Women should understand the necessity of early detection and the steps to take if they have any suspicions. When breast cancer is diagnosed at an early stage, proper therapy can be implemented, and the survival rate for the patients is much higher. The diagnosis techniques are very effective, yet too few use them. The passage of this resolution will increase awareness of the diagnosis techniques, and will express our concern and hope for imminent progress in the fight against breast cancer.

Each of us knows someone who has been struck with this terrible disease. A friend and constituent of mine, Rose Kushner, tragically passed away last January, after a long battle with breast cancer. Rose worked endlessly for advancement in the fight against breast cancer. Appointed by President Carter to the National Cancer Advisory Committee in 1980, she continued until her death to contribute to the fight against breast cancer, as well as make strides for the rights of breast cancer patients.

Awareness is the key to fighting this epidemic. It is only through education that women will learn the importance of detection techniques, diagnosis, and therapy. As Members of Congress, it is our responsibility to make this education available to all. I urge my colleagues to support this important resolution.

## A TRIBUTE TO THE CARLISLE POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Carlisle Police Department for

their dedicated and outstanding service to the people of Carlisle, MA in the protection of life, liberty and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Carlisle Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, Are you prepared to offer your life in service to your community?

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief David Galvin and those who serve in the Carlisle Police Department:

Earnest Steward, John Sullivan, Nancy Iosue, Graig Grogan, Richard Tornquist, Bruce MacNeil, Thomas Whelan, Neal Archambault, William Tee, Stephen Otto, W. Royce Taylor, Mark Schofield, Leo Crowe, Kevin Walsh, Steven Curley.

## TRUCK SAFETY AWARD

### HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. OWENS of Utah. Mr. Speaker, I would like to call to the attention of my colleagues an award recently given to a truckload motor carrier in my district, C.R. England & Sons, Inc. C.R. England and Sons of Salt Lake City, UT is the recipient of the Grand Prize Trophy in the 1989 Annual Fleet Safety Contest. The trophy was awarded at a meeting of the Interstate Truckload Carriers Conference.

The conference represents the truckload, irregular route, common and contract motor carriers of the United States and is affiliated with the American Trucking Association. Daniel England, chief executive officer of C.R. England accepted the trophy at the annual meeting of the conference in Las Vegas, NV.

The fleet safety contest is a competition between the 550 carrier members of the conference. The trophy is given on the basis of which company has the best safety record and safety program in the preceding year.

The drivers for C.R. England & Sons log 50 million miles annually, and to be judged from among their peers in the important field of highway safety is a great tribute to the management and drivers of that company.

For years, C.R. England & Sons has played an active role in the Salt Lake City community and throughout the State of Utah. The company promotes civic pride and highway safety. The award given to the company and its drivers is well deserved.

## NATIONAL POLICE WEEK

### HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. SCHUETTE. Mr. Speaker, I rise today to commemorate National Police Week and the many brave police throughout Michigan and America.

Twenty-seven years ago, President John F. Kennedy declared the week of May 14 as Law Week and proclaimed May 15 as a day of mourning for police officers who have given the ultimate sacrifice, their lives, in the line of duty to their communities and country. Shortly after the President honored the officers, he and J.D. Tippet of the Dallas Police Department were assassinated by Lee Harvey Oswald.

The National Law Enforcement Officers Association has combined the efforts of 15 law enforcement groups to build the National Law Enforcement Memorial in remembrance of officers like J.D. Tippet. Fourteen of the brave officers honored by the memorial served in Michigan. I humbly applaud their sacrifice and their dedication to the ideals of bravery, honor, and duty.

I would especially like to salute the families and memory of Vikki Hubbard, a Detroit police officer who was killed on March 12, 1989, and Sherdard Brison, also on the Detroit force, who was killed on March 5, 1990. Their courage, bravery, and dedication is an inspiration to us all.

After receiving unanimous congressional authorization, the National Law Enforcement Officers Association began building a memorial in the Washington, DC, Judiciary Square to honor the officers. More than 500,000 Americans have donated money to NLEO's memorial fund. It will be completed in 1991, during National Police Week. Mr. Speaker, please join me in saluting the National Law Enforcement Officers Association and the many officers who have died in the line of fire.

## HEARTBREAK RADIO IN SANTA FE

### HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. RICHARDSON. Mr. Speaker, yesterday I shared with you the news that a dear friend of mine, Bob Barth, died last week at the age of 43. The city of Santa Fe and the State of New Mexico have had a difficult time mourning his death. We're reminded of him every morning as we turn on the radio. His absence from the airwaves is difficult to comprehend. We really do miss him.

Of all the words that have been spoken about Bob's death and of all the stories that have been written, there is one eulogy that really stands out. I direct your attention to a column authored by Bob's close friend, Larry Calloway.

HEARTBREAK RADIO IN SANTA FE

(By Larry Calloway)

What do you say to a friend in pain? I mean physical pain—upper arms, chest, heart. Bob Barth sat humped over in the gown they gave him. Hand on the forehead as if in prayer. Wired to a TV monitor at the nurse's station. Clean, thin hair. Rounded shoulders. My friend and colleague looked like he was imitating a baby picture of himself, in Santa Fe's St. Vincent Hospital.

What do you say? You try a little humor. I asked if there was anything I could do—like take those bothersome calls from those sexy women who adored him on talk radio. No laugh there. His mind was on his children and his ex-wife.

The flowers! I offered to help clean the room. He'd been here only eight hours and there were about a dozen deliveries of flowers. By the window was a single rose. "It's from the hospital board," he said, nothing he'd hammered them about something earlier in the week and now they had him.

Hey, I said, it's a black rose! He knew the reference—the black rose sent to the legislator after he voted against some cops.

This made him laugh, but then he said, "For the first time, I have no interest in the Legislature." And I knew Bob, who had covered every legislative session for about 20 years, doing double time free when the news demanded it . . . the reliable, constant man on the scene with the mike, was sick.

"Somewhere," I finally said, "I read that pain always asks a question." "Right now I don't want to know the answer," he said.

And he told about the walk alone from the parking lot to those slithering emergency-room doors at dawn. He walked the long walk, thinking, "If I can make it to the doors, they'll see me."

They did. But, Hey, this was Bob Barth. Somebody started joking. Somebody started the usual repartee. Then somebody saw he was having a heart attack or something.

They pulled him through and now, 2:30 p.m. Thursday, wired for TV, sitting like a baby, he had a message. Something had happened. He had seen something: a thin, thin, almost invisible line.

He began, "I've thought more about death than most people, . . ."

I knew he was right, but not so much because he was a diabetic but because he had an abiding religious faith. He entered a Roman Catholic seminary in the "60s but got to listening to a smuggled transistor radio, to all that "60s music. And that was it. He came home to Santa Fe and eventually got into radio as a disc jockey. For 23 years, in a time of market-hopping corporate radio stars, he served the people.

And he was a saint. He could report on both sides of the line that divides most communities in New Mexico. I never knew him to give up being fair to anybody, even the meanest politician. His morning guests were legislators, members of Congress, state executives, the archbishop . . . but no voice was too small, not the *viejita* announcing a church meeting, not the angry but frightened kid opposing WIPP. And nobody was ever turned down for a birthday spin of "*Las Mananitas*" on the air.

He loved the community, the whole community, the people. They ought to commission a statue of him with his old tape recorder hanging in his left hand and the mike offered to the world in his right. . . .

"I've thought more about death than most people," he was saying in the hospital

on Thursday afternoon. "Today, for the first time, I knew I could die. And if I get through this I have a message: The line between knowing you could die and dying is . . . that thin."

There was no light between his thumb and finger as he gestured. He smiled. I will remember the scene as if it were in a shaft of light. What could I say? I hugged him like a baby and let him be.

I did not know I would have to pass his message on.

What do you say to a friend in pain? You don't. You listen. Because the question asked by pain is not for the body, but the soul. And the question is for you.

Bob died without seeing another sunrise—and he'd seen most of them. His station, KMIK, was heartbreak radio all Friday morning. It was a radio wake the likes of which I've never heard and never will again.

He was 43.

## THE HEALTH INSURANCE COUNSELING AND ASSISTANCE ACT OF 1990

### HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MOODY. Mr. Speaker, I am pleased to introduce today the Health Insurance Counseling and Assistance Act of 1990. Representatives DAVID PRICE and MARILYN LLOYD have joined me as original cosponsors.

This legislation, a companion bill to S. 2189 introduced last February by Senator PRYOR, will help Medicare beneficiaries make informed decisions about the purchase of Medicare supplemental—Medigap—insurance. I am pleased to join Senator PRYOR, the distinguished chairman of the Senate Aging Committee, in advocating this innovative approach to preventing abuses in the sale of Medigap insurance.

This bill directs the Secretary of Health and Human Services to establish a program of grants to States for counseling and assistance to Medicare beneficiaries who need information about health insurance coverage. The bill also creates a national resource center to act as a clearinghouse for health insurance counseling information. The bill authorizes appropriations of $14 million a year for fiscal years 1991-95 from the Hospital Insurance Trust Fund for the grants program, and $1 million a year for the resource center.

Medigap is a $12 billion per year market. Roughly 25 million Americans—nearly 80 percent of Medicare beneficiaries—opt to purchase Medigap policies. Medigap isn't cheap, with an average annual premium of about $700. Some high end policies cost much more. I believe that most Medigap insurers and their agents are honest and scrupulous in their efforts to sell an insurance product to the consuming public. Unfortunately, this business also has its crooks and con artists. That they are preying on our senior citizens, many of whom live on fixed incomes, is particularly galling.

The Ways and Means Health Subcommittee, on which I serve, recently held a hearing on Medigap premium increases and consumer abuses in the sale of Medigap insurance. Our hearing particularly underscored the difficulty in enforcing the Baucus standards—the Federal law which sets basic minimum standards for Medigap insurance.

With the exception of the Baucus standards, regulation of the sale of Medigap insurance is left to the States. My own State of Wisconsin has a State-law requirement which standardizes the coverage which must be offered by Medigap insurers to Medigap purchasers. Even with standardization in place I keep hearing about abuses which occur: senior citizens spending literally thousands of dollars purchasing duplicative and unneeded Medigap insurance from unscrupulous insurance agents who are spurred on by excessively high first-year commissions.

Fortunately for seniors, Wisconsin has a first-rate Medigap and insurance benefits counseling program. Wisconsin's program, established as a six county pilot project in 1978, was implemented statewide in the early 1980's, uses some 60 paid professional specialists, and provides counseling for Medicare, Medigap, Medicaid, other insurance or public assistance, as well as community education, individual counseling, legal assistance, assistance with filling out forms, and filing claims.

Wisconsin's program is administered by the State Department of Health and Human Services Bureau on Aging. The State is subdivided into six Area Agencies on Aging which have administrative responsibilities for all 72 counties. Service is also supplemented by the Center for Public Representation, which provides legal assistance to referred clients, and back-up and training for benefits specialists in two of the regions, which cover 29 counties.

In addition to the counseling and legal assistance, the Board on Aging and Long Term Care operates a toll-free hotline service for telephone inquiries. The hotline provides a crucial source of information and basic counseling for shut-ins, and can refer more complicated problems to benefits specialists for further consulation and assistance.

The Wisconsin program works. In 1989, the program provided real help to nearly 40,000 persons. Wisconsin's program is funded at $1.5 million per year. Funding sources are both State and Federal, with Federal funds coming from Title II-B of the Older Americans Act.

I cite these specifics to illustrate how much assistance can be provided for a very small amount of funding. The legislation I am introducing today would provide other States—which do not have the same infrastructure for assisting seniors—with an incentive to establish such programs. States like Wisconsin which already have counseling programs in place could qualify for grant assistance to expand the scope of their activities.

Counseling programs are extremely cost-effective. Families United for Seniors Action reports that the California program saves seniors twice as much as the program costs. Families USA estimates that the California program saves 5,000 seniors $916 each every year.

With last year's repeal of the Medicare Catastrophic Coverage Act, seniors are again facing real pressure to purchase or upgrade their Medigap insurance. I have no doubt that repeal of the MCCA will encourage unscrupulous operators to prey on Medicare beneficiaries' fears and encourage them to purchase low-value high-cost insurance. There's more reason than ever to encourage the establishment of State-counseling programs, which are strongly endorsed by Consumers Union, seniors groups, the Health Insurance Association of America, and the Blue Cross/Blue Shield Association.

Mr. Speaker, let me make it absolutely clear that I do not consider counseling as the only solution we need to abuses in the Medigap industry, and I do not offer this legislation as a cure-all for the outrageous tactics and rip-off policies which some disreputable Medigap insurance salespersons use.

The Ways and Means Health Subcommittee will consider a comprehensive response to abuses in the Medigap industry, an action I welcome. The subcommittee will consider options including mandatory standardization of benefits, Federal review of State enforcement, strengthening the Baucus loss ratio standards for individual and group policies, and requiring refunds of premiums for policies not in compliance with the Baucus standards. However, Medigap counseling is clearly a much-needed component of such a comprehensive legislative proposal, and I am pleased to offer this legislation to address that need.

## TRIBUTE TO MRS. ANN BENNETT

### HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. DARDEN. Mr. Speaker, I want to bring to the attention of my colleagues the following article by Meg McGriff from the Summerville News. Mrs. Ann Bennett, of Chattonooga County, has worked with Summerville attorney Bobby Lee Cook for more than 40 years. Mr. Cook is one of the most respected attorneys in our region, and as this article points out, Mrs. Bennett has played an important role in his office for four decades. Mrs. Bennett's commitment to her job and her service to the community are well known in Summerville, and I am pleased to bring this to the attention of the House of Representatives:

SECRETARY'S SECRETARY WORKS OVER 40 YEARS FOR LAWYER'S LAWYER

(By Meg McGriff)

For over 40 years, Ann Bennett has devoted her professional life to being a good secretary. As secretary to Bobby Lee Cook, often called a "lawyer's lawyer," Ann Bennett is as close to a "secretary's secretary" as one can get.

SECRETARIES

As Americans celebrate National Secretaries Week, professionals like Mrs. Bennett are being saluted for their contributions to businesses and professions everywhere.

"I couldn't have done it all these years if it weren't for the man himself," said Mrs. Bennett, referring to her employer. "I've never had any desire to do anything else or go anywhere but here."

Their professional association began years ago, Sept. 17, 1949. At the time Mrs. Bennett, a recent graduate of Summerville

High School, had taken a job at the glove mill operated by Riegel Mills. She knew how to type, and her high school principal suggested she talk to a young lawyer he knew that was getting ready to open a practice in downtown Summerville.

LAW OFFICE

That man was Bobby Lee Cook, and Ann took off downtown to contact him about the position of secretary for his new law office.

"He was busy painting the floor in the office which was above McGinnis Drug Store," she said. "I went to work the next day, and the rest is history."

Her greatest education has come from working on the job. She did pick up short hand skills with the help of Burt Self. But she still says her best teacher was her boss.

NO ROUTINE

"I do only what I am asked to do. Mr. Cook makes his own appointments. That's the way he's always done it. There is just no routine. No day is the same as the day before," said Mrs. Bennett.

She insists that she is there to take care of any task that comes her way. And she's careful not to hand out any advice on behalf of the famous lawyer who employs her.

"Clients will ask lots of questions, but I know better than to give them advice. I don't have a law degree and am not qualified to do that," she said.

GREATEST REWARD

Her greatest reward for her many years of devoted service is the respect and admiration she has received not only from Cook, but from each member of his family.

"I've been here through all of the years when the children were born, and I feel an attachment to them, just like family," she said.

She also is pleased by the many interesting people she has been able to know through her employment.

"The biggest problem I have is that I tend to parrot his thinking," said Mrs. Bennett. "If he feels strongly about an issue, more than likely I share that view."

DUTIES CHANGE

Mrs. Bennett has raised four children of her own. In recent years she has been nursing a critically-ill husband. And so many of her duties have been passed on to others. At one time she did the bookkeeping for the firm. But others have come in to help relieve her of many day-to-day tasks so that she can take care of her husband.

"Law is Mr. Cook's hobby as well as his career," she says fondly.

Through her loyalty as his secretary, they have seen his practice grow to the high esteemed position it is today.

LOYALTY PRAISED

Speaking on behalf of the family, Kris Connelly, who practices law alongside her father, said, "We rely on Ann tremendously. It takes a lot of experience to know how to do what she can do."

## A TRIBUTE TO THE LOWELL POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Lowell Police Department for their dedicated and outstanding service to the people of Lowell, MA in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Lowell Police Department—the public servants on the frontline who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, Are you prepared to offer your life in service to your community?

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Superintendent John Sheehan and those who serve in the Lowell Police Department:

George Gentle, John Cullan, James Gookin, Robert Kierce, John Maher, Martin Roth, George Ryan, Thomas Conlon, Edward Davis, John Flaherty, Vincent Murphy, John Newell.

Chauncey Normandin, Ronald Potvin, Arthur Ryan, Sr., William Shea, Garrett Sheehan, John Sullivan, Borden Zwicker, Sr., David Abbott, Patrick Burns, Brendan Durkin, William Busby, Dennis Cormier.

Arthur Diette, James Doyle, Charles Duarte, Kenneth Lavallee, Robert Liston, Angus MacDonald, Michael O'Keefe, Raymond Richardson, Arthur Ryan, Jr., George Shanahan, Susan Siopes, Steven Smith, Kevin Staveley, Brendan Tobin.

Francis Waterman, Jonathan Webb, Richard Beauchesne, Victor Bisson, Martin Boisvert, Vincent Bomal, Arthur Bourgeois, John Boutselis, Arthur Boyle, Daniel Brady, Donald Brill, Warren Brodeur, Mark Buckley, John Bugler.

Richard Bugler, Brian Callahan, John Callahan, Richard Callahan, William Callahan, James Campbell, Diane Capone, Robert Caron, Michael Chandonnet, Barry Chevalier, John Clarke, Felix Concepcion, Phillip Conroy.

Paul Corcoran, Raymond Costello, Roy Cox, Timothy Crowley, Jeffrey Davidson, Robert Davidson, John Davis, Robert DeMoura, John Dempsey, Rodney Desrosiers, John Dolan, Paul Donaghue, Wilfred Dow.

Edward Dowling, Daniel Duffy, Francis Dumont, Roger Dumont, Michael Farnum, Hilda Fernandez, David Ferry, James Fitzpatrick, Thomas Fleming, Gerald Flynn, John Flynn, David Freeman, Deborah Friedl, Peter Gickas.

Julio Gonzalez, Borden Zwicker, Sophia Gramas, Georgia Themeles, Lisa Coupe, Mary Moynihan, Thomas Bellefeuille, James Hurley, Gerald Kilbride, Paul Murray, Thomas Bellefeuille, Jr., Robert Fian, Barbara McCarthy, William O'Malley.

Denise Pelletier, Elizabeth Pyrcz, Patricia Rondeau, Patricia Stuart, Joann Seamans, Timothy Roy, Walter Welcome, Mark Servin, Margaret Boumel, Melissa Fraser, Denise Mowatt, Avis Murray, Alice Boyle.

Patsy Choate, Doris Christakos, Candice Connor, Mary Cook, Carlean Coulouras, Jean Dempsey, Catherine Descoteaux, June Dion, Leah Favreau, Maureen Ferreira, Maureen Gay, Suzanne Gendreau, Deborah Geoffroy.

Diane Grady, Donna Holder, Angel Otero, Evelyn Pacheo, Adrien Paquette, Paul Paradise, Maurice Pelletier, David Pender, Edward Pitta, Mark Poirier, Miguel Pol, Leonard Pollard, Christopher Purcell, John Prycz.

David Quigley, Miguel Quinones, Robert Reyes, Gary Richardson, Raymond K. Richardson, Jose Rivera, Robert Roper, Francis Rouine, Arthur Russell, William Ryan, Charles Sadlier, Philip Salome, Arthur Santos.

George Santos, Dennis Sargentelli, Paula Scalzilli, David Seamans, David Shaughnessy, Thomas Sheehan, Richard Soucy, Alexander Souleotis, Gerald Sullivan, Scott Swindells, William Tanguay, Francis Taylor, William Taylor, James Trudel.

Raymond Vachon, Gerald Wayne, Anthony Witman, John Wojcik, Francis Wojtowicz, Andrew Wolfgang, Paul Goyette, John Guilfoyle, Francis Harvey, Randall Humphrey, Lewis Humphrey, Lewis Hunter, Daniel Hyde, Dennis Janowicz.

Brian Jason, Francis Keefe, William Keefe, Francis Kennedy, Michael Kueazler, Heather Koller, Paul LaCedra, Paul Laferriere, Thomas Lafferty, Daniel LaMarche, Thomas LaPointe, John Leary, Richard Leavitt, M. Ann Lessieur.

Normand Levasseur, Edward Lyman, Sergio Maldonado, Richard Marchand, Leo Marquis, Gerald McCabe, Robert McCarthy, Joseph McGarry, Larry McGlasson, William McKenney, Bryan McMahon, John McWilliams, Thomas Meehan, Leo Mendes, Jr.

Albert Mercier, Michael Miles, Kenneth Moore, Dennis Moriarty, Stephen Morrill, Gerald Mousseau, Edward Murphy, John Myers, Dennis Newell, Arthur Noel, Stephen O'Neill, Howard Osborne, Shirley Kelley, Patricia Kunguius.

Joan Lane, Patricia Mapakoi, Kathleen McMullen, Judith Murphy, Patricia Netto, Theresa Noel, Patricia Noyes, Susan Piekos, Linda Reid, Rita Sakalinski, Barbara Sawyer, Shirley Schaeffer.

Theresa Trudel, Laura VanDinter, Marian VanDinter, Rosanne Vieira, Patricia Wedge, Maryanne Young.

## IN RECOGNITION OF THE WINNERS OF THE CREVE COEUR AREA CHAMBER OF COMMERCE ANNUAL ESSAY CONTEST

### HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. BUECHNER. Mr. Speaker, I rise today in recognition of three outstanding young people from my district: Ted William Beasley, Amy Wilhelm, and Alice Lin. These young people deserve our congratulations as the winners of the 1990 Creve Coeur Area Chamber of Commerce and the Lions Club essay contest.

Ted, Amy, and Alice will each receive a scholarship from the Creve Coeur Area Chamber of Commerce and the Lions Club based on their exceptional understanding of women

and business as illustrated by their prize-winning essays in the chamber of commerce and the Lions Club annual essay contest. This contest has traditionally attempted to challenge students to formulate a response to a specific question in their answer, combining pragmatic considerations with social responsibility.

This year's question, "are career women changing the nature of the business world?", would challenge even the most seasoned of social architects, but leave these young people undaunted. Their answers are notable for their bold and intelligent analysis, and reflect tremendous insight into the issues which confront our society today. In their discussion of these issues, they have shown an awareness often lacking in more experienced policymakers.

The first place answer came from Ted William Beasley of Parkway North High School. His essay, which provided conclusive evidence that women are affecting the business world in numerous areas, should be must reading for American policymakers.

For his award winning answer, Ted will receive a $2,000 scholarship from the chamber of commerce and the Lions Club. The 2d and 3d place awards of $1,500 and $1,000, go to Amy Wilhelm of Pattonville High School and Alice Lin of Parkway Central High School, respectively. However, in my book they are all first place winners.

Our Nation is fortunate to have fine young people such as these and organizations such as the Creve Coeur area Chamber of Commerce and the Lions Club which encourage these activities. The chamber and the Lions Club are to be commended for taking an active interest in the education and development of our young people, and for backing this commitment with the investment in time and money it requires. This is the sort of private sector initiative we should, indeed must, encourage.

Our young people are the window to the future of our Nation. Through their eyes we can see tomorrow, with their thoughts we will dream new dreams. The winners, indeed, all of the participants in the essay contest, renew our optimism in the future of this Nation. For this we thank them.

Mr. Speaker, I ask each of my colleagues to join me in congratulating these young Americans and wishing them success in their future endeavors.

## COMMENDATION OF JOHN J. DOUGHERTY

### HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay special tribute to an outstanding labor leader from my district. John J. Dougherty has successfully served the cement masons local union for over 30 years.

Upon entering the union in 1959, John gained great admiration and respect from his fellow workers. In July of 1973, John's coworkers chose him as a representative for the Cement Masons Local 592. Mr. Dougherty retained this position until he was chosen president and business manager in 1987.

Furthermore, Mr. Dougherty holds several other positions which benefit from his involvement. They include: president of the Penn State Conference of Plasterers and Cement Masons, vice president of the Pennsylvania Building Trades Council, the Philadelphia AFL–CIO Council and the Philadelphia Building Trades Council; senior trustee of Cement Masons Health and Welfare Pension Plan and chairman of the Cement Masons Apprentice Committee.

The breadth of John's contributions can be matched only by the recognition he has received for his charitable endeavors. John is a fine role model for the people of Philadelphia, the City of Brotherly Love. As an active member of the Variety Club, an organization which organizes many programs for the children of the city, John has contributed his time and energy to many charitable causes. For instance, John and his fellow union members installed a block long sidewalk and access ramps at the Association for Retarded Citizens. In addition, John worked to complete cement work for the Archibishop Ryan's High School swimming pool.

Mr. Speaker, on May 19, 1990, Mr. Dougherty will be honored, at a charitable banquet, by the Philadelphia Chapter of Unico National for this outstanding humanitarian work. I wish to extend both my sincere congratulations and whole-hearted thanks for John J. Dougherty's service to the people of Philadelphia.

## CONGRESSMAN DALE E. KILDEE HONORS JAMES M. McCOLGAN

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. KILDEE. Mr. Speaker, I ask my colleagues to join me in paying tribute to a person who has done so much to improve the quality of life for the residents of my hometown of Flint, MI, Mr. James M. McColgan.

Mr. Speaker, too often we think of public servants as those individuals who work for public agencies or those who are elected to public office. But there are those individuals, who simply believe that it is their civic duty to make their communities a better place to live. Mr. Jim M. McColgan is one of those special individuals.

In 1970, James McColgan became the sole owner of the M&B Distributing Co., and he started a successful family-operated food distribution business. Over the years, Mr. McColgan and his family have been very successful business people in the Flint area, and they have opened additional stores in several other States. However, they have always found time to help those who are the most vulnerable in our society.

For several years now, the McColgan family has worked with the Genesee County Community Action Agency's Neighborhood Service Center [GCCAA] to serve over 10,000 hungry men, women, and children in our community each year. Like other social service agencies, GCCAA has been hurt by a scarcity of resources needed to meet the increasing demands of the community. While many people talk about private industry helping the public sector, James McColgan has set a standard that should be emulated around the country. When GCCAA needed freezers to store perishable Federal commodities, and did not have the money to pay for it, Mr. McColgan provided free storage at his business so these commodities could be distributed to impoverished families. And when GCCAA began receiving Federal dollars to pay for the storage of the commodities, Mr. McColgan would promptly return the money to GCCAA so they could serve more needy families. Mr. McColgan has returned over $18,000 that has been used to feed hungry children, to allow families to stay in their homes, to provide clothing to families, and to enable senior citizens to pay for their medical prescriptions. During this time, he has not kept one penny for his own expenses.

In 1988, Mr. McColgan made an offer to buy the Hamady Food Stores, a chain of grocery stores that have been an important part of our community for over 70 years. When the former owner of the Hamady Food Stores filed for bankruptcy, Mr. McColgan worked tirelessly with local labor and community officials to put together a package that allowed him to take over the ailing food stores. Since acquiring the Hamady Food Stores, Jim and his wife Jane, who is secretary of M&B Distributing and vice president of Hamady Food stores, Jim McColgan, Jr., president of M&B Distributing and vice president of Hamady Food Stores, Robert M. McColgan, vice president of M&B Distributing and treasurer of Hamady Food Stores, and Aaron McColgan, Produce Supervisor of Hamady Food Stores, have all worked together to make this family-business an enormous success. Their efforts have not only saved hundreds of jobs in our community, but they have maintained many precious neighborhood food stores, and they have preserved an integral part of our community's history. They are truly a remarkable family, and their efforts have led to Jim McColgan being named the Businessman of the Year by the Sales and Marketing Executives of Flint.

Moreover, since Mr. McColgan bought the Hamady Food Stores, he has continued to help GCCAA assist indigent people in Genesee County. Every week, the staff of the Neighborhood Service Center pick up food, including dairy products, from all of the 21 Hamady Stores in the Flint area to be distributed to needy families. It is estimated that over $250,000 worth of food reaches these people annually through these donations. He also convinced several food brokers to donate excess food to GCCAA rather than trying to resell it.

Mr. McColgan and his family are also very active in a number of other community organizations. Jim has been a strong supporter of the Whaley's Children Home, and he recently served as the honorary chairman of the Easter Seals Telethon. In addition, the Hamady Food Stores are one of the major sponsors of the Airshow for Special Olympics and the McColgans have generously contrib-

uted to many community groups, such as the Flint Institute of Music.

Mr. Speaker, we in the Genesee County area are truly fortunate to have a person like Jim McColgan, and indeed, a family like the McColgans, living in our community. On Monday, May 21, 1990, the Genesee County Community Action Agency will honor Mr. McColgan for the opening of the Hamady/M&B Reclamation Food Distribution Center. This building will be used to distribute both privately donated, and publicly received commodities for needy families in the Flint area. In true style, Mr. McColgan provided and assisted in building a drive-in cooler and freezer to store these commodities. This building is a tribute to an individual who has dedicated himself to ensuring that all residents in our community will receive proper nutrition. It is for these reasons that I am proud to honor Jim M. McColgan and thank him for all he has done for making Flint, MI, a better place to live.

## RETIREMENT OF DR. ELLIS E. McCUNE, PRESIDENT OF CALIFORNIA STATE UNIVERSITY, HAYWARD

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Dr. Ellis E. McCune, the president of California State University, Hayward. Dr. McCune is retiring after 23 years of dedicated service at Cal State Hayward [CSUH] in California's Ninth Congressional District.

President McCune received his B.A. and Ph.D. degrees in political science at the University of California, Los Angeles. He then held teaching and administrative positions at Occidental College in Southern California and at California State University, Northridge. He was also the dean of academic planning for the California State colleges from 1963 to 1967.

I would like to take this opportunity to list some of Dr. McCune's many accomplishments while at CSUH.

He significantly increased ethnic diversity of faculty, staff, and students. In 1988, 38 percent of the students were minorities; aided CSUH in becoming the first CSU campus to establish an affirmative action plan; guided the campus through a decline in student enrollments and avoided layoffs in 1975, then was able to increase enrollment from 6,000 to today's level of 13,000; established the Contra Costa Center, a CSUH satellite campus where construction on permanent buildings will begin in 1990; formed the strategic planning council in 1989 to develop future directions for the university; established the alumni association with 6,000 members; more than doubled the number of campus buildings from 5 to 14; increased emphasis on development, enrollment, and public relations. Appointed the development director who is planning the University's first major fundraising effort with the support of local corporations and community groups; and increased student financial aid, including scholarships, to $8 million.

He has also been active in many community organizations and has served as director of the Hayward Chamber of Commerce; board of directors, Oakland Museum Association; chairman, United Bay Area Crusade; and, member of the Hayward Rotary.

President McCune has also served in many capacities for a variety accreditation committee for the American Association of State Colleges and Universities; member, board of directors, Council on Postsecondary Accreditation; board of directors, American Council on Education; president, Western Association of Schools and Colleges; vice chairman, Association of American Colleges.

Mr. Speaker, I cannot agree more with what one of his peers, Chancellor for the California State University, said about President McCune:

Ellis McCune is a leading statesman in higher education. His wisdom, leadership, intellect and graceful wit have been invaluable to me personally and to the California State University. President McCune's contributions to higher education are magnificent. During his 30-year career in the California State University he has proven to be an extraordinary visionary. His involvement in educational and community activities have shown the highest degree of dedication to humanity. We can't begin to express our gratitude for his exemplary service to the California State University.

## PUERTO RICO GOVERNOR RESPONDS TO PRESIDENT BUSH ON STATUS PLEBISCITE

### HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. FUSTER. Mr. Speaker, on many occasions of late my colleagues have heard me speak of the pending legislation in both the House and Senate that would authorize a congressionally sanctioned political status plebiscite in Puerto Rico between statehood, independence, and an enhancement of the existing commonwealth status.

President Bush favors statehood while I, as my colleagues know, favor the enhanced commonwealth option as being in the best interests of both Puerto Rico and the United States. I have great respect for the institution of statehood, Mr. Speaker, but statehood just does not correspond to the existing economic and cultural-linguistic realities of Puerto Rico.

President Bush, in his advocacy of statehood, recently sent to Puerto Rico two high-ranking White House officials, Deputy Chief of Staff Andrew Card and Chase Untermeyer. Some of the things they said there were widely reported in the Puerto Rican press, prompting our Governor, Rafael Hernández Colón, to write a letter today to President Bush.

Because I know my colleagues would be interested in such a response by Gov. Hernández Colón. I am inserting it below in the RECORD.

MAY 16, 1990.

Hon. GEORGE BUSH,
*President of the United States, The White House, Washington, DC.*

DEAR MR. PRESIDENT: In my inaugural speech of January 2, 1989, I took the initiative of proposing to the United States a referendum so that the people of Puerto Rico would have an opportunity to exercise the fundamental right of self-determination as to the political status to govern the Island's future.

It was and is my deep conviction that this is an appropriate moment in history to resolve the so-called status question, so that this Island and its people can move forward, building on the constructive achievements of the Commonwealth which have made possible substantial mutual economic and strategic benefits for the U.S. and Puerto Rico, while at the same time preserving a treasured cultural heritage.

My initiative was implemented—following consultations with the representatives of the other parties in Puerto Rico, Members of the Congress, and your Administration—with the understanding that the status options to be developed must be of equal dignity, fair and balanced, and that the exercise of self-determination by the people of Puerto Rico, to be valid, must be conducted in an atmosphere free from outside interference and distortion.

It is in this spirit that we have conscientiously participated, for over a year, in the congressional process and are still firmly pledged to the realization of my original goal for our people. During this time, I have repeatedly ignored what I believe to have been serious breaches of these mutual understandings, but in good conscience I can no longer do so. It is with considerable regret that I now feel compelled to express my deepest disappointment in the treatment of the plebiscite process by your Administration.

In your 1989 State of the Union message, you immediately linked endorsement of a status plebiscite for Puerto Rico with a strong expression of your support for statehood rather than the other options of enhanced commonwealth or independence. Since that time the Administration has made every conceivable effort to:

Maximize the alleged attractiveness of statehood;

Minimize of ignore its serious fiscal and cultural problems;

Oppose all measures providing greater autonomy under commonwealth; and

Endorse discriminatory treatment in programs for the needy under commonwealth.

In your May 9 letter to U.S. Representative Robert Lagomarsino, you asked: "How can we applaud the exciting and momentous movements toward freedom in Eastern Europe, Latin America and elsewhere while refusing to grant to our own citizens the right of self-determination?". This is a most noble sentiment, which I wholeheartedly endorse. Mr. President, it is therefore ironic that your own Administration, by dictating to the people of Puerto Rico the course the U.S. Government wants them to choose, is in effect dealing with Puerto Rico in a manner tragically resonant of the approach now being taken by President Gorbachev toward the Baltic Republics. Indeed, as Moscow agents occupy various government buildings in Vilnius, Lithuania to press their version of their future relationship, White House representatives this week are appearing in the political halls of San Juan, Puerto Rico to promote statehood.

Mr. President, the people of Puerto Rico must be permitted to make their choice free from the awesome pressure that can be brought to bear by the Office of the President of the United States and his Administration. For this reason, I respectfully urge you to direct the Administration to henceforth adopt a position of strict neutrality on the choices to be presented in the status plebiscite. History is full of examples of the use of plebiscites and referenda to give apparent legitimacy to gross violations of democratic and legal principles.

Mr. President, we must ensure that the proposed plebiscite for Puerto Rico does in fact prove to be an inspiring example, to Eastern Europe and to the world of the way a true democracy provides for genuine self-determination.

I remain fully committed in my desire to work with all concerned toward the fulfillment of the historic opportunity. I am hopeful that we can yet ensure a dignified and fair process that affords the people of Puerto Rico and unfettered right of choice to determine their own destiny.

Cordially yours,

REFAEL HERNANDEZ-COLON.

## A SALUTE TO BRIG. GEN. CELES KING III

### HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. DYMALLY. Mr. Speaker, I rise today to salute Celes King III, brigadier general, the highest ranking African-American officer in the California State Military Reserve.

I am pleased to be listed among the thousands of people who know Brig. Gen. Celes King III as a caring person, a man of integrity and a man with a great wealth of knowledge and dedication to the good and welfare of not only the people of south central Los Angeles, but to people throughout Los Angeles County, the State of California, and the Nation.

Dr. King has unselfishly given many years of his time, talents and efforts to advancing the cause of civil rights and to creating a more livable world for all of us. I would like to take this opportunity to salute Brig. Gen. Celes King III and express my appreciation for his untiring efforts for what is right, and for his numerous achievements which include:

Professional Bail Agents of the U.S., national president;

Independent Bail Agents of California, former president;

Los Angeles City Human Relations Commission, former president;

Los Angeles Brotherhood Crusade, co-founder;

Los Angeles Rumor Control, co-founder;

Los Angeles NAACP, former president;

CORE California State chairman;

Southern California National Business League, former chairman;

Tuskegee Airmen, former Air Force pilot officer;

California Military Reserve, brigadier general;

California State University, former assistant professor;

California State Senate commissioner;

California State Martin Luther King Holiday Commission;

Pacific Coast University, LLB;

Masters degree, urban planning, Pepperdine University;

Masters degree, business, Pepperdine University;

Former chair of the board;

University of Santa Barbara (CA);

University of Santa Barbara (CA) Ph.D.; and

Recipient of numerous other awards and honors.

Professor King has successfully operated his family's bail agency since graduating from law school almost 40 years ago. His success as a bail agent has been reflected by numerous honors and awards presented to him by his peers in the bail industry. Through the many years in which he has admirably served his profession, he has been called upon to represent his industry before Congress, the California Legislature, and local government.

It is not unusual in the course of a busy day, which starts early in the morning, for Dr. King to call and be called by the helpless, the needy, State and local government officials and leaders, and national leaders—including the President of the United States.

General King fills an active schedule of political and community activities in every spare moment between his day long dedication to his family, his friends, his associates and his business.

Dr. King serves on dozens of boards and commissions which serve people from all walks of life. He has been honored for his dedicated service by the University of California by having his life story and the activities of his family placed with the exclusive oral history collection at UCLA and Berkley libraries.

Brig. Gen. Celes King III is an active Republican who has forged close working relationships with Democrats and Independents, and has dedicated his life to serving the people.

Brig. Gen. Celes King III began his military career in World War II where he was among a handful of outstanding young black men who broke the Air Force color line by becoming an officer in the famous Tuskegee Airmen. He was later elevated to the position of brigadier general in the California Military Reserve by former Gov. Jerry Brown, making him the highest ranking black person in the California military.

Mr. Speaker, I am pleased to salute Celes King III for all of his outstanding contributions in making the world of those around him a better place to live. I commend him for the many awards and honors bestowed upon him. Finally, I salute Brig. Gen. Celes King III for serving as a brilliant and positive role model for the young people in his community.

## A TRIBUTE TO THE ACTON POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Acton Police Department for their dedicated and outstanding service to the people of Acton, MA in the protection of life, liberty and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Acton Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, Are you prepared to offer your life in service to your community?

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Phillip L. Connors and those who serve in the Acton Police Department:

Donald Happakoski, Bradley Madge, John Wyman, Paul Cormier, William O'Connell, David Bonner, Mark Coulter, Judith Hadley, Dana Beauvais, Harver LaPrade, John Bousack, William Murray, Arthur Boisseau.

## CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

### HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. McGRATH. Mr. Speaker, I want to take this opportunity to draw attention to the problems Soviet Jews are experiencing, even in this era of glasnost.

In its May 7 issue, Newsweek ran a cover story which revealed the degree of anti-Semitism that still takes place in the Soviet Union and Eastern Europe. While the article was indeed disturbing, I was encouraged to see that Newsweek exposed the pain that still inflicts millions of Jews. It is truly disturbing that many in this country believe that Soviet and Eastern European Jews have been freed.

The era of glasnost has produced an array of new freedoms for the people of the Soviet Union. Unfortunately, a wave of anti-Semitism has emerged as a result of the personal independence. In January of this year, a Moscow writers' meeting was disrupted by a group shouting anti-Semitic rhetoric through a bullhorn, while police stood idly by. In addition, Pamyat—a nationalist anti-Semitic organization—is more virulent than ever, holding public meetings and publishing anti-Semitic materials. With the Berlin Wall crumbled and much of Eastern Europe now open to democracy, we cannot overlook this gross human rights violation. Through pressure from the United States, we must demand that President Gorbachev end these vicious acts of harassment and violence.

In a related matter, the Soviet Government recently rejected a plea from Secretary of

State James Baker to permit direct flights to Israel for Soviet Jews. Of course, without such flights, thousands of Soviet Jews are trapped in the Soviet Union. While Gorbachev has finally permitted Soviet Jews to emigrate, he has repeatedly balked on opening air routes to Israel. In essence, Gorbachev has not liberated Soviet Jews. The Soviet action that denies direct flights to Israel raises very serious questions about the intentions of the Soviet leaders. Is Moscow sincere in freeing Soviet Jews?

I have joined several House Members in a letter to Soviet Ambassador Yuriy Dubinin, calling on the Soviets to reconsider this gross inequity. Under the terms of the Jackson-Vanik amendment, most favored nation [MFN] benefits for Soviet trade is conditioned on Jewish emigration. Until direct flights from the Soviet Union to Israel are established. I believe MFN status for the Soviet Union should continue to be denied.

In closing, I want to urge my colleagues to read between the lines when the Soviets tell us of the wide ranging benefits of glasnost and their "liberation" of Soviet Jews. Soviet and Eastern European Jews are still receiving no more than lipservice from a government that has promised to free them. The United States must serve as the global standard bearer of human rights and promote the basic freedoms that are entitled to the Jews of Eastern Europe and the Soviet Union.

## LEGISLATION TO AMEND TAX CODE TO ASSIST PERSONNEL AFFECTED BY BASE CLOSURE OR REDUCTION

### HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. MADIGAN. Mr. Speaker, I rise today to introduce legislation that amends the Federal Tax Code so that the Homeowners Assistance Program [HAP] benefit for military and civilian personnel affected by a base closure or reduction is not taxed as income.

The HAP was created to help military and civilian homeowners who are forced to sell their homes due to a base closure or reduction. These homeowners receive a payment based on the value of their home prior to the announcement of a base closure or reduction. For example, a family that sells its $100,000 home for $70,000 receive 85 percent of that $30,000 difference, or $25,000

These people are forced to sell their homes because of a Federal decision. They should not be punished for buying a home near their base. But then this benefit is taxed as income, they are being punished.

Taxing the benefit is counterproductive to the intention of the program. The Federal Government is giving with one hand and taking away with another. The idea of the program is to help military and civilian personnel and their families, not to hurt them. It's difficult enough to uproot an entire family and move to a new town, make new friends, and put the kids in new schools. It is especially hard when that decision is not voluntary.

Amending the Tax Code in this way will benefit military and civilian men and women who are forced to sell their homes because of Government actions. I urge my colleagues to join me in supporting this important measure.

## LONG-TERM CARE

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 16, 1990 into the CONGRESSIONAL RECORD:

LONG-TERM CARE

Few problems come to my attention from constituents more often than the care of frail or ill older persons. I do not find anyone who is satisfied with the current system of long-term care. As more Americans live longer they suffer not only illnesses which require hospital care, but also conditions that require long-term care at home or in a nursing home. In 1987, roughly 6.5 million older Americans needed long-term care. By 2040 the number is expected to increase to 19 million.

The costs of long-term care can be staggering. Nursing homes cost roughly $30,000 annually, and professional care of older persons in their homes can cost up to $200 a day. Americans spent at least $56 billion on long-term care in 1987. Many families pay for long-term care out of their own pocket, straining their incomes and using up life savings. Roughly half of all extended health care spending is from private sources. Insurance companies offer only a limited number of extended health care policies, and federal programs do not begin to meet the total need.

CURRENT COVERAGE

The predominant provider of long-term care is the family. Older persons with whom I speak express strong preference for remaining at home as long as possible. Fortunately, families spend an enormous amount of time and energy taking care of older persons, and roughly 70% of disabled older persons receive care exclusively from nonpaid sources, generally family and friends. Yet this is becoming increasingly difficult as more women work outside the home.

Roughly 120 insurance companies now offer some type of long-term care insurance, providing about 1.5 million policies. Most health insurance policies, however, offer little relief to persons needing long-term care, and only about 1% of all extended health care expenditures are paid for by private insurance. Long-term care insurance has several limitations: Benefits are often inadequate to meet costs and do not usually keep pace with inflation; policies may not cover an illness a person already has; and many policies are unaffordable to all but the wealthiest families, costing up to several hundred dollars each month.

Given the drain of long-term care on family resources, it is not surprising that many older persons ultimately depend on public programs for their care. Medicaid, the Federal-State program for the poor, offers some relief, but the program provides benefits only to those who meet stringent financial standards. During the 1980s the Congress expanded several programs to provide limited community and home based care, such as hospice care and in-home services. These limited steps do not provide a comprehensive solution to the problem of long-term care.

FUTURE OPTIONS

The Congress is reviewing a number of proposals to provide extended health care benefits. The debate centers on whether a potential solution should be private or public, or some combination of the two.

One proposal centered largely in the private sector would offer federal tax incentives for purchasing long-term care insurance or for establishing individual medical accounts modeled on individual retirement accounts (IRAs). If younger persons, with lower levels of risk of needing care, buy long-term care insurance, the cost of the policies should go down. It is not clear, however, whether the government could provide large enough tax incentives to get enough people to buy the policies. The cost to the Treasury of this approach could be high.

A number of public solutions also have been offered. One approach would provide long-term care to all chronically disabled persons regardless of their ability to pay. Beneficiaries would not be responsible for any cost. The drawback of this proposal is its price tag, probably over $55 billion a year.

Another proposal would combine private insurance and Medicare coverage. Medicare, the federal health benefits program for older persons and the disabled, would be expanded to cover nursing home and home care after a predetermined amount, or deductible, is paid by the beneficiary. Medicaid would help pay the deductible for lower-income persons, and others could buy private insurance to meet this cost. This proposal defines and limits in advance the costs for insurance companies. Since they would only have to cover the deductible, policies could be more affordable. The cost to the Treasury could be up to $50 billion annually.

OUTLOOK

Several factors limit consideration of these and other long-term care proposals. First, the government continues to run enormous budget deficits, and finding additional federal resources to fund long-term care will be difficult. Other worthy priorities are competing for limited federal resources at a time when 32% of federal outlays already directly benefits older Americans. In addition, the recent repeal of the Catastrophic Protection Act, which expanded Medicare hospital and drug benefits, increased the doubts of many in the Congress about finding a publicly acceptable way to finance long-term care. Finally, both the Congress and the President are in doubt as to the next step in health care, and have failed to provide leadership on this issue.

I would favor a long-term care proposal that combines private and public options and allows older people to remain at home as long as possible. The responsibility for care should not fall solely on individuals or families, nor should the government provide comprehensive care for all older people. Private long-term care insurance and individual medical accounts could be encouraged, and everything should be done to improve the ability of people to pay for their own care. But it is unlikely that private financing alone can do the job, and some public sector participation will be necessary. This could include expanding government assistance to unpaid care givers along with greater coverage of home care services and easing Medic-

aid eligibility requirements. The Congress should continue to explore providing long-term care under a general social insurance program like Medicare. In the end, private and public sector approaches must fit together to provide affordable, quality long-term care.

## H.M.S. "ROSE" REPLICA

### HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. SHAYS. Mr. Speaker, yesterday, Senator JOSEPH I. LIEBERMAN and I introduced legislation which will allow a replica of the 1757 English frigate, H.M.S. *Rose,* to engage in trade along the coast of the United States.

Built in Nova Scotia in 1970, and berthed in Bridgeport, CT, the *Rose* replica is owned by the nonprofit organization, the H.M.S. *Rose* Foundation, which is headquartered at Captain's Cove Seaport in Bridgeport, CT.

The *Rose* is currently in the process of receiving its certification as a sailing school vessel. Once she receives her certification, the H.M.S. *Rose* Foundation will begin a variety of educational programs, in which trainees will learn about American maritime history, natural science and ecology and the importance of teamwork as they take part in the sailing of the vessel.

Built in 1757 in Yorkshire, England, the original H.M.S. *Rose* took part in the Seven Years War. In 1761, this 24-gun frigate sailed to the West Indies and took part in the capture of Havana and Martinique.

In 1768 she arrive in Boston under the command of Captain Sir Benjamin Caldwell. While on patrol off Boston in April of 1769, her first officer, Lt. Panton, was killed while trying to impress, or draft, sailors from a brig called the *Pitt Packett.* A young lawyer, John Adams was appointed Public Defender of the four accused seamen of the *Pitt Packett* who were charged with piracy on the high seas. They were found not guilty by reason of self defense and thus H.M.S. *Rose* unwittingly helped to launch John Adams' career.

Late in 1774, she was sent to Newport, RI. Newport had become one of the richest cities in America by perfecting the art of smuggling, to the point where it had become the city's principal industry. Rhode Islanders had already been sent to put an end to the smuggling.

Being considerably larger than the vessels sent previously, H.M.S. *Rose* was able to reduce smuggling to zero and the resulting unemployment caused Newport to lose four-fifths of its population by mid-1775. In response, the Rhode Island General Assembly sent a bill to the Continental Congress to establish a national Navy to deal with the ship. The bill, introduced by Rhode Islander Steven Hopkins, passed on October 13, 1775, thus making H.M.S. *Rose* directly responsible for founding the American Navy.

In 1776 she sailed to New York as part of an attacking fleet of 300 vessels. She played a major part in the campaign making forays up the Hudson and East Rivers and patrolling the western end of Long Island Sound.

Her career ended at the mouth of the harbor in Savannah, GA, where she was ordered to be sunk to block the harbor from an invasion of a French fleet.

I would like to recognize the work of Kaye Williams, owner of the Captain's Cove Seaport in Bridgeport, CT. In 1984, Kaye towed a greatly deteriorated vessel into historic Black Rock Harbor. For the next 2 years he labored over the reconstruction and replacement of virtually every plank of the vessel. Thanks to his perseverance, the *Rose* replica has the distinction of being the largest wooden operational sailing vessel in the world.

I would also like to recognize the work of Richard Bailey, captain of the *Rose,* who has worked tirelessly to bring the vessel into compliance with stringent Coast Guard safety standards. He has also worked closely with my staff in bringing about this legislation.

The *Rose* has brought romance and excitement to Bridgeport since her arrival in 1984. Hundreds of students and residents of Bridgeport, as well as people from around the world, have toured the ship at dockside.

When she embarks on her voyage this summer to various ports-of-call around the country, she will be an ambassador of good will for Bridgeport and for all of Connecticut.

The text of the bill follows:

H.R. —

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding section 27 of Merchant Marine Act, 1920 (46 U.S.C. App. 883) and sections 12106, 12107, and 12108 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for employment in the coastwise trade of the United States, Great Lakes trade, and fisheries for the vessel Rose (United States official number 928811).

## SALUTE TO CONCERNED PARENTS FOR HEAD START, PATERSON, NJ, ON ITS 25TH ANNIVERSARY

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ROE. Mr. Speaker, I rise today to salute a truly outstanding organization in my Eighth District of New Jersey whose efforts on behalf of the children of the community have made the city of Paterson, the State of New Jersey and our Nation a far better place to live.

I am speaking of the Concerned Parents For Head Start, a vitally active organization which was begun in 1965 as a means of enabling parents to assure that their children were reaping the fullest benefits of the highly successful Head Start Program. The 25th anniversary of this landmark organization, and of the Head Start Program's beginnings in Paterson will be celebrated with a dinner dance on Thursday, May 24, 1990, at the Brownstone House in Paterson, NJ.

Mr. Speaker, I know this event will be a great source of pride to the many people that have made Concerned Parents For Head Start such a success, and I would like to take this opportunity to salute the leadership of executive director Cecile Dickey, policy council president Diane Addison and board of directors president Helen Van Riper. I would also like to pay tribute to the distinguished keynote speaker at this important event, Dr. Dorothy Height, national president of the National Council of Negro Women.

Mr. Speaker, as a means of sharing with you and our colleagues the rich background of this outstanding organization, I would like to insert for the RECORD the official history of the Concerned Parents for Head Start:

In the summer of 1965, Head Start in Paterson begun as a demonstration project under the sponsorship of the designated community action agency "Paterson Task Force for Community Action" utilizing federal funds. Much of the planning was done hurriedly, primarily by Volunteers, with little knowledge of purpose other than to prepare young children for entrance into public schools as part of President Lyndon Johnson's "War on Poverty". This demonstration soon developed into a full time program.

The children were mainly chosen from the easily identified depressed, overcrowded "inner cities". It soon became apparent that strong leadership was needed to ensure the accommodation of the large numbers of children that were physically, socially, and emotionally deprived; and that an eight week pe-school education was insufficient to meet the needs of the children and families.

Recognizing that if Head Start children are to reach their fullest potential there must be an opportunity for Head Start parents to influence the character of programs affecting the development of their children. The organizational structure provided this opportunity by effective parent participation in the planning and implementation of programs through participation on the Policy Council. The Council consisted of concerned community people, professional representatives and parents of the Head Start children.

The purpose of Head Start became clear; to increase opportunities for pre-school children of the poor, ages 3-5 by providing an environment in which each child has the opportunity to develop his/her full potential as a unique individual with a specific learning style. The parents and community realizing this program's merits, soon had a full day, full year program. The program in 1965 consisted of five classrooms in various rented facilities, 180 children were receiving services provided by a staff of 35. In 1970, Concerned Parents for Head Start incorporated as a not for profit tax exempt corporation. Understanding the importance of parents in the decision making process; the newly formed Board of Directors of Concerned Parents for Head Start through petition, asked the Board of Directors of Paterson Task Force to provide them with delegate agency status, giving the parents a greater opportunity to make decisions about the nature and operation of the program.

In 1973 Concerned Parents for Head Start became a delegate agency of the Paterson Task Force for Community Action. The new Governing Board immediately went about the new tasks which had now become their responsibility. Viewing and approving budgets, accounting for monies spent, making by-law changes, hiring of administrative personnel, approving personnel practices and procedures were among the decisions they were called upon to make. It was clear from

the beginning that parent involvement would become a proven technique for improving the quality of educational experience and the personal lives of the Head Start families.

In 1976 the Head Start program severed its relationship with Paterson Task Force, the Community Action Agency was experiencing financial difficulties that hampered its ability to serve the needs of the Head Start Program. During this time frame the Executive Director of Head Start moved to centralize operations; she took on the task of finding suitable quarters to house the entire Head Start Program. In 1977 Concerned Parents for Head Start became a single purpose agency for the Head Start Program in Paterson after being in competition with the Catholic Diocese of Paterson who was desirous of becoming the sponsor for the program.

In 1978 the Head Start Program moved into its present building after financing was obtained through a local banking institution, Today through several expansion initiatives the corporation is providing services to 402 children in 22 classrooms in 5 sites with a staff of 78.

Mr. Speaker, I appreciate the opportunity to present this brief profile of a truly outstanding and vital organization that has improved the quality of life of the children of Paterson, NJ, for a quarter of a century, and in so doing has made its community, State, and our Nation a better place to live, the Concerned Parents for Head Start of Paterson, NJ.

## A TRIBUTE TO THE ASHBY POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Ashby Police Department for their dedicated and outstanding service to the people of Ashby, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Ashby Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, Are you prepared to offer your life in service to your community?

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Oliver M. Mutch and those who serve in the Ashby Police Department:

Anthony Enus, Kevin Dillon, John Goubeaud, Ann Fitzgerald, Peter Violette, Leroy Schofield, and Mike Saball.

## TRANSPORTATION EMPLOYEE ALCOHOL AND DRUG TESTING ACT OF 1990

### HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. COUGHLIN. Mr. Speaker, I am delighted to be joined today by my colleague and good friend, Mr. HUGHES, to introduce critically important legislation requiring mandatory drug and alcohol testing of transportation professionals.

The Transportation Employee Alcohol and Drug Testing Act of 1990 will require testing for drug and alcohol use by the operators of aircraft, railroads, commercial motor vehicles, and mass transportation vehicles. It protects the rights of those tested by incorporating guidelines established by the Department of Health and Human Services [HHS] on laboratory accuracy, as well as protections for individual privacy.

In 1988, the Department of Transportation [DOT] issued rules—most of which became effective last December—to require drug testing of nearly 4 million transportation workers. While this is certainly a step in the right direction, our legislation will provide the DOT with the statutory authority necessary to prevent court challenges. It will also require the DOT to supplement their program with requirements for alcohol testing.

The evidence of drug and alcohol use in the transportation industry is overwhelming. In January 1987, a crash between a Conrail freight train and an Amtrak passenger train at Chase, MD, resulted in 16 fatalities and 170 injuries.

The Conrail train's engineer and brakeman subsequently testified that they had been smoking marijuana in the cab prior to the fatal accident. Since this tragedy, there has been an average of 1 railroad accident every 10 days involving drugs or alcohol.

In March, a Southeast Pennsylvania Transportation Authority [SEPTA] train crashed killing 3 people and injuring 94. Transit authorities subsequently announced that one of the motormen on the subway train tested positive for cocaine use.

A Northwest Airlines crew was recently arrested for operating a jetliner with 91 passengers on board while under the influence of alcohol. All three pilots were found to have blood alcohol levels above Federal Aviation Administration [FAA] limits. Fortunately, the aircraft landed without incident.

In February, the National Transportation Safety Board [NTSB] announced the results of a 1-year study of fatal truck crashes in eight States. The NTSB found that 33 percent of the truck drivers who were killed in these crashes were drug- or alcohol-impaired.

These threats to public safety are why the Supreme Court has found testing programs to be within the limits of the Constitution—both Federal Railroad Administration post-accident testing of railway workers and U.S. Customs Service drug testing requirements for employees seeking promotions. Moreover, the Court has let stand several appeals court rulings allowing random tests for those in safety-related positions.

The fact is that large numbers of transportation employees work in an environment with little, if any, direct supervision. A strong deterent, such as the threat of being detected and sanctioned for drug and alcohol use is, therefore, a necessity.

We rely upon the vigilance of trained employees to remain alert to occurrences that might endanger our safety. Those who drink alcohol or use illegal drugs simply have no business holding a sensitive travel or public-safety job through which they assume responsibility for innocent lives.

Mr. Chairman, the presence of alcohol and illegal drug use in the transportation industry poses far too serious a threat to ignore. Drug and alcohol testing is the only method we have to reasonably ensure that transportation professionals will not use drugs or alcohol.

The fact is that random testing works. Since the Department of Defense instituted random testing, drug use has dropped from 27.6 percent in 1980 to 4.8 percent in 1988. The Coast Guard started random testing in 1983 and has seen a drop in drug use from 10.3 percent to 2.8 percent in 1988.

Further, the public supports testing. A recent Gallup poll found that 80 percent of all Americans surveyed favored testing of those in public safety positions. Moreover, our bill will require rehabilitation programs that give employees the opportunity to come forward and get help before they are identified through testing as a drug or alcohol abuser.

While our legislation is substantially the same as S. 561, introduced by my colleagues, Senators HOLLINGS and DANFORTH, it goes beyond this Senate bill by including urban mass transit systems. The Hollings-Danforth legislation has passed the Senate nine times since it was first introduced in 1987.

Mr. Chairman, the need for this legislation is obvious and the time for action is now. Enactment of this legislation will strengthen efforts already underway in the transportation industry. The potential for disaster created by those who abuse alcohol and illegal drugs while employed in safety sensitive transportation positions mandates that we do everything we can to eliminate the cause of the threat. I urge my colleagues to consider the importance of this issue and join us in this bipartisan effort.

## WEST VIRGINIA'S MOM OF THE YEAR

### HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. WISE. Mr. Speaker, I rise today to pay tribute to the winner of West Virginia's MOM of the Year Award. Mary Niebauer Hacala of Charleston, WV, is indeed a remarkable woman. Mary Hacala was born on a farm in Pennsylvania, but has spent the last 55 years of her rich life in West Virginia. There she bore and raised her five sons and took care of her totally disabled husband, while teaching school to supplement the small disability checks. After a long illness, her husband died

in 1957. Despite this tragic loss she raised her five sons sending them all to complete university degrees. These men are all now successful; one a lawyer, one the president of a company, the third an engineer, the fourth a Jesuit priest serving the poor in the Appalachian region, and the fifth the owner of his own business.

Mary Hacala, who turned 80 today, has officially retired from teaching, but she continues to tutor any child in need of basic skills. Despite her aging years she continues to serve her community and family. Her sons words in his letter to the International MOM Foundation best describe her, "She is a classic symbol of the ideal, hard working, long suffering, ever loving and generous Mountaineer West Virginia Mother."

Congratulations and happy birthday Mary Hacala.

## UNITED BLACK FUND CONTINUES TO MEET THE UNMET NEEDS

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. DELLUMS. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues the continuing contributions of the United Black Fund.

As the final decade of the 1990's unfolds before us, I wish to extend my continued support of the United Black Fund, Inc., on the occasion of its 18th Annual Victory Luncheon, which celebrates the successful United Black Fund/United Way Partnership Campaign of 1989.

The unprecedented growth of the United Black Fund, Inc., from 3 agencies in 1970 to its present 60-member agencies warrants great praise. The leadership of the UBF in the Nation's Capital and its development of the International United Black Fund gives us hope for the future.

With the resurgence of racism and the brutal attacks on our citizens and the constant battle we face against drugs and the violence it causes in our communities, the strong influence of the United Black Fund, Inc., is necessary to combat these and other evils.

I believe that education is the key we must use to reshape our world for a better future for our children and grandchildren. The District of Columbia as the Nation's capital must be the example for the rest of the country; it is the starting point for our positive actions to mold and reshape the minds of the leaders in the 21st century.

The presence of the 60 United Black Fund agencies throughout the Metropolitan Washington, DC area are indeed a reassurance to the community that the United Black Fund, Inc., will continue to meet the unmet needs.

## A SALUTE TO THE AMERICAN FLAG

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday May 16, 1990*

Mr. GALLEGLY. Mr. Speaker, I rise today to honor one of my constituents, Ruby Mae Ramsey of Thousand Oaks, CA. Like millions of Americans, she was outraged by the actions of that tiny minority who feel called upon to desecrate our American flag, and by the judges who allow such actions to continue.

She has written a poem that I would like to share with my colleagues, and with all Americans. I would like to thank her for sending it to me. It reads as follows:

Not too many years ago,
When I was a child in school,
Our flag was raised with honor,
And a most important rule:
Never should it touch the ground,
But handled with utmost care.
One could sense the reverence,
As we all assembled there.

Now it seems that it's all right,
To burn what men have died for.
Has "The Star Spangled Banner,"
Lost everything it stand for?
Americans were silent,
No fuss, no criticism,
When rendered the highest court,
Its terrible decision.

I call it desecration!
They can call it what they will.
Has "Old Glory" lost its honor?
Does it stir within you still?
The emblem of our country,
Considered just an old rag!
A nation without honor!
A country without a flag!

Mr. Speaker, Ruby Mae Ramsey speaks eloquently for me, and I'm sure for many of our colleagues. The time is long overdue that Old Glory is once again preserved and protected.

## WE REMEMBER BUBBY

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. PAYNE of New Jersey. Mr. Speaker, Cecil Earl Davis, known to friends and loved ones as "Bubby," passed away on Monday, April 30, 1990, at the VA Medical Center in East Orange, NJ. I grew up with Bubby and his wife, Barbara, in a section of Newark, NJ, called North Newark.

I remember him as a person with a strong sense of right and wrong. His family would say he believed he was usually right and every one else was wrong. He loved to "do battle"—whether as a young Golden Gloves champion, or with friends or radio and TV talk show hosts about some burning issue of the day.

At his memorial service on May 4, his cousin remembered him as one who would do what was right. She recounted how in 1947, a restaurant in a nearby New Jersey community was believed to be discriminating against blacks. His cousin, a student at the local college, asked him to accompany her to the restaurant to be served. He did and they were.

His wife was caucasian. And they married at a time—1948—when interracial marriages were almost unheard of. He was not oblivious to racial bias but he did not let people's prejudices affect his family. He commanded respect and it enabled him, his wife, and three daughters to go anywhere and to do anything.

Bubby was guided by the principle of doing what is right and tried fiercely to live his life that way.

Cecil E. Davis lived his life with dignity. He was a talented man who, because of the color of his skin, realized on the smallest of his great dreams. Yet, he never let go of those dreams.

The following obituary was prepared by the family for his memorial service:

Cecil Earl Davis was born in Newark, New Jersey on April 2, 1927 to the late Celestine and Arthur Davis. He succumbed to a lengthy illness on Monday, April 30, 1990 at the Veterans Medical Center in East Orange, New Jersey.

Cecil attended the Newark Public Schools and while still a very young man became interested in the art of boxing. He scored several one round knockouts and became a Golden Gloves Champion. He was encouraged to become a professional fighter because of his success in the ring and he later spent many hours following the careers of Joe Louis, his idol, and other famous fighters.

At the age of seventeen, Cecil joined the United States Navy where he served for eleven years. After a brief spell as a civilian entrepreneur he returned to military service by joining the United States Air Force. It was here that he gained expertise in aircraft engine maintenance. He retired as a Sergeant after a total of twenty-one years in the military. After retirement, he was, for a time, co-owner of the Davis and Copeland General Tire Company of Newark, New Jersey.

Cecil had many interests. He loved to dance and to socialize, especially with friends in the Old North Newark Club. He would pick out favorite tunes on the piano or put together his own love song. His mind was always active, inventing or creating something of his very own. He concerned himself with world issues and the plight of the oppressed. He was an articulate spokesman for his strong beliefs. He loved to dine in fine restaurants and to share the good life with those he loved.

He leaves to mourn his loss and to cherish his memory, a devoted wife, Barbara; three daughters, Ivy Lynn Davis, Marianne Davis Lowe, April Donna Lewis; two granddaughters, Kyndra and Kelli Lewis; one grandson, Amir Lowe and many other relatives and friends.

## A TRIBUTE TO THE ASHBURNHAM POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Ashburnham Police Department

for the dedicated and outstanding service to the people of Ashburnham, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Ashburnham Police Department—the public servants on the front line who enforce the laws we create. These men and women ensure that we remain a Nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Ronald Laplante and those who serve in the Ashburnham Police Department:

Robert Brennan, Ronald Savoy, Kevin Ahearn, Jeffery Shampine, John Doucette, Robert Harrington, Ralph Harrington, Peter Violette, Roberto Trujillo, and Travis Rixford.

## LET'S BALANCE THE BUDGET

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ANDERSON. Mr. Speaker, in 1986, at the 27th Soviet Party Congress, then General Secretary Gorbachev told his fellow Communist Party members: "Comrades, we have failed." Today, I have the same message for my fellow American legislators of both parties: Congress, we have failed. We have failed in our duty to balance the Federal budget.

Make no mistake about it, the current budget deficit is the greatest problem America faces today. Many call it a challenge. I do not consider keeping our country's financial house in order a challenge, it is a responsibility. We in Congress are responsible for two things, passing laws and passing out Federal funds. Judging by the amount of "Dear Colleagues" piling up on my desk, we are adept at the former, but judging by the deficit we are racking up for the 10th year in a row, we are inept at the latter. I find it hard to believe that as the elected leaders of this country we are unable to do two things at once, especially when given an entire year to do so.

The Federal deficit is the worst enemy of American business today. Compared to the distortion of the financial services market we are causing by massive government borrowing, the structural impediments to American exports in Japan we are always ranting about from this podium are peanuts. Foreign competition is a pushover compared to the unassailable competition for capital posed by the Treasury Department. Higher interest rates hurt the ability of U.S. corporations to obtain the financing they need to invest in research and development, which in turn increases the competitive advantage of foreign corporations. Higher interest rates also keep the dollar at an artificially high level on foreign exchange markets, making it more difficult for American exporters to sell their products overseas and lowering the price of imported goods. Together, these two results of higher interest rates raise the trade deficit and the amount of dollars we send to foreign countries. The very countries which benefit the most from this deficit enhanced imbalance of trade, including Japan, Korea, and West Germany, are only too happy to lend us our own money back to finance our irresponsible deficit. The price of the loan? You guessed it: More hard earned American dollars, in the form of interest on U.S. Treasury bonds. This adds even further to the exodus of dollars from our economy. Some of these dollars are then used by the Japanese and others to buy up American corporations, which increases their foreign competitive advantage, their share of our markets, and the trade deficit. This contributes to foreign financing of the budget deficit, which leads to higher interest rates, and starts the whole cycle going again, causing more and more money to be lost from our economy.

The end results of all this are higher taxes and prices and less jobs for working Americans, who in the end are the ones who wind up paying for our irresponsibility. Isn't it amazing how so often when there is an expensive debacle in this country, no matter who gets blamed in the press or thrown in jail by the courts, whether it's the *Exxon Valdez* oilspill or the savings and loan bailout, the people who end up being punished the most are the innocent American taxpayers. These are the people who have to foot the bill to pay for the solutions to these catastrophies. These are also the people who elected us to office to protect them from just such exigencies as these. The Pledge of Allegiance ends with: "and justice for all." I do not feel Congress is being just with the American taxpayer.

Allowing our economy to be managed like this is an outrage, and it is own our fault. We are draining our country of its lifeblood, the capital needed to start up new businesses, to give substance to entrepreneurial ideas, to give our young people jobs and the opportunity to pursue the American dream. Higher costs of capital in the form of higher interest rates mean higher costs for everything, from healthcare to housing. In my southern California district the average cost of a home is well beyond the reach of the typical working family. I am proud to say that I am currently supporting legislation to extend aid to first time home buyers through the Mortgage Revenue Bond Program, to help them finance the most important basic investment they will ever make. Unfortunately, I cannot give them help in the form they need it most—in the form of lower housing costs and lower interest rates, until we can lower the deficit. Working Americans are the people whom we hurt the most with our fiscal irresponsibility.

The next time someone loses a job to foreign competition in this country, we should not blame the Japanese, we should blame ourselves. We are all Members of Congress, the branch of government tasked by the Constitution with the responsibility of managing the country's finances. It is high time that we here in Congress lived up to our collective responsibility as the elected representatives of the United States of America, the greatest Nation ever to exist on the face of the Earth. Don't expect the President to provide the necessary leadership without any initiative from Congress. We cannot continue to do nothing and pray for the best. The Lord helps those who help themselves. America deserves better than it's getting, from the President and from us. Just because the President may not be doing his job does not mean that we have an excuse not to do ours. Balancing the budget may be tough, but it is our job. Let's do our job. Let's do the right thing by the people who trusted us enough to elect us to Congress. Let's balance the budget.

## THE 60TH ANNIVERSARY FOR HACKENSACK YWCA

### HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to the YWCA of Hackensack on the occasion of its 60th anniversary.

The YMCA offers a wide variety of services and programs for the entire community. In September 1966, the first Small Fry Club (nursery school) began in the YWCA gym, for the pre-schoolers whose mothers were in the building, taking classes or swimming. In 1969, the Small Fry Club moved to the First Presbyterian Church in Hackensack, and mothers were no longer required to be at the YWCA during the sessions. Today the YWCA has 16 Small Fry classes including Parent/Tot and Just Me Programs in 6 sites in Bergen County, serving over 250 children per year.

In 1970 the Room Registry Service and Second Start Jail Program were begun. The Room Registry Service matches single working women with homeowners who have rooms to rent in their homes. During 1989, the YWCA served 207 clients, both roomers and homeowners, and 51 cooperative living arrangements were made. SSJP began by teaching grooming and Yoga to women in the jail annex teaching office skills and GED preparation to male and female inmates.

The YWCA instituted Post-Mastectomy Program in October 1976 which was comprised of exercise, swim, and discussion, in cooperation with the National Council of Jewish Women, greater Teaneck section. This continuing program has helped many women recover physically and emotionally from the effects of breast surgery.

A country-wide rape intervention program (S.E.R.V.E.) was sponsored by the YWCA in December 1979 which includes a 24 hour hotline, training for professionals, brochures describing programs and services, and booklets on Risk Reduction, Recovery, and Campus Date and Acquaintance Rape.

For all the 60 years of its existence, the YWCA has offered leisure-time and educational activities for adults. YWCA members have

always been active in the community, serving on boards and planning groups which advocate for the needs of women and families. I am certain that this outstanding organization will continue to work to provide quality services to those in need.

Mr. Speaker I am proud to join in paying tribute to this exceptional group and extend my best wishes to them on their 60th anniversary.

## THE FRANK R. HOWARD MEMORIAL HOSPITAL AUXILIARY MEMBERS SILVER ANNIVERSARY

### HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. BOSCO. Mr. Speaker, I would like to take this opportunity to congratulate and commend the hardworking auxiliary members of the Frank R. Howard Memorial Hospital on the occasion of their silver anniversary.

The auxiliary members have been serving the patients and staff of this hospital since 1965. This long-term commitment to the town of Willits and surrounding areas demonstrates the dedication of the auxiliary members to their community in the spirit of voluntarism.

Each day volunteers set out to make contributions and to make a difference in the lives of others. Hospital volunteers are not only some of the most important, but some of the finest I have seen. Whether they hold a hand, visit newborns and lonely patients, deliver flowers and gifts, raise money to improve areas of the hospital, or work in the gift shop, these volunteers strive to improve the stay of each and every patient in the hospital. When that patient is a loved one or friend, one appreciates the dedication of the volunteers that much more.

Willits is truly fortunate to have the benefit of the devoted Howard Memorial auxiliary members. I am sure that the entire community joins me in congratulating and commending these fine people.

## ZAIRE: IN THE FOOTSTEPS OF EASTERN EUROPE?

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. DREIER of California. Mr. Speaker, last month President Mobutu Sese Seko of Zaire announced a series of sweeping reforms designed to improve the political climate in his country.

In an address to his people, Mobutu dissolved Zaire's only political party, the MPR, and lifted a 20-year ban on opposition parties, effectively ending his government's monopoly of power. In addition, Mobutu called for the drafting of a new constitution, one which would create a balanced system of judicial, legislative, and executive branches.

A new Prime Minister, Lunda Balalu, has been named and put in charge of heading a transitional government and appointing new ministers. National elections are tentatively scheduled for April 1991.

Zaire has made progress in other areas as well. Last year, the United Nations Human Rights Commission cited Zaire as one of the countries which had substantially improved its human rights situation. At the same time, the World Bank cited Zaire as 1 of the 10 most improved economies in the world. Certainly, the people of Zaire have much to look forward to in future years.

While I recognize that much has yet to be accomplished, we must at least acknowledge that Zaire has committed itself to making progress on human rights, civil rights, and economic rights. I hope that together we can work with Zaire to help them in their transition to democracy.

## ADRIEN BLOCK INTERMEDIATE SCHOOL

### HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. SCHEUER. Mr. Speaker, I rise today in recognition of the 20th anniversary of the Adrien Block Intermediate School in Flushing, Queens—one of the finest junior high schools in the city of New York.

In its 20-year history, the Adrien Block Intermediate School has consistently ranked among New York City's top public schools in terms of student reading and mathematics achievement. That its students excel in these and other academic areas is a testament to its dedicated, professional teachers and support personnel, as well as to the youngsters themselves, and to their parents who have obviously instilled in them the vital importance of education.

But high academic standards and test scores only tell part of the story. The Adrien Block Intermediate School's approximately 1,100 students come from a wide array of ethnic backgrounds. This diversity enhances and enriches the educational process, as youngsters exposed to a variety of cultures at an early age develop a heightened understanding and appreciation for the cultural moasic that has made America the world leader it is today. In this increasingly interdependent world of ours, the importance of fostering racial harmony and global understanding through interaction among peoples of various ethnic and socioeconomic backgrounds cannot be emphasized enough.

I salute the Adrien Block Intermediate School community for its ongoing commitment to fostering school and home environments in which our young prople are encouraged to learn, to interact with one another, and to strive to attain their highest goals.

## A TRIBUTE TO THE DUNSTABLE POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Dunstable Police Department for their dedicated and outstanding service to the people of Dunstable, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Dunstable Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a Nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often, we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Kenneth W. Tkachuk and those who serve in the Dunstable Police Department:

James Downes III, James Dow, George Aggott, Frank Quattrochi, David Galvin, Ryan Lamarre, Michael Palumbo, Gerald Simmons.

## RESTORE FAIR TREATMENT FOR TROPICAL FRUIT GROWERS

### HON. PATRICIA F. SAIKI

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mrs. SAIKI. Mr. Speaker, I am introducing legislation today to restore the annual accrual method of accounting for those taxpayers—specifically pineapple and banana growers—who, along with sugarcane growers, had properly used this accounting method for up to 30 years before its use was restricted 2 years ago by an amendment in the Technical and Miscellaneous Revenue Act of 1988. The legislation will reinstate this sensible method of accounting which was developed in the early fifties to address particular problems encountered by taxpayers who grow certain tropical crops with long preproductive periods.

Two of the larger industries in the State of Hawaii are the pineapple and the sugarcane industries.

The production of pineapples and sugarcane in Hawaii is significantly different from the production of what most people consider to be traditional farming crops. First, tropical crops are subject to volatile price fluctuations, the uncertainties of the weather and storms in

the tropics, and tropical pests and diseases. Second, the growth cycle of certain tropical crops is significantly longer than that of the grain and vegetable crops which most often come to mind when we speak of farming activities. For example, the normal cycle for pineapple production is 4 years. A first crop is harvested 18 to 20 months after planting. A second crop is harvested 12 to 14 months later. Sometimes a third crop is harvested another 12 to 14 months later, but, in most instances, the fields lie fallow for the duration of the cycle.

The Internal Revenue Code generally requires farming companies to compute their income on an accrual basis. Specifically, revenues and expenses are recognized on an accrual basis, and the costs incurred in growing crops must be capitalized. However, capitalizing these growing costs causes two significant accounting problems for our pineapple and sugarcane farmers whose preproduction cycle is so drawn out. First, putting preproductive period expenses on the balance sheet means that a taxpayer would have an asset on its books that might never be realized due to tropical storms, pests, and diseases. Recording an asset on the balance sheet that might never be realized is not only contrary to standard accounting practices, but it is also misleading to lenders and to shareholders. Second, capitalization of preproductive period expenses distorts a grower's income statement since it does not result in a proper matching of revenue and expense.

In the early fifties, it was determined that growers of these particular tropical crops needed a change in accounting methods in order to compute a more realistic balance sheet and to avoid a distortion of income. Upon the advice of a national accounting firm, and with the consent of the Internal Revenue Service, these taxpayers changed to the annual accrual accounting method for financial and tax purposes. Under the annual accrual method, the preproductive period costs of growing crops are charged to current period expense rather than capitalized. This removed the questionable asset of preproductive period expenses from the balance sheet and allowed for annual matching of costs and revenues at comparable price levels.

The annual accrual method was used successfully by Hawaiian pineapple and sugarcane growers for more than 30 years. Although the commercial banana industry does not operate in our State, I understand that major growers of bananas have also used this method for the same reasons since the 1950's. Not only was the annual accrual method used with Internal Revenue Service approval, but the method was codified in section 447(g) of the Internal Revenue Code by Congress in 1976.

When the uniform capitalization rules of code section 263A were enacted in the Tax Reform Act of 1986, the history of the legislation clearly stated that taxpayers properly using the annual accrual method would be allowed to continue to use that method. It therefore came as a surprise to our pineapple growers—and to banana growers—when the Joint Committee on Taxation's Blue Book explanation of the 1986 Tax Reform Act stated that Congress intended that only sugarcane growers be allowed to continue using that method. A technical amendment to that effect was subsequently enacted in the Technical and Miscellaneous Revenue Act of 1988.

I understand that there has been some speculation that the 1988 amendment was enacted to prevent a potential slippery slope problem. With the enactment of uniform capitalization rules and the repeal of certain other specialized accounting rules, it was feared that some new taxpayers would attempt to apply the annual accrual method to crops other than those to which the method had been applied for many years. Unfortunately, in an attempt to prohibit such an expansion of the method, the 1988 technical amendment listed sugarcane as the only tropical crop to which the annual accrual method could be applied. It appears in retrospect, however, that the feared abuse would not have been possible under the original language of the 1986 Act, so the technical amendment was not necessary. Nonetheless, the 1988 amendment continues to discriminate against the pineapple and banana growers who had properly used the method prior to 1986.

During my business career, I became familiar with the annual accrual method. I know that forcing pineapple growers off their sensible and historical method of accounting would be economically devastating for Hawaiian pineapple producers which are already competing with low-cost producers in other countries. It would cause severe repercussions in the Hawaiian economy, without any apparent justification. It is our responsibility in Congress to repeal legislation when it has fulfilled its purpose or when it has proven unworkable or unmerited. In this particular case, an error was made, and we need to correct the situation by restoring the annual accrual method of accounting for pineapple and banana growers.

## A TRIBUTE TO WILLIAM R. FREDENBERG, A NATIVE AMERICAN VETERAN OF THREE WARS

### HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. ROTH. Mr. Speaker, I would like to take this opportunity today to honor a true American hero, Mr. William R. Fredenberg, on the occasion of "William R. Fredenberg Week" in Menominee, WI.

Bill Fredenberg's story is the kind that you might find in a book about young men who go abroad to serve their country, make their country and community proud, and return to a hero's welcome. His actions remind me of a remark Harry Truman once made while commending the soldiers who fought in World War II. President Truman said, "We do not go to war for gain or for territory; we go to war for principles, and we produce men like these."

Bill Fredenberg's service to his country and its principles during one war is extraordinary. But what is truly exceptional about Bill Fredenberg is that he served his country in remarkable fashion not once, but three times.

In 1944, 11 days after D-Day, the Allied Forces were established on the European Continent. The fighting was fierce and resistance was greater than anticipated.

Providing air cover for our troops fighting the ground war was Major Fredenberg of the U.S. Air Force. Piloting a P–47 Thunderbolt, he completed 36 daring missions, strafing enemy targets, destroying enemy supply depots, and disrupting Nazi reinforcements. During his 37th mission, he was shot down by heavy enemy ground fire while attacking an enemy-held rail yard in France.

After surviving a fiery crash, he was taken prisoner by the German Army. At this point, the war for most Allied pilots ended in a POW camp. But not so for Bill Fredenberg. He escaped from a POW train in Tours, France, leading 13 of his fellow prisoners to freedom.

Unable to achieve a quick repatriation, he joined the Free French underground operating in Nazi-occupied France. He was liberated by the advancing Allied Forces in September 1944, after nearly 4 months behind enemy lines.

Major Fredenberg won the Distinguished Flying Cross for his bravery on the strafing mission and earned the admiration of all who were with the Allied cause as he helped the resistance in France.

He was discharged in 1945 following the end of the war and he returned as a hero to his home in Wisconsin.

But soon, the United States found itself engaged in the Korean war and Major Fredenberg once again joined the fight. In 1951 he was recommissioned and stationed with the 40th Fighter Squadron in Japan.

Here, he traded in the old P–47 Thunderbolt for the new jets that now roamed the skies. He chased Migs down Mig Alley and gave ground support to desperate troops fighting against overwhelming odds.

At the conclusion of the Korean campaign, he continued to serve his country as an air training command pilot from 1953 to 1960.

Then another conflict, this one in Vietnam, demanded his service and, with the rank of captain, Bill Fredenberg again answered the call.

While flying an AC–47 gunship, Captain Fredenberg earned his second Distinguished Flying Cross at a battle near Pleiku.

Again, in the role of flying support for vastly outnumbered ground forces, Captain Fredenberg attacked a large enemy force that had surrounded the allied forces. With complete disregard for the low-ceiling, poor visibility and heavy surface-to-air, Captain Fredenberg circled the battle zone for 1½ hours of continuous combat until the enemy had been turned back.

If there is any doubt about the heroism of this brave American, let me erase it by recounting the ways his country thanked him for his service. Captain Fredenberg is the recipient of the following awards:

Two Distinguished Flying Crosses with oak clusters; the Air Medal with 1st through 14th oak clusters; European Air Medal with three battle stars; Korean Service Medal; United Nations Service Medal; POW medal; American Defense Medal; Japan Occupation Medal; Vietnam Service Medal; Air Force Outstanding

Unit Award; Air Force Longevity Service Award; and Armed Forces Reserve Medal.

On the field of battle, Bill Fredenberg's uncommon valor was an uncommon virtue.

In a Normandy chapel, near the place where Bill earned his first Distinguished Flying Cross, an inscription reads, "These endured all and gave all that justice among nations might prevail and that mankind might enjoy freedom and inherit peace."

Bill Fredenberg endured three wars so that freedom and peace might prevail.

## WILLIAM E. MARTIN, REV. LAWRENCE J. MILLER, REV. THOMAS F. OLSEN, AND JOSEPH A. WARD INDUCTED INTO HUDSON COUNTY CYO HALL OF FAME

### HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 16, 1990*

Mr. GUARINI. Mr. Speaker, an outstanding organization serving the needs of the youth in my district recently celebrated its 50th anniversary. Ceremonies commemorating the last 50 years of achievement were conducted by Archbishop Theodore McCarrick of the Archidiocese of Newark.

Friday, May 18, 1990 marks the date when the Hudson County Catholic Youth Organization [CYO] hosts its annual awards night dinner, announced Thomas Hart, chairman of the dinner committee. This dinner celebrates the hundreds of volunteers who generously give of their time and talent so that CYO programs may continue to serve the young people of Hudson County.

Since 1940–41, the CYO has provided countless programs designed to develop children spiritually, intellectually, socially, culturally, and physically. The success of the CYO is evident every day in people who have grown from CYO roots to take their place in the world. CYO children have grown to become doctors, lawyers, teachers, government leaders, and in every case productive members of society.

In addition to honoring its myriad of volunteers at the awards night dinner, the CYO also inducts members into its hall of fame. This year, the CYO will so honor four men who have a combined total of more than 120 years service to our community: William E. Martin, Reverend Lawrence J. Miller, Reverend Thomas F. Olsen, and Joseph A. Ward.

WILLIAM E. MARTIN

Born and raised in Jersey City, Bill was educated at St. John's Grammar School and St. Aloysius High School. He continued his education at Kansas State University and at the Fordham School of Social Work. He has served as a faculty member at St. Al's High School, St. James High School in Newark, and at Washington & Lee University. Bill served as the director of social services and morale for the more than 30,000 troops at Camp Crowder, MO, immediately prior to his assumption of the director's duties at the CYO.

Under the direction of Bill Martin, the CYO flourished and developed many new and long-lasting programs. He created the foundation for a day camp program that now serves in excess of 1,000 youngsters at three different locales. As a result of this program, many of today's adults, young and old, recount the events of many of their happiest and most memorable summers at this camp. As athletic director, Bill instituted and supervised more than 224 basketball leagues and countless more baseball, track and field, and swimming programs. He was appointed National Biddy Basketball Deputy Commissioner and was a significant force in establishing the national program.

Bill served as the head of the Hudson County United Way, developing this fledgling office from its infancy into one of the most successful and catalytic agencies in United Way annals. Not only has he served 19 United Way presidents during his more than 30 year tenure, but he has also served as a visible role model for the community, which has benefitted greatly from his leadership, vision and guidance. He has been a representative for the United Way throughout the world spanning from the United Kingdom to Beijing, The People's Republic of China—where he served as a United Way Ambassador. Truly, Bill Martin is a shining example of brotherhood and all that is great about the American spirit and people.

REV. LAWRENCE J. MILLER

Born in the Bronx, New York, "Larry" Miller spent a number of years as research chemist after leaving Fordham University prior to being ordained a Catholic priest on May 31, 1969.

Assigned to Our Lady of Mercy Parish in Jersey City in June 1969, he moved immediately to establish a number of youth sports leagues in his area. This included Jersey City's first hockey league. His efforts and development of the Pee Wee Basketball programs have taught children not only basketball and competitiveness, but team spirit as well. Duke University's outstanding point guard Bobby Hurley is only one of the many young people who has benefited from these programs. In addition to basketball, numerous other programs were instituted. This list includes track and field, girls' softball, flag football, and cheerleading programs initiated under the auspices of Larry Miller's supervision.

Under Father Miller's direction, the Hudson County CYO was resurrected from the slough of the urban dilemma which marked the decade of the 1970's into an effective organization serving the needs and development of our youth in the 1980's and beyond.

In 1987, much to the sorrow of Hudson County residents, Father Miller was transferred to the Immaculate Heart of Mary parish in Scotch Plains. But it was with great joy that Hudson County welcomed him back upon his recent appointment as pastor to the St. Mary Star of the Sea Church in Bayonne.

REV. THOMAS F. OLSEN

There are thousands of people who are better human beings and share pleasant memories for having experienced Father Olsen's leadership and example. Father Olsen has been a two-time, two-term director of the Hudson County CYO.

Ordained in 1953, Father Olsen was assigned to Our Lady of Mount Virgin in Garfield where he served as CYO and Holy Name Society moderator. In addition, he served the Altar Boys, the Travel Club, and the Children of Mary and Drama Club.

In 1968, Father Olsen was transferred to Assumption/All Saints Parish in Jersey City. He brought with him a fresh, new vitality and energy to the parish and was named CYO director in 1970. In 1976, he was named pastor of the parish and served as such until he was named the pastor of St. Paul of the Cross Parish. Once again, Father Olsen provided outstanding leadership and guidance to his parishoners. In 1988, he was appointed to his second term as CYO director.

When the archdiocese of Newark purchased the former Boystown complex in Kearny, they began a process of renovation designed to transform these premises into the Archdiocesan Youth Center. I am confident that Reverend Olsen, the center's director, will continue to build on his career of achievement with honor and distinction.

JOSEPH A. WARD

Joe has already been a creative individual and an innovator. His CYO and youth activity began while serving at St. Henry's Parish in Bayonne as its athletic director. This led to his ascension to the directorship of the CYO. While at St. Henry's, Joe led his teams to city and county championships, as well as an archdiocesan title. In addition to these accomplishments, Joe is also remembered for the following achievements. He was a catalyst for the Bayonne CYO "Big Five"—a noted semi-professional team which competed throughout the metropolitan area. He was also a charter member of the Hudson County Semi-Pro League. It was in 1957 that he served as director of the CYO and it was there that he introduced the Little Guys Program—which went immediately to Highwood, Illinois enroute to winning the National Tournment.

In 1958, Joe began the first area tackle-football league. It included players from five parishes. Local individuals serving beneath Joe, such as Tony Nocera, Mike Filosa, Ike Venutolo, and the late Jack McCoy all benefitted greatly by witnessing and experiencing, firsthand, the great breadth of Joe's talent and example.

Additionally, Joe worked closely with the National Cheerleading Association and was instrumental in establishing a host of local clinics. In 1960, Joe coordinated the largest fundraising event in Hudson County: The National High School All-America Game, played at Roosevelt Stadium. John Thompson, Paul Silas, Connie Hawkins, and Danny Waddleton were among the number of players who helped raise more than $35,000 for charitable functions at this event.

Joe Ward represents the quite determination, industriousness, and perseverance which, when combined, are the bedrock of excellence and achievement.

We are all proud of him.

In the 50 years of its existence—one-half century of work, achievement, and success—the Hudson County CYO has served millions of people throughout the county. It has been a sponsor of numerous athletic programs, in-

cluding basketball teams and leagues for a number of years. Hence, it is with great pleasure that at this, the 50th Annual Awards Night Dinner, we will open the doors to the newly created Hudson County CYO Basketball Hall of Fame.

The first inductees will be: George Blaney, James Boylan, Edward Lawson, Vincent Ernst, Charles "Mandy" Johnson, Robert Hurley, Sr., Robert Hurley, Jr., David Rivers, Michael O'Koren, and James Spanarkel.

The aforementioned people represent the very best virtues and qualities that the CYO and, indeed, America strives for. All are exemplary for the effort and energy expended in the service of their fellow man, but their greatest accomplishments are in the lives they lead—lives of contribution to society augmented by the pursuit of moral, intellectual, and physical excellence.

I am certain that my colleagues here in the House of Representatives wish to join me in a salute to the CYO and the recipients of these distinguished awards.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 17, 1990, may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### MAY 18

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:30 a.m.
Environment and Public Works
Superfund, Ocean and Water Protection Subcommittee
Business meeting, to mark up S. 203, to authorize research into ground water contamination and to authorize the EPA Administrator to assist State and local governments in ground water protection strategies; to be followed by a hearing on S. 1697, to require local educational agencies to conduct testing for radon contamination in schools.
SD-406

Finance
Medicare and Long-Term Care Subcommittee
To hold hearings on recommendations for the Medicare Volume Performance Standards (MVPS) for fiscal year 1991, which is the rate of growth in spending for physician services reimbursed by the Medicare program.
SD-215

Veterans' Affairs
To hold hearings on titles I and III of S. 2100, Veterans Compensation Cost-of-Living Adjustment Act, S. 1887, to allow for Kentucky Vietnam veterans to receive a one-time bonus from the Commonwealth, S. 2454, Veterans Programs Improvement Act, S. 2482, to clarify the eligibility of certain minors for burial in national cemeteries, S. 2102, to modify certain congressional reporting requirements of the Secretary of Veterans Affairs, S. 2556, Radiation Exposed Veterans Compensation Amendments, S. 2499, to limit the amount of funds held by fiduciaries of incompetent veterans subject to inheritance by nondependent heirs, S. 2485, to authorize the Secretary of Veterans Affairs to provide financial assistance for the operation and maintenance of State veterans cemeteries, and proposed legislation to expand radiation presumptions for veterans.
SR-418

Special on Aging
To hold hearings to examine service delivery problems at the Social Security Administration.
SD-628

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of Surface Mining, Department of the Interior.
S-128, Capitol

Banking, Housing, and Urban Affairs
To hold hearings on proposed money laundering legislation, including S. 2327 and H.R. 3848, to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering.
SD-538

Labor and Human Resources
To resume hearings on S. 2114, to promote excellence in American mathematics, science, and engineering education.
SD-430

### MAY 21

1:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of the Interior and related agencies.
S-128, Capitol

Select on Indian Affairs
To hold hearings on the nomination of Carl J. Kunasek, of Arizona, to be Commissioner on the Navajo and Hopi Relocation.
SR-485

2:00 p.m.
Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on S. 2171, authorizing funds for fiscal year 1991 military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on Department of Defense laboratory management.
SR-222

### MAY 22

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for the Department of Defense, focusing on classified programs.
S-407, Capitol

9:30 a.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
To hold hearings on S. 2171, to authorize funds for fiscal year 1991 for the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on the Navy shipbuilding and conversion program.
SR-222

Veterans' Affairs
To hold hearings on the nominations of Donald L. Ivers, of New Mexico, and Jonathan R. Steinberg, of Maryland, each to be an Associate Judge of the U.S. Court of Veterans Appeals.
SR-418

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine deposit insurance reform.
SD-538

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

2:00 p.m.
Armed Services
To hold hearings on the nomination of Lt. Gen. Carl W. Stiner, USA, to be General and Commander-in-Chief, U.S. Special Operations Command, Department of the Army.
SR-222

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the global environment.
SD-138

### MAY 23

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to review the Administration's technology policy and priorities.
SR-253

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the semiannual appearance of the Oversight Board of the Resolution Trust Corporation.
SD-538

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the Office of Inspector General.
SD-138

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold oversight hearings on the "Report of the Interagency Scientific Committee to Address the Conservation of the Northern Spotted Owl."
SD-366

2:30 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on the Department of Energy national security budget request for fiscal year 1991.
SR-253

MAY 24

9:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for defense programs.
SD-192

Armed Services
To hold hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on management strategies for the defense build down.
SR-222

9:15 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 2228, to develop a comprehensive program to ensure the wholesomeness of fish products intended for human consumption and sold in interstate commerce.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine ways to expand U.S. exports abroad.
SR-253

10:00 a.m.
Finance
To hold hearings to examine the costs and health impact of cigarette smoking, focusing on how it affects children.
SD-215

JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.
SD-138

JUNE 6

9:00 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on the B-2 program.
SR-253

JUNE 7

9:30 a.m.
Judiciary
To hold hearings to examine the effects on judicial nominees belonging to private clubs that discriminate.
SD-226

Veterans' Affairs
To hold oversight hearings on veterans prosthetics and special-disabilities programs.
SR-418

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

JUNE 12

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration's satellite programs.
SR-253

Select on Ethics
To hold hearings on matters relating to the investigation involving Senator Durenberger.
SH-216

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on eastern Europe.
SD-138

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2358, providing U.S. consumers the opportunity to enjoy the technological advancement in sound recording by use of digital audio tape recorders.
SR-253

Rules and Administration
Business meeting, to consider proposed legislation authorizing funds for fiscal year 1991 for the Federal Election Commission, proposed legislation providing for the management of Senate official mail, proposed legislation authorizing the purchase of 1991 "We the People" calendars for the use of the Senate, and other pending calendar business.
SR-301

2:00 p.m.
Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold hearings on proposed U.S. military training for Peru.
S-116, Capitol

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration's ocean and coastal programs.
SR-253

Veterans' Affairs
To hold hearings on title II and section 402 of S. 2100, relating to veterans physician pay and health issues, S. 1860, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war, S. 2455, to provide for recovery by the United States of the cost of medical care and services furnished for a nonservice-connected disability, S. 2456, to extend expiring laws authorizing the Department of Veterans Affairs to contract for needed care and to revise authority to furnish outpatient dental care, and other proposed legislation.
SR-418

JUNE 19

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1974, to require new televisions to have built in decoder circuitry designed to display closed-captioned television transmissions.
SR-253

JUNE 26

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.
Room to be announced

2:00 p.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 1772, to prohibit State lotteries from misappropriating professional sports service marks.
SD-226

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.
Room to be announced

JUNE 28

9:30 a.m.
Veterans' Affairs
Business meeting, to consider pending legislation relating to veterans compensation and health-care benefits.
SR-418

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485

## POSTPONEMENTS

MAY 17

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on the Strategic Defense Initiative.
SD-628

MAY 23

10:00 a.m.
Foreign Relations
To hold hearings to review U.S. policy toward Iraq, focusing on human rights, weapons proliferation and international law.
SD-419

# HOUSE OF REPRESENTATIVES—Thursday, May 17, 1990

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, help us to take heart and gain purpose from the moral standards of our history. From the commandments of Moses to the traditions of our own families we have received direction to how life should be lived and the values that we ought hold dear. Give us, O God, a greater appreciation and allegiance for the ideas and values that have shaped our consciences, so that we may live in our time with harmony and peace. In Your name we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HASTERT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HASTERT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 103, not voting 44, as follows:

[Roll No. 112]

YEAS—285

| | | |
|---|---|---|
| Ackerman | Bosco | Conte |
| Anderson | Boucher | Cooper |
| Andrews | Boxer | Costello |
| Annunzio | Brennan | Crockett |
| Anthony | Brooks | Darden |
| Applegate | Broomfield | Davis |
| Archer | Browder | DeFazio |
| Aspin | Brown (CA) | Dellums |
| Atkins | Bruce | Derrick |
| AuCoin | Bryant | Dicks |
| Barnard | Byron | Dingell |
| Bartlett | Callahan | Donnelly |
| Bateman | Campbell (CO) | Downey |
| Bates | Cardin | Duncan |
| Beilenson | Carper | Durbin |
| Bennett | Chapman | Dwyer |
| Berman | Clarke | Dymally |
| Bevill | Clement | Dyson |
| Bilbray | Clinger | Early |
| Boggs | Coleman (TX) | Eckart |
| Bonior | Combest | Edwards (CA) |
| Borski | Condit | Emerson |
| Engel | Livingston | Rowland (CT) |
| English | Lloyd | Rowland (GA) |
| Erdreich | Long | Roybal |
| Espy | Lowey (NY) | Russo |
| Evans | Luken, Thomas | Sabo |
| Fascell | Manton | Sangmeister |
| Fazio | Markey | Sarpalius |
| Feighan | Martin (NY) | Savage |
| Flake | Martinez | Sawyer |
| Foglietta | Matsui | Saxton |
| Frank | Mavroules | Scheuer |
| Frost | Mazzoli | Schiff |
| Gallo | McCloskey | Schneider |
| Gejdenson | McCollum | Schumer |
| Gephardt | McCrery | Serrano |
| Geren | McCurdy | Sharp |
| Gibbons | McDermott | Shaw |
| Gillmor | McEwen | Shumway |
| Gilman | McHugh | Shuster |
| Glickman | McMillan (NC) | Sisisky |
| Gonzalez | McMillen (MD) | Skaggs |
| Gordon | McNulty | Skeen |
| Gradison | Meyers | Slattery |
| Grant | Mfume | Slaughter (NY) |
| Green | Mineta | Smith (FL) |
| Guarini | Moakley | Smith (IA) |
| Hall (OH) | Mollohan | Smith (NE) |
| Hall (TX) | Montgomery | Smith (NJ) |
| Hamilton | Moody | Smith (VT) |
| Hansen | Morella | Snowe |
| Harris | Morrison (CT) | Solarz |
| Hatcher | Morrison (WA) | Spence |
| Hayes (IL) | Mrazek | Spratt |
| Hayes (LA) | Murtha | Staggers |
| Hefner | Myers | Stallings |
| Hertel | Nagle | Stark |
| Hoagland | Natcher | Stenholm |
| Hochbrueckner | Neal (MA) | Stokes |
| Horton | Nielson | Studds |
| Houghton | Nowak | Swift |
| Hoyer | Obey | Synar |
| Hubbard | Olin | Tallon |
| Huckaby | Ortiz | Tanner |
| Hughes | Owens (NY) | Tauzin |
| Hutto | Owens (UT) | Taylor |
| Jenkins | Oxley | Thomas (GA) |
| Johnson (CT) | Packard | Thomas (WY) |
| Johnson (SD) | Pallone | Torres |
| Johnston | Panetta | Torricelli |
| Jones (GA) | Parker | Towns |
| Jones (NC) | Patterson | Traficant |
| Jontz | Payne (NJ) | Traxler |
| Kanjorski | Payne (VA) | Udall |
| Kaptur | Pease | Unsoeld |
| Kasich | Pelosi | Valentine |
| Kastenmeier | Penny | Vander Jagt |
| Kennedy | Perkins | Vento |
| Kennelly | Petri | Visclosky |
| Kildee | Pickett | Volkmer |
| Kolter | Pickle | Walgren |
| Kostmayer | Poshard | Walsh |
| LaFalce | Price | Washington |
| Lancaster | Pursell | Watkins |
| Lantos | Rahall | Waxman |
| Laughlin | Ravenel | Weiss |
| Leath (TX) | Ray | Weldon |
| Lehman (CA) | Richardson | Wheat |
| Lehman (FL) | Rinaldo | Wise |
| Lent | Roe | Wolpe |
| Levin (MI) | Rohrabacher | Wyden |
| Levine (CA) | Rose | Wylie |
| Lewis (GA) | Rostenkowski | Yates |
| Lipinski | Roth | Yatron |

NAYS—103

| | | |
|---|---|---|
| Armey | Buechner | DeLay |
| Baker | Bunning | DeWine |
| Ballenger | Burton | Dickinson |
| Barton | Campbell (CA) | Dornan (CA) |
| Bentley | Chandler | Douglas |
| Bereuter | Coble | Dreier |
| Bilirakis | Coleman (MO) | Edwards (OK) |
| Bliley | Coughlin | Fawell |
| Boehlert | Cox | Fields |
| Brown (CO) | Dannemeyer | Frenzel |
| Gallegly | Machtley | Schroeder |
| Gingrich | Madigan | Sensenbrenner |
| Goodling | Marlenee | Shays |
| Goss | Martin (IL) | Sikorski |
| Grandy | McCandless | Smith (TX) |
| Hancock | McDade | Smith, Denny (OR) |
| Hastert | McGrath | Smith, Robert (NH) |
| Hefley | Michel | Smith, Robert (OR) |
| Henry | Miller (OH) | Stangeland |
| Herger | Miller (WA) | Stearns |
| Hiler | Molinari | Stump |
| Holloway | Moorhead | Sundquist |
| Hopkins | Murphy | Tauke |
| Hyde | Parris | Thomas (CA) |
| Inhofe | Pashayan | Upton |
| Ireland | Paxon | Vucanovich |
| Jacobs | Porter | Walker |
| James | Quillen | Weber |
| Kolbe | Regula | Whittaker |
| Kyl | Rhodes | Wolf |
| Lagomarsino | Ridge | Young (AK) |
| Leach (IA) | Ritter | |
| Lewis (CA) | Roberts | |
| Lewis (FL) | Rogers | |
| Lightfoot | Ros-Lehtinen | |
| Lukens, Donald | Schaefer | |

NOT VOTING—44

| | | |
|---|---|---|
| Alexander | Ford (MI) | Oberstar |
| Bustamante | Ford (TN) | Rangel |
| Carr | Gaydos | Robinson |
| Clay | Gekas | Roukema |
| Collins | Gray | Saiki |
| Conyers | Gunderson | Schuette |
| Courter | Hammerschmidt | Schulze |
| Coyne | Hawkins | Skelton |
| Craig | Hunter | Slaughter (VA) |
| Crane | Kleczka | Solomon |
| de la Garza | Lowery (CA) | Whitten |
| Dixon | Miller (CA) | Williams |
| Dorgan (ND) | Neal (NC) | Wilson |
| Fish | Nelson | Young (FL) |
| Flippo | Oakar | |

□ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

## PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Tennessee [Mr. GORDON] will please come forward and lead the House in the Pledge of Allegiance.

Mr. GORDON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 87. Concurrent resolution concerning Iranian persecution of the Baha'is.

The message also announced that the Senate had passed a joint resolution of the following title, in which

the concurrence of the Hosue is requested.

S.J. Res. 264. Joint resolution to commemorate the 50th anniversary of the National Sheriffs' Association.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. By previous announcement, the Chair will not receive 1-minute requests.

## PROVIDING FOR CONSIDERATION OF H.R. 2273, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 394 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 394

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Energy and Commerce, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part one of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against the amendments printed in the report are hereby waived. No amendment to said substitute shall be in order except those printed in part two of the report of the Committee on Rules accompanying this resolution. Said amendment shall be considered in the order and manner specified in the report, shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with instructions, if offered by Representative Michel of Illinois or his designee, or without instructions. After passage of H.R. 2273, it shall be in order to take from the Speaker's table the bill S. 933 and to consider said bill in the House, and it shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 2273 as passed by the House, and all points of order against said motion are hereby waived.

The SPEAKER pro tempore (Mr. THOMAS A. LUKEN). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from Illinois [Mrs. MARTIN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 394 is a modified open rule providing for consideration of the bill, H.R. 2273, the Americans With Disability Act.

The rule provides for 2 hours of general debate with one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor; one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation; and the final one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

Mr. Speaker, all points of order against consideration of the bill are waived. The rule makes in order the amendment in the nature of a substitute now printed in part 1 of the report accompanying this resolution as original text for the purpose of amendment, to be considered as having been read.

All points of order against the substitute are waived.

Mr. Speaker, the rule further provides that no amendment to the bill is in order except the amendments printed in part 2 of the report accompanying this resolution in the order and the manner specified.

Debate time is allocated to each amendment and that time is to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

The amendments are not subject to amendment except as specified in the report and all points of order against the amendments in the report are waived.

Mr. Speaker, the following amendments are made in order by the rule:

Mr. CAMPBELL or Mr. LAFALCE for 20 minutes.

Mr. MCCOLLUM for 20 minutes;

Mr. OLIN for 30 minutes;

Mr. HANSEN for 20 minutes;

Mr. CHAPMAN for 30 minutes;

Mr. LIPINSKI for 40 minutes;

Mr. SHUSTER for 40 minutes; and

Mr. SENSENBRENNER for 1 hour.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions, if offered by Representative MICHEL of Illinois, or his designee.

After passage of H.R. 2273, the rule makes it in order to take S. 933 from the Speaker's table and to consider the bill in the House.

The rule then provides for a motion to strike out all after the enacting clause of S. 933 and insert the text of H.R. 2273, as passed the House. All points of order against the motion are waived.

Mr. Speaker, the Americans With Disability Act is a reasonable and responsible bill which will ensure that Americans with disabilities have equal access to jobs, public accommodations, public services, transportation, and telecommunications.

Furthermore, the bill balances the concerns and costs of business and the rights of the disabled.

This critical legislation has enjoyed bipartisan support through every phase of the legislative process.

This bill has 249 cosponsors and passed the Senate with strong bipartisan support by a vote 76 to 8.

Moreover, this bill has passed in the four committees with jurisdiction by a combined vote of 155 to 11.

The rule we have drafted for this bill is very fair providing 2 full hours of debate, equally divided between the committees with jurisdiction.

The rule also provides for four Republican Members to offer amendments and four Democratic Members to offer amendments.

Finally, Mr. Speaker, this bill has been endorsed by the Bush administration and Members of both the Democratic and Republican leadership in the House.

I urge the membership to join me in adopting House Resolution 394 so that we may proceed with consideratoin of this truly historic legislation.

□ 1030

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 394 is a modified closed rule providing for

the consideration of H.R. 2273, the Americans with Disabilities Act of 1989. The rule waives all points of order against the bill and against its consideration. As far as I know, the only violation involved is of the 3-day layover rule for reports. Three of the four reports were filed just 2 days ago.

The rule provides for 2 hours of general debate divided equally among the four committees of jurisdiction and their chairmen and ranking minority members. Following general debate, the rule makes in order as original text for amendment purposes the consideration of an amendment in the nature of a substitute printed in part one of the Rules Committee report on this rule, and all points of order are waived against the substitute. Mr. Speaker, the substitute is a bipartisan compromise between the four versions, and is a slight modification of H.R. 4807 introduced by Mr. HOYER.

One of the modifications made by the new substitute is in section 509 relating to congressional inclusion. It applies all the provisions of the disabilities bill to the House and the Senate, and establishes internal rulemaking and enforcement procedures. I will comment further on these congressional inclusion provisions later in my remarks.

Mr. Speaker, the rule makes in order only those amendments printed in the report of the Rules Committee on this resolution, if offered in the order and manner specified. They are not subject to amendment and are debatable according to the debate time prescribed in the report.

Make no mistake about it, Mr. Speaker, this is a very restrictive rule with a capital R. While the authority may euphemistically refer to this as a "modified open" rule, it is in truth a modified closed rule. Only 8 amendments may be offered under the rule even though some 45 amendments were submitted to the Rules Committee by last Monday's 6 p.m. deadline, and we heard from 23 witnesses on Tuesday.

Mr. Speaker, after sitting through all that testimony, I concluded that most of the amendments were sincerely motivated, well-intentioned, and raised important issues that are worthy of debate and a vote by this House. I didn't personally agree with all of the amendments presented; but I don't think that should entitle me to deprive the rest of the House of deciding those issues for itself.

I am always struck by the paradox that this House finds it necessary on important civil rights bills such as this to deny the duly elected Members of this body their basic rights to fully and freely debate, amend and vote on all the important issues raised by such bills. Look at it this way: 427 House Members, each representing over a half a million people, may not offer amendments under this rule.

Mr. Speaker, we are not a newly emerging democracy that cannot be trusted to get our feet wet in a free-wheeling deliberative process. We've been here for 200 years, and used to be far more democratic. Just 12 years ago only 15 percent of our rules were restrictive; today they comprise 45 percent.

Mr. Speaker, what we are talking about here is the simple principle of majority rule. This House is capable of managing this bill and the amendment process in a rational and responsible manner without these artificial constraints being imposed on the process.

Mr. Speaker, yesterday in the Rules Committee I offered an open rule during our committee markup on this rule. Not surprisingly, that motion was defeated on a straight party line vote. Now I have been the first to admit there are times when restrictive rules are appropriate, such as when we have a bipartisan leadership agreement on the rule, or when we are under severe time constraints or emergency situations.

Neither condition applies today. We certainly have not been doing a lot of heavy lifting around here lately. Any delays in getting this bill to the floor have been occasioned by disarray on the other side of the aisle, not on this side. Yesterday, for instance, the House concluded its legislative business around 2 p.m. I just don't buy the argument that somehow we have been pressed for time around this House.

Mr. Speaker, to conclude my summary of this rule, it does permit a motion to recommit with instructions if offered by the Republican leader or his designee. And it does provide for taking the Senate-passed companion bill, S. 933 from the Speaker's table, striking the Senate language, and inserting instead the House-passed language. All points of order are waived against that motion.

Mr. Speaker, despite the procedural constraints of this rule, I think we should at least take heart that the bill it makes in order is the product of a rather remarkable bipartisan achievement by the four committees of jurisdiction. This is evident in the overwhelming, bipartisan majority by which it was reported from each. I want to commend all those on boths sides of the aisle who worked so long and hard to bring us this monumental and landmark legislation to protect Americans with disabilities against discrimination.

Mr. Speaker, this legislation is important because it builds on the prohibitions against such discrimination which we enacted for recipients of Federal funds in the 1973 Rehabilitation Act. This bill extends those protections throughout the private sector in employment, public services and transportation, public accommodations and telecommunications. And the bill and various amendments made in order by this rule take into account the special problems and expenses that will have to be borne by the various entities to which it applies. We should be especially mindful of the practical and economic problems posed to small business as we proceed with this bill.

And yes, Mr. Speaker, the provisions of the bill even cover the Congress where for too long we have exempted ourselves from laws we impose on others. Thomas Jefferson, in his Manual of Parliamentary Practice spoke to this issue when he wrote, and I quote:

> The framers of our Constitution, in their care to provide that the laws shall bind equally on all, and especially that those who make them shall not exempt themselves, from their operation have narrowly limited the privileges of Members of Congress.

Section 509 of this bill makes all of its provisions applicable to Congress, but subject to our own internal rules and enforcement.

Mr. Speaker, I am sure Mr. Jefferson and the framers would be just as opposed to using our rules as a shield against compliance with the laws we pass as they were against granting us broad constitutional privileges. We already have rules against discriminating on the basis of handicap in our Code of Official Conduct and the Fair Employment Practices Resolution. This bill further enforces the use of our new Fair Employment Office with respect to the employment provisions of the disability act, and specifies other means for establishing remedies and procedures for the other aspects of the bill.

I hope we can demonstrate that we are sincere about making those mechanisms work effectively for the benefit of all. If, on the other hand, we use our rules only to circumvent those laws, then we should move to some more formal, external enforcement means such as I have suggested in H.R. 3276, the Congressional and Judicial Equal Employment Opportunity Act of 1989.

In conclusion, Mr. Speaker, I am pleased that we are moving forward with the Americans with Disabilities Act of 1989, even though I am less than delighted with this restrictive rule. I, therefore, urge a "No" vote on the rule so that we might have an open amendment process on this historic piece of legislation.

OPEN VERSUS RESTRICTIVE RULES, 95TH–101ST CONGRESSES

| Congress (years) | Total rules granted [1] | Open rules [2] | | Restrictive rules [3] | |
|---|---|---|---|---|---|
| | | Number | Percent | Number | Percent |
| 95th (1977–78) | 211 | 179 | 85 | 32 | 15 |
| 96th (1979–80) | 214 | 161 | 75 | 53 | 25 |
| 97th (1981–82) | 120 | 90 | 75 | 30 | 25 |
| 98th (1983–84) | 155 | 105 | 68 | 50 | 32 |
| 99th (1985–86) | 115 | 65 | 57 | 50 | 43 |
| 100th (1987–88) | 123 | 66 | 54 | 57 | 46 |
| 101st (1989–90) | 62 | 34 | 55 | 28 | 45 |

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the *initial* consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rules, and rules providing for consideration in the House as opposed to the Committee of the Whole.

Note.—The above data differs slightly from that published in previous Congresses because it is based on a rule-by-rule examination and not just on summary tables from committee surveys for the 95th–99th Congresses as was previously done. Moreover, appropriations rules (which only provide for waivers) and original jurisdiction measures are no longer counted.—Prepared by the Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules.

Sources: "Rules Committee Calendar and Surveys of Activities," 95th–100th Congresses; "Notices of Action Taken," Committee on Rules, 101st Congress, as of May 16, 1990.

RULES GRANTED IN THE 101ST CONG.

[Providing for the initial consideration of legislation]

| Rule number—H. Res. | Date granted | Rule. type | Bill number and subject |
|---|---|---|---|
| 108 | 3–14–89 | MO | H.R. 1231: Emergency Strike Board. |
| 111 | 3–21–89 | O | H.R. 1369: Mansfield Business Center. |
| 112 | 3–21–89 | MC | H.R. 2: Minimum Wage. |
| 117 | 4–4–89 | O | H.R. 18: Uniform Voting Time. |
| 126 | 4–11–89 | MO | H.R. 1487: State Dept. Authorization. |
| 127 | 4–12–89 | C | H.R. 1750: Contra Aid. |
| 135 | 4–25–89 | O | H.R. 2072: Supplemental Appropriations. |
| 138 | 4–25–89 | O | H.R. 1486: Maritime Adm. Authorization. |
| 143 | 5–2–89 | O | H.R. 7: Voc. Ed. Act Extension. |
| 145 | 5–2–89 | MC | H.Con. Res. 106: Budget Resolution. |
| 155 | 5–16–89 | O | H.R. 643: Oil Shale Claims. |
| 160 | 5–23–89 | C | H.R. 2442: SDI for Drugs Transfer. |
| 161 | 5–23–89 | O | H.R. 2392: Oil Shale Claims. |
| 165 | 6–1–89 | MC | S.J. Res. 113: FSX Agreement. |
| 173 | 6–13–89 | MC | H.R. 1278: Financial Institutions Reform. |
| 179 | 6–20–89 | MO | H.R. 2655: Foreign Aid Authorization. |
| 195 | 7–11–89 | O | H.R. 2022: Soviet & Indochinese Refugees. |
| 196 | 7–11–89 | O | H.R. 989: Tongass Timber Reform Act. |
| 198 | 7–13–89 | O | H.R. 1549: NRC Authorization. |
| 199 | 7–13–89 | O | H.R. 1484: Park System Review Board. |
| 200 | 7–13–89 | O | H.R. 828: BLM Authorization. |
| 202 | 7–17–89 | O | H.R. 1056: Federal Waste Disposal. |
| 211 | 7–21–89 | MO | H.R. 2461: DoD Authorization. |
| 217 | 7–28–89 | C | H.R. 3024: Debt Limit Increase. |
| 224 | 8–4–89 | O | H.R. 1668: NOAA-Coastal Authorization. |
| 228 | 8–4–89 | C | H.R. 1594: MFN Status for Hungary. |
| 230 | 8–4–89 | O | H.R. 2427: NOAA-Satellite Authorization. |
| 234 | 9–7–89 | O | H.R. 1759: NASA Authorization. |
| 235 | 9–7–89 | O | H.R. 2869: Commodity Futures Improvements. |
| 236 | 9–7–89 | O | H.R. 1659: Aviation Security Act. |
| 245 | 9–21–89 | | H.R. 3299: Budget Reconciliation. |
| 249 | 9–26–89 | MC | |
| 246 | 9–25–89 | C | H.J. Res. 407: Continuing Appropriations. |
| 254 | 10–3–89 | O | H.R. 2748: Intelligence Authorization. |
| 255 | 10–3–89 | O | H.R. 1495: Arms Control Authorization. |
| 256 | 10–3–89 | C | H.R. 3385: Nicaragua Election Assistance. |
| 266 | 10–17–89 | O | H.R. 3402: Polish/Hungarian Initiative. |
| 267 | 10–17–89 | O | H.R. 2494: International Development. |
| 270 | 10–19–89 | O | H.R. 2459: Coast Guard Authorization. |
| 271 | 10–23–89 | MC | H.J Res. 432: Continuing Appropriations. |
| 273 | 10–24–89 | C | H.R. 45: Central American Studies. |
| 275 | 10–26–89 | O | H.R. 3443: Airline Acquisition Review. |
| 277 | 10–31–89 | O | H.R. 1465: Oil Spill Liability. |
| 278 | 10–31–89 | C | H.R. 2710: Minimum Wage. |
| 289 | 11–13–89 | O | S. 974: Nevada Wilderness |
| 290 | 11–15–89 | C | H.R. 3660: Ethics Reform Act. |
| 295 | 11–19–89 | MC | H.R. 3743: Foreign Assistance Approps. |
| 309 | 1–30–90 | MC | H.R. 2190: Voter Registration Act. |
| 338 | 2–20–90 | O | H.R. 2570: Arizona Wilderness Act. |
| 355 | 3–7–90 | MO | H.R. 3581: Rural Economic Development. |
| 360 | 3–20–90 | O | H.R. 644: Wild & Scenic Rivers Amends. |
| 364 | 3–22–90 | MC | H.R. 3847: Dept. of Environ. Protect. |
| 366 | 3–27–90 | O | H.R. 1463: Capital Metrorail System. |
| 368 | 3–28–90 | MC | H.R. 3: Childhood Ed. & Develop. |
| 372 | 4–3–90 | O | H.R. 2015: Economic Development Act. |
| 373 | 4–3–90 | O | H.R. 1236: Price Fixing Prevention. |
| 378 | 4–18–90 | O | H.R. 3848: Money Laundering Amendments. |
| 379 | 4–18–90 | O | H.R. 4380: Super Collider Authorization. |
| 382 | 4–25–90 | MC | H.Con. Res. 310: Budget Resolution. |

RULES GRANTED IN THE 101ST CONG.—Continued

[Providing for the initial consideration of legislation]

| Rule number—H. Res. | Date granted | Rule. type | Bill number and subject |
|---|---|---|---|
| 388 | 5–9–90 | MC | H.R. 770: Family & Medical Leave Act. |
| 392 | 5–15–90 | O | H.R. 4151: Human Services Authorization. |
| 394 | 5–16–90 | MC | H.R. 2273: Americans with Disabilities. |
| 395 | 5–16–90 | MC | H.R. 4636: Supp. Foreign Aid Authoriz. |

Code: A completely open amendment process is provided by an open rule (O). Restrictive rules are those which provide for less than a completely open amendment process and include: closed rules (C), modified closed rules (MC), and modified open rules (MO).

□ 1040

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

This is an unusual bill, as the gentlewoman from Illinois [Mrs. MARTIN] has pointed out. It is unusual in, I think, two regards. It is certainly unusual in the substantive sense. This is landmark legislation. It is unusual in the procedural sense, unusual in that we have such a bipartisan agreement on any legislation. Not only is this legislation supported by the President, but also by the leadership of both parties. It has 249 cosponsors, passed overwhelmingly in the Senate. So it is unusual in its bipartisan nature.

It is also unusual in the enormous amount of time and effort that has gone into crafting this legislation. Let me point out just a few things. There have been 11 hearings held in the House on this bill, 7 subcommittees and full committee markups, 6 subcommittees had jurisdiction and considered the bill, 4 full committees had jurisdiction and considered the bill. The Committee on the Judiciary marked the bill up for 2 full days, and the Committee on Public Works and Transportation marked it up for another full day. The Committee on Education and Labor passed this legislation last year by 35 to 0. The Committee on Energy and Commerce passed it by 40 to 3. The Committee on Public Works and Transportation passed this bill by 45 to 5. The Committee on the Judiciary passed the bill by a vote of 32 to 3.

So with all the votes in the subcommittees and committees, this bill has passed by a total of 152 votes, which is an enormous amount of, I believe, consensus on any kind of bill.

To talk about having an open rule on the floor now, after all this kind of earlier scrutiny of the bill, would make a mockery of the whole committee system. That is why through a bipartisan effort there was an effort made to find four amendments offered by Republican, four amendments offered by Democrats, trying to find a wide breadth of amendments, amendments that would not duplicate each other, and also give this body a chance to talk about the serious matters that still face the committee. So I think this is a very good rule. It is a bill that has been given a great amount of scrutiny. I look forward to moving and getting this bill passed into law.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, totalitarians operate in interesting ways. They try to do good things for their society, but the tend to use a process that is both brutal and undemocratic.

Now in this case, what we have before Members today, is a totalitarian rule, because what it is attempting to do is bring to the floor a bill which is a good idea. It is good in intent. However, it is using a process which is both undemocratic and, I think truly sad.

Why can we not vote on a number of amendments? There are amendments that should be brought to this floor today that this House should have a chance to act on. Some 35 people went to the Committee on Rules to ask for amendments. We got about seven made in order. Let me talk to Members about one of those amendments.

One of those amendments was from our colleague, the gentleman from New Hampshire [Mr. DOUGLAS]. Mr. DOUGLAS wanted to make certain that the psychological disorder section of the bill did not include the necessity to hire psychopaths in police departments. What he was doing was suggesting that maybe we ought to allow police departments to prescreen people, so they did not give guns and badges to psychopaths, and send them out on the streets. It seems to me that makes eminent good sense. I do not think the American people want Members passing legislation that puts psychopathic killers on the police force, and yet the gentleman from New Hampshire [Mr. DOUGLAS] was denied the opportunity to offer his amendment.

Why can we not have the Douglas amendment out here, vote on it, and decide whether or not this House wants to have that kind of provision added to this bill? My guess is, and once described to the people, this House will decide to do that.

We ought to allow the debate. Under this rule we cannot have a debate. The gentleman from New Hampshire [Mr. DOUGLAS] will not be able to offer the amendment. We will be put in a position on final passage of voting for a bill that could potentially ask police departments to take in psychopathic killers on the street with guns and a badge. We ought to have open debate on this. I hope we have an open rule, and defeat this in order to allow the gentleman from New Hampshire [Mr. DOUGLAS] and others to bring this debate to the floor.

Mr. GORDON. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise in strong support of House Resolution 394, the rule for the consideration of H.R. 2273, the Americans with Disabilities Act. With four committees of jurisdiction involved, the various provisions of the bill have received extensive and lengthy consideration. A tremendous amount of effort has also gone into the coordination of these differing legislative provisions, as reported by the committees. I believe that this rule reflects these best efforts at compromise and fairness and I urge its adoption.

The Americans with Disabilities Act, or ADA, is a far-reaching and important piece of legislation which will permit individuals with disabilities to more fully participate in the mainstream of our society. H.R. 2273 is a good bill in the best tradition of America.

The Committee on Public Works and Transportation reported H.R. 2273 with amendments, almost all of which have been substantially incorporated into the new version of the ADA, H.R. 4807, which this rule makes in order for our consideration today.

The specific provisions of the bill which lie within our committee's jurisdiction are primarily embodied by titles II and III, dealing with publicly and privately provided transportation services. With regard to publicly provided transportation services, the bill requires the purchase of accessible transit vehicles for use on fixed route systems. The bill also requires the provision of paratransit services for those individuals whose disabilities preclude their use of the fixed route system.

With regard to privately provided transportation services, which do not receive the high levels of Federal subsidies that publicly provided services enjoy the requirements of the bill vary according to the size and type of vehicle, as well as according to the type of system on which the vehicle will operate.

Nonetheless, in all cases, this bill provides strong guarantees that individuals with disabilities will be treated with respect and dignity while using transportation services. These provisions must remain strong since a lack of adequate transportation is often cited as one of the greatest barriers to the full and equal enjoyment of life by individuals with disabilities.

Among many others, the rule makes in order two amendments directly related to the transportation provisions of the bill. The first, which failed passage in our committee, would allow the Secretary of Transportation to waive certain of the wheelchair accessibility requirements of the ADA. The second, dealing with commuter rail vehicles, prevailed in committee but was dropped from the combined bill because of a jurisdictional ruling affecing our committee and the Committee on Energy and Commerce. This amendment also waives certain wheelchair accessibility requirements of the bill under certain conditions.

Although I opposed both of these amendments in our committee, I cite them now as examples of the fairness of this rule, which will make in order a vote on each of them. I intend to oppose each of these amendments a second time when they are brought to the floor; nonetheless, I believe that, by allowing these amendments, the rule balances the need to move forward with the ADA with the right of members to be heard on their amendments.

I strongly urge the adoption of the rule.

□ 1050

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], who has the rather unique, though unfortunate, characteristic of having offered in good faith 11 amendments in the Rules Committee but not having received the courtesy of having even 1 made in order.

Mr. DELAY. Mr. Speaker, I thank the gentlewoman for that comment, because that is so true.

This bill has a laudable goal, but it lacks fairness. We are pitting one group of Americans against another group of Americans when we could bring them both together and create a situation that would make it accommodating for both. But with this bill, without the ability to amend the rule, we are not able to bring fairness into this bill and try to make everyone happy.

To give a couple examples of amendments that were denied, on the question of lack of fairness, a business owner or employer just wants to know how to comply with the bill. Yet in the definition section we do not know who the disabled are, because in the definition section they talk about anyone that has a relationship or an association with one who is disabled. That is all of us. Anyone is disabled. When someone comes in for a job, the business owner does not know whether that person is disabled or not. In that section that is so vague and ambiguous, a business owner does not know what an "undue hardship" is or "reasonable accessibility" is or what "essential functions" are. He wants to know.

Just give us an answer. Put it in the bill. We had amendments to do that, but the proponents of the bill in their testimony testified that we will, let the courts decide.

We are abrogating our responsibility in this body by not legislating and allowing amendments to come to this floor. We do not even allow tax credits. We do not allow an amendment for a tax credit. We are mandating an incredible cost. The proponents say it does not cost much. If it does not cost much, why not give a tax credit?

Senator KENNEDY in the other body said in the Fair Housing Amendments of 1988 that new construction of apartments will only cost $27 a unit. Yet we have found in just 1 short year that the average cost of making those units accessible is $4,000. Yet we will not allow a tax credit.

And this is the ultimate in fairness: We exempt private clubs from this bill. So a country club does not have to comply with the mandates in this bill. Yet we will not exempt the churches of this Nation from this bill. On the one hand, we exempt private country clubs, and then we will not accept an amendment to exempt churches.

Mr. Speaker, I ask the Members to vote against the rule so we can bring back a rule that allows us to bring fairness to this bill.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in support of the Americans With Disabilities Act. It is a compassionate and useful tool to bring into the mainstream of life many who otherwise must suffer on the edges or in the shadows of real life. I congratulate all who have helped to shape its terms and to bring it to the floor for enactment.

More than two decades ago, a new Federal building was built in my hometown of Jacksonville, FL. Though it was built on the flat shore of the St. Johns River, the building was designed so that its front door entrance could only be reached by the public climbing 15 steps in the open. I looked up at the 15 steps, looked down at the two canes I have been walking with since contracting polio as a guerrilla fighter in World War II and became distressed by the inaccessibility of the building. From that experience I introduced and helped pass the law which required that, when Federal tax moneys are involved in the construction or alteration of a building, it must be made accessible to people with disabilities. The measure before us now expands that philosophy much further; and we all welcome the benign provisions which it includes.

For instance, this bill extends to disabled Americans the same protections afforded other minorities in the civil rights bill. It protects the disabled from discrimination by any who maintain public accommodations such as hotels and transportation.

Helping the disabled cope with obstacles is not a simple matter. For what may assist some people down a slope in a wheelchair may be an obstacle to someone like myself where steps of reasonable dimensions are a breeze

compared with the constant unlocking of my knees and falling, which slopes induce. And escalators, such a blessing to some disabled, can be a source of terror to others. Falling down an escalator is not something I would recommend to the faint of heart. My good friend, Florida's fine State legislator, George Crady, has recently published a poem on this unique problem. It reads:

THE PERFECT LAW

We knocked the street curbs down, you know,
And passed the perfect law.
The Legislator's dream, come true,
A law without a flaw

For who could now complain against,
The smoothing of a curb.
It passed with only best intents,
No feelings to perturb.

The handicapped in wheelchairs and,
Those crippled with disease.
Could cross from street to sidewalk with
A fundamental ease.

But one Group now has come to mind,
With thoughts that now disturb.
Disabled? Yes. We call them Blind,
Who cannot find the curb.

Some of you may know that I have voted 16,892 times since I have been in Congress and I believe that is an all-time record in Congress, although not as important a record as that of Representative NATCHER who, in his decades of service here, has never missed a vote or a quorum call. My record came about because when I came here fresh from World War II, I walked very hesitantly with two canes, and almost immediately fell and badly broke a leg and missed a bunch of votes. My resolve to put that failure behind me led to my corrective efforts to miss no more votes.

Being disabled has some good things to it. Every day is an adventure. In fact every hour brings a challenge and, meeting the challenge, a victory. That's one thing about being disabled, but how some people respond to help the disabled is downright inspiring. I remember once when I sought new tips for my canes in a cold, windy and wet winter night here in Washington. I found myself caught helpless in the midst of a busy city street. A small, beautifully spirited, elderly black woman came to me, a complete stranger. She grabbed my arm and escorted me across the wet street while waving down the traffic with her umbrella. Once curbside, she slipped away in the dark, but not before I gave her a grateful hug. So experiencing disabilities can bring out the sweetness of human nature in uncommon ways.

Perhaps it is my experience in the great Depression which makes me look at employment as being one of the really great blessings of life. It is also one of the great needs of the disabled. This bill before us will help in that. But more is needed. We need a program to help those who are so unfortunate or so disabled that they really cannot compete for jobs in the ordinary marketplace. I have introduced such a bill, H.R. 2789, to make grants available to States to provide employment opportunities for impaired or deprived individuals. I hope Congress can address this need early in the next Congress, if not before.

As I conclude my remarks, I want to thank you all, on behalf of all disabled people, for your passing this legislation. It is a kindly and thoughtful thing to do. Thank you. Thank you.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I very, very much support legislation for civil rights for those who are disabled and handicapped, but this rule is an abomination.

First of all, this is a very complex bill. It is a bill that has been through four of our major committees of the House, and yet we are only allowing 2 hours of total debate, one-half hour in general debate to each of those committees. That is not nearly enough time for a full discussion of this legislation in the kind of detail we ought to have on this House floor.

In the second place, we have many amendments that were denied by the Rules Committee, amendments that are very valid in the sense that the Members should have been allowed to consider them. And there is no reason, in my judgment, for that, considering the fact that we have not been out here on Fridays or Mondays or hardly any time this year, or even regular days doing business. So there is no reason not to set aside the time necessary for a day or two to consider this bill.

Having a rule that is this narrow is ridiculous, and there is no reason not to provide for these amendments. I have one amendment that has been allowed, and I do not have a complaint about that. Another amendment I would have offered, had I been allowed it—and I think I should have been—is equally important. There is no reason why it should not have been allowed.

□ 1100

There are three different ways under this legislation that somebody can seek relief, a person who is mentally or physically disabled, somebody who is considered to be that, and anybody associated with somebody who is.

I think that is pretty vague and I wanted to offer an amendment to try to define what "association" meant. Very simple. I was not allowed to do it.

I know the gentleman from North Carolina [Mr. LANCASTER] wanted to offer one that would require the disabled to participate in deciding what the public accommodation really was before it got already done by the employer and the expense accomplished. It is something that should have been debated. Maybe it would not have gotten an agreement.

Again, there is no sense in having such a time restraint as there is on this bill, considering the few hours we have worked this year and the few days that we have.

A rule like this is entirely wrong and it ought to be voted down. I urge my colleagues to vote no on the rule, whatever you think about this legislation, and let us have the kind of time we need for this subject, which is probably as important as any that will come before the House this Congress.

Mr. GORDON. Mr. Speaker, I reserve the balance of my time, pending completion of the recess.

Mrs. MARTIN of Illinois. Mr. Speaker, I reserve the balance of my time, pending our return from the recess.

## RECESS

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the order of the House of Thursday, May 10, 1990, the House will stand in recess subject to the call of the Chair to receive the former Members of Congress.

Accordingly (at 11 o'clock and 1 minute a.m.), the House stood in recess subject to the call of the Chair.

## RECEPTION OF FORMER MEMBERS OF CONGRESS

The Speaker of the House presided.

The SPEAKER. On behalf of the Chair and this Chamber, I consider it a high honor and distinct personal pleasure to have the opportunity of welcoming so many of our former Members and colleagues as may be present here on this occasion.

I think we should all especially greet the distinguished former Speaker of the House, Thomas P. O'Neill, Jr., and the distinguished former Speaker of the House, Jim Wright; but to them and to all our former colleagues, we welcome you and we would like at this time to extend our greetings to you.

The Chair recognizes the Republican leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Thank you, Mr. Speaker.

Mr. Speaker, Mr. Leader and our former colleagues, welcome back to your old home, those of you who obviously who served over in the other body, yes, we are happy to have you back again, too, in our own body here.

It is always a pleasure for me to see my former colleagues, but I think there is another dimension, too, particularly today since we are honoring, or you are honoring my former colleague from Illinois, Mr. Derwinski, who I see attired in his usual array.

Then one maybe brief observation, and that is the Speaker and I during the course of the last several months have been extraordinarily privileged to meet with candidates for the legislature from bodies in the countries of Eastern Europe. Your organization has done a marvelous job in scheduling trips, information-wise, educational-wise, not only for the benefit of your Members, but I think for the good relationship of our country aboard.

The Speaker and I have been privileged to welcome candidates from, oh, Poland, Czechoslovakia, East Germany. As a matter of fact, 2 days ago I had a contingent from Bulgaria who want to represent the minority party, or the opposition party in Bulgaria, in their upcoming elections.

It is very interesting to visit with these individuals, all yearning to learn more about how does our system work. And, of course, for this particular Member, what is the function of the minority? Are they anybody? Of course, it is pretty difficult. I can tell them about it in spades, being in my 34th consecutive year as a Member of the minority party, but it has been kind of a stimulating experience to be a part of what indirectly is happening over there in Eastern Europe.

So again, I applaud you all for coming back and renewing old acquaintances. I hope we can continue to do it.

Those of us who cannot be that far off from joining your ranks always hope that we can build a very cordial relationship for the advent of that particular time, whenever it comes.

Thanks for coming back.

The SPEAKER. The Chair recognizes the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, Members, and former Members, it is a great honor for me to stand before you today and to welcome you back to the Chamber.

I want to echo and second all of the words of our minority leader, Mr. MICHEL, in welcoming you back and thanking you for all your efforts with us and with other citizens with regard to Eastern Europe and other efforts that have been made through the years.

We enter this week, actually it started last week, but we entered into a very, very important deliberation and enterprise on the reduction of the Federal deficit. As we begin that, we miss you very much. I know that all of you would love to be here for that deliberation. We may need your votes later in the week or later in the month as we begin to vote on hoped-for solutions to the deficit. Some of you may be alarmed at the volume of the numbers. I forget what the deficit was a few years ago, but indeed it has increased; but all of you have been helpful in many ways.

As I look around the room I see people who have been involved in many of our efforts on specific subjects. We have had commissions on the deficit. Some of you have been involved in that and have been extremely helpful.

A former Member, Mr. Bolling, is sitting over here. He has come back in the last few days and given us some help that we needed on that and other subjects. So for that we are deeply grateful.

For many of you, you may have left us physically, but some of you are helping us day by day and we are deeply appreciative of it. These problems are bigger than all of us put together.

I am constantly impressed, as I am sure you were when you were here, that we serve on a committee of 535 that is trying together to lead the Nation, along with the President and the other members of the executive branch. It is a daunting task. It is a task that most countries have never taken.

Winston Churchill said it right when he said, "Democracy is the worst form of government on the face of the earth, except for all the others."

Our forefathers and mothers were jealous of power. We did not want it put in any one place, and we succeeded beyond our wildest dreams in making sure it was dispersed. That gives us a special responsibility, and as we meet that responsibility we cannot do it just alone. We need your help, your continued good wishes and your continued work.

□ 1110

So in these difficult days ahead, we are going to be calling on many of you to help us find our way through probably the toughest challenges that our country has ever faced.

Thank you, and God bless all of you.

The SPEAKER. At this time the Chair would like to invite the incoming chairman of the Former Members Association and the distinguished former Republican leader of the House, John Rhodes of Arizona, to assume the chair.

Mr. RHODES (presiding). Mr. Speaker, my former colleagues, sitting Members of the House, it is a great honor for me to be in this position. As Tip O'Neill used to say, I had my eye on this chair for some time, and then he would add, and that is all you are going to get on this chair as long as I have anything to say about it.

But the experience which we have all had in this Chamber and across the building is an experience that none of us will ever forget, and it is indeed a wonderful thing that we can come back and reminisce and maybe lie to each other a little bit, and live the good days which we spent in this milieu.

The Chair directs the Clerk to call the roll of Members of Congress.

The Clerk called the roll of former Members of Congress, and the following Members answered to their names:

ROLLCALL OF FORMER MEMBERS OF CONGRESS ATTENDING ANNUAL SPRING MEETING, MAY 17, 1990

T. Dale Alford of Arkansas;
William H. Ayres of Ohio;
Robert E. Badham of California;
John A. Blatnik of Minnesota;
Richard Bolling of Missouri;
David R. Bowen of Mississippi;
Donald G. Brotzman of Colorado;
Clarence J. Brown of Ohio;
Garry E. Brown of Michigan;
John H. Buchanan, Jr. of Alabama;
Elford A. Cederberg of Michigan;
Charles E. Chamberlain of Michigan;
Jeffrey Cohelan of California;
Albert M. Cole of Kansas;
David L. Cornwell of Indiana;
James K. Coyne of Pennsylvania;
Paul W. Cronin of Massachusetts;
Edward J. Derwinski of Illinois;
Michael A. Feighan of Ohio;
John R. Foley of Maryland;
Nick Galifianakis of North Carolina;
Robert N. Giaimo of Connecticut;
William J. Green of Louisiana;
Gilbert Gude of Maryland;
James M. Hanley of New York;
Robert P. Hanrahan of Illinois;
Wm. D. Hathaway of Maine;
Jeffrey P. Hillelson of Missouri;
A. Oakley Hunter of California;
Jed Johnson, Jr. of Oklahoma;
Walter H. Judd of Minnesota;
Hastings Keith of Massachusetts;
David S. King of Utah;
Horace R. Kornegay of North Carolina;
Kenneth B. Kramer of Colorado;
Peter N. Kyros of Maine;
Paul N. McCloskey, Jr. of California;
John Y. McCollister of Nebraska;
Clark MacGregor of Minnesota;
Andrew Maguire of New Jersey;
John O. Marsh, Jr. of Virginia;
George Meader of Michigan;
Lloyd Meeds of Washington;
D. Bailey Merrill of Indiana;
Abner J. Mikva of Illinois;
John S. Monagan of Connecticut;
Frank E. Moss of Utah;
Thomas P. O'Neill, Jr. of Massachusetts;
Howard W. Pollock of Alaska;
Richardson Preyer of North Carolina;
Robert D. Price of Texas;
James M. Quigley of Pennsylvania;
Thomas Railsback of Illinois;
John J. Rhodes of Arizona;
John H. Rousselot of California;
Harold M. Ryan of Michigan;
Ronald A. Sarasin of Connecticut;
Harold S. Sawyer of Michigan;
Fred D. Schwengel of Iowa;
Garner E. Shriver of Kansas;

Carlton R. Sickles of Maryland;
Alfred D. Sieminski of New Jersey;
Henry P. Smith III of New York;
Robert T. Stafford of Vermont;
James W. Symington of Missouri;
John H. Terry of New York;
Andrew Jackson Transue of Michigan;
Charles A. Vanik of Ohio;
Charles W. Whalen, Jr. of Ohio;
Larry Winn, Jr. of Kansas;
Lester L. Wolff of New York;
James C. Wright, Jr. of Texas; and
Leo C. Zeferetti of New York.

Mr. RHODES (presiding). The Chair announces that 71 former Members of Congress have responded to their names.

The Chair now recognizes the distinguished president of the Association of Former Members of Congress, Judge Abner J. Mikva, for whatever purpose he chooses to address us and to yield to those who asked to be yielded to.

Mr. MIKVA. Mr. Speaker, the generation of men and women sitting in the Chamber this morning either have done something very right or something very wrong. I say that because we clearly have been destined to live in parlous times. Most of us have participated in or at least witnessed a war that changed the shape of the world in every which way. We are now seeing a spate of revolutions in Eastern Europe, some velvet, some bloody, some still in process, which are still again changing the geopolitical shape of the turf. The map of Eastern Europe may well resemble the shape it was in just before World War I, if all the ethnicians have their way. It may have political subdivisions that even the late Philip Burton could not have conjured. Whatever the final outcome, the ferment is real, very exciting, and very fraught with hope and danger.

Last year I commented on the difference between the way Congress is perceived at home and the way it is perceived abroad. That fact has been driven home this past year as the Eastern European politicians have descended on Washington for help in establishing a free market in politics. While they are interested in all our institutions, they are most interested in the Congress. How do we develop such an institution, they ask, an institution that can tell a President to go jump in the lake, an institution that can provide a talking forum for all the different points of view present in our huge and diverse country. Our visitors envy the staff, the equipment, the access that Members of Congress have to agencies and Cabinet officials and the executive branch generally. It is not easy to replicate the 200-plus glorious years that the Congress has functioned as an institution of the people. Even more difficult than explaining to our European visitors how the Congress works is trying to explain to our own citizens that it does work.

Toward that end, the Association last year continued and expanded its Campus Fellows Program. Since its inception, 224 visits have been made by 68 former Members of Congress to 158 campuses in 49 States. The programs have been warmly received and have given a substantial number of our college students an opportunity to hear about the real Congress and talk with one of the people who has been there.

We are now in the process of beginning to enlarge the concept. This past year, we have started a pilot project to send former Members to high schools on a program similar to the Campus Fellows. I am delighted to report that in the first week of May, our colleague John Anderson of Illinois had an immensely successful visit to a high school in Ohio. The school principal reported that the day after John left, all of the social studies teachers came into his office and were so excited about John's visit that they wanted to make certain visits by other former Members of Congress would be scheduled. John's reaction to the visit was equally positive; he said it "was wonderful and that high school students were not only ready for visits from former Members of Congress, but presented a challenge and an opportunity that should not be missed."

We're aware that many young Americans don't vote and all too few of them become personally active in the political process. Now we have an opportunity to change things. We know the political process—we have lived it. We now can go and meet with young Americans and personally demonstrate that for our democratic system, which is unique in this world, to succeed, requires that they participate. So, we hope to expand the program in this coming year and you can expect to hear more about it.

□ 1120

Mr. Speaker, I ask at this time permission to insert in the RECORD the list of fellows and institutions who have participated in the Campus Fellows Program.

Mr. RHODES (presiding). Without objection, so ordered.

The list referred to follows:

COLLEGES, UNIVERSITIES AND HIGH SCHOOL VISITED UNDER THE CAMPUS FELLOWS PROGRAM

COLLEGE/UNIVERSITY/HIGH SCHOOL, LOCATION, AND FELLOW

Alaska Pacific University, Alaska, William S. Mailliard (California).
Albion College, Michigan, David S. King (Utah).
Albion College, Michigan, Ted Kupferman (New York).
Albion College, Michigan, Martha Keys (Kansas).
Alfred University, New York, Frank E. Moss (Utah).
American College in Paris, France, David S. King (Utah).
American College in Paris, France, Byron L. Johnson (Colorado).
Arizona State University, Arizona, Gale W. McGee (Wyoming).
Arizona State University, Arizona,[1] Jacques Soustelle (France).
Assumption College, Massachusetts, Gale W. McGee (Wyoming).
Auburn University, Alabama, William L. Hungate (Missouri).
Auburn University,[1] Alabama, Alan Lee Williams (United Kingdom).
Avila College,[1] Kansas, Karin Hafstad (Norway).
Bainbridge Jr. College, Georgia, Gilbert Gude (Maryland).
Baylor University, Texas, James Roosevelt, (California).
Baylor University,[1] Texas, Peter von der Heydt (Germany).
Bowling Green State U., Ohio, Robert P. Hanrahan (Illinois).
Bradley University, Illinois, Charles W. Whalen, Jr. (Ohio).
Brandeis University, Massachusetts, Abner J. Mikva (Illinois).
Brandeis University, Massachusetts, L. Richardson Preyer (North Carolina).
Brenau College, Georgia, Ralph W. Yarborouth (Texas).
Brigham Young University,[1] Utah, Jaques Soustelle (France).
California Poly. State, San Luis Obispo, California, John B. Anderson (Illinois).
California Poly. State, San Luis Obispo, California, Frank E. Evans (Colorado).
California Poly. State, San Luis Obbispo, California, Robert N. Giaimo (Connecticut).
California Poly. State, San Luis Obispo, California, John R. Schmidhauser (Iowa).
California Poly. State, San Luis Obispo, California, Ralph W. Yarborough (Texas).
California Poly. State, Pomona, California, Robert R. Barry (New York).
Cameron University, Oklahoma, William D. Hathaway (Maine).
Cameron University, Oklahoma, William L. Hungate (Missouri).
Cameron University, Oklahoma, Dick Clark (Iowa).
Carleton College, Minnesota, William S. Mailliard (California).
Carroll College, Montana, Ralph W. Yarborough (Texas).
Chaminade College, Hawaii, Catherine May Bedell (Washington).
Chatham College, Pennsylvania, Catherine May Bedell (Washington).
Chatham College, Pennsylvania, Martha Keys (Kansas).
Charleston College,[1] South Carolina, John M. Reid (Canada).
Clarke College, Georgia, William L. Hungate (Missouri).
Clarke College, Georgia, William S. Mailliard (California).
Colgate University, New York, William S. Mailliard (California).
College of Sequoias, California, Gale W. McGee (Wyoming).
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Columbia College, South Carolina, Catherine May Bedell (Washington).
Columbia College, South Carolina, Martha Keys (Kansas).
Columbia College, South Carolina, James M. Quigley (Pennsylvania).
Columbia College,[1] South Carolina, John M. Reid (Canada).
Columbia College, South Carolina, Henry S. Reuss (Wisconsin).
Columbia College, South Carolina, Nick Galifianakis (North Carolina).
Concordia College, Michigan, Walter H. Moeller (Ohio).

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Converse College, South Carolina, Jed Johnson, Jr. (Oklahoma).
Dartmouth College, New Hampshire, John O. Marsh, Jr. (Virginia).
Dartmouth College, New Hampshire, William S. Mailliard (California).
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Davis & Elkins College, West Virginia, J. Glenn Beall, Jr. (Maryland).
Denison University, Ohio, Frank E. Moss (Utah).
DePauw University, Indiana, Hugh Scott (Pennsylvania).
Dillard University,[1] Louisiana, Georg Kahn-Ackermann (Germany).
Doshisha University, Japan, Catherine May Bedell (Washington).
Duke University,[1] North Carolina, Georg Kahn-Ackermann (Germany).
Eckerd College, Florida, William L. Hungate (Missouri).
Elmira College, New York, Charles W. Whalen, Jr. (Ohio).
Friends University, Kansas, Henry P. Smith, III (New York).
Furman University, South Carolina, Jed Johnson, Jr. (Oklahoma).
Furman University, South Carolina, Charles W. Whalen, Jr. (Ohio).
Georgetown University, Washington, DC, Celio Borgja (Brazil).
Grinnell College, Iowa, Neil Staebler (Michigan).
Guilfford College, North Carolina, Gale W. McGee (Wyoming).
Gustavus Adolphus College, Minnesota, Charles W. Whalen, Jr. (Ohio).
Hamilton College, New York, William S. Mailliard (California).
Hartwick College, New York, Ralph W. Yarborough (Texas).
Hiram College, Ohio, Howard H. Callaway (Georgia).
Hiram College, Ohio, Roman L. Hruska (Nebraska).
Hope College, Michigan, Walter H. Judd (Minnesota).
Hope College, Michigan, Gale W. McGee (Wyoming).
Hope College, Michigan, Catherine May Bedell (Washington).
Idaho State University, Idaho, John R. Schmidhauser (Iowa).
Indiana State University, Indiana, Gordon L. Allot (Colorado).
Indiana Univ. Northwest, Indiana, Neil Staebler (Michigan).
Indiana Univ. Northwest, Indiana, William L. Hungate (Missouri).
Indiana Univ. Northwest, Indiana, Tom Railsback (Illinois).
Jackson State University, Mississippi, Allard K. Lowenstein (New York).
Johns Hopkins University, Maryland, Hugh Scott (Pennsylvania).
Johns Hopkins University, Washington, DC, Cello Borja (Brazil).
Kansai University, Japan, Frank E. Moss (Utah).
Kansas-Newman College, Kansas, Henry P. Smith, III (New York).
Kansas State University, Kansas, Paul N. McCloskey, Jr. (California).
Keio University, Japan, Frank E. Moss (Utah).
King College, Tennessee, Charles W. Whalen, Jr. (Ohio).
King's College, Pennsylvania, Philip Hayes (Indiana).
Kirkland College, New York, William S. Mailliard (California).
Kwansei Gakuin University, Japan, Frank E. Moss (Utah).
LaGrange College, Georgia, Ralph W. Yarborough (Texas).
Lake Forest College, Illinois, Ralph W. Yarborough (Texas).
Lindenwood College, Missouri, Gaylord Nelson (Wisconsin).
Longwood College, Virginia, Paul W. Cronin (Massachusetts).
Luther College, Iowa, Gilbert Gude (Maryland).
McNeese University, Louisiana, William S. Mailliard (California).
Marshall University, West Virginia, John J. Gilligan (Ohio).
Mary Hardin Baylor College, Texas, Brooks Hays (Arkansas).
Matanuska-Susitna Community College, Alaska, William L. Hungate (Missouri).
Mesa Community College, Arizona, Gale W. McGee (Wyoming).
Miami University-Middletown, Ohio, James Roosevelt (California).
Miami University-Middletown, Ohio, James W. Symington (Missouri).
Mid-America Nazarene Coll., Kansas, John B. Anderson (Illinois).
Mid-America Nazarene Coll., Kansas, John Dellenback (Oregon).
Millsaps College, Mississippi, Allard K. Lowenstein (New York).
Montclair State College, New Jersey, Walter H. Judd (Minnesota).
Montclair State College, New Jersey, Ralph W. Yarborough (Texas).
Morehead State University, Kentucky, Dan Kuykendall (Tennessee)
Morehead College, Georgia, William S. Mailliard (California).
Morehead College, Georgia, William L. Hungate (Missouri).
Morris Brown College, Georgia, William S. Mailliard (California).
Morris Brown College, Georgia, William L. Hungate (Missouri).
Mount Vernon College, Washington, DC, Martha Keys (Kansas).
Murray State University, Kentucky, Brooks Hays (Arkansas).
Nanzan University, Japan, Catherine May Bedell (Washington).
New York University, New York, George McGovern (South Dakota).
Northern Illinois University, Illinois, William L. Hungate (Missouri).
Northern Kentucky University, Kentucky, Martha Keys (Kansas).
North Park College,[1] Illinois, Karin Hafstad (Norway).
Northwestern University,[1] Illinois, Karin Hafstad (Norway).
Oklahoma State University, Oklahoma, Ralph W. Yarborough (Texas).
Oregon State University, Oregon, Martha Keys (Kansas).
Otterbein College, Ohio, James Roosevelt (California).
Purdue University-Calumet, Indiana, William L. Hungate (Missouri).
Purdue University-Calumet, Indiana, Tom Railsback (Illinois).
Randolph-Macon College, Virginia, Gale W. McGee (Wyoming).
Randolph-Macon College,[1] Virginia, Hugh Scott (Pennsylvania).
Revere High School, Ohio, John B. Anderson, (Illinois).
Rockhurst College,[1] Kansas, Karin Hafstad (Norway).
Rose Hulman Institute of Technology, Indiana, Gordon L. Allott (Colorado).
St. Cloud State University, Minnesota, Charles W. Whalen, Jr. (Ohio).
St. Lawrence University, New York, Roman L. Pucinski (Illinois).
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St. Mary's College, Indiana, Gale W. McGee (Wyoming).
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St. Olaf College, Minnesota, William S. Mailliard (California).
Salem College, North Carolina, Martha Keys (Kansas).
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Spelman College, Georgia, William L. Hungate (Missouri).
SUNY-Binghamton, New York, John B. Anderson (Illinois).
SUNY-Plattsburg, New York, L. Richardson Preyer (North Carolina).
State University of Oswego, New York, Martha Keys (Kansas).
Syracuse University, New York, Charles W. Whalen, Jr. (Ohio).
Talladega College, Alabama, Ted Kupferman (New York).
Tougaloo Southern Christian College, Mississippi, Allard K. Lowenstein (New York).
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U.S. Naval Academy, Maryland, John S. Monagan (Connecticut).
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U.S. Naval Academy,[1] Maryland, Alan Lee Williams (Great Britain).
University of Alaska, Alaska, William L. Hungate (Missouri).
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University of New Mexico,[1] New Mexico, Celio Borja (Brazil).
University of New Orleans,[1] Louisiana, Georg Kahn-Ackermann (Germany).
University of New Orleans,[1] Louisiana, Jacques Soustelle (France).
University of North Carolina, North Carolina, Robert P. Hanrahan (Illinois).
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University of Oklahoma, Oklahoma, Dick Clark (Iowa).
University of Oklahoma, Oklahoma, Martha Keys (Kansas).
University of Oklahoma, Oklahoma, William S. Mailliard (California).
University of Oklahoma, Oklahoma, Charles W. Whalen, Jr. (Ohio).
University of Oklahoma, Oklahoma, Frank E. Moss (Utah).
University of Oregon, Oregon, Martha Keys (Kansas).
University of Redlands, California, Catherine May Bedell (Washington).
University of South Carolina,[1] South Carolina, Alan Lee Williams (United Kingdom).
University of South Carolina, South Carolina, Gale W. McGee (Wyoming).
University of South Dakota, South Dakota, William L. Hungate (Missouri).
University of Texas,[1] Texas, Alastair Gillespie (Canada).
University of Texas,[1] Texas, Celio Boria (Brazil).
University of Utah, Utah, Robert N. Giaimo (Connecticut).
University of Utah,[1] Utah, Jacques Soustelle (France).
University of Utah,[1] Utah, Alan Lee Williams (United Kingdom).
University of Washington,[1] Washington, Alan Lee Williams (United Kingdom).
University of West Virginia,[1] West Virginia, Georg Kahn-Ackermann (Germany).
University of West Virginia,[1] West Virginia, Jacques Soustelle (France).
University of Wisconsin,[1] Wisconsin, Georg Kahn-Ackermann (Germany).
University of Wyoming, Wyoming, Frank E. Moss (Utah).
Urbana University, Ohio, David S. King (Utah).
Valparaiso University, Indiana, Neil Staebler (Michigan).
Vanderbilt University, Tennessee, Ralph W. Yarborough (Texas).
Vanderbilt University[1], Tennessee, Celio Borja (Brazil).
Virginia Military Institute, Virginia, Gale W. McGee (Wyoming).
Wake Forest University, North Carolina, William L. Hungate (Missouri).
Wake Forest University[1], North Carolina, Georg Kahn-Ackerman (Germany).
Washington College, Maryland, Gale W. McGee (Wyoming).
Washington & Lee University, Virginia, Gale W. McGee (Wyoming).
Wayne State College, Nebraska, Gale W. McGee (Wyoming).
Westmont College, California, Ronald A. Sarasin (Connecticut).
Wheaton College, Massachusetts, Charles A. Vanik (Ohio).
Whitman College, Washington, Frank E. Moss (Utah).
William & Mary College, Virginia, Hugh Scott (Pennsylvania).
Wofford College, South Carolina, Jed Johnson, Jr. (Oklahoma).
225 visits—68 Fellows.

[1] International project funded by the Ford and Rockefeller Foundations for visit of Parliamentarians from the United Kingdom, Germany, France, Canada, Brazil and Norway.

Mr. MIKVA. Mr. Speaker, our Congressional Fellows Program, in which we bring staff members of the Japanese Diet to Washington for 60-day fellowships, continued successfully this year. Mr. Kazuhiko Matsui from the House of Councillors and Ms. Suzuyo Kojima from the House of Representatives visited Washington from September 18 to November 16, 1989, and had excellent experiences in offices of several Senators and Representatives and meetings with staff of congressional support service offices. After the two fellows returned to Japan, we received letters from the Secretary Generals of the House of Councillors and the House of Representatives praising the program and strongly requesting that it be continued. This project has been funded by the Japan-United States Friendship Commission.

In the spring of 1989, the United States Ambassador to Hungary, Mark Palmer, suggested that the Association become involved in Hungary to assist the emerging democratic movement. In November 1989, the Association sponsored the visit of a delegation of representatives of Hungarian democratic opposition groups to observe the Virginia gubernatorial and the New York City mayoral elections. The delegation's visit was arranged at the suggestion of Dr. Bela Kiraly, the general who led the Hungarian Revolution in 1956, and was funded jointly by the Soros Foundation and the United States Information Agency. A Capitol Hill program was arranged to inform the delegation about the legislative process and included indepth meetings with several Members of Congress.

At the invitation of the United States Embassy in Budapest, a delegation of former Members of Congress went to Hungary in March as observers of the first democratic parliamentary elections in more than 40 years. We are in the process of developing a program to bring parliamentarians from Hungary, Czechoslovakia, and Poland to the United States as part of a Democracy Institute to help the emerging democratic parliaments of Eastern Europe.

In 1984, the Association began a project to host distinguished international visitors at the Capitol under a grant from the Ford Foundation. This pilot project has proved to be extremely valuable and to date the Association has arranged more than 200 events at the Capitol for distinguished visitors from 79 separate countries.

Mr. Speaker, all these programs cost money and at this point I want to insert in the RECORD the list of our donors who make our programs possible.

Mr. RHODES. Without objection, it is so ordered.

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208. Hon. Paul N. McCloskey, Jr.
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210. McNeese State University.
211. MMB Associate.
212. Mt. Vernon College.
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214. Hon. Andrew Maguire.
215. Hon. James G. Martin.
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227. Hon. John S. Monagan.
228. Mr. Richard Murphy.
229. National Association of Broadcasters.
230. National Association of Independent Insurers.
231. National Education Association.
232. National Paint- & Coatings Association.
233. National Study Commission of Public Documents.
234. New Hampshire Charitable Directed Fund.
235. New York University.
236. Northern Kentucky University.
237. O'Connor & Hannan.
238. Mrs. Alvin E. O'Konski.
239. Hon. Thomas P. O'Neill, Jr.
240. Representative Solomon P. Ortiz.
241. Pacific Fedeal Savings & Loan Association.
242. Hon. Edward Pattison.
243. Hon. Charles Percy.
244. Hon. Shirley N. Pettis -Roberson.
245. The Pfizer Foundation.
246. Pioneer Federal Savings & Loan Association.
247. Hon. Bertram Podell.
248. Hon. Howard W. Pollock.
249. Hon. Richardson Preyer.
250. Hon. James M. Quigley.
251. R.J. Packing Corporation.
252. Hon. Ben Reifel.
253. Relief Foundation, Inc.
254. Hon. Henry S. Reuss.
255. Revere High School.
256. Reynolds Metal Company.
257. R.J. Reynolds Industries, Inc.
258. Hon. J. Kenneth Robinson.
259. Hon. John M. Robsion, Jr.
260. Hon. Paul G. Rogers.
261. Hon. Fred B. Rooney.
262. Hon. John H. Rousselot.
263. Hon. William R. Roy.
264. Hon. Donald Rumsfeld.
265. Hon. Philp E. Ruppe.
266. Salem College.
267. Hon. Harold S. Sawyer.
268. Representative James Scheuer.
269. Dr. Scholl Foundation.
270. Hon. Hugh Scott.
271. Hon. William L. Scott.
272. G.D. Searle & Company.
273. Sears, Roebuck & Company.
274. Mrs. Harry O. Sheppard.
275. Hon. Carlton R. Sickles.

276. Siemens Corporation.
277. Siena College.
278. Hon. George Smathers.
279. Hon. Henry P. Smith III.
280. SmithKline Corporation.
281. Hon. Gene Snyder.
282. Sperry Corporation.
283. Hon. William L. Springer.
284. St. Cloud University.
285. Hon. Neil Staebler.
286. Hon. David Stockman.
287. Hon. Williamson S. Stuckey, Jr.
288. Sun Company, Inc.
289. SUNY-Binghamton University.
290. SUNY-Plattsburgh University.
291. Hon. Robert Sweeney.
292. Hon. James W. Symington.
293. TRW, Inc.
294. Hon. Robert Taft, Jr.
295. Hon. Burt Talcott.
296. Florrie & Herbert Tenzer Philanthropic Fund.
297. Hon. Lera Thomas.
298. Mrs. Devon O. Thompson.
299. Hon. Jim Guy Tucker.
300. U.S. Capitol Historical Society.
301. University of Alaska—Anchorage.
302. University of Arkansas—Monticello.
303. University of California—Berkeley.
304. University of Dayton.
305. University of Delaware.
306. University of Mississippi.
307. University of Utah.
308. Representative Guy Vander Jagt.
309. Hon. Victor V. Veysey.
310. Mrs. John Ware.
311. Washington Institute for Value in Public Policy.
312. Whalley Charitable Trust.
313. Mrs. Eva Tollefson White.
314. Hon. G. William Whitehurst.
315. Hon. Larry Winn.
316. Hon. Louis C. Wyman.
317. Mr. and Mrs. James Yao.
318. Hon. Ralph W. Yarborough.
319. Yeshiva University.
320. Hon. Samuel H. Young.
321. Hon. Ed Zschau.

[1] Patrons have contributed at least $250,000.
[2] Benefactors have contributed between $100,000 and $250,000.
[3] Donors have contributed between $50,000 and $100,000.
[4] Friends have contributed between $10,000 and $50,000.
[5] Supporters have contributed between $5,000 and $10,000.
[6] Sponsors have contributed between $1,000 and $5,000.

Mr. MIKVA. Mr. Speaker, this not only marks the 20th anniversary of the U.S. Association of Former Members of Congress but also the 10th anniversary of the founding of the association's program of exchanges between the United States Congress and the German Bundestag to promote German-American friendship and cooperation. A strong cooperative relationship has been developed between our association and the Association of Former Members of the Bundestag, and we are delighted that two members of our counterpart organization in Germany are here to join us in these celebrations. We are also delighted to welcome representatives from the Association of Former Members of Parliament of Australia and the Association of Former Members of the Parliament of Canada.

I would like at this time to acknowledge the presence of: Hon. David Daubney, former member of the Canadian Parliament; Hon. Rembert von Delden, former member of the German Bundestag; Hon. Uwe Looft, former member of the German Bundestag; Honorable and Mrs. David Vigor, former member of the Australian Parliament. (Applause.)

The sad part of this occasion is our duty to recollect the names of our deceased colleagues who have passed away since our report last spring.

LIST OF DECEASED MEMBERS

Hugh Q. Alexander of North Carolina;
Joseph S. Clark of Pennsylvania;
James M. Collins of Texas;
Laurence Curtis of Maine;
Hadwen C. Fuller of New York;
Charles H. Griffin of Mississippi;
John E. Hunt of New Jersey;
Edouard V.M. Izac of California;
Eugene J. Keogh of New York;
Ben Reifel of South Dakota;
Earl B. Ruth of North Carolina;
Edward J. Stack of Florida;
J. Kenneth Robinson of Virginia;
Frank Thompson, Jr. of New Jersey;
Elizabeth G. Van Exem of South Carolina;
Otha D. Wearin of Iowa;
Philip H. Weaver of Nebraska;
J. Ernest Wharton of New York

I ask for a moment of silence in their memory.

Mr. Speaker, this association will start its second score of years under very able leadership. The former minority leader of this House, the Honorable John Rhodes of Arizona, will assume the presidency of this organization at the end of next month. He will be ably assisted by the gentleman from Maine, the Honorable William Hathaway, who will move up to vice president of the Association.

Each year, we present the Association's Distinguished Service Award to a person who has offered his or her talents and skills to our Republic over the years. The list is a most impressive one, beginning in 1974 with Gerald R. Ford and continuing with John W. McCormack, Lewis Deschler, Sam Ervin, Jr., Nelson Rockefeller, George H. Mahon, Clare Boothe Luce, Edmund S. Muskie, Hugh Scott, Richard Bolling, Jacob K. Javits, J. William Fulbright, Walter H. Judd, Thomas P. O'Neill, Jr., John J. Rhodes, and Edward Boland.

□ 1130

The tradition continues with this year's recipient, a man who has not only had a distinguished career in the first branch of government, but now lends his enormous skills and talents to the Executive Branch. I refer to the first Secretary of Veterans Affairs, Edward J. Derwinski. Ed, if you will come up here I would like to present you first with a book of letters from many of your colleagues, past and present, telling you how much they agree with our choice of awardee.

Then on behalf of the association I would like to present to you this award and say how proud we are for all you have done for all of us. Congratulations.

(Applause.)

Mr. DERWINSKI. Thank you, Abner.

I will be brief, of course.

But more than that, I always enjoyed speaking from this microphone when I was in the House because somehow more votes seemed to come to a position when you spoke from this side.

But Abner and I served together 34 years ago in the Illinois House of Representatives. I never thought I would see the day 34 years later we were still working together in Washington, I as a humble Cabinet officer with my budget torn to shreds by the Congress, and Abner on the other hand as an exalted Federal judge floating on cloud nine as only Federal judges do. But it is a pleasure, Abner. Thank you so much.

It is great to look back at our friendship over the years. I was always proud of my service in the House and have been proud of my association with the Association of Former Members of Congress.

There is one thing about becoming a senior statesman, as most of you are, somehow you become remarkably objective and you become remarkably free of political instincts and you become true statesmen. That has been the history of the Association of Former Members. That is why the group is so effective in training and in inspiring the new wave of legislators developing in Eastern Europe and in other emerging countries of the world.

So I think it is most appropriate that in the completely bipartisan spirit with the great experience that we have all gathered over the years, that the Association of Former Members still plays a very, very dramatic role in the spread of democracy around the world.

So as I accept this award, I do not accept it for myself. I am in the Cabinet because 22 years ago there was a freshman Republican Congressman by the name of George Bush. I ran into him in the cloakroom. I did not know him, he didn't know me. He said, "By the way, where's the mens room?" I said, "It is two doors down to the left." And he was forever grateful for that assistance.

That is how you get to the Cabinet, fellows:

I want you to know that this association is thriving, a thriving force, it is a great force. I thank the Speaker and BOB MICHEL for allowing us to return for this annual visit. I thank all of you for your friendship and comradeship over the years.

Abner, I just thank you for the fact that I, in a small way, have helped make this a good organization.

Thank you all.

(Applause.)

Mr. MIKVA. Mr. Speaker, on that upbeat note and difficult as it would be for you to give up all that power, I move we adjourn.

Mr. RHODES (presiding). Prior to putting the question, the Chair would like to take the prerogative of the Chair and thank the gentleman from Illinois, Judge Mikva, for a wonderful term as president of this association.

(Applause.)

He has done an outstanding job, and he leaves the association in just as good, if not better, care than it was when he found it.

I also want to take the prerogative and thank Jed Johnson, our hard-working executive secretary, executive director. He runs the place, and he does a good job of it.

(Applause.)

And, of course, my former colleague and good friend, Ed Derwinski, it is a real pleasure for me to preside over a meeting where you have been honored, because if anybody ever deserved that honor you do. You have been a real stalwart member of the association as well as a wonderful American through the years, and I salute you.

(Applause.)

The association thanks the Speaker of the House and the sitting Members of the House for giving us the opportunity of meeting here today as we have and as we have in previous years.

Before terminating the proceedings, I would like to have any Member whose presence has not been noted to come forward and give his name to the Clerk after we adjourn so that your presence may be recorded. We want to have everybody's presence recorded.

So now I announce on behalf of the Speaker that the House will be in session in 15 minutes, which looks to me to be about 10 minutes until 12.

So we will govern ourselves accordingly.

We will now put the question: Is there any further business to transact?

If not, the Chair declares this meeting of the Association of Former Members of Congress adjourned.

Accordingly (at 11 o'clock and 36 minutes a.m.), the House continued in recess until approximately 11 o'clock and 50 minutes a.m.

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□ 1155

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MONTGOMERY) at 11 o'clock and 55 minutes a.m.

## AMERICANS WITH DISABILITIES ACT OF 1990

The SPEAKER pro tempore. When the House recessed earlier today, there were 31 minutes remaining in debate on House Resolution 394. The gentleman from Tennessee [Mr. GORDON] has 14 minutes remaining in the debate, and the gentlewoman from Illinois [Mrs. MARTIN] has 17 minutes remaining in debate.

The Chair recognizes the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Speaker, I have no requests for time at this moment, and I reserve the balance of my time.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield four minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, it pains me greatly to come on the floor of the House to speak against a rule crafted by the Democratic majority on the Rules Committee. In my career in Congress, I have almost routinely voted for the rules crafted by the committee and have never spoken against a rule, but I believe this is an unusual circumstance that requires that I speak out against a rule that I think has been unreasonably crafted in regard to an amendment which I offered in good faith.

As a member of the North Carolina General Assembly, I was the chief sponsor and chairman of the Judiciary Committee that crafted a disability act very much like the one that is before us here, so I have been a friend of the disability community. I worked hard for the passage of that legislation, and it was in that spirit of cooperation and in good faith that I offered an amendment that I think was very reasonable and should have been made in order. In fact, I believe, after having talked to my friends on the Rules Committee, that my amendment enjoyed the strong support of that committee except for the strong opposition of the gentleman from Maryland [Mr. HOYER], who opposed the amendment and asked that it not be made in order.

This amendment is very reasonable. The legislation that is before us has in it extensive provisions on how employers and potential disabled employees should work together to reach accommodation so that those employees can be in fact accommodated in the work place. However, in the public accommodations title of the bill there is no such language, and in fact the disability community can, though I do not think they would do so very often, go into an establishment and find that their disability is not accommodated and can immediately seek injunctive relief against the owner.

The gentleman from Maryland [Mr. HOYER] argues that there is a good faith requirement in the bill which will take care of that, and that good faith requirement may in fact result in court dismissing the law suit, but nonetheless the businessman may have the expense of going to court to defend himself against such a suit.

What my amendment provided, as I said, is very reasonable. It simply said that when a disabled person came into a place of public accommodation, whether that is a store, a restaurant, or anything else, he would then make his disability known, and if it was not being accommodated, the owner of the public facility would then accommodate that request in reasonable ways.

That is all it did. This is not anything that would impede in any way the work of the disability community to attain compliance fully with this law. It simply is a reasonableness test, allowing the disabled person and the owner of the public facility to work together to find a reasonable solution that will accommodate the disability and make it possible for them to fully utilize that public accommodation.

Mr. Speaker, I believe that this amendment should have been made in order, and because it was not, I must reluctantly oppose the rule and hope that my colleagues will join me in doing so.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. LANCASTER. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, first of all, I want to say to the gentleman in the well how much I respect the sincerity of his position. I understand his position, and I know he has been a strong supporter and leader in North Carolina and the legislature in North Carolina on behalf of the disabled.

As to his amendment, he and I have a difference of opinion, as he has stated accurately, with respect to the scope of the amendment. The amendment is certainly, as the gentleman has said, absolutely well meaning, whether we have a disagreement relative to his prospective amendment. As he knows, I believe sincerely that the way the language is structured, the provision is adequate, although he is very concerned about those disabilities that perhaps a businessman operating in good faith could not anticipate. We believe, of course, that the bill tries to cover that, and we know that it is a significant concern.

Mr. Speaker, I thank the gentleman from North Carolina for his comments.

□ 1200

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me, first of all, say that I am delighted that we are able to bring the Americans With Disabilities Act to the floor. I want to particularly commend the gentleman from Maryland [Mr.

HOYER] on the Democratic side, who has spent so many hours reaching far beyond any reasonable obligation in doing what was necessary to work out a series of agreements and a series of understandings, and I think that on a bipartisan basis a great deal has been done to improve this bill.

I am very saddened, therefore, that on the particular question of the rule, as distinct from the bill in general, that I have to be disappointed, and I have to be willing to vote no. And I am going to ask my colleagues to vote no, both on the previous question and on the rule. Let me explain for a second.

Mr. Speaker, this is a very, very important bill. This is a bill which will affect, not only Americans with disabilities, but all Americans. It will affect the entire American economy, and it is very important that we make it possible for small businesses to make the transition, that we want to maximize the ability to keep jobs, and to keep the economy growing and to have better opportunities for all Americans, and there are some places in the bill where some of our colleagues, who have sincerely and very thoroughly looked at the bill, have asked for the right to walk through a series of amendments.

The gentleman from Florida [Mr. MCCOLLUM] has an amendment which was not made in order. The gentleman from North Carolina [Mr. LANCASTER], who just spoke, has an amendment which was not made in order. The gentleman from California [Mr. CAMPBELL] has an amendment which was not made in order. The gentleman from New Hampshire [Mr. DOUGLAS] has several amendments which were not made in order. The gentleman from Washington [Mr. CHANDLER] has an amendment which was not made in order. The gentleman from California [Mr. DANNEMEYER] has two amendments which were not made in order. The gentleman from Indiana [Mr. BURTON] has a series of seven amendments which were not made in order. The gentleman from Texas [Mr. DELAY] has a series of 11 amendments which were not made in order. The gentleman from Michigan [Mr. UPTON] has a very important amendment which was not made in order.

So, Mr. Speaker, I would urge, first of all, that my colleagues vote no on the previous question, and, if we win that vote, we would move to make all of the amendments in order that were offered to the Committee on Rules so that everyone would have an opportunity to legitimately seek to make the best possible Americans With Disabilities Act that the House could work its will in a series of steps.

If that fails, I would then very reluctantly have to urge a no vote on the rule. Although I want to bring up the bill, I want to bring up the bill in a way which lets us get to the best possible Americans With Disabilities Act.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I want to make it clear on behalf of the coordination of the Americans with disabilities bill that the amendment of the gentleman from Michigan [Mr. UPTON], which has broad bipartisan support, was not opposed to be made in order by me. As a matter of fact, I specifically represented to the committee that I thought that we had no objection to it being made in order.

As the gentleman from Georgia [Mr. GINGRICH] knows, the Committee on Ways and Means perceives that rightfully to be within their jurisdiction and objected to that, but I understand the gentleman from Michigan [Mr. UPTON] will be involved in a colloquy and that the committee does intend to pursue the tax credit for small business.

Mr. GINGRICH. Sure, and I think the point is well made.

Mr. Speaker, I think the point is well made. I look forward to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, in that colloquy. It is an important step.

All I am suggesting is that on a bipartisan basis there is a number of Democrats and Republicans who have legitimate amendments that are worthy of being attended to on the floor. This is an extraordinarily important bill, and I think that it is important we take it up.

Let me also in closing make one other comment just for my colleagues in the House. I am not sure what the schedule will be on Monday. I am certain that until we have an agreement on a waiver for aid to Nicaragua and Panama, and until we have an agreement on passing the appropriation on Nicaragua and Panama, that it will be very difficult procedurally for the next few days.

I do want to pass the Americans With Disabilities Act. I do want to pass the clean air bill. But frankly, Mr. Speaker, after 4 months of being, I think, embarrassingly incompetent, the Congress has an obligation to Nicaragua and Panama, and I agree with the President, that we should not go home for the Memorial Day recess until we have passed an appropriation with a waiver, and I am constrained to make procedural difficulties until we can get that agreement worked out.

Mr. Speaker, I just hope my colleagues will bear with me.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, and Members, one of the major issues that needs to be debated by the Congress that this rule does not permit to be debated is whether or not, as a matter of policy, this Nation will say that included within the definition of a disabled person is somebody with a communicable disease.

Mr. Speaker, this concept came into our culture, not by an act of Congress, but it came as a result of a decision of the U.S. Supreme Court several years ago in the Arline decision by a split decision interpreting an act passed by Congress in 1973, namely disability, that such term did include somebody with a communicable disease.

Mr. Speaker, that has enormous consequences for our society. Admittedly, this bill says that an employer is not required to hire somebody who has a communicable disease that places a coworker at risk healthwise. But, for goodness sakes, should we put that burden on an employer, that that employer is going to have to run the risk of exposing coworkers to a disease that is designed or identified as a communicable disease?

In my State of California there are 58 diseases on the list that are reportable called communicable diseases: tuberculosis, meningitis, hepatitis, and HIV is one of them. With this bill, in the form that it is now to be considered by the House, if it is adopted, every HIV carrier in the country immediately comes within the definition of a disabled person. Why? Because they have a communicable disease. They are a carrier of a fatal virus that causes death.

Is that sound public policy? And since 70 percent of those people in this country who are HIV carriers are male homosexuals, we are going to witness an attempt or an utterance on the part of the homosexual community that, when this bill is passed, it will be identified by the homosexual community as their bill of rights.

Mr. Speaker, we need to debate this as a policy question because I am sure the American public is prepared to make that step that we would identify persons who are HIV carriers within this definition.

What the consequences of this act will be are as follows:

For instance, if a school district has applied, or an applicant for a job in a school district represents his status of being both a homosexual and also an HIV carrier, and the school district turns him down because he is a homosexual, that HIV carrier is going to take that school district to court and say, "You cannot discriminate against me because Congress says I'm a disabled person. I'm an HIV carrier." Similarly with Georgetown University here, if a person applies for a job there. That matter be in litigation on the basis that an HIV carrier cannot be discriminated against. Similarly a person who applies to be a supervisor

in a youth group. If he is an HIV carrier, he cannot be discriminated against.

If we are going to do this as a matter of policy, at least we should debate it on the floor of the Congress so that by a vote we will have a chance to establish public policy, not do it by denying this Member an opportunity of presenting this issue to the House in consideration of the bill.

Mr. Speaker, I ask for a no vote on the bill.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I do not think there is a person in this body that is not concerned about the plight of the handicapped in this Nation. We all want to do everything we can to assist them in leading a normal, healthy life, and toward that end the ADA is well motivated.

The problem in the bill has some major, major problems that are going to lead to chaos, I think, in some areas down the road.

Mr. Speaker, I had four amendments before the Committee on Rules that I think were extremely important. There has been litigation involving health care workers with the AIDS virus and other communicable diseases who have won large suits because they lost their jobs or were removed from their jobs because they might infect somebody else, and they won those suits. There have been food handlers who, likewise, have handled food, who have had communicable diseases, and have been removed from those positions, and I maintain that without proper amendments to this legislation we are going to have a litany of lawsuits in the area of health care and food handling that we are not going to believe because we are not addressing those issues adequately by amendments in this bill.

I think it is extremely important that we protect the public health of this Nation. If someone has a communicable disease, tuberculosis, AIDS, or something else, do my colleagues want them preparing their food or handling their food? If someone has a communicable disease, AIDS, or tuberculosis or something else, do my colleagues want them working with them in a room after they have had major surgery?

□ 1210

I think not, and this legislation, make no mistake about it, does not adequately address those dangers to the health of this Nation. For that reason alone, this rule should be defeated, because you would not allow those amendments to at least be discussed or debated on this floor.

We may have lost those amendments, but at least if we believe it is going to jeopardize the health of this Nation deserve the right to be heard and debate those issues on this floor.

This rule is a very bad rule and it should be defeated.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, this should not be a debate about homosexuals or AIDS or HIV drug users. This is a debate about civil rights for the disabled.

In the early sixties, this was the beginning of the civil rights movement. Society began to recognize that discrimination in the workplace and public accommodations were no longer acceptable, that each of us is a human being with feelings and deserves to be treated as such. As a result, the Civil Rights Act of 1964 was enacted, which prohibited the discrimination of an individual based on race, gender, or religion.

The Americans With Disabilities Act carries the civil rights movement a step further. This act is a civil rights bill for the disabled. The bill assures the many Americans who are disabled that they are going to be able to participate in all aspects of society.

Let us face it. We have shunted them aside. We have mistreated them. Through this legislation, disabled individuals are going to be able to lead more productive lives. That means they are going to have access to education, jobs, public accommodations, public services, and public transportation.

Is this not fair?

Additionally, all members of our society will have the opportunity to learn and benefit from the skills and talents of these individuals whom we have long shunted aside.

I am aware of the concerns that this legislation has received from organizations and businesses across America, but I think Members of the leadership and the relevant committees have worked diligently to ensure this bill guarantees the necessary rights of the disabled, without penalizing businesses, without hurting communities.

I think this bill is fair to everybody, to businesses, to the disabled, but it is also a bill that should be very clear. We should act in the best conscience of this country, and it is important that this legislation be passed immediately.

Mr. Speaker, I rise today to express my strong support for the Americans with Disabilities Act.

Mr. Speaker, the early 1960's were the beginning of the civil rights movement. Society began to recognize that discrimination in the workplace and public accommodations were no longer acceptable; that each of us is a human being with feelings and deserves to be treated as such. As a result, the Civil Rights Act of 1964 was enacted which prohibited the discrimination of an individual based on race, gender, or religion.

The Americans With Disabilities Act carries the civil rights movement a step further. This act is the civil rights bill for the disabled. This bill assures the many Americans who are disabled that they will be able to participate in all aspects of society. Through this legislation disabled individuals will be able to lead more productive lives. That means they will have access to education, jobs, public accommodations, public services, and public transportation. Additionally, all members of our society, will have the opportunity to benefit and learn from the skills and talents of these individuals, whom we have too long shunted aside.

I am aware of the concerns this legislation has received from organizations and businesses across America. However, we have worked diligently to ensure that this bill will guarantee the necessary rights of the disabled without penalizing businesses and communities. I believe this bill is fair to everyone.

Mr. Speaker, we need continued leadership in the area of civil rights. Everyone in America deserves to be treated equally, that is their right. I am pleased to express my strong support for this historic piece of legislation and I hope my colleagues will move to pass the Americans With Disabilities Act promptly and without weakening amendments.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT], who has been very active on this bill.

Mr. BARTLETT. Mr. Speaker, I do support this legislation in its current form. I was not one of those who supported the legislation as it was originally introduced or even as it came out of the Senate, but in its current form as it has been amended by the committees, I do support it; but I do not support the closed rule that we are today considering.

I have been one of those who has advocated from the very first day on this bill that this bill should be fully and fairly considered by, first, each of the committees of jurisdiction in the House; and secondly by the House of Representatives as a body sitting in legislative decisionmaking to consider a full and fair debate on each of the amendments, on all of the aspects of the bill and its effect on this country over the course of the next 100 years.

Mr. Speaker, there is absolutely no reason that this rule should be closed. There is nothing to fear here other than open and fair legislative debate.

The fact is we have spent more time, more time has been consumed in watching the Rules Committee try to find ways to limit debate on this bill than would have been consumed had we simply brought the bill up under an open rule, allowed all germane amendments to be fully and fairly debated, voted on them, had those that had a majority vote pass, and those that did not have a majority vote be defeated.

I have heard earlier from my good friend, the gentleman from Tennessee, a reference to the committee system, mentioning that somehow a full and fair debate on the House floor makes, in his words, a mockery of the committee system. The fact is that would be laughable if it were not so tragic. What is tragic is a closed rule on landmark legislation makes a mockery of the legislative system, and indeed makes a mockey of the House of Representatives sitting as a body.

This rule excludes a number of amendments that should have been considered on their own merits, amendments by the gentleman from Washington [Mr. CHANDLER], the gentleman from North Carolina [Mr. LANCASTER], and the gentleman from Florida [Mr. MCCOLLUM]. Those amendments and others could have been considered, debated, argued, and determined by this body. Some amendments have been made in order. As the amendments come up, I will share with my colleagues which amendments I support and which amendments I oppose. They will be debated on their own merits.

It does seem to me that after the fight on the procedure and after we have dispensed with the fight on the procedure, this bill will be brought to the floor. We will debate some, most of the substantive amendments, although not all, and at the end of this legislative session we will pass the Americans With Disabilities Act. It is landmark legislation. It is long overdue. It has been substantially improved to meet the tests of the current law of section 504 that has been in the law since 1973.

It is a good bill on the whole. It can be improved. I hope we improve it through the amendment process.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from Tennessee [Mr. GORDON] from the Rules Committee who has worked so long and so hard on fashioning a rule that the committee felt was fair and will provide for debate on the significant issues that remain with respect to this bill. All of those issues have obviously already been argued in committee. There have been four committees.

This bill has had an unusually broad and I think indepth consideration.

I will congratulate the gentleman from Texas [Mr. BARTLETT] in the future, but I also want to thank him at the outset for his diligent, knowledgeable and sensitive advocacy of the positions that he felt were important to change in the Senate bill. He has been I think very successful in that effort and I have enjoyed working with him and, frankly, will enjoy working with him over the next 2 days that we will be considering this legislation. He has truly immersed himself and understands this bill as well as anybody on this floor, and I want to thank him for his work with me.

Mr. Speaker, this bill has had the full light of day. It came from the Senate with much criticism that it had not been fully considered, that there has not been sufficient time to consider it. I do not necessarily agree with that criticism. The Senate held hearings.

This bill was introduced in the 100th Congress. It is now in the 101st Congress.

I will refer to this bill in the future and will refer to it now as the Coelho bill. Tony Coelho, our former majority whip, of course, has been the principal sponsor and remains the principal sponsor of H.R. 2273.

In the Education and Labor Committee, and in particular the gentleman from Wisconsin [Mr. GUNDERSON] as well and members of that committee brought to our attention many, many amendments. We talked about them literally for days and the committee considered those amendments and ultimately voted out the bill 35 to 0, as the distinguished gentlewoman from Illinois has indicated, obviously recognizing a bipartisan commitment to an historic piece of legislation, opening up our society to the disabled.

In the Committee on Energy and Commerce, it was 40 to 3, again overwhelming bipartisan participation in the fashioning of that bill.

I might say that minority and the majority counsels, the staff members, spent inordinate amounts of time and commitment to fashioning a bill that could receive, as it did, overwhelming support by the Energy and Commerce Committee.

The Public Works and Transportation Committee also worked in a bipartisan fashion, and we had almost every amendment that could be thought about introduced and considered, either in the fashioning of the legislation that was passed by the Public Works Committee, or in the consideration by the Public Works Committee itself, and that bill passed 35 to 5.

□ 1220

The last committee to consider it was the Committee on the Judiciary. Almost every amendment, as a matter of fact, I cannot think of an amendment that was offered in the Committee on Rules that was not, in fact, debated in at least the Committee on the Judiciary and at least one other committee.

So Members ought to know that all of the amendments that were offered had been considered in the committee system by over 160 Members of this body. Fully approximately one-third of the Members of the House have considered this bill in committee. So there has been very full debate.

I previously talked about the amendment of the gentleman from North Carolina. There are others. We believe that many of them are duplicative, so the number of amendments that were offered is really not as many as one would think, because they obviously had to get them to the committee. They did not have time to consult with others, so many of them were duplicate amendments.

The Committee on Rules picked out many amendments that I will oppose vigorously on this floor. I do not agree with some of the amendments that are going to be offered. But they do, in fact, raise major, significant issues that ought to be considered by the House, and the Committee on Rules has made them in order.

With respect to two amendments offered by the gentleman from New Hampshire [Mr. DOUGLAS], both of those amendments, of course, were considered in the Committee on the Judiciary, and I might say as a result of discussions with the gentleman from New Hampshire I spent substantial time in talking to the New York Police Department, the Los Angeles Police Department, my own police department in Prince Georges County, which has over 1,000 uniformed officers, to determine whether or not there was anything in this bill that would undermine the way they process applicants for public safety jobs.

I think the gentleman from New Hampshire [Mr. DOUGLAS] is correct. Obviously we want to make sure that we have psychological testing. In point of fact, every police agency told me they do that very late in the process. They do it late in the process because they want to screen out first because it is an expensive process and they want to make sure that the applicant really is somebody they want to offer a job to before they go to that expense of psychological testing.

This bill does not preclude that, so I think the concern of the gentleman, a legitimate concern, is in fact protected.

I would urge the Members of this House to strongly support this rule. The bill that comes to this House has been worked upon probably more extensively than any piece of legislation that will be reported to this House this year. The rule provides for the significant amendments. I would urge us to oppose what will simply be a motion to defeat the previous question, which will delay this bill moving forward.

I was hopeful that the bill would be on the floor yesterday. it was not because of the concern that the gentleman from Georgia [Mr. GINGRICH] has expressed about El Salvador. I understand that. It was not related to the

ADA. But notwithstanding that, there may have been other Members who were going to object to unanimous consent as well.

But in any event, it is now time for us to move forward. Let us pass the previous question, and let us pass the rule, and let us move on to discuss what everybody has referred to as an historic opening up of America to the disabled of America, of which there are 43 million, who want, as all of us want, and I will reference and others will reference in general debate, the full opportunity to exercise their talents and their commitment as every other American expects to do.

I support the rule and support the previous question.

Mrs. MARTIN of Illinois. Mr. Speaker, although I am supportive of the bill, we would hope for an open rule, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 162, not voting 19, as follows:

[Roll No. 113]

YEAS—251

| | | |
|---|---|---|
| Anderson | Clement | Feighan |
| Andrews | Collins | Flake |
| Annunzio | Condit | Foglietta |
| Anthony | Conte | Ford (MI) |
| Applegate | Conyers | Ford (TN) |
| Aspin | Cooper | Frank |
| Atkins | Costello | Frost |
| AuCoin | Coyne | Gaydos |
| Barnard | Darden | Gejdenson |
| Bates | de la Garza | Gephardt |
| Beilenson | DeFazio | Geren |
| Bennett | Dellums | Gibbons |
| Berman | Derrick | Gilman |
| Bevill | Dicks | Glickman |
| Bilbray | Dingell | Gonzalez |
| Boggs | Dixon | Gordon |
| Bonior | Donnelly | Gray |
| Borski | Dorgan (ND) | Guarini |
| Bosco | Downey | Hall (OH) |
| Boucher | Durbin | Hall (TX) |
| Boxer | Dwyer | Hamilton |
| Brennan | Dymally | Harris |
| Brooks | Dyson | Hatcher |
| Browder | Early | Hawkins |
| Bruce | Eckart | Hayes (IL) |
| Bryant | Edwards (CA) | Hayes (LA) |
| Byron | Engel | Hefner |
| Campbell (CO) | English | Hertel |
| Cardin | Erdreich | Hoagland |
| Carper | Espy | Hochbrueckner |
| Chapman | Evans | Hoyer |
| Clarke | Fascell | Hubbard |
| Clay | Fazio | Huckaby |
| Hughes | Morella | Schumer |
| Hutto | Morrison (CT) | Serrano |
| Jenkins | Mrazek | Sharp |
| Johnson (SD) | Murphy | Sikorski |
| Johnston | Murtha | Sisisky |
| Jones (GA) | Nagle | Skaggs |
| Jones (NC) | Natcher | Skelton |
| Jontz | Neal (MA) | Slattery |
| Kanjorski | Neal (NC) | Slaughter (NY) |
| Kaptur | Nowak | Smith (FL) |
| Kastenmeier | Oakar | Smith (IA) |
| Kennedy | Oberstar | Solarz |
| Kennelly | Obey | Spratt |
| Kildee | Olin | Staggers |
| Kleczka | Ortiz | Stallings |
| Kolter | Owens (NY) | Stark |
| Kostmayer | Owens (UT) | Stenholm |
| LaFalce | Pallone | Stokes |
| Lantos | Panetta | Studds |
| Laughlin | Parker | Swift |
| Leath (TX) | Patterson | Synar |
| Lehman (CA) | Payne (NJ) | Tallon |
| Lehman (FL) | Payne (VA) | Tanner |
| Levin (MI) | Pease | Tauzin |
| Levine (CA) | Pelosi | Taylor |
| Lewis (GA) | Penny | Thomas (GA) |
| Lipinski | Perkins | Torres |
| Lloyd | Pickett | Torricelli |
| Long | Pickle | Towns |
| Lowey (NY) | Poshard | Traficant |
| Luken, Thomas | Price | Traxler |
| Manton | Rahall | Udall |
| Markey | Rangel | Unsoeld |
| Martinez | Ravenel | Valentine |
| Matsui | Ray | Vento |
| Mavroules | Richardson | Visclosky |
| Mazzoli | Rinaldo | Volkmer |
| McCloskey | Roe | Walgren |
| McCrery | Rose | Washington |
| McCurdy | Rostenkowski | Watkins |
| McDermott | Rowland (CT) | Waxman |
| McHugh | Rowland (GA) | Weiss |
| McMillen (MD) | Roybal | Wheat |
| McNulty | Russo | Whitten |
| Mfume | Sabo | Williams |
| Miller (CA) | Sangmeister | Wilson |
| Mineta | Sarpalius | Wise |
| Moakley | Savage | Wyden |
| Mollohan | Sawyer | Yates |
| Montgomery | Scheuer | Yatron |
| Moody | Schroeder | |

NAYS—162

| | | |
|---|---|---|
| Archer | Gekas | Martin (IL) |
| Armey | Gillmor | Martin (NY) |
| Baker | Gingrich | McCandless |
| Ballenger | Goss | McCollum |
| Bartlett | Gradison | McDade |
| Barton | Grandy | McEwen |
| Bateman | Grant | McGrath |
| Bentley | Green | McMillan (NC) |
| Bereuter | Gunderson | Meyers |
| Bilirakis | Hancock | Michel |
| Bliley | Hansen | Miller (OH) |
| Boehlert | Hastert | Miller (WA) |
| Broomfield | Hefley | Molinari |
| Brown (CO) | Henry | Moorhead |
| Buechner | Herger | Morrison (WA) |
| Bunning | Hiler | Myers |
| Burton | Holloway | Nielson |
| Callahan | Hopkins | Oxley |
| Campbell (CA) | Horton | Packard |
| Chandler | Houghton | Parris |
| Coble | Hunter | Pashayan |
| Coleman (MO) | Hyde | Paxon |
| Combest | Inhofe | Petri |
| Coughlin | Ireland | Porter |
| Cox | James | Pursell |
| Crane | Johnson (CT) | Quillen |
| Dannemeyer | Kasich | Regula |
| DeLay | Kolbe | Rhodes |
| DeWine | Kyl | Ridge |
| Dickinson | Lagomarsino | Ritter |
| Dornan (CA) | Lancaster | Roberts |
| Douglas | Leach (IA) | Rogers |
| Dreier | Lent | Rohrabacher |
| Duncan | Lewis (CA) | Ros-Lehtinen |
| Edwards (OK) | Lewis (FL) | Roth |
| Emerson | Lightfoot | Roukema |
| Fawell | Livingston | Saiki |
| Fields | Lowery (CA) | Saxton |
| Fish | Lukens, Donald | Schaefer |
| Frenzel | Machtley | Schiff |
| Gallegly | Madigan | Schneider |
| Gallo | Marlenee | Sensenbrenner |
| Shaw | Smith, Robert (OR) | Vander Jagt |
| Shays | Snowe | Vucanovich |
| Shumway | Solomon | Walker |
| Shuster | Spence | Walsh |
| Skeen | Stangeland | Weber |
| Slaughter (VA) | Stearns | Weldon |
| Smith (NE) | Stump | Whittaker |
| Smith (NJ) | Sundquist | Wolf |
| Smith (TX) | Tauke | Wolpe |
| Smith (VT) | Thomas (CA) | Wylie |
| Smith, Denny (OR) | Thomas (WY) | Young (AK) |
| Smith, Robert (NH) | Upton | Young (FL) |

NOT VOTING—19

| | | |
|---|---|---|
| Ackerman | Courter | Jacobs |
| Alexander | Craig | Nelson |
| Brown (CA) | Crockett | Robinson |
| Bustamante | Davis | Schuette |
| Carr | Flippo | Schulze |
| Clinger | Goodling | |
| Coleman (TX) | Hammerschmidt | |

□ 1243

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Schulze against.

Mr. Bustamante for, with Mr. Craig against.

Mr. GILMAN and Mr. HUTTO changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. MARTIN of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 237, nays 172, not voting 23, as follows:

[Roll No. 114]

YEAS—237

| | | |
|---|---|---|
| Ackerman | Clay | Feighan |
| Anderson | Clement | Foglietta |
| Andrews | Collins | Ford (MI) |
| Annunzio | Condit | Ford (TN) |
| Anthony | Conte | Frank |
| Applegate | Conyers | Frost |
| Aspin | Costello | Gaydos |
| Atkins | Coyne | Gejdenson |
| Barnard | Darden | Gephardt |
| Bates | de la Garza | Gibbons |
| Beilenson | DeFazio | Gilman |
| Bennett | Dellums | Glickman |
| Berman | Derrick | Gonzalez |
| Bevill | Dicks | Goodling |
| Bilbray | Dingell | Gordon |
| Bilirakis | Dixon | Gray |
| Boggs | Donnelly | Guarini |
| Bonior | Dorgan (ND) | Hall (OH) |
| Borski | Downey | Hamilton |
| Bosco | Durbin | Hansen |
| Boucher | Dwyer | Harris |
| Boxer | Dymally | Hatcher |
| Brennan | Dyson | Hawkins |
| Brooks | Early | Hayes (IL) |
| Browder | Eckart | Hayes (LA) |
| Bruce | Edwards (CA) | Hertel |
| Bryant | Engel | Hoagland |
| Byron | Erdreich | Hochbrueckner |
| Campbell (CO) | Espy | Horton |
| Cardin | Evans | Hoyer |
| Carper | Fascell | Hubbard |
| Chapman | Fazio | Huckaby |

| | | |
|---|---|---|
| Hughes | Montgomery | Schumer |
| Jacobs | Moody | Serrano |
| Jenkins | Morella | Sharp |
| Johnson (SD) | Morrison (CT) | Sikorski |
| Johnston | Mrazek | Skaggs |
| Jones (GA) | Murphy | Skelton |
| Jones (NC) | Nagle | Slattery |
| Jontz | Natcher | Smith (FL) |
| Kanjorski | Neal (MA) | Smith (IA) |
| Kaptur | Nowak | Smith (NJ) |
| Kastenmeier | Oakar | Solarz |
| Kennedy | Oberstar | Spence |
| Kennelly | Obey | Spratt |
| Kildee | Olin | Staggers |
| Kleczka | Ortiz | Stallings |
| Kolter | Owens (NY) | Stark |
| Kostmayer | Owens (UT) | Stenholm |
| LaFalce | Pallone | Stokes |
| Lantos | Panetta | Studds |
| Laughlin | Patterson | Swift |
| Lehman (CA) | Payne (NJ) | Synar |
| Lehman (FL) | Pease | Tallon |
| Levin (MI) | Pelosi | Thomas (GA) |
| Levine (CA) | Penny | Torres |
| Lewis (GA) | Perkins | Torricelli |
| Lipinski | Pickett | Towns |
| Lloyd | Pickle | Traficant |
| Long | Poshard | Traxler |
| Lowey (NY) | Rahall | Unsoeld |
| Luken, Thomas | Rangel | Vento |
| Manton | Ravenel | Visclosky |
| Markey | Ray | Volkmer |
| Martinez | Richardson | Walgren |
| Matsui | Rinaldo | Walsh |
| Mavroules | Roe | Washington |
| Mazzoli | Rose | Watkins |
| McCloskey | Rostenkowski | Waxman |
| McCurdy | Rowland (CT) | Weiss |
| McDermott | Rowland (GA) | Wheat |
| McHugh | Roybal | Whitten |
| McMillen (MD) | Russo | Williams |
| McNulty | Sabo | Wilson |
| Mfume | Sangmeister | Wise |
| Miller (CA) | Sarpalius | Wyden |
| Mineta | Savage | Yates |
| Moakley | Sawyer | Yatron |
| Mollohan | Schroeder | Young (AK) |

NAYS—172

| | | |
|---|---|---|
| Archer | Geren | McCrery |
| Armey | Gillmor | McDade |
| Baker | Gingrich | McEwen |
| Ballenger | Goss | McGrath |
| Bartlett | Gradison | McMillan (NC) |
| Barton | Grandy | Meyers |
| Bateman | Grant | Michel |
| Bentley | Green | Miller (OH) |
| Bereuter | Gunderson | Miller (WA) |
| Bliley | Hall (TX) | Molinari |
| Boehlert | Hancock | Moorhead |
| Broomfield | Hastert | Morrison (WA) |
| Brown (CO) | Hefley | Myers |
| Buechner | Hefner | Neal (NC) |
| Bunning | Henry | Nielson |
| Burton | Herger | Oxley |
| Callahan | Hiler | Packard |
| Campbell (CA) | Holloway | Parker |
| Chandler | Hopkins | Parris |
| Clarke | Houghton | Pashayan |
| Coble | Hunter | Paxon |
| Coleman (MO) | Hutto | Payne (VA) |
| Combest | Hyde | Petri |
| Cooper | Inhofe | Porter |
| Coughlin | Ireland | Price |
| Cox | James | Pursell |
| Crane | Kasich | Quillen |
| Dannemeyer | Kolbe | Regula |
| Davis | Kyl | Rhodes |
| DeLay | Lagomarsino | Ridge |
| DeWine | Lancaster | Ritter |
| Dickinson | Leach (IA) | Roberts |
| Dornan (CA) | Lent | Rogers |
| Douglas | Lewis (CA) | Rohrabacher |
| Dreier | Lewis (FL) | Ros-Lehtinen |
| Duncan | Lightfoot | Roth |
| Edwards (OK) | Livingston | Roukema |
| Emerson | Lowery (CA) | Saiki |
| English | Lukens, Donald | Saxton |
| Fawell | Machtley | Schaefer |
| Fields | Madigan | Schiff |
| Fish | Marlenee | Schneider |
| Frenzel | Martin (IL) | Sensenbrenner |
| Gallegly | Martin (NY) | Shaw |
| Gallo | McCandless | Shays |
| Gekas | McCollum | Shumway |
| Shuster | Snowe | Valentine |
| Sisisky | Solomon | Vander Jagt |
| Skeen | Stangeland | Vucanovich |
| Slaughter (VA) | Stearns | Walker |
| Smith (NE) | Stump | Weber |
| Smith (TX) | Sundquist | Weldon |
| Smith (VT) | Tanner | Whittaker |
| Smith, Denny (OR) | Tauke | Wolf |
| | Tauzin | Wolpe |
| Smith, Robert (NH) | Taylor | Wylie |
| | Thomas (CA) | Young (FL) |
| Smith, Robert (OR) | Thomas (WY) | |
| | Upton | |

NOT VOTING—23

| | | |
|---|---|---|
| Alexander | Craig | Nelson |
| AuCoin | Crockett | Robinson |
| Brown (CA) | Flake | Scheuer |
| Bustamante | Flippo | Schuette |
| Carr | Hammerschmidt | Schulze |
| Clinger | Johnson (CT) | Slaughter (NY) |
| Coleman (TX) | Leath (TX) | Udall |
| Courter | Murtha | |

□ 1301

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Schulze against.

Mr. Bustamante for, with Mr. Craig against.

Mr. AuCoin for, with Mrs. Johnson of Connecticut against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, I was unable to be present for rollcall 114 earlier today. Had I been present, I would have voted yes.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 394 and rule XXIII, the Chair declares the House in the Committee of the Whole for the consideration of the bill, H.R. 2273.

□ 1303

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York [Mr. OWENS] will be recognized for 15 minutes, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 15 minutes, the gentleman from Michigan [Mr. DINGELL] will be recognized for 15 minutes, the gentleman from New York [Mr. LENT] will be recognized for 15 minutes, the gentleman from California [Mr. ANDERSON] will be recognized for 15 minutes, the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 15 minutes, the gentleman from Texas [Mr. BROOKS] will be recognized for 15 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, I yield 5 minutes to the lead sponsor of the bill, the gentleman from Maryland [Mr. HOYER], Chairman of the Democratic Caucus and the gentleman who has worked so hard and put forth such a Herculean effort to bring this bill to the floor.

PARLIAMENTARY INQUIRY

Mr. DELAY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DELAY. Mr. Chairman, would the Chair inform the Members as to how this is going to operate? Is the Chair going to call on one committee's representatives in order, or is everyone vying for time at once?

The CHAIRMAN. The Chair would prefer that each committee would use its time.

Mr. DELAY. So the Chair would call on the Education and Labor Committee first, the Energy and Commerce Committee second, and then the other committees in order as they appear in the rule?

The CHAIRMAN. The gentleman is correct.

Mr. DELAY. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, first of all, I thank the gentleman from New York [Mr. OWENS] for yielding me the time and for his kind words.

This bill is truly the product of thousands and thousands and thousands of people. It is a bipartisan bill. It is a bill whose time is too late but whose time has certainly come.

Mr. Chairman, 25 years ago this week, President Lyndon Johnson told a group of school administrators in the Rose Garden of the White House that "we work night and day to help men conquer old hatreds and old prejudices with new hope. We work night and day to help men remove old fears with new faith, and to bring old conflicts to an end—in new cooperation."

Those words came at the beginning of a great era in America, shortly after the adoption of the Civil Rights Act of 1964, when we began to recognize that although the Declaration of Independence said that "all men are created equal," there was a long way to go before our society truly recognized all as equal.

Much has been done, and many people have been working night and day, since then. Racial minorities, women, young and old, and many others have received specific rights

and protections in the Federal Code and in society as a whole.

We have recognized the need to ensure that minorities in America have a right to recognition and support.

But in those 25 years since President Johnson said those stirring words, we have not remembered all minorities.

Imagine living in a world where every curb is a barrier; where nearly every telephone is useless and where most stores and businesses are unavailable to you. Where you and your family's tax dollars go to fund buses you cannot use, trains you cannot ride on, Government programs you cannot get to and jobs you cannot have.

A world where you want to be included just like all your friends and relatives. Where you are frustrated at receiving a check from the Government every month, a check that effectively serves as compensation for all this discrimination. And where you want desperately to challenge your mind and your body in the day-to-day world of work and in the world at large that everyone else takes for granted.

That is the world of most Americans with disabilities.

A world they want to participate in, but one in which the barriers—some physical, others barriers of the mind—prevent them from joining.

But the costs of discrimination are tallied from both sides. By discrimination against the disabled, we lose the productive talents and imaginations of millions of able-disabled Americans. Our Nation spends almost $170 billion a year on maintaining the dependency of the disabled; more than $75 billion of that comes directly from the Federal Government. Yet these people want to work.

Although two-thirds of all disabled Americans between the age of 16 and 64 are unemployed, 66 percent of those who aren't working say they want to work. Furthermore, 82 percent of people with disabilities say they would relinquish their Government benefits in favor of a full-time job.

In the last year, walls have come down—physical walls and imaginary walls—in Eastern Europe and throughout the world. Time and time again, we have heard the people as they look to America for advice and guidance, as the shining example of democracy and freedom that we are.

Now, governments around the world are looking to us again. Many in the last year have come to Washington to find out about this landmark, nearly unprecedented legislation we are considering. Many have asked, why are we doing this for the disabled?

My answer is twofold. As Americans, our inherent belief is that there is a place for everyone in our society, and that place is as a full participant, not a bystander.

The second answer is less lofty. It is steeped in the reality of the world as we know it today.

If, as we all suspect, the next great world competition will be in the marketplace rather than the battlefield, we need the help of every American. By the year 2000, it is estimated that our Nation will have a net shortage of labor. In some areas of the country, this is already a fact.

We cannot afford to ignore millions of Americans who want to contribute.

And despite the impression of some, this legislation ensures that the backbone of the American system, business, is protected, too.

When the Americans With Disabilities Act came over from the other body last fall, we heard from many corners of the business community about concerns they had over this bill. We have worked closely with them, and adopted numerous amendments, to ensure that American business can work with the ADA.

We have ensured that business knows what is expected of it, and how it can be accomplished.

This bill does not guarantee a job—or anything else. It guarantees a level playing field: the qualified individuals won't be discriminated against because of their disability.

Whenever possible, we have used terms of art from the 1964 Civil Rights Act and from the Rehabilitation Act of 1973 phrases already interpreted in courts throughout this land so that business can know exactly what we mean.

In one case, we had to develop a new definition. This was done to ensure that business has leeway that is reasonable.

Let me quote from this bill's definition of "readily achievable": "easily accomplishable without much difficulty or expense."

This language is clearly intended to ensure that what is expected of business is reasonable and proper, and that businesses are not threatened by this legislation.

But they are expected to do what is reasonable and possible. Because American history and justice, from the Declaration of Independence through today, has been founded on the principle that all Americans are created equal, regardless of their race, sex, age, ethnicity or any other factor. The principle assumes that society will do what is necessary and possible to ensure that equality of opportunity.

No greater example of what we have in mind is our own former colleague, Tony Coelho, who is the original father of this bill in this House and who is here with us today. As we all know, Tony's original career plans were stalled because of discrimination against persons with epilepsy. In the end, this was a blessing to the Nation and this House, for he might not have ended up here. But no one in this Nation has proven more than Tony Coelho that someone with a disability can be one of the most able people our Nation has ever seen.

Mr. Chairman, we are sent here by our constituents to change the world for the better. And today we have the opportunity to do that.

When we first think of seeking high office, we think not of power and persuasion, but of our ability to do good and make it a better place for our fellow citizens.

But when we get here, we learn how infrequent are our chances to effect real change.

Change is incremental, and slow-moving, and it is often frustrating. There are so many problems, so much injustice, and so few tools to fight them with.

Today is what our hopes, our dreams, and our imagination are all about. For today, each of us with our vote can make life better for our fellow Americans. To the millions who have literally been locked out of the mainstream of society, we can open the door, clear the passageway, and bring them in. We can, as Lyndon Johnson said, work night and day to help men and women remove old fears with new faith.

By this vote, we can say yes, every American has the inalienable right to life, liberty, and the pursuit of justice. Because we will be granting simple justice to 43 million of our fellow citizens: we will be ensuring that Americans among us with disabilities, and their children, will live in a world with more opportunity. And a world that goes out of its way, makes the necessary effort, to ensure that they are included.

To be a part of this day is a special privilege. Today, we make history.

We have talked a great deal about the 43 million people who will be affected by this bill. But now, let me talk about just one.

Alicia Epstein is 10 years old, and she is deaf.

Last fall, she wrote to me, urging me to be certain that this bill passed the House and became law.

"I really want to have a good future," Alicia wrote, "as well as equal rights for all handicapped people. When I was 2 years younger than I am now, I began to worry about my future. I want to have a good future."

Today, we can assure that Alicia and all of her friends get that good future. I urge you to vote for this bill.

□ 1310

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. GOODLING. Mr. Chairman, we are here today to consider, and to pass, an historic piece of legislation—

legislation that will mark an appropriate, major expansion of our Nation's civil rights laws to include coverage of the disabled.

In some ways it seems that this legislation, as it slowly progressed its way through four committees in the House, was a long time in coming; yet, in reality, it is now nearing final passage in remarkable time. This legislation is an initiative with a broad sweep and one which imposes many novel requirements on those entities of the private sector which have not been Federal contractors or have not received Federal financial assistance. It certainly has not been without controversy; but, nevertheless, we are here today, less than 13 months since the bill's introduction, to take the final steps in enacting it into law.

Mr. Chairman, I think I can sincerely say that the expedited consideration of this legislation is in large part due to the bipartisanship which has characterized the debate. There has never been a question as to whether there would be a bill, or even what its basic framework would be. Yes, there have been disagreements, but these, to a great degree, have been worked out between majority and minority, with the cooperation of the disability and business communities. I think I can say that the bill, while not without problems, is considerably improved over that which was passed by the Senate.

Of course, it was the Senate-passed bill—a product of negotiations and agreements between the administration, the disability community and the business communities—which formed the basis for further consideration in the House. Indeed, the Education and Labor Committee took up the Senate bill, with some modifications, as a substitute to the House bill. Mr. Chairman, I want to emphasize that the primary agreement which led to passage of the Senate bill was an agreement to delete punitive and compensatory damages from the legislation as it was originally introduced, and that this was the basis upon which the bill was considered and passed in the Education and Labor Committee. Had those damages been included, I suspect the vote count may have been much different. But I know we will have considerable discussion of this issue later in the context of the amendment to be offered by Mr. SENSENBRENNER.

Mr. Chairman, I would hope that the same bipartisanship which has characterized the past debate on the Americans with Disabilities Act would also characterize our discussions and deliberations today. While the legislation is improved, problems remain which deserve a thorough debate on the House floor.

While I will not review here all of the amendments which will be offered, I believe all of them—given the magnitude of this legislation—deserve considerable consideration by all Members. Anything less would be contrary to the whole spirit of cooperation which has led us to this day.

Mr. Chairman, I reserve the balance of my time.

Mr. OWENS of New York. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I rise in strong support of this legislation. Today is a very special day for 43 million Americans with disabilities; 26 years after the passage of the Civil Rights Act of 1964 established civil rights for minority groups and women, many of our citizens with disabilities stand on the threshold of independence. The Americans with Disabilities Act of 1990 is an opportunity bill which will provide parallel protections for people with disabilities as have long existed for other minority groups and women.

None of the fundamental concepts in this legislation are new. Rather, they are derived largely from section 504 of the Rehabilitation Act of 1973 and its implementing regulations, and the Civil Rights Act of 1964. As such, there is a history of experience in implementing the concepts in this bill which will greatly facilitate the task of informing those with rights and responsibilities under this legislation as to what its provisions mean.

This bill has received exhaustive consideration and scrutiny in four House committees, and has received overwhelming bipartisan support. The reason for that is very simple—it is a sound bill which fully merits the overwhelming support of the members of this body.

For people with disabilities, this bill offers opportunity to enter the mainstream of society, to compete for jobs on the basis of their ability rather than be arbitrarily kept out of the workforce by their disability, to avail themselves of the kinds of pleasures which most of us take for granted, to communicate with a friend via a telephone if they are hearing impaired, to be free from the demeaning treatment which makes it so difficult for so many of our fellow citizens to live their lives with basic dignity.

For the taxpayers of this country, this bill represents a net savings in that qualified people with disabilities who want to work, but cannot find jobs irrespective of their actual abilities, will not be able to enter the work force and become taxpayers.

And for the business community, learning how to employ and retain people with disabilities, as many businesses have already done with outstanding results, effectively opens up a source of qualified employees who have long been underemployed.

The degree of poverty and unemployment experienced by people with disabilities is staggering. According to a recent Louis Harris poll, "not working" is perhaps the truest definition of what it means to be disabled in America. Two-thirds of all disabled Americans between the age of 16 of 64 are not working at all; yet, a large majority of those not working say they want to work. In 1984, 50 percent of all adults with disabilities had household incomes of $15,000 or less. Among nondisabled persons, only 25 percent had household incomes in this wage bracket. The Harris poll also found that large majorities of top managers (72 percent), equal opportunity officers (76 percent), and department heads or line managers (80 percent) believe that individuals with disabilities often encounter job discrimination from employers and that discrimination by employers remains an inexcusable barrier to increased employment of disabled people.

Our Nation's most precious resource is our people. To the extent that the changes in practice and attitudes brought about by implementation of the act ultimately assists people with disabilities in becoming more productive and independent members of society, both they and our entire society will benefit. Discrimination negates the billions of dollars we invest each year to educate our children and youth with disabilities and train and rehabilitate adults with disabilities. This bill is the best antidote that I know of to age-old societal attitudes which cause some to see disabled people, especially those with severe or visible disabilities, as natural dependents. The Americans with Disabilities Act will serve to reduce the external barriers that rob people with disabilities of the opportunity to pursue their dreams and rob our society of the contributions to our economy and to our public life which people with disabilities know they can make and want to make.

The Greeks defined happiness as the full use of one's powers along the lines of excellence. For over 200 years, we in America have taken the ringing words of the declaration of independence as defining the inalienable rights of man; life, liberty, and the pursuit of happiness. Thousands of people with disabilities and able-bodied advocates for people with disabilities all across the land, many of whom are present in this chamber today, remind us that even as they see no more, they demand no less. Today, we, in the House, have an opportunity to uphold our Nation's highest ideals and finest traditions of protecting the freedom of all individuals from arbitrary or unjust treatment, and of extending the opportunity to participate fully in American society to the previously dispossessed. In these special times, we in the United States are witnessing a remarkable and unprecedented outpouring of sentiment for, and commitment

to, freedom and democracy all over the world. A "yes" vote on the Americans With Disabilities Act of 1990 constitutes both an affirmation of our Nation's once and future commitment to full inclusion in the mainstream of our society for all of our citizens, and a testament to the vitality, vigor and capacity for renewal of our democracy.

Four House committees have done excellent work perfecting this legislation. And yet today, and next week, we will be presented with a number of weakening amendments which threaten to undo much of the good work that has been done. I urge my colleagues to firmly reject weakening amendments and pass this bill with an overwhelming "yes" vote. This legislation richly deserves your support.

□ 1320

Mr. GOODLING. Mr. Speaker, I yield 6 minutes to the gentleman from Texas [Mr. BARTLETT], who had a great deal to do with getting this bill in the order it is in. He and the staff are to be commended for their efforts.

Mr. BARTLETT. Mr. Chairman, I would inquire, is the gentleman from Maryland prepared for a colloquy at this time on "direct threat"?

Mr. HOYER. Mr. Chairman, if the gentleman will yield, yes.

Mr. BARTLETT. Mr. Chairman, I would like to ask the gentleman from Maryland [Mr. HOYER] for some clarification concerning the meaning of the term qualification standards as it appears in section 103(b) of the bill. That standard, as modified by the Judiciary Committee, permits a requirement that an individual with a disability not pose a direct threat to the health or safety of other individuals in the workplace if reasonable accommodation will not eliminate the direct threat. Direct threat is defined in section 101 of the bill to mean significant risk. As I understand it, this qualification standard is intended to spell out clearly the right of an employer to take action to protect the right of its employees and other individuals in the workplace, including not assigning an individual to a job if such assignment would pose a direct threat to those individuals. Is my understanding correct?

Mr. HOYER. Mr. Chairman, if the gentleman will yield, the gentleman's understanding is correct, assuming the employer cannot eliminate the direct threat by making reasonable accommodation.

Mr. BARTLETT. If I may further inquire of the gentleman, it is also my understanding that in determining what constitutes a significant risk, the employer may take into consideration factors such as the magnitude, severity, or likelihood of the risk to other individuals in the workplace, again assuming that such factors could not be eliminated by reasonable accommodation. I yield to the gentleman.

Mr. HOYER. The gentleman's understanding is correct. Of course, the burden will be on the employer to show the relevance of such factors in relying on the qualification standard.

Mr. BARTLETT. I thank the gentleman.

Mr. Chairman, I rise in support of H.R. 2273, the Americans with Disabilities Act of 1990 [ADA]. This is an historic occasion. When the ADA is enacted, full civil rights will be extended and available to those with disabilities in every community in this country, in employment, public services and transportation, public accommodations, and telecommunications. The ADA provides many of the same rights to individuals with disabilities that have been available to others because of their race, national origin, sex, and age through earlier civil rights laws.

The ADA is based on sections 503 and 504 of the Rehabilitation Act of 1973, which require that Federal grantees or contractors not discriminate against an individual because of his or her disability. This prohibition applies in services, opportunities, and employment. Thus, there are many people out there—in State and local government, educational institutions, big and small businesses with government contracts—that have experience with designing programs and opportunities so that individuals with disabilities can participate.

I acknowledge that there are just as many, perhaps more, people that have little or no experience with providing accommodation and access to individuals with disabilities. We must make a commitment, starting today with this debate, to help everyone develop an understanding about how the ADA would apply. We must share resources, experience, and expertise about how to respond effectively and appropriately to the challenges the ADA will bring. As a starting point, we should support floor amendments that will reduce litigation, provide incentives for involvement with those with disabilities, and ensure that Congress, like everyone else in the private sector, will respond to the civil rights of Americans with disabilities.

The reason is simple. The world is changing rapidly. Because of medical technology, individuals, who 10 years ago would not have survived severe traffic accidents, are now living and functioning in their communities. Because of rehabilitation technology, and most recently the Technology-Related Assistance for Individuals with Disabilities Act, severe limits in basic functions are being overcome at home and in the workplace. Finally, because of the labor shortage, employers will be looking to unused and under used populations, like those with disabilities. The ADA will help us to directly address our changing world and prepare for the future.

By the year 2,000, we will need specific percentage increases in key occupations: a 24 percent increase in specialty professional occupations like engineers, natural scientists, medical doctors, teachers, and lawyers; a 12 percent increase in managerial and administrative personnel; and a 23 percent increase in service populations. Where will these needed workers come from? From those unused and under used resources—like the 66 percent of the individuals with disabilities, between 16 and 64, who are unemployed and want to work. With the aging of our population, the slow growth rate of our population, and with the projected shortages in the work force, hiring those with disabilities will make economic, as well as moral sense.

In the time allotted to me today I would like to comment on two things. First, how the ADA would work in practical situations. Second, improvements we have made in the employment and public accommodations provisions in the ADA.

The key concepts in the ADA are reasonable accommodation, undue hardship, and readily achievable. It is easiest to explain these terms through some practical, real-life questions and answers raised by some in the business community.

What does the term "undue hardship" mean? Would hiring a reader at $6 per hour to accommodate a $5 per hour blind clerk be considered an undue hardship?

The hypothetical posed would clearly be an undue hardship, assuming the question is a continuous reading requirement. On the other hand, hiring a $6 per hour reader for 1 hour per year would not be an undue hardship.

The factors to be considered in determing whether an action would be an undue hardship—defined as an action requiring significant difficulty or expense—are both the financial resources of the site and the resources of the parent company. Both factors would be involved in a reasonable test. Within this context, the overall size of the business; the number, type, and location of its facilities; and the type of operation, including the composition, functions, and structure of the work force, would also be considered. Since 1973, the essential judgment in determining an undue hardship has been determining what is reasonable. The ADA would not change that.

What is meant by readily achievable? Is the cost of an accommodation measured in relation to the financial resources of the commercial enterprise—parent company—or of the particular establishment—store or facility?

In terms of the question posed, both the resources of the parent company

and the specific facility would be considered.

Readily achievable means easily accomplishable and able to be carried out with little difficulty or expense. It is a lesser standard than undue hardship.

In determining whether an action is readily achievable, factors to be considered include: the overall size of the business with respect to the number of its employees; the number, type, and location of its facilities; the overall financial resources of the business and the financial resources of that facility; the type of operations maintained by the company, including functions of the work force, geographic separateness and administrative relationship to each other.

If the employee lounge or rest room is on a lower or upper floor, must an employer provide an equal facility on the main floor for a mobility-impaired employee?

Only if the cost is not significant and thus is not an undue hardship. Options like reallocating the use of space and moving furniture or redesignating who could use a rest room—male, female—on the floor on which the disabled employee worked, likely would not be an undue hardship. Constructing an entirely new rest room likely would be an undue hardship.

Must all the aisles in a store be widened to accommodate wheelchairs?

No. The ADA does not require that aisles be widened. It does require access to shopping services, if making such services accessible is readily achievable; that is, easily accomplishable and able to be carried out without much difficulty or expense. Thus, widening aisles is one way of providing access, but there are others: reorganizing the placement of frenquently purchased items at the front or front end of aisles; making customer assistants willing to retrieve items for those with disabilities; taking phone orders for mailing or pick up at curb side, and providing catalogs and flyers.

Now I will move on to my second point, improvements. The ADA was referred to four House Committees: Education and Labor, Energy and Commerce, Public Works and Transportation, and Judiciary. All four committees made improvements in H.R. 2273 (4807), building on the version adopted by the other body, (S. 933).

Our committee made significant improvements in the bill, especially in clarifying the obligations of those who must respond to the accommodation and access needs of the disabled. For example in the areas of employment and public accommodations the following improvements were made:

Undue hardship and readily achievable: Site specific factors and parent company factors must be considered when determining if a reasonable accommodation for a disabled employee is an undue hardship—significant difficulty or expense—or a barrier removal for a disabled customer is readily achievable—easily accomplishable without much difficulty or expense.

Anticipatory discrimination: Such discrimination claims are limited to new construction.

Drugs: Current users of illegal drugs are not protected by the ADA or the Rehabilitation Act of 1973.

Contract liability: Employers and public accommodations are only liable for discriminatory actions against their own employees or customers, not such actions taken by one of their contractors against other individuals.

Damages: In pattern and practice cases brought by the Attorney General, when the Attorney General asks for monetary damages, such damages cannot include punitive damages.

Finally, I would like to review some possible floor amendments, offer a context in which they should be considered, and indicate why they should be supported.

Use of the courts. First, I urge your positive consideration of amendments that would decrease litigation. The intended effects of the ADA will be ensured if the courts are used primarily to remedy discrimination through injunctive relief. Injunctive relief, in disability discrimination cases, has precedent and is fair, practical, and educational. Moreover, such relief should result in proactive efforts on the part of the private sector to respond to the accommodation and access needs of those with disabilities.

If on the other hand, the ADA remains unamended in several areas, the courts will become the place where important terms become clarified, where protected classes are established, and where lawyers, but not people with disabilities, receive strong incentives for being there. Under such a scenario negative outcomes are likely. It will take many years to establish consistent meanings for terms and limits on protected classes. This will place the civil rights of some with disabilities and some good faith efforts by the private sector in suspension. And, if the potential costs of litigation include jury trials and danages, the private sector will devote time insulating itself from those with disabilities.

Therefore, I urge you to consider supporting amendments that would: clarify remedies available for employment; and clarify employer discretion related to: positions involving food handling and essential functions of job.

Finally Mr. Chairman, I wish to return to one of my first points. The ADA is complicated legislation with far-reaching implications. For it to work well we must work together to achieve effective implementation.

There are many resources available to the business community that could help in responding to the access and accommodation needs of the disabled; for example: State vocational rehabilitation agencies, that since 1920, have been assisting individuals with disabilities enter and reenter the workforce; Centers for Independent Living, that help such individuals prepare for employment, find housing and transportation; the President's Committee on Employment of Individuals with Disabilities and its Job Accommodation Network, that helps employers with specific accommodation inquiries, as well as seminars and training programs; the Washington Business Group on Health, that provides expertise on how to return disabled employees to work quickly and safely, and on the cost benefits involved; Projects with Industry, that promote employment of those with disabilities in the work force; the National Council on Disability, who had the vision and courage to propose an ADA in 1987.

The 140-plus organizations that have endorsed the ADA are additional resources. The best resource, however, are individuals with disabilities—they know what they need and what they don't need to level the playing field—simply ask them.

Since joining Congress in 1983, I have had a sustained interest in legislation that increased opportunities for and independence of individuals with disabilities. The ADA will positively affect the environemnt encountered by the disabled, and make a direct difference in what they can do for themselves and for others. I would hope too, that the ADA will have a positive effect on what we think about and do to promote accessibility. The ADA should reach every community and reshape attitudes toward disability, so that differences among us become more a question of interest than bias.

Finally, I would like to thank my friend from Maryland, Mr. Hoyer, for working in a fair and bipartisan manner to address concerns and changes related to the ADA; and I would like to recognize the efforts of the Republican Leadership for urging and coordinating education on the ADA.

Mr. OWENS of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

□ 1330

Mr. MURPHY. Mr. Chairman, I commend the gentleman from New York [Mr. OWENS] for the tremendous work he has done during the past months in drafting this legislation, as well as the gentleman from Maryland [Mr. HOYER], who has worked tirelessly for this measure.

As was previously pointed out, many Members have struggled for many, many years, before those of us who

are here today arrived in Congress, to seek equality for every American and to provide every American and in fact every person with a total right to our society and to our democratic way of life. This bill takes a giant step in that direction.

Mr. Chairman, I commend the four committees who have worked on this. We worked on amendments. We tried to make the bill accommodating to small business people. We reached out to the business community, to the individual communities, and tried to make this bill palatable to all.

I know that when the final committee finished last week, we had a bill that we felt could be acceptable to all and still accomplish the goals of serving those Americans who suffer physical disabilities.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I want to congratulate the gentleman from Pennsylvania [Mr. MURPHY]. He worked very diligently and conscientiously on trying to make sure that in small towns in particular we had site-specific language so we did not put an onerous burden on stores that may be subsidiaries of large parents who have deep pockets, but who themselves are marginal stores but serve a very, very important constituency, both the disabled, and, of course, the able.

I want to congratulate and thank the gentleman from Pennsylvania [Mr. MURPHY] for his very sincere and effective efforts in work on behalf of this bill.

Mr. MURPHY. Mr. Chairman, I thank the gentleman from Maryland [Mr. HOYER], and yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, today we will vote on the Americans With Disabilities Act, one of the noblest initiatives of this Congress. I urge everyone here to support the act.

As I stand here today, I can't help noting the struggles this great country has endured to secure freedom for our citizens. From the patriots at Boston Harbor to the freedom marchers in Selma, we've fought for equality and justice for all our citizens.

While our struggle for freedom is unmatched, it's also incomplete. As Vaclav Havel said a few months ago, we can simply approach a true democracy. The ADA will bring us a lot closer.

This bill is a declaration of independence for 43 million disabled Americans. After years of being in the shadows, they're on the threshold of a new and exciting era. An era where their civil rights are guaranteed by the laws of this great land.

Just a few weeks ago, disabled advocates rallied in front of the Capitol, calling for justice and expressing their dreams for the future. Their message was clear and concise—the rights of the disabled cannot, must not be ignored.

The ADA responds to the pleas of the disabled. It guarantees every American with a disability, freedom from job discrimination, use of public transport and public accommodations, and opportunities to use modern telecommunications.

The guarantee won't be cheap or easy; but the gains will be worth the cost.

The ADA has many practical benefits, for both the disabled and the entire Nation.

For example, without entryway access ramps, people in wheelchairs can't compete for jobs—and employers can't hire good workers. Hearing or speech impaired persons can use telecommunications relay service to call ambulances, save victims, and avert medical emergencies.

ADA is also worth the investment in a moral sense. It acknowledges, for the first time, that discrimination—on the basis of disability—is as shameful as all the other types of discrimination now illegal under the Constitution and existing civil rights laws.

Millions of disabled Americans are currently shut out of jobs they can easily perform.

And the lives of many others are limited to inaccessible public transportation or facilities. All are prevented from contributing to our country's future. Consequently all of us lose in the process.

By saying that if a disability doesn't stop someone, neither should discrimination, the ADA changes everything.

Under the act, employers must provide reasonable accommodation to disabled employees if it is not an undue hardship.

Plus it requires many public and private facilities to make readily achievable changes in order to be more accessible to disabled persons. The bill will serve as a guide for everyone—people with disabilities, private employers, and the Federal Government—as we all work to overcome years of ignorance and prejudice.

The Americans With Disabilities Act if fair and just. It has been amply reviewed both here and in the Senate.

The investment it represents will yield tremendous outcomes by allowing millions of American citizens to work, compete, and contribute to our country in ways they never have before. We all win with ADA.

I urge my colleagues to support H.R. 2273 and oppose any weakening amendments.

Mr. OWENS of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, in the Judiciary Committee an amendment I offered was adopted which encourages the use of alternatives means of dispute resolution where appropriate and to the extent already authorized by law to resolve disputes arising under the Americans with Disabilities Act. This would not create anything new, but would encourage consensual resolution of the kinds of problems that come up under this act.

I want to make it very clear that the use of alternative dispute resolution procedures, such as settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is completely voluntary. Just to clear up any confusion there might be, under no condition would an arbitration clause in a collective bargaining agreement or employment contract prevent an individual from pursuing their rights under the ADA.

This provision should serve as a reminder that rights and litigation are not one in the same. There are better ways to achieve the goals of the ADA than litigation and we should encourage cooperation in achieving those goals, not confrontation.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, let me begin by giving a special salute to the gentleman from Maryland [Mr. HOYER] and our good friend and colleague, the gentleman from Texas [Mr. BARTLETT], and in particular to my Republican colleague, the gentleman from Texas [Mr. BARTLETT], let it be known in the 8 years he has been here, I really believe this is his finest hour. He has done yeoman's work on this to make sure we could have a bipartisan bill in front of us.

The 43 million disabled people in this country that can do everything we can do under this law will now be allowed to do just that. This legislation, historic civil rights legislation, will guarantee that we will no longer allow an American society at a time when every mind is the most precious resource we have to discriminate against anybody simply based on their disability. Whether it be in employment, whether it be in telecommunications, public accommodations, or public transportation, today we say that in America all people must be created equal.

In particular, I want to call attention to title IV. Because of my work with the hearing impaired and deaf community I am especially pleased that in title IV of this legislation we will within 1 year guarantee that all Americans who have any hearing or speech disability will be able to com-

municate with any other American. They will be able to order a pizza, they will be able to schedule an appointment, just like you and I do, through a national relay program.

In addition, they will have the same access that we have through the 911 system. Today, unfortunately, because of discrimination, the disabled person earns 36 percent less than a person of similar skills without that disability. For American society, the cost of excluding the disabled is $300 billion a year. Today we change all that.

Mr. Chairman, the Americans With Disabilities Act gives new hope to millions of disabled Americans for increased opportunities in all walks of life. Among other things, title IV of the ADA will finally offer deaf and hard of hearing people equal access to the telephone network—access which they have been denied for so long.

Few of us can picture a single day without using the telephone. We take it for granted; yet we could not imagine life without it. The telephone has become an integral part of our work conducting our personal affairs and enjoying all aspects of our social lives. But there are millions of deaf, hard of hearing, and speech impaired Americans who have not been able to join us in having equal access to our telephone system. In most of the country, these Americans are unable to call their doctor's office to set up an appointment. They cannot make a call to reserve a table at a restaurant. They are without the means to call a potential employer to set up a job interview.

By requiring nationwide relay services, title IV of the ADA will finally offer to deaf Americans the ease of calling a doctor's office, a pizza parlor, or a service store to which the rest of us are so accustomed. Relay services will enable any deaf person who uses a TDD to call any voice telephone user through a relay operator.

Title IV affords great flexibility to both common carriers and the States which set up relay systems. Carriers may provide these services individually, jointly, through designees, or through a competitive bidder. It is the intent of Congress that the common carrier remains ultimately responsible to ensure compliance with the requirements of this section after the specific relay provider has been selected. States that already have relay systems in place may continue to operate their own systems, so long as they receive certification from the FCC to do so.

Title IV requires the Federal Communications Commission to issue regulations implementing the relay section of the ADA within one year of the act's passage. The FCC's regulations must set forth standards to ensure that relay services provide telephone services for TDD users which are functionally equivalent to voice telephone services. The FCC should consult and obtain advice from individuals who will be relying on relay systems. Toward this end, it is our intent that the FCC should establish an advisory committee to include deaf, hard of hearing and speech impaired individuals, which would provide formal input to the Commission in the development of the regulations and the ongoing operations of the relay systems.

It is also our intent that deaf, hard hearing and speech impaired individuals have access to 911 emergency centers. While this may be done through relay systems, title II of the ADA also requires direct access to 911 services. Without such access, individuals with hearing and speech impairments remain at risk in the event of fire, medical, and other kinds of emergencies. Only with complete access to all voice telephone numbers, including those accessing 911 centers, can disabled Americans receive functionally equivalent telephone service.

By guaranteeing telephone access, title IV will vastly expand the opportunities available to deaf individuals in employment, education, and recreation. Title IV also will require all public service announcements [PSA's] which are funded or produced by the Federal Government to be closed captioned. The vital information contained in these PSA's must now be accessible on television to deaf Americans. By requiring both relay services and PSA closed captioning we will be taking a giant step toward achieving equality in the telecommunications network for hearing impaired and speech impaired individuals.

The CHAIRMAN. The Chair would inform the gentleman from New York [Mr. OWENS] and the gentleman from Pennsylvania [Mr. GOODLING] that they each have 1 minute remaining.

Mr. OWENS of New York. Mr. Chairman, I reserve my 1 minute for the purpose of closing debate.

□ 1340

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

Mr. OWENS of New York. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, in closing, I would like to pay tribute to Tony Coelho, the former whip of the House, who initiated this process. I would like to again thank the gentleman from Maryland [Mr. HOYER], the gentleman from Texas [Mr. BARTLETT], and all of the members of the Education and Labor Committee who passed this bill 35 to 0 and initiated the process last fall.

I also would like to thank all of the members of the community of people with disabilities, who 43 million strong raised their voices across the Nation, and it was their push, their sense of empowerment that has brought us to where we are.

This is just a beginning. It is a historic piece of legislation. I assure Members it is just the beginning. The people with disabilities will guarantee that we will not falter in the implementation of this legislation. Empowerment for their civil rights has been their goal, and they have gone a great step forward on that goal.

I congratulate the people in the community with disabilities.

The CHAIRMAN. All time for debate controlled by the Committee on Education and Labor has expired.

The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 15 minutes, and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, first I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Energy and Commerce Committee.

Mr. DINGELL. Mr. Chairman, I rise in support of H.R. 2273, the Americans With Disabilities Act, in the form made in order under the rule. As my colleagues are aware, this legislation is the product of more than a year of effort by the bill's sponsors and supporters.

Many Members on both sides of the aisle played important roles in crafting this measure, and they deserve our commendation for the contributions they have made.

I would like specifically to pay tribute to our former colleague and former whip, my dear friend, Mr. Coelho, for the work he has done on this bill; my dear friend and colleague, the senior Republican member of our committee, the gentleman from New York [Mr. LENT]; the chairman of the Transportation and Hazardous Materials Subcommittee, the gentleman from Ohio [Mr. LUKEN]; and also the ranking minority member of that subcommittee, the gentleman from Kansas [Mr. WHITTAKER], for the outstanding contributions they have made.

Special congratulations are also in order for the chairman of the Telecommunications and Finance Subcommittee, the gentleman from Massachusetts [Mr. MARKEY] and the ranking Republican member of that subcommittee, the gentleman from New Jersey [Mr. RINALDO]. And of course, I went to recognize the extraordinary efforts of our good friend and colleague, the gentleman from Maryland [Mr. HOYER], without whose personal and diligent involvement this legislation would not have reached this point.

As my colleagues know, I had serious reservations about the original bill and the version of it passed by the other body. In particular, I was concerned about the effect the legislation would have on matters of special interest to the Committee on Energy and Commerce—namely, passenger railroad service and telecommunications.

Through an extensive process of discussion and negotiation with the disabilities community, we improved the bill subtantially. As a result, I was pleased to lend my name earlier this week as a cosponsor of H.R. 4807, which has been made in order under the rule as original text for H.R. 2273.

I also want to express my appreciation to the leadership, to the chairman of the Rules Committee [Mr. MOAK-

LEY], and to Mr. HOYER for the fair and proper manner in which the railroad jurisdiction issue has been handled in this process. The resolution of this issue—inclusion of the Energy and Commerce text in H.R. 4807—recognizes the Energy and Commerce Committee's jurisdiction and indicates the leadership's determination that our position on this matter was correct. For this we are most appreciative.

The Energy and Commerce Committee amendment to the ADA—as reflected in H.R. 4807 and this floor text—requires that within 5 years, Amtrak and all commuter authorities have at least one car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

It also requires that, with certain specified exceptions, all new rail passenger cars purchased or leased for intercity and commuter rail transportation be fully accessible to all disabled individuals. Wheelchair accessibility is not required in all cases for certain types of new Amtrak rail cars, including single-level passenger coaches. However, Amtrak must take various steps specified in the bill to accommodate individuals who use wheelchairs by other means.

The legislation also requires that Amtrak stations and key commuter stations, within 20 years and 3 years respectively, be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. A waiver procedure is provided in the case of certain extraordinarily expensive structural changes, permitting an extension of up to 20 years to accomplish these changes at key commuter stations.

The bill also requires that any new Amtrak or commuter stations be constructed so as to be accessble to disabled individuals. It improves current law by clearly delineating the legal responsibility of Amtrak, commuter authorities, other public owners, and private owners for making stations accessible.

Title IV of the amendment concerns telecommunications for the disabled. The title requires telephone common carriers to make available relay services for speech- and hearing-impaired subscribers, and ensure that the goal of universal telephone service is extended to include disabled Americans.

The committee provision made several changes in the legislation that was adopted by the Senate. The result, I think it's fair to say, is a substantially improved provision. It is clearer than the Senate provision, and our friends in the telephone industry and in the disabled community both believe it is better and stronger.

The committee provision deletes the Senate's prohibition on end user charges. It is the committee's intention that the FCC have substantial flexibility to structure guidelines for the establishment of relay services, and for the recovery of costs associated with providing relay services.

The amendment adopted by the committee also ensures that all users of telephone service contribute to the cost of providing relay services. This includes private line users. This is an important change, which will ensure that the burden of paying will be equitably shared and will be a nominal amount.

In addition, the committee added a provison requiring any television public service announcement produced or funded in whole or in part by any Federal agency or instrumentality to include closed captioning for the hearing impaired.

Mr. Chairman, I am proud of the changes made in the committee. I would like to take this opportunity to thank my good friend and colleague, Mr. LENT, for working with me to fathom the provisions contained in the committee amendment. Mr. MARKEY, chairman of the subcommittee on Telecommunications and Finance, was equally helpful in crafting the substitute, as was Mr. RINALDO, the ranking minority member. I thank them all.

I would also like to thank representatives of the speech- and hearing-impaired community, and in particular Ms. Karen Strauss, I am very grateful for her dedication and willingness to work with the committee. Finally, I'd like to thank the representatives of the telephone industry, who were most cooperative.

Mr. Chairman, I know that there are some Members who are concerned about various provisions of the bill. I believe that most of those concerns have been appropriately dealt with in the committee process. Many months of effort have gone into negotiating a bill that is acceptable to both sides of the aisle, both Houses of Congress, the administration, and the disabilities community. For this reason, I urge my colleagues to reject unfriendly amendments.

This is a good bill and a necessary bill. I am pleased that we in the House were given a full opportunity to make it a workable and sound bill. As a result of the deliberations of the four committees of jurisdiction, the legislation now holds the promise of truly bringing disabled Americans into the mainstream of American life. This is a worthy objective, which the House should support.

Mr. WHITTAKER. Mr. Chairman, I yield one half minute to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I wonder if the gentleman from Maryland [Mr. HOYER] will take the floor for the purpose of a colloquy.

QUESTION CONCERNING THE AMERICANS WITH DISABILITIES ACT

Mr. Chairman, I have read with interest the report of the Committee on Education and Labor. I was most pleased to see that the committee specifically recognized the unique issues involved in applying the requirements of this legislation to historic buildings and facilities. The addition of section 504(c) will provide reasonable flexibility in making historic buildings accessible to persons with disabilities when alterations are made to those buildings. The committee was obviously concerned that such alterations should not threaten or destroy the historic significance of qualified historic buildings.

My question is how the provisions in section 504(c) will affect the requirements set out in section 302(b)(2)(a)(iv) of the legislation. Section 302(b)(2)(a)(iv) requires that architectural barriers should be removed from buildings when such removal is readily achievable. Readily achievable is defined as "easily accomplishable and able to be carried out without much difficulty or expense." It is my understanding that the same historic preservation concerns the committee had with respect to alterations of qualified historic buildings and facilities also apply to the removal of architectural barriers from historic buildings and facilities. Is that correct?

Mr. HOYER. Mr. Chairman, if the gentleman will yield, he is correct.

Mr. BATEMAN. I thank the gentleman from Maryland.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Americans With Disabilities Act is perhaps the most important civil rights bill for the disabled that has ever been considered by the Congress. The bill seeks to end discrimination against the 43 million Americans who suffer from some disability, in such critical areas as employment, transportation, public and private accommodations, and communications.

The premise of the bill is unassailable. The results of discrimination against disabled Americans—whether they suffer from mobility or sensory impairments, mental retardation, disease, or other physican and mental impairments—are insidious and potentially devastating. Discrimination, whether produced by overt actions or thoughtless attitudes, produces segregation, exclusion, impoverishment, and denial of equal and meaningful opportunities. By denying the benefits of equal treatment and participation to millions of disabled Americans, our country suffers.

The bill before us will help to ensure equal rights and opportunities for disabled Americans. This bill will allow

greater productivity and responsibility for disabled individuals. This bill will help to remove the barriers which have impeded disabled persons from being more productive members of American society. In short, this bill will help our country use an immense amount of talent, intelligence, and other human resources which heretofore have been underestimated, underdeveloped, and underutilized.

Our subcommittee's jurisdiction of this bill focused on transportation provisions primarily relating to Amtrak and commuter railroads. All of us recognize the crucial role transportation plays in our lives. It is the veritable lifeline which enables all persons to enjoy the full economic and social benefits which our country offers. To be denied effective transportation is to be denied the full benefits of employment, public and private services, and other basic opportunities.

The amendment which our committee adopted requires Amtrak and commuter railroads to be accessible to disabled persons. Under this bill, all of Amtrak's 500 stations will be fully accessible within the next 20 years. Within the next 3 years, key commuter rail stations will be made accessible. Under the bill, Amtrak and commuter railroads will be required to purchase accessible new passenger cars, to make good faith efforts to lease or purchase accessible used cars, and to ensure accessibility on rail passenger cars which are remanufactured. Under the bill, equivalent dining services will be provided to disabled riders on Amtrak. In short, the bill offers a realistic and defined set of rules for assuring disabled persons access to rail transportation services.

Testimony at our subcommittee's hearing last fall indicated that Amtrak and many commuter railroads already do a fairly good job of serving disabled persons. This is not to say that there are not some problems. But the discussions and negotiations on this bill, at a minimum, have raised the level of awareness for the legitimate concerns that exist on all sides of the fence, and have improved communication between the parties. I believe that opening up and continuing that dialog may be as important as the changes made in this bill.

I wish to commend my friend and colleague, Mr. DINGELL, the distinguished chairman of the full committee; Mr. LENT, the ranking minority member of the full committee; and Mr. WHITTAKER, the ranking minority member of our subcommittee; for their leadership and untiring efforts on these important issues. We spent a good deal of time over the past few months negotiating with representatives of the disabled community, Amtrak, commuter railroads, and other affected parties. The bill before us represents the combined and cooperative efforts of all affected interests.

I strongly urge my colleagues to support the bill and I reserve the balance of my time.

□ 1350

Mr. WHITTAKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this important legislation we are considering today is a key element in President Bush's efforts to assure that disabled Americans are brought into the mainstream of American economic and social life. Two parts of the Americans With Disabilities Act are within the specialized jurisdiction of the Energy and Commerce Committee: telecommunications and railroad transportation. These elements of the ADA are absolutely vital to assuring that disabled Americans have the means to utilize the sinews of communication and transport that bind our society together.

With respect to the rail transportation title, I want to especially commend our committee chairman, Mr. DINGELL, for his efforts to fashion a more readily understandable version of this bill, one that gives more usable guidance to the individuals and organizations governed by the requirements of the ADA. The chairman of the Subcommittee on Transportation and Hazardous Materials, Mr. LUKEN, should also be commended for the hard work he did in developing this title.

The revised Amtrak provisions are a classic example of mutual gain through compromise. Under the bill, disabled passengers will be assured of a firm timetable for Amtrak to reach specified targets of accessible seating capacity. At the same time, Amtrak will be given greater flexibility in how it achieves these targets, by being able to cluster some accessible seating and thus reduce the cost of acquiring or modifying rail cars to meet the target level of seating capacity. In a similar fashion, we have been able to give more specific, and more flexible, guidance to commuter rail operations than was offerd by the original version of the bill as referred to our committee.

Negotiating revisions to the telecommunications title of the ADA was even more smooth and harmonious than revising the transportation provisions.

For that, thanks go again to the chairman of the full committee [Mr. DINGELL], as well as the chairman and ranking Republican member of the Telecommunications Subcommittee, Mr. MARKEY and Mr. RINALDO. Their work in the subcommittee resolved most of the contentious issues, and made it possible for Chairman DINGELL and the ranking member of the full committee, Mr. LENT, to resolve the few telephone issues. We did so with the full cooperation of the deaf community and the telephone industry. I thank them for their hard work.

Our joint efforts are contained in the bill before the House today. They provide the framework for a nationwide relay network for the deaf and hearing-impaired which is essential for their full participation in society.

The FCC is directed to fill in the details and implement that relay service as quickly as possible.

With the improvements we made on the other body's work, the telecommunications title of the Disabilities Act will achieve the goal shared by every Member of the House: to make telephone services equally available to all, including our deaf and hearing-impaired citizens.

While I believe that we have made important strides toward a more workable and understandable bill in the areas of rail transportation and communications, I do not want to leave my colleagues with the impression that I am approaching the consideration of this bill on the premise that it is already perfectly drafted.

On the contrary, precisely because of the immense complexity of this legislation—and the need to merge into a single bill the product of four different committees' deliberations—I have urged that considerable latitude be given Members who feel obligated to offer clarifying and improving amendments on the floor. None of us can claim to know it all, and there are bound to be areas where the unassailable intent of this bill—to bring disabled Americans into the mainstream of American life as full and equal participants—can be carried out in a more efficient or more clearly defined way. For that reason, I look forward to hearing the proposals of my colleagues for possible improvements to the Americans With Disabilities Act.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, enactment of the Americans With Disabilities Act is long overdue. For far too long, some 43 million Americans with physical or mental disabilities have been denied the protections of the civil rights that the rest of us take for granted.

Discrimination against the handicapped, be it unintentional or deliberate, has the same impact. It is cruel and serves to segregate, exclude, and deny the opportunity to fully participate in programs and activities. We should also remember that it is not just the handicapped who suffer because of such discrimination, but all of us, for those denied employment or access to marketplace are a waste of

human resources—a waste of those who have something to contribute.

A number of those who have spoken in opposition to this legislation have expressed the concern that enactment of the ADA is going to create an unreasonable burden on small business, drive up the cost of operation, and ultimately threaten the very survivability of some businesses. My own State of Washington has proven the fallacy of this fear. For over 10 years Washington State has had similar statutes on the books, yet I have found no evidence of even one business being forced out of operation by having to accommodate or hire the handicapped.

Discrimination in employment was outlawed in Washington State in 1973. In 1976, legislation was enacted requiring that all new building construction or major remodeling projects make structures accessible or barrier-free for the handicapped. Then in 1979, Washington State law was amended to prohibit discrimination against the handicapped in housing and public accommodation.

While the Washington State statutes have not ended discrimination in the State, they have provided an opportunity to seek redress to those handicapped persons denied their rights. It is time for the House to follow the lead of Washington State and of our colleagues in the Senate in passing this important legislation to protect the disabled all across America.

□ 1400

Mr. THOMAS A. LUKEN. Mr. Chairman, for the purpose of colloquy, I yield to the gentleman from Maryland [Mr. HOYER], chairman of the subcommittee.

Mr. HOYER. Mr. Chairman, I am concerned about a provision contained in the report filed by the Committee on Energy and Commerce which states: "It is not the function of this legislation to facilitiate access to audiotext services." Is it the gentleman's understanding that this bill precludes such access?

Mr. THOMAS A. LUKEN. The gentleman raises a good question. While the legislation does not require access to audiotext services at this time, if future technology can make these services available utilizing a relay service, it is our intent to ensure such access.

Mr. HOYER. Mr. Chairman, if the gentleman will continue to yield, does the gentleman anticipate that the FCC's regulation will require common carriers to facilitate access to the telephone numbers for relay services?

Mr. THOMAS A. LUKEN. The gentleman is correct.

Mr. HOYER. Mr. Chairman, if the gentleman will continue to yield, the bill calls for relay services to be functionally equivalent to ordinary voice telephone services. How, exactly, is functionally equivalent service to be achieved?

Mr. THOMAS A. LUKEN. Title IV requires the FCC to establish certain minimum standards and criteria, which will define functional equivalence for all relay providers.

Mr. HOYER. If the gentleman will continue to yield, where can the FCC turn for guidance in developing these standards?

Mr. THOMAS A. LUKEN. The FCC already issued serveral notices during the development of several interstate relay systems. Consumers and individuals have urged the FCC to create a Federal advisory committee to assist the Commission in setting up such a system. It is our intent that the FCC turn to such a committee, which could be made up of relay consumers, telephone companies, and other interested parties, to develop standards for functionally equivalents for both an intrastate and interstate relay system.

Mr. HOYER. If the gentleman will continue to yield, the success or failure of relay services will depend to a great extent on the competence of the operators who will act as translators for those using the system. Does the gentleman anticipate that the FCC's regulations will require that the operators employed by the common carriers be trained to respond effectively to the special communication needs of hearing and speech-impaired users?

Mr. THOMAS A. LUKEN. The gentleman is correct. The committee expects the regulation will require the appropriate training for relay operators, including typing, grammar, spelling, and other training necessary to ensure that operators contribute to the success of the service.

Mr. HOYER. Chairman, I thank the gentleman for yielding, and clarifying these questions.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I congratulate the gentleman from Ohio [Mr. THOMAS A. LUKEN] for his leadership on this issue. I would like, at this time, to publicly compliment the work of the gentleman from Maryland [Mr. HOYER], who has personally shepherded this piece of legislation through the Congress. I very rarely have seen a commitment and dedication to a piece of legislation that I have witnessed in terms of the commitment which the gentleman has made to this bill. The contribution here is going to be enormous, and historic.

I would also like to compliment the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], the gentleman from New Jersey [Mr. RINALDO], and all the members of the Subcommittee on Telecommunications and Finance in terms of the telecommunications piece which we are inserting here.

What I thought I would do for a minute or so is just to explain why this is so important. Right now, we have millions of Americans with a very serious problem, which is that it is difficult for them to use the phone system of our country since they are hearing-impaired, since they are deaf. It is difficult for them to be able to talk to other people in the country, not only for social services, for family interaction, but to conduct business. How do these people who have intelligence which is the same as any other person, participate in our economic system, using the primary means of communications in our society? Well, right now for the most part they are walled out. What this legislation will do is it will require that telephone companies create a new core of operators and technologies: telephone telecommunication devices for the deaf. These devices will allow for a person who has a hearing problem to type their conversation to an operator who will then take the conversation and read it to the person, that the person who is hearing impaired is seeking to communicate with. In turn, that person will be able to talk back to the operator, and the operator will then type the answer to the person who is hearing impaired. In that way, a conversation can, in fact, be engaged in that will result in that person who is hearing-impaired or deaf to be able to engage in an economic activity, in our society, which will help our country's economy. It will be able to help families communicate better and to give people a better sense of participation in a modern America, in a modern economy, in a modern society.

This particular provision is one which breaks down a barrier which has taken one of the most central technologies in our society that is in 98 percent of all homes, every business in the country, and it enfranchises those who have been walled out. At Galludet University, Karen Strauss has helped tremendously in putting this legislation together. I compliment the gentleman from Maryland [Mr. HOYER] and all those who participated in making this possible.

Mr. WHITTAKER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I am proud to rise in strong support of the Americans With Disabilities Act. This is a historic occasion. There are 43 million disabled individuals throughout this Nation who want to contribute to their country. They want to be fully participating members of our society. They want the opportunity to work, and they want to enjoy the same rights and

privileges that other citizens now enjoy. They want to have full access to the life, liberty, and pursuit of happiness envisioned for all Americans by our Founding Fathers.

This bill will help the disabled help themselves. It will protect them from discrimination in employment, public accommodations, transportation and communications. It will provide them with an equal opportunity to succeed in American life.

For too long, the disabled have been a forgotten segment of our society. For too long, they have not shared the opportunities that other Americans enjoy. As our Nation has responded to the needs of others who have been denied equal opportunity because of prejudice and ignorance, so must our Nation respond to disabled Americans. This legislation will help make them a part of mainstream American life.

I urge all of my colleagues to join with President Bush and the bipartisan sponsors of this bill in strongly supporting this compelling landmark legislation.

Mr. MFUME. The Chairman would advise the gentleman from Ohio [Mr. THOMAS A. LUKEN] that he has no time remaining.

Mr. WHITTAKER. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I wanted to rise, and I did not do this on the Committee on Education and Labor section of the general debate, but I wish I had. I will certainly, at some point in time, reiterate my thoughts that I will express here.

It has been mentioned that this is a complicated piece of legislation with many, many areas of our society affected, and many, many committees' jurisdiction affected. I would be remiss if I did not rise and thank the chairman and ranking member of the committee, as well. However, I would be very remiss if I did not mention the extraordinarily able and committed efforts of the staff of the Committee on Energy and Commerce on both sides of the aisle. Mr. Alan Roth, Mr. Glenn Scammel, Mr. David Tittsworth, Mr. David Leach, Mr. Jerry Salemme, Mr. Rob Mooney. All of them and many more I know in their staff who I have not named spent countless hours to try to make sure that what they wanted to do was, in fact, to incorporate into the legislation, and they demonstrated a great depth of knowledge of their subject matter and a dedication for assisting the legislative process so that the legislation was in a form that was proper and that articulated effectively the intent of Congress.

I want to thank them, and I want to thank their Members for allowing them to spend so much time with me and with others in working on this legislation.

□ 1410

Mr. WHITTAKER. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. The Chair will announce that all time for general debate controlled by the Committee on Energy and Commerce has expired.

Pursuant to the rule, the Chair will recognize the distinguished gentleman from California [Mr. ANDERSON], Chairman of the Committee on Public Works and Transportation, for 15 minutes and the Chair will also recognize the gentleman from Pennsylvania [Mr. SHUSTER], the ranking member of the Subcommittee on Surface Transportation, for 15 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, by considering the Americans With Disabilities Act today this body is making a long-delayed acknowledgement of the civil right of disabled Americans to the full and equal enjoyment of transportation services. For too long, many in this country have taken a view of individuals with disabilities particularly distasteful to me—that their disabilities render them unable to fully participate in our society. Yet, often all it takes is an understanding of the need for—and then providing—some transportation accommodation to bring the disabled fully into the mainstream of society.

Far too often, it is society, and not the individual's impairment, which handicaps our disabled citizens. This legislation will help cure what ails this society, and in so doing; by allowing our disabled to live up to their full potential, it will make this Nation better and stronger for each of us.

The principal provisions of this bill which I can proudly say lie within the jurisdiction of the Committee on Public Works and Transportation are embodied by titles II and III, dealing with publicly and privately provided transportation services. With regard to publicly provided transportation services, the bill requires the purchase of accessible transit vehicles for use on fixed route systems. The bill also requires the provision of paratransit services for those individuals whose disabilities preclude their use of the fixed route system.

We have already made much progress in the provision of public transit services—35 percent of America's transit buses are currently accessible. As more and more transit authorities make the commitment to provide fully accessible bus service, the percentage of new bus purchases which are accessible has grown to more than 50 percent annually. By the mid-1990's many of our cities will have completely accessible fixed route systems. Furthermore, many of the transit systems in America already provide some type of paratransit services to the disabled. So, the passage of the ADA will not—as some have charged—break sharply with existing transit policy. It will simply extend our past successes to even more cities, so that we can continue to make progress in providing much needed transit services for the disabled.

With regard to privately provided transportation services, which do not receive the high levels of Federal subsidies that publicly provided services enjoy, the requirements of the bill vary according to the size and type of vehicle, as well as according to the type of system on which the vehicle will operate.

Many Members are also aware that over-the-road buses have received special attention in the committee bill. Because of the unique nature of their construction and the uncertain financial stability of the intercity bus industry, over-the-road buses will be subject to a special 3-year study to determine a method for making them accessible.

Nonetheless, in all cases, this bill provides strong guarantees that individuals with disabilities will be treated with respect and dignity while using transportation services. These provisions must remain strong since a lack of adequate transportation is often cited as one of the greatest barriers to the full and equal enjoyment of life by individuals with disabilities.

I want to commend the distinguished chair of the Subcommittee on Surface Transportation, Mr. MINETA, for his tireless efforts in getting this bill before us today. Mr. HOYER deserves our thanks for his tremendous efforts in support of this bill.

In closing, Mr. Chairman, I urge all of my colleagues to view the Americans With Disabilities Act as I do—as a civil rights bill. If our history is rich with examples of diversity triumphing over discrimination, it is not so rich that we can afford to fail in our efforts today, with that in mind, I urge all of you to join me in extending an invitation to all Americans, including those with disabilities, to participate fully in the mainstream of society. I urge passage of this landmark legislation.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the distinguished gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I bring a very personal and in fact passionate interest to this subject because my dear mother was a double amputee in a wheelchair, and I skinned my knuckles more times than I can count trying to jiggle her wheelchair through a door that should

have been wider than it was or trying to lug a wheelchair up a set of stairs where there should have been a ramp but there was not. So I believe very deeply that we must do everything in our power to give reasonable access to the disabled in this country of ours.

Having said that, I must reluctantly state that I have serious problems with certain provisions of this legislation. First and foremost, there is not one penny in this bill to implement the tremendous costs of the various mandates and provisions which we are laying on the American people, on public transit systems, for example, across America. And indeed during the 1980's the Federal commitment to public transit in real dollars has been reduced by 50 percent. So here we are today talking about mandates on the American people which are going to add up to several billions of dollars. In fact, the American Public Transit Association says that over the next two decades the increased cost of just the transportation provisions in this legislation on public transit will be at least $7.8 billion on rail and fixed route buses and $13 billion on paratransit. So we are looking at a $20 billion price tag that we are laying on the American people and not providing one penny to pay for it. I say that is wrong.

Indeed we are setting ourselves up to put into place what might be called the law of unintended consequences. We mean to do right, we mean to do good, and yet we find ourselves addressing this issue without a willingness to pay for any of these new requirements that we are putting on the American people.

Let me discuss just one such mandate, and that is the lift mandate. We are saying that we must put on every public transit bus in America a lift. Now, the cost of that lift will increase the cost of that bus by $10,000 to $15,000, a 10- to 15-percent increase in the cost of the bus. We are telling that to our transit operators, to our communities across America, and we are not giving them a penny. We are telling them they must do it.

Yet what has been our experience with the lift thus far? In Seattle, WA, where about 80 percent of the buses have been lift-equipped for the last couple of years, they find that they only have one user of that lift every other day per bus. In New York City, which is about 50 percent lift-equipped, they have discovered that they only have one user each day for every 19 buses.

So here we are in Washington, DC, laying a mandate on public transit operators and on communities across these United States when indeed in my view we should be giving them some flexibility. We should be saying, "Yes, we want you to provide accessibility for the disabled, but we want you to do it in the manner that you feel is best in consultation with the disabled in your local communities."

Beyond that, let us consider the implications of paratransit, paratransit being the small buses, the door-to-door service that we provide to thousands of disabled across America. By saying we are going to mandate that every transit bus have a lift and by not providing one penny to do it and then saying, "We also expect you to provide paratransit, door-to-door transportation," but putting a loophole in there saying that they do not have to do this if they have an undue financial burden, what are we logically doing? We are saying, "If you have got to cut somewhere, you can't cut on the lift requirement, so you are going to have to cut on paratransit or you are going to have to cut on your general service to your community."

□ 1420

Mr. Chairman, that is what we are setting up here to force communities to do, and it is wrong, and it is unnecessary.

Mr. Chairman, we should be very clear on this point, that 100 percent lift accessibility is zero accessibility for hundreds of thousands of disabled Americans who cannot get to the bus stop, hundreds of thousands of disabled Americans who must have door-to-door service.

So, if we are saying we are going to have 100 percent lift accessibility by creating a situation where we are going to force a reduction in service to paratransit and to general service, we are setting up a situation of the law of unintended consequence, a situation where we are going to hurt many citizens, both able and disabled, and most particualrly in rural America and small cities because here the cost of the lift is the same, but of course the ridership is much lower.

So, my colleagues and Mr. Chairman, it seems to me we have an opportunity here to pass a good piece of legislation, if indeed we can deal with some of these serious problems. We will have an opportunity over the next several days to correct some of these problems, and I would urge all of us to seriously consider the amendments which are going to be offered because we want to do good, but we want to do good in a way that we are not injuring other people in an unintended fashion.

So, Mr. Chairman, I urge all my colleagues to seriously consider the amendments which we are bringing before us, so that we can clean up this bill, so that indeed we can provide better transportation accessibility, not only for the disabled across America, but for all Americans.

Mr. ANDERSON. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I would say, "Of course we will give careful consideration to amendments that will be offered," however one of the things I want to point out, and I know the chairman will speak to this, and I am sure the subcommittee chairman will speak to it as well, is in 1973 we adopted a bill which spoke to the rights of the disabled, the Rehabilitation Act of 1973, and the purpose of that bill was to make sure that the disabled were, in fact, accommodated in our society.

Indeed, Mr. Chairman, the mother of the gentleman from Pennsylvania [Mr. SHUSTER] would be accommodated, and those doors would be wider, and ramps would be available.

The sensitivity of the gentleman from Pennsylvania [Mr. SHUSTER] is clear, and his understanding is obviously deep-seated and from experience.

The 1973 legislation said what we are going to do for transportation. The regulations that are now pending also require that, that this administration has issued, and, if they go into effect, what H.R. 2273 requires will already be required so that they will be complementary, not additive, so that the additional cost to which the gentleman refers in attempting to make accessible transportation to the disabled, who will not be able to get to work, who will not be able to participate in public accommodations, if in fact they cannot get there from here, will not be, I think, what the gentleman projects them to be.

Let me say that we will obviously debate that at the time the amendment of the gentleman from Pennsylvania [Mr. SHUSTER] is proposed when we get to the amendment process.

Let me now, Mr. Chairman, if I can, thank the chairman of the committee and particularly say how pleased I was to have the opportunity of working closely with this gentleman from California [Mr. ANDERSON]. He and his staff have been outstanding. And then the gentleman from California [Mr. MINETA], who has not only been the chairman of the subcommittee that has worked so hard on this bill, but who has also been the person that has worked so closely with me in coordinating the activities of all these committees in attempting to bring this bill to the floor today. He has performed heroic service, and it was not only his deep understanding the legislation and the needs and challenges of the disabled, but his commitment to its passage. This gentleman from California has been instrumental in fashioning this legislation, and I congratulate him for his significant leadership on this bill. In addition, Mr. Chairman, during the last committee's consideration I mentioned the staff. Too often the Members stand and speak on the issues and explain the various provi-

sions of the bills, but all of us know that the staff provide the absolutely essential expertise and commitment to get us to this point. The staff of the Committee on Public Works and Transportation on both sides of the aisle has been excellent, and I would like to thank them for their help. In particular I would like to thank Paul Schlesinger, Roger Slagle, Sante Esposito, Phyllis Guss, and Ken House, all of whom have participated so much on a day-to-day, week-to-week, and for months, in fact, in fashioning this legislation so that it is fair, effective, and accomplishes the purposes which we have set out to do, and that is to make sure that the disabled have transportation that is accessible to and usable by them so again they can fully participate in the opportunities available in this great country.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one particular point that I would like to cover is the issue of calling this a civil rights bill.

Abraham Lincoln used to like to tell the story of how he was walking down the street with a friend of his, and they saw a dog, and the dog had a long tail, and Abraham Lincoln turned to his friend and said, "See that dog? Now, if I told you that that dog's tail was a leg, how many legs would that dog have?"

Mr. Chairman, Abraham Lincoln's friend looked at him and said, "Five."

Abraham Lincoln said, "No, I'm afraid you're wrong, my friend. Just by calling a tail a leg doesn't make it a leg."

Likewise, Mr. Chairman, by calling this a civil rights bill, that does not make it a civil rights bill except that I suppose we can do anything we want to do in this Congress in terms of passing laws, using whatever words we choose to use. However, if my colleagues look at the logic of this bill, there are numerous exceptions in it.

Civil rights cover all Americans, and yet in this bill we have exempted the elderly. The elderly are not eligible for paratransit. We have exempted the poor. The poor are not eligible for paratransit. We have provided historic exemption in New York and San Francisco. They are exempted, and indeed we have exempted several stations. In fact, in New York City only 38 of the 465 subway stations are required to have accessibility. So, in New York City the people who get on and off subways at 427 different stations do not have accessibility. So, if this is a civil rights bill, they are being denied their civil rights.

So, Mr. Chairman, my colleagues may call it a civil rights bill, if they will, but logically it really is not, and it is one more example, I think, of our trying to do the right thing, trying to pass feel-good legislation when we really are not providing the wherewithal to make it happen, to make it come true. That is one more reason why I think we should want to support this legislation, but cautiously and carefully with the necessary amendments to make it workable.

Mr. Chairman, I reserve the balance of my time.

Mr. ANDERSON. Mr. Chairman, how much debate time is remaining?

The CHAIRMAN. The Chair would advise the gentleman from Pennsylvania [Mr. SHUSTER] that he has 6 minutes remaining, and the gentleman from California [Mr. ANDERSON] has 5 minutes remaining.

□ 1430

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the distinguished chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

Mr. SHUSTER. Mr. Chairman, I believe the gentleman from California wants to close; he has the right to close. I do have a further statement to make.

How much time do we have left on this side?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] has 3 minutes remaining.

Mr. SHUSTER. So to accommodate the gentleman, Mr. Chairman, I will be pleased to speak first.

Mr. ANDERSON. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, first I ask unanimous consent that a colloquy between myself and the gentleman from Texas [Mr. BARTLETT] be entered into the RECORD which describes the limits of the amendment which is going to be offered in the next few days concerning the 200,000 or less waiver.

The CHAIRMAN. The Chair will advise the gentleman from Pennsylvania that he cannot insert a colloquy.

Mr. SHUSTER. Then I would say, Mr. Chairman, the gentleman from Texas [Mr. BARTLETT] has expressed concern over the question would the amendment which I am going to offer allow a community with a population of less than 200,000 if located within an urbanized area to apply for a waiver.

The answer to that is no. Any community that is within an urbanized area that operates a fixed route system would not be eligible for waiver, and I think it is important to clarify that.

The final point I would make in closing, Mr. Chairman, is that there are many good provisions in this legislation. I certainly heartedly endorse the provisions which we worked out in committee, a compromise on the private bus industry which requires the private bus industry, over-the-road buses, to be accessible, but does not require any structural changes in the bus and leaves it up to the Department of Transportation, after a study of the issues is completed, to deal with this issue.

So in closing, Mr. Chairman, there are many good provisions in this legislation. It is my hope that through the amendment process we will be able to include this bill and improve it to the point that all of us can support it.

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, it is with a great deal of pride that I have this opportunity to stand before my colleagues to speak on this bill, the Americans With Disabilities Act.

I would first like to thank Chairman GLENN M. ANDERSON of my own committee, the Committee on Public Works and Transportation, for allowing this gentleman from California the time, support and the encouragement that he has given on this subject.

I would also like to thank especially two people, Phyllis Guss and Roger Slagle from our subcommittee staff, and Suzanne Sullivan, from my personal staff for the enormous amount of effort and time they have put into this bill.

Mr. Chairman, I rise in very strong support of the Americans With Disabilities Act. I want to commend the fine gentleman from Maryland [Mr. HOYER] for his untiring efforts in bringing this legislation together from all the committees in the House and bringing it to the floor at this point. I want to also extend this gratitude to the work of his staff person, Melissa Schulman.

Ending discrimination against disabled citizens, citizens often stripped of their independence by neglect and insensitivity by the majority communities, must now be chief among our priorities.

Discrimination toward any group hurts every group. For making this a public policy issue whose time has come, I want to point out that if it were not for our close friend and former colleague from California, Mr. Coelho, we would not be at this place.

So Mr. Chairman, today the House of Representatives has the opportunity to open a door which has been shut tight for too many years. This door, to which we have the key, will lead to an accessible society for the more than 43 million Americans with disabilities. Opening this door is a goal that we can, should, and must achieve.

We must insure that the Americans With Disabilities Act passes, and does so without any weakening amendments.

Mr. Chairman, disabled Americans are ready, willing and able, to use their talents, skills and energy in communities across the country; but today many wait for full access to our transportation systems. These Americans should have to wait no longer.

Tremendous technological strides have been made in recent years which make it increasingly easy for persons with disabilities to function in the workplace. Expertise in the construction of accessible housing and transportation systems is increasingly widespread. The Americans With Disabilities Act will help knock down the remaining barriers that disabled Americans confront in their efforts to be self-reliant and productive members of our society.

The act will also provide basic civil rights protections to our disabled friends, neighbors, and colleagues. For make no mistake about it, this Americans With Disabilities Act is first and foremost a matter of civil rights.

In truth, the provisions of this bill are modest and have been drafted to accommodate the concerns that have been raised by the business community; however, when all is said and done, the ADA legislation remains true to this one principle, and that is, our Nation has responded to the needs of other segments of our population which have been denied equal opportunity, and we must now address the needs of disabled Americans who are currently denied the opportunity to be full participants in our communities.

We must oppose any attempts to dilute the requirements for a wheelchair lift on every public transit bus. We must turn back any efforts to reduce the accessibility requirements for commuter rail systems.

□ 1440

Sure, there are costs associated with this bill, but these costs are manageable. But the cost of not allowing disabled Americans to be full participants in our society will be much greater.

"Separate but equal" is not civil rights. So we must turn back those amendments that may provide that kind of "separate but equal" treatment.

Today, as I said, we are witnessing the beginning of a great new world. Many people no longer fear the cold war, but they do fear being left out in the cold by societies which place a higher value on expedience than they do on excellence. We must not become one of those societies.

The ability to lead an independent life is a basic human right. When we acknowledge and honor that right, we are true to ourselves as Americans, and we all benefit.

The nations around the world which are only now tasting freedom have many imperatives ahead on the way to a new order. But here in the United States, our imperative must be to honor through our actions our foresight, our sensitivity, and our dedication to the spirit of our Constitution.

The Americans With Disabilities Act is one vehicle on the road to this new world of ours, and with the help of the Members of this body, it will be a world of which we can all be very proud.

The CHAIRMAN. The time of the gentleman from California [Mr. ANDERSON] has expired.

The Chair will announce that all time for general debate controlled by the Committee on Public Works and Transportation has expired. Pursuant to the rule, the Chair will announce that the gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary, will be recognized for 15 minutes, and that the gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking minority member of the Subcommittee on Civil and Constitutional Rights, will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 7 minutes to the gentleman from California [Mr. EDWARDS], the distinguished chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary that handled this legislation.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding time to the Subcommittee on Civil and Constitutional Rights, and I thank the gentleman for being so helpful and creative in the consideration of this bill. He has bent over backwards to do everything exactly right, as is his usual habit.

Mr. Chairman, the Americans With Disabilities Act [ADA] represents a major effort to provide comprehensive antidiscrimination protections for persons with disabilities. Comparable in scope to the great Civil Rights Act of 1964, the ADA prohibits discrimination on the basis of disability in employment, public services, public accommodations, transportation, and telecommunications. Finally, persons with disabilities, some 43 million Americans, will have protections parallel to those provided to persons based on race, color, religion, sex, and national origin.

Congress first provided some antidiscrimination protection for persons with disabilities in the Rehabilitation Act of 1973, and the ADA is wisely modeled after that law, learning from the lessons of the past 17 years.

The Judiciary Committee, which approved the bill 32 to 3, dealt with the employment, public services and public accommodation portions of the bill.

Briefly, let me explain how these provisions work.

EMPLOYMENT

The ADA prohibits discrimination against a qualified individual with a disability in all parts of the employment process. A qualified individual with a disability is one who can perform the essential functions of a job, with or without reasonable accommodation.

Like other civil rights laws, the ADA does not require employers to hire unqualified persons, nor does it require employers to give preference to persons with disabilities. The ADA simply states that a person's disability should not be an adverse factor in the employment process.

An employer is required to provide a reasonable accommodation to allow an employee to do the job, unless it will result in an undue hardship to the employer, that is, an action requiring significant difficulty or expense. These are the same standards used and understood since 1973 under the Rehabilitation Act.

The employment protections use the same enforcement procedures and provide the same remedies as title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, and national origin. Under the ADA, persons with disabilities will have the same rights and remedies as minorities and women, no more and no less.

Persons with disabilities can and will be able to do the job. Let's give them a real chance with the ADA.

PUBLIC SERVICES

The ADA extends the protections of section 504 of the Rehabilitation Act, prohibiting discrimination in federally funded programs, to all programs, activities and services of State or local governments, regardless of the receipt of Federal financial assistance.

Section 504 served as the first step toward breaking down the barriers that, for too long, kept persons with disabilities out of the American mainstream. By extending section 504 to all public entities, we benefit from the successful history and lessons of the Rehabilitation Act. By enacting title II, we cover those remaining government entities who were not covered in the past.

PUBLIC ACCOMMODATIONS

The ADA prohibits discrimination by privately operated public accommodations. Public accommodations are businesses open to the public, places persons without disabilities take for granted.

Public accommodations include hotels, restaurants, theaters, stores, service providers, and privately operated public transportation. Under the ADA, a public accommodation cannot

deny participation or provide an unequal or separate benefit to a person with a disability. The service must be provided in the most integrated setting, and a person cannot be denied the opportunity to participate in a regular program.

Existing businesses must remove architectural barriers if it is readily achievable, that is, without much difficulty or expense. If it is difficult or expensive, it does not have to be done. Alterations and newly built commercial facilities must be readily accessible to and usable by persons with disabilities.

The public accommodations title uses the same enforcement and remedies scheme available to private persons under the public accommodations section of the 1964 Civil Rights Act. Remedies in a private suit are limited to equitable relief.

As with many other civil rights laws, the Attorney General may bring "pattern or practice" cases. As in the Fair Housing Act, the Attorney General may seek monetary damages for the victim and civil penalties of up to $100,000 against the violator.

Mr. Chairman, there are few of us who have not been personally touched by family or friends with a disability. We all know how persons with disabilities are rarely judged by their abilities, but instead on their disabilities.

We now have an extraordinary opportunity to bring Americans with disabilities into the mainstream of American life.

For Americans with disabilities this bill represents their best chance to join in the American dream. We should pass this bill today. Forty-three million Americans, their families and friends, deserve no less.

Mr. Chairman, I particularly want to thank the many people in the disabled community, the different organizations, Pat Wright and all of the others, for the noble assistance they have given us in the past many months, and our former colleague, Tony Coelho, that we miss so much and who was the inspriration behind this bill in the first place. The gentleman from Maryland [Mr. HOYER] picked up the cudgel left by Mr. Coelho and has carried on magnificently.

Mr. Chairman, I want to thank the gentleman from Texas [Mr. BROOKS], my chairman, and his general counsel, Bill Jones, on my staff Catherine Leroy, and Stewart Ishimaru, without whom we could not have moved ahead. As a matter of fact, all of the members on the subcommittee, the minority led by the gentleman from Wisconsin [Mr. SENSENBRENNER], all deserve a great deal of credit.

□ 1450

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I would like to take a moment to engage in a brief colloquy with the distinguished chairman of the Committee on Ways and Means, Mr. ROSTENKOWSKI.

For the past several months, I've headed up a bipartisan effort with Mr. MFUME to provide a tax credit mechanism to help small businesses comply with the nondiscriminatory access mandates of Americans with Disabilities Act. We now have 200 cosponsors for the proposal, H.R. 3500.

Although the rule does not provide for its consideration as part of the ADA bill itself, it is my hope that the Committee on Ways and Means will include such a provision, drafted on a revenue neutral, pay-as-you-go basis, in an appropriate legislative vehicle later this year.

I include a copy of a letter to me from the White House indicating support as well.

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield. I share the concerns of the gentleman from Michigan about the financial ability of our Nation's small employers to comply with the ADA bill's provisions, and I commend him and Mr. MFUME for his outstanding efforts to encourage strong bipartisan support for his proposal.

His revenue natural tax credit concept has a great deal of merit, and I will be glad to work with Mr. UPTON, Mr. MFUME, and members of our committee to consider such a credit as we develop legislation this year.

Mr. UPTON. Mr. Chairman, I thank the gentleman from Illinois.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I want to congratulate the gentleman from Michigan and my colleague, the gentleman from Maryland [Mr. MFUME], for their work on this issue, and congratulate the chairman of the Committee on Ways and Means for his response.

We believe, of course, as we have said throughout the course of this debate, and will do so in the future, that this bill requires minimal costs, readily achievable costs, a cost that does not create either an undue burden or an undue hardship on the private sector. But nevertheless, to the extent that there are costs, and to the extent that we can accommodate them, we certainly want to work with the gentleman from Michigan and the gentleman from Maryland in seeing if we can do that.

Mr. UPTON. I appreciate the gentleman's support, and I thank him for his fairness in allowing us to proceed as we have.

THE WHITE HOUSE,
*Washington, DC, May 14, 1990.*

Hon. FREDERICK UPTON,
*House Office Building, Washington, DC.*

DEAR CONGRESSMAN UPTON: Thank you very much for your inquiry regarding the Administration's position on changes in the tax treatment of business expenses incurred to provide acccess to the handicapped. At present, Section 190 of the Internal Revenue Code allows firms to deduct up to $35,000 of the costs of removing architectural barriers to the handicapped. Additional costs are depreciable in the same manner as other construction expenses.

Concern has been expressed that the construction costs required for businesses to comply with the Act for Disabled Americans now under consideration by the Congress will not be limited to expenses covered by Section 190. The Administration fully appreciates the argument that other business capital expenditures necessary to comply with the Act are as deserving of some form of favorable treatment as expenses which are currently covered.

Therefore, the Administration does not oppose changes in the tax treatment of business construction activities which are necessary to comply with the Act, as long as such changes are revenue neutral. There are a number of ways to achieve such revenue neutrality. For example, a plan could be structured in the following manner:

Allow deductibility of qualified expenses up to $22,500.

Provide the alternative of a 50% credit on the first $10,000 of qualified expenses in excess of $250 in addition to the option of deductibility.

Expenditures which do not qualify for either the deduction or the credit could be depreciated as under current law.

We share your goal of achieving the legislation's goal of access for all Americans while protecting small and medium businesses from any undue hardship. A revenue neutral change in Section 190 treatment of qualified expenses would go far in accomplishing these twin objectives. I look forward to working with you in the future on this and other issues.

Warmest regards,

ROGER B. PORTER,
*Assistant to the President for Economic and Domestic Policy.*

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. FISH], the distinguished ranking member of the full Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I thank my colleague for yielding time to me.

Mr. Chairman, this is a proud moment in the history of our Nation. Two hundred years ago our Declaration of Independence declared and our Bill of Rights guaranteed that all Americans are created equal. Today, more than 25 years since the passage of the 1964 Civil Rights Act, we will be passing the Americans With Disabilities Act. We will thus ensure that persons with disabilities are finally granted the same equal protection of the laws enjoyed by all other Americans.

This action by the Congress is long over due. The discrimination which

disabled Americans and their families historically have faced has resulted in shattered dreams of untold numbers of people.

Yes, discrimination. The Supreme Court, in the 1985 Alexander versus Choate decision, said:

> Discrimination against the handicapped was perceived by Congress to be most often the product not of invidious animus, but rather of thoughtlessness, indifference and of benign neglect.

It is not the malicious, violent, ugly discrimination experienced on account of one's race, national origin or religion. But the barriers society has erected and our tolerance of them has resulted in denial of opportunities the rest of us take for granted, and the types of discrimination faced by disabled people are pervasive—more pervasive and extensive than I could have imagined.

We take for granted activities of daily living denied many disabled Americans. Imagine living every day of your life not being able to get out of your home because of steps; not being able to go to the bathroom alone because the door is too narrow; not being able to call a friend because you are deaf and there is no relay service; not being able to operate an elevator because the floors were not marked in braille; not being able to go to stores for fear of being denied entrance because you have cerebral palsy; not being able to get on a bus because it is not accessible; being afraid to apply for a job because you have experienced discrimination but had no way of redressing it.

The Americans With Disabilities Act acknowledges that these denials of opportunities have been unjust and must no longer be tolerated.

Today more than 66 percent of working age persons with disabilities in our country are unemployed. They are unemployed for many reasons: Inaccessible public transportation, inaccessible work facilities and pervasive job discrimination. The Americans With Disabilities Act will help put an end to this staggering unnecessary problem.

For the past year much attention has focused on the cost of meeting such standards as reasonable accommodation and readily accessible.

But what of the costs of continuing to be indifferent to the denial of opportunities experienced by 43 million disabled Americans?

We pay more than $60 billion a year to disabled people who are not working. Yet polls tell us 80 percent of persons with disabilities who are not working believe they are capable of working and want to work.

The disabled know that the obstacles they face are not inherent in their disabilities. Can the cost of any reasonable accommodation compare to what we are paying to keep qualified people unemployed?

This bill was introduced in 1988. It has passed the Senate and gone through four committee hearings on the House side. This bill has been debated exhaustively. The President and his staff have worked toward the passage of this monumental piece of legislation. The civil rights community, labor, women's organizations, the religious community, disabled people, their friends, families and advocates have fought for the passage of this bill. Leaders on both sides of the aisle have worked long and hard on the provisions of this legislation. The Americans With Disabilities Act deserves to pass. It will rectify many of the wrongs that have been committed against Americans with disabilities. It will at long last enable people to become contributory members of our society. ADA will also help to end the fears people have of becoming disabled. We will finally see that it is not disability which limits one's ability to participate in life, but it is societal barriers.

This bill aims at opening up opportunities for all persons with disabilities. At the same time the bill does not put an undue burden on employers, businesses or the community at large. It strikes a balance. I understand that there are concerns from the business community that the bill goes too far and from the disabled community that the bill does not go far enough. The responsibility of the Congress is to ensure the protection of the rights of disabled people and to ensure that the community at large is not unduly financially burdened. This bill does just that. Not all will be happy but I know that we have reached a balance for justice.

Mr. Chairman, the disabled only seek the same opportunities as all other Americans. We acknowledge the barriers we have tolerated. It will take time, but full implementation of the Americans With Disabilities Act will also result in society no longer seeing the needs of persons with disabilities as special. Ramps, door width, braille will become part of all our lives. As we no longer consider accessibility as special we cannot help but increase the self-worth of the disabled.

This bill will help guarantee the rights of disabled people to live anywhere they choose in this country with the knowledge that they will be treated equally under the law. One will be able to go the movies, eat in a restaurant, shop in a store, get a job, stay in a hotel, use the telephone system, and use transportation in any State in the Union.

Disabled people will know that should fear and prejudice result in the denial of equal opportunity they will be protected.

The Americans With Disabilities Act will tell children with disabilities, young adults and seniors who acquire a disability that they should not be ashamed. They should not fear coming out of their homes and into their communities. We as a society will no longer permit actions that cause people to be treated as second-class citizens because they have a disability.

This is important for disabled people to know. This is important for our non-disabled children and adults to know. We—as Americans—will no longer tolerate discrimination—benign or overt—against persons with disabilities.

In closing, credits are due the significant efforts of the National Council on Disability which proposed the original ADA in 1987, the consistent strong support of the President, and the dedication of the gentleman from Maryland [Mr. HOYER] and the gentleman from Texas [Mr. BARTLETT] whose tireless efforts bring us to the floor today.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, the Americans With Disabilities Act is one of the most important pieces of civil rights legislation that we have considered in the last decade. This Nation has made progress, over the past several years, in protecting the rights of those with physical or mental conditions that limit their activities and their full participation in our society. We started this process in 1973 with the Rehabilitation Act, which outlaws discrimination in federally funded programs. Other important steps have been taken since that time, including the Fair Housing Act Amendments of 1988, which outlawed discrimination against the disabled in housing. The legislation before us today, the Americans With Disabilities Act of 1990, is intended as the final step necessary to accord to individuals with disabilities the same protection against discrimination that the law provides to racial minorities, religious groups, and others who in the past have been denied the chance to participate on an equal basis in our society's activities.

The Judiciary Committee, along with three other committees of this body, have put in a tremendous amount of effort over the past several months to fashion a bill that will be both effective and workable, so that those who are affected by its provisions understand just what their rights and duties are under the law.

Our efforts have been in keeping with over 200 years of history in which this country had endeavored to extend the full measure of citizenship and participation to all of our society. Step by step over the past two centuries, ours has been a process of inclusion. We have done this, not out of charity,

but because it is in our interest as a nation to enable all groups to make the maximum contribution to the greater good. With no group of Americans does this make more sense than the disabled. From the hearing impaired Thomas Edison, to the wheelchair-bound Franklin Roosevelt, to the blind and deaf Helen Keller, the disabled among us have enriched our lives and made us a better nation. In enacting the Americans With Disabilities Act, we seek to fulfill the promise of this great Nation to all its people.

I commend the bill to the Members and urge its passage.

□ 1500

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

(Mr. KOLBE asked and was given permission to revise and extend his remarks.)

Mr. KOLBE. Mr. Chairman, I rise today in support of the Americans With Disabilities Act. This bill will open doors for our disabled citizens and give them the same opportunity to productively participate in our society as you and I have. This act will guarantee that the disabled of our country enjoy the same fundamental rights as the rest of our citizens. ADA will extend rights already guaranteed under section 504 in employment, public accommodations, public services, transportation, and telecommunications.

Business leaders are concerned that this bill will have a negative effect on the small business community. I believe the opposite is true. The business community will benefit from the influx of a diverse and underutilized population. Some employers are reluctant to hire disabled people because they believe that a disabled person would be a liability to the business. But, I believe that with the passage of ADA employers will realize that the disabled can be a significant asset to any business. With little or no accommodation they can do the same job as anybody else.

The ADA represents a compromise forged with the specific needs and circumstances of small businesses in mind. Both the size and nature of a business will be considered when requiring employment accommodations of a business. Public accommodations are required to make changes in existing buildings only if such changes are "readily achievable." Under ADA, businesses will have the flexibility to choose for themselves the manner in which they plan to meet the "readily achievable" standards.

Extending the basic civil rights guaranteed by ADA to the disabled is long overdue. We have heard the voice of our President, the voices of our colleagues in the Senate, and the voices of our millions of differently abled citizens. Now the time has come for us to act.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the time has come for the disabled to achieve their independence and move into the mainstream of American life. I am convinced that the Americans With Disabilities Act provides the key to employment opportunities, to commercial opportunities, and better accessability for the disabled. Thus, I strongly support the ADA.

Although the disabled have made many gains over the past decade, the fact remains that unnecessary discrimination and exclusion continues.

In August of 1988 at his acceptance speech for the Republican nomination, President Bush pledged to "do whatever it takes to make sure the disabled are included in the mainstream." Today we are in the final stages of the effort to fulfill that promise.

During the first session of this Congress, the Subcommittee on Civil and Constitutional Rights held a series of hearings on the ADA. The subcommittee received testimony from the Attorney General of the United States, the Honorable Richard Thornburgh and from numerous representatives of the business and disability community.

Since that time, I, along with numerous other colleagues, have been working to clarify the significant terms of the ADA so that those who are affected by its provisions understand their rights, duties, and responsibilities under the law. It is imperative that the money that businesses spend to comply with the ADA be used to make facilities accessible to the disabled, and not used to pay lawyers' fees as litigation is used to determine the meaning of the bill's key terms.

Briefly, the significant provisions of the bill over which the Judiciary Committee exercised jurisdiction provide as follows:

In the employment title, the ADA is similar to the law of race and sex discrimination, in that an employer cannot refuse to hire or promote an individual because of that person's disability, when the individual otherwise meets the qualifications for the position.

An employer is required to make a reasonable accommodation for a disabled person, if that accommodation will allow the person to perform the essential functions, with consideration given to the employer in determining which functions are essential. The accommodation must not impose an undue hardship on the employer which means that it cannot impose a significant difficulty or expense on the employer after taking into account the size of the business, the number of employees, the nature and cost of the accommodation and numerous other factors. The financial resources of both the specific facility and the parent company are to be considered in determining an undue hardship.

The employment provisions do not take effect until 2 years after the date of enactment for employers with 25 or greater employees. Employers with 15 or more employees will be covered 2 years later.

The public accommodations title of the ADA requires any business or individual offering services to the public to accommodate persons with disabilities unless such an accommodation would not be "readily achievable." "Readily achievable" is defined as "easily accomplishable without much difficulty or expense." Public accommodations include hotels, restaurants, theaters, stores, offices, museums, parks, social service agencies, schools, and the like.

All new construction must be accessible to the disabled unless structurally impractical. When altering an existing structure, accessibility must be implemented to the greatest extent feasible unless such imposes an undue burden. Remedies available are injunctive relief and attorneys' fees. The Attorney General is able to file pattern and practice suits and request civil fines of up to $50,000 for the first offense and $100,000 for subsequent offenses. The public accommodations title takes effect 18 months after the date of enactment. An amendment will be offered by Congressman LAFALCE and Congressman CAMPBELL to allow a phase-in for small businesses giving them additional time to educate themselves on the provisions of the ADA to ensure compliance.

I will be offering an amendment to delink the remedies for employment discrimination in the Americans with Disabilities Act from the remedies contained in title VII of the Civil Rights Act of 1964 amendments. The amendment will clarify that the ADA only calls for equitable relief as a remedy for employment discrimination. The amendment will neither expand nor contract the remedies of the ADA currently available to victims of employment discrimination. It simply provides, that if the remedies provision is to be changed, there should be a conscious debate and a conscious vote on the issue, rather than a bootstrap to the Civil Rights Act of 1990.

I am convinced that the coupling of title VII remedies in the ADA with those in the Civil Rights Act of 1964 will unnecessarily open the door for the diversion of funds into the courtroom by padding the pockets of the lawyers rather than providing access to the disabled. This amendment is supported by the Bush administration and at the appropriate time, I will ask for the support of my colleagues as well.

Mr. HOYER. Mr. Chairman, I yield myself 2 minutes for the purpose of a colloquy with the gentleman from Texas, Mr. BARTLETT.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding. Mr.

Chairman, this bill requires that the rights and protections of the ADA will be applied to the legislative branch of the Federal Government. I would like to clarify that the public accommodation requirements of the bill for the Congress will be enforced with remedies of equal force and impact to those applicable to the private sector. Does the gentleman agree with my assessment?

Mr. HOYER. I agree. This bill requires the development of procedures and remedies that will result in the ability of persons to get prompt correction of any ADA violation. Although I do not expect that a problem of recalcitrant behavior regarding public accommodations in the Congress would occur, I want to assure the gentleman that any such violation will be addressed with severity.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I am very pleased to be here today with this bill. It is a very important piece of legislation to provide for civil rights for the handicapped and disabled. It is something I have had a lot to do with in debating through our Committee on the Judiciary.

Based on the amendments we have had today and the couple that I know will be adopted today because of the general will and the agreements that have been made, I am going to be able to support this legislation very proudly. However, I do think there are some important considerations all of us should remember. The big debate over this bill has never been over the issue of providing civil rights and antidiscrimination laws to protect our disabled community in the workplace. The big issue is how do we minimize the costs to the employers while still doing that?

A lot of us had thought that many of the provisions, as initially written, were simply not tight enough, simply not in the strength they should be in order to reduce those costs and keep them to a minimum.

There are still a couple that really ought to be done. One of them I will describe when I get up here later on the essential functions, we have made a lot of improvements on in the definitional area. But one that I consider exceedingly important is that we later on down the road get that tax credit that I know has been discussed here on the floor a little earlier and that I believe the administration is now prepared to support. That will not be a part of this bill, but we must not forget it because the small businessman really needs that tax credit in order to make the accommodations and not have to close shop in some cases.

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Going along with that, though, is the Olin amendment amendment to be offered later today. I know that is tougher for some of our Members, but it is, I think, essential for the small businessman, in particular, to have some kind of a cap, some kind of a ceiling on the amendment of the cost that might be incurred in order to make these accommodations. That amendment is going to propose that it be no greater than 10 percent of the cost—that is, of the annual salary of whoever the employee is who is being hired. It seems to me that is reasonable, and once that cost threshold is exceeded, they will get to the point where they have a presumption of undue hardship, providing a measure of protection to the employer.

It is that kind of modification that still remains and still needs to be done on this bill, and I encourage my colleagues as they listen to the amendments that are out there, the very few that were offered, that Members do make judicious consideration, they make these kinds of minor changes, that yet can be made to keep those costs down in this bill.

I do want to close by saying that there are a number of other amendments out here today that permit the same kinds of consideration. What we need is improvement in this bill. When we are all done with this process, we are going to have a very fine bill, I think, that all Members can be proud of. However, we must have those protections, and I remind Members when it is all over with, we still need to keep the pressure on to get the tax credit that should have been a part of this bill, but unfortunately is not. We still have a chance to get it.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise today in support of the Americans With Disabilities Act and I urge my colleagues to support its passage with no weakening amendments. The ADA, supported by the President, and overwhelmingly approved by four House committees, is long overdue legislation remedying the separatism which now excludes 43 million disabled citizens from equal participation in American society. For far too long, physical and attitudinal barriers have prohibited individuals with disabilities from demonstrating their worth in the workplace, enjoying access to public accommodations and transportation, and utilizing telecommunications systems.

This legislation will provide this Nation's handicapped citizens with the same protections presently afforded to other minority groups. Under the ADA, an employer may not refuse to hire or promote a person with a disability merely because of that disability, when the individual is qualified to perform the job.

The measure also requires an employer to make reasonable accommodations for persons with disabilities, if those accommodations will allow the person to perform the essential functions of the job.

Under the bill's public accommodations provisions, it would be illegal to exclude or refuse to serve a person with a disability. The ADA also requires that new public transit vehicles are accessible to the disabled without requiring any retrofitting.

Title IV of the ADA will require, within 3 years, all common carriers to provide intrastate and interstate telecommunications relay services for telephone calls between uses of such devices for the deaf and users of telephones. These relay services will allow people with telecommunications devices for the deaf to communicate with persons who do not use such devices.

The Americans With Disabilities Act is patterned after section 504 of the Rehabilitation Act of 1973 which has been in effect and operating successfully for over a decade. It is a reasonable and prudent bill which strikes the proper balance between the civil rights of persons with disabilities and the legitimate concerns of both large and small businesses.

It is of exceptional significance that this bill will offer protection to the thousands of Americans with HIV disease—from those who are asymptomatic to those with fully developed AIDS. Persons living with HIV disease suffer from all the forms of discrimination found in our society.

Once the ADA becomes law, all persons with HIV disease will finally be protected in private employment. No longer will employers be able to lawfully discriminate against them as they hire, fire, promote, and set terms and conditions of employment. The range of protection is of critical importance for people with HIV disease. The ADA mandates that employers undertake "reasonable accommodations" in the hiring of disabled persons who are otherwise qualifed to work. This will ensure that persons with HIV have the right to flexible hours and time off that are crucial to help accommodate the disease.

Essential protections concerning medical examinations are offered by the ADA's employment provisions. Under the ADA, an employer may give medical examinations, but only after a conditional offer of employment is made. And then, all applicants for a specific job must be given the same exam. The results of the examination can only be used to withdraw a job offer if the applicant is found not to be qualified for the job based on the results of the exam. This protection is

the same as that provided under section 504 of the Rehabilitation Act.

The Centers for Disease Control has issued guidelines for the employment of persons with HIV disease which state that such individuals are qualified to remain in all jobs in the work force. The guidelines also state that current employees may only be required to submit to medical examinations if the examinations are job-related and consistent with business necessity. And the CDC guidelines do not require HIV testing for any type of employment in the work force.

This legislation properly reverses the indifference, discrimination, and neglect experienced by disabled individuals and will enable them to prove that being disabled does not mean "unable" or "unequal." Furthermore, it will encourage society to recognize disabled persons for their abilities and contributions and not for their physical limitations. I once again urge my colleagues to seize this opportunity to enact this historic piece of legislation without weakening amendments.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, again, as we end this general debate on this historic bill, I did not, when the Committee on Education and Labor was up here, make a comment on their staff, but I want to mention Reggie Govan, Bob Tate, Eric Jensen, Pat Morrissey, about to leave the Chamber now, and Randy Johnson of the gentleman from Texas, Mr. BARTLETT's staff, did an extraordinary job in working on this legislation. I think all the principals thank them for the extraordinary work they have done. On the Committee on the Judiciary, I would be remiss if I did not mention the outstanding work of the chairman, the gentleman from California [Mr. EDWARDS], and also the ranking members, particularly the gentleman from New York [Mr. FISH]. Also, Bill Jones, Cynthia Meadow, Katherine Hazeem, Katherine Leroy, Stuart Ishimaru, and Suzanne Sullivan, who is on the floor with the Committee on Public Works and Transportation. All of them have contributed immeasurably to the quality of this legislation. Without them, it would not be where it is, and without them, we would not have been able to pass the ADA.

I thank them on behalf of 43 million disabled Americans who they have served so well. I know their Members are very, very appreciative of them, as well.

Mr. Chairman, I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentlemen for yielding, and ask the gentleman, for the purpose of colloquy, a question which I understand the gentleman is prepared to enter into.

Mr. Chairman, I would like to ask the distinguished gentleman, and I note that I am conducting this colloquy on behalf of the gentleman from Ohio [Mr. ECKART] who originally drafted the colloquy. I would like to ask the distinguished gentleman from Maryland if he would comment on particular aspects of the bill. Sections 104 and 510 of the bill specifically refer to illegal drug use, and refer to an individual who formerly used illegal drugs within the meaning of the bill, but do not understand the bill to prohibit or combat drug use of those.

I would note for the gentleman, and I would suggest that we do this colloquy later as the copy of the colloquy that has been handed to me from the gentleman from Ohio has been marked up rather severely, and I am not exactly certain which parts he wants to have read into the RECORD, and which part he does not want to have read into the RECORD. Therefore, if the gentleman from Maryland [Mr. HOYER] would not mind, we would do this at a later time.

Mr. HOYER. Mr. Chairman, we will accommodate the gentleman from Texas [Mr. BARTLETT] and the gentleman from Ohio [Mr. ECKART].

Mr. BRENNAN. Mr. Chairman, the Americans With Disabilities Act must pass the House, in strong form. As a cosponsor of H.R. 2273, and as a Representative from Maine, which has access laws in effect that are working, and are not causing undue hardship, I urge my colleagues to enact this long overdue measure.

I ask that we seriously consider the 43 million individuals with disabilities who we represent, and ask if they should have equal access to transportation, telecommunications, and other services, just some of the time, or only on certain railway cars. Should these citizens be forced to have separate, but so-called equal access to society? To allow this would be contradictory to allowing people with disabilities the opportunity to enter the mainstream of American life.

This legislation has been considered the greatest piece of civil rights legislation since the 1964 Civil Rights Act. I urge my colleagues to resist putting various price tags on human rights and employment opportunities for people with disabilities. I believe it is important to provide businesses, particularly small businesses, with technical and financial assistance to meet the challenges of opening doors to the workplace and society for the disabled. I am a cosponsor of a separate piece of legislation that would provide this assistance, and Congress should swiftly enact that bill in addition to the ADA.

When I met this week with people from Maine who have disabilities, I could sense the value of this bill to their self-confidence, and their future opportunities. I learned of the excitement surrounding the ADA in the disabled community. And, I learned that when people from Maine with disabilities are speaking with disabled persons from other States, they feel lucky to have the equal access laws and the civil rights protections guaranteed in Maine. Civil rights should not be a function of luck.

When I asked what the ADA would mean for individuals with disabilities, the response was, "It would empower people with disabilities," and it would put in place some "fundamental" protections against discrimination.

I was told, and I believe, the ADA means giving people with disabilities a "taste of independence." Finally, and perhaps most importantly, I was reminded that "people with disabilities in Maine can get up and go to work," independently. I cannot emphasize enough what this means to an individual, to their family, and to an entire community.

The President, the Vice President, and the Attorney General have all voiced support for the ADA—76 Senators and 152 Members of Congress have already cast votes in favor of empowering Americans with disabilities with the same civil rights as other U.S. citizens. In order to guarantee opportunities for participation and success in American society, we, too, must vote for the ADA.

Mr. RANGEL. Mr. Chairman, today, we consider H.R. 2273, Americans With Disabilities Act. For the 43 million Americans with disabilities, this bill provides important protections in employment, public accommodations, transportation, and telecommunications services.

As the chairman of the House Select Committee on Narcotics, I wish to comment upon sections of the bill relating to drug abuse and drug abusers. The bill excludes from protection individuals who are current drug users and it removes protections for current drug users under the Rehabilitation Act. However, the bill explicitly retains protections for recovered persons, individuals who have successfully completed treatment, and persons currently in drug or alcohol treatment, who are not using drugs illegally. The bill also protects persons who are erroneously regarded as current illegal users of drugs, and it prohibits the denial of health care services, and other services provided in connection with rehabilitation, to persons with current drug use problems.

This bill strikes a delicate balance. It recognizes the need to protect employers, workers, and the public from persons whose current illegal drug use impairs their ability to perform a job and whose employment could result in serious harm to the lives or property of others. At the same time, the bill recognizes that treatment for those in the grips of substance abuse is not only the compassionate thing to do but an essential component of a comprehensive attack on drugs. Treatment can save the lives of individual abusers, and it can also return them to productive roles in society, which strengthens our families, our communities, our economy, and our ability to meet the competitive challenges of the growing international marketplace. By providing protections against discrimination for recovered substance abusers and those in treatment or recovery who are no longer engaged in illegal drug use, the bill provides an incentive for treatment. Under this bill, no one who seeks treatment and overcomes a drug abuse problem need fear discrimination because of past drug use.

I support passage of H.R. 2273, and I urge my colleagues to vote for this important measure.

Mr. MATSUI. Mr. Chairman, before us today stands the opportunity to take a step closer to equal treatment for all citizens of the United States. The Americans With Disabilities Act begins to correct this longstanding inequity.

Americans with disabilities are not unable to work or to contribute to society, they just have different abilities. A person's disability does not necessarily impinge upon his or her intelligence or commitment to getting a job done. It is time our laws recognize this reality.

Every day of their lives, disabled Americans are confronted with closed doors because of their condition. The doors that remains closed extend beyond not being able to go into a store or to take a job at a particular establishment because it is unaccessible. These doors take the form of stares, ridicule, and harassment, all of which stem from the ignorance of the population to the abilities of these people. While Congress cannot through legislation require people to treat their fellow citizens more humanely, we as Members of Congress can strip away discriminatory practices that confine disabled Americans from working, shopping, or traveling outside a route prescribed by accessibility.

Perhaps through enactment of the ADA, the American public will learn that disabled Americans are not unable and are not unlike you and me in their desire to be a contributing member of society. There are some 43 million disabled individuals living in America.

This bill will make the playing field a little more even for those with disabilities to compete in the workplace and in the marketplace. So many doors are now closed to these individuals, simply because their needs do not conform to the current rules of the game.

This bill focuses on several areas critical to ensuring the independence of America's disabled citizens—transportation, telecommunications, housing, employment, and education. Without access in these areas, we are condemning these individuals to a life of frustration.

I want to congratulate my colleagues who spent many hours working on this legislation. It is a comprehensive package that really will make a difference in the lives of millions of Americans. Adoption of this civil rights measure is critical, and I strongly urge my colleagues to adopt this legislation without any restricting amendments.

Mr. FORD of Tennessee. Mr. Chairman, I rise in strong support of the Americans With Disabilities Act. As a cosponsor of this bill, I firmly believe in both the principles on which this bill is founded as well as the legislation that is before this floor.

H.R. 2273 affirms the principles of the Civil Rights Act of 1964 for the America of 1990. H.R. 2273 affirms the principle that America is a nation with opportunity for all of its people. And maybe most importantly, H.R. 2273 affirms the principle that disabled Americans can and do compete and succeed in today's America.

By prohibiting discrimination against disabled Americans in employment, public accommodations, transportation, and telephone services, the Americans With Disabilities Act should not be seen as a gift to the disabled.

Rather, Mr. Chairman, H.R. 2273 will assure disabled Americans of their equal status as American citizens. This is not a gift. This is a right.

Just as the Civil Rights Act of 1964 affirmed the principle that America condemns discrimination, so does the Americans With Disabilities Act of 1990.

H.R. 2273 will open doors for qualified individuals to compete and succeed in the 1990's and the 21st century. And by clearing the way for disabled Americans to participate in our economy, we will take one more step in the eradication of discrimination in America.

Mr. Chairman, we no longer refer to disabled Americans as handicapped. This shows an evolution in America's understanding that the disabled can and do contribute to the welfare of our Nation.

By passing the Americans With Disabilities Act, this body will ensure that disabled Americans help uplift our Nation, help American companies compete in the international economy, and help improve the quality of life for all Americans, not just the disabled.

Mr. Chairman, those who oppose the Americans With Disabilities Act will begin their statements on this floor by stating their commitment to the quality of life of disabled Americans. But H.R. 2273 deserves more than our words, it deserves our vote.

The Americans With Disabilities Act deserves the support of every Member of this body, not because it will improve the quality of life for a select group of Americans, but because it will improve the quality of life for all Americans.

Mr. Chairman, I urge my colleagues to support the Americans With Disabilities Act.

Mr. KLECZKA. Mr. Chairman, the Americans With Disabilities Act, H.R. 2273, has been scrutinized at length in public hearings for nearly 3 years. We must do the right thing now—without further delay—and promptly enact this overdue measure to ban discrimination against persons with disabilities in employment, public accommodations, transportation, and telephone services.

The need for this legislation is great, for a substantial portion of our population suffers from discrimination on the basis of their disabilities. Nearly 43 million Americans are affected today by a handicap with which they were born, or acquired as the result of accidents or aging.

Individuals with disabilities in Wisconsin's Fourth Congressional District have spoken at length with me about what this profound legislation means to them. H.R. 2273 is of vital importance because it ensures the disabled will receive equality, justice, and unfettered access.

Disabled Americans reject the traditional attitude that suggests they are unable to care for themselves. Unemployment and dependence are not the inevitable result of disability. According to a recent Louis Harris poll, two-thirds of the working-age people with disabilities, who are not working, desire a job. Employers report that their disabled workers usually work harder and longer than able-bodied counterparts. However, public transportation and workplace environments are usually inaccessible to these individuals. Our society cannot afford to lock disabled Americans out of the mainstream anymore. They deserve to be judged by their abilities and not their disabilities.

The price of this legislation is minimal compared with the amount we now pay to subsidize inactivity. Excluding 10 million working-age citizens with disabilities from the workplace costs our society approximately $300 billion a year, according to the Equal Employment Opportunities Commission [EEOC]. Contrary to some claims, a 1982 study found that 51 percent of the accommodations provided to handicapped employees resulted in no additional costs, while another 30 percent resulted in costs of between $1 and $500. The bottom line is that the price of this legislation is negligible compared to the massive cost of discrimination.

Removing barriers to full participation by disabled individuals in everyday life will create direct and tangible benefits for the American economy. More disabled persons working increases earnings, lessens dependence on the Social Security system, increases spending on consumer goods, and increases revenues.

I wholeheartedly believe that Americans with disabilities are fully entitled to the same quality of life that able-bodied people enjoy.

Qualified people should not be barred from employment or public accommodations, or denied adequate public services because of a disability. Granting people with disabilities the same civil rights protection that able-bodied individuals enjoy is the right thing to do.

Mr. HAWKINS. Mr. Chairman, today, I rise in support of H.R. 2273, the Americans With Disabilities Act, which will extend to millions of our fellow citizens the civil rights we so often take for granted. It will say to millions of Americans, whose social disabilities come more from the callousness and ignorance of others than from any affliction of their own, that they are first class and equal citizens. We welcome and need their active participation in our Nation's life. With enactment of this bill, we will eliminate one of the last barriers to equal opportunity from our society.

The Committee on Education and Labor has given emphasis to those parts of H.R. 2273 which will make discrimination in employment and in the provision of public and private services illegal. This is done by clearly setting forth Federal policy and guidelines, by giving people an understanding of their rights and obligations, and by placing the weight of the Federal Government and its agencies clearly behind the disabled.

We do this because it is right. Today, there are millions of our fellow citizens who have a disability. As a group, they suffer the highest rates of unemployment and the highest rate of dependence on government services. Each day, thousands suffer the pain, rage and frustration of being unable to do things which are part of everyday life in America—go to a job, attend a show, eat out or go shopping. They are physically, emotionally and spiritually separated from their friends. They are forced into a twilight zone of existence, not because they wish it so or because they are not able to do otherwise. They are forced into this situation because of outdated stereotypes, inadequate

public accommodations and a current system which is tolerant of an unjustifiable status quo.

We also propose this legislation because we know that it is in the best interests of our Nation and its future. Unlocking the great potential of the disabled, particularly in a time of a shrinking workforce and ever increasing need, is a must if America is to remain competitive and strong. Americans with disabilities have much to give to us, as individuals and as a nation, if we will only provide the key to unlock the door of opportunity.

H.R. 2273 is that key. It is the product of years of effort on the part of hundreds of people. The version which we will consider today is the product of hours of efforts and boundless determination on the part of many Members. I want to especially recognize the efforts of Congressman MAJOR OWENS, chairman of the Subcommittee on Select Education, who has worked on this bill for 2 solid years, and without whose support it would not be before us today. I wish to recognize Congressman MARTINEZ, chairman of our Subcommittee on Employment Opportunities, for his excellent work. On the other side of the aisle, let me recognize the fine efforts of Congressman BARTLETT, Congressman GOODLING and Congressman GUNDERSON. I know that Congressman BARTLETT in particular, has devoted substantial time and effort to this cause. Finally, I must honor the leadership and efforts of Congressman STENY HOYER, whose tireless efforts on behalf of this legislation have led us to the current consensus draft we are to consider.

This bill has bipartisan and full White House approval. The leadership of both parties have worked long and hard on modifications and clarifications to the bill as introduced. These have strengthened, not weakened, the proposal.

As a result, the bill has the support of the disability community. That does not mean that unanimity has been achieved on all points. I'm not sure that is ever possible in this life. However, we have reached agreement on most issues.

I believe that all reasonable differences and points of view have been reconciled, and I ask my colleagues to weigh this carefully and join me in rejecting any amendments which would violate the spirit and substance of these accords. I am proud to be cosponsor of this measure, and I fully support it. I hope that its consideration will be swift and its passage overwhelming.

Mr. FEIGHAN. Mr. Chairman, I rise today in support of the Campbell-LaFalce amendment to the Americans With Disabilities Act. I worked with Congressman CAMPBELL to craft this compromise when the bill was before the Judiciary Committee just last week. I believe the amendment strengthens the bill by allowing small businesses adequate time to comply with the public accommodation provisions of the bill.

Today, disabled Americans are effectively barred from many public places solely because of construction plans drafted without consideration of their needs. Often only a slight change could open a whole new world for a disabled person: a ramp—braille elevator buttons—a restroom wide-enough to accommodate a wheelchair—Title 3 of the Americans With Disabilities Act guarantees to all disabled Americans the right of access to virtually all public accomodations.

I am an original cosponsor of the Americans With Disabilities Act and strongly support the public accomodations provisions. However, I am concerned that businesses—especially small businesses without legal counsel's offices to advise them—will have difficulty in determining their responsibilities under this bill. A storm of litigation will not serve any of the goals of this legislation.

In committee I worked with Congressman CAMPBELL to craft a compromise amendment to blunt the impact of the automatic 18-month effective date of title 3. The amendment we developed provided a 6- and 12-month phase-in for small businesses: 6 months for businesses that employ less than 25 workers, 6 more months—a year after the effective date—for business with 10 or fewer employees. This amendment, was defeated 20 to 15. I believe that my colleagues will consider the reasonable nature of this compromise, the effort to enhance the protections of the bill, and the benefits to disabled persons as well as small business owners, and will accept the Campbell-LaFalce amendment.

I have enjoyed working with my able colleague from California. I am pleased to see that the distinguished chairman of the Small Business Committee joins him in offering this amendment, and I urge its passage. I also want to congratulate my colleague, STENY HOYER, for the fine work he has done in shepherding the ADA bill to final passage. All Americans owe him a debt of gratitude. Without his effort, we would not be here today.

Mr. HOUGHTON. Mr. Chairman, I support this bill. The work is not done. We will work through a series of amendments said to define more precisely both the intent and requirements of the bill. I am satisfied though with the work done by the four committees which have brought it to the floor. It is well thought out.

As a point of reference, over the past 6 months I have heard from disabled people both in my district and from other parts of the country. They support the bill. Let me share with you two stories:

A young woman from Elmira, NY, along with a group of her friends, had dinner reservations at a good restaurant. It happened to be raining that evening and my constituent was not permitted to enter the restaurant because the wheels on her wheelchair were wet. They might ruin the rug. She offered to wipe the wheels dry. No deal. She could go elsewhere.

Another restaurant in my district, because of New York law, was forced to install an elevator to take disabled patrons to one of the three floors of the restaurant. The proprietor resisted the mandate but finally complied. To his surprise, he found that his business increased because of his initiative. The move helped attract the disabled to his restaurant. In addition, word got out about the elevator and as a result it attracted seniors and nondisabled people who did not want to walk those stairs. Still another plus—the waiters, since the kitchen is on the lower level, also use the elevator to take food to the upper level.

There can be concerns about the financial impact of such a Federal mandate. Yet there is another side. It can also be a plus to business.

So, Mr. Chairman, although not perfect—nothing ever is—this bill, in a nutshell, spells out to businesses, colleges, and other establishments what they should do, yet gives them—and this is important—the needed flexibility to achieve these goals. I would like to feel that this approach ought to stir the imagination of everyone affected and produce not just costs, but positive results which we could not begin to legislate.

It is time to begin. To quote President Bush, "No longer can we allow ignorance or prejudice to deny opportunities to millions of American with disabilities * * * they have waited long enough for justice."

Mr. LEVINE of California. Mr. Chairman, I hope that the 1990's will witness a civil rights movement for disabled Americans. Today, Congress is considering landmark legislation which would guarantee disabled Americans the rights and recourse codified in the Civil Rights Act of 1964. The Americans with Disabilities Act, or ADA, will extend freedom from discrimination based on race, religion, or gender to include America's largest minority, the disabled.

ADA will prohibit employers from discriminating against physically challenged and other disabled people. The bill places the burden of proof on the employer to clearly demonstrate that a person's handicap prevents him or her from meeting a reasonable standard of performance and that no modification or accommodation the employer could make would allow the person to overcome this disability. These employment provisions will eventually cover all businesses which employ a minimum of 15 personnel.

ADA will further enhance employment opportunities and independence for disabled Americans by providing equal access to public and private transportation. The act requires all newly purchased public and private transit buses to be equipped with wheelchair lifts. In addition, it requires that all new rail facilities be accessible, that all existing rail facilities be retrofitted to insure that at least one car per train is accessible within 5 years and that all commuter rail stations be accessible within 3 years.

ADA will guarantee disabled Americans equal access to public accommodations and services such as hotels, restaurants, schools, and parks. This will also be accomplished incrementally by requiring that all new buildings be accessible and that existing buildings meet the standards established as part of their normal renovation schedule. This far-reaching provision will require everything from braille menus to elevators in all high-rise structures.

This long overdue measure will mark a quantum leap forward for the millions of disabled Americans who are virtual prisoners in their homes due to the inaccessibility of adequate transportation and public accommodations. Not only will it eliminate physical barriers, but in doing so will help to break down the psychological barriers which disabled Americans face by fostering a spirit of familiarity and cooperation.

It is already un-American to discriminate on the basis of race, creed, or color. In the 1990's, we are going to make it un-American to discriminate against the disabled. I urge my colleagues to join me in support of this important legislation.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of H.R. 2273, the Americans With Disabilities Act. Unfortunately, a previous commitment will prevent me from casting a vote on the final passage of this bill, but I fully support the legislation being considered today. In the last two congressional sessions, I have been an original cosponsor of this legislation, believing that antidiscrimination protections available to other minority groups should also be extended to 43 million individuals with physical or mental disabilities.

It is shameful that while discrimination against the handicapped in Federal jobs and federally funded programs or activities is prohibited under the 1973 Rehabilitation Act and the Civil Rights Restoration Act of 1987, these individuals are not protected by the 1964 Civil Rights Act, which prohibits discrimination in public accommodations, private-sector employment and the provision of State and local government services, protections which this bill is intended to extend.

Disabled individuals represent the largest minority in our country, spanning all racial, religious, and ethnic boundaries, yet at this point they do not yet have the right to the same Federal civil rights protections as other members of our society.

I am heartened by the fact that nearly 200 Members of Congress joined me as cosponsors of and a large number of organizations are supporting this legislation, increasing the momentum for passage during the current congressional session. I am committed to extending civil rights protections to the disabled community, and I urge all my colleagues to support this legislation.

Mr. GALLO. Mr. Chairman, I rise in strong support of the Americans With Disabilities Act [ADA]. It is a welcome occasion when the Congress and the President work together to produce bipartisan legislation to address the fundamental needs of 43 million Americans.

For too long, Americans with mental and physical disabilities have been prevented from performing many daily activities of living and from fulfilling dreams of employment, prosperity, and full participation in our communities. Not only has this been a great loss to our communities and to our economy, it has also been an added hardship to the individuals who have struggled so valiantly to overcome the obstacles imposed by their disabilities and for their families who have been by their side all along.

With just a little effort, our communities can be made fully accessible to the disabled. While there have been some minor concerns over this legislation, there has been virtually no disagreement over the need for the protection it provides to disabled individuals.

The Americans With Disabilities Act will prohibit discrimination in both the public and private sectors. Since 1973, any agency, company or organization that receives Federal funds has been prohibited from discriminating against the disabled. So for 17 years, these protections have been successfully provided to the disabled, although on a limited basis. Now, we are removing these limitations. The ADA bill will extend these protections to cover employment, public accommodations and services, transportation, and telecommunications.

With passage of this bill in the House today and with continued leadership by the President, this legislation will open new doors of opportunity to the disabled that, until now, have been closed. For a disabled American, it means equal opportunity for employment. It means being able to use public transportation to get to work, to do their shopping or to see a movie. It means being able to use a telephone or other device to communicate with friends and family. These are just a few examples of what this bill means to the disabled; things that most of us take for granted.

The Americans With Disabilities Act, simply put, will help the disabled to help themselves. I urge strong support for this legislation.

Mr. COSTELLO. Mr. Chairman, today we are considering the Americans With Disabilities Act, legislation for all disabled citizens of this country.

The ADA will literally open the doors of America to its disabled citizens, and many of the provisions of the ADA will provide freedom of access to public transportation, employment, and public accommodations.

Disability does not distinguish among segments of American society by age, wealth, or accomplishment. The disabled members of our country are men and women, who are young and old, rich and poor. The ADA will greatly improve the lifestyles of 43 million disabled Americans from all walks of life and will integrate them into the mainstream of this Nation.

One of the organizations that has been in the forefront of legislative and advocacy efforts for passage of the ADA has been the Paralyzed Veterans of America. Members of the PVA are all veterans of military service who have suffered catastrophic spinal cord injuries or diseases of the spinal cord and are paralyzed.

Many PVA members from Illinois have been actively involved in this debate and have urged congressional approval of this bill. The ADA will ensure complete freedom of access to these dedicated Americans who have paid the price for the freedoms that we in America enjoy on a day-to-day basis.

Mr. Chairman, I urge my colleagues to support the Americans With Disabilities Act this week on the floor of the House. It is important legislation that will have a historic impact on our Nation as we meet future challenges in the workplace.

Mr. HAMMERSCHMIDT. Mr. Chairman, I am pleased to support H.R. 2273, the Americans With Disabilities Act of 1990.

Today is a landmark day in our country's history. Today, we take one giant step forward toward opening doors to opportunity and independence for millions of disabled Americans.

The Public Works and Transportation Committee has had a significant role in this effort, and after many months of deliberations, we are pleased to be able to stand here today and engage in the momentous final consideration of the bill on the floor of the House of Representatives.

I would first like to thank our distinguished chairman, Congressman GLENN ANDERSON, for his leadership in seeing that the committee dealt with the bill fairly and completely. I would also like to thank the chairman of the Surface Transportation Subcommittee, Congressman NORM MINETA, and the ranking Republican on that subcommittee, Congressman BUD SHUSTER, for their hard work on the bill.

Transportation holds the key to opportunity for millions of disabled Americans. Breaking down barriers to employment means nothing if the potential employee cannot get to the employer's place of business. This bill will go far to improve that situation. No longer will the problem of "how to get there" prevent the disabled from participating in recreational activities, running errands, visiting friends, and most of all, taking pride in a job well done. Our avenues, subways, railways, and waterways will carry the disabled all across this great Nation so that they can live normal and productive lives.

The legislation before us today represents a great effort to achieve these goals. We have worked long and hard to balance the needs of the disabled with the impacts on providers. We have tried to keep the objectives of mobility first and foremost in our minds in considering the issues raised before us. Many significant provisions of the legislation have met those goals. For example, the bill contains a well-reasoned approach to accessibility for the private over-the-road bus industry, which we believe represents a full and fair balance of the needs of the disabled and the impacts on the provider.

Though I support the ADA, I do have lingering concerns about some of the bill's provisions. The objective of the ADA is to provide mobility for all disabled Americans. The legislation before us, however, does not guarantee the best mobility for all the disabled. This is particularly true in smaller communities and rural areas where mobility needs of disabled Americans would be better served with more local flexibility to mold transportation systems to the particular transportation needs of the disabled in those communities.

Another concern is that the requirements imposed on transportation service offered by hotels and motels, private companies, and other private entities are likely to have a significant impact and will be burdensome for many.

Perhaps my greatest concern in this bill is that this legislation will end up in the courts and will really be written by the judicial branch of Government. The rights-based approach in the ADA insulates the proponents of the policies from the economic and social costs that those policies will impose on the general public. By turning the basic political question of mobility for the disabled into a question of right, Congress has, in effect, turned the issue over to the courts. When you couple the rights-based approach with the vagueness of the language in the bill, you have created a relief act for the legal community. This is an unfortunate outcome for such a significant piece of legislation.

At this point, Mr. Chairman, I would like to comment on several of the key provisions in the bill. The bill requires "comparable" serv-

ice, except with regard to response time, which is "comparable to the extent practicable." Our report states that the term "comparable" does not mean "identical." Typical service criteria that would have to meet this standard include: restrictions or priorities based on trip purpose; fares; and hours and days of service. Eligibility and service area are covered by specific requirements in the bill.

The term comparable is to be interpreted with some degree of flexibility. Comparable does not mean equivalent. For example, paratransit service is inherently more expensive. Considering the budget problems already faced by transit authorities and the additional costs imposed by this bill, transit authorities may need to charge users a higher fare than a passenger for a similar trip on a regular bus.

"Comparable to the extent practicable" implies that an even greater degree of reasonableness must enter into the determination of the response time required for paratransit. Response time is the most expensive factor in the provision of paratransit service. Costs go up sharply when less than 24 hours notice is required. Given these facts, a lesser standard for response time was agreed upon in the committee. The committee report states that "paratransit vehicle response time may not meet a standard of comparability with a fixed route system which operates vehicles at short headways." Any response time even close to headway time will not be feasible for most providers. In fact, it is possible that a 24-hour advance notice requirement could be determined as meeting the standard.

I would also like to comment on the eligibility requirements for paratransit. Our committee specifically limited eligibility to individuals who cannot board, ride, or disembark from a fixed route vehicle in order to encourage greater use of the accessible fixed route service. This language is specifically intended to exclude travel to and from the bus stop. In full committee, an amendment was added which extend eligibility to any individual, with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location. Examples of a "specific impairment-related condition" include: disabilities such as chronic fatigue, blindness, a lack of cognitive ability to remember and follow directions, or a special sensitivity to temperature. It was the intent of the committee that this be a very narrow exception to the general eligibility requirements. It is not our intent to allow any individual with a disability to successfully argue for, and be granted, paratransit service under this provision.

I am pleased the committee was able to reach a compromise on the private over-the-road bus provisions in the bill and I fully support that compromise. I would like to elaborate on two issues, however.

First, the OTA study is intended to be an objective analysis of the access needs of the disabled and cost-effective methods of providing accessibility to over-the-road buses. The study is needed in order to address questions which remain unanswered regarding accessibility to over-the-road buses. Very little experience exists currently with wheelchair lifts and other boarding assistance devices on over-the-road buses. Where lifts are in operation, use has been minimal. Most current lifts on over-the-road buses pose problems in terms of safety, compactness, reliability, and cost. Because of the high platform of an over-the-road bus, as opposed to a transit type bus, a lift must move to a greater height, posing both engineering and safety concerns. In addition, most lifts also take up substantial package express and passenger seating space, which impact revenues. The use of boarding chairs and ramps poses some problems in terms of portability and logistics. Some bus companies are meeting accessibility needs for their disabled passengers with a boarding chair and ramp system at the present time. I would expect that an analysis of the success of this method would be an important part of the study since it will be able to be reviewed in an actual service environment. In light of these facts, a thorough study of all methods of providing accessibility is necessary.

Second, in light of the fragile condition of the over-the-road bus industry, the impact of mandated accessibility requirements should receive careful consideration. We believe the disabled should be able to ride on over-the-road buses; we also believe over-the-road bus service, which for many of our Nation's smaller towns is its only form of intercity transportation, should be given every chance to survive. The study should balance both of these valuable national objectives.

Before I close, I would like to make special mention of an individual who played a great part in legislation benefiting the disabled over many years, Mr. R. Dennis Smurr. Dennis served for 9 years with the Paralyzed Veterans of America, one of the finest organizations I have had the pleasure to deal with in my congressional service. Dennis was a tireless and diligent force for the disabled. He possessed impeccable integrity, undaunted enthusiasm, mastery of issues, and a sincere commitment to bettering the lives of those with disabilities. I am happy to say that he was also a very dear friend. Before his untimely death in December, Dennis had been actively involved in the Americans With Disabilities Act. He would have been full of pride and happiness today to see this landmark legislation pass the House. This one's for you Dennis.

Despite my concerns, the Americans With Disabilities Act is legislation which we should all be proud to support. In this great body, we have our differences as to how best to achieve the goals of the bill. Some of us would have our differences as to how best to achieve the goals of the bill. Some of us would have preferred to see certain areas addressed differently. But overall, this legislation will profoundly improve many American lives and those Americans are counting on us to give them that chance today. I, for one, will vote to grant them the opportunity to live full and productive lives not hindered by barriers, whether they be of concrete or the attitudes within us. I urge my colleagues to do the same.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 2273, the Americans With Disabilities Act.

My esteemed colleagues on the four committees that have worked together on this legislation deserve our appreciation for bringing this measure before us for consideration today. I particularly want to thank my colleagues from the Public Works and Transportation Committee, the Education and Labor Committee, the Judiciary Committee, and the Energy and Commerce Committee for their leadership.

I also want to thank the coalition of national, State, and local disability and civil rights organizations and countless advocates for their tireless efforts on behalf of this long-overdue legislation to protect the civil rights of over 37 million Americans with disabilities. In the process, policymakers and the public have been educated to the indignities suffered by the country's largest minority, who want and deserve equal access to the American mainstream.

Twenty-six years ago, our Nation took a giant step forward to eliminate discrimination in this country by passing the Civil Rights Act of 1964. It was the historic first of several laws passed by Congress to dismantle the racist and sexist barriers that limited opportunities for minorities and women. Barring discrimination against individuals with disabilities has been addressed by Congress only once—and then only in a limited fashion. In 1973, Congress enacted section 504 of the Rehabilitation Act that protected the civil rights of disabled individuals—but only in agencies or organizations of the Federal Government or those entities supported with federal funding.

In fact, it has been our unwillingness to see all people with disabilities that has been the greatest barrier to full and meaningful equality. Society has made them invisible by shutting them away in segregated facilties, by erecting structural barriers that literally keep them out of buildings and off of public transportation, and denying them access to education and job opportunities—actions that have made it easy to ignore the needs and rights of disabled individuals.

If we continue to shut those with disabilities out, if we fail to pass this legislation now, if we continue to permit blatant discrimination, then we, as individuals, and as a society, are the ones who must bear the consequences.

We must bear the economic costs to our society when the disabled are prevented from fully participating in education, jobs, and community life. If the disabled are locked out of jobs, then society must bear the cost of maintaining these individuals and their families—families that otherwise would be self-supporting and paying taxes.

And we put unfair and needless burdens on the families who care for individuals with disabilities; care that could be shared or made less costly by eliminating discriminatory barriers.

As chairman of the Select Committee on Children, Youth, and Families, I am especially concerned about the children with disabilities in this country who face extraordinary challenges as they grow up. I am concerned about the families who face overwhelming medical expenses and emotional and physical stress while trying to care for their children at home. But in addition to these hardships, they also are confronted with the additional burden of discrimination that keeps them from doing things together as families simply because

buildings are inaccessible or there are no curb cuts in the sidewalk.

More than a decade has elapsed since the passage of landmark legislation, Public Law 94-112, the Education for the Handicapped Act, that afforded disabled children the right to a free, appropriate public education. We have come a long way since disabled children were educated in school basements or hidden away in institutions.

But we have made little progress in offering these same children equal access to playgrounds or amusement parks, sports events, or movie theaters, or to any of the day-to-day activities that comprise childhood. We have made little progress in offering these same children equal access to transportation, jobs, and housing once they leave school. In the real world, pervasive and unrelenting discrimination against individuals with disabilities is still a fact of life.

I am concerned, Mr. Chairman, about how we explain to children that their rights are protected only some of the time. How do we tell them that the principle of equality matters only while they are in school or when Federal funds are specifically engaged?

Passage of the historic legislation we are considering today will mean that more children will be able to be mainstreamed in life events that exist beyond school and beyond federally funded buildings.

Passage of this legislation will mean that children with disabilities will not be pushed aside, out of sight, and out of mind, but will be entitled to the same civil rights as all other minorities.

Passage of this legislation will mean that all children, regardless of whether they are disabled or not, and regardless of the extent of their disability, will be able to go where other children go, to play and interact with their peers.

Passage of this legislation will mean that children will have new opportunities available to them that most children now take for granted.

The select committee has heard firsthand about the positive effects of mainstreaming children with disabilities. Just this past fall, Kristie Joy Drury, and 11-year-old from Tulsa, OK, wheelchair-bound with spina bifida, told the select committee:

Ever since Kindergarten I have been mainstreamed in school and I think that is very important, because I get the chance to do most everything everyone else gets to do. (But) there are things I can't do and I would like to see some changes made. I think we need more adaptive physical education so we can have as much fun as the next guy. I also think we need more curb cuts. Whenever I go someplace with my mom and dad, we always have to lift my cart to get up to the sidewalk.

I think we need more education for teachers about our disabilities and special needs * * * Nobody knows enough about our disabilities to do anything about it. But we are going to show them what we are made of * * * You have got to make the laws better so we can live better lives and help other people understand that we are not really any different than they are.

And I will be pleased that if we pass this legislation, which President Bush has indicated his willingness to sign, we will no longer have to tell our children that their rights are protected only under certain circumstances and only in certain facilities.

This legislation will prohibit discrimination against individuals with disabilities in employment, programs or activities of a State or local government, in public accommodations, transportation, and telecommunications. It does so by providing protections that are consistent with other Federal civil rights laws long on the books. Its protections are far-reaching, yet the demands in places on compliance are modest. It initially exempts employers with fewer than 25 employees for the first 2 years, and therefore, employers with fewer than 15 employees, and it provides transportation authorities a reasonable amount of time to make appropriate accommodations.

With all the work that the select committee has done on child care, I am particularly pleased that this legislation would help open the doors to child care facilities and nursery schools. We know that good preschool opportunities can help children get off to a better start in school.

By prohibiting discrimination in public facilities, this legislation can help provide that opportunity for thousands of our children, whose parents had to forgo child care or preschool for their young disabled child, because they couldn't find a barrier-free environment or sufficiently trained child care providers who were willing to care for their children. In many cases, this has no doubt kept parents out of the labor force, placing a financial burden both on the families involved and once again, on our society as a whole.

I urge you to join with me in supporting this legislation. Join with me so that we can tell Kristie Joy Drury and the millions of children like her that we will ensure they have access to every opportunity to reach their fullest potential. Let us demolish the "Berlin Wall" that separates these children from their friends, their families, and their communities. And let us do so without any further delay.

Mr. STANGELAND. Mr. Chairman, I rise in support of H.R. 2273, the Americans With Disabilities Act. This is not perfect legislation. Some of its provisions affecting transportation and small business may have problems, leading sooner or later to excessive costs and litigation. On balance, though, this landmark legislation is long overdue and worthy of our support.

First, let me acknowledge the leadership and commitment of various committees and individuals. In particular, I'd like to thank the House Public Works and Transportation Committee. Chairman GLENN ANDERSON, ranking minority member JOHN PAUL HAMMERSCHMIDT, Surface Transportation Subcommittee Chairman NORM MINETA, and ranking minority member BUD SHUSTER, along with others, have all worked tirelessly on this bill. Perhaps most importantly, I'd like to commend all the organizations—particularly some of the disability groups—and individuals who have sacrificed untold hours to ensure passage of this legislation.

And yet, despite all its worthy provisions, I still have concerns about certain aspects.

The objective of H.R. 2273 is to provide mobility for all disabled Americans. Unfortunately, I don't believe it guarantees the best mobility for all the disabled. Those who live in smaller or rural areas may find the Americans With Disabilities Act brings them less mobility, not more.

H.R. 2273 mandates lifts on every new public transit bus. It also requires comparable paratransit, except with regard to response time, in which case the service must be comparable to the extent practicable. These are laudable goals, and we as a nation should strive to attain them. As across-the-board mandates, however, they may be unrealistic and perhaps even counterproductive—especially without opportunities for local flexibility.

The impact of both of these requirements, particularly on smaller transit systems, will be significant. In addition, in smaller areas, the disabled population may not exist in numbers great enough to justify the capital expenditure of lifts. Significant barriers to lift use exist in every city, whether it be the lack of curb cuts, hilly terrain, sheer distance from the nearest bus stop, or severe weather conditions. Very simply, an adequate paratransit system—such as the one in St. Cloud, MN—often provides better mobility to the disabled, particularly in less populated areas, than a lift-equipped fixed route system.

Therefore, I am concerned that the bill makes no allowance for flexibility so local communities can decide the best method to guarantee accessibility, mobility, and rider satisfaction. Like many of my colleagues, I believe a Federal mandate requiring one solution for all communities may be shortsighted and in the long run, counterproductive.

Mr. Chairman, I would hope throughout the remainder of the legislative process we will not lose sight of H.R. 2273's impacts upon small and rural communities, transportation officials, and the private sector. In our haste to remedy previous wrongs and prevent future discrimination, let's not create more problems for ourselves.

Having said that, though, let me reiterate my strong support for the bill as a whole. I urge my colleagues to vote in favor of the legislation while at the same time acknowledge that certain aspects should be strengthened.

Mr. ARMEY. Mr. Chairman, the intent of all civil rights legislation is to provide equal opportunity and a level playing field for everyone. The Americans With Disabilities Act intends to extend these protections to the disabled, and I fully support that intent. But the ADA as currently written may do far more than assure equal access.

The scope of this legislation is unprecedented. It defines disability so broadly that 43 million Americans, nearly one-fifth of the U.S. population, will be covered by it. That enormous number, of course, includes millions of people that most Americans would not consider disabled and in need of special protections. For example, even those with communicable diseases or serious behavior disorders would receive special privileges under this act. I cannot support a bill which extends that far beyond its original, noble objective.

Because 43 million American are covered, every business in the United States will have to interpret and carry out the provisions contained in this bill, but they should not have to read our minds. Terms found in the employ-

ment title are entirely subjective, such as undue hardship, essential functions, and reasonable accommodation. By leaving clarification up to the courts, we are inviting costly and unnecessary litigation. Without clear guidance, businesses will be uncertain about what standards to follow.

Since 1964, America has provided a means of redress for employees discriminated against in the workplace. Administrative medication and make-whole remedies found in the Civil Rights Act of 1964 such as back pay, injunctive relief, and attorney's fees have worked well for the past 25 years. But the introduction of H.R. 4000 changes the very basis of mediation in employment discrimination—H.R. 4000 would add punitive and compensatory damages.

Because ADA references title VII instead of specifying the remedies available, the Civil Rights Act of 1990 as currently written would change the assumptions made in crafting this bill. Punitive damages are counterproductive in employment disputes—they discourage medication and encourage litigation making it much harder to maintain a viable working relationship. That is, after all, the goal of title VII.

I want to make it perfectly clear that I would support a bill designed to provide the disabled with the means necessary to enter the mainstream of American society—that includes making public transportation accessible, ensuring fairness in the employment process, and encouraging modifications in public accommodations.

But the Americans With Disabilities Act goes far beyond what is needed to assure equal access to the disabled. We should be careful that in protecting one group of Americans we do not forget the rights of others. A balance must be struck between the needs of the disabled and the nearly blanket coverage that this bill provides. Fairness and equity are the cornerstones of all civil rights law—let's make it fair for everyone.

Mr. RAHALL. Mr. Chairman, I am pleased to rise in strong support of H.R. 2273, the Americans With Disabilities Act.

This bill was under the jurisdiction of four standing committees in the House, and it was my privilege to served on two of them—the Education and Labor Committee and the Public Works and Transportation Committee.

In that context, I wish to congratulate Chairman GLENN ANDERSON of the Public Works and Transportation Committee, and Surface Transportation Subcommittee Chairman NORMAN MINETA, for their strength in bring H.R. 2273 out of our committee without weakening amendments, by a vote fo 45 to 5. By the same token, I extend the same congratulations to Chairman GUS HAWKINS of the Education and Labor Committee for maintaining the same high standard of leadership with regard to the Americans With Disabilities Act, as he displays in regard to all civil rights measures, in guiding the bill through rough waters. Our committee fended off 15 weakening amendments resulting in a unanimous committee vote of 35 to 0 in reporting the bill.

While I do not serve on the Energy and Commerce and Judiciary Committees, I offer my congratulations and thanks to the chairmen of both committees for their guidance and leadership in reporting the ADA, by votes of 40 to 3 and 32 to 3, respectively.

Mr. Chairman, I think it is important for our colleagues in the House to note the above referenced committee votes, and to keep those statistics in mind as they deliberate on pending amendments to the ADA being considered on the floor today.

This bill has the support of the U.S. Attorney General, and the President of the United States, with one exceptiion, and that is whether or not punitive and/or compensatory damages ought to be allowed in cases where disabled persons are able to prove intentional discrimination.

I will oppose the so-called administration's remedy amendment to strike the compensatory damages award provisions in proven cases of intentional discrimination for the simple reason that, if no one out there is practicing discrimination against the disabled, as they should not be, they have nothing to worry about, do they?

Mr. Chairman, the ADA bill has been through the rigors of four House committees and their subcommittees of jurisdiction over employment, public accommodations, public transportation, telecommunications, and the right to be awarded compensatory damages for 43 million disabled individuals in this country. While no weakening amendments were adopted, this bill has been through a long series of clarifications and modifications, striking the proper balance between civil rights of persons with disabilities and the legitimate legislative concerns of businesses, large and small.

The definitiion of disability is the same definition that has been in effect since 1973—for 17 years section 504 of the Rehabilitation Act. Thre is nothing new with respect to identification of a person with a disability in the ADA except that it clearly excludes from the definition any person who is a current illegal user of drugs.

Quite simply, the ADA bill prohibits certain employers with 25 or more employees—when provisions go into effect in 2 years, and with 15 or more employees 2 years later—from discriminating against a qualified individual on the basis of his or her disability.

In the context of employment rights, the bill also provides that employers should provide reasonable accommodations to a disabled individual that would allow that person to perform a job, unless such acommodations would impose an undue hardship on the employer.

Public accommodations equity provided in the bill prohibits privately operated public entities, such as restaurants, hotels, and retail stores, from excluding or refusing to serve disabled individuals. It requries facilities being newly constructed to be made accessible, and provides that structural barriers in existing facilities to be removed if such removal is readily achievable.

The measure requires all telephone companies that provide voice transmission services to also provide telephone relay services to allow hearing or speech impaired individuals to place and receive calls through telephone devices to or from persons who are not impaired.

The ADA bill requires that public transit authorities, private intercity bus services, Amtrak and rapid, light, and commuter rail systems to make their systems accessible to persons with disabilities, including for persons using wheelchairs. Specific provisions are included to ease the burden that may otherwise be placed on small and rural communities.

The bill provides, consistent again with the 17-year-old section 504 coverage, protection of the American public against any individual who poses a direct threat to the health or safety of others. The bill defines direct threat as a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

As stated earlier, the bill does not include drug users as disabled persons, and further the ADA bill states clearly that homosexuality and bisexuality are not impairments or disabilities; and finally, that the term disability does not include transvestites, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders and other sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from current illegal use of drugs.

In conclusioin, Mr. Chairman, let me just say that this bill, about which so much has been said and written, very simply bars discrimination in hiring, ensures that people with disabilities can ride trains, buses and subways, and make telephone calls. If anyone denies the disabled these privileges, they can be sued.

Does that sound familar? If it does, it is only because you and I take those privileges for granted every day of our lives.

If we, as able-bodied citizens, were to be discriminated against in hiring, we would sue. If we were to be barred from our favorite restaurant, movie theater, or train, bus or subway, we would be outraged and we would demand our rights as Americans. If we were prevented from communicating with our friends, business associates or families by telephone, and God forbid, prevented from making a 911 call in a life-threatening situation, we would be appalled, and we would demand our right to the ability to communicate.

We take our rights for granted. If we want to go to a movie, or take our kids to a museum, or out to a nice restaurant for a meal, or call our mothers on Mothers' Day, we just do it. Not much planning goes into it except to decide which movie we want to see, or what we want to order from the menu.

These daily privileges that we take for granted and which, if denied us we would demand and get, are not taken for granted by the disabled. They don't know if they can even get into a movie house or a restaurant—because of stairs that wheelchairs cannot scale. Yet a simple, inexpensive ramp would give them that access.

Think of the ADA bill simply as a guide—a legal guide—to be used by business, by government, by transportation authorities for granting the same privileges to the disabled as they automatically grant to those of us who are more fortunate because we are able-bodied.

The ADA bill is an investment in our future, and the investment it requires will be repaid in full by allowing the disabled the right to work,

compete and contribute in ways they never have before.

We have the unprecedented opportunity today to provide a clear and comprehensive national mandate to end discrimination against the disabled, and to bring them into the economic mainstream of American life. I'm proud to be a part of today's deliberations, and I urge my colleagues to support H.R. 2273.

Mr. AUCOIN. Mr. Chairman, I rise in strong support of the Americans With Disabilities Act and I urge my colleagues to do the same.

We have a unique opportunity before us today—the opportunity to pass legislation which will alter dramatically the way millions of Americans go about their everyday lives.

The Americans With Disabilities Act is more than just another law, it is a declaration of independence for all Americans with physical or mental disabilities or those afflicted by disease. It says that everyone has the same right as everyone else to hold a job, to ride a bus or to stay at a hotel, without fear of discrimination.

I'd like to commend the authors of the Americans With Disabilities Act for their hard work in crafting a bill that provides both an effective means of combating discrimination and yet gives enough latitude to employers to allow them the flexibility to achieve compliance.

This is an opportunity for Congress to reaffirm its commitment to leadership which does not countenance the myths, stereotypes, and irrational fears which give rise to discrimination against people with disabilities. I urge my colleagues to support the Americans With Disabilities Act.

Mrs. COLLINS. Mr. Chairman, I rise today to express my support for the Americans With Disabilities Act, H.R. 2273. Passage of this bill is of grave importance to every person who is a citizen of this Nation.

The United States of America is more than just a name, but also a statement of ideals. This Nation offers the promise of democracy, freedom, liberty, the pursuit of happiness and most important, equality. Our Nation cannot function properly without fulfilling these goals. Our history is one of the promise and realization of economic and social success. As a result the world now looks at us as the champion for a democratic way of life. Each minority group has had to push for their inclusion into American society. In the process, laws, and even amendments to the Constitution, have been necessary to make the system fair for all. The last truly major civil rights legislation was passed in 1965. However, the act neglected to include the disabled community, which is now 43 million citizens and America's largest minority. Once again it is clear our laws need more fine tuning. Each one of us is elected to represent all portions of the American population. We cannot forget close to one-fifth of the Nation because of cost.

The Americans With Disabilities Act was developed by the National Council on the Handicapped, an independent Federal agency appointed by President Reagan to investigate the status of disabled Americans. Over the past 5 years, the council has conducted innumerable hearings and forums across this country and has reached the same inescapable conclusions again and again. It is barriers and discrimination, rather than the inherent physical or mental characteristics of persons with disabilities themselves, which are to blame for the staggering unemployment and isolation of these citizens, our Nation's largest minority. The act is written so as to end discrimination in six basic areas: employment, housing, transportation, public accommodations, public services, and communication barriers, the American population.

The bill's wide scope required it to be referred to three committees in the House. The numerous subcommittee and full committee hearings and markups were the forums of tremendous debate and change. The bill's detractors assert that the costs of compliance will impose too great a burden on American businesses. We cannot put a price on human dignity and equality.

More than two-thirds of the 43 million citizens with disabilities are unemployed. This is not a result of lack of skills but rather lack of opportunity. ADA will form the foundation for policies and programs which will remedy the current situation. It is interesting to note, however, that according to the U.S. Chamber of Commerce, workers with disabilities have demonstrated that their job performance competes with and frequently exceeds that of other workers in production, efficiency, and favorable accident and absentee rates. Disabled does not mean unable. Full participation by people with disabilities is essential as we face an increasing global economic challenge.

It is always the assumption of some, that changes in the status quo which allow a new group their equal rights will cost large sums of money, lower quality, and cause numerous incalculable problems. However, time and time again these assumptions have proved to be false.

I ask you to join me and over 250 other congressional cosponsors, the disabled community, and President Bush in the fight to end discrimination against our Nation's largest minority. Vote "yes" for the Americans With Disabilities Act, and "no" to any amendments that will weaken its power or limit its scope.

Mr. COYNE. Mr. Chairman, I rise today in support of the Americans With Disabilities Act. I would like to take this opportunity to acknowledge the four House committees that worked so hard to bring it to the floor. I also want to congratulate the bill's sponsor, STENY HOYER.

Presently, there is widespread fear and prejudice against disabled persons. It is a common fact that the disabled have a greater struggle finding employment, are more susceptible to poverty and, frequently, are involuntarily isolated because it is too difficult to get around in public places. In most cases, it is not the individual's disability that places constraint's on behavior, rather, it is the obstacles placed by society.

The Americans With Disabilities Act will remove the barriers disabled individuals experience. Further, it will provide employment and economic opportunities to a deserving population in this country. I urge my colleagues to support this measure.

Mr. HOYER. Mr. Chairman, as the general debate on the Americans With Disabilities Act draws to a close, I want to thank all of those people in and out of the Congress who helped to make this historic event possible. I would also like to submit for the RECORD a brief overview of the provisions of the bill. I will be offering a further description when the House completes debate on the proposed amendments.

There has been a number of staff in the House of Representatives who have worked on the ADA over the last year. I would like to express my deepest appreciation for their long hours and hard work. They are all true professionals who perform their jobs with tremendous talent and dedication. They are: Reggie Govan, Randy Johnson, Pat Morrissey, Maria Cuprill, Bob Tate, Eric Jensen, Paul Schlesinger, Sante Esposito, Roger Slagle, Phyllis Guss, Ken House, Bill Jones, Cynthia Meadow, Catherine Leroy, Stuart Ishimaru, Katherine Hazeem, Alan Roth, David Leach, Glenn Scammel, David Tittsworth, and Rob Mooney.

There have also been a number of dedicated citizens in the disability community who have worked tirelessly to make this day happen. I would also like to acknowledge their tremendous contribution and dedication. These include, Ralph Neas and Pat Wright; the legal team: Chai Feldblum and Arlene Mayerson, coordinators; Jim Weisman, Karen Strauss, Bob Burgdorf, Ellen Weber, Bonnie Milstein, Sy Dubow and David Capozzi. Lobbying coordinator Liz Savage and grassroots coordinator, Marilyn Golden. Technical assistance by John Wodatch, Dennis Cannon, Justin Dart, I. King Jordan, Jay Rochlin, and Harold Snider.

Also, the people who really made it happen: Gerald Baptiste, Wade Blank, Marylou Breslin, Marca Bristo, Fred Cowell, Randy Davis, Curt Decker, Alice DeMichelis, Robert DeMichelis II, Cynthia Folcarelli, Dwayne French, Lex Frieden, Karen Friedman, Michael Gibson, Eric Griffin, Judy Heumann, Ron Honberg, Ilene Horndt, Dana Jackson, Mark Johnson, Donna Ledder, Sara Lichtman, Paul Marchand, Scott Marshall, Maureen McCloskey, Kathy McInnis, Kathy Megivern, Bonnie O'Day, Becky Ogle, Lee Page, Steve Pardich, Jim Parrish, Dick Pommo, Larry Robinson, Denise Rozell, Judy Shaw, Ken South, Laurie Summers, Shelly Teed-Wargo, Jim Tuscher, Dick Verville, Fred Weiner, and Bob Williams.

A special note and thank you must go to the family of Dennis Smurr who lost his life while realizing his dream of a society free and accessible to all Americans.

Most of all, thank you to the millions of people with disabilities, their families and friends who never gave up the dream. They gave of their time and limited financial resources educating the Congress and the Bush administration and the American public on why this bill is so urgently needed.

EMPLOYMENT

Title I of the ADA specifies that an employer, employment agency, labor organization, or joint labor-management committee may not discriminate against any qualified individual with a disability in regard to any term, condition or privilege of employment. The ADA incorporates many of the standards of discrimination set out in regulations implementing section 504 of the Rehabilitation Act of 1973, including the obligation to provide reasonable

accommodations unless it would result in an undue hardship on the operation of the business.

The ADA incorporates by reference the enforcement provisions under title VII of the Civil Rights Act of 1964. Currently, remedies available under title VII include injunctive relief and back pay.

Title I goes into effect 2 years after the date of enactment. For the first 2 years after the effective date, employers with 25 or more employees are covered. Thereafter, employers with 15 or more employees are covered.

PUBLIC SERVICES, INCLUDING PUBLIC TRANSPORTATION SERVICES PROVIDED BY PUBLIC ENTITIES

Title II of the ADA specifies that no qualified individual with a disability may be discriminated against by a public entity that is, a State and local government or a department, agency, special purpose district or other instrumentality of a State or a local government, or by AMTRAK or a commuter rail authority.

In addition to a general prohibition against discrimination, title II includes specific requirements applicable to public transportation provided by public transit authorities, commuter rail authorities, and AMTRAK.

With respect to public transportation provided by public transit authorities, all new fixed route buses must be made accessible unless a transit authority can demonstrate to the Secretary of Transportation that no lifts are available from qualified manufacturers, despite the fact that good faith efforts have been made to locate such lifts, and that a further delay in purchasing new buses would significantly impair transportation services in the community served. A public transit authority must also provide paratransit for those individuals who cannot otherwise use mainline accessible transportation—and to one person associated with an individual with a disability—up to the point where the provision of such supplementary services would pose an undue financial burden on the transit authority.

With respect to AMTRAK, all new intercity vehicles must be readily accessible to and usable by individuals with disabilities. Special rules are included specifying the standards of accessibility for people using wheelchairs for each category of passenger car. With respect to new cars used by commuter rail authorities, such cars must be accessible. However, special rules are delineated explaining the meaning of "accessibility" for people who use wheelchairs.

New stations must be designed and constructed in an accessible manner. Key existing stations serving rapid rail and light rail systems must be made accessible as soon as practicable but in no more then 30 years where modifications are extraordinarily expensive—with two-thirds of the stations to be made accessible within 20 years. For key existing stations serving commuter rail, the timeframe is 20 years as it is for all stations serving Amtrak.

Title II incorporates by reference the enforcement provisions in section 505 of the Rehabilitation Act of 1973.

Title II takes effect 18 months after the date of enactment, with the exception of the obligation to ensure that new public buses are accessible, which takes effect for solicitations made 30 days after the date of enactment.

PUBLIC ACCOMMODATIONS AND SERVICES PROVIDED BY PRIVATE ENTITIES

Title III of the ADA specifies that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations by any person who owns, leases, or leases to, or operates a place of public accommodation. Public accommodations include: restaurants, hotels, doctor's offices, pharmacies, grocery stores, shopping centers, and other similar establishments.

Existing facilities must be made accessible if the changes are readily achievable, that is, easily accomplishable without much difficulty or expense. Auxiliary aids and services must be provided unless such provision would fundamentally alter the nature of the program or cause an undue burden. New construction and major renovations must be designed and constructed to be readily accessible to and usable by people with disabilities. Elevators need not be installed if the building has less than three stories or has less than 3,000 square feet per floor except if the building is a shopping center, shopping mall, or offices for health care providers or if the Attorney General decides that other categories of buildings require the installation of elevators.

Title III also includes specific prohibitions on discrimination in public transportation services provided by private entities, including the failure to make new over-the-road buses accessible 6 years from the date of enactment for large providers and 7 years for small providers. "Accessibility" will be defined in regulations issued by the Secretary of Transportation and reflect the results of a 3-year study conducted by the Office of Technology Assessment. Lifts are not necessarily required on all new buses.

Title III incorporates enforcement provisions in private actions comparable to the applicable enforcement provisions in title II of the Civil Rights Act by the Attorney General. The Attorney General may also seek monetary—not punitive—damages on behalf of an aggrieved individual and civil penalties.

The provisions of title III became effective 18 months after the date of enactment.

TELECOMMUNICATION RELAY SERVICES

Title IV of the ADA specifies that telephone services offered to the general public must include interstate and intrastate telecommunication relay services so that such services provide individuals who use nonvoice terminal devices because of disabilities—such as deaf persons—with opportunities for communications that are equivalent to those provided to individuals able to use voice telephone services.

MISCELLANEOUS PROVISIONS

Title V of the ADA includes miscellaneous provisions, including coverage of Congress, a construction clause explaining the relationship between the provisions in the ADA and the provisions in other Federal and State laws; a construction clause explaining that the ADA does not disrupt the current nature of insurance underwriting; a prohibition against retaliation; a clear statement that States are not immune from actions in courts of competent jurisdiction for a violation of the ADA; a directive to the Architectural and Transportation Barriers Compliance Board to issue guidelines; and authority to award attorney's fees.

Mr. Speaker, I will be offering a description of the major provisions of this bill when the House votes on final passage of the ADA next Tuesday. For the moment, however, I would like to make a few comments on two amendments that will be offered here today.

First, there will be an amendment concerning the "essential functions" of the job. Under the ADA, a "qualified person with a disability" is someone who, with reasonable accommodation if necessary can perform the essential functions of the job. An amendment was added in the Judiciary Committee clarifying that consideration must be given to an employer's determination as to what job functions are essential. That provision has been incorporated in the final bill before the House today. An amendment that would have created a presumption in favor of the employer's determination of what was an essential function was rejected by the Judiciary Committee.

An employer is the one that first designates the essential functions of the job. A person with a disability, who has been rejected because he or she cannot perform one of those functions because of his or her disability, can then challenge whether that function is, indeed, essential. At that point, a court should give consideration to the employer's judgment, as well as to the evidence submitted by the plaintiff, as to whether the function is, in fact, essential. Another amendment that was offered today to the ADA provides that a court should consider as evidence of an essential function any written job description the employer may have. As with the first amendment, this provision is neutral as to the weight to be given to the evidence. A job description which is not at all tailored to the actual functions of the job will, and should, have little weight. The fact that a task is written in a job description does not, by itself, mean that it is, in fact, essential. While a court should consider the written job description as evidence, the court must ultimately decide, based on the evidence submitted by both the person with a disability and the employer, what constitutes the essential functions of the job. Because this amendment does not change the approach that currently exists under section 504, I will not oppose it.

By contrast, I will oppose another amendment that will be offered today. An amendment to the ADA that will be offered by Congressman OLIN would create a presumption that an accommodation that costs over 10 percent of an employee's annual salary constitutes a per se undue hardship and thus would not be required under the act. That provision is directly contrary to the flexible approach for determining undue hardship, which is based on over a decade of experience under the Rehabilitation Act. As noted, the Rehabilitation Act approach focuses on the resources of the employer, not on the paycheck of the employee. A 10 percent cap provision fails to protect adequately the rights of persons with disabilities to receive accommodations that would, in fact, not impose an undue hardship on an employer. For example, the provision fails to account for the fact that many accommodations, such as physical

changes to facilities and the acquisition of equipment, last for many years and are used by employees other than the employee in question, and that businesses always amortize the cost of equipment over a period of years. Morever, a 10-percent cap on accommodations based on an employee's salary would exclude the hiring or retaining of an employee who requires an accommodation that exceeds that limit, but would not truly impose an undue hardship on the employer. As Dick Drach, manager of disability programs for E.I. Dupont has stated:

A 10 percent of salary as a definition of undue hardship doesn't make any sense from the perspective of a large corporation with many sites. Example: a $3,000 accommodation may be denied using this formula for an employee who earns $20,000. Two thousand or even $3,000 is nothing to a large site.

For this reason, I will be opposing that amendment.

The CHAIRMAN. The Chair announces that all time controlled by the Committee on the Judiciary has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text printed in part 1 of House Report 101-488 shall be considered as an original bill for the purpose of amendment and shall be considered as having been read.

The text of the amendment in the nature of a substitute made in order as original text is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
Sec. 102. Discrimination.
Sec. 103. Defenses.
Sec. 104. Illegal use of drugs and alcohol.
Sec. 105. Posting notices.
Sec. 106. Regulations.
Sec. 107. Enforcement.
Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

Sec. 201. Definition.
Sec. 202. Discrimination.
Sec. 203. Enforcement.
Sec. 204. Regulations.
Sec. 205. Effective date.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

Sec. 221. Definitions.
Sec. 222. Public entities operating fixed route systems.
Sec. 223. Paratransit as a complement to fixed route service.
Sec. 224. Public entity operating a demand responsive system.
Sec. 225. Temporary relief where lifts are unavailable.
Sec. 226. New facilities.
Sec. 227. Alterations of existing facilities.
Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
Sec. 230. Interim accessibility requirements.
Sec. 231. Effective date.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

Sec. 241. Definitions.
Sec. 242. Intercity and commuter rail actions considered discriminatory.
Sec. 243. Conformance of accessibility standards.
Sec. 244. Regulations.
Sec. 245. Interim accessibility requirements.
Sec. 246. Effective date.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Sec. 301. Definitions.
Sec. 302. Prohibition of discrimination by public accommodations.
Sec. 303. New construction and alterations in public accommodations and commercial facilities.
Sec. 304. Prohibition of discrimination in public transportation services provided by private entities.
Sec. 305. Study.
Sec. 306. Regulations.
Sec. 307. Exemptions for private clubs and religious organizations.
Sec. 308. Enforcement.
Sec. 309. Examinations and courses.
Sec. 310. Effective date.

TITLE IV—TELECOMMUNICATIONS RELAY SERVICES

Sec. 401. Telecommunication services for hearing-impaired and speech-impaired individuals.
Sec. 402. Closed-captioning of public service announcements.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Construction.
Sec. 502. State immunity.
Sec. 503. Prohibition against retaliation and coercion.
Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Attorney's fees.
Sec. 506. Technical assistance.
Sec. 507. Federal wilderness areas.
Sec. 508. Transvestites.
Sec. 509. Congressional inclusion.
Sec. 510. Illegal use of drugs.
Sec. 511. Definitions.
Sec. 512. Amendments to the Rehabilitation Act.
Sec. 513. Alternative means of dispute resolution.
Sec. 514. Severability.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually deliv-

ered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

## TITLE I—EMPLOYMENT

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) ILLEGAL USE OF DRUGS.—

(A) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is

treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) RAIL EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by railroads of authority to—

(1) test railroad employees in, and applicants for, positions involving safety-sensitive duties, as determined by the Secretary of Transportation, for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. ENFORCEMENT.

(a) POWERS, REMEDIES, AND PROCEDURES.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. Such agencies shall establish such coordinating mechanisms in the regulations implementing this title and the Rehabilitation Act of 1973.

SEC. 108. EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

## TITLE II—PUBLIC SERVICES

### Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices,

the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

**Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory**

**PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS**

SEC. 221. DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) OPERATES.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) PUBLIC SCHOOL TRANSPORTATION.—The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) PURCHASE AND LEASE OF NEW VEHICLES.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) PURCHASE AND LEASE OF USED VEHICLES.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition

which prevents such individual from traveling to a boarding location or from a disembarking location on such system; and

(B) to 1 other individual accompanying the individual with the disability.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) ADDITIONAL SERVICES.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) PUBLIC PARTICIPATION.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) PLANS.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) PROVISION OF SERVICES BY OTHERS.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) OTHER PROVISIONS.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) REVIEW OF PLAN.—

(1) GENERAL RULE.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) DISAPPROVAL.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in

terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least ⅔ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) KEY STATIONS.—Paragraph (1) shall not apply to a key station if the portion of such station providing access to the vehicle boarding or disembarking location has not been made readily accessible to and usable by individuals with disabilities who use wheelchairs at that station.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act. (b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

## PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C 502(8));

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C 502(9));

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation;

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars;

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including in-

dividuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair;

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended

by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242(a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

## TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Fed-

eral Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of

such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) DEFINITION.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

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(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. REGULATIONS.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 302(b)(2)(B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS.—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. ENFORCEMENT.

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this title shall become effective 18 months after the date of the enactment of this Act.

(b) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2)(B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

## TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, within the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) JURISDICTIONAL SEPARATION OF COSTS.—

"(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows:

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

## TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION.

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1)(b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

SEC. 508. TRANSVESTITES.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

Strike section 509 and insert the following.:

SEC. 509. CONGRESSIONAL INCLUSION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to subsections (b) through (d), apply in their entirety to the Senate, the House of Representatives, and all the instrumentalities of the Congress, or either House thereof.

(b) EMPLOYMENT IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) ADMINISTRATION.—

(A) In the administration of this subsection, the remedies and procedures made applicable pursuant to the resolution described in subparagraph (B) shall apply exclusively.

(B) The resolution referred to in subparagraph (A) is House Resolution 15 of the One Hundredth First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(3) EXERCISE OF RULEMAKING POWER.—The provisions of paragraph (2) of this subsection are enacted by the Congress as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) CONGRESSIONAL MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the Congress regarding matters other than employment.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) APPROVAL BY CONGRESSIONAL LEADERSHIP.—For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives and to an appropriate officer of the Senate, as designated by the Senate. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission, and the approval of the appropriate officer of the Senate.

(d) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

SEC. 510. ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I

through V of section 202 of the Controlled Substances Act.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use,

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps" does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

The CHAIRMAN. No amendment to said substitute shall be in order except those amendments printed in part 2 of House Report 101-488. Said amendments shall be considered in the order and manner specified in said report, shall be considered as having been read, and shall not be subject to amendment. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

AMENDMENT OFFERED BY MR. LA FALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LAFALCE: In section 310 (relating to effective dates), redesignate subsection (b) as subsection (c) and insert after subsection (a) the following new subsection:

(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303, no civil action shall be brought—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

In subsection (a) of section 310, strike "subsection (b)" and insert "subsections (b) and (c)".

The CHAIRMAN. The gentleman from New York [Mr. LAFALCE] is recognized for 10 minutes.

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment which I am sponsoring jointly with Representative TOM CAMPBELL addresses provisions of the public accommodations title of the Americans With Disabilities Act, H.R. 2273.

Our goal in offering this amendment is to ensure that the ADA is equitable and workable for all who are affected by it. As chairman of the Committee on Small Business, I held a hearing on the ADA in February during which concerns were voiced by small business owners about the potential costs and unfamiliar requirements that compliance with the ADA will entail. I do not suggest that fears of the unknown should freeze us into inaction.

Rather, we should take the time now to address legitimate concerns. Clearly, it is everyone's desire to have the rights of the disabled and the concerns of business hammered out through legislation, not litigation. It is absolutely time to integrate into the economic and social mainstream of America those among us who have felt the stigmas and discrimination a disability can mean.

On the other hand, no one wants a small business to fail because complying with or defending oneself under the ADA requires costly and time-consuming lawsuits or because regulations have not been issued informing businesses about the ADA's requirements.

Our amendment responds to these concerns without altering the scope or the substance of the ADA. Although we recognize that final regulations are often issued long after laws are in effect, we do not seek to delay the effective date of the public accommodations title or tie the effective date to the issuance of final regulations.

This means therefore that there is a strong likelihood that an element of guesswork will be involved when businesses start making the necessary accommodations and alterations in their facilities and practices.

In light of this, our amendment provides a period of protection from civil action for the smallest businesses after the title goes into effect. Small businesses deserve a period of protection—a period without fear of penalty—as they seek to come into compliance with the ADA's requirements—an entirely new aspect of doing business for many of them.

For businesses with 25 or fewer employees and gross receipts of $1 million or less, that period of protection is 6 months; for businesses with 10 or fewer employees and gross receipts of $500,000 or less, the period is 1 year. This is a moderate and fair response to legitimate concerns.

Mr. Chairman, this amendment has the support of Congressman HOYER, the principal cosponsor of the Americans With Disabilities Act; it has bipartisan support in the House; and it has the support of the business community; which wants to comply with the bill. They deserve our support in helping them comply.

I urge adoption of this amendment.

□ 1520

Mr. CAMPBELL of California. Mr. Chairman, will the gentleman yield for the purpose of a very brief colloquy?

Mr. LAFALCE. I yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Chairman, as coauthor of the amendment, I wish to clarify the following: Whereas the amendment states that during the first 6 months after the effective date no civil action shall be brought against businesses that fit these specifications, and similarly during the first year, I think the question should be made very clear that for actions or failures to take action during that period a lawsuit could not be brought once the 6 months is over.

Mr. LAFALCE. Mr. Chairman, that is absolutely correct. No action could be brought for any action or inaction during either the 6 months or the 1-year period respectively.

Mr. CAMPBELL of California. Mr. Chairman, that is my understanding, and I thank the gentleman for yielding.

Mr. LAFALCE. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there any Member seeking recognition in opposition to the amendment?

Does the gentleman from New York [Mr. LAFALCE] wish to use the balance of his time?

Mr. LAFALCE. Yes, Mr. Chairman, There are a number of Members who want to speak on this amendment, and I assume I now have not 10 minutes but 20 minutes in toto?

The CHAIRMAN. The Chair will state that the gentleman from New York [Mr. LAFALCE] has 6 minutes remaining.

Mr. LAFALCE. But since there is no Member in opposition, would I not have the other 10 minutes?

The CHAIRMAN. The Chair would announce that the rule does not provide for that consideration.

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent that the 10 minutes reserved for the opposition be assigned to the gentleman from New York [Mr. LAFALCE].

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. LAFALCE. Does the gentleman from California [Mr. CAMPBELL] wish me to yield time to him?

Mr. CAMPBELL of California. Mr. Chairman, I would appreciate it if the gentleman would yield me the 10 minutes so I could allocate time to Members on our side?

Mr. LAFALCE. I yield 10 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in support of this amendment of which I am the coauthor.

Very simply stated, we are attempting to avoid a repeat of section 89. Small business should not be in doubt about what the regulations provide. Therefore, the regulations should issue first, and after the regulations have issued and after the law becomes effective by its date on the public accommodation section, there should be a period of the phasein so that the very smallest of employers, those who employ 25 or fewer, should have at least 6 months to acclimate themselves to the new condition, and similarly, for the smallest employers, those who employ 10 or fewer and have gross receipts of $500,000 or less, a grace period of 1 year would be afforded.

Mr. Chairman, small business wants to support the disabled community of America. I am proud to be a cosponsor of the Americans With Disabilities Act, and I view this amendment as consistent with that commitment. I will respond to the desires of all Members to be brief by doing so in my own case, and I shall conclude simply by saying that I am proud to be here cosponsoring this with the chairman of the committee on which I formerly served and for whom I have the highest regard, the gentleman from New York [Mr. LAFALCE].

Mr. Chairman, I reserve the remainder of my time.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in support of the amendment offered by the chairman of the Committee on Small Business, Mr. LAFALCE, and the gentleman from California, Mr. CAMPBELL. This is a good amendment and one which the House should adopt.

The LaFalce/Campbell amendment would provide for the bill to become effective 18 months after the effective date but phase in civil actions against small business in title III, the public accommodations section. I am pleased that the amendment encompasses an amendment which I presented to the Rules Committee and I thank the gentlemen for their willingness to reach an accommodation in this matter.

Mr. CAMPBELL first raised the issue of a small business phase-in in the Judiciary Committee. This responds to the concerns of small business and gives them time to learn what is readily achievable and gives the smallest businesses in America a longer period to become familiar with the provisions of the act. The amendment will allow small businesses to learn from the experiences of larger business and it gives time for communities to come together, shopkeepers and disabled shoppers, to learn what each others needs are and to provide for accommodations which are readily achievable.

The bill as reported to the floor has many accommodations to the needs of small business. Existing public accommodations must only make changes which are "readily achievable." If the changes are not readily achievable, then the business can provide its services through an alternative method, if that is not burdensome or disruptive to the business.

The LaFalce/Campbell amendment allows the smallest business time to adjust to the new law and to learn what is readily achievable for that business. I believe this amendment is an excellent addition to the legislation and I appreciate the gentleman from New York and the gentleman from California for offering this amendment. I urge my colleagues to support it.

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Mr. POSHARD. Mr. Chairman, I rise today in strong support of H.R. 2273, the Americans With Disabilities Act.

This is landmark action to extend the protections and opportunities of American citizenship to a population that has been too long denied.

The Americans With Disabilities Act reaches out to millions of men and women who seek a greater and more equal role in living their lives alongside the rest of society.

I represent a rural area, and believe the real impact in areas like mine will come in the employment, housing, public accommodations, and telecommunications services which this bill addresses. It makes important improvements in the access to those services for disabled Americans, in addition to the transportation improvements that may be more applicable to urban areas but still are mightily important.

The Southern Illinois Center for Independent Living is headquartered in Carbondale, IL, a city in my district. Mr. Robert Kilbury is the executive director there, and the center serves a diverse population.

One important advance in this legislation Mr. Kilbury identified, and that I agree with, is it not only makes real changes in the working and living environment, it also sends a message. It says this country is no longer willing to ignore the 43 million or more Americans who may be described as disabled, but who are so able in numerous ways that to continue to live without their contributions would be a tragedy.

Since I mentioned Carbondale, I should let you know that rural communities are making a commitment in this area. Carbondale is a city of 25,000 residents, with about an equal number of students at Southern Illinois University, which serves a sizable disabled population.

In 1986, competing against much larger cities across the country, Carbondale was selected by the National Organization on Disability for top honors in its national community awards competition.

Carbondale's commitment to expanding the participation of disabled persons in community

life is an example I encourage other communities to follow, and I am pleased to make mention of this award during the passage of this important legislation.

As we did with the Civil Rights Act of 1964, which this act is patterned after, we're saying discrimination is repulsive and must be corrected.

Of course we know that laws have no real force if we do not translate them into action. Words and deeds ultimately mean more than statutes and regulations, and unless we bind ourselves to these requirements and make them real, then we will have come up short. But I am confident that will not happen.

As in civil rights, we have made progress, but there is a great deal still to be done.

This is an opportunity to make our society more well-rounded and accessible. We are at our best when we ignore the barriers of perception and prejudice and instead embrace the contributions each of us as individuals can make. This act makes that more possible for a uniquely deserving part of our society.

I'm extremely pleased to vote for passage of the Americans With Disabilities Act, and look forward to the day when we meet again to hail the improvements it has brought to all of us who are Americans.

Mr. Chairman, I would say that we believe this amendment is a friendly amendment, a positive amendment. I would reiterate that the bill already provides for an 18-month phase-in period prior to this amendment, so there is a learning curve to occur.

Further, under title 5, it provides for the Architectural Transportation Barriers Compliance Board to issue guidelines within 9 months, that is, 9 months before the effective date of the act. It also provides for the Attorney General and the EEOC to provide technical assistance guidelines and issue manuals. So there has been an effort to educate the small business community and give them time.

Under this amendment there would be an additional time for those employers of between 10 and 25 employees, an additional 6 months, that is, 24 months after the enactment of the bill, to be subjected to any actions.

However, I want to make it clear, and I think we all do understand this, that the law itself will be in effect and they will be under an obligation, of course, to make the accommodations. Even smaller businesses, those with 10 employees and under, will have an additional 6 months after that, for a total of 30 months, in order to know exactly what they have to do and to implement those changes to the extent that they know what they are.

Of course, the bill makes provisions for an accommodation that is unknown, that is, a disability that the business community or the individual business person may know of. There is a good faith consideration for that lack of knowledge about what accommodation needs to be made.

We think this is a positive amendment, Mr. Chairman, we are prepared to accept it. We think this is an amendment, however, that ought to be voted upon because we think it is an important amendment. It is a continuing accommodation to the concerns of the small business community, and we want to indicate that the membership of this body want to accommodate those concerns.

Mr. CAMPBELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

The CHAIRMAN. Without objection, the gentleman from North Carolina [Mr. BALLENGER] is recognized for 2 minutes.

There was no objection.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman from California for yielding this time to me.

Mr. Chairman, I am pleased the House is considering the Americans With Disabilities Act today. It is a well-intended bill that establishes noble goals with which few can disagree. Disabled workers are some of the most dedicated, loyal, and hard-working employees in our work force, obviously, it makes good business sense to open the doors of opportunity to enhance their employment options.

It is important to pass a bill that carries out these objectives, however, problems remain in the bill that make it difficult for many small businesses to comply with the act. Several amendments will be debated today that offer positive improvements in the current bill. One of these is the LaFalce-Campbell amendment, which I strongly support.

I offered a modified version of this amendment during debate in committee and would like to commend my colleagues for their efforts to improve the original proposal.

Businesses need time to review new Federal regulations and make alterations where needed to accommodate disabled individuals and strive to meet the letter of the law. LaFalce-Campbell provides small businesses with the means to achieve this goal—adequate time.

This amendment is fair, reasonable, and deserves your support. Join me in voting "yes" for a positive amendment that enhances the quality of the Americans With Disabilities Act.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I have no Members on this side who desire recognition at this time, and I reserve the balance of my time.

Mr. CAMPBELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. GOODLING] is recognized for 2 minutes.

There was no objection.

Mr. GOODLING. Mr. Chairman, I am pleased to rise in strong support of this amendment. As already explained, it would simply provide, under the public accommodations title, an additional 6-month grace period from law suits for businesses with 25 or fewer employees and an additional 6 months thereafter for the smallest of businesses—those with 10 or fewer employees.

Mr. Chairman, a little historical background may prove useful here. When the Americans With Disabilities Act was first introduced, small business organizations consistently pressed for an exemption from the requirements of the public accommodation section similar to that provided for employers under title I of the act governing employment—25 or more the first 2 years; 15 or more thereafter. Frankly, Mr. Chairman, the concerns of small business were not surprising and were quite understandable. While the concepts underpinning the ADA have parallels in existing law under the Rehabilitation Act, the reach of that act had been limited to Federal contractors and those entities receiving Federal financial assistance. Thus, the requirements of the ADA were completely novel to many aspects of the private sector, most particularly small businesses. Further, let's be honest, the ADA will impose costs, sometimes substantial. In this light, the perceived need for an exemption was hardly irrational.

On the other hand, the disability community was rightfully concerned that a small business exemption would simply result in the continued denial of retail, entertainment, and other services—many of which are provided by small businesses—which led to the development of this legislation in the first place.

Mr. Chairman, I believe the amendment before us, developed on a bipartisan basis, is a reasonable and sound compromise between these two competing concerns. By providing a grace period during which no civil action could be filed against certain small businesses, there will be an adequate amount of time for these businesses to become familiar with the law—particularly through observing its implementation by the larger companies—and to adjust their operations accordingly. In effect they will be permitted to learn from the experiences of the larger companies and, hopefully, not make the same mistakes. At the same time, eventual and universal access by the disabled to all businesses remains a mandate of the law.

Mr. Chairman, I urge my colleagues to support this worthy amendment.

Mr. CAMPBELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. BARTLETT] is recognized for 2 minutes.

Mr. BARTLETT. Mr. Chairman, I rise in support of the Campbell-LaFalce amendment. I believe that it is a modest extension of time but one that will in fact make the legislation considerably better accepted in the public marketplace.

I would note that it applies only to the public accommodations section. What it does is to extend an additional 6 months' protection against civil actions for small businesses in addition to the time already provided in the bill.

□ 1530

Mr. Chairman, as the gentleman from Maryland [Mr. HOYER] has stated, the ADA already requires time for both education and compliance. We anticipate that the regulations would be issued within 6 months after enactment, and subsequent to that technical assistance manuals would be issued both for public accommodations and for employment so that 18 months after enactment the bill will go into effect for public accommodations. In 24 months after enactment the bill would go into effect for employment.

Mr. Chairman, the amendment of the gentleman from California [Mr. CAMPBELL] assures that small business will have the time to become completely educated after the bill has gone into effect prior to any civil actions being taken for public accommodations.

It is a modest amendment. It is a fair and reasonable amendment. It is fully consistent within the intent of the ADA, and I do support it and commend both the gentleman from California [Mr. CAMPBELL] and the gentleman from New York [Mr. LAFALCE] for offering the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. LaFALCE. Mr. Chairman, I have no further requests for time.

Mr. CAMPBELL of California. Mr. Chairman, I yield back the balance of my time.

Mr. LaFALCE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LAFALCE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. LaFALCE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their pressure by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 115]

| | | |
|---|---|---|
| Ackerman | Donnelly | Jenkins |
| Anderson | Dorgan (ND) | Johnson (CT) |
| Andrews | Dornan (CA) | Johnson (SD) |
| Annunzio | Douglas | Johnston |
| Anthony | Downey | Jones (GA) |
| Applegate | Dreier | Jones (NC) |
| Archer | Duncan | Jontz |
| Armey | Durbin | Kanjorski |
| Aspin | Dwyer | Kaptur |
| Atkins | Dymally | Kasich |
| AuCoin | Dyson | Kastenmeier |
| Baker | Early | Kennedy |
| Ballenger | Eckart | Kennelly |
| Barnard | Edwards (CA) | Kildee |
| Bartlett | Edwards (OK) | Kleczka |
| Barton | Emerson | Kolbe |
| Bateman | Engel | Kolter |
| Bates | English | Kostmayer |
| Beilenson | Erdreich | Kyl |
| Bennett | Espy | LaFalce |
| Bentley | Evans | Lagomarsino |
| Bereuter | Fawell | Lancaster |
| Berman | Fazio | Lantos |
| Bevill | Feighan | Laughlin |
| Bilbray | Fields | Leach (IA) |
| Bliley | Fish | Leath (TX) |
| Boehlert | Flake | Lehman (CA) |
| Boggs | Foglietta | Lehman (FL) |
| Bonior | Ford (MI) | Lent |
| Borski | Ford (TN) | Levin (MI) |
| Bosco | Frenzel | Levine (CA) |
| Boucher | Frost | Lewis (CA) |
| Boxer | Gallegly | Lewis (GA) |
| Brennan | Gallo | Lightfoot |
| Brooks | Gaydos | Lipinski |
| Broomfield | Gejdenson | Livingston |
| Browder | Gekas | Lloyd |
| Brown (CA) | Geren | Long |
| Brown (CO) | Gibbons | Lowery (CA) |
| Bruce | Gillmor | Lowey (NY) |
| Bryant | Gilman | Luken, Thomas |
| Buechner | Glickman | Lukens, Donald |
| Bunning | Gonzalez | Machtley |
| Burton | Goodling | Madigan |
| Byron | Gordon | Manton |
| Callahan | Gradison | Markey |
| Campbell (CA) | Grandy | Marlenee |
| Campbell (CO) | Gray | Martin (IL) |
| Cardin | Green | Martinez |
| Carper | Guarini | Matsui |
| Carr | Gunderson | Mavroules |
| Chandler | Hall (OH) | McCandless |
| Chapman | Hall (TX) | McCloskey |
| Clarke | Hamilton | McCollum |
| Clay | Hancock | McCrery |
| Clement | Hansen | McCurdy |
| Clinger | Harris | McDade |
| Coble | Hastert | McDermott |
| Coleman (MO) | Hatcher | McEwen |
| Collins | Hawkins | McGrath |
| Combest | Hayes (IL) | McHugh |
| Condit | Hayes (LA) | McMillan (NC) |
| Conte | Hefley | McMillen (MD) |
| Conyers | Hefner | McNulty |
| Cooper | Henry | Meyers |
| Costello | Herger | Mfume |
| Coughlin | Hertel | Miller (CA) |
| Cox | Hiler | Miller (OH) |
| Coyne | Hoagland | Miller (WA) |
| Crockett | Hochbrueckner | Mineta |
| Dannemeyer | Holloway | Moakley |
| Darden | Hopkins | Molinari |
| de la Garza | Horton | Mollohan |
| DeFazio | Houghton | Montgomery |
| DeLay | Hoyer | Moody |
| Dellums | Hubbard | Moorhead |
| Derrick | Huckaby | Morella |
| DeWine | Hughes | Morrison (CT) |
| Dickinson | Hunter | Morrison (WA) |
| Dicks | Hyde | Mrazek |
| Dingell | Inhofe | Murphy |
| Dixon | Jacobs | Murtha |
| Myers | Roth | Stark |
| Nagle | Roukema | Stenholm |
| Natcher | Rowland (CT) | Stokes |
| Neal (MA) | Rowland (GA) | Studds |
| Neal (NC) | Roybal | Stump |
| Nielson | Russo | Sundquist |
| Nowak | Sabo | Swift |
| Oakar | Saiki | Synar |
| Oberstar | Sangmeister | Tallon |
| Obey | Sarpalius | Tanner |
| Olin | Savage | Tauke |
| Ortiz | Sawyer | Tauzin |
| Owens (NY) | Saxton | Taylor |
| Owens (UT) | Schaefer | Thomas (CA) |
| Oxley | Scheuer | Thomas (GA) |
| Packard | Schiff | Thomas (WY) |
| Pallone | Schneider | Torres |
| Panetta | Schroeder | Torricelli |
| Parker | Schumer | Towns |
| Parris | Sensenbrenner | Traficant |
| Pashayan | Serrano | Traxler |
| Patterson | Sharp | Udall |
| Paxon | Shaw | Unsoeld |
| Payne (NJ) | Shays | Upton |
| Payne (VA) | Shumway | Valentine |
| Pease | Sikorski | Vander Jagt |
| Pelosi | Sisisky | Vento |
| Penny | Skaggs | Visclosky |
| Perkins | Skeen | Volkmer |
| Petri | Skelton | Vucanovich |
| Pickett | Slattery | Walgren |
| Pickle | Slaughter (NY) | Walker |
| Porter | Slaughter (VA) | Walsh |
| Poshard | Smith (FL) | Washington |
| Price | Smith (IA) | Watkins |
| Quillen | Smith (NE) | Waxman |
| Rahall | Smith (NJ) | Weber |
| Rangel | Smith (TX) | Weiss |
| Ravenel | Smith (VT) | Weldon |
| Ray | Smith, Robert (NH) | Wheat |
| Regula | Smith, Robert (OR) | Whittaker |
| Rhodes | Snowe | Whitten |
| Richardson | Solarz | Williams |
| Ridge | Solomon | Wise |
| Rinaldo | Spence | Wolf |
| Ritter | Spratt | Wolpe |
| Roberts | Staggers | Wyden |
| Roe | Stallings | Wylie |
| Rohrabacher | Stangeland | Yates |
| Rose | | Yatron |
| Rostenkowski | | Young (AK) |

□ 1554

The CHAIRMAN. Three hundred ninety-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York [Mr. LAFALCE] for a recorded vote.

Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 401, noes 0, not voting 31, as follows:

[Roll No. 116]

AYES—401

| | | |
|---|---|---|
| Ackerman | Beilenson | Browder |
| Anderson | Bennett | Brown (CA) |
| Andrews | Bentley | Brown (CO) |
| Annunzio | Bereuter | Bruce |
| Anthony | Berman | Bryant |
| Applegate | Bevill | Buechner |
| Archer | Bilbray | Bunning |
| Armey | Bliley | Burton |
| Aspin | Boehlert | Byron |
| Atkins | Boggs | Callahan |
| AuCoin | Bonior | Campbell (CA) |
| Baker | Borski | Campbell (CO) |
| Ballenger | Bosco | Cardin |
| Barnard | Boucher | Carper |
| Bartlett | Boxer | Carr |
| Barton | Brennan | Chandler |
| Bateman | Brooks | Chapman |
| Bates | Broomfield | Clarke |

| | | |
|---|---|---|
| Clay | Hertel | Murphy |
| Clement | Hiler | Murtha |
| Clinger | Hoagland | Myers |
| Coble | Hochbrueckner | Nagle |
| Coleman (MO) | Holloway | Natcher |
| Collins | Hopkins | Neal (MA) |
| Combest | Horton | Neal (NC) |
| Condit | Houghton | Nielson |
| Conte | Hoyer | Nowak |
| Conyers | Hubbard | Oakar |
| Cooper | Huckaby | Oberstar |
| Costello | Hughes | Obey |
| Coughlin | Hunter | Olin |
| Cox | Hyde | Ortiz |
| Coyne | Inhofe | Owens (NY) |
| Crockett | Jacobs | Owens (UT) |
| Dannemeyer | Jenkins | Oxley |
| Darden | Johnson (CT) | Packard |
| de la Garza | Johnson (SD) | Pallone |
| DeFazio | Johnston | Panetta |
| DeLay | Jones (GA) | Parker |
| Dellums | Jones (NC) | Parris |
| Derrick | Jontz | Pashayan |
| DeWine | Kanjorski | Patterson |
| Dickinson | Kaptur | Paxon |
| Dicks | Kasich | Payne (NJ) |
| Dingell | Kastenmeier | Payne (VA) |
| Dixon | Kennedy | Pease |
| Donnelly | Kennelly | Pelosi |
| Dorgan (ND) | Kildee | Penny |
| Dornan (CA) | Kleczka | Perkins |
| Douglas | Kolbe | Petri |
| Downey | Kolter | Pickett |
| Dreier | Kostmayer | Pickle |
| Duncan | Kyl | Porter |
| Durbin | LaFalce | Poshard |
| Dwyer | Lagomarsino | Price |
| Dymally | Lancaster | Quillen |
| Dyson | Lantos | Rahall |
| Early | Laughlin | Rangel |
| Eckart | Leach (IA) | Ravenel |
| Edwards (CA) | Leath (TX) | Ray |
| Edwards (OK) | Lehman (CA) | Regula |
| Emerson | Lehman (FL) | Rhodes |
| Engel | Lent | Richardson |
| English | Levin (MI) | Ridge |
| Erdreich | Levine (CA) | Rinaldo |
| Espy | Lewis (CA) | Ritter |
| Evans | Lewis (GA) | Roberts |
| Fawell | Lightfoot | Roe |
| Fazio | Lipinski | Rohrabacher |
| Feighan | Livingston | Rose |
| Fields | Lloyd | Rostenkowski |
| Fish | Long | Roth |
| Flake | Lowery (CA) | Roukema |
| Foglietta | Lowey (NY) | Rowland (CT) |
| Ford (MI) | Luken, Thomas | Rowland (GA) |
| Ford (TN) | Lukens, Donald | Roybal |
| Frank | Machtley | Russo |
| Frenzel | Madigan | Sabo |
| Frost | Manton | Saiki |
| Gallegly | Markey | Sangmeister |
| Gallo | Marlenee | Sarpalius |
| Gaydos | Martin (IL) | Savage |
| Gejdenson | Martin (NY) | Sawyer |
| Gekas | Martinez | Saxton |
| Gephardt | Matsui | Schaefer |
| Geren | Mavroules | Scheuer |
| Gibbons | McCandless | Schiff |
| Gillmor | McCloskey | Schneider |
| Gilman | McCollum | Schroeder |
| Glickman | McCrery | Schumer |
| Gonzalez | McCurdy | Sensenbrenner |
| Goodling | McDade | Serrano |
| Gordon | McDermott | Sharp |
| Gradison | McEwen | Shaw |
| Grandy | McGrath | Shays |
| Gray | McHugh | Shumway |
| Green | McMillan (NC) | Shuster |
| Guarini | McMillen (MD) | Sikorski |
| Gunderson | McNulty | Sisisky |
| Hall (OH) | Meyers | Skaggs |
| Hall (TX) | Mfume | Skeen |
| Hamilton | Miller (CA) | Skelton |
| Hancock | Miller (WA) | Slattery |
| Hansen | Mineta | Slaughter (NY) |
| Harris | Moakley | Slaughter (VA) |
| Hastert | Molinari | Smith (FL) |
| Hatcher | Mollohan | Smith (IA) |
| Hawkins | Montgomery | Smith (NE) |
| Hayes (IL) | Moody | Smith (NJ) |
| Hayes (LA) | Moorhead | Smith (TX) |
| Hefley | Morella | Smith (VT) |
| Hefner | Morrison (CT) | Smith, Robert |
| Henry | Morrison (WA) | (NH) |
| Herger | Mrazek | Smith, Robert |
| (OR) | Taylor | Washington |
| Snowe | Thomas (CA) | Watkins |
| Solarz | Thomas (GA) | Waxman |
| Solomon | Thomas (WY) | Weber |
| Spence | Torres | Weiss |
| Spratt | Torricelli | Weldon |
| Staggers | Towns | Wheat |
| Stallings | Traficant | Whittaker |
| Stangeland | Traxler | Whitten |
| Stark | Udall | Williams |
| Stenholm | Unsoeld | Wilson |
| Stokes | Upton | Wise |
| Studds | Valentine | Wolf |
| Stump | Vander Jagt | Wolpe |
| Sundquist | Vento | Wyden |
| Swift | Visclosky | Wylie |
| Synar | Volkmer | Yates |
| Tallon | Vucanovich | Yatron |
| Tanner | Walgren | Young (AK) |
| Tauke | Walker | |
| Tauzin | Walsh | |

NOES—0

NOT VOTING—31

| | | |
|---|---|---|
| Alexander | Goss | Pursell |
| Bilirakis | Grant | Robinson |
| Bustamante | Hammerschmidt | Rogers |
| Coleman (TX) | Hutto | Ros-Lehtinen |
| Courter | Ireland | Schuette |
| Craig | James | Schulze |
| Crane | Lewis (FL) | Smith, Denny |
| Davis | Mazzoli | (OR) |
| Fascell | Michel | Stearns |
| Flippo | Miller (OH) | Young (FL) |
| Gingrich | Nelson | |

□ 1602

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOSS. Mr. Chairman, on rollcall No. 116, on the adoption of the LaFalce-Campbell amendment, I was at the White House meeting with the President and missed the vote. Had I been present, I would have voted aye.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Chairman, on rollcall No. 116, on the adoption of the LaFalce-Campbell amendment, I was at the White House meeting with the President and missed the vote. Had I been present, I would have voted aye.

PERSONAL EXPLANATION

Mr. MICHEL. Mr. Chairman, as a result of my work today with my colleagues on the budget summit, I missed rollcall No. 116, which was the vote on the amendment offered by Messrs. LAFALCE and CAMPBELL. Had I been present, I would have voted aye, because I strongly believe that this amendment strikes the appropriate balance between the goals of the Americans With Disabilities Act and the need to ensure that small businesses have an opportunity to learn what their duties are under this important legislation.

PERSONAL EXPLANATION

Mr. STEARNS. Mr. Chairman, on rollcall No. 116 on the adoption of the amendment of the gentleman from New York [Mr. LAFALCE] I was at the White House with other members of the Florida delegation briefing the President on an objection to offshore oil drilling. Had I been present, I would have voted aye.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER, Mr. Chairman, reserving the right to object, I would ask the gentleman from Michigan the purpose of his request.

Mr. DINGELL. Mr. Chairman, I have asked unanimous consent that I be permitted to address the House out of order for the purpose of making an announcement in concert with my friend, the gentleman from New York [Mr. LENT], regarding the filing of the report on the clean air bill.

Mr. WALKER. Reserving the right to object, Mr. Chairman, would not the normal procedure be to do that in the House rather than when we are in the committee?

The CHAIRMAN. The gentleman from Michigan is only making an announcement out of order.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## PERSONAL EXPLANATION

Mr. ACKERMAN. Mr. Speaker, it has come to my attention that I was recorded as not voting when, in fact, I was present and voting in the Chamber.

On rollcall No. 113 I was recorded as "not voting" on ordering the previous question on H.R. 2273. I was present, I did insert my voting card, and I did vote "yea." My votes apparently were not recorded due to a malfunction of the voting system.

## ANNOUNCEMENT OF FILING OF CLEAN AIR BILL

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Pennsylvania. This is for the purpose of announcing that after long and difficult effort in terms of writing the legislation, dealing with it in the committee through the hearing process, through the markup process, and then through the process of actually drafting the legislation as ordered reported by the committee and drafting the report, which is the document which sits here before me, and I would like my colleagues to look to see the foot-high document we are filing, the Committee on Energy and Commerce has directed me to file the report on the Clean Air Act Amendments of 1990. This is the legislation which will be on the floor next week.

We have done our best to provide this service to the House with all speed. It represents the hard work of a

lot of my colleagues, the gentleman from California [Mr. WAXMAN], chairman of the subcommittee; my very dear friend and able friend, the gentleman from New York [Mr. LENT], who has worked long and hard on this matter and who has carried out his responsibilities with extraordinary competence, diligence, and decency; my colleague from Indiana [Mr. SHARP], chairman of the Subcommittee on Energy and Power; and a large number of others of our colleagues far too numerous to name in the committee in my limited time.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to my dear friend, the gentleman from New York [Mr. LENT], who has worked enormously hard and with great dedication and diligence on this matter.

Mr. LENT. Mr. Chairman, I thank the gentleman from Michigan, chairman of the Committee on Energy and Commerce, for yielding. I just wanted to commend the gentleman from Michigan for the leadership that he has displayed in getting this bill through the Energy and Commerce Committee. It has been a great many years that this legislation is overdue, and I think because of the leadership displayed by Chairman DINGELL, and also because of the impetus put behind this bill by the President of the United States, who offered the original clean air reauthorization bill, H.R. 3030, we are at this point today.

I would hope that the Rules Committee will shortly be convening so that this very important measure can be brought to the floor of the House for general debate, and then for the amendment process.

Mr. DINGELL. I would observe to my colleagues that we have compromised out the difficulties which exist with regard to approximately five titles. Three titles remain to be dealt with in terms of discussion, and a half of another title remains to be dealt with. We will try during the time that remains between now and the time the measure comes to the floor to continue working and negotiating to see to it that those remaining differences are addressed so that we can bring the bill to the floor in the best possible condition.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, if I understand correctly, the gentleman from Michigan is prepared to file the clean air bill. Some of the committees, such as the Science, Space, and Technology Committee, would be entitled to sequential referral of the bill. I am not aware as the ranking member of that committee that we have had an opportunity at this point to deal with the legislation. Is the gentleman from Michigan aware of the situation, and how are we filing a bill without our committee getting a proper sequential referral?

Mr. DINGELL. The question of referral of these matters to other committees is not in the hands of the chairman of the Committee on Energy and Commerce. It lies elsewhere.

However, I would assure the gentleman from Pennsylvania that we are going to try to be working with our colleagues on these other committees to resolve their concerns, both substantively and jurisdictionally.

Mr. WALKER. If the gentleman will yield further, it was my understanding, for instance, that we were trying to work out something where the Committee on Science, Space, and Technology title would be placed in the bill. It is my understanding that that has not been done at the present time, and I am wondering whether or not that is going to be accommodate at some point before the bill is filed?

Mr. DINGELL. We are going to try to work with our friends on the Committee on Science, Space, and Technology so as to enable that particular title to be offered on the floor, and to be added as an amendment at this point. We are in no way hostile to recognizing the jursidiction of that committee or the Committee on Public Works and Transportation, or the Committee on Ways and Means, or the Committee on Merchant Marine and Fisheries with regard to the concerns that they have on those parts of this legislation that may fall within their jurisdictions.

Mr. WALKER. If the gentleman will yield further, so it is my understanding then we will not get sequential referral, but rather would have to bring our jurisdiction to the floor on our committee and to offer it as an amendment to the bill.

Mr. DINGELL. I will tell the gentleman that is not a decision which lies in my hands.

Mr. WALKER. I understand that, but that is the procedure as the gentleman understands it?

Mr. DINGELL. I am not able to answer the gentleman's question, because I simply do not know the answer.

Mr. WALKER. I thank the gentleman from Michigan.

Mr. DINGELL. This is not a matter which is in my power to deal with.

Mr. WALKER. I thank the gentleman from Michigan.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I assume the same courtesy would be extended to the Committee on Public Works and Transportation should the Parliamentarian's office see fit to have referral?

Mr. DINGELL. Again, I have no response to my good friend. This is not in the control or the hands of the chairman of the Committee on Energy and Commerce.

Mr. MINETA. That is what I am saying, that the Parliamentarians would determine?

Mr. DINGELL. We are going to try to work with all our sister committees, including the Committee on Public Works and Transportation. I recognize their concerns. The gentleman should know that the provisions he is talking about were in the bill as sent up by the administration. We will try and work with our colleagues on the Committee on Public Works and Transportation to see to it that those concerns are dealt with.

Mr. MINETA. I appreciate the response of my colleague.

The CHAIRMAN. Pursuant to the rule, it is now in order to consider amendment No. 2 printed in House Report 101-488.

□ 1610

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment as printed in the report.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCCOLLUM: "and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job."

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

Mr. McCOLLUM. Mr. Chairman, I do not believe there is going to be any opposition to this amendment, but I would like to explain it, and if there is no opposition, I believe the gentleman from Maryland would like to have half of my time and I would be glad to yield him 5 minutes of the 10 if that be the case.

If I could do so, I will now consume 5 minutes.

The basic thrust of this amendment that I am offering today goes to the very essence of this bill.

Under the employment section the definition of what a person is covered by this and who has the right to seek redress is framed in terms of an employee, a potential employee, a handicapped person who can perform the essential functions of the job. If that person can perform the essential functions of the job and the employer can provide reasonable accommodations without undue hardship, he has got to give him a fair shake and give him a

chance at that job and consider him equally along with everybody else.

The issue that came up to us in the Committee on the Judiciary was who decides what those essential functions are. Ultimately it could be a court, it could be some regulatory agency, it could be a lot of different folks who could decide this thing in the long run.

We need to give some guidance to them as to that fact.

So in the Committee on the Judiciary, to try to get a better grip on the essential functions and give guidance to those making decisions down the road, it was placed in the bill by an agreement worked out and adopted in committee that for the purposes of this title consideration should be given to the employer's judgment as to what functions of a job are essential.

My amendment leaves that intact and it simply provides that, in addition to that, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

In my judgment, this would reduce the chances of courts arbitrarily substituting their judgment for an employer's when it comes to determing the essential functions of the job, but still allows the employee, the potential employee, the handicapped person to present his or her own evidence. It is not a binding proposition.

And furthermore, by adopting this additional protection in this bill, this additional language that I am proposing today, you protect the disabled worker from some employer giving testimony and in his testimony attempting to shape the essential functions of the job to exclude the worker if there is indeed a written description of that job already on file with the employer in his office from way back when.

So I would submit this is a very simple amendment and yet it is one that provides a measure of protection not in the bill right now to both the employer and the handicapped worker, and if we put it in the bill we may reduce the amount of litigation and the cost to the employer and the hassle to the would-be employee and make this thing work a little better in the area of essential functions, which is critical to the entire bill in terms of the employment section of the bill.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support strongly the gentleman's amendment. It is similar to an amendment which I originally offered at the subcommittee level. Basically what it does is it allows the employer to define what the essential functions of the job are. I believe that that will considerably reduce litigation and questions over this issue.

Second, by putting the language proposed by my friend from Florida into the bill, it will prevent an employer from making up evidence after a discrimination charge has been filed.

So in this respect, it protects handicapped employees who are potential victims of discrimination.

I believe under the McCollum amendment everybody is a winner: employers, handicapped individuals who are seeking jobs as well as the judicial process which will be relieved of, hopefully, quite a few lawsuits.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the distinguished chairman, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Chairman, we thank the gentleman from Florida [Mr. McCOLLUM] and the gentleman from Wisconsin [Mr. SENSENBRENNER] for working with us on this. We did not approve of the original version. But, Mr. Chairman, we want to make it clear that we are accepting this amendment because it does not change current law or affect the burden of proof. The amendment simply states that written job descriptions shall be considered as evidence. It assigns no weight to the evidence.

The weight that evidence of a job description will be given will depend directly on how closely it is tailored to the essential duties of the actual job. Writing down discriminatory criteria certainly does not shield them.

In fact, a job description can also be used as evidence of discrimination.

My vote on this issue and our consent on this issue is based on this understanding.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. Mr. Chairman, I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, I do support the gentleman's amendment. I think it helps to clarify the legislation. I commend the gentleman for offering it.

The ADA provides in its current form a protected individual must be able to, with or without reasonable accommodation, perform the essential functions of the job.

This amendment makes it clear in statutory language that a court would consider the employer's written job description as evidence as to what is an essential function. As such, it would complement existing language in the bill which provides that consideration should be given to the employer's judgment as to what functions of the job are essential.

I would note that the gentleman from Florida [Mr. McCOLLUM] is the author of that language in the bill which made a significant improvement in the bill at committee.

The amendment is entirely consistent with what would likely happen in any event. It is completly reasonable. It does help the bill, it helps to clarify exactly what we have been considering, and I commend the gentleman for his amendment.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Chairman, I also rise in support of that and adopt the representations made by the distinguished chairman of the subcommittee, the gentleman from California [Mr. EDWARDS].

I think what this does is we want to make sure that it is clear that in the description of the functions of the job placed upon that job by the employer are to be considered by a court. We would expect them to do that. They ought to do that. I agree with the chairman that that is not dispositive of it. Of course, the amendment does not say it is dispositive of the question.

But it seems appropriate to us for the employer's opinions as to what the essential functions of the job are to be considered by the court. We take that as what the amendment does, and we certainly will not object to it.

Mr. McCOLLUM. Mr. Chairman, I yield to the gentleman from Ohio [Mr. ECKART] for the purpose of a colloquy with the gentleman from Maryland [Mr. HOYER].

Mr. ECKART. Mr. Chairman, I would like to ask the distinguished gentleman from Maryland if he would comment on a particular aspect of the bill. Sections 104 and 510 of the bill specifically refer to illegal drug use and to individuals who formerly used illegal drugs. I have a few questions about these sections. It is my understanding that each of the professional sports leagues has a policy governing drug use by players. I believe that we in Congress should support and encourage efforts by professional sports leagues to deter drug use by players and others. I would like to know how this bill would affect the drug programs of professional sports leagues.

Mr. HOYER. I agree with the gentleman that the drug programs established by the NFL, NBA, NHL, and major league baseball are an important part of our national effort to combat drug use. I would like to emphasize for the gentleman that these policies have been reviewed and that they are consistent with this act.

Mr. ECKART. Mr. Chairman, it seems to me that our knowledge about drug use and how to deter and treat it

is constantly changing. In endorsing the current policies of the professional leagues, does this bill intend to freeze those policies in place?

Mr. HOYER. No. As the gentleman knows, the policies of the sports leagues differ in a number of significant ways and the bill does not specifically approve those and only those programs currently in place. The bill does not prohibit leagues from modifying their programs in response to changed circumstances or developments in medicine, technology, or drug or alcohol treatment.

Mr. ECKART. I thank the gentleman from Maryland [Mr. HOYER], my colleague, and the gentleman from Florida [Mr. MCCOLLUM].

Mr. HOYER. Mr. Chairman, will the gentleman continue to yield?

Mr. MCCOLLUM. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding further.

Mr. Chairman, I commend the gentleman on his amendment and join him in its support.

Mr. MCCOLLUM. Reclaiming the balance of my time, Mr. Chairman, I just want to comment that the very essence of what we are doing here is clarifying the language so we put the responsibility clearly on the record in the statute with regard to the determination of what essential functions are.

□ 1620

We do not change, as the gentleman has stated on the other side, the basic thrust or waste of evidence, but we do clarify that the opinion as is in the bill coming before Members today of the employers giving consideration, and where there is a job description with this amendment, it is very clear that job description is admissible in evidence, in addition to the opinion of the employer being allowed into evidence.

I thank the gentleman, and with that kind of consent we should get a favorable vote. I urge the Members to vote yes to the amendment.

The CHAIRMAN. Is there a Member seeking recognition who is opposed to the amendment?

If not, the question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

The CHAIRMAN. Pursuant to the rule, it is now in order to consider amendment No. 3 printed in House Report 101-488.

AMENDMENT OFFERED BY MR. OLIN

Mr. OLIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OLIN: In section 101, at the end of paragraph (10) (relating to undue hardship), insert the following: "(C) EXCESSIVE COST HARDSHIP.—For the purpose of this title, it is presumed an undue hardship if an employer incurs costs in making an accommodation which exceeds 10 percent of the salary or the annualized hourly wage of the job in question."

The CHAIRMAN. The gentleman from Virginia [Mr. OLIN] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

MODIFICATION OFFERED BY MR. OLIN TO THE AMENDMENT OFFERED BY MR. OLIN

Mr. OLIN. Mr. Chairman, I ask unanimous consent to make a technical change in the amendment on line 4 to add the word "annual" before the word salary. It was a typographical error.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. The amendment is modified.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. OLIN: In section 101, at the end of paragraph (10) (relating to undue hardship), insert the following: "(C) EXCESSIVE COST HARDSHIP.—For the purpose of this title, it is presumed an undue hardship if an employer incurs costs in making an accommodation which exceeds 10 percent of the annual salary or the annualized hourly wage of the job in question."

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. OLIN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, if the gentleman has no objection, we would like to rise momentarily for the purpose of the majority leader making some announcements, and go right back into Committee.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, had come to no resolution thereon.

## PROVIDING FOR CONSIDERATION OF H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that on Monday, May 21, 1990, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3030.

I further ask unanimous consent, Mr. Speaker, that general debate shall be confined to the bill and shall not exceed 8 hours, with 6 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and with 1 hour to be equally divided and controlled by the chairman and ranking minority member of any committee receiving sequential referral of the bill.

Further, Mr. Speaker, I ask unanimous consent that at the conclusion of general debate, the Committee of the Whole shall rise without motion and any further consideration of the bill shall be determined by a subsequent order of the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## HOUR OF MEETING ON TUESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that on Tuesday, May 22, 1990, that the hour of meeting of the House be 10 a.m.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## REQUEST FOR WAIVER OF POINTS OF ORDER AGAINST H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that there be a waiver of points of order against consideration of H.R. 3030.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## AMERICANS WITH DISABILITIES ACT OF 1990

The SPEAKER. Pursuant to House Resolution 394 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2273.

□ 1625

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, pending was an amendment offered by the gentleman from Virginia [Mr. OLIN], as modified. The Chair recog-

nizes now the gentleman from Virginia for 15 minutes.

Is there a Member opposed to the amendment?

Mr. FISH. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from New York [Mr. FISH] will be recognized for 15 minutes also.

Mr. OLIN. Mr. Chairman, I yield myself such time as I may consume.

I want to say at the outset I am very much in favor of the bill we are considering today. I have some problems with it. I think we could improve the bill some, but it is a bill we need. It is well thought through, and I congratulate the gentleman from Maryland for the work he has done on it, as well as the four committees and all the Members who did work on it.

Mr. Chairman, my amendment is to title I of the bill, employment, and it deals with the accommodation of qualified disabled persons, when that person is hired by a business. The bill, as we all know, requires that the employer make reasonable accommodations for such a disabled person. The bill goes on to further explain that reasonable accommodations is further defined as something that can be done without undue hardship. Undue hardship is then further defined as an action which requires a significant difficulty or expense.

The bill makes an attempt to define what the obligation of the employer is, but really when we come right down to it, it is going to be any person's guess what really is the dividing line between a sufficient response by the employer and an insufficient response.

I just think that it is a mistake to have legislation of this nature that affects so many people, so many employers, and literally millions of disabled people, without having the further guidance that would make it possible for the employers to know what was expected of them when they have to decide whether to accommodate an employee or not.

Now, the bill offers some help in this regard, and there have been many of the committees that have words that are directed in this direction. Mr. Chairman, there are hundreds of varieties of conditions of disability. Of course, we have countless varieties of business institutions that are going to be dealing with this. I asked one of the Members working on the bill how a person could determine what degree of accommodation was required. The answer was that it will have to be decided in court. Of course, over a long period of time, it could be decided in court. Another answer was that section 504 of the Rehabilitation Act of 1972 was really the same thing, but that act dealt with people that are contracting with the Federal Government. I make the case that that is not the same thing.

My amendment says that it is presumed to be undue hardship if an employer incurs costs making accommodation of more than 10 percent of the annual salary or the annualized hourly rate of the job in question. This is a limit that is easier to administer. It is fair. It is more likely not to cause problems.

□ 1630

Some persons might think that this 10 percent is not quite the right way to express this way of limiting, and I accept the possibility that there are other ways. I believe that this bill should contain some provision in this regard that puts some kind of finite limit on what the employer's responsibility is, and I think as this bill goes into conference, other ways of interpreting this might be possible. But with no mention of this subject in the bill at all, the subject will not be put in it, and we are going to living with a bill where it is almost impossible for employers to know where they stand unless they go to court.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. OLIN. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding, and I thank the gentleman for offering this amendment.

Mr. Chairman, this amendment is very similar to one that I sponsored over in the Judiciary Committee. We were unsuccessful on it, but it is my judgment that of all the amendments we are going to be considering on the floor today, this one may be the most significant one from the standpoint of mitigating the cost to small business. That is why the National Federation of Independent Businesses so strongly supports the gentleman's effort in this regard.

We are talking in this bill about two features of cost. We are talking about the cost of making the accommodation for the handicapped worker, a cost of moving walls in some cases and making physical plant changes that take dollars out of the business, and we are talking about the cost of litigating, paying lawyers' fees to try to define some things that are not clearly defined in this bill.

Undue hardship is a nebulous thing, although there is a lot of case law on it. Every single case is going to have to be determined independently or at least potentially.

What the gentleman's amendment does is very simple. The gentleman puts a ceiling with this amendment on the cost that is going to have to be incurred by that small businessman, and the gentleman says in both cases really that we are going to help him. We have 10 percent of the annual salary of the would-be employee, the handicapped employee. Whether that is a $10,000-a-year employee or a $100,000-a-year employee, it is no more than 10 percent, and if we cross that 10 percent, then we are presumed to have an undue hardship. So the gentleman makes sure there is no greater cost than that which he is going to have to incur to make this accommodation. He does not set a floor because there is still the opportunity to have undue hardship on a case-by-case basis, but he does reduce the litigation opportunities because everybody looking at this is going to know from day one that they certainly are not going to get the employer to spend more than that 10 percent.

So I admire the gentleman from Virginia for offering his amendment. I think it is really needed here. It does not in any way hurt the intent of the bill, which is to provide job opportunities for the handicapped, but it does provide a measure in some kind of way to get a grip on the potential runaway cost otherwise under this bill in litigating every instance that comes along. It gives us a guideline and a definition.

Mr. Chairman, for the life of me, I do not know why anyone would oppose this amendment, though I know some of my colleagues do. So I thank the gentleman for yielding. I strongly urge a yes vote on the Olin amendment, and I thank the gentleman for offering it.

Mr. OLIN. Mr. Chairman, I thank the gentleman from Florida [Mr. McCOLLUM] for his comments, and I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just say at the outset that essentially this amendment is one of several where an effort was made to negotiate with the White House in the past few weeks. They found this language unacceptable, and they strongly urge as an alternative the small business tax credit, which was the subject of the colloquy earlier and which I certainly favor very strongly. The business community is also in favor of that as a freestanding piece of legislation.

Mr. Chairman, I propose to yield half of my time to my colleague, the gentleman from New York [Mr. OWENS]. That will give the gentleman from New York 7½ minutes for him to control.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. OWENS] may control that time.

There was no objection.

Mr. FISH. Pending that, Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. BARTLETT] who, along with the gentleman from Maryland [Mr. HOYER], is one of the two

midwives of this legislation and who will offer his arguments in opposition.

Mr. BARTLETT. Mr. Chairman, I appreciate the kind and colorful words of the gentleman from New York [Mr. FISH] in yielding time to me.

Mr. Chairman, I rise in very strong opposition to the amendment offered by the gentleman from Virginia [Mr. OLIN].

I have a great deal of respect for the gentleman from Virginia [Mr. OLIN]. I have a great deal of respect for those who would urge this amendment as an attempt to try to make this bill in their opinion much more easily understood. In my opinion, though, this amendment would in fact be harmful both to those who are disabled and to the employers themselves. It would be harmful to those who are disabled because it would disrupt the basics of the bill, which is the main part of a reasonable test for a reasonable accommodation, and it would replace the concept of reason with the concept of a strict monetary amount.

It would be harmful to the employer, Mr. Chairman. It would do a great deal of harm to the employer, in my opinion, because it would convert in most cases what would be a minor, much less significant expense to the employer to a much larger expense as defined by this amendment as 10 percent of the annual salary.

We have heard it said on this floor that the definition of "undue hardship" is "vague and undefined and difficult to understand." I want to bring to the attention of the Members that first of all this is the same definition that has been in public law since 1973, and the country knows exactly what it means because it has been well defined; it has been tested in every court in the land, and in fact it is very clear what "undue hardship" means.

Second, I want to remind the Members that "undue hardship" is defined in this bill in a very small set of words. "Undue hardship" is defined as "significant difficulty or expense." That is not a set of words that are difficult to understand. In fact, the gentleman's amendment would replace the concept of an employer not having to provide a reasonable accommodation if it is a significant expense, in effect requiring, although it does not say that, or inducing the employer to pay up to 10 percent of the annual salary.

We have also heard it said that this amendment is the same as the law in North Carolina. I want to say that that is not so. In North Carolina the law creates an irrefutable, absolute presumption that a percentage of salary is in fact a ceiling. This does not create an absolute or an irrefutable presumption. The amendment offered by the gentleman from Virginia in fact simply says that for purposes of this title, 10 percent would be presumed to be an undue hardship, inviting, therefore, a target for a lawsuit because it does not have to be limited to 10 percent. It is only a presumption, and the presumption is not irrefutable. In fact, the amendment before us attempts to set a ceiling on expenses, but it does not set a ceiling at all because it is not an irrefutable presumption. But it does set a floor.

Let us consider the reality. With an employee who is hired with a speech impediment, the employer makes a reasonable accommodation of no cost, of simply not requiring that employee to take his turns on the telephone in the reception area during the noon area and dividing that time among the other employees. There would be no cost to the employer, and it would be a modest, reasonable accommodation by the employees. The employee with the speech impediment gets the position and then goes to the employer and says, "Wait a minute, I earned $20,000 a year with this company. Where is my 10 percent, my $2,000 for speech therapy?"

Or we may have an employee who has cerebral palsy and a limited use of his or her hands, and the employer buys a $89.95 lazy susan for the files on that employee's desk, and the employee upon receiving it says, "Where is the other $1,500 as a percentage of my salary to provide an attendant or a different set of files, or something in addition?"

No, the fact is that a tax credit is a much better way to go. I wish a tax credit were in this bill. But I am convinced, after hearing the Chairman of the Ways and Means Committee earlier in the colloquy, that we will have a tax credit to provide for some portion of the cost for reasonable accommodation to be paid for by the taxpayers. I think that is a much better way to go. It has universal support on this House floor and in the other body.

Mr. Chairman, I ask the Members to vote no on the Olin amendment. The Olin amendment attempts to set a ceiling, but in fact it sets a floor. The Olin amendment attempts to define "reasonable," but it in fact makes "reasonable" unreasonable in many cases. The Olin amendment attempts to set a presumption, but in fact it sets a target for a lawsuit.

Mr. OLIN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I thank the gentleman for the opportunity to speak briefly on this important amendment. The committees of jurisdication that have worked hard on this legislation are to commended.

Having been the prime sponsor of North Carolina's disability act and chairman of the Judiciary Committee which considered that legislation in North Carolina, I know the difficulties of crafting a piece of legislation that is so complex and has so many competing interests.

□ 1640

Mr. Chairman, they have produced a good bill, but it can be made better by the adoption of the amendment of the gentleman from Virginia [Mr. OLIN].

I would simply point out that the experience in North Carolina, which is the basis for this amendment, has been very different from what the gentleman from Texas [Mr. BARTLETT] has stated. The North Carolina 5-percent rule has not served as either a floor or as a ceiling, but has, in fact, simply been providing that certainty to the business community that they need in legislation such as this.

Mr. Chairman, I believe that a 10-percent rule, such as has been crafted by the gentleman from Virginia [Mr. OLIN], does, in fact, give to the business community the certainty, gives them the guidelines that they need in determining the extent to which they will be expected to make financial commitments to accommodating the disability of the potential employee, and I certainly urge the strong support of each Member of this House for this amendment.

Mr. OWENS of New York. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Virginia [Mr. OLIN], and I yield myself 2 minutes.

Mr. Chairman, as has been stated already, there was a considerable discussion of the concept of undue hardship during the deliberations about this bill. We also have a long history of undue hardship being interpreted by the courts.

Mr. Chairman, my question to the gentleman from Virginia [Mr. OLIN], who has offered this amendment is, On what basis do we choose 10 percent? Why not 5 percent? Why not 9 percent? Why not 25 percent? On what basis do we choose 10 percent? Is there a body of evidence which leads us to conclude that 10 percent is the magic number?

Mr. Chairman, what happens is that 10 percent becomes an arbitrary and unjust figure because there is no history, there is nothing, to back it up. The gentleman's argument might hold some weight, after maybe even 5 years, and there was a body of experience, and some case law and a number of cases to base some kind of conclusion like this that he has reached, but at this point it is a very harmful amendment, as simple as it may seem.

Ten percent is a magic figure? Ten percent is handed down by the gods? How do we reach that 10 percent figure?

Mr. Chairman, what if one employee's accommodations are used for a second employee, and that employee comes on? What if several employees

are covered by one set of accommodations? How do we figure the annual salary? Do we combine the annual salaries of three employees who might be hired at the same time and might need accommodation? What about the history, changing a door here, changing a telephone there, and for 10 years it is in existence, or maybe 20 years. Would there be a capital writedown on it? And figure it on the basis of its depreciation value, or do we take the total cost of that improvement and charge it to one employee and then his annual salary?

Mr. Chairman, there are a number of complications that are raised by the introduction of this seemingly simple 10-percent rule. We leave it up to the courts. They have a long history of interpreting what undue hardship is.

The language is quite clear and quite simple already. This amendment only complicates matters a great deal despite its seeming simplicity, and I would urge a no vote on the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I appreciate the gentleman from Texas [Mr. BARTLETT] who got up and wanted to protect the employers by not setting a floor with this amendment, but I might point out that it is the employers that want this amendment, that the NFIB is making this a key element of their vote rating. This is very important to them, and this exemplifies the problem we have had during this whole process.

The gentleman from New York [Mr. OWENS] talks about having a long case history, a dealing with section 54 of the Rehab Act since 1973. That is case history on government entities with deep pockets. We are going from deep pockets of government industry and applying this bill to private sectors that could not have the deep pockets of government, and that is the big difference. Employers must know how they are to comply with this law.

Proponents say it will not cost a whole lot of money. I ask, Then why are you against this amendment? If this bill doesn't cost employers a whole lot of money, then accept a cap on an amount of money that the employer has to deal with telling him how to comply with the law.

Mr. Chairman, it frightens me when someone tell me that the courts will decide on this issue. If frightens me greatly. This is harmful to the employer by applying this higher expense. It is the wrong argument. The employers are willing to accept this higher expense for certainty of compliance rather than leave their fate up to the courts.

Mr. OWENS of New York. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I just rise to encourage people to oppose this amendment because I think one of the things that is so unfair about it is that, if my colleagues look at the employee's salary and use that as the measuring rod to determine whether or not there is an undue burden to try and accommodate, they really are going to discriminate among the lowest paid workers in America.

Mr. Chairman, very often we are trying to help people who have already been discriminated against, and we are now going to hit them with a double discrimination by hitting them again by saying, "Oh, well, they don't have to do this for you. You can stay at those wages because it costs too much."

I think this especially hits also women and minorities. It hits a lot of transitional and temporary employees. It hits all sorts of things.

As my colleagues know, the question then becomes, "What do you look at? If you have a part-time employee, do you look at their entire year's wages? If you project it out, you look at the part-time wage?"

There are a lot of different questions here, and I just think we do not need to do this, so I really hope we do not shoot ourselves in the foot by trying to double up the discrimination here that we are trying to undo.

Mr. Chairman, I see this amendment as doubling up discrimination that the bill is trying to undo, so I urge Members to look at this very carefully, realize what this will mean, if we have this cap per employee based on their salary, and realize how that can be very discriminatory for low-income employees.

It is great for Donald Trump. It is lousy for the person who is cleaning up after Donald Trump.

Let us be perfectly honest about this, and I think we have enough of that type of stuff in legislation, and I urge a "no" vote.

Mr. OLIN. Mr. Chairman, I want to point out to the Members that I just got word there has been some rumor that the White House was opposing this amendment, and the call that was made to them 2 minutes ago indicated that that was a false rumor, that the White House very much favors this amendment and is supporting it.

Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I also rise in strong support of the amendment of the gentleman from Virginia [Mr. OLIN], and it is not that I do not have some sympathy with the arguments just made by the gentlewoman from Colorado [Mrs. SCHROEDER].

I would, for example, be interested in possibly supporting an amendment that the gentlewoman from Colorado [Mrs. SCHROEDER] might offer that would allow the lower paid workers to have, for example, a 20-percent cutoff so that we could have some progressivity in it, whatever the number might be chosen.

The important thing though is to have certainty, certainty for the employers so that they can understand this law and plan on their own without the advice of counsel to look back through case law, through 17 years, and without relying on their local Federal judge to figure it out for them.

Mr. Chairman, the small businessman should be given a law that he or she can understand and can implement largely on their own. Many attorneys in my district do not even have access to the elaborate Federal case law that is required to understand prior acts.

We need to have a simpler act, an act with certainty, and that is what the amendment of the gentleman from Virginia [Mr. OLIN] leads us toward.

I am not saying that it could not be improved in conference, and I do want to say that I view the Olin amendment as a ceiling, and not as a floor, and I think the author of the amendment has a similar intention.

People may characterize it as they would like. The truth is that the amendment of the gentleman from Virginia [Mr. OLIN] just sets a ceiling, and I think that it is an amendment that most small businesses and most small business friends should strongly support.

I urge a yes vote on the amendment of the gentleman from Virginia [Mr. OLIN].

□ 1650

Mr. OWENS of New York. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in opposition to the Olin amendment. Congressman OLIN's amendment would create an unfair presumption that a reasonable accommodation of over 10 percent of an employee's annual salary constitutes an undue hardship and would not be required under the act.

Today, are we going to say that a company manager who earns $40,000 is entitled to a greater accommodation than the mailclerk who receives a salary of $15,000? The intent of this legislation is to provide equity where none exists. The Olin amendment would allow further discrimination by making available to employees with the lowest paying jobs a lesser accom-

modation, without consideration of the individual's skills or qualifications.

In the Education and Labor Committee, we approved amendments which clarified what would be used to consider undue hardship. This issue was also addressed in the Judiciary Committee which also took into account financial resources of the employer.

In addition, the Olin amendment fails to recognize that many accommodations such as a ramp, reader, or interpreter, last for many years and would benefit employees other than the applicant and possibly others in need of special assistance.

For example, building a ramp may cost more than 10 percent of one employee's $10,000 annual salary.

I cannot support this amendment because it would erode the flexibile approach embodied in the Rehabilitation Act and adopted by the ADA. I must also oppose this amendment because it unfairly switches the focus away from the resources of the employer and onto the annual salary of the employee.

I urge my colleagues to also vote against the Olin amendment.

Mr. OLIN. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in support of Mr. OLIN's amendment. I strongly support the purposes of the ADA bill, yet despite all the effort expended on its development, there still remain portions which provide differences in interpretation, such as the section concerned with accommodation to facilitate the employment of a disabled job applicant.

Once this bill becomes public law, it will be necessary for employees across the country to make millions of individual decisions as to how it might be implemented. "Undue hardship" and "reasonable accommodation" will be the only guidelines available to them, with no assurance or certainty that whatever they propose by way of accommodation will not lead to litigation, and subsequent lengthy judicial resolution.

I believe the Olin amendment provides defined, reasonable standards—reasonable to those who are disabled, while at the same time reasonable to the employers.

I urge our colleagues to support this amendment, and thereby facilitate the movement into the workforce of the disabled who seek employment.

Mr. OWENS of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to this amendment. I do not think this amendment is doing the business community any favors. I think if it were adopted it would be quickly regretted as creating a presumptive level of accommodation that would become a ceiling and a floor at the same time. That is not what we need in this legislation. We need flexibility, and in fact this standard of reasonable accommodation is one that has been successfully applied in federally funded programs under the 1973 Rehabilitation Act.

If we are to set this kind of arbitrary limit, we are going to fail to make reasonable accommodations that cost a little less and we are going to have litigation whether other accommodations that were done are adequate because they do not reach this 10 percent standard.

Flexibility, not a rigid formula rule, is what is needed to make this legislation effective and workable.

We also have to worry about the discretionary impact of a percentage applied as a limit. Obviously, those who are applying for lower paying jobs ought not to find themselves screened out of these opportunities, while those who are applying for higher paying jobs are successful because they fall within the 10 percent cap.

Arbitrary formula limits are not what this legislation is about. This legislation is about prudent judgments and nondiscriminatory practices in employment.

The bill as it is presented on the floor has successfully provided the necessary protections for the small business community. It has provided the kind of flexible rule that can be applied on a case-by-case basis and can avoid litigation, rather than promote litigation.

I commend those who have authored this bill for the way they have walked that line with judgment and prudence.

Mr. Chairman, I urge the House to reject this amendment.

Mr. FISH. Mr. Chairman, since I remarked something about the administration's position which had the value of being 2 weeks old, I now would like to clarify as to whether or not they oppose, favor or simply refuse to negotiate on this position earlier, and I yield such time as he may consume for that purpose to my friend, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, in the event this is of consequence to any Member's vote on this floor, the official White House position as of a few moments ago from the Congressional Liaison Office is that the White House has no position on this amendment.

Mr. FISH. Mr. Chairman, I thank my friend.

Mr. Chairman, I yield the balance of my time to my friend, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding his remaining time to me.

I rise in strong opposition to the Olin amendment.

I want to say to both sides of the aisle, I think this is the situation, frankly, that we have been in on many parts of this bill where we brought together differing points of view and agreed on a reasonable outcome.

I want to endorse the remarks of the gentleman from Texas [Mr. BARTLETT] 100 percent. He sets it out very, very clearly.

First, what is the standard? One need not pay for an accommodation that imposes an undue hardship. What is that? A significant difficulty or expense.

I suggest to you that a threshold, that is to say, for a small business, will obviously be a smaller number than for a larger business. Think, if you will, if a small business only has three employees and the employee is making $20,000 so that the 10 percent would be $2,000, but the gross income of that company may be very small. In fact, significant difficulty or expense may be $400, it may be $300, depending on the resources of the company.

On the other hand, let me call your attention to the remarks made just yesterday by Dick Drach, the manager of the disability program at E.I. Dupont, who said that 10 percent of salary as a definition of undue hardship does not make any sense from the perspective of a large corporation.

Furthermore, the amendment draws an artificial distinction between employees at different salary levels.

What is it, the $10,000 employee who is in a wheelchair or the $100,000 employee in a wheelchair at one site? How do you make that determination? Nobody can say that.

The other gentleman from Texas who I asked to yield was incorrect. Under section 503 we have Federal contractees. They are private sector people. Not one person has come after 16 years of experience with this kind of language and standard and said, "It has imposed on me a burden that I cannot meet."

□ 1700

Not one, not one example, after 16 years. Private sector contractors with the Federal Government have come forward and said this is unreasonable.

The gentleman from Texas [Mr. BARTLETT] is exactly correct. That is why this was adopted. This amendment is bad for business, this amendment is bad for the disabled, this amendment is bad for the Americans With Disabilities Act, and I ask Members to oppose it.

Mr. OLIN. Mr. Chairman, I would say to the gentleman from Maryland [Mr. HOYER] who just spoke, that if I were a contractor with the Federal Government, unfortunately, I would not be worried about the cost either.

But we are not talking about that. We are talking about people in private business selling to customers in competition.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I would just like to rejoin the gentleman from Virginia [Mr. OLIN] at the beginning and say how strongly I support the amendment. This is the small business amendment in this legislation. It is the amendment that the National Federation of Independent Business and other small businessmen support. They do it because it places a responsible and reasonable ceiling on the amount of costs they are going to have to incur in helping the handicapped gain employment. It is a responsible amendment. It deserves a yes vote.

Mr. Chairman, I urge Members to put mitigation in this bill and vote yes on the amendment. I very strongly support it.

Mr. OLIN. Mr. Chairman, let me read what the NFIB said about this amendment.

Your amendment will improve the bill by helping businesses understand how to best accommodate disabled employees without jeopardizing the existence of the business itself. Further, your amendment will remove the ambiguity surrounding the definition of "undue hardship," thereby reducing the number of lawsuits brought on this legal issue.

Mr. Chairman, I really do not buy the arguments that have been given by those who are sponsoring the bill. I think it is sort of a copout. Almost any number I could have used could be attacked because they like some other number. But the fact of the matter is we need something tangible. We should not be passing laws that affect almost all the businessmen in this country where the proprietor of that business does not know what he needs to do to abide by the law. It is a big mistake.

Mr. Chairman, I think it would be wise if Members of the body would vote for this amendment. If they do not like the exact number that has been picked, there is plenty of time in the conference to work that out. We need to have some kind of a tangible limit here to make this thing workable and fair.

Mr. Chairman, I yield back the balance of my time.

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Mr. FRENZEL. Mr. Chairman, today I rise in support of the Americans with Disabilities Act. Just as I became a cosponsor of this legislation with some reservations, so do I approach final passage of H.R. 2273 with reservations.

I continue to be concerned with the costs of this bill to the small business community. Because of the myriad of situations this bill attempts to cover, the extent to which businesses must accommodate persons with disabilities is unclear. The ambiguity of the terms such as "reasonable accommodation" and "undue hardship" becomes both a selling point and a point of contention in this bill. If we believe that every business will make a good faith effort to become accessible to those with disabilities then these phrases allow each business the flexibility to decide on the best way to become accessible, rather than mandating specific, costly, and sometimes unnecessary changes.

On the other hand, if we feel we need to prod business into making changes the ambiguity of such phrases is a source of trouble. How will a business be able to anticipate the changes their patrons will need? How will a business know if they have gone far enough in making accommodations to individuals with disabilities without proceeding through a lawsuit or investigation? Who will decide if a business has made a good faith effort to render their services to individuals with disabilities? What will be the procedure followed in situations where claims of reluctance in making "reasonable accommodation" are made against a business? While these questions exist, I am not wholly persuaded that a balance has been met between the needs of the disabled and the concerns of small businesses.

The costs to Federal, State, and local governments of implementing H.R. 2273 remains incalculable. In a time when Federal support to States is dwindling, I hope that the changes mandated by this bill will not cause "undue hardship" on the States and local budgets to implement remedies called for in this act.

But, I am worried that there will be many rough spots as local governments wrestle with the provisions of this bill. I have seen the difficulties and inefficiencies caused by some of the transportation regulations already put in place. I support the underlying theme of the Americans with Disabilities Act, which is to eliminate the discrimination that is felt by individuals living with disabilities in public and private sectors of life. I think the bill is overwritten but I can't find it in my heart to vote against it.

In the end, it is my hope that all businesses and governments, large and small, will make a good faith effort to accommodate individuals with disabilities, and that procedures will be established to allow for a speedy and just resolution when conflicts arise.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Virginia [Mr. OLIN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OLIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 187, noes 213, not voting 32, as follows:

[Roll No. 117]

AYES—187

| | | |
|---|---|---|
| Andrews | Archer | Ballenger |
| Anthony | Armey | Barnard |
| Applegate | Baker | Barton |
| Bateman | Hatcher | Petri |
| Bentley | Hayes (LA) | Pickett |
| Bereuter | Hefley | Porter |
| Bilbray | Hefner | Price |
| Bilirakis | Herger | Quillen |
| Bliley | Hiler | Ray |
| Bosco | Holloway | Regula |
| Broomfield | Hopkins | Richardson |
| Brown (CO) | Huckaby | Ritter |
| Bunning | Hutto | Roberts |
| Burton | Inhofe | Rohrabacher |
| Byron | Ireland | Ros-Lehtinen |
| Callahan | James | Rose |
| Campbell (CO) | Jenkins | Roth |
| Chandler | Johnson (SD) | Roukema |
| Chapman | Jones (GA) | Rowland (GA) |
| Clarke | Jones (NC) | Sarpalius |
| Clement | Kanjorski | Sawyer |
| Clinger | Kyl | Saxton |
| Coble | Lagomarsino | Schaefer |
| Coleman (MO) | Lancaster | Sensenbrenner |
| Combest | Leath (TX) | Shaw |
| Cooper | Lent | Shumway |
| Coughlin | Lewis (CA) | Shuster |
| Cox | Lightfoot | Sisisky |
| Dannemeyer | Lipinski | Skeen |
| Darden | Livingston | Skelton |
| de la Garza | Lloyd | Slaughter (VA) |
| DeLay | Long | Smith (NE) |
| Dickinson | Lukens, Donald | Smith (TX) |
| Dorgan (ND) | Madigan | Smith, Robert (NH) |
| Dornan (CA) | Marlenee | Smith, Robert (OR) |
| Douglas | Martin (IL) | Solomon |
| Dreier | McCandless | Spence |
| Duncan | McCollum | Spratt |
| Dyson | McCrery | Stangeland |
| Eckart | McCurdy | Stearns |
| Edwards (OK) | McDade | Stenholm |
| Emerson | McEwen | Stump |
| English | McMillan (NC) | Sundquist |
| Espy | McMillen (MD) | Tallon |
| Fawell | Michel | Tanner |
| Fields | Miller (OH) | Tauzin |
| Frenzel | Miller (WA) | Taylor |
| Gallegly | Molinari | Thomas (GA) |
| Gallo | Montgomery | Thomas (WY) |
| Gekas | Moorhead | Valentine |
| Geren | Morrison (WA) | Vander Jagt |
| Gillmor | Murphy | Visclosky |
| Gingrich | Myers | Volkmer |
| Goodling | Neal (NC) | Vucanovich |
| Gordon | Nielson | Walker |
| Goss | Olin | Watkins |
| Gradison | Oxley | Weldon |
| Grant | Packard | Whittaker |
| Hall (TX) | Parker | Wylie |
| Hamilton | Parris | Young (AK) |
| Hancock | Paxon | Young (FL) |
| Hansen | Payne (VA) | |
| Hastert | Penny | |

NOES—213

| | | |
|---|---|---|
| Ackerman | Conyers | Gilman |
| Anderson | Costello | Glickman |
| Annunzio | Coyne | Gonzalez |
| Aspin | DeFazio | Gray |
| Atkins | Dellums | Green |
| AuCoin | Derrick | Guarini |
| Bartlett | Dicks | Gunderson |
| Bates | Dingell | Hall (OH) |
| Beilenson | Dixon | Harris |
| Bennett | Donnelly | Hawkins |
| Berman | Downey | Hayes (IL) |
| Bevill | Durbin | Henry |
| Boehlert | Dwyer | Hertel |
| Boggs | Dymally | Hoagland |
| Bonior | Early | Hochbrueckner |
| Borski | Edwards (CA) | Horton |
| Boucher | Engel | Hoyer |
| Boxer | Erdreich | Hughes |
| Brennan | Evans | Hunter |
| Brooks | Fascell | Hyde |
| Browder | Fazio | Jacobs |
| Brown (CA) | Feighan | Johnson (CT) |
| Bruce | Fish | Johnston |
| Bryant | Flake | Jontz |
| Buechner | Foglietta | Kaptur |
| Campbell (CA) | Ford (MI) | Kasich |
| Cardin | Ford (TN) | Kastenmeier |
| Carper | Frank | Kennedy |
| Carr | Frost | Kennelly |
| Clay | Gaydos | Kildee |
| Collins | Gejdenson | Kleczka |
| Condit | Gephardt | Kolbe |
| Conte | Gibbons | Kolter |

| | | |
|---|---|---|
| Kostmayer | Obey | Slaughter (NY) |
| LaFalce | Ortiz | Smith (FL) |
| Lantos | Owens (NY) | Smith (IA) |
| Laughlin | Owens (UT) | Smith (NJ) |
| Leach (IA) | Pallone | Smith (VT) |
| Lehman (CA) | Panetta | Snowe |
| Lehman (FL) | Patterson | Staggers |
| Levin (MI) | Payne (NJ) | Stallings |
| Levine (CA) | Pease | Stark |
| Lewis (GA) | Pelosi | Stokes |
| Lowey (NY) | Perkins | Studds |
| Machtley | Pickle | Swift |
| Manton | Poshard | Synar |
| Markey | Rahall | Tauke |
| Martin (NY) | Rangel | Torres |
| Martinez | Ravenel | Torricelli |
| Mavroules | Rhodes | Towns |
| McCloskey | Ridge | Traficant |
| McDermott | Rinaldo | Traxler |
| McGrath | Roe | Udall |
| McHugh | Rowland (CT) | Unsoeld |
| McNulty | Roybal | Upton |
| Meyers | Russo | Vento |
| Mfume | Sabo | Walgren |
| Miller (CA) | Saiki | Walsh |
| Mineta | Sangmeister | Washington |
| Moakley | Savage | Waxman |
| Mollohan | Scheuer | Weber |
| Moody | Schiff | Weiss |
| Morella | Schneider | Wheat |
| Morrison (CT) | Schroeder | Whitten |
| Mrazek | Schumer | Williams |
| Murtha | Serrano | Wilson |
| Nagle | Sharp | Wise |
| Natcher | Shays | Wolf |
| Neal (MA) | Sikorski | Wolpe |
| Nowak | Skaggs | Wyden |
| Oakar | Slattery | Yatron |

NOT VOTING—32

| | | |
|---|---|---|
| Alexander | Hammerschmidt | Pursell |
| Bustamante | Houghton | Robinson |
| Coleman (TX) | Hubbard | Rogers |
| Courter | Lewis (FL) | Rostenkowski |
| Craig | Lowery (CA) | Schuette |
| Crane | Luken, Thomas | Schulze |
| Crockett | Matsui | Smith, Denny (OR) |
| Davis | Mazzoli | Solarz |
| DeWine | Nelson | Thomas (CA) |
| Flippo | Oberstar | Yates |
| Grandy | Pashayan | |

□ 1723

The Clerk announced the following pairs:

On this vote:

Mr. Lewis of Florida for, with Mr. Mazzoli against.

Mr. Schuette for, with Mr. Matsui against.

Mr. Craig for, with Mr. Solarz against.

Mr. Schulze for, with Mr. Houghton against.

Mr. AuCOIN and Mr. MACHTLEY changed their vote from "aye" to "no."

Mrs. SMITH of Nebraska, Mrs. ROUKEMA, Mr. ESPY, and Mr. RICHARDS changed their vote from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. MOAKLEY was allowed to speak out of order.)

ANNOUNCEMENT REGARDING THE CLEAN AIR RULE

Mr. MOAKLEY. Mr. Chairman, I want to inform Members, it is very important and I wish they would pay attention, of possible further Rules Committee action on H.R. 3030, the Clean Air Act Amendments of 1990.

The committee now is scheduled to take testimony on H.R. 3030 on Tuesday, May 22, 1990, at 10:30 a.m.

That is Tuesday, May 22 at 10:30 a.m.

Members should also be aware that, in light of the urgency of this bill, the Rules Committee is contemplating granting a rule that might limit the offering of amendments.

Therefore, all Members who have amendments to the bill should submit those amendments, together with an explanatory statement, to the Rules Committee by 6 p.m., Monday, May 21, room H-312, in the Capitol.

I would like to call Members' attention to the fact that a "Dear Colleague" letter was distributed to Members today suggesting a more expedited schedule. However, I have deferred to a request by the chairman of the Committee on Energy and Commerce and the Speaker, and this announcement supersedes any prior communication Members have received.

The CHAIRMAN. The Chair will announce that pursuant to the rule it is now in order to consider amendment No. 4 printed in House Report 101-488.

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HANSEN: In section 507 (relating to Federal wilderness areas), add at the end the following subsection:

(c) SPECIFIC WILDERNESS ACCESS.—No individual may be discriminated against with respect to entrance to wilderness areas because of a disability. A wheelchair may be used in wilderness areas by an individual whose disability requires the use of a wheelchair, not-withstanding section 4(c) of the Widerness Act.

Mr. HOYER. Mr. Chairman, I rise in opposition to the Hansen amendment in its present form.

The CHAIRMAN. The Chair will recognize the gentleman from Maryland [Mr. HOYER] for 10 minutes.

MODIFICATION OFFERED BY MR. VENTO TO THE AMENDMENT OFFERED BY MR. HANSEN

Mr. VENTO. Mr. Chairman, I offer a modification to the amendment offered by the gentleman from Utah [Mr. HANSEN].

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. VENTO to the amendment offered by Mr. HANSEN: Strike the text of the amendment as printed in the Report and insert:

(c) SPECIFIC SILDERNESS ACCESS.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, but no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

The CHAIRMAN. Is there objection to the modification to the amendment?

Mr. MARLENEE. Mr. Chairman, reserving the right to object, under my reservation I would ask the gentleman from Minnesota [Mr. VENTO] to answer the question that I have on the substitute that he offers under unanimous consent.

The latter portion says "but no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use." Mr. Chairman, does this mean that the areas that are now ongong by the agency accommodation, by the land agency for wheelchairs, would not go forward?

□ 1730

Mr. VENTO. If the gentleman will continue to yield, no. If there are modifications ongoing now under the law, they would not be impacted by this language. It is not intended that they be impacted.

Mr. MARLENEE. Mr. Chairman, further reserving the right to object, let me rephrase the question. Would this amendment interfere with ongoing projects that the agencies have to accommodate the handicapped, and those in wheelchairs?

Mr. VENTO. If the gentleman will continue to yield, it would not. This amendment would not require them to build such facilities, but it would not stop them from doing so.

Mr. MARLENEE. It would not stop them from doing it? It would allow them to go ahead with those special chairs that they had decided they would accommodate the handicapped in?

Mr. VENTO. If the gentleman will continue to yield, consistent with the Wilderness Act.

Mr. MARLENEE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota [Mr. VENTO] to modify the amendment offered by the gentlemen from Utah [Mr. HANSEN].

There was no objection.

The CHAIRMAN. The amendment is so modified.

The gentleman from Utah [Mr. HANSEN] is recognized for 10 minutes.

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from Minnesota [Mr. VENTO] and if anything, I think this makes it a better amendment than we came up with originally, and I appreciate putting that in.

Mr. Chairman, it was not too long ago that I met a young man who came up to me and was in a wheelchair. He was one of our veterans from Vietnam, and he did not have any legs. He pointed out to me how he plays tennis

in a wheelchair, he plays basketball in a wheelchair, he does road races in a wheelchair, and does things most Members in here would be amazed to see somebody do. It was absolutely awesome, the things the young man could do, and he said, "Mr. Congressman, why can't I go into the Unaka Mountains and fish like when I was a kid?" The reason he cannot do that is because in 1984 myself and Senator GARN put in a bill called the wilderness. I think it is a great piece of legislation, but in that bill, and if Members have read it they will see it talks about mechanized transportation. A person cannot use mechanized transportation in a wilderness. So that particular piece of legislation prohibits a lot of our very fine people from using this.

I definitely feel and agree with the chairman that nothing should be changed as a definition of wilderness. I am really amazed, as I look at the wilderness bills that come about, how few people really even know the 1964 legal definition of the term which is very, very restrictive. "No roads, untrammelled by man as if man were never there," and I would hope that those Members on this floor would follow that.

Can they really go in? A lot of people ask the questions, and I think have been floating all over the House the last 2 or 3 days saying we do not need something like this. However, I would like to read something that happened in March 1990, and I appreciate if people would pay attention. After March 1990, the U.S. Forest Service decided to allow handicapped access to the Flat Mountain Pond area just inside the Sandwich Mountain Wilderness in New Hampshire. Appeals were filed. Here is a list of a whole group of these areas—not just one isolated instance, but many people filed these, saying they did not want people into this area. I guess they did not read it when it said "public lands." The public includes people in wheelchairs and our handicapped citizens.

Mr. Chairman, from the Congressional Research Service in the Library of Congress, they gave their interpretation of wheelchair access in wilderness areas. This is what they said: "However the Act is silent as to wheelchairs and thus implicitly would prohibit them as a form of mechanized transportation." So when people say it is not needed, I think it is needed. I appreciate the gentleman from Minnesota taking the time to take care of those people who can enjoy this. I do not think we should have to change it. These young fellows and young people who want to do this, more power to them if they have courage enough to go into it.

Mr. Chairman, due to the gentleman from Minnesota [Mr. VENTO] and his amendment, I will not continue here, but I would like to reserve the balance of my time.

Mr. HOYER. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask the gentleman from Minnesota a very brief question in colloquy. What are we talking about here in terms of a definition of "Wheelchair"?

Mr. VENTO. If the gentleman will yield, my understanding is that it is a medical device, a conventional type of wheelchair, either a wheelchair with an electric motor or a mechanically driven or physically driven type of wheelchair. I think that is the intention of the amendment. That is my intent in terms of the language that I asked unanimous consent to have substituted. I thank the gentleman for the question, and I hope that he would support this.

I know the gentleman joined me earlier along with a number of individuals. I thank him because of the narrow intention, but the board impact of the initial Hansen amendment, in my judgment, and I want to thank him for that and thank the gentleman from Utah [Mr. HANSEN] for his cooperation in this matter.

Mr. HOYER. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Subcommittee on National Parks and Public Lands, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I want to thank on the part of the committee the gentleman from Maryland [Mr. HOYER] and the gentleman from Texas [Mr. BARTLETT] for their cooperation, as well as my fellow committee member, the gentleman from Utah [Mr. HANSEN], and the Members that have been working on this issue.

The Wilderness Act does not prohibit wheelchairs. People whose disabilities require the use of wheelchairs are not prohibited from entering wilderness areas, and agency rules and policies recognize this today. The amendment being offered now in a revised as a result of my request is in a form that assures and reaffirms the provisions of the Wilderness Act and the relonont rules and regulations of the load management agencies. Many Americans with disabilities enjoy and use wilderness areas without any special accomodation or exception to the 1964 Wilderness Act.

Witnesses in hearings before the Subcommittee on National Parks and Public Lands, which I am privileged to chair, have repeatedly testified to that fact. Mr. Chairman, I am encouraged that agencies and land managers properly recognize and are implementing such policy today concerning the wilderness law and rules and regulations, which permit people with disabilities to enjoy our 90 million acres of wilderness land. I am pleased, and think it is only appropriate in the Americans with Disabilities Act that we reaffirm and recognize such use and hope that there will not be misunderstandings with regard to the use of wheelchairs in the wilderness in the future.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding, and I rise for the purpose, I believe, of supporting his amendment, if his amendment does that which I understand the amendment was originally about.

If the gentleman from Utah would yield to some questions, and let me first lay the foundation for that which concerns me. Wilderness may have a tremendous impact in the future upon sizable desertlands in the Western States. The Congress passed a bill some years ago for a planning process relative to that desert proposed wilderness examination. Literally millions of acres are involved, and I am very much concerned about the lack of access and availability of entrance for disabled people who may want to visit pristine areas that in some cases make up territory as large as an entire State—at least among our Eastern States.

□ 1740

Does the gentleman's amendment, at least in that connection, put this bill in a position where under the wilderness definition a disabled person who wanted to get access to, let us say, the Joshua Tree National Monument could at least take their wheelcahir to the edge of that wilderness and have some access even though it might be difficult to climb a mountain trail with a wheelchair.

Mr. HANSEN. Mr. Chairman, in answer to the gentleman's question, in most of our wilderness areas there is access up to them. In those that I have been to, and I have been to quite a few, there are trail heads and other areas, and they could get to that and nothing would prohibit an agency outside the wilderness area and right on the boundary of the wilderness area to build a facility if they were so inclined to do it, and which I think they would be. I think that would be something that will come about for those who have an interest in going into those wilderness areas.

Mr. LEWIS of California. Mr. Chairman, in one of my areas, not in my district any longer, but in the Eastern Sierra, there was a small airport. Some people who originally opposed the gentleman's amendment in the past supported closing down that airport, which was the only means of access for older people or disabled people

who might take wheelchairs into that wilderness. There is a concern that there are those who would like to essentially close down millions of acres to disabled people and not allow them access by way of eliminating the language in the interpretation of wilderness.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

Mr. HANSEN. Mr. Chairman, I yield an additional minute to the gentleman from California [Mr. LEWIS].

Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, anything in the wilderness area, by the definition that we have gone over in the earlier part of this debate, it completely prohibited. So once this body and the other body passes it and the President signs it and puts everything in wilderness, there is no question of the limited access. It is limited now, and if this goes through, it will be limited to horses, walking on your feet, and people in wheelchairs.

Mr. LEWIS of California. Mr. Chairman, let me suggest that those people who have done such a fantastic job on this bill should focus on the fact that some people in their definition of wilderness would literally close down effective access for older Americans and disabled Americans, especially those who happen to need wheelchairs. Maybe we will have to fight that battle another day, but at least I appreciate the gentleman's attention and his response to my question.

Mr. HANSEN. Mr. Chairman, may I inquire as to how much time we have remaining?

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] has 4½ minutes remaining.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentleman from Utah [Mr. HANSEN], which would remove the prohibition against using wheelchairs in wilderness areas.

The Wilderness Act of 1964 insidiously eliminated all forms of mechanical devices. This, unfortunately, included wheelchairs, which are indeed mechanical devices. It also included a prohibition against pedal bikes and baby strollers and those types of mechanical devices.

Unfortunately, the wilderness activists have strongly opposed even modest changes such as the one to accommodate wheelchairs. This amendment corrects that.

One of the groups supporting this amendment is the Disabled Veterans of America. Let us think about that. These are disabled veterans who fought to protect every acre of America, and they are forceably prohibited from enjoying our wilderness areas.

Mr. Chairman, I call for the elimination of this type of discrimination. I ask my colleagues to support the Hansen amendment and ask that all Americans be allowed the chance to fully enjoy the beauty of our abundant wildlands.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding time to me, and I do rise in support of the gentleman's amendment.

Mr. Chairman, I would suggest that the gentleman from Utah [Mr. HANSEN], in consultation and in somewhat of a rare partnership here with the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], does in fact balance the equities involved to be certain that someone using a wheelchair in visiting a wilderness area would not be prohibited from entering that wilderness purely on account of his or her wheelchair.

I think the gentleman has done a remarkable job in balancing the equities and drafting an amendment that works. It works for the best interest of all parties and in fact does solve a problem that does exist.

The gentleman from Utah [Mr. HANSEN] is to be commended for his leadership on this issue, and I support his amendment.

Mr. HANSEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HOYER. Mr. Chairman, we congratulate the gentleman from Minnesota [Mr. VENTO] for his leadership on this issue. We congratulate the gentleman from Utah [Mr. HANSEN] and rise in support of the amendment.

Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. The question is on the amendment as modified, offered by the gentleman from Utah [Mr. HANSEN].

The amendment, as modified, was agreed to.

The CHAIRMAN. Pursuant to the rule, it is now in order to consider amendment No. 5, as printed in House Report 101-488.

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHAPMAN: In section 103 (relating to defenses), add at the end the following subsection:

(d) FOOD HANDLING JOB.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

The CHAIRMAN. The gentleman from Texas [Mr. CHAPMAN] will be recognized for 15 minutes in support of his amendment.

Does any Member rise in opposition to the amendment?

Mr. FISH. I rise in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from New York [Mr. FISH] will also be recognized for 15 minutes.

Mr. CHAPMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I offer an amendment which would allow employers to move an employee with a communicable or infectious disease of public health significance out of a food handling position while at the same time making a reasonable accommodation of an offer of reassignment to another position for which the individual is qualified and for which the employee would sustain no economic damage.

I hasten to add that I am a strong supporter of the ADA legislation. I believe that the process today has worked to improve the bill, and I look forward to voting for it on final passage.

However, the bill as currently drafted will not provide an employer the flexibility to move an employee out of food-handling position if that employee were diagnosed as having an infectious or contagious disease such as AIDS.

The reality is that many Americans would refuse to patronize any food establishment if an employee were known to have a communicable disease. Damage to the business can be severe and not only cause the owner the loss of his business but could cause the loss of all the jobs of the employees that work there and result in the loss of their livelihood.

This is not an unrealistic fear. There are real examples in the real world of how this caused a loss of business, the closing of jobs and the loss of employment.

Let me hasten to add that I am not here to say that there is any evidence that AIDS can be transferred in the process of handling food. To the contrary, the Center for Disease Control seems to say or does say that there is not a case that they can determine and document found in over 130,000 cases through April 1990 of the disease of AIDS being transmitted in this way. At the same time, however, the Center for Disease Control said as of yesterday that there are 4,428 cases of AIDS

where the cause is undetermined or unknown.

We are dealing in the real world with real people who have real businesses that create real jobs, and I think it is a very reasonable accommodation to those people that we provide that they can make a reassignment to a different job of those who have a disease that the owner and all of us in this Chamber know can bankrupt that business and cause this loss of those jobs. This is a time when tremendous emphasis is being placed on the safety of our food. These are issues we have dealt with on the floor of the House and will deal with again later this year. Every day there are articles in newspapers telling us about pesticide residues in food, nutrition content, and what is good for us and what is not good for us.

This amendment is an employee and employer protection amendment that addresses a very real and a very difficult question equity. If an employer does not have the flexibility to take some reasonable action to remove an employee with a communicable disease from handling food, not only is the business at risk but so are the employees who would lose salaries and benefits if the business closes and the community which enjoys the economic benefits of that food service establishment would also lose.

□ 1750

Mr. Chairman, let me point out that the hospitality industry, including the food service industry, is the largest employer of disabled persons in this country. They have taken the lead in providing jobs for the disabled, and many of those jobs are provided in the food service industry. We need to protect the ability of a food service operator to protect the viability of his business and the jobs that it provides.

Mr. Chairman, I urge the support of my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FISH. Mr. Chairman, I yield 2½ minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Texas [Mr. CHAPMAN], my friend, because I think that it is only not necessary, but I think it may create fertile ground for confusion, for controversy, and for potential litigation, and let me tell my colleagues why I say that.

Mr. Chairman, the gentleman from Texas [Mr. CHAPMAN] said in his amendment with reference to an employee, "Infectious or communicable disease are of public health significance." What does that mean? Who makes the determination about what is an infectious or communicable disease of public health significance?

Mr. Chairman, if he had put after that, "as specified by CDC," then I think the amendment would be much more acceptable, but we have no standard. We have no base there.

Let me ask my colleagues, "How many of you know whether schistosomiasis, leishmaniasis, fascitis, trigonitis, and meningococcus are infectious or contagious diseases?

Can any of you tell me that?"

Of course, Mr. Chairman, my colleagues cannot because they do not know, and they are not expected to know. Health officials are expected to know whether those diseases are communicable and whether or not they are infectious, and we should leave that decision to health professionals.

Mr. Chairman, we should not here in the Congress be making the decision about what are infectious and contagious diseases with public health significance. The fact is that most of the diseases that we get from food do not come from food handlers at all. They come from the ambiant air, bacteria settling on food. That is where it comes from.

Let us leave the decision for this with public health people who know, not here in the Congress.

Mr. CHAPMAN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. My colleagues, I rise in support of the amendment of the gentleman from Texas [Mr. CHAPMAN], and I wish that this matter had somehow been dealt with in the bill before it came to the floor. I think it is a very difficult subject for all of us to have to deal with, and I wish we lived in a very, very perfect world where everybody understood everything that they needed to know about communicable diseases, how they were transmitted, and when they were dangerous and when they were not, not only those in the medical profession, but, once that truth and knowledge were known, I wish the public would believe it and understand it.

However, Mr. Chairman, I tell my colleagues, my friends, that the American public believes that we need the amendment of the gentleman from Texas [Mr. CHAPMAN], and, if my colleagues do not believe it, they can just wait until they go home and talk to people about what the implications of this amendment are.

Now do not ask me to risk my health, and the health of my children and the health of my family to prove how liberal and unprejudiced I am about communicable diseases.

Let me ask my colleagues, "Why do you have first aid kits in kitchens?" It is because people cut their fingers in kitchens, and they occasionally bleed. The possibilities are there for direct contamination, and why do we need to ask the American people to take that chance in this bill?

Mr. Chairman, we do not let 85-year-old pilots fly commercial airlines. They are theoretically able, and many of them do that, but we have made a decision that that is not good public policy, that they ought to be doing something else, like fishing.

I say it is bad public policy to say that people with communicable diseases can handle food in the Nation's restaurants, and we all know what we are talking about. I urge my colleagues to support the amendment of the gentleman from Texas [Mr. CHAPMAN].

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I thank the distinguished gentleman from New York for yielding time to me.

Mr. Chairman, young Ryan White of Indiana courageously fought and ultimately died in a battle to bring fairness and dignity to the lives of those infected with the HIV virus.

Feelings of irrational hysteria inspiring such an amendment do his memory no honor despite tributes and statements of concern from such leaders as George Bush and Ronald Reagan.

In short, kids like Ryan would have a much harder time holding a job at the Burger Chef, McDonalds or super market under this unfortunate amendment.

It encourages people to believe that AIDS is spread in a way contrary to all medical and scientific evidence. It represents a setback for efforts of rational and informed education.

This amendment is endorsed by the restauranteurs who fear ill-founded public opinion. However 5 years ago, the National Restaurant Association in a current issues report stated:

> Workers, includng those in the food service industry should not be restricted from work or the use of facilities and equipment solely on the basis of a diagnosis of an AIDS infection—there is no record of AIDS being transmitted in the preparation or service of food—there has been no evidence that AIDS is spread by casual contact such as—through air, food or water.

This remains true today. The restauranteurs further stated government officials, as community leaders, should assist business in combating baseless public fears. Occasionally, we in the Congress should try to lead rather than follow our worst fears about public opinion.

This amendment is opposed by among others the American Medical Association and the National Council of Churches.

Let us help keep this the Americans With Disabilities Act, not the Expansion of Discrimination Act.

Mr. FISH. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, there was a time when people were fearful to be around someone with cancer because they thought they may catch it. There was a time when people thought they could not take a blood transfusion from someone of a different race because it may not settle into their body. There are wrong scientifically. They are based on fear and, therefore, prejudice.

Mr. Chairman, this amendment perpetuates the fear and prejudice that a restaurant worker can maybe transmit a disease like AIDS by simply working in that establishment. We should not cater to fear or prejudice. We should say, if there is a threat to someone, then they could be denied that work. They should not be there if they are a threat, but, if they are not a threat, do not let them be discriminated against.

Mr. CHAPMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise in support of this amendment. I believe the amendment is very carefully and very narrowly crafted.

However, Mr. Chairman, I will note that this is a difficult amendment to discuss. It is a difficult amendment to either support or oppose.

I would suggest that what this body needs to do is to determine that there are equities here. There are equities on both sides. There are several parties who are subject to being hurt, and the best that we can do, given today's date, given the 1990's, given the public health fears that are very, very real, is to attempt to balance the equities between the parties, which I believe the amendment of the gentleman from Texas [Mr. CHAPMAN] does.

First, Mr. Chairman, I would ask the Members of the body to read the Chapman amendment. The Chapman amendment does not allow an employer to fire anyone because of a public health disease in this case, nor to refuse to hire someone unless there is a direct threat, nor does it change the prohibition against discrimination against someone who has a disability, nor does it redefine disability from current law which does include those with contagious diseases. What this amendment does is a very reasonable and careful balancing of the equities in which the amendment would say that, if there is an infectious or communicable disease that has a public health significance, then the employer may, first, make a reasonable accommodation that would, first, offer an alternative employment opportunity for the employee, and, second, for which the employee would suffer no economic damage.

□ 1800

So all that we are permitting, all the Chapman amendment permits is a very narrow window to allow this employer in order to save his own business to transfer an employee to a different job, to a different job in which his business is not jeopardized.

Now, the fact is on this floor we need to look at reality as it exists today, not as we wish it would exist.

The fact is that the food preparation industry, the restaurant industry, is the most highly competitive industry in this country. Every day, indeed every hour in this country, there are tens of thousands or hundreds of thousands of very individualized, localized decisions made by individual customers on where and whether to go out to eat at a restaurant.

There are not 5 restaurants in this country to choose from, there are not 10 restaurants to choose from, there are 5 and 10 on every street corner. Without this amendment the fact is that every restaurant owner would in reality be in a national lottery in which if one of them has a cook who comes down with a public health disease, that restaurant is subject to be simply closed, lose all its customers, the owner loses all of his sweat equity, all the hours that he and his family put into it, loses the entirety of everything that he had invested in the past. So I urge a yes vote for the very carefully, difficult but carefully balanced and drafted amendment by the gentleman from Texas.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, I rise in opposition to the amendment.

In medical school, I was trained to protect my patients from disease, to use the best medical knowledge to protect the public health. So was the gentleman from Georgia, Dr. Rowland. If either of us believed for one second that this amendment would do anything to protect the public against any disease, we would support it.

But the amendment is not about the reality of contagious disease. It is about the fear of contagious disease. Let us be honest: It is about the fear of AIDS.

Never mind that we spend millions of dollars on public education about how AIDS is and is not transmitted. Never mind what the American Medical Association says, or Dr. Roper of CDC, or former Surgeon General Koop, or Dr. Rowland, or what everyone on this floor knows.

As long as anybody in our country remains ignorant, this amendment says, as long as anyone is still afraid, the food service industry may cater to that ignorance and fear.

But that is all right, we are told, because the infected food handler will be given another job, at the same pay, away from the food. In a restaurant, I suppose that means washing dishes or working the cash register. Then, what if someone says: "Maybe you can get AIDS from a dish, or from handling a dollar bill?" Will we have to come back and amend this act again?

And what about the airlines, and the day care centers, public school teachers, and other places where food is handled and served? Will every flight attendant and child care worker have to take an AIDS test? What about the other communicable diseases—Lyme disease, cervical cancer? How many people will this amendment catch in its net? And for what purpose?

This is what happens when you make public policy on the basis of myth, on the basis of fear and ignorance. It is one thing to make policy without knowing all the facts. This amendment asks us to make policy in spite of the facts we know, in deliberate deference to the fears and prejudices of others.

A few years ago, a school board in Indiana told Ryan White that he could not go to school with other children. It was not that the school officials thought Ryan would infect the others, they said, it was that some parents were afraid he would. That school system made a policy decision in response to fear and prejudice. By the time Ryan White died last month, everyone knew better.

The first rule of medicine is: "Above all things, do no harm." This amendment does great harm. It undermines the national effort to deal with an epidemic in this country, by giving credence to myths and prejudice.

The amendment is bad medicine, bad science, bad public policy. It is indigestible. I urge my colleagues to send it back to the kitchen.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, I rise in opposition to the Chapman amendment.

I agree that there are diseases that should disqualify food handlers from the working place. I could not agree more. People with illnesses that can be transmitted on the job, like infectious tuberculosis, hepatitis, should be disqualified from the workplace. They can be dismissed from their jobs because they pose a direct threat to public health and safety, and this bill guarantees that.

The amendment looks like it ought to make sense, but it does not. It puts Congress in charge of deciding public health issues. We should not be doing this. Our designated health officials should be doing this. The Secretary of Health and Human Services and the Center for Disease Control have both expressed their opposition to this unnecessary amendment. Let them continue to do their jobs.

It is a confusing amendment. Look at the language. I am very concerned

about how it is going to work out, how it is going to be applied.

The language, how is it going to be worked out? Who is it going to be applied to? What is a food handler?

This term could mean more than restaurant employees. It could be everyone associated with handling food, the cafeteria worker, the guy stacking the cucumbers and oranges in the supermarket, the butcher down at the store.

The amendment says communicable. Many diseases are communicable. Lyme disease is, but it is transmitted by ticks, not by food.

I am concerned about who is going to make the decision, the local health department, the social worker, the medical official, the employer? Who is going to do it? The amendment does not say this.

This amendment will provoke unnecessary fear and suspicion. I am opposed to it, Mr. Chairman.

Mr. FISH. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, this amendment was offered during the consideration of the bill by the House Judiciary Committee just 2 weeks ago and was defeated. This is the same argument, Mr. Chairman, that was made in the 1950's and 1960's when white customers would not eat in restaurants where black Americans were served. That idea was unacceptable then and it is unacceptable now.

Mr. Chairman, we urge that the amendment be defeated.

Mr. CHAPMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Chairman, this is the amendment that I offered in the Judiciary Committee on behalf of the NFIB and the National Restaurant Association, because perception is reality. Every one in this room knows that. We run election campaigns on perception. It is reality for our voters.

For the 600,000 restaurants out there, all they are saying is, "We agree with you. We understand, Doctor, that you can't get AIDS because the cook cuts his finger and bleeds into the roast beef when he is preparing it," but the customers out there may not buy that, and when they all leave and the restaurant goes out of business, what have you done for the restaurants in America? Now you have put everybody that works there out of business.

So this is a very narrow amendment. The NRA, the NFIB understand that there will be no economic loss, and that is specifically in the amendment.

It recognizes that unfortunately today there is a perception and there are cases unknown as to the cause of AIDS or some other disease that could be transmitted by blood, could be done by the chef in the kitchen, and it is just a realistic way of saying we are not going to shut down our restaurants because of that perception. We are going to be fair to them, as well as fair to the folks who have the disease.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. DOUGLAS. Yes, I am glad to yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, both the gentleman from New Hampshire and my very good friend, the distinguished gentleman from Texas, have said this is a narrowly drawn amendment.

Food handlers, would a person who works in the produce department of a store be a food handler? Would a stewardess on an airplane be a food handler?

Mr. DOUGLAS. I would assume that a stewardess handling food who has an infectious or communicable disease of public health significance is a food handler, and I suppose likewise if somebody knew that that person had a disease that meets the requirements of this law, there could be a concern.

All we are saying is, reassign them to some other task or some other job. There is no economic loss to the person. They are as covered as they could be because they are not even going to lose any money. They are going to be reassigned, and I think that is a fair and reasonable task.

□ 1810

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I rise in strong opposition to this amendment. Twenty-five years after the passage of the major civil rights legislation of the 1960's, we are still hearing the same tired arguments that were used to justify segregated restaurants. They have been dusted off and used again to defend discrimination.

I thought the rhetoric against equal access, equal housing, and equal opportunity was behind us. The Chapman amendment has proven that I was wrong.

I urge my colleagues to listen, listen to our health professionals, listen to our colleagues, the gentleman from Georgia [Mr. ROWLAND] and the gentleman from Washington [Mr. MCDERMOTT], to the statements of Secretary Sullivan, and to the American Medical Association. They will tell you that this amendment is unnecessary and inappropriate.

I urge my colleagues to listen to the health experts, not the hate experts, not the fear experts. We need legislation that seeks to unite this country, not to divide it. We need legislation to promote a sense of one America, one community, one family, the American family.

The Chapman amendment seeks to divide us, to segregate us, to discriminate against us.

This House voted to bring the American people together in 1964, with the passage of the Civil Rights Act. Congress reaffirmed that principle in 1965, with the passage of the 1965 Voting Rights Act, and in 1968, with the Fair Housing Act.

A vote against the Chapman amendment will put this body on record again against division and discrimination. Mr. Chairman, it took us a long time to learn the lesson that separate is never equal. Discrimination was wrong in 1964, it was wrong in 1965, it was wrong in 1968, and it is wrong, dead wrong, in 1990.

Mr. Chairman, I urge Members to defeat this amendment, defeat it here and now.

Mr. FISH. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Chairman, I represent Kokomo, IN, and the rural community adjacent to Kokomo where Ryan White lived. Everybody in this country knows the story of Ryan White. Everybody in this country knows how Ryan White was the victim of discrimination and prejudice.

Today the people in my community wish they could make things different, because they know today a lot more than they did then. Ryan White was the victim of prejudice and discrimination, but there is no reason that we need to have more victims. This is the chance to take a stand against the sort of prejudice which Ryan White faced. This is the time to take a stand for all Americans.

Mr. DYMALLY. Mr. Chairman, will the gentleman from Texas yield?

Mr. CHAPMAN. I yield to the gentleman from California.

Mr. DYMALLY. Mr. Chairman, I rise in opposition to this amendment.

In this Nation, in this decade, there is only one way to deal with an individual who is sick. With dignity, compassion, care, confidentiality, and without discrimination.

Once disease strikes—we don't blame those who are suffering. We don't spurn the accident victim who didn't wear a seatbelt. We don't reject the cancer patient who didn't quit smoking. We try to love them and care for them and comfort them. We do not fire them, or evict them, or cancel their insurance.

Today I call on the House of Representatives to get on with the job of passing a law—as embodied in the Americans with Disabilities Act—which prohibits discrimination against those with HIV and AIDS. We're in a fight against a disease—not a fight against people. And we should not tolerate discrimination.

Mr. CHAPMAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, this is incredible. If Members on this side of the aisle had called this a racist issue

and referred to this as an issue that resembles the 1950's or 1960's, we would have been run out of this Chamber with hoots and howls.

This is not a racist issue. This is not sexist issue. This is a simple health issue that says that if you have an infectious or communicable disease, you can be moved to another part of your employment area. That is all it is. This is a health issue. That is just protecting the owner of the establishment, it is protecting the fellow employees of the establishment, and, most important, it is protecting the consumers of the establishment. It is not the 1960's again, and I resent the fact that some Members are implying and Red-baiting the Member that has offered this amendment as if it were a racist issue. I think it is wrong to bring Red-baiting to this floor, and I think it is wrong for Members to do so.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I rise in opposition to this amendment. I know that my colleague and friend from Texas [Mr. CHAPMAN] did not intend it to have the impact it does. I think it is divisive. I associate myself with the remarks of the gentleman from Georgia [Mr. LEWIS] in that regard.

Mr. Chairman, I rise to call the attention of the Members to a remarkable debate on Monday of this week in the other body and to an exchange between my colleague from Utah, Senator HATCH, and the senior Senator from North Carolina, Mr. HELMS, in which Mr. HELMS attacked AIDS victims, stirring up the kind of race and sexual hatred that I think this amendment innocently would also do.

In responding to him, Senator HATCH, one of the great conservatives of that body, a leader in the conservative community, said the following: "Many of us who stand by and criticize ought to look at ourselves. We have lots of wonderful people in this body, but we are all sinners. We should cast no stones at sufferers."

Mr. Chairman, I want to associate myself with the remarks of my colleague from Utah. This is a bad amendment and should be defeated.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in opposition to the Chapman amendment. The sponsor admits there is no evidence that AIDS can be transmitted in food handling, but his amendment allows discrimination in such cases because food handling businesses may be hurt by public perception of AIDS victims.

This may be true. But this is as if businesses 40 years ago had pointed to the public perception of blacks and said our customers will not understand our hiring blacks, so allow us to discriminate against blacks.

Nonsense. This Congress should not license discrimination of any kind. We should, as President Reagan and President Bush have urged, fight ill-founded discrimination directed against people with AIDS. I urge the defeat of this amendment.

The CHAIRMAN. The Chair would advise the committee that the gentleman from Texas [Mr. CHAPMAN] has 3 minutes remaining and the gentleman from New York [Mr. FISH] has 4½ minutes remaining.

Mr. CHAPMAN. Mr. Chairman, I would ask the gentleman from New York [Mr. FISH] to proceed. May I ask the Chair who has the right to close the debate?

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY], the ranking member of the Subcommittee on Health and Safety of the Committee on Education and Labor.

Mr. HENRY. Mr. Chairman, I urge Members to oppose this amendment. The gentleman from New Hampshire summarized the dilemma before us quite honestly. He said the issue here is between perception and reality. If you want to vote perception, then support the amendment. But if you want to vote reality, and if you want to vote truthfulness as we understand it in science and the medical profession, you will oppose this amendment.

This bill as reported by the committee already allows an employer to prohibit the placing of anyone that would threaten the health and safety of the public based on communication of disease.

We have just completed a series of hearings in our OSHA Subcommittee. We have had the people from the National Institutes of Health, we have had the people from the Occupational Safety and Health Administration, we have had the people from HEW, and in no case would any of those leading scientific figures come down here and ask Members to support this amendment.

If your concern is truthfulness, you will vote no on the amendment.

□ 1820

The CHAIRMAN. For purposes of clarification, the Chair will state, regarding closing arguments, that the gentleman from New York [Mr. FISH] reserves the right to close.

Mr. CHAPMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Chairman, the gentleman from Georgia who spoke earlier is my neighbor in the Cannon House Office Building. I have enormous respect for him, and it is because of that genuine respect that I can oppose him in this body and keep the opposition at the elevated level of debate on serious issues, not to be diverted into any other area.

If it is true that there are no questions about communicable diseases, then why do we budget tens of billions of dollars for research? If it is true that those issues have been settled, then why are there so many questions?

The gentleman from Texas I think has been unfairly characterized as offering an extreme position. The fact of the matter is that in a world of extremes, he has found a reasonable wording with reasonable language that allows those who are in the most highly at-risk business in the world not to be elevated to the even greater plateau of risk, that allows them to stay open and allows them to serve the public, and allows the public to have confidence.

I hope that this amendment will be successful, and I hope that it will be regarded with the merit of the debate that it deserves, and not the mischaracterization that it certainly does not.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland. [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in very strong opposition to this amendment. It is the most invidious amendment that we will consider during the course of this legislation.

The gentleman from Michigan [Mr. HENRY] is absolutely correct, as is the gentleman from Georgia [Mr. LEWIS]. This is the Jim Crow amendment of 1990 as it relates to 1964.

Let me read to Members from the National Restaurant Association, the National Restaurant Association's current issue report:

> Workers, including those in the food service industry, should not be restricted from work or the use of the facilities and equipment solely on the basis of a diagnosis of AIDS infection.

That, my friends, is a direct quote from the National Restaurant Association's publication.

This amendment panders to prejudice. It is not reality, and the proponents of this amendment say it is not reality.

Dr. Sullivan opposes this amendment in a letter received today:

> This amendment is not needed or justified. Policy based on fear will complicate disease control.

This is the administration's Secretary of Health.

Dr. Roper the head of the CDC, says:

> There is no epidemiological or laboratory evidence indicating that bloodborne and sexually transmitted infections such as HIV are transmitted during the preparation or serving of food or beverages.

The reality is, as the restauranteurs have said, there is no evidence. But we are going to accommodate fear and

bigotry. That is wrong. Reject this amendment.

Mr. CHAPMAN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Texas is recognized for 1½ minutes.

Mr. CHAPMAN. Mr. Chairman, let me make something very, very clear very quickly. The gentleman from Maryland was not quoting the position of the National Restaurant Association. He was quoting a publication of the National Restaurant Association which is quoting, in the quote he gave, the Center for Disease Control. The position of the National Restaurant Association has never been that which the gentleman from Maryland quoted. It is a reprint of a quote from the Center for Disease Control on page 2 of the publication that he demonstrated here. That is not the language of the National Restaurant Association.

With that made clear, let me take the balance of my time just to say that I believe Dr. MCDERMOTT made a very good point when he said that we should start by doing no harm. If it is written of this Congress and this body that we can with this bill enact into law legislation which will do harm, then we ought to take a second look at that legislation.

This is not new ground. CHARLIE ROSE made the comment about airline pilots. What justification is there that we not only permit the airline industry to retire a pilot at age 60, but we mandate it, a pilot who every 6 months takes an extensive physical, and we retire him? We fire him at age 60, and he may have never missed a heartbeat.

That is not right perhaps one might say, but that is a reaction, in this case, an affirmative reaction of this body to a perceived risk to public health.

There is a perceived risk from AIDS. This is a reasonable alternative that guarantees the employee his job at no economic loss. It is an amendment that ought to be supported. We should not be making health policy, but neither should we be destroying an entire industry and the jobs that it could possibly and does create.

I urge support of this amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I rise in strong opposition to the Chapman amendment which involves food handling by persons with communicable diseases. This amendment would serve to perpetuate what its author and all other Members of this body should know is a misperception. The misperception is that the human immunodeficiency virus can be transmitted through the handling of food. The director of the Centers for Disease Control has stated that:

All epidemiologic and laboratory evidence indicates that bloodborne and sexually transmitted infections such as HIV are not transmitted during the preparation or serving of food.

The Chapman amendment is unnecessary and discriminatory against persons living with HIV infection.

There are some contagious diseases that can be transmitted through food. These include hepatitis and tuberculosis; but HIV is not one of them. The Americans With Disabilities Act explicitly excludes persons who "pose a direct threat to the health or safety of other individuals." Thus it excludes from coverage people with foodborne or airborne communicable diseases. The Chapman amendment would eliminate coverage for food handlers who pose no risk to customers or fellow employees.

The Chapman amendment flies in the face of the very purpose of the ADA. The ADA is designed to prohibit the kind of treatment of affected persons that this amendment specifically authorizes.

President Bush stated on March 29 that he would not tolerate discrimination against persons living with HIV infection. I believe the Congress should not tolerate it either. I urge my colleagues to vote against this unnecessary and discriminatory amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise in opposition to the Chapman amendment. Passage of this amendment would contribute to the misinformation and hysteria which surrounds the AIDS tragedy.

The Chapman amendment is unnecessary. The Americans With Disabilities Act already includes a provision which clearly states that persons who pose a direct threat to the health or safety of other individuals are not covered under the act. This section of the bill permits food service operators to remove from food handling positions any individual with a disease or infection that can be transmitted to customers. This clause protects the public from diseases transmitted through food, such as hepatitis and typhoid fever.

The Center for Disease Control, the leading health research agency in this country, has concluded that the HIV virus cannot be transmitted through food handling, handshakes, coughing, sneezing or other daily contact. We must educate the public that the HIV virus is transmitted through sexual contact and the sharing of needles with infected persons.

Congress should redouble its efforts to educate the public about AIDS and continue to greatly increase prevention and treatment programs. We ought to leave no stone unturned in appropriating dollars to find a cure for AIDS and in helping those afflicted and their families.

In a recent speech, the President urged that we treat people suffering from AIDS with compassion and without discrimination. I believe that these types of statements will help end the paranoia which exists about AIDS.

Many respected health representatives, such as the American Medical Association, the American Nurses Association and the American Public Health Association, oppose the Chapman amendment. If this bill posed a threat to the health of the public, do you think these organizations would oppose the Chapman amendment? Of course not. It is very significant that these organizations, which represent medical professionals dealing with AIDS on a daily basis, oppose this amendment.

The Chapman amendment is also opposed by the leadership Conference on Civil Rights, AFL-CIO, UAW, United Food and Commercial Workers, AFSCME, National Council of Churches, American Jewish Committee, and American Civil Liberties Union.

I urge my colleagues to end the hysteria, paranoia and discrimination surrounding this tragic disease and vote against this amendment.

Mr. FISH. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Maryland [Mr. HOYER] just alluded to the letter to Speaker FOLEY from Louis Sullivan, Secretary of Health and Human Services. I will just read briefly two or three sentences.

We need to defeat discrimination rather than to submit to it. The administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believe that the Americans With Disabilities Act should furnish the protection.

Mr. Chairman, the bill before us now says that a person with a disability who poses a significant risk to the health and safety of others cannot claim a right under this act that is before us.

But with the amendment before us we are asked to grant an additional benefit to employers of food handlers. If we agree, they can then deny employment to qualified workers, but it is not alleged that food handlers pose a health threat. The evidence is all to the contrary.

In short, we are asked to sanction discrimination because public misperception about the disease of AIDS will be bad for business.

Mr. Chairman, can this body, sympathetic as we are, bow to a contemporary public perception when writing law for the future?

Mr. Chairman, we know the AIDS virus is not transmitted through food handling activities. We should not make exceptions to the principle in ADA that employment decisions should not be based on myth or stereotypes.

Mr. Chairman, the Congress must not enshrine ignorance and prejudice in the law.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Chapman amendment to the Americans With Disabilities Act. This amendment would allow employers to move an employee with a communicable or infectious disease of public health significance out of a food-handling position, provided that the employer offers the employee an alternative employment opportunity for which the employee is

qualified and for which the employee would sustain no economic damage.

The ADA bill already permits a food service operator to remove from food-handling positions any individual with a disease or infection that can be transmitted to customers. There is no need for this amendment, which unfortunately fosters the same type of irrational discrimination that the ADA bill is intended to eliminate.

We cannot and must not discriminate against people with AIDS and people who do not pose a risk to the public. We cannot allow public ignorance and fear to provide a basis for discrimination. We must remember the principles and the goal of the Americans With Disabilities Act ultimate goal—to prohibit discrimination.

HIV, the virus that causes AIDS, is not foodborn or air-born. Dr. Roper, director of the Centers for Disease Control [CDC], stated in a letter that the human immunodeficiency virus cannot be transmitted through casual contact in the workplace. We have examples of 400 families, where HIV has not been transmitted between members of the family through casual contact. We should allow the health professionals to make crucial decisions regarding public health safety and also not undermine the work they have done to educate the public on AIDS.

I urge my colleagues to vote against the Chapman amendment.

Mr. MATSUI. Mr. Chairman, I am rising in strong opposition to the amendment being offered today by my colleague, Mr. Chapman. I believe this amendment is another effort to further discriminate against individuals who are suffering from AIDS.

As written, the Americans with Disabilities Act already excludes from coverage any food handler who has a communicable disease that could be transmitted through contact with the food. This amendment is duplicative and would serve only to fan the fires of hysteria that already surround people's ignorance about AIDS.

It has been proven that AIDS is not a disease that can be transmitted through casual contact. This includes the handling of food. There is no justification for this amendment.

The effect of this amendment would be further stigmatization of individuals with AIDS. I believe these people face enough battles in their lives that they certainly don't need the Congress compounding the discrimination they already experience.

While it is true we cannot sanction the public to embrace those with disabilities or those who have AIDS, our laws must reflect compassion and acceptance. We cannot force people to drop their preconceptions and stereotypes about individuals with AIDS, but we can legislate that they be treated fairly in their jobs. This is what the ADA does.

The challenge is for Congress to invest in ways of curing and treating the AIDS virus, not to spend time debating ways to further restrict the options for these people. This amendment is unconstructive and serves only to further negative stereotypes and unfair treatment of individuals who already are suffering.

I urge my colleagues to vote against the Chapman amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. CHAPMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CHAPMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 199, noes 187, not voting 46, as follows:

[Roll No. 118]

AYES—199

| | | |
|---|---|---|
| Andrews | Hastert | Porter |
| Applegate | Hatcher | Price |
| Archer | Hayes (LA) | Quillen |
| Armey | Hefley | Regula |
| Ballenger | Hefner | Rhodes |
| Barnard | Herger | Ridge |
| Bartlett | Hertel | Ritter |
| Barton | Hiler | Roberts |
| Bateman | Hoagland | Rohrabacher |
| Bennett | Holloway | Ros-Lehtinen |
| Bentley | Hopkins | Rose |
| Bereuter | Huckaby | Roth |
| Bevill | Hunter | Saiki |
| Bilirakis | Hutto | Sangmeister |
| Boucher | Hyde | Sarpalius |
| Brooks | Inhofe | Saxton |
| Broomfield | James | Schaefer |
| Browder | Jenkins | Sensenbrenner |
| Brown (CO) | Johnson (SD) | Shaw |
| Buechner | Johnston | Shumway |
| Bunning | Kanjorski | Shuster |
| Burton | Kaptur | Sisisky |
| Callahan | Kasich | Skeen |
| Chandler | Kolbe | Skelton |
| Chapman | Kolter | Slattery |
| Clement | Kyl | Slaughter (VA) |
| Coble | LaFalce | Smith (NE) |
| Coleman (MO) | Lagomarsino | Smith (VT) |
| Combest | Lancaster | Smith, Robert (NH) |
| Cox | Laughlin | Smith, Robert (OR) |
| Dannemeyer | Leath (TX) | Snowe |
| Darden | Lent | Solomon |
| DeLay | Lewis (CA) | Spence |
| Derrick | Lightfoot | Spratt |
| Dickinson | Lipinski | Stallings |
| Donnelly | Livingston | Stangeland |
| Dorgan (ND) | Lloyd | Stearns |
| Dornan (CA) | Long | Stenholm |
| Douglas | Madigan | Stump |
| Dreier | Marlenee | Sundquist |
| Duncan | Martin (IL) | Tallon |
| Dyson | McCandless | Tanner |
| Eckart | McCollum | Tauke |
| Edwards (OK) | McCurdy | Tauzin |
| Emerson | McDade | Taylor |
| English | McEwen | Thomas (GA) |
| Erdreich | McMillan (NC) | Thomas (WY) |
| Espy | Meyers | Upton |
| Fawell | Miller (OH) | Valentine |
| Fields | Molinari | Vander Jagt |
| Frost | Mollohan | Volkmer |
| Gallegly | Montgomery | Vucanovich |
| Gallo | Moorhead | Walgren |
| Gaydos | Morrison (WA) | Walker |
| Gekas | Murtha | Watkins |
| Geren | Myers | Weber |
| Gibbons | Neal (NC) | Weldon |
| Gillmor | Nielson | Whittaker |
| Gingrich | Olin | Whitten |
| Glickman | Oxley | Wilson |
| Goss | Parker | Wolf |
| Grant | Parris | Wylie |
| Hall (OH) | Patterson | Yatron |
| Hall (TX) | Paxon | Young (AK) |
| Hancock | Payne (VA) | Young (FL) |
| Hansen | Petri | |
| Harris | Pickett | |

NOES—187

| | | |
|---|---|---|
| Ackerman | Aspin | Berman |
| Anderson | Atkins | Bilbray |
| Annunzio | Bates | Boehlert |
| Anthony | Beilenson | Boggs |
| Bonior | Henry | Pease |
| Borski | Hochbrueckner | Pelosi |
| Bosco | Horton | Penny |
| Boxer | Hoyer | Perkins |
| Brennan | Hughes | Pickle |
| Brown (CA) | Jacobs | Poshard |
| Bruce | Johnson (CT) | Rahall |
| Bryant | Jones (GA) | Rangel |
| Byron | Jones (NC) | Ravenel |
| Campbell (CA) | Jontz | Ray |
| Campbell (CO) | Kastenmeier | Richardson |
| Cardin | Kennedy | Rinaldo |
| Carper | Kennelly | Rowland (CT) |
| Carr | Kildee | Rowland (GA) |
| Clarke | Kleczka | Roybal |
| Clay | Kostmayer | Russo |
| Clinger | Lantos | Sabo |
| Condit | Leach (IA) | Savage |
| Conte | Lehman (CA) | Sawyer |
| Cooper | Lehman (FL) | Scheuer |
| Costello | Levin (MI) | Schiff |
| Coughlin | Levine (CA) | Schneider |
| Coyne | Lewis (GA) | Schroeder |
| de la Garza | Lowey (NY) | Schumer |
| DeFazio | Machtley | Serrano |
| Dellums | Manton | Sharp |
| Dicks | Markey | Shays |
| Dingell | Martin (NY) | Sikorski |
| Dixon | Martinez | Skaggs |
| Downey | Mavroules | Slaughter (NY) |
| Durbin | McCloskey | Smith (FL) |
| Dymally | McCrery | Smith (IA) |
| Edwards (CA) | McDermott | Smith (NJ) |
| Engel | McHugh | Staggers |
| Evans | McMillen (MD) | Stark |
| Fascell | McNulty | Stokes |
| Fazio | Mfume | Studds |
| Feighan | Miller (CA) | Swift |
| Fish | Miller (WA) | Synar |
| Flake | Mineta | Torres |
| Foglietta | Moakley | Torricelli |
| Ford (MI) | Moody | Towns |
| Ford (TN) | Morella | Traficant |
| Frank | Morrison (CT) | Traxler |
| Frenzel | Mrazek | Udall |
| Gejdenson | Murphy | Unsoeld |
| Gephardt | Nagle | Vento |
| Gilman | Natcher | Visclosky |
| Gonzalez | Neal (MA) | Walsh |
| Goodling | Nowak | Washington |
| Gordon | Oakar | Waxman |
| Gradison | Obey | Weiss |
| Grandy | Ortiz | Wheat |
| Gray | Owens (NY) | Williams |
| Green | Owens (UT) | Wise |
| Guarini | Packard | Wolpe |
| Gunderson | Pallone | Wyden |
| Hamilton | Panetta | |
| Hayes (IL) | Payne (NJ) | |

NOT VOTING—46

| | | |
|---|---|---|
| Alexander | Flippo | Pashayan |
| AuCoin | Hammerschmidt | Pursell |
| Baker | Hawkins | Robinson |
| Bliley | Houghton | Roe |
| Bustamante | Hubbard | Rogers |
| Coleman (TX) | Ireland | Rostenkowski |
| Collins | Lewis (FL) | Roukema |
| Conyers | Lowery (CA) | Schuette |
| Courter | Luken, Thomas | Schulze |
| Craig | Lukens, Donald | Smith (TX) |
| Crane | Matsui | Smith, Denny (OR) |
| Crockett | Mazzoli | Solarz |
| Davis | McGrath | Thomas (CA) |
| DeWine | Michel | Yates |
| Dwyer | Nelson | |
| Early | Oberstar | |

□ 1848

The Clerk announced the following pairs:

On the vote:

Mr. Pashayan for, with Mr. Matsui against.

Mr. Thomas of California for, with Mr. Yates against.

Mr. Smith of Texas for, with Mr. Mazzoli against.

Mr. Craig for, with Mr. Solarz against.

Ms. SNOWE and Mr. WHITTEN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Chairman, due to a White House briefing with President Bush concerning potential oil drilling and exploration off the Florida coastline, I was unable to cast my vote on three crucial amendments to H.R. 2273, the Americans With Disabilities Act. Had I been present, I would have voted "Aye" on the following: Rollcalls Nos. 116, 117, and 118.

Mr. HOYER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, had come to no resolution thereon.

## GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the bill, H.R. 2273.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

## PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 112, No. 116, and No. 118; "nay" on rollcall No. 117; and "present" for rollcall No. 115.

## PERSONAL EXPLANATION

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent. Had I been present, I would have voted:

"Yea" on rollcall No. 116, an amendment to H.R. 2273;

"Nay" on rollcall No. 117, an amendment to H.R. 2273; and

"Nay" on rollcall No. 118, an amendment to H.R. 2273.

## PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, MAY 18, 1990, TO FILE CONFERENCE REPORT ON H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATION, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, Friday, May 18, 1990 to file a conference report on the bill (H.R. 4404) making dire emergency supplemental appropriations for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1850

## GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that I may have 5 legislative days in which to revise and extend my remarks, and to include a description of the provisions of the bill, H.R. 2273, to appear in the RECORD following general debate.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

## PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TUESDAY, MAY 22, 1990, DURING THE 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit on Tuesday, May 22, 1990, while the House is reading for amendment under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I have asked to proceed for the purpose of receiving the schedule from the distinguished Democratic whip.

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. GRAY. Mr. Speaker, to my distinguished colleague, the gentleman from Georgia, the minority whip, let me say that the schedule for next week would be for us to meet at 12 noon on Monday, when we will have three suspensions. Those suspensions are as follows:

S. 286, Petroglyph National Monument Establishment Act.

House Concurrent Resolution 324, regarding Burmese elections; and

House Resolution 393, concerning the first anniversary of the Tiananmen square massacre.

Mr. Speaker, the votes on those suspensions will be rolled over until Tuesday, if there are votes requested.

We will then begin general debate only on the Clean Air Act Amendments of 1989.

It would be our hope that on Tuesday we will be able to convene at 10 a.m., when the recorded votes on suspensions would take place. We would hopefully complete consideration of the Americans With Disabilities Act and then move toward the Supplemental Assistance For Emerging Democracies Act of 1990. It is our expectation that it will be a late night on Tuesday, and also on Wednesday and potentially Thursday.

On Wednesday, we have not yet come to an agreement as to the time that we will begin. The majority and minority are still talking about the possibility of coming in early because we want to avoid a Friday session. But at this time we have no agreement. On Wednesday and the balance of the week we would do the Clean Air Act Amendments of 1989 and hopefully complete consideration and then take up the conference report on the dire emergency appropriations.

It is our expectation that we will be working late Tuesday and Wednesday and potentially Thursday, if necessary, in order to complete all of this legislation.

Mr. GINGRICH. Mr. Speaker, let me ask just one or two questions.

First of all, as we look forward to the Memorial Day break and come back after the district work period, I wonder if the gentleman could enlighten the House as to whether or not there is any possibility in June, 1 year after the President sent up his crime and drug package, of the Judiciary Committee actually reporting the crime and drug package only a year later after the President's request. I wonder if the gentleman might have any information on that?

Mr. GRAY. Mr. Speaker, the distinguished majority leader has already made it clear that we are planning to have the drug and crime bill on the floor this year. Exactly whether it will be the first thing up when we return, I am not able to say, but I can assure the gentleman from Georgia that the majority leader has stated publicly that it is our expectation that we will complete consideration of that bill in this session of Congress.

Mr. GINGRICH. Mr. Speaker, we were just hoping that maybe the first anniversary would be a good date to sort of schedule an opportunity for legislation on the President's request on drugs. But that is all right. We understand that may not be a high priority for the Democratic leadership.

Let me ask this question also. Really the gentleman might check with the leadership on his side. I do not know whether he has had a chance yet to check with the Democratic leadership in the other body on the length of time they will take to pass the conference report on the dire supplemental appropriations, but one of the concerns we would have, if we wait until Thursday to deal with that, is whether or not in fact it could get through the

other body before adjournment. I would simply hope that the gentleman's leadership would be working with the Senate leadership to be sure that we would have actually passage of that legislation in both Houses before adjournment.

Mr. GRAY. Mr. Speaker, it is my understanding that the conference report has been finished today. It is our expectation that working together here in the House, we will be able to bring that up and dispose of the conference report prior to the need for any Friday session. We look forward to working with the minority side to allow the House to work its will, and we expect that the conference report will be up next week. That is why we mentioned that it is slated at this time for consideration Wednesday or the balance of the week which should be more than enough time to insure that we get it done prior to our departure for the Memorial Day break.

I think it is very clear that the Democratic leadership is very concerned about several issues in that supplemental, particularly as it relates to support of emerging democracies and the need to show that support as soon as possible.

I would also assure my colleague, the gentleman from Georgia, that the Democratic majority also wishes to see this House work its will on a strong drug and crime bill. We are deeply concerned about it, as we will be doing so in the appropriation process and as we will be doing so in the budget process, and certainly we expect, as a result of our commitment to this important issue, to debate and pass an authorization bill that reflects the appropriate strategies for dealing with drugs and crime in the Nation.

Mr. GINGRICH. Mr. Speaker, let me say in closing that we on the Republican side very much want to work in a collegial and bipartisan way with the Democratic leadership in passing upon the Clean Air Act, which we regard as a very major environmental achievement. It is one of President Bush's major commitments for 1990, and it is something that we think is a very important step to take for the country. And that is true also on the Americans With Disabilities Act. It is my hope that by working together and smoothing out the legislative process next week, while it will take long hours, we will be able by late on Thursday to have completed the process.

Mr. GRAY. Mr. Speaker, let me join the gentleman by saying that we on the majority side do believe that this schedule, although it is a full schedule and not like any we have seen in the last few weeks, is an achievable schedule. If we can work together and expedite some procedures, we will be able to deal with all this legislation and provide the House the opportunity to work its will and get to the President the necessary legislation that he is seeking, as well as move the legislative process forward. So I look forward to working with the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Pennsylvania.

## ADJOURNMENT UNTIL MONDAY, MAY 21, 1990

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. FROST). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## HOUR OF MEETING ON TUESDAY, MAY 22, 1990

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, May 21, 1990, it adjourn to meet at 10 a.m. on Tuesday, May 22, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GRAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1900

## ERIC AND LUCY MURRAY OF MISHAWAKA, IN

(Mr. HILER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, I rise today to inform you and the rest of my colleagues of a community effort and the two people who have kept the dreams of children and the young at heart alive. These two outstanding citizens, Eric and Lucy Murray, have been inspirations to their community.

Located in my district in Mishawaka, IN, the Res encompasses 24 acres of wildlife preserve enjoyed by the community. Formerly a Boy Scout reservation, the Res has operated since entirely on private funds and the generous endeavors of local citizens like the Murrays.

When you visit the Res, you are impressed not only by the scenery, but by the visitors as well. It is refreshing to see today's youth working hard to build animal shelters, cleaning up campsites, and taking an active part in preserving nature due to the encouragement of the Murrays.

For the past 20 years, the Murrays have been the driving force behind the Res. Their commitment to the Res has been the backbone in developing this model for other communities.

The Res is not just a place, it is a spirit, a feeling you get when you are there. This spirit is embodied in Eric and Lucy Murray. Although the Murrays are retiring from their positions as park ranger and office manager, the Res will continue to be a vital part of the community thanks to their many years of service. Eric and Lucy Murray have left a lifetime of values for people to enjoy.

## THE PEANUT PROGRAM MODERNIZATION ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. ARMEY] is recognized for 5 minutes.

Mr. ARMEY. Mr. Speaker, today, the gentleman from Indiana [Mr. JACOBS] and I are introducing the Peanut Program Modernization Act of 1990. This legislation will eliminate the Peanut Program's archaic quota system and replace it with a conventional price support system similar to those covering other food crops. By so doing, it will reduce consumer food costs, correct severe distortions in the market, allow greater growth in peanut production, and make the peanut program more consistent with American principles.

### MANDATORY SUPPLY CONTROLS

Mr. Speaker, peanuts have been the most tightly controlled food crop in American history. For years after the peanut program was initiated in 1941, no American farmer was allowed to grow peanuts without first receiving Government permission in the form of a quota, a Government peanut-growing license. Such mandatory supply controls were quite common during the Great Depression, but they were abandoned for virtually every other food crop over 20 years ago. Peanuts are the exception. To this day, a person cannot grow peanuts in any significant amount and sell them to his fellow citizens to eat without having a Federal license.

This Government control has led to many peculiarities. Originally, the quota licenses were given to anyone who was growing peanuts when the program began. Federal officials simply measured each farmer's peanut acreage and gave him a license to continue producing a specific amount and no more. Virtually all other peanut growing and selling was prohibited.

After that, few new quotas were issued, but the fortunate few who had them were allowed to pass them on to their descendants, who in turn were allowed to sell or rent them to others who wanted to grow peanuts, provided

only—in most cases—that the quota remained in the original county.

Consequently, in 1990, the Government controlled right to grow peanuts to be eaten in the United States is generally distributed not according to any rational plan, but based on who was growing peanuts in this country in 1941. It is quite common for a person to have a license to grow peanuts solely because he inherited it from a family member who was growing peanuts almost 50 years ago.

I believe this system violates fundamental principles in our society. It is a form of feudalism. Under the quota system, if a supposedly free American wishes to grow peanuts and sell them to his fellow citizens to eat, he has little choice but to rent a quota from one of the favored few who hold them. He must, in effect, pay a tribute to a quota lord, someone who holds a quota only because his grandfather was growing peanuts in 1941.

TWO-TIER PRICE SUPPORT

In addition to the quota system, the Peanut Program has a unique two-tier price support in which foreigners are allowed to buy American peanuts at one price, while Americans are forced to buy them for another. The result: Americans pay almost 50 percent more for their own peanuts than foreigners do.

Until 1977, the price of virtually all domestically grown peanuts was supported by the Government at a high level. This had the tragic but predictable effect of blowing American peanuts out of potential export markets overseas.

That year, Congress tried to fix the problem. It kept the price support high for all peanuts to be sold inside the United States, but it lowered it for any additional peanuts that were bound for export.

Under this two-tier price support, peanuts for export are grown and sold profitably at about market prices, while peanuts for domestic edible use are sold at prices kept artificially high by the U.S. Government. That means that Americans pay 50 percent more for American peanuts as foreigners pay for American peanuts.

THE CONSUMER IMPACT

The purpose of this system, freely admitted by its supporters, is to create an artificial scarcity of peanuts on the domestic market and drive up consumer food prices. To quote a basic USDA document, "The Federal peanut program supports the price received by farmers and raises the costs of peanuts and peanut products for consumers." The Peanut Program essentially functions like a cartel. It inflates the price of peanuts in much the same way that the OPEC cartel has inflated the price of oil—the main difference being that under the peanut program American consumers are bilked not by wealthy Arab oil sheiks, but by their own Government.

Although it is difficult to measure exactly, the size of this consumer overcharge is in the hundreds of millions of dollars. The USDA estimates that the peanut program raises consumer prices by $190 million annually. It concedes, however, that this is a conservative figure since it does not take into account the costs that the Peanut Program itself imposes on farmers. The Peanut Butter & Nut Processors Association estimates more realistically that the overcharge is $369 million at the wholesale level.

Considering that peanut butter is an important source of protein for our children, particularly children in lower income families, this is no small matter. Without the quota system, consumers could save as much as 40 cents on an 18 ounce jar of peanut butter priced at $1.79. The Federal Government should do a lot of things; forcing our citizens to pay higher prices to feed their children should not be one of them.

THE PEANUT PROGRAM MODERNIZATION ACT

Mr. Speaker, except perhaps for its sheer antiquity, there is no rational justification for continuing this program in its current, anachronistic form. Our legislation will modernize the program by doing two things:

First, it will eliminate the quota system by striking the provisions which authorized it in the Agriculture Adjustment Act of 1938 and the Agriculture Act of 1949. The two-tier price support will not be reauthorized.

Second, in place of this current program, this act will continue to protect peanut farmers by directing the Secretary of Agriculture to support the price of peanuts. The Secretary will do this using the conventional means that are used to support the price of other crops such as soybeans and corn. In setting the price support level, the legislation directs the Secretary to consider a number of factors, including the cost of peanut production and the demand for peanuts. These are factors which traditionally have been used in agriculture policy to arrive at rational levels of support.

Mr. Speaker, the Peanut Program Modernization Act would essentially bring the peanut program into the 1990's by eliminating its depression-era features and making it similar to our other farm program.

I urge my colleagues to support this long overdue reform legislation.

## INTRODUCTION OF SUBSTANCE ABUSE TREATMENT CORPS LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, Representatives BILL GREEN, DAN GLICKMAN, BILL GRANT and I are today introducing a bill to ensure more alcohol and drug abuse treatment personnel, who will work in underserved inner city and rural areas in exchange for Federal financial help with their educational expenses.

The bill adopts the ideas of the National Health Service Corps to address one of the most glaring gaps in our national war on drugs: the fact that six out of seven Americans who seek drug and alcohol rehab services are turned away because of a lack of facilities and qualified personnel. The lack of adequately trained personnel is particularly severe in remote rural regions and our devastated inner cities.

Therefore the legislation proposes to pay up to $20,000 per year of educational expenses for each year of drug and alcohol treatment work in an underserved area. The educational expenses would be expenses for a degree as a medical doctor, psychiatrist, clinical psychologist, physicians assistant, nurse, nurse practitioner, psychiatric nurse, marriage or family therapist, social worker, or a graduate of a school of public health. The underserved regions would be determined by the Secretary and include regions with significant incidence of alcohol and drug abuse and an inadequate availability of such services as measured by a number of criteria.

The bill authorizes $26 million for the new corps. This is a most modest figure, given the magnitude of the problem. But I believe that as the Corps gets started and proves itself, it will soon justify a larger level of support.

Mr. Speaker, study after study has shown that the best, most cost effective way to deal with the drug crisis is through antidrug education, treatment, and rehabilitation. As long as there is a large demand for drugs in our society, some poor peasant in some jungle country will be raising coca and poppies and someone will be smuggling it across our wide open borders—and all the King's men and all the King's horses won't be able to stop that flow. We must destroy the demand for drugs and the reasons for alcohol abuse. I believe the Drug Corps is one way to help dampen the demand.

We have indications of support for this idea from various groups such as the American Psychological Association, the National Association of State Alcohol & Drug Abuse Directors, the American Association for Marriage & Family Therapy, the American Society of Addiction Medicine, and the National Association of Social Workers.

I hope that it may have the early support of this House.

## TRIBUTE TO HON. EDWARD J. DERWINSKI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to congratulate our former colleague and my good friend from Illinois, the Honorable Edward J. Derwinski, Secretary of the Department of Veterans Affairs, who today received the 1990 Distinguished Service Award from the United States Association of Former Members of Congress during a ceremony held in the House Chamber.

Ed is an outstanding American who served with distinction in the House of Representatives from 1959 to 1983, and it was an honor to work with him during the 18 years we served together in Congress. He is most worthy of the recognition he has received, and this award truly reflects the highest respect and admiration with which his former colleagues regard him.

After compiling an admirable record of achievement as a Member of Congress, Ed continued his exemplary career and commitment to our Nation: as counselor of the Department of State; as Under Secretary of State for Security Assistance, Science and Technology; and presently, as the first Secretary of the Department of Veterans Affairs.

Mr. Speaker, again I congratulate Ed on receiving this Distinguished Service Award, and I

extend to him my best wishes as he continues to serve our Nation and our Nation's veterans in devotion to the highest principles.

## FIT AND READY TO FIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to continue to share with my colleagues a series of articles which appeared in the Roll Call newspaper in the April 30, 1990 edition in a special policy brief, titled "National Guard and Reserves In a Changing World." This brief was developed to describe the roles and missions of the Reserve components and to educate the readers. I wrote the lead article in hope of generating interest by the readers to learn more about the Guard and Reserve. I commend my colleagues to read these articles to gain a better appreciation of the Guard and Reserve. Today I'm sharing another in the series of articles that appeared in that April 30 Roll Call edition.

[From Roll Call, Apr. 30, 1990]

FIT AND READY TO FIGHT

(By John Marsh, Jr.)

Today's National Guard and Reserve units are composed of higher quality personnel, are being more effectively trained, and have more modern equipment than they did 15 years ago.

The Reserve components are better prepared than ever to perform their vital mission: to be ready to fight in the event of mobilization. Even with the fast-moving, highly significant changes taking place throughout the world, this mission will not change substantially in the near future.

Composed of the Army National Guard, Air Force National Guard, Army Reserve, Marine Corps Reserve, Naval Reserve, Air Force Reserve, and Coast Guard Reserve, the Reserve components' capability deters an adversary and maintains peace.

History has proven that a force that is ready to fight is less likely to have to fight.

An important challenge for civilian and military defense planners, in the face of the rapidly changing world situation, is to determine the force mix of the US Armed Forces, while maintaining the high state of readiness of the Reserve components.

At the direction of Congress, a Total Force Study Group, of which I am a member, has been created within the Department of Defense. It is composed of high-level civilian and military leaders from the DoD, Active components, and Reserve components

The findings of this group should greatly influence the force structure of the United States Armed Forces for years to come.

DoD policy is, and will continue to be, to maintain as small an Active peacetime Force as national security policy, military strategy, and overseas commitments allow.

The Active Force should be large enough to deal with low-to-mid-intensity conflicts of short duration without reliance on the Reserve components. Reserve component units and individuals should be prepared to augment active forces as required.

The Reserve components provide a cost-effective means for augmenting the Active Forces and maintaining a strong national defense. Recognizing this, budget makers are likely to try to save dollars, while maintaining capability, by transferring more missions and force structure from the Active to the Reserve components.

The Reserve components stand ready to accept additional responsibilities. However, the added missions and force structure must be adequately resourced, and must be of the type that are best supported within the parameters of Reserve component recruiting, retention, and training.

It must be remembered that Reserve component units are expected to maintain readiness in less than 20 percent of the time available to Active component units. To demand more could adversely impact recruiting and retention. To allow less would hurt readiness.

Another major concern I have about Reserve component readiness is the tendency to think in terms of "equal share" reductions when budget cuts are required. This is particularly inappropriate at a time when additional missions and force structure are being given to the Reserve components.

Reserve component budget reductions should not be made on an automatic equal share basis with the Active components, but on the basis of what best maintains total force capability.

Today's Reserve components are high quality, well equipped, well trained, and ready to fight. Continued attention must be paid to persistent problem areas. Additions to the missions and force structure of the Reserve components must be carefully considered and adequately funded.

Clearly, the Reserve components are going to have greater responsibilities for national security in the years ahead. They deserve the support of Congress in this important endeavor.

## MOUNT VERNON'S FINEST

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, May 13 through May 19 is National Police Week, and I rise today to pay particular tribute to the men and women of the Mount Vernon Police Department. Mayor Ronald A. Blackwood has designated May 18, 1990 as Police Appreciation Day in Mount Vernon, NY. This is a fitting tribute to the men and women in uniform who face danger on a daily basis to make our lives safer.

Law enforcement officers around the Nation are truly our first line of defense against crime. At a time when we are all committed to ending the scourge of drugs and restoring safety to our streets and neighborhoods, we, as a nation, should provide the support our law enforcement officers need and deserve. While we need to increase the resources available to law enforcement, as I am working to do, we also must lend our moral support to those who are working to prevent and respond to crime.

On May 18, the Mount Vernon Police Department will honor several of their members who have distinguished themselves in the performance of their duties and will also pay tribute to civilians who have been instrumental in assisting the Department. This is a most fitting recognition of their dedication and commitment. In addition, a memorial service will be held to honor those who have been struck down in the line of duty. Their lives were lost for their fellow residents whose safety they were protecting. Theirs was the ultimate sacrifice.

The officers who will be honored are:

Lt. Kevin Geberth.
Sgt. Richard Burke, Jr.
Sgt. Michael Carpentieri.
Sgt. John Roland.
Sgt. Joseph Hunce.
Sgt. John DeMascio.
Sgt. Walter Roland.
Detective Karyn Addison.
Detective Robert Caluori.
Detective Joseph Radzinski.
Detective Mario Manganiello.
Detective Davy Rhodes.
Detective Dante Barrera.
Detective Ronald DeVito.
Detective Thomas Gormley.
Detective Kevin Mandel.
Detective James Garcia.
Police officer Salvatore Ardisi.
Police Officer Douglas Beale.
Police officer Larry Bland.
Police officer Michael Gonzalez.
Police officer Thomas Campone.
Police officer Thomas Duffy.
Police officer Albert Fontecchio.
Police officer Lloyd Green.
Police officer Edward Gorman.
Police officer Steven Kelly.
Police officer Matthew Lombardo.
Police officer Robert McMenamin.
Police officer Marcel Olifiers.
Police officer Michael Olifiers.
Police officer Neil Rosenberg.
Police officer Anthony Rozzi.
Police officer Michael Rossetti.
Police officer Mark Sievertsen.
Police officer Anthony Mastrogiorgio.
Police officer Thomas Strauss.
Police officer Courtney Besley.
Police officer Joseph Clark.
Police officer Michael DeGrego.
Police officer Paul Fertig.
Police officer Arthur Glover.
Police officer Roger Bock.
Police officer John Jones.
Police officer Thomas Luisa.
Police officer Gregory Paci.
Police officer Salvatore Nargi.
Police officer Thomas Odell.
Police officer Michael Olivo.
Police officer Rocky Rosado.
Police officer Elio Rucci.
Police officer Richard Veglia.
Police officer Mario Scavelli.
Emergency service dispatcher Emma Baluvelt.
Emergency service dispatcher Richard Brenner.

CIVILIAN AWARDS

Larry Barnes.
Joseph Coniglio.
Firefighter Nicholas Ionta.
Glenory Manderson.
Joseph Mosca.

## CONCERN ABOUT FAIRNESS OF ROMANIAN ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Virginia [Mr. WOLF] is recognized for 30 minutes.

Mr. WOLF. Mr. Speaker, on Sunday, the people of Romania will go to the ballot box for the first time since 1947. But as Romanians prepare to elect new leaders, serious questions are being raised about whether the election will really be as free and fair as was promised by the current leadership, the National Salvation Front [NSF].

CONCERN ABOUT FAIRNESS OF THE ELECTIONS

Former United States Ambassador to Romania David B. Funderburk, joined by several Members of this body, yesterday presented strong and convincing evidence that the upcoming elections would be anything but free and fair.

Ambassador Funderburk said yesterday, and I quote:

For months now, the NSF Communists have controlled the election process through Secret Police intimidation and even beating up opposition candidates; destruction of the only private independent newspapers * * *; monopolizing TV coverage of the elections so that the main opposition parties cannot get on television; and the continued operations of the Secret Police of Ceausescu (which taps telephones, makes threatening calls and harasses and intimidates opposition to the NSF Communists).

An editorial in yesterday's Washington Post carries a similar theme. It reads in part:

When Secretary of State James Baker was in Romania last February, he urged the NSF to disband the Ceausescu regime's notorious security force, the Securitate, and to give the non-Communist opposition parties broader access to the voting public. The NSF has done neither. While the Securitate has receded into the shadows, it is still apparently in operation. While the opposition is able to publish its own newspapers, it is having trouble getting them distributed * * * [t]he government and its supporters have evidently created an atmosphere of intimidation.

THE PRESIDENTIAL DELEGATION TO OBSERVE THE ELECTIONS IN ROMANIA

Yesterday, Mr. Speaker, the White House announced the composition of the Presidential Delegation to Observe the Elections in Romania.

Quite frankly Mr. Speaker, in light of the very serious concerns I just mentioned about the fairness of the election process in Romania, the composition of that group is a major disappointment.

It is a letdown to the people of Romania who fought for freedom in last December's popular uprising.

I have three concerns about the delegation.

COMPOSITION OF THE PRESIDENTIAL DELEGATION

Individually, I am sure that the members President Bush selected are fine members of the community, competent at what they do and I have no qualms about their being included in the Presidential delegation.

My concern is that the delegation does not reflect the balance and expertise one would expect from a delegation to monitor such an important election.

The delegation should have included widely recognized, distinguished experts who could provide balance, diversity, and expertise to complement one another.

At a minimum, any group whose purpose is to monitor an international election should be balanced with members who possess certain basic skills:

A thorough knowledge of the language, culture, politics, and history of the country whose election they are monitoring;

Experience with the electoral process and in monitoring international elections;

Expertise in the area of human rights;

Simply stated, the White House delegation does not reflect that balance. And that sends the wrong message to the people of Romania who have struggled for freedom.

What will the Romanian people think?

The young men and women who took up arms against President Ceasesescu and the Securitate, risking their lives and their families deserve better. They deserve a strong, balanced, experienced delegation.

The people of Timisora who lost family and friends standing up to the Securitate in the name of freedom. They deserve a strong, balanced, experienced delegation.

At the most critical moment in their struggle for freedom, the Romanian people will wonder why the United States delegation to monitor their elections does not reflect greater diversity. Why the members are not names they recognize. Why none are experts in human rights?

TIMING OF APPOINTMENT OF THE DELEGATION

I am also disappointed, Mr. Speaker, that the White House waited until just 4 days before the beginning of the elections to make their selections. This leaves little time for briefings and education to assist in understanding the political dynamics of the country, its language, people, and culture.

The delegation should have been appointed weeks ago so that members would have had time to thoroughly prepare for their mission.

DURATION OF MONITORING ACTIVITIES

Perhaps my most serious concern, however, Mr. Speaker, is that the United States delegation is scheduled to return to the United States before the counting of the ballots in Romania is completed.

The National Salvation Front [NSF], currently in power, has indicated it will take several days to complete counting the ballots. They had originally said it would take 6 days. They originally had said they would not count the ballots for 6 days. The U.S. delegation is set to be back in the United States on May 23.

Prior to the elections in Nicaragua, the Carter Presidential Center outlined what it considered to be the important roles for the elections there. These include:

Being present at polling sites on election day before hand to prepare for the day's election activities;

Observing the voting and counting by going in and out of the polling sites throughout the day;

Receiving copies of the vote tally sheets from randomly selected sample of sites for rapid assessment of the results;

Receiving two copies of the vote tally sheets from each of the polling places for a parallel tabulation of the results;

Conduct appropriate quick counts or paralled vote tabulations;

Exercise unimpeded access to all voting sites;

Witness all voting activities, handling of ballots, and tabulation and transmission of vote counts;

Observe and assist in the day's closing election acts.

Mr. Speaker, granted that these criteria were developed especially for the Nicaraguan election, but the same concepts apply to the Romanian election. Perhaps even more so.

Mr. Speaker, the U.S. delegation will not be able to monitor the counting of the ballots because they will not be there for the whole process. They will not be able to randomly analyze vote tally sheets. They will not be able to conduct parallel tabulations. They will not be able to witness handling of the ballots, tabulations or transmissions of vote counts. They will have already returned to the United States when these activities are completed.

The Carter Center's report concluded that lapses in duties might call into question the integrity of the election.

THE NEED FOR ELECTION MONITORING

Today's New York Times carries an article which explains many of the concerns in the world community about the upcoming Romanian elections.

Opposition party candidates are attacked regularly by unidentified assailants. I was told in a meeting this morning that many of the candidates stay in a different location every night for safety. The Liberal Party presidential candidate, Radu Campeanu, was attacked in a provincial town last week. The New York Times reports that the Peasants Party candidate, Ion Ratiu, has reported similar assaults.

The opposition parties have also had difficulty reaching the people of Romania through the mass media. I have been told that the NSF has deliberately made it difficult if not impossible for the opposition to distribute its

newspapers. First they were told no paper was available. Then no ink. Workers at the printing facility—government controlled—then refused to print the papers and the oppositon was not allowed to obtain a printing press for itself. Once they obtained the printing press electricity and water to the location were cutoff. When they tried to generate their own power, they were told that they were going have to return the building in which they were housed and find a new location.

Similar problems exist regarding access to television. Originally, each party was to have a half hour each on television on a rotating basis. Suddenly, however, overnight over 40 political parties were formed. Most were sympathetic to the NSF and many believe they were formed by the NSF to dilute the ability of the opposition parties to access the electronic media.

With the new parties sharing in available television time, opposition parties would be on the air for one-half hour every 2 months. Hardly enough to get any message across.

As yesterday's Washington Post pointed out, the opposition parties are having trouble getting their messages to the voters. That alone is enough to create concern about the integrity of the elections.

When one considers the additional fact that the NSF does not intend to count the ballots for 3 days, the level of concern grows.

Who will guard the ballots to ensure they are not tampered with? I have been told it will be the army. Does that mean the Securitate, or Romanian Intelligence Service as it is now called, will be involved? Either way, why wait to count the ballots?

CONCERN ABOUT THE PAST

Under the leadership of President Ceausescu, Romania was one of the worst violators of human rights in the world.

They persecuted different religious faiths. Bulldozed synagogues and churches—sometimes with people still in the churches. They beat up a Catholic priest who said that Christmas should be a holiday and later killed him.

They persecuted Hungarians and other minorities.

Freedom of speech, of the press, of religion were all strictly controlled.

Some of the same people who perpetrated these systematic abuses of human rights are the same people who make up the National Salvation Front which now rules Romania and which, many believe, are responsible for the many difficulties the opposition parties in Romania are experiencing.

As the New York Times reported today:

The main objection to the front is that it is filled with former communists who [have] not abandoned either the party's ideology or its old methods.

CONCLUSION

Mr. Speaker, Ambassador Funderburk may be correct when he calls the elections in Romania a sham. There are certainly many concerns being expressed by a wide divergence of sources about the integrity, fairness and openness of the coming elections.

The United States, the symbol of democracy throughout the world, has an obligation—an obligation to the people of Romania who have suffered and fought for freedom—to do what it can to help foster democracy in that country. To ensure the elections are fair and free.

The official delegation, while composed of fine individuals, is not up to that task.

Having been to Romania three times, both before and after the revolution, I feel for the Romanian people and I share in their disappointment.

Perhaps because of the disappointing U.S. response, in the future our Government will have an obligation to be more aggressive in aiding democracy and peace in Romania.

□ 1920

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LOWERY of California (at the request of Mr. MICHEL), from 4 p.m. today, on account of attending a funeral.

Mr. HAMMERSCHMIDT (at the request of Mr. MICHEL), for today, on account of representing the President at the Inauguration of President Lee Teng-Hui of the Republic of Taiwan.

## SPECIAL ORDERS GRANTED

My unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STEARNS) to revise and extend their remarks and include extraneous material:)

Mr. WOLF, for 30 minutes, today.

Mr. GINGRICH, for 60 minutes each day, on May 21, 22, 23, 24, and 25.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mrs. LOWEY, of New York, for 5 minutes, today.

Mr. SKELTON, for 30 minutes, on May 21.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL (at the request of Mr. BARTLETT) to follow rollcall No. 116, the vote of the LAFALCE amendment, on H.R. 2273, in the Committee of the Whole today.

(The following Members (at the request of Mr. STEARNS) and to include extraneous matter:)

Mr. BUECHNER.
Mr. SCHIFF.
Mr. BROOMFIELD.
Mr. GRADISON.
Mr. PORTER in two instances.
Mr. HORTON.
Mr. GREEN of New York in two instances.
Mr. MOLINARI.
Mrs. MORELLA.
Mr. STANGELAND.
Mr. BLILEY in two instances.
Mr. KYL.
Mr. MARLENEE.
Mr. BLAZ.
Mr. CONTE in four instances.
Mr. MACHTLEY.
Mr. MCEWEN.
Ms. ROS-LEHTINEN.
Mr. WELDON.
Mr. BALLENGER.
Ms. SNOWE.
Mr. LAGOMARSINO.
Mr. MICHEL.
Mr. BURTON of Indiana.
Mr. BROWN of Colorado.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. BONIOR in two instances.
Mr. RANGEL.
Mr. ACKERMAN.
Ms. OAKAR.
Mr. FASCELL in two instances.
Mr. KASTENMEIER.
Mr. STARK in two instances.
Mr. DARDEN.
Mr. SKELTON in two instances.
Mrs. COLLINS.
Mr. ROE in two instances.
Mr. TRAXLER.
Mr. GRAY.
Mr. KOSTMAYER.
Mr. EVANS.
Mr. MCMILLEN of Maryland.
Mr. ATKINS in 20 instances.
Mr. FAZIO in three instances.
Mrs. BOGGS.
Mr. MAVROULES.
Mr. NELSON of Florida.
Mr. GLICKMAN.
Mr. DORGAN of North Dakota.
Mr. BROWN of California.
Mr. STOKES.
Mr. FROST.
Mr. LAFALCE.
Mr. WEISS.
Mr. ROSTENKOWSKI.
Mr. SWIFT.
Mr. ASPIN.
Mr. TRAFICANT.
Mr. PENNY.

Mr. BRYANT.
Mr. TALLON.
Mr. TORRES.

## SENATE JOINT RESOLUTION REFERRED

Joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 264. Joint resolution to commemorate the 50th anniversary of the National Sheriffs' Association; to the Committee on Post Office and Civil Service.

## ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3910. An act to require the Secretary of Education to conduct a comprehensive national assessment of programs carried out with assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

## ADJOURNMENT

Mr. WOLF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 23 minutes p.m.) under its previous order, the House adjourned until Monday, May 21, 1990, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3197. A letter from the Secretary, Interstate Commerce Commission, transmitting a notification that the Commission in Finance Docket No. 31424, "Acquisition by Tampa Bay & Western Trans., Inc., of CSX Transp., Inc., Line Between Sulphur Springs and Broco, FL" has extended the time period for issuing a final decision by 70 days, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

3198. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3199. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3200. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3201. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report on the impact of the proposed municipal landfill (Balefill) project on the Newark Valley Aquifer near Bartlett, IL, pursuant to Public Law 100-676, section 47(b) (102 Stat. 4042); to the Committee on Public Works and Transportation.

3202. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Ecorse Creek Drainage Basin, Wayne County, MI, together with other pertinent reports and comments (H. Doc. No. 101-193); to the Committee on Public Works and Transportation and ordered to be printed.

3203. A letter from the Assistant Secretary of the Army (Civil Works), transmitting recommendations of the Secretary on a report dated Janaury 3, 1989, from the Chief of Engineers, on Rio de la Plata, PR, together with other pertinent reports and comments (H. Doc. No. 101-194); to the Committee on Public Works and Transportation and ordered to be printed.

3204. A letter from the General Counsel, Department of Transportation, transmitting copies of the fiscal year 1991 budget requests of the Federal Aviation Administration to the Department, including requests for "Facilities and Equipment" and "Research, Engineering, and Development," pursuant to 49 U.S.C. app. 2205(f); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

## REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3030. A bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air, with an amendment; referred to the Committee on Public Works and Transportation and the Committee on Ways and Means for a period ending not later than May 21, 1990, for consideration of such provisions of the bill and amendment as fall within the respective jurisdictions of those committees pursuant to clauses 1(p) and 1(v), Rule X (Rept. 101-490, pt. 1). Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONTE:

H.R. 4841. A bill making dire emergency supplemental appropriations for assistance to Panama and Nicaragua and for refugee assistance for the fiscal year ending September 30, 1990, and for other purposes; to the Committee on Appropriations.

By Mr. BRYANT:

H.R. 4842. A bill to prohibit States from participating in any betting or gambling scheme on professional or amateur sporting events; jointly, to the Committees on the Judiciary and Government Operations.

H.R. 4843. A bill to amend title 18, chapter 61, section 1307 to clarify the exemption of State-conducted lotteries; to the Committee on the Judiciary.

H.R. 4844. A bill to amend the Trademark Act of 1946 to protect the service marks of professional sports organizations from misappropriation by State lotteries; to the Committee on the Judiciary.

By Mr. ARMEY (for himself and Mr. JACOBS):

H.R. 4845. A bill to repeal the existing quota and price support program for peanuts and to authorize the Secretary of Agriculture to support the price of peanuts at a level to be determined by the Secretary; to the Committee on Agriculture.

By Mr. BLAZ:

H.R. 4846. A bill to extend the supplemental security income benefits program to residents of Guam, and for other purposes; to the Committee on Ways and Means.

By Mr. BLILEY (for himself, Mr. HOLLAWAY, and Mr. HASTERT):

H.R. 4847. A bill to amend the Public Health Service Act to establish, in the program of block grants under part B of title XIX of such act, a requirement regarding health care for infants with congenital conditions caused by the substance abuse of the mothers of the infants, and for other purposes; to the Committee on Energy and Commerce.

By Mr. COUGHLIN (for himself and Mr. HUGHES):

H.R. 4848. A bill to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of aircraft, railroads, commercial motor vehicles, and mass transportation vehicles, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. EVANS (for himself, Mr. ROHRABACHER, Mr. STARK, and Mr. DYSON):

H.R. 4849. A bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces; to the Committee on Armed Services.

By Mr. FAWELL (for himself, Mr. BLILEY, Mr. DONNELLY, Mr. HOLLOWAY, Mr. SMITH of Texas, Mr. MOLLOHAN, Mr. HASTERT, Mr. VISCLOSKY, Mr. WALSH, Mr. SMITH of Vermont, Mr. DREIER of California, Mrs. VUCANOVICH, Mr. MILLER of Washington, and Mr. CHANDLER):

H.R. 4850. A bill to amend part E of title IV of the Social Security Act to prevent abandoned babies from experiencing prolonged foster care where a permanent adoptive home is available; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 4851. A bill to reorganize and simplify the financial institution regulatory and deposity insurance structure and provide the Secretary of the Treasury with oversight authority for banking agencies, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SPRATT, Mr. KASICH, Mr. GUARINI, Mrs. MARTIN of Illinois, Mr. ROWLAND of Connecticut, and Mr. SHAYS):

H.R. 4852. A bill to provide manufacturers deemed critical to the national defense with an incentive to commit capital to invest-

ment in productive equipment, and for other purposes; jointly, to the Committees on Ways and Means and Armed Services.

By Mr. LEHMAN of California (for himself, Mr. LAGOMARSINO, Mr. FAZIO, Mr. CONDIT, and Mr. PASHAYAN):

H.R. 4853. A bill to amend the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. LLOYD (for herself, Mr. STALLINGS, Mr. MORRISON of Washington, and Mr. FAWELL):

H.R. 4854. A bill to establish a national advanced civilian reactor research, development, and demonstration program to make available new, improved, and economical nuclear energy generation units, and to give strategic focus to existing programs in nuclear fission research at the Department of Energy; to the Committee on Science, Space, and Technology.

By Mr. PEASE:

H.R. 4855. A bill to amend the Solid Waste Disposal Act and the Toxic Substances Control Act to require the Administrator of the Environmental Protection Agency, in determining whether to issue a permit for a hazardous waste facility or to issue an approval for the incineration of polychlorinated biphenyls, to consider an applicant's record in owning or operating other hazardous waste facilities or incineration facilities; to the Committee on Energy and Commerce.

H.R. 4856. A bill to amend the Solid Waste Disposal Act to authorize the Environmental Protection Agency to award grants to groups for technical assistance to oppose the issuance of permits under that act; to the Committee on Energy and Commerce.

By Mr. PENNY (for himself, Mr. TALLON, Mr. JOHNSON of South Dakota, Mr. DORGAN of North Dakota, Mr. GRANDY, Mr. STALLINGS, and Mr. TAUKE):

H.R. 4857. A bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to qualified beginning farmers and ranchers, and for other purposes; to the Committee on Agriculture.

By Mr. RICHARDSON (for himself and Mr. TOWNS):

H.R. 4858. A bill to amend the Communications Act of 1934 to assure equal employment opportunities are afforded by radio and television broadcasting stations; to the Committee on Energy and Commerce.

By Mr. RITTER (for himself, Mr. CAMPBELL of California, Mr. DELAY, Mr. HILER, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. WALKER, and Mr. LENT):

H.R. 4859. A bill to amend the Internal Revenue Code of 1986 to provide a variable capital gains deduction and to index the basis of capital assets; to the Committee on Ways and Means.

By Mr. RITTER (for himself, Mr. CAMPBELL of California, Mr. DELAY, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. WALKER, and Mr. LENT):

H.R. 4860. A bill to amend the Internal Revenue Code of 1986 to encourage investments in new manufacturing equipment by allowing an investment tax credit for such investments; to the Committee on Ways and Means.

H.R. 4861. A bill to amend the Internal Revenue Code of 1986 to encourage investments in manufacturing companies by providing special treatment for losses on such investments; to the Committee on Ways and Means.

By Mr. RITTER (for himself, Mr. CAMPBELL of California, Mr. DELAY, Mr. HILER, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. WALKER, and Mr. LENT):

H.R. 4862. A bill to amend the Internal Revenue Code of 1986 to provide a partial exclusion of dividends and interests received by individuals; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself and Ms. OAKAR):

H.R. 4863. A bill to provide for an intensified national effort to improve the health and enhance the independence of older Americans through research, training, treatment, and other means, and for other purposes; to the Committee on Energy and Commerce.

By Ms. SNOWE (for herself, Mr. DOWNEY, Mr. DONNELLY, Mrs. JOHNSON of Connecticut, Mr. PAYNE of New Jersey, Mrs. SAIKI, Mrs. LLOYD, Mrs. SCHROEDER, Ms. LONG, Mr. RINALDO, Mrs. UNSOELD, Mr. STAGGERS, Mrs. BOXER, Ms. OAKAR, Mrs. MORELLA, and Mrs. VUCANOVICH):

H.R. 4864. A bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and other purposes; to the Committee on Energy and Commerce.

By Ms. SNOWE (for herself, Mr. DONNELLY, Mr. DOWNEY, Mr. PAYNE of New Jersey, Mrs. SAIKI, Mrs. LLOYD, Mrs. SCHROEDER, Ms. LONG, Mr. RINALDO, Mrs. UNSOELD, Mr. STAGGERS, Mrs. BOXER, Ms. OAKAR, and Mrs. VUCANOVICH):

H.R. 4865. A bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SOLOMON (for himself, Mr. MARKEY, Mr. ROSE, and Mr. SCHULZE):

H.R. 4866. A bill to deny the People's Republic of China most-favored-nation trade treatment; to the Committee on Ways and Means.

By Mr. STANGELAND (by request):

H.R. 4867. A bill entitled, "Water Resources Development Act of 1990"; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. STARK (for himself, Mr. GREEN, Mr. GLICKMAN, and Mr. GRANT):

H.R. 4868. A bill to amend the Public Health Service Act to establish a Substance Abuse Treatment Corps; to the Committee on Energy and Commerce.

By Mr. TAYLOR (for himself, Mr. HARRIS, Mr. MONTGOMERY, Mr. BROWDER, Mr. PARKER, Mrs. LLOYD, Mr. HALL of Texas, Mr. JONES of Georgia, Mr. WATKINS, Mr. HAYES of Louisiana, Mr. HUCKABY, Mr. PICKETT, Mrs. BYRON, Mr. LANCASTER, Mr. RAY, Mr. GEREN, Mr. DYSON, Mr. STENHOLM, Mr. LAUGHLIN, Mr. PAYNE of Virginia, Mr. TAUZIN, Mrs. UNSOELD, Mrs. PATTERSON, and Mr. BENNETT):

H.R. 4869. A bill to amend chapter 11 of title 31, United States Code, to require that the budget submitted by the President be in balance; to the Committee on Govermnent Operations.

By Mr. WILSON:

H.R. 4870. A bill to amend the Internal Revenue Code of 1986 to make it easier for tax-exempt bonds to be issued to provide electric power facilities for rural areas; to the Committee on Ways and Means.

By Mrs. COLLINS (for herself, Mrs. MORELLA, Mr. WAXMAN, Mr. MOAKLEY, Mrs. BOXER, Ms. PELOSI, Mr. WYDEN, Mr. RINALDO, Mrs. VUCANOVICH, Ms. SLAUGHTER of New York, Mr. RICHARDSON, Mr. BILIRAKIS, Mrs. UNSOELD, Mrs. SAIKI, Mr. WALGREN, Mr. FAZIO, Mrs. BOGGS, Ms. MOLINARI, Mr. MYERS of Indiana, Mr. BOSCO, Mrs. BYRON, Mrs. BENTLEY, Mr. SCHULZE, Mr. MCGRATH, Ms. OAKAR, Mrs. MARTIN of Illinois, Mr. GALLO, and Mr. CHANDLER):

H.J. Res. 570. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month"; to the Committee on Post Office and Civil Service.

By Ms. OAKAR (for herself, Mr. BLILEY, Mr. HARRIS, Mr. HORTON, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. MCNULTY, and Mr. VALENTINE):

H.J. Res. 571. Joint resolution designating 1991 as the "Year of the Lifetime Reader"; to the Committee on Post Office and Civil Service.

By Mr. RICHARDSON:

H.J. Res. 572. Joint resolution to designate May 17, 1991, as "High School Reserve Officer Training Corps Recognition Day"; to the Committee on Post Office and Civil Service.

By Mrs. MORELLA:

H. Con. Res. 331. Concurrent resolution calling for the maximum participation by the Organization for Economic Cooperation and Development in assisting the transition of Eastern European countries to free market democracies; to the Committee on Foreign Affairs.

By Mr. DORGAN of North Dakota (for himself, Mr. HALL of Ohio, Mr. MRAZEK, Mrs. MORELLA, and Mr. LEACH of Iowa):

H. Res. 396. Resolution expressing the sense of the House of Representatives that the Peace Corps should develop a business persons volunteer program for Eastern Europe to assist emerging democracies there in business and agriculture; to the Committee on Foreign Affairs.

By Mr. SCHUETTE:

H. Res. 397. Resolution to recognize the independence of Lithuania; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII,

391. The SPEAKER presented a memorial of the Assembly of the State of California, relative to Amerasian refugee family reunification; to the Committee on the Judiciary.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. JONES of North Carolina introduced a bill (H.R. 4871) to authorize coastwise documentation for the vessel *Rough Point;* to the Committee on Merchant Marine and Fisheries.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. SERRANO.

H.R. 39: Mr. ROWLAND of Connecticut.

H.R. 66: Mr. SHARP.

H.R. 173: Mr. CRANE, Mrs. VUCANOVICH, Mrs. MARTIN of Illinois, Mr. CLARKE, Mr. HOUGHTON, Ms. PELOSI, and Mr. JONTZ.

H.R. 211: Mr. BROWDER.

H.R. 220: Mrs. BYRON, Mr. LAGOMARSINO, Mr. CROCKETT, Mr. VALENTINE, Mr. HORTON, Mrs. LLOYD, Mr. FOGLIETTA, and Mr. OWENS of Utah.

H.R. 222: Mr. LEHMAN of Florida.

H.R. 446: Mr. HUCKABY.

H.R. 467: Mr. GEPHARDT, Mr. SYNAR, and Mr. UDALL.

H.R. 796: Mr. PAYNE of Virginia, Mr. PERKINS, Mr. MRAZEK, and Mr. GOODLING.

H.R. 851: Mr. CAMPBELL of California.

H.R. 931: Mr. LEVINE of California.

H.R. 1636: Mr. CAMPBELL of California, Mr. DELAY, Mr. HILER, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of Calfiornia, Mr. WALKER, and Mr. LENT.

H.R. 1899: Mrs. SCHROEDER, Mr. SCHEUER, Mr. PAYNE of New Jersey, and Mr. RANGEL.

H.R. 2025: Mr. FUSTER, Mr. SOLARZ, Mr. MANTON, and Mr. LANTOS.

H.R. 2168: Mr. OBERSTAR, Mr. PERKINS, and Mr. MARTINEZ.

H.R. 2174: Mr. HORTON, Mr. TOWNS, Mr. BLAZ, and Mr. MICHEL.

H.R. 2270: Mr. JAMES and Mr. MCNULTY.

H.R. 2353: Mr. PAYNE of Virginia.

H.R. 2380: Mr. HYDE.

H.R. 2418: Mr. HAMILTON and Mr. DURBIN.

H.R. 2437: Mrs. BENTLEY, Mr. GREEN, Mr. HOUGHTON, Mr. MCHUGH, Mr. JACOBS, Mr. MACHTLEY, and Mr. OWENS of New York.

H.R. 2584: Mr. KILDEE.

H.R. 2596: Mr. WILSON, Mr. WHEAT, and Mr. HORTON.

H.R. 2700: Mr. MORRISON of Washington.

H.R. 2852: Mr. SHAYS and Mr. MARKEY.

H.R. 2951: Mr. ROE and Mrs. SCHROEDER.

H.R. 2952: Mr. ROE and Mrs. SCHROEDER.

H.R. 3004: Mr. CLEMENT, Mr. MCCLOSKEY, and Mr. SCHEUER.

H.R. 3037: Mr. FAZIO.

H.R. 3098: Mr. TRAFICANT.

H.R. 3205: Mr. WOLPE.

H.R. 3243: Mr. JONES of Georgia and Mr. HARRIS.

H.R. 3280: Mr. KANJORSKI, Mr. CONDIT, Mr. FISH, Mr. CLEMENT, Mr. THOMAS of Wyoming, Mr. MILLER of Washington, Ms. OAKAR, and Mrs. SCHROEDER.

H.R. 3500: Mr. CLARKE.

H.R. 3651: Mr. FLIPPO.

H.R. 3732: Mr. DICKINSON, Mr. HOLLOWAY, Mr. BRENNAN, Mr. STENHOLM, Mr. DUNCAN, Mr. HAMMERSCHMIDT, Mr. OLIN, and Mr. SKEEN.

H.R. 3733: Mr. THOMAS A. LUKEN, Mr. COLEMAN of Texas, Mr. MARTINEZ, Mr. DYMALLY, Mr, OBERSTAR, Mr. BORSKI, Mr. MCNULTY, Mr. WEISS, Mr. DORGAN of North Dakota, and Mr. KOLTER.

H.R. 3756: Mrs. MARTIN of Illinois.

H.R. 3800: Mr. LENT, Mr. DORGAN of North Dakota, Ms. SNOWE, Mr. MCMILLEN of Maryland, Mr. MOODY, Mrs. BENTLEY, Mr. UPTON, Mr. CAMPBELL of Colorado, Mr. SAXTON, and Mr. ROWLAND of Georgia.

H.R. 3813: Mr. CAMPBELL of California, Mr. DELAY, Mr. HILER, Mr. HYDE, Mr. BOEHLERT, Mr. BUECHNER, Mr. INHOFE, Mr. BARTLETT, Mr. HASTERT, Mr. PAXON, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. WALKER, and Mr. LENT.

H.R. 3836: Mrs. MARTIN of Illinois, Mr. GORDON, Mr. STALLINGS, Mr. GOODLING, Mr. JOHNSON of South Dakota, and Mrs. PATTERSON.

H.R. 3859: Mr. LEACH of Iowa.

H.R. 3880: Mr. MRAZEK.

H.R. 3914: Mr. SOLARZ, Mr. SMITH of Vermont, Mr. PETRI, Mr. BILIRAKIS. Mr. PAYNE of New Jersey, Mr. GIBBONS, Ms. SNOWE, Mr. MCCOLLUM, Mr. SKEEN, Mr. PANETTA, Mr. PERKINS, Mr. VOLKMER, and Mrs. VUCANOVICH.

H.R. 3929: Mr. VALENTINE, Mr. CHAPMAN, and Mr. PARKER.

H.R. 3932: Ms. KAPTUR, Mrs. BOXER, Mr. BEILENSON, Mr. SABO, Mr. BRYANT, Mr. KILDEE, Mr. ESPY, Mr. NOWAK, Mr. FUSTER, Mr. FAZIO, Mr. KASTENMEIER, Mr. DWYER of New Jersey, Mr. ROYBAL, Mrs. SCHROEDER, and Mr. GEJDENSON.

H.R. 3936: Mr. SKELTON, Mr. HALL of Ohio, Ms. LONG, Mr. LAFALCE, Mr. TRAXLER, Mr. BRYANT, Mr. FEIGHAN, Mr. PAYNE of New Jersey, Mr. WEISS, Mr. SERRANO, and Mr. DOWNEY.

H.R. 3973: Mr. ROHRABACHER.

H.R. 3978: Mr. VALENTINE and Mr. WAXMAN.

H.R. 3979: Mr. MFUME.

H.R. 4001: Mr. MCCOLLUM and Mr. OWENS of New York.

H.R. 4003: Mr. MILLER of Ohio.

H.R. 4059: Mr. ATKINS, Mr. THOMAS A. LUKEN, Mr. POSHARD, and Ms. SLAUGHTER of New York.

H.R. 4065: Mr. HOCHBRUECKNER.

H.R. 4079: Ms. MOLINARI and Mr. ROHRABACHER.

H.R. 4108: Mr. HEFLEY.

H.R. 4121: Mrs. PATTERSON.

H.R. 4138: Mr. LANCASTER, Mrs. BOXER, and Mr. JONTZ.

H.R. 4144: Mr. SIKORSKI, Mr. NAGLE, and Mrs. BOXER.

H.R. 4146: Mr. ROHRABACHER.

H.R. 4147: Mr. HORTON.

H.R. 4254: Mr. LANCASTER.

H.R. 4262: Mr. JENKINS.

H.R. 4286: Mr. CLINGER.

H.R. 4292: Mr. RITTER, Mr. ASPIN, Mrs. MEYERS of Kansas, Mr. SHUMWAY, Mr. BLILEY, Mrs. BOXER, and Mr. KOLBE.

H.R. 4300: Mr. FAZIO and Mr. STUDDS.

H.R. 4319: Mrs. PATTERSON, Mrs. COLLINS, Mr. TOWNS, Mr. TANNER, Mr. HORTON, Mr. SLATTERY, and Mr. WISE.

H.R. 4334: Mr. TALLON.

H.R. 4389: Mr. FLIPPO, Mr. MCGRATH, Mr. SUNDQUIST, Mr. JENKINS, and Mr. MATSUI.

H.R. 4393: Mr. RAVENEL.

H.R. 4407: Mr. BEVILL, Mr. HARRIS, Mr. FAUNTROY, Mr. HORTON, Ms. PELOSI, Mr. PALLONE, Mr. FOGLIETTA, Mr. HYDE, Mr. CONDIT, Mr. WALSH, Mr. POSHARD, Mr. KOLTER, Mr. ECKART, Mr. FROST, Mr. CAMPBELL of Colorado, Mr. FAZIO, and Mr. ROWLAND of Georgia.

H.R. 4460: Mr. CLAY, Mr. SAWYER, Mr. BOUCHER, and Mr. RIDGE.

H.R. 4462: Mr. EDWARDS of California, Mr. ANDERSON, Mr. ROYBAL, Mr. WAXMAN, Mr. BEILENSON, Mr. FAZIO, Mr. LEHMAN of Florida, Mr. PANETTA, Mr. MILLER of California, Mr. BERMAN, Ms. PELOSI, Mrs. BOXER, and Mr. FAUNTROY.

H.R. 4484: Mr. OWENS of Utah and Mr. ROE.

H.R. 4485: Mr. BLILEY, Mrs. MARTIN of Illinois, and Mrs. VUCANOVICH.

H.R. 4492: Mr. PEASE, Mr. SHAYS, Mr. MACHTLEY, Mr. WOLPE, Mr. CAMPBELL of California, Mr. SMITH of Vermont, and Mr. DURBIN.

H.R. 4494: Mr. ENGEL, Mr. BILBRAY, Mr. HANSEN, Mr. RIDGE, Mr. CALLAHAN, Mr. ROWLAND of Georgia, and Mr. SKELTON.

H.R. 4512: Mr. DORGAN of North Dakota, Mr. DE LA GARZA, and Mr. MCGRATH.

H.R. 4520: Mr. THOMAS A. LUKEN and Mr. GAYDOS.

H.R. 4563: Mr. MANTON, Mr. TRAFICANT, Mr. PENNY, Mr. RANGEL, Mr. SMITH of Vermont, Mr. SHAYS, Mr. MYERS of Indiana, Mr. CROCKETT, Mr. NEAL of North Carolina, Mr. HARRIS, Mr. GEREN, and Mr. WOLPE.

H.R. 4573: Mr. DWYER of New Jersey, Mr. EVANS, Mr. STEARNS, and Mr. LAGOMARSINO.

H.R. 4578: Mr. PENNY, Mr. TOWNS, and Mr. DIXON.

H.R. 4595: Mr. FOGLIETTA.

H.R. 4597: Mr. WILSON.

H.R. 4641: Mr. TRAFICANT, Mr. LIGHTFOOT, Mr. BUNNING, and Mr. NOWAK.

H.R. 4659: Mr. ENGEL, Mr. HENRY, Mr. JAMES, and Mr. HUGHES.

H.R. 4683: Mr. FRENZEL, Mr. STANGELAND, Mr. PACKARD, Mr. JONES of Georgia, Mr. YOUNG of Alaska, Ms. MOLINARI, Mr. SCHIFF, Mr. BILIRAKIS, Mr. GILLMOR, Mr. SCHAEFER, Mr. MACHTLEY, Mr. HANSEN, Mr. DARDEN, Mrs. VUCANOVICH, Mr. BLAZ, Mr. WILSON, Mr. SMITH of Vermont, Mr. RAVENEL, Mr. ROBERTS, Mr. MICHEL, Mr. VOLKMER, and Mr. ROWLAND of Connecticut.

H.R. 4690: Mr. THOMAS A. LUKEN, Mr. LANCASTER, Mr. PAXON, Mr. WALSH, Mr. SOLOMON, and Mr. NOWAK.

H.R. 4729: Mr. DREIER of California, Mr. DANNEMEYER, Mr. MADIGAN, Mr. LAGOMARSINO, and Mr. PACKARD.

H.R. 4795: Mr. JONTZ and Ms. PELOSI.

H.R. 4810: Mr. MADIGAN, Mr. TAUKE, and Mr. MANTON.

H.R. 4816: Mr. SMITH of Iowa, Mr. LANCASTER, Mr. BAKER, Mr. NEAL of Massachusetts, and Mr. OLIN.

H.J. Res. 452: Mrs. MORELLA, Mr. MILLER of Ohio, Mr. DYMALLY, Mr. YOUNG of Alaska, Mr. SCHAEFER, Mr. PURSELL, Mr. DIXON, Mrs. UNSOELD, Mr. WEISS, Mr. FEIGHAN, Mr. MURPHY, Mr. SARPALIUS, and Mr. PAYNE of New Jersey.

H.J. Res. 464: Mr. RICHARDSON.

H.J. Res. 467: Mr. HOCHBRUECKNER, Mr. ECKART, Mr. SCHAEFER, and Mr. MOORHEAD.

H.J. Res. 493: Mr. BOSCO, Mr. DIXON, Mr. GALLEGLY, Mr. LAGOMARSINO, Mr. MOORHEAD, Mr. MORRISON of Connecticut, Mr. BILIRAKIS, Mr. GRANT, Mr. ANNUNZIO, Mr. FAWELL, Mr. HYDE, Mr. RUSSO, Mr. JONTZ, Mrs. BENTLEY, Mr. DAVIS, Mr. PURSELL, Mr. VANDER JAGT, Mr. SMITH of New Hampshire, Mr. DWYER of New Jersey, Mr. RINALDO, Mr. DANNEMEYER, Mr. DORNAN of California, Mr. HUNTER, Mr. LEVINE of California, Mrs. JOHNSON of Connecticut, Mr. FAUNTROY, Mr. GOSS, Mr. MCCOLLUM, Mr. CRANE, Mr. HASTERT, Mrs. MARTIN of Illinois, Mr. JACOBS, Ms. SNOWE, Mr. FRANK, Mr. FORD of Michigan, Mr. TRAXLER, Mr. WEBER, Mr. COURTER, Mr. PAYNE of New Jersey, Mr. SAXTON, Mr. TORRICELLI, Mr. MCHUGH, Mr. MANTON, Mr. MRAZEK, Mr. NEAL of North Carolina, Mr. KASICH, Mr. SYNAR, Mr. QUILLEN, Mr. SISISKY, Mr. BATEMAN, Mr. SCHEUER, Mr. BUSTAMANTE, Mr. ACKERMAN, Mr. ANDERSON, Mr.

BENNETT, Mr. BORSKI, Mrs. BOXER, Mr. ECKART, Mr. KENNEDY, Mr. BROOMFIELD, Mr. HORTON, Mr. MCNULTY, Mr. MARTIN of New York, Mr. WALSH, Mr. DEWINE, Mr. WYLIE, Mr. COUGHLIN, Mr. BLILEY, Mr. MILLER of Washington, Mr. ENGEL, Mr. STARK, Mr. MARTINEZ, Mr. APPLEGATE, Mr. COX, Mr. FROST, Mr. MORRISON of Washington, Mr. WOLF, Mr. MICHEL, Mr. GORDON, Mr. WOLPE, Mr. KLECZKA, Mr. EVANS, Mr. MOAKLEY, Mr. HILER, Mr. DURBIN, Mr. FUSTER, Mr. ROWLAND of Connecticut, Mr. BATES, Mr. DINGELL, Mr. INHOFE, Mr. KOSTMAYER, Mr. TOWNS, Mr. PANETTA, Mr. MOODY, Mr. PRICE, Mr. HENRY, Mr. CARR, Mrs. ROUKEMA, Mr. NOWAK, Mr. CONYERS, Mr. HAWKINS, Mr. KILDEE, Mr. YATRON, Mr. MCDADE, Mr. BROWDER, Mr. SMITH of New Jersey, Mr. BRENNAN, Mr. DONNELLY, Mr. HAYES of Illinois, Mr. HARRIS, Mr. PACKARD, Mr. SCHAEFER, Mr. GEKAS, Mr. DARDEN, Ms. OAKAR, Mr. OWENS of New York, Mr. ROE, Mr. JONES of North Carolina, Mr. DORGAN of North Dakota, Mr. GALLO, Mr. SAWYER, Mr. GILMAN, Mr. VENTO, Mr. TAUKE, Mr. ANTHONY, and Mr. FALEOMAVAEGA.

H.J. Res. 517: Mr. SPRATT, Mrs. BOGGS, Mr. DEWINE, Mr. BATES, Mr. DIXON, Mr. CRAIG, Mr. BUNNING, Mr. CRANE, Mr. FIELDS, Mr. CALLAHAN, Mr. GALLEGLY, Mr. ARCHER, Mr. DONALD E. LUKENS, Mr. MADIGAN, Mr. MYERS of Indiana, Mr. PARRIS, Mr. PERKINS, Mr. LENT, and Mrs. VUCANOVICH.

H.J. Res. 519: Mr. WAXMAN.

H.J. Res. 523: Mr. KASTENMEIER and Mr. WOLPE.

H.J. Res. 530: Ms. LONG, Mrs. COLLINS, Mr. FORD of Tennessee, Mr. STOKES, Mr. HUCKABY, Mr. BERMAN, Mr. MRAZEK, Mr. APPLEGATE, Mr. FROST, Mr. GUARINI, Mr. RAHALL, Mr. MARTINEZ, Mr. JONTZ, Mr. DWYER of New Jersey, Mr. SPENCE, Mr. PICKETT, Mr. SAWYER, Mrs. PATTERSON, Mr. MFUME, Ms. KAPTUR, Mr. HERTEL, Mr. PRICE, Ms. PELOSI, Mr. LEVINE of California, Mr. HAMMERSCHMIDT, Mr. BOSCO, Mr. BOUCHER, Mr. BROOKS, Mr. CARDIN, Mr. CARPER, Mr. CARR, Mr. CLARKE, Mr. CLAY, Mr. CLEMENT, Mr. CONYERS, Mr. COOPER, Mr. COURTER, Mr. CROCKETT, Mr. DARDEN, Mr. DIXON, Mr. EMERSON, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FUSTER, Mr. GORDON, Mr. HAMILTON, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr. HUTTO, Mr. HYDE, Mr. JACOBS, Mr. KILDEE, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LIPINSKI, Mrs. LOWEY of New York, Mr. MATSUI, Mr. MCEWEN, Mr. MCNULTY, Mr. MILLER of California, Mrs. MORELLA, Mr. MURPHY, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. PALLONE, Mr. PAYNE of Virginia, Mr. POSHARD, Mr. RAVENEL, Mr. RINALDO, Mr. ROBINSON, Mr. ROSE, Mr. SANGMEISTER, Mr. SARPALIUS, Mr. SAVAGE, Mrs. UNSOELD, Mr. WASHINGTON, Mr. DELLUMS, Mr. DYMALLY, Mr. FLAKE, Mr. GRAY, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. LEWIS of Georgia, Mr. TOWNS, Mr. SERRANO, Mr. WHEAT, Mr. WOLPE, Mr. BROWDER, Mr. MONTGOMERY, Mr. PERKINS, Mr. FLIPPO, Mr. TRAFICANT, Mr. STAGGERS, Mr. DE LUGO, Mr. ECKART, Ms. SLAUGHTER of New York, Mr. MORRISON of Washington, Mr. DENNY SMITH, Mr. TORRICELLI, Mr. ENGEL, Mr. KENNEDY, Mr. BATES, Mr. SISISKY, Mr. TALLON, Mr. DERRICK, Mr. LAFALCE, Mr. RICHARDSON, Mr. CHANDLER, Mr. LANCASTER, Mr. GINGRICH, Mr. WALSH, and Mr. GONZALEZ.

H.J. Res. 533: Mr. POSHARD, Mrs. MORELLA, Mr. CONYERS, Mrs. BYRON, Mr. APPLEGATE, Mr. PICKETT, Mr. JONES of North Carolina, and Mr. EDWARDS of California.

H.J. Res. 534: Mr. ESPY and Mrs. COLLINS.

H.J. Res. 536: Mr. CRANE.

H.J. Res. 540: Mr. RAVENEL, Mr. VOLKMER, Mr. JONES of North Carolina, Mr. SCHAEFER, and Mr. OWENS of New York.

H.J. Res. 554: Mr. RAY, Mr. HAYES of Louisiana, Mr. FOGLIETTA, Mr. CHAPMAN, Mr. STALLINGS, Mr. PAYNE of New Jersey, and Mr. LANTOS.

H.J. Res. 560: Mr. HANCOCK and Mr. WILSON.

H.J. Res. 561: Mr. MACHTLEY, Ms. OAKAR, and Mr. VALENTINE.

H.J. Res. 566: Mr. MACHTLEY, Mr. HUGHES, Mr. BLAZ, Mr. DIXON, Mr. HUTTO, Mr. LANCASTER, Mrs. BOXER, Mr. HYDE, Mr. EVANS, Mr. SCHAEFER, Mr. PARKER, and Mr. BUSTAMANTE.

H. Con. Res. 172: Mr. ROE and Mrs. SCHROEDER.

H. Con. Res. 178: Mr. BERMAN, Mr. BRYANT, Mr. GEJDENSON, Mr. SPENCE, and Mr. KOSTMAYER.

H. Con. Res. 247: Mrs. BENTLEY, Mr. BRYANT, Mr. COURTER, Mr. DORNAN of California, Mr. FAUNTROY, Mr. FAZIO, Mr. FOGLIETTA, Mr. GOSS, Mr. GRANT, Mr. HORTON, Mr. JAMES, Mr. LENT, Mr. LEWIS of Florida, Mrs. LLOYD, Mr. MCNULTY, Mr. PAYNE of New Jersey, Mr. PENNY, and Mr. SENSENBRENNER.

H. Con. Res. 252: Mr. GIBBONS.

H. Con. Res. 265: Mr. BAKER and Mr. ECKART.

H. Con. Res. 276: Mrs. COLLINS, Mr. SCHEUER, Mr. GOODLING, Mr. NEAL of North Carolina, Mrs. JOHNSON of Connecticut, Mr. HAYES of Louisiana, Mr. ATKINS, Mr. SKELTON, Mr. EVANS, Mr. CLEMENT, Mr. VALENTINE, Mr. MCHUGH, and Mrs. VUCANOVICH.

H. Con. Res. 280: Mr. SAXTON, Mr. GOSS, Mr. YATRON, Ms. SCHNEIDER, Mr. SMITH of Florida, Mr. SANGMEISTER, Ms. LONG, Mr. EVANS, Mr. JOHNSTON of Florida, Mr. RINALDO, Mr. MOAKLEY, Mrs. SCHROEDER, Mr. CARPER, Mr. SCHAEFER, Mr. CRANE, and Mr. WEISS.

H. Con. Res. 291: Mr. CAMPBELL of California, Mr. BUECHNER, Mr. MACHTLEY, and Mr. MARTIN of New York.

H. Con. Res. 315: Mr. BOEHLERT, Mr. FAUNTROY, Mr. RAHALL, Mr. DYMALLY, Mr. FORD of Tennessee, Mr. KILDEE, Mr. CARPER, Mr. CROCKETT, and Mr. HAWKINS.

H. Con. Res. 316: Mr. LANTOS, Mr. ALEXANDER, Mr. ASPIN, Mr. STOKES, Mr. JONTZ, Mr. DORGAN of North Dakota, Mr. KLECZKA, and Mr. CONYERS.

H. Con. Res. 325: Mr. GILMAN and Mr. BURTON of Indiana.

H. Res. 41: Mr. GEREN.

H. Res. 134: Mr. HEFNER and Mr. QUILLEN.

H. Res. 351: Mr. SCHUETTE and Mr. BAKER.

H. Res. 380: Mr. DORNAN of California, Mr. DEWINE, Mr. JAMES, Mr. DE LUGO, Mr. WOLF, and Mr. JONTZ.

H. Res. 387: Mr. RAY, Mr. BALLENGER, Mr. HANCOCK, Mr. THOMAS of Wyoming, and Mr. BOEHLERT.

# SENATE—*Thursday, May 17, 1990*

*(Legislative day of Wednesday, April 18, 1990)*

The Senate met at 9:31 a.m. on the expiration of the recess, and was called to order by the Honorable ALAN CRANSTON, a Senator from the State of California.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Blessed are they which do hunger and thirst after righteousness: for they shall be filled.*—Matthew 5:6.

Eternal God, giver of "life and breath and all things", we ask Thy special blessing upon DANIEL AKAKA and his loved ones as he comes to sit at the desk occupied by our beloved Spark Matsunaga. Thank Thee for the heritage he brings to the Senate, reflected in the motto of his State: "The life of the land is perpetuated in righteousness." Our hearts warm within us when we hear the words of Prime Minister Kalanimoku of Old Hawaii who said: "My desire is that we love God who has given us the Word of Life. Let us keep His commandments and turn to do right. * * * Let us be mindful of the good words of Jesus. * * * I want all the people to obey God * * * from Hawaii to Kauai. Let us faithfully keep the laws of God. These are the laws of benefit to all nations."

God help us all to be faithful to such a glorious legacy. In the name of Him who is our righteousness. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. HARKIN). The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, May 17, 1990.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM HARKIN, a Senator from the State of Iowa, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. HARKIN thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

## THE JOURNAL

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## SCHEDULE

Mr. CRANSTON. Mr. President, following the time for the two leaders this morning, there will be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10 o'clock this morning, the Senate will resume consideration of S. 195, the chemical and biological weapons bill. Consideration of this bill could extend into this evening with the possibility of rollcall votes occurring this evening.

Mr. President, yesterday, the majority leader indicated on the floor that during Friday's session, it is his intention that there be debate only on the subject of campaign finance reform. I have been asked to point out, however, that even though the campaign finance issue will be discussed Friday, there is still the possibility that rollcall votes are possible with regard to the chemical weapons bill.

## RESERVATION OF LEADER TIME

Mr. CRANSTON. Mr. President, I reserve the remainder of the majority leader's time and the time allocated to the Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RECESS UNTIL 10 A.M.

Mr. CRANSTON. Mr. President, I move that the Senate recess until 10 a.m.

The motion was agreed to, and at 9:38 a.m., the Senate recessed until 10 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KOHL].

Mr. WALLOP. Mr. President, I ask unanimous consent that I might proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRESIDENT LEE TENG-HUI'S INAUGURATION

Mr. WALLOP. Mr. President, I rise today to pay respect and honor President Lee Teng-Hui of the Republic of China on Taiwan. On May 20, the Chinese people on Taiwan will be celebrating Mr. Lee's inauguration as the eighth President of the Republic. While world attention has been focused on mainland China's violent suppression of its prodemocracy movement, across the Taiwan strait, Taipei has been transforming itself step by step into a Chinese example of democracy.

Let me take a moment of the Senate's time to commend the good work of Taiwan's leadership and to comment on the importance of the United States-Republic of China relationship to their progress. The Republic of China's expansion of democratization began on December 6, 1986, when the 12 million voting-age citizens of the Republic of China for the first time in the history of Nationalist Chinese rule of the island were allowed to cast ballots for an organized political opposition, the Democratic Progressive Party [DPP]. The process continued on July 15, 1987, when the 1949-imposed martial law was lifted, and again last December 2 when, in an island-wide legislative and local elections, the opposition DPP won 35 percent of the vote. As the Wall Street Journal then commented, "Taiwan has flourished—at

first economically and now, increasingly, as a democracy."

The Republic of China's economic miracle is now well-known; the United States have played a key role in their economic and political development. There are deep personal ties between our two countries—many of the Republic of China's leaders study in the United States, as do over 30,000 Republic of China university students today. Moreover, America is the Republic of China's largest trading partner, largest export market, and its second largest import supplier after Japan. Among Taiwan's principal American imports are agricultural products, electronics, and machinery. Finally, the 1979 Taiwan Relations Act [TRA] commits Washington to assist Taipei in maintaining its defense against possible threats from mainland China.

Although the United States-Republic of China relationship is not without problems—the difficulty of balancing America's relations with Taipei and Beijing and the Republic of China's current trade surplus with the United States—these difficulties do not diminish the very positive aspects of a continued strong and healthy bond of friendship between the United States and the Republic of China.

In the Republic of China's progress toward becoming a fully functioning democracy, President Lee's inauguration becomes another important marker. In many ways, the late President Chiang Ching-Kuo's backing of Mr. Lee further signifies the Republic of China's democratic transition. Taiwanization of the ruling Kuomintang's highest reaches was both good politics and a reflection of the irreversible and undeniable trends in Taiwan. President Lee will become the country's first President born in Taiwan.

President Lee has the overwhelming support of the people of the Republic of China. He received 96 percent of the votes from the members of the National Assembly, the Republic of China's electoral college. An independent island-wide poll immediately following the election revealed that 90 percent of the respondents would have voted the same way as their electors.

Mr. Lee's contribution to Taiwan's economic blossoming is significant. President Lee received his Ph.D. in agricultural economics from Cornell University in 1968. Throughout the sixties and seventies, in various capacities at the United States-Republic of China Joint Commission on Rural Commission, he contributed a great deal to the Republic of China's agricultural development—paving the way for Taiwan's economic success. In the late seventies and early eighties, as a mayor of Taipei and later Governor of Taiwan Province, he was responsible for the construction of highways and reservoirs, oversaw the modernization of sewage disposal, initiated agricultural reforms and improved greatly the livelihood of farmers. Mr. Lee was elected Vice President in 1984.

In the last 2 years, President Lee has proven to be a dynamic leader and political reformer. He has carried on President Chiang's democratic reforms by rejuvenating the legislature and urging a more flexible approach in dealing with political and diplomatic challenges. Flexible diplomacy—the willingness of Taipei to accept a nation's recognition of both it and Beijing—is great progress. I might add that in this morning's paper it was reported that President Lee said he would open talks on a nation-to-nation basis with Beijing. It facilitates America's task of balancing our relationship with Taipei and Beijing; and President Lee can take much of the credit. He has promoted actively an international role for his country and has facilitated travel to mainland China—trade between the Republic of China and South China, the most reform-minded and market-oriented provinces on the mainland, has expanded steadily and is estimated to exceed $3 billion annually. Under Mr. Lee's influence of the past few years, the leadership has permitted the formation of new political parties, freed the press, relaxed foreign exchange controls, allowed strikes and the formation of unions, and lifted the ban on its citizens' travel to mainland China.

I myself was privileged to have been received by President Lee during my most recent visit to Taiwan. President Lee, a modest and caring man, eloquently expressed his visions for the relationship between his country and the United States. Under his leadership, I am confident that Taiwan will continue to move forward in democracy, and continue to be influenced by a successful, market-based economy.

The Chinese people on Taiwan are most fortunate to have Mr. Lee as their President for the next 6 years. With the support of his people, I am confident that President Lee will lead his country toward even greater economic prosperity and full constitutional democracy.

In honor of President Lee's inauguration on May 20, I wish to acknowledge the hard work and the open-mindedness that has characterized his career. I also wish to assure him that the relationship between our two countries is healthy and strong and that his government is well-represented by Minister Ding Mou-Shih. I also wish to join President Lee's many friends in the U.S. Congress in wishing him and his people the best of luck and good fortune in the years ahead.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PUYALLUP LAND SETTLEMENT

Mr. ADAMS. Mr. President, just over a week ago, members of the Puyallup Indian Tribe in Tacoma, WA, received their individual payments of $20,000 as part of the tribe's $162 million land-claim settlement with Federal, State, and local governments and with the private sector. For the 1,600 members of the Puyallup Tribe, this historic settlement brings to an end 6 years of often frustrating negotiations, many years of litigation, and nearly a century of land disputes with their neighbors.

This settlement represents the largest settlement ever negotiated with an individual Indian tribe, and is exceeded only by the Alaska Native Claims Settlement Act of 1971. But much more was achieved than just the magnitude and scope of this settlement. In clearing up complicated disputess that have clouded title to hundreds of acres of land along the Puyallup River, the Puyallup Tribe has demonstrated its desire to be an equity partner in the future growth and prosperity of Pierce County and the entire region.

Mr. President, the Puyallup Tribe of Indians Settlement Act of 1989 was the work of many individuals, governments, and other parties. But the catalyst for what has been described as a national model for future negotiations of this type was one man. I know I speak for all citizens of my State when I say that we will never forget the dedication, the leadership, and the unparalleled determination exhibited by the distinguished chairman of the Senate Select Committee on Indian Affairs, my friend the senior Senator from Hawaii, Senator DANIEL INOUYE.

Over the last several years Chairman INOUYE made over a dozen trips to the State of Washington to meet with the parties, to encourage them to keep negotiations alive, and ultimately to come to the table for a final agreement.

These were exceptionally difficult negotiations for both sides. For instance, the Puyallup Tribe had not been involved in such an important and historic undertaking since the signing of the Treaty of Medicine Creek in 1854. This agreement was made not just for the present members of the tribe, but for all future generations. To achieve the level of trust needed to reach such an agreement, in light of many years of mistrust and sometimes outright hostility, was a major step for the Puyallup

Indian Tribe. There were times during the course of these lengthy negotiations when settlement appeared to elude the parties, in spite of their best efforts.

Each time it appeared that these discussions seemed headed back to court for expensive and bitter litigation, Chairman INOUYE would step forward, patiently listen to all sides, and gently but firmly guide the parties back to the negotiating table.

Mr. President, the Pacific Northwest has seen far too many disputes over the years between Federal treaty tribes and local government and non-Indian citizens. Almost a century of court decisions, including numerous U.S. Supreme Court decisions—some of which involved the Puyallup Indian Tribe—has not contributed to a climate of mutual respect and cooperation. It took the leadership of a dedicated U.S. Senator, who earned the respect and admiration of our entire State, to bring this historic agreement to fruition. Our gratitude to Senator DAN INOUYE can never be fully expressed in words, but will remain a part of this important event in the history of the State of Washington.

## TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,888th day that Terry Anderson has been held in captivity in Beirut.

I ask unanimous consent that a recent article from the Rochester-Times Union concerning Terry Anderson's condition in captivity be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANDERSON NOT BEATEN, REED SAYS

[From the Rochester Times-Union, May 8, 1990]

WASHINGTON.—Terry Anderson, the longest held of the 16 Western hostages, helped fellow prisoners make Scrabble and Monopoly games to amuse themselves, according to newly freed captive Frank Reed.

His guards are giving him and other hostages plenty of diversions, according to an account given by Reed to Anderson's sister, Peggy Say.

"They have a lot of things which was encouraging to me; at least they did at the time Frank was there," Say said. These included boxes of books, writing materials and dominoes.

Although Anderson, 42, is in good physical condition from plenty of exercise, he is tired and needs dental care, Say said. She said the hostages are blindfolded and chained in line with their preference.

"Frank preferred a chain on his wrist," she said. "Terry preferred a chain on his ankle so that his arms are free to write and play cards."

Unlike Reed, who said he was brutally beaten by his kidnappers for trying to escape, Anderson was left alone. Say said Reed told her Anderson was not beaten.

The closest she and Reed were able to calculate that he last saw Anderson was somewhere between a year and 18 months ago. Reed spent 20 months with Anderson and Thomas Sutherland in Lebanon. For a period of time, the three American hostages were together with two others, John McCarthy and Brian Keenan.

Reed, the director of the private Lebanon International School, was freed April 30 after being held for 44 months. He is undergoing medical checkups at Andrews Air Force Base in suburban Maryland and met with Say last night.

Anderson, formerly of Batavia, is the chief Middle East correspondent for The Associated Press and is in his sixth year of captivity. Sutherland was a dean at the American University of Beirut. McCarthy is a British television journalist. Keenan, who is Irish, taught English at American University.

"He is still a vindictive hearts player," Say said of her brother. Reed told her Anderson reads a book a day.

Reed said Anderson could pick up some things in Arabic from the radio and have at least some idea of what he thought was going on in the world. But his guards have made a concerted effort to keep from him news of the deaths of his father and brother, both from cancer, in 1986. Say believes that he still does not know.

"That's very difficult," she said. "Part of you wants him to have known and dealt with it and part of you believes it might be too much for him if he found out in captivity."

But with his mind sharp, he thinks of new birthdays that were not celebrated for the two daughters he cares for so deeply.

He is wracked with anguish at missing more than five years with them, unable to savor the passage of Gabrielle from child to young woman. In Anderson's sixth year of captivity, Gabrielle turned 14 on April 26.

## COL. WILLIAM HIGGINS

Mr. WARNER. Mr. President, recently we witnessed the release of two American hostages from Lebanon. We are all heartened by this and hope that it leads to the rapid return of the remaining hostages.

Today, I would like to bring to your attention the continuing case of Col. William Higgins, a brave marine officer taken hostage while serving with the United Nations peacekeeping force in Lebanon. His captors have alleged that he was executed, a fact we have been unable to confirm.

As the United States continues to press for the release of all remaining hostages, we must never forget Colonel Higgins. Reports of his execution should not reduce our drive for his return. As an American who devoted his life to his country, Colonel Higgins and his family deserve nothing less than our Nation's total support and understanding. All evidence on this case must be given to the United States of America.

We must never give up hope and shall continue to keep our vigil.

## MRS. HARRIMAN'S SPEECH ON THE SOVIET UNION

Mr. PELL. Mr. President, I would like to draw the attention of my colleagues to the extremely thoughtful and perceptive speech given by Mrs. Averell Harriman on May 16 following her recent trip to the Soviet Union.

In this speech, she describes the immense problems facing the Soviet Union and its leadership, particularly the economy and the nationalities. It is not an optimistic report, but it is realistic, and it describes with great personal immediacy some of the significant changes sweeping the Soviet Union as well as the strengths and weaknesses of its leaders.

At the end, she concludes with a message of hope—and it is a message with which I fully concur. This message is that the changes in the Soviet Union offer America an unparalleled opportunity in history to promote freedom and a safer, more secure existence for humanity. In this momentous time in history, as she so rightly states, "America is too great a nation to stand idly by."

Few Americans have known and followed events in the Soviet Union as well as its leadership so closely over as many years as has Pamela Harriman. Her breadth of experience and her personal knowledge make this report of value to all Americans.

Mr. President, I ask unanimous consent that the full text of Mrs. Harriman's speech be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF PAMELA C. HARRIMAN, WOMAN'S NATIONAL DEMOCRATIC CLUB, WASHINGTON, DC, MAY 16, 1990

First, let me thank Dick Gephardt for that generous introduction. Everything I have seen on the trip I have just taken confirms the foresight and wisdom of the Majority Leader's speech of two months ago.

He represents a new generation of leadership for our Party, a new source of hope for our ideals, a new source of possibility about our prospects.

Tonight, I would like to give you a report on my recent trip to the Soviet Union. This may seem like an easy thing to do, but I can assure you it is not. For the Soviet Union, long the most certain of nations, is today a vast kaleidoscope of uncertainty.

We were in the Soviet Union for almost two weeks, primarily in Moscow and in the Republic of Georgia. With me were Robert Legvold, the Director of the Harriman Institute for Advanced Study of the Soviet Union at Columbia University, Ed Hewett and Judith Kipper of the Brookings Institution, Colette Shulman, and Strobe Talbot of *Time* magazine.

We met with some of President Gorbachev's top advisors; we met with foreign observers; we met with local officials, academicians and Institute members; we met with young Russian leaders; we met with average Soviet citizens; and I met with Raisa Gorbachev for more than two hours.

It is one thing to read in newspapers and journals of the recent changes in the Soviet Union. But not even the dramatic TV images we have all seen can begin to prepare one for the actual experience of the change sweeping the country. And the shock is even greater if one has known old Soviet Union, which I have followed closely since the Second World War. My last visit was with Averell in 1983 when we met with President Andropov. The contrast is immense.

We arrived in Moscow in time for the May Day parade in Red Square. The scene was amazing. There were many speeches from the podium, one from a woman who works in the famous Moscow textile factory. I particularly remember two of her phrases. The first: "In a proper society nothing should be easier than feeding our children." The second: "If you can do what needs to be done, then do it; if not, then step out of the way." Then she repeated the word "solidarity." And she was standing three feet from President Gorbachev!

Another speaker, a young union organizer, said: "Never again a Tianamen Square, particularly not on this square."

And in the parade, the lines and lines of workers with banners and slogans, many homemade, passed before our eyes for what seemed like over an hour. The slogans said such things as "Gorbachev is President of the Kremlin not the country"—"Seventy-five years on the road to nowhere"—"Marxism-Leninism on the garbage heap of history." It was a sight surely never seen in Red Square before, and it was a vivid lesson for the assembled Soviet leadership as well as for us—of just how volatile the situation is today in the Soviet Union.

To put it in the clearest terms, that nation is in the midst of a second Russian Revolution.

Let me focus on the two most obvious and most critical problems of that revolution—the economy and the nationalities.

For the Soviet economy, the good news is that the leadership now accepts the fact that a market economy is the only way out. This is a major step forward from even a year ago when President Gorbachev seemed to be doing everything he could to avoid that simple truth.

The bad news is that a combination of political fear and ignorance about how markets really work permits Soviet leaders to think that they can adopt measures outlining a market economy—and then slowly introduce them without the same sort of shock to the people as in Poland. Or, as told to us by Yevegeny Primakov, a top advisor to Gorbachev and member of the new Presidential Council, in somewhat different words: "We know we have to jump out of the window, but from which floor?"

They fail to understand that markets by definition are shock therapy when first introduced. Markets force people to discover and to exploit potentials unknown even to themselves.

The reason for this caution is that the leadership appears to be genuinely frightened by a volatile situation which they can manage only with great care. In essence, they are acutely aware that they have no legitimacy from the ballot box, so they feel compelled to buy off popular opinion by assuring that the public won't be hurt by economic reform.

Yet the truth is that economic pain for many will be impossible to avoid. And moving slowly will make things worse from almost every point of view. Socially, it will heighten anxiety about what the future will bring, such as inflation and unemployment. Economically, it permits enterprises to postpone hard decisions, continue inefficient operations, and it suspends the entire economy in a state of confusion over its future. The result can only lead the economy further downhill at a pace certain to be accelerated by strikes and social unrest, probably this summer.

There may still be time for a way out, via a combination of speedy creation of a free market and protection for the poor and the unemployed.

But I am not optimistic that such a course will be adopted in time. And if it is not, then the coming years could be very fragile indeed.

The second obvious and critical problem facing the Soviet Union is the union itself—in other words, the political and economic future of the nationalities.

During our visit, we took a fascinating trip to Tbilisi in Georgia. In Tbilisi, there are already 12 or more political parties. Georgians told us over and over again that the economy was getting worse, that drastic steps were needed to privatize and to create a free market economy; that the old political and economic structures are in irreparable decay; that Soviet military forces are viewed as an occupation force; that they would like to negotiate directly with the west, but have no mechanism to do so. They wished we had a consulate office in Tbilisi.

We visited three of the leaders of the new political groups in Georgia. One of the most powerful of them is Zviad Gamsukhurdia. Sometimes known as the Sakarov of Georgia, he is the son of one of Georgia's most renowned writers and a distinguished literary critic himself. We visited him in his elegant house. He was very gracious and showed us around his magnificent library filled with memorabilia. A good looking, distinguished, but rather sad man, he has been jailed five times since 1956, one time for as long as seven years, the last time as recently as April last year. He sees no scenario of compromise in the future—only total independence for Georgia. He talks of peaceful civil disobedience, but I wonder how they can accomplish their ultimate purpose without provoking bloodshed. As we left his house, they had to restrain his fierce guard dogs before we could leave.

Back in Moscow, Soviet reformers and the elites alike are thinking and speculating about options and scenarios for the nationalities problem. We heard several. One hardheaded, and I think possible, scenario foresees that in a few years' time the Baltics and one or two other republics will have seceded. Georgia, Azerbaijan, and Moldavia are good candidates. This same scenario also predicts that the Ukraine and Belorussia will be, if not independent, then largely autonomous. Another scenario, this one articulated by a very senior official, sees a future confederation, genuinely so, not merely in words.

Yet no one should underestimate the depth and complexity of the problem. Economically, it makes the breakup of a marriage seem the essence of simplicity. Politically and emotionally, the problems are amplified. For example, how many people here tonight realize that 40 percent of all the inhabitants of Latvia and 33 percent of those of Estonia are Russians? Are they to be herded back to Russia if independence comes? Can they be integrated into these new entities? And if old ethnic antagonisms burst to the surface in violence who will protect this minority—and what would be the complications for world peace if the Soviets felt compelled and justified to intervene to protect Russians against genuine persecution?

And we have all seen the savagery and deep-seated, often centuries-old, hatreds, as in Azerbaijan last winter. I can assure you these same animosities are bubbling scarcely beneath the surface in Soviet Georgia, with some violence already occurring between various groups. In many areas of the Soviet Union, such conflicts may come soon after the lid of Soviet control is lifted. And they may even burst forth despite every effort to stop them.

With such an array of problems in the nationalities, the last thing America should do is meddle, or worse, stir up false expectations which we are not, in truth, prepared to act upon.

Let me give one small example of how routine political actions here expanded in significance when seen from within the Soviet Union. Recently, Senator Helms sponsored Senate Resolution 110, which endorsed Georgian claims that they were railroaded into the USSR in 1922 and deserve independence. Here in Washington, we know what such resolutions really mean and what they do not. Georgian nationalist leaders, by contrast, believe that this resolution actually had real political significance—that it was a reason for them to press their case sooner and harder. Their misunderstanding could lead to tragic miscalculation on their part—a miscalculation that no American politician would be willing to set right with American blood. Politics for these people is not a game. It is deadly serious and should be deadly serious to us as well.

We must give Gorbachev time. This is one issue that the Soviets have to handle on their own terms. I say this not only for the sake of broader U.S./Soviet relations but for the sake of the nationalities as well. I believe they can achieve vast new freedoms, and even independence if they combine persistence with patience. Above all our role should be to keep both sides talking, to encourage economic development and stability, as Dick Gephardt has so eloquently stated, and not to let either side get backed into positions from which neither can withdraw.

For those who want to draw lines in the sand, for whom slogans mean more than results, that will not be the right solution. For me, however, and for those who want freedom, it is the only solution.

Finally, let me share my own sense of Soviet trends and culture. First, the Soviet leadership. Perhaps the leadership is confident that it knows what the traffic will bear, that it is slowly coming to understand economic reform and how to achieve it in proper sequence. But I am more inclined, after our conversations, to believe that they are simply tyring to keep their boat right side up in heavy seas and, with luck, headed toward safer waters.

My guess is that in the coming years, we will see an apparently contradictory picture. On the one hand, we will see signs that Gorbachev and his allies will seek to revamp the economy, negotiate a different relationship with the Republics, and live with a genuinely pluralistic political order. But, at the same time, I think the leadership will show more of an iron fist in dealing with every challenge to order and will keep the brakes on any surge of spontaneous, political protest. There is still plenty of power behind this iron fist. Make no mistake, even today,

after five years of perestroika, NYET! still pervades Soviet everyday life.

To be sure, this is, at best, a strategy for coping and not one for dealing with a very real crisis. The result is that the leadership, I believe, will be forced before long to move more decisively—with the outcome very difficult to predict.

In view of all that he has changed, one of the most depressing observations I picked up on my trip was how little credit President Gorbachev gets for what he has done under the banners of glasnost and democratization. While some, such as a young Moscow City Council member we met did say "everything good we have gotten in the last five years has come from Gorbachev," people now take these gains for granted—or, as Raisa Gorbachev told me: "Their expectations have risen." Worse still, Gorbachev is blamed for having allowed all kinds of suspect elements—anarchy, greed, old nationalisms—to march under the same banners that have brought so much hope.

Despite this, there is no clear leadership alternative. And, interestingly, we heard on many occasions even critics of Gorbachev say, "At the end of the day, he is still most people's second choice!" (They have no first choice.)

Another observation, and not an encouraging one, is how pervasively 73 years of Communism have washed away any sense of individual inititative. In Eastern Europe, and China, there are those who can still remember a different system; in the Soviet Union, virtually none. Instead of competing, showing initiative or seeking responsibility, the all-too-common reaction is envy and furty at those who get ahead. In dining one evening at the home of a senior member of one of the institutes, he told me, after he had had several vodkas, that a colleague had recently left the institute to run a cooperative and was now making four times his institute salary. This, my host said, was very unfair and should not be allowed. It was a depressing revelation from someone who should have known better.

Tonight, I have not painted a rosy picture. But in no way do I want to leave the impression that all is without hope. My trip is like a snapshot in time, not a movie that adds perspective. It is easy for ourselves, too, even as foreign observers, to become victims of the "resolution of rising expectations." To do so is wrong. To do so is to forget the aged leadership and still repressive society I saw on my last visit in 1983. To do so is to forget that just a few short years ago dissidents were still sent to labor camps and mental hospitals. To do so is to forget how recently the nuclear arms race was running at full speed with no clear end in sight. To do so is to forget the enormous explosion of peace and freedom in the last year—even a fraction of which should by right earn men and nations a lasting place in history. But, above all, to do so would be to imprison in caution our own leadership—and to block the positive role America itself can play.

We owe a great debt of gratitude to Gorbachev. We should make no mistake about it: It is in the clear interest of the United States to see the continuation of Soviet reforms rather than their collapse. For the first time since the end of World War II, it is truly possible for vital U.S. and Soviet objectives to be in concert. We also owe a great debt to citizens all over the former Soviet bloc. Seeking freedom for themselves, they have given new freedom to us as well—the freedom of peace, the freedom to assist in their future, the freedom to make our nation a better nation here at home.

The Soviet Union is now a very uncertain place. But if I can leave you, all tonight with one thought, it is that of opportunity—and the privilege of opportunity history has given us. Generations fought and died for this opportunity. Whether it is ensuring and not just talking about new arms agreements, whether it is active economic assistance, we should encourage this opportunity and build on it. Yes, we should even sacrifice for it and what it can bring. America is too great a nation to stand idly by.

Let us help to turn the second Russian Revolution in the direction of liberty and justice and a more peaceful world.

## EARTH DAY 1990 CONTEST

Mr. COHEN. Mr. President, I am pleased to submit into the RECORD the winning entries of a contest which I sponsored for Maine schoolchildren in grades K-8. The purpose of the contest was to enhance environmental awareness as the Nation prepared to commemorate the 20th anniversary of Earth Day.

The essays and poems which are printed here represent the best of over 4,000 entries submitted by students from 200 schools throughout the State of Maine. The entries were reviewed by an independent panel of judges, who felt that these works best symbolized the importance of the environment and the concerns that our youth have for their future.

The winners of my Earth Day contest have demonstrated a good understanding of the need to bring healthy habits to our use of the Earth's resources. They want to ensure a healthy planet for themselves, their friends, and for the future. The children present a range of messages, from the importance of treating pollution as a global problem to starting in our own homes with recycling.

I think you will be pleasantly surprised by the levels of ingenuity and innovation which the students used to express themselves. These poems and essays will remind all of us of the keen insight possessed by our youth in areas too often labeled as adult issues. I am proud of our Maine children, and I am glad to have this opportunity to share some of their talent with others.

There being no objection, the list of winners was ordered to be printed in the RECORD, as follows:

POEMS, GRADES K-2

1st Place: Jessica Reuter, Hartford-Sumner Elementary School, Buckfield, Maine.

2nd Place: Shannon Knox, Katelyn Matychowiak, and Alysha Wagner, Young School, Saco, Maine.

3rd Place: Sarah Sprague, Abraham Lincoln School, Bangor, Maine.

Honorable Mention: Jessica Martin and Robert Fitzcharles, Bridgton Elementary School, Bridgton, Maine.

POEMS, GRADES 3-5

1st Place: John Brochu, Home Schooled, Jefferson, Maine.

2nd Place: Kati Toher and Brita Wanger, Rumford Elementary, Rumford, Maine.

3rd Place: Abby Chandler, Belgrade Central School, Belgrade, Maine.

Honorable Mention: Rachael Dunton, Etna-Dixmont School, Etna, Maine.

POEMS, GRADES 6-8

1st Place: Rebecca Hardman, Nobleboro Central School, Nobleboro, Maine.

2nd Place: Juliana Spier, Gardiner Regional Junior High School, Gardiner, Maine.

3rd Place: Adam Collemer, Wiscasset Middle School, Wiscasset, Maine.

Honorable Mention: Bethany diRobbio, Yarmouth Intermediate School, Yarmouth, Maine.

ESSAYS, GRADES K-2

1st Place: Elizabeth Roberts Johnson, Bridgton Elementary School, Bridgeton, Maine.

2nd Place: Kristy Decesere, Abraham Lincoln School, Bangor, Maine.

3rd Place: Dawn Douglas, Abraham Lincoln School, Bangor, Maine.

Honorable Mention: Ian Michael Downs, Jordan Acres School, Brunswick, Maine.

ESSAYS, GRADES 3-5

1st Place: Angela Elizabeth Bourne, George B. Weatherbee School, Hampden, Maine.

2nd Place: Michelle April Michaud, George B. Weatherbee School, Hampden, Maine.

3rd Place: David Michaud, Winthrop Grade School, Winthrop, Maine.

Honorable Mention: Marja Murawski, Congin School, Westbrook, Maine.

ESSAYS, GRADES 6-8

1st Place: Marc Rodrigue, Maranacook Community School, Readfield, Maine.

2nd Place: Rowena Alley, Skyway Middle School, Presque Isle, Maine.

3rd Place: Emily Record, Maranacook Community School, Readfield, Maine.

Honorable Mention: Sandra Pomerantz and Rebecca Coburn, Great Falls Intermediate School, Auburn, Maine.

POEMS/CLASS ENTRY/K-2

1st Place: Transitional/First Grade, Wilton Primary School, Wilton, Maine.

2nd Place: Miss Grass' Grade Two, Benton Elementary School, Waterville, Maine.

3rd Place: First Grade of Lamoine School, Lamoine Consolidated School, Lamoine, Maine.

Honorable Mention: Mrs. Shorey's Grade 1 Class, Abraham Lincoln School, Bangor, Maine.

POEMS/CLASS ENTRY/GRADES 3-5

1st Place: Mrs Jones' Grade 4 Class, Friendship Village School, Friendship, Maine.

2nd Place: Lisa Hogan's Grade 4 Class, West Harpswell Elementary School, South Harpswell, Maine.

MY WONDERFUL WORLD

(By Jessica Reuter)

Earth,
My wonderful world,
Full of many great friends,
Humpback whales and my pet cat.
Raccoons, bears, and monkeys are mine.
Even prickly friends are nice,
Porcupines and scorpions.
My wonderful world,
Earth.

RECYCLING

(By Shannon Knox, Katelyn Matychowiak, and Alysha Wagner)

Recycling is the thing we must do
To keep our big sky so blue.

Paper bags instead of plastic
Will do the trick just like magic.

Soda cans hold what we like to drink;
Crush them and flatten them, quick as a wink!

Bring all your stuff to the store
And help fight the recycling war!

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DINOSAUR POEM

(By Sarah Sprague)

Here and there and everywhere,
Dinosaurs on the loose, beware.
Dancing about, clumsy and big,
Round and about, doing the jig.

Dinosaurs like to joke and play,
They go about on their merry way.
Running and jumping and having fun,
Playing around in the noonday sun.

Although dinosaurs are here no more,
We find as we walk along the shore.
The bones in rocks that make a fossil,
The evidence we find—so colossil!

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OUR ENVIRONMENT

(By Jessica Martin and Robby Fitzcharles)

Our environment needs care
Everyone must do their share.
Is there a way to throw it away
If there is no place that is away.
Fix your broken toys, don't make as much noise.
Littering makes a mess
Which isn't best.
Everything and everyone
Can and should join the fun.
Recycle all that you can
There are very few things that you can't recycle
You can recycle bicycles and many other things.

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MOTHER EARTH

(By John Brochu)

Mother Earth, do not despair
We're really trying to improve the air.
We are really trying to be a part
Of all the things close to our heart.
Despite the oil spills that cause us pain;
Despite the horrible acid rain;
Despite the ozone claim to shame;
Despite everyone we try to blame;
There are many who feel we must
Keep a world we all can trust.
So cheer up folks and dry your tears,
We'll save the Earth for future years.

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SAVE THE EARTH!

(Written and illustrated by Kati Toher and Brita Wanger)

Save the Earth,
For it is worth,
Everything,
With the joy it brings.
Keep it clean,
Be a team,
Lend a hand,
And save the land,
Keep it turning,
Never burning.
Save the sky,
For those that fly,
Save the ocean,
From pollution,
Save the streams,
By all means,
Save the water,
For the otter.
Save the Earth,
For it is worth,
Everything,
With the joy it brings.

---

Water and land are just a few;
Of the everyday things that effect me and you.

The sun in the sky, a woodsy smell;
They let me know that some things are still well.

Like climbing a tree on a warm, breezy day,
It gives me a feeling that words can't explain.

Like smelling wildflowers beside a stream,
It makes me so happy like a good dream.

I like these feelings, I hope you do too;
Saving the environment is up to me and you!

*—Abby Chandler.*

---

OUR WORLD

(By Rachael Dunton)

The earth is our home
We must remember we are not here alone.
We share our world with all living things.
It would be a quiet world without the bird that sings.
It's time for us to stand up and be aware,
Of all the poisons that pollute our air.
It's not too late to clean our space,
So let's get started and save the human race.

---

CHANGE OR LET HER DIE

(By Rebecca Hardman)

What does anybody think
who lives upon earth's ground?
Is she just some sturdy land
with oceans sprinkled 'round?

She is the life supporting us,
the time that makes our year,
the third and greatest from the sun,
the force that brought us here.

Reading in the textbooks now
she seems so far away.
Kinda weird to have to think
we live here every day.

Her time goes back way to the first,
(several billion years).
We are but a blink in her life,
but with us death appears.

Billions of miracles at work
to keep the chain alive.
It's only we who make the choice to change or let her die.

---

WHEN THE WORLD WAS YOUNG

(By Juliana Spier)

When the world was young,
God looked down and said, "I have done well"
The mountains, the trees,
Even the breeze had their own story to tell.

When Jesus was young,
He thought everything was sacred and of worth
Things were still beautiful then
And nature was always giving new birth.

When the settlers were young,
This land was vast, mysterious and wild
It was beautiful and serene,
Like the imagination of a small child.

When the 1900's were young,
People shouted progress when factories appeared
But soon after that
Pollution's ugly head reared.

The decades passed by,
The air became quite foul.
Nothing was safe
From small sparrow to owl.

Litter grew dense
All the waterways got filled.
Seafaring animals
Got diseased and then killed.

And now you see
Pollution hurts everyone.
Why can't it be like
When the world was young.

---

IS HE OKAY?

(By Adam Collemer)

Mars and Saturn did converse
About their fellow friend, the earth.

"I fear," says Mars, showing much pain,
That earth is going down the drain."

"The people don't seem to realize
Their doom is right before their eyes."

"They're throwing garbage in the drink
and make the wildlife extinct."

"The rain forests are falling fast
and coal does not have long to last."

"I think," says Mars, "without a doubt,
They'll perish when their fuel runs out."

"But Mars," said Saturn in dismay,
"What about this new Earth Day?"

Said Mars, "The ozone layer's thin,
They'll get cancer on their skin."

"Sewege in their giant bay,
is driving all the fish away."

Saturn cut in: "That was then,
The won't make those goofs again."

"Recycling is a new plan
to get their garbage off their land."

"And if they're weaned from fossil fuels
You could not say they were such fools."

"Said Mars, "Earth did tell me a few
Good things the humans plan to do."

"Getting power from the sun
is what he said human have done."

"They've written new laws, and they say
That species can't be blown away."

"Some write books and songs and plays
To show them what's wrong with their ways."

The two were interrupted then
By an asteroid named Ben.

---

THE WHALE

(By Bethany DiRobbio)

I was free, free in the ocean,
Swimming and singing my song,
Not a care in the world free falling,
Nothing but nothing could be wrong.

One day the humans came sailing,
Floating so curiously in the sea,
They looked so gentile and friendly,
And I thought they'd be kind to me.

I swam closer to the unusual ship,
"Thar she blows!" I heard one of them cry,
I swam closer to them with friendship and joy,
And breached as I swam by.

Than all of a sudden my heart leapt with joy,
My friends were coming down,
They were lowered down in tiny boats,
And hit the water with a splashing sound.

They came so close to my gigantic self,
Unaware of their deadly plan,
They drove a spear through my heart,
Away away I swam.

The humans were rapidly chasing me,
The spear still in my heart,
And when I just gave up, too tired to go on,

I had ripped the small boat apart.
But when I thought I had won the war,
I saw another boat right behind,
I panicked when I realized my friends had turned on me,
And it was me they were coming to find.
I tried to weakly defend myself,
I whacked the boat with a thud,
That's when my friends ripped open my lungs,
And I choked on my own blood.
The pain I felt was like no other,
My last living sound was a cry,
My brand new friends were not friends at all,
They only wanted me to die.
The pain that I felt inside of me,
Was not the pain of the deadly dart,
But the pain of an untrue friendship,
The pain came from within my heart.
I did not live to see the setting sun,
I painfully slowly died,
We wanted so badly to be your friend's,
You killed us, humans, . . . why?

---

RECYCLING

(By Elizabeth Roberts Johnson)

If everyone put their garbage in the dump the whole world would change from a nice place to a bad place with lots of garbage. Then we would not have a place to live. Our school is recycling. Our class is trying to recycle tin foil. We used to have styrofoam lunch trays. We recycled those. Then we got cardboard trays. Then we got plastic trays. You can recycle almost anything if you try. It is a lot of work to recycle but it is worth it. It is fun to recycle. Here is a list of some things you can recycle: Paper, polystirene, cardboard, plastic, glass, oil, aluminum cans, wax paper, tin foil, wood, cloth, string, yarn, metal, paper bags, rope, milk cartons, straws, magnets, water crayons, plastic milk jugs, bulletin boards, paper plates, napkins, carpets, cotton, stickers and dolls, blackboard erasers, bricks, bells, rubber, wire and glue.

Nature even recycles. Like when an animal dies, very slowly it starts to turn into soil. My friend Katie once had a snake in their yard and they killed it. After a long time Katie saw that there was only the skeleton left. She let me see it. It was very neat.

---

STOP KILLING

(By Kristy DeCesere)

People need to stop killing dolphins, humpback whales and other wildlife because there won't be anymore. They will be extinct.

Stop killing bald eagles. It is the symbol of the United States.

Stop killing plants because they are food for the animals and our food too.

People shouldn't buy yellow tunafish because dolphins get killed too.

I watched the news and it said dolphins were dying because people ride them and keep them in cages.

Elephants are in danger too because hunters kill them for their tusks.

Some ducks are extinct because people kill them.

Stop killing fish with oil spills. Some fish are already endangered species.

Stop cutting down trees because it is the animals' home.

Please take care of our animals.

Stop killing!

WAYS TO MAKE OUR EARTH BETTER

(By Dawn Douglas)

People need to stop hurting the Earth. Our Earth is getting worse. Animals are getting less. They will get extinct or be endangered.

Everyone needs to stop polluting the Earth and killing the animals.

People need to stop smoking.

People need to stop killing whales and the dolphins.

People need to stop polluting water.

People need to stop being greedy.

Celebrate Earth Day on April 22 and help make the Earth better.

---

OIL SPILLS

(By Ian Michael Downs)

I do not like oil spills. I think animals should live in peace. It pollutes waters of all kinds, seas, lakes, ponds and rivers. It kills lots of animals. It smells awful and is black and yucky. It costs millions of dollars for people to clean up oil spills. Before boats sail, people should check the ships to see if they have a hole. Captains should pay more attention to rocks and icebergs.

I like swimming and I feel bad if there is oil on the beach. I like finding shellfish and other animals. I am mad about oil spills and I do not want them to happen!

---

"EXXON-VALDEZ" OIL SPILL

(By Angela Bourne)

MARCH 25, 1989.

DEAR DIARY: Today I woke up and thought it would be a regular day. I took a shower, got dressed, fixed my hair, and ate breakfast. The front page of the daily paper caught my attention. My eyes grew very wide. A headline stated, "Oil Spill Occurs in Prince William Sound, Alaska. Eleven Million Gallons of Crude Oil Cover the Water." I could not believe it! The article continued, "If you would like to help clean up Prince William Sound, please notify the Sea Otter Rescue Center, in Valdez, Alaska." The people in Alaska need help! And the animals!—oh, those poor creatures are in danger! I am going to Fleet Travel Agency today to make arrangements to go to Valdez, Alaska! They need all the help they can get!

ANGELA.

MARCH 29, 1989.

DEAR DIARY: Well, now I am on a Delta plane, flying over Alberta, Canada, on my way to Alaska! Will everything be black?

ANGELA.

MARCH 30, 1989.

DEAR DIARY: Today I found the Sea Otter Rescue Center. People from the Exxon Oil Company informed all volunteers to wear rubber boots, gloves, pants, and jackets. No one knows what effects oil has on people.

Many volunteers and I got dressed and we headed over to one of the beaches nearby. It was really disgusting. Dead, black-coated animals were floating in the black water and on black-covered rocks.

I picked up a bald eagle, two otters, four seagulls, and several washed-up fish and put them into trash bags. Some animals were to be frozen to use in law suits. I helped blot rocks, clean up living animals, and hose down the beach. This was the first beach I had been to that was actually depressing.

Things called skimmers were gathering some of the oil in the water, while planes were putting some stuff in the water to make it look cleaner.

ANGELA.

APRIL 1, 1989.

DEAR DIARY: Most of the beach on Naked Island was cleaned up today! I continued picking up dead animals and packing them into trash bags. Prince William Sound was so still and beautiful, with snow-capped blue mountains surrounding it. Why did this have to happen?

On April 22nd, I will be leaving Alaska, for safety reasons.

ANGELA.

APRIL 14, 1989.

DEAR DIARY: Today I only hosed down the beach. I couldn't bear to see anymore dead animals. The cleanup has been exhausting! We start work at 6 A.M. and finish at 5 P.M. I've been getting to bed at 6:30 P.M.! Isn't that amazing?

ANGELA.

APRIL 21, 1989.

DEAR DIARY: Tomorrow I will be leaving Alaska. I am sitting on a big rock at a beach on Eleanor Island. This beach was literally surrounded by oil. Most of the oil here is gone, but there is still more cleaning to do! I have to go home because scientists do not know what harm oil can do to you. I certainly do not want to risk anything. I absolutely love the stillness of the water and the crisp, cold air.

ANGELA.

APRIL 23, 1989.

DEAR DIARY: Last night I got home! I was so, so tired! I received good pay for my help $1,800 a week. I really feel good about helping clean up the oil spill! I also feel good about Lazarus. He was a sea otter who was barely alive and was brought back to health at the Sea Otter Rescue Center.

Our world could be destroyed through carelessness. We should unite and make this world a beautiful, safe place.

ANGELA.

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THE EARTH

(By Michelle April Michaud)

One day there were some aliens from Jupiter that were building a space-shuttle to go exploring in the outer world. When the astroaliens were ready to leave for the outer world they said farewell to their family and friends.

When they were half-an-hour into the trip the monitor flashed a planet. After their discovery the monitor said, "You are now approaching the planet Earth. There is very little life on planet Earth. OH, buckle your seat belts we're coming into a crash landing." The aliens quickly buckled there seat belts but they landed nice and smooth on the ground. "Something must be wrong with this stupid monitor", said one of the aliens. "I know", said the other. "When we were building it we had a lot of parts left over." "OH" said the other alien which was named Bud and the other ones name was A.L.F. They both got out of the space ship to take a look around.

When they got out A.L.F. said, "Look there's an over sized flush-tush." "No stupid", said Bud, "that's a lake, I read it in a Knowledge book on planet Jup." "I knew that," said A.L.F. "Yea and I know Benjamin Franklin," said Bud. "Let's get a move on we'll never get to see anything at this rate.

They looked around, they noticed that the ground was clean, the lakes had clean water and the air was nice and fresh.

"Well, let's start to head home. The air is getting black and I'm getting scared." Scary

cat" said But. "Hey don't say that I might start eating myself during the night again."

When they were at planet Jup. Rhonda was waiting for A.L.F. at the Grilled Cats Restaurant.

"Oh A.L.F. I'm so glad to see you." said Rhonda. "Me too," said A.L.F. "Me too."

20 YEARS LATER

One day when A.L.F. and Bud were eating at the Grilled Cats Restaurant they started to talk about their trip to Earth and they decided to make another trip and they invited Rhonda. Rhonda agreed gleefully. On their way A.L.F. was telling Rhonda how lovely it was there.

When they got there they saw garbage all over the land and brown water in the lakes. "Ahhh maybe we landed on the wrong area" said Bud. "No we didn't I remember that's the lake I so called an over sized flush-tush." "Then what happened? The environment used to be so clean." "People threw garbage on the ground and polluted the lakes and because of all these cars the air is full of smog," said A.L.F. This bothered all of them so they decide to go back home to Jup. They were very disappointed that the beautiful earth they had visited twenty years before was no longer.

---

EARTH

(By David Michaud)

A group of the world's best scientists met at Science Hall, famed college and university, to discuss what to do about the world's increasing percentage of waste, pollution, and economic hazards.

Here is a brief report on each of the participating scientists.

Edward T. Baxter—a representative of Super Cybernetics Corporation (Physicist).

William R. Mendoza—an independent scientist (Aerodynamics Engineer).

Frederick S. Church—a representative of Techtronics Inc. (Computer Specialist).

Richard S. Gamhill—a representative of NASA (Chemist).

Vladimir P. Tzchov—a representaitve of Moscow Technologies Inc. (Biologist).

Here is a file that the Science Hall stenographer loaned us. The file has the last name of the person speaking on the front of the dialog.

Baxter has been chosen as head of the council.

Baxter: My fellow scientists, we are met here for a grave and serious purpose. Thousands of tons of waste are currently being dumped into our water, atmosphere, and ground. I have realized, as I am sure every one of you have, that if we do not put a stop to this soon, that our Earth would be better off being totally obliterated by a major nuclear meltdown. We have only a short time before we each have to go and catch a plane, headed for different parts of the world. I am ready to hear your ideas on making a last, hopefully successful effort to save our dying world.

Gamhill: I have been working on a molecular disentigrator acid. So far, only small use can be made of it, for no container can hold more than a few drops. If I were given a research grant of $5,000, I probably would be able to develop this compound enough for large scale use. It would prove invaluable in the situation of landfills, factory wastes, and atomic wastes as well.

Baxter: That is a worthwhile project, Dr. Gamill. I hope that you will find a container strong enough to hold this substance.

Church: I move that a research grant of $5,000 be given to develop this project.

Mendoza: I second the motion.

Baxter: The grant has been moved and seconded. All those in favor say "aye". (All say aye.)

Baxter: 5 to 0. I will send this movement to the Science Hall senate.

Tzchov: I have a project that you may find as interesting as Dr. Gamhill's. I have discovered a substance that destroys harmful water pollution. It does not need container development, but it does need to be strengthened. It is currently very weak, and does not last very long where it is needed most. But with a $1,000 grant, I would be able to give this substance strength, and be able to save our marine life and our drinking water.

Church: Dr. Tzchov, this substance is very interesting. I move that you get a grant of $1,000.

Gamhill: I second the motion.

Baxter: The motion has been carried, 5 to 0. I will send this to the senate along with Dr. Gamhill's project. And Now I have a contribution. With all this about gases entering the Earth's atmosphere, I have devised, along with the help of Dr. Mendoza, and the computer imaging provided by Dr. Church, a cheap missile that can be built for a few dollars, that has an onboard 10-gallon tank. The gas wastes can be pumped into this tank, and then is shot at a certain trajectory, to head for the Earth's largest incineration plant, the Sun. This craft, made of light plastic, and a reusable computer guidance system. It has an explosive bolt at the bottom of the craft, behind the holding tank. From ground control, this bolt will explode, and hurdle the holding tank at even greater velocity towards the sun. The guidance-thruster computer system will turn 180 degrees, and will fire an OMS (Orbital Maneuvering System) burn. Then the liquid engines will reignite, and rocket back to Earth. The holding tank will rocket closer and closer toward the Sun, until it's eventual spontaneous combustion. I may add again that this is a safe, inexpensive, and clean way to incinerate gaseous wastes. I thank Dr. Mendoza and Dr. Church for their input and help in this project.

The problem seems to be that no one is willing to sponsor this project. Unless we all want to be soon wearing gas masks every time we step outside, then I think that this is our only solution. Each craft has an average retail cost of $5.25. Smaller sized craft can be made for $2.50, with 5-gallon holding tanks. Without this, our atmosphere will become a mess of chlorofluorocarbons.

Gamhill: I am very interested in your project, Dr. Baxter. You and your colleagues have been designing a system to save our Earth's vital atmosphere. I move that this be sent in along with Dr. Tzchov's and my projects to the Senate.

Tzchov: I agree with Dr. Gamhill, I second the motion.

Baxter: The motion has been moved and seconded, all those in favor say "aye" (All say "aye" except for Church, who is modest.)

Baxter: (smiling at Church) 5 to 0. (pauses) Are there any other contributions? (There is silence)

Church: (looking at the clock) Oh no! Look at the time! We have to be at the airport in 15 minutes!

Mendoza: (looking at the clock) We'll have to get a taxi, and fast!

Baxter: Oh, no. This is rush hour. You'll never get a taxi, but I can give you a ride and see you off at the airport.

(They stand up, shake hands, and then go to the elevator for a ride in Baxter's new Porsche. Not surprisingly, they make it to the airport on time . . .)

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EARTH DAY

(By Marja Murawski)

I used to know a land that had fresh air, green grass, green bushes, red and green trees, and flowers of all colors. Then factories, cars and other things started to let poisonous gases and chemicals into the air. Acid rain came, most junk yard material wouldn't rot or when it did it put poison in the ground. Now we have a big hole in the atmosphere. Sooner or later we won't have any atmosphere at all and we will need oxygen masks and tanks and space suits too. Please help save the Earth. Try to write letters to Congress and tell them to cover the pipes on factories, mills, and vehicles, and make laws to stop pollution. It would work only if everybody helped.

---

A FEW TREES

(By Marc Rodrigue)

I did a lot of my growing up in a special place in the woods. It wasn't an incredible place, at least it wouldn't seem that way to an adult, but it was a place where I felt wanted and needed. I called that place Eternia, probably because it wasn't a word you heard a lot in public. The trees that surrounded Eternia stood straight and proud, towering over the rest of the forest. Those trees were different from others. They were like a higher authority of nature commanding the forest around them. But you had to look closely with a watchful eye to discover that. I suppose I was the only person who ever took the time to take a closer look. Those trees meant a lot to me. I appreciated their being there.

I never told anyone about Eternia. I sort of considered it my place; not as if I owned it, but just the only person that knew of it, or cared to know of it. Whenever I felt frightened or uneasy of something I would go to Eternia and just sit and think for a while. I never felt out of place there. I could always forget my troubles that lay beyond those trees.

One day when I went to Eternia just to sit and think in the peace and quiet of the forest around me. I discovered a broken beer bottle smashed up against one of those trees. I did my best to pick up every piece of the broken glass, but just the thought of some thing that didn't come from these woods, was sort of scary. The thing that was kind of odd, in some bizarre way, the tree looked frightened too. Its beautiful limbs and branches, which used to stretch to the sky, were hung lower, closer to the earth, as if it was trying to hide from the world around it.

This one broken beer bottle turned into two and then into three. Eventually it became a habit for me to pack a trash bag. As time went on, those amazing trees which I had loved and cared for so much, became distorted by broken glass. I guess I felt those trees were my responsibility. I always tried as hard as I could to make them look as they had before, but it became an impossible task as time went on and the wounds grew. I believe the wounds those trees suffered were deeper than their bark. I could never put into words the way I felt, but I don't think it was hate towards the people that hurt the trees, but more pity.

When the autumn had fallen and hunting season had begun, I forgot my fears, of being shot, and remembered Eternia. A floor of leaves had given the forest a com-

fortable feeling. A feeling that I treasured in my mind, on the trips back and forth, as the shots of rifles rang out around me. I now was filling three and sometimes four trash bags with the hunter's remnants left in Eternia while passing through. I've always wondered if any of those hunters ever looked up at those trees, not in admiration as I did, but just in regard for nature. Most likely they would have been too interested in taking another part of nature home with them.

The most tragic day, but at the same time the most important day of my childhood, came when I found one of those brilliant trees laying on the earth, dead. The tree just lay there. No one had dragged it away to use for firewood or lumber. They had just chopped it to the ground for amusement, probably to see who could destroy the most of nature. The trees surrounding it seemed to look mournfully down at their dead friend. I stared up at those trees that were still standing for a while that day. We had understood each other. We shared the same feelings. We had lost a friend. I sat down on the fallen tree, hung my head, and cried, not for the dead member of Eternia, but for those trees which were still standing. It was almost as if they knew, as well as I, that they would be taken in the same meaningless way.

For close to a year, I was afraid to return to Eternia. I thought I would find yet another murdered friend. During those months, I often attempted to dream of a forest where the trees could grow freely, knowing no harm would come to them. I suppose that was just a wishful dream.

The next time I went to Eternia, I met my new neighbors. I didn't cry that day. There were no trees left standing to cry for.

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OUR ENVIRONMENT: A MATTER OF LIFE AND DEATH

(By Rowena Alley)

We should be very concerned about our environment because it is essential to man's survival. Conserving energy will play a big part in saving our environment. The burning of coal and petroleum is hurting the environment. If we conserve those resources of energy then in trade it will do two things for us. It will save our ozone layer and it will extend the life of our fossil fuel resources.

Landfills should be done away with so that we will have more good land and because they don't work. No matter how long the garbage is buried it will always be there. There is no air down under the ground so the garbage can't be broken down or rot. The burning of trash is no good either because it releases harmful substances like C.F.C's into the atmosphere. Chloro-flouro carbons (C.F.C's) break down and destroy the ozone layer.

Recycling is the only answer to our garbage problem. Everything that can be recycled should be recycled. Glass, plastic, paper, and many metals are recyclable. Large appliances such as refrigerators, washers, dryers, dish washers, and stoves do pose a problem. We need to find a safe way to get rid of them and not dump them in a swamp somewhere.

Another thing that is destroying our environment is the destruction of our forests. Trees are being cut down and land cleared for the construction of large factories. These factories produce smoke which pollutes the air we breathe and waste which pollutes the water that we drink. The more trees cut down the less oxygen is produced. The destruction of forests also upsets the eco-system by destroying homes and food sources of many animals.

Saving the environment is going to take work and cooperation from everyone. There are medicines to cure diseases but what is going to save us from our own ignorance about the environment. Education is the key to our survival because if we destroy the environment, we destroy ourselves.

---

LISTEN TO ME

(By Emily Record)

The quiet sanctuary of the salt marsh surprised me. Even though I was only a few hundred feet away from a heavily trafficked road, I couldn't hear the zoom of the cars as they raced around corners, or smell the mild stench of burnt rubber and litter. I sighed and sank to my knees, the water slid around the cattails with a quiet swish, and then recoiled gently. I could hear the distant crying of seagulls, they always struck me as distressed. No wonder, I thought. Even though the salt marsh was a government-protected area, buildings and roads surrounded it closely on three sides. The other side led to the open water of the Atlantic Ocean. The salt marsh had taken on a man-made look and the edges were littered and dirty. Osprey sat on their perches, gazing at the world solemly with wisdom and dismay.

I looked at the sky, it was a soft blue, and the sun, a blazing red, was beginning to set. As night came the city began to "transform" slowly. The dogs began to bark and the houses lit up. Police cars began their patrol, and the street gangs formed out of nowhere. It never got fully dark, light pollution cast the sky in a hazy glow, I hadn't seen stars in a long time. The nuclear power plant across the bay took away all the natural beauty of the ocean at night. The moon looked to me a pasty yellow, and the trees, most likely planted to provide shade for tourists, began to tremble and creak ominously in the still darkness.

The future generation was roaming the streets, throwing empty beer cans out of their cars into the woods, and smoking behind the clubhouse. A baby was crying, distressed, just like the seagulls. I was saddened by this familiar scene. My father went outside to lock the car doors and put the bicycles in the shed.

It's the people, the people are destroying the earth. Murdering wildlife and nature, as if it's their right to. Destroying the serenity and peacefulness of our once beautiful earth. What has become of the vast forests and prairies? They have been cut, they are bleeding, and we aren't mending them. Before man were animals extinct? We are losing our understanding of the value of life, and how to make the best that we can out of our life. Listen to me, the forests are bleeding, the seagulls and babies are crying. Now listen to them.

---

EARTH DAY '90

(By Sandra Pomerantz and Rebecca Coburn)

SCENE 1

*Setting—Woods by Page's house, Time—11:30 A.M.*

SARAH. You know, Page. I love walking through the woods.

PAGE. I do too. Oh, look. There's some old tires that people have thrown. Man, are people wasteful.

SARAH. What's so big about throwing tires?

PAGE. What do you mean "What's so big about throwing tires"?! It will ruin our environment.

SARAH. Look around you. I don't think a couple of tires will ruin the place.

PAGE. O.K. then, I dare you not to touch or use anything that harms the environment, for the next whole week.

SARAH. O.K., It's a deal! (two girls shake hands).

PAGE. I'm hungry. Wana get some lunch?

SARAH. O.K.! Come on!

SCENE 2

*Setting—Page's Kitchen, Time—12:07 P.M.*

PAGE. So, do you want cheese on your sandwich or not?

SARAH. No way man! I hate that stuff!

PAGE. A simple no would have done it.

SARAH. Page, will you quit acting like my mom.

PAGE. O.K., here you go. One smoked turkey breast on rye.

SARAH. (nerdy). Thank You. Now, can you pass the container of coleslaw.

PAGE. What container is it?

SARAH. The plastic one over there.

PAGE. I'm sorry Sarah, but you are not supposed to touch anything that harms the environment. After all, plastic is bad for the environment. When people are making plastic, they put harmful gasses in the air, and plus, plastic is not biodegradable, so it will sit there forever and ever, and clutter up our world.

SARAH. Fine. I guess I can live without coleslaw. Oh, come on. My mom said she'd take us to the mall after lunch, so eat up.

SCENE 3

*Setting—Page's bathroom, Time—1:03*

PAGE. What do you think about this shade of eye shadow?

SARAH. Oh! Cool! I love it! Can I try some?

PAGE. No. Are you forgetting our bet? They test cosmetic products on animals. After all, they test ingredients on animals. And animals are part of the environment. Toms is the only company I know of that doesn't test the ingredients on animals, because all the ingredients are natural.

Beep Beep

PAGE. Oh, that must be your mother. Come on.

SARAH. Aha, now is the time for hair spray.

PAGE (enters room). That's what you think. (grabs hair spray) Aerosol cans are bad for the ozone layer.

SARAH. Yeah, I know, I know. Now come on.

SCENE 4

*Setting—Sara's house, Time—4:56.*

(Sarah and Page have returned from the mall.)

SARAH. I can't believe you Page! You gave me such a hard time at the mall! You wouldn't let me get anything I wanted! I quit this stupid dare! It's impossible!

PAGE. I know, Sarah. We're living in a material world. We practically can't buy anything that doesn't harm the environment. I just did it to make you understand how important our environment is to us. But there are things you can do to help. Like not littering, buying products that are in a cardboard box instead of a plastic container, not throwing trash in lakes and streams—

SARAH. And not using makeup or aerosol cans.

PAGE. And don't dump toxic waste (antifreeze, etc.). Use unleaded gas if that is the kind of gas you put in your car, and of

course, you can celebrate Earth Day 1990 and Arbor day by planting trees.

SARAH. Gee, you've really taught me a lesson about our environment. I think we should go pick up those tires in the woods.

---

BY TRANSITIONAL/FIRST GRADE, WILTON PRIMARY SCHOOL

We love the Earth.
She likes to play with us,
And she likes us to get around her
And give her a hug.
She likes it when we plant flowers
So she is beautiful,
And when we pour water on her
So she can get a drink.
She likes it when it rains, too,
And when she feels the hotness of the sun
And then gets cooled off with the snow.
She likes us to be kind.
She likes it when we ride our bikes
But not when we skid.
She likes us to be healthy
So she gives us food and nice gardens
And pretty rocks and worms and waterfalls.
She grows grass for us
And gives us a place to lay down
And she gives us peace and quite.
We love the Earth,
And she loves us.

We are children of the Earth.
We are children of the Sun.
Come together now,
Take hands
And we shall dance as one.

Beasts of the field,
And birds that fly
Fish that swim in the sea,
Come together now and dance
For brothers and sisters are we.

---

MY WORLD

A clean green forest
A sparkling pond
A blue sky.

We hear,
Birds singing in the trees
Deer walking down a path
Rabbits hopping through the woods
Fish jumping in a pond.

We see,
Fawns blending into the bushes
Birds feeding their babies
Moose shaking the forest as they walk
Moss on rocks
Flowers blooming everywhere.

Pollution came.

We hear,
Nothing.
No birds singing
No deer walking
No rabbits hopping
No brook splashing
No fish jumping.

We see,
No fawns blending into bushes
No birds feeding babies
No moose shaking the forest
No moss on rocks
No flowers blooming—anywhere.,

My world?

(Written by Miss Grass' Grade Two, Benton Elementary School, Waterville, ME)

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FIRST GRADE, LAMOINE SCHOOL

We love the Earth

We love the earth,
It's the place of our birth.

Keep the land clean,
And make sure it's green.

Keep the air clear,
We like to breathe here.

Keep the water blue,
So we can swim, too.

Make our earth a clean place,
So we can have a smiley face.

---

MRS. SHOREY'S FIRST GRADE CLASS, ABRAHAM LINCOLN SCHOOL

EARTH DAY

Earth Day,
Earth Day,
Please don't pollute.
We don't need trash.
Let's think of ways
to save Our Earth.

OUR HOME

Earth, Earth is our place at birth.
We love our home the Earth.
Dinosaurs walked on our home first,
they died.
We weren't yet alive.
So keep our air clean.
Don't pollute our water and land.
We hope you all understand.

---

GONE WITH THE WIND

They are endangered species,
That's all we know about them.
Just the fact that they are in danger of becoming extinct
And extinct is forever and ever.

The spotted leopard, Spanish lynx,
Wide-eyed ocelot such beautiful cats.
The blue whale, the sperm whale—
Proud monarchs of the sea.
African elephants with ivory tusks,
The panda, grizzly or polar bears
And marsupials like the koala and Tasmanian wolf—
Why are they endangered?

Maybe it's because there's killing and poaching.
We're building on and taking over habitats.
There's too much pollution, littering and interference with Nature.

We think about them a lot.
If you see an endangered species, consider this
Just think what the world would be like without them.
If they roam the earth no more
It would be a tragedy.

(Mrs. Jones' fourth grade class, Friendship Village School.)

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FOURTH GRADE, WEST HARPSWELL ELEMENTARY SCHOOL

Smokestacks
Belching thick black smoke
Darkening our clear, blue skies
Devastating earth.

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## CONCLUSION OF MORNING BUSINESS

Mr. PELL. Mr. President, I ask what is the pending business?

The PRESIDING OFFICER. We are currently in morning business.

Mr. PELL. I ask that morning business be completed, and that we return to the bill that was before us.

The PRESIDING OFFICER. Morning business is closed.

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

The PRESIDING OFFICER. The Senate will resume consideration of S. 195, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 195) entitled the "Chemical and Biological Weapons Control Act of 1989."

The Senate resumed consideration of the bill.

Pending:

Pell/Helms Amendment No. 1631, in the nature of a substitute, to require the imposition of specified sanctions against any foreign country which uses chemical or biological weapons in violation of international law or against its own citizens.

Mr. PELL. Mr. President, I ask unanimous consent that the committee substitute be modified to reflect the substitute language as contained in amendment No. 1631.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The committee amendment in the nature of a substitute, as modified, is the pending business before the Senate.)

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ORDER OF PROCEDURE

Mr. THURMOND. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## NATIONAL TOURISM WEEK

Mr. THURMOND. Mr. President, as a member of the Senate Tourism Caucus, I rise today to salute the more than 6 million citizens who work in our Nation's third largest retail industry—tourism. The dedication, hospitality, and old fashioned American know-how of these individuals have combined to create one of our Nation's most successful and productive industries. In recognition of their fine efforts, the week of May 13 through May 19, 1990, has been designated as "national tourism week." This week serves to remind us all that America is not only a nice place to live but a great place to visit. It is clear that tourism works.

Tourism works for our economy. According to the U.S. Department of Commerce, spending on travel services in the United States reached approximately $350 billion in 1989. In fact,

travel spending in our country averaged $959 million each day, $40 million each hour, $666,000 each minute and $11,000 each second. Tourism represents 6.7 percent of the gross national product and 13 percent of the services sector. Last year, Federal, State and local tax revenues generated from travel expenditures totaled $42.8 billion. Of this amount, the Federal Government received approximately $23 billion.

Tourism puts Americans to work. The travel industry directly generates more jobs than any other industry in the United States except health services. Over the past decade, travel industry employment has grown more than twice the growth rate of all U.S. industries the 2.9 million new jobs provided by the industry since 1979 account for 15.4 percent of the national increase in employment, in addition, the travel industry provides a disproportionate number of jobs for the historically disadvantaged blacks, Hispanics, and women.

Tourism works for recreation. Of the $350 billion spent on travel services last year, $316 billion or 90 percent was spent domestically. Americans spent more on travel than on clothing, accessories, jewelry, and personal care combined, or on household utilities, including telephone service. In 1989, Americans took 1.3 billion trips 100 miles or more away from home and spent 5.2 billion nights away from home. Even in times of economic depression, the tourism industry has continued to flourish with employment in the industry having risen every year since 1958.

Tourism works for foreign vistors. Tourism is America's largest export ranking ahead of agricultural goods, chemicals and motor vehicles. Among all nations, America ranks No. 1 in international travel receipts. In 1989, our Nation welcomed 38.7 million foreign visitors; and total U.S. travel receipts, including foreign visitors international fare payments to U.S. carriers, reached $43 billon. This represents an increase of 16 percent over 1988 or $5.9 billion expenditures by foreign visitors in this country directly supported an estimated 570,000 jobs and foreign tourist-generated tax revenues totaled over $4 billion last year, of which approximately $2.1 billion accrued to the Federal Government.

Finally, tourism works for the Palmetto State. In my home State of South Carolina, travel and tourism represents the State's second largest industry. Tourism generates more than $6.93 billion in total State revenue for the State, employs more than 189,000 South Carolinians, and produces a payroll of more than $1.37 billion. Even following the devastation of Hurricane Hugo, our tourism industry continues to grow. The South Carolina Department of Parks, Recreation, and Tourism reports that the tourism division processed over 180,000 requests for information in the last 6 months, a 16-percent increase over last year's rate.

Mr. President, it is clear that tourism works for America. I hope that my colleagues will take a moment to reflect upon the important role that the travel and tourism industry plays in the lives of all Americans. This thriving industry deserves our support and our thanks for a job well done.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes Senator HELMS.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me. I also ask unanimous consent to speak as if in morning business. I have another matter to discuss.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CHINESE GULAG

Mr. HELMS. Mr. President, I have here a full page advertisement published in the New York Times on May 15. This advertisement I am delighted to say is promoting an article in the June issue of Reader's Digest.

I am delighted that the Reader's Digest is publishing the article, or has published it, and I am delighted that the Reader's Digest is promoting readership of the article in the New York Times and perhaps in other newspapers. The article was written by a veteran foreign correspondent, Fergus M. Bordewich. Anybody who has read the article as I have will understand that it contains information essential for the enlightenment of the American people.

The Reader's Digest article will go to 50 million Reader's Digest readers in the United States and then it will appear in nine international editions in June and in July. That will be followed by 10 more international editions which will publish the Reader's Digest article. By the end of the summer then as many as 100 million people worldwide will have seen this article by Mr. Bordewich. The article bears the title "Into the Bamboo Gulag." It details the Chinese Communist way of doing things. Based on interviews with former prisoners, the article outlines the actual conditions in the prisons and in the slave labor camps.

Mr. President, in the words of the author, and for a little while I will be quoting from the article, he says:

No one bathes. You are given one bowl of water each day. You could either drink it or you can wash with it. You drink it.

Then he goes on:

Twice a day, you are given a couple of pieces of turnip in hot water. They call it soup. * * * Your energy diminishes day by day until you are unable to walk without holding onto the wall.

Mr. President, that raises a question: How does someone become a prisoner in Communist China today? Well, according to the author of this Reader's Digest piece:

Your trial is just a formality anyway. A party-dominated committee decides the verdict before the trial even begins. Releases and acquittal are rarely on the agenda.

And I continue to quote:

In court, you are not allowed to call witnesses, or see the evidence against you. Guilt is presumed. Any attempt to argue your innocence is taken as further proof of guilt.

Then the author of the article in Reader's Digest says:

Since 1949, China's masters have imprisoned or killed tens of millions of China's people. Now they want Western loans and assistance. They want to export products—textiles, machinery, consumer goods—some made by political prisoners—

Some made by slave labor—

They pretend that there is no gulag, that there are no prisoners of conscience, that the Tiananmen massacre never happened.

This advertisement to which I just alluded and the article itself in the Reader's Digest both called on the United States to remember the sacrifice of the brave Chinese people who are suffering today in the Communist gulag of China. They are pleading for our support. And I am not sure that I can find anybody who feels comfortable about the measure of support that the United States is giving these people.

But Senators are going to have an opportunity to do just that before very long. I am in the process of drafting legislation to slam the door on slave labor products coming into the United States from Communist China or any other country which condones this vile practice. Passage of the legislation will remove the United States as a market for slave labor-produced goods. I am hopeful, of course, that, seeing the example of the United States, other countries may get around to following suit, so that the Communists will have less incentive to maintain that slave labor system.

Mr. President, I ask unanimous consent that the advertisement from the New York Times be printed in the RECORD.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

[An advertisement in the New York Times, May 15, 1990]

DEMOCRACY'S HEROES VANISH IN CHINA'S GULAG

(One year after the Tiananmen massacre, many of China's protestors for democracy

languish in the most far-reaching system of political prisoners in the world. Veteran foreign correspondent Fergus M. Bordewich has talked with survivors who were released after many years in China's prison camps, and with the friends and relatives of those who have dropped from sight. In the June Reader's Digest, he takes you "Into the Bamboo Gulag"—through the eyes of its victims)

Leave your name at the door. You have become a number. If you stay long enough, you may forget you had a name.

You and 30 others share a 20-by-20-foot cell in Beijing's infamous Banbuqiao Prison. Walls are stained with crushed ticks, fleas and bedbugs. The floor is covered with mucus and spittle.

All day you sit on a dirty cotton mat. You're not allowed to move or talk. You can get up only to use the toilet. Once a day.

The guard blows a whistle that tells you when to sleep and when to wake. At night, you are packed together so tightly that everyone has to turn at the same time.

No one bathes. You are given one small bowl of water each day. You can either drink it or wash with it. You drink it.

Twice a day, you are given a couple of pieces of turnip in hot water. They call it soup. You're so hungry you vomit bile. Your energy diminishes day by day until you are unable to walk without holding onto the wall.

You have been held incommunicado for months. The law says that your family must be notified of your arrest—unless that would "hinder the investigation." Your family has not been notified.

Your trial is just a formality anyway. A Party-dominated committee decides the verdict before the trial even begins. Releases and acquittals are rarely on the agenda.

In court, you are not allowed to call witnesses, or see the evidence against you. Guilt is presumed. Any attempt to argue your innocence is taken as further proof of guilt. Don't expect justice in a Chinese Communist court.

OUTPOURING OF SUPPORT

Wang Juntao ran in 1980 as an independent candidate in China's first contested election since 1949. Although he lost, he told supporters, "If we want democracy, we've got to show people how it's done." Later he established one of China's first independent educational programs so working people could study in their spare time. Then he helped set up an influential institute that urged free-market capitalist. He never joined the Communist Party. If he was to be an official, he wanted to be elected freely.

The Democracy Movement of 1989 was the opportunity he had dreamed of. He gave the students food and published their daily newsletter. He helped organize hundreds of Chinese journalists to join the demonstrations, to call for freedom of the press. That helped turn the student protest into a vast popular outpouring of support, as doctors, teachers, workers, and even delegations from the police and the Communist Party school began marching to Tiananmen Square.

He set up the "underground railroad" that enabled some of the student leaders to flee to the West after the military crackdown June 3.

Wang stayed in China to help others escape, until it was too late to save himself. He was arrested as he was about to cross into Hong Kong—and disappeared into the Bamboo Gulag.

TRUTH SUPPRESSED

Liu Xiaobo was a visiting scholar in the United States last year. When news of the Democracy Movement reached him, he flew to Beijing, and threw himself into helping the students.

Some say Liu's June 2 speech was the most important of the entire movement. Liu has a stammer, but thousands of young faces gave him courage as he spoke in Tiananmen Square: "We advocate the peaceful democratization of China. We seek to end the rule of the bayonet and lie! We must now build a new politics, free of enemies and hatred, based instead on tolerance and compromise, and functioning through discussion and the electoral process."

The government accused Liu of advocating armed rebellion. The truth has never mattered to the Communists. The regime may kill him to intimidate others, to remind the people that anyone can be destroyed for his ideas.

Liu, too, has disappeared into the Bamboo Gulag.

Han Dongfang was a simple worker, a maintenance man for the state railway. He was tired of watching Communist Party officials get rich while the people suffered.

The students in Tiananmen Square gave him the strength to stand up for himself at last. In the square, he made the first speech of his life, denouncing the state's exploitation of workers.

On May 19, he and a group of other dissident workers set up Communist China's first free trade union, striking at the heart of the Communist state. Inspired by his actions, others formed similar unions across China.

The night before government troops invaded Tiananmen Square, the atmosphere in Han's tent was tense. "I'm not afraid to die," he told a friend. He hoped there would be an international outcry if the government moved against them.

Han has also disappeared into the Bamboo Gulag.

NO ESCAPE

For the last two days you have ridden in the back of a truck across the sandy wastes of western Qinghai Province. Soon you see a high brick wall and towers. In them are soldiers with machine guns and they're pointed at you.

Welcome to your new home. You live in a room with 40 other prisoners. You're not allowed private possessions; no books, no photographs, no keepsakes, no clothes. Nothing.

You dig irrigation ditches from sunrise to sunset, seven days a week. When there is a full moon, you work at night too. You come to hate the moon.

Guards don't wait for an infraction to punish you. They tie your elbows behind your back with a wet thong that tightens as it dries. After an hour, you go numb.

The next time, guards push wires through the flesh of your ankles, put an iron band around your skull and tighten it until your head cracks. Then they handcuff your arms underneath one leg, raising it tight against your chest. They leave you like that for days, sometimes weeks.

No one escapes from the camp. There's nowhere to go, just sand in every direction for hundreds of miles.

Since 1949, China's masters have imprisoned or killed tens of millions of China's people. Now they want Western loans and assistance. They want to export products—textiles, machinery, consumer goods—some made by political prisoners. They pretend there is no gulag, that there are no prisoners of conscience, that the Tiananmen massacre never happened.

Bullets and blood may have silenced the heroes of Tiananmen Square—for now. But they will be back, again and again, as long as freedom is suppressed. As the world's beacon of democracy, the United States must not ignore their cause—or their sacrifice.

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. HELMS. Mr. President, I see the distinguished Senator from Arizona on the floor, Mr. MCCAIN. I wonder if he is prepared to proceed with his amendment.

Mr. McCAIN. Mr. President, I believe that in about 3 or 4 minutes I should be ready, I say to my friend from North Carolina.

Mr. HELMS. Very well.

PRIVILEGES OF THE FLOOR

Mr. HELMS. Mr. President, on behalf of the distinguished Senator from Minnesota [Mr. BOSCHWITZ], I ask unanimous consent that a legislative fellow in Mr. BOSCHWITZ' office, Mr. Kenneth Sichel, be granted privileges of the floor today and on each day that S. 195 is being considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I had anticipated proposing three amendments to this bill, the present legislation we are considering, today. I have had discussions with the sponsors of this legislation and we have reached a basic agreement as to how to dispose of all three of these amendments to the satisfaction of the sponsors and to me.

AMENDMENT NO. 1634

(Purpose: To impose sanctions against persons who engage in the trade of, or assist others in the trade of, missile technology which could be used in the construction of certain ballistic missile systems)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1634.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 3, after the word "weapons", insert the phrase: "and the means of their delivery".

On page 14, after line 3, insert the following:

SEC. 200. ENFORCEMENT OF INTERNATIONAL CONTROLS ON MISSILE TECHNOLOGY.

(a) DETERMINATION BY THE PRESIDENT.—The President shall impose one or more of the applicable sanctions prescribed in subsection (b) in any case in which the President determines there is reliable evidence—

(1) in the case of a United States person, that the person—

(A) is exporting, transferring, or otherwise engaging in the trade of any internationally controlled missile technology in violation of the provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 5 or 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405), or any regulations issued under any such provisions;

(B) is conspiring to or attempting to engage in the export, transfer, or trade of such technology in violation of any provision of law or regulation referred to in subparagraph (A), or

(C) is knowingly facilitating the export, transfer, or trade by any other person of such technology in violation of any provision of law or regulation referred to in subparagraph (A);

(2) in the case of a foreign person, that the person—

(A) is exporting, transferring, or otherwise engaging in the trade of any internationally controlled missile technology for which an export license would be denied if such export, transfer, or trade were subject to the provisions of law and regulations referred to in paragraph (1)(A) and such person exported, transferred, or otherwise engaged in the trade of such technology in violation of any such provision of law or regulation;

(B) is conspiring to or attempting to engage in the export, transfer, or trade of any such technology for which an export license would be denied if such export, transfer, or trade were subject to the provisions of law and regulations referred to in paragraph (1)(A) and such persons exported, transferred, or otherwise engaged in the trade of such technology in violation of any such provision of law or regulation; or

(C) is knowingly facilitating the export, transfer, or trade by any other person of any such technology for which an export license would be denied if such export, transfer, or trade were subject to the provisions of law and regulations referred to in paragraph (1)(A) and such person exported, transferred, or otherwise engaged in the trade of such technology in violation of any such provision of law or regulation; or

(3) in the case of a developing country, that such country—

(A) is importing internationally controlled missile technology; or

(B) is equipping its armed forces with new or additional types of missile systems or other weapons delivery systems configured to use weapons of mass destruction.

(b) SANCTIONS.—(1) The sanctions applicable to a United States person under subsection (a) are the following:

(A) Denial of all export licenses under section 38 of the Arms Export Control Act (22 U.S.C. 2778) and sections 5 and 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404 and 2405).

(B) Prohibition on all contracting with, and the procurement of any product or service from, such person by any department, agency, or instrumentality of the United States Government.

(C) In any case in which the President determines that the acts of the person are not destabilizing and that the person has not previously committed any act described in subsection (a), the sanctions specified in subparagraphs (A) and (B) shall apply, but only with respect to internationally controlled missile technology.

(2) The sanctions applicable to a foreign person under subsection (a) are the following:

(A) Denial of the issuance of any export license under section 38 of the Arms Export Control Act (22 U.S.C. 2778) or section 5 or section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405) if the foreign person is the designated consignee or end-user in the application for such export license or if the President has reason to believe that the foreign person will benefit from the issuance of such export license.

(B) Prohibition on all contracting with, and the procurement of any product or service from, such foreign person by any department, agency, or instrumentality of the United States Government.

(C) In any case in which the President determines that the acts of the person are not destabilizing and that the person has not previously committed any act described in subsection (a), the sanctions specified in subparagraphs (A) and (B), but only with respect to internationally controlled missile technology.

(3) The sanctions applicable to a developing country under subsection (a) are the following:

(A) Denial of some or all technical assistance in aviation, electronics, missiles, or space systems or space-related equipment under the control of the United States Government.

(B) Denial of the transfer of all or selected technology in aviation, electronics, missiles, or space systems or space-related equipment under the control of the United States Government, except for items the export of which to a controlled country (within the meaning of the Export Administration Act of 1979) would require only notification of the participating governments of the Coordinating Committee on Export Controls.

(c) EXCEPTIONS.—Paragraphs (1)(B) and (2)(B) of subsection (b) shall not apply with respect to any contract that provides for the supply of products or services valued at whichever is the lesser of—

(A) $20,000 of the value in the case of a finished commodity; or

(B) 3 percent of the average unit cost in the case of a finished commodity.

(d) TERM OF SANCTION.—Sanctions under this section shall be imposed for a period of not less than two years and not more than five years.

(e) WAIVER.—The President may waive the imposition of sanctions on a United States person, foreign person, or a developing country under subsection (a) with respect to a product or service if the President submits to Congress a certification that—

(1) the product or service is essential to the national security of the United States;

(2) the person or country is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met from another source in a timely manner by improved manufacturing processes or technological developments; and

(3) the United States Government is the end-user of the product or service.

(f) INAPPLICABILITY TO PERSONS COMPLYING WITH FOREIGN LAWS.—Subsection (a) shall not apply to any export, transfer, or other trade activity carried out in good faith by any person if (1) the export, transfer, or other trade activity is in compliance with the laws of the country from which the export, transfer, or other activity is being carried out, and (2) that country controls the export of internationally controlled missile technology pursuant to an international agreement to which the United States is a party.

(g) SUSPENSION OF SANCTIONS.—The President may suspend all or part of any sanctions that have been imposed under this section against a person on account of acts described in subsection (a) if a country that controls the export of internationally controlled missile technology pursuant to an international agreement to which the United States is a party is taking judicial or other enforcement action against that person on account of those acts. The President may terminate the sanctions if the President determines that, pursuant to that country's enforcement action, the person has been found not to have committed those acts or has been severely punished under that country's laws on account of those acts.

On page 25, after line 4, insert the following:

"(3) The term "developing country" does not include any member of the political organ of the North Atlantic Treaty Organization (NATO), any member of the Warsaw Treaty Organization, Austria, Australia, Israel, Japan, New Zealand, or Switzerland."

Mr. McCAIN. Mr. President, I am an original cosponsor and a strong supporter of S. 195, the Chemical and Biological Weapons Act of 1989. It contains reporting provisions that I actively encouraged.

The amendment which I have sent to the desk expands the provisions of the pending legislation to establish the controls on the technologies critical to the development of long range ballistic missiles used to deliver weapons of mass destruction. The amendment imposes sanctions on United States and foreign persons who knowingly export the same type of missile technologies covered by the missile technology control regime. Unlike much of last year's legislation, it does not target a single country, or focus only on chemical weapons—improvements in such legislation that I strongly recommended.

As currently drafted, S. 195 will provide a useful political, moral, and economic deterrent to the use of chemical and biological weapons. I strongly support all the various provisions of this bill and will vote for them.

At the same time, I believe that much stronger action is necessary. The day before yesterday I introduced a comprehensive approach to fighting proliferation called the "Weapons of Mass Destruction Control Act." In doing so, I was responding to one central fact: Proliferation is the greatest single threat to peace we face in the 1990's, and we must address every aspect of proliferation—atomic, biological, chemical, and the means to deliver these weapons—and not simply selected weapons of mass destruction.

THE NEED TO RESTRICT THE PROLIFERATION OF LONG RANGE MISSILES

It is not enough to attack the use of chemical and biological weapons, and it is not enough to concentrate our attention on the most reckless and threatening developing countries.

Mr. President, our current policy tends to treat the world as if there were good proliferators and there were bad proliferators. The grim fact is that there are no good proliferators, and we have to judge any developing nation that proliferates weapons of mass destruction or the means to deliver them as a threat to peace. This is why we need legislation that will attack the growing proliferation of long-range missiles. This is why we need legislation to attack a threat to peace which is already underway in nearly 20 countries.

We have heard repeated warnings about the risks of the proliferation of such missiles from our senior military commanders and intelligence officials. We have learned from them that countries like Argentina, Brazil, Egypt, India, Iran, Iraq, North Korea, South Korea, Libya, Pakistan, Saudi Arabia, and South Yemen are actively involved in such proliferation.

The full list of such countries is classified, but it is striking that the blanked portion of recently declassified testimony by Admiral Brooks, the Director of Naval Intelligence, containing such a list was three pages long.

It is equally striking that Admiral Brooks should state that, and I quote:

Efforts to control proliferation—such as the Missile Technology Control Regime [MTCR] and various nuclear non-proliferation treaties have been largely ineffective and are likely to remain so.

The MTCR, for example, requires only a non-export pledge from signatories, several major producers * * * have not joined, and major loopholes exist—for example, missile components and technologies can be exported if the buyer pledges they are destined for space launch efforts rather than for military utility.

AMENDING S. 195 TO BECOME A COMPREHENSIVE MASS DESTRUCTION CONTROL ACT

This is why I believe that we need to amend S. 195 to address the proliferation of long-range missiles, as a first step in creating the comprehensive and integrated approach we need to take to fight proliferation.

Mr. President, let me give a more specific example of the reason we need to take such action. The Iraqis recently tested what seems to have been a multistage ballistic missile. They at first advertised this system as a system for space use. In fact, such a missile can be used to attack enemies of other states and the purported enemies of Iraq, at very long distances—targets that include the State of Israel.

A couple of weeks later Mr. Saddam Hussein, in my view a ruthless and unprincipled man who is surrounded by ruthless and unprincipled men, announced that he would retaliate to any attack on Iraq by Israel by using poison gas against half the population of Israel. Mr. President, long-range missiles are giving him the capability to deliver on that threat.

In fact, Iraq now seems to have three launch sites with sheltered missiles, one of which may already have missiles targeted on Israel. Its other sites may target friendly Gulf States, and it may soon have biological and chemical warheads for its missiles, if it does not already have them.

The amendment I now propose would meet this challenge. It adds the key provisions of the Gore-McCain Act, S. 1830, to the pending legislation. It would establish sanctions against persons, corporations, and State entities that sell long-range missiles or missile technology which is covered by the missile technology control regime. It would also establish limited sanctions against those developing nations which seek to build or buy long-range missile systems.

This amendment is carefully drafted to match the punishment to the crime. Like S. 195, it provides the President with ample flexibility to exempt certain persons or countries to protect national security. Its primary sanctions are to limit access to the American market to those persons, companies, or countries that sell MTCR controlled technologies to third parties, and it would not add additional sanctions in those cases where other nations, who are signators to the MTCR, take legal action.

The sanctions against developing countries affect only those selected areas of technology transfer which have significant military potential. No steps would be taken to cut off economic aid, those forms of military assistance that are vital to national defense, or any aid and credits affecting food supplies.

Mr. President, unless we take such action to halt the proliferation of long-range missiles, we will only be addressing a small portion of the problem. We will have failed to establish the mix of barriers to proliferation that we must have to be effective, and we will encourage a situation where nations are already rushing to acquire delivery systems which ultimately have no value unless they are used to deliver weapons of mass destruction.

Mr. President, I thank Senator GORE for the role he has played in shaping the original bill on which I have drawn, and also Senator WILSON and Senator GORTON for their contributions.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that Senator CRANSTON be added as a cosponsor of S. 195.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I commend the Senator from Arizona on his initiative. I, and after consultation with Senator HELMS, Senator HELMS and other members of the committee agree that Congress should move to enact legislation dealing with missile proliferation.

The committee staff has been working with the Senator's staff and other staffs to develop legislation in this area. Accordingly, I would ask that rather than pursue his amendment at this time, the Senator from Arizona join with us in an effort to enact legislation which would have more comprehensive support, and I am prepared to consider such compromise legislation in the Committee on Foreign Relations at the first available time in a business meeting following the Memorial Day recess.

I look forward, if this is acceptable to the Senator, to working with him to produce successful legislation, and I hope the Senator will join with me in this and will consider withdrawing his amendment.

Mr. McCAIN. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee for his understanding and his consideration and, indeed, his keen appreciation of the enormity of the problem, the urgency of the problem, and the requirement that we address it as a Nation before it becomes a threat to millions of American lives. I do not believe I exaggerate when I make that statement.

I would be more than happy to withdraw my amendment. I am grateful for the commitment by the distinguished chairman that this legislation would be considered upon completion of the next recess. I am very hopeful we could get legislation through the Congress this year, because clearly the urgency of the issue dictates that. So I thank my friend from Rhode Island.

Mr. President, at this time I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

The amendment No. 1634 was withdrawn.

Mr. McCAIN. I thank the Chair.

AMENDMENT NO. 1635

(Purpose: To establish comprehensive reporting requirements on the proliferation of nuclear, chemical, and biological weapons, and the technologies used in delivering these weapons of mass destruction)

Mr. McCAIN. Mr. President, as I mentioned earlier, I have three amendments that I will be proposing this morning.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1635.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 106 and insert in lieu thereof the following:

SEC. 106. SEMI-ANNUAL REPORTS ON THE PROLIFERATION OF MISSILES CAPABLE OF DELIVERING WEAPONS OF MASS DESTRUCTION AND ON THE PROLIFERATION OF BIOLOGICAL WEAPONS, CHEMICAL WEAPONS, AND NUCLEAR WEAPONS.

(a) REPORTS.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to Congress a report described in subsection (b).

(b) CONTENTS OF REPORT.—Each report under subsection (a) shall—

(1) describe in detail the efforts of all foreign countries to acquire biological weapons, chemical weapons, nuclear weapons, and long-range missiles and destabilizing offensive aircraft and to acquire the material and technology to produce and deliver such weapons;

(2) include an assessment of the present and future capability of those countries to produce and deliver such weapons;

(3) include a determination of whether and to what degree any Communist-bloc country has assisted any foreign country in its efforts to acquire any weapons system, aircraft, material, or technology referred to in paragraph (1);

(4) identify—

(A) each person who in the past has assisted any foreign country in those efforts; and

(B) each person who continues to assist any foreign country in those efforts as of the date of the report;

(5) indicate whether any person included on the list referred to in paragraph (3)(A) or (3)(B) was aware that the assistance provided by that country was for the purpose of developing biological weapons, chemical weapons, nuclear weapons, or a long-range missile or offensive aircraft;

(6) include any confirmed or credible intelligence or other information that indicates that a non-Communist country has provided assistance in developing biological weapons, chemical weapons, nuclear weapons, or long-range missiles or offensive aircraft to another country, either directly by selling to such foreign country biological weapons, chemical weapons, nuclear weapons, or missiles or aircraft or indirectly by facilitating the activity of a person included on a list referred to in paragraph (3)(A) or (3)(B), but took no action to halt or discourage such activity.

(c) PROTECTION OF CLASSIFIED AND INTELLIGENCE INFORMATION.—Classified portions of any report prepared under this section may be issued in a separate annex to the report. In addition, the President may, with respect to the matters addressed in any such report, limit the transmission of intelligence information to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives if the President determines that such information could disclose intelligence sources and methods.

(d) EXCLUDED INFORMATION.—If the President, consistent with subsection (c), decides not to list any person or country in that part of the report required under paragraphs (3) and (5) of subsection (b) that would have otherwise been listed, the President shall include that fact in the report and his reasons for not listing the person or country.

Mr. McCAIN. Mr. President, if we are to make a concerted effort to fight proliferation, then there are several areas where the existing reporting provisions in S. 195 need to be strengthened. As a result, this amendment recognizes the fact that the merchants and buyers of weapons of mass destruction cannot stand public exposure.

This amendment builds upon the reporting provisions of S. 195 to require semiannual reporting on proliferation of long-range missiles, destabilizing long-range aircraft, and nuclear weapons, in addition to the existing requirement for reporting on proliferation of chemical and biological weapons.

The amendment requires semiannual reporting because the world's media have already shown that only constant public monitoring can keep up the kind of pressure required to prevent further proliferation.

The amendment requires reporting on all developing countries, an area that is somewhat ambiguous in S. 195. Today's or yesterday's terrorist countries may not be tomorrow's proliferators, and we must deal with proliferation as a general problem in every area of the developing world, and not simply as a problem affecting currently hostile countries in the Middle East and Persian Gulf.

Mr. President, this amendment singles out Communist bloc States for careful monitoring because of the role that the U.S.S.R. and People's Republic of China have played in supplying systems like the Scud and the SS-21, and possibly the technologies or stocks for chemical and nuclear weapons.

There are also ample legal provisions to allow the President to protect national security and classified information.

The key rationale behind this amendment is that no person, company, or country will ever feel safe from public exposure. It will reinforce the efforts of the media and various research organizations and force the merchants of mass destruction out into the open. It will stop the Kim Il Sungs and Saddam Husseins of the world from hiding behind denials and countercharges.

Mr. President, in April of this year, the Carnegie Endowment for International Peace issued a very interesting paper entitled "Nuclear Exports: The Challenge of Control."

I will not ask for this report's inclusion in the RECORD because it is quite long, but I would like to read just a couple of relevant paragraphs from this report to show why we must have reporting on nuclear proliferation as well as that of chemical and biological weapons. I commend it to my colleagues and their staffs because I think it gives an accurate depiction of the incredible risks we face from the increasing risk of nuclear proliferation. I quote:

As the 1990's begin, two overlapping patterns of nuclear trade are seriously undermining global efforts to slow the spread of nuclear arms. The first is the growing ability of emerging nuclear States to obtain weapons-relevant nuclear commodities clandestinely from the advanced industrialized nations—the traditional nuclear supplier countries. These transfers have played a central role in advancing the nuclear weapons capabilities of Pakistan, India, Argentina, Brazil, and Iraq.

The second threatening trend has been the expanding commerce in weapons-relevant nuclear goods—both overt and covert—involving a group of less developed States with growing domestic nuclear industries. Only a minority of these "second-tier" or "emerging" nuclear supplier countries have formally accepted the strict nuclear export standards adopted by the advanced nuclear supplier States. Commerce involving the second-tier suppliers has already contributed importantly to nuclear weapon capabilities in India and Pakistan and is likely to grow in significance in the years ahead.

These two patterns of nuclear commerce have been observable for a number of years. However, a stream of disclosures since late 1988 have revealed that both were far more pervasive than previously thought.

Mr. President, this report by the Carnegie Endowment for International Peace is required reading for anyone who is concerned about the issue.

In short, I believe we must have the strongest, most comprehensive, and all inclusive reporting possible on the proliferation of weapons of mass destruction, and take every possible step to make public disclosure a weapon we

use against the sellers and buyers of such weapons. We must give the process of proliferation the kind of visibility and the kind of scrutiny that is necessary if we are ever to try to address this problem in a comprehensive fashion.

Mr. President, I urge adoption of this amendment. I yield the floor.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1636 TO AMENDMENT NO. 1635

Mr. PELL. Mr. President, I offer an amendment to the amendment proposed by the Senator from Arizona. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 1636 to amendment numbered 1635.

Mr. PELL. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 106. PRESIDENTIAL REPORTS.

Not later than 90 days after the date of enactment of this Act, and every 12 months thereafter, the President shall submit to the Speaker of the House of Representatives and the President of the Senate, a report—

(1) detailing efforts by countries or subnational groups that threaten United States security interests or regional stability (including efforts by Iran, Iraq, Libya, and Syria and other developing countries or subnational groups) to acquire the materials and technology to develop, produce, stockpile, and deliver chemical, biological, and nuclear weapons, together with an assessment of the present and future capabilities of such countries or subnational groups to develop, produce, stockpile, and deliver chemical, and biological or nuclear weapons.

(2) describing the degree to which any country or foreign person has aided or abetted the government of any country or a subnational group to engage in any activity in connection with the acquisition of any such chemical, biological, and nuclear weapon; and

(3) listing all United States persons against whom administrative, civil, or criminal penalties have been applied for shipment of goods and technology controlled for chemical, biological, and nuclear weapons proliferation purposes pursuant to the Export Administration Act of 1979 or the Arms Export Control Act.

To the extent practicable, reports submitted pursuant to this section should be based on unclassified information. Portions of each such report may be classified.

Mr. PELL. Mr. President, my amendment would expand reporting requirements to cover nuclear transfers as well as the chemical and biological transfers. I believe that the expansion of the reporting requirement to cover dangerous nuclear-related transfers is useful, and I am glad to offer this amendment to meet the concerns of the Senator from Arizona. I hope very much that the Senator from Arizona will concur in this amendment.

Mr. McCAIN. Mr. President, I concur in the amendment. I again thank my friend from Rhode Island. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 1636) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on amendment 1635, as amended?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask that the Senate now consider the original amendment, as amended.

The PRESIDING OFFICER. Is there further debate on amendment 1635, as amended? If not, the question is on agreeing to the amendment.

The amendment (No. 1635), as amended, was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1637

(Purpose: To impose sanctions against persons who engage in the trade or use of nuclear weapons)

Mr. McCAIN. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1637.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 24, after the word "carrying", insert the phrase: "nuclear,"

On page 3, line 1, after the word "of", insert the phrase: "nuclear,"

On page 3, line 9, after the word "a", insert the phrase: "nuclear,"

On page 3, line 13, after the word "of", insert the phrase: "nuclear,"

On page 3, line 18, after the word "use", insert the phrase: "nuclear,"

On page 3, line 19, after the word "use", insert the phrase: "nuclear,"

On page 3, line 25, after the word "deliver", insert the phrase: "nuclear,"

On page 4, line 3, after the word "to", insert the phrase: "nuclear,"

On page 4, line 6, after the word "with", insert the phrase: "nuclear,"

On page 4, line 14, after the word "a", insert the phrase: "nuclear,"

On page 4, line 17, after the word "of", insert the phrase: "nuclear,"

On page 4, line 24, after the word "used", insert the phrase: "nuclear,"

On page 5, line 3, after the word "used", insert the phrase: "nuclear,"

On page 5, line 4, after the word "used", insert the phrase: "nuclear,"

On page 5, line 14, after the word "used", insert the word: "nuclear,"

On page 5, line 15, after the word "used", insert the phrase: "nuclear,"

On page 6, line 9, after the word "of", insert the phrase: "nuclear,"

On page 6, line 14, after the word "used", insert the phrase: "nuclear,"

On page 6, line 16, after the word "used", insert the phrase: "nuclear,"

On page 8, line 10, after the word "of", insert the phrase: "nuclear,"

On page 8, line 11, after the word "of", insert the phrase: "nuclear,"

On page 9, line 11, after the word "using", insert the phrase: "nuclear,"

On page 9, line 12, after the word "using", insert the phrase: "nuclear,"

On page 9, line 21, after the word "using", insert the phrase: "nuclear,"

On page 9, line 22, after the word "using", insert the phrase: "nuclear,"

On page 10, line 19, after the word "of", insert the phrase: "nuclear,"

On page 10, line 21, after the word "of", insert the phrase: "nuclear,"

On page 10, line 25, after the word "of", insert the phrase: "nuclear,"

On page 11, line 2, after the word "of", insert the phrase: "nuclear,"

On page 12, line 22, after the word "to", insert the phrase: "nuclear,"

On page 13, line 2, after the word "carrying", insert the phrase: "nuclear,"

On page 13, line 15, after the word "uses", insert the phrase: "nuclear,"

On page 13, line 21, after the word "a", insert the phrase: "nuclear,"

On page 14, line 2, after the word "of", insert the phrase: "nuclear,"

On page 14, line 7, after the word "of", insert the phrase: "nuclear,"

On page 14, line 18, after the word "use", insert the phrase: "nuclear,"

On page 14, line 23, after the word "(q)", insert the phrase: "nuclear,"

On page 15, line 3, after the word "deliver", insert the phrase: "nuclear,"

On page 16, line 8, after the word "acquire", insert the phrase: "nuclear,"

On page 16, line 11, after the word "used", insert the phrase: "nuclear,"

On page 16, line 13, after the word "used", insert the phrase: "nuclear,"

On page 20, line 14, after the word "acquire", insert the phrase: "nuclear,"

On page 20, line 17, after the word "used", insert the phrase: "nuclear,"

On page 20, line 19, after the word "used", insert the phrase: "nuclear,"

Mr. McCAIN. Mr. President, the amendment expands S. 195 to cover the proliferation of nuclear weapons. It is the last step necessary to make S. 195 a comprehensive approach to fighting proliferation. It is the last step necessary to respond to one central fact: Proliferation is the greatest single threat to peace we face in the 1990's, and we must address every aspect of proliferation, and not simply selected weapons of mass destruction.

Let me stress this point: It is not enough to attack the use of chemical and biological weapons, and it is not enough to concentrate our attention on the most reckless and threatening developing countries. We must develop and pass legislation that will attack the proliferation of nuclear weapons.

The precise details of the number of nations seeking nuclear weapons are classified. However, Rear Admiral Brooks, the Director of Naval Intelligence, has testified that, "a dozen or so countries will be able to deploy weapons by the year 2000." (HASC, March 14, 1990, p. 52).

As I have previously mentioned, a recent study by the Carnegie Endowment has made it painfully clear that the Nuclear Non-Proliferation Treaty is failing to achieve its objective in terms of putting effective restraints on both supplier and buyer countries.

The Carnegie study indicates that proliferation is taking place in nations as diverse as Argentina, Brazil, India, Iraq, Iran, North Korea, Pakistan, and South Africa. It states that:

> The former states have had to circumvent the export controls of the industrialized countries—either by means of clandestine exports involving these advanced nuclear suppliers themselves, or by turning to less conscientious nuclear supplier countries in the developing world. (Leonard S. Spector, "Nuclear Exports: The Challenge of Control, A Special Report", Carnegie Endowment for International Peace, April 1990, p. i).

This report goes on to state that:

> As the 1990's being, two overlapping patterns of nuclear trade are seriously undermining global efforts to slow the spread of nuclear arms. The first is the growing ability of emerging nuclear states to obtain weapons-relevant nuclear commodities clandestinely from the advanced industrialized nations—the traditional nuclear supplier countries. These transfers have played a central role in advancing the nuclear weapons capabilities of Pakistan, India, Argentina, Brazil, and Iraq.
>
> The second threatening trend has been the expanding commerce in weapons-relevant nuclear goods—both overt and covert—involving a group of less developed states with growing nuclear industries . . . Commerce involving the second-tier suppliers has already contributed importantly to nuclear weapon capabilities in India and Pakistan, and is likely to grow in significance in the years ahead.

The Carnegie report indicates that this growing nuclear blackmarket may already include suppliers located in the People's Republic of China, South Korea, Spain, and Taiwan.

These warnings make it painfully clear that proliferation does not involve a single type of weapon of mass destruction, and that our existing framework of treaties and agreements threatens to become a Potemkin village—a facade that hides the grim reality of a massive threat to world peace and all mankind.

My amendment will add the word nuclear to every relevent portion of S. 195 and the amended form of S. 195. It will expand S. 195 to deal with all forms of weapons of mass destruction, and add the teeth to our efforts to control proliferation that the NPT so sadly lacks.

Mr. President, each week leads to the disclosure of new efforts to acquire weapons of mass destruction and the means to deliver them. It has now been more than 6 years since the first major use of chemical weapons in the Iran-Iraq War. During that time we have spoken many words, issued many resolutions, and tried less formal means of dealing with the problem. We have temporized and we have delayed.

It is painfully obvious that the problem of proliferation will not go away. It is painfully obvious that talk and conventional diplomacy are not enough, and it is painfully obvious that good intentions are meaningless without teeth and a formal demonstration that this nation is truly committed to the fight against proliferation.

It is equally obvious that we cannot limit such action to a few of the more extreme developing countries. Once again, let me stress that there are no good proliferators. No one can guarantee that turbulent states in turbulent regions remain friendly. No one can guarantee that what seems to be a stable pattern of peace or deterrence will remain stable.

Mr. President, there are some problems whose consequences are too serious to ignore until they become crises. We may only face limited regional threats today, but they will be threats to our forces in Asia and the Middle East tomorrow, if they are not threats already. By the mid-1990's, they will be massive threats to friendly and allied nations throughout the world, and by the end of the 1990's, they will be threats to our own territory.

Equally important, we have a moral responsibility.

I do not believe we can wait to act until another Halabjah focuses our attention on the horror such weapons inevitably inflict. Half a century ago, we turned a blind eye to the very real threat to millions of Jews with results that none of us can ever forget. We now know all too well that genocide can be a grim reality, and we must never ignore such risks again.

Mr. President, I urge my colleagues to support this amendment and I urge its consideration.

I yield to my colleague from Rhode Island.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I commend very much indeed the Senator from Arizona for his concerns regarding nuclear proliferation. I share them, and every Member of this body shares them. I do not believe, however, that concerns about nuclear weapons use or the proliferation of nuclear weapons-related equipment, materials, and technology can be addressed properly by tying them to chemical and biological weapons legislation.

I want the Senator to know that I will be glad to ask our staffs to work together at an early date to see if good legislation can be developed in that area focusing on nuclear proliferation. There is absolutely no argument on any of this with regard to the urgency and vital necessity of the problem.

I believe that we can work together and, accordingly, I ask if the Senator might consider withdrawing his amendment.

Mr. McCAIN. Mr. President, it is with great respect for the distinguished chairman of the committee, and with great reluctance, that I accept his request to withdraw the amendment in favor of another vehicle for this much-needed legislative measure. It is not necessary to do so, but I do remind my friend from Rhode Island that right now there are no prohibitions, no sanctions, no exposure for the acquisition of nuclear materials. It is badly needed, and I am pleased by his commitment that the Foreign Relations Committee will address this issue at the earliest opportunity.

Accordingly, Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The Senator can withdraw his amendment. Without objection, it is so ordered.

The amendment No. 1637 was withdrawn.

Mr. PELL. I thank my colleague and friend from Arizona very much indeed. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Was the leader's time reserved?

The PRESIDING OFFICER. Leader time was reserved.

Mr. DOLE. I ask that I may use that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the submission of Senate Concurrent Resolution 131 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. PELL. Mr. President, I add that on the bill before us, with exception of the amendment, we will accept observations of the Senator from Florida [Mr. MACK] and observations of the Senator from Utah, the problems he may have. As far as I know this bill is ready to be voted upon.

Having said that, seeing no immediate desire to move forward, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. HEINZ. Mr. President, today the United States is faced with a moral and political crisis that may very well alter our entire concept of national security. Through an almost universal consensus, nuclear weapons and effective delivery systems have been limited to the United States, the Soviet Union, and a handful of other nations. To a large degree, the close control of these weapons has been related to the relative peace of the last 44 years. This is not to imply that many long and bloody wars have not been fought—indeed they have, particularly in the Persian Gulf—but rather that they have not been allowed to escalate into a superpower confrontation. Equally important, the belligerents have not been able to drag each other into nuclear oblivion.

The spread of biological and chemical weapons may change this situation. The use of chemical weapons as a poor man's nuke will upset the current international balance of power and will enable irrational countries, such as Libya, to conduct terrorism at a much more dangerous and grisly level. It is our duty to prevent this from happening.

Chemical and biological weapons have a long, infamous history. During Ghengis Khan's march into Europe, he herded disease-infected peasants and animals ahead of him to spread contagians in order to aid his conquest. Several hundred years later, the Turks flung plague infested bodies into Constantinople during the siege. The 20th century, however, has seen the most extensive use of such weapons. World War I was characterized by the development and use of chlorine, phosphene, and mustard gas, all of which were developed during the war. In spite of the 1925 Geneva protocol which banned the use of chemicals as weapons, the practice continued. The Italians and Japanese used chemicals during the 1930's in their attempted subjugation of Ethiopia and China, respectively.

The 1970's and 1980's have seen even more use of these hideous devices. The Soviets have used the most contemporary chemical weapons in their occupation of Afghanistan. Indeed, they apparently even used a toxic gas to break up a demonstration in Tbilisi, the capital of Georgia, in the Soviet Union, on April 9, 1989. The Iranians and Iraqis gassed each other, and their own people, in spite of international condemnation. In Southeast Asia there have been numerous instances of yellow rain and several chemical attacks conducted by the Vietnamese against the Cambodians. In addition, the Journal of Defense and Diplomacy has reported many cases of chemical use in Africa. The Libyans used chemicals many times against Chadian forces. Furthermore, the Marxist regimes of Ethiopia, Angola, and Mozambique have each used a variety of chemical devices against anti-Communist resistance movements.

The result of all these cases, especially the Iraqi one, has been the establishment of precedent. Each time a country gets away with this intentional outrage, it becomes easier for it to happen again. The Iraqis ignored the international community and used a variety of chemical systems against poorly protected Iranian forces. Iran, with a population three times that of Iraq, was stalemated. Regardless of the fact that it possessed a 3-to-1 superiority, which in military circles is the requirement for a successful attack, Iran was forced to the negotiating table. The use of chemical weapons by Iraqi forces was a major factor in their success. Furthermore, what was previously considered an unacceptable weapon was used in massive proportions in spite of the public outcry. Thus, what was once considered to be an extravagant luxury only for the superpowers may soon by considered, if you will, a necessity for Third World nations.

In order to prevent the rampant spread of chemical weapons, especially to unstable, irrational, or morally deviant nations, the United States must act now. It is for this reason that Senator DOLE, Senator GARN, Senator DODD, myself, and others sponsored the Chemical and Biological Weapons Control Act, S. 8. The primary goal of our bill is to discourage the proliferation of technology and materials necessary to produce chemical and biological weapons and their delivery systems. In order to facilitate this, the bill also creates a domestic control system by which U.S. technology and material are controlled to problem countries.

Mr. President, this bill is designed to impact only on those who choose to aid morally deviant nations. Essentially, it creates a three-tiered system for domestic controls. Any company that follows these guidelines will have no difficulty whatsoever. Only those firms that choose to violate this process will face repercussions.

The first tier is a list of countries, to be compiled by the President, that have either attempted, or are currently attempting, to acquire material and technology utilized in biological or chemical weapons.

The second tier is a list of materials which are unique or particular to the production of such substances or to their delivery systems. Items on this list are to be considered controlled materials requiring a special license for export and may not be sold to any of the nations listed in the first tier.

The third tier is comprised of ordinary items which are considered to be dual use in that they are utilized in the production of both ordinary items and chemical-biological weapons. These items are not to be controlled in most circumstances, unless they are sold: First, to nations listed in the first tier; second, in conjunction with items listed in the second tier; or third, they are sold to nations that are currently receiving shipments of components from the second tier but not from the same company that is selling the dual use items. In these cases exports of dual use items must be subject to license for export, and hence control.

Mr. President, this bill differs from other measures which put a blanket halt on American goods as a tactic of foreign policy, as President Carter's 1980 grain embargo and President Reagan's 1982 pipeline embargo did. These measures have a history of predominantly hurting only American firms while barely affecting their target, in this case the Soviet Union. This bill, S. 8, will only limit trade to

certain countries in a few particular items. Furthermore, we hope that our friends and allies will follow our lead in this area and will help to place an effective quarantine on undesirable nations to keep them from acquiring chemical weapons capabilities. It would be ideal if all countries would accept the responsibility of ensuring that their businesses adhered to the same moral standards by which nations are judged. Companies like Toshiba and Imhausen would then be much less inclined to put profits before the people of the world.

Nevertheless, should others shrink from their responsibility, the bill provides for action against foreign companies who violate these standards. While the United States can neither fine nor imprison violators, sanctions can be imposed by the President. Such companies can be denied the privilege to import goods into the United States or to participate in U.S. Government procurement procedures. While we sincerely hope that such measures will not have to be taken, they will be if businesses refuse to accept their moral and social responsibilities.

Mr. President, it is well known that I am not one to join country of the month movements. I do not see how much improvised schemes further the role and the respectability of the United States and its Congress. Yet sometimes they contain the roots of the problem, and if refined can be a useful and responsible solution. Chemical and biological weapons legislation is an outgrowth of such a movement. It has evolved from focusing on four specific countries to addressing the proliferation of biological and chemical weapons worldwide. It has both been honed and refined to meet both current and future needs of the United States, criteria that all legislation should be expected to maintain.

Part of that refining process has been the development of separate legislation in the Foreign Relations Committee. I commend that committee on its efforts and on its product. I regret that my own committee, the Banking Committee, was not as diligent in developing and reporting S. 8, which, in my judgment, is a superior bill.

Like Senators GARN and SARBANES, I want also to commend the Foreign Relations Committee for its willingness to accept most of the Banking Committee's amendments.

Unfortunately, it declined to accept the most important of the amendments—those that clarify the legal basis for imposing sanctions on companies that sell biological weapons or chemical weapons or the means to produce or deliver them. As a result, I have no choice but to side with the Senator from Utah and other members of the Banking Committee in opposing the bill in its present form.

Part of the debate yesterday concerned jurisdiction, which is an element of the issue, but not the only one. Let me comment briefly on the more important substantive question that is at stake here. That issue is the statutory basis for the company sanctions in the bill. The original Foreign Relations Committe bill created a free standing law which did not distinguish between munitions, dual-use, and civilian items, even though that distinction is the basis for virtually all of our current export controls.

The substitute for S. 195 that is pending today attempts to accommodate Banking Committee concerns by placing generic sanctions language in both the Arms Export Control Act and the Export Administration Act, the two statutes that govern exports of munitions and other items, respectively. Such duplication can only lead to confusion and bureaucratic uncertainty. Moreover, it flies directly in the face of a continuing effort by the Banking Committee and the House Foreign Affairs Committee to conform our various control lists more closely to Cocom's lists and thereby to eliminate overlaps, inconsistencies, and duplications.

That will be one of the goals of our EAA markup later this year because it is in the interest of exporters in the business community and control officals alike. As part of a general streamlining effort, it will speed up the licensing process, reduce time-consuming disputes within the bureaucracy and make our exporters more competitive.

Although the sanctions in this bill do not directly relate to the licensing process—indeed, the Toshiba sanctions, upon which all this language is based, are enforced by a completely different agency, the Treasury Department—the confusion generated by the ambiguity in the substitute, however, can only aggravate an already complicated situation.

The alternative proposed by the Banking Committee, on the other hand, would facilitate the clarification between lists. It would also place sanctions legislation in both acts but would make clear that the Arms Export Control Act language is to be used to impose sanctions relating to violations affecting items on the munitions list, that is weapons and weapons systems, and that the EAA language is to serve the same purpose for items controlled by that act. That does not, by the way, place the process in the hands of the Commerce Department, As I mentioned, sanctions in these cases will follow the Toshiba model and be administered by the Treasury Department.

That, of course, raises the jurisdictional question. The Banking Committee alternative would maintain the status quo. By separating the two statutes, sanctions taken pursuant to the AECA would be under the jurisdiction of the Foreign Relations Committee, and sanctions taken pursuant to the EAA will be under the jurisdiction of the Banking Committee.

The provisions of the substitute, in contrast, would encourage further confusion between the committees and make it more difficult for the Senate to deal with these issues effectively in the future.

As I said earlier, Mr. President, this matters to the Banking Committee, but the substantive difference should matter to the entire Senate.

In conclusion, I want to urge prompt action on chemical weapons legislation. The threat is very real, very present. Maybe not today, not tomorrow, or possibly not even next month, but soon. Sooner than we all wish, irresponsible nations will be threatening civilized society and holding chemical and biological weapons over each others' heads. We must act now to bring some sense into this most dangerous situation, but we must act wisely.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1638

(Purpose: To establish a policy for the negotiation of multilateral controls on the proliferation of chemical or biological weapons, and for other purposes)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 1638.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 201, add the following and redesignate succeeding sections accordingly:

It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to undertake a diplomatic initiative to strengthen the Australia Group's objectives

to support the norms and restraints against the spread and the use of chemical warfare, advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by introducing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a permanent secretariat,

(B) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accuring to Australia Group members,

(C) liaison officers to the secretariat from within the diplomatic missions,

(D) a close working relationship between the Group and industry,

(E) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(F) information-exchange channels of suspected proliferants,

(G) a "denial" list of firms and individuals who violate the Group's export control provisions, and

(H) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 202. PRINCIPLES GUIDING THE ADOPTION OF A MULTILATERAL EXPORT CONTROL SYSTEM.

(a) IN GENERAL.—The United States Government should propose to the Australia Group that its objectives should be guided by taking all appropriate measures—

(1) to ensure that the measures are effective in impeding the production of chemical weapons,

(2) to ensure that the measures are easy and economical to implement, and that they are practical; and

(3) to ensure that the measures do not impede the normal trade of chemicals and equipment used for legitimate purposes.

(b) DEFINITIONS.—For the purpose of section 201 and this section, the term "Australia Group" means the group of nineteen OECD nations dedicated to the control of the export of certain chemicals, including Australia, New Zealand, Austria, Belgium, Denmark, Canada, Japan, Norway, United States, United Kingdom, Federal Republic of Germany, France, Greece, Ireland, Italy, Netherlands, Portugal, Spain, Luxembourg, and Switzerland.

Mr. HEINZ. Mr. President, on April 2, 1990, Iraqi President Saddam Hussein delivered a fiery speech to his armed forces, warning that Iraq would use its extensive stockpile of sophisticated binary chemical weapons as strategic weapons capable of delivering retaliatory blows to any country that committed aggression against Iraq. He singled out Israel as an example. Binary chemical weapons do not become lethal until they are fired, but once fired they combine to form a lethal mixture of mustard and nerve gases. The administration correctly branded Hussein's remarks as "inflammatory, irresponsible, and outrageous."

Iraq's boast was not an idle one. According to a Department of Defense study of the final stages of the Iran-Iraq War, in March 1989, Iraq and Iran both conducted one of the worst civilian massacres of the war in the Iraqi Kurdish city of Halabja. Artillery shells filled with deadly cyanide gas, mustard gas, and a nerve gas, sarin, were fired indiscriminately into the city of nearly 50,000 inhabitants.

We know that there are at least 20 Third World countries actively seeking chemical precursors and agents for the development of chemical weapons arsenals. We also know that these same 20 countries are actively seeking technology and equipment to develop missile delivery systems. As I have said during banking hearings on export controls, I cannot think of anything more terrifying than missiles equipped with chemical warheads in the hands of well-known terrorist groups supported by terrorist countries on our foreign policy control list, specifically, Iran, Iraq, Syria, and Libya.

But I am perhaps most dismayed by the lack of a multilateral effort to deal with the proliferation of chemical weapons. Regrettably, the only multilateral effort currently underway to negotiate a verifiable global ban on chemical weapons—the 40-Nation Conference on Disarmament meeting in Geneva—does not include those countries whose avowed objective is to develop a chemical weapons stockpile and delivery system. This is not an American problem; it is a global problem.

S. 195 falls short of what is required to mobilize those civilized countries that would rid the Earth of the scourge of chemical weapons.

I, therefore, offer an amendment to strengthen the multilateral diplomatic efforts of the U.S. Government to control the proliferation of chemical agents, precursors, and equipment that would assist the ability of certain countries to acquire a chemical weapons capability that threatens the security of the United States, its allies, and friends.

There is only one international organization dedicated to preventing the spread of chemical and biological weapons: the Australia group whose members include all NATO countries except Greece and Turkey; all EC-12 countries, Japan, Austria, Australia, New Zealand, and Switzerland. This group, unfortunately, is an informal working group.

I strongly believe that the Australia group must take the necessary steps to transform itself from an informal group to a formal organization with a decisionmaking structure to meet the challenges of the next decade.

Specifically, the amendment establishes the policy of the United States Government by taking all appropriate multilateral diplomatic measures to strengthen the Australia group's objectives to support restraints against the spread and the use of chemical warfare, advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be used to produce chemical weapons.

The United States Government should introduce steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, by proposing that the Australia group establish.

First, a permanent secretariat. In fact, the Australian chair already serves the function of a permanent secretariat, through its contact point in Australia's Department of Foreign Affairs and Trade.

Second, a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia group members. Indeed, the group's work is already consultative, with the express aim of harmonizing export controls and sharing information and experiences.

Third, liaison officers to the secretariat from within the diplomatic missions. There exists already support for this idea—Japan proposed it—and it represents a modest amendment to the current system of contacts within national governments and informal contacts with missions in Canberra.

Fourth, a close working relationship between the group and industry. An important aspect of the group's work is in promoting close cooperation between government and industry, thus the notion of a partnership between the two groups should be a natural one. Whether industry should be extended formal membership in the Australia group is for the group and industry to determine.

Fifth, a public unclassified warning list of controlled chemical agents, precursors, and equipment. In fact, the group already publishes a public unclassified warning list of 50 chemical weapons precursors that is made available to national chemical industries. Most of these chemicals are also under national export control legislation. Indeed, work is already underway on an equipment warning list. Sensitivity may be required if the potential for the lists to be used by would-be proliferants is apparent.

Sixth, information-exchange channels of suspected proliferants. The

group already shares information and it is recognized by the group that information-sharing may form a useful common base on which to harmonize export control policy positions.

Seventh, a denial list of firms and individuals who violate the group's export control provisions should be established. This, of course, would include members of the group who have reported violations by their own companies, and so forth. This provision may force members to scrutinize their own export control systems more closely, and I hope it does.

Eighth, broader cooperation between the Australia group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the group should also be encouraged and initiated. The group has added two new members recently, Austria and Switzerland. It should be encouraged to add more even if it means increasing the size and I suppose the bureaucracy of the group. This is probably the main reason the group prefers to stay small and informal at this point.

I have discussed these eight points with some of the governments of the Australia group. There is, by and large, some acceptance for my amendment, but predictably there is also some resistance. Interestingly, most of the resistance has come from the U.S. Government. This alone tells me that this is probably a good idea.

Mr. President, I think it is important that we move forward on a multilateral approach to dealing with this problem. That is the only approach that will guarantee an effective end to chemical weapons. Amplifying the role of the Australia group will help achieve that objective, and I hope we will be able to adopt this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Rhode Island.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. DOLE. What is the pending business?

The PRESIDING OFFICER. The pending business is the Heinz amendment.

Mr. DOLE. Mr. President, yesterday evening we started serious work on S. 195—the Foreign Relations Committee-reported chemical weapons bill.

There have been some amendments addressed, some adopted; a Heinz amendment is pending. We are trying to work out something on our side of the aisle involving Senator HEINZ and Senator GARN, and we hope that can be resolved. If that can be resolved, there is a good opportunity we can complete action on this bill at a reasonable time today.

At this point, I just want to make a brief overall statement on the bill.

First, I think this is a critically important subject. Just as we are making real progress with the Soviets in scaling down and ultimately eliminating our own chemical weapons programs, the capacity to produce and use chemical weapons has spread like a terrible poison to more than 20 countries around the world.

We all know of the horror of the use of chemical weapons by both sides in the Iran-Iraq War. We know of the overwhelming evidence that Libya's Qadhafi is busily developing a chemical weapons capacity.

We know that, for many Third World countries, chemical weapons are seen as the "bargain basement" weapon of mass destruction.

Last month, along with four other Senators, I visited Iraq. Our delegation met with Iraq's President Saddam Hussein, who makes no bones about producing chemical weapons.

If Israel attacks Iraq, he says, Iraq will retaliate. If Israel launches a nuclear attack, he adds, Iraq will retaliate with chemical weapons.

For Saddam Hussein, chemical weapons are bargain basement deterrence—or perhaps bargain basement blackmail.

Many months ago, I said that the evil genie of chemical weapons is already out of the bottle. It is even more critical today that we do everything we can to see that the genie does not spread his poison more widely.

So this is an urgent issue, and one that has been of great interest to me.

At the end of the last Congress, I introduced a chemical weapons bill—the first major legislation aimed at imposing sanctions on foreign firms aiding and abetting nations trying to develop chemical weapons. That bill was cosponsored by Senators GARN, HEINZ, HELMS, MCCAIN, and others—some of the Senators now cosponsoring S. 195, or who intend to offer amendments.

On the first day of this Congress, I introduced S. 8—the Dole-Garn-Heinz chemical weapons bill. It was the first bill on chemical weapons introduced in this Congress and was an improved version of our original bill.

As Senator GARN noted in his statement yesterday, our bill was referred to the Banking Committee—which has jurisdiction over the Export Administration Act, which our bill amends.

I and Senators GARN and HEINZ hoped that the Banking Committee would puruse our bill more aggressively. I wrote to the chairmen of both the full committee, Senator RIEGLE, and relevant subcommittee, Senator SARBANES, shortly after introducing our bill, asking for prompt committee action.

Mr. President, I ask unanimous consent to print in the RECORD their replies.

There being no objection, the replies were ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
*Washington, DC, April 5, 1989.*

Hon. ROBERT DOLE,
*U.S. Senate,*
*Washington, DC.*

DEAR BOB: Thank you very much for your recent letter urging the Banking Committee to begin consideration of S. 8, a bill which you have introduced with Senators Garn, Heinz, and others to tighten United States controls on chemical exports to certain countries and to impose sanctions on foreign firms which are aiding and abetting the development and proliferation of chemical weapons. That bill, which would amend the Export Administration Act, was referred to the Banking Committee. Senator Sarbanes, who chairs our Committee's International Finance Subcommittee, has informed me of his intention to schedule timely hearings on the subject of your legislative proposal. He will advise you as soon as the hearing dates have been arranged.

I strongly share your concern about the need to tighten up our domestic controls on types of chemical exports and to secure greater cooperation from our allies in similar efforts so as to slow the development of chemical weapons by certain irresponsible foreign governments. This is an urgent issue and I look forward to working with you, and the other co-sponsors of your bill, as consideration of it by the Banking Committee proceeds.

Thank you again for letting me know of your very strong interest in this matter.

With best wishes,

Sincerely,

DONALD W. RIEGLE, Jr.,
*Chairman.*

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COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
*Washington, DC, March 16, 1989.*

Hon. ROBERT DOLE,
*U.S. Senate,*
*Washington, DC.*

DEAR BOB: Thank you very much for your letter about hearings on S. 8, the bill which you have introduced with Senators Garn, Heinz, and others to impose sanctions on foreign firms which are aiding and abetting the proliferation of chemical weapons. I want to assure you that it is my intention to schedule timely hearings in the International Finance Subcommittee of the Banking Committee on S. 8 and related bills in the Subcommittee's jurisdiction and will let you know as soon as the hearing dates have been arranged.

I strongly share your concern about widespread reports of chemical weapons production in a number of countries around the world. This trend is a very serious matter indeed, in my view requiring a forthright and effective response. Legislation to address this urgent issue is high on the Subcommittee's agenda, and I look forward to working with the coming months.

With best regards,
Sincerely,

PAUL S. SARBANES,
*Chairman, Subcommittee on International Finance and Monetary Policy.*

Mr. DOLE. Mr. President, I was encouraged by those replies but, unfortunately, our bill did not get past the stage of a single hearing. There never was a markup.

I do not fault the committee, per se. I know that there was a bipartisan effort by the committee to work out a deal with the Foreign Relations Committee, for some legislation incorporating the principal elements of both S. 8 and S. 195.

I do regret, though, that—as those negotiations failed to reach a final agreement—the Banking Committee did not complete action on S. 8. It seems to me that, as the first bill on this issue introduced, it might have been the best course to report it out, too—of course, with whatever changes the Banking Committee wished to make—so that we could be dealing with both bills now.

Again, this should not be a partisan matter, but I happen to think some of the provisions of S. 8 are superior to the comparable provisions of S. 195. As I indicated, I may be joining Senator GARN in offering amendments incorporating those particular provisions, as we work our way through S. 195.

In any case, the committee process is now water over the dam. We do have S. 195 before us. It has borrowed some of the concepts and some of the language of both the bill I introduced in the last Congress and S. 8. It is a useful starting point for our floor action.

I might also note that the House has already passed chemical weapons legislation, which the administration has endorsed. By contrast, the administration does not support S. 195 in its current form.

In fact, the differences are not all that great. It may be that—here on the floor, or in conference, when it comes to that—there can be a very careful look at the House bill to see if it offers some guidance on how to end up with a bill the administration will embrace.

Maybe we can bring the administratio around. It seems to me this is an issue they ought to take a hard look at, and I think they will be fairly hard lined with reference to.

But the bottom line is: This is an urgent issue. S. 195 is the vehicle we will use to tackle this issue.

It deserves our serious and prompt attention.

I am certainly pleased that we begun the process and, hopefully, by day's end, we will complete action on S. 195 with any appropriate amendments which may be adopted, or whatever.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank the minority leader for his statement, his thoughts and views, and share with him a desire to see this matter resolved. I regret it was not done in the committee process, but that is water behind us. The point is to try to secure a reasonable compromise at this time that involves both sides.

Mr. DOLE. I indicate to the manager of the bill, and also the majority leader, because I know he may be wondering when he sees the quorum call light go on if anything is happening. I can tell him we are making progress on this side resolving one of the issues that might have kept us here for a day or two.

I hope the majority leader and the chairman understand that.

Mr. PELL. I do. I wish that the people making the recommendation now represented both sides of the aisle.

I thank the Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Indiana is recognized.

AMENDMENT NO. 1639

(Purpose: To provide treatment of solid waste by States)

Mr. COATS. Mr. President, I ask unanimous consent that amendment No. 1638 be laid aside until after disposition of the amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 1639.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, immediately after line 4, add the following:

TITLE III—TREATMENT AND DISPOSAL OF SOLID WASTE

SEC. 301. SOLID WASTE.

(a) UNLAWFUL ACT.—It is unlawful for any person to ship or transport or cause to be shipped or transported any solid waste generated within a State into another State for its treatment or disposal therein, if such shipment or transportation into a State is in violation of the laws of that State.

(b) STATE LAWS.—Each State is authorized to enact and enforce laws regulating the treatment and disposition of solid waste within such State, including laws imposing a ban on the importing into such State or any part thereof, of solid waste for its treatment or other disposition, laws otherwise regulating the importing into such State of solid waste for its treatment or other disposition, and laws imposing and collecting fees or other charges in connection with the treatment and disposition within such State of solid waste generated in another State.

(c) VIOLATIONS.—Any person violating subsection (a) of this section shall, for the first such violation, be fined not more than $35,000, and for a second or subsequent violation, such person shall be fined not more than $70,000, or imprisoned for not more than 10 years, or both.

(d) EFFECTIVE DATE.—The foregoing provisions of this section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act.

SEC. 302. REPORTING.

(a) REGULATIONS.—Within the 180-day period following the date of the enactment of this Act, the Administrator of the Environmental Protection Agency, by regulation, shall establish a program pursuant to which each person who transports or ships or causes to be transported or shipped in interstate commerce any solid waste in excess of 100 pounds shall be required to prepare and submit to the Administrator, on an annual basis, a registration statement. Such statement shall include such person's name, principal place of business, the location of each activity handling solid waste, and a complete list and quantities of all solid waste transported or shipped in interstate commerce during the calendar year preceding such statement.

(b) PUBLIC AVAILABILITY.—The Administrator shall make such registration statements available, upon request, to the public.

SEC. 303. DEFINITIONS.

As used in this title, the term—

(1) "person" includes any State or political subdivision of a State or any individual, corporation, or other legal entity;

(2) "solid waste" shall have the same meaning as that provided in section 1004(27) of the Solid Waste Disposal Act; and

(3) "interstate commerce" shall have the same meaning as the provided in section 10 of title 18, United States Code.

Mr. COATS. Mr. President, during this Congress we have worked hard on environmental legislation. I think we have done some good things. We have acted on a landmark clean air bill, which I was pleased to support, and yet in the midst of the clean air debate the Midwest was targeted as a source of environmental problems.

As a part of the clean air process, I and other Midwestern Senators, did our best to meet the air quality goals of the legislation before us without dismantling our industry and throwing hundreds of thousands out of work, and I think we made some real progress on that issue in the Senate. Yet I stand here today to say that the Midwest also has a pressing environmental crisis which we must now address, for environmental problems not only move from west to east, as implicated in the clean air legislation, but also from east to west.

The environmental crisis currently threatening Indiana and the Midwest

region is the importation of solid waste, a problem no less serious than acid rain or urban smog. In 1983, Indiana had 143 active landfills. Today that number is just 70, and 31 are scheduled to close within the next 5 years. Surveys indicate that Indiana has less than 8 years of capacity remaining in its landfills.

The problem is not just one of inadequate space. Landfills can be environmental threats; methane gas fires and contamination of ground water are becoming more and more common. Two hundred thirty-three landfills are on the list of America's most hazardous waste sites and another 6,000 require investigation for serious contamination.

All of this is to say that Indiana and other States have enough problems of their own in dealing with waste generated within their State boundaries. But that is not all that we are asked to do. We are being asked to import and have dumped in our landfills hundreds of thousands of tons of trash every year. There is no secret where much of it comes from.

According to Newsweek magazine 3 States in the Northeast alone export 8,000,000 tons of garbage each year. About 30,000 tons travel America's highways every day in convoys of trucks moving from east to west to find landfill space in the Midwest to dump their trash.

Citizens around one landfill in Indiana called the Centerpoint Landfill in Brazil have documented as many as 30 trucks hauling in east coast trash on a daily basis. Recently a number of rail cars from the east coast sat for weeks in our State's capital leaking unknown substances. At one of our landfills in Allen County, Indiana, more than half the waste generated is generated out of State. Recently a company from one east coast State set up a transfer station in Indiana. Then they advertised in national magazines to "Send up your trash."

All across the country, Mr. President, States are trying their best to deal with this rising tide of trash. In the long-term, communities will need to recycle and make us of environmentally safe incinerators. Currently though only 5 percent of America's rubbish is recycled. But our avalanche of refuse requires some immediate answers as well.

Several States, including my State of Indiana, have taken the simple step of trying to limit some of their landfill capacity for their own use. But in each case, including in Indiana, court challenges have been immediate, and have indicated and ruled that States cannot ban or regulate the importation of interstate trash. Under the Constitution, these courts say the responsibility for interstate commerce lies with the Congress.

I therefore today am proposing an amendment which simply authorizes the State to regulate wastes within interstate commerce. It does not dictate to any State how it should handle interstate waste disposal issues. That flexibility ought to be given to the State, but it simply gives them the tools to meaningfully address the issue.

What does my bill do? First, it will give States the right to refuse trash coming in from other States. Not all interstate transportation of garbage should be forbidden but States like Indiana should have the right to reserve its limited capacity for its own use. I want to stress this point again.

This amendment and the provisions of this amendment do not ban the interstate transfer of trash but they give the State authorities the right to regulate that trash where necessary, ban it if it is not acceptable, or, if they do not have the capacity to impose fees, to impose reasonable regulations so that it can determine its own destiny in disposing of its trash and other trash. There may be instances where States will want to enter into bistate compacts or multistate compacts or work out arrangements in which to dispose of trash across State lines.

So this amendment does not ban importation of trash but it gives the State authorities the authority to do so or to regulate.

Second, my measure will allow States to charge a fee on imported trash. They money raised could be used to properly monitor landfills, or develop other landfills, or preserve the purity of the groundwater and the safety of local communities. It should be noted that States already have the authority to handle intrastate disposal issues. This has led to a series of ironies. There is only one State in the Nation which can effectively protect itself from New Jersey's trash. That State is New Jersey. The State of New Jersey strictly controls all aspects of waste management. The State sets up the tipping fee and determines where each city will dispose its trash. Intrastate dumping is strictly forbidden. But the State continues to rely on out-of-State dumping as a method to handle its excess disposing problems.

In addition, the State of New Jersey pays $5 per ton of trash disposed to be given to the community wherever it is dumped. These funds can be used in whatever way the communities want. It often adds up to millions of dollars annually. It is a violation of the commerce clause of the Constitution though to ask New Jersey to pay Indiana communities that same fee, $5, for every ton of trash generated.

Maine has effectively handled the out-of-State trash issue by outlawing all for-profit trash industries within the State.

I think failure to act on this legislation today will limit commerce far more stringently than relying on the States to responsibly act. I think the States will responsibly act in this regard. But if we do not do this, then States are going to have to take drastic measures in which to control intrastate dumping of trash as well as interstate dumping of trash. We are going to have lawsuits across the land.

It is very important particularly for a number of States that are the refuse dumping States that we give our governing authorities the right to set reasonable fees to enter into agreements and to deal with this pressing problem. Because if we are to deal effectively with the environment, the Senate must address this growing crisis.

The Midwest has proven itself willing to do its part for cleaner air. Now we will be asking for fair play for States that glut our limited landfills with trash, threatening our groundwater, and the health of our people. We feel we have done our part but our environmental challenges are just as acute. We ask for fair consideration as well.

I think this is a reasonable amendment. I think it goes to a problem that has been growing exponentially in just the last few years. Many States in the Midwest and other Western States have become repositories for out-of-State trash. Our own landfill capacity is shrinking rapidly. We have serious problems in just addressing disposal of our own waste, and yet because of interpretations by the Court of the commerce clause we are not able to deal effectively and efficiently with our trash and with disposing of others.

So this amendment would grant States the authority to do that. It gives specific congressional authority for States to determine their destiny in terms of waste disposal. I think this amendment is an important amendment that needs to be adopted.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that I be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, let me compliment the distinguished Senator from Indiana. He has hit upon an idea that I think will work. My State is becoming a dumping ground for solid waste. We are having tremendous trouble.

The collection stations are being put up at the crossroads of interstate

highways. Advertisements are being made, as the distinguished Senator from Indiana said, and they are advertising through books and magazines to send it. I think the States ought to have and should have the authority to issue regulations. They ought to be allowed to have the ability to set fees.

As my distinguished friend said from Indiana, they pay New Jersey but we are not allowed under the interstate commerce laws to receive that payment. Yet we get their solid waste.

I was just told this morning that at a site in northern Kentucky, 53 18-wheelers were lined up on a narrow county blacktop road. The residents could not even get through because of the out-of-State 18-wheelers in there dumping in this landfill. There is very little we can do about it unless we have the kind of law that Senator COATS has offered in this amendment to this bill.

Mr. President, I think the States should be given the authority. Day in and day out I have talked with my people at home, and the problem is multiplying daily. If we do not give our States the authority to do this, then I do not know what some Midwest States are going to do.

The mileage from east to our area is not too short. I think it is a good several hundred miles. But hauling the solid waste in by truck, by barge, by rail car, any way they can get it in, because of the interpretation of the interstate commerce law, we find ourselves incapable of regulating our own and having the responsibility of regulation.

So, Mr. President, I do compliment the Senator from Indiana for his effort. His staff was very good to us by sending it around yesterday, and we discussed it with them, and I compliment him for his position and say that I support it 100 percent.

I will call on my colleagues to help. If we have to have a vote, I think this is an amendment that ought to be accepted and we would not have to go through a rollcall vote. I am not sure that is going to happen. But it is so important to us, Mr. President, that this amendment be passed that I urge my colleagues to support Senator COATS in his effort here.

Mr. MCCONNELL. Mr. President, I rise to commend the Senator from Indiana for his amendment. It is a very, very important issue in the State of Kentucky, as well as in Indiana. We have indeed begun to become the dumping ground of the eastern part of the United States. It seems to me that the Senator from Indiana has offered an approach that would be constitutional, that would give us a chance to regulate the flow of out-of-State waste.

Mr. President, I ask unanimous consent that I be added as a cosponsor to Senator COATS' amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. The Senator's bill addresses an issue of vital importance to the Commonwealth of Kentucky and to many other Midwest States. The inability of State and local officials to control the flow of out-of-State waste coming over their borders.

Mr. President, the Nation, as well as my home State of Kentucky, is in the midst of a serious garbage crisis. Shrinking landfill capacity, public opposition to new landfills, ground water contamination from leaking landfills, and lack of funding to upgrade and modernize these landfills are big problems facing the State and counties.

Matters are worse in Kentucky because other States are dumping hundreds of thousands of tons of their garbage into our landfills, and Kentucky can do very little about it. Last year, almost a half-million tons of out-of-State waste wound up in Kentucky landfills. This year there are plans on the drawing board for new, bigger dumps in my State which will import garbage in amounts which could easily double or triple the inflow of waste.

The situation is similar in other Midwest States. New Jersey waste is contaminating Midwest ground water, garbage trucks from Pennsylvania are tearing up Midwest roads, and New York trash is polluting the Midwest countryside. In short, the Midwest is rapidly on its way to becoming the garbage barge of America.

Mr. President, giving States the authority to differentiate between in-State and out-of-State waste is a critical first step toward addressing this pressing environmental issue. I have discussed this issue with environmentalists and State and local officials in my own State, and it is clear that they want more authority to control waste coming into Kentucky. While these officials may not necessarily want to completely ban out-of-State waste, they do want to ensure that if other States send their garbage to Kentucky, the residents of those States, and not Kentuckians, pay the true costs of disposing of it.

The amendment offered by the Senator from Indiana does just that. Clearly, Mr. President, this bill is not intended to be the final solution to the national garbage crisis. Federal, State, and local officials must work together to develop a comprehensive strategy for dealing with solid waste management.

Ultimately, this problem will be solved only through a responsible strategy which relies on a combination of source reduction, recycling, combustion and landfilling. In the meantime, let us give States the authority to deal with the immediate problem of out-of-State waste. The amendment offered by the Senator from Indiana does just that.

Let me just say in summary, Mr. President, that there is considerable authority that a ban on out-of-State waste may be unconstitutional, even after a statute such as the amendment the Senator from Indiana is offering. But there is every reason to believe that the option of setting a higher fee on out-of-State garbage versus in-State garbage would stand constitutional muster, and the amendment of the Senator from Indiana offers that option. There is every reason to believe that this amendment will cure the problem. I commend the Senator for his outstanding work in this field, and I urge the Senate to adopt the amendment.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. COATS. Mr. President, is it appropriate to ask unanimous consent to set aside the pending business in order to enter into the morning business to read a statement into the RECORD in another matter?

The PRESIDING OFFICER. It is.

Mr. COATS. Mr. President, I ask unanimous consent to set aside the pending amendment and proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

## NATIONAL PEACE OFFICERS MEMORIAL DAY

Mr. COATS. Mr. President, 2 days ago, thousands of law enforcement officers from all across the country came to Washington to observe National Peace Officers Memorial Day. That observance was in commemoration of the 163 men and women killed in the line of duty, slain protecting us from the rising tide of violent crime.

At the ceremony on the Mall, the officers gave a resounding response to Vice President DAN QUAYLE'S address. And with good reason. His speech was both a moving tribute to those who have lost their lives and a strong remainder of what must be done to ensure that those heroes have not died in vain. I recommend it to my colleagues and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COATS. Mr. President, one of the most important steps we can take to help law enforcement officers protect the American people is to enact the anticrime legislation President Bush submitted to the Congress a year ago. The Vice President made that point and asked the Congress to move forward on this urgently needed bill. He did not single out the House or the Senate, a particular committee or particular Members. He did note, entirely accurately, that "For one whole year, the Congress of the United States has sat on the President's anticrime package."

Yes, last year we did appropriate more money for law enforcement. And President Bush, in a speech in Kansas City on January 23, 1990, thanked the Congress for those funds. But he also pointed out that "it's time for Congress * * * to finish the job, because it does no good to send the troops into battle wearing handcuffs." It is past time to take off the handcuffs and to enact—not just bring up for debate—the President's tough, no-nonsense anticrime package.

I welcome the decision by the distinguished majority leader, in consultation with the distinguished minority leader, to consider comprehensive anticrime legislation next week. When the Senate does turn to that bill, it may be helpful to remember that, all across America, thousands of law enforcement officers will be watching us, watching what we do and, perhaps more important, what we do not do.

And watching with them will be the American people: fed up with violent crime, sick of the fear that haunts their streets and neighborhoods, and increasingly wise to the lame excuses some public officials use to cover up their inaction, or permissiveness, toward those who murder, rape, and maim.

Mr. President, if we fail to do the job the American people expect of us in supporting the President's anticrime package, we will hear deafening echoes of Mr. QUAYLE's speech from the people who sent us here to represent them. It behooves us to pay attention now, before we consider that legislation next week.

EXHIBIT 1

TEXT OF REMARKS BY THE VICE PRESIDENT, NATIONAL PEACE OFFICERS MEMORIAL DAY CEREMONY, WASHINGTON, DC

Thank you, Dewey for those inspiring and thought provoking words. You are all lucky to have found a great and tough leader in Dewey Stokes.

We are gathered here today in the name of the American people. We have come to commemorate 163 men and women who have made the highest sacrifice that any human being can make. These men and women, whose names will be read shortly, gave their lives so that we, their fellow citizens, could live freely and in peace. We are moved by what they have done for us, by the love we feel for them, and in the cases of the family members present by the memories of those who were most treasured by them in life.

And so it is that we have set aside this day every year to come together as a nation to honor those who have fallen in the line of duty. We come here seeking each other's company, to contemplate the terrible loss we have suffered, to express our frustration over the senseless violent acts of criminals, and to ask why God in His infinite wisdom has taken from us those who were so good and who we most loved.

There are no easy answers to questions such as these. But perhaps we should begin by keeping in mind the example set by the men and women who founded this country. They handed this special land on to us as a sanctuary of freedom, a "Shining City on a hill." But they did so only at a great cost in lives lost, both in wars overseas and in the struggle against crime at home.

We face the same reality that our forefathers confronted—that freedom is dearly bought and dearly maintained. And, that the price is paid in a never ending war against crime, as well as in ceaseless vigilance against threats from our enemies overseas.

The war against crime and drugs, which so taxes our patience and ability to persevere as a nation, is every bit as much a struggle for national survival as any other that this country has faced. The enemy within—the violent criminal and the drug dealer—threatens not only our freedom and way of life, but the very idea of civilization itself.

We who have not made the ultimate sacrifice must resolve to be as brave, as dutiful, and as generous as those whom we now honor. Let us live up to that obligation by leaving this Ceremony today pledged to do three things: First, to honor those who have died; second, to carry on their life's work; and third, to learn from their example.

We should begin by honoring those who have died this past year with the recognition that they are in fact American heroes. The fallen peace officers of 1989, and of every other year, gave their lives for their country as valiantly and as courageously as any of America's war heroes have done.

Today, we formally recognize and express our gratitude for that sacrifice. The National Law Enforcement Memorial, which will be completed soon, and which will be the site of this Ceremony in future years, will further express our admiration as a nation for the bravery, character, and love shown in the line of duty by these men and women.

Second, we should leave this Ceremony today pledged to carry on the life's work of those who have died. There is one piece of unfinished business in particular that, above all others, we should pledge to complete.

One year ago today, President Bush spoke at this Ceremony. He urged us to keep faith with the sacrifice of those peace officers who've died in the line of duty by waging a renewed and total war on crime. He called for "a national strategy, a partnership with America's cities and States, to take back the streets." And, he proposed a broad legislative initiative to fight violent crime which he sent to the Congress.

This Comprehensive Violent Crime Control Act would fight crime: by greatly broadening the availability of the death penalty, by reducing the power of judges to exclude evidence of crimes, by reforming overly complicated habeas corpus procedures, and by keeping firearms out of the hands of criminals.

For one whole year, the Congress of the United States has sat on the President's anti-crime package. And it has done nothing at all during that time. It has not even scheduled a floor vote in either House.

Ladies and gentlemen, Congress needs to quit footdragging on the President's violent crime control package and pass it NOW! We owe it to the men and women whose deaths we now commemorate to do everything we can to stop violent crime.

Third, let's leave this Ceremony today having learned from the example of those who have died. Let's depart here determined to remember that there are heroes and villains in this world just as surely as there is good and evil. And, let's remember that just as we should emulate the heroes who we commemorate today, we should have no compunctions about punishing the villains.

Unfortunately, it sometimes seems that as a society we have forgotten some simple, basic truths one of which is that there are evil people in the world who are intent on doing wicked things.

We sometimes hear it said that society is more to blame for crimes than are criminals. Or that crime is caused by parents who are too distant or who pamper their children too much. Or that crime is caused by America's poverty, or that it's actually America's prosperity that is to blame. TV violence, boredom, passionate impulses—everything and everyone is blamed. Everyone—except the criminal.

However, those who have been out on the streets know better. They know, as President Bush has said many times, that the criminal chooses his way of life, his companions, and the kinds of crimes he commits. They know that it is the criminal who chooses to reject society and its values. And, they know the criminal is not the victim, he is the victimizer. Any law-abiding society has a duty to punish wrongdoers. And punishment is not an unseemly indulgence in revenge but a civilized response to wrongdoing.

At the same time, let us not forget that there are many good people in the world as well as the evildoers. And, let's be proud that among those good people, there are the heroes who we honor with this Ceremony today.

We should be proud that our history shows some 30,000 heroes have given their lives in the war against crime. That staggering number does not even include those law enforcement officers who were wounded or disabled.

It does include many men like Charlie Hill, a good family man, who was active in his church and neighborhood and was loved by all who knew him. On March 23rd of last year, Charlie Hill went to serve an eviction notice and ended up losing his life. He was killed in a shootout with a thug, who was holding a hostage in a crack house. Another officer, Andrew Chelchowski, was seriously wounded in the exchange. Charlie Hill's mother, his wife Virginia, and his sons Robert and Charles, Jr., are here with us today.

Another of the heroes we honor with this Ceremony is State Trooper Jerry Hines. On February 20th of last year, at 11:55 p.m., he pulled a car over on the Interstate because he suspected the driver was drunk. The driver, who had committed several other murders only hours before, shot Jerry Hines repeatedly with a hand gun and left him to die. Jerry Hines' wife, Carol, his daughter, Jennifer, and his sister, Maria, are also with us today.

Sadly, there are so many other families, like Charlie Hill's and Jerry Hines', represented and honored here today. Next year, they may be joined by the families of the two latest heroes, Greg Hauser and Ray Kilroy of Chicago, who lost their lives just this past Sunday night when they responded to a plea for help from a grandmother who was being harassed by her own grandson.

Let us resolve, as a society, to do more for the families of these fallen law enforcement heroes—and for all the other victims of crime. As far as I am concerned, we have spent far too much time worrying about the rights of criminals and not nearly enough time worrying about the rights of victims.

We need to restore some balance to the scales of justice by putting victims' rights first—where they belong. Let us leave this place inspired by the example of sacrifice and love set by those whom we honor, like Charlie Hill and Jerry Hines. Let us commit ourselves to carry on their life's work by passing tough anticrime laws and by winning the war on crime. And, let us determine never to forget that there are heroes and villains in the world, and that we are privileged to walk in the footsteps of some of the finest and bravest men and women this country has ever produced. These men and women honored us by the manner in which they lived and by the manner in which they died.

Receive them, O Lord, into your heavenly kingdom, and hold them in Your arms while they await us, and the day when we shall all be together again.

Thank you all, and God bless you.

Mr. COATS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceed to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. SHELBY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Coats amendment.

Mr. SHELBY. Mr. President, I rise today to ensure that the voice of Alabama is heard in this debate concerning S. 195, the Chemical and Biological Weapons Control Act.

War is not pleasant. Death is not pleasant. Death caused by chemical or biological weapons can be excruciating.

In Alabama, the specter of chemical warfare has a special meaning. You see, Mr. President, Alabama is home for the Army's Chemical Corps School at Fort McClellan. We also store 7 percent of what is believed to be our Nation's 30,000-ton chemical weapons stockpile at the Anniston Army Depot.

People in Alabama do not need to be convinced of the special horrors of chemical warfare. Yet we are also convinced of the necessity of a strong deterrent force to convince any adversary never to resort to its use against us.

But Mr. President, not all our adversaries are rational. Do you trust the Soviets not to use chemical weapons? There is evidence of their use in Afghanistan. Do you trust the Vietnamese never again to use chemical weapons? Iran? Iraq? How about Libya?

I understand that the United States and the Soviet Union are expected to agree on destruction of all but 5,000 tons of chemical weapons at the May 30 Bush-Gorbachev summit. But Libya will not be a cosignatory. Nor will Iraq. Nor China. And there is still a lot of death in 5,000 tons of deadly chemicals.

I urge my colleagues to support S. 195. It is a necessary companion piece to the pending Bush-Gorbachev agreement. It will take a necessary first step toward the total destruction of the world's chemical and biological weapon arsenal.

However, Mr. President, even with the passage of this bill we are still a nation at risk. Are we to ask our sons and daughters serving in our Armed Forces to go defenseless into a potential conflict, where any two-bit terrorist state could blackmail us with a threat to use the poor man's nuclear weapon?

Of course not. The prudent thing to do is to maintain our capability to defend against the threat of such weapons; to retain a strong research capability in this regard; and to retain in our Armed Forces the experienced corps of specialists necessary to defend against this threat.

Mr. President, the Army is doing this necessary and thankless job well. And I might add that we, in Alabama, will stand to be counted. We recognize the necessity to retain a deterrent capability. We recognize the necessity to retain a strong systemic defensive capability. We recognize the folly of disturbing our institutional capabilities in this regard. We recognize, too, the need for a national strategy that assures the vision, foresight, and structure necessary to protect and defend us from this scourge.

And Mr. President, as I have stated, Alabamians will some day welcome the destruction of all chemical and biological weapons in the world. But we are not there yet. Because the world is not stable, we need this bill before us. It requires the administration to report concerning chemical or biological threats to our interests; to control the export of such technology; and to impose sanctions against other nations who would tap this well-spring of horror in support of international terrorism.

Mr. President, I have spoken before on the need to protect against the transfer of critical technology that can be used against us. We do not need any more Toshiba transfers.

Therefore, from my seat on both the Armed Services and Banking Committees, I support the export controls and sanctions against foreign entities that are proposed by this bill.

There is no place in this world for anyone or any nation, who would knowingly and substantially assist the chemical or biological weapons program of any country that has these weapons illegally; has murdered its own citizens with these weapons; or which supports international terrorism.

I wish I could state that the Bush-Gorbachev agreement will eliminate all chemical and biological weapons in the world. I wish I could assert that this bill will halt the flow of critical technology and capability to produce these weapons. I wish that we did not need to retain a strong deterrent, research, and defensive infrastructure.

I cannot state these things. Yet, S. 195 is a step in the right direction. It provides the means to dissuade the proliferation of these dreadful weapons. But I want to make it very clear, Mr. President, this bill does not eliminate chemical or biological weapons, nor the will to use them, from the hands of a madman. And therein lies a dilemma that will remain with us for as long as a chemical weapon capability exists.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

### AMENDMENT NO. 1640

(Purpose: To restrict United States assistance for the Republic of Iraq until that country opens to international inspection sites suspected of being involved in the production of nuclear, chemical or biological weapons, and ratifies the Convention on Biological Weapons)

Mr. D'AMATO. Mr. President, I send an amendment to the desk on behalf of myself and Senator DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. DECONCINI, proposes an amendment numbered 1640.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE III—IRAQ SANCTIONS

SEC. 301. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) indisputable evidence exists that Iraq used chemical weapons both in its war with Iran and against its own Kurdish minority;

(2) Iraq has sought through means legal and illegal to acquire the technology necessary to develop and build nuclear weapons;

(3) Iraq has flouted its obligations under the Geneva Convention and the Nuclear Non-Proliferation Treaty;

(4) Iraq has failed to ratify the Convention on Biological Weapons and may be developing such weapons; and

(5) President Hussein has threatened, without provocation, to destroy the State of Israel by using chemical weapons.

SEC. 302. RESTRICTION ON ASSISTANCE FOR IRAQ.

(a) RESTRICTION ON ASSISTANCE.—Unless the President certifies to the Congress that the Government of Iraq has opened suspect sites to international inspection and ratified the Convention on Biological Weapons, no United States assistance (including funds appropriated before the date of enactment of this title) may be furnished for Iraq.

(b) DEFINITION.—For the purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guaranties under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

(5) financing under the Export-Import Bank Act of 1945.

SEC. 303. SUSPENSION OF MULTILATERAL ASSISTANCE.

Unless the President makes the certification described in section 302(a), the Secretary of the Treasury shall instruct the United States executive directors of the International Monetary Fund, the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of the funds of their respective institutions to or for Iraq.

SEC. 304. SUSPENSION OF AIR TRAVEL.

(a) IN GENERAL.—Unless the President makes the certification in section 302(a)—

(1) the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of Iraq under the air transportation agreement between the United States and that country to provide service pursuant to that agreement:

(2) the Secretary of State shall terminate that agreement in accordance with the provisions of that agreement;

(3) upon termination of that agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government or Iraq or by nationals of that country from engaging in air transportation with respect to the United States; and

(4) the Secretary of Transportation shall provide for such exceptions from the prohibition contained in paragraph (3) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(b) DEFINITION.—For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

SEC. 305. DENIAL OF TRADE PREFERENCES AND IMPOSITION OF ADDITIONAL DUTY.

Notwithstanding any other provision of law, unless the President makes the certification described in section 302(a)—

(1) the President shall terminate, withdraw, or suspend any portion of any trade agreement or treaty to the extent the agreement or treaty requires the provision of nondiscriminatory (most-favored-nation) trade treatment to Iraq;

(2) Iraq shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of Iraq shall be subject to the rates of duty set forth in rate of duty column number 2 of the Harmonized Tariff Schedule of the United States;

(3) the provisions of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) shall not apply with respect to the products of Iraq; and

(4) the products of Iraq that do not receive duty-free treatment on the day before the date of enactment of this title shall be subject to an additional duty at the rate of 50 percent ad valorem.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I send this amendment to the desk, an amendment to S. 195, the Chemical and Biological Weapons Control Act of 1989, and I could not think of a more appropriate time in which to bring this matter before the Senate; indeed, the people of the United States and the administration.

My amendment will prohibit United States assistance to Iraq unless the President certifies to the Congress that the Government of Iraq has opened sites suspected to the development and/or production of nuclear, biological, and chemical weapons to international inspection and, second, has ratified the Convention on Biological Weapons.

Mr. President, to say that Saddam Hussein, known as the Butcher of Baghdad, is not a very endearing personality, is to put it mildly. Indeed, some have said that he has become the new "mad dog of the Middle East," displacing Mu'ammar Qadhafi.

First, he threatened to unleash chemical weapons against Israel. Next, he schemed to obtain nuclear triggers and smuggle a super cannon to Iraq. And now Hussein claims to have not only successfully obtained an American nuclear trigger, but also to have copied it.

While this is going on, Mr. President, it may be hard to believe we are doing business as if everything is fine; there are no problems. Not only do we help support this killer, but we help finance his undertakings. Last year, we purchased 447,000 barrels of oil a day. We are talking about an expenditure of more than $2 billion a year.

I find it hard to believe that we should be helping to subsidize Iraq. I find it more difficult to believe that we provided $700 million last year in loan guarantees and insurance; $700 million. I do not think the American people know that. It is outrageous. While we are subsidizing a terrorist nation, while we have American citizens held hostage, while we have the world placed in a precarious position, we continue to do business as if nothing is wrong. So what if we buy almost 500,000 barrels of oil a day; so what if we enrich his Treasury by $2 billion annually; so what if we make loan guarantees and assistance of $700 million.

I think it is time to say that we stand for freedom and that we stand against those who pose a threat to world peace, who pose a threat to the stability of the Middle East, who pose a threat to Israel, who pose a threat to everything that the United States and those who cherish freedom stand for.

What would this amendment do? Some may have difficulty with it. Some in the State Department may even raise some questions. Should you deal with Hussein in this manner? I suggest that this is a rather effective way and the least that we should do.

This amendment would halt all assistance, defined as "any assistance which is provided by grant, sale, loan, lease, credit, guarantee, or insurance provided by the United States to the Government of Iraq." It would require United States directors sitting on the boards of all multilateral lenders to vote against assistance to Iraq. It would suspend trade preference and apply additional duties on goods. Mr. President, it would prohibit us from buying 447,000 barrels of oil a day and giving to the butcher of Baghdad over $2 billion a year. Let him sell his oil on the spot market. Let him get a lot less for it. Let us stand up for what is right and what is decent.

Saddam Hussein represents one of the greatest threats to world peace today. Cynics rejoiced at the Iran-Iraq war because it hamstrung two of the three most volatile regimes in the region. With the war over, Hussein demonstrates that he is hellbent on establishing Iraq as the dominant Arab power at everyone's expense, at the

expense of those who cherish freedom. And only through pressure, economic pressure, can we halt the deadly course that Hussein has set his nation upon.

Let him sell his oil and ply his trade elsewhere. Let us not participate in this. I think we have to make it abundantly clear to Hussein that his activities will not be tolerated, and that we have the moral courage to back up our words with action. This is the least I believe we can and should be doing.

Mr. President, let me again refer to part of the amendment. It would restrict assistance and trade with Iraq. Those restrictions would be placed upon him and the country of Iraq—I am going to take the time to read this from the amendment:

Unless the President certifies to the Congress that the Government of Iraq has opened suspect sites to international inspection.

It seems to me that is the least we should do if we are going to be loaning and guaranteeing $700 million, as we did last year, to Iraq. It seems to me that is the least we should do if we are talking about a nation that threatens others with annihilation. It seems to me, when we are talking about a nation that has used chemical weapons in the past, it takes some courage to stand and say we are not going to sit by idly and see the situation become more threatening, more devastating. I think we make a great mistake if we continue with business as usual. That is why I have submitted this amendment. If we are talking about dealing with the problems attendant to chemical warfare, then there is no better place to start, no better action that we can take at this point in time.

Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second. The request can be renewed at a later time, but there is not a sufficient second.

Mr. D'AMATO. Mr. President, I would renew that request at another time because I believe that we do not have present someone on the Democratic side.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I renew my request once again for the yeas and nays on the pending the amendment.

The PRESIDING OFFICER. Is there a sufficient second second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1641 TO AMENDMENT NO. 1640

(Purpose: To restrict United States assistance for the Republic of Iraq until that country opens to international inspection sites suspected of being involved in the production of nuclear, chemical and biological weapons and ratifies the Convention on Biological Weapons)

Mr. D'AMATO. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, and Mr. MACK, proposes an amendment numbered 1641.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "title" in the pending amendment and insert:

III. IRAQ SANCTIONS.

SEC. 301. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) indisputable evidence exists that Iraq used chemical weapons both in its war with Iran and against its own Kurdish minority;

(2) Iraq has sought through means legal and illegal to acquire the technology necessary to develop and build nuclear weapons;

(3) Iraq has flouted its obligations under the Geneva Convention and the Nuclear Non-Proliferation Treaty;

(4) Iraq has failed to ratify the Convention on Biological Weapons and may be developing such weapons; and

(5) President Hussein has threatened, without provocation, to destroy the State of Israel by using chemical weapons.

SEC. 302. RESTRICTION ON ASSISTANCE FOR IRAQ.

(a) RESTRICTION ON ASSISTANCE.—Unless the President certifies to the Congress that the Government of Iraq has opened suspect sites to international inspection and ratified the Convention on Biological Weapons, no United States assistance (including funds appropriated before the date of enactment of this title) may be furnished for Iraq.

(b) DEFINITION.—For the purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

(5) financing under the Export-Import Bank Act of 1945.

SEC. 303. SUSPENSION OF MULTILATERAL ASSISTANCE.

Unless the President makes the certification described in section 302(a), the Secretary of the Treasury shall instruct the United States executive directors of the International Monetary Fund, the International Bank for Reconstruction and Development, and the International Development Association to vote against any loan or other utilization of the funds of their respective institutions to or for Iraq.

SEC. 304. SUSPENSION OF AIR TRAVEL.

(a) IN GENERAL.—Unless the President makes the certification in section 302(a)—

(1) the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of Iraq under the air transportation agreement between the United States and that country to provide service pursuant to that agreement;

(2) the Secretary of State shall terminate that agreement in accordance with the provisions of that agreement;

(3) upon termination of that agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of Iraq or by nationals of that country from engaging in air transportation with respect to the United States; and

(4) the Secretary of Transportation shall provide for such exceptions from the prohibition contained in paragraph (3) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(b) DEFINITION.—For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

SEC. 305. DENIAL OF TRADE PREFERENCES AND IMPOSTION OF ADDITIONAL DUTY.

Notwithstanding any other provision of law, unless the President makes the certification described in section 302(a)—

(1) the President shall terminate, withdraw, or suspend any portion of any trade agreement or treaty to the extent the agreement or treaty requires the provision of nondiscriminatory (most-favored-nation) trade treatment to Iraq;

(2) Iraq shall be denied nondiscriminatory (most-favored-nation) trade treament by the United States and the products of Iraq shall be subject to the rates of duty set forth in rate of duty column number 2 of the Harmonized Tariff Schedule of the United States;

(3) the provisons of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) shall not apply with respect to the products of Iraq; and

(4) the products of Iraq that do not receive duty-free treatment on the day before the date of enactment of this title shall be

subject to an additional duty at the rate of 100 percent ad valorem.

Mr. D'AMATO. Mr. President, I ask permission that Senator MACK be added as an original cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Basically, what we have done, Mr. President, as it relates to the underlying amendment, is simply to say that if we are going to have Iraqi oil coming into this country there will be a 100-percent ad valorem tax. So we are not prohibiting their oil. In essence, we are saying there are a lot of other countries that have oil. It is a lot cheaper.

The United States is going to live up to a principle whereby we care for freedom, we care that nations are not going to intimidate their neighbors, and that we are not going to count the use of superior military weapons, and weapons of destruction and mass annihilation.

We have seen the Iraqis use these weapons against their own people, against the Iranians, against women and children. We should not be lulled into a false sense of security to think that they will not use these weapons given the history of the Iranians in attempting to build their super cannon, attempting to build nuclear reactors, and attempting to and using weapons of chemical destruction.

Mr. President, I hope at some point in time we would have further debate. I intend to pursue this matter to the fullest. At this time I am simply going to ask for the yeas and nays on the second-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, will you inform the Senator from Nevada as to the parliamentary status of the proceedings?

The PRESIDING OFFICER. There is presently pending a second-degree amendment to the amendment of the Senator from New York [Mr. D'AMATO].

Mr. REID. Is that the amendment offered by the Senator from Indiana, the Coats amendment?

The PRESIDING OFFICER. No. That amendment by the Senator from Indiana has been temporarily laid aside.

Mr. REID. Mr. President, I wish to make a statement regarding the amendment that has been temporarily laid aside.

The PRESIDING OFFICER. The Senator has the floor.

AMENDMENT NO. 1639

Mr. REID. Mr. President, it is interesting to hear the debate and listen to the discussion on the amendment offered by Senator COATS; in effect it deals with whether or not a State should have some say in whether or not another State dumps garbage in that State.

Mr. President, many, many times over the past 3½ years I have discussed on this floor the unfairness of Nevada being forced to accept another form of the Nation's garbage—the garbage we call nuclear waste.

If the problem of being forced to accept solid waste from other States is as serious as the Senators have described today—and I believe it is—then how much more serious is the problem of Nevada being forced to accept nuclear waste from other States? Nuclear waste is far more poisonous, far more hazardous, far more dangerous than any other form of solid waste. Nuclear waste is the most poisonous substance known to man. Nevertheless, this body and the other body have, almost with contempt, said Nevada has no say in whether or not nuclear waste is placed in the great State of Nevada.

So, I point out to the Members of this body again, if, in fact, solid waste is considered to be a serious problem, as I think it is and my colleagues from Kentucky and Indiana have described, then certainly we should take a look at the nuclear waste issue again.

Mr. President, we have a serious problem here. The States of this Nation are being divided into two categories. Some States are becoming primarily waste producers; we all know who they are. Other States are being singled out to become waste acceptors. This is wrong. This is unfair. There is only one right national policy on any kind of waste, hazardous, solid or nuclear. If you produce it, then you should find a way to eliminate it.

The delegation and the citizenry of the State of Nevada are opposed to becoming the Nation's nuclear waste dump. Some have said this is attributed to NIMBY, the "Not In My Back Yard" syndrome. The reality is that, instead of NIMBY, we should be talking about PIIMNBY, the "Put It In My Neighbor's Back Yard" syndrome.

In fact, that is what has prevailed. Since we cannot handle our solid waste, we haul it someplace else. Let somebody else take it. Put it in my neighbor's back yard. Make it their problem.

So, Mr. President, I hope the States that are opposed to becoming the recipients of the Nation's garbage now understand our concern in Nevada: Why have we been singled out as the Nation's nuclear waste dump? We do not produce any of the waste, but we are told that we must accept it!

A majority of Members in this Senate refused to approve language that would ensure—and this is hard for me to comprehend—ensure that the health and safety of the public in Nevada be considered first. That amendment was defeated in this very body. An amendment offered by this Senator from Nevada suggesting that, if in fact you are going to try to site a nuclear waste repository in Nevada, then we should have, as the No. 1 consideration, the health and safety of the public in Nevada. Unfortunately, it was defeated.

In light of what we are learning now—and we have learned more since the amendment was offered—we need to take another hard look at that proposal. All Americans should be assured that it is public policy that the health and safety of the public is the No. 1 criteria in locating a nuclear waste repository anyplace.

In recent reports we read that the damage done to the American public's health as a result of exposure, including that from nuclear tests, is far greater than anyone has imagined; nuclear waste is far more dangerous than anyone realized. So, I think that public health and safety needs to be given primary consideration. I am not sure that it was one of this body's shining moments when more Members voted against making public health and safety a No. 1 consideration than voted in favor.

I hope the underlying premise of the Coats amendment is better appreciated. I hope it passes because, fundamentally, it is right. Why should the States of Indiana or Kentucky, or any other State have no say as to whether somebody is going to haul and dump any kind of garbage in their State? I hope this body, after passing the Coats amendment, will be consistent and take the next logical step: lift the burden of being forced to accept the nuclear waste of this Nation from the backs of the people of the State of Nevada.

Realizing that no one is seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE BUDGET DEFICIT

Mr. DIXON. Mr. President, as we all know, the second session of the budget summit will be held today. President Bush has restated his willingness to enter into budget negotiations with Congress with no preconditions. A budget summit operating under these parameters thus represents the really first serious effort on the part of the executive branch to work with the Congress to honestly reduce our suffocating budget deficit in over a decade.

Past budget summits have not produced the results that were expected. These summits resulted in nothing more than slide-by budgets; they did not produce real, lasting deficit reduction.

I know that Congress is prepared to work responsibly with the President on our deficit crisis. This budget summit will achieve nothing more than previous ones, however, if the President of the United States backs down from his responsibility to exercise Presidential leadership.

Given the lack of progress made at the initial summit meeting and unwillingness of the President to tell the congressional negotiators how he would like to address the deficit problem, the final outcome of this budget summit does not appear to be real promising right now.

The President, leader of the free world, favors secret negotiations behind closed doors. I do not object to closed door negotiations from time to time. In fact, that is often the only way to negotiate out a tough problem. It's very tough to negotiate, however, when one party has no position. Because of the President's silence, that is the situation we face right now.

The White House acknowledges that the budget proposal sent to Congress earlier this year, reducing the deficit by $29.4 billion, does not achieve the deficit reduction needed. While the President acknowledges this fact, he declines to offer any recommendations or specific measures that would reduce our Nation's deficit and ensure continued economic prosperity.

The House of Representatives has passed a budget resolution that projects a deficit reduction of $36.7 billion, substantially under what the President sent us. The Senate budget Committee has marked up a budget resolution estimated to achieve $4.4 billion in deficit reduction, even a further reduction. Congress has presented a starting point for the negotiations. It is now time for a Presidential initiative and Presidential leadership.

Mr. President, this summit can only produce the results that our Nation so desperately needs if two essential conditions are met. First, everything must be on the table. Second, President Bush must be an active participant.

The President has to clearly state which programs he wants to cut and which revenues, if any, he wants to raise. He is the President. He ought to state that.

Posturing and passing the buck does not reduce the deficit, nor does it serve the needs and interests of our country. Calls for budget process reforms are OK, but only if they are not used as a substitute for real genuine action, and only if they are not used to divert attention from the important issues that must be settled now. After all, they generate very little in the way of real deficit reduction we need this year and next year. They are, therefore, no substitute for having the political will necessary to make tough choices that must be made if we are to resolve the budget disaster we are facing in October.

The time for straight talk has arrived. Relying on claims that economic growth and budget cuts alone will bring down our deficit may be politically popular, but it is reckless policy for the long-term interests of this country.

The results of a decade of this self-deception is evident now for everyone in the country to see. Today, our economy is afflicted with interest rates that continue to go up, economic growth which remains sluggish or is going down, inflation at its highest level since 1982, corporate profits dropping, and the cost of the savings and loan bailout dramatically soaring.

The reality of the situation is that our deficit problem is getting worse, much worse. The Gramm-Rudman-Hollings deficit reduction target for this fiscal year is $100 billion.

The bipartisan Congressional Budget Office has just released their re-revised numbers, estimating the deficit for the current fiscal year at somewhere between $180 billion and $200 billion, double the Gramm-Rudman target. This is nothing less than scandalous.

At the very least, our Nation's deficit is draining away productive investment by Americans and eroding the quality of life for the next generation. These deficits have handicapped our ability to effectively deal with the social and strategic problems at home and abroad.

The budget deficit limits our ability to respond to urgent national priorities. Improving education, fighting the war on drugs, providing affordable housing and better health care, and a whole host of other important domestic programs are undermined by the deficit. At the same time, the deficit hinders our ability to adequately maintain a modest level of defense and foreign aid, repair a deteriorating infrastructure all over America, ensure that the American economy is competitive internationally, control inflation, and protect the environment.

These deficits have one additional effect that is perhaps the worse of all. The persistent gaps between what the Office of Management and Budget says the deficit is going to be and what the deficit turns out to be in reality is destroying the American people's faith in government.

The American people are increasingly cynical about their Government; they no longer trust the Federal Government to be an active force to promote the public welfare. And why should they?

After all, we are lying to them every year about the deficit. The OMB knows the figures are a lie when they send them up to Congress in January of each year, and Congress knows they are a lie when we ratify them in each year's budget resolution.

It seems to me that we have to stop these lies. We simply cannot afford them, not just because of what the deficit is doing to the country, but because of the terrible damage these persistent lies are having on the political process that is the foundation of our country.

To continue to avoid the tough choices necessary to deal directly with our mounting Federal budget deficit is a serious disservice to the American people. I believe that a strong, bipartisan majority in Congress is ready to move responsibly and honestly to arrest our crushing budget deficit. I urge the President of the United States to provide the kind of leadership that will make that kind of progress possible.

Mr. President, in conclusion let me say this:

The President is enormously popular. He has a huge reservoir of political capital. I cannot think of anything more worthy of spending some of that capital on than a real, substantive plan to reduce Federal deficits. In fact, I think that the President would find that, by providing strong leadership, he would be investing his capital, rather than spending it. It is my belief that such an investment would pay the President—and all Americans—back many, many times over.

Mr. President, I yield the floor to my distinguished friend from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that I be permitted to proceed for a few moments as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VOLUNTEER AMERICA

Mr. GORTON. Mr. President, on Saturday, May 12, during his commencement address at the University of South Carolina, President Bush announced his intention to form a Democracy Corps to assist the fledgling democracies of Eastern Europe. I commend the President for his plan of action.

The President's plan is virtually identical to the 5,000-member Volunteer America Corps which Senator PRYOR, Senator KASSEBAUM, and I proposed in a bill introduced on March 8 of this year.

During the past several days there has been a great deal of debate over who actually originated the idea. I agree with my colleague from Arkansas [Mr. PRYOR], that at this point that is not an important question. What is important is that we join together to move forward with this worthy project.

Essentially both plans call for the creation of an organization to facilitate and coordinate volunteer assistance to Eastern Europe. In each case, the Government would provide minimal startup funds. After these initial funds had been expended, the program would rely on support from the private sector.

The only major difference between our plan and that of the President is that we feel strongly that the organization should be directed by the private sector, not the State Department. But we all agree that by sharing our economic expertise with the people of Eastern Europe, the United States can make a significant contribution to the growth and development of democracy in those countries.

The people of Eastern Europe have made tremendous progress toward democracy in the past year. The American people are excited about this progress and want to help. My office has received dozens of calls from people seeking to volunteer. They come from all walks of life, but all have one thing in common—a genuine desire to be part of the monumental changes taking place in Eastern Europe. We should provide U.S. volunteers with that opportunity.

I commend the President for putting forth this proposal, and look forward to working with him to ensure speedy passage and implementation of this worthy project.

## SWEARING IN OF ART FLETCHER AS CHAIRMAN OF THE U.S. COMMISSION ON CIVIL RIGHTS

Mr. GORTON. Mr. President, today at the White House President Bush swore in Art A. Fletcher as Chairman of the U.S. Commission on Civil Rights. Art Fletcher is a long-time personal friend. I strongly supported his appointment to the Commission, and highly commend the President for making Mr. Fletcher his choice as Chairman.

My association with Art Fletcher goes back many years to his days as city councilman in Pasco, WA. In fact, Art and I ran on the same platform when he was a candidate for Lieutenant Governor and I for attorney general of the State of Washington in 1968. Art was even then full of innovative ideas during a trying time of social change in U.S. history.

Art Fletcher continues to have innovative ideas and brings a fresh approach to issues of civil rights; an approach which is needed for continued progress in providing all citizens equal protection under the law, and equality of opportunity in education, housing, and employment. Art served his country well under both Presidents Nixon and Carter. He was Assistant Secretary of Labor under President Nixon; and Deputy Assistant to the President for Urban Affairs under President Carter. I am proud to see Art Fletcher serving our country again. As Chairman of the U.S. Commission on Civil Rights, I know he will successfully bring us into a new era in civil rights for all Americans.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, first let me join my colleague from Washington in mentioning the President for naming Arthur Flethcher as Chairman of the Civil Rights Commission. Art Fletcher is himself a long-time personal friend of mine. He was originally a Kansan. He lived in a number of States. We are all very proud of his accomplishments.

I was honored to be there this morning when we had the ceremony with reference to Arthur Fletcher, and also a number of other new commissioners, including Russell Redenbaugh, who is the first disabled person to be named on the Civil Rights Commission. He happens to be a nephew of the distinguished Senator from Utah [Mr. GARN]. He is from Pittsburgh, PA. He is an outstanding young man. I think he will do great credit to the Civil Rights Commission.

There is also to be a recognition that the 30- or 40-some million disabled Americans will have representation on this very prestigious commission. I thank the Senator from Washington.

Mr. President, as the Republican leader, I encourage my colleagues to speed up this process a little bit, if we can. I understand there are about three amendments filed, the latest being one by Senator D'AMATO on Iraq. I will be speaking against that amendment at the appropriate time.

If we can get an agreement on how many amendments will be offered, no time limit, just how many will be offered, then I think the majority leader will be in a position to indicate to us how late we will be here tonight and how long we will be here tomorrow.

If we do not finish this bill today, I think I can say that we will be here tomorrow, and there will be votes tomorrow on this legislation. I hope some of those having other plans to be away from Washington tomorrow will cooperate with us in trying to get something started here.

I know the majority leader mentioned it to me earlier, and I indicated I would do my best to get people moving on this side of the aisle. I say to my colleagues that if we can agree on the number of amendments, we ought to get the agreement. We might even finish this early this evening.

So again I urge my colleagues to give us their amendments, and we will put them on the list, and we will try to get an agreement to protect your rights. Let us try to finish this bill by 6:30 or 7 o'clock.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the D'Amato amendment.

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. BENTSEN. Mr. President, I strongly support the objectives of the distinguished Senator from New York. He wants to stop the proliferation of biological weapons. But the problem we are running into here is that he is talking about putting a 100-percent

duty on imports from Iraq. He is talking about taking away MFN and GSP from Iraq.

That involves revenue to the Government. The Constitution says that revenue measures have to start on the House side. They remind us of that time and time again. I was in the budget summit meeting working on that when this was brought to my attention.

The distinguished chairman of the Ways and Means Committee is in those meetings. I called him out to discuss this with him, because I do not want to see the objectives of the underlying piece of legislation stopped; in effect, to punish Iraq for what they are trying to do.

But I am totally convinced, after talking to the chairman of the Ways and Means Committee, that if the amendemnt by the Senator from New York is adopted on this bill, this bill would be blue slipped in the House. In fact, the chairman of the Ways and Means Committee, not more than 15 minutes ago, advised me that if this amendment by the distinguished Senator from New York is attached to this legislation, he would personally blue slip it and that, in effect, would kill the bill.

I know that is not the intention and desire of the distinguished Senator from New York, and I am sure that is not the desire of the managers of this bill. But that is what happens.

In addition to that, the amendment is an absolute violation of the jurisdiction of the Finance Committee. I am advised that there are other amendments in the offering with respect to this piece of legislation, that also might cause it to be blue slipped on the House side.

So I urge my colleagues who are considering such initiatives not to try them. What we are trying to do is finish this bill today. If we continue in this mode, we obviously will not finish today, and I would seriously be concerned about finishing it this week.

At the appropriate time, I want to move to table the amendment, but I would be pleased to have time to let the Senator from New York make any comments he would make concerning it.

I yield to the Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished chairman of the Finance Committee, the Senator from Texas. I think there will be others on this side who wish to speak against the amendment as presented.

I agree with the Senator from Texas that perhaps the thrust of the amendment you might agree with. But I also add there were some of us, about five of us, who were in Iraq less than a month ago, and we had a lengthy visit with President Saddam Hussein. We raised a number of specific issues with him, including whether or not he had nuclear capability; whether they were developing chemical weapons; and whether they were engaged in the development of any germ warfare, viruses, whatever.

He indicated, as to chemical weapons, yes; but he had no nuclear weapons, and he had no plans for any nuclear weapons, and all they were doing in the so-called biological area was basic research.

There is a great deal of difficulty in that part of the world. It is the one area where we can look around and find that peace is not breaking out, in the Mideast. There are many good and valid reasons for it.

Iraq, if we are going to have a comprehensive settlement in the Mideast, is going to have to be part of it. They have the second largest oil supply, next to Saudi Arabia; the second largest army; it is the second largest country in that area. They just experienced a 7-year war with Iran. They have had hundreds of thousands of deaths in their own country.

There is no doubt about Saddam Hussein's hostility toward the State of Israel. He made it clear to us.

We presented President Saddam Hussein with a letter signed by the five of us, a letter which was read in advance to President Bush the night before we went to visit Iraq.

The President indicated to us he would like to improve our relations with that country and with its people notwithstanding the record of President Saddam Hussein. We indicated to the President that there were some potential for improving our relationships. Since our return we have met with the Iraqi Ambassador. We again spelled out some of the concerns we have as Americans and some of the concerns the American people have.

It just seems to me that this amendment at this time on this legislation would, in effect, kill it. As the chairman pointed out, it would be blue slipped on the other side of the aisle. But, in effect, it is saying to Saddam Hussein, "Keep up your tactics; we do not want to improve our relationship, we do not want any influence in that part of the world." And I believe it would be a major mistake.

I hope there may be some way that the Senator from New York can find to withdraw the amendment or put it somewhere else because I share the view expressed earlier that we would like to complete action on this bill this evening, and I am fearful, if it is insisted we vote on this amendment, there is going to be considerable debate. I know the Senator from Pennsylvania [Mr. SPECTER] wishes to speak on amendment. As I understand, the Senator from Mississippi [Mr. COCHRAN] has some concern and the Senator from Ohio [Mr. METZENBAUM]. For those reasons, and others I might spell out later, I urge my colleague, my friend from New York, not to push the amendment at this time. There may come a time when we all want to join him in this effort, maybe even go further, but I think it is inappropriate at this time, and I wish he would not press the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I rise in opposition to this amendment and I share the concerns just expressed by the distinguished Senator from Kansas and the Senator from Texas.

It is my understanding the Senator from Rhode Island has previously addressed himself to the matter.

I do so, having been on a recent trip to the Middle East, having met with Saddam Hussein, recognizing that Saddam Hussein is probably one of the most militarily minded leaders in the Middle East and that he spent much time telling us of his military strength, and, yes, he also told us and shared with us his great antipathy toward the State of Israel.

My colleagues in this body know that I am a strong supporter of the State of Israel's independence and Israel's need for security. Since we returned from the Middle East, the Ambassador from Iraq sought a meeting with those of us who were on the Middle East trip—Senator SPECTER was present as well—and indicated that Iraq would like to move toward developing more economic relations with our country.

Let me say that my response to President Saddam Hussein, my comments to the Ambassador from Iraq, were all of the same mind, and that is that it is an accepted fact that Saddam Hussein has built a mighty military machine and that, in doing so, he has acquired a reputation for much strength. Some have called him names in connection with his muscle flexing. I do not rise to call him any names. It is my view that someday, sometime, somewhere, hopefully sooner rather than later, peace is going to have to be achieved in the Middle East, and because Saddam Hussein and his country have such military strength as he now probably boasts about, and I understand that, because of that he is in a particularly good position to be a spokesperson for peace in the Middle East. When you are weak you can talk about peace and people say, well, of course, it is because you are weak. But Saddam Hussein is not weak, he is strong, and he could be an effective force for peace in the Middle East, and all he has to do is to take one step, or two steps, in that direction.

Permitting all the PLO to make their headquarters in Iraq, an action which occurred recently, raises a number of questions and raises ques-

tions whether the PLO and some of their terrorists are going to Iraq to get new work, to get new instructions, to involve themselves more in terrorist activities. I hope that is not the case.

As has been indicated by the minority leader, there may be a time when action such as that called for in this amendment would be appropriate. This Senator believes that Saddam Hussein should be given an opportunity, not a long opportunity, a reasonable period of time, to see whether or not he is prepared to take that first step on the road to peace in the Middle East. I cannot think of any first step that could be taken by any leader in the Middle East that would be more effective, more meaningful than Saddam Hussein could take. But because I think he ought to be given an adequate amount of time, a reasonable amount of time, 1 week, 1 month, whatever, in order to see if he is willing to move in that direction, I rise to urge my colleagues not to adopt the D'Amato amendment. I think it could be counterproductive. I think it could create a greater schism between Iraq and the United States and in doing so make it that much more difficult to bring about peace in the Middle East.

It is for that reason that I hope that this body will see fit not to adopt this resolution. I say that with full cognizance and with full representation that 1 month, 2 months, or 3 months from now I might be on the floor of this Senate supporting such a resolution. But I think Saddam Hussein is entitled to a reasonble amount of time to see whether he is willing to take the first step.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. COCHRAN] is recognized.

Mr. COCHRAN. Mr. President, let me add a few words in opposition to this amendment. It concerns me that the Senate is being urged to take action that could have devastating consequences for U.S. farmers and those involved in businesses that would be directly affected in a serious and adverse way if this amendment were adopted.

Let me bring to the attention of the Senate a few facts about the development of agricultural trade relationships with Iraq in recent years. Iraq has become a major market for United States agricultural products and is our largest market for rice. Other than rice, the most important commodities we sell are feedgrains, wheat, protein concentrates, wood products, and sugar.

Iraq has become a major market for high-valued commodities such as dairy products. Between 1982 and 1988, Iraq's annual imports of agricultural commodities averaged $2.4 billion. These imports rose to an estimated $2.9 billion in 1989. Rice imports alone amounted to $180 million, and other feed and grain products were worth millions of dollars to U.S. exporters. I bring these facts out simply to acquaint the Senate with the implications of this amendment. I hope the Senate will refrain from adopting this amendment and that a motion to table will be approved.

Mr. DOLE. Mr. President, let me just indicate again the issue is not whether Saddam Hussein is developing chemical weapons. He makes no bones about it. He says he is. He does not intend to use them unless there is a first strike, nuclear strike, and then he would retaliate. He said, what would you do if you are attacked by some country? If there is a nuclear strike in the United States, what do we do? It is not even the fact that we deplore the development of chemical weapons. And we are offended by his rhetoric at times.

I think the issue is, Does this get us what we want in Iraq on chemical weapons, biological weapons, nuclear weapons or anything else? And the answer is, it does not. Iraq benefits from our trade, its sale of oil to us, its imports of our products, but it does not live or die because of economic ties with the Untied States.

Again I would say he told us if you cut off aid, it is all right with him; he did not get anything. Well, he does get something, he gets Commodity Credit Corporation sales of rice, as the distinguished Senator from Mississippi pointed out.

He says it can find other places to sell its oil and find other places for other things it buys from us. Well, it just seems to me that we do not gain anything at this point. As the Senator from Ohio pointed out, maybe 30 days, 60 days whatever, if there is not some improvement—we are waiting for improvement; we indicated that to the Ambassador just last week—when perhaps an amendment of this type or some variation of it might be appropriate.

Again, I hope that the distinguished Senator from New York would be willing to withdraw the amendment. But if not, I think, awaiting Senator SPECTER and perhaps Senator MCCLURE and Senator SIMPSON, that I would be happy to join the Senator from Texas in an effort to table the motion. But first let me check with the Senator from New York to see if he intends to pursue the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EXON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, while I have not been on the floor during the course of all of the comments that have been made by my colleagues in the Senate in opposition to the pending amendment, I was able to hear a number of their concerns. I would like to address just some of them.

Before I do that, I would like to indicate that notwithstanding the fact that there indeed may be a legislative impediment to the enactment of this legislation in its present form, and that would, of necessity, raise not a point of order, but a parliamentary rejection, so to speak, by the House of Representatives as there is a technical provision, I am given to understand, that when in this instance we might be saying oil from Iraq could no longer come here, or would be subjected to a tax and that obviously replacement oil from other countries might come in, and while there might not be any dollar change, the House has heretofore blue-slipped, I believe that is the jargon that is used, which in the final analyses means that the bill would be rejected and sent back to the Senate for action.

So this Senator has no desire to subject my colleagues to this position of having then to take the bill up once again. However, I want to make very clear that I have not heard any substantial reason, on the merits of the question, of doing business with a butcher as if everything is right. I have not heard, for example, that last week or last month there have been any questions about Hussein as it relates to a moderation of his position. No one has come and said anything other than a killer, a person who gases his own people, a person who threatened annihilation whether by chemical weapon or nuclear arms.

On the contrary, I have heard that this is a great powerful force and that we should acquiesce as if it is not taking place, his threats, his bullying, his tactics. What would we need? Do we need a nuclear attack before we do something?

I remember back in 1981, as we sat like little mutes, indeed, the press condemned a country for knocking out a nuclear facility. Could you imagine if this madman had the capabilities, if that plant had not been knocked out then? You saw him use chemical weapons—we saw that against his own people; against the Iranians.

What about the use of nuclear arms? Are we to wait until he is going to attack, or do we say, no, that as the leaders of the free world are we going to stand. We are going to say to you: We are not going to give you $2.5 billion a year; sell your oil someplace else. It may depress the market somewhat. Some other people's oil we will purchase, and indeed he may not be able to get a premium.

Are we going to continue to do business as usual as it relates to $700 million in terms of Exim in loan guarantees to the "Killer of Baghdad?" I cannot really believe it. I have not seen how he has moderated one iota.

I would like somebody to come forth and say to this body, well, Senator, we are getting very encouraging signs from Mr. Hussein. I am not talking about our own wishful thinking, but somehow we will have some dialog at some time.

Here he is building a cannon to project these missiles, whether they be nuclear or whether they be chemical weapons. And are we to say, no, it has not happened and it is not happening? What leads us to believe that at some point in time you do not have to stand and say to him, we are not going to treat you with the kind of respect and dignity that a nation that seeks peace and tranquility with its own people and neighbors should be treated; that you are an outlaw; and until you adhere to the common traditions that we respect, we will use at least our economic power; you are a leper as far as we are concerned. And maybe we can get some other nations of the world to similarly respond.

We cannot be effective. But I do not see our allies in Western Europe having the courage to come forth unless we demonstrate that we have commitment to this purpose.

Mr. President, I will, at some point, move to dispose of this amendment in a manner which will not lay it open to parliamentary recommitment, being sent back here. I do not look to subject my colleagues to that unnecessary undertaking because that would be unfair. However, I do intend to submit an amendment to this bill and bring it to a vote, as it relates to those issues and those matters, that will not subject it to the fate of a premature death.

I believe there are areas in which we can still make ourselves known clearly to Iraq, and I think they deal with the other aspects of the legislation. I am attempting to work that out with the staff of the distinguished chairman of the Foreign Relations Committee. So we will have a bill that will say something to Hussein, the Butcher of Baghdad. That is what he is, a terrorist, a man who threatens civilization, and a man with whom we should not have business. We should not be conducting business with him. We have no right to do that and say we stand for freedom. Business as usual. I cannot believe it.

While I certainly do not question the sincerity of my distinguished colleagues, I simply say at some point in time we have to stop acting like the State Department here, which would have us believe nothing goes wrong at any time until it becomes so apparent they cannot deny it.

I do not know what more we need. Do we need a missile attack? Do we need to see these launches in other territories—we have seen them already—before we begin to say enough is enough.

Do we think by acquiescing to the bully we are going to improve our position or the position of other nations that are threatened? I do not believe that is the way we should go.

While I may not push forward with a vote as it relates to this amendment now, I will submit an amendment and ask for a vote that relates to the things we can do that will not lay this open to a point of order or rejection by a blue slip in the House of Representatives.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me thank my friend and colleague, the junior Senator from New York, for bringing this up. I think it is appropriate and, despite statements to the contrary, I think it is timely.

However, in all deference, I think I have a little different conclusion as to the advisability of the amendment before this body. Having had the privilege of being with the minority leader and three others of my colleagues in visiting Saddam Hussein, I had an opportunity to make a judgment based not only on the extended conversation that we had but the interpretation that there was clearly a mood in the Mideast to try to address, somehow, a peace process. I think that is what we have to keep in mind as the bottom line as we address how we dispose of the amendment that is before us.

We went to Iraq with misgivings. I think it is fair to say we probably would not have gone had not President Mubarak of Egypt strongly suggested that we go and made the arrangements in our presence. This was done after extended conversations that took place, first in Syria with President Assad, and then after a lengthy discussion with President Mubarak.

The reason I mention this is because the tenor of the discussion was about a peace process. Could it occur? This was, of course, before we had the outcome of the situation in Israel, and there was a good deal of optimism that perhaps Peres would be able to organize the government to take advantage of that particular opportunity.

Unfortunately that did not occur. But the point is the communciation that was set by Mubarak, and the consequential meeting that we had with Saddam Hussein, was about peace. It was about ways to establish communications among leaders of that part of the world, many of whom have no communication.

We felt we were offering, if you will, a liaison of some kind that might be helpful. I think it is fair to say the collective judgment, whether it be based on conversation we had with Saddam Hussein or the further conversations that we had in Jordan, with King Hussein, all pointed to the general consensus to pursue a peace process.

I think we have to ask ourselves: If we take this action, clearly are not we moving Saddam Hussein away from any effort to be a party to a peace process that may occur?

It is appropriate we examine the record and the positions of world leaders. I have grave doubts about the statements Saddam Hussein made to us concerning the cannon which was allegedly part of a refinery project in Iraq, or the situation concerning an individual who had been picked up in San Diego.

But the point is, is this the time to simply break whatever input that Saddam Hussein wants to contribute toward this process? The Senator from Alaska does not think so.

I think we should give a little more time for the process to occur; a little more time to Saddam Hussein, whose record is certainly tarnished and whose record is certainly subject to question.

My friend from New York suggests, and quite appropriately, that there is a risk. Nevertheless, you have to call them as you see them. I think pursuing this amendment now would be a giant step backward in pursuing the peace process, which we certainly hope will occur in the Mideast.

I am not going to talk about the business as usual aspects. We are all aware we sell agricultural products; we are all aware the oil industry has a stake over there. But I think all of us went into the Mideast with the idea of making up our own minds. And if there is any possibility of a peace process occurring, I think it is fair to say that one cannot occur without Iraq.

There is a reintergration, if you will, of some of the countries that had been somewhat isolated from the general process of communication. I think it is fair to say Syria was one of those. We got the distinct impression that Assad, in Syria, was interested; he wanted to be more of a party to the developments in the Mideast.

We have situations over there that are not uniform. You have the haves and the have-nots. Countries that have oil, such as Iraq—which is, I think, the third largest producer in the Mideast—obviously have a capability for a substantial military effort. We have already seen the Iraqis are in a state of war with Iran.

But the question is, Is Saddam Hussein going to depart from past procedures, past record, and genuinely be a part of this process? I hope so. I'm an optimist. This Senator wants the window to remain open for a reasona-

ble amount of time to determine if, indeed, Iraq has changed its direction, if it wants to join with the Arab countries in a peace process that all the Mideast can participate in.

It was clear in the Mideast that there is a feeling that what happened in Eastern Europe can perhaps be transferred over to the Mideast. Who would have thought a year ago that we would have achieved the tremendous changes? The euphoria associated with that is evident in the Mideast today, and the people of the Mideast want the process to occur. I think there is a chance that it can occur.

Mr. President, I thank the Chair and yield the floor at this time.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent I be permitted to withdraw the amendments presently pending, both in the first and second degree, and submit another amendment in its place on behalf of Senators PELL, HELMS, DECONCINI, and MACK.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendments are withdrawn.

Amendment Nos. 1640 and 1641 were withdrawn.

AMENDMENT NO. 1642

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. President, I am not going to ask the clerk to withhold the reading of this amendment for a very specific reason because I think that the amendment adequately spells out what the record is. I think it is important to note because this is substance, and I will then confine myself to very limited remarks, as I might find necessary. For that reason, I will not ask the clerk to suspend.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. PELL, Mr. HELMS, Mr. DECONCINI, and Mr. MACK, proposes an amendment numbered 1642.

At the end of the bill, add the following new title

CONGRESSIONAL FINDINGS:

(a) The Congress finds that—

(1) The Government of Iraq has systematically detained, tortured, and executed thousands of its own citizens;

(2) The government of Iraq has destroyed more than one thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens, resulting in tens of thousands of deaths and more than fifty thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the Government of Iraq, including the torture and murder of children as a means of punishing their parents;

(5) Iraq has blatently violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention on Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including issuing a threat without provocation to destroy the state of Israel;

(b) The Congress finds and determines—

(1) That Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights;

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nation's Charter and the 1925 Geneva Protocol, places Iraq outside the community of civilized nations.

SEC. . ENFORCEMENT OF UNITED STATES LAW.

The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engage in a consistent pattern of gross violations of internationally recognized human rights.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I believe the record is clear that, to borrow the legal terminology, it is clear, it is convincing and it cannot be denied Iraq's use of chemical weapons, its destruction to its own people, its threatening the peace and tranquillity of all of those in the Mideast. And yet somehow there is an argument that by saying that the United States shall enforce the laws of this land—and what we do here is we say the President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern—consistent pattern—of gross violations of internationally recognized human rights.

If we are going to assume that this is not the case, if there is someone who can tell me that Hussein has come forward and somehow he is moving in a direction to moderate, I would like to know when and I would like to know has the treatment of his own citizens changed; is the danger that he preaches changed? Has his armies been diminished? Has he been less threatening? I have not seen them.

So I suggest that there comes a time when we stand for what is right. We stand up for, yes, maybe those nations who do not have the power to stand up to the great military might and machine and the madman Hussein. I would like to know, in light of failure after failure of the systematic deprivation of human rights and the threat and the use of mass weapons of destruction, how it is that we can just say let us leave it as it is because somehow in the next 30 or 60 days things are going to get better? They have not gotten better since 1981. The fact of the matter is, he has become more determined to become and to take the place of the mad dog of the Middle East, Muammar Qadhafi. He is the new mad dog of the Mideast and he poses real and significant dangers to the peace of mankind. Certainly as it relates to human rights, he has no regard whatsoever for them. If we do not stand, who does?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I respect the position and the arguments made by the distinguished Senator from New York in support of this amendment, and I can well understand and in all probability would support the thrust of this amendment 30 days, 60 days from now. But I do believe that there are the slightest indicators, just the slightest indicators, that there may be a chance of moving the President of Iraq, Saddam Hussein, toward the peace process. I am satisfied that if we accept this, we may get our kicks out of it, we may get a great sense of satisfaction that we really told him off, but when all is said and done, I do not believe we will have done anything to help the peace process.

What I am concerned about is that we will just exacerbate the situation. We will aggravate the situation. We will irritate the situation.

I sympathize, I understand—"sympathize" is probably the wrong word. I identify with the remarks of the Senator from New York. But having said that, I firmly believe that this Senate would serve a more useful purpose if we did not adopt the D'Amato amendment.

I hope that the distinguished Senator from New York would see fit to withdraw it. I say to him that if nothing transpires, if there are no developments, if that first step is not taken by Saddam Hussein in Iraq, I would be happy to join with him at some time in the future, not longer than 30 or 60 days from now. But if we do not give the President of Iraq the chance to indicate that he is indeed, interested in moving in that direction, then I think we err, and I think we err on the side of more misery and more trial and more tribulation for the peoples who live in the Middle East.

Saddam Hussein has spent a good deal of time in recent years indicating his military strength, and I believe that whether he has the new weapon,

this new long pipe that was coming to Iraq from England and certain other countries in Europe, whether he obtained it or did not, whether he has a certain kind of capacitor, whether he does not have it, it is a given fact that Iraq is militarily strong, and so be it. I understand that.

It is all the more reason that Saddam Hussein is in a position to move toward peace, because he has convinced the world he does have military might. But military might does not solve many problems. It may solve them temporarily, but on a long-range basis it does not solve them. It is my view that peace is breaking out, changes are happening all over the world, whether it is Nicaragua, whether it is Panama, or whether it is the Eastern European nations, wherever it may be I firmly believe we ought to permit some opportunity to move toward peace in the Middle East. Give Saddam Hussein 30 or 60 days to see whether or not he will take a step in the right direction. Therefore, I hope we would not see fit to adopt the D'Amato amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Is there a sufficient second in the Chamber for the yeas and nays on the amendment by the Senator from New York? There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I thank the Chair.

Mr. SPECTER. Mr. President, the pending amendment calling for sanctions against Iraq is extraordinarily complicated. I had first notice of its pendency when I saw Senator D'AMATO on C-Span television earlier this afternoon, and I then came to the floor to discuss the matter informally with Senator D'AMATO and others in the Chamber.

My view is that the U.S. Government and the Congress and the Senate ought to do everything we can to promote the Mideast peace process. That is our shared objective.

The issue then arises as the whether the peace process can be best promoted by efforts to establish a dialog with Iraq, its President, Saddam Hussein, and others in Iraq, or whether it is better to attempt to isolate Iraq through an amendment which imposes sanctions.

I have traveled extensively in the Mideast for many years and have concluded that the key to the peace process in the Mideast is the establishment of mutual security, the security of Israel to be free from potential attack from other nations in the region or elsewhere, and similarly the interest of security for Arab nations in the region.

Since the Camp David accords between Israel and Egypt, the principal threats to peace in the region appear to me to be potential conflicts between Israel and Syria and Israel and Iraq. It has been my considered judgment for some time that if Syria and Israel can be brought to the bargaining table, and Israel and Iraq could be brought to another bargaining table, the interests of those countries could be negotiated for a peace treaty like the Camp David accords. Then the primary threats to security of the area would be eliminated and many of the other problems in the Mideast could fall into place. That would not necessarily be easy, because these are extremely thorny problems, but they would be relatively easy once the tension is eliminated between Syria and Israel and also between Iraq and Israel.

I have formulated that judgment, Mr. President, after traveling to Syria on a number of occasions and finding the political climate different there between my visits in 1984 and 1988. In the intervening years there had been a change in the relationship between the Soviet Union and Syria. In the spring of 1987, the Soviet Union, through its leader, then General Secretary Gorbachev, now President Gorbachev, took the position that there would not be the same level of Soviet aid to Syria which had been extended in the past.

When I returned to Syria in January 1988, Mr. President, I found that the Syrians were more interested in a dialog with the United States. I had a constructive meeting with President Assad and also Foreign Minister Shara, and I had similar lengthy and constructive dialogs in January 1989 and January of this year.

It was my view and is my view that the efforts to pursue peace negotiations between Syria and Israel are worth pursuing.

I have discussed at some length the relationship between Syria and Israel because I think it has a very material bearing on the relationship between Iraq and Israel, for many reasons.

When I saw President Assad in January of this year, Mr. President, I noted a significant difference in the position which he took this year from the position which he took a year ago. I had been advised before my meeting with President Assad this January, advised by our distinguished Ambassador there, Mr. Djerejian, that there had been a shift, and now Syria was willing to go to an international conference sponsored only by the United States and the Soviet Union instead of its previous view of an international conference sponsored only by the five members of the U.N. Security Council.

That, Mr. President, was a significant difference because if the conference were sponsored by the five Security Council members, the lineup would be 4 to 1 against Israel. But with only the United States and the Soviet Union convening such a conference, it would be one to one and more likely to have the acquiescence of Israel and more likely to yield fruitful results.

My view is that if the United States were to pursue on an active basis efforts to bring Syria and Israel to the bargaining table, there would be a some likelihood that that could occur.

Mr. President, I have wanted to visit Iraq for many years, but could not do so because of the pendency of the Iran-Iraq war. When that was concluded, at my first opportunity I made a visit to Baghdad in January 1989.

I did not, on that occasion, meet with President Saddam Hussein, but I met with a number of other Iraqi officials. I found that there was some conciliatory talk, that there was a willingness to have discussions on relationships or some negotiations with Israel in the context of an international conference if Israel would accept U.N. Resolutions 242 and 338, and if some progress could be made on the Palestinian question.

That was, of course, a limited advance, but it offered some hope for more significant results.

This year, Senator SHELBY and I visited Iraq and had a chance to meet with President Saddam Hussein and other officials. During the course of our meeting with President Saddam Hussein, we discussed a wide variety of matters.

Senator SHELBY and I urged President Saddam Hussein to undertake negotiations with Israel. President Hussein said that he was preoccupied with Iraq's problems with Iran, Iraq was not a bordering state with Israel, and he did not think it appropriate to pursue that particular line.

Mr. President, when Senator SHELBY and I visited with President Saddam Hussein, we discussed a wide variety of concerns which we had about Iraq, many of which are enumerated in the pending amendment offered by the distinguished Senator from New York.

At the conclusion of our meeting, it was our thought, or at least my thought—Senator SHELBY, of course, speaks for himself and may seek to address this issue; that, of course, is his option—but it was my thought that it was definitely worth pursuing discussions with President Saddam Hussein and with Iraq.

When President Hussein made the comment about setting fire to half of Israel if Israel were to attack Iraq, I was very much concerned about the inflammatory nature of that comment and the escalation of rhetoric. And I took occasion to write to President Hussein urging that such comments not be pursued but that peace talks be pursued instead.

I wrote as well as the President of the United States to urge our action to try to bring Israel and Iraq to the bargaining table.

I might say, parenthetically, Mr. President, that I had occasion to report to President Bush on the visits which I made to Iraq and Syria. I made that report to President Bush in late January of this year, and urged President Bush, as I do today, that the United States make an effort to bring Iraq and Israel to the bargaining table, as well as Syria and Israel to the bargaining table.

Mr. President, I then had occasion to urge some of my colleagues, Senator DOLE and the congressional delegation which he led, to visit in Iraq when he made the trip to the Mideast this year. After he visited with President Assad in Syria and President Mubarak in Egypt, arrangements were made for Senator DOLE and five other Senators to visit with President Saddam Hussein in Iraq.

Mr. President, I think it highly significant that Senator MURKOWSKI and Senator METZENBAUM will take to the Senate floor and speak in opposition to the amendment by the distinguished Senator from New York, with Senator MURKOWSKI of Alaska emphasizing the view that the peace efforts ought to be attempted and that that ought to be the principal concern.

Senator METZENBAUM spoke about pursuing peace with Iraq as well.

Mr. President, after returning from Iraq, Senator SHELBY and I had occasion to visit with the Iraqi Ambassador. We had lunch with him and discussed a great many issues. We discussed with the Iraqi Ambassador many of the matters which are addressed in the amendment by the distinguished Senator from New York.

Then a week ago today, Senator DOLE convened a meeting with the Iraqi Ambassador attended by all of the Senators who were in his congressional delegation: Senator SIMPSON, Senator MCCLURE, Senator METZENBAUM, and Senator MURKOWSKI; and I attended as well.

That conversation was a very candid and frank conversation, which is the parlance used to describe these talks, customarily. But I would add, Mr. President, that it was a blunt conversation.

In the conversation with the Iraqi Ambassador, we talked about the triggering devices and expressed our concern. We talked about the enormous cannon and expressed concern.

In the previous conversations, we had talked about the issue of the use of poison gas, the issue of the Kurds, and the issue of the Iran-Iraq war. We discussed the items which are enumerated in the amendment by the distinguished Senator from New York.

So the efforts have been very signficant up until this time, Mr. President, to try to establish a dialog with Iraq and with its President, Saddam Hussein.

Mr. President, when I traveled in the Mideast, I found an approach which is significantly different from the approaches which may characterize bargaining and discussions, say, for example, in the Chamber of the U.S. Senate. I have heard diplomats from Mideastern countries, and Arab countries, say that the United States does not approach the Arab nations with sufficient dignity and with sufficient courtesy; that there is not appropriate demeanor by the United States in dealing with the Arab countries; that there is condescension.

I believe it is a very difficult matter to open dialogs with many countries where their officials have very, very different points of view. It was an extremely difficult matter to open negotiations with Egypt which led to the Camp David accords. There was a Herculean effort made by former President Carter in that regard, and great movement by Egypt's President Sadat and by Israel's Prime Minister Begin. They accomplished what most thought to be an impossibility.

The consequences of war and conflict are so horrendous, Mr. President, that we must use every vehicle and every avenue at our disposal to seek peace. There is tremendous weaponry on all sides in the Mideast.

I must say, Mr. President, that the United States has increased the availability of weaponry there, contrary to amendments which were offered by the Presiding Officer and this Senator, and the Specter-DeConcini amendment seeking to stop the sale of missiles to Kuwait a couple of years ago. Our efforts have to be unceasing because we must not let war occur. We must not let the terrible weaponry which exists in the Mideast be used by one nation against another.

That is why, Mr. President, that it seems to me we should make every conceivable effort to bring the parties to the bargaining table. That should be the premier effort of the U.S. Government.

I have spoken at some length, Mr. President, for a couple of reasons. One is I had a few things I wanted to say; and second, the distinguished Republican leader has left the floor because he is engaged in a number of other major matters and wanted an opportunity to return to the floor before this matter was moved upon.

It is my further thought, Mr. President, that this resolution is a no-win situation. If this resolution is enacted, it may do considerable damage to the efforts of the U.S. Government.

I am advised that the administration is forcefully opposed to this kind of an amendment. I do not know that the administration has had an opportunity to examine the most recent amendment or has had an opportunity to comment officially, but there may be damage to United States efforts and efforts by others to establish a dialog with Iraq. If the amendment is defeated, or if the amendment is tabled, there may be an inference that the conduct which has been described in the "whereas" clauses here is not factually true and that the Senate condones the conduct which has been targeted for denunciation by the distinguished Senator from New York. So that any way the amendment comes out, it is fraught with peril. And those who vote either way are subject—as is not uncommon in this body—to have their votes either misunderstood or misconstrued.

It is still my hope, Mr. President, as we debate this issue, that there might be a reference of this amendment and this issue to the Foreign Relations Committee, so that there could be hearings on the issue and that there could be deliberation about the matter. Those who are viewing this debate on C-SPAN II, if any are, may not know the procedures of the Senate, which permit an amendment to be brought at any time by any Senator or any issue on any bill, and thereupon, after debate, call for a vote.

On the floor at the present time there are 6 U.S. Senators; 94 now are not present. Some may be viewing this on television, and some may be listening on the squawk box, but there is really not the kind of analysis and deliberation which follows our customary procedures and which this amendment deserves. When we have hearings, a markup, Senators sit around a table and decide what the resolution should say. When there is a committee report, there is an opportunity to study that, when we know an issue is coming to the floor.

Mr. SIMON. Will my colleague yield?

Mr. SPECTER. I am delighted to yield.

Mr. SIMON. I thank him for his comments. I think he has accurately described what is a no-win situation. The amendment that is being offered by our colleague from New York is factually accurate. I do not think there is any question that the statements in there—at least from my perspective; we have not held hearings on it—are factually accurate. The question is, does this contribute to peace in the Middle East at this point?

And there I have real questions about the wisdom of proceeding. One of the things that we get involved in—and I have been guilty, and perhaps even the Senator from Pennsylvania has been guilty of it from time to time—is micromanaging foreign affairs. And I think we have to be careful. I toss this out to my colleague

from New York as a possibility, and I do not speak for the chairman of the Foreign Relations Committee in this. The one way we could have a win-win situation, instead of a no-win situation—and my guess is that the administration would welcome this option, just as I understand they oppose the amendment as it is offered right now—would be to withdraw it, with the understanding that within the next 30 or 45 days, the Foreign Relations Committee would hold hearings and report out either this resolution or something else.

I do not know the reaction of my colleague from Pennsylvania. I would be interested in his reaction since he was kind enough to yield. I would also be interested in the reaction of the Senator from New York.

Mr. SPECTER. I thank my colleague from Illinois for his comments. I think that that is a splendid idea. It is an idea which crossed my mind when I came to the floor earlier this afternoon, and I discussed it very briefly with the distinguished Senator from Rhode Island, the chairman of the Foreign Relations Committee, about the possibility of doing so. And I undertook that because, as I took a look at this amendment, there is peril in voting yes and there is peril in voting no. Either way votes are cast leads to a considerable down side.

I think that many of our colleagues will come to the floor and find this amendment pending with only the 15-minute notice. I think most people do not realize that many Senators are not even aware of the pendency of a matter when it comes up on the spur of the moment like this, without a committee listening in advance, and will not have an opportunity to digest all of the ramifications; and they will say to themselves, "If I vote for this resolution, I vote against the administration, and this may have a chilling effect on discussions. If I vote against this amendment, then I may be saying I do not believe, for example, that there were problems with chemical warfare." It could be misunderstood to that extent.

So in the interest of having our colleagues understand and in the interest of holding hearings and in the interest of an explanatory process to those in other parts of the world, including the citizens of Iraq—and it would be a useful thing for them to see what happens. I do not know if my colleague from Illinois was on the floor when I commented earlier that a few months ago there was a delegation from Iraq of parliamentarians and, in accordance with our custom, we abbreviated the proceedings and welcomed them on the floor, because our practice is to grant access to the floor to visiting parliamentarians. Short speeches were made welcoming them, and, as is our practice, the Unites States Senators greeted the visiting Iraqi parliamentarians, and they were very interested in our process.

I can say that when I had an opportunity to talk to President Saddam Hussein, he was unaware of some of our practices. We had discussion, for example, on immigration. President Saddam Hussein said to me, "Why does the United States exclude Jews from the Soviet Union, in order to compel them to go to Israel?"

I explained that we do not do that, that there is a limit, 50,000, which is a limit applied to every class of immigrants who seek to come to this country. So that explanation was of significance.

Obviously, Iraqi officials will be concerned about this kind of a proceeding, and it will enlighten them as to our process. I think that if we had the kind of deferral of judgment here, as the distinguished Senator from Ohio spoke about, perhaps being willing to vote for such a resolution 30 days or 60 days from now—I see that the majority leader seeks recognition. I yield.

Mr. D'AMATO. Mr. President, in response to the suggestion put forth by my distinguished colleague from Illinois and my good friend, Senator SPECTER from Pennsylvania, I will have to say that I do not believe there is a better time for moving on this issue than now. We are talking about chemical weapons. we are talking about weapons of mass destruction. I do not want to go much further because I think that would be abusing the latitude which the Senator has given me in terms of asking whether I would be willing to put this aside. But I really do believe there is a time and place for us to stand and make a decision.

Whether it might be misinterpreted by some, certainly no one could misinterpret the motivation of the distinguished Senator from Pennsylvania who seeks peace, who seeks every opportunity to make that, given an opportunity, ripen, and I certainly understand and would never question that motivation. I do not believe that and hope that no one else would. I would be the first to rise to the defense of the Senator from Pennsylvania and any others who are opposed to this amendment for their own stated reasons.

I am going to articulate, at least attempt to articulate further, the reasons that I feel we should go forward at this time because I do believe it will aid in the process of peace.

Mr. SPECTER. Mr. President, I suggest that there is no disagreement between the distinguished Senator from New York and this Senator about the advisability and necessity not to see chemical weapons or weapons of mass destruction used in the Mideast or, for that matter, anywhere in the world.

The issue then arises as to what is the better course, to try to pursue the dialog which has been undertaken by the administration through the Secretary of State and the informal efforts which have been undertaken by a number of Senators, or the alternative of this kind of an amendment which talks of the imposition of sanctions in terms of what is the better way to proceed.

I have expressed my thoughts on the subject in terms of my view that central to the problem of solution of the problem of the Mideast is dealing with the relationship between Iraq and Israel, as well as Syria and Israel, and the issue is really how to do it to encourage support for the dialog and the peace process by Iraq, by pursuing negotiations or pursuing the amendment at hand.

I thank the Chair, and I yield the floor.

Mr. MITCHELL addresed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I have discussed this pending legislation with the distinguished Republican leader and with the manager of the bill and with other interested parties. We are now at a point where we have been on the bill for about 24 hours. It came up about this time yesterday. We have had a full day on it. There has not been a vote on an amendment yet.

I am advised that there are several amendments that are being considered. Most of the amendments which have been described to me are unrelated to the subject matter of the bill.

As Senators know I previously indicated, following consultation with the Republican leader, that we would turn to the crime bill next week. We have 4 full days set aside for that and I think it will take all of that to complete action on that bill. It is my intention to complete action before we leave for recess and that means we are now coming close to backing up into that bill.

It is my intention, so that all Members of the Senate can be aware, that we will stay here for as long as is necessary this evening, and if we have a prospect of completing action on the bill we will do so. If not, then I will consider at an appropriate time this evening filing a cloture motion, and I have discussed this with the distinguished Republican leader, which would then mature for cloture vote on Monday morning.

If that were necessary, and cloture were then obtained, we would then remain on the bill immediately following that vote until such time as action is completed on the bill and we can turn to the crime bill at that time as on schedule.

I hope that will not be necessary. I hope that there is a better alternative, but Senators should be aware that we have to finish this bill before we get to

the crime bill, and we have made a commitment to get to the crime bill by Monday. So I hope it will be possible in one fashion or another, and I would prefer the alternative that will inconvenience the least number of Senators, that we are able to finish the bill.

Mr. President, I now yield to the distinguished Republican leader and invite any comments he may have on this.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Republican leader.

Mr. DOLE. Mr. President, I thank the majority leader.

I understand, as I count the amendments, there may be additional ones that I am not aware of. There are 14 amendments. I also understand that, and I think we asked for the regular order, we would be back on the Heinz amendment, which I understand will be accepted; followed by the Coats amendment, and I understand there will be a vote on that; and then we are back to the D'Amato amendment.

But the sticking point is the jurisdictional issue. That has been resolved on this side. Apparently the result on this side is not acceptable to the other side. I am advised by the Senator from Utah [Mr. GARN] that he feels strongly about the jurisdictional issue. He can speak to that himself. But if that could be resolved, I think maybe some of the other amendments—I do not say disappear but maybe they could be disposed of in other ways.

But I do not disagree. We have made a commitment on the crime bill and it seems to me that those who have an interest in that are going to be prepared on Monday to proceed to that, and either we complete action on this by continuing debate without any votes or maybe filing cloture would be the quickest way to solve the problem, because this is important legislation. This is legislation that many of us have addressed and I think there is widespread interest on both sides of the aisle.

So if the majority leader would like, I would go back and check. I think every amendment is from this side. He may have additional amendments. So all the amendments are on this side. I will ask staff to go back and check with the proposed sponsors of the amendments and give the majority leader a report by 5:45 p.m. so he then may make a judgment.

Mr. MITCHELL. I thank my colleague. Mr. President, I know of the distinguished Republican leader's interest in the subject. I believe he introduced the first legislation relating to this subject matter. So this is something in which he has been involved and has a keen interest. Therefore, I am very appreciative of his cooperation in this regard.

I repeat that it is not my desire to file cloture and to proceed to have the vote thereon on Monday, and other votes, but I will do that if it is the only recourse left available. And that decision will have to be made before the close of business this evening. So I hope that we are able to make progress.

I am aware of the keen interest of the distinguished Senator from Utah. I hope that matter can be worked out.

In any event, we will just proceed in the hopes that we can complete action. I wanted Senators to be aware of that, and Senators should understand that as of now there may be votes tomorrow and there may be votes on Monday. It all depends upon if and when we can complete action on this legislation and which course of action is required to do so.

Mr. President, I thank my colleagues.

AMENDMENT NO. 1643 TO AMENDMENT NO. 1642

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I send an amendment to the desk in the nature of a second-degree amendment, and I ask unanimous consent that the Senator from New Jersey [Mr. LAUTENBERG] be added as an original cosponsor, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. LAUTENBERG, proposes an amendment numbered 1643.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After "SEC. 301" strike all and insert in lieu thereof:

CONGRESSIONAL FINDINGS.

(a) The Congress finds that—

(1) The Government of Iraq has systematically detained, tortured, and executed thousands of its own citizens;

(2) The Government of Iraq has destroyed more than one thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens, resulting in tens of thousands of deaths and more than fifty thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the government of Iraq, including the torture and murder of children as a means of punishing their parents;

(5) Iraq has blatantly violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention of Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including making a threat without provocation to destroy the state of Israel.

(b) The Congress finds and determines—

(1) That Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights;

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nation's Charter and the 1925 Geneva Protocol, places Iraq outside the community of civilized nations;

SEC. 302. ENFORCEMENT OF UNITED STATES LAW.

The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern of gross violations of internationally recognized human rights.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. DOLE. I call for the regular order.

The PRESIDING OFFICER. The regular order is the Heinz amendment No. 1638.

AMENDMENT NO. 1638

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to cal the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 1638

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. HEINZ]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. LIEBERMAN] is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut [Mr. LIEBERMAN] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

I also announce that the Senator from Idaho [Mr. SYMMS] is absent on official business.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—96

| | | |
|---|---|---|
| Adams | Ford | McClure |
| Akaka | Fowler | McConnell |
| Baucus | Garn | Metzenbaum |
| Bentsen | Glenn | Mikulski |
| Biden | Gore | Mitchell |
| Bingaman | Gorton | Moynihan |
| Bond | Graham | Murkowski |
| Boren | Gramm | Nickles |
| Boschwitz | Grassley | Nunn |
| Bradley | Harkin | Packwood |
| Breaux | Hatch | Pell |
| Bryan | Hatfield | Pressler |
| Bumpers | Heflin | Pryor |
| Burdick | Heinz | Reid |
| Burns | Helms | Riegle |
| Byrd | Hollings | Robb |
| Chafee | Humphrey | Rockefeller |
| Coats | Inouye | Roth |
| Cochran | Johnston | Rudman |
| Cohen | Kassebaum | Sanford |
| Conrad | Kasten | Sarbanes |
| Cranston | Kennedy | Sasser |
| D'Amato | Kerrey | Shelby |
| Danforth | Kerry | Simon |
| Daschle | Kohl | Simpson |
| DeConcini | Lautenberg | Specter |
| Dixon | Leahy | Stevens |
| Dodd | Levin | Thurmond |
| Dole | Lott | Wallop |
| Domenici | Lugar | Warner |
| Durenberger | Mack | Wilson |
| Exon | McCain | Wirth |

NAYS—0

NOT VOTING—4

| | |
|---|---|
| Armstrong | Lieberman |
| Jeffords | Symms |

So, the amendment (No. 1638) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 1644 TO AMENDMENT NO. 1639

Mr. DOLE. Mr. President, I have been discussing a problem with the Coats amendment with the distinguished Senator from Indiana. I think through a drafting error the Coats amendment defines solid waste, which happens to include municipal waste and solid hazardous waste. Many States, including Kansas, have interstate compacts on hazardous waste disposal. For example, we send all our solid waste to Missouri and Iowa, but we take liquid hazardous waste, incinerate and dispose of it in our State. I am going to send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1644 to amendment No. 1639.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 of amendment 1639 insert between lines 5 and 6 the following: "Section 4002 of the Solid Waste Disposal Act is amended by adding at the end thereof the following subsections:"

On page 1, line 11, after the word "State" add the following: "for the purposes of this section the term 'solid waste' does not include 'Hazardous waste' or 'hazardous substance' as defined in this Act or the Comprehensive Emergency Response Compensation and Liability Act (P.L. 96-510)".

On page 1, line 6, strike "(a)" and insert "(d)".

On page 2, line 1, strike "(b)" and insert "(e)".

On page 2, line 11, strike "(c)" and insert "(f)".

On page 2, line 17, strike "(d)" and insert "(g)".

On page 2, line 20, add " after "Act."

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we have not seen this amendment. I wonder if we can see a copy of the amendment so we are in a position to know whether or not to accept it, debate it, whatnot. This is the first time I heard of this amendment. I think Senators need to see a copy of the amendment so we know what we are dealing with.

Mr. DOLE. Mr. President, I agree with the Senator from Montana.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Montana yield? The Senator from Indiana.

Mr. COATS. Mr. President, if I might ask the minority leader a couple questions regarding the second-degree amendment. My understanding is the amendment is offered solely for the purpose of defining solid waste so as not to include hazardous waste.

Mr. DOLE. That is correct.

Mr. COATS. It was never my intention to include hazardous waste. In drafting this measure, we identify solid waste but apparently there is some confusion relative to the reference to another statute. My understanding is the Senator's amendment is simply to clarify that hazardous waste is not included in this legislation. That is perfectly acceptable to me. That was our intent right from the beginning.

Mr. DOLE. That is an accurate description.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I think this clarification of the definition of solid waste is a good one and I accept it.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I ask for the yeas and nays on the amendment.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ETHIOPIAN CIVIL WAR AND FAMINE

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio be permitted to send a resolution to the desk on behalf of myself, Senators DOLE, SIMPSON, MURKOWSKI, PELL, SIMON, LUGAR, BOREN, and MCCLURE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 287) expressing the sense of the Senate with respect to the possibility of Organization of African Unity mediation in the Ethiopian civil war.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. METZENBAUM. Mr. President, the resolution that I send to the desk calls on the Organization of African Unity to take a more active role in mediating regional conflicts, particularly in Ethiopia. This resolution is cosponsored by the five Senators who recently made a trip to the Middle East, as well as by Senator PELL, Senator LUGAR, and Senator SIMON.

I am pleased to say that the Department of State supports the resolution as well.

We are currently faced with a situation in Ethiopia in which a nearly 30-year-old civil war is compounding the effects of devastating famine. This is the second time we have faced such a situation in less than 5 years. Efforts of the United Nations, or even through the good offices of the United States have failed to have any impact upon the conflict. But the fact is that the Ethiopian conflict is causing literally hundreds of thousands of people to be starved to death because relief cannot be brought into the country; 5 million people may be at risk. Food is available, but due to the ongoing conflict it cannot be transported. All parties to this conflict have not done everything they could be doing to alleviate the famine.

This Senator understands there is a loss of life whenever there is a war. But in Ethiopia we are not talking about the loss of life that occurs solely

among warring parties. We are talking about a massive loss of life that is occurring because people are starving, as a direct result of the civil war.

It is our feeling that the Organization of African Unity, which is currently chaired by the very able President Mubarak of Egypt, is in a position to provide some leadership to bring about a resolution of the Ethiopian conflict.

This resolution calls upon the Organization of African Unity to provide leadership, to step into the situation and determine whether or not it can bring about a peaceful resolution. Alternatively, a resolution which allows, at a minimum, famine relief to flow freely into affected areas.

I think this is a message that needs to be sent to the Organization of African Unity. I think it is the kind of message that tells Mr. Mubarak and others that we want him to move on this crisis, and to move with dispatch.

Those of us who recently met with President Mubarak found that he would be very receptive to initiatives in this area. I think that OAU mediation in Ethiopia would meet with his approval. I think it would meet with the approval of all peoples of the world. Senate Resolution 287 can be of some assistance in this respect. It is my hope, therefore, that the Members of the Senate will see fit to agree to this resolution.

Mr. President, I ask unanimous consent that Senator BOREN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. DIXON). The Republican leader.

Mr. DOLE. Mr. President, I want to join my colleague from Ohio. We visited with President Mubarak about such a resolution, and the fact that it might be helpful.

This is a tragedy. It seems to me this is something that we might do that is going to be accepted, I think, universally in a positive side.

So I applaud the Senator from Ohio. I am pleased to be a cosponsor.

The PRESIDING OFFICER. Is there further debate on the resolution?

If not, the question is on agreeing to the resolution.

The resolution (S. Res. 287) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 287

Whereas the likelihood of devastating famine is facing the Horn of Africa, and specifically Ethiopia, for the second time in five years;

Whereas international relief agencies' attempts to respond to this crisis are being hampered by the nearly thirty-year old Ethiopian civil war;

Whereas parties to the Ethiopian dispute have manipulated famine relief supplies in order to achieve their own goals;

Whereas several non-African parties have used their good offices in pursuit of peace in Ethiopia, although with little success as yet;

Whereas the Arab Republic of Egypt currently occupies the Chairmanship of the Organization of African Unity;

Whereas the Arab Republic of Egypt has demonstrated the efficacy of OAU mediation in regional conflicts;

Whereas the search for peace in the Horn of Africa generally, and in Ethiopia in particular, would be facilitated by diplomatic intervention on the part of the Organization of African Unity: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the Organization of African Unity should actively promote solutions to regional African problems;

(2) the OAU should seek an immediate cessation of hostilities in Ethiopia in order that famine relief effort should be allowed to proceed, and to build the foundation for a permanent settlement of the Ethiopian civil war.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Mr. President, I ask unanimous consent that the pending amendments numbered 1639, 1642, 1643, an 1644 be laid aside temporarily so I may be permitted to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1645

(Purpose: Adds new subsection (c) at the end of section 202 regarding Export Controls)

Mr. MACK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Florida [Mr. MACK] proposes an amendment numbered 1645.

Mr. MACK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15 of the Committee substitute, after line 20, add the following:

"(c) IMPROVED VERIFICATION OF EXPORT CONTROLS.—The Secretary of Commerce should, in order to supplement existing means of verification of export controls relating to chemical and biological weapons, take measures to encourage voluntary utilization of appropriate independent inspection companies to inspect and certify shipments and end-users of chemicals that could be used in the development of chemical and biological weapons."

Mr. MACK. Mr. President, the amendment I am offering, which adds a one-paragraph subsection called Improved Verification of Export Controls has been cleared by the managers of this bill, Chairman PELL and Senator HELMS.

The purpose of the amendment is to encourage the Department of Commerce to utilize the capabilities of independent inspection companies in the verification of export controls. This is a win-win amendment. It will help exporters expedite the licensing process, help prevent the diversion of chemical precursors to weapons manufacturers, all without cost to the taxpayers.

By the way, I believe this idea could be applied not only to the problem of chemical and biological weapon proliferation but also to nuclear proliferation and to Cocom's controls concerning technology transfers.

I would like to emphasize that the program envisioned by this amendment would be entirely voluntary and would not involve the delegation of any authority by the U.S. Government.

The intention of this amendment is to encourage the Commerce Department to designate suitable independent inspection companies whose certification would expedite export license applications. I thank the managers of the bill for accepting this amendment and urge its adoption by the Senate.

Mr. President, this amendment is nonbinding and noncontroversial and has been accepted by the managers of the bill.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank the Senator from Florida.

It is adding on page 15 of the committee substitute, after line 20, "(c) Improved Verification Export Controls." Is that correct?

Mr. MACK. The Senator is correct.

Mr. PELL. That is acceptable to this side and the committee will support it.

The PRESIDING OFFICER. Is there further discussion of the amendment of the Senator from Florida?

The question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 1645) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1646

(Purpose: To require limitations and restrictions concerning trade and other transactions with Cuba)

Mr. MACK. Mr. President, I ask unanimous consent that the pending amendments numbered 1639, 1642, 1643, and 1644 be temporarily laid aside so I may be permitted to offer an amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. MCCAIN, Mr. GRAMM, and Mr. D'AMATO, proposes an amendment numbered 1646.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the substitute, add the following new title:

TITLE —ADDITIONAL RESTRICTIONS ON TRADE WITH CUBA

SEC. . PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

Mr. MACK. Mr. President, the amendment that I am offering is an amendment dealing with the need to tighten the economic embargo on Cuba. Our foreign policy for some 200 years, two centuries, has been driven on the principle of freedom, to defend and protect freedom around the world.

As a result of the commitment to that principle, we see today countries experiencing freedom and democracy that not too long ago we thought would be impossible. I believe that a continued commitment to that principle is called for today and that it is time again for us to act.

Yesterday, the other body passed a resolution condemning Castro for human rights violations. I think it is important that we make a statement at this time about those continued human rights violations.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Is Castro Planning Another Mock Trial?"

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 27, 1990]

IS CASTRO PLANNING ANOTHER MOCK TRIAL?

(By Heberto Padilla and Belkis Cuza Male)

PRINCETON, NJ.—Tania Diaz Castro, a respected poet who recently campaigned for signatures for a referendum on the legitimacy of Fidel Castro's 31-year dictatorship, again is the target of Government repression, Cuban exiles believe, with good reason, that her life may be in danger.

Early this month, she was jailed along with six colleagues from the Human Rights Party, which she helped found in 1988. It was the first opposition party formed in Cuba since 1959. The seven are accused of membership in an "illegal association," which can draw at least a year in prison, and participating in "illegal demonstrations," which can draw another year.

But in a recent speech, Defense Minister Raúl Castro said they might be treated as "the highest traitors in the history of Cuba." The threat must be taken seriously.

Ricardo Bóffill, an exile in Miami who helped found the Committee for Human Rights in 1976, says: "We have spoken with Tania's family in Havana, and the political police told them that she will be charged with high treason."

The crime of "high treason against the nation" carries a maximum sentence of the death penalty, and a minimum of 20 years' imprisonment.

Since Tania Díaz Castro, more than anyone else in Cuba, represents the unifying force behind the opposition to President Castro (who is not a relative of hers), it is not inconceivable that she could be sent before a firing squad on fabricated charges.

There is a possible precedent: the recent execution, after a mock trial, of Gen Arnolds Ochoa on trumped-up drug charges in spite of all the revolutionary honors bestowed on him.

Sources high in the regime already are linking Ms. Díaz Castro to the Central Intelligence Agency and are accusing her of promoting another invasion of the island by the U.S.

In November 1988, Tania Diaz Castro was arrested while visiting a veteran political prisoner and fellow poet, Ernesto Díaz Rodríguez, in jail, where he had served time for more than 20 years. She was sentenced to a year's imprisonment on charges of creating a public disturbance and civil disobedience.

In 1989, after being released, she collected 10,000 signatures on behalf of forming the Human Rights Party, and tried as the party's general secretary, to register it with the Justice Ministry. She was not successful.

Earlier this month, shortly after an overwhelming majority vote by the International Commission on Human Rights in Geneva censored Cuba for human rights violations—a vote that included several Eastern European countries—the regime retaliated by moving against activists in Havana.

State security officials encouraged threats against and beating of these dissidents, and staged a mob action outside the residence of two well-known activists, Gustavo Arcos Bergnes and Sebastián Arcos Bergnes.

The arrests were clearly precipitated by the isolated Mr. Castro, one of the world's few remaining Communist leaders, who is trying to rid himself of all viable democratic opponents. He will not succeed.

Mr. MACK. Mr. President, the article deals with Tania Diaz Castro, a respected poet in Cuba who has already spent time in a Cuban jail, and is presently imprisoned a second time, and the words that come out of Cuba today would indicate that they may intend to try her for treason. In Cuba, if found guilty of treason, that would call for death. A precedent has been set and I think it is important that we express our deep concern about the human rights violations in Cuba.

I recently attended a conference in Geneva, a human rights conference of the United Nations. I was there to try to encourage our colleagues from around the world to support a resolution condemning Cuba, condemning Castro, for human rights violations. We lost that vote last year. We won the vote this year. We had support from countries like Hungary, Poland Czechoslovakia, Bulgaria—a total change in the attitude throughout this world of ours.

But the interesting thing is that it seems like Castro has the feeling that he can act with impunity, that he is somehow free from the impact of world public opinion.

One of the Members of the other body, after the passage of that resolution yesterday, made a statement that there was not really anything else that we could do other than to pass the resolution which condemns the actions for violations of human rights. But I would suggest that through this amendment, that is, tightening the economic embargo on Cuba, that there is action that we can take.

I have found that there has been some 1.5 billion dollars' worth of trade still going on between foreign subsidiaries of U.S. companies—$1.5 billion over a 5-year period—some $300 million a year. This amendment would eliminate that. This amendment would tighten the embargo. This amendment would take us back to the pre-1975 language. So I encourage my colleagues to support this amendment.

I understand that there is a willingness for the acceptance of this amendment—not that everyone might be in total agreement with the amendment—but there is agreement that we should move forward and there is acceptance, I believe, of the amendment that I am offering today.

I thank the Chair.

The PRESIDING OFFICER. Is there any further debate? The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise for the purpose of speaking on behalf of the amendment which has been offered by my colleague, Senator MACK, and myself, and also for purposes of offering a second-degree amendment to this amendment.

Mr. President, the amendment which has been offered would restore a 1975 provision relative to the embargo imposed by the United States on Cuba.

Mr. President, Fidel Castro remains one of the last political dinosaurs on the world scene today. As a Democratic tide breaks over the world, East and West, Castro stands with his finger in the Socialist dike, trying almost comically to hold back the forces of change. It would be comical if not for the continuing violence of his rule. Although Castro is headed for the dustbin of history, it is taking longer for him to get there than any of us would like.

In the meantime, his own people continue to pay a stiff price. Within the last several months Castro has renewed his crackdown on human rights activists. He has jailed nine human rights leaders within the last several weeks. His jails now hold 200 political prisoners. His dismal human rights record has been condemned by the U.N. Human Rights Commission in each of the last 2 years. This year, for the first time, Czechoslovakia and Bulgaria joined with the United States to condemn Castro.

Outside of Cuba, Castro continues to try to destabilize Democratic governments in the region. His assistance provided the FMLN the wherewithal to mount last year's offensive, which resulted in hundreds of civilian deaths.

I suggest that it is not in the interest of the United States to contribute in any way to prolonging the agony of Castro's rule. That is why we are embarking on an important effort today to put the teeth back into our trade embargo against Cuba. I say "put back" because, until 1975, our embargo against Cuba was much tougher than it is today. At that time the embargo applied to American owned or controlled subsidiaries in foreign countries. This amendment would restore that important provision.

Mr. President, our main objective, however, is to restore the embargo provision removed in 1975. Including subsidiaries in our embargo is entirely consistent with provisions we enforce in our embargoes with North Korea, Cambodia, and Vietnam. Moreover, the Senate approved an identical provision last year by a vote of 82 to 13. And no wonder. The majority of our colleagues agreed that without this particular provision, an embargo can be easily circumvented. And in Cuba's case, with great effect.

By exploiting this loophole, Cuba is able to do more than $300 million in hard currency trade through subsidiaries. That is about one-sixth of the total $1.7 billion trade Cuba does with the non-Communist world. This figure is certain to grow as Cuba actively seeks trading partners in the West to replace a probable decline in trade with Eastern Europe and the Soviet Union. At a time when the Soviet Union itself is seriously reconsidering its continuing subsidy of the Cuban economy to the annual tune of $3 billion, it makes no sense for United States subsidiaries to be allowed to pick up the slack.

Mr. President, at a time when even the countries of Eastern Europe are souring on their relationship with Cuba, it makes absolutely no sense for the United States to step in to give what in effect is a helping hand to Fidel Castro.

Mr. President, I urge the adoption of the amendment as offered by Senator MACK.

Mr. HELMS. Mr. President, I am pleased to join with the Senator from Florida in supporting this timely amendment to tighten the restrictions on trade with Cuba.

Mr. President, the United States imposed a total trade embargo on Cuba in 1963. Unfortunately, in 1975 a loophole was created in that embargo allowing United States subsidiaries abroad to trade with Cuba. According to the Office of Foreign Asserts Control at the Department of Treasury, this loophole has resulted in more than $2 billion in trade with Cuba since 1980. Needless to say, this trade has become a major source of hard currency for Fidel Castro's drug-running Communist dictatorship.

Therefore on July 20, of last year, the Senate adopted overwhelmingly by a vote of 82 to 13 an important amendment to the State Department Authorization Act offered by the junior Senator from Florida that applies the United States embargo on Cuba to "American owned or controlled foreign firms." In short, the Mack amendment would have restored the Cuba embargo to its pre-1975 status. As the ranking member of the Foreign Relations Committee, I strongly supported that provision in conference with the House. Unfortunately, our colleagues on the House Foreign Affairs Committee refused to accept the Senate amendment during the conference, and as a result Fidel Castro continues to benefit from the current status.

Mr. President, the amendment that the Senator is offering today is identical to the amendment that passed the Senate last July. This amendment sets no precedents with regard to tightening the ban on foreign subsidiaries. The United States currently maintains embargoes on North Korea, Cambodia, and Vietnam. Those embargoes to apply to U.S. subsidiaries abroad. But by permitting the loophole to remain in effect, the U.S. is effectively providing an exemption to the Castro Communist dictatorship.

Therefore, I strongly support the amendment and I urge its overwhelming adoption.

AMENDMENT NO. 1647 TO AMENDMENT NO. 1646

(Purpose: Expressing the sense of the Congress that a serious problem in the U.S.-Soviet relations is the Soviet Union's continuing support for Cuba and that the Soviet Union, in reexamining its relationship with Cuba, should cease military aid to the Castro regime and take all other possible steps to further the policies of glasnost and perestroika by adopting polices supporting the political and economic rights of the Cuban people)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. MACK, Mr. DECONCINI, Mr. MCCAIN, and Mr. LIEBERMAN, proposes an amendment numbered 1647 to amendment No. 1646.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add:

Since totalitarian rule is giving way to democratic rule around the world:

Since the people of Eastern Europe have led the way, embracing Mikhail Gorbachev's policies of glasnost and perestroika and replacing totalitarian regimes with elected governments that respect human rights;

Since Fidel Castro's totalitarian rule stands in stark contrast to the democracy sweeping through Eastern Europe, Latin America, and other parts of the world;

Since after thirty years of rule Castro still stubbornly clings to power, publicly attacking the new policies and governments of Eastern Europe, and openly criticizing the policies of Mikhail Gorbachev;

Since despite these attacks the Soviet Union continues to prop up the Castro government, subsidizing the Cuban economy at an annual rate of at least $5.5 billion, $1.5 billion of it in military assistance;

Since Soviet Deputy Prime Minister Leonid Abalkin has publicly stated that commercial ties between the two countries might be expanded and perhaps even substantially increased;

Since the Soviet Union continues to modernize the Cuban armed forces, delivering six new advanced Mig-29 fighters earlier this year;

Since this business-as-usual support continues at a time when Castro has launched a new wave of repression, arresting human rights activists, underground political leaders, dissidents, university students, and religious leaders;

Since Castro has executed, arrested, and dismissed key members of his military high command, state security ministry, personal body guard, Cuban Communist Party Central Committee, and diplomatic corps during the past year, in an ongoing purge to consolidate control and discourage reform;

Since Castro has arrested and deported international journalists for reporting the growing human rights and pro-democracy movement in Cuba; and

Since Castro has gone so far as to deport Eastern bloc reporters who "compare Cuba to Romania—the calm before the storm," take Soviet publications such as Moscow News out of circulation, and ban perestroika by Mikhail Gorbachev: Now, therefore, be it the sense of the Congress; That—

(1) continuing Soviet support of Cuba remains a serious problem in United States-Soviet relations;

(2) the Soviet Union, in reexaming its relationship with Cuba, should cease military aid to the Castro regime and take all other possible steps to further the policies of glasnost and perestroika by adopting policies supporting the political, economic rights, and human rights of the Cuban people.

Mr. GRAHAM. Mr. President, I am offering a second-degree amendment to the Mack-Graham Cuban embargo amendment calling on the Soviet Union to cease its military aid to Cuba and to further the policies of glasnost and perestroika by adopting policies supporting the political, economic, and human rights of the Cuban people.

I am glad to be joined by Senators MACK DECONCINI and MCCAIN in offering this amendment.

Mr. President, totalitarian rule is giving way to democratic rule around the world. The people of Eastern Europe have led the way, embracing Mikhail Gorbachev's policies of glasnost and perestroika and replacing totalitarian regimes with elected governments that respect human rights. Castro's totalitarian rule stands out like a sore thumb. It certainly does in this hemisphere where there has been a veritable binge of elections in the last year. Just about everywhere except for Cuba. After 30 years of rule, Castro still stubbornly clings to power, publicly attacking the new policies and governments of Eastern Europe and openly criticizing the policies of Mikhail Gorbachev.

Despite Castro's public statements and actions, the Soviet Union continues to prop up the Castro government, subsidizing the Cuban economy at an annual rate of at least $5.5 billion, $1.5 billion of it in military assistance. Indeed, Soviet Deputy Prime Minister Leonid Abalkin has publicly stated that commercial ties between the two countries might be expanded and perhaps even substantially increased.

Mr. President, I ask unanimous consent to have printed in the RECORD an April 20 Christian Science Monitor article reporting his remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET "REASSURANCES" STILL LEAVE CUBANS GUESSING ON SUBSIDY

(By Alex Wynter)

LONDON.—Cuba won economic breathing space Wednesday when visiting Soviet Deputy Prime Minister Leonid Abalkin told a news conference in Havana he thought commercial ties between the two countries might be expanded "and perhaps even substantially increased."

Mr. Abalkin, whose job it is to steer the Soviet Union toward a market economy, headed a Soviet delegation in week-long talks in Havana on bilateral trade. During his stay, he signed a trade agreement for 1990 worth $14 billion.

But his comments left observers guessing as to whether, after this year, Moscow intends to go on subsidizing the Cuban economy to the tune of at least $3 billion a year by Western estimates.

Soviet aid to Cuba has long been delivered via a system of preferential trading: Moscow buys Cuban sugar at higher-than-world-market prices and sells oil to the island at bargain-basement rates. President Fidel Castro's open criticism of Soviet reforms and the Soviet Union's own economic problems had given rise to the expectation that the subsidy was to be cut.

In sending Abalkin to Havana, President Mikhail Gorbachev was asking Cuba to deal with a man whose economic philosophy resembles that of British Prime Minister Margaret Thatcher's more than the views of Mr. Castro.

In a more ominous sign, the Soviet press began calling for the Soviet-Cuban arrangement to be renegotiated in the Soviet Union's favor. A few days before Abalkin set off for Havana, the Soviet Communist Party daily Pravda spoke of the need for a "radical overhaul" of Soviet aid.

At his news conference, Abalkin spoke only of the volume, not the terms, of Soviet-Cuban trade—leaving the question of the future of the subsidy open. This has been left to a special joint commission, which Abalkin helped to set up.

The existing five-year trade agreement between the two countries expires at the end of 1990. Beyond that date, the Soviet minister would say only that both sides wanted to "radically perfect" their relations.

A hint of what it might mean was given by Yuri Petrov, the Soviet ambassador to Cuba, in an interview in Havana last month. He stressed that the Cubans were still "our friends," and not to be sold out or abandoned. But he also spoke of the need for "balance in the commercial sphere," a reference to world market prices and the present setup under which they are ignored.

Privately, Soviet officials in Havana say the next long-term trade agreement will probably last for two instead of five years, and will "take into account" Soviet economic reforms.

Castro has explicitly acknowledged the possibility that Soviet aid to Cuba may be reduced or halted altogether. He said the Soviet Union is "making a great effort, in the midst of its own difficulties, to continue development of economic relations with this country."

But he said changes in Eastern Europe had left Cuba with fewer friends. Castro has vowed to uphold his country's socialist system rather than implement democratic and economic reforms.

The Cuban government has even begun contingency planning for just that. One of the biggest steelworks in the country recently spent a day burning wood instead of imported Soviet oil as an energy-saving exercise.

Western diplomats in Havana say the political price of Moscow's continued support for Cuba could rise to unacceptable levels. The United States has been citing Soviet military and economic aid to Castro as one of the last remaining problems in superpower relations.

And with the Soviet Union hungry for Western development aid and rapid progress on strategic arms reduction, these diplomats say it is only a matter of time before Washington plays the Cuba card.

Mr. GRAHAM. Mr. President, in addition to the economic aid, the Soviets continue to modernize the Cuban Armed Forces, delivering six new advanced Mig-29 fighters earlier this year. While this business-as-usual support continues, Castro has launched a new wave of repression, arresting human rights activists, underground political leaders, dissidents, and university and religious leaders.

Mr. President, it is time this body sent the Soviet Union a clear message that the Soviets' continuing support for Fidel Castro will remain a serious problem in United States-Soviet relations. Current Soviet policy simply does not square with Gorbachev's often stated commitment to glasnost and perestroika. Actions speak louder than words. In the case of Cuba, we are waiting for some tangible action by the Soviets.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Florida?

The Senator from Rhode Island.

Mr. PELL. The amendment, by both Senators from Florida, is most acceptable, and I recommend adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 1647) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further debate, the question now is on agreeing to the amendment, as amended, of the junior Senator from Florida.

The amendment (No. 1646), as amended, was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for the purposes of propounding a unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection to the suspension of the calling of the role?

Mr. PELL. I must object at this time.

Mr. D'AMATO. If the distinguished chairman objects, I will withdraw that request.

The PRESIDING OFFICER. Objection is heard. The clerk will have to call the roll until such objection is resolved.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I do not know what the parliamentary situation is at the present time, and I do not want to interfere with the pending business. I have an amendment I wish to offer and have considered.

The PRESIDING OFFICER. May I say to the Senator, the pending amendment is Dole amendment No. 1644 to Coats amendment No. 1639.

Mr. McCLURE. Mr. President, would it be in order that the Senator from Idaho ask unanimous consent the pending amendments be temporarily set aside, and the amendment of the Senator from Idaho may be considered?

The PRESIDING OFFICER. That is in order.

Mr. McCLURE. I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Idaho is recognized.

AMENDMENT NO. 1648

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of myself and Senators WALLOP, HELMS, SYMMS, LOTT, HUMPHREY, THURMOND, and McCAIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for himself, Mr. WALLOP, Mr. HELMS, Mr. LOTT, Mr. HUMPHREY, Mr. THURMOND, and Mr. McCAIN, proposes an amendment numbered 1648.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

The Senate finds:

(1) According to recent press reports, in three separate incidents on March 9th and 10th, 1990, Soviet personnel breached their obligation under the INF Treaty to allow United States monitoring rights at the Votkinsk missile factory;

(2) The Soviet Union refused to allow American personnel at the Votkinsk missile factory to utilize the INF Treaty-authorized monitoring device, called "Cargoscan," the verification x-ray system used to assure the United States that SS-20 missiles banned by the INF Treaty are not exiting from this facility;

(3) On March 9, 1990, the Soviets insisted on removing a missile from the plant without allowing the U.S. officials on the scene to use "Cargoscan", and again on March 10 two additional missiles were removed without imaging;

(4) In recent months, according to press reports and open testimony to the Senate, U.S. intelligence has discovered in East Germany several launchers for the INF Treaty-limited SS-23 missile system, and East Germany has admitted having four SS-23 launchers and twenty-four SS-23 missiles, and other SS-23 equipment;

(5) On March 27, 1990, the Soviet Union, in response to a diplomatic inquiry from the U.S., admitted that they had transferred as many as one hundred or more SS-23 missiles to Bulgaria, East Germany, and Czechoslovakia, possibly in violation of the 1987 INF Treaty;

(6) The Czechoslovak Government confirmed to the U.S. that they have SS-23 missiles, and the Bulgarian government has indicated that they also have SS-23 missiles;

(7) The Soviet Union has failed repeatedly to declare these SS-23 launchers and missiles controlled by the U.S.S.R. and allegedly transferred to East European allies as part of the Soviet INF inventory;

(8) Such Soviet covert SS-23 mobile missile deployment was successfully concealed for over two years;

(9) U.S. Intelligence has also detected non-declared SS-4 INF missile equipment at a non-declared facility inside the Soviet Union, and this was confirmed by ACDA Director Lehman in open testimony to the Senate;

(10) U.S. INF negotiators have reportedly termed the Soviet denials that they had transferred SS-23's to Soviet Warsaw Pact allies as "mendacity", and a top U.S. arms control negotiator has stated that this Soviet covert deployment of SS-23's "cuts the heart out of the INF Treaty."

(11) The Soviet Union has rebuffed vigorous protests on these issues to the Soviet Embassy in Washington, as well as personal communications from Secretary of State Baker to Soviet Foreign Minister Eduard Shevardnadze: Therefore

It is the sense of the Senate that:

(1) Serious questions exist concerning the U.S. capability to monitor and verify any treaty which covers mobile missile systems;

(2) The Soviet Union should be condemned for its willful act denying our Treaty right to image the three Soviet missiles which exited the facility at Votkinsk on March 9-10, 1990;

(3) In order to expedite U.S. decision-making about the appropriate proportionate response to these Soviet INF compliance problems, and before entering into any further arms control agreements, the Administration should report its findings on these problems to the Senate as soon as possible.

Mr. McCLURE. Mr. President, this amendment is a sense-of-the-Senate resolution dealing with the question of INF violations.

On three separate occasions during the weekend of March 9 and 10, Soviet personnel at the Votkinsk missile factory breached an obligation of the INF Treaty that allowed United States personnel on-site inspection at certain missile factories. This violated both the letter and the spirit of the treaty's verification regime.

The Soviet Union refused to allow American personnel at Votkinsk to utilize the INF Treaty-authorized monitoring device, nicknamed "cargoscan," a verification x ray used to ensure the SS-20's banned by the INF Treaty are no longer exiting from the facility.

On March 9, the Soviets insisted on removing a missile from the Votkinsk plant without allowing United States officials to use the cargoscan x ray. This scene was repeated again on March 10 when two additional missiles were removed without imaging.

In recents weeks, United States intelligence has discovered in East Germany a number of launchers—reportedly six—for the SS-23 missile system—an intermediate range system banned by the 1987 treaty. Along with these launchers were as many as 24 associated missiles.

On March 27, the Soviet Union, in response to a diplomatic inquiry from the United States, admitted they had transferred SS-23 missiles to Bulgaria, East Germany, and Czechoslovakia, possibly in violation of the INF Treaty. As you know, Mr. President, the treaty prohibits transfer of intermediate range missiles after its implementation.

Both the Czechoslovak and Bulgarian Governments have confirmed these reports, but the Soviet Union evidently has failed to declare these launchers and missiles as part of Soviet or East Germany inventory.

What is most disturbing is that these covert mobile missile deployments have been concealed successfully for over 2 years. Further, Mr. President, I remind my colleagues that during the INF negotiations, United States negotiators sought assurances from the Soviets on 10 separate occasions that no INF missiles had been transferred to Warsaw Pact allies and 10 times they said no. One State Department arms control official claimed that "if we had known about these missiles before the 1987 treaty was signed, we would not have recommended that Ronald Reagan sign it."

The Soviet Union, despite all the positive rhetoric and "new thinking," has rebuffed vigorous protests on these issues to the Soviet Embassy in Washington as well as a personal communication from Secretary of State Baker to Soviet Foreign Minister Shevardnadze.

This series of events brings to mind serious doubts about our ability to

verify a treaty which covers mobile missile systems.

The covert deployments of covered missiles in Eastern Europe strongly suggests that the Soviets entered into the INF agreement in bad faith. It is also worth mentioning that, according to one official, the Bush administration has found nearly 300 technical and other Soviet violations of the INF Treaty since 1988, not to mention the Krasnoyarsk radar that Mr. Gorbachev admits is a violation of the ABM Treaty yet still stands today.

Just as a parenthetical footnote, I might say, Mr. President, the Senate has unanimously agreed that indeed the Krasnoyarsk radar is a treaty violation.

Mr. President, the resolution which I have offered has 11 statements of fact, roughly paralleling the statement that I have just made. I will not repeat those statements of fact. It then has three findings or sense-of-the-Senate statements, and I will take time to read those so that all Members may be informed what it is we are saying:

1. Serious questions exist concerning the U.S. capability to monitor and verify any treaty which covers mobile missile systems.

2. The Soviet Union should be condemned for its willful act denying our treaty right to image the three Soviet missiles which existed in the facility at Votkinsk on March 9–10, 1990.

3. In order to expedite U.S. decisionmaking about the appropriate proportionate response to these Soviet INF compliance problems and before entering into any further arms control agreements, the administration should report its findings on these problems to the Senate as soon as possible.

Mr. President, that is the resolution as I have presented it to the Senate. It parallels actions which the Senate has taken in the past with respect to other alleged treaty violations, expressing our concern, outlining the reasons why we have the concern, asking the administration to supply us with information so that we may make judgments and, hopefully, so that the administration will focus on those judgments as well while they are engaged in the talks right now.

There is a time-sensitive question with respect to this matter because, as you know, our Secretary of State is in conversations with Mr. Shevardnadze as we talk with respect to further treaty negotiations.

I want to make it very plain the Senator from Idaho is not saying he should not be there. I am not saying, and I do not ask the Senate to say, that we should not negotiate further agreements. I am not saying, and I do not want the Senate to say, it is our belief that no further agreement should be signed. But I am saying, and I believe the Senate should say, we ought to know what their performance has been with respect to these very obvious concerns before we go forward with further agreements. It seems to me that it is useful for us at this precise time to let our administration know and to tell the Soviets very clearly that we regard these as serious matters and we should have information with respect to them as we even now negotiate further agreements with them.

The PRESIDING OFFICER (Mr. WIRTH). The question is on the amendment. Is there any further debate?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I do not want to interfere with whatever negotiations are going on, on the floor. But I would simply urge those negotiating to consider the exact situation. We have had, I think, 3 or 4 or 5 hours of quorum calls today, which has been of great interest to anybody who likes to check the color balance on their TV monitors, and see whether the letters that say "The U.S. Senate is in a quorum call," are straight. I am sure it has been a good opportunity for anybody who might want to go to the gym or, perhaps leave the floor to go elsewhere.

But I know the distinguished majority leader has tried a number of times to get this bill to move forward. He has urged the parties to do so. I would just suggest, for those who feel that this is more their home than anywhere else, that some of us also have another home. We love the Senate, of course. We spend millions of dollars to show our love for the Senate in getting here. But we also have other homes. I happen to have a home with a wife of nearly 30 years; loving children; a wonderful son-in-law; a mother-in-law; even a dog. I would like to be home with them.

The good Senator from Idaho knows exactly what I am saying. I would love to be home with that family. I would like to spend some time with them now, see my wife, son, daughter, son-in-law, mother-in-law all, and the rest—living like a real human being.

I only suggest this. Of course I will stay. We have to. But, I appeal to those Senators who have almost a Dracula-like instinct and who seem only able to operate when the Sun goes down. To those I suggest the rest of us would like to operate in the daytime, and if it is at all possible for the negotiators of these various issues to negotiate them in the daytime. If not, maybe we ought to bring these issues up and vote on them—up or down.

Mr. President, I suggest the absence of a quorum.

Mr. COATS. Mr. President, will the Senator withhold?

The PRESIDING OFFICER. Does the Senator withhold?

Mr. LEAHY. Yes.

I withhold my request.

I yield the floor.

Mr. COATS addressed the Chair.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum, having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I understand that we are ready to vote on the——

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. McCLURE. I understand that it is in order to vote on the McClure amendment at this time.

The PRESIDING OFFICER. The McClure amendment is the pending question.

Mr. McCLURE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BRADLEY. Mr. President, I oppose the amendment. It will not further U.S. interests.

The PRESIDING OFFICER. Is there further debate?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am afraid I must oppose the amendment of the Senator from Idaho. First, it attempts to deal with a very serious compliance issue which is being pursued by the administration at this very moment. I do not believe there is a need to prejudge the issue now.

Moreover, it seeks the administration judgment as a precondition to any further arms control agreements on the very eve of the Washington summit. I do not believe this would be a good idea. For that reason, I shall move to table.

Mr. McCLURE. Will the Senator withhold the motion to table for just a moment?

Mr. PELL. Certainly.

Mr. McCLURE. Mr. President, this resolution is not judgmental. This resolution recites a series of facts, and then asks the administration to provide us with information with respect to those series of facts. In my judg-

ment, although certain judgments might vary, it does not do anything to the pending negotiations with the exception of saying to both our administration and the Soviet Government that these violations are regarded by the Senate as potentially important factual questions. Therefore, I hope that the motion to table, when made, would not be agreed to.

Mr. PELL. I thank the Senator for his statement. I would mention that the resolution says the Soviet Union should be condemned for its willful act. To my mind that is a judgmental statement. But there is no point arguing on it.

I move to table the amendment.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, I rise today to present the more realistic side of a phenomenon that has become near and dear to so many peoples' hearts—perestroika and glasnost. A phenomenon that, while changing dramatically how Mr. Gorbachev is perceived in the West, has done very little to change the realities of Soviet behavior at home and abroad. Despite the positive rhetoric from the Soviet Government, we continue to see the kind of malevolent tinkering that has characterized that country for so many years—in Angola, in Afghanistan, in El Salvador, and most immediately in the beleaguered Republic of Lithuania, whose courageous citizens, on March 11, declared their rightful independence.

Today, Mr. President, I wish to underscore recent developments in the arms control arena which have been most distressing to this Senator and, I know, to many of my colleagues. Mr. President, I am speaking of the reports of the past few weeks of Soviet willful violations of the 1987 INF Treaty. These violations have received relatively little coverage in our press, and I would suppose the reason to be that they dare not claim precious space from reporting on the now nonextant Soviet threat and the ensuing peace dividend. But this kind of Soviet behavior merits much greater attention as it affects dramatically our current security posture vis-a-vis the Soviet Union, despite what our press would have us believe.

Soviet violations of the INF Treaty in recent weeks are further testimony to the need for an operational strategic defense system. If we are going to continue to ratify treaties limiting strategic forces—given our low concern for compliance and given continuing Soviets violations on the INF and ABM Treaties to date—we must have some way to insure ourselves against those violations.

In three separate incidents over the weekend of March 9 and 10, Soviet personnel at the Votkinsk Missile factory breached their obligations under the INF accord—they refused to allow American personnel to use a monitoring device, nicknamed "cargoscan." This verification x ray is the only means that the United States has to insure that this missile facility is no longer producing the SS-20 missiles which were banned under the INF Treaty.

Mr. President, Soviet refusal to comply with this most basic of verification requirements gives way to serious doubts about the good faith of the Soviets. It gives this Senator serious doubts as to why we are barrelling head on to sign agreement after agreement with the Soviets when we have seemingly no concern for their willingness to comply. Where, I am forced to ask, are our priorities? Where do we place security in our list of reasons for arms control agreements these days?

Beyond the three missiles which the Soviets removed from this facility without allowing U.S. cargoscan imaging, there have been other disturbing reports. In recent weeks, U.S. intelligence has discovered in East Germany a number of launchers, reportedly six for the INF Treaty-limited SS-23 missile system, together with as many as 24 associated missiles. Moreover, in reponse to an American diplomatic inquiry, the Soviet Union admitted that it has transferred SS-23 missiles to Bulgaria, East Germany, and Czechoslovakia, possibly in violation of INF. Shortly thereafter, the Czechoslovak and Bulgarian Governments confirmed the existence of these missiles. Evidently, Mr. President, the Soviet Union failed to delcare these launchers and missiles as part of Soviet or East German inventory in the negotiations preceding the signing of the INF Treaty, despite numerous questions put to Soviet negotiators on this very point. Moreover, as difficult as it may be to believe, these deployments were successfully concealed from the United States for over 2 years. Needless to say, it is anyone's guess as to what else we may be missing.

What is perhaps most disturbing on this front, Mr. President, is that the Soviet Union has shown no cooperative spirit in trying to clarify or resolve this matter. They have rebuffed vigorously protests on this matter made to the Soviet Embassy in Washington and in the form of a personal communication from Secretary of State Baker to Soviet Foreign Minister Eduard Shevardnadze. Such a lack of cooperation, in my mind, only serves to confirm the willful and less-than-well-intentioned nature of these events.

Moreover, these violations should raise several red flags over the verifiability of a future START agreement, as we are intent upon modeling a verification structure for START on the one we employ for the INF Treaty. How can we have any sense of assurance over our ability to verify a treaty which includes mobile systems? We have just now discovered INF-banned missiles and launchers in East Germany and Bulgaria that have been hanging around for more than 2 years.

In conclusion, Mr. President, I would just say that this resolution comes at a time when the Soviet image cup in the West is brimming with all things good. Mr. Gorbachev, a master of public relations, has so dramatically changed the way the West thinks about the Soviet Union and her intentions that we have declared our willingness to sacrifice Lithuania for the sake of President Gorbachev's survival. But I would assert that Gorbachev's assiduous efforts to cultivate a positive image in the West has also given the United States a tool. Namely, with the new image of the Soviet Union in the West there has also come new expectations. In other words, we don't expect the Soviet Union to engage in the kind of deceptive, adventuristic behavior that we expected of the "evil empire" at the height of the cold war.

So let us use this tool, the new-found leverage—greater expectations that stem from this benevolent image of Mr. Gorbachev—to call the Soviet Union on their violations of the INF Treaty. Let us not be remiss in our willingness to call the Soviet Union on what was clearly an act of bad faith when they signed onto the INF agreement. The United States should send a clear signal of our extreme reluctance to sign any new arms control agreement with the Soviet Union until all Soviet violation of existing treaties have been resolved.

Mr. President, thank you. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island to lay on the table the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. LIEBERMAN] is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut [Mr. LIEBERMAN] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Oklahoma [Mr. NIKLES] are necessarily absent.

I also announce that the Senator from Idaho [Mr. SYMMS] is absent on official business.

The PRESIDING OFFICER. Are there other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—56

| | | |
|---|---|---|
| Adams | Durenberger | Metzenbaum |
| Akaka | Exon | Mikulski |
| Baucus | Fowler | Mitchell |
| Bentsen | Glenn | Moynihan |
| Biden | Gore | Nunn |
| Bingaman | Graham | Packwood |
| Boren | Harkin | Pell |
| Bradley | Hatfield | Pryor |
| Breaux | Inouye | Reid |
| Bryan | Johnston | Riegle |
| Bumpers | Kassebaum | Robb |
| Burdick | Kennedy | Rudman |
| Chafee | Kerrey | Sanford |
| Cohen | Kerry | Sarbanes |
| Conrad | Kohl | Sasser |
| Cranston | Lautenberg | Simon |
| Danforth | Leahy | Warner |
| Daschle | Levin | Wirth |
| Dodd | Lugar | |

NAYS—39

| | | |
|---|---|---|
| Bond | Gorton | McClure |
| Boschwitz | Gramm | McConnell |
| Burns | Grassley | Murkowski |
| Byrd | Hatch | Pressler |
| Coats | Heflin | Rockefeller |
| Cochran | Heinz | Roth |
| D'Amato | Helms | Shelby |
| DeConcini | Hollings | Simpson |
| Dixon | Humphrey | Specter |
| Dole | Kasten | Stevens |
| Domenici | Lott | Thurmond |
| Ford | Mack | Wallop |
| Garn | McCain | Wilson |

NOT VOTING—5

| | | |
|---|---|---|
| Armstrong | Lieberman | Symms |
| Jeffords | Nickles | |

So the motion to lay on the table amendment (No. 1648) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1649

(Purpose: To provide substitute language)

Mr. HELMS. Mr. President, we finally resolved a little turf matter and I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. There are pending amendments.

Mr. HELMS. I ask unanimous consent that the pending amendments be laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], proposes an amendment numbered 1649.

On page 16, line 6, after "contributed" insert: "through shipment of goods or technologies that would be, if they were United States goods or technologies, subject to the jurisdiction of the United States, or through any transaction, other than of goods and technology, not subject to sanctions pursuant to the Export Administration Act,"

On page 20, line 12, after "contributed" insert: "through shipment of goods or technologies that would be, if they were United States goods or technologies, subject to the jurisdiction of the United States pursuant to this Act,"

On page 14, line 24, after the word "State" insert: "and the Secretary of Defense."

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. May we have order, please, Mr. President?

The PRESIDING OFFICER. The Senate is not in order. The Senate is not in order.

The Senator from North Carolina.

Mr. HELMS. Mr. President, this amendment needs no debate. It has been agreed to. The amendment resolves a turf matter, as I said earlier.

The PRESIDING OFFICER. Is there further debate.

Mr. PELL. Mr. President, I think it is an excellent amendment. It was worked out. It took quite a struggle. I suggest we vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 1649) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is the amendment offered by Senators DOLE and COATS.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, the legislation which was submitted, as it relates to sanctions for Iraq, and which the chairman of the Foreign Relations Committee and the ranking member, Senator HELMS, have sponsored, providing automatic sanctions where the use of chemical weapons has been undertaken, had it been a law, I think Iraq would have thought twice before using these poisonous gases and killing thousands of citizens.

I understand the strong opposition to continuing now on these legislative amendments. I do not want to delay passage of this important and timely chemical and biological weapons bill, S. 195. However, I have to indicate very clearly that I do intend to press forward in this matter. To that extent, I have spoken to the chairman of the committee and the ranking member. I look forward to working with them as it relates to developing a program of effective sanctions that I believe the United States should impose against nations that have the kind of record, the killer record, the disregard of human rights of its own citizens and others, and presents a very real threat to world peace.

So I hope that, while I am going to move to withdraw the amendment, I can look forward to working with the Foreign Relations Committee and the chairman and the ranking member to pursue legislation that I believe, after all of the facts are held both in open hearing and in closed hearing if necessary to get the people who understand, whether it be the CIA and others who tell the committee firsthand what is taking place, that we will be able to move forward with legislation that will give true meaning to standing up for those who have been brutalized by the Iraqis and letting them know that we are sincere in our efforts at curtailing this kind of treatment.

I see the chairman is on the floor and I yield to him for any comments he may wish to make.

Mr. PELL. Mr. President, our committee had actually scheduled a hearing for May 23 on this subject but it had to be postponed because of the Kelly mission to South Asia. I well recall our own efforts in the last Congress to sanction Iraq for its use of chemical weapons against the Kurds. Three times the Senate passed my bill for tough sanctions. I look forward to working with the Senator from New York on this very central issue and to having a hearing before too long on it.

Mr. HELMS. Mr. President, let me say to my friend from New York, I know that when he says he is going to press on with something he will press on. I commend him and I will press on with him. We will push it.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. D'AMATO. Yes.

Mr. DOLE. Mr. President, I thank my friend from New York [Mr. D'AMATO]. I appreciate his willingness to cooperate. This is an important issue, an important issue he raised.

Nobody wants to be misunderstood on the issue. I think we should go through the orderly process of having hearings, hoping all the time that we will have some positive signal from President Saddam Husayn, an indication that they want to become a part of the outside world.

So I thank my colleague from New York [Mr. D'AMATO]. And I would say to him that I am certainly willing to cooperate in every way possible.

As the chairman has pointed out, we passed, I think, at least three amendments or resolutions through this body with reference to the use of chemical weapons. We raised this with president Saddam Husayn when we were in Iraq a month ago.

But, notwithstanding that, if we really want to accomplish the purpose—and the purpose is to try to end the paranoia in that country and try to bring Iraq into the mainstream—it may not be possible. But they are very important if we want a comprehensive peace settlement in that part of the world. They do produce the second largest amount of oil. They are the second largest country geographically. They have the second largest army.

So there are a lot of reasons why they should be players.

As my friend from Ohio [Mr. METZENBAUM] pointed out earlier, there is an opportunity there. Whether or not they grasp it depends on President Saddam Husayn.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment by Senators DOLE and COATS to the amendment of Senator COATS.

Mr. HELMS. I understand the Senator from New York has withdrawn his amendment?

The PRESIDING OFFICER. The Senator from New York has not withdrawn his amendment, since it is not pending business. It would require unanimous consent.

Mr. D'AMATO. Mr. President, I ask the pending business be laid aside for the purpose of asking unanimous consent to withdraw the amendment we have submitted as it relates to Iraq sanctions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NUMBERED 1642 AND 1643

The PRESIDING OFFICER. The pending business is now the amendment of the Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent I may be permitted to withdraw the amendment submitted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments numbered 1642 and 1643 were withdrawn.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, if I may have my colleagues' attention to describe the situation with respect to this legislation now, and the possibilities with respect to the schedule between now and the Memorial Day recess.

As all Senator know, I have previously, and some time ago, announced an intention to proceed to the crime bill on next Monday. This followed discussions with the distinguished Republican leader prior to the most recent recess as to an appropriate time to bring that bill up.

It is an important bill to all concerned, and it had been my intention to spend all of next week on it. I hope we will be able to complete action on it next week. That is my intention. That means we would have 4 days, ending Thursday evening. If we do not finish, and if we can do so, it may mean we will go into Friday. I hope that is not necessary.

In any event, it is imperative that we complete action on the bill now before us so we can proceed to the crime bill. The bill not before us is an important measure. If we can complete action on this bill this evening, then there will be no votes on tomorrow or on Monday.

Tomorrow will be devoted to debate on the campaign finance reform issue. Monday, the crime bill would be laid down and Monday would be devoted to debate on that issue. That is, if we can finish this bill tonight.

If we cannot finish this bill tonight, then we will be here tomorrow voting on it. And if we cannot finish it tomorrow, then we will be here Monday voting on it.

Those are the possibilities with respect to the schedule and votes.

With respect to this bill, we have reached an impasse. That requires me, with reluctance, to file a cloture motion. It is my intention to shortly file this cloture motion. Unless unanimous consent is obtained to pursue a different course, the cloture motion would ripen for vote 1 hour after the Senate comes into session on Monday, and that would be Monday morning.

And then, if cloture is invoked, we would attempt to complete action on the bill as soon thereafter as possible. If cloture is not invoked, then we would continue to debate the bill. And I will, in the meantime, have filed a second cloture motion which will ripen for a cloture vote on Tuesday, and we will just stay with it as long as we can. That will almost guarantee that we will be here next weekend dealing with the crime bill.

Following my filing of the cloture motion, I am going to ask unanimous consent that we proceed to vote on the cloture motion immediately or after a very short period of time this evening. That would permit us, with restraint and good luck—neither of which are much in evidence here—to complete action on this bill this evening.

Every Senator should understand, so no one is disadvantaged, of course, that voting on a cloture motion shortly after its filing means that Senators are precluded from filing amendments which they otherwise would be permitted to do if the rules were observed in accordance with their terms.

In other words, if this were filed this evening, in the ordinary course of events, Senators would have until 1 p.m. tomorrow to file amendments which might be germane. That right will be foreclosed if we proceed directly to a cloture vote. So every Senator should be well aware of what is being requested here in this regard.

If unanimous consent is not obtained to vote on cloture this evening, we will simply stay on the bill, continue as long as we can, and I will ask unanimous consent that we vote tomorrow morning. If any Senator objects to that, as each Senator has the right to do, then we will simply proceed with further action on the bill to the extent we can tonight and tomorrow, and then the cloture vote would occur Monday morning and we will proceed thereafter.

Those are the choices facing the Senators. As I said, I do this with great reluctance, but after consulting with the managers and the distinguished Republican leader and all of the interested parties, I do not see any other course available to us.

I will be pleased now to yield to the distinguished Republican leader for any comment he wishes to make on this subject before I take any action, as indicated.

Mr. DOLE. Mr. President, I think we are making progress. I am just looking over the amendments that were pending earlier.

If cloture is invoked, obviously the nongermane amendments would fall. I may offer one germane amendment. It is just a question of whether it is 9 months or 1 year. We are trying to avoid a veto on this bill. Maybe it is something that could be accepted.

A Specter international conference amendment, as I understand, may be accepted. Then there is a Helms amendment which may be accepted, concerning a PLO report. That would leave another amendment by the Senator from Indiana on hazardous waste,

which would also be nongermane and which would fall.

As far as I know, there are no other amendments, so it would seem to me we could complete action and be on the way home by 8:45, with a little luck, and on the part of the managers, a little generosity in some cases.

I think the Senator from Indiana is willing to permit us to do this almost immediately. I commend him for it. I do not know whether he has any choice.

Both Senators from New Jersey have made it clear this bill is not going to pass if this amendment remains, and it seems to me the Senator from Indiana is willing to accommodate the majority leader.

In my view, we can wrap this up fairly quickly, and there will be no votes tomorrow, but we will be in talking about campaign finance reform.

I think on Monday, those who have an interest in the crime bill on this side I hope will be here. I cannot speak for those on the other side. Senator THURMOND is here, and I hope he and others will be available on Monday to discuss the crime bill, because that 4 days is going to pass very quickly.

I would say with reference to coming in next weekend, I do not know whether we could get unanimous consent for that. Maybe we do not need it. But at least the leaders could come in next weekend and work out a compromise.

In any event, we are prepared. I think the Senator from Indiana wanted to be recognized, and then perhaps we can vote almost immediately on the cloture motion.

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. METZENBAUM. First, I want to commend the majority leader for his efforts to get a cloture motion filed and acted on promptly. I recognize that takes unanimous consent. I also recognize that somebody might object just because they have some amendment that they wish to lay down and they will be precluded from doing so. I have none, so I am not speaking for myself.

I wonder if the majority leader would give consideration, in order to protect the rights of those individuals, that for a period of time, such as a half an hour after the laying down of the cloture motion, germane amendments could be filed so those persons would not be precluded from an opportunity that they otherwise would have if the matter laid over for 2 days.

I suggest it. I do not have an amendment of my own. It seems to me it may keep somebody from offering an objection that otherwies they might offer.

Mr. MITCHELL. I thank the Senator for his suggestion. I think it best to proceed and, if an objection is raised on those grounds, then I will consider that suggestion. Let me say I do want to thank the Senator from Indiana. He has, as always, been unfailingly courteous. I appreciate his willingness. He would have a right to object to the vote on the cloture this evening, and he has indicated he does not intend to do so.

I want to emphasize to my colleagues that the course of action that we are pursuing has only two objectives. That is to move this important legislation forward and to inconvenience the least number of Senators. We will attempt to do it in the way that accomplishes the task we all recognize we have and to provide the maximum amount of convenience for as many Senators as possible. Mr. President, I yield to the Senator from Indiana and thank him very much for his courtesy on this matter.

Mr. COATS. I thank the majority leader for yielding. Mr. President, I deeply regret we have to take this action. I understand, however, that we are at an impasse. It is impossible to go forward with my amendment. Given the current procedural situation, the amendment that I offered at 1 p.m. this afternoon was not debated in the negative by any Senator in this body. Senator BAUCUS had some concerns early on, and Senator DOLE, relative to the misunderstanding about the definition of solid waste.

We worked those argeements out, and we were prepared to proceed with a vote. However, as is every Senator's right, the two Senators from New Jersey objected to the legislation before us. I regret that we were not even able to discuss or negotiate those objections. Nevertheless, under the rights of the Senate, they had every right to do so. That left us at an impasse. I am conscious of the fact that while I would be within my rights to object to voting on cloture this evening, that would serve no constructive purpose. Therefore, I informed the majority leader that I would not do so.

I regret, as I said, that we could not proceed on this issue. I think it is an important issue, supported by a substantial majority of Senators on the floor of the Senate and in this body. As I said, no one came to the floor to offer objections to this particular legislation. We had, through serious negotiations with the Senator from Montana and the Senator from Louisiana, worked out what we all thought was an acceptable compromise. Nevertheless, we cannot go forward. I recognize that. I will not hold up the Senate. I realize it will serve no constructive purpose.

I just want to say that this is an issue that is critical not only to my State but to many States. Hundreds of thousands, if not millions, of tons of solid waste are being exported into our State and dumped in our State at a time when our landfills are filling up. We cannot even dispose of our own waste, let alone someone else's. The Governor of our State, our State legislature—all of us—have recognized this problem. They have specifically requested that Congress do something about this. They need congressional authority in order to act to effect regulations affecting the importation of trash.

My amendment was simple. It said:

Each State is authorized to enact and enforce laws regulating the treatment and disposition of solid waste within such State, including laws imposing a ban on the importing into such State or any part thereof, of solid waste for its treatment or other disposition, laws otherwise regulating the importing into such State of solid waste for its treatment or other disposition, and laws imposing and collecting fees * * *.

And so forth.

It was a simple amendment. It was up front. We are dealing with a problem that, without congressional authority, the State cannot deal with.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from our Gov. Evan Bayh, outlining his deep concerns about this problem.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
*Indianapolis, IN, November 21, 1989.*

Hon. DAN COATS,
*U.S. Senate,*
*Washington, DC.*

DEAR DAN: Environmental protection is one of our greatest challenges. As with other difficult areas of public policy, there are opportunities for bipartisan consensus and action on environmental issues. I believe the issue of out-of-state municipal solid waste flowing into Indiana presents us with one such opportunity.

I have been concerned about this issue since before taking office. The cornerstone of my legislative package in the environmental area in the 1989 session of the General Assembly was a comprehensive solid waste management bill. The heart of the bill was an effort to stem the tide of out-of-state trash into Indiana by equalizing landfill tipping fees for waste from out of state. Also included was a system of regional solid waste planning that would permit single- or multi-county regions to prohibit the importation of waste if necessary to achieve the region's long-range planning goals. Unfortunately, a compromise was not reached on the different versions of the bill that passed the Senate and the House.

Since the end of the legislative session, evidence has been accumulating rapidly revealing the broad scope and dangers of the out-of-state waste problem. Landfills are filling at an accelerated pace jeopardizing disposal capacity for Indiana communities. Boxcars filled with trash arrive in Indiana without legal authority to off-load the waste, and put the safety and health of Hoosiers at risk as they sit dormant for days. Virtual convoys of semis carrying east coast garbage clog Hoosier roads and unload their cargo into Indiana soil around the clock.

Last Thursday I issued an executive order targeted at Indiana's solid waste manage-

ment problems. I have enclosed a copy of the order with this letter. Under the executive order, Indiana will strictly enforce environmental and transportation laws against those who haul waste in rail cars and tractor-trailers. I called for new regulations to restrict the hauling of food and other products in trash trucks, to create a landfill permitting procedure based on local disposal needs, to require backgrond checks on landfill permit applicants, and to require on-site recycling by landfill operators. I also ordered the preparation of a long-range solid waste managment plan for the State of Indiana and announced a legislative package emphasizing source reduction and recycling of solid waste.

We will fight against out-of-state waste with the weapons available to us at the state level and we will make progress. However, we do not have the ultimate weapon at our disposal—the ability to ban the importation of garbage into Indiana outright. For this we need the help of Congress, and the purpose of this letter is to seek your support for a federal law to effectively protect Indiana and other states in a similar position from the burden of being a dumping ground for out-of-state wastes.

While the U.S. Constitution limits a state's right to ban garbage importation outright, the Constitution does not prohibit Congress from acting to achieve the same goal.

This is a vital issue for Indiana's future. I hope we can work together to protect the health and safety of the people of Indiana by reversing the onslaught of out-of-state-trash that shows no sign of letting up of its own accord. I look forward to receiving your comments and suggestions on my proposals as well as on how I can assist you.

Warmest regards,

EVAN BAYH.

Mr. COATS. Mr. President, I just want to inform my colleagues, while I recognize this amendment is not germane to this piece of legislation, I have searched in vain since the beginning of this year for legislation to which this amendment is germane. I have been informed recently that the RCRA reauthorization, to which I hoped to offer this amendment, will not be before the Senate this session. The House has delayed its action more than 2 months, and it looks like we will not have a bill to which this amendment might be germane.

In the meantime, daily convoys of trucks and trains full of waste from other States are being dumped into Indiana. We have a serious problem with this, not only from a disposal standpoint, but from a potential health and safety standpoint. We need to do something about it. We have to do something about it. I intend to pursue every course open to me as a Senator to offer this amendment to appropriate legislation and, if no appropriate legislation is available, to exercise my rights to offer a nongermane amendment.

I thank the majority leader for his understanding of this. I understand, again, his position and the need to file a cloture motion to move forward with important legislation.

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of the amendment offered by Senator COATS to make it unlawful for any person to ship solid waste generated within one State into another State for disposal if that other State has enacted legislation prohibiting the transportation of solid waste into it. The disposal of solid waste is a serious problem in Michigan, which is made even more difficult by the transportation into Michigan of non-Michigan solid waste.

I understand that if cloture is invoked on the Chemical and Biological Weapons Control Act currently before the Senate, then Senator COATS will offer this amendment to another legislative vehicle. At that time, I would be pleased to again be a cosponsor of his solid waste amendment and will support him in his efforts.

Mr. BRADLEY. Mr. President, New Jerseyites are no strangers to solid waste imports. Up until 1988, in fact, more waste came into the State of New Jersey than left it. New Jerseyites did not appreciate out-of-State garbage and tried to shut off the flow. But we could not. The Constitution, with its commerce clause, was determined by the U.S. Supreme Court, to prevent New Jersey from shutting its doors to other States.

Our landfills are filled to capacity. Most closed. For the last decade, we have struggled with solid waste problems that most States have yet to face. Frankly, we are in the middle of our own crisis. Anyone familiar with solid waste issues knows there is no obvious solution or miracle technologies. Siting presents enormous problems. My colleagues can scarcely appreciate the difficulty of creating new waste management facilities, given all of the public's concerns, in a State where on average 1,000 people live in each square mile.

It is no secret that New Jersey now exports large quantities of solid waste. New Jersey is trying to be responsible. We have enacted statewide mandatory recycling programs. We have made waste reduction and recycling first-order priorities. We are doing some outstanding technical work on plastics recycling. Last week on the Urgent Supplemental Appropriations bill, I sought a small amount of money for the State. The goal of that effort was the 100-percent recovery and recycling of lead storage batteries—not your average request and one that is relevant to the discussion today.

Mr. President, this amendment is out of place on this bill.

Solid waste issues are very serious. I understand the Senate Committee on Environment and Public Works will consider this carefully when it tackles the very difficult task of reauthorizing the Resource Conservation and Recovery Act. To accept this amendment on its face value, without hearings and public comment as to its implications, would represent a mistake of astonishing proportions.

Mr. President, if the cloture vote succeeds and cloture is invoked, the amendment of the Senator from Indiana will fall. I am pleased that the Senator from Indiana has not chosen to object to the majority leader's unanimous-consent request.

The PRESIDING OFFICER. Is there an objection to the majority leader's request? The majority leader.

Mr. MITCHELL. Mr. President, I have not made the request. I would like now to make it. I stated my intention to do so earlier because I wanted to give every Senator the opportunity to understand fully what was occurring so that no Senator would be disadvantaged as a result of not being aware of the request. I am just going to summarize it, and then I will put the request.

I am going to file a cloture motion. Acting in accordance with the suggestions of the Senator from Ohio, I am going to ask that the vote on cloture occur immediately; that the live quorum be waived; and that for a period of 30 minutes from the commencement of the vote that any Senator be permitted to file an amendment at the desk. It gives people time to do that. I know of none that are going to be filed. No Senator has expressed an intention to do so on either side, to my knowledge.

This at least gives everybody that opportunity to do so, and people who have not been here during this discussion will know of it and learn of it during the vote. Then we will vote on cloture immediately. If cloture is invoked, we will proceed to try to finish the bill this evening and then proceed in accordance with the schedule as I have outlined for tomorrow and Monday.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute, as modified and amended, to S. 195, a bill entitled the "Chemical and Biological Weapons Control Act of 1989".

George J. Mitchell, Howard M. Metzenbaum, Bob Kerrey, Lloyd Bentsen, Claiborne Pell, Paul Simon, Quentin Burdick, Patrick Leahy, Max Baucus, Frank R. Lautenberg, Brock Adams, Daniel K. Inouye, Herb Kohl, Barbara A. Mikulski, Paul Sarbanes, David Pryor, Charles S. Robb, Terry Sanford.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the cloture motion occur immediately with no intervening debate or action; that the live quorum be waived; that for a period of 30 minutes, following the commencement of the vote, any Senator be permitted to file a germane amendment at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Mr. President, reserving the right to object, and I will not object, I simply want to take this occasion to thank the distinguished Senator from Indiana for the action that he has chosen to follow tonight.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. LAUTENBERG. Mr. President, reserving the right to object, and I will not object either, I just also want to say to the Senator from Indiana that this is a complex issue, and I think it deserves the kind of review and debate that would be expected as a result of this. I thank him for withdrawing it.

Mr. President, had the Senator from Indiana offered his amendment I would have opposed it vigorously. The amendment would under cut the ongoing efforts to address the waste transport problem and have a draconian effect on States like New Jersey which now export garbage but which are now working hard to become self-sufficient in garbage management.

Mr. President, there are a number of problems with the amendment. First, it had nothing to do with the bill we are discussing.

Second, the amendment would pit State against State in addressing our Nation's solid waste problem. But solid waste is a national problem. We are literally choking on our own garbage. Americans generate 160 millions tons of municipal solid waste a year.

That is roughly 1,300 pounds for ever person in the United States per year or 3.5 pound per person per day. And our generation of waste is expected to grow to over 190 million tons in the year 2000.

At the same time, we are running out of landfill capacity for disposing of this waste. Nationally, 80 percent of all municipal solid waste goes to landfills. More than one-third of all landfills operating in 1979 were closed by 1986 and of this amount, EPA expects nearly half to close by 1991. As a result, communities are transporting their wastes greater distances for disposal resulting in increased costs.

Mr. President, we need to develop a national response to deal without solid waste problem. These are questions which must be addressed. But they cannot be addressed in a piecemeal fashion. Interstate transport of solid waste is an integral component of our solid waste policy. You cannot simply allow States to ban exports without having a comprehensive program for addressing solid waste management.

We will be developing this comprehensive policy during the reauthorization of RCRA. It is in the reauthorization process where we should be addressing this issue.

And bills introduced by Senators BAUCUS and CHAFEE which I have cosponsored would require States to develop plans to manage their solid waste. We need to go through the normal hearing and process to address these important issues.

Finally, the amendment would thwart the existing efforts my State has made to eliminate exports of solid waste. New Jersey recognized a few years ago that it needed to develop a solid waste program to reduce its exports of solid waste. In 1987, New Jersey enacted one of the Nation's first mandatory recycling laws. The State established a goal of recycling 25 percent of its waste and already is recycling almost 20 percent of its waste.

We have taken an active role with other Northeastern States in developing initiatives to reduce unnecessary and wasteful packaging practices which increase the amount of waste we must dispose of.

And one of our new Gov. Jim Florio's first actions upon taking office was to establish a task force to report to him by the end of June on ways to increase recycling and to address solid waste disposal capacity problems.

Mr. President, New Jerseyans want to take care of the wastes they generate. There is a high level of environmental consciousness in the State.

And there is an economic incentive to manage our wastes in State. Some garbage fees to export solid waste now exceed $100 per ton. It will cost New Jerseyans an estimated $1 billion over the next 4 years to ship its garbage out-of-State.

It is not surprising that according to a recent poll, two-thirds of New Jerseyans consider garbage disposal an extremely serious matter and that garbage disposal was ranked as more serious than taxes, crime, inflation, or traffic congestion.

So New Jersey wants to reduce its export of solid waste and already has taken a series of actions to accomplish that goal. But it cannot happen overnight. New Jersey has little landfill capacity left. Exporting States like New Jersey need time to make the necessary adjustments to reduce their exports.

The amendment would not provide that time. It irresponsibly would have prohibited waste exports without an adjustment period. It irresponsibly would have attempted to establish a piecemeal solid waste management policy. It needlessly would have pitted States against each other.

So I am pleased that the amendment will not be offered.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Reserving the right to object, and I will not object, I would like to join my colleagues from New Jersey in expressing appreciation for the thoughtfulness and courtesy of the Senator from Indiana and to assure him that the Committee on Environment and Public Works is fully cognizant of the issues he raises, and we mean to address them.

I am not able to agree with the particular things that he proposes. It seems to me to raise very serious constitutional issues. Quite apart from that, there is a serious environmental issue and an issue of interstate comity. He is right to have raised it. We will try to see if we cannot resolve it. It will not happen perhaps in this month or perhaps this Congress. This decade is going to have to address these matters.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I will yield to any Senator.

Mr. CHAFEE. Mr. President, I commend the Senator from Indiana. The point he raises is a very serious one, and we recognize it. In serving on the Environment Committee, we are determined to do everything we can to solve the problem he raised. But he is quite right in saying the solution is not going to go quickly. I commend him for his thoughtfulness in the drafting of the legislation and his being receptive to a solution. I am sorry we could not have come to that solution, but certainly the Senator from Indiana did, indeed, help solve the problem.

Mr. MITCHELL. Mr. President, we have had a lot of commendation, in which I have joined. There is one point I would like to make before we vote, and that is if we do not invoke cloture, we are right back where we were before we started all this process and commendation. So I hope my colleagues, having listened to all this and aware of what the schedule will be, will be prepared to invoke cloture so we can proceed to take action on this bill as earlier stated.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

## CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

## VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the committee substitute for the bill S. 195, entitled

the Chemical and Biological Weapons Control Act of 1989, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS] is necessarily absent.

I further announce that the Senator from Connecticut [Mr. LIEBERMAN] is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut [Mr. LIEBERMAN] would vote "Yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Vermont [Mr. JEFFORDS], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I also announce that the Senator from Idaho [Mr. SYMMS] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 87, nays 4, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—87

| | | |
|---|---|---|
| Akaka | Durenberger | McCain |
| Baucus | Exon | McClure |
| Bentsen | Ford | McConnell |
| Biden | Fowler | Metzenbaum |
| Bingaman | Garn | Mikulski |
| Bond | Glenn | Mitchell |
| Boren | Gore | Moynihan |
| Boschwitz | Gorton | Murkowski |
| Bradley | Graham | Nunn |
| Breaux | Grassley | Packwood |
| Bryan | Harkin | Pell |
| Bumpers | Hatch | Pressler |
| Burdick | Hatfield | Pryor |
| Burns | Heinz | Riegle |
| Byrd | Hollings | Robb |
| Chafee | Inouye | Rockefeller |
| Coats | Johnston | Roth |
| Cochran | Kassebaum | Rudman |
| Cohen | Kasten | Sanford |
| Conrad | Kennedy | Sarbanes |
| Cranston | Kerrey | Sasser |
| D'Amato | Kerry | Simon |
| Danforth | Kohl | Simpson |
| Daschle | Lautenberg | Specter |
| DeConcini | Leahy | Stevens |
| Dixon | Levin | Thurmond |
| Dodd | Lott | Warner |
| Dole | Lugar | Wilson |
| Domenici | Mack | Wirth |

NAYS—4

| | |
|---|---|
| Heflin | Reid |
| Helms | Shelby |

NOT VOTING—9

| | | |
|---|---|---|
| Adams | Humphrey | Nickles |
| Armstrong | Jeffords | Symms |
| Gramm | Lieberman | Wallop |

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The two pending amendments are not germane. Since cloture has been invoked, the amendments fall.

Mr. PELL. Are there any amendments that are germane pending before us at this time?

The PRESIDING OFFICER. The only pending amendment is the committee substitute, as modified.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. PELL. Yes.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1657

(Purpose: To require additional reports)

Mr. HELMS. I call up amendment No. 1657.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1657.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the bill, the following new section:

"SEC. . (a) During the next round of talks with the PLO, should such talks occur after the date of enactment of this Act, the representative of the United States should obtain from the representative of the PLO a full accounting of the following attempted incursions into Israel which occurred after Yasser Arafat's statement of December 14, 1988:

"(1) On August 7, 1989, a rocket attack on the settlement of Maoz Haim by members of the PLO-affiliated Popular Front for the Liberation of Palestine.

"(2) On February 4, 1990, an unprovoked ambush by the Popular Front for the Liberation of Palestine-General Command on an Israeli tour bus in Egypt that killed 9 and wounded 15 Israelis.

"(3) On September 6, 1989, a rocket attack by the PLO-affiliated Popular Front for the Liberation of Palestine aimed at Kibbutz Tel-Katzir that fell on Kibbutz Sha'ar Hagolan.

"(4) On January 26, 1990, an attack on an Israeli Army patrol by at least three terrorist of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for Kibbutz Misgav-Am.

"(5) On May 28, 1989, an attack by the Popular Front for the Liberation of Palestine and the Palestine Liberation Front, both PLO-affiliated organizations, in which a one-year-old Israeli was injured by a Katyusha rocket.

"(6) On October 7, 1989, an attempted raid on Kibbutz Misgav-Am by a squad of terrorists armed with machine guns and anti-tank missiles from the PLO-aligned Palestine Liberation Front.

"(7) On April 13, 1990, an attempted infiltration into northern Israel by boat by four terrorists of Yasser Arafat's Al-Fatah, equipped with machine guns and grenades.

"(b) In the event that talks are held with the PLO after the date of enactment of this Act, the Secretary of State, shall include in the next report provided to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate under Section 804 of the Foreign Relations Authorization Act for Fiscal Years 1990 an 1991 any accounting provided by the representatives of the PLO of the incidents described in subsection (a) and the relationship between those groups responsible for these attacks and the PLO; provided, that such report shall also include a list of all individuals participating in discussions held between representatives of the United States and of the Palestine Liberation Organization since January 1, 1989; and, that such report should also include any additional known affiliations of such representatives of the PLO.

"(c) No later than 60 days after enactment, the Commissioner of the Customs Service shall provide the President of the Senate and Speaker of the House of Representatives with a report outlining illegal activities being undertaken in the United States by the Palestine Liberation Organization or on behalf of the Palestine Liberation Organization; including such activities as illegal drug trafficking, money laundering, weapons purchases and arms shipments; estimating the amount of funds associated with such activities; and describing the extent to which Members of the PLO Executive Committee, the PLO Central Council and the Palestine National Council are aware of, or are involved in such illegal activities.".

Mr. HELMS. Mr. President, this amendment expresses the sense of the Senate that the State Department should ask the representatives of the Palestine Liberation Organization, with whom the United States is negotiating, to answer for a number of terrorist attacks that have occurred since PLO Chairman Yasser Arafat's supposed "renunciation of terrorism" in December 1988.

The amendment also requires that the Secretary of State to report to Congress any explanation of these events provided by the PLO, the names of the PLO members involved in discussions with the United States, the relationship between the PLO and the terrorists involved in the attacks, and the specific PLO-group affiliation of the representatives of the PLO.

In addition, Mr. President, this amendment requires a report on an ongoing joint Federal/local investigation in Florida in which 13 people were arrested on charges of money laundering and other money schemes—all suspected of being a coverup for funneling money to the PLO.

An April 4 report in The Sun Sentinel of Fort Lauderdale quotes a U.S. Customs Service agent: "We have been looking into it for some time. It looks

like it is widespread." I believe Senators have a need to know the full implications of these arrests and charges, inasmuch as the State Department is engaged in official dialog with the Palestine Liberation Organization.

Mr. President, on December 14, 1988, the State Department determined, by virtue of a statement by Yasser Arafat, that the PLO had fulfilled the conditions required by law for discussions with U.S. officials to commence.

At that time, many observers felt that our Government made a tactical error in dealing with Yasser Arafat. I publicly questioned the wisdom of trying to combat terrorism by negotiating with terrorists. The State Department should have required that the conditions in the law—that the PLO renounce terrorism, recognize Israel, and accept U.N. Resolutions 242 and 338—be met not just in words, but in practice as well.

There was doubt then, and now, that the PLO would and will honor their commitments. Yasser Arafat is a terrorist and the PLO is a terrorist group—and we cannot expect terrorists to keep their word.

Indeed, statements made since then by a number of key PLO leaders are entirely inconsistent with the commitments made by Arafat in December 1988.

Arafat himself has flouted his renunication of terrorism, and he even admitted in October 1989, that on a specific occasion he "gave * * * execution warrants"—A-Rai, October 10, 1989. Not only does Arafat endorse terrorism against innocent Israelis, he also condones the savage slaughter of hundreds of Palestinians, the very people of when he claims to be the sole representative. The London Daily Telegraph reported on October 29, 1989, that Arafat's special arm of the PLO, Al-Fatah, has recently been responsible for killing at least two Palestinians each day. In fact, according to some reports, up to 60 percent of the Palestinian casualties and property damage in 1989 were perpetrated by these supposed representatives of the Palestinian people.

I am troubled that PLO terrorism and other violent activity appears to be continuing. Since the Arafat commitment of December 1988, there have been no fewer then 16 reported terrorist or attempted terrorist acts involving PLO affiliated groups reported in the Western media.

As part of section 804 of the Foreign Relations Authorization Act for fiscal years 1990 and 1991, the administration is urged to ask representatives of the PLO about nine terrorist attacks. But since that time there have been at least seven other events, some carried out by groups whose members are reportedly participating in the ongoing negotiations between our State Department and the PLO.

Mr. President, this amendment lists these seven other reported terrorist or attempted terrorist or violent acts involving PLO-affiliated groups, urges the State Department to obtain from the PLO an accounting of these incidents, and asks the Secretary of State to report to the Senate on the accounting provided by the PLO.

Mr. President, the longer the PLO continues its violent activities, the longer it will take to bring about a real peace in the Middle East. To the extent the United States ignores violence and other activity in violation of the Yasser Arafat pledge, it, in fact, delays the time when peace will come to the Holy Land. The Senate should do its part by making certain that continued terrorism and other violent activity by the PLO does not go unnoticed nor unanswered.

Mr. President, I ask unanimous consent that various news articles reporting on incidents referred to in the amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Paris Radio Monte Carlo, Aug. 8, 1989]

PFLP CLAIMS SHELLING WEST BANK SETTLEMENT

The Popular Front for the Liberation of Palestine [PFLP] announced that a group of its fighters today shelled the settlement of Ma'oz Hayyim near Bet She'an in occupied Palestine from the Jordanian territory. A PFLP statement added that the rockets accurately hit their targets and ambulances were seen evacuating the dead and wounded. The PFLP stressed that all members of the group returned safely to base.

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[From the New York Times, Feb. 5, 1990]

ISRAELIS SPECULATE ON ATTACK'S PLOTTERS

(By Joel Brinkley)

JERUSALEM.—Israeli military officials speculated this evening that the attackers of an Israeli tourist bus near Cairo were members of a guerrilla organization that sent assassins across the Egyptian border into Israel in December.

But with little evidence to go on, the officials said, they could not be certain which group was responsible.

On Dec. 5, the Israeli Army said its troops had killed five heavily armed Arab guerrillas in the western Negev region of Israel after chasing them for a short distance.

The army said the guerrillas had crossed into Israel from Egypt through the Sinai and apparently had timed the infiltration to coincide with the second anniversary of the Palestinian uprising. But it was not clear then to which organization the guerrillas belonged.

Prime Minister Yitzhak Shamir said the attack on the bus today was "shocking, and proof that hostility towards Israel still prevails around us."

He and other officials said that the Egyptian authorities had been cooperative, with the Egyptian Foreign Minister calling Foreign Minister Moshe Arens several times this evening to relay what Egypt knew of the attack.

President Hosni Mubarak of Egypt, who has snubbed Mr. Shamir on several diplomatic occasions in recent months, called him to express sympathy for the families of the victims.

Mr. Shamir said he had urged Mr. Mubarak to catch the attackers and bring them to trial, though he added: "We have no illusions. It's not an easy mission."

Shimon Peres, the Deputy Prime Minister and Labor Party leader, said "It's clear that we have to overcome murderers. We cannot deliver the fate of the peace process into the hands of terrorists."

Tens of thousands of Israeli tourists visit Egypt each year, and serious incidents have been rare.

This evening, the Israeli military sent a plane of physicians and other medical personnel to Cairo to treat the wounded and bring them back to Israel if possible. Egyptian and Israeli authorities said that eight Israelis apparently were killed and 17 were wounded.

NO HEBREW MARKINGS ON BUS

About 30 Israelis and one Swede were reported to have been traveling on the bus as part of an eight-day tour arranged by the Ofakim travel service in Tel Aviv. The bus itself was Egyptian and carried no Hebrew markings or other indications of the occupant's nationality, an official of the travel company said.

But the travel official added that any bus traveling along the road to Cairo from the Rafah border crossing could easily be assumed to be carrying Israeli tourists, since hardly any other buses use the road. The passengers had been scheduled to visit Cairo, Luxor, and Aswan.

"With the arrival of these reports." Mr. Shamir said, "I get the impression that this murderous attack on Israeli tourists was organized, and its purpose was simply to murder a large number of Jews from Israel."

The Prime Minister said he could not predict what effect the attack would have on Israeli relations with Egypt, but added. "We need to check on the security of our citizens in Egypt."

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[From the New York Times, Feb. 5, 1990]

EIGHT KILLED AND 17 WOUNDED IN RAID ON BUS OF ISRAELI TOURISTS IN EGYPT

(By Alan Cowell)

CAIRO.—Assailants armed with rifles and grenades attacked a tour bus carrying a group of Israeli academics and their wives on a main highway east of Cairo today, killing 8 Israelis and wounding 17 others, Israeli and Egyptian officials said.

The attack was among the worst on Israelis in Egypt since the two countries signed a peace treaty in 1979, and Western diplomats said it would bring new uncertainty to the latest United States Middle East peace diplomacy.

[In Washington, the State Department called the attack a "horrible act of terrorism and said it was "an obvious attempt by the enemies of peace to halt efforts at reconciliation and dialogue," Reuters reported.]

FUNDAMENTALISTS' RALLYING CRY

A man claiming to represent a previously unheard-of Egyptian group calling itself the Organization for the Defense of the Oppressed of Egypt's Prisons called an international news agency here to take responsibility for the attack, but there was no immediate way to verify the claim.

The caller, speaking Arabic with an Egyptian accent, said the attack had been carried

out to protest torture in Egyptian prisons. Reporters who heard the call quoted him as saying "God is great," the rallying cry of Islamic fundamentalists. Western and Israeli officials said they had no direct knowledge of who was responsible.

Israeli officials said an Israeli military airplane would evacuate some of the wounded, who were initially taken to a hospital in the Cairo suburb of Hellopolis.

At the scene of the attack, 30 miles east of Cairo and close to 10th of Ramdan City—one of a string of new towns built to ease congestion in the capital—the bus could be seen toppled onto its side, with its windows smashed. The police did not permit reporters to examine the bus, which was operated by an Egyptian company.

Israeli officials said the bus, carrying 31 academics from Israeli universities and scholarly institutions and their family members, had been on its way from Rafah on Egypt's border with the Israeli-occupied Gaza Strip to Cairo via the Suez Canal port city of Ismailia.

The officials said it was normal practice for buses carrying Israelis to be escorted by the Eygptian police as far as Ismailia. But from there it proceeded alone.

Israeli officials said a car swerved in front of the bus and masked attackers opened fire with assault rifles, possibly causing the bus to fall onto its side as the driver swerved. Then the attackers lobbed hand grenades into the wreckage and sped off, the officials said, speaking on condition of anonymity.

The Egyptian Interior Ministry said two men speaking Arabic with a non-Egyptian accent launched the attack from a white Peugeot sedan. After forcing the bus to halt, they opened fire on the passengers with automatic weapons and threw four grenades, two which exploded. Then, they fled, the ministry's statement said.

ATTACK "SERIOUS AND SHOCKING"

The Israeli Prime Minister, Yitzhak Shamir, told Israeli television that the attack was "serious and shocking."

"This attack proves that hatred for Israel still exists and is running wild in the area," Mr. Shamir said. "I hope the Egyptian authorities will take all measures to find the attackers and punish them."

Hundreds of thousands of Israelis have visited Egypt since the 1979 peace treaty—the only one between Israel and an Arab country—and their presence has become routine.

In 1985, however, a crazed Egyptian soldier opened fire on Israeli tourists at the resort of Ras Burka on the Sinai peninsula, killing seven. An Israeli official said that while the 1985 attack seemed to have been undertaken by "a soldier who was mad at the time," today's killing was apparently a planned and premeditated attack.

From 1984 to 1986, anti-Government Egyptians armed with automatic weapons carried out a series of attacks on Israeli diplomats, killing two and wounding others. Those on trial on charges related to those attacks include Khaled Abdel Nasser, son of the late President Gamal Abdel Nasser.

In Israel, Trade and Industry Minister Ariel Sharon, who is strongly opposed to Prime Minister Shamir's approach to America peace diplomacy, blamed the Palestine Liberation Organization for today's attack.

"I believe these are P.L.O. terrorists," he said. "I cannot believe for a moment, though it has happened in the past, that it could be Egyptians."

Mr. Sharon opposed efforts by the United States to bring the Egyptian and Israeli Foreign Ministers together with Secretary of State James A. Baker 3d for talks to arrange direct negotiations between Israelis and Palestinians on the future of the Israel-occupied West Bank and Gaza Strip.

Egyptian officials told newspapers here before today's killings that the talks could take place within days in Geneva. After the attack, however, it is unclear whether any Israeli official will feel politically able to discuss the possibility of a direct encounter with Palestinians as long as the identity of the assailants remains unclear.

"Who knows?" said an Israeli official. "It could be Egypt's Revolution, fundamentalists. All these groups are trying to hurt us." The official was referring to dissident Egyptain movements opposed to the policies of President Hosni Mubarak and his slain predecessor, Anwar Sadat, who signed the peace treaty with Israel in 1979.

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[From United Press International, Oct. 5, 1989]

JORDAN ARRESTS SEVEN PALESTINIANS

AMMAN, JORDAN.—Jordanian authorities have arrested seven members of the radical Popular Front for the Liberation of Palestine in an apparent crackdown against anti-Israeli guerrilla activity from Jordan, sources said Thursday.

Jordanian officials had no comment on the arrests, which were carried out late Wednesday.

The PFLP, based in Damascus and headed by George Habash, has claimed responsibility for a Sept. 6 rocket attack on Israel from Jordanian territory.

The sources named the detainees as Azmi Khawaja, head of the PFLP in Jordan, and PFLP members Abu Mashhour, Ahmad Dahbour, Ahmad Al Mahseeri, Nabil Nijm, Abu Kifah and Hamdi Matar.

In a recent interview, Khawaja said he was questioned by Jordanian authorities after the Sept. 6 rocket attack and threatened with deportation.

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[From the Washington Post, Feb. 21, 1990]

ISRAEL ACCUSES PLO OF CONTINUING TERRORISM

(By Jackson Diehl)

JERUSALEM, February 20—As efforts to arrange Israeli-Palestinian negotiations reach a crucial phase, the United States and Israel are at odds over what the government here says have been clear violations by the Palestine Liberation Organization of its 1988 pledge to give up terrorism.

Despite repeated protests by Israel, the United States has conducted a dialogue with the PLO over the last 14 months and tacitly conceded the organization an indirect role in the current Middle East peace process. In theory, Washington has strictly conditioned the connection on adherence by the PLO to Chairman Yasser Arafat's November 1988 declaration recognizing Israel and renouncing acts of terror against civilian targets.

Israeli officials, however, have been arguing to the Bush administration with increasing vehemence that PLO attacks against Israel have not ceased. Since the beginning of 1989, security officials here say, there have been at least six attempts to penetrate Israel's northern border by guerrillas associated with the Democratic Front for the Liberation of Palestine, a leftist faction within the PLO. The most recent was late last month by a group apparently aiming to attack a kibbutz in northern Israel.

Moreover, senior Israeli officials say they have presented the United States with evidence that Arafat's own Fatah movement launched a raid from Egypt into Israel's Negev desert on Dec. 5. A heavily armed group of five guerrillas crossed the border that night, but were killed by Israeli army troops before they could carry out any attacks.

Defense Minister Yitzhak Rabin told a closed session of Israel's parliament recently that "there is no argument between our military and [U.S.] military about the facts" of the alleged Fatah raid. The United States, he said, agreed that the evidence showed Arafat's group was responsible.

Sources here said that the Bush administration had raised the Negev raid with the PLO leadership in Tunis, and that U.S. officials believed the attack had occurred without Arafat's knowledge or authorization. U.S. officials, the sources added, maintain that Israel has not offered Washington any conclusive evidence connecting Fatah to the attack.

Nevertheless, Israeli officials argue that the United States is ignoring its own policy by keeping the incident quiet and by failing to insist that the PLO denounce the attacks and expel members responsible for them.

According to the "talking points" conveyed by the United States to the PLO at their first official meeting in Tunis in December 1988, no American administration would continue the dialogue if terrorism continued "by the PLO or any of its factions." Moreover, Washington stipulated that in the event of a Palestinian act of terrorism, Tunis would be expected to "not only condemn this action publicly but also discipline those responsible for it."

"Not only has the PLO failed to fulfill these requirements, but Arafat's own Fatah organization, in particular, has itself engaged in terrorist acts," said a report recently prepared by the office of Prime Minister Yitzhak Shamir and delivered to U.S. Ambassador William Brown. "It has encouraged and lauded these attacks even in the midst of the dialogue."

The issue has become particularly sensitive in the wake of a terrorist attack this month on a tour bus outside Cairo in which nine Israelis died. Although the PLO is not suspected of involvement in the incident, it failed to condemn it.

Israel is also pressing the United States about the various commando attacks because the PLO's present role as a silent partner in the peace process is a major irritant to Shamir and the leadership of his right-wing Likud Party.

In the latest incident, an Israeli army patrol came under attack Jan. 26 near Taibeh in southern Lebanon from at least three fighters from the Democratic Front for the Liberation of Palestine, a pro-Syrian faction of the PLO.

The PLO has frequently said that its abandonment of "terrorism" does not include ending attacks on Israeli military targets such as the patrols in Lebanon, and the United States has tacitly accepted this statement.

Israeli security sources say the group at Taibeh was carrying a map of approaches to the Misgav Am kibbutz in Israel, and wire cutters to penetrate the kibbutz's security fence. Moreover, Israeli reports said, a spokesman of the Democratic Front announced publicly after the attack that the group was headed for Misgav Am.

[From the Jerusalem Domestic Service, May 28, 1989]

"SEVERAL" KATYUSHAS HIT SETTLEMENT IN GALILEE

Several Katyusha rockets hit a settlement in Upper Galilee last night. A 1-year-old baby was slightly hurt by flying glass shattered in the explosion. The baby was treated on the spot and did not have to be hospitalized.

Reporter Alan Ben-Ami says there was also a heavy exchange of fire in the security zone in south Lebanon overnight. Israeli and SLA [South Lebanese Army] fire was directed at terrorist targets north of the zone. Last night's Katyusha attack came after 2 months of quiet in the Galilee border area.

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[From Al-Nahar (Lebanon), Oct. 9, 1989]

The "Palestine Liberation Front" [1] announced that a squad belonging to the "Unit of Nahariya Martyrs" was intercepted on October 7, 1989 by a joint patrol of Israeli forces and the South Lebanese Army near the town of Al-Taibeh.

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The squad was on its way to attack Kibbutz Misgav Am. The squad fought the force for some time, using machine guns and anti-tank missiles, and thereby causing the disabling of an armored personnel carrier and casualties among the men on it.

The "Front" announced that its fighters "succeeded in forcing a way open for themselves and withdraw towards Wadi Al-Litani."

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[From the New York Times, Apr. 14, 1990]

ISRAELIS ARE REPORTED TO SINK DINGHY CARRYING 4 GUERRILLAS

BEIRUT, LEBANON, April 13.—The Israeli Navy sank a dinghy carrying four Palestininian guerrillas trying to enter northern Israel from the Lebanese coast, members of the Lebanese and Isreali security forces said today.

They said the guerrillas, equipped with machine guns and grenades, left late Thursday night from a small port near the Rasnidlye refugee district, 46 miles south of Beirut, heading to Israel.

The dinghy was intercepted by an Israeli gunboat and the Israelis shouted by loudspeaker ordering the crew of the dinghy to stop, then opened fire. The fate of those on board is not known.

Lebanese security sources in Tyre said the guerrillas belonged to Al Fatah, the Palestine Liberation Organization group led by Yasir Arafat. P.L.O. representatives in the area declined to comment on the incident.

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[From the Fort Lauderdale Sentinal, Apr. 4, 1990]

ARAB STORE OWNERS' TIES TO PLO UNDER INQUIRY

(By Buddy Nevins)

MIAMI.—Federal agents and a federal grand jury are investigating whether Arab owners of convenience stores in South Florida are funneling money illegally to the Palestine Liberation Organization.

"We've been looking into it for some time. It looks like it's widespread," U.S. Customs Service Agent Ken Stroud said.

The investigation centers on whether there have been violations of U.S. currency laws, which require any transfer of $10,000 or more outside the country to be reported to U.S. authorities, Stroud said.

A local spokesman for the American-Arab Anti-Discrimination Committee branded the accusations "racist." Mounem Kat-tours said government agents look at Palestinians and automatically think PLO.

Customs agents, however, think that at least $1 million in cash has been moved from this area to the PLO, Stroud said.

Customs agents are particularly interested in 12 people arrested on March 7 on charges of dealing in stolen property at six Liberty City convenience stores. Metro-Dade police charged them with 53 felonies and 35 misdemeanors.

Those arrested are Adman Bahhur, Emed Bahhur, Linda Bahhur, Salameh Bahhur, Tamor Chaudhary, Ribhi Farraj, Mahmud Mohammed, Fathi Mustafa, Kamal Rishg, Mohammead Samhan, Mohamad Shouman and a 15-year-old juvenile.

Mr. HELMS. This amendment has been discussed and agreed to on both sides.

Mr. PELL. Mr. President, this is a good amendment which we have cleared. I recommend its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 1657) was agreed to.

Mr. HELMS. I move to reconsider the vote.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1658

AMENDMENT NO. 1659

Mr. HELMS. Mr. President, I have two other amendments which have been agreed to on both sides of the aisle. I ask that amendments numbered 1658 and 1659 be called up and considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes amendments numbered 1658 and 1659 en bloc.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1658

On page 18 line 6, strike all beginning with "that" through "subsection (a)(1)." on line 7 and insert the following: "that—

"(1) reliable intelligence information indicates that the foreign person has ceased to aid or abet any foreign country in its efforts to acquire chemical or biological weapons capability as described in subsection (a)(1) of this section; and

"(2) in the President's judgment, it would be in the national interest of the United States to procure or contract for the procurement of goods or services from such foreign person, or to import goods or services from such foreign person.

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AMENDMENT NO. 1659

On page 17, line 16, strike all after "SANCTIONS.—" through "following," on line 17 and insert: "The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, are as follows:"

Mr. PELL. Mr. President, I believe these amendments are in good order and should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from North Carolina.

The amendments (Nos. 1658 and 1659) were agreed to, en bloc.

Mr. HELMS. I move to reconsider the vote.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1660

(Purpose: To provide substitute language)

AMENDMENT NO. 1661

(Purpose: To provide substitute language)

Mr. HELMS. I send to the desk amendments numbered 1660 and 1661 which are in the same category, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. GARN, proposes amendments numbered 1660 and 1661 en bloc.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1660

On page 22, line 11, strike all beginning with "that" through "subsection (a)(1)." on line 12 and insert the following: "that—

"(1) reliable intelligence information indicates that the foreign person has ceased to aid or abet any foreign country in its efforts to acquire chemical or biological weapons capability as described in subsecton (a)(1) of this section; and

"(2) in the President's judgment, it would be in the national interest of the United States to procure or contract for the procurement of goods or services from such foreign person or to import goods or services from such foreign person.

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AMENDMENT NO. 1661

On page 21, line 21, strike all after "Sanctions.—" through "following;" on line 22 and insert: "The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and are as follows:

[1] The two rival PLF groups which split in 1984—Tala' at Yaaqub and Abu al-Abbas—have reunited in Tunisia under the auspices of Arafat. Hakham Bilawi, the PLO's representative in Tunisia and Yassir Abd Rabo, a member of the PLO Executive Committee (both participants in the dialogue with the U.S.) were present at the reunification ceremony. Abu al-Abbas heads the united PLF.

The PRESIDING OFFICER. Is there further debate?

Mr. PELL. Mr. President, I am familiar with these amendments, and believe they should be passed.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Utah, en bloc.

The amendments (Nos. 1660 and 1661) were agreed to.

AMENDMENT NO. 1654

(Purpose: To revise sanctions provided by the legislation)

AMENDMENT NO. 1655

(Purpose: To revise sanctions provided by the legislation)

AMENDMENT NO. 1656

(Purpose: To revise sanctions provided by the legislation)

Mr. PELL. Mr. President, I call up three amendments which have been filed on behalf of Senator BENTSEN, myself, Senator HELMS, and they are offered by request of the chairman of the Finance Committee to delete import sanctions within the jurisdiction of the Finance Committee.

I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for himself, Mr. BENTSEN, and Mr. HELMS, proposes amendments numbered 1654, 1655, and 1656, en bloc.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 1654

On page 7, strike lines 15 and 16.

AMENDMENT No. 1655

On page 17, strike lines 22 through 24.

AMENDMENT No. 1656

On page 22, strike lines 3 through 5.

Mr. PELL. Mr. President, together with Senator HELMS and Senator BENTSEN, I offer a motion to strike three provisions of the substitute. The effect of this motion is to delete three provisions of the bill relating to import sanctions. The motion is offered because the three provisions to be stricken are within the jurisdiction of the Committee on Finance. The committee has had neither time nor opportunity to review them. Senator BENTSEN and I understand that the Finance Committee will participate with the Foreign Relations Committee in the House-Senate conference on the bill, solely on provisions within the jurisdiction of the Finance Committee. Furthermore, we understand that the Finance Committee conferees will cooperate with the Foreign Relations Committee conferees in fashioning similar and strong import sanctions to prevent the use of chemical and biological weapons. Do I correctly describe the understanding of the Senator from Texas?

Mr. BENTSEN. The distinguished chairman of the Senate Foreign Relations Committee correctly describes our understanding. I want to go to conference to help him fashion similar and strong import sanctions. I support the import sanctions approach and raised the matter solely on account of my concern for the jurisdictional integrity of my committee.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Rhode Island.

The amendments (Nos. 1654, 1655, and 1656) were agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. What is the pending amendment, Mr. President?

The PRESIDING OFFICER. The pending question is the committee amendment, as amended.

AMENDMENT NO. 1652

(Purpose: Expressing the Sense of the Senate regarding the proliferation of ballistic missile technology used for the delivery of chemical, biological, and nuclear weapons)

Mr. SPECTER. Mr. President, I call up amendment No. 1652.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. MCCAIN, Mr. D'AMATO, and Mr. HELMS, proposes an amendment numbered 1652.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Since the proliferation of ballistic and cruise missile technology poses a significant threat to global stability;

Since 17 developing countries are now acquiring technology which would enable them to develop, deploy and deliver biological, chemical, and/or nuclear weapons;

Since currently there is no formal international treaty to restrict the proliferation of ballistic and cruise missile technology or technology what would enable the development of such systems;

Since more extensive international public exposure of developing nations' acquisitions of ballistic and cruise missile technology may help dissuade them from such activities;

Since more extensive international exposure of nations supplying ballistic and cruise missile technology may help dissuade them from such activities;

Since an international effort to discuss proliferation of ballistic and cruise missile technologies would complement strategic and chemical arms control negotiations currently being pursued by the United States and the Soviet Union;

Since an international effort to discuss proliferation of ballistic and cruise missile technologies would complement the objectives of the Nuclear Non-Proliferation Review Conference to be held in Geneva beginning in August of this year;

Therefore the Senate hereby—

(1) Requests that an international conference on the proliferation of ballistic and cruise missile technology used in the delivery of chemical, biological and nuclear weapons be convened following the Nuclear Non-Proliferation Review Conference to be held August 20, to September 14, 1990, and no later than January 1, 1991.

(2) Requests that such conference be sponsored jointly by the United States and the Soviet Union in cooperation with the United Nations and should invite the participation of all member nations.

(3) Requests that the purpose of the conference be to provide international forum for the discussion of means to encourage states to pursue regional efforts to restrict proliferation of ballistic and cruise missile technology used in the delivery of chemical, biological and nuclear weapons.

Mr. SPECTER. Mr. President, this is an amendment which calls for an international conference on proliferation of ballistics and missile technology, and after discussing the matter with the managers, it is acceptable to this Senator that the issue be considered in a committee meeting.

I want to say, Mr. President, that cosponsors on this amendment were Senator HELMS, Senator MCCAIN, and Senator D'AMATO. I formally withdraw the amendment on the understanding that it will be taken up at a hearing of the Foreign Relations Committee.

I yield the floor.

The amendment No. 1652 was withdrawn.

Mr. PELL. Mr. President, I confirm the understanding of the Senator from Pennsylvania, that it will be considered at the appropriate time.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the committee substitute, as amended.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 1662

Mr. DOLE. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1662.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 8 of the substitute, delete the word "nine" and insert in its place the word "twelve".

On page 8, line 19 of the bill, after the words "if necessary", add the following: "and would facilitate the purposes outlined in Section 3 of this Act. Such a waiver may be renewed at Presidential discretion".

Mr. DOLE. Mr. President, if I could have the attention of my colleagues, I will take only a couple minutes to explain this amendment. It is straightforward. It is important on two counts.

First, it gives the President some very important flexibility in administering this act.

Second, I hope to be able to state also if it were included it would lead the administration to drop its announced intention to veto the bill in its current form.

What I want is not only a bill passed by the Senate but one enacted into law. In its present form it will not be enacted into law except over the veto of the President. I cannot see it would serve anyone's interest to force the President to veto this legislation, except some who might see some partisan advantage in forcing the President to veto an otherwise strong chemical weapons bill.

I believe this issue is too important for that kind of partisan consideration. Certainly our action on it to this point has been in a very bipartisan spirit. I commend the chairman and ranking member of the Foreign Relations Committee—the managers of the bill—for their bipartisanship.

The amendment is very simple. Right now, in that section of the bill dealing with sanctions against those nations which use, or are trying to acquire the capacity to use, chemical weapons—the President can delay the imposition of those sanctions for 9 months, while he tries to get the offending nation to mend its ways.

This amendment would extend the President's power to delay imposition of the sanctions from 9 months to 1 year, not a very substantial change, I might add, but it would permit the President to renew that delay annually by certifying that an additional year of delay is in the national interest of the United States, and would facilitate the purposes outline, in section 3 of this bill.

Mr. President, I think we should give the President that flexibility. I think if we put a flat 9-month period in there the President could try for 8 months to try to work things out, he might have everything worked out, the Parliament in that country might not be able to address legislation within the last 30 days, so the sanction would be imposed. There has to be some way for the President to have some flexibility in the future so we do not have some misunderstandings and some mistakes made.

Plus I think this would help enhance the President signing this bill.

Since I filed my amendment I am advised the administration would like to have an additional waiver. I do not happen to share the view for additional waiver authority talking about companies. The administration would like to have it apply to companies as well. We are talking about countries, not companies. We have a 2-year authority now, as I understand it, on companies.

I do not know any real objection to the amendment except the managers of the bill, and that is fairly formidable.

I am pleased to hear from the manager of the bill.

Mr. PELL. Mr. President, with the greatest respect for the minority leader, I must oppose the amendment. It would allow the President, as he suggested, to waive the effect of this bill; not only waive the effect for 9 months, but by renewing the request to waive the effect of it forever.

The President already has the authority to impose all the sanctions that are set forth in the bill, and this bill would impose mandating sanctions for the use of chemical weapons in violation of international law, and to waive that would wipe out the effect of it. So unless anyone else would like to speak——

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1662, AS MODIFIED

Mr. DOLE. Mr. President, I send a modification to the desk.

The amendment (No. 1662) as modified is as follows:

On page 8, line 8 of the substitute, delete the word "nine" and insert in its place the word "twelve".

Mr. DOLE. Mr. President, I believe this will be acceptable. I know of no requests for a vote on this amendment or any request for vote on final passage.

Mr. PELL. Is there a request for vote on final passage?

The PRESIDING OFFICER. The yeas and nays have not been requested.

The question is on agreeing to the amendment, as modified, of the Senator from Kansas.

The amendment (No. 1662), as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment as modified, was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I am pleased that the Chemical and Biological Weapons Control Act has finally come before the Senate for consideration. It is critical that we take action to curb the export of technology for use in chemical weapons development and that U.S. policy delineate clear sanctions against the use of these weapons.

I am an original cosponsor of one of the first bills introduced in the 101st Congress, S. 8, the Chemical and Biological Weapons Control Act. I am pleased that many provisions of S. 8 have been incorporated into the bill before us today.

Two years ago, Iraq's use of chemical weapons against the Kurdish people of northern Iraq shocked the world. While there have been other incidents of chemical weapons use in the past, the horror of the killing of the Kurds added impetus to long-running negotiations on a chemical weapons ban and to attempts to restrict the availability of chemical and biological weapons technology.

In the wake of this incident, closer examination of international chemical weapons capabilities has brought to light some disturbing facts. In March 1989, CIA Director William Webster testified before the Senate Foreign Relations Committee that as many as 20 countries may be developing chemical weapons and at least 10 are working toward production of biological weapons. Just as disturbing is information that by the year 2000, 15 Third World countries are expected to be producing their own ballistic missiles with the potential of carrying chemical warheads.

Now is the time to enact strong controls on the export of technology and materials related to chemical and biological weapons production. This legislation would give the President greater authority to control these technologies and prevent their export to countries suspected of trying to develop these weapons. The bill would allow the imposition of sanctions against a foreign person if the President determines that he or she has contributed to a nation's effort to acquire chemical or biological weapons.

It is critical that U.S. policy clearly state the steps that the United States will take against any nation that uses these weapons against another nation or its own people. Upon Presidential determination that these weapons have been used in violation of international law, under this legislation, 10 sanctions would go into effect automatically. These include termination

of all U.S. non-emergency human needs foreign assistance and all military sales, and denial of any new loans or international financial assistance. The bill urges the administration to press for international support for United Nations Security Council Resolution 620, which calls for similar multilateral sanctions.

This approach should not be viewed as a substitute to the Bush administration's efforts to negotiate an end to U.S. and Soviet chemical weapons production and a worldwide ban on poison gas. I wholeheartedly support the President's recent decision to halt U.S. chemical weapons modernization and production if the Soviet Union agrees to ban production. I hope that substantial progress can be made in these talks in the very near future.

Mr. President, there is a very broad bipartisan support for this legislation in this body. I urge the other body to take immediate action on S. 195 and I urge President Bush to support its enactment. There is no time to lose if we are going to stop the spread of chemical and biological weapons and prevent the reoccurance of the grizzly nightmare of the Kurds.

Mr. RIEGLE. Mr. President, I rise to support Senate passage of S. 195, the Chemical and Biological Weapons Control Act of 1990. We confront a situation today in which irresponsible governments and terrorist groups are attempting to develop chemical and biological weapons to blackmail civilized governments and threaten the peace of the international community. S. 195 seeks to stem the proliferation and use of such weapons.

Title I of the bill requires the President to impose sanctions on any country that uses chemical or biological weapons in violation of international law or against its own citizens. The sanctions would include the termination of all foreign aid and military sales to any such country, the denial of credit to that country from the Export-Import Bank of the United States, and a prohibition on all lending by U.S. banks to that country.

Title II of the bill deals with sanctions on companies that assist countries or terrorist groups in developing and producing chemical and biological weapons. If the President determined companies were aiding the development or production of such weapons, he could, among other things, ban imports by such companies into the United States.

S. 195 was reported by the Senate Foreign Relations Committee on October 17. After it was reported, the Banking Committee sought a short sequential referral as the bill does make important amendments to the Export-Import Bank Charter and the Export Administration Act, two statutes within our committee's jurisdiction. Since a sequential referral requires a unanimous-consent agreement we were unable to get a referral, as not every member of the Foreign Relations Committee agreed to certain amendments we believed were important to safeguard our committee's jurisdiction on these matters.

On November 17, the Banking Committee unanimously adopted a 17-point amendment that was proposed by Senator GARN. None of the points in the amendment adopted by the Banking Committee in any way weakened the bill reported by the Foreign Relations Committee. In fact, some of the proposed points reduced thresholds of proof and made it easier for the administration to enforce that act's provisions.

In adopting Senator GARN's amendment, members of the Banking Committee urged me and Senator GARN to pursue negotiations with Foreign Relations to get acceptance of the 17-point amendment. We did negotiate with the Foreign Relations Committee, and that committee has now agreed to take 15 points of our 17-point amendment in total and to give us a compromise on the other 2 points that safeguard our jurisdictional claims. On the two points they did not take entirely, they agreed to put provisions for sanctions against foreign companies that aid in the development of chemical weapons in both the Export Administration Act [EAA], and the Arms Export Control Act [AECA]. The Export Administration Act, a Banking Committee statute, will be specifically amended to provide sanctions against foreign companies if they ship dual use items and the Arms Export Control Act, a Foreign Relations Committee statute, will be specifically amended to provide sanctions against foreign companies if they ship munitions or any other items, not controlled under the Export Administration Act, that assist a violating country to make chemical or biological weapons. This agreement safeguards our committee's jurisdiction over dual use items.

Under the agreement, when the President puts sanctions on a foreign company for shipping dual-use items that aid in the development of chemical and biological weapons, he will rely on the new authority being put into the Export Administration Act by S. 195. If sanctions are imposed for shipments of munitions or any other items, the President would rely on the new authority that S. 195 puts into the Arms Export Control Act.

In addition to getting satisfaction on the Banking Committee's 17-point amendment, our negotiations with Foreign Relations have produced an agreement that Banking Committee members will be named as Senate conferees on this legislation, and that in the Conference our jurisdictional concerns will be taken fully into account when crafting final bill language. As chairman of the Banking Committee, I am satisfied that this overall agreement fully protects our jurisdictional concerns and allows the Senate to move forward to consider this most important piece of legislation.

I want to commend Senator PELL, the chairman of the Foreign Relations Committee for his leadership in crafting this bill which demonstrates his determination to keep the world community free from the menace that the proliferation of chemical and biological weapons pose to us all. Let me also commend Senators DOLE and GARN who have also expressed a keen interest in passing legislation to help stop the spread and use of these dangerous weapons. I strongly endorse the passage of this bill which will create a clear and serious deterrent against countries that would develop and use chemical weapons, and the companies that would help them along the way.

The PRESIDING OFFICER. Is there further debate?

Mr. PELL. Mr. President, the question now, as I see it, is on agreeing to the committee substitute as amended.

The PRESIDING OFFICER. The Senator is correct. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3033, Calendar Order No. 382, the House companion bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3033) to control the export, to countries pursuing or expanding the ability to produce or deliver chemical or biological weapons, of items that would assist such countries in acquiring such ability, to impose sanctions against companies which have aided in the proliferation of chemical or biological weapons, to provide for sanctions against countries which use or prepare to use chemical or biological weapons in violation of international law, and for other purposes.

Mr. PELL. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the

text of S. 195, as amended, be substituted for the House language.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The bill was read the third time.

Mr. PELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. LIEBERMAN] is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut [Mr. LIEBERMAN] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Vermont [Mr. JEFFORDS], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Wyoming [Mr. WALLOP], are necessarily absent. I also announce that the Senator from Idaho [Mr. SYMMS] is absent on official business.

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—92

| | | |
|---|---|---|
| Adams | Exon | McClure |
| Akaka | Ford | McConnell |
| Baucus | Fowler | Metzenbaum |
| Bentsen | Garn | Mikulski |
| Biden | Glenn | Mitchell |
| Bingaman | Gore | Moynihan |
| Bond | Gorton | Murkowski |
| Boren | Graham | Nunn |
| Boschwitz | Grassley | Packwood |
| Bradley | Harkin | Pell |
| Breaux | Hatch | Pressler |
| Bryan | Hatfield | Pryor |
| Bumpers | Heflin | Reid |
| Burdick | Heinz | Riegle |
| Burns | Helms | Robb |
| Byrd | Hollings | Rockefeller |
| Chafee | Inouye | Roth |
| Coats | Johnston | Rudman |
| Cochran | Kassebaum | Sanford |
| Cohen | Kasten | Sarbanes |
| Conrad | Kennedy | Sasser |
| Cranston | Kerrey | Shelby |
| D'Amato | Kerry | Simon |
| Danforth | Kohl | Simpson |
| Daschle | Lautenberg | Specter |
| DeConcini | Leahy | Stevens |
| Dixon | Levin | Thurmond |
| Dodd | Lott | Warner |
| Dole | Lugar | Wilson |
| Domenici | Mack | Wirth |
| Durenberger | McCain | |

NAYS—0

NOT VOTING—8

| | | |
|---|---|---|
| Armstrong | Jeffords | Symms |
| Gramm | Lieberman | Wallop |
| Humphrey | Nickles | |

So the bill (H.R. 3033), as amended, was passed; as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 3033) entitled "An Act to control the export, to countries pursuing or expanding the ability to produce or deliver chemical or biological weapons, of items that would assist such countries in acquiring such ability, to impose sanctions against companies which have aided in the proliferation of chemical or biological weapons, to provide for sanctions against countries which use or prepare to use chemical or biological weapons in violation of international law, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical and Biological Weapons Control Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) chemical weapons were employed in the recent Iran-Iraq war and by Iraq in attacks against its Kurdish minority;

(2) the use of chemical and biological weapons in violation of international law is abhorrent and requires immediate and effective sanctions;

(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately "appropriate and effective" sanctions against any country using chemical or biological weapons in violation of international law;

(4) the Declaration of the Paris Conference on the Prohibition of Chemical Weapons demonstrates the resolve of most countries to reaffirm support for the 1925 protocol banning the use of chemical and bacteriological weapons and to press for attainment of a ban on the production and possession of chemical weapons;

(5) as many as 20 countries, including Iran, Iraq, Syria, and Libya have or are seeking the capability to produce chemical weapons;

(6) as many as 10 countries are working to produce biological weapons;

(7) by the year 2000, at least 15 developing countries will have the ability to produce ballistic missiles capable of carrying chemical or biological warheads;

(8) the further spread of chemical or biological weapons capabilities would pose a threat of incalculable proportions to friends and allies of the United States and undermine the national security of the United States;

(9) the United Nations should create an effective means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(10) every effort should be made to conclude an early agreement banning the production and stockpiling of chemical or biological weapons.

SEC. 3. PURPOSE.

It is the purpose of this Act—

(1) to mandate United States sanctions and to encourage international sanctions against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals;

(2) to require presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, and deliver chemical and biological weapons;

(3) to urge cooperation with other supplier nations to devise effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production;

(4) to promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(5) to encourage an early agreement banning the development, production, and stockpiling of chemical weapons; and

(6) to seek effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability.

TITLE I—SANCTIONS AGAINST THE USE OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 101. SANCTIONS FOR THE USE OF CHEMICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—(1) Whenever information becomes available to the United States Government indicating the substantial possibility that, on or after the date of enactment of this Act, a foreign country has used chemical or biological weapons, the President shall, within 60 days of the receipt of such information by the United States Government, make a determination as to whether that foreign country, on or after such date, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) Not later than 60 days after the chairman of the Committee on Foreign Relations of the Senate, upon consultation with the ranking minority member of such Committee, or the chairman of the Committee on Foreign Affairs of the House of Representatives, upon consultation with the ranking minority member of such Committee, requests the President to make a determination as to whether or not a foreign country, on or after the date of enactment of this Act, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals, the President shall make such determination and so report in writing to the chairmen of such Committees.

(3) In making the determination under paragraph (1) or (2), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the country in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological

weapons use or to grant such access to other legitimate outside parties.

(b) SANCTIONS. —In the event of a Presidential determination under subsection (a) that, on or after the date of enactment of this Act, a foreign country has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals, then the President shall—

(1) terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance, or for the purpose of purchasing food or other agricultural products;

(2) terminate all foreign military sales financing under the Arms Export Control Act with respect to that country;

(3) terminate United States Government sales to that country of any defense articles or defense services;

(4) prohibit the issuance of any licenses for the export to that country of any item on the United States Munitions List;

(5) prohibit, under the authorities of section 6 of the Export Administration Act of 1979, the export to that country of any goods or technology except food or other agricultural products;

(6) oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance to that country by international financial institutions;

(7) deny that country any credit or credit guarantees though the Export-Import Bank of the United States;

(8) prohibit any United States bank from making any loan or providing any credit to that country, except for loans or credits for the purpose of purchasing food or other agricultural products; and

(9) terminate, consistent with international law, the landing rights in the United States of any airline owned by the government of that country at the earliest practicable date.

SEC. 102. WAIVER.

The President may waive the applicability of some or all of the sanctions listed in section 101 with respect to a specific country for a period of not to exceed twelve months beginning on the date of the determination by the President of use by that country of chemical or biological weapons in violation of international law, or the use of lethal chemical or biological weapons against its own nationals, if he determines that such waiver is in the national interest of the United States and so certifies to the Speaker of the House of Representatives and the President of the Senate. Together with such certification, the President shall submit in writing a statement containing a detailed explanation of the national interest requiring a waiver, which may include a classified addendum if necessary.

SEC. 103. NOTIFICATION.

Not later than five days after he imposes any sanction described in section 101 against a country or waives under section 102 the applicability of any such sanction, the President shall so notify in writing the Speaker of the House of Representatives and the President of the Senate.

SEC. 104 CONTRACT SANCTITY.

(a) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.— No sanction described in paragraphs (6) through (10) of section 101(b) shall apply to any activity pursuant to any contract or international agreement entered into before the date of the appropriate presidential determination under section 101(a) unless the President determines, on a case-by-case basis, that to so apply such sanction would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(2)(A) The same restrictions of section 6(m) of the Export Administration Act of 1979 which are applicable to exports prohibited under section 6 of that section shall apply to exports prohibited under section 101(b)(5).

(B) For purposes of subparagraph (A) of this paragraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(m) of that Act.

(b) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), (3), and (4) of section 101 shall apply to contracts and agreements, without regard to the date such contracts or agreements were entered into, except that such sanctions shall not apply to any contract or agreement entered into before the date of the appropriate presidential determination under section 101(a) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 105. REMOVAL OF SANCTIONS.

The President may remove the sanctions imposed pursuant to section 101 of this Act if the President determines and so certifies to the Speaker of the House of Representatives and the President of the Senate that the country under sanction—

(1) has renounced any use of chemical or biological weapons in violation of international law, or any use of lethal chemical or biological weapons against its own nationals, and has provided reliable assurances to that effect; and

(2) has made satisfactory restitution to those affected in its earlier use of chemical or biological weapons in violation of international law or in its earlier use of lethal chemical or biological weapons against its own nationals.

SEC. 106. PRESIDENTIAL REPORTS.

Not later than 90 days after the date of enactment of this Act, and every 12 months thereafter, the President shall submit to the Speaker of the House of Representatives and the President of the Senate, a report—

(1) detailing efforts by countries or subnational groups that threaten United States security interests or regional stability (including efforts by Iran, Iraq, Libya, and Syria and other developing countries or subnational groups) to acquire the materials and technology to develop, produce, stockpile, and deliver chemical, biological or nuclear weapons, together with an assessment of the present and future capabilities of such countries or subnational groups to develop, produce, stockpile, and deliver chemical, biological or nuclear weapons;

(2) describing the degree to which any country or foreign person has aided or abetted the government of any country or a subnational group to engage in any activity in connection with the acquisition of any such chemical, biological or nuclear weapon; and

(3) listing all United States persons against whom administrative, civil, or criminal penalties have been applied for shipment of goods and technology controlled for chemical, biological and nuclear weapons proliferation purposes pursuant to the Export Administration Act of 1979 or the Arms Export Control Act.

To the extent practicable, reports submitted pursuant to this section should be based on unclassified information. Portions of each such report may be classified.

SEC. 107. MULTILATERAL EFFORTS.

The President is urged—

(1) to continue close cooperation with others in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals applicable to weapons production to Iraq, Iran, Syria, and Libya—countries that currently support or have recently supported acts of international terrorism;

(2) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to chemical or biological weapons production to devise the most effective controls possible on the transfer of such materials, equipment, and technology;

(3) to seek agreements with countries that produce ballistic missiles suitable for carrying chemical or biological warheads that would prevent the transfer of such missiles; and

(4) to take the initiative in pressing for early conclusion of an international agreement banning the development, production, and stockpiling of chemical weapons.

SEC. 108. UNITED NATIONS INVOLVEMENT.

The President is urged to give full support to—

(1) the United Nations Security Council, in furtherance of Security Council Resolution 620, adopted August 26, 1988, in developing sanctions comparable to those enumerated in section 101 of this Act, to be imposed in the event that any country uses chemical or biological weapons in violation of international law; and

(2) the creation of an effective multilateral means of monitoring and reporting regularly on commerce in chemical equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability.

## TITLE II—MEASURES TO PREVENT THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 201. MULTILATERAL EFFORTS.

It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons.

It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to undertake a diplomatic initiative to strengthen the Australia Group's objectives to support the norms and restraints against the spread and the use of chemical warfare, advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Group's domestic industries against inadvertent association with supply of feedstock chemical

equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by introducing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a permanent secretariat,

(B) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members.

(C) liaison officers to the secretariat from within the diplomatic missions.

(D) a close working relationship between the Group and industry.

(E) A public unclassified warning list of controlled chemical agents, precursors, and equipment,

(F) information-exchange channels of suspected proliferants,

(G) a "denial" list of firms and individuals who violate the Group's export control provisions, and

(H) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 202. PRINCIPLES GUIDING THE ADOPTION OF A MULTILATERAL EXPORT CONTROL SYSTEM.

(a) IN GENERAL.—The United States Government should propose to the Australia Group that its objectives should be guided by taking all appropriate measures—

(1) to ensure that the measures are effective in impeding the production of chemical weapons,

(2) to ensure that the measures are easy and economical to implement, and that they are practical; and

(3) to ensure that the measures do not impede the normal trade of chemicals and equipment used for legitimate purposes.

(b) DEFINITIONS.—For the purpose of section 201 and this section, the term "Australia Group" means the group of nineteen OECS nations dedicated to the control of the export of certain chemicals, including Australia, New Zealand, Austria, Belgium, Denmark, Canada, Japan, Norway, United States, United Kingdom, Federal Republic of Germany, France, Greece, Ireland, Italy, Netherlands, Portugal, Spain, Luxembourg, and Switzerland.

SEC. 202. EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technologies.

that the President determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended by adding at the end thereof the following new subsection:

"(q) CHEMICAL AND BIOLOGICAL WEAPONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense shall establish and maintain a list of goods and technology that would directly and substantially assist a country or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability;

"(2) The Secretary shall require a validated license for any export of goods or technology listed under paragraph (1) to any country except those with whose governments the United States has entered into bilateral or multilateral arrangements for the control of such goods or technology and such other countries as the President shall designate consistent with the purposes of this Act.

"(3) Notwithstanding any other provision of this Act, a determination of the Secretary to approve or deny an export license for the export of goods or technology under this subsection may be made only after consultation with the Secretary of State. If the Secretary disagrees with the Secretary of State regarding any determination under paragraph (1) or (2), the matter shall be referred to the President for resolution.".

(c) IMPROVED VERIFICATION OF EXPORT CONTROLS.—The Secretary of Commerce should, in order to supplement existing means of verification of export controls relating to chemical and biological weapons, take measures to encourage voluntary utilization of appropriate independent inspection companies to inspect and certify shipments and end-users of chemicals that could be used in the development of chemical and biological weapons."

SEC. 204. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

The Arms Export Control Act is amended by inserting after section 38 the following new section:

"SEC. 38A. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) DETERMINATION BY THE PRESIDENT.—

"(1) IMPOSITION OF SANCTIONS.—The President subject to subsection (d), shall impose on a foreign person the sanctions under subsection (b) if the President determines that the foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed 'through shipment of goods or technologies that would be, if they were United States goods or technologies, subject to the jurisdiction of the United States, or through any transaction, other than of goods and technology, not subject to sanctions pursuant to the Export Administration Act, to the efforts to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons by any country that the President has determined has at any time after January 1, 1980—

"(A) use chemical or biological weapons in violation of international law;

"(B) use lethal chemical or biological weapons against its own nationals:

"(C) made substantial preparations to do the activities described in clause (A) or (B); or

"(D) been designated pursuant to section 6(j) of the Export Administration Act of 1979 as a country which supports international terrorism.

"(2) CONSULTATIONS WITH THE ACTIONS BY GOVERNMENT OF JURISDICTION.—The President may delay imposition of sanctions against a foreign person for a period of up to 90 days in order to pursue consultations with the government with primary jurisdiction over that foreign person involved in the activities cited in paragraph (1). Following these consultations, the President shall impose sanctions against the foreign person unless he has determined and certified to the Congress that such government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in such activities.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 30 days after making a determination under paragraph (1), on the status of consultations with the appropriate government under paragraph (2), and the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

"(b) SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as any parent, affiliate, subsidiary, and successor entity of the foreign person, are as follows:

"(1) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the foreign person.

"(c) TERMINATION OF SANCTION.—A sanction imposed on a foreign person under this section shall apply for a period of at least 24 months and in no case shall cease to apply to that foreign person until the expiration of the 12-month period beginning on the date the President determines and certifies to the Congress that—

"(1) reliable intelligence information indicates that the foreign person has ceased to aid or abet any foreign country in its efforts to acquire chemical or biological weapons capability as described in subsection (a)(1) of this section; and

"(2) in the President's judgment, it would be in the national interest of the United States to procure or contract for the procurement of goods or services from such foreign person, or to import goods or services from such foreign person.

(d) EXCEPTIONS.—The President shall not be required under this section to apply sanctions—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreement;

"(2) to products or services provided under contracts entered into before the data on which the President publishes his intention to impose sanctions;

"(3) to—

"(A) spare parts,

"(B) component parts, but not finished products, essential to United States products or production, or

"(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(4) to information and technology not directly useful for the development, production, or stockpiling of chemical or biological weapons; or

"(5) to medical or other humanitarian items.

"(e) DEFINITION.—For the purposes of this section, the term 'foreign person' means—

"(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(B) a corporation, partnership, or other entity, including any parent or subsidiary entity thereof, which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

SEC. 205. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

The Export Administration Act of 1979 (50 U.S.C. App. 2410) is amended by inserting after section 11A the following new section:

"CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 11B. (a) DETERMINATION BY THE PRESIDENT.—

"(1) IMPOSITION OF SANCTIONS.—The President, subject to subsection (d), shall impose on a foreign person the sanctions under subsection (b) if the President determines that the foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed through shipment of goods or technologies that would be, if they were United States goods or technologies, subject to the jurisdiction of the United States pursuant to this Act; to the efforts to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons by any country that the President has determined has at any time after January 1, 1980—

"(A) used chemical or biological weapons in violation of international law;

"(B) use lethal chemical or biological weapons against its own nationals;

"(C) made substantial preparations to do the activities described in clause (A) or (B); or

"(D) been designated pursuant to section 6(j) of this Act as a country which supports international terrorism.

"(2) CONSULTATIONS WITH AND ACTIONS BY GOVERNMENT OF JURISDICTION.—The President may delay imposition of sanctions against a foreign person for a period of up to 90 days in order to pursue consultations with the government with primary jurisdiction over that foreign person involved in the activities cited in paragraph (1). Following these consultations, the President shall impose sanctions against the foreign person unless he has determined and certified to the Congress that such government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in such activities.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 30 days after making a determination under paragraph (1), on the status of consultations with the appropriate government under paragraph (2), and the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

"(b) SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and are as follows:

"(1) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from that foreign person.

"(c) TERMINATION OF SANCTIONS.—A sanction imposed on a foreign person under this section shall apply for a period of at least 24 months and in no case shall cease to apply to that foreign person until the expiration of the 12-month period beginning on the date the President determines and certifies to the Congress that—

"(1) reliable intelligence information indicates that the foreign person has ceased to aid or abet any foreign country in its efforts to acquire chemical or biological weapons capability as described in subsection (a)(1) of this section; and

"(2) in the President's judgment, it would be in the national interest of the United States to procure or contract for the procurement of goods or services from such foreign person or to import goods or services from such foreign person.

(d) EXCEPTIONS.—The President shall not be required under this section to apply sanctions—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(3) to—

"(A) spare parts,

"(B) component parts, but not finished products, essential to United States products or production, or

"(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(4) to information and technology not directly useful for the development, production, or stockpiling of chemical or biological weapons; or

"(5) to medical or other humanitarian items.

"(e) DEFINITION.—For the purposes of this section, the term 'foreign person' means—

"(1) the term 'foreign person' means—

"(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(B) a corporation, partnership, or other entity, including any parent or subsidiary entity thereof, which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States: and

"(2) the terms 'defense article' and 'defense service' have the same meanings as are given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.".

SEC. 206. DEFINITIONS.

For the purposes of this Act—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity, including any parent or subsidiary entity thereof, which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and

(2) the terms "defense article" and "defense service" have the same meanings as are given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

## TITLE III—ADDITIONAL RESTRICTIONS ON TRADE WITH CUBA

SEC. 301. PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

SEC. 302. MILITARY AID TO CUBA.

(a)(1) Since totalitarian rule is giving way to democratic rule around the world:

(2) Since the people of Eastern Europe have led the way, embracing Mikhail Gorbachev's policies of Glasnost and Perestroika and replacing totalitarian regimes with elected governments that respect human rights;

(3) Since Fidel Castro's totalitarian rule stands in stark contrast to the democracy sweeping through Eastern Europe, Latin America, and other parts of the world;

(4) Since after thirty years of rule Castro still stubbornly clings to power, publicly attacking the new policies and governments of Eastern Europe, and openly criticizing the policies of Mikhail Gorbachev;

(5) Since despite these attacks the Soviet Union continued to prop up the Castro government, subsidizing the Cuban economy at an annual rate of at least $5.5 billion, $1.5 billion of it in military assistance.

(6) Since Soviet Deputy Prime Minister Leonid Abalkin has publicly stated that commercial ties between the two countries might be expanded and perhaps even substantially increased;

(7) Since the Soviet Union continues to modernize the Cuban armed forces, delivering six new advanced MIG-29 fighters earlier this year;

(8) Since this business as usual support continues at a time when Castro has launched a new wave of repression, arresting human rights activists, underground political leaders, dissidents, university students, and religious leaders;

(9) Since Castro has executed, arrested, and dismissed key members of his military high command, state security ministry, personal body guard, Cuban Communist Party Central Committee, and diplomatic corps during the past year, in an ongoing purge to consolidate control and discourage reform;

(10) Since Castro has arrested and deported international journalists for reporting the growing human rights and pro-democracy movement in Cuba; and

(11) Since Castro has gone so far as to deport Eastern bloc reporters who "compare Cuba to Romania—the calm before the storm," take Soviet publications such as Moscow News out of circulation, and ban Perestroika by Mikhail Gorbachev.

(b) it is the sense of the Congress that—

(1) continuing Soviet support of Cuba remains a serious problem in United States-Soviet relations;

(2) the Soviet Union, in re-examining its relationship with Cuba, should cease military aid to the Castro regime and take all other possible steps to further the policies of Glasnost and Perestroika by adopting policies supporting the political, economic rights, and human rights of the Cuban people.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCURSIONS INTO ISRAEL.

(a) During the next round of talks with the PLO, should such talks occur after the date of enactment of this Act, the representatives of the United States should obtain from the Represenatives of the PLO a full accounting of the following attempted incursions into Israel which occurred after Yasser Arafat's statement of December 1, 1988:

(1) On August 7, 1989, a rocket attack on the settlement of Maoz Haim by members of the PLO-affiliated Popular Front for the Liberation of Palestine.

(2) On February 4, 1990, an unprovoked ambush by the Popular Front for the Liberation of Palestine-General Command on an Israeili tour bus in Egypt that killed 9 and wounded 15 Israelis.

(3) On September 6, 1989, a rocket attack by the PLO-affiliated Popular Front for the Liberation of Palestine aimed at Kibbutz Tel-Katzir that fell on Kibbutz Sha'ar Hagolan.

(4) On January 26, 1990, an attack on an Israeli Army patrol by at least three terrorists of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for Kibbutz Misaay-Am.

(5) On May 28, 1989, an attack by the Popular Front for the Liberation of Palestine and the Palestine Liberation Front, both PLO-affiliated organizations, in which a one-year old Israeli was injured by a Katyush rocket.

(6) On October 7, 1989, an attempted raid on Kibbutz Misgav-Am by a squad of terrorists armed with machine guns and anti-tank missiles from the PLO-aligned Palestine Liberation Front.

(7) On April 13, 1990, an attempted infiltration into northern Israel by boat by four terrorists of Yasser Arafat's Al-Fatah, equipped with machine guns and grenades.

(b) In the event that talks are held with the PLO after the date of enactment of this Act, the Secretary of State, shall include in the next report provided to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate under section 804 of the Foreign Relations Authorization Act for Fiscal Years 1990 and 1991 any accounting provided by the subsection (a) and the relationship between those groups responsible for these attacks and the PLO: *Provided*, That such report shall also include a list of all individuals participating in discussions held between representatives of the United States and of the Palestine Liberation Organization since January 1, 1989; and, that such report should also include any additional affiliations of such representatives of the PLO.

(c) No later than 60 days after enactment, the Commissioner of the Customs Service shall provide the President of the Senate and Speaker of the House of Representatives with a report outlining illegal activities being undertaken in the United States by the Palestine Liberation Organization or on behalf of the Palestine Liberation Organization; including such activities as illegal drug trafficking, money laundering, weapons purchases and arms shipments; estimating the amount of funds associated with such activities; and describing the extent to which members of the PLO Executive Committee, and the PLO Central Council and the Palestine National Council are aware of, or are involved in such illegal activities".

Mr. PELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Rhode Island.

Mr. PELL. Mr. President, the deliberations on S. 195 have been long today, but we have finished this bill in good time and in good order. Passage of the Chemical and Biological Weapons Control Act of 1989 puts the Senate firmly on record in favor of a strong U.S. policy against the use and proliferation of chemical and biological weapons and moves us one step closer to enactment into law of this comprehensive legislation.

The need for this type of legislation cannot be underestimated. Chemical weapons were used repeatedly in the last decade in the Iran-Iraq War. Moreover, Iraq used chemical weapons against its own citizens. Now Iraq is threatening to use chemical weapons again. There is abundant evidence that other nations are developing or seeking to acquire their own chemical and biological weapons.

In light of these events, it is clear that the inhibitions against the use of chemical weapons are slipping and that the civilized nations of the world move to arrest this alarming trend toward the proliferation and use of chemical and biological weapons.

We would do well at this happy moment to remember those now verdant battlefields in France that were witness to the terrible use of poison gas in World War I. The passage of time has not caused us to forget the horror of gas in that war and the revulsion of the nations of the world afterward that led to the agreement upon the Geneva Protocol of 1925. We are now reasserting that concern and showing that the United States is willing to move back into the forefront of those nations that abhor the use of chemical weapons and will make a serious effort and comprehensive attempt to remove chemical and biological weapons from the face of this Earth. It is a solemn and serious responsibility we have undertaken, and I believe we are meeting that responsibility with distinction.

I thank my many colleagues for joining in making this a fine piece of legislation of which we can all be very proud.

I am particularly gratified to see the unanimous vote in this regard.

Mr. President, I ask unanimous consent that S. 195 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I move that the Senate insist on its amendment and request a conference with the House on the disagreeing votes thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VA ADVISORY COMMITTEE DECISION ON SOFT-TISSUE SARCOMA

Mr. DASCHLE. Mr. President, today veterans exposed to agent orange have won a tremendous victory—one they should have celebrated long ago. This afternoon the VA's Advisory Committee on Environmental Hazards concluded that there is a significant statistical association between soft-tissue sarcoma and Vietnam veterans' exposure to agent orange. they will recommend to Secretary Derwinski that veterans suffering from soft-tissues sarcoma be provided VA disability compensation.

Let me explain the significance of this event. The VA's Advisory Committee on Environmental Hazards is very possibly the group least likely to come up with such a recommendation. This is the group that recommended that veterans exposed to atomic radiation not be compensated for radiation-related diseases. This is the group that recommended in November 1989 that veterans exposed to agent orange not be compensated for non-Hodgkin's lymphoma.

Nevertheless, this same group found a significant statistical association between exposure to agent orange and soft-tissue sarcoma, a rare, terminal cancer that has disabled and killed many Vietnam veterans. Several of the Advisory Committee members said the

conclusion was "unavoidable." This conclusion confirms what we who have been involved in the effort to compensate veterans for agent organe-related illnesses have been saying. The evidence is there. Veterans suffering from soft-tissue sarcoma deserve compensation.

Confirmation of that fact from the Advisory Committee should set the record straight once and for all and should pave the way for consideration—by the Advisory Committee, the Secretary of Veterans Affairs, and the Congress—of compensation for other agent orange-related diseases. First among those diseases to be considered should be those outlined in the Agent Orange Scientific Task Force report and Adm. E.R. Zumwalt, Jr.'s, recent report to the Secretary.

Although I have stated some of my strong concerns about the work of the Advisory Committee in the past, some encouraging actions that should improve the Advisory Committee's review procedures were taken today. The Advisory Committee decided to strengthen its future review procedures in two important ways.

First, the Advisory Committee has decided to include more improved statistical analyses of studies based on detailed "power statements" that should allow the group to give proper weight to each study and consider all the studies together in a systematic way. Second, the Advisory Committee has decided to bring in ad hoc committee members who are expert in highly specialized fields, such as reproductive epidemiology and immunology. These experts should enhance the Advisory Committee's ability to review the scientific literature related to reproductive and immunologic effects. These actions should prove helpful in the effort to ensure expert, comprehensive, evenhanded treatment of the scientific evidence.

In spite of these encouraging signs, I remain concerned about the VA's Advisory Committee process. In addition to my general concern about the Advisory Committee's past work, I am extremely skeptical about the Advisory Committee's ability to address the full list of diseases potentially associated with agent orange in a reasonable time frame. This is certainly not the fault of the Advisory Committee members. The body of scientific evidence to be reviewed is formidable, and it simply will not be possible for the Advisory Committee to issue conclusions on each of the diseases suspected to be associated with agent orange before the VA issues its October regulations.

This situation highlights the need for an independent body to review the scientific literature, and the importance of the provision in the agent orange legislation, passed by the Senate and pending in the House, to establish such a review procedure through the National Academy of Sciences. It is important that these issues are resolved in a fair, timely manner, and the National Academy of Sciences can play an important role in that effort.

In conclusion, Mr. President, I hope this is the beginning of the end of the ordeal agent orange victims have suffered—not just for non-Hodgkin's lymphoma or soft-tissue sarcoma victims, but for all veterans disabled by their exposure to agent orange.

## REFORMULATED GASOLINE

Mr. DASCHLE. Mr. President, during the past 2 weeks, we have all been assaulted by a massive advertising blitz orchestrated by the American Petroleum Institute [API] that is designed to defeat the proposed Richardson-Madigan-Waxman amendment to the Clean Air Act. This amendment, which is very similar to the Daschle-Dole-Harkin amendment adopted by the Senate last month, would require the use of cleaner burning gasoline in the Nation's dirtiest cities.

I would like to take a few moments of my colleagues' time today to address some of the charges that have been levied against the delineation of a reformulated gasoline standard in the Clean Air Act amendments.

The catchword of API's media campaign is Government gas. I'm sure all my colleagues have heard this catchy slogan during the last 2 weeks.

Government gas, to hear API tell it, is an evil creation of the U.S. Congress that is capable of polluting our cities and sending the Nation into bankruptcy, all for the benefit of a few corn farmers in South Dakota and Kansas.

That is nonsense.

In reality, Government gas is the multi-million-dollar substance that is being belched from the advertising departments of the multinational oil companies' Washington trade association, the American Petroleum Institute. An API spokesman has confirmed that the organization has alotted $2 million for media buys alone.

Two million dollars for advertisements; that is what the API is spending to mislead the public about the effect of this single amendment. This evidently does not include what is being spent in creative fees and consultants' fees.

And just why is the API pursuing this strategy?

They are trying to obscure the fact that gasoline has become almost 50 percent more toxic in the last decade alone, and that 85 percent of the benzene in the air now comes from gasoline combustion and evaporation.

They are trying to obscure the fact that 50 percent of the cancer deaths attributed to air pollution comes from mobile source pollution.

Let's walk through some of the assertions and half-truths being propagated by the API.

Charge No. 1: Scientists—not politicians—should decide how and when to reformulate gasoline. Does the API really expect anyone to believe that the reformulated gas standards that passed the Senate and are now before the House were pulled from thin air?

Just the opposite is true. The standards were the result of months of working closely with petroleum industry experts, auto makers, State air quality officials, and environmentalists. In fact, the standards are almost identical to the ideal standards outlined by General Motors; they closely mirror recommendations from ARCO and other oil companies; and they are very similar to the gasolines already being marketed by Marathon, Phillips, Conoco, and others.

Charge No. 2: The amendment will cut into efficiency. Would General Motors be recommending an even tougher gasoline standard if it reduced auto efficiency?

One of the many problems with today's high-octane, high-aromatic gasoline is that it clogs fuel injectors and can literally cripple catalytic converters. Cleaner gasoline not only produces less pollution, it also burns cleaner in your engine, making for longer engine life and a more fuel-efficient car.

Charge No. 3: Smog will increase because of Government gas. This may be the most reprehensible charge of all.

All Government data and almost all industry data clearly show that reducing aromatics and increasing oxygen makes a car burn far more cleanly. I would strongly urge the API to look at current EPA data on the subject, and to look at the December 6 Oil and Gas Journal, where an Arco scientist lays out data that clearly show that adding oxygen and reducing aromatics decreases $NO_x$, unburned hydrocarbons, and carbon monoxide, and therefore dramatically decreases smog.

What is the most outrageous about the API comments is that it appears that their propagandists have not even read either the Daschle/Dole/Harkin or Richardson/Madigan/Waxman amendments. Under the terms of the amendments, if a fuel does not decrease smog by at least 15 percent, it cannot be certified by the EPA Administrator. If ethanol cannot meet this standard, it cannot be used.

Charge No. 4: The amendment will cost billions of dollars. The API likes to claim that reformulating gasoline will cost between 15 and 25 cents per gallon. This contrasts with the facts of the marketplace, where several members of the API are already marketing reformulated gasolines that essentially meet the standards of the proposed amendment at little or no additional

cost. Information Resources, Inc., has prepared a cost estimate of the Daschle/Dole/Harkin amendment that states that its cost will run from −2.7 cents per gallon to +2.23 cents, depending on the type of fuel that is used to meet the standard.

Finally, I have in my possession a cost estimate from the Environmental Protection Agency that says the amendment will cost only 2.9 to 3.9 cents per gallon. This estimate had to be leaked, as the millions of dollars spent by the API to discredit the amendment seem to have stalled an official cost estimate from leaving the Agency. I will insert the text of the estimate into the RECORD so my colleagues may see EPA's assumptions and computations.

Mr. President, it is time to set the record straight about the real reason for the oil industry's opposition to our clean gasoline standard. Their priority is not air quality; it is control and market share.

The multinational oil companies, in particular, are fixated on maintaining their stranglehold on the traditional hydrocarbon-only gasoline business. The clean-burning ethers and alcohols that would be required to manufacture clean gasolines would amount to less than 10 percent of the oil industry's 115 billion gallons of gasoline used in the United States each year. Yet, the API's hysterical, distortion-filled ad campaign makes it clear that they regard this intrusion as a serious threat that must be beaten back at all costs.

I sincerely hope that we all consider the source of the Government gas propaganda and keep an objective eye on the facts. The Richardson-Madigan-Waxman amendment, like its counterpart already adopted by the Senate 69 to 30, is good for our environment, our health, our energy security, and our motorists. It should be adopted.

Mr. President, I now ask unanimous consent that the text of the estimate, previously referred to, be printed in the RECORD.

There being no objection, the estimate was ordered to be printed in the RECORD, as follows:

EPA ESTIMATE ON COST OF DASCHLE GASOLINE

The final Daschle gasoline (1996) will be sold in the nine severe ozone nonattainment areas (22% of U.S. fuel consumption) and must meet the following specifications:

(a) Maximum benzene content of 1.0 volume %

(b) Maximum aromatics content of 25 vol. %

(c) Minimum oxygen content of 2.7 wt. %

(d) 15% reduction in ozone forming potential (VOCs)

(e) No increase in $NO_x$

Assuming MTBE is used, 15 vol. % will be needed. The octane provided by the MTBE will allow refiners to back off on reformer severity and reduce aromatics to the 25 vol. % level without any other changes to the refinery. This will also reduce benzene levels to about 1.2 vol. %. The remainder of the benzene reduction can be achieved with existing technology, possible with existing equipment.

Most of the required 15% reduction in ozone forming VOC emissions will result from the addition of oxygenate. The remainder can be achieved by reducing RVP below 9 RVP by 0.6–0.8 RVP in 1992 and by only 0.2–0.5 RVP in 1994 and beyond. The technology for this also exists and is readily available. It is also possible that methods for reducing the photochemical reactivity of VOC emissions will be confirmed by this time, allowing less costly solutions to be developed, such as reducing olefin and/or heavy aromatic concentration.

MTBE is already being produced from isobutane (and many plants are under construction), indicating that current prices (80–95¢ per gallon) will support expanded production from this source. Ample isobutane is available to provide for sufficient MTBE for this and other oxygenate programs.

The cost of Daschle gasoline is as follows:

MTBE (15 vol. % at 28¢/gal over gasoline)—4.2¢/gal.

Savings from the octane value of MTBE—−2.0.

Aromatics control to 25 vol. % (free w/ MTBE)—0.0.

Benzene control to 1 vol. %—0.5–1.0.

RVP control to 8.2–8.2 RVP—0.2–0.7.

Total cost—2.9–3.9.

FEASIBILITY AND COST OF REFORMULATED GASOLINE IN THE NINE SEVERE OZONE AREAS

(1) Daschle Amendment definitely applies to the nine severe ozone nonattainment areas representing 22% of U.S. fuel consumption, could also apply to some additional areas since a population cutoff is not included (also some uncertainty concerning whether 0.179 ppm ozone is considered 0.18 ppm or greater, which could include two more cities)

(2) All gasoline sold in these areas must have:

(a) Maximum benzene content of 1.0 volume %

(b) Maximum aromatics content of: 30 vol. % as of Jan. 1, 1992; 28 vol. % as of Jan. 1, 1994; and 25 vol. % as of Jan. 1, 1996.

(c) Minimum oxygen content of: 2.0 wt. % as of Jan. 1, 1992; 2.5 wt. % as of Jan. 1, 1993; and 2.7 wt. % as of Jan. 1, 1994.

(d) Must produce a 15% reduction in ozone forming potential of volatile organic compounds (VOCs) and no increase in $NO_x$ emitted during the high ozone season (relative to 1989, 9 RVP fuel).

(e) Provisions allow other formulations which comply with (c) and (d) above and which produce the emission reductions associated with (a) and (b) above.

(f) Other provisions allow waivers of the above requirements and extension of the requirements to other areas; these will not be addressed here.

(3) The volume of gasoline affected (22% of U.S. fuel consumption) will grow from 22 to 23 billion gallons annually between 1992 and 1996.

(4) Assuming MTBE is used as the oxygenate, 2.4 and 3.4 billions of gallons per year will be required in 1992 and 1994, respectively. This assumes no spillover to fuel in areas outside of those mandated. To expect 10 or 20% spillover would be more reasonable, so total MTBE demand may be about 2.6–2.9 and 3.7–4.1 billion gallons in 1992 and 1994, respectively.

(5) Current state-mandated wintertime CO reduction programs affect 3.0% of U.S. fuel consumption and will require 0.35 billion gallons of MTBE capacity or 0.2–0.3 billion gallons of ethanol capacity in the mid-1990s. The current breakdown of MTBE/ethanol use in state programs is about 75/25.

Current U.S. ethanol capacity is nearly 1 billion gallons, so this could suffice if economically desirable (ethanol would be preferentially used in the state CO programs over the 9-city program due to the absence of an aromatics limit). However, straight use of ethanol would certain imply an increase in the cost of these programs, so that won't be assumed here. Thus, current state oxygenate programs add about 0.2 billion gallons per year to total U.S. MTBE requirements. (The Federal 3.1 wt. % oxygen mandate contained in the Senate bill has not yet been factored into this analysis, but it is not expected to substantially affect the conclusions.)

(6) Current U.S. MTBE capacity is about 2.0 billion gallons, with worldwide capacity at roughly 3.6 billion gallons, with much of the overseas capacity focused on the U.S. market. Worldwide supply is projected to grow at 20% per year for at least five years. Thus, by 1992 and 1994, U.S. capacity should be roughly 2.9 and 3.0 billion gallons per year, while worldwide capacity should be roughly 5.9 and 6.9 billion gallons per year. Thus, the requirements of the 9-city program plus the state oxygenate programs should require essentially all U.S. capacity, but only 50% and 60% of worldwide capacity in 1992 and 1994, respectively, which is lower than the historic U.S. usage of total worldwide supply. Thus, MTBE plants may or may not need to be built specifically to supply the 9-city program, particularly in 1992, where leadtime is the shortest. Given the geographical dispersion of the nine cities, most, if not all, of the MTBE currently produced in the U.S. could be shifted to those areas without much logistical disruption (excepting the need to segregate the 9-cities gasoline from that going to other areas, which is inherent in the program). Also, overseas capacity can easily be shipped to the 9 cities, since all are major seaports. Certainly no more than half of the required MTBE capacity should need to be built specifically for this program.

(7) MTBE is produced from methanol and isobutylene. Methanol is a commodity chemical available throughout the world at competitive prices. Isobutylene is not widely available. Thus, MTBE plants tend to be located near inexpensive sources of isobutylene. The first wave of MTBE plants were based on isobutylene already available within refineries. Many such MTBE plants were built when gasoline prices were 45–50¢ per gallon and MTBE prices were 60–65¢ per gallon, indicating satisfactory profits could be made at this price. Most refinery isobutylene is already or will soon be utilized to produce MTBE. The second wave of MTBE plants will use isobutylene produced from isobutane contained in field butane (butanes removed from natural gas). Almost all large overseas MTBE plants utilize this process. When gasoline costs rose to its recent range of 55–65¢ per gallon and MTBE costs rose to 80–95¢ per gallon, isobutane based MTBE plants began to be constructed even in North America. This indicates that MTBE can be profitably produced from isobutane and methanol for about 25–30¢ per gallon more than gasoline. The amount of isobutane available far exceeds the amount

needed to supply MTBE to the nine U.S. cities, even considering worldwide demand for MTBE.

(8) Using a midpoint of 28¢ per gallon, a 15 vol.% MTBE blend would add 3.3 octane numbers and 4.2¢ per gallon to the price of gasoline. Historically, the incremental price of premium gasoline over that of regular has been based on the cost of increasing reformer severity and throughput. This price differential has rarely been below 3¢ per gallon (0.5¢ per octane gallon) and has usually been 5, 6 and even 9¢ per gallon (0.8, 1.0 and 1.5¢ per octane gallon, respectively). Using a figure of 0.6¢ per octane gallon (conservatively near the low end of this range, the 3.3 octane gallons supplied by the 15 vol.% MTBE is worth 2.0¢ per gallon in refinery savings. Thus, the net cost of achieving the 2.7 wt.% oxygen and 25 vol.% aromatics requirements is 2.2¢ per gallon. This has been also generally confirmed by Bonner and Moore refinery modelling, which showed the cost of a nationwide 25 vol.% aromatics limit (A much more stringent requirement) was only 2.5¢ per gallon starting from a much higher 37 vol.% aromatics base level.

(9) MTBE plants based on isobutane require about $1 per annual gallon capacity to construct. Thus, if all of the MTBE were to come from new plants, then there plants would cost $2.6–2.9 billion in 1992 and an additional $1.1–1.2 billion in 1994. Actual capital costs resulting from the 9-city program should be less than half this amount.

(10) Use of MTBE to meet the oxygen requirement will result in the following aromatics contents (based on refinery modelling and a baseline aromatics content of 33 vol.%): 1992, 27 vol.%; 1993, 25 vol.%; 1994, 25 vol.%; and 1996, 25 vol.%.

(11) The aromatics contents resulting from MTBE use will naturally comply with the aromatics limits shown in (2b) above.

(12) The natural aromatics reduction arises primarily from reducing reformer severity and reformer throughput. Since the reformer increases octane at the expense of gasoline volume, adding oxygenates improves the refinery's yield of gasoline and reduces internal refinery costs. Thus, both the oxygen and aromatics requirements can be met for the cost of the oxygenate minus the savings associated with less reformer use.

(13) When reformer severity and throughput are reduced, benzene levels should fall proportionately to total aromatics levels, though this will vary from refinery to refinery. With aromatics being reduced from about 33 vol.% today to 25 vol.%, benzene levels should drop from 1.6 vol.% today to 1.2 vol.%. Based on a survey of California refiners, the California Air Resources Board has estimated that reducing benzene from 1.4 to 1.2 vol.% and 0.8 vol.% would cost 1.0 and 1.5¢ per gallon, respectively. Starting at a lower base level, and ending higher should then cost no more than 0.5 to 1.0¢ per gallon. The technology required is readily available, usually consisting of simply distilling benzene precursors (primarily cyclohexanes) from the reformer feed. The capital cost per gallon is roughly 5–7.5¢ per annual gallon capacity for the two California cases described above. Thus, the capital cost for the 9-city program should be about 2.5–5¢ per annual gallon, or $0.5–1.0 billion.

(14) The final cost component is that associated with the 15% ozone reduction. No date is given for this requirement. It will be assumed here to apply in 1992. The combination of 2.0 wt.% oxygen and a 0.6–0.8 RVP reduction should provide the required ozone reduction. With 2.7 wt.% oxygen in 1994, only a 0.3–0.5 RVP reduction should be required. EPA has said Bonner and Moore evaluate such controls in the past for its RVP control rulemaking. There, the cost of a 1.0 psi RVP reduction from 9 RVP was estimated to cost 0.8¢ per gallon. Thus, for the Class C areas (all except Los Angeles, San Diego, and Houston), the additional cost of RVP control should only add 0.5–0.6¢ per gallon in 1992–1993 and only 0.2–0.4¢ per gallon in 1994 and beyond. In the remaining areas, the cost will be roughly 30% higher, due to the lower base RVP in those areas. Assuming a conservative 50/50 split between the gasoline volume in the two groups of cities, the cost of RVP control will be 0.6–0.7¢ per gallon in 1992–93 and 0.2–0.5¢ per gallon in 1994 and beyond. The capital cost of reducing RVP from 9 to 8 was found to be about 0.2¢ per annual gallon capacity. Even allowing for a five-fold increase for the Class B areas, the average capital cost would be only 0.5¢ per gallon, or roughly $0.1 billion in total.

(15) The analysis in (11) above assumes that EPA will not be able to identify any methods for reducing the reactivity of gasoline-related emissions. If the expected benefits of lower olefin and heavy aromatics are confirmed, then even cheaper ozone reducing techniques may be utilized and overall costs reduced.

(16) Adding the cost of MTBE (4.2¢), the related refinery savings (2.0¢), the cost of benzene control (0.5–1.0¢) and that of RVP control (0.6–0.7¢ in 1992–1993 and 0.2–0.5 beyond) results in an overall cost of 3.3–3.9¢ per gallon in 1992–93 and 2.9–3.7¢ per gallon beyond. Capital costs will total $3.2–4.0 billion in 1992, if all the required MTBE is produced from new plants resulting from this program. However, MTBE producers are already anticipating increased demand for MTBE and it is unlikely that more than half this amount will be needed. For 1994, capital costs should total no more than $1.1–1.2 billion.

## A RHODE ISLAND SCHOOL TAKES AN IMPORTANT INITIATIVE TO WORK FOR RELEASE OF HOSTAGES

Mr. PELL. Mr. President, we recently welcomed the return from Lebanon of two American hostages—Robert Polhill and Frank Reed. While we rejoice at their homecoming, I believe it is important to remember that six more Americans and several Europeans still are being held against their will in Lebanon.

Ms. Maggie Fennessey, a teacher at the Ponaganset Middle School in North Scituate, RI, has developed an innovative educational program, Project F.A.T.H.E.R., to focus attention on the plight of the remaining hostages in Lebanon. Ms. Fennessey is calling upon U.S. teachers and students to commemorate Father's Day by participating in a letter writing campaign to plead for the release of the hostages.

This valuable program demonstrates to the hostages and their families that we have not forgotten them and that we continue to work for the hostages' freedom. I believe that it is important for our young people to become involved in this process; students throughout the country could benefit greatly from participation in Project F.A.T.H.E.R. Accordingly, I commend the Ponaganset Middle School's project to my colleagues, and ask unanimous consent that material about Project F.A.T.H.E.R. be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN HOSTAGES

* Terry A. Anderson (3/16/85).
* Thomas Sutherland (6/9/85).
* Joseph James Cicippio (9/12/86).
* Edward Austin Tracy (10/21/86).
* Alann Steen (1/24/87).
* Jesse Jonathan Turner (1/24/87).

OTHER HOSTAGES

* Terry A. Waite, Great Britain (1/20/87).
* Alec Collett, Great Britain (3/25/85).
*John McCarthy, Great Britain (4/17/86).
* Alberto Molinari, Italy (9/11/85).
* Brian Keenan, Ireland (4/11/86).
* Jack Mann, Great Britain (5/12/89).
* Heinrich Stuebig, Thomas Kemptner, West Germany (5/16/89).
* Elio Erriquez, Emmanuel Christen, Swiss Red Cross (10/16/89).

PROJECT F.A.T.H.E.R.—FREE AMERICANS TAKEN HOSTAGE BY ELICITING RESPONSE

We as educators try to teach our students that what we do as individuals makes a difference, that the actions of a few have an impact on the many. We attempt to teach our children to write for a reason, to address a specific audience and concerns which are meaningful to them. I propose a campaign which incorporates all these objectives; specifically, that students in our schools write to plead for the release of the hostages held in the Middle East and that the children do this as a national response to Father's Day, June 17.

Teachers can implement this letter writing campaign as part of a lesson. We can be instrumental in mobilizing our students to write letters which, when gathered together, will be overwhelming in number and influence.

The students' letters should contain two parts: first, an explanation of what June 17, Father's Day, means to us as Americans; and second, a plea for the release of the hostages so they, as fathers or sons of fathers, could be reunited with their families to celebrate this special day.

The students should mention each hostage by name in their letters. For this purpose, a list of the hostages' names is enclosed. It might also be appropriate to have students research or read about each man. This would be determined according to the ages of the students, and the time constraints, and the teacher.

The address to be used is: Ali Akbar Hashemi Rafsanjani c/o Iranian Mission to the U.N., 34th Floor, New York, New York 10017.

The target date for completed letters is May 25, 1990. All students letters should be gathered either by school or district and mailed to: M.A. Fennessey c/o Ponaganset Middle School, 91 Anan Wade Road, North Scituate, RI 02857.

I look forward to hearing from all fifty states, from all students in America. It is to

be hoped that this Father's Day can be celebrated by all.

## THE WALTER BRACKEN ELEMENTARY SCHOOL

Mr. BRYAN. Mr. President, I rise today to congratulate one of Nevada's finest educational institutions. The Walter Bracken Elementary School has been chosen by the U.S. Department of Education as one of the United States Blue Ribbon elementary schools. This is an achievement of which we are all very proud.

Blue ribbon elementary schools are very special. The criteria includes academic achievement and responsible behavior on the part of students, as well as a can-do attitude toward problem solving among the faculty and administration. These qualities are reflected in the inherent ability of both the faculty and student body of Bracken Elementary.

However, even more is required of a blue ribbon elementary school. The school must offer an atmosphere of visionary leadership, and a sense of shared purpose among administrators, faculty, students, and parents. Moreover, there must be a climate conducive to effective teaching, and an environment that says that children of all ability levels can learn.

These are the qualities represented by the Walter Bracken Elementary School. With the leadership of Dr. Bernard Hamilton, Jr., and his staff, Bracken Elementary School has used parental cooperation and a great community effort to reach beyond the status quo. At Bracken, there is a team atmosphere in which there is a true commitment to the well-being of every student. Bracken makes a conscious effort to develop individual educational strategies to try to ensure each child's full potential.

As we grapple with the problems of drug abuse, budget deficits, and insufficient educational opportunities for our students, it has become increasingly apparent that we must harness every possible resource. The Bracken Elementary School has done this. The parents, students, faculty, and staff have displayed the cooperation and dedication to make them all winners.

Mr. President, Dr. Hamilton and the administrators, teachers, parents, and students at Bracken have set an example for our State and for our Nation. I want to congratulate them all, not only for their results, but also for their methods. Their strength is most aptly described by the Walter Bracken Elementary School motto: "We care. We share. We work together."

## FREEDOM AND HUMAN RIGHTS IN CHINA AND TIBET

Mr. PELL. Mr. President, last Friday President Bush signed the enrolled version of Senate Joint Resolution 275 and issued a proclamation declaring May 13 the "National Day in Support of Freedom and Human Rights in China and Tibet." I introduced Senate Joint Resolution 275 earlier this year, which was cosponsored by more than 50 Members of the Senate at the time of its passage. The joint resolution commemorates the anniversary of last year's hunger strikes by Chinese students in Tiananmen Square, which led to the bloody June 4 massacre of the students by the Chinese leadership. It also marks the violent crackdowns by China against peaceful demonstrators protesting Chinese rule in Tibet.

As the infamous June 4 anniversary approaches, it is crucial that we support the continuing efforts by Chinese students and Tibetans to initiate dialog with Chinese leaders. In signing the resolution, President Bush has indicated to the Chinese leadership that we stand behind the courageous Chinese and Tibetans who exemplify the universal standards of freedom and human rights.

I must stress that we chose to commemorate May 13, the day that the peaceful hunger strikes were initiated, rather than June 4, the day of the massacres. June 4 is a date that belongs to the Chinese regime, a date that will likely prove to be its Pyrrhic victory. May 13 is a day of tribute to the nonviolent ideals of the democracy movements in China and Tibet, ideals that found fruition in Eastern Europe but were crushed in China itself.

Mr. President, I ask unanimous consent that at the conclusion of my remarks, the full texts of Senate Joint Resolution 275 and the proclamation issued by President Bush be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 275

Whereas the United States supports the legitimate and democratic aspirations for freedom of peoples throughout the world;

Whereas student and citizen groups throughout the world have taken great risks in pursuit of reform;

Whereas on May 13, 1989, Chinese students began a hunger strike in Tiananmen Square seeking nonviolent dialogue with the Chinese Government;

Whereas the Chinese Government responded to the Chinese students with violence, killing many;

Whereas the non-violent resistance of the people of Tibet to the Chinese Government has also been met with violence;

Whereas the Chinese students and the Tibetan people follow the tradition of the Dalai Lama's and Mahatma Gandhi's doctrine of non-violence, and have inspired the world;

Whereas student organizations throughout the United States and around the world have declared May 13, 1990, as an international day of fasting in support of democratic reforms in China and Tibet; and

Whereas this effort is being undertaken in the hope of bringing the current tragedies in China and Tibet to a peaceful end, and in the hope that productive dialogue will replace an atmosphere of suspicion and reprisal: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet," and calling on the people of the United States to observe such a day with appropriate ceremonies and activities.

NATIONAL DAY IN SUPPORT OF FREEDOM AND HUMAN RIGHTS

[A proclamation by the President of the United States of America]

From mid-April to early June of last year, millions of citizens of the People's Republic of China participated in massive demonstrations in scores of Chinese cities in a remarkable display of peaceful political activity. The goals they espoused—greater freedoms, more respect for human rights, more meaningful opportunities for participation in political processes—are goals cherished by all Americans.

Tragically, on the night of June 3-4, lethal force was used to crush the demonstrations. This action, far beyond the legitimate requirements of law and order, resulted in the deaths of hundreds of unarmed citizens. In the months that followed, many thousands more were detained and otherwise punished for their peaceful expression of political views. Harsh penalties were imposed for activities connected with the demonstrations.

This suppression of dissent in Beijing and other major cities in June echoed the suppression of peaceful demonstrations in Tibet, where a series of demonstrations between October 1987 and March 1989 were put down with increasing severity by Chinese security forces, resulting in the deaths of scores of persons. Participants in subsequent, smaller demonstrations were also imprisoned or otherwise punished for nonviolent political dissent, and martial law was imposed on Tibet's capital from March 1989 until May 1, 1990.

Steps have been taken in recent months that have resulted in some improvement. China lifted martial law in Beijing and Lhasa, announced the release of hundreds of prisoners who had been held for political activities, and stated its willingness to receive officially sponsored U.S. scholars and Peace Corps volunteers. The United States hopes that these steps will be followed by others that will demonstrate China's return to the path of reform.

The Congress, by Senate Joint Resolution 275, has authorized and requested the President to issue this proclamation in support of freedom and human rights.

Now, therefore, I, George Bush, President of the United States of America, do hereby proclaim May 13, 1990, as a National Day in Support of Freedom and Human Rights. I call upon the people of the United States to observe this day in the spirit of commemorating those who died; drawing inspiration from the courage of those who held fast to their ideals in the face of violent suppression; and urging the Chinese Government to respond positively to the fundamental aspirations for freedom expressed in last year's demonstrations. These are the same fundamental aspirations so profoundly expressed by people around the world during the momentous events we are still witnessing—

events that are daily advancing the cause of freedom and human rights.

In witness whereof, I have hereunto set my hand this twelfth day of May, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

GEORGE BUSH.

## LITERACY

Mr. PELL. Mr. President, as we are all aware the problem of literacy has become one of the most alarming issues facing our Nation today. There are a great many individuals in our country who do not know how to read. The Department of Education, for example, estimates there are more than 20 million adults in need of literacy training in the United States. In my own State of Rhode Island, it is estimated that there are at least 100,000 adults who are lacking in literacy competence. The growth of illiteracy is a threat to our strength and a waste of our potential.

Literacy is critical to the health of our Nation, for as a democracy we depend upon an educated and active citizenry. The vitality of our economy rests heavily upon the educational skills of our people—the most fundamental and basic of which is the ability to read. Our strength in the competition with the newly formed European Community and with the Japanese and Asian trading bloc will require that we call upon a highly skilled and educated work force. It will ask of us nothing less than utilizing the full talents of all of our people. To my mind, an investment in literacy is an investment in the future growth and productivity of this Nation. We cannot afford to allow one citizen to fall short of his or her full productive potential because they have not received adequate assistance to help them learn to read.

Very recently, the president of Brown University, Vartan Gregorian, wrote a very perceptive and insightful commentary on this subject. It appeared in the April 29, 1990 edition of the Providence Sunday Journal.

Mr. President, I ask unanimous consent that the article be printed in the RECORD for all my colleagues to read.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Sunday Journal, Apr. 29, 1990]

### LITERACY IS A MEANS TO FREEDOM

(By Vartan Gregorian)

There is a longing nationally in the culture for centrality, for unity, for universality, for cohesion, for logic, for a sense of progress and inclusiveness. The issue is how to do it.

We are 49th among 160 Nations of the United Nations in literacy. That means that 23 to 30 million Americans don't or can't read. Worse, there are also those who know how to read and write, but who won't read.

The concept of literacy itself has been fragmentized. We are now using the term "illiterate" as a euphemism for ignorance of a subject matter. Each discipline is advocating literacy for its own particular subject matter—mathematical literacy, ethical literacy, scientific literacy, artistic literacy, historical literacy and cultural literacy, a term coined by Mortimer Adler, whose final judgment was that education is killing culture; therefore, culture has to be rescued from education.

Literacy in a democracy enhances our humanity. If we are literate, we may expand the ways in which we can learn, understand and appreciate the world around us. Through literacy, we enlarge the range of our vicarious experiences, through our command of written materials and through formulation of new ideas by the reader. To learn to express, to decide and to do, together permit us to become more autonomous, less circumscribed by conditions of social class, sex and ethnicity into which we are born.

Literacy is a means to freedom. It makes it possible for people to determine for themselves what they wish to know and in what depth. It enables people to transcend the boundaries set by others.

That is why throughout history people in power have sought to control the written word. Book burning, censorship and the perpetuation of illiteracy through active or benign neglect have all been means to that end.

Literacy is also memory. History and human experience are best preserved in writing. Literacy gives one access to one's past and continuity of identity, a means to transfer past and present into the future. Literacy makes possible depth and breadth, the pursuit of inquiry in any direction. The illiterate must be satisfied with the knowledge supplied by others; the literate has free choice.

Reading and writing are the essence of thinking, for thought does not exist without them. In a memorable essay on the decay of language, George Orwell observed that when we begin to prefer the vague to the exact, we reduce the range of our consciousness. Eventually, he predicted, we will not know, and we will not care.

Literacy also means the book. Jorge Luis Borges, in one of the last pieces of literature he wrote in the form of a preface for the New York Public Library's exhibition on the treasures of Spain, said, "There are people who cannot imagine a world without birds; there are people who cannot imagine a world without water. As for myself, I am unable to imagine a world without books . . . Of all of mankind's diverse tools, undoubtedly the most astonishing are his books. All the others are extensions of his body."

Books are fragile and, at the same time, powerful objects. They not only permit us to share the imagination of the world, but they grant us at once the right word. Recognizing ourselves in that word, we desire it for everyone. But books need readers. We must remember the dictim of Sir Francis Bacon, who wrote around 1600 that "Reading makes a full man, conversation makes a ready man and writing makes an exact man."

Therefore, it is particularly sad and ironic that in this time and age, one finds oneself speaking in defense of conventional literacy, rather than taking it for granted.

We must defend literacy by the act of reading itself. Since language, according to many anthropologists, defines man and organizes his or her activities, reading appears as an unarguable necessity. To read is to be fully human.

Throughout history, however, the relationship between the book, as a container of information and knowledge and insight, and the reader, the receiver, has been a dialectical and a collaborative one. The relationship assumed a process: understanding and digestion. The process has never been a passive one, for books cannot nourish or even be said to exist until they are digested.

The reader completes a job only begun by an author. This is still true, even at a time when consumption has replaced digestion.

The other aspect of this collaboration between the book and the reader is its intimacy, its privacy. We must not forget that pleasure, discretion, silence and creative solitude are the primary aspects of a life of reading—its most tangible justification and most immediate reward. A person reading is a person suspended between the immediate and the timeless.

Reading constitutes also a self-renewal, an imaginative and humane act. It forces us to see how we would be poorer, what kind of experience we would be missing and what strength we would lack if we did not read. The qualities we would miss by not reading are active, imaginative collaboration and critical distance. These have implications for what even our libraries are and what our learning institutions are.

That is why it is so important for us to remember that literacy and unity of culture, as well as curiosity, must be a life-time purpose. In any democracy, especially ours, we cannot afford to allow one-third of our nation to drift into a permanent underclass. We cannot afford to ride in the *Titanic* as first-class passengers, because when its sinks, there is no solace for any of the passengers.

(Vartan Gregorian, president of Brown, is the former president of the New York Public Library.)

## LEGAL IMMIGRATION REFORM

Mr. SIMPSON. Mr. President, I rise to comment on legal immigration legislation now pending in the House Judiciary Committee.

As my colleagues are aware, Senator KENNEDY and I are cosponsors of legislation (S. 358) which passed the Senate last July. Its purpose is to reform our legal immigration system. While I was rather displeased with that legislation after it was significantly amended on the Senate floor, I found it difficult to vote against legislation on which I had worked so hard and on which the full Senate had spoken its mind.

However, I feel I must now clearly speak out about certain provisions of the House version of this legislation, H.R. 4300, which will soon be considered by the Judiciary Committee. While many provisions in the bill are problematic, I am particularly opposed to: First, removal of the numerical limitation on the second preference, and second, the amnesty program for certain illegal aliens who entered the United States on January 1, 1990, or before.

SECOND PREFERENCE CHANGES

Under current law, U.S. citizens enjoy the full privilege of bringing to the United States their spouse and minor children immediately, without any numerical limitation. All other family and business relationships are subject to an annual numerical limitation of 270,000.

In addition, current law grants immigration benefits to the spouse and children of any alien who receives permanent resident status in the United States. Thus, when an alien receives a permanent immigrant visa, his or her spouse and children may enter the country with him or her. Or, if an alien wishes, he or she may enter without the family, work in the United States until he or she is economically established, and then have his or her spouse and children follow to join as soon as they may want to. As long as the spouse and children were in existence at the time the alien was issued the visa, they may enter when they wish, without restriction.

For those aliens who were not married at the time their visa was issued, the second preference is available. This immigration category allows an alien to bring newly acquired spouses and children to the United States—that is, a family that was started after the original visa was issued. Current law allows approximately 110,000 visas per year to be issued in this category. Because of the large demand for visas in this category, there are backlogs and waiting lists for the second preference.

The Senate bill responded to these backlogs by increasing the number of visas allocated to the second preference: S. 358 contained an increase of approximately 40,000 visas per year. Unfortunately—and startlingly—the House bill responds to the backlogs by deleting entirely the numerical limitation on the spouses and children of permanent resident aliens.

I find the change in the House bill unacceptable for a number of reasons. First, it would grant to permanent resident aliens one of the very few privileges now reserved only for U.S. citizens: The right to receive immediate issuance of visas to spouses and children whose family relationship to the alien began after the alien entered the United States. There are precious few incentives left at the present time for aliens to become U.S. citizens. By removing this clear distinction, we remove yet another reason for aliens to become citizens. I believe assimilation should be promoted, and that this provision would have just the opposite effect.

Second, this change would dramatically increase immigration levels in the next few years. Because of the recent amnesty and special agricultural worker programs in the Immigration Reform and Control Act of 1986, a large number of formerly illegal aliens will soon be able to petition for their family members. According to the ranking Republican member of the House Immigration Subcommittee—my friend Congressman LAMAR SMITH—with no numerical restrictions on the second preference, the numbers immigrating in this category might rise from 110,000 per year to as much as 600,000 per year. I do not believe that such large numbers should be allowed to enter without some method to regulate the flow in order to make it more manageable and orderly. H.R. 4300 creates a new immigration entitlement, and I believe that entitlements are very bad immigration policy.

Finally, some advocates of this change have incorrectly described the lifting of the numerical restriction on the second preference as an effort to "keep families together." That is very misleading and incorrect. In fact, it is current law that keeps families together, through the accompanying or following to join provisions of the law that allow existing immigrant families to come to the United States together—or to join the immigrant spouse and parent at a later date. H.R. 4300, on the other hand, creates an entitlement to immediate immigrant visas for aliens who go abroad and start new families after those aliens have been granted permanent residence in the United States. I fail to see any justification for such a broad, new entitlement, given the protection that current law provides for families in existence when the visas are issued.

Two things must be remembered: First, if an alien leaves his country with family members still residing back home, it was the alien who voluntarily chose to break up the family; and second, if an alien without family immigrates to the United States, he may become a U.S. citizen in 5 years, and then any new family may join him immediately.

AMNESTY PROGRAM

In addition, H.R. 4300 would grant amnesty to illegal aliens, and to temporary legal alien visitors, who were present in the United States on or before January 1, 1990, and who come from countries that were adversely affected by the 1965 immigration amendments.

I strongly object to this second amnesty on a number of grounds. First, we promised this Nation back in 1986 that the amnesty in the Immigration Reform and Control Act [IRCA] was to be a one-time-only proposition, and that the cutoff date for amnesty benefits would not advance beyond January 1, 1982, the most generous proposal ever to pass either House of Congress. The amnesty in H.R. 4300 specifically breaks that promise, and I find it most troubling and unacceptable.

Second, the cutoff date in the House amnesty proposal rewards persons who illegally immigrated to the United States after the enactment of IRCA on November 6, 1986. I believe it is ludicrous to state that we are serious about stopping illegal immigration as of late 1986, and then to give another amnesty to aliens entering illegally 3 years later, wholly absurd. Yet that is exactly what H.R. 4300 does. In fact, it would give amnesty to illegal aliens who entered as recently as 6 months ago. There is simply no justification whatever for this provision.

Finally, H.R. 4300's amnesty program only gives benefits to persons from 36 countries who were adversely affected by the 1965 amendments to our immigration law. While I oppose any new amnesty program, I also believe that it is inequitable to limit amnesty benefits based solely on an alien's nationality. I did not oppose granting a limited number of legal immigrant visas to those from adversely affected countries under the "NP-5" program, but I do object to running amnesty programs only for illegal aliens from certain countries.

This is not a complete catalog of my objections to H.R. 4300. I see many other areas of disagreement—for example, the lack of a numerical limitation on the family members of employment-based immigrants, and the changes made to the Immigration Reform and Control Act. However, I did want to discuss some of H.R. 4300's most serious flaws. I could not work for in conference nor support any legal immigration reform bill with provisions such as those that I have just described.

## MESSAGES FROM THE HOUSE

At 9:38 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 29. An act to amend the Clayton Act regarding interlocking directorates and officers.

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At 11:42 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 286. Concurrent resolution authorizing the 1990 Special Olympics Torch Relay to the run through the Capitol Grounds.

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At 12:24 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution,

in which it requests the concurrence of the Senate:

H. Con. Res. 311. Concurrent resolution providing for printing of additional copies of the booklet entitled "Our Flag."

ENROLLED BILL SIGNED

At 7:29 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3910. An act to require the Secretary of Education to conduct a comprehensive national assessment of programs carried out with assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

## MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second time by unanimous consent, and placed on the calendar:

H.R. 29. An act to amend the Clayton Act regarding interlocking directorates and officers.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2986. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, the selected acquisition reports for the quarter ended March 31, 1990; to the Committee on Armed Services.

EC-2987. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend title 13 of the United States Code to provide for sharing statistical establishment list information with the Bureau of Economic Analysis to augment, and improve the quality of, its international data; to the Committee on Commerce, Science, and Transportation.

EC-2988. A communication from the Secretary of Agriculture, transmitting, pursuant to law, notice of the intention of the Department to accept a 60 acre land donation and include it within the boundary of the Mount Sneffels Wilderness Area, Uncompahgre National Forest, Colorado; to the Committee on Energy and Natural Resources.

EC-2989. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report stating that it is necessary to construct modifications to the Deer Flat Dams, Boise Project Idaho; to the Committee on Energy and Natural Resources.

EC-2990. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

EC-2991. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2992. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2993. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2994. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2995. A communication from the Chairman of the Lower Mississippi Delta Development Commission, transmitting, pursuant to law, the final report of the Commission; to the Committee on Environment and Public Works.

EC-2996. A communication from the Assistant Secretary of the Treasury (Tax Policy), transmitting a draft of proposed legislation to amend the Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, to extend the existing user fees on each request for a letter ruling, determination letter, opinion letter, or other similar ruling or determination from the Internal Revenue Service; to the Committee on Finance.

EC-2997. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the Commission's recommendations on the Medicare Volume Performance Standard for fiscal year 1991; to the Committee on Finance.

EC-2998. A communication from the Chairman of the United States International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1992; to the Committee on Finance.

EC-2999. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to May 10, 1990; to the Committee on Foreign Relations.

EC-3000. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report and recommenations with respect to a claim for reimbursement of expenses; to the Committee on Governmental Affairs.

EC-3001. A communication from the Director of the National Legislative Commission of the American Legion, transmitting, pursuant to law, the annual audit report of the American Legion for calendar year 1989; to the Committee on the Judiciary.

EC-3002. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend programs under the Developmental Disabilities Assistance and Bill of Rights Act; to the Committee on Labor and Human Resources.

EC-3003. A communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate, showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in his possession from October 1, 1989 through March 31, 1990; ordered to lie on the table.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-491. A resolution adopted by the Senate of the State of Hawaii to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE RESOLUTION 203

"Whereas, the agricultural development in Hawaii has been burdened by land limitations, transportation costs of shipping equipment, chemicals, feed, and high labor costs; and

"Whereas, the optimum development and diversification among all segments of the agricultural industry requires constant reexamination of agricultural objectives and policies, and adjustments to refine the industry's ability to adapt to changing markets and demands; and

"Whereas, the small size of the average farm in Hawaii only makes the problems for farmers more acute and the obstacles to the growth of the diversified agriculture industry more formidable; and

"Whereas, the success of diversified agriculture in Hawaii depends upon its ability to cope with the challenges of the national and international marketplaces by: implementing efficient production methods; developing larger and more businesslike farms to offset capital costs; starting aggressive product promotion and advertising programs; utilizing sophisticated and innovative marketing analysis and development; and obtaining adequate and affordable financing; and

"Whereas, the blending of these economic and social elements into an environment conducive to the development of agricultural enterprises in Hawaii requires careful evaluation of the existing policies, systems, and institutions that have an impact on agricultural development and the development of new, bold, and innovative policies and structures to facilitate the development of successful agricultural enterprises; and

"Whereas, the effective evaluation and amendment of existing policies, systems, and institutions affecting agricultural development requires people from many disciplines including, among others; economics, finance, agribusiness, marketing, advertising, and transportation: Now, therefore, be it

*Resolved* by the Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, That the President of the Senate and the Speaker of the House of Representatives shall appoint a task force to evaluate existing policies, systems, and institutions that affect agriculture and to

identify those policies, systems, and institutions that hinder the development of agricultural enterprises; and be it further

*Resolved,* That the task force shall be chaired by the chairperson of the Senate Committee on Agriculture, and shall include members with knowledge and experience in economics, finance, agribusiness, marketing, advertising, transportation, or other expertise determined by the chairpersons of the task force to be essential to the work of the task force; and be it further

*Resolved,* That the task force shall submit a report of findings and recommendations to the Legislature twenty days prior to the convening of the Regular Session of 1991; and be it further

*Resolved,* That certified copies of this Resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives, the Chairperson of the Senate Committee on Agriculture, and the Chairperson of the House Committee on Agriculture."

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POM-492. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Environment and Public Works:

"SENATE RESOLUTION 2

"Whereas, all of the states in this country are increasing their reliance on waste reduction and recycling as part of an overall solid waste management approach; and

"Whereas, plastics are becoming an increasing portion of the waste stream and present significant challenges to recycling efforts; and

"Whereas, a viable recycling system includes reliable and cost-effective collection, processing, and end use markets; and

"Whereas, the Society of the Plastics Industry, Inc. (SPI) has developed voluntary coding guidelines to facilitate identification of plastic for purposes of recycling; and

"Whereas, the SPI coding guidelines incorporate seven code numbers with associated acronyms set off by a commonly recognized three arrow recycling symbol; now, therefore be it

*"Resolved* by the Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, that this body supports the adoption of a nationwide system of labeling uniformity in plastic material identification codes, which leads to the recycling of those materials; and be it further

*Resolved* that the Administrator of the Environmental Protection Agency is urged to develop rules for uniform recycling symbols in conjunction with plastic material identification codes; and be it further

*"Resolved* that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Environmental Protection Agency, Hawaii's Congressional delegation, and to each of the presiding officers of the legislative bodies of each state of the United States of America."

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POM-493. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Foreign Relations:

"SENATE RESOLUTION 43

"Whereas, driftnet fishing fleets, which are capable of spinning out approximately 30,000 miles of net every day, are decimating the Pacific fisheries resource and illegally trapping and killing endangered or threatened marine life and seabirds having little or no commercial value; and

"Whereas, these fine, monofilament nets stretch as much as thirty miles in length and forty feet down, indiscriminately trapping whales, dolphins, sharks, fur seals, billfish, salmon, tuna, and albatross, brutalizing and killing them; and

"Whereas, these dead or dying creatures are then discarded, left to rot or die slow, agonizing deaths; and

"Whereas, the devastation caused by lost or abandoned driftnets is perhaps worse, as these highly durable nets continue to "ghost fish" indefinitely, continuing to trap and ensnare fish and other marine life for no beneficial purpose whatsoever; and

"Whereas, these nets sink with the weight of their helpless victims, only to rise up again as the corpses rot and decompose to renew the devastating cycle; and

"Whereas, at the South Pacific Fisheries Forum held in June 1989, twenty nations called for the Asian driftnet fishing fleets to end their plunder of the Pacific; and

"Whereas, a 'Proclamation on High Seas Driftnet Fisheries in the North Pacific Ocean,' dated October 1989, was signed by the Premier of British Columbia and the Governors of Alaska, Washington, Oregon, Idaho, California, and Hawaii to urge Canada and the United States to initiate diplomatic efforts through the United Nations and other appropriate forums to secure an international ban on driftnet fishing on the high seas; and

"Whereas, only Japan and Taiwan, which maintain large driftnet fleets, refused to join in this effort, and South Korea, although it pulled its driftnet fishing vessels out of the south Pacific, continues to maintain driftnet fishing operations in the north Pacific; and

"Whereas, despite Japan's contention that there is insufficient scientific data to prove driftnet fishing is harmful to the environment, Japan has banned driftnets closer than 700 miles to its shores for the last ten years to protect its own fisheries; and

"Whereas, existing evidence tends to refute Japan's position, for example:

(1) In 1988-1989, driftnetters caught between 40,000 and 50,000 tons of albacore tuna, which is four to five times greater than the sustainable yield of the Pacific, and such exploitation could cause a collapse of the fishery within two years;

(2) Research by Canadian fisheries biologists has revealed unacceptable numbers of mortalities for various species of whales, dolphins, porpoise, seals, seabirds, and other marine life as a result of driftnet fishing;

(3) Biologists believe that hundreds of thousands, perhaps millions, of seabirds perish each year in driftnets of the more than 1,000 fishing vessels in the Pacific ocean; and

(4) Scientists studying whale populations fear that driftnetting may pose an even greater threat to the existence of whales than commercial whaling;

and

"Whereas, newly outfitted fishing vessels can carry twice the amount of driftnet as older vessels; and

"Whereas, the Hawaii State Legislature has previously acted to prohibit the deplorable practice of driftnet fishing in Hawaiian waters by enacting Act 345 during the Regular Session of 1989; and

"Whereas, stronger measures must be taken to send a message to driftnet fishing nations that the brutal and indiscriminate killing of marine life through the use of driftnets will no longer be tolerated: Now, therefore, be it

*"Resolved* by the Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, that the Senate hereby publicly condemns the practice of driftnet fishing and expresses its deep concern over the continuation of the practice; and be it further

*"Resolved* that the President of the United States and the United States Congress are urged to suspend trade relations with any nation supporting or sanctioning the practice of driftnet fishing; and be it further

*"Resolved* that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and Hawaii's congressional delegation."

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POM-494. A resolution adopted by the House of Representatives of the State of Kentucky; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, the 'Star Spangled Banner' has been the National Anthem of the United States since 1931; and

"Whereas, thousands of Americans have fought in wars and conflicts all over the world under the banner of the United States Flag; and

"Whereas, the efforts necessary to defend the flag, and the great ideals for which it stands, takes active defense against foes from within and without the United States; and

"Whereas, House Resolution 225, now pending in the United States Congress, proposes to change the National Anthem of the United States from the 'Star Spangled Banner'; and

"Whereas, Mr. George Lloyd Dennis of Bowling Green, Kentucky, a decorated veteran of the United States Army, having served with distinction in the defense of United States and the flag in the 101st Airborne Division, has taken it upon himself to work for the retention of the 'Star Spangled Banner' as our National Anthem; and

"Whereas, in undertaking this project, Mr. Dennis has mortgaged his home and undertaken considerable other financial risks in order to establish a telephone survey to take the opinion of the American public regarding the changing of the National Anthem; and

"Whereas, the 900 phone number poll will begin May 1, 1990; and

"Whereas, the 900 number to call in support of the 'Star Spangled Banner' is 1-900-490-6351; and

"Whereas, the number in opposition to the 'Star Spangled Banner' is 1-900-490-6352; and

"Whereas, the General Assembly supports the one man army of Mr. George Lloyd Dennis in his effort to assure an impartial poll of Americans in regard to HR-225; Now, therefore, be it

*"Resolved* by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

"Section 1. That the House of Representatives does hereby congratulate and commend Mr. George Lloyd Dennis in his single-handed effort in support of the 'Star Spangled Banner'.

"Section 2. That the House of Representatives does hereby support the proposition of keeping the 'Star Spangled Banner' as our National Anthem.

"Section 3. That the House of Representatives does hereby oppose HR-225;

"Section 4. That a copy of this Resolution be sent to Mr. George Lloyd Dennis, the Kentucky Congressional Delegation, the sponsor of HR-225, the President and the Vice President of the United States, the Majority and Minority Leaders."

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHAFEE (for himself, Mr. HARKIN, Mr. CRANSTON, and Mr. DECONCINI):

S. 2646. A bill to amend the Public Health Service Act to establish a Substance Abuse Treatment Corps, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself, Mr. SIMON, and Mr. GORE):

S. 2647. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on Governmental Affairs.

By Mr. BIDEN (for himself and Mr. THURMOND):

S. 2648. A bill to amend title 28, United States Code, to provide for civil justice expense and delay reduction plans, authorize additional judicial positions for the courts of appeals and district courts of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 2649. A bill to provide for improved drug abuse treatment and prevention; to the Committee on Labor and Human Resources.

By Mr. BIDEN:

S. 2650. A bill to implement a National Drug Strategy to prevent illegal use of drugs, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. DODD, Mr. WILSON, Mr. DECONCINI, Mr. DOLE, Mr. COATS, and Mr. THURMOND):

S. 2651. A bill to amend chapter 53 of title 31, United States Code, to require the Department of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN (for himself and Mr. GARN):

S.J. Res. 318. Joint resolution providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. DOMENICI:

S.J. Res. 319. Joint resolution designating May 1990 as "Take Pride in America Month"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. METZENBAUM (for himself, Mr. DOLE, Mr. SIMPSON, Mr. MURKOWSKI, Mr. PELL, Mr. LUGAR, Mr. SIMON, Mr. MCCLURE, and Mr. BOREN):

S. Res. 287. A resolution expressing the sense of the Senate with respect to the possibility of Organization of African Unity mediation in the Ethiopian civil war; considered and agreed to.

By Mr. DOLE (for himself, Mr. LAUTENBERG, Mr. ARMSTRONG, Mr. LUGAR, Mr. HELMS, and Mr. DODD):

S. Con. Res. 131. Concurrent resolution urging free and fair elections and respect for fundamental human rights in Romania; to the Committee on Foreign Relations.

By Mr. HEFLIN:

S. Con. Res. 132. Concurrent resolution expressing the sense of the Congress that August 30, 1990, be observed as "1890 Land-Grant Institutions Centennial Recognition Day"; to the Committee on Labor and Human Resources.

By Mr. SIMPSON (for Mr. MITCHELL) (for himself and Mr. DOLE):

S. Con. Res. 133. Concurrent resolution providing for the use of the Capitol Rotunda; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. HARKIN, Mr. CRANSTON, and Mr. DECONCINI):

S. 2646. A bill to amend the Public Health Service Act to establish a Substance Abuse Treatment Corps, and for other purposes; to the Committee on Labor and Human Resources.

SUBSTANCE ABUSE TREATMENT CORPS ACT

● Mr. CHAFEE. Mr. President, I am pleased to be joined by Senators HARKIN, DECONCINI, and CRANSTON in introducing the Substance Abuse Treatment Corps Act. This legislation is designed to recruit critically needed health professionals to provide drug and alcohol abuse counseling and treatment in underserved areas.

One of the most powerful weapons in fighting the war on illegal drugs is treatment. By helping addicts conquer their dependence on drugs we reduce demand. Over the past 5 years, we have recognized this and more than doubled Federal funding for treatment programs. Yet the availability of appropriate counseling and treatment programs remains severely limited.

In 1989, approximately 1,400,000 individuals were admitted to alcohol and drug treatment programs. Nearly 70,000 people, however, were on waiting lists for assistance, and over 10 million additional people were identified as needed some form of treatment.

The lack of health care professionals who are qualified to provide drug and alcohol treatment is a primary reason that care remains unavailable for so many. Part of the problem is that substance abuse counselors often shy away from providing services in inner city or rural settings.

The implications of the unavailability of treatment and counseling for those with drug and alcohol problems, particularly adolescents, are very serious. The Substance Abuse Treatment Corps [SATC] would help expand access to these critical services in both urban and rural settings.

Under our bill, health professionals would be recruited to provide drug and alcohol abuse counseling and treatment in underserved areas through a scholarship program that assists people in financing their education and training and a loan repayment program that repays a portion of an individual's school loans.

For each year an individual receives assistance, through either the scholarship or loan repayment program, the individual must provide 1 year of alcohol and drug abuse treatment in an underserved area. Many Corps members are likely to be placed in community health centers, rural health clinics, community mental health centers and other facilities serving low-income populations.

The SATC would be equitably allocated among urban and rural areas. Although fewer people in rural areas are addicted to crack or heroine than in inner cities, rural areas face an equally devastating problem with excessive alcohol use.

Our legislation is modeled after the National Health Service Corps, which has been largely successful in recruiting health professionals to provide care in underserved areas. Our objective is not to compete for limited National Health Service Corps funds, but to supplement the NHSC by expanding the availability of drug and alcohol treatment.

I urge my colleagues to recognize the need for expanding treatment in underserved areas and support the establishment of the Substance Abuse Treatment Corps.

Mr. President, I ask unanimous consent that six letters of support for this legislation, and the bill itself, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2646

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Substance Abuse Treatment Corps Act".

SEC. 2. ESTABLISHMENT OF SUBSTANCE ABUSE TREATMENT CORPS.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:

"Subpart VI—Substance Abuse Treatment Corps

"SEC. 340A. ESTABLISHMENT OF TREATMENT CORPS.

"(a) ESTABLISHMENT.—There is established within the Service a unit to be known as the Substance Abuse Treatment Corps. The purpose of the Treatment Corps is to in-

crease the availability of treatment for alcohol and drug abuse in geographic areas in which there is a significant incidence of such abuse and an inadequate availability of such services. The Secretary may carry out such purpose only through the assignment, in accordance with this section, of Treatment Corps members to provide such services for such areas.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Treatment Corps shall, subject to paragraph (2), consist of such officers of the Regular and Reserve Corps of the Service as the Secretary may designate, such civilian employees of the United States as the Secretary may appoint, and such other individuals who are not employees of the United States.

"(2) REQUIREMENT OF LICENSE OR CERTIFICATION FOR PROVISION OF TREATMENT.—The Treatment Corps shall consist only of individuals who have been licensed or certified by a State to provide treatment for the abuse of alcohol or drugs or who have been certified by the Secretary as being qualified to provide such treatment services.

"(3) CRITERIA REGARDING OTHER LICENSES OR CERTIFICATIONS.—

"(A) IN GENERAL.—If an individual has been licensed or certified for purposes of paragraph (1), the individual may, subject to subparagraph (B), serve in the Treatment Corps without regard to whether the individual has received education regarding the provision of health services other than treatment for the abuse of alcohol or drugs.

"(B) LIMITATION.—Of individuals who have been licensed or certified for purposes of paragraph (2) and who hold additional licenses or certifications in the health professions, mental health professions, or professions regarding social services, such an individual may serve in the Treatment Corps only if the individual is a physician, psychiatrist, clinical psychologist, physicians assistant, nurse, nurse practitioner, psychiatric nurse, marriage therapist, family therapist, social worker, or a graduate of a school of public health.

"(c) DETERMINATION OF ELIGIBLE GEOGRAPHIC AREAS.—

"(1) CONSIDERATION OF CERTAIN FACTORS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall by regulation establish criteria for determining the geographic areas that are geographic areas described in subsection (a). In establishing such criteria, the Secretary—

"(A) shall first consider the ratio of available providers of treatment for alcohol and drug abuse to the number of individuals in the geographic area involved; and

"(B) shall in addition consider indicators of need, notwithstanding the supply of such providers, for treatment for alcohol and drug abuse in the geographic area, with special consideration to indicators of—

"(i) the incidence of alcoholism and alcohol abuse;

"(ii) the incidence among pregnant women of addiction to drugs;

"(iii) the incidence among adolescents of the use of alcohol and drugs;

"(iv) the access to treatment for alcohol and drug abuse; and

"(v) the ability to pay for such treatment.

"(2) ADDITIONAL MINIMUM REQUIREMENTS.—The Secretary may not assign a Treatment Corps member to a geographic area described in subsection (a) unless the Secretary has conducted an evaluation regarding the area and has determined that—

"(A) there is a need and demand in the area for treatment for alcohol or drug abuse;

"(B) public and private entities in the area have made unsuccessful efforts to secure such treatment for the area; and

"(C) there is community support for an assignment of a Treatment Corps member for the area.

"(d) ASSIGNMENT OF MEMBERS OF TREATMENT CORPS.—

"(1) IN GENERAL.—The Secretary may assign a Treatment Corps member only to a public or nonprofit private entity that—

"(A) provides health services or treatment for substance abuse to a geographic area described in subsection (a); and

"(B) enters into an agreement with the Secretary regarding—

"(i) the duration of the assignment to the entity of the Treatment Corps member; and

"(ii) the allocation between the Secretary and the entity of costs relating to the assignment.

"(2) LIMITATION REGARDING LICENSURE BY STATE INVOLVED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not assign a Treatment Corps member to an entity unless the State in which the entity is located has licensed or certified the member to provide treatment for alcohol or drug abuse.

"(B) EXCEPTION.—In the case of a State that does not require that an individual be licensed or certified as a precondition to providing treatment for alcohol and drug abuse, the Secretary may assign a Treatment Corps member to an entity in the State only if the Secretary has certified the member as being qualified to provide such services. In providing such certifications, the Secretary shall consider relevant standards developed by nationally recognized medical-specialty societies.

"(3) EQUITABLE ALLOCATION.—The Secretary shall ensure that the services of the Treatment Corps are equitably allocated among the principal geographic regions of the United States, and that not less than 50 percent of such services are equitably allocated among rural areas of the United States.

"(4) REQUIREMENT OF APPLICATION.—The Secretary may not make an assignment of a Treatment Corps member under paragraph (1) unless an application for the assignment is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) SCHOLARSHIP PROGRAM.—

"(1) IN GENERAL.—With respect to any student described in paragraph (2), the Secretary shall establish a program of entering into contracts with such students under which the students agree to serve in the Treatment Corps on obtaining the educational degree involved in consideration of the Federal Government agreeing, for each school year for which the scholarship is provided—

"(A) to pay on behalf of the student for each such school year—

"(i) tuition for the student; and

"(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student for each such year; and

"(B) to pay to the student a stipend not in excess of $400 per month for each of the 12 consecutive months beginning with the first month of each such school year.

"(2) ELIGIBLE STUDENTS.—A student referred to in paragraph (1) shall be a full-time student enrolled (or accepted for enrollment) in an accredited educational institution in a course, study, or program leading to a degree regarding service as a provider of treatment regarding alcohol and drug abuse, leading to a degree regarding service as a physician, psychiatrist, clinical psychologist, physicians assistant, nurse, nurse practitioner, psychiatric nurse, marriage therapist, family therapist, or social worker, or leading to a degree from a school of public health.

"(3) APPLICABILITY OF CERTAIN PROVISIONS.—Except to the extent inconsistent with paragraph (1), the provisions of subpart III shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the loan repayment program established in section 338A.

"(f) LOAN REPAYMENT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program of entering into contracts with individuals described in paragraph (2) under which the individuals agree to serve in such Corps in consideration of the Federal Government agreeing to repay, for each year of service in the Corps, not more than $20,000 of the principal and interest of the educational loans of the individuals.

"(2) ELIGIBLE INDIVIDUALS.—An individual referred to in paragraph (1) shall be an individual who has been licensed or certified for purposes of subsection (b)(2), any individual who is a physician, psychiatrist, clinical psychologist, physicians assistant, nurse, nurse practitioner, psychiatric nurse, marriage therapist, family therapist, social worker, or a graduate of a school of public health, and any individual who is a full-time student enrolled (or accepted for enrollment) in an accredited educational institution in a course, study, or program leading to a degree regarding any of such professions.

"(3) APPLICABILITY OF CERTAIN PROVISIONS.—Except to the extent inconsistent with paragraph (1), the provisions of subpart III shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the loan repayment program established in section 338B.

"(g) DEFINITIONS.—For purposes of this section:

"(1) RURAL AREA.—The term 'rural area' has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

"(2) TREATMENT CORPS.—The term 'Treatment Corps' means the National Substance Abuse Treatment Corps established under subsection (a).

"(3) TREATMENT CORPS MEMBER.—The term 'Treatment Corps member' means each of the individuals of which the Treatment Corps consist pursuant to subsection (b).

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $26,000,000 for fiscal year 1991.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991, or on the date of the enactment of this Act, whichever occurs later.

AMERICAN ACADEMY OF PEDIATRICS,
*Washington, DC, May 16, 1990.*

Hon. JOHN H. CHAFEE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CHAFEE: On behalf of the Academy, whose 39,000 members are dedi-

cated to child and adolescent health, I want to convey to you formally our strong support of the new Substance Abuse Treatment Corps Act, which will be introduced presently. This important measure should go a long way toward providing more drug and alcohol abuse treatment personnel to our nation's areas of need, both urban and rural. It also promises to expand access to treatment and counseling for thousands of American children and youth whose needs are urgent and yet unmet.

You are to be commended for your continuing efforts to promote the health of infants, children and adolescents. The Academy looks forward to working with you again, as always, to that end.

Sincerely,

BIRT HARVEY,
*President.*

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NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.,
*Washington, DC, April 16, 1990.*

Hon. JOHN CHAFEE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CHAFEE: The National Association of Community Health Centers is pleased to support the Substance Abuse Treatment Corps Act of 1990, which we understand you will soon introduce. This bill responds directly to the need Community Health Centers have been experiencing for several years now—a lack of capacity for the treatment of substance abuse in the populations they serve.

Even the new targeted federal efforts of the past few years to address the needs of women and children in high-risk areas cannot expand capacity in existing treatment settings fast enough to meet the present crisis in the many families newly threatened by drugs.

While we are aware that facilities, as well as personnel, will be needed to truly augment capacity, and space is already a major problem at many Health Centers, we feel that your efforts give sorely needed leadership in addressing key health care system implications of new epidemics such as substance abuse, and provide a most timely model for general capacity development.

We are concerned—particularly at this time—that more federal resources are desperately needed to sustain the general National Health Service Corps (NHSC) to meet the pressing needs of Community and Migrant Health Centers; we are heartened by your assurances that funding for the new Substance Abuse Treatment Corps will not come at the expense or the NHSC appropriations. Clearly, the needs are so great here that increased overall resources for these efforts are absolutely necessary.

Please let us know what more we can do to help to forward this important legislation.

Sincerely,

DANIEL R. HAWKINS, Jr.,
*Director, Policy Analysis.*

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AMERICAN PSYCHOLOGICAL ASSOCIATION,
*Washington, DC, May 17, 1990.*

Hon. JOHN CHAFEE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CHAFEE: The American Psychological Association (APA), the leading scientific and professional assocation representing over 100,000 clinicians, researchers, educators, consultants and students, commends you for your efforts in introducing the Substance Abuse Treatment Corps Act. Psychology plays an integral role in drug abuse treatment, rehabilitation and prevention. Psychologists are currently actively involved in the war against drugs on all levels, but there remains a need to attract more qualified mental health health care professionals to provide services where they are critically needed and often inadequate or unavailable.

The APA supports the concept of the Substance Abuse Treatment Corps Act which will establish a special unit within the National Health Service Corps as a means to encourage qualified professionals, including mental health professionals, to enter the field of substance abuse treatment. Students or professionals making a commitment to work in public/no-profit treatment programs will become eligible for tuition assistance or loan repayment. This program will provide the necessary assistance to enable individuals to work in programs that are often underfunded and understaffed.

Research clearly demonstrates that drug treatment can work so long as those who are providing the treatment have the necessary skills and training and adequate funds are made available to sustain treatment services and aftercare. We believe acknowledging the need to ensure an adequate pool of qualified personnel is a critical component to any serious nation drug control strategy.

We thank you again for your continued efforts and support in the development of policy and programs to fight substance abuse. We look forward to working with you on this proposal to ensure passage of legislation which will substantially enlarge the pool of qualified professionals willing to devote themselves to drug abuse prevention, treatment and rehabilitation.

Sincerely,

BRYANT WELCH, J.D., PH.D.,
*Executive Director*
*for Professional Practice.*

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NATIONAL ASSOCIATION OF STATE ALCOHOL AND DRUG ABUSE DIRECTORS,
*Washington, DC, April 2, 1990.*

Hon. JOHN CHAFEE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CHAFEE: I am writing on behalf of the members of the National Association of State Alcohol and Drug Abuse Directors (NASADAD) to express our strong support for your leadership in introducing legislation to address the critical shortage of available alcohol and other drug abuse treatment professionals.

As administrators of the State and Territorial publicly funded alcohol and other drug abuse treatment and prevention system, we know the frustration local treatment programs are experiencing in attracting and keeping qualified professional staff. Unfortunately, low salaries, deplorable physical facilities, more physically sick and dying clients due to AIDS/HIV, and staggering caseloads inhibit our ability to recruit undergraduate and graduate students into the substance abuse field.

Your legislation, which will reimburse educational costs in exchange for service in alcohol and other drug abuse treatment programs, will provide a much needed incentive to attract more professionals. Establishment of a Drug Abuse Treatment Corps will also serve to heighten awareness of the manpower shortages that exist throughout the country and to foster support for an increased pool of dedicated and qualified individuals.

Thank you for your leadership on this issue. If there is any way in which NASADAD can assist you, please contact me or Diane Canova, Director of Public Policy, at (202) 783-6868.

Sincerely,

JOHN S. GUSTAFSON,
*President.*

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AMERICAN ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY,
*Washington, DC, April 3, 1990.*

Senator JOHN CHAFEE,
*Washington, DC.*

DEAR SENATOR CHAFEE: The American Association for Marriage and Family Therapy (AAMFT) is pleased to offer its support for legislation which you will introduce shortly to add a distinct Drug Abuse Treatment Corps component to the existing National Health Service Corps. You are to be commended for your effort to address the demand side of the substance abuse problem that continues to plague individuals and families in both rural and urban America.

It is my understanding that the addition of a Drug Abuse Treatment Corps is intended to complement the heroic efforts of the National Health Service Corps program by recruiting new personnel to provide substance abuse treatment in both rural and urban communities designated as Health Manpower Shortage Areas. It is not intended to supplant or detract from current or future Corps activities.

On behalf of the 17,000 members of AAMFT, thank you for working to address our nation's critical need for enhanced substance abuse treatment. AAMFT looks forward to working with you to achieve enactment of this important proposal at the earliest possible date.

Sincerely,

MARK R. GINSBERG, PH.D.
*Executive Director.*

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THERAPEUTIC COMMUNITIES OF AMERICA,
*Washington, DC, April 23, 1990.*

Hon. JOHN CHAFEE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CHAFEE: On behalf of the Therapeutic Communities of America, an association of residential substance abuse treatment programs with over 300 sites nationwide. I encourage you to support the Substance Abuse Treatment Corps Act of 1990.

As you know, drug abuse is one of our nation's most pressing problems. The continual rise in the number of individuals seeking treatment, (the average waiting list for entrance into a residential treatment program is 3-6 months) combined with the increase in the incidence of poly drug use (which requires more complex treatment methods), support the need for more qualified health care professionals.

The establishment of a Substance Abuse Treatment Corps (SATC) will address this need by recruiting qualified health care professionals, ensure that they are licensed or certified and provide financial assistance to students in specific health professions. Your serious consideration of SATC is greatly appreciated.

Sincerely,

R. DOUGLAS CHIAPPETTA,
*Director, National Office.*●

By Mr. KENNEDY (for himself, Mr. SIMON, and Mr. GORE):

S. 2647. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on Governmental Affairs.

NEW COLUMBIA ADMISSION ACT

● Mr. KENNEDY. Mr. President, on behalf of Senator SIMON, Senator GORE, and myself, I am introducing legislation to grant statehood to the District of Columbia.

The measure is not new—but it is overdue. Statehood is a matter of simple justice for the 600,000 citizens of the District of Columbia.

No one doubts this will be a difficult uphill struggle—but we are committed to the effort, and today we move it into higher gear.

I continue to be amazed—and appalled—by the hypocrisy of Members of Congress opposing this measure. They honor democracy everywhere else—why not in the capital of their own country?

Members of Congress enthusiastically support democracy for foreign citizens who live 5,000 miles away in Eastern Europe—why not for Americans who live less than 5 miles from here in the eastern market?

Members of Congress staunchly oppose dictators from Nicaragua to Lithuania to Beijing—but they bask in their own role and cling to their own power as dictators of the District.

As we begin this new national campaign for statehood, we hope public opinion around the country will hasten the end of this harsh plantation mentality in Congress. Now is the time to stop the disgraceful double standard that makes the District of Columbia "America's Last Colony."

A new breeze of democracy is sweeping across Europe and many other parts of the world. We believe the time is right to open the eyes of the rest of America to the plight of the District—and to open the windows of the Capitol, so that all Members of Congress can feel the breeze of democracy too.

The people of this city deserve the same fundamental rights that all other Americans enjoy—to elect Members of the Senate and House of Representatives and participate in making the Federal laws by which they are governed.

Denial of statehood condemns citizens of the District to second class status, and makes a mockery of the principle of representative government on which America is founded. Taxation without representation is as wrong in 1990 as it was in 1776.

Making the District of Columbia part of Maryland is no answer. We cannot turn back the clock 200 years and begin anew. Part-way measures and half-hearted initiatives do not satisfy the basic principle of self-determination. The people of the District of Columbia deserve their full rights. That means statehood, nothing less.

No part of the Constitution prohibits its enactment of this legislation. Congress will still keep control of the specifically Federal areas of the District, which is all the Constitution requires. Those areas represent less than 20 percent of the territory of the District; the other 80 percent deserves statehood.

The District of Columbia clearly meets the long-accepted constitutional and historical criteria for admitting States to the Union. It has more people than three States. It provides more Federal tax revenues than eight States. It is clearly committed to the principles of democracy. Its resources and population are clearly sufficient to support statehood. The will of the people has been clearly expressed. Surely, by any fair test, the District is entitled to statehood. It is time to end the longstanding hypocrisy and make the District of Columbia America's 51st State.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2647

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Columbia Admission Act".

SEC. 2. ADMISSION INTO THE UNION.

Subject to the provisions of this Act, and upon issuance of the proclamation required by section 7(d)(1) of this Act, the State of New Columbia (hereinafter referred to as "the State") is declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution adopted by the Council of the District of Columbia in the Constitution for the State of New Columbia Approval Act of 1987 (D.C. Bill 7-154), subject to ratification by a majority of the registered qualified electors of the District of Columbia, is found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence and is accepted, ratified, and confirmed.

SEC. 3. CONSTITUTION.

The constitution of the State of New Columbia shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

SEC. 4. TERRITORIES AND BOUNDARIES.

(a) Subject to the provisions of this section, the State of New Columbia shall consist of all of the territory, together with the territorial waters, of the District of Columbia. The State of New Columbia shall not include the National Capital Service Area of the District of Columbia, which is described in subsection (b). As of the date of admission of New Columbia into the Union, the District of Columbia shall consist of the National Capital Service Area.

(b) The National Capital Service Area, subject to the provisions of section 16, is comprised of the principal Federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the Federal executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building.

(c) Notwithstanding any other provision of this section or of section 16, the boundaries of the State of New Columbia shall include the District Building.

SEC. 5. COMPACT WITH UNITED STATES; CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) As a compact with the United States, the State and its people disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

(d)(1) Subject to paragraph (2), notwithstanding any other provision of law, the annual Federal payment authorized to be appropriated to the District of Columbia pursuant to section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-3406) shall be authorized to be appropriated to the State of New Columbia.

(2) The Governor shall submit the Governor's request, with respect to the amount of an annual Federal payment, to the Congress not less than seven months before the beginning of a fiscal year for which a request is made. As part of such request, the Governor shall report on the following items:

(A) Services rendered to the Federal Government and the cost to the State of New Columbia for providing such services.

(B) Potential revenues lost because of certain factors brought on by the presence of the Federal Government within the State, including height restrictions on buildings located within the State and revenues not obtainable because of lack of taxable property and business income within the State.

(C) Potential revenues gained because of the presence of the Federal Government within the State.

The Governor shall submit copies of the request to the Congressional Budget Office and to the Office of Management and Budget upon submission of the request to the Congress. Each such office shall report to the Congress, within 30 days after receipt of the copy of the request, concerning the office's analysis of the Federal payment requested and of the items reported by the Governor.

SEC. 6. STATE TITLE TO LANDS AND PROPERTY.

(a) The State of New Columbia and its political subdivisions shall have and retain title or jurisdiction for purposes of administration and maintenance to all property, real and personal, with respect to which title or jurisdiction for purposes of administration and maintenance is held by the territory of the District of Columbia as of the date of the enactment of this Act.

(b) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the State of New Columbia or its political subdivisions pursuant to this section or reserving the right to alter, amend, or repeal laws relating thereto shall cease to be effective upon the admission of the State of New Columbia into the Union.

SEC. 7. ELECTIONS.

(a)(1) Not more than sixty days after the date of enactment of this Act, the President of the United States shall certify such enactment to the Mayor of the District of Columbia. Not more than thirty days after such certification the Mayor of the District of Columbia shall issue a proclamation for the elections, subject to the provisions of this Act, for officers of all State elective offices provided for by the constitution of the proposed State of New Columbia and for two Senators and one Representative in Congress.

(2) In the first election of Senators from the State (pursuant to paragraph (1)) the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial offices shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) The proclamation of the Mayor of the District of Columbia required by subsection (a) shall provide for the holding of a primary election and a general election and at such elections the officers required to be elected as provided in subsection (a) shall be chosen by the people. Such elections shall be held, and the qualifications of voters shall be, as prescribed by the constitution of the proposed State of New Columbia for the election of members of the proposed State legislature. Election returns shall be made and certified in such manner as the constitution of the proposed State of New Columbia may prescribe. The Mayor of the District of Columbia shall certify the results of such elections to the President of the United States.

(c)(1) At an election designated by proclamation of the Mayor of the District of Columbia, which may be the primary or the general election held pursuant to subsection (b), a territorial general election, or a special election, there shall be submitted to the electors qualified to vote in such election, for adoption or rejection, the following propositions:

(A) New Columbia shall immediately be admitted into the Union as a State.

(B) The boundaries of the State of New Columbia shall be as prescribed in the New Columbia Admission Act and all claims of the State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

(C) All provisions of the New Columbia Admission Act, including provisions reserving rights or powers to the United States and provisions prescribing the terms or conditions of the grants of lands or other property made to the State of New Columbia, are consented to fully by the State and its people.

(2) In the event the propositions under paragraph (1) are adopted in such election by a majority of the legal votes cast on such submission, the proposed constitution of the proposed State of New Columbia, adopted by the Council of the District of Columbia in the Constitution for the State of New Columbia Approval Act of 1987 (D.C. Bill 7-154), shall be deemed amended accordingly.

(3) In the event any one of the propositions under paragraph (1) is not adopted at such election by a majority of the legal votes cast on such submission, the provisions of this Act shall cease to be effective.

(4) The Mayor of the District of Columbia is authorized and directed to take such action as may be necessary or appropriate to ensure the submission of such propositions to the people. The return of the votes cast on such propositions shall be made by the election officers directly to the Board of Elections of the District of Columbia, which shall certify the results of the submission to the Mayor. The Mayor shall certify the results of such submission to the President of the United States.

(d)(1) If the President finds that the propositions set forth in subsection (c)(1) have been duly adopted by the people of New Columbia, the President, upon certification of the returns of the election of the officers required to be elected as provided in subsection (a), shall issue a proclamation announcing the results of such election as so ascertained. Upon the issuance of such proclamation by the President, the State of New Columbia shall be deemed admitted into the Union as provided in section 2 of this Act.

(2) Until the State of New Columbia is admitted into the Union, individuals holding legislative, executive, and judicial offices of the District of Columbia, including the Delegate in Congress from the District of Columbia, shall continue to discharge the duties of their respective offices. Upon the issuance of such proclamation by the President of the United States and the admission of the State of New Columbia into the Union, the officers elected at such election, and qualified under the provisions of the constitution and laws of such State, shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of such State, and offices not required to be elected at such initial election shall be selected or continued in office as provided by the constitution and laws of such State. The Governor of such State shall certify the election of the Senators and Representative in the manner required by law, and the Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

SEC. 8. HOUSE OF REPRESENTATIVES MEMBERSHIP.

The State of New Columbia upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law, except that such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives or affect the basis of apportionment for the Congress.

SEC. 9. LAWS IN EFFECT.

Upon admission of the State of New Columbia into the Union, all of the territorial laws then in force in the Territory of the District of Columbia shall be and continue in force and effect throughout the State, except as modified or changed by this Act, or by the Constitution of the State, or as thereafter modified or changed by the legislature of the State. All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States.

SEC. 10. CONTINUATION OF SUITS.

(a) No writ, action, indictment, cause, or proceeding pending in any court of the District of Columbia or in the United States District Court for the District of Columbia shall abate by reason of the admission of the State of New Columbia into the Union, but shall be transferred and shall proceed within such appropriate State courts as shall be established under the constitution of the State, or shall continue in the United States District Court for the District of Columbia, as the nature of the case may require. And no writ, action, indictment, cause, or proceeding shall abate by reason of any change in the courts, but shall proceed within the State or United States courts according to the laws thereof, respectively. The appropriate State courts shall be the successors of the courts of the District of Columbia as to all cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with such cases, and award mesne or final process therein, and all files, records, indictments, and proceedings relating to any such writ, action, indictment, cause, or proceeding shall be transferred to such appropriate State courts and shall be proceeded with therein in due course of law.

(b) All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of the State, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Columbia in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the substantive or criminal law governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the District of Columbia shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Columbia.

SEC. 11. APPEALS.

Parties shall have the same rights of appeal from and appellate review of final decisions of the United States District Court for the District of Columbia or the District of Columbia Court of Appeals in any case finally decided prior to the admission of the State of New Columbia into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall

have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State shall be to the United States District Court for the District of Columbia or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Columbia and of the Supreme Court of the State of New Columbia, as successor to the District of Columbia Court of Appeals, in any case pending at the time of admission of the State into the Union, and the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

SEC. 12. JUDICIAL AND CRIMINAL PROVISIONS.

Effective upon the admission of New Columbia into the Union—

(1) Section 41 of title 28, United States Code is amended in the second column by inserting ", New Columbia" after "District of Columbia".

(2) The first paragraph of section 88 of title 28, United States Code, is amended to read as follows:

"The District of Columbia and the State of New Columbia comprise one judicial district.".

SEC. 13. MILITARY LANDS.

(a) Subject to subsection (b) and notwithstanding the admission of the State of New Columbia into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The State of New Columbia shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the State of New Columbia, or to prevent the State from exercising over or upon such lands, concurrently with the States, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as delineated by the President of the United States or the Secretary of Defense.

SEC. 14. UNITED STATES NATIONALITY.

No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

SEC. 15. RELATIONSHIP TO OTHER LAWS.

No law or regulation which is in force on the effective date of this Act shall be deemed amended or repealed by this Act except to the extent specifically provided herein or to the extent that such law or regulation is inconsistent with this Act.

SEC. 16. NATIONAL CAPITAL SERVICE AREA.

(a) The National Capital Service Area referred to in section 4 is more particularly described as follows:

Beginning at the point on the present Virginia-District of Columbia boundary due west of the northernmost point of Theodore Roosevelt Island and running due east of the eastern shore of the Potomac River;

thence generally south along the shore at the mean high water mark to the northwest corner of the Kennedy Center;

thence east along the north side of the Kennedy Center to a point where it reaches the E Street Expressway;

thence east on the expressway to E Street Northwest and thence east on E Street Northwest to Eighteenth Street Northwest;

thence south on Eighteenth Street Northwest to Constitution Avenue Northwest;

thence east on Constitution Avenue to Seventeenth Street Northwest;

thence north on Seventeenth Street Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue to Jackson Place Northwest;

thence north on Jackson Place to H Street Northwest;

thence east on H Street Northwest to Madison Place Northwest;

thence south on Madison Place Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue Northwest to Fifteenth Street Northwest;

thence south on Fifteenth Street Northwest to Pennsylvania Avenue Northwest;

thence southeast on Pennsylvania Avenue Northwest to John Marshall Place Northwest;

thence north on John Marshall Place Northwest to C Street Northwest;

thence east on C Street Northwest to Third Street Northwest;

thence north on Third Street Northwest to D Street Northwest;

thence east on D Street Northwest to Second Street Northwest;

thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest;

thence northeast on Louisiana Avenue Northwest to North Capitol Street;

thence north on North Capitol Street to Massachusetts Avenue Northwest;

thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square;

thence following Union Square to F Street Northeast;

thence east on F Street Northeast to Second Street Northeast;

thence south on Second Street Northeast to D Street Northeast;

thence west on D Street Northeast to First Street Northeast;

thence south on First Street Northeast to Maryland Avenue Northeast;

thence generally north and east on Maryland Avenue to Second Street Northeast;

thence south on Second Street Northeast to C Street Southeast;

thence west on C Street Southeast to New Jersey Avenue Southeast;

thence south on New Jersey Avenue Southeast to D Street Southeast;

thence west on D Street Southeast to Canal Street Parkway;

thence southeast on Canal Street Parkway to E Street Southeast;

thence west on E Street Southeast to the intersection of Canal Street Southwest and South Capital Street;

thence northwest on Canal Street Southwest to Second Street Southwest;

thence south on Second Street Southwest to Virginia Avenue Southwest;

thence generally west on Virginia Avenue to Third Street Southwest;

thence north on Third Street Southwest to C Street Southwest;

thence west on C Street Southwest to Sixth Street Southwest;

thence north on Sixth Street Southwest to Independence Avenue;

thence west on Independence Avenue to Twelfth Street Southwest;

thence south on Twelfth Street Southwest to D Street Southwest;

thence west on D Street Southwest to Fourteenth Street Southwest;

thence south on Fourteenth Street Southwest to the middle of the Washington Channel;

thence generally south and east along the midchannel of the Washington Channel to a point due west of the northern boundary line of Fort Lesley McNair;

thence due east to the side of the Washington Channel;

thence following generally south and east along the side of the Washington Channel at the mean high water mark, to the point of confluence with the Anacostia River, and along the northern shore at the mean high water mark to the northernmost point of the Eleventh Street Bridge;

thence generally south and west along such shore at the mean high water mark to the point of confluence of the Anacostia and Potomac Rivers;

thence generally south and east along the northern side of the Eleventh Street Bridge to the eastern shore of the Anacostia River;

thence generally south along the eastern shore at the mean high water mark of the Potomac River to the point where it meets the present southeastern boundary line of the District of Columbia;

thence south and west along such southeastern boundary line to the point where it meets the present Virginia-District of Columbia boundary;

thence generally north and west up the Potomac River along the Virginia-District of Columbia boundary to the point of beginning.

(b) Where the area in subsection (a) is bounded by any street, such street, and any sidewalk thereof, shall be included within such area.

(c)(1) Any Federal real property affronting or abutting, as of the date of the enactment of this Act, the area described in subsection (a) shall be deemed to be within such area.

(2) For the purposes of paragraph (1) Federal real property affronting or abutting such area described in subsection (a) shall—

(A) be deemed to include, but not limited to, Fort Lesley McNair, the Washington Navy Yard, the Anacostia Naval Annex, the United States Naval Station, Bolling Air

Force Base, and the Naval Research Laboratory; and

(B) not be construed to include any area situated outside of the District of Columbia boundary as it existed immediately prior to the date of the enactment of this Act, nor be construed to include any portion of the Anacostia Park situated east of the northern side of the Eleventh Street Bridge, or any portion of the Rock Creek Park.

SEC. 17. STATEHOOD TRANSITION COMMISSION.

(a) There is established a Statehood Transition Commission.

(b) The Commission shall be composed of thirteen members appointed as follows:

(1) three shall be appointed by the President;

(2) two shall be appointed by the Speaker of the House;

(3) two shall be appointed by the President of the Senate;

(4) three shall be appointed by the Mayor of the District of Columbia; and

(5) three shall be appointed by the Council of the District of Columbia.

(c) The Commission shall advise the President, the Congress, the Mayor, the Council, and the Governor and House of Delegates for the State of New Columbia, as appropriate, concerning necessary procedures to effect an orderly transition to statehood for the District of Columbia. The Commission shall submit such reports as the Commission considers appropriate or as may be requested.

(d) The Commission shall cease to exist 180 days after the date of the admission into the Union of the State of New Columbia.

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SECTION BY SECTION OUTLINE

A Bill to provide for the admission of the State of New Columbia into the Union.

Section 1. Short Title.—"New Columbia Admission Act."

Section 2.—Sets forth declaration that the State of New Columbia is a State of the United States and is admitted into the Union on an equal basis with all other States.

The declaration is conditioned upon the President of the United States issuing a proclamation (provided for in Section 7(d)(1) of this Act) finding that the voters in the District of Columbia have adopted the following propositions (found in Section 7(c)(1) of this Act):

(A) That New Columbia shall be admitted into the Union.

(B) That the Boundaries as described in this Act shall be the boundaries of the State of New Columbia.

(C) That the provisions of this Act are fully consented to by the people of New Columbia.

Section 3.—Provides that the Constitution of New Columbia shall always be Republican in form and not repugnant to the Constitution of the United States.

Section 4.—Establishes the boundaries of New Columbia as consisting of the territory and waters of the District of Columbia, including the District Building, but excluding the National Capital Service Area (the National Capital Service Area is described in Section 16).

Section 5.—Provides that New Columbia surrenders all right and title to lands not granted to the State and preserves existing claims against the United States. Further provides that New Columbia may not impose taxes on property of the United States and preserves the annual federal payment to the State as established in Section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198).

Section 6.—Provides for the retention of all right and title by New Columbia of all property within the boundaries of New Columbia and not set aside for use of the United States. Property set aside for use by the United States, except that five years after the date of admission of New Columbia each Federal agency having control over property retained by the United States must determine if it is needed, and if it is not needed, it shall be conveyed to New Columbia.

Section 7.—Establishes the election procedures for all State elective offices and for two Senators and one Representative in Congress. Not more than sixty days after enactment of this Act, the President must certify its enactment to the Mayor and not more than thirty days after the President's certification, the Mayor must issue a proclamation for the elections.

The Mayor's proclamation shall provide for both a primary and general election. The two senatorial offices must be separately identified so that no person may be a candidate for both. The Constitution of New Columbia will govern the elections.

The Mayor must also issue a proclamation (which may be a part of the proclamation for elections) submitting to the voters for adoption or rejection, certain propositions (detailed in Section 2 of this Outline). If the propositions are adopted, the Constitution of New Columbia will be deemed amended accordingly. If the propositions are rejected, this Act is no longer effective.

Until New Columbia is admitted into the Union, officials of the District of Columbia will retain their authority. Once admitted, non-elected officials will continue to function under the government of New Columbia.

The Governor of New Columbia certifies the election of Senators and the Representative, and these officials will serve in the Congress on the same basis as Senators and Representatives from the other states.

Section 8.—Provides for the election of one member of the United States House of Representatives from New Columbia until the next reapportionment and increases the membership in the House by one on an interim basis.

Section 9.—All laws of the District of Columbia will remain in effect upon admission of New Columbia into the Union, unless modified by this Act or the Constitution of New Columbia. All laws of the United States will be of the same force and effect as in any other State.

Section 10.—All civil suits and criminal prosecutions and all civil causes of action and criminal offenses pending in the District of Columbia at the time of admission shall continue in effect and be transferred to New Columbia. Substantive law, criminal and civil, in effect at the time of admission shall remain in effect.

Section 11.—Appellate rights, civil and criminal, are preserved and transferred to New Columbia.

Section 12.—Upon the admission of New Columbia into the Union, New Columbia will join the District of Columbia as part of the District of Columbia Circuit for the United States Courts of Appeal.

The District of Columbia and the State of New Columbia will constitute one judicial District.

Section 13.—Property owned or controlled by the United States immediately prior to the admission of New Columbia shall remain under the exclusive legislative authority of the Congress upon admission. New Columbia however shall retain the right to serve criminal or civil process within such property, and such property may be transferred to New Columbia. Even if such property is transferred, military installations within such property shall remain under the exclusive legislative authority of Congress.

Section 14.—U.S. Nationality is unaffected by this Act.

Section 15.—All acts in conflict with this Act are repealed.

Section 16.—Outlines the boundaries of the National Capital Service Area (identical to boundaries of the National Capital Service Area found at Section 739(f)(1) of the D.C. Self Government and Governmental Reorganization Act, P.L. 93-198).●

● Mr. SIMON. Mr. President, I am pleased today to join my colleague Senator KENNEDY as I did in 1987 during the 100th Congress to reintroduce legislation to admit the State of New Columbia into the Union. The residents of the District of Columbia have voted on and duly presented their application for statehood to Congress. I believe the Congress should debate and, ultimately, honor the request for admission.

I have supported national representation for residents of the District of Columbia since I was a House Member in the 1970's. It is simply unfair, unseemly, and illogical for D.C. residents to be the hosts of Congress and yet have no voting representation in either the House or the Senate.

SELF DETERMINATION: AN AMERICAN RIGHT

As Americans, we take for granted our right to contribute to national policy and have representation in government. But those living in the District of Columbia have been without some basic constitutional rights from the outset. Those who move from Illinois or another State to Washington, DC, lose those rights they once enjoyed. They lose the right to voting representation in Congress as well as some measure of control over local schools and government. This situation is discriminatory, yet it is correctable.

Our bill responds to the petition for statehood approved by the residents of the District of Columbia. It grants equal rights to the two-thirds of a million Americans who live in the District of Columbia. It gives them the right to do what other Americans have the right to do—elect two U.S. Senators and a voting Member of the U.S. House of Representatives. The bill further removes congressional control over many local activities of the District government and puts that power in the hands of local residents, where it belongs.

There are those who say that statehood for the District of Columbia requires an amendment to the Constitution rather than action by Congress on

a statute. As chairman of the Senate Constitution Subcommittee, I have considered that argument and am convinced that a constitutional amendment is not required.

Article I, section 8, clause 17 of the U.S. Constitution provides for a district of not more than 100 square miles, outside of the boundaries of any State, to serve as the Nation's Capital. At present, the District measures 68.25 square miles. The Constitution specifies no minimum area. A bill that grants statehood to much of the District while leaving a federal enclave to serve as a capital under the control of Congress would meet the requirements of article I. Our bill does that.

ILLINOIS' LEGACY OF LEADERSHIP

For the hundreds of thousands of people who are District residents, statehood is a long time in coming. I am proud of the legacy of leadership my State has offered on behalf of representation for the District's residents. I believe the citizens of the District of Columbia will always be grateful for our State's leadership. Illinoisans have historically spoken out in favor of national representation for the District of Columbia. In the 75th Congress, Senator Lewis of my State introduced legislation to grant DC voting representation in the House, the Senate, and the Electoral College. Chauncey Reed, a Republican from DuPage County who was chairman of the House Judiciary Committee in the 83d Congress, also joined the campaign for national representation for the District of Columbia.

Today, the residents of the District of Columbia outnumber the residents of five States—Wyoming, Alaska, Vermont, Delaware, and North Dakota. They pay more in Federal taxes than those same States as well as three others—Idaho, Montana, and South Dakota, yet they have no voice when Congress votes on these taxes. When President Monroe signed the proclamation to make Illinois the 21st State in 1818, our Illinois population was just 55,211, less than 10 percent of today's District population.

U.S. citizens in the District of Columbia serve in the military and have been subject to the draft. However, they cannot vote for those in Congress who set our defense, foreign, and military policies. Can we just sit back and continue to accept this inequity within our country? I believe we cannot.

THE WINDS OF DEMOCRATIC CHANGE

We have welcomed the Democratic change sweeping Eastern Europe. It is ironic that the residents of Warsaw, Prague, and the other East European capitals all will have voices in their new legislatures, while the citizens of our Capital still do not.

Honoring the District of Columbia's petition for statehood will once and for all end that inequity for these citizens of the United States of America. It is time for their status to evolve to full statehood.●

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By Mr. BIDEN (for himself and Mr. THURMOND):

S. 2648. A bill to amend title 28, United States Code, to provide for civil justice expense and delay reduction plans, authorize additional judicial positions for the courts of appeals and district courts of the United States, and for other purposes; to the Committee on the Judiciary.

JUDICIAL IMPROVEMENTS ACT

Mr. BIDEN. Mr. President, I rise today, joined by my very good friend and the distinguished ranking member of the Judiciary Committee, Senator THURMOND, to introduce legislation that will go a long way, in my view, toward improving the delivery of justice in our Nation's courts.

And the sad truth of the matter, Mr. President, is that we do in fact have a long way to go. Our courts are suffering today under the scourge of two related and worsening plagues.

First, costs and delays in civil litigation have gotten so excessive that the middle class has nearly been priced out, if you will, of the civil litigation market.

Access the courts, once available to everyone, has become for middle-class Americans a luxury that only others can afford.

Second, the increasing number and complexity of drug cases threaten to bring many trial courts to a standstill. In some areas, there aren't enough judges to hear all the drug cases. In other areas, the drug cases are being heard, but there aren't any judges left to hear the civil cases.

A sampling of the many available statistics shows: Since 1980, drug-related criminal cases have increased by 229 percent, compared with a 56-percent increase in criminal case filings generally and a 42-percent increase in overall Federal case filings; and the number of drug cases has increased more than 15 percent in 1988 and 1989.

Put simply, in many areas, our courts resemble the Los Angeles Freeway at 5 o'clock on a Friday afternoon—gridlock, with not enough judges to handle the cases.

The legislation that I am introducing today attacks these two related problems straight up and head on.

Title 1 is the civil justice legislation that Senator THURMOND, myself, and others introduced in January, revised after extensive consultation, discussion and negotiation with the Judicial Conference of the United States and many individual judges across the country.

Title 2 would create 77 new Federal district court and circuit court judgeships. As I said as far back as last October, I believe a comprehensive judgeships bill is necessary to ensure that high-intensity drug areas receive the judges that are necessary to hear the increasing volume of drug cases. Title 2 of this legislation accomplishes that objective.

The civil justice title of this legislation reflects a number of changes we have made in the original bill. I believe that these changes make a good bill even better. Briefly, let me highlight three of the principal changes we've made:

First, while we have retained the fundamental principle that the courts need to distinguish between simple cases that need little or no judicial intervention and complex cases that need intense and well-focused judicial management, we have determined that one way of applying that principle—case tracking—ought to be tested in a few districts before it is implemented nationwide.

Second, in response to testimony at the Judiciary Committee's first hearing on the original bill and based on additional information we've recently analyzed, we have decided to restore the full role of magistrates in the pretrial process.

Third, when it comes to that the district courts are required to do under this legislation, we've given the districts more flexibility than they would have had under the original bill. We've set out what we want them to do in terms of core principles and guidelines, rather than more specific requirements.

In a nutshell, these are some of the principal changes we've made in response to questions and concerns that were raised about the original legislation. In my view, these changes improve the bill while maintaining our commitment to comprehensive civil justice reform.

Importantly, the revised civil justice legislation retains and reaffirms our commitment to reform from the bottom up: Each district court must still establish its own civil justice expense and delay reduction plan; and each court must do so after considering the recommendations of an expert advisory group that is to be convened in each district.

Calling for districtwide input is the best way, in my view, to ensure districtwide solidarity for improving the civil justice system.

I want to commend Judge Robert Peckham for his invaluable assistance in developing the changes reflected in title 1 of this legislation. As chairman of the Judicial Conference's task force created to work specifically with us on this bill, Judge Peckham has demonstrated the wisdom, foresight, and ingenuity that has made him one of the most respected judges in the country and a leader in civil justice reform.

Title 2 of this legislation would create 77 new Federal judgeships. It

has been crafted to ensure that high intensity drug areas get the resources they so desperately need to hear the cases, preside over the trials, and sentence those who are convicted.

As many of my colleagues know, when it comes to judgeships, the Judicial Conference formulates a series of recommendations about where new judgeships should go. Together with Senator THURMOND, I have studied these recommendations very carefully during the past several months.

We have taken the recommendations seriously, as the Judiciary Committee has always done. But in the end, in this Senator's view, the Judicial Conference's recommendations are just that—recommendations—nothing more, nothing less.

We have, therefore, made changes in what the Judicial Conference has recommended. We have made these changes to make sure that the top 20 districts in terms of drug caseloads get an additional judgeship.

Under the legislation I'm introducing today, places such as Miami, San Diego, Tallahassee, Spokane, WA, Portland, ME, and Charleston, WV, will receive a new judge.

These and other areas are each getting a new judge because under the drug criteria we've developed, each is clearly suffering under the weight of heavy drug caseloads. And each would not receive a judgeship if we followed the Judicial Conference's official recommendations.

Quite simply, these changes had to be made if we were to fulfill the responsibility I believe we have to ensure that areas with heavy drug caseloads have the judges they need to hear the cases.

Between the judges I've added and the judges officially recommended by the Judicial Conference, the 20 district courts hardest hit by drug cases will each be getting at least one judge.

Mr. President, while it's not yet in this bill, I expect that—with the able assistance of Senator HEFLIN and Senator GRASSLEY—we will be adding a third title. This would include a package of noncontroversial recommendations of the Federal Courts Study Committee.

I have indicated to Senators HEFLIN and GRASSLEY—who were the Senate's Members on the Federal Courts Study Committee—that when these noncontroversial recommendations are finalized, we will be happy to add them to the bill we're introducing today, should that be their desire.

Mr. President, the legislation that Senator THURMOND and I are introducing today strikes at the crisis that's putting a stranglehold on our courts.

It is aimed at making the civil justice system more accessible, more prompt in the resolution of disputes, and less expensive. We've go to restore the confidence that middle class Americans have lost in the ability of the civil justice system to provide a fair forum—a forum they can call upon without having, quite frankly, to hock their savings to do so.

The legislation is also aimed at the drug crisis. By creating 77 new judgeships and concentrating on areas hardest hit by drugs, we will help ensure that drug cases are heard, trials are conducted, and convicted defendants are sentenced.

The Judiciary Committee will hold a hearing on this legislation on Tuesday, June 12. We will then seek to move the legislation out of committee as soon as possible.

We have problems—serious problems, Mr. President—in our courts and in their ability to deliver justice in a fair, timely, and inexpensive manner. The time to act to address these problems is upon us. I urge my colleagues to support this legislation when it comes to the floor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2648

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Judicial Improvements Act of 1990".

TITLE I—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

SEC. 101. SHORT TITLE.

This title may be cited as the "Civil Justice Reform Act of 1990".

SEC. 102. FINDINGS.

The Congress finds that:

(1) The problems of cost and delay in civil litigation in any United States district court must be addressed in the context of the full range of demands made on the district court's resources by both civil and criminal matters.

(2) The court, the litigants, and the litigants' attorneys share responsibility for cost and delay in civil litigation and its impact on access to the courts and the ability of the civil justice system to provide proper and timely judicial relief for aggrieved parties.

(3) The solutions to problems of cost and delay must include significant contributions by the court, the litigants, and the litigants' attorneys.

(4) In identifying, developing, and implementing solutions to problems of cost and delay in civil litigation, it is necessary to achieve a method of consultation so that individual judicial officers, litigants, and litigants' attorneys who have developed techniques for litigation management and cost and delay reduction can effectively and promptly communicate those techniques to all participants in the civil justice system.

(5) Evidence suggests that an effective litigation management and cost and delay reduction program should incorporate several interrelated principles, including—

(A) the differential treatment of cases that provides for individualized and specific management according to their needs and probable litigation careers;

(B) early involvement of a judicial officer in planning the progress of a case, controlling the discovery process, and scheduling litigation events;

(C) regular communication between a judicial officer and attorneys during the pretrial process; and

(D) utilization of alternative dispute resolution programs in appropriate cases.

(6) Because the increasing volume and complexity of civil and criminal cases imposes increasingly heavy workload burdens on judicial officers, clerks of court, and other court personnel, it is necessary to create an effective administrative structure to ensure ongoing consultation and communication regarding effective litigation management and cost and delay reduction principles and techniques.

SEC. 103. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.—Title 28, United States Code, is amended by inserting after chapter 21 the following new chapter:

"CHAPTER 23—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

"Sec.
"471. Requirement for a district court civil justice expense and delay reduction plan.
"472. Development and implementation of a civil justice expense and delay reduction plan.
"473. Content of civil justice expense and delay reduction plans.
"474. Review of district court action.
"475. Periodic district court assessment.
"476. Model civil justice expense and delay reduction plan.
"477. Advisory groups.
"478. Information on litigation management and cost and delay reduction.
"479. Training programs.
"480. Automated case disposition information.
"481. Definitions.

"§ 471. Requirement for a district court civil justice expense and delay reduction plan

"There shall be implemented by each United States district court, in accordance with this title, a civil justice expense and delay reduction plan. The plan may be a plan developed by such district court or a model plan developed by the Judicial Conference of the United States. The purposes of each plan are to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes.

"§ 472. Development and implementation of a civil justice expense and delay reduction plan

"(a) The civil justice expense and delay reduction plan implemented by a district court shall be developed or selected, as the case may be, after consideration of the recommendations of an advisory group appointed in accordance with section 477 of this title.

"(b) The advisory group of a United States district court shall submit to the court a report, which shall be made available to the public and which shall include—

"(1) an assessment of the matters referred to in subsection (c)(1);

"(2) the basis for its recommendation that the district court develop a plan or select a model plan;

"(3) recommended measures, rules and programs; and

"(4) an explanation of the manner in which the recommended plan complies with section 473 of this title.

"(c)(1) In developing its recommendations, the advisory group of a district court shall promptly complete a thorough assessment of the state of the court's civil and criminal dockets. In performing the assessment for a district court, the advisory group shall—

"(A) determine the condition of the civil and criminal dockets;

"(B) identify trends in case filings and in the demands being placed on the court's resources; and

"(C) identify the principal causes of cost and delay in civil litigation, giving consideration to such potential causes as court procedures and the ways in which litigants and their attorneys approach and conduct litigation.

"(2) In developing its recommendations, the advisory group of a district court shall take into account the particular needs and circumstances of the district court, litigants in such court, and the litigants' attorneys.

"(3) The advisory group of a district court shall ensure that its recommended actions include significant contributions to be made by the court, the litigants and the litigants' attorneys toward reducing cost and delay and thereby facilitating access to the courts.

"(d) The chief judge of the district court shall transmit a copy of the plan implemented in accordance with subsection (a) and the report prepared in accordance with subsection (b) of this section to—

"(1) the Director of the Administrative Office of the United States Courts;

"(2) the judicial council of the circuit in which the district court is located; and

"(3) the chief judge of each of the other United States district courts located in such circuit.

**"§ 473. Content of civil justice expense and delay reduction plans**

"(a) A civil justice expense and delay reduction plan developed and implemented under this chapter shall include provisions applying the following principles and guidelines of litigation management and cost and delay reduction:

"(1) systematic, differential treatment of civil cases that tailors the level of individualized and case specific management to such criteria as case complexity, the amount of time reasonably needed to prepare the case for trial, and the judicial and other resources required for the preparation and disposition of the case;

"(2) early and ongoing control of the pretrial process through involvement of a judicial officer in—

"(A) assessing and planning the progress of a case;

"(B) setting early, firm trial dates, such that the trial is scheduled to occur within eighteen months of the filing of the complaint, unless a judicial officer certifies that the trial cannot reasonably be held within such time because of the complexity of the case or the number or complexity of pending criminal cases;

"(C) controlling the extent of discovery and the time for completion of discovery, and ensuring compliance with requested discovery in a timely fashion; and

"(D) setting deadlines for the filing of motions and target dates for the deciding of motions;

"(3) for all cases that the court or an individual judicial officer determines are complex and any other appropriate cases, careful and deliberate monitoring through a discovery-case management conference or a series of such conferences at which the presiding judicial officer—

"(A) explores the parties' receptivity to, and the propriety of, settlement or proceeding with the litigation;

"(B) identifies or formulates the principal issues in contention and, in appropriate cases, provides for the staged resolution or bifurcation of issues for trial consistent with Rule 42(b) of the Federal Rules of Civil Procedure;

"(C) prepares a discovery schedule and plan consistent with any presumptive time limits that a district court may set for the completion of discovery and with any procedures a district court may develop to—

"(i) identify and limit the volume of discovery available to avoid unnecessary or unduly burdensome or expensive discovery; and

"(ii) phase discovery into two or more stages; and

"(D) establishes deadlines for filing motions and target dates for deciding motions;

"(4) encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through the use of cooperative discovery devices;

"(5) conservation of judicial resources by prohibiting the consideration of discovery motions unless accompanied by a statement that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion;

"(6) authorization to refer appropriate cases to alternative dispute resolution programs that—

"(A) have been designated for use in a district court; or

"(B) the court may make available, including mediation, minitrial, and summary jury trial; and

"(7) enhancement of the accountability of each judicial officer in a district court through semiannual reports, available to the public, that disclose for each judicial officer the number of motions that have been pending for more than six months, the number of bench trials that have been submitted for more than six months, and the number of cases that have not been terminated within three years of filing.

"(b) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 477 of this title, shall consider adopting the following litigation management and cost and delay reduction techniques:

"(1) a requirement that counsel for each party to a case jointly present a discovery-case management plan for the case at the initial pretrial conference, or explain the reasons for their failure to do so;

"(2) a requirement that each party be represented at each pretrial conference by an attorney who has the authority to bind that party regarding all matters previously identified by the court for discussion at the conference and all reasonably related matters;

"(3) a requirement that all requests for extensions of deadlines for completion of discovery or for postponement of the trial be signed by the attorney and the party making the request;

"(4) a neutral evaluation program for the presentation of the legal and factual bases of a case to a neutral court representative at a nonbinding conference conducted early in the litigation;

"(5) a requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during any settlement conference; and

"(6) such other features as the district court considers appropriate after considering the recommendations of the advisory group referred to in section 472(a) of this title.

**"§ 474. Review of district court action**

"(a)(1) The chief judge of a circuit court and the chief judges of each district court in a circuit shall, as a committee—

"(A) review each plan and report submitted pursuant to section 472(d) of this title; and

"(B) make such suggestions for additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay in civil litigation in the district court.

"(2) The chief judge of a circuit court and the chief judge of a district court may designate another judge of such court to perform the chief judge's responsibilities under paragraph (1) of this subsection.

"(b) The Judicial Conference of the United States—

"(1) shall review each plan and report submitted by a district court pursuant to section 472(d) of this title; and

"(2) may request the district court to take additional action if the Judicial Conference determines that such court has not adequately responded to the conditions relevant to the civil and criminal dockets of the court or to the recommendations of the district court's advisory group.

**"§ 475. Periodic district court assessment**

"After developing or selecting a civil justice expense and delay reduction plan, each United States district court shall assess, at least once every two years, the condition of the court's civil and criminal dockets with a view to determining appropriate additional actions that may be taken by the court to reduce cost and delay in civil litigation and to improve the litigation management practices of the court. In performing such assessment, the court shall consult with an advisory group appointed in accordance with section 477 of this title.

**"§ 476. Model civil justice expense and delay reduction plan**

"(a)(1) Based on the plans developed and implemented by the United States district courts designated as Early Implementation District Courts pursuant to section 103(c) of the Civil Justice Reform Act of 1990, the Judicial Conference of the United States may develop one or more model civil justice and expense delay reduction plans. Any such model plan shall be accompanied by a report explaining the manner in which the plan complies with section 473 of this title.

"(2) The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations to the Judicial Conference regarding the development of any model civil justice expense and delay reduction plan.

"(b) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives copies of any model plan and accompanying report.

**"§ 477. Advisory groups**

"(a) Within ninety days after the date of enactment of this chapter, the advisory

group required in each United States district court in accordance with section 472 of this title shall be appointed by the chief judge of each district court, after consultation with the other judges of such court.

"(b) The advisory group of a district court shall be balanced and include attorneys and other persons who are representative of major categories of litigants in such court, as determined by the chief judge of such court.

"(c) In no event shall any member of the advisory group serve longer than four years.

"(d) The chief judge of a United States district court shall designate a reporter for each advisory group, who may be compensated in accordance with guidelines established by the Judicial Conference of the United States.

**"§ 478. Information on litigation management and cost and delay reduction**

"(a) Within four years after the date of the enactment of this chapter, the Judicial Conference of the United States Courts shall prepare a comprehensive report on all plans received pursuant to section 472(d) of this title. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding such report.

"(b) The Judicial Conference of the United States shall, on a continuing basis—

"(1) study ways to improve litigation management and dispute resolution services in the district courts; and

"(2) make recommendations to the district courts on ways to improve such services.

"(c)(1) The Judicial Conference of the United States shall prepare, periodically revise, and transmit to the United States district courts a Manual for Litigation Management and Cost and Delay Reduction. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding the preparation of and any subsequent revisions to the Manual.

"(2) The Manual shall be developed after careful evaluation of the plans implemented under section 472 of this title and the litigation management and cost and delay reduction demonstration programs that the Judicial Conference shall conduct under this title.

"(3) The Manual shall contain a description and analysis of the litigation management, cost and delay reduction principles and techniques, and alternative dispute resolution programs considered most effective by the Judicial Conference, the Director of the Federal Judicial Center, and the Director of the Administrative Office of the United States Courts.

**"§ 479. Training programs**

"The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts shall develop and conduct comprehensive education and training programs to ensure that all judicial officers, clerks of court, courtroom deputies and other appropriate court personnel are thoroughly familiar with the most recent available information and analyses about litigation management and other techniques for reducing cost and expediting the resolution of civil litigation. The curriculum of such training programs shall be periodically revised to reflect such information and analyses.

**"§ 480. Automated case disposition information**

"(a) The Director of the Administrative Office of the United States Courts shall ensure that each United States district court has the automated capability readily to retrieve information about the status of each case in such court.

"(b)(1) In carrying out subsection (a), the Director shall prescribe—

"(A) the information to be recorded in district court automated systems; and

"(B) standards for uniform categorization or characterization of judicial actions for the purpose of recording information on judicial actions in the district court automated systems.

"(2) The uniform standards prescribed under paragraph (1)(B) of this subsection shall include a definition of what constitutes a dismissal of a case and standards for measuring the period for which a motion has been pending.

"(c) Each United States district court shall record information as prescribed pursuant to subsection (b) of this section.

**"§ 481. Definitions**

"As used in this chapter the term 'judicial officer' means a United States district court judge or a United States magistrate.".

(b) IMPLEMENTATION.—(1) Within three years after the date of the enactment of this title, each United States district court shall implement a civil justice expense and delay reduction plan under section 471 of title 28, United States Code, as added by subsection (a).

(2) The requirements set forth in sections 471 through 477 of title 28, United States Code, as added by subsection (a), shall remain in effect for seven years after the date of the enactment of this title.

(c) EARLY IMPLEMENTATION DISTRICT COURTS.—

(1) Any United States district court that, no earlier than six months and no later than twelve months after the date of the enactment of this title, develops and implements a civil justice expense and delay reduction plan under chapter 23 of title 28, United States Code, as added by subsection (a), shall be designated by the Judicial Conference of the United States as an Early Implementation District Court.

(2) The chief judge of a district so designated may apply to the Judicial Conference for additional resources, including technological and personnel support and information systems, necessary to implement its civil justice expense and delay reduction plan. The Judicial Conference may, in its discretion, provide such resources out of funds appropriated pursuant to section 105(a).

(3) Within eighteen months after the date of the enactment of this title, the Judicial Conference shall prepare a report on the plans developed and implemented by the Early Implementation District Courts.

(4) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and House of Representatives—

(A) copies of the plans developed and implemented by the Early Implementation District Courts;

(B) the reports submitted by such districts pursuant to section 472(d) of title 28, United States Code, as added by subsection (a); and

(C) the report prepared in accordance with paragraph (3) of this subsection.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by adding at the end thereof:

"23. Civil justice expense and delay reduction plans ..... 471".

SEC. 104. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—(1) During the four-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a demonstration program in accordance with subsection (b).

(2) A district court participating in the demonstration program may also be an Early Implementation District Court under section 103(c).

(b) PROGRAM REQUIREMENT.—(1) The United States District Court for the Western District of Michigan and the United States District Court for the Northern District of Ohio shall experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures and timeframes for the completion of discovery and for trial.

(2) The United States District Court for the Northern District of California, the United States District Court for the Northern District of West Virginia, and the United States District Court for the Western District of Missouri shall experiment with various methods of reducing cost and delay in civil litigation, including alternative dispute resolution, that such district courts and the Judicial Conference of the United States shall select.

(c) STUDY OF RESULTS.—The Judicial Conference of the United States, in consultation with the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall study the experience of the district courts under the demonstration program.

(d) REPORT.—Not later than March 31, 1995, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report of the results of the demonstration program.

SEC. 105. AUTHORIZATION.

(a) EARLY IMPLEMENTATION DISTRICT COURTS.—There is authorized to be appropriated not more than $15,000,000 for fiscal year 1990 to carry out the resource and planning needs necessary for the implementation of section 103(c).

(b) IMPLEMENTATION OF CHAPTER 23.—There is authorized to be appropriated not more than $5,000,000 for fiscal year 1990 to implement chapter 23 of title 28, United States Code.

(c) DEMONSTRATION PROGRAM.—There is authorized to be appropriated not more than $5,000,000 for fiscal year 1990 to carry out the provisions of section 104.

## TITLE II—FEDERAL JUDGESHIPS

SECTION 201. SHORT TITLE.

This title may be cited as the "Federal Judgeship Act of 1990".

SEC. 202. CIRCUIT JUDGES FOR THE CIRCUIT COURT OF APPEALS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 2 additional circuit judges for the third circuit court of appeals;

(2) 4 additional circuit judges for the fourth circuit court of appeals;

(3) 1 additional circuit judge for the fifth circuit court of appeals;

(4) 1 additional circuit judge for the sixth circuit court of appeals;

(5) 1 additional circuit judge for the eighth circuit court of appeals; and

(6) 2 additional circuit judges for the tenth circuit court of appeals.

(b) TABLES.—In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

| "Circuits | Number of Judges |
|---|---|
| District of Columbia | 12 |
| First | 6 |
| Second | 13 |
| Third | 14 |
| Fourth | 15 |
| Fifth | 17 |
| Sixth | 16 |
| Seventh | 11 |
| Eighth | 11 |
| Ninth | 28 |
| Tenth | 12 |
| Eleventh | 12 |
| Federal | 12.". |

SEC. 203. DISTRICT JUDGES FOR THE DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 1 additional district judge for the western district of Arkansas;

(2) 2 additional district judges for the northern district of California;

(3) 5 additional district judges for the central district of California;

(4) 1 additional district judge for the southern district of California;

(5) 2 additional district judges for the district of Connecticut;

(6) 2 additional district judges for the middle district of Florida;

(7) 1 additional district judge for the northern district of Florida;

(8) 1 additional district judge for the southern district of Florida;

(9) 1 additional district judge for the middle district of Georgia;

(10) 1 additional district judge for the northern district of Illinois;

(11) 1 additional district judge for the southern district of Iowa;

(12) 1 additional district judge for the western district of Louisiana;

(13) 1 additional district judge for the district of Maine;

(14) 1 additional district judge for the district of Massachusetts;

(15) 1 additional district judge for the southern district of Mississippi;

(16) 1 additional district judge for the eastern district of Missouri;

(17) 1 additional district judge for the district of New Hampshire;

(18) 3 additional district judges for the district of New Jersey;

(19) 1 additional district judge for the district of New Mexico;

(20) 1 additional district judge for the southern district of New York;

(21) 1 additional district judge for the eastern district of New York;

(22) 1 additional district judge for the middle district of North Carolina;

(23) 1 additional district judge for the northern district of Oklahoma;

(24) 1 additional district judge for the western district of Oklahoma;

(25) 1 additional district judge for the district of Oregon;

(26) 3 additional district judges for the eastern district of Pennsylvania;

(27) 1 additional district judge for the middle district of Pennsylvania;

(28) 1 additional district judge for the district of South Carolina;

(29) 1 additional district judge for the eastern district of Tennessee;

(30) 1 additional district judge for the western district of Tennessee;

(31) 1 additional district judge for the northern district of Texas;

(32) 3 additional district judges for the southern district of Texas;

(33) 1 additional district judge for the western district of Texas;

(34) 1 additional district judge for the district of Utah;

(35) 1 additional district judge for the eastern district of Washington;

(36) 1 additional district judge for the northern district of West Virginia;

(37) 1 additional district judge for the southern district of West Virginia; and

(38) 1 additional district judge for the district of Wyoming.

(b) EXISTING JUDGESHIPS.—(1) The existing district judgeships for the western district of Arkansas, the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the eastern district of North Carolina, the northern district of Ohio, and the western district of Washington authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 347-348) shall, as of the effective date of this title, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(2)(A) The existing two district judgeships for the eastern and western districts of Arkansas (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) shall be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall hold the offices under section 133 of title 28, United States Code, as amended by this title.

(B) The existing district judgeship for the northern and southern districts of Iowa (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) shall be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(C) The existing district judgeship for the northern, eastern, and western districts of Oklahoma (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) and the occupant of which has his official duty station at Oklahoma City on the date of enactment of this title, shall be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(c) TEMPORARY JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 1 additional district judge for the northern district of Alabama;

(2) 1 additional district judge for the eastern district of California;

(3) 1 additional district judge for the district of Hawaii;

(4) 1 additional district judge for the central district of Illinois;

(5) 1 additional district judge for the southern district of Illinois;

(6) 1 additional district judge for the district of Kansas;

(7) 1 additional district judge for the western district of Michigan;

(8) 1 additional district judge for the eastern district of Missouri;

(9) 1 additional district judge for the district of Nebraska;

(10) 1 additional district judge for the northern district of New York;

(11) 1 additional district judge for the northern district of Ohio;

(12) 1 additional district judge for the eastern district of Pennsylvania;

(13) 1 additional district judge for the eastern district of Texas; and

(14) 1 additional district judge for the eastern district of Virginia.

The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring five years or more after the effective date of this title, shall not be filled.

(d) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (a) and (b) of this section, such table is amended to read as follows:

| "DISTRICTS | JUDGES |
|---|---|
| Alabama: | |
| Northern | 7 |
| Middle | 3 |
| Southern | 3 |
| Alaska | 3 |
| Arizona | 8 |
| Arkansas: | |
| Eastern | 5 |
| Western | 3 |
| California: | |
| Northern | 14 |
| Eastern | 6 |
| Central | 27 |
| Southern | 8 |
| Colorado | 7 |
| Connecticut | 8 |
| Delaware | 4 |
| District of Columbia | 15 |
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| Northern | 4 |
| Middle | 11 |
| Southern | 16 |
| Georgia: | |
| Northern | 11 |
| Middle | 4 |
| Southern | 3 |
| Hawaii | 3 |
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| Illinois: | |
| Northern | 22 |
| Central | 3 |
| Southern | 3 |
| Indiana: | |
| Northern | 5 |
| Southern | 5 |
| Iowa: | |
| Northern | 2 |
| Southern | 3 |
| Kansas | 5 |
| Kentucky: | |
| Eastern | 4 |
| Western | 4 |
| Eastern and Western | 1 |
| Louisiana: | |

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| Middle | 2 |
| Western | 7 |
| Maine | 3 |
| Maryland | 10 |
| Massachusetts | 13 |
| Michigan: | |
| Eastern | 15 |
| Western | 4 |
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| North Carolina: | |
| Eastern | 4 |
| Middle | 4 |
| Western | 3 |
| North Dakota | 2 |
| Ohio: | |
| Northern | 11 |
| Southern | 7 |
| Oklahoma: | |
| Northern | 3 |
| Eastern | 1 |
| Western | 6 |
| Northern, Eastern, and Western | 1 |
| Oregon | 6 |
| Pennsylvania: | |
| Eastern | 22 |
| Middle | 6 |
| Western | 10 |
| Puerto Rico | 7 |
| Rhode Island | 3 |
| South Carolina | 9 |
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| Tennessee: | |
| Eastern | 5 |
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| Western | 5 |
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| Vermont | 2 |
| Virginia: | |
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| Washington: | |
| Eastern | 4 |
| Western | 7 |
| West Virginia: | |
| Northern | 3 |
| Southern | 5 |
| Wisconsin: | |
| Eastern | 4 |
| Western | 2 |
| Wyoming | 3.". |

SEC. 204. VIRGIN ISLANDS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for a term of 10 years and until a successor is chosen and qualified, unless sooner removed by the President for cause.

(b) AMENDMENT TO ORGANIC ACT.—In order to reflect the change in the total number of permanent judgeships authorized as a result of subsection (a) of this section, section 24(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(a)) is amended by striking "two" and inserting "three".

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this title.

SEC. 206. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this title.

Mr. THURMOND. Mr. President, today I rise along with Senator BIDEN to introduce the Judicial Improvements Act of 1990. This bill is designed to meet the needs of the Federal judiciary by developing within the Federal courts a procedure for implementing civil justice expense and delay reduction plans and to provide for additional Federal judgeships necessary to handle the increased criminal and civil caseload.

Title I is derived from the Civil Justice Reform Act introduced by Senator BIDEN and myself. Our goal is to reduce litigation costs and to increase the administrative efficiency of the civil litigation process in the Federal courts.

Over recent years, the workload of the Federal court system has increased dramatically. It is this committee's responsibility to assure that the manpower and equipment necessary to meet this increased workload is provided. Currently, there is a feeling among many members of the bench and bar that civil litigation in the Federal court system is much too costly and takes far too much time to resolve disputes.

Based upon these concerns, the legislation we are introducing today embodies principles from which each Federal district court will develop their own plan for creating greater efficiencies in the civil litigation process.

Mr. President, it is appropriate to consider procedural changes which will reduce the costs and delays confronted by those who seek to resolve their disputes through the civil litigation system. However, any attempt to reform the civil justice system is futile without providing adequate judicial manpower.

Title II of the bill will create 77 additional Federal judgeships. Recently enacted drug and crime legislation increased the caseload of many judges across the country. As a result of the needs of the judiciary from the specter of increased drug and crime related prosecution and its impact on the Federal docket, I believe more judgeships are vitally important. Additionally, we incorporated recommendations made by the Judicial Conference reflecting their assessment of where judicial manpower should be placed. The result is a provision to create additional Federal judgeships which we believe will adequately address the current needs of the judiciary.

Mr. President, as ranking member, I look forward to working with the chairman of the Judiciary Committee to create greater efficiency and increase the manpower in the Federal courts.

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By Mr. KENNEDY:

S. 2649. A bill to provide for improved drug abuse treatment and prevention; to the Committee on Labor and Human Resources.

DRUG ABUSE TREATMENT AND PREVENTION IMPROVEMENT ACT

● Mr. KENNEDY. Mr. President, today I am introducing the Drug Abuse Treatment and Prevention Improvement Act of 1990.

Drug abuse in America continues to be a disease of epidemic proportions. Its symptoms have spread to every corner of our society and beyond. The epidemic manifests itself in shattered lives, devastated families, and overburdened courtrooms, classrooms, and emergency rooms throughout the country.

Historians remind us that we have been fighting one drug war or another for decades. But the release of the Bush administration's first antidrug strategy last September brought a new sense of energy to our efforts.

Eight months after the release of the strategy, it is too soon to say whether these efforts have borne fruit. In some pockets of society, encouraging historical trends have continued. But many of us remain concerned that the national drug strategy is seriously defective because it lacks balance. The President and his advisers fail to recognize the prominent role that treatment and prevention must play in combating drug abuse.

The long-term solution to the drug epidemic will not be found in distant cocafields in Colombia, or in overcrowded holding cells in inner-city police precincts. Instead, real gains against drugs will be made when schoolchildren are persuaded that drugs use is harmful, when communities rally to create a climate in which drug use is unacceptable, and when treatment is offered to all who wish to rid themselves of a drug habit.

The administration persists in the belief that crime control can solve the tangle of social factors that contribute to the self-destructive behavior of drug use. For the past 2 years, the administration has sent antidrug budgets to Congress in which 70 percent of the resources are devoted to reducing the supply of drugs, and only 30 percent to reducing demand.

Drug Policy Director William Bennett has used his office as a bully pulpit, but he has largely preached

the gospel of law enforcement. He has stubbornly refused to pay more than lipservice to the fundamental goal of treatment on request and, on occasion, he has belittled the importance of drug education.

The most recent evidence of the administration's misplaced priorities is the legislative package it transmitted to Congress yesterday. This massive proposal is brimming with new threats to civil liberties, new criminal penalties, imposing forfeiture provisions, and novel interdiction strategies. Yet it contains no proposals for drug abuse prevention and only two treatment-related proposals.

Whatever the merits of the supply-side proposals in the legislative package submitted yesterday, it is clear that they are the product of considerable effort and attention. It is equally clear that virtually no energy has been expended to devise bold and innovative means of reducing the demand for drugs.

Just as Congress last year redressed some of the budgetary imbalance in the President's drug strategy, the legislation I propose today is intended to redress the legislative imbalance. The bill contains a number of innovative demand reduction proposals that have either been generated by the legislative process in the past year or that have otherwise come to my attention. This proposals represent a comprehensive effort to improve the manner in which this country delivers drug treatment and prevention services to its citizens.

Title I of the bill improves and expands the categorical grant programs administered by the Department of Health and Human Services. These programs are designed to target populations that have an especially acute need for services. They will enable the Federal Government to sponsor model programs that can eventually be replicated by the States. The bill will sharpen the focus of current programs, such as the one for pregnant and post partum addicts and their infants. In addition, new grants will be offered for training treatment and prevention professionals, for drug treatment in the criminal justice system, for rural substance abuse, for more drug treatment in the national capital region, and for comprehensive community-based drug prevention.

Title II of the bill revises the ADAMHA Block Grant Program. The block grant is the principal means by which the Federal Government distributes treatment resources. We must engage in a multiyear strategy to fund this program at a level that will assure treatment on request for every addict seeking it.

First, the bill authorizes $2 billion for this program in fiscal year 1991, a one-third increase over the fiscal year 1990 authorization of $1.5 billion.

Second, the bill revises the formula under which block grant funds are distributed among the States, principally by reducing the urban weight component of the formula. Urban States continue to bear the heaviest burden of the drug epidemic and it is essential to maintain an urban weight component in the formula. However, in response to the concerns of smaller States that do not benefit as much from the current formula, the bill reduces the urban weight component from 0.4 to 0.34. I am confident that we can resolve this complicated issue in a manner that accommodates the various competing interests.

Third, the bill expands the ways in which States are permitted to use their block grant funds. In some circumstances, States should be permitted to use Federal funding for inpatient hospital care. It is also imperative that States be permitted to fund treatment initiatives in their criminal justice systems; the Committee on Labor and Human Resources held a hearing on May 2 of this year that made plain the need for increased resources in this critical area.

Fourth, the bill establishes a requirement that States prepare ADAMHA-approved comprehensive statewide treatment plans as a condition of their block grant funding. This is one of the two demand-side initiatives that the administration is seeking in its bill. I supported the proposal last year and I will continue to work for its enactment. State treatment plans will increase accountability and enable us to pursue Federal goals more aggressively.

Title III of the bill is a treatment research initiative that Senator BIDEN and I are proposing known as the Pharmacotherapy Development Act; it builds upon an amendment that we successfully offered to S. 1711 last year. This title will encourage the research and development of medicines that block the neurological craving for drugs or that ease the symptoms of withdrawal. Such medicines will be an important addition to the current array of treatment modalities.

The title authorizes a Medications Development Division at the National Institute on Drug Abuse, creates financial incentives for private sector development of antidrug abuse medicines, and authorizes a streamlined process for the approval of these medicines by the Food and Drug Administration. Finally, this title calls for a much-needed report by the surgeon general on the state of pharmacotherapeutic research in this country.

Title IV of the bill contains miscellaneous provisions, including the authorization of increased resources for the drug-free schools block grant. The bill does not contain other provisions with respect to the Drug-Free Schools Program because legislation improving that program was enacted into law at the end of last year—Public Law 101-226.

Mr. President, many of the provisions in this omnibus treatment and prevention bill were authored by, or were drawn from similar proposals authored by other Members of the Senate, and they deserve credit for their initiatives. I have already acknowledged Senator BIDEN's preeminent role in pharmacotherapy development. The rural drug treatment initiative was proposed last year by Senators BAUCUS and PRYOR. The community prevention grant initiative was proposed by Senator CRANSTON, who is a sponsor of this bill. Senators CHAFEE and MOYNIHAN have been leaders in the field of drug treatment in the criminal justice system, although my bill approaches the subject matter in a somewhat different way than the Chafee/Moynihan bill on this subject. Provisions pertaining to treatment of pregnant addicts and their infants were drawn, in part, from bills already introduced by Senators KOHL and DECONCINI. The section of this bill calling for a study on the relationship between the use of licit and illicit drugs was first proposed by Senator JEFFORDS.

Finally, I want to acknowledge the role of the ranking member of the Labor and Human Resources Committee, Senator HATCH. A number of the provisions in this bill were first introduced as floor amendments to S. 1711 by the Senator from Utah and myself.

Mr. President, drug use is a crime but it is also a disease. We must respond to this disease with the two tried and true weapons in the public health arsenal—treatment and prevention. The Drug Abuse Treatment and Improvement Act is an effort to meet that challenge and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2649

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Treatment and Prevention Improvement Act of 1990".

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## TITLE I—IMPROVEMENT AND EXPANSION OF GRANT PROGRAMS

### SEC. 101. ESTABLISHMENT OF OFFICE FOR TREATMENT IMPROVEMENT.

Title V of the Public Health Service Act (hereafter in this Act referred to as the "Act") (42 U.S.C. 290aa et seq.) is amended by inserting after section 507 the following new section:

"SEC. 507A. OFFICE FOR TREATMENT IMPROVEMENT.

"(a) IN GENERAL.—There is established in the Administration an Office for Treatment Improvement (hereafter in this section referred to as the "Treatment Office"). The Treatment Office shall be headed by a Director appointed by the Secretary from among individuals with extensive experience or academic qualifications in the treatment of drug or alcohol abuse. The Secretary, acting through the Director of the Treatment Office, shall carry out this section.

"(b) ALCOHOL AND DRUG ABUSE RESPONSIBILITIES.—With respect to alcohol and drug abuse, the Director of the Treatment Office shall—

"(1) collaborate with the Director of the Office for Substance Abuse Prevention in order to provide outreach services to identify individuals in need of treatment services, with emphasis on the provision of such services to racial and ethnic minorities, to adolescents, to pregnant and postpartum women and their infants, to individuals who abuse drugs intravenously, and to residents of publicly-assisted housing;

"(2) collaborate with the Director of the National Institute on Drug Abuse and with the States to promote the study of the outcomes of treatment services in order to identify the manner in which such treatment services can most effectively be provided;

"(3) collaborate with the Director of the National Institute on Drug Abuse in order to promote the dissemination and implementation of research findings that will improve the delivery and effectiveness of treatment services;

"(4) evaluate plans submitted by the States pursuant to section 1916B in order to advise the Administrator on whether the plans adequately provide for the allocation of the treatment resources of the States;

"(5) carry out the grant programs established in sections 509E, 509G(b), 509H, 509I, and 509J;

"(6) sponsor regional workshops on improving the quality and availability of treatment services;

"(7) provide technical assistance to public and nonprofit private entities that provide prevention and treatment services, including technical assistance with respect to the process of submitting to the Director applications for any program of grants carried out by the Director;

"(8) after consultation with organizations that represent providers of prehospital emergency medical services, carry out programs to train such providers with respect to responding to any emergency involving special problems that arise as a result of the abuse of alcohol or drugs by the victim of the emergency, including the problem of interacting with victims who are violent as a result of such abuse;

"(9) encourage State and Federal agencies offering treatment opportunities for individuals addicted to drugs or alcohol to utilize and establish self-run, self-supported recovery homes based on the Oxford House Model, as described in section 1916A;

"(10) provide treatment services by making grants to public and nonprofit private entities under any of sections 329, 330, and 340, and in making such grants, shall ensure that the grants are equitably allocated among the principal geographic regions of the United States, and between urban and rural areas, subject to the availability of qualified applicants for the grants;

"(11) improve coordination of the treatment resources of communities in order to ensure that the resources are applied in the manner most consistent with the needs of the communities, including referring individuals to the most appropriate provider of treatment services;

"(12) improve coordination between treatment facilities and agencies providing health, social, and employment services in order to assist, in a comprehensive manner, individuals undergoing treatment;

"(13) carry out activities to educate communities on the need for establishing treatment facilities within the communities;

"(14) encourage public and private entities that provide health insurance to provide benefits for drug treatment services; and

"(15) develop programs to increase the number of health professionals providing treatment services and to promote the increased integration into the health care system of the United States of programs for providing treatment services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (10) of subsection (b), there is authorized to be appropriated $50,000,000 for each of the fiscal years 1991 and 1992.".

### SEC. 102. REVISION IN PROGRAM FOR REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.

(a) ADMINISTRATOR OF PROGRAM.—Section 509E(a) of the Act (42 U.S.C. 290aa-12(a)) is amended by striking "the Administrator" and inserting "the Director of the Office for Treatment Improvement".

(b) IMPROVEMENT OF PROGRAM.—Section 509E of the Act (42 U.S.C. 290aa-12) is amended by—

(1) striking subsection (d) and redesignating subsection (c) as subsection (d);

(2) inserting after subsection (b) the following new subsection:

"(c) Subject to the availability of qualified applicants, in awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and nonprofit entities—

"(1) drug treatment services to pregnant and postpartum women; or

"(2) after-care services to prevent renewed substance abuse by individuals to whom a substance abuse program that receives assistance under this section has provided treatment services, except that a grantee shall not expend more than 50 percent of such grant to develop and provide such services.";

(3) redesignating paragraph (3) of subsection (e) as paragraph (4);

(4) striking "and" at the end of paragraph (2) of subsection (e); and

(5) inserting after paragraph (2) of subsection (e) the following new paragraph:

"(3) in the case of an applicant that is not a State, an agency of the State in which the applicant is located certifies that the applicant satisfies the conditions described in subsection (b); and".

(c) FUNDING.—Section 509E(f) of the Act (42 U.S.C. 290aa-12(f)) is amended—

(1) in paragraph (1), by striking "$100,000,000." and inserting "$140,000,000."; and

(2) in paragraph (3), by striking "$100,000,000" and inserting "$140,000,000".

(d) REPORT.—Not later than 6 months after the enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit, to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce, a report concerning the waiting period reduction grant program under section 509E of the Act (42 U.S.C. 290aa-12). Such report shall include—

(1) a list and description of the programs that have been awarded grants under this section;

(2) a description of the process by which funds awarded under such section are expended for treatment services, including a description of the process by which grantees obligate and draw-down funds received under such section;

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of

treatment need, a description of other, more accurate means of measuring treatment need;

(4) the views of State, local and nongovernmental treatment experts with respect to—

(A) the validity of waiting lists as a measure of treatment need; and

(B) the efficacy of the waiting period reduction grant program; and

(5) any other information that the Administrator deems to be necessary to a thorough appraisal of the efficacy of the program under such section.

SEC. 103. REVISION IN PROGRAM OF MODEL PROJECTS FOR REDUCING INCIDENCE OF ALCOHOL AND DRUG ABUSE AMONG PREGNANT AND POSTPARTUM WOMEN AND THEIR INFANTS.

(a) IN GENERAL.—Section 509F of the Act (42 U.S.C. 290aa-13) is amended by striking subsections (b) through (e) and inserting the following:

"(b) In making grants under subsection (a), the Director of the Office shall give priority to projects—

"(1) that will provide treatment services; and

"(2) that include one or more of the following components:

"(A) Service delivery strategies and outreach services in the community involved to identify such women who are abusing alcohol or drugs and to encourage such women to undergo treatment for such abuse.

"(B) Prenatal and postpartum health care for women undergoing such treatment.

"(C) With respect to the infants and children of such women, ongoing pediatric health care.

"(D) Child care, transportation, and other support services with respect to such treatment.

"(E) As appropriate, referrals to facilities for necessary hospital services.

"(F) Employment counseling, skill building and other appropriate follow-up services to help prevent a relapse of alcohol or drug abuse.

"(G) Case management services, including assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services.

"(H) Efforts to preserve and support the family unit.

"(I) Direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children.

"(J) Supportive services for biologic or foster parents of infants affected by maternal substance abuse.

"(K) Strategies for providing treatment resources to low-income pregnant and postpartum women.

"(L) Strategies for providing treatment resources to pregnant and postpartum women under criminal justice supervision.

"(M) Other services that will tend to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) With respect to any health service under this section that is covered by the appropriate State plan approved under title XIX of the Social Security Act, the Director of the Office may not make a grant under subsection (a) unless—

"(1) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the appropriate State plan and is qualified to receive payments under such plan; or

"(2) the applicant for the grant has entered into a contract with an entity for the entity to provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(d) The Director of the Office may not make a grant under subsection (a) unless the applicant for the grant agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income and resources of the woman involved; and

"(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(e) In making grants under subsection (a) for the provision of treatment services for alcohol and drug abuse, the Director of the Office shall ensure that the grants are distributed among projects that provide outpatient treatment and projects that provide residential treatment, in a manner that reflects the general desirability of residential treatment programs for pregnant addicts.

"(f) The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) the applicant for the grant agrees to submit to the Secretary an annual report that describes the number of women served, the number of infants served, the type and costs of services provided, and such other information as the Secretary determines to be appropriate;

"(3) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

"(5) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(g) The period during which payments are made by the Director of the Office under a grant under subsection (a) may not exceed 5 years, except that the Director of the Office may establish a procedure for renewal of grants under subsection (a).

"(h) Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and postpartum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and postpartum women to seek prenatal care and rehabilitation.

"(i) The Director of the Office shall, after consultation with the Director of the National Institute on Drug Abuse, periodically conduct evaluations to determine the effectiveness of projects supported under subsection (a).

"(j) The Director of the Office shall annually submit to the Congress a report describing programs carried out pursuant to this section. Each such report shall include any evaluations conducted under subsection (i) during the preceding fiscal year.

"(k)(1) In making grants under subsection (a), the Director of the Office shall make a grant to an institution of the type described in paragraph (2) for the establishment of a National Resource and Information Center for Perinatal Addiction, unless the Director finds that the Office is performing each of the functions set forth in paragraph (3) and certifies such finding to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce.

"(2) The grant described in paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

"(3) The Center established under subsection (a) shall—

"(A) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

"(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(D) develop and manage a national toll free hotline to provide information and referrals;

"(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(F) provide any other services designed to carry out the purposes of this subsection.

"(l) For the purpose of carrying out this section, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1991 and 1992.".

(b) GRANTEES.—Section 509F(a) of such Act (42 U.S.C. 290aa-13(a)) is amended by inserting at the end thereof the following new sentence: "Such grants may be made only to public and nonprofit private entities and to appropriately qualified Indian tribes and tribal organizations (as defined in section 1913(b)(5)).".

SEC. 104. REVISIONS IN PROGRAM FOR DRUG ABUSE PROJECTS OF NATIONAL SIGNIFICANCE.

Section 509G of the Act (42 U.S.C. 290aa-14) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "the Administrator" and inserting "the Director of the National Institute on Drug Abuse"; and

(B)(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking "; and" at the end of subparagraph (B) and inserting a period; and

(iii) by striking subparagraph (C);

(2) in subsection (a)(2), by inserting "a" before "result";

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting after "Secretary" the following: ", acting through the Director of the Office for Treatment Improvement,";

(ii) by striking "States" the first place such term appears and inserting "States and other public or nonprofit private entities"; and

(iii) by striking "States" the second place such term appears and inserting "such entities"; and

(B) in paragraph (4), by striking "State" and inserting "public or nonprofit private entity"; and

(4) by amending subsection (c)(1) to read as follows:

"(c)(1) For the purpose of carrying out this section, there are authorized to be appropriated $80,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 105. DRUG ABUSE TREATMENT GRANT PROGRAMS.

Part A of title V of the Act (42 U.S.C. 290aa et seq.) is amended by inserting at the end thereof the following new sections:

"SEC. 509H. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include government agencies, medical schools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate institutions that submit an application in accordance with subsection (c).

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.

"SEC. 509I. DEMONSTRATION GRANTS FOR DRUG TREATMENT IN THE CRIMINAL JUSTICE SYSTEM.

"(a) PROGRAM ESTABLISHED.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to public and nonprofit private entities that provide drug treatment services to individuals under criminal justice supervision.

"(b) ELIGIBILITY.—In awarding grants under subsection (a), the Director shall ensure that the grants are reasonably distributed among projects that provide treatment services to individuals who are—

"(1) incarcerated in prisons, jails or community correctional settings; or

"(2) not incarcerated but under criminal justice supervision because of their status as pre-trial releases, post-trial releases, probationers, parolees, or supervised releases.

"(c) PRIORITY.—In awarding grants under subsection (a), the Director shall give priority to programs that provide—

"(1) a continuum of services for offenders as they proceed through and out of the criminal justice system, including identification and assessment, drug treatment, employment counseling, pre-release counseling and pre-release referrals with respect to housing and treatment;

"(2) referrals to treatment programs in the community for individuals soon to be released from incarceration;

"(3) treatment services for juvenile offenders;

"(4) treatment services for female offenders;

"(5) outreach services to identify individuals under criminal justice supervision who would benefit from drug treatment and to encourage such individuals to seek treatment; or

"(6) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

"(d) APPLICATION.—The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary; and

"(2) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines necessary to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.

"SEC. 509J. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter in this section referred to as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED GRANT APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—Subject to the availability of qualified applicants, the Director shall ensure that grants awarded under this section shall be equitably allocated among the principal geographic regions of the United States.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for fiscal years 1991 and 1992.

"SEC. 509K. MODEL RESIDENTIAL PROJECTS FOR ALCOHOL AND DRUG ABUSING WOMEN AND THEIR CHILDREN.

"(a) PROJECT AUTHORIZED.—

"(1) IN GENERAL.—The Secretary, through the Director of the Office, shall make grants to establish not less than 5 projects in which addicted mothers in residential drug abuse treatment facilities are allowed to have their children reside with them during the course of such treatment. Such residential drug abuse treatment and prevention projects shall target economically disadvantaged addicted women and their children (age 10 years and younger) and shall offer child care, parenting and jobs skills, nutrition, and other health, social, education, and employment services as necessary.

"(2) DURATION.—The Secretary, through the Director of the Office, shall only award grants under this section for projects which will be operated for a period of at least 3 years.

"(b) APPLICATION.—Each entity desiring a grant under this section shall submit an application to the Director of the Office at such time, in such manner and accompanied by such information as the Director of the Office may reasonably require. Each such application shall include assurances that the mothers selected for participation in such project have been evaluated to ensure that such mothers are committed to remaining in drug abuse treatment and prevention projects assisted under this section.

"(c) EVALUATION.—The Director of the Office shall conduct evaluations to determine the effectiveness of the projects assisted under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for fiscal year 1991, and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of this section.

"SEC. 509L. NATIONAL CAPITAL AREA DRUG ABUSE TREATMENT DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Office for Treatment Improvement shall make a demonstration grant for the establishment, within the national capital area, of a model program for providing comprehensive treatment services for drug abuse.

"(b) PURPOSES.—The Secretary may not make a grant under subsection (a) unless, with respect to the comprehensive treatment services to be offered by the program under such subsection, the applicant for the grant agrees—

"(1) to ensure, to the extent practicable that the program has the capacity to provide the services to all individuals who seek and would benefit from the services;

"(2) as appropriate, to provide aftercare, employment counseling and other services designed to prevent treated substance abusers from relapsing;

"(3) to provide services in locations accessible to drug abusers and, to the extent practicable, to provide services through mobile facilities;

"(4) to give priority to providing services to individuals who abuse drugs ravenously to pregnant women, to homeless individuals, and to residents of publicly-assisted housing;

"(5) with respect to women with dependent children, to provide child care to such women seeking treatment services for drug abuse;

"(6) to conduct outreach activities to inform individuals of the availability of the services of the program;

"(7) to conduct appropriate activities for the prevention of the abuse of drugs;

"(8) to provide case management services, including services to determine eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(9) to ensure the establishment of one or more offices to oversee the coordination of the activities of the program, to ensure that treatment is available to those seeking it, to ensure that the program is administered efficiently, and to ensure that the public is informed that the offices are the locations at which individuals may make inquiries concerning the program, including the location of available treatment services within the national capital area; and

"(10) to develop and utilize standards for certifying the knowledge and training of individuals, and the quality of programs, to provide treatment services for drug abuse.

"(c) CERTAIN REQUIREMENTS.—

"(1) REGARDING ELIGIBILITY FOR GRANT.—

"(A) The Secretary may not make the grant under subsection (a) unless the applicant for the grant is an organization of the general-purpose local governments within the national capital area, or another public or nonprofit private entity, and the applicant submits to the Secretary assurances satisfactory to the Secretary that, with respect to the communities in which services will be offered, the local governments of the communities will participate in the program.

"(B) The Secretary may not make a grant under subsection (a) unless—

"(i) an application for the grant is submitted to the Secretary;

"(ii) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(iii) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(2) AUTHORITY FOR COOPERATIVE ARRANGEMENTS.—The grantee under subsection (a) may provide the services required by such subsection directly or through arrangements with public and nonprofit private entities.

"(d) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(e) EVALUATION.—The Secretary shall provide for an independent evaluation of the effectiveness of the program carried out under subsection (a). In conducting the evaluation, the Secretary shall evaluate the extent to which the program has effectively utilized innovative methods for overcoming the resistance of the residents of communities to the establishment of treatment facilities within the communities.

"(f) REPORTS.—

"(1) INITIAL CRITERIA.—The Secretary shall make a determination of the appropriate criteria for carrying out the program required in subsection (a), including the anticipated need for, and range of, services under the program in the communities involved and the anticipated costs of the program. Not later than 90 days after the date of the enactment of the Drug Abuse Treatment and Prevention Improvement Act of 1990, the Secretary shall submit to the Congress a report describing the findings made as a result of the determination.

"(2) ANNUAL REPORTS.—Not later than 1 year after the date on which the grant is made under subsection (a), and annually thereafter, the Secretary shall submit to the Congress a report describing the extent to which the program carried out under subsection (a) has been effective in carrying out the purposes of the program.

"(g) DEFINITION.—For purposes of this section, the term 'national capital area' means the metropolitan Washington area, including the District of Columbia, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia, the counties of Arlington and Fairfax in such State (and the political subdivisions of such State located in such counties), and the counties of Montgomery and Prince George's in the State of Maryland (and the political subdivisions of such State located in such counties).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $35,000,000 for fiscal year 1991 to carry out the provisions of this section.".

SEC. 106. DRUG ABUSE PREVENTION GRANT PROGRAMS.

Part A of title V of the Act (as amended in section 105) (42 U.S.C. 290aa et seq.) is further amended by inserting at the end thereof the following new sections:

"SEC. 509M. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) at least three representatives of nongovernmental interested parties such as the clergy, academia, business, parents, youth, the media, and civic and fraternal groups.

"(b) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(A) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(B) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(C) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(D) develop a consensus regarding the priorities of a community concerning substance abuse;

"(E) develop a plan to implement such priorities; and

"(F) coordinate substance abuse services and activities, including prevention activities in the schools and communities and substance abuse treatment programs.

"(2) SPECIAL RULE.—In making grants pursuant to paragraph (1), the Secretary shall award at least 35 percent of the amount appropriated pursuant to the authority of subsection (f) in each fiscal year to communities with populations of no more than 250,000 individuals that have made substance abuse prevention a high priority, as determined by the Secretary.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem in the community in question;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual

has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(6) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities; and

"(4) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 1991 and 1992.

"SEC. 509N. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Program shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizational development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(4) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(5) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(6) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal years 1991 and 1992, of which at least 50 percent shall be used to carry out the provisions of subsection (d).".

SEC. 107. TECHNICAL AND CONFORMING AMENDMENTS.

Part A of title V of the Act (42 U.S.C. 290aa et seq.) is further amended—

(1) in section 508(d)(1), by striking "sections 509, 509A, and 509F," and inserting "sections 509 and 509A,"; and

(2) in section 509F—

(A) in the heading, by striking "PREGNANT" and all that follows through "WOMEN" and inserting "PREGNANT AND POSTPARTUM WOMEN"; and

(B) in subsection (a), by striking "pregnant" and all that follows through "women" and inserting "pregnant and postpartum women".

## TITLE II—REVISION OF THE ADAMHA BLOCK GRANT PROGRAM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 1911(a) of the Act (42 U.S.C. 300x) is amended by striking "$1,500,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991" and inserting "$2,000,000,000 for fiscal year 1991".

SEC. 202. REVISION OF BLOCK GRANT FORMULA.

Section 1912A of the Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking "0.4" in subclause (I), and inserting "0.34"; and

(B) by striking "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting "determined by multiplying the total population of the State, as indicated by the most recently available data, by a percentage equal to the percentage that, under data from the most recent decennial census conducted by the Bureau of the Census, is constituted by the ratio of the population of the State living in urbanized areas to the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking "0.2" and inserting "0.22";

(3) in subsection (a)(4)(B)(iii)(I), by striking "0.2" and inserting "0.22";

(4) in subsection (a)(4)(B)(iv)(I), by striking "0.2" and inserting "0.22";

(5) in subsection (b)(1), by striking "$7,000,000" and inserting "$8,000,000";

(6) by amending subsection (b)(2) to read as follows:

"(2) an amount determined in accordance with the following formula:

$R \times (1 + (.25 \times E))$,

where "R" equals the amount the State received under this section in fiscal year 1989 and "E" equals the cumulative percentage by which the total amount appropriated under section 1911 has changed since fiscal year 1989.";

(7) in subsection (c)(1)(B)(i), by inserting "civilian" before "population";

(8) by inserting after subsection (c)(1)(B)(ii) the following flush sentence:

"In the absence of reliable recent population data with respect to a given territory, it shall be assumed that the population of that territory has changed at the same rate as the population of the territories generally."; and

(9) by amending subsection (f) to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $250,000,000.".

SEC. 203. REVISION WITH RESPECT TO THE USE OF ALLOTMENTS.

Section 1915 of the Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse," in subparagraph (A);

(B) by striking "and" at the end of subparagraph (B);

(C) by striking the period and inserting a semicolon at the end of subparagraph (C); and

(D) by inserting at the end thereof the following new subparagraphs:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers; and

"(E) to develop, implement, and operate programs of treatment for adult and juvenile substance abusers in State and local criminal and juvenile justice systems, including treatment programs for individuals in prisons and jails and those on probation, parole, supervised release, and pretrial release."; and

(3) by inserting at the end of subsection (d) the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

SEC. 204. ESTABLISHMENT OF REQUIREMENT.

Title XIX of the Act (42 U.S.C. 300z et seq.) is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE SUBSTANCE ABUSE TREATMENT PLAN.

"(a) NATURE OF THE PLAN.—To receive its allotment for a fiscal year under section 1912A, a State shall develop, implement, and submit as part of the application required by section 1916(a), an approved statewide Substance Abuse Treatment Plan, prepared according to standards issued by the Secretary, that shall—

"(1) contain a single, designated State agency for formulating and implementing the Statewide Substance Abuse Treatment Plan;

"(2) contain a description of the mechanism that shall be used to assess the needs for substance abuse treatment in localities throughout the State including the presentation of relevant data;

"(3) contain a description of a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) contain a description of performance-based criteria that shall be used to assist in the allocation of funds to substance abuse treatment facilities receiving assistance under this subpart;

"(5) contain a description of the mechanism that shall be used to make funding allocations under this subpart;

"(6) contain a description of the actions that shall be taken to improve the referral of substance abusers to treatment facilities that offer the most appropriate treatment modality;

"(7) contain a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(8) contain a description of the plan that shall be implemented to coordinate substance abuse treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services;

"(9) contain a description of the plan that shall be implemented to expand drug treatment opportunities for individuals under criminal justice supervision;

"(10) contain a description of the plan that will be implemented to expand and improve efforts to deter women from knowingly abusing drugs during pregnancy, to contact and treat pregnant women who abuse drugs, and to provide appropriate follow-up services to their affected newborns;

"(11) provide for the targeting of funds toward areas of the greatest need in the State, using such criteria as the State may establish for determining such areas, including criteria for focusing on—

"(A) the current unmet treatment needs in the State including both the inpatient, outpatient, and long- and short-term substance abuse treatment service needs of defined populations and the availability of essential ancillary services;

"(B) the incidence of deliveries of infants who are adversely affected by maternal substance abuse;

"(C) the incidence of criminal activities related to substance abuse; and

"(D) the incidence of communicable diseases transmitted by substance abuse;

"(12) provide for the periodic testing of patients as appropriate for various treatment populations to determine the patients compliance with treatment regimens and the establishment of clinically appropriate policies for dealing with patients who fail such tests and provide that such testing conducted not be required to be more frequent than is necessary to achieve treatment objectives;

"(13) provide for aftercare or follow-up, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic contacts with the patient to monitor the patient's progress and provide services or additional treatment as needed;

"(14) increase, if necessary, the availability of specialized services and facilities necessary to meet the needs of female and minority drug abusers; and

"(15) provide for the establishment of a program of interim assistance for individuals who apply for treatment, and who must wait for the availability of treatment opportunities, such as—

"(A) education and counseling concerning drug abuse; and

"(B) the referral to, or provision of, other necessary health and social services that may include primary health care, education, and vocational services.

"(b) SUBMISSION OF THE PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—(1) The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by the State plan prepared under subsection (a).

"(2) Beginning in fiscal year 1992, no payment shall be made to a State from its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(e) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Director of the Office for Treatment Improvement shall establish a model State substance abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) ADMINISTRATIVE EXPENSES.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914 with respect to alcohol and drug abuse.".

## TITLE III—PHARMACOTHERAPY DEVELOPMENT

### SEC. 301. SHORT TITLE.

This title may be cited as the "Pharmacotherapy Development Act of 1990".

### SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) drug addiction is a disease of epidemic proportions in the United States;

(2) current efforts to treat the disease of addiction are inadequate; and

(3) pharmacotherapy, the use of medicines to treat the disease of addiction, is one promising method of drug treatment, and the development of such medicines must be more aggressively promoted by the Federal Government.

(b) PURPOSE.—It is the purpose of this title to promote research, development, and production of pharmacotherapeutics used to reduce the prevalence of drug addiction in the United States.

## PART A—FEDERAL MEDICATION DEVELOPMENT PROGRAM

### SEC. 311. ESTABLISHMENT OF MEDICATION DEVELOPMENT DIVISION.

Section 515 of the Public Health Service Act (42 U.S.C. 290cc) is amended to read as follows:

"SEC. 515. PHARMACOTHERAPEUTICS DEVELOPMENT DIVISION.

"(a) ESTABLISHMENT.—There is established in the National Institute on Drug Abuse a Division to be known as the 'Medications Development Division' (hereinafter in this section and section 515A referred to as the 'Division').

"(b) ORGANIZATION.—

"(1) DIRECTOR.—The Division shall be headed by a Director appointed by the Director of the National Institute on Drug Abuse on the basis of scientific merit.

"(2) STAFFING.—The Director of the Division (hereinafter in this section and section 515A referred to as the 'Director') may appoint one or more Deputy Directors and shall employ administrators and researchers on the basis of scientific merit.

"(c) DUTIES.—The Director shall—

"(1) in consultation with the Commissioner of Food and Drugs, establish, not later than 1 year after the date of enactment of this section, new guidelines for the safety and efficacy trials of medications to treat drug addiction, with such guidelines to be implemented by the Commissioner of Food and Drugs in accordance with subchapter C of chapter V of the Federal Food, Drug and Cosmetic Act;

"(2) conduct periodic meetings with the Commissioner of Food and Drugs to discuss other measures that may facilitate the approval process of drug addiction treatments;

"(3) encourage and promote (through grants, contracts, or otherwise) expanded research programs, investigations, experiments, and studies, into the development of medications to treat drug addiction;

"(4) establish, or provide for the establishment of, clinical research facilities to carry out this section;

"(5) track the activities of the National Institutes of Health relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(6) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and seek the establishment of an international research data bank to collect, catalog, analyze, and disseminate through international channels, the results of research undertaken in any country concerning pharmacotherapeutic treatments for drug addiction; and

"(7) support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug addiction, including the use of training stipends, fellowships, and awards where appropriate.

"(d) ADMINISTRATION.—In carrying out the activities described in subsection (c), the Director may—

"(1) collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the Division;

"(3) acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary;

"(4) acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of the General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Division for a period not to exceed 10 years;

"(5) accept voluntary and uncompensated services;

"(6) accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(7) take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Division and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(e) REPORTS.—

"(1) IN GENERAL.—Not later than December 31, 1990, and each December 31 thereafter, the Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the Division.

"(2) INCORPORATION INTO NATIONAL DRUG CONTROL STRATEGY.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(3) ADDITIONAL REPORTS.—The Director may prepare additional reports as appropriate.

"(f) PEER REVIEW.—The Director shall, by regulation, provide for the proper scientific review of all research grants, cooperative agreements, and contracts over which the Director has authority by—

"(1) utilizing, to the extent practicable, appropriate peer review groups established within the National Institute on Drug Abuse and composed primarily of non-Federal scientists and other experts in the scientific and disease fields; and

"(2) when appropriate, by establishing, with the approval of the Director of the National Institute on Drug Abuse, other formal peer review groups as may be required.".

SEC. 312. AUTHORIZATION OF APPROPRIATIONS.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out section 515—

"(1) $60,000,000 for fiscal year 1991;

"(2) $70,000,000 for fiscal year 1992;

"(3) $85,000,000 for fiscal year 1993;

"(4) $100,000,000 for fiscal year 1994;

"(5) $110,000,000 for fiscal year 1995; and

"(6) $115,000,000 for each of the fiscal years 1996 through 2000.".

PART B—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

SEC. 321. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary may designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (c) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) block the effects of abused drugs;

"(ii) reduce the craving for abused drugs;

"(iii) moderate or eliminate withdrawal symptoms;

"(iv) block or reverse the toxic effects of abused drugs; or

"(v) prevent, under certain conditions, the initiation of drug abuse;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such the addiction of such individual; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 202 of the Controlled Substance Act (21 U.S.C. 812) the possession or distribution of which is unlawful under such Act.

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a), (b), and (c).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505;

"(2) issues a certification under section 507; or

"(3) issues a license under section 351 of the Public Health Service Act;

for a drug designated under section 529A for the treatment of addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved ap-

plication, of such certification, or of such license until the expiration of 7 years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such 7-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary may encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. ENFORCEMENT.

"The provisions of title III relating to the breach of an exclusive marketing agreement shall apply to this subchapter.

"SEC. 529F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

## PART C—MEDICATIONS REVIEW PROCESS REFORM

SEC. 331. INVESTIGATIONAL NEW DRUGS.

(a) SUBMISSION OF APPLICATION.—Notwithstanding subpart B of part 312 of title 21, Code of Federal Regulations, in implementing the procedures required under subsection (b), the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit an entity submitting an investigational new drug application or protocol for medications to treat drug addiction to provide the information required by the Secretary as such information becomes available to such entity. The Secretary may permit such applications or protocols to be submitted in parts. If the Secretary withholds approval of any part of such application or protocol, the Secretary may require that the applying entity resubmit only that portion of such application or protocol that was not approved. Not later than 30 days after an entity submits such an application or protocol or part thereof, the Secretary shall notify such entity concerning the approval or rejection of such application or protocol or part thereof, and if such notification is not provided approval will be automatic.

(b) APPLICATION OF PROCEDURES.—The Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, shall apply investigational new drug procedures under part 312 of title 21, Code of Federal Regulations, to encourage the development and use of medications to treat drug addiction. The Secretary may waive the requirements contained in part 312.34(b)(1)(ii) of title 21, Code of Federal Regulations, if the Secretary determines that such a waiver is appropriate.

SEC. 332. PARALLEL TRACK TRIALS FOR MEDICATIONS TO TREAT DRUG ADDICTION.

(a) IN GENERAL.—In encouraging the development and marketing approval of medications to treat drug addiction, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit parallel track trials to be used to permit access to such drugs in a manner similar to that applied to certain medications to treat individuals infected with the human immunodeficiency virus.

(b) DEFINITION.—As used in this section the term "parallel track trials" means the procedures used by the Food and Dug Administration under part 312.35 of title 21, Code of Federal Regulations.

SEC. 333. WAIVER OF MECHANISM OF ACTION REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may waive the application of the mechanism of action requirement for marketing approval of medications to treat drug addiction.

SEC. 334. DEFINITION.

As used in this title, the term "pharmacotherapeutics" means medications used to treat the symptoms and disease of drug addiction, including medications to—

(1) block the effects of abused drugs;

(2) reduce the craving for abused drugs;

(3) moderate or eliminate withdrawal symptoms;

(4) block or reverse the toxic effect of abused drugs; and

(5) prevent, under certain conditions, the initiation of drug abuse.

## PART D—HIGH PRIORITY RESEARCH AREAS

SEC. 341. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of a methadone alternative;

(2) the development of a long-acting narcotic antagonist;

(3) the development of a cocaine-blocking treatment;

(4) the development of a cocaine-blocker/narcotic antagonist treatment;

(5) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine; and

(6) the development of medications to treat pregnant addicts and their fetuses.

## PART E—REPORT BY THE SURGEON GENERAL

SEC. 351. REPORT BY THE SURGEON GENERAL.

(a) PHARMACOTHERAPY REVIEW PANEL.—Not later than 120 days after the date of enactment of this Act, the Director of the Division established under section 515 of the Public Health Service Act (as amended by section 7011) shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) REPORT.—Not later than January 1, 1992, the Surgeon General of the United States shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

(1) the recommendations of the panel established under subsection (a);

(2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;

(3) the assessment of the Surgeon General of the progress of the nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and

(4) any other information determined appropriate by the Surgeon General.

(c) AVAILABILITY.—The report prepared under subsection (b) shall be made available for use by the general public.

## TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. STUDY ON THE RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—For assistance in designing prevention programs to reduce the likelihood of drug abuse, the Secretary of Health and Human Services shall conduct a study concerning the relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs.

(b) CONTENTS.—The study conducted under subsection (a) shall contain information concerning—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary of Health and Human Services determines appropriate.

(c) DATA AND RESEARCH.—In conducting the study under subsection (a), the Secretary of Health and Human Services shall consider data collected and current research concerning drug abuse and gateway drugs.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report containing the results of the study conducted under subsection (a).

SEC. 402. OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1986.

Subpart 3 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3766 et seq.) is amended by inserting at the end thereof the following new section:

"SEC. 523. DRUG TREATMENT PROGRAMS.

"(a) IN GENERAL.—Notwithstanding any other provision of law at least 20 percent of the amounts appropriated to carry out the provisions of this part shall be used for drug treatment programs in the criminal justice system.

"(b) PRIORITY RULES.—In carrying out the provisions of subsection (a), the Director shall give priority to programs that provide—

"(1) a continuum of services for offenders as they proceed through and out of the criminal justice system;

"(2) referrals to treatment programs in the community for individuals soon to be released from incarceration;

"(3) treatment services for juvenile offenders;

"(4) treatment services for female offenders;

"(5) outreach services to identify individuals under criminal justice supervision who would benefit from drug treatment and to encourage such individuals to seek treatment; or

"(6) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.".

SEC. 403. DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181) is amended by striking "such sums as may be necessary" and inserting "$1,200,000,000".●

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By Mr. BIDEN:

S. 2650. A bill to implement a national drug strategy to prevent illegal use of drugs, and for other purposes; to the Committee on the Judiciary.

NATIONAL DRUG CONTROL STRATEGY ACT

● Mr. BIDEN. Mr. President, today, I am introducing the National Drug Strategy Act of 1990, a comprehensive legislative drug strategy proposal. It is my belief that the proposals outlined in this bill offer real hope for meeting the greatest domestic challenge facing our Nation today: The epidemic of illegal drug use that is devastating our cities and towns, and decimating the next generation of Americans.

This bill is a legislative version of the alternative drug strategy that I released in January. I am introducing it today as the President is submitting his legislative proposals to implement the drug strategy plan he issued earlier this year.

In a minute, I want to discuss some of the highlights of this bill, and point out the principal differences between this strategy and the one that the administration has pursued thus far. Before I do, though, I want to make one thing clear: This bill does not represent a wholesale rejection of the administration's approach, or a criticism of the National Drug Control Policy Director, William Bennett.

As the principal sponsor of the provision creating the drug czar post, and requiring the President to submit an annual drug strategy report, I am pleased with the results this law has had thus far. I have had differences with Director Bennett—sometime pointed ones. But I still believe that Director Bennett and his deputies deserve the Nation's gratitude for what they have accomplished thus far.

I think that the administration's drug plan is making some progress—and the President deserves credit for that. But in fairness, some of this credit should be shared by the Congress, too. We passed the law that required the President to issue a national drug strategy, and to set national drug policy goals; and we beefed up his first drug fighting plan when it was offered last year.

So this bill is not intended a categorical rejection of the administration's legislation. On many issues, our bills are in accord. Instead, this bill is an effort to take the next step: Not to criticize what has been done thus far, but to ask, "Do we need to do even more in the year ahead?"

Mr. President, last week, the majority staff of the Judiciary Committee issued a report that indicated that there are 2.2 million hard-core cocaine addicts in this country—about 1 out of every 100 Americans.

This alarming report was not issued to criticize the administration's drug strategy—as I noted at the time, the 2.2 million figure might actually be down from where it was when George Bush took over. Rather, it was an effort to suggest that we have been seriously underestimating the scope of the cocaine addiction problem in America—and that we need answers as big as the problem.

The bill I am introducing today offers such answers. Hopefully, when compared with and combined with the legislation the administration has submitted, it will help take the Nation one step farther: To focus the debate more precisely on the different choices we have in fighting the drug scourge, and the different paths we can pursue.

Before I summarize this bill, I want to make one comment on the bill the President has submitted to Congress. Many things in it are sound, and some—such as new laws to crack down on drug-related corruption—are ideas that we in the Senate have approved already.

The administration's bill is largely a collection of new powers and new penalties for drug crimes. I support many of these proposals. But it it time we came to grips with reality about such measures: New powers and new penalties will do little to win the drug war—unless we back them up new police, new prosecutors, and new prisons to make these punishments stick.

That's what the bill I am introducing today is all about. Summarizing in a few paragraphs the 300-page bill I am about to introduce is difficult. But I want to highlight a few of the major premises of this bill, and a few of its major differences with the administrator's plan.

If this bill could be summarized in a single idea, it would be this: We must attack the drug problem at its roots—at the level of the hard-core users in America's cities and towns, the coca-growing farmers in the Andean mountains and the children in our schools who are at risk of becoming the next generation of drug addicts.

The administration's legislation has focused in large part of reducing the number of casual drug users in the United States. This effort is critical, but the fact is that casual drug use has been declining sharply in America in recent years; down 37 percent since 1985, for example. And the fact is that despite this decline, crime in American continues to rise, drug related medical emergencies are up, and the nightmare of crack babies and drug-related child abuse is soaring.

This is the devastating caused by hard-core users. And this is the place where the administration's strategy is most lacking. The only way to fight the crime menace is to fight the problem of hard-core drug addiction.

Thus, this bill proposes numerous measures to help make sure that—as soon as possible—every hard-core user in America is faced with one of two stark choices: Get into treatment, or go to jail, and get treatment there.

These measures include expanded drug treatment facilities; more aid to local law enforcement—which is called on to arrest and process these hard-core users—new prisons with drug treatment facilities; expanded and more flexible aid to cities hardest-hit by the drug problem; research into medical treatments that may some day cure drug addiction; and much, much more.

The second root of the drug problem addressed by this bill is found in the hillsides of the Andean nations. There, entire economies and societies are as addicted to the drug trade as hard-core addicts are to these nations' product.

It is no exaggeration to say that the economies of Bolivia and Peru, for example, are more dependent on coca that Detroit is on cars, or Pittsburgh is on steel.

The U.S. effort in the Andean region thus far has focused primarily—almost exclusively—on military aid to the governments in question. But these nations already have extensive military establishments, and most experts—and candid officials from the Andean na-

tions—agree that further military aid—without corresponding increases in economic aid—will bring only marginal returns.

My bill proposes a comprehensive, coordinated effort to move the Andean nations away from coca-based economies, and toward other commodities and industries. Specific proposals to swap debt relief for crop substitution and development, and to launch a narcotics free trade zone, are offered here, as well as other trade incentives. Increased economic aid is proposed as well.

In sum, the key is to reorient the economies of the Andean nations away from coca. Only through such an approach can sustained, long-range efforts to reduce the supply of cocaine be achieved.

The third root of the drug problem is closest to home: It lies within our children. If we do nothing else, we must adopt a drug policy that does all that it can to prevent them from becoming the next generation of drug users.

Mr. President, though the administration continues to disparage its value, we know that drug education works. More importantly, we know that it is the only tool we have to stop our kids from using drugs before they start.

As a result, my bill includes many initiatives aimed at protecting our children from the dangers of drug use. Chief among them is a plan for comprehensive drug education for all children, grades K through 12, by 1992—and prevention programs, like putting a boys and girls club in every public housing project in the country.

This is an overview of the major ideas behind this bill aimed at fighting the drug problem at three roots: Hardcore users in our streets, coca farmers in the Andes, and children in our schools and homes.

The bill itself is divided into eight titles: law enforcement, treatment, education, international interdiction, drug emergency areas, research and new technologies, and coordination. As I said before, it is almost 300 pages long, and contains literally dozens and dozens of individual proposals.

These specific proposals are summarized in materials that follow these remarks. Even a brief listing of them would take far longer than I have at this time.

In closing, I want to say that I owe a tremendous debt of gratitude to countless people for the ideas that went into this legislation.

Principal among these are my colleagues in the Senate. As the attached summary notes in the appropriate place, about 20 of my Senate colleagues, and a handful of House Members—Democratic and Republican—deserve credit for one or more of the proposals recommended here. Of course, their specific support for a specific proposal does not imply their endorsement of this bill as a whole.

Special mention must go to the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, who was the author and proponent of most of the treatment and education provisions included in this bill. He has long been a leader on this issue, and his pioneering work in the area of fighting the demand for drugs has pointed the way for us all.

Finally, let me reiterate my belief that we can—as we have in the past—have bipartisan cooperation on the drug issue. Working together, Democrats and Republicans, we can adopt a national drug policy that—to use the President's words—makes tremendous strides toward "ending this scourge."

Mr. President, I ask unanimous consent that the bill be printed in the RECORD, along with several factsheets and summaries of it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2650

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Drug Control Strategy Act of 1990."

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TITLE I—LAW ENFORCEMENT

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**Subtitle A—State and Local Law Enforcement Assistance**

SEC. 1001. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS AND IMPROVING THE EFFECTIVENESS OF COURT PROCESS.

(a) BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.—(1) Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.".

(2) Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162), is amended by striking "1990" and inserting "1991".

(b) IMPROVING THE EFFECTIVENESS OF COURT PROCESS.—Paragraph (10) of section 501 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender, and judicial resources, and implementing court delay reduction programs;".

SEC. 1002. COMMUNITY SUBSTANCE ABUSE PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1990".

(b) COMMUNITY PARTNERSHIPS.—(1) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of three of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy;

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members; and

"(3) initiate programs such as—

"(A) drug treatment and education;

"(B) street patrols against crime;

"(C) sealing up of deserted buildings;

"(D) youth activities and organizations;

"(E) other activities related to improving communication and information sharing with police; and

"(F) hire full-time or part-time staff to coordinate and direct the programs of the coalition.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—(1) Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe.

(2) The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) LIMITS ON GRANTS.—A grant awarded under this section shall not be less than $10,000 and not more than $250,000.

"(h) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for fiscal year 1991 and $25,000,000 for fiscal year 1992.".

(2) The table of sections of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

**Subtitle B—Drug Days**

SEC. 1025. ASSISTING STATE AND LOCAL PROSECUTORS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Attorney General shall direct each of the several United States attorneys to—

(1) in consultation with the chief prosecutor in each State or local jurisdiction within the district, establish a program whereby all cases involving persons arrested on a desig-

nated day each month for offenses that are felony violations of the Controlled Substances Act or the Controlled Substances Export and Import Act are presented to a Federal grand jury and, if indicted, are prosecuted in Federal court; and

(2) in conjunction with State and local officials and the local heads of Federal law enforcement agencies, establish a program aimed at using Federal laws to seize and forfeit the automobiles of persons who use such vehicles in the commission of drug-related offenses, particularly drug-related offenses involving personal use quantities of drugs.

(b) REPORT.—Not less than 180 days after the enactment of this section, and annually thereafter, the Attorney General shall prepare a detailed report outlining what steps each United States attorney has taken to implement the directives issued pursuant to subsection (a) and a complete statistical analysis of the accomplishments achieved under this section.

(c) NO RIGHTS CREATED.—Nothing in this section shall be construed as creating any substantive or procedural right enforceable by law by any party in any proceeding.

**Subtitle C—Federal Law Enforcement**

SEC. 1051. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following sums (which shall be in addition to any other appropriations)—

(1) For the Federal Bureau of Investigation, $98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration, $100,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals;

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents and necessary support personnel to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries; and

(C) not to exceed $15,000,000 to expand DEA State and local task forces, including payment of State and local overtime equipment and personnel costs;

(3) For the United States courts, $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States attorneys, $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For defender services, $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(6) For the United States marshals, $9,000,000;

(7) For the Bureau of Alcohol, Tobacco and Firearms, $37,500,000 to be allocated as follows:

(A) $31,000,000 for the hiring, training, and equipping of no fewer than 240 full-time equivalent special agents and no fewer than 120 full-time equivalent inspectors, over such personnel levels on board as of September 30, 1990, for carrying out narcotics related investigation and enforcement activities authorized under sections 924 (c), (d), and (e) of title 18, United States Code, and for the purchase of law enforcement vehicles; and

(B) $6,500,000 for the hiring, training and equipping of no fewer than 50 full-time equivalent special agents and no fewer than 25 full-time equivalent inspectors, over such personnel levels on board as of September 30, 1990, for combatting the international trafficking of firearms used in narcotics-related activities;

(8) For the Internal Revenue Service, $30,000,000 to be allocated as follows:

(A) $18,000,000 for the hiring and training of no fewer than 347 full-time equivalent positions, over such personnel levels on board as of September 30, 1990, for the processing of currency transaction reports related to money laundering investigations; and

(B) $12,000,000 for the hiring, training, and equipping of no fewer than 120 special agents, over such personnel levels on board as of September 30, 1990, for the expansion of investigations into narcotics and other criminal-related activities.

**Subtitle D—Rural Drug Enforcement**

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Rural Drug Enforcement Act".

SEC. 1102. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this subtitle referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 1103. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—(1) Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated for rural drug enforcement assistance $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 percent shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 percent shall be allocated to the remaining States for use in nonmetropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of this section, the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.".

(2) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended in subpart 1 of part E by adding at the end thereof the following:

"Sec. 509. Rural drug enforcement assistance.".

(b) SEPARATE GRANT REQUEST.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by inserting at the end thereof the following:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 1104. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall assign not less than 10 Drug Enforcement Administration special agents to each of the several States.

(b) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than 10 Drug Enforcement Administration special agents, as of the date of enactment of this subtitle, the Attorney General shall assign not less than 4 additional Drug Enforcement Administration special agents to each rural State as defined in section 509(c) of title I of the Omnibus Crime Control and Safe Streets Act, as added by section 1103 of this subtitle.

SEC. 1105. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—Not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this section.

**Subtitle E—Mandatory Detention**

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 1152. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 1153. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, as redesignated by section 1152(b) of this subtitle, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

## Subtitle F—Forfeiture

SEC. 1201. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets"; and

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances";

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G), and (H)".

SEC. 1202. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2);

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 1607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 1203. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the following: "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 1204. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter,".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation,".

SEC. 1205. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"Nonabatement of Forfeiture Order

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 1206. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 1207. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 1208. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY AND ADMINISTRATIVE USE.

(a) CLARIFICATION OF AUTHORITY.—Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

(b) ADMINISTRATIVE EXPENSES.—Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following:

"In determining the equitable share of proceeds for a State or local law enforcement

agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

SEC. 1209. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 1210. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) (1) and (2) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting ", all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section, and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products" after "this title".

SEC. 1211. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1212. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955 of title 18, United States Code, is amended—

(1) in subsection (d), by striking ", including money," and inserting "of any kind, real or personal, tangible or intangible,"; and

(2) by inserting at the end thereof the following:

"(f) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of 511 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18, United States Code, is amended by striking "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 1213. CUSTOMS FORFEITURE FUND.

Section 613A(a)(3)(F) of the Tariff Act of 1930 (19 U.S.C. 1613b(a)(3)(F)) is amended to read as follows:

"(F) payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

**Subtitle G—Public Corruption**

SEC. 1251. SHORT TITLE.

This subtitle may be cited as the "Anti-Corruption Act of 1990".

SEC. 1252. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than ten years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than ten years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to five years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 1253. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public corruption.".

(b) RICO.—Section 1961(1)(B) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 1254. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so," after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1255. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State,

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1)(B) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

**Subtitle H—Juvenile Justice Anti-Gang Program**

SEC. 1301. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troops, and little league;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used

for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,000,000 in fiscal year 1991 and such sums as may be necessary in fiscal year 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (Formula Grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1302. CONFORMING AMENDMENTS.

(a) TITLE II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)"; and

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is repealed.

(c) PART E.—Part E of title II of such Act is redesignated as part D.

SEC. 1303. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNNUMBERED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating unnumbered paragraphs (1) through (11) as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a)(3) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as so designated by this section is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and inserting a period;

(3) by striking "with respect to" and inserting:

"(2) With respect to";

(4) by striking "; however, a juvenile" and inserting: "(3) A juvenile"; and

(5) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as so designated by this section, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

(e) WAIVING CONFIDENTIALITY IN CERTAIN JUVENILE PROCEEDINGS.—Section 5038 of title 18, United States Code, is amended by adding at the end the following:

"(g) In addition to any other provision of this section regarding disclosure of records if the law of the State in which a Federal juvenile delinquency proceeding takes place would permit or require the disclosure of records and information relating to a juvenile delinquency proceeding in certain circumstances, such disclosure shall be permitted under this section whenever the same circumstances exist.".

(f) CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.—Sections 5038 (d) and (f) of title 18, United States Code, are amended by striking "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)), or section 924 (b), (g) or (h) of this title,".

SEC. 1304. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting "or"; and

(3) by adding at the end thereof the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 1305. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT PERTAINING TO CHILDREN.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.
"419. Distribution or manufacturing in or near schools and colleges.
"420. Employment of persons under 18 years of age.
"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)"; and

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.
"519. Production control of controlled substances.".

SEC. 1306. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

### Subtitle I—Federal Prisoner Drug Testing

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Federal Prisoner Drug Testing Act of 1990".

SEC. 1402. CONDITIONS ON PROBATION.

Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant—

"(A) pass a drug test prior to the imposition of such sentence;

"(B) refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof and the following: "No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (4) unless the drug test confirmation is a urine drug test confirmed using gas chromatography/mass spectometry techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 1403. CONDITIONS ON SUPERVISED RELEASE.

Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography/mass spectometry techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 1404. CONDITIONS ON PAROLE.

Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provision of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography/mass spectometry techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

### Subtitle J—Boot Camps

SEC. 1451. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this subtitle as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of National Drug Control Policy, after consultation with the Director of the Bureau of Prisons, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall deter-

mine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if he or she—

"(A) is under 25 years of age;

"(B) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(C) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine,

and the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 9 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) Any person who has been convicted of a criminal offense in any State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced, may apply to be assigned to a boot camp. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by counsel for the applicant that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 14 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she is—

(A) under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Each State that refers a prisoner to a boot camp shall reimburse the Bureau of Prisons for—

(A) 80 percent of the cost incurred by the Bureau of Prisons for incarceration and treatment and other services to such prisoner that successfully completes the program; and

(B) 100 percent of such costs for each prisoner that enters a boot camp but does not successfully complete the program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1991 of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

### Subtitle K—Regional Prisons

SEC. 1501. REGIONAL PRISONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following amounts: (1) $600,000,000 for the construction of 10 regional prisons; and (2) $100,000,000 for the operation of such regional prisons for one year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of National Drug Control Policy, after consulting with the Director of the Bureau of Prisons, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in the following proportions: 20 percent Federal; 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at anytime. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

### Subtitle L—Victims of Child Abuse Act of 1990

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "Victims of Child Abuse Act of 1990".

### CHAPTER 1—DRUG-RELATED CHILD ABUSE; HABITUAL CHILD ABUSE OFFENSE

SEC. 1555. ABUSE OF CHILDREN IN CONNECTION WITH VIOLATIONS OF THE DRUG LAWS.

(a) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 116. Abuse of children in connection with drug offenses**

"(a) Whoever, in a circumstance described in subsection (b), commits a crime of violence (as defined in section 16 of this title) in violation of the laws of the State in which the act takes place, or of the United States, in which the victim is a person under

the age of 18, shall be guilty of a class B felony.

"(b) There is Federal jurisdiction for an offense described in subsection (a) if the offense was committed in furtherance of, during and in relation to, or as part of an attempt to conceal or avoid apprehension for, a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"116. Abuse of children in connection with drug offenses.".

(c) DIRECTION TO THE ATTORNEY GENERAL.—Not later than 90 days after the date of enactment of this chapter, the Attorney General shall amend the United States Attorneys' Manual to reflect the intent of Congress that Federal prosecution occur only in egregious cases of drug-related abuse and neglect.

(d) DIRECTION TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of an offense under section 116 of title 18, United States Code, who has previously been convicted on 2 separate occasions in the court of any State or the District of Columbia, or of the United States, of any sexual offense, or any crime of violence, in which the victim was a person under the age of 18, shall receive the maximum punishment authorized by law.

## CHAPTER 2—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

SEC. 1561. FINDINGS.

The Congress finds that—

(1) over 2,000,000 children are abused or neglected each year, drug abuse accounting for one-third of the cases;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

SEC. 1562. AUTHORITY OF THE ADMINISTRATOR TO MAKE GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention (referred to as the "Administrator"), in consultation with officials of the Department of Health and Human Services, shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Administrator shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program—

(A) include a written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services;

(B) identify an appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the "counseling center");

(C) refer all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse;

(D) conduct all initial interviews jointly by personnel from law enforcement, health, and social service agencies;

(E) require, to the extent practicable, the same agency representative who conducts an initial interview to conduct all subsequent interviews;

(F) require, to the extent practicable, that all interviews and meetings with a child victim occur at the counseling center;

(G) coordinate each step of the investigation process to minimize the number of interviews that a child victim must attend;

(H) designate a director for the multidisciplinary program;

(I) assign a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings; and

(J) meet such other criteria as the Administrator shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Administrator shall ensure that grants are distributed to both large and small states and to rural, suburban, and urban jurisdictions.

SEC. 1563. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

SEC. 1564. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 1562.

## CHAPTER 3—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

SEC. 1565. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

SEC. 1566. PURPOSE.

The purpose of this chapter is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

SEC. 1567. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to expand the court-appointed special advocate program.

(b) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association, including the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serves the function of reviewing records, facilitating prompt, thorough

review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

SEC. 1568. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter—

(1) $5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

CHAPTER 4—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

SEC. 1571. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this chapter is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

SEC. 1572. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

SEC. 1573. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide, contract for, or implement—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with chapter 2.

SEC. 1574. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992, 1993, and 1994.

(b) USE OF FUNDS.—Of the amounts appropriated in paragraph (a), not less than 80 percent shall be used for grants under section 1573(b).

CHAPTER 5—FEDERAL VICTIMS' PROTECTIONS AND RIGHTS

SEC. 1575. CHILD VICTIMS' RIGHTS.

(a) CRIMINAL PROCEDURE.—The Federal Rules of Criminal Procedure are amended by inserting after rule 52 the following new rule:

"Rule 52.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, or who is determined by a qualified professional to be of less than the age of 18 developmentally, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, in view of the child, and the voice of the judge.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorney for the government;

"(II) the attorney for the defendant;

"(III) the child's attorney or guardian ad litem appointed under subdivision (h);

"(IV) persons necessary to operate the videotape equipment;

"(V) subject to clause (iv), the defendant; and

"(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, in view of the child, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.—

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorney for the government;

"(C) the attorney for the defendant;

"(D) a court reporter; and

"(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the government and the attorney for the defendant. The court may permit an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of the government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a

child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

"(f) VICTIM IMPACT STATEMENT.—In preparing the presentence report pursuant to rule 32(c), the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

"(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.

"(1) *In General.* A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the multidisciplinary child abuse team as appropriate.

"(2) *Role of Multidisciplinary Child Abuse Teams.* The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

"(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

"(B) telephone consultation services in emergencies and in other situations;

"(C) medical evaluations related to abuse or neglect;

"(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

"(E) expert medical, psychological, and related professional testimony;

"(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

"(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

"(h) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties.

"(i) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.

"(j) SPEEDY TRIAL.—In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

"(k) EXTENSION OF PERIOD OF LIMITATIONS.—There is no limitation of time within which a prosecution must be commenced for a sex crime involving a child victim, regardless whether the crime involved force or resulted in serious physical injury or death. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the time during which the criminal action is pending shall not be counted as part of the time limited for the commencement of the civil action. As used in this subdivision, a criminal action is pending until its final adjudication in the trial court.".

(b) CIVIL PROCEDURE.—The Federal Rules of Civil Procedure are amended by inserting after rule 43 the following new rule:

**"Rule 43.1 Child Victims' and Child Witnesses' Rights**

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (g) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, or who is determined by a qualified professional to be of less than the age of 18 developmentally, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the child's attorney or a guardian ad litem appointed under subdivision (f) may apply for an order that the child's testimony be taken in a room outside the

courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the parties, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorneys for the parties shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (f);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the parties, jury, judge, and public. The parties shall be provided with the means of private, contemporaneous communication with their attorneys during the testimony. The closed circuit television transmission shall relay the child's testimony into the courtroom and the judge's voice into the room in which the child is testifying.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for a party, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (f) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the parties, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorneys for the parties;

"(II) the child's attorney or guardian ad litem appointed under subdivision (f);

"(III) persons necessary to operate the videotape equipment;

"(IV) subject to clause (iv), the parties; and

"(V) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of one of the parties, the court may order that the party, including a party represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that a party be excluded from the deposition room, the court shall order that the party be provided with a means of private, contemporaneous communication with the party's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorneys for the parties;

"(C) a court reporter; and

"(D) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorneys for the parties. The court may permit an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a civil proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of any government agency that may become connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the parties and employees of the parties, including the attorneys for the parties and persons hired by the parties or an attorney for a party to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to a party, an attorney for a party, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties.

"(g) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.".

(c) EVIDENCE.—The Federal Rules of Evidence are amended by inserting after rule 803 the following new rule:

**"Rule 803.1 Child Victims' and Child Witnesses' Testimony**

"(a) Hearsay exception for out-of-court statements—

"(1) In general.—An out-of-court statement made by a child of less than 13 years of age concerning conduct related to alleged completed or attempted crimes of sexual abuse, physical abuse, or exploitation of the child or concerning a crime against another person witnessed by the child that is not otherwise admissible in a judicial proceeding is not excluded by the hearsay rule if—

"(A) the child testifies at the proceeding, or testifies by means of videotaped deposition or closed-circuit television, and at the time of the taking of the testimony is subject to cross-examination concerning the out-of-court statement;

"(B) the court finds that the child's out-of-court statement possesses particularized guarantees of trustworthiness; or

"(C) the court finds that the child is unable to testify effectively for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court or by means of videotaped deposition or closed-circuit television.

"(iv) The child suffers a mental or other infirmity.

"(v) A privilege precludes taking the child's testimony in open court or by means of videotaped deposition or closed-circuit television.

"(vi) The child has died or is absent from the jurisdiction.

"(2) Guarantees of trustworthiness.—In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (1)(B), the court may consider—

"(i) the child's knowledge of the event;

"(ii) the age and maturity of the child;

"(iii) the degree of certainty that the statement was in fact made by the child;

"(iv) any apparent motive the child may have had to falsify or distort the event, including bias, corruption, or coercion;

"(v) the timing of the child's statement;

"(vi) whether more than one person heard the statement;

"(vii) whether the child was suffering pain or distress when making the statement;

"(viii) the nature and duration of any alleged abuse;

"(ix) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's experience;

"(x) whether the statement has internal consistency or coherence and uses terminology appropriate to the child's age;

"(xi) whether the statement is spontaneous or directly responsive to questions;

"(xii) whether the statement is suggestive due to improperly leading questions; and

"(xiii) whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

"(3) Notice.—The proponent of the admission of an out-of-court statement shall notify the adverse party of the proponent's intention to offer the statement and of the content of the statement sufficiently in advance of the proceeding to provide the adverse party with a fair opportunity to prepare a response to the statement before the proceeding at which it is to be offered.

"(4) Findings.—The court shall support with findings on the record any rulings pertaining to the child's inability and the trustworthiness of an out-of-court statement.

"(b) Testimonial aids.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.".

(d) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 403. Protection of the privacy of child victims and child witnesses**

"A violation of rule 43.1(d)(1) of the Federal Rules of Civil Procedure or rule 52.1(d)(1) of the Federal Rules of Criminal Procedure shall constitute a criminal contempt classified as a Class A misdemeanor.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 21, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses.".

SEC. 1576. CHILD ABUSE REPORTING.

(a) IN GENERAL.—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) COVERED PROFESSIONALS.—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, and alcohol or drug treatment personnel.

(2) Religious healers, persons rendering spiritual treatment through prayer, and persons licensed to practice the healing arts.

(3) Psychologists, psychiatrists, and mental health professionals.

(4) Social workers, licensed or unlicensed marriage, family, or individual counselors, and clergy performing counseling roles.

(5) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(6) Child care workers and administrators.

(7) Law enforcement personnel, judges, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(8) Foster parents.

(9) Commercial film and photo processors.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

(2) the term "exploitation" means child pornography or child prostitution;

(3) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(4) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse; and

(5) the term "sexual contact" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person.

(d) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) REPORTING FORM.—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIONS.—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses.

(g) CRIMINAL PENALTY FOR FAILURE TO REPORT.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 2258. Failure to report child abuse**

"A person who, while engaged in a professional capacity or activity described in subsection (b) of section 502 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.".

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN";

and

(B) by adding at the end thereof the following new item:

"2258. Failure to report child abuse.".

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"110. Sexual exploitation and other abuse of children ..... 2251".

(h) CIVIL LIABILITY FOR FAILURE TO REPORT.—(1) A person who fails to make a report when required under subsection (a) shall be liable to a child who, after the time at which the person learns the facts that give rise to the requirement to report, suffers an incident of child abuse.

(2) In an action brought under paragraph (1), the plaintiff shall have the burden of showing that—

(A) the defendant learned of facts that did give or reasonably should have given the defendant reason to suspect that the child on whose behalf suit is brought had suffered an incident of child abuse; and

(B) after the time that the defendant learned of such facts—

(i) the defendant failed to make a timely report as required by subsection (a); and

(ii) the child suffered an incident of child abuse.

(3) In an action brought under paragraph (1), the plaintiff may recover damages for physical, mental, and emotional injury caused by incidents of child abuse that occur after the time that the defendant learned of the facts described in subparagraph (A), without regard to whether any other person learned of such facts and failed to make a report.

(4) A plaintiff who makes the showing described in paragraph (2) shall be entitled to recover unless the defendant shows that—

(A) the defendant made a report to the agency as soon as it was possible to do so;

(B) the agency to which the report was required to be made acquired knowledge of the facts of which the defendant had learned, or of the incident of child abuse whose occurrence was suggested by those facts, at a time prior to the occurrence of the incident of child abuse for which recovery is sought sufficient to have allowed the agency to take action that might have prevented the incident; or

(C) the agency could not have prevented the incident of child abuse for which recovery is sought.

(i) PRIVILEGES ABROGATED.—For the purposes of this section, and in any investigations or judicial actions resulting from a report of abuse or neglect, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, and husband and wife are abrogated.

(j) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

## CHAPTER 6—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

**SEC. 1581. REQUIREMENT FOR BACKGROUND CHECKS.**

(a) IN GENERAL.—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) CRIMINAL HISTORY CHECK.—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application

shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.—Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

### Subtitle M—Steroid Trafficking Act of 1990

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the "Steroid Trafficking Act of 1990".

### CHAPTER 1—ANABOLIC STEROIDS

SEC. 1611. STEROIDS LISTED AS CONTROLLED SUBSTANCES.

(a) ADDING STEROIDS TO SCHEDULE II OF THE CONTROLLED SUBSTANCES ACT.—Subdivision (b) of schedule II of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by inserting at the end thereof the following:

"(22) Anabolic steroids.".

(b) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(41) The term 'anabolic steroids' means—

"(A) any drug that is chemically related to the male hormone testosterone and that promotes or purports to promote muscle growth, including any amount of the following chemical designations and their salts, esters, and isomers:

"(i) bodenone,
"(ii) chlorotestosterone,
"(iii) clostebol,
"(iv) dehydrochlormethyltestosterone,
"(v) dihydrotestosterone,
"(vi) drostanolone,
"(vii) ethylestrenol,
"(viii) fluoxymesterone,
"(ix) mesterolone,
"(x) methandienone,
"(xi) methandranone,
"(xii) methandriol,
"(xiii) methandrostenolone,
"(xiv) methyltestosterone,
"(xv) mibolerone,
"(xvi) nandrolone,
"(xvii) norethandrolone,
"(xviii) oxandrolone,
"(xix) oxymesterone,
"(xx) oxymetholone,
"(xxi) stanolone,
"(xxii) stanozolol,
"(xxiii) testolactone,
"(xxiv) testosterone,
"(xxv) trenbolone, and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.

As used in schedule II, such term shall not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration, except that if any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed a steroid in schedule II of this Act.".

(c) EFFECT OF SCHEDULING ON PRESCRIPTIONS.—Any prescription for anabolic steroids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 90 days after the date of enactment of this chapter.

SEC. 1612. REGULATIONS BY ATTORNEY GENERAL.

(a) ABUSE POTENTIAL.—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, shall, by regulation, exempt any compound, mixture, or preparation containing a substance listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 1611 of this Act) from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture or delivery system, it has no significant potential for abuse.

(b) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 1611 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse,

the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this chapter.

### CHAPTER 2—HUMAN GROWTH HORMONE

SEC. 1621. AMENDMENT TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

"(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition pursuant to the order of a physician is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

"(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

"(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

"(4) As used in this subsection the term 'human growth hormone' means—

"(A) somatrem, somatropin, and any of their analogs; and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.

"(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.".

SEC. 1622. CONVICTION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.

## TITLE II—TREATMENT

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TITLE II—TREATMENT

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Subtitle C—Treatment Improvement

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Subtitle D—Substance Abuse Treatment Services Under Medicaid

Sec. 2301. Substance abuse treatment services under medicaid.


### Subtitle A—Alcohol, Drug Abuse, and Mental Health Services Block Grant

SEC. 2001. REAUTHORIZATION.

Section 1911(a) of the Public Health Service Act (42 U.S.C. 300x(a)) is amended by striking out "and such sums" and all that follows through the period and inserting in lieu thereof ", and $2,000,000,000 for fiscal year 1991".

SEC. 2002. ALLOTMENTS.

Section 1912A if the Public Health Service Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking out "0.4" in subclause (I), and inserting in lieu thereof "0.2"; and

(B) by striking out "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting in lieu thereof "determined by multiplying the percentage of the population of the State that resides in urbanized areas of the State (as indicated by the most recent dicennial census compiled by the Bureau of the Census) by the most recent estimate of the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(3) in subsection (a)(4)(B)(iii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(4) in subsection (a)(4)(B)(iv)(I), by striking out "0.2" and inserting in lieu thereof "0.267";

(5) in subsection (b), to read as follows:

"(b)(1) In fiscal year 1991, each State shall receive a minimum allotment under this subpart of the lesser of—

"(A) $8,000,000; and

"(B) an amount equal to 105 percent of the sum of—

"(i) the amount the State received under section 1913 for fiscal year 1990 (as such section was in effect for such fiscal year); and

"(ii) the amount the State received under part C for fiscal year 1990.

"(2) In subsequent fiscal years, each State shall receive a minimum allotment under this subpart that is equal to the amount that such State received in fiscal year 1990 under paragraph (1) (for the minimum amount that such State was entitle to under such paragraph) plus an amount equal to such minimum multiplied by the percentage increase in the amount appropriated under section 1911(a) in such subsequent fiscal year above the amount appropriated for the immediately preceding fiscal year."; and

(6) in subsection (f), to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $330,000,000.".

SEC. 2003. REVISION WITH RESPECT TO THE USE OF ALLOTMENTS.

Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) necessary residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to the implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse," in subparagraph (A);

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(D) by adding at the end thereof the following new subparagraphs:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers; and

"(E) to develop, implement, and operate programs of treatment for adult and juvenile substance abusers in State and local criminal and juvenile justice systems, including treatment programs for individuals in prisons and jails and those on probation, parole, supervised release, and pretrial release."; and

(3) by inserting at the end of subsection (d) the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

SEC. 2004. ADAMHA INTRAVENOUS DRUG ABUSE WAIVER.

(a) INTRAVENOUS DRUG USERS.—Section 1916(c)(7) of the Public Health Services Act (42 U.S.C. 300x-4(a)(7)) is amended by adding at the end thereof the following new sentence: "The Secretary shall waive the provisions of the preceding sentence for any State that has submitted an application for such a waiver to the Secretary prior to September 30, 1991".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1991.

**Subtitle B—Programs Targeting Females.**

SEC. 2101. MODEL PROJECTS CONCERNING ALCOHOL AND DRUG ABUSE AMONG PREGNANT AND POSTPARTUM WOMEN AND THEIR INFANTS.

(a) IN GENERAL.—Section 509F of the Public Health Service Act (42 U.S.C. 290aa-13) is amended by striking out subsections (b) through (e) and inserting in lieu thereof the following new subsections:

"(b) In making grants under subsection (a), the Director of the Office shall give priority to projects—

"(1) that will provide treatment services;

"(2) that include—

"(A) service delivery strategies and outreach services in the community involved to identify such women who are abusing alcohol or drugs and to encourage such women to undergo treatment for such abuse;

"(B) prenatal and postpartum health care for women undergoing such treatment;

"(C) with respect to the infants of such women, pediatric health care;

"(D) child care, transportation, and other support services with respect to such treatment;

"(E) as appropriate, referrals to facilities for necessary hospital services;

"(F) employment counseling and other appropriate follow-up services to help prevent a relapse of alcohol or drug abuse;

"(G) case management services, including assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(H) efforts to preserve and support the family unit;

"(I) direct intervention, treatment, or rehabilitation of infants, that may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children;

"(J) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(K) strategies for providing treatment resources to low-income pregnant and postpartum women;

"(L) strategies for providing treatment resources to pregnant and postpartum women under criminal justice supervision; or

"(M) other services that will tend to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) With respect to any health service described under this section that is covered by the appropriate State plan approved under title XIX of the Social Security Act, the Director of the Office shall not make a grant under subsection (a) unless—

"(1) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the appropriate State plan and is qualified to receive payments under such plan; or

"(2) the applicant for the grant has entered into a contract with an entity under which the entity shall provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(d) The Director of the Office shall not make a grant under subsection (a) unless the applicant for the grant agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income and resources of the woman involved; and

"(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(e) In making grants under subsection (a) for the provision of treatment services for alcohol and drug abuse, the Director of the Office shall ensure that the grants are distributed among projects that provide outpatient treatment and projects that provide residential treatment, in a manner that reflects the general desirability of residential treatment programs for pregnant addicts.

"(f) The Director of the Office shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) the applicant for the grant agrees to submit to the Secretary an annual report that describes the number of women served, the number of infants served, the type and costs of services provided, and such other information as the Secretary determines to be appropriate;

"(3) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

"(5) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is

not less than 10 percent of the amount of the grant under subsection (a).

"(g) The period during which payments are made by the Director of the Office under a grant under subsection (a) shall not exceed 5 years, except that the Director of the Office may establish a procedure for renewal of grants under subsection (a).

"(h) Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and postpartum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and postpartum women to seek prenatal care and rehabilitation.

"(i) The Director of the Office shall, after consultation with the Director of the National Institute on Drug Abuse, periodically conduct evaluations to determine the effectiveness of projects supported under subsection (a).

"(j) The Director of the Office shall annually submit to the appropriate Committees of Congress a report describing programs carried out pursuant to this section. Each such report shall include any evaluations conducted under subsection (i) during the preceding fiscal year.

"(k)(1) In making grants under subsection (a), the Director of the Office shall make a grant to an institution of the type described in paragraph (2) for the establishment of a National Resource and Information Center for Perinatal Addiction, unless the Director finds that the Office is performing each of the functions described in paragraph (3) and reports such finding to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(2) The grant described in paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

"(3) The Center established under subsection (a) shall—

"(A) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

"(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(D) develop and manage a national toll free hotline to provide information and referrals;

"(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(F) provide any other services designed to carry out the purposes of this subsection.

"(l) For the purpose of carrying out this section, there is authorized to be appropriated $50,000,000 for each of the fiscal years 1991 and 1992.".

(b) GRANTEES.—Section 509F(a) of such Act (42 U.S.C. 290aa-13(a)) is amended by inserting at the end thereof the following new sentence: "Such grants may be made only to public and nonprofit private entities and to appropriately qualified Indian tribes and tribal organizations (as defined in section 1913(b)(5)).".

### Subtitle C—Treatment Improvement

### CHAPTER 1—GENERAL TREATMENT PROVISIONS

#### SEC. 2201. ESTABLISHMENT OF OFFICE FOR TREATMENT IMPROVEMENT.

Title V of the Public Health Service Act is amended by inserting after section 507 (42 U.S.C. 290aa-5) the following new section:

"SEC. 507A. OFFICE FOR TREATMENT IMPROVEMENT.

"(a) IN GENERAL.—There is established in the Administration an Office for Treatment Improvement (hereinafter referred to in this section as the 'Treatment Office'). The Treatment Office shall be headed by a Director who shall be appointed by the Secretary from among individuals with extensive experience or academic qualifications in the treatment of drug or alcohol abuse. The Secretary, acting through the Director of the Treatment Office, shall carry out this section.

"(b) ALCOHOL AND DRUG ABUSE RESPONSIBILITIES.—With respect to alcohol and drug abuse, the Director of the Treatment Office shall—

"(1) collaborate with the Director of the Office for Substance Abuse Prevention to provide outreach services to identify individuals in need of treatment services, with emphasis on the provision of such services to racial and ethnic minorities, to adolescents, to pregnant and postpartum women and their infants, to individuals who abuse drugs intravenously, and to residents of publicly-assisted housing;

"(2) collaborate with the Director of the National Institute on Drug Abuse and with the States to promote the study of the outcomes of treatment services to identify the manner in which such treatment services can most effectively be provided;

"(3) collaborate with the Director of the National Institute on Drug Abuse to promote the dissemination and implementation of research findings that will improve the delivery and effectiveness of treatment services;

"(4) evaluate plans submitted by the States pursuant to section 1916B to advise the Administrator on whether the plans adequately provide for the allocation of the treatment resources of the States;

"(5) carry out the grant programs established in sections 508A, 509, 509E, 509G, 509H, and 509I;

"(6) sponsor regional workshops on improving the quality and availability of treatment services;

"(7) provide technical assistance to public and nonprofit private entities that provide prevention and treatment services, including technical assistance with respect to the process of submitting to the Director applications for any program of grants carried out by the Director;

"(8) after consultation with organizations that represent providers of prehospital emergency medical services, carry out programs to train such providers with respect to responding to any emergency involving special problems that arise as a result of the abuse of alcohol or drugs by the victim of the emergency, including the problem of interacting with victims who are violent as a result of such abuse;

"(9) encourage State and Federal agencies offering treatment opportunities for individuals addicted to drugs or alcohol to utilize and establish self-run, self-supported recovery homes based on the Oxford House Model, as described in section 1916A;

"(10) provide treatment services by making grants to public and nonprofit private entities under section 329, 330, or and 340, and in making such grants, ensure that the grants are equitably allocated among the principal geographic regions of the United States, and between urban and rural areas, subject to the availability of qualified applicants for the grants;

"(11) improve the coordination of the treatment resources of communities to ensure that the resources are applied in the manner most consistent with the needs of the communities, including referring individuals to the most appropriate provider of treatment services;

"(12) improve coordination between treatment facilities and agencies providing health, social, and employment services to assist, in a comprehensive manner, individuals undergoing treatment;

"(13) carry out activities to educate communities on the need for establishing treatment facilities within the communities;

"(14) encourage public and private entities that provide health insurance to provide benefits for drug treatment services; and

"(15) develop programs to increase the number of health professionals providing treatment services and to promote the increased integration into the health care system of the United States of programs for providing treatment services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (10) of subsection (b), there are authorized to be appropriated $50,000,000 for each of the fiscal years 1991 and 1992.".

#### SEC. 2202. STATEWIDE SUBSTANCE ABUSE TREATMENT PLAN.

(a) IN GENERAL.—Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE SUBSTANCE ABUSE TREATMENT PLAN.

"(a) NATURE OF THE PLAN.—To receive its allotment for a fiscal year under section 1912A, a State shall develop, implement, and submit as part of the application required by section 1916(a), an approved statewide Substance Abuse Treatment Plan, prepared according to standards issued by the Secretary, that shall—

"(1) contain a single, designated State agency for formulating and implementing the Statewide Substance Abuse Treatment Plan;

"(2) contain a description of the mechanism that shall be used to assess the needs for substance abuse treatment in localities throughout the State including the presentation of relevant data;

"(3) contain a description of a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) contain a description of performance-based criteria that shall be used to assist in the allocation of funds to substance abuse treatment facilities receiving assistance under this subpart;

"(5) contain a description of the mechanism that shall be used to make funding allocations under this subpart;

"(6) contain a description of the actions that shall be taken to improve the referral of substance abusers to treatment facilities that offer the most appropriate treatment modality;

"(7) contain a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay informed concerning the latest and most effective treatment techniques;

"(8) contain a description of the plan that shall be implemented to coordinate substance abuse treatment facilities with other social, health, correctional and vocational services to assist or properly refer those patients in need of such additional services;

"(9) contain a description of the plan that shall be implemented to expand drug treatment opportunities for individuals under criminal justice supervision;

"(10) contain a description of the plan that will be implemented to expand and improve efforts to deter women from knowingly abusing drugs during pregnancy, to contact and treat pregnant women who abuse drugs, and to provide appropriate follow-up services to their affected newborns;

"(11) provide for the targeting of funds toward areas of the greatest need in the State, using such criteria as the State may establish for determining such areas, including criteria for focusing on—

"(A) the current unmet treatment needs in the State including both the inpatient, outpatient, and long- and short-term substance abuse treatment service needs of defined populations and the availability of essential ancillary services;

"(B) the incidence of deliveries of infants who are adversely affected by maternal substance abuse;

"(C) the incidence of criminal activities related to substance abuse; and

"(D) the incidence of communicable diseases transmitted by substance abusers;

"(12) provide for the periodic testing of patients as appropriate for various treatment populations to determine the patients' compliance with treatment regimens and the establishment of clinically appropriate policies for dealing with patients who fail such tests and provide that such testing conducted not be required to be more frequent than is necessary to achieve treatment objectives;

"(13) provide for aftercare or follow-up, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic contacts with the patient to monitor the patient's progress and provide services or additional treatment as needed;

"(14) increase, if necessary, the availability of specialized services and facilities necessary to meet the needs of female and minority drug abusers; and

"(15) provide for the establishment of a program of interim assistance for individuals who apply for treatment, and who must wait for the availability of treatment opportunities, such as—

"(A) education and counseling concerning drug abuse; and

"(B) the referral to, or provision of, other necessary health and social services that may include primary health care, education, and vocational services.

"(b) SUBMISSION OF THE PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—

"(1) DEVELOPMENT.—The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by the State plan prepared under subsection (a).

"(2) CONFORMANCE WITH GUIDELINES.—Beginning in fiscal year 1992, no payment shall be made to a State from its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) MONITORING COMPLIANCE.—The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) REPORTS.—Each State shall prepare and submit reports to the Secretary, at such times, in such form, and containing such information as the Secretary may require, and shall comply with such additional provisions as the Secretary may find necessary to verify the accuracy of such reports.

"(e) WAIVER OF PLAN REQUIREMENT.—The Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Director of the Office for Treatment Improvement shall establish a model State substance abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) ADMINISTRATIVE EXPENSES.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914 with respect to alcohol and drug abuse.".

SEC. 2203. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

Title V of the Public Health Service Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 508A. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Director of the Office for Treatment Improvement (hereinafter referred to in this section as the 'Director') shall establish a program to provide grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 2204. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereinafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 2205. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

SEC. 2206. PROGRAM FOR REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.

(a) ADMINISTRATOR OF PROGRAM.—Section 509E(a) of the Public Health Service Act (42 U.S.C. 290aa-12(a)) is amended by striking out "the Administrator" and inserting in lieu thereof "the Director of the Office for Treatment Improvement".

(b) IMPROVEMENT OF PROGRAM.—Section 509E of such Act (42 U.S.C. 290aa-12) is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting after subsection (b) the following new subsection:

"(c)(1) In awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and nonprofit entities—

"(A) drug treatment services to pregnant and postpartum women; or

"(B) after-care services to prevent renewed substance abuse by individuals who have received treatment services by a substance abuse program assisted under this section.

"(2) Each recipient of a grant under subsection (a) shall not expend in excess of 50 percent of such grant to develop and provide the services described in paragraph (1).";

(4) in subsection (e)—

(A) by redesignating paragraph (3) as paragraph (4);

(B) by striking out "and" at the end of paragraph (2); and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) an agency of the State in which the applicant is located certifies that the applicant has complied with the provisions of subsection (b); and".

(c) FUNDING.—Section 509E(f) of such Act (42 U.S.C. 290aa-12(f)) is amended—

(1) in paragraph (1), by striking out "$100,000,000." and inserting in lieu thereof "$140,000,000."; and

(2) in paragraph (3), by striking out "$100,000,000" and inserting in lieu thereof "$140,000,000".

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit, to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the waiting period reduction grant program under section 509E of the Public Health Services Act (42 U.S.C. 290aa-12). Such report shall include—

(1) a list and description of the programs that have been awarded grants under this section;

(2) a description of the process by which funds awarded under such section are expended for treatment services, including a description of the process by which grantees obligate the "draw-down" funds under such section;

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring treatment need;

(4) the views of State, local and nongovernmental treatment experts with respect to—

(A) the validity of waiting lists as a measure of treatment need; and

(B) the efficacy of the waiting period reduction grant program; and

(5) any other information that the Administrator deems to be necessary to a thorough appraisal of the efficacy of the program under such section.

SEC. 2207. PROGRAM FOR DRUG ABUSE PROJECTS OF NATIONAL SIGNIFICANCE.

Section 509G of the Public Health Service Act (42 U.S.C. 290aa-14) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking out "the Administrator" and inserting in lieu thereof "the Director of the National Institute on Drug Abuse"; and

(B)(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(iii) by striking out subparagraph (C);

(2) in subsection (a)(2), by inserting "a" before "result";

(3) in subsection (b)(1)—

(A) by inserting after "Secretary" the following: ", acting through the Director of the Office for Treatment Improvement,";

(B) by striking out "States" the first place such term appears and inserting in lieu thereof "States and other public or nonprofit private entities"; and

(C) by striking out "States" the second place such term appears and inserting in lieu thereof "such entities"; and

(4) in subsection (b)(4), by striking out "State" and inserting in lieu thereof "public or nonprofit private entity"; and

(5) in paragraph (1) of subsection (c) to read as follows:

"(1) For the purpose of carrying out this section, there are authorized to be appropriated $80,000,000 for each of the fiscal years 1991 and 1992.".

## CHAPTER 2—DRUG TREATMENT IN PRISON

SEC. 2211. FINDINGS.

Congress finds that—

(1) the Federal Bureau of Prisons estimates that 42 percent of all incoming Federal prisoners abuse drugs or alcohol;

(2) the number of separate unit inpatient drug treatment programs in Federal prisons has declined from 21 in 1978 to 4 today;

(3) 43 percent of Federal prisoners are rearrested within 3 years of release;

(4) offenders who continue to use drugs after release from prison are more likely to resume criminal activities than those who do not; and

(5) overcrowding in Federal prisons has reached such crisis proportions that in June 1989, Federal prisons housed 54,718 inmates, 77 percent above their capacity of 31,000.

SEC. 2212. AUTHORIZATION OF APPROPRIATIONS FOR TREATMENT SERVICES.

(a) IN GENERAL.—There are authorized to be appropriated to the Federal Prison System $15,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993. Such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1991.

(b) USES OF APPROPRIATION.—The additional appropriation authorized by subsection (a) shall be used—

(1) to provide high intensity inpatient substance abuse treatment services to drug dependent offenders;

(2) to train appropriate prison employees in the diagnosis and treatment of drug and alcohol addiction;

(3) to hire psychologists and substance abuse counselors to serve drug dependent offenders;

(4) to enter into contracts with qualified community substance abuse treatment providers to offer inmates treatment services; and

(5) to ensure intensive supervision of drug dependent offenders while they are on parole or supervised release, including urine drug testing.

(c) SEPARATION OF INMATES.—The Bureau of Prisons shall, to the greatest extent possible, separate drug dependent offenders undergoing treatment from the general prison population and avoid returning such offenders to the general prison population after the completion of the treatment program.

SEC. 2213. GRANTS FOR DRUG TREATMENT IN THE CRIMINAL JUSTICE SYSTEM.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq) (as amended by section 2204) is further amended by adding at the end thereof the following new section:

"SEC. 509I. GRANTS FOR DRUG TREATMENT IN THE CRIMINAL JUSTICE SYSTEM.

"(a) PROGRAM ESTABLISHED.—The Director of the Office for Treatment Improvement (hereinafter referred to in this section as the 'Director') shall establish a program to provide grants to public and nonprofit private entities that provide drug treatment services to individuals under criminal justice supervision.

"(b) ELIGIBILITY.—In awarding grants under subsection (a), the Director shall ensure that the grants are reasonably distributed among projects that provide treatment services to individuals who are—

"(1) incarcerated in prisons, jails or community correctional settings; or

"(2) not incarcerated but under criminal justice supervision because of their status as pre-trial releases, post-trial releases, probationers, parolees, or supervised releases.

"(c) PRIORITY.—In awarding grants under subsection (a), the Director shall give priority to programs that provide—

"(1) a continuum of services for offenders as they proceed through and out of the criminal justice system;

"(2) referrals to treatment programs in the community for individuals soon to be released from incarceration;

"(3) treatment services for juvenile offenders;

"(4) treatment services for female offenders;

"(5) outreach services to identify individuals under criminal justice supervision who would benefit from drug treatment and to encourage such individuals to seek treatment; or

"(6) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

"(d) APPLICATION.—The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary; and

"(2) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines necessary to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 and 1992.".

SEC. 2214. SPECIAL SUPERVISED RELEASE FOR DRUG DEPENDENT OFFENDERS.

(a) IN GENERAL.—Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) EARLY SUPERVISED RELEASE FOR QUALIFIED DRUG DEPENDENT OFFENDERS.—(1) In the case of a qualified drug dependent offender, the sentencing court may modify the term of imprisonment pursuant to section 3582(c) by allowing the defendant to be released from incarceration not more than one year earlier than otherwise scheduled. For the purpose of this subsection, the release date otherwise scheduled shall be computed by subtracting from the original period of incarceration the amount of good time earned pursuant to section 3624 up to the time the early release would take effect.

"(2) If the court reduces the period of incarceration pursuant to this subsection, the court shall also impose a period of supervised release equal to the length of the reduction, or in the event that a period of supervised release was previously ordered, it shall extend the period of supervised release by a period equal to the length of the reduction, notwithstanding the maximum term of supervised release otherwise provided in this title. Such periods of supervised release, or extended periods of supervised release, shall be subject to all of the conditions and procedures set forth in this section. For the purpose of the subsection, the length of the reduction in sentence shall be the period between the date of early release under this subsection and the otherwise scheduled release date as defined in paragraph (1).

"(3) To qualify for early supervised release under this subsection, a drug dependent offender—

"(A) shall have been continuously incarcerated in a Federal correctional institution for no less than three-fourths of the time the offender was originally scheduled to serve prior to becoming eligible for supervised release, assuming the usual credit for good time pursuant to section 3624;

"(B) shall not have been convicted of homicide, attempted homicide, kidnapping, assault with a deadly weapon, espionage, or aggravated sexual abuse;

"(C) shall not have been sentenced to life in prison;

"(D) shall have successfully completed, while incarcerated, a program of substance abuse treatment approved for these purposes by the Director of the Federal Prison System; and

"(E) after successfully completing treatment, shall have received approval for early supervised release from the sentencing judge acting upon the recommendation of the individual responsible for administering substance abuse treatment programs in the facility in which the offender has been incarcerated.

"(4) Upon release, and for a period of 6 months after release or for the entire term of supervised release, whichever is less, the drug dependent offender shall reside in a half-way house in which intensive counseling and supervision is available.

"(5) Upon release, and for a period of 1 year after release, or for the entire term of supervised release, whichever is less, the drug dependent offender shall, in addition to fulfilling the other requirements of supervised release ordered by the court under this section—

"(A) submit to periodic urine drug testing at least once every 60 days;

"(B) regularly attend meetings of support groups such as Narcotics Anonymous, Alcoholics Anonymous, and Cocaine Anonymous; and

"(C) participate in an outpatient substance abuse counseling program.

"(6) Notwithstanding any other provisions of this section, if the drug dependent offender tests positive for illegal use of controlled substances on 2 separate urine drug tests taken at least 3 weeks apart, the court shall revoke the term of supervised release and require the offender to serve all or part of the term of supervised release in prison, without credit for time previously served on post-release supervision.

"(7) A drug test administered under this subsection shall be administered in accordance with the procedures set forth in section 3608 of this title.".

(b) ORDER OF SUPERVISED RELEASE.—Section 3582(c) of title 18 of the United States Code is amended by—

(1) striking "and" after the semicolon in paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting "; and"; and

(3) adding at the end thereof the following:

"(3) in the case of a qualified drug dependent offender, the court may order supervised release up to 1 year prior to the previously scheduled date of release as provided by section 3583(h).".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective January 1, 1990.

**Subtitle D—Substance Abuse Treatment Services Under Medicaid**

SEC. 2301. SUBSTANCE ABUSE TREATMENT SERVICES UNDER MEDICAID.

(a) PURPOSE OF TITLE XIX.—Section 1901 of the Social Security Act is amended by striking out "and" before the number "(2)", and inserting after "self-care," the following: "and (3) at State option, substance abuse treatment services so that treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment,".

(b) SUBSTANCE ABUSE TREATMENT SERVICES.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"SEC. 1927. SUBSTANCE ABUSE TREATMENT SERVICES.

"(a) INCLUSION IN STATE PLAN.—At the option of the State, the State plan for medical assistance described in section 1902(a) may include as medical assistance, substance abuse treatment services and related case management services (described in subsection (b)) provided under the plan to all individuals eligible for assistance under this title who desire to rid themselves of their substance abuse problems.

"(b) DEFINITIONS.—As used in this section:

"(1) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse treatment services' includes—

"(A) inpatient substance abuse treatment services, including counseling, that are provided in a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law;

"(B) outpatient substance abuse treatment services, including counseling, that are provided by a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law; and

"(C) substance abuse treatment services, including counseling, that are provided in a residential substance abuse treatment center or other entity if such entity is legally authorized to provide such treatment under State law.

"(2) CASE MANAGEMENT SERVICES.—The term 'case management services' means services that will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1991.

**TITLE III—EDUCATION AND PREVENTION**

SEC. 3000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE III—EDUCATION AND PREVENTION

Sec. 3000. Table of contents.

Subtitle A—Comprehensive Drug Education

Sec. 3001. Findings and purpose.
Sec. 3002. Reauthorization of Drug Free Schools and Communities Act.
Sec. 3003. Drug Free Schools and Communities Act.
Sec. 3004. Anti-drug lesson plans.
Sec. 3005. Drug abuse resistance education program.

Subtitle B—Prevention

Sec. 3101. Comprehensive drug prevention programs.
Sec. 3102. Substance abuse prevention training.
Sec. 3103. National drug prevention corps.
Sec. 3104. Partnership with the motion picture and television industries.
Sec. 3105. Antitrust law exemptions.
Sec. 3106. Drug-free workplace initiative for the private sector.

Sec. 3107. Drug-free workplace requirements.

Subtitle A—Comprehensive Drug Education

SEC. 3001. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) while 54 percent of the high school seniors have used an illicit drug by the time they graduate, the percentage of students using drugs by the sixth grade has tripled since 1975;

(2) the National high school survey shows that even though an increasing number of students report that cocaine is readily available, a 64 percent increase in the perceived harmfulness of cocaine use among high school students has led to a 49 percent decrease in cocaine use among these students;

(3) drug education is needed in every grade in every school;

(4) the Drug Free Schools and Communities Act Amendments of 1989 condition the receipt of all Federal funds by a local education agency on the implementation of a drug prevention program for all grades;

(5) current funding for school-based drug education and prevention programs is inadequate and effective school-based prevention programs necessitate a comprehensive approach;

(6) project STAR (Students Taught Awareness and Resistance) in Kansas City focuses on children in grades 6-9 and encourages them to avoid cigarettes, alcohol, and marijuana; and

(7) project STAR credits its success to the comprehensive approach of such project which involves in-school programs that deal with peer pressure and assertiveness training, family programs, and community and media participation.

(b) PURPOSE.—The purpose of this subtitle is to—

(1) reauthorize the Drug Free Schools and Communities Act; and

(2) to establish a grant program to enable schools to implement comprehensive drug education programs.

SEC. 3002. REAUTHORIZATION OF DRUG FREE SCHOOLS AND COMMUNITIES ACT.

Section 5111(a) of the Drug Free Schools and Communities Act of 1986 (20 U.S.C. 3181) is amended by striking out "and such sums" and all that follows through the period and inserting in lieu thereof "$1,200,000,000 for fiscal years 1991 and 1992, and such sums as may be necessary for fiscal year 1993.".

SEC. 3003. DRUG FREE SCHOOLS AND COMMUNITIES ACT.

Part B of the Drug Free Schools and Communities Act of 1986 (20 U.S.C. 3191) is amended by adding at the end thereof the following new section:

"SEC. 5128. COMPREHENSIVE DRUG EDUCATION.

"(a) ESTABLISHMENT.—The Secretary shall establish and administer a model grant program to provide grants to individual schools, consortia of schools, or consortia of schools and institutions to implement comprehensive drug education programs, that shall include—

"(1) the establishment of an anti-drug policy;

"(2) the establishment and implementation of peer-to-peer programs that allow children to talk about handling pressures to use and sell drugs or to realize that such children may need counseling or treatment;

"(3) the provision of current medical and scientific information concerning the impact of drugs on our bodies and society;

"(4) the designation of a teacher to serve as the school chairperson of the drug education program who shall be responsible for implementing the program, including training the other teachers; and

"(5) family and community involvement in drug prevention.

"(b) APPLICATION.—

"(1) CONTENTS.—To be eligible to receive a grant under this section, an entity of the type described in subsection (a) shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule, including—

"(A) a description of the manner in which the teacher will be selected to serve as chairperson of the drug education program established under the grant;

"(B) a description of the amount of time each day, expressed as a percentage, the teacher chairperson day shall devote to the drug education program and the estimated salary of such teacher; and

"(C) any other information determined appropriate by the Secretary.

"(2) REVIEW.—

"(A) BY LOCAL AGENCY.—Each application submitted under this subsection shall be reviewed by the appropriate local education agency which shall act as the fiscal agent in administering a grant awarded to a school under this section.

"(B) BY STATE EDUCATIONAL AGENCY.—Each application submitted under this subsection shall be forwarded to the appropriate State educational agency for review and comment, if the State educational agency requests the opportunity for review. The State educational agency shall complete its review of the application and comment to the Secretary not later than 30 calendar days after the receipt of such application.

"(3) ELIGIBLE SCHOOLS.—Public and private schools that serve students in any of grades kindergarten through 12 are eligible to receive a grant under this section.

"(4) SPECIAL RULES.—

"(A) SUPPLEMENTING OF RESOURCES.—Federal funds awarded under this section shall supplement, not supplant, other resources available to the grantee.

"(B) MINIMUM AMOUNT.—Grants made under this section to a single school shall not be less than an amount equal to the sum of 20 percent of the estimated salary of the teacher chairperson in addition to $22 per student enrolled in such school, not to exceed 600 students.

"(c) USE OF ALLOTMENTS.—An entity shall use amounts received under this section to implement a comprehensive drug education program through the designation of a teacher to serve as the chairperson of the drug education program within a school. Such chairperson shall—

"(1) be trained at one of the regional training centers of the Department of Education, and train other teachers and administrators at the school of such individual to—

"(A) recognize the signs and symptoms of substance abuse;

"(B) know their role in reporting substance abuse; and

"(C) become familiar with prevention and education resources, including the use of anti-drug messages in courses of basic study;

"(2) oversee the design and implementation of drug prevention programs for each grade, including the selection of any materials the school would need to purchase;

"(3) coordinate the school-based program with community and family activities; and

"(4) not later than September 1, 1991, have a comprehensive drug education program in place at the school of such individual.

"(d) GRANTS.—

"(1) IN GENERAL.—The Secretary shall make payments under grants awarded under this section to entities of the type described in subsection (a), in installments, and in advance or, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine appropriate.

"(2) SPENDING OF PAYMENTS.—Payments to an entity under paragraph (1) for any fiscal year must be expended by such entity in that fiscal year or in the succeeding fiscal year.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $150,000,000 for fiscal year 1991.".

SEC. 3004. ANTI-DRUG LESSON PLANS.

(a) IN GENERAL.—The Secretary of Education, acting through the National Diffusion Network established under section 1562 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2962) shall design and distribute anti-drug lesson plans, for use in classes of basic study, to the chief educational officer of each State who shall make such plan available to schools within such State.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000 for fiscal year 1991.

SEC. 3005. DRUG ABUSE RESISTANCE EDUCATION PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) the Drug Abuse Resistance Education program (known as "DARE") is a successful classroom program implemented for students in the fifth and sixth grades;

(2) DARE was developed in Los Angeles by Police Chief Daryl Gates and the Los Angeles School District and is presently being utilized in 48 States, reaching over 3,000,000 children annually;

(3) DARE sends specially trained police officers into classrooms once a week for 17 consecutive weeks in a semester, where such officers teach students resistance skills through lessons that involve understanding alcohol and drug use, making decisions resisting peer pressure, and alternative activities for youth; and

(4) although DARE has been a leader in teaching resistance skills to children, similar programs can be found in schools that have already taken positive steps to preventing drug abuse.

(b) SECRETARY OF EDUCATION.—The Secretary of Education shall expand existing programs at the Department of Education to provide schools with greater access to DARE and other programs that teach resistance skills and assertiveness training to children in grades kindergarten through 12.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized too be appropriate $10,000,000 in fiscal year 1991 for expansion of the DARE program or other such programs described under subsection (b). Programs that offer resistance and assertiveness training other than DARE are eligible to compete for such additional funding.

Subtitle B—Prevention

SEC. 3101. COMPREHENSIVE DRUG PREVENTION PROGRAMS.

Part A of title V of the Public Health Service Act (32 U.S.C. 290aa et seq.) (as amended by sections 2101, 2101, and 2205) is further amended by adding at the end thereof the following new section:

"SEC. 509K. COMMUNITY DRUG EDUCATION PROGRAMS.

"(a) FINDINGS AND PURPOSE.—

"(1) FINDINGS.—Congress finds that—

"(A) successful drug education programs go beyond the classroom setting; and

"(B) through the Drug-Free Schools and Communities project in Orange County, California, teachers have identified and coordinated existing resources in schools and communities, including law enforcement, libraries, and hospitals to provide—

"(i) training for teachers;

"(ii) attractive information to students; and

"(iii) an entire network of education and prevention programs.

"(2) PURPOSE.—The purpose of this section is to provide resources that encourage a comprehensive approach to community drug prevention by involving families, business leaders, police, churches, and other aspects of the community.

"(b) ESTABLISHMENT.—The Secretary, acting through the Director of the Office for Substance Abuse Prevention, shall establish a comprehensive approach drug prevention grant program to make grants to entities for drug prevention programs that use a comprehensive approach.

"(c) ELIGIBLE INSTITUTIONS.—To be eligible to receive a grant under this section, an institution shall establish or expand a drug prevention program to be comprehensive in nature, and to include—

"(1) an anti-drug policy;

"(2) peer to peer drug abuse programs;

"(3) the provision of complete and accurate information concerning drugs;

"(4) the involvement of the family and community; and

"(5) the participation of the institution in a communication system established by the institution or a coalition of institutions that such institution operates in for the purpose of sharing drug prevention and education information with local agencies.

"(d) DEFINITION.—As used in this section the term 'institution' means any public or private non-profit organization or government agency the agrees to include implement comprehensive drug prevention programs in accordance with subsection (c).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $155,000,000 in fiscal year 1991.".

SEC. 3102. SUBSTANCE ABUSE PREVENTION TRAINING.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq) (as amended by sections 2204 and 2213) is further amended by adding at the end thereof the following new section:

"SEC. 509J. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Program shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizational development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(4) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(5) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(6) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $30,000,000 for each of the fiscal years 1991 and 1992, of which at least 50 percent shall be used to carry out the provisions of subsection (d).".

SEC. 3103. NATIONAL DRUG PREVENTION CORPS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, the Secretary of Labor and the Director of the Office of the President's National Service Initiative, shall establish a National Drug Prevention Corps.

(b) FUNCTIONS.—The Corps established under subsection (a) shall mobilize student volunteers through the formation of organizations on the campuses of institutions of higher education to provide information to the local community concerning the cost to society of drug use.

(c) MISSION STATEMENT.—Each student organization formed under subsection (b) shall register a mission statement with the President's National Service Initiative and upon such the organization will receive $1,000 from the Initiative to fund the initial anti-drug interaction of the members of the organization with the youth that reside in the community.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to establish the Corps under subsection (a), $10,000,000 for fiscal year 1991 and additional amounts otherwise appropriated for the President's National Service Initiative.

SEC. 3104. PARTNERSHIP WITH THE MOTION PICTURE AND TELEVISION INDUSTRIES.

(a) FINDINGS.—Congress finds that—

(1) the motion picture and television industries should become full partners in the fight against drug abuse;

(2) the motion picture and television industries have creative and talented writers, directors and producers who have created popular characters like Roger Rabbitt, Indiana Jones, Ghostbusters, and Alf; and

(3) the Academy of Television Arts and Sciences, independent television stations, and the Disney and McDonald's Corporation are together involved in a project that has coordinated the production of "Cartoon All-Stars to the Rescue" which is a half-hour animated television program, that targets children ages 5-11 with a strong anti-drug message.

(b) ESTABLISHMENT OF PROGRAM TO PRODUCE POPULAR ANTI-DRUG CHILDRENS PROGRAMS.—The Director of the Office of National Drug Control Policy shall provide the resources necessary to assist members of the motion picture and television industries in the production of programs that carry anti-drug messages, and specifically those that are popular among children.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Director of the Office of National Control Policy $10,000,000 to carry out subsection (c).

SEC. 3105. ANTITRUST LAW EXEMPTIONS.

(a) ADMINISTRATION.—

(1) IN GENERAL.—Actions described in subsection (b) shall be exempt from the antitrust laws of the United States.

(2) DEFINITIONS.—For purposes of this section:

(A) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(B) PERSON IN THE TELEVISION INDUSTRY.—The term "person in the television industry" means a television network, any entity that produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the affiliate organizations of the networks, and shall include any individual acting on behalf of such person.

(C) TELECAST.—The term "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) EXEMPTION.—The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c) LIMITATIONS.—

(1) BOYCOTT.—The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement that results in a boycott of any person.

(2) EFFECTIVE PERIOD.—The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

SEC. 3106. DRUG FREE WORKPLACE INITIATIVE FOR THE PRIVATE SECTOR.

(a) FINDINGS.—Congress finds that—

(1) the Corporation Against Drug Abuse, a Virginia-based non-profit corporation, was created to identify model drug abuse programs for local businesses and to pool tech-

nical and financial resources to provide such programs;

(2) the 21 chief executive officers involved in such Corporation concluded that drug abuse resulted in lost productivity, increased on the job accidents, and lower worker morale;

(3) such chief executive officers concluded that fighting drug abuse was a common concern because the corporations headed by such officers were entering into the same community to recruit and hire future employees; and

(4) such Corporation has identified effective prevention programs and continues to share information concerning effective drug abuse treatment programs, and pools information on legal issues that arise when implementing anti-drug programs in the workplace.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all places of work should be drug free;

(2) corporate America should take an active role in assisting employees with drug related problems, including problems related to parenting drug-involved or drug-exposed children;

(3) employers should take the following steps towards creating a drug free workplace—

(A) establish a clear drug free policy, including published expectations of behavior, employee rights and responsibilities, and actions to be taken in response to an employee found to use illegal drugs;

(B) establish an employee assistance plan for substance abusing employees;

(C) train supervisors to identify and appropriately intervene with employees who are using drugs;

(D) educate employees about the drug free policy and the assistance plan of the employer;

(E) provide careful and appropriate methods of identifying employees who use drugs, including testing where appropriate; and

(F) provide information concerning drug use among children and information necessary for parents of drug-involved and drug-exposed children, including the warning signs for identifying drug use by children.

(c) BUSINESS PARTICIPATION IN DRUG PREVENTION.—The Secretary of Labor shall identify 100 major business regions in the United States and contact local chief executive officers in such regions to encourage such officers to develop in each region a Corporation Against Drug Abuse program that shall be modeled after the Corporation described in subsection (a). Such Secretary shall provide each region identified under this subsection with $10,000 to assist such regional chief executive officers in coordinating the Corporation Against Drug Abuse program in each region.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (c).

SEC. 3107. DRUG-FREE WORKPLACE REQUIREMENTS.

(a) FEDERAL CONTRACTORS.—Section 5152(a)(1)(B) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

(b) FEDERAL GRANT RECIPIENTS.—Section 5153(a)(1)(B) of such Act (41 U.S.C. 702(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

## TITLE IV—INTERNATIONAL

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### Subtitle A—Assistance for Bolivia, Colombia, and Peru

SEC. 4101. ECONOMIC ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) $125,000,000 for fiscal year 1990.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(b) ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.—The funds authorized to be appropriated by subsection (a) shall be made available only for assistance for Bolivia, Colombia, and Peru.

### Subtitle B—Economic Assistance

SEC. 4201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the President to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) $750,000,000 for fiscal years 1991 through 1993.

SEC. 4202. MAJOR COCA-PRODUCING NATIONS.

The assistance authorized in section 4201 shall be made available only for a country which is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961) because of its coca production.

SEC. 4203. EMPHASIS ON DEVELOPMENT ASSISTANCE.

It is the sense of the Congress that a majority of the assistance authorized in section 4201 should be allocated to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance). Particular attention should be paid to alternative development programs which are aimed at reducing the production of cocaine in the Andean region of South America.

SEC. 4204. WAIVER OF BROOKE-ALEXANDER AMENDMENT.

During fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) shall not apply with respect to assistance for a country which is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961) because of its coca production.

SEC. 4205. WAIVER OF BUMPERS AMENDMENT.

(a) During fiscal years 1991 through 1993, the provisions described in subsection (b) shall not apply with respect to assistance for crop substitution and alternative development activities undertaken in furtherance of narcotics control objectives.

(b) The provisions made inapplicable by subsection (a) are any provisions of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that prohibit the use of funds made available to carry out part I of the Foreign Assistance Act of 1961 for activities in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States.

SEC. 4206. MULTILATERAL FINANCIAL INSTITUTIONS.

It is the sense of the Congress that the Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, International Development Association, and Inter-American Development Bank to use the vote and influence of the United States in these institutions to promote development projects in the Andean region consistent with United States anti-narcotics objectives.

**Subtitle C—Trade Incentives**

SEC. 4301. EXPANSION OF BENEFICIARY NATIONS UNDER CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Notwithstanding any other provision of law, the President is authorized to designate Bolivia, Colombia, and Peru as a beneficiary country under the Caribbean Basin Economic Recovery Act.

SEC. 4302. AVAILABILITY OF SPECIAL TRADE TREATMENT FOR CERTAIN COUNTRIES THAT REDUCE COCA PRODUCTION OR RELATED ILLICIT ACTIVITIES THROUGH IMPLEMENTATION OF APPROPRIATE ECONOMIC AND SOCIAL ALTERNATIVES.

(a) IN GENERAL.—The President shall determine with respect to each year after 1989—

(1) whether there was in Bolivia, Colombia, and Peru, respectively—

(A) an acceptable reduction in the quantity of illicit coca produced in that country, or

(B) a reduction in illicit coca-related activities in that country; and

(2) whether any annual reduction determined under paragraph (1) (A) or (B) is attributable to the implementation of, in the country concerned, of appropriate social or economic alternatives.

(b) TIME FOR DETERMINATIONS.—The President shall make the determinations required under subsection (a) for any year before the 90th day following the close of that year.

(c) GRANTING OF SPECIAL TRADE TREATMENT.—If the President makes an affirmative determination under subsections (a) (1) and (2) for any year with respect to a country, the President, after consultation with the government of that country, may proclaim special trade treatment that is applicable to one or more articles that—

(1) are products of that country; and

(2) are entered, or withdrawn from warehouse for consumption, in the customs territory of the United States during the year following the year for which such determinations were made.

(d) LIMITATION ON PROVISION OF SPECIAL TRADE TREATMENT.—Special trade treatment may not be provided to any product of a country under this section during any period in which any action under section 802(a) of the Narcotics Control Trade Act (19 U.S.C. 2492(a)) is in force and effect with respect to that country.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "acceptable reduction" means, with respect to any year for which a determination is required under subsection (a)(1)(A), that the quantity of illicit coca produced in the country concerned during that year—

(A) was less than the quantity of illicit coca produced in that country during the preceding year; or

(B) if the standard in subparagraph (A) is not met, represented a reduction in the average rate of increase in the annual production of illicit coca in that country during the preceding years.

(2) The term "appropriate social or economic alternatives" means programs and projects implemented on a local level that provide, or are intended to provide, income and employment alternatives to the production of illicit coca or to engaging in illicit coca-related activities. A program or project referred to in the preceding sentence may not be treated as an appropriate social or economic alternative unless basic social services are provided in the local area in which the program or project is being implemented.

(3) The term "illicit coca-related activities" means local forms of economic activity that are required for, complementary to, or financed from the proceeds of, illicit coca production.

(4) The term "special trade treatment" means any of the following:

(A) The reduction or elimination of any duty.

(B) The termination or modification of any quantitative limitation.

SEC. 4303. INTERNATIONAL COFFEE AGREEMENT.

(a) FINDINGS.—The Congress finds that—

(1) the collapse of the International Coffee Agreement in July 1989, caused a dramatic drop in the world price of coffee;

(2) this price collapse caused a significant loss of revenues for the Andean countries, undermining their national economies;

(3) the collapse of the Agreement also damaged United States international drug policy, one of the goals of which is supporting the legal sectors of the Andean economies;

(4) in particular, the collapse of the Agreement has affected Colombia, which is courageously waging total war on drug trafficking; and

(5) Colombian President Virgilio Barco has requested President Bush to seek an interim reinstatement of the International Coffee Agreement.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that President Bush should seek the immediate reinstatement of the International Coffee Agreement, pending negotiations on a new, comprehensive agreement which includes all world producers and consumer nations.

SEC. 4304. FRUIT AND VEGETABLE EXPORTS.

(a) The Secretary of Agriculture shall provide, on an expedited basis, such technical assistance as necessary to develop United States phytosanitary standards for imports of fruits and vegetables into the United States from Bolivia, Colombia, or Peru.

(b) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $1,000,000 to carry out the program authorized in subsection (a).

SEC. 4305. MISCELLANEOUS PROVISION.

(a) Section 735 of the Tariff Act of 1930 (Public Law 71-361; 19 U.S.C. 1673d) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) PRESIDENTIAL WAIVER AUTHORITY.—The President shall have the authority to reverse an affirmative determination if he determines it is in the national interest of the United States to do so.".

**Subtitle D—Debt-for-Drugs Exchange Act**

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the "Debt-for-Drugs Exchange Act".

SEC. 4402. FINDINGS.

The Congress finds that—

(1) narcotics production and trafficking are inextricably linked to the severe debt crisis in Latin America;

(2) more than 90 percent of the world's supply of coca leaf is cultivated and processed in Bolivia, Colombia, and Peru;

(3) the National Drug Control Strategy of September 5, 1989, proposes large increases in United States economic and military assistance to Bolivia, Colombia, and Peru;

(4) Bolivia, Colombia, and Peru each has a large external debt burden that makes it difficult to finance anti-drug efforts;

(5) by providing debt relief in exchange for anti-drug efforts by drug-producing countries, including Bolivia, Colombia, and Peru, the world's developed countries can simultaneously facilitate reduction of the burden of external indebtedness and increase the resources available for anti-drug efforts;

(6) such heavily indebted countries may desire to facilitate such "debt-for-drugs exchanges" to the maximum extent consistent with sound domestic economic management and minimization of inflationary impact;

(7) similar exchanges of "debt-for-nature" and "debt-for-equity" have been effected in the developing world with the encouragement of the United States Government;

(8) the United States has provided relief on payments of bilateral debt for important allies in the Middle East and Europe, including Israel, Jordan, Spain, Pakistan, and Turkey; and

(9) the International Narcotics Act of 1989 (P.L. 101-231) provided the President the authority to provide relief on government-to-government debt owed by eligible countries to the United States in exchange for implementation of programs aimed at reducing the flow of cocaine to the United States.

SEC. 4403. ROLE OF THE UNITED NATIONS FUND FOR DRUG ABUSE CONTROL.

(a) UNFDAC PROGRAM.—The United States representatives to the United Nations should use the voice and vote of the United States to propose the establishment within the United Nations Fund for Drug Abuse Control (hereafter in this subtitle referred to as "UNFDAC") of a program of debt-for-drugs exchanges whereby UNFDAC would be authorized to enter into agreements, subject to the terms and conditions of section 4404, with eligible countries whereby each such country would agree to specific measurements and goals for efforts to combat the international drug trade in exchange for—

(1) the cancellation of up to 20 percent of its foreign commercial indebtedness, to be purchased by UNFDAC on the commercial secondary market; and

(2) the commitment to cancel a specified amount of government-to-government indebtedness held by that country's creditor governments.

(b) CONTRIBUTIONS AUTHORIZED.—For purposes of carrying out subsection (a)(1), the

Secretary of State is authorized, subject to subsection (c), to commit the United States to contribute to UNFDAC an amount equal to one-third of the amount required to purchase indebtedness under subsection (a)(1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State such sums as may be necessary to make contributions under subsection (b).

SEC. 4404. AGREEMENT FOR DEBT-FOR-DRUG EXCHANGES.

Each agreement negotiated under the auspices of UNFDAC shall be subject to the following terms and conditions:

(1) Debt-for-drugs exchanges will be based on the amount of debt assistance resources, as provided by the participating creditor governments in return for the degree of anti-drug efforts, as negotiated by UNFDAC and each participating country. In exchange for the cancellation or redemption of the debt of the government of the participating country, that country shall make a financial resource or policy commitment to take certain actions to combat the international drug trade, including efforts to—

(A) reduce drug production and drug trafficking within its territory, including activities to promote illicit crop eradication and substitution;

(B) increase drug interdiction and enforcement;

(C) increase identification of and elimination of illicit drug trafficking airstrips;

(D) increase seizures of coca leaf, cocaine HCL/base, and marijuana;

(E) increase arrests of drug traffickers;

(F) increase identification of and seizure of assets earned through illegal drug trafficking;

(G) increase drug treatment programs;

(H) increase the identification of and elimination of illicit drug laboratories;

(I) increase the identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; and

(J) promote alternative development activities which are aimed at attracting those involved in the production of cocaine into the legal economy.

(2) Measurement of progress under paragraph (1) in a particular year should include—

(A) measurement of—

(i) the number of hectares of coca crop eradicated,

(ii) the number of hectares under coca cultivation,

(iii) the number of hectares of illicit coca crop replaced by legal crops, and

(iv) the number of coca growers who switch to licit crop cultivation; and

(B) any other measurements as agreed upon by the participating countries and UNFDAC with approval of two-thirds of the participating creditor governments.

(3) The agreement will include provisions to reinstate debt obligations and release parties to the agreement from their commitments under that agreement, if after one year from the agreement date the terms of such agreement have not been fulfilled.

(4) The agreement and the debt-for-drugs exchange will only take effect after two-thirds of the participating creditor governments making contributions to UNFDAC for this purpose have approved the terms of the agreement. Participating creditor governments will make their contributions and commitments known before negotiations on the agreements begin, and participating creditor governments will be bound by the two-thirds approval even if they remain in dissent.

(5) An advisory role (non-voting representation in the UNFDAC and creditor governments negotiating groups) should be provided for representatives from the major multilateral economic institutions to ensure the debt-for-drugs exchanges would be in keeping with other ongoing debt reduction and economic reform measures.

SEC. 4405. GOVERNMENT-TO-GOVERNMENT DEBT-FOR-DRUGS EXCHANGES.

(a) MORATORIUM ON DEBT REPAYMENT.—The obligation of a participating country to make the first scheduled payment on indebtedness to the United States Government that would otherwise be due after the agreement date is hereby canceled.

(b) REDUCTION OF DEBT OBLIGATIONS.—(1) Subject to paragraph (2), on the date on which the second payment that would otherwise be due after the agreement date from a participating country on indebtedness to the United States Government, there shall be deducted from the total principal amount of indebtedness by that country to the United States Government an amount equal to the amount of face-value indebtedness which could have been purchased as of that date on the commercial secondary market with the amount of the payment that was forgiven under subsection (a).

(2) Paragraph (1) shall not apply if the terms of the debt-for-drugs agreement described in section 4404 have not been met after one year.

(c) BUDGET ACT COMPLIANCE.—The authorities of subsections (a) and (b) shall be exercised only in such amounts and to such an extent as are provided in an appropriation Act.

SEC. 4406. MULTILATERAL DEBT.

The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, International Development Association, and Inter-American Development Bank—

(1) to provide advice and assistance, as appropriate, to borrowing and lending country governments desiring to execute debt-for-drugs exchanges; and

(2) to consider, as an important factor in making loans and negotiating payment schedules for borrowing governments of drug-producing countries, the history of compliance by such governments with, and the extent to which such governments have honored, agreements entered into as part of any debt-for-drugs exchange.

SEC. 4407. COMMITMENTS FROM OTHER CREDITOR GOVERNMENTS.

The President, the Secretary of State, the Secretary of the Treasury, and the Director for National Drug Control Policy should—

(1) organize a consultative group of creditor governments in an appropriate forum in which creditor governments could make contributions and commitments to be used to facilitate debt-for-drugs exchanges; and

(2) encourage other creditor governments to participate in the consultative group described in paragraph (1), and support debt-for-drugs exchanges—

(A) by contributing funds to UNFDAC to purchase the foreign commercial indebtedness of participating countries for use in debt-for-drugs exchanges;

(B) by committing a portion of their government-held debt for use in debt-for-drugs exchanges; and

(C) by coordinating their instructions to their multilateral bank directors to promote bank policies which will reinforce, facilitate, and support debt-for-drugs exchanges.

SEC. 4408. WAIVER OF EXISTING LAW.

The provisions of this subtitle shall apply notwithstanding any other provision of law.

SEC. 4409. DEFINITIONS.

For purposes of this subtitle—

(1) the term "agreement date" means, with respect to a specific country, the date on which that country has entered into an agreement described in section 4404;

(2) the term "eligible country" means Bolivia, Colombia, or Peru;

(3) the term "participating country" means an eligible country which has entered into an agreement described in section 4404;

(4) the term "foreign commercial indebtedness" means the debt obligations of a country to foreign, private lending institutions;

(5) the term "creditor government" means any government with public or private lending institutions within its jurisdiction which hold debt obligations, official or commercial, of an eligible country;

(6) the term "participating creditor government" means any creditor government which contributes funds for the purchase of commercial debt or makes commitments of government-held debt of eligible countries to UNFDAC for the purposes of debt-for-drugs exchanges;

(7) the term "debt-for-drugs agreement" means a written accord between UNFDAC and a participating country, approved by two-thirds of participating creditor governments, which sets the terms of a debt-for-drugs exchange; and

(8) the term "debt-for-drugs exchange" means the provision of debt relief by creditor governments to a participating country under the terms of a debt-for-drugs agreement.

**Subtitle E—Military and Law Enforcement**

SEC. 4501. MILITARY AND LAW ENFORCEMENT ASSISTANCE.

(a) PURPOSES OF ASSISTANCE.—Assistance provided under this section shall be designed to—

(1) enhance the ability of the eligible countries to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with those governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

(b) AUTHORIZATION OF APPROPRIATIONS.—Subject to the requirements of this section, there are authorized to be appropriated $375,000,000 for fiscal years 1991 through 1993.

(c) MILITARY ASSISTANCE AND TRAINING.—The President is authorized to use the funds made available under this section to provide defense articles, defense services, and international military education and training. Such assistance shall be provided under the authorities of section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) and chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following; relating to international military education and training).

(d) LAW ENFORCEMENT ASSISTANCE AND TRAINING.—Not less than half of the funds made available to carry out this section may be used, notwithstanding section 660 of the

Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance)—

(1) for the procurement of equipment and articles for use in narcotics control, eradication, and interdiction efforts by law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement;

(2) to provide to law enforcement agencies or other units that are organized for the specific purpose of narcotics enforcement by the governments of the eligible countries, education and training in the use of and maintenance of the equipment referred to in paragraph (1); and

(3) for the expenses of deploying, upon the request of the governments of the eligible countries, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(e) CONDITIONS OF ELIGIBILITY.—Assistance may be provided to eligible countries under this section only—

(1) so long as that country has a democratic government; and

(2) the armed forces and law enforcement agencies of that country do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1)).

(f) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to this section, the President shall transmit to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) a written notification in accordance with procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(g) REPORTS ON HUMAN RIGHTS SITUATION.—Section 502B(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(c); relating to country-specific human rights reports upon the request of the foreign affairs committee) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(h) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(i) ELIGIBLE COUNTRIES.—For the purposes of this section, the term "eligible countries" means any country which is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961) because of its coca production.

SEC. 4502. MULTILATERAL ANTI-NARCOTICS FORCES.

(a) FINDINGS.—The Congress finds that—

(1) the Prime Minister of Jamaica, Michael Manley, has called for a multinational force which would be used to fight drug trafficking in nations that invite such a force;

(2) the Congress has previously endorsed the concept of a multilateral force; and

(3) such a multilateral force could be effective in counter-narcotics activities, particularly in nations which lack the means to fight drug trafficking.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should seek the establishment of a multilateral anti-narcotics force within the Organization of American States, the United Nations, and other international fora.

(c) BUDGET REQUEST.—If diplomatic efforts toward achieving a multilateral force are successful, the President shall submit a request to the Congress covering the United States share of the cost of operation and maintenance of such a force.

SEC. 4503. JOINT ACTION AND CONSULTATION.

(a) FINDINGS.—The Congress finds that—

(1) the recent proposal by the United States to station naval forces off the coast of Colombia was hampered by inadequate consultation between the United States Government and the Government of Colombia;

(2) such actions can have a damaging effect on United States anti-narcotics policies in the Western Hemisphere; and

(3) close cooperation and consultation between the United States and the other countries of the Western Hemisphere is essential to the success of anti-narcotics efforts in the region.

(b) SENSE OF CONGRESS.—The Congress strongly urges the Executive Branch to—

(1) coordinate closely with all allies in the Western Hemisphere dedicated to counter the threat of drug trafficking; and

(2) explore the possibility of undertaking joint military and intelligence operations with other nations of the Western Hemisphere where appropriate.

SEC. 4504. ESTABLISHMENT OF FOREIGN SERVICE CORPS IN THE DRUG ENFORCEMENT ADMINISTRATION.

(a) FINDINGS.—The Congress hereby makes the following findings:

(1) International drug enforcement by United States personnel requires special training and expertise, including but not limited to the following areas:

(A) language training;

(B) jungle operations;

(C) intelligence gathering;

(D) United States and international law enforcement; and

(E) personal and communications security.

(2) The Drug Enforcement Administration currently relies on a Temporary Duty (TDY) system to meet its personnel requirements for its overseas mission, with a large percentage of DEA personnel working 90-day tours of duty in foreign countries;

(3) Reliance on the TDY system is inadequate to meet the Drug Enforcement Administration's overseas responsibilities, undermining operational continuity and cooperation with other United States and foreign personnel.

(4) The unique and complex mission of international drug enforcement requires the establishment of a specialized and professional Foreign Service corps for Drug Enforcement Administration personnel serving abroad.

(b) ESTABLISHMENT OF DEA FOREIGN SERVICE CORPS.—The Administrator of the Drug Enforcement Administration (DEA) shall prepare a plan to establish a Foreign Service Corps in DEA (hereafter in this section referred to as the "Corps") for DEA personnel serving in foreign countries.

(c) REQUIREMENTS.—To the greatest extent practicable, the Corps should be modeled on the Foreign Service Act of 1980. At a minimum, the Administrator shall ensure that the plan for establishing the Corps required under subsection (b) shall address—

(1) the need for specialized training and expertise in international drug enforcement, including but not limited to the following areas: foreign language skills, jungle operations, intelligence, law enforcement and personal and communications security;

(2) pay, promotion, and retention incentives to recruit and retain highly qualified and experienced personnel for the Corps; and

(3) management of the Corps, including recruitment, appointment, and personnel management procedures.

(d) SUBMISSION OF DEA FOREIGN SERVICE CORPS PLAN.—The Administrator of the Drug Enforcement Administration shall transmit the plan required under this section to the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives not later than 180 days after the date of enactment of this Act. The plan shall include a complete and detailed list of legislative and executive proposals to establish the Corps and a detailed 5-year cost estimate for establishing and implementing the Corps plan.

**Subtitle F—Controlling Precursor and Essential Chemicals**

SEC. 4601. CONTROLLING CHEMICALS FROM EUROPE.

(a) NEGOTIATIONS.—(1) The Attorney General shall enter into negotiations with the appropriate law enforcement and judicial agencies and any other officials of any foreign country with jurisdiction over companies who manufacture, market, sell, or purchase certain precursor and/or essential chemicals used in the production of illicit narcotics. The priority of negotiations should be determined based on an assessment by the Attorney General which countries have jurisdiction over companies that may be knowingly or unknowingly supplying chemicals for the illicit manufacture of controlled substances.

(2) The purposes of the negotiations shall be to—

(A) establish a list of precursor and essential chemicals contributing to the illicit manufacture of controlled substances, as defined in the section 102 Controlled Substances Act (21 U.S.C. 802);

(B) reach one or more international agreements on a method for maintaining records of transactions of these listed chemicals;

(C) establish a procedure by which such records may be made available to United States law enforcement authorities for the exclusive purpose of conducting an investigation relative to precursor chemicals, essential chemicals, and/or controlled substances contributing to the manufacture of illicit narcotics; and

(D) encourage chemical source countries to enact national chemical control legislation which would—

(i) impose specific recordkeeping and reporting requirements for domestic transactions involving listed chemicals;

(ii) establish a system of permits or declarations for imports and exports of listed chemicals; and

(iii) authorize government officials to seize or suspend shipments of listed chemicals based on evidence that they may be destined for the illicit manufacture of controlled substances.

(b) REPORTS.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit an interim report to the Judiciary Committee and the Foreign Relations Committee of the Senate on progress in the negotiations. Not later than eighteen months from date of enactment of this Act, the Attorney General shall submit a final report to the aforementioned Senate committees on the result of negotiations identifying countries with which agreements have not been reached and which have jurisdiction over companies believed to be engaged in the manufacture, marketing, sale, or purchase of precursor and/or essential chemicals used in illicit manufacture of controlled substances.

(c) PENALTIES.—After consulting with the Attorney General and the Director of National Drug Control Policy, the President shall impose penalties or sanctions including temporarily or permanently prohibiting any company or entity (i) refusing to maintain records for the purpose of monitoring and regulating transactions of listed precursor chemicals, or (ii) refusing to make such records available to United States law enforcement authorities for investigative purposes from engaging in any or all transactions within the commerce of the United States.

(d) DEFINITIONS.—A record under subsection (a) shall be retrievable and include the date of the transaction, the identity of each party to the transaction, including the ultimate consignee, an accounting of the quantity and form of listed chemical(s), and a description of the method of transfer.

SEC. 4602. RESEARCH INTO ANTI-DRUG CHEMICAL ADDITIVES.

(a) The Attorney General is authorized and directed to conduct research into additives and other means which would render precursor and essential chemicals useless in the production and manufacturing of illegal drugs but that would not effect the legitimate commercial uses of such chemicals.

(b) There are authorized to be appropriated $5,000,000 in fiscal year 1991 to carry out the purposes of subsection (a) of this section.

SEC. 4603. STRENGTHENING THE DRUG ENFORCEMENT ADMINISTRATION'S CHEMICAL CONTROL PROGRAM.

From the $10,000,000 authorized under section 1051 of this Act, the Administrator of the Drug Enforcement Administration should hire not less than 100 additional special agents and investigators to expand domestic and international investigations of violations of the Chemical Diversion and Trafficking Act of 1988.

### Subtitle G—International Currency Control Agency

SEC. 4701. ESTABLISHMENT OF INTERNATIONAL CURRENCY CONTROL AGENCY.

(a) FINDINGS.—The Congress finds that—

(1) striking at the financial underpinnings of international drug trafficking organizations is one of the most promising means of attacking these cartels;

(2) the "Group of Seven" nations have established a Financial Action Task Force to develop cooperative means of attacking international money laundering; and

(3) the establishment of an International Currency Control Agency, operating in conjunction with the Bank on International Settlements, the International Monetary Fund, and the International Bank for Reconstruction and Development, could greatly assist cooperative anti-money laundering efforts.

(b) NEGOTIATIONS.—(1) The United States representative to the Financial Action Task Force of the Group of Seven nations, acting through the Secretary of State, shall immediately begin negotiations to establish an International Currency Control Agency.

(2) As originally proposed in section 4701 of the Anti-Drug Abuse Act of 1988, such Agency would—

(A) serve as a central source of information and intelligence for international law enforcement agencies;

(B) establish uniform currency transaction reporting requirements for international financial institutions, and would establish policies restricting access to international financial markets for institutions that do not adopt such reporting requirements; and

(C) collect and analyze currency transaction reports filed by participating countries for law enforcement purposes.

(3) Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit to Congress a report on the status of negotiations required by this section.

### Subtitle H—Narcotics-Related Terrorism

SEC. 4801. ASSIGNMENT OF UNITED STATES ANTI-TERRORISM PERSONNEL ABROAD.

(a) The Secretary of State shall assign adequate personnel from the Bureau of Alcohol, Tobacco and Firearms and the Federal Aviation Administration to United States embassies in major drug-producing and transit countries, particularly in Latin America, to strengthen United States assault weapons control and aviation security programs.

(b) Within 90 days of the date of enactment of this Act, the Secretary of State shall submit a report to Congress on the implementation of the directive in subsection (a).

SEC. 4802. AUTHORIZATION OF APPROPRIATIONS FOR AVIATION SECURITY.

There are authorized to be appropriated $1,000,000 in fiscal year 1991 to provide not less than five additional intelligence analysts and support personnel to the Federal Aviation Administration's aviation security program for liaison with United States drug enforcement agencies and the United States intelligence community to prevent narcotics-related terrorism activity against aviation.

SEC. 4803. PROTECTION FOR JUDGES AND OTHER PUBLIC OFFICIALS.

Of the funds appropriated under section 4501 of this title, up to $15,000,000 shall be used each year for the protection of judges, law enforcement officers and other public officials in the eligible countries against acts of violence.

## TITLE V—INTERDICTION

SEC. 5000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE V—INTERDICTION

Sec. 5000. Table of contents.

Subtitle A—Strengthening Border Interdiction Efforts

Sec. 5101. Authorizations for the Customs Service.

Sec. 5102. Authorizations for the Immigration and Naturalization Service.

Subtitle B—Military Support Along United States Border

Sec. 5201. Department of Defense activities relating to cargo.

Subtitle C—Attacking Drug Trafficking by Criminal Aliens

Sec. 5301. Deported aggravated felons reentering the United States.

Sec. 5302. Amendments to the Immigration and Nationality Act.

Subtitle D—Making Drug-Related Intelligence a Level-One Intelligence Priority

Sec. 5401. Increasing the priority of international drug production and trafficking in the National Foreign Intelligence Program.

Sec. 5402. Expansion of human intelligence efforts.

Subtitle E—Preventing Drug Traffickers From Entering the United States Using Fraudulent Immigration Documents

Sec. 5501. Preventing drug traffickers from entering the United States using fraudulent immigration documents.

### Subtitle A—Strengthening Border Interdiction Efforts

SEC. 5101. AUTHORIZATIONS FOR THE CUSTOMS SERVICE.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, $100,000,000 (which shall be in addition to any other appropriations) for the United States Customs Service as follows:

(1) $20,000,000 for the hiring, equipping, and training of no fewer than 200 full-time equivalent agents and intelligence research specialists, over such levels on board as of September 30, 1990, to target drug trafficking in high-intensity drug trafficking areas; and

(2) $80,000,000 for the hiring, equipping, and training of no fewer than 800 full-time equivalent inspectors, special agents and canine enforcement officers, over such levels on board as of September 30, 1990, for the examination of cargo containers coming into the United States from high-risk drug source or transit countries, for expanded passenger processing enforcement activities, and for the investigation and enforcement of chemical diversion activities.

SEC. 5102. AUTHORIZATIONS FOR THE IMMIGRATION AND NATURALIZATION SERVICE.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, $45,000,000 (which shall be in addition to any other appropriations) for the Immigration and Naturalization Service as follows:

(1) $15,000,000 for the hiring, training, and equipping of no fewer than 300 full-time equivalent Border Patrol officer positions;

(2) $25,000,000 for Immigration and Naturalization Service criminal investigations and expeditious deportation of criminal aliens from detention; and

(3) $5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

### Subtitle B—Military Support Along United States Border

SEC. 5201. DEPARTMENT OF DEFENSE ACTIVITIES RELATING TO CARGO.

Section 375 of chapter 18 of title 10, United States Code, is amended by—

(1) striking "The Secretary of Defense" and inserting "(a) Subject to the provisions

of subsection (b), the Secretary of Defense"; and

(2) adding a new subsection (b) as follows:

"(b) The Secretary of Defense is authorized and directed to prescribe regulations authorizing Department of Defense personnel to participate directly in the inspection of cargo and other goods at United States ports and along the borders of the United States. Such activities shall be conducted in coordination with civilian law enforcement agencies and shall not include the inspection of persons.".

**Subtitle C—Attacking Drug Trafficking by Criminal Aliens**

**SEC. 5301. DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.**

Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

**SEC. 5302. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.**

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed as an amendment to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended—

(1) by striking out "(or within ten years in the case of an alien convicted of an aggravated felony)"; and

(2) by inserting after "deportation or removal" the following: "(or anytime thereafter in the case of an alien convicted of an aggravated felony)".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended by inserting after "directs" the following: "or unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g) CUSTODY PENDING DETERMINATION OF DEPORTABILITY.—Section 242(a)(2) (8 U.S.C. 1252) is amended to read as follows:

"(2) Pending a determination of deportability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

**Subtitle D—Making Drug-Related Intelligence a Level-One Intelligence Priority**

**SEC. 5401. INCREASING THE PRIORITY OF INTERNATIONAL DRUG PRODUCTION AND TRAFFICKING IN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.**

(a) FINDINGS.—The Congress makes the following findings:

(1) The President and Congress have declared that international drug production and trafficking are threats to the national security of the United States and to the stability of several democractically elected governments in the Western Hemisphere.

(2) Increased electronic, human, and other types of intelligence could greatly assist the United States in apprehending international drug traffickers, identifying the flow of illegal profits derived from drug-related activity, and disrupting the shipment of drugs into the United States.

(b) POLICY.—To respond to this threat, the United States intelligence community should devote greater resources to intelligence activities relating to international drug production and trafficking.

(c) INCREASING PRIORITY OF INTERNATIONAL DRUG TRAFFICKING.—The Director of Central Intelligence (hereafter in this section referred to as the "DCI") shall make support of antidrug efforts a Level One Priority in his National Foreign Intelligence Strategy and shall reflect this priority in the National Foreign Intelligence Program.

(d) INTELLIGENCE RESOURCES.—The DCI shall include in his next National Foreign Intelligence Budget Request a separate and detailed request for funds necessary to implement the requirement to make antidrug intelligence activities a Level One Priority.

**SEC. 5402. EXPANSION OF HUMAN INTELLIGENCE EFFORTS.**

It is the sense of Congress that the Director of Central Intelligence, in cooperation with the United States intelligence community, should expand resources devoted to human intelligence directed against international drug trafficking. In particular, the Director should increase human intelligence support for law enforcement operations along the United States border, where the enormous volume of legitimate trans-border activity renders random drug interdiction patrols largely ineffective.

**Subtitle E—Preventing Drug Traffickers From Entering the United States Using Fraudulent Immigration Documents**

**SEC. 5501. PREVENTING DRUG TRAFFICKERS FROM ENTERING THE UNITED STATES USING FRAUDULENT IMMIGRATION DOCUMENTS.**

(a) FINGERPRINTS ON UNITED STATES IMMIGRATION DOCUMENTS.—The Secretary of State and the Attorney General shall establish a program under which applicants for entry into the United States shall be required to submit fingerprints at the time of application. Such fingerprints shall be checked against records of the Federal Bureau of Investigation, the Immigration and Naturalization Service, and other United States agencies to ensure that the applicant has not submitted fraudulent documentation or is not excludable under United States immigration laws.

(b) IMPLEMENTATION OF PROGRAM.—The Secretary of State and the Attorney General shall implement the program outlined in subsection (a) in two phases. Phase I shall be a 2-year pilot program for applicants from major drug-producing or transit countries. Based on the results of the evaluation required under subsection (c), Phase II shall be implemented over the next 3 years and shall be expanded to all alien applicants requesting entry into the United States, as appropriate.

(c) EVALUATION AND REPORTS.—The Secretary of State and the Attorney General shall conduct a comprehensive review and evaluation of the program outlined in subsection (a). The Secretary of State and the Attorney General shall submit an interim report to Congress within 1 year after the date of enactment of this Act specifying what progress has been made in implementing Phase I. After Phase I has been implemented, the Secretary of State and the Attorney General shall submit to Congress a comprehensive evaluation and assessment of Phase I along with a complete plan for implementing Phase II.

**TITLE VI—DRUG EMERGENCY AREAS**

**SEC. 6000. TABLE OF CONTENTS.**

The table of contents for this title is as follows:

TITLE VI—DRUG EMERGENCY AREAS

Sec. 6000. Table of contents.
Sec. 6001. Short title.
Sec. 6002. Drug emergency areas.

**SEC. 6001. SHORT TITLE.**

This title may be cited as the "Drug Emergency Areas Act of 1990".

**SEC. 6002. DRUG EMERGENCY AREAS.**

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under clause (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that effective response to save lives, and to protect property and public health and safety, that Federal assistance is necessary.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State and/or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State and/or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Within 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1991, 1992, 1993, 1994, and 1995, $300,000,000 to carry out the purposes of this subsection.".

## TITLE VII—RESEARCH AND NEW TECHNOLOGIES

SEC. 7000. TABLE OF CONTENTS.

The table of contents for this title is as follows:


TITLE VII—RESEARCH AND NEW TECHNOLOGIES

Subtitle A—Pharmacological Research

Sec. 7001. Short title.
Sec. 7002. Findings and purpose.

CHAPTER 1—FEDERAL MEDICATION DEVELOPMENT PROGRAM

Sec. 7011. Establishment of Medication Development Division.
Sec. 7012. Authorization of appropriations.

CHAPTER 2—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

Sec. 7021. Drugs for the treatment of addictions.

CHAPTER 3—MEDICATIONS REVIEW PROCESS REFORM

Sec. 7031. Investigational new drugs.
Sec. 7032. Parallel track trials for medications to treat drug addiction.
Sec. 7033. Waiver of mechanism of action requirement.
Sec. 7034. Definition.

CHAPTER 4—HIGH PRIORITY RESEARCH AREAS

Sec. 7041. Sense of Congress.

CHAPTER 5—REPORT BY THE SURGEON GENERAL

Sec. 7051. Report by the Surgeon General.

Subtitle B—Counter-Narcotics Technology Assessment Center

Sec. 7101. Short title.
Sec. 7102. Counter-Narcotics Technology Assessment Center.
Sec. 7103. Authorization of appropriations.

Subtitle C—National Drug Abuse Epidemiology

Sec. 7201. National Drug Intelligence Epidemiology System.


### Subtitle A—Pharmacological Research

SEC. 7001. SHORT TITLE.

This subtitle may be cited as the "Pharmacotherap Development Act of 1990".

SEC. 7002. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) drug addiction is a disease of epidemic proportions in the United States;

(2) current efforts to treat the disease of addiction are inadequate; and

(3) pharmacotherapy, the use of medicines to treat the disease of addiction, is one promising method of drug treatment, and the development of such medicines must be more aggressively promoted by the Federal Government.

(b) PURPOSE.—It is the purpose of this subtitle to promote research, development, and production of pharmacotherapeutics used to reduce the prevalence of drug addiction in the United States.

### CHAPTER 1—FEDERAL MEDICATION DEVELOPMENT PROGRAM

SEC. 7011. ESTABLISHMENT OF MEDICATION DEVELOPMENT DIVISION.

Section 515 of the Public Health Service Act (42 U.S.C. 290cc) is amended to read as follows:

"SEC. 515. PHARMACOTHERAPEUTICS DEVELOPMENT DIVISION.

"(a) ESTABLISHMENT.—There is established in the National Institute on Drug Abuse a Division to be known as the 'Medications Development Division' (hereafter in this section and section 515A referred to as the 'Division').

"(b) ORGANIZATION.—

"(1) DIRECTOR.—The Division shall be headed by a Director appointed by the Director of the National Institute on Drug Abuse on the basis of scientific merit.

"(2) STAFFING.—The Director of the Division (hereinafter in this section and section 515A referred to as the 'Director') may appoint one or more Deputy Directors and shall employ administrators and researchers on the basis of scientific merit.

"(c) DUTIES.—The Director shall—

"(1) in consultation with the Commissioner of Food and Drugs, establish, not later than 1 year after the date of enactment of this section, new guidelines for the safety and efficacy trials of medications to treat drug addiction, with such guidelines to be implemented by the Commissioner of Food and Drugs in accordance with subchapter C of chapter V of the Federal Food, Drug and Cosmetic Act;

"(2) conduct periodic meetings with the Commissioner of Food and Drugs to discuss other measures that may facilitate the approval process of drug addiction treatments;

"(3) encourage and promote (through grants, contracts, or otherwise) expanded research programs, investigations, experiments, and studies, into the development of medications to treat drug addiction;

"(4) establish, or provide for the establishment of, clinical research facilities to carry out this section;

"(5) track the activities of the National Institutes of Health relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(6) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and seek the establishment of an international research data bank to collect, catalog, analyze, and disseminate through international channels, the results of research undertaken in any country concerning phar-

macotherapeutic treatments for drug addiction; and

"(7) support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug addiction, including the use of training stipends, fellowships, and awards where appropriate.

"(d) ADMINISTRATION.—In carrying out the activities described in subsection (c), the Director may—

"(1) collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the Division;

"(3) acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary;

"(4) acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of the General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Division for a period not to exceed 10 years;

"(5) accept voluntary and uncompensated services;

"(6) accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(7) take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Division and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(e) REPORTS.—

"(1) IN GENERAL.—Not later than December 31, 1990, and each December 31 thereafter, the Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the Division.

"(2) INCORPORATION INTO NATIONAL DRUG CONTROL STRATEGY.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(3) ADDITIONAL REPORTS.—The Director may prepare additional reports as appropriate.

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Director shall, by regulation, provide for the proper scientific review of all research grants, cooperative agreements, and contracts over which the Director has authority by—

"(A) utilizing, to the extent practicable, appropriate peer review groups established within the National Institute on Drug Abuse and composed primarily of non-Federal scientists and other experts in the scientific and disease fields; and

"(B) when appropriate, by establishing, with the approval of the Director of the National Institute on Drug Abuse, other formal peer review groups as may be required.".

SEC. 7012. AUTHORIZATION OF APPROPRIATIONS.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out section 515—

"(1) $60,000,000 for fiscal year 1991;

"(2) $70,000,000 for fiscal year 1992;

"(3) $85,000,000 for fiscal year 1993;

"(4) $100,000,000 for fiscal year 1994;

"(5) $110,000,000 for fiscal year 1995; and

"(6) $115,000,000 for each of the fiscal years 1996 through 2000.".

CHAPTER 2—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

SEC. 7021. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary may designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (c) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) block the effects of abused drugs;

"(ii) reduce the craving for abused drugs;

"(iii) moderate or eliminate withdrawal symptoms;

"(iv) block or reverse the toxic effects of abused drugs; or

"(v) prevent, under certain conditions, the initiation of drug abuse;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such addiction of such individual; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 202 of the Controlled Substance Act (21 U.S.C. 812) the possession or distribution of which is unlawful under such Act.

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a), (b), and (c).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505;

"(2) issues a certification under section 507; or

"(3) issues a license under section 351 of the Public Health Service Act;

for a drug designated under section 529A for the treatment of addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of 7 years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such 7-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary may encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. ENFORCEMENT.

"The provisions of title III relating to the breach of an exclusive marketing agreement shall apply to this subchapter.

"SEC. 529F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

### CHAPTER 3—MEDICATIONS REVIEW PROCESS REFORM

SEC. 7031. INVESTIGATIONAL NEW DRUGS.

(a) SUBMISSION OF APPLICATION.—Notwithstanding subpart B of part 312 of title 21, Code of Federal Regulations, in implementing the procedures required under subsection (b), the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit an entity submitting an investigational new drug application or protocol for medications to treat drug addiction to provide the information required by the Secretary as such information becomes available to such entity. The Secretary may permit such applications or protocols to be submitted in parts. If the Secretary withholds approval of any part of such application or protocol, the Secretary may require that the applying entity resubmit only that portion of such application or protocol that was not approved. Not later than 30 days after an entity submits such an application or protocol or part thereof, the Secretary shall notify such entity concerning the approval or rejection of such application or protocol or part thereof, and if such notification is not provided approval will be automatic.

(b) APPLICATION OF PROCEDURES.—The Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, shall apply investigational new drug procedures under part 312 of title 21, Code of Federal Regulations, to encourage the development and use of medications to treat drug addiction. The Secretary may waive the requirements contained in part 312.34(b)(1)(ii) of title 21, Code of Federal Regulations, if the Secretary determines that such a waiver is appropriate.

SEC. 7032. PARALLEL TRACK TRIALS FOR MEDICATIONS TO TREAT DRUG ADDICTION.

(a) IN GENERAL.—In encouraging the development and marketing approval of medications to treat drug addiction, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit parallel track trials to be used to permit access to such drugs in a manner similar to that applied to certain medications to treat individuals infected with the human immunodeficiency virus.

(b) DEFINITION.—As used in this section the term "parallel track trials" means the procedures used by the Food and Drug Administration under part 312.35 of title 21, Code of Federal Regulations.

SEC. 7033. WAIVER OF MECHANISM OF ACTION REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may waive the application of the mechanism of action requirement for marketing approval of medications to treat drug addiction.

SEC. 7034. DEFINITION.

As used in this chapter, the term "pharmacotherapeutics" means medications used to treat the symptoms and disease of drug addiction, including medications to—

(1) block the effects of abused drugs;

(2) reduce the craving for abused drugs;

(3) moderate or eliminate withdrawal symptoms;

(4) block or reverse the toxic effect of abused drugs; and

(5) prevent, under certain conditions, the initiation of drug abuse.

### CHAPTER 4—HIGH PRIORITY RESEARCH AREAS

SEC. 7041. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of a methadone alternative;

(2) the development of a long-acting narcotic antagonist;

(3) the development of a cocaine-blocking treatment;

(4) the development of a cocaine-blocker/narcotic antagonist treatment;

(5) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine; and

(6) the development of medications to treat pregnant addicts and their fetuses.

### CHAPTER 5—REPORT BY THE SURGEON GENERAL

SEC. 7051. REPORT BY THE SURGEON GENERAL.

(a) PHARMACOTHERAPY REVIEW PANEL.—Not later than 120 days after the date of enactment of this Act, the Director of the Division established under section 515 of the Public Health Service Act (as amended by section 7011) shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) REPORT.—Not later than January 1, 1992, the Surgeon General of the United States shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

(1) the recommendations of the panel established under subsection (a);

(2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;

(3) the assessment of the Surgeon General of the progress of the nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and

(4) any other information determined appropriate by the Surgeon General.

(c) AVAILABILITY.—The report prepared under subsection (b) shall be made available for use by the general public.

## Subtitle B—Counter-Narcotics Technology Assessment Center

SEC. 7101. SHORT TITLE.

This subtitle may be cited as the "Counter-Narcotics Technology Act of 1990".

SEC. 7102. COUNTER-NARCOTICS TECHNOLOGY ASSESSMENT CENTER.

(a) ESTABLISHMENT.—Title I of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501 et seq.) is amended by inserting after section 1003 the following new section:

"SEC. 1003A. COUNTER-NARCOTICS TECHNOLOGY ASSESSMENT CENTER.

"(a) ESTABLISHMENT.—There is established within the Office of National Drug Control Policy, the Counter-Narcotics Technology Assessment Center (hereafter in this section referred to as the Center). The Center shall operate under the general authority of the Deputy Director for Supply, Office of National Drug Control Policy, and shall serve as the central counter-narcotics enforce-

ment research and development organization of the United States Government.

"(b) DIRECTOR.—There shall be at the head of the Center, the Chief Scientist of Counter-Narcotics Technology who shall be appointed by the Director of National Drug Control Policy from individuals qualified and distinguished in areas of science, engineering or technology. The Chief Scientist shall be paid at the highest rate of basic pay set under the provisions of section 5382(b) of title 5, United States Code.

"(c) RESPONSIBILITIES OF THE CHIEF SCIENTIST.—The Chief Scientist shall—

"(1) identify and define the short, medium, and long-term scientific and technological needs of Federal, State, and local drug enforcement agencies, including—

"(A) surveillance and tracking;

"(B) electronic support measures;

"(C) communications;

"(D) data fusion, advanced computer systems and artificial intelligence; and

"(E) chemical, biological and other means of detection;

"(2) make a priority ranking of such needs according to fiscal and technological feasibility, as part of a National Counter-Narcotics Enforcement Research and Development Strategy;

"(3) allocate research and development funds to exploit such technologies under subsection (d);

"(4) oversee and coordinate counter-narcotics technology initiatives with related activities of other Federal civilian and military departments; and

"(5) under the general authority of the Director of National Drug Control Policy, submit reprogramming or transfer requests of funds appropriated for counter-narcotics enforcement research and development to Congress.

"(d) COUNTER-NARCOTICS TECHNOLOGY BUDGET AUTHORITY.—Beginning with the fiscal year 1992 budget, the Director of National Drug Control Policy in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies for counter-narcotics enforcement research and development programs. There is established a national counter-narcotics technology account. Such appropriations shall be made to such account for the Director of National Drug Control Policy to make reimbursements to the involved agencies as appropriate.

"(e) PERSONNEL.—Subject to subsections (d) and (e) of section 1003 of this Act, the Chief Scientist shall select and appoint a staff of not more than 10 employees with specialized experience in scientific, engineering and technical affairs. The Chief Scientist may appoint and fix the compensation of such personnel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not to exceed the maximum rate authorized by the General Schedule.".

SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.

(a) COUNTER-NARCOTICS TECHNOLOGY ASSESSMENT CENTER.—There are authorized to be appropriated $3,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year thereafter for salaries and expenses of the Center.

(b) NATIONAL COUNTER-NARCOTICS TECHNOLOGY INITIATIVES.—There are authorized to be appropriated $150,000,000 in fiscal year 1991 and such sums as may be necessary in fiscal years 1992 and 1993 to carry out the purposes of this subtitle.

**Subtitle C—National Drug Abuse Epidemiology**

SEC. 7201. NATIONAL DRUG INTELLIGENCE EPIDEMIOLOGY SYSTEM.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 509H. NATIONAL DRUG INTELLIGENCE EPIDEMIOLOGY SYSTEM.

"(a) FINDING.—Congress finds that medical professionals, drug treatment professionals, law enforcement professionals, and many others need accurate, timely information about emerging drug problems.

"(b) ESTABLISHMENT.—The Secretary, acting through the Director of the Centers for Disease Control, shall establish a National Drug Intelligence Epidemiology System that shall—

"(1) conduct research on and provide documentation concerning the leading drug abuse indicators that shall include drug-related emergency room visits, drug-related deaths, and drug treatment admissions;

"(2) publish data concerning the indicators described in paragraph (1) on a quarterly basis; and

"(3) distribute publications concerning information obtained in accordance with paragraphs (1) and (2) to medical professionals, police agencies, and other individuals or entities involved in anti-drug efforts.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1991, $4,000,000 to carry out this section.

"SEC. 509I. NATIONAL DRUG ABUSE REPORT CARD.

"(a) FINDINGS.—Congress finds that—

"(1) simple, timely and accurate measures of the progress of the nation against the use of illegal drugs are necessary to keep the public informed of the latest developments; and

"(2) current national drug abuse statistics, based on the National Household Survey on Drug Abuse, National High School Seniors Survey, Drug Abuse Warning Network, and other surveys, are inadequate to provide the public and policy makers with an accurate and timely picture of the drug abuse problem in the United States.

"(b) ESTABLISHMENT.—The Secretary, acting through the Director of the National Institute on Drug Abuse, shall establish a National Drug Abuse Report Card to—

"(1) collect research on the leading drug abuse indicators, including at a minimum—

"(A) the use of licit and illicit drugs;

"(B) drug price, purity, and availability;

"(C) drug-related crime;

"(D) drug-related hospital room visits; and

"(E) emerging patterns and trends in drug trafficking and abuse;

"(2) characterize the statistics compiled under this section according to—

"(A) age, ethnic and gender groups;

"(B) regional variations, including rural, suburban and urban areas; and

"(C) at-risk groups, including pregnant addicts, new mothers and adolescents;

"(3) include, to the maximum extent possible, estimates of drug use among previously under-surveyed groups such as high-school dropouts, homeless people, and hard-core addicts in the statistics compiled under this section; and

"(4) publish and distribute reports based on the indicators described under this subsection in a simple, understandable format on a quarterly basis.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1991, such sums as may be necessary.".

**TITLE VIII—COORDINATION**

SEC. 8000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE VIII—COORDINATION

Sec. 8000. Table of contents.

Subtitle A—Officers of the Office of National Drug Control Policy

Sec. 8001. Cabinet status for Director of National Drug Control Policy.

Sec. 8002. Elevating the position of Associate Director of National Drug Control Policy.

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Sec. 8011. Short title.

Sec. 8012. Findings.

Sec. 8013. Establishment and responsibilities of center.

Sec. 8014. Management of center.

Sec. 8015. Plan for center.

Sec. 8016. Participating agencies.

Sec. 8017. Intelligence community participation.

Sec. 8018. Intelligence community cooperation.

Sec. 8019. Availability of information.

Sec. 8020. Security of center.

Sec. 8021. Reports and evaluation.

Sec. 8022. Authorization of appropriations.

**Subtitle A—Officers of the Office of National Drug Control Policy**

SEC. 8001. CABINET STATUS FOR DIRECTOR OF NATIONAL DRUG CONTROL POLICY.

It is the sense of Congress that the President should accord the Director of National Drug Control Policy full cabinet status, as Congress intended by establishing the Director as a position in level I of the Executive Schedule.

SEC. 8002. ELEVATING THE POSITION OF ASSOCIATE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.

(a) ASSOCIATE DIRECTOR.—(1) Section 1002(c)(2) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501(c)(2)) is amended by striking "Associate Director" and inserting "Deputy Director";

(2) Section 1003(a) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1502(a)) is amended—

(A) in paragraph (1) by striking out "Associate Director" and inserting in lieu thereof "Deputy Director"; and

(B) in paragraph (2) by striking out "Associate Director" and inserting in lieu thereof "Deputy Director".

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—(1) Section 5315 of title 5, United States Code, is amended by striking out:

"Associate Director for National Drug Control Policy, Office of National Drug Control Policy.".

(2) Section 5314 of title 5, United States Code, is amended by adding at the end thereof:

"Deputy Director for National Drug Control Policy, Office of National Drug Control Policy.".

**Subtitle B—National Drug Intelligence**

SEC. 8011. SHORT TITLE.

This subtitle may be cited as the "National Drug Intelligence Act of 1990".

SEC. 8012. FINDINGS.

The Congress finds that—

(1) intelligence information sharing among Federal agencies concerned with drug enforcement is essential to implement the National Drug Control Strategy;

(2) much of the relevant information the Federal Government possesses related to foreign and domestic drug trafficking organizations is in manual files which cannot be used easily, quickly, or completely;

(3) each Federal agency responsible for drug enforcement and control maintains its own files which, by their nature, are difficult to share with other agencies;

(4) no Federal agency responsible for drug enforcement and control has ready access to all the data needed to produce a comprehensive understanding of international and domestic trafficking organizations; and

(5) there is no centralized data base of information which can be fully utilized by responsible Federal agencies.

SEC. 8013. ESTABLISHMENT AND RESPONSIBILITIES OF CENTER.

(a) ESTABLISHMENT OF THE CENTER.—There is established an executive agency to be known as the "National Drug Intelligence Center" (referred to as the "Center"). To the fullest extent practicable, the personnel and equipment of the Center shall be colocated. Upon the appropriation of funds for the Center, the Center shall employ not less than three hundred people of which the following agencies shall provide the following personnel:

(1) not less than seventy-five employees from the Drug Enforcement Administration;

(2) not less than seventy-five employees from the Federal Bureau of Investigation;

(3) not less than fifty employees from the Customs Service;

(4) not less than fifty employees from the Department of Defense; and

(5) not less than fifty employees from participating agencies selected by the Director of National Drug Control Policy.

During their tenure at the Center, employees shall report to the Executive Director who shall be responsible for their performance evaluation.

(b) RESPONSIBILITIES OF THE CENTER.—The Center shall—

(1) assimilate, collect, and analyze drug enforcement-related data and intelligence of participating agencies;

(2) produce comprehensive analyses of foreign and domestic drug trafficking organizations, patterns, and trends;

(3) create and maintain a state-of-the-art computer data base for drug-related strategic intelligence;

(4) publish quarterly statistics on drug trafficking and abuse patterns and indicators for each major drug of abuse in the United States, including statistics on price, purity, and availability; and

(5) disseminate comprehensive drug enforcement-related intelligence to appropriate intelligence and law enforcement agencies.

(c) DATE OF OPERATION.—The Center shall begin operations not later than ninety days after funds are appropriated for the Center.

SEC. 8014. MANAGEMENT OF CENTER.

(a) ESTABLISHMENT OF ADVISORY BOARD.—There shall be an Advisory Board consisting of the Executive Director, a representative of each agency participating in the Center and representatives from State and local agencies selected by the Director of National Drug Control Policy. The Advisory Board shall be chaired by the Deputy Director of National Drug Control Policy for Supply Reduction. The Advisory Board shall consult with the Executive Director in establishing the policies of the Center.

(b) DESIGNATION OF EXECUTIVE DIRECTOR.—There shall be an Executive Director, designated by the Director of National Drug Control Policy, who shall be responsible for the management and operations of the Center. The Executive Director shall be selected from one of the Department of Justice agencies responsible for drug enforcement.

(c) RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR.—The Executive Director, in consultation with the Advisory Board, shall—

(1) allocate the Center's funding;

(2) determine the Center's priorities; and

(3) adopt procedures governing access to information contained in the data bases.

SEC. 8015. PLAN FOR CENTER.

Not later than ninety days from the date of enactment of this Act, the Executive Director, in consultation with the Advisory Board, shall develop and submit to the Judiciary Committees of the Senate and House of Representatives a plan for the management and operation of the Center which shall include a design and format for the data base to be established by the Center. The plan shall utilize existing drug enforcement-related intelligence resources and shall not duplicate current information systems. To the fullest extent possible, existing drug enforcement-related intelligence data and systems shall be consolidated and integrated into the Center.

SEC. 8016. PARTICIPATING AGENCIES.

The following agencies shall participate in the establishment of the strategic drug intelligence data base and shall contribute data as required by the Advisory Board:

(1) the Office of National Drug Control Policy;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Internal Revenue Service;

(5) the Immigration and Naturalization Service;

(6) the Customs Service;

(7) the Coast Guard;

(8) the Department of Defense; and

(9) other executive agencies as designated by the Director of National Drug Control Policy.

SEC. 8017. INTELLIGENCE COMMUNITY PARTICIPATION.

The Directors of the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency shall appoint members from their respective agencies to serve on the Advisory Board. Within one hundred and eighty days after enactment of this Act, the agencies within the United States intelligence community shall submit to the Director of National Drug Control Policy a plan for integration of drug-related intelligence information generated by such agencies into the Center.

SEC. 8018. INTELLIGENCE COMMUNITY COOPERATION.

It is the sense of the Congress that the agencies within the United States intelligence community shall cooperate, consistent with applicable law, including section 1004(a) of Public Law number 100-690, and the protection of intelligence sources and methods, with the Center in the execution of its responsibilities.

SEC. 8019. AVAILABILITY OF INFORMATION.

The information in each data base established by the Center shall be available to appropriate representatives from participating agencies pursuant to the procedures adopted by the Executive Director and the Advisory Board.

SEC. 8020. SECURITY OF CENTER.

The Executive Director shall take all reasonable, and necessary actions to ensure security for the Center, including the protection of sources and methods of drug enforcement-related intelligence.

SEC. 8021. REPORTS AND EVALUATION.

Not later than one year after the date of enactment of this legislation and not later than March 1 of each year thereafter, the Executive Director shall submit to the Judiciary Committees of the Senate and House of Representatives a report evaluating the performance of the Center and the participation of each of the contributing agencies to the data base of the Center.

SEC. 8022. AUTHORIZATION OF APPROPRIATIONS.

For purposes of carrying out this subtitle, there are authorized to be appropriated $100,000,000 for fiscal year 1991 and such sums as may be necessary for each of the three succeeding fiscal years, which amounts shall remain available until expended.

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## NATIONAL DRUG CONTROL STRATEGY ACT OF 1990—SECTION-BY-SECTION ANALYSIS

### TITLE I—LAW ENFORCEMENT

#### SUBTITLE A—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

This subtitle doubles federal aid to state and local law enforcement agencies from $450 million to $900 million. This increase was approved by the Senate Judiciary Committee earlier this year. In addition, this subtitle contains a proposal modeled on legislation introduced by Senator Kohl and Rep. Foglietta creating a new $20 million community action drug grant program in the Bureau of Justice Assistance to provide federal "seed"money for up to 3,000 community groups that work with police to fight back in drug-plagued areas.

#### SUBTITLE B—DRUG DAYS

This subtitle provides additional help to state and local law enforcement agencies by making federal grand juries and courts available for drug prosecutions: all State cases arising from arrests on a given day each month would be presented to federal grand juries and, if indictments are returned, tried in federal court.

#### SUBTITLE C—FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE

Subtitle C provides funding increases for major components of the federal criminal justice system. Funding for federal law enforcement agencies is boosted by more than $300 million for the following:

$98 million for 1,000 new FBI agents, which will double the FBI's current anti-drug program;

$100,500,000 in new money for DEA to hire 1,000 additional special agents to crack down on drug trafficking in rural areas, illegal shipments of precursor chemicals and to expand DEA task forces with state and local agencies.

$24 million for 480 additional federal prosecutors and related staff positions;

$37.5 million for 435 new Bureau of Alcohol, Tobacco and Firearms agents to attack the flow of illegal weapons into the hands of drug traffickers, including the export of U.S.-made assault weapons to the Colombian cocaine cartels.

$30 million for 347 new Internal Revenue Service positions to process money laundering investigations and 120 new agents for drug-related crime activities;

An additional $9,000,000 for the courts to address the backlog of drug-related cases; $8,000,000 for federal defenders for the increased caseload generated under the "drug days" provisions of Subtitle B; and $9,000,000 for the United States Marshals.

SUBTITLE D—RURAL DRUG ENFORCEMENT

To ensure that the needs of rural areas are incorporated into the National Drug Strategy, this subtitle: (1) requires the Director of National Drug Control Policy to designate an existing official in his office to be responsible for rural drug policy issues; (2) creates a new $20 million grant program to state and local law enforcement agencies in rural areas; (3) directs the Attorney General to assign not less than 10 DEA agents in each state and not less than 4 additional DEA agents in each rural state; and (4) requires the Secretary of the Treasury to develop and implement a drug training program for rural law enforcement officers. This provision is based upon proposals submitted by Senator Max Baucus and Senator David Pryor.

SUBTITLE E—MANDATORY DETENTION

Subtitle E is derived from S. 1259, a bill introduced by Senator Simon. The bill amends the Bail Reform Act (18 U.S.C. 3143) to provide that all defendants convicted of certain crimes must be detained while awaiting sentence and the disposition of any appeal. (Senator Simon's statement introducing the bill appears in the Congressional Record, June 23, 1989, at S7511.)

SUBTITLE F—FORFEITURE

This subtitle strengthens current federal forfeiture laws by expanding the use of streamlined administrative forfeiture in drug cases, allowing uncontested case seizures to be forfeited administratively regardless of amount and clarifying the scope of the Attorney General's forfeiture authority. This section also authorizes the Attorney General to use the proceeds from forfeiture to purchase firearms and bullet proof vests for federal drug enforcement agents.

SUBTITLE G—PUBLIC CORRUPTION

Originally derived from S. 327 (introduced by Senator Biden and others in February 1989), this provision removes barriers to public corruption prosecutions that were generated by the Supreme Court's decision in *United States* v. *McNally*. The subtitle provides that public officials who deprive citizens of the honest services of government officials, of a fair election, or of the right to have governmental affairs conducted on the basis of complete and true material information, are subject to fine or imprisonment of not less than ten years. Another provision specifically targets narcotics-related public corruption, making it a felony for any public official improperly influenced to further or conceal a drug offense. This section was passed by the Senate in the 1988 drug bill.

Further information on this subtitle appears in the Congressional Record, daily ed., October 4, 1989, at S12624.

SUBTITLE H—JUVENILE JUSTICE

This subtitle creates a new $100 million initiative in the Justice Department to combat drug and gang activity by juveniles. Specifically, $80 million in grants will be available to states to fund ten targeted anti-gang and anti-drug programs, split evenly between law enforcement efforts to cut juvenile drug trafficking and gang activity and prevention, education and treatment efforts, including youth sports, boys and girls clubs, and other demand reduction programs. The remaining $20 million will be available through discretionary grants aimed at identifying promising new anti-drug and anti-gang programs.

Section 1303 in this subtitle is derived from H.R. 2976, introduced by Rep. Wyden (D-Wa.), and provides that some violent juvenile offenders may be prosecuted as adults for certain firearm offenses. This provision also expands prosecutors' capabilities to reach juvenile offenders by counting juvenile drug trafficking offenses carrying a minimum ten year penalty as predicate acts for the Armed Career Criminal statute.

SUBTITLE J—DRUG TESTING

This subtitle requires drug testing for federal defendants on probation, parole, and supervised release. It is derived from Senator Simon's proposal to require parolee drug testing which was passed by the Senate as part of S. 1711.

SUBTITLE K—BOOT CAMPS

This subtitle authorizes $150 million for the conversion and operation of 10 closed military bases as boot camps. Each boot camp will accommodate 200-300 inmates and conduct a 3-4 month program similar to military basic training, including strict discipline, physical training, work, drill and ceremony. Remedial education and treatment for substance abuse must also be included in the "boot camp" program. This subtitle is similar to S. 1142, introduced by Senator Bentsen on June 7, 1990.

SUBTITLE L—REGIONAL PRISONS

This subtitle authorizes $700 million to construct (and operate for one year) 10 regional prisons for prisoners who need drug treatment. Each would accommodate 8,000 prisoners—6,400 state prisoners and 1,600 federal prisoners. This will not only ease prison overcrowding but will also separate prisoners with drug problems from the general prison population. States will reimburse the federal Bureau of Prisons for all costs associated with the program but—if the prisoner completes the drug treatment program—States will be reimbursed 25% of the cost for use in post-release drug aftercare.

SUBTITLE M—CHILD ABUSE

This subtitle contains the "Victims of Child Abuse Act of 1990," which was introduced by Senator Biden and Senator Reid on November 21, 1989. The purpose of the bill is to improve the judicial response to cases of child abuse and neglect, specifically, drug-related abuse and neglect. Chapter 1 creates a new federal offense of "drug-related child abuse," makes that offense a felony under federal law, and imposes a minimum sentence of 25 years for habitual child abusers. Chapter 2 authorizes $20 million to aid prosecutors and court officials handling child abuse cases. Chapter 3 provides $5 million to expand court-appointed special advocacy programs for child abuse victims. Chapter 4 authorizes $10 million to provide training for judges handling child abuse cases and for systematic court reform. Based on S. 1923 (Senator Reid's bill), Chapter 5 amends the Federal Rules of Criminal Procedure, Civil Procedure and Evidence to make it easier for child victims to testify in court. Chapter 6 requires federal agencies to conduct a criminal background check when hiring persons to work with children.

SUBTITLE N—STEROIDS

This subtitle was introduced in November 1989 by Senator Biden as the "Steroid Trafficking Act of 1989." The bill would amend the Controlled Substances Act to restrict the use of steroids and human growth hormones. By designating anabolic steroids as a schedule II substance, the bill would crack down on illegal steroid use in three ways: (1) increasing penalties for steroid trafficking to match the penalties for selling cocaine and other dangerous drugs; (2) charging the Drug Enforcement Administration with attacking the steroid black market; and (3) requiring U.S. agencies to incorporate steroids in our general drug abuse prevention, education and treatment.

TITLE II—TREATMENT

SUBTITLE A—ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT

This subtitle expands the ADAMHA block grant—the primary source of federal funds for drug treatment—bringing the total for treatment to $2.0 billion. These funds will provide drug treatment to an estimated 700,000 addicts. The allotment of these funds would lower the urban weight factor in the ADAMHA block grant to 20 percent—recognizing that America's drug epidemic effects rural as well as urban areas. This provision would also freeze the hold-harmless provision at the 1989 level. The Senate approved both provisions last year.

This subtitle would enable drug treatment centers to receive federal funds for involving members of the addicts family in group counseling sessions. This subtitle authorizes the use of federal drug treatment block grant funds to provide drug treatment to all prisoners who need it. This proposal, proposed by Senator Chafee, passed the Senate last year. Also, this subtitle waives the current requirement that states spend at least 50 percent of federal drug treatment block grant funds on programs for intravenous drug abuse—the Senate passed this provision last year and, most recently, as an Amendment to S. 2240.

SUBTITLE B—PROGRAMS TARGETTING WOMEN AND CHILDREN

This subtitle provides $50 million for drug treatment programs targetting pregnant and post-partum addicts. This subtitle would also establish a center to gather and disseminate information about drug abuse and drug treatment among pregnant women. The Senate passed this latter provision last year.

SUBTITLE C—TREATMENT IMPROVEMENT

This subtitle establishes a federal Office for Treatment Improvement within the Department of Health & Human Services to reinvigorate the federal government's role in encouraging the development and expansion of model treatment programs. The Office would focus on the needs of vulnerable populations, including pregnant and post-partum addicts and their infants, as well as racial and ethnic minorities. This subtitle authorizes $50 million for the Office for fiscal year 1991.

This subtitle would condition the receipt of federal drug treatment block grant dollars on the development of a treatment plan approved by the Secretary of the Department of Health & Human Services. As approved by the Senate last year, these plans will address such issues as the expansion of drug treatment, outreach efforts to bring addicted women and children into treatment, and the coordination of drug treatment services with health, education and vocational services.

The subtitle would provide $15 million in grants to train doctors, nurses, other health professionals, and social workers to work with drug addicts. The Senate passed this

proposal last year. Another proposal, offered by Senators Baucus and Pryor and passed by the Senate last year, creates a $25 million grant program to increase the availability of drug treatment in rural areas. A clearinghouse for information about rural drug abuse treatment and education is also provided.

This subtitle includes $140 million authorization to reduce waiting periods for drug treatment, with priority given to programs for pregnant and postpartum women. Technical changes in the program for drug abuse projects of national significance, along with an $80 million authorization for this program, are included in this subtitle.

This subtitle offers several provisions to provide drug treatment in federal, state and local prisons. This includes $15 million to the federal Bureau of Prison to treat drug addicted inmates and $25 million to provide drug treatment in state and local correctional facilities. This subtitle would also provide incentives for federal prison inmates to participate in drug treatment. Offenders released under this program will be required to submit to periodic drug testing and participate in a drug treatment program.

#### SUBTITLE D—SUBSTANCE ABUSE TREATMENT SERVICES UNDER MEDICAID

Under current rules, states are not allowed to extend their Medicaid programs to include many important types of drug treatment (for example, one of the most cost-effective forms—out-patient drug treatment—is not covered under current rules.) This proposal, drafted by Senator Moynihan and passed by the Senate last year, would give states the option of covering all major types of drug treatment. Since most of those eligible for Medicaid coverage are women and children, this provision targets the vital needs of pregnant and post-partum addicts and children. The most recent CBO estimate of the cost of this provision is $700 million.

### TITLE III—DRUG EDUCATION AND PREVENTION

#### SUBTITLE A—COMPREHENSIVE DRUG EDUCATION

This subtitle increases resources for comprehensive drug education in all schools serving students in grades K–12 and supports comprehensive drug education programs that include a teacher who is in charge of coordinating drug education programs.

Section 3002 reauthorizes the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181). It authorizes $1.2 billion for fiscal years 1991 and 1992 and such sums as are necessary for 1993.

Section 3003 amends the Drug-Free Schools and Community Act of 1986 by adding at the end thereof a new section 5128 to establish a model comprehensive drug education grant program. This program will provide supplemental funding for schools, and coalitions of schools serving grades K–12 that wish to provide comprehensive drug education. School principals can apply for these grants to implement programs that include: a policy against drug use; peer-to-peer programs; current medical and scientific information concerning the impact of drugs on our bodies and society; a teacher to serve as the school chairperson of the drug education program who is responsible for implementing the program and training other teachers; and family and community involvement.

Section 5128(b) describes the information to be included in applications for these grants, submitted by principals and reviewed by local and state educational agencies. Included in this information is the process by which the teacher is chairperson will be selected and how much time that teacher will spend on the drug education program.

At least one-fifth of the teacher's time should be devoted to the program, unless the Secretary approves a lesser amount. The percentage of time should be considered by the Secretary when the grant total is determined, with an effort made to cover the cost of that time. Local educational agencies should not act to thwart the application process but should instead assist the applicant to strengthen his application and to make note of the distribution of resources. Subpart 4 states that the grants made in this section supplant other federal funds allotted to the schools for drug prevention. It includes a formula for a minimum amount based on a school size of 600 students or less. The Secretary should draft similar guidelines for the distribution of grants to schools which are of a different size or not accommodated by this formula.

Sections 5128 (c)-(d) describe the use of allotments, including the functions to be performed by the teacher chairperson of a school's drug education program.

Section 5128 (e) authorizes $150 million dollars to carry out this comprehensive drug education model grant program.

Section 3004 requires the Secretary of Education to design and to distribute classroom materials that carry anti-drug messages in lessons of basic study. These lessons will be woven into course material that the teachers must cover according to their state policies.

Section 3005 authorizes the Secretary of Education to spend $10 million to expand the Drug Abuse Resistance Education (DARE) program. Programs, similar to but other than DARE may compete for these funds. A similar provision, introduced by Senator Wilson passed in S. 1711.

#### SUBTITLE B—PREVENTION

Subtitle B creates comprehensive community drug prevention initiatives. Section 3101 amends Part A of title V of the Public Health Service Act (32 U.S.C. 290aa et seq.) to establish a grant program for community prevention programs that take a comprehensive approach. These programs must include an anti-drug drug policy; peer-to-peer programs; complete and accurate information concerning drugs; the involvement of family and community; and participation in a communication system established by the county for local agencies responsible for prevention programs and social services. Similar requirements for comprehensive community programs were passed in S. 1711. In this section, the office of Substance Abuse Prevention is allocated $155 million for these programs.

Section 3102 establishes a National Substance Abuse Prevention Training Program to supply community prevention programs with training curriculum, technical assistance and outreach. As proposed by Senator Kennedy, this section authorizes $30 million, of which 50 percent must be distributed to State and local organizations that provide coordination and training.

Section 3103 establishes a National Drug Prevention Corps that utilizes the energy of student volunteers to promote a drug-free lifestyle and serve as positive role models for youth. $10 million is allocated to the President's National Service Initiative for this program.

Section 3104 instructs the Director of National Drug Control Policy to provide resources necessary to assist members of the entertainment industry in the production of programs that carry anti-drug messages, especially ones for children. $10 million is authorized to carry out this section.

Section 3105 crafts a narrow exemption from anti-trust laws for members of the television industry to develop and disseminate voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material. This section passed the full Senate in S. 1711.

Section 3106 assists local businesses in coordinating drug prevention programs for the workplace and encourages employee assistance programs. It provides the Secretary of Labor with $1 million to distribute to 100 major business regions in the country to encourage programs modeled after the Corporation Against Drug Abuse in each region.

Section 3107 amends the Drug-Free Workplace Requirements (Title V of the Anti-Drug Abuse Act of 1988) to require that employers provide information about substance abuse among children to their employees. This change passed the Senate in S. 1711.

### TITLE IV—INTERNATIONAL

#### SUBTITLE A—EMERGENCY ECONOMIC ASSISTANCE

Authorizes $125 million in immediate economic assistance to Boliva, Colombia, and Peru, in Fiscal Year 1990, to take advantage of the opportunities in the Andes to attract those persons involved in the drug trade into the legal sector.

#### SUBTITLE B—ECONOMIC ASSISTANCE

Provides $375 million in economic assistance in each of the next three fiscal years to Boliva, Colombia, and Peru. Emphasizes programs to fund alternative development programs in the Andean region. Provides three-year waiver of the Bumpers amendment, which prohibits the use of U.S. funds to promote agricultural products that compete with a similar commodity grown in the United States. Provides one-year waiver of Brooke-Alexander amendment, which prohibits assistance to countries in arrears on repayment of U.S. government loans.

#### SUBTITLE C—TRADE INCENTIVES

This subtitle includes trade provisions aimed at providing increased access to the U.S. market for goods from the Andean region. First, it authorizes the President to designate Bolivia, Colombia and Peru as beneficiary countries under the Caribbean Basin Initiative. Second, based on a proposal by Rep. Tom Campbell, it gives increased authority to the President to provide special trade treatment to the Andean nations during any year that there is an acceptable reduction in illicit coca production. Finally, the bill urges President Bush to seek an immediate reinstatement of the International Coffee Agreement.

#### SUBTITLE D—DEBT-FOR-DRUGS EXCHANGE ACT

This subtitle, based on an earlier proposal by Senator Biden, authorizes debt relief for the Andean nations in exchange for specific actions to combat drug trafficking. The Andean countries would apply the savings in debt service to anti-drug efforts and alternative development programs aimed at rebuilding the legal economic sector.

#### SUBTITLE E—MILITARY AND LAW ENFORCEMENT ASSISTANCE

This subtitle authorizes $375 million in military and law enforcement assistance during the next three fiscal years to en-

hance the ability of the Andean nations to combat drug trafficking. Provides that half of this assistance must be provided to law enforcement agencies—the lead anti-narcotics forces in the Andes—rather than to the militaries of each nation.

The subtitle also calls for a multinational anti-narcotics force, and urges the President to explore the possibility of joint military and intelligence operations with other nations of the Western Hemisphere. Finally, it establishes a Foreign Service Corps within the Drug Enforcement Administration, modeled closely on the State Department's Foreign Service program.

SUBTITLE F—CONTROLLING PRECURSOR AND ESSENTIAL CHEMICALS

This subtitle directs the Attorney General to pursue negotiations with foreign governments to establish a system of monitoring and controlling the distribution of precursor chemicals—otherwise legitimate chemicals that are diverted into the illicit market for use in drug production. Authorizes the President to impose sanctions on foreign companies that do not comply with the control system, including barring such companies from doing business in the United States. This proposal was originally introduced by Senators Mitch McConnell and John Kerry earlier this session.

This subtitle further directs the Attorney General to undertake research into additives and other means that would render precursor chemicals useless in drug production but would not negatively interfere with the legitimate commercial uses of such chemicals. This subtitle also authorizes the Drug Enforcement Administration to hire not less than 100 additional special agents and investigators from the amounts authorized in title I to investigate illegal chemical shipments.

SUBTITLE G—INTERNATIONAL CURRENCY CONTROL AGENCY

Directs the Secretary of State and the U.S. representative to the "Group of Seven" nations to enter into negotiations to establish an International Currency Control Agency to track illegal money flows through international financial markets. Such agency would be responsible for establishing uniform currency reporting transactions, analyzing such information for suspect money flows and recommending and imposing sanctions on international financial institutions that do not comply with the uniform reporting standards.

SUBTITLE H—NARCOTICS-RELATED TERRORISM

This subtitle provides that up to $15 million of the funds authorized in this title for military and law enforcement assistance to the Andean nations shall be used for the protection of judges, law enforcement officers and other public officials against narcoterrorism attacks.

This subtitle also requires the Secretary of State to assign additional special agents from the Bureau of Alcohol, Tobacco and Firearms to U.S. embassies in Latin America to halt the flow of U.S.-made assault weapons into the hands of the drug cartels. The Secretary of State is also required to assign additional Federal Aviation Administration security personnel to such embassies to strengthen counter-terrorists efforts against civilian aviation targets.

TITLE V—INTERDICTION

SUBTITLE A—STRENGTHENING BORDER INTERDICTION EFFORTS

This subtitle boosts drug interdiction efforts along the U.S. border by $145 million. An additional $100 million is authorized to add 1,000 new Customs Service inspectors and agents to crackdown on drug smuggling in commercial containers and in the hardest-hit drug emergency areas. The remaining $45 million is authorized for the Immigration and Naturalization Service to expand anti-drug efforts by the U.S. Border Patrol and to target drug trafficking by illegal aliens.

SUBTITLE B—MILITARY SUPPORT ALONG THE UNITED STATES BORDER

This subtitle amends title 10 of the United States code to expand the Pentagon's role in anti-drug efforts by authorizing the U.S. military to inspect goods and commercial cargo entering the country at ports and along the borders. The amendment expressly prohibits the military from conducting searches of persons, and directs that the military's interdiction role should be coordinated with civilian law enforcement agencies.

SUBTITLE C—ATTACKING DRUG TRAFFICKING BY CRIMINAL ALIENS

This subtitle directs the U.S. Sentencing Commission to increase penalties for drug trafficking by illegal aliens. It also requires that the Attorney General immediately take into custody any alien released from state prison after serving a sentence for an aggravated felony (which includes drug offenses) and who is awaiting deportation. At this time, state officials cannot detain such persons once released after serving their state sentences. As a result, many convicted aliens simply disappear before they can be deported. This amendment closes this loophole in federal/state efforts against drug trafficking by aliens.

SUBTITLE D—MAKING DRUG-RELATED INTELLIGENCE A LEVEL-ONE INTELLIGENCE PRIORITY

This subtitle instructs the Director of Central Intelligence to make narcotics-related intelligence a Level-One priority in the National Foreign Intelligence Program. This section recognizes that international drug trafficking is one of the most serious security threats confronting the United States and other democratically elected governments in the Western Hemisphere.

Although the U.S. intelligence community has significantly increased the priority it devotes to counter-narcotics efforts, the U.S. intelligence community must devote a greater portion of its human electronic intelligence resources to locating major drug traffickers, tracking their ill-gotten profits and developing counter-measures to new and sophisticated drug smuggling techniques. A similar proposal passed the full Senate in September 1986 as part of an omnibus anti-drug initiative.

SUBTITLE E—PREVENTING DRUG TRAFFICKERS FROM ENTERING THE UNITED STATES USING FRAUDULENT IMMIGRATION DOCUMENTS

The use of fraudulent immigration documents by foreign nationals remains a major obstacle in efforts to decrease drug trafficking by illegal aliens. Under the current system, U.S. immigration officials have no reliable way of determining whether documents submitted for permission to enter the United States are fraudulent. As a result, known and suspected drug traffickers are admitted into the United States.

This subtitle requires the Secretary of State and the Attorney General to establish a program under which foreign nationals applying for entry into the United States must include a fingerprint on their application documents. In this way, identification characteristics of the individual applicant, i.e., a fingerprint, would be checked against the records of the FBI, INS and other federal agencies to determine if the applicant is excludable under U.S. immigration laws.

TITLE VI—DRUG EMERGENCY AREAS

This title creates a new $300 million program to provide immediate federal assistance to "drug emergency" areas. Modeled closely on the federal disaster assistance program, it authorizes the President, based on the recommendations of the National Drug Director, to declare certain areas—those particularly hard hit by drug abuse, trafficking and violence—as "drug emergency areas." Those areas can receive up to $50 million in federal aid directly to state and local agencies. Monetary assistance includes federal grants of up to 75 percent of the relief services, with the states responsible for the remaining 25 percent. Non-monetary assistance can include federal personnel, equipment, supplies, facilities, communications support, and technical and advisory services.

TITLE VII—RESEARCH AND NEW TECHNOLOGIES

SUBTITLE A—PHARMACOLOGICAL RESEARCH

This subtitle would establish a Medications Development Program within the National Institute of Drug Abuse to research pharmacological agents for drug treatment. This subtitle lays out a decade-long, $1 billion funding plan for the Program. This subtitle also provides special incentives, modeled after the Orphan Drug Act, to encourage private industry to develop medications to treat drug abuse. These incentives were passed by the Senate last year. In addition, this subtitle establishes special procedures to speed the delivery of these medicines to drug addicts.

SUBTITLE B—COUNTER-NARCOTICS TECHNOLOGY ASSESSMENT CENTER

This subtitle establishes a new Counter-Narcotics Technology Assessment Center (CONTAC) in the Drug Director's office to identify and exploit promising new drug enforcement technologies. Headed by a chief scientist, the new center would be responsible for establishing the technology requirements of federal, state and local drug enforcement agencies, identifying the most promising technologies to meet these requirements, and funding projects to exploit such technologies. This subtitle authorizes $150 million for such research for fiscal year 1991. The Center will have line-item budget authority over the entire federal drug enforcement research and development program.

SUBTITLE C—NATIONAL DRUG ABUSE EPIDEMIOLOGY

This subtitle would involve the Centers for Disease Control in monitoring trends in drug abuse, by gathering information from hospital emergency rooms and other sources, and publish this data regularly. This National Drug Intelligence Epidemiology System will help drug treatment, law enforcement and other agencies respond to new trends in drug abuse (smokeable heroin is one recent example.)

This subtitle calls on the National Institute on Drug Abuse to gather data from the leading drug abuse indicators and summarize these data in a simple national "report card" on the drug problem in the United States. To be released quarterly, this report card will keep the public abreast of the nation's progress against the drug epidemic.

TITLE VIII—COORDINATION

SUBTITLE A—INCREASING PRIORITY OF ANTI-DRUG EFFORTS

The first section of subtitle A would increase the priority of anti-drug policy within the Administration by expressing the sense of Congress that the President should make the Director of National Drug Control Policy a full member of the President's cabinet. By making the Director a Level I position, along with the Secretary of State and Attorney General, Congress clearly intended that the Director be a cabinet member. Full cabinet status is necessary not only to ensure that the Director is at the table when important Administration policy is formulated, but also to give the Director the clout needed to forge an effective anti-drug policy among the more than 35 federal agencies with anti-drug responsibilities.

Subtitle A also elevates the official in charge of State and Local Affairs in the Office of National Drug Control Policy to the Deputy Director level. To date, state and local concerns have received inadequate attention in the national strategy. For example, the President's first National Drug Control Strategy simply attempted to shift much of the burden for fighting drug trafficking and abuse to state and local government, without providing sufficient funding to meet this added responsibility. Given the critical role that state and local agencies play in the national drug strategy, the official in charge of such efforts should have the same rank as the Deputy Directors for supply and demand reduction.

SUBTITLE B—NATIONAL DRUG INTELLIGENCE CENTER

This subtitle incorporates S. 2313, the Roth-Biden bill, that calls for creating an independent National Drug Intelligence Center, a concept that was endorsed in the President's second National Drug Control Strategy. The Roth-Biden bill calls for consolidating the overlapping and duplicative drug intelligence systems currently operated by the Drug Enforcement Administration, the FBI, the Customs Service and the Treasury Department into the new unified center. In contrast, the Administration is proposing simply to create another drug intelligence system, while the individual agencies continue to operate their own independent systems.

For example, despite the fact that the Justice Department is still developing the specific proposal for the new center, the Treasury Department is moving forward on its new Financial Crimes Enforcement Network (FINCEN), which is aimed at tracking money laundering and other drug-related crimes—similar to the mission of the new Justice Intelligence Center.

| Biden bill | Bush drug strategy/bill |
|---|---|
| **Key Differences** | |
| Focus on hard-core addicts | Focus on casual users. |
| Emphasize economic aid to Andean nations. | Emphasize military aid for Andean nations. |
| Anti-drug education for all children by 1992. | 10% increase for anti-drug education, while only 50% of all children receive anti-drug education. |
| **Funding** | |
| Total funding of $14.3 billion | Total funding of $10.6 billion. |
| $4.9 billion new funds: 60% for demand-side. | $1.1 billion new funds: 25% for demand-side. |
| **Law enforcement** | |
| Adds 1,000 FBI agents to double FBI anti-drug program; boosts DEA funding by $100 million for 1,000 new investigators and agents. | Add to law enforcement with 272 more FBI agents. Increase DEA funding by $151 million. |
| Add 480 positions to U.S. Attorneys | Add 900 positions to U.S. Attorneys. |
| Add 10 regional prisons, housing and providing drug treatment to 8,000 inmates. Add 10 boot camp prisons to incarcerate 9,000 inmates. | Add 6,000 beds to federal prison system. |
| Double Federal aid for State and local law enforcement, raising total to $900 million. | Increase federal aid for State & Local law enforcement by about 10%, to $525 million. |
| No provision | Expand death penalty to include drug kingpins who have not killed. |
| Provide $150 million for new anti-gang & anti-drug efforts. | Cut $60 million from juvenile justice program. |
| **Drug emergency areas** | |
| Provide $300 million for anti-drug law enforcement, prevention and treatment in the nation's hardest hit areas. | Provide $50 million for anti-drug law enforcement in 5 High Intensity Drug Trafficking Areas. |
| **Interdiction** | |
| Add 1,000 Customs inspectors to crack down on smuggling in commercial cargo. | Cut Customs Service budget by $49 million. |
| Authorizes the military to conduct searches of cargo—but not persons—along the U.S. border. | No provision |
| **International** | |
| Provide for debt-for-drugs exchanges with Andean nations. Provide $375 million in economic, military and law enforcement aid to Colombia, Bolivia, and Peru in FY1991–FY 1993. | Provide $206 million in economic, military, and law enforcement aid in FY1991. |
| Directs Attorney General to pursue international agreements on precursor chemicals and to impose sanctions on non-complying companies. | No provision. |
| Directs Secretary of State to pursue negotiations to establish international currency agency to track drug-money. | No provision |
| **Treatment** | |
| Provide drug treatment on demand to all pregnant addicts and new mothers and children who need it within two years; treat 1,000,000 in FY1991. | Provide $200 million for special programs for pregnant women and children; enough to treat about 100,000 pregnant women and children. |
| Provide drug treatment on demand to all addicts who need it within four years; treat total of 1,760,000 addicts in FY1991. | Increase resources by 12%; treat total of 825,000 addicts in FY1991. |
| **Education** | |
| Double funding for school-based anti-drug education programs. Provide additional $150 million to hire teachers to coordinate comprehensive anti-drug education in grades K–12. | Increase funding for school-based drug education programs by 10%. |
| **Prevention** | |
| Provide alternatives to youth gangs, such as Boys & Girls Clubs, youth sports and drug counselors in more than 2,000 public housing projects; total funding of $205 million. | Double funds for community prevention programs, bringing total to $102 million. Increase funding for drug prevention in public housing projects to $150 million. Cut Justice Department delinquency prevention funding by $60 million. |
| **Research and new technologies** | |
| Establishes 10-year, $1 billion research strategy to find medical "cures" to drug addiction. | Expand research and development into medicines to treat drug addicts by $4 million (10%) for FY1991. |
| Creates new counter-narcotics technology agency to develop high-tech weapons. | No provision. |
| **Coordination** | |
| Elevate Director of National Drug Control Policy to cabinet status.. | No provision. |
| Create a National Drug Intelligence Center to collect and analyze drug enforcement intelligence from DEA, FBI, Customs Service and Defense Department. | No provision. |

By Mr. D'AMATO (for himself, Mr. DODD, Mr. WILSON, Mr. DECONCINI, Mr. DOLE, Mr. COATS, and Mr. THURMOND):

S. 2651. A bill to amend chapter 53 of title 31, United States Code, to require the Department of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MONEY LAUNDERING ENFORCEMENT ACT

● Mr. D'AMATO. Mr. President, I rise to introduce the Money Laundering Enforcement Act of 1990, together with Senators DODD, WILSON, DECONCINI, DOLE, and COATS.

Our bill: First, seeks to identify the companies that are really nothing more than fronts for the laundering of drug money. An example is the so-called "money transmitter"—fronting as a travel agency—whose real business is the laundering of millions of dollars of drug money;

Second, it authorizes the Treasury Department to issue expanded "know your customer" rules for banks and other financial institutions to combat money laundering. The day when banks can just sign up new customers and wire their money wherever they're told—with no questions asked—is over.

Our bill has two main targets: International wire transfers; and the largely unregulated financial institutions.

As Timothy Mahoney, the director of special investigations for the New York State Banking Department testified before the Senate Banking Committee last November:

As banks became more sophisticated in reporting currency transactions, drug dealers became more creative and began to rely increasingly on unlicensed and illegal money transmitters, on check cashers, and on money order vendors, all users and sources of huge amounts of cash * * *. It is primarily the unlicensed money transmitter who provides the best means of laundering money and is most often used to structure illegal transactions.

On November 15, 1989, then-Assistant Treasury Secretary for Enforcement Salvatore R. Martoche testified before the House Banking Committee:

Investigations by law enforcement authorities show that wire transfers increasingly are becoming the method of choice to launder money.

In an April 28, 1989 submission to the drug czar, the American Bankers Association stated:

Wire transfers, which are essentially unregulated, have emerged as the primary method by which high volume launderers ply their trade.

A September 25, 1989 article in the New York Times, entitled, "Unassuming Storefronts Believed to Launder Drug Dealers' Profits" quotes State banking regulators as saying that storefront money-transmitting and check-cashing operations are sending billions of dollars to drug dealers in South America and Asia.

Unfortunately, as the House Banking Committee noted in its report No. 101-446 on its money laundering bill:

Certain States have recognized a need for more effective regulation of these businesses, but most States have yet to act. Those who have required some form of licensure usually have little manpower available to

properly supervise and monitor the activities of these business establishments.

The Money Laundering Enforcement Act does not solve these problems completely, but it does very significantly increase the Federal role in working with the States to combat money laundering.

Among the bill's key provisions are: Section 2, drafted with the technical assistance of the Treasury Department, provides for the identification of nonbank financial institutions.

It requires Treasury to issue regulations by July 1, 1991 requiring that depository institutions—banks, saving associations, and credit unions—identify their nonbank financial institution customers—money transmitters, check cashers, foreign exchange dealers, issuers and redeemers of traveller's checks, and casinos.

To help State regulators, the bill provides that Treasury will provide the list to State supervisory agencies for supervisory purposes, because, as Mr. Mahoney testified before the Banking Committee:

It is the sharing of information that is crucial in the battle against drug dealing and money laundering.

Section 3 makes it a Federal crime to operate a money transmitting business in violation of State law.

Section 4 is included at Treasury's request. It authorizes Treasury to issue rules requiring financial institutions to have stronger "know your customer" procedures.

The Treasury Department already has authority to impose special reporting rules on financial institutions in certain geographic areas. For example, they can be required to report cash transactions of less than $10,000.

But if the banks tell their customers these rules are in effect, it defeats the whole purpose. Section 5, therefore, prohibits financial institutions from telling customers they are subject to geographic targeting.

Section 6 relates to recordkeeping for international fund transfers. This section is similar to a provision in the House money laundering bill, H.R. 3848.

But where the House bill only required recordkeeping regulations for domestic depository institutions making international fund transfers, our bill also requires Treasury to issue recordkeeping rules for international fund transfer orders made by money transmitters and check cashers.

Section 7 is another Treasury request. These amendments are necessary to continue expired and expiring provisions already in effect.

The first permits Federal law enforcement agencies to continue to receive information reported to the Internal Revenue Service by companies—such as car and boat dealers—making cash sales involving more than $10,000.

The second reestablishes the authority of IRS to use the income generated from an undercover business operation to pay the expenses of the undercover business.

Section 8 contains yet another Treasury request, amendments to the Right to Financial Privacy Act [RFPA], to:

Permit financial records obtained by an agency in accordance with the RFPA to be transferred to another agency without notice to the customer if there is reason to believe that the records are appropriate for analysis for law enforcement purposes; and

Make it clear the RFPA would not apply to a financial institution providing information that may be relevant to a Bank Secrecy Act violation by a customer.

I ask unanimous consent that four articles from the New York Times, addressing the need to focus more attention and resources on wire transfers and the money transmitter problem, be printed in the RECORD immediately following my remarks, and I urge my colleagues to give the Money Laundering Enforcement Act of 1990 their full support.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2651

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Money Laundering Enforcement Act of 1990".

SEC. 2. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) A new section 5327 is added to Title 31, United States Code, as follows:

**"5327. Identification of financial institutions.**

"By July 1, 1991, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in section 5312(a)(2) (H) through (Y) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate state financial institution supervisory agencies for supervisory purposes."

(b) Section 5321 of Title 31, United States Code, is amended by adding a new subparagraph (a)(7) as follows:

"(7)(A) The Secretary may impose a civil penalty on any person who willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

SEC. 3. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) Title 18, United States Code, is amended by adding the following Section:

**"1956a. Prohibition of illegal money transmitting businesses.**

(a) Whoever intentionally conducts, finances, manages, supervises, directs, or owns all or part of an illegal money transmitting business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

(b) As used in this section—

(1) 'illegal money transmitting business' means a money transmitting business which—

(i) is a intentional violation of the law of a State or political subdivision in which it is conducted;

(ii) involves one or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

(2) 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile or courier.

"(3) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(c) If one or more persons conduct, finance, manage, supervise, direct, or own all or part of a money transmitting business and such business operates for two or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

"(d) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General."

(b) Section 1961 of title 18, United States Code, is amended by inserting after "section 1956 (relating to the laundering of mone-

tary instruments),": "section 1956a (relating to the prohibition of illegal money transmitting businesses),".

SEC. 4. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting before the semicolon "or to guard against money laundering".

SEC. 5. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of or terms of the order to any person except as prescribed by the Secretary.".

SEC. 6. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

Section 21 (b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following new paragraph:

"(2) FUNDS TRANSFERS.—

"(A) IN GENERAL.—Before January 1, 1991, the Secretary, after consultation with the Board of Governors of the Federal Reserve System and State Banking Departments, shall prescribe such final regulations as may be appropriate to ensure that insured depoistory institutions, businesses that provided check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing sevices, any money transmitting business, and any business that issues or redeems money orders, travelers' checks of similar instruments as well have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request".

SEC. 7. AMENDMENTS RELATING TO THE ANTI-DRUG ABUSE ACT OF 1988.

(a) Paragraph (3) of subsection 7601(b) of the Anti-Drug Abuse Act of 1988 is amended by striking out "only during the 2-year period beginning on such date" and inserting "only during the 4-year period beginning on such date" in lieu thereof;

(b) Paragraph (2) of subsection 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking out "after December 31, 1989" and inserting "after December 31, 1991" and by striking out "before January 1, 1990" and inserting "before January 1, 1992" in lieu thereof.

(c) Section 7203 of the Internal Revenue Code of 1986 is amended by replacing the last sentence thereof with the following sentence: "In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting 'felony' for 'misdemeanor' and '5 years' for '1 year'."

SEC. 8. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) TRANSFER WITHOUT NOTICE.—Section 1112 of the Right to Financial Privacy Act (12 U.S.C. 3412) is amended—

(1) by striking subsections (b), (c), and (f);

(2) by redesignating subsections (d) and (e) as subsections (b) and (c) respectively; and

(3) by striking subsection (a) and inserting the following:

"(a) Financial records originally obtained by an agency in accordance with this title may be transferred to another agency without notice to the customer if there is reason to believe that the records are relevant to a matter within the jurisdiction of the receiving agency or appropriate for analysis by the receiving agency for law enforcement purposes.".

(b) EXCEPTION.—Section 1113 of the Right to Financial Privacy Act (12 U.S.C. 3413) by adding a new subsection as follows:

"(p) EXCEPTION.—This title does not apply to a transfer by a financial institution or supervisory agency, or any officer, director, employee, or agent of a financial institution or a supervisory agency, to the Secretary of the Treasury of financial records which such financial institution or supervisory agency has reason to believe may be relevant to a possible violation of a provision of subchapter II of chapter 53 of title 31, United States Code.".

(c) GOOD FAITH DEFENSE.—Section 1117(c) of the Right to Privacy Act (12 U.S.C. 3417(c)) is amended to read as follows:

"(c) GOOD FAITH DEFENSE.—Any financial institution or agent or employee thereof making a disclosure of financial records or information in good faith either in reliance upon a certificate by any Government authority pursuant to section 3413 (l) or (p) of this title, shall not be liable to the customer for such disclosure under any constitution, law, or regulation of any States or political subdivision."

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SECTION-BY-SECTION ANALYSIS

Section 1. The "Money Laundering Enforcement Act of 1990".

Section 2. Identification of Financial Institutions. This section adds a new section 5327 to Title 31 (The Bank Secrecy Act). Section 5327 provides that the Secretary shall issue final regulations by July 1, 1991 requiring that depository institutions—banks, saving associations, and credit unions—identify their customers who are non-bank financial institutions subject to the reporting and recordkeeping requirements of the Bank Secrecy Act, such as transmitters of funds, check cashers, foreign exchange dealers, issuers and redeemers of traveller's checks, and casinos.

These institutions present a challenge for law enforcement in the fight against money laundering. Compliance with the Bank Secrecy Act by many miscellaneous financial institutions remains poor, money laundering in many of these institutions abounds, and in most states, many of these institutions remain largely unregulated. The Internal Revenue Service, to which Bank Secrecy Act compliance responsibility for these institutions has been delegated, has an extremely difficult time identifying the universe of miscellaneous institutions.

Similarly, in states that do regulate these institutions, such as New York, state regulators have a problem with large numbers of unlicensed institutions, many of which have been involved in money laundering schemes. Therefore, the bill also provides that the Secretary will provide the list to appropriate state supervisory agencies for supervisory purposes.

Banks applying sound "know your customer" procedures are in the best position to identify which of their customers may be operating as miscellaneous financial institutions. It is anticipated that as part of the regulations, Treasury would issue guidance on how to identify these institutions, including model know your customer procedures. If the bank follows the Treasury guidance and reasonably relies on a misrepresentation by its customer, it will not be liable.

A new daily civil penalty has been added for persons including non-bank financial institutions and their officers, directors and employees who misrepresent the nature of their businesses to depository institutions. The criminal provisions in 31 U.S.C. 5322 also would apply.

In an April 28, 1989 submission to the Director of the Office of National Drug Control Policy (reprinted, Congressional Record, May 18, 1989, S5555), the American Bankers Association stated: "Wire transfers, which are essentially unregulated, have emerged as the primary method by which high volume launderers ply their trade."

The same point was made in a September 25, 1989 article in the New York Times, entitled, "Unassuming Storefronts Believed to Launder Drug Dealers' Profits." The article quotes state banking regulators as saying that storefront money-transmitting and check-cashing operations are sending billions of dollars to drug dealers in South America and Asia.

This problem was explored extensively on November 1, 1989 at a hearing of the Senate Banking Committee. At that hearing, the director of the Special Investigations Division of the New York State Banking Department testified that, increasingly, unregulated, unlicensed foreign transmittal agencies are used to launder money. Unlike banks, these services are generally regulated only by states.

Unfortunately, as noted by the House Banking Committee at page 20 of its Report 101-446 on its money laundering bill: "Certain states have recognized a need for more effective regulation of these businesses, but most states have yet to act. Those who have required some form of licensure usually have little manpower available to properly supervise and monitor the activities of these business establishments."

It is the purpose of section 2 to address this gaping hole in our anti-money laundering enforcement effort, strengthen the federal role, and reinforce the efforts of state agencies. Section 2 does not pre-empt the law of any state that chooses to do more to regulate these businesses, but it will provide at least the beginning of an enhanced federal role in this area.

Section 3. Prohibition of Illegal Money Transmitting Businesses. This section is derived from 18 U.S.C. 1955 (Prohibition of illegal gambling businesses), which makes it a federal crime to operate a gambling business in violation of state law. Section 3 amends Title 18, United States Code, by adding a

new Section 1956a (Prohibition of illegal money transmitting businesses), making it a federal crime to operate a money transmitting business in violation of state law.

Section 3 provides that whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal money transmitting business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

An "illegal money trnasmitting business" means a money transmitting business which is a violation of the law of a State in which it is conducted; involves one or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day. A violation of Section 1956a (prohibiting illegal money trnasmitting businesses) is added to the list of criminal RICO offenses.

Section 4. Compliance Procedures. This amendment is sought by the Treasury Department. It authorizes the Secretary of the Treasury, under 31 U.S.C. 5318(a)(2), to promulgate procedures designed to insure that domestic financial institutions maintain procedures to ensure that they are not used to further money laundering.

The Treasury Department seeks this provision because it intends to use it to promulgate model "know your customer" procedures for institutions subject to the Bank Secrecy Act, including measures designed to verify the legitimate nature of a customer's business and to insure that account activity is commensurate with that business.

Many banks have such programs, but, according to Treasury, the industry standard is not uniformly high. Moreover, programs may be deficient and nonexistent in nonbank institutions, such as currency brokers and wire transmitters.

Currently, the Treasury Secretary has authority to issue procedures to ensure compliance with the Bank Secrecy Act. This section extends the authority to promulgate procedures aimed at deterring money laundering, whether or not cash or a foreign transaction is involved. An institution that failed to maintain the procedures would be subject to a daily civil penalty under 31 U.S.C. 5321 and/or criminal sanctions under 31 U.S.C. 5322.

Section 5. Nondisclosure of Orders. These amendments are sought by the Treasury Department. In Section 6185 of the Anti-Drug Abuse Act of 1988, Congress gave Treasury the authority (at 31 U.S.C. 5326) to require financial institutions in a certain geographic location to be subject by order to special reporting requirements, e.g., reporting at a lower dollar threshold for a limited period of time. 31 U.S.C. 5326 is aimed at detecting the practice of "smurfing" to avoid the $10,000 reporting requirement.

In order for geographic targeting orders to be effective, however, it is imperative that customers of the financial institutions subject to an order not know of the existence or terms of special reporting requirements. If they know, they will quickly move their activities outside the targeting area or below the reporting amount and frustrate the purpose of the order. Section 5, therefore, adds a provision to 31 U.S.C. 5326 prohibiting financial institutions or any officer, director, employee or agent of financial institutions subject to a geographic targeting order under section 5326 from disclosing the existence of or terms of the order to any person except as prescribed by the Secretary.

Section 6. Recordkeeping Requirements for Wire and Electronic Fund Transfers. This section is almost identical to section 10 of H.R. 3848, the Depository Institution Money Laundering Amendments of 1990, reported by the House Committee on Banking, Finance and Urban Affairs on April 3. The only change it makes in the language of that section is that where the House Banking Committee provision only requires regulations with respect to recordkeeping by domestic depository institutions making international fund transfers, Section 6 of this bill also requires Treasury to issue similar regulations on recordkeeping with respect to international fund transfer orders made by money transmitting and check cashing businesses, and businesses that issue and redeem money orders and travelers' checks.

Section 7. Amendments Relating to the Anti-Drug Abuse Act of 1988. These amendments to the Anti-Drug Abuse Act are necessary to continue expired/expiring provisions that are valuable tools for law enforcement in the war on drugs.

The first amendment will permit Federal law enforcement agencies to continue to receive information reported to the Internal Revenue Service by persons in a trade or business where these persons receive more than $10,000 in cash in a transaction. This reporting requirement applies to those transactions not subject to the Title 31 reporting rules, such as the sales of automobiles, boats and so forth. This information supplements the Currency Transaction Reports being utilized to identify and prosecute persons laundering funds obtained from the sale of drugs or other criminal activities.

The second amendment will reestablish the authority of IRS to use the income generated from an undercover business operation to pay the expenses of the business. This authority was temporarily granted to IRS in 1988, although it has been permanently available to other law enforcement agencies for some time. Such authority is necessary to permit establishment of an undercover operation in a business having a high cash flow, such as a restaurant. Without this authority, undercover operations in such a business are impractical since all receipts would have to be deposited in the general fund with all expenses paid out of appropriated funds. Under the provision, all net proceeds would go to the general fund while any losses would be born by appropriated funds. Appropriate financial accountability and reporting controls are provided in the original measure. IRS has developed the necessary Internal Audit procedures.

The third amendment is a technical correction to an Internal Revenue Code amendment added by section 7601(a)(2)(B) of P.L. 100-690, the Anti-Drug Abuse Act of 1988. It clarifies an apparent drafting oversight. As enacted, the criminal penalty for violations of section 6050I is punishable by imprisonment for not more than five years. However, the penalty is a misdemeanor even though punishable by imprisonment of up to five years. In addition to being inconsistent with other criminal penalities, it is a lesser sanction since persons convicted of a felony may lose certain rights under State law that are not forefeited if the conviction is classified as a misdemeanor.

Section 8. Amendments to the Right to Financial Privacy Act. All amendments in this section are sought by the Treasury Department. Under section 1103 of the Right to Financial Privacy Act (12 U.S.C. 3403), financial institutions have been able to report, in good faith, possible violations of law or regulation to federal authorities without notice to the suspected customer and free from civil liability under the RFPA.

Under the RFPA, agencies that come into possession of financial records in accordance with the RFPA (either after customer notice or pursuant to an authorized notice exception) must notify a customer if it transfers the records to another agency, unless the transfer is of records to the Attorney General for use in criminal cases. This exception for transfers of records to the Attorney General was added by the 1988 Anti-Drug Abuse Act.

Since the 1988 Act, Treasury has created the Financial Crimes Enforcement Network (FINCEN). FINCEN plans not only to analyze financial records received by administrative subpoena, to facilitate investigations and prosecution by non-Treasury agencies, but also to integrate such records with other available records for further analysis to identify new targets for investigation.

Treasury, therefore, seeks the amendment made by the Money Laundering Enforcement Act of 1990 Section 8(a) to Section 1112 of the Right to Financial Privacy Act (12 U.S.C. 3412) providing that financial records originally obtained by an agency in accordance with title 12 may be transferred to another agency without notice to the customer if there is reason to believe that the records are relevant to a matter within the jurisdiction of the receiving agency or appropriate for analysis by the receiving agency for law enforcement purposes.

Section 8(b) adds a new subsection 1113(p) to the Right to Financial Privacy Act (12 U.S.C. 3413) to make it clear that the RFPA would not apply to a financial institution providing information that may be relevant to a Bank Secrecy Act violation by a customer, i.e., in situations where the bank suspects that a customer has violated the Act's anti-structuring provision (21 U.S.C. 5224).

Technically, under current law, if the bank is not implicated in the possible violation, disclosure to Treasury might arguably not be within the exercise of Treasury's "supervisory functions. . . . with respect to a finacial institution" (RFPA section 1113(b); 12 U.S.C. 3413(b)). In that case, banks would only be able to give Treasury the limited suspicious transaction information allowed by 12 U.S.C. 3403(c).

Section 8(c) provides that a financial institution that discloses information and records relating to a customer violation of the Bank Secrecy Act under new RFPA section 1113(p), in good faith, also would be protected form civil liability under state law. This is comparable to the protection for financial institutions that make reports of suspicious transactions in accordance with RFPA section 1103(c).

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### Unassuming Storefronts Believed To Launder Drug Dealers' Profits

(By Stephen Labaton)

State banking regulators around the country have found that thousands of small inner-city businesses through which recent immigrants send money to relatives are also being used to launder drug money. The regulators say these storefront money-transmitting and check-cashing operations are sending billions of dollars to drug dealers in South America and Asia.

Although a small percentage of these businesses are licensed and legitimate, providing a kind of service like Western

Union's, the majority are illegal, unlicensed and unregulated.

PROBLEM IS HUGE

Bank examiners are finding that in addition to taking in large sums of cash—in suitcases, cartons, shopping bags—from drug dealers in American cities and sending the money abroad, the operators are defrauding legitimate customers by failing to deliver the funds to their intended destinations.

State officials say the worst problems are in New York, California, Florida and Texas.

"The magnitude of the problem is huge," said Jill M. Considine, superintendent of banks in New York and chairwoman of the Conference of State Bank Supervisors in Washington.

In California, Texas and some other states, prosecutors say the laws are weak and poorly written, giving them little ammunition for correcting the problem while offering large loopholes for money transmitters. In these and other states, including New York, the regulators monitoring the activity are so few—fewer than half a dozen—that they are overwhelmed by the number of illegal businesses. Efforts in recent months to strengthen the laws and close the loopholes have failed in many of these states.

THEY LOOK LIKE BANKS

New York bank regulators say that they have identified more than 130 illegal money transmitters in the New York City area and that many more have probably gone undetected. The state has issued licenses to 35 companies, with more than half of them being granted in the last year.

The illegal money-transmitting businesses typically operate out of storefront offices that resemble banks, with tellers protected by bulletproof glass.

"Most of them provide the service of sending $50 back to your grandmother in South America," said Bonnie Klapper, a Federal prosecutor in Brooklyn who specializes in money-laundering cases. "But on the side, as an offshoot, they make a lot more by charging more for their drug customers."

Typically, an illegal transmitting business takes a customer's money and deposits it in a legitimate bank, sometimes under the name of a fictitious corporation. From the bank, the funds are electronically transferred to another bank, leaving no trace of the real depositor.

Robert Abrams, New York State's Attorney General, said the number of money-transmitting businesses had grown rapidly in recent years. The increase corresponds to the enormous growth of the narcotics industry and the stepped-up efforts by legitimate banks to comply with the Federal law that requires the reporting of large amounts of cash. The law was intended to discourage money laundering by requiring financial institutions to file reports when they receive deposits of more than $10,000.

In most instances, the involvement of drug money is concealed because the banks report the names of the money-transmitting companies and not the drug seller.

State prosecutors in many jurisdictions say they are hampered because by law they cannot file criminal charges against a financial services company unless cases were referred from the state bank departments. And these departments lack the proper staff to develop them. New York, Texas and California, for instance, each have fewer than six people who work full-time monitoring money transmitters.

Yet by the number of complaints they receive from defrauded customers and the relatively few companies that have licenses, the regulators say they know that most of the operations go unmonitored. Compounding the problem is the fact that no state regulates the many agents or subcontractors of the licensed money transmitters. Many operators use nearby travel agents, small stores or supermarkets to run branch operations.

FIGHTING WINDMILLS

"I feel like I'm fighting windmills here," said Roy A. Parchment, a deputy superintendent of the New York Banking Department who oversees the licensing of financial services. "It has become a thorn in our side. There are locations all over the city that you'd think are banks. They have tellers, slips and lines. A lot of what goes through is innocent activity, but there is no supervision at all."

Mr. Parchment said his department had recently sent letters to the unlicensed businesses threatening prosecution. While some businesses have since applied for licenses, he said, most have ignored the letters.

The regulation of such businesses to a large extent also falls between the Federal and state authorities. Federal law-enforcement agencies tend to leave many of these cases to the states because their banking departments have jurisdiction over money transmitters. Indeed, President Bush did not mention these operations in his recently announced national anti-drug strategy.

Officials at the Office of National Drug Control Policy say it is setting up two oversight groups to identify money-laundering problems and recommend new programs and regulations.

In addition, the Treasury Department has recently begun to create a center, tentatively named the Financial Crimes Enforcement Network, that will coordinate information about money-laundering activities from more than half a dozen Federal agencies. That effort, to be supervised by the Customs Service, is not expected to be ready until next year.

Stan Cardanas, senior deputy superintendent of banks in California, estimated that his state has about the same number of illegal operations as New York has. He said only 16 businesses had received licenses to transmit money.

SIGNIFICANT AMOUNTS

Texas officials said 29 businesses had been licensed as money transmitters or sellers of money orders under that state's laws. Harold L. Rose, director of special audits of the Texas Banking Department, said 15 unlicensed money transmitters had been closed by the department in the last year.

Barry Gladden, the financial investigations director for the Florida comptroller's office, said the state had no laws regulating check cashing and money transmitting. Florida investigators suspect these operations could be used for laundering "significant amounts of money."

"It's hard to get a handle on the magnitude of the problem because the people who are getting ripped off are often not in a position to complain about it," said Robert Richard, vice president of the Conference of State Bank Supervisors. The people who deal with the money transmitters are often recent immigrants unfamiliar with the law or are in the United States illegally.

Such was not the case for the Remesas Seguras Corporation, which Mr. Parchment, the New York banking official, called a textbook example of how these businesses work.

The company's founder, Florencio Bethencourt, a 47-year-old former Wall Street broker, is to be sentenced in November under a new state banking law that makes it a misdemeanor to transfer money without a license. He has also pleaded guilty to related Federal charges having to do with defrauding customers but not related to drug-money laundering.

LOOKS LIKE A BANK

By outward appearances, the Remesas Seguras at 89-15 37th Avenue in Jackson Heights looked almost like a bank or a local Western-Union office, a place to exchange dollars for foreign currency or send money abroad.

Inside, four tellers stood behind bulletproof glass, and a black-and-white board showed the day's exchange rates. State officials said a nearby room had been used for depositors who came with suitcases of cash to use the company's high-speed money counters.

The company, whose name in Spanish means secure remittances, gave its customers trinkets, like blue pens or white ice scrapers with the phone numbers and locations of four other Remesas Seguras outlets, in Queens and Union City, N.J.

"We'll send a letter free with a transfer of money," a sign in the Remesas Seguras window proclaimed in Spanish. "Our clients are Colombians. Fast, secure and confidential."

$100 MILLION IN A YEAR

The authorities say Remesas Seguras outlets were used to transfer more than $100 million abroad illegally in 1988. Officials said much of the money was laundered drug proceeds destined for Medellin and Cali, the two Colombian cities from which most of the cocaine that reaches the United States is exported.

Mr. Abrams added that less than a quarter of the more than $1 million seized by state officials has been claimed by defrauded customers, a strong indication that much of the money had come from drug dealers.

The company charged commissions of 3 to 7 percent, depending upon the customer. When business was slow at some of the outlets, employees would go to neighboring travel agencies and small groceries and try to solicit more customers.

State prosecutors said Mr. Bethencourt had required that all transactions of more than $10,000 be approved by him because he was afraid of Federal undercover agents looking for violations of the Federal Bank Secrecy Act.

Mr. Abrams said that had Remesas Seguras not defrauded its legitimate customers, it might still be in business today, since illegal transmitters that are satisfying customers are difficult to detect.

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A MONEY-LAUNDERING TRAIL

Regulatory officials believe that millions of dollars in illegal drug proceeds are being sent to South America by thousands of small inner-city businesses through which recent immigrants send money to relatives. Here is how they believe a typical operation works:

Money is dropped off at a storefront money-transmitting and check-cashing operation. Legitimate customers, who are usually sending money to relatives in Latin America, go to a teller, who often works behind bulletproof glass. Customers with suitcases full of cash go to a special room where they use high-speed money-counting machines.

The money is put into burlap bags that bear the markings of a legitimate or ficti-

tious company. Each day, managers of the storefront operation fax copies of the receipts to the organizer of the operation in Miami.

The head of the operation instructs the managers at which bank to deposit the funds and under which corporate account. The accounts, at major banks in New York and New Jersey, are under the names of real and fictitious companies.

After the funds are deposited, the banks are instructed to transfer the money to Miami accounts electronically. From the Miami accounts, the funds are then transferred to Panama. From Panama, they are transferred to South America, usually Medellin or Cali in Colombia, headquarters for the largest cocaine cartels in the world.

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[From New York Times, Oct. 5, 1989]

U.S., IN DRUG DRIVE, TO REGULATE SHIFT OF FUNDS ABROAD

(By Stephen Labaton)

WASHINGTON, Oct. 4.—In an attempt to halt the extensive laundering of drug profits earned illegally in this country and sent abroad, the Bush Administration has decided to regulate international money transfers by American banks, the Treasury Department announced today.

Such transfers, mostly to Latin America, are not regulated now, but Treasury officials estimate that as much as $110 billion is laundered—or disguised—each year in the American banking system.

The Government will open a financial crimes center next month in Arlington, Va., with computers to monitor information on money laundering to be supplied by more than half a dozen Federal agencies.

GETTING DATA INTO COMPUTERS

At a Senate hearing today, the Administration said it would for the first time mandate record-keeping on international electronic transfers and require American banks to share that information with the Government.

To reduce paper flow and get large amounts of data into Government computers quickly, new rules will also require large banks to use magnetic tapes when they file reports. The banks and other financial institutions are already required to file written reports to the Government on all domestic deposits of more than $10,000. But officials of the Drug Enforcement Administration say there are so many such deposits that the drug money goes undetected, buried in huge paper backlogs.

"It represents a substantial stride in the area of money laundering both domestically and internationally," said Salvatore R. Martoche, Assistant Treasury Secretary for enforcement, who is leading the regulation drive.

John F. Kerry, the Massachusetts Democrat who is chairman of the Senate Foreign Relations Committee's Subcommittee on Terrorism, Narcotics and International Operations, agreed that the Treasury decision represented an important step forward, but he said much remained to be done to fight laundering effectively. Mr. Kerry is conducting the hearings on regulating banks.

The moves came after Administration officials conceded that under current bank regulations the increasing volume of computerized electronic money transfers through American banks—now more than $1 trillion a day—had made it virtually impossible to trace narcotics profits.

And last week officials at the Office of National Drug Control Policy said the true dimensions of the problems were only now beginning to emerge. Among the laundering operations that have come to light in recent weeks are the thousands of small, unregulated money-transmitting businesses that take in drug money in the nation's inner cities, deposit it in legitimate banks and then order it transferred abroad electronically.

Treasury officials said the precise reporting provisions on international transfers had yet to be worked out. But one high official confirmed in an interview that the banks and clearinghouses were now going to have to keep good records on the transfers and were going to have to share this information with the Government. "We're working with the industry to get them to figure out ways to carry this out efficiently," he said.

And John Lee, chief executive of one of the nation's largest clearinghouses, Clearing House Interbank Payments System, said, "We're happy to work with them."

But some bank executives expressed concern that the regulations might become excessively burdensome. It has not been determined how much detail on each transfer will have to be recorded and filed.

TOTALLY UNPRODUCTIVE

"If it turns out to be a wholesale blanket rule on firing, it would be totally unproductive," said Donald J. Reid, senior compliance officer at Wells Fargo Bank in San Francisco. "To the extent the rules would require us to target certain areas or banks, then it would enable authorities to make some conclusions which are meaningful."

But the fact that the records must be kept and be available to the Government, at least in necessary cases, is regarded by law-enforcement officials as vital to solving the money laundering problem.

In the type of modern electronic money transfer, or wire transfer, that has become so difficult to monitor, a customer may instruct his personal computer to tell his bank's computer to take funds out of his account and send them to another account in a foreign bank. In most of these foreign transfers, no person talks to another regardless of the amount.

The bank's computer then tells a banking clearinghouse—a kind of automated middleman that assists banks in switching funds from one to another—to send the customer's funds to the account abroad.

$700 BILLION A DAY

The clearinghouse acts as a middleman for about $700 billion in transfers each day, up by about 40 percent in the last two years.

Senator Kerry said the effectiveness of the new regulations "remains to be seen," and he criticized the Administration for not pursuing negotiations with other countries as well as domestic banks to gain their cooperation in sharing information.

The Administration is required by law to report by next month on the progress of those negotiations, and officials said today that no one was working full time on such a report.

Mr. Kerry also said the Treasury Department's planned financial center "was a good idea, but not broad enough in scope."

Known as the Financial Crimes Enforcement Network, the $15 million center will be under auspices of the Treasury Department. It is expected to open on Nov. 1, and its staff is planned to grow by the end of the year to include about 200 economists, analysts and law-enforcement personnel as well as representatives from more than half a dozen other agencies.

The center will integrate the enormous data bases that have been compiled by Customs, the Internal Revenue Service, the drug agency, the Federal Reserve and the State Department. It is also asking for computer data bases that have been compiled by states, and will share with state officials the Federal information it has stored.

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[From the New York Times, Oct. 31, 1989]

RULES WEIGHED ON TRANSFER OF BIG SUMS ELECTRONICALLY

(By Stephen Labaton)

The Treasury Department yesterday disclosed the range of the new guidelines it is reviewing to regulate the electronic transfer of vast sums of money among banks around the world.

The regulations are being drawn up in response to recent Federal prosecutions and reports showing that narcotics traffickers have been laundering billions of dollars of drug money through the banking community's international computer systems.

In a major policy change, Treasury officials earlier this month said that they will regulate the international electronic transfers for the first time and require record-keeping by the financial institutions to help investigators trace the flow of illegally earned money. Yesterday's announcement starts the formal rule-making process.

Banks are already required to report domestic deposits of more than $10,000, but the foreign transfers have gone largely unregulated.

The Government estimates that drug revenues in the United States total $110 billion a year, 80 percent of which represents illegal profits. Much of this money is now making its way to Latin American and Asia.

For banks, the regulations could mean a substantial amount of additional paperwork, though the banks' computers themselves will be able to assist with some of the monitoring. For law-enforcement authorities, this paperwork is expected to provide a more detailed money trail for routine and suspicious transactions.

The Bush Administration is about to open a new financial-crimes center in Arlington, Va., with computers that will receive some of the new data and will monitor money laundering information to be supplied by more than half a dozen Federal agencies as well as state authorities.

In the type of modern electronic transfer or wire transfer, that has become so hard to monitor, a customer may instruct his personal computer to tell his bank's computer to take money out of his account and send it to another account in a foreign bank. In most of these foreign transfers, no person ever talks to another, regardless of the amount.

The bank's computer then tells a bank clearinghouse—a kind of automated middleman that assists banks in switching money from one to another—to send the customer's money to the account abroad. More than $1 trillion a day is moved through the nation's main clearinghouses, and the average transfer is $5 million.

One rule will require that either the bank that sends or receives a transfer keep a record of it, including the name and account of the customer transmitting and receiving the funds. Another rule would require that financial institutions receive more information about the nature of the business of a customer who makes use of international transfers.

PROFILE OF SUSPICIOUS TRANSFERS

Businesses that do not have an established relationship with a bank would also be more closely monitored than those that do. The Treasury Department also wants financial institutions to develop a profile of what constitutes suspicious transfers.

Department officials said they would require large banks to use magnetic tapes when they file reports of domestic deposits.

Clearinghouse officials said yesterday they supported the proposals.

"I can't see any problem with them," said John Lee, president and chief executive of the New York Clearinghouse, which moves an average of about $700 million each day through its computer system. He added that about 83 percent of the clearinghouse's customers had a regular relationship with their banks, and that the other 17 percent had a large focus of money-laundering concerns.

BANKERS' GROUP WEIGHS IMPACT

The senior counsel for the American Bankers Association, John Byrne, said members of the Washington-based industry group were assessing the impact of the regulations, to be published on Tuesday in The Federal Register.

John F. Kerry, the Massachusetts Democrat who is chairman of the Senate Foreign Relations Committee's Subcommittee on Terrorism, Narcotics and International Operations, said the proposed rules did not go far enough because they would not regulate electronic transfers between foreign banks that make use of the clearinghouses in the United States.

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[From the New York Times, Mar. 19, 1990]

BUSINESS AND THE LAW

(By Stephen Labaton)

When Democrats on Capitol Hill heard that the Justice Department had struck a $15 million deal to end the largest money laundering case against a bank, they were sharply critical of what they called a lenient plea agreement and vowed to promote strong legislation.

A legislative package is expected to pass the House Committee on Banking, Finance and Urban Affairs on Thursday and will probably make it to the floor of the House soon after. A comprehensive Senate bill on money laundering is being drafted and may be introduced by Donald W. Riegle Jr., chairman of the Banking, Housing and Urban Affairs Committee, and two other Democrats, as early as this week.

The House version is considerably weaker than initial proposals; many provisions are more symbols than substance.

The sections governing the electronic transfer of money between banks gives the Treasury Department the authority to impose certain record-keeping requirements on customers of banks. Congressional aides concede that Treasury already has most of that authority even without the legislation.

Facing enormous pressure from the banking industry, the legislators have eliminated the section that requires the automatic suspension of licenses of banks convicted of money laundering.

The legislation would require the bank to dismiss any employee convicted of laundering, but as a practical matter it is rare to find a major bank that would need a Federal law to prompt such a move.

Another piece of the House legislation would leave to the states the role of regulating the growing number of storefront operations that transmit money and cash checks and increasingly are being used to conceal and transmit narcotics profits.

Bank regulators have said the gaps between state and Federal laws and enforcement efforts, combined with weak state laws, have made it difficult to prosecute the transmitters and check cashing operations. Lobbyists for check cashers and a number of states have fought hard against a Federal law that would pre-empt the patchwork of relatively weak state regulations.

The legislation is a reaction to the conviction earlier this year of two principal units of the Bank of Credit and Commerce International, which is based in Luxembourg and has offices in 73 countries. The subsidiaries of the $20 billion institution pleaded guilty in Federal district court in Tampa, Fla., to money laundering and conspiracy and agreed to forfeit $15 million. Prosecutors defended the agreement, noting that it was the largest criminal penalty ever imposed against a bank.

The architects of the House legislation are the committee's chairman, Henry B. Gonzalez, Democrat of Texas and three other members; Frank Annuzio, Democrat of Illinois; Jim Saxton, Republican of New Jersey, and Esteban E. Torres, Democrat of California. Well over half of the package has already been approved by a house subcommittee that consists of 46 of the 51 members of the committee.

The most controversial provisions, sponsored by Mr. Annunzio, was known as the "death penalty for banks" clause. As originally written, it required the revocation of a bank's charter upon conviction of money laundering.

The provision came under heavy criticism for bankers' groups and has been substantially revised.

Instead of automatically revoking a convicted institution's license, Federal regulatory agencies must weigh four factors when considering the bank's fate. The agencies must look at the extent to which the senior managers were involved in the corrupt activity, the mechanisms in place to prevent the laundering, the degree to which the bank cooperated in the investigation and the extent to which the bank has responded to the conviction through new procedures intended to prevent a recurrence.

The proposed law also allows the Government to impose a conservator to displace the bank's management in lieu of revoking the charter. But to do so, it must consider the same four factors that would be applied in the charter revocation hearing.

"We thought it would be fairer to permit a hearing at which these factors could be considered," a Congressional aide said last week. "But it still leaves some teeth in the law."

For its part, the Bush Administration is expected within the next two months to introduce regulations governing the electronic transfer of funds between bank accounts. Recent drug cases have shown that such transfers are being used increasingly to conceal and move billions of dollars a year in narcotics profits. The regulations which will require greater recordkeeping, are intended to make it easier to trace the flow of money through the banking system.●

## ADDITIONAL COSPONSORS

S. 195

At the request of Mr. PELL, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. KERREY], the Senator from Hawaii [Mr. AKAKA], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 195, a bill entitled the "Chemical and Biological Weapons Control Act of 1989."

At the request of Mr. DOLE, his name was withdrawn as a cosponsor of S. 195, supra.

S. 720

At the request of Mr. BOREN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit, and for other purposes.

S. 1577

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1577, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 1664

At the request of Mr. HEINZ, the names of the Senator from Idaho [Mr. MCCLURE], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1690

At the request of Mr. DODD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1690, a bill to establish programs to improve foreign language instruction, and for other purposes.

S. 1791

At the request of Mr. ROCKEFELLER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

S. 1911

At the request of Mr. DODD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 1925

At the request of Mr. SPECTER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1925, a bill to amend the Higher Education Act of 1965 to require colleges and universities to establish and disclose campus security policies and to inform students and employees of campus crime statistics, and for other purposes.

S. 2003

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana [Mr. BREAUX], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2003, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 2044

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2078

At the request of Mr. WARNER, the names of the Senator from California [Mr. WILSON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 2078, a bill to recognize the organization known as the National Center for Therapeutic Riding.

S. 2104

At the request of Mr. KENNEDY, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. BENTSEN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Virginia [Mr. ROBB], the Senator from Hawaii [Mr. AKAKA], the Senator from Florida [Mr. GRAHAM], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

S. 2111

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

S. 2114

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2114, a bill to promote excellence in American mathematics, science, and engineering education; enhance the scientific and technical literacy of the American public; stimulate the professional development of scientists and engineers; provide for education, training, and retraining of the Nation's technologists; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes.

S. 2222

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2284

At the request of Mr. KASTEN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2284, a bill to amend the Federal Food, Drug, and Cosmetic Act to define the term light or reduced fat butter, and for other purposes.

S. 2312

At the request of Mr. SYMMS, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2312, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 2314

At the request of Mr. FOWLER, the names of the Senator from Indiana [Mr. LUGAR], and the Senator from Georgia [Mr. NUNN] were added as cosnponsors of S. 2314, a bill to amend the agriculture Act of 1949 with respect to the level of milk price support in effect for 1991 through 1995.

S. 2315

At the request of Mr. FOWLER, the names of the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2315, a bill to amend the Agricultural Act of 1949 to provide soybean producers with fair income and freedom of planting choice support, and to eliminate any indirect subsidization of foreign oilseed production.

S. 2326

At the request of Mr. DECONCINI, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2326, a bill to amend title 35, United States Code, with respect to patents on certain processes.

S. 2384

At the request of Mr. BOREN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2384, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 2385

At the request of Mr. DOMENICI, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2385, a bill to establish the National Forest Foundation.

S. 2408

At the request of Mr. GLENN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2408, a bill to establish a system for labeling of plastic resin products, and to promote recycling of plastics and use of degradable plastics.

S. 2415

At the request of Mr. DOMENICI, the names of the Senator from California [Mr. WILSON], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2491

At the request of Mr. PRESSLER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2491, a bill to provide a minimum State share for certain housing programs.

S. 2591

At the request of Mr. BAUCUS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2591, a bill to amend title XVIII of the Social Security Act to provide relief from certain regulations relating to physicians' services.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

SENATE JOINT RESOLUTION 267

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 267, a joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

SENATE JOINT RESOLUTION 271

At the request of Mr. WALLOP, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate July 10, 1990 as "Wyoming Centennial Day."

SENATE JOINT RESOLUTION 278

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Wyoming [Mr. SIMPSON], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Colorado [Mr. WIRTH], the Senator from Virginia [Mr. WARNER], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating July

19, 1990 as "Flight Attendant Safety Professionals' Day."

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 289

At the request of Mr. SIMON, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Washington [Mr. GORTON], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senator Joint Resolution 289, a joint resolution to designate October 1990 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 290

At the request of Mr. ARMSTRONG, the names of the Senator from Nevada [Mr. REID], the Senator from Ohio [Mr. METZENBAUM], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 290, a joint resolution to designate the week of July 22, 1990, through July 28, 1990, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War.

SENATE JOINT RESOLUTION 304

At the request of Mr. SHELBY, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Michigan [Mr. LEVIN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 304, a joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day."

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the names of the Senator from Illinois [Mr. DIXON], the Senator from South Carolina [Mr. THURMOND], the Senator from Alabama [Mr. SHELBY], the Senator from Oklahoma [Mr. BOREN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. PELL, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution calling for a United States policy of promoting the continuation, for a minimum of an additional 10 years, of the International Whaling Commission's moratorium on the commerical killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale population.

AMENDMENT NO. 1613

At the request of Mr. BOREN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of amendment No. 1613 intended to be proposed to S. 137, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

## SENATE CONCURRENT RESOLUTION 131—URGING FREE AND FAIR ELECTIONS AND RESPECT FOR HUMAN RIGHTS IN ROMANIA

Mr. DOLE (for himself, Mr. LAUTENBERG, Mr. ARMSTRONG, Mr. LUGAR, Mr. HELMS, and Mr. DODD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 131

Whereas in December 1989, after decades of harsh repression by successive Communist regimes, the people of Romania launched a spontaneous, nationwide revolution to overthrow the brutal dictatorial regime of Nicolae Ceausescu and establish true democracy;

Whereas, after several days of violent fights, an interim government, calling itself the National Salvation Front, supported by most of the Romanian armed forces, and manned principally by members of former Communist administrations, established control in Romania;

Whereas the National Salvation Front has scheduled national elections for May 20, 1990, and promised that the elections will be free and fair, and new political forces have emerged across a broad ideological spectrum and made vigorous efforts to organize themselves into parties and other political groups to compete in those elections;

Whereas the National Salvation Front announced that it will also compete in the elections as a party and has used its dominant position to gain advantage by using its control of communications, transportation, and access to media;

Whereas there are disturbing signs of the use of intimidation and violence in the election campaign, including pro-Front mob attacks on opposition candidates and rallies and, at the same time, extremist groups have initiated attacks on the country's minorities and several individuals of the Hungarian minority have been killed and scores injured in street violence initiated in response to the minorities' peaceful efforts to organize and assert their rights;

Whereas provision of the unfettered freedom of speech, press, religion, and assembly is essential to building democratic institutions and developing a democratic tradition with regular free and fair elections; and

Whereas as a sign of its concern over organized acts of intimidation and harassment in the Romanian election campaign, the Government of the United States has recalled its ambassador from Bucharest, Romania, for consultations, Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That (a) the Congress hereby—

(1) congratulates the people of Romania for their courage and heroism which led to the fall of the Communist dictatorship of Nicolae Ceausescu and for beginning the process for the establishment of true democracy in Romania; and

(2) condemns recent acts of violence against election candidates and minority leaders in Romania and urges the interim government to safeguard public order and to assure the conditions for free and fair elections, including the right of free political organization and campaigning and the physical safety of candidates, minorities, and voters.

(b)(1) It is the sense of Congress that the Government of the United States should withhold most favored nation (MFN) trade treatment and other economic benefits from Romania, except for humanitarian assistance, until free and fair elections result in a government that offers institutional guarantees to protect fundamental human rights, including the rights of ethnic and religious minorities.

(2) For purposes of this subsection, the term "humanitarian assistance" includes the provision of food, clothing and medicine.

Mr. DOLE. Mr. President, in a few days, on May 20, Romania will hold its first elections in more than four decades. Today, I am pleased to submit a concurrent resolution that is intended to send a strong message of support to the Romanian people as they prepare for this monumental event in their history. Their suffering for so many years has touched the hearts of the entire world.

At the outset, I want to stress two things. First, despite the fact that the election is only a few days away, I am not seeking immediate Senate action on this concurrent resolution.

I want it to go to the appropriate committee, Foreign Relations. I want that committee—its members and staff experts—to take a close look at it.

As I recently indicated in comments on another resolution, I think we ought to proceed more judiciously on all but the most routine kind of resolutions, to make sure we are not inadvertantly taking the wrong kind of action, or sending the wrong kind of signal.

I wish we could have put this resolution in earlier. We have been working on it for some time. But the situation in Romania has changed so quickly, and deteriorated so badly in the past 2 weeks, that we have had to revamp the text.

I do think, in this case, the Foreign Relations Committee, and other Senators who look at this resolution, will find it is something they can embrace.

I am pleased, in fact, that three key members of Foreign Relations—our ranking member, Senator HELMS; Senator LUGAR; and Senator DODD—are co-

sponsors. Their staff personnel have worked closely with mine, and the staff of Senator ARMSTRONG and Senator LAUTENBERG—the other original cosponsors—to develop this language.

An editorial in yesterday's Washington Post indicates, there is also widespread public and media concern about events in Romania—concern which tracks exactly with the points raised in our resolution.

So I hope and expect that the committee, and the overwhelming majority of Senators, will share the views we have expressed here.

In any case, whether or not the committee and the full Senate see fit and have the opportunity to act before Sunday's election, we do hope that introducing this legislation will send a signal to Romania of our concern on the important issues we raise.

Only 4 months ago, the people of Romania took matters into their own hands and waged a campaign to remove the Communist dictatorship of Nicolae Ceausescu. They were successful.

The group who ousted Ceausescu quickly formed an interim regime and has made efforts to reestablish public order. They call themselves the National Salvation Front and are principally former members of the Ceausescu administration.

Their President, Mr. Iliescu, has promised that the May elections will be free and fair.

But Mr. Iliescu is clearly not doing all he should to ensure that a free and fair election can occur. And some of his supporters are actually using violence, and other means of intimidation and harassment, to frustrate the election process itself, to ensure their own victory. Angry mobs have attacked opposition candidates, causing fear and intimidation. Press reports have identified these attackers as supporters of Mr. Iliescu.

Whether we blame Mr. Iliescu personally or not for these attacks, it is clearly the current government's responsibility to create a climate conducive for free and fair elections to take place. Mr. Iliescu needs to take off his campaign hat and put on his head of state hat, and work to ensure that the opposition parties have an equal opportunity to be heard.

But that is just not happening; yesterday's Washington Post said:

> That the front's newspapers arrive without fail throughout the country, while the newspapers that contain opposition party information are always late, if they arrive at all.

The Post continued with:

> One state-controlled distribution system handles all the papers. The Liberals and the peasants have been prohibited by the Front from bringing in additional presses or installing their own television transmitters.

The Front is also, according to the Post, "accused of slanting the television news on the one state-controlled channel."

Further, the Post states that:

> The most demoralizing suspicion is that the secret police force of Ceausescu, the Securitate which numbered between 10,000 and 20,000, has not been fully disbanded and is being used by the Front. Accusations abound of tapped telephones, threatening calls and other forms of harrassment.

On Thursday, we recalled our Ambassador from Bucharest, citing concern over reports on irregularities in the campaign. This action had an impact on Romanian rulers.

Western reports from Bucharest said that the United States action has angered and embarassed Romania's rulers. Another report said that Romania's rulers found our action hard to understand.

If our actions are hard to understand, something more may be needed. Thus, I am introducing this concurrent resolution today.

This resolution clearly spells out the seriousness of our concerns.

It states that the Government of the United States should withhold most favored-nation status and other economic benefits from Romania, except for humanitarian aid, until free and fair elections result in a government that gives institutional guarantees of its determination to implement fundamental human rights, including the rights of ethnic and religious minorities.

We want Romania to succeed in its struggle to shake off the shackles of Communist rule, and we want to help. But we must see the new Romanian Government acting on its own pledge to democratize and respect human rights, before we can move toward the closer relationship with the Romanian people which we sincerely want.

The State Department has expressed some concerns about some of the wording in this resolution.

We will be happy to work with the administration to find language consistent with the spirit of our resolution which addresses their concerns.

I am certain when it goes to the Foreign Relations Committee, and the chairman is here, they will review this carefully and try to work out any language that the administration wants and perhaps it will probably not be possible to act on the resolution before Sunday's election but maybe it can be rephrased and redrafted to have the same kind of an impact even though it may be passed sometime next week or thereafter.

Mr. DOLE. Mr. President, I send the resolution to desk and ask for its appropriate referral.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am glad to assure the minority leader we will consider the resolution, and I appreciate his courtesy in letting it come through the committee. We are going to act as quickly as we can to work out matters.

Mr. DOLE. I thank the chairman.

Mr. LAUTENBERG. Mr. President, I rise as an original cosponsor of the concurrent resolution. As greatly as I admire the courage displayed by the Rumanian people in their struggle for democracy, I cannot at present condone the granting of most-favored-nation status or other economic benefits to the Illiescu government until it guarantees the very basic conditions necessary for a free and functioning democracy.

The Rumanian people stand on the threshold of a historic opportunity to define the sort of society they want for themselves and for future generations of Rumanians. One road is a return to the Ceausescu nightmare of repression and ethnic hatred, with its companions of violence and backwardness. The Rumanians suffered 40 years of this horror and I do not think they will vote for more of it.

A far more attractive path for Rumania's new political life is to follow the democratic tradition of free and fair elections, of human rights and respect for minorities. I believe it was this vision of the future which inspired the Rumanians who cast out the Ceausescu family regime. But throwing out the dictator isn't enough to create a democracy. Democracy can't work for the Rumanian people, or for anyone, if certain conditions aren't met. Candidates for public office must be able to move freely among the electorate, without fear of violence directed against them or their followers. Citizens must be free to speak their minds openly and to seek the truth about their leaders.

There are disturbing signs that this isn't always the case in Rumania. Opposition candidates have been roughed up by what appear to be organized gangs of the current regime's supporters. Opposition candidates and even their family members are the targets of frightening threats. There are reports of tapped telephones and manipulated demonstrations. The free flow of information to the Rumanian voters is hobbled by an unfair distribution system of publications and a biased coverage of campaigns by the government-controlled television network. Fear, violence and repression were not banished from Rumanian life when the dictator died, nor have they vanished from Rumania's political life.

Respect for human rights, including the rights of racial, religious and ethnic minorities is a basic prerequisite for a vibrant, healthy democratic society. The most disturbing reports reaching me about the current situation in Rumania are of communal violence against ethnic Hungarians by some of the Rumanian majority. For a

democracy to work, its citizens must feel safe. I cannot believe that ethnic Hungarians feel safe in some parts of Rumania today.

In the Transylvanian town of Tirgu Mures, the same mobs which attacked ethnic Hungarians also destroyed the local headquarters of two opposition parties. The ringleaders of the mob who did this fear diversity of any sort. They fear their nation's ethnic diversity and they fear the political diversity which Rumanians are embracing after the brutal repression of the Ceausescu government.

Mr. President, I see very promising signs that the majority of the Rumanian people are rejecting this fear and repression. In the days following the ethnic violence in Tirgu Mures, local Rumanian townspeople joined their ethnic Hungarian neighbors in solidarity demonstrations against violence. The army tanks which separated warring ethnic factions are long gone, as are many of the local officials who stood by with idle hands while the mobs rampaged. Political leaders from Rumania's fledgling political parties have all made public statements deploring the violence.

It may be that the Rumanian people will emerge from this latest crisis stronger than ever. Indeed, there are heartening signs that this is happening: hundreds of new national and local publications have cropped up, and seem to be reaching people, despite the hostility of the government-controlled distribution system. Vigorous debate takes place among the members of the provisional parliament and is broadcast on television. Parties have secured facilities and posted candidate lists, and central and local election commissions are in place. These are fine first steps for the Rumanian people. But there must be more if democracy is going to thrive in their country.

The interim government of President Illiescu must safeguard the public order until a new government can take over. It must assure that the basic conditions of a free and fair election are met, including the physical security of the opposition candidates, minority representatives and voters. Until free and fair elections result in a government which guarantees fundamental human rights to all the people of Rumania, including ethnic and religious minorities, the United States should withhold most-favored-nation status from Rumania and should not provide aid beyond basic humanitarian aid.

I urge my colleagues to pass this resolution and send that message to the people and to the government of Rumania.

## SENATE CONCURRENT RESOLUTION 132—RELATIVE TO THE OBSERVANCE OF 1890 LAND-GRANT INSTITUTIONS CENTENNIAL RECOGNITION DAY

Mr. HEFLIN submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON RES. 132

Whereas the Act of August 30, 1890 (7 U.S.C. 321), popularly known as the "Second Morrill Act", designated an historically black institution in 16 southern States, and Tuskegee University, as Federal land-grant educational institutions;

Whereas the 16 Historically Black Colleges identified as land-grant institutions in 1890 are Lincoln University, Alcorn State University, the University of Arkansas at Pine Bluff, Alabama A&M University, Prairie View A&T University, Southern University, Virginia State University, Kentucky State University, the University of Maryland-Eastern Shore, Florida A&M University, Delaware State College, North Carolina A&T University, Fort Valley State College, South Carolina State College, Langston University, and Tennessee State University;

Whereas these institutions have well demonstrated their ability to meet the special needs of black students;

Whereas the Act of May 8, 1914 (7 U.S.C. 341), popularly known as the "Smith-Lever Act", provided for the establishment of the Cooperative Extension Service within the Department of Agriculture for the dissemination, through Federal land-grant institutions, of information pertaining to agriculture and home economics; and

Whereas appropriate recognition should be given to the contributions made by the 1890 land-grant institutions and Tuskegee University of the heritage, educational development, and argicultural strength of the United States: Now, therefore, be it.

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that August 30, 1990, should be designated as "1890 Land-Grant Institutions Centennial Recognition Day", and that such day should be observed with appropriate ceremonies and activities to recognize the collective contributions that those institutions have made to the United States.

● Mr. HEFLIN. Mr. President, on August 30, 1890, President Benjamin Harrison approved the Second Morrill Act which provided for the more complete endowment and maintenance of colleges for the benefit of agriculture and mechanical arts established in accordance with the act of July 2, 1862. The act provided further that funds be applied only to instruction in agriculture, the mechanical arts, the English language, and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life, and to the facilities for such instruction.

The First Morrill Act, passed in 1862, established a means for Federal contributions to the support of a college or university in each of the States. The Second Morrill Act extended the benefits of the land-grant institution to the black population of 16 Southern States. It did so by designating a traditionally black institution in each of these States, and Tuskegee University—then Tuskegee Institute—as a land-grant institution. Today these 17 institutions are commonly referred to as the 1890's.

The role and work of the 1890's has not been an easy one. It's a story of slow starts and minimal resources, of courageous efforts and historic advances. Yet, over the years, they persevered and progressed from little more than secondary schools, to providing the bulk of black teacher training up to the 1960's, and, in cooperation with the other land-grant institutions, to extend the benefits of the cooperative extension system to the black population of their respective States.

Today, 100 years after the Second Morrill Act, the 17 1890's provide a comprehensive higher education to more than 70,000 students, black and nonblack, domestic and foreign. They conduct research on significant agricultural and rural issues, and extend the benefits of the land-grant university system to needy residents throughout their 16 States.

Not only have the 1890's demonstrated a unique capability for understanding problems confronting minority races and disadvantaged groups, but they have also shown they possess the motivation, training, ability and desire to work toward solution or problems facing our entire society.

It is an honor for me to join my Senate colleagues in commemorating the hard, 100 year road followed by the institutions established by the Second Morrill Act, the 1890's their educational and service leadership to blacks, and other disadvantaged Americans, is a contribution we should all be very proud of.●

## SENATE CONCURRENT RESOLUTION 133—AUTHORIZATION USE OF THE CAPITOL ROTUNDA

Mr. SIMPSON (for Mr. DOLE, for himself and Mr. MITCHELL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 133

Whereas America can never forget the sacrifices of our brave military heroes: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the rotunda of the Capitol may be used on Thursday, May 24, 1989, at 10:30 a.m., to allow the assembling of members of Congress for ceremonies celebrating American Military Heroism.

SEC. 2. The Architect of the Capitol may prescribe conditions for physical preparations with respect to the use of the rotunda authorized by the first section.

## SENATE RESOLUTION 287—RELATIVE TO MEDIATION IN THE ETHIOPIAN CIVIL WAR

Mr. METZENBAUM (for himself, Mr. DOLE, Mr. SIMPSON, Mr. MURKOWSKI, Mr. PELL, Mr. LUGAR, Mr. SIMON, Mr. MCCLURE, and Mr. BOREN) submitted the following resolution; which was considered and agreed to:

S. RES. 287

Whereas the likelihood of devastating famine is facing the Horn of Africa, and specifically Ethiopia, for the second time in five years;

Whereas international relief agencies' attempts to respond to this crisis are being hampered by the nearly thirty-year old Ethiopian civil war;

Whereas parties to the Ethiopian dispute have manipulated famine relief supplies in order to achieve their own goals;

Whereas several non-African parties have used their good offices in pursuit of peace in Ethiopia, although with little success as yet;

Whereas the Arab Republic of Egypt currently occupies the Chairmanship of the Organization of African Unity;

Whereas the Arab Republic of Egypt has demonstrated the efficacy of O.A.U. mediation in regional conflicts;

Whereas the search for peace in the Horn of Africa generally, and in Ethiopia in particular, would be facilitated by diplomatic intervention on the part of the Organization of African Unity: Now, therefore, be it

*Resolved,* That it is the sense of the Senate that—(1) the Organization of African Unity should actively promote solutions to regional African problems; (2) the O.A.U. should seek an immediate cessation of hostilities in Ethiopia in order that famine relief efforts should be allowed to proceed, and to build the foundation for a permanent settlement of the Ethiopian civil war.

## AMENDMENTS SUBMITTED

### CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT

### McCAIN AMENDMENT NO. 1634

Mr. McCAIN proposed an amendment to the bill (S. 195) entitled the "Chemical and Biological Weapons Control Act of 1989", as follows:

On page 14, line 3, after the word "weapons", insert the phrase:

On page 14, after line 3, insert the following:

SEC. 20 ENFORCEMENT OF INTERNATIONAL CONTROLS ON MISSILE TECHNOLOGY.

(a) DETERMINATION BY THE PRESIDENT.—The President shall impose one or more of the applicable sanctions prescribed in section (b) in any case in which the President determines there is reliable evidence—

(1) in the case of a United States period, that the person—

(A) is exporting, transferring, or otherwise engaging in the trade of any internationally controlled missile technology in violation of the provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 5 or 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405), or any regulations issued under any such provisions;

(B) is conspiring to or attempting to engage in the export, transfer, or trade of such technology in violation of any provision of law or regulation referred to in subparagraph (A), or

(C) is knowingly facilitating the export, transfer, or trade by any other person of such technology in violation of any provision of law or regulation referred to in subparagraph (A);

(2) in the case of a foreign person, that the person—

(A) is exporting, transferring, or otherwise engaging in the trade of any internationally controlled missile technology for which an export license would be denied if such export, transfer, or trade were subject to the provisions of law and regulations referred to in paragraph (1)(A) and such person exported, transferred, or otherwise engaged in the trade of such technology in violation of any such provision of law or regulation;

(B) is conspiring to or attempting to engage in the export, transfer, or trade of any such technology for which an export license would be denied if such export, transfer, or trade were subject to the provisions of law and regulations referred to in paragraph (1)(A) and such person exported, transferred, or otherwise engaged in the trade of such technology in violation of any such provision of law or regulation; or

(C) is knowingly facilitating the export, transfer, or trade by any other person of any such technology for which an export license would be denied if such export, transfer, or trade were subject to the provisions of law and regulations referred to in paragraph (1)(A) and such person exported, transferred, or otherwise engaged in the trade of such technology in violation of any such provision of law or regulation; or

(3) in the case of a developing country, that such country—

(A) is importing internationally controlled missile technology; or

(B) is equipping its armed forces with new or additional types of missile systems or other weapons delivery systems configured to use weapons of mass destruction.

(b) SANCTIONS.—(1) The sanctions applicable to a United States person under subsection (a) are the following:

(A) Denial of all export licenses under section 38 of the Arms Export Control Act (22 U.S.C. 2778) and sections 5 and 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404 and 2405).

(B) Prohibition on all contracting with, and the procurement of any product or service from, such person by any department, agency, or instrumentality of the United States Government.

(C) In any case in which the President determines that the acts of the person are not destabilizing and that the person has not previously committed any act described in subsection (a), the sanctions specified in subparagraphs (A) and (B) shall apply, but only with respect to internationally controlled missile technology.

(2) The sanctions applicable to a foreign person under subsection (a) are the following:

(A) Denial of the issuance of any export license under section 38 of the Arms Export Control Act (22 U.S.C. 2778) or section 5 or section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405) if the foreign person is the designated consignee or end-user in the application for such export license or if the President has reason to believe that the foreign person will benefit from the issuance of such export license.

(B) Prohibition on all contracting with, and the procurement of any product or service from, such foreign person by any department, agency, or instrumentality of the United States Government.

(C) In any case in which the President determines that the acts of the person are not destabilizing and that the person has not previously committed any act described in subsection (a), the sanctions specified in subparagraphs (A) and (B), but only with respect to internationally controlled missile technology.

(3) The sanctions applicable to a developing country under subsection (a) are the following:

(A) Denial of some or all technical assistance in aviation, electronics, missiles, or space systems or space-related equipment under the control of the United States Government.

(B) Denial of the transfer of all or selected technology in aviation, electronics, missiles, or space systems or space-related equipment under the control of the United States Government, except for items the export of which to a controlled country (within the meaning of the Export Administration Act of 1979) would require only notification of the participating governments of the Coordinating Committee on Export Controls.

(c) EXCEPTIONS.—Paragraphs (1)(B) and (2)(B) of subsection (b) shall not apply with respect to any contract that provides for the supply of products or services valued at whichever is the lesser of—

(A) $20,000 of the value in the case of a finished commodity; or

(B) 3 percent of the average unit cost in the case of a finished commodity.

(d) TERM OF SANCTION.—Sanctions under this section shall be imposed for a period of not less than two years and not more than five years.

(e) WAIVER.—The President may waive the imposition of sanctions on a United States person, foreign person, or a developing country under subsection (a) with respect to a product or service if the President submits to Congress a certification that—

(1) the product or service is essential to the national security of the United States;

(2) the person or country is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met from another source in a timely manner by improved manufacturing processes or technological developments; and

(3) the United States Government is the end-user of the product or service.

(f) INAPPLICABILITY TO PERSONS COMPLYING WITH FOREIGN LAW.—Subsection (a) shall not apply to any export, transfer, or other trade activity carried out in good faith by any person if (1) the export, transfer, or other trade activity is in compliance with the laws of the country from which the export, transfer, or other activity is being carried out, and (2) that country controls the export of internationally controlled missile technology pursuant to an international agreement to which the United States is a party.

(g) SUSPENSION OF SANCTIONS.—The President may suspend all or part of any sanctions that have been imposed under this section against a person on account of acts described in subsection (a) if a country that controls the export of internationally controlled missile technology pursuant to an international agreement to which the United States is a party is taking judicial or other enforcement action against that

person on account of those acts. The President may terminate the sanctions if the President determines that, pursuant to that country's enforcement action, the person has been found not to have committed those acts or has been severely punished under that country's laws on account of those acts.

On page 25, after line 4, insert the following:

"(3) The term "developing country" does not include any member of the political organ of the North Atlantic Treaty Organization (NATO), any member of the Warsaw Treaty Organization, Austria, Australia, Israel, Japan, New Zealand, or Switzerland."

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## McCAIN AMENDMENT NO. 1635

Mr. McCAIN proposed an amendment to the bill S. 195, supra, as follows:

Strike section 106 and insert in lieu thereof the following:

SEC. 106. SEMI-ANNUAL REPORTS ON THE PROLIFERATION OF MISSILES CAPABLE OF DELIVERING WEAPONS OF MASS DESTRUCTION AND ON THE PROLIFERATION OF BIOLOGICAL WEAPONS, CHEMICAL WEAPONS, AND NUCLEAR WEAPONS.

(a) REPORTS.—Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter, the President shall submit to Congress a report described in subsection (b).

(b) CONTENTS OF REPORT.—Each report under subsection (a) shall—

(1) describe in detail the efforts of all foreign countries to acquire biological weapons, chemical weapons, nuclear weapons, and long-range missiles and destabilizing offensive aircraft and to acquire the material and technology to produce and deliver such weapons;

(2) include an assessment of the present and future capability of those countries to produce and deliver such weapons;

(3) include a determination of whether and to what degree any Communist-bloc country has assisted any foreign country in its efforts to acquire any weapons system, aircraft, material, or technology referred to in paragraph (1);

(4) identify—

(A) each person who in the past has assisted any foreign country in those efforts; and

(B) each person who continues to assist any foreign country in those efforts as of the date of the report;

(5) indicate whether any person included on the list referred to in paragraph (3)(A) or (3)(B) was aware that the assistance provided by that country was for the purpose of developing biological weapons, chemical weapons, nuclear weapons, or a long-range missile or offensive aircraft;

(6) include any confirmed or credible intelligence or other information that indicates that a non-Communist country has provided assistance in developing biological weapons, chemical weapons, nuclear weapons, or long-range missiles or offensive aircraft to another country, either directly by selling to such foreign country biological weapons, chemical weapons, nuclear weapons, or missiles or aircraft or indirectly by facilitating the activity of a person included on a list referred to in paragraph (3)(A) or (3)(B), but took no action to halt or discourage such activity.

(c) PROTECTION OF CLASSIFIED AND INTELLIGENCE INFORMATION.—Classified portions of any report prepared under this section may be issued in a separate annex to the report. In addition, the President may, with respect to the matters addressed in any such report, limit the transmission of intelligence information to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives if the President determines that such information could disclose intelligence sources and methods.

(d) EXCLUDED INFORMATION.—If the President, consistent with subsection (c), decides not to list any person or country in that part of the report required under paragraphs (3) and (5) of subsection (b) that would have otherwise been listed, the President shall include that fact in the report and his reasons for not listing the person or country.

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## PELL AMENDMENT NO. 1636

Mr. PELL proposed an amendment to amendment No. 1635 proposed by Mr. McCAIN to the bill S. 195, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 106. PRESIDENTIAL REPORTS.

Not later than 90 days after the date of enactment of this Act, and every 12 months thereafter, the President shall submit to the Speaker of the House of Representatives and the President of the Senate, a report—

(1) detailing efforts by countries or subnational groups that threaten United States security interests or regional stability (including efforts by Iran, Iraq, Libya, and Syria and other developing countries or subnational groups) to acquire the materials and technology to develop, produce, stockpile, and deliver chemical, biological or nuclear weapons, together with an assessment of the present and future capabilities of such countries or subnational groups to develop produce, stockpile and deliver chemical, and biological or nuclear weapons.

(2) describing the degree to which any country or foreign person has aided or abetted the government of any country or a subnational group to engage in any activity in connection with the acquisition of any such chemical biological and nuclear weapons and

(3) listing all United States persons against whom administrative, civil, or criminal penalties have been applied for shipment of goods and technology controlled for chemical, biological and nuclear weapons proliferation purposes pursuant to the Export Administration Act of 1979 or the Arms Export Control Act.

To the extent practicable, reports submitted pursuant to this section should be based on unclassified information. Portions of each such report may be classified.

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## McCAIN AMENDMENT NO. 1637

Mr. McCAIN proposed an amendment to the bill S. 195, supra, as follows:

On page 2, line 24, after the word "carrying", insert the phrase: "nuclear,"

On page 3, line 1, after the word "of", insert the phrase: "nuclear,"

On page 3, line 9, after the word "a", insert the phrase: "nuclear,"

On page 3, line 13, after the word "of", insert the phrase: "nuclear,"

On page 3, line 18, after the word "use", insert the phrase: "nuclear,"

On page 3, line 19, after the word "use", insert the phrase: "nuclear,"

On page 3, line 25, after the word "deliver", insert the phrase: "nuclear,"

On page 4, line 3, after the word "to", insert the phrase: "nuclear,"

On page 4, line 6, after the word "with", insert the phrase: "nuclear,"

On page 4, line 14, after the word "a", insert the phrase: "nuclear,"

On page 4, line 17, after the word "of", insert the phrase: "nuclear,"

On page 4, line 24, after the word "used", insert the phrase: "nuclear,"

On page 5, line 3, after the word "used", insert the phrase: "nuclear,"

On page 5, line 4, after the word "used", insert the phrase: "nuclear,"

On page 5, line 14, after the word "used", insert the phrase: "nuclear,"

On page 5, line 15, after the word "used", insert the phrase: "nuclear,"

On page 6, line 9, after the word "of", insert the phrase: "nuclear,"

On page 6, line 14, after the word "used", insert the phrase: "nuclear,"

On page 6, line 16, after the word "used", insert the phrase: "nuclear,"

On page 8, line 19, after the word "of", insert the phrase: "nuclear,"

On page 8, line 11, after the word "of", insert the phrase: "nuclear,"

On page 9, line 11, after the word "using", insert the phrase: "nuclear,"

On page 9, line 12, after the word "using", insert the phrase: "nuclear,"

On page 9, line 21, after the word "using", insert the phrase: "nuclear,"

On page 9, line 22, after the word "using", insert the phrase: "nuclear,"

On page 10, line 19, after the word "of", insert the phrase: "nuclear,"

On page 10, line 21, after the word "of", insert the phrase: "nuclear,"

On page 10, line 25, after the word "of", insert the phrase: "nuclear,"

On page 11, line 2, after the word "of", insert the phrase: "nuclear,"

On page 12, line 22, after the word "to", insert the phrase: "nuclear,"

On page 13, line 2, after the word "carrying", insert the phrase: "nuclear,"

On page 13, line 15, after the word "uses", insert the phrase: "nuclear,"

On page 13, line 21, after the word "a", insert the phrase: "nuclear,"

On page 14, line 2, after the word "of", insert the phrase: "nuclear,"

On page 14, line 7, after the word "of", insert the phrase: "nuclear,"

On page 14, line 18, after the word "use", insert the phrase: "nuclear,"

On page 14, line 23, after the word "(q)", insert the phrase: "nuclear,"

On page 15, line 3, after the word "deliver", insert the phrase: "nuclear,"

On page 16, line 8, after the word "acquire", insert the phrase: "nuclear,"

On page 16, line 11, after the word "used", insert the phrase: "nuclear,"

On page 16, line 13, after the word "used", insert the phrase: "nuclear,"

On page 20, line 14, after the word "acquire", insert the phrase: "nuclear,"

On page 20, line 17, after the word "used", insert the phrase: "nuclear,"

On page 20, line 19, after the word "used", insert the phrase: "nuclear,"

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## HEINZ AMENDMENT NO. 1638

Mr. HEINZ proposed an amendment to the bill S. 195, supra, as follows:

At the end of section 201, add the following and redesignate succeeding sections accordingly:

It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to undertake a diplomatic initiative to strengthen the Australia Group's objectives to support the norms and restraints against the spread and the use of chemical warfare, advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by introducing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a permanent secretariat,

(B) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(C) liaison officers to the secretariat from within the diplomatic missions,

(D) a close working relationship between the Group and industry,

(E) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(F) information-exchange channels of suspected proliferants,

(G) a "denial" list of firms and individuals who violate the Group's export control provisions, and

(H) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 202. PRINCIPLES GUIDING THE ADOPTION OF A MULTILATERAL EXPORT CONTROL SYSTEM.

(a) IN GENERAL.—The United States Government should propose to the Australia Group that its objectives should be guided by taking all appropriate measures—

(1) to ensure that the measures are effective in impeding the production of chemical weapons,

(2) to ensure that the measures are easy and economical to implement, and that they are practical; and

(3) to ensure that the measures do not impede the normal trade of chemicals and equipment used for legitimate purposes.

(b) DEFINITIONS.—For the purpose of section 201 and this section, the term "Australia Group" means the group of nineteen OECD nations dedicated to the control of the export of certain chemicals, including Australia, New Zealand, Austria, Belgium, Denmark, Canada, Japan, Norway, United States, United Kingdom, Federal Republic of Germany, France, Greece, Ireland, Italy, Netherlands, Portugal, Spain, Luxembourg, and Switzerland.

## COATS (AND METZENBAUM) AMENDMENT NO. 1639

Mr. COATS (for himself, Mr. FORD, Mr. METZENBAUM, and Mr. LEVIN) proposed an amendment to the bill S. 195, supra, as follows:

On page 25, immediately after line 4, add the following:

### TITLE III—TREATMENT AND DISPOSAL OF SOLID WASTE

SEC. 301. SOLID WASTE.

(a) UNLAWFUL ACT.—It is unlawful for any person to ship or transport or cause to be shipped or transported any solid waste generated within a State into another State for its treatment or disposal therein, if such shipment or transportation into a State is in violation of the laws of that State.

(b) STATE LAWS.—Each State is authorized to enact and enforce laws regulating the treatment and disposition of solid waste within such State, including laws imposing a ban on the importing into such State or any part thereof, of solid waste for its treatment or other disposition, laws otherwise regulating the importing into such State of solid waste for its treatment or other disposition, and laws imposing and collecting fees or other charges in connection with the treatment and disposition within such State of solid waste generated in another State.

(c) VIOLATIONS.—Any person violating subsection (a) of this section shall, for the first such violation, be fined not more than $35,000, and for a second or subsequent violation, such person shall be fined not more than $70,000, or imprisoned for not more than 10 years, or both.

(d) EFFECTIVE DATE.—The foregoing provisions of this section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act.

SEC. 302. REPORTING.

(a) REGULATIONS.—Within the 180-day period following the date of the enactment of this Act, the Administrator of the Environmental Protection Agency, by regulation, shall establish a program pursuant to which each person who transports or ships or causes to be transported or shipped in interstate commerce any solid waste in excess of 100 pounds shall be required to prepare and submit to the Administrator, on an annual basis, a registration statement. Such statement shall include such person's name, principal place of business, the location of each activity handling solid waste, and a complete list and quanitities of all solid waste transported or shipped in interstate commerce during the calendar year preceding such statement.

(b) PUBLIC AVAILABILITY.—The Administrator shall make such registration statements available, upon request, to the public.

SEC. 303. DEFINITIONS.

As used in this title, the term—

(1) "person" includes any State or political subdivision of a State or any individual, corporation, or other legal entity;

(2) "solid waste" shall have the same meaning as that provided in section 1004(27) of the Solid Waste Disposal Act; and

(3) "interstate commerce" shall have the same meaning as that provided in section 10 of title 18, United States Code.

## D'AMATO (AND DECONCINI) AMENDMENT NO. 1640

Mr. D'AMATO (for himself and Mr. DECONCINI) proposed an amendment to the bill S. 195, supra, as follows:

At the end of the bill, add the following new title:

### TITLE III—IRAQ SANCTIONS

SEC. 301. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) indisputable evidence exists that Iraq used chemical weapons both in its war with Iran and against its own Kurdish minority;

(2) Iraq has sought through means legal and illegal to acquire the technology necessary to develop and build nuclear weapons;

(3) Iraq has flouted its obligations under the Geneva Convention and the Nuclear Non-Proliferation Treaty;

(4) Iraq has failed to ratify the Convention on Biological Weapons and may be developing such weapons; and

(5) President Hussein has threatened, without provocation, to destroy the State of Israel by using chemical weapons.

SEC. 302. RESTRICTION ON ASSISTANCE FOR IRAQ.

(a) RESTRICTION ON ASSISTANCE.—Unless the President certifies to the Congress that the Government of Iraq has opened suspect sites to international inspection and ratified the Convention on Biological Weapons, no United States assistance (including funds appropriated before the date of enactment of this title) may be furnished for Iraq.

(b) DEFINITION.—For the purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guaranties under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

(5) financing under the Export-Import Bank Act of 145.

SEC. 303. SUSPENSION OF MULTILATERAL ASSISTANCE.

Unless the President makes the certification described in section 302(a), the Secretary of the Treasury shall instruct the United States executive directors of the International Monetary Fund, the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of the funds of their respective institutions to or for Iraq.

SEC. 304. SUSPENSION OF AIR TRAVEL.

(a) IN GENERAL.—Unless the President makes the certification in section 302(a)—

(1) the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of Iraq under the air transportation agreement between the United States and that country to provide service pursuant to that agreement;

(2) the Secretary of State shall terminate that agreement in accordance with the provisions of that agreement;

(3) upon termination of that agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government or Iraq or by nationals of that country from engaging in air transportation with respect to the United States; and

(4) the Secretary of Transportation shall provide for such exceptions from the prohibition contained in paragraph (3) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(b) DEFINITION.—For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

SEC. 305. DENIAL OF TRADE PREFERENCES AND IMPOSITION OF ADDITIONAL DUTY.

Notwithstanding any other provision of law, unless the President makes the certification described in section 302(a)—

(1) the President shall terminate, withdraw, or suspend any portion of any trade agreement or treaty to the extent the agreement or treaty requires the provision of nondiscriminatory (most-favored-nation) trade treatment to Iraq;

(2) Iraq shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of Iraq shall be subject to the rates of duty set forth in rate of duty column number 2 of the Harmonized Tariff Schedule of the United States;

(3) the provisions of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) shall not apply with respect to the products of Iraq; and

(4) the products of Iraq that do not receive duty-free treatment on the day before the date of enactment of this title shall be subject to an additional duty at the rate of 50 percent ad valorem.

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## D'AMATO (AND OTHERS) AMENDMENT NO. 1641

Mr. D'AMATO (for himself, Mr. DECONCINI, and Mr. MACK) proposed an amendment to the bill S. 195, supra, as follows:

Strike all after the word "title" in the pending amendment and insert:

III. IRAQ SANCTIONS.

SEC. 301. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) indisputable evidence exists that Iraq used chemical weapons both in its war with Iran and against its own Kurdish minority;

(2) Iraq has sought through means legal and illegal to acquire the technology necessary to develop and build nuclear weapons;

(3) Iraq has flouted its obligations under the Geneva Convention and the Nuclear Non-Proliferation Treaty;

(4) Iraq has failed to ratify the Convention on Biological Weapons and may be developing such weapons; and

(5) President Hussein has threatened, without provocation, to destroy the State of Israel by using chemical weapons.

SEC. 302. RESTRICTION ON ASSISTANCE FOR IRAQ.

(a) RESTRICTION ON ASSISTANCE.—Unless the President certifies to the Congress that the Government of Iraq has opened suspect sites to international inspection and ratified the Convention on Biological Weapons, no United States assistance (including funds appropriated before the date of enactment of this title) may be furnished for Iraq.

(b) DEFINITION.—For the purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

(5) financing under the Export-Import Bank Act of 1945.

SEC. 303. SUSPENSION OF MULTILATERAL ASSISTANCE.

Unless the President makes the certification described in section 302(a), the Secretary of the Treasury shall instruct the United States executive directors of the International Monetary Fund, the International Bank for Reconstruction and Development, and the International Development Association to vote against any loan or other utilization of the funds of their respective institutions to or for Iraq.

SEC. 304. SUSPENSION OF AIR TRAVEL.

(a) IN GENERAL.—Unless the President makes the certification in section 302(a)—

(1) the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of Iraq under the air transportation agreement between the United States and that country to provide service pursuant to that agreement;

(2) the Secretary of State shall terminate that agreement in accordance with the provisions of that agreement;

(3) upon termination of that agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of Iraq or by nationals of that country from engaging in air transportation with respect to the United States; and

(4) the Secretary of Transportation shall provide for such exceptions from the prohibition contained in paragraph (3) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(b) DEFINITION.—For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

SEC. 305. DENIAL OF TRADE PREFERENCES AND IMPOSTION OF ADDITIONAL DUTY.

Notwithstanding any other provision of law, unless the President makes the certification described in section 302(a)—

(1) the President shall terminate, withdraw, or suspend any portion of any trade agreement or treaty to the extent the agreement or treaty requires the provision of nondiscriminatory (most-favored-nation) trade treatment to Iraq;

(2) Iraq shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of Iraq shall be subject to the rates of duty set forth in rate of duty column number 2 of the Harmonized Tariff Schedule of the United States;

(3) the provisons of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) shall not apply with respect to the products of Iraq; and

(4) the products of Iraq that do not receive duty-free treatment on the day before the date of enactment of this title shall be subject to an additional duty at the rate of 100 percent ad valorem.

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## D'AMATO (AND OTHERS) AMENDMENT NO. 1642

Mr. D'AMATO (for himself, Mr. PELL, Mr. HELMS, Mr. DECONCINI, and Mr. MACK) proposed an amendment to the bill S. 195, supra, as follows:

At the end of the bill, add the following new title:

CONGRESSIONAL FINDING:

(a) The Congress finds that—

(1) The Government of Iraq has systematically detained, tortured, and executed thousands of its own citizens;

(2) The government of Iraq has destroyed more than one thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens, resulting in tens of thousands of deaths and more than fifty thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the Government of Iraq, including the torture and murder of children as a means of punishing their parents;

(5) Iraq has blatently violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention on Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including issuing a threat without provocation to destroy the state of Israel;

(b) The Congress finds and determines—

(1) That Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights;

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nation's Charter and the 1925 Geneva Protocol, places Iraq outside the community of civilized nations.

SEC. . ENFORCEMENT OF UNITED STATES LAW.

The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern of gross violations of internationally recognized human rights.

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## D'AMATO (AND LAUTENBERG) AMENDMENT NO. 1643

Mr. D'AMATO (for himself and Mr. LAUTENBERG) proposed an amendment to amendment No. 1642 proposed by Mr. D'AMATO (and others) to the bill S. 195, supra, as follows:

After "Sec. 301" strike all and insert in lieu thereof:

CONGRESSIONAL FINDINGS.

(a) The Congress finds that—

(1) The Government of Iraq has systematically detained, tortured, and executed thousands of its own citizens;

(2) The Government of Iraq has destroyed more than one thousand villages and towns in the Kurdish regions of Iraq, effectively depopulating the rural areas of Iraqi Kurdistan;

(3) Iraq has used chemical weapons on an extensive scale against its own Kurdish citizens, resulting in tens of thousands of deaths and more than fifty thousand refugees;

(4) Amnesty International has documented extensive violations of human rights by the Government of Iraq, including the torture and murder of children as a means of punishing their parents;

(5) Iraq has blatantly violated international law in initiating use of chemical weapons in the Iran-Iraq war and in its use of chemical weapons during and after the war on its own Kurdish citizens;

(6) Iraq has failed to ratify the Convention on Biological Weapons and persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

(7) Iraqi President Saddam Hussein has threatened to use chemical weapons against other nations, including making a threat without provocation to destroy the state of Israel;

(b) The Congress finds and determines—

(1) That Iraq has engaged in a consistent pattern of gross violations of internationally recognized human rights;

(2) Iraq's repeated disregard for international law, including violations of its obligations under the United Nation's Charter and the 1925 Geneva Protocol, places Iraq outside the community of civilized nations;

SEC. 302. ENFORCEMENT OF UNITED STATES LAW.

The President shall enforce against Iraq all provisions of law which impose sanctions against a country that engages in a consistent pattern of gross violations of internationally recognized human rights.

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## DOLE AMENDMENT NO. 1644

Mr. DOLE proposed an amendment to amendment No. 1639 proposed by Mr. COATS (and Mr. METZENBAUM) to the bill S. 195, supra, as follows:

On page 1 of amendment 1639 insert between lines 5 and 6 the following: "Section 4002 of the Solid Waste Disposal Act is amended by adding at the end thereof the following subsections:"

On page 1, line 11, after the word "State" add the following: "for the purposes of this section the term 'solid waste' does not include 'Hazardous waste' or 'hazardous substance' as defined in this Act or the Comprehensive Emergency Response Compensation and Liability Act (P.L. 96-510)".

On page 1, line 6, strike "(a)" and insert "'(d)".

On page 2, line 1, strike "(b)" and insert "'(e)".

On page 2, line 11, strike "(c)" and insert "'(f)".

On page 2, line 17, strike "(d)" and insert "'(g)".

On page 2, line 20, add " after "Act."

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## MACK AMENDMENT NO. 1645

Mr. MACK proposed an amendment to the bill S. 195, supra; as follows:

On page 15 of the committee substitute, after line 20, add the following:

"(C) IMPROVED VERIFICATION OF EXPORT CONTROLS.—The Secretary of Commerce should, in order to supplement existing means of verification of export controls relating to chemical and biological weapons, take measures to encourage voluntary utilization of appropriate independent inspection companies to inspect and certify shipments and end-users of chemicals that could be used in the development of chemical and biological weapons."

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## MACK (AND OTHERS) AMENDMENT NO. 1646

Mr. MACK (for himself, Mr. GRAHAM, Mr. LIEBERMAN, MR. MCCAIN, Mr. GRAMM, and Mr. D'AMATO) proposed an amendment to the bill S. 195, supra, as follows:

At the end of the substitute, add the following new title:

TITLE —ADDITIONAL RESTRICTIONS ON TRADE WITH CUBA

SEC. . PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

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## GRAHAM (AND OTHERS) AMENDMENT NO. 1647

Mr. GRAHAM (for himself, Mr. MACK, Mr. DECONCINI, Mr. MCCAIN, and Mr. LIEBERMAN) proposed an amendment to amendment No. 1646 proposed by Mr. MACK (and others) to the bill S. 195, supra, as follows:

At the end of the amendment add:

Since totalitarian rule is giving way to democratic rule around the world;

Since the people of Eastern Europe have led the way, embracing Mikhail Gorbachev's policies of Glasnost and Perestroika and replacing totalitarian regimes with elected governments that respect human rights;

Since Fidel Castro's totalitarian rule stands in stark contrast to the democracy sweeping through Eastern Europe, Latin America, and other parts of the world;

Since after thirty years of rule Castro still stubbornly clings to power, publicly attacking the new policies and governments of Eastern Europe, and openly criticizing the policies of Mikhail Gorbachev;

Since despite these attacks the Soviet Union continues to prop up the Castro government, subsidizing the Cuban economy at an annual rate of at least $5.5 billion, $1.5 billion of it in military assistance;

Since Soviet Deputy Prime Minister Leonid Abalkin has publicly stated that commercial ties between the two countries might be expanded and perhaps even substantially increased;

Since the Soviet Union continues to modernize the Cuban armed forces, delivering six new advanced MIG-29 fighters earlier this year;

Since this business as usual support continues at a time when Castro has launched a new wave of repression, arresting human rights acvitists, underground political leaders, dissidents, university students, and religious leaders;

Since Castro has executed, arrested, and dismissed key members of his military high command, state security ministry, personal body guard, Cuban Communist Party Central Committee, and diplomatic corps during the past year, in an ongoing purge to consolidate control and discourage reform;

Since Castro has arrested and deported international journalists for reporting the growing human rights and pro-democracy movement in Cuba; and

Since Castro has gone so far as to deport Eastern bloc reporters who "compare Cuba to Romania—the calm before the storm," take Soviet publications such as Moscow News out of circulation, and ban *Perestroika* by Mikhail Gorbachev: Now, therefore, be it

*The sense of the Congress* That—

(1) continuing Soviet support of Cuba remains a serious problem in U.S.-Soviet relations;

(2) the Soviet Union, in reexamining its relationship with Cuba, should cease military aid to the Castro regime and take all other possible steps to further the policies of Glasnost and Perestroika by adopting policies supporting the political, economic rights, and human rights of the Cuban people.

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## MCCLURE (AND OTHERS) AMENDMENT NO. 1648

Mr. MCCLURE (for himself, Mr. WALLOP, Mr. HELMS, Mr. SYMMS, Mr. LOTT, Mr. HUMPHREY, Mr. THURMOND, and Mr. MCCAIN) proposed an amendment to the bill S. 195, supra, as follows:

At the appropriate place, insert:

The Senate finds:

(1) According to recent press reports, in three separate incidents on March 9th and 10th, 1990, Soviet personnel breached their obligation under the INF Treaty to allow United States monitoring rights at the Votkinsk missile factory;

(2) The Soviet Union refused to allow American personnel at the Votkinsk missile factory to utilize the INF Treaty-authorized monitoring devise, called "Cargoscan," the verification x-ray system used to assure the United States that SS-20 missiles banned by the INF Treaty are not exiting from this facility;

(3) On March 9, 1990, the Soviets insisted on removing a missile from the plant without allowing the U.S. officials on the scene to use "Cargoscan", and again on March 10 two additional missiles were removed without imaging;

(4) In recent months, according to press reports and open testimony to the Senate, U.S. intelligence has discovered in East Germany several launchers for the INF Treaty-limited SS-23 missile system, and East Germany has admitted having four SS-23 launchers and twenty-four SS-23 missiles, and other SS-23 equipment;

(5) On March 27, 1990, the Soviet Union, in response to a diplomatic inquiry from the U.S., admitted that they had transferred as many as one hundred or more SS-23 missiles to Bulgaria, East Germany, and Czechoslovakia, possibly in violation of the 1987 INF Treaty;

(6) The Czechoslovak Government confirmed to the U.S. that they have SS-23 missiles, and the Bulgarian government has indicated that they also have SS-23 missiles;

(7) The Soviet Union has failed repeatedly to declare these SS-23 launchers and missiles controlled by the U.S.S.R. and alleged-

ly transferred to East European allies as part of the Soviet INF inventory;

(8) Such Soviet covert SS-23 mobile missile deployment was successfully concealed for over two years;

(9) U.S. Intelligence has also detected non-declared SS-4 INF missile equipment at a non-declared facility inside the Soviet Union, and this was confirmed by ACDA Director Lehman in open testimony to the Senate;

(10) U.S. INF negotiators have reportedly termed the Soviet denials that they had transferred SS-23's to Soviet Warsaw Pact allies as "mendacity", and a top U.S. arms control negotiator has stated that this Soviet covert deployment of SS-23's "cuts the heart out of the INF Treaty."

(11) The Soviet Union has rebuffed vigorous protests on these issues to the Soviet Embassy in Washington, as well as personal communications from Secretary of State Baker to Soviet Foreign Minister Eduard Shevardnadze: Therefore

It is the sense of the Senate that:

(1) Serious questions exist concerning the U.S. capability to monitor and verify any treaty which covers mobile missile systems;

(2) The Soviet Union should be condemned for its willful act denying our Treaty right to image the three Soviet missiles which exited the facility at Votkinsk on March 9-10, 1990;

(3) In order to expedite U.S. decision-making about the appropriate proportionate response to these Soviet INF compliance problems, and before entering into any further arms control agreements, the Administration should report its findings on these problems to the Senate as soon as possible.

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## HELMS AMENDMENT NO. 1649

Mr. HELMS proposed an amendment to the bill S. 195, supra, as follows:

On page 16, line 6, after "contributed" insert: "through shipment of goods or technologies that would be, if they were United States goods or technologies, subject to the jurisdiction of the United States, or through any transaction, other than of goods and technology, not subject to sanctions pursuant to the Export Administration Act,"

On page 20, line 12, after "contributed" insert: "through shipment of goods or technologies that would be, if they were United States goods or technologies, subject to the jurisdiction of the United States pursuant to this Act,"

On page 14, line 24, after the word "State" insert: "and the Secretary of Defense."

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## GARN AMENDMENT NOS. 1650 AND 1651

(Ordered to lie on the table.)

Mr. GARN submitted two amendments intended to be proposed by him to an amendment intended to be proposed by Mr. PELL to the bill S. 195, supra, as follows:

AMENDMENT No. 1650

On page 22, line 11, strike all beginning with "that" through "subsection (a)(1)." on line 12 and insert the following: "that—

"(1) conclusive intelligence information demonstrates that the foreign person has totally ceased to aid or abet any foreign country in its efforts to acquire chemical or biological weapons capability as described in subsection (a)(1) of this section; and

"(2) in the President's judgment, it would be in the national interest of the United States to procure or contract for the procurement of goods or services from such foreign person, to import goods or services from such foreign person, or to permit export or reexport of goods or services originating in the United States to such foreign person."

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AMENDMENT No. 1651

On page 22, between lines 5 and 6, insert:

"(3) EXPORT DENIAL.—The Secretary shall revoke any validated export license previously issued to that foreign person and enter a final order denying that foreign person all export privileges. The Secretary shall publish such final order in the Federal Register and include that foreign person in the Table of Denial Orders promulgated in Supplement No. 1 to Part 788 of the Export Administration Regulations, 15 Code of Federal Regulations Part 788. Notwithstanding any other provision of this Act, this final order shall be excluded from the operation of sections 554 through 557 of title 5, United States Code."

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## SPECTER (AND OTHERS) AMENDMENT NO. 1652

Mr. SPECTER (for himself, Mr. MCCAIN, Mr. D'AMATO, and Mr. HELMS) proposed an amendment to the bill S. 195, supra, as follows:

At the appropriate place in the bill, insert the following:

Since the proliferation of ballistic and cruise missile technology poses a significant threat to global stability;

Since 17 developing countries are now acquiring technology which would enable them to develop, deploy and delivery biological, chemical, and/or nuclear weapons;

Since currently there is no formal international treaty to restrict the proliferation of ballistic and cruise missile technology or technology what would enable the development of such systems;

Since more extensive international public exposure of developing nations' acquisitions of ballistic and cruise missile technology may help dissuade them from such activities;

Since more extensive international exposure of nations supplying ballistic and cruise missile technology may help dissuade them from such activities;

Since an international effort to discuss proliferation of ballistic and cruise missile technologies would complement strategic and chemical arms control negotiations currently being pursued by the United States and the Soviet Union;

Since an international effort to discuss proliferation of ballistic and cruise missile technologies would complement the objectives of the Nuclear Non-Proliferation Review Conference to be held in Geneva beginning in August of this year;

Therefore the Senate hereby—

(1) Requests that an international conference on the proliferation of ballistic and cruise missile technology used in the delivery of chemical, biological and nuclear weapons be convened following the Nuclear Non-Proliferation Review Conference to be held August 20, to September 14, 1990, and no later than January 1, 1991.

(2) Requests that such conference be sponsored jointly by the United States and the Soviet Union in cooperation with the United Nations and should invite the participation of all member nations.

(3) Requests that the purpose of the conference be to provide an international forum for the discussion of means to encourage states to pursue regional efforts to restrict proliferation of ballistic and cruise missile technology used in the delivery of chemical, biological and nuclear weapons.

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## PELL AMENDMENT NO. 1653

(Ordered to lie on the table.)

Mr. PELL submitted an amendment intended to be proposed by him to the bill S. 195, supra, as follows:

On page 7, strike lines 15 and 16;
On page 17, strike lines 22-24; and
On page 22, strike lines 3-5.

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## PELL (AND OTHERS) AMENDMENT NOS. 1654 THROUGH 1656

Mr. PELL (for himself, Mr. HELMS, and Mr. BENTSEN) proposed these amendments to the bill S. 195, supra, as follows:

AMENDMENT No. 1654

On page 7, strike lines 15 and 16.

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AMENDMENT No. 1655

On page 17, strike lines 22 through 24.

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AMENDMENT No. 1656

On page 22, strike lines 3 through 5.

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## HELMS AMENDMENT NO. 1657

Mr. HELMS proposed an amendment to the bill S. 195, supra, as follows:

Add at the end of the bill, the following new section:

"SEC. . (a) During the next round of talks with the PLO, should such talks occur after the date of enactment of this Act, the representative of the United States should obtain from the representative of the PLO a full accounting of the following attempted incursions into Israel which occurred after Yasser Arafat's statement of December 14, 1988:

"(1) On August 7, 1989, a rocket attack on the settlement of Maoz Haim by members of the PLO-affiliated Popular Front for the Liberation of Palestine.

"(2) On February 4, 1990, an unprovoked ambush by the Popular Front for the Liberation of Palestine-General Command on an Israeli tour bus in Egypt that killed 9 and wounded 15 Israelis.

"(3) On September 6, 1989, a rocket attack by the PLO-affiliated Popular Front for the Liberation of Palestine aimed at Kibbutz Tel-Katzir that fell on Kibbutz Sha'ar Hagolan.

"(4) On January 26, 1990, an attack on an Israeli Army patrol by at least three terrorist of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for Kibbutz Misgav-Am.

"(5) On May 28, 1989, an attack by the Popular Front for the Liberation of Palestine and the Palestine Liberation Front, both PLO-affiliated organizations, in which a one-year-old Israeli was injured by a Katyusha rocket.

"(6) On October 7, 1989, an attempted raid on Kibbutz Misgav-Am by a squad of terrorists armed with machine guns and anti-tank missiles from the PLO-aligned Palestine Liberation Front.

"(7) On April 13, 1990, an attempted infiltration into northern Israel by boat by four terrorists of Yasser Arafat's Al-Fatah, equipped with machine guns and grenades.

"(b) In the event that talks are held with the PLO after the date of enactment of this Act, the Secretary of State, shall include in the next report provided to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate under Section 804 of the Foreign Relations Authorization Act for Fiscal Years 1990 an 1991 any accounting provided by the representatives of the PLO of the incidents described in subsection (a) and the relationship between those groups responsible for these attacks and the PLO; provided, that such report shall also include a list of all individuals participating in discussions held between representatives of the United States and of the Palestine Liberation Organization since January 1, 1989; and, that such report should also include any additional known affiliations of such representatives of the PLO.

"(c) No later than 60 days after enactment, the Commissioner of the Customs Service shall provide the President of the Senate and Speaker of the House of Representatives with a report outlining illegal activities being undertaken in the United States by the Palestine Liberation Organization or on behalf of the Palestine Liberation Organization; including such activities as illegal drug trafficking, money laundering, weapons purchases and arms shipments; estimating the amount of funds associated with such activities; and describing the extent to which Members of the PLO Executive Committee, the PLO Central Council and the Palestine National Council are aware of, or are involved in such illegal activities.".

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## HELMS AMENDMENT NOS. 1658 and 1659

Mr. HELMS proposed two amendments to the bill S. 195, supra, as follows:

AMENDMENT No. 1658

On page 18, line 6, strike all beginning with "that" through "subsection (a)(1)." on line 7 and insert the following: "that—

"(1) reliable intelligence information indicates that the foreign person has ceased to aid or abet any foreign country in its efforts to acquire chemical or biological weapons capability as described in subection (a)(1) of this section; and

"(2) in the President's judgment, it would be in the national interest of the United States to procure or contract for the procurement of goods or servics from such foreign person, or to import goods or services from such foreign person.

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AMENDMENT No. 1659

On page 17, line 16, strike all after "Sanctions.—through "following," on line 17 and insert: "The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, are as follows:

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## GARN AMENDMENT NOS. 1660 AND 1661

Mr. HELMS (for Mr. GARN) proposed two amendnents to the bill S. 195, supra, as follows:

AMENDMENT No. 1660

On page 22, line 11, strike all beginning with "that" through "subsection 9(a)(1)." on line 12 and insert the following: "that—

"(1) reliable intelligence information indicates that the foreign person has ceased to aid or abet any foreign country in its efforts to acquire chemical or biological weapons capability as described in subsection 9(a)(1) of this section; and

"(2) in the President's judgment, it would be in the national interest of the United States to procure or contract for the procurement of goods or services from such foreign person or to import goods or services from such foreign person.

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AMENDMENT No. 1661

On page 21, line 21, strike all after "Sanctions.—through "following;" on line 22 and insert: "The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and are as follows:

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## DOLE AMENDMENT NO. 1662

Mr. DOLE proposed an amendment, which was subsequently modified, to the bill S. 195, supra, as follows:

On page 8, line 8 of the substitute delete the word "nine" and insert in its place the word twelve.

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## NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, has rescheduled its Tuesday, May 22, 1990, hearing on the nominations of Donald L. Ivers and Jonathan R. Steinberg to be associate judges on the U.S. Court of Veterans Appeals to 9:30 a.m., Wednesday, June 6, 1990, in SR-418.

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## AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Public Lands, National Parks and Forests Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., May 17, 1990, for a hearing to receive testimony on S. 1852 and H.R. 3545, to amend the Chesapeake and Ohio Canal Development Act to make certain changes relating to the Chesapeake and Ohio Canal National Historical Park Commission; S. 1990, to establish the Cliff Walk National Historic Site; S. 2011 and H.R. 2843, to authorize the expansion of the Tumacacori National Monument, S. 2067 and H.R. 3834, to amend the National Trails System Act to designate the route from Selma to Montgomery for study for potential addition to the National Trails System; S. 2072, to authorize a study of nationally significant places in American labor history; S. 2262 to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion in the National Wild and Scenic Rivers System; S. 2437, to authorize the acquisition of certain lands in the State of Louisiana for inclusion in the Vicksburg National Military Park; and S. 2566, to redesignate the Sunset Crater National Monument as the Sunset Crater Volcano National Monument.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, May 17, 1990, at 10 a.m. and 2 p.m. to hold a business meeting on the 1990 farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, May 17, 1990, at 10 a.m. to conduct an oversight hearing on reform of Federal deposit insurance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, May 17, beginning at 1 a.m., to conduct a hearing on S. 1462, a bill to create a Federal nuclear facility environmental response fund, and to create an Office of Environmental Management and Remedial Action in the Department of Energy, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 17, 1990, at 9 a.m., to receive testimony on concurrency in the Department of Defense acquisition process and programs, and in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 17, 1990, at 9:30 a.m. to hold a hearing on semiconductors and the future of the American electronics industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., May 17 1990, for a hearing to receive testimony on S. 2362, to enhance the survivability and recovery of the insular areas from severe storms.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 17, 1990, at 3:30 a.m., to hold a hearing on nominations of Roberts H. Cleland, to be U.S. district judge for the Eastern District of Michigan and Richard J. Hankinson to be Inspector General, Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, May 17, 1990, at 1 p.m., to hold a hearing on courts secrecy.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### AMERICAN WOMEN IN RADIO AND TELEVISION

● Mr. HOLLINGS. Mr. President, this week American Women in Radio and Television, Inc. [AWRT] is hosting its 39th National Annual Convention in Washington. AWRT deserves special recognition for work to advance the position of women professionals in the electronic media and allied fields.

AWRT is a national nonprofit organization comprised of over 2,500 members in a network of over 50 chapters throughout the United States. Its members include women who are reporters, managers and owners of broadcast facilities as well as women in communication law, public relations and advertising. Since its founding in 1951, AWRT has strived to improve the telecommunications industry in numerous ways. For the past 15 years, AWRT has held an Annual Commendations Award Program in which it recognizes outstanding national and local radio, television and cable productions in 15 categories. These awards are designed to recognize programming which contributes to the advancement of women in a positive and realistic manner, presents a new or different perspective on the human condition, or addresses an area of interest to women.

AWRT also contributes to the development of national policy by presenting its views on important industry issues to the FCC, Congress and the courts. At the FCC, AWRT has filed comments in proceedings concerning deregulation, equal employment opportunity, expansion of the AM band, the broadcast renewal process, the comparative hearing process, the possible use of lotteries to replace broadcast hearings, and the use of minority and female enhancement merits by the FCC in comparative hearing cases. In Congress, AWRT has recently participated in hearings held by the Senate Communications Subcommittee on the FCC's minority preference policies. AWRT has also participated as an amicus curiae in judicial proceedings which involve the FCC's policies regarding women. AWRT's participation in these proceedings brings us a unique perspective for which we are grateful.

It is important that AWRT continue its efforts to ensure that its members' concerns and views are made known to the policymakers in this country. I commend AWRT and thank its members for their service to the public.●

### MISSOURI COUPLE HELPS ABUSED AND NEGLECTED CHILDREN

● Mr. BOND. Mr. President, I rise today in recognition of Denise and Kevin Blew of Shelbina, MO. The Blews have participated for the last 7 years in the Shiloh Christian Children's Ranch Homeparents Program. During their years as participants in the program, they have improved the quality of life for many children who have been abused and neglected. The Blews' special brand of caring lives on in the mind of every child who has crossed their doorstep, and I am sure each child has fond memories and many thanks for the time they spent in the Blews' house.

To the Blews, I extend my congratulations and appreciation for their 7 years of service with the Shiloh Christian Children's Ranch. I trust that they will continue to help children involved in the program for many years to come.●

### THE AL EISELE CONNECTION TO GORBACHEV'S VISIT

● Mr. DURENBERGER. Mr. President, my home State of Minnesota is in a state of high expectation and excitement because Soviet President Mikhail Gorbachev plans to visit there on June 3.

That visit is a real coup for Minnesota and a boost to hoped for business ties between Minnesota-based industry and the Soviet Union. And the visit is in large part the result of the work of a highly respected Minnesota export to Washington, DC, Al Eisele.

Al has his roots in rural Minnesota journalism as the son of Susan Eisele, a strong role model for women in journalism and a writer for the Blue Earth Post in Walter Mondale's home territory.

Al worked for me as assistant sports publicity director at St. John's University while he was a winning pitcher on Father Dunstan Tucker's winning St. John's baseball team. Al did not, but the rest of us insisted he was a better baseball contributor to the league than former Senator Eugene McCarthy who played on the St. John's team in the early 1940's before starring in Presidential politics in the late 1960's.

Now Al and I both serve on the board of regents for our alma mater, a 132-year-old Benedictine college 75 miles north of the Twin Cities of Minneapolis and St. Paul. To those in the know, Garrison Keillor's "Lake Wobegon" evolved during his years at St. John's public radio station, and its spiritual home is Collegeville.

Al Eisele served Fritz Mondale well as his press secretary when he was Vice President of the United States, and continues to serve his State and community even better.

He is a deep, faithful, caring person whose love for his roots, even more than his business acumen, is responsible for the Gorbachev visit described in today's New York Times. Mr. President, I would like to enter that article in today's CONGRESSIONAL RECORD.

The article follows:

[From the New York Times, May 17, 1990]

GORBACHEV IN MINNESOTA? HERE'S WHY

(By Martin Tolchin)

WASHINGTON, May 16.—Three months ago, Albert Eisele, a Minnesota public relations consultant, learned that Mikhail S. Gorbachev wanted to travel across the United States after his summit with President Bush.

"A light went off," Mr. Eisele said. "What better place to bring him than Minnesota?"

So began an effort that reached its successful conclusion on Monday with the announcement that the Soviet leader would spend six hours in Minnesota on June 3.

Mr. Eisele's relationship with the Russians actually began in February 1987, when

he went to the Soviet Union with William C. Norris, founder and chairman emeritus of Control Data. The company, based in Minneapolis, had sold the first large American computers to the Soviet Union in 1968, and Mr. Eisele says its long relationship with the Soviets was crucial to his success. "Control Data has been regarded as a friend even in the 1980's, when few American companies were allowed to do business there because of export restrictions on technology," he said.

FROM BLUE EARTH TO WASHINGTON

Mr. Eisele (pronounced EYES-lee), 53 years old, was born and raised on a 160-acre farm between Blue Earth and Elmore, the home of Walter F. Mondale. Mr. Eisele worked for The Dispatch and The Pioneer Press of St. Paul, and then served as Mr. Mondale's Vice-Presidential press secretary. After that he worked for Control Data until last September, when he founded Cornerstone Associates, a small public relations and lobbying firm here. Its clients include Control Data.

At the 1987 meeting, V.L. Malkevich, the Soviet First Deputy Minister of Foreign Trade, spoke warmly of Control Data and added, as Mr. Eisele recalls it, that "we are not Ivans who do not remember our relatives."

Mr. Eisele and Mr. Norris made two more visits to the Soviet Union, and this February, Control Data offered to install computers in six Soviet nuclear research sites. The proposal awaits Administration approval and an export license required for such technology.

FROM MINNESOTA, WITH LOVE

It was also in February that Jim O'Connell, a foreign trade specialist with Control Data, learned that Mr. Gorbachev had expressed an interest in traveling around the United States. Mr. O'Connell told Mr. Eisele, who drafted a two-page letter for Gov. Rudy Perpich, inviting Mr. Gorbachev to visit Minnesota. The letter was hand-delivered to Yuri Dubinin, the Soviet Ambassador, on Feb. 26.

The letter said the state had everything the Soviet might need: "The Twin Cities of Minneapolis and St. Paul are home to a large number of major corporations that are world leaders in computers and microelectronics, medical technology and health-care services, agriculture and food processing, transportation, financial services and insurance, and forestry and mining."

The Governor's letter went on to note that many Minnesota companies, large and small, were "very interested in developing business ties with the U.S.S.R. and could provide management expertise to Soviet enterprises as well." He proposed that Mr. Gorbachev give a major speech on bilateral cooperation to protect the environment. "This could serve as a model for U.S.-Soviet cooperation in other areas," he wrote.

Finally, the letter noted the similarities between Minnesota and the Soviet Union. "Minnesota, which is famous for its natural resources and shares many of the climatic and geographical characteristics of the Soviet Union, would be an ideal setting for such a speech," it said, and added that many Minnesotans were descendants of Russian immigrants.

SETBACK, THEN SUCCESS

Hopes for the visit were set back on April 3, when Eduard Shevardnadze, the Soviet Foreign Minister, told Secretary of State James A. Baker 3d that Mr. Gorbachev's mounting problems at home precluded an extended American visit. "At that point I told everyone, 'it was a good try, but it's off,' " Mr. Eisele said.

But Monday afternoon, Mr. Eisele learned from a reporter that Mr. Gorbachev was indeed going to visit Minnesota. Ambassador Dubinin telephoned Mr. Perpich that evening to confirm that the visit was on.

Minnesotans are euphoric, Mr. Eisele said, and added, "There are 4 million people in Minnesota, and 3.9 million want Gorbachev to visit their homes."●

## LEONID AND NATALIA STONOV

● Mr. GRASSLEY. Mr. President, a few months ago, I took part in the congressional call to conscience. I spoke about Leonid and Natalia Stonov and their decade-long effort to emigrate from the Soviet Union.

I am happy to report that freedom has come finally to the Stonovs. After more than a decade of being denied exit on state secrets grounds, Soviet authorities have granted Leonid permission to leave.

Since Leonid was first denied exit, he has devoted his life to the cause of freedom. He is renowned as the preeminent refusenik and for his tireless efforts on behalf of his fellow refuseniks.

Leonid also served as the monitor in the Moscow monitor project that I established last winter in order to monitor the effects of the new refugee policies established this fiscal year. At risk to himself, he has provided me with information regarding Moscow refugee processing, the plight of long-term refuseniks, and the status of religious freedom in Soviet society.

Just a few months ago, I had the opportunity to meet with Natalia during a trip she made recently to Washington. She came here to meet with Members of Congress and the President in pursuit of her and Leonid's cause: Freedom for themselves and others who share their fate.

I had the opportunity to send a note with Natalia back to Leonid to thank him for his courage and assistance with the project. In that note, I told him I hoped that soon I would be able to welcome his family to America.

Now it will be only months before together, the Stonovs will set foot in America and start a new life in freedom. Leonid's release is encouraging and gives us optimism that the doors of the Soviet Union will open for the remaining long-term refuseniks. Until that day comes however, we must continue to work for their freedom, too.●

## THE DEFICIT'S EFFECT ON INTEREST RATES: DOES IT JUSTIFY A MAJOR TAX INCREASE?

● Mr. KASTEN. Mr. President, as the budget summit proceeds this week, I think it's important to review the academic research and the empirical evidence about the impact of budget deficits on U.S. interest rates. Conventional wisdom is that large budget deficits cause high real interest rates, which in turn crowds out private spending in financial markets and reduces economic growth. According to this thesis, if we raised taxes to lower the budget deficit, interest rates would decline.

To be sure, economic theory supports the argument that large deficits cause interest rates to be higher than they otherwise would be. But a significant body of academic studies by mainstream economists has found little or no correlation between deficits and high interest rates.

In a 1970 study, former Council of Economic Advisers Chairman Martin Feldstein found that throughout the period from 1954 to 1969 the decline in real per capita publicly held Federal debt; that is, the slow growth of nominal debt, put downward pressure on interest rates; but the study also found that the Federal deficit—measured by the change in public debt—is not significant in explaining interest rates.

In a review of U.S. historical data, William Dewald writes in a 1983 article for Economic Review, Federal Reserve Bank of Atlanta that "deficits in themselves have not been a critical factor in high real interest rates.* * *"

After reviewing the data on 3-month Treasury bill rates from 1959 to 1981, economist John Makin of the American Enterprise Institute writes in a 1983 article for Review of Economics and Statistics that the possible significance of "crowding out" can only be judged as "mixed to weak"; and that over the period examined the positive relationship between deficits and high interest rates was only marginally significant.

Prof. Paul Evans of Ohio State University has conducted empirical studies which take into account lag effects, inflation, and the evidence from other countries without finding any consistent effect of deficits on interest rates of inflation.

Research by University of Rochester Prof. Charles Plosser published in the Journal of Monetary Economics in 1983 finds no correlation between government debt and interest rates. In contrast, he found a consistent relationship between high levels of government spending and high interest rates.

Economist Charles E. Webster, Jr., in a study published by the Economic Review, Federal Reserve Bank of Kansas City, concludes that "empirical evidence does not necessarily contradict the view that budget deficits have no effect on interest rates, real or nominal. To the extent that such an impact occurs, the magnitude appears small."

A 1983 study by Ali Reza, chief economist for Gulf Oil Corp., suggests that the Federal deficit does not cause changes in either the real rate of in-

terest or real output, and clearly does not increase either of them.

In a 1986 econometric study published in the Journal of Economics by Prof. Michael D. Bradley of George Washington University demonstrated that although increases in government spending increase interest rates, "increases in the stock of government bonds, by themselves, do not force up interest rates."

As one study put it, "in over a century of U.S. history—including three periods when the Federal deficit exceeded 10 percent of national income—large deficits have never been associated with high interest rates." The actual experience of the United States in the 1980's supports this assertion—see the accompanying table.

Indeed, U.S. deficits and interest rates almost always moved in opposite directions during the 1980's. Similarly, in the seven major industrialized countries—including Japan, Canada, and West Germany—in the 1980's, real interest rates declined as budget deficits increased.

This evidence suggests that other factors—short-term monetary policy in particular—may have had a more significant impact on the level of interest rates than the deficit. In fact, many of today's calls for a tax increase are being made due to the serious misconception that the Federal Reserve will lower interest rates in response to a tighter congressional fiscal policy.

But the Federal Reserve is concerned not primarily with the congressional budget process, but with the inflation that still lingers as a threat to the real economy. Even if the Federal Reserve were to follow the strategy proposed by the tax increasers, the result would be stagflation—high inflation in a slow-growth economy.

In highlighting these facts, I do not want to minimize the importance of balancing the budget. However, the current hysteria about the deficit is largely unrelated to the facts of the case. Today's deficit is significantly smaller as a percentage of GNP than it was throughout most of the 1980's. The Congressional Budget Office estimates that the official fiscal year 1991 budget deficit—including the budgetary costs associated with the Resolution Trust Corporation—will rise to $160 billion. However, as a percentage of gross national product, the baseline deficit will decline from 2.9 percent of GNP 1991 to 1.5 percent of GNP in 1995.

The evidence shows that a major tax increase will not guarantee lower interest rates. Meanwhile, the tax increase will have a direct and potentially disastrous impact on the ability of private individuals to consume, invest, and save which in turn jeopardizes our prospects of continued economic growth and job creation in the 1990's. The budget summit's deficit-cutting efforts should instead focus on reducing the growth rate of government spending.

Mr. President, I hope that other Senators will join me in urging the negotiators at the budget summit to examine the facts before rushing into shortsighted and counterproductive solutions like tax hikes.

I ask that a table on deficits and interest rates in the 1980's be printed at this point in the RECORD.

The table follows:

INTEREST RATES AND THE DEFICIT

| Year | Prime rate | Change | Deficit as percent of GNP | Change |
|---|---|---|---|---|
| 1981 | 18.87 | | 2.6 | |
| 1982 | 14.86 | Down | 4.1 | Up. |
| 1983 | 10.79 | Down | 6.3 | Up. |
| 1984 | 12.04 | Up | 5.0 | Down. |
| 1985 | 9.93 | Down | 5.4 | Up. |
| 1986 | 8.33 | Down | 5.3 | Down. |
| 1987 | 8.22 | Down | 3.4 | Down. |
| 1988 | 9.32 | Up | 3.2 | Down. |
| 1989 | 10.50 | Up | 2.9 | Down. |

Source: "Budget of the United States, FY 1991," historical tables; Joint Economic Committee, "Economic Indicators," January 1990.●

## FORMER MEMBER OF CONGRESS JAMES R. MANN ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, I would like to take this opportunity to share with all Senators a letter I have recently received from former Member of Congress James R. Mann, endorsing congressional term limitation. Mr. Mann was a representative from South Carolina from 1969 to 1979.

I ask that Mr. Mann's letter appear in the RECORD immediately following my remarks.

The letter follows:

GREENVILLE, SC,
*May 5, 1990.*

Re S.J. Res. 235.

Hon. GORDON J. HUMPHREY,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR HUMPHREY: I am pleased to pledge my support to the enactment of your bill limiting legislative tenure.

I will be standing by to assist in any way that I can. I see no point in detailing my reasons for supporting this constitutional amendment. Since my service in the South Carolina legislature (House of Representatives) 1949-52, I have seen and expressed the desirability of limitation of legislative terms.

Sincerely,

JAMES R. MANN,
*M.C., 91st-95th Congresses, 1969-79.*●

## PUEBLO'S YOUNG CHAMPION

● Mr. WIRTH. Mr. President, I would like to take this opportunity to salute a young woman from my State who is truly an inspiration to her community—and who is demonstrating that courage and spirit can work miracles.

The young woman's name is Amanda Prater, and she hails from Pueblo, CO. Last weekend I had the opportunity to meet Amanda and presented her with airline tickets to visit Washington, DC, later this summer. She is a remarkable young woman, and in advance of her trip to the Nation's capital, I wanted to take a moment to share her story—which is not only about her courage, but also the compassion of her community, and the generosity of corporate leaders many miles from Pueblo, CO.

Seventeen-year-old Amanda is fighting cancer. Yet, her battle with this disease did not discourage her from competing with hundreds of high school students for a nomination to attend a 6-day Congressional Youth Leadership Council conference in Washington, DC. Despite considerable physical and emotional obstacles that would deter most people, young Amanda Prater was determined not to give up. Her perseverance was rewarded when she was notified earlier this year that she would have the opportunity to attend the Congressional Youth Leadership Council program.

Unfortunately, Amanda's family did not have the financial resources to pay for Amanda's trip. Her battle with cancer absorbed most of the family's savings, and 2 weeks ago it didn't look like Amanda would be coming to Washington, DC.

The people of Pueblo, CO, however, were not prepared to stand by and watch while this young woman's dream of coming to the Nation's capital was dashed. In a spirit of compassion and neighborhood concern that marks Pueblo's history as a frontier community, the local newspaper, the Pueblo Chieftain, Amanda's school friends, and her neighbors all got together to try raising the money she needed to make the trip.

When I learned of Amanda's story through the efforts of a concerned Puebloan, Eva Smith, I contacted the corporate leadership of Trans World Airlines [TWA] to see if they could help. TWA maintains flights between Pueblo and Washington, DC, and although the airline's corporate headquarters was thousands of miles away in New York, everyone associated with the company wanted to help. TWA provided airline tickets for Amanda, and demonstrated that corporate leaders are also members of the community—and can rally their resources to help a young woman like Amanda.

I think it is important to thank TWA for their generosity, and for being good neighbors to Pueblo, CO. I also want to use this occasion to express my appreciation to Eva Smith and the people of Pueblo for proving that we really are our "brother's keeper"—and that caring for one an-

other is the true measure of a community.

Finally, and most important, I want to salute Amanda Prater for her courage, her determination, and her spirit as a young American leader. We look forward to welcoming her to the Nation's Capital this year.●

## TRIBUTE TO MR. BERNARD "BENNY" PUCHALSKI

● Mr. SIMON. Mr. President, I want to join with Chicago and Illinois labor leaders to pay tribute to Bernard "Benny" Puchalski, who has retired after 44 years of service with the Iron Workers.

Recently, more than 1,500 people gathered in Niles, Illinois to pay tribute to Mr. Puchalski, who is one of Illinois' most respected and prominent labor leaders. Mr. Puchalski began his labor career in 1946 after 5 years of service in the U.S. Marine Corps. He served in the South Pacific, attaining the rank of master sergeant, before terminating his military service in 1946.

When he returned to Chicago, Mr. Puchalski was employed as an Iron Worker in local 1 where he soon became business agent, a position he held for 9 years. In 1963, he was appointed general organizer of the International Association of Bridge, Structural and Ornamental Iron Workers. That same year he was elected president of the Greater Chicago and Vicinity Port Council, Maritime Trade Department, AFL–CIO, a position he has held for the past 27 years. In 1967, he was elected president of the Iron Workers District Council of Chicago and Vicinity of which the Will County Iron Workers Local 444 is a member.

Throughout his career, Mr. Puchalski has not only rendered meritorious service to the labor movement in Chicagoland, but has contributed to the community as a whole by serving in numerous civic positions on both the State and local levels. Although he has diligently served on many committees and received awards and appointments too numerous to mention, Mr. Puchalski never neglected his responsibilities to the Polish-American community of the Chicagoland area.

His wife, Estelle, and their five children and seven grandchildren were all present to help celebrate the occasion.

Howard Norberg and Jerome E. Sobczak were labor leaders who expressed gratitude to Mr. Puchalski at his retirement dinner. Mr. Sobczak, president of the Will-Grundy Trades and Labor Council stated:

> There is not anyone in a position of leadership in the labor movement who does not know "Benny" Puchalski and his dedication and efforts in behalf of his members and friends in the labor movement. He will be hard to replace. We wish him health and happiness for a superb job well done.●

## HOUSE CONCURRENT RESOLUTION 87—PERSECUTION OF THE BAHA'IS IN IRAN

● Mr. SIMON. Mr. President, I wish to join my colleagues in support of House Concurrent Resolution 87, which the Senate adopted yesterday. This measure expresses our grave concern about the continued persecution of the Baha'i religious minority by the Government of Iran.

Like many of us, I had hoped that with the accession to power last year of Iranian President Rafsanjani, succeeding the Ayatollah Khomeini, we would see an end to the campaign of harassment directed at the Baha'is, who comprise Iran's largest religious minority. Unfortunately, there seems to have been no change at all in the Iranian Government's attitude.

We had all been encouraged by a trend toward moderation in Iran's treatment of Baha'is, who number around 300,000. It has now been over 2 years since a Baha'i was executed in Iran. And the number of Baha'is held in prison has fallen from an average of over 700 in the mid-1980's to fewer than 20. By these actions, the Iranian authorities have admitted tacitly that the Baha'is pose no threat to society. They are guilty of no political crime. In fact, the tradition of their faith requires them to submit to governmental authority. The Baha'is voluntarily disbanded their organizations in Iran in 1983, in response to a governmental decree.

All the Baha'is ask is to be permitted to live according to the dictates of their conscience: to worship openly, operate schools, and elect their own leaders.

In response, the Iranian Government continues to hold Baha'is in prison. It is known that Baha'i prisoners have been tortured to compel them to accept Islam. Tens of thousands have been expelled from universities, dismissed from their jobs, and denied their pensions. Their property has been confiscated. And many Baha'is have been forbidden to travel outside Iran.

This systematic policy of persecution—especially the prohibitions on worship and education—constitutes a deliberate effort by the Iranian authorities to destroy the Baha'i community as a religious group. This meets the definition of genocide as contained in the United Nations Genocide Convention. Four times since 1985 the U.N. General Assembly has adopted a resolution condemning Iran's human rights policy in general and its treatment of Baha'is in particular. And the U.N. Commission on Human Rights has passed a similar resolution every year since 1981.

Mr. President, the continued persecution of Baha'is is an obstacle to any improvement of relations between the United States and Iran. Senate Concurrent Resolution 87 expresses the view of the U.S. Congress that the Government of Iran must be held accountable for upholding the rights of its largest religious minority. I urge the Iranian authorities to release those Baha'is who remain in prison because of their beliefs, and to end the legal and social sanctions which aim to wipe out the Baha'i community in Iran.●

## USE OF THE CAPITOL ROTUNDA

Mr. SIMPSON. Mr. President, I send a concurrent resolution to the desk on behalf of Senator DOLE and Senator MITCHELL.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 133) providing for the use of the Capitol Rotunda.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 133) was agreed to.

The preamble was agreed to.

The concurrent resolution and its preamble are as follows:

S. CON. RES. 133

Whereas America can never forget the sacrifices of our brave military heroes: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the rotunda of the Capitol may be used on Thursday, May 24, 1990, at 10:30 a.m., to allow the assembling of members of Congress for ceremonies celebrating American Military Heroism.

SEC. 2. The Architect of the Capitol may prescribe conditions for physical preparations with respect to the use of the rotunda authorized by the first section.

Mr. SIMPSON. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Items Nos. 775 and 776.

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in

the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Donald G. Wiseman, of North Carolina, to be a member of the Occupational Safety and Health Review Commission for the remainder of the term expiring April 27, 1993.

Velma Montoya, of California, to be a member of the Occupational Safety and Health Review Commission for the remainder of the term expiring April 27, 1991.

## LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE PLACED ON THE CALENDAR—H.R. 1236

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 1236, a price-fixing prevention bill, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE 1990 SPECIAL OLYMPICS TORCH RELAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 286, regarding the 1990 Special Olympics Torch Relay, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 286) authorizing the 1990 Special Olympics Torch Relay to be run through the Capitol Grounds.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 286) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## RELIEF OF RICHARD SAUNDERS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 538, providing for the relief of Richard Saunders.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1128) for the relief of Richard Saunders.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. Notwithstanding the Act of March 4, 1931 (46 Stat. 1530), or Executive Order 5843 or any land classification based thereon, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to Richard Saunders (hereinafter referred to as the "beneficiary"), subject to the provisions of section 2, approximately 15.69 acres of land in township 6 south, range 32 east, Mount Diablo Meridian, section 21, northeast ¼, northeast ¼, in Inyo County, California, as depicted on a map entitled "BLM Land Conveyance to Richard Saunders/Inyo County, California" and dated April, 1990.

SEC. 2. The Secretary shall convey the land referred to in section 1 upon receipt of the fair market value of such land, as determined by the Secretary. Such land shall be conveyed subject to valid existing rights and any documentation of conveyance shall contain a reservation of all mineral rights to the United States. The beneficiary shall reimburse the Secretary for all administrative costs associated with the implementation of this Act, including, but not limited to the costs of a survey, if required.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1128) was passed, as follows:

S. 1128

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Notwithstanding the Act of March 4, 1931 (46 Stat. 1530), or Executive Order 5843 or any land classification based thereon, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to Richard Saunders (hereinafter referred to as the "beneficiary"), subject to the provisions of section 2, approximately 15.69 acres of land in township 6 south, range 32 east, Mount Diablo Meridian, section 21, northeast ¼, northeast ¼, in Inyo County, California, as depicted on a map entitled "BLM Land Conveyance to Richard Saunders/Inyo County, California" and dated April, 1990.

SEC. 2. The Secretary shall convey the land referred to in section 1 upon receipt of the fair market value of such land, as determined by the Secretary. Such land shall be conveyed subject to valid existing rights and any documentation of conveyance shall contain a reservation of all mineral rights to the United States. The beneficiary shall reimburse the Secretary for all administrative costs associated with the implementation of this Act, including, but not limited to the costs of a survey, if required.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## CONVEYANCE OF CERTAIN LANDS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Item No. 539, S. 1738, regarding a land conveyance in Oregon.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1738) to convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon to the Rogue Community College District, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1738

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. CONVEYANCE OF LAND.

(a) CONVEYANCE.—Subject to section 2, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to land described in subsection (b) to the Rogue Community College District in Josephine County, Oregon (hereinafter in this Act referred to as the "District").

(b) LAND DESCRIPTION.—The land referred to in subsection (a) is land in Josephine County, Oregon, described as **[**Township 36 South, Range 6 West, W.M., Section 27.**]** *Township 36 South, Range 6 West, W.M., Section 27, southwest ¼, northeast ¼.*

SEC. 2. LIMITATIONS ON CONVEYANCE.

The conveyance authorized by section 1(a) is subject to the following limitations:

[(1)] *(a)* ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

[(2)] *(b)* MINERAL RIGHTS.—Such conveyance shall reserve to the United States all minerals in the land, including geothermal rights, together with the right to prospect for, mine, and remove the minerals and geothermal resources.

[(3)] *(c)* RIGHT OF WAY FOR DITCHES AND CANALS.—Such conveyance shall be subject to the proviso in the fourth undesignated paragraph under the caption entitled "United States Geological Survey" in the first section of the Act of August 30, 1890 (26 Stat. 371, 391) (43 U.S.C. 945).

[(4)] *(d)* REVERSIONARY INTEREST.—Such conveyance shall be subject to a reversionary interest in the land described in section 1(b) to be held by the United States. If such land ceases to be used for educational purposes, all right, title, and interest in and to such land shall revert to the United States and shall be identified, classified, and managed as Oregon and California Railroad Grant Lands.

[SEC. 3. PURCHASE OF LAND AFTER REVERSION.

[If the land described in section 1(b) should revert to the United States by operation of paragraph (4) of section 2, the District may acquire such land from the United States, during the two year period ending after the date the land has reverted to the United States, by quitclaim deed, upon application to the Secretary of the Interior and the payment of the fair market value of such land and any improvements thereon.]

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1738) was passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. CONVEYANCE OF LAND.

(a) CONVEYANCE.—Subject to section 2, the Secretary of the Interior shall convey, without consideration , all right, title, and interest of the United States in and to land described in subsection (b) to the Rogue Community College District in Josephine County, Oregon (hereafter in this Act referred to as the "District").

(b) LAND DESCRIPTION.—The land referred to in subsection (a) is land in Josephine County, Oregon, described as Township 36 South, Range 6 West, W.M., Section 27 southwest ¼, northeast ¼.

SEC. 2. LIMITATIONS ON CONVEYANCE.

The conveyance authorized by section 1(a) is subject to the following limitations:

(a) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(b) MINERAL RIGHTS.—Such conveyance shall reserve to the United States all minerals in the land, including geothermal rights, together with the right to prospect for, mine, and remove the minerals and geothermal resources.

(c) RIGHT OF WAY FOR DITCHES AND CANALS.—Such conveyance shall be subject to the proviso in the fourth undesignated paragraph under the caption entitled "United States Geological Survey" in (the first section of the Act of August 30, 1890 (26 Stat. 371, 391)(43 U.S.C. 945).

(d) REVERSIONARY INTEREST.—Such conveyance shall be subject to a reversionary interest in the land described in section 1(b) to be held by the United States. If such land ceases to be used for educational purposes, all right, title, and interest in and to such land shall revert to the United States and shall be identified, classified, and managed as Oregon and California Railroad Grant Lands.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AUTHORIZATION TO PRINT ADDITIONAL COPIES OF THE DOCUMENT "OUR FLAG"

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 311, a concurrent resolution just received from the House to authorize the printing of additional copies of the document "Our Flag."

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 311) providing for the printing of additional copies of the booklet entitled "Our Flag."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 311) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ORDERS FOR TOMORROW

RECESS; JOURNAL OF PROCEEDINGS; RESERVATION OF LEADER TIME; MORNING BUSINESS; AND, THE CAMPAIGN REFORM BILL

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow; that immediately following the prayer the Journal of Proceedings be deemed to be approved; that the time for the two leaders be reserved for their use later in the day; and, that Senator SPECTER be recognized to speak for up to 30 minutes in morning business.

I further ask unanimous consent that upon the conclusion of his remarks the Senate resume its consideration of S. 137, the campaign reform bill, for debate only and that upon conclusion of that debate on tomorrow, the bill be laid aside and that no call for the regular order serve to bring the bill back, except one made by the majority leader after consultation with the Republican leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I say one thing in connection with the majority leader's very fine event with the Chancellor of Germany today. I think that was a very fruitful exchange. I thank the majority leader for holding that and giving us all an opportunity to visit with the Chancellor of such a staunch ally. I thought that was all conducted with great civility and good humor and was very productive.

Mr. MITCHELL. For the information of our other colleagues who were not present, it was a meeting in which Chancellor Kohl talked with and answered questions from a group of Senators, which was very productive and informative. I thank my colleague for his comments.

## RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess, under the previous order, until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 9:26 p.m., recessed until Friday, May 18, 1990, at 9:30 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate May 17, 1990:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

DONALD G. WISEMAN, OF NORTH CAROLINA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 27, 1993.

VELMA MONTOYA, OF CALIFORNIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 27, 1991.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

# EXTENSIONS OF REMARKS

## THE RAINBOW LOBBY AND RIGHT TO KNOW

**HON. MERVYN M. DYMALLY**
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. DYMALLY. Mr. Speaker, two organizations—the Rainbow Lobby, not to be confused with Rev. Jesse Jackson's Rainbow Coalition, Probe magazine, and an individual—Nancy Ross, filed a $2 million lawsuit against me and sought a temporary restraining order to restrain me from "copying or distributing" certain documents in my possession.

This week a Federal judge refused to grant the above said organizations a restraining order. In their press statement, on this matter, the groups claimed that release of the documents could jeopardize the safety of Zaire opposition leaders. Accordingly, I have erased the names of these persons from the document. It should be noted that these two documents have been circulating in Washington for several months, and they are obviously in the possession of other parties.

I am submitting for Member's review the so-called secret documents. It would not take too much time to conclude that this is a case of: First, much ado about nothing; and second another attempt to harass me; a fact which they boasted about in a written statement at a conference in New York, May 4, 1990, on harassment.

Following are two documents about their suit:

AUGUST 4, 1989.

MEMORANDUM

Re Zaire Investigation.
To: Jackie, Cathy and Mike.
From: Rich.

The following is a summary of new information learned over the last few weeks regarding the Dymally-Mobutu connection and Mobutu's possible travel to the U.S. in the fall:

DAN MORGAN

I spoke with Dan Morgan, a reporter with the Washington Post earlier today. I had called Morgan to tell him about the covert funding to Zaire story because I had heard from another investigator that he had been doing an ongoing series of stories about the Congressional budget process. Morgan also has a reputation as being a reporter who will dig for a story and has written extensively about Grover Connell.

Morgan was not interested in the covert funding to Zaire story saying that he has not been following foreign operations very closely. He recommended that I talk to David Ottaway about it. Morgan did say he was interested in the Dymally story (which I had also mentioned to him) and he asked that we send him our clips. Morgan said that he would talk to another Post reporter Jim McGee (sp?) who he described as being a "beat up on Black Congressman specialist." McGee has written the Post stories on Gus Savage and on Bill Gray.

COALITION FOR A FREE AFRICA

Mike K. spoke with Steve Askin today who is back in Harre, Zimbabwe. Askin said that the non-profit who he referenced in his Christian Science Monitor story was the Coalition for a Free Africa, which received a quarter million dollars donation from Mobutu. Askin said he saw a report which listed the donation and Griffy acknowledged to him that he had received the donation from Mobutu.

According to the California Secretary of State's office the Coalition for a Free Africa was registered as a public benefit non-profit organization on January 16, 1986. Richard Griffy of 1635 North Cahuenga Blvd., Hollywood is the President.

The Secretary of State's office will be sending us their income taxes (990s) for the last few years.

As we have reported in the past, Dymally, has received monies from the Coalition for a Free Africa for travel to Africa, South America and within the U.S. Dyamally was also instrumental in getting an oil contract from Griffy's company Adpic.

BLACK MANAFORT STONE & KELLY

Black Manafort Stone & Kelly signed a $1 million contract to represent Zaire that commenced July 1, 1989. Black Manafort is a prominent Washington consulting firm that Lee Atwater had worked for and is also emersed in the current HUD scandal. Black Manafort also represents Unita.

Stu Sweet is handling the Zaire account for Black Manafort and Stone. Sweet also handles the Unita account for the company. According to one Capitol Hill source, Sweet is a Democrat who was given the Unita account because he could appeal to moderate Democrats on the Hill. Sweet "may have a relationship" to Rep. Dave McCurdy a conservative democrat who sits on the intelligence committee and is pro-Unita.

According to Sweet, Black Manafort will focus on trying to increase the economic assistance provided to Zaire. He talked about how Zaire was one of the poorest countries in Africa that badly needs to have its road system repaired.

He described Zaire as being a close ally of the U.S. and said that it was "ironic" that Congress wanted to cap military assistance at $3 million when that money was going to maintain five C130 transport planes. Sweet argued that it was Mobutu who took the lead in confronting Khadafy in Chad and that it was these C130s that were used to transport troops and weapons to Chad. "Frankly our government should be thankful" to Mobutu for the leadership that he has provided.

The call to Sweet got cut off at this point as his car went under a tunnel cutting off contact with his cellular phone.

MOBUTU WATCH

Mike K. spoke to Edward von Koberg who said that he was still representing Zaire and was surprised to learn that we knew of Zaire's contract with Black Manafort. He said that Mobutu's trip in September was being handled by the Ambassador. He did not specify what dates that Mobutu would be in the U.S.

A State Department source that I spoke to said that he was unaware whether or not Mobutu was coming to the U.S. in September. He did suggest that Mobutu might be coming for the opening of the United Nations General Assembly which takes place at the end of September. A Capitol Hill source who is also very knowledgeable about Mobutu also thought that would be a likely time for Mobutu to return to the U.S.

The General Assembly officially opens on September 19. The general debate that many heads of States participate in begins on September 25 and runs through October 13. If Mobutu is speaking at the UN it would be during this period.

The official list of speakers for the debate has not been released yet. Walid Mouran an Iraqui journalist who heads the UN journalist association said that he would inquire with his sources to see if Mobutu is scheduled to speak and would let us know on Monday.

NATIONAL ENDOWMENT FOR DEMOCRACY

I spoke with Barbara Haig at the National Endowment for Democracy. Dave Peterson who handles Africa for NED was in Africa when I called. Haig did know that NED was considering doing a conference on one party democracy in Africa.

"Someone said it would be good" to have this conference in Zaire. Haig then said that the "someone" was Dymally. "He raised it as a possibility." Haig thought that Zaire, "might be a difficult place to have it." NED currently has no programs in Zaire.

The group that NED is talking to about organizing this conference is called CERDET which is located in Senegal. CERDET has received funding from NED in the past. The person in Senegal who they want to organize this conference is named Nzo.

Patterson was "discussing" this conference with people while he was over in Africa. Patterson had met a Dymally staff person, Melvina, while he was in Senegal during this trip.

The issue of one party democracy is a big issue in Africa said Haig. A lot of Westerners think that democracy has to look a certain way with multiple parties. "We thought that it would be good to take a look at it and how it has not worked so far."

DYMALLY GOES TO ZAIRE

Dymally is planning on traveling to Zaire in August, according to a Capitol Hill source.

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To: Deborah, Fred, Jackie, Hazel, Alvaader.
From: Nancy.

REPORT ON TRIP TO BRUSSELS, POLISARIO AND ALGERIA

1. Brussels: Brussels is the seat of the European Parliament and the soon to be capital of Europe. It's an extremely middle class city, you constantly feel the anti-semitism and the growth of fascism is very prevalent. The fascists won 20% of the vote in Antwerp and a large percentage (in the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

teens) in Brussels. The North African community, mainly the Moroccans are the brunt of the fascists wrath. Even cab drivers blame the Moroccans for the economic problems—taking jobs away from them, etc.

The Zairians are treated differently—like their children (but not too close) with all the patronizing and contempt people have for children, to say nothing of the racism. Immigrants are a big issue amongst the progressive community. Only the European community can vote. It doesn't matter how long you lived in Belgium you can't vote.

Brussels is as dead as Paris. Abu has notes on all our meetings which are included in his report. This report will give an overview of whom we met with along with some additional thoughts and observations.

We met with every Zairian opposition group that exists and ones we didn't even know existed. There are presently two factions of the UDPS. It's hard to know whose who. One is headed by a man named K whose close to Ronald van den Bogaert. He's very nice, as are most people but not doing anything. The other is C who has been ousted from the UDPS but still calls himself UDPS. R said C has gotten into fists fights with pro-Mobutu people at press conferences and that was all the press would focus on. So while well meaning he was misrepresenting the party. We had dinner with K (whose wife is G's sister, glad to say that she is much more progressive) and lunch with C and his family. Other UDPS people from France were suppose to have joined us at C's but they came two hours late and we had to leave.

C at least came up with some ideas of what to do. Presidential elections come up in 1991. Given there are no opposition candidates to Mobutu that are allowed, people either vote for or against Mobutu. Green cards mean a pro-Mobutu vote and red cards are against. People must vote in Zaire. When people go to the polls there is an armed guard there, if they take a red card they're arrested, beaten, etc. At some point the red cards disappear. If there was to be some kind of international campaign, it seems that there would have to be an internal to Zaire campaign as well, like the Vote No campaign in Chile.

Another UDPS member we met with was O who was in the hospital after a lung operation. The man has a very moving story. He was tortured and beaten. Mobutu's guards jumped on his chest and destroyed his lungs. You actually can see a hole in his chest.

We met with T's sons some of whom were more political than others, and at least one of which seemed very progressive. They were actually very serious, asking us questions about our legislation, how congress works, what we were trying to accomplish, etc. Given they aren't leftists they and their friends were the most serious. We also briefly met with T's brother who had to escape from Zaire and is now teaching in Antwerp.

Ronald has much influence over the UDPS. It's like his movement, though other than disseminating information they really don't do much. Ronald just quit his job at the European Parliament working for the Socialist Party. He said that now that the Socialist are in power they've completely backed off of their opposition to Mobuto. At one point Ronald told us about a coup that was in the process of being planned. This information is confidential. He said that there is a man named (not sure of spelling) B based in Zambia who used to be in the FLNC, but whose key supporters are former Mobutu military people, that is in the process of planning a coup. He said they have trained an army which is based in Zambia. They plan on attacking Shaba and Kinshasa. He said that Mobutu probably has gotten wind of something in the works but expects an attack in another region, not in Kinshasa. He said they believe a mistake of Shaba I and II was they didn't move into Kinshasa at the same time they attacked Shaba. They feel they must gain support from the people in Kinshasa so as to make sure that Shaba can't be isolated. R said B does not have an ideology, mainly anti-Mobutu, though he is progressive. However, his collaborators are conservative. I asked how they could train without being seen. He said Zambia is large and it's easy to hide. He said they've been bringing weapons into Zaire for sometime now and hiding them. He said things are so chaotic its not that difficult. He also said that B had once written a book, but didn't remember the name of it.

I'm not sure if this is connected, but a few months ago, the Zambians called me and asked if we would check on a Belgium news story saying that the Zambians were working with anti-Mobutu military forces that were planning on overthrowing Mobutu. I checked the story out and none of the press people in Belgium ever read anything like that. The story came in the News information packets the Zambians receive from their ministry. I asked N, without saying why, if he heard of B and he hadn't. I asked him if he knew of any groups based in Zambia. He said that someone told him that Solidarite, Ludo Martin's paper (who I mention below) mentioned that some former Zairian military men were based in Zambia, but that was all the article said.

Our Belgium Press Conference: You saw the results of our press conference. Some of the coverage was good, and some of it used A's statement about burning down Mobutu's castles to attack us. There is a political and geographic split in Belgium between the north which is Flemish and the south which is French. The Flemish papers tended to be supportive and the French more conservative. Both in both cases we got lots of press coverage and were all over the Belgium newspapers. We have developed several good media contacts, and met individually or spoke with most of the progressive media. As you know, Glenwood Roane from ZARI was at the press conference handing out Clouds Blur the Rainbow. One 'leftist' type press person from de Morgan, who ended up writing a supportive piece was the only one who asked if we allied with Larouche and aren't we opportunizing off of the RC. He asked this in a separate interview we had with him when we returned to Brussels.

We also met with C who said she was going to write a piece on the Rainbow Lobby to counter the article in Het Belang which said we did nothing except Zaire and reportedly got our money from Antwrep diamond dealers. So far the article has not been printed. She's away so I haven't been able to check what happened.

We met with many of the MNC/L groups. Our posture was that we don't support any particular opposition group but all the opposition to Mobutu, and mainly the work we could do together was share information. They all basically asked us for either money so they could make the revolution or to bring them to Washington so they could tell the truth about Mobutu.

We met with the Government in Exile whose leader, passed through here last year, that's how we met C. They're extremely middle class, and asked us to represent them. A asked them who recognized them given they were a government in exile. They then proceeded to ask us to introduce them to governments.

We met with D and A who is an older man who fought in the Shaba uprisings and was part of the original FLNC. Like the rest of these folks they seem well meaning but have nothing. They claim they have an FLNC active chapter inside Angola headed by Lt. Colonel. Did you ever hear of this person? What I've heard from others is that basically the Zairian opposition inside Angola has been dispersed. Many are farmers or have been integrated into the Angola. While some are part of the Angolan army, I have heard that they are dispersed and not a cohesive Zairian unit.

Met with F and K—another MNC/L group. They too asked us to bring them to Washington. Their saving grace was F's wife who is a former Zairian student and helped organize student demo's in Brussels after police opened fire on students in Kinshasa. She was very progressive, and not surprising super interested in the independent movement. Generally, we found the women to be much more progressive and smarter than the men. Also met with M's group which was all Zairian students, very middle class. One of their students had just escaped from Zaire after participating in student demonstrations. They set up a classroom type forum, where one young man gave a presentation explaining the history of Zaire, and they we presented and they asked questions. Nothing more to say.

We met with an organization of NGO's (non-government org's) called NCOS. This is a church funded organization that has development projects in Zaire. They're very decent and very patronizing. They said at one point, "how do we make a revolution in Zaire." They just wrote a book on corruption in these programs, in French which we have. They also have a newspaper they put out in Zaire. They're good to exchange information with.

Met with Green Party in Belgium parliament. They work on Zaire, but the thing to talk to them about is third party politics. While we began to talk about NAP, the meeting was cut short since they had to go to parliament. We probably should start sending them the NA. We were supposed to meet with them when we came back to Brussels but both Abu and myself were too sick so had to cancel. They produce briefing papers on Zaire on particular issues coming before parliament which would be helpful to have, such as on the debt situation.

One thing about the European Parliament before I forget. They have several projects in Zaire and in Africa—In Zaire, Cocoa coffee plantations, rehabilitation of copper mines and rebuilding roads.

Met with the Rainbow Group—they're folks who are centered around the European Parliament both as staffers but also as people who have no job relation to the EP. They're mainly CP members and some independent leftists. They say they have a women's group involved but no one from the women's group could come to the meeting. They said they came together because the Green's, by virtue of getting elected wouldn't take certain positions on social issues. They're again very decent but haven't built anything. The CP in Belgium has a long history but barely exists from what I could tell. The CP has a seat in the Flemish congress, but not in the European

or Belgium parliament. The North and South (Flemish & French) have separate parliaments plus there is a Belgium parliament. In 68 or 72 the CP broke with the Soviet Union. They were part of the Euro Communism movement. Now they say they are trying to find expression outside the social democratic controlled movement. They emphasized that they were not sectarian communists, eager to work with everyone and that they believed in democracy. We met with 2 CP members and one independent leftist who had heard of Fulani and said he wanted to see if he could raise money to bring her to Belgium.

The CP plus another group that was centered around a progressive former European Parliament person and former minister (religious not political) named *Jef Ulburgh* were very eager to keep in touch and develop an alliance with us, not just on Zaire issues but on other issues as well. We were like a spark of hope for them. They were thrilled to learn about the independent movement. Two of the people who worked with *Ulburgh* asked lots of questions about how we raised money, what issues we organized around, etc. *Ulburgh* was the one who introduced all the anti-Mobutu resolutions into the EP. He was a member of the Socialist Party but the party just refused to accept him again. I'm not exactly sure how the EP works. His name was on a list of potential delegates to the EP, and the party can chose a certain number of delegates. *Ulburgh* says he was too radical. *Ulburgh* and others are eager to build a movement but don't know how and I believe don't know what they're building a movement around. In the meantime he is going to southern Italy to begin organizing around immigration issues. As a minister he had organized in the Italian community who came to Belgium from 1969 to 80 to work in the mines. He built an organization called the World School which ran support programs for the miners. *Ulburgh* also just ran as a Socialist Party delegate from southern Italy and did quite well. The way we left it with *Ulburgh* was that we would exchange information, invite each other to conferences and to speak if appropriate.

The Rainbow Group said one of the ways the debt crisis works in Mobutu's favor is when Belgium cancels the debt to Zaire, that means he is more able to pay the commercial banks. Who ends up paying the state debt is the people of Belgium.

## A TRIBUTE TO THE AYER POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Ayer Police Department for their dedicated and outstanding service to the people of Ayer, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Ayer Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Phillip L. Connors and those who serve in the Ayer Police Department:

Donald Haapakoski, Bradley Madge, John Wyman, Paul Cormier, William O'Connell, David Bonner, Mark Coulter, Judith Hadley, Dana Beauvais, Harver LaPrade, John Bousack, William Murray, Lt. Arthur Boisseau.

## ABANDONED BABIES ADOPTION ACT

### HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BLILEY. Mr. Speaker, today, along with Representative H. FAWELL, Representative C. HOLLOWAY, and Representative L. SMITH, I am introducing legislation to amend the foster care and adoption assistance sections of the Social Security Act. This legislation addresses the tragic problem of so-called border babies, or babies abandoned at birth by their parents.

The premise of the legislation and the impetus behind the legislation is simple—these children have a right to form a bond with loving parents in a stable home. Yet, what too often happens to these children who are not only abandoned at birth but often substance abused before birth, is that they languish first in the hospitals and then in foster care. Foster care is intended to be a temporary situation. However, the way it currently exists, it is not. For example, in New York City, 60 percent of the babies discharged from the hospital to foster care were still in foster care 3 years later.

In a recent study by the Office of the Inspector General [OIG] of the Department of Health and Human Services it was observed that the adoption process can take up to 3 years. Currently, legal rules and agency policies can make it so difficult to free children for adoption that fewer than 10 percent of the children in foster care are even put up for adoption.

Given the current situation in the child welfare system, it is critical that steps be taken to expedite the adoption of children who are abandoned during the formative months occurring shortly after birth. That is the intent of this legislation. It requires that States amend their laws and policies to expedite the procedures to recruit and place abandoned babies in permanent adoptive homes.

Within 30 days after a baby is abandoned the State must recruit and place this child with a preadoptive family. This preadoptive family shall have 90 days to petition the court for an expedited adoption hearing. This expedited or fast track procedure was recommended by the OIG study for ensuring permanent homes, and removing placement barriers.

An abandoned baby is defined under the legislation as a baby who is not older than 6 months. What we want to do, quite simply, is to speed up the adoption process for these newborns while they are still adoptable. Experts agree that newborns have a clear advantage over older children in being adopted.

Finally, this legislation requires that abandoned babies be considered children with special needs in order to make them eligible for the adoption assistance program.

This legislation is aimed at society's most vulnerable population: babies abandoned at birth.

## TRIBUTE TO REV. ROBERT V. LOTT

### HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GREEN. Mr. Speaker, at the end of this month, the St. Francis de Sales Parish Center, in Manhattan, will pay tribute to a distinguished member of my constituency, Rev. Robert V. Lott. On Wednesday evening, May 30, 1990, the parish will celebrate the 25th anniversary of Rev. Lott's ordination to the priesthood.

Father Lott, pastor at the St. Francis de Sales Church in New York, has maintained an undying commitment to clerical service. He has been involved with the North American Academy of Liturgy, the Archdiocesan Liturgical Commission and has held many different parish assignments throughout his career. His community involvement includes active participation with such organizations as the Council of Senior Centers and Services of New York City, the Partnership for the Homeless, and the United Neighbors of East Midtown, to name a few.

Father Lott will be honored at Wednesday's special event in New York City for all his outstanding accomplishments in community and church service. I should like to extend a heartfelt congratulations to Father Lott on this very special occasion.

## A TRIBUTE TO KEITH T. JONES

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Keith T. Jones, of Rumford, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for East Providence Senior High School, in East Providence, RI.

This award is presented to the student, chosen by East Providence Senior High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Keith has certainly met these criteria while at East Providence Senior High School. He is graduating first in his class with a GPA of 95.89. Keith is also a member of the French Club and is a member of the school's varsity baseball team.

I commend Keith for his outstanding achievements and wish him all the best in his future endeavors.

## ZAIRE LEADS PROTECTION OF AFRICAN ENVIRONMENT

### HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. PORTER. Mr. Speaker, I would like to commend the Government of Zaire for their recent moves to protect the environment of Africa.

The recent White House Conference on Science and Economic Research Related to Global Change brought together a multitude of countries. At the conference Zaire provided a clear example of what an under-financed, developing country can do to protect the environment.

The Government's environmental policy is unprecedented in central Africa. Recently, Zaire announced several progressive steps including: the protection of 7.8 percent of Zaire's national territory in parks and nature preserves with plans for doubling the reserves to some 37.5 million hectares in the next decade. Zaire also strengthened laws dealing with environmental protection and established a trained body of personnel to combat the poaching of Zaire's elephant population.

Today Zaire is one of the leading African nations in the environmental arena. We must regard these efforts and encourage other African nations to follow this example.

## EDWARD J. DERWINSKI DISTINGUISHED PUBLIC SERVANT

### HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BROOMFIELD. Mr. Speaker, this morning, a dear friend and former colleague will receive the Distinguished Service Award from the U.S. Association of Former Members of Congress. I can think of no one who is more deserving of this high honor.

For almost a quarter of a century, Ed Derwinski and I served together in the House, working side by side on the House Foreign Affairs Committee, where Ed earned a reputation as one of our most knowledgeable members on foreign affairs.

Ed retired from Congress in 1983 but not from public service. Secretary of State George Shultz tapped him to serve as Counselor of the State Department and later as Under Secretary of State for Security Assistance, Science and Technology. His accomplishments earned him the State Department's Distinguished Service Award in 1988. Among those notable achievements were his role in resolving longstanding irritants between the United States and traditional allies as varied as Canada and Iceland and the new nations of Micronesia and Oceania.

When the new Department of Veterans Affairs was created last year, President Bush called on Ed to be our Nation's first Secretary of Veterans Affairs. Once again, he has served with distinction.

It is indeed an honor to join my colleagues in extending our sincerest best wishes and congratulations to Ed Derwinski.

## A TRIBUTE TO THE TOWNSEND POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Townsend Police Department for their dedicated and outstanding service to the people of Townsend, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Townsend Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a Nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief William May and those who serve in the Townsend Police Department:

Richard Vance, Barry Brown, Erving Marshall, David Profit, John Johnson, John Carter, Paul Morrison, James Marchand, Cheryl Mattson, and Thaddeus Rochette.

## A TRIBUTE TO JENNIFER M. FARIA

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Jennifer M. Faria, of Bristol, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for Bristol High School, in Bristol, RI.

This award is presented to the student, chosen by Bristol High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Jennifer has clearly met these criteria while at Bristol High School. Her academic record is outstanding as she is graduating sixth in her class. Her extracurricular activities are also equally impressive. She is the vice president of the student council and a member of the executive board. Jennifer is the secretary for the National Honor Society and the editor of the school yearbook. She is a varsity cheerleader and is also the secretary of the French Club.

I commend Jennifer for her outstanding achievements and wish her all the best in her future endeavors.

## ALLOW CHIROPRACTORS TO BE COMMISSIONED IN THE MILITARY

### HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. EVANS. Mr. Speaker, today, I am offering a bill to allow chiropractors to be commissioned in the military and provide care as members of the armed services.

Chiropractors are an integral part of our Nation's health care system. Chiropractic services are provided under Medicare, Medicaid and vocational rehabilitation. All 50 States, including the District of Columbia, Puerto Rico, and the Virgin Islands license chiropractors as recognized health professionals. The Department of Health and Human Services defines chiropractors as category I health providers, the category that includes medical doctors and dentists.

Despite this recognition in other branches of government, the Department of Defense does not commission chiropractors as officers. Because of this, members of our Armed Forces are missing an effective form of health care.

My bill, in addition to allowing chiropractors to be commissioned, would establish pay rates for military chiropractors roughly equivalent to the rate for military dentists. The bill would also establish special pay requirements for chiropractors who have been board certified, undergone internship service, or have fulfilled service requirements.

I urge my colleagues to join me in sponsoring this commonsense legislation which would insure that our fighting men and women receive the best possible medical care. It is time that the Department of Defense got in line with the rest of the Federal Government on this issue. As somebody who has personally enjoyed the benefits of chiropractic service, I think it is long overdue.

## SUBSTANCE ABUSE TREATMENT CORPS ACT OF 1990

### HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GREEN. Mr. Speaker, today I rise with my colleagues, Mr. STARK, Mr. GLICKMAN and Mr. GRANT to introduce legislation which

would address the staffing crisis in drug and substance abuse treatment. The primary objective of the Substance Abuse Treatment Corps Act of 1990 is to get more drug and substance abuse treatment personnel into our Nation's areas of need, both urban and rural. This legislation adopts many of the concepts of the National Health Service Corps and focuses on training and placing more substance abuse treatment providers.

The lack of sufficient numbers of treatment personnel is the leading contributor to the crisis in substance abuse treatment. The Substance Abuse Treatment Corps Act will remedy that shortage by increasing the availability of treatment services for drug and alcohol abuse in health worker shortage areas. If adopted, this legislation will go far to attract certified and qualified individuals to serve in the Substance Abuse Treatment Corps. In return, the Federal Government will agree to repay, for each year of service, not more than $20,000 of the principal and interest of the individuals educational loans.

As many of my colleagues know, an abundance of statistical evidence reveals there is a crisis in substance abuse treatment. According to a recent study released by the National Association of State Alcohol and Drug Abuse Directors [NASADAD], only one in eight people who need treatment is receiving it. The latest National Drug and Alcoholism Treatment Unit Survey from the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism indicated that only 1 in 11 people who needed treatment was being served.

The need for substance abuse services in New York City and throughout the Nation continues to be unmet and the current treatment system has been unable to expand. In 1989 the State of New York reported that 4,891 people were on the waiting list for drug abuse treatment, and an additional 2,166 were on the waiting list for alcohol abuse treatment. The average days estimated between request for treatment and admission to treatment is 65 days. We should not have to tell an addict who wants treatment to come back in 2 months or 6 months. We should have treatment facilities that can handle the demand for treatment.

Although the administration has proposed increasing the Federal anti-drug budget by $1.1 billion—total drug war budget $10.6 billion—in fiscal year 1991, more than 70 percent of that total would be spent on law enforcement and interdiction. Treatment, which effectively reduces demand, has tragically been underfunded in our war on drugs.

The Substance Abuse Treatment Corps Act of 1990 is a response to the President's call for improving the existing drug and substance abuse treatment system with more adequately trained personnel. The legislation has been endorsed by the National Association of State Alcohol and Drug Abuse Directors, the American Association for Marriage and Family Therapy and The American Society of Addiction Medicine, Inc.

The Substance Abuse Treatment Corps Act will go a long way to address the demand side of the substance abuse problem that continues to plague individuals and families in both urban and rural America. I encourage my colleagues to give this proposal serious consideration as we continue in our efforts to eradicate the drug scourge.

## REFUSENIKS CONTINUE TO BE DENIED BASIC HUMAN RIGHTS

### HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. PORTER. Mr. Speaker, last year President Bush stated that he would not waive the Jackson-Vanik amendment for the Soviet Union until the Soviets codified and faithfully implemented a law on freedom of emigration.

Despite the fact that 1989 saw a record exodus of Soviet Jews, the President remained true to his word and I commend him for that.

On the eve of the upcoming summit, I urge him to once again stand firmly behind human rights and compel the Soviets to honor their stated commitment to freedom of emigration.

There are still over 300 long-term refuseniks who are arbitrarily being denied their basic human right to live where they choose.

One case, Boris Kelman, a 10-year secrecy refusenik, was recently told that he would not be allowed to apply to leave. Why? Because his invitation came from a cousin and not a first degree relative.

Mr. Speaker, this is completely unacceptable.

There is no compelling reason why we should reward the Soviets with preferential trade treatment so long as they continue to violate international human rights agreements.

Our policy should remain—no benefits until all refuseniks are released and free immigration is institutionalized under the rule of law.

## A WARM WELCOME TO THE PRESIDENT OF TUNISIA

### HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BROOMFIELD. Mr. Speaker, I urge my colleagues to join me in giving a warm welcome to President Zine el Abidine Ben Ali of the Republic of Tunisia on the occasion of his first State visit to Washington. I hope that his visit is both productive and enjoyable.

The United States-Tunisian relationship is over 200 years old. Tunisia was among the first countries to recognize the independence of the United States during our Nation's early years. Since that time, the United States and Tunisia have maintained a good relationship and share many values. Today, Tunisia remains one of the most open and democratic States in the Arab world.

The foundation of Tunisia's success was laid under the leadership of Habib Bourguiba, the father of independent Tunisia. After President Bourguiba became ill in 1987, there was a smooth transition of power in accordance with the Tunisian Constitution. Since that time, President Ben Ali has pledged his commitment to strengthening democratic values. Since assuming the Presidency, he has also implemented economic and political reforms which will benefit the people.

On the political side, President Ben Ali has sought to make the government more responsive to the needs of the Tunisian people. He has limited the number of terms that a President may serve and most political parties have been legalized. Last year, free and open elections were held for the first time with a wide range of political parties participating. In addition, thousands of political prisoners have been released and their civil rights restored in a general amnesty announced in 1989. The United Nations Convention on Torture was ratified by the Tunisian Parliament.

On the economic side, the government of President Ben Ali has implemented a structural reform program supported by the United States, the IMF and the World Bank. Tunisia has met or exceeded all of the IMF targets despite the significant economic challenges that confronted that country. The lingering effects of a 2-year drought has forced the Tunisian Government to spend 10 percent of its budget on unanticipated grain imports. This has slowed economic growth. Tunisia currently faces a heavy external debt burden and high unemployment. Nevertheless, it continues to be a responsible debtor nation and has met all of its international obligations.

President Ben Ali is to be commended for his commitment to democracy and the progress that Tunisia has achieved thus far. I believe that the United States should continue to assist the Government of Tunisia in meeting its goal of economic and political freedom for all Tunisian citizens. Welcome to America, President Ben Ali!

## TRIBUTE TO THE LITTLETON POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Littleton Police Department for their dedicated and outstanding service to the people of Littleton, MA, in the protection of life, liberty, and property.

Each day, the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Littleton Police Department, the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this

time to recognize the contributions of Chief Thomas Odea and those who serve in the Littleton Police Department:

Joseph Lombardo, Robert Romilly, Steven Ziegler, John Hagan, Paul Hollingsworth, Greg Irvine, John Kelly, Matthew King, Paul Baratta, and Thomas Delegee.

## REQUIREMENTS WITH RESPECT TO INFANTS BORN TO SUBSTANCE-ABUSING WOMEN

### HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BLILEY. Mr. Speaker, today, I am introducing legislation with Representative CLYDE HOLLOWAY to ensure that newborns born to drug-abusing mothers are given the appropriate medical attention they so desperately need. This proposal would require States to establish procedures to test and treat newborn infants born to drug abusers.

Newborn urine toxicology screens are an important way of identifying which mother-child pairs are in need of help. I believe that testing newborns for drugs would aid the health provider in establishing or supporting a diagnosis of neonatal drug withdrawal; in identifying the drugs used in order to anticipate the course of withdrawal, and to guide drug therapy if required.

Clearly, newborn urine toxicology should be used in conjunction with a complete knowledge of maternal drug history. However, testimony before the Select Committee on Children, Youth, and Families reveals that many health care providers do not know how to take a drug history. Furthermore, several studies show that self-reported drug use among pregnant women results in underidentification of illicit drug use. Simply put, self-reports are not an accurate measure of illicit drug use among pregnant women.

This legislation will provide an opportunity for the mother to confront her addiction and with the support of medical and social work professionals make important decisions, not only about her own treatment, but about the future of her newborn child.

The rights of the mother would be protected under this legislation by requiring a clear medical determination that she is drug or alcohol addicted prior to testing the infant. Furthermore, this legislation protects the rights of the health-care provider by granting immunity from civil or criminal liability for performing such tests. This will allow physicians to aggressively treat these fragile and sick newborns from the moment they are born.

Children born disabled by maternal drug use can only benefit from early detection and the development of appropriate services designed to meet their special needs. Testimony before the Select Committee on Children, Youth, and Families reveals that a newborn baby can be a powerful motivator in helping a drug-addicted mother seek treatment.

Only by early identification can appropriate action be taken to get both mother and baby the help they so desperately need.

## IN SUPPORT OF HUMAN SERVICES REAUTHORIZATION

### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mrs. MORELLA. Mr. Speaker, I am pleased to speak in support of H.R. 4151, the human services reauthorization bill, which reauthorizes the Head Start Program. This year marks the 25th anniversary of Head Start, a program begun in 1965 as part of the war on poverty, to ensure that economically disadvantaged children would begin school ready to learn.

H.R. 4151 would reauthorize the Head Start Program through fiscal year 1994. Follow Through, State Dependent Care Development Grants, and Community Food and Nutrition are among the other programs reauthorized by this legislation.

Mr. Speaker, I urge my colleagues to continue to support Head Start. It is a program that works. It has served nearly 11 million children in the past 25 years. Reauthorization of H.R. 4151 will show the Federal Government's firm commitment to America's neediest residents and dearest hopes.

## A TRIBUTE TO CHRISTOPHER LA-BONTE

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Christopher LaBonte, of Pawtucket, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for William E. Tolman Senior High School, in Pawtucket, RI.

This award is presented to the student, chosen by Tolman High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Christopher has clearly met these criteria while at Tolman. He is this year's student council president as well as the editor of the yearbook. Christopher was also a class officer for his junior year.

I commend Christopher for his outstanding achievements and wish him all the best in his future endeavors.

## CONGRATULATIONS TIM SETTERDAHL

### HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. EVANS. Mr. Speaker, today, I would like to take a moment to congratulate a young man from Rio, IL, Tim Setterdahl. Tim, a sixth grader at Alwood Elementary School, was recently awarded first place in the "Round the World Writing Contest," sponsored by the International Trans-Antarctic Expedition.

The essay contest was part of a science project that gave students the opportunity to track the trans-Antarctic expedition that was led by William Steger of Minneapolis. As part of the project, students at AlWood staged their own expedition donning winter coats and pulling sleds loaded with supplies through the school halls.

It is certainly refreshing to see students like Tim and his classmates take such an active interest in world events, for it is today's youth who will assume leadership roles in our Nation's future. I am, therefore, pleased to insert Tim's essay into the RECORD.

ROUND THE WORLD WRITING CONTEST

(By Tim Setterdahl)

International cooperation will help Antarctica's environment and the world's. One way is to renew the treaty. I think it should be renewed because, if not, Antarctica's beauty would be on the verge of becoming a continent of man instead of a continent of nature's beauty. If there wouldn't be a treaty, all countries would be fighting for land and soon Antarctica would have no more beauty.

My next idea is to have more international expeditions such as this one. I think this expedition will help people realize that the beauty of Antarctica can occur in their own country. This idea may help people not to pollute the air and that might save the ozone layer.

I think this expedition will help the relationships between all the countries. Maybe they will realize and cherish, all together, the world's environment. Also, maybe they will realize the earth is very fragile and will learn to treat nature and the world's environment with care.

For sure, there should be no wars in Antarctica! It would ruin Antarctica's reputation. Antarctica is supposed to be a peaceful place, and it should stay the way it is now, peaceful. If a war should just happen, Antarctica would never be the same ever again.

I think each person who goes to Antarctica should have a purpose to go there. If too many people go there, they will just make Antarctica trashy and hopefully that will never happen.

I think the animals should be protected in Antarctica. Some animals are only able to exist in Antarctica. Hunters shouldn't be able to hunt them for meat or oil, for some examples. Animals that can stand temperatures about 80 degrees shouldn't be killed. Someday if hunters kill the animals, they might become extinct.

The plant life also shouldn't be killed. Of the very few plants living in Antarctica, the extraordinary plants might be killed and then someday the plants, just like the animals, may also become extinct.

I don't think countries should be able to drill for oil in Antarctica. I think all of Antarctica's natural resources should just be left alone. It would be neat to think of Antarctica as being 100 percent natural.

## A TRIBUTE TO THE CARLISLE POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Carlisle Police Department for their dedicated and outstanding service to the people of Carlisle, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Carlisle Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief David Galvin and those who serve in the Carlisle Police Department:

Earnest Steward, John Sullivan, Nancy Iosue, Craig Grogan, Richard Tornquist, Bruce MacNeil, Thomas Whelan, Neal Archambault, William Tee, Stephen Otto, W. Royce Taylor, Mark Schofield, Leo Crowe, Kevin Walsh, Steven Curley.

## CHAPIN HOME FOR THE AGING HONORS JOHN A. GAMBLING

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ACKERMAN. Mr. Speaker, I rise so I may share with you and all of our colleagues a little bit of the glorious history of New York City—my hometown.

In a few days, the citizens of the city will celebrate the anniversary of the Chapin Home for the Aging.

Mr. Speaker, this place is truly among the institutions of New York. Shortly after the Civil War, an outstanding woman of vision and energy, Mrs. Edwin H. Chapin, realized a growing need within the growing city was for a humane home where the senior citizens who served their city and Nation so well could find support and rest. So in 1869, the Chapin Home was opened.

As the new century took hold, so too did the industrial revolution with its associated hustle, bustle, and pollution. As I have indicated, Mrs. Chapin was a woman of great vision and, in 1910, she moved the home to a better location. She chose a new home for her home in Queens, a Borough of New York without equal, and my home county.

Today, Mr. Speaker, on the 121st anniversary of the Chapin Home for the Aging, plans are underway for more improvements, including a new 220-bed building.

As part of this year's celebration, the wise trustees of the Chapin Home have decided to honor another institution equally essential to New York—radio personality, John A. Gambling. John A. is the current host of WOR Radio's "Rambling With Gambling" program.

For 65 years, the City has started its day listening to "Rambling With Gambling." John A.'s father, John B., inaugurated the broadcast in 1925. In the future, the station will continue to bring news, information, and intelligent conversation to the city with John A.'s son, John R., at the helm.

Today, when Billboard Magazine formally recognizes John A. Gambling as "Air Personality of the Year," these experts are simply acknowledging fact.

When the listeners of the metropolitan area choose John A. as New York's favorite radio personality, they merely confirm what is already well known to John A.'s fans and competitors alike.

Not as well known, John A. and his wife, Sally, are the proud parents of three children and five grandchildren. Besides John R., the Gambling daughters, Ann and Sarah, pursue their own professional careers while maintaining their families.

New York City is a richer place because both John A. Gambling and the Chapin Home are there.

Mr. Speaker, I call upon all my colleagues in the U.S. House of Representatives to join me in paying tribute to John A. Gambling and the Chapin Home for the Aging.

## IN HONOR OF DIAMOND ELEMENTARY SCHOOL

### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mrs. MORELLA. Mr. Speaker, I take great pleasure in commending Diamond Elementary School in Gaithersburg, MD, for being honored as an outstanding school in the U.S. Department of Education National School Recognition Program. The program each year honors outstanding schools on the basis of their instructional programs, school improvement efforts, quality of teaching, school climate, and parent and community involvement. This year's emphasis was also placed on schools with a "can-do" attitude toward problem solving.

I congratulate Mr. Alfred Sklarew, principal of Diamond Elementary, and the students and staff, on this public recognition of their fine school. The success of this Montgomery County public school can be attributed to strong administrative leadership, the commitment of the staff and teachers, and enthusiastic support from the community. Mr. Sklarew stated, "Our motto is We Dream, We Dare, We Do. The outstanding staff, parents, and students at Diamond are proud of this award. All of our excellence came shining through."

Let me take this opportunity to thank Diamond Elementary School for its service to the community of Montgomery County, MD, and to wish them continued success in the years to come.

## A TRIBUTE TO GILLIAN L. FELDMAN

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Gillian L. Feldman, of Lincoln, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for Lincoln High School, in Lincoln, RI.

This aware is presented to the student, chosen by Lincoln High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Gillian has certainly met these criteria during her stay at Lincoln High School. Her academic record is impressive. Gillian is a Presidential Scholars Program semifinalist and is a commended student in the National Merit Program. She is a member of both the Rhode Island and the National Honor Society. Gillian is also honored as this year's salutatorian for Lincoln High School.

I commend Gillian for her outstanding achievements and wish her all the best in her future endeavors.

## NATIONAL POLICE WEEK AND PEACE OFFICERS MEMORIAL DAY

### HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. SANGMEISTER. This week has been declared National Police Week and May 15th as Peace Officers Memorial Day. I would like to take this time to recognize all current and former police officers for the dedication and sacrifice they have displayed on and off duty. Most people work 8 hours and call it a day. For a police officer, his or her responsibilities and duties run 24 hours a day, 7 days a week. Even though police officers do have regular work schedules, they must be continuously on alert. What would our lives be without the protection of police officers? I find it unthinkable. For those who take the police for granted, just imagine the insecurity and disorder that would exist without them. With great pride, I can say the police officers of the Fourth Congressional District are truly our finest. Mr. Speaker, at this time, I would like to pay special tribute to those brave officers who have died in the line of duty. These heroes have given the supreme sacrifice of all—their previous lives. Finally, I want to thank the National Law Enforcement Officer Memorial Fund for their efforts on behalf of police officers throughout

the Nation for making it possible to establish a memorial in the Nation's Capital.

## ON BEHALF OF PROF. ERIC E. CONN

### HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. FAZIO. Mr. Speaker, today I rise in honor of the notable accomplishments of Eric E. Conn, a California professor and plant biochemist, who has not only been a pioneer in his field, but has also dedicated himself to the promotion of valuable scholarly accomplishments. In recognition of this level of dedication, Conn was awarded in March the 1990 University of California at Davis, Prize for Teaching and Scholarly Achievement, which is believed to be the largest monetary award of its kind in the country.

Established by the Cal Aggie Foundation, the $25,000 prize pays tribute to Professor Conn's ability to set high standards for academic achievement in undergraduate teaching.

Frank Press, president of the National Academy of Sciences, describes Conn as an inspiration and credit to all scientists, noting the importance of providing students with a high-quality education. Professor Conn, who was elected to the prestigious scientific organization in 1988, is, according to Press, a reminder to the education field that "one person can make a difference."

Eric Conn has been a member of the UC Davis faculty since 1958, and in that time has been credited with playing an instrumental role in the development of biochemical research and teaching on campus. He helped shape the campus' budding biochemistry and biophysics department in the late 1950's and established the department's basic biochemistry course, which he continues to teach with his colleagues. To supplement the course, he coauthored the textbook "Outlines of Biochemistry," which is now in its fifth edition and used in classrooms around the world.

Professor Conn is renowned for his research in the area of cyanogenic glycosides, substances that produce cyanide in plants. His studies focused on understanding the process of cyanide formation in plants and the role played by the poisonous substance in plant metabolism. According to other scientific research in the field, the cyanide substance provides a valuable chemical line of defense for the roughly 2,000 plant species known to produce cyanide, protecting them from grazers and the invading growth of other plants.

Mr. Conn's laboratory on the UC Davis campus, is nationally recognized for its emphasis on natural plant products, and has attracted graduate students and postdoctoral researchers from at least 10 countries, including Germany, Denmark, Australia, and Japan.

During his years as an instructor, Professor Conn has been responsible for enlightening thousands of undergraduate students to the chemical processes that power living things. Like his colleagues, students consistently give him high ratings for his enthusiastic teaching style. Not only has he proven to be an effective communicator, he also gives up time outside of the classroom to assist students.

Former students of Professor Conn described his approach to teaching as one which makes learning a pleasurable experience. He utilizes his clarity and patience, and creates explanations that are worth waiting for.

Professor Conn maintains that he has no formal teaching philosophy, although he admits being influenced in teaching style by former professors at the University of Colorado and the University of Chicago. From these two men, Ruben Gustavson and Birgit Vennesland, he developed an understanding of lecturing skills, and the importance of imparting enthusiasm and encouragement to students.

During his years as an instructor, Professor Conn has been recognized for his aptitude as a teacher and scientist with awards such as the Distinguished Teaching Award and the Faculty Research Lecturer Award, which is given annually by faculty peers at UC Davis. On a more literary note, he was a coeditor of a 15-volume reference set titled "The Biochemistry of Plants: A Comprehensive Treatise," later described by researchers as an emerging classic for plant scientists. He is past president of the Phytochemical Society of North America and the American Society of Plant Physiologists and has served on the editorial board of several scientific journals.

Mr. Speaker, today I wish to highlight and applaud Mr. Conn's most recent achievement and, at the same time, draw attention to his lifelong commitment to quality education and scientific innovation. His service to UC Davis as an instructor and researcher are invaluable to both his students and the scientific community. I wish him luck in all future endeavors and congratulate him on all his past achievements.

## A TRIBUTE TO THE WESTON POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Weston Police Department for their dedicated and outstanding service to the people of Weston, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Weston Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief James McShane and those who serve in the Weston Police Department:

Robert F. Allenberg, Mark Alonzi, Roland W. Anderson, Jr., Edward J. Barbetti, Paula A. Barbetti, Ronald E. Benotti, John C. Bentley, Gilbert C. Boyles, John Brewer, Edmund Burke, Susan Cappello.

Robert M. Cook, Vincent P. Corcoran, John Cronin, Patricia Delaney, John J. Forti, William F. Garrigan III, Thomas M. Healey, Francis J. Hines, Jr., Michael E. Joyal, John Lyons, Daniel C. Maguire.

Stephen A. McShane, Betty J. Millen, Robert C. Millen, Jr., Dale A. Muldoon, Walter P. Nelson, Thomas F.W. Nime, Leo Richards, Steven F. Shaw, Richard P. Staunton, Douglas Gray, Barbara Terrio, Brian Malone, Michael Murray, Thomas Zagami.

## THE C-17 AND FAST SEALIFT: THE CONTINUING NEED FOR STRATEGIC MOBILITY

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ANDERSON. Mr. Speaker, the past year has brought remarkable changes in the world, changes which have greatly impacted our thinking on the necessity and numbers of American forward-deployed troops. The virtual disintegration of the Warsaw Pact as an effective fighting force, the eruption of democracy in Eastern Europe, and the imminent reunification of Germany have all brought into question the need for a large American troop presence in Europe. The Central Intelligence Agency's new estimates of greatly increased warning time NATO would have before a Soviet invasion of Western Europe means we can look seriously at how to bring the majority of our boys home from Europe. Any floors that the administration has recommended on numbers of U.S. servicemen in Europe are quickly turning into ceilings. To complement European developments, Secretary of Defense Cheney recently announced troop reductions in the Pacific Rim.

In these exciting times of peace and arms reductions, we must not lose sight of the important fact that the United States is a European power. Even more salient is the fact that the United States has emerged from the cold war as the only superpower on this Earth. There is no nation which holds the combination of military and economic power as the United States does, bemoaners of America's decline aside. Our commitments to peace, stability, and the protection of American interests have not diminished. With this in mind, our thinking must be long term if we are to continue to enjoy the current dividend of peace we have earned through the expenditure of American lives, effort, and money. If we have learned one overriding lesson

through the last 45 years, it is that peace is reinforced through strength, both economic and military, and the resolve to use that strength should the need arise.

I state this belief today because I see a disturbing trend arising. There are many Americans who would bring our boys home, leaving the United States an isolated and impotent power. The death of hundreds of thousands of American servicemen in the past century should have taught us by now that peace is to be earned and not wished for. I believe we can start to reduce America's forward-deployed forces, but we must then build the ships and planes we need to put them back in place should the circumstance arise. A soldier or a tank sitting in the United States counts for little if we do not have the capability to put that force on target when needed.

This fact makes it imperative that Congress support the C–17 and fast-sealift programs. Both programs provide the United States with the capacity to move large amounts of material over short periods of time. We have only to look to "Operation Just Cause" in Panama to see the demands upon strategic airlift. This relatively small operation used a staggering percentage of our airlift capability. Those planes used are not getting any younger. At some point in the near future, a significant amount of our airlift will have met its useful service life. The structures can only take so many flying hours. The C–17 not only modernizes an aging fleet, but remedies a serious shortfall. I am concerned that Secretary of Defense Cheney's Major Aircraft Review bit too deeply into the number of these aircraft we are going to build. The C–17 will be able to put a great deal of equipment into an area on short notice, and on airfields that are short and primitive. The plane can perform both the tactical and strategic mission; a capability no other airlifter in the Air Force's Military Airlift Command can perform.

The fast sealift program, like the C–17, strengthens our ability to move equipment in a timely fashion. While it is certainly true that the requirement to transport supplies and equipment to Europe from the United States in 4 or 5 days may have become obsolete due to the events in Eastern Europe and the Soviet Union, no Member of this Congress believes there aren't still significant threats to United States interests and allies in the world. The capability to intervene quickly is critical. I would emphasize a crucial axiom of war: The side that puts the most men, equipment, and material in the area of operations the quickest, and then has the capacity to resupply and reinforce that initial commitment, is the side that invariably wins. These programs are not tradeoffs and one should not be emphasized over the other. Studies have shown we do not have enough of either capability. Should the United States have to intervene somewhere, and the fight is not as short as the one we saw in Grenada or Panama, I have no doubts both systems would be utilized.

There are those who would detract from these programs, labeling them unnecessary in the postcold war world. Increasing estimates of the warning time which the United States will have to prepare for a conflict in Europe is often the statistic most referred to denigrate our need for these programs. But increased warning time does not mean we have increased the time period in which we will act. Too often we debate, redebate, and then debate a little more the wisdom of action in the face of ominous warnings and act only the minute before a crisis. Often action only occurs after a crisis. Furthermore, it is clear that our military focus is slowly being refocused off the plains of Europe and on the possibility of wars in the Third World. Past experience has taught us that minor conflicts can become hot very quickly.

Giving the armed services and the President the capability to respond to crises with the proper application of force if it is deemed necessary is critical. All the sophisticated hardware, quality personnel, and training in the world matter not one bit if our military forces cannot be put on target in a timely manner. Fast sealift and the C–17 allows the President great flexibility and the capacity for a speedy response in a wide range of conflicts. If we are to maintain our status as the leader of the free world, and preserve democracy for future generations, we must have these programs and we must fully support them.

## HONORING THE THIRD ANNUAL SPECIAL OLYMPICS IN HOLYOKE, MA

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. CONTE. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the third annual Special Olympics which is being held in Holyoke, MA, on May 23 and 24. Over 350 special needs students will be participating in a variety of modified athletic events.

I am proud to represent the people of Holyoke who have worked hard over the past 3 years to make the Special Olympics the success it is today. The community support combined with the dedication of the Holyoke Public School staff have produced a much anticipated and most successful event.

We all know that the principle behind the Special Olympics is to provide the most enjoyable, beneficial and challenging activities for mentally retarded athletes. Special Olympics believes that through sports training and competition, people with mental retardation benefit physically, mentally, socially, and spiritually; families are strengthened; and the community at large, both through participation and observation, is enriched by sharing with mentally retarded people an environment of equality, respect and acceptance. The people of Holyoke have incorporated the principles created in 1968 by the Joseph P. Kennedy, Jr. Foundation into their annual Special Olympic games.

I am proud to inform you, Mr. Speaker, that in this year's games, the families of Special Olympic athletes will be taking an active role in the program. The success of parent-child events which stress cooperative efforts carries over into their work, their education, and their home life. These are just several of the benefits which result from the camaraderie and spirit associated with the Special Olympic games.

I salute the participants of the third annual, Holyoke, MA, Special Olympics. It is important that we continue to expand this program and keep alive the motto of the Special Olympics athletes: "Let me win, but if I cannot win, let me be brave in the attempt."

## TRIBUTE TO THE MOUNT CLEMENS PUBLIC LIBRARY

### HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the Mount Clemens Public Library on its 125th anniversary.

In 1865, at the end of the Civil War, the Mount Clemens Public Library was born. The first location of the library was in a room on the third floor of the old Union School building. Its founder, Mr. Silas Wood, was principal of the Union School from 1865 to 1869. Mr. Wood's collection of books was a 19th century version of the book mobile. The books moved from the school to the courthouse and then to the chamber of commerce building.

Finally, Mr. J.B. Estabrook, superintendent of schools, solicited funds from multimillionaire industrialist, Mr. Andrew Carnegie. In 1902, Mr. Carnegie referred to Mount Clemens, MI, as "a go ahead city." With those words he donated $17,000 for the construction of a library to be built on land formerly owned by the city's founder, Mr. Christian Clemens. This building served as the library's home for 65 years, but by the late 1950's every square inch of space had been used for either work or storage.

It became obvious that a new library was needed. In 1969, under the leadership of Library Director Ms. Miriam Altman, the present library building was opened. Today, the library collection includes over 120,000 book volumes, 180 periodical subscriptions, sound recordings on LP, cassette and compact disc and over 700 documentary and feature film video cassettes.

On this the 125th anniversary of its founding, the commitment of the library staff is the same as Silas Wood's was back in 1865: To provide the best possible informational, educational and recreational materials to the citizens of Mount Clemens.

## A TRIBUTE TO DOUGLAS QUENTIN WILLIAMS

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Douglas Quentin Williams, of Cumberland, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for Cumberland High School, in Cumberland, RI.

This award is presented to the student, chosen by Cumberland High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Douglas has certainly met these criteria during his stay at Cumberland High School. Douglas moved to Rhode Island from Texas in his sophomore year. While enrolled in honors courses at Cumberland, Douglas maintained a 3.7 GPA and will graduate fifth in his class. He has also been selected to the National Honor Society.

I commend Douglas for his outstanding achievements and wish him all the best in his future endeavors.

## A TRIBUTE TO ANGELO TSAKOPOULOS

### HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. FAZIO. Mr. Speaker, I rise to honor one of Sacramento, CA's most outstanding citizens, Angelo Tsakopoulos. A visionary, a philanthropist, and a humanitarian, he is truly the embodiment of the American dream.

On May 10, 1990, the Society of Fellows of the Anti-Defamation League honored Angelo Tsakopoulos by presenting him with the Distinguished Community Service Award. Hundreds of his friends and admirers joined his wife, Sofia, and his family at the Arco Arena for a gala dinner to witness this tribute to Mr. Tsakopoulos.

Few people ever achieve the success and stature that Angelo Tsakopoulos has. His love of family, his generosity to numerous causes and his commitment to the betterment of his community have earned him the recognition he so rightly deserves.

I would like at this point to enter into the RECORD the speech that Angelo Tsakopoulos made in acceptance of the ADL award. At a time when we are experiencing a rise in racial and ethnic tensions, his remarks are particularly relevant. I highly recommend that each of my colleagues read this excellent speech.

SPEECH BY ANGELO TSAKOPOULOS BEFORE THE ANTI-DEFAMATION LEAGUE, MAY 10, 1990

Members of the clergy, honored guests, dear friends: I cannot fail to be moved by this honor which comes from an organization whose purpose and program are recognized as the fountainhead of human relations.

I realize that this award is not to honor the accomplishments of an individual but to symbolize a great moral cause—the cause of justice, civil rights and fair treatment for all citizens alike. THAT . . . I believe, is the spirit and design of the award. It is an expression of vigil—seeing that our heritage of democratic ideals is a reality for all Americans and for all mankind.

Being linked with such a noble belief arouses a lasting feeling of gratitude. It is a pleasure to join the ranks of past recipients of ADL's Distinguished Community Service Award.

Several years ago a provocative article titled—(are my Jewish friends ready for this)—"Are the Jews really a Greek Tribe?", appeared in the Jewish Chronicle of London.

The author was Joseph Yahuda, a master of Hebrew and Greek as well as an eminent Inner Temple lawyer. He wrote "that Biblical Hebrew is, in fact, Greek, conceivably camouflaged Greek—but Greek nonetheless. Moreover, the ancient Hebrews are themselves an ancient Greek tribe."

In Yahuda's view, a group of the Hebrews led by Abraham, the great dissenter, broke away from the traditional religious conceptions of the Greek tribes. This group insisted on worshiping the one Eternal Power behind the images that the other Greeks worshiped.

Now, that's a fascinating thread of history for scholars to unravel. But—there is a common connection between the Greek and Jewish Experience. We see it here in America.

Starting about the turn of the century, the doors of this bountiful land were opened wide for over two decades to welcome newcomers from other nations. They crossed the seas by the tens of thousands, hoping that their adopted land would be free of old-world prejudices and economic barriers. With only their dreams, these immigrants left their native lands to build a future in a new world.

This extraordinary history is familiar to most of us. After all, we are the product of the greatest immigration story in America.

Unfortunately there is a dark side to this story. Naturalized citizens of that generation tell us that for many, their American experience was pitted with discrimination and unfair treatment.

One outcome of the Jewish experiences of those early days is the Anti-Defamation League of B'nai B'rith, an agency of broad accomplishments in the field of civil and human rights. Its presence is worldwide. Its influence is significant.

The footprints of ADL can be traced along our country's trail of human rights. Long ago, when films and the media portrayed offensive stereotypes, the young ADL was in the forefront of curbing bias. Thus, it became a torch of tolerance and decency. Before World War II, the League rallied the national conscience against Hitler's propaganda, and ADL emerged as a force in the hearts and minds of the American people. After the war, the organization spearheaded the offensive to eliminate discrimination against minorities by selected professional groups, graduate schools, and neighborhoods.

From such actions, ADL gained a solid reputation in the private sector's efforts to secure opportunity for all Americans. The League's role is well-known in the passage of the 1960's civil rights law as well as in landmark cases before the United States Supreme Court on school desegregation. Such participation brought strength to our national community and earned the gratitude of our people.

I congratulate the Anti-Defamation League on its distinguished contributions as a guardian of fair play in the civic and economic life of our country.

As we know, American Jews were not alone in their struggle to combat the disease of bigotry and bias. Like them were the Irish, Italians, Asians, Blacks and Mexicans. The early Green immigrants also fought acts of violence and hostile prejudice. Here in the West the Bingham Strike of 1912, Ludlow Massacre of 1914, Carbon County Strike of 1922 are names of only a few bloody events that made a difference in the fight for justice and human rights.

In that climate of toil and rage, along with poisonous attacks of the Ku Klux Klan, AHEPA—the American Hellenic Education Progressive Association—was founded in 1922 in Atlanta, Georgia, where ten years earlier Leo Frank was tried by prejudice as the "Yankee Jew". He was falsely accused and subsequently lynched, an act that spurred the birth of the Anti-Defamation League.

There were many more unjust acts—most too painful to recount.

Oppression is bad in any form. We should be grateful to our parents and grandparents who recognized this, and fought oppression by organizing groups, such as the ADL, NAACP and AHEPA.

My feelings are rooted deeply in the soil of occupation where Hitler's lieutenants were the masters of my family's fate in Greece. In those black years, life was a matter of survival. At first-hand I learned about the meaning of injustice, cruelty, and suffering. Although very young then, I can still remember the power and the destruction of those evil times.

Those years are in the news again. East Germany's first democratic government is trying to heal the past, asking to be forgiven for Nazi atrocities. Rightfully, Scott Ury of the Anti-Defamation League said that part of the change in human rights for all people sweeping Eastern Europe "includes these new governments—and particularly East Germany—taking responsibility and admitting the crimes of the past."

Mr. Ury's assertion is relevant throughout the world. A case in point is the denial of the mass murder of 1.5 million Armenians by Ottoman Turkey between the years 1915–1923. This was the first genocide of the twentieth century. It is a matter of historical record. But a shocking development is the well-organized and well-financed propaganda effort to rewrite the pages of history on this genocide. If the revision is allowed, then there will be hope of success for those who claim that the Holocaust victims were simply casualties of war. Such thinking is wrong. We must remember past horrors and atrocities. History must not be rewritten to exclude them. The need to remember is why we have commemorative events.

Recently when U.S. Senate Resolution 22 condemning the death of Armenians as genocide was defeated, many of us reacted as did state Senator Nicholas Petris calling the defeat "deplorable conduct and a shame on our leaders for failing to face-up to the facts."

I appeal to the Anti-Defamation League for its cooperation, and indeed, its leadership. I urge ADL through its 31 regional offices in the United States to support the Armenian Genocide resolution when it comes up again for a vote n the U.S. Senate. If the world community had reacted as it should have to Turkey's genocide of the Armenians, Hitler would not have been able to say "Who remembers the Armenians" and there may not have been a Holocaust in World War II.

Sadly, the Turkish government even violates the laws of the United States. It's American-equipped forces occupy almost forty percent of the small island-nation of Cyprus, and threaten Greek sovereignty in the Aegean. For the first time in fifty years, places of worship of another people are being systematically destroyed or converted into mosques. In other times, synagogues were destroyed or changed into warehouses. Even now, today, a United States ally is turning church after church into mosques.

If yesterday it was a synagogue and today it is a church, then tomorrow it might be a synagogue again that comes under attack. We must stand together. We must not allow this to go on in Cyprus or anywhere.

I also appeal to ADL and its International Affairs Division for active support of the rule of law bills which condition all aid to Turkey on—among other points—the removal of Turkey's illegal occupation troops and colonists from Cyprus.

These disputes are not simply Greek-Turkish issues. The disputes involve the rule of law, the fundamental principle of democratic government—majority rule with minority rights, and, in general, basic human rights. It's in the American interest to apply our laws to all nations alike.

Concerning recent events in the Holy Land, I applaud the many Jewish organizations and ADL in particular, for the strong statement made by Abraham Foxman, the League's National Director. His statement expressed deep concern about Israel's secret financing of a takeover of property owned by the Greek Orthodox Church in the Christian Quarter of Jerusalem's Old City.

Here in America if we are to continue to pave the way toward the kind of society that we all seek to build, we must educate our people with such programs as "A World of Difference" sponsored by the Anti-Defamation League of B'nai B'rith. That program mobilizes key resources in local communities to reduce prejudice, to recognize diversity, and to promote understanding among groups. This matter is urgent, for there is a disturbing rise in crimes of bias involving militant skin-head gangs in our cities . . . hostilities against African-American, Hispanic and Asian students on school campuses, attacks against gays, and physical abuse of American-Asians in gulf ports. These trends are unacceptable.

I believe in the work of ADL. I urge all of us to actively support ADL in its efforts to protect civil liberties and human rights of all Americans—and to protect democracy. In this way we will keep America—with all her faults—the greatest country in the history of mankind.

In closing I recall my visit to Yad Vashem, the Holocaust memorial in Jerusalem. There one learns the most bitter, yet instructive lesson in history; For in Yad Vashem, one sees not only the documentation of the crime but also the triumph of faith.

There is a special library in Yad Vashem which contains on microfilm, the records of the victims of the Holocaust. There are millions of records. As one enters this library, there is an exhibit called "Page of Testimony". This "Page of Testimony" is a microfilm page from the history of each individual who perished in the Holocaust, and includes name, date and place of birth, and date and place of death.

The very first "Page of Testimony" a visitor sees in Yad Vashem is from Greece and reads as follows:

Last name: Vechoropoulos.
First name: Israel.
Born in: Yannina, Greece in 1878.
Father's name: Moshe.
Mother's name: Stamoula.

and, this simple statement,

"Israel Vechoropoulos perished in Auschwitz in March 1944."

I dedicate this award of the Anti-Defamation League to you, Israel Vechoropoulos, son of Moshe and Stamoula of Yannina, son of Greece and child of Israel.

And to all of you, my dear friends, thank you for taking time to share this occasion with me.

God Bless you all.

## A CONGRESSIONAL SALUTE TO FLOYD CLAY IN HONOR OF HIS SELECTION AS THE "1990 MAN OF THE YEAR"

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding citizen and a person I hold in the highest regard, Floyd Clay. Mr. Clay, in recognition of his distinguished career and all that he has achieved as a Los Angeles Harbor Commissioner, has been named the "1990 Man of the Year" by the Maritime Trades Department Southern California Ports Council AFL-CIO. It is an honor to bring Floyd Clay to your attention.

As a member of the Harbor Commission, Mr. Clay oversees the maritime service activity and development of Worldport LA, the leading container port in the United States. Floyd Clay was nominated to the post by Los Angeles Mayor Tom Bradley, who like many others, recognized his tremendous experience and expertise in labor relations. He also serves as a business representative and executive board member for the Los Angeles County and Vicinity District Council of Carpenters. He joined the United Brotherhood of Carpenters in 1962, followed by his appointment in 1984 as financial secretary/business representative of local 1437.

Floyd Clay was also recently appointed to serve as a Worldport LA representative to the governing board of the Joint Powers Authority [JPA] for the Consolidated Transportation Corridor [CTC] because of his longtime involvement with efficient, state-of-the-art cargo transportation systems that benefit people and the environment alike. As a result of Floyd Clay's efforts, the CTC has become an innovative project comprising railroad, street, and other related construction improvements aimed at facilitating the movement of international and domestic cargo to and from the port of Los Angeles. The CTC is also expected to reduce traffic congestion through extensive use of rail cars, resulting in improved air quality.

Mr. Speaker, I take great pride in recognizing Mr. Clay for all his vast achievements and activities in the community. He has done a great deal to make living and working in southern California a little better. I salute Floyd Clay on being named the 1990 Man of the Year, and wish his wife, Laura, and his children, Larry and Laurie, all the best for the future.

## TRIBUTE TO THE BEDFORD POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Bedford Police Department for their dedicated and outstanding service to the people of Bedford, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Bedford Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a Nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Donald Eunson and those who serve in the Bedford Police Department:

John R. McGrath, Herbert W. Pike, Robert A. D'Auria, Cary A. Whelpley, Michael A. Clouter, Thomas McNeany, Alden P. French, David M. Porter, Mark D. Barbieri, Robert A. Bartlett, Tracey Cook, James F. Graham, and Eric M. Isnor.

Louis Scott Jones, Michael A. L'Heureux, Michael A. McGravy, Robert D. McGrath, Joseph P. O'Brien, Richard F. Petrino, Robert E. Pittman, Paul C. Saunders, Jr., John B. Snyer, Jr., Jeffrey Wardwell, John P. Brosnahan, Jr., and Patrick J. Towle.

## THE REAUTHORIZATION OF THE NEA

### HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. WEISS. Mr. Speaker, I would like to share with my colleagues a New York Times, May 17, 1990, editorial entitled "America's Art, Smeared." This editorial reminds us of the National Endowment for the Art's manifold and consequential contributions, and puts the current controversy surrounding its reauthorization in perspective. Judging by recent events, this reminder is much needed.

Before proposals to disembody the NEA fully materialize, one must consider the facts: In its nearly 25 years of existence, the NEA has approved approximately 85,000 grants to arts organizations and to individuals. Less than 20—less than 0.0235 percent—of these

projects have been charged with violating public interest.

I urge my colleagues to heed "America's Art, Smeared." It is critical that we in Congress support the NEA which has benefited thousands of artists—and millions of Americans.

[From the New York Times, May 17, 1990]

AMERICA'S ART, SMEARED

To listen to all the angry commotion surrounding the reauthorization of the National Endowment for the Arts, you'd think the Endowment was in the business of funding smut. That's exactly what some far-right activists would like the American public to think.

They couldn't be more wrong—or more destructive to a program of inestimable value to the entire spectrum of American artistic activity.

In its 25 years, the Endowment has sometimes been described as too elitist and other times as too folksy, and at no times has it pleased all of the people all at once. But not until last year was it ever hit with an obscenity rap.

At that time the Endowment partly financed a retrospective of photographs by Robert Mapplethorpe, some of which depicted a sadomasochistic male homosexual subculture. And last year the Endowment awarded $15,000 to Andres Serrano, one of whose photographs was of a crucifix submerged in the artist's urine. The work of both men is confrontational, and unnerving. It has also become the weapon of those determined to smear and trash the Endowment.

Never mind that the N.E.A. has nourished an astonishing range of creativity: small museums and great art institutions; hundreds of theater and dance companies across the country; a 92-year-old maker of bobbin lace in South Dakota; thousands of film, radio and television ventures; countless artists, some of them famous now, who might never have been heard from otherwise.

Never mind that the $119 million in grants the Endowment made in 1988 encouraged citizens to contribute $1.3 billion of their own money so those projects could be completed.

No, the only things that people like Senator Jesse Helms of North Carolina and an organization that calls itself the American Family Association are able to see is those two controversial photography grants. The shining record of those 25 years of accomplishment is lost in the tumult. Worse than tumult; hysteria.

"To my mind it's like the story of Chicken Little," says Representative Sidney Yates, the Illinois Democrat who has long been such a spirited champion of the N.E.A. "When an acorn fell on his head he shouted, 'The sky is falling, the sky is falling.' Those who are criticizing the N.E.A. claim pornography is rife there. But ask them where and they've only two answers. Mapplethorpe. Serrano."

Six weeks ago the Bush Administration refused to endorse Senator Helm's proposal to stifle the N.E.A. by restricting the content of programs it supports. Since then, however, the American Family Association has become even more inflammatory and misleading. It falsely claims, for instance, that an allegedly pornographic show had N.E.A. funding. Representative Philip Crane, Republican of Illinois, once a far-right candidate for President, has introduced a bill to abolish the agency.

And now, smelling blood in the water, the National Assembly of State Arts Agencies shamelessly proposes that most of the Endowment's money be given directly to local arts councils. To do that would truly plunge national arts policy, and funds, into just the political pressures that Congress has worked so carefully to avoid.

The N.E.A. has, by someone's standards, made misjudgments in its lifetime, and if it is doing its job of fostering creativity it will make more. But it has made no mistake as great as that which will be made if good men and women in Congress, in the arts community, in the White House and across the country don't now stand up for an institution that has benefited thousands of artists—and millions of Americans.

## OLDER AMERICANS FREEDOM TO WORK ACT

### HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. SANGMEISTER. Mr. Speaker, I want to thank my colleague and good friend from Illinois, Mr. HASTERT, for introducing the Older Americans Freedom to Work Act. I believe it is time to stop penalizing senior citizens who want to continue to make a contribution by participating in the work force. Until recently, the law held that workers between the ages of 65 and 69 lose $1 in Social Security benefits for every $2 they earn above $8,800. This year seniors are taxed $1 for every $3 they earn above $9,360. The initial rationale for this law was to encourage seniors to retire early and make way for younger workers trying to enter the work force. Times have changed. Studies indicate that we are now entering a phase where there will be a shortage of workers since there are fewer younger people today. The bill introduced by Mr. HASTERT would eliminate the Social Security earnings limit for persons who reach normal retirement age. Mr. Speaker, we should be encouraging seniors to enter the work force, not discouraging them like the current law does. These are Americans with great experience who can still make important contributions to society. Let's stop penalizing workers who want to work. Support the Older Americans Freedom to Work Act.

## A TRIBUTE TO KIMBERLY BETH RICCITELLI

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Kimberly Beth Riccitelli, of North Providence, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for La Salle Academy, in Providence, RI.

This award is presented to the student, chosen by La Salle Academy, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Kimberly has certainly met these criteria during her years at La Salle Academy. She is graduating in the top 5 percent of her class and is a member of the National Honor Society. She is the recipient of the Harvard Book Award. Kimberly has been on the social committee for 4 years and her homeroom representative for 2 years. She has worked on the school yearbook for 2 years and has also ran outdoor track for 4 years.

I commend Kimberly for her outstanding achievements and wish her all the best in her future endeavors.

## TRIBUTE TO REV. ARTHUR W. FAUSER

### HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a dedicated individual, Rev. Arthur W. Fauser. Reverend Fauser is celebrating his 40th year as a priest.

Arthur Fauser was born October 20, 1925 in Detroit, MI. He was baptized in St. Charles Church in Detroit on November 8, 1925. He received his first Holy Communion and was confirmed at St. Paul's in May 1933. After graduation from St. Paul High School in June 1942, he entered Sacred Heart Seminary in Detroit. He then obtained his theological training at Mt. St. Mary's of the West in Norwood, OH.

Arthur Fauser was ordained a priest for the archdiocese of Detroit on May 20, 1950 at Blessed Sacrament Cathedral by then Archbishop Edward Mooney. Father Fauser offered his first mass at his home parish of St. Paul's in Grosse Pointe.

In September 1968 he was appointed pastor of St. Joseph's Parish in Erie, MI. Then, in 1971, he was appointed as archdiocesan consultor of Cardinal Dearden, a position he still holds. Since 1973 he has served as pastor for: St. Martin de Porres in Warren, Our Lady Queen of Hope in Detroit, St. Albert the Great in Dearborn Heights and currently for Our Lady Queen of All Saints in Fraser.

I commend Reverend Fauser on his inspirational leadership. He is a touchstone in our community and will long be remembered as a true friend.

## REUBEN A. BURTON RETIRES AFTER 34 YEARS OF SERVICE

### HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Reuben A. Burton, a man of enormous talents and energy, who retired from the State Department of Education February 28, 1990, after 34 years of service in the field of education. Dr. Burton is known and respected throughout the State and Nation for his exper-

tise in desegregation planning and implementation, investigation and prevention of unlawful discrimination, improvement of the racial climates of schools, and the development of new and innovative programs.

Dr. Burton began his career in education as an elementary school teacher in the Los Angeles Unified School District. After moving to Oakland, he served for 12 years as an elementary school teacher, school site administrator, and central office administrator in the Oakland Unified School District. While serving in Oakland, Dr. Burton developed and directed one of the first "Schools Without Walls" programs in the Nation. This program allowed students from nine school districts to come together and implement a curriculum that was designed by students, parents, and the private sector.

The success of the "Schools without Walls" program came to the attention of the State Department of Education in 1969 when Dr. Burton accepted the position of consultant in the State's title I program. In 1970, Dr. Burton moved to Washington, DC, where he worked for the U.S. Office of Education as Associate Director and chief, State grants and liaison of the National Right to Read Program. Dr. Burton served as the program's Deputy Director from 1970–73. During this time, Dr. Burton traveled throughout the United States working with chief State school officers to assist local school districts.

In 1973, Dr. Burton returned to the State department of education, as a consultant in intergroup relations. In 1974, he was named assistant chief; and in 1983, he became unit manager.

Today, Dr. Burton heads his own education consulting firm known as the Burton Group. Through the Burton Group, Dr. Reuben A. Burton will continue his lifelong commitment to equality in education.

Dr. Burton earned a B.A. from San Francisco State College, his elementary teaching credential from Los Angeles State College, a masters degree in education administration and general administrative credential from the University of California, Berkeley, and a doctorate in educational leadership from the United States International University, San Diego.

While living in Washington, DC, he met and married Frances Norton. They have a son, Reuben Anthony.

Mr. Speaker, it is with distinct pleasure that I salute the achievements of Dr. Reuben A. Burton and offer my best wishes for the future.

## TRIBUTE TO ALBERT GARCIA

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BROWN of California. Mr. Speaker, today we began consideration of what will undoubtedly prove to be a landmark piece of legislation: The Americans With Disabilities Act. As we began debate on this bill I was attending a luncheon in honor of five postal employees who have been selected as finalists for the 1990 Outstanding Employee with Disabilties Award, one of whom resides in my district in San Bernardino, CA. Mr. Speaker, because of my attendance at this luncheon I unfortunately missed two votes on the rule governing consideration of the Americans With Disabilities Act. However, based on what I saw and heard at this event, I am even more strongly committed to protecting the rights of handicapped Americans, and more convinced than ever that passage of this law is long overdue.

Mr. Albert Garcia has a 25-year record of service with the Postal Service and is currently employed by the San Bernardino Post Office Timekeeping Unit. Mr. Garcia already had a lengthy career with the Postal Service when, in 1982, he lost the sight in both eyes due to complications arising from diabetes. Mr. Garcia was forced to retire from his job and receive disability payments.

It is a tribute to Mr. Garcia's determination and strength of character that he did not allow his disability to prevent him from leading a full life. Rather than accepting his blindness he sought training at the Lighthouse for the Blind, where he met others with blindness and learned basic living skills, Braille, and how to use a cane. As a veteran, Mr. Garcia was also eligible for training at the Western Blind Rehabilitation Center, which is the VA Center for Visually Impaired Veterans. While enrolled there, he learned to use the video tech machine, which magnifies reading material 88 times its actual size. Mr. Garcia quickly learned to use this device in order to regain career status as a postal employee.

To prove his skills, Mr. Garcia requested and received samples of timecards and timekeeping forms. He demonstrated his ability to rapidly and accurately post and compute timecards, and in June 1986, he was offered a job as a time and attendance clerk.

The Postal Service selected Mr. Carcia as its western regional nominee not only for his proficiency in performing all timekeeping functions, but also for his dedication to his job. He has taken an active role in working with the blind in his community, through the Lighthouse for the Blind and other organizations.

The U.S. Postal Service has an outstanding record of employing so-called disabled citizens. This is a tribute not only to the character and determination of these employees, but also to the Postal Service's efforts to recruit and retain employees in a nondiscriminatory manner. Unfortunately, our society as a whole does not have an outstanding record in this regard.

An estimated $300 billion is lost each year due to the fact that many disabled Americans who could work, and desire to work, are barred from employment either by a lack of accessible transportation, accessible buildings, and plain and simple prejudice. It is a loss to every member of our society to deny handicapped individuals the opportunity to work and to live a complete life.

Passage of the Americans with Disabilities Act is an important first step toward removing the barriers to employment which the handicapped must contend with every day. I applaud those who, like my constituents, Mr. Albert Garcia, have already overcome those barriers. His courage and determination is an inspiration to us all.

## HONORING THE 50TH ANNIVERSARY OF THE ORDINATION OF REV. CASIMIR S. SWITALSKI OF NORTHAMPTON, MA

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. CONTE. Mr. Speaker, I rise today to commend and honor one of my most distinguished constituents, Rev. Casimir "Charles" Switalski. On May 18, the Reverend Casimir S. Switalski will celebrate the 50th anniversary of his ordination into the priesthood. I speak to you today to call attention to this distinguished occasion and a man devoted to helping others.

Father Charles as he is known to his friends, has dedicated his life to Catholicism. Upon completion of his studies at the Grand Seminary in Montreal, Canada, Father Charles was ordained at St. Michael's Cathedral in Springfield, MA on May 18, 1940. He celebrated his first mass at his home parish, St. John Cantius in Northampton, MA on May 19, 1940, the same parish he was to return to in 1975.

His leadership and concern for others has provided a source of comforting influence and inspiration to all those who have known and worked with him. Since his first parish assignment at St. Stanislaus Church in South Deerfield in 1940 until his present parish, St. John Cantius Church of Northampton, MA, Reverend Switalski has given his utmost for the benefit of others. There are not many members of the clergy, Mr. Speaker, who have the unique ability to incorporate into their work such pride in their heritage. Father Charles is one of those individuals. His is a proud Polish-American who has worked tirelessly to preserve his heritage while performing his duties within the church.

My constituents have been the real beneficiaries of Father Charles many God-given talents for he has brought an unselfish dedication and devotion to each assignment. Whether it may be celebrating Sunday mass, comforting a grieving family, feeding the hungry or doing so much for so many that may only be seen by God's eyes, Father Charles is there. It is now time for us, to whom he has given so much, to extend to him our many thanks and sincere gratitude. He is a dedicated servant and a model for the young and old alike to follow.

Father Charles' many years of hard work, Mr. Speaker, have touched the lives of thousands who will never forget his selflessness and caring. I salute a man dedicated to helping others who rightly deserves the recognition given to him. Congratulations, Father Charles, on the 50th anniversary of your ordination and may you be blessed with many more successful years ahead.

## A TRIBUTE TO THE WESTFORD POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Westford Police Department for their dedicated and outstanding service to the people of Westford, MA, in the protection of life, liberty and property.

Each day the newspapers are is full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Westford Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say "thanks" for a job well done. Let us take this time to recognize the contributions of Chief Joseph R. Connell and those who serve in the Westford Police Department:

Robert M. Welch, Jr., Edward A. Cossette, David W. Hogg, Terence J. Kane, Timothy L. Pomerleau, Edward P. Rochon, Joseph J. Roy, John Tzkiopoulos, Gregory E. Balzotti, John D. Caron, Hervey P. Cote, Lisa M. Davis, Wiliam F. Duggan, George E. Higgans, Michael J. Jelley.

Scott J. Mack, Joseph T. Murray, Mary Ann O'Connell, Raymond V. Peachey, Michael J. Perciballi, Michael A. Rochon, Walter R. Shea, Kevin P. Sullivan, Stephen F. Timothy, Joseph A. Walker, David S. Connell, George W. MacGregor, Jr., Thomas M. McEnaney.

## A TRIBUTE TO MICHAEL DEL ROSSO

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Michael Del Rosso, of Seekonk, MA, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for St. Dunstan's Day School, in Providence, RI.

This award is presented to the student, chosen by St. Dunstan's Day School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Michael has clearly met these criteria while at St. Dunstan's. Michael is the president of the student council this year. Michael also has a deep concern for others who are in crisis. Michael has gone with his church group to Jamaica to help rebuild homes after a hurricane. In addition, he works as a server at the Amos House Soup Kitchen. Besides his work at Amos House, Michael also works at the Caratunk Wildlife Refuge.

I commend Michael for his outstanding achievements and wish him all the best in his future endeavors.

## DR. KOOP RECEIVES HARRY S. TRUMAN AWARD

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. SKELTON. Mr. Speaker, on May 6, the annual Harry S. Truman Award was presented in Independence, MO, to Dr. C. Everett Koop, the former Surgeon General of the United States. Dr. Koop's remarks were certainly timely and challenging, and I enclose them herewith so the members may read them:

REMARKS OF C. EVERETT KOOP, M.D.

It is truly an honor for me to be with you today, to have been designated as this year's recipient of the Truman Award. This is an honor and occasion that I shall cherish.

I am particularly pleased that you have chosen to give the award to a medical doctor, to someone who had devoted his professional life to the health of the American people.

It is also appropriate that your award recognize the contributions of a health professional, because it is in the field of health that our society faces its most critical choices in the years ahead.

I appreciate this award in a special way, because I often thought of Harry Truman when I first went to Washington. After all, people used the same words to describe Truman and me when we first assumed office. One of the phrases that comes to mind is "uniquely unqualified."

But I think we both proved our critics wrong. The people who yelled, "Give him hell, Harry!" said to me, "Sock it to 'em Doc!"

Far from being an unqualified haberdasher, Harry Truman was more well-read in American history than any President in memory. And he used that knowledge to lead this Nation through some of its most trying years. The events of the last year in Europe do much to confirm the thrust of his leadership.

I wish I had known him personally.

In a similar way, I trust, this Philadelphia childrens' surgeon picked up enough savvy to be family doctor to the Nation at a time it needed a physician.

Harry Truman preserved and even enhanced the office he inherited and then won on his own. I tried to do the same, to guard zealously the integrity of the office and the opportunity to exert moral suasion from the Office of Surgeon General.

Truman also knew the value of no-nonsense plain talk. And direct action. I guess I've been accused of the same.

I may have had the reputation for straight and frank talk, but believe me I never shot from the hip.

I am now in the first few months of my life in the private sector, where I plan to continue my concerns as a public servant. Public service, for some of us, is a reward in itself.

But for me, public service, with the appreciation and gratitude I have received from the public, is also source of humility and deep personal satisfaction.

This afternoon, then, I'd like to talk a little about citizen C. Everett Koop, as he participated in one corner of the American National Government over the past 8 years.

But let me warn you that this will not be an exercise in "Kiss-and-tell." I don't find that behavior to my taste at all.

Also, as a practicing surgeon for nearly 40 years, I still carry the ingrained habit of not violating the confidences of a patient. Not that everyone in Washington requires special care. Well, certainly not everyone.

But let me begin.

First, I must tell you that the privilege of being Surgeon General has been the most demanding and most exciting position I have ever held. I am still grateful to President Reagan for having nominated me in 1981 and for his re-nomination of me in 1985.

You may remember, I'm sure, that my nomination was not without some controversy, which is putting it as delicately as I can. In private life I had been an outspoken person with very strong opinions on important issues. And these opinions—and my age, 65—were used as arguments against my being the country's Surgeon General.

The Congress and many people across the country debated these matters for about 8 months. But I did too.

I asked myself if I should—or could—vow to be a changed person in order to gain the Senate's approval.

Should I, for example, deposit my religious beliefs in a blind trust?

Should I donate my moral values to some worthy charity?

Before moving to Washington, should I pack away my ethics in an attic trunk?

And I said, "No, none of the above."

I truly believed then—and I believe now—that the best approach you can make to public service is to promise to give it everything you have . . . of whatever it is you do have . . . to draw to the fullest extent from your own storehouse of knowledge and personal life experience, and to squeeze out every ounce of good judgment, of deep fellow feeling, and of love of country.

As I say, that was my approach, and I think it was and is the right one. But it doesn't make the assignment any easier. On the contrary, this approach merely made me more receptive to the new information that I would be absorbing in this position.

Like many others who are called to Washington, I too felt great pride in being able to serve my country, and I too have been forced to discover things about myself and my country that I did not fully understand until this experience.

And that's probably the premise of my remarks today: That government service forces you to know more than you do know—even more than you may care to know—about the way our democracy works, about the motives, good and bad, of your fellow citizens—including colleagues and close friends—and about yourself.

I do not believe you can truly prepare yourself for the experience, because I do not believe you can really predict how you will act in a situation affecting the lives of a few—or a few million—total strangers.

And in the heady excitement of being called by the President, of being followed around by the press, of late-night conversa-

tions with powerful Senators and Congressmen, when all this is happening, you cannot—at the same time—truly understand what your job is going to be like.

You simply don't know.

And you don't dare ask.

When I was your Surgeon General, I frequently said that I had neither power nor budget. That was certainly true, for I had only a tiny staff and—in Washington terms—a tiny budget, enough to keep me in paper clips and photocopies.

But I think I was able to accomplish a large agenda solely through the power of moral suasion. In the right hands, moral suasion can do more than a bigger bureaucracy or a larger appropriation.

I suppose history will link my name, and that of every other Surgeon General with smoking, and that's fine with me. After all, during my tenure, smoking fell from 33% to 21% of the population.

But I think my name will be inextricably bound with another deadly affliction of the American people. I'm speaking, of course, about AIDS.

AIDS could become the disease that breaks the social compact in American society.

Thus far, the American people have been very tolerant of people who get sick because they do something they very likely know is not a smart thing to do. Hence we've relied upon general tax revenues to support V.D. clinics, alcoholism and drug treatment centers, diet and nutrition counseling, family planning, emergency medical services for highway trauma, and so on.

Some of you here today no doubt will expect medical treatment for conditions attributable at least in part to your own lifestyle decisions.

It's hard to explain this public support for rehabilitative medicine in a few words, but I suppose it boils down to this:

The American people know that the flesh is weak, but they also believe in redemption and they're willing to help pay for it: syphilitics can be cured, alcoholics can be rescued, highway daredevils can be reformed, people can adopt a more sensible diet.

But AIDS has arrived on the scene and has become the first serious wedge to be driven into our remarkable public health compact. The reason, I'm sorry to say, is simple enough to understand.

A person becomes infected with H.I.V. by doing things that most people don't do.

If the infection develops into AIDS and a life-threatening cancer or infectious disease, a number of public programs are available to provide medical care and certain social services, also.

Right now, such care is running about $20,000 to $30,000 per year per AIDS patient.

The average length of time a person with AIDS receives such care is 12 to 18 months.

And then the person dies.

After a prodigious investment of public funds, there is no rescue, no reformation of character, no one is saved or redeemed and returned to society, as is the case with the other afflictions I mentioned, such as alcoholism, obesity, and drug-abuse.

This disease, therefore, presents the toughest challenge yet to the American concept of public health.

The ethical burden of AIDS is compounded because young black and Hispanic Americans appear among the AIDS case reports twice as often as they appear in the population generally. The minorities with AIDS tend to be poor, uninsured or underinsured, and urban, living in those same major metropolitan areas where the health delivery systems are already strained to the limit.

Already in New York City well over 20% of the beds in hospitals are filled with AIDS patients. It is safe to say hospitals in your communities will face this problem by the end of the decade, if they are not already struggling with it.

Poverty is one of the reasons for a higher incidence of AIDS in these minority communities and is often linked to living conditions reflecting existing race and ethnic discrimination. We cannot let a new discrimination based on disease be added to others.

I fear a growing resentment against all AIDS patients, but against blacks and Hispanics in particular.

We need to make sure that we keep our ethics straight as we deal with this challenge. We need to make sure that the growing AIDS crisis brings out the best in us: Frank talk, common sense, caring and compassionate action. The best of American qualities, reflected so well in the man from Independence.

Thank you.

## CENTRAL EUROPE'S OFFICIAL DEBT

### HON. JOHN J. LAFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. LAFALCE. Mr. Speaker, on May 16, the Financial Times printed an editorial, entitled "Solutions for the Debt Problem," that called on the governments of the industrialized world to take the next step in solving the debt crisis, particularly in central Europe.

Since 1983, when the Mexican Government first threatened to default on its loan payments to western banks, the international financial system has been embroiled in a tug of war between creditors and debtors. The major losers have been the people of the Third World whose economic growth has stagnated, and American factories which lost valuable export markets, particularly in Latin America.

Last year, the Bush administration took an important step to relieve the debt burden for many of these countries by urging banks to forgive some outstanding debts in exchange for certain guarantees. This policy has become known as the Brady plan. However, while governments have now convinced private creditors that loans to these nations are no longer worth 100 percent of face value, the same governments are insisting on valuing their loans to these debtors at full face value.

Now, a new front has opened on the debt war—central Europe. Having won the cold war with the democratization of Poland, Hungary, Czechoslovakia, and East Germany, it is now time we set out to win the peace. This means that these nations must develop thriving market economies that bring prosperity to their citizens.

Unfortunately, some of these nations are being crushed by an unserviceable debt burden. Unlike the largest Latin American debtors, however, much of this debt—particularly in Poland—is owed to western governments, not private banks.

The Financial Times editorial points out, that, without official debt relief, the current debt strategy is "full of anomalies and contradictions." For example, "Mexico is better treated than Poland," despite the fact that Poland has, in one bold stroke, completely overhauled its economy, introducing market forces.

To correct this anomaly, and help jump start these newly emerging market economies in central Europe, I have introduced legislation that will allow these debts to be paid in local currencies, greatly reducing the demand on scarce foreign exchange. In addition, the legislation urges the President to negotiate similar arrangements for these nations with the other industrialized powers. Private creditors would also be expected to follow through with similar plans for reducing the debt burden left by a legacy of four decades of Communist economic policy.

Mr. Speaker, I commend the editorial to your attention, and ask that it be included in the RECORD.

[From the Financial Times, May 16, 1990]

SOLUTIONS FOR THE DEBT PROBLEM

"An improvement in the economic performance of indebted developing countries remains one of the foremost international economic priorities for the 1990s." Thus wrote the staff of the International Monetary Fund in its World Economic Outlook, published this month. Unhappily, the objective of ending the eight-year-old Third World debt crisis remains as elusive as ever.

The governments of industrialized countries have, it is true, made important concessions to the heavily-indebted countries over the past two years. Many have converted aid loans into grants. At the 1988 Toronto summit, heads of government agreed on a formula to allow relief on the debt owed by the poorest African countries to export credit agencies. Last year saw the adoption of an initiative of the US Treasury Secretary, Mr. Nicholas Brady, which encouraged the use of resources—mainly from the International Monetary Fund and World Bank—to encourage banks to write-off some loans to middle-income countries.

Although the financial benefits that have accrued to developing countries have been modest so far, policy-makers have at least shifted the focus of the strategy away from further increases in debt obligations and towards a lowering of debt burdens. They have also conceded that onerous levels of foreign debt can be an obstacle to the adoption of desperately needed improvements in economic policies.

ANOMALIES

Unfortunately, the developed countries have not followed this realisation to its logical conclusion. As currently conceived, debt strategy is full of anomalies and contradictions. For example, governments have persuaded commercial banks that their loans to middle-income debtors are no longer worth 100 cents on the dollar, but they persist in the illusion that this is not true of official export credits.

This produces the absurd result that Mexico is better treated than Poland. Poland owes two-thirds of its $41 billion foreign debt to western export credit agencies which—although they are not demanding interest payments until April 1991—have not conceded debt write-offs. Mexico, however, which owes most to western banks, has

just completed a package to lower its $100 billion debt burden.

Apart from the big four debtors—Argentina, Brazil, Mexico and Venezuela—nearly all indebted countries owe more to western governments than to bank creditors. Any comprehensive initiative to resolve the problem of Third World debt must tackle debt owed to the former. This may well reduce new export credits to rescheduling countries. So be it. Experience suggests, in any case, that the use of tied export credits is far too often of dubious benefit to economic development.

WRITE OFFS

Debt relief should not be extended to loans from international financial institutions. If it were forced to forgive arrears, the IMF's role at the heart of the financial system could be fatally undermined. Similarly, write offs would raise the cost of borrowing for the World Bank and other development banks, and so damage the cause of development in the long term.

Equally, a widening of debt relief must not go ahead on a purely ad hoc basis. The Fund and Bank should, instead, act analogously to domestic bankruptcy courts. Their role would be to ascertain the ability of heavily indebted countries to meet their current debt burdens, while sustaining economic growth and political stability. Where that combination seems impossible, they should recommend adequate levels of debt relief, while insisting upon the quid pro quo of a satisfactory programme of economic adjustment.

Contingency clauses to benefit both creditors and debtors in case of external economic shocks could be included, but any debt relief package should, if possible, be once and for all. The arbitrary divisions which currently separate candidates for various forms of debt relief would disappear. Instead, a general assessment of a country's long-term ability to pay would end in a proper division of the burden between the private and offical creditors.

## AN AFFIRMATION OF TOLERANCE AND RESPECT

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. RANGEL. Mr. Speaker, I rise to call your attention to a speech by Mayor David N. Dinkins of New York City. It is a thoughtful examination of the racial problems confronting my great city, along with some commonsense prescriptions for relieving them. I am presenting the speech to my fellow Members of Congress as a tribute to the wisdom and leadership of the man who delivered it, and in the hope that its wise counsel will guide us, not only in New York, but elsewhere in our great and diverse republic:

AN AFFIRMATION OF TOLERANCE AND RESPECT

(Address by Mayor David N. Dinkins)

First of all, let me thank you all for coming this evening on such short notice. And to those who are unable to attend due to religious observance, I trust that my message will reach you through other means, for I know that all who share this city and all who love this city are deeply committed to the cause for which we gather tonight.

Last year, I spoke to you about a campaign to bring us together. It was a cause that touched a yearning deep inside each of us, to come together in affirmation of respect—respect for ourselves, for each other and for this city that we all call home.

My friends, that campaign did not end last year; it has only just begun.

Together we've tasted a tiny piece of the sweet substance called hope; yet again and again, we're confronted by the bitterness of hate.

So we gather tonight, here at the seat of government, to reaffirm our commitment, to renew our mission, and to reassert a simple truth: All of us want to live our lives in peace and dignity—free to walk any street and shop in any store, at any time, in any neighborhood, without fear of force or violence.

NEVER LEAD BY DIVIDING

As I've said to you before, I am the mayor of all the people of New York. And my administration will never lead by dividing, by setting some of us against the rest of us, or by favoring one group over others.

At the same time, and in the same spirit, we will never allow any group or any person to turn to violence or the threat of violence to intimidate others, no matter how legitimate their anger or frustration may be.

The most basic purpose of government is to protect public safety, to enforce the law amidst the chaos and confusion of urban life.

That is a mission I am prepared to meet—and I will do whatever is necessary and whatever is right to maintain public order and public safety.

Ours is a rule of law. And tonight, as I speak, two groups of 12 people sit in Brooklyn deliberating upon whether the law should punish two young men for the killing of Yusuf Hawkins.

I cannot affect their decision; it must be made on the basis of the evidence presented in court, and none other. And that process—the jury process—is still the fairest and best method of judging our fellow citizens that anyone has ever come up with in the history of humanity, regardless of the verdict in any particular case.

BENSONHURST—A PAINFUL PASSAGE

This trial has been a painful passage for our city—and there will be more.

But one thing is for sure: No verdict can undo the damage that was done on the devastating night last August.

The hate that was unleased upon Yusuf Hawkins can never be called back.

The pain that ripped through his body, his family and this city can never be fully healed.

And his sacrifice must never be forgotten.

The senseless death of Yusuf Hawkins was a hateful crime. But our anger must not lead us to hate.

This was a crime committed by individuals. All of Bensonhurst did not commit this crime; rather, a few people committed this crime in Bensonhurst.

We must absolutely, categorically reject the despicable notion of group guilt. We abhor those who preach it; and we must be mindful that predictions of violence and anger tend to be self-fulfilling. We must be on guard against such impulses; we must isolate them and condemm them.

WE MUST REPRESS OUR RAGE

When a lawyer defending an accused person—no matter how unpopular—is assaulted on the courthouse steps, all of us have been assaulted, because our system of justice is the best guardian of civilized society.

Hopefully, those individuals responsible for the death of Yusuf Hawkins will feel the strong arm of the law. But whatever the outcome—as we have so many times over so many years—we must repress our rage, channel our energies, and come together to make this tragedy transforming.

I've already seen far too much pain and far too much hate in my lifetime.

This city is sick of violence. We're aching—and we must heal the pain.

Most in this town don't have it easy. People work hard, scrape by, we love our families and we try to build a life of comfort and happiness.

Housing costs too much, the environment seems unsafe, and the daily pounding of the prospect of crime takes its insidious toll.

WE'VE SIMPLY BEEN ABANDONED

And we all know that despite all we're doing, a lot of things aren't going better. Crack and AIDS are tearing away at the very fabric of our city. The economy, of the region and the nation, is likely to get worse before it gets better; and we've simply been abandoned by the national Government in Washington.

As frustrations build and pressures mount, people are more likely to lash out. In tough times, child abuse increases, alcohol abuse rises, and the bonds of civility and decency fray.

Unfortunately, some small-minded people prey upon these pressures, spreading a message not of unity but of division, and fixing the blame not on the social and economic challenges we share but on those who are alien or different.

I challenge all of the people of this city to reject these calls to bigotry, because if the bigots succeed in spreading their poison, it's nobody's fault but our own.

Right now, each of you must look into your own hearts, in your own families. Look honestly at yourselves—and your own communities—and ask whether you can be swayed by prejudice, and what you're going to do about it.

Because no matter how much government can do, government cannot substitute for the content of our character.

Let us not permit the prejudice of a few—in Flatbush, in Bensonhurst or anywhere else—to silence the good will of the rest of us.

It's an old story, a cycle of immigration and discrimination that's as old as this city itself.

In the mid-19th century, gangs of active New Yorkers attacked Irish immigrants right here at Broadway and Park Row.

Irish-Americans lashed out at African-Americans in the bloody Draft Riots of 1863, leaving many lynched at the same time as our nation fought to free them from slavery.

In the 1870's, the Chrystie Street gang rampaged against Italians and Jews.

During the Depression, Jews were assaulted for advocating that this country intervene in Europe to fight the Fascists and save the Jews.

Historians tell us that no group of European-Americans has been as battered and as bruised as Italians, and African-Americans have never been free of the fear of attack.

OUR GREATEST STRENGTH

Our diversity is our greatest strength but again today, it threatens to become our greatest weakness.

New times bring new Americans who become new targets. And recently, too much venom has been injected into the lives of some of our newest Americans—Asian-Americans, especially Korean-Americans.

This prejudice is by no means limited to one community or one conflict. Remember, not too many years ago, some members of a community were up in arms, defiantly protesting a Korean grocery in their neighborhood—on Park Avenue.

Some Korean-Americans, new to the ways of their world, may mistakenly offend others or overreact to what they perceive as provocation. And my Commissioners of Human Rights and Consumer Affairs will be holding workshops for all retailers to learn about consumer rights.

But that's not the heart of this recent wave of anti-Asian sentiment.

Vincent Chin was a young Chinese-American who lived in Detroit. He was beaten to death by auto workers who thought he was Japanese, because they felt their jobs threatened by Japanese competition.

They weren't after Vincent Chin, they would have gone after any Asian, just as Jusuf Hawkins could have been any African-American who happened down that street that night.

I oppose all bigotry against anyone, anywhere. I abhor it; I denounce it; and I'll do anything—anything right and anything effective—to prevent it.

Yet sometimes denunciation and confrontation are simply not solutions. They may make us feel better—just to make a bad situation worse.

I have clearly stated my views about the conflict between African-Americans and Korean-American storeowners on Church Avenue in Flatbush. I oppose any boycott based on race. I've instructed officials of my government to intervene and to facilitate settlement of this dispute.

THERE FROM THE BEGINNING

We've been there from the beginning—and this situation will be resolved.

Last month, I appointed a fact-finding task force of African-American, Korean-American and other civic leaders. Its co-chairs are: Laura Blackburne, Executive Director of the Institute for Mediation and Conflict Resolution, and Rev. Dr. S. Michael Helm of the United Methodist Church. Their work continues, as do civil and criminal proceedings against the alleged perpetrator of the original incident.

But whatever happened in that incident did not warrant this sort of ongoing intimidation. Boycotts can be an appropriate and effective response—but this one is not and the vast majority of the people in that community know it.

Tonight, I say publicly what my representatives have said privately to all parties in this dispute: I am personally prepared to mediate, to resolve this in a constructive, peaceful way.

I call upon all involved to set aside their intransigence, to come in, to sit down to settle this—and to settle it now.

I WILL BEAR ANY BURDEN

My personal committment is absolute. I will bear any burden and walk any mile—and I am confident that we will be able to settle this situation through mediation and conciliation.

And once this dispute is calmed, the Red Apple Market and Church Fruit will once again be able to compete fairly and freely in the marketplace, with their neighbors of all heritages.

But this is bigger than just one boycott in Brooklyn. We must recognize that individual incidents are not isolated, but interconnected; that we must work constantly to strengthen the fabric of our diverse people, and solidify the bonds of our mosaic.

And we must recognize as well that the solution is not only rhetorical, not only a function of moral guidance, but a fundamental role of government, a responsibility we must perform not just in the face of crisis and conflict, but every day.

ANTI-HATE AGENDA

Recognizing this role, I am formulating an agenda mobilizing government in recognition of this responsibility.

The plan will be fleshed out over the coming weeks, but tonight, let me offer an outline.

It starts with law enforcement, to give our police and prosecutors the tools they need to do the work we need.

I will not rest until the Senate of this State passes the bias-related violence bill.

It must cover not only racial and religious bias, but bias based on sexual orientation as well. Those who killed James Zappalorti because he was gay are just as culpable and just as dangerous as those who killed Michael Griffith because he was black and those who killed Israel Rosen because he was a Hasidic Jew.

DATA ON HATE CRIMES NEEDED

Those were hate crimes—and I am asking the Federal Government to fully fund the collection of data on such crimes so we know where they're occurring and where we must focus our efforts.

In addition, I am instructing my Deputy Mayor for Public Safety, Judge Milton Mollen, to form a working group with the five District Attorneys and the Police Department to respond to gang activities and work for passage of a tough new law against group violence.

But repairing the rifts of this city requires more than tough law enforcement and better community policing.

It requires an all-out effort to bring all New Yorkers into the economic mainstream—through community business development programs and other appropriate mechanisms.

And we're working as well to tear down the remaining barriers to progress.

STUDY OF LENDING BIAS

I have instructed my Commission on Human Rights to conduct a systematic study of discrmination in lending—and a survey of the real needs of community-based businesses.

These initiatives in law enforcement and business development will be buttressed by a massive mobilization on intergroup relations.

It will start with the creation of a new, enhanced bias strike force at the Human Rights Commission.

This strike force will reach out, affirmatively and aggressively, to find tensions and stop problems before they start.

My Community Assistance Unit is now organizing group-to-group, community-to community contacts and communication to overcome ignorance and fost understanding and respect.

I will personally participate in this program—and I am asking the leaders of our business, labor and religious communities to join me.

CALLING ON THE CLERGY

In addition, right now, starting this weekend, I am calling upon the clergy of New York to speak to their congregations and join in this affirmation of tolerance and respect. And today, I have sent a letter to every elected official in New York City asking them to convene public meetings in the communities they represent to discuss the path to racial and ethnic harmony.

The media must join in, too—with public service announcements and programming that fights bigotry by teaching tolerance.

Above all else, we must reach out to our youth.

Last year juvenile arrests jumped 70 percent—and group robberies by youths increased 400 percent.

We need early intervention—not just by parents at home but by the schools as well.

The State Education Commissioner, Dr. Thomas Sobol, has recently announced a systemwide initiative for multicultural education.

It's an initiative I support but it's only a start. We need to teach our kids not just to understand each other but also to understand what hurts each other.

Prejudice is found in a million differnt forms in a million different places. But we can't fight it if we can't recognize it.

That's why I'll be joining with Chancellor Fernandez to make prejudice prevention an active part of the life of this city.

The future of this city belongs to the children of this city—all of the children of this city.

CHILDREN OF THE OPPRESSED

And whether they or their families come from Korea or Cambodia—from Haiti, Honduras or the Soviet Union—New York is again, as it always has been, a city of immigrants.

They come in droves, from Ireland and India, from Jamaica and Japan, from Ecuador and El Salvador, and up from the red clay hills of Georgia, the Mississippi Delta and the streets of Memphis and Mobile.

We came to escape tsars and dictators, hunger and deprivation.

Our people, all of our people, share a common ancestry of oppression—and a common aspiration to leave that history behind and to embrace the full promise of America.

The children of the oppressed must now turn to each other as allies and neighbors instead of turning on each other as enemies.

Tonight, one of those children—a boy whose family fled Papa Doc's Haiti—lies in a bed at New York Hospital. He's a cute kid, a tough little rascal named David Opont.

LIFE IN A LITTLE BOY'S EYES

And like the city in which he lives, young David is suffering. He's scarred and he struggles to overcome the damage that anger has inflicted upon him.

When I visit him, I see life in his eyes. Despite all he's seen, David's eyes are wide open, looking not behind him in fright but ahead in the fond hope that he will heal and move on.

Let us resolve tonight to make his story our story. For like David Opont, we can emerge from the flames of anger to face a future of health and happiness.

So let's emerge from our pain, not bitter but proud.

Let us all walk toward the future together, following our hopes and not our fears.

And David, when you get up out of your bed and you're back home with your family, we want you to live in a city at peace with itself. We're going to quit tearing ourselves apart—and begin the long hard work of sewing our city back together.

If you can struggle and survive, so can we. Your wounds will heal—and so must ours. David we're going to do it for you Buddy—and for all like you—because you are our future.

Thank you.

God bless you.

And keep the faith.

## SESQUICENTENNIAL OF THE SIGNING OF THE TREATY OF WAITANGI

### HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. McEWEN. Mr. Speaker, I rise today to extend congratulations and best wishes to the people of New Zealand as this great country commemorates the sesquicentennial of the signing of the Treaty of Waitangi, the symbol of the life together of the communities of that country as a nation.

Just as Americans attach great significance to the Fourth of July and its meaning, New Zealanders accord the Treaty of Waitangi special significance. In 1840 a pact was signed with good and true intent, and that was the beginning of the nation called New Zealand. Over the past 150 years, New Zealanders, have forged a great nation based upon the principles of freedom and democracy.

Mr. Speaker, our two countries are natural partners, with shared history, culture, language, and values. In fact, the Waitangi celebrations follow the sesquicentennial in 1989 of diplomatic relations between the United States and New Zealand. With the establishment of an American Consular Office in the Bay of Islands in 1839, the United States consul was the first diplomatic representative to be appointed to New Zealand. That makes the United States the longest standing diplomatic partner of New Zealand.

The United States and New Zealand share a common belief in the democratic process and the fundamental values underlying it, and both countries are inextricably a part of the western community of free nations. The sons of both nations fought alongside one another in two world wars and in Korea and Vietnam, oftentimes shedding their blood thousands of miles from home in the ultimate expression of the commitment to the rule of law and to freedom, peace, and prosperty for all peoples.

Mr. Speaker, since relations were established in 1839, the relationship between United States and New Zealand has expanded and deepened. Commercial contract has increased significantly, and trade is booming today. Cultural, academic and science contacts have steadily increased, especially in period since World War II. Innovation, individualism and growth—long the hallmarks of American enterprise—also mark New Zealand endeavour and reflect the style of the bilateral relationship.

Americans and New Zealanders, bound by common values, look to a bright future that continues our tradition of mutual respect and cooperation. Today, we share a great many interests. We are both strong agricultural nations and are focusing on those concerns together in the current GATT Round. We share a belief in the importance of the free and open market economy and are working to improve cooperation in the Asia-Pacific region. We have common interests in the South Pacific region, the United Nations, and in Antarctica. Together we are working to protect the environment and to win the war against drugs.

There are few countries with which the United States has enjoyed relations that are as close and as cordial as those with New Zealand. The relationship is like that within a closely knit family. Our common heritage, experience and interests are such that we must continue to nourish that close relationship. We also continue to cooperate to further enhance our bustling economic relationship and encourage the tourism trade that establishes invaluable people to people links between our countries.

Mr. Speaker, although New Zealand is a nation of just over 3 million people, it has played a part on the world stage that belies its size. I urge my colleagues to join me today to congratulate New Zealand on its celebration of the Treaty of Waitangi and to record the hope that the excellent relationship we currently enjoy might continue to develop and strengthen to the mutual benefit of our peoples.

## A TRIBUTE TO THE CONCORD POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Concord Police Department for their dedicated and outstanding service to the people of Concord, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Concord Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Carl Johnson and those who serve in the Concord Police Department:

Linda Layne, William Augello, Baryn Carlton, Brian Coonradt, Barry Neal, Ed Conlin, Marion Fletcher, Paul Flynn, James Forten, John Foster.

Wayne Gerhardt, David Goranson, Richard Hodgson, Thomas Houk, John Kennedy, Kimberly Doughty, Richard Krug, Paul Macone, Paul McGraph, Douglas Meagher.

Joseph Morahan, William Nutter, James Ring, Robert Robillard, Fred Ryan, Jonathan Schleffer, Robert Shea, John Skinner, Rosemary Teven, Peter Powler, Leonard Weatherbee.

## A TRIBUTE TO AMY JARRET

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Amy Jarret, of Woonsocket, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for Mount St. Charles Academy, in Woonsocket, RI.

This award is presented to the student, chosen by Mount St. Charles Academy, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Amy has clearly met these criteria during her stay at Mount St. Charles. She is an honor roll student and a member of the National Honor Society. Amy is a class officer and serves as president and chairperson for the Woonsocket Youth Council. She also participates in the Drama Club, Campus Ministry, and is a member of Students Against Drunk Driving.

I commend Amy for her outstanding achievements and wish her all the best in her future endeavors.

## SKELTON SPEAKS TO LAKE OZARK ASSOCIATION

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. SKELTON. Mr. Speaker, for the last 6 years, the Congress has designated the third week in May as National Tourism Week. Again this year, May 13 through 19, we will take time to recognize the contributions of the tourism industry to our Nation's economy. The United States' third largest industry and its largest export, travel and tourism has reinforced U.S. economic vitality and helped to preserve the natural and cultural heritage of many American communities.

Last month, the Lake Ozark Association in Osage Beach, MO, invited me to speak about the issue of tourism and tourism development. As you may know, tourism is a subject that has interested me for many years, and I currently chair the House Small Business Subcommittee which oversees tourism issues. Travel and tourism makes important contributions to the economy of the Lake of the Ozarks region, and has the potential to significantly contribute to the economic development and diversification of other rural communities in our Nation.

In honor of National Tourism Week, and in order to further promote the idea of rural tourism development, I would ask that the text of my speech before the Lake Ozark Association be placed in the extensions of remarks of the CONGRESSIONAL RECORD:

REMARKS OF CONGRESSMAN IKE SKELTON

Thank you for having me here today. It is a pleasure for me to be here with the Lake Ozark Association, to be with old friends like John Walker here, and also a great joy for me to talk a little about tourism, which we all know is extremely important to you here at the lake, but which is also important to the State of Missouri, and to the United States as a whole.

Just look around, and you can see what tourism can do for an area. Missouri's tourism industry makes an incredible contribution to the state's economy, but it doesn't come without a lot of hard work. Tourism employs more than 90,000 people in Missouri, and brings over $5 billion to the State economy each year.

Those are impressive numbers, but except for those involved in or having contact with the industry, few people realize the important role of tourism in our Nation's economy. Travel and tourism is the third largest retail or service industry in the United States (behind automobile dealers and food stores), and in 1988 it was a $314 billion industry. Experts predict that tourism will be one of the world's largest industries by the year 2000.

My interest in tourism goes back a few years when I became chairman of the House Small Business Subcommittee which oversees tourism issues. At that time, my subcommittee duties also included the area of exports, so we focused primarily on the importance of tourism to the U.S. export economy.

It seems strange to those unfamiliar with the tourism story that tourism should be considered an export, just like any other American good or commodity that is produced and manufactured and then sent abroad. But the economics of the situation is the same. When foreign tourists come to the United States, they bring new money—export earnings—to the U.S. economy.

What's more, tourism isn't just any export—tourism is our Nation's largest export. Last year, foreign visitors spent $43 billion while traveling in the United States. Our next highest export, agriculture, earned $37 billion in 1989. And, for the first time since tourism economic statistics began to be recorded in the 1950's, in 1989 the U.S. earned a tourism trade surplus of $1.2 billion. Tourism is one of our few industries that has been actually able to claim a surplus in recent years. This is an encouraging trend, especially significant in light of the U.S. trade deficit figures, which stood at $108.6 billion in 1989.

More recently, my tourism interests have focused on the subject of rural tourism. Those of us in Congress who represent rural America are very concerned about what is happening there. The quality of life in many of our rural communities is declining, many of our small towns are literally disappearing. Yet, there are many shining examples of rural communities that have been revitalized. This has been accomplished in a number of ways, and among them, tourism development holds particular promise for the economic development of rural areas.

There is a growing awareness around the country of the economic contribution of the tourism industry to rural areas. And no wonder considering the staggering contribution the industry makes to the economy. Most important, the tourism industry is made up of small businesses. Studies indicate that the vast majority of jobs being created in rural areas are in small businesses, and the Southern Rural Policy Board recently found that most of the growth in non-metro areas is due to tourism.

After a series of field hearings on tourism, it became clear to my subcommittee that although many Federal agencies already participate in tourism promotion programs, no coherent national policy on rural tourism exists and there is little coordination and communication between agencies. So last winter, the Congress directed the USTTA to carry out a study to determine how tourism development can be used to encourage small business growth in rural areas.

The study was completed last October and the findings concluded and confirmed that travel and tourism could be an important tool for rural economic revitalization, and it should be an essential component of the broader rural economic development strategies. The idea is that through the promotion of tourism in rural areas we can increase market support for existing businesses and create conditions for new economic development.

You know, economics is important, and if tourism development can help economies in our rural communities it cannot be ignored. But rural tourism is more than that. It is a chance to see what America is all about—our history, culture and heritage. It is also a chance to escape and take pleasure in our past. We don't have to go into a museum and look at our history behind a glass—we can participate in it. Visitors to rural areas may be looking to relieve another era, or perhaps they want to learn about America at historic sites that are still as they were then or maybe they just want to get away from it all and enjoy our country's natural beauty.

Rural tourism is small towns, scenic roadways, lakes and streams, historic battlefields, old mills, oktoberfests, wineries, and Ozark mountain music. You know, there are communities that don't realize what they have to offer. Things rural Americans see and experience every day are just that—everyday things to them. But to the potential traveler they are a vacation experience.

More than 70 percent of our foreign tourists are in the United States for a repeat visit. New York, Los Angeles, and other gateways to America are usually all they see—and they think that they have seen the real America. It is more of a challenge to get overseas travelers to visit the Lake of the Ozarks region and other similar rural communities. But I'm sure that many of the people who are here on repeat visits would like to see something different, something that not everyone who comes to the United States will experience. Rural America offers them this. And what rural areas offer to our foreign tourists is also just waiting to be experienced by our American neighbors on the other side of the country or maybe just from the other side of town.

As I wrap up, I want to tell you a little bit about what is going on in Washington to help our tourism industries as a whole. At this time, the tourism Policy and Export Promotin Act is moving through the Senate and was just introduced in the House, where it has more than 100 cosponsors. One of the major provisions of the legislation is the creation of a rural tourism foundation, a tax-exempt organization to help promote rural tourism and encourage public/private partnerships for tourism development in rural communities.

This legislation also establishes goals to help the U.S. meet and maintain a tourism export surplus, improve conditions between Government agencies to promote the U.S. as a tourist destination, and sets up appropration levels for the United States Travel and Tourism Administration (USTTA).

Currently, the USTTA is funded at a level of $14 million. The U.S. spends about a nickel for every person in the United States to promote this country overseas, which places us behind Malaysia, $43.9 million, Tunisia, $39.3 million, Thailand $19.0 million, and Morocco $18.6 million, to name a few. It is time that the U.S. did more, and the Tourism Policy and Export Promotion Act sets out funding levels up to $17 million by 1992. This is still far less than most other nations, but in ths era of budget constraints it is a start.

I am very optimistic that by the end of the session we should have passed this legislation and soon we will be making significant contributions to rural development and the development of the tourism industry.

I know that in a lot of respects I'm simply preaching to the choir, but it is important even for people experienced in the tourism business (or in any business for that matter), to sit back and take into account what they have in mind for their business, take a look at what you have accomplished, examine your weaknesses, your strengths, and establish some reasonable and realistic goals for success in the future.

Some of you may have attended last November's Governor's Conference on Tourism, held at the Lodge of Four Seasons. I was unable to attend, but I heard how successful that event was. I'd like to call your attention right now to the theme of the conference—partners. There is a tendency sometimes to look at local competition and feel like you can't be successful if down the road there is a place that is attracting all kinds of tourists. But I know for a fact, from the hearings that my tourism subcommittee has held, from the letters I receive, and from the stories I am told, the way to build a strong tourism enterprise is to work together, in paratnership, with the surroundig communities. By working together, I know that the more people visit down the road the more likely they will be to stop by your town for a while. The success of your business colleagues can actually help you by drawing people to your area time and time again.

Again, I'd like to thank you for having me here and listening to my thoughts on tourism.

## A TRIBUTE TO RICHLANDTOWN BOROUGH ON ITS CENTENNIAL

### HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. KOSTMAYER. Mr. Speaker, I rise today to salute the borough of Richlandtown, PA. From its incorporation as a borough on November 11, 1890 to its centennial celebration this year, Richlandtown has been an important and shining example of the American small town.

On October 12, 1681, William Penn granted most of modern day Richland Township to Griffith Jones. The land was first settled in 1710 and its boundaries were surveyed and designated by 1740. Since 1681, the borough has been known as the "Great Swamp," Three Lanes End, Ducktown, Frogtown, and Flatland. However, the name Richland was commonly used due to the fertile farmland in the area.

Richlandtown has flourished since its incorporation in 1890. In its early days, the borough boasted 65 houses as well as thriving cobbling, cigar making, and cloth manufacturing industries. The oldest house of worship in Richlandtown, the Lutheran and Reformed Church, was completed in 1808. The post office was established in 1839, under the direction of Postmaster Christian A. Snyder. The Richlandtown Fire Co., founded in 1905, now has over 30 members and 7 pieces of equipment. As of 1990, Richlandtown has over 300 homes and more than 1,200 residents, and it is still growing.

Richlandtown Borough has for 100 years contributed much to Bucks County and to the Commonwealth. The community has always shown a spirit of good will and cooperation. Again, I congratulate Richlandtown Borough on the occasion of its centennial, and I wish it continued success for the next 100 years.

## CIVIC ACHIEVEMENT AWARD PROGRAM

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Ms. ROS-LEHTINEN. Mr. Speaker, as a Florida-certified teacher, I am concerned about our young people's lack of knowledge of important national events, people, places, ideas, and values. The continuing strength and vitality of American democratic traditions depend on the civic awareness of future generations. I would like to highlight a special program designed to provide supplementary citizenship education to elementary and middle school students.

The Civic Achievement Award Program [CAAP] was developed out of a need to improve the level of civic literacy in American elementary school students. The program is administered by the Close Up Foundation with additional funding provided by Burger King Corp. CAAP combines experiential learning with critical thinking, excellent with academics, and fun with helping others.

The program is divided into three projects. The first is the learning project where students master essential knowledge and concepts about six subjects: U.S. history, Government, geography, economics, culture, and current events; the second is a research project that helps students understand that knowing how to find and use information is an important and necessary citizenship skill; the third is the civic project which gives students an opportunity to identify, study, and take action on an important community issue.

I congratulate the schools that were selected for this wonderful program: Allapattah Elementary; Auburndale Elementary; Citrus Grove Elementary; Coral Gables Elementary; Dunbar Elementary; Edison Park Elementary; Fairlawn Elementary; Flagler Elementary; Kensington Park Elementary; Kinloch Park Elementary; Miramar Elementary; Pharr Elementary; Riverside Elementary; Shadowlawn Elementary; Southside Elementary; Phyllis Wheatley Elementary; Allapattah Junior High; Citrus Grove Middle; Kinloch Park Middle; Miami Edison Middle; Booker T. Washington Middle; and Shenandoah Junior High.

Mr. Speaker, this program is extremely valuable for preparing America's youth to participate in our pluralistic democracy. The Civic Achievement Award Program indeed exemplifies the commitment to excellence in education.

## TRIBUTE TO THE ACTON POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise to day on the occasion of National Police Week to pay tribute to the Acton Police Department for their dedicated and outstanding service to the people of Acton, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Acton Police Department, the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief George Robinson and those who serve in the Acton Police Department:

John McNiff, Frank Widmayer, Robert Rhodes, Robert Parisi, Thomas Rogers, James Mcpadden, Bruce Nadeau, William Hayes, Bernard Harrison, Brian Goodman, Ronald Johnson, Paul Cogan, Robert L. Cowan, Jr., Albert Crowley, Jr.

Raymond LaRoche, Raymond Grey, Jeffrey Dudley, James Goodemote, James Cogan, Jr., Christopher Browne, Pablo Hernandez, Michael Oman, Todd Fenniman, Michael Coughlin, Christopher Prehl, Fred Rentschler, John Cooney, Stewart Fenniman.

## OLDER AMERICANS MONTH

### HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BALLENGER. Mr. Speaker, the month of May is Older Americans Month, and this year we especially celebrate the 25th anniversary of the enactment of the Older Americans Act. The Older Americans Act setup a special agency, the Administration on Aging, within the Department of Health and Human Services to provide grants to States to establish and improve programs for the elderly. Through these programs, our Nation's elderly have been able to realize the important part they play in our society.

In recognizing the contributions of senior citizens in our society, I would like to point out that there are still barriers to this participation. The Social Security Earnings Test is one such barrier. I am a cosponsor of the Older Americans Freedom to Work Act of 1989 (H.R. 2460) that would repeal the Social Security earnings test for individuals 65 or older. Repeal of the earnings test would give senior citizens the opportunity to continue to be productive without being penalized financially for doing so. As the title of the bill indicates, I would like to give Older Americans the "freedom to work."

In conjunction with Older Americans Month, I am pleased to have Wilson and Virginia Setzer from Gastonia, NC here in Washington this week to participate in the Senior Intern Program. The Setzers visited my office Wednesday morning, and had the opportunity to see firsthand the workings of a congressional office. We also attended the "Freedom to Work" rally in support for repealing the Social Security earnings test. I would like to thank Wilson and Virginia for coming to Washington, and I appreciate their eagerness and initiative in participating in the program.

## PEACE CORPS BUSINESS PERSONS VOLUNTEER SERVICE

### HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing a resolution calling on the Peace Corps to tap the volunteer spirit of American business people to provide technical assistance to the nascent private sector in Eastern Europe.

I believe that the Peace Corps, which already has assistance agreements with the Governments of Poland, Hungary, and Czechoslovakia, could expand its current focus to launch a Business Persons Volunteer Service in Eastern Europe. From discussions I have held over the past 2 months I have found enthusiasm in the Peace Corps for mobilizing American business persons to share their experience and skills with Eastern Europeans.

In my State of North Dakota I have met with business people and farmers, several of whom are ex-Peace Corps volunteers, who have told me that they would offer their services free of charge to impart their business skills to Eastern Europeans, either by providing short-term training in Europe, or by sponsoring internships at their businesses and farms in North Dakota. In fact the genesis for this resolution came from one of those ex-PCV's who is one of my State's most successful business and community leaders. These are people who are both culturally sensitive to working in other countries and who know how to get things done in the business world.

Along with several of my colleagues, who are cosponsoring this resolution, I see an opportunity to build a people-to-people program which could create enduring relationships between American volunteers and Eastern European participants and institutions and enhance mutual understanding.

While this resolution is not intended to establish an exclusive franchise for voluntarism in Eastern Europe for the Peace Corps, I believe use of Peace Corps structures would be cost effective, could attract many high quality volunteers, and result in effective and culturally sensitive programs.

Finally, I suggest the Director of the Peace Corps launch this initiative by inviting business people with a record of volunteer service, including ex-PCV's, to form a task force to recommend program elements.

The Peace Corps has already launched its Eastern European programs while many of us are still talking about the need to help build democracy and help small businesses in Eastern Europe. With Congress' encouragement, which this resolution is intended to provide, Peace Corps will have the opportunity to build a new and needed dimension—the Business Persons Volunteer Service—into its Eastern European program.

## AN EDUCATION AGENDA FOR THE 1990'S

### HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GLICKMAN. Mr. Speaker, at a time when public attention and Government action are focused on education as a top national concern, we must focus on creating solutions which address the pervasive problem we face: a nation of students lacking the skills needed to successfully carry this country into the 21st century.

World events provide the United States an opportunity to redirect national priorities to meet pressing national needs. However, reform does not come easily. Many of these needs can be met simply by making some tough choices for our children, our teachers, and ourselves as parents and concerned citizens. With this in mind, I commend to my colleagues the following editorial from the May 13, 1990, issue of my hometown newspaper, the Wichita Eagle:

AN AGENDA—SCHOOL REFORM PLAN SIMPLE, BUT UNTRIED

President Bush has sponsored a national educational conference. Gov. Mike Hayden has sponsored a state educational conference. The Wichita Board of Education, the WI/SE Partnership and the Wichita Eagle have sponsored a Sedgwick County educational conference.

Enough conferences. Enough experts. Enough jargon about "mastery learning," "effective education" and "outcomes-based" schooling.

Indeed, it would require a week of Earth Days merely to sweep up the name tags, the reports and statistical graphs from all the educational conferences held during the past year. Meanwhile, the U.S. Education Department reported earlier this month that national high school graduation rates are down, scores on college admissions tests are stagnate or declining and that even smart American kids aren't doing as well as those of earlier years.

There are no secrets to better schools. The answers have been there all along, though they are resisted by an American society that often treats children as necessary nuisances and by an educational establishment that has put its own convenience ahead of academic excellence.

The simple, workable solutions include:

Turn off the television set. American children between the ages of 2 and 17 typically watch 22 to 25 hours of television a week. And that doesn't include video games. Illiteracy and poor reading abilities would disappear if parents read to the children and enforced regular reading hours at home.

Get teenagers out of the workforce. Many teenagers spend more time flinging hamburgers or selling sneakers than studying. Many of the kids work only to buy such teenage "necessities" as fast cars and chic fashions. The United States is the worst country in the industrialized world at exploiting its children for cheap labor.

Make teachers true professionals. Schools should abandon current salary systems that reward primarily longevity and graduate hours. Peer-review pay plans are needed to give teachers the power to set standards for their field, as doctors, lawyers and most other professionals do.

End the monopoly of education schools in training teachers. Aspiring teachers should take more liberal arts and fewer pedagogy and educational theory courses. Teachers should be masters of their subject matter. Most education schools are geared to the career interests of the professors, not to the students or real scholarship.

Extend the school day and year. Young Americans spend less time in class than most of their peers in developed countries. A Japanese student, for example, attends school 240 days a year, compared with 180 for the typical American.

Toughen the high school curriculum. With its lack of rigor and focus, the average high school curriculum seems designed to entertain rather than educate young Americans. No wonder U.S. students are at the bottom of international tests in science, math and virtually every other catergory of academic ability.

Oversee school performance. Educators are geniuses at avoiding public accountability. Kansas, for example, has no statewide testing or other system to let taxpayers know how well the schools are doing.

The list is not new. It's based on sound research. It's an agenda for the 1990s.

## THE REPUBLIC OF CHINA CELEBRATES A PRESIDENTIAL INAUGURATION

### HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MARLENEE. Mr. Speaker, I know I speak for most of my colleagues here in Congress as I offer my best wishes and congratulations to the people of the Republic of China on Taiwan on the occasion of their Presidential inauguration this Sunday, May 20. My only regret is that I cannot personally attend the inauguration ceremonies of the first freely elected President of the Republic of China.

President Lee Teng-hui was overwhelmingly elected by the electoral college of the Republic of China on March 21 as the eighth President. This culminated the process of the most free election in the history of the Republic of China. Mr. Speaker, when any objective analyst contrasts this peaceful democratic process in the Republic of China with the brutal crackdown of prodemocracy Chinese students in Tiananmen Square last year, I can only conclude that the Communist leadership of the People's Republic of China should emulate President Lee's example by submitting to free and open elections.

Over the next 6 years of his term, I expect that President Lee will continue democratic reforms, expand the official and unofficial ties of the Republic of China with the free world, and maintain strong ties with the United States.

I am very confident of President Lee's ability to lead his nation of 20 million hardworking men and women to a peaceful and prosperous future. I anticipate even greater free market economic growth and development in the Republic of China as she plays a key role in the world economy in the 1990's.

Meanwhile, Mr. Speaker, the ties between the Republic of China and the United States will grow even stronger as we continue our mutual efforts to reduce trade barriers and tariffs through the promotion of free trade. This will inevitably lead to continued prosperity for our two people.

Mr. Speaker, I send my best wishes to President Lee as he assumes the awesome responsibilities of leadership of this island of democracy and freedom in the Pacific.

## A TRIBUTE TO THE PEPPERELL POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Pepperell Police Department for their dedicated and outstanding service to the people of Pepperell, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave

officers of the Pepperell Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief David Young and those who serve in the Pepperell Police Department:

Thomas Lane, James Scott, Allen Davis, Benjamin McDonald, Kenneth Beers, Steven Bezanson, James Peters, Armando Herrera, Peter Gibbs, Jessica Leblanc, Brian Goldman, Alan Kessieur, and Kevin Cooney.

## JOSE CENTENO, SR., PIONEER SAN ANTONIO BUSINESSMAN

### HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GONZALEZ. Mr. Speaker, I would like for you and my colleagues to know about the life of Jose Centeno, Sr., my neighbor and long-time friend in San Antonio, who was a pioneer Mexican-American businessman, whose goal was to help those who were considered to be hard-core unemployable.

Mr. Centeno built a chain of grocery stores on San Antonio's deep westwide, the predominately Mexican-American part of San Antonio where there have been large numbers of unemployable people, some of whom went off the unemployment rolls when Mr. Centeno hired them.

At his death recently at 91 years of age, Mr. Centeno left a tremendous legacy to his daughter and son, Lile Centeno Alfonsin and Eloy Centeno, and to his daughter-in-law, Alice Little (who was the wife of his deceased son, Joe Centeno, Jr.), and to his 18 grandchildren, and 14 great grandchildren.

The 18 grandchildren, in the order of their birth, are: Priscilla Rodriguez, Michelle Moke, Lillita Moke, Raegean Alonso, Jose Centeno III, JoAnn Centeno, Jeanette Santos, Andy Centeno, Eloy Centeno Jr., Alice Jo Centeno, Julie Moke Munoz, Darrell Centeno, Julie Moke Munoz, Darrell Centeno, Susie Centeno, Frederick Centeno, Jose C. R. Alfonsin, Horacio E. Alfonsin, Carlos A. Alfonsin Jr., and Claudia Centeno.

The 14 great grandchildren are: Michael Joseph Rodriguez, Jesusita L. Rodriguez, Kiki I. Rodriguez, Joe Centeno IV, Aramis Centeno, Luis Santos Jr., Eloy Santos, Francisco Santos, George Alonso, Amber Centeno, Bianca Centeno, Stephanie Santos, Joey Centeno, and Monica Centeno.

Mr. Speaker, I would like to share with you and my colleagues the article which appeared in the San Antonio Express/News on April 26, 1990, regarding Mr. Centeno's life and death.

[From the San Antonio Express/News, Apr. 26, 1990]

CENTENO FOUNDED SUPERMART CHAIN

Jose Centeno Sr. was the founder of Centeno Supermarkets Inc. and chairman of the board.

He was a pioneer Mexican-American businessman whose goal was to help those who were considered to be hard-core unemployable, according to his son, Eloy Centeno, president of the San Antonio supermarkets.

The senior Centeno, 91, died Tuesday in a local hospital after a lengthy illness. He was born in Matamoras, Mexico, and was the son of a physician. As a youth, Centeno joined the revolution, displaying courage beyond his years.

In the early 1920s, he moved to San Antonio looking for his future, and found it in his love of the retail business. Despite his father's wish that he continue the family tradition of practicing medicine, he began his career handling produce at the old Gonzalez Grocery Store.

As a young man, Centeno worked for Joe Barash, who owned two local clothing stores. This further developed Centeno's skills in the retail business.

In 1922, he met and married Jesusita Lopez, and they became the parents of three children. The couple soon began selling groceries from one room of their home on Rivas Street, on the deep West Side. His wife died in 1988.

ONE STORE BECAME MANY

Eventually, with hard work and perseverance, they built this small operation into a chain of grocery stores at a time when few Mexican-Americans were succeeding in business.

"In the 1930s and '40s, there were few opportunities for Mexicanos who wanted a decent job at a decent wage." Eloy Centeno said. "Papa always made sure the less fortunate had a chance.

"Through the years he trained literally hundreds of people in the stores, many of whom went on to successful, productive careers with their retail operations."

"His daughter, Lile Centeno Alfonsin, recalls, "Papa used to say you could only wear one pair of shoes at a time. In spite of his success, his greatest joys were simple ones revolving around his family, whom he liked to keep very close to him.

"He was known as 'Papa Grande' to his family and encouraged his children's involvement in business and in the community at an early age. He was proud to see his son become chairman of the board of City Public Service and a candidate for mayor."

"When Mr. Centeno first came to San Antonio as a young man, he studied medicine under Dr. Aureliano Urrutia Sr.," said architect Henry Munoz, another family spokesman. "Eventually, he was at the Gonzalez Grocery Store and really followed his heart in selecting his career.

"Though he became extraordinarily busy with his business, the most important thing to him was his family. After my wife, the former Julie Moke, lost her father, and after the death of his son, Joe Centeno Jr., Mr. Centeno became the father figure to both sets of his grandchildren. He helped raise all of his grandchildren to a large extent."

Survivors, all of San Antonio, are his daughter; his son; 18 grandchildren; and 14 greatgrandchildren.

The body will lie in state Thursday at home, 235 W. Kings Highway. The rosary will be recited at 7 p.m. Friday in Our Lady of Grace Catholic Church. Mass will be celebrated at 9 a.m. Saturday in San Fernando Cathedral. Burial at 10 a.m. in San Jose Burial Park will be arranged by Porter Loring Mortuary.

## TRIBUTE TO DR. RICHARD D. DECOSMO

### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. WELDON. Mr. Speaker, I would like to take this opportunity to pay tribute to Dr. Richard D. DeCosmo, president of Delaware County Community College in Media, PA. Dr. DeCosmo will be honored with the first Honorary Alumni Membership Award given by the Delaware County Community College Alumni Association, commemorating his 10 years as president of the college.

Dr. DeCosmo is a 1958 graduate of the University of Detroit with a master of arts degree and achieved a doctorate of education from Loyola University of Chicago in 1977. He served as a political science instructor, director of admissions and chief student personnel officer at Macomb County College in Warren, MI. At Moraine Valley Community College in Palos Hills, IL, Dr. DeCosmo served as dean of student community services and dean of student personnel services. In 1975, he was promoted to executive vice president of Moraine Valley, and in 1980, accepted the position as president of Delaware County Community College.

Along with the overall responsibilities as president of Delaware County Community College, Dr. DeCosmo is well-known for his professional affiliations and activities and community involvement. He serves as a member of the Governor's Task Force on Work Force Development, treasurer of the Pennsylvania Association of Colleges and Universities, a volunteer for the American Red Cross, and Delaware County Public Service Chairman of the United Way of Greater Philadelphia. This is just a few of many.

Mr. Speaker, I am most proud and honored to have Delaware County Community College located in Pennsylvania's Seventh Congressional District of which I represent, and am grateful to have the opportunity to recognize and share the merits of an outstanding educator, administrator, and public servant.

## IN MEMORY OF JIM HENSON

### HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GREEN. Mr. Speaker, I rise today to honor the memory of Jim Henson, the talented puppeteer and entertainer who passed away yesterday at the age of 53. Mr. Henson delighted children and adults alike worldwide with his creations of famous puppet charac-

ters such as Kermit the Frog, Oscar the Grouch, and Miss Piggy, to name a few.

While attending the University of Maryland, Mr. Henson worked as a puppeteer at a local television station. It was there that Jim coined the phrase "muppet." He considered his creations to be part puppet and part marionette. After completing his fine arts degree, Jim moved on to "Sesame Street," an educational television program for young children. "Sesame Street," which is produced by the Children's Television Network in my congressional district in New York City, has assured me that the show will go on.

At this time, I should like to join my colleagues in thanking Mr. Henson for the laughter and joy he gave us all by bringing his muppets to life. It is my understanding that the Henson family is also in the entertainment business, and it is my hope that they continue the muppet legacy.

## BAYARD L. "RED" MENDENHALL'S 80TH BIRTHDAY

### HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. SWIFT. Mr. Speaker, May 30 marks a special day for one of my constituents as he celebrates his 80th birthday.

Bayard Mendenhall, or "Red" as he is universally known, was born in Hollywood, CA, on May 30, 1910. At the age of 19 he began working for the U.S. Government under the Bureau of Reclamation. During his 44 years of distinguished service, Red worked on a variety of irrigation projects for the Bureau. He served as project manager on the Fontenelle Dam, Riverton and the Upper Green River storage projects, and project construction engineer on the Seedskadee project.

In 1964, Red moved to Washington State in order to become chief of engineering and construction for the Columbia Basin project in Ephrata, WA. He served in this capacity for 9 years. Upon his retirement in 1973, Red received the Distinguished Career Service Award from the Bureau of Reclamation.

Red currently resides in Friday Harbor, WA, with his wife, Jane. He is the father of three children, grandfather of four, and great-grandfather of one.

Mr. Speaker, I know my colleagues here in the U.S. House of Representatives join me in extending congratulations and best wishes to Mr. Mendenhall on this happy occasion.

## A TRIBUTE TO THE ANDOVER POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Andover Police Department for their dedicated and outstanding service to the people of Andover, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Andover Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief James F. Johnson and those who serve in the Andover Police Department:

Hector G. Pattullo, Richard W. Enos, John Kevin Lynch, Donald G. Mooers, John P. Houlihan, Phillip Froburg, George W. Miller, Steven C. Avery, Arthur J. Ricci, John F. Bernhardt, Kevin J. Winters.

William MacKenzie, Barbara Connolly, Richard O. Aumais, David R. Grant, Ronald M. Hagerty, Calvin Metcalf, Joseph Ouellette, Joseph Hastings, Henry J. Picard, John W. Milne, James S. Reilly.

David L. St. Jean, Thomas F. Siopes, Frank W. Froburg, Kevin J. Burke, Donald Pattullo, John N. Pathiakis, William E. Canane, Robert J. Cronin, Brian Pattullo, Stephen Martellini, Dennis J. Lane, Harry Collins, Mark McDermott, William J. Wallace.

Randall Peterson, James E. Haggerty, Laurence Hickman, Lee J. Britton, Charles Heseltine, Craig F. Poirier, Daniel G. Igoe, Cecillia K. Blais, James Hashem, James Moses, Matthew Aumais, Colin D. Radford, Joseph Thibodeau, Brian T. McAnally.

## IN TRIBUTE TO THE HONORABLE EDWARD J. DERWINSKI

### HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ROSTENKOWSKI. Mr. Speaker, it gives me great pride to join the Association of Former Members of Congress in tribute to the Honorable Edward J. Derwinski, Republican of Illinois.

Ed Derwinski has distinguished himself, his native town of Chicago, his home State of Illinois, his country, and this body in so many ways that it is entirely fitting that he be honored here today by his friends, the current and former Members. Without taking a thing away from other former Members who have been recognized in this forum, I hasten to add that this particular ceremony is long overdue.

Ed Derwinski's career as a Member of Congress needs no additional summary by this Member. His many contributions to the work of the Congress comprise a remarkable record of achievement, in terms both of legislative accomplishment and of representation of his constituents' best interests.

Ed and I started in Congress together, in January 1959, after serving together in the Illinois Legislature. We learned to lean on each other in those early days, and I cannot think of a better man to have had as a friend.

His departure from Congress in 1983, after serving 11 terms, represented as much a personal loss to me as it was an institutional loss to the House of Representatives.

After 22 years' service in the Congress, as you know, Ed then became Under Secretary of State for Security Assistance in the Reagan administration. The President was doing nothing less than recognizing Ed's considerable international experience as a member of the House Committee on Foreign Affairs and as Chairman of the U.S. Delegation to the Interparliamentary Union—not to mention his personal diplomatic skills.

Some things happen by fate—in accordance with a larger plan. I believe that having Ed Derwinski at the State Department during the years leading up to the Eastern European democracy revolutions was one of them. Ed's personal understanding of, and empathy for, the freedom aspirations of the people of Poland, Hungary, Czechoslovakia, and their neighbors had to have been a key element in the openness of the Reagan administration to helping those nations realize their dreams.

He was present for the breaking of the ice and the removal of final sanctions. He served as a reliable and sophisticated channel for messages of encouragement and support to the opposition leaders. And he handled relations with those still in power with great skill and effectiveness. He also was instrumental in keeping his old friends on the Hill informed of where things stood from day to day.

In recognition of his accomplishments at State, President Bush bestowed on Ed an honor of the highest order—the assignment to lead the VA from the status of an independent agency to a seat at the Cabinet table with the full rank it deserves. In this latest incarnation of Ed Derwinski, public servant, the gentleman is writing a bold record of decisive leadership, coupled with an engaging and heartwarming humanitarian manner.

As Secretary of the Veterans' Administration, Ed Derwinski has exceeded our hopes in elevating it to Department status. He has personally brought new respect both to our veterans and to those who serve our veterans so faithfully, as no one else could have. It has proven to be another brilliant appointment. We have to acknowledge the worth of a man who makes his Presidents look so good.

On a personal level, this opportunity to pay tribute to Ed Derwinski is almost more of a pleasure than it is a privilege. Let's face it, ladies and gentlemen, Ed Derwinski is simply a man who is fun to have as a friend—a real lovable guy. When you've seen him dance and laugh and sing Polish ballads from the heart—you hope for a chance to express your appreciation publicly.

I remember clearly our days together in Springfield as newly elected State representatives. After my first experience of Ed Derwinski as troubadour, I knew he had a long political career ahead of him. He was one of those blessed individuals whose voice only

got better the longer we journeyed into the night.

As further evidence of my affection for Ed, I want him to know that the only campaign I ever really enjoyed was when his wife—Bonita Margalus—this was before Ed and Bonnie were married—ran against me for reelection. I learned in that campaign what a great woman Bonnie is, and I really knew that Ed had a lot on the ball when she became his bride.

Let me close by congratulating the Association of Former Members of Congress for bestowing this honor on Ed Derwinski. You have done the right thing in recognizing that he has distinguished himself among former Members. By continuing his public service in the executive branch so commendably, he has thus brought credit not only to himself, but to this body and to the association as well.

Thank you again for this opportunity to take part in the celebration of Ed Derwinski's career.

## CENTRAL EUROPE'S OFFICIAL DEBT

### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. LaFALCE. Mr. Speaker, on May 16, the Financial Times printed an editorial, entitled "Solutions for the Debt Problem," that called on the governments of the industrialized world to take the next step in solving the debt crisis, particularly in central Europe.

Since 1983, when the Mexican Government first threatened to default on its loan payments to Western banks, the international financial system has been embroiled in a tug of war between creditors and debtors. The major losers have been the people of the Third World whose economic growth has stagnated, and American factories which lost valuable export markets, particularly in Latin America.

Last year, the Bush administration took an important step to relieve the debt burden for many of these countries by urging banks to forgive some outstanding debts in exchange for certain guarantees. This policy has become known as the Brady plan. However, while governments have now convinced private creditors that loans to these nations are no longer worth 100 percent of face value, the same governments are insisting on valuing their loans to these debtors at full face value.

Now, a new front has opened on the debt war—central Europe. Having won the cold war with the democratization of Poland, Hungary, Czechoslovakia, and East Germany, it is now time we set out to win the peace. This means that these nations must develop thriving market economies that bring prosperity to their citizens.

Unfortunately, some of these nations are being crushed by an unserviceable debt burden. Unlike the largest Latin American debtors, however, much of this debt—particularly in Poland—is owed to Western governments, not private banks.

The Financial Times editorial points out, that, without official debt relief, the current debt strategy is "full of anomalies and contradictions." For example, "Mexico is better treated than Poland," despite the fact that Poland has, in one bold stroke, completely overhauled its economy, introducing market forces.

To correct this anomaly, and help jump-start these newly emerging market economies in central Europe, I have introduced legislation that will allow these debts to be paid in local currencies, greatly reducing the demand on scarce foreign exchange. In addition, the legislation urges the President to negotiate similar arrangements for these nations with the other industrialized powers. Private creditors would also be expected to follow through with similar plans for reducing the debt burden left by a legacy of four decades of Communist economic policy.

Mr. Speaker, I commend the editorial to your attention, and ask that it be included in the RECORD.

[From the Financial Times, May 16, 1990]

SOLUTIONS FOR THE DEBT PROBLEM

"An improvement in the economic performance of indebted developing countries remains one of the foremost international economic priorities for the 1990s." Thus wrote the staff of the International Monetary Fund in its World Economic Outlook published this month. Unhappily, the objective of ending the eight-year-old Third World debt crisis remains as elusive as ever.

The governments of industrialised countries have, it is true, made important concessions to the heavily-indebted countries over the past two years. Many have converted aid loans into grants. At the 1988 Toronto summit, heads of government agreed on a formula to allow relief on the debt owed by the poorest African countries to export credit agencies. Last year saw the adoption of an initiative of the US Treasury Secretary, Mr. Nicholas Brady, which encouraged the use of resources—mainly from the International Monetary Fund and World Bank—to encourage banks to write-off some loans to middle-income countries.

Although the financial benefits that have accrued to developing countries have been modest so far, policy-makers have at least shifted the focus of the strategy away from further increases in debt obligations and towards a lowering of debt burdens. They have also conceded that onerous levels of foreign debt can be an obstacle to the adoption of desperately needed improvements in economic policies.

ANOMALIES

Unfortunately, the developed countries have not followed this realisation to its logical conclusion. As currently conceived, the debt strategy is full of anomalies and contradictions. For example, governments have persuaded commercial banks that their loans to middle-income debtors are no longer worth 100 cents on the dollar, but they persist in the illusion that this is not true of official export credits.

This produces the absurd result that Mexico is better treated than Poland. Poland owes two-thirds of its $41bn foreign debt to western export credit agencies, which—although they are not demanding interest payments until April 1991—have not conceded debt write-offs. Mexico, however, which owes most to western banks, has just completed a package to lower its $100bn debt burden.

Apart from the big four debtors—Argentina, Brazil, Mexico and Venezuela—nearly all indebted countries owe more to western governments than to bank creditors. Any comprehensive initiative to resolve the problem of Third World debt must tackle debt owed to the former. This may well reduce new export credits to rescheduling countries. So be it. Experience suggests, in any case, that the use of tied export credits is far too often of dubious benefit to economic development.

WRITE OFFS

Debt relief should not be extended to loans from international financial institutions. If it were forced to forgive arrears, the IMF's role at the heart of the financial system could be fatally undermined. Similarly, write offs would raise the cost of borrowing for the World Bank and other development banks, and so damage the cause of development in the long term.

Equally, a widening of debt relief must not go ahead on a purely *ad hoc* basis. The Fund and Bank should, instead, act analogously to domestic bankruptcy courts. Their role would be to ascertain the ability of heavily indebted countries to meet their current debt burdens, while sustaining economic growth and political stability. Where that combination seems impossible, they should recommend adequate levels of debt relief, while insisting upon the *quid pro quo* of a satisfactory programme of economic adjustment.

Contingency clauses to benefit both creditors and debtors in case of external economic shocks could be included, but any debt relief package should, if possible, be once and for all. The arbitrary divisions which currently separate candidates for various forms of debt relief would disappear. Instead, a general assessment of a country's long-term ability to pay would end in a proper division of the burden between the private and official creditors.

## PSYCHOLOGISTS ENDORSE SUBSTANCE ABUSE TREATMENT CORPS ACT

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. STARK. Mr. Speaker, today, Representatives GREEN, GLICKMAN, GRANT, and I introduced the Substance Abuse Treatment Corps bill.

I am pleased to report the endorsement of this effort by the American Psychological Association. I believe other groups will be supporting this effort and I hope it can become part of this year's initiatives in the war against drugs.

The APA's letter follows:

AMERICAN PSYCHOLOGICAL ASSOCIATION,
*Washington, DC, May 17, 1990.*

Hon. FORTNEY H. (PETE) STARK,
*Longworth House Office Building,*
*U.S. House of Representatives, Washington, DC.*

DEAR CONGRESSMAN STARK: The American Psychological Association (APA), the leading scientific and professional association representing over 100,000 clinicians, researchers, educators, consultants and students, commends you for your efforts in introducing the Substance Abuse Treatment Corps Act. Psychology plays an integral role in drug abuse treatment, rehabilitation and

prevention. Psychologists are currently actively involved in the war against drugs on all levels, but there remains a need to attract more qualified mental health care professionals to provide services where they are critically needed and often inadequate or unavailable.

The APA supports the concept of the Substance Abuse Treatment Corps Act which will establish a special unit within the National Health Service Corps as a means to encourage qualified professionals, including mental health professionals, to enter the field of substance abuse treatment. Students or professionals making a commitment to work in public/non-profit treatment programs will become eligible for tuition assistance or loan repayment. This program will provide the necessary assistance to enable individuals to work in programs that are often underfunded and understaffed.

Research clearly demonstrates that drug treatment can work so long as those who are providing the treatment have the necessary skills and training and adequate funds are made available to sustain treatment services and aftercare. We believe acknowledging the need to ensure an adequate pool of qualified personnel is a critical component to any serious national drug control strategy.

We thank you again for your continued efforts and support in the development of policy and programs to fight substance abuse. We look forward to working with you on this proposal to ensure passage of legislation which will substantially enlarge the pool of qualified professionals willing to devote themselves to drug abuse prevention, treatment and rehabilitation.

Sincerely,

BRYANT WELCH, J.D., Ph.D.,
*Executive Director for Professional Practice.*

## CUBAN INDEPENDENCE DAY

### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. FASCELL. Mr. Speaker, I would like to take this opportunity to wish all my friends of Cuban descent a happy Independence Day.

On May 20, 1902, Cuba was given its independence from the United States under the Platt amendment. A constitution was drafted in Havana, the occupation ended, and the new Republic was formed, the beginning of the modern Cuba.

While Cuba has been a sovereign nation for nearly 90 years, the people of Cuba still are not free. Any celebration of Cuban independence is somewhat hollow because the people of Cuba do not share the freedom and democracy that should be inherent in independence.

I hope that in the near future all those of Cuban descent will be celebrating a new day of independence—day that will celebrate the lifting of the oppressive policies of the Castro regime; day to celebrate Cuba's return to the world community that cherishes freedom, democracy, and a respect for the human rights of all men.

## STATEMENT OF ADM. ELMO R. ZUMWALT, JR.

### HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. EVANS. Mr. Speaker, today, I would like to submit for the RECORD the report by retired Navy Adm. Elmo R. Zumwalt, Jr., for the panel that is advising Veterans' Affairs Secretary Edward J. Derwinski on the issue of agent orange compensation. Admiral Zumwalt, a member of the 15-member panel which held its first meeting yesterday, enthusiastically endorsed the findings of the Agent Orange Scientific Task Force [AOSTF]. He said that his review of the AOSTF report and other scientific studies indicates that 28 diseases should be considered related to Agent Orange exposure.

As many people are aware, the health effects of agent orange on the veterans who were exposed to it in Vietnam are an issue of personal concern to Admiral Zumwalt. When Admiral Zumwalt commended naval forces in Vietnam, he ordered the spraying of the defoliate, Agent Orange. His son, Elmo R. Zumwalt III, a patrol boat commander during the war, died in 1988 of cancer believed to have been related to his exposure to the herbicide.

STATEMENT OF ADM. ELMO R. ZUMWALT, JR.

Mr. Chairman and Members of the Committee: We have been requested by Fred Conway to comment at this meeting on "Human Health Effects Associated With Exposure to Herbicides and/or Their Associated Contaminants—Chlorinated Dioxins-Agent Orange and the Vietnam Veteran: A Review of the Scientific Literature, April 1990," prepared by the Agent Orange Scientific task Force (AOSTF) working with the American Legion, Vietnam Veterans of America, and the National Veterans Legal Services Project.

I ask to do so at this time since, due to a speaking engagement in Massachusetts to which I was committed prior to my appointment as a member of the Committee on Environmental Hazards, I must leave tomorrow before our proceedings are ended.

Let me start by enthusiastically applauding the AOSTF Report. Seven prominent, wholly independent scientists, each highly regarded in the scientific community as knowledgeable about health effects due to exposure to dioxins, found the following:

That there is a significant statistical association between exposure to phenocyacetic acid herbicides and/or their associated contaminants (chlorinated dioxins) in the case of five diseases/disorders;

That the scientific evidence supporting the existence of a significant statistical exposure association is at least as strong as the scientific evidence of a lack of such association for three other diseases/disorders; scientific literature that addresses both human and animal health consequences (from cancers to a range of other disorders, dysfunctions and less well defined symptoms) associated with exposure to dioxin contaminants.

It has been my special assignment over the past seven months at the direction of Secretary Derwinski to undertake just such a study—quite independently of the AOSTF analysis. In a report filed with the Secretary on May 4, 1990, I laid out in some detail (a) the results of my own review of available medical and scientific materials on human exposures to dioxin contaminants found in Agent Orange, (b) the probable association of those exposures with cancers and other debilitating illnesses (including offspring deformities), and (c) how the body of studied literature required the conclusion that a significant number of adverse health effects suffered by Vietnam veterans are more likely than not service-connected.

It was heartening, albeit not entirely surprising to me, that my conclusions on likely health effects from dioxin exposures paralleled closely the Task Force conclusions (see Attachment A). I suggest to you that any objective review by knowledgeable experts in the field would predictably lead to much the same conclusion.

The Committee has yet to undertake any sort of disciplined study of the revelant materials. At our November 2-3, 1989 meeting, we were without adequate guidelines to govern our assessment of individual papers or their amalgamation. Beyond this, there was a noticeable failure to apply with any Committee members, a comprehensive listing of cancers and other illnesses should be compiled. Included on this list should be those health effects for which there exists both the biologic plausibility for an association with Vietnam service (based on phenoxy-herbicide exposure or other known environmental hazards) and the availability of human studies of sufficient number and quality to shed light on whether such an association timely exists.

*Identify Scientific and Medical Papers for Review.*—There is a need to gather for Committee review the relevant literature prepared by scientists in the field and medical experts. Multiple papers from the same study population should be identified and marked for review as one study.

*Retain Outside Expertise.*—Evaluation of the collected materials should be undertaken in the first instance by professional epidemiologists having expertise in the environmental fields implicated. The Committee should, therefore, request the Secretary to authorize appointment of such experts (from both academia and public health departments) to review the literature and offer their assessments to the Committee. A timeframe should be set (i.e., three months) for completion of these expert reviews.

*Devise Specific Review Guidelines.*—It is essential, as I have indicated, that any review of the materials move forward under a clear set of evaluation guidelines. There must be a common understanding of exposure classifications, accepted risk comparisons, study design parameters, environmental control factors, and the like. The Committee should direct the staff to devlop such a set of guidelines for distribution to the members within three weeks. A meeting can then be scheduled to discuss, revise and finalize a set of guidelines to be used in the review process.

Upon receipt of the epidemiologists' evaluations, the Committee can schedule a series of sessions for its review of the results on a disease-by-disease basis, taking into account at the time all that is known from experimental tests on animals as well as the latest scientific knowledge from the field of immunology. If there appears to be an evidentiary basis for concluding that a particular health effect is more likely than not linked to phenoxy-herbicide exposure or dioxin exposure, Vietnam veterans suffering such a symptom are entitled to the presumption that the illness is service-connect-

ed, and this Committee should take that position in its report to the Secretary.

Let me emphasize in closing that my own extended assessment of the issue for the Secretary satisfied me that not only the 13 health effects identified in the AOSTF Report, but an additional 14 others are sufficiently associated with contaminants found in Agent Orange to justify service-connected compensation. Nor do I believe that my report can be regarded as the last word on the list of related illnesses. The fact is that we are in an area of developing scientific and medical expertise and the harder one looks into the question of health risks from exposures to dioxin contaminants the more we are finding a causal connection.

This Committee has the responsibility to examine this developing body of evidence and go where it leads, without predisposition, bias or predilection. The integrity of our process has already come under some question; what we now do and how we do it will be closely watched on a number of fronts. We owe it to ourselves, and most particularly to our veterans involved in Vietnam, that our review is both the most thorough and the most professional effort of which this nation is capable. That is a privilege the Vetnam veterans deserve and have not yet been accorded.

ATTACHMENT A—ADVERSE HEALTH EFFECTS RELATED TO EXPOSURE

AOSTF Statistically Significant:
1. non-Hodgkins disease
2. soft tissue sarcoma
3. skin disorders/chloracne
4. subclinical hepatotoxic effects
5. porphyria cutanea tarda

As Likely As Not:
6. Hodgkins disease
7. neurologic effects
8. reproductive and developmental effects

Sound Evidence (Less than statistically significant):
9. leukemia
10. cancers of the kidney
11. cancers of the testes
12. cancers of the pancreas
13. cancers of the stomach
14. cancers of the prostate
15. cancers of the colon
16. cancers of the hepatobiliary tract
17. cancers of the brain
18. psychosocial effects
19. immunological abnormalities
20. gastrointestinal ulcer
21. altered lipid metabolism

ZUMWALT STUDY

As Likely As Not (Very High Confident-V or Confident-C)
1. non-Hodgkins disease (VHC)
2. soft tissue sarcoma (VHC)
3. chloracne and other skin disorders/skin cancer (VHC)
4. other liver disorders (C)
5. porphyria cutanea tarda (VHC)
6. Hodgkins disease (VHC)
7. neurologic defects (VHC)
8. birth defects (VHC)
9. leukemia (C)
10. kidney (C)
11. testicular (C)
12. pancreatic cancer (C)
13. stomach cancer (C)
14. prostate cancer (C)
15. colon cancer (C)
16. liver cancer (C)
17. brain cancer (C)
18. psychosocial effects (C)
19. autoimmune diseases/disorders (VHC)
20. gastrointestinal diseases (C)
21. multiple myeloma (VHC)
22. lip cancer (VHC)
23. bone cancer (VHC)
24. lung cancer (VHC)
25. hematopoetic diseases (VHC)
26. nasal/pharyngeal/esophogeal cancer
27. malignant melanoma (C)

## A TRIBUTE TO THE GROTON POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Groton Police Department for the dedication and outstanding service to the people of Groton, MA in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Groton Police Department, the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief George Rider and those who serve in the Groton Police Department:

John Saball, James Downes, Jr., Jack Balonias, Douglass Hatch, Irmin Pierce, Francis Duclos, Walter Kumpu, Steven Alvarez, Gary McKeon, Patricia Grigas, Thomas Daly, and Scott Sauve.

## TRIBUTE TO THE RECIPIENTS OF THE TRIUMPH OF THE HUMAN SPIRIT AWARD

### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the recipients of the Triumph of the Human Spirit Award, which is sponsored by Hillside Rehabilitation Hospital of my 17th Congressional District of Ohio.

The Triumph of the Human Spirit Award is given to people who have faced physical or mental challenges and have overcome these difficulties. The people at the Hillside Rehabilitation Hospital feel that those who have faced the challenge of a disability or helped those faced with disabilities deserve special recognition.

There were three individuals and one organization that received the award this year. The first category of this award is the outstanding disabled individual: physical rehabilitation, and this year's recipient was Grant W. Jones. Mr. Jones was paralyzed in 1964 after an automobile accident. He has been instrumental in getting legislation passed requiring handicapped accessibility to buildings and sidewalks. Mr. Jones is the director of speech pathology and audiology at Hillside. Since he has taken over as director, he has increased his department from three to seven people thus enabling the department to serve a variety of patients' needs.

The second category is outstanding disabled individual: chemical dependency. The winner in this category was Michelle Jones, R.N. In 1984 Mrs. Jones entered an inpatient treatment center for her addiction to alcohol. Since that time she has been able to rebuild her life. She entered the nursing program at Kent State University, Trumbull Campus, in June 1985. In 1988 she finished her courses and subsequently passed her boards. Since that time she has been working at University Hospital where she is a clinical registered nurse and works on the medical/surgical floor.

The third catagory is outstanding community service: individual. The recipient in this category was Carl A. Nunziato. Mr. Nunziato served in Vietnam as a captain in the 25th Infantry. While on his second tour of duty, he was involved in a mortar attack in which he lost his left leg up to his knee and his right foot. He spent 23 months at Walter Reed Army Hospital in rehabilitation. He received the Purple Heart, the Bronze Star, Air Medal, Armed Forces Expeditionary Medal, National Defense Medal, Vietnam Service Medal, and the Vietnam Campaign Medal with three Battle Stars for his valiant effort. Mr. Nunziato entered Case Western Law School and received his J.D. in 1971. He is presently the vice president and corporate secretary for Dollar Savings and Trust Co. of Youngstown as well as corporate secretary of Ohio Bancorp. He is the cofounder of the Youngstown Chapter of the Governor's Subcommittee for Barrier Free Architecture. He has also received numerous civic awards, including Goodwill Industries Community Service Award, the Ohio Governor's Community Service Award, and the Outstanding Handicapped Ohioan.

The final award given was for outstanding community service: organization. The Rotary Club of Warren was this year's recipient of the award. Since its establishment in April 1920 the Rotary Club has been helping handicapped children. The club has undertaken a number of projects to help orthopedically handicapped children. It has saved Trumbull County and Warren city schools at least $11,000 on equipment purchased by the Rotary Club.

Mr. Speaker, I would like to take this opportunity to recognize the recipients of the Triumph of the Human Spirit Award. These three people and the Rotary Club of Warren have all shown outstanding dedication and compassion to the disabled of our community. Grant Jones, Michelle Jones, and Carl Nunziato have all overcome tremendous odds and hardships to get to the points they are today. They are shining examples of courage and

can be used as role models not only for other handicapped people but for all. I am proud to represent the recipients of this year's awards.

## BEGINNING FARMER AND RANCHER CREDIT ACT OF 1990

### HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. PENNY. Mr. Speaker, today I am introducing, along with Representatives TALLON, JOHNSON of South Dakota, DORGAN of North Dakota, GRANDY, STALLINGS, and TAUKE, the Beginning Farmer and Rancher Credit Act of 1990 to increase Farmers Home Administration [FmHA] farmer program borrower assistance to beginning farmers.

This legislation will: define a new category of FmHA-eligible beginning farmers and ranchers; create a market-placement mechanism for targeting assistance to eligible borrowers; leverage private farm ownership lending through a new FmHA down payment loan; limit total Government assistance to beginning farmers; and earmark funds for the beginning farmer programs.

Getting started in farming today is a difficult task, and young farmers are becoming few and far between. During the 1980's, financial conditions slowed entry into farming and forced many younger farmers and ranchers to leave agriculture. The USDA's Economic Research Service estimates that as a result of farm financial difficulties, nearly half of all farm assets are owned by farmers who will be likely to retire in the next 10 years. In my own State of Minnesota, the average age of farmers is nearly 60 years.

Traditionally, the Farmer Home Administration has provided credit assistance to beginning farmers and has helped to establish thousands of successful commercial farms and ranches. Recently, however, the FmHA has drifted away from its basic mission of providing modest and temporary credit assistance to beginning family-sized farms. During the difficult times of the 1980's, the FmHA used most of its resources to deal with the problems of previous agency and commercial borrowers, but largely ignored the credit needs of beginning farmers.

I believe that the Beginning Farmer and Rancher Credit Act would address these shortcomings in FmHA borrowing and would be an excellent addition to the 1990 farm bill. This legislation would create new opportunities for our young and aspiring farmers and help to maintain the American tradition of independent family farms.

The text of the bill is as follows:

H.R. 4857

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beginning Farmer and Rancher Credit Act of 1990".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) for decades the Federal Government, acting through the Farmers Home Administration, has provided credit assistance to beginning farmers and ranchers and has helped to establish hundreds of thousands of successful commercial farms and ranches;

(2) recently, the Farmers Home Administration has drifted away from its basic mission of providing modest and temporary credit assistance to beginning family-sized farms and ranches;

(3) during the 1980's, the Farmers Home Administration used most of its resources to deal with the problems of previous agency and commercial borrowers, but largely ignored the needs of beginning farmers and ranchers.

(4) recent reports show that credit is becoming increasingly unavailable to beginning farmers;

(5) in February 1990, the General Accounting Office issued a report, entitled "Farmers Home Administration: Use of Loan Funds by Farmer Program Borrowers", which indicated that 81 percent of all Farmers Home Administration lending during fiscal year 1988 went to previous commercial borrowers, and in September 1988, the Inspector General of the Department of Agriculture issued a report, entitled "Farmers Home Administration's Management of Farmer Program Guaranteed Loans Needs Improvement", which indicated that 99 percent of Farmers Home Administration farm program loan guarantees made between October 1, 1985, and June 7, 1987, were used to finance commercial borrowers;

(6) during the 1980's financial conditions slowed entry into agriculture and forced disproportionate numbers of younger farmers and ranchers to leave agriculture, and the Economic Research Service estimates that, as a result, nearly half of the farm assets in the United States is controlled by farmers who are likely to retire in the next 10 years;

(7) the demographics of agriculture in the United States requires the Federal Government to respond promptly to assist entry into agriculture, and promote the economic and social health of agriculture and the rural communities in which agriculture is based; and

(8) a new approach is needed to ensure that Farmers Home Administration lending to beginning farmers and ranchers is cost-effective, provides as many opportunities as possible for entry into agriculture, protects the interests of the Federal Government, helps beginning farmers and ranchers to establish viable farming and ranching operations, and enables beginning farmers and ranchers to obtain commercial credit as quickly as possible.

(b) STATEMENT OF PURPOSE.—The purpose of this Act is to assist qualified beginning farmers and ranchers in obtaining the financial assistance necessary to enter agriculture and establish viable farming and ranching operations, consistent with sound fiscal policy, by—

(1) requiring the Farmers Home Administration to—

(A) evaluate the credit needs of such farmers and ranchers;

(B) provide loan guarantees and interest assistance with respect to such farmers and ranchers, thereby enabling such farmers and ranchers to obtain loans from private lenders at lower effective interest rates than would otherwise be possible in order to carry out a financially viable farming plan; and

(C) provide direct loans to such farmers and ranchers if commercial loans are not available to such farmers or ranchers;

(2) allowing such farmers and ranchers to obtain loans from the Farmers Home Administration as part of the down payment on a farm or ranch, thereby assisting such farmers and ranchers in financing the acquisition of the farm or ranch;

(3) giving such farmers and ranchers first priority in the purchase or lease of Farmers Home Administration inventory property which is not purchased or leased by the previous owner or operator of the property or any member of the family of such owner or operator;

(4) placing strict limits on the annual and aggregate per borrower cost to the Federal Government of providing assistance to such farmers and ranchers; and

(5) requiring that a portion of the amounts authorized for fiscal years 1991 through 1995 for farm ownership and operating loans be used for making loans to such farmers and ranchers.

SEC. 3. MARKET PLACEMENT.

Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended by adding at the end the following:

"(i)(1) Notwithstanding subsections (b), (c), and (d), the Secretary shall establish and carry out an interest rate reduction program under this subsection for loans to qualified beginning farmers and ranchers which are guaranteed under this title.

"(2)(A) The Secretary shall evaluate, in accordance with regulations to be prescribed by the Secretary, the farming plan and financial situation of each qualified beginning farmer or rancher who applies for assistance under this title, by determining the following:

"(i) The amount which the applicant will need to borrow to carry out the applicant's proposed farming plan.

"(ii) The rate of interest which the applicant would be able to pay on amounts borrowed to carry out the proposed farming plan.

"(iii) Whether or not the applicant's proposed farming plan is financially viable, and if not, the changes needed to produce a financially viable farming plan.

"(iv) Whether or not, and if so, the extent to which, the applicant will require the following kinds of assistance in order to obtain the financing required to carry out a financially viable farming plan:

"(I) Guarantees under section 309(h) to repay 90 percent of the principal and interest on loans to the applicant.

"(II) Interest assistance under this subsection to pay that portion of the interest payable on loans to the applicant which exceeds the amount that would be so payable if such interest were payable at the per annum rate determined under clause (ii);

"(B)(i) If the Secretry makes a positive determination with respect to an applicant under subparagraph (A)(iv), the Secretary shall prepare and circulate among lenders a packet containing the following:

"(I) The farming plan of, and financial information about, the applicant.

"(II) A statement that the Secretary has verified all of the financial information contained in the packet.

"(III) A description of the amounts of loan guarantees and interest assistance which the Secretary will provide to the applicant to enable the applicant to carry out a financially viable farming plan.

"(IV) The rate periodically determined by the Secretary to be the average per annum interest rate charged by commercial lenders in the area in which the applicant is located for loans the purpose and maturity of which

are similar to the purpose and maturity of the loan required by the applicant to carry out a financially viable farming plan.

"(V) A statement that if a lender (or a group of lenders) agrees to offer to loan the applicant the amount required for the applicant to carry out a financially viable farming plan at a per annum interest rate that does not exceed the average per annum interest rate described in clause (IV), and if the interest rate on the loan is lowest interest rate offered on similar loans to the applicant by other lenders (or groups of lenders), the Secretary will provide to the applicant the loan guarantees and the interest assistance with respect to the loan, in the amounts determined under subparagraph (A)(iv).

"(VI) All documents and related material required to enable the applicant to obtain the loan guarantees and interest assistance with respect to the loan, in the amounts determined under subparagraph (A)(iv).

"(ii) Each packet prepared under clause (i) shall offer interested lenders an opportunity to interview the applicant but shall not identify the applicant by name.

"(iii) The Secretary shall not require a farming plan to generate more than 105 percent (100 percent during the first 3 years of the plan) of the amount required to service the loans required under the plan in order for the plan to be considered financially viable.

"(iv) If the Secretary receives an offer described in clause (i)(V) with respect to the applicant, the Secretary shall enter into a contract with the lender (or group of lenders) involved to guarantee the repayment of 90 percent of the principal and interest payable on the loan involved, and make interest assistance payments to the lender, in amounts determined under subparagraph (A)(iv), in order to reduce during the term of the loan the interest rate payable by the applicant on the loan.

"(C) If the Secretary is unable to provide loan guarantees and interest assistance to the applicant under this subsection in amounts sufficient to enable the applicant to borrow from other sources the amounts required to carry out a financially viable farming plan, or if the Secretary does not receive an offer with respect to the applicant which meets the requirements of subparagraphs (B)(i)(V), the Secretary shall make—

"(i) an insured loan to the applicant under subtitle A or B, whichever is applicable, at the per annum interest rate determined under subparagraph (A)(ii); or

"(ii) a down payment loan to the applicant under section 310E.".

SEC. 4. DOWN PAYMENT LOAN PROGRAM.

"(a) IN GENERAL.—Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922-1934) is amended by adding at the end the following:

"SEC. 310E. DOWN PAYMENT LOAN PROGRAM.

"(a) IN GENERAL.—Notwithstanding any other section of this subtitle, the Secretary shall use not less than 50 percent of the funds for farm ownership loans under this subtitle to make loans under this section to qualified beginning farmers and ranchers for down payments on farm ownership loans.

"(b) LOAN TERMS.—

"(1) PRINCIPAL.—Each loan made under this section shall be of an amount equal to 30 percent of the price of the farm or ranch to be acquired.

"(2) NO INTEREST.—The Secretary shall not charge interest on any loan made under this section.

"(3) DURATION.—Each loan under this section shall be made for a period of 10 years.

"(4) REPAYMENT.—Each borrower of a loan under this section shall repay to the Secretary 10 percent of the loan amount annually on each of the 1st 10 anniversaries of the date the loan is made.

"(5) NATURE OF RETAINED SECURITY INTEREST.—The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section, which shall—

"(A) be secured by the farm or ranch;

"(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person from whom the borrower obtained a loan used to acquire the farm or ranch; and

"(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

"(c) LIMITATIONS.—

"(1) BORROWERS REQUIRED TO MAKE MINIMUM DOWN PAYMENT.—The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the price of the farm or ranch.

"(2) MAXIMUM PRICE OF PROPERTY TO BE ACQUIRED.—The Secretary shall not make a loan under this section with respect to a farm or ranch the price of which exceeds the dollar amount specified in section 313(1) as the maximum amount of total principal indebtedness that may be outstanding at any one time for loan made under this subtitle to any borrower in the case of a loan other than a guaranteed loan.

"(3) PROHIBITED TYPES OF FINANCING.—The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with financing which contains any of the following conditions:

"(A) The financing is to be amortized over a period of less than 30 years.

"(B) A ballon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

"(d) ADMINISTRATION.—The Secretary shall, to the maximum extent practicable—

"(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subtitle;

"(2) make efforts to widely publicize the availability of loans under this section among—

"(A) potentially eligible recipients of such loans;

"(B) retiring farmers and ranchers; and

"(C) applicants for farm ownership loan under this subtitle;

"(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to qualified beginning farms and ranchers by providing seller financing; and

"(4) coordinate the loan program established by this section with State program that provide farm ownership or operating loans for beginning farmers.".

SEC. 5. INVENTORY LAND.

Section 335(e)(1)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)(C)) is amended by redesignating clause (iv) as clause (vi) and by inserting after clause (iii) the following:

"(iv) Qualified beginning farmers and ranchers.

"(v) All other persons who are eligible for assistance under this title".

SEC. 6. LIMITATIONS ON ASSISTANCE FOR QUALIFIED BEGINNING FARMERS AND RANCHERS

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"SEC. 359. LIMITATIONS ON ASSISTANCE FOR QUALIFIED BEGINNING FARMERS AND RANCHERS.

"(a) IN GENERAL.—Notwithstanding any other section of this title.

"(1) LIMITATIONS ON ASSISTANCE UNDER SUBTITLE A.—

"(A) ANNUAL LIMITATION.—The maximum cost of the assistance that the Secretary may provide under subtitle A to a qualified beginning farmer or rancher for a fiscal year shall be an amount equal to—

"(i) $100,000, multiplied by the sum of 1 and the percentage, determined by the Secretary, by which the average of the prices for which farmland in the United States is sold has changed during the period beginning with the fiscal year in which this section takes effect and ending with the fiscal year that immediately precedes the fiscal year for which the cost of assistance is calculated; multiplied by

"(ii) the amount (if any) by which 0.05 is exceeded by the lesser of—

"(I) the then current average (weighted by principal) market yield of outstanding marketable obligations of the United States having a maturity of 10 years; or

"(II) 0.14.

"(B) MAXIMUM COST OF ASSISTANCE.—The Secretary shall not provide additional assistance under subtitle A to a qualified beginning farmer or rancher for a year that occurs after the first 10 years the qualified beginning farmer or rancher is provided assistance under subtitle A if, after the provision of the additional assistance, the aggregate cost of all assistance provided under a subtitle A to the qualified beginning farmer or rancher would exceed the aggregate of the maximum amounts determined under subparagraph (A) for such 10 fiscal years.

"(2) LIMITATIONS ON ASSISTANCE UNDER SUBTITLE B.—

"(A) ANNUAL LIMITATION PER BORROWER.—The maximum cost of the assistance that the Secretary may provide under subtitle B to a qualified beginning farmer or rancher for a fiscal year shall be an amount equal to—

"(i) $100,000, multiplied by the sum of 1 and the percentage, determined by the Secretary, by which the average cost of producing agricultural commodities in the United States has changed during the period beginning with the fiscal year in which this section takes effect and ending with the fiscal year that immediately precedes the fiscal year for which the cost of assistance is calculated; multiplied by

"(ii) the amount (if any) by which 0.05 is exceeded by the lesser of—

"(I) the then current average (weighted by principal) market yield of outstanding marketable obligations of the United States having a maturity of 1 year; or

"(II) 0.13.

"(B) MAXIMUM COST OF ASSISTANCE.—The Secretary shall not provide additional assistance under subtitle B to a qualified beginning farmer or rancher for a year that occurs after the first 10 years the qualified beginning farmer or rancher is provided assistance under subtitle B if, after the provi-

sion of the additional assistance, the aggregate cost of all assistance provided under subtitle B to the qualified beginning farmer or rancher would exceed the aggregate of the maximum amounts determined under subparagraph (A) for such 10 fiscal years.

"(b) DETERMINATION OF COST OF ASSISTANCE.—The cost of assistance provided to a qualified beginning farmer or rancher under this title shall be determined as follows:

"(1) COST OF LOANS.—The cost of a loan for a fiscal year shall be—

"(A) the principal amount of the loan; multiplied by

"(B) the amount (if any) by which—

"(i) the lesser of—

"(I) the then current average (weighted by principal) market yield of outstanding marketable obligations of the United States having a maturity of 10 years; or

"(II) 0.14; exceeds

"(ii) the per annum interest rate payable by the borrower on the loan.

"(2) COST OF LOAN GUARANTEES.—The cost of a loan guarantee for a fiscal year shall be the amount (if any) paid by the Secretary to the lender during the fiscal year under a contract entered into pursuant to section 351(i).

"(c) SPECIAL RULE.—In determining the amount of assistance to be provided under subtitles A and B to a qualified beginning farmer or rancher, the Secretary shall ensure that the individual pays interest at a rate which is—

"(1) not greater than the per annum rate at which the individual can safely afford to pay such interest, taking into account farm operating costs and living expenses; and

"(2) not less than 5 percent per annum.".

SEC. 7. DEFINITION OF QUALIFIED BEGINNING FARMER OR RANCHER.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding after the section added by section 6 of this Act the following:

"SEC. 360. DEFINITION OF QUALIFIED BEGINNING FARMER OR RANCHER.

"As used in this Act, the term 'qualified beginning farmer or rancher' means an individual—

"(1) who is eligible for assistance under this title;

"(2) who is not farming or ranching, or who has operated a farm or ranch for not more than 10 years;

"(3)(A) in the case of an owner or operator of a farm or ranch, who, individually or with the immediate family of the owner or operator—

"(i) materially and substantially participates in the farm or ranch; and

"(ii) provides a majority of the day-to-day labor and management of the farm or ranch; and

"(B) In the case of an individual seeking to own or operate a farm or ranch, who, individually or with the immediate family of the individual, will—

"(i) materially and substantially participate in the farm or ranch; and

"(ii) provide a majority of the day-to-day labor and management of the farm or ranch;

"(4) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

"(5) whose net worth (including the net worth of the spouse and dependents (if any) of the individual) does not exceed $100,000, based on fair market value;

"(6) who does not own land or who, directly or through interests in family farm corporations, owns land the aggregate acreage of which does not exceed 15 percent of the median acreage of the farms in the county in which the individual is to obtain land is located, as reported in the most recent census of agriculture taken under section 142 of title 13, United States Code;

"(7) who controls, through ownership or lease, assets usable in farming or ranching the value of which does not exceed $400,000; and

"(8) who demonstrates that the available resources of the family of the individual are not sufficient to enable the individual to enter or continue farming or ranching on a viable scale.".

SEC. 8. NEW LOAN AND GUARANTEE AUTHORITY; SET ASIDE FOR LOANS AND GUARANTEES TO QUALIFIED BEGINNING FARMERS AND RANCHERS.

Section 346(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(1)) is amended—

(1) by amending subparagraphs (A), (B), and (C) to read as follows:

"(b)(1) For each of fiscal years 1991 through 1995, real estate and operating loans may be insured, made to be sold and insured, or guaranteed, in accordance with subtitles A and B, respectively, from the Agricultural Credit Insurance Fund established under section 309, in an amount equal to $3,700,000,000, as follows:

"(A) $1,600,000,000 shall be for insured loans, of which not less than $700,000,000 shall be for insured loans to qualified beginning farmers and ranchers.

"(B) $2,100,000,000 shall be for loan guarantees, of which not less than $825,000,000 shall be for guarantees of loans to qualified beginning farmers and ranchers.

"(2) Not less than $950,000,000 of the amounts allocated under paragraph (1) for insured loans and loan guarantees shall be used as follows:

"(A) Not less than $350,000,000 shall be for insured farm ownership loans under subtitle A, of which not less than $300,000,000 shall be for insured farm ownership loans for qualified beginning farmers and ranchers.

"(B) Not less than $600,000,000 shall be for guarantees of farm ownership loans, of which not less than $325,000,000 shall be for guarantees of insured farm ownership loans made to qualified beginning farmers and ranchers.

"(3) $100,000,000 of the amounts allocated under paragraph (1) for insured loans and loan guarantees shall be placed in a reserve and used solely for loans in response to localized natural disasters under subtitle C for persons eligible for assistance under subtitle B.

"(4) For each of the fiscal years set forth in paragraph (1), the Secretary may transfer not more than 25 percent of the amounts authorized for loan guarantees to amounts authorized for insured loans.";

(2) by striking subparagraph (D); and

(3) by redesignating subparagraph (E) and clauses (i), (ii), and (iii) of such subparagraph, as paragraph (5) and subparagraphs (A), (B), and (C), respectively.

## FEDERAL HELP NEEDED TO IMPROVE OSTEOPOROSIS AND OTHER BONE DISORDERS

### HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Ms. SNOWE. Mr. Speaker, today I am pleased to introduce the Osteoporosis and Related Bone Disorders Research, Education, and Health Services Act of 1990 and the Medicare Bone Mass Measurement Coverage Act of 1990. I feel that it is especially fitting to introduce these legislative proposals at this time which has been designated as "National Osteoporosis Prevention Week." Senators CHARLES GRASSLEY and JOHN GLENN, with whom I have collaborated for many years on osteoporosis and other issues affecting the elderly, are introducing these same bills in the U.S. Senate.

Osteoporosis, or porous bone, is a major debilitating disorder characterized by an excessive loss of bone tissue which highly increases the risk of bone fractures, particularly of the hip, neck, wrist and spine. It is a major public health problem, affecting at least 24 million Americans—almost half of all women over age 45, 90 percent of women over age 75 and many men as well. Because the disorder develops silently over many years with no symptoms, many people are unaware they have it until a suddent bump, strain or fall causes their weakened bones to break or their spinal vertebrae to collapse.

Osteoporosis is responsible for at least 1.3 million fractures in the United States each year, including 250,000 hip fractures, 500,000 vertebral fractures and 200,000 wrist fractures. Direct medical costs for the care of these fractures was estimated to be over $10 billion a year in 1988, with cases related to hip fractures accounting for over $7 billion. As hip fractures are concentrated in persons over age 65 and the rate of fracturing increases sharply with age, future costs of caring for hip fracture patients could reach between $30 and $60 billion by the year 2020 unless effective prevention and treatment is found for the disease.

Unnecessary death from hip fractures is the most tragic consequence of osteoporosis. The mortality rate from hip fractures is an alarming 12 to 20 percent, particularly affecting elderly women. Of those who survive a hip fracture, 20 percent will need nursing home care, often for the rest of their lives. Over one-fifth will be unable to walk for at least a year and many will never walk again.

With the rapid expansion of the older population in the next century, a high rate of older persons are expected to survive into their eighties and nineties because of declining deaths from strokes and heart disease. Moreover, according to the lead article in the May 2, 1990 issue of the Journal of the American Medical Association, without major advances in prevention and treatment, the costs of caring for the increased number of hip fracture and dementia patients in this old-old age group will soar dramatically. The researchers concluded that, in today's difficult financial cli-

mate, a "positive approach to reducing health care costs is to mobilize research resources on common diseases and disorders that lead to long-term disability in the oldest old."

The legislation which I am introducing, the "Osteoporosis and Related Bone Disorders Research, Education, and Health Services Act of 1990" will expand, intensify and coordinate Federal research on osteoporosis. Although there have been significant advances in osteoporosis research, lack of funding has resulted in a very low award rate for research grants on osteoporosis at the National Institutes of Health. Much of the basic research on the causes of osteoporosis and risk factors that can be modified is yet to be done. Research on promising treatments to restore bone loss and to prevent further bone loss must also be expanded and tested in clinical trials. Therefore, this bill would authorize an additional $36 million in Federal funding for osteoporosis research.

In addition, the bill would establish: First, an Interagency Council on Osteoporosis and Related Bone Disorders within the Department of Health and Human Services to promote and coordinate research, education and health promotion programs; second, an advisory panel on osteoporosis and related disorders, of non-Federal experts on the disease, which would make recommendations on biomedical research, health promotion and services, and education to Congress and the Secretary of the Department of Health and Human Services; third, grants for three model education, health promotion and disease prevention projects for the following target populations: young and teenage girls, midlife women, older men and women; and fourth, a resource center on osteoporosis and related disorders to compile and disseminate information about research results, services and educational materials to health professionals, patients and the public.

I am also introducing the Medicare Bone Mass Measurement Coverage Act of 1990 to expand Medicare coverage for diagnostic testing of osteoporosis. Bone mass measurement is the only accurate way to detect and diagnose low bone mass in order to assess the risk of fracture and select therapy to prevent further loss. Currently, the Health Care Financing Administration [HCFA] only covers reimbursement for bone mass measurement for single photon absorptiometry which has been surpassed for several years by more sophisticated, cost-effective and accurate technologies.

Years of review and reliance on obsolete data have continually delayed HCFA approval of newer bone mass measurement technologies which have been wholeheartedly endorsed by the scientific community. My bill limits Medicare reimbursement for updated bone measurement technologies to four groups which are most at-risk to have or develop osteoporosis and, therefore, most at-risk for developing fractures. As such, the following target groups would be covered: First, estrogen-deficient women at clinical risk for osteoporosis; second, individuals with vertebral abnormalities, such as compression fractures; third, individuals receiving long-term glucocorticoid steroid therapy; and fourth, individuals with primary hyperparathyroidism.

I anticipate that the impact of the cost of such coverage on Medicare expenditures would be very low or budget neutral and would produce small savings in the short run. In the long run, Medicare and long-term care savings would be substantial if a large share of the direct medical, hospital and nursing home costs for fractures of osteoporosis patients could be prevented. In addition, Medicare will benefit as insurance companies are likely to follow Medicare's lead and extend coverage for these updated bone measurement technologies to women under age 65. This would result in cost savings to the Medicare Program as the disorder could be detected at an earlier age when prevention is still possible.

Mr. Speaker, I believe that a major Federal commitment must be made in order to overcome the high human and fiscal costs of osteoporosis. The pain, suffering, immobility and deaths due to bone weakening and fracturing could be substantially reduced and hopefully eventually eliminated through enhanced biomedical research and prevention and treatment programs. I believe that the legislation which I am introducing today is a significant step toward these goals and I urge support for its provisions.

## A TRIBUTE TO THE MAYNARD POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Maynard Police Department for their dedicated and outstanding service to the people of Maynard, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Maynard Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order, that our neighborhoods are not held hostage to the threats of criminals, and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service of your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say "thanks" for a job well done. Let us take this time to recognize the contributions of Chief Arner S. Tibbets and those who serve in the Maynard Police Department:

Alfred T. Whitney, Jr., James Corcoran, Edwin Grierson, Philip Graven, John Callahan, James Dawson, Charles Walsh, Stephen Jones, Allan Alappas, Mark Knowlton.

Edward Byrne, Edward Lawton, Patrick Currin, Douglas Macglashing, Thomas Natoli, John Kaziukonis, Karl Nyholm, Clifford Wilson, Mary McCue, Douglas Tucker.

## BILL McCOLLAM GIVES UP HELM AT EEI

### HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mrs. BOGGS. Mr. Speaker, on April 30 a very good friend of mine from New Orleans, William McCollam retired as president of the Edison Electric Institute. A leader in the electric utility industry during a challenging transition period, Bill McCollam will continue his valuable service to the industry as president emeritus of EEI with a special responsibility for expanding the organization's role in the increasingly important international arena.

Bill McCollam became president of the institute, the national association of investor-owned electric utility companies, in April 1978. His first major assignment was to merge EEI and the National Association of Electric Companies, then move the new organization from New York City to Washington, DC.

The successful completion of this important transition displayed two characteristics that would mark his stewardship: a continual striving for greater efficiency in serving the industry, its customers and investors; and an emphasis on affirmative, forward-looking Government relations, public communications, and technical programs.

During McCollam's tenure at EEI, the industry had to adapt to the effects of several fuel supply crises, numerous new environmental regulations, and public concern about the safety of nuclear energy; as well as to important regulatory changes affecting power transmission, coal transportation, and investment risk. It is a tribute to his executive ability and his effectiveness in the corridors of power that the industry today is much better positioned to serve the American people than it was a decade ago.

Bill McCollam will be remembered not only for his role in establishing the electric power industry as a respected, credible organization in Washington, but also for helping the public understand the Nation's energy needs, and the role of electric power in meeting those needs.

McCollam began his career in the industry with Arkansas Power & Light Co. in 1961. After 9 years at AP&L in various executive capacities, including vice president and senior vice president, he joined New Orleans Public Service Inc. [NOPSI] as executive vice president in July, 1970. He was elected president in April 1971, a position he held until moving to EEI.

While president of New Orleans Public Service, McCollam became chairman of the North American Electric Reliability Council [NERC], which consists of nine regional reliability councils encompassing the power systems of the United States and four Canadian provinces. He is a past chairman of the Southwest Power Pool.

Both as chairman of NERC and as a representative of Middle South Utilities—the parent

company of AP&L and NOPSI, now known as Entergy Corp.—McCollam was a frequent spokesman for the Nation's electric utility systems on questions of national, regional, and State energy policy.

A native of New Orleans, McCollam holds B.S. degrees from Louisiana State University and the U.S. Military Academy, and an M.S. in engineering from MIT. He is also a graduate of the U.S. Army Command and General Staff College. He served in the Army Corps of Engineers from 1946 to 1961, rising to lieutenant colonel prior to joining AP&L.

A registered professional engineer—New York—and a former member of the Louisiana Engineering Society, he received the organization's A.B. Paterson Award in 1975 for managerial achievement in an executive position. He was also installed as a member of the Louisiana State University Alumni Hall of Distinction in 1985.

Active in community affairs in New Orleans, he was president—now chairman—of the Chamber of Commerce of the New Orleans Area; served on the executive board of the New Orleans Area Council, Boy Scouts of America; was on the Business School Council of Tulane University's Graduate School of Business Administration and the university's president's council; and was a director of Loyola University, the New Orleans Philharmonic Symphony Society, and the New Orleans Chapter of the American Red Cross.

He presently serves on the boards of the Advanced Reactor Corp., the Alliance to Save Energy, and the Thomas Alva Edison Foundation.

He is married to the former Hope Flower Joffrion. They have three children: a daughter, the Reverend Dr. Ellendale McCollam Hoffman, Old Saybrook, CT; and two sons, William C. of Galveston, TX, and Dr. Stephen M. of Atlanta, GA.

Bill's career has been one of dedication to the electric utility industry and to making this Nation a better place by working to develop the power resource the American people need and expect to power their factories, to light their cities, and to make the modern conveniences in their homes a reality. I salute him and thank him for his service.

## TRIBUTE TO REV. JOHN J. DEMKOVICH ON THE SILVER ANNIVERSARY OF HIS ORDINATION

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ROE. Mr. Speaker, on Sunday, June 3, residents of my Eighth Congressional District and the State of New Jersey will join the parish community of St. Mary's Assumption Roman Catholic Slovak Church of Passaic, NJ, and Rev. John J. Demkovich in celebration of the 25th anniversary of his consecration into the sacrament of holy orders.

Mr. Speaker, the faith and devotion of our people in a full communion of understanding—ever caring and respecting the individual beliefs of our fellowman has been the lifeline of our democracy—ever inspiring our people with hope and urging the individual on to great achievements and purposes in pursuing the fulfillment of his or her dreams and ambitions. The exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream and today we express our appreciation to Rev. John J. Demkovich, whose esteemed dedication and unselfish devotion in promulgating spiritual guidance, good will, fellowship, and brotherhood in service to God have truly enriched our community, State, and Nation.

Reverend Demkovich has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the price of his family, many friends and parishioners in the distinguished achievements so unselfishly dedicated to the betterment of mankind. There is so much that can be said of the love, affection, and reverence with which Reverend Demkovich is held by all who have had the good fortune to know him.

Mr. Speaker, we are so proud to have Reverend Demkovich with us in Passaic, NJ. He is the pastor of St. Mary's Assumption Roman Catholic Slovak Church, where he has served in that position for 19 devoted and faithful years. Prior to coming to St. Mary's Assumption in 1971, he served at Holy Trinity of Passaic, St. Mary's Assumption of Denville and St. Margaret's of Morristown.

Reverend Demkovich attended schools in New Brunswick, NJ, graduating from New Brunswick High School in 1951. He began his undergraduate work at Rutgers University and eventually entered Christ the King Seminary at St. Bonaventure University in Olean, NY, where he received his B.A. degree in philosophy.

Mr. Speaker, Reverend Demkovich was active as a missionary, having been accepted as a novice with the Missionaries of Africa in 1958 before attending the White Fathers Seminary at Ottawa, Canada. He eventually came to the diocese of Paterson as a student in 1964 and was ordained May 29, 1965, after finishing his deacon year at Theological College of Catholic University of America in Washington, DC.

Among his many activities, Reverend Demkovich has served as advocate for the diocesan Marriage Tribunal; confessor of Carmel in Morristown, NJ; spiritual director for the Paterson-Curia of the Legion of Mary; diocesan liaison to the National Shrine of the Immaculate Conception, and the diocesan pilgrimage director.

Reverend Demkovich has also been active in the Healing Ministry in Charismatic Renewal. He has also given retreats in the New Jersey-New York metropolitan area and has served as assistant director of the FIAT Rosary Devotion for the United States and Canada.

Mr. Speaker, as Reverend Demkovich celebrates the 25th anniversary of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join me in extending our warmest greetings and felicitations for the excellence of his service to his church, our Nation, and all mankind. We do indeed salute an esteemed pastor, exemplary clergyman, and great American—Rev. John J. Demkovich, pastor of St. Mary's Assumption Roman Catholic Slovak Church of Passaic, NJ.

## A TRIBUTE TO THE LAWRENCE POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Officer's Week to pay tribute to the Lawrence Police Department for their dedicated and outstanding service to the people of Lawrence, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These others are the brave officers of the Lawrence Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Allan W. Cole, Jr., and those who serve in the Lawrence Police Department:

Thomas M. Nastasia, Samuel P. Aliano, Ronald J. Poirier, Frank J. Incropera, Joseph A. St. Germain, Gregory Panagiatakos, Daniel N. Fournier, Herbert G. Baker, Robert F. Blackwell, Joseph W.L. Ouellette, Robert J. Blanchette, Samuel J. Coco.

Emil V. DeFusco, Walter A. Soriano, David G. Kelley, Alfred J. Petralia, Calvin W. Hall, Anthony F. Palmigiano, Michael S. Molchan, Stanley F. Bachta, Daniel M. Foley, William C. Hale, Joseph R. Hamman, Justin T. Hart, Gene G. Hatem.

Victor A. Hidish, James Houlihan, Alberto M. Inostroza, Robert T. Jackson, Ronald W. Jansky, Terry M. Kalil, Paul Karamourtopoulos, Richard J. Kirkham, Michael A. Laird, Jeffrey D. Lannon, William A. Lees, David M. Levesque, Timothy J. Levesque, Anthony R. Lorenzo.

Joss Linares, John F. Lundy, John J. McDonald, Harold M. Maldonado, Denise E. McFarland, Jose Martinez, Charles T. Midolo, Michael A. Misserville, Paul V. Misserville, Lawrence F. Moolic, Thomas K. Mooney, Victor Morales, Dennis M. Murphy, Thomas J. Murphy.

Salvatore T. Nitto, Louis C. Napoli, Robert J. Nochnuk, Richard F. O'Connell, David Padellaro, Michael Padellaro, Donald F. Pappalardo, Neil Perocchi, William B. Pedrick, Denis Pierce, Paul M. Plantamura, Ronald E. Plourde, Horace Privitera.

Michael Phair, Leonard F. Quaglietta, Mark F. Rivet, John V. Reilly, John Rogers, Rosario

Rubino, Paul P. Ruggiero, John Sapienze, Raymond W. Smith, Clayton M. Soucie, Edgar R. St. Onge, Paul J. Sutton, Stephen Takesian.

Wayne Taylor, James A. Thomas, Lawrence P. Viens, Anthony Vallante, Arthur W. Waller, Joseph H. Welch, Thomas M. Wolfendale, William E. Wolfindale, Willy F. Arlesqueeuw, David Augusta, William J. Augusta, William J. Beck, Donald A. Beveridge, Frank A. Biancardi.

John H. Blais, Elaine M. Boucher, Sean Burke, Brian W. Burokas, Kevin G. Callahan, Miguel A. Carattini, Michael J. Carelli, Charles M. Carroll, Thomas J. Carroll, Robert R. Castonguay, Salvatore A. Coco, James Crocker, Donald M. Cronin, Edmund S. Daher.

Emil DeFusco, John R. DeSantis, Ronald J. DeSantis, Arthur J. Deshaies, Calvin A. Deyermond, Dana M. DiFiore, Philip J. DiGloria, Sean Dugan, John D. Edwards, Robert C. Farrington, William M. Fleming, Frank M. Giarusso, Joseph J. Girgenti.

Carlos Gonzalez, Robert R. Grant, Clarence P. Grenier, Alan N. Andrews, Mary R. Bartlett, Melix Bonilla, Richard Brooks, Michael P. Driscoll, Jose A. Flores, Jr., John D. Fornesi, William C. Hale, Jr., Rafael Rosa, Michael Saffie.

## MEET THE PROFESSOR: DR. SEAN BURKE

### HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GONZALEZ. Mr. Speaker, and my distinguished colleagues, if you are over 30 years old, and have spent at least half of those years in San Antonio, then it is almost certain you know "The Professor."

To expand a bit, geographically speaking, if you are of Irish descent and belong to Irish American organizations, then you, too, probably know "The Professor."

Dr. Sean Burke, professor of philosophy at Incarnate Word College, hosted San Antonio television's longest running community service program, "Meet the Professor," for 22 years.

In the fall of 1989, when Dr. Burke celebrated 35 years of teaching at Incarnate Word College, the college published his first book, "Meet the Professor."

The collection of essays, lecture notes, and television scripts pay tribute to Dr. Burke's years of teaching and community service. "Meet the Professor" was edited by two of Dr. Burke's Incarnate Word College colleagues, Dr. Robert Connelly, professor of philosophy, and Dr. Larry Hufford, professor of history and politics.

"Meet the Professor" has received rave reviews from members of the San Antonio press. One writer, Bryce Milligan, book critic for the San Antonio Light newspaper—and who is also of Irish descent—said "the volume represents the core tenets upon which Burke has built his philosophical house. Far from reading like a dry philosophical tome of point-by-point argument * * *—the book—is a lively and point presentation of traditional Catholic beliefs and values stated in the context of modernity."

A native of Dublin, Ireland, Sean Burke was educated at Blackrock College and the Belmont School of Philosophy, both in Dublin, and the Catholic University of America here in Washington. He also holds a licentiate and a doctorate of philosophy from Laval University, Quebec, Canada. His licentiate thesis was titled "Nature of the Intelligible Species," and his doctoral dissertation was titled "Concerning Ryle's 'Knowing How and Knowing That'."

Dr. Burke has taught full or part-time at Laval; Marianapolis College, Montreal, Canada; St. Francis Xavier University, Nova Scotia; St. Mary's College, Xavier, KS; the Federal Penitentiary, Leavenworth, KS; St. Mary's University and Our Lady of the Lake University, both at San Antonio, before he joined the faculty in 1955 of San Antonio's Incarnate Word College.

During his tenure at IWC, Dr. Burke has been a member of board of trustees, a member of the development board since its inception, and the college's Centennial Committee. He has also been president of the Faculty Association, member of the Rank and Tenure Committee, moderator of student government, and a member of the Student Publications Advisory Board.

Dr. Burke has been cited by the Texas Legislature for his community service activities, and by the city of San Antonio for his contributions as an educator, lecturer, writer, journalist, and advisor.

During his 22 years as host/moderator of the Community Service Television Program, "Meet the Professor," later called "Rap Around," on Station KMOL-TV, students from Incarnate Word College and guest speakers met informally to discuss topics of interest to the younger generation. Dr. Burke has been host to such prominent figures as Archbishop Fulton J. Sheen, Cardinal Tomas O'Fiaich, Broness Maria Von Trapp, Sean McBride, Pat O'Brien, and numerous other civic, educational, and religious leaders. Prior to "Meet the Professor," Dr. Burke moderated "Catholic World Report," another community service program on KSAT-TV, also in San Antonio.

Pope Paul VI conferred on Dr. Burke the dignity of "Knight of St. Gregory the Great." Pope John Paul II elevated him to the rank of "Knight Commander," and made him and his wife, Margaret, "Knights of the Holy Sepulcre." He is a member of the Knights of Columbus—4th degree—and the Order of Alhambra.

Dr. Burke was a founding member and vice president of the University Round Table of San Antonio. Very active in Irish cultural activities, he was one of the founders of the Harp and Shamrock Society of Texas. He has been Texas State chairman of the Catholic Activities Committee of the Ancient Order of Hiberians. He has served as program chairman of the Irish Cultural Society. He is also a member of numerous other local and national organizations.

Dr. Burke is in constant demand as a public speaker. His publications range from professional journals to articles in the general press. He has written articles on the Irish and Irish-Americans for the "San Antonio Express/News" for 26 years.

Dr. Burke and his wife, Margaret, also a native of Ireland, have one daughter, Eileen.

Currently Dr. Burke is preparing for philosophy courses he will be teachng this summer at Incarnate Word College. No doubt the numbers are in the millions in terms of the lives of people that have been touched by the immortal words of Dr. Sean Burke.

Both his words and his friendship have certainly touched mine.

## CONGRESSMAN MAVROULES SALUTES DR. RYSZARD GAJEWSKI

### HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MAVROULES. Mr. Speaker, at the end of this month, the Small Business Innovation Research Program [SBIR] will be losing one of its strongest advocates—Dr. Ryszard Gajewski. As director of the Department of Energy's SBIR Program, Dr. Gajewski established the first SBIR Program under the 1982 statute. In that capacity, he also developed a system that guaranteed funding continuity between the first two phases of the program; overcoming the critical funding gap that concerned the many small high technology firms participating in the SBIR Program.

Dr. Gajewski played a very important role in the success of the DOE's SBIR Program. Through his efforts and dedication to scientific and technical excellence, the DOE was able to foster productive, high quality small business research initiatives that were selected on merit and were aimed at furthering the Department's mission.

His leadership and creativity earned him the respect of his colleagues in the other Federal agencies with SBIR Programs, as well as the respect of the small business community.

Dr. Gajewski's enthusiasm for the SBIR Program and the achievements of small high technology firms is well known. I understand that now he will be continuing to put his expertise to good use with one of those very SBIR companies.

While the SBIR Program and the Department of Energy is losing a strong advocate, I am sure that we will continue to hear great things about Dr. Ryszard Gajewski in his new venture.

## A TRIBUTE TO THE SUDBURY POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Sudbury Police Department for their dedicated and outstanding service to the people of Sudbury, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Sudbury Police Department—

the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

To often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Peter Lembo and those who serve in the Sudbury Policy Department.

William Carroll, Ronald Nix, Peter Fadgen, Peter Langmaid, Bruce Noah, Ronald Conrado, Todd Eadie, Jeffrey Gogan, Alan Houghton, John Longo, Neil McGilvary, Michael Shaughnessy.

John Skinnion, Raymond Spinelli, Thomas Miller, George Burney, Anthony Deldon, Mark Gainer, John Harris, Alan Hutchinson, Michael Lucas, Charles Quinn, Wayne Shurling, Timothy Smith, Laura Zaccone.

## TRIBUTE TO DR. EMERSON CLEVELAND WATSON, JR.

### HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. TALLON. Mr. Speaker, I am pleased to commend Dr. Emerson Cleveland Watson, Jr., for his years of commitment to the South Carolina Baptist Convention. Dr. Watson retired from his position of executive assistant to the executive secretary-treasurer to the general board of the South Carolina Baptist Convention in June 1988 and has continued to serve the organization as general consultant. On June 28, he will retire from this position.

Dr. Watson learned early on from his family the importance of religion and values. His father was a farmer and an ordained deacon in the Baptist Church. Growing up in the Watson home was a happy life and Dr. Watson absorbed the love that his parents, siblings, and friends offered.

During his young years, Dr Watson was heavily involved in his local church near Lumberton, N.C. He was baptized in that church and taught Sunday school there from the time that he was 15 years old. Dr. Watson got his call to the ministery the summer before he was to enter college, and was licensed to preach by the Ingold Baptist Church in 1940.

Throughout his career, Dr. Watson has continued hs religious studies in pastoral education, personnel management, counseling of the alcoholic, understanding of the rural church and others.

Dr. Watson's 50-year career in the ministry has taken him from North Carolina to Kentucky to South Carolina. In every parish, he has brought his infectious enthusiasm and his quiet leadership. He has been respected and loved by every sector of his church community for his innate ability to identify with every possible segment of the church.

In his present position, Dr. Watson has provided assistance to the executive secretary-treasurer of the S.C. Baptist Convention in planning and coordination of programs assigned to the general board staff, Christian life and public affairs issues, and in general oversight of convention organizational life. He has brought a unique insight to this position and all who have contact with him know him as a can-do type of person. No job is too big and no person or problem too small for him to tackle.

I commend Dr. Watson for his years of service to mankind, and send my best wishes and congratulations on his retirement. Enjoy it—you deserve it.

## STATE-SPONSORED SPORTS LOTTERIES PROHIBITION LEGISLATION

### HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BRYANT. Mr. Speaker, today I am introducing three bills designed to blunt the spread of a very disturbing trend—State-sponsored or authorized lotteries based upon games of professional sports.

The first bill, the State-sponsored Professional and Amateur Sports Lottery Prohibition Act, would prohibit states from operating, authorizing, sponsoring, advertising, or promoting any lottery, sweepstakes or other betting or gambling scheme based, directly or indirectly, on professional or amateur sporting events.

The second bill, the State-controlled Sports Lottery Clarification Act of 1990, will clarify the provisions of title 18 of the United States Code which exempt State-conducted lotteries from the criminal code's prohibitions. The bill will make it clear that lotteries based on point spreads and other schemes that are tantamount to betting on professional sports are prohibited.

The third bill, the Sports Service Mark Anti-Corruption Act of 1990, previously introduced in the Senate by Senators DECONCINI and HATCH, will clarify our trademark laws to prohibit State and local governments from misappropriating the intellectual property rights of professional sports organizations in order to create sports lotteries.

The State-sponsored Professional and Amateur Sports Lottery Prohibition Act would deny all Federal funding to any State—meaning any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States, including Indian tribes.

The State-Controlled Sports Lottery Clarification Act of 1990, clarifies that any State-sanctioned lotteries based on professional or amateur sports are subject to all the Federal prohibitions against lotteries, including radio and television advertising, transportation of lottery tickets across State lines and in international commerce and using the U.S. Postal Service to deliver either lottery tickets or advertisements.

This clarification is necessary since the U.S. Department of Justice has very narrowly read section 1308 of title 18 of the United States Code which should prohibit the types of lotteries proposed by the District of Columbia, Lottery Board and already in operation in Oregon.

In recent years, the Congress has loosened such prohibitions on State-sponsored lotteries. That is why here in the Washington, DC area we can hear and see advertisements for various Maryland, Virginia, and D.C. lottery games on radio and TV. Had the District of Columbia persisted in its stated plan to implement a professional or amateur sports-based lottery, all such advertisement would have been prohibited.

The District of Columbia, and any other State, local or municipal jurisdiction which sponsors lotteries based on the outcome of professional or amateur sporting events, will be prohibited from using radio or TV spots to advertise such lotteries, using the U.S. mail for delivering lottery tickets or advertisements, and will not be able to transport lottery tickets in interstate or foreign commerce.

The Sports Service Mark Anti-Corruption Act of 1990 corrects the problem of sports lotteries essentially being free-riders on the intellectual property rights of professional teams and their leagues. The only reasons sports lotteries can exist is because of the successful efforts of the sports teams and leagues to keep the games honest and clean and to promote them often through identification with a service mark. It is wrong to allow States simply to appropriate these efforts and these trademarks for their own gain.

Sports lotteries fundamentally threaten public confidence in, and the integrity of, professional athletics. Anyone who knows the history of athletics in this country realizes that professional and amateur teams and their organizations have fought hard during this century to prevent gambling from corrupting the games. From the Black Sox scandal in 1919 through the point shaving scandal at Boston College about 10 years ago to the sad developments regarding Pete Rose and the recent allegations involving North Carolina State University's basketball team—again and again, gambling has come close to corrupting athletes.

But, what has gone on in the past would be nothing compared to abuses created by State-sponsored sports lotteries. Government-sponsored sports lotteries are both quantitatively and qualitatively different and more worrisome that any gambling activity that has impacted lotteries to date. Permitting State and local governments to make a national business from sports gambling dramatically increases the opportunity to gamble on sports events, the amount of money involved in such events, and the amount of advertising dollars that will focus on such events.

The increase in the amount of sports gambling as a result of government-sponsored sports lotteries will inevitably lead to greatly increased pressures that corrupt athletes and coaches. It is simple common sense that the pressures to cheat increase markedly when

the mothers, fathers, siblings, and friends of players and coaches are gambling regularly on sports events.

There is a major difference between team-sport betting and a typical lottery. Typical lotteries are inherently a gambling vehicle that exists by reason of pure chance. Sports lotteries are entirely different, involving coaches and athletes who, unlike numbers, are subject to temptation and whose performances can have an impact on the game and thus the outcome of the bet.

Even more important, State lotteries not only increase the amount of gambling on sports events, they give the Government's, stamp of approval to this kind of activity.

Public attention is focused away from what is good about American athletics. The games will no longer be prized as opportunities to see just how far the human spirit and human body can take us. Rather, the entertainment will be not the team, but the opportunity to gamble.

One testimony to how highly esteemed team sports are in this country is how they are referred to in common parlance. It is not by accident that sports, in general, and professional sports, in particular, have come to represent various principles of the American dream. Metaphors such as "the level playing field;" maxims such as "It is not whether you win or lose, but how you play the game;" canons about the value of teamwork are all sports derivative. These are examples of the high level of trust and affection sports represent in our culture.

Do we really want to throw all this away? Do we really want to send a message to our young people that anything goes when you raise revenue? As long as the State gets a cut in the activity, it is just fine.

As one sports writer put it, do we want to "indoctrinate these kids that it isn't winning the game that counts, but winning the bet: that it isn't playing the best you can that counts, but whether you cover the point spread."

I urge my colleagues to join me in this effort to prohibit States from making the entertainment of professional and amateur sporting events the point spread and gambling as opposed to the excitement and challenge of the contest based on skill.

Mr. Speaker, I believe we are at important crossroads. Congress has a choice to work to stop sports gambling now or see it corrupt one of our most cherished American traditions. I ask my fellow Congressmen to join me and act swiftly to resolve this problem.

Copies of bills to follow:

H.R. —

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "State-Sponsored Professional and Amateur Sports Lottery Prohibition Act".

SEC. 2. PROHIBITION AGAINST STATE-SPONSORED BETTING ON SPORTS.

(a) RESTRICTION.—Notwithstanding any other provision of law, no State (or political subdivision of a State) may operate, authorize, sponsor, advertise, or promote any lottery, sweepstakes, or other betting or gambling scheme based, directly or indirectly, on professional or amateur sporting events.

(b) WITHDRAWAL OF FEDERAL FUNDS.—No Federal agency or instrumentality may provide funds to any State that—

(1) fails to comply with subsection (a); or

(2) has a political subdivision within its boundaries that fails to comply with subsection (a).

(c) DEFINITION.—For purposes of this Act, the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States. Such term also includes an Indian tribe.

H.R. —

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be referred to as the "State-Conducted Lotteries Clarification Act of 1990."

SEC. 2.

Chapter 61 of Title 18, Section 1307, United States Code is amended—

(1) in subsection (a)(1) by inserting ", except a sports-related lottery," after "lottery";

(2) in subsection (a)(2) by inserting ", except a sports-related lottery," after "lottery";

(3) In subsection (d) striking "'Lottery' does not include the placing or accepting of bets or wagers on sporting events or contests";

(4) by adding a new subsection (e) "Provided, however, the provisions of Section 1307(a) shall not apply to a sports-related lottery that involves the placing of bets or wagers, or otherwise is based directly or indirectly on the games of a professional or amateur sporting event or contest." For the purposes of this section, "sports-related lottery" is defined as an undertaking that involves both chance selections and the outcome of a professional or amateur sporting game or games as elements of the undertaking.

H.R. —

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Sports Service Mark Anti-Corruption Act of 1990".

SEC. 2. PROHIBITION OF MISAPPROPRIATION OF SERVICE MARKS OF PROFESSIONAL SPORTS ORGANIZATIONS BY STATE LOTTERIES.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes," approved July 5, 1946 (15 U.S.C. 1051 et seq.; commonly known as the Trademark Act of 1946) is amended by inserting after section 39 the following new section:

"SEC. 40. PROHIBITION OF MISAPPROPRIATION OF SERVICE MARKS OF PROFESSIONAL SPORTS ORGANIZATIONS BY STATE LOTTERIES.

"(a) IN GENERAL.—No State or other jurisdiction of the United States (or any political subdivision or agency of such State or other jurisdiction) may sponsor, operate, advertise, or promote any lottery, sweepstakes, or other betting or gambling scheme that uses or exploits in any fashion, directly or indirectly, a service mark owned by a professional sports organization.

"(b) USE STANDARD.—For purposes of subsection (a), a lottery, sweepstakes, or the betting or gambling scheme that is based, directly or indirectly, on games of a professional sports organization shall be deemed to use of exploit the services mark owned by the professional sports organization.

"(c) DEFINITION.—For purposes of this section, the term 'professional sports organization' means any person who owns and operates a professional sports team engaged in providing entertainment by playing competitive games, and any league or other association of such persons.".

## A TRIBUTE TO THE WAYLAND POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Wayland Police Department for their dedicated and outstanding service to the people of Wayland, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Wayland Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service for your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Thomas J. O'Laughlin and those who serve in the Wayland Police Department:

Gerald J. Galvin, William Bradford, Bruce Cook, James Forti, Edward Mallard, Stephen McDonough, Sandra O'Brian, Victor Porokopovich, Daniel Sauro, Stephen Williams.

Charles Akins, Ruth Backman, David Connoly, George Driscoll, McKenzie Lamb, Richard Manley, George Norton, Robert Parker, Stephen Rizzo, Arthur Walch.

## HAMPTON HIGH SCHOOL STUDENTS NATIONAL FINALISTS

### HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. WALGREN. Mr. Speaker, when Vaclav Havel, the new President of Czechoslovakia addressed a joint session of Congress only a few months ago, he said, "It is easy to have independence * * * and then leave others to carry [it] out. If everyone thought that way, pretty soon there would be no independence."

Our obligation to be informed, active citizens, grounded in the values and principles upon which our States and Nation were founded, is an obligation to ourselves, our children, and all those around the world who, in the words of the Declaration of Independence, are risking their "lives, fortunes, and sacred honor" in the pursuit of liberty—just as our forebearers did at Bunker Hill, Gettysburg, in wars abroad, and in the streets of Selma.

All of us are aware of the starling statistics of voter apathy in the United States and of the irony that so many abroad look to us for inspiration in pursuit of the right to vote. That irony is compounded when it comes to the lack of knowledge of the U.S. Constitution and its importance in our lives.

It is heartening to know that there are dedicated educators throughout our Nation working together to create the informed citizenry the founders knew was an essential component of our "experiment in Republicanism."

I am proud today to honor such an educator, Mrs. Sally Durrant and pupils from Hampton High School. Together, they represented my State of Pennsylvania in the national bicentennial competition on the Constitution and Bill of Rights, and were chosen as one of the top 10 classes in the Nation. The following young people are shining examples of a new generation of leadership for our Nation, educated in and committed to the fundamental principles and values of our democratic institutions. They are: David Ablauf, Jennifer Allison, Craig Anderson, Brian Baker, Bob Bauman, Michael Best, Aimes Brick, Steve Byrne, Brett Caruso, Bryan Engle, Tara Enie, David Evans, Niema Jones, Ben Martin, Oliver Mihm, Laurie Mink, John Pasquaretle, Wayne Reed, Doug Rowland, Amy Jo Seamen, Michael Stewart, Bonnie Weimer, Jim Wisniewski, Jenna Yendell, Candace Zaiden, Justine Zang, Joerg Zeppenfeld, and Paul Ziegler.

These young Americans are just some of the thousands of elementary, middle, and secondary students around the Nation who have studied the We the People * * * curriculum which covers the basic ideas and philosophies upon which our Constitution is based, why our government is organized the way it is, how the Constitution guarantees and protects individual rights, and the responsibilities these rights entail.

Thomas Jefferson wrote, "Governments are instituted among Men deriving their just Powers from the Consent of the Governed.* * *" What gave meaning to those words, as President Havel reminded us, is that the author and those he inspired backed them up with their lives.

I want to commend these outstanding students for their accomplishments and especially for their commitment to contribute to their country.

## THE PUERTO RICO STATUS REFERENDUM AND DEFINING THE UNITED STATES-PUERTO RICO RELATIONSHIP

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. LAGOMARSINO. Mr. Speaker, I am very pleased with the support that has been shown in the Congress to provide an opportunity for the people of Puerto Rico to choose the type of relationship they prefer with the United States. Through a close bipartisan effort, legislation was drafted and introduced last week, to enable the people of Puerto Rico to exercise self-determination, by choosing independence, statehood, or enhanced commonwealth in a referendum to be held in 1991. H.R. 4764 is a major advancement toward the goal of resolving the longstanding debate over Puerto Rico's relationship with the United States.

Crucial to resolving the status debate is a definition of what each of the status options represent. Prior to the referendum, the Congress will describe the characteristics of each of the relationships, having considered the proposals and requests from the people of Puerto Rico. The status chosen by a majority of the people will be further defined by the Congress, effective after ratification of the terms by the people of Puerto Rico.

The U.S. Constitution will be the ultimate guide in determining the qualities of each relationship. The United States, meaning the Congress and the President, and consistent with the views of the judicial branch, will consider the requests of the people of Puerto Rico in defining each of the relationships. It will be the Congress which will spell out the meaniang of the status options in the law. Old postulates and romantic but unfounded theories will be dispelled by the reality of Federal law.

The people of Puerto Rico need to understand that their decision is extremely important. Their vote will affect more than their own lives. It will affect the lives of their children, grandchildren, and posterity forevermore. Their choice will also affect the character of the United States and inevitably, the world. I have faith in the people of Puerto Rico's ability to wisely choose that which is best for them and their posterity. They will decide having considered with open eyes U.S. citizenship rights, U.S. constitutional protection, political rights, extent of the sovereignty of the United States, and Federal responsibilities.

The Congress is considering legislation to provide a referendum on the status of Puerto Rico, in part, to respond to the request of the three leaders of the principal parties of Puerto Rico to authorize a referendum and commit to honor the results.

However, preceding the January 1989 letter of request by Puerto Rico's three party presidents, were the 350,000 first amendment petitions of U.S. citizens of Puerto Rico asking the Congress to provide a referendum. The fundamental constitutional right of those citizens to ask the Government for a redress of grievances should not and must not be ignored, and constitutes a just basis for scheduling a referendum in Puerto Rico.

In addition, the President of the United States asked the Congress in his first address to a joint session of the Congress in February last year to take the necessary steps to let the people of Puerto Rico decide in a referendum. The President recently reaffirmed his commitment to Puerto Rico self-determination and urged legislation be enacted this year to provide a referendum next year, in the following letter which I received last week:

THE WHITE HOUSE,
*Washington, DC, May 9, 1990.*

Hon. ROBERT J. LAGOMARSINO,
*U.S. House of Representatives, Washington, DC.*

DEAR BOB: Thank you for your letter of March 21.

I strongly believe that this is the year when our nation must move to allow our fellow citizens in Puerto Rico to choose their political fate. We owe it to them as a people and to ourselves as the leader of the Free World. How can we applaud the exciting and momentous movements toward freedom in Eastern Europe, Latin America, and elsewhere while refusing to grant to our own citizens the right of self-determination?

This is why I wholeheartedly support legislation to give the people of Puerto Rico the right to vote on the three principal options for their political future: statehood, continued status as a commonwealth, or independence. I further believe that we should have enough faith in the principles of democracy to let their choice be self-executing under provisions that Congress may prescribe.

My own view on the political future of Puerto Rico is well known: I want it to become the 51st State. The 3.3 million citizens of Puerto Rico deserve to be full members of the American Union, for whose freedoms (and those of other nations) Puerto Ricans have fought so courageously in all of the wars of this country. Before statehood or any other status can come about, however, the people of Puerto Rico must have the right to express their own views on their future. That is why I urge the Congress to act this year to allow a binding plebiscite on the island next year.

I look forward to continuing to work with you on this important issue.

Sincerely,

GEORGE BUSH.

While it is generally expected that the Government of Puerto Rico would implement any referendum that the Congress authorized, a referendum would not be precluded should the local government lack the human or financial resources. The United States could conduct a Federal referendum in Puerto Rico. The Federal Voting Rights Act provides for registration and election observers, officials, supervisors, and workers, when necessary, to ensure the integrity of an election or vote.

The Office of Personnel Management has assigned individuals for this purpose in a number of votes during the past several years. States in which direct Federal election participation has occurred includes New York, California, Missouri, and Arizona.

Clearly the intent of the legislation introduced last week is to have the Government of the Commonwealth of Puerto Rico conduct the referendum. Section 2 of H.R. 4765 authorizes $4 million for grants to the Government of Puerto Rico for the conduct of a referendum. The legislation also provides that "The referendum shall be conducted on 1991 pursuant to the electoral laws of Puerto Rico." The Congress is relying on the Government of Puerto Rico to carry out the referendum authorized at the request of the people of Puerto Rico, the political leaders, and the President.

Conducting referenda is not new to the people of Puerto Rico. They have had ample experience in the past of using this wonderful democratic mechanism to allow the people to express themselves. The history of the evolution of self-government in Puerto Rico is a marvelous case history which all political scientists should carefully examine. At the middle of this century, Puerto Rico achieved an unprecedented level of self-government under the leadership of one of America's great statesmen, Luis Munoz Marin.

Congress and then President Harry Truman agreed to authorize the people of Puerto Rico to elect their own Governor, something no territory had ever done before, and which the territories of Alaska and Hawaii would only do after becoming States a decade later. Furthermore, the people were authorized to develop their own Constitution, which was later approved by the Congress with certain modifications. The Congress was careful to note that the Federal law authorizing increased self-government and political advancement, "* * * would not change Puerto Rico's fundamental political, social, and economic relationship with the United States." (Senate Report 81-2, No. 1779).

After all of these advancements, the congressional committee jurisdiction over Puerto Rico did not change. The Committee on Interior and Insular Affairs retained the same primary jurisdiction for Puerto Rico that existed previously. Not so with the Philippines, Alaska, or Hawaii, which ceased to be United States territories after independence for the former and statehood for the others.

I reflect proudly upon the name, "Commonwealth of Puerto Rico," as it was freely adopted by the people of Puerto Rico as part of an unprecedented advancement in local self-government authorized by the Congress. It represents a model process in the exercise of the Congress' constitutional responsibility to "make all needful rules and regulations respecting the territory or other property belonging to the United States" (Article IV, section 3, clause 2), which has since been applied to other U.S. territories.

However, beyond the name or label of Commonwealth, Puerto Rico remains a territory under the sovereignty of the United States. Territories are further defined depending on whether the U.S. Constitution has been extended in full. A territory is considered incorporated if Congress passes a law extending the Constitution in full or unincorporated without such a law. Laws were passed for Hawaii and Alaska before they were States to extend the Constitution in full, but no similar law has been enacted for Puerto Rico. Therefore, individuals born in the Commonwealth of Puerto Rico, although U.S. citizens, only enjoy the fundamental protection of the Constitution as they reside in an unincorporated territory.

The advanced local self-government of Puerto Rico was admired throughout the world. Governments responsible for administering the 11 trusteeships of the United Nations and those nations administering territories closely examined the democratic government processes that had been instituted in Puerto Rico. It was a new model to be emulated in many parts of the world.

The United States proudly recognizes the achievement in self-government of Puerto Rico by bringing the matter before the United Nations in 1953. It was both accurate and appropriate for the United States to present Puerto Rico as a community which had attained a sophisticated level of self-government, no longer requiring annual oversight by the United Nations. On November 27, 1953, the General Assembly of the United Nations recognized Puerto Rico's political advancement by the free and democratic formation of a constitutional government and agreed that yearly reporting by the United States regarding Puerto Rico was no longer necessary.

President Kennedy issued an Executive memorandum on July 25, 1961, concerning the Commonwealth of Puerto Rico, which made inapplicable provisions of a previous executive order pertaining to the Administration of Puerto Rico by the Department of the Interior. This was entirely consistent with the position presented by the United States to the United Nations regarding Puerto Rico. Advanced local self-government had been achieved and direct administration by a department of the U.S. executive branch was no longer necessary or desirable. The memorandum also directed any matters involving the fundamentals of the relationship should be referred to the Office of the President.

I am pleased to see that President Bush has assigned individuals within the highest levels of the Executive Office of the President to deal with matters involving Puerto Rico. More than any time since President Kennedy issued his Executive memorandum, matters are constantly arising related to the fundamentals of the relationship between the United States and Puerto Rico. The President has sequentially tapped the deputy to the Chief of Staff Andrew Card, Assistant to the President, and Director of Presidential Personnel, Chase Untermeyer, to assume the lead on issues affecting Puerto Rico requiring the administration's involvement. I have been impressed with the dedication of these individuals to carry out their mandate from the President regarding Puerto Rico which is consistent with the Kennedy memorandum.

The people of Puerto Rico will be given the opportunity to choose their preferred relationship with the United States in a free and democratic vote. The U.S. Senate has devoted countless hours to provide a referendum on Puerto Rico's status under the leadership of Senators JOHNSTON and MCCLURE. I am confident that the legislation recently introduced in the House with strong bipartisan support, will result in the Congress achieving the common goal of enabling the people of Puerto Rico exercise self-determination.

## HISTRADRUT FOUNDATION HONORS BRUCE LEE

### HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. TORRES. Mr. Speaker, I rise today to call my colleagues attention to the fact that on May 24, 1990, the Israel Histradrut Foundation will honor Bruce A. Lee, region 6 director of the United Auto Workers.

In the world of international labor, a testimonial by Histradrut carries with it an acknowledgment of a person's commitment to the ideals of democratic and free trade unionism. To be sure, Bruce Lee is a standard bearer of these principles.

Bruce was born in Old Town, ME, during the depths of the Depression. Moving westwardly, he attended college in Arkansas and then in California. I am sure that his young mind and progressive concepts were largely shaped by the social and economic transgressions that were moving our Nation during that period. Moreover, the ensuing period, during which our Nation was at war, clearly brought him into the world of the defense industry and unionism.

He joined UAW Local 1881 in 1957 when he became an employee of Ryan Aeronautical in Torrance, CA. He served his local as bargaining committee chairman and eventually president from 1958 to 1963.

As the UAW expanded its organizing efforts across America, Walter P. Reuther, its then visionary president, appointed Bruce and other union activists to posts as international representatives.

Mr. Speaker, It was during this period that I met Bruce Lee, the two of us being assigned as organizers. We worked together under the tutelage of legendary leaders like Bill Goldmann, John Allard, Bob Burkhart, and Vince Sloan. They left an indelible social and political mark upon us.

In 1973, deeply concerned about the drastic plant closings and corresponding high rates of unemployment among union members, Bruce established the first labor oriented federally funded job training programs in the Los Angeles area. He later started the first Advanced Automotive Training Program in the Job Corps for inner-city youth.

In 1982, Bruce developed, with the California Employment Training Panel and the U.S. Department of Labor, the first aerospace training program for dislocated Rockwell B-1 workers.

From 1983, to the present, he has led the UAW team, that brought Toyota and General Motors together to forge the internationally known success of the New United Motors in Fremont, CA. This action created thousands of jobs for laid-off GM workers in Fremont. In 1984, Bruce, always the consummate organizer, brought together the UAW Labor Employment and Training Corp. [LETC]. Moreover, in 1985 he linked UAW-LETC with the Los Angeles Business Labor Council [BLC], and the Private Industry Council [PIC] to implement a displaced worker program under the Job Training Partnership Act.

As the Nation begins to react to world developments in light of Eastern Europe's democratization and the easing of United States-Soviet cold war tensions that would invariably affect defense production in the United States, the spotlight is being placed on leaders like Bruce Lee, who will be assisting in the conceptual planning necessary to bring about industrial conversion. He will be invited to testify before congressional committees as to his expertise.

Mr. Speaker, I ask my colleagues to join me, in recognizing the honor being bestowed upon UAW regional director, Bruce Lee.

## MAX ELBIN: 44 YEARS A HEAD PROFESSIONAL AT BURNING TREE CLUB

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. MICHEL. Mr. Speaker, our colleagues will be glad to know that Max Elbin, the Presidents' pro for 44 years at Burning Tree Club in Maryland, recently celebrated his 70th birthday. Max has so many admirers and has been such a leader in the world of golf, I thought his friends would like to see a recent article that paid him a much-deserved tribute.

At this point I wish to insert in the RECORD, "70-year-old Elbin Marks 44 Years in Steppingstone Job," from the Washington Times, Thursday, May 17, 1990:

[From the Washington Times, May 17, 1990]

THE 70-YEAR-OLD ELBIN MARKS 44 YEARS IN STEPPINGSTONE JOB

Two days ago, Max Elbin observed 44 years as head professional at Burning Tree Club. In may 1946, after four years in the Air Force, the young native of Cumberland arrived at Lew Worsham's shop at Burning Tree to resume duties as assistant pro. Worsham had a better idea.

"I walked in and he was practically walking out," Elbin remembers. "He said, 'I've got to get up to the [Philadelphia] Inquirer tournament.' After about a week he left me in charge, and darned if he didn't finish second in Philadelphia—lost a playoff to Herman Barron.

"He never came back. The next year, of course, he won the [U.S.] Open in St. Louis. I remember he said before he left, You'll starve to death here, but it'll be a steppingstone to something else".

Right. Something else. Last Friday, the members assembled some 150 friends to honor Elbin on his 70th birthday. It is also 50 years since he was hired as Worsham's aide at this quiet men's golf club, renowned now as the club of presidents, tucked inside the Beltway near River Road.

Mementos from last week's party include letters from two former presidents, Richard Nixon and Gerald Ford; incumbent George Bush, and Vice President Dan Quayle. Elbin was particularly pleased that 15 of his former assistants attended.

He was the last of the three-term presidents of the national PGA body, serving in 1965-68, and he is known as the presidents' pro. Yet, Elbin has always seemed most proud about the number of his assistants who moved up. He counts 30 assistants in the 44 years, and 28 of them took head pro jobs elsewhere. And 15 of them came back Friday to wish their former boss well. His involvement with golf stretches over seven decades, Max and Mary Elbin's five children are all grown, but there doesn't seem to be any thought of retirement. He looks in his usual, vigorous good health, and the club has given no indication it wants a change.

"It may," Elbin said this week, "but I haven't heard that."

## A TRIBUTE TO THE FRAMINGHAM POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Framingham Police Department for their dedicated and outstanding service to the people of Framingham, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Framingham Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Brent B. Larrabee and those who serve in the Framingham Police Department:

Brian Abt, Vincent Alfano, Owen Babineau, Joseph Besardi, Douglas Bevilacqua, Peter Bianchi, Paul Bridges, George Caldwell, Richard Callahan, George Carey.

Steven Carl, Richard Chesmore, Lawrence Chism, Thomas Cobb, Robert Connolly, Charles Cooper, Dolores Coots, Orlo Coots, Stephen Cronin, Joseph Cunningham.

Craig Davis, Michael Degnan, William Delaney, Frank Divittorio, Michael Donnelly, Alan Dubeshter, Jeffrey Eadie, Michael Esposito, Joseph Ferguson, Kenneth Ferguson, James Finks, Paul Fino, Robert Foley, Debra Frazier.

William Fuer, Peter Galvani, Paul Galvin, Joseph Gately, James Gavin, William George, Daniel Giro, Paul Gosselin, James Green, Louis Griffith, James Harrington, Dennis Hayes, Lawrence Hendry, Michael Hill.

Robert Keefe, Paul Kelley, Michael King, Michael Leporati, Larry Linehan, Michael Loughman, Amedio Luciani, William Marden, Frank Masiello, Michael McCann, Wayne McCarthy, Kathleen McGrath, Richard Monson.

Ralph Moore, David Murphy, Richard Murphy, Chris Murtagh, Alan Nardini, Albert Nau, Brad Newman, Paul Nicoli, John Norton, Richard Nummela, Paul O'Connell, Bennedetto Ottaviani, Dominic Pasquantonio.

William Pease, Theodore Piers, Richard Pomales, Kenneth Pond, Dennis Reardon, Fred Romani, Frank Royster, Roy Salvi, Robert Sambuchi, Glen Segal, Paul Shastany.

Michael Siaba, Kevin Slattery, James Smith, Donald Spaulding, James Stoddard, Davis Studley, Richard Teal, Jr., Blaise Tersoni, Louis Tersoni, Peter Tessicini, Robert Tibor.

Joseph Tomasi, Chris Toscano, Steven Trask, Joseph Vitagliano, John Vlzakis, Hugh Walker, Kenneth Webb, Doreen Whalen, Steven Wuorio, Edward Yarosz, Earl Zinck.

## A $1 BILLION PROPOSAL FOR AGING AND INDEPENDENCE RESEARCH, H.R. 4863, JUSTIFIED BY ALZHEIMER'S DISEASE'S $88 BILLION-PLUS ANNUAL SOCIETAL COST

### HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ROYBAL. Mr. Speaker, I am joining with Senator TOM HARKIN and Representative MARY ROSE OAKAR, my colleague on the House Select Committee on Aging, to introduce the Independence for Older Americans Act—a billion dollar legislative commitment to Federal research on aging and independence developed by the Alliance for Aging Research. The Alliance for Aging Research is a coalition of over 40 organizations dedicated to research to improve the independence of aging Americans.

The darkest clouds looming over the heads of aging Americans today and for the foreseeable future are the risks of being struck by long-term, debilitating illnesses which rob Americans of their dignity, their life savings and their independence. Society also falls victim to these illnesses as we are robbed of our children, spouses, parents and grandparents and as we help to shoulder the heavy burden of long-term care. The time has come for us to fight back, and research is our best defense.

The billion dollar commitment to Federal aging and independence research, as proposed in the Independence for Older Americans Act, is necessary and a big commitment, but not nearly as big as the hundreds of billions of dollars lost each year to illnesses striking Americans. Alzheimer's disease alone costs society over $88 billion a year and is becoming the biggest of the misery diseases plaguing and impoverishing Americans and the families who care for them.

A firm and fair Federal commitment to meeting the challenge posed by deadly and debilitating illnesses, like Alzheimer's disease, is long overdue. Joining together the forces from the Congress, the administration and the private sector is critical to boosting the Federal aging and independence research commitment to at least $1 billion annually.

Only last week, I, along with a bipartisan, House-Senate coalition, introduced the Alzheimer's CARE bill as a prime example of how America needs to begin its attack on Alzheimer's disease and the other conditions threatening the independence of Americans.

For a decade, we have pushed hard in the Appropriations Committee to increase funds for aging and independence research generally and for Alzheimer's research specifically. Another step was taken on May 9 when I and the bipartisan, House-Senate CARE coalition joined forces to introduce the Comprehensive Alzheimer's Assistance, Research and Education Act [CARE], H.R. 4770 and S. 2602. CARE embodies my commitment to finding the $570 million a year desperately needed for Alzheimer's research.

Mr. Speaker, I insert a summary of the bill, the Independence for Older Americans Act, in the RECORD.

SUMMARY OF INDEPENDENCE FOR OLDER AMERICANS ACT

Purpose.—To provide for an intensified national effort to improve the health and enhance the independence of Americans through research, training, treatment, and other means and for other purposes.

DESCRIPTION.

TITLE I. TASK FORCE ON INDEPENDENCE FOR OLDER AMERICANS

Sec. 101. Establishment.—The Task Force on Independence for Older Americans is established consisting of the Assistant Secretary for Health, the Surgeon General, the Assistant Secretary for Planning and Evaluation, the Director of the National Institute on Aging [NIA]—as well as the Directors of other Institutes designated by the Secretary—the Commissioner of the Administration on Aging, the Commissioner of the Food and Drug Administration, the Chief Medical Officer of the Department of Veterans Affairs, the Director of the National Institute on Mental Health, the Commissioner of the Social Security Administration, the Administrator of the Health Care Financing Administration, and four Congressional members—two Members of the House of Representatives and two Senators; two from each party. The NIA Director is Chairperson of the Task Force.

Sec. 102. Duties.—The Task Force is to coordinate Federal research on conditions and diseases leading to dependence, establish a mechanism for sharing information among the Federal agencies on the Task Force, identify the most promising for research on diseases and on behavioral and social conditions leading to dependence, establish mechanisms to use research results in the development of policies, programs, and means to improve quality of life, and review public and private spending on such research.

Sec. 103. Reports to Congress.—Within 1 year and annually thereafter, Task Force is to submit a report to appropriate Congressional committees and to the public. The report is to address research progress, potentially important new directions in research, and recommendations for resource allocations.

Sec. 104. Authorization of Appropriations.—Authorizes $100,000 each for fiscal years 1991-93.

TITLE II. GERIATRIC RESEARCH AND TRAINING CENTERS

Sec. 201. Establishment.—The Claude D. Pepper Comprehensive Independence, Research, Training, and Demonstration Centers are established. The Director of the NIA is to enter into cooperative agreements and make grants to public and private nonprofit entities for the development of 15 such centers. In coordination with similar centers, these centers are to conduct research on those factors which reduce the ability of the elderly to live independently, programs to develop researchers, development and demonstration of research applications, development and demonstration of training programs for older Americans and their families, training of health care professionals, and research and demonstration of public education and prevention programs. Authorizes $32.5 million for fiscal year 1991, $40 million for fiscal year 1992, and $50 million for fiscal year 1993.

TITLE III. AVAILABILITY OF INFORMATION TO HEALTH PROFESSIONALS, OLDER AMERICANS, AND THE GENERAL PUBLIC

Sec. 301. National Independence for Older Americans Information Program.—The Secretary, acting through the Director of NIA, shall develop a plan for a National Independence for Older Americans Information Program.

Sec. 302. Information Clearinghouse.—The Secretary, acting through the Director of NIA, shall establish an information clearinghouse on the latest developments, establish a computer-based data system, make the information available to Federal agencies, health care professionals and the general public, support programs to develop model curricula, and set up a toll-free telephone communications system. The Secretary may enter into contracts or cooperative agreements with and make grants to public and private nonprofit entities.

Sec. 303. Public Information Campaigns.—The Secretary, acting through the Director of NIA, shall make grants and may enter into contracts to develop an information campaign for the development and delivery of public service announcements and paid advertising messages concerning health and nutrition and screening techniques. Information provided shall inform the general public concerning the availability of treatments that reduce the need for the dependent care of Americans.

Sec. 304. Authorization of Appropriations.—Authorizes $20 million for fiscal year 1991 and such sums as necessary for fiscal year 1992 and 1993.

TITLE IV. PREVENTION OF AND RECOVERY FROM CHRONIC ILLNESS

Sec. 401. Comprehensive Geriatric Assessment.—NIA, in cooperation with the Health Care Financing Administration, shall support research to determine the most effective geriatric assessment techniques, the most effective method of targeting such techniques, and the most effective means of providing for such needs to maximize health and independence. By March 1, 1994, they are to submit a report to the appropriate Congressional Committees concerning the results of the research and recommended guidelines concerning such research. It shall include the feasibility and cost of a geriatric assessment for older persons when entering all institutional and community-based health services.

Sec. 402. Frailty and Immobility Prevention and Rehabilitation.—The Secretary, acting through the Director of NIA, shall develop model techniques to aid in prevention and rehabilitation from frailty and other mobility problems and model curricula for health professions training. Up to 5 demonstration programs may be established at the Claude Pepper Centers in this Act.

Sec. 403. Prevention of and Recovery From Chronic Illness.—The Secretary, acting through the Director of NIA, shall develop model techniques and curricula for health professionals and paraprofessionals directed at the prevention of and recovery and rehabilitation from chronic and debilitating illness. The Secretary is to submit a report, with respect to these sections, to the appropriate Congressional Committees by March 1, 1992.

Sec. 404. Authorization of Appropriations.—Authorizes $3 million for fiscal year 1991 and $5 million for fiscal year 1992 and 1993.

TITLE V. RESEARCH ON HEALTH, RETIREMENT, AND INDEPENDENCE

Sec. 501. Health Care Data.—The Secretary, acting through the Director of NIA, shall commence a 10-year health and retirement history survey. The Secretary, acting through the Director of NIA, shall establish an advisory panel on data collection to review existing surveys and census data and to coordinate information on health and retirement status of older Americans, including racial and ethnic minorities and rural and inner city residents.

Sec. 502. Health Promotion and Disease Prevention Data.—The National Center for Health Statistics shall include persons age 75 and over in the National Health and Nutrition Examination Survey [HANES], develop questions related to health promotion and disease prevention for the HANES, the National Health Interview Survey and the National Ambulatory Medical Care Survey. Information is to be collected on racial and ethnic minorities and rural and inner city residents.

Sec. 503. Investigator-initiated Research Grants.—NIA is to request proposals from investigators on behavioral, social and environmental mechanisms for promoting health and independence.

Sec. 504. Authorization of Appropriations.—Authorizes, for this title, $5 million for fiscal year 1991, $7.2 million for fiscal year 1992, $7.5 million for fiscal year 1993, and such sums as may be necessary for subsequent fiscal years.

TITLE VI. AUTHORIZATION OF APPROPRIATIONS FOR NIH

Sec. 601. Establishment.—Authorizes such sums as may be necessary in fiscal year 1991, to be added to the NIA and other institutes in proportion to their current spending levels on aging research, to assure that total spending on aging research is not less than $1 billion within the National Institutes of Health.

## WHY I AM PROUD OF AMERICA

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. HALL of Texas. Mr. Speaker, recently it was my pleasure to attend the District 1 Veterans of Foreign Wars banquet. One of the speakers was a young man named Michael R. Peterman of Pottsboro, TX. Michael made a very moving speech that evening as he talked about the price of freedom and the American spirit that prevails as a result of paying that price.

It is indeed an honor, Mr. Speaker, to submit this speech today in order that it may be made a permanent part of the CONGRESSIONAL RECORD.

WHY I AM PROUD OF AMERICA

I can remember sitting on the floor of my grandparents' house on cold, snowy winter

days. Those days were always my favorite as a child, because there was no school. On those days, I would get to walk down the hill to my grandparent's house and after my grandmother had given me a mug of steaming hot chocolate, (You know the kind with little marshmallows), and sat me down by the fireplace to warm up, my grandfather would tell me his war stories. He told me of the ships and of the amphibious vehicle he commanded. He told me of the friends he made, and lost, on the beaches in the South Pacific. He told me of the joy of erecting an American flag on an island that they had spent days fighting for. My grandfather also told me of the pain and the fear of death he felt when a bullet pierced his shoulder. The war stories always sounded so grand, but one thing I always noticed were the tears that came to his eyes. I thought he was sad, and maybe he was, but, as I grew older, I realized that he was more proud, than sad. The tears always came at times when he talked about raising the American flag on various islands. The day I realized that, I realized also, that I took the flag and what it stands for, for granted. I mean here I live, in a country where I can worship as I choose, make my choice of which college to attend, and be happy, and I don't really ever stop and think about it.

Freedom is a gift. A gift that people oppressed in a communist country, leave their families and risk their lives for. A picture in a recent newspaper shows a young family who had finally made it across the iron-curtain, the joy and excitement of knowing they are finally free is reflected in the tears on their cheeks. They have gained something that I have had from the very beginning, yet I take it for granted. I'm proud of America. The framers of the Constitution set up a government that many said would never last. Yet, it is this flexible, yet rigid, document, that has kept America a world power for over two hundred years.

America is people helping people. One of the most powerful examples happened several years ago. A young child fell into an abandoned well. Jessica McClure had been playing near an unsealed entry and simply fell in. For three days, America turned faithfully to the news programs, to see if rescuers had saved the girl. I was inspired by the willingness of the members of that community and the people who came from around the nation to try and rescue young Jessica. The first day passed and we were still hopeful, the second day passed and we prayed for her rescue. Men and women worked day and night and finally, on the third day, the worker's efforts paid off, and Jessica McClure was pulled safely from her prison. We, the people, witnessed a miracle. For three days the people of that community forgot about themselves, and their petty arguments and simply came together and worked side by side. Their dedication made America stop for three brief days, moments of lifetimes, and pay attention to one of the world's aspects that is most important; respect for human life! It was on a Friday evening when Jessica was rescued. I was at a football game when they announced her rescue. And for one brief moment everyone forgot about that football game, and simply stood up and cheered, and wept, and laughed for the American spirit that conquers all.

The ability of Americans to pull together at crucial moments, from the San Francisco Earthquake, Hurricane Hugo, Jessica McClure, to a World War, added to my grandfather's proud tears are what make me proud of America. That is what puts goosebumps on my arms as the National Anthem is played. And perhaps this feeling is best summed up by a picture I saw in a photography book. It was a picture of a Vietnam Veteran lifting his son up to kiss the name of the boy's grandfather on the Vietnam Memorial. The grandfather was M.I.A. This is America passed from generation to generation, and that is why I am proud.

Mr. Speaker, there are many such fine young people in our country today—but very few can so ably express themselves. I am honored to be Michael's Congressman, and lucky to be his friend.

## TRIBUTE TO WILLIAM ALBION CARLSON II

### HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BROWN of Colorado. Mr. Speaker, I rise today to pay tribute to William Albion Carlson II. A former speaker of the Colorado House of Representatives and majority leader of the Colorado Senate, he passed away this February at his home in Greeley, CO, at the age of 81. The son of a State representative and the nephew of former Colorado Gov. George Carlson, Bill Carlson spent 18 years in the Colorado General Assembly. First elected in 1938, he served 10 years in the House and 8 years in the Senate. He was particularly noted for his legislation concerning education, aeronautics, and the revision of the Colorado court system.

Born October 30, 1908, he received an education degree and a masters degree from Colorado State College, now the University of Northern Colorado. Earning a law degree from the University of Michigan, he returned to Colorado. He married in 1934 and had four children with his first wife, Lois. He married Jane Hobbie Francis in 1956, practicing law with her for 33 years while raising three more children. He is survived by his seven children, Mrs. Jane Carlson's three sons, 25 grandchildren, and 11 great-grandchildren.

Mr. Speaker, William Albion Carlson II is remembered for his many contributions to our State. What follows are tributes by our former House colleague, Don Brotzman, Denver Post columnist Tom Gavin, and the Colorado General Assembly, in the form of a senate joint memorial sponsored by State Senator Bob Schaefer of Fort Collins.

STATEMENT OF HON. DONALD G. BROTZMAN

It was my good fortune to serve with William Albion Carlson II in the Colorado Senate. He was our majority leader and I worked closely with him as the G.O.P. caucus chairman.

Bill Carlson had impressive credentials to represent the varied interests of Weld County and environs, and the broader interests of the entire State of Colorado. He understood farming and ranching because this was his heritage. He was born into a politically active family and was tutored at the knee of his father, a state representative, and his uncle, who was governor. Bill was trained as a lawyer, which, coupled with his native shrewdness, made him an effective tactician.

Bill's legislative leadership, which is summed up by Tom Gavin in an excellent article in the Denver Post, produced landmark legislation in a number of areas that will benefit Coloradans for generations to come.

I congratulate the Colorado General Assembly and Congressman Hank Brown, whose district includes Weld County, for the recognition they bring to this deserving legislative leader.

WILLIAM ALBION CARLSON

I don't know what you do when you return from vacation, but I slog through the newspapers which pile up. "Longtime state lawmaker William Carlson, 81, dies," the headline said.

Sonofagun. William Albion Carlson. That's how we wrote his name when Bill Carlson was a state Senate power, William Albion Carlson.

But not II, as the obit noted. II would have been a little much for Greeley. I see there's a III up there, also, and that he goes by "Bill." They're great levelers, small towns and small cities. In the little places of America, if you're way up town you're out of town altogether.

Surprised? Yes. Not at Bill Carlson's death, though. My supposition was that he'd died long ago. Out of sight, out of touch . . . you know.

This is not one of those "Me and my pal, Bill," pieces. We weren't close. I developed a sturdy respect for him, however. Bill Carlson, I came to believe, was a straight arrow, a speaker of truth. In politics, startled though you may be to bear this, that's a valued and common trait.

To be honest, though, I thought he was a little . . . well . . . stuffy. Reserved.

Smart. Persuasive. Intelligent, which is different than smart. Bulldog stubborn.

And stuffy.

Memory diffuses, have you noticed that, and I was surprised to learn that my sharpest recall of Bill Carlson involves a slide rule. A lot of you don't know what that is, do you? Look it up. This is not Archeology 101.

He'd get out his slide rule when the yearly school finance tussle began.

In those days there was no knottier legislation than school finance. You'd think it'd be a fairly simple thing, passing out state aid. You have so many dollars and so many pupils and you divide one into the other and . . .

No. Uuh-uh. Forget that. Simplicity is not what we're after. What we're after is a fair advantage, as in more money for the threadbare schools in my district and less for those in your district, which are already so rich they even have pencil sharpeners, for goodness sake!

Canny rural legislators not only developed intricate formulae for these disbursals, but constantly tinkered. They may even have inserted a pig squeal factor one year, I don't know. In time, as you might imagine, no one had the foggiest notion what was going on in school finance.

"The controversial and little-understood school finance bill," was the way Statehouse reporters referred to it. Well, it was either that or try to explain the fool thing. There's a time to plunge earnestly into explanation and a time to deal another hand; is the pot right?

Suspicion and narrowed eyes abounded when the bill hit the floor, and that's when William Albion Carlson whipped out his slide rule and went to work.

"You," he would say to one recalcitrant, "will receive . . ."

Then there'd be a shuffling of research material, an adjustment of the held-high slide rule, further document peering, another tiny slide rule adjustment, a peering into the middle distance, and finally, a conclusion. A percentage. A dollar figure. A satisfied senator. An aye vote.

Time and again he'd do this, slide rule brandished like a medieval mace, and, watching from the press table, I wondered, does he know what he's doing with that device or is this all smoke and mirrors?

He knew.

William Albion Carlson was one of the good ones in a state Senate which had quite a few. Steve McNichols, Ted Gill, Fay DeBerard, Ben Veltri, Darcy Brown, Ernie Weinland, Jim Mowbray, Bill Powers, Wilkie Ham, Sam Taylor, Ranger Rogers, Ray Danks, Don Brotzman, Edgar Elliff, Walter Johnson.

Feel good about your forebear, descendants of William Albion Carlson II.

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S.J.M. 90-6 BY SENATOR SCHAFFER; ALSO REPRESENTATIVE OWEN—MEMORIALIZING WILLIAM ALBION CARLSON II

Whereas, By The Will of Divine Providence, our beloved former member, the Honorable William Albion Carlson II, departed this life on February 21, 1990, at the age of 81; and

Whereas, William Albion Carlson II was born on October 30, 1908, the son of a state representative and the nephew of former Colorado Governor George Carlson; and

Whereas, He graduated from the Colorado State College of Education with a bachelor of arts degree in 1931 and a master's degree in 1932, and completed his formal education at the University of Michigan, earning a law degree in 1935; and

Whereas, After graduating from law school, Carlson returned to northeastern Colorado where he worked in farming and ranching and as an attorney; and

Whereas, Former Senator Carlson served this state faithfully, representing Weld County and districts in northeastern Colorado for eighteen years; and

Whereas, Carlson was first elected to the Colorado House of Representatives in 1938 and served as Speaker of the House from 1947 to 1948; and

Whereas, In 1948, he was elected to the Colorado Senate, where he served as Majority Leader from 1951 to 1952 and again from 1955 to 1956; and

Whereas, Senator Carlson initiated historic legislation in the areas of public education, aeronautics, corrections, taxes, legislative procedure, and the Colorado court system; and

Whereas, In 1956, Senator Carlson left public office to devote himself to his family and law practice; and

Whereas, Senator Carlson served with distinction as Trustee for the MacGregor Trust at Estes Park, Colorado, and sought Congressional action to secure the area for education and environmental preservation through a conservation easement; and

Whereas, Senator Carlson is remembered by his colleagues as a fair legislator, a dynamic leader, a respected statesman, and a determined gentleman; and

Whereas, It is fitting that we, the members of the Fifty-seventh General Assembly, pay tribute to the years of dedicated public service of the late Senator Carlson and express our deep regret and sorrow occasioned by his death; now, therefore,

*Be It Resolved by the Senate of the Fifty-seventh General Assembly of the State of Colorado, the House of Representatives concurring herein:*

That, in the death of Senator William A. Carlson, the people of this state have lost a devoted public servant and an outstanding citizen and that we, the members of the Fifty-seventh General Assembly, do hereby extend our deep and heartfelt sympathy to the members of his family and pay tribute to a man who served his state well and faithfully.

*Be it Further Resolved,* That copies of this Memorial be sent to Senator Carlson's wife, Mrs. Jane Carlson, the former Jane Hobbie Francis, with whom he practiced law for thirty-three years; to his children by that marriage, Albion John Carlson of Santa Fe, William John Eric Carlson of Salida, and Louisa Warfield of Greeley; to the children of his first marriage to Gerda Bengtson, William A. "Bill" Carlson III and Alvis "Joy" Brever, both of Greeley, Jenn Ponso of Craig and Sonjenne McGechie of Aurora; and to the sons of Mrs. Jane Carlson, Steven Francis of Fort Collins, Nicholas Francis of Longmont, and Thomas Francis of Windsor.

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## TRIBUTE TO THE LINCOLN POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Lincoln Police Department for their dedicated and outstanding service to the people of Lincoln, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Lincoln Police Department—the public servants on the front line who enforce the laws that we create. These men and women endure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

To often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Dominic James Arena and those who serve in the Lincoln Police Department:

Allen Bowles, Richard Hallet, Thomas Moran, Patrick Kenney, Robert Gallo, Charles Doyle, David Davis, John Fitzgerald, Kevin Mooney, Gerald Mahoney, and Barbara Bardsley.

## FINANCIAL DISCLOSURE STATEMENT

### HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. KASTENMEIER. Mr. Speaker, even though Public Law 95-521, the Ethics in Government Act of 1978, requires public financial disclosure, nonetheless, I am continuing my practice, begun in 1963, of reporting in the CONGRESSIONAL RECORD on my personal financial condition. This disclosure, through its more precise statements, differs in important respects from the report which we are required to file by public law and by House rules.

My report covers the calendar year 1989 and also includes the amount of Federal, State of Wisconsin, and local real estate taxes paid in 1989.

Mr. Speaker, the report follows:

*Financial Disclosure Statement—Statement of Financial Condition, December 31, 1989*

| | |
|---|---|
| Checking account, with the Sergeant at Arms, House of Representatives | $5,155.36 |
| Cash | 73.03 |
| Securities: | |
| 4,000 shares, high yield income fund | 29,500.00 |
| 100 Prudential Bache Cap Return Futures Fund | 9,900.00 |
| Prudential Bache money market funds | 453.00 |
| IMMA account at First Virginia Bank | 32,560.98 |
| IRA account at Wright Patman Credit Union | 2,410.71 |
| Federal retirement thrift investment balance | 23,682.33 |
| Residential real estate: | |
| Arlington house and lot (1989 assessment) | 388,800.00 |
| Sun Prairie house, lot including rear lot (est. fair market value per assessment) | 63,800.00 |
| Household goods, personal effects, estimated | 13,000.00 |
| U.S. Civil Service retirement fund through December 31, 1989 (77,495.15) cash value | none |
| Additional retirement fund deposit 1,130.00 cash value | none |
| Donaldson Run deposit | 600.00 |
| Life insurance—GI policy and congressional life insurance (2) | none |
| Automobile, 1987 Cutlass | 8,000.00 |
| Total net worth | 577,935.41 |
| Taxes paid in 1989: | |
| Federal income tax | 26,140.16 |
| Wisconsin income tax | 6,434.31 |
| Sun Prairie real estate tax | 1,921.66 |
| Arlington County real estate tax | 3,032.64 |
| Federal employers tax | 178.74 |
| 1989 income: | |
| Congressional salary | 85,533.28 |

| | |
|---|---|
| Honoraria (2) | 3,000.00 |
| Interest IMMA bank account | 2,382.66 |
| Bonds HiYield, dividends | 3,421.50 |
| Prudential Bache Cap Retirement Future Fund, ordinary interest | 305.38 |
| Rent, Sun Prairie house gross $4,740 net | 86.27 |
| Prudential Bache Cap Retirement Future Fund, capital gain loss | (265.00) |

NOTE.—Separate property and income of spouse not listed.

## WORLD FOOD DAY TELECONFERENCE REPORT

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GILMAN. Mr. Speaker, October 16 will be the 10th anniversary of World Food Day. In 1989, a teleconference was held on that day to meet the needs of the American public for information regarding the hunger problem. The National Committee for World Food Day, under the leadership of Patricia Young, arranged for the broadcast to reach over 500 receive sites throughout the United States and Canada. The panel of experts included Senator GORE and Dr. Kurien, the head of the world's largest cooperative. They answered some tough questions on energy, biological diversity, population, and other key issues regarding hunger and development.

World Food Day has been a great success. There are now over 430 organizations involved in its activities. It has educated millions of Americans about the problems and solutions surrounding the world hunger crisis.

Accordingly, I invite my colleagues to review the teleconference report. It is available in full from Patricia Young at the National Committee for World Food Day here in Washington.

Mr. Speaker, I request that the 1989 World Food Day teleconference executive summary be printed in full in the RECORD at this point:

1989 WORLD FOOD DAY TELECONFERENCE
EXECUTIVE SUMMARY

The sixth annual World Food Day Teleconference, broadcast from the studios of George Washington University in Washington, DC on October 16, linked a distinguished panel of experts to 500 receive sites across the United States and Canada. Because of the interest in, and timeliness of, its theme, *Food, Environment and Development*, it is believed to have been the most widely viewed of any in the series that began in 1984 and the largest single development education broadcast ever organized in the U.S.

World Food Day, held for the first time in 1981 and marking the founding, in 1945, of the Food and Agriculture Organization of the United Nations, has captured the imagination of people throughout the world. In the U.S. and Canada, the Day is observed in virtually every community. The U.S. National Committee for World Food Day has grown in membership to 430 private voluntary organizations.

Serving on the teleconference expert panel in 1989 were two distinguished foreign guests, Dr. Verghese Kurien of India, winner of the prestigious World Food Prize and director of a milk cooperative in his country which is called the largest agricultural development project in the world, and Ambassador Stephen Lewis of Canada, former ambassador to the United Nations who now acts in a personal capacity as special advisor to the secretary-general of the UN on African affairs. They were joined by two Americans, Senator Albert Gore (D-TN) and Dr. Roberta Balstad Miller, director of the National Science Foundation's Division of Social and Economic Science. TV and film star Eddie Albert hosted the program, and PBS chief Washington correspondent Judy Woodruff served as moderator. FAO Director-General Edouard Saouma and Secretary of Agriculture Clayton Yeutter also appeared on the program through brief videotaped messages.

THE TELECONFERENCE CONCEPT

In the U.S., the World Food Day teleconference has become a model for development education on global issues, in part because of the enormous growth in interactive participation by official receive sites and the additional millions of viewers accessed through collaborating networks and in part because of the year-around and year-to-year study elements of the project. Its main components are: (1) a Study/Action Packet of print materials, prepared by the non-governmental U.S. National Committee for World Food Day and distributed to all participating schools and other study centers; (2) the three-hour satellite telecast on October 16 composed of three hour-long segments for expert panel presentations, special local site programs and a site-panel question and answer interchange; (3) a written teleconference report including a lengthy section of responses to site questions which could not be taken up during the third hour of the broadcast; and (4) analysis by selected site organizers after year's program to prepare recommendations for the year to come.

All of the teleconference components are designed as college-level curricular aids. More each year, schools are using videotapes of the telecast, the Study/Action Packet and the Teleconference Report as a combined and reusable resource on the teleconference theme or some aspect of it. WFD organizers are now considering ways to offer study guides for faculty to facilitate this use.

THE STUDY/ACTION PACKET

The Study/Action Packet is designed as an integral part of the teleconference program, but it also serves, and is widely used, as a separate study resource by groups not participating in the interactive, official telecast. More than 1,500 copies of the packet were distributed prior to the October broadcast. Funding for the packet was provided through a Biden-Pell Development Education Grant from USAID. General support for the telecast was provided by the U.S. National Committee for World Food Day, FAO, the Covenant Presbyterian Church of Scranton PA, the Kraft General Foods World Food Prize, USDA and the Xerox Foundation.

Although not designed to be a comprehensive analysis of the issues subsumed in its *Food, Environment and Development* theme, the packet served as an overview of many of the questions of current public concern. Its main study section in particular brought into focus issues raised in the "Our Common Future" report of the World Commission on Environment and Development headed by former Norwegian Prime Minister Gro Harlem Brundtland. Special attention was given in this paper to issues that might divide developed and developing nations in their search for solutions. Detailed analysis was given to problems of food-related natural resources of soil and water, to food implications of global deforestation, to atmospheric pollution and climate change, and to the struggle to reduce contamination from agricultural chemicals. The Study/Action Packet also included a bibliography on current study literature and a special section to assist college teleconference organizers in initiating or expanding their programs.

The entire Study/Action Packet was designed to facilitate local duplication and thousands of copies were made of different parts of the packet for distribution through site organizing groups.

TELECONFERENCE OUTREACH

WFD teleconference outreach grew again in 1989—in the number of interactive sites, in participation in programs organized at the sites, and in pick-up or rebroadcast by cooperating television networks and stations. The number of sites (i.e., locations taking part in the interactive third-hour segment of the broadcast) grew from 125 in 1984 to as many as 500 in 1989. The exact figure cannot be known because participation through specialized networks which do not report individually.

In a separate aspect of the teleconference outreach, the program was used for the fourth year by professional organizations for continuing education credits. Credits were offered in 1989 by the American Dietetic Association and the American Home Economics Association, and, through the Catholic University of America, were offered to clergy and social service professionals.

The number of homes throughout the U.S. and Canada which were accessed by cooperating networks and stations reached into the millions. Networks or chains which offered all or part of the broadcast included the Catholic Telecommunications Network of America, the Learning Channel, Vision Interfaith Satellite Network, the Public Broadcasting Services' Adult Learning Satellite Service and individual PBS, educational TV and cable stations throughout the country.

The outreach of the program also took on an entirely new dimension in 1989 through overseas video relay by the WorldNet Service of the U.S. Information Agency. Pick-up of this WorldNet coverage is expected to expand rapidly in future years through promotion by the international WFD network. National Committees are now formed in over 100 countries and are joined together through the offices of the non-governmental Global Confederation for World Food Day located in Italy.

LOCAL SITE PROGRAMS

Over the six-year experience of organizing the teleconference, the U.S. National Committee for World Day believes the single most important development in the program's evolution has been the rising attention given by site organizers to their own programs on dealing with hunger, whether local, national or global, in conjunction with the national telecast. The original concept for this site activity was for the "middle hour" discussion of the points made by the expert panel in the preceding hour along with prepartion of questions to be submitted during the final hour of the telecast.

While this is still a vital part of the teleconference program, more sites each year have gone further, developing full programs within the college setting or involving outreach to surrounding offcampus communities. These site programs sometimes follow the theme of the national broadcast, but also frequently take up local and national hunger and food security issues. Many programs now cover a full day, several days or, in a few cases, a week or more. It was in recognition of this evolving growth that the special section of the 1989 Study/Action Packet on programs organization was prepared with the assistance of 18 colleges with especially successful or innovative programs. This "Manuel of Models" is to be expanded and redistributed in future years.

Another growing aspect of college participation is the growth of interdisciplinary study based on links to food/poverty issues. First contacts of the National Committee office with the colleges tended to be with schools of international agriculture or campus ministry. Today, at various colleges, more than 15 separate schools and departments participate in the teleconference, from anthropology to women's studies and journalism. A special section of the 1990 Study/Action Packet will be designed to encourage and expand curricular integration of the various teleconference components, showing success stories from past years as well as new ideas developed at a special WFD advisory committee meeting of participating colleges held in February of this year.

Off-campus outreach has been another growth area, with organizers and community leaders involved in joint planning of local anti-hunger activities, elected officials and leaders invited to participate in panel programs on food/hunger issues, and food or fundraising activities benefitting local offcampus groups, have led to year-around cooperation in alleviation of local hunger problems.

PROGRAM SUMMARY

The telecast from George Washington University television studios opened with an introduction by Eddie Albert followed by a taped welcoming statement on the theme by FAO Director-General Edouard Saouma who briefly described the range of environmental problems affecting food production and noted his intention to discuss these in the days ahead with U.S. Secretary of Agriculture Yeutter. Moderator Judy Woodruff then noted her hope that the program would go beyond statistics of environmental problems into issues of international cooperation, referring specifically to problems dividing the rich and poor countries raised in the Brundtland report. She then introduced the guest panel and asked each to make a brief statement of their positions.

Senator Gore then began the panel discussion by noting the links between the environmental challenge and world population growth, and the consequent pressure on food resources. He said that a crisis was rapidly coming to a head and would require tough decisions, particularly in developed countries, in both domestic and foreign policies. On the foreign side, he specifically mentioned the need to ease the debt burden on poor countries. Ambassador Lewis of Canada then spoke of the same need—for action by the rich countries at home and also in their relations with the developing group—but said he could not see any seriousness on the part of the rich countries to act. He said that critical decisions need to be made in the next decade that would affect the future of the world, but that the moral leadership was nowhere evident.

Dr. Miller noted that the issues of food, environment and development were closely interconnected and that the response to the problems would have to be on two levels simultaneously—the need for research into the nature and degree of the problems and a second need for corrective political action which she said would be required even before research could be completed. The two would need to go forward together. Dr. Kurien said that he wanted to underscore some of the arguments made by Ambassador Lewis. Using India as an example, he said that the 800 million people of his country could not be denied the fruits of development, and that development inevitably would entail exploitation of resources. He added that since India had a democratically elected government, any leadership which put environmental protection above the basic needs of the people for food and jobs would be quickly rejected.

The moderator noted the apparent conflict in the statements of Dr. Kurien and Sen. Gore, and asked the panelists to comment further on that point. Sen. Gore said there could be no doubt that starvation would have a higher priority than environmental purity, but called for a changed definition of development which would take environmental degradation and resource loss into account. He also said developing countries might be more willing to take strong measures if there was leadership shown in the rich world in solving its own, even larger, problems. Ambassador Lewis underscored the dilemma of financial transfers, pointing out that huge amounts of capital were now moving from poor countries to the rich. Lewis said the natural response of these countries was to say, "Help us with our poverty problem or we won't be able to help on the environment side."

Dr. Kurien said that this smacked of a plea for charity, while in the case of India they felt more need for fairness in trade and other relations such as technology transfer at reasonable cost. But he felt that India could do more to control its population growth, both human and animal. Sen. Gore said he believed the possibility was near when environmentally sound technologies getting locked into the environmentally polluting models of Western development. Also, he noted, there still were areas of importance for knowledge transfer from the poor to the rich countries, citing as an example aspects of biological diversity. Dr. Miller used the example of Madagascar to underscore some of these points. An enormous genetic diversity was being whittled away in that country, she said, as forests were cleared for fuelwood and cropland and also wood for export to meet debt payments. A technology such as solar energy could help to solve all of these problems simultaneously by providing energy, conserving genetic resources and freeing up funds for domestic investment.

Other national examples of problems and solutions were discussed. Sen. Gore noted the emerging concept of debt-for-nature swaps, with some positive examples in Costa Rica. He and Dr. Miller noted an area of converging interest could be the very high use of coal, and consequent carbon emissions, in China and the U.S. Sen. Gore said he had found very great interest in environmentally sound technology not only in China but many other countries he had visited. Ambassador Lewis and Dr. Kurien returned to the need for action in the rich countries. Dr. Kurien cited reports that methane from Indian rice fields was a contributor to "greenhouse" gas, but so were the emissions caused by automobile air conditions in the U.S. But the U.S., he said, wasn't giving up its air conditioners. Ambassador Lewis said that despite the Brundtland report, already two years old, not a single country in the Western world had changed its policies meaningfully in terms of environmental protection.

Sen. Gore said that he recognized that the U.S. was the largest atmospheric polluter, but that a start on a cleanup had been through the international agreement to reduce chlorfluorocarbons. He added that environmental issues were coming to the front of political conern and that that was a reason for optimism. Dr. Kurien added that despite his comments about international aspects, India internally was very aware of of environmental problems and was doing much more than in the past in reforestation and research into environmental technologies such as solar energy. Dr. Miller said there still was not a sufficient sense of urgency and feared that a disaster might have to occur to wake up the world. Ambassador Lewis called on non-governmental organizations of all kinds to step up pressure on their national governments.

THIRD HOUR QUESTION/ANSWER

The third hour of the teleconference was opened with a greeting to participating schools from Secretary of Agriculture Clayton Yeutter, who noted that USDA works closely with FAO and other organizations in the search for solutions to food/environment problems and noted that this challenge would open the way to important and exciting career opportunities in the years to come. The moderator began the question and answer part of the program.

Questions from the sites in the third hour (or answered in writing by panelists afterwards) centered around the points raised in the initial presentations. More than 100 questions were received from the sites. Subjects in which there tended to be very broad interest—both in number and geographic spread—included what the main components of a new model of development could be, whether the world would face an absolute food deficit as population rises, and how could the enormous agricultural production capacity of North American farmers be used to support sustainable agriculture.

The responses to these questions by the various panelists showed a wide divergence of views. On development models, there was agreement that some new methods were required to be sure that economic measurements would reflect environmental impact, requiring the pricing of what were formerly considered free goods, such as air and water, and payment of pollution. An area of disagreement was revealed between Ambassador Lewis and Sen. Gore in that Ambassador Lewis felt that this required sharp restrictions on the market economy because corporate auditing would not voluntarily include social costs. Sen. Gore felt that government interference was as often the problem as the solution, that the market had to be used to find the true cost of environmental elements and that there had to be an acceptance of market forces.

On the question of future food supply, Sen. Gore noted that farming skills and technology had always enabled the world to stay ahead of population, but that the new element was that many modern farming techniques that now provide food surpluses

were in themselves environmentally unsustainable—increasing soil erosion and dependency on inorganic chemicals, depleting ground water, etc. Dr. Kurien noted that food security was linked to population growth in a different way, in that food and other benefits of development were the key elements in reining in population. But he said this debate was too often confined to a national context and should include the responsibility of the advanced countries for Third World poverty. Ambassador Lewis doubted there would be a global food shortage and said he disliked the food-population equation. It would be better to have sound policies for each, he said, for separate reasons. Dr. Miller agreed that the key to slowing population growth lay in improved social and economic opportunity, but was less certain that food deficits could be avoided. She noted that the very large gains in food production of the past several decades had stopped and that population was now growing faster than food supply on a global basis.

In answer to questions dealing with the role of North American farmers, Sen. Gore suggested that some of the problems of farmers would be mitigated by a different approach to agriculture which would be more environmentally sound and sustainable. He called for research into farming practices and institutions that will enable us to increase productivity on smaller farms using low-input agricultural methods. This would also benefit developing countries, he added. Dr. Kurien said he thought the governments of the U.S. and Canada should stop trying to make farmers reduce production, but instead seek better ways to use the surplus food to solve food and development problems in the Third World. Ambassador Lewis said he thought the problems of U.S. and Canadian farmers had more to do with the competition with the European Community than with food aid, and that he doubted that food aid could be a major part of the answer. Food aid was important as a moral consideration rather than an economic solution, he said.

CONCLUSION

In conclusion, moderator Judy Woodruff and host Eddie Albert noted that despite differences between the panelists there was a strong consensus that the global environmental crisis was developing rapidly and that the links between food security, environmental protection and development progress for the poor countries were inextricably linked.

## TRIBUTE TO JOHN ROACH

### HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GEREN. Mr. Speaker, Friday night, May 18, 1990, the Society of Distinguished Americans will present its annual Horatio Alger Award to 12 great Americans who have overcome hardship to achieve notable success in their field. One of those award winners will be a great citizen of Fort Worth, TX, John Roach, chairman of Tandy Corp., but none will be more deserving.

Like other Horatio Alger Award recipients, Roach was not born with the proverbial silver spoon in his mouth. The only child of John and Agnes Roach, John Roach, Jr., had his first job waiting on customers in his father's grocery store in Fort Worth. It was in that job that he learned his first lessons about the virtue of hardwork and loyalty.

After earning his bachelor and masters' degrees at Texas Christian University, and working for 2 years at the Texas Consumer Finance Corp., Roach moved on to Tandy Corp., running its data processing operations. It was there that he met Charles Tandy and found the opportunity to become one of this country's most respected business leaders.

While under Charles Tandy, Roach climbed through the ranks of the organization. Three years after Tandy's death in 1981, Roach was named chief executive officer, making him one of the youngest chief executives of a major American company at 42 years old. One year later, board members elected him chairman.

John Roach has come to epitomize the notion of hard work, opportunity, and service to his fellow man. He has dedicated himself to being the best he could be in the three areas that are most important in his life: being a father, a community leader, and business leader.

With his wife, Jean, to whom he has been married for 30 years, he has raised two daughters, Amy, 23 and Lori, 17. He has been active in numerous civic organizations in Tarrant County including the United Way and the Arts Council of Fort Worth and Tarrant County.

But, in many ways, John Roach is still that kid selling groceries in his father's store. When recently asked what he did for a living, he responded, "I peddle a few radios."

This radio peddler has made Tandy's chain of Radio Shack stores into an American institution that rivals McDonalds in national presence and number of franchises. This man, whom his employees affectionally call J.R., has turned the Tandy Corp. into a company with annual sales of more than $4 billion.

Norman Vincent Peale founded the Society of Distinguished Americans over 40 years ago to motivate and educate young people to the promises held by the free enterprise system. When John Roach receives his Horatio Alger Award this Friday, he will be in the great company of other prestigious Texans; namely, Ross Perot, Trammel Crow, Gov. Bill Clements, Tom Landry, and John Connally.

John Roach and his fellow Alger Award winners could teach us all a thing or two.

## A TRIBUTE TO THE HARVARD POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Harvard Police Department for their dedicated and outstanding service to the people of Harvard, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Harvard Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, "Are you prepared to offer your life in service to your community?"

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Charles Perry and those who serve in the Harvard Police Department:

William Castro, Richard Walters, Edward Smith, John Coates, Keith DeBruin, Ben Lavine.

## TRIBUTE TO ST. JOHN THE BAPTIST RUSSIAN ORTHODOX GREEK CATHOLIC CHURCH OF SINGAC, NJ, ON ITS 75TH ANNIVERSARY

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ROE. Mr. Speaker, it is with the deepest reverence and the greatest sense of pride that I rise today to pay tribute to an outstanding house of worship in my Eighth Congressional District of New Jersey which, for three-quarters of a century, has been a spiritual focal point and a beacon of faith for countless numbers of worshipers in the greater northern New Jersey area.

I am speaking of St. John the Baptist Russian Orthodox Greek Catholic Church of Singac, NJ, which is celebrating its 75th anniversary in 1990. This landmark occasion will be observed with a gala banquet on June 10, 1990, at the First Russian National Home in Singac. I know this event will be a source of great pride to the entire congregation, and especially to this fine church's spiritual leader, Rt. Rev. George Burdikoff, pastor, and church president, John Humecky.

Mr. Speaker, as a means of providing you and our colleagues with the details of this important church, I would like to insert for the RECORD the official history of St. John the Baptist Russian Orthodox Greek Catholic Church:

ST. JOHN'S RUSSIAN ORTHODOX CATHOLIC CHURCH

The establishment of chruches in Little Falls reflects European conditions which provided the impetus for emigration to America of large numbers of people from a particular region. The year 1880 is generally recognized as the beginning of the change in immigration patterns when the majority of immigrants were no longer from Western European countries. For 40 years following 1880 the majority of immigrants came from Eastern European countries such as Italy, Hungary, Rumania, and Germany.

The founders of St. John's Russian Orthodox Church are representative of the new immigration pattern. Difficult economic conditions and persecution of minorities forced many from Galicia and Carpatho-Russia in Austro-Hungary to the New World, and a small group from this area settled in Little Falls and found employment in the carpet mill.

Some of the early residents traveled to Garfield to attend the Russian Orthodox Church of Three Saints and St. Peter and Paul Russian Orthodox Church in Passaic. After several years they gave thought to organizing their own parish although they were few in number.

During the period of massive immigration to the U.S., it was customary that small enclaves of a particular ethnic group set up social organizations to provide social services, including life insurance programs within their own community. In 1914 such a group was organized as St. John the Baptist Russian Orthodox Brotherhood. This group became the founders of the church, holding their first services in the homes of Havrill Dutkevich and Theodore Rock by Rev. Alexander Alehin of Garfield.

It not long before it was decided to erect a church building at which time two lots on the corner of Weaver Street and Van Pelt Place were purchased for $450, and 2 additional lots were donated by B. Grunauer. Plans for a small wooden chruch were immediately laid, and construction began with the labor and offerings of the parishioners, John Kobelka, a parishioner, agreed to construct the edifice, and the cornerstone was laid on June 28, 1916. In 1921 the rectory was constructed and the interior of the church was decorated with Holy Icons painted by the pastor, Rev. Nikifor Kepitanchuk.

With the influx of people to Singac, the parish grew from the original 25 families to a community of approximately 200 families in 1947. This growth necessitated a larger edifice and on January 29, 1950, an Executive Building Committee consisting of Steve Dutko, Peter Kolanich, Walter Kusha, John Kulick, and the Pastor, the Very Rev. Peter Karel, was established and empowered to obtain suitable plans for the new church. It was decide to construct the new church at the same location.

On September 30, 1951, architects S.E. Greydanus and Son were retained to draw the plans and specifications, and on June 25, 1952, a contract with Prospect Builders was signed. The last service held in the old church was on June 22, 1952.

The construction of the new church began immediately and during the period of construction chruch services were held in Public School No. 3 and the Singac Firehouse. The new edific was blessed on November 8, 1953 by His Eminence, Most Rev. Leonty.

In 1970 a new parish rectory was erected, and at the same time the Cultural and Education Building was constructed to serve the educational needs of the Sunday School and community athletic programs. Additional property on Tolstoi Place and at the end of Van Pelt Place were purchased amounting to nearly 3 acres. Father Karel retired in 1960 after serving for 22 years and was succeeded by the Rev. Father John Sochka who served until 1967. The Rev. Michael Kiriloff began his pastorate in 1968 and was succeeded in 1971 by the Right Rev. George Burdikoff, the current pastor.

In 1988, the Russian Orthodox Church celebrated its millennium of Russian Orthodox Chirstianity in Russia. During that year St. John's was honored with a visit from Metropolitian Gideon Novosibirsk, a standing Member of the Bishop's Synod of the Russian Orthodox church of Russian. Many local parishioners have made pilgrimages to the Mother Church in Moscow also travelling to Kiev and Lenningrad.

The church purchased an estate in Montville in 1979, where a chapel, Christ the Savior, was established.

Evidence of the stability of this religious community is the fact that membership has been maintained at 350 families for nearly 40 years since the erection of the new church in 1952. Its members have made many contributions to the Little Falls community including service in the local government and on the school boards.

Mr. Speaker, I appreciate the opportunity to present a portion of the history of this distinguished church that has remained dedicated to helping others and guiding them spiritually. As St. John the Baptist Russian Orthodox Greek, Catholic Church of Singac celebrates its 75th anniversary, I know that you and all of our colleagues here in Congress will want to join me in extending our warmest greetings and felicitations for both the service and guidance it has provided for its community, State, and Nation.

## FARMERS AND THE LAND

### HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. KOSTMAYER. Mr. Speaker, "It is the countryside that needs preserving * * * especially the land still farmed around the cities," so writes Henry Fairlie in the attached piece from the April 1 issue of "The New Republic."

And while, as Fairlie writes, Americans often think first of protecting the majesty and drama of the Grand Tetons or the Rockies, we seem to have forgotten that part of America where, "everywhere it is soft, rolling and green with little streams, and small roads that dip and rise and twist."

"Get in a van and drive across Pennsylvania," Fairlie advises or through, "Ohio—Indiana, Wisconsin—Minnesota—Iowa—Missouri—even eastern Kansas: Across and through them all, you could not ask for lovelier land."

Americans marvel at the loveliness of Britain, at the tiny villages of France and Holland.

Is Vermont in October less astonishing?

Have you driven across the heart of Iowa and not admired the endless stretches of Lush August Green interrupted only by the barns, silos, and white clapboard farmhouses?

Have you seen the Amish farms in Lancaster County, PA, or the stone farmhouse in Pennsylvania's Chester and Bucks Counties, built before the revolution?

Have you been in the Hudson Valley or the old mill towns of western Massachusetts?

Mr. Speaker, if you have not, then I advise that you do so quickly. These reminders of what America once was are rapidly disappearing.

Efforts to protect them have largerly failed; at the Federal level, there is really no effort at all.

This is why so many of us believe the people are way ahead of Congress and the administration in seeking ways to protect the America countryside.

As Mr. Fairlie writes, "The United States has no Federal or even any strong State legislation like Britain's Great Town and County Planning Act, passed in 1947 * * *."

As chairman of the Oversight Subcommittee on the Interior Committee, I know what Mr. Fairlie is talking about. In hearings over the last year, I have seen it face to face in Killington, VT, where a ski developer wants to cross and mar the Appalachian Trail, in the Hudson Valley where a developer wants to develop the last and largest privately owned parcel of land in metropolitan New York, at Fort Meade, MD, midway between Baltimore and Washington where the Army wants to sell the largest open space left between those two cities to housing developers, at Gettysburg where developers now have the right to build condos adjacent to the battlefield itself.

In New York and Maryland, in Vermont and Pennsylvania, we have no Rockies or Grand Canyon, few areas suitable for wilderness, few rivers still wild and scenic. But we have the countryside, the countryside where America was born and raised and where she lies slowly dying from abuse and neglect.

Henry Fairlie sees it, Americans everywhere see it and weep. Fairlie is right when he writes, "The beauty of America is about to be lost forever."

FARMERS AND THE LAND

(By Henry Fairlie)

If I had been elected president last year, I would have vetoed the farm credit relief legislation. The measure was a knee-jerk (if not simply a jerk's) response to the plight of some farmers on the part of not only legislators from the farm states but far too many city Democrats. It proposed the kind of bail-out that has brought government aid to needy groups into so much disrepute. But having said that, farming still needs our support.

Whenever there is a "farm crisis," the ignorance and prejudices of our urban society are revealed. There is almost no understanding, or even attempt at understanding, our interest in sustaining a healthy agriculture, and with it a vigorous, distinct rural society. Most of the commentary on farming is written by people who were not raised on a farm; have perhaps never been and certainly never worked on a farm. Rather they use the countryside for skiing, wilderness hiking, white-water rafting, or summering in some irrepressibly quaint cottage or condominium on the edge of a potato field not too far from the interstate.

Generations of piffle spoken in defense of the small farmer by farmers and city folk alike have created a false picture of him. The phrases "small farmer" and "family farmer" have to be used with care these days, because technology has so altered the character of farming. For the moment we may speak of the individual farmer. Our interest in preserving the individual farmer is not primarily utilitarian. We do not have farmers only to supply us with food. If the efficient production of food were our only interest, we could virtually do without the individual farmer.

It is also difficult to defend the individual farmer on the ground that his "way of life" is a model for us all. Farmers are not notice-

ably selfless or public-spirited. What most French peasants did after the Second World War was hide their wheat until the price of flour in the devastated and starving cities of France skyrocketed, a meanness that cannot be attributed solely to the fact that they were French. There is cockfighting in the San Joaquin Valley. There is dogfighting in Dane County, Wisconsin. My daughter is manager of the clinic of the Dane County Humane Society, and therefore knows something about it. Her stories about the way of life of some Wisconsin farmers can make your hair stand on end. Closeness to the soil may yield an earthiness of spirit, but that earthiness does not then necessarily yield hearts overflowing with human kindness.

Our main reason for sustaining the individual farmer is stronger and more urgent. The 1980 census was the first since 1820 to show that the rural areas are growing more rapidly than the cities. We have known from the statistics that this has been happening since the early 1970s. But it took a long journey around the country this summer to show me how massive this movement is. It is happening from coast to coast, from the tropics to the snows. This dispersal of population is reaching the same scale as the movement to the cities that had more or less been completed by the early decades of this century.

The main reasons for it are simple. First technology no longer needs concentrations of resources—water, power, coal, and a network of heavy transport—which the smokestack industries could find only in the big cites. Second, people are fed up with commuting from ever more distant suburbs to high-rise offices downtown and are putting a new value on ease of access to the countryside for their increasing leisure.

In many small cities there is another attraction. The new industries like to be near a university or college and draw on its resources for research and its graduates for recruitment. State College, Pennsylvania, had a population of only 36,130 in 1980, yet the Bureau of Census had to declare Centre County in which it stands a Standard Metropolitan Statistical Area because State College (with the campus of Penn State right in its center) has been drawing new industries whose workers then disperse into the surrounding towns and villages.

Centre County is lovely—still, for now. But one cannot but wonder what will happen to it by 2000. What will happen can be seen in Santa Clara County, California, otherwise known as Silicon Valley. Even in 1950 Santa Clara had a population of less than 300,000. It is now more than four times as large. What in 1950 was still one of the loveliest and most fertile orchards in America—the whole county an orchard—is now only the latest, and one of the worst, example of the urban or suburban or exurban or rurban sprawl that Americans never seem to have the will, wish, interest, foresight, vision, or simple care to prevent. Silicon Valley is a pox on California, and insofar as it represents an American blindness it is a national disgrace.

Where was the Sierra Club as the sprawl into Santa Clara began? Probably trying to save one more redwood, when America has more redwoods than any country sensibly needs. It is not the wilderness that needs protecting in America: America has so much wilderness it is ridiculous. It is the countryside that needs preserving, and that means the farmed land. It means especially the land still farmed round the cities. This countryside is not Nature, but Nature made civil: made civil by man and kept civil by the farmer, generation after generation.

Americans talk too often only to the grandeur in their land—the Rockies, the Grand Canyon, the Mojave Desert. They go to England (or France or Italy) and come back praising its soft landscape, its green pastures, its little hedgerow, its country lanes. Get in a van and drive across Pennsylvania, or across the whole of the Middle West, and everywhere it is soft, rolling, and green, with little streams, and small roads that dip and rise and twist. Ohio—Indiana—Wisconsin—Minnesota—Iowa—Missouri—even eastern Kansas: across and through them all, you could not ask for lovelier land. This America could not be more comely, and everywhere, without exception, it has been made and kept by the farmer. It is not, and will not be, safe with anyone else.

For there is another threat to the true countryside of America: the increasing leisure and thirst for the outdoors of the new affluent city people of the high-technology and service economy. People who use the country for recreation do not keep it. They destroy it. No one trashes the country more than the skiers. First they scar a mountainside, just as plainly as does strip-mining. Then round the base of the mountain grow subdivisions and ribbons of chalets. In come the boutiques and delis, the squalor of our time. Have you seen Vermont—lately? Look around Mount Killington: for mile after mile is a land tortured and screaming, the work of the skiers.

Go anywhere—the beauty of America is about to be lost forever. The land will become acres and acres of wilderness, huge protected ranches for Robert Redford, sprawling encampments of the high-technology industries, and ribbons of weekend homes, summer homes, second homes, and recreation resorts. Look at Lake Tahoe.

I often wonder what picture comes to David Stockman's mind when someone says "America." Can it only be of silicon chips? (Even they are not doing very well in Santa Clara—not nearly as reliably as the orchards did for so long.) The United States has no federal or even any strong state legislation like Britian's great Town and Country Planning Act, passed in 1947, which not even Margaret Thatcher has thought to dismantle. Who is going to save the true land of America? You cannot trust most of the environmentalists. They are protectors not of the land, but of the privileged. We have only the farmer, whose own self-interest, not any idealism, makes him keep the land for us. Sustaining him for this purpose is vision.

On Vashon Island off Seattle in the Puget Sound—an island to which I went by ferry to visit a friend—I gazed all afternoon across the broad waters to Mount Rainier. In the dusk of the evening a young doe came down and stood in the Sound. The local authority has been given the power to buy farmland that is threatened by developers, then to lease it back to the farmers, so that the farmland may be kept in perpetuity. That is all that is needed. That vision, that legislation, the small amount of funding.

But can the individual "small," "family" farmer even then survive? The answer is "Yes." In some commodities, especially the farther you go west, "agribusiness" is king (although even then not unchallenged). But you cannot expand, say, a dairy farm the way you can a wheat farm in Kansas, or even a beef-cattle feedlot in Colorado. Dairy farming requires constant attention to, knowledge of, even intimacy with, the herds of cows. Hogs too are rather particular about who looks after them. I could take you to a hog farm in Ohio that is about to be passed on to the son. I could take you to a 60-acre grape farm in New York—and even a ranch in Montana which is in the hands of the fourth generation of a family.

Wherever these people are, the loveliness of this land is safe. Wherever they are driven out, the land is trashed and not brought back. It is up to Americans to decide whether they wish their country to remain the only one of such size in the world in which particular beauty is kept. It means saying the individual, now not so small, but still often "family" farmer.

## A BUSINESS SUCCESS STORY

### HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ANDREWS. Mr. Speaker, I would like to alert my colleagues to an article in the May 15 Washington Post about the remarkable success of Dresser Industries and its chairman and CEO, Jack Murphy, in my home of Houston.

The article chronicles the Bush administration's recent award to Dresser for its tremendous exporting of high-quality industrial tools around the world. Last year, Dresser sold $64 million in industrial tools—exporting twice as many products as its nearest U.S. competitor.

All this takes place at a time when conventional wisdom suggests that U.S.-based manufacturing can no longer compete effectively in world markets. The article indicates that if there is a secret behind Dresser's success, it's a simple, commonsense management strategy and a good, workable relationship with union and non-union employees.

I am inserting this article in the RECORD because I think that Mr. Murphy's and Dresser's success story can be an aspiration for many American businesses.

[From the Washington Post, May 15, 1990]

DRESSER'S HIGH ROAD TO SUCCESS—TOOLMAKER FOCUSED ON QUALITY PRODUCTS MADE IN THE UNITED STATES

(By Stuart Auerback)

HOUSTON, May 14.—Today, the industrial tool division of Dresser Industries Inc., is a Texas-sized success story.

Its $500 pneumatically powered screwdrivers, its $3,000 angle nut wrenches and its $10,000 precision drills are sold around the world to manufacturers of cars, planes, power generators and oil refining equipment.

Sales totaled $64 million last year, a 25 percent increase over four years ago, and its exports have doubled in that period, accounting for one third of sales.

And it did all this while staying at home, at a time when competitive pressures and conventional wisdom seemed to dictate a retreat from U.S.-based manufacturing.

It was in 1983 that Dresser Tool came to the crossroads. The dollar's value was at record highs then against the Japanese yen and other international currencies, enabling foreign competitors to cut prices on import-

ed tools and flood the U.S. market while boosting the price of U.S.-made exports in foreign markets.

To survive the high dollar, Dresser's U.S. competitors opened production centers in low-cost Asian countries such as South Korea.

But T.R. Hurst, president of Dresser Tool, decided to take his company on a different tack—focusing on high quality, expensive products, all made in the United States. He emphasized service and, once the company gained ground domestically in its chosen niches, he aggressively expanded its sales operations overseas.

"We know that we have got to be competitive in manufacturing in the world market. If we couldn't compete in the world, we couldn't compete domestically," said Hurst. "We sat here [in 1983], looked at ourselves and said, 'We are going to be competitive with a made in the USA product.' We decided not to be the biggest but to be profitable and to build on service, quality and technical support. We left the low-cost tool business to others."

It worked. Yesterday, Dresser Tool, one of 18 divisions of Dresser Industries, was honored by the Bush administration for its strong export performance, winning a presidential citation that was presented by Commerce Secretary Robert A. Mosbacher. Commerce officials said that Dresser Tool exports twice as many of its products as its nearest U.S. competitor.

Mosbacher paised Dresser for "turning in a Texas-sized performance. . . . Remaining competitive through advanced manufacturing technology is one of the keys to helping America expand its exports," he added.

Dresser tools are used in aircraft facilities around the world, both to build new planes and to repair existing ones. They have been purchased by major U.S. and foreign car manufacturers for plants in this country and overseas. After selling to the West German factories of automakers such as BMW, Audi and Volkswagen, marketing Vice President M.L. "Jack" McDonald said the company has begun moving into Japanese car plants in this country and Britain and aims eventually to crack the Japanese domestic manufacturing market.

"These are not your dime-store tools," said Hurst, whose company has added a new line of pneumatically powered multiple-headed tools—a series of wrenches or screwdrivers attached to one power source—that cost as much as $150,000 each.

"Our tools are not designed for low-cost manufacture. They are designed to fit the worker's hand . . . when he has to use them eight hours a day. We are not going to win contracts because we are the low boys. We are going to win because we have something better to sell," Hurst said.

Dresser Tool took a big gamble in 1983 when it decided to become a successful exporter while expanding domestic sales. The company completely restructured its manufacturing operation and forged a strong cooperative alliance with its unionized work force that allowed it to cut through antiquated rules and provide the flexibility needed to compete with low-cost foreign manufacturers.

"Had we not done something eight years ago, we might not be where we are today. If our costs had kept going up, we'd be in deep trouble," said Hurst.

"If we hadn't moved overseas," added McDonald, "we would have opened the door for new competition here."

Before moving overseas, though, Dresser had to set its domestic manufacturing house in order. "We don't have anything fancy. You will see a lot of common sense manufacturing here," said Hurst.

Such as bringing to and machine parts to each workstation instead of having well-paid (average salary $14.50 an hour, $35,000 a year) machine-tool operators wasting time standing around the toolshed. Or making the workers responsible for cleaning their own areas, freeing 17 of 20 sweepers to learn better-paid manufacturing jobs.

The company upgrade the equipment, and under the law work rules employees move from one computerized machine to another as the work flow dicates.

"A flexible work is a key to our quality," said Mark A. Ideus, manager of shop operations, who started out on the factory 21 years ago and was the local president for the International Association of Machinists & Aerospace Workers 12 years ago before joining management.

So Maxie Mendoza is happy to do two jobs at once. While his computerized machine tool is performing complex grinding and drilling operations on a precision angle-head wrench—a job that takes 10 to 12 minutes—Mendoza assembles a component for another machine, fitting one part into another by hand.

To union President Willie Allen, who has worked here for 18 years, this kind of flexibility makes sense. "If they get the business, we make the parts. That's my job. It works out real good," said Allen.

"This is a union operation and we build a United States product made in the U.S.A. by union workers."

## A TRIBUTE TO THE METHUEN POLICE DEPARTMENT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise today on the occasion of National Police Week to pay tribute to the Methuen Police Department for their dedicated and outstanding service to the people of Methuen, MA, in the protection of life, liberty, and property.

Each day the newspapers are full of stories of violence and lawbreaking which others have to resolve. These "others" are the brave officers of the Methuen Police Department—the public servants on the front line who enforce the laws that we create. These men and women ensure that we remain a nation ruled by law and order; that our neighborhoods are not held hostage to the threats of criminals; and that justice is served.

Our country is a better place for the professionalism of these police officers who have offered their lives to serve the common belief that justice is an inherent right. How many of us can answer so courageously the question, Are you prepared to offer your life in service to your community?

Too often we wait until it is too late, until some brave officer is struck down, to say thanks for a job well done. Let us take this time to recognize the contributions of Chief Donald DeSantis and those who serve in the Methuen Police Department:

Angelo M. Alaimo, Joseph D. Alaimo, Vincent A. Alaimo, Albert F. Ange, Shae A. Baddour, M.W. Blanchette, William H. Brown, Gary, J. Cloutier, Donald J. Craig, Shaun, M. Cronin, Stephen P. Debe.

David R. DeBurro, Donald DeSantis, Thomas E. Donovan, John A. Earnshaw, Michael J. Ewing, Walter A. Flanagan, Walter E. Fleming, Thomas A. Fram, Larry F. Giordono, Richard A. Grant, Edward J. Guy.

Raymond Guy, Joseph M. Harb, Michael E. Hates, Michael J. Havey, N.A. Higginbottom, Tod B. Himmer, Frederic E. Hoyte, Richard B. Kirkman, Frank E. Korn, Michael J. Lahey, Frank J. LaScola.

Donald J. Lavigne, David A. Lee, Patricia J. Lough, William A. Lough, Bruce A. MacDougall, Maria Maiuri, Carolyn J. Marcello, Kevin J. Martin, Thomas F. McMenamon, James A. Mellor, Daniel J. Merrill.

Roland J. Mignault, Russell B. Moynihan, Robert A. Murad, Terrence F. Neel, Christine A. Nicolosi, Larry J. Phillips, Richard N. Pilz, Donald A. Privitera, William E. Rayno, Jose L. Santiago.

Joseph A. Scully, Anthony T. Simone, William E. Sieone, Joseph E. Solomon, David P. Stead, Alfred J. Torrisi, Richard N. True, Kevin S. Waithe, Jon P. Walsh, Michael J. Wnek.

## DRIVING MISS DAISY

### HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. DARDEN. Mr. Speaker, after 664 performances, Alfred Uhry's play "Driving Miss Daisy" has closed in Atlanta's Alliance Studio Theatre, making it the longest running production there.

But the poignant story of an elderly Jewish woman and her black chauffeur lives on. Their special relationship spanning several decades has captured the hearts of all Americans in the Academy Award-winning movie of the same name, starring Jessica Tandy and Morgan Freeman.

The following article by Atlanta Journal-Constitution writer Eileen M. Drennen chronicles the closing of "Miss Daisy" in Atlanta and captures the very essence of that wonderful experience in a few well-chosen words.

RECORD-BREAKING RUN ENDS AS IT PLAYED—WITH DIGNITY

(By Eileen M. Drennen)

"Driving Miss Daisy" will always have a special hold on Atlanta.

Native son Alfred Uhry's Pulitzer Prize-winning play is the city's longest-running theater production. It is responsible for bringing Atlanta people and events to life on stages from New York to Copenhagen to Moscow, and for bringing the city to the big screen in this year's Oscar-winning film version.

So you might have expected "Driving Miss Daisy's" last stand at the Alliance Studio Theatre to be filled with tears and fanfare and ballyhoo. But much like the play itself, Sunday afternoon's farewell stage performance—No. 664—was a restrained but dignified affair.

The three stars—DeAnn Mears as the feisty Jewish widow Daisy, William Hall Jr. as her patient and perceptive black chauffeur Hoke, and Al Hamacher as Daisy's son, Boolie—held hands as they took their bows.

Then they graciously accepted bouquets containing white daisies, cradled them in their arms and walked offstage.

There was no second or third or fourth curtain call. Just a warm, polite standing ovation.

It somehow fits the play's genteel Southern character.

The final performance wasn't planned to coincide with Mother's Day, but the fact that it did added a certain resonance.

The sellout audience of 200 was mainly mothers whose husbands and children had brought them.

Ginny Marchant of Marietta came with husband Bill thanks to two Mother's Day tickets from her daughter. Peg Coleman—visiting from Virginia—came with daughter Jayne Johnson of Dunwoody.

"We got tickets the first time we called this weekend," Ms. Johnson said with glee. "Someone had turned in their tickets. We haven't seen the movie yet, We wanted to see the play first."

While watching the actors develop the relationship between Daisy and Hoke, audience members sniffled and wiped away tears when you might expect them to—in the scene when Miss Daisy tells Hoke he's her best friend, and at the end, when Hoke feeds Miss Daisy pumpkin pie on Thanksgiving because her hands shake too much to feed herself.

It was, like the play, filled with the spirit of family.

"One of the scenes of 'Driving Miss Daisy' has to do with the bonds between parents and children, and in this case, as in so many cases now, where parents have cared for children, then it becomes the children's responsibility to care for the parents," said Sandra Deer, the Alliance's resident playwright.

The Alliance Theatre family—the actors, stage crew and support staff—were treated to a special celebration after the performance. In the Woodruff Arts Center's Circle Room, they drank iced tea and champagne and feasted on "Hoke's fried chicken" and greens.

"It's been a real privilege to do the play here in Atlanta," Mr. Hall said. He leaves for Gainesville, Fla., on Tuesday for yet another production of "Daisy." (His understudy, Kenny Leon, will play Hoke in four special Alliance matinees for high schools this week).

He will play the same part in Gainesville, but Mr. Hall doesn't think it will be quite the same.

"Everybody's been like family here, and that's the worst part—leaving family behind," he said. "And if I say any more, I'm gonna start to cry."

Stagehand Jonathan Dew, 25, said "Driving Miss Daisy" got better every time he saw it—and he saw it 500 times.

"Mary Nell [Santacroce, the Alliance's original Daisy] said it best," he said. "She said it was like good music, like Mozart—every day you hear a new note, you hear something new in the show that rings true."

The "Daisy" lovefest with Atlanta lasted some 20 months at the Alliance Studio Theatre. It began Sept. 28, 1988, with Ms. Santacroce and Mike Hodge as Hoke.

The off-Broadway production in New York, which preceded the Alliance's staging, starred Dana Ivey (Ms. Santacroce's daughter) and Morgan Freeman (both of whom won Obies for their performances). Mr. Freeman went on to star with Jessica Tandy in the film version, which was shot in Druid Hills and around Atlanta. Last March, the movie won four Oscars, including best picture, actress (Miss Tandy), screenplay adaptation (Mr. Uhry) and makeup.

While the play's delicate wit and charm speak to everyman, Atlantans especially embraced "Daisy." They have often driven the same roads as Hoke and Daisy.

For her part, Ms. Santacroce—who performed as Daisy until last New Year's Eve—was philosophical about the end of what's come to be called "Atlanta's play."

"It's like a flower," said Ms. Santacroce. "It can't stay in full bloom. That's not the way things work. We've got to let it have its day, and then turn it into a memory."

## REFORM IN ALBANIA MUST BEGIN WITH ATONEMENT FOR PAST INJUSTICES

### HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BUECHNER. Mr. Speaker, Albania has recently indicated that it will begin to lift the veil of totalitarian oppression with which it has been shrouded for the last 50 years. No doubt the ongoing repudiation of communism around the world is a major factor in this decision. But, regardless of the underlying reasons, freedom-loving people around the world should be pleased. Albania has been far too long, a self-annointed social and political pariah isolated by its anachronistic adherence to the policies of the great villian, Joseph Stalin.

Yet, even as we welcome this opening we must not be blind to the past, for although the past may be forgiven it cannot be ignored. Only by examining the conditions as they have existed in Albania for the last half century, will we understand what lies ahead—and what must be done before moving on.

What we learn from our examination leads inexorably to the conclusion that the road to freedom in Albania will not be an easy one, for the history of Albania is one of infamy, oppression, religious persecution, and blatant disregard for human rights. The Communist Government of Albania must shoulder the responsibility for the injustices it has heaped on its ethnic community—particularly Albanians of Greek ancestry.

Today, there remain more than 400,000 ethnic Greeks in Albanian, survivors in what can only be termed a war of cultural genocide. In the past, ethnic Greeks were targeted as the Communist government attempted to subvert various ethnic groups to the collective will of tyranny. Uprooted from their ancestral homes, ethnic Greeks were forced to resettle in other parts of the country—geographically severed from family and lifetime friends. To ensure the destruction of ethnic identity, families with "inappropriate surnames" were obliged to change them. The Greek orthodox religion was outlawed because it was seen as a devisive element to the propitiation of communism. Atheism became the official policy. Priests and religious leaders were jailed. Churches were closed or torn down. Believers were forced to subvert their religious beliefs or face the wrath of the Albanian Government.

Yet, the Greek Albanians persevered; perhaps beaten into silence they have not been beaten into submission. Isolated and driven from their churches, they remain close to their God. They have been torn from their homes but they have never been torn from their heritage, and though lacking the strength of arms to oppose their oppressors they remain undefeated.

Mr. Speaker, there can be no true repentance without atonement. I ask each of my colleagues to remember this and join with me in pledging that ethnic Greeks and other long suffering citizens of Albania are not betrayed by false promises or cosmetic changes. The tribulations of the ethnic Greek people of Albania may have been largely shielded from the world, yet these people have never abandoned their faith and hope that one day their persecutions would end. Let us welcome Albania into the world community, but only an Albania which celebrates the diversity of its people, recognizing the infamy of its past, and the willingness to redress the injustices heaped upon its oppressed people. We must accept no less, for to do so would be a betrayal of the sacred trust owed to those who have suffered so much.

## THE INTRODUCTION OF THE RESOLUTION TO DEDICATE OCTOBER 1990, AS NATIONAL BREAST CANCER AWARENESS MONTH

### HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mrs. COLLINS. Mr. Speaker, today, I am introducing a resolution to designate October 1990, as National Breast Cancer Awareness Month. Joining me in sponsoring this resolution is Congresswoman MORELLA. Our collaboration underscores the point that the diagnosis and treatment of breast cancer is an issue of concern to everyone, immune from partisanship.

Breast cancer has become the second leading cause of cancer death for American women. It is estimated that there will be 150,000 new cases of cancer diagnosed in 1990, 44,000 of which are expected to result in death. Breast cancer incidence rates have increased about 1 percent per year since the early 1970's, including a 20-percent jump in the first half of the 1980's. One in every ten American women will be diagnosed with breast cancer. Additionally, about 900 American men will be diagnosed with breast cancer during 1990, of whom about 300 are expected to die.

In short, breast cancer incidence remains at a staggering level with no decrease in sight. However, the rate of breast cancer mortality is entirely subject to change.

Early detection of breast cancer, through self-examinations, clinical examinations, and screening mammography, can result in a 5-year survival rate of nearly 100 percent and significantly minimize its consequences. Studies have documented the decrease in breast cancer deaths attributable to early detection,

particularly due to screening mammography's ability to detect cancers too small to be felt by even experienced examiners. Mammograms can also reveal additional lesions too small to be felt once an initial lump has been detected.

Yet, vast numbers of American women do not regularly avail themselves of the advantages of early detection. In some cases it is due to the lack of access to screening mammography because of socioeconomic factors. In other cases, the cost of a mammogram or physical exam keeps women from requesting them. In still other cases it is simply due to an absence of information or a presence of fear.

One of the first steps we must take is to further educate both the public and physicians about the importance of and means for early detection of breast cancer. Women must be encouraged to request procedures for early detection and physicians must be encouraged to recommend them. An awareness of the disease and its mitigation must become better integrated into America's medical routines.

Although today we take a step toward increasing reliance on breast cancer early detection and treatment, the next steps must follow promptly. National Breast Cancer Awareness Month is a good start, but we must not settle for commemoratives.

In 1988, my effort to offer mammography benefits to Medicare patients was successful, as coverage was extended through the Catastrophic Care Act. But, with the act's repeal last year, no mammography benefits remained. Consequently, I introduced H.R. 3701 to restore those benefits. Other Members have introduced bills that follow this same philosophy.

These bills must be the real focus of our efforts. National Breast Cancer Awareness Month must be proclaimed. The month must be utilized, however, to extend the coverage that we are promoting. It is a perfect opportunity to put our money where our mouths are.

Mr. Speaker, I urge my colleagues to join me and Representative MORELLA in taking the first step. I urge my colleagues to cosponsor the resolution to dedicate October 1990, as National Breast Cancer Awareness Month.

## A TRIBUTE TO FATHER ALBERT J. SHAMON

### HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. HORTON. Mr. Speaker, I rise to today to pay tribute to Father Albert J. Shamon of Auburn, NY, who will celebrate the 50th anniversary of his ordination to the holy priesthood tomorrow. My colleague from Syracuse, Hon. JIM WALSH, joins me in this tribute to this central New York institution.

Father Albert is a native of Auburn, one of eight childen born to Asad and Netti Shamon. Growing up, he attended St. Aloysius School and attended high school in Auburn. He then studied at St. Andrew's and St. Bernard's Seminary in Rochester, NY and was ordained to the priesthood in 1940. He also received a M.A. in history from Canisius College.

Through the years Father Shamon has continued his studies in spiritual theology at the Dominican House of Studies in Chicago; biblical theology at Glenn Ellyn; Maryknoll House of Studies, Chicago; and sabbatical at Louvaine University in Belgium. Father Shamon taught at St. Andrews, St. Bernards, and McAully College. He has been pastor throughout the diocese of Rochester, including parishes in Rochester, Victor, and Waterloo, NY, and presently is the administrator at St. Isaac Jogues in Fleming, NY.

Father Shamon is well known throughout the diocese as a speaker and lecturer. He has written a weekly column for many years which appears in the Catholic Courier, the diocesan newspaper. He is the author of many books including "Behind the Mass," "Treasure Untold," "First Steps to Sanctity," as well as a number of periodicals. He has most recently completed published works on "Confession," "The Rosary," and "Prayer."

When Fulton J. Sheen became bishop of Rochester, he named Father Albert his "vicar" for education. Father has been instrumental in maintaining and strengthening the Catholic schools system throughout the diocese and especially the Catholic inner city schools of Rochester. He worked very closely with bishop Sheen through the bishop's tenure in Rochester.

Father Shamon continues his active priesthood. During the past weeks, he has lectured in Ohio and spent a week speaking in Connecticut. He will celebrate his 50th anniversary in Rome with a scheduled visit with his Holiness Pope Paul II. He will then travel to Medjugoric, Yugoslavia, on a pilgrimage to that shrine. Father Shamon continues his weekly column and also has a weekly radio broadcast which is carried by four radio stations in his area.

On behalf of my colleage from neighboring Syracuse and our many constituents whose lives have been touched by Father Shamon, I want to congratulate him on 50 years of distinguished service to his fellow man.

## TRIBUTE TO ALLEN H. MORGAN

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. ATKINS. Mr. Speaker, I rise to pay tribute to Allen H. Morgan, a lifelong outdoor enthusiast and environmental advocate, who passed away this week at the age of 64.

As early as 1953, Allen's dismay about the loss of open space to development led him to found the Sudbury Valley Trustees. Under his skillful stewardship, the Trustees grew to its current membership of nearly 2,400, and acquired, through gifts and purchase, nearly 1,200 acres in eight Massachusetts towns. SVT has also been instrumental in preserving several thousand additional acres now protected by public agencies.

Under Allen Morgan's guidance, the Massachusetts Audubon Society, where he was executive vice president from 1957 to 1980, grew from a membership of 2,500 to over 30,000, becoming the region's largest environmental organization. Allen was instrumental in passage of Massachusetts' Wetlands Protection Act and was a leader in energy conservation.

Words like "farsighted," "tenacious," and "imaginative" come to mind when remembering Allen. He was a conservationist long before it was fashionable, and an inspiring public speaker who could galvanize his audience into action. His untiring spirit, unwavering beliefs, and powers of persuasion brought him success time and time again as he rescued thousands of acres of open space from the threat of development.

Allen's extensive community involvement and list of honors garnered during his long career are too numerous to list here. Suffice to say he was a leader in local government and lent his expertise on the boards of several other conservation organizations. He was awarded several honorary degrees, and was recently named an "environmental master," by the EPA. He was awarded the Thoreau-Muir Wilderness Prize from the Walden Earthcare Congress.

I join Allen's numerous friends, admirers, and colleagues in mourning the loss of an extraordinary and talented man. Cognizant of the importance of preserving the delicate balance between the needs of man and those of nature, Allen Morgan was, as one local paper commented, "an environmentalist who was not an elitist, a progressive who saw the need for development. He could embrace it within the balanced framework he brought to life, without compromising the essential birthright of river, stream, and field that a civilized society had to perserve."

Although Allen had a healthy Yankee skepticism toward elected officials, he was willing to work with me to protect three beautiful and historic rivers flowing through the Fifth Congressional District. Like other projects he initiated, this one has taken on a life of its own, and his energy has given the effort the spirit and momentum needed to succeed. The passage of the wild and scenic study bill for the Sudbury, Assabet, and Concord Rivers, S. 2262 and H.R. 4227, will be our lasting memorial to an environmental hero who will be sorely missed.

## ARIF MARDIN IS TURKISH-AMERICAN MAN OF THE YEAR

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BURTON of Indiana. Mr. Speaker, on April 12, 1990, I had the opportunity to hear a truly inspirational speech delivered by Arif Mardin before the Assembly of Turkish American Associations. Born in Istanbul, Turkey, Mr. Mardin achieved his fame as a record producer in our country. Arif Mardin has demonstrated that with a lot of hard work, dreams can come true. For Members of Congress who believe the "American Dream" is dead, the Arif Mardin story is a must.

SPEECH GIVEN BY ARIF MARDIN ON MAY 12, 1990, AT THE WASHINGTON HILTON HOTEL AFTER RECEIVING THE TURKISH-AMERICAN MAN OF THE YEAR AWARD

Ambassador and Mrs. Kandemir, Minister Imren Aykut, Senator and Mrs. Byrd, Congressman Burton, Congressman Moody, President and Mrs. Tunca Iskir, President-Elect and Mrs. Ali Sevin, distinguished guests.

First of all, I would like to express my gratitude to the members of the Board of the Assembly of Turkish American Associations for bestowing such a distinction on me. I would like to thank Mr. Ali Sevin and Mr. Tunca Iskir for presenting this award. My family and I are indeed thrilled and honored on this day.

It is impossible for me not to think of the past on such an occasion, not to remember how it all started and I would like to tell my listeners a little about it.

I was born in Istanbul, Turkey. In my family there are many people who chose the Government, the Army, law, religion, banking, teaching and business as a profession. In my family, especially in those days, music was considered as a hobby, a pastime, something to be enjoyed in one's spare time, but not as a way to earn one's living.

Yet how is it that I am now in this country, the producer and winner of this year's Grammy Award for the "Record of the Year"? Some of you may even wonder what a record producer is, what he does.

Well, a record producer is a music man, in total charge of all aspects and stages of the recording and completion of a phonograph record. His role in the making of a record can be likened to that of a director making a movie. He directs, guides and orchestrates the project to a successful finish.

How did I get to be a record producer? I must say that it was a long and difficult road and it all started with the records that my sisters used to listen to in our house in Istanbul. I must have been about five years old when the strains of American big bands, the Andrews Sisters, Bing Crosby and other performers entered my consciousness as I played with my toys. I did not begin to appreciate Turkish music until much later in my life. When I was ten years old I purchased my first Duke Ellington record. My astute and observant mother sensing some talent in me insisted on my taking piano lessons. Slowly, my ambition crystallized. I wanted to become a jazz composer and arranger. What attracted me to jazz music was its being built on individual expression. This trait is typical of America and is like a magnet to young people all over the world.

By the time I had reached sixteen years of age I had become a wide-eyed junior member of a clique of fanatical jazz enthusiasts in Istanbul. This group which included Cuneyt Sermet, the notable jazz connoisseur (an important musical influence on my life at that time) and the wellknown saxophonist and band leader the late Ismet Siral used to hold jam sessions whenever it could. Our heroes were Charlie Parker and Dizzy Gillespie. It was then that I started to try my hand at composing.

Later, when I joined the Arto Hacaduryan Big Band I started to write orchestrations on a strictly trial and error basis. While all this musical activity was dominating a part of my life, my education progressed in a somewhat different, more conservative direction. I attended the English High School for Boys and graduated from the Economics and Commerce Faculty of Istanbul University. It was understood within the family that after I completed a postgraduate course in Business Administration at the London School of Economics I would join the firm Turkpetrol where my father was Chairman of the Board. All went according to the master plan until Dizzy Gillespie came to Istanbul with his big band. Dizzy and Quincy Jones (now a giant in the music industry) encouraged me and helped me. The fire that had been smouldering in my heart, my desire for a career in music was rekindled.

Looking back after so many years, it is not difficult to realize why my father was not very enthusiastic about my ambitions. When he asked me what a jazz arranger would do, how he would earn his living, the job description I gave him was so nebulous that I can well understand why he started to worry about my future. But I still felt that I had to try. The decision was not easy. It entailed leaving behind a very comfortable life, a loving family, friends and a secure job and embark on what even our friends called an adventure.

At that time, my wife Latife and I had been married for less than a year. It was only because of her fierce courage, her belief in me and her many sacrifices that we were able to start our joint venture. The dreams we dreamt and the plans we made came true because she was there by my side, always.

In 1958, my compositions earned me a scholarship at the Berklee College of Music in Boston, Massachusetts. I travelled first, Latife joined me later. America—ah, yes, the United States at last—I was elated and yet to the same time I felt very tentative and very scared. Learning new customs, adapting to a new way of life while trying to prove myself to the folks back home was not easy. What truly helped me in those difficult days was the warmth, the friendship and generosity shown by the people in Boston and the Berklee College of Music. I thank them all, especially Mr. and Mrs. Lawrence Berk and Herb Pomeroy.

I think this help was typical of the kind of support and opportunity the American people give anyone regardless of what part of the world he or she came from.

I have to say that America has been good to me. I have been given many breaks and my talents have been appreciated. It is true that my native country, Turkey, provides a wonderful and unique blend of history, tradition, culture and strong work ethic to her people. These qualities mixed with the typical American dynamism provided here, made it possible for me to join the mosaic of people that makes this country so great.

Now, let me go back to the past once more. After graduating in 1960 and teaching for two years, we moved to New York where my wife took a job at the United Nations. I played the role of the struggling musician for a year. When the late and sadly missed Nesuhi Ertegun offered me a job at the Atlantic Records Studio, I accepted on the spot. Thus I entered the world of the recording studio, artists, musicians, studio engineering techniques, etc. I tried to learn by watching Nesuhi and his brother Ahmet Ertegun, the founder of Atlantic Records. In 1965, Ahmet entrusted me with a recording project. That first record shot up to number one in the charts. From that point on, I knew that I was bitten by the "pop music" bug and continued in that direction.

This led me to work with such artists like the Bee Gees, Aretha Franklin, Phil Collins and Bette Midler with whom I made my last number one record. Thank you Ahmet for your friendship and your constant support for twenty-seven years at Atlantic Records.

The Turks, although comparatively small in number, have proved themselves successful in this country. They are believers in the work ethic and like others before them, they have discovered that hard work in America is rewarded. Although this is their home and the home of their children, they still feel close ties to their roots.

The Assembly of the Turkish American Associations is like a bridge between the two countries. This bridge has its foundation in the traditional and strong friendship between Turkey and the United States. May the good work continue.

I cannot end without thanking my mother and father whose love and upbringing made me what I am today. I know my mother is feeling very proud of me and I am happy that my father lived long enough to see me successful at my chosen profession.

I would also like to acknowledge some of the guests who are seated at our table, my dear sister Betul Mardin came all the way from Istanbul to join us, my brother-in-law and old friend Baki Onis and his wife Tulin flew from London just to be here tonight, my love and gratitude to you. Much love to son-in-law Hugues Joffre and daughter Nazan who flew in from London also. I would also like to thank our cousin Birtan and her husband Ralph Collier for their constant support.

My son Yusuf and my daughter Julide—a proud and hardworking second generation—my endless love and gratitude for putting up with dad. This award is yours, too. And finally, I turn to my wife Latife, my love and better half, partner in this joint venture called life, the true support beneath my wings—I accept this award for both of us.

## A TRIBUTE TO REV. CANON JOHN T. MOORE

### HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. BLAZ. Mr. Speaker, I rise to pay tribute to an outstanding Guam educator, the Reverend Canon John T. Moore, who is retiring as headmaster of St. John's Episcopal School in Guam.

Reverend Moore has served more than 19 years as headmaster of St. John's Episcopal School. Dramatic changes have taken place at the school during his tenure. He provided the vision, direction, and leadership that has made St. John's the most prestigious educational institution in Guam today. He did this not only zealousness in keeping abreast of modern educational practices, concepts, and techniques. He was solely responsible for upgrading the quality of teachers; increasing their salaries and benefits; and throughout the years encouraging faculty and staff to develop their own personal growth and vision. He is also responsible for instituting scholarship programs for students on the basis of need and academic performance.

A native of Mobile, AL, Father Moore attended Marion Institute and graduated from West Point in 1944. He served as a fighter pilot and flew combat missions for the Air Corps in World War II, and the Air Force during the Korean and Vietnam wars. In 1973, he was ordained to the priesthood and in

1983, was pointed Canon to the Bishop-in-Charge of the Episcopal Church in Micronesia.

Father Moore has been very active in community affairs. He is a member of the Guam Rotary Club, the Guam Chamber of Commerce and former member of the Guam Board of Education. As a member of the latter, he fought for and won equitable treatment for private schools with regards to school textbooks.

His steady guidance at St. John's Episcopal School has proved critical to the school's growth and vitality, going hand-in-hand territory. That concern bears fruit this year with the establishment of St. John's as a primary and secondary educational institution with its first high school graduation taking place later this month.

The American Territory of Guam has benefited enormously from the pioneering spirit and vision of this outstanding education missionary, whose devotion to his church and his total commitment to excellence in education have won him great admiration and respect.

Mr. Speaker, one of the yardsticks by which we in leadership positions are measured is the impact we have on those whom we serve. I know I am speaking or those who know and have been associated with Father Moore when I say that we are all better for having known him.

On behalf of a grateful community I bid him adios and Si Yu'os Masse.

## THE FINANCIAL INSTITUTIONS OVERSIGHT REFORM ACT

### HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GRADISON. Mr. Speaker, over the course of the last 3 years, I have risen on numerous occasions to state my views on the savings and loan crisis. I have long been concerned that without appropriate regulatory and systemic reform, and a commitment on the part of both the Congress and the President to commit the necessary resources to do the job, resolution of this problem will be delayed at an enormous extra cost to the taxpayer.

Congress passed the first S&L bailout bill in 1987. I argued then that the funding provided by that legislation was woefully inadequate, and that its budgetary treatment was wrong. This first attempt at addressing the problem set the wrong precedents for the larger effort last year.

For many of the same reasons, I opposed the Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA]. The funding provided was again inadequate, the budget accounting was again wrong, and the policy reforms required the creation of an unnecessarily complex organizational structure, with competing and overlapping lines of authority, that would make implementation of FIRREA extremely difficult.

In the 9 months since FIRREA was enacted, serious and predictable difficulties have arisen. The auctions held to date for bonds issued by the Resolution Funding Corporation [REFCORP] have demonstrated that the House position favoring on-budget treatment for financing the Resolution Trust Corporation [RTC] was the correct one. Off-budget financing is simply slower and more expensive.

The pace of resolutions has been slowed because of the absurdly complex administrative structure of FIRREA, which has made an artform out of "government by kibbutzing."

The lines of authority created under FIRREA are obscure at best. Responsibility is hard to pinpoint, and too many people are involved in the decisionmaking process. The administrative chaos has already compelled one highly regarded RTC head to leave, and the exceptionally well qualified Chairman of the Federal Deposit Insurance Corporation, is under increasing pressure to resign. More than one proposal has surfaced to abolish the Office of Thrift Supervision [OTS] and transfer its responsibilities to other existing arms of Government. In the meantime, estimates of the ultimate cost of the bailout continue to escalate.

Under these conditions, I believe the cleanup under FIRREA has the potential to become an even bigger problem than the thrift crisis itself.

In view of these difficulties and my longstanding concerns, I am introducing today comprehensive legislation to reform FIRREA. My bill, the Financial Institutions Oversight Reform Act of 1990 [FIORA], proceeds from three general objectives and purposes:

First, the bill ensures that the budgetary treatment of the resources required for the bailout will not add to the ultimate cost. This would be accomplished by putting the bailout on-budget and off-GRH. That was the House position on FIRREA, and is supported by studies and testimony of CRS, CBO, GAO, and numerous outside experts.

Second, a permanent and indefinite appropriation would assure adequate resources for the bailout.

Third, the bill would ensure clear and unambiguous authority over, and responsibility for, the bailout.

#### STRUCTURE OF FIORA

Under FIORA, authority would reside, clearly and unambiguously, with the Secretary of the Treasury. The bill establishes the position of Deputy Secretary for Financial Institutions, who would be the officer of the Government with primary responsibility for oversight, policy development, and implementation.

FIORA establishes the Office of Financial Institutions Data Analysis, a small office staffed by professional civil servants, to assist the new Deputy Secretary in determining when an institution is likely to require a conservator.

FIORA would eliminate the OTS and reassign its responsibilities. Under the bill, the Office of the Comptroller of the Currency [OCC] would regulate federally chartered S&L's and the FDIC would regulate State chartered S&L's which are not part of the Federal Reserve System.

The bill would move the OCC and FDIC under the new Deputy Secretary. A single administrator would replace the FDIC's current board of directors. FIORA would also disband the RTC Oversight Board and transfer the RTC's responsibilities to a newly established Thrift Resolution Agency [TRA].

Nothing in my proposal would affect the contributions FIRREA requires from the thrift industry, nor would it alter the management of the Federal deposit insurance funds currently under the FDIC.

REFCORP and FICO would continue to exist, but only to service bonds already issued.

#### FINANCING OF FIORA

In an effort to facilitate off-budget financing, and partly to promote the fiction that meaningful repayments would follow the borrowing undertaken to finance the bailout, FIRREA established a convoluted financial structure. For example, RTC's funding of $50 billion emanates from three separate sources: $18.2 billion from appropriated funds, a $1.2 billion assessment from the FHL Banks, and $30 billion from REFCORP, which raises its capital in the financial markets. In addition, REFCORP, at last count, has five distinct lines of credit at the Treasury.

FIORA would replace FIRREA's bizarre financing structure with a single budget account financed by a permanent and indefinite appropriation. Proceeds from the liquidation of assets would be recorded as offsets in the account. This reform would eliminate the need for separate financing for working capital—funds needed to carry acquired assets until they are sold—and "loss" capital—funds to make depositors whole. Transactions involving working capital, necessary for so-called clean bank resolutions, would be treated as routine asset sales under Gramm-Rudman and, therefore, would have no effect on the GRH budget baseline.

As mentioned before, this account would be on-budget and off-GRH. The interest cost of financing the account, through normal Treasury borrowing, would be recorded in budget function 900—Net Interest—and be on-budget and on-GRH. Likewise, administrative and personnel costs, and any interest paid on notes issued by the TRA would be on-budget and on-GRH.

The Thrift Resolution Agency would cease to take on new resolution cases after August 8, 1994, when the new thrift capital requirements become effective. This is 2 years after the transfer date specified in FIRREA and is intended to provide a more realistic timeframe. This is desirable because cases are presently being withheld from the RTC because it cannot, at present, handle more. Thrifts requiring conservators after August 8, 1994, would be handled by the new thrift deposit insurance fund [SAIF] established by FIRREA.

An approach relying on appropriations, rather than on borrowing, is not only simpler, but makes more sense. The basic job is to fill a very large hole; namely, a huge deficiency in the old FSLIC deposit insurance fund for thrifts. This hole represents liabilities that have never been recognized in the budget. The most straightforward and honest way to fill the hole is by an appropriation because Treasury funds are the cheapest and fastest way to finance TRA spending and pay off depositors.

Not capping the appropriation may seem like dumb politics, but this approach is sound public policy. The simplified organization of FIORA, which clearly places the responsibility and authority close to the President and right

in the lap of the Secretary of the Treasury, would provide the best hope to get the job done quickly, efficiently, and in the least costly manner.

The political reality, confirmed by recent history, is that a fixed appropriation is likely to be insufficent and that the administration—or any administration for that matter—will be reluctant to request, and the Congress most unlikely to provide in a timely fashion, additional budgetary resources for the S&L bailout, especially before an election. By the time additional resources are provided, the costs will have escalated. That is precisely what happened before FIRREA and is exactly what will happen given the limited and insufficient resources of FIRREA.

Enactment of FIRREA was supposed to install confidence in the public that the Federal Government would not only stand behind thrift depositors, but that it also would take the necessary actions to ensure that the cleanup would be completed as soon as possible and that tighter oversight and more meaningful capital requirements would prevent a recurrence. If editorial comment from across the country and letters from my constituents are any indication, FIRREA has failed to instill such confidence.

My point is simple. FIORA provides a cleaner, cheaper, and more efficient structure than FIRREA.

## TRIBUTE TO SAMMY DAVIS, JR.

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. PAYNE of New Jersey. Mr. Speaker, I join many millions of Americans who mourn today the death of the great entertainer and humanitarian, Sammy Davis, Jr. He will be remembered and heralded for beating the odds, and achieving great success as an entertainer despite tremendous obstacles. He will be remembered for overcoming personal tragedies and coming back to the top of his chosen profession after debilitating accidents and illnesses.

He will be remembered for having the courage to venture into national politics at the highest level as his own man and on his own terms. The great legacies of Sammy Davis, Jr., will be chronicled in the media and in our hearts and minds during this brief time of national mourning for a great native son. I want to focus my tribute to the thousands of small things that Sammy Davis, Jr., did to help others in hope that they will not be forgotten or overlooked. He fought a constant battle against petty housing and employment discrimination throughout his life.

He opened the doors for blacks to work and obtain accommodations at leading hotels and theaters throughout the country. He performed free for charities many thousands of times. He beat alcohol and drug abuse problems and devoted untold hours rapping to young people. He was never too big to come into the neighborhood and try to help others. In my district, in 1985 he established the Sammy Davis, Jr., National Liver Institute to help develop a liver disease treatment and research center. To his great credit he did more than just put his name on the door.

He was actively engaged in the work of the institute and gave benefit performances that helped raise thousands of dollars. He visited the medical school campus at Newark, and became an active booster of school activities. Sammy Davis, Jr., had unequaled God-given talent as an entertainer. His legend of song and dance will live with us forever in tape and film. His contribution as a humanitarian and as a symbol of hope for Americans regardless of race, creed, color, or religion is just as legendary and just as important as his contributions as an entertainer.

As Davis said in Newark when he established the National Liver Institute, "I was put here to do more than sing 'Candyman' and 'Bojangles'." We have lost another great American folk hero. God bless his soul. May he rest in peace.

## MANUEL PRADO RETIRES AFTER MORE THAN 17 YEARS' SERVICE

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Mr. Manuel Prado for more than 17 years of dedicated service as a member of the Livermore School Board in California's Ninth Congressional District.

Throughout his tenure as a school board member, Mr. Prado held a variety of positions. From 1973 to 1990, he served as a member of the Livermore Valley Joint Unified School District board of trustees. From 1980 to 1981, he was the Chair of the Alameda County Special Education Service Region Board. From 1982 to 1989, he was a member of the Tri-Valley Special Education Local Plan Area [TVSELPA] Joint Powers Board and in both 1986 and 1987, he served as the Chair of this organization.

From 1977 to 1985, Mr. Prado was a member of the Regional Occupation Board [ROB] Joint Powers Board and from 1980 to 1981 and from 1984 to 1985, he chaired this committee. He was also a member of the Alameda County School Boards Association [ACSBA] from 1975 to 1976 and from 1988 to 1990 and chaired this organization in 1988 and 1989.

Mr. Prado also held the office of president of the board of education in 1976, 1981, and 1987. In 1975 and 1980, he was the clerk of the board of education.

Mr. Speaker, Manuel Prado has helped to shape the success of the Livermore School District. I commend him for his years of dedicated service to our community and I wish him well in his retirement.

## FIFTH ANNIVERSARY OF RADIO MARTI

### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. FASCELL. Mr. Speaker, today is the 88th anniversary of Cuba's independence from Spain. It is a day of special importance not only to Cubans and Cuban-Americans, but to citizens of every nation that has triumphed over colonialism.

Sadly, the free and independent Cuba which was Jose Marti's dream fell prey to the new colonialism of recent times, communism. This modern brand of colonialism sought not merely to physically conquer territories and people but, more importantly, to dominate their minds and spirits.

We fought the wars of independence with arms, meeting force with force. The struggle for freedom from communism has called for additional and more subtle weapons, suited for a war of the mind and spirit. This has been a conflict which pits the great truth against the big lie, information against propaganda. The welcome unraveling of communism in Eastern Europe is, in no small measure, due to our determination to insure the free flow of information and ideas into countries whose governments denied their people that right.

Like the great power colonialism which preceded it, the spiritual colonialism of communism is now in universal discredit and decline, although some anachronistic and embattled enclaves like Castro's Cuba still remain.

In Europe, we moved quickly to counter Communist censorship, propaganda, and disinformation by means of Radio Liberty and Radio Free Europe. The vital contribution they made to the cause of liberty is now plain for all to see. In our own hemisphere, we reacted more slowly. Efforts to provide for similar broadcasts to Cuba met with a curious mixture of resistance and indifference. Some, alarmed by Castro's threats, predicted catastrophe; others prophesied futility. Ignoring these extremes, supporters of the project pushed on, and 5 years ago today, Radio Marti made its first broadcast.

It is a pleasure to extend my warmest "felicidades" to Radio Marti on this happy occasion. In these past 5 years, Radio Marti has become a fixture in many Cuban homes, providing music and entertainment which is enjoyed by all. In addition, it provides an independent source of news of events in Cuba which would otherwise be unavailable on the government controlled radio. Radio Marti has given Cuban citizens a window not only on the world, but also on their own land. I am confident that, in time, it will also help to open a door for them to the free and independent Cuba of Jose Marti's dreams.

## 1991—THE YEAR OF THE LIFETIME READER

### HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Ms. OAKAR. Mr. Speaker, today I am introducing a joint resolution designating 1991 as "The Year of the Lifetime Reader," and I am pleased that so many of our colleagues have joined me as original cosponsors.

Literacy and reading are vital ingredients of our nation's history and must become part of the national agenda. The Library of Congress, our library, has initiated the "1991—The Year of the Lifetime Reader" campaign, which through local projects will strengthen connections among libraries, literacy, and lifelong learning. The resolution will call on the President to declare 1991 as the Year of the Lifetime Reader, and will encourage parents, educators, librarians, government officials, corporations, labor unions, and associations to observe the year with appropriate programs, ceremonies, and activities aimed at giving our citizens at every age and in every walk of life the gift, the joy, and the promise of reading. First Lady Barbara Bush has agreed to serve as honorary chair of the Year of the Lifetime Reader campaign.

This campaign reinforces the hundreds of community partnerships established during the successful "1989—The Year of the Young Reader" initiative. This resolution extends the campaign to include, in addition to family literacy, projects related to adult literacy and to the needs of blind and physically handicapped readers.

Advancement of "1991—The Year of the Lifetime Reader," is a joint effort of the Center for the Book in the Library of Congress and the Library's National Library Service for the Blind and Physically Handicapped. Libraries across the Nation are being encouraged to participate, including the 150 regional and local partners of the National Library Service for the Blind and Physically Handicapped and the 20 State centers for the book that are affiliated with the Library's Center for the Book. This list includes the States of Arizona, California, Colorado, Connecticut, Florida, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Virginia, Washington, and Wisconsin. This campaign is not limited to these particular States, however. It is a national effort that involves individuals and groups at all levels.

Many corporations and over 30 national organizations already have agreed to participate in the "1991—The Year of the Lifetime Reader," effort including the American Library Association, the Association of American Publishers, the Business Council for Effective Literacy, Lions Club International, the National Alliance of Black School Educators, the National Association of Colored Women's Clubs, and Reading is Fundamental, Inc.

Hundreds of reading and literacy projects were developed last year in the Year of the Young Reader campaign. The Center for the Book has prepared a 12-page summary, organized by State, which it will be pleased to furnish to your office to help inspire future reading promotion efforts. "1991—The Year of the Lifetime Reader" will help us continue the enthusiasm and alliances that we all hope will once again make us into a nation of readers.

## SUPPORT OF WIPP LAND WITHDRAWAL LEGISLATION

### HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. KYL. Mr. Speaker, Mr. Spratt introduced, by request, on May 15, 1990, a bill to withdraw land from public use in Eddy County, NM. This withdrawal will allow the Department of Energy to initiate certain important test programs, using radioactive defense waste, at the waste isolation pilot plant [WIPP], located near the city of Carlsbad in Eddy County. I strongly urge the House to enact this legislation as soon as possible. Its early enactment would avoid the need for extension and modification of the current administrative land withdrawal and permit timely assessment of the facility's safe and environmentally acceptable performance.

The WIPP project was originally authorized in 1980 to demonstrate the safe disposal of radioactive waste from the Department of Energy's defense activities. The project has proceeded from site characterization and validation to the construction of an underground facility located 2,000 feet underground in an ancient salt deposit in public lands in southern New Mexico. The next step is a test phase during which the Department would conduct tests with radioactive materials to assure the protection of the health and safety of the public if the facility is used subsequently as a waste repository. It is necessary to withdraw these lands from public use in order to conduct these test operations safely.

The facility is physically ready to accept waste in a test phase. However, the proposed legislation contains certain specific provisions that must be satisfied before any waste can be placed in the repository. These provisions are the completion of a final safety analysis report, the completion of a record of decision on a supplemental environmental impact statement that applies to the test phase activities, and the issuance of a "No-Migration Variance" by the Environmental Protection Agency [EPA]. The legislation also requires compliance with EPA standards for the management, storage, and disposal of transuranic waste. In addition, the Secretary of Energy has pledged, in testimony to Congress, that he will not permit the WIPP to open for testing until all the requirements in the Department's WIPP decision plan have been met and he is personally satisfied that it is safe.

In recent years the accumulation of radioactive waste at certain DOE defense sites has become intolerable to the Department and to certain State governments, to the point that some States have placed limits on the amount of waste that can be stored, or transported to, sites in their States. This is leading to the possibility that some DOE sites may not be able to continue to operate in the near future. This is particularly true at the Rocky Flats plant in Colorado, a facility vital to the modernization and improved safety of our nuclear stockpile. The opening of this demonstration facility will allow the Department to proceed in an orderly fashion to the eventual disposal of 40 years of accumulated defense wastes, reducing the threat to our environment and allowing the Department to fulfill its commitment to clean up its nationwide facilities.

In addition, this demonstration will be a significant step on the way to the construction of a separate repository for high-level waste, allowing the disposal of radioactive wastes from both civilian reactors and defense activities. I strongly urge you to pass this land withdrawal legislation in the interest of both an environmentally clean and a strong America.

## TRIBUTE TO ALLEN W. FOSTER

### HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GRAY. Mr. Speaker, I rise today to pay tribute to Allen W. Foster, minister of music at the Pinn Memorial Baptist Church, in Philadelphia, PA, who is being honored on the occasion of his 30th anniversary at the church.

Allen Foster is a native of Camden, NJ, and attended the public school system there. He subsequently and respectively received undergraduate and graduate degrees from Temple University and Rutgers University.

Having been introduced to formal piano instruction as a young child, Allen later developed an interest in the organ and church music. He furthered his piano studies at the Philadelphia Conservatory of Music and began organ instruction with Dr. W. Franklin Hoxter, a noted organ recitalist/instructor.

He currently serves as minister of music at the Pinn Memorial Baptist Church and organist at the Ebenezer Seventh Day Adventist Church, both in Philadelphia. He is employed by the School District of Philadelphia as the coordinator of social services for the Early Childhood Division.

Allen Foster's music activities include composing, arranging, consulting, and concertizing. He is well known in the recording industry for his sacred compositions. He has recorded with the Pine Forge Academy Choir which he presently accompanies under his wife Gwendolyn's directorship. Since 1987, Allen Foster has been associated with Lincoln University as accompanist for the University Concert Choir, also under the direction of his wife, Gwendolyn.

Please join me in paying tribute to a man who has taught and entertained others with his many gifts.

## TRIBUTE TO THE PHELPS DODGE COPPER PRODUCTS CO./NORWICH ROD PLANT DIVISION

### HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. GEJDENSON. Mr. Speaker, I rise today to pay tribute to the Phelps Dodge Copper Products Co./Norwich Rod Plant Division as the recipient of the 1989 Chairman's National Safety Award for most improved safety performance.

All the hard-working men and women at Phelps Dodge should be proud of their extraordinary safety performance. This award exemplifies the workplace philosophy that safety is an ongoing concern. Clearly, this dedicated effort has paid off by the award of this honor.

Mr. Speaker, Phelps Dodge Corp. is the second largest copper producer in the free world. And as a corporation founded in the Constitution State, I am extremely proud to inform all of my colleagues of the safety record at the Norwich facility. All of us in the U.S. Congress, send our congratulations to Phelps Dodge management and employees for their outstanding commitment to safety.

## INTRODUCTION OF ADMINISTRATION'S WATER RESOURCES DEVELOPMENT ACT OF 1990

### HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. STANGELAND. Mr. Speaker, I'm introducing, by request, the administration's omnibus Corps of Engineers bill, the Water Resources Development Act of 1990.

This legislation, like its counterpart in the Senate, S. 2469 and S. 2470, will help provide House and Senate Public Works Committees with a framework to enact into law an omnibus bill by year's end. So far this year, the House Public Works Water Resources Subcommittee has held four hearings on corps' projects and programs. Members and public and private witnesses have testified about dozens of project proposals and program changes. Several are already included in the administration's package of legislative proposals.

This bill contains 18 proposals. Four are new projects that have made their way through the entire planning process and received the Secretary of the Army's approval and another is a project modification. The remaining proposals involve programmatic initiatives that range from increased cost sharing and user fees to expanded research and development opportunities to personnel matters and emergency response authorities.

Personally, I have concerns about some of the provisions, such as the suggested changes to the successful—section 22—planning assistance to States and—section 206—floodplain management services programs, as well as the proposal to more than triple the harbor maintenance trust fund fee. But the bill as a whole has some important initiatives, such as provisions on magnetic levitation transportation, and the corps existing—section 1135—environmental demonstration program. These need to be part of the congressional debate.

Therefore, I'm pleased to introduce the Water Resources Development Act of 1990. I commend Assistant Secretary of the Army, Civil Works, Robert W. Page, and others within the corps and OMB for their leadership. Committee Chairman GLENN ANDERSON, ranking Republican JOHN PAUL HAMMERSCHMIDT, and Subcommittee Chairman HENRY NOWAK are also to be commended for their bipartisan longstanding support of the corps' program and their commitment to a 2-year reauthorization cycle.

Like me, they look forward to working with the administration and the Senate. I know all my colleagues on the Public Works Committee are eager to begin drafting comprehensive legislation. With continued guidance from the administration, I am hopeful we can enact a bill in the coming months that is environmentally sound, fiscally responsible, and responsive to the Nation's water resources needs.

## A TRIBUTE TO SAMMY DAVIS, JR.

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. SERRANO. Mr. Speaker, I rise today to express my deepest sympathy to the widow and family of Sammy Davis, Jr., a rare and gifted entertainer, an uncommonly generous man, and a patriotic American in whom all of us took great pride, from whom all of us recieved great pleasure; and upon whose untimely passing, all of us now feel a great sense of loss.

The Nation and indeed the world join us in deep mourning.

His legion of friends and show business colleagues who were privileged to know him personally—and to work with this talented man in a long career that spanned the full spectrum from humor to music to drama—will know a special sense of loss.

But none will miss him more profoundly than his black brothers and sisters for whom he was both a source of pride and an inspirational role model.

To them I proffer a very special note of condolence because with them I share—along with all my Puerto Rican brothers and sisters—that special ethnic pride in one's own.

It is perhaps not broadly known that Mr. Davis' mother was a native of the island of Puerto Rico and therefore, for myself and for all Puerto Rican people, we bid him a sad farewell and offer a prayer for Sammy: Vaya Con Dios, dear brother. Rest in peace.

## NATIONAL POLICE WEEK

### HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Ms. MOLINARI. Mr. Speaker, I would like to take this opportunity today to pay tribute to our local police officers and recognize this week, May 13–19, as "National Police Week."

On Tuesday, May 15 the ninth annual National Peace Officers Memorial Day Service was held. This was a day to pay tribute to the 161 officers who were killed in the line of duty during 1989. These extraordinary individuals dedicated their lives to protect your family, my family, and the citizens of our Nation. In New York City alone, there were six police officers who were killed in the line of duty in 1989. One of them, Jeff B. Herman was from my district in Brooklyn. The other New York City police officers who were killed were: Gary Coe, Anthony Dwyer, Richard J. Guerzon, Robert Edward Machate, Jr., and Keith L. Williams. I am sad to report that already we have a name to add for 1990, Joseph Aversa, who was killed while participating in a drug raid in New York City in March.

I believe Congress must continue to introduce legislation that would protect those individuals that put their lives in jeopardy everyday in the line of duty. I strongly support any legislation that proposes to enforce the death penalty on those individuals convicted of drug crimes who kill a police officer.

Currently, the National Law Enforcement Officers' Memorial is being built here in Washington, DC's Judiciary Square. This memorial was authorized by a unanimous act of Congress in 1984 and more than 500,000 Americans have donated funds for it. The memorial is scheduled to be completed and dedicated during National Police Week of May 12–18, 1991. The National Law Enforcement Officers Memorial will honor all officers who have served, and will have the names of all officers who have died in the line of duty.

I urge all of my colleagues to pay tribute to their local police officers this week. We must acknowledge their extraordinary service and sacrifice to our communities.

## MARYLAND HALL'S 10TH ANNIVERSARY

### HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 17, 1990*

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to call the attention of my colleagues to the occasion of the 10th anniversary of the Maryland Hall for the Creative Arts, which will be celebrated on May 18, 1990. Founded by a group of visionary residents of Anne Arundel County, the Maryland Hall is dedicated to promoting, supporting, and celebrating all of the creative arts. Over 40,000 people a year participate in Maryland Hall educational programs, attend exhibitions, or

experience performances by world class actors and musicians.

The Maryland Hall is home to 10 artists in residence, as well as the Annapolis Symphony Orchestra, the Ballet Theater of Annapolis, the Annapolis Chorale and Pamoja. Maryland Hall's many outreach programs take artistic experiences to schoolchildren, the elderly and minorities of the region who might not otherwise have an opportunity to enjoy these programs. Maryland Hall is the center which affords opportunities for artists and audiences of all ages, talents, and experience to learn and thrive.

I hope that my colleagues will join in wishing them a happy anniversary and wishing them many more years of bringing quality arts programs to Annapolis, Anne Arundel County, and the State of Maryland.

# SENATE—*Friday, May 18, 1990*

*(Legislative day of Wednesday, April 18, 1990)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Blessed be God, even the Father of our Lord Jesus Christ, the Father of mercies, and the God of all comfort; Who comforteth us in all our tribulation, that we may be able to comfort them which are in any trouble, by the comfort wherewith we ourselves are comforted of God.*—II Corinthians 1:3, 4.

God of all comfort, we commend to Thee today those whom we love and who need the comfort of God. We ask Your special blessing upon Dr. Narva as he undergoes bypass surgery, and we pray for Mary Jackson of the Service Department, recovering from surgery; and any others, Lord, about whom we do not know, who are hurting. Grant Thy healing to all.

We pray for our families that this weekend may be an opportunity for drawing near to each other, restoring relationships and healing. We pray for those who travel, that Thou wilt protect them in their journey, prosper them in their labors, and return them safely home. We pray for those who campaign. Give them wisdom, clarity, winsomeness. Guard them against any attitude or action which would bring reproach upon our political system.

The Lord bless you, and keep you: The Lord make His face to shine upon you, and be gracious unto you: The Lord lift up His countenance upon you, and give you peace. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, May 18, 1990.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. REID thereupon assumed the chair as Acting President pro tempore.

## RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

In my capacity as a Senator from the State of Nevada, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## MORNING BUSINESS

### ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Pennsylvania [Mr. SPECTER] is recognized to speak for 30 minutes in morning business.

## FEDERAL HABEAS CORPUS REFORM ACT OF 1990

Mr. SPECTER. I thank the Chair and I thank the distinguished majority leader and the distinguished Republican leader and the schedulers for arranging for this unusual block of time so that I may address a problem of great seriousness, the problem of crime in America, and there is no more important problem in our country, a country which faces many serious problems, but there is no more important problem in our country than crime in America.

In the criminal justice system, Mr. President, there is no more important issue than the lengthy delay in the imposition of the death penalty in capital cases and the effect that this delay has on the administration of justice and the deterrent effect in the criminal justice system.

I am introducing legislation today, Mr. President, captioned the Federal Habeas Corpus Reform Act of 1990. I do this today in advance of consideration by the Senate on Monday of the crime package because I intend to add this legislation as an amendment to that bill.

This bill will establish a timeframe for the imposition of the death penalty in State criminal proceedings that will again make that penalty meaningful. The scope of this problem is demonstrated by the fact that as of May 1, 1990, there were 2,327 people on death row with 125 executions having been carried out since the reinstatement of capital punishment in 1976. Those statistics demonstrate that, as a realistic matter, there is no capital punishment in the United States because the probabilities are higher that no matter what the offense, no matter what the circumnstances, the death penalty will not be carried out.

When Chief Justice Rehnquist said on Tuesday of this week that the current system for handling the death penalty in the Federal courts "verges on the chaotic," the Chief Justice was being charitable. The existing process makes a farce of the death penalty. Chief Justice Rehnquist was correct in calling for remedial legislation; but his proposal and the other pending measures do not go far enough in dealing with the core of the problem.

Today, the death penalty is the laughingstock of the criminal justice system because endless delays in Federal habeas corpus proceedings have rendered that punishment meaningless. Cases involving capital punishment are dragged through the courts for as long as 17 years.

Before a case finds its way through the court system, there are intervening decisions by the Supreme Court of the United States or other courts which grant defendants new rights. And then, before the death penalty can be imposed, there has to be a consideration of those new rights. I believe that is entirely appropriate, Mr. President, because the death penalty, after all, is the ultimate penalty and it has to be imposed with extreme and scrupulous care.

I believe that the death penalty has to be reserved for the most egregious cases as a matter of basic justice and, beyond that, as a matter of practical course. If we do not reserve the death penalty for limited use in the most egregious cases, then I believe as a society we will lose it.

The legislation which I am proposing today, Mr. President, is based on the experience I had as an assistant district attorney in the criminal courts of Philadelphia and later as the chief of the appeals division in the district attorney's office, where I handled

many State habeas corpus cases and Federal habeas corpus cases, and later my experience as the district attorney, where I supervised hundreds of such cases.

Mr. President, this legislation establishes a practical and just timetable for the handling of appeals after a jury has imposed the death penalty and after a State appellate court has reviewed the matter and a petition for a writ of certiorari has been submitted to the Supreme Court of the United States. It is at that stage, Mr. President, that the final judgment has been rendered in the State criminal proceeding imposing the death penalty.

My timetable for completion of all Federal habeas corpus appeals within a 1-year period. That would make the death penalty a meaningful penalty in this country once again.

First, my proposal would eliminate State habeas corpus proceedings. What is a habeas corpus proceeding? It is a term which is frequently used and virtually never understood.

Habeas corpus is a Latin expression which means produce the body. From our reliance on English common law, the great writ of habeas corpus is always available to demand the production of the body of the defendant to make a determination if his or her detention is lawful.

After a person is convicted of murder in the first degree and given the death penalty, that person has a right to go into court on a petition for a writ of habeas corpus on a contention that the detention is unlawful because there was error on the criminal proceeding.

Under existing practice, before a Federal court can take jurisdiction of an appeal in a death case, there must be an exhaustion of State remedies, and that means there must be a petition for habeas corpus filed in the State court. That petition goes back to the same court which heard the case in the first instance and imposed the death penalty. The proceedings there are virtually always pro forma, because the judge is looking at a case which either he tried before, in a small county where there is only a single judge, or where another judge in his own court tried the case; where the issues virtually always are the same as those raised before the State supreme court; and where the State supreme court has upheld the judgment of sentence of death, and has stated the case was fairly tried. So, in the common pleas court, the habeas corpus proceeding is really pro forma.

The case then, in Pennsylvania, for example, goes to the Supreme Court of Pennsylvania and the supreme court is now reviewing a case which it already decided. Here again, virtually all of the time, the same issues are raised which were raised before or could have been raised before and there is very seldom anything new in the process. The case is affirmed virtually all the time.

Then there is another petition to the Supreme Court of the United States to grant a writ of certiorari, which is very, very rarely done. Only at that stage, may the defendant go into the Federal court to seek Federal review of what had happened in the State court.

Mr. President, I suggest the lengthy processes on State habeas corpus proceedings have very little, if any, merit in our criminal justice system because they are pro forma and because there is a later opportunity for a meaningful review in the Federal system, which is a different court system, and a fresh look at the case. Then they begin the habeas corpus proceeding in what is a meaningful way.

Some would seek to deny Federal court review of any State criminal proceeding, and I believe it is important to retain the jurisdiction of the Federal courts to review what happens in State court criminal cases, especially where the death penalty is imposed.

At that stage the habeas corpus proceeding begins anew, with the United States District Court conducting an evidentiary hearing if there is a disputed question of fact. The case then goes on appeal to the Court of Appeals. By the time these two habeas corpus proceedings have run their course, years have passed under existing practices, and by this time there is very often an intervening decision by the Supreme Court of the United States which establishes a new constitutional right. As, for example, the case of Miranda versus Arizona, where the Court said that a conviction was improper unless specific warnings were given to a defendant, warnings which could not have been anticipated at the time the arrest was made so a new right is created. Or a new right may be created in terms of what protections are necessary at a lineup, where a defendant is identified.

When a new right has been created, the process must begin all over again. It cannot be brought in the Federal courts until there is an exhaustion of State proceedings, back to State habeas corpus, and all this is not only an exhaustion of State remedies but there is an exhaustion of the entire system.

Mr. President, the proceedings with State habeas corpus ought to be abolished. Then there should be a strict timetable established for what will happen in the Federal courts. An indispensable ingredient for the carrying out of this strict timetable is that any State which wishes to benefit from the new rules will have to provide competent counsel to the defendant without charge at every stage of the proceeding.

The Congress of the United States does not mandate that States do so because of our concern for federalism. But we do approach the same objective by providing that if a State wishes to have these expedited procedures the State must provide for counsel.

Under my legislation, Mr. President, the petition for a writ of habeas corpus would have to be filed in the Federal court within 30 days from the final adjudication in the State court proceeding. That is sufficient time because there is no question, as that case is going through the State criminal court system, that there will be an application for Federal review where the death penalty is handed out. And, where counsel has been provided, counsel need not wait until the final judgment in the State case to begin the preparation. But, even if counsel does so, there is ample time to prepare that petition for a writ of habeas corpus within 30 days.

Most of the issues are known. Most of the issues have been argued in the State court proceeding. If there are new issues, there are not so many that it is unwieldy to accommodate a requirement that that petition be filed within 30 days. Other pending proposals would allow up to 1 year, and there is no reason to have that kind of a timeframe.

Once the petition for a writ of habeas corpus is filed in the Federal courts, my legislation would require disposition in the U.S. district court in 110 days; 20 days for the State's attorney to file a responsive pleading, which is customary in court cases, 20 days for an answer, and then 90 days for a hearing, for briefing, and for a decision in the case.

That time is sufficient, Mr. President, so long as it is not business as usual. These cases must be given the top priority in the Federal system. These cases are sufficiently important for many reasons so that high priority ought to be accorded to these cases. It is our obligation in the Congress, Mr. President, to see to it that there are ample Federal judges to hear these cases.

Last night, there was a bill introduced to provide 77 additional Federal judges to handle the workload in the Federal courts. Whatever it takes, we have to provide, because there is no case of higher priority than this type of case.

Mr. President, after the district court concludes the case, my bill provides for 110 days for judgment in the court of appeals. That is about the same timespan which is currently provided. I expedite the docketing time from 30 days to 20 days, and then there is 90 days for briefing, argument, and a decision by the court of appeals.

The same 110-day timeframe would apply for decision by the Supreme Court of the United States. You have 30 days to file the petition, 110 days in the district court, 110 days in the circuit court, and 110 days in the Supreme Court for a total of 360 days. By giving these cases that kind of careful treatment, that kind of expedited treatment, the appropriate care can be given within that timeframe. I say that based upon my experience in having handled cases at all stages of these proceedings.

It will not be business as usual. The lawyers will have to give priority attention, just as lawyers do when a case is on trial. When a lawyer has a case on trial, he starts early, he prepares witnesses in advance of the court day. It is a strenuous day in court. After hours, there may be the preparation of legal memoranda. The judges will have to move these cases along, but it can be done and should be done.

My bill, Mr. President, does make an allowance for continuance on a showing of good cause—that is the phrase used in the law—which ought to be tightly enforced, cause ought to be allowed for a continuance only when there is very, very good reason. Then my bill would require a detailed specification by the court for the granting of such continuance.

A complex issue then arises, Mr. President, as to what happens on a subsequent petition for a writ of habeas corpus in the Federal courts, because it is not possible to lock the door with finality. This issue was discussed extensively in hearings before the Judiciary Committee.

My proposal has an unusual procedure which would prohibit the filing of a second petition for a writ of habeas corpus unless leave was first obtained by a three-judge panel of the court of appeals. If the case had been fully adjudicated through this Federal habeas corpus route, then the petitioner, the defendant, and his lawyer can get leave to file a second petition if they go before an appellate panel and show justification for doing so.

Mr. President, there is a controversy as to whether the grounds for a second petition ought to be only on the showing of innocence or ought to be broader to show some impropriety in the sentencing. My view is the broader standard has to be applied, because I think it is necessary to be very, very careful in the application of the death penalty—careful but not frivolous.

There is also controversy over whether the intervening decisions ought to be available to a defendant, a convict under the death penalty. The Chief Justice has taken the position that those intervening decisions ought not to be used by a defendant to try to escape the death penalty and I, frankly, disagree with that, because here again, we have to exercise extreme care in the application of the death penalty.

But under this restricted timeframe where, in almost all cases, the habeas corpus proceeding would be concluded within 1 year, the problem of intervening decisions will no longer be what it is today when cases stretch out for 6, 8, 10, up to 17 years.

Mr. President, there has always been debate on the deterrent effect of capital punishment. That issue really ought not to be before the Congress as we try to move through an appropriate procedure for Federal habeas corpus because 37 States in the United States have capital punishment. Their judgment of the propriety of capital punishment ought to be respected, and Congress should fashion a procedure through Federal habeas corpus proceedings which protects the rights of the defendants but does not render the State capital punishment meaningless as it works through this procedural route.

In the course of my statement, Mr. President, I have detailed my own thinking that capital punishment is an effective deterrent. The statistics go both ways on the subject. Statistics can be amassed for virtually any proposition, as we know. Ultimately, it is a judgment call.

I have seen many cases where professional robbers and burglars will not carry a weapon because they are apprehensive that a death may result and they may face capital punishment. A very interesting series of cases were collected in an opinion filed in dissent in a California case, which is set forth in detail in my prepared statement.

I do not have time to go through the entire statement now. At the conclusion of my comments, I will ask that it be printed after the comments which I am making on the floor today.

But a few of these cases are illustrative. Margaret Daly was arrested for assaulting Pete Gibbons with a knife. She stated to investigating officers: "Yeh, I cut him, and I should have done a better job. I would have killed him, but I didn't want to go to the gas chamber."

Robert Thomas was arrested for robbery with a toy pistol. When questioned by investigating officers as to the reason for using toy guns, he said real guns were too dangerous because if someone was killed in the commission of the robbery, he would get the death penalty.

Louis Turek was arrested for robbery. Again, a simulated gun. Why? He said, "I knew that if I used a real gun and that if I shot someone of the robbery, I might get the death penalty and go to the gas chamber."

As a matter of judgment, I am convinced from the experience that I have had that the penalty of death is an effective deterrent.

There is no doubt, with the death penalty being on the books in some 37 States, that the overwhelming majority of legislatures in our State system have concluded that the death penalty is an appropriate penalty and it is in society's interest, including the State of Pennsylvania's.

One case that I handled as an assistant district attorney is illustrative again of the deterrent effect of the death penalty. There were three young hoodlums named Williams, Caters, and Rivers, aged 19, 18, and 17. Williams was the ringleader and had planned the robbery of a grocery store in North Philadelphia. He picked Rivers, who was 17, because Rivers had no criminal record, so that when Rivers opened the door and left his fingerprints on the door, he would not be detected. His identity could not be determined through fingerprints because he had none on file.

Williams had a gun, and when the two younger men saw the gun, they refused to go along on the robbery because they were fearful the gun would be used and death might result and they could face death in the electric chair.

Williams said, "OK, I will not take the gun." He put it in the drawer and slammed it shut. They all got up to leave. Williams reached in, picked up the gun, unbeknownst to the two younger men, and, as you might suspect, Williams used the gun. When the storekeeper resisted, the gun was used. The storekeeper was murdered.

All three entered guilty pleas and made statements. There was no doubt about the facts, and all three were sentenced to death in the electric chair. Williams was ultimately executed in 1962, the next-to-the-last man executed in the State of Pennsylvania. The two younger men, Rivers and Caters, ultimately received life sentences, because the evidence showed that they did not have the malicious intent and were not coconspirators, although technically liable for the same penalty, and their lives were spared.

But the lesson from the case is that these two young hoodlums, 18 and 17, were smart enough to know they did not want to go along on a robbery with a gun because the gun might be used, death might result, and they might face capital punishment.

There are many, many cases like that. There is very strong authority in this country that the death penalty is an effective deterrent.

What has happened today, Mr. President, with 2,300 people on death row, the death penalty has become a joke. It is a laughing stock. With only 120-some executions since 1976, the odds are vastly in favor of someone who commits murder in the first degree in a calculated, malicious way. The odds are against being apprehend-

ed, the odds are against being convicted, the odds are against being sentenced, and even if sentenced, 2,300 people have not been executed and the delays are interminable.

This legislation will provide a realistic, practical, and just remedy by establishing a timetable which can be met. When the year has expired and the matter is still fresh, the death penalty will be a meaningful deterrent and the Federal criminal justice system will have responded to a very important problem in this country.

I see my time has expired.

Mr. President, I ask unanimous consent that the full text of my statement be printed in the RECORD. I have quoted from parts of the statement, but the remainder, the principal part of what I have had to say, has not followed the text.

So I ask unanimous consent the full text be printed in the CONGRESSIONAL RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ARLEN SPECTER ON THE FEDERAL HABEAS CORPUS REFORM ACT OF 1990

This proposed legislation, "The Federal Habeas Corpus Reform Act of 1990," which I intend to add as an amendment to the crime package, establishes a timeframe for imposition of the death penalty in state criminal cases that will again make that penalty meaningful. The scope of the problem is demonstrated by the fact that as of May 1, 1990, there were 2,327 people on death row with 125 executions since the reinstatement of capital punishment in 1976.

When Chief Justice William H. Rehnquist said on Tuesday of this week that the current system for handling death penalty in the Federal courts "verges on the chaotic," he was being charitable. The existing process makes a farce of the death penalty. Chief Justice Rehnquist was correct in calling for remedial legislation; but his proposal and the other pending measures do not go far enough in dealing with the core of the problem.

Today the death penalty is the laughingstock of the criminal justice system because endless delays in Federal court habeas corpus proceedings have rendered it meaningless. Cases involving capital punishment are dragged through the courts for as long as 17 years.

Before a case finds its way through the court system, intervening decisions by the Supreme Court of the United States frequently establish new Constitutional rights which, in turn, causes the litigation process to begin anew. The great writ of habeas corpus is always available, so stays of proceedings repeatedly delay the imposition of the death penalty resulting in public scorn and criminals' contempt for a penalty which all know will probably never be imposed.

This legislative proposal is based on my experience in personally handling numerous state and Federal court habeas corpus proceedings as an Assistant District Attorney and Chief of the Appeals Division in the District Attorney's office and later supervising hundreds of such cases as District Attorney of Philadelphia.

A PRACTICAL, JUST TIMETABLE

This proposed legislation establishes a timetable for imposition of the death penalty in almost all cases within one year from the time the state courts impose the death penalty. The essential provisions are:

1. Elimination of state habeas corpus proceedings which involve enormous delays by providing for collateral attack on the judgment of sentence of death.

2. A single Federal court review, through habeas corpus proceedings, where almost all cases will be decided within one year on this schedule:

(a) Federal habeas corpus petitions must be filed within 30 days from the final action in the state court proceeding resulting in the death penalty.

(b) A final decision must be made by the United States District Court within 110 days from the filing of the habeas corpus petition.

(c) A final decision must be made by the United States Court of Appeals within 110 days after, the final judgment of the U.S. District Court.

(d) Final action on a grant or denial of certiorari by the Supreme Court of the United States must be made within 110 days from final judgment of the Court of Appeals.

3. The statutes would prohibit continuances except on the showing of good cause with a detailed specification of reasons by any court granting such continuance.

4. No subsequent Federal court habeas corpus petition shall be entertained unless specific leave for such filing is granted by the Court of Appeals for the circuit with jurisdiction.

5. The proposed expedited treatment of Federal habeas corpus proceedings would apply only in states which agree to provide free, competent legal counsel for defendants throughout the legal process in capital cases.

This compressed timeframe is both just and practical because it eliminates the long delays occasioned by state habeas corpus proceedings and establishes Federal habeas corpus death penalty proceedings as the highest priority in the Federal judicial system.

For reasons discussed in this floor statement, the death penalty is sufficiently important to be accorded this priority on the Federal court calendar with the addition of such Federal judges as may be necessary to accomplish the stipulated timetable.

The essence of effectiveness of any criminal sentence is swiftness and certainty. Today the death penalty is exactly the opposite: lengthy delays and great uncertainty. Its deterrent effect is virtually totally vitiated. Society is unprotected. The inmates on death row are unfairly held in limbo in a system which exacts a high price from them even though obviously preferable to the ultimate imposition of the death penalty.

RETROACTIVE EFFECT TO NEWLY CREATED RIGHTS

My bill accommodates two vexing issues posed by other pending legislative proposals. Sharp disagreement has arisen as to whether rights created by intervening court rulings should be given retroactive effect to prisoners whose convictions were already final and who were in the process of seeking habeas corpus relief. Under existing law where the habeas corpus proceedings have taken years to complete, it has been a frequent occurrence for the courts to interpret new Constitutional rights in the interim. On this proposed timetable for completion of Federal court habeas corpus actions within one year, that problem will be greatly reduced.

In my judgment it is neither conscionable nor realistic to carry out the death penalty where that result might be altered by a Constitutional right created by an intervening judicial opinion. My proposed legislation would allow the defendant to benefit from any newly created rights, but would greatly minimize this problem by compressing the timetable.

STANDARD FOR NEW PETITION

My proposal would eliminate much of the controversy between the recommendation of the committee chaired by former Supreme Court Justice Lewis F. Powell, Jr. which had proposed permitting successive petitions only if there was reason to doubt the defendant's guilt contrasted with the approach of the Judicial Conference which would allow a subsequent petition if the Federal judge doubted the appropriateness of the sentence of death. By establishing the Court of Appeals as the gatekeeper before leave is granted to file a subsequent petition, there would be a much tighter rein on such repetitions provisions.

Here again, it is unwise, if not unconscionable, to impose a more restrictive provision where the death penalty will be carried out. Sincew the death sentence carries with it conclusions of both guilt and sufficient aggravated circumstances to warrant that penalty, it is my judgment that the standards for allowing a subsequent petition should be broad enough to consider the appropriateness of the death sentence. Requiring leave by the circuit court before the subsequent petition may be filed provides a strong check against unmeritorious repetitive petitions.

STATE HABEAS CORPUS PROCEEDINGS SHOULD BE ELIMINATED

State habeas corpus proceedings, which provide for collateral attack on state court death penalty cases, involve lengthy delays and accomplish virtually nothing in the administration of justice. Such state habeas corpus proceedings involve a petition for a writ of habeas corpus which means in Latin to produce the body of the defendant on a showing that some error has been committed in the preceding state trial.

For example, in Pennsylvania a defendant is indicted on the charge of murder in the first degree, which is then tried before a jury in the Court of Common Pleas. If convicted of murder in the first degree, the jury then considers aggravating and mitigating circumstances to determine whether the appropriate penalty is life imprisonment or death in the electric chair. Where the jury imposes the death penalty, there is an appeal to the Supreme Court of the Commonwealth of Pennsylvania. If the conviction and death penalty are upheld by the Pennsylvania Supreme Court, the defendant may then petition the Supreme Court of the United States for a writ of certiorari which means that the United States Supreme Court then may, at its discretion, issue a writ to review the case. As a matter of practice, review by the U.S. Supreme Court occurs very, very infrequently.

After a denial by the Supreme Court of the United States of a petition for a writ of certiorari, Federal law requries the defendant to file a state habeas corpus proceeding in order to exhaust all state administrative remedies before the Federal court would have jurisdiction to review the case in a Federal habeas corpus action.

In the state court habeas corpus proceeding, the defendant then asks the Court of Common Pleas in the same county where the defendant was convicted to review the trial record on a claim that the defendant's Constitutional rights were violated in that trial. While the state habeas corpus proceeding is in the Court of Commmon Pleas of the same county, it is customary before a different judge to handle the second proceeding. Although in some lesser-populated counties where there is only one common pleas judge, the habeas corpus action comes before the same jurist.

Where questions of fact are raised in the petition, the Court will then hold an evidentiary hearing. Such hearings are virtually always perfunctory since the courts, realistically viewed, go through the motions on cases which have previoulsy been argued and adjudicated. In virtually all cases, the petitions for a writ of habeas corpus are denied because most, if not all, of the issues have already been decided against the defendant by the state Supreme Court.

After the Court of Common Pleas denies the petition for writ of habeas corpus, an appeal is then taken to the state Supreme Court which customarily affirms the lower court's denial of the petition because, here again, the state Supreme Court is reviewing a case and a defendant on which the court has already ruled. After the Supreme Court of the United States denies a petition for a writ of certiorari, the defendant then has standing to file a habeas corpus proceeding in the Federal courts.

This state habeas corpus proceeding frequently takes years because no one is in a hurry, the courts are clogged with other cases and it has become the common practice for such matters to languish since the defendant is in jail and other matters take precedence. At this juncture, the defendant may file a petition for a writ of habeas corpus in the United States District Court and the habeas corpus process is repeated. Where issues of fact arise, a hearing is held. After an adjudication by the District Court, an appeal is then taken to the United States Court of Appeals. After the decision by the Court of Appeals, a petition is filed for writ of certiorari with the Supreme Court of the United States. This Federal court process may again take years.

By the time the state and Federal court habeas corpus proceedings have been concluded, it frequently occurs that an intervening decision by the Supreme Court of the United States or other court has created (or at least the defendant may colorably argue) new defendants' rights which provides some basis for a new attack on the conviction and death sentence. Then the whole habeas corpus starts anew in the state courts to be followed by the Federal courts. At the end of that process, it again frequently occurs that some intervening decision has or appears to have established some new defendants' rights and the process can then be repeated virtually interminably.

This proposed legislation would eliminate the state habeas corpus proceeding as a precondition to the Federal habeas corpus proceeding because the state process is usually a formality; and, in any event, is unnecessary to determine any denial of Constitutional rights at trial. Any such legal issues can be adequately litigated in the Federal habeas corpus proceeding.

IMPORTANCE OF THE DEATH PENALTY—DETERRENCE

This proposed legislation would give the highest priority in the Federal courts to state capital cases because of their importance in our criminal justice system. It should really be unnecessary to prove that capital punishment is a deterrent in order to justify priority treatment in the Federal courts since 37 states impose the death penalty on their legislative judgments of its importance.

Beyond that strong statement of importance, it is my firm conclusion that the death penalty is a deterrent. My experience in this field started in 1959 when I was an assistant district attorney in the city of Philadelphia. From experience in the magistrates' courts, where I saw the full range of criminal conduct—robberies and burglaries and rapes and assaults and murders—I became convinced that the death penalty was an effective deterrent.

My later experience as district attorney further supported my judgment that the death penalty was a deterrent. Robbers, burglars and other professional criminals customarily do not carry weapons because of their concern that they use those weapons and face possible imposition of the death penalty. They reconsider the use of weapons in the course of a robbery or burglary because they do not want to face the possibility of the death penalty.

One illustrative case from the Philadelphia Criminal Courts some 30 years ago involved three young hoodlums named Williams, Caters, and Rivers. Williams was 19, Caters was 18, and Rivers was 17. Williams chose Rivers, the 17-year-old, because he did not have a criminal record and, therefore, could open the door of the grocery store they planned to rob without leaving fingerprints.

As the statements of Williams and Rivers and Caters disclosed—and they were all in agreement on the underlying planning of the robbery which resulted in murder—Williams importuned the two younger men to join him. Williams had a gun. When Williams brandished his gun, Caters and Rivers said they would not go along on the robbery if he took the gun, because they were afraid that there might be a killing and they would face the possibility of the death penalty."

So Williams put the revolver in a drawer and slammed it shut. Caters and Rivers got up and walked out of the room. Then, unbeknownst to Caters and Rivers, Williams pulled the gun out of the drawer, put it in his pocket, and, as you have suspect, Williams used the revolver on a storekeeper in north Philadelphia, and a murder resulted.

I argued the case on appeal in the Supreme Court of Pennsylvania, as an assistant district attorney in the early 1960s. Williams received the death penalty because of his calculated, malicious decision to carry the weapon in the course of a robbery which resulted in death and first-degree murder.

Caters and Rivers ultimately received life imprisonment because the facts showed that they did not have the degree of malice that Williams possessed, although technically, as a matter of law, any co-conspirator can be held to the same level of complicity.

The significant fact of this case is that a 17-year-old Rivers and and 18-year-old Caters, with marginal IQs, knew that the death penalty was a potential result of their robbery if a gun was carried. The prospect of the death penalty directly affected the conduct of Caters and Rivers.

An experienced ex-New York City police officer who serves on my staff, Tom Madine, commented about the increases in murder in New York State as a result of the death penalty having been eliminated there.

ILLUSTRATIVE CASES ON DETERRENCE

A dissenting opinion in a 1961 California case captioned *People* v. *Love* contains a summary of many cases which show the deterrent effect of capital punishment. These cases are worth citing here because the specific facts and the defendants' statements demonstrate human nature on deterrence much more vividly than dry statistics. Mr. Justice McComb wrote: "Any prosecuting attorney or criminal defense attorney or any trial judge who has sat for a substantial period in a department of the superior court devoted to the trial of felony cases knows that many felons are careful to refrain from arming themselves with a deadly weapon because they do not want to take the chance of killing anyone and suffering death as a penalty.

"A few recent examples of the accuracy of this view are to be found in the following cases involving persons arrested by officers of the Los Angeles Police Department:[1]

"(i) Margaret Elizabeth Daly, of San Pedro, was arrested August 28, 1961, for assaulting Pete Gibbons with a knife. She stated to investigating officers: 'Yeh, I cut him and I should have done a better job. I would have killed him but I didn't want to go to the gas chamber.'

"(ii) Robert D. Thomas, alias Robert Hall, an ex-convict from Kentucky; Melvin Eugene Young, alias Gene Wilson, a petty criminal from Iowa and Illinois; and Shirley R. Cofee, alias Elizabeth Salquist, of California, were arrested April 25, 1961, for robbery. They had used toy pistols to force their victims into rear rooms, where the victims were bound. When questioned by the investigating officers as to the reason for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, as if someone were killed in the commission of the robberies, they could all receive the death penalty.

"(iii) Louis Joseph Turek; alias Luigi Furchiano, alias Joseph Farino, alias Glenn Hooper, alias Jose Moreno, an ex-convict with a felony record dating from 1941, was arrested May 20, 1961, for robbery. He had used guns in prior robberies in other states but simulated a gun in the robbery here. He told investigating officers that he was aware of the California death penalty although he had been in this state for only one month, and said, when asked why he had only simulated a gun, 'I knew that if I used a real gun and that if I shot someone in a robbery I might get the death penalty and go to the gas chamber'.

"(iv) Ramon Jesse Velarde was arrested September 26, 1960, while attempting to rob a supermarket. At that time, armed with a loaded .38 caliber revolver, he was holding several employees of the market as hostages. He subsequently escaped from jail and was apprehended at the Mexican border. While being returned to Los Angeles for prosecution, he made the following statement of the transporting officers: 'I think I might have escaped at the market if I had shot one or more of them. I probably would have done it if it wasn't for the gas

[1] The cases cited are taken from the records on file in the Los Angeles Police Department.

chamber. I'll only do 7 or 10 years for this. I don't want to die no matter what happens, you want to live another day.'

"(v) Orelius Mathew Stewart, an ex-convict with a long felony record, was arrested March 3, 1960, for attempted bank robbery. He was subsequently convicted and sentenced to the state prison. While discussing the matter with this probation officer, he stated: 'The officer who arrested me was by himself, and if I had wanted, I could have blasted him. I thought about it at the time, but I changed my mind when I thought of the gas chamber.'

"(vi) Paul Anthony Brusseau, with a criminal record in six other states, was arrested February 6, 1960, for robbery. He readily admitted five holdups of candy stores in Los Angeles. In this series of robberies he had only simulated a gun. When questioned by investigators as to the reason for his simulating a gun rather than using a real one, he replied that he did not want to get the gas chamber.

"(vii) Salvador A. Estrada, a 19-year-old youth with a four-year criminal record, was arrested February 2, 1960, just after he had stolen an automobile from a parking lot by wiring around the ignition switch. As he was being booked at the station, he stated to the arresting officers: 'I want to ask you one question, do you think they will repeal the capital punishment law. If they do, we can kill all you cops and judges without worrying about it.'

"(viii) Jack Colevris, a habitual criminal with a record dating back to 1945, committed an armed robbery at a supermarket on April 25, 1960, about a week after escaping from San Quentin Prison. Shortly thereafter he was stopped by a motorcycle officer. Colervris, who had twice been sentenced to the state prison for armed robbery, knew that if brought to trial, he would again be sent to prison for a long term. The loaded revolver was on the seat of the automobile beside him and he could easily have shot and killed the arresting officer. By his own statements to interrogating officers, however, he was deterred from this action because he preferred a possible life sentence to death in the gas chamber.

"(ix) Edward Joseph Lapienski, who had a criminal record dating back to 1948, was arrested in December 1959 for a holdup committed with a toy automatic type pistol. When questioned by investigators as to why he had threatened his victim with death and had not provided himself with the means of carrying out the threat, he stated, 'I know that if I had a real gun and killed someone, I would get the gas chamber.'

"(x) George Hewlitt Dixon, an ex-convict with a long felony record in the East, was arrested for robbery and kidnapping committed on November 27, 1959. Using a screwdriver in his jacket pocket to simulate a gun, he had held up and kidnaped the attendant of a service station, later releasing him unharmed. When questioned about his using a screwdriver to simulate a gun, this man, a hardened criminal with many felony arrests and at least two known escapes from custody, indicated his fear and respect for the California death penalty and stated, 'I did not want to get the gas.'

"(xi) Eugene Freeland Fitzgerald, alias Edward Finley, an ex-convict with a felony record dating back to 1951, was arrested February 2, 1960, for the robbery of a chain of candy stores. He used a toy gun in committing the robberies, and when questioned by the investigating officers as to his reasons for doing so, he stated: "I know I'm going to the joint and probably for life. If I had a real gun and killed someone, I would get the gas. I would rather have it this way."

"(xii) Quentin Lawson, an ex-convict on parole, was arrested January 24, 1959, for committing two robberies, in which he had simulated a gun in his coat pocket. When questioned on his reason for simulating a gun and not using a real one, he replied that he did not want to kill someone and get the death penalty.

"(xiii) Theodore Roosevelt Cornell, with many aliases, an ex-convict from Michigan with a criminal record of 26 years, was arrested December 31, 1958, while attempting to hold up the box office of a theater. He had simulated a gun in his coat pocket, and when asked by investigating officers why an ex-convict with everything to lose would not use a real gun, he replied, 'If I used a real gun and shot someone, I could lose my life.'

"(xiv) Robert Ellis Blood, Daniel B. Gridley, and Richard R. Hurst were arrested December 3, 1958, for attempted robbery. They were equipped with a roll of cord and a toy pistol. When questioned, all of them stated that they used the toy pistol because they did not want to kill anyone, as they were aware that the penalty for killing a person in a robbery was death in the gas chamber."

REALISTIC TIMETABLE

It is realistic to establish a timetable for the full range of Federal habeas corpus proceedings within one year. A key factor is the requirement that the states must proivde competent free counsel to defendants in capital cases through all legal proceedings. It may be that the trial counsel would handle all stages of these unless there is a allegation of incompetency of counsel in which event new counsel would obviously have to be provided to press that claim.

It is practical to require the Federal habeas corpus petition to be filed within 30 days from the final judicial action upholding the death penalty in a state criminal proceeding. It would not be "business as usual"; but I know from my own experience in the criminal justice system that a lawyer can prepare the petition in that timeframe although it may require long hours, overtime effort or putting aside other legal matters.

If there are unusual circumstances, and it must be conceded that it is not possible in a statutory setting to anticipate every conceivable situation, the court may allow extra time on a showing of good cause with the specifications of the reasons.

Similarly, it is practical for the United States District Court to render a final decision within 110 days from the filing of the habeas corpus petition. That timeframe would allow 20 days for a responsive pleading by the public prosecutor and 90 days for hearings, briefings, argument and a decision by the district court. Again, from my own experience in the field, I know that this timetable can be observed although it would require a Federal judge to give priority to such matters and the lawyers to be diligent in processing the case. It is customary when cases go to trial that lawyers are heavily engaged not only during the hours of trial in court, but in advance of the trial day in preparing witnesses, and after court hours on legal research and the preparation of legal memoranda.

It is further practical to require a decision by the Court of Appeals within 110 days after the final judgment of the district court. This is only slightly faster than existing rules on docketing and briefing. This timetable will give the appellate court an adequate opportunity for review, reflection and decision. In the British courts, judges render immediate decision and opinions after hearing appellate argument. As a practical matter, most decisions are made by an appellate judge within a relatively brief period of time after oral arguments or submission of briefs.

It is again realistic to require final action by the Supreme Court of the United States within 110 days. This would allow 20 days for the preparation of the petition for certiorari and 90 days for decision by the court. It is currently a common practice for the Supreme Court to deny certiorari in a much shorter period of time. Here again, our nation's highest court would have to accord priority treatment to capital cases, but that is a fair requirement in the face of the urgency of the issue as articulated by Chief Justice Rehnquist.

It is inevitable that some cases will not be completed within a one-year timeframe. Some trials may be so long and so complex that this timetable will be too short. It should be noted, however, that this abbreviated timetable does not take effect until after the case has been tried in the state courts where no limitation is applied to the length of trial, time for post-trial motions or appellate review. During that process, most, if not customarily all, of the complex factual and legal issues will be organized, analyzed, and resolved.

Where this proposed timetable cannot be observed, extensions may be granted on a showing of good cause where the court will be obligated to specify the reasons for any delays. If delays are granted, the court will be under an obligation to monitor the proceeding and see to it that delays are held to a minimum.

CONCLUSION

No one can deny the seriousness of the problem of crime in America. Similarly, no one can deny the inadequacy of our criminal justice system.

At a minimum, powerful arguments support the conclusion that the death penalty is a deterrent. Even those who doubt the deterrent effect of capital punishment cannot deny the legitimacy of appropriate execution of the laws of 37 states which provide for the dealth penalty.

Currently, the federal courts are "chaotic" in dealing with such cases and the death penalty in America has become a "farce."

This legislation, establishing a timetable of one year for the disposition of almost all federal habeas corpus cases, would effectively reinstate the death penalty in America.

(Mr. KOHL assumed the chair.)

## UNITED STATES-SOVIET RELATIONS AND ARMS CONTROL

Mr. DOLE. Mr. President, this week, Secretary Baker is leading the United States in ministerial discussions with the Soviet Union. High on the agenda will be discussions on arms control in preparation for the upcoming summit.

The summit is only 2 weeks away. Earlier this year, the conventional wisdom was that the summit would, among other things, wrap up the major points of a START Treaty, or even a CFE Treaty.

Now, that may or may not happen. I have no predictions to make, but I do

think it would be useful to take some time to think about United States-Soviet relations and to put arms control into perspective within that relationship.

It seems to me that we must first recognize that arms control is not the foundation of our relationship with the Soviets. Rather, it is a means to improve our security. Moreover, improved relations with the Soviets are not dependent upon arms control, but are possible only on the basis of a broad agenda that includes, among other things, human rights.

I also believe that we should not view arms control as a tool for helping President Gorbachev. While we want his reforms to succeed, we cannot afford, nor should we make concessions against our security interests for political motives.

If we recognize arms control as a means to security, not an end, and if we recognize that arms control does not constitute the basis of our relationship with the Soviet Union, we will have more realistic expectations of what the arms control process can accomplish.

It is clear that the START negotiations, in particular, have not progressed at the same pace as earlier this year. In fact, the Soviets walked back packages agreed to in February, and they have been dragging their feet ever since then.

It is hard to know what is behind the foot dragging. Maybe it is a negotiating tactic designed to win more concessions from the United States prior to the summit. If that is the case, I do not believe that President Bush is going to fall for that type of maneuvering.

After all, the U.S. objective in START is not just to make a deal, but to enhance stability and security.

One way a START Treaty can enhance stability is by reducing the number of heavy land-based ICMB's, such as the SS-18, which the Soviets, even under Gorbachev, have continued to modernize.

Mr. President, the bottom line is that we need to be careful and keep our objectives in mind. In the case of START, a conventional arms control treaty or any other arms control agreement, the goal must be stability and security. I am confident that the President and Secretary Baker will keep these objectives in mind while working for progress in arms control.

## SPENDING IN AGRICULTURE

Mr. DOLE. Mr. President, I was struck by a couple of editorials today in the Washington Post. I am not certain the Washington Post is an expert on agriculture. I thought their editorial was pretty much on mark. It is called, "The Senate Hayride."

In the Senate Agriculture Committee we now see a political effort to increase spending in agriculture when we know that we are going to have to reduce spending across the board this year $60 billion.

I come from a farm State, and farmers are like other people; if you want to give them more money, they will take it. But I do not see any great demand because farmers understand that their worst enemy is inflation, high interest rates, and the Federal deficit.

So I hope that my Democratic colleagues read the editorial in the Washington Post this morning; it makes a great deal of sense. And also to take a look at what the House Agriculture Committee did yesterday, again controlled by the Democratic party. The subcommittee increased spending in agriculture by over $10 billion—$10 billion. When we have a budget crisis, here is a subcommittee, totally irresponsible in its actions, increasing spending for the farm bill by $10 billion.

Fortunately, the chairman of the committee, Congressman DE LA GARZA, said yesterday that you cannot do that. So under the chairman's leadership, yesterday in the House Agriculture Committee, they passed a 5-year program with a 5-year freeze, with a freeze on target prices, no increases. To me, that is probably the direction we will finally go. But even then those in agriculture should be aware that when this summit meeting on the budget ends, if it ends successfully, we are going to have to revisit the farm bill, whether we pass it or not, and we are going to have to accept some cuts. That is the way it works. You cannot not exempt agriculture, education, Congress, the White House, whatever, if we are going to have an effective resolution of the deficit.

Mr. President, I ask unanimous consent that the articles of which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 18, 1990]

SENATE HAYRIDE

It is well understood that there won't be room in the budget for farm price and income supports to go up next year. The budget negotiations between the president and Congress are much more likely to force them down. The Democrats on the Senate Agriculture Committee are nonetheless proposing increases.

That's bad farm policy and fiscal policy alike. The Democrats recognize the fiscal pitfall. What they give with one hand they are careful to take back in part with the other. Their proposal delivers less than it sounds; it is as if they believe the constituents they are trying to please can't read very well.

The target prices on which supports depend were gradually reduced in the last farm bill, which expires this year. The Democrats would reverse that steady removal of the government from the market by indexing the targets—tying them to consumer prices. But the first four percentage points of inflation would not be counted, and the cost of the increase in supports would be offset in part by an increase (though in the proposal only a very small one) in the acreage that farmers would have to set aside.

The proposal might thus have only a marginal effect. But the combination of higher supports on reduced production would take farm policy in the wrong direction, deepening the federal role. The committee Republicans meanwhile think they are being set up, as they are. Nine of the 19 committee members, including five of the 10 Democrats, are up for reelection. If, as expected, the higher supports have to be dropped later in the budget process, the Democrats will still be able to say it was they who tried.

The same tired script has been allowed in the House, only there it has been bipartisan—and it seems to be over. The agriculture subcommittees voted for higher supports; now the full committee seems to be in the procss of rescinding them. Good for it. The Senators should step up to their responsibilities and do the same.

## PALESTINIAN CHILDREN

Mr. DOLE. Mr. President, there was another article in the Washington Post editorial called, "Save the Palestinian Children." I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 18, 1990]

SAVE THE PALESTINIAN CHILDREN

A Swedish child-advocacy organization called Save the Children, having conducted two years of interviews among Palestinians, reports that Israeli soldiers trying to quell the West Bank-Gaza uprising have inflicted on the children more than 150 deaths, thousands of beatings and gunfire wounds, and tens of thousands of other injuries. Israeli officials respond that the organization is biased, its perception of context skewed, its sources limited and its numbers exaggerated. But even if some part of this defense is true, you are still left with the deaths, the beatings, the wounds, the tear-gas and the rest of the carnage that has taken place since the intifada began in December 1987.

The question that arises from this latest stomach-turning account of Palestinian-Israeli confrontation is whether any halt to it is possible. The Israelis find some slackening of the intifada as their military and intelligence forces grind away to assert control. But struggle continues among a well-organized and increasingly radicalized Palestinian population seemingly little interested in diplomatic initiatives launched at the PLO leadership level. The evidence is that the West Bank popular resistance has settled down for the long haul in its home villages, schools and streets. The Israeli occupation has become routine too.

Meanwhile, both demonstrating Palestinians and defending Israelis continue to use tactics that put children at risk. The Palestinian organizers of the intifada are reluctant to weaken the central community-based character of their resistance by making the tactical changes that would help keep children out of harm's way. The Israeli

army similarly hestitates to yield its prerogatives as an occupation force, and it is often unable to enforce the military discipline that is intended to minimize casualties against a civilian population that itself has become an experienced practitioner of violence without guns.

The bottom line remains that Palestinian children are being shot and beaten by Israeli soldiers. Everyone knows that to this aspect of Israeli-Palestinian rivalry as to other aspects, there is no answer in the streets, only at the negotiating table. The Palestinians' leadership is ready for a process to begin. The Israelis still cannot bring themselves to form a government that would respond. This is finally what has to be done to save the Palestinian children.

Mr. DOLE. I hear a lot of pontificating about the tragedy in El Salvador and about the death of the Jesuit priests, and I condemn those deaths. I want justice just as much as anyone else. But I would ask the question, Is there a double standard? What about the children being killed in the intifada?

I do not see any of the liberals, who wring their hands about El Salvador, taking time on the Senate floor or the House floor or in newspaper interviews, to cry any tears for the over 150 children—children—who have been killed in the intifada. It seems to me as difficult as that situation is, the intifada, in some ways, is not much different than El Salvador.

If we are going to apply one standard to the El Salvador Government, then we ought to take a look at what we are doing with reference to the intifada. I have not heard many voices raised, not many people crying for the children, except their parents and relatives in that part of the world.

So to those who say we ought to reduce our aid, we ought to cut our aid in half in El Salvador, I ask the very fair question, is there a double standard?

## THE CAPITOL GUIDE SERVICE

Mr. DOLE. Mr. President, this week marks the celebration of National Tourism Week, and on this occasion it is a pleasure to recognize the efforts of the dedicated staff of the U.S. Capitol Guide Service.

Under the direction of Tom Nottingham, chief guide, the 33 full-time tour guides, assisted by 10 college students during the summer, bring this magnificent building to life for the approximately 1.5 million visitors who come to the Capitol annually.

Citizens of the United States and visitors from throughout the world who tour the U.S. Capitol learn of its history and hear colorful accounts of the people who have walked its halls for the past 190 years. They are told a story about a Union soldier during the Civil War who allegedly tried to chop up a Senate desk for firewood. They are shown the beautiful crystal chandelier, possibly one of the best bargains ever struck by Congress when it was purchased for $1,500, which is hanging in the well section of the original building.

Visitors have the chance to see Congress in action. By observing the Senate and the House of Representatives at work, they may come away with a better understanding of the process through which needs and ideas meet to form laws.

### THANKS TO THE COOPERATION OF MANY

Mr. Nottingham is ably assisted by Frances Rademaekers, deputy chief guide, Sharon Nevitt, assistant chief guide, and Ted Daniel, relief supervisor. A special thanks goes to Dee Ledlow, secretary for the Congressional Tour Office, for giving her personal attention to our constituents. Her competent assistance and spirit of cooperation are appreciated all year—and particularly during the busy summer months.

Mr. President, I invite my colleagues to join me in honoring the U.S. Capitol Guide Service and in expressing our thanks and deep appreciation during National Tourism Week.

Mr. President, I reserve the remainder of my time.

## SENATORIAL ELECTION CAMPAIGN ACT

The PRESIDING OFFICER. The Senate will now proceed to the consideration of S. 137, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, time for debate has been reserved to the subject of campaign reform. I am pleased to use this opportunity to express briefly my views on this subject, a matter on which I have spoken before, and a matter which has occupied a great deal of the Senate's attention in the last several years.

I believe, Mr. President, that campaign reform is necessary. Campaign reform is necessary because spending has gotten out of hand. It is enormously costly to run election campaigns in the U.S. Congress, in the Senate and the House of Representatives, because there is widespread public concern about the termination of special interest influence as bills come through the Congress.

I believe that political action committees ought to be eliminated because of that concern. When you take a look, Mr. President, at what political action committees do, I do not believe they buy votes in the Senate or in the House of Representatives. A maximum campaign contribution of $10,000 in my last Senate campaign accounted for .0012 of the total contributions made to my campaign. While it is not insignificant, it is not a dominant factor in the fundraising apparatus.

But there has grown a public concern that political action committees have extra influence beyond what they ought to have in our system. That is a deeply ingrained view. I believe that the perception is so strong and has a tendency to undermine public confidence in the Congress of the United States that we ought to take a stand once and for all and eliminate political action committees categorically—just have them gone.

The issue of spending limits is a very complicated one. I believe that it is necessary to address that subject with a constitutional amendment because as long as the decision in Buckley versus Valeo stands that any individual may spend as much of his or her money as he or she chooses in an election campaign, there is no realistic, effective way to legislate campaign limits.

The tack which has been undertaken is to condition public spending on an agreement by a candidate that the candidate will abide, on a voluntary basis, by a spending limit. But that is not effective, Mr. President. If any candidate chooses to come into the field and declines to abide by such a voluntary spending limit, then that candidate may exercise his or her constitutional right to spend as much money as he or she may choose.

So the only effective way to deal with that issue is by a constitutional amendment. I have joined Senator HOLLINGS in a proposal for such a constitutional amendment, both in the 100th Congress and now in the 101st Congress, which would say that, as to campaign financing, the Congress of the United States, and State legislatures for that matter, would have the authority to establish spending limits. It is with reluctance that I personally moved toward a constitutional amendment in the first amendment area, but that is the only way to deal with that issue directly.

My own legal judgment is that Buckley versus Valeo was incorrectly decided, but once the Supreme Court of the United States speaks on a case, that is

that. We have razorthin margins; under the nine Justices, five may have one opinion, four another, but when five have spoken, that is the law of the land.

I recall the Buckley decision with special impact because I was a candidate for the U.S. Senate when Buckley versus Valeo was handed down. That decision came down in January 1975; January 29, I believe. I had declared my candidacy a few months earlier for the U.S. Senate in the context of the election law of 1974, which limited individual expenditures, which prescribed the amount depending on the population of the State. With a State the size of Pennsylvania, an individual was permitted to spend $35,000.

I had been in private practice for a relatively short time after being district attorney of Philadelphia. That is about as much money as I had. I decided I would get into the race.

Then in the middle of an April primary in Pennsylvania—I declared in November 1975—in the middle of the campaign the Supreme Court of the United States handed down Buckley versus Valeo that said that aspect of the limitation on what a candidate could spend was unconstitutional.

It upheld the $1,000 limit on other individual contributions so that my brother, who had substantially more money than I did, was limited to $1,000 for the primary campaign. I did not get past the primary.

I felt serious enough about that case to file a petition for leave to intervene after the judgment. I am always reluctant to say what I did some 15 years ago, but I have a pretty clear recollection of having done that although I have not reviewed the legal papers lately. My petition for leave to intervene was turned down. That was that.

I now have the pleasure of serving with my opponent in that campaign. Senator HEINZ and I were contestants there, and now we serve together. But I had gone inito the decision of the Buckley case in some great detail. I believe if we are to address the issue of spending limits, we are going to have to do so in the context of the constitutional amendment. I have pressed that amendment on the Constitutional Law Subcommittee of the Judiciary Committee, on which I serve. The distinguished Presiding Officer and I serve on the Judiciary Committee together.

Mr. President, I am strongly opposed to public financing. I do not believe, given the very heavy deficits which we have in this country today, that it is an appropriate expenditure of public money to finance congressional races, Senate races and House races. S. 2, which was introduced in the 100th Congress, had a schedule which would have called for the expenditure of public moneys of $3.8 million for each candidate, $7.6 million for a Senate race for the State of Pennsylvania, and I think that kind of funding is unwarranted.

I am informed that the checkoff on the Federal tax returns is down to 20 percent now.

People want to make a voluntary contribution for the taxes they have to pay anyway, so it is not an extra dollar, it is a dollar which is being paid, and it had been considerably higher. So it is not a matter of indifference, it is a matter of a public concern of not wanting to finance Presidential campaigns. But I do not believe it wise, Mr. President, to spend the public's money on the election of Members of the House or the Senate. So I am opposed to the use of that as a coercive mechanism to achieve consent by the candidates.

As I say, the consent is really meaningless in any event as long as anyone can come in and exercise their constitutional right under Buckley versus Valeo to spend as much of his or her money as he or she may choose.

The issue of soft money Mr. President, I think is a very, very important issue because there are wide varieties of ways of making contributions to a campaign without dollars: In-kind services, the use of mail, the use of office space, the use of telephones, the use of paid personnel who will volunteer for a campaign under circumstances where there is very direct calculation and the soft money which is directed to someone's campaign is paid for in hard dollars. So that as we take a look at campaign reform, it seems to me that we have to address this issue of soft money in a head-on, direct way and get it out of the system.

Mr. President, I believe that there are material improvements which must be made in the campaign laws. I am pleased to see this matter on our agenda. There has been very considerable thought and attention given to this issue on both sides of the aisle. This is one issue where the 100 U.S. Senators all regrettably have considerable experience in this field.

It would be much better if we did not have so much experience in campaign financing. But campaigns are enormously expensive to run. They have gotten more expensive to run. They have become more expensive not only because of inflation but because of negative campaigning. Today, someone can conjure up a 30-second commercial and need not be too concerned with the fact they can have a 30-minute commercial, too, but nobody would want it. In a 30-second commercial, people have to watch because it is squeezed between something else they want to watch.

I recall, in my first campaign in 1965, where we had a 30-minute show. And it was on at 7:30 on a Philadelphia TV station and it cost $1,500. And a 30-second commercial cost $3,000. I wondered why you could buy 30 minutes at 7 o'clock—this, again, is my recollection; it has been a long time ago. There is always some hesitancy to cite facts from bygone days because someone will look at the record to see that everything we say is exactly right. But my recollection is it was $1,500 for a 30-minute commercial.

I see my distinguished colleague, Senator MCCONNELL, smiling at this.

Then I found out that it was so inexpensive because nobody watched it. Because if you are on for 30 minutes and they see ARLEN SPECTER on campaigning, who cares, go to the next channel. But when you grab 30 seconds in between two favorite shows—I would cite some, except I do not know any—it is a very expensive proposition.

But it is enormously costly. Then the 30-second negative commercial comes on. It takes a quantum of television time to go back over the record. And there is no way—having cast 3,500 votes, many of the votes are subject to gross distortion.

I remember a vote on an important good Government issue which came up in 1984 on the continuing resolution. An entire bill was added, I think it was the Superfund bill, on the 1984 continuing resolution. And if that bill had not been tabled, we never would have passed a budget. We would have just tied up the Congress and the country interminably. It was very hard to find 51 Senators who would vote to table that Superfund bill because it was a matter of vital necessity.

Now when you try to explain why you vote against Superfund on a continuing resolution, on a motion to table, on the Government being tied up, it takes a lot of explaining.

Mr. MCCONNELL. Will the Senator from Pennsylvania yield?

Mr. SPECTER. Yes.

Mr. MCCONNELL. The Senator from Pennsylvania is right on the mark when he talks about the airwaves and the importance of that in the modern competitive campaign.

I have often said that I do not favor piecemeal campaign finance reform, that it is a better to do it on a comprehensive basis. But if somebody said there is just one thing we are going to let Congress do this year to improve the system, it would be a meaningful, significant, reduction in the broadcast discount rate to allow candidates to purchase time to reach voters. And so when the Senator talks about the cost of television, he is certainly hitting on what I think is one of the most, if not the most, significant part of this overall discussion.

Mr. SPECTER. I am delighted to yield to my distinguished colleague from Kentucky for that comment. When a Senator takes the floor and makes a statement in this Chamber, it is like a sound chamber where nobody else is present. We have our captive

audience of the staff here, the reporter. It is refreshing to see some other Senator come to the floor so there could be a dialog and have some human qualities about our discussion here. We speak in the sound chamber—and there are a few people in the galleries—wondering who is watching on C-SPAN II, or if anybody will read what appears in the CONGRESSIONAL RECORD.

But to deal with the content of what Senator MCCONNELL has had to say, I have some concern, I must say, about compelling TV stations to take a lesser rate. And I have a concern because the TV channels are private property. They have established the rates. And I wonder about the propriety of the Congress—and we do have enormous power. We can do practically anything we choose to do subject only to the constitutional limitation and there may be a violation of property, and the 14th amendment which prohibits, the due process clause—the 5th amendment, pardon me; the 14th applies to the States, the 5th amendment applies to the United States, prohibiting taking property without due process of law. Stations do have an obligation to give the lowest rates. And I have had some considerable problem, in my own experience, in having those rates apply because it is impossible to figure out what is lowest rate, when it is applied, when it is preemptable, who had it first, who came in second, and who is on third.

In the middle of a campaign you cannot begin to litigate with a TV station over whether you are getting an appropriate rate or whether your opponent is getting an appropriate rate. But even if we do reduce the rates in television and if we cut down the costs, it is still going to be enormously expensive. We are still going to have to buy a lot of it, and it is a very, very expensive proposition.

There are 100 different ways the Senators got here. My own route was to run in three tough primaries in Pennsylvania, a State of 12 million people, to establish a record and establish recognition as district attorney of the city of Philadelphia. That media market was 38 percent of the State. The district attorney gets a lot more attention in the Philadelphia media than a U.S. Senator does, especially a Republican district attorney in a Democratic city where there is a lot of crime and corruption. It is like shooting fish in a barrel. There is a lot of potential. But for the balance of the State it is not an easy matter to become known. It takes a lot of speeches in a lot of cities and a lot of Rotary Clubs.

Then we have television, which is a very, very expensive item. As long as those of us here have 3,500 votes on record, and by 1992 perhaps close to 5,000 votes on record, maybe 4,200 or 4,300, it is necessary to make a lot of comments and perhaps to do some explaining. We all know that when we have to start explaining we are already in trouble. If we want to do it on television it is a very expensive operation.

So we all in this body are experts at fundraising. It would be very good if we could find a way to provide some rationality to the system so we do not have to spend so much time raising money. I believe my distinguished colleague from Kentucky has a difference with this Senator on the desirability of a constitutional amendment to provide the basis to change Buckley versus Valeo, and provide for limits.

My colleague has been on the floor now for about 10 minutes. I will not take up further time because Senator MCCONNELL has been a leader in the field, and I am sure when he addresses the Chair today he will have something new to say. That will be quite a challenge because he has made many, many, many speeches on this subject.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, I congratulate my friend and colleague from Kentucky for the outstanding work he has done on the campaign reform bill. I think it is important to delineate the major differences between the so-called Republican bill and the Democratic bill.

The Republican bill is very significant campaign reform. The Republican bill limits outside special interest money. It bans PAC's. The Democratic bill does not do that. It says it bans PAC's from contributing to individuals, but it does not ban PAC's So PAC's can contribute to national parties, they can contribute to State parties, and then the State parties and/or the national parties can give the money to candidates.

So the Democrats' bill is a laundering bill. It launders the money, it hides the money. People really do not know where it comes from. That is worse than the present situation. At least in the present situation when PAC's contribute to individuals that money is readily identified. It is reported. That would not be the case under the so-called Democrat bill.

The Republican bill, on the other hand, bans PAC's. Period. PAC's cannot give to individuals. They cannot give to party organizations. They cannot give to any of these groups. So I think there is a significant difference in the PAC situation. Also, if it is determined to be unconstitutional to ban PAC's, under the Republican provision, we reduce PAC's from $5,000 to $1,000, the same amounts individuals can give, a significant reduction of money that PAC's or special interests can give. Again, that is in the Republican provision. It is not in the Democrats' provision.

So I think it is a very significant difference between the bills.

What else do we have? Well, the Republicans limit what money can be raised out of State by saying that out of State contributors can only give $500 instead of $1,000. So we would significantly reduce the amount of input people would have by having special interest fundraisers outside their State. That is an advantage incumbents have that challengers many times do not. So that is a big change. Republicans take big steps for eliminating or limiting soft money. Unfortunately the Democrats do not do that. We limit soft money or eliminate soft money in corporations, in unions, the Democrats do not do it. They will limit party soft money. I find that really not to make a lot of sense.

Third, and possibly last, the Democrats have public financing of campaigns. Ninety percent of their money for a general election would be paid for by the taxpayers. I find that to be outrageous. In my State of Oklahoma, if a candidate is running, if they raise $110,000 they get $1 million from Uncle Sam to run for the general election. I think that is outrageous. I do not think taxpayers across the country are saying we want to pay for general elections, we want to pay for Senate races, we want to pay for House races. I do not think they are saying that. As a matter of fact, I think they would be outraged if they knew a person who raises $110,000 would qualify for $1 million of public financing. I think that is an outrage.

The Democrats also have a bill that would allow candidates to be able to mail at one-fourth the cost to normal taxpayers. That is another outrage. Mail costs are enormous. Why should the taxpayers of this country subsidize the mail costs of campaigns? In the Republican package we ban unsolicited mass mail costs for incumbents during campaign years. I think that is a very significant reform.

The Senate has already made some reforms in mass mail costs. The House has not gone along. As a matter of fact now we find the House is going to exceed its budget by almost double. The Senate is going to be within its budget on mail costs. But we have a very good provision, a real provision, one that is significant reform, in that we ban the use of franked, unsolicited mass mail by incumbents—Senators and House Members—in an election year. That is not in the Democrats' proposal.

So there are significant differences between the Democrats' and the Republicans' proposal. I happen to think the Republican proposal is a very good one. It may be improved.

I see my colleague from Oklahoma. I am hopeful maybe we can work out some differences and we can come up with a bipartisan bill, one which will have significant, real reform for the system; that it will work better; that it will reduce special interests; that it will reduce the advantage that incumbents have through the use of the frank.

Mr. President, I think that can happen. I am not necessarily so optimistic, but I look forward to the negotiations. Hopefully, they will be fruitful negotiations and we will see a workable, bipartisan campaign reform bill passed this year.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS and Mr. BOREN pertaining to the introduction of S. 2653 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, we resume the floor discussion of campaign finance reform this morning. This past week the majority leader and the Republican leader have appointed the negotiating team. We will be looking forward to meeting in the near future to see if we can work out our differences. I do think it is important to continue to discuss the bill. I am glad the leader has scheduled some floor time for us to consider various aspects of this enormously complicated problem which we are hoping to legislate this year.

It is certainly the view of the Senator from Kentucky as the lead negotiator on this side that it would be far better to have a bill than to not have a bill. I do not think there are very many people in this body who do not think we ought to change the current system. It certainly has its failings.

I do think, however, it is important for us as lawmakers not to proceed to pass legislation that is blatantly unconstitutional. It is the view of the Senator from Kentucky that S. 137, and the substitute thereto, which has been suggested on the other side of the aisle, clearly does not pass constitutional muster.

Mr. President, I would like to confine my remarks, at least at the outset this morning, to the issue of the constitutionality of S. 137 and the proposed substitute which has been suggested by the other side.

Mr. President, under S. 137 and similiar proposals, senatorial candidates who agree to accept expenditure limits qualify for public funding, reduced-rate television and radio time, and special mailing rates. A senatorial candidate who does not accept the spending limits receives no public money and is not eligible for reduced-rate broadcasting time and mailing privileges. His troubles, however, do not end there.

Rather, S. 137, and similiar proposals, would give increased Federal grant money to participating candidates when expenditures made by a nonparticipating opponent exceed certain limits. Thus, if a nonparticipating senatorial candidate spends even $1 over the spending limit, S. 137 would give a participating major party opponent an additional Federal grant in an amount equal to two-thirds of the general election spending limit, an amount up to $3,666,667. The participating candidate would be free to spend this additional grant to defray expenditures in the general election without regard to the general election spending limits.

If the nonparticipating senatorial candidate presses on and goes more than one-third over the spending limit, the bill would provide an additional grant equal to one-third of the spending limit, up to $1,833,333 under S. 137. Furthermore, once an opposing candidate has gone more than one-third over the spending limit, the spending limits applicable to the participating candidate are lifted altogether. In addition, S. 137 provides that participating candidates would receive an additional grant, not subject to the aggregate spending limits, in an amount equal to the total amount of independent expenditures over $10,000 made in opposition to that candidate or on behalf of his opponent.

So, Mr. President, as a practical matter, S. 137 would force nonparticipating challengers to choose between observing the spending limits applicable to participants or facing a participating incumbent who has as much as $5,500,000—possibly even more—in Federal funds with no aggregate expenditure limitation. The bill, and others like it, thus attaches a severe penalty to the decision not to abide by Federal spending limits.

Let me just for a moment contrast that to the Presidential system, which I certainly do not support and do not think it has been good for the country. But nevertheless, we have had one Presidential candidate say over the years, "I choose not to accept the public subsidy." That candidate was John Connally, who ran back in 1980. When John Connally decided not to accept Federal money, nothing happened to him and nothing happened to any of his opponents. He was not punished, and they were not rewarded. So there was no punishment, no penalty for exercising his first amendment right to go out and participate in the process without the encumbrance of either spending limits or public finance; totally contrary to the bill that we have suggested by the other side.

This is clearly unconstitutional. The Supreme Court held in Buckley versus Valeo, that the first amendment forbids Congress from directly imposing spending limits. Political spending is pure political speech and therefore receives the strongest first-amendment protection. Under Buckley, Congress can, to a limited extent, regulate political contributions, but it cannot impose limits on spending. Even contributions can be limited only in order to avoid corruption or the appearance of corruption.

Proposals like S. 137 attach a penalty to the refusal to limit campaign spending. In this respect they are exactly like a spending limit that is enforced through criminal prosecution. The only difference is that the penalty takes the form, not of a fine, but of one-sided Federal assistance to the candidate's opponent.

It is difficult to imagine any constitutionally acceptable regulation of political speech. The interest in eliminating corruption remains the only governmental interest that the Supreme Court has recognized as sufficiently compelling to justify burdens on political speech. Expenditure limits, however, have nothing to do with corruption: a candidate may be corrupted, or may appear to be corrupted, by the source of his funds. Once money has been received, however, spending it is not corrupting.

The interest that actually underlies proposals such as S. 137 is that of equalizing political speech between candidates. That interest, however, is affirmatively forbidden by the Constitution: under the first amendment, Congress may not adopt policies designed to ensure that the contending sides in an election have equal resources. The Supreme Court said in Buckley versus Valeo that a governmental policy of limiting the political speech of some Americans "in order to enhance the relative voice of others is wholly foreign to the first amendment."

As the Court noted in Buckley, attempts to equalize political speech are especially insidious because equalization of the amount spent may not in fact equalize electoral opportunities; on the contrary, it almost certainly aids incumbents. The Court recognized that, because incumbents generally are well known going into an election, equalization will harm a challenger who lacks substantial name recognition or exposure of his views before the start of the campaign.

Mr. President, protecting incumbents is not, of course, an acceptable reason for abridging political speech.

Congress may not penalize candidates who refuse to abide by expenditure limits, Coercive, so-called voluntary schemes such as S. 137 are quite different from the system of genuinely voluntary partial public funding used in Presidential elections. Under that system, a candidate's decision whether to accept spending limits is affected

only by the inducement of public funding. If he declines to limit spending, his only cost consists in forgoing public support. The Supreme Court has made clear that the Government's offering an inducement in order to influence consitutionally protected speech is assessed under a more lenient standard than the Government's imposition of a penalty on the exercise of such choices. The imposition of a penalty will usually be plainly unconstitutional.

These proposals also penalize noncandidates who wish to make independent expenditures. Such expenditures are pure political speech and enjoy the strongest first amendment protection. It is highly doubtful whether the Government may seek to deter them by imposing the cost of additional public support for the speaker's opponent. Indeed, because equalization of resources is not a permissible governmental interest, payments designed to enable a candidate to respond to independent expenditures are probably unconstitutional for that reason alone, without regard to their inhibiting effect on independent spending.

This aspect of the spending plan may also violate the doctrine of cases such as Miami Herald Publishing Company versus Tornillo, under which the Government may not compel a speaker to subsidize the speech of his opponent. In Tornillo, the court struck down a Florida law which required newspapers to offer free space for a reply by candidates whom the newspaper had ciriticized. Under these proposals, independent spenders and contributors may trigger additional Government support for their opponents by speaking themselves. This content-based rule deters free speech and thereby raises very serious questions under the first amendment.

Thus, Mr. President, the spending limitations proposed by S. 137 would present such a host of constitutional problems that it is more suitable for an issue spotter on a law school exam than for serious consideration by this body. Moreover, such spending limitations do nothing to correct the real problems with our system of campaign finance: the power of special interest money provided by PAC's, and nonparty soft money.

Mr. President, I want to continue my remarks with some observations about soft money. There has been a lot of discussion over the last couple of years about what is now being called sewer money, and I think it important that we begin to define that and to have some facts in the RECORD upon which Senators can begin to focus as we lead toward hopefully passing new campaign finance legislation.

I want to focus for the balance of my remarks this morning on the particularly corrupting form of sewer money gushing beneath the surface of our electoral system. This sewer money poses an extreme threat to health of our democracy.

There are no limits on this sewer money. The polluters are not required to disclose to the public how much of this sewer money they are dumping into the electoral system.

I am referring, of course, to big labor's massive, unreported soft money expenditures in Federal elections. This money comes from compulsory union dues and it is spent over the objections of many union members who do not like seeing their hard-earned dollars turned into sewer money.

The scope of this sewer money is hard to pinpoint because the reporting and disclosure requirements are virtually nonexistent.

The National Right to Work Committee estimates that unions collect $5 billion annually in union dues. The U.S. Department of Labor says unions covered by Federal reporting requirements collected $3.3 billion in annual dues. Precisely how much of these billions in union dues are pouring into Federal elections is, frankly, unclear, but reports compiled by the press and a host of campaign finance experts indicate that it is at least in the tens of millions of dollars per election cycle.

This compulsory union soft money, unlike union PAC contributions, does not go directly to candidates in the form of cash contributions. Rather, this soft money comes from union treasury funds and pays for indirect, but extremely valuable assistance to political parties and campaigns.

The most obvious way in which this sewer money taints Federal elections is through contributions made directly from union treasury funds to Federal party building accounts. This type of sewer money has received a lot of attention from the press.

Brooks Jackson, in his book "Honest Graft," described how union soft money subsidized one such party-building activity of the Democratic Congressional Campaign Committee in the 1986 election cycle:

> Coelho went to the annual winter meeting of the AFL-CIO in Bal Harbour, Florida. He met with the presidents of one union after another, over breakfast, lunch, and dinner. He asked each one to pledge $100,000 to his committee during the year.
>
> The Capital Trust project represented only part of the soft money that fueled Coelho's campaign committee, but it was especially important. Indirectly, the funds subsidized the campaigns of Democratic candidates who used the party's television studio.

Brooks listed several major contributions to this party account, including $25,000 from the Carpenters Union, $25,000 from the Steelworkers Union, and $50,000 from the International Ladies Garment Workers Union.

Regulating or disclosing these direct, external contributions of union soft money has been widely discussed by Senators. However, these huge sums of sewer money pale in comparison to what is spent internally by unions on behalf of Federal candidates. These internal expenditures, comprising the vast bulk of union soft money, seem to be the least understood by many Members of Congress. There are three major categories of internal union sewer money now allowed by loopholes in the Federal Election Campaign Act.

First, a union can spend its treasury funds to pay the overhead cost of operating its political action committee. These costs include staff salaries, rent, utilities, computer expenses, postage, and mailing list maintenance. There is no limit on PAC subsidization, and no reporting and disclosure.

According to Federal Election Commission reports, labor PAC's gave nearly $36 million to Federal candidates during the last election cycle. Congressional Quarterly says that experts estimate that a company or a union spends a minimum of 50 cents for every $1 the PAC raises in contributions. This figure gives us an estimated $18 million in compulsory union soft money that subsidizes the big labor PAC's.

A second category of internal compulsory union sewer money is comprised of union communications to union members and their families. These communications can expressly advocate the election or defeat of Federal candidates. These expenditures come in the form of mailings, newsletters, phone banks, political surveys, and such. All of these epxenditures repeatedly drive home to union members and their families negative or positive messages on targeted Federal candidates.

This is the only kind of compulsory union soft money that must be disclosed to the Federal Election Commission. However, huge gaps in the reporting requirements prevent us from getting a clear picture of the magnitude of these internal advocacy messages

A National Journal article listed some of the gaps in reporting requirements on internal union advocacy mailings:

> Only communications in which more than half of the message is devoted to expressly advocating the election or defeat of a particular candidate must be reported.

So a union can slap an endorsement on the front cover of a four-page newsletter, list coming events on the next three pages and report nothing to the FEC. Nor must it report nonpartisan voter registration or get-out-the-vote efforts. Any union organization, such as a local, that spends less than $2,000 in an election does not have to report any of its spending to the FEC. And

the investments that unions make in the infrastructure needed for these communications—computer capacity, telephones, staff—need not be reported either.

Congressional Quarterly said that the $4 million in internal union communications reported to the FEC in the 1988 election cycle is "a figure that does not begin to reflect labor's value to the Democratic Party."

The third type of internal union sewer money allowed by the FECA is any money spent for supposedly nonpartisan voter education, registration, and turnout programs targeting union members and their families.

Paul Jensen, the labor liaison between the AFL-CIO and the Dukakis Presidential campaign, estimates that the value of the union's supposedly non-partisan get-out-the-vote drive to Dukakis was $20 million. Jensen told Congressional Quarterly that this money never shows up on FEC reports because a good program targets mostly Democratic votes without triggering the reporting requirements that cover internal union communications expressly advocating the election or defeat of Federal candidates.

Here are some examples of supposedly nonpartisan union phone bank operations:

The October 11, 1988, Washington Post reports:

For organized labor, the past five weeks have been a warm up. * * * Armed with nearly $40 million in cash, an army of volunteers * * * labor is moving into the critical get-out-the-vote phase of its campaign to elect Democratic Presidential nominee Michael Dukakis. Union officials said they have assembled the most sophisticated election operation in memory. * * * The CWA * * * has ordered everyone on its 200-member field staff not actively involved in contract negotiations to spend full time on the election.

And from the September 20, 1988, Wall Street Journal:

The AFL-CIO plasters its newspapers with the Dukakis message and follows with videos and millions of flyers. It expects to field 500,000 volunteers. The American Federation of Teachers sends 16-minute videos to 100 locals.

The United Auto Workers taps union publications and the mails. The Communications Workers turns to phone banks to get out Democratic votes.

From a Los Angeles Times report on the 1984 elections we learn that the volunteers referred to in these reports are often paid with compulsory dues sewer money:

A Mondale campaign official said:

The AFL-CIO in Ohio has set up 80 telephone banks with a total of 400 telephones that will be used to call every union member in the state several times before the November 6 election. At the state's biggest phone bank in Cleveland, retired and unemployed unionists are paid $4 an hour to make a total of 10,000 calls a day "They run it like a military camp up there—you have to raise your hand if you want to go get a Coke."

The results of these supposedly nonpartisan registration and get-out-the-vote drives are predictable.

Union members targeted for these drives are constantly barraged with internal union communications prior to the election.

According to Congressional Quarterly:

They will hear local union officials promote certain candidates. They will be polled about their intentions. The undecided will get literature. Many will go to the polls with union slate cards in hand.

(Mr. KERREY assumed the chair.)

Mr. McCONNELL. The problem, then, with union sewer money does not lie solely in the massive contributions made directly to Democratic Party accounts out of union treasuries. Nor is it fully addressed by an examination of the tens of millions of dollars in special interest money that goes directly to candidates from Big Labor political action committees.

To fully address the corrupting influence of this union sewer money, we must take into account the massive internal union expenditures that pay for PAC overhead, internal membership communications advocating the election or defeat of candidates, and for supposedly nonpartisan get-out-the-vote drives that have a decidedly partisan outcome.

Again, we do not know how much sewer money is involved here. The National Right to Work Committee estimates that the total value of internal union soft money is $300 million per election cycle. It could be higher. Herb Alexander, director of the Citizens Research Center, says unions spent at least $45 million on these activities in the 1988 election cycle.

The size of these expenditures is more than enough reason for the Senate to enact tougher regulation and more meaningful disclosure of this sewer money.

But the need for reform is made even more urgent by the coercive nature of these contributions, and the fundamental trampling of union members' first amendment rights that is going on in unions across the country.

I want to stress that this Senator is determined to do everything he can to rid our system of all sewer money.

However, Big Labor soft money has an even greater stigma attached to it. This is the only money collected for Federal elections over the specific and vocal objections of many of the people forced to contribute it.

Only labor unions—and the politicians who bask in Big Labor's largesse—benefit from State and Federal laws designed to automatically—with no accountability—pump money into the union's treasury.

I am sure that every other political entity in this country would like to be relieved of the burden of vigorously searching at great cost, for voluntary contributions.

The National Labor Relations Act, the Railway Labor Act and collective bargaining laws for public employees in 20 States contain provisions allowing union dues to be required as a condition of employment.

As I stated earlier, billions of dollars in annual dues are collected under this system of compulsory unionism.

This money pours into Federal elections through the three loopholes in the FECA that allow union treasury funds to be spent in limitless and undisclosed amounts of PAC subsidization, membership communications, and get-out-the-vote drives. These are the three types of internal union sewer money that I have described.

Corporations have the same three loopholes as do unions for the use of these treasury funds. However, there is an important distinction to be made between corporate treasury funds and the distinctly coercive nature of union treasury funds.

A few years ago, the Machinists Union sued the FEC to stop expenditures of corporate treasury funds in connection with Federal elections. The union argued that the use of corporate treasury funds to support a PAC's administrative expenses violates the first amendment rights of dissenting shareholders. The U.S. Court of Appeals for the District of Columbia Circuit ruled that the machinists "reach too far in equating the situation of a worker who is compelled to join a union, or to pay union dues on pain of losing his employment, with that of a shareholder in a publicly held company whose livelihood does not depend on retaining stock in a corporation involved in political activity he opposes and whose investment is tenuously linked to the establishment and operation of the corporation's PAC." While a corporation's use of soft money may be just as irresponsible and odious to its shareholders as the union's expenditures are to dissenting members, shareholders at least are free to invest their money elsewhere. They can invest in some other company.

Compulsory union members do not have this luxury. They must pay the dues that support political causes they oppose or be fired. Mr. President, losing your livelihood because of your political beliefs is too steep a price to pay for freedom, especially in a nation like ours that prides itself in protecting the freedoms of association and political expression.

While the Members of this body may have widely divergent views on taxpayers financing of elections, spending limits, broadcast rates and other campaign reform issues, I believe there is one basic issue on which we all can agree:

No one should be required to support political causes to which one is opposed. An employee should not have to contribute to the company PAC in order to keep his or her job. Nor should an employer be able to deduct a portion of the worker's salary to support political candidates of the employer's own choosing. That would be a fundamental and unconstitutional deprivation of the worker's political rights.

Similarly, a worker should not be forced to subsidize the political activities of a union if he or she objects for whatever reason. This principle of workplace freedom was embraced by the Supreme Court in the 1988 case, Communications Workers of America versus Beck. Harry Beck, a union member, did not like the fact that an untold portion of his compulsory dues were being used to pay for the union's extensive political operations. He brought suit and the Supreme Court agreed that he had a right to a refund from the union for the portion of his dues being used for political purposes.

Harry Beck and a relative handful of workers have gotten their money back—or at least some of it. But the union leadership has resisted all efforts to extend the right of political freedom in the workplace to all workers. It has stonewalled on disclosure of how much is actually spent on political activities, and it continues to refuse to inform the rank and file about the political rights to which they are entitled by law. Furthermore, the legal system requires underfinanced workers to battle an army of union attorneys through long and costly litigation. And, because most of the compulsory union dues are spent on unreported and undisclosed in-kind contributions to political candidates, the abuse of the worker's constitutional rights is often hard to track. Thus, despite the Supreme Court's clear pronouncement on this issue, workers continue to be deprived of political rights because of an intransigent and insensitive leadership.

There are many examples of this abuse of union members' political rights.

Unions spent millions of soft dollars opposing George Bush, despite the fact that large blocks of union members favored the President. One poll showed that 33 percent of union members had their vote for the President canceled by the expenditure of their forced dues to pay for soft money expenditures on behalf of Michael Dukakis.

Big Labor PAC contributions, subsidized by compulsory union sewer money, also do not always reflect the views of union members. Surveys show that 30 percent of NEA members are Republicans, yet NEA officials gave PAC money to Democrats by a ratio of 16 to 1.

According to columnist Warren Brooks, polls show that union members consistently support a balanced budget amendment by a margin of 60 to 70 percent. However, Big Labor PAC giving went to the National Taxpayers Union's 20 worst-rated Congressmen by a ratio of 70 to 1 over the National Taxpayers Union's 20 best-rated Congressmen.

And despite the legal hurdles and institutional intransigence by unions that face dissenting members, thousands of workers are suing in court to get their money back. The National Right to Work Legal Defense Foundation is litigating in 350 such cases across the country. Clearly, Mr. President, we have a serious problem in our Federal electoral system with compulsory union sewer money being spent in contradiction to the beliefs of forced dues payers.

No campaign reform proposals can be complete without addressing this outrageous abuse of union members' compulsory dues. In fact, ignoring the compulsory dues problem, while placing restrictions on other types of money in Federal elections, will reward the perpetrators of this corruption by enhancing the impact of their sewer money relative to all other participants in the Federal election system.

For this reason, the Republican campaign reform initiative contains legislation that would put a condition on the use of union membership dues for political activities such as get-out-the-vote drives, political communications to members, and the expenses of PAC fundraising.

If a union wanted to dip into the dues treasury for these purposes, it would have to inform its members of their constitutional right not to pay for such political activities. Workers would have the right to know how much of their dues were being spent for political activities, and they would have a right to a partial refund of those dues if they objected to the union's political use of their money.

Workers presently cannot be compelled to fund the political activities of their employers; they should not be forced to fund the political activities of their union if they choose not to do so. The Republican campaign reform initiative gives workers the right to decide how their union dues are spent, at least when it comes to political activity. We are not interfering here with the current labor laws authorizing unions to demand payment to cover the direct costs of collective bargaining.

The desirability of these coerced payments for collective bargaining would be the proper subject of a debate on labor laws.

This is a debate on whether or not our election laws sufficiently guard against corruption of individual liberties. We are specifically dealing with that portion of compulsory dues being spent for political candidates and causes opposed by union members. The workers must have some say in where that money goes.

The right of free speech protected by the first amendment of our Constitution assures not only the right to say whatever one wishes, but also the right to refuse to speak if one disagrees with the content of the required message. That was the principle underlying the Supreme Court's decision in Beck, and that is the principle which I ask my colleagues to uphold in supporting the Republican campaign reform initiative. We in Congress cannot rest as long as there are Americans who are forced to support political views that are not their own. That is political slavery, and we should not tolerate it anywhere in the world, and certainly not here.

Mr. President, I ask unanimous consent that several news articles referred to in my remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Congressional Quarterly, Mar. 31, 1990]

REPUBLICANS SEEK TO REDUCE LABOR'S CLOUT AT THE POLLS

(By Chuck Alston)

Who is Harry Beck? The Portland, Ore., telephone company technician is a bit player in what is fast becoming a central drama in the partisan struggle over campaign-finance laws: the role Big Labor plays on Election Day.

Beck in 1988 won a 12-year legal struggle to force the Communications Workers of America to rebate dues it spent on activities, including electioneering, unrelated to bargaining labor contracts. His cause is now embraced within a broader GOP effort to restrict union involvement in federal elections.

Republicans want to write election laws that would make it easier for other workers to follow Beck. "We see this as a threshold issue: You can't have real campaign-finance reform unless you protect the rights of the working man," says Rep. Tom DeLay, R-Texas, sponsor of a House measure (HR 2589) he calls the "Worker's Political Rights Act."

Writing the Supreme Court's 1988 Beck decision and enforcement provisions into federal statutes would cost unions a small part of the more than $3 billion they collect annually in dues. A second GOP thrust would hit far harder. Senate Republicans plan to introduce legislation soon that would restrict unions' spending of treasury funds to register their members to vote and then turn them out on Election Day—activities long protected by federal law that are worth millions to Democrats.

These labor issues, certain to surface when the Senate considers campaign-finance legislation this spring, are at the core of the debate over what has become known as "soft money"—money raised and spent for elections that is not reported to the Federal Election Commission.

Federal law permits corporations, trade associations and unions to spend treasury funds freely, without disclosure, for nonpartisan voter education, registration and turnout programs. They can also advocate specific candidates to their members, stockholders or employees, although they have to disclose much of this spending.

"Republicans are absolutely convinced that this money, all raised off the books, does them in, and they feel it's one reason they have to raise more money on the books," says Larry Sabato, a University of Virginia political scientist who recently addressed Senate Republicans on campaign finance issues.

In the 1988 presidential primaries and general election, unions spent at least $45 million on these activities, $30 million of it in the general election and all but $5 million on activities that favored Democrats, according to Herbert Alexander, a University of Southern California political scientist who directs the Citizens' Research Foundation, an organization that studies election finances. "There is undoubtedly more money there," Alexander says.

Republicans from President Bush down have called for wider disclosure of unions' soft money since the 1988 election. Now they have stepped up the rhetoric.

"We want to regulate and restrict it, not just disclose it," says Sen. Mitch McConnell, R-Ky., head of a Senate Republican task force on campaign finance. "It's undisclosed and unlimited, and the rumors are it's out there in huge amounts, but nobody can verify that."

His Democratic counterpart, David L. Boren of Oklahoma, has indicated that Democrats will negotiate disclosure but no more.

Little wonder. Corporations and trade associations—more likely to split their efforts evenly among Democrats and Republicans—have never spent soft money to the extent that unions have.

And with the exception of the Teamsters union, most labor organizations back Democrats. What's more, unions are vigorously resisting the GOP onslaught.

"It's just a way of crippling unions," says George Gould, assistant to the president for legislative and political affairs of the National Association of Letter Carriers. "We're adversaries in the system, and if you cripple our ability to communicate with our people, you cripple our ability to play the game."

BECK SEEKS A REBATE

Beck, 48, has spent most of his adult life as an employee of what was once known as the Bell System. He now works for U.S. West, a regional Bell operating company.

Beck and 19 other workers sued the Bell system's chief union, the CWA, in 1976 with backing from the National Right to Work Legal Defense Foundation, an organization that opposes compulsory unions. The foundation now has more than 350 cases pending against unions, about half of them involving issues similar to Beck's.

Beck was not a member of the union. In lieu of dues, he was required to pay "agency fees" to the union under the labor contract it negotiated with American Telephone & Telegraph Co. Federal law permits such requirements to prevent employees from getting a free ride from union efforts, although 21 states with "right-to-work" laws ban such contractural agreements.

Beck objected to part of his fees going for politics and other non-bargaining purposes, and he sought a refund. Lower federal courts agreed with Beck, and as he awaited a Supreme Court decision, conservatives led by Jesse Helms, R-N.C., took up his cause as the Senate considered campaign-finance laws in the 100th Congress.

Eventually, the Supreme Court agreed with Beck in a 5-3 decision, holding that he couldn't be required to pay more than what the union needed to cover labor-management matters.

Bush joined in last June. "No American, not one, should be compelled to give money to a candidate against his or her will," Bush said in announcing his campaign-finance proposals.

It is unclear how much money is at stake. The Labor Department says unions covered by federal reporting requirements collect $3.3 billion in annual dues. In the Beck case, the district court found that 79 percent of assessed dues went for non-bargaining activities. That formula was later set aside, however.

The CWA says only 15 percent goes for activities beyond what it calls "representation." The union says it notifies members once a year that they are entitled to a refund.

Republican at the least want to write the court's Beck decision into a law stating compliance procedures. They also want to make the refund automatic, rather than subject to a request. Bush's campaign-finance bill (S 1727) would further allow workers' who actually join the union to also withhold a portion of their dues.

Unions, including the AFL-CIO, oppose codifying the Beck decision, even with language that goes no further than what the court already said. "We don't think it's necessary," says AFL-CIO spokesman Michael Byrne.

The postal workers Gould is more blunt: "We don't like what the court said."

Democrats might agree to write the Beck decision into law as part of a comprehensive package, says Greg Kubiak, a legislative aide to Boren. "But the Republicans always want to go beyond the Beck decision." he says.

SOFT MONEY FOR DEMOCRATS

The money Harry Beck objected to paying CWA is money many Republicans would just as soon bar from elections even if worker's didn't object to it.

Union treasury money enters elections in several ways. First, unions contribute heavily to party operations. Second, like companies, they are entitled to spend funds from their treasuries to underwrite the costs of running a political action committee (PAC). The PAC collects money from members to make donations to candidates. Experts estimate that a union or company spends a minimum of 50 cents for every $1 the PAC raises. Labor union PACs gave nearly $36 million to federal candidates during the 1988 election cycle. Democrats got $12 for every $1 given to a Republican. PAC contributions are limited to $5,000 per candidate per election.

By contrast, unions, corporations and trade associations can spend freely on soft-money activities such as voter registration, education and turnout. Because disclosure is spotty, soft money estimates vary wildly, beginning near $45 million per presidential election.

The only soft money that must be disclosed to the Federal Election Commission (FEC) is that which expressly advocates a candidate in "internal communications" to members, stockholders, employees or their families—and then only if it exceeds $2,000 in an election. There is no specific penalty for failing to disclose.

Nearly $4 million in internal union communications were reported to the FEC for the 1988 elections—a figure that does not begin to reflect labor's value to the Democratic Party.

"What unions bring to the table that really is a remarkable advantage is their membership contact program," says Paul Jensen, a Washington lawyer who in 1984 and 1988 served as the liason between the AFL-CIO and Democratic presidential contenders.

Jensen says a "valid estimate" of the value to a presidential campaign is $20 million. The money never shows up at the FEC because a good voter identification program can target mostly Democratic votes without violating the "express advocacy" provisions that force disclosure.

The efficiency is clearest in blue-collar cities such as Pittsburgh, where registering union members to vote is an election-year rite of spring. The umbrella organization for Pittsburgh's 156 AFL-CIO union locals, the Allegheny County Labor Council, contacts the unregistered among its 100,000 members. Later in the year, they will hear local officers talk up certain candidates. They will be polled about their intentions. The undecided will get literature. Many will go to the polls with slate cards in hand.

"Allegheny County is a good labor county," says Paul Stackhouse, the chairman of the council's political committee. The county, home to the headquarters of the United Steelworkers of America, went 60-40 for the Democratic presidential nominee, Massachusetts Gov. Michael S. Dukakis, over Bush.

Members of the International Association of Machinists and Aerospace Workers, a union strong in Washington state, vote 70 percent Democratic, according to William J. Holayter, the union's director of legislative and political action. Only Democrats who are "Common Cause nervous" would vote the union's turnout operation out of business, he says, referring to the public affairs lobby that has called for disclosure, but not limits, on labor and corporate soft money.

"Even Mondale got 68 percent of our vote,' Holayter says. "I go on a crusade every now and then telling [Democrats] you guys are absolutely stupid and out of your minds if you fool with this."

GOP GIRDS FOR SENATE FLOOR BATTLES

To hear Sen. Mitch McConnell, (R-Ky.) tell it, Senate Republicans left their weekend retreat March 24-25 like a football team breaking huddle—fired up, unified and ready for the Democrats on campaign-finance reform.

"I think it's safe to say we are coming behind a measure," McConnell said. "If you were summing up Republicans at the moment, there is a growing sense of unity to ax PACs and do something about non-party soft money."

So-called soft money is raised and spent outside the federal campaign-reporting system. McConnell was referring in particular to money spent by corporations, trade associations and unions for election activities as well as by tax-exempt organizations for voter-registration drives. The vast majority of money that has become the subject of controversy in the "Keating Five" scandal involves efforts by Sen. Alan Cranston, D-Calif., to raise money for tax-exempt voter-registration programs.

One of the chief concerns senators expressed at their West Virginia retreat was the way the public views the GOP on the issue. They complained that Republicans often come off as the impediment to reform because they oppose Democratic initiatives that they believe will tilt the playing field. "We need to stand on the positive side rather than just be against what the Democrats do," said Ted Stevens, R-Alaska. Even so, the size of the Democrats' majority could again put the GOP on the defensive.

McConnell said that the Republican measure would be introduced within weeks and that he hopes it will help put them back on offense by the time Senate Majority Leader George J. Mitchell of Maine brings Democratic campaign-finance legislation to the floor. Mitchell has said he will do so within weeks.

The Senate Rules and Administration Committee March 8 approved, on a 7-3 party-line vote, a Democratic measure (S. 137) that includes state-by-state spending limits for Senate campaigns and a cap on aggregate political action committees (PACs) contributions. *(Democratic bill, Weekly Report p. 725)*

President Bush has proposed eliminating all business and labor PACs. McConnell indicated that the Senate GOP conference was unwilling to go that far. He said the bill likely would seek a limit of $1,000.

Outsiders invited to address Senate Republicans on the issues showered criticism on spending limits. GOP consultants Eddie Mahe and Charlie Black both advised against them. Black said he heard little dissent for the package McConnell proposes.

Mahe said there was considerable debate on the "flexible spending limits" proposed to the Senate by a panel of outside advisers chosen by Mitchell and the Republican leader, Bob Dole of Kansas. The advisers said that money raised from people living outside a senator's home state or from PACs should be subject to spending limits but that money raised from individuals within a state should not. *(Weekly Report p. 725)*

"There was hardly any support for something like that," Mahe said.

White House Chief of Staff John H. Sununu reiterated Bush's pledge to veto a bill that includes spending limits or that otherwise appears harmful to the GOP.

McConnell offered a partisan pep talk of his own during his talk on Sunday. "What I told the caucus was that this is not an ethics bill. We passed the ethics bill last year. This is a bill about partisan advantage, and it's safe to say Republicans are not going to get rolled and let the Democrats write the rules for our democracy."

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COURT: BUSINESS LIMIT OK

The Supreme Court's March 27 ruling that states can bar corporations from running independent political campaigns left unanswered where the court eventually will draw the line for non-profit corporations.

The court said in its 6-3 decision in *Austin* v. *Michigan State Chamber of Commerce* that a Michigan law requiring corporations to make their political expenditures through separate political action committees does not violate the First Amendment's protection of free speech. The case grew out of a newspaper advertisement, purchased by the chamber with treasury funds, that endorsed a candidate.

The court said corporations enjoy special legal status allowing them to accumulate vast wealth. This entitles a state to restrict their speech.

The court had said in the 1986 *Federal Election Commission* v. *Massachusetts Citizens for Life Inc.* certain small non-profit corporations could spend directly from their treasuries because they would have difficulty establishing separate funds, creating a disincentive to political speech.

The court in *Massachusetts* established a three-part test for non-profit corporations that it said the Michigan chamber failed to meet. One of these tests was its independence from the influence of business corporations.

"This is nothing more than the same decision in *Massachusetts* approached from the flip side," said Kenneth A. Gross, a Washington attorney who is a former associate general counsel at the Federal Election Commission.

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[From the Bureau of National Affairs, Inc.]

APPEALS COURT REJECTS MACHINISTS' CHALLENGE TO COMPANY SOLICITATION OF EMPLOYEES FOR PAC'S

The right of corporations to solicit contributions for their political action committees from executive and senior employees is upheld by a federal appeals court, which unanimously rejects the argument of the International Association of Machinists that such contributions give corporate PACs more power than labor PACs.

In an *en banc* ruling, the U.S. Court of Appeals for the District of Columbia Circuit finds no fault with a 1976 amendment to the Federal Election Campaign Act (FECA) that broadened corporations' rights to solicit PAC contributions. An eight-judge panel, in a *per curiam* opinion, finds unpersuasive the Machinists' contention that the amendment created an "explosive" growth both in the number of corporate PACs and in their spending power, resulting in an unconstitutional imbalance in the influence of corporate and labor PACs.

The challenge was brought by the union and six individual plaintiffs, including Machinists President William Winpisinger, whose participation was based on their right as voters to challenge election law. The case went to court under special provisions for expedited review of election law questions after the Federal Election Commission rejected the union's administrative complaint on the PAC contribution and solicitation practices of 11 corporations.

Until amendments were made in 1976, federal election law permitted companies to solicit funds for PACs only from shareholders, while unions could seek contributions from members. In a 1975 advisory opinion, however, the commission said a company could solicit all its employees, as well as shareholders, for PAC funds. Congress reacted to the sweeping commission interpretation by amending the Act in 1976 to limit corporate PAC contributions to executive and administrative, or career, employees as well as shareholders.

The Machinists contended that although Congress did not intend to create an imbalance between corporate and labor PACs, the amendments had that effect. The union argued that between 1975 and 1980 corporate PACs grew in number from 139 to 1,204, and their funds from $5.8 to $34 million; in the same span labor PACs increased only from 226 to 297, and their funds from $18.5 to $26 million. The union also charged that 90 percent of corporate PAC funds are contributed by executive and administrative employees.

But the court finds that the alleged disparity "is not purely one of dollars and cents" and is not caused solely by the amendments. The panel says it is unclear how many of the career personnel were permitted to make contributions earlier as shareholders.

"Nor, taking into account that labor union PACs just a few years ago were more prevalent, wealthier, and more powerful than corporate PACs, do [the Machinists] entertain the possibility that the relative strength of corporate and labor PACs may swing pendulum-like in step with the political fortunes of the day," the courts says.

In examining the legislative history, the court finds that there was a general consensus in Congress that the amendments restored the balance between corporate and labor PACs' strength that was upset by the commission's 1975 ruling. Further, the court finds that Congress had good reason to add career employees as permissible contributors, because they "share with stockholders a stake in the corporation's well-being."

"It is unlikely Congress will ever be able to achieve a perfect balance between the relative influence of corporations and labor unions in federal elections," the court says. "In any event, the Constitution, as historically and currently interpreted, does not afford any guarantee against one person's or group's ability to fund more speech than can another." The court concludes that Congress "attempted to treat corporations and labor unions in a relatively comparable manner."

CAREER EMPLOYEES' FIRST AMENDMENT RIGHTS NOT IMPAIRED

The Machinists' second challenge—that the solicitation of funds under "inherently coercive" circumstances impairs a career employee's constitutional right to abstain from political acitvity—also is rejected by the court. "We cannot conclude that such solicitation inevitably forces career employees to compromise their political beliefs in order to avoid jeopardizing their corporate positions," the court says.

Union statistics that 90 percent of corporate PAC funds are derived from career employees do not necessarily imply coercion, the court states. "From the very same figures one could argue with equal force that career employees contribute to their corporate PACs out of a desire to further what they perceive to be their own best interests or the best interest of the corporation, and because they have the wherewithal to do so, not becuase they are coerced or intimidated," the panel says. Furthermore, Congress was aware of the possibility of employer coercion but enacted safeguards in the amendments to prevent it, the court adds.

Finally, the court rejects the union's third challenge—that the use of corporate funds to support a PAC's administrative expenses violates the First Amendment rights of dissenting shareholders. The panel finds that the union's claim "stretches beyond reasonable proportion" earlier rulings prohibiting unions from requiring members to support the union's ideological views as a condition of employment. The Machinists "reach too far in equating the situation of a worker who is compelled to join a union, or to pay union dues on pain of losing his employment, with that of a shareholder in a publicly-held company whose livelihood does not depend on retaining stock in a corporation involved in political activity he opposes and whose investment is tenuously linked to the establishment and operation of the corporation's PAC."

The opinon was signed by Chief Judge Robinson and Judges Tamm, Robb, Wilkey, Wald, Mikva, and Ginsburg.

CONCURRING OPINION FILED BY JUDGE EDWARDS

Although disagreeing with the court's rationale in rejecting the Machinists' third challenge, Judge Edwards concurs in the finding that the use of corporate funds to support PACs is not a violation of dissenting shareholders' First Amendemnt rights. However, he reasons that it is not a violation because there is no governmental requirement that the funds be spent.

By the majority's rationals, Judge Edward says, a stockholder has less right to control the political use of his investment than a union member has to control the use of his dues. "One simply cannot conclude that corporate stockholders are never coerced when the money they have invested in the hope of pecuniary return is spent for political purposes," he says. While stockholders may have a "ready market" for their corporate shares, the same may not be true for a minority stockholder in a closely held corporation, Judge Edwards contends. He continues that if the stockholder relies on dividends as a source of income, "who is to say that he is not coerced if the corporation establishes and finances a PAC that supports candidates who are antithetical to his political views?"

SUPREME COURT REVIEWING SIMILAR CASE

Joseph L. Rauh, Jr., one of the attorneys who represented the Machinists, declined comment on the court's ruling and said no decision had been made on a U.S. Supreme Court appeal, but added "the Machinists don't give up lightly."

The Court on April 15 granted review of another ruling on the same FECA provisions by the District of Columbia Circuit. In that case, the appeals court upheld the solicitation of PAC funds by the National Right to Work Committee from persons who it considered "members" by virtue of their having contributed to NRWC (1982 DLR 65:A-6).

Rauh declined to speculate whether the Machinists would seek Supreme Court review as part of the right-to-work case, stating that although the cases deal with the same provision of the election law, the applications are widely different.

(*International Association of Machinists* v. *Federal Election Commission;* CA DC, No. 81-1664, April 6, 1982).

(Decision appears in Text Section D).

LABOR LEADERS WEIGH OUTCOME

AFL-CIO President Lane Kirkland congratulated Bush in a telegram, and said the AFL-CIO "stands ready to assist you in constructive efforts to build a better nation and better lives for all Americans."

In a subsequent statement, the federation leader cited a poll conducted for the AFL-CIO by the Wilson Center of Alexandria, Va. showing that 69 percent of AFL-CIO members and 68 percent of those living in AFL-CIO union households voted for Dukakis. These results, which he noted are similar to ABC News exit polling data showing that 67 percent of the members of union households voted for Dukakis, "means that AFL-CIO support for the Dukakis-Bentsen ticket ran more than 20 percentage points ahead of the national vote.

Jack Sheinkman, president of Amalgamated Clothing and Textile Workers Union, said he was "naturally disappointed" that Dukakis did not capture the White House, but he said he was "heartened" by the results in House and Senate races.

[From the Washington Times, Mar. 22, 1990]

(By Warren Brookes)

TOUGH ON THE DEFICIT OR THE WORKER?

The willingness of workers to ignore union sanctions and cross picket lines may stem from the continued rift between big labor's politics and rank-and-file interests.

Last week, one of big labor's best friends, House Ways and Means Chairman Dan Rostenkowski, Illinois Democrat, proposed a "deficit reduction" plan that calls for $195 billion in higher taxes over the next five years. Not only do 77 percent of those higher taxes come directly from the working class (including a 20-cent per gallon gasoline tax), but they come on top of the $1,076 billion to be produced by higher revenues from economic growth from 1991 to 1995.

This means instead of being a "tough" plan to slash the deficit, the Rostenkowski plan would in fact support a spending spiral in everything by defense and Social Security.

That's because spending interests, especially big labor, still set the Capital Hill agenda. As Barron's editor Robert Bleiberg wrote last September, "Even as organized labor loses economic ground, its political clout perversely continues to mount."

At the very moment that Mr. Rostenkowski was floating his $39-billion-a-year, new-revenue honey pot, Sen. Jay Rockefeller, West Virginia Democrat, was promoting his Pepper Commission report, which calls for the eventual new spending of as much as $70 billion a year to fill the health-insurance gaps in our nation's medical-care system.

The main push for such new spending is coming from big labor and big business facing tough competition from non-union smaller companies and entrepreneurs who have either elected to go uninsured or provide less-costly coverage with larger deductibles.

Another example is child care. Last November, the House and Senate came close to passing out a program whose initial $2 billion to $4 billion price tag is only a down payment on the creation of a massive new child-care bureacracy with costs of $70 billion to $100 billion.

The main beneficiaries of that explosion would be the unions of state and county employees, human services providers and education, along with big business, which is under growing pressure from big labor to provide child care as a fringe benefit.

There are a host of other such common goals: protection of entrenched management and unions against hostile takovers and leveraged buyouts; re-regulation of some parts of the transportation industry; subsidies and quotas for the semiconductor, steel and textile industries; the gradual replacement of private health insurance with a national system.

The outcome of this mutual wish list will be higher prices and higher taxes for the American consumer, because big labor's agenda is increasingly set by the government unions, especially the National Education Association and the American Federation of State, County and Municipal Employees.

One of the very fairest congressional rating services is the National Taxpayers Union, which rates senators and representatives on how often they stand up against added spending, whether that spending be for social programs or for defense.

As such, National Taxpayers Union ratings punish conservatives for their pro-defense votes and reward liberals for their anti-defense votes. The only common interest is is how well politicians oppose the overall rise in government spending and taxes.

In 1988, the 20 congressman with the best (highest) National Taxpayers Union ratings for holding the fiscal line (an average of 63 percent of the time) received a grand total of only $23,250 from the political action committees of organized labor, only $1,163 per politician, according to an analysis by the National Right To Work Foundation. (See Table.)

By contrast, in 1988, the 20 congressman with the worst spending records—the biggest spenders, who defended taxpayers less than 11 percent of the time—received a grand total of $1,616,501, an average of $80,825 each, from the same big labor political-action committees.

In short, big labor rewarded the biggest spenders by nearly 70-to-1 over the taxpayers' best friends. Year after year, polls of union members show they support a balanced budget amendment by margins of 60 percent to 70 percent. Yet, it was big labor that killed this amendment in 1982 in the House after the Senate passed it easily.

Surveys of the membership of the NEA show 40 percent Democrat and 30 percent Republican registration. Yet the NEA gives money to Democrats at a 16-to-1 ratio over Republicans and to liberal big spenders by even larger margins.

That kind of aggressive union monetary manipulation is behind Congress' low turnover rate and its unwillingness to put taxpayers' interess first. Until the administration's embrace of Mr. Rostenkowski's proposal, taxpayers' only hope lay in President Bush's willingness to stand up against those interests. Is that hope now fading?

HOW BIG LABOR SUPPORTS BIG SPENDING

[Ratings by National Taxpayers Union]

| | NTU rating (average) | Labor PAC dollars 1988 (average) |
|---|---|---|
| 20 "Taxpayers Best Friends" | 62.6 | $1,163 |
| 20 "Biggest Spenders" | 10.6 | $80,825 |
| Ratios (rounded) | 6:1 | 1:70 |

Sources: Federal Election Commission, National Taxpayers Union, National Right to Work Foundation.

[From the Washington Times, July 5, 1988]

NEA BACKS DUKAKIS, 4 FOR NO. 2 SPOT

[By Carol Innerst]

NEW ORLEANS.—National Education Association President Mary Hatwood Futrell said yesterday the NEA has recommended four likely running mates to Massachusetts Gov. Michael Dukakis, including the Rev. Jesse Jackson.

The others listed in a letter she wrote to the likely Democratic nomninee for president are Tennessee Sen. Albert Gore Jr., Ohio Sen. John Glenn and Florida Sen. and former Gov. Robert Graham.

The NEA also endorsed overwhelmingly a proposal that each state name at least one school district a "learning laboratory" where teachers could experiment and take the lead in improving schools.

"Hot dog! You did it!" Mrs. Futrell said, after the delegates gathered for their annual convention passed her pet proposal by voice vote.

In a 45-minute keynote address before 8,227 delegates had urged teachers to estab-

lish "a national network of innovative school districts."

Such districts, she said, might do away with academic tracking, finance schools by means other than property taxes, experiment with more flexible scheduling, or anything else it wanted to try in the name of reform.

Mrs. Futrell also told the union's 8,227 convention delegates to throw their clout behind Mr. Dukakis as "the most electable and desirable candiate" going into the Democratic National Convention.

While the NEA has not traditionally endorsed for the vice presidency, the possibility exists this year, Mrs. Futrell indicated. The endorsement decisions left the NEA's black caucus unhappy over the treatment Mr. Jackson received from the NEA and the caucus could make an endorsement motion from the floor, she said.

Mr. Dukakis "is spending the holiday weekend with the Jacksons," she said. He is not at the convention because his legislature is in session, but is scheduled to address the NEA via satellite at 5 p.m. today.

There are 1,782 ethnic minorities among the 8,227 delegates to the NEA's Representative Assembly, and 1,343 of them are black teachers, according to NEA spokesman Kenneth Butler. About 12 percent of the 1.9 million membership is minority, he said.

The NEA's endorsement of Mr. Dukakis was made by the Political Action Council June 30 and approved by the Board of Directors. It does not necessarily signal the wishes of the membership.

Whom the union will endorse in the general election will be determined by a mail ballot in August. Vice President George Bush will be on that ballot although he has refused to sit down one-on-one and talk to the NEA, Mrs. Futrell said.

"We should give our members an option—it's a democratic process," she said."No party has the majority among NEA members."

The NEA's 1.9 million members are 30 percent Republican, 40 percent Democrats and 30 percent independent, she said. About 30 teachers and alternates will attend the GOP National Convention in New Orleans in August and about 400 delegates will go to the Democratic National Convention in Atlanta. She will attend both, she said.

In her keynote speech to the convention delegates, Mrs. Futrell portrayed the Reagan administration as "reactionary" and "uncaring" about children. Mr. Dukakis, she said, would be a "pro-education president."

In an interview with The Washington Times, Mrs. Futrell said the NEA would seek a meeting to discuss educational concerns with whoever wins the Oval Office.

If the victor is Mr. Bush, she said she hoped he would reflect upon the wrangling between the NEA and the Reagan administration "and take a lesson from those eight years."

Although Mr. Bush refused to submit his candidacy to the NEA's screening process, Mrs. Futrell said she was among 30 civil rights leaders invited to Mr. Bush's home recently to hear his views on various policy issues. The topic he mentioned most was education, shea said.

"I believe he would be willing to work with the education community as a whole," she said. "I think we probably will agree on more issues than people believe."

Mrs. Futrell said the vice president has talked abut learning laboratories—a proposal very similar to the one passed yesterday.

"So at least he is thinking conceptually along the same lines as the NEA. But I don't know how he would implement his learning labs. I would like the opportunity to chat with him about that, because we believe we have to expand that concept to involve teachers and to be site-based."

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[From the Los Angeles Times]

LABOR'S EFFORT FOR MONDALE MAY BACKFIRE

(By Sara Fritz)

COLUMBUS, OH.—Like other union leaders in these closing days of the 1984 presidential campaign, Rex Hamlett of the Communications Workers of America is working hard to turn out the labor vote for Walter F. Mondale. And like many of his fellow workers, Hamlett is haunted by the thought that the better he does, the worse it may be for labor's chosen candidate.

"We've learned some awful hard lessons that labor can't force their membership to vote a certain way," Hamlett said recently. "How they are going to vote this year is kind of up in the air," he added, conceding that President Reagan drew half of his union members' votes in 1980—and that Reagan remains popular with the rank and file today.

So it goes all across the nation's industrial heartland. Although Mondale is depending on labor to deliver the blue-collar vote, Democratic strategists admit that labor's effort could ultimately hurt their candidate by turning out more union members favorable to Reagan than to Mondale.

"I admit I have been prepared, if we see that we were not doing too well with the labor guys, to tear down the labor effort," said Don Sweitzer, Ohio coordinator of the Mondale campaign.

By all accounts, union leaders are working harder and more enthusiastically for Mondale than they did for Jimmy Carter four years ago, or for any Democratic candidate since Hubert H. Humphrey in 1968. They are registering new voters, operating telephone banks, raising funds, printing anti-Reagan literature and bringing their members to rallies when Mondale or his running mate, Geraldine A. Ferraro, comes to town.

Nationally, organized labor is expected to spend a record amount of money to help Mondale, although the exact sum is impossible to calculate. The American Federation of State, County and Municipal Employees, for example, will spend $3.5 million this year, compared with $2 million in 1980.

Meanwhile, AFL-CIO President Lane Kirkland is touring the industrial belt on Mondale's behalf and another top AFL-CIO official, Jim Kennedy, has been deployed to work part time at Mondale headquarters in Washington.

"The labor guys are our biggest cheerleaders," said Sweitzer, who describes the labor effort as "the best I've ever seen."

MILLIONS NOT REGISTERED

Still, millions of union men and women remain unregistered. Barely more than half of the Ohio AFL-CIO's 800,000 members are registered to vote. And while they tried to register only Mondale supporters, union leaders fear that they signed up a good many Reagan supporters as well.

Without the labor vote, Mondale cannot carry the industrial states that are considered his indispensable base of support. At present, he appears to be trailing in all of those states, and a Los Angeles Times Poll completed on Oct. 15 shows the blue-collar vote almost evenly split, with 48 percent for Reagan and 46 percent for Mondale.

If the labor vote is to begin to affect the outcome, said John Thomas, spokesman for the Ohio AFL-CIO, 70 percent of union voters must cast ballots for the Democratic candidate—five points above the historic norm and 10 points more than turned out for Carter in 1980.

"You go in with 60 percent in your pocket and the battle is over the additional 10 percent," he said. "If we don't get 70 percent among trade unionists, we lose."

UNEMPLOYMENT HURTS EFFORT

Unfortunately for Mondale, the unions that appear to be doing the most to turn out their members are the growing non-industrial unions with the highest percentages of Republican members—the Communications Workers, United Food and Commercial Workers, National Education Assn. and the American Federation of State, County and Municipal Employees.

High unemployment in the smokestack industries has limited the political efforts of such staunchly Democratic industrial unions as the United Steel Workers and the United Auto Workers.

"We used to be able to call steelworkers' headquarters in Pittsburgh and they'd ship money over here by the carload," said a labor official who declined to be identified. "We can't do that anymore. The auto workers continue to talk a good game, but they don't do much either."

Although the building trades are known to be the most conservative unions in the labor movement, their leaders insist that high unemployment in construction has converted the membership into Mondale supporters. Larry Sowers, president of Carpenters Local 200, insisted that 85% of his members will vote Democratic, and Bob Merideth of Pipefitters Local 189 claimed 90% in his local will.

Four years ago, labor split during the Democratic primaries between Carter and Sen. Edward M. Kennedy (D-Mass.). "We turned off a lot of our membership on Carter when we campaigned against him in the primaries," admitted Norman Wernet, executive director of the American Federation of State, County and Municipal Employees.

This year, labor took the unprecedented step of uniting behind Mondale even before the primary season, and that effort appears to have paid off, at least in labor's campaign effort. "I see a great deal of difference from 1980 in terms of our enthusiasm and the willingness to get out and work," said Milan Marsch, Ohio, president of the AFL-CIO. "No one has been negative like in 1980."

National union registration figures are not yet available, but during the initial phase of labor's effort, which ended in early October, the unions claim to have registered an estimated 50,000 additional union members to vote in Ohio.

"We registered them until we were blue in the face," said Hamlett, whose local is made up of telephone installers and repairers. "We registered people in the cafeteria. We registered them at monthly meetings. We registered them everywhere we could find them."

MEMBERS CALLED

The AFL-CIO in Ohio has also set up 80 telephone banks with a total of 400 telephones that will be used to call every union member in the state several times before the Nov. 6 election. At the state's biggest phone bank, in Cleveland, retired and unemployed unionists are paid $4 an hour to make a total of 10,000 calls a day.

"They run it like a military camp up there—you have to raise your hand if you want to go get a Coke," said Sweitzer.

AFL-CIO officials in Washington are also stressing the need for shop stewards to talk one-on-one about Monday with union members though the million-member United Food and Commercial Workers warned its officers to avoid any arm-twisting that might spark a backlash against Mondale.

"One of the most personal things people do is vote for (a) President," said William Olwell, the union's public affairs director in Washington. "Our members tell us that they would resent any heavy-handed stuff."

But Ralph Lorenzetti, president of a Food and Commercial Workers local is ignoring the advice from Washington. He tells his members as bluntly as possible: "Look, we know a majority of you voted for Reagan last time. Vote for him again and you won't be here three years from now. If Reagan is reelected, employers are going to try to do the union in."

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[From the Washington Post, Oct. 11, 1988]

LABOR TRIES TO SPARK ENTHUSIASM FOR DUKAKIS

(By Frank Swoboda)

For organized labor, the past five weeks have been a warmup. This week marks the start of the presidential election campaign.

Armed with nearly $40 million in cash, an army of volunteers and perhaps more hope of winning than at any time this decade, labor is moving into the critical "get-out-the-vote" phase of its campaign to elect Democratic presidential nominee Michael S. Dukakis.

The goal is to get 65 percent of the union members in at least 10 key states to vote for Dukakis in the Nov. 8 election.

But there is a level of frustration among many union officials, who suggest that the labor effort for Dukakis is far more organized and efficient than the national Democratic campaign.

Labor is concentrating on the states with the heaviest union membership: New York, California, Pennsylvania, Illinois, Ohio, New Jersey, Michigan, Massachusetts, Texas and Florida. At this point, however, key labor officials see Florida as a lost cause—Dukakis is running behind Republican nominee George Bush by as much as 20 points in their polls.

Labor's effort is not confined to these states, however. Union political operatives point to Washington and Oregon as states where they expect labor's efforts and organization to make a difference. In terms of organization and volunteers, said Joan Baggett, labor coordinator for the Dukakis campaign, "our campaign has an edge in the field."

Labor brings more than people and tactics. AFL-CIO spokesman Rex Hardesty said union political action funds total between $36 million and $41 million, 300 percent more than in 1984. "This election's going to be close because Dukakis can compete," he said.

Union officials said they have assembled the most sophisticated election operation in memory, to try to overcome what they see as a lackluster national campaign by Dukakis. Their concern is that it will be hard for the unions to do well in the next 30 days unless the Dukakis campaign generates more enthusiasm among the voters.

Officials from nearly all of the politically active unions contacted in recent days said a major difference between this campaign and those in 1980 and 1984 is the active involvement of local union leaders. At this stage of the campaign in both the 1980 reelection campaign of President Jimmy Carter and the 1984 campaign of former vice president Walter F. Mondale, key union officers were giving only lip service to the candidate, these officials said.

"I think there's a lot more participation as far as the [union] leadership and political people are concerned," said the political director of one union. "There's almost a sense of desperation. Labor is much more organized and focused than the [Dukakis] campaign."

Until now, said Loretta Bowen, political director of the Communications Workers of America (CWA), many union people have been "searching desperately for a spark" to help ignite rank-and-file enthusiasm about Dukakis. Now, she said, "people realize there may not be that spark."

As a result, the CWA, one of a handful of politically active unions, has ordered everyone on its 200-member field staff not actively involved in contract negotiations to spend full time on the election.

Bowen said the union was concentrating its efforts on two tiers of states where it has large membership. The top tier, where CWA membership is the largest, includes New Jersey, Ohio, Texas and Tennessee. The second tier of important states where there also is sizable membership includes California, Georgia, Michigan, North Carolina, Pennsylvania and New York.

The United Auto Workers (UAW) union, whose efforts could spell the difference for Dukakis in Michigan and other key industrial states, this week will mail more than 1 million personalized, pro-Dukakis letters to UAW members. Each letter also identifies the individuals by their employer.

The UAW is distributing anit-Bush material at plant gates in the hope that members will use the material to argue against Bush during what research shows is a general willingness to discuss politics on the job.

Political research within the union shows the membership responds to that UAW spokesman Peter Laarman calls the "squeeze issues," such as concerns that the next generation will not be able to do as well economically.

Laarman said that so far Dukakis hasn't automatically appealed to union workers who may be ready to return to the Democratic Party. But he said he senses the campaign is beginning to coalesce among UAW members. "We're building," he said. "I don't think anyone is running away from the fact that this is a real tough battle."

Sam Dawson, political director of the United Steelworkers of America, said labor's campaign effort to date was "more organized than any I've seen since 1960." Key labor officials credit Democratic National Chairman Paul G. Kirk Jr. for building up the party's state operations since 1984. They said much of the campaign organization and coordination is being handled by the state party organizations rather than the Dukakis campaign.

Dawson said that until recently few workers seemed to focus on the election and there was little enthusiasm for either Dukakis or Bush. Now there are indications the membership is beginning to turn toward Dukakis, he said. "Our people sense that it can be won. We are close enough in the states that we have to win that we think we can do it."

This year, for the first time on any scale, key unions have been using focus groups to try to determine the message their members want to hear from candidates. The results have been surprising, union leaders said. In general, the research showed that the membership wanted facts—to help them make up their minds—not the traditional party or union political rhetoric.

Perhaps the best example of this was the National Education Association which, after endorsing Dukakis, put the pictures of both Bush and Dukakis on the front of its monthly newspaper. NEA's Ken Melley said the union attempted to present a balanced assessment of the two candidates and explain why the union picked Dukakis.

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[From the Wall Street Journal, Sept. 20, 1988]

LABOR LETTER: A SPECIAL NEWS REPORT ON PEOPLE AND THEIR JOBS IN OFFICES, FIELDS AND FACTORIES

(By Selwyn Feinstein)

Unions gear up for big election push for Dukakis.

With more money and enthusiasm than four years ago, the AFL-CIO launches a massive effort to get 13 million unionized workers to register and vote for Democratic nominee Michael Dukakis. "We sense this time we have a real chance," compared to 1984's futility when unions based Walter Mondale, observes Jerry Clark, political director of the American Federation of State, County and Municipal Employees.

The AFL-CIO plasters its newspaper with the Dukakis message and follows with videos and millions of fliers. It expects to field 500,000 volunteers. The American Federation of Teachers sends 16-minute videos to 100 locals. The United Auto Workers taps union publications and the mails. The Communications Workers turns to phone banks to get out Democratic votes.

But a few union officials complain their efforts are being hampered by confusion in the Dukakis camp.

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[From the National Journal, Mar. 15, 1986]

MONEY IN THE SHADOWS

(By Ronald Brownstein and Maxwell Glen)

No one knows how much America spends on politics.

"We know how much we spend on deodorant," said Arizona State University political scientist Ruth S. Jones, who studies campaign finance, "but we don't know how much we spend on elections."

The only thing certain about campaign spending is that the total spent on federal elections is at least tens of millions of dollars—and in all likelihood more than $100 million—greater than the amount reported to the Federal Election Commission (FEC).

FEC data provide only a base line figure on the resources devoted to federal elections. According to the commission's final reports on the 1984 elections—after netting out transfers between political action committees (PACs), the parties, and candidates—political activities in that cycle cost $1.155 billion (*See table.*) That figure represents the total of hard money—funds subject to commission contribution limits and reporting requirements—contributed to federal elections, as well as public financing for the presidential race.

But millions of dollars of additional spending exists in the shadows of the federal election law. Many kinds of political spending—usually grouped under the heading "soft money" but encompassing a wide range of disparate activities from voter registration efforts by nonprofit organizations

to centrally organized fund-raising drives by the presidential campaigns—don't fall under the legal reporting requirements.

"One of the false premises of election law," said Republican election lawyer Jan W. Baran, "is that it will enable you to account for all of the money being spent in politics."

For years, political scientist Herbert E. Alexander of the University of Southern California, who is also the director of the Citizen's Research Foundation, has made the most thorough effort to map the unknown terrain of off-book election spending. Alexander, who produces an estimate every four years of total political spending, calculates that spending on federal races in 1984 came in at $1.24 billion and that spending on races at all levels reached $1.8 billion, a 50 per cent increase from 1980.

These figures are necessarily rough approximations, as Alexander quickly concedes. "I've got to admit it is an art more than a science," he said. "We try to be as complete as possible, but it is not perfect."

When all kinds of soft money expenditures are considered, federal election spending may well exceed even Alexander's $1.24 billion estimate. The most well-known kind of soft money, which is usually defined to mean funds not subject to FEC reporting and contribution limits, is collected by the presidential campaigns to finance voter registration and turnout programs in the States.

Those funds are substantial. In the last election, the Democrats' Victory Alliance, which funneled money to state parties, raised $6 million in soft money. (The alliance also raised $16 million in hard money, most of which it transferred to the state parties, which deposited the money in their federal election accounts; the election law requires the state parties to use that money to pay for activities directly affecting federal elections.) According to figures collected by Alexander, Republicans centrally collected and disbursed about $5.6 million in soft money to the state parties for activities related to the presidential campaign.

State parties also raised funds for their own state election accounts—the activities of which are legally not supposed to, but almost inevitably do, affect federal races. (The GOP in particular focused on helping state parties raise money themselves.) How much those parties raised is unknown because state reporting requirements vary widely.

But a look at a few states with thorough reporting requirements indicates that state parties collected significant sums for their state accounts, in addition to the $61 million that they raised for their federal election accounts and that are reported to the FEC. In Georgia, New York, Ohio, Oregon and Wisconsin, the federal election account represented 20-40 per cent of total state party spending. That range suggests that state parties raised tens of millions of dollars beyond the figures they were required to report to the FEC. And that is only the start of the spending in the shadows.

UNION DOLLARS

One of the great mysteries of American politics is how much money labor spends on elections.

Union PACs collected more than $51.1 million in 1983-84 and spent more than $47.5 million, but that represents only a part of their effort. Organized labor also makes extensive contributions to nonfederal candidates that are not reported to the FEC.

Labor's real importance to candidates, though, is not so much the PAC dollars unions contribute directly to campaigns as the expenditures they make from their treauries to lobby among their members. In each election, labor spends millions of dollars in advocating its preferred candidates before the union rank and file, but how many millions is unknown, and estimates vary widely.

The National Right to Work Committee says that organized labor spent about $200 million in union treasury funds on campaign activities in the last election cycle. "It is almost impossible to put a dollar figure on it," said Clayton Roberts, the committee's vice president for public relations. But "if you wanted to build an ideal campaign organization and you started from scratch, it would be close to what the AFL-CIO has in place."

Murray Seeger, the AFL-CIO's information director, said the Right to Work Committee's $200 million figure comes "right off the moon." But the labor federation has no estimate of its own. In fact, Seeger argues that the nature of labor's activities, which depend so heavily on volunteers, makes it impossible even to guess how much it spends. "If you have a telephone bank, all done by volunteers, say, 25 people calling for four hours, how much is it worth? Is it the minimum wage, is it what they would be earning if they were stringing electrical cable somewhere . . . ? There is no way to value it."

The FEC requires unions (and businesses) to report some information on what they spend communicating with their members. According to FEC figures, unions spent $4.5 million contacing their members for Democratic presidential nominee Walter F. Mondale or against President Reagan and $600,000 supporting House and Senate candidates.

But the huge holes in the reporting requirements make those members meaningless. Only communications in which more than half of the message is devoted to expressly advocating the election or defeat of a particular candidate must be reported. So a union can slap an endorsement on the front cover of a four-page newsletter, list coming events on the next three pages and report nothing to the FEC. Nor must it report "nonpartisan" voter registration or get-out-the-vote efforts. Any union arm, such as a local, that spends less than $2,000 in an election doesn't have to report any of its spending to the FEC. And the investments that unions make in the infrastructure needed for these communications—computer capacity, telephones, staff—need not be reported either.

"The most important things unions do—phone banks, surveys which they do for their own internal targeting, these kinds of things—have never been reported," said Michael J. Malbin, a resident fellow at the American Enterprise Institute for Public Policy Research.

The result is huge gaps in the information filed with the FEC. Only 18 international unions (there are 94 in the AFL-CIO reported partisan communications with their members in the last election; among those that didn't were two of the most politically active unions, the United Auto Workers and the United Food and Commercial Workers, although the latter spent $68,000 independently on behalf of Mondale. Of the more than 53,000 local union branches, only five reported any political communications (though some internationals reported expenditures by locals crossing the $2,000 threshold as part of their own filings.)

More information, at least for public employee unions in certain states, will become available soon because of the Supreme Court's March 4 decision on *Chicago Teachers Union* v. *Hudson*. The Court ruled that public employee unions that are allowed to assess dues on nonmembers—who benefit from the union's collective bargaining activity—must establish added safeguards to prevent that money from being spent on political activities or lobbying. The Court required the unions to account strictly for all money spent on such activities, allow nonmembers a chance to challenge their calculations and reduce nonmembers' dues by the appropriate percentage. Nowhere do reliable estimates of political spending prove more elusive than at the state and local levels.

There are, to begin with, an enormous number of elected offices: Nearly 500,000 are contested every four years, according to the Census Bureau. But the biggest obstacle lies in the varying nature of state election laws. While most states require candidates, parties and other political entities to report their financial activities, they do so with different degrees of legal stringency and regulatory enforcement.

Because of the numerous obstacles involved in calculating the sums spent on state and local politics, most observers of campaign finance have focused only on pieces of the puzzle—governorships, the legislatures and ballot issues. Only one expert, Herbert E. Alexander, director of the Citizens' Research Foundation and a political science professor at the University of Southern California, has ventured a comprehensive estimate of the dollars consumed at the state and local levels, and he concedes that his figures may have a margin of error of as much as 20 per cent.

"There's some element of magic here," Alexander said, "But the point is that nobody else has done it, and so nobody can dispute our numbers."

Alexander estimates that approximately $550 million was spent on state and local politics in the 1983-84 election cycle. His figure includes an estimate of $280 million related to statewide and legislative elections, $200 million for local races and about $70 million that he believes was spent to promote or defeat initiatives, referenda and other ballot issues during the period.

It was, of course, a cycle in which only 15 states—and not such major jurisdictions as California, New York and Texas—held gubernatorial elections. Nor were the mayors' jobs at stake in Los Angeles and New York (although Chicago Mayor Harold Washington was elected in 1983).

Yet about 5,700 state legislative seats were contested in 1984, and 23 states put major ballot issues to the vote. Nationally, Alexander estimates, spending for legislative and statewide candidates rose 6 per cent from 1980-84 and virtually doubled for ballot issues. He estimates that the amounts spent on local races were about the same in both years.

Alexander's quadrennial effort to come up with a reliable figure is, in effect, a story of campaign regulation in America. As he has found, reporting requirements for receipts and expenditures are often defined differently from one state to another. And some states require candidates to report only their spending activity related to primary elections or their receipts from special-interest groups.

But differences in legal language aren't the major hazard. "In fewer than a third of the states are the data systematically and reliably compiled," Alexander complained.

He pointed out that few state governments are willing to allocate the resources needed to gather the information in some reportable form. Another problem is that in many states, only campaign financing activity related to statewide offices is reportable to the state election authorities; even in Wisconsin, which has one of the nation's most regulated and carefully monitored political industries, legislative candidates file with the county governments.

In fact, it is the major disclosure role played by county clerks and probate judges, among other local officials, that helps to make comprehensive analysis so risky. "Even in states with disclosure requirements, the farther down on the totem pole you go, the less disclosure that's likely to take place," Alexander said.

In their efforts to compile disclosure information, a few states have made Alexander's task somewhat easier than it would be otherwise. Washington, for example, reported that almost $30.2 million was spent in the state in 1984 on nonfederal elections. California has published figures showing that legislative candidates in the 1983-84 election cycle spent $45 million, and Wisconsin's published data show that $4.4 million was spent in that period. New Jersey, which held legislative elections in 1983, said that candidates for the state Senate and General Assembly spent $3.4 million that year.

For the most part, however, the political accountant must rely on a variety of governmental and nongovernmental sources to come up with a reasonable estimate. Assorted Common Cause affiliates and such news organizations as Gannett News Service, which estimated that $8.1 million was spent on legislative races in New York in 1984, become important information purveyors. From their tallies one can begin to extrapolate, as Alexander does, and estimate for all 50 states, although even he said that "you pray, you gaze at the stars" in the process.

Based on reports filed with the states and on the estimates of political professionals, it is evident that the amounts raised and spent vary from state to state, county to county and that the levels are increasing, even if not precipitously.

Gubernatorial campaign spending reflects both trends. In 1982, for example, candidates for governor in California, New York and Texas alone spent about $67 million, according to Common Cause. Although Republican Lewis E. Lehrman's personal contribution of $8 million accounted for more than a third of the $23 million he and other candidates spent on the New York race, the $22 million raised and spent by gubernatorial candidates in California nearly tripled the amount spent by both nominees four years earlier.

But the governorship doesn't carry a high price tag in every state. In *Money and Politics in the United States* (American Enterprise Institute for Public Policy Research, 1984), Ruth S. Jones, a political scientist and state election specialist at Arizona State University, said Democrat Ted Schwinden in Montana and Republican Frank White in Arkansas each spent roughly $500,000 to win the governership in 1980; and in 1982, it cost Republican Gov. William J. Janklow of South Dakota only $116,000 to win.

Jones added that gubernatorial races cost much more than contests for other statewide offices. She cited the example of Arizona in 1982, when the state treasury spent only 15 cents per vote to win 51 per cent of the vote in the same election that saw the incumbent governor, Democrat Bruce E. Babbit, spend $3 per vote to win 62 per cent of the vote.

"Such variations in campaign expenditures within and between states," Jones wrote, "Virtually precludes any useful summary statements about campaign financing for statewide offices other than the obvious conclusions that in any given year in any particular case for any specific office, the cost of a statewide campaign is highly dependent on the immediate electoral context of that election."

Michele M. Davis, executive director of the Republican Governor's Association, speculated that the costs of gubernatorial campaigns are going up, though not as much as those for U.S. Senate seats. "When you are talking to pros in the governor's races," she said, "you are hearing enough of them saying, 'Last time we were able to run for a million [dollars], now it's two.' "

But any attempt to base 1986 projections on 1982 or 1984 results would be risky because so much depends on the match-ups. "It's like trying to speculate what your budget is going to be for snow removal," said Charles H. Dolan, Jr., Davis's counterpart at the Democratic Governors' Association.

Projections for the cost of state legislative campaigns involve similarly frustrating variables. But, as with gubernatorial races, the costs seem to be rising.

According to an unfinished survey of state leaders by the Democratic State Legislative Leaders Caucus, the average cost of a campaign for the lower chamber is expected to range this year from as little as $300 in New Hampshire to as much as $75,000 in Michigan.

But Carter Hendron, executive director of GOPAC, a political action committee (PAC) that gives campaign funds to Repubican state legislative candidates, points out that some seats in the California Assembly will cost the winning candidates as much as $750,000. Indeed, social activist Tom Hayden spent more than $1 million in 1982 to win his Assembly seat. That year, Common Cause estimates, the average California Assembly seat cost almost $500,000, or more than double the cost in 1980. A Florida House seat, the group said, ran $38,000 on the average in 1980, or 58 percent higher than in 1982.

Legislative campaign costs vary with the nature of the jurisdiction and the sophistication of campaigns waged. Jeffrey M. Wice, who is overseeing the survey of state legislative leaders, says that more candidates are turning to the electronic news media and to pollsters. "The more you try to do those things you haven't done before, the more it is going to cost," Wice said. Similarly, Jeanette Wessel, executive director of the Maryland Republican Party, said that candidates for the state's lower chamber from metropolitan Baltimore would spend nearly twice as much as those from rural counties, in large part because of the increasingly sophisticated character of legislative campaigns.

"One of our delegates pointed out that when he first ran [in 1974] he spent $2,500," Wessel said. "Now he expects his race to cost him $25,000."

Yet William P. Roesing, a GOPAC consultant, contends that the use of electronic media remains extremely rare. The degree to which big dollars are spent at this level, Roesing argues, depends in large part of the willingness of the state party organizations to commit the money for lists, polls and other sophisticated political tools.

"The budgets [for two candidates] may be the same, but a candidate who is working from the same resources can make them go a lot further based on information provided" by the state party, Roesing said.

In any event, the amount spent on state legislative races this year is likely to break records. Wice said the average budget for Democratic state legislative candidates appears to be $10,000-15,000. Similarly, Michael H. Steinmetz, president of the American Legislative Exchange Council PAC, which aids probusiness candidates, estimates that for the 6,400 seats up this year, the average Republican candidate will need $20,000 through the general election, a figure that when added to expected gubernatorial campaign costs, would guarantee a huge increase in statewide and legislative election spending over Alexander's estimate for 1984.

PAC spending in states also may surge. "We are playing catch-up" in the creation of PAC's at the state level, said Jones. "So you are seeing the growth in [the number and spending] of state PACs that you saw in 1979-81 at the federal level." In fact, said the New Jersey Election Law Enforcement Commission, the level of PAC contributions to legislative candidates in the 1983 general election was 50 per cent higher than in 1981.

In most states, candidates are permitted to receive direct contributions from the treasuries of corporations, unions or both, suggesting that further PAC growth at the state level could be contingent on changes in state election law. In a survey published in 1984, the Federal Election Commission found that 18 states permitted unlimited corporate and union contributions; 11 sanctioned unlimited contributions from unions but prohibited corporate contributions; 12 allowed unions and corporations to make limited contributions; 1 permitted unlimited gifts but limited corporate gifts; and 8 plus the District of Columbia forbade direct donations from either unions or corporations.

But it is at the local level that political spending is the hardest to count. The individually small but, in the aggregate, immense expenditures for city council members, district attorneys, mosquito abatement commissioners, county coroners and thousands of other obscure local officials virtually defy systematic calculation. As Alexander conceded, "When we get down to this level, we just wet our fingers and stick them in the air."

As they are revealed, those numbers will bring the unions' political efforts into better focus. The Communications Workers of America, under a similar court requirement in a separate case, calculated that it spent about 11 per cent of its $50 million national budget in 1984 on non-collective bargaining activities; James B. Bowie, the union's secretary-treasurer, estimates that about $2.5 million was devoted to political activities. That figure dwarfs the amount that FEC reporting requirements cover; the union in 1984 reported $121,084 is partisan communications.

For now, all that's firmly available is a question: How much did unions really spend influencing their own members? No one knows for sure, but clearly it was considerable more than the $5.1 million reported to the FEC. Before the Democratic presidential primaries, aides to Sen. John Glenn of Ohio predicted that the AFL-CIO's presi-

dential endorsement would be worth $20 million. That turned out to be about right, said Paul Jensen, who served as the Mondale campaign's liasion to organize labor.

"We scoffed at the $20 million, but what they spent on contacting members and in soft money [contributions] . . . much to my surprise was worth about $20 million" in the primaries and general election combined, said Jensen, who drew up a memo after the campaign estimating labor's contribution.

The figure may even be higher. From interviews at the time, *National Journal*, in an article by Malbin, estimated that unions spent about $11 million in the 1976 presidential race—roughly 10 times the reported communications costs. Alexander estimates that labor spent about $15 million in 1980, also roughly 10 times the reported costs. That same ratio would put the 1984 expenditure at about $45 million, but that is probably high. Alexander estimates labor's 1984 effort on behalf of the Democratic ticket at about $14 million in the general election.

Complicating the calculations is the role of union locals. In many unions, the bulk of political work is done by locals.

Very large locals, such as the food workers' Local 400 in the Washington (D.C.) area, have sophisticated political operations, complete wth their own polls, PACs and full-time political staff. Very small locals may make contributions to statewide or regional union councils that do the work. It is not unusual for union endorsement to be signed by the local president, not the international union president. "There are probably very few unions where the international president is even known by the membership," said union political consultant Victor S. Kamber. "If you're going to impact the voter, it has got to come from someone he knows, respects, trusts."

The food workers union, for example, typically will send a sample endorsement letter to a local, which will personalize it, attach the local president's name at the bottom, send it out and absorb the cost. "Most of the communications we pay for ourselves," said Local 400 president Thomas R. McNutt.

The internationals have no idea what their locals spend on politics. "No one has ever figured it out," said Rachelle Horowitz, political director of the American Federation of Teachers, which has 2,000 locals. "It is mind-boggling."

Even assuming that none of the locals spend more than $2,000 and fail to report it to the FEC or their internationals—neither of which audit the figures—it is likely that locals alone spend several times more than the amounts reported to the FEC as expenditures by all unions. As a rule of thumb, some union officials said about a third of their locals were politically active. If those locals spent an average of only $500 a year on politics, that would add up to about $18 million per election cycle above whatever the international unions spend.

Even if the over-all level of union spending is not clear, the trend is. Spending will continue to rise, as unions adopt more of the sophisticated political technology that many first seriously employed in 1984—polling, direct mail and media tools such as teleconferences for communicating with their members.

What business spends on influencing its managerial employees is also a mystery, although the effort is not anywhere as elaborate as labor's. Only six business and trade associations reported any partisan communications (to the tune of almost $94,000) during the 1983-84 election cycle.

Independent interest groups, such as environmentalists and nuclear freeze advocates, reported spending $1.1 million lobbying their members, with about $1 million of that coming from the National Rifle Association.

NONPROFIT POLITICOS

Like unions, nonprofit organizations on both sides of the ideological spectrum significantly increased their political role in the 1984 elections. That role is certain to continue growing, as party and interest-group tacticians devise new ways to employ the nonprofit status for political and quasi-political purposes. But exactly how large their role has or will become is unknown, because the groups are not required to disclose expenditures that may have political ramifications.

In the 1984 elections, the main focus of political activity by nonprofit organizations was voter registration. From the start of the presidential campaign, Democrats and liberal organizations had banked their hopes for an upset of Reagan on registering millions of dispossessed low-income, minority and women voters who presumably opposed the President and his policies.

With the Democratic Party strapped for funds, much of the voter registration work on the liberal side was undertaken by private groups financed by nonprofit foundations. In the summer of 1983, a group of traditionally left-of-center foundations set up the Ad Hoc Funders' Committee for Voter Registration and Education to funnel money to groups that were seeking to register the "underrepresented." According to the committee's own final tabulation, it distributed $6.6 million to 125 groups that were conducting voter registration drives over the two-year election cycle.

That represented the bulk of the money spent on voter registration by liberal groups, according to a source familiar with the activity. The source said three other organizations provided about $2.1 million for voter registration, bringing total private expenditures on voter registration near $9 million.

The Republican voter registration drive was the reverse of the Democatic one. Most of the effort was run directly by the party organization. The GOP organized a sophisticated $10 million voter program, financed by $4 million contributions each from the Reagan reelection campaign and the Republican National committee and $2 million raised from private sources by Leadership '84, a fund-raising company established by Joe Rodgers, who chaired the Reagan-Bush '84 primary fund-raising committee.

Rodgers also established Americans for Responsibile Government, which gave about $2 million to registration programs, aimed at groups sympathetic to the President. The two major grant recipients, and the two major conservative groups signing up new voters, were the American Coalition for Traditional Values, a coalition of conservative evangelical organizations that was financed with slightly more than $1 million from Rodgers's group, and the American Defense Foundation, which sought to sign up men and women in the armed services.

Another group Rodgers established, the Responsible Government for America Foundation, trained trade associations to conduct their own voter registration programs. Business voter registration activity was greater than is commonly assumed, said a Washington attorney familiar with the efforts, but exactly how big is another mystery. A trade association executive said their group spent more than $300,000 in registering its members and urging them to support Reagan in the 1984 election. Among the companies and groups that undertook major voter registration programs, were PepsiCo Inc., the National Federation of Independent Business and the National Association of Wholesaler-Distributors.

Sources on both sides of the spectrum say the level of nonprofit voter registration activitiy in 1986 won't be anything near that of 1984, when the presidential race attracted large donors. But conservative and liberal nonprofit groups appear committed to long-term iuvolvment in voter registration activities, and another major push is certain in 1988.

In the meantime, the use of nonprofit status for political purposes is continuing to expand in new directions. An increasing number of politicians have established nonprofit foundations to develop and promote their ideas. Critics complain that the new foundations also promote the politicians themselves.

"Political foundations are the new game," said Ellen S. Miller, executive director of the Center for Responsive Politics, which is studying the role of nonprofit groups in politics. "Current and former Members of Congress who are still operating in the political arena are using these organizations to keep their names associated with issues. Whether they are used as funnels for political funds, ways to curry favor with Members, remains to be seen. At this time, we don't know what the full roster is. I was told by one source [involved in setting them up] that there are over 200 of them."

Several likely 1988 presidential candidates have established foundations with budgets reaching into the hundreds of thousands annually. The group's activities tend to showcase their principal. The Fund for an American Renaissance, established by Rep. Jack J. Kemp, R-N.Y., paid for his recent European trip, a tour through Asia last fall and a series of Capitol Hill seminars. The Center for a New Democracy, set up by Sen. Gary Hart, D-Colo., has sponsored a series of Hart-chaired seminars around the country. American Horizons, a group associated with Arizona Democratic Gov. Bruce E. Babbitt, has done research for major Babbitt speeches on immigration, international debt and other issues. Such foundations are rapidly becoming a fixture of the extended pre-primary presidential campaign, an alternative or supplement to establishing a PAC associated with the potential candidate.

PAC COSTS

One of the clearest trends in political spending is the continued growth of PACs. As recently as the 1979-80 cycle, PACs collected about $138 million; in the 1983-84 cycle, they collected $288.7 million.

But that number doesn't represent the full spending on PACs. PACs connected to parent organizations—such as a business, union or trade associations—are not required to report the money they spend raising their funds. Those expenditures are made directly from union or corporate treasuries, and interviews indicate that they represent substantial additional hidden political spending.

PACs not connected with an organization—such as independent ideological PACs—cannot pass off their administrative and fund-raising costs to a parent body, and so much report them. Because those groups typically rely on direct mail, generally the most expensive way of raising PAC money,

their administrative costs are substantial. Some of the largest conservative PACs, for example, spend more than 80 per cent of their funds on overhead. (See NJ, 6/29/85. p. 1504.)

By and large, practitioners say, business, labor and trade associations do not spend nearly as much on administrative costs. But for some organizations, administrative expenses can approach that level.

Peter Kennerdell, director of program development at the Public Affairs Council, a business group, said a company establishing a PAC can expect to spend two or three times as much as it collects in the first year. Fixed administrative costs can also be high for smaller PACs, those in the $40,000-$50,000 range. Trade associations that use direct mail—which most unions and businesses don't—also devote significant sums to fund raising. Moreover, he said, administrative costs are large in companies that create program to involve workers in the PAC activities, such as holding advisory meetings. "As we see corporate PACs becoming more democratized," he said, "the more it is going to cost."

But for most labor and business organizations, the costs are not that large. Many unions, and some businesses, have been able to establish payroll checkoffs for their PAC contributions, which substantially reduces fund-raising costs. Other companies might produce relatively unsophisticated solicitations internally, distribute them through in-house mail and require only a clerical aide to keep the books, all at relatively low cost. And the fixed costs for staff and space are less burdensome to larger PACs.

"There's really no rule, given the undefined territory, to get any particular number (being spent) to raise PAC dollars," said Michael Colopy, manager of congressional communications for the Blue Cross & Blue Shield Association in Washington. Many organizations don't even know exactly what they spend raising PAC money.

But several PAC executives and election lawyers said a conservative estimate for the administrative costs of most PACs would be 10-20 per cent. If the unions, trade associations and businesses that raised $186 million for PACs during the past election spent an average of 15 cents on the dollar to collect the money, that would represent another $28 million in unreported political spending.

COUNTING HARD DOLLARS

How much does America spend on politics? A partial answer is the amount of money that federal candidates, political action committees and political parties absorb in contributions from the rest of society. When added to the public financing of presidential races, those numbers measure the hard dollars—money subject to Federal Election Commission (FEC) reporting requirements and contribution limits—spent on federal elections. When transfer between the committees, PACs and candidates are accounted for (an exercise not performed by the FEC), the total for the 1983-84 election cycle was $1.155 billion. All figures are in millions.

| | |
|---|---|
| Congressional candidates: | |
| 1984 House and Senate candidates | $397.2 |
| 1986 Senate candidates | 7.6 |
| Total congressional | 404.8 |
| Party activity: | |
| Democratic committees | 98.6 |
| Net transfers to state parties | −3.3 |
| Total Democratic Party | 95.3 |
| Republican committees | 297.9 |
| Net transfers to state parties | −4.3 |
| Total Republican Party | 293.6 |
| Total parties | 388.9 |
| Political action committees | 288.7 |
| Independent expenditures | 23.4 |
| Presidential primary expenditures | 106.0 |
| Presidential general election | 80.8 |
| Partisan communications by labor, business and groups | 6.4 |
| Net PAC contributions to House and Senate candidates | −105.3 |
| Net PAC contributions to parties | −8.2 |
| Net PAC contributions to presidential candidates | −1.3 |
| Net PAC independent expenditures | −22.2 |
| Net party contributions to House and Senate candidates | −6.6 |
| Total hard money expenditures on federal elections | 1,155.4 |

HONEST GRAFT

(By Brooks Jackson)

[Excerpts]

The full extent of Coelho's soft-money dependence remained secret as well. He disclosed much of his soft-money income during 1986. But much remained hidden, and he refused a request to make a full public accounting. Nevertheless, a series of memoranda from Martin Franks gave some revealing views of what was going on during the 1986 campaigns.

Franks described soft-money collections for the Capital Trust, a project begun in February 1986. Coelho went to the annual winter meeting of the AFL-CIO in Bal Harbor, Florida. He met with the presidents of one union after another, over breakfasts, lunches, and dinners. He asked each one to pledge $100,000 to his committee during the year. He called it the Florida Project at first.

The Capital Trust project represented only part of the soft money that fueled Coelho's campaign committee, but it was especially important. Indirectly, the funds subsidized the campaigns of Democratic candidates who used the party's television studio.

Coelho wanted a studio because the Republicans had one. But he couldn't pay for it the way the National Republican Congressional Committee financed its own much smaller facility years earlier. The NRCC spent only hard money to buy its electronic equipment. At the time it didn't need soft money. Besides, GOP attorneys said it would be hard to defend using "nonfederal" money to finance a studio employed solely to make television and radio commercials for use in House campaigns.

Republican lawyers weren't nearly so venturesome as Coelho. He paid for studio equipment with soft-money donations, in this case using a loophole for "building funds." Republicans has argued successfully to the FEC that money spent to renovate new office quarters for the party had no connection with any specific federal election and so didn't qualify as a campaign expenditure subject to federal limits. The GOP raised $7 million for a new headquarters building in 1977, all fully disclosed, with no donation larger than $10,000.

Mr. McCONNELL. Mr. President, I just wish to say, in conclusion, that I remain optimistic, as the discussions begin, that in the near future we will be able to craft a bipartisan campaign finance reform bill. I think everybody is going into the discussions in the spirit of cooperation. I look forward to participating on that team and reaching, hopefully, a happy conclusion sometimes in the weeks ahead.

I yield the floor.

Mr. BOREN. Mr. President, I have listened with interest as my colleagues on the other side have commented this morning. I am glad that they have come to the floor to comment, so we can have further discussion of the legislation that is pending before us. It is landmark legislation and, as one who has worked on this proposal for a number of years, I am encouraged that we now have the issue on the national agenda.

We first began this discussion several years ago, I believe it is 9 years ago now, when the distinguished senior Senator from the State of Arizona at that time, Senator Goldwater, and I made a proposal to change the way that we finance elections. We were alarmed at that time about the growing movement away from the grassroots, of the way campaign funds were raised. We were alarmed at the rapid increase in campaign spending. We were alarmed about the increase of special interest influence. We felt it was eroding the political system, the very strength of our system. We felt it was causing increased cynicism among the voters. I certainly think we have found indication after indication that that cynicism is present.

The election turnouts is congressional elections are below the 30-percent mark. We barely reach 50 percent in the Presidential election process of registered voters turning out in our country, at a time in which other nations, new democracies emerging democracies around the world, those places where there has been very little experience with democracy—we have had turnouts in places like Poland and places like Nicaragua, East Germany, in the 90, to 95 percent range of registered voters. We have had turnouts in elections, even in areas of the world which are still experiencing upheaval and violence, in El Salvador, for example, two different elections carried out under threat and intimidation of violence, loss of life, where approximately 80 percent of the registered voters, those eligible to vote, have bravely gone to the polls, even at risk of their very lives, to cast their ballots. While we here in the United States, in increasing numbers, are staying away from the polls, not participating in the political process. Many of us have been very concerned about it.

The legitimacy of our Government, the mandate for the leaders of our Government to operate, of course, rests completely on the consent of the governed and the participation of the people themselves in the political process.

What a great system of Government we have. It is a model and a beacon for the rest of the world. When the students and others who gathered in Tiananmen Square wanted to find an example, an example to hold up, a symbolic expression of what it was they were fighting for, they chose our symbol, they chose the Goddess of Liberty.

Lech Walesa, as he struggled to explain to the rest of the world the basis of the political system that they were struggling to set up in Poland, used our words, "We the people."

We want a Government where the people can govern themselves. Sadly, as I have said over the last few years, we have seen fewer and fewer people participating in their own process.

Why have fewer and fewer people chosen to participate? The nature of the election process, Mr. President, has a lot to do with that. People see the influence of money. They see that elections are more and more being determined by the amount of money that the candidates on each side can raise, rather than their position on issues, substantive proposals to solve the Nation's problems, experience, qualifications and character of the candidates. More and more those major items, those items which should be deciding elections, discussions of the issues of the day, taking positions on the issues of the day, charting a course with a vision for the future of their country, for State and local government, those matters take a back seat in the election.

Elections more and more are decided upon the basis of which candidate is able to raise the most money to finance a campaign, instead of upon the basis of which candidate has the best ideas to help this country and the best capabilities and qualifications for putting those ideas into action.

So, Mr. President, people become discouraged. They notice, for example, that in election after election well over 90 percent of those elected to office are those candidates that are able to raise the most money to do so.

They look at our system and they see the challengers are being frozen out of the process, people with new ideas, people that want to come forward and make a contribution. Why are they being frozen out of the process? Why do we have a 98 percent reelection rate in the House of Representatives in the last election cycle, and 99 percent the cycle before that?

It is because incumbents are able to raise so much more money than challengers. The facts speak for themselves. $2.05 raised by every incumbent running for reelection in Congress in the last election cycle for every $1 the challenger was able to raise.

Why is that, Mr. President? Well, it is very obvious to those who study the political system. Those Members of Congress who are incumbents, who are here already serving on the key committees, already chairing the key subcommittees, serving as ranking members of the key subcommittees and committees of the Congress, people need access to them, people need a listening ear. People need to have a sympathetic reaction from those that are already here. So those who have economic interest in legislation, for example, have the need to communicate with and have access to those that are already here, and therefore they contribute to those that are already here, occupying these positions in the Government.

There is always an opportunity for them, if the challenger happens to pull an upset and defeat an incumbent Member of Congress, to contribute to that new, winning candidate after the election, because challengers invariably have deficits when they become successful in the races to become Members of the House or the Senate.

Mr. President, to use an old-fashioned term, that is flat wrong. It is a distortion of the political system. We should not allow it to continue. This should be a system in which people have an opportunity to compete and people, new people, wanting to come into the process, with new ideas that our country needs, should he be able to have an equal chance.

They do not have an equal chance now. As long as we do not put a limit on the amount of money that can be spent in campaigns, as long as we do not stop this runaway race for money, the spending spiral ever upward, like a never ending arms race, we are never going to have a system in which challengers have a fair chance to come to the Congress of the United States or to this body, which has been called the greatest deliberative body in the history of the world.

Mr. President, we are trustees of this institution. You can look around this floor and we see guides bring tourists into this Capitol. We bring young people ourselves down on to the floor of the Senate. We look around and we point out the desks where the giants of the past have served on this floor. We point out where the Clays and the Calhouns and the Websters and the Jefferson Davises and the Tafts and the Humphreys, those who have served with distinction, and loved this country, and kept this institution strong, have served.

We are here now. We are the trustees. We have a responsibility to keep this institution strong. We cannot allow it to drift into mediocrity. We cannot allow it to drift into becoming an institution where the schedule even of the institution is set not on the basis of solving the people's problems, but on the basis of the need to raise money to run for reelection.

We are not taking votes on Friday, Mr. President. We do not take votes, usually, on Monday, not until late in the day. And, we do not have evening sessions on Monday nights. I wonder how many of the American people know why. I wonder if they know it has nothing to do with the fact that we have pressing problems facing this Nation. We have a budget deficit that is destroying this country, eating away at the heart of this country and everyone knows it.

We have the congressional leaders and the Preisdent meeting together and hopefully they will have the courage to do what is right. I hope we will have the courage to quit playing politics with it and respond, if they have the courage to come forward with a proposal that calls on all of us, all Americans, all of our constituents, to share in some fair and equitable bill to get it under control. Because we know what we are doing. We are living beyond our means, we are selling off the assets of our country and our children and grandchildren will have the privilege of working for people from other countries, who are going to own the basic industrial base of this country one of these days if we do not wake up and do something about it.

We do not meet on Mondays for votes, and we do not meet on Fridays for votes, and Monday evening to work on that problem. No, Mr. President. Why? We have to schedule fundraisers on those evenings and on those days. Because as we all know with this campaign spending, with it taking an average of $4.5 million from a small State—not a major State like New York or California, from a small State—to run successfully for the U.S. Senate, that means that a sitting U.S. Senator or a challenger has to raise an average of $15,000 in campaign contributions every single week without exception for 6 long years to raise the average amount of money that it takes to run for the U.S. Senate.

I guess, Mr. President, if we could run a tracer right now where most of our colleagues are, as we discuss this matter in this Chamber right now, we would find out quite a few of them are out trying to figure out a way to raise the $15,000 they need to raise this week in order to get ready to successfully run for reelection.

Mr. President, we are trustees of this institution. We were sent here by our people to solve the Nation's problems, not to perpetuate ourselves in office, not to raise campaign funds, but to do the people's business. We will be derelict in our duty to the Constitution we

are sworn to uphold and our duty as trustees of this institution if we fail to act this year to do something to halt the cancer that is eating away at the heart and vitality of our political system.

Yes, it is hard for challengers when incumbents can raise $2.05 for every dollar they can raise. It is very hard for them.

It is also hard when we look at the fact that 82 percent of the money from political action committees last time went to incumbents as opposed to challengers; that over half the Members of Congress elected last time received more than half of their funds from interest groups, political action committees located outside their home States, rather than from the people back home.

So the electorate looks at the facts. They look at the fact that people who raise more money invariably tend to win elections. That is what the statistics show. They look at the fact that more and more of the money is coming not from the people back home from people outside the States and the districts. They look at the fact that more and more of the money is coming from special interest groups, and they become disillusioned about the process.

Then that massive amount of money as it is spent in many campaigns is spent more and more not on a discussion of the issues, Mr. President, but to purchase 30-second negative spots in the broadcast media with actors—not the candidates themselves—with actors, and usually voices of professional actors that can be filled with indignation as they report some accusation against the other candidate that usually borders on character assassination, as one negative ad piles on another negative ad for 30-second spots during which short time you cannot possibly have a fundamental discussion of the issues facing the country.

And we are surprised that 30 percent of the people turn out in congressional elections and half the number turn out in Presidential elections in our country as turned out in countries like Nicaragua and East Germany. People in Eastern Europe have looked up to the United States and described us as a beacon of inspiration.

Mr. President, we should be. Our system deserves to be an inspiration for others. We can only be grateful for all it has provided for every American citizen, the opportunity it has given us to express ourselves, to chart our own course as a people, to determine our own destiny, to have unlimited opportunities as individuals to make choices about our own lives. Other people do not have those opportunities. We do because we have had a system that has worked, a system that has been true to the democratic process. We must not let that system atrophy and decay.

We must not allow the vitality to be drained out of a great institution like the Senate of the United States, the Congress of the United States. We owe it to the next generation. We have had parents and grandparents who cared enough about us that they made great sacrifices for us and gave us a great opportunity. We have had those who served, the giants who served in this Chamber in the past. We owe it to them, what they provided for us, to do for the next generation. We must meet our responsibilities. We must have true reform.

I am not talking about passing the bill with the title on it that says "campaign finance reform." I am not talking about the sham. I am not talking about going back to the people and say, "Well, we have passed the bill that is campaign reform this year. We can forget all about it."

Mr. President, I say it not unkindly, because I hope more than anyone we can reach a bipartisan agreement on this issue before our discussions are completed, because it is not a Democrat or Republican problem, it is an American problem. We should be ashamed of ourselves if any of us on either side of the aisle tries to write the bill the purpose of which would be to aid the Democratic Party or aid the Republican Party.

We need to pass a bill that aids this country, that saves this political process, Mr. President. That is what we need to do. That is what we must do. That is why we must not allow ourselves just for the sake of being able to go home and put out the press release and stand before audiences and say well, we passed something and it had "campaign reform" written on the title of the bill.

It will not be true campaign reform, Mr. President, unless it gets at the heart of what needs to be done to change this system. And the heart and soul of campaign reform is to get the runaway spending under control. It is to stop the money chase. It is to stop the upward spiral of spending. It is to enable us to change the Senate schedule back to conducting the people's business instead of having the schedule set by the need to raise millions and millions of dollars of campaign funds in order to get reelected.

It is the changing of the perception of this institution. Mr. President, as long as Members of the Senate have to go out and raise $3, $4, $5, $10, $20 million, there is always going to be the perception on the part of the people that they were so desperate, those candidates, to get the money, they would get it wherever they could, from people who were honest and people who were dishonest, from people they do not even know about.

There is not a Senator who is a Member of this body, Mr. President, who has not in the course of raising campaign funds, when we have to raise so many millions of dollars, had to accept contributions from people we do not know very well, personally, at all. We do not have the FBI or CIA at our disposal to go out and check the background of every person offering us a campaign contribution.

Most of us, because of economic conditions in our home States, cannot raise the amount of money needed in our home States. We have to go to other States where we do not know people very well. Members can be embarrassed when later it turns out some of the people making contributions might not be very wholesome, might have a special interest, might have an ax to grind about legislation and then it is all over the media and the front pages of the paper, and questions are raised about the integrity not only of the person making the contribution but the integrity of the public official involved because he had to accept money in order to raise those huge amounts of money needed for campaigns that he could not possibly know the identities or very much about all the people from whom the money was being accepted.

Mr. President, the people read that and they say I wonder what kind of people are serving in public office today. What kind of people are serving in Congress? Are they all corrupt? Are all the people who run for office today corrupt? And, if so, why even bother to go and vote? And that is what is happening today, Mr. President.

So we have to cleanse this system. We have to do something about it. We have to produce the bill.

We have heard the voice of the people about this. We have heard them speak by staying at home during elections. We have heard them speak through letters saying do something about it. We have heard them speak through petitions which they have signed. We have read the public opinion polls in which 80 percent of the American people say: Do something about runaway campaign spending. Stop the money chase.

Mr. President, we are ready to do that, and we have introduced the bill to do it. We have 46 Senators signed on to the substitute for S. 137. Others have verbally told me they would help us. The majority of the Senate is ready to act. Let us not stop this year the work of the Senate until we have acted, until we have passed the bill to limit the runaway spending. That is the heart of the issue.

If we try to pass a bill that says you just cannot get money from this source or this other source but you can still get it otherwise, and there is no limit on the spending. All in the

world we will do is just change where the money chase is located.

If we say only you cannot get money from political action committees or you cannot get money from certain individuals but there is no limit on how much you can get, then we will just change it. Then it will be the money race for soft money or it will be the money race to use the State party committee or someplace else. It will be like the little child who steps on that tarpaulin under which there are a lot of golf balls and jumps up and down. When they jump on this corner the other corner pops up.

We do not need the sham. We need real reform. We must do it, and the only way to get real reform is to put total spending under control. That is the only way to get us back working on the Nation's business. It is the only way to stop the perception with all the money the Members have to raise they will raise it wherever they can. It is the only way to stop the problem of challengers not having a chance. It is the only way to make sure that special interests do not give undue advantage to incumbents. That is the only way to do it. We have to get the total spending under control and do something to get it limited and we have introduced a bill to do that.

We need to change the nature of campaigns themselves. We need to encourage candidates to not just buy 30-second spots to use for character assassination of their opponents. We need to encourage them to buy longer time slots to have substantial discussion of the issues.

We have done that in our substitute for S. 137 by providing vouchers for candidates to buy longer blocks of time. We also provide, and this has been the suggestion of the Senator from Missouri [Mr. DANFORTH] from the other side of the aisle—it is the gesture of our willingness to consider and include good ideas from the other sides of the aisle—the suggestion that at the end of any spot that the candidate must asume responsibility for that particular advertisement by coming on to it and saying: I, or my campaign committee, have authorized this particular ad.

So if you have some impersonal actor assassinating the character of and slandering another candidate, at least the candidate who is paying for it, and he is responsible for it, has to come forward and he or she has to own up to it and assume responsibility for it. Maybe they would not run some of those ads if they knew they had to be proud enough of them to assume responsibility themselves. So we need to clean up the process, and we have done that.

Under our proposal we have also stopped, in terms of contributions to candidates, contributions by political action committees. Some balance has to be put back into the process. We have suggested earlier that we limit the proportion that can come from political action committees so you could not have people elected here that got 80 or 90 percent of their funds from political action committees. The most important part of it is to get some balance back into it.

I do not happen to accept political action committee contributions at all. I never have. I followed that policy all of my career. Others of my colleagues and especially if they get into close races really do not have much choice about it. I have to say, if I got into a close race, or someone filed against me who had $10 million of their own money to spend, in self-defense I probably would have to accept the PAC money, too. And there are different kinds of political action committees too. There are some, where the Members really do make the decisions, where hundreds of employees in a person's home State get together and really form this association. They really hear the candidates and they sit down and they deliberate.

Then there are other political action committees that are not so wholesome where maybe just the lobbyist in Washington decides to whom to hand the money based strictly on how they vote on the issues and their need for access to that Member of Congress.

The important thing is we shift the balance, we get more influence to the people back home, the individual contributor at the grassroots. We do that. We do not allow under our bill political action committees to continue to contribute to Federal campaigns for candidates. We also encourage, through the flexible spending limit proposal, that over and above the amount of money normally allowed to be raised and spent in campaigns, additional funds are allowed to be raised from individuals in contributions of $100 or less in the home State of that particular candidate.

So we encourage renewal of the system, participation by the small contributors to grassroots, that person who is participating by giving contributions but not by giving contributions so large that they have been an undue influence.

So, Mr. President, we do something about the incumbent challenger's problem by the spending limits; we do something abut the special interest influence; we do something about the overall spending; we do something about the nature of the campaigns to get us back on the issues. We need the help of the American people.

All 100 Members of the U.S. Senate are incumbents. It is very natural that a group of people already in office would be reluctant in terms of their own self-interest to change a system that benefits them so clearly as the present system benefits incumbents. As long as the race is on the basis of money, the ability of incumbents is always much greater. It does not matter whether they are Democrats or Republicans.

So we need to hear from the American people. We need to hear from the American people that they want change. Unless we hear from the American people, we are never going to get those who are already entrenched in office to agree to give up some of the privileges they now have in order to make the process more competitive. Forty-six of us who have introduced this substitute, S. 137, said to the American people we have heard you, we have heard your pleas to clean up this election system. We have heard your pleas to end this rotten mess. We have heard your pleas to stop the money chase, to try to squeeze some of this money out of politics and get competition back on to issues. Now we need your help. We need your help in order to pass real campaign reform through the U.S. Senate this year.

Mr. President, I have heard some of my colleagues speak this morning, and I think in many ways they have an honest misunderstanding about what is in the substitute to S. 137. The Senator from Kentucky indicated that he believed that the bill might be unconstitutional. I listened to his argument. I have to say that I do not agree with the argument. I do not believe that this bill is unconstitutional.

The Supreme Court in Buckley versus Valeo says there could not be a direct prohibition on spending above a certain level; that you could not pass a law saying no candidate for the Senate can spend over $x$ dollars directly. It did not say you cannot give inducements to candidates to voluntarily accept spending limits. That is exactly what the Presidential system does, as the Senator from Kentucky indicated.

The Presidential system has not been overturned by the judiciary. Candidates running for President of the United States do not get the voluntary money from the checkoff system unless they abide by certain rules about private fundraising and spending. Therefore, Mr. President, I think that the court has allowed such a system of voluntry inducements and voluntary incentives to stand. I do not think we have a constitutional problem with this bill.

I heard my good friend, the Senator from Pennsylvania [Mr. SPECTER] here on the floor. I was very encouraged because he indicated he understood that too much spending is the heart of the problem, too much raising of too much money is the heart of the problem. He said he was not sure S. 137 was the way to go, but he himself supported a constitutional amendment to overturn the Buckley decision and to allow by

constitutional amendment the Congress to put on direct spending limits.

Mr. President, I do not disagree with the approach of a constitutional amendment. I myself have cosponsored a constitutional amendment from time to time to allow us to overturn the Buckley case and to impose direct limits.

I point out to my good friend, the Senator from Pennsylvania, as he reads my remarks in the RECORD, that even if a constitutional amendment were to be adopted by the people, the Congress would then have to come together and meet and vote as to what those limits would be and how those rules would be carried out. In other words, we would have to come right back together and it would probably take 6 or 7 or 10 years to get a constitutional amendment ratified by the States. And then after that, we would have to go back and do it all over again in the Congress. We would have to pass a bill patterned on something like S. 137 because we would then have to legislate what the limits would be and what the rules would be.

Mr. President, let us not delay. Let us do that job now. Let us go ahead, as we have in this bill, and establish what the limits will be and establish what the rules will be. Then, as the Senator from Pennsylvania has indicated, if he and others—and I would be happy to be a part of that effort—can get a constitutional amendment passed also, we will already have the implementing legislation. We will already have the rules set. We will already have the limits set, but we cannot wait another 10 years, Mr. President.

When I came to this Chamber 12 years ago, the average amount of money spent by a successful candidate for the U.S. Senate in an average size State was $600,000. That was 12 years ago—$600,000. Now it is $4.5 million, in the last election cycle 10 years later. In 10 years, we went from $600,000 to $4.5 million, a 400-percent increase over and above inflation.

We hear about cost of broadcasting and the rest. We are talking about a 400-percent increase over and above the costs of campaigns. That is how much they have gone up. We are talking about a sevenfold increase.

How long are we going to wait, Mr. President? Are we going to wait until it takes an average of $10 million to run for the Senate or $20 million to run for the Senate? We cannot afford to wait.

We are trustees, as I said in the beginning. We cannot afford to wait any longer. We owe it to the American people not to wait. If we do not get this enacted this year, we should go home and hang our heads in shame, and we ought to let the American people know exactly what is happening to their Congress and their Senate. It is not ours. It does not belong to incumbents.

The rules for the political system should not be written to benefit temporary occupants of these offices. These offices belong to the people, not to us. We owe them better than they have gotten from us over the last several years in terms of the rules under which campaigns are operating.

I heard my good friend and colleague, and he is my good friend, and we have worked together constructively on many, many matters, and I value that relationship. My colleague from Oklahoma said he understood our bill to be one which provides taxpayer financing, Government funds financing for candidates.

I should clear that up in this particular bill. That is under the jurisdiction of the House Ways and Means Committee and the Senate Finance Committee. They will have to set up the mechanism to provide these inducements. For example, the additional television time, lower mailing rates and other inducements would be funded. We have indicated it is our intention to fund it under a voluntary checkoff which the taxpayer would check on the tax return which would be an additional amount over and above what they already owe in taxes. That is my assumption. That is what I personally support.

If my view of it were carried out when this bill would be marked up, if we pass this legislation, it would then be the responsibility of the Finance Committee, the Ways and Means Committee and others to set the actual checkoff mechanism. If my ways of thinking was to prevail, we would not be coercing taxpayers to give the money. It would be a voluntary, additional contribution, if you want to call it that, by the American people. They can check it off and pay an additional $6 in taxes or check it and not pay.

We provide in this bill, if not enough money came in through the voluntary process, that the amount of money to help with mailing rates, television time, the rest of it going to candidates would be proportionately reduced. So it is not mandatory, appropriated Government funds that we are talking about. It is a voluntary system.

I believe, Mr. President, the American people love this system enough that they would check it off in substantial numbers. I think they would say $6 is not too much to pay for cleaning up the mess that we now have in the political process for having our Senators on the floor voting on Fridays and Mondays and maybe even being in session on Monday evening doing the peoples' work, getting rid of this appearance of special interest influence.

So it is not fair to say we are talking about mandatory appropriated tax dollars that taxpayers do not have any choice about whether to give or not. We are not talking about that. The bill makes it very clear there will be a proportional reduction in the amount going to candidates if the voluntary checkoff does not bring in sufficient funds to cover it.

Mr. President, there was also an indication from several of the speakers today—and it shows a clear misunderstanding of what our bill provides—that we have opened up some sort of a loophole for political action committees, particularly, as has been said on the other side of the aisle for labor unions—but the same would apply to corporations—to provide funds to State parties.

Mr. President, let us look at the record. Under the current law, labor unions and corporations can directly give money to State parties unless it is prohibited by State law, and in most States it is not, in unlimited amounts. It is called soft money to State party committees.

Let us say you have an election where someone is running for Governor, the legislature or State office. You have 20 State candidates in the ballot and you have Federal and State candidates. It is called mixed activity. When the State party sets up the phone bank or buys ads saying vote Republican or Democratic, that is going to benefit both the State candidates running for State office and the Federal candidates.

Under current law, corporations, labor unions, and individuals can give any amount of money to that process that they want to in terms of soft money to these State party contributions and millions of dollars have been flooding in, some say as much as $45 million to $60 million undisclosed, unreported. Some can come directly from labor unions and corporations.

Mr. President, under the proposal that has come from the other side of the aisle, they still allow it. It is so ironic. They have indicated that they think S. 137 has some sort of a loophole because we allow a labor union, a political action committee to give not more than $15,000 to a State party for mixed activity. Notice that is what we do. We limit. They can only give $15,000. They could not—a labor union or a corporation—give directly like they can now give any amount of money they want.

We say we are going to clean that up. If a labor union or corporation wants to give to a State party for mixed activity $15,000, they have to do it through their political action committee and disclose it. They cannot give it directly out of the union treasury or corporate treasury. That limits it. Yet those on the other side of the aisle have said that is some kind of a loophole. It is not a loophole. It closes a loophole. Their bill allows a labor

union to directly give money, any amount they want, to a State party organization.

I would be happy to give them technical advice on how to close that loophole. I am sure they will be astonished to know what their own bill does. They allow unions and corporations to give unlimited amount of money to State organizations. We stop it for both. I said we should not be writing a bill to help one party over another. We should not be writing a bill to help labor unions over corporations, and vice versa. We close the loophole for both.

What about sewer money? They are right. I would call it sewer money as well. There is no limitation whatsoever. What about it? We stop it. As I say, we stop it with labor unions and corporations. We put a limit on how much the individual can give to all the State party organizations in the country, and they say they cannot spend more than 30-cents-per-voter total on these kinds of mixed activities.

What do they provide on the other side? No limit. The sky is the limit. They can spend as much of the sewer money as they want on these mixed activities.

They only restate current law, which all of us know has not worked. When soft money pours into the State committee, they are supposed to allocate how much was sent to help candidates for Governor, State legislature, State auditor, and all of the other offices. If there are 25 State candidates on the ballot, one Federal, they say 25 times as much went to help the State candidate and we let the millions of dollars pour in. It is unlimited soft money under their bill, and it comes directly from labor unions and corporations. We disclose it. We put a limit on it. We put a 30-percent limit on it. We put a limit of how much an individual can give. We put a limit of how much any labor union or corporation can give and make them do it through their committees and not directly out of corporate funds.

Here is something else, Mr. President. This is very alarming. I have to hope that there are those on the other side of the aisle who have not understood what they have been doing, but they have created a situation that is far worse than current law. We have been talking about what has been going on with current law. Mr. President, they have created a situation here that is far, far worse than current law in terms of how much money wealthy individuals can give to influence the political process.

This is a reform that goes all the way back to the Watergate period. They are undoing reforms that were made in the aftermath of the Watergate period. Surely, they do not know what they have done.

Mr. President, I hope they will read, and I certainly hope that the American people will read, and I hope that the media will inform the American people, because I have not seen it anywhere, page 24 of the bill that they have introduced, S. 2595, section 122. At the current time, an individual can give only $25,000 total to a national party committee, State party committees, or to Federal candidates. So if I want to give some money to the Oklahoma Democratic or Republican Party, I want to give some money to the Democratic or Republican Senate campaign committee or the Democratic National Committee or the Republican National Committee, and I want to give some money to eight different candidates running for the Senate nationwide, I can give $25,000 a year total to all of those people, all of them combined, $25,000.

They amend the current law and they say, no, no, no longer will there be a $25,000 limitation on how much that wealthy individual can give. We will repeal current law limits and we will say you can give $20,000 to any national party committee. There are three of those. The House campaign committee, in essence, the Senate campaign committee and the national committee, Democratic and Republican. That is $60,000. Then you can give $5,000 to every single State party in addition each year. That is $5,000 times 51. You add that up. And then you can give another $25,000 to individual candidates.

So what they have done, I hope inadvertently, is taken the current law that an individual, to all these entities, can only give a total of $25,000 this year, and they have changed that to $340,000 per individual per year. That means in a 2-year election cycle a wealthy individual could give $680,000 instead of the current $25,000. It means, if his spouse will join him, the spouse and the individual together, this very wealthy couple, who can now give a maximum of only $50,000 to all these entities, under their bill, masquerading as a reform, can give $1,360,000.

That is a reform, Mr. President? That is a reform? It is not a reform. It is a loophole, one of the biggest loopholes I have ever seen in my legislative career.

When I first went to the State legislature in Oklahoma, we had an elderly Member of the legislature who read every word of every bill—probably the only member of any legislative body in history who has ever done that. We all should. He had an expression when he did find something like that—and if there was something in a bill, he would find it—he would get up and say, "I found another wooleybooger."

That is exactly what we have here, one of the worst I have ever seen. You talk about a loophole. It has to be closed.

So, Mr. President, there are problems. I think there are those on the other side who honestly misunderstood what we have talked about, the voluntary nature of inducements provided to candidates. We have not talked about mandatory appropriations of taxpayers' dollars.

I think they have understood what we have talked about in terms of soft money because we have closed the loophole. On the other hand, they have opened the loophole. If they are concerned about labor unions—and we heard them talk about labor unions for most of the time this morning—it is not our bill that allows labor unions to give unlimited amounts of money into campaigns directly out of the union treasury. No. It is theirs. They allow unlimited amounts to go just as they do from corporations. We do not. We put a $15,000 limitation on it. It is fully disclosed. We put a limitation on how much that State party can spend on mixed activities.

Mr. President, we have to hope that there have been some misunderstandings that can be cleared up. We have to hope that they did not really intend to allow that wealthy couple that is now limited to $50,000 in campaign contributions to give $1,360,000 per election cycle. We have to hope that they did not really intend that.

They have talked about constitutionality. I know they understand that the courts have at least given rulings that could be interpreted, I believe, in saying it is very difficult to limit the right of voluntarism to exist. You cannot say, for example, that the League of Women Voters or some other organization cannot exist and that they cannot communicate with their own members. It is one thing to say groups cannot spend money to influence external activities, campaigns; it is another thing to say they cannot spend money to communicate with their own members.

If you started limiting either corporations from communicating with their own employees ca or labor unions from communicating with their own members, if there is any question about the constitutionality of S. 137, the substitute for it, which I really think will pass muster, there certainly would be grave questions about the constitutionality. I do not even think a question. I think with certainty it would be unconstitutional to go in and tell a voluntary organization they could not form in this society.

I looked at the statistics since Mr. Gorbachev has allowed political organizations in the Soviet Union and since the Communist Party no longer has a monopoly on political power in this country. Approximately 20,000 new organizations have been formed

in the Soviet Union. That is remarkable.

Well, it is part of the process here that you have a right to form an organization communicating with your own members and organize for purposes you want to organize for. It is also I think our right to define ways within the bounds of the court decision to limit how much money can be used to influence an election process. But I am not sure you can put very much of a limitation on what organizations can do in terms of holding meetings and communicating with their own members to keep them informed for their purposes. I think that would be very difficult, indeed, from a constitutional point of view.

So, Mr. President, yes, we do have some differences between the bills proposed by the two sides of the aisle. Ours has spending limits. Ours does something to get spending under control. Theirs does not.

By getting spending under control, ours does something to level the playing field so that challengers will have a chance. Theirs does not. It still allows a system under which incumbents have been able to raise twice as much money as challengers.

Our proposal does something to change the nature of campaigns by encouraging longer programs, for example, broadcast programs to discuss issues, by requiring candidates to assume responsibility for negative 30-second spots, for example. Theirs does not. We both try to work on the lowest unit rate on advertising. That is a common ground. We both try to work on doing something to reduce the influence of special interest and political action committees. That is common ground.

We have an effective provision on soft money. They do not. In fact, they raise the $25,000 limit even on direct contributions to $1.36 million for wealthy couples, going in the wrong direction. They still allow soft money contributions by unions directly to State parties and directly by corporations without limit on either the spending or the amount given. We do not. We shut that off. So there are some differences.

Mr. President, there is common ground in perhaps the most important area of all. Both sides of the aisle have now recognized we have a problem. There has not been a Senator I have heard today or that I have heard in the course of this debate who has said the present campaign system is working.

Mr. President, when we first started discussing this matter, we had people coming in saying if it is not broke, do not fix it. The present system is better than anything you could think of in its place. We are not concerned; we do not want change. When we tried to pass S. 2 a couple of years ago, we had eight cloture votes, a record. The majority of the Senate, 56, 57 Members of the Senate, indicated they wanted to pass campaign reform. The other side of the aisle would not let us do it. They conducted a filibuster and they would not let us move.

Mr. President, that has changed. They have indicated they do not intend to conduct a filibuster, and I am sure that if our negotiations do not succeed in producing agreement behind closed doors; we will be out here; we will be moving forward; we will start to vote; and I assume that they do not intend to block us. I assume they intend to let us vote on the bill. I assume they will let us vote on the amendments. Win, lose, or draw, we will vote. I assume that is what will happen.

That is what the Senator wants to do, to start moving on this kind of bill, if we do not get some kind of agreement on negotiations that are ongoing. We owe it to the American people. Let the Members of the Senate come foward and vote on it. Let them say whether they want to have limits on campaign spending or not. Let the Members of this body indicate to the 80 percent of the American people plus, who according to the polls want limits on spending, want us to pass a real campaign reform bill that does something about the runaway spending, let the American people know where we stand. They have a right to know whether we are trustees of this political system in the way we should be or not.

Mr. President, it is substantial progress, however, that every Member who has spoken, every Member who has expressed himself or herself on or off the floor about the present campaign financing mechanism, has said it needs to be changed. That was not the situation 10 years ago. That was not the situation 5 years ago. It was not the situation 2 years ago. So it makes me optimistic we can get together and do something.

I believe there are many individuals on the other side of the aisle who I know every bit as well as I know Members on this side of the aisle, who I count as personal friends with a depth of attachment just as strong on that side of the aisle as this side of the aisle, who care about this institution, who care deeply.

The vast majority of Members on both sides of the aisle came here because they wanted to render a public service and because they cared about this country. Knowing the talents and abilities of many Members on both sides of the aisle, I happen to know that they could have made far more money in other professions if they had decided to do so.

I cannot help but believe—and I see the distinguished minority leader has just come to the floor, a good friend of mine—that the minority leader shares the same depth of commitment to this institution and to this country that would be felt by any person on this side of the aisle.

So, Mr. President, we have a chance to get together this year. We are going to begin negotiations next Tuesday afternoon. Negotiating teams have been appointed by both leaders to try to find a bipartisan compromise that will bring us to true campaign reform.

We will start that process next Tuesday afternoon. We will work in earnest on it. We will try as hard as we can to reach an agreement. I hope we will.

If we do not, we will have to come out on the floor and start voting up and down and see where the majority is on individual issues relating to this bill. We must move forward, but we must not fail. We must not fail this institution, and more importantly, we must not fail the American people.

We must get together and do something about it. We must put items on the table. We certainly are willing on our side to put items on the table. We are still willing to discuss, for example, just exactly what the inducement should be, what the package of benefits should be to accept voluntary spending limits, and the source of funds to provide those inducements. We are willing to talk about those things.

As I say, we have intended to close this soft money loophole. I have uncovered a huge loophole in the bill offered by the other side of the aisle, a $1.36 million loophole that has been opened. I have to think they must not have known it.

If they find provisions in our bill that have unintended consequences, we want to sit down and make it better. We want to come forward with a better proposal. We are willing to do that.

So, Mr. President, it is a time of challenge to our system that is a challenge also of opportunity, for us to sit down together and work toward an American solution.

We have in our bill a proposal that was suggested by the panel of bipartisan experts appointed by the distinguished majority leader and the distinguished minority leader, the Senators from Maine and Kansas. They appointed a panel of bipartisan experts.

In the past, we have always been hung up on this difference of opinion about spending limitations. We have always held and continue to hold that you cannot have reform without some limitation on overall spending, without stopping the money chase, and the vast majority of the American people see that as the essence of reform.

We know there are those on the other side that are concerned about overly restricting limits, about the right of people, particularly in the

home State or district, to participate in the political process by making the contribution.

This panel of experts came up with a suggestion. They called it flexible spending limits over and above any limit being set, and allowing small in-State contributions from individuals to be raised on top of any spending limit. We have put that in our proposal.

We put it in, Mr. President, as a signal to the other side of the aisle, many of whom had embraced that report when it came out, The Senator from Kentucky included. He said he thought the flexible spending limits was a promising way to get away from the roadblock and the differences of opinion we have had in the past.

We put that in our proposal, Mr. President, the proposal now offered by 46 Senators as a sign to the other side of the aisle, as a signal we want a bipartisan solution. We wanted an American solution. We are including it in the proposal the way the bipartisan panel of experts have suggested to avoid us getting into a deadlock like we have in the past.

So, Mr. President, I can only hope for the sake of the good of this political system that we will make these changes. This Chamber has been a Chamber occupied in the past by intellectual giants, by people of moral courage, by people who have made an immense contribution to this country.

We are a great nation today in part because of the caliber of the people that have served here and the ideals which they have held, and the participation above all of the people back home in going out in large numbers to participate in the election process to select those people to represent them here.

Mr. President, we are not going to have a Senate of intellectual giants in terms of moral courage, ideals, or ability in the future if we have a system that requires people to spend inordinate amounts of time raising money. I did not come to this Chamber to raise money. I did not come here to be a part-time Senator and a full-time fundraiser. I came here to be a full-time Senator, to try to do something good to help this country.

Mr. President, I feel the other 99 men and women who serve here with me had the same kind of motivation when they came. One of these days, and over a period of time—we have seen some leave already.

I remember the Senator from Maryland, the distinguished Republican Member, Senator Mathias, when he said why he was not going to run for reelection, a very distinguished Member of the Senate. He said:

> I did not want to be a full-time fundraiser and a part-time Senator. I could not face up to the fact that I would have to give months, literally years of my time raising the amount of money that it would take to run for reelection.

He decided to quit.

Mr. President, we cannot allow that continued erosion to go on any longer. We must act. We have a window of opportunity to act. We have leaders of good will on both sides of the aisle. Our negotiation teams will do our best to reach an agreement. If we cannot, we will ask our two leaders to try to sit down and reach an agreement together. If they cannot reach an agreement, which I hope and pray they can, then we will be ready to go to the floor of the Senate and see where the votes are and do our best to enact meaningful reform.

Mr. President, I thank my colleagues for their time. I express my appreciation to the majority leader for scheduling some additional time so that we might discuss these important issues this morning.

I would say to my distinguished majority leader, and to the distinguished minority leader as well, this Senator will do everything in his power to try to move the process forward, to reach a genuine bipartisan agreement on what is true campaign reform this year.

We look forward to working with all of those that are involved in the process, and we will do our very best not to let the American people down, but to meet our responsibility to be trustees of our constitutional form of Government, trustees of this institution, and pass true campaign reform this year.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague, the distinguished Senator from Oklahoma, and I am pleased to say that he has continued to demonstrate leadership in the area of campaign finance reform. It was my pleasure to appoint him as chairman of the group of Democratic Senators which will meet beginning next week with a group of appointed Republican Senators, appointed by the distinguished Republican leader. It is my hope that as a result of these discussions, and the discussions beginning next week, that we will have meaningful bipartisan campaign finance reform soon in the Senate.

## UNITED STATES-CHINA RELATIONS

Mr. MITCHELL. I now wish, Mr. President, to address a subject, one that is relevant and very important, and one with respect to which both the President and the Senate will soon have to make an extremely important decision. That subject is United States-China relations.

Mr. President, rarely has a policy been as obvious or as complete a failure as has President Bush's policy toward China. By June 3, the President will decide whether to urge retention of most-favored-nation trading status for China.

In an ironic coincidence, June 3 will also be the first anniversary of the massacre of Tiananmen Square.

Failure is now bringing in its wake the inevitable hard choices that arise from bad policy.

A month ago, President Bush was forced to finally make good on his promise to issue an Executive order protecting the Chinese students in this country against the threat of deportation—although we were told such an order was being issued last year, when he vetoed the bill protecting Chinese students.

Four months before that, President Bush had to justify to America and the free world the presence in Beijing of high American Government officials, toasting the future of the Government of China—the same Government that sent tanks against unarmed people and crushed them, both literally and figuratively.

Then the administration had to acknowledge that contrary to its publicly announced policy, a secret Government mission had been sent to the Government of China barely a month after the massacre in Tiananmen Square.

The President's China policy has been based on secrecy, it has been inconsistent, and its outcome has been dismal failure.

I urge the President not to compound that failure by now proposing the renewal of most-favored-nation trading status for China.

Despite the recent release of 200 political prisoners, the Chinese Government itself acknowledges that another 400 remain in custody. Unofficial counts put the total much higher.

The recent revelation by a defecting Chinese official, that the Chinese Embassy here has been actively involved in a campaign of intimidation directed against Chinese students, underscores the intransigence of that Government.

The hope for freedom in China is as remote today as it was 10 months ago. And, what is worse, the administration has signalled to the Chinese leadership and to the watching world that it views their actions with complacency.

That is the wrong signal to send. It is unwise, it is profoundly inconsistent with American ideals, and it is a demonstrable failure.

To extend MFN trading status now would be to compound that failure.

I am aware of and sensitive to the interests of Hong Kong, whose trade with China comprises 30 percent of its total trade and whose entire future is tied to that of China.

But is the long-term outlook for Hong Kong going to be brighter if the Chinese leadership feels it can repress its own people with impunity?

How are Hong Kong's economic system and her people's individual liberties buttressed if its future government knows that the world's democracies will ignore repression?

National ideals must sometimes be compromised to serve national interests. Indeed, our national ideals were compromised in the interests of maintaining a relationship with China. Chinese standards of human rights and respect for political freedom were not compatible with ours.

But in the larger interests of the relationship, we accepted those differences and hoped and worked for improvement in the future.

But by its own actions, the Chinese leadership has decisively demonstrated that future improvements are an illusion to be used as a negotiating tool, not a genuine path to the future.

To suggest now that our national ideals must be so far compromised that we not only maintain a failed relationship—as the administration is already doing—but that we reward, economically and politically, the authors of brutality, goes beyond acceptance of political reality.

It becomes a betrayal of American ideals.

The administration has tried to justify its policy of placating Chinese leaders as an exercise in quiet diplomacy which will produce a relaxation in repression against the Chinese people.

A policy may initially be measured by its intentions. But it must ultimately be judged by its outcome. And the outcome of the administration's China policy is a failure, a failure that is clear and complete.

Contrary to the administration's claims of December and January, that a signal would shortly be forthcoming which would substantiate the success of its policy, the Chinese Government has sent no such signal and has not moderated its course.

To the contrary, its intransigence has intensified.

When the President sought to justify that secret mission to China by his top advisors, the only achievement he could cite was the Chinese pledge that no missile sales to the Middle East were planned.

But news stories now report that China is selling ballistic missiles to Iraq. If such sales are occurring, such exports flatly contradict the assurances that we were told had been given to President Bush's emissaries in December.

This does not reflect a "relationship that is so very important to both countries," as the President termed it last December. Instead, it reflects Chinese disdain for American concerns.

When National Security Adviser Scowcroft toasted the Chinese leaders in Beijing, he said, "* * * we come to reduce the negative influence of irritants in the relationship."

But the negative influences in the relationship are the actions of the Chinese Government. Recent months have seen no reduction in these irritants.

Instead, the Government intensified its harshness against dissidents; it cut short a $500 million program with Grumman Aviation; and it has introduced strict new controls on foreign travel in Tibet, including travel by journalists who could bring the outside world credible news of conditions there.

Despite direct requests by the President's special envoys that the Beijing government curtail military support for the Khmer Rouge, no such response has been forthcoming. Indeed, according to one recent report it may have increased its arms aid to the Khmer Rouge—the same murderous Khmer Rouge who slaughtered more than a million Cambodians just a decade ago.

Indeed, an administration official admitted on May 1 that the Chinese Government appeared to be "thumbing its nose" at the United States on Cambodia.

The conclusion of administration officials, that there is "no pattern of cooperation" forthcoming from China, is well-founded. It is time for the President to recognize what officials in his Government have already conceded.

There have been no signals of lessened intransigence.

The increased surveillance of dissidents, the mandatory expanded political indoctrination classes for students, the restrictions on overseas study, the persecution of the Roman Catholic Church and other religious groups—all these actions have been well and fully reported in our country.

The Chinese Foreign Minister, in his press conference on March 28, reiterated that it is up to the United States, not his Government, to take the initiative in improving relations between the countries.

"We * * * appreciate President Bush's remarks about putting relations back on course." he said. He rejected the idea that the administration might be disappointed at the lack of his Government's response to American overtures. He said he believed the President did not share that disappointment.

When he was asked about the fate of Fang Lizhi, who remains in hiding in our Embassy, the Foreign Minister said the "only way out for [him] is to mend his ways and plead guilty."

But the Foreign Minister was not telling the whole truth. Not only is a written confession of guilt by Fang being demanded, but other conditions have been set for our nation to meet. And, to its everlasting shame, the Bush administration met the first condition.

But when that first demand was met—American approval of some World Bank loans—the result was not Fang's release.

Instead, as so often happens, the demands escalated. The Chinese Government next demanded a resumption of United States exports of military goods and high-technology products to China.

Now the issue is most-favored-nation trading status.

The Chinese Foreign Minister has warned that a failure to renew most-favored-nation trading treatment for China could cause "major retrogression" in relations between our countries.

It is hard to see how.

Those who argue in favor of this further concession would do well to review the history of past concessions which have gained nothing but new and escalating demands.

It is time to abandon this failed policy, not to embellish it with new concessions.

President Bush says his principal concern is not to isolate China. He said last December, "I don't want to take any further steps that are going to hurt the Chinese people."

But nothing America has done has hurt the Chinese people. It is what the Chinese Government has done that is hurting the Chinese people. The President continues to ignore that distinction.

It is a fundamental confusion of responsibility to assert that when we stand up for democracy and freedom, we are more responsible for harming the people than the actions of those who are directly causing harm to the people.

Indeed, this is precisely the false assertion the Chinese leaders want us to accept. They claim that objections to butchery are interference in their country.

A year ago, Americans and people all over the world cheered the students in Tiananmen Square as they raised the statue of Goddess of Liberty.

We all hoped we were seeing the dawn of a new era in the world's most populous country. We hoped the students and workers in the square could overcome decades of sterile political dogma, that a new age of freedom would dawn for the long-suffering Chinese people.

Those hopes were dashed by the tanks the Government sent into Tiananmen Square. Armored tanks drove into students and workers. Naked, unaccountable force was unleashed against the defenseless human beings in the Square.

Force can crush unarmed people. That lesson is one we know well. But force cannot crush an idea. Force cannot dam a desire. Force cannot quell a hope.

What can crush hope is the lack of moral support.

Ours is a nation that gained strength and legitimacy from moral support.

Two hundred years ago, long before America was a world power, when American hopes and desires were a footnote in international considerations, the moral support of one of the world's leading powers, France, was an anchor to which our people clung; it was a source of strength to our forefathers.

It helped give them the confidence to confront the world's leading power of the time, Great Britain.

For the past century, America has in turn given moral support to freedom. For half a century, we supported the aspirations of Eastern Europe to be free. Beginning with President Carter and continuing under President Reagan, we have championed human rights and human freedoms as a policy goal of the United States of America.

Yet faced with the most blatant use of government force against defenseless citizens, our moral stance has been compromised by our own administration.

It is a grave error to believe that our Nation can be neutral as between freedom and oppression. It is a mistake to believe that we can as easily support the one as the other.

We cannot. It is not in our history. It is not in our people. Our choice is and must be freedom.

If we continue on our present course with respect to China, we will be compounding a mistake, for neither the oppressors nor those they seek to crush will believe us.

We will have traded our principles for the doubtful friendship of dictators. And we will betray the trust of those who seek our support in their fight for freedom.

That has never been the American way. It ought not be our way now.

Mr. CHAFEE. Mr. President, I would like to make a couple of comments, if I might, on the distinguished majority leader's remarks.

It seems to me unfortunate in this Senate that we spend so much time as we do, hectoring the administration on how to run their side of the ledger. Yet we cannot even pass aid to Panama, we cannot even pass aid to Nicaragua. Nothing happens.

We hope, and work assiduously, to have democracy in those nations; we get it, it arrives, we say we are going to help but where is the Congress of the United States on doing anything about that help?

It seems to me, we have a pretty full platter before us right here in this Congress of the United States, Mr. President, spending as much time as we do, lecturing the President on how to run the affairs of the Nation.

For example, the thing that most deeply disturbs me is that we do not tackle this competitiveness more. I know the distinguished majority leader has worked hard on these matters, but since I have his attention I would like to see something happen in the following areas. I wish we could do something about product liability. That has been kicked around. It is recognized it is a drag on our industries. We ought to do something about it, and nothing happens.

We ought to do something about those Bell Telephone companies. We have a situation where seven of the largest corporations in the United States are being run by a Federal judge, a Federal judge whose platter is full dealing with all kinds of cases. I do not think that is right.

I wish we would do something about the competitiveness of our banks. Once upon a time the U.S. banks were leaders in the world. Now we look at the list of the 15 largest banks in the world and not one of them is an American bank. We had legislation before this body 3 years ago that helped improve the competitiveness of our banks. That legislation has not emerged.

So, I appreciate the concern of the majority leader for what is taking place in China, or this part of the world, or that part of the world, but I think, Mr. President, we have a pretty full platter ourselves. I wish we could get on with some of these matters.

I would like to make one specific comment. As I understand the majority leader's points, he would not grant the most-favored-nation status to the Peoples Republic of China.

That may be. I did notice that our former Ambassador to China, Mr. Winston Lord, who opposed the President on the position that he took and favored the overriding of the veto on the Chinese students legislation said we should grant most-favored-nation status. So this is hardly a case where there is unanimity.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM and Mr. CHAFEE pertaining to the submission of Senate Resolution 288 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

## MORNING BUSINESS

Mr. WIRTH. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## GLOBAL CLIMATE CHANGE

Mr. WIRTH. Mr. President, the issue of global climate change and global warming has been much in front of the American people and the people of the world for now almost a decade. The question is, when are we going to focus on it and start to act and start to move?

The distinguished Senator from Rhode Island was just asking, when is the Senate going to get on with its business? I am pleased to report, Mr. President, the Committee on Energy and Natural Resources has begun to move on this very important issue of global climate change.

Remarkably—and I say remarkably, Mr. President—on Wednesday a very ambitious piece of legislation on energy and global warming was reported out of the committee by a 19 to 0 vote. This, from the Energy Committee that spans the ideological, geographic, and probably just about every spectrum you can find in the U.S. Senate. This bill was reported out 19 to 0.

Initially it was sponsored by more than 33 Members of the Senate. The legislation is now picking up a number of other cosponsors, Mr. President, and we hope this legislation will be on the floor in the not too distant future.

I will be sending out to all Members of the Senate, both those who have sponsored the bill in the past and those who ought to be sponsors of the legislation now, a letter describing the legislation, where we are going, and asking for their support.

Very briefly, Mr. President, the legislation reported out is, I think, a major statement and the first one laid out anywhere in our Government about the issues of global climate change and what we can do about them, particularly in the energy area.

The goal of the legislation is virtually identical to the Nordvik Declaration on Atomospheric Pollution and Climate Change, which essentially called for the United States to become involved in the adoption of a 20-percent goal for the reduction of carbon dioxide emissions by the year 2005.

How do we achieve a goal like that? We achieve a goal like that essentially with a restatement and recommitment to energy policies which we had in this

country during the 1970's and largely abandoned during the 1980's.

The Wirth-Johnston-McClure bill reported out of the Energy Committee last Wednesday developes a mix of policies that can stabilize the generation of carbon dioxide and other greenhouse gases in the United States, investigates the feasibility and the economics of this, Mr. President, and, very important, this is a piece of legislation that has an economic rather than a regulatory base.

We direct the Secretary of Energy to submit to the Congress a least-cost national energy strategy assessing what is available to us and what makes the most sense in terms of changes for us to be making; what in production; what in conservation; what in transportation; what in building standards; where are these targets going to be most likely to be met; and what emphasis should we be pursuing?

We set up a director of an Office of Climate Protection for the first time in the Department of Energy. We develop a major National Academy of Sciences review of the causes of climate change, the trends in greenhouse gases, and we hope to put to rest that little bit of remaining controversy that is out there by some of what I would call the scientific revisionists reviewing this important issue.

The legislation, Mr. President, has an extremely important section on energy efficiency, probably the guts of the bill, moving all the way from focusing on policies that we ought to be pursuing nationally and internationally through a series of joint ventures and the establishment of five centers for demonstrating technologies around the country on energy efficiency, focusing in that title, Mr. President, on Federal facilities.

We have right in our own back yard enormously consumptive and, in many ways, wasteful energy programs within the Federal establishment. We call for shared cost savings contracts and really urge our own Federal facilities to meet the goals which we are establishing for the country overall.

The Department of Energy is called upon for developing a system of home energy ratings so that when people buy a home or are selling a home they can know how efficient that is and know what the costs of energy are going to be; to develop a program for labeling of windows and other areas for energy efficiency and develop certainly greater incentives for the energy information area.

We have provisions related to PURPA, provisions related to energy and vehicle research and some added to the bill by Senator ROCKEFELLER on the solar-powered vehicles; hydrogen, a major provision authored by our good and late friend Senator Matsunaga and added by Senator AKAKA, a new member of the committee. There is focus on fusion, coal, natural gas, and other alternative fuels.

This is a major piece of legislation, Mr. President. We should be proud of the fact that on energy conservation and energy production, methane included coal opportunities, we have for the first time a template for the rest of this country and for the 21st century and, in addition, a template for the world.

Senator DOMENICI added a number of major provisions, very important ones, related to technology transfer and our role around the world, ones which we are increasingly understanding of.

Mr. President, I am very proud of the committee. I am thankful to Senator JOHNSTON and Senator MCCLURE who took this very controversial, very ambitious piece of legislation and worked it through the thickets of the legislative process, had many, many hearings, consulting with all kinds of outside groups and reporting out, Mr. President, a global warming bill with a vote of 19 to 0.

Again, I will be sending out to all Senators who sponsored the bill in the past, and who should be sponsoring the legislation now, a summary of where we are, where we are going, and ask for their cosponsorships at this point. This has a very, very broad base of support, something we all should and must subscribe to. I hope we find our way moving through the Senate with this legislation very rapidly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, a number of my colleagues on both sides of the aisle have talked about campaign finance reform this morning. I hope, as others have said, we are now on the right track, and we are moving toward some way to clean up the campaign finance mess.

Last week, both parties, Democrats and Republicans, introduced their own reform proposals. Both the majority leader and myself have appointed negotiating teams. I understand maybe sometime early next week they will have their first meeting. It is not going to be easy, and is not going to be settled in a week or 2 weeks, or maybe even longer.

Also, I think it is fair just to set the record straight. I have had an opportunity to review the majority leader's remarks when he introduced the Democratic campaign finance proposal. I think I should correct some of the statements that I believe are inaccurate and unfair.

One is that the majority leader said: "The Republican reaction to the Democratic substitute is no surprise. They offer no reform proposals so must depend on an attack of the Democratic approach."

Mr. President, the Republican bill offers reform. I think it is significant reform. I think it is just plain wrong that we say that our bill was totally barren of any reform. That is sort of the attitude we have had and why we cannot get together on campaign finance reform.

I just say we ban soft money; we ban PAC's; we restrict the practice of bundling; we reduce the contribution limits for-of-State residents, $1,000 in State to $500 out of State. We take a big whack at special interests by removing political action committees altogether. I can go through, and will in the statement, and point out what our bill does as compared to the Democratic bill, but I think there is a significant difference.

I know the Democrats have a fixation on spending limits. I think my own view on spending limits is one way to ensure all of us are protected, all the incumbents, but it is pretty hard on challengers.

I ask unanimous consent to print in the RECORD an article written by Roy Schotland who is a professor at Georgetown University Law Center, Washington, DC.

It is entitled "The Perversity of Campaign Reform."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PERVERSITY OF CAMPAIGN REFORM

(By Roy A. Schotland)

Campaign reform is on the floor of Congress this week. The Senate majority leadership is proposing a package deal: limits on the amount of money candidates for Congress may spend, and public financing of the expenditures candidates are permitted.

It all sounds very fair, but in fact, the legislation grossly favors incumbents—even more so since Sens. Tim Wirth (D., Colo.), Tom Daschle (D., S.D.) and Max Baucus (D., Mont.), among others, pressured the leadership into fiddling with the reform's rules over the past few weeks. As well as the unfortunate intended effects, the bill will have unfortunate unintended effects—effects that are bound to hurt almost every state, in one election or another.

Spending ceilings are among the most enduring popular of campaign reform proposals. In 1974, Congress enacted ceilings for both presidential and congressional campaigns. The constitutionality of the statute was challenged, and the Supreme Court held, in a 1976 case, Buckely v. Valeo, that while statutory limits on individual contri-

butions to campaigns are consitutional, limits on spending are not. The court did, however, permit Congress to require candidates to comply with spending limits as a condition of public funding for their campaigns. As a result, presidential candidates—who are eligible for public funding—are generally subject to spending limits, but congressional candidates are not.

Whatever the consequence of spending limits for presidential races, congressional elections would become not more competitive, but less. The more competitive the race, the more likely it will involve high spending.

Between 1982 and 1988, there were 30 highly competitive (6% margin or closer) Senate races and 65 landslides (20% margin or greater). In the 30 highly competitive races, more than 60% of the candidates spent more than the various proposals for campaign reform now before Congress would permit—even before adjusting for inflation. But in the landslides, only 15% of the candidates involved spent more than the proposals before Congress would permit. The proposed limits—which would come into effect in time for the 1992 elections—would therefore have made little or no difference in the uncompetitive races, but would have had a substantial impact on the others.

Spending limits would alter the balance of power in the Senate between those states that happened to have competitive elections in any particular year and states that didn't. Incumbents in competitive states would be held back from taking advantage of their great fund-raising edge, while their challengers would have sufficient public funds to mount strong races. Those states would probably see unprecedentedly high turnover of senators, who would accordingly build little seniority. This would cost their states bargaining power in Congress. In contrast, uncompetitive states' incumbents, with their spending untouched by the law would continue to drown challengers.

Does anyone want to increase the rewards to one-party states? Does anyone want another manipulable tool in incumbents' hands to foil challengers, in the House as well as the Senate? Of the 12 challengers who beat incumbent senators between 1982 and 1988, 10 spent more than now-proposed limits, often between two and six times as much.

Spending limits would have another perverse impact: They would ensure that state population size would, for the first time as a matter of law, affect the outcome of Senate races. So far, every formula proposed for setting spending limits state by state has treated population as the only variable differentiating the cost of politics in one state from another. But some states have lively general elections, others only lively primaries; some have expensive media, others not; and so on. The spending ceilings proposed in 1977, the first time Congress tried seriously to enact them, were so high in the biggest states that Senate races there would have been untouched by the law. In contrast, in the 26 smaller states, severe reductions in spending would have been required.

This is not to say flatly that spending ceilings cannot work: the—now discarded—March report by the advisory panel on campaign finance named by Senate Majority Leader George Mitchell and Minority Leader Robert Dole, called for "flexible" ceilings. That report is the first even quasi-official recognition that by imposing ceilings we raise "valid practical considerations of whether certain categories of candidates (challengers v. incumbents), parties (Republican v. Democratic) or campaigns (large state v. small state) would be advantaged or disadvantaged"; further, that the formula for ceilings "need[s] to reflect the disproportionate costs of running in less populated state and in those states which require advertising in adjacent state's media markets."

But I do say that Buckley was right in putting red flags in front of spending ceilings. First, they're horrendously hard to set fairly and flexibly enough, as indicated above. Second, given that difficulty, it is especially significant that if we have ceilings, they will be set not by a troop of Eagle Scouts, but by incumbents who will pick the formula and the level of the limits, and render themselves even more invulnerable at the same time they claim applause for "reform." As Sen. Joe Biden (D., Del.), a backer of campaign reform, says, this "appears very hypocritical."

Mr. DOLE. Mr. President, Roy Schotland talks about spending limits.

Finally, I will just say we are prepared to negotiate in good faith. We do reject public financing. We reject it without apology. I do not believe the taxpayers want to start paying the costs of my campaign or anyone else's campaign. They have enough problems with the deficit crisis and problems of their own without taking some of their hard-earned tax money to pay for everybody's campaign in the Senate, in the Congress, and who knows what next, and who knows how much.

That is a nonstarter. Public financing is not going anywhere. It could not pass on the Democratic side.

I will just say, despite any remarks made, that our initiative is straightforward, it is serious, it is comprehensive; I think it will go a long way toward cleaning up the campaign finance mess.

So having said that, I say again, we are prepared to negotiate. We believe we have a good negotiating team. We believe the majority leader appointed a good negotiating team, and we are prepared to start next week in earnest to see if we can reach some satisfactory conclusion.

Mr. President, the Senate is moving along on the right track when it comes to cleaning up the campaign finance mess.

Last week, Republicans and Democrats introduced their own reform proposals. Both the majority leader and myself have appointed negotiating teams. And formal negotations should begin sometime early next week.

Obviously, much more work needs to be done, but at least the Senate is in a good position to develop a serious and comprehensive reform package.

THE MAJORITY LEADER'S REMARKS

I have had the opportunity to review the distinguished majority leader's remarks when he formally introduced the Democrat campaign finance proposal last week. At the risk of sounding a bit partisan when bipartisanship is the order of the day, I would like to take a few moments to correct—what I believe—are several inaccurate—and unfair—statements that appeared in these remarks.

NO REFORM PROPOSALS?

First. The majority leader made the blanket charge that "the Republican reaction to the Democratic substitute is no surprise. They offer no reform proposals so must depend on an attack of the Democratic approach."

The Republican bill offers no reform proposals? None whatsoever?

That is just plain wrong. And I simply can't believe that the majority leader really considers the Republican bill to be totally barren of a single reform idea.

Mr. President, the Republican bill adopts the reform approach hook, line, and sinker by banning soft money, by restricting the practice of bundling, and by reducing the contribution limits for out-of-State residents by a full 50 percent—from $1,000 to $500.

The Republican bill also takes a big whack at the special interests by removing Political Action Committees from the Federal election process altogether.

No exceptions. No loopholes.

And lo and behold, the Democrat bill follows the Republican lead by banning PAC contributions to at least one group—Senate candidates.

So I am quite positive about the Republican bill. I am quite positive that the Republican is, in fact, a reform proposal. And I am quite positive that the Republican bill can hold its own when compared to the so-called Democrat reform proposal.

DE FACTO SPENDING LIMITS

Second. The majority leader states that:

> The Republican alternative does not contain the essential element of campaign finance reform—spending limits on Senate campaigns. Therefore it does nothing to limit the unending pursuit of money by Senate candidates.

The majority leader is right in one respect. The Republican bill does not contain spending limits, if he is talking about the inflexible and arbitrarily determined spending limits that reduce competition in politics, that put a cap on public participation, and that make election lawyers water at the mouth at the prospect of reaping lucrative legal fees.

This is not just my view. It is the view of just about every academic who has studied the issue. And it happens to be the view expressed in a very good op-ed piece that appeared in the Wall Street Journal earlier this week.

According to the author of the piece—Prof. Roy Schotland of the Georgetown University Law School—the spending limit proposal contained

in the Democrat bill "sounds very fair, but grossly favors incumbents." I could not agree more.

The truth is that the Republican initiative will, in fact, limit campaign spending—and limit it substantially. By banning PAC's—by reducing the contribution limits for individuals residing outside of a candidate's State—and by restricting the practice of bundling—the Republican bill imposes de facto limits on the amount of money that can be spent in a campaign. If the Republican were ever signed into law, there would be less special-interest money flowing in the campaign finance pipeline and campaign spending would—inevitably—decrease. That's a given.

BIPARTISAN PANEL RECOMMENDATION

Third. The majority leader criticizes the Republican bill for exempting contributions to the party committees from the $25,000-a-year limit on contributions to influence Federal elections.

This exemption for party contributions is not a Republican idea. It is not a partisan idea. It is a bipartisan idea. It is an idea proposed by the Mitchell-Dole bipartisan campaign finance reform panel.

The bipartisan panel understood the importance of expanding the roles of the political parties. And it understood that more party participation means less special interest influence and more participation by the people who ought to count—our constituents.

So the bipartisan panel proposed an exemption from the $25,00 annual limit for contributions to the political parties. And Senate Republicans accepted this proposal because it makes sense.

TIME TO BE SERIOUS ABOUT SOFT MONEY

Fourth. The majority leader stated that—

Soft money is often used to circumvent election law limitations.

He stated that:

These unregulated funds from corporations, unions, and wealthy individuals are spent for voter registration drives, get-out-the-vote efforts, and generic advertising often designed specifically to benefit Federal candidates.

This is all well and good, and the majority leader is right on target. But it would be helpful if the Democrat bill took the truth-in-advertising test seriously and did something—finally—about labor union soft money.

Unlike the Republican initiative, the Democrat bill does not prohibit labor unions and corporations from using Treasury funds to finance get-out-the-vote and voter registration efforts. It does not codify the Supreme Court's Beck decision, and it would allow labor unions to continue to finance the administrative expense of the party committees.

PUBLIC FINANCING

The majority leader is correct when he says that Republicans are critical of the Democrat approach.

The Republican bill rejects—outright and without apology—the idea of taxpayer-financing of politicians.

We are in the midst of a budget deficit crisis, and the last thing we need is a congressional scheme to transfer the hard-earned money of the taxpayers to the campaign coffers of congressional candidates.

When it comes to the issue of public financing, Senate Republicans simply will not budge.

CONCLUSION

Mr. President, despite the majority leader's remarks, the Republican initiative is straightforward. It is comprehensive. It is serious. And if enacted, it will go a long way toward cleaning up the campaign finance mess.

I have no doubts about that.

## MFN AND CHINA

Mr. DOLE. Mr. President, I do not want to take issue with the majority leader or debate the MFN for China issue now. First of all, the President has not made up his mind whether he would request the extension on the MFN, and I have not made up my mind, but I will if the President makes that request.

The majority leader made some good points. I do think, however, we ought to keep several considerations in mind. The majority leader did mention Hong Kong, and this is an important and complex consideration. It would be a shame if we undermine Hong Kong's economy, seriously undermining it at the same time its ability to survive as a democratic capital enclave inside China after 1997. MFN is a status quo. Renewing it is keeping the status quo. We are not giving the Chinese some new benefit. Some may think this is a new benefit we are going to restore to the People's Republic of China. It is not a new benefit.

Are we hurting the Chinese hardliners? That is the tone of the majority leader's statement. There are 1.1 billion Chinese people. It seems to me they are rather important strategically, militarily, politically, and economically. However you look at it, it is a country we should not drive back into isolation.

Are we standing on the side of the Chinese reformers? Are we going to isolate them even further if we cut off ties like trade ties? And how badly will it hurt the Chinese anyway, or will it just hurt American business?

I just say I think the majority leader made some good points. I hope people do not become mixed up because they see it maybe as a partisan advantage or a way to take on President Bush who happens to know quite a bit about China and does have a good policy in China.

I think we do need some strong action and some positive action from China. The clock is ticking and time has almost run out. I would say to the leaders in the People's Republic of China, even though you release some dissidents and even though there have been other minor gestures made, the American people and the American Congress I think need to see more. We say that in an effort to bring about change in the right direction.

So I hope that before we make any final determination in the debate over the MFN with reference to the People's Republic of China, we have an opportunity for not only a full debate but hopefully there will be some appropriate response from the People's Republic of China.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. I thank the Chair.

## UNITED STATES-VIETNAMESE RELATIONS

Mr. MURKOWSKI. Mr. President, as we are in the process of noting the 15th anniversary of the fall of Saigon to the Vietnamese Communist forces, it is the opinion of the Senator from Alaska it is time to review our policy toward the Socialist Republic of Vietnam—a policy that remains one of diplomatic nonrecognition and an embargo on public and private dealings with the Hanoi regime.

It is quite evident to us all that Vietnam responded to some of the concerns that led to this policy. The bulk, if not all, of the Vietnam forces that occupied Cambodia in 1979, have been withdrawn. Though results are still unacceptably slow, Hanoi has gradually become more cooperative on the painful POW-MIA issue. And there are other new realities in the region—reduction in the Soviet threat, the deterioration of United States-China relations—that must be taken into account.

In my judgment, it is not yet appropriate for the United States to normalize relations with Vietnam. The Cambodian conflict remains unresolved and I am not convinced that Vietnam has done all it can to provide the fullest possible accounting of Americans missing in action.

We should, however, be willing to consider whether a more positive approach to Vietnam might be more effective in promoting the changes that we want to see in Vietnam's foreign and domestic policy.

In particular, the steps that we can take regarding the economic aspects of

our relationship with Vietnam are what I want to talk about because they will benefit our own citizens while acknowledging that some progress has been made forward building a foundation for a future relationship between our two countries.

I am pleased to join with the senior Senator from California in introducing legislation to compensate Americans who lost property in Vietnam in 1975. It is tragic that issues relating to Vietnam remain with us to this date. But I believe it is important we deal with these issues in fairness to all concerned, and this is such an issue.

In 1975, hundreds of United States citizens and businesses remained in Vietnam, many at the urging of our Government, long after it was prudent to do so. With the fall of the Saigon government, these people lost millions of dollars' worth of property which was confiscated by the new Vietnam Government. There has never been any compensation for this loss of property.

In 1980, Congress directed the Foreign Claims Settlement Commission, an agency of the Justice Department, to adjudicate the claims of those who claimed losses. After considering each case individually in detail, the Commission declared that 192 of the claims had merit, and they stated the amounts that were due each claimant. The claims and the amount of the claims are not in controversy at this time.

At the same time that the former South Vietnamese Government fell, the United States Government blocked South Vietnam's assets in this country, mostly in the form of central bank funds and deposits in United States banks. Those funds have remained blocked to this date.

This legislation which we introduced would, in effect, permit the President to vest blocked funds and to distribute them as may be necessary to satisfy the adjudicated claims.

There is a precedent for this action, Mr. President, the Congress having vested blocked assets in several previous situations.

There is an important equity question involved. U.S. citizens have lost property, the Congress and the agencies of the U.S. Government have recognized those losses, and appropriate funds are available to satisfy them. The Congress has an opportunity to make those funds available in a way that is consistent with past practice and with established legal procedures. The claimants have already waited 15 years and the value of their claims is decreasing with each succeeding year since the law permits these claims to earn only 6 percent simple interest per annum.

As important as this issue is, I think there are legitimate concerns on the impact this legislation might have on our contacts with Vietnam. An overriding concern I have is that they not interfere with efforts under way between our Government and the Socialist Republic of Vietnam to obtain fullest possible accounting of American servicemen missing in action and resolve other humanitarian issues that are outstanding. I would not support this legislation if I thought it would interfere in any way with a full accounting of our POW's and MIA's.

I believe the legislation has been carefully drafted with that consideration in mind. It contains a provision which in effect gives the Vietnamese credit for any invested funds in any future bilateral negotiations with the United States leading up to normalization where all outstanding claims can be resolved.

In addition, I am pleased that Senator CRANSTON has agreed to my request to include a provision which gives the President the authority to delay the vesting for 1 year at a time, for the full extent of this term if, in his judgment, vesting should in any way threaten progress on humanitarian issues that are being discussed by our two countries.

This provision is designed also to address similar issues raised by the State Department. In short this legislation, has been drafted to meet a number of different legitimate concerns in a balanced and fair manner.

We need to see if we can do something for these claimants who have waited 15 years for the compensation which everyone agrees is due them. In that spirit, Mr. President, I join Senator CRANSTON in this legislation.

In addition to the legislation, I urge the administration to review the existing prohibition on trade and investment in Vietnam by private United States firms. When I say review, I mean that. I do not mean open it up. But let us take a look at it. Trade and investment in Vietnam by private firms is taking place. American businesses are complaining with increasing urgency of their inability to compete with the Thais and the Japanese, the Singaporeans, Taiwanese, the French, and other businessmen who are actively pursuing commercial ventures in Vietnam.

I believe it may be time to examine the merits of changing the procedures of allowing American businessmen to join in evaluating the opportunities in that country. Such a step will still leave in place the barriers on Government bilateral-multilateral assistance to Vietnam. Large-scale infrastructure lending can only come from public sources, so the United States will retain ample leverage over policy, particularly toward achieving an accepting able settlement to the tragic situation in Cambodia. It is time we stop requiring that American businesses bear the burden of that leverage almost entirely.

We need to take a hard constructive look at our policy toward Vietnam. I hope that the introduction of this legislation and my proposal to relax some of the constraints on U.S. businesses will provide the impetus to the Congress and the administration to conduct an appropriate review.

Mr. President, I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FOWLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RETIREMENT OF COL. LAWRENCE WILLIAM DUGGAN, U.S. ARMY

Mr. PACKWOOD. Mr. President, most of us reach a crossroads in our lives where we know the decisions made will forever alter our destiny and determine our fate. Lawrence William Duggan of Portland, OR, reached that point at the University of Oregon in 1960 when he was commissioned a second lieutenant of infantry in the U.S. Army.

On May 1, Col. Lawrence William Duggan reached a second crossroads when he retired after 30 years of distinguished service. I am proud to take this opportunity today to commend his accomplishments and proud service to our country.

A native Oregonian, Colonel Duggan began his military career as a platoon leader and company commander at the U.S. Army Training Center in Fort Ord, CA. Since then, his service has included two tours in Vietnam and stints in Germany, Thailand, and at the Pentagon. The shining moment in this stellar career, however, came in 1985 when Colonel Duggan was named commander of the 5th Special Forces Group.

Colonel Duggan epitomizes the strength and dedication of the Special Forces soldier. Created in 1952, Special Forces troops were trained to conduct unconventional warfare that only the tenacious and dedicated could endure. Special guerrilla warfare tactics, sabotage, and escape and evasion offered a glimpse at an alternative to massive conventional intervention. Their use of the now-famous green beret symbolized their special standard of excellence and distinction, worn as a badge of courage.

In 1964, Colonel Duggan set out to become one of the elite—the toughest, most dedicated, and highly trained soldiers prepared to conduct the full range of special operations missions

worldwide. His unfailing dedication, combined with a willingness to do without some of the monetary gain, notoriety and laurels that come with other military service, enabled Colonel Duggan to meet and conquer the challenge of the Special Forces. He achieved 30 years of distinction with pride and with professionalism.

Colonel Duggan has earned an extraordinary number of physical honors and medals over his career. It is his reputation of perseverance and loyalty, however, that has earned the invaluable respect of colleagues and superiors in all branches of service.

Mr. President, Col. Lawrence William Duggan now stands at the second crossroads. It is a bittersweet juncture. A career of exemplary military service has come to an end. But the service of a great American can never be retired. As a nation, we owe him our thanks and gratitude, and offer him our congratulations for a job well done.

## TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,889th day that Terry Anderson has been held in captivity in Beirut.

## NATIONAL RADON ACTION WEEK

Mr. LAUTENBERG. Mr. President, on Wednesday Senator WARNER, together with 21 other Senators, joined me in introducing a Senate Joint Resolution 317 which would designate the week of October 14, 1990, as National Radon Action Week.

Radon exposure poses a serious health risk to the people of our Nation. The EPA estimates that the number of deaths per year due to radon exposure is approximately 20,000. Fortunately, elevated radon levels can be reduced successfully at relatively low cost.

Testing in homes and schools and educating people about the risks associated with radon exposure are the first steps we can take to protect ourselves and our children from the harmful effects of radon. Our resolution calls for the establishment of a National Radon Action Week to encourage these activities.

This resolution has been endorsed by a broad range of groups and associations including: the American Lung Association, the American Cancer Society, the American Academy of Pediatrics, the National Congress of Parent Teachers Associations, the National Education Association, the Consumer Federation of America, the State and Territorial Air Pollution Control Administrators, and the North American Radon Association.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

I encourage my colleagues to consponsor this resolution and I ask unanimous consent that a copy of the Senate Joint Resolution 317 be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 317

Whereas exposure to radon poses a serious threat to the health of the people of this Nation;

Whereas the Environmental Protection Agency estimates that lung cancer attributable to radon exposure causes approximately 20,000 deaths a year in the United States;

Whereas the United States has set a long-term national goal of making the air inside buildings as free of radon as the ambient air;

Whereas excessively high levels of radon in homes and schools can be reduced successfully and economically with appropriate treatment;

Whereas only about 2 percent of the homes in this Nation have been tested for radon levels;

Whereas the people of this Nation should be educated about the dangers of exposure to radon; and

Whereas people should be encouraged to conduct tests for radon in their homes and schools and to make the repairs required to reduce excessive radon levels: Now, therefore be it

*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,* That the week of October 14, 1990, through October 20, 1990, is designated as "National Radon Action Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

## JUST SAY NO TO DRUGS

Mr. WARNER. Mr. President, I rise to share with my colleagues an experience I had just moments ago on the steps that lead to this Chamber. There, on this beautiful spring day, I met with 150 fifth graders from the Little Creek Elementary School in Norfolk, VA, who are members of the Just Say No Club at that school. These fine young boys and girls brought me a message: A message of hope and commitment to keep drugs and alcohol out of their lives. So impressed was I with their earnest desire, and that of their teachers, to spread the message of leading drug-free lives that I came directly to the Senate floor to share with you this memorable visit. We all meet many students on the famous Senate steps, but this group will always be remembered.

I told them that we have witnessed historic changes throughout the world, especially in Europe. At no other time in the past 40 years has the possiblity of an armed conflict between our own Nation and the forces of communism been less likely than it is today. But there is another war taking place right now within our own borders. The war on drugs is as nasty and brutish a conflict as our Nation has ever experienced. The effects of drug abuse are devastating to individual, families and entire communities, particularly our young people. Perhaps the greatest hope we have to combat this scourge rests with our young people. The age of my visitors 10 to 12 is the perfect time to start.

I have seldom been more moved, nor seldom spent a more worthwhile moment as a U.S. Senator than the few minutes I spent with the children from Little Creek Elementary School. I respectfully request that their letter to me—and for all Senators—together with their pledge, stated by all of them on the Senate steps, be made a part of the official proceedings of the Congress of the United States on this day.

It serves as a call to action for their friends, teachers, and parents all across our beautiful United States of America.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LITTLE CREEK ELEMENTARY SCHOOL,
*Norfolk, VA, May 10, 1990.*

Senator JOHN W. WARNER,
*U.S. Senate, Washington, DC.*

DEAR SENATOR WARNER: We are members of the fifth grade Just Say No Club at Little Creek Elementary in Norfolk, Virginia. We are pleased to have this opportunity to meet you and thank you for all you have done in the fight against drugs.

We were very excited to hear your announcement that Virginia law enforcement agencies will receive a $9.2 million grant from the U.S. Department of Justice to continue and expand anti-drug efforts. This is a $6.2 million increase over last year. It will be used not only in our cities but in our rural communities as well. You said that the illicit drug trade is a very serious challenge to our sheriffs, police officers, and courts, and that this grant will help alleviate the financial strain on existing programs.

We were also very interested in your recent visit to the Little Creek Naval Amphibious Base where you spoke with local, State, and Federal narcotics officers. You told them that the international drug war is as serious as any threat of a shooting war from an enemy, and that they were fighting to rid the nation of its worst problem.

Your actions are proving that you feel the war on drugs is the Number 1 issue facing America. this country needs congressmen like you who will work toward ridding America of all drug crimes.

Sincerely,

FIFTH GRADE JUST SAY NO CLUB.

"WE SAY NO TO DRUGS" PLEDGE

I know who I am and I know that I want to stay healthy and happy.

I can stand up for myself and stick to my decision to live a drug-free life.

I can ask for support from my friends and my family.

I pledge to say "No" to drugs and alcohol.

I can help others say "No" to drugs and alcohol.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 11:12 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1028. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Golden Anniversary of the Mount Rushmore National Memorial;

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization;

H.R. 4612. An act to amend title 11 of the United States Code regarding swap agreements and forward contracts; and

H.J. Res. 508. Joint resolution designating May 1990 as "Take Pride in America Month."

## MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1028. An act to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial to the Committee on Banking, Housing, and Urban Affairs;

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization; to the Committee on Banking, Housing, and Urban Affairs; and

H.J. Res. 508. Joint resolution designating May 1990 as "Take Pride in America Month"; to the Committee on the Judiciary.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4612. An act to amend title 11 of the United States Code regarding swap agreements and forward contracts.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports and documents, which were referred as indicated:

EC-3004. A communication from the Secretary of Agriculture, transmitting drafts of proposed legislation entitled the "Plant Protection Act" and the "Animal Health Protection Act"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3005. A communication from the chief of the Forest Service, U.S. Department of Agriculture, transmitting, pursuant to law, the final 1989 report of the Forest Service; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3006. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the cumulative report of the Office on rescissions and deferrals; pursuant to the order of January 30, 1975, as modified by the order of April 26, 1986 referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-3007. A communication from the Director of the Defense Security Assistance Agency, Department of Defense, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letters of Offer and Acceptance to Norway for defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3008. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on section 3 of the Housing and Urban Development Act of 1968; to the Committee on Banking, Housing, and Urban Affairs.

EC-3009. A communication from the general counsel of the Department of Transportation, transmitting, pursuant to law, the fiscal year 1991 budget requests of the Federal Aviation Administration to the Department; to the Committee on Commerce, Science, and Transportation.

EC-3010. A communication from the Secretary of Transportation, transmitting, pursuant to law, the eighth annual report of accomplishments under the Airport Improvement Program; to the Committee on Commerce, Science, and Transportation.

EC-3011. A communication from the chairman of the Federal Election Commission, transmitting pursuant to law, the semiannual report of the Commission's Inspector General; to the Committee on Governmental Affairs.

EC-3012. A communication from the chairman of the U.S. International Cultural and Trade Center Commission, transmitting, pursuant to law, the Commission's first annual report in compliance with the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-3013. A communication from the Attorney General of the United States, transmitting a draft of proposed legislation entitled the "Cooperative Production Act of 1990"; to the Committee on the Judiciary.

EC-3014. A communication from the chairman of the U.S. Railroad Retirement Board, transmitting an informational report on the functions of the Board; to the Committee on Labor and Human Resources.

EC-3015. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Airport Noise Compatibility Planning Program report; to the Committee on Commerce, Science, and Transportation.

EC-3016. A communication from the Director of the Office of National Drug Control Policy, Executive Office of the President, transmitting a draft of proposed legislation entitled the "National Drug Control Strategy Implementation Act of 1990"; to the Committee on the Judicary.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1719: A bill to designate a segment of the Colorado River in the Westwater Canyon, Utah as a component of the National Wild and Scenic Rivers System (Rept. No. 101-296).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 666: A bill to enroll twenty individuals under the Alaska Native Claims Settlement Act (Rept. No. 101-297).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (by request):

S. 2652. A bill to implement the National Drug Control Strategy; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. GRASSLEY, Mr. SYMMS, Mr. BURDICK, Mr. BOREN, Mr. PRESSLER, Mr. NICKLES, and Mr. DOLE):

S. 2653. A bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. HATFIELD, Mr. SASSER, Mr. METZENBAUM, and Mr. PELL):

S. 2654. A bill to provide for an intensified national effort to improve the health and enhance the independence of older Americans through research, training, treatment, and other means, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. STEVENS:

S. 2655. A bill to authorize a certificate of documentation for the vessel *Artic Fisher*; to the Committee on Commerce, Science, and Transportation.

S. 2656. A bill to authorize a certificate of documentation for the vessel *Pumpkin*; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY:

S. 2657. A bill to direct the Secretary of the Interior, acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto, to undertake certain studies to investigate opportunities for wastewater reclamation and reuse, to conduct studies of groundwater, and for other

purposes; to the Committee on Energy and Natural Resources.

S. 2658. A bill to establish conditions for the sale and delivery of water from the Central Valley Project, CA, a Bureau of Reclamation facility, and for other purposes; to the Committee on Energy and Natural Resoures.

S. 2659. A bill to amend and supplement Federal reclamation law to eliminate abuses of the Reclamation program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX:

S. 2660. A bill to authorize a certificate of documentation for the vessel *Bounty*; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S.J. Res. 320. A joint resolution designating July 2, 1990, as "National Literacy Day"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM (for herself, Mr. CHAFEE, Mr. INOUYE, and Mr. DOLE):

S. Res. 288. A resolution expressing the sense of the Senate regarding the reopening of universities in the West Bank and Gaza without delay; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (by request):

S. 2652. A bill to implement the national drug control strategy; to the Committee on the Judiciary.

NATIONAL DRUG CONTROL STRATEGY IMPLEMENTATION ACT

Mr. DOLE. Mr. President, today I am introducing the National Drug Control Strategy Implementation Act of 1990.

This bill was sent to the Congress by the Director of the Office of National Drug Control Policy, William Bennett, after consulting with the executive branch departments and agencies with direct authority over illicit drug supply and demand reductions.

Over the past several years, the Congress has greatly expanded the authority and funding for these agencies. At the same time, we directed Director Bennett to undertake a review of these programs and inform us of failures and successes, as well as recommending changes to existing law which would aid in the effort to eliminate drug abuse in the United States.

The bill I am introducing on behalf of the administration will add several essential tools to both supply and demand reduction.

MAJOR PROVISIONS

Mr. President, there are many important provisions in this bill, but I will highlight only a few. First, it includes a revised version of an initiative which was included in the first national drug control strategy, but which was never approved by the Congress. It requires States, as a condition on receiving Federal justice assistance funds, to conduct drug tests on a number of individuals arrested, incarcerated, or on probation or parole. As I said, this proposal has been revised to eliminate previous objections, and is necessary to define the successes and failures of our overall antidrug program. To complement State testing regimes, it imposes a similar testing requirement on the Federal criminal justice system.

Second, the bill includes another recommendation of the first national drug control strategy that the Congress has also failed to send to the President. It requires States, as a condition on receiving funds from the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA], to implement statewide treatment plans to expand capacity, assess need, improve referrals, provide training and coordination. With calls for even more funds for treatment, this additional accountability for treatment providers is the least we should demand in return for the huge increases we have agreed to provide in treatment funding.

With respect to ADAMHA funding, it also prohibits States from reducing their share of drug treatment money. Historically, this has been a program of cooperation in both technical and financial resources, this bill would ensure that cooperation continues.

To more fully address the heinous nature of crimes committed by drug traffickers, the bill includes a death penalty for major drug kingpins who attempt a killing to obstruct an invesigation or prosecution of a drug offense, and those who commit a drug felony which results in a death. This provision will expand the existing Federal death penalty for drug kingpins who commit murder.

It enhances our ability to combat drugs internationally by extending certain waivers for the Andean initiative, which seeks to reduce the production of coca and coca paste in Peru and Bolivia and its refining into cocaine in Colombia and other South American countries. In addition, it would allow for the extradition from the United States drug suspects wanted by foreign countries, even if we are not obligated to extradite by treaty. As we continue to seek extradition of foreign drug lords for prosecution by U.S. courts, we shuld be willing to assist other nations in similar efforts.

Finally, a number of improvements for law enforcement and the criminal justice system are included. The Immigration and Naturalization Service would be given expedited procedures for deportation of criminal aliens and be given arrest authority, additional protection for judges, jurors, and witnesses is expanded, new sanctions for public corruption and sale of drug paraphernalia are included and new penalties added for those who fail to land aircraft and water-going vessels upon the order of law enforcement officials.

Mr. President, I ask unanimous consent that a copy of the bill and a section-by-secton analysis of the bill, and Mr. Bennett's letter of transmittal be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2652

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Drug Control Strategy Implementation Act of 1990".

SECTION 21. TABLE OF TITLES.

Title I—Drug Testing, Funding Programs, and Treatment.
Subtitle A—Funding Programs and Treatment.
Subtitle B—Drug-Testing of Defendants on Post-Conviction Release.
Title II—Sanctions for Failure to Land or to Bring To.
Title III—Drug Paraphernalia.
Title IV—International Narcotics Control.
Title V—Death Penalty for Drug Kingpins and other Crime Control Provisions.
Subtitle A—Capital Punishment for Drug Kingpins and Related Offenders.
Subtitle B—Protection of Witnesses, Jurors, and Court Officers.
Title VI—Justice System Improvements.
Subtitle A—INS System Improvements.
Subtitle B—Protection of Witnesses, Jurors, and Court Officers.
Title VII—Amendments Related to Asset Forfeiture and Money Laundering.
Subtitle A—Special Forfeiture Fund.
Subtitle B—Forfeiture Amendments.
Subtitle C—Money Laundering Amendments.
Title VIII—Miscellaneous and Technical Amendments.

TITLE I—DRUG TESTING, FUNDING PROGRAMS, AND TREATMENT

Sec. 1001. Table of Contents.
Subtitle A—Funding Programs and Treatment.
Sec. 1101. Drug testing in the criminal justice system as a condition of receipt of Justice Drug Grants.
Sec. 1102. Maintenance of effort in ADMS block grants.
Sec. 1103. Establishment of statewide drug treatment plans; amendment to chapter 6A of title 42 (Public Health Service Act).
Sec. 1104. Raising the Cap on Discretionary Grants for Justice Drug Grants.
Subtitle B—Drug-Testing of Defendants on Post Conviction Release
Sec. 1201. Drug testing program.
Sec. 1202. Drug testing condition.
Sec. 1203. Revocation of release.

Subtitle A—Drug Testing and Treatment

SEC. 1101. DRUG TESTING IN THE CRIMINAL JUSTICE SYSTEM AS A CONDITION OF RECEIPT OF JUSTICE DRUG GRANTS.

(a) IN GENERAL—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750-3766b) the following:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—No funding shall be provided under this part, whether by direct grant, cooperative agreement, or assistance in any form, to any State or to any political subdivision or instrumentality of a State that has not formulated and implemented a drug testing program, subject to periodic review by the Attorney General, as specified in the regulations described in subsection (b), for targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

"(b) REGULATIONS.—The Attorney General shall, not later than six months after the enactment of this section, promulgate regulations for drug testing programs under this section, which shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the regulations may include guidelines or specifications concerning—

"(1) the classes of persons to be targeted for testing;

"(2) the drugs to be tested for;

"(3) the frequency and duration of testing; and

"(4) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State, subdivisions, or instrumentality receiving or seeking funding under this subchapter at a time specified by the Attorney General, but no earlier than the promulgation of the regulations required under subsection (b).".

"(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting at the end of the item relating to part E the following:

"Sec. 523. Drug Testing Programs.".

SEC. 1102. MAINTENANCE OF EFFORT IN ADMS BLOCK GRANTS.

Amends section 1916(c)(11) of the Public Health Service Act to read as follows:

"(11)(A)(i) The State agrees to maintain State expenditures for alcohol, drug abuse, and community mental health services at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914; (ii) provided however that the State shall maintain State expenditures for drug abuse related services provided pursuant to this subpart at a level equal to not less than the average amount of such expenditures for the preceding two years.

"(B) The Secretary may, upon the request of a State, waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the State justify the waiver of the provisions contained in subsection (i) or if the Secretary determines that other extraordinary conditions in the State justify the waiver of the provisions contained in subsection (ii).

"(C) The Secretary shall promulgate regulations implementing this subsection of law which shall include, but not be limited to, the procedures by which a full or partial waiver may be granted.".

SEC. 1103. ESTABLISHMENT OF STATEWIDE DRUG TREATMENT PLANS: AMENDMENT TO CHAPTER 6A OF TITLE 42 (PUBLIC HEALTH SERVICE ACT).

Title XIX of the Public Health Service Act is amended by inserting after section 1916A the following:

"STATEWIDE DRUG TREATMENT PLAN

"SEC. 1916B. (a) NATURE OF PLAN.—In order to receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit as part of the application required by section 1916(a) an approved Statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, which shall contain the following:

"(1) the single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan,

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data,

"(3) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary,

"(4) a description of performance-based criteria that shall be used to allocate funds to drug treatment facilities receiving funding under this subpart,

"(5) a description of the drug-free patient and workplace programs (all of which must include drug testing) to be utilized in drug treatment facilities and progras,

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart,

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality,

"(8) a description of the program of in-service training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques,

"(9) a description of the plan that shall be implemented to coordiante drug treatment facilities with other social, health, correctional and vocational services in order to assist or refer those patients in need of such additional services, and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove State plans, and to propose changes to them.

"(c) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit such reports, in such form, and containing such information as the Secretary may, from time to time, require, and will comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(d) WAIVER OF PLAN REQUIREMENT.—At his discretion, the Secretary may waive any or all of the requirements of this subsection upon the written request of a State, provided the State implements an alternative treatment plan that fulfills the objectives of this subsection.

"(e) DEFINITION.—For purposes of this section, the term "drug abuse portion" means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.".

(b) REGULATIONS AND EFFECTIVE DATE.—

(1) The Secretary shall promulgate regulations to carry out section 1916B of the Public Health Service Act no later than six months following the date of this Act.

(2)(A) Sections 1916B(a)(4) and (a)(5) of that Act are effective beginning with the second fiscal year beginning after the date final regulations are published in the Federal Register.

(B) The remainder of that section is effective beginning with the first fiscal year beginning after the date final regulations are published in the Federal Register.

SEC. 1104. RAISING THE CAP ON DISCRETIONARY GRANTS FOR JUSTICE DRUG GRANTS.

In section 511 of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351), as amended by the Anti-Drug Abuse Act of 1988 (P.L. 100-690), strike the term "$50,000,000" and insert in lieu thereof the term "$100,000,000".

Subtitle B—Drug-Testing of Defendants on Post-Conviction Release

SEC. 1201. DRUG TESTING PROGRAM.

(a) Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**§ 3608. Drug testing of defendants on post-conviction release.**

"The Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of criminal defendants on post-conviction release. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) The section analysis for chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following: "3608. Drug testing of defendants on post-conviction release."

SEC. 1202. DRUG TESTING CONDITION

(a) Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence

as defined in section 16 of this title, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. No action may be taken against a defendant pursuant to a drug test administered in accordance with this paragraph or sections 3583(d) or 4209(a) of this title, unless the drug test confirmation is a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

(b) Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(c) Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title."

SEC. 1203. REVOCATION OF RELEASE

(a) Section 3565(a) of title 18, United States Code, is amended by inserting in the final sentence after "3563(a)(3)," the following: "or unlawfully uses a controlled substance or refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),".

(b) Section 3583(g) of title 18, United States Code, is amended by inserting after "substance" the following: "or unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of supervised release,".

(c) Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

## TITLE II—SANCTIONS FOR FAILURE TO LAND OR TO BRING TO

Sec. 2001. Table of Contents.
Sec. 2101. Sanctions for failure to land or bring to.
Sec. 2102. FAA summary revocation authority.
Sec. 2103. Coast Guard air interdiction authority.
Sec. 2104. Coast Guard civil penalty provisions.
Sec. 2105. Customs orders.
Sec. 2106. Customs civil penalty provisions.

SEC. 2101. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) Chapter 109 of title 18 of the United States Code, is amended by adding at the end thereof the following new section:

"SEC. 2237. ORDER TO LAND OR BRING TO.

"(a)(1) In the enforcement of the laws of the United States relating to controlled substances as that term is defined in 21 U.S.C. 802(6) of money laundering (18 U.S.C. 1956-57), it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircrat subject to the jurisdiction of the United States operating outside the United States to refuse to obey the order of an authorized Federal law enforcement officer to land.

"(a)(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall promulgate regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

"(a)(3) The enactment of this section shall not be construed to limit in any way the pre-existing authority of a customs officer under 19 U.S.C. 1581(d) or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(b) It is unlawful for any master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to that vessel on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(d) For purposes of this section:

"(1) a "vessel of the United States" or a "vessel subject to the jurisdiction of the United States" has the meaning set forth in the Maritime Drug Enforcement Act (46 U.S.C. App. 1901 et seq.).

"(2) an aircraft "subject to the jurisdiction of the United States" includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States.

"(3) "bring to" means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state.

"(4) "Federal law enforcement officer" has the meaning set forth in section 115 of this title.

"(e) A person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than two years; and

"(2) a fine as provided in this title.

"(f) Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine imposed under this section.".

(b) The analysis for chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Order to land or to bring to.".

SEC. 2102. FAA SUMMARY REVOCATION AUTHORITY.

Title V of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1401), is amended by adding a new section 501(e)(3) to read as follows:

"(e)(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of an aircraft to follow the order of a law enforcement officer to land an aircraft, as provided in section 2237 of title 18 of the United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for that aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause why (i) the registration was not revoked, as a matter of law, by operation of paragraph (A) of this subsection; or (ii) cricumstances existed pursuant to which the Administrator should determine that, notwithstanding paragraph (A) of this subsection, it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by paragraph (A) of this subsection.".

SEC. 2103. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) Title 14 of the United States Code is amended by adding a new Section 152 to read as follows:

"§ 152. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft over the high seas and waters over which the United States has jurisdiction. Orders to land an aircraft must be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) The analysis of title 14, United States Code, is amended by adding, immediately after item 151,

"152. Air interdiction authority."

SEC. 2104. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) Title 14 of the United States Code is amended by adding a new section 640 to read as follows:

**"§ 640. Civil penalty for failure to comply with a lawful boarding or order to land**

"(a) The master, operator or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) The master, operator or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Any vessel or aircraft used in violation of section 2237 of title 18, United States Code, is also liable in rem for the penalty assessed under this section.".

(b) The analysis of title 14, United States Code, is amended by adding, immediately after item 639,

"640. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 2105. CUSTOMS ORDERS

(a) Section 581 of the Tariff Act of 1930, as amended (19 U.S.C. 1581) is further amended by adding a paragraph (i) to read as follows:

"(i) As used in this section, the term "authorized place" includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations or searches;

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18 of the United State Code, any location outside of the United States, including a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches."

SEC. 2106. CUSTOMS CIVIL PENALTY PROVISIONS.

(a) The Tariff Act of 1930, as amended, is further amended by adding a new section 591 (19 U.S.C. 1591) as follows:

SEC. 1591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER.

"(a) The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United State Code, is subject to a civil penatly of not more than $25,000 which may be assessed by the appropriate customs officer.

"(b) The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United State Code, is subject to a civil penatly of not more than $5,000 which may be assessed by the appropriate customs officer.

## TITLE III—DRUG PARAPHERNALIA AMENDMENT.

SEC. 3001. DRUG PARAPHERNALIA AMENDMENT.

(a) CIVIL FORFEITURE AND CIVIL ENFORCEMENT.—Section 1822 of the Anti-Drug Abuse Act of 1986 (P.L. 99-570; 21 U.S.C. 857) is amended—

(1) in subsection (c), by inserting "pursuant to section 413 of the Controlled Substances Act (21 U.S.C. 853)" after "subject to seizure and forfeiture";

(2) in subsection (b), by striking "not more than $100,000" and inserting "under title 18, United States Code;" and

(3) by adding the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

(b) CIVIL FORFEITURE FOR DRUG PARAPHERNALIA.—Section 1822 of the Anti-Drug Abuse of 1986. (P.L. 99-570; 21 U.S.C. 857) is amended by inserting the following as a new subsection (h):

"(h) CIVIL FORFEITURE; APPLICABILITY OF THE CUSTOMS LAWS.—Any drug paraphernalia and other property, real or personal, involved in any violation of subsection (a) of this section, and any property traceable to such property, shall be subject to seizure and forfeiture. All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the Customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims and award of compensation to informers in respect to such forfeitures shall apply to seizures and forfeitures incurred under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof.".

## TITLE IV—INTERNATIONAL NARCOTICS CONTROL

Sec. 4001. Table of Contents.
Sec. 4101. Economic assistance for Andean countries.
Sec. 4102. Support for law enforcement.
Sec. 4103. Waiver of Brooke-Alexander amendment.
Sec. 4104. Assistance for agricultural and industrial alternatives to narcotics production.
Sec. 4105. Revisions of certain narcotics related provisions of the Foreign Assistance Act.
Sec. 4106. Size of the military assistance group in Bolivia and Peru.
Sec. 4107. Nonapplicability of certification procedures to certain major drug-transit countries.
Sec. 4108. Extradition of U.S. citizens.
Sec. 4109. Export-Import Bank financing for sales of defense articles and services for anti-narcotics purposes.

SEC. 4101. ECONOMIC ASSISTANCE FOR ANDEAN COUNTRIES

The Foreign Assistance Act of 1961, as amended, is amended by adding a new section as follows:

"SEC. 536. ECONOMIC ASSISTANCE FOR ANDEAN COUNTRIES.—The President may provide narcotics-related assistance under this chapter and chapter 1 of part I of this Act to Bolivia, Colombia, and Peru, notwithstanding any other provision of law, except that such assistance shall be subject to sections 116, 481, 502B, and 620A of the Act.".

SEC. 4102. SUPPORT FOR LAW ENFORCEMENT

Section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) is amended by adding a new subsection (e):

"(e) Notwithstanding the prohibition contained in Subsection (a), funds made available under this Act and the Arms Export Control Act may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, and Peru that are organized for the specific purpose of narcotics enforcement.".

SEC. 4103. WAIVER OF BROOKE-ALEXANDER AMENDMENT.

During fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and similar provisions relating to limitations on assistance to countries in default on obligations owed to the Unites States contained in an Act making appropriations for foreign operations, export financing, and related programs, shall not apply with respect to narcotics-related assistance for a country which is a major illicit drug producing country (as defined in section 418(i)(2) of the Foreign Assistance Act of 1961) because of its coca production.

SEC. 4104. ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION

For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance under chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 to promote the production, processing, or the marketing of products which can be economically produced in those countries, notwithstanding any other provision of law.

SEC. 4105. REVISIONS OF CERTAIN NARCOTICS-RELATED PROVISIONS OF THE FORIEGN ASSISTANCE ACT.

(a) 482(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2292(b)) is amended by adding at the end thereof "except that these funds may be used to procure weapons or ammunition to arm, for defensive purposes, United States-title aircraft used in narcotics control eradication efforts, as well as personnel and agents participating in such efforts".

(b) Section 481 (h)(1)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(A)) is amended by adding at the end thereof "except that this provision shall not apply if the President determines that its application to a particular country is contrary to the national interest".

(c) Section 484 of the Foreign Assistance Act of 1961 is amended to read as follows:

"Sec. 484. LEASE OR LOAN OF AIRCRAFT.—(a) Any aircraft that is procured with funds authorized to be appropriated by this chapter may be made available to a foreign country only on a lease or loan basis.

"(b) The President may provide aircraft under this chapter on a sale or grant basis notwithstanding subsection (a) when he determines that doing so is in the national in-

terest of the United States and so reports to the Congress."

SEC. 4106. SIZE OF THE MILITARY ASSISTANCE GROUP IN BOLIVIA AND PERU.

The third sentence of section 515(c)(1) of the Foreign Assistance Act of 1961 (relating to countries authorized to have more than 6 members of the Armed Forces assigned to carry out international security assistance programs) is amended by inserting "Bolivia, Peru," after "Colombia,".

SEC. 4107. NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1991 if the President certifies to the Congress, during that fiscal year, that—

(1) subparagraph (C) of section 481(i)(5) of that Act, related to money laundering, does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 481(h)(2)(B) of that Act) or a multilateral agreement which achieves the objectives of that section;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing bribery and other forms of public corruption which facilitates the production, processing or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts.

SEC. 4108. EXTRADITION OF U.S. CITIZENS.

(a) IN GENERAL.—Chapter 209 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 3196. EXTRADITION OF UNITED STATES CITIZENS.

"The Secretary of State shall have the discretion to order the surrender to a foreign country of a United States citizen whose extradition has been requested by the foreign country, even if the terms of the applicable treaty or convention do not obligate the United States to extradite its citizens, if the other requirements of the applicable treaty or convention are met.".

(b) SECTION ANALYSIS.—The section analysis for chapter 209 of title 18, United States Code, is amended by adding at the end the following:

"3196. Extradition of United States citizens.".

SEC. 4109. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES FOR ANTI-NARCOTICS PURPOSES.

Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended by striking out "1990" and inserting "1992" in lieu thereof.

Section 2(b)(6)(G) of the Export-Import Bank Act of 1945 is amended to read as follows:

"As used in this paragraph, the term 'defense articles and services' shall have the same meaning as under the Arms Export Control Act.".

TITLE V—DEATH PENALTY FOR DRUG KINGPINS AND OTHER CRIME CONTROL PROVISIONS.

Sec. 5001. Table of Contents.

Subtitle A—Capital Punishment for Drug Kingpins and Related Offenders.

Sec. 5101. Short title for Subtitle A.

Sec. 5102. Death Penalty Authorizations and Procedures.

Subtitle B—Protection of Witnesses, Jurors, and Court Officers.

Sec. 5201. Protection of court officers and jurors.

Sec. 5202. Prohibition of retaliatory killings of witnesses, victims, and informants.

SUBTITLE A—CAPITAL PUNISHMENT FOR DRUG KINGPINS AND RELATED OFFENDERS

SEC. 5101. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Drug Kingpin Death Penalty Act of 1990."

SEC. 5102. DEATH PENALTY AUTHORIZATIONS AND PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(b) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person; or

"(c) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set fourth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: Provided, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified.

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTIONS OF VIOLENT OFFENSES.—The defendant has previously been convicted of two or more Federal or State offense, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS CONVICTIONS OF DRUG OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(4) PREVIOUS CONVICTIONS OF VIOLENT AND DRUG OFFENSES.—The defendant has previously been convicted of a Federal or State offense, punishable by a term of imprison-

ment of more than one year, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, and has previously been convicted of a Federal or State offense, committed on a different occasion and punishable by a term of imprisonment of more than one year, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(5) SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(6) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(7) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act (21 U.S.C. 845) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act (21 U.S.C. 845a) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(9) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act (21 U.S.C. 845b) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(10) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factors exist.

**"§ 3593. Special hearing to determine whether a sentence of death is justified.**

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, nothwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concurs that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 592(b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

**"§ 3594. Imposition of a sentence of death**

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life impris-

onment without the possibility of release or furlough.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case the reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"§ 3596. Implementation of sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) FEDERAL CAPITAL CASES.—

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"§ 3599. Collateral Attack on Judgment Imposing Sentence of Death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In any case in which a sentence of death has been imposed for an offense against the United States and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion

under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings; and

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed."; and

(b) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty ..... 3591".

## SUBTITLE B—PROTECTION OF WITNESSES, JURORS, AND COURT OFFICERS.

### SEC. 5201. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking the words "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting in lieu thereof "punished as provided in subsection (b)."; and

(3) by adding at the end thereof a new subsection (b) as follows:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years.".

### SEC. 5202. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

## TITLE VI—JUSTICE SYSTEM IMPROVEMENTS.

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## SUBTITLE A—INS SYSTEM IMPROVEMENTS

### SEC. 6101. INS GENERAL ARREST AUTHORITY.

Section 287 of the Immigration and Nationality Act of 1952 (66 Stat. 233) is amended by adding the following at the end thereof:

"(f)(1) Under the direction of the Attorney General, agents and officers of the Immigration and Naturalization Service are authorized to:

"(A) carry a firearm;

"(B) execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States;

"(C) make an arrest without a warrant for any offense against the United States committed in the officer's presence, or for a felony cognizable under the laws of the United States committed outside the officer's presence, if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(D) perform any other law enforcement duty that the Attorney General may designate.

"(2) The authority conferred by subsection (f)(1) of this section does not affect the investigative jurisdiction of any other federal law enforcement agency.".

### SEC. 6102. DEFINITION OF AGGRAVATED FELONY.

Section 101(a)(43) (8 U.S.C. 1101(a)(43)) of the Immigration and Nationality Act of 1952 is amended to read as follows:

"(43) The term 'aggravated felony' means any crime that has as an element the use, attempted use, or threatened use of physical force against the person or property of another that is punishable by imprisonment of five years or more; any crime involving a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802) that is punishable by imprisonment of one year or more; any crime involving illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code; or any attempt or conspiracy to commit any such crime committed within the United States. For the purposes of this subsection, the term crime includes violations of federal, state and foreign laws or statutes.".

### SEC. 6103. ADDITIONS TO CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

Section 212(a) (8 U.S.C. 1182(a)) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsections:

"(35) Any nonimmigrant alien seeking admission who is in illicit possession of a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802);"

"(36) Any alien who has been convicted of an aggravated felony, as defined in section 101(a)(43) of this Act, or who admits having committed such a crime, or who admits committing acts which constitute the essential elements of such a crime.".

### SEC. 6104. SUMMARY EXCLUSION AND DEPORTATION OF CRIMINAL ALIENS.

Section 235 (8 U.S.C 1225) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsection:

"(d) any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during an examination before either of such officers to be excludable under paragraphs (23), (35), or (36) of section 212(a) of this Act may be ordered summarily excluded and deported by the Attorney General without any inquiry or further inquiry by a special inquiry officer. Such summary exclusion order shall have the same effect as if the alien has been ordered excluded and deported pursuant to section 236 of this Act. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.".

SEC. 6105. EXPEDITIOUS DEPORTATION OF AGGRAVATED ALIEN FELONS.

Section 242A (8 U.S.C. 1252a) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsections:

"(f) Nothwithstanding any other provision of law, an alien convicted of an aggravated felony, regardless of whether such alien is incarcerated, shall be subject to an expedited summary deportation proceeding. Such proceeding shall be conducted on the record by the Attorney General or his designee, who will make written findings as to alienage and deportability. Any order of deportation issued pursuant to this subsection shall be considered to be a final order. An alien subject to such proceeding shall not be eligible for relief from deportation under any provision of the Immigration and Nationality Act.

"(g) Upon sentencing any alien for an aggravated felon as defined in section 101(a)(43) of this Act, the federal or state court shall notify the Immigration and Naturalization Service that it has sentenced a person believed to be an alien for an aggravated felony. The federal or state court shall provide to the Immigration and Naturalization Service any and all information related to the alienage of the individual, and certified copies of any and all conviction documents."

SEC. 6106. INELIGIBILITY OF AGGRAVATED FELONS FOR ASYLUM.

Section 208(a) (8 U.S.C. 1158(a)) of the Immigration and Nationality Act of 1952 is amended by adding the following new subsection:

"(d) Any alien convicted of an aggravated felony, as defined in section 101(a)(43) of this act, shall not be eligible to apply for relief under this section."

SEC. 6107. ELIMINATION OF JUDICIAL RECOMMENDATION AGAINST DEPORTATION OF CRIMINAL ALIENS.

Subsection 241(b) (8 U.S.C. 1251(b)) of the Immigration and Nationality Act of 1952 is amended by deleting "(1)"; and by deleting ", or (2)" and all that follows, and replacing it with a period.

SEC. 6108. ELIMINATION OF SEC. 212(C) RELIEF FOR AGGRAVATED FELONS.

Section 212(c) (8 U.S.C. 1182(c) of the Immigration and Nationality Act of 1952 is amended by adding, at the end thereof, the following:

"Relief under this subsection shall not be available to any alien who has been convicted of an aggravated felony as defined in section 101(a)(43) of this Act."

SEC. 6109. ELIMINATION OF SUSPENSION OF DEPORTATION FOR CRIMINAL ALIENS IN HARDSHIP CASES.

Section 244(a) (8 U.S.C. 1254(a)) of the Immigration and Nationality Act of 1952 is amended by striking the words in the first sentence "(other than an alien described in section 241(a)(19) of this Act)" and substituting therefor the following: "(other than an alien described in section 241(a)(4)(B) or 241(a)(19) of this Act)".

Section 244(a)(2) is amended by adding after "(4)" the following: "(A)".

SEC. 6110. DEFINITION OF GOOD MORAL CHARACTER TO EXCLUDE AGGRAVATED FELONS.

Section 101(f) (8 U.S.C. 1101(f)) of the Immigration and Nationality Act of 1952 is amended by adding the following subsection:

"(9) One who at any time has been convicted of an aggravated felony as defined in section 101(a)(43) of this Act."

SEC. 6111. INELIGIBILITY OF AGGRAVATED FELONS FOR HARDSHIP WAIVERS.

Section 212(h) (8 U.S.C. 1182(h)) of the Immigration and Nationality Act of 1952 is amended:

(a) by adding at the end the following:

"Any alien convicted of an aggravated felony as defined in section 101(a)(43) of this Act is not eligible for relief under this section.";

(b) by replacing the period at the end of section 101(f)(8) with a semicolon.

SEC. 6112. ELIMINATION OF DEPORTATION RELIEF FOR ALIENS WHO ARE AGGRAVATED FELONS.

(a) Section 243(h)(2) (8 U.S.C. 1253(h)(2)) of the Immigration and Nationality Act of 1952 is amended by adding the following paragraph:

"(E) The alien has been convicted of an aggravated felony as defined under section 101(a)(43) of this Act."

(b) Section 245(c) (8 U.S.C. 1255(c)) of the Immigration and Nationality Act of 1952 is amended by replacing the period at the end thereof the following new subsection:

(5) Any alien convicted of an aggravated felony as defined under section 101(a)(43) of this Act."

(c) Section 249 (8 U.S.C. 1259) of the Immigration and Nationality Act of 1952 is amended by adding at the end the following:

"Any alien convicted of an aggravated felony as defined under section 101(a)(43) of this Act is not eligible for relief under this section."

## SUBTITLE B—AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

SEC. 6201. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

"(1) Section 5038 of title 18, United States Code, is amended by striking subsections (d), and (f), redesignating subsection (e) as subsection (d), and adding at the end thereof new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure or availability of records or information, if the law of the state in which a federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure or availability is permitted under this section whenever the same circumstances exist.".

(2) Section 3607 of Title 18, United States Code, is repealed, and the corresponding reference in the section analysis for chapter 229 of Title 18 is deleted.

## SUBTITLE C—NARCOTICS-RELATED PUBLIC CORRUPTION.

SEC. 6301. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance of nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to given anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, commonwealth, or possession of the United States (including the District of Columbia), or any political subdivision therof, in any official function, under or by the authority of any such State, territory, commonwealth, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),";

(2) Section 2516(a)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

SUBTITLE D—OTHER JUSTICE IMPROVEMENTS.

SEC. 6401. ALTERNATIVE METHODS OF INCARCERATION.

In section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351), as amended by the Anti-Drug Abuse Act of 1988 (P.L. 100-690) (42 U.S.C. 3751(b)), is amended by deleting the period at the end of subsection (c) and inserting in lieu thereof ", and;" and by adding the following:

"(22) innovative intermediate sanctions programs, in combination with drug testing, including boot camps, house arrest, electronic monitoring, intensive supervision, and community service.".

SEC. 6402. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497 (a)(2)(A) of the Tariff act of 1930 (19 U.S.C. 1497) is amended by adding "or $500., whichever is greater" after "value of the article.".

SEC. 6403. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN FEDERAL PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the words "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 6404. AUTHORIZATION OF FUNDING FOR TREASURY UNDERCOVER OPERATORS.

Paragraph (2) of subsection 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking out "after December 31, 1989" and inserting "after December 31, 1991" and by striking out "before January 1, 1990" and inserting "before January 1, 1992" in lieu thereof.

TITLE VII—AMENDMENTS RELATED TO ASSET FORFEITURE AND MONEY LAUNDERING.

Sec. 7001. Table of Contents.

SUBTITLE A—SPECIAL FORFEITURE FUND

Sec. 7101. Special forfeiture fund amendment.

Subtitle B—Forfeiture Amendments

Sec. 7201. Conforming of older innocent owner provisions with those enacted in the Anti-Drug Abuse Act of 1988.

Sec. 7202. Addition of conforming criminal forfeiture provision for cases involving CMIR violations.

Sec. 7203. Clarifying grammatical changes in definition of "financial transaction" for the money laundering statute..

Sec. 7204. Limitation of exception to money laundering forfeitures.

Sec. 7205. Seizure of vehicles with concealed compartments.

Subtitle C—Money Laundering Amendments

Sec. 7301. Continuation of $10,000 cash transaction reporting requirement.

Sec. 7302. FINCEN transfer amendment.

Sec. 7303. Geographic targeting disclosure penalties.

Sec. 7304. Suspicious transaction reporting.

Sec. 7305. Bank Secrecy Act customer violations.

Sec. 7306. Search of outbound mail.

SUBTITLE A—SPECIAL FORFEITURE FUND.

SEC. 7101. SPECIAL FORFEITURE FUND AMENDMENT.

(a) Assets Forfeiture Fund Amendment.

Section 524(c)(9) of title 28, United States Code, is amended to read as follows:

"(9) There are authorized to be appropriated such sums as may be necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraphs (1). For each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General shall transfer not to exceed $150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund: *Provided,* That such amounts will be transferred on a quarterly basis: *Provided further,* That an amount not to exceed $15,000,000 or, if determined by the Attorney General to be necessary to meet asset specific expenses, an amount equal to one-tenth of the previous year's obligations, may be retained in the Fund and remain available for appropriation.".

(b) Special Forfeiture Fund Amendment.

Section 6073(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended to read as follows:

"(b) DEPOSITS.—In each of fiscal years 1990, 1991, 1992, and 1993, there shall be transfered to and deposited in the Fund, from the Department of Justice Assets Forfeiture Fund pursuant to 28 U.S.C. 524(c)(9), not to exceed $150,000,000: *Provided,* That amounts specified in the second proviso of said section may be retained in the Assets Forfeiture Fund and remain available for appropriation.".

SUBTITLE B—FORFEITURE AMENDMENTS.

SEC. 7201. CONFORMING OF OLDER INNOCENT OWNER PROVISIONS WITH THOSE ENACTED IN THE ANTI-DRUG ABUSE ACT OF 1988.

(1) Sections 511(a)(6) and (7) of the Controlled Substances Act (21 U.S.C. 881(a)(6) and (7)) are each amended by striking "without the knowledge or consent of that owner" and inserting in lieu thereof "without the knowledge, consent, or willful blindness of the owner"; and

(2) Section 981(a)(2) of title 18, United States Code, is amended by striking "without the knowledge of that owner or lienholder" and inserting in lieu thereof "without knowledge, consent, or willful blindness, of the owner or lienholder".

SEC. 7202. ADDITION OF CONFORMING CRIMINAL FORFEITURE PROVISION FOR CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)" in the first sentence.

SEC. 7203. CLARIFYING GRAMMATICAL CHANGES IN DEFINITION OF "FINANCIAL TRANSACTION" FOR THE MONEY LAUNDERING STATUTE.

Section 1956(c)(4) of title 18, United States Code, is amended by inserting "(A)" before "a transaction" the first place it appears, inserting "(i)" before "involving" the first place it appears, inserting "(ii)" before "involving" the second place it appears, and inserting (B) before the phrase "or a transaction."

SEC. 7204. LIMITATION OF EXCEPTION OF MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following:

"unless the defendant, in committing the offense or offenses giving the rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. 7205. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

Sec. 1. Section 3 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1703) is amended:

(a) by amending the title of such section to read as follows:

"SEC. 1703. SEIZURE AND FORFEITURE VESSELS, VEHICLES AND OTHER CONVEYANCES."

(b) by amending the title of subsection (a) to read as follows:

"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture";

(c) by amending the title of subsection (b) to read as follows:

"(b) Vessels, vehicles and other conveyances' defined";

(d) by inserting ", vehicle and other conveyance" after the word "vessel" everywhere it appears in the text of subsections (a) and (b); and

(e) by amending subsection (c) to read as follows:

"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling;

"For the purposes of this section, prima facie evidence that a conveyance is being, or has been, or is attempting to be employed in smuggling or to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or with a customs-enforcement area, to display lights as required by law.

"(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

Sec. 2. The table of sections for Chapter 5 if title 19, United States Code, is amended

by striking the items relating to section 1703 and inserting in lieu thereof the following:

"1703. Seizure and forfeiture of vessels, vehicles and other conveyances.
"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture.
"(b) Vessels, vehicles and other conveyances' defined.
"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling.".

SUBTITLE C—MONEY LAUNDERING AMENDMENTS

SEC. 7301. CONTINUATION OF $10,000 CASH TRANSACTION REPORTING REQUIREMENT.

Paragraph (3) of subsection 7601(b) of the Anti-Drug Abuse Act of 1988 is amended by striking out "only during the 2-year period beginning on such date" and inserting "only during the 4-year period beginning on such date" in lieu thereof.

SEC. 7302. FINCEN TRANSFER AMENDMENT.

(b) Section 1112 of the Right to Financial Privacy Act of 1978 (Title XI of P.L. 95-630, 12 U.S.C. 3412) is amended—

(1) by deleting subsections (b), (c), and (f);

(2) by redesignating subsections (d) and (e) as (b) and (c) respectively; and

(3) by amending subsection (a) to read: "Financial records originally obtained by an agency in accordance with this chapter may be transferred to another agency without notice to the customer if the transferring agency has reason to believe that the records are relevant to a matter within the jurisdiction of the receiving agency or appropriate for analysis by the receiving agency for law enforcement purposes."

SEC. . 7303. GEORGRAPHIC TARGETING DISCLOSURE PENALTIES.

Section 5326 of title 31, United States Code, is amended by adding a new subsection (c) as follows:

"No financial institution or director, agent, officer or employee of a financial institution subject to an order under this section may disclose the existence or terms of the order to any person except as prescribed by the Secretary.".

SEC. 7304. SUSPICIOUS TRANSACTIONS REPORTING.

Section 1103(a) of the Right to Financial Privacy Act of 1978, (Title XI of Public Law 95-630, 12 U.S.C. 3403(c)), is amended by removing the period at the end thereof and adding the following:

"or for refusal to do business with any person before or after disclosure of a possible violation of law or regulation to a Government authority."

SEC. 7305. BANK SECRECY ACT CUSTOMER VIOLATIONS.

(C) Section 1113 of the Right to Financial Privacy Act of 1978, (Title XI of Public Law 95-630, 12 U.S.C. 3413), is amended by adding a new subsection (p) as follows:

"(p) Nothing in this title shall apply when a financial institution or supervisory agency, or any officer, director, employee, or agent of a financial institution or a supervisory agency, provides to the Secretary of the Treasury financial records which such financial institution or supervisory agency has reason to believe may be relevant to a possible violation of a provision of Subchapter II of Chapter 53 of title 31, United States Code.".

(d) Subsection 1117(c) of the Right to Financial Privacy Act of 1978, (Title XI of Public Law 95-630, 12 U.S.C. 3417(c)), is amended to read as follows:

"(c) Any financial institution or agent or employee thereof making a disclosure of financial records or information in good faith either in reliance upon a certificate by any Government authority pursuant to this chapter or pursuant to section 1113(1) or (p) of this chapter, shall not be liable to the customer for such disclosure under any constitution, law, or regulation of any state or political subdivision thereof.".

SEC. 7306. SEARCH OF OUTBOUND MAIL.

Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(1) For purposes of ensuring compliance with the requirements of section 5316 of this title or of sections 1956 and 1957 of title 18, United States Code, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container, including mail transmitted by the United States Postal Service which is not sealed against inspection, or which has a Customs declaration affixed by the sender, and any person entering or departing from the United States.

"(2) Notwithstanding 39 U.S.C. 3623(d), or any other provision of title 39, United States Code, with respect to any letter sealed against inspection being transmitted by the United States Postal Service, a search authorized by paragraph (1) may be conducted when a customs officer has reasonable cause to suspect that there are monetary instruments being transported in such a letter.

"(3) Nothing in this section shall be construed to limit the authority of the Secretary of the Treasury or the United States Customs Service under any other provision of law.".

TITLE VIII—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 8001. Table of Contents.
Sec. 8101. Technical amendments to money laundering offenses.
Sec. 8102. Clarification of applicability of 18 U.S.C. 1952 to all mailings in furtherance of unlawful activity.
Sec. 8103. Addition of drug conspiracy and attempt offenses committed by juveniles as warranting adult prosecution.
Sec. 8104. Grand jury access to certain records.
Sec. 8105. Addition of conforming predicates to money laundering statute.
Sec. 8106. Arrest of fugitive about to enter United States.
Sec. 8107. Elimination of superfluous language.
Sec. 8108. Correction to reference to nonexistent agencies.
Sec. 8109. Disclosure of grand jury information for use in civil forfeiture.
Sec. 8110. Use of a search warrant to obtain contents of a stored wire communication.
Sec. 8111. Authority for State government personnel to assist in conducting court-authorized interceptions.
Sec. 8112. Clarification of inapplicability of 18 U.S.C. 2515 to certain disclosures.
Sec. 8113. Technical amendment of 31 U.S.C. 5325.
Sec. 8114. ONDCP transfer authority.

SEC. 8101. TECHNICAL AMENDMENTS TO MONEY LAUNDERING OFFENSES.

(a) Paragraph (a)(2) and subsection (b) of section 1956 of title 18, United States Code, are amended by striking out "transportation" each place it appears and inserting in lieu thereof "transportation, transmission, or transfer";

(b) Subsection (a)(3) of section 1956 of title 18, United States Code, is amended by striking out "represented by a law enforcement officer" and inserting "represented".

(c) Section 7203 of the Internal Revenue Code of 1986 is amended by replacing the last sentence thereof with the following sentence: "In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting 'felony' for 'misdemeanor' and '5 years' for '1 year'."

SEC. 8102. CLARIFICATION OF APPLICABILITY OF 18 U.S.C. 1952 TO ALL MAILINGS IN FURTHERANCE OF UNLAWFUL ACTIVITY.

Section 1952(a) of title 18, United States Code, is amended—

(1) by inserting "the mail or" after "uses"; and

(2) by striking out "including the mail,".

SEC. 8103. ADDITION OF DRUG CONSPIRACY AND ATTEMPT OFFENSES COMMITTED BY JUVENILES AS WARRANTING ADULT PROSECUTION.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph by striking out an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3)),' and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401 or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), or (3), or 963),"; and

(2) in the fourth undesignated paragraph—

(A) by striking out "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401 or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act of (21 U.S.C. 841, 844, or 846), or section 1002(a), 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b) (1), (2), or (3), or 963)"; and

(B) by striking out "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3))" and inserting in lieu thereof "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1) (A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the

Controlled Substances Act (21 U.S.C. 841 (b)(1)(A), (B), or (C), (d), or (e), 844 or 846) or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963)".

SEC. 8104. GRAND JURY ACCESS TO CERTAIN RECORDS.

Section 551 of title 47, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Exception for federal grand jury proceeding Nothing in this section apply to any subpoena or court order issued in connection with proceedings before a federal grand jury.".

SEC. 8105. ADDITION OF CONFORMING PREDICATES TO MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005, 1006, or 1007 (relating to false statements of a financial institution employee), section 1014 (relating to false statements in connection with credit and loan applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 8106. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.

Section 3184 of title 18, United States, is amended by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

SEC. 8107. ELIMINATION OF SUPERFLUOUS LANGUAGE IN 18 U.S.C. 510.

Section 510(b) of title 18, United States Code, is amended by striking out "that in fact is stolen or bears a forged or falsely made endorsement or signature".

SEC. 8108. CORRECTION TO REFERENCE TO NON-EXISTENT AGENCIES IN 18 U.S.C. 1114.

Section 1114 of title 18, United States Code, is amended—

(1) by striking out "any officer or employee of the Department of Health, Education, and Welfare," and inserting in lieu thereof "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and

(2) by striking out "the Federal Savings and Loan Insurance Corporation,".

SEC. 8109. DISCLOSURE OF GRAND JURY INFORMATION FOR USE IN CIVIL FORFEITURE.

(a) Chapter 215 of title 18, United States Code, is amended by adding at the end a new section, as follows:

**"§ 3323. Disclosure of matters occurring before grand jury for use in civil forfeiture**

"(a)" A person who is privy to grand jury information—

"(1) received in the course of duty as an attorney for the government; or

"(2) disclosed under rule 6(e)(3)(ii) of the Federal Rules of Criminal Procedure; may disclose that information to an attorney for the government for use in connection with civil forfeiture proceedings under any law of the United States.

"(b) For purposes of this section, the terms 'attorney for the government' and 'grand jury information' have the meanings assigned such terms in section 3322 of this title.".

(b) Section 3322(a) of title 18, United States Code, is amended by striking out "or for use in connection with civil forfeiture under section 981 of title 18, United States Code, of property described in section 981(a)(1)(C) of such title".

(c) The table of sections for chapter 215 of title 18, United States Code, is amended by adding at the end the following:

"Section 3323. Disclosure of matters occurring before grand jury for use in civil forfeiture.".

SEC. 8110. USE OF A SEARCH WARRANT TO OBTAIN CONTENTS OF A STORED WIRE COMMUNICATION.

Section 2703(a) of title 18, United States Code, is amended by inserting "or wire" after "the contents of an electronic" both places those words appear.

SEC. 8111. AUTHORITY FOR STATE GOVERNMENT PERSONNEL TO ASSIST IN CONDUCTING COURT-AUTHORIZED INTERCEPTIONS.

Section 2518(5) of title 18, United States Code, is amended by inserting "(including personnel of a State or subdivision of a State)" after "Government personnel".

SEC. 8112. CLARIFICATION OF INAPPLICABILITY OF 18 U.S.C. 2515 TO CERTAIN DISCLOSURES.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: "This section shall not apply to the disclosure by the United States, a State, or a political subdivision thereof in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, the interception of which was in violation of section 2511(2)(d).".

SEC. 8113. TECHNICAL AMENDMENT OF 31 U.S.C. 5325.

(b) Section 5325 of title 31, United States Code, is amended—

(1) by deleting the word "transaction" in subsection (a)(1);

(2) by adding the words ", as defined by the Secretary," after the word "account" in subsection (a)(1); and

(3) by deleting subsection (c).

SEC. 8114. ONDCP TRANSFER AUTHORITY.

Section 1502(d) of title 21, United States Code, enacted by section 1003(d) of the Anti-Drug Act of 1988, is amended by—

(1) deleting the word "and" at the end of subparagraph (6);

(2) deleting the period at the end of subparagraph (7)(B) and inserting in lieu thereof "; and"; and

(3) inserting a new subparagraph (8) as follows:

"(8) transfer funds from the Special Forfeiture Fund referred to in section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), as well as other funds appropriated by Congress to the Office of National Drug Control Policy for assistance to high intensity drug trafficking areas, to Federal agencies and departments for the purpose of executing the National Drug Control Strategy."

"(9) transfer funds appropriated to the Office of National Drug Control Policy for a specified purpose to appropriate Federal agencies and departments for the same purpose.".

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SECTION-BY-SECTION ANALYSIS OF THE NATIONAL DRUG CONTROL STRATEGY IMPLEMENTATION ACT OF 1990

TITLE I—DRUG TESTING, FUNDING PROGRAMS, AND TREATMENT

Subtitle A—Funding Programs and Treatment

Sec. 1101. Drug testing in the criminal justice system as a condition of receipt of Justice Drug Grants.

This amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968 to condition receipt of Federal criminal justice funds upon States adopting drug-testing programs that will include appropriate categories of arrestees, prisoners, probationers, parolees, and those out on bail, and upon States using test results appropriately in bail, sentencing, early release, probation, and parole decisions.

Sec. 1102. Maintenance of effort in ADMS block grants.

This section of the bill amends section 1916(c)(11) of the Public Health Service Act to add language to prohibit States who receive funding from the ADMS Block grant program from reducing their non-Federal expenditures for drug-related activities.

Current law prohibits States receiving Block grant funding from reducing their own funding for alcohol, drug abuse, and mental health activities below the two-year average of their expenditures for all three programs. Since this requirement applies to the total amount spent on all three programs, States could reduce their funding for drug-abuse related programs while maintaining their overall level of expenditures. This amendment would prohibit States receiving Block grant funding from reducing their own funding for drug-abuse related activities below the average of such expenditures for the preceding two years.

Current law allows the Secretary to waive the existing requirement if a State makes a request and if the Secretary determines that there are extraordinary economic conditions in the State to justify such a waiver. This amendment would extend the Secretary's authority to waive the new requirement as well.

Sec. 1103. Establishment of statewide drug treatment plans: amendment to Chapter 6A of title 42 (Public Health Service Act).

This amends Chapter 6A of Title 42 of the United States Code (Public Health Service Act) to require States as a condition of receipt of Federal funds to develop, implement, and submit to the Secretary of HHS a Statewide Drug Treatment Plan. The amendment delineates the contents of the Plan and describes requirements related to submission of the Plan to the Secretary.

Sec. 1104. Raising the Cap on Discretionary Grants for Justice Drug Grants.

This section amends the Bureau of Justice Assistance Drug Grant Program (the Drug Control and System Improvement Grant Program) to increase the cap on funds applied to discretionary grants from $50 million to $100 million.

Subtitle B—Drug-Testing of Defendants on Post-Conviction Release

This subtitle would create a nationwide program of drug testing for federal offenders on post-conviction release, and would effectively supersede and expand the demonstration program established by section 7304 of that Anti-Drug Abuse Act of 1988 in relation to convicted defendants. Section 7304 of that Act created a two-year demonstration program including mandatory drug testing of felons on probation or post-imprisonment supervised release (but not parole) in eight districts to be selected by the Judicial Conference.

Based on prelimary data, the Administration has concluded that there is no need to await the final results of that demonstration program. The idea of a program to require defendants on post-conviction release to submit to periodic drug tests is so clearly meritorious that it should be implemented across the United States, as soon as practicable and feasible. Since the capacity to im-

plement this program depends on the availability of appropriate personnel and/or contractors necessary to ensure quality control, this section allows a degree of flexibility and grants the Administrative Office of the United States Courts the latitude necessary to phase-in the program in stages as soon as practicable and feasible.

It is estimated that more than 81,000 persons will be on some form of federal supervised release in 1990. Under the proposal, defendants placed on parole, probation or post-imprisonment supervised release will be subject to a mandatory condition that they refrain from illegal use of drugs and submit to periodic drug tests. The class of defendants subject to this mandatory condition (limited to felons under the Anti-Drug Abuse Act demonstration program) would be extended to include as well misdemeanant firearms, drug, and violent offenders. The requirement could be suspended or ameliorated upon request of the Director of the Administrative Office or his designee. No adverse action could take place for failure of a drug test unless the test was confirmed using gas chromatography/mass spectrometry techniques or other tests determined to be of equivalent reliability.

TITLE II—SANCTIONS FOR FAILURE TO LAND OR TO BRING TO

Sec. 2101. Sanctions for Failure to land or to Bring to.

Proposed Section 2237 would make it a criminal offense to fail to obey the order of an authorized Federal law enforcement officer to land an aircraft or bring to a vessel. The failure to land offense is limited to cases involving the enforcement of the laws of the United States relating to controlled substances as that term is defined in 21 U.S.C. 802(6) or money laundering (18 U.S.C. 1956–57). It is also limited to aircraft which have crossed the border of the United States, or aircraft or vessels subject to the jurisdiction of the United States operating outside the United States.

This language (together with that proposed in section 2102 below) supports the *National Drug Control Strategy*, which states:

"To address [the air interdiction] problem, the Administration will seek new legislation to provide Federal law enforcement agencies with the appropriate authority to order U.S.-registered aircraft, or any aircraft flying over the U.S. territory, to land if there is reasonable suspicion that the aircraft is in violation of a Federal criminal statute related to aviation drug smuggling. The statute would also give the Federal Aviation Administration the explicit authority to suspend or revoke, on an emergency basis, the airmen certificate of a pilot who does not comply with a lawful order to land and the registration certificate of the aircraft."

Sec. 2102. FAA Summary Revocation Authority.

The Federal Aviation Act of 1958 would be amended to authorize revocation of an aircraft's registration certificate by operation of law upon refusal to land an aircraft. The owner of the registrated aircraft would be authorized to show cause why the factual predicate did not exist to trigger the revocation of the aircraft registration certicate or why it would be in the public interest for the Administrator to issue a new certificate of registration to be effective concurrent with the revocation which occurred by operation of law.

Sec. 2103. Coast Guard air interdiction authority.

This amends title 14 of the United States Code to provide the Coast Guard with specific law enforcement authority with respect to aircraft flying over the high seas and waters over which the United States has jurisdiction. This authority is required to order an aircraft to land. Failure to obey an order issued under this section would be a violation of proposed section 2237 of title 18, United States Code (Section 2101 of this Act). Orders to land an aircraft must be communicated in a manner consistent with the regulations to be issued pursuant to proposed section 2237.

Sec. 2104. Coast Guard civil penalty provisions.

This amends title 14 of the United States Code to provide the Coast Guard with a civil penalty sanction for violations of proposed section 2237 of title 18, United States Code (Section 2101 of this Act), involving orders issued by Coast Guard commissioned officers, warrant officers, or petty officers.

Sec. 2105. Customs orders.

This amends the enforcement provisions of Section 1581 of Title 19 so as to clarify that Customs officers may exercise their enforcement authority outside of the United States, including any location in which Customs Officers are permitted to conduct inspections, examinations or searches, including any such location in a foreign country.

Sec. 2106. Customs civil penalty provisions.

This provides the Customs Service with a civil penalty sanction for violations of proposed section 2237 of title 18, United States Code (Section 2101 of this Act), involving orders issued by Customs officers.

TITLE III—DRUG PARAPHERNALIA

Sec. 3001. Drug Paraphernalia Amendment.

This section makes several changes in the drug paraphernalia statute, 21 U.S.C. 857. Under current law, 21 U.S.C. 857, it is illegal to use the mails to sell drug paraphernalia, to offer for sale such paraphernalia in interstate or foreign commerce, or to import or export such paraphernalia. Originally enacted by the Anti-Drug Abuse Act of 1986, the offense is a felony punishable by up to three years imprisonment and a $100,000 fine.

Subsection (a)(1) amends the penalty provision of the drug paraphernalia statute, 21 U.S.C. 857(c), to provide that criminal forfeiture will be accomplished in accordance with the detailed procedures of section 413 of the Controlled Substance Act (21 U.S.C. 853) which are applicable to other criminal forfeiture provisions of the act.

Subsection (a)(2) is a technical correction which restates the maximum fine amount as "under title 18, United States Code." The statute presently states the criminal fine as up to $100,000.

Subsection (a)(3) adds a civil penalty of up to $100,000 for violations of the paraphernalia statute and authorizes the Attorney General to seek injunctive relief against violators. Such injunctive relief could be sought both to halt an ongoing violation or to prevent a future offense.

Subsection (b) amends 21 U.S.C. 857(c) to add a civil forfeiture provision and conform the seizure and forefeiture of drug paraphernalia with general seizure and forfeiture authority. Contrary to normal governmental forfeiture provisions, seizure and forfeiture of drug paraphernalia under 21 U.S.C. 857(c) requires the criminal conviction of the violator. Subsection (c) provides that the provisions of the Customs laws will be applicable to civil forfeiture. This is because the Customs Service is presently investigating violations of the drug paraphernalia provisions and it is intended that Customs continue to do so.

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

Sec. 4101. Economic assistance for Andean countries.

This section adds a new provision to the Foreign Assistance Act which will permit the Agency for International Development to implement economic assistance for *Peru, Bolivia and Colombia* on an expedited basis, with authorities comparable to those provided in Section 481(a)(4) of the Foreign Assistance Act. The United States Government will, thus, be able to implement narcotics control assistance and complementary economic assistance in a coordinated and timely fashion.

Sec. 4102. Support for law enforcement.

This section waives the prohibition on providing training and equipment for certain law enforcement units in Colombia, Bolivia, and Peru, to allow for implementation of the second phase of the President's Andean Strategy.

Sec. 4103. Waiver of Brooke-Alexander amendment.

This section extends to FY 1991 the waivers of Section 620(q) of the Foreign Assistance Act and Section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriation Act (the Brooke-Alexander Amendment) to permit narcotics-related economic assistance to major coca producing countries which are in arrears on debt repayments to the United States government.

Sec. 4104. Assistance for agricultural and industrial alternatives to narcotics production.

This section provides waivers of existing law which imposes restrictions upon economic assistance in order to promote agricultural and industrial production alternatives to narcotics production.

Sec. 4105. Revisions of certain narcotics related provisions of the Foreign Assistance Act.

This section amends certain narcotics-related provisions of the Foreign Assistance Act. Subsection (a) amends Section 482(b) to authorize the use of funds authorized and appropriated for international narcotics control for defensive arming of U.S.-titled aircraft, and their operators, that are part of the INM Airwing Operations.

At the time that the Section 482(b) prohibition was enacted in 1978, the report of the Senate Foreign Relations Committee stated that the committee did not intend prohibition to apply to helicopters. (S. Rpt. 95–841, International Security Assistance Act of 1978, P.L. 95–384). Subsequent legislation specifically waiving the Section 482(b) prohibition in limited circumstances (involving helicopters) suggests ambiguity in the Congressional construction of the statute. Therefore, in order to remove any ambiguity and to make clear that United States assets and personnel overseas have the authority to obtain the protection that they need to perform their narcotics eradication and interdiction missions, this provision proposes explicit authorization for INM to procure directly out of its budget weapons and ammunition to be used for defensive purposes, instead of relying on other U.S. or foreign agencies to provide such support. This authorization applies to weapons and ammunition to arm aircraft and to arm the U.S. and foreign personnel who operate

them. The weapons and ammunition are to be used exclusively for defensive purposes.

Subsection (b) amends the annual narcotics certification procedure of Section 481(h)(1) to free the President from the obligation to withhold 50 percent of the assistance authorized and appropriated for a major drug-producing or drug-transit country pending the March 1 certification if he determines that it would be contrary to the national interest if the full amount of assistance were not made available in the beginning of the fiscal year for a particular country.

Subsection (c) amends Section 484 of the Foreign Assistance Act of 1961 (FAA) to restrict to aircraft procured with funds authorized to be appropriated by the International Narcotics Control chapter of the FAA, the current provision that any aircraft made available to a foreign country shall be provided only on a lease or loan basis. It also would allow the President to waive the requirement when he determines that it is in the national interest to do so, and so informs the Congress.

Sec. 4106. Size of the military assistance group in Bolivia and Peru.

This section amends the Foreign Assistance Act to permit the assigning of more than 6 members of the armed forces to Military Assistance Groups (MAG) in Bolivia and Peru. Section 4305 of the Anti-Drug Abuse Act of 1988 (P.L. 100-690) amended the Foreign Assistance Act to permit enlargement of the MAG assigned to Colombia. The greatly expanded role of the U.S. military in supporting counter-narcotics operations in Bolivia and Peru justifies enlargement of MAGs in those countries as well.

Sec. 4107. Nonapplicability of certification procedures to certain major drug-transit countries.

This section continues for FY 1991 the waiver contained in the International Narcotics Control Act of 1989 of the requirement to withhold 50 percent of annual foreign aid to certain countries as required by Section 481 of the Foreign Assistance Act. Such countries would be those which have both a fast spend-out rate for foreign assistance funds and a demonstrable record of narcotics cooperation.

Sec. 4108. Extradition of U.S. citizens.

This amendment deals with a problem that arises under some of our older extradition treaties that fail to include specific authority to extradite United States nationals who are charged with crimes in the country seeking extradition. Under prevailing case law, the United States may extradite its nationals in the absence of any limiting language in a bilateral treaty. *Charlton* v. *Kelly*, 229 U.S. 447 (1913). However, if an extradition treaty contains language which limits that authority, e.g., "neither party shall be bound to deliver up its own citizens", the Supreme Court has held that United States nationals may not be extradited unless the treaty also contains a positive grant of authority to surrender United States citizens. *Valentine* v. *United States ex rel. Neidecker*, 229 U.S. 5, 7-12 (1936). Post-*Valentine* extradition treaties of the United States uniformly contain language such as "[N]either of the contracting Parties shall be bound to deliver up its own citizen under the stipulations of this convention, *but the executive authority of each shall have the power to deliver them up, if, in its discretion, it is deemed proper to do so.*" (Emphasis added). Such a clause contains the necessary positive grant of authority to the Executive to extradite United States citizens.

However, the United States still has several pre-*Valentine* treaties in force that contain the limitation but lack a requisite grant of authority. In those instances, the United States must refuse to extradite based on the nationality of the offender. Moreover, the limitation on extradition of nationals posed by these pre-*Valentine* treaties must be remedied in light of the extradition provisions of the new U.N. Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), Article 4 Paragraph 2. Under these provisions, the United States must either assure that nationality is not a bar to extradition of its citizens or establish its jurisdiction to prosecute those citizens for the drug offenses they have committed abroad. The alternative of prosecution is not feasible as a practical matter. Moreover, it would be inconsistent with our general policy against creating "universal" jurisdiction over extraterritorial crimes.

The proposed amendment would remedy the problem caused by some pre-*Valentine* treaties by expressly permitting the surrender of United States nationals notwithstanding the language of limitation in those treaties. This provision is consistent with the general policy of the United States favoring extradition of nationals to the country where the greatest harm has been suffered because of the commission of criminal acts, and against creating "universal" extraterritorial jurisdiction. It also recognizes the reality that it is not feasible to address this situation on a piecemeal basis by renegotiating all the pre-*Valentine* treaties that contain this flaw. Moreover, it would permit the United States to meet fully the important objectives of the new U.N. Convention.

Sec. 4109. Export-Import Bank financing for sales of defense articles and services for anti-narcotics purposes.

This section amends the Export-Import Bank Act to extend the Eximbank's authority to finance sales of defense articles and services for anti-narcotics purposes to September 30, 1992. The Bank's current authority to finance sales for this purpose expires on September 30, 1990.

## TITLE V—DEATH PENALTY FOR DRUG KINGPINS AND OTHER CRIME PROVISIONS

### Subtitle A—Capital Punishment for Drug Kingpins and Related Offenders

This subtitle would authorize capital punishment for the most aggravated drug crimes and enact necessary standards and procedures for imposing and carrying out the death penalty. It represents a continuation and extension of efforts over the past several years to restore an enforceable death penalty for the most heinous federal offenses. In the 98th Congress, for example, the Senate passed a general federal death penalty bill, S. 1765, by a vote of 63-32, and in the 100th Congress, legislation was enacted as part of the Anti-Drug Abuse Act of 1988 which authorizes capital punishment for certain drug-related killings. In the current Congress, a general proposal to restore an enforceable death penalty for aggravated federal crimes of homicide, treason, and espionage appears as title II of the President's proposed Comprehensive Violent Crime Control Act (S. 1225 and H.R. 2709).

The proposal of this subtitle goes beyond earlier legislation in authorizing capital punishment for the most serious categories of drug offenses and offenders. The constitutionality of this proposal has been fully analyzed in previous statements by the Administration. *See* Statements of Assistant Attorney General William P. Barr and Assistant Attorney General Edward S.G. Dennis, Jr., before the Subcommittee on Crime of the House Committee on the Judiciary concerning Death Penalty Legislation (March 14, 1990); Statement of Assistant Attorney General Edward S.G. Dennis, Jr., before the Senate Judiciary Committee concerning the Death Penalty (October 2, 1989).

The procedural provisions of this subtitle are largely the same as the death penalty procedures proposed in title II of the President's violent crime bill (S. 1225 and H.R. 2709). It also incorporates new provisions concerning appointment of counsel and collateral review, which are modeled on the recommendations of the Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases (the "Powell Committee"), to ensure that the effectiveness of the federal death penalty is not undermined by dilatory and repetitive litigation.

The section-by-section analysis below describes and explains the various provisions of this subtitle.

Sec. 5102. Death penalty authorizations and procedures.

This section of the bill adds a new chapter 228 to title 18 of the United States Code, consisting of sections 3591 through 3599, and makes necessary technical amendments. These sections provide that the punishment for certain drug crimes may, in specified circumstances, extend to the death penalty and set forth procedures for imposing and carrying out the death penalty.

*Section 3591 (Sentence of Death)*

This section sets out the offenses for which the death penalty may be imposed if, after consideration of the mitigating and aggravating factors applicable to the case in a post-verdict hearing (described in subsequent sections), it is determined that the imposition of death is justified. The specific categories are as follows:

*Section 3591(a).* The first category of drug offenders who would be potentially eligible for capital punishment—described in proposed 18 U.S.C. 3591(a)—are offenders who are currently subject to a mandatory term of life imprisonment under 21 U.S.C. 848(b). This is the highest category of major traffickers recognized under federal law. Under the general provisions of 21 U.S.C. 848, a person is guilty of engaging in a Continuing Criminal Enterprise (CCE) if he commits a federal drug felony as part of a continuing series of federal drug violations which are undertaken in concert with at least five other persons, where the defendant is an organizer, supervisor, or manager in relation to such persons and derives substantial income or resources from the enterprise. To be subject to mandatory life imprisonment under section 848(b), a CCE violator must, in addition, be a principal organizer, leader, or administrator of such an enterprise, and must either commit a violation involving enormous quantities of drugs—e.g., 30 kilograms of heroin or 150 kilograms of cocaine—or be a principal organizer, leader, or administrator of a CCE that has gross receipts of at least $10 million in a twelve-month period.

Thus, in essence, the offenders potentially subject to capital punishment under proposed section 3591(a) consist of principal organizers, administrators, and leaders of drug enterprises including at least five subordinates where transactions involving enormous quantities of drugs are involved (e.g., 30 kilograms of heroin, 150 kilograms of cocaine) or the enterprise has annual revenues of at least $10 million.

The inclusion of the very largest traffickers in the class of persons potentially eligible for the death penalty, as proposed in section 3591(a), is a response to the human and social devastation that is threatened and actually caused by their activities. In the past, Congress has prescribed the death penalty for treason, *see* 18 U.S.C. 2381, nuclear and other forms of espionage, *see* 10 U.S.C. 906a, and aircraft piracy, *see* Act of September 5, 1961, 75 Stat. 466 (1961). The proposal reflects a recognition that the current scourge of drug abuse and of drug-related crime and violence represents a comparable threat to the security and well-being of the public, and that the use of the ultimate sanction should be available in this context.

*Section 3591(b).* The second category of offenders who would be potentially eligible for capital punishment—described in proposed 18 U.S.C. 3591(b)—consists of a somewhat more broadly defined class of drug kingpins who attempt to obstruct the investigation or prosecution of their activities by attempting to kill persons involved in the criminal justice process, or knowingly directing, advising, authorizing, or assisting another to attempt to kill such a person. To fall within the death-eligible class, the defendant would have to be a CCE principal organizer, administrator, or leader as defined in 21 U.S.C. 848, but would not necessarily have to satisfy the specific criteria for mandatory life imprisonment under section 848(b). Including a more broadly defined class of major traffickers—but limited to those who engage in actual attempted murders to obstruct justice—is justified by the flagrant and growing problem of extreme violence against witnesses in drug cases, as well as the increasing threat and reality of violence directed against criminal justice professionals. A CCE violator under 21 U.S.C. 848 will face, in any event, a very long term of imprisonment (20 years to life) if he is convicted, and he may feel that there is relatively little to lose by attempting to silence a witness or kill other participants in the process. The extension of the death penalty to attempted murders, in this limited context, even where death does not actually result, would send a strong message concerning the system's resolve to deal forcefully and effectively with this problem.

The applicability of proposed section 3591(d), as noted above, would be conditioned on an attempted murder by a drug kingpin to obstruct justice, committed against any public officer—such as a police officer, judge, or prosecutor—juror, or witness, or a member of the family or household of such a person. Family members (i.e., parents, spouses, children and siblings) and members of the households of such persons are included because of their exposure to victimization as targets of efforts at intimidation or reprisal by drug offenders.

*Section 3591(c).* The third category of potentially death-eligible drug offenders—described in proposed 18 U.S.C. 3591(c)—fills a gap in existing law. The Anti-Drug Abuse Act of 1988 enacted provisions authorizing capital punishment for certain intentional drug-related killings, *see* 21 U.S.C. 848(e), but did not cover unintentional killings resulting from aggravated recklessness, such as killings of innocent bystanders during a shoot-out among traffickers, or the death of users resulting from the knowing distribution of bad drugs.

Proposed section 3591(c) would fill this gap by authorizing the death penalty where the defendant, intending to cause death or acting with reckless disregard for human life, engages in a federal drug felony (not necessarily a continuing criminal enterprise offense), and a person dies in the course of the offense or from the use of drugs involved in the offense.

The specific standard of reckless disregard for human life in proposed section 3591(c) refers to the very high level of culpability—i.e., knowingly creating a grave risk of death to another—that the Supreme Court approved as adequate to support the imposition of capital punishment in *Tison* v. *Arizona*, 481 U.S. 137 (1987). *Tison* involved defendants who did not personally kill the victims or intend to cause their death, but who created a situation that resulted in death by freeing two highly dangerous inmates from prison, arming them, and assisting them in waylaying and handling the victims, who were actually killed by the inmates. The Court stated that "the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment. . . ." *Id.* at 157-58.

The death penalty provisions of President Bush's violent crime bill (S. 1225 and H.R. 2709) include the general principle that killings resulting from aggravated recklessness, pursuant to the *Tison* standard, may be punished by death. Proposed section 3591(c) in this bill would extend the application of this principle to drug-related killings. Moreover, in relation to deaths resulting from drug use, current law (21 U.S.C. 841) generally authorizes or requires life imprisonment where serious bodily injury results from the use of drugs distributed by an offender. This proposal would extend this approach, authorizing the possibility of a death sentence (rather than life imprisonment) where the harm resulting from the use of drugs distributed by the offender is death (rather than serious injury).

*Section 3592 (Factors to be Considered in Determining Whether a Sentence of Death is Justified)*

This section sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified upon conviction of a crime described in proposed section 3591. The section also allows, consistent with Supreme Court decisions, for the consideration of any other aggravating or mitigating factor, not listed in the section, which might affect such a determination. See *Skipper* v. *South Carolina*, 476 U.S. 1 (1986); *Lockett* v. *Ohio*, 438 U.S. 586 (1978); *Barclay* v. *Florida*, 463 U.S. 939 (1983); *Zant* v. *Stephens*, 462 U.S. 862 (1983).

Subsection (a) sets forth three mitigating factors which must be considered. They are (1) that the defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired, although not so impaired as to constitute a defense to the charge; (2) that the defendant was under unusual and substantial duress although not such as to constitute a defense; and (3) that the defendant was an accomplice whose participation in the offense was relatively minor, even though he may still be charged as a principal. Subsection (a) further states that the jury or judge shall also consider any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may offer in mitigation. While the Supreme Court has held that no limitation may be placed on the defendant's introducing evidence of mitigating factors, some linkage must be established between the evidence offered in mitigation and the defendant's persona or the offense. For example, the catch-all provision in subsection (a) is not intended to allow such evidence as that on the night of the murder in New York City, unusually heavy rain had fallen in Los Angeles.

Subsection (b) sets forth aggravating factors to be considered. These factors are tailored to the conditions of drug trafficking and identify features of a defendant's conduct or background that provide particularly strong evidence of dangerousness, incorrigibility, or indifference to human life. The jury would have to find at least one of these additional factors to impose a death sentence:

Paragraphs (1)-(4) of subsection (b) set out general criminal record aggravating factors. These are prior conviction of a homicide punishable by life imprisonment, and prior conviction of at least two violent or drug felonies.

The factor in paragraph (5) of subsection (b) is prior conviction of a drug offense punishable by five or more years of imprisonment. This is nearly the same as one of the aggravating factors in the Anti-Drug Abuse Act death penalty provisions (21 U.S.C. 848(n)(10)).

The factor in paragraph (6) of subsection (b) is using or knowingly directing, advising, authorizing, or assisting another to use a firearm to threaten, intimidate, assault, or injure a person in committing the drug offense, or in furtherance of a continuing criminal enterprise (as defined in 21 U.S.C. 848) of which the offense was a part. Mere possession of a firearm in connection with drug activities would not be covered; the defendant would actually have to engage in or sanction the hostile use of a firearm against a person.

The factors in paragraphs (7)-(9) of subsection (b) involve a violation in committing the drug offense, or in furtherance of a continuing criminal enterprise, of the provisions that define aggravated offenses where trafficking is carried out in a manner that exploits or jeopardizes young people. This includes distribution to persons under twenty-one (21 U.S.C. 845), distribution near schools (21 U.S.C. 845a), and using minors in trafficking (21 U.S.C. 845b). The 1988 Anti-Drug Abuse Act death penalty provisions similarly have an aggravating factor (21 U.S.C. 848(n)(11)) for distribution to persons under twenty-one in violation of 21 U.S.C. 845. These factors would apply where the defendant directly committed such an offense, or would be liable as an accomplice in such an offense under the normal standards of 18 U.S.C. 2 (by aiding, abetting, counseling, commanding, inducing, procuring, or willfully causing the commission of the offense).

Factor (10) of subsection (b) covers cases where the offense involves importing, manufacturing, or distributing drugs that are mixed with a potentially lethal adulterant, and the defendant is aware of the presence of the adulterant. This is designed to reach situations in which the manufacturer or distributor cuts drugs with another toxic substance, such as household detergent.

*Section 3593 (Special Hearing to Determine Whether a Sentence of Death is Justified)*

This section sets out the procedure for a special hearing to determine whether a sentence of death is justified. At the conclusion

of the hearing the jury (except in those unusual cases where the sentencing hearing is before the judge alone) will return a binding recommendation as to whether the sentence of death is justified. If the jury returns a recommendation of the death penalty as opposed to some lesser punishment, the court must impose a sentence of death.

*Subsection 3593(a)* provides that if the attorney for the government believes that the circumstances of one of the offenses for which the death penalty is authorized under section 3591 justify the imposition of the death penalty, he or she must file with the court and serve on the defendant a notice of the conclusion and set forth the aggravating factors (including any not statutorily enumerated) the government proposes to show at the hearing. The notice must be filed and served on the defendant a reasonable time before trial or the accepting of a guilty plea or at such time thereafter as the court may permit upon a showing of good cause. The provision is intended to give adquate notice to the defendant so he can prepare for the post-conviction sentencing hearing and to ensure an appropriate *voir dire* that comports with applicable Supreme Court cases.

*Subsection 3593(b)* provides that if the attorney for the government has filed the notice required by subsection 9a) and if the defendant is found guilty, a sentencing hearing shall be conducted by the judge who presided at trial or accepted the guilty plea or by another judge if the first one is unavailable. No presentence report is to be prepared in such a case inasmuch as the issue at the hearing is the existence of aggravating or mitigating factors and the justifiability of imposing a death sentence, and the issue is to be determined on the basis of the information presented at the hearing. The hearing is to be conducted before the jury that determined the defendant's guilt, except that a jury may be impaneled for the purpose of the sentencing hearing in a case in which the defendant was convicted on a trial to the court or on a plea of guilty, in a case in which the original jury was discharged for good cause, or in a case where reconsideration of the sentence is necessary. This subsection also provides that the defendant may move that the sentencing hearing be conducted before the court alone but that the attorney for the government must concur. In the absence of this concurrence by the government, the sentencing hearing is before a jury.

*Subsection 3593(c)* deals with proof of the aggravating and mitigating factors. Any information relevant to the sentence may be presented. Information concerning any mitigating factor or factors, both those listed in section 3592 and those not so listed, may be introduced. Evidence of at least one aggravating factor listed in section 3592 must be introduced. As explained, the government must give the defendant notice of which aggravating factors it will seek to establish. If evidence of a statutory aggravating factor is introduced, the government may also introduce evidence of any other aggravating factor, again providing the government has given notice as to the nature of such a nonstatutory factor.

The information may include trial transcripts and exhibits or relevant parts thereof. Other evidence relevant to any mitigating or previously identified aggravating factor may be presented regardless of its admissibility under the rules of evidence, except that the court may exclude information if its probative value is outweighed by the danger of its creating unfair prejudice, confusing the issues, or misleading the jury. The burden of establishing an aggravating factor is on the government and the standard of proof for such a factor is beyond a reasonable doubt. The defendant has the burden of establishing any mitigating factor but this burden is satisfied if the defendant proves such a factor by a preponderance of the evidence.

*Subsection 3593(d)* deals with the return of special findings required in the sentencing hearing. It provides that the jury, or if there is no jury, the court, must consider all the information received at the sentencing hearing. The jury, or if there is no jury, the court, must return a special finding identifying each aggravating factor (both statutory and nonstatutory) which it has found. Once again, it can only find the existence of an aggravating factor for which notice was provided. The finding with respect to an aggravating factor must be unanimous. If no aggravating factor is found, the death penalty cannot be imposed and the court must impose some other sentence authorized by statute.

With respect to mitigating factors, subsection 3593(d) reflects the holding of the Supreme Court in *Mills* v. *Maryland*, 486 U.S. 367 (1988), that individual jurors may not be precluded from considering mitigating evidence regardless of the number of jurors who agree on a particular factor. Consequently, subsection (d) provides that a finding with respect to a mitigating factor may be made by one or more members of the jury.

As used throughout section 3593, the term "mitigating factor" is meant to include all mitigating evidence which the sentencer must consider before returning a sentence of death to comport with such cases as *Eddings* v. *Oklahoma*, 455 U.S. 104 (1982). Nevertheless, the jury may only consider evidence presented at trial or at the sentencing hearing. It may not speculate on the existence of some factor completely unsupported by any evidence. See *California* v. *Brown*, 479 U.S. 538 (1987). Any member of the jury who is persuaded by a preponderance of the evidence—the standard set out in subsection (c)—that a particular mitigating factor exists may consider such a factor established. That juror (even if he or she is the only one who believes the evidence and has concluded that such a factor has been established) may then weigh that evidence against any aggravating factors which have been found unanimously beyond a reasonable doubt—again, the requirement of subsection (c)—in deciding, under subsection (e), whether to return a binding recommendation for a sentence of death.

*Subsection 3593(e)* provides that if one or more of the statutorily required aggravating factors is found to exist (a constitutional requirement under *Zant* v. *Stephens* and *Barclay* v. *Florida, supra*) the jury, or the court if there is no jury, must then consider whether the aggravating factor or factors which it has found outweigh the mitigating factor or factors. It is the intent of this subsection that the jurors be instructed that they are to weigh and balance the aggravating factor or factors found against any mitigating evidence. As discussed above, findings of aggravating factors would require a formal determination of the whole jury, but the individual members of the jury would make their own determinations concerning the existence of mitigating factors.

If each juror found no mitigating factors or found that any mitigating factors were outweighed by the aggravating factor or factors, then the jury would be required to make a binding recommendation to impose the death penalty. This reflects the judgment that the death penalty is presumptively the appropriate penalty for the crimes described in section 3591 under the aggravated circumstances described in section 3592, and that the death penalty should be imposed in such cases unless the aggravating factors are balanced or outweighed by mitigating circumstances. The Supreme Court upheld rules requiring that the death penalty be imposed under these conditions in *Blystone* v. *Pennsylvania*, No. 88-6613 (Feb. 28, 1990), and *Boyde* v. *California*, No. 88-6613 (March 5, 1990). This approach promotes equal justice and avoids the potential for arbitrariness that would exist under an approach that gave the jury or court less guidance in imposing the death penalty.

Subsection (e) also requires an instruction to the jury that it is not to be influenced in its decision whether to recommend the death penalty by sympathy, sentiment, passion, prejudice, or any other arbitrary factor, and should make such a recommendation as the information warrants. This is substantially the same as the instruction upheld by the Supreme Court in *Saffle* v. *Parks*, No. 88-1264 (March 5, 1990). *See also California* v. *Brown*, 479 U.S. 538 (1987) (approving similar instruction). The requirement of such an instruction serves to promote equal justice by emphasizing that capital sentencing decisions are not to be influenced by legally inadmissible considerations or personal whim or caprice. Rather, what is called for is a reasoned factual and moral assessment by the jury based on the evidence presented at the trial and sentencing hearing and its conclusions concerning the existence and relative weight of pertinent aggravating and mitigating factors.

*Subsection 3593(f)* is designed as a special precaution against discrimination by the jury against the defendant on the basis of the defendant's or the victim's race, color, national origin, religious beliefs, or gender. It provides that in a sentencing hearing in which the death penalty is sought, the jury shall be specifically instructed that it must not consider these factors and that the jury is not to make its binding recommendation for a sentence of death unless it would recommend such a sentence no matter what the race, color, national origin, religious beliefs, or sex of the defendant or any victim may be. Moreover, the jury must return to the court a certificate signed by each juror stating that consideration of these factors was not involved in his or her individual decision, and that he or she would have made the same binding recommendation as to the sentence no matter what these particular characteristics of the defendant or victim might be.

*Section 3594 (Imposition of a Sentence of Death)*

This section provides that if the jury recommends a sentence of death, the court must sentence the defendant to death. If the court, rather than the jury, is the fact finder at the sentencing hearing, section 3594 requires the court to follow its own recommendation and impose the death penalty. If, however, the jury, or if there is no jury, the court, does not recommend the sentence of death, the court shall impose any sentence other than death authorized by law.

This section also provides that notwithstanding any other provision of law, life imprisonment without possibility of release or

temporary furlough is an authorized sentence for a conviction of an offense punishable by death if the maximum term of imprisonment for such an offense is life.

*Section 3595 (Review of a Sentence of Death)*

This section sets out the rules applicable to appeals from the imposition of the death sentence. *Subsection (a)* provides that a sentence of death shall be subject to review by the court of appeals upon an appeal of the sentence by the defendant. Notice of appeal of the sentence must be filed within the time specified for filing an appeal of the judgment of conviction and the court may consolidate the appeal of the sentence and the appeal of the conviction. The review of a case in which the death sentence has been imposed must be given priority over all other cases.

*Subsection 3595(b)* provides that the court of appeals must consider the entire record including the evidence submitted at trial, the information submitted during the sentencing hearing, the procedures employed at the sentencing hearing, and the special findings returned at the sentencing hearing as to the existence of the aggravating factors.

*Subsection 3595(c)* states that the court of appeals must affirm the sentence if it finds that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, and the evidence and information support the special findings of the existence of an aggravating factor or factors. See *Zant* v. *Stephens, supra* (death sentence valid even if an aggravating factor is invalidated or found inapplicable on appeal, provided at least one valid statutory aggravating factor remains). Proportionality review with other death cases is not a part of the review process. *Pulley* v. *Harris,* 465 U.S. 37 (1984). In all other cases, the court of appeals must remand the case for reconsideration under section 3593 or for imposition of another authorized sentence, as appropriate. The court of appeals must state in writing the reasons for its disposition of an appeal of a sentence of death.

*Section 3596 (Implementation of a Sentence of Death)*

This section is concerned with the implementation of a sentence of death. *Subsection 3596(a)* provides that a person sentenced to death shall be committed to the custody of the Attorney General pending completion of the appeal and review process. When the sentence is to be implemented, custody of the person would be given to a United States Marshal who would then supervise the implementation of the penalty in accordance with the law of the State in which the sentence is imposed. If that State has no death penalty, the court would designate another State which does have such a penalty and the execution would be carried out in the manner prescribed in that State. This subsection generally reinstates a portion of the provisions of former section 3566 of title 18 which was repealed as of November 1, 1987, by P.L. 98-473.

*Subsection 3596(b)* states that a sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed, or upon a woman who is pregnant. The latter limitation is to spare the unborn. Following the conclusion of the pregnancy, the sentence of death would be implemented. The former limitation is intended to implement the constitutional bar on execution of a person who is mentally incompetent but who was sane at the time of the offense and who was competent to stand trial. See *Ford* v. *Wainwright,* 477 U.S. 399 (1986). This limitation, too, would normally only postpone the implementation of the sentence of death. See *Ford* v. *Wainwright,* concurring opinion of Justice Powell, 477 U.S. at 425 and footnote 5: "The only question raised is not *whether* but *when* his execution may take place. [Emphasis in original.] [I]f petitioner is cured of his disease, the State is free to execute him."

*Section 3597 (Use of State Facilities)*

This section reinstitutes other parts of former section 3566 not contained in subsection 3506(a) by authorizing the United States Marshal charged with implementing the sentence of death to use State facilities and to pay the costs thereof.

*Sections 3598 and 3599 (Appointment of Counsel and Collateral Attack)*

Sections 3598 and 3599 would adopt improved procedures for federal death penalty litigation based on the recommendations of the Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases (the "Powell Committee"), as set out in that Committee's report of August 23, 1989. Following the Committee's recommendations, a balanced approach would be adopted under which the defendant's right to appointment of counsel would be extended, but improved safeguards against dilatory tactics and repetitive litigation would also be enacted. The defendant would be afforded counsel meeting specified standards of competence from the commencement of trial proceedings until the conclusion of the litigation of an initial motion for collateral relief under 28 U.S.C. 2255. The defendant would, however, normally be limited to a single section 2255 motion, and the motion would have to be filed within a specified time period. Following the final rejection of such a motion by the courts, further litigation would be limited to extraordinary cases in which the defendant raises a claim that undermines confidence concerning his factual guilt of the offense for which the death penalty was imposed. The specific provisions are as follows:

*Section 3598*

*Subsection (a)* of proposed section 3598 would govern appointment of counsel in all federal capital cases. Paragraph (1) of subsection (a) would create a right to appointed counsel for indigent capital defendants, running from the commencement of trial proceedings until the conclusion of the litigation of an initial motion for collateral relief under 28 U.S.C. 2255, or the failure of the defendant to file or pursue a motion in a timely manner.

Paragraph (2) provides for appointment of counsel at trial in conformity with 18 U.S.C. 3005, an existing statute that entitles a federal capital defendant, or request, to two lawyers at trial. At least one lawyer so appointed would continue to represent the defendant in direct review proceedings, unless replaced by the court with other qualified counsel.

Paragraph (3) governs appointment of counsel for collateral proceedings. After the judgment has become final through the conclusion of direct review or a failure of the defendant to seek direct review in a timely manner, the government would so notify the sentencing court. The court would then proceed within 10 days to determine whether the defendant is eligible for appointment of counsel, and on the basis of that determination would issue an order appointing counsel, or denying appointment of counsel because the defendant was not indigent or refused appointment of counsel. Following the approach of the Powell Committee recommendations, counsel appointed for collateral proceedings would be different from the counsel who represented the defendant at earlier stages, absent a contrary request by the defendant and counsel. This would serve to provide a lawyer capable of taking a fresh and dispassionate look at the issues in the case, including possible errors by counsel in prior proceedings. *See* Powell Committee Report at 10, 12-13.

Paragraph (4) sets standards of competence for appointment of counsel under the section. The basic requirement would be five years' admission to the bar and three years of felony litigation experience in the federal courts. This standard is based on the appointment of counsel standard of the Anti-Drug Abuse Act death penalty provisions (21 U.S.C. 848(q)(5)-(6)). Also following the Anti-Drug Abuse Act provisions (21 U.S.C. 848(a)(7)), the court, for good cause, could appoint other counsel under the section whose background, knowledge, or experience qualified him to handle such cases, although he did not meet the specific experience requirements set out in the statute. Utilization of this authority in appropriate cases would help ensure that the class of qualified counsel available to defendants would not be unduly limited, and that delay would not occur in litigation because of the unavailability of qualified counsel to represent capital defendants. For example, it might be found that extensive criminal litigation experience in state cases, or completion of a training or certification program for capital litigation, would be an adequate substitute or partial substitute for these specific experience requirements.

Paragraph (5) provides that the provisions of the Criminal Justice Act (18 U.S.C. 3006A) would apply to appointments under subsection (a), except as otherwise provided in the subsection. Section 3006A sets general standards and procedures for appointment and reimbursement of counsel, including due allowance for waiving normal compensation limits in cases of unusual difficulty or complexity. The proviso in this paragraph to the applicability of the Criminal Justice Act—"[e]xcept as otherwise provided in this subsection"—recognizes that the standards of the subsection are in some important respects more favorable to defendants than the general section 3006A standards. For example, appointment of counsel for indigents in collateral proceedings is discretionary under section 3006A, but would be mandatory in an initial section 2255 motion under this subsection.

Paragraph (6) provides that the entitlement to counsel for collateral proceedings under subsection (a) would not create any novel right to attack capital sentences on grounds of alleged ineffectiveness of counsel at that stage. This is parallel to proposed 28 U.S.C. 2256(e) in the Powell Committee proposal. *See* Powell Committee Report at 10, 13.

*Subsection (b)* in proposed section 3598 relates to appointment of counsel in state cases. Appointment of counsel for indigents at trial and in an initial appeal is constitutionally required, but there is no constitutional requirement of appointment in other proceedings, such as collateral proceedings and applications for discretionary review. *See Murray* v. *Giarratano,* 109 S. Ct. 2765 (1989). Subsection (b) would make it clear that federal law does not create any additional appointment of counsel requirement

in state capital cases, beyond the constitutional requirement of appointment at trial and on the first appeal.

Subsection (b) also re-affirms the traditional rule that appointment of counsel in federal habeas corpus review of state capital cases is generally not mandatory, but discretionary with the court. In relation to review of state cases, federal habeas corpus is not a true collateral remedy that provides a means for raising claims that could not have been raised at earlier stages. Rather, it typically serves as a quasi-appellate mechanism that involves re-adjudication of the same claims that have already been fully litigated and repeatedly rejected in state proceedings. Appointment of counsel for this essentially repetitive type of review is properly conditioned on the court's determination that appointment will further the interests of justice.

*Section 3599*

Proposed 18 U.S.C. 3599 would be a new section governing collateral litigation—i.e., litigation of motions by federal defendants pursuant to 28 U.S.C. 2255—in capital cases.

*Subsection (a)* of proposed section 3599 would require that an initial section 2255 motion be filed within 90 days of the issuance of the order under proposed section 3598(a)(3) relating to appointment of counsel for collateral proceedings. The court, for good cause, could extend the time for filing for up to 60 days. A motion under the section would be given priority over all non-capital matters in the district court and the court of appeals.

Under the procedures proposed in this bill, federal defendants under sentence of death will always have legal representation for purposes of collateral (section 2255) litigation. Hence, the time allowed is properly limited to the time required for an experienced attorney to prepare and file a section 2255 motion. The 90 days time period proposed under subsection (a), subject to a possible 60 day extension if needed, is ample for that purpose.

*Subsection (b)* of proposed section 3599 provides essentially that execution is automatically stayed until the conclusion of litigation of an initial section 2255 motion, if such a motion is filed and pursued in conformity with the applicable time rules. This is parallel to the mandatory stay of execution provisions of the Powell Committee procedures for state cases. *See* Powell Committee Report at 13-14, 15-17.

*Subsection (c)* of proposed section 3599 governs further litigation following the conclusion of litigation of an initial section 2255 motion, or failure to pursue such a motion in a timely manner. Beyond this point, no court would have the authority to stay the execution or grant relief, except in an extraordinary case involving a claim based on facts which would undermine confidence in the defendant's guilt of the offense for which the death penalty was imposed, where the claim was not raised in earlier proceedings and the failure to raise the claim was the result of (a) governmental action in violation of federal law, (b) Supreme Court recognition of a new right that is retroactively applicable, or (c) based on a factural predicate that could not have been discovered in time for earlier proceedings through reasonable diligence. This is parallel to proposed 28 U.S.C. 2257(c) in the Powell Committee recommendations. *See* Powell Committee Report at 14-15, 17-18.

Subtitle B—Protection of Witnesses, Jurors, and Court Officers

Sec. 5201. Protection of court officers and jurors.

This section of the subtitle would establish more adequate penalties for obstruction of justice offenses against court officers and jurors by amending 18 U.S.C. 1503. Currently, 18 U.S.C. 1503 prohibits a range of conduct that tends to interfere with the administration of justice, including corrupting, threatening, injuring, or retaliating against "any grant or petit juror" and any "officer in or of any court of the United States." The maximum penalty for the offense defined by 18 U.S.C. 1503 is five years of imprisonment, regardless of the seriousness of the crime and the extent of resulting harm. Thus, for example, a criminal who engaged in a retaliatory murder of a juror who had voted to convict him would be exposed to no more than five years of imprisonment pursuant to this statute.

More adequate penalties appear in the statutes that define the comparable offenses of tampering with or retaliating against witnesses, victims, and informants, 18 U.S.C. 1512 (tampering) and 18 U.S.C. 1513 (retaliation). Under both of these statutes, conduct like that prohibited by 18 U.S.C. 1503 is punishable by up to ten years of imprisonment when directed against a witness. 18 U.S.C. 1512 further authorizes imprisonment for up to twenty years in the case of an attempted killing, and incorporates by reference the penalties for murder and manslaughter under 18 U.S.C. 1111 and 18 U.S.C. 1112 for cases where death results.

The proposed amendment would conform the penalties available under 18 U.S.C. 1503 to those available for obstruction of justice offenses against witnesses, thereby providing an adequate system of sanctions for comparable offenses against jurors, judges, and other judicial officers and officers serving in courts. The basic offense would be punishable by up to ten years of imprisonment, with up to twenty years of imprisonment in the case of an attempted killing, and punishment as provided in the murder and manslaughter statutes in cases where death results.

Sec. 5202. Prohibition of retaliatory killings of witnesses, victims, and informants.

This section would amend 18 U.S.C. 1513 to provide more adequate penalties for retaliatory killings and attempted killings of witnesses, victims, and informants. Currently, the companion statute, 18 U.S.C. 1512, prohibits efforts to obstruct justice by tampering or interfering with witnesses, victims, and informants, including killing, attempting to kill, and using physical force against such persons. Under section 1512, a killing is punishable by the penalties prescribed for murder and manslaughter in 18 U.S.C. 1111 and 1112—including death or life imprisonment in cases of first degree murder—while an attempted killing is punishable by up to twenty years in prison. The offense of using physical force, short of attempted murder, is punishable by a maximum of ten years' imprisonment.

18 U.S.C. 1513 makes it a ten-year felony to engage in violent retaliatory acts against the same classes of protected persons as section 1512. For no discernible reason, however, section 1513, unlike its counterpart section 1512, contains no specific prohibition or enhanced penalties for the aggravated offenses of killing or attempting to kill a witness, victim, or informant with the same retaliatory intent. The proposed amendments would close this gap by adding to section 1513 an offense of retaliatory killing or attempted killing of witnesses, victims, and informants, carrying the same penalties as the corresponding provision in 18 U.S.C. 1512(a).

TITLE VI—JUSTICE SYSTEM IMPROVEMENTS

Subtitle A—INS System Improvements

Sec. 6101. INS General Arrest Authority.

This provision would provide law enforcement authorities that will be available to agents and officers of the Immigration and Naturalization Service (INS). The authorities listed below will be available to the extent provided for by the Attorney General in implementing regulations.

(1)(A) INS officers carry firearms pursuant to an implied authority arising from their law enforcement function. This provision would make that authority explicit;

(B) INS officers currently have authority to execute warrants in immigration related cases only. This provision would allow INS officers to execute warrants in other cases as well;

(C) INS officers make over 1,000,000 arrests a year for immigration offenses. During the course of those arrests, they often encounter other violations of law, principally narcotics and customs violations. At present, INS officers can only effect a "citizen's arrest" under state law for these offenses. This provision would give INS officers general arrest authority for these offenses under Federal law; and

(D) This provision would allow the Attorney General to assign other law enforcement duties to INS officers, for example, assisting in joint narcotics interdiction task forces.

(2) This provision confirms that any additional authorities conferred upon INS officers do not affect the authorities of any other Federal law enforcement agency.

Sec. 6102. Definitionof Aggravated Felony.

This provision expands and clarifies the term "aggravated felony" as defined in the Immigration and Nationality Act, to include a broader spectrum of serious criminal activity. The need for this expansion of the term is to capture those egregious crimes of violence that are often concomitant with drug-related crimes. This definition serves as a predicate for summary exclusion and expeditious deportation provisions provided for in this legislative proposal (Sections 6104 and 6105).

Currently, the term "aggravated felony" encompasses "murder, any drug trafficking crime as defined in Section 924(c)(2) of title 18, United States Code, or any illicit trafficking in any firearms or destructive devices as defined in section 921 of such title, or any attempt or conspiracy to commit any such act, committed within the United States."

This provision would amend the definition to include crimes of physical force or threatened force against the person or property of another that are punishable by imprisonment of five years or more, which are so often associated with drug crimes. With respect to drug law violations, the provision extends the term beyond the current limitation to drug trafficking crimes as defined in section 924(c)(2) of title 18, to include feloney crimes involving a controlled substance.

The proposed definition additionally clarifies the definition of "aggravated felony" for purposes of the immigration laws to include violations of State and foreign law, as well as violations of federal law. The current definition was challenged in deporta-

tion proceedings as not encompassing violations of State statutes. *Matter of Barrett*, A37 213 802 (Baltimore), I.D. 3131 (BIA Mar. 2, 1990).

Sec. 6103. Additions to classes of aliens ineligible to receive visas and excluded from admission.

This provision amends the Immigration and Nationality Act by adding two classes of aliens who are ineligible to receive visas and who are not permitted to enter the United States. These classes are:

(1) any nonimmigrant alien seeking admission to the United States who is in illicit possession of a controlled substance; and

(2) and any alien who has committed an aggravated felony as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended (Section 6102) of this legislative proposal).

These additional classes provide a predicate for summary exclusion and expeditious deportation provisions provided for in this legislative proposal (Sections 6104 and 6105).

Sec. 6104. Summary exclusion and deportation of criminal aliens.

The purpose of this amendment is to provide a swift and certain bar to admission to the United States, and to ensure the exclusion from entry, of aliens who:

(1) are nonimmigrant aliens in illicit possession of a controlled substance at the time of application for admission to the United States at a port of entry, and

(2) have committed an aggravated felony as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended (Section 6102 of this legislative proposal).

This amendment mandates, for nonimmigrant aliens in illicit possession of a controlled substance and for aggravated felons, a summary exclusion process where the Attorney General or his designee, instead of an immigration judge and Board of Immigration Appeals, determine the excludability of such an alien. There would be no administrative review of the exclusion order. However, judicial review of the exclusion order is provided pursuant to Section 106 of the Immigration and Nationality Act, as amended.

The present exclusion statute and accompanying appellate processes are overly burdensome and do not add any significant procedural or substantive due process protection. Instead, the present exclusion system, by its multilayered structure, just adds to the time it takes to finally resolve a case.

In a recent General Accounting Office report entitled, "Immigration Control: Deporting and Excluding Aliens from the United States," October 1989, the GAO investigation found that exclusion cases appealed to the Board of Immigration Appeals, an appeal of right under the present exclusion process, generally took more than three years to resolve. These cases do not include those that were appealed to the District Court, also an appeal of right under the present exclusion system.

Sec. 6105. Expeditious deportation of aggravated alien felons.

The purpose of this amendment is to ensure swift and certain deportation from the United States of an alien convicted of an aggravated felony as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended (Section 6101 of this legislative proposal).

This amendment subjects an alien convicted of an aggravated felony to an expedited deportation process where the Attorney General, or his designee, instead of an immigration judge and Board of Immigration Appeals, determine the deportability of an alien. There would be no administrative review of the deportation order. However, judicial review of the deportation order is provided pursuant to Section 106 of the Immigration and Nationality Act, as amended.

The hearing conducted by the Attorney General's designee will be on the record so that a "trial de novo" would not be necessary or permitted. The proposed amendment requires federal and State courts to provide to the Immigration and Naturalization Service information relating to the alienage of the individual and certified copies of conviction documents.

This provision would be applicable solely to convicted aggravated felons: those who have committed and been convicted of egregious crimes involving murder, drug law violatins, violationd of the weapons control laws, and seriouis crimies involving the use of force and violence.

The present deportation statute and accompanying appellate processes are overly burdensome and do not add any significant procedural or substantive due process protection. The present deportation system, by its multilayered structure, just adds to the time it takes to finally resolve the case.

In a recent General Accounting Office report entitled, "Immigration Control: Deporting and Excluding Aliens from the United States", October 1989 the GAO investigation found that 59 percent of deportation cases in New York and Los Angeles took more than one year to complete from the time of apprehension to the immigration judge's decision. When appealed to the Board of Immigration Appeals, about 81 percent took more than two years and 21 percent took more than five years to resolve. These cases do not include those that were appealed to the Circuit Courts of Appeals, which, under the present deportation system, is an appeal of right.

Note on Sections 6106 through 6112:

Sections 6106 through 6112 of this proposed legislation address sections of the Immigration and Nationality Act which provide various avenues of administrative relief from exclusion and deportation.

The provisions deny these avenues solely to an alien convicted of an aggravated felony. Currently each of these forms of relief are often used by the alien, often successfully, in an effort to have the exclusion or deportation order waived or set aside by the adjudicating official. These avenues should not be available to the individual convicted of the egregious crimes encompassed in the definition of the term "aggravated felony."

Sec. 6106. Ineligibility of aggravated felons for asylum.

This provision statutorily disqualifies an alien who has been convicted on an aggravated felony from political asylum under section 208 of the Immigration and Nationality Act, as amended. To extend the legislative grace of political asylum to an aggravated felon is inconsistent with the President's National Drug Control Strategy and other anti-crime initiatives, and with the Congressional intent evidenced in recent legislation to remove these individuals from American society.

Pursuant to law, an alien convicted of an aggravated felony may file an application for political asylum, and have the application considered by an immigration judge in deportation hearings. The judge may grant or deny the request. However, even if the claim for asylum is patently frivolous, he is entitled to apply for it, and time and resources are expended in the adjudication of the claim.

The express purpose of this amendment is to statutorily deny this form of relief to a convicted aggravated felon, thus pretermitting the alien's application after a finding of deportability. This, in turn, would expedite the removal of the aggravated felon from the United States.

Sec. 6107. Elimination of judicial recommendation against deportation of criminal aliens.

This provision eliminates the ability of sentencing judges to recommend against the deportation of an alien convicted of an aggravated felony.

Pursuant to section 241(b) of the Immigration and Nationality Act, as amended, sentencing judges are authorized to recommend against the use of a conviction for moral turpitude in determining the deportability of an alien, even an alien convicted of an aggravated felony as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended (Section 6102 of this legislative proposal).

These recommendations against deportation are, in practice, treated as binding on the immigration court and are inconsistent with the President's National Drug Control Strategy and other anti-crime initiatives, and with the Congressional intent evidenced in recent legislation to remove convicted aggravated alien felons from American society.

The express purpose of this amendment is to statutorily deny this latitude and form of relief to sentencing judges in the case of a convicted felon, so that the law will ensure a swift, certain deportation, which the integrity of the system demands. This would expedite the removal of the aggravated felon from the United States.

Sec. 6108. Elimination of section 212(c) relief for aggravated felons.

This provision amends section 212(c) of the Immigration and Nationality Act to render an alien convicted of an aggravated felony ineligible for relief pursuant to this section of the law.

Section 212(c) provides relief from exclusion, and by court decision from deportation, to persons who have had an unrelinquished domicile in the United States for seven years and are excludable for all but certain subversive reasons. This discretionary relief is obtained by numerous excludable and deportable aliens, including aliens convicted of aggravated felonies, preventing the government from removing these individuals from American society.

The purpose of this amendment is to deny this form of relief from deportation to a convicted aggravated felon. This, in turn would expedite the removal of the aggravated felon from the United States. This relief is inconsistent with the President's National Drug Control Strategy and other anti-crime initiatives, and with the Congressional intent evidenced in recent legislation to remove convicted aggravated alien felons from American society.

Sec. 6109. Elimination of suspension of deportation for criminal aliens in hardship cases.

This provision amends section 244(a) of the Immigration and Nationality Act to render an alien convicted of an aggravated felony ineligible for relief pursuant to this section of the law.

Section 244(a) suspends deportation to convicted aggravated felons who possess 10 years of physical presence in the United

States, and whose removal would cause hardship to family members in the United States.

The purpose of this amendment is to deny this form of discretionary relief from deportation to a convicted aggravated felon. This, in turn, would expedite the removal of the aggravated felon from the United States. This relief is inconsistent with the President's National Drug Control Strategy and other anti-crime initiatives, and with the Congressional intent evidenced in recent legislation to remove convicted aggravated alien felons from American society.

Sec. 6110. Definition of good moral character to exclude aggravated felons.

This provision amends Section 101(f) of the Immigration and Nationality Act to bar convicted aggravated felons from establishing good moral character for purposes of the immigration laws.

Pursuant to current law, a convicted aggravated felon may establish "good moral character" for benefits under the immigration laws. This operates to permit such individuals to avail themselves of relief from deportation and other advantages. The lack of a bar to establishing good moral character by a convicted aggravated felon often renders ineffective efforts by the government to remove these felons from society.

Sec. 6111. Ineligibility of aggravated felons for hardship waivers.

This provision amends Section 212(h) of the Immigration and Nationality Act to bar convicted aggravated felons from the hardship waiver to exclusion and deportation provided for in that Section.

Section 212(h) of the Immigration and Nationality Act waives certain criminal grounds of exclusion for an alien who is the spouse, parent, or son or daughter of a United States citizen or lawful resident of the United States, if the exclusion would result in extreme hardship to the relative.

The purpose of this amendment is to deny this form of discretionary relief from exclusion and deportation to a convicted aggravated felon. This would expedite the removal of the aggravated felon from the United States. This relief is inconsistent with President's National Drug Control Strategy and other anti-crime initiatives, and with the Congressional intent evidenced in recent legislation to remove convicted aggravated alien felons from American society.

Sec. 6112. Elimination of deportation relief for aliens who are aggravated felons.

These provisions amend sections 243(h), 245, and 249 of the Immigration and Nationality Act to bar aggravated felons from relief from deportation or other benefits provided for in these sections.

The amendment to section 243(h)(2) adds a convicted aggravated felon to the list of classes ineligible for relief from deportation based upon fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

The amendment to section 245 prohibits a convicted aggravated felon from the benefit of adjustment of status in the United States from that of a nonimmigrant alien to that of an alien lawfully admitted for permanent residence.

The amendment to section 249 bars a convicted aggravated felon from recordation of admission for lawful residency, for an alien who entered the United States prior to July 1, 1924, or June 30, 1948.

These forms of relief are currently available to a convicted aggravated felon. These relief provisions are inconsistent with the President's National Drug Control Strategy and other anti-crime initiatives, and with the Congressional intent evidenced in recent legislation to remove convicted aggravated alien felons from American society.

Subtitle B—Amendments Concerning Records of Crimes Committed by Juveniles

Sec. 6201. Amendments Concerning Records of Crimes Committed by Juveniles.

The amendments in this section are part of the implementation of an element of the President's violent crime program, which calls on the states to "maintain records and report on all serious crimes committed by juveniles who frequently continue their criminal careers into adulthood, but often escape early identification as repeat offenders and recidivists because their juvenile records are not reported." White House Fact Sheet of May 15, 1989, at 6. The same point was endorsed by the Attorney General's Task Force on Violent Crime in 1981, Final Report at 82-83, which stated that states should be encouraged to make available criminal history information for juveniles convicted of serious crimes, and that such information should be entered into the FBI criminal records system.

Empirical data confirms that the unavailability of juvenile criminal records is in fact a serious concern in connection with violent and firearms offenses. For example, the Bureau of Justice Statistics has reported that 54 percent of armed robbers in state prisons in 1986 had previously been sentenced to probation or incarceration as a juvenile, and that 15 percent had a prior juvenile, but no adult, sentence. This problem would be alleviated by generally providing for the inclusion of juvenile records for serious crimes in the FBI records system, and by making corresponding changes in the rules for reporting offenses by juveniles who are federally prosecuted.

To implement this reform, the Justice Department proposes to amend 28 C.F.R. section 20.32, which generally defines the offenses that will be accepted in the FBI records system. Subsection (a) of the rule now states that information is to be included concerning "serious and/or significant offenses." Subsection (b) states that nonserious offenses are excluded, such as drunkenness, vagrancy, disturbing the peace, curfew violations, loitering, false fire alarm, nonspecific charges of suspicion or investigation, and traffic infractions. However, the second sentence of subsection (b) states a blanket exclusion of offenses committed by juveniles, unless the juvenile was tried as an adult. The proposed amendment would delete this sentence, and would make a conforming change in subsection (a), to make it clear that both adult and juvenile offenses, if serious, are to be included in the system. This would permit the FBI to receive and retain records relating to serious offenses of state juvenile offenders.

The statutory amendments in this section propose complementary changes in the provisions regarding the records of federally prosecuted juveniles. The first amendment would change 18 U.S.C. 5038, which generally governs the permissible uses of juvenile records and the circumstances in which they are to be retained. The basic change from current law is that records would routinely be retained and made available where a juvenile is convicted of a serious violent crime or drug crime that supports the exercise of federal jurisdiction pursuant to clause (3) of the first paragraph of 18 U.S.C. 5032. In contrast, the current statute limits the retention and availability of such records through the FBI records system to cases involving a second conviction of the juvenile. The amendment accordingly rejects the view of the current law that a juvenile offender is entitled to "one free bite," even if the initial "bite" is a serious violent crime or drug crime, before information is preserved concerning his offenses for later law enforcement and judicial use.

The amendment also adds a subsection to 18 U.S.C. 5038 authorizing reporting, retention, disclosure and availability of juvenile records pursuant to the law of the state in which a federal juvenile proceeding takes place, if the state law is more permissive as to such matters than the general standards of section 5038. This would generally ensure that federal law will not accord less weight than the law of the state in which the offense occurred to the public's interest in security against crime, and would also eliminate the possibility that a federal prosecutor might be inhibited from exercising federal jurisdiction in a case appropriate for federal prosecution because state law provides more effectively for retention and availability of records concerning the offender.

The second amendment repeals a statute, 18 U.S.C. 3607, that authorizes prejudgment probation for certain drug offenders, and requires expungement of records for such an offender if he was under the age of 21 at the time of the offense. This amendment is also in furtherance of the proposal's general objective of ensuring retention of accurate and complete criminal records, regardless of the age of the offender.

In its specific provisions, 18 U.S.C. 3607 now authorizes prejudgment probation for an offense under 21 U.S.C. 844 for offenders without prior drug crime convictions; 21 U.S.C. 844 generally defines the offense of unlawful possession of controlled substances, punishable by up to a year of imprisonment. If a defendant is accorded the special probationary treatment authorized by the statute, only a nonpublic record is retained of the disposition, and that record can only be used for the purpose of determining in a later proceeding whether the defendant is a first time offender for purposes of section 3607. The effect of the mandatory expungement for offenders under 21 is that all references relating to the arrest, proceedings, and disposition are removed from normal official records. Section 3607 further provides that the expungement order has the effect of restoring the defendant in contemplation of law to the status he occupied before his arrest or prosecution, and that the defendant is not subject to liability for subsequently failing to recite or acknowledge the occurrence of the arrest or prosecution in any context.

This provision implicitly presupposes that drug possession offenses under 21 U.S.C. 844 may properly have less serious consequences for the offender than other offenses carrying comparable penalties, or that knowledge of such offenses is somehow of less importance for the criminal justice system than knowledge of other prior crimes. However, the statute's implicit policy of leniency toward drug offenders through concealment of records is contrary to the concept of user accountability for such offenders, and gives short shrift to the enormous human and social costs of drug abuse. Moreover, in light of the uniquely potent role of drug abuse as a contributing factor in other criminality, knowledge of a defendant's complete record of drug offenses is at least as important as knowledge of other types of crime for law

enforcement, judicial, and correctional purposes.

Section 3607's expungement requirement for offenders under 21 compounds its costs without any offsetting justification. If the offender is a juvenile, he would enjoy in any event the benefits of the special protection of 18 U.S.C. 5038 relating to juvenile records, on the same basis as other juvenile offenders. Conversely, if the offender is an adult, he should be treated in the same way as adults who commit other types of crimes. Neither considerations relating to the offender's interests nor considerations relating to society's interests provide a valid basis for according a specially favored status to defendants who commit offenses covered by section 3607, or justify a special policy of concealment for the records of such offenses. The statute, as proposed in the second amendment, should simply be repealed.

Subtitle C—Narcotics-Related Public Corruption

Sec. 6301. Narcotics-Related Public Corruption.

This subtitle would establish more stringent penalties for drug-related bribery. The section would amend section 18 U.S.C. by inserting a new section 220 that specifically deals with narcotics-related public corruption. Under the proposed section, such corruption would be classified as a class B felony, punishable by up to 25 years of imprisonment.

Subtitle D—Other System Improvements

Sec. 6401. Alternative methods of incarceration.

This section makes explicit the desirability and appropriateness of using Bureau of Justice Assistance Drug Grant funds for innovative intermediate sanctions.

Sec. 6402. Close loophole for illegal importation of small drug quantities.

This proposal would amend section 497 of the Tariff Act of 1930, 19 U.S.C. 1497, to eliminate a loophole whereby in certain situations involving failure to declare illegal importation of small quantities of drugs, the violator is subject to a very minor penalty.

19 U.S.C. 1497 currently provides a civil penalty equal to 1,000 percent of the value of the undeclared substances. If the amount of the drugs, however, is small (e.g., a "roach" or a few pills), the resulting penalties range from $14 to $35. This statutory change would provide for a minimum penalty of $500, enhancing the deterrent effect of the statute.

Sec. 6403. Enhancement of penalties for drug trafficking in Federal prisons.

This proposal is designed to increase the penalties for drug possession and trafficking inside Federal prisons, jails, and detention facilities, as well as for smuggling or attempts to smuggle controlled substances into such institutions. The providing or possession of controlled substances in Federal prisons clearly represents a major threat to prison safety and discipline, promotes disrespect for law, and undermines the prospect for successful rehabilitation of prison inmates. Accordingly, such offenses implicate harms to society separate from and in addition to those associated with drug violations generally, and are deserving of separate and cumulative punishment.

Unfortunately, the existing statute proscribing the providing or possession of contraband in Federal prison, 18 U.S.C. 1791, fails adequately to punish these offenses. For example, section 1791 contains no requirement that the sentence for an offense under it be served consecutively to a sentence imposed for the underlying drug offense. Thus, a person convicted today under 21 U.S.C. 841 for drug trafficking by smuggling crack cocaine to a prison inmate, and under 18 U.S.C. 1791 for an offense involving that same substance, might well receive concurrent sentences reflecting no incremental punishment for the separate serious harm to the prison institution. By contrast, under the proposed amendment, any sentence imposed under 18 U.S.C. 1791 for a violation involving a controlled substance would have to run consecutively to a sentence imposed by any other court (including a State court) for an offense involving that same controlled substance.

Moreover, the maximum penalties provided in section 1791 for controlled substances with a serious potential for abuse (i.e., those in schedules I, II, and III), with only a few exceptions, are far too low. Section 1791 provides an adequate maximum of twenty years' imprisonment only for narcotic drugs (defines to include opiates and cocaine), LSD, and PCP. All other offenses involving the distribution, smuggling, or possession of controlled substances are misdemeanors that carry a maximum prison term of one year. This penalty scheme fails to reflect the seriousness of many types of controlled substances, particularly in a prison context.

Under the proposed amendment, the penalties for offenses involving controlled substances under section 1791 would generally be graduated according to the seriousness of the drug by virtue of its placement in one of the controlled substance schedules set forth in 21 U.S.C. 812. Initially, the list of most serious substances that carry a maximum twenty-year punishment would be augmented by the addition of methanamphetamine (including the variant "ice").

Congress recently amended the Controlled Substances Act (21 U.S.C. 814(b)) to add methanamphetamine to such other highly dangerous drugs as heroin, cocaine, LSD, and PCP as appropriate for minimum mandatory penalties. This proposed amendment would similarly acknowledge the dangers posed by methanamphetamine by adding it to the list of those substances carry the highest penalties under section 1791.

Next, the amendment would add other controlled substances in schedules I and II (except marijuana) to the present category of objects whose unlawful provision or possession in prison carry a ten-year maximum term; and would create a five-year maximum penalty for distributing, smuggling, or possessing schedule III controlled substances or marijuana. Marijuana, although a schedule I substance, carries only a maximum of five years' imprisonment under the Controlled Substance Act for quantities less than 50 kilograms (21 U.S.C. 841(b)(1)(D)), and it is not deemed likely that an offense involving marijuana smuggling or possession in a Federal prison would exceed that magnitude. Offenses involving schedule IV and V controlled substances would remain as one-year misdemeanors.

Finally, the amendment corrects a technical error in subsection (b), where the references should be to subsection (d) instead of (c).

Sec. 6404. Authorization of funding for Treasury undercover operations.

The provisions in this section authorize the use of appropriated funds for the conduct of undercover investigative operations. In addition, if certain approval procedures are followed, the proposed section continues to exempt such operations from federal acquisition, appropriations, property management, and government corporation laws which would otherwise be applicable to a federal agency. These exemptions may be used if complying with those federal laws would risk compromise of the undercover nature of the investigation.

TITLE VII—AMENDMENTS RELATED TO ASSET FORFEITURE AND MONEY LAUNDERING

Subtitle A—Special Forfeiture Fund

Sec. 7101. Special forfeiture fund amendment.

This section of the Bill amends provisions of the Anti-Drug Abuse Act of 1988 to make funds available to the Special Forfeiture Fund earlier than currently authorized. Current law authorizes transfers of amounts from the Department of Justice (DOJ) Assets Forfeiture Fund to the Special Forfeiture Fund at the end of fiscal years 1990, 1991, and 1992.

This section allows transfers to begin in the first quarter of FY 1990. It also extends the authorization of transfers from the DOJ Assets Forfeiture Fund through FY 1992, and makes a similar modification to the Special Forfeiture Fund to conform both sections with the sunset provision affecting the Office of National Drug Control Policy.

Subtitle B—Forfeiture Amendments

Sec. 7201. Conforming of older innocent owner provisions with those enacted in the Anti-Drug Abuse Act of 1988.

Sections 6075 and 6076 of the Anti-Drug Abuse Act of 1988 provided that in the case of a conveyance subject to forfeiture because of its involvement in a drug-related offense, forfeiture would be barred if the owner of the conveyance established that he or she had no knowledge of the offense, did not consent to the offense, and was not willfully blind to the offense.

The 1988 amendments were derived from earlier innocent owner statutes in 21 U.S.C. 881(a) (6) and (7) (relating to other personal and real property involved in drug crimes) and 18 U.S.C. 981(a)(2) (relating to property involved in money laundering). However, neither of these earlier statutes requires the owner or lienholder to prove the absence of willful blindness, and the section 981 provision does not require the owner to prove lack of consent. The proposed amendments would bring these older statutes into conformity with the innocent owner provisions enacted in 1988.

It is intended that, in order to establish the innocent owner exemption, the property owner must establish all three circumstances—i.e., that the owner lacked knowledge, consent, and willful blindness as to the offense giving rise to forfeiture. See *United States* v. *Parcel of Real Property Known as 6109 Grub Road*, 886 F. 2d 618 (3d Cir. 1989) (holding, contrary to the weight of authority, that by using the word "or" in 21 U.S.C. 881(a)(7) Congress intended to give the owner the choice of proving either lack of knowledge *or* lack of consent. The addition of the "willful blindness" wrong underscores the incorrectness of this holding, since it makes no sense that an owner could prevail by showing a lack of willful blindness to the offense even though the owner had knowledge of the offense and consented to it.

Sec. 7202. Addition of conforming criminal forfeiture provision for cases involving CMIR violations.

Section 6463(c) of the Anti-Drug Abuse Act of 1988 amended 18 U.S.C. 982 to require the forfeiture in a criminal case of any

property involved in certain anti-money laundering statutes, including the statute requiring the filing of currency transaction reports (CTRs) and the anti-structuring statute, both found in title 31. However, apparently inadvertently, the 1988 amendment failed to include criminal violations of the statute (31 U.S.C. 5316) requiring the filing of monetary instrument reports (CMIRs) with the Customs Service whenever more than $10,000 is imported into or exported from the United States. Such violations are already subject to civil forfeiture, 31 U.S.C. 5317, and should be subject to the same criminal forfeiture sanctions as are the CTR and anti-structuring offenses.

Sec. 7203. Clarifying grammatical changes in definition of "financial transaction" for the money laundering statute.

This amendment is entirely technical in nature. It is intended merely to add grammatical clarity to the definition of "financial transaction" in the money laundering statute. The clarification is consistent with the legislative history which explains that, for the purposes of this statute, a financial transaction need not involve a financial institution. See S. Rep. 99-44, 99th Cong., 2nd Sess. (1986), at p. 13.

Sec. 7204. Limitation of exception to money laundering forfeitures.

In 1988, the statute permitting forfeiture of property in criminal money laundering cases, 18 U.S.C. 982(b), was amended to authorize the forfeiture of substitute assets. Under the amendment, whenever property involved in money laundering violations cannot be located, has been placed outside the jurisdiction of the court, has been diminished in value, or otherwise is not available for forfeiture because of some action of the defendant, the government is entitled to the forfeiture of substitute property of equal value.

This provision is identical to the substitute assets provision in 21 U.S.C. 853(p) which applies to forfeitures in criminal narcotics cases with one important difference. Section 982(b)(2) provides that the substitute assets provision may not be used where the convicted money launderer was merely an "intermediary" who handled the money "only temporarily" in the course of the money laundering offense. This exception was seen as necessary to prevent an "unduly harsh" result where a person was a mere conduit for a financial transaction between other principals. See Congressional Record, daily ed., November 10, 1988, at S17365. The exception, however, should be narrowed to reflect its true intent, which was to protect the low-level or occasional participant in a money laundering offense, such as a "smurf" who carries his employer's money to a bank but retains none of it for himself, from forfeiture of money over which he never exercised exclusive control. It was not intended to preclude forfeiture of substitute assets from a professional money launderer who moves hundreds of thousands of dollars through various businesses and accounts on behalf of other criminals engaged in drug trafficking or other specified unlawful activity.

The amendment would qualify the 1988 exception by providing that substitute assets will be forfeited even by an intermediary who does not retain the laundered property if that person participates in three or more transactions involving $100,000 or more in a twelve-month period. Such a person is clearly a professional money launderer who is not deserving of the forfeiture exemption.

Sec. 7205. Seizure of vehicles with concealed compartments.

This proposal would amend the seizure and forfeiture provisions of the Anti-Smuggling Act of 1935, 19 U.S.C. 1703, to subject trucks and private automobiles to seizure if there is a concealed compartment, whether or not there is contraband or narcotics residue.

Under current law, vessels and aircraft having a hidden compartment can be seized and forfeited under 19 U.S.C. 1590 and 1703. These provisions, however, do not permit the seizure and forfeiture of automobiles, trucks, or other vehicles that are similarly equipped with hidden compartments designed to smuggle contraband. This provision would cover compartments that are specifically built of fitted for smuggling; it would not reach other compartments (e.g., glove boxes or car trunks) that are part of the normal vehicle configuration.

Subtitle C—Money Laundering Amendments

Sec. 7301. Continuation of $10,000 cash transaction reporting requirement.

This would permit federal law enforcement agencies to continue to receive information reported to the Internal Revenue Service by persons in a trade or business where these persons receive more than $10,000 in cash in a transaction. This reporting requirement applies to those transactions not subject to the title 31 reporting rules, such as the sales of automobiles, boats, and so forth. This information supplements the Currency Transaction Reports being utilized to identify and prosecute persons laundering funds obtained from the sale of drugs and other criminal activity.

Sec. 7302. FINCEN transfer amendment.

This proposal would permit agencies to transfer to FINCEN and other agencies customer account information subject to the Right to Financial Privacy Act, 12 U.S.C. 3401 et seq., without having to provide notice of such transfer.

With limited exceptions, and agency transferring customer account information to another agency is required to provide the customer notice of, and the reasons for, such transfer.

Sec. 7303. Geographic targeting disclosure penalties.

Current law (31 U.S.C. 5326) permits the Secretary of the Treasury to impose lower currency reporting limits in certain geographic areas for limited periods of time. The Secretary may order financial institutions to report any or all domestic currency transactions at a specified level for a specified time period. The Secretary, however, may only request that the financial institutions not disclose the existence of the order to customers; the purpose of the order is defeated by disclosure.

In order for geographic targeting orders to be effective, it is imperative that customers of the financial institutions subject to an order not know of the existence or terms of special reporting requirements. If they know, they will quickly move their activities outside for targeting area or below the reporting amount and frustrate the purpose of the order.

Therefore, this proposal would amend 31 U.S.C. 5326 to permit the Department of the Treasury to prohibit the disclosure of the existence of a geographic targeting order and penalize financial institutions for such disclosures.

Sec. 7304. Suspicious transaction reporting.

This proposal would amend the Right to Financial Privacy Act, 12 U.S.C. 3403, to provide that a financial institution that ceases to do business with a customer because of suspicious transactions is not subject to liability under other statutes, including the Fair Credit Reporting Act.

Exempting financial institutions from liability for refusing to conduct business on the basis of a possible violation of currency reporting requirements would encourage and facilitate cooperation by financial institutions with Federal law enforcement efforts.

Since the inception of the Right to Financial Privacy Act, pursuant to an exception in section 1103(a) (12 U.S.C. 3404(c), financial institutions have been able to report, in good faith, possible violations of law or regulation to federal authorities without notice to the suspected customer and free from civil liability under the RFPA. This provision was further clarified by the Anti-Drug Abuse Act of 1986 and 1988, to specify what information a financial institution could give regarding the customer and suspicious activity and that the protection pre-empted any state law requiring notice to the customer. These changes were added to insure that financial institutions would in no way be inhibited from reporting suspected violations, especially money laundering and Bank Secrecy Act reporting violations.

Nevertheless, financial institutions have advised that there is another concern that in some instances complicate their treatment of suspicious transactions. They fear that if they sever relations with a customer, they risk liability under the Fair Credit Reporting Act, 15 U.S.C. 1691, et seq., or for breach of contract. See *Ricci v. Key Bancshares of Maine*, 768 F.2d 456 (1st Cir. 1985). However, if they continue relations with the customers, they fear that they may be implicated in any illegal activity. In many cases, after a suspicion has been reported, Federal authorities will encourage financial institutions to continue dealing with a suspicious customer so his activities may be monitored. Financial institutions should be free to sever relations with the customer based on their suspicions or on information about a customer received from law enforcement.

Section (a) addresses this concern by extending the protection of section 1103(c) to bank that sever relations with a customer because of activities underlying a suspicious transaction report.

Sec. 7305. Bank Secrecy Act customer violations.

Section 8118 adds new subsection 1113(p) to provide that the RFPA would not apply to a financial institution providing information that it has reason to believe may be relevant to a Bank Secrecy Act violation. This is not a change in current law with respect to supervisory agencies' disclosure to Treasury of records relevant to violations of the Bank Secrecy Act. Pursuant to section 1101(6)(H) of the RFPA, Treasury is a supervisory agency for purposes of Bank Secrecy Act enforcement. Section 1113(b) sets forth that "[n]othing in this chapter [RFPA] prohibits . . . disclosure to any supervisory agency of financial records or information in the exercise of supervisory, regulatory or monetary functions with the respect to a financial institution." Under delegations from Treasury, bank supervisory agencies routinely examine institutions and report to Treasury possible Bank Secrecy Act violations by financial institutions without customer notice. Financial institutions also disclose information and records

about their own past noncompliance to Treasury, without reference to the RFPA.

Nevertheless, the amendment would make an improvement to Bank Secrecy Act enforcement. The law is not clear and an amendment to the RFPA is needed with respect to the situation in which a financial institution wishes to report possible Bank Secrecy Act violations by a customer, i.e., in situations where the bank suspects that a customer has violated 21 U.S.C. s 5224, the anti-structuring provision. If the bank is not implicated in the possible violation, disclosure to Treasury arguably would not be within the exercise of Treasury's "supervisory functions . . . with respect to a financial institution." In that case, banks only would be able to give Treasury the limited suspicious transaction information allowed by section 1103(c) of the RFPA.

The provisions set forth in section 4(d) would authorize full disclosure of information within the possession of the financial institution which the institution has reason to believe is relevant to Bank Secrecy Act violations. The phrase "reason to believe" means reasonable suspicion, and does not equate to probable cause. New paragraph would allow the financial institution to furnish information beyond the identifying data now authorized by section 1103(c), including copies of relevant documents. Disclosure would be made without any notice to the customer otherwise required by the RFPA.

Section (d) provides that a financial institution that discloses information and records relating to a customer violation of the Bank Secrecy Act under proposed 1113(p) in good faith, also would be protected from civil liability under state law. This is comparable to the protection for financial institutions that make reports of suspicious transactions in accordance with section 1103(c).

Sec. 7306. Search of outbound mail.

In Section 1355 of the Anti-Drug Abuse Act of 1986, Pub. L. 99-570 (Oct. 27, 1986), Congress specified that the warrantless border search authority of the Customs Service applied to searches of "any vehicle, vessel, aircraft, or . . . any envelope or other container . . . entering or departing from the U.S." for purposes of ensuring compliance with the international reporting requirement of 31 U.S.C. 5316. However, the inclusion of outgoing letters or parcels in the U.S. mail is unclear in light of 39 U.S.C. 3623(d), a statute that otherwise prohibits warrantless searches of letter class mail. To clarify this point, section 7306 adds the words "including mail transmitted by the U.S. Postal Service" to section 5317(b).

This proposal would clarify the search authority of 31 U.S.C. 5317(b) to provide generally that outbound mail may be searched for currency and monetary instruments. Letters sealed against inspection could only be searched on the basis of reasonable suspicion. Clarification of the search authority of the U.S. Customs Service would enhance detection of illegal transfers of currency and monetary instruments.

TITLE VIII—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 8101. Technical amendments to money laundering offenses.

The amendments in part (a) that add the terms "transmission" and "transfer" are conforming in nature. Section 6471(b) of the Anti-Drug Abuse Act of 1988 added the verbs "transmits" and "transfers" to 18 U.S.C. 1956(a)(2) following the verb "transports", but failed to make conforming amendments to places later on in that provision, and in subsection (b), where the noun "transportation" appears. The amendment in part (b) eliminates superfluous language. The term "represented" is defined later in the same provision as meaning a representation "by a law enforcement officer". The amendment in part (c) would clarify an apparent drafting oversight. As enacted, the criminal penalty for violations of section 6050I is punishable by imprisonment for not more than five years. However, the penalty is a misdemeanor even though punishable by imprisonment of up to five years. In addition to being inconsistent with other criminal provisions, it is a lesser sanction since persons convicted of a felony may lose certain rights under State law that are not forfeited if the conviction is classified as a misdemeanor.

Sec. 8102. Clarification of applicability of 18 U.S.C. 1952 to all mailings in furtherance of unlawful activity.

18 U.S.C. 1952, enacted in 1961, punishes whoever travels in interstate or foreign commerce, or "uses any facility in interstate or foreign commerce, including the mails," with intent to promote any "unlawful activity", a term defined to encompass several offenses characteristic of organized crime enterprises, such as bribery, extortion, money laundering, narcotics, and prostitution. The language and history of the statute are, unfortunately, less than clear as to whether the phrase "including the mails" requires that there be an interstate mailing for federal jurisdiction, or whether any mailing suffices. Until 1989 the only appellate court interpretation supported the Department of Justice's understanding that any use of the mails was covered. *United States* v. *Riccardelli,* 794 F.2d 829 (2d Cir. 1986). However, very recently another court of appeals has now created confusion by holding that section 1952 reaches only those uses of the mails that are interstate (or foreign) in nature. *United States* v. *Barry,* 888 F.2d 1042 (6th Cir. 1989).

Although section 1952 is not often employed in situations involving intrastate mailings, making Supreme Court review unlikely, such use of the statute has been of some significance in reaching vote buying schemes in Kentucky (a state directly affected by the *Barry* decision) in which absentee ballots are mailed from one part of the state to election officials elsewhere in the state. Both on policy grounds, in order to allow continued prosecution of these cases, and because it is believed that the *Barry* ruling represents a misconstruction of section 1952, the proposed amendment would clarify the statute to include any use of the mail in furtherance of a proscribed "unlawful activity".

Sec. 8103. Addition of drug conspiracy and attempt offenses committed by juveniles as warranting adult prosecution.

This amendment would add certain "crack" cocaine and drug conspiracy and attempt offenses committed by juveniles to the list of crimes set forth in 18 U.S.C. 5032 authorizing prosecution as an adult if the Attorney General certifies that there is a "substantial federal interest in the case" that justifies adult prosecution. Currently, substantive drug offenses in 21 U.S.C. 841 (and other statutes) are predicates for such action, but attempts and conspiracies to commit such offenses are not. As some United States Attorneys have noted, this is an anomaly that should be corrected. Unfortunately, many juveniles today are members of gangs of conspirators involved in drug trafficking, and their roles may range from relatively fringe activities to leadership of the conspiracy itself. When the offense is sufficiently serious, prosecutors should have the option of proceeding against a juvenile drug conspirator as an adult, just as they now have that option with respect to a substantive drug crime; and the same holds true for attempts. Likewise, in view of the seriousness of such offenses, it is appropriate to add to the list of predicate offenses authorizing adult prosecution those involving possession of a mixture or substance containing in excess of five grams of cocaine or "crack". (See 21 U.S.C. 844.)

Sec. 8104. Grand jury access to certain records.

This proposed amendment to the cable television subscriber law would bring that statute into conformity with all other customer privacy provisions, by recognizing an exception for information sought pursuant to a federal grand jury subpoena or a court order relating to a federal grand jury proceeding. See, e.g., 12 U.S.C. 3413(i), creating a similar exception to the Right to Financial Privacy Act of 1978; and 15 U.S.C. 1618(b), containing a grand jury exception to the restrictive disclosure provisions of the Fair Credit Reporting Act. Because the grand jury is the constitutionally prescribed sole means of bringing felony charges in the federal justice system, it is a basic and vital principle that a federal grand jury subpoena should be able to reach any type of record, subject only to a valid claim of privilege on the part of the record custodian. In this regard, the provisions of 47 U.S.C. 551 are anomalous and troublesome, for they prohibit the disclosure of cable television subscriber information to any governmental entity, including even a federal grand jury, save through a court order and an adversary proceeding at which the subscriber must be notified and have an opportunity to participate. This unique requirement, which is exceessive in the grand jury context, may sometimes thwart an important investigation. Recently, for example, a murder investigation in New York was hindered when investigators sought to pursue their sole lead as to the whereabouts of the suspected killer by issuing a federal grand jury subpoena to the cable television service to which the suspect had just subscribed. The service was unable to comply with the subpoena because of the provisions of 47 U.S.C. 551. The proposed amendment would establish a limited grand jury exception, modeled on 12 U.S.C. 3413(i), to remedy this problem.

Sec. 8105. Addition of conforming predicates to money laundering statute.

This proposed amendment would add certain predicate offenses relating to financial institutions to the money laundering statute, 18 U.S.C. 1956. Recently, in the Financial Institutions Reform, Recovery and Endorcement Act of 1989 (FIRREA), Congress amended, increased the penalties for, and provided for forfeiture relating to 18 U.S.C. 1005, 1006, 1007, and 1014. given the seriousness of these offenses and their association with others already included in the money laundering statute, it makes sense to add these same offenses to the definition of "specified unlawful activity" in section 1956(c)(7)(D). The amendment would also delete the specific reference to 18 U.S.C. 1344, the general bank fraud statute, since that reference was made redundant through the addition of section 1344 by FIRREA to the RICO law, 18 U.S.C. 1961, whose predicates are incorporated into section 1956.

Sec. 8106. Arrest of fugitive about to enter United States.

Section 7087 of the Anti-Drug Abuse Act of 1988 amended 18 U.S.C. 3184 to permit an arrest warrant to be issued by the federal district court in Washington, D.C., for a foreign fugitive whose whereabouts within the United States are not known. Issuance of an arrest warrant aids in apprehending such fugitives since it enables the information to be entered into various communications systems which may be readily accessed by law enforcement authorities across the country.

The proposed amendment, requested by Interpol, would logically expand the 1988 amendment to include a situation in which a foreign fugitive was believed to be about to enter the United States, a fairly common circumstance. Under the amendment, authorities would be permitted to obtain an arrest warant for such a fugitive, thereby enhancing the likelihood that the fugitive could be arrested at the point of entry into this country.

Sec. 8107. Elimination of superfluous language.

18 U.S.C. 510(b) punishes the receipt, exchang, delivery, or concealment of a Treasury check or bond or security of the United States, knowing the same to be stolen or to bear a falsely made or forged endorsement; the offense also contains a unique further element that the check, bond, or security "in fact" be stolen or falsely made or carry a forged endorsement. This latter element, no explanation of which appears in the legislative history of the provision, adds nothing to the offense in terms of culpability and is problematic.

Other, more frequently utilized federal offenses that proscribe similar conduct of receiving or trafficking in property know to have been stolen, e.g., 18 U.S.C. 641, 659, 2313, 2314, 2315, contain no requirement that the property "in fact" be stolen. While in most prosecutions under these statutes the property will indeed be of the prohibited character, the effect of the "in fact" clause in section 510(b) is to prevent the use of appropriate "sting"-type investigative techniques that would be authorized by identical provisions in S. 1971 and 1972 and H.R. 3760 in which the defendant "knows" the securities are stolen because an undercover agent has represented to the defendant that the securities are of this character when in fact they were provided by law enforcement authorities. Since there is no reason to bar "sting" investigations with respect to 18 U.S.C. 510 or to treat persons who traffick in stolen or falsely made United States securities any differently from traffickers in other types of stolen or counterfeit goods, the "in fact" language in section 510(b) should be deleted.

Sec. 8108. Correction to reference to nonexistent agencies.

This proposes amendments that are purely technical. The Department of Health, Education, and Welfare was divided into the Department of Education and the Department of Health and Human Servies in 1979. See P.L. 96-88. The Federal Savings and Loan Insurance Corporation was abolished by section 401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, see P.L. 101-73, and its functions assumed by the Fededral Deposit Insurance Corporation; the latter is already mentioned in 18 U.S.C. 1114.

Sec. 8109. Disclosure of grand jury information for use in civil forfeiture.

Section 964 of the Financial Institutions Recovery, Reform and Enforcement Act of 1989 (FIRREA) enacted a provision (18 U.S.C. 3322) that allows a federal prosecutor to disclose grand jury information to another attorney in the Department of Justice for use in connection with civil forfeiture proceedings involving criminal violations directed at federally insured financial institutions. Under the amendment proposed here, this concept would be expanded to permit such sharing of information among Department of Justice attorneys for the purpose of enforcing civil forfeitures under any law of the United States.

Civil forfeiture statutes exist, and are an important enforcement tool, in such areas as controlled substance and RICO violations, and pornography and gambling offenses, among others. Access to grand jury information that is in the possession of another Department of Justice attorney may often be critical to the success of civil forfeiture efforts. Moreover, there is no reason to limit the scope of the provision enacted in FIRREA to civil forfeitures involving bank law violations. Accordingly, the amendment would extend the principle of section 3322 to any other civil forfeiture provision. It should be noted that disclosure is only permitted to another Department of Justice attorney, thus minimizing the risk of improper use.

Sec. 8110. Use of a search warrant to obtain contents of a stored wire communication.

This section is designed to clarify the procedure by which, under the Electronic Communications Privacy Act (ECPA), the government may require a provider of electronic communication service to disclose the contents of a stored wire communication. Under 18 U.S.C. 2703(a), the government is authorized to use a search warrant to obtain the contents of a stored electronic communication that is in storage for one hundred and eighty days or less (and a warrant, subpoena, or court order for such contents that have been stored for more than one hundred and eights days). It is not apparent, however, by what means the government may obtain access to the contents of a stored *wire* communication, for example a message left with a telephone answering service. A case can be made that a Title III warrant (under 18 U.S.C. 2510 et. seq.), such as must be used to intercept the communication in the course of transmittal, is required, particularly since the definition of "wire communication" in 18 U.S.C. 2510(1) "includes any electronic storage of such communication". On the other hand, access to a stored wire communication may not fit the definition or concept of an "interception" (see 18 U.S.C. 2510(4)), and if this view is taken it would seem appropriate to treat access to the contents of a stored wire communication in the same manner as ECPA treats access to the contents of a stored electronic communication under section 2703(a).

This section adopts the latter approach for stored wire communications and accordingly amends section 2703(a) to bring the contents of stored wire communications expressly within the ambit of that section. Thus, rather than the "super" type of search warrant application required by Title III for "intercepted" communication contents (requiring, in addition to a showing of probable cause, a showing that other methods to get the information have been unsuccessful, high level approval for the warrant application, etc.), an ordinary search warrant based on probable cause, location, and particularly would suffice to get the contents of a wire communication that has come to rest in electronic storage. The reasons for the additional protection mandated by Title III for *intercepting* a wire communication are simply not present, and thus excessive, when applied to stored wire communications. The latter situation is analogous to that in which a letter is sent and delivered to the addressee and the government seeks access to its contents, a classic case for the use of a search warrant based upon probable cause under Rule 41, F.R.Crim.P.

Sec. 8111. Authority for State government personnel to assist in conducting court-authorized interceptions.

This section would amend 18 U.S.C. 2518(5), as added by ECPA, to make clear that State and local government personnel, if acting under federal supervision, may conduct an interception. Under the 1986 ECPA amendment, federal government personnel may be used to conduct an interception if acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception. The amendment was added at the request of the Justice Department in order to facilitate the use of support personnel in monitoring wiretaps. Prior to 1986, Title III required the use of full fledged investigators, such as F.B.I. agents, to perform this time-consuming task, a requirement unrelated to privacy interests and one that needlessly wasted scarce investigative resources. Thus, the 1986 ECPA amendment permitted such monitoring to be handled by "Government personnel" provided such personnel were acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

Clearly, this provision covers government personnel who are federal employees. It is doubtful, however, whether it covers personnel of a State or local government as well. Often such personnel, especially law enforcement members, are enlisted to assist in complex, joint investigations involving wire, oral, or electronic surveillance. Currently, federal agencies such as the F.B.I. use such State and local agents to assist in monitoring Title III wiretaps through the cumbersome device of cross-designating such agents as federal agents, or by deputizing them as federal marshals. See, e.g., *United States* v. *Bynum*, 763 F. 2d 477 (1st Cir. 1985). The paperwork involved in such methods is, however, burdensome and costly, with no corresponding benefit to privacy or other interests protected by the statutes. Cross-designation involves no qualitative screening; neither the F.B.I. nor the Marshals Service conducts any meaningful background investigation related to the act of deputation, other than routine checks under NCIC and NADDIS for criminal involvement. It would be far more efficient, and consistent with the purpose of the 1986 amendment adding "Government personnel", if the statute expressly permitted State government personnel, acting under the supervision of a federal law enforcement officer, to participate in the conduct of a Title III interception. Section 434 would effect this result.

Sec. 8112. Clarification of inapplicability of 18 U.S.C. 2515 to certain disclosures.

This section would make a minor amendment to 18 U.S.C. 2515, the statutory exclusionary rule for violations of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, so as clearly to exempt situations in which private persons, not acting for any government authority, illegally intercept and record a communication

which later lawfully comes into the possession of the government, which then wishes to use the recording in a criminal investigation or trail. At present, appellate decisions are in apparent conflict over whether section 2515 precludes such use.

Under one possible interception of section 2515, if a private individual consensually records a conversation in aid of an illegal activity, the contents of that recording are not admissible in a criminal trial or hearing even if the government had no role in having the evidence recorded and only acquired it, through lawful means, at a later date. This is because, under 18 U.S.C. 2511(2)(d), a recording by a consenting party, not acting under color of law, is permissible only if the recording is for a non-criminal or non-tortious purpose. Thus, if a briber secretly records a transaction in which a bribe is paid to an official, and the government later obtains the recording and seeks to use it against the official to prove the bribe, section 2515 arguably precludes such use. One appellate court has so held. *United States* v. *Vest*, 813 F.2d (1st Cir. 1987).

By contrast, another appellate court has held that section 2515 did not bar the government from using evidence where individuals operating an illegal gambling business recorded bets placed by telephone so as to facilitate their business by avoiding disagreements with bettors over the amount of their bets. *United States* v. *Underhill*, 813 F.2d 105 (6th Cir. 1987). While the court in *Vest* acknowledged that no deterrent purpose would be served by suppression, since the government played no role in the illegal recording, it relied on the fact that further disclosure in court of the contents would magnify the original privacy violation. The court in *Underhill*, on the other hand, relied on clear legislative history indicating that Congress, despite the facial breadth of section 2515, did not intend to permit lawbreakers to immunize themselves from prosecution by their own acts, the criminal purposes of which made the recordings illegal.

This section adopts the view that *Vest*, whether or not correctly decided under the existing statutory provision, represents bad policy and that an exemption should be created under section 2515 for that narrow class of cases in which private consensual recordings—unlawful under section 251(2)(d) because made for a criminal or tortious purpose—are later acquired by the government and sought to be used as evidence in a criminal trial or hearing. The truth-seeking function of a criminal proceeding is of paramount importance and, in the absence of any deterrent purpose to be served by exclusion, should prevail over the remaining concern that disclosure in the criminal proceeding would somehow exacerbate the original illegal recording.

Sec. 8113. Technical amendment of 31 U.S.C. 5325.

This provision requires financial institutions to identify non-transaction accountholders purchasing bank checks, cashier's checks, traveler's checks, or money orders in amounts of $3,000 or more in currency. The purpose of the provision was to deter structuring of transactions to avoid the $10,000 reporting requirement of 31 U.S.C. 5313 or at least to force persons conducting such transactions to open bank accounts. There is an advantage to law enforcement in having transaction conducted through accounts. If deposit accounts were opened, including a savings, money market or NOW account, the bank would be required to maintain a record of the person's name and social security number, 31 CFR 103.34. That record would later be available to law enforcement through legal process if there were an investigation or prosection.

However, as currently written, the special identification procedures would apply to all persons not holding "transaction accounts" as defined in section 19(b)(1)(c) of the Federal Reserve Act. This, for instance, would require identification of savings account holders making $3,000 cash purchases of monetary instruments. This is too restrictive. In keeping with the statutory purpose, the identification requirement should be coextensive with the recordkeeping provisions of the Bank Secrecy Act, i.e., only apply to persons where the bank would not be required to maintain records of identity. Therefore, this proposed section deletes the reference to "transaction account" and authorizes the Secretary to defined by regulation the definition of accountholder for purposes of this provision.

Sec. 8114. ONDCP transfer authority.

The Office of National Drug Control Policy does not have the authority to transfer funds to agencies responsible for carrying out the National Drug Program. This section extends the powers of the Director of the Office by providing such authority. This authority will enable the Director to transfer funds from the Special Forfeiture Fund as well as other funds appropriated by Congress to the Office of National Drug Control Policy for assistance to high intensity drug trafficking areas to federal agencies and departments for the purpose of executing the National Drug Control Strategy. It also enables the Director to transfer funds appropriated to the Office of National Drug Control Policy for a specified purpose to appropriate Federal agencies and departments for the same purpose.

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OFFICE OF NATIONAL
DRUG CONTROL POLICY,
*Washington, DC, May 16, 1990.*

Hon. J. DANFORTH QUAYLE,
*President of the U.S. Senate, Washington, DC.*

DEAR MR. PRESIDENT: I am submitting for the consideration of the Congress a legislative proposal entitled the "National Drug Control Strategy Implementation Act of 1990." Also enclosed is a section-by-section analysis summarizing the contents of this legislation.

The enclosed proposed legislation contains provisions to implement the 1990 National Drug Control Strategy. It also includes several important initiatives that remain outstanding from the 1989 Strategy and the last session of Congress. The major elements of the proposed legislation will, if enacted, authorize the death penalty for major drug kingpins, provide the tools needed to implement the Andean initiative in South America, increase accountability in the drug treatment community, and make several important improvements to the Federal criminal justice system.

In the area of accountability, we are again asking that the States be required to implement a program of drug testing in their criminal justice systems as a condition of receiving Federal Bureau of Justice Assistance grant funds. The Administration originally proposed this initiative last fall, but Congress did not act on it. We also propose establishing a nationwide program of drug testing for Federal offenders on post-conviction release. And we are again proposing that States be required to develop Statewide Treatment Plans as a condition of receiving Federal Alcohol, Drug Abuse, and Mental Health grants. This measure passed both houses of Congress last fall, but has not been reported on by the Conference Committee.

As called for by President Bush, we are also proposing legislation that would authorize the death penalty for drug kingpins. Specifically, our proposal would permit the imposition of the death penalty for: 1) the highest statutory category of major drug traffickers, 2) other drug kingpins who attempt murder to obstruct the investigation or prosecution of their drug offenses, and 3) the perpetrators of drug felonies who cause death intentionally or with aggravated recklessness. We believe that the availability of the death penalty in these instances will communicate the Nation's strong and unequivocal resolve to deal forcefully and effectively with drug trafficking and drug-related violence.

In the international area, we are seeking a number of permanent and temporary waivers needed to facilitate the provision of assistance critical to the implementation of the Andean Initiative. While a number of these waivers were implemented for Fiscal Year 1990, it is vital that they be extended to demonstrate our commitment to the Andean governments. In addition, our proposals would broaden the authority of the Secretary of State to order the extradition of a U.S. citizen to a foreign country.

In an effort to increase the efficiency and effectiveness of our criminal justice system, our proposal contains improvements such as general arrest authority for INS officers and streamlined exclusion and deportation proceedings for criminal aliens. We also seek tougher penalties for violence against witnesses, court officers, and jurors. In addition, our legislation authorizes forfeiture proceedings and civil penalties for violations of the drug paraphernalia statute, and increases penalties for drug-related public corruption. We also propose criminal sanctions for failure to heed the order of an authorized Federal law enforcement officer to land an aircraft or bring to a vessel. And, we are seeking new authority for the Coast Guard to engage in air interdiction over the high seas or waters over which the U.S. has jurisdiction.

In addition to the proposals contained in this package, the Administration has previously proposed a number of other important measures to control crime, including drug-related crimes. These proposals have not been acted on by the Congress. The President's proposed Comprehensive Violent Crime Control Act (S. 1225 and H.R. 2709), which encompasses measures to control the criminal use of firearms, restores an enforceable death penalty for the most heinous Federal offenses, creates a "reasonable good faith" exception to the exclusionary rule, and curbs the abuse of habeas corpus, should be enacted without further delay. Other measures supported by the Administration relating to public corruption, debt collection, drug elimination grants in public housing units, and the Administration's legislative package of essential technical amendments to criminal law are also critically important to the national drug control effort. We urge enactment of the proposals in this drug strategy implementation package in conjunction with these other important elements of the Administration's legislative program.

In addition to these proposals, the Administration fully supports the recommendation

of the Judicial Conference regarding the need for additional judgeships and recommends swift passage of authorizing legislation. As stated in the National Drug Control Strategy, these new judgeships are desperately needed to maintain an effective criminal justice system.

I ask that the Congress act favorably and expeditiously on the enclosed proposal and on the other critical legislative reforms mentioned above. An identical letter has been sent to the Speaker of the House of Representatives.

The Office of Management and Budget advises that there is no objection to the submission of this proposal to Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

WILLIAM J. BENNETT,
*Director.*

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By Mr. BURNS (for himself, Mr. GRASSLEY, Mr. SYMMS, Mr. BURDICK, Mr. BOREN, Mr. PRESSLER,Mr. NICKLES, and Mr. DOLE):

S. 2653. A bill to permit States to waive application of the commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL DRIVERS LICENSE WAIVER

Mr. BURNS. Mr. President, I am introducing legislation today which will provide much needed regulatory relief to the farm community in my State and other agriculturally based States. I am pleased to have Senators GRASSLEY, SYMMS, BURDICK, BOREN, PRESSLER, NICKLES, and DOLE joining me as original cosponsors.

This legislation will give States the authority to waive commercial drivers' license [CDL] requirements included in the Commercial Motor Vehicle Safety Act of 1986 for vehicles used to transport farm supplies from retail dealers to or from a farm whether or not such vehicles are operated by a farmer. This bill also extends the same waiver authority to States for vehicles used for custom harvesting.

Mr. President, where I come from family members and young workers have always worked on the family farm or in the family business. If it is not a family member, then it is the young neighbor home from college. In rural America, it is a cost effective and productive way of doing business. It holds true for farmers, farm retailers, and custom harvesters alike—it is American tradition! Now, we are seeing a Federal regulation which interfers with that practice making it impractical at best and illegal at worst.

All I am asking is that the States most affected by these requirements—our Nation's farm States—are given the opportunity to exempt not only farmers, but farm retailers and custom harvesters. I think this is a reasonable piece of legislation and I urge my colleagues to support it.

Let me back up for a moment and give Senators some history on this issue. In 1986, the Commercial Motor Vehicle Safety Act was passed into law and established the commercial driver's license [CDL] program which applies to both interstate and intrastate drivers involved in trade, traffic and transportation. The Department of Transportation issued regulations in the fall of 1988 to implement that law. The DOT regulations gave States the authority to waive CDL requirements for farm vehicles which are controlled and operated by a farmer. In granting this waiver, DOT recognized the excellent safety record of seasonal farm vehicle movements.

I believe that this excellent safety record holds true for agri-businesses and their employees as well as for custom harvesters and their employees, and that they should be extended the same opportunity for exemption from CDL requirements. The safety concerns addressed in 1986 law are certainly legitimate, and I am in no way attempting to undercut them. I want to be very clear on that point. This is not a Federal exemption of those requirements. All this legislation does is give the States—which are more familiar with the way our rural farming economies work—the opportunity to waive CDL requirements if they determine that the safety concerns can be met without them.

The main concern for the farm retailers and the custom harvesters is workers. There are labor shortages in these businesses where the jobs are both seasonal and low paying. If Federal regulations cut out people under 21 years of age, for example, as the CDL requirements do in the case of agri-businesses, we are further draining an already half-empty pool of workers. Many of these businesses rely on family members and college students to perform the kind of jobs I am talking about. I do not think we should let Federal regulations take these jobs away from these young people. I also do not think we should burden these small businesses—and ultimately the farmers—with the additional cost of finding workers who comply with the current law.

There being no objection, the bill was printed in the RECORD as follows:

S. 2653

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

Mr. DOLE. Mr. President, I am proud to join the distinguished Senator from Montana, Senator BURNS, as an original cosponsor of legislation that would permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled or operated by the farmer.

Nearly 2 years ago, the U.S. Department of Transportation gave States the authority to waive commercial drivers license requirements for farm vehicles under the Commercial Motor Vehicle Safety Act. Unfortunately, DOT did not recognize when granting this waiver that the majority of these particular seasonal agricultural shipments were carried out by agricultural retail outlets, not necessarily by farmers.

DOT also failed to recognize the importance of the custom harvesting industry, which many farmers rely on to harvest a seasonal, perishable crop. This industry is markedly different than the commercial trucking industry. At least two-thirds of the driving is done offpavement. They differ from other for-hire carriers because they only provide the initial transportation of grain from the field to storage or market. These trucks average around 15,000 miles per year, and are simply not in the same category as other commercial truck operations that may average over 100,000 miles per year.

Mr. President, this bill would go a long way to remove this inequity. Farm operation costs and related transport costs are squeezing the farmer out of business. This is not an exemption from these commercial drivers license requirements. It simply is a commonsense approach to give States, who have an excellent safety record in this area, the ability to set reasonable requirements.

Mr. President, the conditions for the operation of these vehicles differ vastly from those of other commercial, over-the-road carriers. I encourage my colleagues to consider supporting this important legislation that, if not adopted, may have serious consequences for farmers, harvesters, and farm suppliers next year.

Mr. BOREN. Mr. President, I am very proud to be a cosponsor of this legislation with our distinguished colleague, Senator BURNS. We have a serious problem in our part of the world in terms of allowing the custom harvesting process to go forward. The regulations that would be imposed by the Department of Transportation are

burdensome and unnecessary. Our farming operations have burdens enough without being further burdened by the Federal bureaucracy. Custom harvesting is often a family operation. We have all members of the family, some of them teenagers, participating in this process.

As the Senator has just indicated, they have an excellent safety record. We do not have a problem here. It is not a problem that needs to be fixed. We are simply talking about preventing the Federal Government from imposing unnecessary burdens on a sector of the economy that is already struggling to continue to exist. They do not need additional burdens. They need help and understanding and I am very proud to join with the distinguished Senator in cosponsoring this legislation. I hope it will be rapidly enacted.

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By Mr. HARKIN (for himself, Mr. HATFIELD, Mr. SASSER, Mr. METZENBAUM, and Mr. PELL):

S. 2654. A bill to provide for an intensified national effort to improve the health and enhance the independence of older Americans through research, training, treatment, and other means, and for other purposes; to the Committee on Labor and Human Resources.

INDEPENDENCE FOR OLDER AMERICANS ACT

● Mr. HARKIN. Mr. President, good health and increased independence for older Americans must be a top priority for our Nation. That is why I am pleased to announce that today I am introducing the Independence for Older Americans Act on behalf of myself my distinguished colleague and ranking Republican member of the Appropriations Committee, Senator MARK HATFIELD, the distinguished chairman of the Budget Committee, Senator JIM SASSER, and senior Labor Committee members and leaders in the field of health, Senators HOWARD METZENBAUM and CLAIBORNE PELL. I am honored to join the distinguished chairman of the House Select Committee on Aging, the Honorable EDWARD ROYBAL, as the House sponsor of this bill.

I am also very pleased that a broad coalition of more than 50 leading national organizations representing the older Americans, research, business, and provider communities for their support of this effort.

Mr. President, the Independence for Older Americans Act makes the independence of older Americans a top national priority. It calls for a no-holds-barred war against the illnesses and debilitating conditions which rob the elderly of their independence. Specifically, our plan:

Increases the total Federal investment in aging research to not less than $1 billion—the fiscal year 1990 level is $425 million. This would put Federal support of increasing the independence of our growing elderly population on par with that for other major national priority areas such as cancer, AIDS, and heart research. New moneys would be targeted at the most promising areas of research.

Creates a national task force to better coordinate and target federally supported research aimed at increasing the independence of older Americans. The task force would be made up of representatives from all of the major Federal agencies involved in aging research as well as a bipartisan group of congressional leaders.

Establishes at least 15 top-flight geriatric research and training centers across the Nation to be known as the Claude D. Pepper Comprehensive Independence Centers, in tribute to our late great colleague Senator Pepper. These centers will help to address the inadequate supply of physicians and other health providers trained in geriatrics. They will also concentrate research resources for the specific purpose of increasing the health and functional independence of older Americans.

Supports increased research on comprehensive geriatric assessments, the prevention of frailty, and recovery and rehabilitation from chronic illnesses. This research will move our health care system in a positive direction away from a reliance on nursing homes and other forms of long-term care for our growing elderly population.

Establishes a national computerized clearinghouse to assure that the latest developments in research and treatments to improve the health and independence of older Americans are quickly taken advantage of by health care providers, the elderly, and the Government.

Mr. President. The need for this legislation is clear. Debilitating illnesses and conditions are robbing our elderly of their health, independence, and income. The costs of health and long-term care will skyrocket as our population ages in the coming decades. Consider the following:

The elderly are now spending a record amount out of their own pockets for health care. In 1988, the average senior citizen spent $2,400 for health care, eight times more than in 1966.

By the year 2020, the number of Americans who are 65 and older will more than double from 30 million to over 65 million. The fastest growing segment of our population, Americans age 85 and older, will quadruple in size to over 12 million by the year 2040.

By the year 2020, Medicare costs for people 65 and older will nearly double from their 1987 level of approximately $75 million to about $150 million. Medicare costs will soar to as much as $212 billion by 2040, when the average baby boomer will be 85.

By 2040, as many as 10 million Americans could be suffering from moderate to severe dementia, most from Alzheimer's disease. The cost of their care could reach $149 billion—about the size of our current Federal deficit.

By 2040, 840,000 older Americans will suffer hip fractures, nearly four times the current number. Hip-fracture-related costs are expected to triple to as much as $6 billion a year.

Our leading national aging experts agree that the best way to contain the huge projected increases in health care costs is neither to reduce reimbursements nor to ration health care for older Americans. The best medicine is prevention and the Independence for Older Americans Act offers a large dose of it. Dr. Edward Schneider, director of aging studies at the University of Southern California, recently stated that by investing $1 billion a year in research over the next decade, we could cut the number of older Americans afflicted with disabling conditions in half or delay the onset for 5 years and save more than one-half trillion dollars per decade in health and long-term care costs.

Mr. President. Some may say we can't afford to make such an investment. I say all we need to do is shift our priorities. The increased investment this bill calls for amounts to less than 3 percent of the money we've spent on star wars research. We're wasting $3.8 billion of taxpayers money on this pipedream this year alone. I think the American people would rather have us find a cure for Alzheimer's than design a system that won't work and isn't needed.

I want to specifically thank the Alliance for Aging Research and their national spokesperson, Hon. Joe Califano, for their great work in developing this legislation. I also want to thank the many groups who have joined us in endorsing the Independence for Older Americans Act. I look forward to working with all of you in moving this legislation forward.

Mr. President. I'd like to include for the RECORD the current list of organizations which support the Independence for Older Americans Act as well as a summary of the proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE INDEPENDENCE FOR OLDER AMERICANS ACT

Section 1. Congressional findings.

Congressional findings outline the growth in the size of the elderly population, the prevalence of chronic diseases and disabling conditions that threaten older Americans and their families, elderly health and long-term care costs and out-of-pocket expenditures, the promise that research holds for breakthroughs in diseases and conditions

which rob older Americans of their independence, and the declaration that independence for older Americans is an achievable goal for our nation's research and health care systems.

TITLE I. TASK FORCE ON INDEPENDENCE FOR OLDER AMERICANS

A Task Force on Independence for Older Americans is established within the Department of Health and Human Services (HHS) which will coordinate all Federally sponsored research on conditions and diseases leading to dependence among the elderly and identify the most promising areas of research in this area. This Task Force will be composed of:

Two Members of the House of Representatives appointed by the Speaker in consultation with Minority leader and 2 Senators appointed by the Majority Leader in consultation with the Minority Leader, no more than 2 of whom can be members of the same political party;

The Assistant Secretary of Health;

The Surgeon General of the United States;

The Assistant Secretary for Planning and Evaluation;

The Director of the National Institute on Aging (NIA) and (as may be appointed by the Secretary) the Directors of other NIH Institutes which are carrying out activities related to conditions or diseases which limit the independence of the elderly;

The Director of the National Institute on Mental Health;

The Commissioner of the Administration on Aging;

The Commissioner of the Food and Drug Administration; and,

The Chief Medical Officer of the Veteran's Department.

$100,000 is authorized annually to carry out this Title.

TITLE II. GERIATRIC RESEARCH AND TRAINING CENTERS

15 comprehensive geriatric research and training centers, to be known as the Claude D. Pepper Comprehensive Independence Centers, are to be established by the NIA. These centers shall include research, training, demonstration and dissemination activities related to enhancing the independence of older Americans.

$32.5 million is authorized annually to carry out this Title.

TITLE III. AVAILABILITY OF INFORMATION

The Secretary is to establish a computerized information clearinghouse and toll-free telephone lines to make the latest developments to improve the health and independence of older Americans available to researchers, health professionals, the general public and government agencies.

The Secretary is to make grants to nonprofit and public entities for the development and implementation of public information campaigns concerning the importance of health and nutrition and preventing illnesses and conditions which inhibit independence among the elderly.

$20 million is authorized to carry out this Title.

TITLE IV. PREVENTION AND RECOVERY FROM CHRONIC ILLNESS

The NIA, in cooperation with HCFA, shall support research to determine the most effective techniques for performing, targeting and providing geriatric assessment. Appropriate national guidelines are to be established based on this research.

Up to 5 demonstration programs are to be established within the Pepper Comprehensive Independence Centers to prevent the loss of mobility and help frail older individuals regain independence.

The NIA shall develop model techniques to aid in the recovery and rehabilitation of older persons from chronic and debilitating illness and model curricula for training health professionals in the use of such techniques.

$5 million is authorized to carry out this Title.

TITLE V. RESEARCH IN HEALTH, RETIREMENT AND INDEPENDENCE

A 10 year health and retirement survey is to be initiated concerning health functioning and expenditures, longevity, labor force and retirement, women in the labor force and living arrangements and financial status of older Americans.

The National Health and Nutrition Examination Survey, the National Health Interview Survey and the National Ambulatory Medical Care Survey are to be modified in order to develop better information regarding health promotion and disease prevention among older individuals.

The NIA is to request and fund research proposals on behavioral, social, and environmental mechanisms for promoting the health and independence of older Americans.

$5 million is authorized to carry out this Title.

TITLE VI. INCREASE IN OVERALL AGING RESEARCH AUTHORIZATION

Not less than $1 billion is authorized for all aging research within the National Institutes of Health.

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ORGANIZATIONS THAT SUPPORT THE INDEPENDENCE FOR OLDER AMERICANS ACT

Alliance for Aging Research.
Alzheimer's Association.
American Association of Immunologists.
American Association of Retired Persons.
American College of Nuclear Physicians.
American Dental Association.
American Dental Hygienists Association.
American Diabetes Association.
American Federation for Aging Research.
American Foundation for the Blind.
American Foundation for Urologic Diseases.
American Health Care Association.
American Heart Association.
American Nurses Association.
American Podiatric Medical Association.
American Psychological Association.
American Society for Bone and Mineral Research.
American Society for Geriatric Dentistry.
American Society on Aging.
Association Nacional Pro Personas Mayores.
Association for Health Services Research.
B'nai B'rith International.
Brown Bridgman & Company.
Consortium of Social Science Associations.
Families USA Foundation.
Federation of Behavioral, Psychological and Cognitive Sciences.
Foundation for Urologic Diseases.
French Foundation for Alzheimer Research.
Gerontological Society of America.
Help for Incontinent People.
Institute for Advanced Studies in Immunology and Aging.
Mature Market Institute.
Merck & Company, Inc.
National Alliance for the Mentally III.
National Association of Health Underwriters.
National Association of Life Underwriters.
National Association of Medical Equipment Suppliers.
National Association of Private Geriatric Care Managers.
National Caucus and Center on Black Aged.
National Committee to Preserve Social Security and Medicare.
National Council of Senior Citizens.
National Council on the Aging.
National Hispanic Council on Aging.
National Mental Health Association.
National Organization on Disability.
National Osteoporosis Foundation.
National Pacific/Asian Resource Center on Aging.
National Stroke Association.
Paget's Disease Foundation.
Research! America.
Society of Nuclear Medicine.

● Mr. HATFIELD. Mr. President, it was only last week that Senators METZENBAUM, GRASSLEY, PRESSLER, and I stood on this floor and introduced the second version of the Comprehensive Alzheimer's Assistance, Research and Education act. The bill, which calls for over $500 million in Federal support for biomedical research, is a substantial step forward toward unlocking the mysteries of Alzheimer's disease and related disorders.

Today, it is a pleasure to join my colleagues on the Senate Appropriations Committee and the Subcommittee on Labor, Health and Human Services, Senator HARKIN and Seantor SPECTER, in moving toward an even broader vision of medical research into the ailments of the aging population. I am delighted to be an original cosponsor of the Independence for Older Americans Act.

This legislation calls for a $1 billion increase in Federal spending on biomedical research into the injuries and diseases which afflict our aging population. It is designed to stimulate an intensified national effort to improve the health and enhance the independence of older Americans by stepping up efforts in research, training, and treatment. It is clear, Mr. President, that this proposal could lead the way to a reordering of our national priorities.

The introduction of this legislation again gives me the opportunity to comment briefly on our budget process. The simple truth is this: Our budgetary priorities attach a higher importance to chemical weapons research than to medical research; a higher priority to disease-causing research than to disease-curing research.

In only the last 24 months, defense-related research and development spending is roughly equivalent to total research and development spending at the National Institutes of Health in the last 100 years. For the price of one underground nuclear test, we could more than triple the amount now spent on research into sudden infant death syndrome. For the price of one

Stealth bomber, we could almost double the amount being spent at the National Institute of Diabetes, Digestive and Kidney Disease.

However, when we consider the drastic cuts suffered by other nondefense, domestic discretionary programs, health research spending has fared relatively well in recent years. Thirteen percent of all Federal research and development money is spent on medical research today—a figure which has remained constant since the beginning of this decade.

But it has done well only at the expense of other worthy programs. And even within the medical research budget itself, worthy programs are forced to compete against each other: AIDS versus cancer, strokes versus heart disease.

The bottom line, Mr. President, is that we must reorder our Federal budget priorities. Public opinion is already on our side. A survey recently conducted by the American Federation for Clinical Research suggests that 53 percent of our constituents would make increased funding for medical research a top budget priority. Only 3 percent would make increased funding for weapons the top priority.

The facts are also on our side. One dollar spent on medical research today produces $13 in savings tomorrow. A $235,000, 17-year study that led to the identification of a vaccine against hepatitis B, for example, is saving between $50 and $100 million each year. A $680,000, 4-year study that led to a preventative treatment of kidney stones will result in a savings of between $300 million and $600 million a year.

As we debate the Federal budget every year, we are given the choice between supporting life enhancing endeavors and life destroying ones. When we hammer out budget agreements and focus our attention on complicated calculations and endless reams of paper, perhaps we feel isolated and insulated from the very real choices we are making. But those who are suffering from cancer and AIDS and hundreds of other diseases understand the implications of our choices all too well.

Mr. President, I wholeheartedly support the increases in this legislation and pledge to redouble my efforts—within the Senate Appropriations Committee and within this body as a whole—to reorient our Federal budget priorities.

There is one other dimension to this problem. As the ranking Republican member of the Senate Appropriations Committee, I am painfully aware of the skyrocketing health care costs and the Federal Government's inadequate efforts to address them. A study by the Department of Health and Human Services, which was released earlier this month, noted that health care spending has increased 117 percent between 1980 and 1988. Health care spending in 1988 alone totaled $540 billion—11.2 percent of our GNP. This is up from 9.1 percent in 1980, 7.3 percent in 1970, and only 5.3 percent in 1960.

Indeed, Mr. President, some experts predict that health care spending will triple by the beginning of the 21st century—a decade away. A study published in the Journal of the American Medical Association later this month predicts that Medicare costs alone will need to triple within the next 50 years to care for our aging baby boom population. But more importantly in our discussion today, Medicare costs for those 85 and older, the fastest growing segment of our population today, could increase sixfold.

We can only combat this escalation by investing far more energy, talent, and money into health research, preventative medicine, and social programs: Sooner rather than later. Suggesting a solution to rising health care costs which involves spending more money—at least in the short term—may seem decidedly unhelpful. Moreover, the concept of investment is hard to sell in a political culture which seeks instant gratification. But I am increasingly convinced that research and prevention offer our best, our most humane, and ultimately our most cost-effective alternative.

Mr. President, imagine the savings if we could develop a way to prevent or cure Alzheimer's disease, which now costs at least $34,000 a year for each of its estimated 4 million victims. Our goal must be not just to make health care better: But to prevent illness and disease in the first place. Translated into dollars, this goal adds up to enormous savings. Translated into life and the quality of life, the savings cannot be measured.

As we in the Congress continue to wrestle with skyrocketing health care costs and with the unmet human needs in our midst, I will be on the forefront of efforts like this one to rechannel our Federal budget into investments in medical research, in preventative medicine, and in social service programs. We must invest in our future—it makes financial sense and it makes human sense. I hope my colleagues will join me.●

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By Mr. STEVENS

S. 2655. A bill to authorize a certificate of documentation for the vessel *Arctic Fisher;* to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "ARCTIC FISHER"

● Mr. STEVENS. Mr. President, this legislation would allow the Coast Guard to issue a valid certificate of documentation for the 191-ton vessel, *Arctic Fisher,* official number 602365, which is currently owned by Sea Fisher Products, Inc., an Alaskan corporation.

The *Arctic Fisher* was built in Pennsylvania in 1945 for the U.S. Navy. In 1975, the U.S. Navy sold the vessel to an Iranian owner. In 1979, Sea Fisher Products, Inc. purchased the vessel, rebuilt it as a fish processing vessel, and has operated as an independent fish buyer for the past 10 years.

The *Arctic Fisher* is restricted from enagaging in coastwise trade because of its Iranian ownership. Mr. Jack Aldrich, president of Sea Fisher Products, Inc., would like his coastwise privileges restored in order that he may provide berthing for oilspill cleanup crews and serve as tender in herring and salmon fisheries for which the *Arctic Fisher* has been documented.

This legislation is needed in order to allow Sea Fisher Products, Inc. to obtain a valid certificate of documentation so that the *Arctic Fisher* can be employed in oilspill cleanup and as a fish tender vessel.●

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S. 2656. A bill to authorize a certificate of documentation for the vessel *Pumpkin;* to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "PUMPKIN"

● Mr. STEVENS. Mr. President, this legislation would allow the Coast Guard to issue a valid certificate of documentation for the 54-foot vessel *Pumpkin,* official number 627259, which is currently owned by Pacific Investments, Inc., an Alaskan corporation.

The *Pumpkin* was built in Marinette, WI in 1968. The vessel was used on the west coast in its capacity as a motorized fuel barge until 1981, when it was purchased by Pacific Investments, Inc. The *Pumpkin* was documented with a coastwise license and registry endorsement in 1982.

Pacific Investments has used and intends to continue to use the vessel solely for transporting fuel between sites in support of mining operations in the Shumagin Islands, in the Aleutians. Alaska Apollo Gold Mines Ltd. [Apollo Gold], a Nevada corporation, is conducting the Shumagin Island mining operations, and the president of Apollo Gold owns a controlling interest in Pacific Investments, Inc.

For insurance purposes, the ownership of the *Pumpkin* was transferred from Pacific Investments to Apollo Gold. Apollo Gold'subsequent application for redocumentation of the vessel was denied by the Coast Guard on the grounds that Apollo Gold did not meet the citizenship criteria of 46 C.F.R. §§ 7.03-9 because three of Apollo Gold's five directors are Canadian.

By mutual consent of both corporations, the transfer of the vessel from Pacific Investments to Apollo Gold was voided. However the Coast Guard

still refuses to license it for coastwise trade because the vessel fails to meet the continuous U.S. ownership requirement of the law.

This legislation is needed in order to allow Pacific Investments, Inc. to continue to use the *Pumpkin* to transport fuel from ports in Alaska to its gold mining sites in the Aleutians.●

By Mr. BRADLEY:

S. 2657. A bill to direct the Secretary of the Interior, acting pursuant to the Reclamation Act of 1902 (act of June 17, 1902, 32 Stat, 388) and acts amendatory thereof and supplementary thereto, to undertake certain studies to investigate opportunities for wastewater reclamation and reuse, to conduct studies of ground water, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2658. A bill to establish conditions for the sale and delivery of water from the Central Valley Project, California, a Bureau of Reclamation facility, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2659. A bill to amend and supplement Federal reclamation law to eliminate abuses of the Reclamation Program, and for other purposes; to the Committee on Energy and Natural Resources.

BUREAU OF RECLAMATION LEGISLATION

● Mr. BRADLEY. Mr. President, I rise today in my capacity as chairman of the Subcommittee on Water and Power to introduce three bills concerning the Bureau of Reclamation. These bills represent a portion of the overall agenda for the Subcommittee and the Federal Reclamation Program that I will pursue in this and subsequent sessions of Congress.

The Bureau of Reclamation has played a vital role in the settlement and economic growth of the American West and the Nation as a whole. Dams, irrigation, and water supply projects constructed by the Bureau serve millions of Americans, providing water, power, recreation, food, and other benefits.

In 1988, the Bureau's projects delivered 9.5 trillion gallons to 27 million people, irrigated 9 million acres on 131,000 farms, produced 58 million tons of agricultural products valued at almost $9 billion, and generated 42 billion kilowatt hours of clean hydroelectric power which netted revenues of $584 million. The Bureau's 298 recreation areas saw 54.5 million visitor days.

The Bureau of Reclamation is a creature of Congress, with an especially close tie to this Chamber. The Reclamation Program was conceived by Senator Francis Newlands of Nevada and has followed a course charted, for the most part, by the Senate. I would ask my colleagues to join me in saluting the thousands of Reclamation employees who have served Congress and the Nation loyally and professionally.

As my colleagues know, environmental problems that have begun to plague the Reclamation Program in recent years have forced some rethinking of the Bureau's traditional approach to water resource development. These problems in no way diminish or devalue the program's many successes. But they do require prompt corrective action.

Mr. President, each of the bills I offer today reflects my belief that the Bureau of Reclamation has a crucial role to play in the future of the Nation, in channeling a vital resource—clean water—to the communities that need it. My object as chairman of the subcommittee has been to find ways to reconcile the Bureau's traditional mission with the newer mandate we all share to maintain a safe and sound environment. With this in mind, I offer the "Reclamation Wastewater and Groundwater Study Act."

This bill would direct the Secretary of the Interior to study opportunities to reclaim and reuse agricultural, municipal, industrial, and other wastewater stemming from water supplied by Reclamation facilities. Though less glamorous than construction of high dams and broad canals, wastewater reclamation and reuse is a sensible means to make the best use of our already developed water supplies. In many cases, I expect that wastewater reuse programs, while meeting growing human needs, will also aid efforts to restore the environment and protect instream flows.

This bill also directs the Secretary to study the Reclamation Program's impact on ground water resources. It is vital that we understand the linkage between surface water development and ground water supplies in order to make the most efficient and environmentally sound use of water resources.

Mr. President, I am committed to see that the past environmental damage that is the unfortunate legacy of the Reclamation Program is addressed and repaired. I am particularly determined to restore and protect fish and wildlife and their habitats, and to do so in a manner that comprehends and respects ecological systems. I believe that we can tackle these problems using resources developed by the Bureau of Reclamation. With this in mind, I offer the Central Valley Project Improvement Act.

The Central Valley Project Improvement Act would direct the Secretary of the Interior to repair environmental damage done by the Central Valley Project in California. The CVP could be considered our most successful reclamation project. It serves 3 million acres, produces hundreds of different crops, employs thousands of people, and generates billions of dollars of economic activity. But the CVP can be improved and made to serve a broader range of interests without sacrificing its place as a leading and extraordinarily productive agricultural enterprise.

Environmental damage caused by this largest of all Federal water supply projects has polarized the State, leading to a deadlock over future water development. For example:

Construction of the Central Valley Project was this century's principal contributor to the loss of 5,700 of the original 6,000 miles of salmon spawning habitat on Central Valley rivers;

The Friant Unit of the CVP dewatered the Upper San Joaquin River and contributed substantially to elimination of chinook salmon from the mainstream San Joaquin;

The Red Bluff Diversion Dam, located on the Upper Sacramento River, has had devastating impacts on migration of juvenile and adult salmon, leading to last year's listing of the river's winter run chinook as a potentially endangered species;

The CVP is responsible for the loss of 100,000 acres of Central Valley wetlands, areas of vital importance to the Pacific flyway's migratory waterfowl.

There can be no doubt that the Central Valley Project has heavily damaged California's fish and wildlife, including migratory species in which the Federal interest is high. Just as troubling, the Bureau of Reclamation violated in California what has been the cardinal principle of Federal water development—deference to State authority. In California, the Bureau stood policy on its head and actually worked to frustrate the State's administration of its own water law.

The Bureau of Reclamation is most comfortable working with its traditional agricultural constituency. Western States' water law is generally oriented toward traditional agricultural uses, so there is usually no tension between the Bureau's sense of its mission and the direction of State law.

But California water law is different and changing. Increasingly, it mandates protection for public values, such as water quality, fish, wildlife, and recreation. The Bureau has shown discomfort with this aspect of California's water law. For example, the Bureau has aggressively opposed efforts by the California State Water Resources Control Board to set new quality standards for the San Francisco Bay/Sacramento-San Joaquin River Estuary. It has attempted to market the remaining firm yield of the CVP without seriously considering public or environmental needs for that water. Where the Bureau has had discretion to renew irrigation water sales contracts for 10 to 40 years, it has chosen to renew them for the longest period possible, making it more difficult for the State to adjust its priorities. Worse, these contracts obligate the Federal Government to defend the

private water user's right to divert and use water "before all courts and agencies."

I would be interested to know what my colleagues from Wyoming or Utah or Idaho would think if the Bureau of Reclamation obligated the Department of Justice to fight their State's water rights administrators. It is unacceptable Federal policy for the Bureau of Reclamation to pick and choose among the States whose water laws they will agree to defer to. This bill includes several provisions that would not be necessary if the Bureau had maintained its appropriate deference.

The Central Valley Project's environmental debt must be paid before any further water development occurs—no matter how environmentally benign the new projects might be. This bill will authorize the Secretary of the Interior to operate the CVP in a way that takes account of the needs of fish and wildlife as well as other water users. The Nation—in many respects following California's lead—has begun to recognize that environmental protection and economic development must be equal partners. This bill will prevent Federal agencies from obstructing that partnership.

My legislation also directs the Secretary of the Interior to deliver enough clean water to the wildlife refuges in the Central Valley to sustain the millions of waterfowl that live in those refuges. It further requires the Secretary to restore Central Valley salmon and steelhead populations, and directs the Department of Commerce to assess the CVP's economic impact on California's commercial, tribal, and sport-fishing communities. I expect the Secretary to work as closely as possible with all local interests in developing these plans, farmers and fishermen as well as environmentalists and developers.

Because 90 percent of the CVP's water already goes to irrigation, this bill prohibits the Bureau of Reclamation from entering into new contracts to provide irrigation water from the CVP until the fish and wildlife restoration goals of the bill are met.

Finally, Mr. President, the third bill I offer today, the Reclamation Reform Act amendments, is a narrowly tailored effort to close loopholes that permit abuse of the ownership and pricing limitations in Reclamation law.

The Federal taxpayer has been very generous to the beneficiaries of the Reclamation Program. By one recent estimate, the Nation has spent between $22 and $23 billion on Bureau irrigation projects. Of that total, only about $3 billion will ever be repaid. The $19 billion subsidy, about 85 percent of the total cost, has been justified by those who cite the central social purpose of the program, that is, to support modest-sized family farms.

Indeed, many farmers have been helped and the overwhelming majority of Reclamation project farms and farmers need and deserve the help they get. I strongly support rural economic development and measures to bring stability to local farm economies.

However, there are those who have created and exploited loopholes in Reclamation law and subverted the worthwhile purposes of the program for personal or corporate gain. Congress has had to act twice in the past 10 years to eliminate such abuses. Recently, it has become clear that Congress must act once again to protect the public interest and the integrity of the program. These amendments will close the loopholes and stop the profiteering.

As I noted at the beginning of my remarks, I believe that the Reclamation Program has served the Nation well since its inception in 1902. We now have an opportunity to recast and renew this exemplary public endowment in a way that recognizes contemporary needs. With these bills, the Reclamation Program will deliver a second generation of benefits to new generations of Americans.

I look forward to the support of my colleagues as we move to capitalize on the Reclamation Program's successes and remedy its problems.●

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By Mr. BREAUX:

S. 2660. A bill to authorize a certificate of documentation for the vessel *Bounty*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "BOUNTY"

● Mr. BREAUX. Mr. President, I am introducing a bill today to direct that the vessel *Bounty*, Official Number 950956, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106. The *Bounty* was constructed in 1960 in Nova Scotia for use by MGM in the filming of the movie "Mutiny on the Bounty" starring Marlon Brando. The ship is a three-masted, fully rigged replica of a famous British ship captained by William Bligh and taken over by mutineers led by Fletcher Christian in the 18th century.

The *Bounty* was purchased by Turner Broadcasting System, Inc. [TBS] in 1986 when it acquired MGM Entertainment Co. The vessel has been used by TBS for public display and in the Turner Television Network remake of "Treasure Island," starring Charlton Heston. The *Bounty* will be used for various visits at ports throughout the world, including Seattle, WA, for this year's Goodwill Games. It will be operated by a nonprofit corporation, available for various public and private events.

Until recently, the vessel was documented as a yacht under the Canadian flag. Prior to its public display visits in the United States, the *Bounty* was inspected by the U.S. Coast Guard and given a certificate of inspection as an attraction vessel. However, because of the particular use contemplated by TBS, the Coast Guard has indicated that the vessel is not operating for pleasure only and, for certain uses, may have to be licensed and inspected as a commercial passenger vessel. However, in order to be used as a commercial passenger vessel, if approved by the Coast Guard—or for various other activities that may fall within the Jones Act—within U.S. waters, the *Bounty* must be documented under U.S. law and possess a coastwise license.

TBS has now received U.S. documentation for the *Bounty* and is having the vessel inspected by the Coast Guard as a passenger vessel. Because the vessel was constructed in Canada, it will take new legislation to qualify it for coastwise trade privileges. The circumstances requiring legislation are the same as those of the *African Queen*, which was given coastwise privileges in Public Law 101-92 in 1989. The House of Representatives has already approved similar legislation for the *Bounty* in H.R. 4009, section 4(2).

The *Bounty* is a very special ship and will be used in a very unique manner by TBS. The company's desire is to comply fully with U.S. documentation and safety requirements so that the *Bounty* can be enjoyed by as many as possible. The purpose of the legislation I am introducing today is to allow the *Bounty* the ability to operate in coastwise trade under the U.S. flag.●

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By Mr. LAUTENBERG:

S.J. Res. 320. Joint resolution designating July 2, 1990, as "National Literacy Day"; to the Committee on the Judiciary.

NATIONAL LITERACY DAY

● Mr. LAUTENBERG. Mr. President, I am pleased to introduce a joint resolution to designate July 2, 1990, as "National Literacy Day." This is the fifth year in a row that I am introducing this resolution. It is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the service and help available for illiterate people.

In the book "Illiterate America" by Jonathan Kozol, the author describes an invisible minority, the growing crisis of illiteracy in America. In this country it is often said that we live in the information age. Yet for many Americans, information is inaccessible. Over 27 million American adults cannot read. An additional 35 million read below the level needed to function successfully. The cost of these wasted human resources is estimated

at $225 billion, although, in truth, no value can be put on the devastation of illiteracy.

The cost includes the lifetime earnings that will not be realized by men and women who cannot get and hold jobs requiring any reading skills. The cost includes child welfare expenditures for the children of adults who lack the skills to get jobs. The cost includes prison maintenance for the inmates whose imprisonment can be linked to their illiteracy. The cost includes on-the-job accidents and damage to equipment caused by the inability of workers to read and understand instructions for the operation of machines.

And the human cost is even higher. The daily activities that we take for granted—reading the newspaper, reading a menu, reading a street or subway map, reading a note from a child's teacher—become a nightmare for illiterate people. They devise remarkable strategies of evasion and coping. The creativity that goes into hiding the inability to read is a terrible waste and a tragic commentary on the losses illiterate people suffer.

It is vital to call attention to the problem of illiteracy. Our society must begin to understand the severity of this problem and its detrimental effects. Perhaps even more essential is the need to reach the people who need help in overcoming their illiteracy and to make them aware of the services that are available.

Mr. President, for these reasons, I am introducing a joint resolution to designate July 2, 1990, as "National Literacy Day." I urge my colleagues to support this resolution.

I ask unanimous consent that text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 320

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

Whereas literacy is a necessary tool for survival in our society;

Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are twenty-seven million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas illiteracy is growing rapidly, as two million three-hundred thousand persons, including one million two-hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;

Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;

Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;

Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;

Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 per centum illiteracy rate among black youths is expected to increase;

Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;

Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;

Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance, now, therefore be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That July 2, 1990, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

## ADDITIONAL COSPONSORS

S. 324

At the request of Mr. WIRTH, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 324, a bill to establish a national energy policy to reduce global warming, and for other purposes.

S. 670

At the request of Mr. ARMSTRONG, the name of the Senator from North Dakota [Mr. CONRAD] was added as cosponsor of S. 670, a bill to recognize the organization known as the Retired Enlisted Association, Incorporated.

S. 1664

At the request of Mr. HEINZ, the names of the Senator from Illinois [Mr. DIXON] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 2071

At the request of Mr. PACKWOOD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as cosponsor of S. 2071, a bill to amend the Internal Revenue Code of 1986 to provide incentives for savings and investments in order to stimulate economic growth.

S. 2078

At the request of Mr. WARNER, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 2078, a bill to recognize the organization known as the National Center for Theraputic Riding.

S. 2150

At the request of Mr. SYMMS, the name of the Senator from Alaska [Mr. STEVENS] was added as cosponsor of S. 2150, a bill to set aside a fair proportion of the highway trust fund moneys for use in constructing and maintaining off-highway recreational trails.

S. 2256

At the request of Mr. HARKIN, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2256, a bill to amend title XIX of the Public Health Service Act to clarify the provisions of the allotment formula relating to urban and rural areas, and for other purposes.

S. 2293

At the request of Mr. WILSON, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as cosponsor of S. 2293, a bill to warn certain consumers in connection with the purchase of a medicare supplemental policy.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2525

At the request of Mr. GRAHAM, the name of the Senator from South Dakota [Mr. DASCHLE] was added as cosponsor of S. 2525, a bill to recognize the importance of the domestic fruit and vegetable industry in United States farm policy, and to require the Secretary of Agriculture to conduct a

study of the domestic fruit and vegetable industry, and for other purposes.

S. 2600

At the request of Mr. KENNEDY, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Maryland [Mr. SARBANES], were added as cosponsors of S. 2600, a bill to combat homelessness through the establishment of housing-based family support centers, through the provisions of housing-based services to elderly individuals with chronic and debilitating illnesses and conditions, through the provision of residence-based outpatient mental health services, and through the use of grants for the improvement of community development corporations, and for other purposes.

S. 2611

At the request of Mr. HARKIN, the name of the Senator from Arkansas [Mr. PRYOR] was added as cosponsor of S. 2611, a bill to authorize assistance to the Washington Center for Internships and Academic Seminars.

S. 2649

At the request of Mr. KENNEDY, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2649, a bill to provide for improved drug abuse treatment and prevention.

SENATE JOINT RESOLUTION 240

At the request of Mr. SYMMS, the name of the Senator from North Dakota [Mr. CONRAD] was added as cosponsor of Senate Joint Resolution 240, a joint resolution designating the week of June 10, 1990, through June 16, 1990, as "Multiple-Use Sustained-Yield Week."

## SENATE RESOLUTION 288—RELATIVE TO THE REOPENING OF UNIVERSITIES IN THE WEST BANK AND GAZA

Mrs. KASSEBAUM (for herself, Mr. CHAFEE, Mr. INOUYE, and Mr. DOLE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 288

Whereas on July 22, 1989, the Government of Israel announced that it would begin reopening primary and secondary schools in the West Bank;

Whereas the primary and secondary schools in the West Bank have been reopened;

Whereas the United States Congress applauds recent steps by the Government of Israel to begin reopening community colleges in the West Bank and Gaza;

Whereas the reopening of these community colleges did not lead to increased violence in the West Bank and Gaza;

Whereas all universities in the West Bank and Gaza have been closed for over two years;

Whereas this closure affected over 15,000 university students;

Whereas on May 14, 1990, Israeli authorities announced that they are considering reopening the Arab universities in the occupied territories; and

Whereas reopening of the universities would make an important contribution to improving relations between Palestinians and the Government of Israel and to the peace process in the Middle East: Now, therefore, be it

*Resolved*, That it is the sense of the Senate

(1) that the Government of Israel should undertake to reopen universities in the West Bank and Gaza without delay;

(2) that these institutions should remain open, and should not be closed or caused to be closed for political purposes; and

(3) that these institutions should be respected and regarded as centers of education.

Mrs. KASSEBAUM. Mr. President, I am introducing today, along with Senator CHAFEE and Senator INOUYE, a sense-of-the-Senate resolution calling for the immediate reopening of universities in the West Bank and Gaza.

More than 2 years ago, at the start of the Palestinian uprising, the Israeli authorities moved to close schools in the West Bank and Gaza, which included five universities with over 15,000 students. The unfortunate result of this move has been that students of all ages were collectively punished and denied their right to continuing education.

As the ranking member of our Senate Subcommittee on Education, it is a subject near and dear to my heart, and I believe every one of us here in the U.S. Senate value the importance of education. Last year the Congress supported Senator CHAFEE's effort, and that of myself and others, to urge the reopening of primary and secondary schools in the West Bank and Gaza. Since that time, the Israeli Government has reopened these schools and has begun to reopen community colleges. The Israeli authorities have also announced recently they are considering reopening the Arab universities in the occupied territories.

All these moves by the Israeli Government should be commended. Our resolution is very straightforward. It urges the immediate reopening of the universities without delay. We hope our colleagues will join us in supporting such a move.

I strongly believe, Mr. President, these institutions should be respected and regarded as centers of education. Education must not be used as a pawn or a lever in civil conflict. It is a basic right which must be preserved.

Mr. CHAFEE. Mr. President, thank the Senator from Kansas for her efforts in addressing this very important issue.

I am glad to join in introducing this resolution in the wake of the encouraging news from Israel. Just this past Monday, Mr. Goren, the coordinator of government activities in the occupied territories, met with the heads of all the Palestinian universities. They discussed the possibility of reopening theses universities which, for over 2½ years, have been closed. Those universities have been closed for nearly 3 years.

I believe the measure we are introducing today can have a positive influence on the education of the Palestinian students in the West Bank, and can contribute to the peace process in that region.

What exactly does this resolution do? First, it commends Israel for reopening the Palestinian schools. Second, it encourages Israel to continue on this path by reopening the universities. There is a difference, obviously, Mr. President, between their treatment of the schools and the universities.

The first section outlines the history of Israel's progress in reopening the Palestinian schools on the West Bank and in the Gaza strip. On July 22, 1989, just about a year ago, Israel announced it would begin to open primary and secondary schools in the occupied territories. While these schools were opened and then temporarily closed, all of them were opened again earlier this year.

Israel then began to reopen the community colleges, in an effort to ease tensions between the government and the Palestinian people. This process has proven successful, in that students have been able to resume their studies, and we have not seen an increase in violence as a result.

It is, indeed, this evidence that has led Israel to consider reopening the universities.

Note the difference. Schools, primary and secondary on one hand, they have been opened; the community colleges, they have been opened; but not the universities.

Mr. Goren has stated the reopening of the high schools and colleges did not influence the violence in the territories and this was the reason why Israel was trying to reopen the universities. There was no rise in violence as a result of the reopening of the schools and colleges.

I am hopeful Israel will continue its progress in restoring the educational opportunities for the Palestinian people and in normalizing daily life in the West Bank and Gaza Strip. Thus far over 14,000 university students have been affected, in addition to the thousands of high school graduates who have been able to continue their study.

The second part of this resolution is very straightforward. It expresses three things: First, that Israel should undertake to reopen the universities without delay; second, that these institutions should remain open and should not be closed for political purposes; third, that these institutions should be respected and regarded as what they are, centers of education.

I urge my colleagues to join in cosponsoring this resolution. In July of last year, the Senate unanimously approved a resolution that expressed that these three very same principles: namely, the reopening, they should remain open, and they should remain centers of education and be respected as the same. These same principles with respect to the primary and secondary schools were approved unanimously by this Senate last year, in July.

This resolution simply extends our encouragement to do the same with the universities. The reopening of these institutions would clearly ease tensions between the Palestinian people and the Government of Israel, and thus help foster a favorable climate that is conducive to the peace process we all so earnestly seek.

I commend the junior Senator from Kansas for her resolution and say I join in it enthusiastically and hope we can make as much progress with it as we did with the resolution pertaining to schools last year.

Mrs. KASSEBAUM. Mr. President, I acknowledge Senator CHAFEE'S support. He has been a steadfast advocate of the importance of education and the opening the schools in Israel. I also am pleased to ask unanimous censent that Senator DOLE'S name be added as a cosponsor as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENTS SUBMITTED

## CONSTITUTIONAL PROCEDURES FOR IMPOSITION OF SENTENCE OF DEATH

### SPECTER AMENDMENT NO. 1663

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (S.1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence: appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus petition; time requirements; tolling rules.
"2264. Evidentiary hearings; scope of Federal review; district court adjudication.
"2265. Certificate of probable cause inapplicable.
"2266. Counsel in capital cases; trial and post-conviction standards.
"2267. Law controlling Federal habeas corpus proceeding; retroactivity.
"2268. Habeas corpus time requirements.

**"§ 2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

"(a) This chapter shall apply—

"(1) to—

"(A) cases in which the defendant is tried for a capital offense; or

"(B) cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence; and

"(2) only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2266 of this title.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State defendants tried for a capital offense and all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the defendant or prisoner upon a finding that the defendant or prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the defendant or prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant or prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent—

"(1) a State defendant being tried for a capital offense; or

"(2) prisoner under capital sentence during direct appeals in the State courts, shall have previously represented the defendant or prisoner at trial or on direct appeal in the case for which the appointment is made unless the defendant or prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This subsection shall not preclude the appointment of different counsel at any phase of Federal post-conviction proceedings.

**"§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions**

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2261(c) of this title for a prisoner under capital sentence, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the procedures of this chapter and that the schedule execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under 2254 of this title within the time required in section 2263 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely fashion for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the filing of any successive petition for a writ of habeas corpus is authorized by the appropriate court of appeals in accordance with section 2264(c).

**"§ 2263. Filing of habeas corpus petition; time requirements; tolling rules**

"(a) Any petition in capital cases for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 90 days after the filing in the appropriate State court of record of an order issued in compliance with section 2261(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes; and

"(2) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 90-day period established by this section. A court that finds that good cause has been shown shall explain in writing the basis for such a finding.

"(b) A notice of appeal from a judgment of the district court in a claim under this chapter shall be filed within 20 days of the entry of judgment.

"(c) A petition for a writ of certiorari to the Supreme Court of the United States in a claim under this chapter shall be filed within 10 days of the issuance of the mandate by the court of appeals.

**"§ 2264. Evidentiary hearings; scope of Federal review; district court adjudication**

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) conducted any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it within the time limits established in section 2268 of this title.

"(c)(1) Except as provided in paragraph (2), a district court may not consider a successive claim under this chapter.

"(c)(2) A district court may only consider a successive claim under this chapter if the applicant seeks leave to file a successive petition in the appropriate court of appeals. A decision by the court of appeals to grant or deny leave to file a successive petition under this chpater shall not be reviewable in any court.

"(c)(3) In a case in which the appropriate court of appeals grants leave to file a successive petition, the time limits established by this chapter shall be applicable to all further proceedings under the successive petition.

**"§ 2265. Certificate of probable cause inapplicable**

"The requirements of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

**"§ 2266. Counsel in capital cases; trial and post-conviction standards**

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter under section 2261(b) of this title shall provide for counsel to indigents charged with offenses for which capital punishment is sought and to indigents who have been sentenced to death and who seek appellate or collateral review in State court.

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding this subsection, a court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(c) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (d). Upon finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment of such services nunc pro tunc.

"(d) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection. A State court's determination of reasonable compensation, fees, and expenses shall not be reviewable in proceedings under this chapter or under section 2254 of this title, and any alleged insufficiency in compensation, fees, or expenses shall not be grounds for granting a writ of habeas corpus under this chapter or under section 2254 of this title, unless the court finds that the compensation, fees, and expenses awarded were so insufficient as to result in a denial of due process.

**"§ 2267. Law controlling in Federal habeas corpus proceedings; retroactively**

"In cases subject to this chapter, all claims shall be governed by the law as it was when the petitioner's sentence became final, supplemented by an interim change in the law, if the court determines, in light of the purpose to be served by the change, the extent of reliance on previous law by law enforcement authorities, and the effect on the administration of justice, that it would be just to give the prisoner the benefit of the interim change in the law.

**"§ 2268. Habeas corpus time requirements**

"(a) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing.

"(b) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(c) The Supreme Court shall act on any petition for a writ of certiorari in a case brought under this chapter within 90 days after the petition is filed.

"(d) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases, 2261".

(c) AMENDMENT TO SECTION 2254 OF TITLE 28.—Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant";

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.".

## INTERNATIONAL DATA IMPROVEMENT ACT

### MURKOWSKI AMENDMENT NO. 1664

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (S. 2516) to augment and improve the quality of international data compiled by the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act by allowing that agency to share statistical establishment list information compiled by the Bureau of the Census, and for other purposes, as follows:

On page 2, line 3, immediately before "Section" insert "(a)".

On page 2, between lines 15 and 16, insert the following:

(b) Section 5 of the International Investment and Trade in Services Survey Act of 1976 (22 U.S.C. 3104) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) COMMITTEE REVIEWS AND REPORTS.—

"(1) Notwithstanding any other provision of this section restricting disclosure of or access to information submitted under subsection (b)(2), the President, or the President's designee responsible for monitoring the impact of foreign investment in the United States and coordinating implementation of United States policy on such investment, is authorized to review any such information in order to evaluate, analyze, compare, or verify the nature and extent of foreign investment in the United States.

"(2) Authorized officials and employees designated by the President to perform functions under this subsection shall have access to and may obtain copies of, any information submitted pursuant to subsection (b)(2), including all records, documents, reports, books, papers, and other materials related thereto. Such access shall be granted promptly but not later than 5 days after a duly authorized official or employee has made a request therefor.

"(3) Except as provided in this subsection, an official or employee designated to perform functions under this subsection shall not disclose to any other person or organization any information, including any records, documents, reports, books, papers, and other materials related thereto, acquired during a review conducted pursuant to paragraph (1), that specifically identifies any person who finished information pursuant to subsection (b)(2). The President shall establish such procedures and safeguards that are necessary to prevent the unauthorized disclosure of this information. An official or employee designated to perform functions under this subsection may discuss any matter relating to such information with officials or employees designated to perform functions under the data collection program.

"(4) The President or the President's designee may submit a report to the Congress on any review conducted pursuant to paragraph (a), except that any such report shall not specifically identify any person who furnished information pursuant to subsection (b)(2). Nothing in this subsection shall prevent an official or employee designated to perform functions under this subsection from discussing the findings, conclusions, or recommendations of a draft or final report with a committee or subcommittee of the Congress.".

Mr. MURKOWSKI. Mr. President, I rise today to offer an amendment to S. 2516, the International Data Improvement Act. This bill was introduced by one of my own distinguished colleagues from Nebraska, Senator EXON, on April 25 of this year. It has since been referred to the Committee on Commerce, Science, and Transportation. It is one of several timely pieces of legislation to improve the sharing of data on foreign investment amongst our Government agencies.

Mr. President, last year I also introduced legislation to improve our system on foreign investment data sharing. The legislation I introduced, S. 856, allows for the sharing of data between the Census Bureau and the Bureau of Economic Analysis, or the BEA.

Senator EXON's legislation also does this, but my bill allows the Committee on Foreign Investment in the United States, CFIUS, access to data collected by the Bureau of Economic Analysis. That is the difference between our two bills.

Mr. President, I feel strongly that the legislation introduced by my colleague from Nebraska is not sufficient if CFIUS is not included in the sharing of BEA's disaggregated data. CFIUS is the interagency body designated by the President to monitor foreign investments in the United States, and to coordinate U.S. policy on such investments. So, I am offering an amendment to S. 2516 to include the Committee on Foreign Investment to include CFIUS in sharing of BEA data.

My colleague stated when introducing his bill that it represents what the Bush administration is willing to do on the matter. The argument raised by the administration, or those who support the administration position on the issue is that the confidential information which Census and BEA have cannot be protected if it is shared by CFIUS. The argument is advanced that if confidentiality cannot be guaranteed, then there will be a dampening effect on further foreign investment, an effect, we do not wish to generate.

In response, Mr. President, I think it would be useful to explain to my colleagues exactly who is on the Committee on Foreign Investment in the United States. At a hearing before the Subcommittee of Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce in the House of Representatives held in March, Assistant Secretary of the Treasury for International Affairs Charles Dallara, described the membership of CFIUS:

CFIUS membership is the Secretary of the Treasury (Chair), the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Commerce, Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the United States Trade Representative.

I find it hard to believe that the confidentiality of information cannot be guaranteed by the Cabinet members who serve on CFIUS. I find it hard to believe that Secretary Brady's learning that a Japanese electronics conglomerate also happens to be an owner of an auto parts plant in the United States will discourage that Japanese company from investing in the United States.

I also find it hard to believe that the very body which oversees foreign investment should not be privy to information, the specific kind of information the Senator from Alaska feels the Government should have and evaluate. This is not all foreign investment but foreign government-controlled investment, and there is a difference.

Quite clearly, we have seen the action of Great Britain when the Government of Kuwait took a significant interest in the largest petroleum producer in Great Britain, British Petroleum. The British Monopolies Board investigated the case and found it was contrary to the national security interests of Great Britain that a foreign government, as opposed to a foreign private investor controlled a significant share of Great Britain's largest petroleum producing company.

My purpose in this legislation is to ensure that the appropriate agencies have knowledge when there is foreign government participation, foreign government loan guarantees, foreign government financing below market rates as opposed to the quite legitimate foreign investment which we all basically welcome in this country. But when there is a foreign government involved in a transaction for the specific purpose of obtaining a market share, I think relevant agencies ought to have access to the information and be able to respond if necessary with action. That is the purpose of this specific legislation which I think is in the administration's best interests.

I also find it hard to believe that the very body which oversees foreign investment should not be privy to this information. I am referring to the Exon-Florio provision of the Omnibus Trade Act of 1988 which gave the President or his designee the power to investigate and even prohibit foreign investment which may be contrary to the national security interests. The President's designee in this case is CFIUS.

The Senator from Alaska maintains that to have that knowledge, you have to be able to differentiate between foreign government investment and foreign private investment. I find it courious that my colleague who wrote the Exon-Florio provision would not make the responsible committee more efficient by having this information.

I would solicit my colleagues to review this information and consider supporting it.

## AUTHORITY FOR COMMITTEES TO MEET

### SUBCOMMITTEE ON MEDICARE AND LONG TERM CARE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long Term Care of the Committee on Finance be authorized to meet during the session of the Senate on May 18, 1990, at 9:30 a.m. to hold a hearing on recommendations for the Medicare volume performance standards [MVPS] for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, May 18, at 10 a.m., for a hearing on "Improving Math and Science Education for America's Youth."

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, May 18, 1990, at 10 a.m. to conduct a hearing on S. 2327 and H.R. 3848, Depository Institution Money Laundering Amendments of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on compensation and pension (title I of S. 2100); insurance (title III of S. 2100); expansion of radiation presumptions (S. 2556); administrative reorganizations (S. 2102); and national cemeteries (S. 2482 and S. 2485); VA debt collection (S. 2615); and miscellaneous legislation (S. 1887, S. 2454, S. 2499) on Friday, May 18, 1990, at 9:30 a.m. in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE SUPERFUND, OCEAN AND WATER PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, May 18, beginning at 9:30 a.m., to conduct a markup of S. 203, the Ground Water Research and Education Act and, immediately following the markup, to conduct a hearing on pending legislation to require local educational agencies to conduct testing for radon contamination in schools, S. 1697—the Radon Testing for a Safe Schools Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### CUBA RECOGNIZES 88TH YEAR OF INDEPENDENCE FROM SPAIN

● Mr. MACK. Mr. President, this Sunday, May 20, the Cuban people wil recognize their 88th year of independence from Spain. This is usually a time for celebration and thanksgiving but Cuba's celebration will be empty and false because they have not yet achieved true independence and freedom.

Independence is when a government is controlled by the people not when the people are controlled by their government. Freedom is the most precious of man's God-given rights. Freedom is when one can be unrestricted in opinion, choice or action.

These are the American values which have made our nation the inspiration for people around the world struggling to achieve their own freedom and independence.

Just 90 miles from the southern tip of my home State of Florida lies an island ruled by a ruthless Communist dictator. Cuba, the Alcatraz of the Atlantic, remains in the hands of a Stalinist regime that ignores basic human rights and tortures individuals who cry out for the kind of God-given freedoms that we so easily take for granted.

I am confident the winds of freedom which have swept Europe and Latin America will reach a Cuba yearning for freedom from Castro's oppression.

Despite Castro's attempt to block TV and Radio Marti from bringing the message of freedom to Cuba, the Cuban people will always continue to foster hope.

The Cuban people have waited long enough for their nightmare to end. We in the United States, the land of freedom and independence, have the moral responsibility to support their yearning for freedom. Their day of freedom is near but unfortunately, it is not near enough.

Defending democracy and asserting the American values of liberty and constitutional government around the world are policies I support. I will never compromise my values and love of freedom and I will work to make sure the nation of Cuba will soon be free.

The Cuban people have a right to be heard and determine their form of government. We must stand firm behind the principle that democracy is the cornerstone of a free and open society.

Once again, I call on Castro to put his leadership to the test and find out whether Cubans really favor Communism. Since he took power 31 years ago, some 2 million Cubans have fled their homeland, voting against Castro with their feet. He knows if he allows Cubans to speak their mind, he will be out of power.

The message of freedom is the message of hope. I'm confident the people of Cuba will continue to have the hope that one day they will find freedom.

Who would have thought that this time last year we would have seen the tearing down of the Berlin Wall, the liberation of Eastern Europe and free elections in Nicaragua. Maybe next year we will see freedom in Cuba.

Even though the Cuban people will recognize their independence from Spain this Sunday, tragically, they must wait until they can celebrate their freedom from Castro and Communism. When that day comes the Cuban people will finally have true independence. I look forward to that day when we can welcome Cuba into the community of free nations.●

### PUBLIC IS—CORRECTLY—WARY ABOUT DECIMATING THE DEFENSE BUDGET

● Mr. BOSCHWITZ. Mr. President, the American public does not want the Congress to rush ahead with uncoordinated, irresponsible cuts in the defense budget.

The $30 billion in budget authority cuts proposed by the Budget Committee for next year will decimate our defense effort. I use the word "decimate" advisedly, in its original sense of "selecting at random and killing one of ten in a given group." The budget the majority forced through the Budget Committee cuts defense budget authority by 10 percent in a single year—with more cuts to come in future years. The budget cuts were simply presented and voted on without any significant discussion or consideration of their ramifications.

Not only are the cuts proposed by the Committee on the Budget irresponsible: They are also out of sync with the wishes of the American people.

The Gallup poll's recent national survey reveals that "most Americans are cautious about cutting too much from the defense budget too soon * * * close to eight in ten (78 percent) feel it is prudent to wait and see how things develop before making deep reductions in the Pentagon's budget."

I am sure that they would agree that if we maintain a properly funded defense budget now, the cuts in the future will be deeper than those contemplated by the committee, because the concessions we will be able to exact will be all the more significant. The American people realize, for example, that the deep defense cuts of the seventies only postponed the accomplishments of the past few years. If we had maintained our defense effort at that level, we simply would never have achieved the recent concessions at the negotiating table, and we would not have been on the verge of new, safer defense cuts in the future.

Mr. President, the Gallup poll's findings deserve the close attention of my colleagues and I ask that they be inserted in the RECORD at this point.

The material follows:

PUBLIC WARY ABOUT DEEP CUTS IN MILITARY SPENDING

(By Larry Hugick)

A recent Gallup Poll finds that most Americans are cautious about cutting too much from the defense budget too soon in response to events in Eastern Europe. Although roughly two-thirds (68 percent) believe the situation will eventually lead to large cuts in defense spending, close to eight in ten (78 percent) feel it is prudent to wait and see how things develop before making deep reductions in the Pentagon's budget.

Even among Democrats, only 10 percent favor immediate action to scale back the defense budget significantly.

SENTIMENT FOR CUTTING DEFENSE HIGHEST SINCE VIETNAM ERA

Sentiment for cutting military spending is as great as it has been at any time since the latter stages of U.S. involvement in Vietnam. Today, 50 percent of Americans feel that defense spending is too high, while only 10 percent feel it is too low.

Since the mid-1980s, a plurality of Americans have felt that we are overspending on defense. One must look back to 1971, however, to find the last time that that plurality reached 50 percent in the Gallup Poll. The

belief then that the defense budget should be cut was associated with a growing perception that the United States should get out of Vietnam.

In the past decade, when Americans thought about the biggest threat to the country's future, fear of war with the Soviet Union gave way to concern about economic competition from Japan and other countries.

In the context of events in Eastern Europe, U.S. military power seems less critical than it did in the past. Since 1984, the percentage who believe that building the strongest military force in the world is very important to our nation's future has declined from 45 percent to 36 percent. Over the same period, the percentage who say it is very important to develop the best educational system in the world—often cited as a key to solving our competitiveness problems—has increased from 82 percent to 91 percent.

Opinion about the necessity of military superiority to our country's future strength varies along generational lines. While close to half (45 percent) of adults over fifty years of age believe it is very important to be the strongest military power, fewer than a third (30 percent) of those under fifty—the post-World War II generation—share this opinion.

### MANY CONCERNED ABOUT EFFECTS OF CUTS ON NATIONAL SECURITY, ECONOMY

Americans look to the post-Cold War era and what some have called the "peace economy" with mixed feelings. Despite the shift in attitudes toward the Soviet Union in recent years, reduced fear of a military conflict has not yet resulted in the perception that our country is stronger militarily than it needs to be. About two-thirds (64 percent) of Americans say that our defense capabilities are adequate, but not excessive, to meet our needs. And people are as likely to say our defenses are not strong enough (17 percent) as they are to say our defenses are overly strong (15 percent).

Almost three-fourths (73 percent) of adults say they would be be very or somewhat concerned that our national security would become threatened if defense spending were greatly reduced.

As many as one-third (33 percent) of adults and 40 percent of those age fifty or older say they would be very concerned about or national security under such circumstances.

The fear that sharp cuts in defense would threaten our security is highest in the South.

In addition to uneasiness that a scaled-down defense might leave us vulnerable, there is a lack of consensus about how our economy might be affected by military spending cuts. A larger percentage of Americans think that sharp reductions would hurt (35 percent) rather than help (28 percent) the national economy. Another 30 percent don't feel the economy would be affected much one way or the other.

Roughly a fourth (27 percent) expect large defense-spending reductions to have a negative impact on their local economy; only half as many (13 percent) say lower levels of military spending would be good for the local economy. In the western states, where the defense industry has played a major role in the postwar era, as many as a third (33 percent) express concern about possible negative economic fallout locally. By contrast, only about a fifth (20 percent) of Midwesterners see their local economy being hurt by defense cutbacks.

One-fourth (25 percent) of Americans feel that their own family's financial situation might be affected by a shrinking defense budget. People are about as likely to say they would be helped (12 percent), however, as they are to say they would be hurt (13 percent). Despite the regional patterns observed for expectations about effects on the local economy, there are no significant differences by region in expectations about effects on family finances.

### PUBLIC FAVORS REDUCING U.S. TROOPS IN EUROPE

While cautious about the situation in Eastern Europe and the effect it should have on our defense budget, a clear majority of the public (57 percent) supports reducing the number of U.S. troops in Europe. Roughly a third (34 percent) disapprove of making any reductions at this time.

The idea of troop cuts wins the support of a majority in all age groups, political party affiliations and regions of the country. Withdrawal is particularly attractive to college graduates, 72 percent of whom favor bringing some U.S. troops home from Europe. Among the groups less supportive of the idea are non-whites (47 percent).

### PUBLIC WANTS PEACE DIVIDEND TO GO TOWARD SOCIAL SPENDING

While President Bush seems to be enjoying much of the political benefits of being in office during this period of change, his Democratic opposition could make some political gains as well. The public's appetite for new social spending, a traditional Democratic theme, may increase as the perception builds that a reduced defense burden will result in more money for other government programs.

When asked how the U.S. should spend the "peace dividend"—financial resources that can be diverted from defense to other areas—opinion breaks 62 percent to 27 percent in favor or using the money for social spending such as aid to the homeless, the war against drugs, and public education, rather than for reducing the federal budget deficit.

Democrats in the poll split 68 percent to 18 percent in support of spending more on social problems. Independents are only slightly less solid in the view (62 percent to 26 percent). A majority of Republicans (55 percent) agree with the social spending option, but those identifying with the GOP are significantly more likely than others to prefer the deficit reduction option (35 percent).

There is much discussion as to the amount of money the government in Washington should spend for national defense and military purposes. How do you feel about this? Do you think we are spending too little, about the right amount, or too much?

[In percent]

| | Too little | Right amount | Too much | No opinion |
|---|---|---|---|---|
| 1990 | 9 | 36 | 50 | 5 |
| 1987 | 14 | 36 | 44 | 6 |
| 1986 | 13 | 36 | 47 | 4 |
| 1985 | 11 | 36 | 46 | 7 |
| 1983 | 21 | 36 | 37 | 6 |
| 1982 | 16 | 31 | 41 | 12 |
| 1981 | 51 | 22 | 15 | 12 |
| 1976 | 22 | 32 | 36 | 10 |
| 1973 | 13 | 30 | 46 | 11 |
| 1971 | 11 | 31 | 50 | 8 |
| 1969 | 8 | 31 | 52 | 9 |

How likely do you think it is that government spending on defense will be greatly reduced as a result of improving relations with the Soviet Union and the changes in Eastern Europe? Do you think it is—

| | Percent |
|---|---|
| Very likely | 24 |
| Somewhat likely | 44 |
| Not very likely | 19 |
| Not at all likely | 8 |
| No opinion | 5 |
| Total | 100 |

In determining America's strength in the future, say 25 years from now, how important do you feel each of the following factors will be—very important, fairly important, not too important, or not at all important?

[In percent]

| | Very important | Fairly important | Not too important | Not at all important | No opinion |
|---|---|---|---|---|---|
| Developing the most efficient industrial production system in the world: | | | | | |
| January 1990 | 61 | 32 | 3 | 1 | 3 |
| May 1984 | 70 | 23 | 3 | 1 | 3 |
| Building the strongest military force in the world: | | | | | |
| January 1990 | 36 | 38 | 18 | 5 | 3 |
| May 1984 | 45 | 36 | 13 | 3 | 3 |
| Developing the best educational system in the world: | | | | | |
| January 1990 | 91 | 7 | 1 | (1) | 1 |
| May 1984 | 82 | 14 | 2 | (1) | 2 |

[1] Less than 1 percent.

As one of the ways to reduce the amount the government spends on defense, would you approve or disapprove of reducing the number of U.S. troops based in Europe?

| | Percent |
|---|---|
| Approve | 57 |
| Disapprove | 34 |
| No opinion | 9 |
| Total | 100 |

If government spending on defense is greatly reduced, do you think this will hurt the U.S. economy, help the U.S. economy, or won't it make any difference to the U.S. economy?

| | Percent |
|---|---|
| Hurt | 35 |
| Help | 28 |
| No difference | 30 |
| No opinion | 7 |
| Total | 100 |

If the government spending on defense is greatly reduced, do you think this will hurt the economy in your local area, help the economy in your local area, or won't it make any difference to the economy in your local area?

| | Percent |
|---|---|
| Hurt | 27 |
| Help | 13 |
| No difference | 57 |
| No opinion | 3 |
| Total | 100 |

If government spending on defense is greatly reduced, do you think this will hurt your household's financial situation, help your household's financial situation, or won't it make any difference to your household's financial situation?

| | Percent |
|---|---|
| Hurt | 13 |
| Help | 12 |
| No difference | 72 |
| No opinion | 3 |
| Total | 100 |

Question: Do you, yourself, feel that our national defense is stronger now than it needs to be, not strong enough, or about right at the present time?

CURRENT LEVEL OF DEFENSE?

| | Percent | | | | |
|---|---|---|---|---|---|
| | Stronger than necessary | Not strong enough | About right | No opinion | No. of interviews |
| National | 16 | 17 | 64 | 3 | 1,226 |
| Sex: | | | | | |
| Male | 17 | 14 | 67 | 2 | 609 |
| Female | 15 | 19 | 62 | 4 | 617 |
| Age: | | | | | |
| 18 to 29 yrs | 23 | 14 | 62 | 1 | 282 |
| 30 to 49 yrs | 14 | 18 | 66 | 2 | 519 |
| 50 and older | 12 | 17 | 65 | 6 | 407 |
| Region: | | | | | |
| East | 17 | 17 | 65 | 1 | 293 |
| Midwest | 16 | 17 | 63 | 4 | 307 |
| South | 13 | 17 | 65 | 5 | 366 |
| West | 17 | 14 | 66 | 3 | 260 |
| Race: | | | | | |
| White | 16 | 15 | 66 | 3 | 1,097 |
| Nonwhite | 12 | 27 | 57 | 4 | 122 |
| Education: | | | | | |
| College grads | 28 | 9 | 62 | 1 | 330 |
| College inc. | 17 | 16 | 65 | 2 | 284 |
| High school grads | 11 | 21 | 65 | 3 | 483 |
| Not H.S. grads | 9 | 16 | 65 | 10 | 122 |
| Politics: | | | | | |
| Republicans | 11 | 16 | 70 | 3 | 437 |
| Democrats | 17 | 16 | 63 | 4 | 378 |
| Independents | 19 | 17 | 60 | 4 | 411 |
| Income: | | | | | |
| $50,000 and over | 23 | 10 | 66 | 1 | 242 |
| $30,000 to 49,999 | 17 | 13 | 68 | 2 | 329 |
| $20,000 to 29,999 | 14 | 16 | 64 | 6 | 247 |
| Under $20,000 | 14 | 22 | 62 | 2 | 332 |

Question: There is much discussion as to the amount of money the government in Washington should spend for national defense and military purposes. How do you feel about this? Do you think we are spending too little, about the right amount or too much?

AMOUNT SPENT?

| | Percent | | | | |
|---|---|---|---|---|---|
| | Too little | Right amount | Too much | No opinion | No. of interviews |
| National | 9 | 36 | 50 | 5 | 1,226 |
| Sex: | | | | | |
| Male | 8 | 36 | 52 | 4 | 609 |
| Female | 11 | 37 | 47 | 5 | 617 |
| Age: | | | | | |
| 18 to 29 yr | 9 | 32 | 56 | 3 | 282 |
| 30 to 49 yr | 11 | 39 | 48 | 2 | 519 |

AMOUNT SPENT?—Continued

| | Percent | | | | |
|---|---|---|---|---|---|
| | Too little | Right amount | Too much | No opinion | No. of interviews |
| 50 and older | 9 | 37 | 46 | 8 | 407 |
| Region: | | | | | |
| East | 8 | 33 | 54 | 5 | 293 |
| Midwest | 10 | 38 | 50 | 2 | 307 |
| South | 11 | 39 | 43 | 7 | 366 |
| West | 8 | 36 | 52 | 4 | 260 |
| Race: | | | | | |
| White | 9 | 38 | 49 | 4 | 1,097 |
| Nonwhite | 15 | 26 | 51 | 8 | 122 |
| Education: | | | | | |
| College grads | 5 | 32 | 61 | 2 | 330 |
| College inc | 10 | 35 | 52 | 3 | 284 |
| High schol grads | 14 | 38 | 44 | 4 | 483 |
| Not H.S. grads | 4 | 40 | 44 | 12 | 122 |
| Politics: | | | | | |
| Republicans | 11 | 46 | 39 | 4 | 437 |
| Democrats | 9 | 33 | 52 | 6 | 378 |
| Independents | 9 | 30 | 58 | 3 | 411 |
| Income: | | | | | |
| $50,000 and over | 8 | 36 | 55 | 1 | 242 |
| $30,000 to $49,999 | 9 | 36 | 52 | 3 | 329 |
| $20,000 to $29,999 | 12 | 35 | 48 | 5 | 247 |
| Under $20,000 | 10 | 40 | 44 | 6 | 332 |

Question: How do you think U.S. defense spending should be affected by the changes taking place in Eastern Europe? Do you think the U.S. should make sharp cuts in defense spending right away, or do you think the U.S. should wait and see how things develop before making any sharp cuts, or do you oppose making any sharp cuts in defense spending in the foreseeable future?

WHEN MAKE CUTS?

| | Percent | | | | |
|---|---|---|---|---|---|
| | Right away | After things develop | No cuts soon | No opinion | No. of interviews |
| National | 8 | 78 | 12 | 2 | 1,226 |
| Sex: | | | | | |
| Male | 8 | 78 | 12 | 2 | 609 |
| Female | 7 | 79 | 12 | 2 | 617 |
| Age: | | | | | |
| 18 to 29 | 8 | 83 | 8 | 1 | 282 |
| 30 to 49 | 8 | 78 | 13 | 1 | 519 |
| 50 and older | 6 | 76 | 14 | 4 | 407 |
| Region: | | | | | |
| East | 6 | 81 | 11 | 2 | 293 |
| Midwest | 8 | 76 | 13 | 3 | 307 |
| South | 6 | 80 | 12 | 2 | 366 |
| West | 10 | 75 | 12 | 3 | 260 |
| Race: | | | | | |
| White | 7 | 78 | 13 | 2 | 1,097 |
| Nonwhite | 7 | 81 | 7 | 5 | 122 |
| Education: | | | | | |
| College grads | 13 | 73 | 13 | 1 | 330 |
| College inc. | 7 | 83 | 10 | (1) | 284 |
| High school grads | 6 | 80 | 13 | 1 | 483 |
| Not H.S. grads | 6 | 76 | 10 | 8 | 122 |
| Politics: | | | | | |
| Republicans | 3 | 80 | 16 | 1 | 437 |
| Democrats | 10 | 76 | 11 | 3 | 378 |
| Independents | 9 | 79 | 9 | 3 | 411 |
| Income: | | | | | |
| $50,000 and over | 8 | 79 | 12 | 1 | 242 |
| $30,000 to $49,999 | 7 | 77 | 14 | 2 | 329 |
| $20,000 to $29,999 | 10 | 78 | 11 | 1 | 247 |
| Under $20,000 | 6 | 79 | 12 | 3 | 332 |

[1] Less than 1 percent.

Question: If government spending on defense is greatly reduced, how concerned are you that our national security might become threatened? Are you very concerned, somewhat concerned, not very concerned, or not at all concerned?

CONCERNED FOR SECURITY?

| | Percent | | | | | |
|---|---|---|---|---|---|---|
| | Very | Somewhat | Not very | Not at all | No opinion | No. of interviews |
| National | 33 | 39 | 18 | 8 | 2 | 1,226 |
| Sex | | | | | | |
| Male | 30 | 38 | 21 | 9 | 2 | 609 |
| Female | 36 | 41 | 15 | 6 | 2 | 617 |
| Age: | | | | | | |
| 18 to 29 | 27 | 45 | 21 | 7 | (*) | 282 |
| 30 to 49 | 32 | 39 | 21 | 7 | 1 | 519 |
| 50 and older | 40 | 36 | 13 | 8 | 3 | 407 |
| Region: | | | | | | |
| East | 30 | 39 | 22 | 9 | (*) | 293 |
| Midwest | 31 | 40 | 19 | 7 | 3 | 307 |
| South | 39 | 40 | 13 | 7 | 1 | 366 |
| West | 32 | 40 | 21 | 7 | (*) | 260 |
| Race: | | | | | | |
| White | 33 | 39 | 19 | 8 | 1 | 1,097 |
| Nonwhite | 38 | 42 | 8 | 7 | 5 | 122 |
| Education: | | | | | | |
| College grads | 22 | 37 | 31 | 10 | (*) | 330 |
| College inc | 28 | 46 | 19 | 6 | 1 | 284 |
| High school grads | 38 | 41 | 15 | 5 | 1 | 483 |
| Not H.S. grads | 43 | 31 | 10 | 10 | 6 | 122 |
| Politics: | | | | | | |
| Republicans | 38 | 38 | 18 | 5 | 1 | 437 |
| Democrats | 32 | 39 | 18 | 8 | 3 | 378 |
| Independents | 30 | 42 | 18 | 10 | (*) | 411 |
| Income: | | | | | | |
| $50,000 and over | 25 | 41 | 24 | 10 | (*) | 242 |
| $30,000 to $49,999 | 25 | 41 | 25 | 8 | 1 | 329 |
| $20,000 to $29,999 | 36 | 41 | 17 | 6 | (*) | 247 |
| Under $20,000 | 42 | 37 | 11 | 6 | 4 | 332 |

* Less than 1 percent.●

## MEETING OF PRUNSKIENE AND GORBACHEV

● Mr. RIEGLE. Mr. President, for the last 2 months, as Lithuania and its fellow Baltic republics of Latvia and Estonia have declared the restoration of independence, I have called on the administration to raise the issue of Baltic independence with the Soviet Government on several occasions. But, as the Soviets tightened their grip of economic coercion on Lithuania and condemned the independence movements in Latvia and Estonia, President Bush has looked the other way.

Finally, after months of acquiescence, Secretary Baker, in Moscow this week for pre-summit negotiations with Soviet President Gorbachev and Foreign Minister Schevardnaze, elevated Baltic independence to its rightful place among American foreign policy priorities. Only one day after Baker's warning to the Soviets that further delays in negotiations would have a cooling effect on the warming trend in United States-Soviet relations, President Gorbachev met with Lithuanian Prime Minister Prunskiene in the first talks between leaders of the two governments.

Underlying Gorbachev's decision to meet with Prunskiene was undoubtedly Lithuania's unselfish and peaceminded offer to suspend laws implementing its independence declaration. Still, the coincidence of Baker's raising the Baltic issue as a potential stumbling block to better American-Soviet relations and Moscow's decision to meet with Prunskiene is too strong

to be ignored. The connection between continued pressure by the American Government and progress toward Baltic self-determination is plain and unmistakable.

Mr. President, I urge the administration to persevere in its efforts to convince the Soviet Government to expand the good-faith talks between Gorbachev and Prunskiene into full, bilateral negotiations on Lithuanian independence between Vilnius and Moscow. Rather than rewarding the Soviets for their aggressive behavior in the Baltic states, the United States must continually make clear that continued delays in talks on Baltic independence will have a negative impact upon United States-Soviet relations.●

## STUART EIZENSTAT: ISRAEL MUST REFORM ITS ECONOMY

● Mr. BOSCHWITZ. Mr. President, Israel is on the verge of a great transformation. The waves of Soviet immigrants now arriving there, fully motivated to improve their place in life, have the potential to reinvigorate a stalled economy. With the Russians vastly enriching the current mix of native Israelis and other immigrants, Israel now has one of the most highly skilled and innovative work forces to be found anywhere in the world.

But it the Soviet immigrants' potential to help Israel prosper is to be realized, the way has to be cleared to allow their spirit of enterprise to flourish—not to speak of that same spirit of the Israelis themselves. This means that Israel's barriers to economic activity have to be lifted.

Israel's leaders need to make some hard choices about the way its economy is governed. They have to deregulate, lower taxes, bust cartels and monopolies, encourage competition, loosen controls on the flow of capital as well as on land use, and sell off state enterprises.

These are not mere theoretical concerns: if the Israeli economy is ever to begin the job of absorbing the new immigrants, much must be done in the very near term to make the housing and industrial sectors more efficient. Once a beginning is made, however, I have little doubt that the Russian immigrants will become self-sustaining, fully contributing members of Israeli society. Having seen the failure of perhaps the most centralized, bureaucratized regime known to man, I am sure that the immigrants from the Soviet Union will provide impetus to move the Israeli society away from that model and toward a freer economy.

Finally, Mr. President, I should add that in addition to changes in the economy, there will have to be changes in the Israeli political system to make it more responsible to the overall national interest and less responsive to the views of tiny fractions of the electorate.

My friend Stuart Eizenstat has some experience in making the kind of hard economic choices I alluded to earlier. Stu advised President Carter on the difficult process of deregulating the Nation's economy—a prelude to the more extensive deregulation that helped cause our economy to boom during the Reagan and Bush years. A keen observer of the Israeli scene, he has written an admirable prescription for the Israeli economy that recently appeared in the Wall Street Journal—Europe. Mr. President, I ask that the article be inserted at this point in the RECORD.

The article follows:

[From the Wall Street Journal Europe, Apr. 3, 1990]

### HOW TO REFORM THE ISRAELI ECONOMY

(By Stuart E. Eizenstat)

When Israel's economy was near the precipice in 1985, with 400% inflation and dangerously low foreign reserves, Secretary of State Shultz personally intervened to urge additional economic help and to provide advice.

Tariffs were reduced and a U.S.-Israel Free Trade Agreement was implemented. The Israeli government's sole control over credit markets was ended, food and transportation subsidies were phased out and the government stopped bailing out failing institutions and undertaking projects beyond Israel's financial capacities, such as the Lavi fighter plane.

It worked. Budget deficits were reduced from 15% of GNP to 1% to 2%. Inflation dropped to around 16%.

Today, Israel faces the enormous challenge of a sudden inrush of Soviet Jews. It needs to take an even harder step: changing its highly bureaucratized, monopolistic, cartelized economy into a more Western-oriented free market system while maintaining the best of its social welfare state. The Bush administration should take the same interest now that the Reagan administration took five years ago to help Israel effectively use the badly needed special U.S. assistance I hope will be forthcoming.

The first 25 years of Israel's rebirth as a modern state, its nation-building phase, were little short of remarkable. Its population tripled and growth rates averaged over 9% in real terms from 1960 to 1973 with single-digit rates of inflation. A modern infrastructure of roads, sewage systems, and communications was developed and swamps were converted into magnificent, lush valleys. A sophisticated military was established.

But after the Yom Kippur war and OPEC oil embargo of 1973, the economy lurched sideways. In the last five years, growth has barely equaled that of mature nations, such as the United States.

#### AN UNUSUAL ECONOMY

For sure, the huge growth in defense expenditures after 1973—although financed in large part by massive loans from the U.S. Government—contributed to Israel's woes. Its foreign debt and defense expenditures account for over 60% of its budget.

But, it became clear from a recent conference in Israel sponsored by the Israel Center for Social and Economic Progress that something more fundamental is the biggest barrier to the successful integration of Soviet Jews. Israel has failed to move from its early nation-building phase—when heavy state involvement and limited competition may have been essential—to a modern, liberalized economy. It has developed a unique, partly-managed, partly-free market, partly-socialist set of institutions which make up one of the most unusual two-tiered economies in the world.

At one level Israel has developed world-class products and technologies. It has produced bio-medical breakthroughs and a space satellite. But there is a third-world quality to some parts of the economy. The Histadrut is both a labor union to which an overwhelming percentage of Israel's salaried workers belong and one of the country's largest employers. It is the owner of debt-ridden enterprises.

One of every three Israeli workers is employed by the government, compared to one in five 20 years ago. A stultifying bureaucracy inflicts regulations a Talmudic scholar would have difficulty understanding, blocking the natural entrepreneurial spirit of the people. An explosion in transfer payments has created a modern welfare state, but with an income base which can barely afford it. Taxes are high and have a patchwork quality.

A dramatic increase in housing and jobs is critically necessary to absorb the Soviet Jews arriving each week, but housing exemplifies the rigidity of the economy. Last year only about 20,000 dwellings were built compared to two-and-a-half times that amount in 1974. Roughly 50,000 units will be necessary to accommodate new immigrants this year. It takes an unbelievable 22 to 27 months on the average to construct an apartment building. A permit for even minor changes in plans can take months or years to obtain. An Israeli paper recently published a full-page spread of licensing and permitting agencies. It looks like an organizational chart of the Pentagon.

The price of an acre of land in the Tel Aviv area rivals that of downtown Washington, D.C. That's because the Israel Land Authority and other public bodies own over 90% of the country's land. The Land Authority never sells its property—which in Zionist ideology is God's gift for the people—but leases it for 49 years with a 49-year option. It is extraordinarily parsimonious. It rarely "tenders" land for lease, creating a pent-up demand and artifically inflating real-estate and home values. The Mayor of Maalot, Shlomot Buchbut, called it "Mission Impossible" to get land from the Land Authority. David Lewis who has virtually remade the hotel industry in Eilat, had to wait two years to get land to construct housing for the new workers brought in to service his new hotels—and then got enough for only two-thirds of the units needed.

As if excessive licensing and extraordinarily high land costs were not enough, the costs of construction for housing, and everything else, skyrocket because the basic materials are suppplied by state sanctioned monopolies or cartels. Developers cannot shop around because cartel members protect each other's high prices. Import permits are stricly limited. In the mid-1970s, Nesher, the chief producer of cement, crushed an Israeli importer's effort to import Romanian cement by dramatically raising the price of cement domestically and then dropping it precipitously. There have been virtually no imports of cement since.

Between 20% and 30% of the business sector is controlled by monopolies and cartels. Medieval-style professional guilds in

law, architecture, engineering and accounting set fees. It is difficult to leave your accountant without his permission. Agricultural marketing boards limit price competition in fruit and vegetables. There are scores of state-owned enterprises.

Meryl Jaffe, a young American female entrepreneur with an American Ivy League degree, recently came to Israel and wants to import books from the U.S. to start a book business. She faced taxes on investment capital raised abroad and government-set exchange rates which bear little relationship to true currency values. Government-supported importers make it virtually impossible for people like Meryl Jaffe to compete.

MOVING ISRAEL FORWARD

Hopes for a successful Soviet Jewish absorption rest significantly on a rapid movement to a more deregulated competitive economy:

Red tape and bureaucratic delay must be eliminated. As the mayor of the development town of Migdal Haemek, Shaul Amor, put it, there is a need for "perestroika in the bureaucracy." There should be a freeze on government employment so that the percentage of government workers in the economy is reduced.

State-owned enterprises should be privatized except in areas essential to national security, like the aircraft industry.

Monopolies, cartels, and limits on import licenses should end so that the fresh air of competition can invigorate the Israeli economy.

The Israel Land Authority should tender all the land under its control over a three-year period.

Indexing of wages, prices, and interest rates, which perpetuates inflation, should be phased-out.

As the United States did in 1986, the tax base should be broadened, exemptions reduced, and tax rates lowered.

The government should continue its progress in removing its control over capital markets by gradually moving to a more flexible, market-oriented exchange rate for the Israeli shekel.

A private secondary mortgage market institution, like the Federal National Mortgage Association in the U.S., should be created to encourage investment in housing.

In a small country like Israel with huge defense, social, and absorption challenges, there is still an important role for government in providing social services, job training, incentives for affordable housing, and infrastructure in areas like the Negev and the Galilee. But the Israeli government's biggest challenge is to remove itself from economic management.

Israel is a land of miracles in which seemingly insurmountable odds are regularly overcome. Yet another miracle—an economic one—will be needed if the historic movement of Soviet Jews to the Jewish homeland is to be successful.

(Mr. Eizenstat, A Washington lawyer, was President Carter's Chief domestic policy adviser. He recently returned from a visit to Israel sponsored by the Israel Center for Social and Economic Progress.)●

## EXECUTIVE SESSION

### NOMINATION OF RICHARD G. AUSTIN TO BE ADMINISTRATOR OF GENERAL SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the executive session to the consider the following nomination: Calendar Order No. 771, Richard G. Austin to be Administrator of General Services; further, that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; and that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

GENERAL SERVICES ADMINISTRATION

Richard G. Austin, of Illinois, to be Administrator of General Services.

STATEMENTS ON THE NOMINATION OF RICHARD AUSTIN

Mr. GLENN. Mr. President, I would like to say a few words regarding the nomination of Richard Grant Austin to be Administrator of the General Services Administration [GSA].

GSA may not be a very high-profile agency. But I consider it to be a vital one in the operation, management, and administration of the Federal Government. For GSA manages several billion dollars each year in Government contracts for goods and services, along with all Federal real estate holdings. It sets Federal policy with all Federal real estate holdings. It sets Federal policy in the areas of communications, data processing, building leasing and construction, information resources management, and Government travel.

The next GSA Administrator will head a staff of over 18,000 people with a yearly internal budget of almost $9 billion. But despite the efforts of many fine employees, GSA's image, according to a recent GAO report on GSA management, has often been unfavorable.

The GAO report cited many structural and operational deficiencies which can be addressed with the proper attention and resources. However, the most glaring problems at GSA relate to leadership. Frequent political turnovers, poor interaction between political appointees and career executives, and a lack of involvement by career personnel in the planning process are among the primary factors cited by GAO which have inhibited effective leadership, increased staff turnover, and lowered employee morale.

Today, GSA stands at the crossroads. A multitude of problems, some of which have been festering for years, have come to the forefront. They threaten not only to undermine GSA's present mission, but also compromise its ability to prepare for and meet the challenges of the coming century.

That is precisely the reason why the Committee on Governmental Affairs, which I chair, took a very hard and long look at Mr. Austin. What GSA needs most is strong, effective, and professional leadership. And that must start at the top.

Now, there were some people who contacted the committee to ask "What was taking so long?", or "Why don't you just confirm the guy?", or "Don't you know there are some major contract decisions needing to be made?" Well, given GSA's history, I didn't want to confirm someone just for the sake of having an administrator. I wanted someone whom I felt sure was qualified for the job, and deserved the consent and approval of this body. That is why the committee's confirmation and investigative process was so lengthy and extensive.

Indeed, issues surrounding Mr. Austin's past GSA performance which were examined in both of the committee's hearings, caused me some concern, particularly his handling of the Paul Cation matter. In addition, I had some misgivings not only over the growth of political appointees at GSA while Mr. Austin has served as Acting Administrator, but their quality as well.

I have raised these and other specific issues in private meetings with White House officials and with the nominee directly.

Based on these discussions, the hearing record, and assurances received from Mr. Austin, give Mr. Austin the benefit of some doubt and vote for his confirmation. I do not because of two primary reasons.

First, while Mr. Austin displayed poor judgment in his hiring and retention of Paul Cation, I have his assurances and his word that this was a one-time mistake, which shall not be repeated on his GSA watch. The bottom line here, in my opinion, is that this one incident, by itself, does not represent a flaw so serious as to preclude confirmation.

Second, I also give weight to the fact Mr. Austin has been acting GSA Administrator for over 18 months, has experience, and possesses a working knowledge of the agency's operations. His responses to my substantive questions indicated to me his awareness of the issues and his commitment to both address longstanding problems and meet the challenges facing GSA.

Further, I have received certain assurances and commitments from the nominee, described as follows, which have satisfied my particular concerns.

The nominee has pledged that, during his tenure, he will not exceed

60 total political employees—Schedule C and noncareer SES personnel—within GSA at any one time, and that positions will be established only where needed for the efficient operation of GSA.

In response to questions arising from the Cation Case, the nominee has also instituted procedures within GSA to terminate any employee convicted of a felony. Further, GSA employees under investigation for these types of offenses will now be placed on administrative leave until the matter is resolved.

I feel that Mr. Austin's assurances represent a good-faith commitment to work with the committee and the Senate, and will help to ensure that GSA operates in a competent, efficient, and professional manner.

On that basis, and with these specific commitments, I am ready to proceed to confirm Mr. Austin and look forward to working with him in the years ahead.

Mr. WARNER. Mr. President, I am delighted to have today the opportunity to vote to confirm Richard G. Austin to be Administrator of General Services at the U.S. General Services Administration [GSA].

I know that my colleagues will agree that President Bush made a fine choice when he selected Dick for this position. Dick's performance during his tenure as Acting Administrator has proven the wisdom of the President's choice.

As my colleagues know, Dick Austin has held the post of Acting Administrator since September 1988, while continuing to hold the post of Deputy Administrator at GSA.

President Bush formally transmitted Dick Austin's nomination to the Senate in October 1989, yet, due to the early adjournment of the first session of the 101st Congress, there was not sufficient opportunity for the Senate to proceed with confirmation at that time.

Once the Congress reconvened in 1990, the Senate Governmental Affairs Committee set about its confirmation process. That process, I am happy to say, culminated last Tuesday, May 8, 1990, with the unanimous 11-to-0 vote to favorably report Dick's nomination to the full Senate for confirmation.

Mr. President, in the 20 months since Dick has been at the helm of GSA, I have worked with him on a number of matters of considerable importance to the Nation and to the Commonwealth of Virginia. I have been very impressed with the GSA under Dick's leadership, as we have worked and continue to work together in my capacity as the ranking Republican on the Senate Armed Services Committee on the renovation of the Pentagon, implementation of the base closures and realignments mandated by the Congress, and securing new, modern space for the Department of the Navy.

This last item is one very near and dear to me, Mr. President, given the role I played in bringing the Navy into northern Virginia some 20 years ago. Moving the Navy to new quarters could not be in better hands than those now in charge of GSA and the U.S. Navy [USN]. I have every confidence that working together, we—Dick Austin, the Navy, northern Virginia's local elected officials and its congressional delegation—can achieve a resolution of the outstanding issues involved in the acquisition of a new home for the Navy.

Mr. President, the responsibility borne by the Administrator of General Services is of utmost importance to those of us who represent large numbers of Federal employees, particularly in the National Capital region. The productivity of each of this area's hundreds of thousands of Federal employees rests in large part upon the GSA's ability to provide a healthy, safe, and comfortable environment in which to work. Dick Austin is the kind of administrator to see to it that that challenge is met. I have no doubt that, once confirmed by the Senate, Dick Austin will be an even greater advocate for effective and efficient government.

Mr. President, I am proud to support the confirmation of Richard G. Austin to be Administrator of General Services. I urge my colleagues to confirm Mr. Austin to this important post without delay.

Mr. FORD. Mr. President, I would like to take a moment and speak on behalf of Richard G. Austin to be Administrator of the General Services Administration [GSA].

For the past 20 months that Dick Austin has been Acting Administrator of GSA, he has proven himself to be a capable administrator. I know this firsthand. My office and the GSA under Dick Austin have worked together on a project to convert the city post office here in Washington, DC, into office space for both executive branch and Senate tenants. This project had run into a number of impediments. As a result of Dick's direct involvement, these obstacles were overcome. His effectiveness in working with Senator STEVENS and me on this project made our success possible.

In addition, in my capacity as chairman of the Committee on Rules and Administration, I am aware of the support services that the GSA provides to Senators' home State offices. Working through the office of the Senate Sergeant at Arms, the GSA under Mr. Austin has been very responsive to the needs of Congress. I have no doubt that, once confirmed by the Senate, Mr. Austin will continue to be responsive.

Mr. President, I am pleased to support the confirmation of Mr. Austin to be Administrator of GSA, and I urge my colleagues to support his confirmation.

Mr. MOYNIHAN. Mr. President, I am pleased to support the nomination of Mr. Richard G. Austin for the post of Administrator of the U.S. General Services Administration [GSA]. The Committee on Governmental Affairs unanimously supported Mr. Austin's nomination.

Dick Austin has held the post of Acting Administrator since September 1988. As chairman of the Environmental and Public Works Subcommittee on Water Resources, Transportation, and Infrastructure, I have had the opportunity to work with Mr. Austin during the 20 months he has held the top job at GSA. He has testified before my subcommittee on one of the little noticed, but very important issues facing Government—the acquisition of Government buildings. The administration has recently proposed one of the largest Government building programs ever—21 buildings at a cost of nearly $3 billion. This ambitious plan will provide the Federal Government with much-needed space for its agencies and avoid the waste of leasing the Government's long-term space requirements. Mr. Austin and I share the view that increased Government ownership of space is the most cost-efficient method to house the Government.

In working with Mr. Austin on this program, I have found him to be a dedicated and hard-working individual intent on producing a more efficient and effective Government building program. I have no doubt that if confirmed by this body, Dick Austin will continue such efforts.

Ms. MIKULSKI. Mr. President, I rise today in support of the nomination of Richard G. Austin to be the Administrator of the U.S. General Services Administration [GSA].

GSA has been in the forefront of one of the most compelling issues facing the American work force today, that of ensuring access to quality child care. I believe it is highly appropriate for the Federal Government to lead the way in setting an example for employer involvement in child care. I commend Mr. Austin for his efforts in this area.

During his 20 months as Acting Administrator of GSA, Mr. Austin has actively promoted GSA's involvement in providing child care for Federal employees. GSA's child care initiatives have resulted in the establishment of 65 centers that are operating in GSA-controlled space. These centers serve over 3,205 children, with approximately 2,300 being children of Federal employees. An additional 48 centers are

at various stages in the planning process.

Under Richard Austin's direction, GSA is expanding the scope of its involvement beyond the design and construction of child care centers. This past February, Mr. Austin established the office of child care and development programs within GSA to assist new and existing centers to operate more efficiently and to meet the wide-ranging needs of today's families.

In addition, Mr. Austin is currently organizing an initial training conference for July 1990 that will bring directors, staff, board members of GSA-housed centers, GSA regional child care coordinators, and Federal agency contacts together to learn what each can do to improve the availability, affordability and quality of child care in Federal facilities.

I support Mr. Austin's efforts, and I look forward to working with him to continue expanding the availability of child care services for Federal employees. I urge my colleagues to confirm him as Administrator of General Services so that he may continue his good work in this area.

Mr. BOSCHWITZ. Mr. President, I am pleased to rise today to express support for Mr. Richard G. Austin to be the Administrator of the U.S. General Services Administration [GSA].

I believe that President Bush made a fine selection. Dick's performance as Acting Administrator has demonstrated that he is most equipped to handle this important position. Dick Austin has held the post of Acting Administrator since September 1988, and prior to that was GSA's Regional Administrator in Chicago. He brings with him an operational perspective that is vital to managing an organization as diverse as GSA.

Mr. President, I have worked with Dick Austin both in his capacity as Regional Administrator and as Acting Administrator, most recently on the development of a new courthouse for Minneapolis, MN. I know Dick to be resourceful and capable, and I am confident that upon confirmation by the Senate, he will be even more effective and efficient as the leader of GSA.

Mr. President, I am proud to support the confirmation of Richard G. Austin to be Administrator of General Services. I urge my colleagues to confirm him as Administrator of General Services.

Mr. SYMMS. Mr. President, I am pleased to rise today to support Mr. Richard G. Austin to be the Administrator of the U.S. General Services Administration [GSA].

In my position as the ranking Republican on the Senate Environment and Public Works Subcommittee on Water Resources, Transportation and Infrastructure, I have had the opportunity to work with Dick Austin and with our chairman, the Senator from New York [Mr. MOYNIHAN], on a wide range of issues.

Mr. Austin has proven himself to be an able administrator over the past 20 months that he has served as the Acting Administrator of GSA. He has also proven that President Bush made a fine decision in selecting him for this post, as I am sure my colleagues will agree.

Dick Austin has held the post of Acting Administrator since September 1988. President Bush formally transmitted Dick's nomination to the Senate in October 1989. Unfortunately, there was not sufficient time for the Senate to proceed with confirmation at that time.

However, the Senate Governmental Affairs Committee continued Dick's confirmation process, and on Tuesday last, May 8, voted unanimously to report Dick's nomination to the full Senate for confirmation.

It is important that the Federal agency which is tasked with so many of the Government's administrative duties is in the hands of a person of the caliber and the expertise of Dick Austin.

Mr. President, I am pleased to support the President's nomination of Richard G. Austin to be Administrator of General Services. I urge my colleagues to confirm Mr. Austin to this important post without delay.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## CORRECTING THE ENGROSSMENT OF SENATE CONCURRENT RESOLUTION 133

Mr. MITCHELL. Mr. President, I ask unanimous consent that in the engrossment of Senate Concurrent Resolution 133, the year "1989" be stricken and the year "1990" be substituted therefor.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I understand that Senators DECONCINI and CRANSTON wish to be recognized to address the Senate.

I ask unanimous consent that Senator DECONCINI and Senator CRANSTON be recognized to address the Senate and that at the conclusion of their remarks the Senate stand in recess under the order until 1 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona [Mr. DECONCINI].

## DRAFT SOVIET EMIGRATION REFORM LEGISLATION

Mr. DECONCINI. Mr. President, I have just learned that the Soviet Parliament has finally issued a revised version of new draft emigration legislation which takes into account many Western and Soviet citizens' concerns about the right of the Soviet peoples to freedom of movement. As chairman of the Helsinki Commission, I have followed the issue of Soviet emigration closely and have been encouraged by the changes which have taken place over the past few years.

I am particularly encouraged by the general thrust of this proposed emigration reform legislation. I do, however, have one serious reservation about which Cochairman STENY HOYER and I have just cabled Ivan Laptev, Chairman of the Council of the Union of the U.S.S.R. Supreme Soviet asking for a clarification. I refer to paragraph 1 under article 7 of the draft which states and I quote:

> Grounds on which foreign travel can be refused* * *
>
> (1) For reasons concerning the state security of the USSR until these reasons shall cease to exist;

Congressman HOYER and I are concerned, Mr. President, because this statement does not define what these reasons might be. In addition, it places no time limit on the denial period. In the next section, article 8, it is clearly stated that citizens possessing State secrets cannot be denied travel abroad for more than 5 years. The language of article 7, however, provides Soviet authorities with an open-ended avenue for denying Soviet citizens permission to emigrate. Article 7, as currently drafted, appears to take us back to square one regarding the central issue of visa denials.

I hope, therefore, that Chairman Laptev will provide us with a prompt and complete explanation for this apparently serious loophole in the proposed emigration law prior to formal codification currently scheduled for the end of May. Quite frankly, I am sick and tired of the behind-the-scene shenanigans of those who are trying to derail this nomination. Venal and vindictive attempts to destroy Jon's reputation are unworthy of this body. I hope and trust they will stop and that this nomination will move forward expeditiously.

## JON STEINBERG

Mr. DECONCINI. Mr. President, on another subject, I want to speak for just a few minutes. There have been some negative articles, I am sorry to say, on the nomination of Jon Steinberg for a judgeship on the new Court of Veterans Appeals. Having worked intimately with Jon over the past 13 years, this Senator thinks the time has

come to tell this body of the exceptional abilities that he possesses.

I can think of no person who is more conversant with both the issues and the laws affecting our Nation's veterans. I can think of no person who is more dedicated to ensuring that veterans receive the benefits to which they are entitled. I can think of no person with whom I have worked on the hill here who has been more helpful to this Senator in ensuring that Arizona veterans are fairly treated under the existing veterans benefits system.

Over the course of the past 13 years, I have come to respect Jon's enormous intellectual abilities and his love for the law. The combination of Jon's abilities and long professional experience in the area of veterans affairs makes him an ideal person to fill the position for which he has been nominated. I compliment Secretary Derwinski for making this recommendation to the White House, and I compliment the President for choosing someone of this character and ability.

I am very saddened and I am tired of what I consider to be the behind-the-scenes shenanigans of those who may be trying to derail this nomination. Venal and vindictive attempts to destroy Jon's reputation are unworthy. I do not know where they come from, but they continue to appear in the press. I think it is most unfortunate.

Jon has worked, I am advised, on veterans' issues for almost 20 years. He is a veteran, indeed, of this body. He has been tireless. He has bent over backwards on many occasions to assist with this Senator's needs. I know he has done the same for many other Senators.

The distinguished chairman of that committee has just come in and we will hear from him just how important Jon has been to the entire committee.

This Senator personally knows of occasions on which Jon has taken the time to call the Director, to talk to veterans groups in my State.

So, it is with a great deal of pride and pleasure on my part to see his name before the Senate Veterans' Affairs Committee for confirmation. But I am very saddened to see derogatory remarks about him and what appear to be some efforts to send this nomination back.

This would be a tragedy, not only to the system but to Veterans' Administration and the court he would serve on because he is so suited for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from California [Mr. CRANSTON].

## JON STEINBERG

Mr. CRANSTON. I first want to thank Mr. DECONCINI, the ranking majority member on the Veterans' Affairs Committee, for remarks he just made about Jon Steinberg and the situation swirling around him. Jon Steinberg was one of the first people I employed when I came to the Senate over 21 years ago. I think it is one of the wisest personnel choices I ever made.

He has been responsible for veterans affairs ever since. He has been the principal staffer in the Senate on veterans matters. He is presently the chief counsel of the Veterans' Affairs Committee.

I believe that he knows more about veterans' law and more about veterans' needs, more about veterans' problems, as they relate to the law under Government programs, than any other person, not only in Washington, but in the entire country. He is brilliant. He is a very, very fine attorney. He would make a marvelous judge.

He served as a clerk to then-Judge Warren Burger of the U.S. Court of Appeals for the D.C. Circuit, who later served as Chief Justice of the United States. He served as the Deputy General Counsel of the Peace Corps with Sergeant Shriver in the Kennedy days. He has a quite remarkable background. He would be a truly great judge with total understanding of the law and compassion for those who become embroiled in its processes.

I have looked at all the documents that are available at the time a nomination is submitted to the Senate, as Jon Steinberg's was a few days ago. There is absolutely nothing in any of those documents that would cause anyone to have any doubts about the wisdom of the nomination. It was delayed almost endlessly for rather mysterious and unknown reasons. Eventually, it was submitted just a few days ago.

Then a rumor yesterday that it was about to be withdrawn, and there was some evidence that that was under consideration at the White House. I think there is no doubt about the fact that it was.

The law provides that the new Court of Veterans Appeals, on which Jon Steinberg has been nominated to serve, will be almost evenly divided as to its membership between nominees emanating from the Democratic Party and the Republican Party, and no one party is supposed to have more than a one-member advantage over the other party.

Thus, Jon Steinberg is a Democratic nominee. I would certainly consider it a very unfriendly act, and an intolerable act, if the nomination were withdrawn at this time, for no apparent reason that relates to Jon Steinberg.

My impression is that he is caught up in some other affair that has no relationship to him, no relationship to me, no relationship to veterans' affairs. I do not understand the situation, and I have been unable to ascertain exactly why there is difficulty, but I have been told that it does not relate to the qualifications of Jon Steinberg. His qualifications are great.

It is unfortunate that this situation leads to speculation in the press and some statements in the press that cast some aspersions on Jon Steinberg. He is an outstanding public servant. He will be an outstanding member of the bench. I think he is highly qualified to serve in even higher posts than the one for which he has been nominated, such as on the Federal bench in just about, I would say, any capacity.

I trust the nomination will not be withdrawn by the White House. I know that there is overwhelming support for Jon Steinberg on the Veterans' Affairs Committee on both sides of the aisle, from those who know and respect his brilliance, his dedication, his energy, his hard work. He has a broad vision, but he also is able to dot every i and cross every t.

Often, he stayed up all night before markups in the Veterans' Affairs Committee to make sure everything was in perfect order, and that every base that should be covered had been covered. It would be a tragic loss for the veterans of America were he denied this opportunity to serve on the Court of Veterans Appeals. It would be a tragedy in the life of a remarkable American who has served his country with distinction and who is fully entitled to the post for which he has been nominated by the President.

I trust that the White House will not yield to whatever pressures are being put upon them to withdraw this nomination, and that it will remain now in the custody of the Senate for our deliberations and for our decision as to what do do about the nomination.

I am very confident the Veterans' Affairs Committee, under those circumstances, would report him with an overwhelming vote and that he would be approved overwhelmingly by the Senate with votes from both sides of the aisle.

I would really be outraged if the White House took a step that would be so damaging to Jon Steinberg and so damaging to veterans, depriving them of the service of this remarkable man for reasons that have no relationship to the Court of Veterans Appeals, apparently, and no relationship to the qualifications of Jon Steinberg.

I will be watching with great interest as the next steps unfold in this matter.

## ORDERS FOR MONDAY, MAY 21, 1990

RECESS UNTIL 1 P.M.; MORNING BUSINESS; PROCEED TO THE CONSIDERATION OF S. 1970, THE OMNIBUS CRIME PACKAGE

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it

stand in recess until 1 p.m. on Monday, May 21; and that following the time for the two leaders, there be a period for morning business not to extend beyond 1:30 p.m., with Senators permitted to speak therein for up to 5 minutes each; I further ask unanimous consent that at 1:30 p.m. the Senate proceed to the consideration of Calendar Order No. 422, S. 1970, the omnibus crime package; and that on Monday, when S. 1970 is considered, there be debate only, and that no amendments or motions be in order.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

## RECESS UNTIL MONDAY, MAY 21, 1990, AT 1 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess.

Thereupon, at 1:46 p.m., the Senate recessed until Monday, May 21, 1990, at 1 p.m.

## NOMINATIONS

Executive nominations received by the Senate May 18, 1990:

### THE JUDICIARY

MICHAEL BOUDIN, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA VICE JOHN H. PRATT, RETIRED.

### FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

EMILIO IODICE, OF VIRGINIA
JAMES A. MOORHOUSE, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

KEVIN BRENNAN, OF CALIFORNIA
ROBERT KOHN, OF MARYLAND
KENNETH MOOREFIELD, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED PERSON OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR APPOINTMENT AS CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR REAPPOINTMENT IN THE FOREIGN SERVICE AS A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND A CONSULAR OFFICER AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

W. WAYNE MCKEEL, OF VIRGINIA

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF AGRICULTURE

ALLAN P. MUSTARD, OF WASHINGTON
GRANT A. PETTRIE, OF OHIO
MARK S. SLOAN, OF VIRGINIA
ROGER A. WENTZEL, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

VIRGINIA M. HOLTE, OF CALIFORNIA
BETTY HARRIET MCCUTCHAN, OF TEXAS

### DEPARTMENT OF AGRICULTURE

CHARLES A. BERTSCH, OF VIRGINIA
DARYL A. BREHM, OF VIRGINIA
ANDREW C. BURST, OF MISSOURI
CAROL M. CHESLEY, OF MARYLAND
STAN A. COHEN, OF VIRGINIA
ROBERT H. CURTIS, OF VIRGINIA
LAWRENCE D. FUELL, OF WASHINGTON
RALPH B. GIFFORD, OF MARYLAND
JONATHAN P. GRESSEL, OF FLORIDA
PATRICIA M. HASLACH, OF OREGON
DAVID B. HEGWOOD, OF TEXAS
HOLLY S. HIGGINS, OF IOWA
MAURICE W. HOUSE, OF OKLAHOMA
STEPHEN M. HUETE, OF MARYLAND
DAVID C. MILLER, OF VIRGINIA
PHILIP A. SHULL, OF OHIO
MARGARET K. TING, OF FLORIDA
ELLEN L. WOLANER, OF FLORIDA

### DEPARTMENT OF COMMERCE

RENATO L. DAVIA, OF TEXAS
DANIEL D. DEVITO, OF WASHINGTON
CAMIILLE E. SAILER, OF PENNSYLVANIA
NORA SUN, OF CALIFORNIA

### U.S. INFORMATION AGENCY

MAGDA SELIM SIEKERT, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

DAVID WAYNE ABELL, OF ARKANSAS
BERYL LEONE BENTLEY-ANDERSON, OF MARYLAND
PAUL DOUGLAS BIRDSALL, OF FLORIDA
HENRY LOUIS BISHARAT, OF CALIFORNIA
KATHRYN ANN CABRAL, OF FLORIDA
SANDRA J. CECCHINI, OF FLORIDA
SANDRA ELAINE CLARK, OF NEW YORK
ANNE ELIZABETH CLAUSING, OF TENNESSEE
IRENE POSNER COHN, OF CALIFORNIA
CHERYL EILEEN COVIELLO, OF FLORIDA
PAUL W. DAVIS-JONES, OF NEW YORK
LIANE RENEE DORSEY, OF NEW YORK
SARAH F. DREW, OF CALIFORNIA
DAVID RICHARD FETTER, OF MARYLAND
NANCY IZZO JACKSON, OF NEW JERSEY
RICHARD MICHAEL JARVIS, OF WASHINGTON
ELISE H. KLEINWAKS, OF NEW YORK
DOUGLAS ROBERT KRAMER, OF MINNESOTA
KATHLEEN H. B. MANALO, OF VIRGINIA
LARRY L. MEMMOTT, OF UTAH
RICHARD H. RILEY, IV, OF GEORGIA
PAULA SUE THIEDE, OF TEXAS
MICHAEL M. UYEHARA, OF TEXAS
MARGARET MARY WILLINGHAM, OF VIRGINIA
CHRISTOPHER S. WILSON, OF KANSAS
JULIE BASTIAN WINN, OF FLORIDA
TIMOTHY PATRICK DE SAN RAFAEL ZUNIGA-BROWN, OF NEVADA

### DEPARTMENT OF COMMERCE

WILLIAM N. CENTER, JR., OF MARYLAND
JOAN H. EDWARDS, OF PENNSYLVANIA
THOMAS M. KELSEY, OF CONNECTICUT
CHARLES M. REESE, OF CALIFORNIA
ALAN R. TURLEY, OF CONNECTICUT

### U.S. INFORMATION AGENCY

DAVID R. FARRAR, OF CONNECTICUT
JOHN WILLIAM FINN, OF MASSACHUSETTS
GARY P. KEITH, OF OHIO
NEIL R. KLOPFENSTEIN, OF IOWA
DAVID MEES, OF MASSACHUSETTS
RICHARD MEI, JR., OF FLORIDA
WILLIAM J. MILLMAN, III, OF CALIFORNIA
RACHEL NORNIELLA, OF FLORIDA
ROBERT WILLIAM OGBURN, OF MARYLAND
JOY E. WHITE, OF OHIO
BARBARA ANNE ZIGLI, OF VIRGINIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE AND THE UNITED STATES INFORMATION AGENCY TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

RICHARD HUGH ADAMS, OF CALIFORNIA
ASPEN LOREE AMAN ARVANDI, OF MARYLAND
BRIAN D. BACHMAN, OF VIRGINIA
TAMARA K. BAIRD, OF COLORADO
CLARE ALISON BARKLEY, OF MARYLAND
GERALD J. BEAULIEU, OF THE DISTRICT OF COLUMBIA
WILLIAM BELLIS, OF TEXAS
MICHAEL DAVID BOMBERGER, OF VIRGINIA
DONALD SCOTT BOY, OF MASSACHUSETTS
JUDITH L. BRYAN, OF TEXAS
MARTHA BUCKLEY, OF PENNSYLVANIA
BRENT D. BYERS, OF VIRGINIA
MARK CANNING, OF WASHINGTON
KELLY SCOTT CECIL, OF OKLAHOMA
NATHANIEL DABNEY CHAPMAN, II, OF VIRGINIA
JENNIFER APPLETON CLARK, OF CALIFORNIA
MELISSA E. CLEGG, OF CALIFORNIA
KATHARINE MCCALLIE COCHRANE, OF VIRGINIA
GEORGE C. DAHAN, OF VIRGINIA
JASON DAVIS, OF ALASKA
KEES C. DAVISON, OF NEW YORK
GERALD A. DENION, OF NEW JERSEY
GORDON KENNEDY DUGUID, OF ILLINOIS
TERRENCE JAMES DUNN, OF VIRGINIA
JORDANA DYM, OF MASSACHUSETTS
SUSAN MARSH ELLIOTT, OF CONNECTICUT
ANDREW S. E. ERICKSON, OF CALIFORNIA
TIMOTHY L. FORSYTH, OF OREGON
JOSE ANGEL FOURQUET, OF PUERTO RICO
CHARLES W. FROST, OF VIRGINIA
JANICE BRADLEY GARDNER, OF MARYLAND
AMADO GAYOL, OF FLORIDA
ELAINE CYGNAROWICZ GLASENAPP, OF VIRGINIA
MARY C. GORDON-SMITH, OF MARYLAND
PATRICIA ANN GREGORY, OF WASHINGTON
MARY THERESE BUTLER GUDJONSSON, OF MINNESOTA
DAINA INGEBORG HELD, OF VIRGINIA
GUILLAUME L. HENSEL, OF THE DISTRICT OF COLUMBIA
DAVID HORNBERGER, OF TEXAS
CHARLES F. HUNTER, OF CALIFORNIA
JEAN F. HUPTICH, OF VIRGINIA
MARILYN P. JAQUAY, OF VIRGINIA
NATALIE ANN JOHNSON, OF ARIZONA
ELIZABETH JANE JORDAN, OF MARYLAND
KEITH C. JORDAN, OF OHIO
MARK W. JULIAN, OF VIRGINIA
LAWRENCE J. KAY, OF IOWA
KEREN A. KAYES, OF VIRGINIA
ANTHONY KLIMKIEWICZ, OF CALIFORNIA
NANCY LANGLEY, OF VIRGINIA
JOHN CHARLES LAW, OF WEST VIRGINIA
BONNIE PENFOLD LEACH, OF VIRGINIA
CARYN ELISABETH LINDSAY, OF MINNESOTA
STEPHEN M. LISTON, OF CALIFORNIA
MICHAEL LUK, OF VIRGINIA
NANCY J. LUNDE, OF VIRGINIA
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SCOTT BRIAN TICKNOR, OF VIRGINIA
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TERRY JOHN WHITE, OF CALIFORNIA
DENISE ANN URS, OF TEXAS
MICHAEL K. YEN, OF CALIFORNIA

CONSULAR OFFICER OF THE UNITED STATES OF AMERICA:

JOHN BREIDENSTINE, OF PENNSYLVANIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 12, 1986:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

LANGE SCHERMERHORN, OF NEW JERSEY

### IN THE AIR FORCE

THE FOLLOWING STUDENT OF THE UNIFORMED SERVICES UNIVERSITY OF HEALTH SCIENCES CLASS OF 1990, FOR APPOINTMENT IN THE REGULAR AIR FORCE, EFFECTIVE UPON HIS GRADUATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 2114, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

ROBERT A. SCHMITZ, xxx-xx-xxxx

THE FOLLOWING CADETS, UNITED STATES AIR FORCE ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 9353(B) AND 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

BARRY D. BROWN, xxx-xx-xxxx
MICHAEL E. CALTA, xxx-xx-xxxx

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR AT THE UNITED STATES MILITARY ACADEMY UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 4333(B):

DANIEL J. KAUFMAN, xxx-xx-xxxx

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

WILLIAM S. AITKEN, xx...
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THOMAS K. SUDBECK, xx...
CATHERINE L. SULLIVAN, xx...
MARTIN J. SULLIVAN, xx...
JOHN C. SUMNER, xx...
SUSAN G. SWEATT, xx...
PETER J. TALLERI, xx...
MICHAEL G. TANNER, xx...
WILLIAM E. TAYLOR, xx...
JEFFERY G. TEGZES, xx...
JOHN A. TERRELL, xx...
JEFFREY A. TERRY, xx...
DAVID G. THOMPSON, xx...
ROBERT L. THOMPSON, xx...
DONALD J. THORNLEY, xx...
TIMOTHY L. THORSON, xx...
DAVID H. TIERNEY, xx...
CHRISTOPHER M. TILTON, xx...
SHANE W. TIPPETT, xx...
BRADLEY J. TOYNBEE, xx...
DWIGHT E. TRAFTON, xx...
RAYMOND R. TROMBADORE, JR, xx...
ROBERT S. TROUT, xx...
MICHAEL V. TRUJILLO, xx...
JANE E. TRUSKEY, xx...
ROBERT J. TURNER, JR, xx...
PETER T. UNDERWOOD, xx...
DIRK J. VANGEISON, xx...
HENRY G. VANWINKLE, II, xx...
GREGORY J. VAUGHAN, xx...
STEVEN E. VEYNA, xx...
BRIAN J. VINCENT, xx...
DAVID A. VINSON, xx...
MICHAEL J. VOHASKA, xx...
RODERICK K. VONLIPSEY, xx...
BLAINE D. VORGANG, xx...
GLENN L. WAGNER, xx...
ROBERT P. WAGNER, III, xx...
LEE A. WAKEFIELD, xx...
ALAN W. WALLACE, xx...
EDWARD M. WALSH, xx...
ROBERT S. WALSH, xx...
DAVID L. WALTER, xx...
GLENN M. WALTERS, xx...
ROLAND B. WALTERS, xx...
DONALD D. WARMKE, xx...
GARY A. WARNER, xx...
PATRICIA F. WARREN, xx...
KENNETH L. WARTICK, xx...
JAMES S. WASEK, xx...
JAMES T. WASLEY, JR, xx...
DAVID J. WASSINK, xx...
DREW M. WATSON, xx...
STEPHEN L. WATTERS, xx...
MICHAEL K. WEBB, xx...
MICHAEL M. WEBER, xx...
STUART D. WEINSTEIN, xx...
AARON E. WELCH, xx...
JAMES L. WELSH, xx...
ANTHONY J. WENDEL, III, xx...
GARY R. WENTZ, xx...
RICHARD B. WERNER, xx...
RICHARD L. WEST, xx...
WILLIAM G. WEST, xx...
MARTIN M. WESTPHAL, xx...
DERMOT C. WHELEHAN, xx...
CHARLES M. WHITE, xx...
GLEN WHITE, xx...
BRUCE A. WHITEHOUSE, II, xx...
ROBERT A. WIEDOWER, xx...
ROBERT A. WILKINS, xx...
GREGORY K. WILKINSON, xx...
DAVID R. WILLIAMS, xx...
HARVEY B. WILLIAMS, III, xx...
THOMAS E. WILLIAMS, JR, xx...
SEDGWICK A. WILLINGHAM, xx...
JEFFREY R. WILLIS, xx...
GARY L. WILLISON, xx...
DAVID L. WILSON, xx...
PATRICK T. WILSON, xx...
RONALD W. WILSON, xx...
TIMOTHY B. WILSON, xx...
FRANK B. WOLCOTT, I, xx...
ALAN M. WOMBLE, xx...
YAN C. WONG, xx...
MICHAEL D. WOODMAN, xx...
RANDALL B. WORMMEESTER, xx...
DAVID M. WUNDER, xx...
MICHAEL P. WYNN, xx...
DAVID M. YADDOW, xx...
ALEC F. YASINSAC, xx...
LON M. YEARY, xx...
DENNIS J. YECKE, xx...
DERWIN G. YEE, xx...
PETER E. YOUNT, xx...
RONNY L. YOWELL, xx...
CHRIS YUNKER, xx...
DOUGLAS P. YUROVICH, xx...

## CONFIRMATION

Executive nomination confirmed by the Senate May 18, 1990:

### GENERAL SERVICES ADMINISTRATION

RICHARD G. AUSTIN, OF ILLINOIS, TO BE ADMINISTRATOR OF GENERAL SERVICES.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

# SENATE—*Monday, May 21, 1990*

*(Legislative day of Wednesday, April 18, 1990)*

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

## PRAYER

The PRESIDENT pro tempore. As we prepare to reverence our God, our Shelter, and our Shield, the prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *but my people have changed their glory for that which doth not profit.* * * * *For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.*—Jeremiah 2:11,13.

Merciful God, perfect in love, grace, and patience, forgive our thoughtless indifference and renew in us the spiritual and moral roots upon which our national greatness was built. We have seen the total bankruptcy of atheism as policy after a 70-year experiment. For 200 years we have enjoyed a system conceived in the minds and hearts of those who took God seriously. We profess to believe in Thee, but we behave as though we do not. We operate as though Thou art either nonexistent or unnecessary. We forsake Thee by our indifference, while we pursue ways that are contrary and meaningless.

In the words of Jeremiah, we have changed our "glory for that which doth not profit." We have forsaken * * * the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water."

In His name who is the Way, the Truth, and the Life. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. Under the order, the majority leader or his designee will be recognized.

## THE JOURNAL

Mr. GLENN. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## SCHEDULE

Mr. GLENN. Mr. President, following the time for the two leaders today, there will be a period for morning business not to extend beyond 1:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

At 1:30 today, the Senate will begin consideration of S. 1970, the omnibus crime package. During today's consideration of the measure, there will be debate only. No amendments or motions will be in order.

## RESERVATION OF LEADERSHIP TIME

Mr. GLENN. Mr. President, I ask unanimous consent that the time for the majority and minority leaders be reserved for their use later today.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

## MASSACHUSETTS ASSOCIATION OF PRIVATE CAREER SCHOOLS

Mr. KENNEDY. Mr. President, in the last few years we have heard a great deal about private career schools and the education they do, or do not, provide their students. With all the negative publicity these schools have received, it is easy to get the impression that nothing is right in this corner of the postsecondary education universe.

That is not an accurate picture. The important fact is that most private career schools do a very good job and that thousands of students receive a high quality education in these institutions every year. The actions of unscrupulous schools should not blind us to the success stories that are commonplace.

The Massachusetts Association of Private Career Schools [MAPCS] is an organization that represents high quality, accredited career schools in my State. One of the important activities of this organization is its annual awards dinner that recognizes outstanding students from its member schools. The students honored at this event have been nominated by their institution and are saluted for their academic excellence, outstanding professional potential or devoted service to school and community.

The 1989-90 awards dinner was held on May 1, 1990 at the Pier Four restaurant in Boston. Twenty-one students were honored. Mr. President, the stories behind these awards are inspiring. They often represent a triumph over incredible adversity. The students honored this year struggled to attend school and succeeded despite challenges such as physical disabilities, financial hardship, single parenthood and cultural barriers. The honorees include recent immigrants from the Soviet Union, Cambodia, and Jamaica. The only common thread in all of these cases is a commitment to excellence.

The students who were recognized this year, and the schools they attended, are:

Joan Evans, of Mattapan; Taunton; Blaine Hair and Beauty School, Boston;

Roger Andrews, of New Bedford, Butera School of Art, Boston;

Doi Ngoc Le, of East Boston; Boston Technical Center, Inc., Boston;

Robin McGeer, of Holland; Rob Roy Beauty Sciences Academy of Worcester;

Chanvanna Khem, of Lowell; RETS Electronics School, Boston;

Rita de Cassia dos Santos, of New Bedford; Kinyon-Campbell Business School, New Bedford;

Kenneth Lavine, of Wilmington; East Coast Aero Technical School of Lexington;

Al Jackson, of Lynn; Wentworth Technical School, Waltham;

Eleanor Mooney, of Stoneham; Computer Learning Center, Somerville;

Laura Smigelski, of Groton; Andover Tractor Trailer School, Methuen;

Samir Makhlouta, of Lynn; TAD Technical Institute, Chelsea;

Joyce Maggiore, of Weymouth; Travel Education Center, Cambridge;

Daniel Sousa, of Hyde Park; Bay State School of Appliances, Hyde Park;

Amy McCrory, of South Boston; the Hickox School, Boston;

Alicyn Barteaux, of Lynn; Pedigree Career Institute, Lynn;

Bonnie Caruthers, of Boston; Women's Technical Institute, Boston;

Linda Parker, of Dayville, CT; Dudley Hall Career Institute of Worcester;

Wanda Rudolph, of Shirley; Henri's School of Hair Design, Fitchburg;

M.J. Michaud, of Worcester; Bancroft School of Massage Therapy, Worcester;

Anna Kaganzky, of Acton; Lowell Academy Hairstyling Institute, Lowell;

Edward Samelot, of Taunton; New England Tractor Trailer Training School, Brockton.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, it is impossible for us to predict what roads these students will take in the future. But one thing we know is that the commitment, perseverance, and excellence that they demonstrated as students will help them reach their career and personal goals. I salute each of them. In addition, I commend MAPCS for putting this event together and honoring these outstanding men and women.

## NAMIBIAN FOREIGN MINISTER GURIRAB

Mr. KENNEDY. Mr. President, I recently had the honor of meeting a distinguished representative of the world's newest democracy, the Foreign Minister of Namibia, Theo-Ben Gurirab.

While many around the world may be captivated by the dramatic events in Eastern Europe, we must also recognize the extraordinary achievements of the people of Namibia in their struggle for freedom.

After more than a century of control by foreign powers, the last vestiges of South African colonialism have been swept away. And that triumph is a shining tribute to the courage and determination of the Namibian people.

We all rejoice in the culmination of that struggle with the formal admittance of Namibia as a full member of the United Nations on April 23, 1990.

Foreign Minister Gurirab is no stranger to the United States—or to the struggle for freedom in Namibia.

America can take a special pride in the shining accomplishments of Minister Gurirab—for much of his commitment to justice was nurtured here in the United States by our own civil rights movement.

As his people's representative at the United Nations for many years, he carried their message of hope to the people of the United States and across the world.

Many of us in the United States supported your struggle over the years and we join together with you today in pledging to lend our support again as you build your new nation.

As a first step, the United States Congress is considering an emergency bill which includes $10 million for Namibia. But we must do much more to develop a strong and mutually beneficial relationship with this new nation.

You have much of which to be proud—in fact your example has already been cited as a possible approach to the crisis in Cambodia.

Let me extend a warm welcome to Minister Gurirab, a sincere congratulations to the people of Namibia for their democratic triumph and a hearty embrace to the newest addition to the family of democratic nations—Namibia.

## TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,892d day that Terry Anderson has been held in captivity in Beirut.

## JIM HENSON

Mr. MOYNIHAN. Mr. President, it was Plato's belief that "early education," as he puts it, should "be a sort of amusement."

Jim Henson did not set out to teach, simply to amuse. As it happens, he did both. And with unprecedented success.

This country will miss him; indeed the world will. But his unique contribution will continue, for as Henry Adams said, "A teacher affects eternity; he can never tell where his influence stops."

## STATEMENT ON THE NOMINATION OF RICHARD AUSTIN TO BE THE ADMINISTRATOR OF THE GENERAL SERVICES ADMINISTRATION

Mr. THURMOND. Mr. President, last Friday, Mr. Richard Austin was confirmed by the Senate as Administrator of the General Services Administration. I was pleased to support his nomination.

Since 1988, he has served as Acting Administrator of the GSA and has rendered very able service to the Nation. Additionally, his experience as former Deputy Administrator and former Regional Director of GSA should serve him well as Administrator. As Deputy, he assisted the Administrator in the direction and implementation of all aspects of the programs and responsibilities of the agency. As Regional Administrator, he was responsible for all GSA operations in Illinois, Michigan, Wisconsin, Minnesota, Indiana, and Ohio. His work in both of these areas—the central office and the field—will be valuable as he oversees supply procurement, property management, telecommunications, data processing, and the other work of GSA.

Mr. President, I have worked with Dick Austin and his staff and I have found him to be of great assistance and very dedicated to his work. One example is his assistance in clarifying the delegation of long-term lease authority for medical research to the Department of Veterans Affairs. Through such delegation, the VA may enter into lease arrangements for much-needed medical research.

In addition, Dick Austin has demonstrated his leadership in the current GSA efforts to provide new headquarters for the Environmental Protection Agency, the Department of Transportation, and the Department of the Navy. He is to be credited with waging the effort to secure the authority and funding for these new projects. Providing a healthy, safe, and comfortable environment is not only a responsibility of the Federal Government as an employer, but also such considerations can lead to increases in productivity, job satisfaction, and morale.

Again, Mr. President, I was pleased to support this nominee and I look forward to working with him as Administrator.

## TRIBUTE TO LT. COL. ARPAD SZURGYI

Mr. WARNER. Mr. President, I salute today a truly professional soldier on the occasion of his departure from the Office of the Army's Deputy Chief of Staff for Personnel, where he served as the congressional affairs contact officer.

Lt. Col. Arpad Szurgyi enlisted in the Army in 1966. He served as an enlisted man before going to Officer Candidate School and Army Flight School, where he was trained to fly both fixed and rotary wing aircraft. During his tour in Vietnam at the height of the war, he frequently saw extreme levels of combat.

Since then, Colonel Szurgyi has served in positions of increasing responsibility in commands within the United States and overseas. Since December 1988, he has been assigned in the Pentagon as the congressional affairs contact officer.

Throughout his assignment, Colonel Szurgyi provided a vital link and served at the conduit of information between the Army and the U.S. Congress in the ever-important areas of Manpower and Personnel during a period critical to our Nation's defense.

Colonel Szurgyi ensured that information and justification was provided the Congress to permit the enactment of legislation that impacted favorably on the Army's ability to manage the force, maintain readiness and improve the quality of life of America's soldiers and their families.

He can be most proud of the selfless contributions he has made to the overall improvement of the Army—an Army that will, no doubt, miss his superlative and dedicated service in its continuing relations with the Congress.

As he goes forward to his next position in Europe, he does so confident of success and continued good fortune. Most significantly, Colonel Szurgyi takes with him the well earned respect of his subordinates, peers and superiors alike, as well as the sincere thanks of a grateful nation.

## THE SITUATION IN KASHMIR

Mr. MOYNIHAN. Mr. President, events in the Indian state of Jammu and Kashmir have gone from bad to

worse. Although the leaders of both India and Pakistan have repeatedly stressed their desire to avoid war and are making efforts to keep lines of communication open, tensions are rising nonetheless. Today we may well have what the economist aptly described as "The makings of a bloody, old-fashioned war." These are large and well-armed nations and their troubled relations since independence provide little comfort. In the 25 years following the United Kingdom's withdrawal from the subcontinent India and Pakistan fought 3 wars, 2 of which were related to the situation in Kashmire.

We should be greatly concerned by this situation, not only out of a humanitarian concern over the potential loss of life, but also because India and Pakistan together constitute the largest concentration of citizens governed by democratically elected representatives in the world. Indeed. India alone is the largest democracy in the world. Today, both nations are under great stress.

And there is the nuclear issue. That too must be considered. Today we are struggling—not alone in South Asia—with the deadly irony of seeing nuclear confrontation between the global superpowers replaced by the dread possibility of the use of weapons of mass destruction by developing nations.

The United States is not just interested in this matter; it also bears some responsibility. We have become involved, largely through our substantial assistance, including military assistance and sales, to the government of Pakistan. We also owe great thanks to the Pakistani people for their cooperation with the United States in assisting the Afghan Majahadeen and the literally millions of refugees who were displaced by the Soviet invasion of their country. That tragedy continues despite the Soviet withdrawal, as does our cooperation with the newly democractic government of Pakistan.

Of late terrorism has come to Kashmir. Radical Kashmiri separatists have turned to kidnapping and murder to achieve their goals. Hindu refugees from Kashmir have poured into nearby states. Indian troops have sometimes over-reacted to provocations and protests. Abuses have occurred. In consequence of which, rhetoric has become heated.

Yet we must be most emphatically clear on one point. The United States will oppose offensive military operations by either side. The people of the United States have assisted Pakistan because it is at a strategic crossroad in a troubled region. Bordered on the North and West by the Soviet Union and Afghanistan respectively, Pakistan had a claim on our attention and assistance. But the weaponry the United States had provided to Pakistan was provided for defense purposes only. There should be no mistake that the Congress of the United States would accept or continue to support with spare parts or other assistance—including diplomatic—the use of United States aid for offensive purposes.

It should be equally clear that the United States Congress would oppose any offensive operations by India.

War between these two nations would be the very height of folly. Temptations abound without doubt. Both sides doubtless have grievances. Both sides view events in Kashmir with alarm and concern. The United States has helped the Government of Pakistan create a powerful, well-equipped military. At the same time, India's population vastly exceeds even the 110 million people in Pakistan.

This conflict arises at a time when the United States is already reexamining its foreign aid priorities. In last Thursday's New York Times Elizabeth Martella argued that Congress needs to "take a new look at foreign aid, which is still addressing cold war concerns." The same day the Washington Post noted that Pakistan is the fifth largest United States aid recipient, "ostensibly for defense against a Soviet army that no longer threatens it from neighboring Afghanistan." The message should be clear. The Congress will be scrutinizing each foreign aid dollar as never before. Aid will not be provided to nations which begin wars.

The President has wisely decided to send a party of senior officials, headed by Deputy National Security Adviser Robert M. Gates, to the region to make our concerns known. The Senate wishes them every success, and urges our friends in both India and Pakistan to hear them out with close attention. Perhaps especially the Pakistanis. For it appears to this Senator that the military in Pakistan could make a dreadful miscalculation. Pakistan's situation is difficult enough. There are still more than 3 million Afghan refugees living in Pakistan. The Afghan situation is, if anything, deteriorating. Bitter divisions within the Mujahadeen forces have settled into fixed estrangement. No common front now exists. None is in prospect. Hence, the border there will continue to be a source of difficulty, if no longer immediate danger.

But to start a war over Kashmir would change everything and instantly so. For one thing, after the usual early successes that are not that difficult to achieve in modern warfare, the Pakistani forces would inevitably be defeated and possibly destroyed. A move into the Vale of Kashmir would be countered with a thrust into the Punjab. A dash for Karachi. The loss of the navy. Rebellion in Baluchistan. Chaos all round. Ruin all round. And above all, no sympathy, no assistance from anywhere save Beijing which is much too occupied with reestablishing relations with the Soviet Union to risk them over Pakistan.

The cold war is over. Anyone in Islamabad counting on playing that card will be sore disappointed. That fact is equally important for New Delhi. Should war break out on the subcontinent, there will doubtless be statements of solidarity and support from Moscow. But more?

And so I would plead with all the parties to observe the extraordinary evolution toward political peace in Central Europe, where a whole world has transformed itself without a shot being fire, save in the case of Rumania. After fighting three wars in less than 25 years, the leaders of India and Pakistan met in the Indian city of Simla and turned away from violent solutions to the conflict. In July 1972 Indian Prime Minister Indira Gandhi and Pakistani President Ali Bhutto met and signed the Simla Agreement, committing the parties to pursue a peaceful settlement to the Kashmir problem. For the last 19 years the two nations have been at peace. I urge both nations to continue on the path of peaceful diplomacy which they began at Simla.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

## OMNIBUS CRIME BILL

The PRESIDENT pro tempore. Under the order previously entered, the Senate will now proceed to the consideration of Calendar Order No. 422, S. 1970, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. Under the order entered, no motions or amendments will be in order, only debate.

The Senator from Delaware [Mr. BIDEN] is recognized.

Mr. BIDEN. Mr. President, the Senate takes up the so-called crime bill, something that we have long awaited. As a consequence of a series of events that I will attempt to explain in a few moments, we have finally arrived at this moment.

Mr. President, S. 1970, the so-called vehicle that we agreed to use at the end of the last session in order to hopefully dispose of a number of contentious and not so contentious issues relating to the criminal justice system, is an omnibus crime bill which I introduced in November of last year. It addresses six topics.

I might add and emphasize that the six topics it addresses were all topics that the senior Senator from South Carolina and the senior Senator in the U.S. Senate and the ranking member of the Judiciary Committee and I agreed that we would address and that we would bring back to the Senate a single piece of legislation addressing these often—let me amend that—always contentious issues.

Those topics are the death penalty, habeas corpus, or habeas corpus reform depending on how you view that question, the exclusionary rule, firearms legislation, money laundering legislation, and reorganization of the Justice Department, in part, that the Senate, as I said, agreed by unanimous consent last year to take up this year.

Today, I would like to make some opening comments about the legislation, and I would like to divide my comments into three general areas.

First, I have some introductory observations about some of the controversy that has surrounded consideration of this bill. None of it goes to the merits of the bill, none of it goes to the essence of the debate, but it does go to, for a lack of a better phrase and to be perfectly honest about, the politically contentious elements of the debate where each side—and there are more than two sides, quite frankly—attempts to, in my view, gain political advantage by characterizing the other efforts on criminal justice legislation in manners and means that are not as flattering as they might want to be thought.

Second, I would like to talk about the provisions, the specific elements, of S. 1970.

Third, I would like to discuss the principal amendments that I intend to offer to the bill that has been laid down.

Fourth, I will make some comments on how we intend to proceed, hopefully—and I emphasize hopefully, for no one in this body, and I suspect no one in the history of this body knows more about the difficulty that can arise with contentious legislative initiatives in terms of the parliamentary maneuvers that can legitimately take place in this body to prevent or to allow one to move forward on consideration of specific items before this body. And so when I say I would like to make some comments on how we intend to proceed, I suspect some of those comments I am about to make may be filled with a hope and aspiration without any absolute certainty as to how we are likely to be able to proceed.

I would like to warn my colleagues that these remarks will be much more lengthy than I am accustomed to making on the floor of the U.S. Senate and this is so because I will not give a long speech when I offer my extensive amendments to the bill we have introduced, S. 1970, tomorrow.

Tomorrow, we hope to move through business quickly, without long speeches, because we have much work to do in order to finish this bill. Today was specifically designed for the ranking Member and myself and others who have a keen interest in this subject to be able to move not expeditiously but thoroughly through the provisions of the legislation we are about to debate.

As a result, I am going to combine two speeches into one set of remarks today—a speech today and a speech for tomorrow. As I said, I hope we can move quickly tomorrow.

Let us start with a recap of how we got where we are at this very moment because we have heard, in my view, too often, a good deal of rhetoric suggesting that the President's crime bill has been languishing in the Senate since last May. I think it is time to set the record straight, at least in my perspective as chairman of the Judiciary Committee.

Last May, the President unveiled an anticrime proposal. That proposal contained two distinct parts. One part contained five legislative proposals: on the death penalty, on habeas corpus, the exclusionary rule, firearms control, and drug testing for prisoners. And the second part of the proposal was for increases in law enforcement and prisons.

Congress got to work on this proposal right away, Mr. President. Amazingly, just 4 months later, the full Senate, through the leadership of the Presiding Officer of this body, had passed every single request in the second part of the President's crime package; that is, the funding for law enforcement, the teeth, the portion that will and has begun to make a difference in terms of making the streets safe for Americans. I need not tell the Presiding Officer, who is also chairman of the Appropriations Committee, how tortuous that process was, led by him. So we did, we did pass every single thing the President wanted in terms of law enforcement and much more.

Congress approved every penny asked for by the President's bill and then some. We gave him every DEA agent that he wanted, drug enforcement agent, every U.S. marshal that he wanted, every firearms agent he wanted, and on down the line. And we did not stop there. We gave him 20 percent more prison cells than he asked for because we felt they were necessary. We almost doubled the number of FBI drug fighters that he requested because we felt what he asked for was not enough to provide for the safety of the citizens of this country. And we doubled the number of Federal drug prosecutors because we felt that, in order to deal with these drug cases, we had to have people on the spot there prepared to prosecute these cases so they did not pile up and have people out on bail waiting for trial continuing to commit crimes.

And we did not stop there. We went further still and more than doubled the President's request that he made for the States, the requested aid for State and local agencies, we doubled that, Mr. President. We said to the President, we believe the increase you are asking for to help State and local law enforcement officers and State and local law enforcement agencies was good but did not go nearly far enough. So we doubled what the President asked for to fight crime. And that is what has been done already.

So I think we kind of, hopefully, put aside this sort of partisan bantering and hopefully not here about how the President's crime bill has been left to languish on Capitol Hill. It not only did not languish, Mr. President, it was strengthened; it was added to; it was made stronger; and it was moved rapidly. Most of his bill has already passed and it has been beefed up in the process.

What was left of the crime bill were five legislative proposals, all of which were important, but for the past 18 years that I have been here, have been debated extensively and will continue to be debated after we, hopefully, pass the crime bill before us. But, Mr. President, they are not the essence of a crime bill. They contain the death penalty, habeas corpus reform, exclusionary rule, firearms and drug testing for prisoners—a very small portion of that gigantic effort that was underway.

I might add, Mr. President, ask the police officers of America which they would have rather had, those five individual pieces or all that through your leadership we provided for them, and I will bet you anything they will say: What you gave us.

That does not mean we do not want more of this. I want more of this. The proposal I have introduced today and wrote increases the number of offenses that are punishable by the death penalty. It changes habeas corpus, which I think should be changed in the present system. It codifies the Supreme Court's decision on

the exclusionary rule. And it deals with taking off the streets assault weapons, which are being used to kill police officers.

There are not a lot of folks who have an AK-47 underneath their bed to protect against burglars. Some, maybe, but not many. There is kind of an interesting name for one particular rifle the manufacture of which the provision tries to ban. It is called a street sweeper. Is that not kind of interesting? How many people go out and sweep the streets with a weapon? It is designed to do nothing more than kill human beings. It is an assault weapon.

I hope we do something about assault weapons in this bill. I also hope we deal with the other provisions I have suggested here, without going into detail now.

But now, these items, the items that are left in the President's crime bill from back in May—broadening the death penalty, habeas corpus reform, exclusionary rule, guns and drug testing—now we will debate those items and resolve them one way or the other, as we should. But they have hardly been ignored, Mr. President. The President's crime bill has hardly been ignored.

The Judiciary Committee passed an assault weapons back in July, and the death penalty back in September. The full Senate passed drug testing for prisoners in October and our Judiciary Committee sent the habeas corpus reform bill to the floor in March. On all of these matters, Mr. President, we have had committee hearings. The administration's views have been heard, considered and/or rejected by our colleagues as they have seen fit and as the process is supposed to function.

I do not need to go into the details of why it has taken until now to come to the floor with a package dealing with the remaining matters from the crime bill. The majority leader laid all of this out last week in a speech on the Senate floor. But to summarize, we are here now because, by agreement between Democratic Senators and Republican Senators and the administration, earlier proposals to bring this legislation up were deemed ill-advised.

I want to emphasize that now, so we, hopefully, put this away. By agreement, Democratic leaders, Republican leaders, and the White House last year decided that we should wait until now to bring up these five remaining issues for the full Senate to consider them, for reasons I will not go into, some of them related to the speed with which the Senate could deal with other issues and whether this would impede it or not impede it; some related to the director deciding he would rather not have this brought up before his drug legislation was considered, some related to other things. But the end result was leadership in both parties in the Senate and the White House agreed we should put it off until now.

But the charges of delay endure. They came from the Vice President last week, when I was down to the dedication honoring those brave women and women in police forces who have fallen in the line of duty. Senator THURMOND and I were there, and other Members of this body. Frankly they disturbed me.

The time to play politics on this crime issue is over. We all know the story of the 1988 elections and the success that the issue had for some at that time. But now it is time to do something about crime and address the remainder of the agenda. Now it is time for bipartisan cooperation, for compromise on competing crime proposals, and for bipartisan action.

Despite my numerous suggestions of cooperation and offers to negotiate the crime bill with everything on the table, the administration has refused. They do not want to talk. Well, so be it. That is their prerogative. The best way to get something done, in my humble opinion, at least in the crime area, is the way ranking Republican, Senator THURMOND, and I have been able to do it over the years: agree on what we can agree on and bring it to the floor and get it done; what we cannot agree on, take it to the floor and debate it.

But the administration has not been very receptive to any real negotiation on the crime bill. They are not interested in compromise. At least that is how it seems to me. I hope it is not because they see more political gain in conflict over political gain in cooperation.

Take the death penalty proposal, for example. Since last September the administration has been calling for the death penalty for drug kingpins. How many times have you heard that, coming from our President and others? "I want the death penalty for drug kingpins." But the law has been on the books since November of 1988 and the administration has failed to use it one single time.

The law, through your leadership and the leadership of the Senator from the State of South Carolina, and with my support, provides for death for drug kingpins. And we define what drug kingpins are. There is no real disagreement that I am aware of between us and the administration and the Senate. Yet, it has been on the books, Mr. President, and not one single time, to the best of our knowledge, has the Justice Department used it. Yet, I hear constantly, constantly: "We want the Senate to move on death for drug kingpins."

I wish, respectfully, the President would get a new speech writer because the speech writer obviously does not know—and I have had trouble with speech writers so I understand it—does not know what is in the law.

Mr. President, why the administration did not even ask for the death penalty for a single case until just 2 week ago is beyond me; yet the rhetoric continues. The President calls for death penalty for drug kingpins but his crime bill does not contain a single provision, not one, expanding the death penalty in drug cases—the crime bill he keeps referring to.

It was not until last week—I emphasize last week, Mr. President—that the administration submitted to Congress any proposal for broadening the 1988 death for drug kingpins law, a law which, as I said a moment ago, the administration has failed to use yet.

Let us end the partisan games and deal with the crime issue. If the administration wants to make the issue partisan, then we are ready. Democrats come to the Senate floor with a tough anticrime proposal, with proposals we are prepared to put before the American people for their consideration and their support. But I speak for all my colleagues on this side of the aisle when I say we offer cooperation rather than bickering. We would rather work together and pass a tough crime bill than jockey for political advantage on the issue. We would prefer to work together jointly to do something to fight crime rather than to waste time fighting each other on the Senate floor.

Let us take a look at the bill before us, S. 1970.

With that introduction, I would like to turn to specifics in the bill. In a speech delivered in Kansas City on this bill the President called this bill, S. 1970, a sheep in wolf's clothing. Well, I regard this as somewhat fascinating. But if the President wants to trade barbs, I have decided from this moment on I am out of the business of doing that. There is enough to do up here rather than respond, even as we speak. The fact of the matter is that at the time I responded by saying something to the effect that this bill is not a sheep, but it is a wolf with teeth.

I stopped and thought about that. Here the President is talking about a sheep in wolf's clothing, and I am talking about a wolf with teeth. It all sounds neat, I thought to myself when I went home. The police were kind enough to have a little testimonial for me at home. My law enforcement agencies in the State of Delaware are law enforcement agencies. I thought about it. These men and women are walking out on the street every day putting their lives on the line. A sheep in wolf's clothing or a wolf with teeth, I did not want to hear any of that.

They say: What are we going to do? Are you going to pass something, Joe? Are you going to get something done?

That is what I hope we can do. These are the exact same offenses covered by the President's crime bill, S. 1225, and Senator THURMOND's bill, S. 1971, the exact same, exact same offenses. So I find it difficult to figure out how one is a sheep and the other is a wolf, but let us put it aside.

Let me speak about the death penalty. Title I of S. 1970, the bill I introduced, provides for the largest single expansion of the Federal death penalty in terms of number of offenses in our history—30 Federal offenses for which death is currently unavailable as a punishment would be punishable by death if the bill we discuss today, S. 1970, passes.

I ask unanimous consent, Mr. President, that the full list of the 30 offenses be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

DEATH PENALTY OFFENSES AFFECTED UNDER S. 1970 AND S. 1971

I. FEDERAL OFFENSES FOR WHICH THE DEATH PENALTY NOW EXISTS, BUT CANNOT BE USED FOR LACK OF PROCEDURAL SAFEGUARDS

Destruction of Aircraft.
Destruction of Motor Aircraft.
Murder of Family Member of Federal Official.
Murder of Member of Congress, Cabinet, or Supreme Court.
Espionage.
Transporting Explosives with Intent to Kill.
Arson of Federal Property.
Arson of Property in Interstate Commerce.
Murder of Nuclear Regulatory Inspector.
Murder of Territorial Jurisdiction of the U.S.
Murder of Federal Official.
Mailing of Injurious Articles.
Assassination of the President.
Wrecking a Train.
Bank Robbery.
Treason.
Aircraft Hijacking.
Murder of Agriculture Department Official.
Murder of Federal Witness.
Murder of Horse Inspector.
Murder of Meat Inspector.
Murder of Poultry Inspector.
Murder of Egg Products Inspector.

Note.—The death penalty can be applied for the above offenses only where death results, except in the cases of treason, espionage, and assassination of the President.

II. FEDERAL OFFENSES FOR WHICH THE DEATH PENALTY WOULD BE AUTHORIZED AND LIFE IMPRISONMENT IS CURRENT PENALTY

Genocide.
Murder of Foreign Official.
Kidnapping.
Hostage Taking.
Murder-for-Hire.
Murder in Aid of Racketeering.

Note.—The death penalty would be applied for the above offenses only where death results.

III. NEW FEDERAL OFFENSE FOR WHICH DEATH PENALTY WOULD BE AUTHORIZED

Murder by Prisoners Serving Life Sentences in Federal Prisons.

Mr. BIDEN. These are the same offenses covered by the President's crime bill, S. 1225, and Senator THURMOND's bill, S. 1971.

Title II of the bill before us, Mr. President, deals with habeas corpus in capital cases.

Mr. President, the statutory writ of habeas corpus has been available since the year 1867, or for 120 years. The bill we have before us today, S. 1970, would impose the first ever, the first ever limit on the number of petitions for release a prisoner could file and the first ever limit on the time in which a prisoner has to file a petition.

Title III deals with the exclusionary rule. This provision enacts into law what would be a first ever legislative curtailment of that rule's protection against unlawful searches and seizures. Under the bill, the Congress would sanction for the first time the use of unlawfully obtained evidence in Federal court under certain circumstances.

I might note parenthetically, in each of these titles I go through, the disagreement among the President and Senator THURMOND, to the extent that he disagrees with the President, and us is in degree. That is where the fight comes, not whether or not we reform habeas corpus, not whether or not we increase the number of offenses for the death penalty. As I go through them, not whether or not we provide an exception to the exclusionary rule but how much, how far, how often. That is the debate.

Nobody among the principals in this debate is arguing, as we have argued in the past, that there should be no change in habeas corpus, that there should be no death penalty, that there should be no change in the exclusionary rule.

When I say nobody, I mean nobody among the principals, the manager of the bill, the manager on the Republican side, or the administration. There are others of our colleagues, to their great credit, who have different views than the three of us: the President, Senator THURMOND, and myself. And they will come to the floor to make their case.

But on the three major positions that are going to be debated, there is no disagreement as to whether or not change should take place. How much is enough, that is the debate.

Under this bill, in title IV, we would add the so-called DECONCINI assault weapons ban, S. 747, a far tougher ban on the sale of guns of choice of drug dealers than anything with which the President has come forward, and I might add it also passed out of the Judiciary Committee by a majority vote. It deals with 14 named weapons.

Title V contains new provisions to clamp down on money laundering, the process whereby major organized crime figures and drug dealers take illegally gotten gains, run them through legitimate processes in the banking institutions, come out with money that cannot be traced, and go out and do everything from buy the local automobile company to the local bank to the local restaurant to the local office building—legitimately—and further undermine the value and safety of Americans.

Title V contains these provisions to clamp down on money laundering, the life blood of criminal organizations and international drug cartels.

Title VI, Mr. President, creates at the Justice Department a new division, a unit to set up our attack on organized crime and dangerous drug dealers; not reorganizing the whole Justice Department, but saying we think there should be within the Justice Department a specific division organized specifically for the purpose of managing our attack on organized crime and dangerous drug dealers.

So this is S. 1970, Mr. President, a death penalty bill that covers the same crimes as the President's bill, unprecedented limits on habeas corpus, and the exclusionary rule, limits on assault weapons manufacture and money laundering that go far beyond anything the President has proposed, and a new unit at justice to attack crime and drug kingpins and gangs.

Mr. President, this bill is a tough bill. If the President thinks it is not, then I think this ought to be and will be debated. But it is a tough bill. It is more like a debate between lions and tigers rather than sheep and wolves with or without teeth. These are tough pieces of legislation.

The Senator from South Carolina has a tough piece of legislation. What we are talking about here are unprecedented, unprecedented changes in the law designed and intended by all three of us to help us in the battle against crime and drugs.

The bill imposes a death penalty for heinous crimes as does the President's bill. But unlike the President's bill, it also takes away drug dealers' guns, their illicit proceeds, and creates a new unit to hunt them down.

In sum, this bill is the toughest crime bill that I have ever brought to the floor in the 9 years I have been the ranking Democrat of this committee. If it passes, it will unquestionably be the toughest bill enacted into law, in the 17 years that I have been here, on these specific issues.

Again, quite frankly, Mr. President, the tough, tough, tough part of these bills is when we say to the local law enforcement officer, "You can hire 2, 5, 12, 15 more officers. You can train those officers at Glynco, down in Georgia, where we train our FBI agents. You can have in your State more DEA agents." We are going to add more FBI agents to hunt down or-

ganized crime units. That is real muscle. But on the issues of death penalty, habeas, exclusionary, reorganization, this is as tough as the Senate has ever gotten, as tough as anybody is asking for.

We are not stopping with S. 1970, Mr. President, because, tough as this crime bill is, it is not enough by itself. You see, President Bush has always had a disagreement with us on how much we should do for local law enforcement. When we debated the drug bill and the crime bill last year, Mr. President, the President had a number of proposals before us on drugs and crime. We came in here and made a mistake.

I looked at my staff for some guidance. I do not think there was a single amendment to toughen up the drug bill or crime bill that we offered that did not pass. I might add it was not Democrat or Republican. When I came to the floor for more money for State and local law enforcement officers, I introduced the amendment that said the President's bill is not tough enough. Guess what? Ninety-nine Senators in here said, "You are right, BIDEN, it is not tough enough. We agree. We vote for that provision."

I could go through a list of several amendments, not all introduced by me alone, some introduced by the Senator from South Carolina, by the Senator from Texas, by the Senator from New Hampshire, across the board. Mr. President, this body in almost six instances, by votes of 90 or more said, "You are right. The President's bill does not go far enough. It is not tough enough."

In fairness to the President, if I can be a spokesman for a moment, the President had a priority difference with us—not we Democrats, but with the Senate, Democrats and Republicans. As you, Mr. President, well know as chairman of the Appropriations Committee, he said we do not have enough money to spend on those things. I respect him for that. But it would be totally inappropriate for me to stand here and say the President does not care about the drug problem, he does not care about the lawlessness in this country, he does not care about the increase in violent crime. Of course, he cares about it.

The disagreement is not between Republicans and Democrats, no matter how much my Republican colleagues will try to make it sound that way for a while. At least to now it has been between the President and the Senate—in what priority? The ultimate priority—spending. What priority would be given to the fight on drugs and crime.

So, Mr. President, we are not stopping with S. 1970 because, as tough as it is, it does not go far enough, in my opinion. You see, we have to do more because I know history as well as my two colleagues in this Chamber know history. If the President wants to have a war on crime, so be it. I am pleased that he sees this bill as a valuable weapon that can end the long stalemated war we have been having here.

Of course, Mr. President, we will tomorrow add additional provisions that are based largely upon S. 1972, Mr. President—this amendment and a bill I introduced last November.

I now ask unanimous consent that the full list of the differences between the Biden amendment and S. 1972, as introduced, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF CHANGES MADE TO S. 1972—TO BE USED AS A PERFECTING AMENDMENT TO S. 1970.

TITLE I—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE (ADDED AS TITLE VII)

Sec. 102. (c)(3) adds a Foglietta proposal to list certain types of crime and drug prevention programs to be initiated by community coalitions.

Sec. 102. (g) adds a Foglietta proposal to include a minimum grant allocation of $10,000.

Sec. 102. (h) changes the authorization years to 1991 and 1992.

TITLE II—FEDERAL LAW ENFORCEMENT (ADDED AS TITLE VIII)

Sec. 201. (2) now totals $100.5 million for DEA, in response to DOJ.

Sec. 201. (2)(B) changes "not fewer than 250 agents" to "not fewer than 250 agents and necessary support personnel" in response to DOJ.

Sec. 201. (6)-(10) includes at the end, a DeConcini amendment allocating Customs ($45M), ATF ($37.5M), IRS ($30M) and Border Patrol ($35M)

Sec. 202. OMITTED (additional judicial positions)

TITLE III—RURAL DRUG ENFORCEMENT (ADDED AS TITLE IX)

Sec. 304. (b) adds reference to "date of enactment of this Act,"

TITLE IV—MANDATORY DETENTION (ADDED AS TITLE X) NO CHANGES

TITLE V—FORFEITURE (ADDED AS TITLE XI)

Sec. 508. (b) adds a DeConcini amendment to limit retention of seized assets by the Attorney General for administrative purposes to 10 percent.

Sec. 512. (a) is amended to avoid totalling cutting out section 1955 (d) (Title 18, U.S.C.), which would have eliminated criminal forfeiture.

Sec. 512. (a)(2) changes an incorrect reference to section 413 of the Controlled Substance Act to section 511 of that Act, ensuring that section 1955 specifically covers real property, in response to DOJ.

Sec. 514 is cut to eliminate any potential inconsistency with grand jury secrecy rules.

TITLE VI—PUBLIC CORRUPTION (ADDED AS TITLE XII)

Sec. 602 and others no longer make reference to Indian tribal governments.

TITLE VII—CIVIL ENFORCEMENT (ADDED AS TITLE XIII) NO CHANGES AT THIS TIME

TITLE VIII—JUVENILE PROGRAMS (ADDED AS TITLE XIV)

Sec. 801 now reads as an amendment to part B of the Juvenile Justice and Delinquency Prevention Act instead of part C, in response to DOJ.

TITLE IX—DRUG EMERGENCY AREAS (ADDED AS TITLE XV)

Title IX is changed to conform to S. 2313, the Drug Emergency Areas Act as introduced on March 21, 1990.

TITLE X—POLICE CORPS (ADDED AS TITLE XVI) OMITTED

TITLE XI—FIREARMS (ADDED AS TITLE XVI)

Title XI is changed to conform to the administration's bill;

Sec. 1113. (b)(2) now includes an exemption for the export of firearms to foreign law enforcement agencies, in response to DOJ.

TITLE XII—MISCELLANEOUS IMPROVEMENTS (ADDED AS TITLE XVII)

Sec. 1204 and Sec. 1212. (Recidivist penalties and Dial A Porn Remedies) no longer exist.

Sec. 1233, a wiretap provision, is replaced with language from Senator Pryor.

Sec. 1234. is a technical amendment to 21 U.S.C. Sec. 845 to clarify the mandatory minimum penalties for three related offenses pertaining to drug dealing and minors.

Sec. 1235. is a technical amendment to make consistent the penalty for money laundering conspiracies with penalties for drug conspiracies, which carry the same penalty as the offense that is the object of the conspiracy.

Sec. 1236. is a technical amendment to the reference to section 1956(a)(2) in the money laundering section in S. 1970, making it just section 1956.

Sec. 1237. requires the Secretary of the Treasury to approve the transfer of seized assets to a participating foreign country, along with the Secretary of State as required in section—of S. 1970.

Sec. 1238. creates a money laundering forfeitures provision to allow for the substitution of forfeited assets.

TITLE XIII—ASSAULT WEAPONS (ADDED AS TITLE XVIII)

Sec. 1302. is amended to clarify that the form (record) that must be maintained about the sale of a weapon only refers to that one sale, not future sales.

Sec. 1306. now limits fines for failing to comply with assault weapons recordkeeping requirements to $1000.

TITLE XIV—MONEY LAUNDERING (ADDED AS TITLE XVII) OMITTED

TITLE XV—JUSTICE REORGANIZATION (ADDED AS TITLE XVIII) OMITTED

TITLE XVI—DRUG TESTING POST CONVICTION (ADDED AS TITLE XIX)

Sec. 1902.-Sec. 1904. now include procedural protections requiring that tests be equivalent to the quality of gas chromotography tests.

Mr. BIDEN. Mr. President, to truly fight the drug war one needs resources adequate to the attack. This amendment, the Biden amendment, which will be introduced tomorrow provides resources at a State level, at a local level, and at a Federal level. It starts by attacking the crime and drug problem where it is most acutely felt, in the streets and at the local level.

The amendment doubles the law enforcement funding that State and local governments will be getting. The President proposes an increase to $450 million. This proposes $900 million in funds, funds critically needed by our

frontline on the attack against the traffickers and violent crime.

What will this get us, Mr. President? As the first chart in the back will show, Mr. President, without my amendment, the administration's drug and crime plan will only put 89 new antidrug police strike forces on the streets. This is for the whole of the country. If my amendment were adopted, it would put 1,000 of these task forces in our cities and towns, making them safer for everyone.

My amendment also includes new programs modeled on legislation introduced by Senator KOHL and Representative FOGLIETTA and provides seed money for up to 3,000 community groups to board up crack houses, to form street patrols, and organize youth activities.

Mr. President, I, like you, have visited the small and large towns of this country, in my own State and in other States. As recently as last week, I was in Philadelphia, PA, and 2 weeks earlier in the same city. I looked in the parts of that large metropolitan area, not unlike many across the country, walked down the street with the community leaders pointing out to me, showing me, as I stood there in front of a grocery store, counting the bullet holes in the window. I walked by a school right in the middle of a drug dealing area, a grade school where children in the portico got caught in the crossfire at noontime. I looked at the school. From the second-story window in that school, you could look at a corner across the street right into a crack house where women were fornicating on a regular basis in open view of these children because that is how they get their money to buy the crack. The crack dealer says, "You want the crack? You stay here and service customers." It is a neighborhood with beautiful young children skipping down the street on Saturday afternoon. The only reason they were able to do that was because dealers were gone because we were there with cameras. That is happening all across America.

Lest we think it does not happen in rural America, I need only look to you and other Senators who represent rural States, like me—the largest city in my State is about 85,000 people. I can take you into cities in my State with fewer than 15,000 people where they have renamed streets in that town Crack Alley, where, when I walk out of a meeting in a church with some ministers, as I walk down the steps and across the parking lot to my car, they say, "Joe, lest you doubt us, drive, turn left, go down the street—" and I will not identify the town at this point because they have enough problems—"go down the street four blocks." And from three corners, at 4 o'clock on a Friday afternoon, three people walk off three corners competing to sell to this U.S. Senator, one of whom recognized him, and in broad daylight, drugs. They realized it was me and one of them said, basically, "This sale will not work," and walked away. The other two figured, why not keep trying.

This is the same town, Mr. President, like many towns in South Carolina and West Virginia, where folks ride down the street in their pickup trucks with gun racks, with guns in their racks, because they like to hunt. They are not yuppies riding around in their new pickups. They are hard working folks. If you ever told them 5, 7, 10 years ago that they would have open drug sales on their streets, they would have told you you were crazy. These are small towns, Mr. President, where the churches are still strong, where Boy Scouts and Girl Scouts are active, where the school varsity clubs and the PTA's are active. But this dread has crept in like a fog in the night, and when the daylight came, it stayed.

Mr. President, we have problems, serious problems. And I believe they should be able to participate in helping. How do you get, I might add, a well-trained, dedicated sheriff in a police department, a local police chief of two or three, to be able to possibly know enough to know how to deal with drug cartels, knowing how to set up organizations in their town? How do you do that?

Guess what, Mr. President, we know how to help, when we send in DEA agents in those communities, to help them organize their State police, their Federal police organizations, their local police, county police. It works, Mr. President. It works.

Mr. President, I will show you in a minute that there are a number of States in this country that do not have the capability of having available to them the expertise in dealing with national, international cartels who move into their rural neighborhoods to set up shop, and we should provide for them.

The second part of my amendment addresses the Federal Government's crackdown on major drug trafficking organizations. At a hearing last fall, the FBI director—and I think one of the finest—I note parenthetically, I have watched you do a number of things here, Mr. President, that will follow you for a long, long time.

I think that what you did to enhance the quality of law enforcement and equitable application of the law, at a Federal level more than anything else, is when you changed the method by which, and the term under which FBI Directors would be appointed, and you took it out of politics, something no one wanted to touch at the time, I might add, but you.

I think Director Sessions is one of the best that we have had ever. He is straight; he is honest; he is tough, and he understands the Constitution. Judge Sessions came before us and everyone was asking him, "Judge," I say that not to confuse people, because he is a former Federal judge, "Director Sessions, why are you not doing more on the S&L scandal; why do we have so many backed up cases? Why are you not doing more on organized crime, on white collar crime," and so on?

He sat there and basically said, "You want an honest answer, I will tell you; I do not have enough people." That is the gospel truth, Mr. President. Talk about robbing Peter to pay Paul, the man does not have enough resources.

So he told the committee that the FBI has identified 400 drug trafficking organizations, identified them, gave us a chart, showed us, and he can give us names and locations and sizes, and the quantities of drugs, that they are peddling. Four hundred of them, Mr. President. So we asked him, "Director, how many have you targeted?" He said, "We were only able to attack about one-half of them Senator, about one-half." That is right. We know about 200 drug organizations that we are attacking.

I asked Director Sessions, "How many agents would you need to go after them all?" He said he would need 1,000 more.

So as this next chart will show, Mr. President, what we did, we added 1,000 in the bill, which I will be adding as an amendment to S. 1970, adding an additional 1,000 agents to go after all of the drug trafficking groups, while without my amendment we will be adding only the 272 new agents. That is better than none, Mr. President.

My amendment would also boost other Federal crime fighting agencies by adding 1,000 new DEA agents and 435 new Bureau of Alcohol, Tobacco and Firearms agents to attack the flow of illegal weapons into the hands of drug traffickers, Mr. President. We want to get tough on crime. Tell me how you get tough on crime when you know, you have identified, you have on a chart, 400 trafficking organizations, and you have the resources only to go after 200 of them. Is that getting tough, Mr. President?

Will a change in the habeas corpus law affect that? I want to change the habeas corpus law. But ask the law enforcement agencies, do you want a change in habeas Corpus or do you want to be able to attack every one of those organizations? Mr. President, I read in the paper today a welcome comment. The administration says they are going to provide more border patrol officers to boost interdiction efforts.

That is good. Mr. President, we are leaking like a sieve. Our border patrol is overtaxed, overworked, undermanned. So we add 500 border patrol

officers to boost these efforts, 347 new Internal Revenue Service positions to process money laundering investigations.

It is a big business, Mr. President, as you well know. This is not like "Godfather 1," where the Godfather is sitting out in his Long Island estate in the garden planting his tomatoes, playing with his grandson with a pencil in hand adding up the profits. This is somebody sitting on the 90th floor of a major new building, with computer terminals that exceed that which most small businesses have, doing planning and processing.

This is not green eye-shade stuff any more, Mr. President. This is sophisticated big business, and we need sophisticated Internal Revenue agents to do what they did do with the Al Capones of the world. They are undermanned, Mr. President. At tax time, what did we hear? The reason tax returns is, even though we have new processes to get them back, will be slow, we do not have enough people. Where are we going to get the people sophisticated enough to follow this trail into the Bahamas and offshore banks and Switzerland and God knows where else? Until you get their money, Mr. President, you do not begin to touch the life blood of these organizations.

We add 120 new agents to investigate drug-related crimes within the IRS; 480 new Federal prosecutors.

The distinguished Senator from South Carolina and I, at the end of last week, introduced a new judgeship bill, Mr. President. We added close to 80 new Federal judges. I see the distinguished Senator from Utah who knows a great deal about this matter. I suspect we all agree that we need the judges to process the criminal and civil docket more rapidly.

Mr. President, we also need prosecutors, so that when these jokers are nailed, caught, when they are brought to the bar of justice, they are able to be convicted and, if convicted, they are able to be sentenced.

The third part of my amendment focuses our attack on crime by targeting those areas hardest hit by drug trafficking and violent crime. This is the Biden-Kennedy-Cranston-Specter drug emergency area proposal.

Let me note here by the way how we came up with this notion. South Carolina, California, Louisiana, Arkansas, and many other areas, have all in the recent past and present been hit by natural disasters, horrifying natural disasters, that have done great damage to their citizenry and their State. What have we done as a nation? We have not said Hurricane Hugo was a South Carolina problem, let them take care of it. We did not say that. Now as we watch nightly on the news the Trinity River overflows and wipes out homes, livelihoods, and lives we do not sit in Delaware and Pennsylvania and say that is their problem. When the California earthquake hit all the American and the world's eyes were riveted on California. We did not say that is California's problem, not Utah's, or Missouri's, or Illinois'. In all those instances, when the natural disaster hit we said that is America's problem. They are Americans in need, and all of America responded.

Mr. President, these international drug cartels' locus is not Philadelphia, or San Diego, or Chicago, or New York. They are international. The fact that they land on the shores of New York, South Carolina, or Florida, is purely coincidental. Floridians, Carolinians, New Yorkers did not invent the problem. They were not the cause of this disaster. It was inflicted upon them as much as a hurricane is inflicted upon them or torrential rains.

So, Mr. President, we concluded that those communities in America that are hit like that should be treated.

The new Senator from Hawaii has come to me and he wants an amendment which I strongly support and will support him on, dealing with ice, a new form of a drug that is particularly addictive and does particularly dangerous things to the mind causing aberrant behavior that usually results in violence. We know certain things. That is starting in Hawaii. If we do not stop it on the shores of Hawaii, as sure as I am standing here it will be in California, which it already is, and as sure as I am standing here in 6 months, 8 months, 12 months, 18 months, it will be in Wheeling, WV. It will be in Wilmington, DE. It will be throughout the Nation.

So, Mr. President, it seems to me for us to sit back and say as these natural disasters strike we should say that is a local problem, you all take care of that, it is not only wrong in terms of how we handle ourselves as an American community, it is bad judgment, because if we do not stop it on the shores of California, we will not be able to stop it in the streets of Wheeling, and I am not making a judgment about Wheeling in terms of whether there is so-called ice on the streets. I do not know.

But I do know the drug problem is not avoiding any place in America. There is a pattern to it.

We saw some years ago crack cocaine. Now every American is aware of the writhing infants in incubators in pain from cocaine, and we are aware of it. We become aware of that, from reports from the Bahamas several years ago, saying it is on the way. Then it hit New York, and New York said, "my God, this is a devastating problem. Help."

Now it is in every pore, every opening, of the drug bloodstream in America regardless of where we live.

So, Mr. President, this next chart that I am about to show is a $300 million program, modeled, as I said, on the Federal Disaster Assistance Program, and it is a bipartisan alternative to the administraiton's high-intensity drug trafficking areas. Our proposal helps more places with more money for more purposes and gets the aid directly to those who need it most.

I will not bore you, Mr. President, at this moment, but I will go into this at a later date when the debate ensues. I will not bore you with the fact that the present programs, Mr. President, are not getting to the people who need them. Surprise, surprise, surprise. The States get certain amounts of money, Mr. President, and God bless the Governors; they have their hands full. But it takes months and months for it to get down to the cities and the towns, and this proposal like the game Monopoly, bypasses "go," go straight to jail. This bypasses "jail" and goes straight to "go." This gets the money in immediately.

The fourth focus, and as I said, you can see on the chart the comparison provisions, the funding level, the Bush plan is $50 million for the entire Nation. Ours is $300 million. As to the funding target, 100 percent must go to enforcement, it appears, based on the way they have it written. Ours will allow the State to provide up to 50 percent for enforcement or prevention, and many of the cities are saying, "give us money to help with prevention to help the children from getting into the drug stream, help us now before the crack, before the ice, before the methamphetamines hit our streets. Help us now."

The targeted areas of the Bush plan are well deserved—New York, Los Angeles, Houston, Miami, and the Southwest border. Under our proposal any area designated a drug emergency area by the President would qualify.

Just like unemployment, Mr. President, just like natural disasters, the President says this is a natural disaster, this is a drug emergency area; then they apply for a certain amount of money. They do not necessarily get it just like Louisiana and Arkansas may not get all they ask for. Mr. President, it goes to direct funding, 100 percent, wherever the district is the President, says should get it, and they can get up to $50 million.

The fourth focus of this amendment is on rural crime, 1972 I am referring to now. Despite the common perception that crime is an urban problem, drug trafficking and crime in rural areas is widespread and growing. Based on Senators BAUCUS and PRYOR'S "Rural Drug Initiative," the Biden amendment substantially increases the Federal commitment to fighting crime in rural America, providing more resources, more manpower and more training.

And as the next chart shows, there are 20 States in the country that have fewer than 10 DEA agents for the entire State. Worse still 14 States have fewer than 5 agents. Look up there at the red, Mr. President. All those States in red have fewer than 10 DEA agents that we call for here, and many of them have fewer than 5.

Mr. President, my amendment beefs up the Federal crime fighting effort in these States adding new grants for rural law enforcement agencies; increasing the minimum number of DEA agents in rural States from 3 to 10; and doubling the number of rural agents who receive specialized drug enforcement training at the Glyno training center in Georgia.

Mr. President, I might add just a little digression here, methamphetamine, which is the synthetic version of cocaine and crack in particular, is controlled by drug trafficking organizations in California. There is a problem, though. When they make this synthetic drug, which has all the negative properties of crack, for example, the chemical reaction required gives off a horrible odor, and the byproduct thrown into the streams is a toxic waste literally. So, Mr. President, they found out that as the market increased there was not any real good place to be able to do it in the middle of a city because the next door neighbor says, "My Lord, what is the odor?" As the odor is more identifiable, the police agencies can come in. So what they did is they went back to the 1968 days and 1965 days when I was in college and the version of VW bus is back in order with little smokestacks at the time. They ride the highways and process it on the highways. Guess what? They go up in the areas of Montana, Wyoming, Idaho, and North and South Dakota, and they pollute, figuratively and literally those States because they need wide-open spaces to produce this stuff.

They do not have drug enforcement agents up there, Mr. President. They do not have enough training for this particular type of activity. I am not in any way criticizing the law enforcement capability of brave women and men in those States, but they are not trained to deal with this. So we say, send them down to Glynco, GA, train them like you train the FBI. Give them a chance. Give them some DEA people to be able to go in there and organize their effort to take on these new gangs. We have all seen those B movies on late night television, when you cannot sleep and turn it on, and it is the classic genre of the motorcycle gang riding into town, taking over a small town with one police officer and 300 people. Mr. President, this is the equivalent. They need help. They need help now, not tommorrow, now.

Mr. President, our next amendment shows that we are responding to the increases in juvenile crime as well.

The fifth focus in one criminal group that needs our special attention—juvenile offenders, Mr. President. Tens of thousands of youths across the Nation are becoming actively engaged in violence and crime before they have become teenagers. Once loosely knit groups of juveniles have now organized into powerful and violent gangs.

Mr. President, it is disturbing—I will not go through it with you now because I know you know it. But, for the record, the age at which the majority of violent crimes are committed in America is dropping decade by decade and year by year. It used to be, Mr. President, that the bulk of the violent crimes were committed by people in their early twenties. All you need do is pick up the newspaper—and I am not being anecdotal—pick up the newspaper. It is violence, Mr. President. Raw, raw violence is now being committed and perpetrated by people in their early teens. And what are we doing about it?

Well, our next chart shows that this amendment that I am proposing responds to the startling increase in juvenile crime—and I say startling increase—by creating a new $100 million juvenile antidrug and antigang initiative that will fund State local programs to fight gang crime.

Remember, I talked earlier about methamphetamines going on up in those Mountain States and rural States. Well, they are gangs, Mr. President, classic gangs, juvenile gangs, Bloods and Crips and motorcycle gangs. They are not the mafioso types, Mr. President. These are kids who have become very, very, very sophisticated. Tens of thousands of youths across the Nation have become actively engaged in violence and crime, as I said, before they become teenagers.

The Biden amendment also contains many new legal tools for prosecutors and judges; tools that ensure that offenders are swiftly prosecuted and incarcerated.

Specifically, it includes three proposals to protect the public while breaking offenders' cycle of drug abuse and crime.

First, the amendment includes a proposal written by Senator SIMON which assures that offenders awaiting sentencing and appeal are not free to commit new crimes. This "manadatory detention" policy for dangerous criminals is a much-needed reform.

Second, and again based on a proposal originated by Senator SIMON, this amendment requires drug testing for all defendants released on probation, parole or supervised release. And if they fail, they are in.

And third, the amendment includes provisions that I drafted to provide the Attorney General with new powers to shut down "shooting galleries" and "crack houses."

In addition, the amendment contains several other provisions, to equalize the firepower differential between the criminals and the police—right now, many police officers find themselves outgunned by drug dealers and other dangerous criminals.

This amendment tries to shift the balance away from the firepower of the criminal and to the police officers through the DeConcini assault weapon ban of 14 weapons; a provision that allows Federal agents to use firearms forfeited by criminals; a ban on the purchase and sale of guns by those person convicted of misdemeanors involving a firearm or serious drug misdemeanor; and an authorization for law agencies to use money forfeited by drug dealers to purchase new weapons for police officers.

Finally, the amendment contains several other provisions to strengthen civil forfeiture laws; toughen public corruption statutes; create new penalties for drug-related public corruption; aid undercover investigations of property crimes—such as theft—and more.

In sum, 1972, the amendment I refer to, this amendment contains many provisions that would make a real difference in fighting crime in this country. And if the administration is as serious about fighting crime as its rhetoric says that it is—and I believe they are—I say this: Come let us sit down and support these provisions or negotiate them if you think they are too tough or if you think they cost too much money. We will try in earnest to come up with a bill that I believe the Senate can handle. But we will see who is most interested, Mr. President, in deciding whether or not we are going to be tough on crime.

Many of the provisions I cited here, I want to make it clear, just because I introduced the bill, are not only amendments that I support. I strongly suspect that many of my Republican colleagues support many of the provisions I have suggested here.

That finishes my summary of the legislation before us, and the major amendment I intend to introduce tomorrow. I have other amendments I may offer, and will be discussing them in more detail as I bring them forward.

I want to close now with a few words on how we will proceed with this bill.

As we all know, there is no unanimous consent agreement covering how we will go about considering this legislation. But the majority leader has said that we will finish this bill before we go home for Memorial Day recess, and it is going to take some hard work to get that done.

It is my hope that we can begin tomorrow with the gun issue and get through the several amendments on

that issue as soon as possible, because I believe we should take the most contentious elements of all that we are talking about and deal with them, vote them up or vote them down.

It is my hope, as I said, to begin with the gun issue and get through the amendments dealing with that quickly. Then we can move on to other matters.

Several of my colleagues have asked me if this is a drug bill or just a crime bill. I hope we could keep the amendments limited to the scope of this legislation, knowing that legislation dealing with drug demand, international drug control, and other related topics is certain to be emerging from the relevant committees later this year in the normal course of events; that is, treatment and education and all those other matters, as well as enforcement.

As for the amendments that do have some place here, I urge my colleagues to contact the managers of the bill as soon as possible. Hopefully, we can get as many of these amendments cleared on both sides as soon as possible and get them adopted quickly. I am sure there are a number of amendments my Republican and Democratic colleagues have proposed that we have not thought of and that the managers of the bill would be ready to accept because they would strengthen the effort. But I urge my colleagues to come forward as quickly as possible. If we work together, the Senate can recess on Thursday, and it can do so with the knowledge that it has passed one of the toughest crime bills ever.

That is my goal, Mr. President, and I know that is the goal of Senator THURMOND. I hope all Senators will work cooperatively toward that end.

I want to thank you, Mr. President, and thank my colleagues for their patience. As I said, when we get down to work tomorrow I will not be giving a lengthy speech about my extensive amendments I will be introducing at that time. I will merely introduce them.

Let me conclude, Mr. President, by suggesting if the truth were known there is not that much disagreement in this body on much of what has come forward. There are three serious bones of contention, I suspect. One will be the death penalty, and not the scope of the death penalty. Senator THURMOND, the President, and I agree it should be broadened greatly. But on the safeguards there will be one very contentious amendment.

The bill that is on the floor provides an amendment called the Racial Justice Act, a test that must be met before someone can be put to death after having been convicted of a crime that calls for death. There also is in that legislation protection against putting to death someone who is mentally retarded or someone who is a minor. They will be the contentious elements of the death penalty. I am not counting those people who, to their great credit—I happen not to be one of them—have a strong moral objection to death under any circumstances. But that will be one contentious area.

The second will be guns. I see my friend from Utah. My friend from Ohio is not here, Senator METZENBAUM. I imagine those two gentlemen will have a great deal to say about whether or not we ban the manufacture of anything relating to guns, whether you call them assault weapons or otherwise.

The third area will be the extent and scope of what we pass in terms of the total cost of whatever we pass.

But I really think, Mr. President, they are the three most contentious areas. There will be legislation introduced, amendments by each side, and we will split. I predict we will see on some of the more contentious amendments, Republicans splitting and Democrats splitting. This does not lend itself to straight party line legislation.

But is is my hope, Mr. President, we can get on with it tomorrow, that we can settle those most contentious areas. I have been here over 17 years. I know the Presiding Officer and Senator THURMOND have so much more experience in how this body works than either Senator HATCH of myself. But it has been my observation on very contentious issues, if you bring them up, debate them, and settle them, the rest then flows much more rapidly.

That is our hope. That is the intention. But as the Presiding Officer knows, the rules lend themselves to other ways of proceeding and we will not know until tomorrow how much cooperation we are likely to have on moving along this bill.

I want a bill, Mr. President. I want a tough bill. I think all the ingredients are there.

I want to thank in advance my colleague, Senator THURMOND, for being willing to attempt over the last 4 days, with our staffs, to see if we could work out a compromise to bring to the floor. I think if it were left to the Senator and myself we could work out a compromise. I am not sure each of us can deliver our colleagues but as these things jell, we will see if we can do that.

I thank the Chair for his patience. I thank my colleague from South Carolina for his willingness to sit there that long. I look forward to hearing what he has to say, and I look forward to this debate and passing the bill.

I yield the floor, Mr. President.

The PRESIDING OFFICER (Mr. ROBB.) The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, in the beginning, I would like to say to the distinguished Senator and my friend from Delaware, I will be glad to work any way I can for a strong tough bill. I do not think the bill he has brought forth is in that category, but maybe we can get together on one that will be.

I am pleased that the Senate today will face the important issue of crime. However, it is critical that the Senator act on tough, effective legislation which will curb the crime related crisis we face in this country today.

I listened closely to the opening statement by Senator BIDEN regarding the legislation pending before the Senate. Stated simply, I do not believe this legislation is tough enough. In fact, there are many problems with it. The truth about this legislative proposal now before the Senate is that it will expand the rights of criminal defendants—I repeat—it will expand the rights of criminal defendants at the expense of those who are the victims of crime. For this reason, I intend to offer my substitute amendment to the pending legislation which is a much tougher crime package than the underlying bill before the Senate. This substitute, which is similar to S. 1971 which has 14 cosponsors and has been endorsed by several law enforcement agencies, will give Senators a clear choice. I believe the only choice is the tough, substitute package. Violent and drug related offenders must know that the commission of heinous crimes will lead to swift, harsh punishment.

Mr. President, this substitute is a sweeping antiviolent and antidrug related crime package which is similar to S. 1971, which I introduced on November 20, 1989. S. 1971, the Violent Crime Control and Criminal Procedures Reform Act is vitally important legislation designed to combat the growing problem of drug and related violent crime.

The scourge of the crime and drug epidemic has its grip upon the throat of our Nation. According to figures released by the Department of Justice, there is a violent crime committed every 20 seconds in the United States. Someone is murdered every 25 minutes and a forcible rape occurs every 6 minutes. In 1988, there were over 16,300 murders in the United States—a truly appalling number. These figures reflect the need for a stronger national effort to halt the spread of violent crime.

The pending bill, S. 1970, attempts to address many of the same issues raised in my substitute. However, the pending legislation does not properly address these important issues and falls well short of my proposal in terms of tough, effective reform which is so desperately needed. President Bush referred to the pending bill as a "sheep in wolves clothing" and as a "Trojan horse standing at the gates of Congress [which] will be tougher on law enforcement than on criminals."

I would not characterize the pending bill as such. However, I will go into detail and contrast the two.

Briefly, I would like to discuss some of the differences between the two proposals. Title I on my substitute is the Federal Death Penalty Act and it is virtually identical to a bill which passed the Senate in 1984 by an overwhelming vote of 63 to 32. This important legislation would provide the constitutional procedures necessary for implementation of a Federal death penalty.

Unfortunately, title 1 of the pending Biden bill includes the Federal Death Penalty Act as amended by the Senator from Massachusetts, [Mr. KENNEDY]. It contains the Kennedy Racial Justice Act. This version of the death penalty would eliminate the death penalty in both the Federal Government and in every State. I urge my colleagues, especially those from States where the death penalty is in effect, to understand the effect of this legislation. It is no secret that I oppose the Kennedy amendment. In fact, this amendment was soundly defeated by the full Senate when it was offered as an amendment to the 1988 drug bill. Although the title of this act sounds positive, it is deceiving. The impact of this legislation would be ominous and devastating.

The Racial Justice Act would amend Federal law to invalidate the death penalty, both in the Federal Government and in every State, whenever statistics show a racially disproportionate pattern without regard to the henious facts that led to imposition of the death sentence. It is important to note that only 3 years ago the Supreme Court examined the issue of using statistical data to invalidate the death penalty in the case of McCleskey versus Kemp. The Court rejected this proposal and noted that to take this proposal "to its logical conclusion, throws into serious question the principles that underline our entire criminal justice system * * * " Further, the unconstitutionality of such a quota system under the equal protection clause is clear. Many Supreme Court death penalty decisions seek to minimize the role of race in capital sentencing. But the Kennedy quota provisions would make purely statistical considerations based upon race paramount in upholding the validity of a death sentence.

The Judiciary Committee held hearings on the Kennedy amendment. I think it is important to note that every witness who testifed in support of the Kennedy amendment, when asked, stated that they are personally opposed to the death penalty. Several witnesses who testified against the Kennedy amendment pointed out numerous critical problems with the amendment. For example, William B. Hill, deputy attorney general for the State of Georgia, put it best when he stated succinctly, "[It] simply abolishes the death penalty." He noted that the amendment disregards the principles of equal protection and years of eighth amendment jurisprudence.

In addition, the Department of Justice strongly opposes the Kennedy provisions. I recently received a letter from the Department of Justice which clearly sets forth the administration's strong opposition to the Kennedy racial provisions. In fact, were S. 1970 presented to the President for his signature in its present form, the Department would "be compelled to urge that it be vetoed."

The Kennedy amendment is based upon the premise that the death penalty is currently imposed in a racially biased manner. Proponents of the amendment like to cite a study by Prof. David Baldus as evidence of this racial sentencing. However, the Baldus study was rejected by numerous witnesses before the committee and was rejected as invalid and unreliable by every court which has examined it.

We should realize some important facts about the death penalty. First of all, a recent Gallop Poll shows that 80 percent of Americans favor the death penalty. As well, a majority of our Nation's blacks support the death penalty. In addition, the constant repetition that American juries discriminate against minorities is rebutted by the hard facts. According to the Department of Justice, out of every 1,000 murders committed by whites, 19 whites are given the death penalty. Out of every 1,000 murders committed by blacks, only 12 blacks are given the death sentence. This means that whites, as a class, are arguably 36 percent more likely to get the death penalty than blacks.

Mr. President, I believe supporters of the Kennedy racial quota provisions would agree with the following statement: "Race should play no role whatsoever insofar as the death penalty is concerned." Yet, the Racial Justice Act would do just that. It would permit vicious murderers to avoid a death sentence by invoking the race of their victims as a shield and it would put prosecutors in the position of seeking the death penalty based upon a racial quota system.

In summary, I want to state the following so that there can be no doubt in any Senator's mind. A vote today in favor of the Thurmond substitute is a vote for a Federal death penalty and for continued validity of State death penalties currently in place. A vote against the substitute is a vote to kill, not only the Federal death penalty, but every State death penalty as well.

HABEAS CORPUS

Mr. President, title II of my substitute is identical to S. 1760, which I introduced. S. 1760 embodies the legislative recommendations of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, or as it is commonly referred to—the Powell Committee. The legislation reforms Federal habeas corpus and collateral attack procedures and minimizes Federal judicial interference with State criminal convictions.

Although I have introduced another habeas reform proposal, S. 88, which the Attorney General and I believe is preferable, I have decided to offer the recommendations of the Powell Committee. The issue of habeas corpus reform has lingered in Congress for years and we must act. After conferring with a number of Senators, I am convinced that the Powell Committee recommendations, which Chief Justice Rehnquist supports, stand the best chance of passing since it is somewhat less controversial and will receive broader support.

Habeas petitions have grown by vast numbers in recent years. In 1941, State prisoners filed 127 habeas corpus petitions in the Federal district courts. By 1961, that figure had risen to 1,020. Over the years, that number has continued to rise with Federal district courts receiving an incredible 9,880 habeas petitions in 1988. The problem of these numerous filings is compounded by the extraordinary delay in habeas corpus filings. Currently, there are over 2,300 people on death row. Since 1976, when the Supreme Court upheld the constitutionality of the death penalty, only 124 people have been executed. The delay in filing petitions and the frivolous litigation inherent in these cases results in a criminal justice system which is overburdened with piecemeal and repetitious litigation and years of delay between sentencing and a final judicial resolution of the criminal matter.

A particular case warrants mention. In February 1979, Ronald Woomer went on an 8-hour crime spree in South Carolina. By the time he was finished, four people were murdered. Woomer, who has never disputed his guilt, was convicted of murder and sentenced to death that summer. He was first sentenced on July 18, 1979—over 10 years ago—to die in the electric chair. His case had been to the Supreme Court on four separate occasions. The Woomer case is a prime example of the obstruction of justice and inordinate delay surrounding these habeas corpus cases.

My substitute embodies the precise recommendations of the Powell Committee. The committee was formed by Chief Justice William Rehnquist in June of 1988. The Powell Committee was charged with inquiring into the "necessity and desirability of legislation directed toward avoiding delay and the lack of finality" in capital

cases in which the prisoner had been offered counsel.

The Powell Committee proposal is aimed at achieving the following goal: death penalty cases should be subject to a complete and fair course of collateral review, one in the State system and one in the Federal system, free from the time pressure of impending execution, and with the assistance of competent counsel for the defendant. Once this appropriate and fair review is completed, the criminal process should be brought to a conclusion.

This proposal allows a State to bring death penalty litigation by its prisoners within the new statute by providing competent counsel for inmates on State collateral review. Participation in the new procedures is optional with the States. This legislation also provides for a 6-month period within which a Federal habeas petition must be filed. This 6-month period begins to run on the appointment of counsel for the prisoner and is tolled during the pendency of all State court proceedings. In addition, this legislation provides for an automatic stay of execution, which is to remain in place until Federal habeas proceedings are completed. This provision ensures that habeas claims not be considered by a court under the time pressure of an impending execution.

In summary, this proposal balances the need for finality in death penalty cases with the requirement that a defendant have a fair examination of his claims. Thereafter, if the conviction and sentence are found to be appropriate, judicial proceedings will be at an end, absent any exceptional developments in the defendants case.

Mr. President, the precise recommendations of the Powell committee should be enacted, not the legislation contained in the pending bill. Although it is termed a "modified version" of the Powell committee recommendations, it is far from it. By contrast, the pending bill would have the effect of increasing both the number of cases in Federal court and the cost of litigation to the Government. The Biden habeas provisions would, according to Justice Lewis Powell—this is Justice Lewis Powell's statement—increase, not decrease, the number of habeas corpus cases—the overwhelming majority of which would be stale, frivolous, and repetitious. This is due to the fact that the bill provides for numerous exceptions to the ban on subsequent habeas cases; one of which creates a major loophole for abuse. It allows subsequent review when the convicted defendant alleges that he is the victim of a "miscarriage of justice"—no matter how many times he has previously been in Federal court. Finally, the pending bill would also overturn leading Supreme Court precedent which have kept the number of habeas cases from being even larger than they currently are and which clarify the complicated area of law surrounding the retroactivity of law in habeas cases.

It has been noted that the Biden provision is very similar to the recommendations of the American Bar Association. However, we must remember that the ABA has opposed virtually every effort to enact Federal death penalty legislation and that it also supports the previously mentioned racial justice act as offered by Senator KENNEDY.

In summary, the glut of habeas petitions in the Federal system and the unacceptable delay in execution of capital sentences are all evidence of the dire need for real reform—not specious reform legislation which will lead to more litigation and abuse. For the reasons I have stated, numerous State Governors and attorneys general oppose the measure contained in the Biden bill. In fact, I have a letter signed by 23 State attorneys general which opposes the Biden habeas measure. I ask that a copy of this letter be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, in addition, I have received numerous letters from State attorney generals, including California, Florida, and New Hampshire, which express the same sentiment. The proposal contained in this substitute is supported by the administration, the Chief Justice of the United States, the Conference of State Chief Justices, and numerous Federal district and appellate judges.

Mr. President, as Justice Powell stated during his testimony before the committee, the current situation brings our judical system into disrepute. Justice Powell, who incidentally is opposed to the death penalty, nevertheless, respects the rights of the majority to see to it that constitutionally imposed sentences of death are carried out. It is the duty of this Congress to do the same. Endless consideration of issues in criminal cases that have no merit and are filed only for purposes of delay must be eliminated from our judicial system. The principles of justice, upon which our criminal justice system is based, demand that we take action. It is imperative that we pass this much needed reform measure.

EXCLUSIONARY RULE REFORM

Mr. President, this substitute includes as title III a codification of the good faith exception to the exclusionary rule that has been recognized by the Supreme Court. All too often in violent crime and drug cases, evidence is excluded at trial simply because the law enforcement officer, by some harmless technicality, innocently violated search and seizure rules. However, the Supreme Court has recognized, in the case of United States versus Leon, that the exclusionary rule should not be used when the police officer with a warrant has acted in good faith. This provision addresses a legal loophole which allows drug offenders and violent criminals to go free despite the ruling of the Supreme Court even when the officer acted in good faith. When a law enforcement officer acts in good faith, compliance with the fourth amendment with or without a warrant, to allow a violent drug offender to go free on a mere technicality does not serve the ends of justice.

The substitute version of this bill differs from the pending bill—and when I refer to the pending bill I refer to the Biden bill—in that it extends the good faith exception to warrantless searches. The pending bill would limit the good faith exception to searches made pursuant to a warrant provided it meets several limiting conditions. By voting for the provision contained in the Biden bill, we would preclude Federal courts from further interpretation of the Leon decision. Debate in courts surrounding any further extension of the good faith exception would end. For this reason, Congress should extend the good faith exception to its logical conclusion, as is done in S. 1971 and this substitute.

FIREARMS

Mr. President, this substitute also addresses the need to punish those who commit drug related and other violent crimes with firearms. Title IV of this legislation, among other things, permits consideration of pretrial detention for certain firearms and explosive offenses, requires mandatory revocation of supervised release for possession of a firearm, and increases penalties for knowingly giving false information in connection with the acquisition of a firearm. Enhanced and mandatory penalties for those who commit violent crime should be key components of any criminal legislation and are included in this substitute. As an integral and substantive component in our war against violent crime, the firearms provisions will help ensure swift apprehension, prosecution, and punishment to fit the crime for those who violently prey upon on law abiding society. Increased drug related homicides and violent crimes are being perpetrated by drug traffickers and users at an alarming rate. The criminals who engage in the despicable crime of drug trafficking have no respect for our Nation's laws against drugs. I believe these criminals, would, with equal fervor, show no respect for laws that ban firearms. That is why we should pass laws that will unequivocally land these thugs in jail a long time as punishment for their illegal acts.

DRUG TESTING

Title V of my proposal provides for mandatory drug testing of drug relat-

ed and firearms related defendants on postconviction release. Title VI of the bill incorporates S. 326 which passed the Senate as an amendment to S. 1711. The purpose of this provision is to make it possible, once again, to prosecute and send to prison persons who corrupt the administration of government at the Federal, State, and local level. Additionally, this bill includes a provision which authorizes the use of officially sanctioned undercover "sting" operations to combat crimes of trafficking in, or receiving, stolen or counterfeited property.

DEPARTMENT OF JUSTICE REORGANIZATION

Finally, there are some additional provisions in the Biden bill, S. 1970, which this substitute does not include. One such provision is contained in title four of S. 1970. Title IV of the pending bill proposes to create a new "Organized Crime and Dangerous Drug Division" within the Department of Justice. The Attorney General is strongly opposed to this provision. In fact, the Office of National Drug Control Policy studied this proposal, as required by law, and has recommended against it. Specifically, Director Bennett concluded that the establishment of another division would "add yet another element of bureaucracy to the drug enforcement effort within the Justice Department. * * * [It] is not necessary and would not * * * enhance the civil and criminal law enforcement effort."

Further, a study of the proposal reveals that the Attorney General's decision to consolidate the Organized Crime Strike Forces with local U.S. attorneys' offices would be overturned by creating this new division within the Justice Department. This decision on the part of the Attorney General was unpopular with some Senators. Nevertheless, it is clear that this decision is within the Attorney General's administrative authority. For these reasons, Congress should not adopt this provision which would in essence be micromanagement of the Department of Justice.

In closing, the fight to win the war on crime will not be easy. Yet, one just has to witness the crime, violence, and death to know that we must enact a comprehensive death penalty, enhance the penalties for those who use firearms to commit these crimes, and reform the criminal procedures which cause so much delay and injustice within our criminal justice system. The American people demand action. We should not hesitate any longer to pass this important substitute legislation. This reform must be real reform. For Congress to pass cumbersome and ineffective legislation which can never be utilized and promote it to the American people as tough, effective habeas reform or authentic death penalty legislation would be a disservice to the American people.

Mr. President, the reasons for supporting this substitute are clear. A vote for the Thurmond substitute is a vote to preserve the dealth penalty in those States which currently have it. A vote for the Thurmond amendment is a vote to put an end to excessive dealth penalty litigation. A vote for the Thurmond amendment is a vote for law enforcement.

Mr. President, I would like to note for the record that the following law enforcement and victims' organizations have endorsed S. 1971 which is similar to this measure: The International Narcotic Enforcement Officers Association, Inc.; The Airborne Law Enforcement Association; Society of Former Special Agents of the FBI; The National Troopers Coalition; Virginia Association of Chiefs of Police; The Victims Assistance Legal Organization, Inc.; The Federal Criminal Investigators Association; and the FBI National Academy Associates. In addition, the attorney generals from the following States, all of which have capital punishment statutes, have written to express their strong opposition to the habeas provisions and the racial justice act contained in the Biden legislation: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Nebraska, New Hampshire, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Washington, and Wyoming.

The support for the Thurmond substitute serves as evidence that this legislation is the criminal law reform proposal that the American people truly demand.

For all of these reasons, I urge my colleagues to support this vital substitute legislation.

Mr. President, I yield the floor.

EXHIBIT 1

*March 12, 1990.*

Hon. JOSEPH R. BIDEN, JR.,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR SENATOR BIDEN: Our states have capital punishment statutes, and each of our offices has had experience in federal habeas litigation. We are writing to express our strong opposition to two parts of S. 1970, and also to express our support for S. 1971.

Section 107 of S. 1970 is designed to do nothing less than end the death penalty in this country. As Attorney General Thornburgh stated in his January 24, 1990 letter to Senator Thurmond, section 107 would "have the practical effect of abolishing capital punishment in the United States—at both the state and federal levels . . ." The people of this country overwhelmingly support the death penalty as an appropriate punishment in cases of aggravated murder; nearly three-fourths of the state legislatures have enacted capital punishment statutes; and Congress ought not to attempt to abolish the death penalty. For that reason, section 107 of S. 1970 should not be enacted.

We are also opposed to the provisions of S. 1970 (also contained in S. 1757) that would amend the federal habeas corpus statute as it relates to capital cases. By legislatively repealing Supreme Court decisions involving the procedural default doctrine and decisions establishing non-retroactivity doctrine, S. 1970 would undermine important interests in the finality of state court judgments, would increase rather than decrease relitigation, and would significantly add to the delay that already exists in federal habeas review of capital cases. While ostensibly designed to move cases along the process, the so-called "time limits" provisions of S. 1970 would not have that effect. Instead, when coupled with the mandatory stay provisions, those two provisions of S. 1970 would increase the delay between steps in the collateral review process rather than reduce it.

As to almost every applicable aspect of the current problems involving federal habeas review of state capital cases, S. 1970 would make the situation worse instead of better. No state would willingly elect to come under its provisions, and no state should be forced to do so. The habeas corpus provisions of S. 1970 (also S. 1757) should not be enacted.

Congress should enact S. 1971. By extending the "full and fair litigation" rule of Stone v. Powell, 428 U.S. 465 (1976), to all claims, it would accomplish true federal habeas reform. State courts can fully and fairly adjudicate claims. Under S. 1971, Supreme Court certiorati review would remain, as would federal habeas determination of whether a state court's treatment of a claim had been "full and fair." By ending redundant review, S. 1971 would safeguard important interests in the finality of judgments, would decrease relitigation, and would significantly reduce delay in reviewing both capital and non-capital sentences.

We urge you and the other members of Congress to reject section 107 of S. 1970; to reject the federal habeas provisions of S. 1970 (also S. 1757); and to enact S. 1971.

We would appreciate it if you would see that this letter is distributed to the members of the Senate Committee on the Judiciary and to any other interested members of Congress.

Sincerely,

Don Siegelman, Attorney General, State of Alabama; Steve Clark, Attorney General, State of Arkansas; Robert K. Corbin, Attorney General, State of Arizona; Duane Woodard, Attorney General, State of Colorado; John J. Kelly, Chief State's Attorney, State of Connecticut; Jim Jones, Attorney General, State of Idaho, Frederic J. Cowan, Attorney General, State of Kentucky; Mike Moore, Attorney General, State of Mississippi; Brian McKay, Attorney General, State of Nevada; Hal Stratton, Attorney General, State of New Mexico; Michael J. Bowers, Attorney General, State of Georgia; Linley E. Pearson, Attorney General, State of Indiana.

William J. Guste, Jr., Attorney General, State of Louisiana; Robert M. Spire, Attorney General, State of Nebraska; Robert J. Del Tufo, Attorney General, State of New Jersey; Lacy H. Thornburg, Attorney General, State of North Carolina; Robert H. Henry, Attorney General, State of Oklahoma; Ernest D. Preate, Jr., Attorney General, State of Pennsylvania; Roger A. Tellinghuisen, Attorney General, State of South Dakota; Joseph B. Meyer, Attorney General, State of

Wyoming; Dave Frohnmayer, Attorney General, State of Oregon; T. Travis Medlock, Attorney General, State of South Carolina; Kenneth O. Eikenberry, Attorney General, State of Washington.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment the distinguished ranking member of the Senate Judiciary Committee for the lucid and intelligent remarks that he made. There is no question in my mind that when it comes to stiff criminal laws, laws that really are likely to do something to help our society, which is what this body generally tries to bring forth, the distinguished Senator from South Carolina has been at the forefront of every one of these battles.

I just want to personally pay my respect and compliment him for the work that he has done in the Senate Judiciary Committee ever since he has been there. I sit next to him on the Judiciary Committee, and I know the tremendous, meaningful work he has done for this country and in the best interest of this country. I remember a few years back that when we passed the most sweeping, tough, and difficult-to-pass Criminal Code reform bill, it was Senator THURMOND who helped to bring that about, having had some good work by Members in the House.

Frankly, there is nobody in the Congress of the United States who can speak more authoritatively than our distinguished Senator from South Carolina.

Mr. President, I am a cosponsor of this bill, of his substitute, and I believe we will be well put if we supported that substitute out here on the floor as we debate this issue. I rise today, Mr. President, to speak in favor of criminal justice reform to strengthen the peace forces of our society against the criminal forces. Accordingly, I have to oppose S. 1970.

S. 1970 is, on balance, a criminal rights bill. If enacted, S. 1970 would effectively eliminate the use of the death penalty not only at the Federal leve, but in the States as well. If enacted, S. 1970 would give vicious criminals convicted of capital crimes even greater opportunities than they have today to delay imposition of their death sentences. It would exclude more probative evidence than occurs today under Supreme Court precendents.

In short, as Senator THURMOND has quoted, President Bush, S. 1970 is a Trojan horse, tougher on law enforcement than on criminals, a sheep in wolf's clothing.

For years, Congress and the courts have struggled to ensure a safe society, while at the same time upholding the time-honored principles of personal freedom and security embodied in the fourth, fifth, and sixth amendments to the Constitution. With enactment of each new criminal sanction, we attempt to balance these sometimes competing interests and, for the most part, I believe that we have done reasonably well in the past.

At the same time, however, there is a feeling among the people that something is terribly wrong with the system. Despite many legislative attempts to get tough on crime, we are experiencing disturbingly high levels of violent crime in this country. As the level of drug abuse has grown, so has the incidence of violent crime and the apparent lack of respect, among criminals, and others, for the system which is supposed to protect our society.

While this lack of respect is undoubtedly due to many factors, I believe that one of the primary reasons for this attitude is a shift in the balance between the rights of criminals versus the rights of law-abiding citizens. In the zeal to guarantee the protections of the fourth, fifth and sixth amendments, Congress and the courts have created statutory and judicial doctrines which unnecessarily favor the criminal forces against the peace forces of our country. This has led to the reduction in the level of respect that our criminal system needs in order to be effective.

The statutory and judicial doctrines to which I refer are those which prohibit the introduction of probative evidence into trial simply because an officer made a minor technical error in the search or seizure of the evidence; those doctrines which permit the endless appeal of cases and sentences; those doctrines which return criminals to the streets long before they have served the sentences imposed; as well as the failure to put into place an effective Federal death penalty.

That is why I am glad that we are finally getting a chance to address these issues here on the Senator floor. We have attempted to deal with them before, but we never seem to take all of the steps necessary to have a positive effect. Today we take up S. 1970, which, its sponsors claim, will adequately address these issues. Unfortunately, my review of its provisions makes it abundantly clear, at least to me, that S. 1970 is not the solution. Instead of calling this a tough on crime bill, something that we desperately need, this bill should be called the soft on crime bill. Let me explain why.

DEATH PENALTY

For years we have been in need of an enforceable, constitutional Federal death penalty procedure. The American public supports the death penalty as an appropriate response to violent crimes, and they have demanded that we put into place the procedures necessary to enforce such a penalty. I would remind my colleagues of the historical fact that there has always been a Federal death penalty. A variety of Federal crimes are already punishable by death. The debate today is not about whether or not we should create a Federal death penalty. Instead, the need for legislation is only to adopt procedures to allow the death penalties already on the books to be constitutionally carried out.

Retired Justice Lewis Powell wrote on the subject of capital punishment last year in the Harvard Law Review. (Powell, "Capital Punishment," 102 Harv. L. Rev. 1035 (1989)). He noted that:

> The Supreme Court has made clear that death is a constitutionally valid sanction for some offenders, and a clear majority of citizens favors its use.

I certainly agree with his conclusion.

The death penalty is justified on several bases. First, there is retribution: it is consistent with most people's sense of justice that the most serious crimes be punished with the most severe punishment. That is also my personal view. In a democracy, it is right that the people's view on this fundamental question be followed. After all, this is not some arcane question of tax policy or nuclear physics—it is, instead, a question of elemental justice, of life and death, as to which each citizen is every bit as competent as we are to say what is right and what is just.

The people of America have clearly spoken on the question of the death penalty. Although the Supreme Court invalidated 37 existing State death penalties in 1972, in the years following the Furman decision, 40 State legislatures voted to adopt death penalties. That exceeds the number of States that have had the death penalty at any other time in our history. The overwhelming margins by which death penalties have been adopted by referendum in California, Illinois, and other States are also testament to the current sense that this punishment is needed.

As a second basis for supporting the death penalty, I believe that the penalty is both a general deterrent and a specific deterrent to crime. No one has ever disputed the penalty's effectiveness as a specific deterrent: murderers who are executed will clearly never murder again. Several prison guards have been murdered by criminals originally sentenced to death, but, for various reasons, not executed. Had their death sentences been carried out, we know as a matter of undeniable fact, that those brave prison guards would be alive today.

I also believe that the death penalty is a general deterrent to crime. For some capital offenses, this proposition is undeniable. Consider treason, espionage, murder for hire—it is clear that in many cases the crime will not be

committed if the potential punishment includes the ultimate sanction, a price some potential criminals will not want to risk. In these crimes of calculation, the criminal has a price and considers the penalties to be encountered in deciding whether or not to commit the crime.

Finally, I note that some scholars think that the mere existence of the death penalty deters the commission of capital crimes generally. This view is also in accord, I believe, with the natural instincts of most persons. It is common for death penalty opponents to dismiss this basis for having the penalty, but I believe that deterrence does provide an additional independent reason for retaining the death penalty.

Still, I do not place my support for the penalty on that basis alone or on any other single basis. One's innate sense of justice as to the appropriateness of a certain penalty cannot be so neatly categorized, nor may it always be defended in words that will convince others. It is enough for me that I believe the punishment to be right and that so many of my fellow citizens—each of them as competent as I to decide—also agree.

Some other death penalty issues should be dealt with briefly. First, no one should be fooled by the claims of some that the death penalty is carried out on innocent persons. It is not. While one recent study has made that claim, the Judiciary Committee recently held hearings on this subject, and testimony was received from Assistant U.S. Attorney Paul Cassell. He is the coauthor of the leading law review article on this subject in the Stanford Law Review, where it is conclusively demonstrated that no alleged instance of an innocent person's being executed has ever been accurately proved. More attention is given to the establishment of the truth in death penalty cases than in any other area of human endeavor. Most death penalty cases involve no assertion of innocence on the part of the criminal—many confess their crime and never withdraw or dispute their confession.

I ask unanimous consent that the law review article to which I have referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Second, I turn to the question of whether the death penalty is applied disproportionately with regard to the race of the perpetrator or of the victim. We will hear much on this subject later, but I would simply note at this point that no court has accepted this theory, nor is this statistical approach to achieving racial justice likely to produce anything except paralysis in our criminal justice system. The Senate properly recognized the fallacy underlying this theory when, in the 100th Congress, a proposal to prohibit the death penalty in the Federal courts on this basis was soundly rejected by the Senate. S. 1970 would abolish the death penalty in the States as well.

This is the major underlying problem with the death penatly title of S. 1970. Even though there is page after page of procedures to impose and carry out death sentences, it is all for nought. Buried within these procedures is section 107, the so-called Racial Justice Act, which would effectively eliminate the death penalty in both Federal and State courts. For now, I would simply note that my conclusion that section 107 would eliminate the death penalty in America is shared by the attorneys general of most States, as well as by the Attorney General of the United States, who has written that he will recommend a Presidential veto of any bill containing such a provision.

In addition, S. 1970 also contains a very problematic provision relating to the statutory mitigating factors that it would recognize as cutting against the return of a death sentence. Mitigating factor No. 8 requires the sentencing jury in a death penalty case to consider by way of mitigation the fact that: "Another defendant or defendants, equally culpable in the crime, will not be punished by death." (Proposed section 3592(a).)

This mitigating factor is nonsensical; its unforseen consequences have surely not been considered by the drafters of this legislation; and the provision, if not removed, will only guarantee jury confusion or mistake.

The basic problem is that capital defendants, more often than not, are not tried together, and the jury in whichever trial takes place first will simply not be able to know what the ultimate disposition of the case against other accomplices of their defendant may be. Thus, this mitigating factor makes the jury's sentence inherently conditional—months or years after trial, the sentence in the first case could be upset by another jury's decision to accord mercy to the first defendant's accomplices. If that were to happen, then the first defendant would surely argue on appeal or postconviction review that his jury had not been properly instructed as they had not heard any evidence on a statutorily mandated factor. He might well be entitled to a vacation of his death sentence and to a new sentencing hearing.

There are many reasons why a prosecutor may choose to try criminal defendants in a certain order or may be compelled—by sixth amendment considerations or speedy trial provisions—to try one defendant first. This subsection makes that prosecutorial decision a matter of life or death—that is inappropriate.

Our goal is enacting these death penalty procedures should be to enhance certainty and finality. That goal is not served by the approval of a provision such as subsection 8 which can only have the effect of introducing uncertainty into the process.

Even if there were a workable way to put before the jury the information which subsection 8 finds relevant, I believe that it should be rejected. One jury's decision to show mercy to a capital defendant—for whatever reason—is inherently specific in that case and not necessarily relevant to any other case. Indeed, its relevence can only be established where the second jury is informed as to the possible reasons why the first jury decided not to return a death sentence.

If the first defendant, for example, had no criminal background, and the second defendant had been twice convicted of murder, a possible reason for the discrepancy in result would be shown. But under subsection 8 the second jury would not receive the benefit of this information. It would only learn that the other defendant had not been sentenced to death. That information is thus inherently misleading unless a full review of the record of the other trial is provided. That is simply not a jury's proper function. Appellate courts regularly review death sentences with an eye toward detecting disparities in treatment for similarly situated defendants. That is where such investigations properly lie; not in the hands of the jury.

The Thurmond substitute, S. 1971, on the other hand, provides a balanced, fair set of procedures. It will restore an important tool for Federal prosecutors in their efforts to help reduce violent and drug related crimes. It removes any question that may exist that the Federal Government can, in most serious cases of treason, espionage, airline hijacking, and other capital offenses, carry out the death penalties that are on the books. And most important, it does not interfere with the States' right to impose death penalties.

This is not, Mr. President, a partisan issue, no matter how the other side of the aisle may try to portray it. Chairman BIDEN received a letter last March from the following State attorneys general and other chief legal officers expressing their strong opposition to section 107 of S. 1970, the so-called Racial Justice Act, as well as to its habeas corpus provisions. At the same time, these legal officers expressed support for S. 1971.

The signers of the letter to which I refer are the following:

The attorney general of Alabama: Don Siegelman, a Democrat.

The attorney general of Arkansas: Steve Clark, a Democrat.

The attorney general of Arizona: Robert K. Corbin, a Republican.

The attorney general of of Colorado: Duane Woodard, a Republican.

The chief State's attorney of Connecticut: John J. Kelly, whose party affiliation, if any, is not known to me.

The attorney general of Georgia: Michael J. Bowers, a Democrat.

The attorney general of Idaho: Jim Jones, a Republican.

The attorney general of Indiana: Linley E. Pearson, a Republican.

The attorney general of Kentucky: Frederic J. Cowan, a Democrat.

The attorney general of Louisiana: William J. Guste, Jr., a Democrat.

The attorney general of Mississippi: Mike Moore, a Democrat.

The attorney general of Nebraska: Robert Spire, a Republican.

The attorney general of Nevada: Brian McKay, a Republican.

The attorney general of New Jersey: Robert J. Del Tufo, a Democrat.

The attorney general of New Mexico: Hal Stratton, a Republican.

The attorney general of North Carolina: Lacy H. Thornburg, a Democrat.

The attorney general of Oklahoma: Robet H. Henry, a Democrat.

The attorney general of Oregon: Dave Frohnmayer, a Republican.

The attorney general of Pennsylvania: Ernest D. Preate, Jr., a Republican.

The attorney general of South Carolina: T. Travis Medlock, a Democrat.

The attorney general of South Dakota: Roger A. Tellinghuisen, a Republican.

The attorney general of Washington: Kenneth O. Eikenberry, a Republican.

The attorney general of Wyoming: Joseph B. Meyer, a Republican.

This list does not include many other State attorneys general whom I know to agree with its conclusions. I have, for example, received a similar letter of support for S. 1971 and opposition to S. 1970, from the Honorable R. Paul Van Dam, the attorney general of my home State of Utah. He is, like many of the names which I have just read, a Democrat.

These views on the dangers of the death penalty provisions of S. 1970 are clearly bipartisan.

S. 1970 will eliminate the death penalty in this country. The Thurmond substitute will make it usable again.

HABEAS CORPUS REFORM

Let me turn now to the issue of Federal habeas corpus. Since 1867, the Federal Government has by statute allowed certain prisoners in State confinement to challenge the constitutionality of their convictions or sentences by means of an application filed in Federal district court. While this remedy was originally limited to jurisdictional challenges and later expanded to encompass all constitutional claims, the habeas corpus remedy under 28 U.S.C. 2254 is now virtually limitless. Every prisoner in State custody can relitigate the validity of his confinement through this means for a virtually unlimited number of times throughout his imprisonment.

Let me give you an illustration. I brought this chart with me that we use in the Judiciary Committee. In Utah, we have a man on death row named William Andrews. He committed one of the most heinous crimes. Everybody knows he has done it. He has been convicted justly and properly. The crime was committed in April 1974—April of 1974.

As of today, May of 1990, he is in the 17th year of appealing his sentence. He has taken 26 appeals, many of them habeas corpus proceedings. Fifteen of the appeals are Federal habeas corpus cases or appeals therefrom. Eleven are State habeas corpus appeals. Everybody knows he is guilty, everybody knows he committed the crime, everybody knows it was heinous, and everybody knows the sentence was justified, I would use the death penalty in a very limited way, only where it is justified and only where the crimes are tremendously heinous crimes, as these crimes were. Yet these 26 appeals, 15 of them through our Federal courts—and as far as I know they are appealing again—these appeals have cost the taxpayers millions and millions of dollars. Some States are failing to use the death penalty as well as they should because they just cannot stand the appeals. They cannot stand the expenses involved; 26 appeals over 17 years.

I think that is something we all ought to be concerned about. I will have more to say about it at a later date.

Because a prisoner has nothing to lose and everything to gain from taking every opportunity to relitigate and reexamine his conviction, it is not surprising that the habeas corpus remedy is particularly prone to abuse. I believe that reasonable limits on a prisoner's opportunity to relitigate his case must be recognized in order that the judgment of the court and jury not be trivialized. The failure of our Federal statute to provide any such limits has gone uncorrected for too long.

Reasonable limits on a prisoner's opportunity to relitigate his case must be recognized in order that the judgment of the court and jury not be trivialized. Currently, prisoners can just appeal as long as they have a new idea every time they turn around. And there are plenty of innovative lawyers with plenty of new ideas to keep these appeals going in this case as well as others.

I would also add, from the perspective of penology, that there is value in affirming that a criminal judgment is final and correct. Only then can a defendant begin to come to terms with his crime, recognize his debt to society, and begin the process of rehabilitation. Constant relitigation of purely procedural issues, entirely apart from questions of guilt or innocence, can only be counterproductive to the goals of incarceration.

It is clear that this area is in need of some serious reform. But, look what we get from the habeas corpus provisions of S. 1970.

The habeas corpus provisions of this bill will dramatically compound the problems that exist today, not reduce them. These provisions are a giant step in the wrong direction. Instead of enacting the reform which everyone seeks—resulting in less delay and more finality in resolving criminal cases—the proposed bill will do just the opposite: It will overrule many of the most significant Supreme Court cases of recent years which have had some effect in stemming the habeas corpus hemorrhage, and it will introduce new avenues of delay and postponement to be exercised by prisoners on death row.

S. 1970 will increase, not decrease, the number of habeas corpus cases—the overwhelming majority of them "stale, frivolous, and repetitious"—in Federal court. I submit, Mr. President, that a bill which allows any death row inmate alleging that he is the victim of "miscarriage of justice" to obtain another review of his conviction and sentence in Federal court—no matter how many times he has previously been to Federal court—is not calculated to reduce the number of habeas corpus petitions. But that is what S. 1970 provides. Proposed section 2257(c)(3). That is one of the reasons why retired Justice Lewis Powell as well as the chief judges of the 5th and 11th circuit courts of appeals have testified that enactment of title II of S. 1970 will result in more, not fewer, repetitive habeas corpus cases.

S. 1970 will overturn leading Supreme Court precedent. Justice Powell also pointed out the deleterious impact of S. 1970's procedural default rule. Proposed section 2259 requires the district court to hear every claim that alleges a "miscarriage of justice," even if the argument has been specifically waived or abandoned at trial or on appeal for strategic or other reasons. This rule would overrule the leading Supreme Court case of *Wainwright* v. *Sykes*, 433 U.S. 72 (1977). This decision has kept the number of habeas cases from being still larger by prohibiting a prisoner from raising in Federal court a claim which he is legitimately barred from raising in State court unless the prisoner can show good cause for the default, resulting in prejudice to his case. That is a reasonable rule, broad enough to allow every

genuine case of constitutional error to be heard. It should be retained.

Also overruled by S. 1970 would be the plurality opinion in *Kuhlmann* v. *Wilson*, 477 U.S. 436, 454 (1986). That case stated that successive habeas petitions should only be allowed where questions of guilt or innocence were raised. The Powell Committee on habeas reform specifically recommended limiting successive habeas petitions to those involving questions of guilt or innocence, but S. 1970 would expand current law by permitting any petition alleging a miscarriage of justice to be heard.

S. 1970 does not establish a definite time limitation on filing habeas petitions. While S. 1970 purports to limit the availability of Federal habeas relief to the first 365 days after the exhaustion of all State remedies, there is an exception large enough to swallow up the purported rule. Whenever the death row inmate files a certiorari petition in the Supreme Court—and he can file as many of these as he wants—the statute of limitation is tolled—proposed section 2258(1).

S. 1970 contains a dangerous innovation in criminal law which I do not believe has previously been proposed. The question of whether a decision of an appellate court shall have prospective or retroactive effect is intimately connected with the question of whether a criminal conviction can ever be final. Under current law, a defendant whose appeal is pending can generally take advantage of any recent or new court decision that is favorable to him. However, once his direct appeal is finished, and his case is considered final, he cannot avail himself of newly announced court decisions that are designed to govern the proceedings in future cases.

This sensible rule is the only one that allows a criminal case to achieve any degree of finality. The rule, moreover, is a salutary one because it encourages the courts to develop new and more fair rules of criminal procedure free from the fear that a newly prescribed rule will have the effect of opening the jailhouse doors.

The Miranda case is a good example of how these principles work in action. When the Supreme Court laid down new rules which all future defendants could claim, the Court specifically held that the rules would only apply prospectively. How could they have held otherwise? To say that the specific Miranda rules must have been given before the Miranda case had even been decided would have meant that virtually every prisoner in America would have had to be let out of prison. Had the Supreme Court not have possessed the power to specify that its decision would apply only prospectively, we can certainly assume that it would never have decided Miranda as it did. The same is true of Escobedo versus Illinois and any number of other leading cases in the field of criminal procedure.

But S. 1970 would take this power away from the Supreme Court. It would instead give to an individual Federal district court hearing a habeas petition the power to overrule the holding of the Court on this question of retroactivity—proposed section 2262. It would moreover allow the district court to apply cases retroactively to criminal cases that have already become final—thus opening up for review cases that may have been settled for years or decades.

As the Attorney General has recently observed, this innovation would overrule several leading Supreme Court cases and would "resurrect the chronic problems of unpredictability and lack of reasonable finality of judgments" which those decisions put to rest—letter of Dick Thornburgh to Senator THURMOND, March 15, 1990, page 7.

No efficient system of criminal justice can function under such an arrangement. If nothing else, the proposed retroactivity rule of S. 1970 would encourage prisoners to file repetitious petitions simply on the hope that their petition may be heard by a new district judge—one who may decide the retroactivity issue differently than the previous judge. At least under the current system, the Supreme Court sets the rules and they apply nationwide.

Consider another absurdity of proposed section 2262: It would establish one rule for death cases while leaving in effect the current retroactivity rules for every other case. Thus a prisoner sentenced to life in prison would have to serve out his sentence even though a new nonretroactive Supreme Court case would, if it had applied to his case, result in reversal. However, a death row inmate claiming the very same error would be able to receive a new trial—or even his freedom—based on the same Supreme Court decision. Is that a rational result? Is that the equal protection of the laws? We would be allowing the clearly more culpable defendant to benefit from the new law while continuing to deny its benefits to the less culpable criminal. That is frankly absurd, if not in fact unconstitutional.

The retroactivity provision of S. 1970 is not designed to achieve justice—its only purpose is to prevent the execution of persons who have been otherwise unsuccessful in preventing the carrying out of their death sentences.

I would like to turn, now, Mr. President, to the appointment of counsel provisions of S. 1970. Title II provides counsel, at taxpayer expense, for what I believe is the first time ever to plaintiffs in civil cases—litigants who have no constitutional right to counsel. Moreover, the typical habeas petitioner on death row has already had his death sentences reviewed and affirmed by at least three and as many as nine different courts, including the Supreme Court of the United States. Habeas cases only begin, by definition, after the criminal case is over and the Government has no further prosecution pending. They are civil cases, tried under the rules of civil, not criminal, procedure. *Browder* v. *Director, Dept. of Correction*, 434 U.S. 257, 269 (1978). There is no constitutional right to counsel in these cases. A habeas petitioner has, moreover, already received or been entitled to receive free appointed counsel in as many as nine separate judicial proceedings before ever coming to Federal court. I think that is enough.

S. 1970 writes into law very specific and unrealistically limited experience requirements for appointed counsel. Where counsel is appointed before trial, this bill requires that at least one attorney must have been admitted to practice in the very court in which the prosecution is to be tried for not less than 5 years and must have had not less than 3 years' experience in the trial of felony prosecutions in that court. Why the relevant practice requirement should be required to be obtained in a specific court—some States have nearly 100 different courts—and in no other, is not apparent.

For postconviction appointment of counsel, that is, for attorneys to file civil actions in Federal trial court, the bill is entirely backward. It calls for the appointment of attorneys with experience in trying appellate criminal cases in State court. On all three variables, into which the legal practice commonly divides itself—civil versus criminal practice, trial versus appellate practice, and State versus Federal practice—this bill chooses the wrong one as an experience requirement for appointed counsel. One who is taking a Federal habeas case will have to draft pleadings pursuant to the Federal rules of civil procedure, will have to be admitted in the relevant Federal court, and will have to know the rules of practice pertaining to district court, that is, trial-level legal work. But the bill calls for a State criminal appeals specialist to do all of this—an attorney who may have spent his entire career in State court, practicing under State rules of criminal procedure, in appellate cases, where there is never the need to conduct discovery, examine witnesses, or try a case. All of these things will be required of the attorney in a successful habeas petition.

As my remarks should indicate, there are many variables to be considered when the question is the appointment of a particular lawyer in an individual case. I, for one, am satisfied with the current system of discretion-

ary appointment whereby our Federal judges will appoint counsel in every case in which a colorable claim is raised—and, as the reported cases indicate, in many cases where no legitimate claim is made—and they will appoint counsel based on their knowledge of the local legal community. That system has served us well; there is no need to abandon it at this time.

I would remind my colleagues that when we discuss postconviction counsel we are talking about prisoners whose guilt has been established beyond a reasonable doubt and whose conviction and sentence have, in every case, been affirmed by the highest appellate court of the State, and, in most cases, by the Supreme Court of the United States. Only then, after their appeals are over and their criminal case is completed, would S. 1970 operate to provide still more lawyers for the prosecution of their civil remedies.

S. 1970 expands the right of appeal from adverse rulings on habeas petitions. Under present law, most unsuccessful habeas petitioners may only appeal the dismissal of their petitions where the district judge issues a certificate of probable cause, asserting that the legal issues presented by the case are not entirely frivolous. S. 1970 creates, for the first time, an absolute right to have habeas decisions reviewed on appeal—proposed section 2260. This will further aggravate the current overload being experienced by the Federal courts of appeals. Moreover, the new appeals allowed by S. 1970 will, by definition, be frivolous cases which would not previously have been litigated beyond the trial level.

These are the principal reasons why any Senator who truly favors reform of the habeas corpus system should oppose the habeas corpus provisions, title II, of S. 1970. S. 1970 is not habeas reform; it is habeas even further out of control. The habeas provisions of S. 1971, the Thurmond bill, by contrast, are designed to establish a true time limitation—1 year after exhaustion of State remedies—for instituting habeas cases and to preserve and codify the important Supreme Court rulings in this area.

Mr. President, 37 years ago, Justice Robert Jackson complained that the Supreme Court's radical extensions of the Federal habeas corpus statute to allow for the complete review of all State criminal convictions had resulted in the Federal courts being inundated by "floods of stale, frivolous, and repetitious" cases. *Brown* v. *Allen*, 344 U.S. 443, 536 (1953). The "flood" of which Justice Jackson spoke was the 541 habeas petitions filed in 1952; he could never have foreseen the more than 10,000 petitions which are now filed annually in our Federal courts. Still, Justice Jackson's characterization of the typical habeas petition is, if anything, even more accurate: they continue to be overwhelmingly frivolous and repetitious, particularly in death penalty cases; and they continue to demand a disproportionate share of the judicial branch's attention as they tie up our Nation's trial and appellate courts. A way of limiting the habeas jurisdiction to genuine cases of constitutional error must be found.

Some have indicated we could free up as many as 100 Federal judges in this country if we would truly reform, as does S. 1970, the habeas corpus laws.

Mr. President, as I noted earlier during my remarks on the death penalty, this is a bipartisan issue. Another reason why I say that this issue is nonpartisan is because of the Senators who have previously endorsed the Thurmond habeas proposal to the extent of having voted in favor of it in 1984. At that time, the following democratic Senators voted to support this version of habeas reform: BUMPERS, BURDICK, BYRD, DECONCINI, DIXON, EXON, FORD, BAUCUS, HEFLIN, INOUYE, JOHNSTON, MITCHELL, NUNN, PELL, BOREN, and RIEGLE.

That is about the democratic Senators who are still serving in the Senate. Many others joined to make the 67 to 9 majority by which the Thurmond habeas proposal previously passed this body.

The Thurmond substitute provides true habeas corpus reform. S. 1970 is soft on habeas corpus reform; the Thurmond substitute is strong.

EXCLUSIONARY RULE REFORM

The fourth amendment protects the right of the people against unreasonable searches and seizures. In order to enforce that right, the courts created the exclusionary rule. Under that rule, whenever evidence is obtained unreasonably—according to current fourth amendment standards—it is inadmissible as evidence in court. Although the fourth amendment triggers its judicial application, the exclusionary rule is not a part of the Constitution. This court-made rule was first adopted for Federal cases in *Weeks* v. *U.S.*, 2332 U.S. 383 (1914) and applied to the States in *Mapp* v. *Ohio*, 367 U.S. 643 (1961).

Under the rule, evidence considered to have been obtained illegally is not permitted into trial. In addition, any other evidence obtained as a result of that illegal evidence is also tainted and inadmissible. The result of this rule has often been that completely credible and probative evidence critical to conviction, seized in the heat of apprehending a suspected felon, may be excluded from consideration solely because a court deliberating months later believes that it was obtained in an unreasonable fashion. Under the rule, a criminal who, in fact, committed a dreadful violent crime, even one who is caught in the act, is set free—not because he is innocent, but because the evidence necessary to establish his guilt is deemed to have been unreasonably seized.

Until 1984, even when the police officers obtaining the evidence have acted under a good-faith reliance on a search warrant, the evidence was still excluded. In the 1984 case of *United States* v. *Leon*, 468 U.S. 897, the Supreme Court held that the exclusionary rule would not bar the introduction of evidence seized by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate, even if the warrant is later found to be invalid. In other words, if the officers acted with a good-faith reliance on a search warrant, the evidence would be admissible.

Despite the Leon case, the exclusionary rule still goes too far in protecting criminals, particularly in cases involving warrantless searches. It is my view, and the view of many others, that further modification of the rule is still required. Again, S. 1970 is a giant step in the wrong direction.

As drafted, the exclusionary rule provisions of S. 1970 appear on their face to be a codification of the law as set out in the Leon case. As such, I would argue that these sections are not really necessary since Leon is already the law. Furthermore, the codification of the Leon standard might be viewed by some courts as a prohibition on their ability to further expand the good-faith exception or to judicially remove the rule altogether.

But, in any event, S. 1970 does not even go so far as to codify Leon. S. 1970 departs in two ways from the Leon decision that will have a restrictive effect on the Leon good-faith rule. Under this bill, the rule would not apply if the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant. This is different from the language in the Leon case which stated that the good-faith rule wold not apply in cases where the issuing magistrate wholly abandoned his judicial role in the manner condemned in *Lo-Ji Sales, Inc.* v. *New York*, 442 U.S. 319 (1979). The Lo-Ji case involved an egregious situation in which the magistrate issued a largely blank warrant, accompanied the officers on the search, and gave ad hoc authorizations to seize particular items at the search site.

The facts of the Lo-Ji case are pretty specific, yet the language of S. 1970 seems to invite a much broader inquiry into the role and procedures followed by the magistrate. It would invite attacks on the use of evidence based on alleged failings of the issuing magistrate in neutrality or detachment, even though he was unquestionably carrying out his normal judicial function. I would also question the redundancy of the terms detached and

neutral. In establishing the good-faith rule, the bill states that the warrant must be issued by a detached and neutral magistrate. But the second exception to the general rule states that evidence may be excluded if the magistrate did not exercise neutral and detached review. Are these conditions the same or different? If they are the same, why are they both stated? If they are different, what does one add to the other? This exception just seems to add uncertainty and invites interpretive problems.

The second restriction placed on the Leon rule by this bill occurs in language which provides that good-faith rule would not apply in cases where "the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid." The Leon case cites an example of the failure to particularize the place to be searched or the things to be seized and makes reference to the case of *Massachusetts* v. *Sheppard,* 468 U.S. 981 (1984). In that case, the warrant was seriously deficient on its face, but the court held that it was nevertheless reasonable for the officer to rely on it in light of the magistrate's assurances that he would correct the deficiency. Again, because the bill seems to broaden the scope of the Leon case exceptions, it would restrict the effect of the good-faith rule.

Finally, in addition to the fact that this language appears to restrict the Leon rule, this bill does not address the good-faith issue with respect to warrantless searches. This is an important part of the debate on exclusionary rule reform. In my mind, these are serious problems with the language of S. 1970.

The Thurmond substitute, on the other hand, addresses these concerns. Its provisions would permit the admission of evidence obtained in circumstances justifying an objectively reasonable belief that a search was in conformity with the fourth amendment.

Under the Thurmond bill, this standard would apply the underlying principle of the Leon case to circumstances in cases involving warrantless searches, as well as in cases involving searches pursuant to a warrant. This is an important reform. As the Leon court noted, excluding evidence where an officer's conduct is objectively reasonable "with not further the ends of the exclusionary rule in any appreciable way; for it is painfully apparent that * * * the officer is acting as a reasonable officer would and should act in similar circumstances. Excluding the evidence can in no way affect his future conduct unless it is to make him less willing to do his duty." *Leon,* 468 U.S. at 920. The same rationale applies to warrantless searches. And this principle has been practiced for several years in the fifth and eleventh circuits with respect to searches both with and without warrants.

Furthermore, under the Thurmond substitute, evidence could not be excluded from trial on the basis of search and seizure violations that are nonconstitutional unless such an exclusion is expressly authorized by law. Given the high price of the exclusionary rule to the truth-finding process, and the fact that the Leon case now removes its application in relation to some constitutional violations, it is desirable to codify explicitly the principle that evidence may not be excluded on the basis of nonconstitutional violations in the absence of statutory authority to do so.

This proposed restriction on the exclusion of evidence is already implicit in the broader rule of Federal Rule of Evidence 402, which provides that—

[a]ll relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority.

The Thurmond language would remove a confusing source of litigation in the lower courts which are inundated with cases in which defendants attempt to secure the exclusion of relevant and probative evidence of their guilt on the basis of alleged violations of nonconstitutional regulations.

The provisions of this bill would also protect other Supreme Court recognized exceptions to the application of the exclusionary rule which are not confined to the "objective reasonableness" situation. They would not, however, preclude the courts from considering other broader limitations on the exclusionary rule in the future.

S. 1970 is soft on exclusionary rule reform. The Thurmond substitute language provides a better approach to dealing with this admission of evidence problem.

ASSAULT WEAPONS

Mr. President, we need to make sure that we keep deadly weapons out of the hands of criminals. But again, S. 1970 does not deliver. Instead of focusing on criminals, it would place restrictions on the second amendment rights of law-abiding citizens. It would prohibit the possession of a class of firearms which have always been legal to own, and it would create a burdensome paperwork registration requirement that will be impossible to enforce. These provisions will effect only law-abiding citizens and will not stop determined criminals from obtaining any firearm that they may choose to use in a crime.

The Thurmond substitute, on the other hand, does deliver. It would strengthen existing criminal penalties for use of firearms during criminal activities, and it would also provide some additional protections to the second amendment rights of law-abiding citizens. The Thurmond bill is strong on crime.

JUSTICE DEPARTMENT REORGANIZATION

The Justice Department needs our support in enforcing the Criminal Code. Part of that support includes the freedom to manage their resources as they see fit. However, S. 1979 proposes a major reorganization. It would create a new Organized Crime and Dangerous Drug Division. This division would require additional, duplicative sections to review wiretapes, to facilitate extraditions, to manage a witness security program, to forfeit assets, to track money-laundering schemes, and to perform normal administrative overhead functions.

This reorganization would also reverse the consolidation, effective December 31, 1989, which merged the Organized Crime Strike Forces with the U.S. attorneys' offices nationwide. The Department of Justice opposes this title of the bill for the following reasons:

The Director of the Office of National Drug Control Policy, commissioned by Congress, evaluated the merits of structural reorganization and rejects the creation of a new Division.

Such a Division would encourage diversity in prospective standards and philosophy, where consistency is a paramount virtue.

Such a Division would require additional, duplicative sections to perform normal administrative overhead functions.

Such a Division would add yet another element of bureaucracy to the drug-enforcement effort within the Justice Department.

The Department of Justice supports the continued consolidation of strike forces with the U.S. attorneys' offices for the following reasons:

The consolidation will increase efficiency and eliminate coordination problems.

The consolidation is a change in management and not in direction, in our efforts against organized crime.

Consolidation adds greater flexibility in providing additional prospective resources at the U.S. attorney's direction, if needed.

The Thurmond substitute, on the other hand, does deliver. It lets the Justice Department conduct its own affairs and provides additional law enforcement tools such as a workable capital punishment procedure, effective reforms of habeas corpus and the exclusionary rule, and drug testing of defendants on post conviction release.

CONCLUSION

As long as the criminal justice system allows violent criminals to commit crimes with little or no threat of apprehension, serious punishment, or finality of process, I am afraid that the trend of violent crime will contin-

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ue. As I have stated, I believe that the most effective approach toward reducing death and injury due to violent crime must involve major adjustments to the criminal justice system. The Federal death penalty must be reinstated and enforced. Both the exclusionary rule and habeas corpus proceedings must be reformed. We need to commit still more resources to the expansion of Federal and State prison facilities, and sentences requiring internment in those facilities must be carried out to their full term. We need additional law enforcement agents and Federal prosecutors. In short, we need to reinforce deterrence in the criminal justice system by instituting certain, firm, and sure enforcement of our criminal laws. S. 1970 will seriously set back law enforcement. S. 1971, the Thurmond bill, will allow us to move ahead.

## COMMENTS—PROTECTING THE INNOCENT: A RESPONSE TO THE BEDAU-RADELET STUDY

(By Stephen J. Markman* and Paul G. Cassell**)

Given the fallibility of human judgments, the possibility exists that the use of capital punishment may result in the execution of an innocent person. This terrible prospect raises the issue of whether the risk of error in administering the death penalty is sufficiently high both to outweight the potential benefits of capital punishment and to offend the moral sensibilities that must support a free society's criminal justice system. Despite occasional claims that specific individuals have been put to death from crimes they did not commit, the risk of executing the innocent has never been the subject of thorough and rigorous empirical study. Recently, however, two opponents of the death penalty, Hugo Adam Bedau and Michael L. Radelet, have published the results of "sustained and systematic" research purporting to show that the use of capital punishment entails an intolerable risk of mistaken executions.[1] According to the authors, 350 persons have been wrongly convicted of capital or "potentially capital" crimes in the United States during this century; and twenty-three innocent persons have actually been executed.[2] These alarming conclusions cannot be taken at face value. Not only is the Bedau-Radelet study severely flawed in critical respects, it wholly fails to demonstrate an unacceptable risk of executing the innocent. To the contrary, it confirms—as convincingly as may be possible—the view that the risk is too small to be a significant factor in the debate over the death penalty.[3] Because of these shortcomings, the study deserves a response, lest it gain currency to the detriment of clear thinking on the subject for years to come.[4]

The response presented here proceeds along two lines. The first is directed at the relevance and validity of the study itself. As the discussion in Part I indicates, the study suffers from a number of flaws. The most serious of these are the authors' reliance on material irrelevant to the risk of wrongful executions and their method of determining innocence. With respect to relevance, only about seven percent of the study deals with cases of allegedly erroneous executions. Moreover, even as regards these cases, the authors' decision to include cases from the early part of this century, long before the adoption of the extensive contemporary system of safeguards in the death penalty's administration, skews their analysis of capital punishment under contemporary circumstances. With respect to methodology, the authors' method is overly subjective. It is also one-sided in its description of the cases of alleged error. Indeed, with respect to some of the allegedly mistaken executions, there appears to be little resemblance between the authors' descriptions and the actual cases.

The second line of response, presented in Part II, rebuts the argument that capital punishment should be abolished because the risk of erroneous execution is unacceptably high.[5] That argument fails for several reasons. First, no sound reason exists for believing that there is currently an intolerable risk of executing an innocent person. Over the past fifteen years, procedural protections have been adopted to reduce as much as possible the likelihood that error will be committed or, if committed, that it will go undetected. More to the point, the authors present no credible evidence that any innocent person has been executed during this period; and they do not claim that any individual now awaiting execution is innocent. In addition, the argument undervalues the important reason why the great majority of Americans and their legislators recently have determined that capital punishment should be reinstated, notwithstanding society's inability to administer the death penalty with "godlike perspicacity."[6] That reason is to save lives. Through a combination of deterrence, incapacitation, and the imposition of just punishment, the death penalty serves to protect a vastly greater number of innocent lives than may be lost through its erroneous application. Finally, society would be guilty of a self-destructive "failure of nerve"[7] if it were to forego the use of an appropriate and effective punishment simply because it is not humanly possible to eliminate the risk of mistake entirely.

### I. FLAWS IN THE BEDAU-RADELET STUDY

Starting with the unexceptionable proposition that "[f]ew errors made by government officials can compare with the horrow of executing a person wrongly convicted of a capital crime,"[8] Bedau and Radelet have undertaken an empirical study aimed at providing "a better understanding of the miscarriages of justice in capital or potentially capital cases that have occurred in the United States during this century."[9] To this end, they present "350 cases in which defendants convicted of capital or potentially capital crimes in this century, and in many instances sentenced to death, have later been found to be innocent."[10] Twenty-three of these cases, they claim, resulted in the execution of an innocent person.[11]

In fact, the Bedau-Radelet study is too flawed to provide much support for the authors' argument against the death penalty. A complete analysis of the study's shortcomings, including an examination of the validity of the authors' conclusions with respect to each of the 350 cases presented, is outside the scope of this article. Nevertheless, even a partial analysis of the study's methodology and conclusions is sufficient to expose the study's defects.

#### *A. The Misleading Nature of the Study*

As noted above, the authors assert that 350 Americans have been wrongly convicted of capital or "potentially capital" crimes during this century.[12] The category of "potentially capital" cases, however, consists in large measure of cases in which the death penalty was not available or was not the sentence given. It includes cases of persons convicted in states without capital punishment for the defendant's crime, convicted of lesser offenses such as second-degree murder and voluntary manslaughter, and convicted of capital offenses but sentenced to imprisonment rather than death.[13] The authors justify including these "potentially capitals cases" on the ground that, "except for some relatively adventitious factor," they might have culminated in a death sentence.[14] This approach seriously misstates the magnitude of the problem of wrongful capital convictions. The authors have pointed to only 200 allegedly wrongful convictions for first-degree murder during this century.[15] In only 139 of these cases were the defendants actually sentenced to death.[16] More to the point, the death sentence was carried out in only twenty-three of the 350 cases cited by the authors.[17] Thus, strictly speaking, only 6.6 percent of the study is relevant to the issue of wrongful executions. Moreover, the authors cite but a single allegedly erroneous execution during the past twenty-five years—that of James Adams.[18] A review of that case demonstrates, however, that Adams was unquestionably guilty.[19] Thus, Bedau and Radelet have made no persuasive showing that anyone has been wrongly executed since new capital punishment procedures were instituted in the wake of *Furman v. Georgia*.[20] In short, what the authors have done could be compared to studying traffic deaths before the adoption of traffic signals.

The authors also mislead readers through their presentation of the data. They apparently seek to elicit shock or alarm, rather than to promote reasoned consideration of the issues. Thus, with respect to their finding that an innocent person was sentended to death in 40 percent of the cases they present, they state: "This is error in capital cases in the strictest sense of the term, at an average rate of three such errors every two years."[21] Yet the eye-catching statistic is misleading. This is an alleged average annual rate of erroneous death sentences. But, since the discussion's context is the human propensity to err in making capital judgments, the appropriate statistic would be the number of erroneous death sentences divided by the total number of such sentences.

Also objectionable is the author's emphasis on erroneous death sentences, when the more significant consideration is the number of erroneous executions. Presumably, the issue is whether the magnitude of the risk of executing innocent persons makes capital punishment unwise as a matter of policy. The size of this risk can only be evaluated, however, by dividing the number of innocent persons who have been executed by the total number of persons executed.[22] The number of persons wrongly convicted of capital crimes and sentenced to death is less significant for at least two reasons: First, if these persons were not executed, their erroneous convictions and death sentences have no bearing on the wisdom of executing persons properly convicted of capital crimes. Second, focusing on trial court dispositions alone completely ignores the procedural protections for detecting erroneous convictions that are available through direct appeal and collateral attack.[23]

*B. The Subjectivity of the Study*

1. Determining innocence

The overwhelming problem with the Bedau-Radelet study is the largely subjective nature of its methodology and therefore of its conclusions. The linchpin of the study is the claim that the authors have identified "350 cases in which defendants convicted of capital or potentially capital crimes in this century, and in many cases sentenced to death, have later been found to be innocent." [24] This claim raises the critical question of the meaning of the phrase "found to be innocent.[11] The use of this phrase—and its variant, "proved to be innocent" [25]—clearly suggests a high degree of certainty in the determination of innocence. The use of the passive voice, however, belies that the authors themselves made many of the findings; and neither the standard they use to determine innocence nor the proof they offer to meet that standard permits such assurance.

The authors' standard is simply their belief, arrived at after reviewing the information available to them regarding each case, that "a majority of neutral observers, given the evidence at [the authors'] disposal, would judge the defendant in question to be innocent." [26] The type of information upon which the authors rely includes the alleged subsequent discovery that no capital crime was committed,[27] alleged acknowledgment of error by the state,[28] another person's confession,[29] a combination of lack of evidence against the defendant and the implication of another person as the culprit,[30] a state official's opinion that the defendant was not guilty,[31] and the "weight of the evidence" available to subsequent investigators.[32] More specifically, in the twenty-three cases involving allegedly mistaken executions, the information upon which the authors rely to "prove" innocence consists of another person's confession (six cases),[33] the implication of another person (three cases),[34] a state official's opinion (six cases),[35] and "subsequent scholarly judgment" [36] that the defendant was innocent (eight cases).[37]

The authors' dubious method of finding convicted individuals to have been innocent strikes the neutral observer reading the authors' very brief discussion of wrongful executions.[38] There one reads the following:

"The evidence for judgment of error in these cases will naturally interest many, but what we can report will satisfy only a few. In the notorious cases, we have relied on the judgment of other scholars whose investigative work convinces us that error did indeed occur. Nothing we can say here will cause the controversy that still surrounds each of these cases to abate. In some of the more obscure cases, we have relied entirely on the opinions of officials whose views we believe deserve to be taken seriously. In none of these cases, however, can we point to the implication of another person or to the confession of the true killer, much less to any official action admitting the execution of an innocent person." [39]

"Adams, James (black), 1974. Florida. Adams was convicted of first-degree murder, sentenced to death, and executed in 1984. Witnesses located Adams' car at the time of the crime at the home of the victim, a rancher. Some of the victim's jewelry was found in the car trunk. Adams maintained his innocence, claiming that he had loaned the car to his girlfriend. A witness identified Adams as driving the car away from the victim's home shortly after the crime. This witness, however, was driving a large truck in the direction opposite to that of Adams' car and probably could not have had a good look at the driver. It was then discovered that this witness was angry with Adams for allegedly seeing his wife. A second witness heard a voice inside the victim's house at the time of the crime and saw someone fleeing. He stated this voice was a woman's; the day after the crime he stated that the fleeing person was positively not Adams. More importantly, a hair sample found clutched in the victim's hand, which in all likelihood had come from the assailant, did not match Adams' hair. Much of this exculpatory information was not discovered until the case was examined by a skilled investigator a month before Adams' execution. Governor Graham, however, refused to grant even a short stay so that these questions could be resolved." [43]

Our review of the record in the Adams case reveals that this description is seriously misleading. The authors have misrepresented or excluded critical evidence of the defendant's guilt and have exaggerated the significance of supposedly exculpatory evidence. In addition, there is no basis for their suggestion that Adams was denied a fair opportunity to establish his innocence.

Bedau and Radelet begin their defense of James Adams by claiming that one witness who identified Adams leaving the scene of the crime "was driving a large truck in the direction opposite to that of Adams' car, and probably could not have had a good look at the driver." The trial testimony, as recounted by the State in its response to Adams's second federal habeas corpus petition, gives a different picture of the witness's identification:

"Willie Orange . . . passed a car travelling in the opposite direction which was wobbling all across the road so much . . . that Orange had to pull over as far to the right as he could. The car slowed before it reached him, and moved back to the left side, travelling west. Orange identified the car as being a brown Rambler, and identified the driver as being the defendant. He was positive of his identification of defendant as the driver. The next day he picked defendant out of the lineup." [44]

The article also states that "[i]t was later discovered that this witness was angry with Adams for allegedly seeing his wife." [45] Defense counsel made this suggestion, however, in their opening statement at trial in 1974 and did not later pursue it.[46]

The Bedau-Radelet article also misrepresents the testimony of the second witness to which it refers. According to the authors, this witness "heard a voice inside the victim's home at the time of the crime and saw someone fleeing. He stated this voice was a woman's; the day after the crime he stated that the fleeing person was positively not Adams," [47] Resort to the trial proceedings gives quite a different impression of this witness's testimony:

"[Foy Hortman, the witness to whom Bedau and Radelet refer,] finally drove this truck toward the house in order to find Mr. Brown [the murder victim] and saw a brown Rambler in front with mirrors on the outside and something hanging on the mirror on the inside. As he approahced the house, he thought he heard someone say, "In the name of God, don't do it." He then listened for a short while, re-entered his truck and started to back out when he saw the door that opens into the carport of the house open. The day was "real cloudy," and it rained a bit as Hortman had approached the house. When he saw someone leaving the house, he stopped his truck and got out. The person leaving the house was "real black," and had something sticking out in his front pocket. Hortman exchanged a few words with the man, who continued walking away toward the Rambler. As soon as the man rounded the corner of the House Hortman heard a door open and a car leave. The man Hortman saw appeared to be 30 to 35 years old, approximately 6 feet tall,[48] and Hortman noticed no mustache on him. Hortman said the lighting conditions underneath the carport area was "kind of dark" since the sun "wasn't shining a bit." On cross-examination, Hortman testified that the voice that he heard from inside the house did not sound like Mr. Brown's voice. On direct examination, he had testified that the voice sounded "kind of like a woman's voice, kind of like strangling or something and I thought it was on the radio or T.V. or something." On recross and direct examination, he stated that the voice sounded like "it was kind of strangled or something," and that "if he couldn't hardly talk it would sound that way, if he had been beat up like he was." Hortman also testified that he could not say that defendant was or was not the man that he saw, and that he did not identify defendant in a linelup the next day." [49]

As this testimony makes clear, the voice Hortman heard said, "In the name of God, don't do it." It was not seriously disputed at trial that this must have been Mr. Brown's last pleas for life, and therefore it is without consequence that the voice sounded in certain respects like a woman's. Moreover, contrary to the authors' implication that the real killer was a woman,[50] the witness made it clear that the person he saw leaving the scene of the crime was a man, even though he was unable to identify the man positively as Adams.

Finally, and "[m]ore importantly," the article contends, "a hair sample found clutched in the victim's hand, which in all likelihood had come from the assailant, did not match Adams's hair." [51] The article even suggests that this evidence was newly discovered but that the Governor refused to delay the execution in 1984 to consider the issue. The hair sample issue, however, actually was raised and litigated in 1984 before the Florida courts. They, like many other state courts, have procedures for evaluating recently discovered evidence suggesting that a defendant may have been erroneously convicted. In this Florida proceeding, the state pointed out that the hair sample analysis was made known to defense counsel at trial in 1974. Defense counsel chose not to use it [52] because the sample was not particularly probative.[53] It was a remnant of a sweeping of the ambulance and so could have come from another source.[54]

All of the evidence relating to the hair sample, along with several other issues, was placed before the state court which denied Adam's motion to vacate sentence in an order dated April 25, 1984.[55] Adams apparently decided not to pursue the hair sample issue. He did not even raise it when he appealed to the Florida Supreme Court on other grounds.[56]

It seems reasonable to conclude, therefore, that the article offers little evidence to support its contention that Adams was in fact innocent of the murder. More tellingly, the article ignores the compelling evidence that convinced a unanimous jury of his guilt beyond a reasonable doubt.

Josephine Brown, the wife of victim Edgar Brown, testified that shortly before the

murder she had seen a brown Rambler heading towards their residence with a black man driving it. When she returned home at approximately 10:50 a.m., she saw her husband lying on the floor in a pool of blood. He was still alive, and she attempted to treat him. He was taken by ambulance to a hospital but died the next day. Edgar Brown's physician testified that he died from blows to the head. A bent fireplace poker, stained with type O blood, the same type as the victim's was found in the house.[57]

In addition to Willie Orange and Foy Hortman, whose testimony implicating Adams has been reviewed above, three other witnesses testified that they saw Adams or his car at, or in the immediate vicinity of, the Brown ranch on the morning of the murder.[58] In addition, on the afternoon of the murder, Adams took his brown Rambler to an auto body shop and asked to have the car painted another color. The police spotted the car as the one that had been identified leaving the scene of the crime and later arrested Adams driving a friend's Oldsmobile. When he was arrested, Adams had nearly $200 in his pockets, mostly in ten-and twenty-dollar bills. One of the twenty-dollar bills was stained with type O blood. When Adams was asked about the blood on the money, he said that it came from a cut on his finger. His blood was type AB, however, while the victim's was type O.[59] Police found a pair of pants, a striped shirt, a pair of eyeglasses, a blue suit, two rings, and a gold watch in the car's locked trunk. The pants and shirt both had type O blood on them. The optician who made the glasses identified them as Edgar Brown's; the watch and rings were identified as coming from Brown's house. Adams acknowledged that the clothing was his and claimed that the jewelry "was stuff that he had acquired over a period of time." [60] Further, the owner of the construction company where Adams worked testified that Adams had failed to show up for work on the day of the murder.[61] Finally, Adams's possession of the money appeared suspicious. The construction company paid him only $2.50 an hour, and Adams's neighbor had made two loans to him totalling $35 shortly before the murder.[62]

Adams's alibi defense was that he had not driven down the road in front of the Brown ranch on the day of the crime. He said that he went to a bar to have a beer at approximately 9:00 a.m., then went to Vivian Nickerson's home, arriving shortly after 10:00 a.m. At approximately 10:15 a.m., he said, he lent his car to Nickerson, who left for approximately thirty-five to forty-five minutes to buy cards. That afternoon, he added, he put some jewelry and some of his clothes in the Oldsmobile's trunk. He denied, however, that he had ever seen the rings or watch identified as coming from the victim's house. Contrary to his earlier statement to the police, he also denied owning the pants and striped shirt on which the blood was found. Finally, he stated that he had never seen the victim's glasses before.[63] Adam's testimony was inconsistent with his earlier statement and was inadequate to explain his possession of the property taken from the victim's home.

In addition, Adams' principal alibi witness contradicted him on the critical issue of his whereabouts at the time of the crime. The witness, Vivian Nickerson, testified that Adams arrived at her home at approximately 11:15 a.m., at least twenty minutes after the murder had been committed, and that Adams also had a "strange looking face" that day.[64]

To summarize, consideration of all the evidence demonstrates beyond a reasonable doubt that Adams was guilty of the crime for which he was executed. The authors are able to maintain that Adams was the victim of a "miscarriage of justice" only by resorting to a distorted view of the evidence, derived solely from the defendant's brief before the Clemency Board, and by ignoring the compelling evidence directly linking him to the murder.[65] Moreover, as is shown by the following brief review of some of the other alleged examples of erroneous executions, the authors' misrepresentation of the Adams case is not an aberration. They show similar disregard of the evidence in many other cases.

3. Other alleged erroneous executions

The authors state that "[c]ritics who seize on the weakest cases and generalize from them to the whole set will miss the forest for a few trees." [66] Our examination reveals, however, that there are not enough "trees" to make up corpse, let alone a "forest." In evaluating Bedau and Radelet's conclusions, we focus on cases in which the authors assert that innocent people have actually been executed, because they are the most relevant to evaluating the magnitude of the risk of wrongful execution.[67] We narrow the focus further to eleven of the remaining twenty-two cases in which the authors claim that an innocent person was executed. We do so only because appellate opinions for them set forth the facts proved at trial in detail sufficient to permit a neutral observer to assess the validity of the authors' conclusions.[68] Examination of these opinions, supplemented in some instances by reference to the authors' sources and to other materials, demonstrates the weakness of the authors' methods and conclusions.[69]

Everett Applegate. Applegate and a codefendant, Frances Creighton, were executed in 1936 for having murdered Applegate's wife with rat poison. The authors' claim that Applegate was innocent, stripped of irrelevancies, rests on the incorrect assertion of an earlier author that "virtually no evidence against Applegate existed beyond Mrs. Creighton's unsupported word." [70] Even if that were true, which it is not, it would not compel the conclusion that Applegate was innocent. More to the point, questions of credibility were for the jury to resolve. The proof at trial certainly entitled the jury to credit the testimony of Creighton. She had admitted her guilt, but claimed that she had acted at the behest and under the domination of Applegate, who had threatened to cause trouble for her and her husband by publicizing their past involvement in a case of suspected murder. As the New York Court of Appeals put it after reviewing the evidence:

"[T]he jury were justified in finding [Applegate] guilty. He had reason to fear his wife. His motive for disposing of her is apparent. Ruth [Creighton's daughter] and he were in love with each other. . . .

". . . Applegate evidently wanted to marry Ruth. Marriage was talked over and Ruth was crying about it before Mrs. Applegate was in her grave. The conduct of the defendant showed that he had no fear of consequences and at least no love or affection for his wife. She had threatened to expose him. He had committed a state's prison offense. The night the rat poison was bought he went to the drug store with Mrs. Creighton. He admits giving her money for the price of the purchase. He admits giving his wife the eggnog and taking a very long time to do it, an hour or more before she could get it down. He kept feeding it to her. He declined to have a *post mortem* and was not at all interested in whether a crime had been committed." [71]

Creighton's admitted involvement in the crime permits only two possible explanations of the murder: Either Creighton, acting alone, killed Mrs. Applegate; or Creighton and Applegate, acting in concert, killed her. Together with other evidence, the proof related to motive amply supported the jury's acceptance of the latter hypothesis. Evidence showed that Creighton disliked both Applegate and his wife and wanted them to move out of her house. Those facts, however, hardly supplied Creighton with a motive to murder Mrs. Applegate, particularly considering that it was not Mrs. Applegate, but her husand, who was blackmailing Creighton. In contrast, Applegate had two powerful motives for wanting his wife dead: She had threatened to expose his unlawful sexual relationship with Creighton's minor daughter Ruth, and she stood in the way of his marriage to Ruth.

In short, the authors have presented little to persuade a neutral observer that Applegate was not guilty of murdering his wife. Beyond that, their claim that Applegate was innocent is discredited by the fact that two of the sources they cite to support Applegate's innocence actually believed he was guilty.[72]

Sie Dawson. Dawson was executed in 1964 for murdering a two-year-old boy in the course of a lethal assault on the boy's mother. The principal evidence against him was a confession which he repudiated at trial. He claimed that he had confessed only to avoid being turned over to a mob and that the woman's husband had committed the murders. Bedau and Radelet base their conclusion that Dawson was innocent on a brief that his confession was false and that the husband was the true culprit, and on the fact that "[y]ears later, newspaper stories revived doubts that had surrounded the conviction from the beginning." [73] Since the jury that convicted Dawson did not share these doubts, the critical questions in reassessing his guilt or innocence are the truth of his confesssion and the plausibility of his later claim that another person was the killer.

With respect to the first question, the authors tell us that Dawson had a low IQ and that he confessed after spending more than a week in custody. What they do not tell us is that Dawson "stoutly maintained his innocence" for five days after the alleged threats to turn him over to the mob,[74] that he admitted the murder only after learning that an eye-witness to the crime was still alive,[75] that he repeated his confession twelve days later,[76] and that every detail of the confession except the actual commisison of the crime was corroborated by other witnesses' testimony.[77] As to the claim that the woman's husband was the murderer, the authors also fail to mention that "other witnesses accounted for the whereabouts of [the husband] on the fatal day with such minute detail that it would have been almost an impossibility for him to have committed the criminal act." [789]

Stephen Grzechowiak and Max Rybarczyk. These defendants were executed in 1930 following their convictions for a murder they committed together with Alexander Bogdanoff during a robbery. Bedau and Radelet believe a neutral observer would find them not guilty because they

maintained their innocence "[i]n their final words" and because Bogdanoff exonerated them at trial and again shortly before his execution.[79] However, the opinion of the New York Court of Appeals belies the claim of innocence.[80] It begins with the following passage:

"Evidence which is not challenged establishes that on the 27th day of July, 1929, Ferdinand Fechter was killed in the city of Buffalo, Erie County. His death was the result of wounds inflicted by robbers who escaped with a large amount of money which Fechter was carrying from a bank to his home. On September 7, 1929, the defendant Rybarczyk was arrested. Early the next day the other two defendants were arrested. At the police station they were questioned separately and together. Two made written statements admitting that they had taken part in the robbery. The defendant Rybbarczyk made no written statement, but the evidence establishes that he admitted before a number of witnesses that he had taken part in the robbery and that the written statement of Grzechowiak, made in his presence, was true." [81]

Since the defendants confessed, the court was justified in observing that the "evidence . . . is clearly sufficient to sustain a conviction." [82] On that point, even the dissenting justice—who disagreed with the majority's rejection of the defendants' belated challenger to the sufficiency of the indictment—concurred: "The defendants committed an atrocious murder, and are clearly guilty." [83] Bedau and Radelet offer no persuasive reason for accepting the defendants' protestations to the contrary.[84]

Joseph Hillstrom ("Joe Hill"). Hillstrom was executed in 1915, having been convicted of shooting a storekeeper to death. Bedau and Radelet conclude that he was innocent because "[t]the presecution was based on sketchy circumstantial evidence and was in part the result of collusion between the prosecution and the trial judge in an atmosphere of anti-union hostility." [85] In fact, the evidence, which was reviewed in great detail by the Utah Supreme Court,[86] admitted of no rational conclusion other than guilt.

Shortly before the shooting, a witness saw a man on a brightly lit street outside the victim's store. She testified that he was similar to the defendant in size and features, that he had the same slim face, sharp nose, and large nostrils, and that he had the same scar on the side of his face and neck. A witness to the shooting testified that the murderer was about the same size as the defendant, had a similarly shaped head, and wore clothing like the defendant wore that night. Following the murder, during which the victim shot the killer in the chest, two witnesses saw a man, whose appearance and voice were similar to the defendant's run from the scene of the crime. In addition, the proof showed that the defendant sought medical attention for a fresh bullet wound in his chest on the night of the murder. The bullet was fired from a gun of the same caliber as that used by the victim to shoot his assailant. The defendant told the doctor that the wound resulted from a fight over a woman and asked him not to reveal the matter to others. Finally, when he was arrested several days later, the defendant admitted having thrown away his gun shortly after leaving the doctor's home.[87]

While it is true no witness positively identified the defendant as the murderer, no such proof was necessary in light of the defendant's unexplained gun shot would which, as the Utah Supreme Court aptly observed was "quite as much a distinguishing mark as though [the murderer] in the assault had one of his ears chopped off." [88] One concurring judge stated: "[T]he jury were authorized to conclude—indeed, it is not easy to perceive how rational men could have arrived at any other conclusion—that the appellant was, in fact, shot in Morrison's store at the time of the homicide." [89] Maintaining the defendant's innocence is difficult in the face of this and the other evidence summarized above.[90]

Maurice Mays. The authors rely on two arguments to support their belief that this defendant was wrongly convicted and executed in 1926 for murdering a woman in her bedroom during a robbery: (1) "The conviction rested on the testimony of a police officer who had disliked Mays for years and on the testimony of an eyewitness who never got a clear look at the killer," and (2) the "real killer" confessed several years after Mays was executed.[91] Neither argument can withstand scrutiny.

The Tennessee Supreme Court opinion gives a more complete and accurate account of the evidence presented at Mays's second trial for the murder.[92] A witness who had been sleeping in the same room as the victim, and who had no motive to identify Mays falsely, testified that Mays was the man who fired the fatal shot. The lighting conditions in the room were good, and she was positive of her identification because she spoke with him after the shooting in a successful effort to persuade him not to assault her to take money instead. Shortly after the crime she described the murderer to the police with such specificity that they immediately realized Mays was the man. They went promptly to his house, where they found him, pretending to be asleep, in possession of a .38-caliber revolver, the same type of gun used in the murder. It appeared that one bullet had recently been fired from the pistol. In addition, Mays was wearing clothing and shoes the condition of which indicated that he had recently been in the vicinity of the house in which the victim was killed. Police then took Mays before the eyewitnesses who, with no prompting by the police, immediately, positively, and repeatedly identified him as the killer. May's defense was an alibi, but he failed to account for his whereabouts at the time the murder was committed.[93] He also introduced testimony of a witnesses who claimed that the arresting officer was out to get Mays, but the officer denied this. The appellate court noted that the issue was immaterial since there was no evidence that the officer tried to influence the eyewitness's identification of Mays in any way.[94]

Finally, the notion that the person who later confessed to the murder was the true killer is baseless. According to Bedau and Radelet, this person was a white woman, who claimed to have dressed up as a black man and she committed the murder because the victim was having an affair with her husband.[95] Despite their recognition that confessions of third parties are often "false or dubious" and "must be evaluated with extreme caution," [96] the authors provide no justifiction for believing this bizarre confession to be true. Although they do note that the authorities never accepted it as true,[97] they fail to state the reasons for this official reaction: The woman's account of the murder contained serious discrepancies, and her husband explained to the police that she had confessed falsely because she was temporarily demented.[98] Given these facts, as well as the confession's implausibility in light of evidence which convinced twenty-four jurors at two trials that Mays was guilty beyond a reasonable doubt, the woman's confession provides no sound basis for crediting the author's claim that Mays was innocent.

Willie McGee. McGee, a black man convicted by three separate juries of raping a white woman in 1945, was executed in 1951.[99] According to Bedau and Radelte, "[t]he chief evidence against McGee was a coerced confession that he gave after being held incommunicado for thirty-two days after this arrest." [100] The authors apparently believe that this confession was false, because "the victim's husband and her two children, asleep in the next room never heard any commotion from the alleged attack," and because a journalist's subsequent investigation "revealed that the victim has been consorting with McGee for four years and was angry at his efforts to terminate their relationship." [101] They thus imply that she accused him of rape to make him pay for rejecting her.

Resort to the opinion of the Mississippi Supreme Court, which unanimously affirmed McGee's third conviction,[102] shows that these allegations provide no basis for concluding that the jury convicted McGee mistakenly. First, with respect to the confession. McGee made "quite a number of admissions of guilt of raping the woman," the first of which occurred as he was being taken to, and while he was at, the crime scene the day after the rape.[103] At that time, "he stated he raped his victim; pointed out the house . . . where the event occurred; pointed out where he parked his truck after seeing her lying on the bed, through the windows, before the light was extinguished; and other details—all corroborated by the physical facts and oral testimony of witnesses." [104]

According to the appellate court, "[t]he proof overwhelmingly support[ed] the State's contention that these statements were voluntarily made without duress or promise." [105]

The opinion is also more informative than Bedau and Radelet with respect to the question of consent. It appears that the victim did not alert her husband to the attack because "the woman was terrified, and resisted as best she could, even calling to her husband, who was on a sleeping porch at the back of the house, and who could not be awakened, but ceased her resistance when [McGee] threatened to cut her throat, and more poignantly to her, the throat of her infant child.[106]

McGee's oral statement to the police following his arrest also belies consent. He implied that he had decided on the spur of the moment to attack a woman who was a stranger to him.[107] Other proof that the victim did not know him also existed.[108]

Albert Sanders. Sanders, a cab driver, was executed in 1918 for having participated with Fisher Brooks in the robbery-murder of a female passenger the year before. The authors support their belief in Sanders's innocence only with Brooks's testimony that Sanders was not involved in the crime, a claim that both men repeated before they were hanged.[109] But the authors present no information that would lead a neutral observer to credit these claims. Indeed, they omit from the description of the case several critical facts relevant to Brooks's credibility. First, they fail to mention that Brooks's exonerating testimony was given after he himself had been convicted at a separate trial, and, therefore, when he had nothing

to lose by clearing Sanders.[110] Second, they overlook Brooks's admission at Sanders's trial that he had told so many different stories about the murder that he was unable to recall what he had said previously.[111] Third, they omit other facts making the exoneration unbelievable, including Brooks's admission at Sanders's trial that he had previously told the authorities that Sanders had participated with him in the Commission of the crime.[112]

But the case against Sanders consisted of far more discrediting Brooks. It included testimony by a fellow prisoner of Sanders and Brooks who overheard a conversation between the two men in which Sanders acknowledged his guilt.[113] It also included persuasive circumstantial evidence of Sanders's complicity. The proof showed that Sanders knew the victim had money, that the victim was stabbed, that Sanders had blood on his fingernails when he was arrested shortly after the crime, that he had cut pieces from, and then hidden, the clothes he had worn on the night of the murder, that bloodstains were found on those pieces and on his shoes, that he and Brooks were seen in close proximity shortly before and after the murder, and that Sanders's alibi defense was concocted after the event.[114]

Charles Louis Tucker. Tucker was executed in 1906, having been convicted of stabbing a young woman to death during a robbery. Altough Bedau and Radelet disparage the evidence against Tucker as "circumstantial only," [115] the Massachusetts Supreme Judicial Court opinion and one of the authors' cited sources show that the jury was fully warranted in finding him guilty.[116] Proof of guilt included Tucker's bloodstained knife, which he first denied owning but later admitted having broken into pieces in order to avert police suspicion, and which fit the wounds on the victim's body and tears in her corset; a slip of paper bearing Tucker's handwriting, found near the body; and a pin belonging to the victim, found concealed in Tucker's coat pocket. Furthermore, the unemployed Tucker had a ten dollar bill shortly after the murderer took a similar bank note from the victim's purse.[117] In his defense, Tucker relied on an alibi; but he did not testify himself.[118] and his alibi witness was apparently impeached with prior inconsistent statements.[119]

Bedau and Radelet do not explicitly contend that there was insufficient evidence of Tucker's guilt.[120] Their position apparently is that the circumstantial evidence of guilt outweighed by the fact that "[m]ore than 100,000 Massachusetts residents signed petitions on behalf of clemency" and that "[a]mong those convicted of [Tucker's] innocence was the county medical examiner (who lost his job because of his stand) and a clergyman who said a witness had told him she had perjured herself at the original trial." [121] The clemency petitions were not, however, the product of legitimate doubts as to Tucker's quilt. They were the result of an irresponsible campaign by partisan journalists whose reports of the case included only small parts of the state's evidence, falsely leading the public to believe that there was not sufficient evidence to convict Tucker.[122] Finally, neither Bedau and Radelet, nor the sources they cite, provide sufficient basis for crediting the medical examiner's and the clergyman's views instead of the conclusions of the jurors who convicted Tucker, the judge who presided at his trial, and the Governor who rejected the clemency petitions after a personal review of the case.[123]

The foregoing discussion makes three pertinent points regarding Bedau and Radelet's study. First, the authors have employed an unacceptable standard for determining innocence. It gives no weight at all to the considered judgment of the juries and judges who decided and reviewed the cases. Second, in the cases we have reviewed, the authors have consistently presented incomplete and misleading accounts of the evidence. Third, in each of the cases in which a reasonably complete account of the facts is readily available, the authors' claims that the defendant was later "found" or "proven" to be innocent is unconvincing. These cricial flaws seriously diminsh the value of the study to the debate over the significance of the risk of erroneous execution.

II. FLAWS IN THE ARGUMENT FOR ABOLITION

Even if Bedau and Radelet's study could be take at face value, it would not provide a rational basis for rejecting capital punishment. The danger or executing the innocent, as well as the uniquely irremediable nature of such a mistake, has long been recognized by death penalty proponets,[124] as well as by opponents.[125] Opponents contend that society should eschew the use of the death penalty entirely because of this danger. Therefore, a response to the study would be incomplete if it did not address the merits of that position.

There are two principal difficulties with the argument that we should not use capital punishment because of the risk of executing an innocent person. First, it gives weight to the slight risk of erroneous executions. This is particularly so in light of new procedural protections governing imposition of the death penalty, for Bedau and Radelet cannot provide even one credible example of an erroneous execution in the past fifteen years. Second, the argument fails to consider the countervailing benefits of capital punishment. A fair assessment of risk and benefits demonstrates that society has decided reasonably to make the dealth penaty available for certain offenses.[126]

*A. The Risk of Erroneous Execution*

The use of capital punishment entails some risk that an innocent person will be executed.[127] Proponents of the death penalty have commonly taken the position that this risk is not great.[128] The Bedau-Radelet study confirms this view. After "sustained and systematic" research,[129] they point to only twenty-three out of more than 7000 executions as erroneous. Their judgments of error are unconvincing with respect to the twelve cases in which sufficient facts are available to test them. Their methodology makes their conclusion in the other eleven cases suspect as well.[130] Assuming, however, for the sake of argument that as many as twenty-three innocent persons have been executed, the rate of error would be only about one-third of one person over the past eighty-seven years.[131] Moreover, even accepting the authors' claims, this miniscule rate of error has been reduced by more than one-third since 1943.[132]

But, say Bedau and Radelet, "[e]valuating the argument against the death penalty based on the fact that innocent defendants have been and will be executed requires some care.[133] This is so, they add, because "[o]ur total of twenty-three wrongful executions is not an estimate, and it cannot serve as a basis for a reasonable estimate, of the total number of wrongful executions in the United States during this century." [134] The true number is far greater, they hint; [135] but "any attempt to calculate the odds of executing the innocent . . . is doomed to fail." [136] It must be remembered, however, that Bedau and Radelet are the ones who argue that existing law should be changed. Accordingly, they bear the burden of justifying their argument by producing credible evidence that the use of capital punishment entails a significant risk of executing the innocent. This they have failed to do, and their assertion that the task is impossible is no substitute. Responsible social policy should be based on the best information available, not—as the authors apparently would have it—on speculation as to what the information would show if it were available.

*B. Safeguards Against Erroneous Execution*

The safeguards that exist to protect criminal defendants, especially those charged with capital crimes, lessen the risk of erroneous execution. In particular, a number of statutory protections have arisen since the Supreme Court's decision in *Furman v. Georgia.*[138] Although the specific provisions of statutes governing capital punishment vary among jurisdictions, these statutes generally share a number of features, most of which are intended to safeguard against erroneous imposition of the death penalty. The important provisions of a typical death penalty statute, and of related law, in the United States are as follows.[139]

First the statutes limit imposition of capital punishment to the most serious offenses against society—intentional crimes that involve the taking of human life.[140]

Second, the defendant must be notified in advance of the state's intention to seek the death penalty and of the aggravating factors the state proposes to prove as justifying a sentence of death,[141] so that the defendant will have a sufficient opportunity to make ready a defense to the charge and to prepare for the post-trial penalty hearing if found guilty.

Third, if the trial results in a guilty verdict, a post-verdict hearing must be held to determine the penalty. The hearing is conducted before a jury if the defendant wishes, and he or she is entitled to continued representation by counsel.[142]

Fourth, in order to justify the death penalty's imposition, the state must prove beyond a reasonable doubt the existence of at least one statutorily specified aggravating factor that is not outweighed by any mitigating factors.[143] Aggravating factors specified in the statutes generally include commission of the offense by use of turture,[144] in a manner that created a great risk of death to others,[145] by a person who had previously been convicted of a serious violent crime,[146] for money,[147] and against certain designated public officials.[148] Typical mitigating factors include the defendant's youth,[149] impaired mental capacity,[150] commission of the offense under unusual and substantial duress,[151] and playing the role of a relatively minor subordinate to the principal offender in the crime's commission.[152]

Fifth, the jury must unanimously determine, on the basis of its findings concerning aggravating and mitigating factors, whether the death penalty is justified, or whether a lesser penalty should be imposed instead.[153] The judge may not impose a death sentence unless the jury recommends it.[154]

Sixth, the state's highest court automatically reviews all death sentences to ensure that there is an adequate legal basis for imposing the death penalty, that the sentence was not imposed as a result of passion or

prejudice, and that the sentence is not excessive or disproportionate to the penalty imposed in similar cases.[155] In some cases, direct review is also available in the Supreme Court.[156]

Seventh, the defendant may also seek a new trial on the basis of newly discovered evidence that she or he was not guilty.[157] In addition, both state and federal laws allow a person whose capital conviction has been upheld by the highest court of the state to obtain collateral review in the state courts, in the lower federal courts, and in the Supreme Court.[158] After all judicial remedies have been exhausted, a condemned defendant may seek executive clemency.[159]

An example of the use of these extraordinary procedural protections in capital cases is the Adams case discussed above.[160] Adams was convicted in 1974, and the judge followed the jury's recommendation by imposing a death sentence.[161] The judgment and sentence were affirmed by the Florida Supreme Court,[162] and the United States Supreme Court denied certiorari.[163] Pursuant to the rule of *Gardner v. Florida*,[164] the Florida Supreme Court directed the trial judge to state whether he had imposed the death sentence on the basis of any information not known to petitioner. The trial judge responded that he had not. The Florida Supreme Court denied relief on that basis,[165] and the United States Supreme Court denied certiorari.[166] After the Florida Supreme Court resolved a dispute concerning the appointment of counsel for Adams's post-conviction relief motion,[167] the trial court denied Adams's first motion for post-conviction relief. The Florida Supreme Court affirmed.[168]

Adams then sought federal habeas corpus relief in the United States District Court for the Southern District of Florida. In a lengthy order, the court denied the petition.[169] The United States Court of Appeals for the Eleventh Circuit affirmed,[170] and the United States Supreme Court refused to grant certiorari [171] and denied rehearing.[172]

In 1984, Adams filed a second motion for post-conviction relief which the state trial court denied.[173] On May 2, 1984, the Florida Supreme Court affirmed the denial in a written opinion.[174] The court also denied Adams's petition for habeas corpus and his application for a stay of execution.[175]

Adams then filed a second petition for habeas corpus relief in the federal district court, raising issues that had already been litigated in his 1983 federal habeas corpus petition, which was also denied.[176] An Eleventh Circuit panel granted a stay of execution pending appeal, but the Supreme Court vacated the stay.[177]

Meanwhile, on May 1, 1984, Adams filed an application for executive clemency with the Florida Governor's Office. The Clemency Board reviewed that application and denied it following oral presentations by representatives for Adams and for the state.[178]

Thus over a 10-year period, various aspects of Adams's conviction and sentence were reviewed on at least twelve separate occasions by numerous state and federal judges, as well as by the Governor's Clemency Board. This history, typical of death penalty cases,[179] shows that procedural safeguards are adequate to prevent erroneous executions.[180] It also exposes as baseless Bedau and Radelet's suggestion that Adams was the victim of a rush to judgment.[181]

*C. The Effect of Safeguards in Recent Years*

According to Bedau and Radelet, ninety-four defendants have been the subjects of "miscarriages of justice" in capital or potentially capital cases since 1960.[182] However, only twenty-six of these persons were sentenced to death.[183] Only two were executed, and the authors give unconvincing reasons for concluding that these executions were erroneous.[184] There is, in short, no persuasive evidence that any innocent person has been put to death in more than twenty-five years. Equally significant, Bedau and Radelet do not include in their catalogue any individual on death row at the end of 1986. Although they seem to think that some of these persons were innocent,[185] they identify only two such persons.[186] One of these had his conviction reversed and sentenced vacated in 1987;[187] the other was plainly guilty and was executed in 1987.[188]

The likely explanation for the absence of errors in capital cases during the past quarter century is the greater care taken by the courts to assure the correct resolution of such cases and, particularly, the painstaking reviews that occur in cases in which the death sentence is actually imposed. The point is illustrated by the very few "miscarriages of justice" claimed by Bedau and Radelet to have occurred in the decade after the Supreme Court upheld the constitutionality of the death penalty.[189] Out of approximately 50,000 murder convictions during the period from 1977 to 1986,[190] the authors point to only thirty-one persons who, they claim, were wrongly convicted of capital offenses or potential capital crimes.[191] Even if one accepts their claim that all of these convictions were mistaken, the authors' accounts of these cases demonstrate that current post-conviction procedures work reasonably well in discovering and correcting errors. After all, in each of these cases the mistake was discovered. Furthermore, in more than three-fourths of the cases the error was discovered within four years of conviction, resulting in the defendant's acquittal or release from prison, or in the dismissal of charges; and in eight of the cases the error was discovered within one year.[192]

*D. The Benefits of Capital Punishment*

A thorough inquiry into the significance of the risk of executing an innocent person in the debate over capital punishment should attempt to evaluate capital punishment's benefits. Bedau and Radelet simply despair of this effort, concluding that "since there is no consensus in our society over the weight to be assigned to each variable in [the death penalty] equation, we are doomed to disagree over how to compute it." [193] However, an assessment of the costs and benefits leads to the conclusion that the minute risk of executing an innocent person is substantially outweighed by the protection that capital punishment affords to society through incapacitation, deterence, and just punishment.

1. Incapacitation

The authors' assertion that we are "doomed to disagree" over the weight to be assigned variables in a capital punishment cost-benefit evaluation is incorrect. We can compare the number of lives of innocent persons saved or lost through the imposition and the abolition of the penalty. As a cost, Bedau and Radelet claim that twenty-three innocent persons have been executed in this century. Even accepting this figure as an accurate representation of the penalty's cost,[194] the number of innocent persons whose lives have been saved through the penalty's incapacitative effects outweighs it.

Capital sentences, when carried out, save innocent lives by permanently incapacitating murderers. Some persons who commit capital homicide will slay other innocent persons.[195] The death penalty is the most effective means of preventing such killers from repeating their crimes. The next most serious penalty, life imprisonment without possibility of parole, prevents murderers from committing some crimes but does not prevent them from murdering in the prision environment.[196] Furthermore some killers who commit capital murder eventually obtain parole.[197]

While it is impossible to determine precisely how many innocent lives the execution of convicted murderers has saved, the available data suggest that the number is not insignificant. Of the roughly 52,000 state prision inmates serving time for murder in 1984, an estimated 810 had previously been convicted of murder and had killed 821 persons following those convictions.[198] Executing each of these inmates following the first murder conviction would have saved 821 lives over the last several decades. Of course, as Bedau and Radelet point out,[199] only a fraction of convicted murderers receive the death penalty. Therefore, the number of innocent lives saved would be substantially smaller, although still more than the number of "innocent" persons Bedau and Radelet claim have been executed in this century.[200]

Bedau and Radelet's response to this arithmetic is inadequate. They assert that with the abolition of the mandatory death penalty, "society runs both the risk of executing the innocent and the risk of recidivist murder, whereas it is only necessary that society run one or the other." [201] Because of what they believe to be a "low incidence of recidivism,"[202] they urge that society not run any risk of executing an innocent person. This response is curious because it postulates that society has only two extreme choices: executing all murderers or executing none. In fact, society has many intermediate options, such as executing murderers only after a careful assessment of the aggravating and mitigating factors,[203] or executing murderers after a finding of "dangerousness." [204] Because the middle course approaches chosen by society serve important goals besides incapacitation (e.g., satisfying constitutional requirements, allowing the possibility of mercy), it is hardly objectionable that they do not focus solely on maximizing the incapacitative benefit of capital punishment.

2. Deterrence

While the innocent lives saved through the incapacitative effect of capital punishment are important, the penalty has also saved innocent lives through its general deterrent effect. Logic supports the conclusion that the death penalty is the most effective deterrent for some kinds of murders—those that require reflection and forethought by persons of reasonable intelligence and unimpaired mental faculties. It stands to reason that capital punishment deters such persons more than the next most serious penalty, life imprisonment without parole. As the Supreme Court observed in *Gregg* v. *Georgia*, "There are carefully contemplated murders, such as the murder for hire, where the possible penalty of death may well enter into the cold calculus that precedes the decision to act." [205]

Statistical studies also suggest that capital sentences, like other criminal sanctions, have a deterrent effect. To be sure, some statistical surveys, often conducted by opponents of the death penalty, have found no

such effect. A detailed review undertaken by the Department of Justice concluded, however, that few, if any, of these studies relied on rigorous methodologies or adequately controlled for many variables that affect the homicide tate in the jurisdictions under consideration.[206] Moreover, it appears to be common ground in the deterrence literature that a statistically valid study should account not only for the response of criminals to penalties imposed by an outside authority (the so-called "demand" for crime) but also for an outside authority's response to changes in crime (the so-called "supply" for crime).[207] The "supply-demand" econometric studies that have been done to date support the conclusion that the death penalty deters homicide.

The most recent substantial econometric study was performed by Professor Stephen K. Layson of the University of North Carolina at Greensboro, who analyzed data for the United States from 1936 to 1977.[208] Layson concluded that increases in the probability of execution reduced the homicide rate. Specifically, Layson found that, on average, each execution deterred approximately eighteen murders. Layson's study of the United States data is consistent with his earlier study concerning the deterrent effect of capital punishment in Canada[209] and with important empirical work in this area by Isaac Ehrlich[210] and other scholars.[211] These econometric studies are buttressed by a growing body of literature demonstrating that punishment has a deterrent effect on crime in a wide variety of settings,[212] including "cohort" studies using data on particular individuals rather than aggregate crime rates.[213] Indeed, the premise that more severe penalties deter more serious crimes is fundamental to our criminal justice system.

If Layson's empirical work (which is strongly supported by deterrence theory) is correct, we can estimate that the death penalty has deterred roughly 125,000 murders in this century.[214] This figure dwarfs the twenty-three innocent persons Bedau and Radelet claim have been executed in the same time period. More important, it demonstrates rather starkly that under any realistic risk assessment the presence of capital punishment saves more innocent lives than it jeopardizes.[215]

Bedau and Radelet also assert that because no innocent defendant ever "consents" to running the risk of an erroneous execution, the death penalty should not be imposed despite its deterrent effects.[216] Accepting this reasoning would cast in doubt the legitimacy of a host of socially useful governmental enterprises. For example, one could argue that the nation's prisons should be closed because innocent defendants have not consented to the risk of erroneous imprisonment. The consent notion has not been adopted as a guiding principle for government action in the criminal justice area because of its theoretical boundlessness.[217] Instead, our society's choices with respect to sentencing and other justice-related matters are based on the benefits and hazards of the various options available.[218]

*3. Just Punishment*

Through the imposition of just punishment, civilized society expresses its outrage and sense of revulsion toward those who, by contravening its laws, have not only inflicted injury upon discrete individuals, but also weakened the bonds that hold communities together. Certain crimes constitute such outrageous violations of human and moral values that they demand retribution. It was to control the natural human impulse to seek revenge and, more broadly, to give expression to deeply held views that some conduct deserves punishment, that criminal laws, administered by the state, were established. The rule of law does not eliminate feelings of outrage but does provide controlled channels for expressing such feelings. People can rely on society to sanction criminal conduct and to carry out deserved punishment. The law's acceptability and effectiveness as a substitute for self-help depends, however, on the degree to which society's members perceive the law as actually providing just punishment for particularly serious criminal offenses. The intentional and unjustified taking of an innocent person's life is such an offense. As the Senate Judiciary Committee has recognized, "[m]urder does not simply differ in magnitude from extortion or burglary or property destruction offenses; it differs in kind. Its punishment ought to also differ in kind. It must acknowledge the inviolability and dignity of innocent human life. It must, in short, be proportionate."[219] Determining what sanction is proportionate and, therefore, what constitutes just punishment for committing certain types of murder is admittedly a subjective judgment. Nevertheless, when there is widespread public agreement that the death penalty is a just punishment for certain kinds of murder—as there is in this country today[220]—and when a jury acting under standards meeting constitutional requirements determines that a particular person has killed another under circumstances for which the legislature has found that death is the appropriate penalty, the resulting judgment is no less "just" because its validity cannot be verified objectively.

The death penalty's retributive function thus vindicates the fundamental moral principel that a criminal should receive her or his just deserts. Even if capital punishment had no incapacitative or deterrent utility, its use would be justified on this basis alone. But as discussed above,[221] there is ample evidence that the death penalty protects innocent lives through incapacitation deterrence. Equally important, through the provision of just punishemnt, capital punishment also affirms the sanctity of human life and thereby protects it. Walter Berns has traced this process.[222] To summarize his explanation: We punish in part because we are angry at what the criminal has done and want to pay him back. The law respects and acknowledges the rightness of our anger (which expresses caring for others) when it punishes the object of that anger. The law thus validates and promotes the law-abiding person's abhorrence of criminality. In short, retribution has a value-reinforcing effect. It deters crime not only by instilling fear of punishment, but also, through a process of rewarding the anger aroused by the sight of crime, by praising law-abidingness.

Of course, in order to protect lives through the operation of this value-reinforcing effect, retribution must be appropriate to the offense committed. "So the question becomes," as Berns puts it, "how do we pay back those who are the objects of great anger because they have committed great crimes against us?"[223] The answer Berns gives is worth quoting at some length:

"The purpose of the criminal law is not merely to control behavior—a tyrant can do that—but also to promote respect for that which should be respected, especially the lives, the moral integrity, and even the property of others. In a country whose principles forbid it to preach, the criminal law is one of the few available institutions through which it can make a moral statement and, thereby, hope to promote this respect. To be successful, what it says—and it makes this moral statement when it punishes—must be appropriate to the offense and, therefore, to what has been offended. If human life is to be held in awe, the law forbidding the taking of it must be held in awe; and the only way it can be made to be awful or awe inspiring is to entitle it to inflict the penalty of death."[224]

One could argue that the execution of innocent defendants undermines the death penalty's capacity to provide the incapacitation, deterrence, and just punishment necessary to protect the innocent lives of others. With respect to incapacitation, for example, if an innocent person is executed for murder, the true culprit is likely to remain at large, free to kill again. Likewise, the threat of capital punishment theoretically may not deter persons from murdering if they perceive the threat to be directed indiscriminately at the innocent as well as at the guilty.[225] Infliction of the death penalty upon innocent persons is also clearly not just punishment.

The force of these arguments depends, however, on the frequency with which persons are executed for capital offenses they did not commit and, to the extent that the arguments relate to deterrence and just punishment, on the degree of public knowledge of the number of mistaken executions. If such miscarriages of justice are relatively common, then capital punishment—in addition to taking the lives of innocent defendants—might well be ineffective in protecting innocent life generally. On the other hand, if such occurrences are unusual, then these consequences are unlikely. In fact, erroneous executions appear to be extremely rare if not nonexistent. The risk of executing the innocent thus has little detrimental effect on the death penalty's protection of innocent lives.

*E. The Duty of Society*

The foregoing discussion of the manner in which the incapacitative, deterrent, and retributive functions of capital punishment protect innocent life demonstrates the reasonableness of concluding that the death penalty's benefits outweigh the chance of a mistaken execution. Given this judgment, it is imperative that society demonstrate the courage of its convictions. Unless it is prepared to forsake murder victims, society must demonstrate its self-confidence and steadfastness of purpose by imposing and carrying out the death penalty in cases that reasonably meet the law's stringent requirements. The minimal but unavoidable risk of error in the administration of capital punishment must not be allowed to induce a "failure of nerve"[226] that would paralyze society from taking the steps necessary to protect its citizens.

Ultimately, the Bedau-Radelet study offers little to opponents of capital punishment. The eighty-four percent of Americans who support the death penalty do so not because they believe its administration is perfect, but because they believe it to be prudently administered in a manner consistent with the society's interest in justice and the protection of the innocent. Nothing presented by Bedau and Radelet undermines that conviction.[227]

FOOTNOTES

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[1] *See* Bedau & Radelet, *Miscarriages of Justice in Potentially Capital Cases*, 40 Stan. L. Rev. 21, 27, 78-81 (1987).

[2] *Id.* at 23, 36.

[3] As discussed in detail below, even if one were to concur in the authors' claim that 23 innocent persons have been executed during this century, that number is only about one-third of 1% of the total number of executions that place since 1900. *See* note 22 *infra* and accompanying text. Of course, even the execution of one innocent person would be a tragedy and is hardly insignificant in that sense. But so far as the debate over the death penalty is concerned, the question that must be addressed is whether the risk of such tragedies is significant either in absolute terms or in terms of the balance between the costs and the benefits of capital punishment. The authors of this article believe that the risk is insignificant, in the sense that it is statistically minuscule and also in the sense that it does not affect the validity of our society's considered judgment that the benefits of capital punishment outweigh the costs.

[4] A response to the Bedau-Radelet study is necessary for practical reasons as well. According to the authors, defense attorneys have been attempting, in some cases successfully, to use the study's findings during the penalty phase of capital cases to buttress their arguments for imprisonment rather than death. *See* Bedau and Radelet, *supra* note 1, at 83.

[5] *See* Bedau & Radelet, *supra* note 1, at 78-81.

[6] W. Berns, For Capital Punishment: Crime and the Morality of the Death Penalty 178 (1979).

[7] *See* van den Haag, *In Defense of the Death Penalty: A Legal-Practical-Moral Analysis*, 14 Crim. L. Bull. 51, 67 (1978).

[8] Bedau & Radelet, *supra* note 1, at 22.

[9] *Id.* at 26.

[10] *Id.* at 23-24 (footnote omitted).

[11] *Id.* at 36, 72-73 & Tables 2, 10.

[12] *Id.* at 23-24.

[13] *Id.* at 31-33.

[14] *Id.* at 33. The arbitrary nature of the author's methodology is evident from their unwillingness to carry through on their own definition of potentially capital crimes. While the authors do include all homicides that could not or did not result in the imposition of the death sentence, they only include rapes if the defendant was sentenced to death. *See id.* at 33-34. This suggests that the authors are more than a little uncomfortable with the idea that the risk factor for executing an innocent person should include cases in which the defendant could have been but was not sentenced to death and cases in which the death penalty for the crime was unavailable in the particular jurisdiction.

In addition, the authors chose not to include robbery, kidnapping, burglary, and treason—crimes for which a capital sentence has been permissible punishment. *See id.* at 33-34. Again, this omission suggests that the authors are unwilling to accept the implications of their definition of the relevant offense pool. Moreover, many of the reasons the authors give for excluding these crimes—for example, that they are less relevant given modern constitutional holdings and are not typically thought of as capital crimes—would apply equally to many of the "potentially capital cases" which they do include. *See id.* The exclusion of treason is especially peculiar because it is a quintessential capital offense and was included in an earlier draft of the author's study. The reason for the exclusion may be to avoid the criticism that would result from their declaring the innocence of Ethel and Julius Rosenberg, whom they categorized earlier as having been executed erroneously despite acknowledging that "the most recent reinvestigations of the 1953 Rosenberg case . . . report new discoveries that tend to confirm the prosecution's case (at least against Julius Rosenberg). . . ." Bedau & Radelet, Miscarriages of Justice in Potentially Capital Cases 16-17, Appendix I at 42-43 (first draft Oct. 15, 1985) (on file with the *Standford Law Review*) (citing R. Radosh & J. Milton, The Rosenberg File: A Search for the Truth (1983)).

[15] Bedau & Radelet, *supra* note 1, at 36, Table 1.

[16] *Id.* at 36, Table 2.

[17] *Id.*

[18] *Id.* at 72-73, Table 10.

[19] *See* text accompanying notes 42-65 *infra*.

[20] 408 U.S. 238 (1972).

[21] Bedau & Radelet, *supra* note 1, at 36.

[22] As the authors recognize, their own figures show this risk to be exceedingly small—the 23 allegedly wrongful executions they identify constitute only 0.33% of the approximately 7000 executions that have taken place in this country since 1900. *See id.* at 73.

[23] Moreover, elimination of capital punishment would have no effect on the number of wrongful convictions for otherwise capital offenses.

The authors contest our assertion that the bulk of their work is beside the point. They note that we do not dispute their claim that a number of wrongful death sentences would have been carried out had it not been for interventions having nothing to do with normal judicial review procedures or statutory safeguards. *See* Bedau & Radelet, *The Myth of Infallibility: A Reply to Markman and Cassell*, 41 Stan. L. Rev. 161, 163-64 (1988). Since these death sentences were not carried out, it is unnecessary to address the contentions that the defendants involved were innocent and that the criminal justice system cannot take credit for sparing their lives. Even so, we certainly do not concede these defendants' innocence, for we have not examined their cases. *See* text following note 11 *supra*. What we can say without hesitation is that if they were innocent, their vindication was possible only because the system permits all manner of post-conviction interventions.

Indeed the authors' refusal to give due weight to the influence of post-conviction procedures is curious in light of their concession that "the criminal justice system is arguably shown to have been nearly as effective as it could be" when a wrongful conviction is averted at trial. Bedau & Radelet, *supra* note 1, at 45. The same may be said when an erroneous conviction is reversed on appeal, on collateral attack, or even when a pardon is granted. Since post-conviction review is such an important feature of the criminal justice system, one cannot judge the system fairly without taking it into account.

[24] Bedau & Radelet, *supra* note 1, at 23-24 (footnote omitted).

[25] *See, e.g., id.* at 38.

[26] *Id.* at 47.

[27] *Id.* at 42. Subsequent discovery of an alleged victim alive does, of course, provide objective proof of the innocence of a defendant convicted of murdering that person. The authors, however, claim this has occurred in only seven cases, *id.* at 64-65 & Table 7; in none of those cases was the defendant executed.

[28] The circumstances that the authors regard as signifying official acknowledgment of error include an award of indemnity, executive pardon, and reversal of the conviction on appeal followed by acquittal on retrial or dismissal of the charges. *See id.* at 48-52. The authors also consider a pardon to be a good indicator of innocence, although insufficient by itself. *Id.* at 50.

The hazards of relying on such circumstances as evidence of innocence are obvious and are well illustrated by the case of Lem Woon. Woon was convicted of murder in Oregon in 1908 and sentenced to death; but the sentence was commuted to life imprisonment, and he was subsequently pardoned on condition that he be deported. *See id.* at 171. The deportation condition plainly belies any inferrence that Woon was innocent. More importantly, pardon was used at that time in Oregon as a substitute for parole, as Bedau has previously pointed out, there being no other way of shortening a life sentence for murder. *See* Bedau, *Capital Punishment in Oregon*, 45 Or. L. Rev. 1, 31 (1965). Moreover, since Bedau did not suggest in his earlier article that Woon was innocent, *see id.* at 33-34, his inclusion among those now claimed to have been wrongly convicted is puzzling.

[29] *See* Bedau & Radelet, *supra* note 1, at 52. The authors recognize that "[m]any such confessions are false or dubious, and thus they must be evaluated with extreme caution." *Id.* As their discussion of the Mays case indicates, however, *id.* at 52, 144-45, they are willing to accept an implausible confession of a person other than the defendant whose innocence they assert. *See* notes 95-98 *infra* and accompanying text.

[30] *See* Bedau & Radelet, *supra* note 1, at 53. The validity of this basis for concluding that a defendant was innocent depends on the correctness of the author's appraisal of the weight of the evidence against the defendant, as well as on the plausibility of the hypothetical case against the other person. As the discussion below of the Adams, Appelgate, and Dawson cases indicates, there is no reason to credit the author's judgments that these defendants did not commit the crimes for which they were executed. *See* notes 43-78 *infra* and accompanying text.

[31] *See* Bedau & Radelet, *supra* note 1, at 53. These officials are a county medical examiner and two prison wardens. *Id.* at 53, 164; *see also id.* at 173 (Coding Schedule), 49, Table 5 (Coding Schedule's description). Since the authors do not explain why the opinions of these individuals are entitled to such weight, it is difficult to understand why they should be persuasive.

[32] *Id.* at 53-54. This heading includes "the unshaken conviction by the defense attorney and others who studied the case" that the defendant was innocent and the persistence of "widespread belief in the innocence of the executed defendant." *Id.* But the authors claim that the best evidence of innocence in cases in which the defendant was executed consists of a variety of defects in the original prosecution that were discovered later through private investigation. *Id.* at 54.

[33] *See id.* at 117, 173 (Garner), 121, 175 (Grzechowiak and Rybarczyk), 144-45, 174 (Mays), 158, 173 (Sanders), 161, 173 (Sumway).

[34] *See id.* at 91, 178 (Adams), 92 175 (Appelgate), 177 (Dawson).

[35] *See id.* at 93 173 (Bambrick), 95-96, 173 (Becker and Cirofici), 158-59, 176 (Sberna), 164, 173 (Tucker), 170, 175 (Wing).

[36] *See id.* at 49, Table 5.

[37] *See id.* at 91-92, (Anderson), 106-07, 175 (Collins), 124-25 (Hauptmann), 125-26, 173 (Hill), 136-37, 174 (Lamble), 145-46, 176 (McGgee), 157-58, 174 (Sacco and Vanzetti).

[38] *See id.* at 72-75.

[39] *See id.* at 74 (footnote omitted). Also interesting is the authors' concession that the weight of their evidence of innocence rangers from "conclusive" to "slight." *Id.* at 48. They * * *

* * * * *

[43] Bedau & Radelet, *supra* note 1, at 91. For this description of the case, the authors cite only the defendant's Application for Executive Clemency. *See id.* at 91 n.350 (citing Application for Executive Clemency, *In re* James Adams (May 1, 1984) (on file with the *Stanford Law Review*)).

[44] Response to Petition for Writ of Habeas Corpus at 8, Adams v. Wainwright, 709 F.2d 1443 (11th Cir. 1983) (No. 82-5595) (citing trial transcript at 375-77, 382-83).

[45] Bedau & Radelet, *supra* note 1, at 91.

[46] In his opening argument, defense counsel stated "We intend to show that Willie Orange knew Mrs. Adams, James Adams' wife, that the Willie Orange knew James Adams, and that Willie Orange knew that James Adams' wife—that James Adams was going out with his wife." Application for Exective Clemency, *supra* note 43, at 25 (citing trial transcript at 833). However, defense counsel did not produce evidence to support this statement at trail, *id.*, and Adams did not raise this claim in his Motion to Vacate Judgement and Sentence, served on opposing counsel on April 24, 1984, Response to Motion to vacate Judgment and Sentence, State v. Adams (St. Lucie County, Fla. filed Apr. 25, 1984) (No 73-284)-CF) although newly discovered evidence could have been raised in support of the motion. *See* Hollman v. State, 371 So. 2d 482, 484-85 (Fla. 1979).

[47] Bedau & Radelet, *supra* note 1, at 91.

[48] Adams testified at trial that he was 35 years old and was 5 feet, 9 inches tall. *See* Response to Petition for Writ of Habeas Corpus, *Supra* note 44, at 8 (citing trial transcript at 887).

[49] *Id.* at 8 (citing trial transcript at 353-54, 355-58, 361, 363, 365 366-68, 371).

[50] *See* Bedau & Radelet, *Supra* note 1, at 91.

[51] Id.

[52] *See* Response to Motion to Vacate Judgment and Sentence, *Supra* note 46, at 11. Counsel did, however, explore the possible origin of the hair in cross-examination of the detective who had delivered it to a laboratory for testing. *Id.* at 13.

[53] The state's request for analysis of the sample described the hair as "[h]air removed from Mr. Brown's hand, by his wife, while in the ambulance enroute to the hospital. This hair was thrown on the floor of the ambulance, and the ambulance was

cleaned out and the hair thrown in the trash can." Motion to Vacate Judgment and Sentence at 2, State v. Adams, No. 73-284-CF (St. Lucie County, Fla., filed Apr. 1984), *quoted in* Response to Motion to Vacate Judgment and Sentence, *Supra* note 46, at 12.

[54] Note 53 *supra*. Even assuming that the hair had been found in Mr. Brown's hand, there was another plausible source. Elease Smith, a black woman who lived on Brown's property, had helped Josephine Brown, the victim's widow, treat the victim's wounds. In particular, she helped Mrs. Brown wash off the victim's face. *See id.* at 9 (citing trial transcript at 480-81, 483, 485); *see also* Response to Motion to Vacate Judgment and Sentence, *supra* note 46, at 13 ("the trial transcript also suggests that, if the hair was indeed in the victim's hand, its source might have been Elease Smith, the black lady who was helping Mrs. Brown aid her husband").

[55] Order, State v. Adams, No. 73-284-CF (St. Lucie County, Fla. filed Apr. 25, 1984).

[56] *See* Adams v. State, 449 So. 2d 819, 820 (Fla. 1984) (listing grounds for relief proffered by Adams).

[57] *See* Response to Petition for Writ of Habeas Corpus, *supra* note 44, at 5, 9, 11 (citing trial transcript at 267-97, 778-79, 491-92).

[58] *See id.* at 6 (citing trial transcript at 322-28, 339-47, 398-408).

[59] The victim's wife and son testified that Edgar Brown carried large amounts of money with him, usually in $20 bills, and that he had a sizeable sum with him on the day of the murder. *See id.* at 7-11 (citing trial transcript excerpts).

[60] *Id.* at 12, 15 (citing trial transcript at 609, 612-15, 648-49, 682, 817-18, 878, 879, 730-31, 807-11).

[61] *Id.* at 13 (citing trial transcript at 671).

[62] *See id.* (citing trial transcript at 626, 639, 671, 675).

[63] *See id.* at 14 (citing trial transcript at 843, 856, 857-70, 875-79).

[64] *See id.* at 16 (citing trial transcript at 959). A witness for the state testified on rebuttal that the distance from the Nickerson residence to the Brown ranch was approximately 12 miles and that the travel time at 55 miles per hour was 15 minutes. *See id.* at 16-17 (citing trial transcript at 991-93).

[65] In their article, Bedau and Radelet state that "if new evidence were to show that we have erroneously included a case in which the defendant was truly guilty, we would of course have no objection to deleting it from our catalogue." Bedau & Radelet, *supra* note 1, at 48. On the basis of an independent review of the Adams case, the authors of this article have requested that Bedau and Radelet delete this case from their list. *See* Letter from Assistant Attorney General Stephen J. Markman to Professor Hugo Bedau (Nov. 17, 1987) (on file with the *Stanford Law Review*). Bedau has written in reply, "During the months ahead, my colleague and I will give close attention to reviewing the information about Adams that you have supplied us. You may be sure that if it or other subsequent evidence causes us to change our mind, you will be duly informed." Letter from Hugo Adam Bedau to Stephen J. Markman (Dec. 10, 1987) (on file with the *Stanford Law Review*). Bedau and Radelet maintain, however, that "nothing [in this response] removes the very serious doubts in the Adams case, or in any other case included in our catalogue." Bedau & Radelet, *supra* note 23, at 163.

[66] Bedau & Radelet, *supra* note 1, at 48.

[67] *See* notes 12-23 *supra* and accompanying text.

[68] The authors cite these opinions in footnotes to their descriptions of the cases, but they invariably fail to acknowledge the weight of the evidence of guilt that these opinions show was produced at trial.

[69] We discuss nine of the eleven cases below. The cases of Sacco and Vanzetti are not discussed here only because adequate treatment of the evidence supporting their guilt would expand this response inordinately. Suffice it to say that the evidence produced at trial, which was reviewed in meticulous detail by the Massachusetts Supreme Judicial Court, *see* Commonwealth v. Sacco, 255 Mass. 369, 151 N.E. 839 (1926), was plainly sufficient to support the verdict. Furthermore, the principal argument offered by the authors to show the defendants' innocence—the claim that another man confessed to the crime, *see* Bedau & Radelet, *supra* note 1, at 158—was not even raised on appeal from the denial of the defendants' motions for a new trial. Moreover, as the authors recognize, the most recent work on the subject, by a long-time student of the case, presents recently discovered evidence of Sacco's and Vanzetti's guilt. *See id.* at 158 n.818 (citing F. Russell, Sacco and Vanzetti: The Case Resolved (1986)).

[70] Bedau & Radelt, *supra* note 1, at 92 (quoting W. Brown, They Died in the Chair 103 (1963)). In fact, Appelgate himself supplied telling evidence of his own guilt. He admitted the facts that gave him a powerful motive for killing his wife, he admitted having assisted in the purchase of the poison, he admitted having prepared the poisoned eggnog and having spent two or three hours getting his wife to drink it, and he refused to permit an autopsy until persuaded to do so by the authorities. *See* People v. Creighton, 271 N.Y 263, 272-77, 2 N.E.2d 650, 654-56 (1936). Moreover, the jury that found Appelgate guilty was instructed that "you cannot convict the defendant Appelgate upon [Creighton's] testimony alone, unless you find that her testimony is corroborated by other evidence which tends to connect Appelgate with the commission of the crime." *Id.* at 281, 2 N.E.2d at 658.

[71] *See Creighton*, 271 N.Y. at 280-81, 2 N.E.2d at 658 (1936). The "state's prison offense" referred to by the court was second degree rape, committed on numerous occasions against Creighton's minor daughter Ruth, with whom Appelgate had been living together "almost as man and wife." *Id.* at 269, 2 N.E.2d at 653. The threat to "expose" Appelgate mentioned by the court was established by evidence that, following a fight a few weeks before the murder during which her husband slapped her, Mrs. Appelgate said: "[I]f you ever do that again I will tell something that will put you where you belong." *Id.* at 268, 2 N.E.2d at 652.

[72] *See* D. Kilgallen, Murder One 190-91, 230 (1967) (Appelgate "very nearly got away" with the murder); L. Lawes, Meet the Murderer 334-35 (1940) ("Frankly, I do not doubt the culpability" of Appelgate), *cited in* Bedau & Radelet, *supra* note 1, at 92 n.362. The authors also state, incorrectly, that the Governor of New York denied a clemency petition despite having "doubts about Appelgate's guilt." *Id.* at 92. One of the authors' sources cited for support wrote that the governor did not "question [Appelgate's] guilt. He took keen interest in the proceedings and made every possible effort to see that justice was meted out." L. Lawes, *supra*, at 334-35. Thus, even though they rely on no evidence other than that presented at trial, Bedau and Radelet believe that a neutral observer would find Appelgate innocent when a unanimous jury, a unanimous Court of Appeals, the Governor, and two of their three secondary sources reached the opposite conclusion.

[73] Bedau & Radelet, *supra* note 1, at 109.

[74] *See* Dawson v. State, 139 So. 2d 408, 412 (Fla. 1962). Dawson's testimony concerning threats to turn him over to a mob was controverted by the state's witnesses. *Id.* Moreover, although the lengthy detention period cannot be condoned, consideration of all the circumstances shows that Dawson's confession was true.

[75] *Id.* at 421 (Drew, J., dissenting). The authors assert, falsely, that there were no eyewitnesses to the crime. Bedau & Radelet, *supra* note 1, at 109. In fact, as the Florida Supreme Court opinion indicates, there was an eyewitness—the victim's 4-year-old brother, Donnie, who had been beaten and left to die at the crime scene. *See Dawson*, 139 So. 2d at 410. When found a day later, Donnie told his father, the police chief, and a family friend that Sie Dawson had committed the murder. *See* St. Petersburg Times, Sept. 24, 1977, at 12A, col. 1. The prosecution did not place Donnie on the stand, presumably because of his age; and the witnesses who had heard him identify Dawson as the killer could not testify as to his statements because of the hearsay rules. Seventeen years later, when interviewed by the St. Petersburg Times about the details of the crime, he explained how Sie Dawson had brutally killed his mother with a hammer. *See id.* at col. 5.

[76] *See Dawson*, 139 So. 2d at 418 (Thornal, J., concurring).

[77] *Id.* at 414.

[78] *Id.* In this connection, Judge Thornal observed that "the circumstantial evidence is completely consistent with the details revealed by the confession, whereas it is not equally consistent with the details described by Dawson from the witness stand when he undertook to repudiate his confession." *Id.*

Material contained in the clemency files of the Florida governors is also relevant to the claim that the woman's husband was the murderer. Although the authors refer the reader to these files, *see* Bedau & Radelet, *supra* not 1, at 109 n.478, they neglect to mention that the materials they contain provide no support for their position. Those materials indicate that investigations by both the Parole Commission and a representative of the Florida Governor's Office found nothing to substantiate the defense claim that the husband had committed the crime. *See* Memorandum from William A. Norris, Jr. to Governor Bryant re: Sie Dawson 2 (May 1, 1964) (on file with the *Stanford Law Review*); Memorandum from Al Healy to Bill Norris re: Sie Dawson (Apr. 29, 1964) (on file with the *Stanford Law Review*). The materials also reveal that "intensive investigation at the time [of the crime] failed to develo[p] any indication that Alvin Clayton [the husband] was implicated in the murders." Memorandum from Al Healy, *supra*, at 2.

Finally, if there is any need for additional refutation of the authors' claim that Dawson was innocent, Bedau himself supplies it. He indicated in 1982 that the Dawson case "remain[ed] in the limbo of uncertainty" because "[t]he original news story [regarding Dawson's supposed innocence] merely reported allegations and was inconclusive; no subsequent inquiry known to me has established whether Dawson was really innocent." Bedau, *Miscarriages of Justice and the Death Penalty*, in The Death Penalty in America, 236-37 (H. Bedau ed. 1982) (citing to the same newspaper articles as are cited in *Stanford Law Review* article).

[79] Bedau & Radelet, *supra* note 1, at 121.

[80] *See* People v. Bogdanoff, 254 N.Y. 16, 171 N.E. 890 (1930).

[81] *Id.* at 19, 171 N.E. at 891. The confessions were reliable. A year after his conviction, Rybarczyk told the governor's clemency investigator, *see* note 84 *infra*, that the police did *not* use any third-degree methods to obtain the confession. *See* Buffalo Evening News, July 3, 1930, at 1, col. 8, at 3, col. 6. Indeed Rybarczyk was apparently motivated to confess to the murder by a jailhouse meeting with his mother. *See id.*, Nov. 5, 1929, at 3, col. 1. Moreover, Rybarczyk's confession included an account of another mobster slaying that he had observed. The truthfulness of that account, and of his confession in the Fechter case, was confirmed after his conviction, when police found the body of the apparent victim in circumstances that fit Rybarczyk's description. *See id.*, Nov. 5, 1929, at 1, col. 6.

[82] *Bogdanoff*, 254 N.Y. at 32, 171 N.E. at 896. The confessions were corroborated by other evidence of the defendants' guilt. At least three witnesses with good views of the crime scene positively identified Grzechowiak, Rybarczyk, or both, as participants in the murder. *See* Buffalo Evening News, Oct. 24, 1929, at 1, col. 6, at 3, col. 1; *id.*, Oct. 25, 1929 at 1, col. 1.

[83] *Bogdanoff*, 254 N.Y. at 40, 171 N.E. at 899 (Crane, J., dissenting, on the grounds of the majority's rejection of the challenge to the sufficiency of the indictment).

[84] *See* Bedau & Radelet, *supra* note 1, at 121. The authors' reliance on the defendants' exoneration by their codefendant Bogdanoff is misplaced. The lengthy police investigation that preceded the arrests of the three men included infiltration of the gang, a wiretap, and around-the-clock surveillance of the Grzechowiak residence for several weeks. It showed that Grzechowiak and Rybarczyk were members of Buffalo's notorious "Blue Ribbon Gang," headed by Bogdanoff. *See* Buffalo Evening News, Nov. 6, 1929, at 2, col. 1. Bogdanoff had boasted to an undercover agent that the gang was wanted for the Fechter robbery-murder. *Id.*, July 3, 1930, at 3, col. 8. The only reason Bedau and Radelet suggest for believing Bogdanoff is his refusal to name "his true accomplices." Bedau & Radelet, *supra* note 1, at 121. In fact, after the Governor refused to consider clemency for Grzechowiak and Rybarczyk without this information, Bogdanoff claimed that his accomplices had not been members of his gang but three gunmen from Chicago whose names, addresses, and descriptions he furnished to the authorities. *See* Buffalo Evening News, July 5, 1930, at 3, col. 1. the Governor's legal adviser and others investigated Bogdanoff's story; but "[n]othing was brought forth to substantiate the claim, which was regarded as a last attempt to save Rybarczyk and Grzechowiak." *Id.*, July 18, 1930, at 3, col. 3. Police also viewed the claim as inconsistent with the known facts of the case. *See* N.Y. Times, July 17, 1930, at 14, col. 3. *See generally id.*, July 18, 1930, at 3, col. 3.

[85] Bedau & Radelet, *supra* note 1, at 125.

[86] *See* State v. Hillstrom, 46 Utah 341, 150 P. 935 (1915).

[87] *Id.* at 349, 150 P. at 939.

[88] *Id.* at 356, 150 P. at 941.

[89] *Id.* at 371, 150 P. at 947 (Frick, J., concurring); *see also id.* at 373, 150 P. 948 at (McCarty. J., concurring) (the evidence that the defendant was one of the perpetrators of the crime was "about as conclusive on that point as though the witnesses had positively identified the defendant as the taller of the two men who were at and in the immediate vicinity of the crime just before and immediately after it was committed").

[90] Indeed, Bedau & Radelet cite a work of fiction to support their conclusion that Hillstrom was not guilty. Bedau & Radelet, *supra* note 1, at 126 n. 588 (citing "generally" W. Stegner, Joe Hill: A Biographical Novel (1969) (first published under the title The Preacher and the Slave)). The novel's foreward explicitly explains that it "is fiction, with fiction's perogatives and none of history's limiting obligations. . . . Joe Hill as he appears here--let me repeat it—*is an act of the imagination.*" W. Stegner, *supra*, atr 13-14 (emphasis added). It is more than a little troubling that Bedau and Radelet use a work of fiction as one of their two sources for the proposition that Hillstrom was innocent. More disturbing yet, Bedau and Radelet cite the Stegner novel "generally" to support Hillstrom's innocence despite the fact that the author's view was to the contrary. *See* Stegner, *Correspondence: Joe Hill*, New Republic, Feb. 9, 1948, at 39; *see also* Stegner, *Joe Hill: The Wobblies Troubadour*, New Republic, Jan. 5, 1948, at 30.

[91] Bedau & Radelet, *supra* note 1, at 144. The authors also rely on the fact that Mays maintained his innocence up to the time he was executed, although they recognize that a defendant's "own protestations" are "not enough" by themselves to prove innocence. *Id.* at 48. As the analysis of the Mays case shows, however, the arguments made to support the defendant's protestations of innocence are unavailing.

[92] May's previous conviction of the crime had been overturned because the judge rather than the jury had imposed the death penalty, an error that had nothing to do with the defendant's guilt or innocence. *See* Mays v. State, 143 Tenn. 443, 226 S.W. 233 (1920).

[93] Mays v. State, 145 Tenn. 118, 123-32, 238 S.W. 1096, 1097-1101 (1921).

[94] *Id* at 135-35, 238 S.W. at 1101.

[95] Bedau & Radelet, *supra* note 1, at 52, 145.

[96] *Id* at 52.

[97] *Id* at 145.

[98] Edgerton, *A Case of Prejudice: Maurice Mays and the Knoxville Race Riot of 1919*, S. Exposure, July/Aug. 1983, at 64. Edgerton also reports another salient fact Bedau and Radelet omit: The Governor denied clemency only after his own review of the case and that of an independent commission convinced him that the verdict was correct. (The commission also suggested that Mays might have been insane.) *See id.* at 63.

[99] McGee's first conviction, by an all-white jury in the county where the crime was committed, was reversed because the trial court had erroneously denied a change of venue. McGee v. State, 200 Miss. 592, 26 So. 2d 680 (1946). His second conviction, in a different county but also by an all-white jury, was overturned because blacks were excluded on account of their race from the grand jury that indicted him. McGee v. State, 203 Miss. 592, 33 So. 2d 843 (1948) (en banc). He was indicted again in the original county, this time by a grand jury with three black members and was found guilty a third time. McGee v. State, 40 So. 2d 160 (1949) (en banc), *cert. denied*, 338 U.S. 805 (1949).

[100] Bedau & Radelet, *supra* note 1, at 145.

[101] *Id.* at 145-46.

[102] McGee v. State, 40 So. 2d 160.

[103] *Id* at 169.

[104] *Id.*

[105] *Id.* The court also rejected McGee's claim that his subsequent written confession had been coerced by daily and nightly beatings, in part on the ground that "[t]he very extravagance of such extreme assertions furnishes, in large measure, their own refutation, averting the credibility of reasonable men." *Id.* at 170.

[106] *Id.* at 171. Moreover, as the court pointed out, the fact of rape was corroborated not only by McGee's admissions, but also by the victim's husband and a neighbor who testified that the victim was hysterical immediately after the attack, by her physician who testified that voluntary sexual intercourse would not likely have produced the condition of her sexual organs, and by physical signs of entry into her bedroom through a window. *Id.*

[107] *See* text accompanying notes 103-105 *supra; see also McGee*, 40 So. 2d at 170, also undermines the consent claim. Nothing in the court's opinion suggests that McGee was deterred from taking the stand by a prior conviction or the like. To the contrary, the court described him as an "intelligent" man who "could read and write, and had a responsible job, delivering goods and collecting therefor, in the employ of the Laurel Wholesale Grocery Company." *Id.*

[108] The authors also claim that "[i]nvestigation by journalist Carl Rowan revealed that the victim had been consorting with McGee for four years and was angry at his efforts to terminate their relationship" and that "local blacks were too intimidated to give this evidence in court." Bedau & Radelet, *supra* note 1, at 146. Rowan's investigation consisted of a few conversations with blacks in the town where the crime had occurred. *See* C. Rowan, South of Freedom 174, 177-85 (1952). He concluded that "the evidence of this so-called clandestine romance was no more ironbound than was the evidence to the contrary," *id* at 185, and he questioned how the hypothesis of consent on the night in question could "jibe with testimony of a woman defense witness that McGee was with her at the time of the alleged attack." *Id* at 186. Indeed, it appears that Rowan had deep-seated doubts about McGee's innocence, contrary to what the authors imply, and was convinced only of the injustice of subjecting him to the death penalty for an offense that had never been thought to warrant that punishment when committed by a white. *See id* at 176, 191-92.

[109] *See* Bedau & Radelet, *supra* note 1, at 158.

[110] *See* Sanders v. State, 202 Ala. 37, 39, 79 So. 375, 377 (1918). Bedau and Radelet state incorrectly that Sanders was convicted "with Fisher Brooks" and that "[b]oth men were sentenced to death and executed in 1918." Bedau & Radelet, *supra* note 1, at 158. In fact, the two men were convicted separately; and Brooks was executed in 1917, almost a full year before Sanders. *See Sanders*, 202 Ala. at 38, 79 So. at 376.

[111] *See* Mobile Register, July 21, 1917, at 1, col. 1, at 9, col. 1 (" 'I've just told so many stories I don't know what I have told' ").

[112] *See id.* at 9, col. 1. At Sanders's trial, Brooks claimed that he had acted alone in committing the murder. Testimony from a night watchman contradicted this point. He saw and heard a screaming woman in a taxi (like Sanders, Brooks was a taxi driver) with two men, on the road to the bridge from which the victim's body was dumped into a river. Brooks also claimed that he stopped the taxi to throw the body from the bridge into the river. But a guard at the bridge testified that he heard a splash as the taxi drove over the bridge with increasing speed. Blood was found on the west railing, the opposite side from the steering wheel in the taxi as it drove over the bridge. *See id.*, July 20, 1917, at 1, col. 7, at 9, col. 3; *id.*, July 21, 1917, at 1, col. 1, at 9, col. 2.

[113] *See* Sanders v. State, 202 Ala. at 38, 79 So. at 376. According to a local newspaper account of the trial, the witness said he overheard Brooks assure Sanders that Brooks's testimony would "help" Sanders, to which the later replied, " 'I'm guilty as —.' " Mobile Register, July 21, 1917, at 1, col. 1.

[114] *See* Mobile Register, July 20, 1917, at 1, col. 7, at 9, cols. 3-4; *id.*, July 21, 1917, at 9, cols. 1-3; *id.*, July 22, 1917, at 1, col. 1.

[115] Bedau & Radelet, *supra* note 1, at 164.

[116] *See* Commonwealth v. Tucker, 189 Mass. 457, 76 N.E. 127 (1905); E. Pearson Masterpieces of Murder 157-79 (1963). Indeed, the bill of exceptions which the defendant presented to the appellate court conceded that "there was evidence for the jury on all issues presented to them." *Tucker*, 189 Mass. at 467, 76 N.E. at 130. Moreover, Pearson's chapter which the authors cite generally to support their discussion of the case, *see* Bedau & Radelet, *supra* note 1, at 164 n.869, does not suggest that Tucker was innocent. In fact, it actually implies the opposite conclusion. *See* E. Pearson, *supra*, at 168 ("even without [the handwriting evidence] the Government's case was very strong"); *id.* at 171 (the Governor's rejection of the defendant's petition for clemency was "conscientious and admirable").

[117] *Tucker*, 189 Mass. at 465-76, 76 N.E. 129-34; E. Pearson, *supra* note 116, at 164-68.

[118] Tucker's defense counsel later reported that Tucker had decided not to testify after being told by counsel that he should testify if he were innocent but not if he were guilty. E. Pearson, *supra* note 116, at 178-79.

[119] *See Tucker*, 189 Mass. at 479, 484, 76 N.E. at 135, 137; *see also* E. Pearson, *supra* note 116, at 170 (in denying Tucker's motion for a new trial, the trial judges described most of the evidence produced on his behalf as untrue). Moreover, it appears that Tucker's alibi witnesses could not account for Tucker's whereabouts at the time of the murder. *See* Hewett, *Shreds of Evidence*, Boston Mag., Nov. 1983, at 133, 134.

[120] *See* Bedau & Radelet, *supra* note 1, at 164. As noted above, *see* note 116 *supra*, Tucker admitted on appeal that the case was strong enough to go to the jury. Beyond that, in denying Tucker's motion for a new trial, the two judges who presided at the trial expressed the view that " 'a verdict of acquittal would have been a failure of justice.' " E. Pearson, *supra* note 116, at 170. The Governor concurred. His review of the case led him to state, "I am compelled to an undoubting belief in his guilt." *Id.* at 175.

[121] Bedau & Radelet, *supra* note 1, at 164.

[122] *See* F. Pearson, *supra* note 116, at 169-72; *see also* F. Russell, Sacco and Vanzetti: The Case Resolved 203-16 (1986) (discussing ill-founded public protest on behalf of condemned prisoners generally and of Tucker in particular). The true nature of the agitation on Tucker's behalf is demonstrated by the fact that "[t]he names of entire families, including, in some instances, children in the cradle, were solemnly set down at the foot of these documents." E. Pearson, *supra* note 116, at 170.

[123] The medical examiner, who testified at trial that he thought the victim had been killed with a knife of the type owned by Tucker, claimed at the clemency hearing that such a knife could not have been the murder weapon, and that the state had deliberately framed Tucker for the murder. *See* Hewett, *supra* note 119, at 134, 136. The trial judges, however at the Governor's request, reviewed the evidence presented at the clemency hearing. They reported that they could not find "that there would now be any material change in the testimony of the medical experts." E. Pearson, *supra* note 116, at 173. The authors are also mistaken about the trial witness' alleged admission of perjury to a clergyman. The witness made no such admission. What the clergyman reported was a third person's statement contradicting the witness' trial testimony. *See* Hewett, *supra* note 119, at 136. This double hearsay would not convince a neutral observer of Tucker's innocence without proof that the witness lied and that true testimony would have raised a reasonable doubt about Tucker's guilt.

[124] *See, e.g.*, W. Berns, *supra* note 6, at 178; van den Haag, *The Death Penalty Once More, 18 U.C. Davis L. Rev. 957, 967 (1985).*

[125] *See, e.g.*, C. Black, Capital Punishment: The Inevitability of Caprice and Mistake 22-30 (2d ed. 1981); Pollak, *The Errors of Justice*, in Capital Punishment 207 (T. Sellin ed. 1967).

[126] The laws of 37 states, as well as certain federal laws, permit imposition of the death penalty. *See* U.S. Dep't of Justice, Bureau of Justice Statistics, Capital Punishment, 1986, at 3 (1987) [hereinafter Capital Punishment, 1986].

[127] *See, e.g.*, Senate Comm. on the Judiciary, Report on S. 1765, Establishing Constitutional Procedures for the Imposition of Capital Punishment, S. Rep. No. 251, 98th Cong., 1st Sess. 14 (1983) [hereinafter "Senate Report"].

[128] W. Berns, *supra* note 6, at 178 (erroneous executions are unlikely); Senate Report at 14 (the risk is "minimal"); van den Haag, *supra* note 124, at 967 (miscarriages of justice are "rare"). Indeed, Bedau himself has observed that it is "false sentimentality to argue that the death penalty ought to be abolished because of the abstract possibility that an innocent person might be executed, when the record fails to disclose that such cases occur." Bedau, *The Death Penalty in America*, Fed, Probation, June 1971, at 32, 36. Bedau now asserts that "[t]he publication of the present research, shows the reality of such mistakes to be a virtual certainty." Bedau & Radelet, *supra* note 1, at 26. However, in our judgment, the study does not show with "virtual certainty" that mistaken executions have occurred in this century; and so Bedau's earlier assessment remains essentially accurate. *See also* Kaplan, *Administering Capital Punishment*, 36 U. Fla. L. Rev. 177, 186 ("It is true that in the modern history of the death penalty, the last thirty-some years, probably no innocent person has been executed").

[129] Bedau & Radelet, *supra* note 1, at 27.

[130] *See* text accompanying notes 42-123 *supra*. The remaining 11 allegedly erroneous executions predate modern times. Only two occurred during

the past 50 years, and both of these took place more than 40 years ago. *See* Bedau & Radelet, *supra* note 1, at 73, Table 10 (Sberba 1938; Anderson 1945).

[131] *See* note 22, *supra*.

[132] Bedau and Radelet claim that between 1900 and 1942 there were 19 erroneous executions out of an estimated 5229 total executions—a rate of error of 0.36%. Bedau & Radelet, *supra* note 1, at 73. Between 1943 and 1985, they claim, there were four mistaken executions out of a total of 1863—a rate of error of 0.22% *Id.*

[133] *Id.* at 78.

[134] *Id.* at 84.

[135] Id.; see also id. at 29.

[136] *Id.* at 78.

[137] *See id.* at 86–90.

[138] 408 U.S. 238 (1972).

[139] In addition, it can be argued that the various forms of prejudice which Bedau and Radelet claim or imply contributed to the execution of allegedly innocent persons have been substantially reduced, if not virtually eliminated. *See* Bedau & Radelet, *supra* note 1, at 125 (anti-union hostility in the Hillstrom case), 144–45 (racial prejudice in the Mays case), 145–46 (racial prejudice in the McGee case), 157–58 (anti-communist prejudice in the Sacco and Vanzetti case).

[140] *See, e.g.,* Ala. Code § 13A–5–40 (1982 & Supp. 1987).

[141] *See, e.g.,* N.J. Rev. Stat. § 2C:11–3c(2)(e) (Supp. 1988)

[142] *See, e.g.,* Ala Code §§ 13A–5–45, 54 (1982).

[143] *See, e.g.,* Miss Code Ann. § 99–19–101(3) (Supp. 1987).

[144] *See, e.g.,* Ga. Code Ann. § 17–10–30(b)(7) (1982).

[145] *See, e.g., id.* § 17–10–30(b)(3).

[146] *See, e.g.,* La. Code Crim. Proc. Ann. art. 905.4A(3) (West Supp. 1988).

[147] *See, e.g., id.* art. 905.4A(5).

[148] *See, e.g.,* Ga. Code Ann. §§ 17–10–30(b)(5), (8) (1982).

[149] *See, e.g.,* La. Code Crim. Proc. Ann. art. 905.5(f) (West 1984).

[150] *See, e.g.,* Fla. Stat. § 921.141(6)(f) (1985).

[151] *See, e.g., id.* § 921.141(6)(e).

[152] *See, e.g., id.* § 921.141(6)(d).

[153] *See, e.g.,* La. Code Crim. Proc. Ann. art. 905.6 (West 1984).

[154] *See, e.g., id.* art. 905.8.

[155] *See, e.g.,* Miss. Code Ann. §§ 99–19–105(1)–(3) (1987).

[156] *See* 28 U.S.C. § 1257(2) (1970).

[157] *See, e.g.,* Tex. Crim. Proc. Code Ann. art. 40.03(6) (Vernon 1979). 28 U.S.C. § 2254 (1982).

[158] *See, e.g.,* La. Code Crim. Proc. Ann. arts. 924, 924.1, 930.3 West 1981).

[159] *See, e.g.,* Ariz. Const. art. 5, § 5; Ariz. Rev. Stat. Ann. §§ 31–402A, 31–443 (1986).

[160] *See text accompanying notes 42–65 supra.*

[161] Florida law differs from the typical death penalty statute in that it permits the judge to impose the death penalty after considering the jury's recommendation. Fla. Stat. § 921.141(2), (3) (West 1985). In the Adams case, the judge found numerous aggravating factors to support imposition of the death penalty. For example, at the time of the murder Adams had escaped from the Tennessee prison system where he was serving a 99-year sentence for rape. Adams v. State, 341 So. 2d 765, 769 (Fla. 1976).

[162] *Adams,* 341 So. 2d at 765.

[163] Adams v. Florida, 434 U.S. 878 (1977).

[164] 430 U.S. 349 (1977).

[165] Adams v. State, 355 So. 2d 1205, 1206 (Fla. 1978).

[166] Adams v. Florida, 439 U.S. 947 (1978).

[167] Adams v. State, 380 So. 2d 421 (Fla. 1980).

[168] Adams v. State, 380 So. 2d 423 (Fla. 1980). At that time, Adams was also one of 123 Florida death row inmates who unsuccessfully sought relief in *Brown v. Wainwright.* 392 So. 2d 1327 (Fla), *cert. denied,* 454 U.S. 1000 (1981).

[169] *See* Adams v. Wainwright, 709 F.2d 1443, 1445 (11th Cir. 1983).

[170] *Id.*

[171] Adams v. Wainwright, 464 U.S. 1063 (1984).

[172] Adams v. Wainwright, 465 U.S. 1074 (1984).

[173] *See* Adams v. State, 449 So. 2d 819, 820 (Fla. 1984).

[174] *Id.* at 820–21. Adams did not raise a claim that he was innocent before the Florida Supreme Court. Nor did he report to the Court any "newly discovered" evidence of his innocence even though such evidence could, in proper circumstances, be the basis for relief under Florida law. *See* Hallman v. State, 371 So. 2d 482, 484–85 (Fla. 1979).

[175] *Adams,* 449 So. 2d at 820–21.

[176] *See* Adams v. Wainwright, 734 F.2d 511, 511–12 (11th Cir. 1984) (noting the petition's successive nature and its denial by the district court).

[177] Wainwright v. Adams, 466 U.S. 964 (1984).

[178] Interview with Andrea Hillyer, Florida Attorney General's Office (March 1987).

[179] *See. e.g.,* Darden v. Wainwright, 473 U.S. 928, 929 (1985) (Burger, C.J., dissenting from grant of certiorari) ("In the 12 years since petitioner was convicted of murder and sentenced to death, the issues now raised in the petition for certiorari have been considered by this Court four times . . . and have been passed upon no fewer than 95 times by federal and state court judges."). *See generally Who Is on Trial? Conflicts Between the Federal and State Judicial Systems in Criminal Cases: Hearing Before the Subcomm. on Gov't Information, Justice, and Agriculture of the House Comm. on Gov't Operations,* 100th Cong., 2d Sess. 25–27 (1988) (statement of Paul Cassell, Associate Deputy Attorney General).

[180] *See* Bedau & Radelet, *supra* note I, at 70–71, 84.

[181] *See id,* at 91. It should also be noted that in 1986 the average elapsed time from sentencing to execution in death penalty cases was more than seven years. *See* Capital Punishment, 1986, *supra* note 126, at 9.

[182] Bedau & Radelet, *supra* note 1. at 38, Table 4.

[183] *Id.*

[184] *See* notes 42–43, 73–78 *supra* and accompanying texts (discussion of the Adams and Dawson cases).

[185] Bedau & Radelet, *supra* note 1, at 38–39.

[186] *See id.* at 29–31 n.40 (cases of John Henry Knapp and Earl Johnson). The authors also refer to seven other "recent capital cases involving inmates released in the first six months of 1987 from death rows . . . because of evidence raising doubts about their guilt," *id.;* but according to the information supplied by the authors, six of these individuals (Peek, Cobb, Williams, McManus, Brown, Ramos) were no longer under a sentence of death at the end of 1986. Their convictions and death sentences had been vacated before then. The same is true of the seventh individual, Hill, whose case was actually decided in 1985, not 1987., *See* Hill v. State, 473 So. 2d 1253 (Fla. 1985).

[187] Bedau & Radelet, *supra* note 1, at 30 n.40 (case of John Henry Knapp).

[188] *Id.* (case of Earl Johnson). The authors claim that "substantial doubts remain" about Johnson's guilt, but—once again—the appellate opinions in the case show that Johnson was certainly guilty. The elderly victim of the assault that preceded the police officer's murder positively identified Johnson as her assailant the next day and at trial. She was unable to make a positive identification early because "she was in a state of shock and was confused due to the viciousness of the beating on her head and body as well as the attempt upon her life and safety. Johnson v. State, 416 So. 2d 383, 387 (Miss. 1982). Moreover, Johnson's claim that his confession was false appears to have been an afterthought. *See* Johnson v. State, 508 S. 2d 1126, 1127 (Miss. 1987). He did not attack its admissibility on direct appeal, *see* Johnson v. State, 416 S. 2d 383, 387 (Miss. 1982), in his state application for a writ of error *coram nobis, see* Johnson v. Thigpen, 449 So. 2d 1207 (Miss. 1984), or in his federal petition for habeas corpus, *see* Johnson v. Thigpen, 623 F. Supp. 1121 (S.D. Miss. 1985), *aff'd* 806 F.2d 1243 (5th Cir. 1986), *cert denied,* 107 S. Ct. 1618 (1987). In any event, Johnson's confession was corroborated in at least three important respects: it led to the recovery of the gun that the murderer took from the officer and used to kill him, Johnson v. State, 416 So. 2d 385–86; witnesses placed a vehicle like that owned by Johnson at the crime scene at the time in question, Johnson v. Thigpen, 623 F. Supp at 1126; and Johnson admitted to a trustee at the jail where he was being held that he had shot the officer, Johnson v. Thigpen, 806 F.2d at 1251; Johnson v. State, 416 So. 2d at 387.

[189] *See e.g.,* Gregg v. Georgia, 428 U.S. 153 (1976).

[190] We derived the 50,000 figure by multiplying the approximately 200,000 murder arrests between 1977 and 1987 by the 25% conviction rate for that crime during the preceding few years. *See* U.S. Department of Justice, Federal Bureau of Investigation, Crime in the United States, 1986, at 41. Table 1 (1987).

[191] Bedau & Radelet, *supra* note 1, at 178–79. Only five of the 31 cases cited resulted in imposition of a death sentence. In none of these was the sentence actually carried out. *Id. see also* notes 185–188 *supra* and accompanying text. *But see id.* at 29 n.40 (nine new cases in which the death sentence may have been wrongfully imposed, with one resulting in an execution).

[192] *See* Bedau & Radelet, *supra* note 1, at 96 (Beeman), 161 (L. Smith), 112–13 (Fay), 125 (Hicks), 170 (S. Wilson), 112 (Estes), 155 (Reynolds), 93 (Bachelor), 146 (McIntosh), 91 (Amado), 156 (Robertson), 129–30 (Jaramillo), 151–52 (Petree), 156 (Robinson), 103 (Carden), 129 (James & Peterson), 126–27 (Holbrook), 126–27 (Rucker), 103 (Carter), 113 (Ferber), 100–01 (A. Brown), 149 (Norwood), 143 (Malloy), 163–64 (Torres).

[193] Bedau & Radelet, *supra* note 1, at 78. Despite this caution, Bedau and Radelet do not hesitate in announcing their view that the costs outweigh the benefits and that "abolition is the better policy," *id.* at 80–81.

[194] The authors' protestations that their figures "understate" the numbers of innocent persons executed are unconvincing. *See* notes 133–136 *supra* and accompanying text.

[195] *See, e.g.,* Tison v. Arizona, 107 S. Ct. 1676, 1677 (1987) (defendants aided the prison escape of their father who was serving a life sentence for murdering a prison guard and who then proceeded to kill four more innocent persons).

[196] "At least five federal prison officers have been killed since December 1982, and the inmates in at least three of the incidents were already serving life sentences for murder." W. Weld & P. Cassell, Report to the Deputy Attorney General on Capital Punishment and the Sentencing Commission 28 (Feb. 13, 1987).

[197] *See* Senate Comm. on the Judiciary, establishing Constitutional Procedures for the Imposition of Capital Punishment, S. Rep. No. 251, 98th Cong., 1st Sess. 12 (1983). A recent study of recidivism among young parolees revealed that 6% of young adults paroled in 1978 after having been convicted of murder were arrested again for murder within the following six years. *See* U.S.Dept. of Justice, Bureau of Justice Statistics, Recidivism of Young Parolees 4, Table 4 (1987) [hereinafter Recidivism of Young Parolees].

[198] *See* Memorandum from Lawrence A. Greenfeld to Steven R. Schlesinger 2 (Dec. 18, 1985) (on file with the *Stanford Law Review).* Of the 1405 on death row at the end of 1984, an estimated 132 had prior murder convictions. *Id.* at 1. These figures were based on a Bureau of Justice Statistics 1979 survey of 11,397 state prison inmates, weighted and adjusted for the 1984 prison population. *See* U.S. Dep't of Justice, Bureau of Justice Statistics, Profile of State Prison Inmates, 1986, at 7 (1988); U.S. Dep't of Justice, Bureau of Justice Statistics, Capital Punishment, 1984, at 7, table 9 (1985) [hereinafter Capital Punishment, 1984] (of 1405 persons serving death sentences, 104 had been previously convicted for homicide).

[199] *See* Bedau & Radelet, *supra* note 1, at 80.

[200] For instance, one might derive a rough estimate by multiplying 810 convicts by 3.1%—the proportion of convicted murderers who had been sentenced to death out of those admitted to prison for homicide in 1983. *See* Capitol Punishment, 1984, *supra* note 198, at 9. Table A–1. This calculation yields a figure of approximately 24 lives saved through the use of capital punishment over the last several decades. This estimate may be conservative. Since the death penalty is reserved for the most aggravated murders, it seems fair to conclude that the perpetrators pose a greater risk of subsequent homicide than the population of convicted murderers generally. *See, e.g.,* Tex. Code Crim. Proc. Ann. art. 37.071(b)(2) (Vernon 1981 & Supp. 1988) (requiring a finding that "there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society"). Moreover, the 23 allegedly wrongful executions span this entire century while 24 lives saved through incapacitation covers the last few decades.

[201] Bedau & Radelet, *supra* note 1, at 80.

[202] *Id.* at 81. *But see* Recidivism of Young Parolees, *supra* note 197, at 4. Table 4. The data cited reveals that of 11,404 persons originally convicted of "willful homicide" and released during 1965 to 1974, 34 were returned to prison for commission of a subsequent criminal homicide *during the first year alone. See also* H. Bedau, *Recidivism, Parole, and Deterrence,* in The Death Penalty in America 173, 175 (3d ed. 1982) (cited in Bedau & Radelet, *supra* note 1, at 79 n.296).

[203] *See, e.g.,* Ga. Code Ann. § 17–10–30 (1982).

[204] *See, e.g.,* Tex. Code Crim. Proc. Ann. art. 37.071(b)(2) (Vernon 1981 & Supp. 1988).

[205] 428 U.S. 153. 186 (1976) (plurality opinion). Anecdotal evidence supports this view. For instance, according to the Attorney General of Kansas, one of the contributing factors leading to the 1935 reenactment of the death penalty in Kansas for first-degree murder was the spate of deliberate killings committed in Kansas by criminals who had previously committed such crimes in surrounding states where their punishment, if captured, could have been the death penalty. These criminals admitted having chosen Kansas as the site of their crimes solely for the purpose of avoiding a death sentence in the event that they were captured. Report of the Royal Commission on Capital Punishment 1949-53, at 375 in 7 Reports of Commissioners, Inspectors, and Others 677 (1952-1953). For more anecdotal examples, see W. Weld & P. Cassell, *supra* note 196, at app. C.

[206] *See* W. Weld & P. Cassell, *supra* note 196, at 15-19.

[207] *See id.* at 19 (explaining supply-demand econometric model of deterrence).

[208] *See* Layson, *Homicide and Deterrence: A Reexamination of the United States Time-Series Evidence,* 52 S. Econ. J. 68, 75, 80 (1984); Layson, *United States Time-Series Homicide Regressions with Adaptive Expectations,* 62 Bull N.Y. Acad. Med. 589 (1986).

[209] *See* Layson, *Homicide and Deterrence: Another View of the Canadian Time-Series Evidence,* 16 Can. J. Econ. 52 (1983).

[210] *See* Ehrich, *Capital Punishment and Deterrence: Some Further Thoughts and Additional Evidence,* 85 J. Pol. Econ. 741 (1977). This study is a response to criticisms of an earlier study by Ehrlich. *See* Ehrlich, *The Deterrent Effect of Capital Punishment: A Question of Life and Death,* 65 Am. Econ. Rev. 397 (1975).

[211] *See, e.g.,* Wolpin, *Capital Punishment and Homicide in England: A Summary of Results,* 68 Am Econ. Rev. 422 (1978); Phillips & Ray, *Evidence on the Identification and Causality Dispute About the Death Penalty,* in Applied Time Series Analysis 313 (1982). These studies are particularly informative since Bedau and Radelet argue in their reply to this article that nothing we cite addresses the issue of whether the death penalty has a marginal deterrent effect over long-term imprisonment. Bedau & Radelet, *supra* note 23, at 168-69. But Wolpin, as well as Phillips and Ray, controlled for imprisonment length and observed a unique deterrent effect attributable to death sentences.

[212] *See, e.g.,* Bartel, *Women and Crime: An Economic Analysis,* 17 Econ. Inquiry 29 (1979); Block, Nold & Sidak, *The Deterrent Effect of Antitrust Enforcement,* 89 J. Econ. 429 (1981); Corman, *Criminal Deterrence in New York: The Relationship Between Court Activities and Crime,* 19 Econ. Inquiry 476 (1981).

[213] *See, e.g.,* Viscusi, *The Risks and Rewards of Criminal Activity: A Comprehensive Test of Criminal Deterrence,* 4 J. Lab. Econ. 317 (1986); Witte, *Estimating the Economic Model of Crime with Individual Data,* 94 Q.J. Econ. 57 (1980). *But see* Myers, *Estimating the Economic Model of Crime: Employment Versus Punishment Effects,* Q.J. Econ. 157 (1983) (challenging Witte's conclusions).

[214] Between 1900 and 1985, 7092 persons were lawfully executed. *See* Bedau & Radelet, *supra* note 1, at 73. We multiplied Layson's estimate of the execution/homicide tradeoff (18) by 7092 to get 125,000. Layson's data extends from 1933 to 1977. *See* Layson, *supra* note 208, at 70. We assume in our equation that the tradeoff he calculates would apply at the same level for the entire period from 1900 to 1985.

[215] For instance, even if one were to contend that there was only a small (say 25%) chance of Layson's figures were correct, then one would have to weight 31,250 lives (25% × 125,000) in any risk assessment equation.

Of course, to complete the calculation, one must consider the possibility of a counterintuitive "brutalization" effect (*i.e.,* an increase in the homicide rate) attributable to society's use of the death penalty. *See* Kaplan, *The Problem of Capital Punishment,* 1983 U. Ill. L. Rev. 555, 560-61; *see also* Bedau & Radelet, *supra* note 1, at 80. The anecdotal and statistical support for such an argument is extremely thin. *See* W. Weld & P. Cassell, *supra* note 196, at 15-16. Moreover, Layson's equations demonstrate that any "brutalization" effect is outweighed by capital punishment's deterrent effect. *See id.* at 16, n.17.

[216] Bedau & Radelet, *supra* note 1, at 79.

[217] As Ernest van den Haag has observed: " 'All human activities—building houses, driving a car, playing golf or football—cause innocent people to suffer wrongful death, but we don't give them up because on the whole we feel there's a net gain.' " N.Y. Times, Nov. 14, 1985, at A19, col. 1. Similarly, van den Haag argues, capital punishment is justified even though a few innocent persons may be executed, because it produces "a net gain in justice . . . being done." *Id.* Bedau and Radelet claim that van den Haag's comparison is misleading, *see* Bedau & Radelet, *supra* note 1, at 79, but it appears that they have misunderstood his position. Van den Haag's argument is not that those who participate in such activities as building houses or driving cars consent to their exposure to risk, but that such activities inevitably create risks for others who are not involved in those activities. Society tolerates these risks because, on balance, the consequences of these pursuits are more desirable than not. Nor is it fair of Bedau and Radelet to criticize van den Haag's comparison on the ground that "the intention of capital punishment is to kill the convicted, whereas this is not the intention of the practices to which van den Haag draws a parallel." *Id.* In truth, it is no more "the intention of capital punishment" to kill the innocent than it is the intention of builders or drivers to do so. In either case, a mistake that causes the death of an innocent person is an unintended cost of the activity.

[218] According to the authors, "[g]iven the irremediability of the death penalty and the availability of an adequate alternative punishment, the execution of *any* defendant is unnecessary and cannot be justified even if there were substantial benefits of capital punishment." Bedau & Radelet, *supra* note 1, at 79. One flaw in this reasoning is that it takes as a premise the very question at issue—"the availability of an adequate alternative punishment." Beyond that, the conclusion that even substantial benefits cannot justify the execution of actual murderers suggests that the authors' objection to capital punishment is not really based on the risk of executing the innocent. They would apparently oppose the death penalty even if it could never result in a wrongful execution and even though it would deter an indefinite number of prospective murders. *See id.* The authors suggest that supporters of capital punishment "might see the issue differently" if they were "the innocent defendants facing the executioner." *Id.* But, by the same token, opponents of capital punishment might see the issue differently if they were the innocent victims of a kidnaper who had not yet decided whether to kill the hostages. *Cf.* F. Carrington, Neither Cruel nor Unusual 99 (1978) (robbery victim was shot and left for dead by assailants who had decided not to leave a witness because a murder would make no difference in the "time" they would "do" if caught).

[219] Senate Comm. on the Judiciary, *supra* note 197, at 13.

[220] Media General/Associated Press published the most recent national poll regarding the death penalty based on interviews conducted from November 7-14, 1986. That poll found that 84% of Americans favor the death penalty for especially brutal murders, and only 11% oppose capital punishment entirely. The poll also revealed that support for the death penalty crossed as racial, educational, economic, and regional lines. Media General/Associated Press Poll: Death Penalty, Nov. 7-14 (1986), *reprinted in* W. Weld & P. Cassell, *supra* note 196, at app. B at 1, 8.

[221] *See* notes 194-215 *supra* and accompanying text.

[222] *Capital Punishment: Hearings Before the Comm. on the Judiciary,* 97th Cong., 1st Sess., 246-47 (1981) (testimony of Walter Berns).

[223] Berns, *Defending the Death Penalty,* 26 Crime & Delinq. 503, 509 (1980).

[224] *Id.* at 511. Lesser penalties are inadequate to achieve this purpose and may, indeed, demean the value of human life. As the husband of a murder victim stated following the recent convictions of several defendants for his wife's brutal slaying in the District of Columbia: "I hate that D.C. doesn't have the death penalty. It's a lot of people who think they can kill somebody and get away with it. Now we got to feed those prisoners. They'll be sitting up looking at TV and having fun." Wash. Post, Dec. 19, 1985, at A39, col. 4.

[225] *See* E. van den Haag, Must the American Criminal Justice System Be Impotent? 2 (Sept. 19, 1985) (White Paper prepared for the Washington Institute for Values in Public Policy) ("The sanctions of the criminal justice system are effective only if inflicted upon the guilty and not on the innocent. If innocents were as liable to be punished as guilty persons, punishment would not be a reason for avoiding crime.").

[226] *See* van den Haag, *supra* note 7, at 68: "The irrevocability of a verdict of death is contrary to the modern spirit that likes to pretend that nothing ever is definitive, that everything is open-ended, that doubts must always be entertained and revisions made. Such an attitude may be proper for inquiring philosophers and scientists. But not for courts. They can evade decisions on life and death only by giving up their paramount duties: to do justice, to secure the lives of the citizens, and to vindicate the norms society holds inviolable." *Id.*

[227] This conclusion is only strengthened by the authors' reply to our critique. *See* Bedau & Radelet, *supra* note 23. As proponents of the view that capital punishment should be abolished because it entails an unacceptable risk of erroneous execution, *see* Bedau & Radelet, *supra* note 1, at 80-81, they have the burden of persuasion. Yet they now admit that neither they nor any previous researchers have proved any executed defendant to be innocent. *See* Bedau & Radelet, *supra* note 23, at 164. They also now concede that the risk of executing the innocent is relatively unimportant to the death penalty debate. *See id.* at 165-66.

Mr. THURMOND. Mr. President, I take this opportunity to express my appreciation to the able Senator from Utah for the great work he has done on the Judiciary Committee and the magnificent work he has done on this crime situation. He has been a stalwart in this matter. He deserves great credit, and I deeply appreciate the fine cooperation he has given me in this important matter.

Mr. HATCH. I thank my dear friend and colleague from South Carolina. I apologize for saying he was from North Carolina a little earlier. He shot out of his chair. I have not seen him move that fast in years. And he moves fast, let me tell you. I appreciate his kind remarks.

I must say that I am looking forward to working with the distinguished Senator from Delaware in, hopefully, resolving this bill. He has to live with a lot of different situations on his side of the floor. So it makes it more difficult for the bill to be as good as I would like to see it.

But I intend to work with him and with the distinguished Senator from South Carolina to try to perfect these bills, if we can, so as to resolve some of these problems.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FORD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise to discuss an amendment I will offer tomorrow, in an effort to strengthen the assault weapons provisions of the crime bill.

This amendment adds the most dangerous assault weapons to the list of firearms that are already included in this bill.

It also bans the sale of magazines larger than 15 rounds.

These provisions have the support of the law enforcement community.

I will offer this amendment for the same reason I introduced legislation on assault weapons last year.

That is the tragic event that took place January 17, 1989, in Stockton, CA, when a madman armed with an AK-47 assault rifle opened fire and turned a schoolyard into a killing field.

There was no reason, no logic, nothing on his agenda, but the gun used by Patrick Edward Purdy to kill 5 children and wound 30 others was not a hunting rifle designed for sportsmen, but a combat weapon made in China for use by Communist troops.

He carried enough ammunition for a small army, and had two large magazines, one for 75 rounds, the other for 35 rounds.

Unfortunately, that incident in Stockton, CA, was but one of many incidents of this kind that have occurred across the country. There was a situation down in Louisville, KY, where a disgruntled employee, a former printing plant employee, came back to the plant and for no reason at all with an assault weapon killed 7 of his fellow workers and wounded 13 others.

The police officers of this country are all too familiar with assault weapons. They are too often outgunned on the streets by drug dealers and other criminals who arm themselves with these weapons of war. The police have been clear and unanimous in their support for the strongest possible legislation to ban assault weapons. Police officers of this country are no different than any of the rest of us. They want to live, and semiautomatic assault weapons too often bring their lives to an untimely end.

My amendment will ban semiautomatic assault weapons whether they are imported or domestic. What an absurdity we have in this country now where the President of the United States bans imported semiautomatic assault weapons but permits the sale of those manufactured in this country. Does the President of the United States really think that the law enforcement community of this country finds it more comfortable, is more willing to die with a weapon made in this country than one made in China or Israel or the Soviet Union or wherever?

The bill that we have before us would add more assault weapons to the list of firearms being banned. The present bill contains four domestic semiautomatic assault weapons and five additional ones that are imports. Those five are already banned.

So of the nine we add only four that are new weapons to be banned. The amendment that we will offer tomorrow puts in 13 additional semiautomatic assault weapons. Most of these are domestic weapons not covered by the President's ban on imported assault weapons.

On that score, I want to come back to the point I made previously. I do not understand the President's logic. I do not understand how he can recognize the harm, the hurt, the devastation that is caused by semiautomatic assault weapons, and then take that strong position, really a courageous position, to ban the import of those semiautomatic assault weapons, but not do anything about those made in this country.

As any police officer in this country will tell you, or the widows of those police officers will tell you, it makes no difference if those police officers are shot by a foreign or domestic assault weapon. Either way the price is just the same; he is just as dead.

Then we will hear, as this debate goes on, the National Rifle Association will tell us of all the harm and the terrible things that will happen if we pass this amendment. You may be certain that the NRA will lie about the amendment as well. There is nothing new about that. The NRA lies about almost every piece of legislation having to do with guns in this country. They have lied about other assault weapon legislation. They lied about plastic gun legislation. They lied about cop-killer bullet legislation. "Lies, damn lies and NRA ads" is how one national magazine put it after looking into NRA claims about what my legislation would do.

The truth about this amendment is that no currently owned weapon would be affected. Nobody would lose their gun if the amendment passes. It would affect only future sales of assault weapons.

The NRA lied and said there is no way to distinguish between assault weapons and hunting rifles. It is a lie. Time and time again they have lied to their members, they have lied in newspaper ads, they have lied in television ads, they have lied in radio ads. I know. They came to my State in 1988 and lied about the legislation that I supported.

The truth is that even the Bush administration has concluded, after an extensive study by the Bureau of Alcohol, Tobacco and Firearms, "There are viable, clear differences between semiautomatic assault rifles and semiautomatic rifles used in traditional sports." That is the Bureau of Alcohol, Tobacco and Firearms speaking. That is not partisan, one side or the other. That is our governmental agency that deals with this issue.

I believe it is time for Senators to stand up to the NRA. I believe it is time to say no to the NRA, and stand with the police officers of this country and with all innocent people like those children in Stockton.

I believe it is time to raise up our shoulders and say that the NRA has been fooling the people long enough, their members and some others as well, about legislation pending in the U.S. Congress. It is time to pass strong, sane legislation that will save lives.

That is the reason I hope when this issue is brought to the floor tomorrow the Members of this body will see fit to support the amendment that will be offered in my behalf.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, during the past several months, the Senate has had the opportunity to consider legislation on a wide variety of issues. We have passed clean air legislation. We have passed a supplemental appropriations bill that provides aid to Nicaragua and Panama as well as funding for hundreds of our favorite congressional pet projects. And we have passed legislation that allegedly reforms the Hatch Act.

A good number of these bills have been tagged with the special interest label. Sometimes this label is justified. And sometimes it is not.

But one issue that transcends the special interests—that affects virtually everyone in this country—is the often horrifying issue of crime.

Just last week, the Justice Department released statistics showing that an alarming 36.1 million crimes were committed in 1989. This is obviously an enormous—and very disturbing—number, and the number is bound to get larger unless Congress takes decisive steps to reform some of the key ingredients of our criminal justice system.

FRAMING THE DEBATE

So far, this debate has been a simple one. It is a debate between the Democrat approach offered by my distinguished colleague, Senator BIDEN, and a Republican bill introduced by the ranking member of the Judiciary Committee, Senator THURMOND.

Both bills claim to cover the same territory. They claim to reform habeas corpus procedure and the exclusionary rule. They claim to toughen up the Federal death penalty. And they claim to deal with such difficult issues as firearms-related crimes and the drug testing of convicted criminals.

In reality, though, both bills take radically different approaches. One approach significantly improves the criminal justice system, while the other makes the system more difficult, more complicated—all under the guise of something called criminal justice reform.

CAPITAL PUNISHMENT

The bill introduced by Senator THURMOND is unequivocal when it comes to the death penalty. It says "yes" to the death penalty as a deterrent to crime. And it says "yes" to the death penalty as a legitimate expression of society's outrage at those who commit capital offenses.

The Thurmond bill, for example, establishes capital sentencing procedures that satisfy the often complicated constitutional standards developed by the Supreme Court since the Furman versus Georgia decision.

The Thurmond bill also establishes—and, in some instances, restores—an enforceable death penalty for the most serious Federal crimes, such as murder for hire, hostage taking and kidnaping resulting in death, murder of Federal law enforcement officers, assassination of Federal officials, fatal mail bombings, murder by Federal prisoners serving life terms, and aggravated crimes of espionage and treason.

RACIAL JUSTICE ACT

On the other hand, the bill introduced by my distinguished colleague from Delaware slams the door on the death penalty by incorporating something called the Racial Justice Act.

The Racial Justice Act is part of a rich tradition here in Congress of giving harmless-sounding names to harmful pieces of legislation.

On its face, the Racial Justice Act sounds great. It sounds like a worthy cause. And there is not a single Member of the Senate who does not, in fact, support racial justice or worthy causes.

But when you look behind the label, you will see that the Racial Justice Act is nothing more than a pleasant-sounding prescription for the complete nullification of the Federal and State death penalties.

It is antidemocratic, anticapital punishment, and it has nothing to do with racial justice.

Do not just take my word for it. Take the word of our Nation's highest law enforcement official, Attorney General Richard Thornburgh, who has written that the so-called Racial Justice Act is not a serious effort to address any actual or potential problems of discrimination in the administration of capital punishment, but a transparent effort to make capital punishment impossible by imposing standards and requirements that cannot be met. Its enactment would effectively end capital punishment in the United States.

I urge my colleagues to take a few minutes to read the actual language of the Racial Justice Act, particularly the provisions establishing the burden of proof for someone alleging racial bias in a capital sentence.

This provision states that:

> It shall not be necessary to show discriminatory motive, intent, or purpose on the part of any individual or institution. Ordinary methods of statistical proof shall suffice.

In other words, just numbers.

No discriminatory motive. No discriminatory intent. No discriminatory purpose. No proof—in other words—and the courts will still be required by the Biden bill to sacrifice hundreds of legitimate capital sentences—all at the altar of raw statistics.

HABEAS CORPUS AND EXCLUSIONARY RULE REFORM

In two other important areas of criminal justice reform—habeas corpus and the exclusionary rule—the Thurmond bill is far superior to the bill introduced by my distinguished colleague from Delaware.

The Thurmond bill adopts most of the recommendations of the Powell Commission, which concluded that the habeas system had spun out of control, consuming precious judicial resources and causing endless delays in capital cases.

The Thurmond bill would slow down the habeas merry-go-round by limiting the right of Federal courts to hear habeas cases that have been fully and fairly litigated in State court. It would also establish a 1-year time limitation on habeas corpus applications.

The Biden bill, on the other hand, would have the unintended effect of opening up the habeas floodgates by establishing a fuzzy, open-ended miscarriage of justice standard of habeas review. This standard will allow any death row inmate to obtain yet another review of his conviction and sentence in Federal court simply by alleging that he is a victim of a miscarriage of justice—whatever that term may mean.

As Attorney General Thornburgh has pointed out:

> Even claims that cast no doubt on a defendant's factual guilt could be raised at the 11th hour under an undefined "miscarriage of justice" standard.

When it comes to the exclusionary rule reform, the Thurmond bill does not fool around. It codifies the Supreme Court's Leon decision, which recognized a general good faith exception. And unlike the Biden bill, it also takes the Leon decision one step further by extending the good faith exception to warrantless searches.

This makes sense. And it is good public policy. Requiring the courts to toss out valuable evidence—even when a law enforcement officer has acted completely in good faith—is the height of form over substance. It is cutting your nose off to spite your face.

OTHER PROVISIONS

The Thurmond bill would also mandate the drug testing of any individual convicted of a drug-related or firearm-related crime prior to his release from prison. And it would authorize a mandatory minimum penalty of 10 years for any person who uses a semiautomatic weapon during the commission of a violent crime or serious drug offense.

Mr. President, these are serious and important reforms, and they deserve our support.

Mr. President, 83 percent of all Americans will be victimized by crime at some point during their lifetime. A violent crime affects one person in this country every 20 seconds.

Obviously, as these frightening numbers suggest, the crime problem will not go away overnight. It will not vanish simply with a wave of the legislative magic wand, or speeches of anybody on this floor or the good intentions of anyone in this country.

But in this case Congress does have some responsibility and the Senate has some responsibility. We have to start somewhere.

The bill introduced by my distinguished colleague from South Carolina is more than a good start. If passed, it will be an important and effective weapon in a war to win back the streets, the neighborhoods, and the cities of this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

## MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on May 18, 1990, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on May 18, 1990, are printed in today's RECORD at the end of the Senate proceedings.)

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1804. A bill to amend title 23, United States Code, to reduce the amount of Federal highway funds allocated to any State that does not provide for the revocation or suspension of the driver's license of any individual convicted of a drug offense (Rept. No. 101-298).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 2205. A bill to designate certain lands in the State of Maine as wilderness (Rept. No. 101-299).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs:

Carl J. Kunasek, of Arizona, to be Commissioner on Navajo and Hopi Relocation.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ:

S. 2661. A bill for the relief of Lolita Raya; to the Committee on the Judiciary.

S. 2662. A bill for the relief of Bruno Figueroa and Patricia Figueroa; to the Committee on the Judiciary.

By Mr. McCAIN (for himself, Mr. THURMOND, Mr. LOTT, and Mr. D'AMATO):

S. 2663. A bill to provide increased and special benefits to individuals involuntarily separated from the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. BENTSEN (for himself, Mr. BURDICK, Mr. JOHNSTON, Mr. BUMPERS, Mr. BOREN, Mr. PRYOR, Mr. NICKLES, Mr. GRAMM, Mr. BREAUX, and Mr. CONRAD):

S. 2664. A bill to provide disaster assistance for agricultural producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 2665. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend the Job Training for the Homeless Demonstration Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOSCHWITZ (for himself, Mr. GORTON, Mr. DASCHLE, Mr. COCHRAN, Mr. HEFLIN, and Mr. CONRAD):

S.J. Res. 321. A joint resolution to designate the week of August 19 through 25, 1990, as "National Agricultural Research Week"; to the Committee on the Judiciary.

By Mr. SIMON:

S.J. Res. 322. A joint resolution to designate the 7-day period commencing October 7, 1990, and ending October 13, 1990, as "National Aviation Education Week"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 289. A resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in *United States ex rel. Rudd, et al.* v. *General Contractors, Inc., et al.*; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. McCAIN (for himself, Mr. THURMOND, Mr. LOTT, and Mr. D'AMATO):

S. 2663. A bill to provide increased and special benefits to individuals involuntarily separated from the Armed Forces, and for other purposes; to the Committee on Armed Services.

INVOLUNTARILY SEPARATED MILITARY PERSONNEL BENEFITS ACT

● Mr. McCAIN. Mr. President, I believe all Americans rejoice in the profound political reform currently underway in the world. Americans have endured many threats and hardships in our advocacy and protection of democracy. Now that democratic values are ascendant in much of the world, we are rightly proud of our leadership of the free world in the long struggle with tyranny.

Throughout this struggle, the U.S. armed services have been the vanguard of the free world. In our satisfaction with the global progress of liberty, we must be careful to keep faith with the people who kept faith with America and our great cause—the men and women of the U.S. Armed Forces.

The leadership of the free world was an expensive undertaking. Now, in the wake of these many democratic advances, Americans eagerly anticipate being relieved of some of the burden of leadership. All Americans welcome the prospect of a peace dividend. We have endured much in our defense of liberty and deserve opportunities to turn our attention and resources to domestic improvements. But in our eagerness to avail ourselves of a peace dividend, we must not abandon our commitment to those who have endured the most to reach this moment.

It is with that commitment in mind, that I introduce, today, legislation to provide a comprehensive military transition plan that protects American service men and women. The end of the cold war is, indeed, cause for celebration. But it is also the occasion to impose wrenching changes on thousands of American lives. The transition to a military that responds to today's political and military realities will result in massive personnel cuts in the American Armed Forces. It will be a transition of enormous proportions affecting many people, but for thousands of military personnel the world will be turned inside out.

These faithful Americans entered our all-volunteer services, assumed the great personal risk and hardships entailed in military service, kept America safe and promoted our values. They did so with the understanding that, at a minimum, they would be repaid for their faithful service with the security of full careers in the military if they so chose. Now, Mr. President, that security will not be provided to many American service men and women who will be required to abbreviate their military careers and return to civilian life. If we determine that we do not require the services of these people any further, then it is incumbent on the Government of the United States to take measures that will compensate them for the loss of their security and to ease the hardships entailed in the transition to other careers.

Changes, whether for good or bad, often have unintended consequences. Let us limit the number of negative consequences associated with the important victories of recent months. That is what this legislation will do. My purpose is to protect the well-being of the men and women responsible for the well-being of the United States. They kept faith with us. Now, we must keep faith with them. I am confident that all Americans want to honor our debt to our Armed Forces. I urge the Senate to do likewise by adopting this legislation.

Mr. President 2 weeks ago I rose before this body to provide a comprehensive transition plan to protect the men and women who will be forced to leave military service. Today, I am introducing legislation to transform that plan into law. This legislation reacts to the fact that we face the most urgent crisis in the way we treat our military personnel since the days in which we carried out massive personnel cuts following World War II.

We are only just beginning to debate the size of the cuts we will make in our forces. It is already clear, however, that these cuts will be much larger than those contained in this year's budget request or the new 5-year plan being discussed in the Pentagon.

During the next few years, we will almost certainly have to force nearly half a million volunteers to leave military service, the vast majority against their will. Rumors of these cuts are already having a major impact on morale. Military men and women are bewildered and confused about their future careers.

We are also dealing with a very different situation than we faced in making previous force cuts. We are not at war and the economy does not have a shortage of skilled manpower. In fact, the cuts in military manpower will coincide with major cuts in the manpower used by defense industry.

The men and women in today's military are not conscripts who expect to serve for only a short period of time and then make civilian life their career. They are volunteers. They joined to serve their country. Most joined to make the military a career. They must not become the forgotten victims of the peace dividend, and be forced out of military service at the lowest possible cost to the U.S. budget. These men and women deserve consideration and respect.

This is why we must pass legislation to protect the men and women of our volunteer military force. We need a transition plan that will provide improved separation pay, unemployment compensation, relocation and outplacement services, priorities in Federal hiring, benefits under the GI bill, and medical insurance. We need to take urgent action to protect our men and women in uniform as we reduce our forces and defense budgets.

Our current system clearly does not provide that protection. It assumes that virtually all military personnel either leave military service at a time of their own choosing, or retire with substantial benefits after making the military their career. It is not set up to deal with the reality that tens of thousands of fully qualified personnel will be forced to leave military service years before they planned to do so, and often with only limited warning.

THE IMPACT OF FORCED REDUCTIONS IN MILITARY MANPOWER

Mr. President, we need to realize that we are not talking about some small fraction of our uniformed military. Even if we make conservative assumptions about the coming cuts in the President's defense budget request, we will still have to cut 500,000 to 700,000 people from the armed services during the next 5 to 6 years.

The Department of Defense and each military service has already made it clear that every effort will be made to accomplish such reductions without forcing men and women out of military service. The Department has applied for relief from the current legislation that prevents voluntary retirements until officers have served for 3 years in grade or 3 years in a given position.

Each military service is planning to accommodate as many reductions as possible through voluntary discharges, retirements and end of obligated service discharges. Senator GLENN is considering important legislation to allow retirement before 20 years of service with a proportionate cut in retirement benefits.

These measures are a good first step, however, it is clear that such measures will not be enough. We cannot possibly deal with this level of reductions by cutting accessions, or by offering early outs and other incentives to leave military service voluntarily. We are going to have to force dedicated and highly competent personnel—people who are fully qualified to stay in the military, and who, at any other time would be promoted to higher ranks—to leave under conditions where they will often have only a few months of warning.

The Army is already faced with an immediate need to cut manpower, a need that has been made more difficult because of the failure to authorize reprogramming into the manpower accounts of this year's defense budget. It is forced to cut its end strength by at least 40,000 this year. It will be forced to cut at least 75,000 more personnel next year, and the total could exceed 125,000.

No one can now predict the number of men and women the Army will have to cut from its current strength, but it is clear that the Army of the mid-1990's will drop to a force of 12 to 14 divisions. This is almost certain to reduce the Army from 750,000 to no more than 520,000.

It also is not just the Army that will be affected. Military personnel in all branches of service face manpower cuts. Even if we make a conservative estimate of the manpower impact of the coming cuts in defense spending, over the next 5 years the Navy could drop from 597,000 to as little as 480,000. The Marine Corps could drop from 197,000 to 160,000. The Air Force could drop from 571,000 to 428,000.

THE LESSONS OF VIETNAM

The men and women in military service may not yet know how severe these cuts will be, but they know major cuts are coming and they have good reason to be worried about their human impact. We failed to treat these dedicated Americans properly after Vietnam. We failed to honor them for their sacrifices, and we failed to ensure that they could make a smooth transition to civilian life.

Our post Vietnam cuts led to the confused and improper handling of thousands of personnel who had served their country in an unpopular war. There were no parades, and there were far too few efforts to help men and women transition back into the civilian economy. The Government made countless false economies in helping men and women qualify for the jobs they deserved, and we are still paying a high price in terms of human tragedies, welfare and medical costs, and lost tax revenues.

Unfortunately, the current laws and regulations that affect men and women who are forced out of military service would repeat these same mistakes. Under current law, tens of thousands of fully qualified personnel and their families from every State are going to be forced to leave military service with few of the options and protection available to those who retire or voluntarily leave the military.

Unless we adopt legislation to create a comprehensive transition plan to protect our uniformed personnel, we are going to repeat many of the mistakes we made after Vietnam, and we are going to destroy our all-volunteer force structure as qualified men and women rush to leave service for any job they can find.

This is why it is vital that our servicemen and women know that the coming personnel reductions are well thought out and well programmed. This is why it is equally vital that they know they will be protected against forced reductions in personnel strength long before these reductions reach high levels, and why they be assured that they will not be the victims of false economies in the rush to meet budget goals or reduce defense expenditures.

A COMPREHENSIVE TRANSITION PLAN TO PROTECT MEN AND WOMEN WHO ARE FORCED TO LEAVE MILITARY SERVICE

Let me summarize the legislation that is required:

GIVING SEPARATION PAY TO ENLISTED MEN

First, separation pay is now only available to officers. We need to ensure that it is available to career enlisted personnel as well as career officers.

My legislation will provide all service members, commissioned officers, warrant officers, and enlisted, who are involuntarily but honorably discharged, separated or denied re-enlistment with separation pay.

To be eligible, a service member must have served 7 years of continuous and honorable service. This legislation is consistent with the Department of Defense's guidelines on separation pay as they exist today, meaning that the criteria to receive 100 percent of authorized separation pay will remain the same in my legislation as it is currently constructed by DOD policy today.

My legislation will remove the current $30,000 cap so that members having served longer periods of active duty will be better compensated for lifetime losses in retired pay. The separation pay amounts will be based on

the amount of time a member has served and their rank. The details of this proposed severance pay plan are shown in the attached chart.

ENSURING EQUITABLE UNEMPLOYMENT COMPENSATION

Second, the unemployment compensation now available to military personnel is different than that offered to other workers. This simply is not fair. Many military families will find it far harder to seek work in the place they may want to make their new home than civilian families who already live there, and many military families who are dislocated in the process of leaving the service will lose two wage earners—not just one.

My legislation will repeal UCX, 5 U.S.C. 8521(c). It will provide unemployment compensation for the same 26 weeks available to civilians, and be available after one week. Currently, former military are eligible for only 13 weeks of compensation and have to wait 4 weeks before they become eligible to receive unemployment compensation.

PROVIDING THE PROPER RELOCATION SERVICES

Third, we learned in Vietnam that relocation services are needed to help former military personnel assimilate into a new community. Under my legislation, those who are involuntarily separated will be authorized permissive temporary duty and leave in order to visit areas where they may wish to relocate. In addition, departing military personnel and their families will be provided with information about the area where they are considering relocating.

PROVIDING OUTPLACEMENT SERVICES

Fourth, the Department of Defense would provide job search and job referral services to those released from active duty and who are eligible for severance pay. Spouses of those involuntarily separated would also be authorized to participate in the outplacement program.

Procedures would be established to expedite providing names and addresses of those involuntarily separated, and their spouses, who voluntarily agree to make them available to outside entities. In addition, the bill would encourage the President to establish a committee to seek private sector cooperation and job placement.

Priority placement will be given to involuntarily separated service members in hiring for Federal jobs. This measure, incidentally, will more than pay for itself in many job categories. Using skilled military personnel who have demonstrated their capabilities and loyalty, will realize substantial cost savings by eliminating unnecessary recruiting and background investigation expense.

ENSURING MONTGOMERY G.I. BILL COVERAGE

Fifth, my legislation will allow those service members who are involuntarily separated to become vested in the Montgomery GI bill educational benefit. The service member will pay the $1,200 required to become vested in the program and will be eligible to receive the full educational benefit.

There are those who did not sign up in the program; counting on making the military a career. With that option no longer available, the need for the Montgomery GI bill benefits becomes necessary. The opportunity for further education also provides benefit in terms of increased employment opportunities, less impact of major reductions on the employment base at any one period of time, and increased near-term tax revenues as military personnel qualify for better jobs.

PROTECTED HEALTH CARE BENEFITS

Sixth, involuntarily separated military and their families will be eligible for CHAMPUS at active duty rates for 3 months after separation from active duty. Individuals enrolling in the uniform services insurance program within that 3-month period will have continued eligibility for documented preexisting conditions. Involuntarily separated service members and family members who are pregnant at the time separation orders are executed will be covered under CHAMPUS at active duty rates.

Additionally, beneficiaries undergoing care and treatment for an injury, illness, or disease, including pregnancy for beneficiaries in their last trimester, at a military facility as of midnight of the member's date of separation from active duty will be entitled to receive continuing care and treatment as designees of the Secretaries of the military departments.

Such care and treatment will be authorized at a military facility with the capability to provide medically necessary and appropriate continuous care. This care will continue until such time as the injury, illness, or disease, including pregnancy, cannot be materially improved by further hospitalization or treatment, or such time as other insurance becomes effective, or after 1 year, whichever is first.

PROPER BRIEFING AND COUNSELING OF PERSONNEL

Finally, the services will be required to establish these programs and to make them available to the service members. Included in the briefing will be relocation and outplacement services, information on Reserve components and National Guard programs, veterans benefits, Montgomery GI bill benefits, priority placement, unemployment compensation, life insurance, and health care plans. Family members will be encouraged to attend the briefings as well.

RECOGNIZING THE CONTRIBUTIONS OF OTHERS

I do not wish to give the impression that I have not had help in drafting this transition plan, or that other Members of Congress have not been active in this area. These include Senator COHEN, Senator CRANSTON, Senator GLENN, Senator MURKOWSKI, Congressman DOWNEY, Congressman MONTGOMERY, and Congressman SLATTERY—to name a few. I also would like to thank my colleagues, Senator THURMOND, Senator LOTT, and Senator D'AMATO for being original cosponsors of this vital legislation.

The bill I am submitting is also the result of the help and efforts of many experts in the field, and I have drawn on several important pieces of legislation that have been proposed by others. I have worked with the Office of the Secretary of Defense, with staff of the Senate Armed Services Committee, and the staff of the Veterans' Affairs Committee.

Additionally, I have drawn heavily on the efforts of the military coalition, a group of 22 military associations, which created the core of the transition plan that I have just outlined. The work of Dorsey Chescavage and Sydney Hickey of the National Military Family Association, the efforts of Paul Arcari and Bill Hart of the Retired Officers Association, and Mack McKinney of the Non-Commissioned Officers Association has been particulary useful.

I also do not wish to imply that this legislation is set in concrete. I have asked the Department of Defense for further comments, and the CBO for a detailed cost analysis. I would appreciate additional suggestions and views from my colleagues, and I welcome additional suggestions from military experts and the men and women, and their families, who will be directly affected.

THE NEED FOR URGENT ACTION BASED ON UNDERSTANDING OF THE TRUE COST OF SUCH A PROGRAM

We cannot, however, delay in taking action, wait for "final" decisions on the size of the coming cuts in manpower, or wait for long studies and all the usual bureaucratic and analytic delays.

We also need to understand that the budget impact of such matters will be quickly offset by preserving the recruiting and retention base for our all volunteer military, by reducing welfare and other social costs, and by paid rises in tax revenue. The measures required to create an effective transition plan are only costly if one ignores the costs of not having an effective transition plan—and human and moral values are involved, not just budget dollars.

In short, I believe we must not only address, but pass legislation during this coming year that fully assures the men and women in the military, that Congress is not ignoring them, and that efforts are already underway to ensure that they will be treated properly if they are forced to prematurely end their chosen career. These men

and women met their obligation to us, we must now meet our obligation to them.

Mr. President, I ask unanimous consent that the text of the bill and a summary of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2663

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Involuntarily Separated Military Personnel Benefits Act of 1990".

SEC. 2. SEPARATION PAY FOR MEMBERS OF THE ARMED FORCES WHO ARE INVOLUNTARILY DISCHARGED OR RELEASED FROM ACTIVE DUTY OR ARE DENIED REENLISTMENT.

(a) AMENDMENTS TO SECTION 1174 OF TITLE 10, UNITED STATES CODE.—Section 1174 of title 10, United States Code, is amended—

(1) in subsection (c)(1)—

(A) by striking out in the material preceding clause (A) "other than a regular member who after September 14, 1981, is discharged or released" and inserting in lieu thereof "discharged, separated, or released";

(B) by striking out "or" at the end of clause (A);

(C) by striking out clause (B) and inserting in lieu thereof the following:

"(B) in the case of a regular enlisted member, the member was denied reenlistment on active duty or was involuntarily separated from active duty under criteria established by the Secretary concerned; or

"(C) in the case of a reserve member, the member was not accepted for an additional tour of active duty for which the member volunteered.";

(2) in subsection (c)(3), by striking out "at least five" and inserting in lieu thereof "at least seven";

(3) in subsections (b) and (c) by striking out "five or more" each place it appears and inserting in lieu thereof "seven or more"

(4) in subsection (d)(1), by striking out "or $30,000, whichever is less"; and

(5) in subsection (g)(2), by striking out "may not exceed $30,000" and inserting in lieu thereof "shall be the amount determined under subsection (d)(1) or (d)(2), as appropriate".

(b) EFFECTIVE DATE.—Except as provided in paragraph (1), the amendments made by subsection (a) shall become effective on the first day of the first month following the month in which this Act is enacted.

(c) SAVINGS PROVISION.—In the case of any regular commissioned officer serving on active duty in the Armed Forces on the day before the effective date of the amendments made by subsection (a) who is discharged or released from that active duty on or after that effective date and who has five or more years of service in the Armed Forces but less than seven years, the amendments made by paragraphs (2) and (3) of subsection (a) shall not apply.

SEC. 3. PERIOD OF UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN EXTENDED.

(a) IN GENERAL.—Subsection (c) of section 8521 of title 5, United States Code, is amended to read as follows:

"(c) The aggregate amount of compensation payable on the basis of Federal service (as defined in subsection (a)) to any individual with respect to any benefit year shall not exceed 26 times the individual's weekly benefit amount for total unemployment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims for unemployment compensation made by individuals discharged or released on or after the date of the enactment of this Act.

SEC. 4. PROGRAM TO FURNISH EMPLOYMENT AND TRAINING INFORMATION AND SERVICES TO MEMBERS OF THE ARMED FORCES BEING INVOLUNTARILY SEPARATED FROM THE ARMED FORCES.

(a) PROGRAM ESTABLISHED.—The Secretary of Defense (hereafter in this section referred to as the "Secretary"), in consultation with Secretaries of the other Departments of the United States, shall conduct a program to furnish employment and training information and services to members of the Armed Forces during the 180 days before such members are involuntarily separated from the Armed Forces.

(b) PROGRAM SERVICES.—(1) The program referred to in this section shall assist members being involuntarily separated from the Armed Forces in assimilating to civilian life.

(2) In conducting the program referred to in this section, the Secretary shall—

(A) provide to members being involuntarily discharged or released from active duty, and to their spouses, job search training and job referral services;

(B) establish procedures to release the names of such members and spouses of such members, upon the consent of such members and spouses, to civilian employers, organizations, and entities to assist such members and spouses in locating civilian employment opportunities;

(C) provide counseling and assistance to such members in the procurement of loans and grants from the Small Business Administration; and

(D) provide information relating to the area of relocation chosen by such members, including—

(i) the cost and availability of housing,

(ii) employment opportunities for such members and the spouses of such members,

(iii) opportunities for such members for service in reserve components of the Armed Forces or in the national guard,

(iv) educational opportunities for such members and the families of such members,

(v) the cost and availability of child care,

(vi) the cost and availability of medical care, and

(vii) other living costs.

(c) BRIEFING FOR INVOLUNTARILY SEPARATED MEMBERS.—(1) Not less than 180 days before a member is involuntarily separated from the Armed Forces, the Secretary shall—

(A) notify the member of the date of the member's separation, and

(B) brief the member regarding the availability of potential retirement benefits, medical benefits, civilian employment, job preference for veterans, the Montgomery G.I. Bill, the Uniformed Services Voluntary Insurance Plan, and benefits referred to in subsection (b).

(2) In providing the briefing referred to in paragraph (1)(B), the Secretary shall—

(A) give the briefing during a member's normal duty hours,

(B) permit the spouse of an attending member to attend the briefing, and

(C) provide child care services at a reasonable cost to allow the attendance of a member and a member's spouse.

(3) The briefings referred to in paragraph (1)(B) shall be conducted by persons who are well qualified by virtue of their education, training, and experience to conduct such briefings.

(d) PROGRAM SUPPORT.—(1) The Secretary may utilize disabled veterans' outreach program specialists, local veterans' employment representatives, other employment service personnel, and representatives of veterans' service organizations to furnish the employment and training information and services under the program.

(2) The Secretary may enter into contracts with public or private entities to furnish the information and services referred to in subsection (b).

(e) REPORT.—Not later than one year after the program provided for in this section is initiated, the Secretary shall transmit to the Committees on the Armed Services of the Senate and the House of Representatives a report on the effectiveness of the program in furnishing employment and training information and services to members being involuntarily separated from the Armed Forces.

(f) INVOLUNTARY SEPARATION OF CERTAIN MEMBERS STATIONED OUTSIDE THE UNITED STATES.—In preparation for the discharge or release from active duty of members of the Armed Forces who are stationed outside the United States and whose dependents were permitted to accompany such members, the Secretary of Defense shall, to the maximum extent practicable, reassign the member and the member's accompanying dependents to the United States for the final three to six months of the member's tour of active duty.

(g) REPORT ON COOPERATION BY CIVILIAN EMPLOYEES.—The Congress urges and requests the President to establish a special committee to report to the Congress, the President, and the Secretary of Defense regarding effective and practical means of encouraging civilian employers to cooperate with and assist the Federal Government in providing employment training and job placement services to members being involuntarily separated from the Armed Forces.

(h) DEFINITION.—For purposes of this section, a person who is denied reenlistment and consequently discharged or released from the Armed Forces shall be considered to have been involuntarily discharged or released from active duty, but a person who is discharged from the Armed Forces under dishonorable conditions, who was discharged under section 1170 or 1173 of title 10, United States Code, or who is separated from the Armed Forces for unfitness or unsatisfactory performance shall not be considered to have been involuntarily discharged or released from that active duty.

(i) AUTHORIZATION.—There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

SEC. 5. FEDERAL HIRING PREFERENCE ESTABLISHED FOR INDIVIDUALS INVOLUNTARILY DISCHARGED OR RELEASED FROM ACTIVE DUTY OR DENIED REENLISTMENT.

(a) PREFERENCE FOR PERSONS INVOLUNTARILY DISCHARGED OR RELEASED.—Section 2108 of title 5, United States Code is amended—

(1) by striking out "and" at the end of paragraph (3)(F),

(2) by adding "and" at the end of paragraph (3)(G),

(3) by adding at the end of paragraph (3) the following new subparagraph:

"(H) an involuntarily separated veteran;",

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(5) by inserting after paragraph (2) the following new paragraph:

"(3) 'involuntarily separated veteran' means an individual—

"(A) denied reenlistment on active duty in the armed forces; or

"(B) involuntarily separated from active duty in the armed forces under honorable conditions and under criteria established by the Secretary of the military department concerned;".

(b) ADDITIONAL POINTS AWARDED.—Section 3309(2) of title 5, United States Code, is amended to read as follows:

"(2) a preference eligible under section 2108(4)(A) or (H) of this title—5 points.".

(c) CONFORMING AMENDMENT.—Section 3309(1) of title 5, United States Code, is amended by striking out "section 2108(3)(C)-(G)" and inserting in lieu thereof "section 2108(4)(C)-(G)".

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that with respect to persons involuntarily separated from the Armed Forces—

(1) efforts should be made to expand the number of noncompetitive position appointments available in the Federal Government and to increase the pay grade level for such appointments, and

(2) preferential hiring policies and procedures should be established as a condition for receiving the Federal share of expenditures for State and local programs.

SEC. 6. EXTENDED MEDICAL CARE.

(a) AMENDMENT TO CHAPTER 55 OF TITLE 10, UNITED STATES CODE.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 1105. Extended medical care for persons and dependents of persons involuntarily discharged or released from active duty**

"(a) Notwithstanding any other provision of this chapter, the Secretary concerned shall provide medical care to a person, and the dependents of a person, who is involuntarily discharged or released from active duty on or after the date of the enactment of this section for a period of 90 days following the date on which the person is involuntarily discharged or released from active duty. The Secretary shall provide such medical care at the same rates that medical care is provided for spouses and children under section 1079 of title 10, United States Code.

"(b)(1)(A) A person referred to in subsection (a) who, within 90 days after the date on which the person is involuntarily discharged or released from active duty, enrolls in the Uniformed Services Voluntary Insurance Plan (made available to members of the uniformed services upon their discharge or release from active duty) shall be entitled to receive medical care (and medical care for such person's dependents) under section 1079 of this title for any injury, illness, or disease of the person or dependent that was incurred or aggravated on or before the date of the involuntary discharge or release of the person and that is not covered by the Uniformed Services Voluntary Insurance Plan.

"(B) The Secretary concerned shall provide the medical care referred to in subparagraph (A)—

"(i) for a period of one year after the date of the involuntary discharge or release of the person;

"(ii) at the same rates that medical care is provided for spouses and children under section 1079 of this title; and

"(iii) for the pregnancy of a person referred to in subsection (a) or the pregnancy of a dependent of such a person if the pregnancy existed before the involuntary discharge or release of the person.

"(2) A person referred to in subsection (a) who does not enroll in the Uniformed Services Voluntary Insurance Plan within such 90 days, shall be entitled to receive (for such person and the dependents of such person) medical care, at any military medical facility with the capability to provide such care, for any injury, illness, or disease (including pregnancy) that was incurred or aggravated by the person or dependent before the date of the involuntary discharge or release of the person for such time as the injury, illness, or disease is cured or cannot be materially improved by further treatment, until the injury, illness, or disease is covered by an insurance plan, or for one year following the date of the involuntary discharge or release from active duty of the person, whichever occurs first. Such medical care shall also be provided for the pregnancy of a person referred to in subsection (a) or the pregnancy of a dependent of such a person if the pregnancy existed before the involuntary discharge or release of the person.

"(c) For purposes of this section, a person who is denied reenlistment and consequently discharged or released from the armed forces shall be considered to have been involuntarily discharged or released from active duty, but a person who is discharged from the armed forces under dishonorable conditions, who is discharged under section 1170 or 1173 of this title, or who is separated for unfitness or unsatisfactory performance shall not be considered to have been involuntarily discharged or released from that active duty.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of such title is amended by adding at the end the following new item:

"1105. Extended medical care for persons and dependents of persons involuntarily discharged or released from active duty.".

SEC. 7. EDUCATIONAL BENEFITS FOR PERSONS INVOLUNTARILY DISCHARGED OR RELEASED FROM ACTIVE DUTY.

(a) ELIGIBILITY FOR BENEFITS UNDER THE MONTGOMERY G.I. BILL.—Chapter 30 of title 38, United States Code, is amended by inserting after section 1419 the following new section:

**"§ 1420. Eligibility of persons involuntarily discharged or released from active duty**

"(a)(1) An individual described in paragraph (2) who is involuntarily discharged or released from active duty on or after the date of the enactment of this section shall be entitled, as provided in this section, to basic educational assistance benefits under this chapter.

"(2) An individual referred to in paragraph (1) is an individual who—

"(A) elected not to receive educational assistance under this chapter or who is not entitled to the basic educational assistance benefits under this chapter for the maximum period; or

"(B) was eligible to participate in the educational benefits program under chapter 32 of this title.

"(b)(1) Subject to paragraph (2), an individual described in subsection (a) of this section shall be entitled to 36 months of basic educational assistance under this chapter (or the equivalent in the event of part-time benefits).

"(2) To become entitled to the basic educational assistance provided for under this chapter an individual referred to in subsection (a) of this section must make written application to the Secretary in accordance with such regulations as the Secretary shall prescribe and pay to the Secretary the amount determined under paragraph (3) of this subsection.

"(3)(A) An individual referred to in subsection (a)(2)(A) of this section shall be required to pay to the Secretary an amount equal to the difference between the amount withheld from the individual's basic pay under section 1411(b) of this title and $1,200.

"(B) An individual who elected to participate in the educational benefits program under chapter 32 of this title but elected to contribute at less than the maximum amount shall be required to pay to the Secretary an amount equal to the amount the individual contributed under section 1622 of this title and $1,200.

"(C) If an individual referred to in subsection (a)(1)(B) of this section elects to receive benefits under this section and the amount the individual contributed under section 1622 of this title was in excess of $1,200, the Secretary shall refund to the individual an amount equal to the difference between the amount contributed under that section and $1,200.

"(c) An individual who becomes eligible for benefits under this chapter by virtue of this section shall not be eligible for benefits under chapter 32 of this title.

"(d) For purposes of this section, an individual who is denied reenlistment and consequently discharged or released from the Armed Forces shall be considered to have been involuntarily discharged or released from active duty, but an individual who is discharged under dishonorable conditions or who was discharged under section 1170 or 1173 of title 10 or who is separated for unfitness or unsatisfactory performance shall not be considered to have been involuntarily discharged or released from that active duty.

"(e) The Secretary shall prescribe such regulations as may be necessary to carry out effectively this section and to administer the provisions under this section in the case of individuals described in subsection (a) of this section in the same manner, to the maximum extent practicable, as the provisions of this chapter are administered in the case of individuals otherwise eligible for basic educational assistance benefits under this chapter.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 1419 the following new item:

"1635. Eligibility of persons involuntarily discharged or released from active duty.".

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SUMMARY OF MCCAIN TRANSITION PLAN

1. Separation Pay.—McCain legislation will provide separation pay for officer and enlisted who are involuntarily separated after 7 years of continuous and honorable service. The legislation will remove the current $30,000 cap on separation pay.

2. Unemployment Compensation.—McCain legislation will repeal UCX, 5 U.S.C. 8521(C) and will allow military released from active duty to be eligible for 26 weeks of unemployment and to be able to apply end of one week of unemployment. Current law restricts military released from active

duty to only 13 weeks of compensation and to start after four weeks.

3. Relocation Services.—McCain legislation will allow those members eligible for separation pay limited leave time, not to be charged to the individual, to visit the areas where they may wish to relocate. The expense of the trip will be borne by the individual member but they will be given the time by the service.

4. Outplacement Services.—McCain legislation will provide job search and job referral services to those eligible for separation pay and their spouses. The bill will give these military members priority placement for federal jobs. Additionally, the bill calls on the President to establish a committee to seek private sector cooperation and job placement.

5. Montgomery G.I. Bill.—McCain legislation will allow those members that are involuntarily separated under honorable conditions and that are not currently enrolled in the Montgomery G.I. Bill to pay the $1,200 required to become vested in the program and to receive the full educational benefit.

6. Health Care.—McCain legislation will allow those eligible for separation pay to receive continued CHAMPUS health benefits, at active duty rates, for three months after separation. Those that enroll in the Uniform Services Insurance Program within those three months will have continued eligibility for documented conditions. Members undergoing care at a military facility as of midnight of the day of separation will be covered up to one year for that pre-existing condition.

7. Service Briefings.—The military services will ensure that transition briefings are available to members as well as their spouses. The briefings will cover, at a minimum, those items covered above.●

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By Mr. BENTSEN (for himself, Mr. BURDICK, Mr. JOHNSTON, Mr. BUMPERS, Mr. BOREN, Mr. PRYOR, Mr. NICKLES, Mr. GRAMM, Mr. BREAUX, and Mr. CONRAD):

S. 2664. A bill to provide disaster assistance for agricultural producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DISASTER ASSISTANCE ACT OF 1990

Mr. BENTSEN. Mr. President, we have all watched in horror in recent days as torrential rains have caused massive flooding in Texas, Oklahoma, Arkansas, and Louisiana. Lives have been lost, homes and belongings have been destroyed or damaged, millions of dollars in property damage has been done. The devastation is widespread and continuing as flood waters work their inexorable way downstream.

Herculean efforts are underway to minimize the damage and to provide relief to the flood victims. Presidential disaster declarations have been issued for 41 Texas counties, and more may very well be required.

I have been working closely with the many Federal agencies involved in providing flood relief, and their efforts to date have been commendable. I am keeping a close eye on current Federal efforts to make sure they are adequate, and I will be offering legislation to provide further assistance if that is needed.

One area in which I think that Federal legislation is clearly warranted is in the area of agricultural disaster assistance. Farmers in Texas and other States hit by the flood this year are every bit as deserving of disaster assistance as farmers in the Midwest who lost crops to natural disasters in 1988 and 1989. This year many Texas farmers are losing not only their crops, but their houses and barns as well. The legislation that I am introducing today will merely provide equal treatment to Texas farmers with losses in 1990 by making them eligible for the same kind of disaster assistance that was provided in 1989.

The Secretary of Agriculture has the power to provide crop disaster assistance without any action by Congress, but has consistently refused to use it. In each of the last 2 years Congress has enacted, and the President has signed into law, disaster legislation to assist farmers who lost crops to natural disasters. From the looks of east Texas, I think we need it do it again this year.

I am proposing this bill knowing that its enactment will be difficult and that it may very well need to be changed. We will get more information as time goes by about the needs associated with this year's farm disasters and the funds which are available within the budget constraints to deal with those problems.

However, I think that as a simple matter of equity we should provide this assistance. Hopefully the 1990 farm bill will result in improvements in the programs of the Federal Crop Insurance Corporation so that disaster legislation will not be needed in future years. However, this year we still have the same programs in place that we had in 1988 and 1989, both years in which agricultural disaster legislation was enacted into law. The agricultural losses suffered in 1990 are no less devastating to the farmers involved than those suffered in 1988 or 1989, and I think that we should provide the same kind of assistance this year.

The bill which I am introducing today does simply that. It is substantially the same as the legislation signed into law last year. In cases of crop losses above a minimum level, farmers could apply for disaster payments at a rate of 65 percent of the target price, or 65 percent of the market price for crops which do not have a target price established. As in last year's law, the minimum loss would be 35 percent for program crops covered by crop insurance, 40 percent for program crops not covered by crop insurance, 45 percent for soybeans and other oilseeds, and 50 percent for crops not covered by the farm programs.

The bill which I am introducing does not include section 110 of the 1989 law. This was the infamous ghost acres or replanted acres provision. Its implementation by the Secretary of Agriculture last year caused severe problems. We were able to win some improvements, but that misguided provision still had the effect of unduly penalizing farmers who worked hard to grow a second crop after their primary crop was destroyed. That is not good policy.

Mr. President, I was born and raised on a farm, and my family still farms, when the weather will let us. I know what it is like to lose a crop, to watch it wither and die day by day in a searing drought. We had not missed a milo crop in 30 years, but we had total crop failures the last 2 years because of drought. This year we have had rain in South Texas and, if the good Lord is willing, we may well have enough moisture to make a crop.

It has also rained on our neighbors to the north, in Texas and in our neighboring States. But up there it has rained too much. It is too early to get a good estimate, but their losses will be tremendous. Wheat crops have been washed away before they could be harvested. Many farmers had already planted spring crops, putting in some cases 40 percent of their total expenses into the ground only to see it washed away. Fields are too wet now to plant spring crops—some of those fields are under feet, not just inches, of water. Mother Nature's fall freeze waits on no one, and if those spring crops cannot be planted on time then there will be no harvest this fall.

The massive floods this spring have caused tremendous economic devastation in Texas, not just to farmers, but to small businessmen, homeowners, and many others. This legislation is just one small part of the work that needs to be done to deal with these problems. Hopefully most of the problems can be dealt with administratively.

In the case of agricultural losses, however, experience has shown that administrative action will not be taken and simple equity demands that the farmers suffering losses this year get the same type of assistance that their brethren in other States have received in the last 2 years. Mr. President, I urge the passage of this legislation.

Mr. JOHNSTON. Mr. President, I am pleased to join with the senior Senator from Texas [Mr. BENTSEN], in introducing this legislation today which will provide meaningful assistance to farmers in those States which have suffered from heavy flooding over the past 3 weeks. Farmers in northwest and central Louisiana have been very hard hit: an early assess-

ment of farmland damages caused by flooding on the Red River in just 5 of the 11 parishes for which disaster assistance has been requested—Natchitoches, Red River, DeSoto, Caddo, and Bossier—indicates that already over $7 million has been lost. I visited areas south of Alexandria over the weekend, Mr. President, and I can tell you that the situation is very bad. So far, 140 square miles of farmland have been inundated and about 300 people have been evacuated from their homes. We have not seen the light at the end of the tunnel yet: many expect the situation to get even worse next month as the Red backs into its tributaries and the Mississippi swells with water from the rains in the Midwest last week and in Arkansas over the weekend.

Farmers in Louisiana are carrying very heavy debt loads and are hard-pressed to pay back what they already owe. Low-interest loans, as one of my Elm Grove constituents told me over the weekend, simply won't provide enough help to enable many of these farmers to recover. The grant assistance which this bill will provide similar to the $4.9 billion in grant assistance provided to victims of drought in 1988 and 1989 will help, however, and will give those who have been farming for many years a chance to stay in business.

I hope that we will act quickly on this legislation, Mr. President. Without meaningful and timely disaster relief, losses of the magnitude now contemplated will have a devasting impact on Louisiana's hard-pressed economy.

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By Mr. HATCH (for himself and Mr. THURMOND):

S. 2665. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend the job training for the Homeless Demonstration Program, and for other purposes; to the Committee on Labor and Human Resources.

EXTENDING JOB TRAINING UNDER THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Mr. HATCH. Mr. President, today I am introducing legislation to extend the Stewart B. McKinney Homeless Assistance Act Job Training for the Homeless Demonstration Program. I am pleased to be joined in this effort by our distinguished colleague from South Carolina, Senator THURMOND.

This demonstration program provides job training, placement, and supportive services to homeless people and contributes information that can be used to model other programs. The measure we are introducing today will authorize an appropriation of $13 million for fiscal year 1991. Of this $13 million, $2.2 million would be earmarked for homeless veterans' reintegration projects. This sum is the same as current law.

This bill would also extend the due date for the Secretary of Labor's final report evaluating the program and the program's termination date to October 1, 1992.

Mr. President, we are pleased to have been asked by the administration to sponsor this legislation. I hope the Senate can move quickly to pass this legislation so that this worthwhile program can continue its operation.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2665

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 739(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)(1)) is amended by adding at the end thereof the following: "There is authorized to be appropriated $13,000,000 for fiscal year 1991 to carry out this subtitle, of which $2,200,000 shall be available only to carry out section 738.".

SEC. 2. EVALUATION.

Section 736(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11446(a)) is amended by striking "Not later than 6 months before the termination date specified in section 741," and inserting in lieu thereof "Not later than October 1, 1992,".

SEC. 3. TERMINATION.

Section 741 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11450) is amended by striking "October 1, 1990." and inserting in lieu thereof "October 1, 1992.".

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SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of the bill amends section 739(a) of the McKinney Act to authorize an appropriation of $13 million for fiscal year 1991 to carry out the Job Training for the Homeless Demonstration Program, of which $2.2 million would be earmarked for Homeless Veterans' Reintegration Projects. It should be noted that while the total authority for the program for fiscal year 1991 under this bill would be $13 million, $1.5 million of that amount was already appropriated in fiscal year 1990 in Public Law 101-166 to become available in fiscal year 1991. Therefore, the President's budget for fiscal year 1991 requests $11.5 million for the program.

SECTION 2

Section 2 of the bill amends the requirement contained in section 736(a) of the McKinney Act that the Secretary of Labor submit to the President, the Congress and the Interagency Council on the Homeless a final report on the evaluations of each demonstration six months before the termination date of the program. The amendment would require submission of the final report not later than October 1, 1992. Since it is expected that some of the demonstration grants awarded from fiscal year 1991 will not be completed until April 1992, the additional time period provided by this amendment would allow the final report to take the results of these projects into account in reaching its conclusions.

SECTION 3

Section 3 of the bill would amend section 741 of the McKinney Act to extend the termination date of the Job Training for the Homeless Demonstration Program from October 1, 1990 to October 1, 1992.

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By Mr. BOSCHWITZ (for himself, Mr. GORTON, Mr. DASCHLE, Mr. COCHRAN, Mr. HEFLIN, and Mr. CONRAD):

S.J. Res. 321. Joint resolution to designate the week of August 19 through 25, 1990, as "National Agricultural Research Week"; to the Committee on the Judiciary.

NATIONAL AGRICULTURAL RESEARCH WEEK

● Mr. BOSCHWITZ. Mr. President, I rise today with my colleagues, Senators GORTON, DASCHLE, COCHRAN, HEFLIN, and CONRAD to introduce a resolution to designate the week of August 19 through August 25, 1990, as National Agricultural Research Week.

Agriculture research is responding to the greatest needs facing rural America: new markets for ag commodities, more jobs in a diversified economy, and safe food and ground water. Current research is developing biodegradable plastics from corn, nontoxic ink from soybeans, and industrial lubricants from speciality crops. It's also finding ways to increase environmental protection in the use of fertilizer and pesticides. These developments promise to open new markets overseas and at home while creating vital jobs and protecting the environment of rural areas.

National Agricultural Research Week will provide us with an opportunity to observe what has been accomplished by agriculture and agriculture research. Mr. President, as a member of the Senate Agriculture Committee, I am proud to recognize the importance of this innovative research and I invite my colleagues to join me in support of this resolution.●

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By Mr. SIMON:

S.J. Res. 322. Joint resolution to designate the 7-day period commencing October 7, 1990, and ending October 13, 1990, as "National Aviation Education Week"; to the Committee on the Judiciary.

NATIONAL AVIATION EDUCATION WEEK

● Mr. SIMON. Mr. President, today I am introducing a joint resolution that would designate the week of October 7 through October 13, 1990, as "National Aviation Education Week."

This joint resolution would encourage schools, at all levels, nation-wide to focus more attention on the aviation industry and its contributions to the United States.

Since the first flight of the Wright brothers in 1903, our country has had a rich history of aviation advancement. We are all aware that the aviation industry makes important contributions to the United States. These

contributions are made by commercial, cargo, and military groups. Pilots, engineers, flight attendants, mechanics, electricians, machine tool operators, radar and radio operators, are just a few of the people who make up these groups.

What you may not know is that the Federal Aviation Administration has predicted a growth rate for the aviation industry of 2.6 percent per year for the next 10 years. As a result of this growth, they anticipate a shortage of pilots, engineers, and other skilled workers.

Women and minorities have, in the past, been underrepresented in technical fields such as aviation. We must find ways to encourage growth of these groups in the aviation industry, not only because of the anticipated shortage, but also because they are a valuable resource that we must not neglect.

While it is important to increase interest in the industry, it is of utmost importance to maintain the highest standard of education and safety.

The future contributions of aviation to the United States are dependent on an informed and educated public. It is important that the schools, at all levels, within the States actively pursue the advancement of aviation education.

Educators at all levels, including unions, have a part to play in producing a competent work force. I hope that as a result of this resolution we, as a nation, are able to increase the awareness, safety, integrity, and productivity of the aviation industry. I urge my colleague to support this resolution.

I ask unanimous consent that my remarks and the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 322

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. FINDINGS.

The Congress finds and declares that—

(1) the aviation industry makes important contributions to the economic development of the United States;

(2) since the future contributions of aviation to the United States are dependent upon an informed and educated public, it is important that the schools within the States actively pursue the advancement of aviation education at all levels;

(3) a number of individual States already recognize the importance of aviation education by proclaiming one week as Aviation Education Week;

(4) pilot hiring at major, national, and regional airlines is conservatively expected to add between 4,600, and 5,600 new pilots to the workforce per year for the next 5 years;

(5) the Federal Aviation Administration projects an aviation industry growth of 2.6 percent per year until 1999;

(6) the demand for pilots and technical workers is high and supply is low, and there is the need to maintain the highest standard of education and professionalism;

(7) the aviation industry increasingly becomes more complex and technical; and

(8) women and minorities have often been underrepresented in technical fields relating to aviation.

SEC. 2. DESIGNATION.

The seven-day period beginning October 7, 1990, and ending October 13, 1990, is designated as "National Aviation Education Week", and the President of the United States of America is authorized and requested to issue a proclamation calling upon the people and schools of the United States to observe the week with appropriate activities.●

## ADDITIONAL COSPONSORS

S. 345

At the request of Mr. DODD, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 345, a bill to grant employees family and temporary medical leave under certain circumstances, and for other purposes.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 1068

At the request of Mr. GORE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1068, a bill to require actions to improve competition in the delivery of television programming, to prohibit discrimination by cable programmers, and to permit telephone companies to provide video programming.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1664

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1981

At the request of Mr. HOLLINGS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1981, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment and for other purposes.

S. 2025

At the request of Mr. HEINZ, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2025, a bill to amend the Internal Revenue Code of 1986 to make permanent certain expiring tax provisions.

S. 2104

At the request of Mr. KENNEDY, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

S. 2111

At the request of Mr. PRYOR, the names of the Senator from Texas [Mr. GRAMM] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

S. 2149

At the request of Mr. BOSCHWITZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2149, a bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes.

S. 2215

At the request of Mr. HARKIN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2215, a bill to amend the Public Health Service Act to provide for the development and operation of centers to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes.

S. 2250

At the request of Mr. DECONCINI, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2286

At the request of Mr. HOLLINGS, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2286, a bill to require the Secretary of Transportation to lead and coordinate Federal efforts in the development of magnetic levitation transportation technology and foster implementation of a magnetic levitation transportation system.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2356, a bill to amend the

Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2384

At the request of Mr. HEINZ, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2384, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 2489

At the request of Mr. LEAHY, the names of the Senator from Maine [Mr. COHEN] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 2489, a bill to improve the nutritional health of needy Americans, to provide emergency food assistance, to authorize several vital nutrition programs, and for other purposes.

S. 2513

At the request of Mr. BOSCHWITZ, the names of the Senator from Virginia [Mr. WARNER], the Senator from Washington [Mr. GORTON], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 2513, a bill to require Congress to purchase recycled paper and paper products to the greatest extent practicable.

S. 2526

At the request of Mr. BOSCHWITZ, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2526, a bill to establish a program to improve access by small and large private businesses to technical information and expertise within the Federal Government and selected States.

S. 2561

At the request of Mr. GORTON, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2561, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals.

S. 2651

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 2651, a bill to amend chapter 53 of title 31, United States Code, to require the Department of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, and for other purposes.

SENATE JOINT RESOLUTION 256

At the request of Mr. SIMON, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Utah [Mr. HATCH], the Senator from Utah [Mr. GARN], the Senator from Maine [Mr. COHEN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Idaho [Mr. SYMMS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. LOTT], the Senator from Idaho [Mr. MCCLURE], the Senator from California [Mr. WILSON], the Senator from Kentucky [Mr. FORD], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Delaware [Mr. BIDEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Colorado [Mr. WIRTH], the Senator from Massachusetts [Mr. KERRY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Tennessee [Mr. GORE], the Senator from Georgia [Mr. NUNN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Mr. SARBANES], the Senator from Nebraska [Mr. EXON], the Senator from Maryland [Ms. MIKULSKI], the Senator from Arizona [Mr. DECONCINI], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 256, a joint resolution to designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 273

At the request of Mr. BREAUX, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Arizona [Mr. DECONCINI], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Joint Resolution 273, a joint resolution to designate the week of October 7-13, 1990 as "National Health Care Food Service Week."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the names of the Senator from Montana [Mr. BURNS], the Senator from Washington [Mr. ADAMS], the Senator from Illinois [Mr. SIMON], the Senator from Indiana [Mr. COATS], the Senator from Georgia [Mr. NUNN], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Wyoming [Mr. SIMPSON], the Senator from Michigan [Mr. LEVIN], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE JOINT RESOLUTION 285

At the request of Mr. THURMOND, the names of the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. NUNN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Florida [Mr. GRAHAM], the Senator from Tennessee [Mr. GORE], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KERRY], the Senator from North Carolina [Mr. SANFORD], the Senator from Idaho [Mr. MCCLURE], the Senator from Washington [Mr. GORTON], the Senator from Kansas [Mr. DOLE], the Senator from New Hampshire, [Mr. HUMPHREY], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 285, a joint resolution to designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 290

At the request of Mr. ARMSTRONG, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Nebraska [Mr. EXON], the Senator from Texas [Mr. GRAMM], the Senator from South Dakota [Mr. DASCHLE], the Senator from Illinois [Mr. SIMON], the Senator from Tennessee [Mr. SASSER], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 290, a joint resolution to designate the week of July 22, 1990, through July 28, 1990, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean war."

SENATE CONCURRENT RESOLUTION 104

At the request of Mr. BIDEN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 104, a concurrent resolution expressing the concern of the Congress regarding the Birmingham Six, and calling on the British Government to reopen their case.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from

North Dakota [Mr. BURDICK], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

## SENATE RESOLUTION 289—DIRECTING AN APPEARANCE BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 289

Whereas, in the case *United States ex rel. Rudd, et al. v. General Contractors, Inc., et al.*, Nos. C-89-397-RJM and C-89-821-RJM, pending in the United States District Court for the Eastern District of Washington, the constitutionality of the *qui tam* provisions of the False Claims Act, as amended by the False Claims Amendments Act of 1986, Pub. L. No. 99-562, 100 Stat. 3153 (1986), 31 U.S.C. §§ 3729, *et seq.* (1988), have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288*l*(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in the case of *United States ex rel. Rudd, et al. v. General Contractors, Inc., et al.* to defend the constitutionality of the *qui tam* provisions of the False Claims Act.

## AMENDMENTS SUBMITTED

## CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

### COATS AMENDMENT NO. 1665

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

SECTION 1. AMENDMENT TO ANTI-DRUG ABUSE ACT OF 1986.

Subsection (a) of section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857) is amended to read as follows:

"(a) It is unlawful for any person—

"(1) to make use of the services of the Postal Service as part of a scheme to sell drug paraphernalia;

"(2) to offer for sale or sell drug drug paraphernalia; or

"(3) to import or export drug paraphernalia,".

SEC. 2. USE OF LOCAL LAW ENFORCEMENT.

The Attorney General shall use the authority provided under section 508 of the Controlled Substances Act to provide for the enforcement of section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857) as amended by this Act through the use of task forces consisting of appropriate Federal, State, and local personnel.

SEC. 3. FORFEITURE TO THE STATES.

Section 1822 of the Anti-Drug Abuse Act of 1986 is amended by adding at the end thereof the following:

"(f) A person who commits the offense specified by this section shall forfeit to the United States—

"(1) any profits or proceeds and any interest or property he has acquired or maintained in violation of this section that the sentencing court determines, after a forfeiture hearing, to have been acquired or maintained as a result of narcotics racketeering or violating the provisions of this section; and

"(2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which he has established, operated, controlled, conducted, or participated in the conduct of, in violation of this section, that the sentencing court determines after a forfeiture hearing, to have been acquired or maintained as a result of narcotics racketeering or violating this section.

State and local law enforcement agencies shall share equitably in all assets forfeited under this section to the extent of their participation in the investigation and successful prosecution of the case.".

### COATS (AND LEVIN) AMENDMENT NO. 1666

(Ordered to lie on the table.)

Mr. COATS (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . FUNDS FOR STATE "BOOT CAMP" SHOCK INCARCERATION PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated under this section $20,000,000 in a special discretionary fund for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995, for use by the Director of the Bureau of Justice Assistance (referred to as the "Director") to make grants under this section. The Director is authorized to make grants to States to establish, operate, and support shock incarceration programs, also known as special alternative incarceration or boot camp prisons, as an intermediate sanction or as an alternative to conventional prisons.

(b) DEFINITION.—For purposes of this section the term "shock incarceration program" means—

(1) a correctional program in which adult offenders who have been convicted of offenses for which the sentence authorized by state law is 1 year or longer in prison are required to participate in a highly regimented program that provides strict discipline, physical training, hard labor, and drill; and

(2) a program that does not include offenders who are—

(A) convicted of offenses for which probation or parole is not available, if State law provides for probation or parole for certain offenses;

(B) convicted of an offense for which a sentence of life imprisonment or capital punishment is authorized by State law; and

(C) convicted of homicide, sexual assault, or assault with a dangerous weapon.

The State officials responsible for selection or confinement decisions for prisoners in a shock incarceration program may exclude offenders other than offenders described in paragraph (2) who are deemed by such officials to be dangerous or violent offenders.

(c) PROGRAM.—In carrying out a project pursuant to this section, a State shall provide that—

(A) all offenders who are confined to shock incarceration programs shall be offered substance abuse treatment, counseling, and literacy education during confinement, as required, and shall be subject to periodic testing for illegal drug use;

(B) all offenders who successfully complete shock incarceration shall—

(i) serve a form of community confinement or be placed under home detention or intensive supervision upon release;

(ii) be subject to periodic testing for illegal drug use;

(iii) continue to receive substance abuse treatment, counseling, and literacy education, as required; and

(iv) provide restitution and participation in community service programs, as required; and

(C) to the fullest extent possible, all offenders who are confined to shock incarceration programs shall be offered vocational education and job training both during confinement and during community confinement, home detention, or supervised release.

(d) APPLICATION BY STATE.—To request a grant under subsection (a) of this section, the chief executive of a state corrections department shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

(1) a certification that Federal funds made available under this section will not be used to supplant State or local funds that would, in the absence of Federal funds, be made available to carry out such project;

(2) a statement as to whether the State will make use of contributions by private entities, in cash or in kind;

(3) a description of the method the State will use to carry out the evaluation required by paragraph (4); and

(4) an assurance that after each fiscal year in which funds from a grant made under this section are expended, the State shall submit to the Director an evaluation of the impact and the effectiveness of the project for which such grant is made.

(e) SELECTION CRITERIA.—For purposes of determining whether to make a grant under this section, the Director shall—

(1) consider the overall quality of an applicant's shock incarceration program, including the existence of substance abuse treatment, drug testing, counseling, literacy education, vocational education, and job training programs during incarceration or after release; and

(2) give priority to States that clearly demonstrate that the capacity of their correctional facilities is inadequate to accommodate the number of individuals who are convicted of offenses punishable by a term of imprisonment exceeding 1 year.

(f) GRANTS LIMITS.—Notwithstanding subsection (e), the Director shall not approve a grant under this section to any State—

(1) in an amount that exceeds 10 percent of the aggregate amount appropriated for such fiscal year to carry out this section; or

(2) for substance abuse treatment, drug testing, counseling, literacy education, vocational education, or job training, independent of a shock incarceration program.

(g) ADDITIONAL FUNDING.—Notwithstanding the amount of any funds appropriated under this section, the Director may grant discretionary funding for shock incarceration projects under his general discretionary funding authority.

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## COATS AMENDMENT NO. 1667

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . JUVENILES IN DRUG CRIME PREVENTION ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Juveniles in Drug Crime Prevention Act of 1990".

(b) INCREASED MINIMUM IMPRISONMENT FOR EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE IN DRUG OPERATIONS IN CASE OF PRIOR CONVICTION.—

(1) FIRST OFFENSES.—The second sentence of section 405B(b) of the Controlled Substances Act (21 U.S.C. 845B(b)) is amended by striking "one year" and inserting "five years".

(2) SECOND OFFENDERS.—The second sentence of section 405B(c) of the Controlled Substances Act (21 U.S.C. 845b(c)) is amended by striking out "one year" and inserting in lieu thereof "eight years".

(c) NEW MINIMUM IMPRISONMENT FOR EMPLOYMENT OF PERSONS UNDER 14 YEARS OF AGE IN DRUG OPERATIONS.—Section 405B(d) of the Controlled Substances Act (21 U.S.C. 845b(d)) is amended—

(1) by striking "five years" and inserting "10 years";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" after "(d)"; and

(4) by adding at the end the following new paragraph:

"(2) Except to the extent a greater minimum sentence is otherwise provided—

"(A) a term of imprisonment under paragraph (1)(B) of this subsection shall be not less than 7 years; and

"(B) in the case of a second or subsequent violation, a term of imprisonment under such paragraph shall be not less than 10 years.".

(d) SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

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## COATS (AND BURNS) AMENDMENT NO. 1668

(Ordered to lie on the table.)

Mr. COATS (for himself and Mr. BURNS) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, insert the following new sections:

SEC. . DRUG TESTING OF FEDERAL PRISONERS.

(a) DRUG TESTING PROGRAM.—Subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 3608. Drug testing of defendants on post-conviction release**

"(a) The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish by regulation a program of drug testing of targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

"(b)(1) The Attorney General shall, not later than 6 months after the date of enactment of this section, promulgate regulations for drug testing programs under this section.

"(2) The regulations issued pursuant to paragrah (1) shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the regulations may include guidelines or specifications concerning—

"(A) the classes of persons to be targeted for testing;

"(B) the drugs to be tested for;

"(C) the frequency and duration of testing; and

"(D) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(c) In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) TECHNICAL AMENDMENT.—The section analysis for subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following:

"3608. Drug testing of defendants on post-conviction release.".

SEC. . MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case involving possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release in addition to any other sentence imposed by the possession itself.

"(B) In a case involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release in addition to any other sentence imposed for the possession of distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

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## SPECTER AMENDMENT NO. 1669

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new chapter:

CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2263. Filing of habeas corpus petition; time requirements; tolling rules.

"2264. Evidentiary hearings; scope of Federal review; district court adjudication.

"2265. Certificate of probable cause inapplicable.

"2266. Counsel in capital cases; trial and post-conviction standards.

"2267. Law controlling in Federal habeas corpus proceedings; retroactivity.

"2268. Habeas corpus time requirements.

**§ 2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

"(a) This chapter shall apply—

"(1) to—

"(A) cases in which the defendant is tried for a capital offense; or

"(B) cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence; and

"(2) only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2266 of this title.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State defendants tried for a

capital offense and all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the defendant or prisoner upon a finding that the defendant or prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the defenadant or prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant or prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent—

"(1) a State defendant being tried for a capital offense; or

"(2) prisoner under capital sentence during direct appeals in the State courts,

shall have previously represented the defendant or prisoner at trial or on direct appeal in the case for which the appointment is made unless the defendant or prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or imcompetence of counsel during State of Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This subsection shall not preclude the appointment of different counsel at any phase of Federal post-conviction proceedings.

**§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions**

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2261(c) of this title for a prisoner under capital sentence, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2263 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) filing of any successive petition for a writ of habeas corpus is authorized by the appropriate court of appeals in accordance with section 2264(c).

**"§ 2263. Filing of habeas corpus petition; time requirements; tolling rules**

"(a) Any petition in capital cases for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 30 days after the filing in the appropriate State court of record of an order issued in compliance with section 2261(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks a review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes; and

"(2) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 30-day period established by this section. A court that finds that good cause has been shown shall explain in writing the basis for such a finding.

"(b) A notice of appeal from a judgment of the district court in a claim under this chapter shall be filed within 20 days of the entry of judgment.

"(c) A petition for a writ of certiorari to the Supreme Court of the United States in a claim under this chapter shall be filed within 20 days of the issuance of the mandate by the court of appeals.

**"§ 2264. Evidentiary hearings; scope of Federal review; district court adjudication**

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it within the time limits established in section 2268 of this title.

"(c)(1) Except as provided in paragraph (2), a district court may not consider a successive claim under this chapter.

"(c)(2) A district court may only consider a successive claim under this chapter if the applicant seeks leave to file a successive petition in the appropriate court of appeals. A decision by the court of appeals to grant or deny leave to file a successive petition under this chapter shall not be reviewable in any court.

"(c)(3) In a case in which the appropriate court of appeals grants leave to file a successive petition, the time limits established by this chapter shall be applicable to all further proceedings under the successive petition.

**"§ 2265. Certificate of probable cause inapplicable**

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

**"§ 2266. Counsel in capital cases; trial and post-conviction standards**

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter under section 2261(b) of this title shall provide for counsel to indigents charged with offenses for which capital punishment is sought and to indigents who have been sentenced to death and who seek appellate or collateral review in State court.

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State's courts in felony cases.

"(3) Notwithstanding this subsection, a court, for good cause, may appoint another attorney whose background knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(c) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (d). Upon finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment of such services nunc pro tunc.

"(d) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection. A State

court's determination of reasonable compensation, fees, and expenses shall not be reviewable in proceedings under this chapter or under section 2254 of this title, and any alleged insufficiency in compensation, fees, or expenses shall not be grounds for granting a writ of habeas corpus under this chapter or under section 2254 of this title, unless the court finds that the compensation, fees, and expenses awarded were so insufficient as to result in a denial of due process.

**§ 2267. Law controlling in Federal habeas corpus proceedings; retroactivity**

"In cases subject to this chapter, all claims shall be governed by the law as it was when the petitioner's sentence became final, supplemented by an interim change in the law, if the court determines, in light of the purpose to be served by the change, the extent of reliance of previous law by law enforcement authorities, and the effect on the administration of justice, that it would be just to give the prisoner the benefit of the interim change in the law.

**"§ 2268. Habeas corpus time requirements**

"(a) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing.

"(b) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(c) The Supreme Court shall act on any petition for a writ of certiorari in a case brought under this chapter within 90 days after the petition is filed."

"(d) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases..... 2261".

(c) AMENDMENT TO SECTION 2254 OF TITLE 28.—Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.".

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## GORTON AMENDMENT NO. 1670

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (L) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroephedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Ergonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical isomer, or salt of an optical isomer of the foregoing chemicals.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraph (F), (G), and (H) as subparagraph (E), (F), and (G).

(c) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(d) REPORTS OF REGULATED TRANSACTIONS.—Section 310(b)(1) of the Controlled Substances Act (21 U.S.C. 830(b)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(e) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C. 830(c)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) cooperate with the authorities of each State by providing information relating to regulated transactions in listed precursor chemicals and anticipated regulated transactions (including impending interstate deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and other illegal drugs.".

(f) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical,

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general.

"(B) The licensing program described in subparagraph (A) shall require a license application to be made in such form as the Attorney General shall prescribe and may provide for the denial, revocation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

(g) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"Sec. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921-6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(1) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(2) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.

"(3) Pursuant to paragraph (1), a defendant shall be imprisoned not less than 5 years, and in the case of a willful violation, not less than 10 years.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

(2) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

## McCONNELL AMENDMENT NOS. 1671 THROUGH 1673

(Ordered to lie on the table.)

Mr. McCONNELL submitted three amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1671

At the appropriate place, insert the following:

SEC. . PROTECTING THE ELDERLY FROM CRIME.

(a) CRIMINAL OFFENSE.—(1) Chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3581. Mandatory sentence for felony against individual age sixty-five or over

"(a) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of such crime is an individual who had attained age sixty-five on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for such crime under this title, in the case of a first offense to which this section is applicable; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for such crime under this title, in the case of a second or subsequent offense to which this section is applicable.

"(b) Notwithstanding any other provision of law, with respect to a sentence imposed under subsection (a) of this section—

"(1) the court shall not suspend such sentence;

"(2) the court shall not give the defendant a probationary sentence;

"(3) no defendant shall be eligible for release on parole before the end of such sentence;

"(4) no defendant shall be eligible for participation in a home incarceration program before the end of such sentence;

"(5) such sentence shall be served consecutively to any other sentence imposed under this title; and

"(6) the court shall reject any plea agreement which would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) of this section in connection with any charged offense.

"(c) As used in this section, the term—

"(1) 'crime of violence' means—

"(A) a felony that has an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) 'victim' means an individual against whom an offense has been or is being committed.".

(2) The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3581. Mandatory sentence for felony against individual of age sixty-five or over.".

(b) APPEALS.—Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from an otherwise final decision, judgment, or order of a district court sentencing a defendant on the ground that such sentence is less severe than that required under section 3581 of this title.".

(c) FEDERAL RULES OF CRIMINAL PROCEDURE.—(1) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(A) by adding at the end of the first paragraph in paragraph (1) the following: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(B) in paragraph (2)(D), by inserting after "the offense" the following: "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed".

(2) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking out "The" after "In General." and inserting in lieu thereof "Except as provided in title 18, United States Code, section 3581, the".

AMENDMENT No. 1672

At the appropriate place, add the following:

TITLE —NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

SEC. —01. SHORT TITLE.

This title may be cited as the "National Child Search Assistance Act of 1990".

SEC. —02. REPORTING REQUIREMENT.

(a) IN GENERAL.—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 18 reported to such agency to the National Crime Information Center of the Department of Justice.

(b) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such reports including procedures for carrying out the purposes of this title.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the reports received under this title.

SEC. —03. STATE REQUIREMENTS.

(a) IN GENERAL.—Each State reporting under the provisions of this title shall—

(1) ensure that no law enforcement agency within the State establishes or maintains any policy which requires the observance of any waiting period before accepting a missing child report.

(2) provide that all necessary and available information, which shall include—

(A) the name, date of birth, sex, height, weight, and eye and hair color of the child;

(B) the date reported missing and the last known location of the child; and

(C) the category by which the child was abducted,

is entered into the State law enforcement system and the National Crime Information Center computer networks and forwarded to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports as established in title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93-415); and

(3) provide that after receiving reports as provided in paragraph (2), the Missing Children Information Clearinghouse or designated agency shall—

(A) notify all other law enforcement agencies in the State;

(B) verify and update with any additional information the original entry made into the State law enforcement system and National Crime Information Center computer networks;

(C) institute or assist with appropriate search investigative procedures; and

(D) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of information and technical assistance in the missing children cases.

(b) LIMIT ON GRANTS.—Any State not complying with the provisions of subsection (a) shall be denied any grant, cooperative agreement, or other assistance authorized by the Missing Children's Assistance Act (Public Law 98-473).

AMENDMENT No. 1673

At the appropriate place, insert the following:

SEC. —. LAW ENFORCEMENT OFFICERS, BILL OF RIGHTS.

(a) IN GENERAL.—Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section:

"LAW ENFORCEMENT OFFICERS BILL OF RIGHTS

"SEC. 820. Beginning with the first fiscal year commencing not less than two years after the effective date of this section, a grant under part B or C of this title that would otherwise be made, directly or indirectly, to any State, unit of general local government, or public agency, shall be reduced by 20 percent unless there is in effect with respect to such State, unit of general local government, or public agency, a law enforcement officer's bill of rights which substantially provides as a minimum the following rights for the law enforcement officers of such State, unit of general local government, or public agency:

" 'BILL OF RIGHTS

" 'POLITICAL ACTIVITY OF LAW ENFORCEMENT OFFICERS

" 'SECTION 1. Except when on duty or acting in his official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity. This section shall not apply to a law enforcement officer covered by chapter 15 of title 5, United States Code.

" 'RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION

" 'SEC. 2. Whenever a law enforcement officer is under investigation for alleged malfeasance, misfeasance, or nonfeasance of official duty, with a view to possible disciplinary action, demotion, dismissal, or criminal charges, the following minimum standards shall apply:

" '(1) No adverse inference shall be drawn and no punitive action taken from a refusal of the law enforcement officer being investigated to participate in such investigation or be interrogated other than when such law enforcement officer is on duty, or when exigent circumstances otherwise require.

" '(2) Any interrogation of a law enforcement officer shall take place at the offices of those conducting the investigation, the place where such law enforcement officer reports for duty, or such other reasonable place as the investigator may determine.

" '(3) The law enforcement officer being investigated shall be informed, at the com-

mencement of any interrogation, of the nature of the investigation, the names of any complainants, and the identity and authority of the person conducting such investigation, and at the commencement of any interrogation of such officer in connection with any such investigation shall be informed of all persons present during such interrogation. All questions asked in any such interrogation shall be asked by or through a single interrogator.

"'(4) No formal proceeding which has authority to penalize a law enforcement officer may be brought except upon charges signed by the persons making those charges.

"'(5) Any interrogation of a law enforcement officer in connection with an investigation shall be for a reasonable period of time, and shall allow for reasonable periods for the rest and personal necessities of such law enforcement officer.

"'(6) No threat, harassment, promise or reward shall be made to any law enforcement officer in connection with an investigation in order to induce the answering of any question, but immunity from prosecution may be offered to induce such answering.

"'(7) All interrogations of any law enforcement officer in connection with the investigation shall be recorded in full.

"'(8) The law enforcement officer shall be entitled to the presence of his or her counsel or any other one person of his or her choice at any interrogation in connection with the investigation.

"'REPRESENTATION ON COMPLAINT REVIEW BOARDS

"'SEC. 3. Whenever a police complaint review board has been established which includes in its membership persons other than law enforcement officers of the agencies under the jurisdiction of such board, such board shall also include a fair representation of such officers.

"'CIVIL SUITS OF LAW ENFORCEMENT OFFICERS

"'SEC. 4. Any law enforcement officer shall have the right, and shall receive public legal assistance when requested, to recover pecuniary and other damages from persons violating any of the rights established under the law enforcement officer's Bill of Rights.

"'DISCLOSURE OF FINANCES

"'SEC. 5. No law enforcement officer shall be required to disclose, for the purposes of promotion or assignment, any item of his property, income, assets, debts, or expenditures or those of any member of such officer's household.

"'NOTICE OF DISCIPLINARY ACTION

"'SEC. 6. Whenever a personnel action which will result in any loss of pay or benefits, or is otherwise punitive is taken against a law enforcement officer, such law enforcement officer shall be notified of such action and the reasons therefor a reasonable time before such action takes effect.

"'RETALIATION FOR EXERCISING RIGHTS

"'SEC. 7. There shall be no penalty nor threat of any penalty to a law enforcement officer for the exercise of the officer's rights under this Bill of Rights.

"'OTHER REMEDIES NOT DISPARAGED

"'SEC. 8. Nothing in this Bill of Rights shall disparage or impair any other legal remedy any law enforcement officer shall have with respect to any rights under this Bill of Rights.

"'DEFINITIONS

"'SEC. 9. As used in this Bill of Rights—

"'(1) "law enforcement officer" means any officer or employee of a public agency, if the principal official function of such officer or employee is to investigate crimes, or to apprehend or hold in custody persons charged or convicted of crimes, and include police, sheriffs, bailiffs, and corrections guards;

"'(2) "complainant" means the person whose information was the basis for the initiation of an investigation; and

"'(3) "complaint review board" means any public body with specific lawful authority to investigate and take public action, including making reports, on charges of improper conduct by law enforcement officers, but is not a law enforcement agency, a grand jury, or other entity similar to a grand jury; and

"'(4) "law enforcement agency" means any public agency charged by law with the duty to investigate crimes, apprehend and hold in custody persons charged with crimes.'".

(b) AMENDMENTS TO TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after the item relating to section 819 the following new item:

"Sec. 820. Law enforcement officers bill of rights.".

## NOTICES OF HEARINGS

SENATE SELECT COMMITTEE ON ETHICS

Mr. HEFLIN. Mr. President, Senator RUDMAN joins me to ask that, in accordance with the Rules of Procedure of the Select Committee on Ethics, which were adopted February 23, 1978, and amended on December 21, 1989, the following notice of hearings be published in the CONGRESSIONAL RECORD for the second session of the 101st Congress, and we ask unanimous consent that the notice of hearings be so published.

The material follows:

The Senate Select Committee on Ethics announced May 9, 1990 that it is conducting an Investigation concerning Senator Durenberger's receipt of Senate reimbursements for using a condominium in Minneapolis, Minnesota. The Committee had previously announced that it is conducting an Investigation concerning his arrangement with Piranha Press, and the other matters specified in the Committee's February 22, 1990 Press Release.

The Public adjudicatory hearings respecting all matters under Investigation concerning Senator Durenberger will commence, in Room 216, Hart Senate Office Building, Washington D.C., at 9:30 a.m. on June 12, 1990. Two weeks of hearings have been scheduled.

## AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on May 21, 1990, beginning at 1 p.m., in 485 Russell Senate Office Building, to consider the nomination of Carl J. Kunasek for the position of Commissioner for the Navajo and Hopi Relocation Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, May 21, 1990, at 2 p.m. to receive testimony on Department of Defense laboratory management in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, May 21, 1990, to hold hearings on the drugs and violence: "The Criminal Justice System in Crisis."

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objectives of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Senator ROTH to participate in a program in Gemany, sponsored by the United States Association of Former Members of Congress, from May 27 to June 1, 1990.

The committee has determined that participation by Senator ROTH in the program in Germany, which is being partially funded by the Friedrich Ebert Foundation and also being funded by the United States Association of former Members of Congress through a grant from the German Marshall Fund, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule

35 for Dr. Andrew K. Semmel, a member of the staff of Senator RICHARD G. LUGAR, to participate in a program in Romania, sponsored by the National Republican Institute for International Affairs, from May 16 to 21, 1990.

The committee has determined that participation by Dr. Semmel in the program in Romania, at the expense of the National Republican Institute for International Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Dr. Patricia Ruggles, a member of the staff of the Joint Economic Committee, to participate in a program in Canada, sponsored by the Statistics Canada, from April 22 to 24, 1990.

The committee has determined that participation by Dr. Ruggles in the program in Canada, at the expense of the Statistics Canada, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Senator and Mrs. WALLOP, to participate in a program in Taipei, Taiwan, sponsored by the Chinese National Association of Industry and Commerce, from May 17 to 21, 1990.

The committee has determined that participation by Senator WALLOP in the program in Taiwan, at the expense of the Chinese National Association of Industry and Commerce, is in the interest of the Senate and the United States.●

## THE CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT

● Mr. GORTON. Mr. President, last Thursday, the Senate unanimously adopted the Chemical and Biological Weapons Control Act. I was pleased to be an original cosponsor of this legislation that demonstrates our serious intention to not only stem the proliferation of chemical and biological weapons, but also to take action against those countries that would employ these horrible weapons.

The use of chemical agents by Iraq and Iran during their long conflict indicates that the rubicon between conventional and chemical warfare can be crossed at any time. It is clear that there are leaders of countries for whom the use of these deadly weapons is little more than an afterthought. I dare say that not even the maniacal Adolf Hitler employed these weapons. though he had them in his arsenal.

As the managers of this bill have already noted, this bill has two principal purposes: First, to establish sanctions against countries that use chemical or biological weapons in violation of international law and norms; and second, to establish sanctions against foreign countries that would assist certain other countries in acquiring these terrible weapons.

It is high time we erect some serious obstacles in the way of foreign companies that would place profits before the security and safety of the population. Nor can the United States stand idly by while countries like Iraq use chemical weapons to squash domestic unrest or to gain an advantage on the battlefield.

While I wholeheartedly support this legislation, I cannot help but think, however, that the chemical genie is out of the bottle. Given the difficulty of monitoring chemicals that are produced for peaceful purposes but which can be used as weapons of war, and given the proliferation of the long-range means of delivery for these "poor-mans nuclear weapons," I think it imperative that we accompany this important legislation with some reflection on what the United States can do to protect itself and its allies against the very real threat of chemically armed ballistic missiles.

To be sure, stemming the proliferation of chemical and biological weapons is only part of the solution—a truly effective deterrent to the use of chemical weapons delivered by ballistic missiles is to build a system that can defend against those missiles. Third World countries now acquire ballistic missiles because they realize that there are no defenses against them. The introduction of missile defenses would, I believe, have a stabilizing effect by removing the incentive for Third World nations to acquire ballistic missiles of all ranges.

Mr. President, I will end here because this is not the proper forum to debate the merits of missile defenses. Let me reiterate, once again, my strong support for this legislation as a palpable step toward thwarting the spead of deadly weapons.●

## ALASKANS FOR DRUG FREE YOUTH

● Mr. MURKOWSKI. Mr. President, I am pleased to submit two essays by young Alaskans to the RECORD. These essays were written in response to a contest sponsored by Alaskans for Drug Free Youth and represent the deep commitment of the youth of Alaska to establish and maintain a drug-free community and school. Leah Homstad of Tatitlek and Regan Grandy of Petersburg are both interns in my office this summer and are fine examples of the leadership that young Alaskans can provide to their peers.

Mr. President, I ask that these two essays be submitted into the RECORD.

The essays follow:

### MY CHOICE, DRUG FREE

(By Regan Grandy)

During the 18 years of my life I have seen the devastating effects of drug and alcohol on friends and other significant people in my life. I learned early in life that those effects are far reaching and widespread. They damage not only the life of the user-abuser, but have effects on family, friends, community members, and society in general. Today they are causing moral decay in society and humanity.

I have strong religious and moral convictions that my body is sacred and not to be defiled. I strive to keep my body nourished with wholesome nutritious food, exercise it sufficiently, and rest it properly to maintain a good balance of health of all of my body's functions and systems. Therefore, it does not make any sense to me to willfully abuse my body by taking drugs. I do not need a tiger in my bloodstream or burned out brain cells.

Some teenagers today think it's fun to "party," where alcohol and drugs are plentiful and encouraged. It has never made any sense to me that my peers have allowed themselves to be lured into a false sense of security and power by becoming partakers of drugs. In reality, they are losing power and control over their minds and bodies. To illustrate the loss of power and control, I relate the following incident.

A young college student was arrested and convicted for using a controlled substance which is a felony. The judge gave him probation. Since the penalty seemed light, the young man turned to his lawyer and asked, "What did I lose?" The lawyer looked at him and replied, "You have lost the right to vote, the right to run for public office, and the right to own a gun."

The lawyer further stated, "You have lost the opportunity of ever being a licensed doctor, dentist, lawyer, engineer, realtor, architect, private detective, stock broker, osteopath, pharmacist, physical therapist, school teacher, or funeral director. You can never get a job where you have to be bonded or licensed. You can't work for the city, county, state or federal government. You can enlist in the military service, but you will not have a choice of service and will probably be assigned to a labor battalion. Those are examples of what you really lost." It's an incredibly high price to pay!

Others have yet a higher price to pay. Prisons currently house 500,000 inmates at a cost of 11 billion dollars per year. 30% of those inmates are incarcerated on drug related charges. This translates to 150,000 prisoners incarcerated on drug related crimes at a cost of 3.3 billion dollars annually to taxpayers, who really pay this debt to society.

A recently compiled study compares teenage drug users in Alaska to the U.S. The study concludes that Alaska's teens have a significantly higher drug use rate than those from the other 49 states. This study included; Cigarattes, Beer, Wine Coolers, Liquor, Marijuana, Cocaine, Uppers, Downers, Inhalants, Hallucinogens, and other drugs. The higher percentage is particularly noticeable at the high school level with the percentage of Cocaine use at 11.3%; Marijuana 24.9%, and liquor soaring even higher to 25.8% above the national average.

Other startling statistics indicate that youth are becoming increasingly more involved with drug use at earlier ages in their lives. For example, Alaskan youth in junior high schools show a significant substance abuse problem, according to the study.

Being a youth in Alaska I feel ashamed about these statistics and am hopeful that by my leadership and personal crusade against drugs, I have made a difference on

some of my friends and peers. I am fairly confident that I have.

We need to continually keep educating the children, youth, and adults about the harmful effects of drugs and do all in our power to dissuade them from making wrongful choices that could have lasting negative effects on their lives. Parents need to be educated that there is no room for a double standard when dealing with such volatile substances. To paraphrase what President Bush said in his televised address to the nation on September 5, 1989. "Drug education doesn't begin in class . . . It must begin at home and in the neighborhood. Parents and families must set the first example of a drug-free life." I am grateful that my parents have set this proper example for me.

Confucious once stated: "There are three marks of a superior man; being virtuous, he is free from anxiety; being wise, he is free from perplexity; being brave, he is free from fear." To me, this directly relates to non-use of drugs. Conviction and strength of character will make me virtuous, education will make me wise, and the courage to withstand peer pressure will make me brave. All of these and abstinence from drugs can help make me that superior free man!

I am proud to say that I have never smoked a cigarette or marijuana joint. I have never partaken of an alcoholic beverage nor of a grain of cocaine, or any other abusive substance. I am determined and committed to be able to say this for the rest of my life. I think that for the youth today they should pattern their goals to be drug free. This is my choice-drug free.

MY CHOICE, DRUG FREE

(By Leah Gaye Homstad)

"Just Say No!" is a chanted slogan throughout the country, in every state and in every school. Concerts, workshops, and seminars have been growing from what was once just a mother's cry. Now not only are there concerns from parents, but drugs and pushing for a drug free country is now a nationwide concern.

The blunt, rebellious spirit of the 1960's has grown much larger than the "hippies" could ever have imagined, I'm sure. The youth of the sixties established a new set of boundaries to live by. But how could they have known that self destruction is the end result of unrestraint? From that generation has come an offspring that wants the same freedom their parents rebelled for. Freedom isn't just unrestricted boundaries, as one definition of Webster's Dictionary states. True freedom is being controlled by no one other than yourself. It comes from within. This is a truism that must be taught, and by taking drugs, you are escaping that truth. By rejecting the establishment and experimenting with "free love" and drugs, they thought they had accomplished individuality and the freedom to express it. Instead, we, the next generation, have been left with a seemingly hopeless legacy. Unless . . .

Children are mirrors of their parents' past and present combined. Any religion, tradition, or habit that was passed to my parents was also passed to me; the good with the bad unless, they break the cycle. In order to break the cycle of drugs, someone must live truth out: resist the pressure. This is an individual struggle within all of us young adults today.

My real father was an alcoholic and drug addict. I had the potential to be one also had I grown up with him. With the support and encouragement of my family, I have made the decision to step out and break the mold. If every family in our country upheld a standard as steady as my mother and stepfather, I believe our country could begin a new cycle: a NEW generation, a drug free America. We could eliminate the unnecessary drug problem among our youth.

I desire to live out that lit torch of freedom to my children, and from them to their children, in hope that they, too, might make a difference as I wish to.

In my opinion, our country is doing what it can for a problem that is virtually out of its control and in the hands of the American families.●

## THE 25TH ANNIVERSARY OF HEAD START

● Mr. SIMON. Mr. President, last Friday marked the 25th anniversary of our national Head Start Program. On May 18, 1965, President Lyndon B. Johnson officially launched this important educational effort.

For 25 years, Head Start has been providing comprehensive child development services to children from low-income families, serving more than 11 million to date. Head Start is based on simple principles geared toward providing students with a learning environment that helps them develop emotionally, socially, intellectually, and physically. All of this is done on levels appropriate to children's developmental stages, and with the maximum involvement of parents.

We should pause a moment to recognize this important landmark. We should pay tribute to the "success stories" of children in the program who have gone on to become productive members of our society. We should honor the staff, volunteers, and parents who have been so heavily involved in the program, and help keep it going.

Earlier this month, Head Start agencies in Illinois commemorated the 25th anniversary with rallies and celebrations. As we celebrate the last 25 years, we must also look ahead to the next 25. We need to continue working until the needs of all economically disadvantaged children are met.

This week some of our colleagues are meeting with the administration to discuss the budget and spending priorities. As we work in this area, Mr. President, I urge my colleagues to remember Head Start and join me in supporting efforts to significantly increase funding for this valuable program.

To all those whose lives have been touched by Head Start, I wish you happy anniversary and continued success.●

## FORMER MEMBER OF CONGRESS JIM LLOYD ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, I continue to hear from former Members of Congress who favor congressional term limitation. These are people who have had the unique experience of making laws, and living under the product of their endeavors. They recognize some of the pitfalls of losing touch with the constituency.

I would suggest that all of us in Congress would be well-served by the same experience, and that the American people would be best served by a regular infusion of new perspectives and ideas into Congress.

I ask that a letter I have received from former Member of Congress Jim Lloyd appear in the RECORD immediately following my remarks. Mr. Lloyd served in the House from California, from 1975 to 1981.

The letter follows:

JACKIE LLOYD,

*Washington, DC, February 27, 1990.*

Hon. GORDON J. HUMPHREY,

*531 Hart Senate Office Building,*

*Washington, DC.*

DEAR SENATOR HUMPHREY: Absolutely, positively put me down as a supporter of S.J. Res. 2351.

Two 6-year terms for Senators and six 2-year terms for Representatives is just right!

Good luck!

Sincerely,

JIM LLOYD,

*Congressman, CA (1975-81).*●

## A BANNER DAY FOR WOODLORE

● Mr. KASTEN. Mr. President, I rise today to honor the signal achievement of the Allen-Edmonds Shoe Corp. of Port Washington, WI. Over the years, this company has consistently shown a spirit of excellence and devotion to quality that is a source of great pride to our State.

On June 19, Allen-Edmonds will be holding a grand opening for its brand new Woodlore facility. For 3 years now, Woodlore has been located in a rented facility—where it has been producing outstanding aromatic cedar shoe trees and related accessories.

From 5 employees in 1987, Woodlore has grown into a company employing a total of 40 workers today. These employees are looking forward to moving into their new 25,000-square-foot plant next month.

The economic future of our country is being built on achievements like this one. I ask all my colleagues to join me in honoring this small business success story—and in recognizing the perseverance and creativity of company president John Stollenwerk in making it happen.●

## PERIODICALS WITHOUT TOBACCO ADVERTISING

● Mr. SIMON. Mr. President, it has come to my attention that there are a good many magazines that do not accept tobacco advertising.

I commend them for that.

There is no other legal product that is sold in the United States that does

as much harm to people, and does no good for them, as cigarettes.

At the end of my remarks, I will place their names and addresses in the RECORD.

If my colleagues or others believe there are other periodicals who should be added to the list, I will be pleased to place their names in the RECORD.

There has been a controversy over whether or not Congress should limit by law, tobacco advertising. But there can be no question about the limitation on tobacco advertising by periodicals on a voluntary basis being a positive contribution to the Nation.

I am grateful to the publishers, editors, and others involved in making the decision on not accepting tobacco advertising in these periodicals.

I ask that their names be printed in the RECORD at this point.

The names follow:

Adirondack Life, P.O. Box 97, Jay, NY 12941

Air & Space, National Air & Space Museum, Washington, DC 20560

Alaska Magazine, 806 E St., Suite 200, Anchorage, AK 99501

American Baby, 475 Park Ave. South, New York, NY 10016

American Health, 80 Fifth Ave., New York, NY 10011

American Heritage, 60 Fifth Ave., New York, NY 10011

American History Illustrated, P.O. Box 8200, Harrisburg, PA 17105

Animal Kingdom, 185th St and Southern Blvd., Bronx, NY 10460

Arizona Highways, 2039 W. Lewis Ave., Phoenix, AZ 85009

Audubon, 950 Third Ave., New York, NY 10022

Aviation Week & Space Technology, 1221 Avenue of the Americas, New York, NY 10020

Backpacker, 38 E. Minor St., Emmaus, PA 18049

Bicycling, 38 E. Minor St., Emmaus, PA 18049

Boy's Life, 1825 Walnut Hill Lane, Irving, TX 75088

Business Week, 1221 Avenue of the Americas, New York, NY 10020

Consumer Reports, 256 Washington St., Mt. Vernon, NY 10553

Cyclist, 20916 Higgins Ct., Torrance, CA 90501

Dance Magazine, 33 W. 60th St., New York, NY 10028

Down East Magazine, P.O. Box 679, Camden, ME 04843

Farm Journal, 230 W. Washington St., Philadelphia, PA 19105

Fishing Facts, N84 W. 13660 Leon Rd., Menomonee Falls, WI 53051

The Futurist, 4916 St. Elmo Ave., Bethesda, MD 20814

Golf Illustrated, 3 Park Ave., New York, NY 10016

Good Housekeeping, 959 Eighth Ave., New York, NY 10019

Hadassah Magazine, 50 W. 58th St., New York, NY 10019

Harvard Business Review, Soldiers Field Rd., Boston, MA 02168

Harvard Medical School Health Letter, 79 Garden St., Cambridge, MA 02138

Health, 3 Part Ave., New York, NY 10016

Highlights for Children, P.O. Box 269, Columbus, OH 43272

Historic Preservation, 1785 Massachusetts Ave., NW., Washington, DC 20036

Horticulture, 755 Boylston St., Boston, MA 02116

Humpty Dumpty's Magazine, 1110 Waterway Blvd., Indianapolis, IN 46206

International Travel News, 2120 28th St., Sacramento, CA 95818

Issac Asimov's Science Fiction, 380 Lexington Ave., New York, NY 10017

Jack and Jill, 1110 Waterway Blvd., Indianapolis, IN 46206

MAD Magazine, 485 Madison Ave., New York, NY 10022

Maine Fish & Wildlife, 284 State St., Augusta, ME 04383

Maine Life Magazine, 250 Center St., Auburn, ME 04210

Mayo Clinic Health Letter, Mayo Clinic, Rochester, MN 55905

Model Railroader, 1027 N. Seventh St., Milwaukee, WI 53233

Modern Maturity, 3200 E. Carson St., Lakewood, CA 90712

Montana Magazine, P.O. Box 5630, Helena, MT 59604

Mother Earth News, 80 Fifth Ave., New York, NY 10011

Mother Jones, 1663 Mission St., San Francisco, CA 94103

Nation, 72 Fifth Ave., New York, NY 10011

National Geographic, 1145 17th St., NW., Washington, DC 20036

National Parks Journal, 1015 31St., NW., Washington, DC 20007

Nation's Business, 1615 H. St., NW., Washington, DC 20062

Natural History, Central Park West at 79th St., New York, NY 10024

The New Yorker, 25 W. 43rd St., New York, NY 10036

North American Review, 1222 W. 27th St., Cedar Falls, LA 50614

Nutrition Action Healthletter, 1501 16th St., NW., Washington, DC 20036

Oceans, 2001 W. Marin St., Stamford, CT 06902

Old House Journal, 69A Seventh Ave., Brooklyn, NY 11217

Organic Gardening, 35 E. Minor St., Emmanus, PA 18049

Parenting, 501 Second St., San Francisco, CA 94107

Parents Magazine, 685 Third Ave., New York, NY 10017

Personal Computing, 10 Mulholland Dr., Hasbrouck Heights, NJ 07604

Petersen's Hunting, 8490 Sunset Blvd., Los Angeles, CA 90069

Popular Communications, 76 N Broadway, Hicksville, NY 11801

Prevention, 88 E. Minor St., Emmaus, PA 18049

Railfan and Railroad, P.O. Box 700, Newton, NJ 07860

Ranger Rick, National Wildlife Federation, 1412 16th St., NW., Washington, DC 20036

Reader's Digest, Pleasantville, NY 10570

Runner's World, 83 E. Minor St., Emmaus, PA 18049

Sail, Charlestown Navy Yard, 100 First Ave., Charlestown, MA 02129

Saturday Evening Post, 1100 Waterway Blvd., Indianapolis, IN 46202

Science, 1888 H St., NW., Washington, DC 20005

Science News, 1719 N St., NW., Washington, DC 20036

The Sciences, 2 E. 63rd St., New York, NY 10021

Scientific American, 415 Madison Ave., New York, NY 10017

Sesame Street, 1 Lincoln Plaza, New York, NY 10023

Seventeen, 850 Third Ave., New York, NY 10022

Sierra, 730 Polk St., San Francisco, CA 94109

Smithsonian, 900 Jefferson Dr., Washington, DC 20560

Sports Afield, 250 W. 55th Ave., New York, NY 10019

Stork, 1100 Waterway Blvd., Indianapolis, IN 46202

Sunset Magazine, 80 Willow Rd., Menlo Park, CA 94025

Theatre Crafts, 135 Fifth Ave., New York, NY 10010

Travel Holiday, Pleasantville, NY 10570

Utah Holiday, 419 E. First South, Salt Lake City, UT 84111

Vegetarian Times, P.O. Box 570, Oak Park, IL 60303

Venture Magazine, Christian Service Brigade, 765 Kimberly Dr., Carol Stream, IL 60188

Vermont Life, 61 Elm St., Montpelier, VT 05602

The Washington Monthly, 1711 Connecticut Ave., NW., Washington, DC 20009

Western Outdoors, P.O. Box 2027, Newport Beach, CA 92663

Writer's Digest, 1507 Dana Ave., Cincinnati, OH 45207

Yankee, Main St., Dublin, NH 03444.●

## HUMAN RIGHTS RECORD OF THE SALVADORAN MILITARY

● Mr. HATFIELD. Mr. President, today I am joining my House colleagues HOWARD BERMAN and GEORGE MILLER in releasing a report which profiles the top leadership of the Salvadoran military. This analysis entitled "Barriers to Reform: A Profile of El Salvador's Military Leaders," prepared by the staff of the Arms Control and Foreign Policy Caucus, comes at a pivotal moment when Congress has a very real opportunity to assist the efforts to bring peace to El Salvador.

Those of us who have studied El Salvador recognize that the situation is desperate—at least 70,000 lives have been lost in this tiny country's civil war. Yet renewed hope for reconiliation exists as the government and the representatives of the FMLN open U.N.-sponsored negotiations. Reports from the talks indicate that both sides seem to be serious about these discussions and about finding a peaceful settlement.

The United States can help El Salvador, but not by continuing its blind policy of throwing money into a black hole of death squads, corrupt military officers, a nonfunctioning judiciary and a rebellion which ignores the value of human life. We have spent $4 billion in El Salvador over the past 10 years but have ignored the results—most of them negative—of our investment.

This report is the third on El Salvador commissioned by me and other officers of the Arms Control and Foreign Policy Caucus. It was requested because we felt that Congress was not

receiving the kind of information necessary to accurately assess our policy in El Salvador. Past reports have analyzed governmental, social and humanitarian situations in that country; this report studies the Salvadoran military, which receives one-quarter of our total assistance and is suspected of very serious human rights abuses, including the murder of the six Jesuits and two women who were slain at the University of Central America last fall.

I believe that the findings included in this report will provoke renewed debate over our policy in El Salvador. For the information contained therein clearly shows that, despite our best efforts to reform and sensitize the Salvadoran Armed Forces, the military still remains in the hands of an elite group of tightly knit officers who have done nothing to curb human rights abuses of the most horrifying nature: 14 out of the 15 officers have had documented abuses of human rights occur under their command.

Certainly, the FMLN has committed contemplate and cynical violations of its own, but we bear a special burden to hold accountable those we assist through our foreign assistance programs. Some will say that it is unreasonable for an officer in a civil war, a war which their families and other civilians have been targeted by the FMLN, to be held to the same standard as that of a peacetime military. But certain military values are absolute: you can not grade the responsibility of the troops on a curve. Protection of non-combatants and prisoners in custody is an absolute fundamental duty as it is to report any violations. In demanding respect for human rights we must be even more vigilant when we are the ones putting up the money.

The information contained in this study is from highly reputable sources. Some of the human rights case studied were prepared at great personal risk by distinguished organizations including Amnesty International, Americas Watch and Tutela Legal, the Salvadoran Catholic Church's human rights investigation group. I encourage my colleagues to give careful consideration to the information revealed in this report.

I ask unanimous consent the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BARRIERS TO REFORM: A PROFILE OF EL SALVADOR'S MILITARY LEADERS

(A report to the Arms Contrtol and Foreign Policy Caucus, sponsored by Republican Howard L. Berman, Chairman; Senator Mark O. Hatfield, Chairman, 100th Congress; Republican George Miller, Chairman, Central America Task Force)

INTRODUCTION AND SUMMARY OF FINDINGS

As Congress addresses the role of senior Salvadoran military officers in the November, 1989, murders of six leading Jesuits and prepares to address the level of military aid to El Salvador, the leadership of the Salvadoran military has become the focus of much attention.

This report reviews the career records of the 15 officers who now hold the primary commands in the Salvadoran military, and tracks documented human rights abuses by troops under their command in the last decade.

By matching for the first time information on officers' previous assignments (provided by the Government of El Salvador and the U.S. Department of Defense) with reports of abuses of human rights by units they commanded (provided by reputable and experienced human rights groups operating in El Salvador), the report concludes that nearly all of El Salvador's commanding officers have presided over brutal human rights abuses committed by troops under their command. Serious questions are therefore raised as to whether the officer corps has either been above the law in allowing repeated abuses of human rights to occur on their watch, or, at a minimum, has shown serious problems of competence in failing to halt them.

Specifically, the report finds:

Fourteen of the 15 officers in El Salvador's primary commands have risen to their positions despite having had documented abuses of human rights carried out by troops under their command, including Chief of Staff René Emilio Ponce, the Minister and two Vice Ministers of Defense, the heads of the three security forces and five of the six major brigades;

In none of the over 50 cases listed have even junior officers been brought to trail, even though nearly every case would seem to point to officers either ordering the abuse, concealing it, or failing to investigate it; and

The cases listed describe brutal incidents that violate fundamental military ethics: under 13 officers, killings of non-combatants were documented—often of persons in custody; under 12, prisoners were reportedly tortured or abused; under four, wounded victims were denied medical treatment for extended periods; and under three, "disappearances" were documented. Finally, ten of the 15 commanders either themselves appear to have engaged in falsification of the facts by incorrectly absolving the military of abuses, or they commanded troops who did so.

The intent of this report is not to charge the primary commanders themselves with ordering each abuse or participating in each attempt to protect the perpetrators and their superiors from justice: in most cases, no evidence exists that would merit such charges. Rather, its intent is to examine the Salvadoran officer corps' accountability for abuses of human rights by their troops. The promotion to senior positions of so many officers whose troops committed repeated abuses of human rights, and the absence of prosecutions of even junior officers for these abuses, suggest that a basic level, there is little accountability.

Other findings, based on extensive interviews with Salvadoran and U.S. personnel and others close to the Salvadoran military as well as on the materials provided by the Government of El Savador and the Department of Defense, include:

Of the 14 commanders whose troops reportedly committed abuses, 11 received U.S. training—some for many years. This raises doubts about the Salvadoran military's ability to absorb U.S. training in human rights principles regarding treatment of non-combatants, or possibly about the relevance of the U.S. training;

Of the 15 primary commanders, 12 are members of the Tandona, the "big class" that graduated from the Salvadoran military academy in 1966 and that is resisting pressures to reform. This unprecedented concentration of power permits the Tandona to protect its members form removal for corruption, abuses or incompetence. The Tandona at times shows more loyalty to its members than to the rule of law or even to the President;

The commanders make key decisions by consensus rather than through a formal command structure. A group of eight to ten top officers in the Tandona known as the Compadres (which means, literally, men who act as godfathers to each others' children) mediates difficult diputes; and

Widespread corruption appears to be a significant barrier to efforts to hold top officers accountable to the law for abuses of human rights. Many officers have detailed knowledge of each others' questionable business practices, and could use this information to discourage the cooperation with authorities that would be needed to bring officers to justice for abuses of human rights. A U.S. official interviewed in El Salvador estimates that "ghost soldiers," whose pay goes instead to commanders, account for five to fifteen percent of the entire Armed Forces.

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PRIMARY COMMANDS OF THE SALVADORAN ARMED FORCES

(T: member of the "Tandona," class of 1966).

(H: reported human rights abuses by troops under his command).

Chief of Staff: Col. René Emilio Ponce Torres T H.

Vice Chief of Staff: Col. Gilberto Rubio Rubio T H.

Minister of Defense: Gen. Rafael Humberto Larios López H.

V. Minister, Defense: Col. Juan Orlando Zepeda T H.

V. Minister, Public Security: Col. Inocente Orlando Montano T H.

National Guard Director: Col. Juan Carlos Carrillo Schlenker T H.

National Police Director: Col. Dionisio Ismael Machuca T H.

Treasury Police Director: Col. Ciro López Roque T H.

Commander, Air Force: Gen. Rafael Antonio Villamariona H.

Commander, 1st Brigade: Col. Franscisco Elena Fuentes T H.

Commander, 2nd Brigade: Col. José Humberto Gómez T H.

Commander, 3rd Brigade: Col. Mauricio Ernesto Vargas T H.

Commander, 4th Brigade: Col. Roberto Pineda Guerra.

Commander, 5th Brigade: Col. José Emilio Chávez Cáceres T H.

Commander, 6th Brigade: Col. H. Heriberto Hernández Martinez T H.

SECONDARY COMMANDS OF THE SALVADORAN ARMED FORCES

(T: member of the "Tandona," class of 1966).

(Note: No assessment has been made of reported human rights abuses by troops under his command).

*Military Detachments*

Military Detachment 1: Col. Jorge Antonio Medrano.

Military Detachment 2: Col. René Arnoldo Majano Araujo.

Military Detachment 3: Col. Julio César Grijalva.

Military Detachment 4: Col. Humberto Corado Figueroa.

Military Detachment 5: Col. Orlando Carranza.

Military Detachment 6: Col. Juan Armando Rodríguez Mendoza T.

Military Detachment 7: vacant.

*Immediate Reaction ("Elite") Battalions*

Arce Battalion: Col. José Roberto González Aguilar.

Atlacatl Battalion: Col. Oscar Alberto León Linares.

Atonal Battalion: Lt. Col. Luis Mariano Turcios.

Belloso Battalion: Lt. Col. José Domingo Flores Portillo.

Bracamonte Battalion: Lt. Col. Juan Emilio Velasco Alfaro.

*Other Commands*

Artillery Brigade: Col. Carlos Rolando Herrarte.

Cavalry Regiment: Col. Roberto Tejada Murcia.

Engineering Brigade: Col. Nelson Ivan López y López.

Transmissions Center: Col. Benjamin Eladio Canjura Alvayero T.

Dir., Nat. Intelligence: Col. Francisco José Martínez Calderon.

Commander, Navy: Col. Fernando Menjivar Campos.

Vice Commander, Air Force: Col. Héctor Leonel Lobo Pérez.

Military Academy: Col. Ricardo Alfonso Casanova Sandoval T.

*Joint General Staff*

Personnel (C-1): Col. Ricardo Antonio Martinez Cuéllar.

Intelligence (C-2): Col. Iván Reynaldo Díaz.

Operations (C-3): Col. Román Alfonso Barrera.

Logistics (C-4): Col. José Alexander Méndez.

Psychological Ops. (C-5): Col. Carlos Armando Avilés Buitrago.

Transmissions (C-6): vacant.

THE SALVADORAN ARMED FORCES: DESCRIPTION

*Official Command Structure*

The formal structure of the Salvadoran military is quite different from the system with which Americans are familiar. This section based in large part on interviews with Salvadoran military officials, describes the forces and their formal chain of command.

The 55,000-soldier Armed Forces of El Salvador operates under the jurisdiction of the Minister of Defense and Public Security. The President, who is the Commander-in Chief, may appoint any active-duty military officer to this position. (In nearly all Latin American nations, the Minister of Defense has traditionally been a military rather than a civilian post.) The Minister has two Vice Ministers (also active-duty military officers), one for Public Security and one for Defense.

The Chief of Staff, who reports to the Minister of Defense, commands both the 44,000-soldier Army and the 11,000-soldier security forces (the National Guard, the Treasury Police and the National Police). He is assisted by a highly-ranked Vice Chief of Staff and a Joint General Staff comprised of six usually junior colonels who each coordinate one aspect of national command: personnel, intelligence, operations, logistics, psychological operations and communications.

The three directors of the security forces (also active-duty military officers) report to both the Chief of Staff and the Vice Minister for Public Security. The security forces are deployed in small units in cities an rural communities throughout the country, with the National and Treasury Police being based in cities more frequently than the National Guard, which has traditionally been the rural security force. Officers in the security forces are regular Army officers who usually rotate back to assignments in the Army.

The duties of the security forces are quite different from those Americans traditionally associate with police. While the security forces are responsible for investigating crimes, they also operate as local combat and intelligence units that coordinate operations with the Army.

The Army itself consists of regional combat forces that divide the country's 14 geographic areas, known as "departments," into 16 regional commands, specialized commands such as the Air Force, the Navy and the Engineering and Artillery brigades, and elite combat forces that can be sent anywhere in the country. Three of the specialized commands also have regional combat responsibilities.

The regional commands comprise:

Six brigades (numbered one through six) of 2,500 to 3,500 troops each. The six brigade commanders are the top combat commanders, and between them they have responsibility for the entire country. Each is responsible for the department in which he is based, and often for adjoining areas as well, since all other regional commanders must report to one of the six brigades. For example, the commander of the 3rd Brigade in San Miguel Department also directs the commanders of Military Detachments 4 and 5 in the neighboring departments of Morazán and La Unión. The 1st Brigade is viewed as the top brigade command, since it covers San Salvador, but the 3rd Brigade (San Miguel) and the 4th Brigade (Chalatenango) cover the areas of the most combat, and are also seen as key commands.

Seven military detachments (numbered one through seven) of 1,000 to 2,000 troops each. The commander of a military detachment generally has responsibility for a single department. Although he reports to a nearby brigade commander, he usually has a great deal of authority as the direct commander of the department, and at times reports directly to the Chief of Staff.

Three specialized commands (Artillery and Engineering Brigades and Cavalry Regiment) of up to 2,000 troops each. The Artillery and Cavalry split one department and the Engineers control another, but they all also provide support to combat operations throughout the country. Their commanders report to a nearby brigade commander and the Chief of Staff.

Other specialized commands include the 1,000-soldier Air Force, the 1,000-soldier Transmissions Instruction Center (which is next to the presidential palace and so also functions as a palace guard), the 500-soldier Navy, the National Intelligence unit, and the separate military schools for officers, troops and intelligence.

The five elite "immediate reaction" battalions (named Arce, Atlacatl, Atonal, Belloso and Bracamonte) of 1,000 troops are each based in a different department but do not have specific regional responsibilities. They are moved around under the orders of the Chief of Staff, although they report to a brigade commander when operating in his zone.

The second most important officer in each military unit is the executive officer (who is called the deputy director or subdirector in the security forces and the vice commander in the Air Force). The executive officer is directly below the commander in the chain of command, and translates the commander's orders into action.

This report defines 15 officers as primary commanders: the Chief of Staff and his Vice Chief of Staff, the Minister of Defense and his two Vice Ministers, the Directors of the three security forces, the Commander of the Air Force and the Commanders of the six regional brigades. The Commanders of the military detachments, elite battalions and specialized brigades or regiments are defined as among the 26 secondary commanders, since all report to one or more of the regional brigade commanders. Also defined as among the secondary commanders are officers with less direct responsibility for important combat decisions, such as the Directors of the Military Academy and National Intelligence, the Commanders of the Navy and the Transmissions Instruction Center, the Vice Commander of the Air Force and the six members of Col. Ponce's general staff.

Nearly all primary and secondary commanders are colonels. As in most Latin American militaries, the rank of general is extremely rare, and is awarded more as a recognition of exceptionally long service than as an indication of chain of command.

*The Command Structure in Practice: The "Tandona" and the "Compadres"*

This section, based on extensive interviews with over 15 Salvadoran and U.S. personnel and others close to the Salvadoran military, describes the actual command structure in effect today in El Salvador. That structure is not only quite different from the system with which Americans are familiar, but from the official Salvadoran structure as well.

The Salvadoran military does not operate through a clear chain of command, but rather through a complex system of consensus within the Tandona (the "big class" graduating from the military academy in 1966, which is also referred to as the Sinfónica, or "the class as large as a symphony"), and between tandas (this and other graduating classes). The Tandona had 47 graduates, more than twice the average size of 18 for both the four preceding tandas and the four that followed.[1] It is noteworthy also for having among its members many sons of former high-ranking officers as well as many sons-in-law to powerful families. Roughly 20 members of the class remain in senior positions, excluding military attachés.

The system of consensus is managed at present more by Chief of Staff Col. René Emilio Ponce and Vice Chief of Staff Col. Gilberto Rubio than by Minister of Defense Gen. Rafael Humberto Larios. This is in part because Col. Ponce has been the traditional leader of the Tandona since graduating first in the class in 1966, and in part because Gen. Larios was chosen as a compromise between competing tandas and does

[1] Footnotes at end of article.

not wield the power usually associated with his position.

Chief of Staff Ponce consults with most other primary commanders before making and implementing key decisions. When the decisions involve assignments of officers, some Salvadoran sources state that Col. Ponce convenes a group of eight to ten officers from the Tandona that works out the agreement with him and the affected officers. This group is referred to by others in the Tandona as the Compadres (which means, literally, men who act as godfathers to each others' children). The reference is not just symbolic: members of this group are often asked to be godfathers to each other's children and to children of other officers, and so establish deep bonds of loyalty and reciprocity.

The Tandona first assumed control of leading positions in November, 1988, when Col. Ponce became Chief of Staff. The Tandona hoped that Col. Ponce would be made Minister of Defense in 1989, but President Alfredo Cristiani had reportedly made an initial offer of the post to a member of an earilier tanda, Air Force Gen. Juan Rafael Bustillo. After much negotiation, Cristiani retracted his offer to Bustillo, and Gen. Larios was accepted as a compromise candidate. In the wake of this deferral of Col. Ponce's promotion, more members of the Tandona took up positions as primary commanders, until it achieved today's unprecedented concentration of the members of one class in the primary commands: 12 out of 15.

The tanda system creates separate power bases in the military. Every officer is identified with his tanda, and each tanda has an association whose leaders negotiate with the leaders of other tandas for their class' assignments. For the graduating classes of the 1980's, which have become much larger and include officers commissioned through other means than graduating from the military academy, the role of the tanda system has become less important. Barring some dramatic change in command structure, though, the small tandas of the 1970's will control the military well past the year 2000.

According to U.S. officials, while all graduating classes of officers, or tandas, protect their classmates to some extent from accountability for corruption, incompetence or abuses of human rights, this sense of loyalty to classmates has become extreme in the Tandona, and in some instances exceeds not only loyalty to the law and the President, but to the Armed Forces as a whole.

For example, when asked whether top-ranking officers knew of military involvement in the killing of the Jesuits soon after it occurred, one official in the U.S. Embassy told Caucus staff that "a lot of officers knew something was up and didn't come forward. . . . They are a tight group." Another U.S. official identified a member of the Tandona who the official believed "knew early" about military involvement in the killing, but had shown "loyalty to the Tandona rather than to his Commander-in-Chief" by failing to respond to President Alfredo Cristiani's request that all information be provided to him.

According to numerous non-governmental sources in El Salvador, the Tandona has successfully resisted intense efforts by the U.S. Embassy to force the retirement of officers the Embassy believes are corrupt, incompetent or responsible for abuses of human rights. According to them, the Embassy was deeply disappointed at the results of a much-anticipated shifting of commands in December, 1989. Air Force Gen. Juan Rafael Bustillo and Director of National Intelligence (and Tandona member) Col. Carlos Marucio Guzmán-Aguilar, whose transfers had reportedly been encouraged by the Embassy, were assigned as military attachés. However, an expected broader set of changes were not forthcoming, and the Tandona emerged with control of all three security forces and five of the six brigades.

In May, 1990, 7th Military Detachment Commander Col. Roberto Mauricio Staben and Navy Commander Col. Humberto Pineda Villalta, both members of the Tandona although not among the primary commanders, were also assigned as attachés. The State Department says that Staben, a close aquaintance of ex-Major Roberto D'Aubuisson who was arrested with him once for reportedly planning a coup, was "implicated" in running a kidnapping ring.[2] Villalta had been the subject of reporting in the United States about alleged corruption and possible conflict of interest as owner of a fishing company.[3] However, non-governmental sources report that the U.S. Embassy has told Col. Ponce of another 15 members of the Tandona it wants transferred out of command positions.

El Salvador's rejection of Embassy demands to remove top commanders stands in sharp contrast to the results of U.S. efforts in December, 1983, led by then-Vice President George Bush, to have junior officers the U.S. Government considered notorious abusers of human rights sent abroad as attachés. Virtually all the officers on "the Bush list" presented to President Alvaro Magaña in 1983 were sent out of the country.[4]

If the Tandona continues to resist efforts to remove its members from command posts, it will dominate the Salvadoran military until 1997, since officers do not have to retire until they have served 35 years, including time at military academy. (The cabinet post of Minister of Defense and diplomatic posts such as military attaché are exempted from this requirement.)

Widespread corruption among officers in the Salvadoran military appears to be a significant barrier to efforts to hold top officers accountable to the law for abuses of human rights. Many officers have detailed knowledge of each others' questionable business practices, and could use this information to discourage the cooperation with authorities that would be needed to bring officers to justice for abuses of human rights.

Military command have traditionally been seen as sources of income, since official salaries are minimal (only $500 per month for a full colonel). Many sources in El Salvador provided specific examples to corroborate the detailed Research of Joel Millman—summarized in a December, 1989 article in the New York Times Magazine—who concluded that many officers exploit their positions by selling goods at inflated prices to their soldiers, or by forming businesses with clear advantages over civilian competitors.[5]

Some U.S. Embassy officials discount the significance of these practices, arguing that in the Salvadoran context these are not seen as corrupt practices. However, Embassy officials do see the practice of "ghost soldiers"—whose pay goes instead to commanders—as an unacceptable form of corruption. An Embassy official told Caucus staff that the "ghost soldiers" account for five to fifteen percent of the entire Armed Forces.

PRIMARY COMMANDERS: BIOGRAPHIES AND RECORDS ON HUMAN RIGHTS

For each of the officers holding primary command, this section:

(1) lists all known major assignments in the 1980's and foreign training, as reported by the Government of El Salvador and the U.S. Department of Defense, with some details added from Salvadoran press reports and other U.S. and Salvadoran Government sources;

(2) provides a profile of the commander, based on extensive interviews with U.S. and Salvadoran officials (both civilian and military), former Salvadoran military personnel, and with journalists and other analysts knowledgeable about the Salvadoran military; and

(3) summarizes incidents of human rights abuses in which the officer was either the commander or, in a few cases, the executive officer of the forces allegedly responsible, as reported by reputable human rights monitors. It also reports cases in which the officer provided information on the incident that absolved the perpetrators of responsibility, but later proved to be incorrect. For each incident, the summary provides the date and the location, the details as reported and (in a foot-note) the source and date of the report.

The summaries of alleged abuses are based almost exclusively on on-site investigations, primarily by distinguished human rights organizations such as the Salvadoran Catholic Church's Tutela Legal (Legal Guardian), Americas Watch and Amnesty International, but in some cases also by the State Department and Members of Congress. While the Caucus does not have independent conformation of these cases, the organizations and offices cited are reputable and highly knowledgeable about El Salvador.

The cases cited are the result of rigorous culling by Caucus staff. In most of the tens of thousands of abuses in El Salvador that have been attributed to government forces over the past 11 years of civil war, victims and their families or other witnesses have been unwilling or unable to say which unit committed the abuse. The cases cited are special in that they are both well-documented and have been attributed by reputable organizations to specific commands of the Armed Forces.

The role of Tutela Legal merits special mention, both because of the number of cases in this report for which its files in El Salvador are the primary source.

Founded by Salvadoran Archbishop Arturo Rivera Damas, since 1982 Tutela Legal has carried out on-site investigations of reported abuses of human rights throughout El Salvador. Funding for the effort has come from the Archdiocese of the Catholic Church of San Salvador and the Ford Foundation,

Tutela Legal has been called the "documenter of record" in El Salvador's civil war and the "conscience of the country," because it investigates and maintains records of abuses by both the FMLN and the security forces. Tutela has a relatively small staff of five to ten investigators who nonetheless travel throughout the country to gather testimony from as many witnesses and family members as possible. Recently, Director Maria Julia Hernández received the Archbishop Oscar Romero Award for human rights.

*The Principle of Accountability*

As noted in the introduction, it is not the intent of this report to charge the primary commanders themselves with ordering abuses by their troops or participating in attempts to protect the perpetrators and their superiors from justice. Rather, the intent of this section is to determine the general level of accountability demanded of Salvadoran officers for abuses by their troops.

Military accountability means that officers are ultimately responsible for the actions of the soldiers serving under them. It is a standard far higher than that of a court of law trying to determine personal responsibility, but it is one to which military forces around the world hold officers, in order to ensure that officers have an abiding self-interest in the performance of their troops. This principle does not mean that one isolated incidence of poor performance by one soldier should invariably derail an officer's career, but rather that officers whose troops continually perform poorly in battle, or run ships aground, or abuse human rights, generally should not get promoted.

Just as it is a violation of fundamental military ethics for a soldier to harm a noncombatant or prisoner, even if ordered to do so, it is violation of a fundamental military duty for an officer not to investigate fully and punish all officers and soldiers implicated in such violations, and then take strong action to ensure that they are not repeated.

In any military force, the promotion of an officer whose troops have harmed non-combatants risks sending an unmistakable message to soldiers that misbehavior is tolerated. If the officer also fails to bring to justice junior officers who actually order or acquiesce in abuses, the negative message is made even clearer. In El Salvador, where tens of thousands of civilians have died at the hands of armed combatants in the past decade, the concept of accountability and its implementation is especially relevant.

*The Primary Commanders*

CHIEF OF STAFF: COL. RENÉ EMILIO PONCE TORRES

*Key assignments*

1970: Student, U.S. Army School of the Americas, Engineering Course.

1979: Promoted to Major; Chief of Personnel (S-1), General Staff of the Treasury Police.

1981: Deputy Director (Executive Officer) of the Treasury Police while also holding S-1 position.

1982: Chief of Transit Authority, National Police.

1983: Promoted to lieutenant colonel; Commander, Belloso Immediate Reaction Battalion (11/83-11/84).

1984: Chief of Operations (C-3), Joint General Staff (11/84-6/87).

1986: Promoted to colonel (12/86).

1987: Commander, 3rd brigade (6/87-10/88).

1988: Chief of Staff (11/88 to the present).

*Profile*

Col. Ponce graduated first in his class in the 47-member Tandona in 1966, and has always functioned as its leader. He commands intense loyalty as head of the Compadres, the elite core of the Tandona. One person interviewed recounts how Col. Roberto Mauricio Staben—who has long been a target of U.S. reform efforts—said very emotionally of Ponce, "If my chief has to sacrifice me for the good of the Army, I'll accept." In May, 1990, Staben was true to his word and accepted a transfer from a combat command to the position of military attaché to Honduras.

Ponce has a reputation as a middle-of-the-roader who leads by consensus. A number of people interviewed recall that when ex-Maj. Roberto D'Aubuisson's call for attacks on civilian opponents of the military represented the "mainstream" thinking of the Salvadoran military in the early 1980's, Ponce was known as a hard-line officer and a close D'Aubuisson associate who would meet with him at his National Assembly office. When the mainstream moved away from D'Aubuisson and toward "civic action" in the late 1980's, Ponce dropped both his association with him and his hard-line image, and focused his efforts on civic action campaigns. As one person put it, "Now the stream has shifted, and so has he."

One reason for the trust placed in Ponce by his peers and officers in the other tandas is what many refer to as his reputation as an "honest broker." He consults fully with all interested parties before suggesting an arrangement that all can live with rather than conspiring with a small group and issuing surprise announcements. As leader of the Tandona, though, he has acknowledged that he is ultimately dependent on its support, either as Chief of Staff or, in the future, as Minister of Defense. This makes it difficult for him to respond to U.S. demands that he remove some 15 of his roughly 20 class-mates who remain in command positions.

*Reported human rights abuses by troops under his command*

While Ponce was Deputy Director of the Treasury Police and essentially commanding it under an inactive director on the night of April 7, 1981, the State Department reported that "thirty civilians were killed by the Treasury Police" in a sweep of the Soyapango district of San Salvador. Most of these civilians were reportedly taken from their homes and summarily executed, or killed in their homes. The police claimed that the deaths had occurred in a shoot-out, but a number of bodies reportedly were found with their hands bound behind their backs. After an investigation, the State Department called the Treasury Police's version "not credible" and "inane," and labelled the case "violence by Government elements against non-guerrilla elements." According to Amnesty International, there was no investigation or disciplinary action.[6]

Also while Ponce was Deputy Director of the Treasury Police throughout 1981, there were numerous reports of Treasury Police abducting people in San Salvador who were never seen again. Amnesty International has documented five specific examples for 1981 that it attributes to the Treasury Police.[7]

While Ponce was Commander of the Belloso elite battalion in March, 1984, Belloso troops reportedly took an unarmed merchant, 48, off a bus along a highway in Ahuachapán and shot him to death in front of a number of other passengers.[8]

While Ponce was Commander of the 3rd Brigade on February 25, 1988, Army troops from Military Detachment 4, which reports to the 3rd Brigade, reportedly seized a cooperative leader, 25, in his home during the night and also picked up a man, 18, and a boy, 16, in Tepemechin, Morazán. According to witnesses, in the morning the troops tortured the three and forced them to run through a burning field with no shoes. The witnesses later heard gunfire and saw helicopters called in to simulate a skirmish, even though no contact had been made with rebel troops. Two of the men were found dead with their ears, nose and thumbs cut off. The third was never found. After an autopsy had been performed on the bodies by a foreign pathologist a few months later, reporters asked Ponce what he intended to do to investigate the incident. He replied that the two dead men were "subversives" who had died in a firefight, and that: "We cannot investigate every combat report. In these cases, I must believe what my colonels report." [9]

While Ponce was Commander of the 3rd Brigade in April, 1988, in separate incidents a boy, 17, and a man, 20, were reportedly taken away from their farms in San Miguel and Morazan, respectively, by 3rd Brigade troops. Their bodies were found a few days later, with one hacked to death and showing signs of torture. The cause of the other's death could not be determined because animals had destroyed parts of the body.[10]

* While Ponce was Chief of Staff in January, 1989, he told Rep. Gerry Studds that the head-wounds found on 10 villagers killed in San Sebastian in September, 1988, must have been the result of the FMLN digging up the bodies and shooting them to fabricate a massacre that would be attributed to the Army. According to Rep. Studds, this explanation was dismissed as ridiculous by a U.S. Embassy official working on the case.[11] A few weeks later, following intense pressure from the U.S. Embassy, the Army acknowledged that the massacre had in fact been committed by its troops.

VICE CHIEF OF STAFF: COL. GILBERTO RUBIO RUBIO

*Key Assignments*

1983: Chief of Intelligence (C-2), Joint General Staff

1985: Commander, Military Detachment 3 (3/85-2/86)

1986: Commander, 4th Brigade (2/86-7/87)

1987: Director, National Intelligence Directorate (7/87-10/88)

1988: Vice Chief of Staff (11/88 to the present)

*Profile*

Col. Rubio graduated in the middle of the Tandona in 1966. He is seen as a major force in the Tandona, and is probably one of the Compadres. He has a reputation for financial honesty that has helped him in his career, and is his current position as Vice Chief of Staff he is responsible for managing the military budget.

One of the reasons he is thought to be a candidate for promotion to Vice Minister of Defense is that he would then take on an even more sensitive financial position, that of managing the military's $120 million pension fund. The fund, created in the 1980's with mandatory deductions from both soldiers and officers' salaries, has become the largest single source of investment capital in El Salvador and is relied on by officers for their future security.

Rubio's reputation on military grounds is mixed. He commanded the 4th Brigade when its El Paraíso base was overrun by FMLN forces in 1987, and 69 Salvadoran soldiers and a U.S. adviser died. However, the base is acknowledged to be difficult to defend, and a number of U.S. officials interviewed consider him competent as a commander.

*Reported human rights abuses by troops under his command*

While Rubio was Commander of the 4th Brigade in April, 1986, troops from the bri-

gade reportedly opened fire on a group of young people near a swimming hole in Chalatenango, killing two boys, 12 and 13, and a man, 21. Shortly thereafter, troops reportedly emerged from helicopters and cut off the right ear from each victim. During burial the next day, troops reportedly came to the scene and displayed the ears of the victims.[12]

While Rubio was Commander of the 4th Brigade on February 13, 1987, a 22-year old man had been badly injured by a grenade during a battle in El Común, Chalatenango, between the brigade and the FMLN was reportedly interrogated without medical treatment for four days. The man was reportedly subjected to beatings, electric shocks and injections of drugs before being taken to a hospital.[13]

While Rubio was Commander of the 4th Brigade on April 2, 1987—shortly after the main base at El Paraiso, Chalatenango, had been attacked by the FMLN—troops there reportedly tortured a 17-year old boy who was being interrogated about the attack. The boy was reportedly seized after getting off a bus in front of the base, beaten and kicked severely and tortured with electric shocks.[14]

While Rubio was Commander of the 4th Brigade on May 30, 1987, a 34-year old herdsman was killed in Las Cañas, Chalatenango. Villagers nearby heard gunfire, and Tutela Legal attributed responsibility to soldiers of the 4th Brigade. The brigade claimed that the herdsman had died from stepping on an FMLN mine, but Tutela Legal examined the body and determined that gunshots caused the death.[15]

While Rubio was Commander of the 4th Brigade on June, 13, 1987, soldiers from that Brigade and the Belloso Battalion reportedly stabbed in the throat and left for dead four unarmed men they had seized for questioning in Plan Verde, Chalatenango. The soldiers had taken the men from their homes or while walking on the road and interrogated them prior to the attempted murders. The men survived to tell of their treatment, but the Army denied any involvement. Two of the men's wives reported being raped.[16]

MINISTER OF DEFENSE: GEN. RAFAEL HUMBERTO LARIOS LÓPEZ

*Key Assignments*

1962: Student, U.S. Army School of the Americas, Communications Officers Course.

1964: Student, U.S. Army School of the Americas, Command General Staff Course.

1975: Executive Officer, battalion of the Artillery Brigade.

1980: Director of the Military Academy.

1982: Promoted to Colonel.

1983: Military Attaché to the United States (to 1985); student at U.S.-run Inter-American Defense College.

1985: Commander, Artillery Brigade (6/85-7/87).

1986: Promoted to Brigadier General.

1987: Director, National Guard (6/87-6/88).

1988: Vice Minister of Defense (7/88-5/89).

1989: Minister of Defense (6/89 to the present).

*Profile*

Gen. Larios was a compromise choice for the position of Minister of Defense, appointed after a power struggle in June, 1989, in which President Cristiani reported abandoned his preference for Air Force Commander Gen. Juan Rafael Bustillo and members of the Tandona abandoned their preferred choice of Col. Ponce. Larios is expected to step down in favor of Ponce at some point in 1990. He graduated from the Military Academy in 1961, fifth in a class of 13.

While some people interviewed refer to Larios as a "strawman," or a caretaker who is not a factor in military decisions, others say he has participated in military deliberations during his tenure, although not as actively or with as much importance as Col. Ponce.

As part of the compromise making Larios Minister of Defense, his classmate Col. Castro was given the important financial post of head of the pension fund, and Larios works closely with him in managing the fund. Traditionally, this post has gone to the Vice-Minister of Defense or Armed Forces, but with Col. Zepeda being a classmate of Chief of Staff Ponce, it was agreed that the Tandona should not be given the financial post as well.

*Reported human rights abuses by troops under his command*

While Larios was Commander of the Artillery Brigade in the fall of 1986 and the spring of 1987, a pattern of abuse of people being interrogated appeared to emerge. In at least four separate incidents seven men reportedly were taken from their homes and held at brigade headquarters in La Libertad, where they were subjected to such abuses as beatings, hanging from the ceiling, being drugged and being denied food and sleep.[17]

While Larios was Director of the National Guard, on July 8, 1987, the 36-year old leader of a cooperative affiliated with the National Union of Campesinos was reportedly taken from his house in Palacios, Cuscatlán, by five soldiers in the National Guard. The soldiers were accompanied by a man in civilian dress who had been in the town earlier in the day pointing out townspeople to the Guard for questioning. The cooperative leader was found dead the next morning with seven bullet-wounds in his face.[18]

While Larios was Director General of the National Guard, on June 11, 1988, a 23-year old man was reportedly taken from a hospital in Nueva San Salvador, La Libertad, by soldiers in the National Guard. Guard troops reportedly searched his house and told his family that if they did not turn over his weapons, he would die. The family denied that he had weapons. Three days later, the family was informed by the National Guard that he had committed suicide with a pistol that a sergeant had left on a desk. Tutela Legal, however, attributed the death to the National Guard.[19]

VICE MINISTER OF DEFENSE: COL. JUAN ORLANDO ZEPEDA

*Key Assignments*

1969: Student, U.S. Army School of the Americas, Counter-Insurgency Course.

1982: Executive Officer, 1st Brigade.

1984: Acting Director, Military Academy (1/84-3/85).

1985: Chief of Intelligence (C-2), Joint General Staff (3/85-5/88).

1986: Promoted to Colonel (12/86).

1988: Commander, 1st Brigade (6/88-5/89).

1989: Vice Minister of Defense (6/89 to the present.)

*Profile*

Col. Zepeda is regarded by many as the "ideological master of the Tandona" and some describe him as ARENA's point man in the military: in the early 1980's, Zepeda was close to ARENA founder Roberto D'Aubuisson, and he was one of the few officers to show publicly his preference for ARENA's Alfredo Cristiani during the 189 presidential campaign. He is a very powerful member of the Tandona, and almost certainly one of the Compadres. He graduated 13th out of 47 in the class.

As commander of military intelligence from 1985 to 1988, he is credited with creating a system of information-gathering in urban areas that allowed the monitoring of both suspected rebels and civilian opposition groups as the war moved into the cities.

According to many people interviewed, Zepeda has received extensive training from Taiwan in psychological operations and intelligence, although the training does not appear on the list of assignments and foreign training provided by the Government of El Salvador and the Department of Defense.

In April, 1989, Zepeda accused the University of Central America (the Jesuit-run university which housed the 6 priests killed in November, 1989) of "planning strategies of the FMLN, being a refuge and haven for terrorist leaders and being accomplices in the April 19, assassination of the Attorney General." [20] Earlier that year, he and rightist civilians authored a plan for armed private Patriotic Civil Defense units that would function as adjuncts to the armed forces in their neighborhoods. After the Salvadoran press reported Zepeda's swearing in of the first unit, former President José Napoleón Duarte compared the units to death squads, and the plan was officially dropped.[21]

When Zepeda came to the United States in December, 1989, to present his perspective on the killing of the Jesuits, he argued to U.S. Members of Congress that the FMLN could have been responsible for the murder.

Col. Ponce reportedly favored Cols. Vargas or Barrera for this position. It is unusual for Zepeda not to have the directorship of the Armed Forces' pension fund while serving as vice minister. It is reported that he will be given the position and remain as vice minister if and when Col. Ponce does become Minister of Defense.

*Reported human rights abuses by troops under his command*

While Zepeda was Commander of the 1st Brigade on June 2, 1988, a 24-year old man was reportedly taken from his home in the Apopa section of San Salvador by 25 troops of the 1st Brigade. His family appealed to soldiers at the base where the troops were stationed, and was directed to other bases. While they were going to the other bases, the man was found dead in a nearby river with gun-shot wounds in the face and neck. Another man, who had reportedly been seized and released by the same group of troops, said that he had seen the man in custody prior to his death.[22]

While Zepeda was Commander of the 1st Brigade on June 4, 1988, a 19-year old man was reportedly seized and killed by troops of the brigade outside his relative's home in Las Animas, Cuscatlán. A witness testified that the soldiers blindfolded and beat him before shooting him and taking his identification card. The soldiers had reportedly been waiting for him near the relative's house earlier in the day.[23]

While Zepeda was Commander of the 1st Brigade on August 10, 1988, two brothers, 26 and 22, were reportedly taken from their family's home in San Nicolás, San Salvador, by members of the brigade who asked for

them by name. According to court documents, the brothers were found shot to death near a river, with one's thumbs tied together with shoelaces.[24]

VICE MINISTER OF PUBLIC SECURITY: COL. INOCENTE ORLANDO MONTANO

*Key Assignments*

1981: Commander, Military Detachment 6.
1982: Executive Officer, Belloso Battalion.
1983: Commander, Arce Battalion; Director, National Police School; Executive Officer, 4th Brigade.
1984: Commander, Transmissions School and Palace Guard (CITFA).
1985: Commander, Military Engineering Brigade.
1987: Commander, 6th Brigade (7/87-6/89).
1990: Vice Minister of Public Security (6/89 to the present).

*Profile*

Montano acquired his nickname, "Sleeping Beauty," for a mysterious incident in 1967, when he was captured inside Honduras leading an Army convoy loaded with weapons, and claimed that he had gone to sleep and the convoy had taken a wrong turn and crossed the border. Many observers believe that the convoy was arming dissident Honduran officers for a coup.

Some people interviewed questioned his intellectual abilities, but he graduated third out of 47 in the Tandona. He is seen as a power in the Tandona, and perhaps as one of the *Compadres.* He has an engineering degree from the University of Central America, but five months prior to the murders of the Jesuits there in November, 1989, publicly accused the University of being a "front group" that published "lies" to discredit the Army.[25]

*Reported human rights abused by troops under his command*

While Montano was Commander of the Engineering Brigade on August 6, 1986, three brothers (42, 30 and 28) were reportedly taken from their home in San Pedro Nonualco, La Paz, by soldiers of the Engineering Brigade and taken to a military installation. The next day their bodies were reportedly found in the street with their throats cut and one's tongue cut out. According to their family, the local military commander said that the brothers has been killed as an example, because they had been accused of collaborating with the FMLN.[26]

While Montano was Commander of the 6th Brigade on July 5, 1987, soldiers from the brigade on a sweep reportedly threw a grenade into a house in Jiquilisco, Usuluán, wounding all 9 people inside. One of them, a 48-year old man, died later at a hospital, while his wife and their four children and a 30-year old woman and her two children survived their wounds. At the hospital, after the wife refused to agree to an Armed Forces' press officer's statement that the FMLN has thrown the grenade, one of the children was reportedly denied treatment.[27]

While Montano was commander of the 6th Brigade on July 6, 1987, soliders from the brigade and the Atonal Battalion (which operates in the area under the brigade's command) reportedly threatened a man during sweep in Berlin, Usulután, when he refused to sell them bread. Five days later, soliders reportedly entered his house at night and riddled him with bullets in his hammock, while simulating a firefight outside his house. The Armed Forces' press office reported that Atonal soldiers had encountered a rebel and killed him.[28]

While Montano was Commander of the 6th Brigade on January 30, 1989, soldiers from the brigade's Oromontique Battalion reportedly seized two men, 40 and 32 years old, who were members of the FENACOA agricultural cooperative in San Francisco Javier, Usultán. Later that day, residents heard explosions and gunfire nearby, although no rebels had been seen in the area. The two men's bodies were found three days later with arms and ears cut off. The Armed Forces' press office reported that the two were rebels who had been killed in a firefight with the Army.[29]

NATIONAL GUARD DIRECTOR: COL. JUAN CARLOS CARRILLO SCHLENKER

*Key Assignments*

1968: Tactical Officer, U.S. Army School of the Americas.
1980: Chief of Intelligence (S-2), General Staff of the Treasury Police (12/80-1982).
1982: Executive Officer, Military Detachment 5.
1983: Deputy Director, Treasury Police (6/83-1/84).
1984: Executive Officer, Military Detachment 1 (2/84-9/84); Commander, Atalactl Battalion (10/84-6/87).
1986: Promoted to Colonel (12/86).
1987: Commander, Military Detachment 4 (6/87-7/88).
1988: Commander, Cavalry Regiment (7/88-6/89).
1989: Director General, National Guard (6/89 to the present).

*Profile*

Carrillo is widely acknowledged to be a powerful force in the *Tandona,* and is almost certainly one of the *Compadres.* He is seen as a tough and active field commander. However, repeated allegations of abusive behavior by his troops, particularly when he commanded one of the toughest combat zones (Military Detachment 4), has reportedly become an issue in discussions between the U.S. Embassy and the *Tandona,* diminishing his chances for service after this assignment.

He was Deputy Director of the Treasury Police under Col. Nicolas Carranza, who was reportedly linked to former Maj. Roberto D'Aubuisson in death squad operations. One person interviewed recalls Carrillo himself as close to D'Aubuisson at the time. According to two others, other officers overheard him angrily upbraiding Col. Benavides after he had been arrested in the Jesuits case, to which Benavides responded: "I thought those were my orders." [30]

*Reported human rights abuses by troops under his command*

While Carrillo was Commander of the Atlacatl Battalion in March, 1985, a wounded FMLN combatant, 32, was reportedly captured by Atlacatl soldiers in Chalatenango, tortured in the field and marched on foot to the 4th Brigade barracks, although he had lost a great deal of blood and was obviously in need of medical care. He was then reportedly held in the barracks without food or water for three days, denied medicine and medical treatment, interrogated extensively and tortured with electric shocks.[31]

While Carillo was Commander of Military Detachment 4 on July 2, 1987, a large number of troops of the detachment reportedly seized a 17-year old boy at his house in San Francisco Gotera Jurisdiction, Morazán, who had deserted from the detachment seven months before. The unit reportedl killed him by shooting him in the back and dragged his body to the doorway of a local hospital. According to his sister, the unit then returned to his house to say that his body had been found at the hospital, and asked who had killed him.[32]

While Carillo was Commander of Military Detachment 4 on February 25, 1988, troops from the detachment reportedly seized a 25-year old leader of a cooperative in his home during the night and also picked up a man, 18, and a boy, 16, in Tepemechín, Morazán. According to witnesses, in the morning the troops tortured the three and forced them to run through a burning field with no shoes. The witnesses later heard gunfire and saw helicopters called in to simulate a skirmish, even though no contact had been made with rebel troops. Two of the captives were found dead with their ears, nose and thumbs cut off. The third was never found.[33]

While Carrillo was Commander of Military Detachment 4 on June 9, 1988, troops from the detachment reportedly sought a man, 40, at his house in Meanguera, Morazán, and then continued on to his workplace, and found him there. Family members who had come to find him at his workplace after the search of his house heard a burst of gunfire, followed by the detonation of a grenade. His body was found in pieces scattered throughout the area.[34]

While Carillo was Director General of the National Guard on November 16, 1989, Guard troops reportedly arrested an American English Teacher, 36, at his home in San Salvador, and beat him at National Guard headquarters. When his head began to bleed after he was reportedly slammed against a wall during interrogation, the troops claimed he had been wounded in combat. He was released the next day.[35]

NATIONAL POLICE DIRECTOR: DIONISIO ISMAEL MACHUCA

*Key Assignments*

1981: Manager, State Telephone Company.
1983: Assistant Chief of Operations (D-III), Joint General Staff.
1984: Student, U.S. Army School of the Americas, Joint Operations Course.
1988: Student, U.S.-run Inter-American Defense College (June); Director, Treasury Police (7/88-11/88); Director, National Intelligence (11/88-9/89).
1989: Director, National Police (10/89 to the present).

*Profile*

Machuca graduated second in the Tandona out of 47, behind Col. Ponce. He has a reputation for financial honesty, and the U.S. Embassy reportedly once identified him as a suitable treasurer for the military. It appears that he has had few combat assignments, although this cannot be confirmed from the listing of assignments provided by the Government of El Salvador and the Departments provided by the Government of El Salvador and the Department of Defense, since unlike other listings, it provides no information on assignments between 1984 and 1988.

While Machuca's stature in the Tandona is indicated by his presence on the Honor Board that reviewed culpability for the Jesuits case, he is not considered one of its leading members. A number of sources describe him as a deeply religious man who led a group prayer at San Salvador's military headquarters during the November, 1989, offensive.

*Reported human rights abuses by troops under his command*

While Machuca was Director of the Treasury Police, on July 12, 1988, the former head of the Social Security Workers' Union and two acquaintances walking with him reportedly were forced into his car near San Salvador by three armed men in civilian clothes. Treasury Police in civilian clothes returned to the scene a few hours later and told relatives of one of the other men that he would reappear, since they had been after the former secretary only. The other men were released along a highway that night. After the former union chief was reportedly seen alive inside Treasury Police headquarters, the union, which has a history of confrontation with security forces, staged a march on the headquarters to demand his release. He has never been seen again.[36]

While Machuca was Director of the National Police on November 8, 1989, a 23-year old student disappeared in San Salvador. On November 19, National Police reportedly took him as a prisoner to a hospital, where he was diagnosed as having severe head and stomach injuries about three days old. He died on November 25.[37]

While Machuca was Director of the National Police on November 15, 1989, uniformed soldiers of the National Police reportedly raided the San Salvador office of the Committee of Mothers of the Disappeared, Murdered and Political Prisoners, and seized and beat two U.S. citizens and seven Salvadorans. The police reportedly forced them to pose for photographs in front of an FMLN flag and forced two, including one of the Americans, to put on rebel camouflage uniforms for the photographs. The group was then taken to Treasury Police headquarters, where one of the Americans, a 41-year old woman, was reportedly beaten and sexually molested while blindfolded and handcuffed, and finally released two days later on the condition that she leave the country.[38]

TREASURY POLICE DIRECTOR: COL. CIRO LOPEZ ROQUE

*Key Assignments*

1971: Student, U.S. Army School of the Americas, Joint Operations Course.

1979: Major at National Guard Headquarters.

1980: Unit Commander, National Guard.

1981: Executive Officer, Transmissions School and Palace Guard (CITFA).

1982: Commander, 1st National Guard District.

1983: Student, U.S. Army School of the Americas, Communications Officer Course; Executive Officer, Cavalary Regiment.

1984: Commander, Transmissions School and Palace Guard (CITFA) (6/84-8/86).

1986: Commander, Military Detachment 3 (9/86-7/88).

1988: Commander, 4th Brigade (7/88-2/90).

1990: Director General, Treasury Police (2/90 to the present).

*Profile*

Lopez graduated 33rd out of 47 in the Tandona, and is not regarded as a top combat commander. Like Col. Rubio, he commanded the 4th Brigade headquarters at El Paraiso when it was badly damaged during an attack by the FMLN. Unlike most of the primary commanders from the Tandona, he had combat commands as a junior officer not in the Army but in the less-respected National Guard. However, since leaving the command of the transmissions instruction center (also a low-status position) in 1986, he has had important combat postings.

*Reported human rights abuses by troops under his command*

While Lopez was Commander of the 1st National Guard District (which covers San Salvador) on April 7, 1982, a man, 36, was reportedly captured by the National Guard in San Salvador, and hanged.[39]

While Lopez was Commander of Military Detachment 3 on May 21, 1987, soldiers from the detachment reportedly captured a man, 23, and during the next 12 days made him put on the detachment's uniform and walk in front of a combat unit on patrol. On June 2, he returned to his home, but was reportedly taken away again in the evening by soldiers from the detachment. His body was found the next day with a bullet through the neck. The Armed Forces' press office said he had been assassinated by the FMLN.[40]

While Lopez was Commander of the 4th Brigade on August 3, 1988, soldiers from the brigade in search of a fleeing guerrilla reportedly entered a house of a foreign religious worker in San Francisco Morazán, Chalatenango. According to witnesses, the soldiers began shooting at random, killing a 99-year old man and his 50-year old mentally handicapped daughter. No rebel was found in the house.

COMMANDER, AIR FORCE: GEN. RAFAEL ANTONIO VILLAMARIONA

*Key Assignments*

1963: Student, U.S. Army Counterinsurgency Course, San Salvador.

1971: Student, U.S. Air Force Base, Maxwell, Alabama (to 1972).

1977: Student, U.S.-run Inter-American Defense College (to 1978).

1979: Commanding officer, fighter squadron.

1979: Student, three-month political warfare course, Taiwan.

1983: Student, U.S. Army School of the Americas, Joint Operations Course: promoted to Colonel.

1984 Vice Commander of the Air Force (12/84-12/89).

1988 Promoted to Brigadier General (12/88).

1990 Commander of the Air Force (⅑0 to the present).

*Profile*

Gen. Villamariona is characterized by many sources as a weak player in the Salvadoran military, and certainly not on a par with his predecessor Gen. Bustillo, who ran the Air Force almost as a personal fiefdom for a decade befo' accepting the largely honorary position of military attaché to Israel and Europe. However, most sources also agree that Villamariona is seen as a "Bustillo guy" who continues to report informally to Bustillo (who has chosen to stay in El Salvador, despite his new assignment) and so enjoys the benefit of the considerable power Bustillo still wields.

Due to his rank, Villamariona was made the nominal head of the Honor Board of the Armed Forces that met in Janaury, 1990, after President Cristiani announced that military personnel were the prime suspects in the case of the Jesuits. The board's workings remain a mystery, as no documents have been provided to the judicial system explaining how it named nine officers and soldiers for charging in the case out of some 50 suspects.[42]

As Vice Commander, Villamariona was Bustillo's top operations assistant during a period of numerous allegations of bombing of civilian areas and the operation of a contra supply operation at the Air Force base, using fuel provided by U.S. military aid. He is a classmate of Minister of Defense Larios and so is much older than other commanders. In general, it takes longer to rise to top command in the Air Force than in the Army.

As it appears to be widely assumed that Villamariona will not serve long as commander, officers who have been mentioned as possible replacements for him are listed here: Commander of Comalapa Airbase Col. Galileo Conde Vásquez, Air Force School Commander Manfredo E. Koeningsberg Cubías, Vice Commander Col. Héctor Leonel Lobo Pérez and Comalapa Airbase Vice Commander Lt. Col. Martínez Varela. None of these officers are members of the Tandona; its only Air Force officer, Freddy Roberto Ascensio, died in a plane crash.

Points of interest about three of these possible replacements include: Koeningsberg directed security forces for the Air Force in the early 1980's that some allege to have been death squads, and has been the subject of allegations of drug-smuggling; when he served as Air Force attaché in Washington, Lobo reportedly assisted Oliver North with contra supply operations being run out of El Salvador's main air base and travelled with North to the region; and Varela is credited with orchestrating an Air Force "work stoppage" to protest President Cristiani's failure to appoint Gen. Bustillo Minister of Defense.

*Reported human rights abuses by troops under his command*

While Villamariona was Vice Commander of the Air Force on August 6, 1985, the village of El Ocotal, Chalatenango, was reportedly bombed by Air Force jets, and three people were killed. The Air Force eventually acknowledged that it had made a mistake, with Commander Gen. Juan Rafael Bustillo saying: "We're all human."[43]

While Villamariona was Vice Commander of the Air Force on January 22, 1987, seven civilians reportedly died in aerial bombardment of the town of San Diego, San Miguel.[44]

While Villamariona was Vice Commander of the Air Force on March 7 and 8, 1989, indiscriminate air attacks were reported in a number of communities and farms in the departments of San Miguel and Morazán. On March 8, five people were reported killed, including four children, in the Torola Jurisdiction of Morazán.[45]

While Villamariona was Vice Commander of the Air Force on April 15, 1989, Air Force soldiers reportedly captured, tortured and then killed a french nurse, an Argentinian doctor, a paramedic, a teacher and a wounded combatant at an FMLN field hospital in San Ildefonso, San Vincente. A French doctor who performed an autopsy concluded that the nurse probably had also been raped. The Armed Forces' press office included the five on a list of nine armed rebels who died in combat that day.[46]

During Villamariona's current tenure as Commander of the Air Force, five villagers (including four children) reportedly were killed and 16 wounded when a house was rocketed on February 11, 1990, in the village of Corral de Piedra, Chalatenango, after rebels retreated through the village. The Armed Forces initially barred reporters and human rights monitors from the scene and claimed in the press that rebel "catapults" had destroyed the house. After contrary ac-

counts appeared in the press, the Air Force eventually acknowledged that government aircraft had rocketed the house, but took no steps to discipline the pilot, even though the attack would appear to violate the Air Force's own guidelines.[47]

COMMANDER, 1ST BRIGADE: COL. FRANCISCO ELENA FUENTES

*Key Assignments*

1969: Student, U.S. Army School of the Americas, Unconventional Warfare School.

1983: Executive Officer, 4th Brigade; Executive Officer, 6th Brigade.

1984: Executive Officer, Cavalry Brigade.

1985: Student, U.S. Army School of the Americas (through 7/86).

1986: Chief of Psychological Operations (C-5), General Staff of the High Command (8/86-7/88).

1988: Commander, Military Detachment 3 (7/88-6/89).

1989: Commander, 1st Brigade (6/89 to the present).

*Profile*

Elena Fuentes is recognized as a top leader of the Tandona, and is almost certainly one of the Compadres. The 1st Brigade is the most important combat post in the country, because it has responsibility for the capital. No officer is likely to be given the command unless he is trusted by his fellow officers, both for political judgment and military skill. He is considered an aggressive commander with hard-line views about civilians thought to be sympathetic to the rebels, and is seen by many as a protégé of the man he replaced as commander of the 1st Brigade, Col. Zepeda.

Elena Fuentes' power in the Tandona does not mean that he will continue to be promoted automatically. Non-governmental sources report that recent abuses of human rights at the 1st Brigade, and in particular his initial attempt to deny the killings at Tres Ceibas, have become an issue with the U.S. Embassy and may preclude him from becoming Chief of Staff or a Vice Minister of Defense. However, given his reported popularity with both his troops and the Tandona, he will be difficult to deny.

*Reported human rights abuses by troops under his command*

While Elena Fuentes was Commander of the 1st Brigade in July, 1989, he reportedly provided inaccurate information on the murder by soldiers of the brigade of two men from the village of Tres Ceibas on the outskirts of San Salvador, claiming that they had died falling out of a truck. It was later confirmed that one had been beaten to death in the field and one had been beaten in brigade headquarters for over a week in which he was denied transfer to a hospital and humanitarian agencies where denied access to him despite repeated requests. A deserter from the brigade has now been charged with both killings, although he apparently did not participate in the beatings in the headquarters or the decision to hold the man past the 72-hour legal limit and deny him medical care.[48]

While Elena Fuentes was Commander of the 1st Brigade in November 1989, during the FMLN offensive in San Salvador, a 17-year-old boy who had been digging trenches for the FMLN and a health worker in a church were seized by soldiers from the brigade in separate incidents. At present, the brigade is denying it has either one, although witnesses say they either were in custody with them or visited them in custody shortly after their capture.[49]

COMMANDER, 2ND BRIGADE: COL. JOSÉ HUMBERTO GÓMEZ

*Key Assignments*

1979: Executive Officer, 5th Infantry, National Guard, San Miguel (1979-80).

1982: Promoted to Lieutenant Colonel (12/82).

1983: Sub-Director, National Guard (1983-85).

1986: Commander, Belloso Elite Battalion (2/86-6/87).

1987: Commander, 4th Brigade.

1988: Director General, National Guard (7/88-6/89).

1989: Commander, 2nd Brigade (6/89 to the present).

*Profile*

Gómez graduated 42nd out of 47 in the Tandona. His brigade assignment is in an area of limited combat. He is not seen as much of a power in the class, and has spent much of his command career in the National Guard, a force which is held in lower regard than the regular armed forces, such as brigades.

*Reported human rights abuses by troops under his command*

While Gómez was Sub-Director of the National Guard in April 1985, a doctor who the military accused of treating rebels was reportedly seized at his house by the National Guard and held for 17 days. He reported that he was stripped naked, blindfolded and interrogated without sleep throughout this period, and that he was subjected to mock executions, beatings and hanging from the ceiling by his thumbs. He was hidden from representatives of the International Committee of the Red Cross—in violation of an agreement between the ICRC and the Salvadoran Government—when they asked to examine him on two occasions during his captivity.[50]

While Gómez was Commander of the Belloso Elite Battalion on June 8, 1987, soldiers of the Belloso Battalion reportedly killed four wounded FMLN combatants in San Fernando, Chalatenango. Two FMLN health workers who witnessed the executions had been carrying the wounded to safety when the soldiers encountered them. Although the victims reportedly identified themselves as wounded and unarmed, the soldiers shot them anyway. According to the witnesses, when one soldier kicked a victim to see if he was dead and noticed that he was not, the soldier shot them all again.[51]

While Gómez was Commander of the Belloso Elite Battalion on June 13, 1987, soldiers of that battalion and the 4th Brigade reportedly stabbed in the throat and left for dead four unarmed men they had seized for questioning in Plan Verde, Chalatenango. The soldiers reportedly had taken the men from their homes or while walking on the road and interrogated them prior to the attempted murders. The men survived to tell of their treatment, but the Army denied any involvement. Two of the men's wives reported being raped.[52]

While Gómez was Commander of the 2nd Brigade in July and August, 1989, four persons connected with the Santa Ana campus of the National University disappeared, including two students a professor and a union activist. Most were reportedly held for periods of over a month by the 2nd Brigade, and reappeared in late August after an international campaign was mounted on their behalf. Two claimed that they had been tortured and threatened with death. Gómez denied responsibility for the disappearances.[53]

While Gómez was Commander of the 2nd Brigade during the FMLN Offensive in November 1989, soldiers from the brigade reportedly summarily executed at least five and possibly as many as nine people after they were captured in La Unión, Santa Ana. Witnesses reported that some of the victims were wounded or captured guerrillas, and that others were civilians who were assisting the guerrillas in non-combat roles. Investigations showed that several of the victims were shot at close range. One witness testified that she heard a corporal say, "Why should we let these people live? If we let them live, they'll be put in prison and the human rights (groups) will let them out." [54]

COMMANDER, 3RD BRIGADE: COL. MAURICIO ERNESTO VARGAS

*Key Assignments*

1970: Student, U.S. Army School of the Americas, Operations Basic Course.

1980: Assistant Chief of Psychological Operations (D-5), Joint General Staff.

1981: Commander, 1st Infantry Battalion, 2nd Brigade.

1982: Student, U.S. Army School of the Americans, Joint Operations Course.

1983: Instructor, U.S. Army School of the Americas (1983-84).

1984: Commander, Atonal Elite Battalion (7/84-9/85).

1985: Commander, Military Detachment 4 (9/85-6/87); promoted to Colonel (12/86).

1987: Chief of Operations (C-3), Joint General Staff (6/87-10/88).

1988: Commander, 3rd Brigade (11/8 to the present).

*Profile*

Vargas holds one of the most important combat commands, and has served an unusually long time in it, indicating that he is trusted as a commander by his fellow Tandodna members. Another indication of their confidence in him is that he held the key coordinating position of chief of operations (C-3) on the general staff.

There have been tensions between him and other commanders and government officials, though, because of his membership in the centrist Christian Democratic party, of which his father was a founder. Most top commanders are either identified with the ruling rightist ARENA party or with no political party.

Perhaps as a result of his affiliation, Vargas has been criticized by other officiers for being too eager to promote a settlement with the FMLN. He countered these criticisms somewhat by taking a public "Hard line'; on the issue of dialogue in 1989, and he has represented the military in the government's dialogue with the FMLN.

Vargas appears to have been the choice of Col. Ponce for the position of Vice Minister of Defense, but that post went to ARENA supporter Col. Zepeda. His current position as a brigade commander for the eastern provinces is seen by some as a "golden exile" that ARENA supports because it removes him somewhat from Tandona politics. He could be considered again for a higher position if Ponce becomes Minister of Defense.

Vargas has a reputation as a charismatic leader with good rapport with his soldiers, and as a tough commander with a hot temper. His troops in Military Detachment 3 reportedly carried out a "scorched earth" policy in Morazán in 1986, burning fields and relocating civilians in order to weaken the FMLN. He told reporters that burnings were not the Army's policy, and were in fact accidential: "There are hot, self-combustible

minerals in the earth. The fires start themselves." [55]

He also blocked shipments of food into the region during that period, permitting residents to carry in only subsistence levels. One resident told Tutela Legal: "Colonel Mauricio Vargas told us that we definitely cannot bring more than a pound of sugar because that was sufficient for a family, and that if we wanted to bring more, it is because we want it for the guerrillas." [56]

*Reported human rights abuses by troops under his command*

While Vargas was Commander of Military Detachment 4 in May, 1986, troops of the detachment's Morazan battalion reportedly captured and executed a farmer, 29, on his way home in Cacaopera, Morazan, after an accidental firefight between two of the battalion's units that each thought the other was a group of guerrillas. His body was found later with a bullet would in the back of the head and his identification card missing.[57]

While Vargas was Commander of Military Detachment 4 on December 15, 1986, a teacher, 50, was reportedly shot to death by soldiers from the detachment in San Francisco Gotera, Morazan while they were questioning him in the street. The victim was seen arguing with the soldiers just prior to the shooting.[58]

While Vargas was Commander of Military Detachment 4 in May, 1987, soldiers of the detachment's Morazan battalion reportedly shot to death a woman, 35, who had gone down to a well to bathe. According to her mother, the soldiers said they had made a "mistake" and ordered her to bury the woman immediately. The body showed several bullet wounds.[59]

While Vargas was Commander of the 3rd Brigade on September 15, 1989, an officer of an employee association was reportedly handed over to the 3rd Brigade after his capture by the Cavalry Regiment. The victim testified that during his six-day interrogation he was beaten, tortured by having a plastic hood placed over his head to induce suffocation, burned with matches and threatened with death. A death threat against the victim had been issued over the radio by the death squad "ARDE" a week earlier.[60]

COMMANDER, 4TH BRIGADE: COL. ROBERTO PINEDA GUERRA

*Key Assignments*

1967: Student, U.S. Army School of the Americas, Cadet and Basic Combat Army courses.

1982: Assigned to Military Detachment 5.

1989: Director, National Intelligence School; Executive Officer, Military Detachment 4.

1990: Commander, Military Detachment 5 (12/89–2/90).

1990: Commander, 4th Brigade (3/90 to the present).

*Profile*

Pineda is the only one of the six brigade commanders not to be a member of the Tandona, and seems to have had less command experience than the rest of the officers in primary commands. Having graduated from the Military Academy one year after the *Tandona* class, he is rumored to be one of the leaders of the group of younger colonels who have been frustrated by the *Tandona*'s control of the top positions in the military, which has stalled the rise of these younger colonels into important commands.

*Reported human rights abuses by troops under his command*

No reports were found of abuses by forces under his command.

COMMANDER, 5TH BRIGADE: COL. JOSÉ EMILIO CHÁVEZ CÁCERES

*Key Assignments*

1974: Student, U.S. Army School of the Americas, Courses in Urban Warfare, Counterinsurgency and Military Intelligence.

1980: Assigned to Department IV (logistics), National Police; assigned to Department I (Personnel), National Police.

1981: Chief of Police, National Police, Santa Ana Department.

1982: Chief of Police, National Police, San Miguel Department; promoted to lieutenant colonel (12/82).

1984: Executive Officer, 6th Brigade (2/84–8/84).

1985: Commander, Bracamonte Elite Battalion (8/84–12/85).

1986: Commander, Military Detachment 7.

1988: Commander, 5th Brigade (7/88 to the present).

*Profile*

Chávez Cáceres is a member of the *Tandona*, but is not seen as a major power in the class. Several people interviewed said that his role in what appeared to be an attempt to cover up the San Sebastián massacre had enraged the U.S. Embassy, and may have hurt his chances for new assignments. Chávez Cáceres is seen as a commander who acts harshly toward civilians suspected of sympathizing with the FMLN, and one former Salvadoran officer warned upon hearing his name: "May God guard you from him."

*Reported human rights abuses by troops under his command*

While Chávez Cáceres was Commander of the Fifth Brigade on September 21, 1988, soldiers of the Jiboa Battalion of the 5th Brigade reportedly assassinated ten civilians in San Sebastian, San Vicente. Villagers were rounded up and individuals were selected from a list and led away. According to testimony of soldiers participating in the operation, a firefight was faked to hide the cause of death. Exhumation of the bodies revealed that several had bullet holes in the head, as if they had been executed. Chávez Cáceres told the press that the ten victims died in a guerrilla ambush, and that the guerrillas returned to the scene later that night and mutilated the bodies to make them appear as if they had been shot at close range. Following intense pressure from the U.S. Embassy, the Army acknowledged that the massacre had in fact been committed by its troops, and 11 were arrested. In February 1990, the charges against all of the arrested except a major and a corporal were dropped.[61]

While Chávez Cáceres was Commander of the Fifth Brigade on June 20, 1989, troops from the brigade reportedly captured a farmer, 19, as he was walking to work in San Sebastián, San Vicente, and took him to headquarters. He testified later that during virtually his entire six-day detention he was blindfolded and handcuffed, and that he was subjected to beatings, having his head held under water to simulate drowning, having a plastic hood placed over his head to induce suffocation, and electric shocks.[62]

COMMANDER, 6TH BRIGADE: COL. HÉCTOR HERIBERTO HERNÁNDEZ MARTINEZ

*Key Assignments*

1979: Chief, Department I (Personnel), National Police.

1982: Promoted to Lieutenant Colonel (12/82).

1983: Chief of Logistics (S-4), Joint Task Force for Operations in San Vicente (6/3–11/83); graduated from the Command and General Staff Course (11/83).

1984: Assigned to Military Detachment 2, Cabañas Department.

1985: Executive Officer, 1st Brigade.

1986: Commander, Bracamonte Elite Battalion (1/86–6/87).

1987: Commander, Military Detachment 2 (6/87–10/88).

1988: Director, Treasury Police (11/88–2/90).

1990: Commander, 6th Brigade (3/90 to the present).

*Profile*

According to non-governmental sources, repeated reports of abuse at the Trasury Police while Hernández was Director, including a number involving Americans, resulted in demands by the U.S. Embassy that he be removed from active duty. His transfer to a brigade command therefore "a real disapointment to the Embassy."

Hernández graduated 36th of 47 in the Tandona, and is not seen a key player in the class. He has reportedly received Taiwanese training, as many Salvadoran officers have, but this does not appear on the list of assignments and foreign training provided by the Department of Defense.

According to a number of people interviewed, a possible example of the use of "ghost soldiers" by Hernández was revealed during the November 1989, offensive: former Col. Sigifredo Ochoa had reportedly paid the Treasury Police to prepare a unit to protect the state power facilities he was managing, but when he called for the unit during the offensive he was told that it was not available, leading to speculation that it did not actually exist.

*Reported human rights abuses by troops under his command*

While Hernández was Director of the Treasury Police in May, 1989, a woman was reportedly captured by four armed men on her way to work in San Salvador and taken to Treasury Police headquarters. According to her testimony, she was handcuffed and blindfolded for three days and hung up by her handcuffs, with her hands in back, "like a piñata," beaten, drugged and tortured with a plastic hood that induces suffocation.[63]

While Hernández was Director of the Treasury Police on August 5, 1989, a former union leader was reportedly seized by police in Planes de Renderos, just outside of San Salvador, and taken to Treasury Police headquarters. According to his testimony, during his four-day detention he was stripped naked, beaten and tortured with a plastic hood that induces suffocation. He said that the police threatened to cut his fingers off unless he confessed to their accusations.[64] Nearly identical treatment was reportedly accorded to a union official arrested on September 8 in San Salvador.[65]

While Hernández was Director of the Treasury Police on November 15 and 16, 1989, two U.S. citizens and seven Salvadorans were reportedly transferred to the Treasury Police after their arrest at the San Salvador office of the Committee of Mothers of the Disappeared, Murdered and Political Prisoners. Both Americans reported being beaten during their detention at Treasury Police headquarters, and one claimed she was sexually molested while handcuffed and blindfolded. Also, in a sepa-

rate incident in the same period, another American citizen reported being handcuffed, blindfolded and beaten while in the custody of the Treasury Police.[66]

While Hernández was Director of the Treasury Police on November 16, 1989, Treasury Police reportedly detained a French citizen and tortured him after a paraffin test came back positive, indicating contact with gunpowder. Other detainees in custody at the time claimed that they heard him screaming in response to being beaten and tortured.[67]

While Hernández was Director of the Treasury Police on November 20, 1989, seven foreigners, including one U.S. citizen, were reportedly transferred to Treasury Police headquarters after their arrest by the National Guard. They were reportedly beaten, and the American said she was hit in the head and threatened by having a knife pulled across her throat.[68]

[This report was prepared by the staff of the Arms Control and Foreign Policy Caucus. It does not seek to reflect the views of the members of the Caucus.]

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FOOTNOTES

1. The figures are taken from a promotion list of the Salvadoran military academy and from information provided by the Government of El Salvador and the Department of Defense.

2. U.S. Department of State, "Report on the Situation in El Salvador," October 1, 1988-March 31, 1990, p. 14; U.S. Army Historical Institute, "El Salvador Oral History Project," Interview of U.S. Army Capt. Emilio Gonzalez, pp. 50-55.

3. Joel Millman, "A Force Unto Itself," New York Times Magazine, December 10, 1989, and "IPSFA: Womb to Tomb," published by the Institute of Current World Affairs, December 3, 1988.

4. U.S. Army Historical Institute, "El Salvador Oral History Project," Interview of U.S. Army Capt. Emilio Gonzalez, pp. 50-55.

5. Joel Millman, "A Force Unto Itself," New York Times Magazine, December 10, 1989, and "IPSFA: Womb to Tomb," published by the Institute of Current World Affairs, December 3, 1988.

6. U.S. Department of State, "Detailed Evidence of Government Violence Against Non Guerrilla Elements," and "Unclassified Cable," November 18, 1981, acquired by the National Security Archives under the Freedom of Information Act and provided to the Caucus; Amnesty International: "Letter to Secretary of State Haig," May 6, 1981; and "El Salvador: Assessing Responsibility for Human Rights Violations," September, 1982.

7. Amnesty International: "Letter to Secretary of State Haig," May 6, 1981; Matchbox (Amnesty-USA newsletter), November, 1981.

8. Tutela Legal, "Informe No. 23," March, 1984, p. 28.

9. Americas Watch, "Nightmare Revisited, 1987-1988," September, 1988, pp. 12-14.

10. Tutela Legal, "Informe No. 72," April, 1988, p. 29.

11. Rep. Gerry Studds, "U.S. Policy Toward El Salvador: Time for a Fresh Start," Jan. 30, 1989, p. 6.

12. Tutela Legal, "Informe No. 48," April, 1986, page unnumbered (See: Deaths Attributed to the Army).

13. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, p. 80.

14. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, p. 80.

15. Tutela Legal, "Informe No. 62," June, 1987, lxxix.

16. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, pp. 39-43.

17. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, pp. 77-78, 178-179.

8. Tutela Legal, "Informe No. 63," July, 1987, p. 62, Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, p. 183.

19. Tutela Legal, "Period of June 17, to June 23, 1988," p. 18.

20. Americas Watch, "Carnage Again: Preliminary Report on Violations of the Laws of War by Both Sides in the November 1989 Offensive in El Salvador," November 24, 1989, pp. 27-28.

21. Christian Science Monitor Wire Report, by Chris Norton, June 26, 1989.

22. Tutela Legal, "Period of June 3 to June 9, 1988," p. 19.

23. Tutela Legal, "Period of June 17 to June 23, 1988," p. 18.

24. Notes from judicial files, provided by Americas Watch.

25. Americas Watch, "Carnage Again: Preliminary Report on Violations of the Laws of War by Both Sides in the November 1989 Offensive in El Salvador," November 24, 1989, p. 28.

26. Tutela Legal, "Informe No. 52," August, 1986, page unnumbered (See: Deaths Attributed to the Army).

27. Tutela Legal, "Informe No. 63," July, 1987, pp. 61-62.

28. Tutela , "Informe No. 63," July, 1987, pp. 62-63.

29. Tutela Legal, "Period of February 2 to February 9, 1989," p. 17.

30. Interviews by Caucus staff with a former Salvadoran official and a source in El Salvador who requested non-attribution.

31. Americas Watch, "The Continuing Terror," September, 1985, p. 77.

32. Tutela Legal, "Informe No. 63," July, 1987, pp. 63-64.

33. Americas Watch, "Nightmare Revisited, 1987-1988," September, 1988, pp. 12-14.

34. Tutela Legal, "Period of June 17 to June 23, 1988," p. 18.

35. Americas Watch, "Carnage Again: Preliminary Report on Violations of the Laws of War by Both Sides in the November 1989 Offensive in El Salvador," November 24, 1989, p. 35.

36. Americas Watch, "Nightmare Revisited, 1987-1988," September 1988, pp. 19-20.

37. Tutela Legal, "Period of November 24 to November 30, 1989," p. 18; Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, p. 66.

38. Americas Watch, "Carnage Again: Preliminary Report on Violations of the Laws of War by Both Sides in the November 1989 Offensive in El Salvador," November 24, 1989, pp. 35-37.

39. Tutela Legal, "Informe No. 3," July, 1982, p. 18.

40. Tutela Legal, "Informe No. 62," June, 1987, pp. 44-45.

41. Tutela Legal, "Period of August 5 to August 11, 1988," p. 20.

42. "Interim Report of the Speaker's Task Force on El Salvador," April 30, 1990, p. 40.

43. Americas Watch, "The Continuing Terror," September 1985, pp. 19-29.

44. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, pp. 48-49.

45. Tutela Legal, "Period of March 10 to March 16, 1989," p. 18; Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 59-60.

46. Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990 pp. 41-42.

47. Tutela Legal, "Period of February 9 to February 15, 1990," pp. 17-19; Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 60-66.

48. U.S. Department of State, "Country Reports on Human Rights Practices for 1989," p. 571; Washington Post, October 27, 1989, p. A-1; Tutela Legal "Period of June 30 to July 6, 1989," pp. 19-20, "Period of July 7 to July 13, 1989," p. 16; Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 66-67.

49. Americas Watch, "Carnage Again: Preliminary Report on Violations of the Laws of War by Both Sides in the November 1989 Offensive in El Salvador," November 24, 1989, pp. 72-73; Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 86-87.

50. Americas Watch, "The Continuing Terror," September 1985, pp. 101-104.

51. Tutela Legal, "Informe No. 62," June 1987; Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987 report, pp. 45-46.

52. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, pp. 39-43.

53. Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 79, 93-94; State Department Country Report on Human Rights for 1989, p. 574.

54. Americas Watch, "Update on El Salvador: The Human Rights Crisis Continues in the Wake of the FMLN Offensive," December 16, 1989, pp. 20-22; Americas Watch report, March 22, 1990, pp. 37-39.

55. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, pp. 92-95, from Edward R.F. Sheehan, "The Clean War," The New York Review of Books, June 26, 1986.

56. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, from Tutela Legal Report, December 1986, Testimony 11, p. 5.

57. Tutela Legal, "Informe No. 54," October 1986.

58. Tutela Legal, "Informe No. 56," December 1986.

59. Americas Watch, "The Civilian Toll, 1986-1987," August 30, 1987, p. 36.

60. Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 90, 159-160.

61. Lawyers Committee for Human Rights, "Underwriting Injustice," April, 1989, pp. 79-87; Americas Watch, "El Salvador: The Army Massacre at San Francisco," Special Report, September, 1989, and "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, p. 197; U.S. Department of State, "Country Reports on Human Rights Practices for 1988," p. 554, and "Country Reports on Human Rights Practices for 1989," p. 572.

62. Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 150-151.

63. Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 141-142.

64. Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 151-153.

65. Americas Watch, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," March 22, 1990, pp. 157-159.

66. Americas Watch, "Carnage Again: Preliminary Report on Violations of the Laws of War by Both Sides in the November 1989 Offensive in El Salvador," November 24, 1989, pp. 35-37.

67. Americas Watch, "Carnage Again: Preliminary Report on Violations of the Laws of War by Both Sides in the November 1989 Offensive in El Salvador," November 24, 1989, pp. 34-35.

68. Americas Watch, "Update on El Salvador: The Human Rights Crisis Continues in the Wake of the FMLN Offensive," December 16, 1989, pp. 28-29.●

## STOP TAXING AWAY THE AMERICAN DREAM

● Mr. KASTEN. Mr. President, all over the world—from Eastern Europe to Central America to the Baltic States—people are freeing themselves from the shackles of oppressive government to pursue the kind of freedom, economic opportunity and family prosperity exemplified by what we call the "American Dream."

But here in Congress, we have made it harder for American families to pursue that dream. Our Federal estate tax laws punish those who build a business that they can leave to their family and children.

When the owner of a small business dies, his heirs must raise the necessary cash to pay estate taxes. In many cases, the heirs are forced to sell the family business just to pay the State tax, which rises to a maximum of 55 percent.

Moreover, high estate taxes reduce the productivity of small business. The time, money and effort that are spent on minimizing the estate tax burden could be better spent on maximizing productivity, efficiency and competitiveness.

Family businesses are the source of America's economic growth and entrepreneurial spirit. At a time when America is locked in a life-or-death competitive struggle with foreign economic rivals, we cannot afford to handicap this essential competitive resource.

For starters, we should repeal section 2036(c)—commonly referred to as the "antiestate freeze rule." Section 2036(c) forecloses one of the few methods available to family owned businesses to minimize the deleterious impact of the estate tax.

The estate freeze rule is a method used by owners of family businesses to transfer their business to their children. Traditionally, parents were allowed to freeze the value of their interest in a business and transfer the future growth to their children. This method lessened the estate tax burden when the parent died.

In an effort to end abuses of the estate freeze, Congress enacted section 2036(c) in the 1987 reconciliation bill. But section 2036(c) is so broad that it affects an alarming number of family business transfers. As a result: The cost of transferring a family business from one generation to the next has increased dramatically; the confusion and uncertainty have caused legitimate estate plans and family transfers to grind to a halt; common family transfer methods now result in punitive taxes. In many cases, heirs are forced to sell the family business just to pay the estate taxes.

Let me cite an example given to me by the U.S. Chamber of Commerce. John Smith of Wisconsin founded a widget business in 1955. John's business is now worth $2 million. John wishes to retire and transfer operation and ownership to his kids.

If section 2036(c) had not been enacted, John could have used an estate freeze. That would have froze the value of his interest in the business and transferred the future growth to his kids.

Eight years later, John passes away with the family widget business valued at $4 million. His wife dies shortly thereafter.

With the use of an estate freeze, the tax bill would only be $320,000. Without the estate freeze, as is now the case with 2036(c), the potential tax liability is $1,300,000.

Under this scenario, John's kids have to sell the business just to pay the tax!

Hard working parents who built a family business from scratch may be denied their greatest reward—passing it on to their children. In effect, section 2036(c) makes it easier to transfer a family business to a stranger than to one's own children.

Mr. President, the events surrounding section 2036(c) are strikingly similar to the onerous section 89 nondiscrimination rules.

Like section 89, section 2036(c) is overkill. It presumes that every family business owner in America is guilty of abusing the estate freeze rules.

Like section 89, this provision was passed in the dead of night without hearings or debate.

Like section 89, the Ways and Means Committee and the Treasury Department want to reform—not repeal—section 2036(c). In my view, the Ways and Means reform plan is still complex and unworkable. Instead of saving section 2036(c), we ought to repeal it outright.

And like section 89, outright repeal of this onerous tax provision is the best solution. The perceived abuse that prompted section 2036(c) should be resolved by the courts.

I would like to put the tax-writing committees on notice. Unless this issue is resolved to the satisfaction of the small business community, I will bring this issue to a vote right here on the Senate floor.

Today, 36 Senators and 228 Members of the House have cosponsored bills to repeal 2036(c). I think we have the votes for repeal. And I look forward to working with the leaders of the repeal movement including Senators DASCHLE, SYMMS, and HEFLIN to get big government off the backs of family businesses.

Mr. President, we must stop taxing family businesses out of business. In addition to repealing section 2036(c), we ought to reduce the estate tax burden for family businesses that are passed on and continue to be operated by the next generation. In this regard, Congress should consider legislation to increase the $600,000 unified tax credit to $2 million for small business men and women who pass along their life's work to their children.

These small businesses—ranging from family farms to family restaurants—are a vital component of our Nation's economy. Family businesses are the true essence of the "American Dream." They are the source of our economy's creativity and ingenuity.

The Federal Government should provide incentives—not disincentives—for hard-working entrepreneurs who build a business that they can give to their children. So let us repeal section 2036(c) and reduce the estate tax burden on family businesses. Our economic future depends on it.

I yield the floor.●

## A RURAL MENTAL HEALTH FIELD HEARING IN MARSHALL, MN

● Mr. DURENBERGER. Mr. President, I want to take a few moments today to publicly commend the efforts of the National Advisory Mental Health Council [NAMHC] and the National Mental Health Leadership Forum [Forum] to bring national attention to the mental health crisis facing rural America. The NAMHC is a 12-member body consisting of experts in the field of health, science, and public policy. The Forum is made up of 20 national, professional, scientific, and consumer organizations representing about 1½ million members who are concerned with the major mental health issues facing this Nation. Both of these bodies are comprised of people who are leaders, experts, and innovators in the field of mental health.

In early April, these two groups sponsored a field hearing at Southwest State University in Marshall, MN. I am very pleased that these groups selected Minnesota for this hearing. The purpose of the hearing was to expose the rapidly rising incidence of mental

illness in rural America. During this conference, Forum and Council members heard testimony from four different panels on four topics. The topics covered: The indigenous qualities of rural life which contributes to mental health problems; the alarming increase in rural suicides—especially in the young; the stigma associated with mental illness and its impact on access to care in rural areas; and depression, which is frequently a result of economic uncertainty and hardship in rural areas.

Mr. President, I spent a lot of time at the Marshall hearing listening to experts, rural advocates, family members, and victims of mental illness as they described the mental health problems confronting our farm families. I learned about the steady rise in the incidence of diagnosable despression since the mid-1980's, increases in family violence, suicide, child and spouse abuse, and excessive use of alcohol and other drugs. These are critical problems, compouned by the lack of readily accessible mental health services for a large proportion of the rural population, particularly the elderly for whom long travel is difficult or impossible. As noted by Dr. Lewis Judd, Director of the National Institute of Mental Health, "the gap between capacity and need is growing." Add to that the pervasive rural attitude of fierce independence and pride—a pride which often dictates a "go-it-alone" course of action—and it is not surprising that the rate of mental health problems among farmers is so high.

These hearings were successful because they brought to light a problem that can no longer be ignored. However, we should not declare victory just because we have increased awareness of a problem for one segment of our society. The next step is for us to expand upon the treatment opportunities that currently exist as a result of past accomplishments in basic and clinical brain research. This will benefit all Americans. Mr. President, what we know about the brain today is truly remarkable, and what we can know within the next few years is even more astounding. We can actually anticipate a time when we will more fully understand the normal functioning of the human brain, and thus be able to understand, and even anticipate, its biological dysfunction. This cognate of knowledge, in turn, would offer the real hope of intervening in the disease process to prevent mental illness.

In order to realize these possibilities, we must fully implement the research and the research-based service demonstration projects described in the National Institute of Mental Health's National Plan for Research on Schizophrenia and the Brain. In addition, it is also important that we implement the NAMHC's recent report, entitled a National Plan for Research on Child and Adolescent Disorders. This report, done at the request of the House and Senate Appropriations Committees, follows on a study done by the Institute of Medicine [IOM] on the status of the research knowledge and mental health services available to children. IOM found that "No field has a greater or more pressing need * * * than child and adolescent mental health. * * * " It is alarming to me that at least 12 percent of children under the age of 18 in the United States—approximately 7.5 million—suffer from a diagnosable mental disorder. I am sure that the mental health problems which affect many farm families also have considerable impact on the children of those families—even beyond the rising rates of teenage suicide. Besides being a terrible emotional burden for these children and their families, childhood mental illness also takes a tremendous toll on our national economy. Direct expenditures for medical treatment, and the costs of special programs in public schools, family welfare services, and the juvenile court system are estimated to cost billions of dollars annually. Mr. President, a small investment in our children's mental health will return a lifetime of benefits.

In closing, NAMHC/Forum efforts provide a new and needed approach to address a problem that has been going on for too long in rural America. But we must not stop here. It is up to us in the Congress to provide support for the research, services, education, and social supports that are needed to improve mental health. The efforts of groups like the NAMHC and the Forum, taken together with our steady support for programs conducted through the National Institute of Mental Health, will surely prevent mental illness from unnecessarily impairing more lives in America's heartland.●

## STATEMENT ON THE NOMINATION OF RICHARD G. AUSTIN

● Mr. CHAFEE. Mr. President, today I rise to note the Senate's action last Friday to confirm Mr. Richard G. Austin to be Administrator of the General Services Administration [GSA].

As you know, Dick Austin has had a long and distinguished career with GSA. From 1986-88, he served as regional administrator in Chicago, IL. In 1988, Mr. Austin was appointed Deputy Administrator and has served as Acting Administrator of the General Services Administration since September 1988.

As the ranking Republican member of the Committee on Environment and Public Works, I have had several firsthand opportunities to speak with Dick Austin on Federal space issues. Whether it was dealing with the need for new headquarters space for the Environmental Protection Agency or the renovation of the historic courthouse in old San Juan, I have always found Dick Austin and his staff to be well-informed, receptive to suggestion and responsive.

Dick Austin shares my concern with regard to the Federal Government's spiralling lease costs and the need to commit Federal dollars for building construction. I am pleased that the Senate has confirmed a man with experience and foresight in the area of public buildings administration to deal with these issues.

I supported the confirmation of Mr. Richard G. Austin to be Administrator of the General Services Administration and look forward to working with him in the future.●

## VOLUNTEERISM IN EAGAN, MN

● Mr. BOSCHWITZ. Mr. President, I rise today to call attention to volunteerism in Eagan, MN, and to applaud the tireless efforts of one particular volunteer, the late Michael M. Thomas.

As a community-spirited citizen in his hometown of Eagan, Michael offered his services to advance many social causes. Setting a fine example for others, he served on the Eagan Volunteer Fire Department for 9 years. In recognition for his fine leadership qualities and sense of commitment, he achieved lieutenant status.

However, his dedication to the good people of Minnesota extended far beyond his valuable contribution of time and concern at the fire department. For example, Michael served as a member of the Eagan Advisory Park and Recreation Committee. It was there that he promoted Minnesota's own natural beauty and fostered responsible economic development—all for the enjoyment of others in his community.

Michael's fine example is precisely what President Bush often refers to as "1,000 Points of Light." It is giving individuals like Michael who embody in themselves and thereby instill in others the purest spirit of volunteerism in America today.

Leaving his wife, seven children and three grandchildren, Michael's efforts and dedication will not be forgotten. In fact, his legacy will grow and beautify the environment for the citizens of Eagan, MN. This week, a tree will be planted in memory of this great volunteer at the fire station where he gave so much of his time and energy. Appropriately, Michael's fine example of dedication, concern, and commitment will live forever.●

## EMPLOYER-ASSISTED HOUSING

● Mr. LAUTENBERG. Mr. President, this country is facing a housing crisis of severe proportions. Too few Americans can afford a home of their own, too many people must live in substandard conditions, and far too many are completely homeless.

It is time to make housing a priority again. That means providing resources to develop affordable housing and reversing the terrible funding reductions that housing programs have suffered over the past decade. But it also means looking for new and innovative approaches to addressing the housing problem.

One particularly promising approach is employer-assisted housing. Congress already recognized the potential of this approach when we amended the Taft-Hartley Act to allow creation of housing trust funds. Yet there is much more that can be done to encourage employers and employees to work together to meet housing needs.

A leading advocate of employer-assisted housing is a good friend of mine, Assemblyman David Schwartz of New Jersey. Assemblyman Schwartz—known to many in New Jersey as "Mr. Housing"—has devoted his considerable talent and energy to promoting this concept, and his efforts already are paying off. Increasingly, employers and workers are finding that it is in their common interests—and the community's interest generally—to develop employer-assisted housing plans.

Assemblyman Schwartz has convinced me that we need to do more to help businesses and workers develop such plans. That's why I am working with Senator CRANSTON in an effort to include in omnibus housing legislation a provision that would authorize HUD to provide technical assistance to employers and workers who seek to establish employer-assisted housing programs. I think such assistance could prove a cost-effective way for the Federal Government to help meet housing needs.

Mr. President, a recent article by Neal Peirce in the National Journal provides a good overview of the employer-assisted housing concept. I ask unanimous consent that it be printed in the RECORD so that my colleagues can become familiar with this exciting new approach to housing.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Journal, May 19, 1990]

STATE OF THE STATES: A CRUSADE FOR EMPLOYER-AIDED HOUSING

(By Neal R. Peirce)

New Jersey Assemblyman David Schwartz describes himself as "possessed" with an idea he believes may revolutionize housing in America: Why not let employers offer housing as a fringe benefit, just health insurance or pensions?

Employer-assisted housing is in fact a revolution that has made it past its first barricades, Schwartz contends. More than 300 U.S. companies already provide housing benefits for their workers. And with a bill President Bush signed last month, 43 years of Taft-Hartley Labor Management Relations Act prohibitions have been lifted, allowing unions to bargain for housing benefits. Housing could become one of the hottest labor negotiation issues of the 1990s.

The breakthroughs so far show employers helping workers get over the down-payment hurdle that excludes millions from home ownership. Employers are also helping subsidize rents so that their workers aren't forced into 70-mile commutes to put a decent roof over their heads. And some are giving an assist to community development corporations to build affordable housing near work sites.

Does this mean a return to the old "company town" setup, where cheap shanties were grouped around a belching factory? Where mill hands or miners were coerced into running up debts at the company store?

"Not at all," replied Schwartz, who is director of the American Affordable Housing Institute at Rutgers University. In today's employer-backed housing programs, employers don't control workers' lives or try to impose a life-style. The housing financial transactions are at "arm's length," and employers own almost none of the housing.

What today's employer-aided housing adds up to, Schwartz argues, is a "win-win" strategy for everyone: businesses, workers, communities and local taxpayers.

Business gets happier, more-productive employers. When workers gain access to quality housing closer to work, some side effects of long-range commuting—lateness, absenteeism and sheer exhaustion—ease off. If workers settle in quality housing near the factory or office, civic blight may be counteracted and the company's own real estate values may rise.

"For workers," Schwartz said, "it's the ticket to the American middle class, the American dream—often home ownership much sooner in their lives than they'd otherwise be able to afford—if ever."

For the community, workers living closer to their office or factory means fewer traffic jams, reduced pollution, ultimately less gobbling up of green spaces and farmlands. Helping workers with housing costs can also be good for local economic development. Already, sky-high housing costs in a number of metropolitan areas are being blamed for slowdowns in business growth because firms can't attract the workers they need. In more than a few cases, companies are packing up and moving elsewhere.

For taxpayers, there's potential gain when moderate-income housing needs are met without government subsidies. The plus for taxpayers was a key reason Bush and congressional conservatives leaped for a change in the 1947 Taft-Hartley law that they otherwise might have scorned as excessively pro-labor. Liberals went for the idea of broadened housing availability and the notion of allowing workers, through unions, to bargain for quality housing. The bill was introduced by two unlikely but increasingly common bedfellows—Sens. Orrin G. Hatch, R-Utah, and Edward M. Kennedy, D-Mass. It passed the Senate, 99–0.

Unions and companies will now be allowed to set up trust funds to help workers buy homes or rent apartments. Schwartz says his phone has been ringing off the hook with calls from labor unions asking for contract language.

A hint of what is on the horizon in this area lies in an agreement between nine Boston hotels and a restaurant-hotel workers union, Local 26. The union's 3,000 members make an average of $16,000 a year in a city where the median home price is $175,000. The hotels will pay 5 cents per-hour-per-worker to a housing trust fund that will also contain $12 million in union pension money.

"Even though the majority of the union members of Local 26 hold down more than one job, 78 per cent cannot afford to buy an apartment in metropolitan Boston, and 98 per cent cannot afford to buy a house," Rep. Edward J. Markey, D-mass., whose district is in suburban Boston, said on the floor of the House.

Around the country, variants of employer financial aid for housing are being tried. Big companies such as Colgate-Palmolive Co. arrange for volume discounts on mortgages for their employees or help their workers with closing costs. The University of Pennsylvania guarantees its employees' mortgages, and so banks charge no down payment. Some companies provide security deposits for cash-short tenants or loans for remodeling. Others even subsidizes construction of housing in neighborhoods near their work sites.

How do workers feel about it? Schwartz's institute interviewed a cross-section of 1,200 Americans age 18–44 who don't yet own a home. Six of 10 said they could afford monthly mortgage payments—but couldn't raise a down payment. Two-thirds said they'd pledge to stay with their employer at least five years in exchange for a forgivable down-payment loan. And 63 per cent said they might be willing to give up promised annual wage increases in exchange for employers' guaranteeing the mortgages on their homes.

The details of financial aid programs remain complex and potentially controversial. Some may require more congressional action to alter employee benefit law. Many employers, already hit by hyperinflated medical bills driving up their cost of doing business, are apprehensive about any new demand on their resources.

But a powerful new idea has sprung into employer-worker relations—the idea that housing can be as much a right for lower-income workers as for the top executives whose more substantial housing costs have received corporate subsidies for generations.●

## COMMITTEE REFERRAL OF NOMINATION

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that if the nomination of Richard Hankinson to be Inspector General at the Department of Justice is reported by the Committee on the Judiciary it be referred to the Committee on Governmental Affairs for not to exceed 20 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR STAR PRINT—S. 2637

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 2637, the Lead Exposure Reduction Act of

1990, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR STAR PRINT—S. 2605

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 2605, the Pharmaceutical Access and Prudent Purchasing Act of 1990, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, on May 10, 1990, I introduced S. 2605, the Pharmaceutical Access and Prudent Purchasing Act of 1990. Unfortunately, it has come to my attention that there were some technical drafting errors. I believe that these errors should be corrected before the bill is printed. To accomplish this, I ask unanimous consent that Senate legislative counsel's redraft of this bill, which reflects and incorporates the necessary technical changes, be substituted as a star print.

Mr. President, this will enable the many interested parties, including States, advocates of the medically indigent, pharmacists, physicians, and drug manufacturers, to have timely access to this technically corrected bill version.

## DIRECTING SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution to direct the Senate legal counsel to appear as amicus curiae in the name of the Senate in a case pending in the U.S. District Court for the Eastern District of Washington, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 289) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in United States ex rel. Rudd, et al. v. General Contractors, Inc. et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. MITCHELL. Mr. President, last year the Senate agreed to Senate Resolutions 104, 117, and 160, authorizing the Senate legal counsel to file briefs as amicus curiae in several actions pending in the U.S. district courts in order to defend the constitutionality of the qui tam provisions of the False Claims Act. These provisions authorize private persons to bring civil actions against contractors who have defrauded the Government and to share a portion of the penalties and damages that are recovered on the Government's behalf.

The district courts in the northern and central districts of California have since entered rulings in several of these cases upholding the constitutionality of the act.

The qui tam provisions of the False Claims Act are once again under challenge in United States ex rel. Rudd, et al. versus General Contractors, Inc. et al., pending in the U.S. District Court for the Eastern District of Washington. The Department of Justice has advised the Senate legal counsel that it has no plans to file a brief in response to the challenge to the constitutionality of the qui tam provisions of the act that is presented in this case.

This resolution authorizes the Senate legal counsel to appear in this case as amicus curiae on behalf of the Senate to continue the constitutionality of the qui tam provisions of the False Claims Act.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 289) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 289

Whereas, in the case United States ex rel. Rudd, et al. v. General Contractors, Inc., et al., Nos. C-89-397-RJM and C-89-821-RJM, pending in the United States District Court for the Eastern District of Washington, the constitutionality of the qui tam provisions of the False Claims Act, as amended by the False Claims Amendment Act of 1986, Pub. L. No. 99-562, 100 Stat. 3153 (1986), 31 U.S.C. 3729, et seq. (1988), have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 2881(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in the case of United States ex rel. Rudd, et al. v. General Contractors, Inc., et al. to defend the constitutionality of the qui tam provisions of the False Claims Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

## ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised that the distinguished Senator from Washington, Senator GORTON, wishes to address the Senate. I know of no other Senators who wish to address the Senate at this time.

Mr. President, I ask unanimous consent that Senator GORTON be recognized to address the Senate, and that, upon the completion of his remarks, the Senate stand in recess under the order until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. The Senator has that right. The Senate will be in morning business and will continue in morning business until the conclusion of the Senator's remarks, at which time the Senate will recess.

## TENTH ANNIVERSARY OF THE ERUPTION OF MOUNT ST. HELENS

Mr. GORTON. Mr. President, last Friday, May 18, 1990, marked the 10th anniversary of the devastating eruption of Mount St. Helens in Washington State. The eruption was so devastating that it caused $3 billion in property damage, took 57 lives, hurled 540 million tons of ash into the sky, and forced 20 billion gallons of flood water off the mountain in the first day alone.

A decade later, Washingtonians celebrate the engineering achievements undertaken to combat the catastrophic damages caused by the eruption.

This past weekend, the U.S. Army Corps of Engineers dedicated a sediment retention structure on the north fork of the Toutle River. This project was by far the Corps of Engineer's most expensive project associated with Mount St. Helens. The structure not only keeps waterways open, but, should the mountain erupt again, will protect any residents in the path of destruction.

The damage has not been limited to rivers and property alone. Nearly 5 billion board feet of timber was lost due to the eruption. This is approximately 25 percent more than the historic annual harvest level on all national forest land in Washington and Oregon combined.

Much of this land has now been replanted. The Weyerhaeuser Co., and the U.S. Forest Service have planted

more than 27 million trees in the past 10 years, many of which are now more than 20 feet tall. In fact, by reason of special planting techniques developed there, trees grow remarkably fast in the soil and ash.

The eruption also gave us the opportunity to research volcanic phenomenia. The geological and ecological research associated with Mount St. Helens has deepened our knowledge, and provided useful understanding of similar notable occurrences at other locations.

Mr. President, as we celebrate the accomplishments of the last 10 years, we must also remember the tragedies associated with this disaster. I wish to commend not only the U.S. Army Corps of Engineers for its achievements over the last 10 years, but also the communities and residents that were so deeply affected by this disaster. Their dedication to rebuilding and their dedication—not at all, incidental—to making not just a research site but a tourist attraction out of this unique phenomenon, have shown how responsive and how flexible we are both here in this Government but most particularly in communities affected by disasters like this one.

## ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.; MORNING BUSINESS; RESUMPTION OF CONSIDERATION OF S. 1970; RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate complete its business today it stand in recess until 9:30 a.m., tomorrow, Tuesday, May 22; that following the time for the two leaders there be a period for morning business until 11 a.m., with the first hour of that morning business under the control of Senator GORE, that is the hour from 9:30 a.m. until 10:30 a.m., and then with a period for morning business between 10:30 a.m. and 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that at 11 a.m. the Senate resume consideration of S. 1970.

I further ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. tomorrow in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Pursuant to the previous order the Senate will stand in recess until tomorrow, Tuesday, May 22, at 9:30 a.m.

Thereupon, the Senate, at 5:45 p.m.; recessed until Tuesday, May 22, 1990, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Secretary of the Senate after the recess of the Senate on May 18, 1990, under authority of the order of the Senate of January 3, 1989:

DEPARTMENT OF STATE

HARRY W. SHLAUDEMAN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

EUGENE L. SCASSA, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE.

THE JUDICIARY

CAROL BAGLEY AMON, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE MARK A. COSTANTINO, RETIRED.

# HOUSE OF REPRESENTATIVES—*Monday, May 21, 1990*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. WHITTEN].

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*May 18, 1990.*

I hereby designate the Honorable JAMIE L. WHITTEN to act as Speaker pro tempore on Monday, May 21, 1990.

THOMAS S. FOLEY,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O gracious God, to use our words in ways that reflect what we believe and not as idle chatter designed to use people for our own benefit. May our words of praise and thanksgiving to You, O God, be those of adoration and honor, and as we communicate with each other, may we express faithfulness and respect. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from California [Mr. HERGER] will please come forward and lead the House in the Pledge of Allegiance.

Mr. HERGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 311. Concurrent resolution providing for printing of additional copies of the booklet entitled "Our Flag."

The message also announced that the Senate had passed bills, joint resolutions and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1128. An act for the relief of Richard Saunders;

S. 1738. An act to convey certain Oregon and California Railroad Grant Lands in Josephine County, OR, to the Rouge Community College District, and for other purposes;

S. 1791. An act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes;

S. 2240. An act to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes;

S.J. Res. 240. Joint resolution designating the week of June 10, 1990, through June 16, 1990, as Multiple-Use Sustained-Yield Week";

S.J. Res. 315. Joint resolution for the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day"; and

S. Con. Res. 133. Concurrent resolution providing for the use of the Capitol rotunda.

## TRADE BRIDGE WITH JAPAN MUST BE TWO WAY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TRAFICANT. Mr. Speaker, the controversial Japanese politician Shintaro Isihara, who wrote the book "The Japan That Can Say 'No'" was in America yesterday speaking to a group of workers in Michigan. He said in the past that Americans were lazy and in fact we were racist, and that was our major problem.

He now has labeled us again. He said, "America is one big giant cry baby."

There was something interesting yesterday though, because Isihara had admitted some truthful facts about Japan. He admitted that Japan has closed markets. In fact, he said Japanese consumers pay six times more for rice than any other country in the world.

He also admitted he would love to own a Motorola cellular telephone, but Motorola, an American company, is prevented from doing business in Japan.

But he said we can work it out. He said America needs with Japan a new marriage, but this time Japan must be the wife, not the mistress.

I say, Mr. Speaker, it is time for a shotgun wedding if Japan does not open up those markets. Our people are losing their jobs, losing their homes, and Japanese politicians are admitting they are practicing illegal trade in closing their markets.

Congress ought to be ashamed of themselves. It is time to tell the Japanese we need a new two-lane bridge, and we are not going to pay for the bridge this time, and we sure as hell are not going to have a toll road either.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
*May 18, 1990.*

Hon. THOMAS S. FOLEY,
*The Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 9:25 a.m. on Friday, May 18, 1990, the following message from the Secretary of the Senate: That the Senate passed without amendment House Concurrent Resolution 286.

With great respect, I am,
Sincerely yours,

DONNALD K. ANDERSON,
*Clerk, House of Representatives.*

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Rollcall votes, if postponed, will be taken on Tuesday, May 22, 1990.

## PETROGLYPH NATIONAL MONUMENT ESTABLISHMENT ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 286) to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

S. 286

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I—PETROGLYPH NATIONAL MONUMENT

SEC. 101. (a) This title may be cited as the "Petroglyph National Monument Establishment Act of 1990".

(b) The Congress finds that—

(1) the nationally significant Las Imagines National Archeological District on Albuquerque's West Mesa Escarpment contains more than 15,000 documented prehistoric and historic petroglyphs;

(2) this district also contains approximately 65 other archeological sites;

(3) the West Mesa Escarpment and the petroglyphs are threatened by urbanization and vandalism, and hundreds of petroglyphs have already been destroyed;

(4) the State of New Mexico has shown great leadership in recognizing the importance of the archeological resources of the West Mesa Escarpment through the establishment of the Las Imagines National Archeological District;

(5) the city of Albuquerque has played a significant role in the preservation of the natural, cultural, and recreational resources of the West Mesa Escarpment;

(6) the Middle Rio Grande Pueblo Tribes have shown a strong and sincere interest in preservation of their heritage through protection of the West Mesa Escarpment;

(7) the Atrisco Land Grant, Inc., now held by Westland Development Co., Inc., a corporation whose stock is owned primarily by heirs of the Atrisco Land Grant, has played a significant role in the settlement of the West Mesa area since the grant's formation in 1692 and has shown a strong interest in the preservation of their traditional lands;

(8) the National Park System has no unit established for the specific purpose of protecting, preserving, and interpreting prehistoric and historic rock art; and

(9) in light of the national significance of the West Mesa Escarpment and the petroglyphs and the urgent need to protect the cultural and natural resources of the area from urbanization and vandalism, it is appropriate that a national monument be established in the West Mesa Escarpment area, near Albuquerque, New Mexico.

SEC. 102. (a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in New Mexico containing the nationally significant West Mesa Escarpment, the Las Imagines National Archeological District, a portion of the Atrisco Land Grant, and other significant natural and cultural resources, to provide for the interpretation of such resources, and to facilitate research activities associated with the resources, there is hereby established, subject to subsection (d), the Petroglyph National Monument (hereinafter referred to as the "monument") as a unit of the National Park System. The monument shall consist of approximately 7,274 acres including the Atrisco, Boca Negra, and Piedras Mercadas Units as depicted on the map entitled "Boundary Map, Petroglyph National Monument", numbered NM-PETR-80,010B and dated May 1990, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, and Natural Resources of the State of New Mexico, and in the office of the mayor of the city of Albuquerque, New Mexico.

(b) The monument shall be administered by the Secretary or, where appropriate, by the Secretary in cooperation with the State of New Mexico (hereinafter referred to as the "State") and the city of Albuquerque, New Mexico (hereinafter referred to as the "city"), in accordance with section 104 of this title.

(c) Within 6 months after the enactment of this title, the Secretary shall file a legal description of the monument with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, and Natural Resources of the State of New Mexico, in the office of the mayor of the city of Albuquerque, New Mexico, and in the monument office: *Provided,* That the Secretary may from time to time, after completion of the plan referred to in section 105(a) of this title, make minor adjustments to the boundary by publication of a revised map or other boundary description in the Federal Register.

(d) The monument shall be established only when the city, the State, and the Secretary have entered into a binding agreement that all lands within the boundaries of the monument shall be managed in accordance with section 104 of this title.

SEC. 103. (a)(1) Within the boundary of the monument, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that lands or interests therein owned by the State or a political subdivision thereof may be acquired only by donation or exchange.

(2) The Secretary may also acquire some or all of the approximately 95 acres within the area identified as "Potential Addition" on the map referenced in section 102(a), if, after consultation with the Commission established under section 108, the Secretary determines that such acquisition would further the purposes of this Act.

(3) The authority of the Secretary to make acquisitions pursuant to paragraph (2) shall expire on the date three years after the date of enactment of this Act.

(4) Any lands acquired pursuant to paragraph (2) shall be incorporated into Petroglyph National Monument and shall be managed accordingly.

(b) Where the surface and subsurface estates of private land to be acquired are separately owned, the Secretary shall acquire the subsurface estate to such land prior to or at the same time the surface estate is acquired: *Provided,* That this subsection shall not be applicable if the Secretary determines that the prior acquisition of the surface estate is necessary—

(1) to prevent damage to the resources of the monument; or

(2) to properly manage and interpret the monument in accordance with section 102.

(c) The Secretary may exchange lands within the area described on the map referred to in section 102 as the Piedras Marcadas Unit for lands owned by the city within the area described on the map referred to in section 102 as the Atrisco Unit. The Secretary may exchange lands within the area described on the map referred to in section 102 as the Boca Negra Unit for lands owned by the State within the area described on the map referred to in section 102 as the Atrisco Unit. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged.

(d) Prior to acquiring fee simple ownership of private lands or interests therein within the boundaries of the monument, the Secretary is authorized to acquire an appropriate interest in such land by donation or for a nominal fee from its owners for the purpose of providing immediate protection against trespass and vandalism and initiating any resource inventories necessary to carry out the purposes of this title.

SEC. 104. (a) Pending establishment of the monument and thereafter, the Secretary shall administer lands and interests therein under his jurisdiction within the boundary of the monument. The Secretary shall administer, manage, and protect the monument in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and this title, and in such manner as to preserve, for the benefit and enjoyment of present and future generations, its cultural and natural resources, and to provide for interpretation of and research on such resources.

(b) Units of the monument to be managed by the State and the city shall be managed and developed in accordance with management and operational plans prepared cooperatively with the National Park Service, consistent with section 106 of this title. Visitor use and interpretive programs within the State and city units shall be undertaken consistent with plans developed with the assistance of the National Park Service.

(c) The Secretary is authorized to enter into cooperative agreements with either the State or the city under which the Secretary may manage and interpret any lands owned by the State or the city, respectively, within the boundaries of the monument.

(d) In order to encourage a unified and cost effective interpretive program of the natural and culutral resouces of the West Mesa Escarpment and its environs, the Secretary is authorized to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of these resources. Such agreements shall include, but need not be limited to, provision for the Secretary to develop and operate interpretive facilities and programs on lands and interests in lands outside the boundaries of the monument, with the agreement of the owner or administrator thereof. Such cooperative agreements may also provide for financial and technical assistance for the planning and implementation of interpretive programs and minimal development related to those programs.

(e) Federal laws generally applicable to units of the National Park System, including the National Environmental Policy Act of 1969 and the Archeological Resources Protection Act of 1979, shall apply to the monument. The Secretary is authorized to pursue concurrent jurisdiction of the monument for the purposes of law enforcement and implementation of Federal regulations.

SEC. 105. (a) The Secretary may participate in land use and transportation management planning conducted by appropriate local authorities for lands adjacent to the

monument and may provide technical assistance to such authorities and affected landowners for such planning.

(b) Nothing in this title shall be construed as authorizing or requiring revocations for any interest or easement for existing electric transmission or distribution facilities or prohibiting the operation of maintenance of such facilities within or adjacent to the boundaries of the monument.

SEC. 106. (a) Within 3 years from the date funding is made available for the purposes of this section, the Secretary, in cooperation with the city and the State, shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a general management plan for the monument consistent with the purposes of this title, including but not limited to—

(1) a statement of the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

(2) a resource protection program;

(3) a general interpretive program;

(4) a plan to implement the joint resolution entitled "American Indian Religious Freedom", approved August 11, 1978 (42 U.S.C. 1996);

(5) a general development plan for the monument, including proposals for a visitors' center, and the estimated cost thereof; and

(6) a development for the Rock Art Research Center.

(b) The management plan shall be prepared in consultation with the Petroglyph National Monument Advisory Commission, established pursuant to section 107, appropriate Indian tribes and their civil officials, the heirs of the Atrisco Land Grant, the New Mexico State Historical Preservation Office, and other interested parties.

(c) The Secretary shall undertake, in consultation and cooperation with appropriate New Mexico Indian tribes and their civil officials, research and other Rio Grande style rock art sites in New Mexico on Federal lands, and through cooperative agreements with State and willing private land owners, on non-Federal lands. The Secretary shall provide the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, within 3 years of the date funding is made available for the purposes of this section, a report that—

(1) lists various locations of Rio Grande style rock art;

(2) identifies the ownership of the rock art;

(3) identifies the condition of the resources; and

(4) identifies the appropriate type of technical assistance needed for the protection and care of these resources.

The report shall be updated and transmitted to such committees every 2 years thereafter.

SEC. 107. (a) In order to provide for research relating to Rio Grande style rock art, undertake comprehensive evaluations of pertroglyphs within the national monument, prepare interpretive programs that are sensitive to the concerns of the Indian and Hispanic peoples, and relate monument resources to other styles and forms of rock art, the Secretary, acting through the National Park Service and in cooperation with the University of New Mexico, other educational institutions, foundations, Indian tribes, and private entities, shall establish a Rock Art Research Center (hereinafter referred to as the "Center").

(b) The Center shall function as a focal point for the systematic and scholarly collection, analysis, and dissemination of information relating to Rio Grande style rock art, and other forms of rock art within the region.

(c) The Center shall produce research data and educational materials that will enhance public understanding of prehistoric and historic rock art.

(d) The Center shall provide for a broad program of research including ethnographic studies, resource management techniques, and comparative studies of rock art forms and styles.

(e) Research shall be primarily directed toward rock art managed by the National Park Service. The Secretary may enter into cooperative agreements with other agencies and entities as may be appropriate to carry out the requirements of the Rock Art Research Center.

(f) The Secretary, acting through the National Park Service, is authorized to undertake research and assist in management and protection of Rio Grande style rock art sites on public and, with the agreement of the landowner, private lands within the Galisteo Basin. The Secretary is authorized to enter into cooperative agreements with landowners of such rock art sites and expend appropriated funds for research, site protection, and interpretive programs. Research shall include the identification and mapping of rock art sites and the development of protection options.

SEC. 108. (a) There is established the Petroglyph National Monument Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of 11 members appointed by the Secretary for terms of 5 years as follows:

(1) one member, who shall have professional expertise in history or archaeology, appointed from recommendations submitted by the Governor of the State of New Mexico;

(2) one member, who shall have professional expertise in history or archaeology, appointed from recommendations submitted by the mayor of the city of Albuquerque, New Mexico;

(3) one member, who shall have professional expertise in Indian history or ceremonial activities, appointed from recommendations submitted by the All Indian Pueblo Council;

(4) one member who shall be a shareholder of the Westland Development Co., Inc.;

(5) one member who shall be an heir of the Atrisco Land Grant;

(6) one member who shall be an affected landowner;

(7) one member who shall have professional expertise in Indian rock art;

(8) one member who shall have professional expertise in cultural anthropology;

(9) one member who shall have professional expertise in geology;

(10) one member from the general public; and

(11) the Director of the National Park Service, or his or her designee, ex officio.

(b) Any member of the Commission may serve after the expiration of his term until his successor is appointed. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Six members of the Commission shall constitute a quorum.

Consistent with the public meeting requirements of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall, from time to time, meet with persons concerned with Indian history and historic preservation and with other interested persons.

(f) The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this title. Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) The Commission shall advise the Secretary on the management and development of the monument and on the preparation of the plan referred to in section 105(a) of this title. The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the monument.

(h) The Commission shall cease to exist 10 years after the date of its first meeting.

SEC. 109. There are authorized to be appropriated such sums as may be necessary for the purposes of this title. The Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, concurrently with the proposed budget for the second fiscal year beginning after the date of enactment of this title, and every five years thereafter, a report on the status of the agreement referred to in section 102(d), its associated costs, and any proposed alterations to the agreement.

## TITLE II—PECOS NATIONAL HISTORICAL PARK

SEC. 201. The purpose of this title is—

(1) to recognize the multitheme history, including the cultural interaction among diverse groups of people, of the Pecos area and its "gateway" role between the Great Plains and the Rio Grande Valley, and

(2) to provide for the preservation and interpretation of the cultural and natural resources of the Forked Lightning Ranch by establishing the Pecos National Historical Park.

SEC. 202. (a) In order to enhance and preserve the existing Pecos National Monument and related nationally significant resources for the benefit and enjoyment of present and future generations, there is hereby established the Pecos National Historical Park (hereinafter in this title referred to as the "park").

(b) The park shall include the existing Pecos National Monument and the area known as the Forked Lightning Ranch which surrounds the Pecos National Monument and shall consist of approximately 5,865 acres of the lands and interests in lands as generally depicted on the map entitled "Boundary Map—"Pecos National His-

torical Park Boundary Concept", numbered 430/80028 and dated March 1990. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") may from time to time make minor revisions in the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following).

(c) The Act entitled "An Act to authorize the establishment of Pecos National Monument in the State of New Mexico, and for other purposes" approved June 28, 1965 (79 Stat. 195), is hereby repealed, and any funds available for purposes of the Pecos National Monument shall be available for purposes of the park.

SEC. 203. The Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange; *provided, however,* that the Secretary may not acquire lands within the Forked Lightning Ranch as depicted on the map from the owner of record of such lands as of May 1, 1990 without the consent of such owner unless the Secretary determines that the lands are being used, or that there is an imminent threat that the lands will be used, for any purpose that is incompatible with the purposes of this Act.

SEC. 204. The Secretary shall administer the park in accordance with the provisions of this title and the provisions of law generally applicable to the administration of units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

SEC. 205. Within 3 full fiscal years from the date funding is made available for the purposes of preparing a general management plan, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a general management plan for the park consistent with the purposes of this title, including (but not limited to)—

(1) a general visitor use and interpretive program that fully considers the prehistoric and historic aspects of the national historical park including the "gateway theme" and early Spanish settlement of New Mexico;

(2) a statement on the number of visitors and types of public uses within the park which can be reasonably accommodated in accordance with the protection of its resources; and

(3) a general development plan for the park, including the estimated cost thereof.

SEC. 206. The Secretary, acting through the National Park Service, shall undertake a study of the Rowe Ruin, Arrowhead Pueblo, Hobson-Dressler Ruin, and Las Ruedas site for the suitability and feasibility of their inclusion in the park. The Secretary shall submit the study to the Congress within one year after the date of enactment of this title.

SEC. 207. There is authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE III—ZUNI-CIBOLA NATIONAL HISTORICAL PARK AND JUAN DE ONATE MEMORIAL

SEC. 301. The first sentence of section 202 of Public Law 100-225 (16 U.S.C. 460uu-12) is amended by deleting "and Zuni-Cibola National Historical Park" and inserting "Zuni-Cibola National Historical Park, and petroglyph National Monument".

SEC. 302. The Zuni-Cibola National Historical Park Establishment Act of 1988 (16 U.S.C. 410pp et seq.) is amended—

(1) in section 2(c)—

(A) by striking "24 months" and inserting "6 years"; and

(B) by striking "24 months" and inserting "6-years"; and

(2) in section 3(a) by striking "18 months" and inserting "5½ years".

SEC. 303. (a) The tracts of land described in subsection (b) shall be treated as public land for the purposes of the Act of June 14, 1926 (43 U.S.C. 869 et seq.; commonly known as the "Recreation and Public Purposes Act").

(b) The land referred to in paragraph (1) is approximately 5 acres of the Sebastian Martin Land Grant near Los Luceros, New Mexico, as generally depicted on the map entitled "Onate Memorial Map" and dated July 1989.

The SPEAKER pro tempore. Is a second demanded?

Mr. SCHIFF. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have the opportunity to preserve and make accessible to the American people two sites of prehistoric and historic significance. S. 286 combines House Resolution 4235, introduced by our colleague, BILL RICHARDSON, that establishes Pecos National Historical Park with House Resolution 745, introduced by our colleague STEVE SCHIFF and S. 286, which recently passed the Senate, that establishes Petroglyph National Monument. Both Pecos and Petroglyphs are threatened by development that would destroy their irreplaceable and nationally significant resources. In addition, authority for some of the State funding for acquisition at Petroglyph ceases on June 30 of this year, making timely action crucial.

These areas preserve evidence of centuries of human occupation and activity. At Petroglyph National Monument, some 15,000 rock art carvings have been cut into the boulders strewn around the escarpment. These carvings provide impressive evidence of a past culture, and are silent witnesses to that culture's ideas and beliefs.

At Pecos National Historical Park, located on the gateway between the Great Plains and the Rio Grande Valley, centuries of human activity have left resources both prehistoric and historic. On this route of trade and travel passed prehistoric Indians, Spanish soldiers and missionaries, Santa Fe traders and the American Army. Rock shelters, pithouses, kivas, Spanish homesteads, Santa Fe trail ruts and Kozlowski's ranch which served as the headquarters for Union troops during the Civil War show the diverse human activities here.

Mr. Speaker, the committee adopted an amendment which made various changes to the legislation as introduced. At Petroglyphs it adds a rock art research center and other authority to research rock art, and directs that the Federal, State, and city land be consistently managed to National Park Service standards through joint agreements. It gives authority for the addition of two parcels of land to improve visitor access and the ability of the National Park Service to manage the resources, and deletes a reverter clause that was not in the House bill as introduced.

The Pecos language remains essentially as it was introduced. The Secretary is now directed to study four areas for potential addition whose importance witnesses stressed at the hearing. Given her generosity through the years, the ranch now owned by Mrs. Greer Garson Fogelson is to be acquired on a willing seller basis unless there is an imminent threat that the lands are being used, or will be used, for any purpose that is incompatible with the purposes of this act. The substitute also makes two minor technical amendments. It provides for a 5 acre land transfer from the Bureau of Land Management in order to establish a monument to the early Spanish explorer Juan de Onate. This provision has already passed the House once. It also extends the deadline for the establishment of the Zuni-Cibola National Historical Park from 2 years to 6 years.

Mr. Speaker, I endorse this legislation and urge its passage. These lands preserve special parts of our heritage and will make them accessible to the American people.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am a supporter of the legislation now contained in H.R. 745. However, as the principal sponsor of the Petroglyph National Monument portion of that bill, I would like to take a couple of minutes to speak more particularly about that particular portion of the legislation.

The petroglyphs are rock art drawings. They are created by the scraping in an artistic fashion of the dark outer side of certain rocks to expose the white underside, and thereby produce images. These images are produced of religious and other drawings. There are approximately 15,000 such rock art images located in the Albuquerque,

NM, area on approximately 7,000 acres which would be protected under the Petroglyph National Monument. These rock art drawings are between 700 and 1,300 years old. Most of them were drawn by native Americans. However, some of them were made by early Spanish settlers.

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They constitute the largest collection of ancient rock art in the United States and share a home with 65 other archaeological sites, some up to 12,000 years old. This is one of the largest sites of such a collection in the United States which has not been appreciably damaged by vandals, and which is largely intact today.

Mr. Speaker, the petroglyphys, however, are threatened unless Congress takes urgent action. They are threatened by increasing vandalism in the area. They are threatened by theft. The petroglyphs have developed a certain value on the market, and on smaller stones which can be moved we believe that some have been stolen and are being sold on the market. Most significantly, Mr. Speaker, they are threatened by development. The area of 7,000 acres I have described is right in the path of the growth of the city of Albuquerque, which is a growing city in the Sun Belt of the United States. On the site literally houses are built now right up against where the petroglyphs exist.

Mr. Speaker, there has been a total cooperative effort to bring this to the House floor and to pass it obviously in the other body of the United States. It is supported by both sides of the aisle.

I want to thank the gentleman from Minnesota [Mr. VENTO], chairman of the subcommittee, and the gentleman from California [Mr. LAGOMARSINO], the ranking Republican on the subcommittee for their support, as well as my two colleagues from New Mexico, Mr. JOE SKEEN and Mr. BILL RICHARDSON, who have both supported it in their respective committees and subcommittees.

Petroglyph National Monument is supported by local groups. It is supported by general community groups in the Albuquerque area and supported by native American and Hispanic groups. In addition, one of our citizens, Ike Eastvold, set aside all of his personal matters to devote full time to supporting the creation of this national monument and forming an organization called Friends of Albuquerque Petroglyphs which has been instrumental in trying to bring this bill to the floor. In addition, national preservation organizations have supported the establishment of this national monument.

Finally, Mr. Speaker, this bill, if enacted by the Congress and signed into law, presents certain unique opportunities. The first is a unique sharing of responsibilities and costs by the Federal Government with the State government and with local governments. The State of New Mexico and the city of Albuquerque intend to pay a signficant share of the cost of acquisition of the land upon which the petroglyphs are now located. In addition, the State of New Mexico and the city of Albuquerque have offered a continuing role by paying for a portion of the management of the national monument under the direction of the Secretary of the Interior.

Finally, Mr. Speaker, we have another unique opportunity. The petroglyphs are not cave drawings made many thousands of years ago by people who are now long lost to history. The descendants of the Native Americans who drew most of the petroglyphs are alive and living in the Albuquerque and New Mexico areas today. The descendants of the Spanish explorers who drew some of the petroglyphs, and equally significantly upon whose land as part of an original spanish land grant, the Atrisco land grant of the 17th century where many of the petroglyphs are now located, are also living today and can be identified, and identify themselves in the Albuquerque and New Mexico area. The fact that we have the opportunity not only to preserve a historical treasure, but to work with the identified descendants of the people who created this treasure is remarkable.

If the Petroglyph National Monument becomes law, I recommend that the Park Service work very closely with all of the descendants in every step of the development of the national monument, from the development of a plan to permiting the continuation of ceremonies which exist to this day, to educating and teaching visitors to the national monument about the history of these groups.

Mr. Speaker, the House Interior and Insular Affairs Committee passed this bill unanimously. I hope the House will do likewise.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, there have been a number of individuals who have worked very hard in bringing this legislation to the floor today. Of course, one was the sponsor of the petroglyph bill, the gentleman from New Mexico, Congressman SCHIFF, who has just spoken, and I want to commend him for his work. But I think he had a very strong ally in the petroglyphs bill in Congressman BILL RICHARDSON who serves on the subcommittee and has been interested in this issue for some time, and in addition to that hosted myself and staff members and other committee members at a visit to the petroglyphs as well as to the Pecos National Monument which is expanded in this same bill. These are two unique areas, one an established monument today which we are converting into a park, and the other establishment of a new park.

Mr. Speaker, it would be hard to find the adjectives to adequately describe the archaeological and historic value of this 17-mile-long escarpment with literally tens of thousands of rock art inscriptions on it, an outstanding resource, one that literally is under threat by subdivision and other types of activities today. But today we are in the process of trying to protect these important resources in the Southwest. The Secretary of the Interior has personally, of course being a native of Albuquerque, stated his interest.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON], who is, in my mind, the principal architect of this bill that we have before us today. It touches a number of proposals that have made the Rock Art Institute and the other technical changes that are made to it, and of course the Pecos and his work on the petroglyphs along with many others.

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman for yielding time to me, and thank him and his staff for their excellent support for this legislation, and their hard work in pursuit of the objectives of this legislation. I also thank my colleague, STEVE SCHIFF from New Mexico, a freshman Member, and congratulate him on the passage of what I think may be his first bill, but nonetheless, one that is very important to his congressional district and to the State of New Mexico.

I think what we are doing here is rolling a number of important environmental initiatives into one. First, the petroglyphs. I think the gentleman from Minnesota [Mr. VENTO], chairman of the subcommittee, and the gentleman from New Mexico [Mr. SCHIFF], mentioned the importance of this legislation with magnificent samples of Rio Grande style of rock art practiced between the 14th and the 17th century. These are threatened by vandalism, shooting, theft, and construction activities, external threats across the board.

Funding from the State of New Mexico once again is contingent upon what the Congress and the President do by June 30 of this year. So there is a dramatic urgency to getting this legislation passed. In fact, if the monument is not designated by June 30, 1990, $300,000 in State funds will be lost, and the balance of the funding will expire in June 1992.

Once again, the legislation authorizes the acquisition of approximately 7,370 acres, including the Atrisco, Boca Negra, and Piedras Mercadas units. It includes an amendment I proposed to create a rock art research center that

would increase our knowledge of prehistoric Indian cultures, broaden our understanding and appreciation of the Spanish rock art and attendant culture, and provide data for public education and interpretation of the petroglyphs.

Also included is an amendment I offered during full committee in consultation with the minority that would authorize the Park Service to study and acquire an additional 95 acres for the Petroglyph National Monument if the Secretary of the Interior determines that such acquisition would further the purposes of the act.

It is important that Congress act quickly on this legislation before all chances to preserve these wonderful artifacts are lost.

In addition to this legislation, we rolled in several other bills that are important to the State of New Mexico. Secondarily in importance is the Pecos National Monument, strategically situated on top of a small mesa where ancient Spanish and Indian ruins lie. This too is also threatened by development.

□ 1220

Adjacent to the monument is the Forked Lightning ranch owned by actress Greer Garson Fogelson. The ranch is currently for sale on the open market and has attracted quite a bit of attention. Earlier this year developers proposed to purchase the ranch and establish a resort city entitled "Santa Fe East 2001." The resort would include an airstrip, a resort hotel, residential housing, a multnational shopping center, an athletic center, a convention center, a private hunting preserve.

This is something that the townspeople of Pecos rebelled against, Mr. Speaker.

Although Mrs. Fogelson has decided against selling to these developers, the ranch remains on the open market. Any development would pose a serious threat to the historic scene of the existing Pecos National Monument. In addition, many archeological sites, Santa Fe Trail remnants, and areas associated with the Spanish settlement and the Civil War on the Forked Lightning lands would also be lost.

The legislation we are considering today would authorize the acquisition of approxmately 5,500 acres of the Forked Lightning Ranch so that they may be preserved for future generations. In full committee markup I offered an amendment that would authorize the Secretary of Interior to acquire these lands only with the consent of the owner, unless the Secretary determines that the lands are being used, or there is an imminent threat that the lands will be used, for purposes that are incompatible with the purposes of this act. In respect of the fine stewardship provided by Mrs. Greer Garson Fogelson, I believe it is only proper that the lands be acquired with her prior consent. It is extremely important that we act on this legislation quickly before these pristine lands are lost forever.

Mr. Speaker, some may be wondering if we are talking about the same Greer Garson that is a famous actress, an Oscar star of—well, I will not give the time that she was a star, but let us say in this century. She is an outstanding woman, and this is the same movie star.

Mr. Speaker, The bill also includes language to establish the Don Juan Onate Monument and amends the Zuni-Cibola National Historical Park Act of 1988.

The Onate provision simply removes a technical obstacle to the consideration by the Secretary of a transfer, under the Recreation and Public Purposes Act, of the surface estate on 5 acres of BLM land to Rio Arriba County in New Mexico, Rio Arriba County, which is largely Hispanic, wishes to erect a monument to a Spanish explorer, Don Juan Onate, on BLM land near the site where Onate's expedition established the first European settlement in what is now the United States.

With respect to the Zuni-Cibola National Historical Park Establishment Act of 1988, the amendment would simply extend the time in which the Secretary must accept a leasehold interest in the land. In accordance with the act, the Zuni Tribe must make an offering, and the Secretary of the Interior must accept a leasehold interest in the land in order to establish the park. The act terminates if the Secretary does not accept a leasehold within 2 years of establishment of the act.

The 2-year deadline is rapidly approaching and many issues remain to be resolved before an agreement can be reached.

Mr. Speaker, this House historically approved the first Indian national park cooperative venture in the last session of the Congress.

Finally, I am supportive of committee report language with respect to the Petroglyphs that recognizes the historic connection between this land and the Pueblo people as well as between this land and the heirs to the Atrisco land grant. The establishment of the monument will ensure that this land is protected and accessible to both these groups and the American public. Further, the committee encourages the National Park Service in its dealing with the Pueblo people and with the Atrisco heirs to ensure their appropriate access to this monument, under the American Indian Religous Freedom Act and the first amendment of the U.S. Constitution.

This legislation has bipartisan support and I urge a favorable vote today.

I especially want to commend the gentleman from California [Mr. LAGOMARSINO] for his not just foresightedness but for his spirit of compromise and commitment to national park issues, to conservation, to the environment, his ability to forge compromises out of differences.

I think it is clear that early on this legislation, the merging of the two bills caused some concerns among members of the minorities. Well, that is no longer the case except that what we have developed is a compromise which I believe is acceptable to all sides. But I do not think that this compromise on this effort and these landmark bills for the State of New Mexico and the country would have been achieved without the gentleman from California [Mr. LAGOMARSINO] and the gentleman from Minnesota [Mr. VENTO].

Finally, Mr. Speaker, to the Members of the other body, the New Mexico sponsors of this legislation, enormous credit must go to them.

I once again urge this House strongly support this legislation, give it an overwhelmingly unanimous vote and recognize what we are doing here is not just New Mexico legislation but national legislation that preserves the culture of the native Americans and the Spanish people, preserves land that brings tourism, protects from unwanted development and, most importantly, insures that the future generations will have an opportunity to see what many of our forefathers created in the 14th and 17th centuries.

The proposed Petroglyph National Monument lies just west of Albuquerque encompassing a 17-mile long basalt escarpment and five volcanic cones.

An estimated 15,000 to 17,000 petroglyphs lie in this location representing at least 12,000 years of human history.

The petroglyphs date between 1300 and 1650 AD—some nearly 3,000 years old.

BACKGROUND ON PETROGLYPH LEGISLATION

S. 286 would: First, authorize land acquisition of 7,274 acres including the Atrisco, Boca Negra, and Piedras Mercadas Units; second, authorize necessary appropriations—estimated cost of $58 million; third, direct the Secretary to administer the monument in accordance with all laws applicable to the National Park Service; fourth, authorize the Secretary to enter into cooperative agreements with either the State of New Mexico or the city to manage and interpret any lands owned by the State or the city within the boundaries of the Monument; fifth, allow the Secretary to acquire a less than fee interest in lands to provide immediate protection for the petroglyphs; sixth, calls for the preparation of a general management plan; seventh, directs the Secretary to under-

take research and prepare a report on other Rio Grande style rock art sites in New Mexico; and eighth, establish an advisory commission.

Pecos is located on the major gateway between the Great Plains and the Rio Grande Valley, and on the Santa Fe Trail. Prehistoric Native Americans, Spanish Missionaries and colonizers, Santa Fe traders, and the U.S. Army all used this route.

The Forked Lightning Ranch adjacent to the existing Pecos National Monument is for sale on the open market. A developer proposed to purchase the ranch in order to develop a major resort city—Santa Fe East 2001—including an airstrip, golf courses, shopping centers, and residential housing.

Any development would pose a serious threat to the monument's historic scene and destroy archeological sites, Santa Fe Trail remnants and areas associated with the Spanish settlement and the Mexican and Civil Wars.

WHAT THE PECOS BILL DOES

First, the bill would establish the Pecos National Historical Park authorizing acquisition of 5,865 acres; second, authorizes necessary appropriations—estimated at $5.5 million; third, provides for park's administration; and fourth, directs the Secretary to prepare a general management plan.

JOHN L. ROACH, INC.,
ATTORNEYS AT LAW,
*Dallas, TX, April 23, 1990.*

Hon. BRUCE F. VENTO,
*Chairman, National Parks and Public Lands Subcommittee, Washington, DC.*

DEAR CHAIRMAN VENTO: We are counsel for Greer Garson Fogelson. Mrs. Fogelson has been ill for an extended period and has left the city for recuperation. We have discussed with her the fact that there is pending legislation the ultimate result of which will be the extension of the Pecos National Monument, in San Miguel County, New Mexico, to include her Forked Lightning Ranch as a part of such facilities, as well as the expansion of the interpretive mission of the facilities.

As you know, Mr. and Mrs. Fogelson have supported such Monument for many years and have made various significant contributions in connection therewith. Mrs. Fogelson certainly does not object to the proposed legislation and has expressed to me her feeling that the expansion of the Monument to include her ranch would be a permanent dedication thereof to a matter in which she and her late husband have been interested for many years.

Very truly yours,

JOHN L. ROACH.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stated a moment ago but I am happy to reemphasize that this was a bipartisan effort and my colleague, the gentleman from New Mexico [Mr. RICHARDSON], has been with me in every step in the way in supporting this bill. I thank him for that and want to state that I support the portion of this bill that Congressman RICHARDSON drafted.

I also thank Chairman VENTO for his support of this bill as he has supported so many other preservation acts in the U.S. Congress.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO], the ranking member of the subcommittee.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of S. 286, an act to establish Petroglyphs National Monument and for other purposes. My colleague from Minnesota has described the measures included in this bill and I would like to simply highlight a few features of the important Petroglyphs National Monument legislation before us today.

Mr. Speaker, this is a piece of legislation which is significant in many ways. The 15,000 to 17,000 petroglyphs chiseled into the hard volcanic rock are clearly a nationally significant resource. Similar in importance is the cooperative partnerships which have been built around this legislation; not only in the form of strong bipartisan support from the entire New Mexico delegation, but also the partnership among the local, State and Federal governments which will all be participating in the preservation and management of this resource. I would like to commend my colleague, Mr. SCHIFF, primary author of the House bill for the leadership role he has shown in building these partnerships, and also to Mr. RICHARDSON and Mr. SKEEN for their valuable contributions.

Finally, the total estimated cost for acquisition of this 7,300-acre park, $90 million, is significant. However, this cost is offset by the financial contribution of $30 million which has been pledged by the city and State governments. Mr. Speaker, it is this level of commitment on behalf of these other levels of government which makes this project feasible and I commend them for their participation. This type of cooperation will be increasingly important to the future success of our National Park System.

Mr. Speaker, the time to act on this measure is now. The Petroglyphs are being daily threatened by urban encroachment and I am grateful to the subcommittee chairman for moving this bill rapidly through the committee. It is also notable that establishment of this new monument will provide for important new recreation opportunities in the Albuquerque urban area. Providing increased opportunities for urban recreation is a high priority of the administration and an area of great need for the American people.

For these reasons, I urge my colleagues to join me in supporting this bill.

Mr. SCHIFF. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WHITTEN). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 286, as amended.

The question was taken.

□ 1230

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. WHITTEN). Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 286 of the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

## REGARDING BURMESE ELECTIONS

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 324) concerning human rights, democracy, and illicit narcotics production and trafficking in Burma, as amended.

The Clerk read as follows:

H. CON. RES. 324

*Resolved by the House of Representatives (the Senate concurring),*

SECTION 1. FINDINGS.

(a) HUMAN RIGHTS AND DEMOCRACY IN BURMA.—The Congress finds that—

(1) the people of Burma continue to be ruled by an unelected military government that does not govern by the consent of the people;

(2) the Burmese Government has violently suppressed prodemocracy demonstrations, killing or imprisoning thousands of demonstrators and forcing others to flee for their lives;

(3) the Government of Burma has pledged to hold free and fair elections in Burma on May 27, 1990;

(4) despite this commitment—

(A) thousands of persons connected with the prodemocracy movement remain imprisoned, and the government continues to arrest opposition figures engaged in peaceful political activities;

(B) independent human rights monitors report that the Burmese authorities have continued to engage in abuses against civil-

ians that include rape, torture, extrajudicial execution, and forced porterage;

(C) prominent civilian leaders who might represent a significant electoral challenge to the military regime's monopoly of power have been imprisoned or placed under house arrest and prevented from standing for election; and

(D) the State Law and Order Restoration Council has announced a severely restrictive set of national election campaign restrictions that provide the authorities with nearly unlimited discretion to restrict free and open debate on political issues;

(5) despite these obstacles to a free and fair election, the presence of impartial international observers both prior to and during the elections in Burma would signal the international community's strong interest in democracy in Burma, and might encourage fairness and help ensure that accurate judgments are made about the integrity of the electoral process; and

(6) economic and military cooperation between the Government of Burma and other foreign governments, including arms sales and cooperation with Burmese troops operating in border areas, has strengthened the position of the military regime, and has helped enable it to restrict the process of political reform and continue its abuses of human rights and humanitarian law.

(b) ILLICIT NARCOTICS PRODUCTION AND TRAFFICKING IN BURMA.—The Congress also finds that—

(1) Burma is the largest producer and exporter of illicit opium in the world, with narcotics production nearly doubling since the current military regime came to power in September 1988;

(2) increases in narcotics production since September 1988 have been facilitated by a lack of enforcement and eradication efforts by the Burmese Government, and a policy of accommodation with the main narcotics producing and trafficking organizations in Burma;

(3) this accommodation with drug traffickers has helped enable the Government of Burma to direct military energies and resources against opposition groups challenging the government, resulting in a wide range of human rights abuses;

(4) almost all United States-supported antinarcotics efforts in Burma were suspended in September 1988;

(5) a recent report by the United States General Accounting Office determined that the results of the United States-supported antinarcotics program in Burma prior to September 1988 had been seriously deficient;

(6) this report found that the current political situation in Burma precludes a resumption of United States antinarcotics programs;

(7) the administration does not fully concur with the conclusions of the General Accounting Office report; and

(8) a resumption of United States antinarcotics assistance at this time might be interpreted as a slackening of the United States Government's opposition to the repressive nature of the current Burmese regime and the widespread abuse of human rights carried out by that regime.

SEC. 2. POLICY STATEMENTS.

(a) ELECTIONS IN BURMA.—The Congress calls upon the Government of Burma to establish the conditions necessary to ensure free and fair elections by taking actions to—

(1) release all persons imprisoned or otherwise restricted for the peaceful expression of their views;

(2) permit all Burmese citizens committed to peaceful participation in the political process the opportunity to contest the elections;

(3) lift electoral campaign restrictions that provide the authorities with nearly unlimited power to limit free and open debate on political and economic issues;

(4) end the involvement of the State Law and Order Restoration Council in the formulation and administrration of electoral regulations, and establish for that purpose an impartial election commission that has independent authority to establish and administer election rules; and

(5) permit access to Burma for international election observers, including those associated with intergovernmental as well as nongovernmental organizations concerned about human rights and political reform.

(b) RESPECT FOR BASIC HUMAN RIGHTS IN BURMA.—The Congress calls upon the Government of Burma to demonstrate a commitment to basic human rights by taking action to—

(1) abandon martial law restrictions on the right to a fair trial and provide all persons charged with crimes with access to lawyers and family members, adequate time to prepare defenses, and the opportunity to have cases heard by impartial tribunals; and

(2) end the practices of rape, torture, extrajudicial executions, and forced porterage of civilians, and order thorough investigations of reports of abuses and pursue prosecutions against those believed to be responsible.

(c) ACTIONS BY THE INTERNATIONAL COMMUNITY.—The Congress—

(1) calls upon the international community to withhold foreign assistance from the Government of Burma and to end all military cooperation with the Burmese Government, including arms sales and cooperation with Burmese troops operating in border areas; and

(2) calls upon the President—

(A) to undertake efforts to discourage other countries from providing foreign assistance to Burma and engaging in military cooperation with the Burmese Government, and

(B) to encourage international observation of the election process.

(d) DRUG TRAFFICKING IN BURMA; UNITED STATES ANTINARCOTICS ASSISTANCE.—The Congress—

(1) denounces the practice of accommodation with drug traffickers followed by the current Government of Burma;

(2) calls upon the Government of Burma to end its tolerance of the production and trafficking of illicit narcotics and to take vigorous actions to implement effective antinarcotics programs;

(3) take note of and welcomes Administration statements that it has no present intention of resuming narcotics control assistance in Burma;

(4) declares its unwillingness to support narcotics control measures in Burma—

(A) which, giving particular weight to the views and attitudes of the Burmese people, could indicate a lessening of United States support for democratic evolution and improvement of human rights in Burma; or

(B) which are not appropriately monitored and do not effectively reduce the production and trafficking of illicit narcotics in Burma; and

(5) urges the President to—

(A) pressure the Burmese Government to cease its practice of accommodation with drug traffickers and to pursue more vigorous antinarcotics policies;

(B) focus international scrutiny on Burma's reprehensible antinarcotics record; and

(C) encourage the Burmese Government to adhere to all international antinarcotics agreements and to cooperate with relevant international agencies.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, almost 2 years ago, in an action which foreshadowed the subsequent brutality which we all witnessed in Tiananmen Square in China, the military regime in Burma, in a desperate effort to remain in power, unleashed its own armed forces against the Burmese people. As a result thousands were killed, others were imprisoned, and the genie of democracy was stuffed back into the bottle of repression.

Since that time, the military government in Burma has responded to the democratic aspirations of the Burmese people with repression rather than with reconciliation. Over the course of the last year and a half, the systematic violation of the human rights of the Burmese people continues apace. Tens of thousands have been forcibly relocated from their neighborhoods and villages into the countryside. Thousands have been forced to engage in porterage in areas of the country where the government continues to wage war against its ethnic minorities. Torture is widespread. Rape is commonplace. The people of Burma who deeply and desperately desire to be freed, undoubtedly greatly resent the oppression which has fallen on them.

This resolution, Mr. Speaker, takes note of the continuing abuse of human rights in Burma, and calls upon the Burmese authorities to finally begin to respect the fundamental human rights of their own people. In an effort to make themselves look better in the international community, the Burmese Government has agreed to permit, next Sunday, the first multiparty elections in the last 30 years in that country. Unfortunately, the elections are a fraud, in the process of becoming a farce. Most of the key opposition leaders are either in jail or are under house arrest. All sorts of restrictions have been imposed on the ability of the candidates to campaign. The

government, unlike the Sandinista regime in Nicaragua, unlike the South African administration in Namibia has been utterly unwilling to permit international observers to enter the country in order to monitor these elections. I was myself denied a visa a few days ago when the government spokesmen said that they did not want any person in Burma like myself who in effect was not prepared to issue paeans of praise to the wise and benevolent leadership of the current regime.

This resolution calls upon the Government of Burma, if it is going to have an election, to make it a real election, to make it a genuine election, to make it a fair election. It calls upon the Government of Burma to release opposition leaders who have been unable to campaign so they can participate in the last week of this electoral contest in the political process. It calls upon the Government of Burma to permit international observers into the country. It also calls upon other foreign governments to cease their military cooperation with Burma, and to end whatever foreign aid program they may have in the country. There is no justification whatsoever for government efforts on the part of other nations to prop up a totally discredited and corrupt dictatorship in Burma.

Finally, Mr. Speaker, this resolution also addresses the narcotics problem in that country. Burma is the largest producer and exporter of illicit opium in the world. To make matters worse, the government there engages in a matter of accommodation with the drug traffickers in their own country. The resolution welcomes recent statements by the administration that it has no present intention of resuming narcotics control assistance in Burma. The resolution indicates that the Congress would not be prepared at this time to support any expansion of our narcotics program in Burma, particularly given the extent to which that could very easily be interpreted by the Burmese people as an indication that we were somehow or other by virtue of such activity, legitimizing what is, in effect, an illegitimate government. Also, given the degree of cooperation between the government and the narcotics producers, there is absolutely no reason to hope or believe that any increased cooperation between our two governments could, in fact, lead to a solution of the problem.

As some of our colleagues may know, the GAO recently submitted a report raising very serious questions about the efficacy of any narcotics control program in Burma, given the problems we have had in implementing these programs in the past, and the degree to which the government seems to benefit from the narcotics trade in the country.

Mr. Speaker, in conclusion I want to urge my colleagues to support this resolution. I think we will shortly find out from my dear friend on the other side of the aisle, that distinguished apostle of bipartisanship and statesman, the gentleman from Michigan [Mr. BROOMFIELD], the ranking minority member of the committee, that this resolution enjoys strong bipartisan support. We have accommodated some of the concerns of the minority. I am told the administration has no opposition to the adoption of the resolution. In conclusion, Mr. Speaker, that whatever impact this resolution may or may not have on the Government of Burma, and I am rapidly losing faith in anything to influence the Government of Burma, I do think it will be warmly received by the people of Burma who will learn about it not from the government-controlled media, but from the Voice of America and other foreign broadcasting services which are able to penetrate the bamboo curtain in Burma, and which are heard by the Burmese people. They will learn, once again, that they have not been forgotten, and that the cause of democracy which burns so brightly in their hearts, has been seen and responded to by the world's greatest parliamentary body, the Congress of the United States.

□ 1240

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to compliment the gentleman in the chair. I do not know if many people realize that we have in the chair today the dean of the entire House of Repersentatives, the gentleman from Mississippi [Mr. WHITTEN], who has served more than 50 years. JAMIE, it is good to see you up there.

The SPEAKER pro tempore (Mr. WHITTEN). I thank the gentleman for those kind statements.

Mr. BROOMFIELD. Mr. Speaker, I want to join my good friend, the gentleman from New York [Mr. SOLARZ], who is the chairman of the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs. The gentleman from New York is one of the most distinguished Members of this House and is one of the most knowledgeable people that I know on the subject of foreign affairs. I am happy to join him in support of this particular concurrent resolution, because it is a bipartisan effort supported by the chairman of the Committee on Foreign Affairs and also by the gentleman from Pennsylvania [Mr. YATRON], the chairman of the Subcommittee on Human Rights and International Organizations of the Committee on Foreign Affairs. In fact, most of the members of the Committee on Foreign Affairs have expressed their strong support of the legislation which the gentleman from New York has explained.

Mr. Speaker, I just want to make a few observations along the lines of those made by the gentleman from New York [Mr. SOLARZ].

Mr. Speaker, Burma, which once had been considered the richest country in Southeast Asia is now considered one of the poorest in the world. While the Burmese people are suffering violations of their basic human rights, the military regime in control will be conducting elections on May 27 that are neither free nor fair and make a mockery of the electoral process.

To make things worse, the Government is cooperating with drug producers and traffickers that have made Burma the world's leading producer and exporter of illicit opium. We have the military regime in Burma to thank for this. Since they came to power in September 1988, narcotics production has nearly doubled in Burma.

House Concurrent Resolution 324 clearly expresses the concerns of the Congress regarding the dismal picture in Burma. It calls on Burma to hold elections that are free and fair, and urges the international community to support such elections. Further, it calls for Burma to respect the internationally recognized human rights of its people.

In the area of narcotics trafficking, it calls on Burma to end its tolerance of the production and trafficking of illicit narcotics and to implement effective antinarcotics programs. The resolution also declares the unwillingness of Congress to support antinarcotics control measures that could indicate a lessening of United States support for democratic evolution and improvement of human rights in Burma.

These are important signals on where our country stands as Burma approaches its elections. There is still a chance for the Burmese Government to do things right and allow democracy to flourish. I urge my colleagues to approve this resolution.

Mr. RICHARDSON. Mr. Speaker, I am heartened to see that a resolution condemning human rights abuses in Burma is sharing time on the floor today with a similar resolution regarding China. In many ways the human rights abuses in Burma have been as serious, perhaps more serious, than the ones in the People's Republic of China. Unfortunately, human rights abuses by the military regime in Rangoon have not undergone the scrutiny and public attention that is deserved.

Last week, the human rights caucus held a hearing chaired by my colleague from Illinois, JOHN PORTER, which focused needed attention on human rights abuses in Burma.

During this hearing Deputy Assistant Secretary of State for Human Rights Paula Dobriansky testified to the tremendous abuses being perpetrated by Generals Ne Win, Saw Maung, and their cronies.

Ordinary civilians are pressed into duty as porters by the military. These porters are

unpaid, poorly fed, and, once too weak to carry on, are left to die.

There are substantiated reports of porters being used to sweep minefields.

The Burmese student activist movement, crushed by the military's massacre in Rangoon in September of 1988, remains in hiding along the Burma-Thai border. This body approved one-quarter million dollars last year for food and medicine for the student camps. As the situation continues to deteriorate, these students will require both moral and substantiive support from the United States.

And amidst this atmosphere, the military regime in Rangoon is attempting to convince the world that Burma is about to undergo free and fair elections on May 27. Mr. Speaker, these elections will neither be free nor fair.

Suu Kyi, the dynamic leader of Burma's strongest opposition party, the National League for Democracy, has been under house arrest since July 1989. Tin Oo, the National League for Democracy's chairman, has been sentenced to 3 years hard labor. Hundreds, if not thousands, of opposition activists have met the same fate.

And in an effort to finance their regime, the Burmese generals have sold off their nations teak forests and fishing harvests to foreign companies and nation's willing to pay top dollar for wood and fish, regardless of the disastrous impact on the Burmese people.

Mr. YATRON. Mr. Speaker, I thank my colleague from New York, Mr. SOLARZ, for introducing this important legislation. I also want to commend the chairman of the Foreign Affairs Committee, Mr. FASCELL, and the ranking minority member, Mr. BROOMFIELD, for their leadership on this and other human rights issues. Mr. BEREUTER and Mr. LEACH should also be commended for their continued efforts to promote human rights.

The Burmese military government is one of the most corrupt and oppressive in Asia. The resolution before us today puts the Congress on record as deploring the sham elections scheduled for May 27 and the imprisonment of thousands of people associated with the democracy movement. House Concurrent Resolution 324 also calls attention to Burma's growing narcotics production since the military regime came into power in 1988.

Mr. Speaker, it has been almost 2 years since the Burmese military killed over 3,000 democracy demonstrators. According to a recent Amnesty International report, severe human rights violations have persisted at a consistently high rate ever since the military crackdown. These abuses include mass arrests, widespread torture, summary trials, and extrajudicial executions.

The military government has guaranteed its success at the polls on May 27 by jailing several thousand members of the opposition. Most of the members of the leading opposition party are either serving time in hard labor, detention, or are under house arrest. Moreover, the American Embassy has cited evidence that some opposition politicians have been tortured and killed while in detention.

The Burmese military regime has taken what was once one of the most prosperous countries in Asia and made it destitute. This Government is propping itself up on its drug profits, while the Burmese people are barely surviving.

Mr. Speaker, the lack of democratic and fundamental human rights in Burma and that country's role as the world's largest opium supplier should be of key concern to the Congress, the Bush administration, and the world community. Therefore, I urge the adoption of this resolution.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 324, concerning human rights, democracy, and illicit narcotics production and trafficking in Burma.

Mr. Speaker, in the jubilation over the events of Eastern Europe, it may be easy to forget those who are still enslaved. We must not let this happen in the case of Burma, which is suffering under a cruel military dictatorship despite the clear wishes of the people for democratic reform. Elections are scheduled for May 27, but despite the Government's promise that they will be free and fair, thousands of prodemocracy demonstrators remain in prison, opposition figures continue to be arrested and prevented from standing for election, the authorities regularly abuse the civilian population through rape, torture, executions, and forced porterage, and the rules of the election campaign have been rigged to prevent free and open debate. This is an election in name only, and one in which it seems inevitable that the people will lose.

As if this depressingly familiar litany of problems were not sufficient, the Burmese authorities have cynically reached an accommodation with drug traffickers in that country, permitting the authorities to devote their attention full time to oppressing their own people. As a result, Burma has become the largest producer and exporter of illicit opium in the world.

House Concurrent Resolution 324 notes all of these developments, and calls on the Burmese Government to establish the conditions necessary to ensure free and fair elections, and to demonstrate a commitment to basic human rights. It calls on the international community to withhold foreign assistance from the Burmese Government and to end military cooperation with that Government. Finally, it denounces the cynical practice of accommodation with drug traffickers, states the unwillingness of Congress to support narcotics control measures in Burma which could undermine United States support for democratic evolution or which are not appropriately monitored.

This resolution, of course, may not change the minds of the ruthless authorities in Burma. But it will put Congress on record as standing with the Burmese people, who yearn for the same kind of freedom that other tyrannized countries are now beginning to experience. I urge all my colleagues to support House Concurrent Resolution 324.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman from Michigan [Mr. BROOMFIELD] for his comments. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 324, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the current resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## CONCERNING THE FIRST ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 393) concerning the first anniversary of the Tiananmen Square massacre of June 4, 1989, in the People's Republic of China.

The Clerk read as follows:

H. RES. 393

Whereas the death of the former General Secretary of the Communist Party of the People's Republic of China, Hu Yaobang, on April 15, 1989, gave rise to peaceful protests throughout China calling for democratic reforms, including freedom of expression, freedom of assembly, and the elimination of corruption by government officials;

Whereas after that date, thousands of democracy demonstrators continued to protest peacefully in and around Tiananmen Square in Beijing until June 3 and 4, 1989, when Chinese authorities ordered the People's Liberation Army and other security forces to use lethal force to disperse demonstrators in Beijing, especially in the vicinity of Tiananmen Square;

Whereas according to the Department of State's Country Reports on Human Rights Practices for 1989, on June 3 and 4, 1989, People's Liberation Army soliders and other security forces killed at least several hundred, possibly thousands, and wounded thousands more;

Whereas thousands of people suspected of taking part in the democracy movement have been arrested and detained without trial, and some have reportedly been tortured;

Whereas the Government of the People's Republic of China continues to suppress the people of China and has launched a countrywide campaign to punish and silence anyone suspected of involvement in the democracy movement; and

Whereas on the occasion of the first anniversary of the Tiananmen Square massacre of June 4, 1989, the House of Representatives should recognize the significance of this date and commend the participants in the democracy movement in the People's Republic of China: Now, therefore, be it

*Resolved,* That the House of Representatives—

(1) expresses its sympathy to the families of those killed as a result of their involvement in the democracy protests in the People's Republic of China;

(2) commends those involved in the democracy movement for their courage and determination, and recognizes their great personal risk in seeking democracy for the people of the People's Republic of China;

(3) urges the Government of the People's Republic of China to release all persons detained for the peaceful expression of their views and to refrain from persecuting democracy movement participants; and

(4) calls on the Government of the People's Republic of China to respect internationally recognized human rights, including freedom of expression, assembly, and association.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, permit me to begin by paying tribute to my very good friend, the author of the resolution, the distinguished gentleman from Pennsylvania [Mr. YATRON], who unfortunately could not be with us today but who is engaged in pressing business at this very moment dealing with the subject matter of this resolution. I think he deserves the appreciation of all the Members of the House for his initiative in drafting this resolution and in facilitating its expeditious consideration by the Committee on Foreign Affairs and in turn making it possible for us to bring it to the floor in such a timely fashion.

Next week we will be observing the first anniversary of the massacre in Tiananmen Square, which brought a temporary end to what may well have been the greatest movement for democracy in the history of our troubled and turbulent times. Who among us can possibly forget the stirring scenes we saw on our own television screens last spring when literally millions of Chinese—not just students but workers and bureaucrats and men and women from all walks of life—not just in Beijing but in cities all across China took to the streets in order to participate in peaceful protest for democracy. They were not throwing stones, they were not hurling Molotov cocktails, they were not brandishing Kalishnikovs. They were merely standing up and peacefully protesting for greater democratization and for an end to the pervasive corruption which exists today in the People's Republic of China. And after several weeks the gerontocracy which is now in power in the People's Republic of China decided to respond to the democratic aspirations of their people not with reconciliation, not with pledges and promises of progress toward democracy, not by a commitment to crack down on corruption, but by a massive repression spearheaded by the slaughter of what may one day turn out to have been thousands of their own people, who were gunned down and massacred in cold blood in and around the vicinity of Tiananmen Square.

Since that time the repression in China has deepened. We have reason to believe, based on the estimates of respected human rights organizations like Asia Watch and Amnesty International, that tens of thousands of Chinese remain in prison today, primarily because of their willingness to identify with the movement for democracy in China last spring.

Torture is by no means unknown. China still continues to jam the broadcasts of the Voice of America. While some cosmetic improvement have been seen in the sense that martial law has been lifted in Lhasa, the capital of Tibet, and Beijing, the capital of the country, and while several hundred political prisons have been released, the reality of oppression remains.

□ 1250

This resolution today, Mr. Speaker, pays tribute to those Chinese who were willing to put their lives, their fortunes, and their sacred honor on the line last spring on behalf of many of the same principles for which our Founding Fathers were prepared to put their lives, their fortunes, and their sacred honor on the line over 200 years ago.

I have no doubt that one day the principles and ideals for which the Chinese students and others sacrificed their lives last June will one day be realized, and I think it is terribly important in the interim that the people of China know that the United States stands on the side of democracy rather than of dictatorship in their country, that we support a process of reconciliation rather than a policy of repression.

So, in the text of this resolution we express our sympathy to the families of those who were killed as a result of the crackdown. We commend the courage and the conviction of those who were willing to take such great risks on behalf of a more open and pluralistic China.

We urge the Government of the People's Republic, if they are at all willing to listen, to release, not just a few hundred, but all of those who remain in prison, not because of any acts of violence, but simply because they were willing to stand up and speak out for democracy. We call upon the Government of China to respect the internationally recognized human rights of their own people, including the freedom of expression, assembly, and association.

A little bit later in the week the President of the United States is going to have to make a very important decision about whether or not to continue most-favored-nation tariff status for China. I very much hope that this decision can be made in a way which facilitates the emergence of broad bipartisan support in the Congress for the decision the President decides to make.

I think it is important, if at all possible, for us to speak with one voice. I think it was fortunate last year that for many months the President and the Congress were not singing from the same hymnal. We are always most effective abroad when we are united at home, and I think the President does have an opportunity to use this decision with respect to MFN to bring us together here in our own country so that we can speak to China with one voice.

Mr. Speaker, that implies that whatever decision he makes, it is done in a way which makes it absolutely clear that the United States is attempting to help those who are in the forefront of the struggle for political and economic reform in China and that the United States will not resume a business-as-usual relationship with a government which continues to systematically violate the fundamental human rights of its own people.

However, Mr. Speaker, if this decision is going to be made in a way which makes it possible for all of us to come together, it is going to require consultation. I regret to say that, even at this very late moment, with the decision only days or, perhaps, even hours away, so far as I know, none of the Members of Congress who has been most actively involved in the effort to shape a response to the repression in China which is compatible with the fundamental principals and interests of our own country, has yet heard anything either from the President or his chief advisers on this issue. I do not know if anybody downtown is observing this debate or listening to what will be said on the floor during the course of the consideration of this resolution. But it is still not too late to reach out because there are people here on both sides of the aisle who would like to work with the administration in order to shape a response which is consistent with our ideals and which is compatible with our interests.

However, Mr. Speaker, I do not think the President or the administration should be under any illusions. If this issue is not handled in an appropriate way, it will set the stage for

what will be, I think, a very divisive debate here in the Congress, not on a partisan basis by the way. I am pleased to say that, when we passed the bill to impose sanctions against China last year, the 418 Members of the House voted in favor of it, and no one voted against it. Here in the Congress, Democrats and Republicans were acting in unison, and I think it was unfortunate at the time that we did not have the President with us because that would have meant the message we sent to China would have been heard even more clearly.

Now we are back again at the same old China stand, and I only hope that this time we can work together. But whatever the President decides to do, this resolution, which does enjoy the support of the Republicans as well as Democrats, should make it very clear, both to the leaders in Beijing and to the Chinese people throughout that great country, that the House of Representatives admires what they tried to achieve last year and remains strongly committed to the great cause of democracy for which they sacrificed so much last June.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, I would like to join with the gentleman from New York [Mr. SOLARZ] in paying tribute to the gentleman from Pennsylvania [Mr. YATRON], the principal sponsor of this legislation. This gentleman from Pennsylvania, of course, has been interested in human rights for ever since he has been a Member of this Congress, and he has done a yeoman's job. I also want to join the gentleman from New York [Mr. SOLARZ] in paying tribute to him.

We have a number of sponsors along with the gentleman from Pennsylvania [Mr. YATRON]. The gentleman from Florida [Mr. FASCELL], of course the chairman of the Committee on Foreign Affairs, has been very active along with the gentleman from New York [Mr. SOLARZ], the gentleman from Utah [Mr. OWENS], the gentleman from Ohio [Mr. FEIGHAN], the gentleman from New York [Mr. ACKERMAN], the gentleman from Washington [Mr. MILLER], the gentleman from New York [Mr. WEISS], the gentlewoman from California [Ms. PELOSI], the gentlewoman from Kansas [Mrs. MEYERS], the gentleman from New York [Mr. GILMAN], and myself are the principal sponsors of this resolution.

Mr. Speaker, it has been nearly a year since Chinese troops rolled their tanks into Tiananmen Square and killed hundreds, and possibly thousands, of democracy demonstrators. The vivid memory of military brutality and wholesale carnage suffered by the peaceful demonstrators has not been dimmed by the passage of time.

Since the massacre at Tiananmen Square, President Bush has gone more than the extra mile to encourage the Chinese leadership to end oppression and begin observing basic human rights. Even the President concedes that the Chinese response has been far from satisfactory.

Instead, we have seen continued efforts to hunt down and arrest those suspected of participating in last June's democracy demonstration. There have been harsh warnings and stern measures designed to suppress normal political activity or criticism of the Beijing regime. And, as Congress prepares to examine this important issue, we have been subjected to a cynical attempt to manipulate this body by the lifting of martial law in Beijing and Tibet while in fact the oppression continues unabated.

Mr. Speaker, despite the efforts of Beijing's government to crush democracy in China, they have failed. They currently control the reins of power, and oppression continues; but they have not defeated the democracy movement. The ideal of democracy endures in the hearts of the Chinese people, even during this dark period of brutal repression.

House Concurrent Resolution 393 pays tribute to the courage and dedication of the Chinese people and recognizes the inner strength of the democracy movement. It further calls upon the Government of China to recognize the legitimate aspirations of the people that were suppressed during the brutal assault at Tiananmen Square last June.

As an original cosponsor of this resolution, I thank Chairman FASCELL, and Congressmen YATRON and BEREUTER for their leadership in moving House Concurrent Resolution 393 to the floor, and urge my colleagues to support its passage.

□ 1300

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO], a member of the Committee on Foreign Affairs.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to commend the gentleman from Pennsylvania [Mr. YATRON], as well as the gentleman from New York [Mr. SOLARZ]; the chairman of the full committee, the gentleman from Florida [Mr. FASCELL] and, of course, the gentleman from Michigan [Mr. BROOMFIELD] for bringing this resolution before us.

The thing that is so different about what happened in Tiananmen Square compared to what had been going on in China for many years, where it is estimated that tens if not scores of people have been killed by the Red Chinese, is that it was done in the open. There were television cameras there. It was all recorded for all of us to see and watch and observe.

I think that it is important for us to remind not only those who are fighting for democracy in China, both in China and those who are here in the United States of Chinese extraction, but to remind the Chinese leadership as well that we have not forgotten and we will not forget and that we do stand very strongly by those who are fighting for democracy.

Hopefully they will get the message. China is one of the few places left in the entire world where the message apparently has not gotten through.

So, Mr. Speaker, again I want to commend everyone who has brought this resolution before us and I urge my colleagues to support it.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH], a member of the Committee on Foreign Affairs.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend, the ranking member, for yielding this time to me.

Mr. Speaker, I want to join with my colleagues in the accolades to the gentleman from Pennsylvania [Mr. YATRON], who has shown himself as chairman of the Human Rights Committee to be very even-handed and committed to principle. As chairman, he has helped expose the kind of atrocities we see going on throughout China, perpetrated by both the left wing and the right wing, the communists as well as the hard right. We have had a very active agenda and as a member of that committee, I want to commend the gentleman from Pennsylvania [Mr. YATRON] for his very effective leadership on these issues.

Mr. Speaker, today the House goes on record again deploring the slaughter of the prodemocracy students in Tiananmen Square. We also express our deepest sympathies to the families of those deceased patriots.

A brutal crackdown continues, Mr. Speaker, as we all know. Freedom-loving students are hunted, they are jailed, they are beaten, and they are tortured.

Mr. Speaker, last week in a hearing in the Foreign Affairs Committee we heard from one of the leaders of the student movement in this country, Dr. Haiching Zhao, the chairman of the National Committee on Chinese Student Affairs. His testimony was very moving. It was very eloquent. I would like to quote very briefly from it. Dr. Zhao said:

> Less than one year ago the world watched in horror as participants in the democracy movement in China were brutally massacred and suppressed by the current regime. We were all shocked and appalled to see troops fire indiscriminately upon peaceful protesters and curious onlookers alike. Thousands of unarmed civilians were killed, and many more injured last June. In the aftermath,

scores of young activists were summarily executed. Thousands upon thousands of political prisoners were detained, without trial or access to legal counsel. These prisoners underwent brutal interrogations, and many suffered severe beatings with electric batons and rifle butts.

The gross violations of human rights did not end with the events in Tiananmen Square. Today, de facto martial law exists in Beijing and Tibet and a repressive atmosphere lies heavily over the rest of the country. The central government will not tolerate the exercise of even the most basic political and civil rights.

Mr. Speaker, as they have in the past, the Communist hardliners in Beijing, and I do not think we should kid ourselves by suggesting that hardliners in Beijing are anything but an old commodity, they are not a new commodity; there have been hardliners there since the Communist revolution, but they continue to demonstrate to the world that the health and the well-being of the individual is of no consequence. It is truly a fact that people in that country are accorded little or no value. They do not count for much in the eyes of the hardliners. They are important only as far as their utility and their blind obedience to party dictates will go.

The People's Republic of China clearly makes a mockery of human rights.

Mr. Speaker, I would suggest and I think all of us would agree that the hardliners in Beijing have much to account for. The have demonstrated their callousness and extreme hate during the cultural revolution and they continue to demonstrate that toward women and children in their brutal implementation of the one child per couple policy.

I would point out to my colleagues that just last week on human rights, we have seen they are indivisible. When we speak of the massacre in Tiananmen Square, the crackdown on religion, the crackdown on the people of Tibet, we should also remember another human rights abuse that very often goes largely unnoticed, and that is the iron-fisted population control program.

I would recommend to my colleagues a book just published by Dr. John Aird, the former senior research analyst for the Census Bureau, entitled "Slaughter of the Innocents," in which he recounts in great detail the repression that is being visited upon the women in China as a result of this one child per couple policy.

I will include a book review on this contained in the Wall Street Journal of May 14, 1990, at this point.

[From the Wall Street Journal, May 14, 1990]

CHINA'S IRON-FISTED POPULATION CONTROL

(By R. Cort Kirkwood)

In September 1987, an expectant Chinese couple temporarily residing in the U.S. received a note from a factory back home where the wife worked. It wasn't a baby shower invitation.

The Walfantia Bearing Factory warned the couple that their pregnancy was unauthorized and that everyone from "the factory director . . . to the cadres in charge of the birth control program" would be punished if the baby was born. Because the "consequences for you are unthinkable," the factory authorities ominously warned, "you should . . . fix your problem any way you can. You must not delay! If you have real difficulties, return to China immediately for an abortion. . . ."

This international direct-mail program is just one of the dark aspects of the Chinese Communist Party's ferocious population-control effort, and just one of the grim details John Aird, the Census Bureau's former authority on China, provides in "Slaughter of the Innocents" (The American Enterprise Institute for Public Policy Research, 191 pages, $16.95).

Far from being a blessed event, nearly every birth in China is viewed with a jaundiced eye because it might violate the population policy, which evolved during some 30 years after Mao Tse-tung broke with traditionally optimistic Marxist thinking on large populations.

"It is a very good thing that China has a big population," Mao wrote in 1949. "Of all the things in the world, people are the most precious." But as the utopian vision of a communist Promised Land faded away, Mao was less prepared to let a thousand flowers bloom. By 1955 he was warning that unfettered population growth could lead to the "extinction" of the Chinese race.

Thus he set in motion a program to help the Chinese overcome their "feudal mentality" and "conservative tendency" toward large families and adopt "birth plans." Yet even under Mao's iron fist, birth-control efforts in China during the 1950s and 1960s were fairly mild.

Then in the 1970s a new anti-natalist campaign required local authorities to make planned parenthood and birth control part of the "class struggle." Opponents became (and today remain) "class enemies." Mr. Aird writes, and Beijing's birth directives grew increasingly more draconian. In 1979, with China's population taking a great leap forward, the authorities explicitly defined the state's interest: zero population growth by the year 2000.

Mr. Aird convincingly shows that China's government has been willing to do just about anything to reach that goal, justifying their efforts with the neo-Malthusian idea that people inhibit economic growth. That Hong Kong supports a vastly denser population is clearly of no interest to functionaries pursuing an economic system that is in fact directly responsible for China's woes. "Whether we can strictly control population growth," Mr. Aird quotes the People's Daily, "will directly determine whether we can smoothly achieve our economic development objectives." And so the Forbidden City's geriatric potentates prohibit "early marriages, early births" and decree forced sterilization and compulsory abortion. "Use whatever means you must," Deng Xiaoping urged in 1981, "but do it."

Far from stopping at hugh fines and cutting off a family's water and electricity supply for begetting an unauthorized child, the Communist Party has outlawed removing an intrauterine device. And while pregnant Chinese nationals living abroad receive letters urging abortions, women on the home front are treated to "study classes" and "heart-to-heart" talks during which birth control cadres press them into an abortion, followed by IUD insertion or sterilization.

Doctors now storm through villages on abortion and sterilization raids. To preserve the "happy peace" that state-sponsored birth-control efforts bring to the people, Mr. Aird writes, china has even "destroyed infants by injections of alcohol into the fontanel" and by stuffing gauze into their mouths.

The population control lobby will no doubt condemn "Slaughter of the Innocents" not only for the beam it shines on China's program, but also because Mr. Aird attacks this group in the book's opening chapter. Even as Chinese authorities committed mass infanticide, the United Nations Population Fund enthusiastically bestowed awards and money on a program it averred was "totally voluntary." Others less sanguine about China's zealous quest merely call the program "agressive" or "rigorous."

But as recently as last year, China permitted the publication of articles demanding coercive sterilization and compulsory abortion for all women under 24, all second pregnancies spaced less than five years after the first and all third pregnancies.

John Aird deserves acclaim not only for his painstaking academic research on a difficult subject, but also for dispassionately exposing China's brutal methods. The question is whether the population control movement that has championed China's model will learn something from it.

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[From the Chicago Sun-Times, May 13, 1990]

CHINESE COUPLE FLEEING ABORTION WIN PERMISSION TO STAY IN UNITED STATES

(By Alan Flippen)

BUFFALO, NY.—The State Department has ruled that a Chinese couple who fled their homeland's forced abortion policy qualify for refugee status, clearing the way for them to receive political asylum, their lawyer said Friday.

Li Jin Lin and his wife, Wang Sai Zhen, are the first known cases to test President Bush's Nov. 30 directive that grants asylum to people fleeing forced abortions or sterilizations in their native countries.

They had been awaiting a U.S. Immigration and Naturalization Service hearing that would decide whether they could stay in the United States, but the State Department ruling ended the proceedings against them, said Kathleen Rimar, the couple's lawyer.

The State Department letter said they qualify for refugee status under federal law but did not specifically mention abortion.

Li, a 37-year-old machinist, and his 34-year-old wife fled their hometown of Fuzhou last year when Wang became pregnant with what would have been the couple's second child. Chinese law limits most families to one child and requires women who conceive again to undergo abortions.

Mr. Speaker, finally I just want to say that this resolution keeps this issue in the minds and in the hearts of the American people, and it particularly keeps it in focus for the Congress. We need to raise this issue of the democracy students over and over.

I would suggest that as we look forward to the MFN struggle, whether or not MFN should be continued for China, I am one of those who is a

sponsor of legislation that would suspend it, we need to figure out and craft what we hope will be the best policy to try to put the pressure on the hardliners in Beijing so that human rights will be recognized for all.

Mr. YATRON. Mr. Speaker, many Members of the House are aware that it will soon be 1 year since the Chinese authorities ordered the bloody crackdown on peaceful democracy demonstrators in Beijing. The current Chinese regime showed its true colors by using indiscriminate lethal force against peaceful demonstrators.

We were shocked by the images of June 4 and disappointed that the China we thought was on a path of reform had changed very little from the China of Mao Zedong. The Chinese leadership made its real fears known on June 4—that it is afraid of the free will of the Chinese people. This regime has proven that it will use any amount of force to maintain its ill-gotten power.

I have introduced House Resolution 393 to mark the first year anniversary of the military crackdown on the democracy movement in China. The events of June 4, 1989, are too powerful to forget and too many young lives were lost.

This resolution commends the democracy movement participants for their courage and determination in seeking democracy not only for themselves, but for every person in China. Moreover, this resolution urges the Chinese Government to release all political prisoners, refrain from persecuting democracy movement participants, and to respect internationally recognized human rights. House Resolution 393 also expresses our sympathy to the families of those who died for democracy.

Mr. Speaker, I commend the chairman of the Foreign Affairs Committee, Mr. FASCELL, and the committee's ranking minority member, Mr. BROOMFIELD, for expediting this resolution. I would also like to thank Mr. BEREUTER, Mr. SOLARZ, and Mr. LEACH for their leadership on human rights issues and for their prompt consideration of this resolution so we could report it in a timely fashion before the Memorial Day recess.

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Resolution 393, legislation concerning the first anniversary of the Tiananmen Square massacre of June 4, 1989, in the People's Republic of China.

It is well known that the killings, torture, and repression of prodemocracy supporters continue unabated in the People's Republic of China and occupied Tibet. As the anniversary of the slaughter in Tiananmen Square draws closer, it is appropriate that our Nation review our present China policy. The sanctions put in place by the Congress in response to the repression have had no affect on the ruling authorities in the People's Republic of China. They continue their search for participants in the prodemocracy movement in order to severely punish them, they continue to support the Khmer Rouge and they continue to sell missiles to hostile nations in the Middle East.

It is abundantly clear that the leaders in Beijing have received the wrong sort of message from the United States and its allies. They do not feel that the West has yet to respond strongly to the ongoing repression in the People's Republic of China and in Tibet.

There are currently 40 cosponsors of legislation which would deny most-favored-nation status to the People's Republic of China. I hope that China's rulers will soon receive a clear message on just how strongly Americans feel about human rights and democratic freedoms.

Accordingly, I urge my colleagues to fully support House Resolution 393.

Mr. LAGOMARSINO. Mr. Speaker, as a cosponsor of House Resolution 393, I rise in strong support of this important resolution recounting the tragic, brutal events in Tiananmen Square last June and urging the People's Republic of China to take immediate steps toward political reform and Improvement of human rights.

Unfortunately, this is not the first time the Communist Chinese dictatorship has massacred the Chinese people it claims to represent. The People's Republic of China Government has a very long and bloody history of oppressing those wanting democracy, basic human rights, freedom and liberty. Tens, if not scores, of millions of Chinese have been murdered by the Communists since their takeover in 1949. However, unlike the brutal masacres of the past—like the great purges of the so-called cultural revolution—the terror in Tiananmen Square was witnessed by millions of television viewers around the world. The real brutal nature of the Communist regime in China was brought into our living rooms and kitchens through the media. We have justifiably reacted with great outrage and disgust against these cruel actions.

As a senior member of the House Foreign Affairs Committee, I have joined in many measures that have passed the House in strongly condemning the actions of the Communist authorities and in strongly supporting the movement for more democracy and freedom. I supported strict sanctions against the People's Republic of China following the massacre in Tiananmen Square and supported legislation providing special protection to Chinese students here in the United States.

I believe this resolution, reconfirming the United States House of Representative's condemnation of the Tiananmen Square massacre; calling on the People's Republic of China to respect internationally recognized human rights—including freedom of expression, assembly, and association; urging the People's Republic of China to release all persons detained for the peaceful expression of their views; commending those involved in the democracy movement for their courage, determination and the taking of great personal risk; and expressing sympathy to the families of those killed as a result of their involvement in the democracy protests is important. It reminds the Communist Chinese Government that Congress has not forgotten—we are still watching and will take actions based on the real situation in China today.

I am encouraged that some small steps have been taken. However, I believe these are only token measures designed for positive congressional consumption. Well, I will not be fooled. Much more needs to be done by the People's Republic of China Government. If the Chinese Government seeks an improvement in relations—including economic and trade relations—it is going to have to positively and seriously address all of the pressing issues raised in this resolution.

I want to take this opportunity to commend Congressmen SOLARZ and YATRON, the chairmen of the Subcommittees on Asian Affairs and Human Rights, respectively, full committee Chairman FASCELL and full committee Vice Chairman BROOMFIELD for crafting this resolution and moving it expeditiously through the Foreign Affairs Committees and to the House floor.

Again, I strongly support this resolution and urge my colleagues to join me in passing it today. Thank you.

Mr. FASCELL. Mr. Speaker, I rise in strong support of House Resolution 393, recognizing the first anniversary of the June 4 Tiananmen Square massacre when at least several hundred, and quite possibly many more Chinese citizens peacefully demonstrating for democracy were cruelly killed by People's Liberation Army soldiers.

It is a sad day for us as we commemorate this tragic event. At a time when we are encouraged by the emergence of democracy in many countries in Eastern Europe and Latin America, we hear reports from many sources of continued violations of internationally recognized human rights in China. In the year since the tragic events of June 1989 repression continues throughout China and many thousands of citizens continue to be detained without trial because of their participation in the democracy movement.

I commend Representative YATRON for his leadership in bringing this resolution to the floor of the House. I join with him and other colleagues in urging the release of those detained for their participation in the democracy movement and in calling on the Government of the People's Republic of China to respect internationally recognized human rights. Passage of this resolution provides us with one more opportunity to convey to the Government of China our strong distaste with their represssive policies.

Mr. MATSUI. Mr. Speaker, I would like to add my ardent support for House Resolution 393, and I thank the Speaker and the Foreign Affairs Committee for bringing this resolution to the floor in such a timely manner.

I know my colleagues will agree that there is no joy in our gathering to remember the massacre that took place in Tiananmen Square on June 4, 1989. There is nothing to celebrate. There has been almost no improvement in the deplorable human rights conditions in China and no reprieve to the suppression of democracy in that country.

The events of June 4 are well known around the world despite the silence of the Government and the repression of the press in China. What is perhaps not as well documented or publicizied is the campaign of punishment and persecution that the Government has waged upon its people since that fateful day last year.

Of course, it is important for us to recognize those who perished in the square defending their right to democratic reforms; those who were prosecuted and killed in the days following the massacre; and those who are continu-

ing that struggle in the face of the brutality inflicted upon their fallen comrades.

If democracy is ever to prevail in China, it will require the assistance and encouragement of the United States. Hopefully, our token of recognition today will spur on those committed to the democracy movement in China, and will make crystal clear to the Government of China on which side the United States comes down in this conflict.

Mr. Speaker, it is important that we remain attentive to the situation in China as it continues to evolve. Therefore, it is fitting that we pass this resolution as a vigil to the democracy movement in China. I commend Chairman FASCELL for his leadership on this measure, and I urge my colleagues to join me in supporting the resolution.

Mr. PORTER. Mr. Speaker, I rise in strong support of House Resolution 393, concerning the first anniversary of the Tiananmen Square massacre. I commend my colleague, GUS YATRON, for his advocacy of human rights in China and in other parts of the world.

We are here today to pay tribute to the students—those who bravely participated in a hunger strike last year in Tiananmen Square and those who commemorated their peaceful struggle for democratic reforms on Sunday, May 13.

In Tibet, like Tiananmen Square, students who have dared to speak out against Chinese repression have also faced open repression and violence.

There is one thing that these students know that the aged Chinese leadership does not realize—the desire for human rights cannot be suppressed by bullets and tanks.

The brutal dictators in Beijing whose power rests on the threat of crackdown will do all that they can to prevent the outbreak of freedom in China.

Despite lifting martial law, they will continue to imprison anyone for peacefully demonstrating against their regime. They will continue to harass and intimidate prodemocracy activists. They will continue to hold some 30,000 political prisoners without due process. They will continue to repress all forms of religious, political, social, and economic expression in the defense of Communist principles and Marxist ideology.

In Tibet, they will continue to repress the religious and political activities of Tibetans whose only desire is to live without oppression.

However, as the world knows, the leaders of Beijing are living on borrowed time.

Mr. Speaker, the Congress and the American people stand with the students who on May 13 commemorated National Day in Support of Freedom and Human Rights in China and Tibet.

We will also express our support for the Chinese students as they commemorate the anniversary of the military crackdown that crushed their peaceful drive for democracy in Tiananmen Square on June 3.

One of America's greatest legacies is the foundation we have established towards respecting fundamental freedoms and human rights.

It is up to us to uphold that legacy in other parts of the world, like China and Tibet, whenever freedom-loving people encounter resistance from wornout repressive governments.

The students who spoke out for their rights in Tiananmen Square and those who continue in their efforts are the future of China and I salute them for not giving up in the face of tyranny.

One day, democracy will come to China and I expect that day will be soon.

Mr. HOYER. Mr. Speaker, today I rise in strong support of House Resolution 393, a sense of the Congress resolution expressing sympathy to the loved ones of the hundreds, perhaps thousands of Chinese prodemocracy demonstrators killed by their own Government nearly 1 year ago.

In addition to the expression of sympathy, House Resolution 393 recognizes and commends those people who participated in the prodemocracy demonstrations, and urges the Chinese Government to release all demonstrators who have been detained for taking part in the protest.

Mr. Speaker, June 4 will mark the 1st anniversary of the Tiananmen Square massacre. We have all heard the widespread reports that once the disturbance was quelled, hundreds more demonstrators were executed simply because they chose to express their support for freedom and democracy. As Americans, sometimes we take the system of democracy and the rights guaranteed to us by the Constitution for granted. We do not spend enough time reflecting on the fact that these are rights for which wars were fought and many lives lost. We continue to fight to preserve these rights today but we are protected from retribution by the freedom mandated by our system of government.

In the year since the Tiananmen Square tragedy we have seen numerous East European countries fight for the right to exist independently and the right to be governed by a democratic system of government. Yes, some of these rights were attained by bloodshed and lives were lost in order to achieve progress but the same cannot be said for the prodemocracy demonstrators in China. They have not yet made any progress. Let us recommit ourselves that the lives that were lost were not lost in vain.

Mr. Speaker, the Chinese Government has not apologized for the atrocities that they committed in Tiananmen Square nor for the brutal castigation of those persons suspected of participating in the demonstrations. The Congress of the United States is appealing today to the Chinese Government to respect the human rights of their people by releasing all of those people imprisoned for peacefully demonstrating in favor of freedom and democracy. I urge all of my colleagues to remember the images of horror and terror we saw nearly 1 year ago and support the resolution before us today by voting to pass this legislation and to remember the courage of the people of Tiananmen.

Mr. FALEOMAVAEGA. Mr. Speaker, today I join my colleagues in support of House Resolution 393, which was introduced by Chairman GUS YATRON and cosponsored by several of my distinguished colleagues. House Resolution 393 marks the first anniversary of the Tiananmen Square massacre, which took place on June 4, 1989, in the People's Republic of China.

Mr. Speaker, last June the people of the world witnessed the Government of the People's Republic of China violently suppress student protests for democracy in Tiananmen Square.

Since that dark day, the Chinese Government has not expressed their regret about the loss of life or the way they handled the popular movement.

In fact, the Chinese Government has attempted to blame this popular movement as the work of a few counterrevolutionaries receiving outside financial support.

Today, the Chinese Government continues its repressive policies and gross violations of human rights. Furthermore, political repression has not ceased.

Mr. Speaker, House Resolution 393 will send a clear and strong message to the Government of the People's Republic of China that the Tiananmen Square massacre will never be forgotten in the minds of the people and that the Chinese Government cannot continue its repressive policies and human rights violations without international indignation.

Mr. BROOMFIELD. Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WHITTEN). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the resolution, House Resolution 393.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Resolution 393, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## AUTHORIZING THE SECRETARY OF THE AIR FORCE TO PURCHASE CERTAIN PROPERTY AT PEASE AIR FORCE BASE, NH

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the bill (H.R. 4252) to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, NH, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4252

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. PURCHASE AT PEASE AIR FORCE BASE, NEW HAMPSHIRE

(a) AUTHORITY.—Subject to subsections (b) through (f), the Secretary of the Air Force may purchase all right, title, and interest of members of the Air Force and their spouses in mobile homes located on the base mobile home park at Pease Air Force Base, New Hampshire, on January 1, 1989, and not moved from the base since that time.

(b) AMOUNT OF PAYMENT.—Payment shall be in an amount established by the Secretary, in his discretion, but shall not exceed an amount equal to the sum of—

(1) the initial downpayment by the member;

(2) purchaser closing costs for nonrecurring items;

(3) the current balance on a purchase money mortgage; and

(4) any second mortgage balance which the Secretary determines is attributable to purchase of the mobile home or a capital improvement thereto,

reduced by any reduction made under subsection (c)(2).

(c) DISPOSAL OF MOBILE HOMES.—The Secretary may, subject only to the provisions of this section—

(1) sell, donate, trade, or otherwise dispose of any mobile home acquired under authority of this section; or

(2) permit the member to retain the mobile home for removal from Pease Air Force Base, with an appropriate reduction for the value of the mobile home as personal property from the amount otherwise payable under subsection (b).

(d) SOURCE OF FUNDS.—(1) The payments authorized by subsection (a) shall be made from the Department of Defense Base Closure Account established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2623).

(2) Proceeds of any leasing sale, or other disposal of the mobile homes shall be deposited into the Department of Defense Base Closure Account.

(e) OTHER TERMS AND CONDITIONS.—The Secretary shall require such other terms and conditions on any purchase or disposal under this section that are in the best interests of the United States.

(f) REPORTS.—(1) The Secretary shall report to Congress within 180 days after the date of enactment of this section, and at the end of each 180-day period thereafter, on the implementation of this section.

(2) No other requirement of law for reports to Congress on real property transactions shall apply to actions carried out under this section.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BENNETT: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PEASE AIR FORCE BASE, NEW HAMPSHIRE.

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Air Force may——

(1) make payment pursuant to subsection (b) to purchase all right, title, and interest of members of the Air Force and their spouses in manufactured housing located at the base manufactured housing park at Pease Air Force Base, New Hampshire, on January 1, 1989, and not moved from the base since that date; or

(2) make payment pursuant to subsection (b) and take action described in subsection (c)(2) with respect to such housing.

(b) AMOUNT OF PAYMENT.—Subject to subsection (c)(2), the Secretary shall establish the amount of the payment to be made under this section, but such amount shall not exceed—

(1) 90 percent of the member's purchase price of the manufactured housing; or

(2) if elected by the member, the amount of the outstanding mortgages on such housing that are attributable to purchasing the manufactured housing or making a capital improvement thereto.

(c) DISPOSAL OF MANUFACTURED HOUSING.—The Secretary may, subject only to the provisions of this section——

(1) sell, donate, trade, or otherwise dispose of any manufactured housing acquired under authority of this section; or

(2) permit the member to retain the manufactured housing for removal from Pease Air Force Base, with an appropriate reduction for the value of the manufactured housing as personal property from the amount otherwise payable under subsection (b).

(d) SOURCE OF FUNDS.—The payments authorized by subsection (a) shall be made from funds appropriated for operation and maintenance of the Department of the Air Force for any fiscal year.

(e) OTHER TERMS AND CONDITIONS.—The Secretary shall require such other terms and conditions on any payment made under this section that are in the best interests of the United States.

Mr. BENNETT (during the reading). Mr. Speaker, I ask unanimous consent that the amendments in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BENNETT. Mr. Speaker, the amendment in the nature of a substitute on H.R. 4252 would authorize the Secretary of the Air Force to purchase 50 mobile homes owned by military personnel at Pease Air Force Base, NH, which is in the process of being closed. This legislation is necessary to prevent the owners of these trailers from having to declare bankruptcy through no fault of their own. The Department of Defense supports the amendment in the nature of a substitute.

Mr. ASPIN. Mr. Speaker, as you may know, DAVE MARTIN has asked for our help in expediting action on H.R. 4252, a bill to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, NH. DAVE introduced this bill in order to help roughly 50 airmen at Pease Air Force Base who are caught in a unique Catch-22 related to the purchase of their mobile homes.

Here's the problem: because of a peculiarity in New Hampshire State law, some 50 trailers owned by airmen and their families at Pease Air Force Base cannot be moved from their current site. This was not a problem until recently, given that when one airman transferred to another duty station, there was always another waiting to buy the first airman's mobile home. The Air Force, in fact, waived certain regulations pertaining to these Pease mobile homes, which inadvertently had the effect of greatly inflating the price of the trailers as they were resold over time. The bottom fell out when the Department announced that Pease would close—making the trailers virtually worthless. Now 50 airmen face bankruptcy on large mortgages unless the Air Force is given the authority to buy back the trailers.

The Air Force and the Department of Defense agree that this situation is untenable, that the Air Force is, in part, responsible for creating the problem and that the airmen should be helped. The attached letter from Secretary Cheney provides additional details and concludes that legislative relief is in order.

DAVE would like to ask unanimous consent to waive the rules requiring the reporting of the bill and ask that it be considered by the House on Monday, May 21. Because this is a non-controversial bill with a special sense of urgency, I support this approach. In addition, BILL DICKINSON and PAT SCHROEDER have no objection to proceeding along this line.

Mrs. SCHROEDER. Mr. Speaker, I rise to congratulate DAVE MARTIN. He takes his job as ranking minority member of the Subcommittee on Military Installations and Facilities quite seriously. One way he does that is by putting in long hours to inspect military bases throughout the country.

Late last year, Congressman MARTIN went to see Pease Air Force Base, the first major installation actually to be closed under the recommendations of the 1988 Commission on Base Closure and Realignment. It takes a lot of guts for a member of Congress to visit a base in the process of closure. People at the base are often angry. But, DAVE MARTIN had the courage to serve as a Marine Corps aviator in Vietnam and he has the courage to visit closing military bases.

At Pease, Congressman MARTIN found a strange situation involving 50 military families and the mobile homes they had bought. With the base closed, there was no possibility of resale. And, because the situation involved mobile homes, traditional programs, like Homeowners Assistance, were inapplicable.

The Air Force bureaucracy knew of the problem but could not think of a way to solve it. DAVE MARTIN came up with the solution: the legislation before us today. It means that 50 enlisted Air Force kids will not face bankruptcy. At the same time, the legislation deals surgically with the problem DAVE MARTIN found. It effects no other base; it sets no precedent.

I congratulate DAVE MARTIN for his outstanding work.

□ 1310

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from New York [Mr. MARTIN], the ranking Republican of the Subcommittee on Military Installations and Facilities, for further explanation of this amendment and bill.

Mr. MARTIN of New York. Mr. Speaker, a well-known quote by the distinguished gentleman from Alabama is "I don't have a dog in this fight." What I do have in this fight is a concern for 50 individuals who are not my constituents nor do they even live in my State. What I am trying to do today is what is right.

What is right is not to let the system forget 50 young dedicated Air Force individuals who, through no fault of their own, face the very real possibility of financial ruin and bankruptcy.

The Air Force, in their wisdom at the time, thought they were doing what was right by bending and altering their rules for the use of trailers at Pease AFB, NH. They changed the rules to help alleviate a critical shortage of affordable housing on and near the base. The Air Force allowed individuals who had brought trailers to Pease AFB to leave them in place on their departure and sell them to incoming personnel. Due to the overall shortage of affordable housing in this area, these trailers unjustifiably and unrealistically appreciated in value—some sold for over $50,000.

The Air Force should never have allowed this to happen. The lending institutions should have never allowed the inflated mortgages. And the Congress should not allow these 50 individuals to suffer the consequences of these poor judgments.

Normally, when a military base is closed there is a devaluation in property values. Congress recognized this problem and enacted the Homeowner's Assistance Act. This act has been in effect for a number of years and has worked well. Unfortunately, a trailer or manufactured home does not qualify under this act. It was assumed that those with trailers would simply hook them up and take them to their next duty station. Due to several local and State restrictions, the airmen at Pease AFB cannot do this—nor can they sell them on the local market, again due to State and local restrictions.

Changing the Homeowners Assistance Act to include trailers does not make sense as this is an isolated case. I can find no other similar situation—therefore a specific remedy is called for. This is indeed a unique situation.

That remedy is H.R. 4252. What this legislation does is as follows: The Air Force would be authorized to either, at the choosing of each individual, pay each trailerowner 90 percent of their purchase price—or—pay off all outstanding mortgages. If an individual has made a significant downpayment and lowered the amount of their existing mortgages—the 90-percent method should be the preferred option. On the other hand, if an individual is carrying a significant mortgage, or even a second mortgage used for improvements, the remaining mortgage payoff should be the preferred option. Again, the choice will be made by the owners of the trailers. The Air Force will then own the trailers and would sell them at the appropriate time with the very real possibility of recouping all of the payments.

Anyone who is familiar with the Homeowners Assistance Act could say this formula sounds familiar. It is familiar because this formula is loosely based on the same criteria contained in that act. What we are trying to do here is to be as fair as possible to these 50 individuals and treat them the same as we would if they were eligible under the existing law. I believe that this legislation is as fair as possible to the trailerowners and to the Government.

Let me say a few words as to why we need to expedite this legislation. Pease AFB is closing and will be shut down completely by December 31, 1990. The process is well under way. The Air Force began last January to reassign the people to other locations. This process is on a train going down hill and picking up speed. When reassignments come up for each 1 of these 50 trailerowners, they are faced with an unbearable burden. As they cannot sell or take their trailers with them, they are faced with either continuing to pay for them and also paying for housing at their new duty locations—or going bankrupt.

Most of us there in this Chamber know all too well what it is like to pay for two homes at the same time—think what it would be like for a young, low-ranking military member. The facts of life are that bankruptcy is the only alternative. Unfortunately, that alternative has already been taken by one of the owners. We cannot wait any longer—we must correct this problem quickly and effectively.

The Armed Services Committee has reviewed this legislation and has helped me fine tune the proposal. The Secretary of Defense has written to say that legislation is the only fix to this problem. As far as I know, no one disagrees with this proposal. The focus of discussion thus far has been concerned with timing. As I have stated, timing is essential. I believe that the chairman and ranking member of the committee agrees with me that we must do something quickly. Timing is why we are here today asking for the approval of the House on this noncontroversial but urgently needed legislation.

Mr. Speaker, through no fault of their own, these 50 loyal and dedicated airmen have been placed in an untenable position—a position that will financially ruin them if we do not act, and act today. I urge all my colleagues to join with me and do the right thing.

Mr. BENNETT. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WHITTEN). The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. BENNETT].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4252, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## CLEAN AIR ACT AMENDMENTS OF 1990

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, May 17, 1990, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3030.

□ 1315

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air, with Mr. HOYER in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Pursuant to the order of the House of Thursday, May 17, 1990, the gentleman from Michigan [Mr. DINGELL] will be recognized for 3 hours; the gentleman from New York [Mr. LENT] will be recognized for 3 hours; the gentleman from California [Mr. ANDERSON] will be recognized for 30 minutes; the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 30 minutes; the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recog-

nized for 30 minutes; and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the last 30 minutes of debate be preserved, 15 minutes for the gentleman from New York [Mr. LENT] and 15 minutes for the majority to conclude the debate.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been 13 years since this body revised our air quality laws.

Clean air has always been one of the most difficult, divisive, complex, costly and important issues the Congress has had to confront. It has in the past pitted region against region, and industry against industry. Sometimes those conflicts have become very personal, fraying nerves and shortening tempers.

But since H.R. 3030 was introduced last year, we have managed to set-aside ancient animosities, and avoided creating new ones. The members of the Committee on Energy and Commerce have on many times worked well into the early hours of the morning. It has been worth it, because we have written a good bill.

It is the product of months of intense discussions and negotiations, always conducted in a spirit of comity and conciliation. For that, I thank the members of the committee—particularly Mr. LENT, Mr. WAXMAN, Mr. MADIGAN, Mr. SHARP, Mr. SWIFT, and Mr. ECKART, to name but a few who played important roles in crafting this legislation.

The bill we offer is tough—but fair. Those in the environmental community say it is cleaner than the bill produced by the Senate, while those in industry say it is cheaper.

The legislation in places goes a bit farther than I think necessary—but that was the will of the committee and the Congress, and I accept and trust their judgment.

The bill we are offering for your approval is the most comprehensive clean air bill—and the most comprehensive environmental bill—ever written. The 1977 Clean Air Act focused almost entirely on two issues: urban smog and motor vehicle emissions. They are but the first two of seven titles in the legislation we will consider. The Clean Air Act of 1970 contained provisions dealing with hazardous emissions; in practice, only seven substances have been regulated. Title III of this year's bill completely rewrites those provisions. The rest of the committee bill represents entirely new initiatives and approaches.

In the Energy and Commerce Committee, the most important environmental issues of the day—urban smog, motor vehicle emissions, cleaner burning fuels, toxic emissions, and acid rain—have been resolved in a series of bipartisan, almost unanimous agreements. These are the provisions that will provide by far the greatest environmental and health benefits to the American people, and they will also impose the most substantial burdens on American industry.

The simple fact is that this bill will reduce more air pollution caused by more substances from more sources.

The bill sets standards for the major pollutants such as ozone, carbon monoxide, sulfur oxides, particulates, nitrogen dioxide, and lead which contribute to urban smog. It sets procedures the States must follow to bring areas into compliance with air quality standards. All but 9 cities must comply with the standards by 1999; all cities with the exception of Los Angeles must comply by 2005; and Los Angeles—which has the Nation's most severe air quality problems—must comply by 2010. The EPA would have the power to enforce plans for reducing pollution in areas where the States were unwilling or unable to act.

With respect to motor vehicles, the bill sets new standards for motor vehicle tailpipe emissions. We have already reduced tailpipe emissions by between 75 and 96 percent; this legislation will require the automakers to reduce nitrogen oxide emissions by another 60 percent, and hydrocarbons by another 40 percent in the next 6 years—with the possibility of even of more stringent reductions in 2003.

On toxic emissions, all major sources, and 90 percent of the area sources, of 191 identified toxic pollutants will be required to use the maximum available control technology to reduce emissions within 10 years. And to control acid rain, by the year 2000, sulfur dioxide emissions will be reduced by 10 million tons annually.

These provisions were all adopted in committee. In the time since we reported the bill, we have also reached agreement on some other issues. We have agreed on requirements for clearner-burning fuels, we have agreed on emission permits and provisions for enforcement, and we have agreed on a program to improve visibility in our national parks.

What remains to be done are just a small number of issues. They may be important to individual Members and their communities, and for that reason, deserve serious consideration. But in terms of writing a strong, workable piece of national environmental legislation, the overwhelming majority of the work has been done.

The members of the committee—and the members of this body—have every reason to be proud of what we have accomplished. H.R. 3030—the Clean Air Act of 1990—deserves the support of my colleagues and is an important stride forward in resolving a major environmental concern and controversies which have been making it harder for us to address other important questions which will follow on after this legislation is enacted.

□ 1320

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] has consumed 10 minutes.

Mr. LENT. Mr. Chairman, I yield myself such time as I shall consume.

Mr. Chairman, for the past 12 years, the House has been locked in a stalemate over the best way in which to improve the Clean Air Act. During this period of legislative inaction, our air has become dirtier, resulting in a rapid deterioration of our natural resources and a tremendous cost to the health of Americans.

Two significant changes occurred this year that broke a decade's logjam. The first came from the White House. In his 1988 campaign, George Bush said that—if elected—he would offer a comprehensive plan to clean the air we breathe. A few months after taking office, President Bush fulfilled his pledge by proposing a tough, comprehensive clean air package that tackles the problems of acid rain, air toxics and smog. The bill that is before us today, H.R. 3030, satisfies President Bush's promise to the American people. Under his strong leadership, we accomplished something that had not been done in years: we reported a clean air bill to the House floor.

The second change that occurred this year was the willingness of Congressional leaders to compromise. Members whose absolute commitment to a particular point of view had prevented a bill from leaving committee in the past now found themselves sitting across the negotiating table, seeking and arriving at common ground.

H.R. 3030 is a result of compromises. Using the Bush language as a starting point, the interests of the environment and the economy were weighed in arriving at complex solutions to our air quality problems. The bill's 10 million ton sulfur dioxide reduction makes it the strongest acid rain provision ever considered by Congress, yet it does so in a way that helps those areas of the country, like the Midwest, which will be asked to bear the greatest share of the clean-up cost. Likewise, we arrived at compromises on the thorny issues of tailpipe emissions, smog, reformulated gasoline and air toxics, so that—unlike prior years—we

find ourselves in a position of relative agreement on the most important issues framing the clean air debate.

I would like to take this opportunity, Mr. Chairman, to thank my cosponsor and distinguished colleague from Michigan, the Chairman of the Energy and Commerce Committee, Mr. DINGELL, along with the gentleman from California, the chairman of the Subcommittee on Health and the Environment, Mr. WAXMAN, for their leadership in bringing this bill forward. Their willingness to tackle the tough issues and to work towards a comprehensive compromise have allowed us to bring this bill to a vote. I would also like to thank the ranking Republican members on the Health and the Environment and Energy and Power Subcommittees, Mr. MADIGAN and Mr. MOORHEAD, along with my distinguished colleagues on the Health and Environment Subcommittee: Mr. DANNEMEYER, Mr. WHITTAKER, Mr. TAUKE, Mr. BLILEY, Mr. FIELDS, Mr. NIELSON, and Mr. BILIRAKIS, for playing key roles in the exhaustive negotiations that brought about numerous compromises.

Title V, which dealt with acid rain, one of the most difficult issues we dealt with, included a fair and equitable distribution of allowances so that all areas of the country would have sufficient allowances to grow. Pivotal in those negotiations were Mr. SHARP and Mr. COOPER, who also deserve our thanks for their active participation.

When we reach final consideration, H.R. 3030 must still meet President Bush's tests of reasonableness and balance that he outlined to the Senate when that body considered amendments to the Clean Air Act. In a letter to Minority Leader ROBERT DOLE, the President stated, and I quote, "I will only sign legislation that balances environmental and economic progress," and he outlined five tests as follows:

First, the important environmental protections afforded by the administration's bill must be maintained in the final legislation and preserved over time.

Second, the bill should not impose aggregate costs on the economy that exceed the already-considerable costs embodied in the administration's bill—with an adjustment of no more than 10 percent to reflect certain mobile source provisions added in the House Energy and Commerce Subcommittee on Health and the Environment.

Third, controls in the bill should be designed to achieve reductions in the most cost-efficient way—that is, for the least cost per ton of reduced pollutant.

Fourth, the system of emissions trading, which allows acid rain reductions to be achieved in the least costly and most equitable fashion, must be allowed to work.

Fifth, the legislation must not include a national electricity tax to pay for controls, which would penalize consumers in those States which have already undertaken reductions by making them in effect "pay twice" for clean air.

Mr. Chairman, I believe that H.R. 3030—even after significant strengthening amendments made in subcommittee and committee—meets President Bush's five tests of balance and reasonableness. It is a delicate mosaic, whereby hundreds and thousands of complex, intricate tiles form one completed picture.

Several amendments on a number of outstanding issues threaten the delicate balance of this mosaic. If passed, these amendments could destroy the months of careful compromise that have brought us so far and result in the same type of legislative logjam with which we are so familiar. These outstanding areas include:

First, chlorofluorocarbons, second, production mandates for automobiles, third, assistance to those Americans in the labor force who are displaced due to the provisions of this Act, and fourth, air emissions from offshore oil platforms.

As we discuss and debate each of these amendments, we must remember how far we have come, and ask ourselves whether the adoption of a particular amendment will result in the collapse of our compromise efforts, a lack of consensus in the Congress and, finally, the likelihood of a Presidential veto if the five tests of balance and reasonableness do not continue to be met.

H.R. 3030 is a good bill. It is a landmark compromise that takes dramatic strides forward toward preserving and protecting our environment. Let us not allow our fervor for clean air to force us to lose sight of the forest for the trees. By passing H.R. 3030, President Bush's Clean Air Act Amendments of 1990, we can indeed leave our children and our grandchildren a world made better by our efforts, an America where clean air is not merely a distant memory, but a fact of life.

Before I conclude, Mr. Chairman, I would like to express on behalf of all my colleagues on the committee our heartfelt thanks and appreciation to our staff that served us so admirably throughout this debate. In particular, I would be remiss if I did not mention Chuck Knauss, David Finnegan, John Shelk, Michael Woo, Jessica Laverty, Phil Schiliro, Margaret Durbin, John Orlando, Jack Clough, John Hambel, Phil Barnett, Greg Whetstone, Judy Greenwald, and Shelley Fidler. These dedicated men and women worked virtually around-the-clock, drafting language that would be acceptable to all sides. This bill could not have been possible were it not for their dedication and commitment, and we are indeed fortunate to have professionals of this caliber serving us in Congress.

Mr. Chairman, I reserve the balance of my time.

□ 1330

The CHAIRMAN. The gentleman from New York [Mr. LENT] has consumed 9 minutes.

Mr. DINGELL. Mr. Chairman, I yield 16 minutes to the distinguished gentleman from California [Mr. WAXMAN], the chairman of the subcommittee, who has helped to craft this legislation and arrive at the compromise and who played a most important part in the entirety of its consideration.

Mr. WAXMAN. Mr. Chairman and my colleagues, this is a historical moment for us to meet and consider amendments to the Clean Air Act.

This is also the most important environmental issue that we will have before us in this Congress.

When I think back over the 10 years in which we have been toiling to get a bill to this point, I think how attitudes have changed.

In the early 1980's there were those who said that we need not be concerned about the stringency of the nonattainment program, the part of the Clean Air Act which sets in place the plans to reduce air pollution so that areas can be in compliance with the law and the air in those areas healthy enough to breathe. There were many who said we did not need such strict laws on the books because we were moving toward compliance by the late 1980's. And some people suggested in the early 1980's that we could double the amount of emission from automobiles without any difficulty, we could double the amount of emissions in our national parks without doing any great harm.

Well, they have been proved wrong. Here we are in 1990 and we have over 150 million Americans living in areas where the air pollution is so excessive that the Environmental Protection Agency has termed it unhealthy to breathe.

We need a strong Clean Air Act that will reduce air pollution in our cities and throughout our Nation. And the essential reason for the Clean Air Act is to accomplish that goal so that we can protect the public health. The bill we have before us accomplishes that result. It sets in place a strong program that will have the force behind it to reduce air pollution by requiring local communities to make an inventory of the sources of that pollution and to develop a plan that will reach, within a reasonable period of time, a deadline where the air will be clean.

As we strive to clean up the air, we have to be mindful of the fact that the leading cause of air pollution in our country is the motor vehicle.

We must reduce pollution from cars, trucks, buses.

Our bill that is presented to you today has strong standards for gasoline-powered cars. But we need more than that. We need to take the part of the proposal that the President sent us which he claimed was the most innovative and far-reaching—and he was right—that part which said we have to develop the technology for clean-burning cars and move in that direction.

Clean-burning cars that will run on alternative fuels, was key to the President's approach. It was the most innovative part of his proposal. We should restore that provision to the bill. The Waxman-Lewis amendment to this legislation will accomplish this. The House will have that issue before it when we consider amendments.

As I look back over the last 10 years, I think about the debate about acid rain. There were those who said there was not enough scientific certainty to deal with the acid rain problem. But people in the northeastern part of the country, who saw their lakes and forests being destroyed, did not doubt that acid rain was a real problem.

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The National Academy of Sciences did not doubt it. In two separate studies on acid rain they concluded that sulfur dioxide and nitrogen oxide emissions were causing acid rain. Pollution carried over long distances turned into precipitation and that precipitation was destroying the environment.

Not only that, the pollution was adversely affecting public health.

In the early 1980's, our colleagues, the gentleman from Minnesota [Mr. SIKORSKI], and the gentleman from Massachusetts [Mr. CONTE], and the gentleman from New York [Mr. BOEHLERT], and the gentleman from New York [Mr. GREEN], argued that we needed to do something about acid rain. Years have gone by, and now this legislation before the Members will, in fact, have a program to reduce the pollutants that cause acid rain. In this regard, I want to pay tribute to President Bush for recognizing that acid rain is a problem, for seeing that 10 million ton reductions by the turn of the century were needed, and a cap on pollution thereafter was something we had to have in order to prevent pollution from going back on the upswing and doing all the damage that would otherwise occur.

At the beginning of the decade, many Members talked about toxic air pollutants. Those pollutants were different than smog. Smog causes problems of the lungs and heart. It causes problems for the elderly and children, but toxic air pollutants cause cancer, birth defects, and neurological damage, especially to those who live near these industrial facilities. We argued that more needed to be done. The Environmental Protection Agency, under several past administrations, had done virtually nothing. But when we argued that the only degree of regulation on toxic air pollutions that existed was whatever the industry placed on itself, people could not believe that was the case.

After the Bhopal tragedy in India, our committee held hearings, and our committee did more than that. We asked for an inventory to be developed about the extent of the toxic air pollutants in this country. We requested the industry to tell Members how many of these pollutants were going into the air from their facilities. From the reports back to members of the industry—and not all of them responded—we were told that 80 million pounds of toxic air pollutants were going into the air each year. When we announced that, there was a scream from industry, "That could not be, That was clearly an exaggeration." But when we adopted the Superfund legislation, the gentleman from Minnesota [Mr. SIKORSKI], succeeded by 1 vote in the House in getting a requirement that EPA do an inventory of toxic air pollutants. They released their inventory, a much more official report than ours. The EPA announced after their first survey that there were 2.7 billion pounds of toxic air pollutants going into the air from industrial facilities.

Clearly, this problem is one that is long overdue to be addressed by the Congress of the United States. I am pleased to say that this bill has a very strong toxic air pollutant section.

There are still some issues that we need to address when this bill comes before the full House in a couple of days. We are learning, and the science is moving very rapidly in illustrating, that there is a depletion of the upper ozone layer that shields our planet, due to the release of chlorofluorocarbons, a pollutant that chemically destroys this ozone. CFC's have created what is termed "a hole" in the ozone layer. There is no scientific dispute about this question. The experts tell Members there is this depletion of the ozone layer. It is causing more skin cancers. That is a fact upon which there is a consensus. Many experts tell Americans that more harm is being done than we really know at this time, that there are subtle changes to the whole ecosystem, and those subtle changes can have cataclysmic effects. The Bates-Boehlert amendment will deal with the problem of chlorofluorocarbons that are causing damage to the upper ozone. At the appropriate time, we will urge the House to adopt that amendment.

We have other issues, and negotiations are going on as of this moment to try to resolve many of these issues, as appropriately as they should. I want to acknowledge the fact that through negotiations in our committee, many of the issues that have been contentious for at least 10 years will not be the battleground before the House. The issues of the nonattainment program, acid rain, toxic air pollutions, are by and large resolved as they move to the House of Representatives, thanks in part to the leadership and ability and willingness to cooperate on the part of a number of our colleagues.

I want to pay tribute to our chairman, the gentleman from Michigan [Mr. DINGELL], who has shown the willingness to lead and to get Members together on so many of these important issues. I want to pay tribute to the gentleman from New York [Mr. LENT], the ranking Republican member of our full committee, the Committee on Energy and Commerce, also the gentleman from Minnesota [Mr. SIKORSKI], the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Pennsylvania [Mr. WALGREEN], the gentleman from Massachusetts [Mr. MARKEY], the gentleman from New York [Mr. LENT], the ranking Republican [Mr. ECKART], the gentleman from California [Mr. BATES], the gentleman from Tennessee [Mr. COOPER], the gentleman from Texas [Mr. BRYANT], the gentleman from Washington [Mr. SWIFT], the gentleman from Indiana [Mr. SHARP], the gentleman from Illnois [Mr. MADIGAN], the gentleman from Iowa [Mr. TAUKE], and the gentleman from New Jersey [Mr. RINALDO]. These are all people who have played an active role in resolving some of these heretofore contentious issues.

I want to acknowledge some of our former colleagues who have been on the Committee on Energy and Commerce, and who have battled on this question over the years, and have continued to stay active, Senators WIRTH and MIKULSKI, and now Governor Jim Florio. They have all gone on from the House to other positions, but they have left their imprint on this legislation. A number of Members who are not on the Committee on Energy and Commerce have played and will continue to play a critical role in bringing this bill to the floor, and I am particularly grateful to the commitment of the gentleman from Massachusetts [Mr. CONTE], the gentleman from New York [Mr. BOEHLERT], the gentleman from New York [Mr. GREEN], the gentleman from California [Mr. LEWIS], the gentleman from Minnesota [Mr. VENTO], and many others, for a strong, fair, clean air bill.

I will not go into some of the detailed provisions in the bill, unless there are questions, the bill deals with many difficult issues, especially that very difficult one of acid rain which

divided our colleagues and our Nation. The efforts of people on our committee, such as the gentleman from Minnesota [Mr. SIKORSKI], the gentleman from Tennessee [Mr. COOPER], the gentleman from Indiana [Mr. SHARP], the gentleman from Illinois [Mr. MADIGAN], and the gentleman from Illinois [Mr. BRUCE] were particularly helpful during the committee's deliberations on acid rain. I am also pleased that we reached an agreement this weekend on an amendment by my good friend, the gentleman from Oregon [Mr. WYDEN], that will be offered on the floor to require the EPA to regulate regional haze and protect visibility in the national parks. The committee has reached agreement on some of these contentious issues, and there may be other agreements as well. But unless an agreement is reached we will have the amendment that I will be offering with my colleague, the gentleman from California [Mr. LEWIS], on alternative fuels, very similar to the alternative fuel plan that President Bush included in H.R. 3030. Unfortunately, the Committee on Energy and Commerce, by the narrowest of margins, significantly weakened the President's program. The gentleman from California [Mr. BATES], and the gentleman from New York [Mr. BOEHLERT] will have their amendment to control chemicals destroying the Earth's ozone layer. The gentleman from Minnesota, and the gentleman from New York will offer an amendment to extend car manufacturers' warranties for catalytic convertors and electronics, to 8 years or 80,000 miles. The bill out of committee, incredibly, lowered—lowered the warranty period, shifting the burden from the automobile manufacturers on to the consumer, to make the consumer pay the bill, so that antipollutant devices will work. What a ripoff of the consumer that is. Also, great harm will come to the environment as well if these catalytic convertors do not work as they should. The gentleman from California [Mr. LEVINE] and the gentleman from California [Mr. LAGOSMARSINO] will be offering an amendment to require the EPA to regulate oil and gas facilities on the Outer Continental Shelf, in the same manner it regulates nearby onshore facilities. Currently these activities escape EPA regulation.

Mr. Speaker, there are many people who have played an important role in this legislation. I have a deep sense of gratitude and satisfaction that the bill that is before Members is one that will go a long, long way to dealing with these air pollution problems, that many in the early part of this last decade refused to acknowledge as problems at all. I cannot tell Members how many times the gentleman from Minnesota [Mr. SIKORSKI] offered the different approaches to achieve acid-rain reductions, only to be told "Acid rain—there is no such problem as acid rain." Now we are not disputing the problem of acid rain. Now we are legislating to regulate the pollutants that cause acid rain. We have certainly made a great advance that now brings Members to this floor with this bill.

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Mr. Chairman, our staffs have been magnificent. The gentleman from New York [Mr. LENT] went through the names of all the staff members, and they all deserve our gratitude. All have been professionals in the highest sense of that term, working incredibly long hours to try to work out differences and craft the bill to accomplish what the Members hope to accomplish.

I want to pay tribute to my staff members, Greg Wetstone and Phil Barnett, who are both counsel to the subcommittee, and my own administrative assistant, Phil Schiliro. They prepared something new to help our deliberations on clean air, and what they prepared is what we call the Clean Air Facts, solid statements of the issues involved. These Clean Air Facts are quite voluminous because we have had Clean Air Facts on every one of the issues involved. It was important to us that the Members get the facts about this clean air debate and not just hear from the lobbyists who have a vested interest in representing their organizations, and so often their representations are in fact misrepresentations of either the problem or the solutions.

The Clean Air Facts set out an enunciation of the issues before us, and I would like to have them appended to my remarks in the CONGRESSIONAL RECORD so they will be available to others who wish to read them.

Mr. Chairman, I thank the chairman of my committee for this opportunity to speak on this issue, and I thank my chairman for his leadership. I look forward to the completion of this legislation in the House and the conference with the Senate. I look forward to the time when we will be there with President Bush when I hope he will sign into law what he and we have promised the American people: Legislation that will bring us clean air, legislation that will reduce air pollution. That is the only way we are going to get clean air and a better environment.

Mr. Chairman, the Clean Air Facts to which I alluded are attached to my remarks, as follows:

[From the Clean Air Facts, Mar. 6, 1989]

THE CLEAN AIR ACT: AN INTRODUCTION

The Clean Air Act, as originally enacted in 1970, and amended in 1977, includes a number of programs intended to clean up unhealthful levels of pollution, and preserve air quality in areas with pristine air. This fact sheet offers a brief introduction to the structure of the Act, emphasizing parts most relevant to the current debate.

AMBIENT AIR QUALITY STANDARDS AND THE SMOG PROBLEM

All areas of the country are required by the Clean Air Act to meet air quality standards established by EPA at a level considered adequate to protect public health. These standards, called the National Ambient Air Quality Standards (NAAQSs), are the cornerstone of the Act's pollution control programs. Each ambient standard is based on a detailed review of scientific information, called a criteria document, prepared by EPA and expert advisors.

Achievement of the health standards is a driving force behind many of the pollution control requirements of the Act. States are given primary responsibility for attaining the standards. Each is required to prepare a State Implementation Plan (SIP) that specifies enforceable pollution control requirements sufficient to attain the standard. Although several of these standards have been achieved throughout the nation, the health standards for ozone and carbon monoxide are currently exceeded in most urban areas.

Areas not meeting the Act's standards are termed "nonattainment" areas, and are subjected to certain tougher control requirements for new sources. In addition, existing sources in nonattainment areas—those sources too old to be covered by the Act's new source standards—are required to use all Reasonably Available Control Technology (RACT). EPA issues guidelines for specific industry categories, called Control Technique Guidance (CTG), to define what technologies should be considered reasonably available.

Extensions of the Act's original deadlines gave areas until August 31, 1988, to meet the standards. When this deadline passed, and unhealthful levels of ozone and carbon monoxide pollution persisted, the vast majority of urban areas became subject to EPA sanctions. These sanctions include a ban on the construction of large new pollution sources, and at EPA's discretion, a cut-off of Federal highway funds. To date, however, the Agency has only sought to impose such sanctions on a handful of cities.

Carbon monoxide pollution comes mostly from cars, trucks, and buses. Ozone pollution is formed in the atmosphere from hydrocarbon and nitrogen oxide pollutants released by these sources, as well as from industrial facilities, chemical plants and numerous smaller sources.

NEW SOURCES

New pollution sources in all states are subjected to nationally uniform pollution control requirements that reflect use of the best technology available, taking cost into account. This is known as the New Source Performance Standard (NSPS) program. More stringent requirements are imposed on new sources because engineering considerations allow for cheaper and more effective pollution control when the effort is incorporated in the design and construction of the facility. The nationally uniform standards also serve to eliminate the possibility that states might compete for new industry through the relaxation of pollution requirements.

Those new pollution sources located in nonattainment areas are subjected to especially demanding requirements. They must use technology capable of reducing pollution to the Lowest Achievable Emissions Rate (LAER), and are required to offset new pollution that they will introduce to the area with comparable or greater pollution reductions from nearby sources.

ACID RAIN

The Clean Air Act was originally designed primarily to address air quality problems caused by high pollution levels relatively near the pollution source. It was expected that as long as pollution levels did not exceed the ambient standards, air quality objectives would be served. Although the approach was of questionable legality at the time, in the 1970s many states resorted to very tall smokestacks to disperse pollution. This approach allowed the ambient standard to be achieved without the use of expensive control technology. Little thought was given to the possibility that the pollution might cause environmental damage when it returned to earth.

Scientists have since learned that sulfur dioxide and nitrogen dioxide pollution from power plants, autos, and other sources can be carried hundreds or even thousands of miles through the atmosphere, chemically transformed in the process, and eventually returned to earth as sulfuric or nitric acids. These acids often come to earth in rain or snow, but sometimes they return as "dry deposition." Such acid pollution has been associated with a variety of harmful effects, including the acidification of lakes; the decline of forests; damage to man-made materials; and serious human health impacts.

AIR TOXICS

Section 112 of the Clean Air Act provides authority for control of especially dangerous chemicals, called "hazardous air pollutants." This is to be accomplished through National Emission Standards for Hazardous Air Pollutants (NESHAPs) to be set by EPA. Section 112 was intended to achieve stringent, uniform and relatively quick Federal regulation of substances that pose risks of serious illness at relatively low concentrations. EPA is directed to list and within one year regulate air pollutants that are hazardous to human health. Substances that might cause cancer, reproductive disorders, neurological effects, or other serious ailments were expected to be regulated under this section.

Unfortunately, Section 112 has not been effectively implemented. Although experts agree that hundreds of compounds released into the air meet the Act's definition of "hazardous," the Federal EPA has regulated only seven substances under Section 112 in the nearly 20 years since the law was enacted. The release of numerous substances formally classified as carcinogens by the EPA itself, including chloroform, formaldehyde, carbon tetrachloride, and PCBs, remains unregulated.

MOTOR VEHICLE EMISSION CONTROLS

Recognizing the importance of automobiles as a pollution source, Congress in 1970 legislatively established standards for auto-related pollutants. The legislation sought to reduce automotive hydrocarbon pollution (HC), nitrogen oxide pollution ($NO_x$), and carbon monoxide pollution (CO) by 90 percent of the uncontrolled levels.

In order to meet these targets, EPA set vehicle emission standards of 0.41 grams per mile for HC, 3.4 grams per mile for CO, and 0.4 grams per mile for $NO_x$. The hydrocarbon and CO standards were to be attained by 1975, and the $NO_x$ standards by 1978. This timetable was pushed back in the 1977 amendments, and passenger cars were given until 1981, with an extension available until 1983 for the CO standard. At the same time, the $NO_x$ standard was relaxed to 1.0 grams per mile. These 1970 standards, as altered by the weakening of the $NO_x$ requirement, remain in force today. They are required to be achieved both at "certification," when a new engine family is tested by EPA (before assembly line production), and "in use," when the vehicle is actually on the street. The in use requirement mandates that the standard be achieved throughout the first 50,000 miles of vehicle use.

The emission standards have worked to bring down motor vehicle pollutants on a per vehicle basis. Much of the gain, however, has been offset by increases in the number of cars on the road and in miles travelled. Motor vehicles remain the single largest source of ozone and carbon monoxide pollution in nonattainment areas.

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[From the Clean Air Facts, Mar. 15, 1989]

OZONE POLLUTION: A PRIMER

Ozone pollution is our country's most pervasive air pollution problem, and a serious public health concern. The vast majority of our cities, as well as many rural areas, currently violate U.S. Environmental Protection Agency (EPA) health standards for ozone. This fact sheet describes how ozone pollution is formed, where it comes from, and its health and environmental impacts. (Ozone control strategies will be discussed in a separate fact sheet.)

WHAT OZONE IS

Ozone is a highly reactive gas that is one of the primary constituents of smog. Chemically, ozone is a form of oxygen composed of three atoms, as compared to oxygen gas which has two atoms. The three atom arrangement is by nature unstable. In a process known as "oxidation" the extra oxygen atom in the ozone molecule has an aggressive tendency to react with whatever substance is available.

The oxidation reaction is extremely corrosive. This is the reaction that causes metals to rust. It also causes cracking and fading of paints, dyes and rubber products. This corrosive character is largely responsible for ozone's adverse health and environmental effects.

HEALTH IMPACTS OF OZONE POLLUTION

Ninety percent of the ozone breathed into the lung is never exhaled. Instead, the ozone molecules react with sensitive lung tissues, irritating and inflaming the lungs. This causes a host of adverse health consequences, including chest pains, shortness of breath, coughing, nausea, throat irritation, and increased susceptibility to respiratory infections.

These adverse effects have been observed in healthy, exercising individuals at concentrations below the level of the Federal health standard. The intensity of the acute response increases as ozone levels rise, and as respiration rates increase. Vigorous exercise, which leads to heavier breathing, is likely to increase the health impacts of exposure to ozone. Unfortunately, the warm sunny conditions most conducive to ozone formation are also most attractive for outdoor activity.

A growing body of scientific evidence indicates that over the long term, repeated exposure to ozone pollution may scar lung tissues permanently. Researchers explain that the build-up of scar tissue stiffens the lungs, reducing their capacity and, in effect, prematurely aging the respiratory system. Ultimately, emphysema or lung cancer may result.

Young children are especially vulnerable to both the acute and the permanent effects of ozone pollution. This is so because their small airways are more easily obstructed by the inflammation ozone causes. Also, a child's more rapid breathing tends to draw ozone deep into the lungs; and children's lungs are often already compromised by their high rate of respiratory infections. Other especially vulnerable populations include victims of respiratory diseases, such as asthma or emphysema. Studies of asthmatics living in polluted areas have found that asthma attacks tend to occur more frequently as ozone levels rise.

Health researchers are also concerned that ozone pollution increases the lung's susceptibility to acute and permanent injury from exposure to the sulfuric and nitric acids commonly found in urban smog. Such interactions among air pollutants are poorly understood, and are now under study.

IMPACTS ON CROPS AND VEGETATION

Ozone pollution has been shown to damage many types of vegetation extensively. The pollution enters plant leaves through their gas exchange pores, in essence burning the cell membranes. EPA estimates indicate that ozone pollution levels common in many areas can reduce tomato yields by 33%, beans by 26%, and soybeans by 20%. Other studies have shown that ozone levels below the federal standard can cause wheat yields to drop by 30%. The Agency has concluded that ozone causes annual crop losses of $2 to $3 billion per year.

Forests can be damaged through the same processes. Forest damages attributable to ozone pollution, including premature death and stunted growth, have been found in the San Bernadino National Forest in Southern California, and along the length of the Sierra Nevada mountains. Ozone pollution is also a suspected cause of the widespread forest dieback occurring in high altitude forests throughout the East.

HOW OZONE IS FORMED

Ozone is not emitted directly from smokestacks or other pollution sources. Instead, it is a "secondary pollutant," or formed from the mixture of nitrogen oxides (NOx), and a large group of hydrocarbon pollutants called volatile organic compounds (VOCs). As explained below, these compounds are released into the air by motor vehicles, factories, and numerous smaller sources. The pollutant mix cooks in the sun, producing ozone through a complex chain of reactions. The hotter the temperatures, the greater the formation of ozone.

A typical ozone pollution episode involves a large stagnant air mass that allows pollutants to build up in the atmosphere. The polluted air mass slowly spreads downwind. In the summer, it is common for such air masses to build-up over the urban areas along the East Coast, and move into New England. As the air mass moves, ozone levels often continue to increase. In part, this is because the pollutants have more time to react and form ozone. The addition of new pollutants, originating in areas passed along the way, is also an important factor.

This process can eventually bring high ozone levels to areas hundreds of miles downwind of the urban pollution sources. As a result, ozone pollution can be a serious problem even in very rural parts of the country. For example, last summer one of the most pristine areas east of the Mississippi River—Acadia National Park on an island off the northern coast of Maine—recorded ozone levels so high that they would

produce a smog alert if they occurred in downtown Los Angeles.

SOURCES OF OZONE PRECURSORS

The two major ozone precursors, VOCs and $NO_x$, come principally from motor vehicles and industry. The Office of Technology Assessment estimated last year that the most important sources of VOC emissions are "mobile sources," mainly cars, trucks, and buses, which release about 40% of national VOC emissions. Other important sources include: organic solvent evaporation from stationary sources such as dry cleaners, printers, and paint shops (30%); and home fuel combustion (12%). (Home fuel combustion, however, tends to take place in cold weather, and not during ozone season.)

In most urban areas, transportation sources actually account for a much larger percentage of the VOC emissions, often over 50%, because of the high concentration of motor vehicles in city centers, and the relative absence of heavy industry in such areas.

In addition, EPA recently discovered that cars, trucks and buses are responsible for substantially more of the warm weather VOC pollution than even recent estimates indicate. The Agency last year determined that the pollution coming from automotive tailpipes may in fact be only a small percentage of the car's VOC emissions. On hot days, when ozone is most likely to be a problem, high levels of pollution escape by evaporation through the engine and fuel tank in a phenomenon termed "running loss." Preliminary estimates are that running losses alone could account for as much as 30% of that nationwide VOC pollution total.

The other major ozone precursor is nitrogen oxides, which is also a major contributor to acid rain. Nitrogen oxides are produced in all fossil fuel combustion reactions. The principal sources of $NO_x$ emissions are, once again, mobile sources, which account for about 45% of the $NO_x$ inventory. Other important sources include electric utilities burning fossil fuels (30%), and industrial fuel consumption (12%).

AREAS AFFECTED BY OZONE POLLUTION

Ninety-four of the nation's urban areas, with a collective population of 136 million people, violate the Clean Air Act health standard for ozone. The highest ozone levels are found in Southern California, with New York, Houston, and Chicago rounding out the list of major cities with the most severe ozone problems. Many other areas, however, experienced ozone levels last summer that exceeded the standard by more than 50%. Along the Eastern seaboard, ozone violations were especially frequent last summer, occurring about once every three days.

EPA's list of areas violating the ozone standard as of 1987 is provided in Table 1. Table 2 shows the 28 new areas that became nonattainment because of their 1988 ozone levels. In these tables, compliance is evaluated on the basis of "design value," which is the fourth highest one-hour ozone reading over three years. The multi-year design value is utilized in order to avoid basing compliance determinations on the ozone levels recorded in a single, perhaps aberrational, year.

OZONE POLLUTION TRENDS

Some success in reducing hydrocarbon emissions occurred between 1970 and 1982, when VOC levels dropped by over 25%. Since then, however, VOC levels have remained relatively flat, in part because many of the gains attributable to tighter tailpipe standards have been reversed by a substantial increase in vehicle miles travelled since 1970. $NO_x$ emission levels increased slightly between 1970 and 1986, and are expected to continue to rise.

Overall, the ozone levels recorded in 1988 were the worst of the decade, and in many areas the worst ever recorded. In fact, EPA has preliminarily added 28 new cities, with a combined populace of 15 million Americans, to the list of areas violating the health standard, as a result of last summer's high pollution levels. Air pollution experts agree that, given estimates of substantial increases in the use of motor vehicles in future years, and predictions of global warming, ozone levels in future years are likely to increase in the absence of new pollution controls.

TROPOSPHERIC VERSUS STRATOSPHERIC OZONE

The formation of ozone pollution discussed in this fact sheet occurs in the lowest level of the earth's atmosphere, called the "troposphere."

But ozone is also formed naturally in the earth's upper atmosphere, called the "stratosphere," where it serves a vital purpose in protecting the planet from dangerous ultraviolet radiation. Stratospheric ozone depletion is caused by the release of chlorofluorocarbons (CFCs) and is a major health and environmental concern. This issue will be discussed in detail in a later Fact Sheet.

Because of the reactive nature of ozone and the structure of the atmosphere, tropospheric ozone pollution cannot migrate to the stratosphere to replenish the depleted ozone levels there.

AREAS VIOLATING OZONE STANDARDS 1985–87

[Ozone Air Quality Summary Report, Nov. 28, 1988]

| Areas proposed nonattainment, June 6, 1988 | Exp.[1] Exc. | Design value[2] (ppm) | Number counties nonattainment[3] New | Current | Total | Population[4] 1985 (1,000) |
|---|---|---|---|---|---|---|
| Allentown-Bethlehem, PA–NJ | 1.4 | .125 | 0 | 4 | 4 | 650 |
| Atlanta, GA | 13.5 | .168 | 7 | 11 | 18 | 2,472 |
| Atlantic City, NJ | 3.4 | .141 | 0 | 2 | 2 | 293 |
| Bakersfield, CA | 35.1 | .160 | 0 | 1 | 1 | 481 |
| Baltimore, MD | 7.9 | .170 | 1 | 6 | 7 | 2,253 |
| Baton Rouge, LA | 3.0 | .144 | 1 | 6 | 7 | 625 |
| Beaumont-Port Arthur, TX | 3.4 | .130 | 1 | 2 | 3 | 381 |
| Birmingham, AL | 3.2 | .146 | 4 | 1 | 5 | 904 |
| Boston-Lawrence-Salem, MA–NH | 2.4 | .138 | 0 | 11 | 11 | 4,654 |
| Charlotte-Gastonia-Rock Hill, NC–SC | 3.0 | .131 | 6 | 1 | 7 | 1,049 |
| Chicago-Gary-Lake County, IL–IN–WI | 6.4 | .167 | 4 | 7 | 11 | 8,085 |
| Cincinnati-Hamilton, OH–KY–IN | 1.6 | .137 | 1 | 7 | 8 | 1,680 |
| Cleveland-Akron-Lorain, OH | 1.8 | .127 | 1 | 6 | 7 | 2,775 |
| Dallas-Fort Worth, TX | 11.9 | .161 | 7 | 2 | 9 | 3,512 |
| Detroit-Ann Arbor, MI | 2.0 | .132 | 0 | 8 | 8 | 4,581 |
| El Paso, TX | 9.0 | .160 | 0 | 1 | 1 | 545 |
| Fresno, CA | 30.4 | .170 | 0 | 2 | 2 | 665 |
| Grand Rapids, MI | 1.3 | .125 | 0 | 2 | 2 | 635 |
| Hancock Co, MAINE (Non-MSA) | 1.4 | .125 | 1 | 0 | 1 | 44 |
| Hartford-New Britain-Middletown, CT | 5.8 | .167 | 0 | 8 | 8 | 2,222 |
| Houston-Galveston-Brazoria, TX | 19.1 | .200 | 5 | 3 | 8 | 3,642 |
| Huntington-Ashland, WV–KY–OH | 3.8 | .141 | 5 | 1 | 6 | 332 |
| Indianapolis, IN | 1.3 | .125 | 7 | 1 | 8 | 1,203 |
| Jacksonville, FL | 2.1 | .155 | 3 | 1 | 4 | 823 |
| Jefferson Co, New York (Non-MSA) | 4.7 | .131 | 1 | 0 | 1 | 89 |
| Kennebec Co, Maine (Non-MSA) | 1.2 | .119 | 0 | 1 | 1 | 112 |
| Kewaunee Co, Wisconsin (Non-MSA) | 1.9 | .133 | 1 | 0 | 1 | 20 |
| Knox Co, Maine (Non-MSA) | 4.4 | .154 | 0 | 1 | 1 | 35 |
| Lexington-Fayette, KY | 1.6 | .126 | 6 | 0 | 6 | 329 |
| Lincoln Co, Maine (Non-MSA) | 2.4 | .127 | 0 | 1 | 1 | 28 |
| Los Angeles-Anaheim-Riverside, CA | 141.5 | .350 | 0 | 5 | 5 | 12,738 |
| Louisville, KY–IN | 4.0 | .157 | 4 | 3 | 7 | 964 |
| Memphis, TN–AR–MS | 2.0 | .130 | 3 | 1 | 4 | 945 |

AREAS VIOLATING OZONE STANDARDS 1985–87—Continued

[Ozone Air Quality Summary Report, Nov. 28, 1988]

| Areas proposed nonattainment, June 6, 1988 | Exp.[1] Exc. | Design value[2] (ppm) | Number counties nonattainment[3] New | Current | Total | Population[4] 1985 (1,000) |
|---|---|---|---|---|---|---|
| Miami-Fort Lauderdale, FL | 2.1 | .149 | 0 | 3 | 3 | 3,601 |
| Milwaukee-Racine, WI | 4.0 | .165 | 2 | 4 | 6 | 1,621 |
| Modesto, CA | 16.2 | .150 | 0 | 1 | 1 | 306 |
| Montgomery, AL | 2.2 | .136 | 3 | 0 | 3 | 289 |
| Muskegon, MI | 6.0 | .167 | 0 | 1 | 1 | 157 |
| Nashville, TN | 3.2 | .142 | 3 | 5 | 8 | 910 |
| New York–New Jersey–Long Island, NY–NY–CT | 7.5 | .189 | 2 | 24 | 26 | 17,931 |
| Norfolk–Virginia Beach–Newport News, VA | 2.0 | .125 | 12 | 0 | 12 | 1,289 |
| Parkersburg–Marietta, WV–OH | 1.5 | .126 | 2 | 0 | 2 | 158 |
| Philadelphia-Wilmington-Trent, PA–NJ–DE–MD | 13.6 | .161 | 2 | 12 | 14 | 5,879 |
| Phoenix, AZ | 1.5 | .149 | 0 | 1 | 1 | 1,847 |
| Pittsburgh-Beaver Valley, PA | 2.1 | .135 | 0 | 7 | 7 | 2,566 |
| Portland, ME | 4.2 | .152 | 0 | 2 | 2 | 336 |
| Portland-Vancouver, OR–WA | 1.8 | .145 | 1 | 4 | 5 | 1,354 |
| Portsmouth-Dover-Rochester, NH–ME | 3.2 | 134 | 0 | 3 | 3 | 209 |
| Providence-Pawtucket-Fall River, RI | 6.5 | .162 | 0 | 5 | 5 | 968 |
| Raleigh-Durham, NC | 1.4 | .125 | 5 | 0 | 5 | 669 |
| Richmond-Petersburg, VA | 1.7 | .130 | 10 | 3 | 13 | 801 |
| Sacramento, CA | 9.6 | .170 | 0 | 4 | 4 | 1,258 |
| Sagadahoc County, ME (Non-MSA) | | | 0 | 1 | 1 | 30 |
| Salt Lake City-Ogden, UT | 3.8 | .146 | 1 | 2 | 3 | 1,025 |
| San Diego, CA | 14.4 | .180 | 0 | 1 | 1 | 2,133 |
| San Francisco-Oakland-San Jose, CA | 6.1 | .160 | 0 | 9 | 9 | 5,595 |
| Santa Barbara-Santa Maria-Lompoc, CA | 1.7 | .140 | 0 | 1 | 1 | 332 |
| Sheboygan, WI | 4.4 | .142 | 1 | 1 | 2 | 186 |
| Springfield, MA | 3.4 | .137 | 0 | 4 | 4 | 792 |
| St. Louis, MO, IL | 5.4 | .159 | 2 | 8 | 10 | 2,412 |
| Stockton, CA | 8.1 | .140 | 0 | 1 | 1 | 418 |
| Tampa-St. Petersburg-Clearwater, FL | 2.1 | .131 | 2 | 2 | 4 | 1,869 |
| Tulsa, OK | 1.1 | .123 | 4 | 1 | 5 | 733 |
| Visalia-Tulare-Porterville, CA | 11.0 | .150 | 0 | 1 | 1 | 281 |
| Washington, DC–MD–VA | 6.2 | .145 | 4 | 12 | 16 | 3,490 |
| Worcester, MA | 2.1 | .131 | 0 | 1 | 1 | 656 |
| 66 areas total | | | 125 | 225 | 350 | 121,866 |

[1] Exp. Exc. is the expected exceedance for the site for the years 1985–1987.

[2] Design value is the ozone design value in parts per million for the years 1985–1987.

[3] Current—Those counties which were listed as whole or part nonattainment on June 1, 1988 per Sec. 107 in 40 CFR 81. New—Those counties which were listed as attainment June 1, 1988 per Sec. 107 in 40 CFR 81.

[4] Population is the July 1, 1985 provisional estimates of the population.

Source: EPA, Ozone and Carbon Monoxide Summary Report: Areas Proposed Nonattainment (November 29, 1988).

TABLE 2.—*Areas violating ozone standard 1986–88 which were not violating during 1985–87*

| Region, State and CMSA/MSA/county: | *Population* |
|---|---|
| 1—New Hampshire: Manchester | 140,000 |
| 2—New York: | |
| Buffalo | 1,188,000 |
| Glen Falls and Adj. Essex Co. | 148,000 |
| Poughkeepsie | 255,000 |
| 3—Delaware: Sussex Co (rural). | 107,000 |
| 3—Pennsylvania: | |
| Altoona | 133,000 |
| Erie | 281,000 |
| Johnstown | 256,000 |
| Lancaster | 387,000 |
| Harrisburg | 573,000 |
| Reading | 318,000 |
| Scranton | 723,000 |
| Sharon | 124,000 |
| 3—West Virginia | |
| Charleston | 269,000 |
| Greenbriar Co (rural) | 39,000 |

| | |
|---|---|
| 4—North Carolina: | |
| Fayetteville | 258,000 |
| Greensboro | 893,000 |
| 4—South Carolina: Greenville and Adj. Cherokee Co | 641,000 |
| 4—Tennessee: Knoxville | 593,000 |
| 5—Indiana: Lafayette | 217,000 |
| 5—Ohio: | |
| Canton | 401,000 |
| Columbus | 1,288,000 |
| Dayton | 931,000 |
| Toledo | 608,000 |
| Youngstown (downwind site in Farrell, PA) | 513,000 |
| 6—Louisiana: Lake Charles | 174,000 |
| 7—Missouri: Kansas City | 1,494,000 |
| 8—Colorado: Denver | 1,827,000 |

Source: EPA, A Preliminary Comparison of 1988 Ozone Concentrations to 1983 and 1987 Ozone Concentrations.

[From the Clean Air Facts, Mar. 21, 1989]

CARBON MONOXIDE POLLUTION

Although carbon monoxide pollution is less widespread than ozone, over 80 million Americans still live in areas that experience unsafe levels of this pollutant. This week's fact sheet explores carbon monoxide and its health effects.

WHAT IS CARBON MONOXIDE?

Carbon monoxide (CO) is a colorless, odorless gas. It is primarily a by-product of incomplete fuel combusion in cars, buses, and trucks. These transportation sources account for 70 to 90 percent of carbon monoxide emissions in most urban areas. Other sources are fuel combustion and industrial processes.

The geographic and seasonal factors that promote carbon monoxide pollution contrast sharply with those that promote ozone formation. While ozone is largely a warm-weather problem, CO levels are generally highest during cold weather. CO problems are especially exacerbated at high altitudes. Cold weather and high altitudes dramatically increase the level of carbon monoxide pollution from motor vehicle exhaust, especially during "cold starts," because they reduce combustion efficiency.

HEALTH EFFECTS

Carbon monoxide pollution reduces the ability of blood to deliver oxygen to the body's tissues. It is a "mimic" of oxygen. When inhaled, CO binds with hemoglobin that would otherwise transport oxygen through the blood stream.

Because it reduces oxygen levels in the blood stream, carbon monoxide pollution can be especially hazardous to fetuses. The fetus cannot breathe on its own, and so relies on oxygen delivered through the mothers's blood stream. The blood passing through the placenta to the fetus is naturally poorly oxygenated, because some of the oxygen in the blood has already been used by the mother. Any further reduction in oxygen levels threatens the development of the fetus. The fetal brain, which has high oxygen requirements, is particularly susceptible to carbon monoxide damage. Based on the results of animal studies, health experts believe that exposure to modest levels of carbon monoxide pollution (20 parts per million) pose risks of permanent brain damage.

The 5 million Americans suffering from heart disease are also especially vulnerable to carbon monoxide pollution, because their circulatory systems have a limited capacity to transport oxygen to the body. Angina victims experience heart pains when oxygen levels reaching the heart are lowered. According to health studies, they experience the onset of angina pain earlier when breathing carbon monoxide. Some experts believe that elevated levels of carbon monoxide pollution trigger heart attacks.

Carbon monoxide exposure also poses risks for otherwise healthy individuals. As levels of CO in the blood stream rise and oxygen levels in the brain decline, people lose visual perception, manual dexterity, and learning ability. Reduced mental alertness can lead to increased vehicular accidents. At extremely high levels (such as those that can form by running a car in an enclosed garage), CO causes death by asphyxiation.

AREAS IN NONATTAINMENT

EPA has established two ambient air quality standards for carbon monoxide: a one-hour standard of 35 parts per million and an eight-hour standard of 9 ppm.

There are 52 areas in the country that violate one or both of these standards, according to the latest figures from EPA. These areas are listed in Table 1. Their combined population is 87 million.

"HOTSPOTS"

Carbon monoxide pollution reaches its highest levels in areas where motor vehicle traffic is heaviest, such as busy intersections. Poor air circulation, such as in or near tunnels, also raises CO levels. These areas are called "hotspots." In many urban areas, however, carbon monoxide pollution causes violations of the federal health standard over broad portions of the urban areas.

Unlike ozone pollution, CO pollution generated in one urban area is not transported downwind to other areas.

CONTROLS ON CARBON MONOXIDE POLLUTION

Efforts to reduce CO pollution levels focus mainly on the motor vehicles responsible for the lion's share of emissions. The current Clean Air Act's motor vehicle standards, which were adopted in 1970, require cars to emit no more than 3.4 grams per mile of carbon monoxide. These standards apply during the federal test procedure (FTP), which evaluates carbon monoxide emissions exclusively under warm weather conditions. No standard exists to govern emissions levels at colder temperatures when emissions are typically about 60% higher.

Legislative proposals to reduce CO pollution include revising the Federal Test Procedure to include a cold weather test to resemble real-world driving conditions more closely. They also include proposals for tighter tailpipe standards for CO emissions from cars, trucks, and buses. In addition, some have suggested more effective local auto inspection and maintenance programs to assure the maximum effectiveness of pollution controls already in place on motor vehicles, as well as better transportation control programs to reduce the mileage traveled by motor vehicles. Another proposal expands the use of "oxygenated" fuels. These "blends" contain additives that allow gasoline to burn more efficiently, producing less CO. They have been used successfully in Denver to bring down high CO levels there.

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[From the Clean Air Facts, Mar. 29, 1989]

SMOG CONTROL BILLS IN THE 100TH CONGRESS

During the 100th Congress, two smog control proposals (H.R. 3054 and H.R. 5469) received most of the focus in the House. This Fact Sheet describes the general philosophies of both approaches and notes their similarities and differences. It is not intended to provide a technical section-by-section analysis of either bill. It also gives a brief overview of the development of clean air bills during earlier Congresses in the 1980s.

BACKGROUND

One of the most persistent misconceptions about clean air legislation is that Congress has been deadlocked over the smog issue throughout the 1980s. While it is certainly true that acid rain and toxic air pollutant bills have been controversial and have not moved forward, bills proposing new smog control measures emerged only in the 100th Congress.

In fact, the 1981–82 clean air fight—which has been written about extensively—wasn't over nonattainment problems at all. The goal of the Reagan Administrations' proposed legislation, H.R. 5252 (the Dingell-Broyhill bill), was regulatory relief from pollution control requirements. H.R. 5252 assumed all polluted areas would meet the Act's standards not only without any new control measures, but even with significantly relaxed requirements. It would have, for example, doubled the amount of emissions from cars and allowed substantially more pollution in our national parks. This bill was opposed by Rep. Waxman and others and was never approved by the House Energy and Commerce Committee.

In 1983–84, legislation was proposed and considered on acid rain and toxic air pollutants. No smog legislation was proposed. The primary acid rain bill, H.R. 3400, was defeated in the House Health and the Environment Subcommittee by a 10–9 vote.

Acid rain and toxic air pollutant legislation were again proposed in the 99th Congress (1985–86). The acid rain bill, H.R. 4567, was approved by the Health and the Environment Subcommittee by a 16–9 margin, but was not considered by the full Energy and Commerce Committee. Again, no smog legislation was proposed.

Smog became an issue during the last Congress because the deadlines for meeting the health-based standards of the Clean Air Act were to expire on December 31, 1987. Since many cities continued to violate the Act's health-based air quality standards, Congress passed the Conte Amendment and extended the deadlines to August 31, 1988. However, comprehensive legislation was not enacted before adjournment. As a result, many areas still violate the law's requirements.

H.R. 3054 (THE WAXMAN-LEWIS BILL, INTRODUCED ON JULY 29, 1987)

By 1987 it was clear many cities would not meet the Clean Air Act's ozone and carbon monoxide health standards by the December 31, 1987, deadline. H.R. 3054 addressed this problem and adopted a new philosophy for dealing with these nonattainment areas. Instead of requiring the same control measures for all areas, the bill divided nonattainment areas into three categories: moderate, serious, and severe.

Moderate nonattainment areas, which are cities very close to attaining the standards (e.g., Memphis), would have been given a three-year extension and would not have faced additional control requirements, other than complying with existing law.

Serious nonattainment areas, which include cities with more difficult air pollution problems (e.g., St. Louis, Dallas), would have been given a five-year extension. These areas would have had to tighten requirements for new facilities and implement more effective automobile inspection and maintenance programs.

Severe nonattainment areas, which are cities with the worst air pollution problems (e.g., Los Angeles, Houston) would have received a ten-year extension. In order to receive this additional time, these areas would have to meet the bill's most stringent requirements and adopt new control measures (e.g., vapor recovery during automobile refueling, emission limits for small sources). These areas would also have been required to implement an aggressive and effective alternative fuels program.

The Waxman-Lewis bill's overriding philosophy was that cities with different problems, like Los Angeles and Memphis, should be treated differently. Accordingly, the bill tried to tailor control programs to specific pollution problems.

H.R. 3054 also would have modified the Clean Air Act's sanction policy by eliminating the law's construction ban and ensuring that sanctions would not apply for failure to meet standards so long as areas took the required pollution control steps. Instead, nonattainment areas that acted in good faith would simply move to the next control category (e.g., serious to severe) and implement tougher control requirements. Sanctions would have applied to areas that failed to implement control measures, however.

The Waxman-Lewis bill also relied on tighter controls on new cars and other mobile sources. These measures included tighter tailpipe standards for cars produced in the early 1990s (.4 grams per mile (gpm) for $NO_x$, .25 gpm for hydrocarbons), onboard canisters to control refueling emissions, and regulation of nonroad vehicles (e.g., trains, construction equipment).

H.R. 5469 (GROUP OF 9 BILL, INTRODUCED ON OCTOBER 5, 1988)

After Congress adopted the Conte Amendment extending the Act's deadlines, nine members of the Energy and Commerce Committee began meeting to draft their own acid rain and nonattainment proposals. Although these members—known as the Group of 9—were not able to reach a consensus within the group on an acid rain bill before the adjournment, they did introduce their own nonattainment bill.

This proposal was first released in preliminary draft in March 1988. Overall, it adopted the basic structure of the Waxman-Lewis bill. The country was divided into different nonattainment regions, although the sponsors opted for four categories—with longer deadlines—instead of the three categories used in H.R. 3054. H.R. 5469's categories and deadlines were as follows: Moderate 1 (1992), Moderate 2 (1996), Serious (1998), severe (2006).

The proposal was subsequently modified in June 1988. Although many of the differences between the two drafts were minor, some represented significant changes in control requirements. For instance, the first draft would have tightened the current 1.0 gpm $NO_x$ standard for cars to .4 gpm. The second draft replaced the .4 gpm standard with a .7 gpm level. This version—with some additional changes—was eventually introduced as H.R. 5469.

Although the bill's framework was similar to H.R. 3054, it contained two fundamental differences. First, H.R. 5469 placed a much greater emphasis on planning. The bill required a comprehensive identification of pollution sources (inventories) and better reporting on emissions from sources (emissions statements). H.R. 5469 also called for the use of state-of-the-art air models to develop effective pollution control strategies. In order to provide more time for the development of these plans and inventories, H.R. 5469 allowed states four years before they would have to put their plans into effect. Some control measures, however, would have to be implemented immediately.

The second major difference was the treatment of cars and trucks. Although H.R. 5469 contained some new requirements, it had far fewer mandated control measures than H.R. 3054. In addition, the bill weakened how the current law's in-use provision, which is one of the fundamental principles of mobile source control, would apply to new tailpipe standards. The Act now requires cars to meet tailpipe standards both when they leave the factory and after driven on actual road conditions for 50,000 miles. H.R. 5469 would not have required its new tailpipe standards to be applied in-use until 1998.

THE 101ST CONGRESS

H.R. 5469 has been reintroduced in the 101st Congress as H.R. 99. H.R. 3054 will be reintroduced—with several significant changes—in April.

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[From the Clean Air Facts, Apr. 13, 1989]

CONTROL STRATEGIES FOR MOBILE SOURCES

Mobile sources, principally cars and trucks, are the largest single source of ozone and carbon monoxide pollution. Nationally, they are responsible for roughly 50 percent of all volatile organic compound (VOC) emissions, also called "hydrocarbons" (HC), and 45 percent of all nitrogen oxide ($NO_x$) emissions. As described in Issue 2, these compounds react in the presence of heat and sunlight to form ozone. Mobile sources are responsible for an even higher percentage—over 90 percent—of the carbon monoxide pollution in urban areas.

This Fact Sheet discusses strategies for controlling ozone and carbon monoxide pollution from mobile sources. It divides mobile source controls into general categories, such as tailpipe standards and inspection and maintenance programs. Then for each category of controls, it discusses a menu of specific control options. This menu is drawn from bills introduced in the 100th Congress, from proposals put forth by environmental and industry groups, and from other sources.

I. OVERVIEW

The very persistence of widespread ozone and carbon monoxide pollution illustrates the difficulties of controlling these air pollutants. In many cities, VOC emissions must drop 40 percent to 60 percent from today's levels before the ozone standard will be attained. Nonattainment areas must use dozens of measures—each producing small incremental gains—to achieve the federal health standards.

Controls on emissions from mobile sources will be an important part of these efforts for a simple reason: mobile sources are the largest source of ozone and carbon monoxide pollution.

Ozone forms when precursor emissions—VOCs and $NO_x$—released into the atmosphere react photochemically. Mobile sources generate the largest single share of the national inventory of these precursor pollutants: 50 percent in the case of VOC emissions and 45 percent in the case of $NO_x$ emissions. The table below identifies the principal sources of VOC and $NO_x$ emissions from mobile sources.

TABLE 1.—PERCENT OF EMISSIONS OF OZONE PRECURSORS FROM MOBILE SOURCES

[Percent of national inventory from all sources in parentheses]

| Source: | VOC | $NO_x$ |
|---|---|---|
| Passenger cars | (25) 50 | (17) 38 |
| Light-duty trucks | (8) 16 | (7) 16 |
| "Nonroad" vehicles (e.g., trains, construct. equip.) | (7) 14 | (9) 20 |
| Gasoline refueling | (7) 14 | NA |
| Heavy-duty trucks | (3) 6 | [1] (9) 20<br>[2] (2) 4 |

[1] Diesel. [2] Gasoline.

In the case of carbon monoxide (CO), mobile sources are an even more significant source of pollution. They cause over 90% of CO pollution in most urban areas.

There is no single approach that can eliminate the pollution from mobile sources. Rather, achieving significant reductions in VOC, $NO_x$, and CO emissions will require using a host of measures, including tighter tailpipe standards, enhanced inspection and maintenance programs, controls on fuel volatility, controls on evaporative emissions and running losses, and measures promoting alternative fuels, among others. These measures will have to be applied to a wide range of mobile sources. They are discussed below.

II. TAILPIPE STANDARDS

*A. History and Current Status*

The 1970 Clean Air Act forced technological innovation on the automobile industry. It requried the U.S. EPA to set tailpipe standards that reduced hydrocarbon, nitrogen oxide, and carbon monoxide pollution in automobile exhaust by 90%. No technology existed at the time to meet the Act's standards. The theory was that the standards would force the development of brand-new technology.

The theory worked. EPA set an exhaust of 0.41 grams per mile (gpm) for HC emissions. It set a standard of 0.40 gpm for $NO_x$, which was subsequently relaxed in the 1977 Clean Air Act Amendments to 1.0 gpm. And it set a standard of 3.4 gpm for CO. The automobile industry responded by developing the "catalytic converter," which fits on the end of the tailpipe and converts HC, $NO_x$, and CO into carbon dioxide, water vapor, and nitrogen gas. The original standards, as amended in 1977, remain in effect today.

Unlike its treatment of cars, the Act did not set standards for trucks and buses. Instead, it gave EPA rulemaking authority to set appropriate standards. The most recent truck and bus standards were promulgated in 1985. They vary according to the weight of the vehicle and are still in the process of being phased in for some vehicle classes.

The federal standards preempt state standards except in California, which is authorized under the Act to adopt more stringent standards. California has used its independent authority to tighten the federal standards in two important ways. California is phasing in a new $NO_x$ standard for passenger cars of 0.40 gpm, sixty percent lower than the federal standard. In addition, unlike EPA, California requires many light trucks and vans to meet the same standards it applies to passenger cars. The Act permits other states to adopt the complete package of standards for vehicles—something that several states have recently indicated that they intend to do.

Both the federal and the California standards must be met by cars at "certification," when the vehicle comes off the assembly

line, and "in-use" for the "useful life" of the vehicle. The Act defines the useful life of a car as five years or 50,000 miles of use. EPA has defined useful life as 11 years or 110,000 miles in the case of light-duty trucks and as even longer (up to 285,000 miles) in the case of some heavy-duty trucks. As a practical matter, the in-use standard is controlling. In order to meet the in-use standard, new vehicles regularly certify at levels well below the relevant standards.

When vehicles fail to meet the relevant tailpipe standards throughout their useful life, two things happen. The Clean Air Act requires automobile manufacturers to warrant that their vehicles are free from defects that cause violations of the standards during the vehicle's useful life. As a result, if the failure to meet the standards can be attributed to a defect in the vehicle, the vehicle will be subject to repair under warranty. In addition, if EPA determines that a substantial number of vehicles of a certain class violate the standards during their useful life, EPA can require the manufacturer to recall the class for repairs. After a vehicle's useful life ends, the manufacturer's responsibility for its emission performance ends.

*B. Levels of Exhaust Emissions*

Tailpipe standards control "exhaust emissions," the pollutants emitted out the tailpipes of vehicles. The best data currently available show that exhaust emissions account for about one third of the VOC emissions from passenger cars. The remaining VOC emissions from passenger cars are "evaporative emissions" and "running losses," which occur when gasoline evaporates from parked and running cars. The design of light-duty trucks minimizes evaporative and running losses, because the relatively large distance between the engine and the gas tank keeps the gas tank cool and reduces evaporation. Exhaust emissions make up about half (46 percent) of the VOC emissions from light-duty trucks.

$NO_x$ and CO emissions are exclusively a by-product of combustion, so all $NO_x$ and CO emissions from mobile sources are exhaust emissions.

In the absence of new standards, the turnover of the fleet will reduce exhaust emissions from highway vehicles because cleaner new vehicles will replace older vehicles. Over time, however, increases in the number of vehicles on the road and the number of miles driven will erode the benefits from fleet turnover. The best estimates are that in comparison to today's levels—and in the absence of any new standards—VOC exhaust emissions from highway vehicles (cars, trucks, and motorcycles) will drop about 30 percent by the late 1990s and then turn upwards. The level of future increases will ultimately depend on overall growth in vehicle miles travelled (VMT), which is expected to average about 2.5 percent each year.

$NO_x$ and CO exhaust will follow a similar pattern without new controls, but with fewer emission reductions. By the late 1990s, for example, $NO_x$ emissions from highway vehicles should drop about 15 percent and then turn upwards.

*C. Proposals for Reductions*

An array of proposals have been put forward for reducing exhaust emissions from highway vehicles. In each case, because it takes about ten years for a new generation of vehicles to replace an existing generation, the full benefits of adoption of the proposal would not be obtained in practice until about ten years after the proposed standard went into effect.

1. Hydrocarbon Standards for Passenger Cars

The current HC standard for passenger cars is 0.41 gpm. It must be met at both certification and in-use for 50,000 miles.

The proposals for tightening this standard are usually expressed in terms of total hydrocarbons emitted ("HC"), as is the current standard. Sometimes, however, they are expressed in terms of "nonmethane hydrocarbons" (NMHC) emitted. Methane constitutes about 15 percent of the hydrocarbons in the exhaust of a typical gasoline-fueled passenger car equipped with a catalyst. It is a relatively inert gas, so it has low photochemical reactivity and does not contribute significantly to ozone formation. However, methane is a "greenhouse gas" that does contribute to global warming.

The proposals for reducing the HC exhaust emissions from passenger cars range from a NMHC standard of 0.25 gpm that would apply at certification, but not in-use, to a standard that would require zero emissions of hydrocarbons in-use for 100,000 miles. The 0.25 NMHC standard at certification would produce few reductions in HC emissions. In fact, over 80 percent of the passenger car fleet already certifies at 0.25 NMHC standard in order to comply with the current HC standard of 0.41 gpm in use. As the standard tightens from this point, important reductions in the pool of HC emissions begin to be obtained.

Intermediate standards that have been proposed include applying the 0.25 NMHC in-use for 50,000 miles, applying a 0.25 HC standard in-use for 50,000 or 100,000 miles, and applying a 0.125 HC standard in-use for 50,000 or 100,000 miles.

The 0.25 NMHC standard at certification is demonstrated technology. Experts debate whether current technology exists to meet a 0.25 NMHC or HC standard in-use for 50,000 miles. Extending a 0.25 HC standard in-use to 100,000 is a technology-forcing standard in the sense that it would require auto manufacturers to use more durable pollution control devices than are currently available. More stringent standards than this are also technology forcing. Achieving the 0.0 HC standards than this are also technology forcing. Achieving the 0.0 HC standard would require replacing the internal combustion engine on passenger vehicles with engines using a different technology, such as battery-powered electric engines.

2. $NO_x$ Emissions from Passenger Cars

The current $NO_x$ standard for passenger cars is 1.0 gpm. It must be met both at certification and in-use for 50,000 miles.

The proposals for tightening this standard range from a standard of 0.7 that would apply at certification only to a standard that would eliminate all $NO_x$ emissions from passenger cars. The most lenient 0.7 standard, like the most lenient HC standard, would produce minimal reductions in emissions because it is already being met by over 80 pecent of the fleet.

Intermediate standards that have been proposed include a 0.4 standard that would apply at certification, a 0.4 standard that would apply in-use for 50,000 or 100,000 miles, and a 0.2 standard that would apply in-use for 50,000 or 100,000 miles.

A standard of 0.4 applied in use for 50,000 miles is demonstrated technolgoy. It has been adopted by California and will be met by 40 percent of the new cars there this year (it will be fully phased in by 1991). More stringent standards are technology forcing to varying extents. As in the case of HC emissions, achieving a 0.0 standard would require eliminating the internal combustion engine.

3. CO Emissions from Passenger Cars

The current CO standard for passenger cars is 3.4 gpm. It must be met both at certification and in-use for 50,000 miles.

Because CO is a problem especially during cold weather, most legislative proposals for tightening the standard limit CO emissions under these conditions specifically. One proposal would require that passenger cars achieve an emission rate of 40 degrees Fahrenheit that is 50 percent of the rate achieved at that temperature by cars manufactured between 1981 and 1985. A more conservative standard would require that the 50 percent reduction be achieved at 20 degrees Fahrenheit. And a third would require that cars be able to comply with the existing 3.4 gpm standard even when operating at 20 degrees Fahrenheit.

It is technologically feasible to reduce CO emissions by 50 percent from the levels obtained by 1981–85 cars at either 40 degrees or 20 degrees Fahrenheit. More stringent standards are technologically forcing to varying extents.

4. Light-Duty Truck Standards

Federal regulations define a light-duty truck as a truck or van weighing less than 8,500 pounds. The emission standards are 0.80 gpm for HC, 1.2 gpm for $NO_x$ (1.7 gpm for $NO_x$ for trucks weighing over 3,750 pounds), and 10.0 gpm for CO. The standards must be met at certification in-use for 120,000 miles.

The proposals for tightening these standards generally follow the same approach as the proposals for tightening the standards from passenger cars. They range from a proposal that would tighten just certification requirements (to 0.50 NMHC and 0.80 $NO_x$) to standards that would eliminate all emissions of HC, $NO_x$, and CO by eliminating use of the internal combustion engine. As is the case with the standards for passenger cars, the more lenient propoals do not obtain significant emissions reductions, but are achievable with demonstrated technology. In contrast, the most stringent ones do obtain significant reductions, but are technology forcing.

A different type of approach is to redefine some light-duty trucks as passenger cars. Many of these trucks have essentially the same engines as passenger cars. This is the approach taken in California, where light-duty trucks and vans below 3,750 pounds are required to meet the state's 0.39 NMHC and 0.4 $NO_x$ standards in use for 50,000 milies.

5. Other Tailpipe Standards

There are also a variety of proposals being considered to tighten exhaust emissions from heavy-duty trucks and motorcycles.

Emission standards for heavy-duty vehicles are measured in grams per brake-horsepower hour (g/bhp-hr), which is a measurement of grams of emissions per unit of work. They vary according to the weight to vehicle, and according to whether the vehicle is fueled by gasoline or diesel fuel. Current standards for gasoline-fueled heavy-duty engines are 1.1 g/bhp-hr for HC (1.9 g/bhp-hr for vehicles weighing over 14,000 pounds), 6.0 g/bhp-hr for $NO_x$ (dropping to 5.0 g/bhp-hr by 1991), and 14.4 g/bhp-hr for CO (37.1 g/bhp-hr for vehicles weighing over 14,000 pounds). For diesel-fueled heavy-duty engines, the HC standard is 1.3

g/bhp-hr, the $NO_x$ standards are the same as for gasoline-fuelded vehicles, and the CO standard is 15.5 /bhp-hr. All the standards apply at certification and over the useful life of the vehicle, which is defined as 110,000 to 290,000 miles depending on the weight of the vehicle.

Proposals for tightening the standards for heavy-duty vehicles include lowering the $NO_x$ standard to 4.0 or 1.7 g/bhp-hr and lowering the CO standard to 5.6 to 14.4 g/bhp-hr, depending on the type of vehicle.

The current motorcycle standards are 5.0 grams per kilometer (gpk) for HC and 12.0 gpk for CO. Proposals for tightening the standards include lowering the HC standard to 2.0 or 3.6 gpm depending on the type of motorcycle and lowering the CO standard to 17.6 gpm.

### III. THE FEDERAL TEST PROCEDURE AND THE SELECTIVE ENFORCEMENT AUDIT

The reductions in emissions produced by tailpipe standards are sensitive to the conditions under which compliance is tested. This procedure is called the Federal Test Procedure (FTP). The FTP is supposed to be representative of "real-world" driving conditions. During the FTP, a vehicle is driven over a 7.5 mile course, at various speeds (averaging 19.6 mph) and with a prescribed number of starts and stops. If the emissions rate of the vehicle during the FTP is below the relevant federal standard, the vehicle passes the test.

Because of changes in engine design and other factors, however, the FTP no longer is fully representative of actual conditions. For example, cars have much more rapid acceleration today than they did when the FTP was developed. This ability bears upon the exhaust emissions of the vehicle, because the stress of rapid acceleration reduces combustion efficiency and increases HC emissions. Yet the FTP does not include episodes of rapid acceleration in its prescribed course. Another problem with the FTP is that it requires vehicles to use gasoline with a lower volatility than is common today, thereby again underestimating real-world emissions. And another problem is that the temperature range of the FTP (68 to 86 degress Fahrenheit) is lower than the temperatures prevailing on many hot days when ozone levels reach their peaks.

Revising the FTP to reflect real-world conditions more accurately would eliminate these discrepancies and thereby reduce HC, $NO_x$, and CO emisssions from vehicles.

The selective enforcement audit (SEA) is related to the FTP. During the SEA, EPA pulls vehicles randomly from the assembly line to test whether they comply with federal tailpipe standards during the FTP. Under current SEA procedures, a vehicle class is deemed to meet federal requirements even if 40 percent of the cars evaluated in the SEA fail to pass the FTP.

Tightening the SEA to require that 90 percent of all vehicles tested pass probably would not reduce emissions from current levels significantly, because manufacturers generally have a better than 90 percent compliance rate anyway. However, it would close a protential loophole in the regulations and prevent its exploitation in the future.

### IV. INSPECTION AND MAINTENANCE PROGRAMS

Inspection and maintenance programs work to ensure that cars achieve low emission levels in use. They require periodic testing of vehicles for compliance with a "cut point," which is a state-selected measure of permissible exhaust emissions during idling. When a vehicle fails the inspection, the owner is required to repair the vehicle, unless the repair costs exceed a specified limit. When the costs exceed the specified limit, the owner's repair obligation is waived.

The 1977 Clean Air Act Amendments required that all areas seeking to extend the attainment deadline for ozone or carbon monoxide pollution to December 31, 1987, implement I&M programs. Although every nonattainment area now has or is in the process of implementing an I&M program, the programs in many areas have been criticized as inadequate. Two of the major problems are the poor quality of testing instruments, which allow too many vehicles to pass the inspection, and abuse of the repair-cost waiver by inspectors. "Decentralized" programs, which allow I&M testing to be conducted at private service stations throughout the area, have proven to be substantially less effective than ones that centralize the testing.

"Improved" or "enhanced" I&M programs have been proposed to address the deficiencies of existing programs. Such programs could include any or all of the following measures: (1) a requirement that the program cover all light-duty vehicles operating in the program area, not just passenger cars, (2) expansion of the coverage of the program to include the entire metropolitan area, (3) annual testing, (4) direct inspection of emission control components, (5) centralized and computerized testing, and (6) an increase in the repair cost waiver to $200.

### V. EVAPORATIVE EMISSIONS AND RUNNING LOSSES

#### *A. Background*

The exhaust emissions discussed so far cause nearly all of the $NO_x$ and CO emissions produced by highway vehicles. They cause only a portion of the VOC emissions, however. Evaporative emissions and running losses are also responsible for large VOC losses, especially during warm weather. (The third important source of VOC emissions from highway vehicles—refueling emissions—are discussed below.)

Evaporative emissions are the emissions produced by evaporation from the fuel tank and fuel lines in parked cars. EPA regulations require manufacturers to install small charcoal canisters in their vehicles to capture these emissions. But these canisters are frequently overwhelmed by the level of evaporation on hot days.

"Running losses" are similar to evaporative emissions, except that they occur when the vehicles are in operation. The combination of hot weather and hot engines can cause massive amounts of evaporation from the fuel tank. On some days, the running losses per mile can be an order of magnitude higher than exhaust emissions.

In combination, evaporative emissions and running losses can account for two thirds of the VOC emissions from passenger cars.

As mentioned earlier, evaporative emissions and running losses are lesser problems in light-duty trucks. The design of these vehicles places the gas tank away from the engine, where it keeps cool, thereby reducing evaporation. On average, running losses account for about half of the VOC emissions from light-duty trucks.

#### *B. Controls on fuel volatility*

A major factor affecting the rate of evaporative emissions and running losses is the "volatility" of gasoline. Volatility is a measure of the evaporative potential of a fuel. The higher its volatility, the more readily a fuel evaporates into the air.

In the past 10 to 15 years, gasoline volatility has risen from an average summertime Reid Vapor Pressure (RVP) of 9.0 pounds per square inch to an RVP of 11.5. The RVP increase has occurred because petroleum refiners have added butane to fuels to reduce costs and increase performance. The increased volatility has led to substantially higher levels of VOC pollution from motor vehicles and service stations.

Sone states have acted on their own initiative to lower fuel volatility. Since the early 1970s, Southern California has limited volatility to 9.0 RVP. A number of Northeast states adopted regulations that would have reduced volatility levels to 9.0 for the first time this summer. In March 1989, however, EPA issued nationwide regulations setting an RVP limit of 10.5 for most states. This action may preempt the Northeastern states' volatility regulations (but not California's, due to special provisions in the Clean Air Act). EPA has said it will consider further restrictions in a later rulemaking.

Adoption of lower volatility standards is one of the most cost-effective control strategies available. Lowering the standard from 11.5 to 10.5 as EPA has done, however, achieves only about half of the reductions that lowering the standard to 9.0 would achieve.

#### *C. Other measures*

Restrictions on fuel volatility alone cannot eliminate evaporative emissions and running losses. To achieve this goal, some sort of on-board controls, such as enlarged charcoal canisters or systems to burn off excess vapors, are needed.

### VI. REFUELING EMISSIONS

A related issue is how to control gasoline vapors that are displaced from the fuel tank when automobiles are refueled at gasoline service stations. These emissions currently account for about 7% of the national VOC inventory.

Two strategies are under consideration. One would mandate that gas stations in nonattainment areas install "stage II" control technology, which is, in essence, a series of hoses that recycle escaping fumes back to the storage tank. This approach is already in place in D.C. and Southern California and has recently been adopted by New York and New Jersey. The second approach is termed "on-board" technology. This approach would require auto-makers to place a canister to recapture fuel vapors in the gas tanks of cars.

After more than a decade of analysis, EPA has concluded that stage II would achieve ozone pollution reductions more rapidly, because it would not be necessary to wait for the turnover of the auto fleet to achieve reductions. On the other hand, it has concluded that on-board technology would be more effective once eventually in place, and would encounter less consumer resistance. EPA proposed requiring on-board technology in an August 1987 rulemaking, but its proposal has recently been rejected by the White House Office of Management and Budget.

### VII. ALTERNATIVE FUELS

#### *A. Background*

Ultimately, one of the best prospects for reducing ozone levels in severe nonattainment areas is switching to alternative or "clean" fuels that produce less pollution than does gasoline. The leading alternative fuels are methanol, which is currently made

from natural gas (methanol can also be made from coal); ethanol, which is made from grains; and compressed natural gas (CNG).

These fuels have a tremendous capacity to reduce the contribution of motor vehicles to ozone formation. When they are burned, they produce exhaust gases that are far less photoreactive than the gases in the exhaust of gasoline-fueled motor vehicles. As a result, according to some estimates, use of "neat" (100 percent pure) alternative fuels can reduce ozone formation from motor vehicles by as much as 90 percent.

The emission-reduction gains are lower when methanol is blended with gasoline. In the case of "M85," a common blend of 85 percent methanol and 15 percent gasoline, the emission reductions are about 30 percent. Blends can increase the safety of methanol, because pure methanol is odorless and burns invisibly. Research is being conducted into other additives that would enhance the safety of methanol without compromising its potential to reduce emissions as significantly.

Alternative fuels have been used on demonstration vehicles for several years. Methanol bus programs are operating or planned for San Francisco, Los Angeles, Jacksonville, Seattle, Denver, and New York. A fleet of methanol-fueled Ford Escorts has logged over 20 million miles in California. Brazil's transportation system runs predominantly on fuels containing ethanol.

The alternative fuels are more efficient than gasoline in the sense that less of their energy content is wasted during combusion; however, one drawback is that their energy content is less, so fuel tanks must be larger to give vehicles equivalent range. Another potential drawback is that vehicles fueled with methanol and ethanol emit more formaldehyde than gasoline-fueled cars. However, these emissions can be controlled through catalytic converters. If coal becomes a commmercial source of methanol, its production could aggravate global warming by increasing carbon dioxide emissions, unless a carbon dioxide emissions standard is placed on the coal plants.

Centrally fueled fleets are in especially attractive place to begin to phase in alternative-fueled vehicles. Fleets of ten or more vehicles drive about 15 percent of all miles traveled. When they are refueled at a central facility, as is often the case, they can convert to alternative fuels without waiting until private gas stations begin dispensing alternative fuels. In addition, they often have mechanics on hand who can be specially trained to maintain alternative-fueled vehicles.

#### B. ALTERNATIVE FUEL PROGRAMS

As with tailpipe standards, there are an array of alternative proposals for lowering ozone pollution through the use of alternative fuels. These range from requiring new additions to federally owned fleets to use alternative fuels, to requiring new additions to all centrally fueled fleets to use alternative fuels, to requiring all new vehicles to use alternative fuels.

### VIII. TRANSPORTATION CONTROL PLANS

#### *A. Background*

A final way to reduce pollution from highway vehicles is to reduce the number of miles that the vehicles travel. This approach relies on the development and implementation of transportation control plans (TCPs). These plans reduce vehicle miles travelled (VMT) through measures such as high-occupancy vehicle lanes, improved public transit, carpooling programs, tolls, and parking fees and restrictions. Broadly conceived, TCPs can also include land-use measures, such as encouraging the development of housing close to jobs to reduce commuting distances.

The 1970 Clean Air Act required states to include TCPs in their implementation plans to the extent necessary to achieve compliance with the federal health standards. When states failed to include TCPs in their plans, EPA proposed federal ones. This provoked a backlash against federal assumption of a traditionally local function. The 1977 amendments restricted EPA's ability to engage in transportation planning. It allowed EPA to approve implementation plans containing measures such as parking surcharges, but prohibited the agency from imposing such measures itself.

To promote transportation planning at a local level in nonattaiment areas, the 1977 amendments did, however, require highway and other transportation projects funded by the federal government to "conform" with the area's air pollution plan. EPA interprets this requirement to mean that a federally funded highway project must include measures to prevent emissions growth attributable to the new highway from worsening the area's air pollution problem. The Department of Transportation, which awards the federal funding, takes a more restrictive view of "conformity," however: it finds projects in conformity so long as they do not interfere with the adoption pollution control measures identified in the implementation plan.

#### *B. Legislative options*

There is a large menu of options for transportation control planning. These include (1) requiring EPA to issue TCP guidelines for use by states, (2) requiring that projects funded by federal highway funds do not increase emissions, (3) redirecting federal highway funds to projects that reduce VMT, and (4) placing a cap on VMT growth.

### *IX. "NONROAD" vehicles*

A related source of VOC and $NO_x$ emissions are "nonroad" vehicles, such as construction equipment and trains. These sources are responsible for 7 percent of the inventory of VOC emissions and 9 percent of the $NO_x$ emissions from mobile sources (3.5 percent and 4 percent of the national inventory of VOC and $NO_x$ emissions).

One option for controlling emissions from nonroad sources is to require the greatest reduction in emissions from the sources that is "technologically achievable" as determined by EPA. Another option—one that gives less discretion to EPA—is to apply emission standards to the nonroad sources that are equivalent to the emission standards that apply to highway vehicles of equivalent horsepower.

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[From the Clean Air Facts, Apr. 19, 1989]

## CLEAN AIR GLOSSARY

This Fact Sheet provides a list of acronyms and a glossary of terms used in the debate over the reauthorization of the Clean Air Act. Each of the acronyms—plus over 100 other terms—is defined in the glossary.

### CLEAN AIR ACT ACRONYMS

BACT: Best available control technology.
BTY: British thermal units.
CARB: California Air Resources Board.
CASAC: Clean Air Scientific Advisory Committee.
CMSA: Consolidated metropolitan statistical area.
CNG: Compressed natural gas.
CO: Carbon monoxide.
$CO_2$: Carbon dioxide.
CTG: Control technique guideline.
EDB: Ethylene dibromide.
EKMA: Empirical kinetic modeling approach.
EPA: Environmental Protection Agency.
FIP: Federal implementation plan.
FMVCP: Federal motor vehicle control program.
FTP: Federal test procedure.
G/bhp-hr: Grams per brake-horsepower-hour.
GPM: Grams per mile.
HC: Hydrocarbons.
HDT: Heavy-duty truck.
HOV: High occupancy vehicle.
I&M: Inspection and maintenance.
LAER: Lowest achievable emission rate.
LDT: Light-duty truck.
M85: Blend of 85 percent methanol, 15 percent gasoline.
MIC: Methyl isocyanate.
MSA: Metropolitan statistical area.
MTBE: Methyl tertiary butyl ether.
NAAQS: National ambient air quality standard.
NESHAP: National emission standards for hazardous air pollutants.
NMHC: Nonmethane hydrocarbons.
$NO_2$: Nitrogen dioxide.
$NO_x$: Nitrogen oxides.
NSPS: New source performance standard.
$O_3$/Oz: Ozone.
PM-10: Particulate matter less than 10 microns in diameter.
POTW: Publicly owned treatment work.
RACT: Reasonably available control technology.
ROM: Regional ozone model.
RVP: Reid vapor pressure.
SCR: Selective catalytic reduction.
SEA: Selective enforcement audit.
SIP: State implementation plan.
$SO_2$: Sulfur dioxide.
SOCMI: Synthetic organic chemical manufacturing industry.
$SO_x$: Sulfur oxides.
STAPPA: State and Territorial Air Pollution Program Administrators.
TCP: Transportation control plan.
TRI: Toxic Release Inventory.
TSDF: Treatment, storage, or disposal facility.
TSP: Total suspended particulates.
VMT: Vehicle miles traveled.
VOC: Volatile organic compound.

### GLOSSARY OF CLEAN AIR ACT TERMS[1]

*Acid Deposition:* The deposition of acidic pollutants in any of many different forms, including rain, snow, fog, mist, and dry deposition. Acid deposition is caused by emissions of sulfur dioxide (from the combustion of fossil fuels containing sulfur) and nitrogen oxides (from the combustion of fossil fuels). These pollutants form solutions of sulfuric, nitric, and other acids in the atmosphere, which can be carried by winds as small particles or droplets of water for hundreds of miles.

*Acid Rain:* A form of Acid Deposition. Any precipitation having a pH value of less than that of normal rain, which generally ranges from 5.0 to 5.6.

*Air:* Pure air is a mixture of gases, including about 78 percent nitrogen, 21 percent

[1] The Environment and Natural Resources Policy Division of the Congressional Research Service and the Environmental and Energy Study Conference provided assistance in the preparation of this glossary.

oxygen, and less than one percent carbon dioxide and other inert gases, with varying amounts of water vapor.

*Air Toxics:* See Hazardous Air Pollutants.

*Alternative Fuels:* Substitutes for traditional, liquid, oil-derived motor vehicle fuels, such as gasoline or diesel fuels; includes methanol, ethanol, compressed natural gas (CNG) and others.

*Ambient Air:* The air that is in the troposphere, and is subjected to meteorological and climatic changes.

*Architectural Coatings:* Coverings such as paint and roof tar that are used on exteriors of residential, commercial, and industrial structures.

*Area Source:* An air pollution source that is neither a major stationary source nor a mobile source; e.g., residential furnaces, gas stations, and dry cleaners.

*Aromatic:* A term applied to organic compounds derived from benzene.

*Arsenic:* A heavy metal found to be poisonous to animals and humans; emitted by smelters, among other sources. One of the seven hazardous air pollutants for which a national emission standard (NESHAP) has been promulgated.

*Asbestos:* The fibrous form of several silicate minerals. Asbestos fibers are used for making incombustible or fireproof materials. The manufacture, use, and disposal of asbestos-containing materials is strictly regulated because respiratory damage may result if asbestos fibers are inhaled. One of the seven hazardous pollutants for which a national emission standard (NESHAP) has been promulgated.

*Attainment Area:* A region that meets the National Ambient Air Quality Standards for a criteria pollutant under the Clean Air Act.

*Baghouse:* An air pollution abatement device used to trap paticulates by filtering gas streams through large fabric bags usually made of glass fibers.

*Benzene:* The simplest aromatic hydrocarbon; found in coal tar and used as an industrial solvent, as a gasoline additive, and in some paints and varnishes; a known carciogen. One of the seven hazardous pollutants for which a national emission standard (NESHAP) has been promulgated.

*Beryllium:* A hard, poisonous, metallic element used in the production of corrosion-resistant alloys. One of the seven hazardous polutants for which a national emission standard (NESHAP) has been promulgated.

*Best Available Control Technology (BACT):* This is a basic technology requirement of the Clean Air Act. New facilities contructed in "clean air" areas must install best available control technology to control polution. BACT is determined by states on a case-by-case basis, and must be at least as rigorous as industry-wide "new source performance standards." Costs must be considered in determining BACT. Compare Lowest Achievable Emission Rate (LAER), Reasonably Available Control Technology (RACT).

*British Thermal Unit (Btu):* The quantity of heat absorbed by one pound of water to produce an increase in temperature of one degree Fahrenheit.

*Bubbling:* A type of emissions trading under the Clean Air Act. Under the Clean Air Act, existing sources in nonattainment areas are required to use reasonably available control technology. Bubbling allows a source to avoid this requirement by obtaining equivalent reductions from another source. Compare Netting.

*California Air Resources Board (CARB):* Air quality control agency for the State of California.

*Carbon Dioxide ($CO_2$):* A colorless, odorless, tasteless gas about 1.5 times as dense as air; released by plant and animal respiration and consumed by photosynthesis. Also a product of combustion of carbon-containing materials, such as fossil fuels.

*Carbon Monoxide (CO):* A colorless, odorless, poisonous gas produced by incomplete fossil-fuel combustion. One of the six pollutants for which there is a national ambient standard. See Criteria Pollutants.

*Carcinogen:* A substance that causes cancer.

*Catalytic Converter:* A device placed in the exhaust system of a motor vehicle, whose purpose is to convert hydrocarbons, nitrogen oxides and carbon monoxide to water vapor, carbon dioxide and nitrogen gas.

*Certificate of Conformity:* A certificate issued to an automobile manufacture after a new model of motor vehicle passes the Federal Test Procedure. The Clean Air Act prohibits the sale of new motor vehicles that lack a certificate of conformity.

*Chlorofluorocarbon (CFC):* A stable nontoxic chemical compound whose primary uses include refrigeration, manufacture of insulation and packaging, air conditioning, and cleaning of electronic parts; in the troposphere, CFCs release free atoms of chlorine which contribute to the chemical destruction of ozone in the Earth's stratosphere.

*Class I, II, and III Areas:* Under the Clean Air Act, clean air areas are divided into three classes. Very little pollution increase is allowed in Class I areas, some increase in Class II areas, and more in Class III areas. National parks and wilderness areas receive mandatory Class I protection. All other areas start out as Class II. States can reclassify Class II areas up or down, subject to federal requirements.

*Clean Air Scientific Advisory Committee (CASAC):* A committee of the Science Advisory Board, which is a group of independent scientists who review and evaluate EPA studies of regulatory significance.

*Clean Coal Technology:* An innovative process in which coal burns with reduced emissions and produces less waste than by existing technologies. For power production, these technologies may be applied in two basic ways—retrofitting existing powerplants to improve emissions performance, and repowering plants with technologies that reduce emissions and increase efficiency.

*Coal Cleaning:* A precombustion process by which coal is physically or chemically treated to remove some of its sulfur in order to reduce sulfur dioxide emissions.

*Coal Gasification:* The conversion of coal to a gaseous product by reaction with air, oxygen, steam, carbon dioxide, or mixtures of these. Of the dozen existing coal gasification technologies the most advanced is the integrated gasification-combined-cycle (IGCC) method, which removes more than 95 percent of the sulfur in the coal.

*Co-fire:* The burning of two fuels in the same combustion unit, e.g., coal and natural gas, or oil and coal.

*Combustion Modification:* A method to decrease $NO_x$ emissions from a powerplant during the combustion process. The combustion temperature is regulated through delayed mixing of fuel and air or by modifying the fuel-air ratio. Major $NO_x$ combustion modification techniques include low excess air (LEA), low-$NO_x$ burners, staged combustion (off-stoichiometric firing), overfire air, flue-gas recirculation, low air preheat, and water injection.

*Compressed Natural Gas (CNG):* An alternative fuel used in motor vehicles; considered one of the cleanest alternative fuels because of low hydrocarbon emissions that are relatively non-ozone producing. However, it does emit a significant quantity of nitrogen oxides.

*Consolidated Metropolitan Statistical Area (CMSA):* A statistical area defined by the Office of Management and Budget that contains one million people or more in addition to other criteria. There were 21 CMSAs in the U.S. as of 1986.

*Construction Bans:* Section 110 of the Clean Air Act requires, upon EPA disapproval of an area's planning requirements for nonattainment, a ban on the construction or modification of any major stationary source of the pollutant for which the area is in nonattainment. It is uncertain whether construction bans must be applied to nonattainment areas that fail to meet the statutory deadlines for attainment.

*Consumer Solvents*: A volatile liquid capable of dissolving or dispersing one or more other substances used in consumer products, such as household cleaning fluids and paint thinner.

*Control Technique Guidelines (CTGs)*: Documents issued by EPA to assist state and local pollution control authorities to achieve and maintain air quality standards for certain sources through reasonably available control technologies (RACT). Approximately 22 CTGs have been developed for specific sources that emit volatile organic compounds; e.g., a specific CTG was written to control organic emissions from solvent metal cleaning, known as degreasing.

*Criteria Document*: A detailed review of the health and environmental impacts of a criteria air pollutant, prepared by EPA and expert advisors.

*Criteria Pollutants*: The Clean Air Act required the Environmental Protection Agency to set air quality standards for common and widespread pollutants after preparing "criteria documents" summarizing scientific knowledge on their health effects. Today there are standards in effect for six "criteria pollutants": sulfure dioxide, carbon monoxide, particulates, nitrogen dioxide, ozone, and lead.

*Cyclone Boiler*: A water-cooled, horizontal cylinder in which fuel is fired and heat is released at extremely high temperatures; more $NO_x$ emissions are produced than in other boiler configurations.

*Diesel Particulate Trap*: A device located in the exhaust stream of a diesel vehicle that filters a certain percentage of exhaust particulates. It includes some means by which accumulated particulate can be burned, thus regenerating the trap and making the trap available for continued particulate filtration.

*Design Value*: The monitor reading used by EPA to determine an area's air quality status. The design value for ozone is the fourth highest reading measured over the most recent three years. The design value for carbon monoxide is the second highest nonoverlapping 8-hour concentration for one year.

*Desulfurization*: Removal of sulfur from fossil fuels to cut pollution.

*Dynamometer*: A device for simulating real-world driving conditions; measures or simulates loads, engine torque, and driving forces on vehicles or engines.

*Electrostatic Precipitator (ESP)*: A device which removes dust or other fine particles from a gas by charging the particles with an electric field, and then removing them from

the gas by attracting them to highly charged collector plates.

*Emission Cap*: A limit designed to prevent projected growth in emissions from existing and future stationary sources from eroding any mandated reduction, and thereby maintaining total emissions at or below a mandated level. Generally, such provisions require any emission growth from facilities restricted by the cap be offset by equivalent reductions at other facilities controlled by the same cap.

*Emission Factor*: The relationship between the amount of pollution produced and the amount of raw material processed. For example, an emission factor for a blast furnace making iron would be the number of pounds of particulates per ton of raw materials.

*Emission Inventory:* A listing, by source, of the amounts of air pollutants discharged daily into the atmosphere of a community. It is used to establish emission standards.

*Empirical Kinetic Modeling Approach (EKMA):* An air quality model, widely used by the states in the 1980s, which factors in the effects of sunlight, chemical reactivity, and ozone transport. However, it uses simplified meteorological conditions and can analyze only maximum concentrations of a pollutant. Compare Urban Airshed Model.

*Enhanced Inspection and Maintenance Program:* A more thorough and comprehensive inspection and maintenance program. It includes requirements that expand the geographic area and vehicle classes covered, that increase the rate and quality of the inspections, and that raise the repair-cost waiver.

*Environmental Protection Agency (EPA):* The independent federal agency, established in 1970, that regulates environmental matters and oversees the implementation of environmental laws.

*Ethanol:* A type of alternative fuel used in some prototype vehicles; derived from agricultural commodities such as grain and corn; usually blended with gasoline to form gasohol.

*Ethylene Dibromide (EDB):* A gasoline additive used with leaded fuels to scavenge lead; a suspected carcinogen.

*Evaporative Emissions:* The emissions of volatile organic compounds that are caused by evaporation from the fuel tank and fuel lines of a parked vehicle.

*Federal Implementation Plan (FIP):* A federally-imposed air quality plan required by the Clean Air Act. It supersedes a state implementation plan, if the state does not adequately plan to attain and maintain the national ambient air quality standards.

*Federal Motor Vehicle Control Program (FMVCP):* All federal actions aimed at controlling pollution from motor vehicles, e.g., establishing and enforcing tailpipe standards and evaporative emission standards, developing test procedures, providing guidance on inspection and maintenance procedures to the states.

*Federal Test Procedure (FTP):* The test procedures under which the compliance of a motor vehicle with federal emission standards is determined. In the case of a passenger car, during the federal test procedure a vehicle is "driven" on a dynamometer over a 7.5 mile course, at various speeds (averaging 19.6 mph) and with a prescribed number of stops and starts.

*Flue Gas:* The air coming out of a chimney after combustion. It can include nitrogen oxides, carbon oxides, water vapor, sulfur oxides, particles, and many chemical pollutants.

*Flue-Gas Desulfurization (FGD):* A post-combination sulfur dioxide control technology in which a scrubber is placed in the emission stream between the electrostatic precipitator (or baghouse) and the smokestack. In the operation, the exit gas containing the acidic $SO_2$ reacts with limestone (or lime) to create a calcium by-product. Commonly known as scrubbing; FGD systems can be wet, dry, or regenerable, although wet systems are most widely used.

*Fluidized Bed Combustion:* A process to remove sulfur dioxide during combustion, where crushed coal is fed into a "bed" mixed with limestone or dolomite. The resulting mixture of coal and limestone is held in suspension by air, or fluidized, and the $SO_2$ formed during combustion reacts with the limestone or dolomite to form solid calcium sulfate, which is then removed. Also, because the process operates at a lower combustion temperature than a conventional boiler, nitrogen oxide emissions are lower.

*Formaldehyde:* A reactive, toxic, organic compound; formed in small quantities in all fuel combustion processes, but in larger concentrations in exhaust fumes from methanol-fueled vehicles; used as an embalming fluid; also found in dry-cleaned clothing, particle board, and carpet glues, among others; a possible carcinogen.

*Fossil Fuels:* Combustibles, like coal, oil, and natural gas, derived from the remains of ancient plants and animals.

*Fuel Switching:* A precombustion process whereby a lower sulfur coal, oil, or natural gas is used in place of a higher sulfur coal in a power plant to reduce emissions of sulfur dioxide.

*Gasohol:* A mixture of gasoline and ethanol derived from fermented agricultural products containing at least nine percent ethanol. Five to ten percent of the motor fuel sold is gasohol. Emissions result in less carbon monoxide than gasoline.

*Grams Per Brake-Horsepower-Hour (g/bhp-hr):* A measure of allowable tailpipe emissions of carbon monoxide, hydrocarbons, and nitrogen dioxide for heavy-duty gasoline and diesel-powered trucks and buses.

*Grams Per Mile (gpm):* A measure of allowable tailpipe emissions of carbon monoxide, hydrocarbons, and nitrogen dixoide for passenger cars and light-duty trucks.

*Greenhouse Effect:* The phenomenon in which the sun's energy, in the form of light, passes through the air and is absorbed by the Earth, which then reradiates the energy as heat that the air absorbs. The air thus behaves somewhat like glass in a greenhouse, allowing the inward passage of light but not the outward passage of heat. Carbon dioxide, methane, chlorofluorocarbgons, and other pollutants contribute to the process. The Greenhouse effect will lead to a general warming trend and subsequent climactic changes.

*Hazardous Air Pollutants:* An air pollutant other than a criteria air pollutant that causes or may reasonably be anticipated to cause an increase in mortality or serious illness. See National Emission Standards for Hazardous Air Pollutants (NESHAP).

*Heavy-Duty Truck (HDT):* Under EPA regulations, a truck weighing over 8500 pounds.

*Hotspots:* Localized areas of high air pollution levels. Example: a busy intersection that experiences high carbon monoxide levels.

*Hydrocarbons (HC):* Any of a vast family of compounds containing hydrogen and carbon. Used loosely to include many organic compounds in various combinations; most fossil fuels are composed predominately of hydrocarbons. When hydrocarbons mix with nitrogen oxides in the presence of sunlight, ozone is formed; also referred to as volatile organic compounds (VOC).

*Incinerator:* A controlled chamber where waste substances are burned.

*Increments:* Allowable air pollution increases in clean air regions are measured in increments above existing "baseline" levels. New industrial sources in clean air areas are allocated portions of the regional increment. Once the increment for the region is used up, no additional industrial growth is permitted.

*Indirect Source:* Any facility, building structure, installation, real property, road, highway or parking facility that attracts motor vehicle traffic and, indirectly, causes air pollution.

*Inspection and Maintenance (I&M):* Inspection and maintenance of auto emissions controls. In states with inspection and maintenance programs, automobiles must be checked periodically for excess hydrocarbon and carbon monoxide emissions. If excess emissions are found, the owner must have the vehicle repaired, unless the repair-cost waiver is exceeded. Compare Enhanced Inspection and Maintenance.

*Inversion:* An atmospheric condition caused by a layer of warm air preventing the rise of cool air trapped beneath it. This holds down pollutants that might otherwise be dispersed, and can cause an air pollution episode.

*Lead (Pb):* A heavy metal used in many industries, which can accumulate in the body and cause a variety of negative effects. One of the six pollutants for which there is a national ambient air quality standard. See Criteria Pollutants.

*Lifetime risk:* The probability of contracting or dying from a disease, calculated from birth or any subsequent time. EPA assumes a typical lifetime to be 70 years.

*Light-Duty Truck (LDT):* Under EPA regulations, a truck or van weighing less than 8500 pounds.

*Limestone Injection Multistage Burner (LIMB):* An emerging control technology used to alter the combustion process in coal burning power plants, whereby limestone is injected into a boiler with coal, causing sulfur dioxide to form solid calcium sulfate.

*Liming:* The application of alkaline materials, usually limestone, to lakes, streams or solids to temporarily increase the pH to compensate for the effects of acid deposition.

*Lowest Achievable Emission Rate (LAER):* A stringent level of pollution control required by the Clean Air Act for new or modified industrial facilities in nonattainment areas (areas where air pollution exceeds national air quality standards). The lowest achievable emission rate is defined as either the most stringent emission limitation contained in the implementation plan of any state for a category of sources, or as the most stringent emission limitation achieved in practice within an industrial category. In theory, the lowest achievable emission rate should be more stringent that new source performance standards. Compare Best Available Control Technology (BACT), Reasonably Available Control Technology (RACT).

*M85*: Automotive fuel that is 85 percent methanol, 15 percent gasoline.

*Major Source:* A stationary source that emits, or has the potential to emit, 100 tons per year or more of any air pollutant.

*Mercury:* Liquid metal which damages the nervous system upon inhalation or ingestion. One of the seven hazardous air pollutants for which a national emission standard (NESHAP) has been promulgated.

*Methanol:* An alcohol that can be used as an alternative fuel or as a gasoline additive. It is less volatile than gasoline; when blended with gasoline, it lowers carbon monoxide emissions but increases hydrocarbon emissions; when used as a pure fuel, its emissions are less ozone-forming than gasoline emissions.

*Methyl Isocyanate (MIC):* A toxic gas that killed over 3,000 people in Bhopal, India in 1984. Methyl Isocyanate is a frequently cited example of an air pollutant that is not currently regulated by EPA as a hazardous air pollutant.

*Methyl Tertiary Butyl Ether (MTBE):* A fuel additive containing oxygen, and made from petroleum products (methanol and isobutylene); as an additive to gasoline, it reduces carbon monoxide engine exhaust levels and does not increase HC emissions.

*Metropolitan Statistical Area (MSA):* Defined by the Office of Management and Budget; a large population center with adjacent communities which have a high degree of economic and social interaction with the center. Each MSA must include at least one city with 50,000 or more inhabitants; as of 1986, there were 265 MSAs in the U.S.

*Micron:* A unit of length equal to 1/1,000,000 of a meter.

*Mobile Sources:* Motor vehicles, including cars, trucks, buses, trains and planes. Mobile sources are subject to specific pollution controls under the Clean Air Act.

*Monitoring:* Periodic or continuous sampling to determine the level of pollution or radioactivity.

*Mutagen:* A substance that causes mutations.

*National Ambient Air Quality Standards (NAAQS):* Section 109 of the Clean Air Act requires EPA to set nationwide standards, the National Ambient Air Quality Standards, for widespread air pollutants. Currently, six pollutants are regulated by primary and secondary NAAQS—carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter (PM-10), and sulfur dioxide. See Criteria Pollutants.

*National Emission Standards for Hazardous Air Pollutants (NESHAP):* Section 112 of the Clean Air Act requires EPA to set emission standards through regulatory promulgations, NESHAPs, for pollutants that may result in an increase in mortality or serious illness. Currently, NESHAPs have been promulgated for some sources of seven pollutants—arsenic, asbestos, benzene, beryllium, mercury, radionuclides, and vinyl chloride.

*Natural Gas:* A natural fuel containing hydrocarbons that occur in certain geologic formations.

*Netting:* A type of emission trading under the Clean Air Act. Under the Clean Air Act, a modification of an existing source that increases emissions more than a de minimis amount is normally subject to new source review requirements under the Act's PSD or nonattainment provisions. "Netting" allows the source to escape the new source review requirements by obtaining offset reductions from elsewhere at the source that bring the net emissions increase below the de minimis threshold. Compare Bubbling.

*Neurotoxin:* A substance that damages the nervous system.

*New Source Performance Standards (NSPS):* EPA sets minimum federal emissions limits—the new source performance standards—for all new or substantially modified sources in major polluting industries. The standards are based on the best technology currently available.

*New Source Review (NSR):* Section 110 of the Clean Air Act requires State implementation plans to include a permit review, referred to as a new source review, that applies to the construction and operation of new and modified majority stationary sources in nonattainment areas to assure attainment of the national ambient air quality standards.

*Nitrogen dioxide ($NO_2$):* Gases formed primarily from atmospheric nitrogen and oxygen when combustion takes place at high temperature. $NO_2$ emissions contribute to acid deposition. One of the six pollutants for which there is a national ambient standard. See Criteria Pollutants.

*Nitrogen oxides ($NO_x$):* Nitrogen oxides are formed primarily by fuel combustion and contribute to the formation of acid rain. Hydrocarbons and nitrogen oxides combine in the presence of sunlight to form ozone, a major constituent of smog. During 1980, some 21 million tons of nitrogen oxides were emitted in the U.S., according to the Office of Technology Assessment.

*Nonattainment Areas:* Regions that violate Clean Air Act. Primarily ambient air standards are designated as non-attainment areas. Most major cities in the United States are non-attainment areas for one or more of the criteria pollutants. These dirty air regions are subject to strict controls to bring them into compliance with the standards.

*Nonmethane Hydrocarbons (NMHC):* All hydrocarbons other than methane, which is a relatively inert hydrocarbon with low photochemical reactivity.

*Nonroad Vehicles:* Vehicles or items of machinery that use an internal combustion engine but are not regulated as motor vehicles or airplanes under the Clean Air Act. Construction equipment and trains are two examples of nonroad vehicles.

*Offset Requirement:* The Clean Air Act requires that in nonattainment areas, emissions from major new stationary sources—or increased emissions that result from modernization of existing plants—must be more than offset by reductions from existing pollution sources.

*Oil Desulfurization:* A widely applied precombustion method to reduce sulfur dioxide emissions from oil-burning power plants, whereby the oil is treated with hydrogen, which partially removes some of the sulfur by forming hydrogen sulfide gas.

*Onboard Controls:* A vapor recovery system built into automobiles and devised to capture volatile organic compounds released during refueling; reduces the formation of ozone.

*Oxidant:* A substance containing oxygen that reacts chemically in air to produce a new substance. Ozone, the primary constituents of photochemical smog, is an oxidant.

*Ozone (ground level):* The prime ingredient of smog. Ozone is produced by the combination of hydrocarbons and nitrogen oxides in the presence of sunlight and heat. Some 68 areas—mostly metropolitan areas—did not meet a Dec. 31, 1987, deadline in the Clean Air Act for attaining the ambient air quality standard for ozone.

*Ozone Layer:* The protective layer in the earth's stratosphere, about 25 kilometers above the ground; absorbs some of the ultraviolet rays of the sun and thus controls the amount of this potentially harmful radiation reaching the Earth's surface.

*Ozone Transport Region:* Interstate region across which high levels of ozone pollution are carried by prevailing winds.

*pH Value:* The pH scale, which is 0 to 14, is used to measure whether a substance is acidic (below 7) or alkaline (above 7). Because the pH scale is logarithmic, there is a tenfold difference between each number. If the pH drops from 7 to 6, the acidity is ten times greater.

*PM-10:* Particulate matter that measures ten microns in diameter or less—a size considered small enough to invade the sensitive alveolar regions of the lung. One of the six pollutants for which there is a national ambient air quality standard. See Criteria Pollutants.

*PSI:* Pounds per square inch.

*PPM:* Parts per million.

*Particulate Matter (PM):* A wide array of small pieces of solid and liquid matter found in the atmosphere, including soot, dust, organic matter and other materials. Also known as particulates.

*Percentage Reduction:* The 1977 Clean Air Act amendments added a requirement that new source performance standards for fossil-fuel-fired stationary sources (such as power plants and industrial boilers) achieve a percentage of reduction in emissions, regardless of the amount of pollution emitted. The percentage reduction requirement, together with the requirement that standards be based upon a technological system of continuous emission reduction, was intended to eliminate the option of complying with sulfur dioxide new source standards solely through use of low-sulfur fuel.

*Performance Warranty:* The requirement under the Clean Air Act that the automobile manufacturer warrant the performance of all components affecting emission levels for the first two years or 24,000 miles of use of the vehicle.

*Phosgene:* A potent neurotoxin used as nerve gas in World War I. Phosgene is a frequently cited example of an air pollutant that is not currently regulated by EPA as a hazardous air pollutant.

*Photochemical Oxidants:* Air pollutants formed by the action of sunlight on oxides of nitrogen and hydrocarbons. Ozone is a photochemical oxidant.

*Prevention of Significant Deterioration (PSD):* In the 1977 Amendments to the Clean Air Act, Congress mandated that areas with air cleaner than required by national ambient air quality standards must be protected from significant deterioration. The Clean Air Act's PSD program consists of two elements—requirements for best available control technology on major new or modified sources, and compliance with an air quality increment system.

*Primary National Ambient Air Quality Standards:* The national ambient air quality standards set to protect human health with "an adequate margin of safety."

*Production Warranty:* The requirement under the Clean Air Act that the automobile manufacturer warrant the performance of the key components of the emission control system for the first five years or 50,000 miles of use of the vehicle.

*Reasonable Further Progress (RFP):* Annual incremental reductions in emissions of an air pollutant reflected in a state implementation plan that is sufficient, according to the EPA, to provide for attainment of the applicable national ambient air quality standard by the statutory deadline.

*Reasonably Available Control Technology (RACT):* A Clean Air Act standard under which existing polluting facilities in a dirty

air area install retrofit equipment to control air emissions. Compare Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER).

*Recall:* Requirement that an automobile manufacturer recall a class of vehicles due to their failure to comply with federal emission standards during their useful life. EPA is required under the Clean Air Act to order a recall whenever a "substantial number" of vehicles in the class fail to comply.

*Refueling Emissions:* Emissions released during vehicle refueling—as gasoline vapors in the vehicle fuel tank are displaced by incoming fuel, forced out of the tank, and escape into the ambient air.

*Regional Ozone Model (ROM):* A photochemical grid model used to simulate the effects of transport of pollutants over a broad regional area.

*Reid Vapor Pressure (RVP):* A measure of gasoline volatility. Summertime gasoline has an RVP of 11.5 pounds per square inch (psi) in many areas. A 1989 rulemaking by EPA will lower RVP to 10.5 in many areas, however.

*Repair-Cost Waiver:* Waiver that is available to a motor vehicle owner when the costs of repairing a defective emission control system exceed a fixed threshold, commonly $75. The waiver excuses the owner from the obligation to repair the control system.

*Repowering:* A substitute for new power plant construction, whereby a plant is rebuilt and most of its major components are replaced.

*Running Losses:* Evaporation of motor vehicle fuels from the fuel tank or engine while the vehicle is in use.

*Scrubber.* An air pollution control device that uses a spray of water to trap pollutants and cool emissions.

*Secondary National Ambient Air Quality Standards:* The national ambient air quality standards that are set to protect welfare, including, but not limited to, effects on "soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well being."

*Selective Enforcement Audit (SEA):* A random sampling by EPA of new motor vehicles for the purpose of determining compliance with federal emission standards. A compliance rate of sixty percent is considered passing by EPA currently.

*SIP Call:* An EPA action requiring a State to resubmit part or all of its state implementation plan (SIP) to demonstrate attainment of the national ambient air quality standards by the statutory deadline.

*Smog:* Air pollution generated by motor vehicles, industrial activity, and other sources over urban areas. One of its major components is ozone. The term was coined by combining "smoke" and "fog," which smog often resembles. See Ozone.

*Stage II Controls:* The containment of vapors created during the filling of motor vehicle fuel tanks. Stage II emissions can be controlled either with vapor-recovery gasoline pump nozzles or with filters built into automobile fuel systems. (Stage I emissions occur when a gas station's storage tanks are filled by a delivery truck.)

*State and Territorial Air Pollution Program Administrators (STAPPA):* A professional organization of State air pollution officials.

*State Implementation Plan (SIP):* A state's detailed plan for meeting national ambient air quality standards under the Clean Air Act. SIPs must be reviewed and approved by EPA.

*Stationary Source:* Any building, structure, facility or installation which emits or may emit an air pollutant for which a national standard is in effect.

*Stratosphere:* The region of the atmosphere above the troposphere. The stratosphere is located about seven miles above the earth and contains relatively large amounts of ozone which protect the Earth from excessive ultraviolet radiation. Compare Troposphere.

*Sulfur Dioxide ($SO_2$):* A gas that is produced when fossil fuels, such as coal and oil, are burned. $SO_2$ is the main pollutant involved in the formation of acid rain. $SO_2$ also can irritate the upper respiratory tract and cause lung damage, according to EPA. During 1980, some 27 million tons of sulfur dioxide were emitted in the U.S., according to the Office of Technology Assessment. The major source of $SO_2$ in the U.S. is coal-burning electric utilities.

*Synthetic Organic Chemical Manufacturing Industry (SOCMI):* A regulatory category of stationary sources of volatile organic compounds.

*Tailpipe Standards:* Emissions limitations applicable to engine exhausts from mobile sources.

*Tampering:* Adjusting, negating, or removing pollution control equipment on a motor vehicle; considered illegal in several States, and often checked for during vehicles inspection and maintenance.

*Teratogen:* A substance that causes developmental deformities in fetuses.

*Total Suspended Particulates (TSP):* The particulate matter in the ambient air. The previous national ambient air quality standard for particulates was based on TSP levels; it was replaced in 1987 by an ambient standard based on PM-10 levels. Compare PM-10.

*Toxic Release Inventory:* Inventory of the estimated releases to the air and other media of more than 320 chemicals by large industrial facilities. The inventory is collated from release forms filed by the facilities pursuant to the Superfund Amendments and Reauthorization Act.

*Transportation Control Plan (TCPs):* Measures adopted by a locality to reduce the amount or improve the flow of traffic to improve air quality; e.g., public transit, carpools, right turn on red, bus lanes, or high occupance vehicle (HOV) lanes.

*Treatment, Storage and Disposal Facility (TSDF):* Facilities permitted under the Resource Conservation and Recovery Act to handle hazardous waste; a major source of VOC emissions.

*Troposphere:* The layer of the atmosphere closest to the Earth's surface, within which lower temperatures occur at increasingly higher altitudes. Compare Stratosphere.

*Urban Airshed Model:* A sophisticated air quality model which takes meteorological conditions into account, and can predict changes in air quality at different locations. It can demonstrate progress in terms of declining peak ozone concentrations, as well as indicate how peak ozone concentrations will change across an entire urban area. It is costly and requires much more data, computer validation, and computer capacity than other models; therefore, this approach has not been used widely by the states. Compare Empirical Kinetic Modeling Approach (EKMA).

*Useful Life:* The period of time during which a motor vehicle is subject to recall for failure to meet federal tailpipe standards. Under current law, the useful life of a passenger car is considered to be five years or 50,000 miles, whichever comes first; the useful life of a light-duty truck is considered to be 11 years or 120,000 miles.

*Vehicle Miles Travelled (VMT):* A measure of the extent of motor vehicle operation.

*Vinyl Chloride:* A flammable, explosive gas; used in adhesives. One of the seven hazardous air pollutants for which a national emission standard (NESHAP) has been promulgated.

*Volatile Organic Compounds (VOC):* A group of chemicals that react in the atmosphere with nitrogen oxides, heat, and sunlight to form ozone; most hydrocarbons, the latter category playing a major role as ozone precursors.

*Volatility:* The tendency of a liquid to evaporate.

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[From the Clean Air Facts, Apr. 27, 1989]

CONTROLLING OZONE FROM STATIONARY SOURCES

Sources of air pollution can be divided into two basic categories: "mobile sources" such as cars and trucks, which were discussed in Issue 5, and "stationary sources," the subject of this week's Fact Sheet. These sources—which range from large factories and oil refineries, on the one hand, to small dry cleaners and print shops, on the other—account for roughtly half of all emissions of volatile organic compounds and nitrogen oxides, the two principal ozone precursors. Collectively, they cause as much ozone pollution as do the mobile sources.

This Fact Sheet describes strategies for controlling ozone pollution from stationary sources. It is organized along the same lines as Issue 5, which discusses control strategies for mobile sources. It begins with an overview of the problem and then discusses the menu of legislative options for controlling pollution from stationary sources.

I. OVERVIEW

Ozone is a secondary pollutant. As described in Issue 2, it is produced when a mixture of volatile organic compounds (VOCs) and nitrogen oxides ($NO_x$) cook on a hot day over an urban area. Stationary sources are major emitters of these two precursor compounds.

In the case of VOCs, stationary sources emit 50% of the national inventory. The emissions come from a wide array of sources. The largest single source (16%) is evaporation from solvents used in industrial processes, such as surface coating, degreasing, and wood finishing. Other important sources include evaporation of solvents in consumer and commercial products, such as household cleaners, hairsprays, and adhesives and sealants (7%); hazardous waste facilities (7%); petroleum refineries (6%); and evaporation of architectural coatings (e.g., paints) (2%). Many of the important stationary sources of VOC emissions are small sources, emitting less than 100 (or even 50) tons per year (tpy) of VOCs.

In the case of $NO_x$, stationary sources account for 55% of the national inventory. The principal stationary sources of $NO_x$ pollution are large facilities: electric utility boilers (33%); industrial boilers (13%); and industrial processes (5%).

Without new controls, emissions of VOCs and $NO_x$ from stationary sources are predicted to grow in the next decades as the country's economy grows. According to some estimates, VOC emissions from stationary sources are likely to grow by about

25% by 2005, while $NO_x$ emissions are likely to grow by 45% over the same period.

There is no single solution to curbing VOC and $NO_x$ pollution from stationary sources. Instead, a host of measures must be used to reduce emissions from both existing and new stationary sources.

II. CONTROLLING VOC EMISSIONS FROM EXISTING STATIONARY SOURCES

The Clean Air Act regulates existing stationary sources and new stationary sources in somewhat different ways. Controls on new sources are generally tighter than controls on existing sources, because it is easier to control emissions from a brand-new plant, which can incorporate the latest control technologies into its design and construction, than it is to control emissions by retrofitting an old plant. In addition, while regulation of existing sources is left almost entirely to the states, many new sources are subject to minimum federal requirements—the new source performance standards (NSPS)—so as to prevent states from bidding down their control requirements in an effort to attract new industry.

Because of these differences, the control options for existing sources (discussed below) and for new sources (discussed in part IV) also differ.

*A. The Basic Framework for Regulating Existing Sources*

In the case of existing stationary sources in nonattainment areas, the Act provides that the state must require existing sources to use "reasonably available control technology" (RACT) to control emissions. RACT is defined in EPA regulations to mean controls that are reasonably available taking into account the necessity of imposing the controls to achieve compliance with the federal air quality standards, the social, environmental, and economic impact of the controls, and alternative means of attaining the federal air quality standards.

To assist nonattainment states in identifying what technologies are reasonably available, EPA issues "control technique guidelines" (CTGs). While states are technically not required to follow these guidelines, almost all have. When EPA reviews a state implementation plan for a nonattainment area, it presumes that the CTGs identify RACT, unless the state can demonstrate otherwise.

The states are on their own when it comes to identifying reasonably available technology for source categories for which no CTGs have been issued. In many cases, such source categories remain unregulated.

*B. Control Options*

1. New and Updated CTGs

EPA's program of identifying RACT through control technique guidelines has assisted state regulation of VOC emissions from existing sources. EPA has issued 22 CTGs, for sources ranging from various surface coating facilities, to petroleum refineries, to tire manufacturers. These guidelines provide an objective basis for local RACT requirements. Plus, the national CTGs are an efficient alternative to the separate development of RACT standards in each of the states.

The CTG program has slowed to a halt in recent years, however. There have been no new CTGs issued since 1984. This has left several important sources of VOC emissions unregulated, including hazardous waste facilities and publicly owned treatment works.

To overcome these problems, several bills have proposed mandating that EPA develop new CTGs for the important unregulated sources of VOC emissions. Some bills also propose requiring that EPA review and update its old CTGs for existing sources.

2. Lowering the RACT Threshold

Expanding the number of CTGs is one way of increasing the number of stationary sources of VOC emissions that are regulated. Another option is to lower the threshold for RACT regulation. Currently, EPA requires nonattainment areas to apply RACT requirements only to sources that emit more than 100 tpy of VOCs.

The 100 tpy threshold misses many of the most important sources of VOC emissions from stationary sources. In fact, by some estimates sources above 100 tpy account for less than 10% of the national inventory of VOC emissions, while sources below 100 tpy account for 40% of the inventory. (The remaining 50% of the national VOC inventory comes from mobile sources.)

Legislative proposals have called for lowering the RACT threshold to different levels according to the severity of the ozone problem in the nonattainment area. Threshold levels of 50 tpy, 25 tpy, 10 tpy, 5 tpy, and 2 tpy have been suggested.

3. Restrictions on "Bubbling"

EPA regulations allow nonattainment areas to permit existing sources to meet RACT requirements through emissions trading, otherwise known as "bubbling." The original concept allowed a facility with several emission units subject to RACT requirements to put a fictitious bubble with a single opening over the facility. The facility's compliance with its emission restrictions would then be evaluated in the aggregate, allowing the facility to escape compliance with RACT at one unit if the facility achieved compensating reductions from elsewhere. EPA's regulations have since expanded the bubble concept to permit different sources to trade emissions reductions among themselves.

Bubbling or emissions trading has received criticism on several fronts. It is said to be inconsistent with the basic idea of RACT regulation—namely, the requirement that all existing sources install a minimum level of technological controls. In addition, it is criticized on the grounds that it is hard to administer and readily subject to abuse by sources intent on "gaming" the system. On the other hand, proponents of bubbling say that it allows emission reductions to be obtained from the most cost-effective sources.

Proposals for restricting bubbling include outright bans on emissions trading in all nonattainment areas to proposals that prohibit the use of bubbling only in areas with the most severe air pollution problems. Some have suggested eliminating bubbling in general, but retaining exemptions for small emissions trades. Another option is to permit bubbling, but require greater than one-for-one reductions from the source providing the emission reductions.

4. Market Mechanisms

Market mechanisms have also been proposed as an engine to drive emissions below RACT levels in areas with severe ozone pollution.

There are an array of available tools for providing sources with economic incentives to reduce emissions. These include fees on emissions or a system of marketable permits. A fee system gives sources an incentive to reduce emissions because the smaller the pool of emissions, the lower the total fee to be paid by the source. A system of marketable permits distributes a limited number of permits to emit VOCs and then prohibits unpermitted emissions. By adjusting the number of permits it distributes, the nonattainment area can control the aggregate volume of emissions. By trading among themselves, the sources can even use the free market to allocate the permits most cost effectively.

Other systems of economic incentives could involve local subsidization of pollution control equipment—or even outright purchase of emission reductions from sources.

III. CONTROLLING $NO_x$ EMISSIONS FROM EXISTING STATIONARY SOURCES

Historically, EPA has not required controls on $NO_x$ emissions from stationary source as a part of the control strategy for areas violating Federal air quality standards for ozone pollution. Recently, however, areas such as Southern California have had significant success with programs providing for control of both VOC and $NO_x$ pollution. $NO_x$ controls are now often considered a needed part of an effective ozone pollution control strategy.

*A. The Atmospheric Chemistry of $NO_x$ and the HC-$NO_x$ Ratio*

Nitrogen oxides are one of the two principal precursors of ozone. In the presence of sunlight, $NO_x$ and VOCs, otherwise known as hydrocarbons (HC), are both involved in reactions that form ozone. $NO_x$ is really two components, nitrogen dioxide ($NO_2$) and nitrogen oxide (NO), which continuously convert back and forth in chemical reactions triggered by sunlight. Ozone is produced when $NO_2$ reacts with sunlight, but it can be destroyed (in a process called "scavenging") when it reacts with NO.

The precise impact of $NO_x$ control on ozone levels depends on a host of factors, including total pollutant concentrations and the amount of sunlight present. One important factor is the relative amount of hydrocarbons and $NO_x$ in the air (the HC-$NO_x$ ratio). When hydrocarbon levels are relatively high, the tendency of $NO_x$ to form ozone predominates. In these circumstances, controlling $NO_x$ levels can be the most effective means of controlling ozone formation, because $NO_x$ becomes in essence a "limiting factor" for ozone formation.

Another critical factor is the distance that one measures from the $NO_x$ source. $NO_x$ settles out of the air faster than VOCs. As a result, even if $NO_x$ emissions do produce an ozone depression in the immediate vicinity of the source, they are likely to increase ozone levels in the otherwise VOC-rich areas downwind of the source. Due to this effect, $NO_x$ controls overall tend to reduce ozone levels.

*B. Control Options*

The same general measures that are available for controlling VOC emissions from stationary sources in nonattainment areas can be used to control $NO_x$ emissions, such as lower RACT thresholds or development of CTGs. Simple reasonably available control technologies include lower combustion temperatures and changing fuel/air mixtures. Such approaches can lower $NO_x$ emissions from utility and industrial boilers by 15% to 50%.

In areas with especially severe ozone pollution, more prescriptive measures have been proposed. One involves mandating the use of "selective catalytic reduction" (SCR). This technology removes $NO_x$ from the exhaust stream by injecting ammonia into the exhaust in the presence of a catalyst, which then converts the $NO_x$ to elemental nitro-

gen and water vapor. SCR is widely used in Japan and Germany and is capable of removing 80% to 90% of the $NO_x$ emissions from utility and industrial boilers.

IV. CONTROLLING EMISSIONS FROM NEW STATIONARY SOURCES

*A. The Basic Framework for Regulating New Sources*

New sources are uniformly subject to stricter technology standards than existing sources, whether in clean air areas or nonattainment areas. This leads to better air quality as older more polluting facilities are replaced by cleaner, new ones. It also serves to prevent state-shopping by new facilities seeking lenient air pollution laws.

In the case of nonattainment areas, the basic mechanism for regulating new sources is the new source review program. Through this program, states issue permits to all new major stationary sources in nonattainment areas. The "major stationary sources" covered by the new source review program are all sources that emit more than 100 tpy of an air pollutant.

There are two principal prerequisites for issuance of a permit to a new source in a nonattainment area. First, the source must comply with the "lowest achievable emission rate" (LAER). LAER is the emission rate that reflects the most stringent emission limitation for the relevant source category that is contained in any state implementation plan or is achieved in practice. LAER must be at least as stringent as any applicable new source performance standard promulgated by EPA for nationwide application.

Second, the new source must "offset" the increase in emissions it will create by obtaining emission reductions from other sources, so that the net effect is "reasonable further progress" toward attainment of the air quality standards. This has been interpreted to require at least one-for-one offsets.

The new source review program also applies to "modifications" of major existing sources that increase emissions more than a de minimis amount (which has been defined by EPA as 40 tons per year in the case of VOCs and $NO_x$). However, EPA allows sources to escape new source review for modifications under a process called "netting." Netting is closely related to bubbling. It applies to facilities with multiple emission units. These facilities can avoid new source review that would otherwise be triggered by a modification at one emissions unit, if they obtain a compensating reduction in emissions from another unit. So long as the net change in emissions is below the de minimis threshhold, the source will have "netted out" of new source review.

*B. Control Options*

1. Increasing the Offset Ratio

One approach for linking air quality improvement with new source growth is to require greater than one-for-one offsets when new sources are located in nonattainment areas. This is already being done in several nonattainment areas around the country. The range of ratios that have been proposed for legislation vary from as low as 1.1:1 to as high as 5:1.

2. Lowering the Threshold for New Source Review

A second option for controlling emissions from new sources is to lower the threshold for new source review from its current level (100 tpy) to some lower level. This approach subjects an increasingly large number of sources to new source review and the more stringent new-source emission limitations.

Proposals for lowering new source review thresholds have varied the level of the threshold with the severity of the ozone pollution afflicting an area. For the levels with the most severe problems, levels as low as 2 tpy have been proposed for sources of VOC. Other proposed thresholds include 50 tpy, 25 tpy, 10 tpy, and 5 tpy.

3. Restricting Netting

When a modified source nets out of new source review, it avoids installing technology sufficient to achieve LAER. Yet it is often cheaper and more efficient to install top-notch pollution control equipment at the outset than it is to install such equipment during a later retrofit. In addition, when the new source review requirements include greater than one-for-one offsets, netting means that the emissions from the modified source end up being offset at a lower ratio than would be the case in the absence of netting.

These problems can be avoided by banning netting in nonattainment areas. This can be accomplished by adopting a "dual source" definition of a stationary source. Under this definition, both a facility comprising multiple individual emissions units and the emissions units themselves are considered to be "sources." As a result, because an individual emissions unit is itself a source for purposes of new source review, the larger facility cannot net an increase in emissions from an emissions unit against a decrease from elsewhere at the facility.

V. CONTROLLING VOC EMISSIONS FROM SOLVENTS AND COATINGS

The measures discussed above will go a long way toward reducing emissions from stationary sources. In the case of $NO_x$, in fact, they are a relatively complete set of measures—at least in the sense that they would reach all important $NO_x$ sources. In the case of VOCs, however, they miss several important source categories.

The traditional tools of stationary source controls are designed to reach large industrial and commercial facilities. VOCs can be emitted from very small sources, however. For instance, household cleaners, hair sprays, and even underarm deodorants emit VOCs. So do small fix-it shops and the weekend housepainter. These sources would escape control even if all of the most stringent measures discussed above were adopted.

These very small sources of VOC emissions may account for as much as 10% of the VOC inventory. To reach them, new regulatory approaches are needed. One option is direct EPA regulation of the solvent content in consumer and commercial products responsible for VOC emissions. Under this approach, EPA would set standards reducing solvent contents according to a defined technological standard. One such standard might call for the lowest achievable emissions of ozone-forming compounds.

Economic incentives also hold promise as a means to reduce emissions from these small sources. An example of this kind of approach would be a system of fees on the purchase of consumer or commercial solvents that varies the rate of the fee with the contribution of the product to ozone formation.

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[From the Clean Air Facts, May 3, 1989]

SMALL PARTICULATE MATTER (PM10)

The subject of this Fact Sheet is small particulate matter, which is commonly referred to as "PM10." Roughly 21.5 million people live in areas that do not meet the federal health standards for PM10.

WHAT IS PM10?

PM10 is a recently established EPA ambient air quality standard for very small particulate matter.

The original national ambient air quality standard for particulate matter was set in 1971. It was based on "total suspended particulates" (TSP)— in other words, any particles floating in the air. In 1987, EPA replaced the TSP standard with an ambient standard based on particles less than ten microns (millionths of a meter) in diameter. These tiny particles, called "PM10," have diameters less than one tenth the width of a human hair.

Unlike larger airborne particles, PM10 can pass through the natural filters in the nose, mouth, and throat, penetrate the upper airways, and travel deep into the lungs. It was for this reason that EPA concluded that PM10 levels better measured risks to human health than did TSP levels (which encompassed particles as large as 50 microns).

Many different substances can be components of PM10, including dust, dirt, soot, smoke, and "secondary particulates." The latter are formed by the transformation of pollutant gases such as sulfur dioxide, nitrogen oxides, or volatile organic compounds into airborne particulates.

HEALTH EFFECTS OF PM10

High levels of PM10 can produce an array of adverse health effects, ranging from temporary reductions in lung capacity, to aggravation of pre-existing respiratory diseases, to cancer and premature death.

Children are especially vulnerable to PM10 due to their high respiratory rates and small lungs. A recent study in Utah found that hospital admissions for children with respiratory disease (pneumonia, pleurisy, and bronchitis) were three times higher than normal during months in which the federal PM10 standards were exceeded. Other vulnerable populations include the elderly, asthmatics, and victims of respiratory disease.

Certain types of PM10 pose special health risks. One especially dangerous component of PM10 is the carbon-based particles that result from incomplete combustion in diesel engines. EPA has concluded that these particulates—which are emitted in the exhaust of diesel trucks, buses, and other vehicles—may cause as many as 860 cancer cases annually. Particulates from wood stoves have similar hazardous characteristics.

Sulfates and nitrates, also called acid aerosols, are another dangerous type of particulate. These are secondary particulates that form from emissions of sulfur dioxide and nitrogen oxides. Acid aerosols can sear sensitive lung tissues when inhaled. According to the Office of Technology Assessment, they could cause thousands of excess deaths each year.

Even small dust particles can be hazardous, because they build up in the lungs over time and impair breathing capacity.

ENVIRONMENTAL AND WELFARE EFFECTS

PM10 pollution—especially PM10 pollution less than 2.5 microns in diameter—impairs visibility. Along the East Coast, summer used to be the season of best visibility, but over the past 30 years it has become the season of worst visibility. EPA has linked this decline in visibility to PM10 pollution. The National Park Service has reported that particulate pollution, especially

fine sulfate particles, impairs scenic vistas within the national park system 90% of the time.

PM10 also soils materials and building surfaces. According to an EPA estimate, the damage is about $1 to $2 billion annually.

SOURCES OF PM10 POLLUTION

There are two basic sources of particulate pollution: natural sources and man-made sources. In turn, within the broad category of man-made sources, there are three major subsets of sources: fugitive emissions (e.g., dust and dirt), direct emissions (e.g., diesel particulates and wood smoke), and secondary particulates (e.g., sulfates and nitrates). The particulate pollution in any given area may come from one of these principal sources—or it may come from a combination of them—depending on the area's special circumstances.

The natural sources include wildfires, volcanoes, and windblown dust. According to EPA estimates, they generate roughly 80 million tons per year, (typ) of particulates, but much of this is particles too large to be counted as PM10. A significant portion of the natural particulate pollution is generated in isolated areas.

The man-made fugitive emissions come from sources such as roadway and construction dust. In the aggregate, fugitive emissions are an extremely large source of particulate pollution (perhaps 125 to 385 typ), but like the natural sources, a significant portion of these emissions is particles too large to be counted as PM10. Like natural sources, fugitive emissions are also frequently generated in isolated areas.

The man-made direct emissions embrace a variety of sources, including emissions from large stationary sources, such as power plants and factories; emissions from small stationary sources, such as wood stoves; and emissions from mobile sources, such as cars and trucks. The direct emissions of particulates amount to about 7 million tpy, with industrial processes (35%), fossil-fuel combustion (25%), and mobile sources (20%) being the largest contributors.

The final component of PM10 pollution, secondary particulates, come primarily from sulfur dioxide and nitrogen oxide emissions. Coal-fired electric utilities are the principal source of sulfur dioxide emissions, while electric utilities, industrial boilers, and mobile sources are the principal sources of nitrogen oxide emissions.

AREAS WITH PM10 POLLUTION PROBLEMS

There are two federal standards for PM10: a 24-hour standard of 150 micrograms per cubic meter (ug/m3) and an annual standard of 50 ug/m3. In 1987, when EPA adopted the PM10 standard, it estimated that at least 70 counties were likely to be in violation of these standards. There are 21.5 million people that reside in these "Group I" counties.

In 1987, EPA also identified an additional 110 counties, the "Group II" counties, that it said had over a 20% chance of being in violation of PM10 standards. Both the Group I and the Group II counties are listed in table 1.

TRENDS IN PARTICULATE LEVELS

There is no data showing trends in PM10 ambient concentrations, because PM10 is a newly developed standard. The data on trends in total suspended particulates shows that from 1978 to 1987, TSP levels dropped by 21%. Most of this reduction was in the early part of the decade, however, Since 1983, TSP levels have been basically flat, dropping only 1%.

CONTROL OPTIONS

There are an array of control options that could be used to reduce particulate levels below the 1983 plateau, depending on the source of the PM10 emissions.

Fugitive emissions, for example, can be reduced through measures such as paving roads or requiring dust-control plans at construction sites. A simple measure such as covering dump trucks hauling dirt or other materials can help reduce PM10 emissions.

Emissions from mobile sources can be reduced by tightening tailpipe standards, especially for heavy-duty diesel vehicles. In fact, EPA has already adopted regulations that require heavy-duty diesel buses and trucks to lower particulate emissions to 0.10 grams per brake-horsepower-hour (g/bhp-hr) by 1991 and 1994 respectively. The current standard is 0.60 g/bhp-hr.

In the case of direct emissions from stationary sources, many of the general control options discussed in Issue 7 could be adopted to reduce PM10 emissions. EPA has promulgated regulations limiting the emissions from new wood stoves. In places where further restrictions on stoves and fireplaces are needed, such as the Northwest, areas can ban wood-burning during episodes of high PM10 levels, or they can require that dry, less-polluting wood be burned. Emissions from open burning can be prevented from contributing to high PM10 levels by limiting open burning to favorable meteorological conditions.

There are also an array of controls for reducing secondary particulates such as sulfates and nitrates by controlling their precursor emissions. These measures include scrubbers, low-$NO_x$ burners, tighter tailpipe standards, and fuel-switching, among others. As the measures are the same ones that control acid rain, they will be discussed in detail in a later issue on that problem.

TABLE 1.—PRELIMINARY LIST OF GROUP I AND II AREAS FOR PM10 [10]

| State and county | Urbanized area | Group |
|---|---|---|
| Alabama: | | |
| Jefferson | County | II |
| Alaska: | | |
| Anchorage | Anchorage | I |
| Juneau | Juneau | I |
| Fairbanks | Fairbanks | II |
| Arizona: | | |
| Cochise | Paul Spur/Douglas area | I |
| Pinal | Hayden/Miami area and Phoenix planning area. | I |
| Gila | Hayden/Miami area | I |
| Maricopa | Phoenix planning area | I |
| Yuma | Yuma planning area | I |
| Pina | Rillito planning area | I |
| Coconino | Flagstaff planning area | II |
| Graham | Stafford planning area | II |
| Navajo | Show Low and Joseph City planning area. | II |
| Apacha | Show Low Planning area | II |
| Santa Cruz | Nogales planning area | II |
| Pima | Ajo and Tucson planning areas | II |
| Cochise | Tucson planning area | II |
| California: | | |
| Santa Clara | County | II |
| San Joaquin | do | II |
| Stanislaus | do | II |
| Kern | Southeast Desert Air Basin | II |
| Los Angeles | do | II |
| Inyo | Owens Valley planning area and Searles Valley planning area. | I |
| Mono | Mammoth Lakes planning area | I |
| Fresno | San Joaquin Valley | I |
| Kern | San Joaquin Valley and Searles Valley planning area. | I |
| Kings | San Joaquin Valley | I |
| Tulare | do | I |
| Los Angeles | LA metropolitan area | I |
| Orange | do | I |
| Riverside | South Coast Air Basin, and Coachella Valley. | I |
| San Bernardino | South Coast Air Basin and Searles Valley planning area. | I |
| Imperial | Imperial Valley planning area and Yuma planning area. | I |

TABLE 1.—PRELIMINARY LIST OF GROUP I AND II AREAS FOR PM10 [10]—Continued

| State and county | Urbanized area | Group |
|---|---|---|
| Colorado: | | |
| Archuleta | Pogosa Springs | I |
| Adams | Denver metropolitan area | I |
| Denver | do | I |
| Arapahoe | do | I |
| Jefferson | do | I |
| San Miguel | Telluride | I |
| Prowers | Lamar | I |
| Pitkin | Aspen | I |
| Fremont | Canyon City | I |
| Adams | Brighton | II |
| Boulder | Longmont | II |
| Delta | Delta | II |
| Eagle | Vail | II |
| El Paso | Colorado Springs | II |
| Garfield | Glenwood Springs, Rifle | II |
| Gunnison | Crested Butte | II |
| Poutt | Steamboat Springs | II |
| Mesa | Grand Junction, Fruita | II |
| Weld | Greeley | II |
| Guam: Piti | County | II |
| Idaho: | | |
| Caribou | Corda | II |
| Ada | Boise | I |
| Shoshone | Finehurst | I |
| Bonner | Sandpoint | I |
| Banrock | Pocatello | I |
| Power | do | I |
| Illinois: | | |
| Madison | Granite City Township (twp) | I |
| Cook | McCook and Hyde Park twp | I |
| LaSalle | Oglesby | I |
| Randolph | County | II |
| Indiana: | | |
| Marion | Subpart of county | II |
| Vigo | County | II |
| Lake | East Chicago, Gary, Hamond, and Whiting. | I |
| Porter | Subpart of county | I |
| Iowa: | | |
| Cerro Gordo | Mason City | II |
| Linn | Cedar Papids | II |
| Polk | Des Moines | II |
| Kansas: Wyardotte | Kansas City | II |
| Maine: Aroostook | County | I |
| Maryland: Baltimore | do | II |
| Michigan: | | |
| Wayne | Detroit | I |
| Wayne | Suburban area | II |
| Saginaw | Carrollton | II |
| Minnesota: | | |
| Ramsey | Subpart of St. Paul | I |
| Ramsey | Remainder of St. Paul | II |
| Hennepin | Minneapolis | II |
| St. Louis | Duluth and Iron Range | II |
| Itaska | Iron Range | II |
| Lake | Rwo Harbors twp | II |
| Stearns | St. Cloud twp | II |
| Montana: | | |
| Flathead | Kalispell | I |
| Lincoln | Libby | I |
| Lake | Ronan, Polson | II |
| Missoula | Missoula | I |
| Rosebud | Lame Deer | I |
| Silver Bow | Butte | I |
| Blaine | Hays | II |
| Flathead | Columbia Falls | II |
| Deer Lodge | Anaconda | II |
| Lewis & Clark | Helena | II |
| Sanders | Thompson Falls | II |
| Lincoln | Eureka | II |
| Nebraska: | | |
| Case | Weeping Water | II |
| Douglas | Omaha | II |
| Nevada: | | |
| Washoe | Reno planning area | I |
| Storey | do | I |
| Clark | Las Vegas planning area | I |
| Lander | Battle Mountain Area | II |
| Humbolt | do | II |
| Pershing | do | II |
| Elko | do | II |
| Eureka | do | II |
| New Mexico: | | |
| Dona Ana | County | I |
| Bernalillo | do | II |
| Cibola | do | II |
| Grant | do | II |
| Santa Fe | do | II |
| San Miguel | do | II |
| Sandoval | do | II |
| Taos | do | II |
| Torrance | do | II |
| Otero | do | II |
| New York: Onondaga | Solvay | II |
| New Jersey: | | |
| Hudson | Jersey City | II |
| Camden | Camden | II |
| Ohio: | | |
| Cuyahoga | Subpart of county | I |
| Jefferson | do | I |
| Seneca | Thompson twp | II |
| Sandusky | Jackson twp | II |
| Lorain | County | II |

TABLE 1.—PRELIMINARY LIST OF GROUP I AND II AREAS FOR PM10 [1]—Continued

| State and county | Urbanized area | Group |
|---|---|---|
| Wyandot | Carey | II |
| Scioto | New Boston | II |
| Trumbull | Warren, Howland twp | II |
| Butler | Subpart of county | II |
| Oklahoma: Comanche | County | II |
| Oregon: | | |
| Deschutes | Bend | II |
| Multnomah | Portland | II |
| Union | LaGrande | II |
| Jackson | Medford, White City | I |
| Josephine | Grant Pass | I |
| Lane | Oakridge | I |
| Klamath | Klamath Falls | I |
| Pennsylvania: | | |
| Allegheny | County | II |
| Philadelphia | Philadelphia | II |
| Erie | County | II |
| Lawrence | ....do | II |
| Mercer | ....do | II |
| Puerto Rico: San Juan | San Juan | II |
| South Dakota: | | |
| Pennington | Rapid City | II |
| Texas: | | |
| Dallas | County | II |
| Harris | ....do | II |
| Lubbock | ....do | II |
| Nueces | ....do | II |
| El Paso | ....do | I |
| Utah: | | |
| Salt Lake | Salt Lake metropolitan area and Magna | I |
| Utah | Provo | I |
| Virginia: Buchanan | County | II |
| Washington: | | |
| Benton | Kennewick | II |
| King | Bellevue | II |
| King | Seattle metropolitan area | I |
| Pierce | Tocoma | I |
| Spokane | Spokane | I |
| Yakima | Yakima | I |
| Thurston | Lacey | I |
| Walla Walla | Wallula | I |
| West Virginia: | | |
| Brooke | County | II [2] |
| Hanock | ....do | II [2] |
| Wisconsin: | | |
| Brown | DePere | II |
| Milwaukee | Subpart of county | II |
| Waukesha | ....do | II |
| Douglas | ....do | II |
| Dane | ....do | II |
| Wyoming: | | |
| Fremont | Larder | II |
| Sheridan | Sheridan | I |

[1] This is a preliminary listing by EPA staff of areas with a high probability that they will not immediately attain the new PM10 standard (Group I), and insufficient data to determine whether or not they will immediately attain the standard (Group II). The remaining 3,000 counties in the United States are expected with a high degree of probability to immediately attain the standard.
[2] EPA is continuing discussions with West Virginia officials to clarify the grouping.

[From the Clean Air Facts, May 24, 1989]

ALTERNATIVE FUELS, PART I: CLEAN FUEL VEHICLES

Alternative or "clean" fuels are low-polluting alternatives to gasoline and diesel fuels. They hold tremendous potential for reducing not only ozone pollution, but also carbon monoxide pollution, particulate pollution, toxic air pollutants, and the greenhouse gases responsible for global warming.

This Fact Sheet surveys the pluses and minuses of the major clean fuels: methanol, ethanol, compressed natural gas, and liquid petroleum gas. Next week's Fact Sheet will evaluate "oxygenated fuels," which are clean fuel/gasoline blends designed to lower carbon monoxide levels.

I. METHANOL

Methanol is a liquid fuel produced from natural gas. In vehicles, it is usually used either in a mixture called "M85," which is 85% methanol and 15% gasoline, or as a "neat" fuel (100% methanol). In both cases, it offers significant environmental and performance advantages over gasoline or diesel fuels.

*A. Environmental Benefits*

Methanol is less photochemically reactive than gasoline. As a result, it contributes significantly less to ozone formation than gasoline. Current generation M85 vehicles emit roughly the same mass of evaporative and exhaust emissions of volatile organic compounds (VOCs) as do gasoline-powered vehicles. Due to the lower reactivity of the methanol emissions, however, the emissions have only 50% of the ozone-producing potential of the gasoline emissions.

The reduction in ozone formaton could be substantially greater in an optimized vehicle running on M100 (neat or 100% methanol). In such a vehicle, the ozone-production potential of the emissions would be 85% to 90% below that of current gasoline vehicles.

Methanol vehicles have other environmental benefits over gasoline and diesel vehicles. Nitrogen oxides (NOx) are the other principal precursor of ozone besides VOCs. When methanol is used instead of diesel fuel in heavy-duty vehicles, the NOx reductions can be as great as 50%. Methanol vehicles also essentially eliminate particulate emissions from diesel vehicles. And methanol vehicles emit no benzene (except for any benzene in the gasoline fraction of M85). Benezene is a carcinogen that is present in both the evaporative and exhaust emissions of gasoline-fueled vehicles.

Current-generation methanol vehicles do emit more formaldehyde than do gasoline vehicles. However, gasoline vehicles also emit hydrocarbons which are photochemically transformed in the atmosphere into formaldehyde. These emissions, when combined with the direct emissions of formaldehyde from gasoline vehicles, result in higher ambient formaldehyde levels than methanol vehicles produce. In addition, catalytic control is being developed to lower the formaldehyde emissions from methanol vehicles to levels comparable to gasoline vehicles.

*B. Performance*

Methanol has performance advantages over gasoline. It has a higher octane level and provides for faster acceleration than gasoline. As a result, it has been used as a fuel in the Indianapolis 500 since the 1970s.

Methanol is also a more energy-efficient fuel than gasoline, in the sense that less of its energy content is wasted than gasoline's. A disadvantage of methanol, however, is that it has a lower energy density, so a gallon of methanol will take a vehicle only about 50% to 60% as far as a gallon of gasoline. This is partially offset by the better energy efficiency of methanol; it can also be compensated for by increasing the size of the fuel tank, but this adds weight to the vehicle.

M100 vehicles do not start as well in cold weather as do gasoline vehicles (although heavy-duty M100 vehicles do start better in cold weather than do heavy-duty diesel vehicles). Cold-starting is not a problem with M85 vehicles, however.

*C. Safety*

In comparison with gasoline, methanol is a safer fuel in some respects and a more dangerous one in others. Methanol is less flammable than gasoline; however, it is more toxic than gasoline upon skin contact or ingestion, burns invisibly, and lacks any odor. The latter two disadvantages can be overcome by mixing methanol with gasoline, as in M85.

Research is in progress to develop additives other than gasoline to provide for flame luminosity and odor.

*D. Experience with Methanol Vehicles*

About one thousand methanol vehicles have operated in the world to date. Most of these have operated in California, where a fleet of 600 have logged over 20 million miles.

The first commercial production of methanol vehicles is likely to occur in 1991. At that time, a new EPA particulate standard for buses take effect. This standard (.01 grams per brake-horsepower-hour) can be met most effectively by the use of clean fuels.

*E. Cost and Availability of Methanol Vehicles and Fuels*

Methanol vehicles are similar to gasoline vehicles in design and construction. The principal difference between the vehicles is that methanol is more corrosive than gasoline, which means that certain parts (e.g., the fuel tank) must be made of a corrosion-resistant material, such as stainless steel or plastic. In fact, the similarites between the vehicles are so great that "flexible fuel vehicles" (FFVs) can be built that run on methanol, gasoline, or any mixture of the two. Such FFVs could run on methanol in a non-attainment area, but then use gasoline on trips away from the area when only gasoline is available.

A recent study by the California Energy Commission predicts that by 2000 the cost of a new methanol vehicle or FFV will be equal to the costs of a new gasoline vehicle, assuming high-volume assembly-line production. In the near term (1993), the costs of the methanol vehicle or FFV may be $100 to $500 greater than the costs of a gasoline vehicle, depending on the volume of production at that time.

Estimates of the cost of methanol as a fuel vary widely. The most recent study is the California Energy Commission report. It predicts that on an energy-equivalent basis, methanol will cost 13% less than premium gasoline by 2000 (as with the vehicles themselves, the report predicts higher costs for methanol fuel in the near term).

*F. Methanol and Global Warming*

The contribution of methanol to global warming is estimated to be 15% lower than gasoline's contribution when methanol is made from natural gas. Both methanol and gasoline can be made from coal, although it is uneconomic to do so at present. These processes substantially increase emissions of carbon dioxide, which is one of the "greenhouse gases" responsible for global warming. World natural gas supplies should be sufficient to satisfy methanol demands for half a century.

II. ETHANOL

Like methanol, ethanol is a liquid alcohol fuel. It is produced by the fermentation of grains, inlcuding corn, wheat, and barley. Most ethanol manufactured in the U.S. comes from corn.

Like methanol, ethanol can be burned neat or in a mixture with gasoline, such as an 85% ethanol, 15% gasoline mixture.

*A. Environmental Benefits*

The environmental benefits of ethanol as a fuel are similar to methanol. Like methanol, ethanol can lead to substantial reductions in ozone, particulate, nitrogen oxide, and benzene levels.

Use of ethanol as a fuel does not contribute to global warming. The carbon dioxide emissions from ethanol vehicles are offset by the carbon dioxide consumption of the crops from which ethanol is produced.

Like methanol, ethanol vehicles do emit more reactive aldehydes than gasoline vehicles (in this case, acid aldehyde not formaldehyde). However, as is the case with methanol, these emissions are offset by the lower

atmospheric reactivity of the hydrocarbon emissions from ethanol vehicles. In addition, they can be controlled by catalytic converters.

*B. Performance*

Ethanol has good performance characteristics similar to methanol. Moreover, its energy density is 35% higher than methanol (although still less than that of gasoline), so that a vehicle can go farther on a gallon of ethanol than on a gallon of methanol. Ethanol is less corrosive than methanol, easing maintenance problems.

*C. Safety*

Ethanol has desirable safety features. It is not as toxic as methanol. And unlike methanol, it burns with a visible flame.

*D. Experience with Ethanol Vehicles*

Few neat or near-neat ethanol vehicles have operated in the United States. However, Brazil has had extensive experience with ethanol vehicles. Since a national program in Brazil began in 1979, over 4 million ethanol cars and trucks have been placed in service, accounting for 50% of the miles driven. Over 90% of new vehicles in Brazil are ethanol vehicles.

*E. Cost and Availability of Ethanol Vehicles and Fuel*

As is the case with methanol, flexible fuel vehicles can be built that can run on ethanol, gasoline, or any mixture of the fuels. Such vehicles could also burn methanol or methanol-gasoline mixtures. The costs of manufacturing the FFVs or dedicated ethanol vehicles should be the same as the costs of manufacturing gasoline vehicles, assuming large-scale assembly-line production.

Estimates of the costs of ethanol fuel vary. The California Energy Commission predicts that ethanol will cost more than gasoline in 2000, but could become competitively priced by 2008. By contrast, the ethanol industry maintains that ethanol can be produced at a cost competitive to gasoline before 2000.

III. COMPRESSED NATURAL GAS

Natural gas can be processed into methanol, which is a liquid fuel. Alternatively, the gas can be compressed and burned in a gaseous form in vehicles. The resulting fuel—compressed natural gas (CNG)—has several desirable attributes.

*A. Environmental Benefits*

CNG is mostly methane. Methane is a relatively unreactive hydrocarbon, although it is an important greenhouse gas. As a result, the exhaust from CNG vehicles is much less likely to contribute to ozone formation than the exhaust from a gasoline vehicle. In addition, unlike gasoline or alcohol vehicles, CNG vehicles have no evaporative emissions, because the fuel system must be enclosed and pressurized. Overall, the use of CNG can reduce the ozone-forming potential of a vehicle by 90%.

CNG has other environmental benefits as well. It burns without soot, so it reduces emissions of particulate matter. It also reduces carbon monoxide emissions by 50% to 100% in comparsion with gasoline fuel. And like the alcohol fuels, it eliminates benzene emissions.

The data is inconclusive with respect to emissions of nitrogen oxides. EPA has reported that retrofitted vehicles burning natural gas may increase Nox emissions. However, this point is disputed by the natural gas industry, which contends that properly designed CNG vehicles can reduce NOx emissions by 65%. In any event, catalytic control could be added to a CNG vehicle to ensure that NOx emissions do not exceed the levels of gasoline vehicles.

With adequate control of methane emissions, CNG vehicles would have less global warming impact than gasoline vehicles.

*B. Performance*

The performance and driveability of CNG vehicles can be as good as gasoline vehicles. Because the energy density of CNG is low relative to liquid fuels, however, the range of a CNG vehicle is significantly reduced. In addition, CNG vehicles can be heavier than gasoline vehicles, because they require pressurized fuel tanks.

*C. Safety*

Natural gas is generally considered to be a safe fuel. It is nontoxic, burns with a visible flame, and has a high ignition temperature. Ignitable mixtures occurring in the fuel tank are unlikely, because the pressure of the fuel prevents air from entering the tank during refueling. The pressurized fuel storage cylinders on CNG vehicles have safely withstood crashes, fires, and gunfire.

*D. Experience with CNG Vehicles*

Vehicles using CNG have been available since the 1920s in the U.S. Currently, there are about 30,000 CNG vehicles operating nationally. Most CNG vehicles are dual-fueled vehicles that can run on either CNG or gasoline.

*E. Cost and Availability of CNG Vehicles and Fuel*

CNG vehicles are typically more expensive than gasoline vehicles because they need heavy fuel tanks. (In the case of dual-fueled CNG vehicles, a gasoline tank is also needed.) The additional costs range from $1,200 to $3,500.

Natural gas is cheaper than gasoline on an energy-equivalent basis. Unlike a liquid fuel, however, it poses special distribution and refueling challenges. The fuel cannot be refined at a remote facility and then trucked or shipped to market. Instead, natural gas must be piped to a local station and then compressed before refueling. Because of these concerns, CNG vehicles may be best suited for use in fleets of vehicles that can be centrally refueled.

The California Energy Commission has estimated that the combined effect of increased vehicle costs and increased fuel distribution costs will make CNG vehicles somewhat more expensive than gasoline vehicles to own and operate. The cost differential is lower for fleet vehicles than for vehicles owned by individuals.

IV. LIQUEFIED PETROLEUM GAS

Liquefied petroleum gas (LPG) is propane that has been liquefied under pressure. Most LPG comes from natural gas feedstocks (6% of natural gas is propane). Some LPG is a by-product of petroleum refining.

LPG resembles CNG in many ways. Like CNG, it burns cleanly and must be stored in pressurized tanks and dispensed from special pumps. LPG's performance is also similar to CNG's, except that because LPG is stored as a liquid, its energy density is higher. This means that LPG vehicles can have a range nearly as large as gasoline vehicles. Also like CNG, LPG vehicles can be built with dual-fuel capability.

LPG's safety is similar to CNG, except that unlike natural gas, propane is heavier than air. This means that the propane could accumulate in a low-lying area and create a fire hazard.

LPG vehicles and CNG vehicles emit similar levels of particulates, carbon monoxide, and nitrogen oxides. Like CNG vehicles, LPG vehicles do not emit toxic benzene.

One difference between CNG and LPG is that most of the hydrocarbon emissions from an LPG vehicle are propane (instead of methane). The reactivity of propane appears to be greater than methane, but somewhat less than gasoline hydrocarbons. This increased reactivity reduces the ozone benefit of LPG as an alternative fuel.

LPG vehicles have been used in many applications, including newspaper delivery fleets, local government fleets, and forklifts. Millions of LPG vehicles operate worldwide, including about 370,000 vehicles in the U.S.

LPG vehicles cost more than gasoline vehicles because they need special pressurized fuel tanks. Fuel prices, however, are substantially below gasoline on an energy-equivalent basis. On the other hand, the availability of LPG fuel is limited and tends to be seasonal.

According to the California Energy Commission, fleets of LPG vehicles will be cheaper to own and operate in both 1993 and 2000 than fleets of gasoline vehicles. At the same time, private LPG vehicles will be somewhat more expensive than gasoline vehicles to own and operate, because of the added costs of the fuel dispensing systems. The limited supply of LPG fuel may restrict LPG to a small segment of the fuel market.

V. ELECTRICITY

Electric, battery-powered vehicles have many desirable attributes. They emit no air pollutants, so from an air quality perspective, they are cleaner than other alternative fuels. (The power plant that generates the electricity that charges the batteries may have emissions, but the plant will typically be located outside of the nonattainment area.)

The vehicles also have excellent driveability and can start and operate easily in cold weather. The vehicles are ideal for stop-and-go driving because unlike gasoline vehicles at idle, they use no energy when stopped. Acceleration is limited in electric vehicles, however.

One problem with electric vehicles is the status of current-generation batteries. These batteries take a long time to charge; they do not carry enough power to give a vehicle a range beyond 120 miles; and they cannot drive vehicles at speeds greater than 65 mph. In addition, the batteries have a limited lifetime and can support vehicle accessories such as air conditioning only at the cost of reduced driving range.

Electric vehicles can be cost-competitive with gasoline vehicles for those applications that can accept the limited range and performance.

VI. HYDROGEN

Another potential alternative fuel is hydrogen. Hydrogen can be produced from natural gas, petroleum, coal, or water. Its primary advantage as an alternative fuel is that upon combustion, it reacts with oxygen to form water. As a result, a hydrogen-fueled vehicle would have essentially no hydrocarbon emissions.

There are several obstacles to use of hydrogen as an alternative fuel. Hydrogen is difficult to store onboard a vehicle. Unlike natural gas, hydrogen gas cannot be effective compressed for storage because its low energy density is too low (about one third of natural gas). The most promising alternative uses metal alloys that store hydrogen by chemical reaction. Research is underway to improve such storage systems. In addition, hydrogen is an expensive fuel, costing

about seven times the price of gasoline on an energy-equivalent basis.

It is unlikely that hydrogen-fueled vehicles will be a viable transportation option in the near term.

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[From the Clean Air Facts, May 31, 1989]

ALTERNATIVE FUELS, PART II: OXYGENATED FUELS

"Oxygenated" fuels differ from neat or near-neat alternative fuels discussed in the last week's Fact Sheet in two basic regards. First, they are gasoline blends, not gasoline replacements. This means they can be burned in today's vehicles without design changes. Second, they are used primarily to combat carbon monoxide pollution, not ozone pollution.

There are several fuels that can be blended with gasoline to form oxygenated fuels, including ethanol, ETBE (an ethanol derivative), methanol, and MTBE (a methanol derivative). They are discussed below, following a discussion of the theory of oxygenated fuels.

HOW OXYGENATED FUELS WORK

Carbon monoxide tends to be a cold-weather pollutant. When started with a cold engine, fuel combustion in the typical gasoline vehicle is incomplete. This produces elevated levels of carbon monoxide in the exhaust emissions. The addition of oxygen into the fuel mixture "leans out" the air/fuel ratio and increases combustion efficiency. As a result, carbon monoxide emissions drop.

The carbon monoxide benefit from oxygenated fuels depends on two primary factors. The first is the percent oxygen in the fuel. EPA has found that emissions reductions rise linearly as oxygen content in the fuel increases from 0% to 3.7%, the highest oxygen content used in oxygenated fuels.

The other important factor is the fuel system of the vehicle. Oxygenated fuels can reduce carbon monoxide emissions from vehicles with carburetors by up to 33%. In the case of vehicles with fuel-injection systems, the benefits are in the range of 5% to 20% reductions. Fuel-injection cars first became widely available in 1982. They were not optimized for performance at high altitudes, where carbon monoxide problems often occur, until 1984, however.

Oxygenated fuel programs have been adopted in Denver, Albuquerque, Phoenix, and other cities with carbon monoxide pollution. These programs typcially require the use of oxygenated fuels during the winter months, when carbon monoxide levels are highest. The Denver program is the oldest and has reduced carbon monoxide emissions by 12% by requiring a minimum oxygen content of 2% (Denver is now considering raising its minimum oxygen content). Albuquerque requires a minimum oxygen content of 3.1%, but gives vendors "oxygen credits" that they can use to offset sales of low-oxygen fuels when they sell fuels with oxygen contents greater than 3.1%.

"GASOHOL"

"Gasohol"—gasoline blended with 10% ethanol—is the most common ethanol blend. Gasohol is most often produced by adding ethanol to refined gasoline in a process called "splash blending." Currently about 1% of the gasoline fuel sold in the U.S. is gasohol.

Gasohol has an oxygen content of 3.7%. This is the highest of any oxygenated fuel and consequently produces the greatest reductions in carbon monoxide emissions of any oxygenated fuel.

Gasohol receives favorable federal tax treatment. The federal gasoline tax of $0.09 per gallon is reduced to $0.03 per gallon for gasohol. Many states provide similar relief from state taxes for gasohol.

ETBE

ETBE (ethyl tertiary butyl ether) is an ethanol derivative that could be added to gasoline during the refining process. A blend with ETBE would not raise the oxygen content of gasoline as much as ethanol. The highest oxygen content achievable with ETBE appears to be near 2.7%. However, ETBE blends may offer advantages in reducing ozone levels, as is discussed below.

ETBE has yet to receive EPA approval as a gasoline additive.

MTBE

MTBE (methyl tertiary butyl ether) is a methanol derivative that is added to gasoline during the refining process. It is currently the most widely used oxygenated blend.

When blended at an 11% rate, MTBE raises the oxygen content of gasoline to 2%. A 15% MTBE blend—the highest currently permitted by EPA—raises the oxygen content in gasoline to 2.7%. Because MTBE's oxygen content is lower than ethanol's, it is not as effective in blends in reducing carbon monoxide levels.

METHANOL BLENDS

Another potential oxygenated blend is a methanol/gasoline blend. Like ethanol, methanol can be splash blended with gasoline. When blended at a 10% rate, methanol raises the oxygen content of the gasoline by 3.5%.

Methanol was formerly used as a blend by ARCO in a fuel called Oxinol, but ARCO discontinued manufacturing Oxinol in 1986.

OXYGENATED FUELS AND OTHER AIR POLLUTANTS

When oxygenated fuels are used during the winter months to lower carbon monoxide levels, they have little effect on ozone levels. Unlike carbon monoxide, ozone is primarily a summertime pollutant. Research is underway, however to determine whether using oxygenated fuels during the summer could also help lower ozone levels.

In the case of ethanol and methanol, splash blending raises the volatility of the fuel mixture by roughly 1 psi and so increases evaporative hydrocarbon emissions. In addition, these oxygenated fuels appear to increase nitrogen oxide emissions. On the other hand, the exhaust emissions of hydrocarbons from ethanol and methanol blends are less reactive than gasoline exhaust emissions, so this offsets the increased evaporative emissions to some extent. There is some evidence that the overall effect is a net reduction in ozone levels.

Like blends of ethanol and methanol, blends with MTBE and ETBE also appear to increase nitrogen oxide emissions. However, as with ethanol and methanol blends, the reactivity of the exhaust emissions from vehicles using MTBE and ETBE blends is lower than the reactivity of the emissions from vehicles using unblended gasoline. Moreover, MTBE and ETBE do not increase fuel volatility, so they will not raise evaporative hydrocarbon emissions.

All the oxygenated blends have high octane levels. This raises the possibility that they could be substituted in gasoline for the aromatic hydrocarbons—benzene, toluene, and xylene. Such a substitution could have significant environmental benefits in lowering both ozone levels (when the oxygenates replace the highly reactive xylene) and the levels of toxic air pollutants (when the oxygenates replace benzene and toluene).

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[From the Clean Air Facts, June 16, 1989]

CLEAN AIR QUIZ

1. The health standards for ___ and ___ are currently exceeded in most urban areas:

A. Lead and ozone.
B. Ozone and carbon monoxide.
C. Nitrogen oxide and sulfur dioxide.
D. Sulfur dioxide and carbon monoxide.

2. Nearly ___ Americans live in nonattaintment areas, which are those areas not meeting one or more of the Clean Air Act's health-based standards.

A. 20 million.
B. 50 million.
C. 90 million.
D. 150 million.

3. Ozone pollution is caused primarily by:

A. The release of chlorofluorocarbons (CFCs) into the upper atmosphere.
B. The release of nitrogen oxides and hydrocarbons in the presence of sunlight.
C. Both of the above.

4. Ozone pollution poses a health risk because it reacts with sensitive lung tissues, irritating and inflaming the lungs. The potential health consequences of this include:

A. Chest pains, shortness of breath, and increased susceptibility to respiratory infections.
B. Coughing, nausea, and throat irritation.
C. Scarred lung tissue, which could lead to cancer or emphysema.
D. All of the above.

5. Studies indicate that ozone pollution inflicts extensive damage on vegetation, decreasing tomato yields by 33%, beans, by 26%, soybeans by 20%, and wheat by 30%. What is the estimated annual dollar loss by this damage?

A. $1 million to $5 million.
B. $50 million to $100 million.
C. $500 million to $1 billion.
D. $2 billion to $3 billion.

6. True or False: Carbon monoxide pollution can be especially hazardous to fetuses because it reduces the amount of oxygen available through the mother's blood stream.

7. Cars and trucks (mobile sources) cause ___% of carbon monoxide pollution in most urban areas:

A. 20–30%.
B. 40–50%.
C. 60–70%.
D. 80–90%.

8. Congress set the $No_x$ tailpipe standard for cars at .4 gram per mile (gpm) in 1970. This standard was subsequently relaxed to 1.0 gpm. On average, however, 1988 cars were certified as emitting approximately:

A. 0.47 gpm of $No_x$.
B. 0.7 gpm of $No_x$.
C. 1.0 gpm of $No_x$.
D. 1.3 gpm of $No_x$.

9. Under the existing law new cars must meet emission standards for 5 years or 50,000 miles. According to EPA, extending this standard to 10 years or 100,000 miles would obtain:

A. Few reductions but would be more cost effective than many stationary source controls.

B. Significant reductions but would not be as cost effective as many stationary source controls.

C. Few reductions that would not be as cost effective as many stationary source controls.

D. Significant reductions that would be more cost effective than many stationary source control measures.

10. Match these alternative fuels to the appropriate description:

A. Methanol:

B. Ethanol:

C. Gasohol:

D. Liquefied Petroleum Gas:

1. propane that has been liquefied under pressure.

2. a liquid fuel produced from natural gas.

3. a liquid alcohol fuel produced by the fermentation of grains.

4. gasoline blended with 10% ethanol.

11. PM10 is a recently established EPA ambient air quality standard for very small particulate matter. Which of the following is true?

A. PM10 refers to particles that are less than 10 microns (millionths of a meter) in diameter (one-tenth the width of a human hair).

B. Because PM10 is so small, it penetrates deep into the lungs, thus posing more of a danger than larger particles.

C. Children are especially vulnerable to PM10 due to their high respiratory rates and small lungs.

D. All of the above.

12. Which of the following characteristics apply to PM10?

A. Created by natural sources such as wildfires, volcanoes, and windblown dust.

B. Results from incomplete combustion in diesel engines.

C. Created by wood stoves, construction sites and dirt roads.

D. Emitted as acid aerosols from coal-fired electric utilities.

E. A and C.

F. All of the above.

13. Under the Clean Air Act, all existing sources must install a minimum level of technological control (RACT) in nonattainment areas. In addition, existing sources that increase emissions more than a de minimus amount are subject to new source review requirements. These requirements can be avoided, however, through emissions trading provisions known as "bubbling" and "netting." Which of the following is true:

A. Netting applies to modifications of existing sources and allows emissions trading only within a source. Bubbling applies to RACT on existing sources and can apply to both trading within sources and between different sources.

B. The reverse of the above so that, netting applies to RACT on existing sources and can apply to both trading within sources and between different sources. Bubbling applies to modifications of existing sources and allows emissions trading only within a source.

C. Bubbling and netting are poorly understood and no one is really sure what the difference between them is.

14. CTGs are an acronym for:

A. Catalytic Tertiary Generation, which is the latest advancement in the catalytic converter used in most vehicles.

B. Control Technique Guidelines, which are documents issued by EPA to assist state and local pollution control authorities to achieve standards for certain sources, such as solvent metal cleanings, through RACT.

C. Comprehensive Technological Grids, which are innovative technological traffic systems designed to ease vehicle congestion in major cities.

D. None of the above.

15. Although 1989 vehicles emit significantly fewer emissions than cars produced in 1970, the progress in cleaning the air has been less than expected. The reason for this is:

A. The Act's health based standards were tightened in 1980, thus making it more difficult to meet the standards.

B. A record increase in the number of cars on the road and the amount of vehicle miles travelled (VMT) has offset the gains from cleaner tailpipes.

C. The depletion of the ozone layer has increased pollution levels.

C. None of the above.

ANSWERS: 1. B; 2. D; 3. B; 4. D; 5. D; 6. T; 7. D; 8. A; 9. D; 10. A2, B3, C4, D1; 11. D; 12. F; 13. A; 14. B; 15. B.

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[From the Clean Air Facts, June 29, 1989]

TOXIC EMISSIONS: INDUSTRIAL SOURCES

Toxic air pollutants are air pollutants that can cause serious illness or death. In theory, they are supposed to be stringently controlled under the Clean Air Act. To date, however, only seven of the hundreds of toxic air pollutants emitted by industry have been regulated by EPA.

EPA estimates that emissions of toxic air pollutants cause some 1,600 to 3,000 cancer cases a year, as well as creating cancer risks in some cities as high as 1 in 1,000. Toxic emissions can also cause birth defects, neurological injury, and genetic mutations.

This Fact Sheet is the first in a series on the problem of toxic air pollution. It focuses on emissions from major industrial sources. Later issues will discuss toxic emissions from motor vehicles and small "area" sources, as well as the problem of "accidental releases," like the catastrophic accident at Bhopal, India, that killed more than 3,000 and injured more than 200,000 in 1984.

I. "HAZARDOUS AIR POLLUTANTS" VERSUS "CRITERIA AIR POLLUTANTS"

The Clean Air Act distinguishes between two categories of pollutants: hazardous air pollutants and criteria or conventional air pollutants. Criteria air pollutants are defined as pollutants that "endanger public health or welfare" and "result from numerous or diverse mobile or stationary sources." These pollutants tend to be more prevasive, but less potent, than hazardous air pollutants. Examples include ozone, carbon monoxide, and PM10—all of which have been discussed in earlier Fact Sheets. The Act requires EPA to set national ambient air quality standards for these pollutants, which the states have responsibility for achieving through implementation plans.

By contrast, hazardous air pollutants (also called "toxic air pollutants" or "air toxics") are pollutants that pose especially serious health risks. In the words of the Act, they are pollutants that "cause or contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness." The Act requires EPA to establish national emission standards within six months for each pollutant that the agency lists as a hazardous air pollutant.

II. SOURCES OF TOXIC EMISSIONS

Toxic air pollutants come from three basic types of sources: large industrial facilities, motor vehicles, and small "area" sources (such as electroplating operations or solvent use).

In the case of industrial facilities, data collected by EPA under the right-to-know provisions of the Superfund law show that manufacturing plants emitted 2.7 billion pounds of over 275 toxic substances into the atmosphere in 1987. Sixty of the substances were known or suspected carcinogens, with total emissions amounting to over 200 million pounds.

The chemical industry is the largest single source of industrial emissions of air toxics, emitting some 35% of the total. Other significant industrial sources are the primary metal industry (9%), the paper industry (9%), motor vehicle manufacturers (8%), and the rubber and plastics industry (5%). In total, more than 15,000 facilities reported emitting toxic chemicals into the air in 1987.

Industry in Texas emitted 240 million pounds of toxic chemicals in 1987, more than any other state. Other states with aggregate emissions over 100 million pounds were Ohio, Louisiana, Tennessee, Virginia, Michigan, and Indiana. table 1 presents a state-by-state breakdown of industrial emissions of toxic substances in 1987.

The toxic emissions reported by industry fall into five general categories: organic—carbon-containing—chemicals, such as benzene and 1,3-butadiene (58% of total emissions); halogenated organic chemicals, such as perchloroethylene, which are organic chemicals containing one or more halogens (fluorine, chlorine, bromine, or iodine) (27%); nonmetallic inorganic chemicals, such as ammonia and chlorine (7%); metals, such as mercury and chromium (5%); and acids, such as hydrochloric acid, bases, and salts (2%).

III. HEALTH AND ENVIRONMENTAL EFFECTS FROM TOXIC EMISSIONS

*A. Cancer risks from Toxic Emissions*

In an average urban area, EPA estimates that a resident's chance of contracting cancer as a result of inhaling toxic emissions over the course of a normal 70-year life is greater than 1 in 10,000. In some areas, the average risk is as high as 1 in 1,000. These are exceptionally high levels of risk. By comparison, in the hazardous waste context, EPA often regulates to protect the public from cancer risks of 1 in 1,000,000 or lower.

EPA estimates that some 1,600 to 3,000 cancer cases are caused by toxic emissions each year. On a national basis, emissions from cars and trucks account for roughly 50% of the cases. The remaining cases are caused by emissions from industrial sources (25%) or diverse "area" sources, such as small electroplating operations, woodsmoke, or solvents used for degreasing (25%). In cities with a high-level of industrial activity, however, the relative risk contributions can vary significantly from the national average. In Southeast Chicago, for example, industrial sources cause 50% of the cancer risk due to the area's high level of toxic emissions from steel mills.

The greatest cancer risks to individuals are found near major industrial sources of toxic emissions. A study by Tulane University reported that the lung cancer rate for residents living within a mile of major chemical plants is four times the national average. A similar study by the West Virginia Department of Health found cancer rates twice the national average in neighborhoods near chemical plants.

EPA has made preliminary estimates of the cancer risks created by individual plants. Although these estimates were made for the purpose of comparing relative risks (not determining precise facility-specific risks), they represent the best data available for assessing the magnitude of risks posed by industrial facilities. The estimates found 205 plants that created lifetime cancer risks to the most exposed individual greater than

1 in 1000, including 45 plants associated with cancer risks greater than 1 in 100, and one plant associated with a cancer risk greater than 1 in 10. In each case, the analyses assumed a 70-year exposure to the maximum long-term ambient concentration of the air toxic likely to be caused by the plant.

The EPA estimates evaluated the risks caused by emissions of a single toxic air pollutant from each plant. But many facilities routinely emit numerous toxic pollutants. The agency's risk assessments did not consider the combined or synergistic effects of exposure to multiple toxics, or the effect of exposure through indirect pathways (such as eating vegetables on which toxics have been deposited). The analyses also did not evaluate the cancer risks created by industrial sources of some important carcinogenic emissions, including benzene and coke-oven emissions.

*B. Other Serious Illnesses from Toxic Emissions*

Toxic emissions can cause an array of serious illnesses besides cancer. These include birth defects, damage to the brain or other parts of the nervous system, reproductive disorders, and genetic mutations. In the case of emissions of some neurotoxins, even small doses can be lethal.

There have been no quantitiative assessments of the noncancer risks created by toxic emissions. In 1987, however, EPA ranked qualitatively the noncancer risks created by over 30 environmental problems within the agency's jurisdiction. Toxic emissions ranked as the second greatest threat to human health, exceeded only by the health risks attributable to ozone and other "criteria" pollutants such as carbon monoxide and PM10.

In Louisiana, high rates of miscarriage have been detected in communities near chemical plants. Studies are underway to assess the relationship between the miscarriages and the plants' emissions.

*C. Environmental Effects of Toxic Emissions*

Toxic emissions can cause adverse impacts to the environment as well as human health. The Great Lakes in particular have been adversely affected, because their huge surface area acts as a sink for the deposition of toxics from hundreds of miles away. This problem was discovered when researchers found significant levels of airborne PCFs and pesticides on remote Isle Royale National Park, a wilderness island in the middle of Lake Superior.

* * * * *

On the other hand, some EPA actions under the Clean Air Act have unintentionally boosted toxic emissions. The phase-out of leaded gasoline reduced gasoline octane levels. To compensate for this effect, refiners increased benzene, toluene, and xylene levels in gasoline—all of which have high octane levels, but are also toxic substances.

*B. State and Local Regulatory Efforts*

In the absence of federal regulations, state and local agencies have had the principal responsibility for regulating toxic emissions. This has produced a patchwork of differing standards. Forty-five states have some kind of program for regulating toxic emissions from new industrial sources. In most cases, the state and local programs for new sources are "policy" programs that authorize the permitting agencies to consider and regulate toxic emissions, but do not specify required emission standards.

Only 18 states have programs of any kind for the regulations of toxic emissions from existing sources.

V. NEW STRATEGIES FOR CONTROLLING TOXIC EMISSIONS FROM INDUSTRIAL SOURCES

There are many proven technologies for significantly reducing toxic emissions. Measures as simple as installing flares over emission vents, for example, can reduce emissions of flammable toxic substances such as 1,3-butadiene and ethylene oxide by 98%. Another example of a simple control device is fabric filters, which can reduce emissions of metals and other toxic particulates by 99%. Under existing law, however, use of these technologices to control toxic emissions is generally voluntary.

Most legislative proposals for controlling toxic emissions have sought to require use of such available technology to control toxic emissions. They require EPA to set standards based on available technology for categories of major industrial sources of air toxics, following the model of the Clean Water Act. As a second stage, they require EPA to analyze the "residual risk" remaining after installation of technological controls and to take further action as needed to protect the public health.

The proposals differ in critical details, however. For instance, the Leland/Molinari bill, H.R. 2585, would require EPA to regulate all categories of major industrial sources of toxic emissions, while the Dingell bill, H.R. 4, and the Administration's legislative proposal would require regulation of only 50% of such categories. Another central difference in the proposals is their approach to health protection after regulated sources comply with the technology-based standards. The Leland/Molinari bill sets objective standards for determining when an unacceptably high level of residual risk remains (in the case of carcinogens and other "nonthreshold" pollutants, the standard is whether the residual risks are greater than 1 in 1,000,000). By contrast, the Dingell bill and the Administration proposal leave the decision about the need for residual risk regulation to EPA discretion. The bill introduced by 12 members of the Senate Environment Committee (S. 816) generally follows the approach of H.R. 2585.

TABLE 1.—TOXIC AIR EMISSIONS REPORTED IN THE 1987 TOXIC RELEASE INVENTORY

| Total tri air emissions rank, and State | Tri facilties reporting air emissions number | Tri forms reporting air emissions number | Total air | |
|---|---|---|---|---|
| | | | Pounds | Percent |
| 9 Alabama | 288 | 1,111 | 98,339,784 | 3.70 |
| 29 Alaska | 7 | 40 | 31,707,083 | 1.19 |
| 53 American Samoa | 2 | 2 | 56,250 | .00 |
| 35 Arizona | 118 | 342 | 16,565,691 | .62 |
| 18 Arkansas | 234 | 689 | 54,559,906 | 2.05 |
| 14 California | 1,288 | 3,863 | 82,708,429 | 3.11 |
| 40 Colorado | 144 | 386 | 11,010,395 | .41 |
| 31 Connecticut | 318 | 972 | 26,078,031 | .98 |
| 41 Delaware | 48 | 177 | 6,036,385 | .23 |
| 21 Florida | 326 | 825 | 50,196,070 | 1.89 |
| 11 Georgia | 470 | 1,412 | 93,586,285 | 3.52 |
| 50 Hawaii | 13 | 49 | 1,064,495 | .04 |
| 44 Idaho | 35 | 94 | 4,176,707 | .16 |
| 8 Illinois | 963 | 3,032 | 99,226,761 | 3.74 |
| 7 Indiana | 566 | 1,925 | 112,870,299 | 4.25 |
| 26 Iowa | 219 | 647 | 39,238,921 | 1.48 |
| 32 Kansas | 150 | 501 | 24,738,143 | .93 |
| 19 Kentucky | 251 | 1,050 | 51,666,181 | 1.95 |
| 3 Louisiana | 209 | 1,287 | 138,254,193 | 5.21 |
| 36 Maine | 66 | 230 | 14,607,382 | .55 |
| 34 Maryland | 143 | 496 | 20,234,753 | .76 |
| 30 Massachusetts | 467 | 1,297 | 30,061,360 | 1.13 |
| 6 Michigan | 588 | 2,250 | 116,359,932 | 4.38 |
| 23 Minnesota | 224 | 732 | 42,095,160 | 1.59 |
| 17 Mississippi | 203 | 615 | 57,285,976 | 2.16 |
| 20 Missouri | 403 | 1,366 | 50,623,710 | 1.91 |
| 43 Montana | 24 | 113 | 5,255,856 | .20 |
| 37 Nebraska | 111 | 284 | 14,403,622 | .54 |
| 52 Nevada | 26 | 55 | 742,389 | .03 |
| 38 New Hampshire | 96 | 275 | 12,983,935 | .49 |
| 24 New Jersey | 683 | 2,301 | 41,983,116 | 1.58 |
| 45 New Mexico | 28 | 92 | 3,831,726 | .14 |
| 12 New York | 623 | 1,992 | 89,399,757 | 3.37 |
| 10 North Carolina | 650 | 2,026 | 94,568,576 | 3.56 |
| 51 North Dakota | 24 | 54 | 935,275 | .04 |
| 2 Ohio | 1,011 | 3,625 | 172,685,650 | 6.50 |
| 27 Oklahoma | 165 | 480 | 36,445,117 | 1.37 |
| 33 Oregon | 157 | 469 | 20,941,392 | .79 |
| 13 Pennsylvania | 810 | 2,773 | 87,547,598 | 3.30 |
| 39 Puerto Rico | 128 | 387 | 12,867,913 | .48 |
| 42 Rhode Island | 126 | 296 | 5,927,841 | .22 |
| 16 South Carolina | 315 | 1,119 | 64,215,277 | 2.42 |
| 47 South Dakota | 27 | 50 | 2,441,359 | .09 |
| 4 Tennessee | 413 | 1,256 | 135,010,665 | 5.08 |
| 1 Texas | 823 | 3,890 | 238,817,765 | 8.99 |
| 15 Utah | 81 | 284 | 77,327,036 | 2.91 |
| 49 Vermont | 39 | 112 | 1,379,661 | .05 |
| 48 Virgin Islands | 1 | 18 | 2,033,873 | .08 |
| 5 Virginia | 327 | 1,055 | 132,436,076 | 4.99 |
| 25 Washington | 243 | 727 | 40,637,496 | 1.53 |
| 28 West Virginia | 91 | 527 | 35,564,455 | 1.34 |
| 22 Wisconsin | 507 | 1,553 | 48,656,361 | 1.83 |
| 46 Wyoming | 17 | 78 | 3,154,641 | .12 |
| Total | 15,289 | 51,281 | 2,655,542,710 | 100.00 |

Source: U.S. Environmental Protection Agency Toxics Release Inventory, June, 1989.

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[From the Clean Air Facts, July 12, 1989]

TOXIC EMISSIONS: MOBILE AND AREA SOURCES

Last week's Fact Sheet focused on toxic emissions from major industrial facilities, such as chemical plants and oil refineries. These facilities produce the highest cancer risks of exposed individuals, as well as contribute significantly to aggregate nationwide risks from toxic emissions. This week's Fact Sheet examines the problems caused by two other important sources of toxic emissions—mobile sources, such as cars and trucks, and small "area" sources.

Although often overlooked in the toxics debate, mobile sources are the largest single source of toxic emissions. According to EPA, cars and trucks are responsible for roughly 50% of the cancers attributable to toxic emissions in the U.S. "Area" sources—which are small, disparate sources such as electroplating shops, apartment-building cooling towers, and solvent use—are nearly as important, but are also often neglected. Collectively, area sources cause roughly 25% of the cancers attributable to toxic emissions, according to EPA.

I. TOXIC EMISSIONS FROM MOBILE SOURCES

Cars and trucks emit hundreds of compounds, including many which are known to be toxic. These emissions are estimated to be responsible for 800 to 1,500 cancer cases each year.

*A. Types of Toxic Emissions from Mobile Sources*

There are four principal toxic emissions from motor vehicles: diesel and gasoline particulates, 1,3-butadiene, benzene, and formaldehyde.

Diesel particulates form from incomplete combustion of diesel fuel. The particulates have a carbon core onto which carcinogenic bits of fuel, lubricants, and combustion products are absorbed. The particles' small diameters (90% are less than 1 micron) mean that they can be inhaled and deposit-

ed deep within the lungs. According to EPA, diesel particulates may cause as many as 50% of the cancer cases attributable to mobile source emissions.

Although gasoline vehicles emit far less particulate matter than diesel vehicles on a grams per mile basis (30 to 100 times less), in the aggregate they may pose toxicity problems similar to diesel particulates. EPA estimates that gasoline particulates may cause as many as 10% of the cancer cases attributable to mobile source emissions.

Next to emissions of diesel particulates, emissions of 1,3-butadiene from mobile sources cause the greatest aggregate health threat, according to EPA's analysis. Butadiene is one of the most potent organic carcinogens. It is emitted both in the exhaust of gasoline vehicles (butadiene is roughly 0.5% of the hydrocarbon content of the exhaust) and from tire wear. EPA attributes as many as 15% of the mobile source cancer causes to butadiene emissions. Studies by the California Air Resources Board (CARB) find that butadiene could be even more hazardous.

Motor vehicles are the major sources of benzene emissions nationally, emitting 85% of the national inventory. These emissions come from vehicle exhaust (70% of the national inventory), gasoline evaporation (14%), and refueling (1%). The benzene level of gasoline is about 1% to 2% and the benzene level in the exhaust of gasoline cars is about 2% to 5% of the hydrocarbon emissions. Most benzene in motor vehicle exhaust forms from engine combustion of nonbenzene aromatics in gasoline, not from the incomplete combustion of benzene itself. Diesel vehicles contribute 3% of the total benzene emitted from motor vehicles.

Benzene emissions from vehicles cause leukemia and other forms of cancer—up to 10% of the motor vehicle cancer cases each year, according to EPA. CARB attributes a substantially higher cancer incidence to benzene emissions.

Formaldehyde is directly emitted in the exhaust of both gasoline and diesel vehicles. It also forms in the atmosphere as a result of photochemical reactions involving other motor vehicle exhaust or evaporative emissions. Direct formaldehyde emissions from motor vehicles amount to approximately 35% of the national inventory, although in some regions the motor vehicle contribution can be much greater (60% in California, for example).

Formaldehyde emissions can cause cancer, as well as acute adverse health effects, including eye, nose, and skin irritation, headaches, nausea, and in extreme cases, death. According to EPA data, formaldehyde emissions from motor vehicles account for up to 5% of the cancer cases attributable to mobile sources.

Motor vehicles also emit a host of other toxic substances, including acetaldehyde, asbestos, cadmium, and ethylene dibromide. Collectively, these other toxic emissions may account for 5% of motor vehicle cancers, according to the EPA data.

*B. Regulatory Action to Control Toxic Emissions from Mobile Sources*

In general, EPA has not regulated the emission of toxic substances by motor vehicles directly. Some control has occurred as an incidental result of efforts to bring areas into compliance with national ambient air quality standards. For instance, benzene, butadiene, and formaldehyde are types of hydrocarbons. As a result, they are controlled at least in part by tailpipe standards limiting exhaust emissions of hydrocarbons.

In some instances, however, controls on criteria pollutants have aggravated problems of toxic emissions. For instance, as explained in last week's Fact Sheet, oil companies responded to rules phasing down the lead content in gasoline by increasing the benzene levels in the fuel.

In the special case of diesel particulates, EPA has acted to regulate emissions directly. For heavy-duty vehicles, the current particular standard is 0.6 grams per brake horsepower-hour (g/bhp-hr), tightening to 0.25 g/bhp-hr in 1991 (0.1 g/bhp-hr for urban buses) and 0.1 g/bhp-hr in 1994. The standard for light-duty cars is 0.2 grams per mile (gpm) and for light-duty trucks 0.26.

*C. Passenger Exposure to Toxic Emissions from Motor Vehicles*

Passengers riding in cars and trucks receive especially high levels of exposure to the toxic emissions from motor vehicles. Recent work in California has found that the benzene levels inside cars in congested traffic are four times higher than general ambient concentrations.

II. TOXIC EMISSIONS FROM AREA SOURCES

"Area sources" are stationary toxic sources that are too small to be regulated as major sources of toxic emissions. In several legislative proposals, including the Leland/Molinari bill (H.R. 2585), the Dingell bill (H.R. 4), and the Senate Environment Committee bill (S. 816), area sources are defined as sources that individually emit less than 10 tons of toxic substances into the air annually.

Principal area sources of toxic emissions can be identified by the contribution that they make to the annual cancer incidence attributable to toxic emissions. Under such an approach, the most important area sources are chromium emissions from electroplating operations (10% of annual cancer incidence); woodsmoke (4%); chromium emissions from apartment-building and industrial cooling towers (3%); emissions from gas stations (2.5%); and solvent use and degreasing (1%).

As is the case with motor vehicle emissions, EPA and the states have in general taken few actions to control toxic emissions from area sources directly. For instance, no regulatory controls have been imposed on chromium emissions from electroplating operations or on emissions from solvent use and degreasing. In the case of chromium emissions from cooling towers, EPA proposed banning the use of chromium as a fungicide in 1988 to remove bacteria from the cooling water. But to date the Agency has taken no final action to deal with this problem.

In certain cases, controls on toxic emissions from area sources have resulted indirectly from controls on criteria pollutants. For instance, "stage II" vapor recovery systems at gas stations, which are required in certain ozone nonattainment areas, help control toxic emissions from gasoline vapors. Another example is woodsmoke emissions from new wood stoves. EPA has acted under section 111 of the Clean Air Act to promulgate new source performance standards for new wood stoves that limit particulate emissions.

III. LEGISLATIVE PROPOSALS FOR CONTROLLING TOXIC EMISSIONS FROM MOBILE AND AREA SOURCES

Legislative proposal for controlling toxic emissions from mobile and area sources span a range of options. The Leland/Molinari bill (H.R. 2585) has the most comprehensive program. It would require EPA to promulgate technology-based regulations for controlling toxic emissions from both mobile and area sources. At the other end of the spectrum, the Dingell bill (H.R. 4) and, it appears, the Administration proposal contain no provisions requiring regulatory action to control toxic emissions from mobile or area sources. The Senate Environment Committee bill (S. 816) Calls for EPA to develop a control strategy for area sources using existing regulatory authorities.

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[From the Clean Air Facts, Aug. 2, 1989]

TOXIC EMISSIONS: ACCIDENTAL RELEASES

Releases of toxic substances into the air can be divided into two groups depending upon whether they are routine releases, such as emissions for industrial smokestacks, or they are sudden, irregular accidental releases. The most notorious example of an accidental release is the catastrophic release of methyl isocyanate in Bhopal, India, that killed more than 3,000 people.

Routine releases were discussed in the last two fact sheets. This Fact Sheet describes the problems posed by accidental releases.

CHARACTERISTICS OF ACCIDENTAL RELEASES

Accidental releases occur with surprising frequency. EPA reports that between 1980 and 1987, 11,048 accidental releases of toxic chemicals occurred in the U.S. These releases killed 309 people and caused 11,341 injuries. They also caused the evacuation of nearly 500,000 people.

Of these releases, 4,375—or nearly two a day—produced toxic clouds. Although these releases were just 40% of the total, they represented 63% of the accidental releases causing death or injury and 75% of the releases requiring evacuations.

In one five-year period between 1982 and 1987, 37 accidental air releases killed two or more people; 46 injured 40 or more; and 37 led to the evacuation of 2,00 or more. During this period, one of the single worst events occurred at a Union Carbide chemical plant in Institute, West Virginia, where an air release of aldicarb oxide in August 1985 injured 430.

CATASTROPHIC ACCIDENTAL RELEASES

While some accidental releases may pose relatively minor threats to human health or the environment, others have the potential to be truly catastrophic. The most disastrous release ever was the accidental release of methyl isocyanate (MIC) from the Union Carbide chemical plant in Bhopal, India. On December 3, 1984, a storage tank burst open, releasing 30 tons of MIC into the atmosphere. The release killed over 3,000 people and injured more than 200,000.

The Bhopal incident is not unique, however. According to EPA, there have been 17 accidental releases of toxic chemicals in the U.S. since 1980 that had potential toxic effects greater than the Bhopal release. In each case, the "quantity/toxicity ratio" of the release, a measure of the release's potential catastrophic injury, exceeded the Bhopal ratio. Fortunately, a number of factors prevented the U.S. releases from causing Bhopal-like injuries, including favorable weather, the remoteness of the releases, and conditions that kept some of the releases from becoming airborne. Nevertheless, five deaths did occur, a number that EPA calls "surprisingly lower than might be expected."

Accidental releases are particularly dangerous when they involve substances that

form ground-hugging, toxic clouds when released. Examples of such substances include chlorine, phosgene, anhydrous.

EXISTING LAW ON ACCIDENTAL RELEASES

Existing law contains few provisions regulating the prevention, detection, or response to accidental releases. The Emergency Planning and Community Right-to-Know Act of 1986 (title III of the Superfund Amendments and Reauthorization Act of 1986) established local emergency planning commissions and directed the local commissions to develop plans for responding to chemical accidents, including those that involve releases to the air. The Act also required industrial facilities to notify the local commissions when the facilities possess toxic substances above threshold amounts and when accidental releases occur.

However, title III does not require the industrial facilities themselves to prevent, detect, or respond to accidental releases. In these areas, the actions of industry are essentially unregulated under existing laws.

STATUS OF ACCIDENTAL RELEASE PREVENTION AND RESPONSE PRACTICES

In 1988, EPA completed a survey of how industrial facilities prevent, detect, and respond to accidental releases. The survey covered 150 facilities handling 21 extremely hazardous substances.

The survey found widespread deficiencies in current industrial practices. Only ten percent of the facilities trained employees in hazard evaluation or accident prevention. More than one third of the facilities had no preventive maintenance program, while many of the other facilities had preventive maintenance programs for only a limited range of equipment and no regular maintenance schedule. Few facilities used emergency backup systems, such as emergency power or cooling systems, to prevent accidental releases. And few used release control technologies, such as scrubbers or flares, to prevent accidentally released gases from reaching the ambient air.

Fewer than half of the facilities used leak detectors. The most common method for detecting accidental releases was direct observation by employees—even though this method exposes employees to toxic gases and is ineffectual in the case of odorless and invisible gases. Less than ten percent of the facilities used perimeter monitoring to detect when accidentally released gases escape the facility boundaries.

Roughly one third of the facilities lacked procedures for determining when an accidental release justified notifying local authorities. Most facilities relied on local telephone lines to warn local authorities of accidental releases, even though the same event that causes the accidental release may render the phone lines inoperable.

LEGISLATIVE PROPOSALS FOR CONTROLLING ACCIDENTAL RELEASES

The Leland/Molinari bill (H.R. 2585) on toxic air pollutants contains the most comprehensive provisions on accidental releases. It would require EPA to identify the 100 substances that pose the most danger when accidentally released. Facilities handling more than a de minimis quantity of such substances would have to develop and implement risk management plans demonstrating compliance with EPA regulations on prevention, detection, and response. The bill would also create a chemical safety and hazard investigation board to investigate and report on accidental releases. The bill introduced by 12 members of the Senate Environment Committee (S. 816) takes a similar approach to accidental releases.

The Dingell-Lent bill (H.R. 3030) proposes creating of a chemical safety and hazard investigation board, but contains no other accidental release provisions. It would not require or authorize EPA to issue regulations to control accidental releases. Ammonia, hydrogen chloride, and hydrogen fluoride—all compounds commonly used in large quantities at industrial facilities around the country.

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[From the Clean Air Facts, Oct. 23, 1989]

SUBCOMMITTEE MARKUP OF H.R. 3030

The House Health and the Environment Subcommittee concluded markup of clean air legislation on October 11, 1989. This issue of Clean Air Facts summarizes the markup proceedings and offers a preview of the issues likely to be debated as the bill moves toward the House floor.

The Subcommittee used the Adminstration's clean air proposal (H.R. 3030) as the markup vehicle and made important changes to it. The most significant changes involved title II of the bill, relating to emissions from cars and trucks. The Subcommittee unanimously adopted amendments that tightened tailpipe standards in two phases, required control of evaporative and refueling emissions, eliminated emissions "averaging," and established a new program for controlling toxic emissions from cars and trucks.

The progress made in resolving contentious mobile source issues was not achieved in other areas, however. A comprehensive amendment title I that would have established a system of graduated control requirements in polluted urban areas lost on a 10 to 12 vote. Several amendments to strengthen title III, relating to toxic emissions, were also defeated or withdrawn, including amendments to require regulation of all major sources of toxic emissions and to establish a comprehensive program to control chemical accidents.

In addition, an amendment that significantly relaxed the Administration's clean-fuels program passed on a 12 to 10 vote.

I. THE LENT SUBSTITUTE

At the start of the markup, Rep. Lent (R-NY) offered a substitute to the markup vehicle, H.R. 3030. The substitute left most of H.R. 3030 intact. But it did strengthen the bill in two significant areas. It deleted the provisions in H.R. 3030 that relaxed controls on the tall smokestacks that export pollution to downwind jurisdictions. And it also deleted the provisions that repealed mandatory protections for the national parks from nitrogen oxide and other pollutants.

Subsequent amendments during the markup were to the Lent substitute.

II. TITLE I: CONTROL OF URBAN SMOG

Title I of the Administration bill sets out a program for attaining ambient air quality standards for ozone, carbon monoxide, and particulate pollution. It contains several highly controversial elements. These issues were not successfully resolved during the subcommittee markup.

*A. The Waxman Smog Control Amendment*

Rep. Waxman (D-Cal) offered a substitute to title I that differed from H.R. 3030 in three key areas: it established a system of graduated control requirements in nonattainment areas; it incorporated mandatory milestones and sanctions; and it tightened federal control measures. This amendment lost on a 10-12 vote.

1. Graduated Control Requirements

H.R. 3030 classifies ozone nonattainment areas into four classifications—marginal, moderate, serious, and severe—and extends the expired attainment deadline in current law to 1996 to 2011, depending on the classification. Unlike prior smog control proposals, the bill does not link the stringency of stationary source control requirements to the length of the deadline extension or the severity of the nonattainment area's pollution. Under H.R. 3030, stationary sources such as factories or refineries in areas with severe pollution problems (e.g., Los Angeles, New York) are subject to the same control requirements as stationary sources in areas with moderate pollution problems (e.g., Nashville, Tenn.; Poughkeepsie, N.Y.). Nor does H.R. 3030 relate transportation control requirements to area classifications.

By contrast, the Waxman amendment established a graduated program of control requirements for stationary and other sources that matched the requirements to the area's nonattainment classification. The amendment was drawn largely from the "Group of Nine" bill (H.R. 99), which was introduced by nine Democratic members of the Energy and Commerce Committee, and the Waxman/Lewis bill (H.R. 2323).

The amendment established five nonattainment areas—marginal, moderate, serious, severe, and extreme. For each classification, it required progressively tighter standards for new and existing sources. It also created a special program of control requirements for Los Angeles, the only "extreme" area, modeled after the provisions in the Waxman/Lewis bill.

2. Milestones and Sanctions

H.R. 3030 establishes extremely tough sanctions for nonattainment areas that fail to submit or implement pollution control plans. These sanctions include measures such as a ban on extending drinking water to new buildings and a ban on the construction of new pollution sources. However, the bill makes application of these sanctions entirely discretionary.

The Waxman amendment substituted mandatory, but less onerous, sanctions for nonattainment areas that fail to submit or implement a pollution control plan. The new sanctions include a cut-off of local highway funds and increased ratios for new sources.

The amendment also established a new system of three-year milestones to keep areas on track toward attainment. Under H.R. 3030, states and EPA have no obligation to assess interim progress in meeting emission reduction requirements, so severely polluted areas could go as long as twenty years without having to demonstrate pollution reductions. The amendment required areas to report on their pollution reductions every three years—and to increase control requirements as necessary to maintain progress.

3. More Stringent Federal Control Measures

The Waxman amendment also substantially strengthened federal measures to control sources of ozone pollution that are not amenable to local regulation.

The amendment incorporated the provisions from H.R. 99 calling for a 50% reduction in emissions from evaporation from paints, varnishes, household cleaners, and other solvents and consumer and commercial products. These emissions account for 27% of the national inventory of hydrocarbon emissions. By contrast, H.R. 3030 au-

thorized, but did not require, federal regulation of these emissions.

The amendment also required EPA to regulate sources operating on the outer continental shelf in the same manner as the sources would be regulated if they were located onshore.

*B. Other Amendments*

Several other amendments to title I were considered by the subcommittee. Rep. Wyden (D-Or) offered an amendment, which was adopted by voice vote, establishing a technology assistance program to help small sources comply with control requirements. Rep. Nielson (R-Ut) offered an amendment, which was also adopted by voice vote, requiring the use of the best available control measures in areas with serious particulate pollution.

Finally, Rep. Dannemeyer (R-Cal) offered an amendment to eliminate inconsistencies between the planning requirements in H.R. 3030 and those adopted in California. This amendment was also adopted by voice vote.

III. TITLE II: MOBILE SOURCES

In contrast to the deadlock that characterized the debate over title I, the subcommittee made significant progress in resolving issues relating to the control of emissions from mobile sources.

*A. Conventional Gasoline- and Diesel-Fueled Motor Vehicles*

The subcommittee unanimously resolved most outstanding issues pertaining to the control of emissions from gasoline- and diesel-fueled motor vehicles. Successful amendments addressed the following issues:

Averaging. H.R. 3030 contained provisions allowing car makers to comply with emissions standards through emissions "averaging." According to a report by the Office of Technology Assessment, these provisions could allow emissions to increase by 25% above the relevant standard. The subcommittee voted unanimously to strike the averaging provisions.

Onboard canisters. The subcommittee voted unanimously to require car makers to control refueling emissions by installing onboard canisters. The amendment also provided that moderate nonattainment areas need not require gasoline stations to install "stage II" at-the-pump controls; it also provided that serious and severe nonattainment areas may lift stage II requirements after onboard canisters are in widespread use.

Control of evaporative emissions. H.R. 3030 gave EPA discretionary authority to control "running losses" and other evaporative hydrocarbon emissions from motor vehicles. The subcommittee voted unanimously to require EPA to issue regulations within 33 months controlling these emissions.

Onboard diagnostics. H.R. 3030 gave EPA discretionary authority to require the installation of onboard diagnostics to monitor the effectiveness of the vehicle's pollution control equipment. The subcommittee voted unanimously to require EPA to issue regulations within 33 months mandating onboard diagnostics.

Tailpipe standards. The subcommittee voted unanimously to require passenger cars and light-duty trucks to comply with the California tailpipe standards (0.25 NMHC, 0.4 NOx, 3.4 CO). The vehicles must comply with the standards according to a phase-in schedule that begins in 1994. By 2003, passenger cars and light-duty trucks must meet standards that are 50% below the California standards, unless EPA establishes alternative standards on the basis that the statutory standards are unnecessary, infeasible, or not cost-effective.

Extended useful life. The subcommittee voted unanimously to extend durability requirements for emission controls. Passenger cars and light-duty trucks must comply with the California standards for 100,000 miles during vehicle certification and for 75,000 miles in actual use.

Toxic emissions. The subcommittee voted unanimously to establish a new program for the control of toxic emissions from motor vehicles.

*B. Clean-Fuel Vehicles*

The centerpiece of the smog control program in H.R. 3030 is an aggressive program to promote the use of low-polluting motor vehicle fuels, such as methanol, ethanol, and natural gas. The subcommittee did not reach a consensus over this program.

In a 12-10 vote, the subcommittee adopted an amendment offered by Reps. Hall (D-Tex) and Fields (R-Tex) that substantially rewrote the clean-fuels program in the Administration bill. The amendment eliminated the mandate in H.R. 3030 that required car makers to "produce, sell, and distribute" clean-fuel vehicles. Instead, it required car makers to "certify . . . that they have the capacity to produce, distribute, and offer to sell" such vehicles.

In addition, the amendment relaxed the performance standard for clean-fuel vehicles. H.R. 3030 required clean-fuel vehicles to achieve the reductions in ozone-producing and toxic air emissions that result from the use of "clean alternative fuels formulated to provide maximum reductions of such emissions," such as methanol and natural gas.

The Hall/Fields amendment replaced this standard with one requiring clean-fuel vehicles to achieve only the emission reductions equivalent to those produced by use of "M85," an alternative fuel that is 85% methanol, 15% gasoline. Analyses by EPA, the petroleum industry, and others conclude that use of M85 reduces emissions in the range of 0% to 30% below the level emitted by gasoline-fueled vehicles. In comparison, use of pure methanol or natural gas can achieve emission levels 80% to 90% below the level emitted by gasoline-fueled vehicles.

The Hall/Fields amendment also expanded the definition of a clean fuel to include M85 and reformulated gasoline, refined requirements for oxygenated fuels, and added requirements for centrally fueled fleets to use clean fuels.

*C. Warranties*

The subcommittee also failed to resolve a controversy regarding emission control warranties. Rep. Waxman has proposed that the current 5-year/50,000 mile warranty on motor vehicle emission controls be extended to 8-years/80,000 miles for key emission control components like the catalytic converter, but reduced to 2-years/24,000 miles for other components. By contrast, Rep. Dingell has sponsored legislation that rolls back the warranty to 2-years/24,000 miles for all but the key emission control components. The Dingell proposal would not extend the warranty for any components.

No vote on the warranty issue occurred at subcommittee.

IV. TITLE III: TOXIC EMISSIONS

Several significant amendments to title III, relating to toxic emissions, were raised during the subcommittee markup. As with title I, however, the subcommittee failed to reach consensus on these issues.

*A. Sources Subject to Regulation*

H.R. 3030 defines a "major source" of toxic emissions as a source that emits more than 10 tons per year of any hazardous air pollutant. It then requires EPA to list all categories of major sources and to regulate emissions from 50% of these categories within seven years. Regulation of the remaining 50% of source categories is discretionary with EPA. The Lent substitute preserved this basic structure, but required EPA to provide an explanation for each decision not to regulate a source category.

Rep. Wyden (D-Ore) offered an amendment to require regulation of all listed categories of major sources within 12 years. The amendment was withdrawn before a vote, with the understanding that it would be pursued in full committee.

*B. Regulatory Standards*

Under H.R. 3030, regulated source categories must initially comply with emission standards based on the maximum achievable control technology (MACT). At a minimum, these MACT standards must be set at a level achieved in practice by the best controlled similar sources. An amendment by Ms. Collins (D-Ill) clarified that in determining the minimum level for MACT, costs and other economic factors cannot override the statutory MACT floor.

H.R. 3030 establishes a second phase of standards where necessary to prevent "unreasonable risk" to public health. Rep. Richardson (D-NM) announced during the subcommittee markup that he plans to offer an amendment at full committee that defines an "unreasonable risk" to be any cancer risk greater than 1 in 1 million.

*C. Accidental Releases*

According to EPA, between 1980 and 1987 there were more than 11,000 accidental toxic releases resulting in more than 300 deaths and more than 10,000 injuries. The Lent substitute directs EPA to issue "reasonable regulations" for the prevention of accidential releases of air toxics. It also called for the establishment within EPA of a board to investigate and report on chemical accidents.

Rep. Richardson (D-NM) offered an amendment at subcommittee mark-up establishing a more comprehensive program to protect against accidental releases. Drawn from the Leland/Molinari bill (H.R. 2585), the amendment required EPA to produce a list of 100 chemicals presenting serious accident risks. It also required facilities handling such chemicals to evaluate the risk of accidental releases and prepare risk management plans. The amendment also increased the independence of the accident release board by transferring the authority to appoint members from EPA to the President.

The Richardson amendment was defeated at subcommittee by a vote of 9 to 12 and is expected to be pursued at the full committee markup.

*D. Protection of the Environment*

H.R. 3030 includes no provision for protection of the Great Lakes or other environmental resources from toxic emissions. The Lent substitute, however, added provisions requiring EPA to study the effect of toxic emissions on the Great Lakes and to promulgate additional regulations as necessary.

Rep. Sikorski (D-Minn) offered an amendment to provide further protection to the Great Lakes. This amendment required EPA to regulate all significant sources of emissions of seven pollutants that bioaccu-

mulate and cause particular damage to the Great Lakes. This amendment was defeated 5 to 7 and is expected to be pursued at the full committee markup.

Rep. Sikorski also indicated that he plans to offer an amendment in full committee that authorizes EPA to list and regulate chemicals as hazardous air pollutants based on their impacts to the environment.

V. TITLE IV: PERMITS

No amendments were offered to title IV, relating to air pollution permits.

VI: TITLE V: ACID RAIN

H.R. 3030 includes an acid rain program intended to reduce sulfur dioxide emissions by ten million tons below 1980 levels by the year 2000, and to reduce nitrogen oxides emissions by two million tons below projected year 2000 levels by the same year.

Rep. Sikorski offered several strengthening amendments. One amendment increased the required reductions of nitgrogen oxides ($NO_x$) from two million tons to four million tons. This amendment offset anticipated growth in $NO_x$ emissions of three million tons. To achieve the additional reductions, the amendment authorized EPA to require $NO_x$ pollution reductions from industrial sources, in addition to the utility sources already regulated in H.R. 3030. This amendment lost on a voice vote.

Another Sikorski amendment required EPA to reduce sulfur dioxide emissions from industrial boilers and smelters by one million tons below 1980 levels by the year 2000. The President's proposal assumed that one million tons of reductions will be achieved from these sources, but established no program to assure that these reductions actually occur or are maintained. This amendment was withdrawn at the request of members seeking to develop compromise language on the issue.

Congressman Sikorski also proposed an amendment to move up the acid rain clean up deadlines from the year 2001 to the year 2000, to match the dates for clean up promised in the President's announcement of his clean air program. This amendment was defeated on a 9 to 13 vote. Rep. Sikorski indicated that he would continue to pursue his amendments at the full committee.

Other amendments to the acid rain title were discussed but not offered. Rep. Bliley (R-Va) announced his intention to pursue an amendment that adjusts the formula for allocating emission allowances in the President's proposal. This amendment would facilitate growth in low polluting areas, while keeping the overall reductions achieved under the bill unchanged.

Circulated, but not offered, were several amendments by Congressman Bilirakis to adjust the cap on growth of acid rain emissions.

While the notion of establishing a cost-sharing program to minimize the regional economic impact of acid rain control was discussed, no cost sharing proposal was offered at the subcommittee mark-up.

VII. TITLE VI: ENFORCEMENT

No amendments were offered to title VI, relating to enforcement, at subcommittee. Ms. Collins (D-Ill) indicated, however, that she would offer an amendment at full committee expanding district court jurisdiction to consider citizen suits alleging unreasonable delay.

VIII. TITLE VII: MISCELLANEOUS

No amendments were offered to title VII, containing miscellaneous provisions. Rep. Wyden (D-OR) indicated, however, that he would offer an amendment at full committee expanding protection of the national parks from air pollution.

IX. REPORTED BILL

The subcommittee adopted the Lent substitute, as amended, by voice vote. The subcommittee then voted unanimously to report H.R. 3030 to the full committee.

Markup in the full Energy and Commerce Committee may commence on November 1.

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[From the Clean Air Facts, Feb. 2, 1990]

CAUSES AND IMPACTS OF ACID RAIN

This Fact Sheet is the first of two that will examine the acid rain issues confronting Congress this session. These issues are among the most important—and most complex—in the clean air debate.

The Fact Sheet provides an overview of the sources of acid rain, the multifaceted impacts of the pollution, and current control requirements and technologies. It will be followed by an issue that discusses the acid rain control program (H.R. 3030) that is moving through the House.

I. WHAT IS "ACID RAIN"?

Acid rain is a "secondary pollutant"—one that forms from chemical reactions in the atmosphere. It is caused by emissions of sulfur dioxide ($SO_2$) and nitrogen oxides ($NO_x$). These emissions react in the atmosphere to form tiny acidic particles, called sulfate and nitrates. The sulfate and nitrate particles can remain airborne for hundreds, or even thousands, of miles. When they are finally washed out of the atmosphere by rains, they turn into sulfuric and nitric acids—producing "acid rain."

Acid rain is an extremely widespread pollutant. In the 31 states east of the Mississippi, rain is almost always acidic. The average rain there has a pH of 4.5, three times more acidic than unpolluted rain (which has a pH of 5.0 or higher). And in the most affected areas of the country, such as parts of Pennsylvania, Ohio, West Virginia, Maryland, and New York, the rainfall is nearly ten times more acidic than normal.

Acid rain is actually only one of several forms of acid deposition. Sulfates and nitrates can be deposited from the atmosphere in acidic snows or fogs. Or they can settle out as dry particles, to turn into acids on contact with surface waters.

II. SOURCES OF ACID RAIN

*A. $SO_2$ Emissions*

Sulfur dioxide ($SO_2$) emissions cause two-thirds of the acid rain and other forms of acid deposition falling in the Eastern U.S. They cause a similar, but somewhat lower, portion of the acid deposition falling in the Western U.S.

Ninety percent of $SO_2$ emissions result from the combustion of fossil fuels, especially coal. The largest single source of $SO_2$ emissions is the utility industry, which produces 70% of nationwide emissions. Within the utility industry, old coal-fired power plants are the worst emitters; they are responsible for 90% of the utility emissions.

There are several other important $SO_2$ sources. Industrial processes (e.g., petroleum refining, pulp and paper manufacturing, iron and steel production) cause 13% of $SO_2$ emissions. Industrial boilers that burn coal or oil to generate steam or electricity account for another 11% of the national inventory. Other assorted sources—primarily residential and commercial fuel consumption and motor vehicles—emit about 4% of the national inventory.

The following table shows EPA's estimates of historical and predicted future $SO_2$ emissions, in millions of tons. The year 2000 and 2010 figures assume the continuation of current control requirements with one exception. The estimates assume desulfurization of motor vehicle diesel fuel between 1985 and 2000.

| Source cateogy | 1980 | 1985 | 2000 | 2010 |
|---|---|---|---|---|
| Utilities | 17.4 | 16.3 | 17.1–19.4 | 15.7–20.7 |
| Nonutility sources | 8.7 | 7.6 | 7.2–7.2 | — |
| Total | 26.1 | 23.9 | 24.3–26.6 | — |

Regionally, the highest concentration of $SO_2$ emissions come from utilities in Midwestern states that burn high-sulfur coal to generate electricity. Just nine states—Ohio, Indiana, Pennsylvania, Illinois, Missouri, Tennessee, Kentucky, West Virginia, and Georgia—account for 50% of the nationwide inventory of $SO_2$ emissions.

*B. $NO_x$ Emissions*

Nitrogen oxide ($NO_x$) emissions are the other major precursor to acid rain, causing about one third of the acid rain in the East and more in the West.

$NO_x$ emissions are a by-product of the combustion of fossil fuels, including coal, natural gas, oil, and gasoline. Utilities emit 33% of the national inventory of $NO_x$; industrial sources, 20%; and cars, trucks, and other "mobile sources," 43%.

The following table shows recent estimates from the Office of Technology Assessment of historical and predicted future $NO_x$ emissions, in millions of tons, assuming no additional controls.

| Source category | 1985 | 1999 | 2004 |
|---|---|---|---|
| Utilities | 6.8 | 8.6 | 9.3 |
| Industrial and other stationary sources | 3.6 | 5.1 | 6.0 |
| Mobile sources | 8.8 | 8.5 | 9.3 |
| Total | 19.2 | 22.2 | 24.6 |

III. THE IMPACTS OF ACID RAIN IN THE U.S.

Acid rain has been studied in thousands of scientific reports. It was first discovered over a hundred years ago by an English chemist. Scientific consensus about the significance of acid rain coalesced in the U.S. in 1981, when the National Academy of Sciences found "clear evidence of serious hazard to human health and the biosphere" from emissions of suflur and nitrogen oxides.

This scientific research has shown that acid precipitation causes a wide range of deleterious impacts—ranging from serious health effects, to the acidification of lakes and streams, to stunted forests, visibility impairment, and damage to man-made materials.

*A. Health Impacts*

$SO_2$ and $NO_x$ emissions rapidly transform into small acidic sulfate and nitrate particles called "acid aerosols." These acid aerosols irritate the lungs, causing constricted breathing. Epidemiological studies have found that hospital admissions for acute respiratory illnesses increase as levels of acid aerosols rise. Asthmatics and others with already impaired breathing abilities are especially vulnerable.

Epidemiological studies have also linked acid aerosols to increased incidence of chronic cough and bronchitis (as opposed to acute repiratory illness) and ultimately to

death rates. The most alarming work has been done by researchers at Harvard University. They have concluded that acid aerosols contribute to 2%-5% of the premature mortality in the U.S.—40,000 to 100,000 deaths per year.

Acid rain can also adversely affect human health indirectly by leaching toxic heavy metals, like lead and mercury, from minerals in the soil. These metals can be washed into drinking water supplies, where they are consumed by humans.

The American Lung Association has estimated that the health costs of acid rain could be as high as $432 billion annually, assuming a "worst-case" dose-response correlation between sulfate pollution and premature deaths.

*B. Aquatic Impacts*

Nationally, acid deposition has acidified over one thousand large lakes (greater than 10 acres) and thousands of miles of streams. According to the Office of Technology Assessment, thousands more lakes and streams are "extremely vulnerable" to further acidification.

1. Extent of Acidification

Acidification of lakes and streams in the U.S. is widespread—and the major cause of these impacts is acid rain. Although there are some natural acidic water bodies, "most of the acidity comes from acid deposition," according to the findings of a ten-year federal study, the National Acid Precipitation Assessment Program (NAPAP).

NAPAP has surveyed the level of acidity in lakes and streams in various regions. It classified water bodies as already acidic or as "sensitive" to further acidification due to reduced buffering capacity. The following charts summarize the results of the survey.

ACID LAKES

| Region | Percent acidified lakes | Percent acid-sensitive lakes |
|---|---|---|
| Northeast | 5 | 19 |
| Upper Midwest | 2 | 15 |
| Mountain West | 0 | 17 |

ACID STREAMS

| Region | Percent acidified streams | Percent acid-sensitive streams |
|---|---|---|
| Mid-Atlantic | 4 | 16 |
| Southeast | 1 | 5 |

Certain subregions are particularly hard-hit. In the Andirondack Mountains in the Northeast, for instance, 11% of the lakes are already acidic and 36% are sensitive. On the Michigan Peninsula in the Upper Midwest, 10% of the lakes are already acidic and 19% are sensitive.

Actually, the NAPAP data appears to underestimate the extent of acidification in the U.S. NAPAP surveyed only large lakes greater than 10 acres in size. When New York State surveyed both large and small lakes in the Adirondacks, it found that over 25% of the lakes were already acidic.

2. Biological Effects of Acidification

The waters classified as acidic by NAPAP have experienced severe biological impacts. Most acidic water bodies have a pH of 5.0 or lower. At this level, most fish die or cannot reproduce.

"Sensitive" waters also experience biological impacts. They are susceptible to episodic acidification during spring snow melt or heavy rainstorms. Episodic acidification can kill young fish and eggs.

3. Future Trends in Acidification

The vulnerability of a water body to acidification depends primarily on two factors: the "total loading" of acidity that falls within the watershed and the capability of the soil and bedrock to buffer or neutralize the acidity. With constant or increased rates of total loading, the buffering capacity of more watersheds will be consumed, which in turn will cause more acidification of water bodies. Conversely, with decreased loading, soils will gradually regain their buffering capacity, which in turn will allow the affected water bodies to recover.

EPA has examined rates of acidification under various scenarios of future acid deposition. This work shows that emissions reductions would significantly benefit aquatic resources. A 30% reduction in acid deposition, for instance, would allow 50% of the acidic lakes in the Northeast to recover.

Moreover, EPA's study shows that without reductions in acid deposition, streams in both the Southeast and Mid-Atlantic regions will continue to acidify. Currently, there are no acidic streams in the Southern Blue Ridge Mountains and less than 1% are sensitive. However, under a constant deposition scenario, 10% of the streams in the region become acidic and 15% become sensitive.

Other studies have shown potentially even greater impacts from future acidification. OTA has estimated that 3,000 lakes and 23,000 miles of streams are "extremely vulnerable" to further acid deposition.

4. Special Impacts: Leaching and Eutrophication

Besides directly acidifying surface waters, acid rain can leach heavy metals into lakes and streams. This is particularly a problem in the Great Lakes states. Biologists have found unsafe mercury levels in fish in inland lakes in Michigan, Wisconsin, and Minnesota. Acid rain is contributing to this problem by leaching mercury from the surrounding soils into the lakes.

Acid rain also injures aquatic resources by contributing to eutrophication—the gradual suffocation of a water body. Researchers studying the Chesapeake Bay have found that the nitrogen compounds in acid rain account for 25% of the nitrogen entering the Bay. This nitrogen acts as a fertilizer that causes excessive algae blooms. When the algae die and decay, they depress oxygen levels in the Bay, threatening fish populations.

*C. Forest Impacts*

Acid rain also threatens forests. Contact with highly acidified rain or fog can directly injure leaves and needles. And over the long term, acid rain stunts tree growth by altering soil chemistry, both by washing away vital nutrients, such as magnesium and calcium, and by contaminating the soil with heavy metals like aluminum that are freed from soil particles.

The red spruce forests along the crest of the Appalachian Mountains, which stretch from Maine to Georgia, have been the most damaged. These forests have suffered widespread decline, including the death of 40%-70% of the spruce on some mountaintops in Vermont, New York, and North Carolina. NAPAP has found that regular exposure to extremely acidic clouds (average pH of 3.6) is contributing to the decline.

*D. Visibility Impacts*

One of the most significant impacts of acid rain is its effect on visibility. The sulfate particles that form from $SO_2$ emissions scatter light and reduce visits. The problem is particularly great during summer months, because high humidity and temperatures promote sulfate formation.

Acid rain's visibility impacts are extremely widespread. Throughout the East Coast, summertime visibility has decreased by 50% over the last 40 years. In fact, due to these visibility impacts, the summer has changed from the season with the greatest visibility in the East to the season with the worst visibility. Sulfates cause 70% of the summertime visibility impairment in the East, according to the National Park Service.

Pristine areas, such as national parks in the West, are especially susceptible to visibility impairment. An added increment of sulfate pollution has a much greater effect on visibility in clean air than in already polluted air. According to the National Park Service, vistas in the national parks are impaired by man-made pollution 90% of the time, with 50% of the impairment being attributable to sulfates.

*E. Materials Impacts*

Acid rain also causes substantial economic impacts by eroding man-made building materials, such as steel, stones, and paint. According to some estimates, the damage in 17 Eastern states alone could be as high as $2 billion per year.

The same erosional forces also threaten historic monuments, particularly those made of marble. According to National Park Service estimates, acid rain is shortening the life span of marble statues in historical parks like Gettysburg by 25%.

*F. Acid Rain in the West*

Acid rain impacts are most acute in Eastern states, because these states are downwind from the country's largest sources of acid-rain-forming emissions—coal-fired Midwestern power plants. However, acid rain poses significant threats to the West as well.

Although no lakes in the West are currently acidic, NAPAP's survey shows that 17% are "sensitive" to acidification. These lakes can be temporarily acidified during spring snow melts and summer storms. These "acidic pulses" are already affecting salamander populations in the Colorado Rockies. The National Park Service has found similar acid pulses in California's Sierra Nevada Mountains.

Moreover, visibility impacts are especially severe in the West. As mentioned above, Western parks such as the Grand Canyon have naturally clean air that is readily degraded by small increments of sulfate pollution.

IV. THE IMPACTS OF ACID RAIN IN EUROPE AND CANADA

Acid rain is an international problem. The impacts in Europe are particularly sèvere—representing a worst-case scenario for the U.S. In Sweden and Norway, more than 30,000 lakes have been acidified, mainly due to emissions originating in Central Europe and England. And in West Germany, fully half of the trees have been damaged by acid rain, including half of those in the Black Forest.

Canada also suffers heavily from acid rain, because many of its watersheds have very little buffering capacity. The Canadian government says that 14,000 lakes in Canada have been acidified (pH of 5.0 or less) and that 150,000 lakes have suffered

some biological damage from acid rain. The government estimates that half of the acid rain in Canada comes from U.S. emissions.

V. CONTROL STRATEGIES FOR ACID RAIN

Fortunately, acid rain can be controlled. There are a number of readily available technologies that can lower $SO_2$ and $NO_x$ emissions—and thereby reverse or at least limit acid rain's adverse impacts.

*A. $SO_2$ Controls*

There are two basic strategies for reducing $SO_2$ emissions from coal-fired power plants: fuel-switching and scrubbing.

Fuel switching involves shifting the fuel source of a coal-fired power plant from high-sulfur to low-sulfur coal. High-sulfur coal contains up to 5 lbs of sulfur per million Btu of heat content. (Such coal will produce about 10 lbs of $SO_2$ per mmBtu when burned in an uncontrolled power plant.) By contrast, the very cleanest coal contains less than 0.5 lbs of sulfur per mmBtu. Switching between these fuels can cut emissions by 90%.

Fuel switching can also often be an economical way to lower $SO_2$ emissions, depending on the proximity of the nearest low-sulfur coal. Typical costs currently run about $200 to $300 per ton of $SO_2$ removed. However, fuel switching shifts jobs away from high-sulfur coal mines, with adverse impacts on employees and economies dependent on jobs in those mines.

The most effective control alternative is to install "scrubbers" on power plant smokestacks. These devices inject lime or limestone into the emissions from the plant, capturing up to 95% of the $SO_2$ emissions. Scrubbers cost $300 to $600 per ton of $SO_2$ removed, with the greatest cost-effectiveness being achieved at large plants that can take advantage of economies of scale.

Current law requires $SO_2$ controls only on "new plants"—those built since 1971. The 1971 new source performance standard required new power plants to acheive an $SO_2$ emission rate of 1.2 lbs/mmBtu. This rate could be met by any control strategy, including burning low-sulfur coal. In 1979, EPA amended the new source standard to implement the "percent reduction" requirement of the 1977 amendments to the Clean Air Act. The 1979 standard mandates that all new plants reduce $SO_2$ emissions by 70%-90%, regardless of the sulfur content of the coal being used. It has effectively required all new power plants to install scrubbers.

*B. $NO_x$ Controls*

There are also three principal control strategies for lowering $NO_x$ emissions from power plants and other major stationary sources: low-$NO_x$ burners, gas reburning, and selective catalytic reduction. (Strategies for reducing $NO_x$ from mobile sources are discussed in issue 5 of Clean Air Facts.)

$NO_x$ formation during combustion is a function of the combustion temperature. "Low-$NO_x$ burners" lower these temperatures, reducing $NO_x$ emissions by 25%-50%. The cost of this technology is about $200 per ton of $NO_x$ removed.

"Gas reburning" is another readily available control strategy. In this process, natural gas is burned in the boiler above the main combustion area, destroying as much as 40% of the $NO_x$ emissions. Its costs are depended on the price of natural gas, but are generally slightly above those of low-$NO_x$ burners.

The most effective control technology is selective catalytic reduction (SCR), which involves injecting ammonia into the smokestack to convert $NO_x$ to elemental nitrogen and water vapor. SCR can reduce $NO_x$ by up to 90%. NAPAP estimates that SCR costs $2,000 to $4,000 per ton, but new EPA estimates suggest that SCR can be accomplished for as little as $600 per ton.

Current law regulates only new plants, requiring them to meet a $NO_x$ standard of 0.6 lbs/mmBtu.

*C. "Clean Coal" Technologies*

"Clean coal" technologies refer to innovative techniques for reducing $SO_2$ and $NO_x$ emissions. Since 1984, the Department of Energy has promoted development of clean-coal technologies by partially funding demonstration projects. Forty projects have been selected under DOE's program to date.

There are two basic types of clean-coal technologies: retrofit technologies, which are designed to reduce $SO_2$ and $NO_x$ emissions from existing plants, and repowering technologies, which are designed for use when an existing plant is rebuilt from ground up. The more promising repowering technologies include fluidized bed combustion, which involves burning a coal-limestone mixture as it is suspended in midair by jets of air, and coal gasification, which involves converting coal to a gas prior to combustion. Fluidized bed combustion can reduce $SO_2$ emissions by 90% or more, about the same as a scrubber, and increase the efficiency of the power plant by 10% or more. Coal gasification can reduce $SO_2$ emissions by 99%.

According to DOE estimates, most clean-coal technologies should be commercially available by 1996 to 1998.

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[From the Clean Air Facts, Feb. 28, 1990]

ACID RAIN LEGISLATION

The last issue of Clean Air Facts discussed the causes and impacts of acid rain. This issue discusses legislative proposals to control acid rain.

It provides an overview of acid rain legislation in the House during the 1980s and then examines in greater detail the leading acid rain legislation in the 101st Congress—the Administration's acid rain control program (H.R. 3030). The Administrations bill uses a novel market-based approach to achieve important reductions in sulfur dioxide, one of the leading precursors to acid rain. It is expected to be marked up before the full Energy and Commerce Committee in March 1990, and is also the basis of the acid rain control program in the bill reported by the Senate Environment and Public Works Committee (S. 1630).

I. THE NEED FOR NEW ACID RAIN LEGISLATION

The Clean Air Act does not effectively address the problem of acid rain. The original law was designed mainly to reduce high pollution levels that tend to occur near major pollution sources. It did not contemplate that long-distance transport of air pollutants could cause widespread adverse impacts—as is the case with acid rain.

In fact, existing clean air laws have actually aggravated acid rain problems. In an approach of dubious legality, many power plants used tall smokestacks in the 1960s and early 1970s to disperse pollution and avoid exceeding ambient standards without resorting to expensive control technologies. Little consideration was given to the possibility that even if the ambient standards weren't exceeded, the pollution might cause environmental damage when it returned to earth.

Scientists have since learned that sulfur dioxide ($SO_2$) and nitrogen oxide ($NO_x$) pollution from power plants, factories, and other sources can be carried hundreds or even thousands of miles through the atmosphere, chemically transformed in the process, and eventually returned to earth as sulfuric and nitric acids. These acids often are picked up in droplets of rain or snow, but sometimes the particles simply fall back as "dry deposition." As discussed in detail in the last Clean Air Facts, such acid pollution has been associated with a variety of harmful effects, including the acidification of lakes; the decline of forests; serious health impacts, especially to those with respiratory ailments; and damage to man-made materials, such as buildings, bridges, statuary, and car finishes.

II. ACID RAIN LEGISLATION IN THE 1980S

The generally accepted approach to reducing acid rain is to reduce emissions of the acid forming pollutants, $SO_2$ and $NO_x$. Scientists have concluded that it is the "total loading" of these pollutants that leads to environmental damage. Acid rain control proposals to date have generally looked to but fallen short of—the goal of a 50-percent (or 13-million-ton) reduction in national emissions called for by the National Academy of Sciences in 1981.

The first significant acid rain legislation in the House was introduced in the 98th Congress (1983-84) by Reps. Gerry Sikorski (D. Minn.), Judd Gregg (R. N.H.) and Henry Waxman (D. Cal.). The bill, H.R. 3400, required to ten-million-ton reduction in $SO_2$ emissions and a four-million-ton reduction in $NO_x$ emissions. To protect jobs in high-sulfur Midwestern coal fields, the bill required the 50 power plants with the largest emissions to lower emissions through technological controls—specifically, by installing flue gas scrubbers—rather than by switching fuels. And to protect the Midwestern utilities from rate hikes, the bill provided a 90% subsidy for the capital costs of installing the scrubbers. The bill funded the subsidy with a nationwide fee on electricity generation.

The bill was defeated in the Health and the Environment Subcommittee of Energy and Commerce by a 10 to 9 vote, with key Midwestern members voting against the proposal. H.R. 3400 has since proved to be the high-water mark for national "cost-sharing," by offering a larger subsidy to the Midwest than any serious legislative proposals to follow.

In the 99th Congress (1985-86), supporters of acid rain legislation took a different approach in H.R. 4567. This bill, which was introduced by Reps. Sikorski, Silvio Conte (R. Mass.), Sherwood Boehlert (R. N.Y.), Waxman and over 150 cosponsors, called for a ten-million-ton reduction in $SO_2$ emissions and a four-million-ton reduction, $NO_x$ emissions, just like H.R. 3400. Unlike H.R. 3400, however, H.R. 4567 did not specify how the reductions were to be achieved. Instead, it established the concept of a "statewide average emissions rate," in this case 1.2 lbs/mmBtu for $SO_2$ and 0.6 lbs/mmBtu for $NO_x$. States with emissions in excess of these rates were required to lower their emissions, but were given wide latitude to determine the best strategy for doing so. To ensure that no state faced excessive rate hikes, H.R. 4567 established a federal "insurance policy," promising a federal subsidy to ratepayers in any state that faced increases greater than 10%.

H.R. 4567 passed the Health and the Environment Subcommittee by a 16 to 9 margin in May 1986, but was not considered by the full Energy and Commerce Committee.

In the 100th Congress (1987-88), H.R. 4567 was reintroduced as H.R. 2666 and considered in the Health and the Environment Subcommittee together with H.R. 3054, legislation to control urban smog. The combined legislation was deadlocked in Subcommittee when the 100th Congress ended. The Sikorski-Conte bill was reintroduced in the 101st Congress as H.R. 1470.

III. THE CURRENT ADMINISTRATION PROPOSAL

Throughout its tenure, the Reagan Administration opposed enactment of legislation to control acid rain emissions. The Bush Administration reversed course in 1989, however, proposing its own version of acid rain legislation (H.R. 3030) in the 101st Congress. The Bush Administration's acid rain program calls for achievement of a ten-million-ton reduction in $SO_2$ emissions below 1980 levels by the year 2001. And it calls for a two-million-ton reduction in nitrogen oxide emissions below projected year 2000 levels by the same year. H.R. 3030 has become the leading acid rain proposal in the 101st Congress.

*A. The $SO_2$ reduction program*

To achieve $SO_2$ reductions, the Administration program relies on a novel free-market approach that grants polluters a limited number of marketable emission "allowances."

Each $SO_2$ allowance, in essence, grants a source permission to release one ton of sulfur dioxide pollution per year. Allowances can be used for current emissions, sold, or held in reserve for future emission increases. Under the program, it is illegal for any "affected source"—that is, any of the large dirty power plants covered under the program—to release pollution for which they do not have an allowance.

$SO_2$ emission reductions under the Administration proposal are to be achieved in two phases. Phase I seeks to achieve a four- to five-million-ton reduction by the year 1996. It applies to power plants that are large (greater than 100 megawatts) and especially dirty (emitting more than 2.5 pounds of sulfur per million Btu of fossil fuel consumed). During phase I, allowances can be traded to any source in the same state or the same utility system.

The balance of the $SO_2$ reductions are to be achieved by the year 2001 in Phase II. Phase II requires greater reductions from the units affected by Phase I, and covers as well all units larger than 75 megawatts that emit sulfur dioxide at a rate greater than 1.2 pounds per million Btu of fossil fuel consumed. In Phase II all of these units are given allowances representing emissions they would release if they continued to operate the same number of hours as they did between 1985 and 1987—this is called their "baseline"—and released pollution at the rate of 1.2 lbs/mmBtu. Trading rules are expanded in phase II, with the nation divided into broad geographic trading regions to be established by EPA.

An exception of the year 2001 Phase II deadline is established for sources that repower using qualified "clean coal technologies"—that is, now technologies for burning coals cleanly. These sources are allowed a deadline extension until 2004.

Clean power plants, those emitting below 1.2 lbs/mmBtu, are not given allowances or subjected to a cap. However, these sources are required to remain at or below their 1985 emission rates. Small power plants, those below 75 megawatts, are also limited to their 1985 emission rate.

*B. The cap on sulfur dioxide emissions*

The Administration bill requires that all new fossil-fuel fired, electricity-producing boilers have allowances for pollution they will emit before they can operate. This is the "greenfield cap" on emissions. The cap assures that the emissions reductions achieved by the year 2001 under the Administration proposal will not be eroded in future years as new pollution sources come on line and add to the nation's $SO_2$ emissions. Under the cap, aggregate national $SO_2$ emissions from utilities and other covered sources should remain constant, because new sources will have to secure allowances from existing sources, which will have to reduce emissions commensurate with new source growth.

The cap is especially important to the Administration program because without it the system of marketable pollution allowances falls apart over time. Under H.R. 3030, when a large electric utility closes down, that source can sell its pollution allowances, or use them for emission increases at another facility. If new sources are not required to purchase allowances, then with each passing year, as more new sources come on line and more old sources retire, there will be more and more allowances available to authorize pollution increases from existing sources. Hence, total pollution levels would increase dramatically over time, while new sources would remain beyond the coverage of the program. Also, the demand for emission allowances would be weakened dramatically if new sources don't need allowances, resulting in a less active market and less cost-effective emission reductions.

According to EPA estimates, new power plants could increase $SO_2$ emissions by as much as 2.9 million tons per year by 2010 without the greenfield cap, assuming high electricity growth rates.

*C. The allocation of allowances*

While the above description explains in general terms how the cap works, it is not possible truly understand concerns raised by some utilities and environmentalists about its impacts without a more complete picture of how the emission allowances are allocated under the Administration bill. Pollution sources are given allowances (and subjected to a cap), or subjected instead to a rate limitation (and no cap), or left entirely unregulated, depending on the pollution level and the size and type of the source. The paragraphs below explain how the pollution sources are divided up and treated.

*Large Dirty Plants.* The allowance system in the Administration bill applies only to large dirty power plants. A "large power plant" is one capable of producing more than 75 megawatts of electricity. A "dirty" power plant is one releasing pollution at a rate greater than 1.2 lbs/mmBtu. For the most part this category is limited to coal-fired power plants burning high- and medium-sulfur coal and some oil-fired power plants burning high-sulfur oil.

Plants falling within this category are allotted allowances in 2001 and after equal to the amount they would have polluted if they had burned the same amount of fuel they did between 1985 and 1987 (this is their "baseline") and operated at an emission rate of 1.2 lb/mmBtu, instead of their actual 1985 rate. These sources will in essence be required to reduce from their 1985 emission level down to 1.2 if they use about the same amount of fuel (that is, they use the same percentage of their capacity to produce electricity). To the extent that these sources reduce their emission rate to below 1.2 or reduce their operation below 1985 to 1987 levels, they can sell, keep, or use elsewhere the extra allowances they receive under the program.

Large dirty plants emitted 12.9 million tons per year of $SO_2$ in 1985. Under the Administration bill, they will be limited to 5.1 million tons after 2001.

*Clean Plants and Small Plants.* Power plants producing less than 75 megawatts of electricity, and plants emitting at below 1.2 lbs/mmBtu are not given allowances or capped under the Administration proposal. However, these sources are subjected to an emission rate ceiling equal to their 1985 emission rate. This is the so-called "class of 1985."

Both clean plants and small plants are expected to increase their emissions under the Administration bill. EPA models predict clean-plant emissions rising from 2.5 million tons per year in 1985 to about 3.0 million tons per year in 2001. In addition, clean plants that come on line after 1985 but before the enactment of the legislation are expected to emit an extra 0.3 million tons per year in 2001. The models predict that emissions from small dirty plants (plants producing less than 75 megawatts but emitting at a rate above 1.2 lbs./mmBtu) will drop somewhat, from 0.6 million tons per year in 1980 to 0.4 million tons per year in 2001.

*New Utility Sources.* All new fossil-fueled steam production units are required to secure emission allowances before they can operate. EPA estimates that a new 500 megawatt plant achieving 95 percent emission control will need about 4,000 allowances if it burns high-sulfur coal or 1,000 allowances if it burns low-sulfur coal.

*Nonutility Pollution Sources.* Nonutility sources of sulfur dioxide pollution, such as industrial boilers, refineries, and smelters, are not covered under the Administration proposal. According to EPA, these sources are assumed in the Administration bill to emit at one million tons below 1980 levels by year 2000. However, no control requirements, cap, or allowance system is established for such sources.

*Voluntary Opt-In to the Allowance System.* Sources in categories above that are not initially part of the allowance system are permitted to opt in and receive allowances if they subject themselves to a cap based on their 1985 emission rates and their 1985 to 1987 operating levels. They can sell or trade allowances if they reduce pollution below 1985 levels. These sources cannot sell their allowances when they shut down.

*D. The $NO_x$ reduction program*

The Administration bill does not use an allowance system to reduce $NO_x$ emissions. Instead, it directs EPA to establish emission rates for power plants that will bring $NO_x$ emissions two million tons below projected year 2000 emission levels. The emission rates are to be based on the rates achievable through the use of low-$NO_x$ burners. The bill does allow sources to opt into the allowance system voluntarily (see discussion above), in which case sources can trade $NO_x$ allowances for $SO_2$ allowances and vice-versa on a ratio of 1.5 $NO_x$ allowances per 1.0 $SO_2$ allowance.

The Administration proposal would actually allow $NO_x$ emissions to increase from current levels. The Office of Technology Assessment predicts that $NO_x$ emissions will grow by three million tons by 2000, more than offsetting the reductions to be

achieved under the Administration proposal.

IV. IMPACTS OF THE ADMINISTRATION PROPOSAL

*A. Health and environmental benefits*

The health and environmental impacts of acid rain are summarized in the last issue of Clean Air Facts. They include substantial health costs (perhaps as high as $432 billion per year, according to one estimate); the acidification of over a thousand lakes and thousands of miles of streams; widespread damage to high-elevation red spruce forests; impaired visibility; and erosion of man-made building materials (causing $2 billion in damages in the East annually).

These adverse impacts will be substantially reduced by the ten-million-ton reduction in $SO_2$ emissions called for under the Administration bill. Although precise quantification is impossible, EPA has concluded that the economic and other benefits of the $SO_2$ reductions far outweigh their costs.

*B. Economic costs*

The Administration estimates that its acid rain program will cost $3.5 to $4.1 billion per year when fully implemented. By 2010, it estimates the program will cost $2.5 to $5.3 billion, depending on the level of growth in electricity demand.

The utility industry (through the Edison Electric Institute) has estimated higher costs, ranging from $4.5 to $5.5 billion upon full implementation in 2001 to $5.0 to $7.1 billion by 2010. The industry estimate is higher because it assumes higher costs for scrubbing and fuel switching, no least-emissions dispatching (e.g., running a low-emissions unit more than a high-emissions one), and very limited trading of emission allowances (not trading between utility systems). According to the Energy Information Administration, the industry calculations "limited compliance options for utilities, forcing them to add more scrubbers than might be necessary otherwise."

*C. Rate impacts*

Nationally, EPA estimates that electricity rates would increase 1% to 2% under the Administration's acid rain bill. EPA estimates that a rate increase greater than 5% would be faced in only one state—West Virginia (with an increase of 6.0%).

By contrast, utility industry estimates are several times greater. The industry predicts maximum state rate increases of 16% to 20%. According to the Energy Information Administration, however, the industry estimates are based on assumptions of "high compliance costs" and "low demand growth," which are unlikely to occur in tandem because low demand reduces compliance costs as fewer new plant emissions would need to be offset.

In general, the states and utility systems facing the greatest rate increases have electricity rates below the national average, because they use inexpensive high-sulfur coal for fuel. EPA estimates that electricity rates in the five hardest-hit states (Ohio, West Virginia, Indiana, Missouri, and Kentucky) will still remain below the national average after full compliance with acid rain controls.

*D. Coal market and coal-mining employment impacts*

The market-based approach of the Administration proposal allows utilities to pursue lowest-cost compliance strategies. For many utilities, the lowest-cost strategy will be to switch fuels from high-to low-sulfur coal. EPA predicts that the Administration bill will produce a significant production shift away from high-sulfur coal, which is mined principally in Northern Appalachia and the Midwest, to low-sulfur coal, which is mined in Central Appalachia and the West. The shift is estimated to be 109-119 million tons, about one third of U.S. coal production.

EPA estimates that the Administration bill will result in a net increase in coal-mining jobs compared to no-legislation forecasts. However, it also estimates that there will be a substantial shift in employment from high-sulfur coal regions to low-sulfur regions, predicting that 15,000 to 17,000 jobs will shift between regions.

V. CRITICISM OF THE ADMINISTRATION PROGRAM

The most prominent objections to the Administration's acid rain proposal are described below. (This is not intended to be an exhaustive list of all complaints.)

*A. Environmental concerns*

*No Real $NO_x$ Reductions.* While the Administration's proposal achieves significant reductions in $SO_2$ emissions, it actually allows an increase in $NO_x$ emissions. $NO_x$ emissions account for one-third of the acid rain nationally and contribute to ozone formation and particulate pollution. Environmental groups often say that the failure to achieve real $NO_x$ reductions is the single biggest flaw in the acid rain program. They support legislation that will reduce $NO_x$ emission by four million tons below 1980 levels.

*No Regulation of Industrial Sources.* Environmentalists argue that both utility and industrial $SO_2$ emissions should be regulated. The Administration bill, however, assumes that $SO_2$ emissions from industrial sources will be one million tons below 1980 levels in year 2000, but contains no provisions guaranteeing that these reductions are actually achieved and maintained. Environmentalists say that the bill should be strengthened through provisions that insure that at least this level of reductions occurs.

*No Cap on Clean Plants in the West.* Environmentalists worry that the clean plants, which are subject only to rate limitations, can increase their emissions indefinitely. This could undermine the projected emission reductions—and poses special problems for scenic vistas in the West. Environmentalists maintain that emissions from clean plants—especially those in the West—should be capped in much the same manner as emissions from the dirty plants.

*Too Much Delay.* Finally, environmentalists argue that the Administration bill gives power plants too much time to reduce $SO_2$ emissions. They want all reductions to be achieved by 2000—not 2001—with no extension for clean-coal technologies.

*B. Utility concerns*

*The Limited Availability of Allowances in "Clean States".* Utilities in some clean states have complained that they are initially allotted relatively few allowances, and have to look elsewhere to secure those needed to allow new source growth. Clean sources argue that they are penalized for being clean, pointing out that heavily polluting sources will be awarded large numbers of allowances, many of which could be freed up relatively easily to provide for new source growth. Although EPA predicts that large numbers of allowances from high pollution sources will be available at reasonable costs, there is a fear among some in clean states that allowances will not be available because high polluting states will hoard them to accommodate future new source growth within their own states.

*The "Class of 1985".* Other complaints from clean-state utilities have focused on the emission rate limit for clean sources, which are not subject to the cap. Clean sources argue that being tied to a single emission rate, their 1985 emission level, is unfair and inflexible. They note that capped sources can emit at any rate as long as the pollution total is within the cap. Also, some argue that choosing 1985 as the benchmark for establishing an emission rate is arbitrary and inequitable.

*Dual-Fueled Boilers.* A special version of the class of 1985 complaint is the concerns of gas-fueled utilities that on occasion, when gas supplies are low or gas prices are high, burn oil. Fuel oil produces much higher levels of sulfur dioxide pollution than natural gas. Because all such sources operate at an emission level below 1.2 lbs., they are members of the "class of 1985." As it turns out, 1985 was a year of ample gas supplies. Dual-fueled utilities are worried that, if they are tied to their 1985 emission levels, they will not have the flexibility to switch to oil if there should be an interruption in gas supplies or gas prices should rise steeply.

*C. "Cost-sharing"*

One of the most controversial issues in the clean air debate is the subject of "cost-sharing." Cost-sharing refers to electricity taxes, emissions fees, or other methods of raising funds to subsidize clean-up efforts in the states targeted for the greatest emission reductions.

The Administration bill does not include any direct cost-sharing. Midwestern states, which have the highest emission rates and the biggest clean-up obligations, argue that this is unfair. They say that although nine Midwestern states are responsible for only 51% of the national $SO_2$ inventory, they will achieve 67% of the national reduction in $SO_2$ emissions. They seek compensation for what they perceive to be their disproportionate clean-up burden.

"Clean" states disagree. They maintain that they should have a lesser clean-up obligation, because they have already reduced their emissions. They point out that a clean state like New Mexico has installed scrubbers on all 11 of its powerplants other than one small unscrubbed plant), whereas a "dirty" state like Ohio has scrubbed only one of its 28 powerplants. In fact, clean states think that the high-polluting states fare too well under the Administration bill already. They say that the dirty utilities are rewarded for being dirty, because they have to reduce their emissions only to a 1.2 lbs/mmBtu rate, while clean utilities are frozen at emission rates well below that level.

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[From the Clean Air Facts, Apr. 12, 1990]

FULL COMMITTEE MARKUP OF H.R. 3030

The House Energy and Commerce Committee completed its consideration of H.R. 3030, the Administration's clean air bill, on April 5, 1990, after a four-week markup. This issue of Clean Air Facts summarizes the markup and provides a preview of the issues likely to be debated on the House floor.

The Committee adopted compromises that strengthened H.R. 3030 in three key areas: requirements for state plans to fight urban smog; regulation of toxic emissions; and control of acid rain. The Committee also endorsed the compromise on tailpipe emissions reached last fall in the Health and the Environment Subcommittee. These compromises resolved highly controversial

disputes and received unanimous or nearly unanimous bipartisan support.

A consensus was not reached, however, on several other important issues. These outstanding issues include requirements for the use of clean-burning alternative fuels in motor vehicles, protection of visibility in national parks, and preservation of the stratospheric ozone layer from ozone-depleting chemicals. These matters are likely to be decided on the House floor.

Committee members pledged to continue negotiating on several additional issues, including permitting procedures, enforcement provisions, control of emissions from oil and gas activities on the outer continental shelf, and accidental releases of toxic emissions. If consensus compromises cannot be developed on these issues, they too will be resolved on the House floor.

I. THE MARKUP VEHICLE

The Committee used the Administration's clean air proposal (H.R. 3030), as amended by the Health and the Environment Subcommittee, as the markup vehicle. The subcommittee amendments left most of the bill intact except for title II, which establishes controls on mobile sources. As described in detail in issue 15 of Clean Air Facts, last fall the Health Subcommittee reached a compromise that significantly strengthened the regulation of conventional gasoline-powered vehicles. The Subcommittee also narrowly passed a controversial amendment that substantially weakened the clean-fuel provisions originally in H.R. 3030.

II. TITLE I: REQUIREMENTS FOR STATE IMPLEMENTATION PLANS

Title I of H.R. 3030 defines the responsibilities of states to achieve healthful air. By a 38 to 2 vote, the Committee adopted a substitute to title I of H.R. 3030 offered by Reps. Swift (D. Wash.) and Eckart (D. Ohio). The Swift/Eckart amendment significantly strengthened the provisions of H.R. 3030, but is not as stringent as H.R. 2323, the Waxman/Lewis bill.

Key elements of the Swift/Eckart amendment are summarized below:

Revised area classifications.—The Swift/Eckart amendment refined the classifications for ozone nonattainment areas by creating a new "extreme" category for Los Angeles, which has the nation's worst air pollution. New attainment deadlines were established for the five area classifications as follows: marginal areas (3 years); moderate areas (6 years); serious areas (9 years); severe areas (15 years, with an additional 2 years for especially polluted severe areas); and extreme areas (20 years).

Graduated control program for stationary sources.—The Swift/Eckart amendment established a system of graduated controls for ozone nonattainment areas under which heavily polluted areas have to regulate more sources (and do so more stringently) than less polluted areas. Under this system, marginal and moderate areas must regulate stationary sources with emissions of volatile organic compounds (VOCs) of 100 tons or more per year; serious areas must regulate sources of 50 tons or more; severe areas must regulate sources of 25 tons or more; and extreme areas must regulate sources of 10 tons or more. In addition, new source review requirements are stiffened in the more heavily polluted areas.

The amendment establishes an identical graduated control program for sources of nitrogen oxide emissions, which are also a major precursor of ozone. However, the amendment allows EPA to waive $NO_x$ controls in any area in which local atmospheric conditions would make such controls counter-productive.

Transportation controls.—The Swift/Eckart amendment establishes a system of graduated transportation control measures, much like the system of graduated controls for stationary sources. It requires all nonattainment areas to adopt transportation plans that help reduce air pollution levels. In addition, in the case of seriously polluted areas, it requires states to report on vehicle congestion and use every three years and to adopt new transportation control measures (TCMs) when levels of congestion or vehicle use exceed expectations. And in the case of severe and extreme areas, it requires that states use all reasonably available TCMs and at a minimum offset any emissions increase due to increases in congestion or vehicle use.

Milestones.—The amendment adds a new "milestone" program to H.R. 3030. Under this program, all serious, severe, and extreme ozone nonattainment areas must evaluate every three years whether they remain on track toward timely achievement of the air quality standards. When an area fails to achieve the required level of emission reductions, the area must adopt additional control measures or, alternatively, "bump up" into a higher classification. The amendment also eliminates the "cost waiver" in H.R. 3030, which would have exempted areas that fail to meet a milestone from further control efforts if EPA deemed such efforts too costly.

Mandatory sanctions and "FIPS".—H.R. 3030 established very tough sanctions (e.g., a ban on new drinking water hookups) for states that fail to submit or implement state pollution control plans, but it undermined the deterrence effect of the sanctions by making their application discretionary. The Swift/Eckart amendment establishes less onerous sanctions (specifically, a ban on new highway funds and a 2-to-1 offset ratio for new sources), but makes their application mandatory.

The amendment also restores the requirement in current law that EPA develop a federal implementation plan (FIP) when a state fails to submit or implement an adequate one of its own. H.R. 3030 had made this safeguard discretionary.

Federal controls on coatings and solvents.—The amendment tightens requirements for federal regulation of "consumer and commercial products," such as paints, coatings, and solvents. Emissions from these products account for over 25% of the smog-forming volatile organic compound emissions in most nonattainment areas. Under the Swift/Eckart amendment, EPA must regulate all of these products within four years. A second round of regulation, based on the best available controls, must be completed within 11 years for important source categories.

Stronger interstate transport provisions.—The Swift/Eckart amendment includes stronger provisions for emission controls in interstate ozone transport regions, as sought by many Northeast and Mid-Atlantic states. It establishes an interstate ozone transport region stretching from Washington, D.C., to Maine. Within this region, it requires regulation of 50-ton stationary sources enhanced inspection and maintenance, and "stage II" (at-the-pump) controls on refueling emissions at service stations or other equivalent measures.

Stronger carbon monoxide program.—The Swift/Eckart amendment strengthens the program for control of carbon monoxide emissions in carbon monoxide nonattainment areas. Among other measures, it requires more nonattainment areas to use enhanced inspection and maintence, establishes a system of graduated transportation controls, and requires areas with significant stationary source emissions of carbon monoxide emissions to adopt stationary source controls.

Stronger "PM-10" program.—The Swift/Eckart amendment strengthens the program for control of emissions of small particulates (called "PM-10") in areas in nonattainment for this pollutant. Among other measures, it requires the regulation of precursors to PM-10, such as sulfur dioxide and nitrogen oxides, unless such regulation is shown to be unnecessary, and it lowers the threshold for regulation of stationary sources of PM-10 from 100 tons per year to 70 tons per year in areas with serious PM-10 pollution problems.

III. TITLE: REGULATION OF MOBILE SOURCES

Title II of H.R. 3030 establishes requirmeents for the control of emissions from mobile sources such as cars and trucks. Mobile sources are the largest single source of air pollution in the country. They cause 50% of urban ozone pollution, 50% of nationwide toxic emissions, and up to 90% of carbon monoxide pollution.

During the markup, the Committee voted on several amendments to the title II provisions.

*A. Conventional gasoline-powered vehicles*

Unlike the clean-fuel and warranty issues (discussed below), there was no dispute in the Committee concerning the regulation of conventional gasoline-fueled vehicles.

During the markup in the Health and the Environment Subcommittee last fall, the subcommittee reached a unanimous compromise on the provisions in H.R. 3030 that pertain to conventional vehicles. Among other things, the compromise tightened tailpipe standards in two phases, required the use of onboard canisters to capture refueling emissions, made controls on evaporative emissions and onboard diagnostics mandatory, extended the durability requirements of emission controls to 100,000 miles, and established a new program to control toxic emissions from motor vehicles. (See issue 15 of Clean Air Facts for a fuller discussion.) The provisions of the subcommittee compromise were adopted without amendment by the full committee.

*B. Clean fuels*

The most controversial amendments considered during the committee deliberations concerned the role of clean or "alternative" fuels (such as natural gas, ethanol, methanol, and electricity) in motor vehicles. During subcommittee markup, these provisions were weakened significantly from the Administration's original bill. Attempts to restore a strong clean fuels program failed in the full committee.

Reformulated gasoline.—Rep. Richardson (D. N.M.) offered an amendment that would have required oil companies to clean up ("reformulate") the gasoline that they sell in any serious, severe, or extreme nonattainment area. This amendment would have lowered ozone-forming volatile organic emissions from all motor vehicles, including the oldest vehicles with the highest emission rates, by 15%. This would have produced areawide emission reductions of 7.5%—far more than almost any other control measures. The Richardson amendment would

have also significantly reduced toxic emissions. However, the amendment lost on a 22 to 21 vote.

Clean fuels in fleet vehicles.—Reps. Tauzin (D. La.) and Synar (D. Ok.) offered an amendment to strengthen the requirements for the use of clean fuels in centrally fueled fleets. This amendment would have required fleets of light- and heavy-duty vehicles in serious, severe, and extreme nonattainment areas to meet stringent performance standards. However, the Tauzin/Synar amendment was defeated on a 24 to 19 vote.

The President's passenger car program.—The President's original bill mandated the production of 1 million clean-fuel vehicles for the general passenger car market each year. However, this provision was deleted during the Health Subcommittee markup on a 12 to 10 vote.

During the full Committee markup, Rep. Richardson announced that he will offer an amendment on the floor to restore the production mandate in the President's original clean-fuel program.

The Fields/Hall amendment.—The full Committee adopted an amendment offered by Rep. Fields (R. Tex.) and Hall (D. Tex.) in lieu of the Richardson and Tauzin amendments. This amendment replaced most of the clean-fuel provisions adopted during the Subcommittee markup.

The Fields/Hall amendment significantly weakens the urban bus program in the bill. In comparison to H.R. 3030 as introduced, it delays the date on which the bus program is fully effective by two model years (to MY 1996). It provides that during the first two years of the program, "clean-fuel" urban buses can emit diesel particulates at a rate 250% higher than current law requires for all buses. And it requires that only 30% of the new urban buses achieve emission levels comparable to those achievable with natural gas, ethanol, or methanol (versus 100% in H.R. 3030 as introduced).

The Fields/Hall amendment also significantly weakens the passenger car program in the bill. In comparison to H.R. 3030 as introduced, the Fields amendment does not require automakers to produce one million clean-fuel vehicles each year for sale in the nine most polluted cities. Instead, it requires only that the new cars sold in the nine cities subject to the program be marginally cleaner than cars sold elsewhere (10% cleaner through 1999 and 25% cleaner thereafter). These standards can be met by conventional gasoline vehicles running on reformulated gasoline, thus eliminating the prospect that automakers will develop a new generation of very clean vehicles.

The Fields/Hall amendment strengthened marginally the fleet requirements in the bill reported from the Health Subcommittee. However, the fleet requirements in the amendment remain substantially weaker than those proposed in the Tauzin/Synar amendment. Key differences between the amendments involve the scope of the program (13 cities in the Fields amendment versus 40 cities in the Tauzin/Synar amendment), vehicles covered (light-duty vehicles in the Fields amendment versus light- and heavy-duty vehicles in the Tauzin/Synar amendment), and vehicle performance standards (the 75% reduction in passenger car VOC emissions called for in both amendments can be waived if "appropriate" in the Fields amendment but not in the Tauzin/Synar amendment).

*C. Repairs and warranties*

The full Committee considered two issues relating to motor vehicle repairs and warranties. By a unanimous vote, the Committee voted to require automakers to standardize access to the information stored on onboard diagnostic systems. This amendment insures that the independent motor vehicle "aftermarket" (i.e., service stations and repair shops) can perform emission-related repairs as effectively as dealers.

The Committee also approved a Dingell amendment to reduce the warranty on most emission controls from 5 years/50,000 miles in current law to 2 years/24,000 miles. Because the warranty coverage is diminished, this amendment increases significantly the number of instances in which consumers, not the vehicle manufacturers, will be responsible for replacing faulty emissions controls. (The burden on consumers is further increased because the Swift/Eckart amendment to title I raises the liability of consumers for emission-related repairs from $75 to $450.) An amendment to restore strong warranty provisions is likely on the House floor.

IV. TITLE III: REGULATION OF TOXIC EMISSIONS

The Committee made substantial progress in title III of H.R. 3030, resolving most outstanding issues related to emissions of hazardous air pollutants.

*A. Routine emissions*

By a unanimous vote, the Committee passed a compromise amendment offered by Rep. Waxman (D. Cal.) that addressed regulation of routine (as opposed to accidental) releases of hazardous air pollutants. The compromise significantly strengthened the provisions of H.R. 3030, but fell short of those in H.R. 2585 (the Leland/Molinari bill). Key provisions of the compromise are summarized below.

Regulation of 100% of major sources.—H.R. 3030 required EPA to regulate only 50% of the "major sources" of hazardous air pollutants (sources that emit 10 tons or more per year of a hazardous air pollutant). The Waxman amendment requires EPA to regulate all categories of major sources. The only exception to this rule in the case of sources with carcinogenic emissions is that EPA may exempt a source category from regulation if it determines that no source in the category presents a lifetime risk of cancer greater than 1 in 1 million to any person.

Regulation of most area sources.—Toxic emissions from "area" sources (those sources smaller than major sources) are collectively responsible for as many cancer cases as the emissions from major sources. Under H.R. 3030, regulation of these sources was entirely discretionary. The Waxman amendment requires EPA to regulate 90% of the area source emissions of each hazardous air pollutant. EPA may elect to establish controls based on "generally available control technology" in lieu of the more stringent controls based on "maximum achievable control technology" that would apply to major sources.

No "bright-line" residual risk standard.—The technology-based standards required for major and area sources under the amendment may not eliminate all health risks from toxic emissions. To address the "residual risks" that may remain, the amendment requires EPA to report to Congress on legislative alternatives within eight years. If Congress does not act on the agency recommendations, existing law (which requires "protection of the public health with an ample margin of safety") will remain in effect. The amendment does not incorporate the bright-line one-in-one-million standard of acceptable residual risk proposed in H.R. 2585.

Narrower alternative emission limitations.—H.R. 3030 allowed sources subject to emission standards to comply with alternative emission limitations upon a showing that the source poses only a "negligible risk." In the case of sources with carcinogenic emissions, the amendment restricts this provision to instances where the source establishes to the permitting authority that the alternative limitations will protect the most exposed person from a lifetime cancer risk greater than 1 in 1 million.

*B. Protection of the Great Lakes and Chesapeake Bay*

Rep. Sikorski (D. Minn.) offered an amendment to increase the protection of the Great Lakes from airborne deposition of toxic chemicals. This amendment shortened the time for EPA promulgation of regulations from five years to three years and explicitly required EPA to consider effects due to bioaccumulation and indirect exposure pathways. The amendment also extended similar protection to the Chesapeake Bay. The Sikorski amendment passed unanimously.

*C. Accidental releases*

Toxic emissions can escape into the atmosphere by accidental as well as routine releases. In fact, between 1980 and 1987, there were more than 11,000 accidental toxic releases resulting in more than 300 deaths and more than 10,000 injuries. Both Rep. Richardson (D. N.M.) and Rep. Barton (R. Tex.) offered amendments to strengthen the accidental release provisions of H.R. 3030. However, both amendments were withdrawn after the members agreed to try to work out the differences. No final agreement was reached during the markup, leaving the accidental release issue pending for resolution before or on the House floor.

V. TITLE V: ACID RAIN

The Committee passed a substitute to the acid rain title offered by Rep. Sharp (D. Ind.) by a 39 to 4 vote. The substitute achieves the same level of emission reductions promised by H.R. 3030, while striking an accommodation between the conflicting interests of "clean" and "dirty" utilities in the allocation of pollution allowances. (See issue 17 of Clean Air Facts for a detailed discussion of acid rain provisions of H.R. 3030.)

A summary of the key provisions of the Sharp substitute follows:

Expansion of the allowance system.—H.R. 3030 establishes an allowance trading system to control sulfur dioxide ($SO_2$) emissions from large "dirty" powerplants (i.e., plants with $SO_2$ emissions greater than 1.2 lbs/mmBtu and a capacity greater than 75 MWe). In the case of other plants, however, the bill limited their emission rate to their 1985 emission rate, but did not subject the plants to individual tonnage caps under the allowance system.

The Sharp amendment eliminates the dual system of regulation. It expands the allowance system to cover all electric utility powerplants. This change enhances the effectiveness of the allowance program by eliminating the potential for utilities to shift emissions from capped to uncapped plants. At the same time, it gives the rate-frozen plants the flexibility to increase their emission rates, so long as the plants meet their annual tonnage limitations.

Extra allowances for clean utilities.—H.R. 3030 contains a "greenfield cap," which provides that new powerplants must purchase emission offsets before starting operations. This poses a potential problem for existing

utilities with low emission rates. Utilities that are already clean could find it difficult to extract significant emission allowances from their existing units to transfer to new units.

The Sharp amendment preserves the greenfield cap, but provides relief to clean utilities by increasing their available pool of allowances. Currently, clean utilities emit approximately 2.5 million tons of $SO_2$ annually. Under the Sharp amendment, these utilities will be given nearly 3.5 million tons of allowances. This 1 million-ton cushion provides a 40% growth allowance for the clean utilities. (The growth cushion comes from several sources, including expansion in capacity assumed under H.R. 3030 (0.5 million tons), requirements that small high-emitting plants reduce their $SO_2$ emissions to a 1.2 lbs/mmBtu rate (0.25 million tons, and a direct transfer of allowances from big high-emitting plants (0.18 million tons).)

Fixes for the "Class of '85".—H.R. 3030 allocates allowances based on emission rates in 1985 and fuel consumption during 1985-87. For some utilities (the "Class of '85"), these periods are not representative of normal operating conditions. For instance, for some utilities, emission rates were abnormally low in 1985. The Sharp amendment adjusts the allocation formulas in H.R. 3030 to more closely reflect normal operating conditions for utilities facing a Class of '85 problem.

Incentives for scrubbing.—The Sharp amendment contains several incentives intended to encourage utilities to reduce their emissions by installing "scrubbers" on plants that continue to burn high-sulfur coal, rather than by switching fuels. The incentives include a one-year delay in the compliance date for utilities that scrub (with the lost tonnage to be recouped by the utility over the next four years) and bonus allowances awarded to utilities that scrub their emissions to a rate below 1.2 lbs/mmBtu (with the lost tonnage to be recouped by lowering every utility's emission rate by 6%). These provisions benefit mine workers and companies selling high-sulfur coal, who fear that H.R. 3030 could cause many utilities to lower emissions by switching from high-sulfur coal to low-sulfur coal, thus jeopardizing the future of high-sulfur coal mines.

The "Oxley auction".—The Sharp amendment includes a mechanism for auctioning allowances designed by Rep. Oxley (R. Ohio). Under the "Oxley auction," all utilities contribute 5% of their annual allowances to be auctioned by EPA each June. The proceeds of the auctions are then redistributed pro rata to the utilities. The intent of the auction is to insure that a market in allowances is created.

Increased $NO_x$ reductions.—The Sharp amendment requires EPA to reduce $NO_x$ emissions from utilities by at least 2.5 million tons below the levels predicted in 2000 (versus a 2.0 million ton reduction under H.R. 3030).

Incentives for conservation and renewable energy.—The Sharp amendment includes several incentives for conservation and renewable energy. The amendment prohibits utilities in a state from trading $SO_2$ emission reductions against $NO_x$ reductions (or vice-versa) unless the state has adopted ratemaking procedures that reward energy conservation. The Sharp amendment also incorporates provisions promoted by Reps. Markey (D. Mass.) and Moorhead (R. Cal.) that transfer allowances to utilities that undertake energy conservation or develop renewable energy resources in advance of regulation under the acid rain title.

VI. TITLES IV AND VI: PERMITTING AND ENFORCEMENT

Titles IV and VI 3030 contain the permitting and enforcement provisions of the bill. Although highly technical, these titles are the "nerve center" of the legislation. They translate the statutory mandates set our in other titles into site-specific requirements for individual sources and insure the enforceability of those requirements.

To expedite the bill, the Committee agreed to defer negotiations over titles IV and VI to the period between the Committee markup and floor consideration. If agreements cannot be worked out during this period, controversial votes on these titles can be expected during the debate on the House floor.

The Committee did adopt two amendments to title IV, the permitting title. By voice vote, it adopted an amendment offered by Reps. Boucher (D. Va.) and Wyden (D. Ore.) to establish special permitting procedures for small businesses. It also adopted by voice vote an amendment offered by Rep. Bliley (R. Va.) that eliminated EPA's authority to veto individual state permits.

VII. MAJOR UNRESOLVED ISSUES

In addition to the unresolved issues mentioned above, which generally involve strengthening provisions already in H.R. 3030, there are three additional major clean air issues likely to be debated on the House floor. These issues represent clean air problems not addressed in H.R. 3030.

*A. Protection of national parks*

Man-made pollution in the form of pervasive "regional haze" impairs scenic vistas in the national parks more than 90% of the time. Nevertheless, despite a congressional mandate in the 1977 Clean Air Act Amendments, EPA has never acted to protect in the national parks and other clean air areas from this haze.

Rep. Wyden announced during the full Committee markup that he will offer an amendment on the House floor to force EPA to regulate regional haze and protect visibility in the national parks.

*B. Ozone depletion*

While ozone at ground level, where people can breath it, is a dangerous pollutant, ozone in the upper atmosphere is vital to life on earth, because it shields the planet from ultraviolet radiation, Rep. Bates announced during the markup that he will offer an amendment on the House floor to phase-out the production of chemicals such as CFCs and halons that deplete the ozone layer.

*C. Air pollution on the Outer Continental Shelf*

Oil and gas activities on the outer continental shelf can cause tremendous onshore air pollution problems. In fact, a single uncontrolled facility can emit more pollution than 100,000 automobiles. An amendment is likely to be offered on the House floor that would require EPA to regulate OCS facilities in the same manner as nearby onshore facilities.

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[From the Clean Air Facts, May 3, 1990]

TITLE IV AND TITLE VI OF H.R. 3030: PRESIDENT BUSH'S PERMITTING AND ENFORCEMENT PROPOSALS

H.R. 3030, "The Clean Air Act Amendments of 1990," deals with three major air pollution problems. Titles I and II focus on smog, Title III on hazardous air pollutants, and Title V on acid rain.

The Energy and Commerce Committee reached broad compromises on all three issues. Those agreement, which passed by overwhelming margins, create a generally sound and effective air pollution control program.

Central to this program, however, is an assumption that the legislation will contain effective permitting and enforcement provisions. Title IV of H.R. 3030 establishes a new permitting program for the Clean Air Act; Title VI clarifies the law's enforcement provisions. If either title proves ineffective, then the smog, toxic air pollutant, and acid rain programs will be seriously hindered.

For example, changes made to the enforcement title leave large sections of the Act, including provisions that control the release of CFCs to prevent ozone depletion, unenforceable in court. Moreover, EPA's central compliance tool—the Administrative Enforcement Order—is rendered ineffective and unenforceable.

Titles IV and VI received little attention during the Energy and Commerce Committee's mark-ups. Permitting and enforcement amendment will, however, be offered on the House floor. Accordingly, this Fact Sheet will describe the two titles and the problems that the Waxman-Bryant Amendment will seek to address.

I. TITLE IV: PERMITS

*A. Background*

Title IV establishes a comprehensive program for permitting stationary sources of air pollutants. This title, which is patterned after the Clean Water Act's permitting program, should strengthen the implementation and enforcement of the Clean Air Act. It is potentially H.R. 3030's most important procedural reform because it can translate the bill's abstract standards into concrete requirements for individual facilities.

Although the current Clean Air Act has no permit provisions, most other federal environmental laws—including the Clean Water Act, the Resource Conservation and Recovery Act, and the Federal Insecticide, Fungicide, and Rodenticide Act—require permits. And a substantial majority of the states (about 35 in all) already require operating permits for most air pollution sources.

An effective permit program can clearify and make more enforceable a source's pollution control requirements. Under existing law, pollution control obligations may be scattered throughout many obscure and ambiguous state and federal regulations. In many cases, sources are not required to submit periodic complicance reports to EPA or the states. It is much easier for a source to understand its obligations, and for the state to enforce them, if all of a source's obligations are combined into one permit. This is also the reason why sources should be required to file periodic reports that monitor compliance.

An effective permit program can make sources more accountable for their emissions, and can relieve much of the administrative burden from state and local agencies. It is a ready vehicle for states to take over administration, subject to federal oversight, of the significant parts of the air toxics and acid rain programs. In addition, by requiring that both the permit and the periodic compliance reports be publicly available, interested citizens will be able to review and help enforce a source's obligations under the Act.

*B. How the title IV permit program works*

Under H.R. 3030, states would be required to submit to EPA comprehensive permit programs for regulating stationary sources. The permitting requirements would extend to sources that are subject to new source performance standards, emission standards for hazardous air pollutants, requirements for preventing significant deterioration (PSD) of air quality, nonattainment new and existing source review, and acid deposition controls under Title V. They also apply to all sources of air pollution emitting over 100 tons a year.

It is illegal for any of the affected sources to violate the terms of a permit or to operate without a permit after any permit program approved or promulgated by EPA is in effect. If a state fails to submit a permit program, EPA can apply sanctions and must promulgate a federal permit program for the state.

The minimum elements of permit programs, which are to be set by EPA, include requirements for adequate state authority and permit fees. The permit fees will be used ot recoup all direct and indirect costs of administering the air pollution control program related to permitted sources.

In addition, states must have the ability to modify or terminate permits "for cause." "Cause" would include situations where the source failed to comply with a permit term, misrepresented a material fact in a permit application or report, or substantially endangered the public health or welfare.

Once a permit program is approved, sources that are required to obtain permits must submit timely and complete permit applications. In issuing permits, state agencies must set forth inspection, entry, and adequate monitoring and reporting requirements to assure compliance with regulatory requirements. Affected sources must also submit periodic compliance certifications.

EPA may object to proposed permits if they fail to meet any Clean Air Act requirements. If a state agency does not adequately respond to the objection, EPA can issue or deny the permit on its own authority.

Title IV contains special provisions to deal with small sources, temporary sources (e.g., asbestos demolition contractors), and numerous similar sources within a geographical area. This last provision is designed to reduce the administrative burden of permitting large numbers of similar sources, which may be small individually, but which in the aggregate require control.

*C. The Waxman-Bryant Amendment to Title IV*

The members of the Energy and Commerce Committee agreed to try to craft a compromise Title IV Amendment before H.R. 3030 reaches the House floor for consideration. If a consensus is not reached, several permitting amendments may be offered. The Clean Air Working Group, for instance, has indicated it would like to limit the scope of the permit program, reduce EPA's enforcement role, and restrict the certification and fee provisions, Other furdamental weakening changes may also be proposed.

These changes would not only impair the effectiveness of the new smog, toxics, and acid rain titles, but would put enormous industry pressure on state and local governments as they administer the permit program. If adopted, state agencies could find themselves mired in endless filings and exemption requests. The National Clean Air Coalition and other environmental and public health organizations strongly oppose any weakening amendments to the President's proposal.

Congressmen Waxman and Bryant will also offer a permitting amendment if no agreement is reached. The Waxman-Bryant Amendment is not an attempt to rewrite Title IV. The President's permit program is basically a sound approach to implementing the Clean Air program. There are, however, three major defects in the title that need to be fixed. These problems are summarized below.

Problem 1: Title IV Creates a "Permit Shield" to the Clean Air Act's Requirements

An obscure provision in Title IV could transform the permit from a helpful enforcement tool into a shield that violators can use to bar all enforcement actions. It provides that sources complying with their permits cannot be found in violation of any Clean Air Act requirement, even if the source is violating provisions of the Act that are not addressed in the permit. A source could, for example, violate H.R. 3030's toxic air pollutant requirements with impunity if it has a valid permit for smog-causing pollutants. The permit shield also prevents enforcement of new regulations that are adopted after the permit is issued.

The Waxman-Bryant Amendment will eliminate the permit shield. The Amendment would, however, allow sources that comply with a permit to be completely protected against enforcement actions for violating requirements that are specifically addressed in the permit.

Problem 2: EPA has Unlimited Discretion to Waive Permit Requirements

Title IV allows EPA to exempt an unlimited number of sources from the permit requirements if it finds that an exemption would be "consistent with the purposes of the Act." This effectively makes all permitting requirements discretionary.

The Waxman-Bryant Amendment will make the permit program mandatory for all major sources of air pollution, but retain (and in fact increase) EPA's discretion to tailor permit requirements for small sources.

Problem 3: Permits Can be Postponed Indefinitely

Title IV lacks any deadline for final action on permit applications. In effect, this allows the permitting agency to delay issuing permits indefinitely, thereby frustrating the intent and effectiveness of the whole permit system.

The Waxman-Bryant Amendment will require the state or federal permitting agency to act on permit applications within nine months. To avoid an initial logjam of applications, it will phase-in this requirement in the program's early years.

II. TITLE VI: ENFORCEMENT

*A. Background*

As originally introduced, H.R. 3030's enforcement provisions are intended to incorporate into the Clean Air Act some of the flexible enforcement authorities that are contained in other, more recently amended environmental statutes. However, a seemingly technical change in an amendment adopted at subcommittee adds a provision to the bill that significantly weakens current law by eliminating existing authority to enforce important provisions of the Clean Air Act.

The new and refined tools in the original H.R. 3030 can make EPA and state agencies more effective in implementing the law. Title VI makes two basic improvements in the enforcement provisions: (1) it gives EPA new authority to take enforcement action administratively, and (2) it stiffens criminal sanctions through longer imprisonment, higher fines, and double sanctions for repeate violations.

*B. Administrative Enforcement Provisions*

Administrative enforcement authority is an important adjunct to trraditional civil and criminal enforcement. It enables EPA to resolve many violations without litigation, which means faster and less costly enforcement actions. The most significant new administrative enforcement provisions in H.R. 3030 include:

**Administrative Compliance Orders*—EPA can issue administrative compliance orders, so that the Agency can resolve violations administratively while avoiding long extensions of applicable compliance deadlines. Administrative orders will not insulate sources from civil or criminal remedies. These administrative compliance orders supercede, and effectively repeal, the provisions under existing law that allow EPA and states to grant "delayed compliance orders."

**Administrative Penalties*—EPA is authorized to issue administrative penalty orders with a presumptive cap of $200,000. The penalty limit can be increased for cases that routinely involve multiple violations.

**Subpeona Authority*—EPA is given express authority to issue administrative subpeonas in support of its enforcement activities.

**Injunctions and Emergency Orders*—EPA would be able to authorize injunctive actions and emergency orders for actions threatening the environment or public welfare. Existing law limits this remedy to actions that threaten human health.

*C. The criminal provisions*

The revised criminal sanctions update and expand the current Clean Air Act provisions. These sanctions are EPA's strongest weapon against serious violations, and have been very effective in other environmental laws. The most notable changes include:

**Criminal Fines and Sentencing*—Criminal fines and sentences are increased. The maximum criminal fine is increased to $250,000 for felony violations and the maximum term of imprisonment is increased to 5 years.

**Sanctions*—New misdemeanor- and felony-level criminal sanctions are authorized for certain violations, including knowing violations and actions that place other people in imminent danger of death or serious bodily injury.

**Penalty Assessment*—The maximum statutory penalty may be assessed for each day of each violation, including each day of a multi-day averaging period. In addition, once EPA has made a prima facie case that establishes a violation, the burden of proving any intervening days of compliance rests with the source.

*D. The Waxman-Bryant amendment to title VI*

As in title IV, members of the Energy and Commerce Committee agreed to try to craft a compromise Title VI amendment before H.R. 3030 reaches the House floor for consideration. If a consensus is not reached, several enforcement amendments may be offered.

The Clean Air Working Group is interested in weakening many of Title VI's provisions. The changes they are seeking include limiting criminal and civil liability and expanding the opportunities for violators to

seek procedural delays. These changes are opposed by the National Clean Air Coalition and other environmental groups.

Despite the many sensible provisions of Title VI, there are two significant problems that need to be addressed. Congressman Waxman and Bryant will offer an amendment to fix these statutory omissions if no committee consensus is reached.

Problem 1: EPA's Clean Air Act Enforcement Authority Is Undermined

A seemingly technical change in an amendment at subcommittee significantly weakens current law by eliminating judicial enforcement of EPA's single most effective compliance tool, the Administrative Order. The change would render EPA's existing enforcement program toothless. In addition, the same amendment eliminates authority for judicial enforcement of Clean Air Act provisions for the control of ozone depleting chemicals. Authority to judicially enforce new air toxic provisions to both protect the Great Lakes and prevent accidental air toxic releases is also eliminated.

The Waxman-Bryant Amendment will restore existing authority to assure that all Clean Air Act requirements are fully enforceable, as provided in President Bush's original proposal.

Problem 2: The Ability of Individual Citizens to Enforce the Act is Still Restricted

Citizen enforcement through "citizen suits" is a vital complement to state and federal enforcement actions. During the early 1980s, the only effective enforcement of federal environmental laws was citizen involvement through lawsuits.

The Waxman-Bryant Amendment will enhance citizen enforcement rights. It will provide that citizens can sue to enforce permit terms and seek penalties for past violations (as is the case with other federal environmental laws), require EPA to respond to citizen petitions, and clarify court decisions that have frustrated citizen enforcement.

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[From the Clean Air Facts, May 4, 1990]

THE SIKORSKI-GREEN WARRANTY AMENDMENT

H.R. 3030'S IMPACT ON THE CLEAN AIR ACT'S WARRANTY PROVISIONS

The existing Clean Air Act requires carmakers to provide warranties for almost all pollution control equipment for 5 years/50,000 miles. H.R. 3030 would reduce those warranty requirements to 2 years/24,000 miles for all but two auto parts related to emissions control. This is one of only two provisions in H.R. 3030 that actually weakens current law (the other is a change barring judicial enforcement of numerous Clean Air Act requirements). The warranty requirements for the catalytic converter and Electronic Control Unit (ECU) would remain at 5 years/50,000 miles.

THE SIKORSKI-GREEN AMENDMENT

*What the Amendment Does*

The Sikorski-Green Amendment amends Title II of H.R. 3030 to extend the manufacturers' warranties for catalytic converters and electronic control units (ECU) to 8 years/80,000 miles.

*Background*

Since 1970, the aftermarket industry—which is made up of thousands of small, independently owned gas stations around the country—has been urging Congress to reduce warranties to 2 years/24,000 miles. These stations have argued that the longer warranties resulted in car owners bringing their cars back to dealers for servicing, instead of to local gas stations, because of an expectation that repairs might be covered under the pollution control warranty.

Consumer groups have strongly opposed any reduction in the warranties, as that would directly strip existing benefits from current law. Environmentalists also opposed weakening the law because shorter warranties mean carmakers have no obligation to make durable equipment, and automobile emissions increase dramatically when pollution control equipment wears out.

A compromise was reached last year between the aftermarket industry, environmentalists, and consumer groups that balances their legitimate concerns. The agreement would cut warranties on most equipment to 2 years/24,000 miles, but extend the warranty for catalytic converters and ECUs to 8 years/80,000 miles. The catalytic converter and ECU are the most important—and the most expensive—parts of a car's pollution control system. Longer warranties on these parts ensures that emissions won't increase and offsets any losses to consumers from the other warranty reductions.

The longer warranty for catalytic converters and ECUs is also important to consumers because H.R. 3030 increases the amount car owners have to pay under the Act's auto emission inspection and maintenance (I/M) program. Under current law, car owners can waive emission-related repairs if the cost exceeds $75. H.R. 3030 increases the waiver threshold to $450. As now written, H.R. 3030 would increase the burden individual car owners have to clean the air while dramatically cutting the responsibility carmakers have to make pollution equipment last.

The Energy and Commerce Committee's action scuttles the carefully balanced agreement reached by the mechanics, environmentalists, and consumer advocates, and unfairly tilts the deal toward carmakers at the expense of consumers and the environment. The Sikorski-Green amendment restores the original agreement. If it should be defeated, another amendment will be offered that restores the current law warranty requirement of 5 years/50,000 miles for all emission-related equipment.

*Who supports the Sikorski-Green amendments*

The Sikorski-Green Amendment is supported by the Automotive Parts & Accessories Association (APAA), the Automotive Service Association (ASA), the Automotive Warehouse Distributors Association (AWDA), the Auto International Association (AIA), and the Specialty Equipment Market Association (SEMA), which collectively represent over 15,000 companies, most of which are small businesses.

The Amendment is also supported by many environmental and consumer organizations including the Center for Auto Safety, Consumer Federation of America, National Wildlife Federation, Sierra Club, Audubon Society, American Lung Association, and the National Clean Air Coalition.

Among the state and local government groups supporting the amendment are the National Governors Association, National League of Cities, and the National Association of Counties.

*Who opposes the Sikorski-Green amendment*

The Sikorski-Green Amendment is opposed by the major automobile makers, the Motor and Equipment Manufacturers Association (MEMA), and Automotive Service Industry Association (ASIA).

[From the Clean Air Facts, May 8, 1990]

THE WAXMAN-LEWIS CLEAN-FUEL VEHICLE AMENDMENT

PRESIDENT BUSH'S ORIGINAL CLEAN FUELS PROGRAM

The President's clean air proposal, H.R. 3030 as introduced, contained a major initiative to promote the increased use of clean fuels such as natural gas and ethanol in the nation's most polluted cities. The President described the program as "the most innovative and far-reaching component" of the Administration's clean air bill—a "bold, new initiative to reconcile the automobile with the environment, ensuring continued economic growth without disruptive driving controls."

The program had two key elements: (1) a proposal to put one million low-polluting, clean-fueled vehicles a year on the road in the nation's nine most polluted cities; and (2) a proposal to require new urban buses in all large cities to shift to clean alternative fuels.

THE PROVISIONS OF H.R. 3030 AS REPORTED

The bill reported by the Energy and Commerce Committee deleted the most important elements of the President's innovative clean-fuels program. It eliminated the requirement that car makers develop and produce a new generation of ultra-clean vehicles for use in the nine most polluted cities. It also eliminated the requirement that oil companies develop new fuels for these ultra-clean vehicles.

In addition, the reported bill watered down the urban bus program. Under the reported bill, so-called "clean-fuel buses" are required to be no cleaner than conventional diesel buses. And in the early years of the program, they can even pollute more than current law allows for conventional diesel buses.

WHAT THE WAXMAN-LEWIS AMENDMENT DOES

The Waxman-Lewis amendment will strengthen the clean-fuel provisions of H.R. 3030 as reported in three ways.

*Restoration of the President's Original Clean-Vehicle Program*

The Waxman-Lewis amendment restores the mandate that car makers produce—and oil companies fuel—one million clean-fuel vehicles each year. To guarantee "fuel neutrality," the amendment establishes specific emission standards that these clean-fuel vehicles must meet. The standards follow the recommendations of California and New York and call for a 50% reduction in smog-forming and toxic emissions from 1995 through 2000 and a 75% reduction thereafter.

Under this approach, any fuel-and-vehicle combination that meets the emissions standards satisfies the requirements of the program. It is likely that at least the first phase standards, which call for 50% reductions, will be met through a combination of cleaner gasoline and improved emission controls on the vehicle.

*Tougher Urban Bus Program*

The Waxman-Lewis amendment tightens the emission standards for clean-fuel urban buses. Under the Waxman-Lewis standards, clean-fuel urban buses will once again be required to pollute less than conventional diesel buses—just as proposed in the President's original program.

*Stronger Fleet Vehicle Program*

The reported bill added a modest program to require the use of clean alternative fuels

in vehicles that are part of centrally fueled fleets, such as taxicabs and delivery vans. The Waxman-Lewis amendment will substantially strengthen this program by incorporating recommendations proposed by the Texas Land Office.

In particular, the amendment will increase the number of cities covered by the program (to include all seriously polluted areas), expand the coverage of the program to include light- and heavy-duty trucks, and set tighter emission standards for clean-fuel fleet vehicles.

THE NEED FOR A STRONG CLEAN-FUEL VEHICLE PROGRAM

Ozone pollution is the nation's most intractable air pollution problem. Despite twenty years of efforts, over 100 cities remain out of compliance with the federal health standard for ozone. To reach compliance, the most heavily polluted cities must reduce levels of hydrocarbon emissions by 50% to 80%.

According to the Office of Technology Assessment, even if all available control technologies are implemented, many cities (perhaps as many as 50) will remain in violation of the ozone standard. This means that new and innovative control strategies are necessary. Without them, according to OTA, the most heavily polluted urban areas will never achieve the ozone standard.

The most promising new technologies involve the use of clean fuels in motor vehicles. Cars and trucks account for half of the nation's ozone pollution—and even more in many cities. The use of clean-burning fuels such as natural gas and ethanol can reduce these motor vehicle emissions by 80% to 90%, according to EPA. Moreover, EPA estimates that these emission reductions can be achieved at no additional cost to consumers or the economy. There is no other realistic way to achieve these emission reductions.

A strong clean-fuel program such as that proposed in the Waxman-Lewis amendment can also reduce toxic emissions by as much as 90%. According to EPA, emissions of cars and trucks cause over a thousand cancer cases annually—more than half of the national total of cancer cases attributable to toxic emissions.

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[From the Clean Air Facts, May 9, 1990]

THE RICHARDSON-MADIGAN REFORMULATED GAS AMENDMENT

KEY TERMS

Aromatics—These toxic compounds (i.e., benzene, toluene, xylene) are used in gasoline to boost octane. Each oil company mixes a different "recipe" for its fuel, so the relative amounts of the aromatics can vary. Aromatics are the primary reason that gasoline emits toxic pollutants. High-octane gasoline contains up to 45% aromatics.

Reformulated Gasoline—This is gasoline that is specially formulated to lower ozone-forming and toxic emissions. Emissions are reduced by replacing aromatics with much cleaner alcohols or alcohol derivatives, such as ethyl tertiary buthyl ether (ETBE), which can be made from fermented corn, grains, or other farm products.

THE RICHARDSON-MADIGAN AMENDMENT

*What the amendment does*

The Richardson-Madigan Amendment requires oil companies to sell only reformulated gasoline in all serious, severe, and extreme nonattainment areas (27 cities). This gasoline will replace both current leaded and unleaded products. The Amendment requires that the ozone-forming potential of the gasoline be reduced by 15%, and establishes minimum oxygen content (2.7%) and maximum aromatic content (25%) limits for the fuel. The requirement is effective in 1994. Waivers of the requirement are available if there is insufficient domestic capacity to meet the demand for reformulated gasoline.

*Background*

Throughout the 1980's, oil companies continually claimed that gasoline was being made as clean as possible. However, today's gasoline is actually much dirtier than the products sold ten years ago, because it contains more aromatic and volatile compounds than ever before.

Soon after President Bush unveiled his Clean Air bill last July—which contained an ambitious alternative fuels program—ARCO announced it would begin selling a new type of gasoline that achieved dramatic pollution reductions. Other companies have also recently discovered and begun marketing new gasoline formulas that pollute less.

The advent of reformulated gasoline is one of the most far-reaching developments in the fight against air pollution. The Richardson-Madigan Amendment, which was defeated by a 22-21 vote in the Energy and Commerce Committee, has important environmental, energy, agricultural, and economic implications.

*Environmental benefits*

Reformulated gasoline cuts pollution significantly. In New York City, for instance, 20% of all the reductions needed to meet the federal health standards can be achieved simply through the use of reformulated gasoline.

One of the reasons that reformulated gasoline is so effective is that it is the one control strategy that helps reduce pollution from all vehicles, including the *oldest* and *dirtiest cars.* According to OTA, these cars are a significant portion of the emissions inventory. Since they can't be retrofitted with pollution control equipment, the only way to reduce their pollution is through cleaner gasoline.

*Energy benefits*

For years our highest energy priority has been finding ways to reduce our dependence on foreign oil. Today, oil companies import hundreds of millions of dollars of aromatic compounds annually. These imports are expected to increase significantly in the next few years, reflecting a greater reliance on OPEC production. A large part of these imported chemicals can be eliminated if domestically produced alcohols and ethers, made from corn, wheat, or other crops, are used in place of aromatics in gasoline.

*Agricultural benefits*

By moving away from imported aromatics our nation's farmers will find a new demand for their products. The Richardson-Madigan Amendment boosts the agricultural community at the same time it cleans the air.

*Economic benefits*

Fighting air pollution is a zero-sum game. What we don't cut from one source we have to take from somewhere else. That's why the reformulated gasoline mandate can save our country billions of dollars. Instead of ratcheting down tighter and tighter on sources like dry cleaners, bakeries, and other small businesses—with increasing costs and diminishing returns—we can get the emission reductions we need at cheaper prices through the use of cleaner gasoline in *old* and new cars.

Reformulated gasoline may be the most cost-effective control option available. Since ARCO now sells its reformulated gasoline at no additional cost, its cost-effectiveness is *$0 per ton of* hydrocarbon emissions eliminated. A recent study indicates that a comprehensive reformulated gasoline program would cost about $1000 per ton, compared to the typical $5000 per ton cost of stationary source controls.

The switch from imported aromatics to domestic farm products has two other important economic impacts. First, it has a positive impact on our trade balance, as we will import less. Second, according to GAO, the new demand for American crops could save taxpayers over $1.2 billion per year in farm price support and other programs.

THE OIL COMPANY ARGUMENTS AGAINST THE RICHARDSON-MADIGAN AMENDMENT

The major oil companies oppose the Richardson-Madigan Amendment. Some of their primary criticisms are summarized below.

*The Amendment dictates the recipe for reformulated gasoline*

Many oil lobbyists are charging that their companies will be hamstrung by the Amendment's precise standards for oxygen, benzene, and aromatic hydrocarbon content. This is untrue. The Richardson-Madigan Amendment expressly allows these limits to be waived if a fuel using a different mix achieves equivalent or greater emission reduction.

*There isn't adequate capacity to meet demand*

This criticism accepts the notion that reformulated gasoline is available, but argues there won't be enough supply to meet the Richardson-Madigan 27 city mandate. To deal with this possibility, the Amendment provides for a series of waivers if there is insufficient domestic capacity to meet demand.

*The Richardson-Madigan mandate will cost billions*

The oil companies are concerned that a massive reformulated gasoline program will necessitate overhauling refineries, which could cost billions of dollars and add twenty-five cents to the cost of each gallon of gasoline. However, other analysts, such as the Congressional Research Service and Information Resources Inc., strongly disagree and estimate that gasoline can be reformulated for only a few pennies per gallon.

*Reformulated gasoline will cut some pollution but increase others*

Although reformulated gasoline will clearly cut hydrocarbon emissions, some companies argue that it could increase emissions of nitrogen oxides. However, the Richardson-Madigan Amendment *expressly prohibits* a company from selling a reformulated gasoline if it would cause any increase in nitrogen oxide emissions. According to the California Air Resources Board (CARB), gasoline reformulation can reduce hydrocarbon emissions without increasing emissions of other harmful pollutants.

*Consumers won't buy reformulated gasoline*

Some lobbyists are arguing that the government can force oil companies to sell reformulated gasoline, but consumers won't buy it and will continue to use existing gasoline. This is impossible under the Richardson-Madigan Amendment, since only reformulated gasoline can be sold in the 27 affected cities. Moreover, consumers have expressed a preference for the reformulated gasoline on the market today.

[From the Clean Air Facts, May 10, 1990]

THE BATES-BOEHLERT AMENDMENT ON STRATOSPHERIC OZONE DEPLETION

THE BATES-BOEHLERT AMENDMENT AND H.R. 3030

The Bates-Boehlert amendment establishes a new program for the control of ozone-depleting chemicals very similar to that in H.R. 2699, the Stratospheric Ozone Protection Act, which has nearly 160 House cosponsors. The amendment also tracks the ozone protection program which passed the Senate overwhelmingly last January. As reported by the Energy and Commerce Committee, H.R. 3030 currently includes no provisions to reduce the release of ozone-depleting chemicals.

THE PROBLEM: DEPLETION OF THE STRATOSPHERIC OZONE LAYER

There is widespread scientific agreement that man-made chemicals, such as chlorofluorocarbons (CFCs), are destroying the stratospheric ozone layer, which shields the earth from the sun's dangerous ultraviolet (UV) radiation. As the ozone layer gets thinner, more harmful UV radiation reaches the planet's surface.

In the past several years, researchers have documented extensive damage to the ozone layer. On a global scale, depletion has occurred with unexpected rapidity, greatly outpacing predictions based upon computer models. A dramatic seasonal hole discovered in the ozone layer over Antarctica in 1985 was entirely unpredicted. The hole is now larger than the continental United States, and researchers believe that an ozone hole is also developing in the Northern hemisphere, where a much greater impact on populated areas is likely.

Scientists have identified a variety of very serious repercussions from the loss of our ozone shield, including a global increase in skin cancers and cataracts, suppression of the human immune system, potentially dramatic damages to agriculture and forests over the entire planet, and possible impacts on the food chain that supports much of the earth's marine life.

OZONE-DEPLETING CHEMICALS

Depletion of the ozone layer is caused primarily by the release into the atmosphere of CFCs and similar persistent man-made chemicals that rise into the stratosphere and release bromine or chlorine atoms. These atoms act as catalysts, causing reactions which destroy ozone. The chemicals can last for decades in the stratosphere—in some cases more than 100 years—continuing for their full life to cause ozone depletion.

According to the National Oceanic and Atmospheric Administration, more than 6 billion pounds of ozone-depleting chemicals are released into our planet's atmosphere each year. The U.S. alone releases more than 30 percent of this total, far more than any other nation.

There are in general two classes of ozone-depleting substances. The most dangerous ozone-depleting chemicals are CFCs, carbon tetrachloride, methyl chloroform, and synthetic varieties of halons. These are especially potent ozone depleters, either because they last an extremely long time in the stratosphere, or because they are very widely used and present a great threat in the aggregate.

Other chemicals, with a slightly different chemical construction than CFCs, are less persistent in the stratosphere, but are still a threat to the ozone layer. These chemicals are known as HCFCs, because they have the same basic chemical configuration as CFCs except for a hydrogen atom in place of one or more of the chlorine atoms. In many cases HCFCs are short-term substitutes to CFCs that can serve as a temporary solution until new substitutes, that do not deplete the ozone layer at all, can be developed. However, these chemicals must also be phased out in the long term or ozone depletion will continue.

THE MONTREAL PROTOCOL

In September 1987 an international agreement was reached to establish a global program to reduce the release of ozone-depleting chemicals. This agreement, the Montreal Protocol on Substances that Deplete the Ozone Layer, calls for a 50 percent cutback in CFC production by 1998.

There is widespread scientific agreement that the controls on ozone-depleting chemicals in the Montreal Protocol will not be adequate to protect the planet. Experts estimate that concentrations of stratospheric chlorine, the central compound responsible for depletion, will double in coming decades even with full implementation of the Montreal Protocol. Efforts are now underway to strengthen the Protocol. However, the international process has historically been slow and uncertain.

THE HEALTH AND ECONOMIC BENEFITS OF A PHASEOUT

EPA has estimated that a phaseout of CFCs and halons by the year 2000 will benefit the entire U.S. population born before 2075 by eliminating almost 159,000,000 cases of skin cancer, more than 3 million cancer deaths, and over 18,000,000 cases of cataracts. The phaseout of methyl chloroform will eliminate an additional 3,600,000 skin cancers, almost 65,000 cancer deaths, and more than 360,000 cases of cataracts.

EPA also estimates that the value of reduced agricultural damage exceeds $41 billion. Total economic benefits of a phaseout to the United States are approximately $58 billion.

Not considered in the estimates of benefits are the uncertain risks to all forms of life on land and sea. Marine ecosystems, many of which rely heavily on vulnerable kelps and algae, may be especially affected.

THE BATES-BOEHLERT AMENDMENT

Like the program overwhelmingly adopted by the Senate, this amendment includes a rapid time frame for the phaseout of the most destructive ozone-depleting chemicals, a long term program for phasing out use of other ozone-depleting substances, and provisions concerning recycling, labeling, international trade, and safe alternatives.

Phaseout of Class I Substances. The five most destructive CFCs, the three most destructive halons, carbon tetrachloride, and methyl chloroform are designated as Class I chemicals. They are placed on a phaseout schedule that calls for a 50% reduction in production by July 1, 1994, and a complete phaseout (except for medical uses) by July 1, 1997.

Phaseout of Class II Substances. The amendment also calls for a longer term phaseout of other, less destructive, ozone-depleting chemicals, which are called class II substances. The manufacture of products using these substances is barred after the year 2010, and the production and use of these ozone-depleting chemicals is barred (except for medical uses) effective 2020. An amendment placing a similar but slightly less aggressive program in the Senate Clean Air bill passed by an 80 to 16 vote.

Accelerated Schedule. The Administrator of EPA is authorized to accelerate the phaseout of either class I or class II substances if it is determined that safe alternatives are available, that a more rapid phaseout is needed because of increasing destruction of the ozone layer, or that an accelerated schedule is called for in revisions to the Montreal Protocol.

Recycling and Disposal. A program is established to promote and, where feasible, require the recycling of CFCs used in products such as air conditioners and refrigerators. A system is also put in place to assure that motor vehicle air conditioners are only serviced at qualified facilities where personnel are trained and equipped to recover and reuse CFCs. In addition, the program includes measures to minimize the release of ozone-depleting chemicals after disposal. Scientists estimate that up to a fifty percent reduction in the release of CFCs can be attained through this program.

Labeling. Products manufactured with ozone-depleting chemicals, or which contain such chemicals, are required to be clearly labeled so that consumers can be fully informed of impacts on the ozone layer when making choices about product purchases.

Nonessential Products. Nonessential products that deplete the ozone layer, such as CFC-containing party streamers and noise horns, are to be banned under EPA regulations.

Safe Alternatives. A program is included to assure that in developing alternatives to ozone-depleting chemicals, careful attention is given to the health and environmental impacts of substitutes. The effort to carefully screen substitutes, and encourage only those which are safe, is integral to a successful phaseout.

Trade Sanctions. Trade sanctions are included to leverage other nations to comply with the Montreal Protocol and, ultimately, to adopt ozone protection provisions as strong as those in place in the U.S. These provisions will assure that U.S. companies will not be put at a competitive disadvantage as a result of America's leadership in the effort to save the planet's ozone layer.

WHO SUPPORTS THE BATES-BOEHLERT AMENDMENT

The Bates-Boehlert Amendment is supported by environmental and public health groups, and state and local government organizations, including: the National Clean Air Coalition, the American Lung Association, the Sierra Club, the U.S. Public Interest Research Group, the National Wildlife Federation, the National League of Cities, the National Association of Counties, the National Conference of State Legislatures, and the Northeast States for Coordinated Air Use Management.

Mr. LENT. Mr. Chairman, I yield 9 minutes to the gentleman from Ohio [Mr. OXLEY], a member of the Subcommittee on Energy and Power.

Mr. OXLEY. Mr. Chairman, today we stand on the eve of casting the first floor votes in more than a decade to amend the Clean Air Act.

Significant progress has been made in reducing air pollutants over the last 10 years, despite a substantial increase in our demand for goods and services. These reductions are a testament to the fact that environmental laws can and do work. However, while we expect this progress to continue, there is now consensus that we are not doing

enough to protect the environment for future generations.

President Bush and the Congress are committed to enacting legislation that effectively strengthens the Clean Air Act, and today we are closer to that goal than we have been for many years. The legislation before us today represents a comprehensive clean air program, addressing acid rain, ozone and CO nonattainment, and air toxics.

This bill attempts to strike a balance between increased environmental protection and sustained economic growth, a balance which has been impossible to achieve under past proposals.

Mr. Chairman, all Americans want cleaner air. However, cleaning it up will be expensive. The surveys tell us that the environment is one of our Nation's top concerns. However, what the surveys do not tell us is exactly what Americans are willing to pay for cleaner air. While many people may be willing to sacrifice some expense and some convenience for a better environment, I doubt many people are willing to pay with their jobs. I am also not sure that by requiring our constituents to pay anywhere from $20 to $50 billion a year they will believe that they are getting their money's worth.

The Clean Air Act Amendments of 1989 is one of the most comprehensive and complex pieces of environmental legislation to come before us in years. This bill affects every industry, every business, every consumer in our Nation. I believe that these industries, these businesses, these consumers support the objective of clean air as much as we do.

The differences that we have worked long and hard to resolve center around how do we reach the goal of improving air quality. Success will require sacrifice. Who do we ask to make the sacrifice?

Because of the configuration of auto and autoparts manufacturing, industry heavily reliant on electricity, and coal mining, my home State of Ohio will be significantly impacted under every title of this bill. My constituents will be called upon to make sacrifices, often more than their share.

Certain provisions of H.R. 3030 are improvements not only to the quality of air, but also to the quality of life my constituents now enjoy. Other provisions are impediments to maintaining that way of life. The bill includes strict pollution control requirements and timetables to bring cities into compliance with health standards.

It requires industries to install the "best available technology" to control sources of air toxics, and it includes the most stringent acid rain proposal ever reported. Some of these sweeping controls on automobiles, factories, and powerplants are a result of compromises struck to meet President Bush's test of "balance and reasonableness."

The mobile source provisions of this bill are tough. However, to soften the blow on the auto industry, I am happy to say that we struck a compromise on tailpipe emission standards. It is my hope that we do not upset this compromise and add additional costs to the auto industry, to workers, and to consumers either on the House floor or in conference. Further, I would hope that we look carefully at all proposed changes in the mobile source provisions and make sure that what is promoted as "necessary for environmental protection" will actually result in improved air quality.

Under the air toxics section, we struck a delicate balance between industry and the environment by requiring technology standards for all categories of major sources while preserving the standard in current law for health-based standards.

Perhaps the toughest compromise to strike was that regarding acid rain. While I supported the acid rain agreement worked out in the Energy and Commerce Committee, I must admit that I believe the process has been flawed from the beginning.

Ten years ago we established a taxpayer funded study, costing more than $500 million, to be the definitive statement on acid rain. Just a few months short of the final statement, we are saying it was just another worthless Government study and that despite the fact that we are not scientists, we know the answers. This rush to the finish not only wastes taxpayer dollars, it ignores the interim reports published by NAPAP which indicated that acid rain is not a serious environmental problem.

This chicken-little mentality will cost my home State of Ohio between $1.5 and $2 billion a year. These costs will result in electric rate increases of 10 to 40 percent and an estimated loss of 15,000 mining and related jobs. In my district, a steel plant, which already pays $2 million a month for electricity, faces double-digit rate increases. In the Ohio Valley, an aluminum producer faces up to 40 percent rate increase.

One key element of title V of H.R. 3030 was to provide for the most cost-effective sulfur dioxide emission reductions. However, it pitted one region of the country against the others. Within these confines proposed by President Bush, it was difficult to protect jobs in the Midwest and provide for potential growth elsewhere. While the bill still caps all future growth, I am happy that we included some assistance for those units nearing completion, such as the Zimmer plant in my home State.

Another key component of the President's bill was the concept of allowing the market to encourage reductions in pollution. This provision also caused divisions between the Midwest and the other States. To blunt the argument that the Midwest would hoard allowances, and not give access to utilities in other States, I am happy to say that my proposal for auctioning allowances was accepted as part of the acid-rain compromise. The allowance auction will provide money to the Midwest utilities faster, as they work to retool and meet the costs of complying with the new requirements. The auctioning of allowances will also help to ensure that allowances are available to utilities across the Nation when needed for economic growth. To accomplish these goals, the bill provides for an early voluntary auction in 1992 and annual auctions commencing in 1993.

Mr. Chairman, it is our challenge to solve the scientific, economic, and environmental controversies and enact a clean air policy that improves both the public health and the economic well-being of all American people. We have learned, our technology has advanced, every step along the way we have tried to build upon our knowledge to improve the health, the economic opportunity, and the lives of our people.

While this bill is far from perfect, we have crafted a compromise that goes a long way toward ensuring a better environment for future generations.

There may be attempts on the floor to expand this bill to include provisions addressing stratospheric ozone depletion. While ozone depletion deserves attention, we should not mandate control schedules that are inconsistent with those to be agreed upon next month at the meeting of the parties to the Montreal protocol. Should an agreement not be reached today, I am prepared to offer an amendment with my colleague Mr. BRUCE which would provide for the phaseout of ozone depleters in a manner consistent with the terms of the Montreal protocol.

In summary, Mr. Chairman, I want to applaud President Bush, my colleagues on the Energy and Commerce Committee, and American industry for the steps we all have taken to meet the challenge of economic progress and environmental responsibility.

President Bush took the initiative last year and submitted H.R. 3030 which represents the first comprehensive reauthorization bill introduced by an administration since the Clean Air Act was last revised in 1977.

My colleagues on the Energy and Commerce Committee have worked very hard to focus on real, identifiable environmental needs, and meet those needs with financially prudent policy.

And, American industry should be commended for their efforts to improve our way of life, not only materially, but also environmentally. Let us not forget that it is because we have continual economic progress that we

are able to afford environmental protection. It is a luxury not all nations enjoy.

The path to a cleaner, safer environment is long and often painful. Today we take another step along that path.

□ 1400

Mr. DINGELL. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from Indiana [Mr. SHARP], the chairman of the Subcommittee on Energy and Power.

Mr. SHARP. Mr. Chairman, after more than a decade of work, frustration and hope, Congress will take steps today to fulfill the promise of cleaner air for all Americans. This week we will rewrite and amend the Clean Air Act.

The act has served us well—many of the problems its authors first saw are on their way to a solution.

In other areas the act has simply not worked. Over 100 American cities do not offer their residents healthy air. This legislation will tackle that problem—with an ambitious but realistic new smog plan—and keep the promise of clean air.

Some chemicals used in industrial processes threaten the health and even the lives of our citizens. The current Clean Air Act attempted to provide the needed protection—and failed. Only 17 of hundreds of cancer causing, death-dealing air toxics ever got action from the Environmental Protection Agency. This bill will keep the promise of clean air.

And in another area, acid rain, this bill will keep the promise of clean air. Acid rain was not a part of the original Clean Air Act in 1970. Over the years, concern has mounted as sulfur dioxide and oxides of nitrogen, emitted largely by fossil-fuel-burning electric utilities and industrial boilers and processes, fouled lakes and streams in New England and elsewhere, killing fish and the waters themselves.

Combined with ozone, acid rain damaged trees and was implicated in the deterioration of buildings, statuary, car finishes and even the health of Americans.

This legislation tackles the problem of acid rain. It is very tough environmentally. And some of us fought hard to make changes to make the bill more fair to nine States in the Midwest and Southeast that bear a disproportional share of the burden for reducing acid rain. The legislation proposed by the President asked nine States, which produce 50 percent of the Nation's sulfur dioxide to reduce 77 percent of the bill's requirements. In fact, in the early years of the legislation, those States will be responsible for 90 percent of the bill's reduction requirements. We did not get cost-sharing, the type of fairness we felt entitled to—where other parts of the country would help pay for the reductions we were doing in their stead. But we did make changes to the proposal that provide real benefits to the workers and electric ratepayers of those States asked to bear more than their fair share of the burden.

Mr. Chairman, the acid rain program we have before us today is the result of hard-fought negotiations and hard-won concessions. It is carefully balanced to ensure that this Nation achieves a 10-million-ton reduction of sulfur dioxide and up to a 4-million-ton reduction of nitrogen oxides. We did not compromise the environmental goals of the President's bill. In fact, by providing incentives for the use of conservation and renewable energy sources, we have strengthened the bill environmentally.

Mr. Chairman, the acid rain proposal we will vote on this week contains modest but necessary incentives to minimize the job disruptions that will inevitably occur as we push this Nation toward cleaner air. In this case, the job losses we seek to minimize are those of industrial workers in energy intensive industries and workers who mine the high-sulfur coal our country has long depended on for electricity. This will be a miserable time in the high sulfur coal fields. We tried to ease what remains terrible economic news for many miners, their families and their communities.

The acid rain portion of the bill is balanced in terms of the compliance choices likely to be made by those who have to reduce emissions. The President's bill did not contemplate using any job-preserving technology. In contrast, our proposal promises to blunt the job loss, and keep some who would have lost their jobs employed. Technology, whether it is the newest generaton of scrubber technology that literally scrubs smoke clean of sulfur dioxide, or whether it is the still developing and promising clean coal technologies, will play a role in complying with this legislation. Technology can provide the greatest reductions of pollution, and can help get the job done early. Again, these incentives are modest, Mr. Chairman, but necessary and just to moderate what is predicted to be a body blow to entire communities in the high sulfur coal belt.

There is, Mr. Chairman, good news in the acid rain bill for other workers, other regions. It is inevitable that natural gas will become more and more the fuel for clean-burning applications. The natural gas industry stands to benefit greatly from the new markets available to it in this legislation, and particularly, in the acid rain section. Low sulfur coal, as well, which is found in the West and some Eastern portions of the United States, will find an expanded market from the need for compliance with tough control standards.

The President proposed, and we have adopted, a stringent cap on emissions growth. This cap will preserve the expensive and hard won reductions that will stop acid rain. It means that those currently emitting pollution at relatively low levels will be frozen at those levels, and it means that all new growth—new power plants that will be needed before the end of this century—will essentially have to buy reductions from existing sources to keep the level of pollution in the air at the 10-million-ton reduction level chosen by the administration. This is a big and expensive task. And it is not one that was contemplated by most of the previous legislation debated to solve the problem of acid rain. It significantly raises the stakes for the West and other high growth areas of this country.

The administration provided a new currency in air pollution, called allowances, to facilitate a new market in pollution reduction credits. Mr. Chairman, the committee has worked very hard to make that system work. We needed to guarantee that allowances would flow to those who needed them. We needed to guarantee that those who had ability to create allowances would not hoard them, but rather would produce and sell them. And we needed to guarantee that no anticompetitive behavior would stand as a barrier to entry or the new independent power industry and for public power entities. The bill has received much praise in these areas.

One more feature of the legislation bears special mention. Because of the restrictive nature of the cap and the need to ensure the 10-million-ton reduction by the deadline chosen by the administration, the year 2000, some in the country with special problems were disadvantaged. States with extremely high growth in this decade, utilities which had emergencies, utilities that temporarily emitted at extremely low levels during the base period, utilities scheduled to be constructed before the bill takes effect but after enactment—these problems had to be addressed in the committee.

In addition the committee added important incentives for utilities to adopt conservation strategies which save energy, reduce pollution and save consumers money.

All these elements are part of this compromise that is title V of the bill, the acid rain title.

We can truly say we have made it fairer than the legislation that was before us when we started. It is clear that many of the provisions in the bill will have major impacts on our energy policy—both in the choice of fuels and their cost. It will become more difficult to use our most plentiful domestic resources—coal—to generate electricity, and we are changing the mix and

composition of our transportation fuels. We have had to balance these energy policy and economic effects with the demands for air quality improvement, and I believe the committee bill has achieved a reasonable balance.

Mr. Chairman, I look forward this week to the debate and to the consideration by this House of the legislation which has occupied the thoughts of so many for so long. It is very hard to construct legislation that balances jobs and the environment—regions, one against the other—and even industries in competition. But, painful as it has been, when we are done we will be able to say that we have kept the promise of clean air—for our Nation, our communities, our families, and our children's children.

□ 1410

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER], the ranking minority member of the Committee on Science, Space, and Technology.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding this time and thank him for his hard work, and the chairman of the Committee on Energy and Commerce and all the others who have labored to bring this bill to the floor.

I am pleased to see the legislation finally on the floor. I think Congress will act responsibly in bringing us a final product within the next few days.

As a part of those deliberations, the chairman of the Committee on Science, Space and Technology, the gentleman from New Jersey [Mr. ROE] will be asking that the Clean Air Act research amendments, reported by our committee, be made in order as an amendment to H.R. 3030.

We had hoped, at least I had hoped, that those amendments would be a part of the base bill being brought to the floor. It now appears that was not able to be worked out, and that is disappointing to me. I would have preferred to have it as part of the base bill, but it is important that the House have an opportunity to act on this research program as a part of what we do in the clean air bill, so I fully support the action of the gentleman from New Jersey [Mr. ROE] to go to the Rules Committee and ask that these research amendments be made in order when the Rules Committee meets tomorrow.

The Science Committee legislation makes an important contribution to the Clean Air Act reauthorization by directing the EPA to conduct vital air pollution monitoring and assessment activities. Some of the kinds of things that are included in that research title are a research program on the effects of air pollutants on human health, a study of the causes and effects of ecosystem damage from air pollutants, a basic engineering research and technology program to develop and evaluate technologies for air pollution prevention, and the development of an acid disposition response plan.

Research work of this type is vital to the success of the Clean Air Act. As the effort to improve air quality progresses, the cost of each incremental step increases. A solidly grounded research and monitoring program is needed to ensure that the requirements imposed by the act are indeed working as projected to improve air quality across the country. The activities outlined in the Science Committee's legislation will go a long way in telling us which requirements are fulfilling the goals of the act and which need to be modified.

So I am hopeful that the Rules Committee will make in order an amendment to allow the Science Committee to bring its title to the floor, and I am hopeful that the house will act on that amendment in favorable terms so that as a part of what we do to improve the regulation of air quality, we also improve the research and science surrounding air quality. I think that we can make an important contribution to not only the present, but to the future if we strengthen our research program.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, the committee chairman, the gentleman from Michigan, is always generous with his time and I thank him, but I may run out somewhere around 6 minutes.

Mr. Speaker, we are writing history today.

In an unprecedented manner, adversaries have come together, animosities have subsided, differences have been put aside in this year of the environment.

"Hallelujah" was the word which rang out when the committee completed its deliberations, and that word is applicable today.

Chairman DINGELL, the gentleman from California [Mr. WAXMAN], the gentleman from New York [Mr. LENT], the gentleman from Illinois [Mr. MADIGAN], the gentleman from Washington [Mr. SWIFT], the gentleman from Indiana [Mr. SHARP], and others have worked prodigiously. Their efforts have been tremendous, their patience and sacrifices have likewise been great.

The bill accomplishes more, at lower cost, than the bill passed by the other body. The bill will not cause the shutdown of the coke ovens for the steel industry. The acid rain provisions recognize the concerns of the high-sulfur coal miners, the steelworkers by allowing for more flexible, yet very stringent regulation.

The bill does achieve balance. It is a good bill; yet, in some places the bill goes further than some of us thought necessary.

The acid rain proposal herein is ambitious. It sets as its goal a 10-million-ton reduction in sulfur dioxide emissions levels by the year 2,000, and a 2-million-ton reduction of nitrogen dioxide emissions by the same year. I do not have a problem with these goals, none of us do.

However, I do have several concerns with respect to the accuracy of the 10-million-ton reduction estimate; how the reduction will be achieved, and the disproportionate burden it places on the Midwest and Southeast.

Some people say that acid rain is a Midwest problem, as has been stated already here today. Let me remind you that while all our utilities will bear the enormous compliance costs, the ultimate effect of acid rain control on international competitiveness and energy security impacts everyone, and industrial sources other than utilities are contributing to the problem, but are not paying.

In the State of Ohio, compliance costs are estimated to be $1.5 billion to $2 billion a year. These costs will result in electric rate increases of 10 to 40-percent and an estimated loss of 15,000 mining and related jobs. In the Ohio Valley, an aluminum producer faces up to a 40 percent rate increase. This means a loss of more jobs.

The National Acid Precipitation Assessment Program, or NAPAP study, has recently stated that the total sulfur dioxide emissions reduction resulting from this bill would be much more than 10 million tons, more like 10.6 to 11.3 million tons.

H.R. 3030 is not totally equitable in its emissions reduction requirements. For example, the bill requires Ohio and 8 other Midwestern and Southern States to achieve over 70 percent of the Nation's sulfur dioxide reductions, while these States contribute only about 50 percent of the total emissions.

Ohio utilities have spent more than any other State on air pollution control, so it is not totally equitable.

Further, another aspect of this bill, proposals for the regulation of emissions from consumer and commercial products are part of the bill. The public probably does not realize that clean air covers emissions from products, not just the manufacture, but the use of the products in our households. The original proposal in one of the bills provided for mandatory percentage reductions of 25 percent in 5 years and 50 percent in 10 years.

We would have been denied, under that proposal, the use of many seemingly innocuous products, such as perfume, shampoo, deodorants, mouthwash, along with paints, varnishes and

stains, without the benefits of the analysis to tell just how harmful these studies might be.

Although the report language suggests that all commercial and consumer products will be regulated, from shampoos to toxic solvents, this was changed in the statutory language, and I congratulate those who were helpful in changing it, which now requires that only the worst actors be regulated.

□ 1420

That is where this bill has bounced. The EPA must consider how much a product actually contributes to the formation of ozone before it decides whether or not it makes some sense to regulate it.

Hundreds of thousands of household products sold throughout the country and not found to be the cause of the problem will not be subject to unnecessary regulation. On the other hand, the major contributors, as recognized by the OTA and other agencies such as surface coatings, paints, and asphalt, are likely to be regulated.

The compromise exists in this bill, and it is common sense, as much of the bill can be so described. It is progress that the authors of this bill and the crafters of the many compromises and modifications along the way can be proud of.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Chairman, it is with a great deal of pride that I rise today in support of H.R. 3030, the Clean Air Act Amendments of 1990. Proud to be of the party of the president who has been the leader of this critical legislation. Proud to be a member of the Energy and Commerce Committee which has strengthened the bill considerably without overburdening our economy. But perhaps most proud to represent an area of the country whose commitment to improving its air quality is unsurpassed.

Colorado's fight for clean air hasn't been an easy one. Faced with Federal sanctions, the State adopted a number of aggressive and politically sensitive measures. At the top of that list is an innovative oxygenated fuels program which, thanks to its consumer choice approach, has led to significant reductions in automobile emissions. This effective clean air strategy, with the cooperation of the public, has reduced violations of air quality standards to just a handful.

Colorado's struggle at the Federal level has been altogether different. Plagued with excessive levels of carbon monoxide—and not the better-known ozone and acid rain pollutants—the fight has been one for recognition. Colorado's nonattainment areas are not as prevalent and the source of the problem is better understood. As a result, in clean air discussions on Capitol Hill, carbon monoxide is often regarded as a persistent afterthought.

This secondary status is no indication of the severity of the problem. Forty four cities nationwide exceed the health-based standard for carbon monoxide, posing risks to their residents and local economies. While short-term progress is being made in many of these areas, vast increases in vehicle miles traveled and overall growth threaten to erase much of the improvement. The challenges of the future are just around the corner and the States cannot meet them alone.

Fortunately, there is an administration in place that understands the need for Federal leadership. By introducing comprehensive clean air legislation, it effectively broke the congressional logjam which had allowed the act to expire. I was pleased to cosponsor this landmark legislation, recognizing it as a critical starting point.

But not until the Energy and Commerce Committee completed its consideration were the States given the tools to finally reach attainment. Strict deadlines, mandatory sanctions and close Federal scrutiny ensured that States' feet would be held to the fire and that progress would continue to be made. More importantly, the actions of the committee showed a commitment to improving air quality in all areas in nonattainment—regardless of the offending pollutant.

For carbon monoxide areas, this meant one thing—cleaner automobiles. In many cities, up to 90 percent of CO can be attributed to mobile sources. The legislation before us addresses this with a number of aggressive provisions including tighter tailpipe standards, adopting California's standards, cold weather certification, requiring Detroit to engineer its cars to meet the CO standards at 20 percent, enhanced inspection and maintenance programs and oxygenated fuels. From Colorado's perspective, this alone is quite an accomplishment.

But the committee did not stop there. We also agreed to two amendments which I sponsored relating to those nonattainment areas located at high altitude. First, at least one high altitude testing center would be established to make certain that vehicles comply with emission standards regardless of the part of the country in which they are driven. And second, high altitude cities would be brought into the age of alternative fuels with a requirement that fleet vehicles operate on something other than conventional gasoline. With these provisions in place, the message to environmentally responsible areas like Denver is clear—in the fight for better air quality, you are no longer alone.

Before closing, I would like to commend my colleagues on the Energy and Commerce Committee for putting together such a responsible package of amendments to the Clean Air Act. We can take pride in nearly every account which selects our bill as being better environmentally and economically. Special recognition goes to Chairman DINGELL and Representatives LENT and WAXMAN whose leadership has brought us to this point. And again, thanks to President Bush for demonstrating his commitment to the environment by not only getting the train rolling, but by making sure it stayed on track.

I urge my colleagues to support this critical legislation.

Mr. DINGELL. Mr. Chairman, I yield 9 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, when I first got involved with this issue, which seems now to be somewhere in the vicinity of the dawn of time, but only 3 or 4 years ago, the first thing I heard, and the second, the third, the first 100 things I heard were that, "This is going to cost a great deal of money in my industry, and you are only going to get that much environmental improvement." It was true. It was true.

Because the fact is there are no big hits anymore. There is not any place left where we can go and get a prodigious amount of pollution that we can take away and do so at low cost. The automobile industry had reduced its tailpipe emissions by 96 percent, 96 percent, and we are having to ask them to do even more. This legislation does ask them to do even more.

I point this out simply because I think that there are many in industry who think that there is someplace else we can go and get this out of somebody else at less cost and at bigger improvement to the environment. The fact is that is not true, and because I think there are many on the other side of this issue who think that this particular environmental cleanup process can be done easily and cheaply if only people had the will to do it, both are wrong. This is a difficult job, and it is a very expensive job. It is a job that this bill is going to get done.

There is no cost-benefit ratio in this bill, and some people are surprised to hear this. This does not say, "You will clean up as much of the air as you can afford to do." This says, "You are going to clean up the air to a set standard." What is that standard? It is a medically established standard, one about which there is almost no argument at all. It is a standard below which air would no longer be healthy to breathe.

Mr. Chairman, I have talked to many, many groups, industry groups, around this city. I have said, "Is there anyone here who would like to take the position for their corporation that

their corporation is for something less than, by definition, air that is healthy to breathe?" I have yet to have one single taker.

So we have established a health-based standard without regard to the cost-benefit, and we are pursuing in this legislation that goal vigorously, but let no one believe it is easy or inexpensive.

I think it is important, because I think sometimes when we come to these important public policy issues that deal with the environment we get into a holy war.

□ 1430

On the one side those who are so committed to strong environmental legislation that they do not look at the cost, and those who are so committed to looking at the cost that they refuse to look at the environmental degradation that goes on around us.

Somewhere the best public policy grows out of an understanding of what you must do for the environment and an understanding of what the cost of that policy is going to be, because I think it helps one develop honest and fair compromises.

Does this bill contain compromise? Oh, you bet it does. Were those compromises honest? All the ones I know about were. Were they fair? The ones I know about were. Were they helpful in addressing this issue of meeting the environmental needs, but keeping an eye on the cost? The answer is yes.

I think the gentleman from Michigan [Mr. DINGELL], the gentleman from California [Mr. WAXMAN], and the gentleman from New York [Mr. LENT], as the leaders of the three groups in the committee and subcommittee, are to be commended for with great difficulty and hard work hammering out the compromises that exist in this bill and that make it I think in the long run a better bill, because it has blended an understanding of the environmental necessities and extremely great cost that is associated with them in this legislation.

A group of members on the committee that somebody called the Group of Nine developed a piece of legislation that has become at least in part embraced in title I and to some degree title II of the bill. What we managed to work out was something that the EPA said was as strong an environmental proposal for title I as existed, save one in the other body, and that it did so at less cost to the economy than any other proposal on the table, including that of the Reagan administration, which from my perspective was not environmentally very strong.

The point is that while a cost-benefit ratio is not appropriate when you are dealing with health, having a cost-effective way of dealing with health is appropriate. I would submit that this legislation, worked out over years, with compromises worked out over the last few months, has managed to draw in most of these instances a fine balance between being a strong bill that will provide clean and healthy air for the American people, and doing so at a very large cost, without question, but at a cost that could have been so much higher in order to achieve a level of clean air than might otherwise have occurred had it not been for the compromises worked out by the leaders of the committee.

Mr. SHARP. Mr Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Indiana.

Mr. SHARP. The gentleman from Washington [Mr. SWIFT] deserves a great deal of credit for a year of devotion to this question when he led the Group of Nine in trying to examine how we could get communities into attainment with the Clean Air Act goals and to do it the least expensive way. The gentleman understood it was going to be expensive and accepted that proposition, but knew the goal was to try to do it at the best cost that we could possibly make it to the consumer.

The gentleman from Washington [Mr. SWIFT] deserves enormous credit that I do not think he has been properly recognized for, for endless hours that he gave to this in producing a document that has become a major part of this bill before us today and that the EPA, as indicated, has identified as both environmentally stronger than many of the other proposals, and yet doing it at the least cost.

Mr. Chairman, I compliment the gentleman from Washington [Mr. SWIFT] for his work.

Mr. SWIFT. Mr. Chairman, I thank the gentleman from Indiana [Mr. SHARP] for his kind remarks. There were a group of us that really ran a gamut in terms of geographical distribution across this country and in terms of philosophical view that worked on that together, all of us investing an enormous amount of time and staff time. We hope we did make a contribution.

Mr. Chairman, my bottom line is that neither side should assume there was a cheap way to achieve these goals, and neither side should assume that these are goals that we could in any conscience not seek to pursue and to achieve. As long as everyone realizes that, I think we will understand that what we will be doing when we pass this legislation later this week is an enormous step toward the improvement of the air quality of this country and providing all of the citizens of America with air that is by definition healthy to breathe at a cost that is not greater than was absolutely essential in order to achieve that goal.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS], who is a member of both the Subcommittee on Health and the Environment and the Subcommittee on Energy and Power.

Mr. FIELDS. Mr. Chairman, this is a momentous day for all Americans. No issue strikes deeper into Americans' conscience than clean air. Finally, after 13 years of legislative deadlock, we have clean air legislation before us for consideration.

I want to thank my colleagues on the Energy and Commerce Committee and all the staff for their diligent work on the clean air bill. Countless hours were spent by all to reach accommodation on some of the most contentious areas of the legislation.

H.R. 3030 is a strong bill which will bring cleaner air to all Americans. Still, the final product is far from perfect. I have serious, lingering concerns about provisions in the air toxics, alternative fuels, and acid rain sections of the bill. I plan to work with my colleagues to address these problems between now and conference.

We do need to revamp our clean air law. But we cannot do that from fantasyland. We have to strike a balance between stronger rules to protect our environment and the economic impact they will have on our industries and our lifestyles.

Americans are already spending $32 billion per year to clean our air. More needs to be done. And, I am not suggesting that additional controls are going to be cheap. In fact, the administration estimates the additional yearly cost of H.R. 3030 to be $20 billion. If history is any guide, however, the actual cost of complying with the clean air reforms will be substantially greater than $20 billion.

The fact is, we don't really know the full cost of the legislation before us. For example, the bill forces new technology for which we can only guess the price tag. Whatever the final cost of the bill, one thing is certain—it will be an expensive drain on our constituents' pocketbooks and on our economy.

However, as an original cosponsor of the President's clean air bill, I believe that it is a price tag which must be paid. But, at the same time, I must repeat my strong belief that we must choose only the most cost-effective approaches to cleaning the air. We simply can't afford gold plating. The price tag is too high.

I urge my colleagues to apply the cost-effectiveness test to each amendment we consider over the next few days. As a representative from Houston, TX, I am particularly concerned that the final product which this Congress sends to the President be environmentally progressive, but not economically devastating. If we do both,

and I believe we can, it will be a law both the Congress and the President can be proud of, and it will be a law which finally will achieve the goal of cleaner air for all Americans.

□ 1440

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, we have come a long way today. After almost a decade of work both in the public and private sectors, we are now ready to try to pass a clear air bill.

As we begin this legislation, for those who are listening, I think it is important to note that this is a story that really has two stories to it.

First, it is a story of people. It is a story about a man named JOHN DINGELL who had the courage and foresight to put together one of the greatest pieces of legislation that this Nation will see, and will be remembered for it in the 1990's. It is a story about HENRY WAXMAN, a person whose determination to improve the quality of the air was the driving force behind this legislation and who worked closely with all of us who shared that dream so that it could become a reality. It is a story about NORM LENT, who had the patience and the courage to work with everyone to make sure that the bill was balanced. And it is also a story about nine people who began 3 years ago to learn what needed to be done in the United States and around the world with respect to clean air. It was PHIL SHARP, and AL SWIFT, and DENNIS ECKART, and RICK BOUCHER, JIM COOPER, JIM SLATTERY, TERRY BRUCE, BILLY TAUZIN, and others.

It is a story about people trying to do the thing that the Nation has said that they want in the 1990's, and that is a cleaner environment.

But as the gentleman from Washington [Mr. SWIFT] said during his remarks, there is a second story, and that is the story of compromise, because in the next days as we debate this bill we are going to find that no one got everything he or she wanted, and that almost every bit of this bill has been negotiated in order to accommodate the various interests that are at stake.

I think we can all conclude that the clean air bill that we bring to the floor is a very good start in accomplishing the goals that all of us have, producing a cleaner environment into the 1990's and for the next century.

In our acid rain provisions we balanced the regional interests in order to ensure that our air would improve. In the ozone area, we reached an agreement that results in true reductions in areas that are not presently in compliance. The ozone provisions are more efficient, and more cost-effective, than those of the other body and they will help us win the war for that most important goal.

For fuels, we will offer an amendment on reformulated gasoline which recognizes its new contribution to the fuel mix. During the debate on our fuels provisions Members will learn what our underlying theory should be, we want cleaner air without disrupting our energy supply, and that this should be the driving principle.

We will present to our colleagues a toxic provision which was fashioned to protect the human health not only of this generation but for future generations.

Finally, we will begin to protect the crown jewels of this Nation, our national parks, but putting forth a visibility provision to protect air in our natural parks. It will begin to give us the type of protection that all Americans want for these most precious resources.

We started a decade ago and we have made real progress. In the days ahead as we debate this bill I hope all of my colleagues will remember this is a bill of people, and it is a bill of compromise.

But finally, let me reiterate what the gentleman from California [Mr. WAXMAN] said. This is a bill that shows that the process works. The staff who have worked literally around the clock for almost 3 months are to be commended most. Through their tireless efforts in working to bring this bill here today, we are able to bring to our colleagues probably the best step forward in clean air in this century. I am proud to be associated with it. I commend my colleagues in this debate and look forward to working with them as we proceed through this debate and through conference and deliver to the President the strongest clean air message for the decade of the 1990's.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. BLILEY], a member of the Subcommittee on Health and the Environment.

Mr. BLILEY. Mr. Chairman, it is rare that we come and debate on a piece of legislation that has worked. The Clean Air Act Amendments of 1977 have done a good job. Ambient ozone levels are down 21 percent; carbon monoxide levels 32 percent; and sulfur dioxide levels 37 percent.

This progress has not been cheap. In 1987, the Commerce Department estimated that in that year alone it cost $33 billion. But in spite of all of this, it has not gone far enough.

Last year 100 areas failed to meet the health levels for carbon monoxide and ozone. Worse yet, 28 additional cities have fallen into the nonattainment category. And acid rain has not only damaged our forests and our streams, but it has acted as an irritant in our relations with our good neighbor to the north, Canada.

For 9 years I have been privileged to be a member of the Health and the Environment Subcommittee and the full Committee on Energy and Commerce. We have struggled with this issue.

At the beginning we lacked complete data. We also had some inaccurate data. But finally this has come together, and a year ago as we began the 101st Congress I wrote a letter to President Bush saying that the one ingredient that we lacked to move a good, strong clean air bill was presidential involvement. I am proud to say that the President has responded with the most comprehensive bill ever submitted to the Congress on this subject, and we used it in our deliberations in the Energy and Commerce Committee, H.R. 3030, as our mark from which to work to improve, and we have improved it, as my colleagues on both sides of the aisle have pointed out, with many compromises.

I was proud to be associated with one in title I, and also one on visibility. It is a balanced bill. As my colleague from Washington said, it is not cheap. It is going to require great sacrifice on the part of all Americans, not just business and industry, but Mr. and Mrs. America in their homes in the fuel bills that they will pay, and in the type of vehicles that they will drive and the chemicals they will use.

But this is a good bill and I am proud to have been a part of it and to have had the privilege to work with our chairman and our ranking member on our committee and other members. But as the gentleman from Oklahoma pointed out, probably the most important people that should be recognized are the unseen members of our staff, our personal staff, and the committee staff who have worked around the clock, particularly in the last month, to create this vehicle, this bill, these compromises and to bring us to this point. I thank the gentleman from New York [Mr. LENT] for yielding me the time, and I yield back to him the balance of my time.

Mr. SHARP. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, there is a saying environmentalists have used on bumper stickers for some years now, and it says very simply: "Think globally but act locally." A remarkable thing happened on the Energy and Commerce Committee as we began marking up this bill. Under the incredible leadership of the gentleman from Michigan, [Mr. DINGELL], the gentleman from New York [Mr. LENT], from the minority side, the gentleman from California [Mr. WAXMAN], the gentleman

from Indiana [Mr. SHARP], and others who play such vital and key leadership roles, our committee began thinking globally and produced a bill that requires us to act locally to begin cleaning up the air in America and in the world.

It would have been easy for Members who represent districts whose utilities burn coal that is laden with sulfur and whose districts contribute heavily to the acid rain problems of America to think locally and to fight against decent acid rain legislation because of its cost.

□ 1450

It would have been easy for those who represent the automobile industry sectors of our country to think locally and to fight against decent tailpipe emission standards for America. It would have been easy for us who represent oil and gas communities to think locally and to fight alternative fuel provisions for cleaner fuels in America's fleets of automobiles, trucks, and buses.

It would have been easy, even, I think, for some representing petrochemical industries to think locally about the jobs and the economic impact on those industries instead of thinking about the awful damage to the lives and health of the citizens of this country and of the world because of the awful level of toxic emissions poured upon families and communities near those plant sites.

Instead, our committee came together and began focusing on the global effects not only of the damage that we were doing here in America but how America might lead the way for the world to begin cleaning up what is so critical to all of us and what is held so in common by all of us, the air that God created for us.

I waxed a bit poetic during the committee markups, remembering my days as a thespian in Nicholls State University, where I performed the role of Hamlet. I recall the words that Shakespeare wrote in one of Hamlet's soliloquies when he talked about, "This most excellent canopy, the air, look you, this brave o'erhanging firmament, this majestical roof fretted with golden fire, why, it appears no other thing to me than a foul and pestilent congregation of vapours." Shakespeare, even in those days, was reminding us how precious the air is and how sacred it is to all of us.

Our committee came together in an extraordinary way and did things in this bill which will hurt every section of this country economically in order to improve the health of our citizens in this country and for the world, the air that we all breathe. That is a remarkable feat.

As we come to the floor with this legislation, the extraordinary delicacies of the balance we placed into this bill to make sure that it functions, that it is practical, that it works, is overladen with one salient demand upon those in America and around the world who think they can ignore the perils that the air faces when we think we have the right to pollute. And that is a demand that pollution shall cease, not that it shall be turned back or diminished, but that it shall eventually cease in our land.

The message is: You have no right to pollute something so sacred as the air.

As soon as that message is heard and received through this bill, the sooner this Nation's and this world's air will be safer for our children and future generations to come.

We have worked out some delicate balances, we are still working them out, in alternative fuels, for example, and we are still working them out as we debate what to do with chlorofluorocarbons in the delicate and difficult situation of weeding out those chemicals that have the perverse impact upon the Nation's ozone, our protection against ultraviolet rays. We are trying indeed to work out the rest of the problems, but this bill is a great step forward and a reminder to America that all of us can come together once in a while and put our parochial interests aside and do something good for America and for this world.

This bill thinks globally, and it calls upon us to act locally. And it calls upon Americans and the world to begin putting an end to pollution of so sacred an element as the air we breathe.

Mr. Chairman and Members, we will have some debates on this floor; we will still have some differences, but I am proud of our Committee on Energy and Commerce and I am proud of this bill. It is a great piece of legislation. We shall make it better in our debates.

When we are finished, America and this world will be a better place for it.

Mr. LENT. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from North Carolina [Mr. McMILLAN], who played a very important, key role in seeing to it that provisions were inserted into this legislation that protected our Nation's industries against foreign competitiveness.

Mr. McMILLAN of North Carolina. I thank the gentleman for yielding.

Mr. Chairman, few of us would question that we live in the decade of the environment.

In the last two centuries, our country has experienced enormous growth and prosperity, but we are quickly realizing that growth and success can overwhelm nature's beautiful and resilient balance.

Historically, we have taken clean air, clean water and clean land for granted. We've produced, consumed, driven and dumped as if our natural resources were a constant. Only in the last 20 years have we begun to wake up to reality.

Clean air legislation has been stagnated in the Halls of Congress for over 12 years. At the initiative of President Bush, the committee chairman and ranking Republican, and many Members concerned about the environment, this issue is back on the front burner. This House is now on the verge of passing a comprehensive clean air package.

I am proud to serve on the Energy and Commerce Committee, which, I believe has put together a tough, practical bill. H.R. 3030, as compared to S. 1630, the Senate version, has been given good reviews by both environmentalists and industry.

We should not dilute our duty to be environmentally disciplined and economically sound at the same time. I believe that tough standards can be compatible with flexibility built into the means. In fact, part of our challenge is to stimulate alternative and competitive means of meeting these standards. For the most part, H.R. 3030 embodies this philosophy.

I have long been concerned about the implications of tough environmental standards on competitiveness. The gentleman from Washington and I were able to amend H.R. 3030 unanimously in committee by a provision requiring the President to report back to Congress on ways to address trade imbalances that may result from the costs of complying with this bill. In effect, we must create a level playing field between U.S. business and our trading partners. The bill requires that the President develop a strategy to negotiate with our trading partners to either adhere to equal environmental standards or accept trade adjustments to avoid penalizing domestic producers.

While I could continue praising the committee's tremendous efforts, which resolved many differences, in markup I want to warn my colleagues that floor amendments to "toughen or weaken" the bill destroy the delicate balance between economics and environmental concerns embodied in its present form.

In closing, I would like to remind all of us of our individual responsibility in this challenge to clean-up our environment. Government can clean its own environmental waste and react legislatively to the pollution caused by society. But prevention rests essentially in the people's hands. We are on the threshold of adopting and enforcing the toughest clean air standards in the world. There is no free lunch. I hope the public is prepared to pay the price. I urge my colleagues to support H.R. 3030 as reported.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. McMILLAN of North Carolina. Mr. Chairman, I yield to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to commend the gentleman for the amendment that he offered to this bill. It recognizes that if this country did everything you could conceivably imagine environmentally right, the world would still have an environmental problem and that we need to provide two things: Leadership to the world for all industrialized nations to begin to address their air, water, and land pollution problems the way this country is; and, second, to protect our industry which is incurring those costs to meet those environmental standards so when they go into the world they are not at a competitive disadvantage.

□ 1500

I think the gentleman's amendment to this legislation is an excellent first step in this country assuming that leadership role.

Mr. McMILLAN of North Carolina. Mr. Chairman, I thank the gentleman for his contribution and his comment.

Mr. WAXMAN. Mr. Chairman, I yield 7 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, there was a TV commercial so many years ago when I was a child, and the jingle went, "They said it couldn't be done, they said nobody could do it." Well, the fact is that for a number of years about the Committee on Energy and Commerce, and certainly about the Clean Air Act, "They said it couldn't be done, they said nobody could do it." The fact is that it has been done and we did it. We did it in a way that removed some of the most difficult and contentious issues, after a difficult and intense negotiation into the arena of compromise.

A compromise, of course, is the glue of the political process, but in order to get compromises your way, Members have to give them the other way. For years, if any Member mentioned "Clean Air Act," we instantly thought about air toxins. We have a tough air toxic provision, and to my colleagues from the Great Lakes, let me point out to those Members that the gentleman from Minnesota [Mr. SIKORSKI] and I and others have drafted a Great Lakes air toxic provision. We included the Chesapeake Bay area because of its peculiar circumstance. This provision will give Members the tools we need in this next decade to address the single largest source of air toxics making their way into our watershed.

For years, if Members said "the Clean Air Act," they talked about acid rain. Gosh, I never would have bet that I would have found myself in a committee supporting a compromise on dealing with acid rain, drafted by my colleague, the gentleman from Indiana [Mr. SHARP], with the aggessive support of virtually every other regional interest in our committee. We struck an appropriate balance that preserves the environmental integrity of the program while reflecting the pecular economic circumstances of our region.

For years, if Members said "The Clean Air Act," it meant we had to talk about tailpipe emissions. If any Member had ever told me that a John Henry agreement could be struck on tailpipe emissions, I would have said the heavens would have had to part the skies, the Earth would have rolled, the clouds would have rumbled. However, in fact, they did. In merging that agreement to deal with tailpipe emissions, we held the environmentalists to their standard, and the auto companies to their word. To ensure that the sources of mobile air pollution really are responsibly and reasonably addressed was no easy task. In fact, the administration and the environmentalists and those Members of Congress representing significant industrial production of American automobiles, realized that the Clean Air Act had to include mobile source controls as part of that solution.

For years, when we said "The Clean Air Act," we talked about what initially promoted the act, and that is urban smog. The provisions of urban smog and pollution control were contained in title I. That was perhaps the most difficult provision to start the debate, because, frankly, it had been the most contentious for the longest period of time. Debated at first in the early 1970's, legislated first in the late 1970's, it has escaped the ability to find the compromise that is essential to moving a piece of legislation forward.

Mr. Bush, our President, broke a little bit of that deadlock when he submitted a bill. To his credit, the Congress is responding to this Presidential initiative. To break the legislative logjam, a group of Members on the Democratic side who became affectionately known as "the Group of 9," or "G-9," decided to try to bridge the differences between the competing Democratic interests in our Caucus, and fashioned a compromise that became the basis of the title I provisions. It is a significant effort and a major step forward. We redefine and create special ozone classifications and deadlines—marginal, moderate, severe, serious, and extreme—so that each peculiar community can tailor-make the provisions to the peculiar nature of their problems. A graduated system of pollution control programs is put in place with the maximum achievable technology to back it up. We require a larger control of more substances, and we reduce the levels that they need to be reduced to. We put milestones in place, because as we discovered from the law that had been in effect for so many years, we found that in a conclusion of a particular period of time, a particular community still had not met the deadlines. Everybody wanted to know why, and what was next.

Now a system of 3-year milestones will be established to ensure that the areas achieve reasonable progress toward their ultimate goal, and we do not find ourselves in main deficit at the end. We have important sanctions in place as well. Not easily agreed to, because after all, a law without any teeth is probably worse than no law at all, because it creates the pretense of protection where none would, in fact, exist. However, the sanctions are meaningful, they are tough, but they are fair.

Mr. Chairman, we have had a lot of studies. Oh, I suppose we could study more. We have had lots of talks. Over the next few days we will talk even more. But the fact of the matter is, we have had enough delay and enough excuses when it comes to improving America's air. Also, like another TV commercial, "We can pay for it now or we can pay for it later."

There is not a district in which each Member is elected that is not going to be required to pay a price for the passage of this bill. We all want clean air, but it is a little bit like all Members wanting to go to heaven, but not wanting to die to have to get there. Yes; our constituents will pay some for clean air. But they will pay dearly more with unabated pollution, depriving children of greater lives, elderly of more fruitful lives, and all people of better lives, because when we had a chance to make a difference we chose not to. Today this Congress, this committee, brings to Members a bill that does make a difference, a bill that will be able to tell all of our children that we had a chance, we worked hard to improve the quality of life and the quality of air for themselves and for future generations as well. I appreciate my colleagues' support of this bill.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Utah [Mr. NIELSON], a member of both the Subcommittee on Health and the Environment and the Subcommittee on Energy and Power.

Mr. NIELSON of Utah. Mr. Chairman, I rise today to support H.R. 3030, the Clean Air Act Amendments of 1989.

This bill received a 42-to-1 vote in committee, and as been mentioned many times today, is the result of much compromise.

My first introduction to the clean air bill was not as the gentleman from Ohio [Mr. ECKART] first described on the toxic area, but rather the acid rain part. I felt particularly interested in

that area because I felt the 1977 act discriminated against the clean coal States, which I represent, by requiring a same percentage reduction even when they have very little sulfur dioxide, as when they had a lot of sulfur dioxide. In fact, our coal was cleaner before scrubbing than the coal in the Midwest. I think that is totally unfair to have the same percentage reduction. I opposed the first bill which came up which was basically a half mil a kilowatt cost on every subscriber throughout the country with electrical facilities, whether hydro, nuclear, or coal-fired. I preferred, instead, the approach by our colleagues at that time, Mr. Cheney, and the gentleman from Arizona [Mr. UDALL], which was basically polluter pay, but let them pay in the cost-effective way.

This bill we have today has preserved the polluter pay principle by and large. It has given them some ways to do it, and some incentives and other things to soften the blow, but it is definitely polluter pay, which I think is important. While it does not go quite as far as I would like to see it in terms of being fair to the States which already made much of the sacrifice, I still can support the bill.

□ 1510

The Clean Air Act of 1970 proposed regulations on the existence of a new source in order to decrease air pollution. It established a national ambient air quality and ordered States to design plans to achieve it. The act also sets up performance-based standards for new sources.

As my colleague, the gentleman from Colorado, said, the West has done more than its share in this area. My own State went with wet scrubbers rather than dry, and we have cut our pollution way down. The sulfur dioxide emission from our goal-fired electric plant is the lowest in the Nation by a factor of 2 or 3 over any other States, and we are very proud of that.

At any rate, in 1977, the percentage reduction was something that did give us concern, but there were other attempts to amend the act ever since that time. The 1985 attempt was to let the Governor decide politically how to handle the problem, and that had some concerns as well as the various regulatory agencies.

So now we have this bill, and I think we should give credit for its due to the committee which worked very hard. Members of the committee who should be commended include the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], and the gentleman from California [Mr. WAXMAN], who have been mentioned, but there are many others who played a significant role on this bill, and we should have to name about 40 Members, in fact, most of the committee, in order to give proper credit. Most all of the Members have offered amendments and participated very well in this work. I think a lot of credit, however, should go to President Bush. Had President Bush not presented the bill, this H.R. 3030, had he not received 160 cosponsors through the efforts of the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], and others, we would never have gotten this bill off the ground. It would have had the same fate as previous bills.

Great compromises have been struck. While I do not agree with everything in the bill, I still feel that the NAPAP study which is coming next year should be looked at. I think we are overestimating the amount of sulfur dioxide we have, and I think we should take a look at that. I have an amendment that covers that particular aspect of it.

I do not think we have covered the PM-10 program quite as adequately as we should. We have some double counting, and we have some double penalties in various parts of the bill that need to be straightened out. We have an amendment that we think will take care of that problem.

While I believe that there are some other aspects of the bill such as having visibility over parks, I have been able to work with the gentleman from Oregon [Mr. WYDEN], the gentleman from Colorado [Mr. SCHAEFER], the gentleman from Virginia [Mr. BLILEY], and the gentleman from Oklahoma [Mr. SYNAR] on this issue. I think we have come up with a compromise we can all live with.

Let me suggest that the unsuccessful attempts of the last decade were probably necessary to get us in the frame of mind where we could do something. This is a very costly bill. Everyone will have to pay, as has been mentioned. The Committee on Energy and Commerce has met over many hours, not only in this session but in previous sessions, debating the legislation in order to bring the bill before the House. I would like to suggest that had there not been a spirit of compromise, we would not have the bill before us on the floor. We all feel that this is the year to do it. If we do not do it this year, it will never get done. And that may have been the case. If we had not had a commitment from all parties, from the most conservative to the most liberal, working together, we would not have a bill today.

I would like to thank all the Members for their efforts in this process, and I would also like to thank the staff that spent long hours to work out the details. We would often meet with the staff and say that this is what we want to do, and then we would go on to our other activities and make them work overnight and over the weekends to achieve our ends. I think they deserve a good bit of credit. I would single out on my staff Ruth McCormick and Jayneanne Rex for the work they have done, and I would commend others before them.

We have done well on unattainment, antitoxics, and acid rain. As I indicated, PM-10 is an issue.

I believe the provisions of this bill are greatly strengthened through committee action. We have met the President's five tests of balance and reasonableness. While I do have a few concerns that I have mentioned, overall I feel this is a good bill. It provides us with a program necessary to address the air pollution problems of this country and to achieve better air quality for the American people.

Mr. Chairman, I hope we can pass H.R. 3030 through the House this week and shortly return it to the Senate and also send it to the President for his signature.

Mr. SWIFT. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, Edmund Burke once said that all government, indeed every human benefit and enjoyment, every virtue and every prudent act is founded on compromise.

The legislation before us today is an example of such a compromise. As we have already heard, the Clean Air Amendments of 1990 is the product of months of agonizing negotiations and work by the Committee on Energy and Commerce. As is always the case with negotiations, neither side got all of what it wanted, but I believe the American people will get a good clean air bill this year that will make a giant and a historic step toward cleaning our Nation's air. The legislation before us is clearly the most important environmental legislation to be considered by this body in the last 5 or 6 years.

This legislation contains new tough auto emissions standards which are needed to reduce urban smog in our Nation's cities. Under this legislation—and I ask the Members to please keep this in mind—98 percent of carbon monoxide emissions, 98 percent of hydrocarbon emissions, and 90 percent of $NO_x$ emissions will be eliminated from new automobiles by the year 2000. Needless to say, this is a major achievement that we all take pride in.

With the passage of this legislation, we will regulate acid rain for the first time in our Nation's history. The acid rain section in this bill will bring about a 10 million-ton reduction in sulfur dioxide emissions and a 2½ million-ton reduction in $NO_x$ emissions by the year 2000. This is undoubtedly the toughest acid rain bill to come before this body, and certainly it is far tougher than most would have imagined just a year ago.

I am particularly pleased that those areas like my State of Kansas that have already spent hundreds of mil-

lions of dollars to reduce $SO_2$ emissions will not be penalized by some cost-sharing plan to help pay for the cleanup in other parts of the country where they have not cleaned up their $SO_2$ emissions.

Mr. Chairman, in the last 20 years only 8 air toxics have been regulated by the Environmental Protection Agency. Under this legislation, 191 air toxics will be subject to national achievable control technology by the year 2000. That is again tremendous progress.

Some may think this legislation does not go far enough in cleaning up our Nation's air. I am absolutely convinced that when my colleagues have a chance to carefully review this legislation, they will conclude, as I have, that this is a tough clean air act, one that will require American business and industry to make tremendous changes to come into compliance, and it will make a great step toward cleaning up our Nation's air. As we commence this important debate, I am hopeful we can resolve remaining differences on alternative fuels and accidental releases and mandate the production of clean air autos.

Mr. Chairman, outside experts have compared this bill with the President's bill and with the bill passed by the other body. They concluded in H.R. 3030 will do more to clean our Nation's air than the other proposals, and it will achieve this goal at a lower cost. This, as far as I am concerned, is the best compliment that anyone could pay this bill, and that is why we should pass H.R. 3030. The Committee on Energy and Commerce has worked as a congressional committee should work in handling this legislation. The members of the committee listened to their colleagues and attempted to respond in a thoughtful and responsible manner to the differences and to advance at all times our goal of cleaning our Nation's air in the most cost-efficient manner possible. That is why the vote out of committee was an overwhelming bipartisan vote of 42 to 1.

It was a pleasure to work with my colleagues on the committee and with the great staff on our committee and the individual Members who worked with us. Certainly the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN], and the gentleman from New York [Mr. LENT] and the gentleman from Illinois [Mr. MADIGAN] on the other side and the group of nine, including the gentleman from Louisiana [Mr. TAUZIN] and all the others who participated in this legislation, in preparing this legislation, should be recognized for their extraordinary efforts. Also the staffs, as has been noted already, expended countless hours to get to this point today, and they should be commended.

So, Mr. Chairman, I urge my colleagues' support for this legislation, and I hope as we debate this issue in the days ahead, we will keep in mind the need for us to maintain the delicate balance we worked so hard in the Committee on Energy and Commerce to achieve.

Mr. LENT. Mr. Chairman, I am pleased to yield 8 minutes to the gentleman from Florida [Mr. BILIRAKIS], a member of both the Subcommittee on Health and the Environment and the Subcommittee on Energy and Power.

Mr. BILIRAKIS. Mr. Chairman, today we are approaching a moment of decision. Following the discussion and debate today, this body will move to consider a broad revision and strengthening of the existing Clean Air Act.

We have therefore arrived at a moment of environmental action as opposed to environmental posturing. We have arrived at a moment where slogans no longer matter, but actual legislation will determine the quality of air in our cities and towns during the next decade and beyond.

During the floor proceedings this week, we will commit this Nation to a course of action which should help clear our skies of smog, particulates, acid rain and hazardous air pollutants. We will therefore renew not only our verbal commitment to clean air, but the legal framework to force a substantial and sustainable reduction in airborne threats to public health and safety.

Mr. Chairman, I cannot help but to note that words similar to mine have been spoken in this Chamber before. Indeed, the enactment of the original Clean Air Act brought with it excitement and expectations that later proved misplaced. While elements of the original law worked and worked well, the law did not bring about a comprehensive framework to address all air quality problems. The hopes and theories of the original law did not account for every contingency or the complexity of controlling many discrete sources of pollution.

One could easily be cynical again. Throughout the process of marking up and delivering a bill to the floor, we have repeatedly heard that certain measures within H.R. 3030 or various amendments to the legislation are inadequate to the task of protecting current and future generations from pollution.

This is part of the process of legislation, but I think this perspective can sometimes ignore the real world as much as the hopes of the founders of the Clean Air Act were not borne out in regulatory practice. What we sometimes overlook is that the bill before us builds on 2 decades of experience, nearly 20 years of promulgating and enforcing clean air regulations.

As opposed to either the original act or the 1977 amendments we have a better legislative perspective now on what works and what doesn't work. During our committee mark up, we were well aware of the mistakes of the past and sought to draft responsible and responsive legislation to avoid historical problems in enforcement of clean air regulations.

Standards in the bill are more tightly drawn; grants of discretionary authority explicitly tied to environmental goals. The bill not only controls acid rain, it attains and guarantees a 10-million-ton reduction in $SO_2$ through the allowance system.

The bill further requires maximum control technology for nearly 200 air toxics as opposed to the relative handful that have been regulated under existing law. Ozone attainment strategy is restructured and set on a new timeframe to clear smog from our cities and metropolitan areas.

In particular, I was pleased to be a part of subcommittee negotiations to arrive at new auto and light duty truck emission standards. In my home state of Florida, clogged highways and a tremendous influx of new residents has accentuated an underlying increase in vehicle miles traveled.

The operation of cars and trucks represents the most pervasive threat to general air quality in my State. The successful subcommittee negotiations I participated in with Representative TAUKE, ranking Republican LENT, and Chairman DINGELL and Subcommittee Chairman WAXMAN served to resolve this longstanding and very contentious issue. Indeed, I believe they helped guarantee our presence here today and helped promote the spirit of negotiation and compromise which aided our committee in proceeding with other titles and other clean air issues.

Additionally, although title V of the bill represented a most difficult and complicated issue, I believe we take a historic step in H.R. 3030 in controlling the precursors to acid rain. During the 99th Congress, I was an original cosponsor of H.R. 4567, acid rain legislation introduced by Subcommittee Chairman WAXMAN. I also negotiated amendments to the legislation and voted to report the bill from subcommittee—until last year the first time acid rain legislation had progressed from committee in Congress.

We were unsuccessful in this 1986 effort, but H.R. 3030 built upon our initiative and services to ensure a substantial reduction in utility $SO_2$ and $NO_x$ emissions. I think this is both a tribute to Chairman PHIL SHARP, to the consistent work of the health subcommittee and to the Bush administration which proposed the strictest acid rain legislation ever considered in Congress.

I must say that our committee was not successful in resolving all issues. Indeed, it may require floor action this week to settle the problem of air emissions from offshore oil and gas exploration and production. While such emissions represent largely a future threat to Florida—one we hopefully will not face—it makes little sense in my mind to distinguish between onshore and offshore facilities that may contribute to coastal air quality problems.

Due to jurisdictional requirements, an outer continental shelf amendment was not possible during our committee's consideration of H.R. 3030. I therefore intend to pursue this matter with my own amendment or to join forces with other members concerned with the issue. In either event, we cannot allow offshore activities to negate onshore gains in air quality.

Altogether, I believe our country and our citizens have benefitted from a maturation of environmental science and environmental law. Clean air legislation, as other environmental law, presents a unique blend of science and legal theory, of technological development and consideration of societal behavior, of incentives and penalties aimed at influencing compliance and of public health presented by pervasive environmental conditions. This is an immense challenge for legislative drafting and parliamentary consideration. I think H.R. 3030 as amended by committee and with further amendments on the floor will largely meet this challenge and meet our responsibilities to our citizens.

The bill before us is not perfect. Indeed, any complicated and controversial legislation avoids elevation to the beatific ideal. But we should recognize this imperfection for what it is and no more—a product of the legislative process and the endless hours of negotiations which led to floor action this week. Imperfection is, in many ways, the price of legislative success. Many perfect bills die in committee at the end of each Congress.

This is not to say that further progress cannot be made through amendments this week or within the likely House/Senate conference. It is merely to note that a legislative journey of this magnitude is subject to more than a few difficulties.

I cosponsored and voted for H.R. 3030 in the Health Subcommittee and in the full Energy and Commerce Committee. Barring currently unforeseen and destructive amendments, I intend to support approval of the bill in the full House later this legislative week.

In doing so, I will make no formal predictions other than to say that I believe the air we and our children breathe will improve considerably under this legislation and that the annual cost of well over $20 billion will be fully justified on the basis of our collective well-being.

I was not in Congress when either the original clean air law or the 1977 amendments were approved. But we necessarily build on the foundation of what went on before our service in this body and the legislation today will help to improve and preserve a structure of environmental protection and conservation. I urge my House colleagues to move with all due speed and to let the legislative process in the House take the next step in approving a new clean air bill for the rest of the decade and into the next century.

□ 1520

Mr. SWIFT. Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this is monumentally important legislation. The law was last amended in 1977, and, while progress has been made in resolving some air quality problems, others have proved intractable.

In fact, Mr. Chairman, levels of certain pollutants have actually increased in some areas over the past two decades. New problems, not anticipated in the original legislation, have emerged.

According to EPA, 121 million Americans live in areas where pollutant levels currently exceed at least one of the health based quality standards established under the Clean Air Act. Air pollutants cause a variety of adverse health and environmental impacts, and among these are respiratory problems, cancer, birth defects and other diseases in humans; damage to vegetation, which can reduce farm and forest productivitiy, and declines in fish and wildlife populations.

Mr. Chairman, over the last decade Congress has worked to develop amendments to the Clean Air Act that would resolve outstanding problems such as controlling the ozone smog in urban areas and emissions of toxic chemicals from industrial plants and other facilities and address also relatively new ones such as acid rain.

The process was expedited somewhat in 1988 when President Bush submitted proposals saying that we must have clean air legislation, something the Reagan administration had never done. In fact, it said that we only need more research on what is causing monumental neglect to our entire stratosphere.

During deliberations in the Committee on Energy and Commerce, a lot of my colleagues recounted that bipartisan compromises have been reached on many key elements of the bill including revised schedules and mechanisms for achieving Federal air quality standards in polluted areas, tougher tailpipe emission standards for motor vehicles and a new system of technology based control on emission of hazardous pollutants.

Mr. Chairman, although several issues remain controversial, it does appear that we have a good clean air bill. Clean States have gotten a fair break. Polluting States have gotten a fair break. "Polluter pays" is the concept of this bill.

Mr. Chairman, I think a lot of people have talked about all the Members that have worked on this legislation, and I will do so at the end of my statement.

□ 1530

Mr. Chairman, I wish to raise three issues that I have been involved with in the clean air debate, two of which will be offered as amendments in the next few days.

First of all, on acid rain, the bill also contains several amendments that I offered during committee markup with respect to independent power producers. The next 10 years will be an important transition period for the Nation's clean air and energy supply goals. Old powerplants are going to have to be replaced by new clean facilities. Independents have proved to be a clean, reliable source of electricity, accounting for about 4 percent of the Nation's electric supply, with a potential to provide a far greater share.

The bill ensures a competitive market for these independent power producers.

Mr. Chairman, I also wish to take the opportunity to ask my colleagues' support for an amendment that I will be offering with the gentleman from Illinois [Mr. MADIGAN] on reformulated gasoline. Thankfully, there has been a bipartisan compromise in the committee struck so that a lot of the contention hopefully will be reduced. Nonetheless, it will be a provision that will be opposed by some.

There has been a very nasty public relations campaign against this amendment, ranging anywhere from $2 to $21 million, mainly by the American Petroleum Institute, using in many cases statements that were not true, using exaggerations about what this amendment does.

Mr. Chairman, I will now explain what this amendment does.

First Richardson-Madigan will require the use of reformulated gasoline in the nine worst ozone nonattainment cities. Other cities may opt in as the program gets under way.

More importantly, gasoline sold in these cities will contain 15 percent less ozone forming compounds and toxic air pollutants respectively.

Additionally, all 44 carbon monoxide nonattainment cities will be required to sell gasoline containing a minimum oxygen content level of 2.7 percent to reduce carbon monoxide to healthy levels.

Among others, our amendments addressed two of the major concerns expressed by the oil industry, yet they persist in opposing this amendment. These include the charge that the amendment mandates a recipe for reformulated gasoline and that the amendment will increase nitrogen oxide emissions.

On the first point, our amendment establishes minimum standards to reduce ozone forming and toxic compounds. So long as equivalent or greater emissions reductions are achieved, oil companies are free to formulate their fuels any way they choose.

On the second point, our amendment specifically prohibits a fuel from being certified for sale if it results in increased ozone or nitrogen oxide emissions.

In short, this amendment has substantial environmental and health benefits by controlling ozone forming and carcinogenic air toxic compounds, trade and economic benefits by reducing dependence on foreign oil and it expands the domestic renewable fuels industry.

There have been 11,000 accidental releases of toxic chemicals in the United States between 1980 and 1987. As a result, more than 300 have died and more than 10,000 were injured.

The United States has had 17 different toxic accidents with potential effects greater than the Bhopal, India catastrophe.

The amendment that I will be offering with the gentleman from Texas [Mr. BRYANT], the gentleman from Kansas [Mr. SLATTERY], and the gentleman from Texas [Mr. BARTON], requires the EPA to establish a list of at least 100 accident hazardous chemicals.

Moreover, EPA would be required to promulgate rules establishing risk management plans to detect or minimize accidental releases.

Mr. Chairman, this is monumentally important clean air legislation. Credit should go to the gentleman from Michigan [Mr. DINGELL], the gentleman from California [Mr. WAXMAN], the gentleman from New York [Mr. LENT], and many others.

But also, Mr. Chairman, it should go to those who labored in the vineyards for years. One of those is my colleague, the gentleman from Minnesota [Mr. SIKORSKI]. The noted radio humorist, Garrison Keillor, said that GERRY SIKORSKI's first words when he was born were, "Stop acid rain." The genetleman from Minnesota [Mr. SIKORSKI] will be doing this after this legislation passes.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. TAUKE], a member of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, who really has done an outstanding job. He has been a moderating force in bringing all sides together during the committee deliberations on the bill, and he deserves a great deal of credit.

Mr. TAUKE. Mr. Chairman, I thank the gentleman for those kind comments.

Mr Chairman, it is indeed a pleasure to be here today to have an opportunity to participate in the debate on the floor on the Clean Air Act. Some of us felt that we would spend a career getting to this point, and indeed some Members of the Congress have spent a career attempting to insure that we enact meaningful and worthwhile clean air legislation.

I want to join with all my colleagues in throwing kudos at the other members of the committee and myself, and also particularly commending the chairman of our committee, the gentleman from Michigan [Mr. DINGELL] for his strong leadership; the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN] for his leadership on the issue.

Mr. Chairman, while there has been a lot of discussion about the differences of viewpoint on the other side of the aisle and the heroic work that was done to bring people together on that side of the aisle, I think that it is important to note that we also had a very strong leader on the Republican side of the aisle, the gentleman from New York [Mr. LENT], because you see, there were some fairly deep divisions among the Republican members of the committee as well. Because of his strong leadership and because of his patience and because he is generally a good guy, he brought the Members together in the way that permitted us to move forward.

Mr. Chairman, there has been quite a bit of discussion about the cost of this legislation, some pointing out that it will be very costly to the consumers and to industry and to the workers of the Nation. There has been very little discussion, however, about the cost of not doing anything, and when push came to shove perhaps that was the motivating factor for many Members of Congress, that the cost of not acting on clean air legislation was actually greater than the cost of enacting a good clean air bill.

We know, for example, that the cost would be very high in the area of health. Just in terms of dollar cost, failure to act in clean air legislation would mean an additional $100 billion in health care costs over the next two decades. That would result from increased respiratory disease, increased cancer, increased lead poisoning of our people; but it is not just in the health care arena that the cost would be high. The cost would also be high economically.

A recent Federal study said that failure to deal with the problem of air pollution would result in an annual loss of 5 to 10 percent in our crops. That means a cost of $5 to $6 billion in annual crop losses if we fail to act to control pollution.

The cost of cleaning up acid rain would be $80 billion if we failed to do something about controlling the pollutants that cause acid rain.

I say these things only to put the cost of this legislation in perspective. Yes, there will be a cost that will have to be borne by our economy, all parts of our economy, but the cost of not acting would be even greater than the cost of taking action by passing this legislation.

Having said all these things about the clean air bill, I think it is also important to note that there is a lot of uncertainty about just what we are doing and just what the impact will be. We would all like to be here and say that we know precisely that the standard that we are setting in this legislation is correct and the methods we have used to achieve the goals established in this bill are proper, but we do not renew that. That is why this committee worked very hard to set reasonable goals for the cleanup of the air and provide as much flexibility as possible in attaining those goals.

I think that the leadership that was ultimately provided by all the members of the committee on this issue has moved us into a position where we have a bill which sets goals that we can all be proud of, that are attainable, but also will do an awful lot to clean up the air, while at the same time ensuring that there is enough flexibility in this legislation to make it workable.

Finally, I would like to observe, Mr. Chairman, that this legislation is enormously complex.

□ 1540

Because it is enormously complex, there are very few people sitting on this floor who understand what is in the bill, who understand how it will work. Our job will not end when this legislation passes this House and moves through a conference and heads down to the President's desk. At that point there will still be an awful lot of work to do to continue to monitor the implementation of this legislation, perhaps change it from time to time in order to make sure that it works well, and that we adapt it to the increased knowledge that we will gain as time goes by.

But while there is uncertainty and while there is a lot of complexity, this is a giant stride forward, and all of us from the President down to the lowliest Member in the House can take great pride in the fact that we have worked together to do something that will be good for the Nation.

Mr. WAXMAN. Mr. Chairman, I yield 7 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I want to thank the chairman of the Health Subcommittee and commend him for all the good work that he has been doing for this whole decade.

Mr. Chairman, millions of vulnerable Americans, kids and seniors and those with respiratory diseases, are being forced to breathe dirty air every single day. From coast to coast, unhealthy air is getting into the nooks and crannies of our Nation, and it is time to take strong action to stop these dangerous health practices.

This legislation is going to get our country moving in the right direction again, and I want to commend our colleagues on both sides of the aisle for all of their efforts.

I would like to touch on just a couple of the provisions that have not been discussed by other Members, because I think they are important. One such part deals with our small businesses. This legislation is going to regulate small businesses as never before under air pollution law. Many of our small businesses have never been exposed to the maze of air pollution control regulation and will now find themselves right in the center of these programs.

Our committee recognizes that it makes good environmental sense and good economic sense to try to assist these small businesses.

In the subcommittee we adopted an amendment I authored authorizing an information clearinghouse to help small businesses understand their obligations under the law. In addition, in the full committee, the gentleman from Viriginia [Mr. BOUCHER] and I authored legislation to create programs to help small businesses through the air permit labyrinth. These programs will allow permits to be tailored to the needs and limitations of small businesses without relaxing the environmental goals of the law. The result is both the environment and the economy will benefit.

I am also very pleased about the air toxic provisions in the legislation. One of the reasons we are here today is because EPA has literally dragged its feet for decades on regulating air toxics.

In my home State of Oregon in a recent year, industry released over 1 pound of carcinogens into the air for every single person in the State.

The bill as introduced would have assured regulation of only half the major industrial sources of these pollutants. I'm pleased that the committee has agreed to a version that will regulate all major sources.

At the same time, the legislation will give EPA the flexibility to put together a system that works. EPA will be able to tailor standards by categories and subcategories of industrial sources, requiring the maximum controls from each. It is a tribute to the efforts of the chairman, the gentleman from Michigan [Mr. DINGELL], and the other members of the committee, that the experts have said that, compared to the Senate's toxic bill, our provision will do more for the environment yet cost less in the long term.

The other provision that I would like to touch on, and it will be the subject of a specific amendment later in the week, is the question of wilderness protections, protection for our parks and spectacular national treasures. I am very pleased to report to the Members that this weekend a bipartisan group of Members, the gentleman from Virginia [Mr. BLILEY], the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Utah [Mr. NIELSON], the gentleman from Washington [Mr. SWIFT], the gentleman from Colorado [Mr. SCHAEFER], the gentleman from Indiana [Mr. SHARP], the gentleman from New York [Mr. LENT], the gentleman from California [Mr. WAXMAN], and the gentleman from Michigan [Mr. DINGELL], all worked very hard to come up with a compromise on this difficult and contentious issue, and with the help of the gentleman from Massachusetts [Mr. CONTE] and the gentleman from Minnesota [Mr. VENTO], we are going to be offering an amendment on the floor that will allow us to protect this Nation's sparkling jewels.

Our amendment, in brief, establishes a special Western park pollution program to address the twin problems of manmade haze and plume blight. For regional haze control, the amendment directs EPA to establish a regulatory program that will protect our Western parks. To deal with plume blight, EPA is directed to study large polluters that are located next to these parks and take appropriate action under existing law.

We update protection for newer parks, wilderness, and preserves. Parks created since the 1977 Clear Air Amendment would get the same class I protections as the older parks. New wildernesses, national monuments, and other preserves would be guaranteed to keep class II protection that they currently enjoy.

The legislation also gives the national park and wilderness managers greater input and influence in State and EPA decisions about whether to allow new polluters to locate near protected lands.

Mr. Chairman and colleagues, it is high time that we took these steps to protect our national parks.

Congress directed in 1977, that a full program of park protections be implemented and yet it is still not in place.

According to the National Park Service, in the Grand Canyon visibility impairment is likely to increase 400 percent on some days in the next few decades. At Glacier National Park in Montana, it could be upward of 500 percent. So it is very important that we go forward with these protections. As a result of the excellent bipartisan work over the weekend, we will be able to come to the floor with a bipartisan amendment to protect the parks and our other national treasures.

I particularly want to thank the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN], who has helped this Member so much; our chairman, the gentleman from Michigan [Mr. DINGELL], as well, has been extraordinarily patient in this effort. I think many of the Members know that Chairman DINGELL has passed more environmental legislation than any of us on either side of the aisle. I also want to thank my friend, the gentleman from New York [Mr. LENT], who over the years has also been exceptionally patient for this important parks issue.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I certainly appreciate my colleague, the gentleman from New York, yielding me this time.

I believe that I am the first noncommittee member to speak on H.R. 3030, and I do so to express my strong appreciation and support for the work that the committee has done.

I frankly feel somewhat obligated to demonstrate to the chairman, the gentleman from Michigan [Mr. DINGELL], and to my colleague, the gentleman from New York [Mr. LENT], exactly how I have become so involved in this issue when I do not work with them on their committee.

One thing I think the Members ought to know is that there is not a district in the country that is more affected by air pollution problems than my own. The San Bernardino Valley is surrounded by beautiful mountains, and for over 200 days a year, even though they are just a few miles away, one cannot even see those mountains because of the smog which moves by air currents from the west into our valleys. That air quality difficulty is a challenge that goes well beyond the question of whether one can see the mountains or not.

The impact upon people's health is very, very significant.

Beyond that, Mr. Chairman, some years ago it was my privilege, while a member of the State legislature, to serve as the chairman of a select committee dealing with air quality. In those days I had the chance to play a role in creating a major regional air quality management district that regulates most of southern California, a district that in many ways, has led the

country in terms of implementing policies designed to control the emissions of a stationary sources of urban smog.

I wanted to rise to express my deep appreciation and congratulations to both the chairman, the gentleman from Michigan [Mr. DINGELL], as well as to the gentleman from New York [Mr. LENT], for the work that they have done. The bill that is before us is a tough bill. Indeed, they have laid the foundation, I think, for the renewal of the Clean Air Act in a way that significantly refreshes our fight to clean the air.

Mr. Chairman, I would further like to express my appreciation for my colleague, the gentleman from California [Mr. WAXMAN], with whom I joined very early in this effort to renew the Clean Air Act. It is also appropriate to express appreciation to the administration for their effort and for the legislation they sent to the Hill earlier. I must say it was a much tougher piece of legislation than many of us ever expected to see at the beginning stages. It served as a very excellent foundation.

The value of a very tough Clean Air Act should not be underestimated.

□ 1550

I think we should understand from the beginning point that the auto and oil industries do not see their bottom line, their profit margin, as a means of cleaning the air. Therefore pressure often is necessary, and I congratulate those who have been responsive to these very important pressures.

I would like to close by making a brief comment about costs. There has been a lot of discussion of the cost of this package, the cost of implementing tough regulations, for example. Those costs are difficult to measure at best.

Having said that, if I failed to mention that there also is a cost factor involved in cleaning our air. That is the significant reduction in costs for health care products that will not develop for those children not impacted by poor future air quality. Indeed, our goal here is to renew the Clean Air Act in a fashion that will help all of our country. We must make certain that over the years ahead our air is improved and better for all of us in terms of our health.

Mr. WAXMAN. Mr. Chairman, I yield 6 minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Chairman, this Clean Air Act is without a doubt one of the most complicated and far-reaching pieces of legislation Congress has ever attempted to enact.

As the chairman said earlier and others have repeated, it will impact every sector of our society and economy and its cost will be significant.

Very few can speak to every specific of this comprehensive compromise, but I would like to speak to several principles which were of concern to me and why, while I worked with my colleagues to reach agreement on a bill we could all support, yet still be true to our legitimate regional and philosophical differences.

First, I am a mortal man who must live on this earth as all of us must. My children and their children will have to live here. The environment must be protected if we are to survive. In that regard it is essential then that we all view ourselves as environmentalists and act responsibly in that role. That directive is what brought us to the table and was the guiding principle in our achieving our goals. I do not believe any of my colleagues came to these discussions as an antienvironmental type person. I certainly did not. But we all came with different ideas how best to achieve our goals.

Second, I am a medical doctor who took an oath to protect human health and cure illness when prevention was unsuccessful. Over the course of the years, medicine has changed; first from being able to effect only the most primitive of treatments or relief from pain to increasingly miraculous interventions, rehabilitations and cures to the final step of preventing the illness in the first place. This bill is, in my belief, the ultimate prevention technology. Costly but with benefits to be reaped well into the next century. Our progress in the clean air legislation will mean that we are no longer treating the symptoms, but we are working to prevent the disease, hazardous pollution and emissions.

Third, but no less important to my constituents back home, I was sent here to protect the interests of the citizens of Georgia on a more parochial level. Some would suggest that might be selfish and without place. However, that is why Representatives are elected in the first place. I would say what is good for my State is good for the country as a whole. There are many different ways to skin the proverbial cat, and I wanted to make sure my State lost as little blood in the process as possible. While the folks that I represent back home will be picking up a hefty tab, as will all the rest of our neighbors in the Southwest and the country, we have written provisions into this bill which acknowledge our right to grow as a State and improve our standard of living along the way.

Growth is an important aspect of our Nation's future. This is recognized in several passages of the bill which provide growth allowances for those who supply energy resources necessary for such growth. This is of paramount importance as no nation throughout history has been able to enjoy economic security without secure and plentiful energy supplies. The citizens of Georgia look forward to unprecedented economic growth, growth reflected in the currently higher than average demand for electricity.

Therefore, the compromises for growth contained in the bill are very important to me. But like any good Member of Congress and responsible representative of the people, I look forward to working with the other body to strengthening these provisions where possible.

For the time, however, this bill is an excellent product of our efforts to represent the Nation as a whole and her citizens individually.

Mr. Chairman, I want to congratulate the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], the chairman of the Subcommittee on Health and Environment, the gentleman from California [Mr. WAXMAN], the ranking members of both the subcommittee and the full committee for the compromise and hard work that they have done. I think it is a job that is really to be recognized as well done, and I am glad to have been part of that process.

Mr: LENT. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. MOORHEAD], the ranking member of the Subcommittee on Energy and Power.

Mr. MOORHEAD. Mr. Chairman, I rise today to speak in support of H.R. 3030, the Clean Air Act Amendments of 1990, and to commend the leadership of our committee—Chairman DINGELL, ranking minority member LENT, and Health and Environment Subcommittee Chairman WAXMAN—for their extraordinary efforts at moving clean air legislation through our committee and to the floor. The most notable accomplishments of this leadership and our committee has been the negotiated resolution of many difficult clean air issues. The committee crafted consensus solutions to the problems of urban smog, air toxics, acid rain, permits, enforcements, and visibility. This was a time-consuming and difficult process and I think all Members of the House, indeed the country, should be grateful to the committee's commitment to this process. And, of course, I would be remiss if I did not note that the Nation is in debt to President Bush for breaking a decade-long logjam by proposing comprehensive revisions to the Clean Air Act last June.

Mr. Chairman, I want to turn now to a description to two amendments I hope to offer on the floor. The first, the Cooper-Moorhead amendment, is a simple, but important amendment that will give scientists a critical tool to use to measure the impact of the most serious potential problem facing our planet. Global warming.

In many ways, the Clean Air Act Amendments of 1990 will go a long way to improve air quality in our Nation's cities, curtail acid rain, reduce pollution from the cars we drive, and limit toxic emissions from industrial plants. But, despite these improvements on a domestic level, we must still consider the effects our emissions may have on the global climate.

Scientists have disagreed about the scope and magnitude of global climate change from manmade air pollution, and much of that disagreement stems from lack of necessary data to assess the impact these emissions may have on the Earth's climate. The Cooper-Moorhead amendment helps fill this information gap.

The Cooper-Moorhead amendment will require U.S. utilities to monitor their emissions of carbon dioxide, which many scientists believe to be one of the major contributors to global warming.

Although many scientists estimate that utility emissions account for roughly one third of our Nation's contribution to global carbon dioxide emissions, EPA does not collect data on these emissions and the current Clean Air Act does not require these emissions to be monitored.

Whether manmade carbon dioxide emissions actually increase the Earth's temperature will continue to be a hotly contested issue, but we can hardly expect to make responsible decisions about controlling these emissions if we fail to take the necessary steps to improve our understanding of the magnitude and rate of increase in these emissions.

The Cooper-Moorhead amendment will also give us a head start if and when we need to take steps to reduce our carbon dioxide emissions. By establishing an early baseline of carbon dioxide emissions for our domestic utility companies, we will put the United States in a position to take credit for its efforts to control emissions.

Cooper-Moorhead is a cost-effective, responsible approach to a problem of growing concern. Mr. COOPER and I have worked together to develop this amendment and, we both believe it is a responsible and measured next step to address global climate change concerns. This amendment has received the endorsement of several utilities and the national clean air coalition.

My second amendment concerns the nonroad engine and nonroad vehicle preemption adopted by the committee. H.R. 3030 as reported from the Committee on Energy and Commerce would revoke State and local authority to regulate emissions from nonroad vehicles and nonroad engines. The bill would prohibit State or local controls on new engines used in off-road vehicles, such as ships and other marine vessels, trains, and construction and utility equipment. EPA would be given discretion—but not be required—to control these sources. If enacted into law, this nonroad engine preemption would:

First, it would prohibit State or local control of sources in California with ozone forming emissions equal to 275,000 tons per year. These emissions are equivalent to those emitted from 75 large oil refineries or 9 million vehicles with the emissions of today's automobile fleet. By the year 2010, emissions from preempted sources are projected to grow to 380,000 tons per year, fully 14 percent of the State's inventory.

Second, it would void California law which requires adoption of State or local controls for these sources by the end of 1992.

Third, it would prevent California from meeting commitments in the adopted State implementation plan. Measures that are expected to reduce ozone-causing emissions by 143 tons per day—10 percent of tier I and II reductions in the plan—would be voided.

Fourth, the bill would force California to rely on EPA regulation of these sources to the level the EPA Administrator "deems appropriate" based upon national considerations of cost, noise, safety, and energy factor, not on what California needs.

Unless the EPA uses its discretionary authority to regulate these sources in a timely and stringent manner, the preemption would make it impossible for Los Angeles to demonstrate attainment of the ozone standard within the 20 years provided by the bill and subject the region to sanctions; and greatly increase the time needed to attain standards in other areas of California, potentially triggering sanctions and requiring additional costly controls on other sources still subject to State and local jurisdiction.

Mr. Chairman, I have asked the Rules Committee to make in order an amendment to delete this Federal preemption, at least as it relates to California. I hope the committee will grant my request to protect the air in California.

I urge my colleagues to support the Cooper-Moorhead amendment and my amendment to delete the nonroad engine and nonroad vehicle preemption, now contained in the bill.

□ 1600

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 6 minutes to the gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, first I think for all of the people who have worked so long on this particular piece of legislation that thanks are due, particularly to the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], and the minority spokesman, the gentleman from New York [Mr. LENT]. Both of these gentlemen have spent an incredible amount of time on this legislation. Also thanks go to the gentleman from California [Mr. WAXMAN], chairman of the subcommittee, and the gentleman from Illinois [Mr. MADIGAN], the minority spokesman, as well as to the gentleman from Indiana [Mr. SHARP] and his colleagues on the Energy and Power Subcommittee.

Additionally, as has been said here already, the staff of the committees and the subcommittees should be mentioned because I think it ought to be recognized that without the strong work of the staffs of both sides of the aisle that this compromise position and proposal would not be on the floor. It took again 13 years from the last passage of major clean air legislation to make it back to the floor again.

I am happy that several members of the House Energy and Commerce Committee had, I believe, significant roles in bringing this bill to where it is today. First of all, the group of nine, nine moderate Democratic members of the committee that decided well over a year ago that this bill had to come to the floor, 13 years was long enough that this House had not addressed the issue of clean air, and that we ought to try to forge a compromise that would allow both sides to bring legislation to the floor. We worked very hard, but the issue was greater than the nine of us, and only in one title were we able to get a compromise, but in that area of tailpipe emissions we were able to strike a compromise, and much of the group of nine proposal is found in this proposal that will be on the floor to be voted on later this week.

Part of the work of that group of nine I think led to the major compromise between the gentleman from California [Mr. WAXMAN] and the gentleman from Michigan [Mr. DINGELL] on tailpipe emissions. We worked very hard that that logjam that had kept legislation from this floor for such a long time would finally be resolved not in the committee but before committee where we could sit down and reason with one another without the glare of cameras and without the problems of trying to go through all of the parliamentary procedural problems that are part of open committee hearings, and that we would in fact sit down and try to work out problems, and they were worked out to the point that an agreement not only was agreed to in committee, but on the floor of this House, and through conference committee, and I think all of us were very well served by the Waxman-Dingell compromise, particularly on tailpipes.

This is needed legislation. We need to spend more time in protection of the environment. But also I think the

committee took good heed of the problems of economic cost and the consideration of those economic costs.

We are already spending as Americans over $30 billion a year on costs of cleaning up the environment. This bill will add an additional $21.9 billion in additional costs. We need to be careful about how we make those costs and spread those costs not only among industry but across areas of the United States.

I had as a watch word the fact that we could pass environmental legislation through this body without doing economic damage to one particular area of the United States. It takes very hard work to find just the right mix, and I think that is what we did basically in this Energy and Commerce compromise.

There is one area where, I think, we could have done better, and that is in the area of acid rain. The acid rain agreement I think helps. It goes a lot further than the Senate provision, but still, thousands of coal miners will be unnecessarily put out of work, and the economy of the central part of this country, I think, will be severely damaged.

We face severe burdens under the acid rain legislation. It is tough. But my concern is it may not be fair to the Midwest. We will continue to work to see that this proposal, as the acid precipitation assessment study is completed, we will work with Members of this body and the other body to see if the provisions within the acid rain portion of this legislation cannot be modified to be of more assistance to the Midwest.

We have reached agreement just this weekend on reformulated gasoline. I think that that is good for the environment, and again for the domestic economy. It will help us sell a great deal more ethanol in urban carbon monoxide non-attainment areas, and it should increase the use of ETEB in ozone areas.

The bill is overall tough, but fair. In autos, in CFCs, in consumer solvents and a whole range of items touching every American the legislation has certainly tried to be tough but fair. In a bill of this size, it is possible that not everything will work the way it is planned. This Congress has waited 13 years to address the question of clean air. We should not wait another 13 years to pass the next round of amendments. A steady progress is better for the economy and better for the environment, and I hope that this body will revisit this issue as recently as next year to find the problem that we have solved and also the problem that we have created for certain parts of our economy and address those problems next year.

But this is a tremendous accomplishment for the committee and for this body to have passed and considered clean air legislation. This is a good package and I hope it receives the support of the entire House.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LAGOMARSINO].

□ 1610

Mr. LAGOMARSINO. Mr Chairman, I thank the gentleman for yielding time to me.

Mr Chairman, the day is finally here! It has been 13 years—long overdue—As a Member of Congress who has highly anticipated this day and who has worked hard for passage of a clean air bill, I rise in strong support of H.R. 3030, and urge my colleagues to vote for this very important piece of legislation.

I want to commend Chairman DINGELL, Vice-Chairman LENT, Congressmen MADIGAN and MOORHEAD, Congressman WAXMAN, the members of the energy and commerce committee, and my California colleague JERRY LEWIS, for working so hard to bring this legislation to the floor and congratulate them on a job well done. I also commend President Bush for proposing H.R. 3030, giving this issue the boost needed to break past deadlocks, and making this day possible.

The district I represent has one of the most serious ozone problems in the country and, like many areas, also suffers from other air pollution problems. I have received literally hundreds of letters in support of a strong clean air bill and I am pleased that the House of Representatives is finally responding to the overwhelming call for action.

I have worked for passage of a clean air bill for a number of years. During the 100th Congress, I cosigned the Vento/Green letter and was presented a clean air champion medal by the Sierra Club for that effort to bring a clean air act to the House floor in the final days of the Congress.

During this Congress, I cosponsored H.R. 2323, the Clean Air Restoration Act and H.R. 1470, the Acid Deposition Control Act. I also joined a number of my colleagues in sending a letter to President Bush urging him to join the efforts to reauthorize and strengthen the Clean Air Act and supported H.R. 3030 when the legislation was first introduced. I have also worked hard to ensure consideration and passage of the Levine/Lagomarsino/Lowery clean coasts amendment, which will address a major pollution source facing many coastal areas.

The fact remains that over 150 million Americans now live in cities with pollution levels that experts consider unsafe. Through hard work and compromise the Energy and Commerce Committee was able to report a good bill which effectively addressed the major air pollution problems facing our Nation.

We have always known that it would not be cheap to clean up our air pollution problems. But, we also knew that the alternative of continued air pollution and the associated health problems were totally unacceptable.

The citizens of my district, as well as people across the Nation, have demanded the right to breathe clean air. Today we begin an important step toward giving them that right.

Mr Chairman, for my constituents, for their children, and for generations to come, I strongly support H.R. 3030, and urge every Member of the House to vote in favor of the bill.

Mr. WAXMAN. Mr Chairman, I am pleased to yield 5 minutes to the gentleman from Maryland [MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I want to salute the chairman of the Energy and Commerce Committee—Mr. JOHN DINGELL—for his excellent leadership during the full committee markup of H.R. 3030—as the newest member of the Energy and Commerce Committee, I was impressed by the level of commitment of each of the members to achieving the best possible bill. Even on potentially divisive and contentious issues, members strove to find common ground. It is a testament to the leadership abilities of Representatives DINGELL, WAXMAN, LENT, and SHARP that we have been able to break the impasse that stymied progress on clean air.

Our work is not over—we have an awesome responsibility in the days ahead as we proceed with floor action on H.R. 3030, the Clean Air Act Amendments of 1990. The greatest challenge before us is how to best reconcile the demands of economic growth with effective environmental protection. After long months of arduous debate and markup in the Energy and Commerce Committee, I believe we have crafted a bill that strikes the appropriate balance. The New York Times lauded the Energy and Commerce Committee for producing a bill that was more protective of the environment than the version of the other body, at a reduced cost. The smog provisions call for a stronger Federal role in forcing cleanup by States and municipalities. There are real teeth in this section—unlike previous versions of the Clean Air Act, these are meaningful sanctions that seek to compel cities toward compliance. Title I is a better plan than corresponding portions in the Senate version, as it tailors requirements for cities to the severity of their air quality problem. Cities and locales with more severe ambient air quality problems than their neighbors will have correspondingly longer periods of time in which to rectify their problem. To assist with the evaluation of their progress toward compliance, H.R. 3030 institutes a series of milestones—times by

which an area must report on their effort to gain compliance. Such measures will enable authorities to evaluate whether mandated State plans are adequate for the task at hand, or whether or not upgrade refinement is needed or whether, in fact, Federal preemption is needed.

Many agree that title III—covering air toxics—does a superb job of clamping down on sources of cancer-causing industrial emissions. As an improvement to the markup vehicle, a motion was made—and accepted—to enlarge the scope of control and regulation to include 100 percent of all categories of major sources of toxic chemicals. This is in keeping with Senate language on the same subject. Representative GERRY SIKORSKI and I were successful in committee in adding even more stringent requirements for air toxics sources adjacent to delicate estuaries, such as the Great Lakes and the Chesapeake Bay. Our amendment mandates a 2-year study to determine the bioaccumulative effects of airborne toxics, at the end of which time it is incumbent on the EPA to proceed with effective and meaningful control regulations for toxics sources. That is accomplished 1 year after the completion of the EPA study. To be sure, these mandates will go a long way toward ensuring better health for residents of these areas.

While the Energy and Commerce Committee endeavored to produce the finest possible bill, the need for refinements exists. As we speak, staff and members are trying to forge meaningful and workable compromises on outstanding issues.

I am pleased that an agreement was reached on reformulated gas, which will clearly improve our air quality but not impose undue costs. I look forward to a lively and informative debate on some of these remaining points of interest today during general debate.

Mr. LENT. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in support of H.R. 3030, legislation that has been painstakingly crafted over many, many years. I take some measure of pride in the final product, particularly as it relates to the subject of acid rain. I would like to think that I have made some contributions to that section for the good of America.

Mr. Chairman, the work that we are about here and now in this Chamber, the people's House, is of monumental significance, so much so that even the most articulate and eloquent among us will have difficulty overstating its value.

Simply put, we are taking a giant leap toward that day when once again clean air will be an American birthright.

We have been talking and studying for years. And now we are acting with determination, with resolve, with commitment.

For years and years we talked, and for years and years we studied, and it seemed always that every time a new study came out with what we thought was a definitive mandate to move, someone called for yet another study.

The studies went on and on and on.

Finally in frustration, the former Governor of New Jersey, Tom Kean, said:

> If all we do is continue to study the problem, we will end up with the best-documented environmental disaster in history.

What is the difference? What is different about these past 12 months as we compare them to the previous decade?

This time someone is providing the missing ingredient, and that missing ingredient, I submit to my colleagues, is leadership from the top. President George Bush advanced this program, sent it to Capitol Hill last summer. No way could we be here today, no way could we be discussing this important legislation had not we had that leadership from the top.

I know the great work done by the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], the vice chairman of the committee, the gentleman from New York [Mr. LENT], and certainly that most active of activists among us in the environmental causes, my colleague and good friend, the gentleman from California [Mr. WAXMAN].

The honor roll of those who have left their imprints on this legislation is long, but there is one person who made a difference, and let us never forget it; George Bush provided that missing ingredient, leadership from the top, and he has earned our thanks.

My story is like the story of some people here. When I first campaigned for office back in 1982, I decided I could not be all things to all people.

□ 1620

So I was going to try to focus on certain select issues where I thought maybe, just maybe I could make a difference. The environment was one of those issues.

Then I came to Washington all full of energy and said "Boy, we are going to do something about this environment." Every time I brought up the subject of acid rain I would get muffled yawns and disinterest. Finally, one day a senior colleague called me aside and said, "Now, lookit, the problem of acid rain—why don't you guys up in New York get together with the people in Ohio and work this problem out? It is just a regional problem." That is what he thought.

The scientific evidence is something else entirely different. Finally, one gentleman came forward, a surprise to many Members to really have a significant impact on the action of the U.S. Government on this subject—that individual is the Prime Minister of Canada, Brian Mulroney. I remember it so well. President Reagan went up to Quebec City to Shamrock Summit 1. It was on St. Patrick's Day. Just a few years ago, and I thought that he was well prepared, and he thought so, too. Certainly, everyone would want to discuss trade, because the trade barrier between our two nations is very important. Certainly, the subject of mutual defense would be very important. But lo and behold, the Prime Minister of Canada said, "No, Mr. President, the issue that is critical in terms of the relationship between our two nations is the subject of acid rain." From that day forward, a lot more attention was paid to this subject by some of my colleagues in here who in the past had greeted me with muffled yawns and disinterest when I talked about the need to do something.

Then, in 1985, after I looked over my first 3 years in office, I said to myself, "I have a lot of press releases but not much progress. Why not do something even more? I am not on a committee of jurisdiction, how can I have an impact?" Well, I went and talked to my friend, the gentleman from California [Mr. WAXMAN]. He had some good ideas. I talked to other activists in the group, and then I decided and it hit upon me that people said Republicans do not care about the environment. I said that simply is not true. Republicans are just as committed, just as determined, have just as much resolve as those in the environmental community. We formed a group and we called it "The working Group on Acid Rain." From that day forward, a dedicated band of Republicans—and the list is long—Ms. SNOWE of Maine, Ms. SCHNEIDER of Rhode Island, Mr. TAUKE of Iowa, Mr. SMITH of New Hampshire, Mr. GREEN of New York, and a whole list of committed environmental Republicans began working with our colleagues on the other side of the aisle and began working with the administration to convince all that we had to do something meaningful. The time for study was long since past. It was time for action.

Now we have that action here and now on, on this floor.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. Mr. Chairman, I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding. We will not be having a debate over the acid rain issue, because that is now agreed upon. However, when people look at that provision and want to know how it came into being, I want to pay tribute to the gentleman from New York for his leadership. Sometimes people

think only of the members of a committee as having an impact on policy, but the gentleman's persistence in demanding that we address the issue of acid rain is as responsible, and in fact, more responsible than almost any other Member in this House for making sure that that issue was not ignored.

I thank the gentleman publicly. This issue was never a partisan issue. Protecting the environment and the public health should not be partisan, and the gentleman's leadership has been a very important ingredient in the fact, today, we can stand here and acknowledge that this bill has an acid rain control program which is not controversial in the sense that it is clearly a consensus, has a consensus behind it for its adoption.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman from California for those very generous remarks. He points out something that is so important, that I want all Americans to pay attention to.

In this Congress, in this House of Representatives, the people's interest comes first. As so often is the case in point right now, a bipartisan coalition of people committed to the public good are able to develop something that is meaningful, that is significant, and will serve Americans well for generations to come. A lot of people in this House deserve credit. but I say once again, the missing ingredient was provided by the President of the United States, George Bush—leaderships from the top.

Mr. WAXMAN. Mr. Chairman, I yield 7 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, I thank the gentleman for yielding time to me. I would like to thank the gentleman from Michigan [Mr. DINGELL], the gentleman from California [Mr. WAXMAN], the gentleman from Indiana [Mr. SHARP], the gentleman from Illinois [Mr. BRUCE], the gentleman from Illinois [Mr. MADIGAN], and others on this committee who worked very hard to find compromise, especially in the title V portion of this bill.

Mr. Chairman, we are faced with a classic dilemma here: Is the glass half full or half empty? For a lot of working people in my area, the glass is not only half empty, it could be easily be kicked over. And economic ruin could spill throughout the communities of southern Illinois as a result of this bill. We are not alone. Other high-sulfur coal areas are in the very same predicament in about nine States of this country. Some jobs will be lost. We do not know how many. Right now, the predictions for my particular district are between 9,000 and 19,000 jobs being lost in the coal mines.

However, the bill does mean clean air for all Americans. Truly, it will improve our air quality. But in the fairest way possible? I do not think so. Coal-fired utilities create only half of the sulfur dioxide, and a third of the nitrogen oxides in this country. Yet we must accept the great majority of the cleanup burden. Ninety percent in the early phases, over 70 percent in the latter phases. Industrial sources kick in a pretty fair share of the emissions in this country, but escape almost untouched in this bill. We are treating a national priority as a regional problem, and it just is not so.

What is the difference between spending Federal money for disaster assistance, or after floods, or hurricane damage, and spending a little up front to help the coal mines and the utilities that burn their coal meet their natural challenges in this country? What is more, we have spent over $400 million on an acid rain study, yet surge toward legislation without bothering much to find out what the study has to say.

People in my district are not opposed to clean air, even the ones who are going to be standing in the unemployment lines—those 9,000 to 19,000—because of this bill. We are simply asking for fairness. If 9,000 or 19,000 people lose their jobs, what does that mean to the small businessman on Main Street who has to sell his shoes or his groceries to survive? What does it do to the truckers who haul the coal, to the electricians who service those mines? What does it do to the schools when the mines shut down, who depend upon the property tax base from the mines to support our children's education? All of these questions are yet to be answered, Mr. Chairman.

I am seeking assistance for two amendments being proposed for consideration in this debate. The first is an amendment from the gentleman from West Virginia [Mr. WISE], unemployment transition program. It is an excellent amendment providing for extension of unemployment benefits for those workers who are displaced by this bill. It also provides for retraining of those displaced workers to gain additional skills for finding jobs in other parts of the economy. Is it too much, Mr. Chairman, to ask for those miners of ours and others in related industries, who will be displaced by this bill, to receive an additional 6 months of unemployment insurance benefits? Is it too much, Mr. Chairman, to ask for those people who go down into the belly of the Earth, day after day, doing the job of producing energy for all Americans in this country? Is it too much for them who have thought that that coal would be there forever, for them to mine and put clothes on the backs of their children?

□ 1630

Is it too much for those who have thought that that coal would be there forever for them to mine and put clothes on the backs of their children, is it too much, Mr. Chairman, to ask for those people to be given retraining efforts when their jobs are lost as a result of this bill? I think not. That is the minimum amount of fairness we could accord to those workers.

Mr. Chairman, if we are going to require lower emissions for utilities without providing real cost-sharing, then we should help our communities and our regions assess the future for their businesses and customers, for their schools and their children.

In the second amendment, Mr. Chairman, I suggest that a university or universities in the high-sulfur coal areas combine their departments of economics, of coal research, and business to analyze the cost, the benefits, and the drawbacks of switching from high-sulfur coal to other fuels.

To meet the low emission standards, obviously one option for the utilities is to bring in low-sulfur coal, but when we factor in transportation, the need to burn more coal to get the same amount of power, and the huge numbers of job losses in the high-sulfur areas, it may be that sticking with the high-sulfur coal and applying the technology to clean it up is in the best long-run interests of our high-sulfur coal areas. At least the high-sulfur coal regions need to know what the long-range economic impact of this legislation is going to be.

Mr. Chairman, I urge my colleagues to consider these suggestions in a partnership for clean air and a sound energy policy based on abundant domestic resources, including high-sulfur coal.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise today in support of H.R. 3030, the Clean Air Act. My support is accompanied by praise, caution, and optimism.

The praise is for President Bush. He took the bull by the horns—introducing a bold and specific initiative to improve this country's air quality. Although the proposal is not perfect, it has provided a direction and a framework within which to work. And, perhaps more importantly, the proposal has broken the deadlock on clean air legislation that has existed for over a decade. Mr. Bush promised to be the environmental President, and he has delivered. Now it is time for us to be the environmental Congress. Let the "greenhouse effect" come to mean the positive effect this House had on the environment.

While the committees of Congress that have worked long and hard on this legislation also deserve praise, at the same time Congress needs to be cautioned. Unquestionably, now is the time to take action to protect our envi-

ronment. Our approach, however, must be fair, reasonable, and balanced. With the attention of our country justifiably focused on environmental issues, it would be easy, but irresponsible, to act with disregard for the attendant cost of the program and the possible deleterious effects on business and society as a whole.

For example, a law that would require Western States to subsidize the installation of scrubbers required by Midwest utilities to meet their emission limits is patently unfair. My State of Arizona and other Western States have already installed expensive sodium dioxide scrubbers and low-nitrous-oxide burners to comply with present and projected standards. Electricity rates in Arizona are already high due to these modifications. Electric consumers in Arizona have paid over $400 million for the scrubbers and another $80 million for the low-nitrous-oxide burners. Subsidizing of States not in compliance with emission standards at the expense of those States in compliance is not only unfair, it is a disincentive to compliance. Admittedly, this issue is not just a local, State, or even national issue—it is international in scope. Certainly, we must all do our part. But equity requires that States leading the way toward a cleaner environment not be penalized for their efforts.

This legislation must also be reasonable. It is not reasonable for one who fully satisfies the act's permitting requirements to be subject to a violation for the same circumstances; nor is it reasonable to criminalize inadvertent recordkeeping errors. After all, if we want people to respect the law, the law must be respectable.

This legislation must be balanced, too. A law that would establish permitting requirements so stringent that it severely inhibits the ability of American business to respond to market demands is out of balance; so, too, is any part of the law where the benefits do not outweigh its costs. Although the ultimate cost of the act are unknown, annual estimates run as high as $104 billion or as little as $14 billion. Fiscal responsibility is a must.

Let us aggressively pursue clean air, but this pursuit must be tempered by fairness, reasonableness, and balance.

Finally, on this day I am optimistic. The piece of legislation before us, although imperfect, provides an opportunity to pass a comprehensive and meaningful clean air bill.

The act establishes requirements for emissions control of mobile sources. These sources cause 50 percent of urban ozone pollution, 50 percent of nationwide toxic emissions, 90 percent of carbon monoxide pollution, and, as such, are the biggest offenders of clean air in the country. The bill establishes a much needed clean-fuel program for fleet vehicles to encourage the use of new power sources like electricity.

The act establishes a market-based allowance system for acid deposition control. This will reduce sodium dioxide emissions from utilities to 80 million tons a year by 2000, down 8.5 million tons from 1980 levels. Coupled with expected reductions from 1980 levels of 1.5 million tons from other nonutility sources, the bill should result in a net reduction of 10 million tons of sodium dioxide.

The bill also seeks to control nitrous oxide emissions. It requires EPA to set certain specified emission limitations for electric utility sources sufficient to reduce nitrous oxide emissions by 2.5 million tons below the administration's 1989 projections of the level of nitrous oxide emissions in the year 2000.

The bill establishes programs directed at controlling hazardous air pollutants and attains ambient air quality standards. I am pleased to be a part of these meaningful and responsible environmental reforms.

In the final analysis, the act achieves its goals by significantly addressing three major areas of the air quality problem: urban smog, acid rain control, and toxic air pollutant regulation.

Here is an opportunity for Congress to toughen air pollution laws for the first time in 13 years. This chance must not be squandered—for next time may be too late. It has been said that the environment belongs to all of us. I believe, however, that the environment belongs to none of us; it is a gift from nature's library—to be borrowed and enjoyed and then returned to the shelf for the next generation.

Mr. WAXMAN. Mr. Chairman, it is my pleasure at this time to yield 5 minutes to the gentlewoman from Illinois [Mrs. COLLINS], an important member of our committee and our subcommittee and a real environmental champion.

Mrs. COLLINS. Mr. Chairman, while driving in the rain down Eisenhower Highway in Chicago recently, I noticed a dirty film on my windshield. I tried to remove it with the windshield wipers, but the film streaked. Initially I thought my windshield wiper blades were worn, but after applying the window washer solution several times, the windows became spotless and I realized, I experienced once again just how much damage polluted air is doing to our lungs and to our overall environment.

The reckless dumping of dirty, deadly chemicals and emissions into our atmosphere is injurious to both public health and the environment in which we live. It is such a common occurrence that environmental protection has become one of the most important issues of this generation.

Clean air is neither a novelty item nor a luxury, rather, it is the foundation on which our entire survival is based. The massive pumping of carbon dioxide has drilled a hole in the ozone layer, a significant expansion of which has been known to cause health problems and death. Autos, trucks, and buses still account for 45 percent of the ozone problem. In 1980, ozone standards were exceeded on 28 days in Illinois; in 1988, they were exceeded on 32 days. The proliferation of air toxics is no better. In 1988, 46 million pounds of toxic chemicals were spewed into the air by Chicago-area industries, up from 38 million pounds the year before.

At the other end of the spectrum, the daily inhalation of pollutants, which have become commonplace, has drastically increased rates of cancer and other lung diseases in residents of Chicago and elsewhere. Of the 46 million pounds of toxics pumped into Chicago's air in 1988, 1.4 million pounds were cancer-causing carcinogens.

We must respond forcefully and with total commitment to recapturing our future put in jeopardy by careless indifference toward environmental and health concerns. And we must do so now, capitalizing on this week's opportunity for progress. Some industries have been protesting that proposals affecting automobiles and their fuels, electric utilities, and the use or production of toxics will cause them to change their way of doing business. Well, that's precisely the point. American business has been too often conducted with little or no regard for environmental concerns.

I am fully confident, however, that the ingenious, creative American entrepreneurial spirit will have no trouble developing and adjusting the new standards set forth in this legislation. I have already seen many examples of environmentally sound methods of profitable production and am aware that many others exist. Most importantly, atmospherically safe production and manufacturing alternative are staggering.

Motor vehicles provide an excellent example. They are the main contributors to Chicago's air quality malaise. American manufacturers have already developed many methods of better controlling the emissions from auto, trucks, and buses. Yet, those methods have been left in the labs rather than built into the vehicles. H.R. 3030 would bring these technologies to the fore.

I want our automakers to experience continued growth in the United States and abroad in the 1990's and the next century. But they won't succeed by saving $50 or $100 at the cost of environmental irresponsibility. As consumers increasingly demand vehicles with the lowest possible emissions, they will

turn to whichever manufacturer best satisfies that need. To remain competitive, our auto manufacturers must make a serious commitment to producing vehicles that are economically and environmentally viable.

Consequently, not only do I support the bipartisan agreement on tailpipe emissions that we agreed to last year in the Energy and Commerce Subcommittee on Health and the Environment, but also all other efforts to rely on cleaner vehicles. Among the initiatives, that I will be supporting on the floor this week are the broadest and strongest possible provisions on alternative fuels, superclean fleet and other vehicles, and reformulated gasoline. I am optimistic that a combination of solutions will lead to a profound improvement in air quality, both in Chicago and nationwide.

Chicago's air pollution problems unfortunately do not end there. Acid rain is endemic to the Midwest and other areas, and Chicago is not exempt. It takes a daily toll in vital ways. It contaminates and limits the growth of crops, weakens our trees, poisons our waters, kills our fish, and even fizzles away the paint on our cars. I am convinced that the Energy and Commerce Committee's work on title V of the bill, on acid rain, will drastically reduce this problem. I am proud to have contributed language to that title that will safeguard poor Americans against the leap in electricity costs that are expected to result from title V.

The bottom line is that our Nation's utilities and production facilities must reach beyond coal, oil, and fossil fuels. The focus must shift instead toward conservation and renewables such as hydropower, solar thermal, photovoltaics, geothermal, and wind. These clean sources of energy, available in virtually limitless supply, are the way of the future. Although applications of these sources were initially developed in the United States in the past decade, Japan and other countries have taken the lead in their development. I would hate to see another American industry take a loss in competitiveness by resisting this inevitable trend of the future. Consequently, I am very pleased with the inclusion in title V of a provision which I helped develop to encourage utilities to reach their air quality goals through greater use of renewable energies and conservation. It allows a small pool of the sulfurdioxide allowance credits to be allocated to utilities that clean their emissions through the use of conservation and renewable energies during the first years after passage of this bill.

There are other major ingredients in a balanced, comprehensive, and effective clean air bill which were not addressed in committee. The toxic emissions from stationery sources must be sharply curtailed. I plan to offer an amendment to ensure that existing sources adhere to a strong standard of maximum achievable control technology. We must also take a tough stand to prevent against accidental releases of toxics which can lead to catastrophe.

The rights of private citizens must also be protected. I have been working since last year on language with which to amend title VI, on enforcement. The objective is to ensure the rights of private citizens to take legal action to enforce the clean air laws, even when the authorities have chosen not to pursue violations. If we are taking action for strong clean air legislation, then we must also ensure that the resulting legislation is fully enforceable. Clear citizen suit provisions are the key to that.

Mr. Chairman, I am pleased that clean air legislation is rapidly moving forward. However, to complete the task, we must spend the next few days adopting amendments which toughen the bill. If our aim is to amend the Clean Air Act without any disruptions to standard business practice, then we fail. We must aim instead toward making our Nation competitive in the long run, while acting on the air quality imperatives of coming decades. The businesses worth bolstering are those which eargerly embrace the future, not those which fight against it. I look forward, Mr. Chairman, to a productive week toward the goal of solid, serious clean air legislation.

□ 1640

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I am happy to rise today in support of H.R. 3030, the Clean Air Act reauthorization. The Nation has waited too long for Congress to improve our air pollution laws, we must act now to protect and improve our air quality throughout the country.

I also rise in recognition of President Bush's central role in breaking the decade-long legislative logjam which has blocked consideration of the Clean Air Act. And I would like to commend the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, the gentleman from New York [Mr. LENT], the subcommittee chairman, the gentleman from California [Mr. WAXMAN], the gentleman from Illinois [Mr. MADIGAN], and the committee for its perseverence in grappling with and overcoming the seemingly irreconcilable regional differences over this issue.

In addition, let me add my words of praise to our colleague from New York, Representative BOEHLERT, for all of his efforts on this issue. The initiatives of the 92 Group's House Working Group on Acid Rain, which he headed, were instrumental in creating the compromise embodied in the bill before us today. Our 92 Group is devoted to realistic and effective solutions to the problems of our time, and this is a prime example of our approach.

The very pervasiveness and wide-ranging impact of air pollution, in all its different forms, has meant that this is an extremely complex bill to construct. But, for those same reasons, this legislation will have an enormously positive impact upon our Nation. Yes, it comes with costs; yet untreated air pollutants have already exacted a price and will exact an even higher one without this legislation.

Mr. Chairman, I am particularly pleased with title V of this bill, which addresses the harmful effects of acid rain. Over the years, this has been of the utmost concern to me: for with Maine's lush forests and unsullied lakes and rivers, my State is highly vulnerable to the eroding impact of acid rain.

These carefully shielded resources represent the economic backbone of Maine, primarily through the forest products industry and through tourism. But just as important, a threat to Maine's forests and waters is a threat to the very heart and character of our State.

Because of this, Maine and other New England States have taken action to limit emissions from utilities to standards far stricter than those imposed by the Federal Government. These stringent controls have come at a very real price—higher electric rates for Maine and northeastern consumers, and a limit to the amount of job-producing industrial development.

This Congress reflects the realization that these consumers must not be forced to pay even more—to pay twice, in effect—to clean up utilities that have polluted our air for years while charging their customers demonstrably lower electric rates. With the financing mechanism contained in title V, we finally and thankfully have a fair approach to curtailing acid rain.

The success of the original Clean Air Act cannot be denied—it is hard to imagine what our air quality would have deteriorated to, without it. Nevertheless, the United States has changed considerably since 1972 and our principal environmental law must be adapted and strengthened to reflect those changes.

Today we are faced with new problems that were unknown only a decade ago. The potential of global warming forces us to find ways of limiting our reliance on fossil fuels and to find cleaner, safer, and renewable forms of energy.

Ozone, for example, presents a particularly difficult problem: we have too much on the ground and too little in the upper atmosphere. I am especially concerned about ground level

ozone because of the nonattainment levels of pollution that plague much of Maine's coast. My concern is heightened by the fact that the majority of this ozone is not generated in Maine, but rather moves up the coast from our neighbors to the south.

Again, H.R. 3030 addresses this issue fairly and effectively, much more so, than the parallel provisions in the Senate-passed legislation. Nonattainment areas such as Maine, which did not cause their pollution, can be exempted in this bill from the strict control provisions due to that imported pollution. It's a matter of common sense: don't punish an area that is already suffering from a problem that it did not create.

Mr. Chairman, the American people have waited too long for a new Clean Air Act. President Bush provided the leadership to move the debate and now the Congress has responded responsibly with a bill that we all can support. It fairly and realistically addresses our air pollution problems and provides remedies that will allow our constituents to breath easier without taking the breath away from business and industry. I urge my colleagues to join me in support of H.R. 3030.

□ 1650

Mr. SIKORSKI. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Chairman, my colleague, the gentleman from Illinois [Mr. POSHARD] was up before us awhile ago and made some very stirring and very straightforward remarks with which I would agree.

There have been a lot of glowing remarks about this bill. I have to ask the question, is it worth the cost?

We talk about how much nitrogen oxides and how much sulfur dioxides will be taken out of the air, and I agree that this bill will probably do it. But is it worth the cost?

Are the Midwest power plants and the coal mines and the steel mills the real culprits? Well, if you take a look a lot of the studies that have come out, you will find that, no, they may not be the culprits at all. If you take a look at these studies and read them in depth, you will understand it.

So why are we pushing forward with this piece of legislation without taking into consideration the results of these studies?

Now, let me tell you, the taxpayers in this country when you have to finally go back and explain to them that we spent $600 million of your tax dollars involving Canada, England, and the United States, to come forth with a study of 10 years, the results of that study to be due in the fall of this year, and yet nobody is paying any attention to it. When I tell people this is $600 million of your money, our tax dollars, people say, "Oh, why?"

I mean, if we blew $600 million on some idiotic proposal, the press in this country would be jumping down our necks, and they would say these crazy people in Congress are just wasting your money again, or they are spending it on something that is not even worthwhile.

Well, this is worthwhile. Who was it in 1980 who supported this acid rain study, called NAPAP, the National Acid Precipitation Assessment Program, 10 years, $600 million of your tax dollars? The result will be out. The preliminary results are already out.

Do you know what they say? They say the sky is not falling. There is no environmental crisis, and all these serious concerns are unfounded.

The environmentalists pushed this thing in 1980, but because it does not say what they want it to say, they are disregarding it altogether. They are pushing the President, they are pushing the Congress, and they are successful.

So where have your bucks gone? They are right down the tube, and I think the people of this country should be outraged about it.

We in the Midwestern part of the United States are as much concerned about clean air as any of the other people throughout America, but we are also aware that it has to be balanced with a stable economy. It has got to be balanced with the retention of industries. It has got to be balanced with the saving of our community, the saving of our jobs.

I intend to oppose this bill in its present form. There is no way that after saying what I have said that I can come forth and support this bill.

The tragic consequences are the closing of industry and the jobs that are going to be lost, lost for no reason whatsoever, the loss of the right of the quality of life of people, and as was pointed out before, these hundreds of thousands of people who are going to be put out of work. How are they going to be able to clothe, feed, house, and educate their kids? You cannot do it today even when you are working, so how are you going to do it when you do not have a job? You cannot rely on the Government to come forth and pay for everything.

Let me say that in the seventies we were paying $32 billion a year for the Clean Air Act that we passed then. It was already passed. We lost hundreds of thousands of jobs. We only had 17,000 high sulfur coal jobs in my district, 14,000 of those are already gone, so we only have a little over 3,000 left. That is in southeastern Ohio.

Dr. Steger of the Carnegie Mellon University came out with a little study of the impact of the passage of this bill, and if the Senate bill is passed he says it is going to cost 4 million jobs. That is what is going to be placed at risk, and 750,000 of those jobs will be lost, 350,000 will be lost because of the House bill, and there will be steel, there will be coal and there will be a lot of others.

The reason I got up, I wanted to say this, because I wanted to mention that because of the job loss if this bill is passed, we must support the Clean Air Employment Transition Program, which is sponsored by the gentleman from West Virginia [Mr. WISE], which is like the TRA, the Trade Adjustment Assistance Program, which will allow that there will be 6 months of additional compensation and retraining for those people whose jobs will be lost as a direct result of the implementation of this bill.

I think it is very good legislation. I am afraid that it is going to be something that is after the fact, because the bill will be passed. We are going to lose the jobs. We should not do that in the first place, but it is going to be passed and if the jobs are going to be lost, then these people should be retrained and should have some additional compensation.

So I say it is a very good bill. I would ask your support when that bill comes to the floor. I understand that it will come to the floor perhaps at the end of this week.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to commend the gentleman for a very fine statement. I would like to associate myself with his remarks. I think we agree, those of us who represent the areas that produce high-sulfur coal, agree that reauthorization of the Clean Air Act is long overdue, and yes, too many years have gone before we really addressed what has become an increasingly serious problem, and yes, we need an effective policy to deal with acid rain. I say that as one who represents a coal-producing district, but I also speak from personal knowledge about the acid rain problem. Kane, PA, a town within my district, has reported some of the highest readings of acid rain of anywhere in the world, so it is a problem.

There should be no debate—there is an acid rain problem and we need to legislate a fair solution—Although title V of H.R. 3030 is one of the better attempts at finding a fair solution, it is not perfect.

A fair solution requires that benefits and costs be taken into consideration. We have done a good job in identifying the benefits, but I am not convinced that we have identified fully all of the costs.

There will be costs to ratepayers, costs to the economy, costs to coal operations, potentially thousands of coal

jobs in Ohio, Pennsylvania, West Virginia, and throughout the Midwest, and costs to this Nation's energy security in the future.

I believe that most of us are familiar with the costs to ratepayers and the risks to the economy. Title V of H.R. 3030 tries to soften these impacts through a market-oriented system of sulfur dioxide allowance auctions and trading schemes; and in the case of low-income ratepayers offers, there is some protection against rate hikes.

The economic costs of compliance with title V is estimated to range from $3.3 to $4.8 billion. Yet our bosses, the American public, have told us that this is the price we should be paying.

What we have not heard enough about is the impact to coal miners and coal mine operators. Some have determined that the job impact of the Senate-passed legislation to be as high as 15,000 direct mining jobs. If prudent measures currently in the House bill are not signed into law, the impact could be equally catastrophic.

Even with the House bill's provision providing States with the authority to require utilities to use only in-State coal in complying with emission reductions, it cannot be assumed that all States will act to protect high-sulfur coal mining jobs. If the Senate version prevails, there will be no such authority provided to States.

Accordingly, I would urge my colleagues to pass the Wise amendment. It is a modest, yet thoughtful, approach, designed to ensure that all workers—petrochemical workers, autoworkers, coal miners, steelworkers—all workers who lose their jobs because of the Clean Air Act's compliance burdens will have minimal benefits available to them. With the cost of complying with the Clean Air Act expected to increase, at a minimum, an additional $20 billion per year to over $50 billion per year; $50 million, or one-tenth of 1 percent of the annual compliance cost, seems like the least that we can and should do.

Finally, I would like to remind Members of the importance of coal in meeting our Nation's energy demands and in ensuring our national security.

With 462 billion tons of proven reserves, coal is our Nation's most abundant energy resource. And while I support efforts to more equitably distribute the costs of cleaning up our larger utilities, including maximizing Federal assistance, I am concerned about dedicating all of our remaining clean coal technology moneys to just phase 1 powerplants.

The Clean Coal Technology Program is a sound investment designed to ensure that there will be a future market for not just higher sulfur coals, but all coals. Expanding the number of qualifying clean coal technologies and providing greater flexibility in the use of these technologies will ensure that the program is a success and that all of our Nation's coal resources are available to meet our energy needs.

In closing, I would warn Members, if we bankrupt eastern coal companies, we may be forsaking billions of tons of our most abundant energy source: Coal.

I urge Memers to consider favorably committee amendments that ensure greater flexibility in the Clean Coal Program, while ensuring that the program remains competitive.

Having adopted these amendments and the Wise amendment, we should vote to reauthorize the Clean Air Act.

□ 1700

Mr. WAXMAN. Mr. Chairman, when I came to this institution 15 years ago, there was one man who was working for a strong clean air bill. He has never let up the fight. He has a firm commitment and dedication to protecting the environment.

Mr. Chairman, I am pleased and honored to yield 7 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I am extremely grateful to the able chairman of the Subcommittee on Health for those kind and generous remarks.

It is true that the fight over clean air began in Los Angeles 35 years ago, at least, and almost 30 years ago when I and another young crop of Congressmen came to Congress from California, one of our first crusades was to help to do something about this plague which had already visited us in southern California. I can recall some of our more flamboyant efforts, such as bringing back cans of polluted air which we distributed on the floor to try and convince our colleagues that we really did have a serious problem. I commend those Members such as the gentleman from New York [Mr. BOEHLERT], and there are many others like him, the gentlewoman from Maine [Ms. SNOWE], and others, who were mentioned on the Republican side as well as on the Democratic side, who placed the cleanup of our atmosphere at the top of their priority list and who have been working diligently to achieve that goal for all of these years.

In a sense, one could say that this debate is sort of, in the words of a great American statesman, deja vu all over again, because we have been hearing many of these speeches before, but I think today we see a wider interest, a greater concern, a more knowledgeable understanding of the wide range of effects from the air pollution problem than we have ever seen before.

I consider this to be a sign of promise and, of course, I think it is very welcome, indeed, that the President has made this a priority and has given his leadership toward seeking to achieve good legislation.

Mr. Chairman, obviously I rise in support of the clean air amendments, H.R. 3030, and urgently hope that they will pass. I wanted to make the point, particularly, that the district which I am privileged to represent, the 36th District of southern California, which includes a portion of two of America's largest counties, San Bernardino and Riverside Counties, is probably the worst impacted area or region in the entire United States from air pollution. We have more smog alert days than any other region. On the worst days, the air which hangs over our counties is brown, and that is not because my name is BROWN, it is because of the air pollution. The high mountain ranges which ring the valley are completely obscured.

There is strong evidence that this smog is a killer. The death rate from chronic lung disease in the region is 37 percent higher than for the rest of California. Even if we eliminated all stationary sources of reactive organic gas emissions today, my district would still be out of compliance with the Federal ozone standards. More than half of the gas emissions in my district come from motor vehicles, and in southern California the lack of public transportation and commuter rail lines makes it very difficult for most people to cut back on driving. The problem is vast.

Califonia's South Coast Quality Management District will require roughly an 80-percent reduction in emissions of reactive organic gases and oxides of nitrogen in order to reach the Federal ozone primary ambient air quality standards in the next century.

Mr. Chairman, the only way the area can hope to achieve clean air is to combine strong stationary-source reduction provisions with strong motor vehicle emission controls. I believe the best way to achieve a long-term solution for controlling motor vehicle emissions is through the production and use of alternative fuels and alternative-fueled vehicles.

The problem not only affects southern California. We know that over 100 urban areas in the Nation do not meet existing Clean Air standards for ozone, and that more than 40 areas fail to meet standards for carbon dioxide. We also know that programs directed at reducing emissions from mobile sources will be central to air quality restoration efforts in these areas.

Consequently, Mr. Chairman, I am hoping to offer an amendment to the Clean Air Act which would increase the Federal role in creating markets for alternative fuels and alternative-fuel vehicles. This legislation would apply only to areas classified as extreme. Currently this would apply

only to the Los Angeles Basin, which contains approximately 26,000 federally operated vehicles, and my proposed amendment would require that this considerable purchasing power by the Federal Government be used to acquire vehicles after 1994 which would meet the most stringent hydrocarbon and oxide of nitrogen standards.

I understand that the distinguished gentleman from California, the chairman of the subcommittee, will be offering an amendment which probably goes even further than this, and with his kind cooperation, my amendment could probably be incorporated into his. I will look for opportunities to do this.

But the point that I am trying to make with this amendment is that we have to use every possible method in order to encourage and to create markets for vehicles which are completely different from today's vehicles. They have to be very low-emission vehicles. We may even need to move to systems such as electric vehicles or hydrogen-powered vehicles. We need to gain momentum in achieving this as quickly as possible. Hence, I think it is desirable that we begin to incorporate provisions of this sort into the Clean Air Act.

Mr. Chairman, I strongly urge the approval of this legislation. I think it is a landmark step forward. I do not expect that we will, of course, solve all of these problems, probably not in my lifetime, but we must continue the fight which has, as I have indicated, been going on now for over 30 years and which is vitally important to the health and welfare of this country.

Mr. Chairman, I am including for the RECORD a copy of my amendment and an explanation.

Page 217, after line 14, insert:

"(9) UNITED STATES GOVERNMENT VEHICLES.—Within 18 months after the date of enactment of the Clean Air Act Amendments of 1990, each State which has received a waiver pursuant to section 109(b) and which contains all or part of an Extreme ozone nonattainment area shall submit a revision to the implementation plan applicable to the Extreme area setting forth requirements for 1994 and later model years vehicles acquired by the United States. Such revision shall require that each vehicle purchased, leased, procured, or otherwise acquired by an agency, department, or instrumentality of the United States and operated primarily in the Extreme area shall comply with the most stringent standards for emissions of reactive hydrocarbons and oxides of nitrogen which the State determines may feasibly be achieved by vehicles of such class and model year. The State may waive the requirements of this paragraph to the extent that the United States demonstrates that vehicles complying with such standards, or fuels required for their operation, are not available.".

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EXPLANATION OF THE GEORGE BROWN AMENDMENT TO THE CLEAN AIR ACT

The fundamental purpose of this amendment is to increase the federal role in creating markets for alternative fuels and alternative fueled vehicles.

This legislation would apply only to states which have received a waiver pursuant to section 209(b) and which contain all or part of an extreme nonattainment area (currently only Los Angeles Basin, California). This proposed amendment would provide that, when acquiring new vehicles commencing in model year 1994, the federal government would be required to obtain vehicles meeting the most stringent emissions standards adopted by the state for reactive hydrocarbons, and oxides of nitrogen which the state determines may feasibly be met for such class and model year vehicles. The requirement could be waived if the federal government demonstrates that such vehicles or their fuels are not available in sufficient quantities to meet the government's needs.

If our nation is to realize the substantial environmental benefits offered by cleaner fuels and cleaner fueled vehicles then the federal government must demonstrate its commitment to the purchasing and use of such vehicles and fuels. By so doing, the federal government would encourage additional private sector research and development efforts, stimulate market development, and reduce its contribution to the deterioration of air quality.

□ 1710

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, first of all I would like to commend the leadership of the committee on a bipartisan basis for the fine work that they have done in bringing this bill to the floor. I would particularly like to commend my close friend, the gentleman from California [Mr. WAXMAN] on the superb job that he has done on addressing numerous critical air-pollution problems threatening the health of millions of Americans and for the leadership which he has provided to us, not just in southern California, but throughout the country, on this critical issue over the course of the past decade and even before that.

Even with the superb work that the committee has done in putting this bill before us, Mr. Chairman, there remains a gaping loophole in this legislation which I urge my colleagues to join me, as well as the gentleman from California [Mr. LAGOMARSINO], the gentleman from California [Mr. LOWERY], and the gentleman from New York [Mr. GREEN], in closing, and that is the loophole of offshore platforms that escape all regulation under the Clean Air Act.

Under the 1978 Outer Continental Shelf Lands Act, the Department of the Interior was to regulate all offshore operations in Federal waters. Twelve years later, DOI has yet to finalize a rule for California and has not even begun to address the issue in the gulf.

One might ask, what is the big deal about this issue? The platforms are off-shore and how much could they pollute anyway?

The answer is that this source of pollution is in fact a very big deal. The daily emissions of a platform off the coast of California is equal to 15,000 to 100,000 automobiles. In California there are roughly 20 platforms in Federal waters within 25 miles of shore. Some of those have already contributed to violation of State and Federal air quality standards.

I originally became involved in this aspect of this issue, Mr. Chairman, because of my concern for California's air quality, but this is not just a California issue. There are about 2,000 platforms within 25 miles of shore in Federal waters in the western gulf. These platforms are contributing to air pollution in as many as two dozen coastal counties and parishes which are nonattainment of one or more Clean Air Act standards.

In reviewing the EIS's for gulf sales over the last few years I have found that the EPA has consistently expressed concern about the problem, and yet DOI has done nothing about it.

Let me just read two quotes from 1988 EPA comments on a gulf sale EIS:

We seriously wonder if EPA and Texas-Louisiana efforts at ozone abatement will be partially or perhaps totally nullified by the huge increase in volatile organic and $NO_x$ from the new drilling activity. The introduction of 132,000 tons per year of $NO_x$ and 49,000 tons per year of VOC upwind of gulf coast nonattainment areas is practically tantamount to locating another Houston there.

DOI has been negotiating a rule in California for over a decade. The most recent draft was resoundingly denounced by the EPA, the State of California, and the local air districts. DOI has failed at its task, plain and simple.

The Levine-Lagomarsino-Lowery amendment which we will offer to this bill on Wednesday, Mr. Chairman, will rectify this serious problem, and I urge Members to support it.

Our amendment would require the EPA to regulate all platforms and the vessels that service them, and platforms and service vessels within 25 miles of State waters would have to comply with the same requirements as similar sources in State waters or on shore.

In addition, our amendment will address a growing concern that toxic air pollutants end up in the Nation's coastal waters. We are concerned that these toxics are bioaccumulating in the food chain, including fish and waterfowl which are taken for human consumption, and then present a direct threat to human health.

The amendment would require the EPA to complete a study of airborne deposition of toxics in coastal waters and their tendency to bioaccumulate in the food chain. If the EPA finds that the Clean Air Act does not pro-

tect human health or the environment from airborne depositions, the EPA would be required to develop regulations to prevent such adverse effects.

Mr. Chairman, I urge Members to support this amendment when we do offer it on Wednesday. It will be a bipartisan amendment. It will correct these important omissions of what is otherwise a very, very significant and important piece of legislation that I very much hope will pass resoundingly on the House floor in the next several days.

Mr. LENT. Mr. Chairman, I am pleased to yield 10 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, everyone agrees that we need to improve our environment. No one disputes that the American people demand healthier, cleaner, and clearer air. And we should help them get it.

There is an old saying that success begets success. The 1970 Clean Air Act, with its 1973 and 1977 amendments, has been very successful and it continues to improve air quality. According to the EPA, from 1978 to 1987, lead, perhaps the most important emission from the standpoint of human health, has been reduced 94 percent; ambient levels of sulfur dioxide are down 32 percent; particulates, down 21 percent; and ozone levels, down 16 percent.

Tailpipe hydrocarbons and carbon monoxide are down 96 percent and oxides of nitrogen are down 76 percent. That's not a record we should ignore. Further tightening of tailpipe emission standards for new cars won't clean up those cars on the road that are dirty—cars that were built before emission controls, some of which may be very dirty, and cars built after controls that are out of tune. It is crucial that we focus far more resources on cleaning up gross polluters if we wish to be successful. The rational solution is not necessarily tighter new car emission regulations, but detection systems to locate gross polluters and get them back in tune, whether old or new. An amendment by the gentleman from Texas [Mr. BARTON] to this effect which I strongly support is part of our committee bill.

In any event, the turnover of the fleet does the lion's share of emission reduction.

The electric power generating industry has decreased the average sulfur content of its coal by almost 33 percent since 1973. Sulfur dioxide emissions are down 29 percent. All this while coal use has increased over 80 percent. It represents a remarkable yet untold success story. But even here scrubber-based control has reduced acid-buffering particulates and created highly airborne aerosols of sulfur which pose new problems. Scenarios for the next 20 years show limited differences between the projected effects of current clean air law and 1990 amendments regarding $SO_2$. The main reason for such limited differences is that over the next 20 years, older plants will come into compliance with current NSPS. Targeted investment tax credit incentives to replace those plants earlier than projected could have been most helpful.

While it is discouraging that Congress ignored its own one-half of a billion dollar, 10-year NAPAP study, the administration's plan for using the marketplace to trade emissions seems, at this stage, to be a creative, innovative, and useful way to help pay for further sulfur dioxide-based, acid rain reduction.

On NAPAP, we, in the House, did not hold one hearing. That's right, not one single public hearing on this 10-year study. Congress' own 10-year one-half of a billion study could have served as a guide, but it has been ignored. Clean coal technology is also given relatively short shrift by this bill.

Also, if coal scrubbing is the main technology for further $SO_2$ clean-up, we end up substituting a major solid waste disposal problem for an air problem. Each 1,000 megawatt coal-fired power plant generates 1 square mile of 1-foot-thick scrubber sludge each year. Greater emphasis on clean coal technology would go a long way to reduce this substitution of one environmental problem for another.

Mr. Chairman, to get markedly cleaner air than we have now we need better applications of science and technology far more than a new regulatory straightjacket. One amendment I have presented to the Rules Committee for their consideration is aimed at encouraging clean coal technology by allowing a 1-year extension for existing units using clean coal technologies. My amendment will require that they not only pay back the additional allowances, but with interest. This would both encourage the use of clean coal technology by providing slightly more time needed to develop the technology, and also, upon implementation of the technology, pay back more allowances than they borrowed, showing a net gain in emissions reduction.

The Waxman/Lewis amendment to mandate production of alternate fuel vehicles including heavy-duty trucks may be well intended but it is unwise. Heavy-duty vehicles and trucks over 14,000 pounds gross vehicle weight are used for a diverse range of activities and require added consideration when the use of alternative fuels is debated. This Ritter amendment will assure that the regulation of heavy-duty vehicles and trucks over 14,000 pounds gross vehicle weight is not only well intended, but well informed, and technologically feasible.

The amendment I have provided to the Rules Committee authorizes a mechanism to allow the Environmental Protection Agency to establish emissions standards for vehicles and trucks of 14,000 pounds gross vehicle weight and above. The amendment is necessary because the Waxman/Lewis clean-fuel vehicles amendment fails to consider the following:

First. The practical effect of the Waxman/Lewis clean-fuel vehicles amendment's heavy-duty engine requirements will be to kill the diesel engine.

Second. The EPA has determined that compared to diesels, lead-burn CNG vehicles would be expected to result in a 13 to 15-percent increase in greenhouse gases and increased potential global warming impact.

Third. Given the estimates in the April 1990 EPA report on alternative fuels, even an optimized CNG engine at best offers minimal ozone reduction benefits over a 1994 heavy-duty diesel engine.

Fourth. The EPA has recently determined that given the relative engine efficiencies, the fuel storage, weight impacts, and fuel prices, fuel economics favor a diesel engine over an optimized CNG engine.

Fifth. Methanol creates severe serviceability problems due to its highly poisonous and corrosive nature. Service and repair personnel will be put at risk.

This amendment on heavy-duty diesels conforms to the original H.R. 3030 as introduced.

For this historic legislation, there's also the issue of American industrial jobs. Excessive regulation of the very marginal environmental hazards puts jobs of American workers, particularly those in manufacturing, and "Made In America," itself in danger. Imports and foreign workers are the winners.

Make no mistake about it. Large numbers of American steel, truck, auto, cement, utility, and manufacturing workers in general, and their families can be severely hurt by very specific provisions in this bill.

Is the American taxpayer going to be called upon to ante up benefits if those jobs are lost to foreign competition?

I sincerely hope the $20 to $50 billion a year that this bill will impose on American consumers, their jobs, and their communities will add real tangible environmental and health benefits. We must ensure the benefits are real.

I am requesting that my amendment to quantitatively and qualitatively assess the public health and environmental benefits associated with the EPA regulatory programs which derive from this act, be ruled in order by the Rules Committee. My amendment would authorize a formal mechanism to inform Congress of the incre-

mental health and environmental benefits of the 1990 amendment's emission reductions. It would require the EPA to list the most hazardous emissions in rank order, worst first and the costs and health benefits associated with each as a result of this act, evaluated. Such an assessment would help us to determine where our priorities should be placed and avoid great cost of reductions in one area while ignoring far more hazardous areas.

I firmly believe America should make major investments in further cleaning up the air we breathe. We could do much more to identify the dirty businesses, utilities, and vehicles, and rifle-shot their cleanup. We could be more successful in achieving clean air if we were more focused and our policies more scientifically based.

I also believe, at a fraction of this act's costs, we could make nature's beauty more accessible to citizens throughout America, not just in faraway national parks. Federal incentives for State and local environmental investments could be made to create or preserve greenspace, wild lands, or parklands in our urban or suburban areas. Our regional rivers could be restored while giving access to the public to experience their natural heritage.

This would mean environmentalism that you can see; that you can smell; that you can touch.

What I have been describing is just a fraction of a more tangible environmental progress. Not like so much of what we deal with in Washington, DC—worst case risks blown up out of all proportion to reality so that much of our environmental legislation is far less effective than it could be.

Mr. Chairman, I do not oppose the bill. Indeed, I supported its passage in committee. I would hope however that we learn from our experience here and, in future environmental legislation, pay more attention to scientific merits of the debate and a little less to the political science.

Environmentalism as religion may be attractive to some, but has no place in the U.S. Congress.

Finally, I would like to express my great respect for our Chairman, the gentleman from Michigan [Mr. DINGELL], who exhibited the patience of Job in leading the committee through the veritable minefields of conflicting politics and policies. I'd like to express, too, my admiration for the gentleman from California [Mr. WAXMAN] whose perseverance and political skill has been the leading force in the success of this legislation. My own ranking member, the gentleman from Newark [Mr. LENT], did yeoman service in seeking to bring greater reality to the process.

Our colleagues and their respective staffs also deserve credit for the massive task of helping to forge the final legislative product.

Mr. Chairman, this is indeed a historic moment where the U.S. Congress is on the verge of passing, by far, the most stringent regulatory program over energy production, transportation, and industry in history.

I sincerely hope we achieve the desired results.

□ 1720

Mr. WAXMAN. Mr. Chairman, no Member of this institution has greater credit due him for the battle for reduction of acid rain pollutants than the gentleman from Minnesota [Mr. SIKORSKI]. In the 98th Congress, he introduced H.R. 3400; in the 99th Congress; H.R. 4567; in the 100th Congress, H.R. 2666; and in the 101st Congress, H.R. 1470.

The gentleman from Minnesota [Mr. SIKORSKI] has been the absolute single-handed champion of acid rain, far and above any other Member of this institution. He has clearly established himself as one of the handful of leading environmentalists in the Congress of the United States. I am pleased to yield such time as he may consume to the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Chairman, I thank the gentleman from California for yielding time to me. It has only been my pleasure to stand in his shadow as clean air has advanced. I have benefited in remarkable ways because of that, and I thank the gentleman from California for allowing me to help out on acid rain.

I also should comment that Mickey Leland took on the air toxic issue 1½ years ago, and we miss his efforts there.

Mr. Chairman, this week we make history in this Chamber. Today the U.S. House of Representatives takes up, for the first time in 13 years, the Clean Air Act. Most of the Members of this body, including myself, were not even here the last time this act was debated on this floor.

Our understanding of clean air 13 years ago was incredibly small compared to what we know today:

Catalytic converters were just beginning to go in cars; lead was just beginning to come out of gasoline.

Pollution control in 1977 for many companies, meant building taller smokestacks to send acidic pollutants, to rain down as acid rain hundreds of miles away.

Acid rain wasn't in America's vocabulary and most Members of this body probably had no idea that this so-called solution of tall smoke stacks threatened America's lakes, lung's and forests just as it had already killed hundreds of thousands of acres of trees in Germany and, as we now know, in the Eastern bloc.

No one dreamed then that over 2 billion pounds of toxic pollutants, carcinogens, and mutagens, cripplers of the body and cripplers of the mind, were being shot into the air every year—no one had bothered to make industry count.

And a seemingly pristine lake in the middle of the largest island in the middle of the largest freshwater body in the world, Lake Superior, had not yet yielded the secret that these toxic killers were being transported thousands of miles, to settle in our lakes and streams and forests, our communities and our lungs, across the country.

We know now and with knowledge comes responsibility, and with dominion over the land and sea and air, as Genesis tells us, comes the responsibility of stewardship. The legislation before us takes a step on the road to stewardship.

As far as I'm concerned, it won't go far enough. It won't do everything. And it won't do it fast enough. Any document of this scope, approved by a body of this breadth and diversity, dealing with issues of this scope, is bound to have shaved corners and rounded edges.

And by the time this body has finished its consideration, I am hopeful we will have bettered the clean air laws of America. Finally, after almost a decade of administration footdragging, we will deliver on the President's proclamation of last summer: That every American will breathe clean air. We won't deliver on that promise as swiftly as I had hoped and fought for, and for the residents of this Nation's two largest cities, it will not be done within the President's own deadline of the end of this century. But it will do so.

CREDITS

The clean air bill and the amendments before us today are testimony to men and women of will and vision. Like the chairman of the Health and Environment Subcommittee, HENRY WAXMAN, and like the tireless advocate for the threatened, the champion on air toxics, Mickey Leland.

HENRY WAXMAN has been the guiding light for clean air legislation for over a decade now—against ferocious attacks on the environment during the Reagan administration—articulating and successfully implementing a vision of a cleaner, safer environment, for this generation and generations to come. Mickey Leland was the moral beacon to whom this bill should be dedicated.

Credit must go to those Members of Congress who worked tirelessly over the years to bring us to the brink of victory today in the war on acid rain: SILVIO CONTE, SHERWOOD BOEHLERT, MO UDALL, BILL GREEN, and again, most importantly, HENRY WAXMAN. Finally, credit goes to those members of the Energy and Commerce Committee who worked long and hard and in good faith to fashion the clear air package

before us today, including BILL RICHARDSON, MIKE SYNAR, AL SWIFT, DENNIS ECKART, ED MARKEY, RON WYDEN, JOHN BRYANT, JIM BATES, JIM COOPER, PHIL SHARP, JIM SLATTERY, CARDISS COLLINS, TERRY BRUCE, TOM MCMILLEN, ED MADIGAN, CARLOS MOORHEAD, and MATT RINALDO.

Today's clean air bill is also testimony to the political skill and pragmatism of Energy and Commerce Chairman JOHN DINGELL, ranking minority member, NORM LENT, and President George Bush.

I want to discuss two clean air issues that have been particularly important to me—acid rain and air toxics—and to suggest some areas where this Clean Air bill needs some cleaning and improving.

ACID RAIN

For years, I've felt like the John Baptist of acid rain control. I've been preaching my sermon, and winning many converts—over 180 of them on the most widely supported acid rain legislation ever introduced in Congress—with the message that when it comes to acid rain control, the day of judgment is at hand. You know the sermon:

Every day more than 176,750 tons of sulfur dioxide and nitrogen oxide—the equivalent of 4,144 fully loaded freight cars—are shot into the skies of North America. Every 24 hours! And what goes up comes down. It comes down in the form of rain, snow, sleet, precipitation or dry deposition. It's called acid rain. And it destroys lakes and lungs, forests, and farmlands, hunting and fishing, our environment and our economy.

For 13 years, here and in the Minnesota State Senate, I've been working for the day when acid rain control would finally be the law of the land. I am delighted that that day is at hand.

Since arriving in Congress 7½ years ago, I have worked to draft legislation to protect the environment and human health from acid rain while protecting jobs from dislocation and ratepayers from excessive electricity rate increases. In four successive Congresses I introduced acid rain control legislation that drew widespread, bipartisan, national support because it successfully did just that. I am happy that this committee, by a 42-1 vote, has approved clean air legislation containing an acid rain control title that will begin doing what should have been done over a decade ago.

This legislation includes a number of important findings on acid rain:

That acid rain resulting from emissions of sulfur and nitrogen oxides "represents a threat to natural resources, ecosystems, materials, visibility, and public health";

That "the problem of acid deposition is of national and international significance and cannot be addressed adequately without effective State-Federal cooperation";

That strategies and technologies to control acid deposition exist now and are economically feasible; and

That "current and future generations of Americans will be adversely affected by delaying measures to remedy the problem."

These findings are not new. They are not surprising. They represent the collective wisdom of years of research, over 6,000 studies on acid deposition, and literally hundreds and hundreds of hours of public testimony by expert witnesses before subcommittees of the Energy and Commerce Committee. Nearly a decade ago, the National Academy of Sciences [NAS], this country's most prestigious national scientific body, called for a 50-percent reduction in sulfur dioxide emissions to control acid rain. This legislation will almost do that—nearly two decades, by the time controls are required, after the NAS's call.

These findings also recognize the tremendous costs of acid rain:

The EPA has found that ozone levels in many parts of the country, in part the result of nitrogen oxides, reduce crop yields up to 33%. The damage: $2 to $3 billion per year.

The Interior Department has estimated acid rain damage to materials, buildings and historical monuments at up to $60 billion per year.

The Congressional Research Service reports annual forest damage from acid deposition in the Eastern United States alone at $1.75 billion.

Seventy-six million Americans pay with their lungs and bodies the direct health costs of exposure to excessive ozone. Sulfur dioxide, nitrogen oxide and ozone injure pregnant women and threaten people with heart disease, asthma, bronchitis or emphysema.

The American Lung Association 5 years ago reported that the human health costs alone from air pollution run as high as $40 billion annually. This year they issued an update: the human toll from air pollution now stands at $100 billion per year.

The Congressional Office of Technology Assessment estimates that 50,000 Americans die prematurely each year due to the chemical precursors to acid rain. Researchers at the John F. Kennedy School at Harvard University put this figure closer to 100,000 premature deaths each year.

The list of costs goes on and on—visibility, forestry, fishing, monuments, human life—but the bottom line is clear. Air pollution exacts a price in money, lives and irreplaceable economic and natural resources.

The ability of this committee to arrive at an acid rain title that fairly addresses most of the concerns of Members representing all regions of this country illustrates the veracity and strength of the premise underlying legislation I have introduced in each of the last four Congresses: effective control of acid rain can be achieved without unduly burdening any consistuency or region of the country.

The acid deposition title reported by this committee shares the approach that has highlighted acid rain legislation I have introduced in every Congress since the 98th; the combination of strong controls to protect the environment and human health with balancing features to ensure that jobs and electricity rates in no region of the country will be substantially harmed.

In the 98th Congress, I joined Health and Environment Subcommittee Chairman HENRY WAXMAN in authoring H.R. 3400, the National Acid Deposition Control Act. This legislation garnered strong bipartisan support in the House of Representatives, with over 135 cosponsors from every region of the country. This nationwide support stemmed from the dual core elements of the legislation: A strong, 14-million-ton reduction in the precursors of acid rain, combined with billions of dollars in assistance to regions particularly affected by acid rain reductions as protection against loss of jobs or utility rate increases. Despite this protection, in the face of intense opposition from the very industries and groups it was designed to protect, the legislation failed in subcommittee by a single vote.

In the 99th Congress, I introduced H.R. 4567, the Acid Deposition Control Act of 1986, the most broadly supported acid rain control bill in the history of Congress. Over 180 House Members gave this bill a bipartisan, geographically broad base of support. This legislation called for a similar 14-million-ton reduction in sulfur and nitrogen oxides, and provided protections for jobs and against increases in electricity rates of more than 10 percent in any single State.

In the second session of the 99th Congress, industrial polluters spent more in opposition to this legislation than on any other issue before Congress. The Health and Environment Subcommittee passed H.R. 4567 by a vote of 16 to 9, but a series of procedures and delays prevented full consideration of the legislation by the full committee.

In the 100th and 101st Congresses, I introduced similar legislation—H.R. 2666 and H.R. 1470, respectively—which again attracted the most cosponsors and the most bipartisan, nationwide cosponsorship of any acid rain control legislation in those Congresses. Again the legislation contained safeguards to protect industries, regions and individuals against economic hardships. Again those who make money from pollution opposed it. And against those whom the bill would have protected from economic shock opposed it. In the 100th Congress, the Health and Environment

Subcommittee held hearings and reached tentative agreement on H.R. 2666 before Clean Air Act legislation stalled over other issues.

In the 101st Congress, the Clean Air Act amendments proposed by the Bush administration contained the first ever administration-backed acid rain proposal. It called for acid rain reduction goals identical to the reductions achieved in my legislation and included a feature for which I had fought—a cap on emissions to prevent deterioration of acid rain reductions in later years.

The Bush administration's 180-degree reversal from the past 8 years of administration policy is testimony to the desire of the American people to stop acid rain once and for all.

In subcommittee markup, clean air advocates succeeded in removing features in the Bush proposal directly contrary to the goal of acid rain control which were, most notably a repeal of existing legal protections against tall smoke stacks which cause acid rain.

We also improved significantly in markup on the administration acid rain title: by making the emissions cap and allowance trading system more workable; by providing additional allowances to ensure that Midwestern ratepayers won't be subject to rate-shock; and by encouraging technology that will lessen the employment impacts of H.R. 3030.

This legislation is also environmentally superior to the administration bill:

It requires a real 10-million-ton reduction, rather than projecting it, by imposing an absolute cap on utility emissions;

It provides incentives for earlier SO2 reductions;

It provides incentives for using conservation and renewable energy for acid rain compliance;

It increases NOx reductions from the 2 millions tons called for in the Administration bill to 2.5 million tons (and up to 4 million tons if the EPA finds it cost-effective). When combined with the additional NOx reductions achieved in the Committee's mobile sources provisions this should produce real reductions in NOx emissions.

It restores citizens' rights to ensure enforcement of the law.

National acid deposition control legislation is long overdue. I have been working toward it since my days in the Minnesota State Senate. In 1978 I coauthored a resolution calling for adequate safeguards at the Atikokan powerplant in Canada, near the Minnesota border, which threatened the wilderness land of the Boundary Waters Canoe Area in northern Minnesota. In 1980, the Minnesota State Legislature passed the first legislation in the history of the North American acid rain debate, and 2 years later, the first acid rain deposition control law in North America.

The acid rain title reported by the Energy and Commerce Committee is the product of much hard work and sincere efforts by members of the committee. Credit must go, however, to those Members of the House who have worked over the years to focus attention and to draft a balanced, national approach to this national problem: most prominently, SILVIO CONTE, SHERRY BOEHLERT, and MO UDALL. The greatest credit for passage of national acid rain control legislation belongs to the leadership, guidance and vision of HENRY WAXMAN.

H.R. 3030 as reported by the Energy and Commerce Committee takes good, solid first steps toward addressing the problem of acid rain fairly, firmly, and adequately. Such an approach is long overdue.

AIR TOXICS

Last spring we learned that more than 2.7 billion pounds of toxic chemicals—over 10 pounds for every American man, woman, and child—are released directly into our air every year. This spring we learned that the deluge continues. The data was the result of an amendment I helped author to the Superfund law 4 years ago known as the Community Right To Know Act. Industry fought us tooth and nail on this amendment. They told us that, "what we don't know can't hurt us." They were dead wrong.

We have also learned that Great Lakes residents are at special risk: Great Lakes residents are exposed to more toxic chemicals and carry a higher toxic body burden than any other comparable population in North America; more than 50 percent of Great Lakes toxic pollution comes from the atmosphere; environmental pollution directly threatens human health through bioaccumulation in the food chain, which has rendered close to 30 species of fish unsafe for consumption by women of child-bearing age and children, and increased the cancer risk of cancer from eating one meal a year of contaminated Great Lakes fish to 1,000 times what the EPA considers acceptable.

The air toxics title of this legislation goes a long way to ending the threat of toxic air pollutants. It includes a provision on Great Lakes air toxics that I worked to have included and worked to strengthen. This amendment ensures that if toxic chemicals continue to threaten the Great Lakes, they will be regulated. We also succeeded in extending this provision to the threatened Chesapeake Bay region. I support an amendment which will be offered by Congressmen LEVINE and LOWERY which does what my amendment would have originally done: extend the study to all threatened coastal waters.

STRENGTHENING AMENDMENTS NEEDED

More needs to be done, if we are truly to deliver on the President's promise that all Americans will breathe clean air:

AUTOS

Last year 130 million Americans breathed unhealthy levels of smog and carbon monoxide. The single largest cause: the automobile.

First. This legislation should help the President keep his promise—his clean air centerpiece—to produce 1 million alternative fuel vehicles per year by the turn of the century. The current bill does not. Waxman-Lewis amendment puts the President's words into law.

Second. Americans in most of America's cities simply won't breathe clean air until gasoline is made cleaner. And that's not hard to do. It's not a Buck Rogers or Nintendo fantasy. In fact, gasoline produced today is actually dirtier than that produced 10 years ago, with an extra dollop of carcinogenic aromatics. The Richardson-Madigan amendment will require cleaner gas in those cities that are grossly out of compliance, and give a boost to the American farmer at the same time.

Third. Emission control equipment on our cars do the heavy cleanup work on auto emissions. They are effective, when they work and they work when they are warranteed. But H.R. 3030 actually weakens emission warranty requirements that exist today. I will be offering an amendment with Congressman BILL GREEN to reverse the weakening of existing law and increase warranty requirements on the two big items of emission control equipment—the catalytic converter and electronic control unit, or ECU. This will ensure that consumers and the environment don't get stuck with the bill for faulty equipment. And it helps the mom and pop service stations. This amendment is supported by the major environmental and consumer groups and most of the trade associations representing independent auto service shops that repair cars. First, Levine-Lowery will protect coastal areas from smog and air toxics; second, Richardson will prevent chemical accidents; third, Wyden will restore visibility in our national parks; fourth, Bates-Boehlert will phase out the production of CFC's and other chemicals that destroy the ozone layer; and fifth, finally, gaping holes in enforcement and permitting provisions in H.R. 3030 need to be closed. Congressmen WAXMAN and BRYANT will have an amendment to do just that.

Until the Members of this Chamber put their voting cards where their mouths are, their words will be more hot air pollution. A strengthened H.R. 3030 can be worthy of its title, "Clean Air."

CONCLUSION

Our job, as democratically elected representatives in this great democratic system, is to cut through the wall of smog spewed out by those for whom the only good clean air bill is a dead

clean air bill, and get about the task of protecting those we were sent here to represent: the American people. Our job as intelligent men and women is to see through the lies and half lies, the untruths and the false truths, to the real values that make this country great. Our job as stewards of the land, the sky, the water, is to preserve these glorious legacies for the generations of Americans to come.

The Clean Air Act amendments is one of the few chances we as elected Representatives have to make a literally visible difference. A life or death difference. Amendments will be considered this week—the Waxman-Lewis amendment on clean cars, and coastal waters, and the amendment to be offered by Congressman GREEN and myself on auto warranties that will positively, concretely protect the beauty of America and the health of Americans.

Our legacy to our children, and to their children, must be more than a nation of belching smokestacks and tailpipes—it must be the ability to look across the Grand Canyon.

Our legacy to coming generations must be the opportunity to breathe deeply, without worrying about birth defects or lung disease.

Our legacy must be more than dirty air, devastated resources and damaged lungs; it must be a cleaner environment, a revitalized American economy and a better life.

□ 1730

Mr. LENT. Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 7 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I appreciate the gentleman yielding this time to me.

Mr. Chairman, the Clean Air Act is something definitely whose time has come. As one whose district and State are affected in every possible way—we are ardent environmentalists, we love to hunt and fish in West Virginia, we make our living from the chemical industry, the steel industry, from the coal industry.

We generate our power for all of the east coast. As I say, there is no way that we are not affected in every way by clean air.

I also note that I grew up in an area, and I have seen the benefits of earlier clean air acts and Clean Water Act, where we can now fish, swim, and water ski in rivers that once were too polluted for those activities. I can breathe air that does not have an odor to it; that when I earlier grew up in earlier years on air-inversion days, you just stayed inside.

So I know the importance and significance of this legislation before us.

As we deal with the environment, I think it is also important that we deal with the needs of those people who are affected by that legislation. In that case, we need to also provide for the workers who may be affected by this legislation.

So I would like to talk for a moment about the amendment that I will be taking to the Committee on Rules and asking them to make in order, the clean air workers transition amendment.

I stress the word "transition" because this amendment is simply that, helping workers to make a needed transition who may be affected adversely by implementing the Clean Air Act.

First, I think it has to be pointed out that this is a transition program with limited benefits, modeled after existing programs, in this case the Trade Adjustment Assistance Act.

It provides very limited benefits of 6 additional months of unemployment for a total of 1 year and up to 2 years of training; once again, totally in line and in keeping with existing programs already on the books.

I would like to talk just a moment about what this amendment is and is not.

First of all, this amendment is a transition program, to enable workers who can successfully show and document to the Department of Labor that they lost their jobs due to the implementation of the Clean Air Act in their industry to make a transition to other work. It is not a protection amendment. It does not protect one job. It does not protect or guarantee employment for a longer period of time or indeed any period of time. It simply helps them make the transition by, once again, providing 6 additional months of unemployment benefits and that would provide them a total of 1 year and up to 2 years of training.

This amendment is limited in benefits. It is not unlimited. It is not large scale. Its benefits are only temporary. It has a maximum ceiling of $250 million authorization over a 5-year period, for a 5-year program, and thus would be roughly $50 million per year.

It is limited in benefits, it is not unlimited. This amendment applies to all workers. It is not limited to one group of workers.

I have heard questions about, "Is it limited only to high-sulfur coal miners?" Or, "Is it limited to one region of the country?" And the answer is "no" to those questions.

The amendment applies to all workers, chemical workers, autoworkers, utility workers, coal miners, whomever may successfully show that they have lost their jobs due to implementation of the Clean Air Act.

Furthermore, the amendment is applicable to all regions. It is not a region-specific amendment, it is not dedicated simply to West Virginia, to the Midwest, to high-sulfur coal-producing regions. In fact, I think you will find this amendment has great application from Texas City, TX, to New Jersey to California to wherever there may be difficulty in implementing the Clean Air Act.

So, it is not limited to one group of workers, nor is it limited to one region, but indeed is a comprehensive amendment.

This amendment is simply an extension, in many ways, of existing programs. This amendment is not the creation of a new bureaucracy or a new program that is unfamiliar to this Congress. Indeed, it is closely modeled after, in every possible way, the Trade Adjustment Assistance Act.

It was my deliberate intent in drafting this amendment, and those who put it together, to work with a procedure that we were all familiar with and that would not result in an additional bureaucracy.

So we set up something similar to the Trade Adjustment Assistance Act. We have workers apply to the Department of Labor, and if they can successfully show they lost their job due to the implementation of the Clean Air Act as a major contributing factor, they would be entitled to these benefits, assuming the money is available. And that, of course, is determined by the Committee on Appropriations.

So it is an extension of existing programs, it is not the creation of a new program or, more importantly, a new bureaucracy.

Finally, I think it is important to talk about what this amendment is.

This amendment is a strengthening of the Clean Air Act. It is not a challenge to the Clean Air Act, it is not a weakening of the Clean Air Act. It is simply saying we can have the environment and we can have jobs and we can have both. This amendment strengthens the Clean Air Act.

I believe it takes a lot of the fear that many people genuinely feel who want clean air. "We want clean air for our children to breathe, but also desperately we want our job."

What this says is that "you need not fear the Clean Air Act, that we will help you make the transition in a just and humane society." That is something that is necessary to do.

Mr. Chairman, the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], has spent long hours, weeks, months, whatever, putting together the compromises that are necessary. And the gentleman from California [Mr. WAXMAN], the subcommittee chairman, also.

So I think as they have put together the compromises to try to meet the various needs that we all express, this is one additional measure than can go a long way toward making this the

kind of legislation we can all embrace happily, particularly those people who are sitting at home wanting this bill to pass but also who are questioning, "What happens to me?" This is their insurance policy that they will get to make the transition and indeed we can have the environment and we can have the jobs that go with it.

I thank the chairman very much for the opportunity to speak today.

□ 1740

Mr. LENT. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, the importance of this legislation and the importance of producing a balanced bill is well illustrated by a quote from U.S. News on June 19, 1989. It is entitled "The Coming Power Crunch." I quote:

America's next energy crisis is building like a billowing August thunderhead. The first hot flashes will hit the crowded Eastern Seaboard during the sweltering days of summer and spread throughout the country by the mid-1990's. Instead of irate motorists queued up at gasoline stations, the new crunch will be marked by dim lights, bulky computers, stuffy office buildings, and perhaps even total blackouts in some areas. Those temporary discomforts pale beside the long-range economic consequences if the United States lacks an adequate supply of electricity to power its homes, factories, and offices in the coming decade.

I think that illustrates the importance of having a balanced bill and what I would like to discuss briefly.

When the President announced the broad outlines for sweeping revisions to the Clean Air Act, I was cautiously optimistic about the acid rain portion of the administration's package. The President promised a plan which would allow utilities maximum flexibility in achieving emissions reductions. He called for a market based approach which would promote least-cost compliance. And most importantly, he pledged to maintain and enhance the viability of the clean coal program.

Somewhere between the Rose Garden ceremony and the legislative drafting board those principles have been compromised.

I have been a strong supporter of the Clean Coal Program since its inception in 1985. To date the Federal Government has committed some $2.7 billion to this program to demonstrate innovative technologies to burn coal more cleanly and efficiently, certainly in an environmentally safe manner. The private sector is committing even greater amounts.

In the State of Ohio, the voters approved a $100 bond issue to do research on clean coal technology. It would be a travesty to waste this substantial investment of both public and private funds. Caution must be exercised so that arbitrary compliance deadlines do not prevent clean coal technologies from being a part of the pollution solution.

Sound environmental policy must include consideration of both economics and the environment.

The future of the Nation's economy is inextricably linked to continued availability of reasonably priced energy. Therefore we will continue to realy on coal to meet future energy demand. Clean coal technologies will enable Americans to burn coal in an environmentally sound manner.

Acid rain legislation which does not provide sufficient time for development nor provide appropriate incentives, may result in these new technologies not being developed or used to meet energy requirements in the United States or abroad.

I note that one of the previous speakers, the gentleman from Pennsylvania [Mr. RITTER] pointed out that forcing the utility industry to use scrubbers will result in another great environmental problem, and that is sludge.

Clean cut coal technologies avoid that problem. Clean coal technologies are the key to a cleaner environment without undue burden to the ratepayer, the coal producer, or the mine workers.

I might say it also will protect our competitive position in the global economy.

The President's acid rain proposal calls for a reduction in sulfur dioxide emissions of 10 million tons by the year 2000 and a 2-million-ton reduction in nitrogen oxide emissions.

Utilities and industry will be forced to spend up to $7 billion a year and ultimately the consumer pays that, in a crash program to meet these arbitrary goals.

Unfortunately, this crash effort to reduce emissions will not permanently solve the problem because it will preclude the use of advanced technologies now being developed.

By forcing the use of scrubbers in old plants, instead of allowing utilities to phase in new clean coal-burning technologies, the acid rain program will degrade our ecosystem.

The mandated scrubbing will bring new pollution problems. Scrubbing generates 3 tons of sludge for every ton of sulfur dioxide removed. For each ton of sulfur dioxide removed scrubbing adds a ton of carbon dioxide into the atmosphere.

The burden of achieving emissions reductions would fall principally on Midwestern States, especially Ohio. A recent analysis of American jobs that would be affected by the proposed bill estimated that the acid rain provisions alone would impact over 46,000 jobs in Ohio alone.

The burden of costs under the current plan is not shared equitably nationwide.

Ohio would be asked to provide 18.6 percent of all $SO_2$ reductions despite the fact that Ohio, in 1985, contributed only 11.1 percent of the total emissions. This will result in an overall electric rate increase of 13 percent by 2000 and an estimated loss of 17,000 mining and related jobs. Utility rates are estimated to rise as much as 40 percent in some parts of Ohio.

Ohio ratepayers have already spent more for air pollution control than any other State. Private utility air pollution control expenditures through 1987 have totaled $2.1 billion.

Ohio's electric-intensive industries such as autos, steel, aluminum, and chemicals compete in tough, cost-conscious international markets. The quickest way to make Ohio's products noncompetitive is to drive up production costs. The acid rain proposal being considered would surely do that.

From 1975 to 1985, Ohio's electric companies have cut sulfur dioxide emissions by 37 percent, despite a 19-percent increase in demand over the same time period. By the year 2030, another 50-percent reduction in emissions would take place under current pollution control, with no new legislation. This would take place even though the demand for electricity from coal-fired powerplants will increase by 36 percent over the same period.

Under the proposed legislation more than 80 percent of the Nation's utilities and half of our States will not be allowed to participate in the Clean Coal Technology Program.

Clean coal technologies are an effective mechanism for achieving pollution prevention, not just control, and are also a cost effective means of producing electric energy from coal. Clean air legislation should provide adequate time and appropriate incentives for use of these technologies, otherwise, the United States may forfeit the energy and environmental benefits derived from use of these coal programs.

We should be in a position to share this knowledge with the rest of the world, especially with developing Third World countries, in an effort to improve global ecology.

I think all Members have heard the results in the Eastern European countries because of their failure to have environmental controls. The clean coal technology will be a highly marketable commodity, and we need to move forward rapidly in developing these programs.

I support the enactment of a strong clean air bill, but one that is both affordable and equitable. The impact of this proposal on the employment of our people and the competitiveness of our industries will be substantial. It is crucial that the legislation that is en-

acted does not damage our economic stance in the global marketplace.

I would say to my colleagues that I hope out of the negotiations between the House and the Senate and the conference working with the administration that we can get a bill back, in the final package, that will allow the continued progress in clean coal technologies while, at the same time, achieving a highly desirable environmental impact in terms of improving air quality in these United States.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Chairman, I appreciate the gentleman from New York yielding this time to me.

The next 3 days this House will debate how we best clean the Nation's air, and during the course of that period of time we will also debate how we best provide jobs for working men and women in the auto industry of America.

Good jobs and clean air, the economy and the environment—those are the two competing goals or the twin objectives that this House and the other body should keep squarely in mind and firmly in mind as we debate the clean air bill.

These are not necessarily conflicting objectives. Sometimes they are competing, but they both can be accomplished at the same time if we use common sense and a balance to make sure that our environment is clean and healthy and there are jobs for people in Michigan and America.

□ 1750

For the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], and the ranking member, the gentleman from New York [Mr. LENT], this has been a difficult job, a complicated task, with complex issues. We say to them, "A job well done."

My time today will be brief. As we get into the amendments, I will come back and share my views with Members of the House and participate in the debate. Let me review just a couple of titles now for a moment. First, we have title I, in terms of emissions in tier 1 standards. These standards will reduce emissions an additional 2 percentage points beyond fleet turnover. These are the same standards mandated in California. They are tough standards, tough provisions for clean air.

Tier 2, however, if found technologically feasible—and some question that—would cost the auto industry nearly $7 million per year, and what it would really mean is that it would cost jobs to people in the auto industry in Michigan and other parts of the Nation.

There is another feature called mandated production, which will be debated and discussed here in this Chamber. What is severely wrong with this is that it shows us that this is not how the market works. If we mandate production and mandate certain items, it does not guarantee that the product will be sold, and that will cost people jobs in Michigan.

On the CFC phaseout, the real concern here is whether or not it is technologically feasible, and again we will have considerable debate on that here in this Chamber.

This is a tough bill. Is it a perfect bill? No, but it is an effort to meet those twin competing objectives of clean air and good jobs, the economy and the environment. As we go through this debate, I would encourage my colleagues to try to meet these competing goals. We can achieve both, and in so doing we would better the environment and make sure that the people have jobs and maintain a better quality of life for themselves and their families.

Mr. DINGELL. Mr. Chairman, I yield 6 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, this week, the House will meet to discuss the Clean Air Amendments of 1990. It is important to recognize the efforts of Chairman DINGELL, ranking minority member, Congressman LENT, Congressman WAXMAN, Congressman SHARP, Congressman MADIGAN and all of the other critical leaders of the Energy and Commerce Committee to bring this bill to the floor of the House for debate. I applaud the work and the end product of this important group.

H.R. 3030 is one of the most important measures regarding environmental, economic development, industrial regulation and international competitiveness issues. Consequently, we must act carefully in order to ensure environmental quality, national energy security and continued economic stability.

One of the difficulties I foresee in the bill regards energy security. Over the last year, the House Banking Subcommittee on economic stabilization, which I chair, has investigated our continuing problem with securing sufficient energy supplies. In particular, the subcommittee was informed that electric energy for the eastern seaboard is 2 percent less than needed to meet current demand, with the balance being "imported" from States not located on the east coast. This problem will be exacerbated by the current bill since it is projected that 12,600 megawatts of electric generating will be lost. As a result, blackouts will certainly increase.

With these facts in mind, I intend to introduce an amendment to H.R. 3030 which I call the cleaner air amendment. It is designed to guarantee long-run environmental improvement, allow our Nation to remain industrially competitive, and to ensure the survival of an important trade commodity of the future; namely, clean coal technology.

The core of my amendment aims to allow utilities that sign a binding letter of intent with the Department of Energy to acquire clean coal technologies—once approved by the regulatory authorities of their States—to operate in the same manner as small systems under title 5 of the bill. In particular, any overage in tonnage of emissions which are tabulated in a special account for that company, would be deducted from future allowances. In addition, as an incentive for rapid compliance, a 50-percent additional emissions reduction, as interest, will be required. In other words, if a utility decides to wait 4 years for the advent of clean coal and therefore emit at a rate greater than currently allowed by the bill, that utility would have 4 years to reduce its emissions below the individual utility cap by the amount it exceeded its limit, plus an additional 50 percent as interest.

For example, if 100 tons of overtonnage were accumulated over a 4-year period to allow installation of clean coal technology, the utility company would have 150 tons deducted from its allowances over the next 4 years, or the monetary equivalent—about $1,500 per ton. This is a strong incentive for rapid compliance without the risk of losing industrial competitiveness, energy security and economic stability. In addition, over the course of the next 20 years, my amendment will result in a total reduction of acid rain emissions below the amount allowed in the current language of the bill.

The benefits of this approach are many. First, it gives clean coal a chance to provide itself as a viable, environmentally responsible source of fuel. Since clean coal technology demonstration projects are only now being built, they have not had an opportunity to operate and verify their ability to affordably produce clean coal. Only a few more years are needed to allow this valuable technology to come on line.

Second, in order to ensure the success of clean coal technologies, we must work to create the market that will purchase future clean coal stockpiles. My amendment will allow the current coal-using markets to continue—under pressure of the 150-percent payback provisions of my amendment—to operate using coal as a fuel source until clean coal comes to market.

Third, my amendment recognizes an important environmental reality. China, Eastern European nations, and other countries with developing economies will continue to burn locally available coal regardless of our actions. This continued and increased use of unclean coal will greatly con-

tribute not only to the international problem of acid rain, but also to the emission of carbon dioxide—the primary greenhouse gas. Clean coal technologies, a critical source of future export income, will help to greatly alleviate this critical international environmental problem.

In particular, clean coal technologies have already proven in the laboratory to remove up to 99 percent of sulfur dioxide, similar amounts of nitrous oxide—scrubbers do not affect nitrous oxide emissions—and, more important to the problem of global warming, carbon dioxide would be reduced. This drastic reduction of carbon dioxide is accomplished because the combustion efficiencies of clean coal are up to 60 percent higher than conventional powerplants currently produce. In other words, it will take substantially less coal to produce a given amount of heat energy, thereby greatly reducing the emission of carbon dioxide. This is extremely important for countries, like China and the Eastern European nations, which are using any energy source they can find to develop their economies, which is almost always locally available coal. In addition, there is no reason to believe developing nations will change their development plans just because the United States has passed a bill which does not allow the development of clean coal technologies. Obviously, we cannot help developing nations develop in an environmentally responsible manner if we do not allow clean coal technologies to materialize.

Therefore, my amendment is a long-term environmental quality amendment as well as an energy security and economic stability amendment. Of all the environmental problems, global warming is by far the most serious. Passing my amendment is a sound long-term environmental action. Over the next 50 years, clean coal technologies are projected to save over $400 billion compared to the provisions of the present bill.

In addition, my amendment provides for the creation of a substantial fund that will finance the cleanup of 162 northeastern lakes which have been damaged by acid rain emissions. This $5 million fund is expected by the group, Living Lakes, Inc., to be more than sufficient to neutralize the acid in the damaged lakes. This will allow us time to simultaneously adjust to clean coal technologies and work to clean damaged lakes.

Mr. Chairman, I urge my colleagues to support my amendment for all the reasons I have outlined. Again, my bill will force a utility cleanup greater than currently required in the bill; it promises to work to decrease the emission of carbon dioxide, the primary greenhouse gas; to allow the development of domestic and international markets for clean coal technologies; and to neutralize the acid deposition in 162 acidified lakes. My amendment is designed to help our Nation achieve greater environmental quality and ensure energy security as well as economic stability.

I urge my colleagues to support my amendment.

□ 1800

Mr. LENT. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, no one realizes more than I our responsibility for preserving our precious environment for future generations. However, history, and most recently our eastern neighbors have shown us that if we are to ensure the preservation of our environment we must retain a strong economy and free enterprise system.

As we debate this bill it is important that we remember the tried and true principles that have allowed the United States to improve air quality. These principles are: preservation of a free society where innovations can thrive, a firm and sound adherence to the sciences, and flexibility allowing local jurisdictions to help make decisions on how best to achieve these air quality goals.

Clean air is a scientific subject and this is definitely a scientific bill. In 1980 we acted responsibly by authorizing a comprehensive 10-year research program to provide information to the Congress on acid rain deposition. The reason we did was so that we today could fashion an effective rational bill. The National Precipitation Assessment Program, commonly referred to as the NAPAP study will complete its final results in just a few short months. The study will be comprehensive. We spent half a billion of the American taxpayer's hard earned dollars on this study. Don't we owe it to them to first have and evaluate the results of this 10-year scientific study? Enacting emotionally driven legislation to address a problem the precise cure for which is not yet known can only lead to more problems than benefits.

I think it is important to point out that the current Clean Air Act is working. Although electricity sales during the last 10 years have increased and our use of coal has increased almost 50 percent, sulfur dioxide emission are down. NAPAP concludes after 10 years of study that only 5 percent of the lakes in the northeast are currently acidic and that a number of these acidic lakes in the northeast have been that way since pre-industrial time. NAPAP further concluded that after extensive survey there was no evidence of widespread forest decline in North America related to acidic deposition. Yes, acidic deposition appears to intensify the effects of natural stresses upon red spruce at high elevations but is this grounds for enacting legislation which will cost thousands of jobs.

Not only will this bill in its present form cost thousands of jobs, loss of Federal, State and county revenues which currently go toward schools and parks, the policy of this bill holds serious consequences for our national energy supply. The Subcommittee on Economic Stabilization held a hearing earlier this year to look at the energy security and economic stability aspects of the Clean Air Act amendments. The conclusions of this hearing according to my colleague from Ohio, Congresswoman OAKAR, chairwoman of that subcommittee, is that this "pending legislation would severely impair the Nation's energy security. Experts predict that the safety margin for electricity generation would fall 3.6 percent below minimum standards by 1998 for the entire Eastern United States." In addition the pending amendments will act to defer, rather than accelerate, the introduction of evolving clean coal technologies, as utilities will be forced to concentrate their attention on short-term compliance with the 1995 deadline for removal of 50 percent of existing sulfur dioxide levels. They will be forced to use the existing available chemical scrubber technologies, because leadtime to installation is 5 to 10 years. After investing millions of dollars on scrubbers, utilities will be short of funds to purchase the fully integrated clean coal technology of the future. I feel this would be a grave mistake—clean coal technology will not only allow us to continue using our coal resources and save thousands of miners jobs in high sulfur mine areas, it would result in cleaner air, less waste and the development of a technology which can be used world wide to clean up our planet's pollution problem.

In looking at this bill we must seek to establish a realistic goal, one which balances our environmental objectives with our energy security needs and economic well-being.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I appreciate the gentleman from Michigan [Mr. DINGELL], the chairman of my committee, for yielding this time to me, and I would first like to commend him for the outstanding job that he did in pulling together the conflicting interests on what may be the toughest piece of legislation that this body faces this year. It is extremely complex. The Clean Air Act is probably unrivaled in terms of the technicality of its provisions and the broad sweep of its provisions.

Mr. Chairman, for years now various Members and various groups have been debating the scope and the

impact of proposed legislation. This year many of us face the legislation with much foreboding and not really knowing whether these sharply divergent interests could be reconciled. However, when the legislation came to the committee, we first met it with a group of nine, a group of ad hoc committee members, formed to look at and study the technicalities of the measure so we could arrive at simple, common sense solutons to some of these problems. From then the legislation moved on to the subcommittee level, and then to the full committee level, and under the leadership of the gentleman from Michigan [Mr. DINGELL] we were able to achieve a remarkable consensus.

Mr. Chairman, the final vote on the legislation, when it was reported out of the committee, was a vote of 42 to 1. I do not think any commentator, I do not think any critic or pundit, could have anticipated a unanimity of that degree on such an important and divisive issue. I think it is a genuine testament to the leadership of the gentleman from Michigan [Mr. DINGELL].

That is not to say, Mr. Chairman, that the bill is perfect in all ways, and I am sure there will be a number of amendments proposed here on the floor to, hopefully, improve the legislation.

I have noted myself what I think might be one small flaw in the legislation. I focused particularly on the utility section of the bill, particularly the acid rain section of the bill, and it seems to me that in that area, although we are requiring monitoring of sulfur dioxide and nitrogen oxide, we have omitted monitoring carbon dioxide.

The American public is well aware of that global warming looks as if it is a major, not only national, problem, but world problem. In order to address this problem we need to know what our carbon dioxide emissions are, and for that reason I am planning on teaming up with the gentleman from California [Mr. MOORHEAD], a colleague, to offer to the Committee on Rules for their consideration the so-called Cooper-Moorhead amendment so that we could monitor carbon dioxide emissions at each utility plant in the United States.

The purpose of this is threefold. First, in order to furnish better scientific evidence so that we will know exactly what the U.S. contributon to the problem is. Of course it is a worldwide problem. Our share of the problem is really very small.

Second, Mr. Chairman, we need to form a baseline so that we know what the utility effort is in cleaning up the problem so that we know when to give them credit for their reductions, and when we know they are not, perhaps moving as quickly as we would like.

Finally, we need to know in order to form a proper role in international negotiations so that we know what the U.S. contributions to the problem is so that we can accurately frame our response in international negotiations.

So, Mr. Chairman, I would urge my colleagues, particularly on the Committee on Rules, to look with favor on the Cooper-Moorheard amendment, and I wuold urge my colleagues in the House to study the problem carefully to see whether a moderate, fair approach like this to global warming is warranted at this time and to see whether a monitoring approach like this is appropriate.

□ 1810

My amendment would not force any reductions right now. It would simply require a monitor on each utility unit so that not only would we be monitoring sulphur dioxide and nitrogen oxide, we would also be monitoring the other major utility gas, carborn dioxide, the major global warming gas.

I thank the gentleman for yielding this time to me.

Mr. DINGELL. Mr. Chairman, at this time we have on this side no requests for time. We reserve the balance of our time, which is 15 minutes.

Mr. LENT. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. COLEMAN of Texas). The Chair recognizes the gentleman from California [Mr. ANDERSON] for 30 minutes.

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, on behalf of the Committee on Public Works and Transportation, I want to congratulate my colleagues on the Committee on Energy and Commerce for their efforts in bringing H.R. 3030 to the House floor. We know you have worked for many years on this legislation and you deserve praise for this bill.

I especially want to commend the committee chairman, the gentleman from Michigan [Mr. DINGELL] and my colleague, the gentleman from California [Mr. WAXMAN], the subcommittee chairman, as well as the gentleman from New York [Mr. LENT] and the gentleman from Illinois [Mr. MADIGAN].

As a Californian, I am acutely aware of the importance of this clean air legislation. In the last two decades, since the passage of the first Clean Air Act, we have made strides in cleaning up our air. The Clean Air Act has, in many cases, prevented continued deterioration of the atmosphere and, in some cases, resulted in improvements. That is especially true in the area of smog resulting from auto pollutants.

It has also become evident during the last 20 years that more must be done to control air pollution. When it comes to the air we breathe, we can no longer afford the status quo. Whether it is the lingering pollution over the California basins, the destruction of the scenic vistas at the Grand Canyon or the acid rain of the Northeast, it is clear that a national effort is needed to develop effective and innovative means of winning the fight against air pollution.

At the same time that we face these growing environmental problems, the Nation is also threatened with an imminent transportation crisis. We have a deteriorating and inadequate infrastructure that also needs immediate attention. If we neglect our infrastructure, this Nation will forfeit its competitive position in the world.

The United States ranks 55th in the world in capital investment. Japan spends five times more than we do in infrastructure and West Germany's annual productivity rate is three times ours.

Infrastructure is not just potholes; it is productivity!

Infrastructure is not only concrete; it is competitiveness!

Our system today is one in peril: 60 percent of our highways and 41 percent of our bridges are in need of work; by the year 2000, traffic delays caused by inadequate roads will cost us $50 billion in lost wages and wasted gasoline.

This is an alarming situation and this Nation must maintain the tools for a major rebuilding effort. On the Committee on Public Works and Transportation, we believe that H.R. 3030 as reported by the Committe on Energy and Commerce would, inadvertently, prevent us from maintaining and rebuilding our infrastructure.

We have held two hearings on clean air issues. We have worked for several weeks to develop amendments that would correct these problems while preserving the strong environmental safeguards in H.R. 3030. Given a sequential referral for a limited time, we have developed amendments that we believe will correct the problems in H.R. 3030. The amendments have been developed after discussions with the leaders of the Energy and Commerce Committee and I am happy to say we have agreed on the changes. Subject to approval by the Rules Committee, they will be offered for floor consideration when the bill is open to amendment.

I believe these amendments represent modest changes to H.R. 3030 which would enable us to move forward with the rebuilding of America while providing ample protection for the environment. I fear that failure to adopt these amendments would sacrifice our economic productivity while at the same time doing little for the environment because of continued traffic congestion.

The provisions we are most concerned with are, first, how and when will a state transportation plan conform with the requirements contained in a state air quality implementation plan, known as a SIP, and second, where and when highway sanctions may be imposed for failure to meet certain requirements called for in H.R. 3030.

The first area, the relationship of the transportation plan to the SIP is known as conformity. H.R. 3030 as reported by the committee on Energy and Commerce would shift the meaning of conformity from one where Federal actions must conform to an approved plan to one where Federal actions must conform to a plan's purpose, possibly a project by project review.

In this area of conformity, which is so important to air quality programs, we should ensure that State and regional plans are reviewed to see if the plan as a whole conforms to the SIP.

It is crucial that the Department of Transportation be allowed to use its long-standing expertise on these matters. The Public Works and Transportation Committee amendment will invest a measure of decision making authority in EPA, but nothing can be issued without concurrence by the Department of Transportation.

On the issue of sanctions, the agreement provides that after 18 months, the sanction cannot be statewide if a political subdivision of a State is principally responsible for the noncompliance. In an additional 6 months, EPA may extend sanctions statewide. This gives a State, after the initial 18 months, 6 additional months to remedy the failure of a region to come into compliance before there is any threat of a statewide sanction.

This bill will have a major impact on the kind of America we have in the 21st century. I believe every Member of this House wants a clean and healthy environment. At the same time, we also want a strong economy that will lead to productivity gains and economic expansion. I believe these goals are not conflicting.

The amendment that has been agreed to by the Committee on Public Works and Transportation and the Committee on Energy and Commerce will provide an opportunity to move in that direction. I hope my colleagues will support the amendment when it is offered on the floor.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania [Mr. SHUSTER] is recognized for 30 minutes.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a young boy growing up in the steel valley of western Pennsylvania, I know what it was to smell air pollution. In fact, on many days you could not see from the valley to the top of the hill until noon as a result of the tremendous air pollution caused from the steel mills and soft coal.

I had forgotten that not only could we see and smell the air pollution, we could even taste it. We could taste the soft coal. I had forgotten all about that until this past Easter when with another committee we traveled to Poland and Czechoslovakia, and there I was reminded and once again learned just what the taste of air pollution is, the taste of soft coal in your throat and in your nostrils. I was reminded that what was happening in Poland and Czechoslovakia was the result of 40 years of environmental pollution, 40 years of degradation, 40 years of not caring about the environment. It seemed to me that for those in America who care about the environment, we certainly are on the right track when we talk about clean air and the importance of providing standards so that we can assure the tremendous progress which already has taken place in our country will continue in the years ahead, and yet as we focus and emphasize the importance of clean air, it is also equally important that we focus on the balance that must go with such decisions, the balance that recognizes, yes, there is a cost attached to clean air, the recognition that jobs can be lost, the recognition that this particular clean air bill before us could indeed cost our country over $50 billion—yes, billion, not million dollars a year, that there could be thousands of jobs lost. Indeed, it could help precipitate a depression.

So while we must support clean air, we must likewise be equally concerned that there be a balance, a balance that recognizes not only the importance of clean air, but the importance of providing jobs for our people and creating a continuing growing economy.

□ 1820

I regret that in some of this legislation I believe there is not balance. In fact, particularly in the transportation area, one of the deep concerns we have had is that it gives all the weight to environmental decisions and very little weight to the importance of transportation decisions and yet, as a result of tremendous efforts particularly on the part of the distinguished chairman of our full committee, the gentleman from California [Mr. ANDERSON], and the distinguished chairman of our subcommittee, the gentleman from California [Mr. MINETA], they have worked out amendments which I understand are reasonable and can be accepted, amendments which provide for the very balance which is so necessary in the transportation area of this legislation, amendments that provide that transportation policy will not be decided exclusively over in the Environmental Protection Agency but will be decided in concert with the U.S. Department of Transportation where these very decisions should properly be made.

I would urge my colleagues, when we consider the transportation amendments tomorrow, that they look favorably upon the amendments which are going to be offered by the chairman, the gentleman from California [Mr. ANDERSON], because these amendments bring very much needed and vital balance to our legislation, the kind of balance that is so necessary for us to move ahead with the vital transportation needs of our country while at the same time recognizing the importance of clean air.

Mr. Chairman, finally, I would call our attention to the importance of dealing with the issue of protecting and preserving the money that is flowing into our highway and transit trust funds. As a result now of the gasohol exemption on gasoline taxes, we are losing about $500 million a year which should be flowing into the highway trust fund.

As a result of the clean air legislation, if it passes, and as a result of the continued exemption for both ethanol and, indeed, expanding it to methanol, the American people will be losing about $1 billion a year which otherwise should be flowing into the highway trust fund to preserve and improve America's transportation system.

When, indeed, we said years ago that we should stimulate the development of gasohol, ethanol, and one of the ways to do it was to provide the 6-cent-per-gallon gas exemption, it was done on the basis of encouraging a new technology, a new capability, but if now we are going to mandate that this particular technology, ethanol, methanol, must be used, then there is no need. In fact, that eliminates the justification for providing any exemption from the tax, and so just as gasoline is taxed, the people who drive on our highways pay their gasoline tax, simply because they happen to pull into a service station and have methanol or ethanol put in their car rather than simple gasoline, there is no reason for exempting them from the gasoline tax. So this is an issue of vital importance, and if we care about America's transportation needs, it is my understanding that the Committee on Ways and Means is willing to sit down with those of us on the Committee on Public Works and Transportation to come to grips with this issue. I focus on it because it is absolutely vital if we are going to come to grips with the important transportation needs of our country.

Mr. Chairman, for those various reasons, I urge my colleagues to support the transportation recognition in this bill that, indeed, it is the Department

of Transportation along with the Environmental Protection Agency which should be involved in this decisionmaking process.

To each of my colleagues, I say in closing, that if they care about improving highway projects in their districts, if they care about seeing to it that the money that their constituents put into the highway trust fund gets spent for needed transportation programs, then I urge them to support the transportation amendments which will be offered by our distinguished chairman to this bill.

Mr. Chairman, I urge the Members to recognize that as we approach the importance of clean air, we do it recognizing that there must be a balance, and that transportation and transportation needs in America must stand alongside clean air so that we provide the proper balance to accomplish both of these important objectives.

Mr. ANDERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the chairman of the Subcommittee on Surface Transportation.

Mr. MINETA. Mr. Chairman, the Clean Air Act Amendments of 1990 have traversed a long and rocky road through both Houses of the Congress. Finally, we find ourselves in a position to enact legislation that will improve our health and environment.

I commend the leadership of the House on both sides of the aisle for their efforts to bring the bill, H.R. 3030, Clean Air Act Amendments of 1990, to the floor for consideration. I especially wish to commend the distinguished gentleman from Michigan [Mr. DINGELL] and my good friend and colleague, the gentleman from California [Mr. WAXMAN], as well as the ranking Members from New York and Illinois.

H.R. 3030 is sound and comprehensive legislation that will dramatically strengthen the Nation's clean air laws.

More than 100 million Americans live in areas that fail to meet national air quality standards. Between 5 and 10 million Americans suffer from the adverse effects of dirty air.

Through the enactment of clean air legislation, relief will be shared by everyone and the Nation as a whole will benefit.

Mr. Chairman, I believe that H.R. 3030 goes a long way toward improving air quality. Some people may say that the bill does not go far enough. I would agree, but H.R. 3030 takes a long-overdue step in the right direction.

I believe the Congress has to take a balanced approach to addressing the Nation's environmental problems while addressing its transportation needs.

Clean air is a national resource and we must work to keep it clean.

Over the past few weeks, the Committee on Public Works and Transportation under the capable leadership of Chairman ANDERSON and our ranking Republican Member, Congressman HAMMERSCHMIDT of Arkansas, and my good friend and colleague with whom I have the honor to serve, Congressman SHUSTER, the ranking Republican on the Surface Transportation Subcommittee, has worked in good faith with the Committee on Energy and Commerce to address concerns that directly affect the Nation's surface transportation programs. The two committees have today reached an agreement on the proposed amendments.

I am well aware that mobile sources produce half our urban ozone pollution, half our toxic emissions nationwide, and 90 percent of carbon monoxide pollution.

At the Federal level, the responsibility for widespread failure to reduce mobile source pollutants since 1977 rests with the Environmental Protection Agency [EPA] and the Department of Transportation [DOT]. For the future, both Departments must work together to reduce emissions. For that reason, the Energy and Commerce and Public Works and Transportation Committees have proposed to amend the Clean Air Act Amendments of 1990 to provide for an effort by both EPA and DOT to assure conformity of transportation plans and projects.

As the House considers the bill, H.R. 3030, we must keep foremost in our minds that overall the Clean Air Act Amendments of 1990, as reported by the Energy and Commerce Committee, is a very good bill. I strongly support enactment of H.R. 3030.

The amendments to the legislation agreed to by both committees are only intended to improve the implementation of the Clean Air Act without neglecting the need to move people and goods.

The committees' amendments address two areas: sanctions and conformity requirements.

Under the sanctions provisions, the EPA Administrator is required to establish criteria for exercising his or her authority to impose sanctions on political subdivisions that have adequate authority to correct air quality deficiencies.

On Wednesday, the committees will amend the conformity requirements to permit EPA and DOT to work together to determine which transportation projects conform to the State implementation plan.

These are good amendments.

When we reauthorize the surface transportation programs next year, it is my intent to include strong consideration of environmental improvement goals—in addition to improving our economic development, international competitiveness, public safety—and most obviously—our transportation system.

Over the last two decades, the Congress has struggled to develop solutions to improve air quality. Success has eluded us.

Now, we have an opportunity to enact legislation to clean up dirty air.

It is clear Americans are willing to tighten their belts and make sacrifices to achieve cleaner air for themselves and their children.

I would urge my colleagues to keep foremost in their minds that the enactment of clean air legislation is what Americans want and should have.

My Santa Clara County district is part of the San Francisco air basin—a nonattainment area. And my constituents are not willing to exchange their health for economic gains alone.

Americans are looking to us for leadership and we must provide that leadership by enacting strong and workable clean air legislation. Further, we can ensure that H.R. 3030 is workable by making modest, but important adjustments to H.R. 3030 to strengthen the bill and facilitate its implementation.

Mr. Chairman, I urge the adoption of amendments offered jointly by the Committee on Public Works and Transportation and the Committee on Energy and Commerce.

□ 1830

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would ask the distinguished chairman of our full committee, the gentleman from California [Mr. ANDERSON], a question with regard to the safety exemption from existing law.

It is my understanding that it is continued and that the Department of Transportation has the statutory authority to determine what is a safety project. Further, that the Department of Transportation has used this exemption to allow much-needed safety projects to go forward in States which are under sanctions.

Mr. Chairman, it is my understanding that the Department of Transportation will continue to be able to continue approving these types of projects under our committee amendment, and indeed the definition of "safety project" is to be interpreted in its broadest context.

Mr. Chairman, I would ask if that is the understanding of the gentleman from California [Mr. ANDERSON] as well?

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Chairman, yes, in this agreement that is agreed to both the Committee on Public Works

and the Committee on Energy and Commerce, that determination will reside with the head of the Department of Transportation.

Mr. HAMMERSCHMIDT. Mr. Chairman. I rise in support of the goals of H.R. 3030 and to convey my belief that our Nation's transportation programs must be part of the solution to the environmental problems that threaten our quality of life. At the same time we must be sure that in advancing clean air goals we do not unnecessarily impede the improvement of our transportation systems.

I am extremely pleased to support a very positive amendment to H.R. 3030 that will clarify how specific provisions of the Clean Air Act amendments will be applied to Federal transportation programs. Where H.R. 3030 is unclear, this amendment provides specific guidance to the Environmental Protection Agency and the Department of Transportation on how transportation programs will be judged in measuring up to clean air objectives.

The Surface Transportation Subcommittee has held six hearings in the last 2 months to learn where our transportation programs should be headed. We heard that high-quality, well-maintained roads are critical to keeping America a strong competitor in the global marketplace. We heard that traffic congestion is, day in and day out, undermining the productivity of our commercial fleets and wasting countless hours as the American work force sits in gridlock. Transportation officials told us that bureaucratic labyrinths and legal entanglements tied to Federal funds are holding up critical transportation projects aimed at getting us out of our congestion nightmare.

Just as important, we heard that Americans want a transportation system that can coexist with a healthy, clean environment. I want to particularly note that Secretary of Transportation Sam Skinner personally pledged his support before the Public Works and Transportation Committee to see that transportation policy will foster the protection of our environment and our quality of life.

We will be called upon in next year's surface transportation bill to solve these basic transportation problems, and to do so in a manner that is compatible with clean air goals. My concern is that certain provisions of the bill reported by the Energy and Commerce Committee, if enacted into law, would pose serious problems for our transportation system.

On the conformity issue, the amendment first of all sets out in detail the methods by which transportation plans, programs, and projects are determined to conform with clean air plans. In particular, the amendment ensures that conformity will be determined for a transportation plan as a whole, not for individual projects included in a plan. At the same time, the amendment guarantees that projects that were not in a plan, or whose design or scope have changed, will be closely analyzed to prevent evasion of clean air goals. This amendment is crucial for ensuring that clean air goals are advanced at the planning stage of transportation projects, and also for ensuring that a program of transportation projects can be advanced, with some projects that enhance air quality, some that are neutral, and some that do not enhance air quality.

This is a critical clarification of H.R. 3030 strongly supported by regional councils nationwide. In nonattainment areas, regional councils are the designated agency to perform coordinated, continuing metropolitan transportation planning in urbanized areas. They are responsible for assuring that all Federal-aid transportation programs are in conformity with State implementation plans to meet national air quality goals. The regional councils believe that the conformity language of H.R. 3030 reported by the Energy and Commerce Committee will seriously impair the ability of metropolitan areas to meet current and future transportation needs. They believe it will impose costly and technically impractical requirements on planning agencies, and could ultimately jeopardize the economic health of many of our Nation's metropolitan areas.

The second amendment relating to conformity provides that the Administrator of EPA will jointly set the guidelines for conformity in concurrence with the Secretary of Transportation. This will bring the expertise of both EPA and DOT to the table as decisions are made that affect both clean air and transportation programs.

Another basic change is proposed in the amendment regarding the authority to cut off highway funds as a sanction for Clean Air Act violations. The amendment ensures that sanctions, if necessary, are aimed at the level of Government responsible for taking remedial action. Thus, highway sanctions cannot be cut off in the first instance for an entire State for a violation in one part of the State, if a local government has primary responsibility for correcting the violation.

The amendment that will be offered will promote the clean air goals of H.R. 3030, while ensuring that we can move forward with a strong national transportation policy. I strongly urge my colleagues in considering this issue to reflect upon the transportation challenges facing them in their own districts. I hope you will support the very constructive changes in this amendment.

One additional aspect of the Clean Air Act amendment causes me concern. Mandates for increased gasohol usage in nonattainment areas will result in substantial additional losses of revenue to the highway trust fund. Gasohol currently has a 6-cent-per-gallon exemption from the Federal excise tax on gasoline. This exemption already drains the trust fund of $500 million per year. Once mandates are in place for use of oxygenated fuels, we need to address the lost revenue issue. I know that the Public Works and Transportation Committee is very concerned about this matter at a time when critical transportation projects are unfunded. I hope the Ways and Means Committee will share this concern and that our committees can cooperatively address this important matter in future tax legislation.

Mr. SHUSTER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. COLEMAN of Texas). The Chair has been advised that the Committee on Ways and Means will not consume the 60 minutes of general debate time that has been allocated to it. Therefore, the time is considered to have been yielded back.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my remarks at this point will be very, very brief. I would like to commend my friends and colleagues on the Committee on Public Works for the very gracious and constructive attitude which they have demonstrated on this very difficult piece of legislation. The chairman of the committee, the gentleman from California [Mr. ANDERSON]; the subcommittee chairman, the gentleman from California [Mr. MINETA]; and the distinghished gentleman from Pennsylvania [Mr. SHUSTER] have certainly merited the thanks of the House for the way in which they have conducted the business here. I believe their suggestions are constructive and we will look with a great deal of kindness upon them. I believe that resolution of the difficulties that appeared to lie before us has been accomplished. I want to commend the gentlemen just mentioned, including my good friend the gentleman from Pennsylvania [Mr. SHUSTER], for their participation in this debate and their assistance to us in addressing the problems we have with regard to this Clean Air Act.

Mr. Chairman, I yield back the balance of my time.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from Michigan [Mr. DINGELL] for his remarks. I will not add much to it, except to remind the House that H.R. 3030 balances the safety of our environment with the health of our economy. We as a nation have enjoyed seven consecutive years now of economic expansion, which is the longest period of sustained growth in the history of our Nation. This expansion has resulted in more jobs and better wages for millions and millions of Americans. We cannot and must not jeopardize our economy by overloading on Wednesday next a good environmentally solid bill with some perhaps unjudicious and unwise amendments which might invite a Presidential veto.

So with that small footnote to add to the words of the gentleman from Michigan [Mr. DINGELL], I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr Chairman, I strongly support the action of the Committee on Ways and Means to delete from H.R. 3030 certain fees which are, in reality, taxes or tariffs.

Several of the provisions of H.R. 3030, as reported by the Committee on Energy and Commerce, either propose to give the Envi-

ronmental Protection Agency [EPA] the direct authority to impose fees to serve as economic incentives to eliminate pollution or the authority to impose fees if those levied by the States are considered inadequate. In substance, these are taxes, not user fees. The fact that revenues from these fees were proposed to be used to pay certain EPA costs does not turn them into user fees after the fact, just as the general tax revenues that now pay EPA's costs are not turned into fees as a result of such use.

In one case, the bill attempts to characterize as a penalty what is, in reality, a tax. It proposed to impose a penalty on certain large companies just because they happen to be located in areas which fail to comply with certain pollution control limits. The companies would be required to pay the penalty, even if they actually emit less pollution than their permits allowed. This is clearly a tax, not a penalty.

Finally, the bill also would permit the States to impose fees on the importation of products which contribute to the formation of what is commonly known as smog. This provision would allow the States to impose tariffs—at a level to be determined solely by the States—on products imported into the United States. This provision could, conceivably, result in States imposing tariffs on imported foreign cars. This measure raises serious trade policy issues and likely would violate U.S. international trade obligations under the General Agreement on Tariffs and Trade. In addition, it raised serious constitutional questions.

The Committee on Ways and Means amendment struck these provisions from the reported bill, because they are taxes or tariffs, not fees designed solely to compensate the Federal Government for the provision of services to the persons required to pay such fees or fees properly characterized as penalties.

Mr. Chairman, the members of the Committee on Ways and Means recognize that the administration of clean air legislation will be costly. We have no quarrel with the need to fund EPA's enforcement efforts adequately. But the need to raise revenue for these purposes cannot justify raising taxes or imposing tariffs in the guise of fees. It especially cannot justify the unconstitutional delegation of the power to tax by the Congress to the executive branch, as would be the case if some of these fees were adopted.

Mr. Chairman, the Committee on Ways and Means has been careful to limit its actions to those which are clearly within its jurisdiction. We have not attempted to modify those fees which are clearly user fees, even though members of the Committee may have questioned their merit.

Before I conclude my remarks, I wish to express my deep concern about the precedent set by another provision of the bill not addressed by the action of the Committee on Ways and Means. One of the sanctions provided by the bill is the denial of certain awards from the highway trust fund. I am disturbed that this provision attempts to usurp control of trust funds properly within the jurisdiction of other committees.

In conclusion, Mr. Chairman, I wish to emphasize that the concerns of the Committee on Ways and Means are not merely issues of committee jurisdiction. These same types of fees are frequently contained in legislation adopted by the Senate. We must take very seriously our collective responsibility to protect the constitutional prerogative of the House to initiate revenue measures. To do so, we must not simply call a measure a user fee if, in reality, it is a tax or a tariff. Our failure to face up to that fact will only serve to impair the House's constitutional prerogative to originate revenue legislation.

Mr. KANJORSKI. Mr. Chairman, I rise today in strong support of H.R. 3030, the Clean Air Amendments of 1990, as well as a number of the amendments that will be offered in the next few days to strengthen this important legislation.

During a recent visit to Eastern Europe, I saw numerous opportunities for America to help these countries in their struggle to reform their economic and political systems. Perhaps more importantly, however, I found a significant lesson that Eastern Europe has to offer the United States.

The lesson is simply: We must pay heed to the environmental impact of our actions if we are going to survive.

Not until you visit the eastern bloc can a person truly know the potential damage of unregulated air and water pollution. In the cities and the surrounding areas, even on the clearest of days, the smog has cut visibility down to less than a mile.

Acid rain has decimated not only buildings and statues that have been standing for hundreds of years, but also natural treasures such as the Black Forest.

The worst part about this situation is that there is not much hope for a near term solution to reverse the environmental damage. Cleaning the air and water in these countries will take millions—perhaps billions—of dollars and require the use of technology that they do not have.

The United States needs to continue to pursue the advanced technology and industry that has allowed this country to grow and prosper. This cannot be done, however, at the expense of the environment. A balance must be found.

Eastern Europe provides powerful testimony to the fact that strong regulations protecting the health of the air, water, soil, and people must be enacted and maintained if we are to continue our course of progress. It provides a frightening glimpse of what America could become if we do not act quickly and decisively. Thus I urge my colleagues to support this legislation.

Mr. FORD of Tennessee. Mr. Chairman, I stand before you today in support of the House Clean Air Bill, H.R. 3030. The committees with jurisdiction, my congressional colleagues, businesses, environmental activities, and citizens alike have worked hard to create new and comprehensive environmental legislation that would address the need to clean up our environment. This legislation is the result of the input of many and reflects the concerns of all.

Clean air legislation was first enacted in 1970 and again revised in 1977. Consequently, it has been 13 years since there has been any major revisions to clean air legislation. However, air pollution from more than 200 industrial plants continue to pose risks at least 1,000 times greater than the federally accepted limit. At the same time, 2.7 billion pounds of chemicals were released into the air from the routine operation of factories alone, and 9.7 billion pounds of chemicals into streams and other bodies of water. It is time we addressed these problems.

Mr. Chairman, I support H.R. 3030 for three reasons: acid rain, air toxics, and smog.

Acid rain has been found to aggravate human respiratory illnesses, causing numerous breathing problems. Acid rain also has been cited as causing corrosion of buildings, monuments and water pipes and releasing cancer- and disease-causing substances into the water. This chemically contaminated precipitation is a prime suspect of forest decline and is estimated to cause 50,000 premature deaths in this country.

Title I of H.R. 3030 would establish provisions to address the problems of acid rain. This title would call for a 10-million-ton reduction in the 1980 level of sulfur dioxide emissions, the major contributor of acid rain, by the year 2000.

Air toxics released into the air have been known to turn backyards red and dissolve tombstones. Imagine the impact these toxics have on our bodies. Strong levels of air toxics have been linked with high incidents of cancer. H.R. 3030 would regulate the release of air toxics and implant changes to decrease the overall levels of air toxics in our environment.

Finally, smog has continued to be more than an eyeache for this country's citizens. While, we as representatives and other informed individuals continue to preach about the hazards of air pollution, it is often that our words fall on deaf ears. In most instances, without being able to see a greenhouse effect or to see ozone depletion, the problem cannot be viewed as an important issue. Yet, smog is a very visible and significant problem.

The thick masses of dirty air hover above us, clouding our skies and creating dark hazes. Estimates indicate that $5 billion are lost annually due to lowered productivity of farmland and crop losses due to smog.

The clean air bill would divide the country into various categories based on the levels of pollution and failure of an area to achieve established standards and would institute stricter control measures for automotive vehicles, gasoline pumps and other contributors to smog.

H.R. 3030 is not just a clean air bill but it is a ticket for the future. It has been estimated that this bill will cost $21 billion a year.

Yes, changes to the clean air bill may be costly. But the price tag of pollution is much more expensive. Studies implemented by the American Lung Association indicate that the health costs of pollution range from $500 million to $15 billion per year. However, implementation of new Federal Public Health standards for fine particulate matter would result in $5.3 billion to $9.6 billion saved in health benefits.

Likewise, if Federal standards were maintained for sulfur dioxide exposure, $10 billion could be saved. Consequently, the results of these and other studies continue to confirm

that the overall net benefits in the savings of potential health costs far outweigh pollution control costs.

Since 1970 our Nation has made great progress in cleaning our air, but more needs to be done. The key to future improvements is proper planning. Let us plan now to implement a bill that can work for us all. I urge everyone to support H.R. 3030 and to create a comprehensive clean air plan.

Mr. DREIER of California. Mr. Chairman, I want to congratulate my colleagues on the Energy and Commerce Committee for bringing to the floor a workable package of amendments to strengthen the Clean Air Act. President Bush deserves special praise for the initial development of this comprehensive plan. I am convinced that, without the President's leadership, we would be facing another legislative stalemate, and another extension of a Clean Air Act that has proven to be ineffective in addressing the most serious air quality problems facing many of the Nation's urban areas.

I am an original cosponsor of H.R. 3030, and the changes made by the committee will only serve to strengthen its effectiveness. H.R. 3030 maintains the President's initiatives to provide for achievable attainment of air quality standards. It provides a cost-effective means to reduce sulfur dioxide emissions in an effort to address the problem of acid rain. It contains a workable system to control toxic air pollutants, and it promotes advanced fuels and technologies to reduce automobile emissions and industrial pollution.

H.R. 3030 is an ambitious attack on health-threatening pollution. It is necessary for addressing the severe pollution problems in areas like the Los Angeles Basin, which has the worst air pollution in the country. In 1989, there were 160 days when the basin's air quality exceeded the EPA standard, and there were 54 stage 1 alerts. Fifty-two percent of the basin's smog-producing ozone pollution comes from cars, buses, trucks, and motorcycles.

I am cognizant of the potential impact this legislation could have in terms of economic growth and industrial competitiveness. I am particularly concerned about the ability of small businesses to comply with the extensive permitting and enforcement provisions. After implementation, should some of the provisions in H.R. 3030 prove to be prohibitively costly without providing any net marginal environmental benefits, I will support congressional efforts to revisit those issues. But for now, we need a multifaceted attack against pollution, and H.R. 3030 provides a number of market-oriented tools to fight the battle for clean air.

Mr. Chairman, failure to strengthen the Clean Air Act this year will prolong uncertainty about our commitment to improve the Nation's air quality and protect public health. It is time that we end the 7-year stalemate that has tied up this important legislation. H.R. 3030 is a fair, yet aggressive pollution reduction program, and it has my full support.

Mr. ROGERS. Mr. Chairman, the measure reported out of the Energy and Commerce Committee is a comprehensive, complex, and tough bill. The House compromise is tougher than the administration's proposal, and in some key aspects, tougher than the legislation which passed the Senate.

I am acutely aware of the 10-year stalemate that has plagued previous attempts to reauthorize the Clean Air Act. Much credit of course must be given to the President for breaking that log jam, and much credit must be given to the able leader of the Energy and Commerce Committee, Mr. DINGELL, and the ranking Republican member from New York, Mr. LENT. Concessions have been worked out on a number of issues, including air toxics provisions, a tail pipe standard agreement, and new requirements for ozone nonattainment problems in the most heavily polluted cities. While the auto companies are not wildly enthusiastic, they have a can do attitude about these requirements, at least for the first phase of these requirements.

But, we live in a very complex industrialized society. For every requirement we enact there is an economic impact, there is a job impact, a small business impact, and those tabs must be paid. The Business Round Table recently published a comprehensive analysis of the costs of various clean air proposals. Their best cost estimates using models developed by several organizations range from $31 billion to $104 billion. Moreover, a Harvard University report on environmental regulation and U.S. economic growth finds that pollution abatement controls were a significant contributor to the growth slowdown of the 1970's. There is an economic price to be paid, and we must readily acknowledge that the price is high.

The Commerce Department reports that we currently spend $32 billion a year on environmental regulations. Consequently, we have seen significant improvements in the air quality across the country. For example, today's cars are 25 times cleaner than 20-year-old cars. The Environmental Protection Agency reports that since 1978 emission of ambient airborn lead declined 88 percent. From 1973 to 1988, despite an 85-percent increase in coal use nationwide, sulfur dioxide emissions have decreased 35 percent. Nitrogen oxides have declined 12 percent since peaking in 1978. In my home State of Kentucky, electric utilities have cut sulfur dioxide emissions in half from 1975 to 1985, while increasing the amount of coal burned by 17 percent. All these decreases are the result of the current clean air law.

But as we look for ways to continue these improvements, we may well jeopardize the only course that can guarantee a cleaner environment. The solution to our nation's pollution problems is innovation, better technology, and unleashing the power of the human mind in a free society. The results we seek cannot be achieved if we go after them with the heavy artillery of big government. History tells us that closed societies, where Government controls technology and innovation, have dismal success records at achieving clean air goals. I am concerned that we are forgetting the lessons of history. It is not surprising to me that the West Germans have had to waive the air pollutant standards on East German cars. That is a typical problem of command-control economies. We must not move in that direction. The first principle of any clean air bill should be maximizing flexibility for innovation.

Last, Mr. Chairman, but certainly not least, I want to focus on the acid rain title of the bill. Although this title has also been worked out in committee, I remain deeply concerned that title V is not a fuel-neutral bill. Because of the effects of the so-called cap in phase II, the acid rain provisions will severely restrain the use of coal for utilities in high growth States. Although the committee report acknowledges this problem, the agreement does not, in my opinion, address this issue.

Moreover, the economic impacts of the acid rain title on coal communities in Kentucky will be concentrated on Kentucky's small coal towns which are almost exclusively dependent on mining for their economic viability.

In my district, which is sometimes referred to as a low-sulfur coal area, only 20 percent of the coal can meet the stricter 1.2 pounds-per-milion BTU standard required in phase II. EPA has greatly underestimated the potential mining-related job loss in its cost estimates. According to estimates from the Clean Air Working Group [CAWG], the potential jobs at risk of being lost from clean air in my district could be as high as 1,400. One coal company in particular is now threatened with extinction because of the uniquely crafted features of the sulfur dioxide emission allowance system. Eight hundred jobs in Whitley and Knox counties are at risk. Ironically, this firm produces 2.5 million tons of some of the lowest sulfur coal in the State of Kentucky, and it generates $100 million of revenues into the Kentucky economy. That hits us very hard when parts of my district are already suffering with unemployment rates as high as 18 percent. Although I have discussed this problem with committee members at great length, the committee was unable to resolve the problem.

We also know that the acid rain title will mean higher utility rates for Kentucky's ratepayers. The latest estimates from the Kentucky Energy Cabinet reveal that Kentucky's consumers will pay anywhere from 12 to 18 percent more for their electricity, depending on how utilities comply.

Finally, Mr. Chairman, what about the science behind the acid rain issue? Let me close by discussing the National Acid Rain Precipitation Assessment Program [NAPAP] that was established in 1980. This report was planned as a comprehensive 10-year study. Over the decade, the cost of that program has risen to over one-half billion dollars. The NAPAP Program is the most broadly based analysis on the effects and causes of acid rain ever undertaken. The Commission has reviewed over 5,000 documents and studies, more than 300 authors explained their findings, and more than 100 peer reviewers examined the reports.

Although the final report will be out in September, a draft was presented to an international conference of scientists in February. According to the program administrator, there is little probability that any of the conclusions would be changed. Therefore, the report offers very conclusive and significant findings.

The findings under section 18 that deal with forests are, and I quote:

There is no evidence of a general or unusual decline of forest in the United States or Canada due to acidic deposition or any other stress factor. Moreover, there is no case of forest decline in which acidic deposition is known to be a predominate cause.

In turning to the issue of crop yields, the NAPAP report states and I quote:

Ambient sulfur dioxide concentrations by themselves are not responsible for regional scale crop yield reduction in the United States.

Mr. Chairman, these excerpts offer a revealing look at what the scientists are saying about acid rain. This is a $1 million problem with a $1 billion price tag. Unfortunately, the debate in Congress is not about science. The proposal to control emissions that form acid rain—now being debated on the House floor—could cost $5 to $10 billion a year; the benefits, in terms of reduced damage, are uncertain and, at best, quite small.

I have a summary of each section of the NAPAP report; and, I insert that summary in the RECORD:

SUMMARY

The following summary comments are keyed to the individual section numbers in the Detailed Comments section which follows:

1. $SO_2$ Emission Trends.—National $SO_2$ emissions decreased by approximately 25% from 1973-1983 and have remained relatively constant since that time. Without new controls, emissions may increase or decrease by as much as 20% between 1990 and 2010. Emissions are expected to decline from 2010 to about 2030 as pre-NSPS plants retire. New plant growth after 2010 could result in an increase in total emissions after 2030, when all pre-NSPS plants have been retired.

2. $SO_2$ Effects Categories.—Regional scale $SO_2$ effects are usually evaluated for surface waters, forests, crops, materials, human health and visibility (see items 3 through 8 below).

3. Surface Waters.—A percentage (0 to 6 percent of mid-Atlantic, northeastern and midwestern lakes and streams are acidic and a further percentage (0 to 18 percent additional) are highly sensitive to acidification ($<50$ $\mu$eg L acid neutralizing capacity [ANCI]). Florida is a special case. Biological impacts occur in some acidic and sensitive waters. In the Northeast, the time for biological recovery may be long, so that little near term benefit would be expected to result from rapid emission reduction. In the Mid-Appalachian Region, the time scale of acidification and/or recovery (chemical and biological) is an important unknown. It will be reported in the NAPAP 1990 Assessment. Preliminary findings suggest that in some mid-Atlantic subregions, significant acidification may occur within a few decades.

4. Forests.—Impacts from acidic cloudwater in combination with other stresses affect some high elevation spruce forests in the East. However, there is no evidence of widespread forest damage from acidic deposition. Long-term changes in the chemistry of some sensitive soils are expected, although it is uncertain whether this will affect forest health.

5. Crops.—$SO_2$ emissions do not reduce crop yields, except possibly on a local basis near very large sources. Crop plants are not sensitive to the wet deposition of acidic substances.

6. Visibility.—NAPAP has not conducted independent research on visibility effects or values. However, visibility benefits should be included in any assessment of $SO_2$ emissions reduction, and are being included in NAPAP's Integrated Assessment. Atmospheric sulfate particles derived from $SO_2$ emissions are a significant contributor to reduced visibility and emission reductions will lead to improved visibility.

7. Human Health.—NAPAP program has not conducted independent research on the "direct" effects associated with inhalation of $SO_2$ or its transformation products, which include acid sulfate aerosols. The health risks associated with acid aerosols are being evaluated by EPA for possible inclusion as a National Ambient Air Quality Standard. Reductions of $SO_2$ emissions would reduce risks associated with current loadings. NAPAP continues to evaluate the results of research conducted on the "indirect" health effects of acid deposition (e.g., related to mobilization of lead, mercury or other metals in acidic waters).

8. Materials.—Both wet and dry sulfur deposition accelerates the deterioration of carbonate stone, galvanized steel, paint, etc. Materials benefits would be greatest if deposition in urban areas is reduced, thus local sources need to be considered.

9. Nitrogen Oxide Emissions.—$NO_2$ emission control will be beneficial in several regions. This favors the use of technologies that remove $NO_2$ including low $NO_2$ burners and clean coal technology (CCT) compared to the current generation of scrubbers in cases where controls may be required at existing plants.

10. Impact in Canada of U.S. $SO_2$ Emissions.—U.S. emissions reductions intended to benefit effects categories, e.g., surface waters, health and visibility, in the Adirondack area and New England will also benefit geographical areas in northeastern Canada. There is no supportable evidence, however, for widespread impacts on Canadian forests.

11. Economic Valuation of Benefits.—No comprehensive benefit evaluation is available, nor likely in the next year. Control strategy evaluations must necessarily involve both economic and physical measures.

12. Control Strategy Implications.—Enhanced energy conservation is the lowest cost means of emission reductions. Coal substitution and coal washing (where not already practiced) are low cost options for near term (e.g., by 1995) emission reductions. Clean Coal Technology (CCT) has many benefits (including reduced global climate impacts) compared to current scrubber technology, but will need a post-2000 deadline (e.g., 2003-2005) for full implementation.

For its integrated Assessment, NAPAP is evaluating the timing, magnitude, location, and costs of various control options. The issues revolve around the use of currently available techniques such as, fuel switching, coal cleaning, LIMB, duct injection, and scrubbing versus the next generation of clean coal technologies. The Clean Coal Technology Program will be resolving technical and economic questions of emerging techniques so that their performance and penetration rate can be determined.

13. NAPAP Assessment Reports.—NAPAP's fully reviewed reports (to appear in late-1989 and 1990) and the NAPAP International Conference in February 1990 are intended to assure credibility for the technical information generated by the program for use by policymakers in the development of acid rain control legislation.

1. $SO_2$ Emission Trends—Past and Projected:

1.1 National $SO_2$ emission rates have declined by 25 percent (from 32 to 24 million tons per year) between 1973 and 1988. Much of this reduction occurred in Ohio River Valley and midwestern states. Most of the reduction had been achieved by 1983, and national $SO_2$ emission levels have been approximately constant during the past five years.

1.2 The fraction of $SO_2$ emissions from tall stack sources increased during the 1973-1988 period. As a result, the reduction in long-range transport has been less than the 25 percent reduction in emissions.

1.3 If no new control legislation is adopted, various projections of national $SO_2$ emissions during the next 20 years range between $\pm 20$ percent or more, compared to current levels, depending upon assumptions about energy demand, fuel mix and new control technology penetration rate at existing power plants. Beyond 2010, there is general agreement that $SO_2$ emissions will decline, as a result of the retirement of older, higher emitting plants.

1.4 For this memorandum, a maximum emission reduction of 12 million tons per year (50 percent decrease) was considered, in order to comment on the expected benefits in the case of the largest reductions proposed in the current acid rain debates. Smaller total decreases (e.g., 6, 8 or 10 million tons per year) would result in smaller benefits; however, the relationship between emission reductions and benefits may not be linear. Two schedules for the 50 percent reduction case were considered:

2000 Target: 50 percent decline (from 24 to 12 million tons per year) by 2000, with constant emissions after 2000.

2005 Target: A 25 percent decline (24 to 18 million tons) by 2000, a further 25 percent decline (18 to 12 million tons) by 2005, with constant emissions after 2005.

2. Effects Categories for $SO_2$ Impacts:

2.1 The following effects categories are usually considered when evaluating the potential regional benefits of $SO_2$ emission reductions:

Surface Waters: Effects on lakes, streams, and coastal estuaries—both chemical and biological.

Forests: Effects on unmanaged and commercial forests.

Crops: Effects on agricultural crops.

Materials: Effects on exposed construction materials and cultural resources.

Health: Direct (inhalation) and indirect (other pathways) effects on human health.

Visibility: Effects on visual range through the atmosphere.

2.2 Important Note: Ozone (and other oxidants) and nitrogen oxides also can cause effects in the above categories, as noted in the following sections. Such ozone and nitrogen oxide effects will not be improved by $SO_2$ emission reductions alone.

The extent of changes in effects which may arise from ozone and nitrogen oxide would depend on the selection of control methods which included reductions in more than sulfur emissions alone.

3. Sulfur Deposition Effects on Surface Waters:

3.1 Current Status of Surface Waters: A percentage (0 to 6 percent) of eastern and midwestern lakes and streams are acidic, and a further percentage (0 to 18 percent additional) of these lakes and streams are highly sensitive to acidification. Regional distributions of lake and stream acidity are summarized in the following table. While this survey information cannot be used to establish the cause of a water body's status,

it provides a description of the number of acidic and very sensitive surface waters for the population sampled. Biological impacts are expected in acidic waters and may occur in sensitive surface waters. Snowmelt and intense summer storms can increase surface water acidity and lead to many more acidic waters than reported, particularly during biologically sensitive times of the year.

| Region [1] | Status (number of lakes or streams in percent) | |
|---|---|---|
| | Acid (ANC $<0\mu eq\ L^{-1}$ | Most sensitive (ANC $<50\mu eq\ L^{-1}$ |
| Lakes: [2] | | |
| Northeast | 5 | 19 |
| Upper Midwest | 2 | 15 |
| Southern Blue Ridge | 0 | 1 |
| Florida [3] | 22 | 35 |
| Mountainous West | 0 | 17 |
| Streams: | | |
| Interior Mid-Atlantic | 3 | 11 |
| Mid-Atlantic Coastal Plain | 6 | 24 |
| Interior Southeast | 0 | 5 |
| Florida [3] | 12 | 61 |

[1] Regions reported are as defined in NAPAP and EPA documents. Values reported are regional averages. Proportions of acidic and most sensitive surface waters within defined subregions are considerably lower or higher than this average.

[2] Small lakes (less than ten acres) were not sampled by EPA but in some areas (e.g., New York's Adirondack Mountains) are more likely to be acidic than larger lakes.

[3] Compared to other regions, it is better established that surface water acidity in Florida is the result of other processes in addition to acidic deposition.

3.2 Future Projections:

Indications are that the steady-state hypothesis holds in the Northeast, i.e., taken as a region, surface waters are in equilibrium with sulfur inputs. In the Southern Blue Ridge Province systems are not in equilibrium and are still absorbing sulfur. Assuming these conditions to be true, the following results may be expected.

The relationship between acidity changes and sulfur additions is complex. In general, percentage changes in sulfur will be accompanied by small changes in acidity.

3.2.1 Constant $SO_2$ Deposition: In the Northeast, little change will occur: few acidic systems will recover and few additional systems will become acidic. In the Southern Blue Ridge Province, significant changes could occur after the protective capacity of watersheds is exhausted (especially sulfate absorption capacity). Biological impacts will generally follow changes in acidity.

The Mid-Appalachian Region (part of the Interior Mid-Atlantic Region) is presently a key unknown. Significant research for this region is being completed and will be included in the NAPAP 1990 Assessment. This research was undertaken when EPA's National Stream Survey showed that sensitive surface waters occurred in some of the mid-Atlantic regions and the additional analyses suggest that significant acidification may occur within a few decades.

3.2.2 2000 Target Emission Reductions: In the Northeast, a percentage of systems will eventually improve chemically. This response will not be immediate since the watersheds will "bleed" sulfur into surface waters and a limited number of systems may continue to acidify. Due to the $SO_2$ reduction, more systems improve (chemically) than become acidic. Changes in acid neutralizing capacity will not be as large as change in sulfate. Biological recovery (e.g., self-reproducing fish populations) may require additional time. In the Southern Blue Ridge Province, the rate at which acidification occurs is slowed. Although there are few acidic systems at present, it is possible that some systems may become acidic in the future.

3.2.3 2005 Target Emission Reductions: Surface waters in the Northeast will respond similarly to the 2000 target case, except that the responses will be displaced in time, by less than five years. Recovery (chemical and biological) will occur but the response will not be immediate. Systems in the Southern Blue Ridge Province will continue to receive net increases in sulfur for an additional period. More systems may become acidic over this decade, but the additional number of acidified systems would be small.

4. Sulfur Deposition Effects on Forests:

4.1 Current Status: Preliminary indications suggest there is no widespread forest damage from acidic deposition. High elevation spruce forests in the eastern United States are effected by acidic cloud impacts, in combination with other stresses. At high elevations (>3400 ft) in the Adirondack and Green Mountains, the growth of red spruce has declined and mortality has increased (>50 percent dead.) Mortality in the Southern Appalachian Mountains is within the natural range but growth has declined. These forests represent less than 0.01 percent of the total eastern forested area. Cumulative effects of acidic deposition on some soils in the East may affect soil fertility in about 50 years. Sulfur deposition has changed soil nutrient status in the Midwest but this does not appear to have affected forest health.

The finding of "no widespread sulfur damage to forests" is widely acknowledged among most forest scientists, but varies from the views commonly reported in the media. NAPAP's state-of-science critical reports, with extensive reviews by all interest groups, are intended to assure credible findings on forest status. It is generally agreed that ozone reduces forest health in southern California and possibly also in some areas of the eastern U.S.

4.2 Future forecasts

4.2.1 Constant Sulfur Deposition: Continued decline of red spruce may occur at high elevation, although the remaining trees may be genetically more resistant to ozone and acid stress. Effects would occur only in association with another stress, e.g., drought, extreme low temperatures.

Some forest soils in sensitive regions in the East will exhibit reduced fertility from acidic deposition in about 50 years. This may affect forest growth.

4.2.2 2000 Target Emission Reduction: Current information suggests that only high elevation spruce growth would be improved if sulfur deposition were reduced. Although this represents less than 0.01 percent of the forests in the U.S., it is an important natural resource in our National Parklands. High elevation forests are also important in erosion protection. Possible changes in soil chemistry in sensitive regions in the East would be reduced and delayed if deposition were significantly reduced.

4.2.3 2000 and 2005 Target Emission Reductions: The reduction of stress on high elevation spruce growth would be delayed by a time of less than five years. Long-term (50-year) soil acidification improvement would be delayed slightly. Cumulative changes in the chemistry of sensitive soils would be reduced, but not as rapidly.

5. Sulfur Deposition Effects on Agricultural Crops:

5.1 Current Status: The yield per acre of most crops in North America has increased steadily over time for the past 60 years because of genetic improvements through crop breeding and improved management practices such as fertilization, irrigation and pesticide application. Year-to-year and site-to-site variations in crop yield are principally the results of natural environmental factors and management differences. Research indicates that crop yield is not impacted by acid rain. However, in many regions of the country, ambient levels of ozone reduce the yields of some crops by 1 to 15%.

5.2 Future Forecasts:

5.2.1 Constant Sulfur Deposition: No changes in crop yield are expected if current levels of $SO_2$ emissions continue.

5.2.2 2000 or 2005 Target Emission Reduction: No agricultural benefits are expected with any reductions in $SO_2$, except possibly on a local scale (within a few miles) near large smelters, refineries, or multiple point sources.

The benefits associated with the input of sulfur (a plant nutrient) to agricultural regions would be reduced if $SO_2$ emissions were reduced. This would result in higher sulfur fertilizer requirements to maintain optimal crop growth. Any control strategies that reduce ozone levels (e.g., $NO_2$ reduction) would likely benefit agricultural production.

6. $SO_2$ Emission Effects on Visibility

6.1 Current Status:

Summertime visibility over much of the eastern U.S. has decreased to a current visual range of generally less than 20km for areas east of the Mississippi River, except for northern New England, where it is 40 to 60km. Estimates of natural visibility in the East suggest background levels of visual range between 60 to 80km; substantially more than current levels in the East but still less than half of current western levels. Degradations in western visibility have not been as severe as in the East. Western visibility generally ranges from 100–200km.

In the rural East, reduced visibility results primarily from light scattering by fine particles, predominantly sulfate particles. In urban areas and in the rural West, light absorption and scattering by carbon particles is also important. The higher humidity in the East significantly increases the light scattering by sulfate particles compared to the West. Scenic vistas are affected by pollution at all 35 National Parks within the contiguous 48 states, and sulfate particles are the single most important factor in visibility impairment.

6.2 Future Forecasts:

6.2.1 Constant $SO_2$ Emission: Visual range would remain constant under current $SO_2$ emissions levels.

6.2.2 2000 or 2005 Target Emission Reduction: Visual range should improve immediately if $SO_2$ emissions are reduced, although quantification of the relationship is not yet possible. (Quantitative estimates are being prepared for the NAPAP assessment reports.)

7. $SO_2$ Emission Effects on Human Health

7.1 Current Status:

Both $SO_2$ and sulfate aerosols can result in bronchoconstriction in asthmatics and changes in mucociliary clearance. The $SO_2$ National Ambient Air Quality Standards (NAAQS) are met in most regions of the nation, and the remaining $SO_2$ nonattainment cases are subject to further regulatory control under existing Clean Air Act authorities. In 1985, the $SO_2$ NAAQS were exceeded in parts of 60 counties in 16 states.

Only a few direct measurements of ambient acidic sulfate aerosol concentrations have been made, and the highest measured levels are slightly lower than the concentrations which cause the effects mentioned above. However, some epidemiological studies suggest the possibility of long-term chronic effects resulting from exposure to high ambient levels of acid aerosol. EPA is currently considering the need for an acid aerosol ambient standard, and NAPAP is developing its analysis in close collaboration with the EPA regulatory decisionmaking.

Violations of the ozone NAAQS occur in many regions in the U.S. and it is likely that decrements in lung function occur in sensitive individuals in these areas.

Several indirect health impact mechanisms are being evaluated, including the possible mobilization of lead in low pH drinking water systems, and of mercury in lakes, with subsequent accumulation in fish used for food consumption. These studies are continuing; reported risk estimates will likely be low, but may not be negligible in all cases. (NAPAP's state-of-science reports to be released for public review in November 1989 will report on these risks.)

7.2 Future Forecasts:

7.2.1 Constant $SO_2$ Emissions: Chronic effects (if any) from acid aerosols would continue among sensitive individuals.

Indirect health risks (if any) would continue at approximately current levels.

7.2.2 2000 or 2005 Target Emission Reduction: Large-scale (50%) emission reductions would benefit individuals in those localities not currently attaining the $SO_2$ NAAQS. However, broad $SO_2$ emission reductions may not be a very inefficient means of achieving these benefits (i.e., if such emission reductions were not otherwise required).

Indirect health risks (if any) would be reduced. If significant indirect risks were confirmed, evaluation of specific emission reduction requirements in the affected regions would be necessary.

8. Sulfur Deposition Effects on Materials:

8.1 Current Status:

Acidic deposition increases the rate of deterioration of some building materials (e.g., galvanized steel and carbonate stone), some surface coatings (e.g., carbonate paint) and cultural resources (e.g., statues). The relationships between acidic deposition rates and deterioration rates for various materials are not well quantified, and are currently being investigated. Because of the large overall external maintenance costs for structures in the nation, enhanced deterioration from acidic deposition could potentially be significant. This is problematic since no generally accepted estimates of maintenance costs resulting from all air pollution impacts (nor from acidic deposition specifically) are currently available. Also, no credible analysis of consumer maintenance practices has yet been done. Additional information on this issue is anticipated for the 1990 Assessment.

Since most of the nation's materials and cultural resources are in urban areas, the focus of control decisions is similar to health effects, i.e. local sources need to be considered. Emissions from a limited number of remote sources (e.g., power plants) may result in a less than proportional impact on urban structures.

8.2 Future Forecasts:

8.2.1 Constant Sulfur Deposition: Current levels of surface deterioration will continue. Local situations of corrosion and other air pollution impact have been described but larger regional patterns of damage (i.e., those which would benefit from large regional $SO_2$ emissions reduction) are not well-characterized and constitute a significant gap in our knowledge.

8.2.2 2000 or 2005 Target Emission Reduction: Emission reductions will, at a minimum, provide an additional margin of safety relative to possible regional scale materials impacts from acidic deposition. No estimates of specific benefits are currently available. (NAPAP will report on the materials benefits which may result from sulfur emission controls in its Integrated Assessment in 1990. Because of significant data and inventory limitations, specific projections are unlikely. However, bounding estimates will be reported.)

9. Importance of Nitrogen Oxide ($NO_2$) Emission Reductions:

$NO_2$ emissions, which result from all combustion sources (i.e., both motor vehicles and stationary sources) can cause three types of effects on the regional scale:

Acidic deposition—typically 10 to 30 percent of that caused by sulfur oxides in the East. However, $NO_2$ may be a major component of acidic deposition to the extent that it occurs in the West.

Ozone ($O_3$) is produced photochemically by $NO_x$ and volatile organic compounds (VOC). The $O_3$ production or degradation rate depends on the local ratios and absolute amounts of $NO_x$ and VOC. This is very important because of the widespread nonattainment of the $O_3$ standard.

Contribution to eutrophication of coastal waters—may be a significant contribution (10 to 20 percent) in some cases.

Nitrates, derived from $NO_x$ may be important in some acute acidification episodes in surface waters.

In view of the possible effects, the question of $NO_x$ controls should be addressed as part of any evaluation of $SO_2$ control strategy.

Current $SO_2$ scrubber technologies remove very little $NO_x$ emissions. However, currently available low $NO_x$ burners may achieve 30-50 percent reductions. Some of the Clean Coal Technologies now being demonstrated (fluidized bed combustors, advanced scrubbers) also remove 30 to 50 percent of $NO_x$ emissions.

10. Impact of U.S. Emissions on Canada:

The principal impact of acidic deposition in southeastern Canada is the same as in the northeastern United States—acidification of a percentage of watersheds and lakes in geologically sensitive regions. Because of the large number of Canadian lakes in sensitive regions, this is a particular concern. Acidic deposition in both Canada and the United States results from sources on both sides of the border. It is generally agreed that the net transboundary flux of sulfur oxides is from the United States to Canada.

Canadian government representatives frequently assert significant forest damage as a result of acidic deposition. (Indeed, some of the best documentation of severe forest damage from extremely high levels of sulfuric dioxide impact come from the Canadian experience near the nickel smelter in Sudbury, Ontario—the world's largest individual $SO_2$ source.) Most Canadian and U.S. scientists now agree that there is no scientific basis to relate widespread forest effects to current levels of deposition. Long-term cumulative impacts on the fertility of certain soils is being evaluated with respect to possible forest affects.

Canadian representatives have expressed specific concerns about acidic deposition impacts on its sugar maple industry. Current information indicates that insert infestation and management practices significantly contribute to the observed impacts. Note: Canadian production of maple syrup was at a record high level in 1988.

U.S. emissions reductions intended to benefit effects categories (e.g., surface waters, health and visibility) in the Adirondack area and New England will also benefit the principal areas of concern in Southeastern Canada.

II. Economic Valuation of Benefits:

NAPAP has avoided basing its assessments on explicit comparisons of the economic benefits and costs of controls, partly because only limited information is available on the economic values associated with some of the effects. NAPAP is currently conducting economic benefit evaluations in a limited number of situations, and will report on methodologies employed and specific results in its assessment reports.

Because of the impracticality of developing credible benefit estimates for all impacts by 1990, NAPAP is evaluating alternate emission reduction strategies on a comparative basis, in order to report on strategies which achieve largest benefits (as determined by either physical or economic measures, as appropriate) for similar control costs.

Because economic evaluation methodologies are not well agreed upon for all of the effects/benefits categories relevant to acidic deposition, NAPAP's comparative evaluation of control strategies recognizes three categories of benefits. Benefits in individual categories can be cross-compared for the various control strategies evaluated, but cannot be combined into a comprehensive dollar estimate of benefits. The categories are:

(1) Health related benefits—having special public policy importance;

(2) Economically evaluated benefits—including market estimates (e.g., productivity in commercial forests) and behavior base estimates (e.g., recreational use of lakes); and

(3) "Conservation benefits"—including preservation of remote lakes and mountaintop forests, for which economic evaluation methods are not well agreed upon.

12. Control Strategy Implications Resulting From the NAPAP's Effects and Technology Analyses:

The time scale for biological recovery of lakes and streams in the Northeast may be long in the Northeast so that little near term benefit would be expected to result from rapid emission reduction. The time scale and importance of other effects (lakes and streams in other eastern regions, possible health effects, materials impact, forest response, visibility impacts) is still being evaluated. If the time scale of all significant effects is long, rapid imposition of controls will not result in significant near term benefits. This suggests that slower but less costly control strategies should be evaluated carefully. Specifically:

There is general agreement that moderate emission reductions (e.g., 3 to 5 million tons of $SO_2$) can be achieved within approximately five years by currently available technology. This includes coal substitution, coal cleaning, LIMB duct injection, and enhancements to existing scrubber technology.

LIMB technology has been demonstrated for wall-fired boilers and is attractive from a cost-effectiveness standpoint for control of $SO_2$ and $NO_2$ emissions.

Scrubber technology is continuing to advance with a focus on increased removal efficiency and reliability and/or reduced costs. The current technology is ready for implementation with known cost, performance and environmental impacts.

Clean Coal Technologies, including repowering and advanced energy conversion techniques, are being demonstrated. These technologies are potentially lower emitting and more cost effective than current technologies. The demonstration program will help develop these technologies as well as clarify their ultimate performance, cost, and penetration rates.

The Clean Coal Technologies (CCT) currently being demonstrated have several significant advantages compared to the current generation of flue gas desulfurization (scrubber) technologies:

Improved energy efficiency through greater kilowatt output per ton of fuel consumed (less $CO_2$ emissions and global climate impact).

Significant $NO_2$ emission reduction (30-50 percent in some cases) not achieved by current scrubbers.

More manageable wastes, compared to scrubber sludge.

Potential future export markets (coal and combustion technology) for the United States.

Wide deployment of CCT instead of scrubbers would require an extension of the deadline to achieve the full planned emission reduction beyond 2000 (i.e., to 2003-2005) unless a "crash program" of technology demonstrations is pursued.

13. Future NAPAP Assessment Reports on Benefits and Strategy Evaluation:

NAPAP will complete a large series of State-of-Science and State-of-Technology reviews, and an Integrated Assessment reporting on comparative evaluations of control strategy options, during the next 16 months. All NAPAP documents will have extensive review by U.S. and foreign scientists, and interest groups concerned with acid rain issues. These NAPAP reports will provide the following:

Credibility.—This is the most important scientific product of NPAP's work. Reasonable national agreement on the major cause-effect relationships, and the effectiveness of the planned control strategy, is most important. NAPAP's extensive scientific and public review procedures address the need for credibility. The NAPAP International Conference on Acid Rain, scheduled for February 1990, will be the most visible part of the extensive review process.

Completion of scientific, technological and economic studies.—NAPAP will continue to provide decision-makers currently available information upon requst, for analysis of legislative options, while its several key cause-effect analyses and other studies are being completed.

Comparative evaluation of strategies.—These analyses will aid decision-makers in the evaluation of legislative options until a law is adopted, and will guide regulatory management in the years ahead.

Mr. CHAIRMAN pro tempore. Pursuant to the order of the House of Thursday, May 17, 1990, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. ECKART] having assumed the chair, Mr. COLEMAN of Texas, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air, had come to no resolution thereon.

## □ 1840

## PUBLIC WILL SUPPORT TAX INCREASES AND SPENDING CUTS TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the public is ready and willing to cut the deficit. They want a budget treaty to come out of this week's summit. The voters of my district tell me that they favor a balanced budget, even if Congress and the President are failing to act.

Based on a survey of about 6,000 people from California's Ninth Congressional District, there is support for enough spending cuts and tax increases to reduce the budget deficit to zero by 1994. People love their country and their children so much that they are willing to make the hard choices—now. Congress and the President need to roll up their sleeves. Fingerpointing will only increase the growing contempt of the political process.

Citizens have targeted defense spending as a prime source for cutbacks. They want to cut weapons procurement and Armed Forces operation and maintenance by 25 percent each, limit the strategic defense initiative to research and development, eliminate the B-2 "Stealth" bomber, and reduce active duty military personnel by 10 percent. These cuts would take place over 5 years and would total savings of $58.6 billion by 1994. There is close to 90-percent support for several of these reductions and all have at least 75 percent public approval.

The voters also cited Medicare reimbursement rates as an area for savings. Sixty-two percent support freezing reimbursement rates for hospitals and physicians for 1 year out of the next 5, saving $14 billion more.

People called for cuts in other areas as well, such as foreign aid, postal subsidies for nonprofits, and congressional expenses.

All the cuts put together total $79 billion in savings by 1994.

But this is only half of the story. To raise additional revenue, people called for seven of eight possible tax increases. They registered overwhelming to support for increasing the top tax bracket on the 600,000 highest income persons from 28 to 33 percent, and raising taxes on cigaretts, beer, and wine. More than three quarters of the taxpayers would reduce deductions for business meals and expenses from 80 to 50 percent, many arguing there should be no deduction at all and 63 percent would up the top corporate tax rate from 34 to 36 percent. A majority also agreed to putting a transaction tax on stocks and other securities, and 50 percent supported raising the Federal gas tax by 10 cents a gallon. Added together, the tax increases total $51.8 billion in new revenue.

If we followed this course of action, we would get an $800 million surplus rather than the currently projected $130 billion 1994 deficit. Mr. Speaker, Members of Congress, it's time we read the people's lips. They want the deficit cut and will accept and support new taxes and major spending cuts. For the sake of our children and the long-run future of America, let's do our duty.

## AMERICAN OPPORTUNITIES WORKSHOP

The SPEAKER pro tempore, Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I take this time, if I may, to report to the House on the American Opportunities Workshop which we had on Saturday nationwide in over 600 workshops around the country connected both by satellite and by the family channel, an hour-long television program which was broadcast at 10 o'clock eastern time, 9 o'clock central and again at 10 o'clock mountain time, 10 o'clock Pacific time. We believe, based on our current estimate, we sent out over 40,000 copies of the special supplement which was printed in the National Review. In addition, we believe there were probably more than 40,000 people altogether who took part in the workshops and the program, and I wanted to report to my colleagues on exactly what happened.

It is a bipartisan effort, an effort which had as one of the most vigorous members of the workshop, Representative Polly Williams, who is a Democrat from Wisconsin, who offered the voucher program in Wisconsin which this fall will allow 1,000 poor children to have a choice as to where they and their parents decide they will go to school. It was bipartisan in that one of our co-hosts was former Attorney General Griffin Bell, and it was a serious effort to reach out.

I think the seriousness of this was caught in the news coverage which came out. I want to include in the RECORD today and read from several articles in the Washington Post and the New York Times that I think gave a pretty good insight into what was happening. Let me start with the Washington Post coverage on Saturday morning entitled "Conservatives Embrace War on Poverty. Proposals Range From Reading Bonuses to College Tuition Promises." Paul Taylor is the author.

Rep. Newt Gingrich (R-Ga.) has made an offer to third graders in five low-income communities in his district he hopes they can't refuse: He will pay them $2 for each book they read this summer.

Housing and Urban Development Secretary Jack Kemp thinks the federal government should guarantee full college tuition payments to every poor child in America who finishes high school. He doesn't care how much it costs. "As a society, we have the money," he said.

Paul Weyrich, president of the Free Con-

gress Foundation, wants welfare payments to a single mother to be tied to three conditions: Her abstinence from drugs, her willingness to seek financial support from the absent father, and her child's continued attendance in school. He also believes that rather than confiscate illegal drugs, the Drug Enforcement Administration should contaminate them "with a substance that makes users wretchedly ill, preferably with distinctive symptoms."

These conservative activists are at the cutting edge of an intellectual and political movement that is suddenly alive with manifestoes, paridigms, proposals and debates. They're trying to launch a new War on Poverty—a conservative war, grounded on the principles of individual empowerment, bureaucratic decentralization and market incentives.

They bring an urgency to their mission. Gingrich says the nation is "on the verge of catastrophic decay" because of its growing underclass. He says it's no longer sufficient for conservatives to rail against "the bureaucratic welfare state's" role in fostering the social pathologies of the poor. "We've won that argument," he said. "Now we have to show we can come up with something better. We have an obligation to govern."

He will open one front of the war today in the form of the American Opportunities Workshop, an hour-long television program beamed by satellite to more than 600 sites around the country. It will spotlight the efforts of citizen activists in poor communities to confront problems involving schools, crime, housing and other matters.

The show is being underwritten by $500,000 raised by GOPAC, a conservative political action committee Gingrich chairs, and will include taped messages from President Bush, Vice President Quayle, former attorney general Griffin B. Bell, Kemp and others.

"There's a realization percolating through the conservative movement that there really can be a political payoff—as well as a policy payoff—in these issues," said Stuart Butler, director of domestic policy studies for the Heritage Foundation and an advocate of eliminating virtually all taxes on the working poor. "During the Reagan years, to put it crudely, the political beancounters didn't think there were any votes in fighting poverty. Now I think that attitude is changing."

Kemp and Gingrich long have preached that for the Republican Party to become a true governing majority it must show good faith on issues of poverty. Under Republican National Committee Chairman Lee Atwater, the GOP has set a goal of doubling President Bush's black vote total—to 20 percent—in 1992. Several of the local activists to be featured on today's show will be black Republicans.

But before there can be a political payoff, conservatives acknowledge they must first agree upon a coherent anti-poverty policy.

"As a movement of dissent, much of the conservative agenda has been articulated in negative terms," Weyrich wrote in a 11-page memo now circulating in conservative circles. "It is much easier to build and maintain an opposition movement than it is to govern."

Earlier this spring, James P. Pinkerton, deputy assistant to Bush for policy planning, outlined what he called a "new paradigm" for attacking social problems. It included these principles: Anti-poverty policies must bring market forces to bear; they should fund individuals rather than bureaucrats; they should expand poor people's array of choices, and they should be measured by results achieved rather than dollars spent.

While most conservatives embrace those tenets, there is lots of debate over execution. The difference between the Kemp and Gingrich approaches to education funding is instructive. Kemp wants a direct government guarantee. Gingrich urges incentives funded by the private sector. His $2-per-book "earning for learning" pilot program is to be funded from speaking fees he receives. He hopes local businesses eventually will join in the program.

In general, Gingrich believes that the only extra government dollars for poor communities should be used for police protection.

Kemp takes a more expansive view of government's role. "You can't throw out the baby with the bath water," he said. "There's no question you have to apply resources—real government dollars—to these programs."

That is the article from the Saturday Washington Post entitled "Conservatives Embrace War on Poverty." Let me say overall I think Paul Taylor in that article caught the essence of where we are trying to go, although I would suggest that I would believe in a lot more government activity than simply police protection. But I do think when we look at New York City's $27 billion city budget, and New York City's 300,000 full-time employees, that for the city government the problem is not lack of money. The problem is how do we spend the $27 billion in New York City, not how do we go out and find more money to pour into a bureaucratic welfare state that is failing.

On Saturday Paul Taylor was in Detroit at the workshop, and this is the report he wrote for the Sunday Washington Post entitled: "GOP-Backed Teleconference Stresses Community-Based Solutions."

DETROIT, May 19.—At the stroke of 10 a.m. today, the "citizen opportunities movement of the 1990's" was launched here in the Rev. Keith Butler's crowded innercity church.

And in a barbecue restaurant in rural Newnan, Ga.

And in a Hispanic neighborhood in San Diego, a community center in Orange City, Iowa, and an auditorium in Portland, Maine.

Community workshops in these five sites were strung together by satellite into a live, televised, interactive, hour-long national town meeting that married conservative ideology with modern technology and old-fashioned grass-roots organizing.

The $500,000 satellite teleconference was the brainchild of House Minority Whip Newt Gingrich (R-Ga), who explained from his perch on a stool at Strayberry's Barbecue in Newnan that the point was to demonstrate that solutions to common problems of poverty, drugs, crime, education and the environment "will not come from one big decision in Washington."

"The age of the centralized state is over," President Bush added in a brief taped speech. "We must address problems not with bureaucracies, but at the community level, one citizen at a time."

Here on the east side of Detroit, the featured community problem-solver was a guest from Milwaukee, state Rep. Polly Williams, who described how she pushed the most advanced school voucher program in the nation through the Wisconsin state legislature earlier this year.

Vouchers are a favorite approach of conservatives because they give individuals more choice and make public bureaucracies face stiffer competition. Under the Wisconsin plan, which goes into effect this fall, almost 1,000 low-income Milwaukee students will be given $2,500 apiece to cover their full tuition if they choose to attend a private nonsectarian school. For every child who exercises that option, the Milwaukee school system will lose $2,500 in state funding.

Williams, a Democrat, a former welfare mother and a state coordinator in 1984 and 1988 for Jesse Jackson's presidential campaign, said only "bureaucrats" and "white liberals" fought the change.

Among her most interested listeners here was Butler, 34, the pastor of the 5,000-member Word of Christ Christian Center and a rising political force in Detroit. Two years ago, Butler, who is black, organized a grass-roots movement that defeated casino gambling referendum favored by Mayor Coleman Young (D); last year he became the first Republican in recent history elected to the City Council.

Butler is supporting a slate of candidates for school board this year who advocate a similar voucher plan for Detroit. "There is a realization that what is going on in the schools right now just isn't working," he said.

Although today's program was funded by GOPAC, a Republican political action committee, there were no references to partisan politics. "This isn't about politics," Butler said. "It's about helping people learn how to succeed. If you do that, they'll listen to what you're talking about in other areas too."

The hour did not go flawlessly. A glitch made the satellite-fed pictures arrive on the two large television screens in Butler's church a split second ahead of the audio—so when Bush spoke or when a Georgia sheriff described how he maneuvered past local bureaucrats to build a new low-cost modular jail or when a Maine entrepreneur talked about his environmentally safe coolant for refrigerators, reading everyone's lips was no small feat.

The question-and-answer segment between cities didn't produce much in the way of soaring exchanges. "What advice would you give to citizens who want to get involved?" a Hispanic restaurateur from San Diego asked Butler midway through the program. "Roll up your sleeves and go to work," he responded.

But the workshop here grew much more animated—full of name and phone number exchanges—once the show was over, and the Detroiters spent another hour talking among themselves.

"As a race, we are not trained to become entrepreneurs, we are trained to work for other people," Terry Wynn said to the applause of the overwhlemingly black audience. "A lot of our people think we are doomed to just work for GM [General Motors] for 40 years and then die. We have to change the way we think."

Wynn, 27, who started a business that places temporary workers in law offices, asked Butler if he would use his church to teach entrepreneurial skills to the community. "We already do," Butler said. "Now all of you here tell your pastors to do that too. If you ask, they'll respond."

The exchange captured what Gingrich hopes will happen on an ongoing basis. Starting in July, his plan is for community activists to have monthly town meetings, shown on local community access cable channels across the country. GOPAC's

American Opportunities Workshop provides programming to assist them. "What we are really creating here is an American citizen's television," said Howard "Bo" Callaway, chairman of GOPAC.

Organizers to today's teleconference said it was sent by satellite to about 600 community workshop sites around the country. Several dozen cable stations also picked it up.

□ 1850

That was the article by Paul Taylor in the Sunday Washington Post.

Let me just mention a couple of things. First of all, the goal was, wherever possible, to have a workshop that performed exactly as Paul Taylor suggested it would. I got a report today from Paul Weyrich, who was out at the Detroit site. Paul Weyrich is the head of the Free Congress Foundation; has been a leading strategist in the conservative movement. He said that the hour after the television show the Detroit workshop was, if anything, more excited and more exciting than the television program.

I called in to a program that JOHN KYL was leading in Phoenix, AZ, at a high school, which also had a very resounding—at Horizon High School—had a very exciting, over 100 people, who were involved.

I talked to people by telephone after the workshop on Saturday in Florida, Fargo, ND, Texas, New York and a number of other States, such as Indiana.

The reaction we got over and over was the people were involved locally in developing new approaches and new attitudes.

I think one of the key points here is that we were encouraging people who were already active to get even more active.

For example, in Manchester, NH, the mayor of Manchester led a local workshop which was carried by the local cable access channel after they got done watching the local program. Of course, because we were on the Family Channel, we had used an 800 number to allow people to call in, an 800 number which is still available and which is designed to increase the number of people who on their own can get active and who can get copies of the videotape from the Saturday program. It was 800-872-2798.

We got about 380 phone calls by 5:00 on Saturday from people who were very interested in getting a copy of the videotape or getting involved in the program.

Now, the New York Times also covered the program on Sunday in an article entitled "GOP Conservatives Take Grass-Roots Road," by Robin Toner,"

NEWNAN, GA., May 19.—Representative Newt Gingrich's vision of the conservative future came to Sprayberry's Barbecue here today. Satellite trucks rolled up in the parking lot, Mr. Gingrich took his spot before the cameras, and a national teleconference began, grandly aimed at inaugurating a "citizens opportunity movement."

The one-hour program featured a tough, jail-building county sheriff, a black woman who fought for the right of parents to choose which schools their children could attend and a Hispanic entrepreneur, all presented as success stories of people solving problems close to home.

The program, carried by cable stations and by satellite to more than 600 sites around the country, repeated the message that Mr. Gingrich and other conservatives have been advancing in recent months. "All of us know the bureaucratic welfare state has failed," said Mr. Gingrich, a Georgia Republican, House minority whip and a leading theoretician of the right.

The future, he and others argued over the hour, depends on citizens solving problems at the grass roots, technological innovation, entrepreneurial drive and a resurgence of basic American values like hard work, education and responsibility.

While organizers of the conference sought a non-partisan, nonideological tone—former Attorney General Griffin B. Bell, a Democrat, was one of the guests—it reflected the attempt by many conservatives to redefine their movement for the 1990's.

"We can't be successful unless we find a replacement for the bureaucratic welfare state," Mr. Gingrich said after the conference. "I mean, we are trapped into being basically a cheap welfare party versus a lavish welfare party."

The solution, in the view of some conservatives, is "a new paradigm" for American politics that emphasizes a decentralized, grass-roots approach to dealing with many social needs. Mr. Gingrich spent much of today talking about the unique nature and responsibilities of American citizenship, quoting texts from de Tocqueville to the Declaration of Independence.

REPUBLICAN LEADERS ON TAPE

Today's session also included taped messages from President Bush, Vice President Dan Quayle and the Secretary of Housing and Urban Development, Jack Kemp. Mr. Quayle talked about unleashing the American spirit in "the exploration; conquest and development of space." Mr. Bush talked about the power of "a thousand points of light," the cumulative impact of individuals doing good deeds. "What you're doing this morning really matters," the President said. And Mr. Kemp talked about giving "opportunity to help people help themselves."

Democrats were watching the effort with interest. "We don't pooh-pooh the idea of progressive action by citizens to deal with problems locally," said Michael McCurry, a spokesman for the Democratic National Committee. "We think that's an idea with a lot of potential in the Democratic Party."

Today's session was principally sponsored by a political action committee, Gopac, devoted to building the Republican Party at the local level. Former Representative Howard H. (Bo) Callaway of Georgia, chairman of the committee, said today that a non-partisan organization would be established to produce and distribute future programming like today's for use by citizens groups.

The point I want to make tonight in putting into the RECORD the two articles from the Washington Post and the article from the New York Times, and in talking briefly about the actual program from Saturday, when we had the American Opportunities Workshop at Sprayberrys in Noonan, GA, and around the country, is that it is possible to develop new, positive approaches. It is possible to develop a different way of dealing with issues.

I noted that David Broder, in a column entitled "Political Sleaze Control," described what he called "my crank crusade to improve the tone and increase the substance of our political campaigns."

Now, I think that it is a very, very interesting thing that USA Today, the Washington Post, the New York Times, the Wall Street Journal, a variety of important publications, a column by Dick Williams in the Atlanta Journal, a column by Warren Brooks, which appeared nationally, a column by Don Lambro which appeared nationally and in the Washington Times, that a number of places around the country—an editorial in the Phoenix newspaper—a number of items I am going to be putting into the RECORD in the near future, again and again and again there were people in the news media interested in developing a positive idea-oriented approach.

□ 1900

We were very encouraged by some of the coverage we got. It was not everything we might have liked, but more than we would have gotten in the past, I think. Yet it was about an entirely positive program, a program which was designed without mentioning either party, without talking about a single campaign, without attacking anyone, to produce positive dialog about solutions for America's future.

Let me read from the opening to the program by Joan Scott, and I think it will give the Members of the House a sense of just how positive and just how problem-solving the American Opportunities Workshop was on Saturday, and Members can see why so many people called the 800 number, 800-872-2798, and indicated they wanted to get involved in a positive way. She said in the opening to the program, "All over America, men and women are inventing and creating and building a better future for their children, their neighbors, their families, their friends. Together, Americans are once again bringing human freedom to bear to create an even greater chance for human happiness. We decided in our Constitution that we, the people, have real power. All over the world, people are now pursuing that same freedom. During the next hour you will have a chance to join with others across America to celebrate the success stories that are the essence of the American dream."

Now, that was the positive tone with which we set out to suggest that there is an America that works, there is an America that is solving problems.

We outlined a model for change. We suggested, frankly, in about 60 seconds' time that the bureaucratic welfare state has failed so badly, that the failures of the bureaucratic welfare state are so obvious, rather than procurement in the Pentagon or trying to run Washington, DC or New York City, we do not have to spend a long time about talking about what does not work in America, and we also suggested permissive attitudes have clearly failed. That is not the way to solve America's problems. That promoting Johnny when he cannot do the work does not help Johnny. That allowing young people to get out of jail early when they have given no evidence of change in their behavior simply encourages more of the criminal activities that put them in jail in the first place. That not being honest about the risk of multiple partner sex was a significant factor in the rapid spread of AIDS. That not being honest about the dangers of so-called recreational drugs was a significant factor in the initial spread of heroin, cocaine, and crack.

People know that things in the bureaucratic welfare state and permissive attitudes do not work. What people are hungry for is explanations of what will work. We, early in the program, talked about the triangle of American success, the concept that literally there is a triangle that explains most of what has worked in American life. That the bottom of that triangle is basic American values, that the one side of the triangle is entrepreneurial free enterprise, and the other side of that triangle is technological process and innovation. Then we turned to Maine, where Gov. Lamar Alexander, the former Governor of Tennessee, and the current Governor of Maine, Jock McKernan, introduced Doug Sukeforth. Doug Sukeforth is an entrepreneur and inventor, a man who has developed a new technology that will eliminate the chlorofluorocarbons which are a problem in the ozone layer, and which are a major factor in refrigeration technology. Doug Sukeforth, starting in his garage as an inventor, developed a new approach to refrigeration, which may not only make him a lot of money but may, in fact, lead America to having a dramatically better future in terms of saving the ozone layer.

Therefore, it combines the best technological innovation and progress with the best entrepreneurial free enterprise. The result was a positive attitude toward both small business, technology, and the environment.

Then we talked briefly with what was possible in the exploration of space. I mentioned in the book that Mary Anne and I had written a book called "Windows of Opportunity," and the fact that I had a long chapter on space and the opportunities clearly for creating jobs by going into space. Then Vice President DAN QUAYLE discussed the kind of breakthroughs that we are seeing in space, the development of new private enterprise launchers that are going to allow the United States to launch satellites for much less money. The development of new approaches to commercial activities in space, and Vice President QUAYLE suggested that much of mankind's future and America's future lies in the area of the exploration of space.

Then we emphasized the importance of entrepreneurial free enterprise. The particular workshop that I was at, Sprayberry's Barbecue in Noonan, GA, was a pefect place to talk about entrepreneurial free enterprise, because Sprayberry's was founded in 1926 by the Sprayberry family. They are still earning a living. The third generation is working as Sprayberry's Barbecue and the grandchildren representing the fourth were running around. They sell barbecue, they are relatively famous though just a small family barbecue restaurant, but viewers could see the difference. In 1926 the road out front was a dirt road. Now it is paved. In 1926 they had no access to electricity, so they had to buy a generator to create electricity on the site. In 1926 we still had ice being used in many places for refrigeration, and there was no air conditioning. There was no microwave oven. There was no color television or black and white television. In fact, in 1926, commercial radio was just beginning, and the first radio station in Georgia had not yet opened up commercially.

So Members can see how much the world has changed. Entrepreneurial free enterprise created jobs, gave families the income they used to pay their taxes, they used to contribute to their churches or synagogues, they used to be involved in local good deeds, whether through a Kiwanis or Rotary or Lions or Business and Professional Women's Club, or to the Boy Scouts or Girl Scouts. We tried to suggest that reestablishing the importance of entrepreneurial free enterprise was a very important part of the triangle of American success. That it was encouraging people to go out and create businesses, to create jobs, to create wealth, that it was a very real part of what had made America work.

At that point we went to San Diego where the gentleman from California [Mr. HUNTER] introduced Luis Garcia. Luis Garcia was a man who created jobs in the Logan Barrio back in San Diego back in the 1970's. Some bureaucrats decided to build a freeway through the middle of the neighborhood, and for a while things were bad, but people like Luis Garcia and his father who founded Chuey's Restaurant in San Diego, are showing that entrepreneurial free enterprise can work even in the toughest condition. Luis Garcia began literally by painting flagpoles. That was his job. Today he has expanded and expanded, and today he has a business which directly employs over 80 people and which has over 150 people working as subcontractors. The point that Luis Garcia made on the program, talking from San Diego, was that every time we can take a person off of welfare and get them engaged in honest hard work so that the check they take home is a check they have earned, not a check that has been given to them, we improve the human condition. We improve the opportunities for them to be a model of the right kind of behavior, the right kind of basic American values.

So entrepreneurial free enterprise is important both because it creates the wealth which is the base of all taxes, and the base of all civilization, and also because it creates the personal pride, the personal sense of moral strength, which has to be at the core of basic American values and at the core of a free society.

Then we went to listen to Jack Kemp, the Secretary of Housing and Urban Development. Jack Kemp made the point that everywhere he travels across America, in Dallas, in East St. Louis, in Detroit, in Pittsburgh, in Washington, DC, he finds people who are currently economically poor but who are spiritually rich, who want to have an opportunity to manage their own public housing projects, who want to have an opportunity to develop a better future, and that his work in tenant management, his work in providing new and better ways of doing things, is a step toward creating that triangle of American success, and toward replacing the bureaucratic welfare state with a new paradigm, as Jim Pickerton described it, with a new approach that strengthens basic American values.

At this point, that is what we turned to, talking about the key concept that underlying entrepreneurial free enterprise and underlying technological progress and innovation, the baseline of the triangle of American success are basic American values. Learning, honest hard work, honoring honesty, punishing crime, rewarding effort, encouraging savings, building for the future, all of the kinds of core values which Benjamin Franklin, Thomas Jefferson, George Washington would have understood.

□ 1910

These are values which permissive attitudes have undermined for a generation, but these are values that go to the core of what America has to do if we are ever to succeed.

Let me apply that for 1 second to education. People keep trying to find out how we can improve education, but yet I would stipulate that the core

problem in education is in money, it is the structure of the bureaucratic welfare state, and it is the fact that we now have the wrong values in our classrooms. When young people do not do homework, when 19 percent of the students at a prestige private college in the Midwest plagiarize in their papers, according to the New York Times, when folks cheat to get a grade, then the core of education has to be crippled, because education is essentially a moral enterprise. Education has to occur inside you; it has to be a part of your own growth, and your own willingness to learn, to study, to work hard, and when you are not willing to do that, I do not care how much money you spend in the building, what is going on inside the child or inside the student, whether it is a child or an adult, is not going to be right.

So we turned at that point to Detroit, MI, where we had what I thought was a real opportunity to study values with three remarkable people—Paul Weyrich, the chairman of the Free Congress Foundation, one of the leading thinkers in America for the conservative movement and a man who has truly thought long and hard about the values revolution from the left which gave us permissive attitudes, and who is himself now engaged in the values counterrevolution from the center and the right that is reestablishing basic American values. And there in Detroit with Paul was Keith Butler. It was in Keith Butler's church that the workshop was taking place. Keith Butler is a man who first went to a training program with Paul Weyrich some 4 years ago, learning how to be a citizen activist, and today he is what Paul Weyrich calls maybe the best example of citizens' grassroots activism in the country.

And then there was Polly Williams, a mother of four children, a woman who, herself, had been on welfare and is now Democratic State legislator in Milwaukee, just as Keith Butler is a Republican city councilman in Detroit. And then Polly talked about her experience buying a home in a middle class neighborhood, where she wanted to send her children to the local school, which was supposed to be a good school, and seeing her children treated not as individuals, not as human beings, but as numbers, seeing her children told that they were going to be bused out of their neighborhood past a good local school to a school that may or may not have been as good but was a lot further away; and the children did not matter as human beings, they mattered as statistics.

Polly Williams got so angry that she introduced a bill to provide a voucher so that local parents would have an opportunity to choose. She recognized that she lived in a community where they had a local private school, an all-black, school, 98 percent of whose children go on to college. So they had people who were proving that its not what color you were, it is what quality of education you were getting that mattered. And she was determined to give every poor family in Milwaukee an opportunity to have choice, an opportunity to have some control over their lives. It was a remarkable experience.

The addition, we looked at the National Review special supplement, a serious of articles which had had a major impact on the people who have read them so far, a special supplement committed to citizen activism and a supplement which I hope to read into the CONGRESSIONAL RECORD in the coming weeks, because I think the National Review really established a new baseline, and that, frankly, was one of the reasons we gave out the 800 number—1-800-872-2798, to be able to have people call in. In addition to getting a copy of the videotape of the program, they were also able to get copies of the special supplement.

Then we went to Orange City, IA, where Congressman FRED GRANDY hosted a number of fascinating people. We had hoped to have Chuck Schantag there. Chuck is a Vietnam veteran who created a remarkable private system called Buddy Search, which is a computerized system. He decided he wanted to find somebody who was with him in Vietnam, so he got involved in setting up a program of tracking down Vietnam veterans. He has 60,000 Vietnam veterans now on his Buddy Search system on a private computer. Chuck could not be here because the weather in the Midwest was so bad that he was trapped in his hometown and could not get to Orange City, IA.

But we did have Tony Diamond. Tony Diamond has been very, very involved in developing a nationwide program in which Vietnam veterans are putting on programs as public access television. Tony reports that over 70 public access cable systems now carry his weekly veterans' program, which is a program that I would recommend to everyone to be involved in. Bravo, which is the organization Tony put together, has had a real impact on bringing veterans together. We had a very emotional moment when they showed some film entitled "Buddy Search, Buddy Found," showing two Vietnam veterans who had not seen each other for years and who encountered each other at a meeting. And it was captured on videotape and it was an example of what President Bush means by "a thousand points of light." Here were private citizens having a private impact.

We also had Tom Burch, the chairman of the National Vietnam Veterans Coalition, who introduced us to Chuck and Tony and who was there in Orange City.

Then FRED GRANDY introduced the Orange City 21 Foundation. Here was a marvelous example of a small town which has on its own developed a very active, very aggressive program which has reached out through a private foundation, a nonprofit foundation. It works on better housing, and better schooling, and it works on helping senior citizens who are over 80 years of age. The Orange City 21 Foundation is exactly the right kind of local citizen activism, and it is precisely why we were doing the American Opportunities Workshop.

I think Orange City has a lot to show many places around America, and in a way, New York, Washington, DC, and Detroit would be far better cities if they thought of themselves as thousands of small Orange Cities gathered together. You cannot run, in my judgment, a successful big city; you can run a city which is a collection of small local neighborhoods. One of the failures of the last 30 years has been the way the bureaucratic welfare state, whether it is in New York or in Baltimore or Atlanta, has broken down the fabric of the small neighborhood community and has replaced it with an impersonal, inefficient, ineffective, and largely destructive bureaucratic welfare state which is more and more expensive but less and less helpful to human beings.

Then we went back to Detroit, where Paul Weyrich talked about the background of all this. Actually, as I look at my notes, Paul said, and I quote:

> For more than 15 years the Free Congress Foundation has offered training for citizen activists. There are now literally tens of thousands of activists who have participated in our training programs but none that we are more proud of than the man standing next to me, Keith Butler. In 1984, Keith and a group of his supporters got in a car and drove all night to participate in a training program we were sponsoring in Chicago. The next year a group of us came to this very church to offer training to many of the people here in this room today. I don't think we can take all the credit, but I do know that since then this group has become one of the most successful citizen activist movements in the entire country.

I was a little wrong in my earlier comment. It was 6 years ago that Keith Butler first drove to Chicago. And again, let us notice this concept. Keith Butler and his church members did not have a lot of money. I happen to have been a part of that training program at that time in Chicago, and I remember meeting Keith. They did not have enough money to spend the night, so they got up in Detroit and they left; they had two carloads, they drove all night, they came to the workshop, they worked all day in the workshop, and then they drove back home all night because they could not afford to stay.

That was done deliberately to be able to reach out to the future Keith Butlers. It was the people who want to learn how to have that kind of a workshop and that kind of a grassroots activism that led us to put the 800 number out, to make it easily available to no cost to people who wanted to learn more. That is why we put on the screen the number, 800-872-2798, so people could be involved and could get a copy of the National Review special supplement and have an opportunity to get a copy of the videotape.

As we talked more about citizen activism, we then turned to Perry Grogan. Perry Grogan is the sheriff of Paulding County. When he took office, the county was about to build a jail that was too expensive and too small. As former Attorney General Griffin Bell said:

I'm just very excited about what I am seeing, and I think it's about time we say more about the good things that are happening in America. You know, my area has always been the law, and people today are pretty frustrated about what has been happening, criminals getting out of jail early or not being punished at all. Obviously we need a little bit more common sense in the courts and on how we run our jails. One fellow who has been doing that is a friend of mine and Newt's named Perry Grogan, who is the sheriff of Paulding County, right next door to where you all are meeting today.

Common sense was the focus of the Perry Grogan story. Perry decided they ought to build a jail big enough to meet the county's needs out over the next decade, so instead of building a 100-bed jail, they would build a 200-bed jail. He then decided that instead of using a construction company that was not an expert, they would hire a construction firm from Mobile, AL that did nothing but build jails and was a specialist in building modular prisons. They built the prison to Federal standards so if they had any free space, they would be able to rent it to the Federal Government to house Federal prisoners.

□ 1920

Mr. Speaker, what they discovered was that they could actually lower the cost of the prison from $8 million to about $4.3 million while doubling the number of beds. That meant they had lowered the average cost per cell from $80,000 to $24,000, and I mention that because I think all too often we in Washington decide that effectiveness is a function of how much money is spent.

Well, Mr. Speaker, we are arguing in our approach to the new paradigm, as Jim Pinkerton of President Bush's staff of the White House has said; what we are arguing is that we believe that it is possible, by applying new approaches, by using entrepreneurial free enterprise, by being involved directly with technological progress and innovation, by insisting on basic American values, including honest hard work, we believe that it is possible, very often, to do more for less.

Mr. Speaker, this is not just an argument for cheapness. Anybody who goes to Paulding County, GA, and interviews Sheriff Perry Grogan and goes out and sees the modern, sophisticated, technologically advanced jail, the electronically controlled jail, which is of such a high standard that the Federal Government keeps their prisoners there and pays Sheriff Grogan so that the people of Paulding County currently have a profit center in this jail; they are actually making more out of renting it to the Federal Government than it is costing them. The net result of that has to convince my colleagues that, by applying common sense focused on success and opportunities that it is possible to do more for less.

Now I think that is a very important consideration, that it is possible to do more for less; not just to do less for less, not just to be successfully cheap, not just to avoid paying for things, but that, in fact, by applying a new paradigm and by applying new ideas it is literally possible to improve the quality of government, to improve the goods and services, to have better education, more effective jails, safer streets, better health care, more access to health care, et cetera, by applying the new paradigm that Jim Pinkerton described in his speech by that name, to apply the new ideas that the National Review special supplement outlines and to apply the concepts that were available on Saturday morning in the American Opportunities Workshop and which are made available to the people who are calling 800-872-2798, which was deliberately chosen because we wanted to really say—notice that we are not saying Republicans, we are not saying Democrats, we are not saying liberals, we are not saying conservatives. Mr. Speaker, we are saying to anybody who is interested in pursuing new ideas and developing the new paradigm that is designed to replace the bureaucratic welfare state in reestablishing basic American values so that they are more effective and more powerful than the permissive attitudes which would cripple America, we believe we are on the verge of starting a new movement.

Now I think one of the tests to us this summer is going to be very simple. Can we find new ideas to take into the budget summit? Can we find new approaches which can be useful and usable in trying to solve the Nation's budget problem? Is it possible to develop new techniques that will allow us to encourage young people to read?

I happen to be pursuing what we are calling "earning by learning" in Georgia, paying $2 a book to third graders who are marginal readers to encourage them to read this summer so that they can actually earn the money to buy a bicycle, or to buy blue jeans, or to go to Six Flags, or whatever they want to do with their money. However, in addition to that, we are trying to develop a new approach that encourages a wide range.

A colleague of mine, a Democrat, approached me today and said that he was intrigued with this idea of encouraging the people to spend the summer reading, and he is thinking of issuing a certificate which will be given to anybody who reads six or more books this summer. I think that is exactly the right approach. I think that by recruiting people to be activists, we can, in fact, develop what President Bush called the thousand points of light, not just as a gimmick, but as a reestablishment of what Alexis de Tocqueville talked about in his famous study, "Democracy in America."

Mr. Speaker, when de Tocqueville visited America in the 1830s, he was trying to explore what made America different, what made America unique. Why did America work in a way that European countries had not? And what he concluded was that the American experiment was based on the idea that there was a citizen, and there was a state, but there was also an enormously rich zone in between, the zone of citizen activism, that Americans were more than just taxpayers and voters. Americans were joiners. When they looked out and saw a problem, they sought an opportunity to solve that problem. When they found a solution, they gathered their friends together, and they began to work on the solution, that it was possible for Americans, more than any other people in the world, to belong to many different clubs, many different societies, many different activist, problem solving groups, and that most of the creativity of America was to be found, not in its Congress or its White House, not in its bureaucracy, but that it would be found in local communities doing local things.

One of the reasons that we encouraged people on Saturday to be involved and to get involved, though we encourage them to call 800-872-2798, was to say to them that we really believe that citizens of any background, black, Americans from African descent, white Americans of European descent, yellow Americans of Asian descent, red Americans of American descent, native born Americans, of all backgrounds, that together collectively we can find solutions that work in our communities, in our neighborhoods, talking with people, and that one of the goals has to be to reach out, to start a new idea, to find a new solution, to begin a new program.

Mr. Speaker, we warn people:

When you do that, you may, in fact, discover that you fall on your face. Maybe

your first idea isn't the smartest thing in the world. When you go back and look at the Founding Fathers, at the Benjamin Franklins, at the Thomas Jeffersons, when you look at the Wright Brothers investing the airplane, a Thomas Edison inventing the electric light, you find that again and again that perseverance is one of the keys.

As my colleagues know, Edison once said that genius was 1 percent inspiration and 99 percent perspiration. I think what that means is that hard work, persistence, being willing to try and try again are not just homilies that our grandmothers told us. They are truths about the nature of life.

If we could find a way to break New York City down from one centralized bureaucratic welfare state focused on Gracie Mansion, and instead think of New York City, about 7½ million people, of communities of no more than 10,000, so there were 750 neighborhoods in New York making up a city of 7½ million, those neighborhoods are manageable, not just with the kind of phony decentralization that has one more layer of red tape, one more layer of pathetically small power, the things that have been done with the New York City schools which have been a total disaster.

Mr. Speaker, as my colleagues know, Americans are smart. Americans know if they have real choice and real power, and, when they have real choice and real power, they use it. What we are suggesting is, if there were to be 750 neighborhoods that could raise taxes and lower them, that could set local regulations, that could license local businesses, that could in many ways patrol local communities, that we would have a much larger dramatic decline in crime, a dramatically lower drug use. We would have a neighborhood which had people who cared about their children, who cared about whether or not their kids had good schools, and we would have people who insisted that they got pretty good service, or they would not pay for their government, who would be willing to fire the local government if it did not work.

As it is today, no one, not Mayor Dinkins, not the city council, not the heads of the local government employees unions, but no one really knows how New York City works, and, as a result, it does not work very well. It is simply too big, too bureaucratic and too cumbersome.

However, Mr. Speaker, I would say the same thing is true in the Pentagon. The current Pentagon is the last stage of McNamara's legacy. It is the last stage of the centralized bureaucratic welfare state unable to do its job, and, as we look at a change in defense spending, one of the places we should most insist on is fundamental, dramatic overhaul in the procurement system and in the administrative red tape. We should shrink the parts of the Pentagon that are pure bureaucracy and emphasize the parts of the Defense Department that represent real fighting power and a real opportunity to train, and organize and mobilize our fighting men and women.

So, on Satuday we hope that we really took a step toward launching a citizens opportunities movement. We believe the American Opportunities Workshops were a success. I look forward in the next few weeks to reporting to my colleagues on various results around the country as they are reported to us, and I look forward to an opportunity to share new ideas, new solutions and new approaches as they emerge as part of the citizens' opportunity movement, and, as we develop the new paradigm, that I honestly believe will replace our bureaucratic welfare state with a triangle of American success, and it will replace permissive attitudes with a return to basic American values.

□ 1930

## "M" AND "MERGED SURPLUS" ACCOUNTS OF DEFENSE DEPARTMENT—FOUR CASES OF DOCUMENTED ABUSE BY ANDY IRELAND

Mr. SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. IRELAND] is recognized for 60 minutes.

Mr. IRELAND. Mr. Speaker, I rise to present my second report on the "M" and "Merged surplus" accounts of the Department of Defense [DOD].

This report focuses on four documented cases of abuse involving money drawn from the "M" and "merged surplus" accounts but also includes a detailed discussion of how the balances in these two accounts could be used to circumvent the Antideficiency Act and Gramm-Rudman-Hollings legislation.

Mr. Speaker, the four case studies outlined in today's report are a good sample of the issues surrounding use of the "M" and "merged surplus" accounts by the military services. They are a crosscut slice of the problem.

These four cases document the misuse of government money—a very serious offense indeed.

Mr. Speaker, I can't claim to be revealing important new information here. I wish it were so, but that's just not the case. Not at all. Congress has known about these abuses for quite some time. These very same facts were presented to Congress in formal reports issued between 1986 and 1989. And what was the upshot of all this fine audit and investigative work? Essentially nothing—except a few more congressional reporting requirements.

Well, in my mind, that is not enough. I want Congress to do something about the problem. Congress has a responsibility to act on this kind of information. We should take decisive action designed to stop it for good. We simply cannot allow it to continue unabated.

In keeping with my views on the need for action, I intend to lay some solutions on the table in the near future. That legislative proposal, I hope, will get at the root cause of the problem.

My proposal on how to fix DOD's "M" and "merged surplus" accounts will be the subject of my third report.

### COMMON THREADS

Mr. Speaker, there is one common thread that runs through the four documented cases of abuse cited in this report. There is patent disrespect for contracts and the laws that govern them. There is a concerted effort to thwart the will of Congress, and the "M" and "merged surplus" accounts provide the perfect vehicle for doing it. They are subject to almost no scrutiny either within DOD or by Congress.

Mr. Speaker, this is not ANDY IRELAND's conclusion. This is the considered opinion of the General Accounting Office [GAO], which over time has been super cautious in rendering such judgments, and the very thorough and competent surveys and investigations staff of the House Appropriations Committee.

The military services are making obligations and expenditures, using money drawn from the "M" and "merged surplus" accounts, that do not conform with underlying contractual agreements. They lack legal foundation.

The failure to stay within the confines of contracts happens in two ways. Both are violations of internal DOD regulations and Federal law.

First, these moneys are being used to make upward adjustments to pay for work that does not lie within the scope of the original contract. They are also being used to reduce the amount of work already paid for.

Work that changes the scope of the original contract must be paid for with current appropriations, if authorized. Otherwise, a request for new appropriations must be made. While contracts contain very specific statements of work, military officials treat scope of work very loosely—like a piece of putty, which essentially places no limits on what can be done with "M" account money.

This kind of abuse makes a bad joke out of DOD contracting procedures.

One example helps to underscore the attitude of some military officials toward scope of work limitations.

In a 1985 incident, the Army increased a contract for repair work, which specifically cited the number of trucks to be repaired, by doubling the number of trucks to be repaired. Army officials argued that this did not constitute a change in scope since the type of repair work was unchanged. I think that says it all. Scope of work is no hinderance to the flow of funds from the "M" accounts.

Second, disbursements from the "M" accounts are not properly matched with recorded obligations supported by documentary evidence. Obligation of U.S. tax dollars must be supported by a legal contract executed while the appropriations involved are still available—before they expire and begin their journey into the "M" and "merged surplus" accounts. The inability to match obligations with contracts is due, part, to a failure to maintain line item accounting and fiscal year identity of money in the "M" account. This leads to duplicate and

erroneous payments of old bills for which proper documentation does not exist.

The case of the B-1B bomber and the Mississippi ammunition plant clearly shows how funds from the "M" accounts were used to make additions, deletions, reductions, and changes in the scope of work. In the cases involving the Army and Air Force stock fund, money was drawn from the "M" account and obligated without being properly linked to specific contracts.

LACK OF CONTROL AND OVERSIGHT

With the balances in the "M" and "merged surplus" accounts increasing by $4.5 billion a year, the risk of abuse is clearly present.

For starters, no one really knows what is in the "M" accounts. How can that be? Is this another black hole in the DOD budget?

The "M" accounts now hold balances of close to $20 billion—up from $184 million in 1973. There is a general consensus that the vast majority of these obligations are invalid because of lax review procedures. I hear said that the military money managers are just too busy working current appropriations to concern themselves with validating these old, expired accounts. They say it would be impossible to thoroughly audit the "M" accounts. If they do not know precisely how much had been obligated against outstanding appropriations, how in the world can they determine how much is needed in the budget?

The cases discussed in this my second report clearly shows that management of these two accounts is weak. Internal controls and procedures are either nonexistent or simply not followed.

While the military services have established procedures for reporting on the use of these funds—primarily dollar thresholds that kick in reporting requirements, a tremendous number of obligations are made without ever being reported to or approved by higher authority. Most are relatively small, and most are reported after the fact.

Mr. Speaker, big cash balances plus weak controls coupled with almost no information spell trouble in my mind.

CASE NO. 1

Finding: Illegal use of funds.

ARMY AND AIR FORCE STOCK FUND

In 1982, DOD requested $194.6 millon to finance a change in accounting procedures governing the Army and Air Force stock funds. The proposed change allowed obligations for stock fund purchases to be recorded when orders were placed rather than at delivery. Congress approved the change in policy but denied the request for money, directing the changes be accomplished within available resources by the end of fiscal year 1984.

The Army and Air Force had the new procedures in place in October 1983 and April 1984, respectively, but chose to carry out the congressional guidance in a very creative but very illegal way. They decided to finance the unfilled orders in question by applying the new procedure retroactively and reconnecting them to expired appropriations.

To do this, obligations for unfilled orders—orders still in the pipeline—had to be switched and connected to appropriations available when the orders were originally placed. The bulk of the unfilled orders originated in fiscal years 1982-83—expired appropriations. There was a problem, however. There were insufficient unobligated fiscal years 1982-83 appropriations to cover the full cost of all pipeline orders. So the Army and Air Force decided to extend the retroactive policy change even further—to fiscal year 1981 and earlier. This allowed them to tap the vast reservoir of unobligated money in the "merged surplus" account.

While it is perfectly proper to make retroactive adjustments to correct accounting errors, changes must be accurately recorded and documented. Each specific order and resulting obligation should have been identified and connected. However, this was not done. Instead, the Army and Air Force used a statistical samplying technique to calculate the adjustments. This approch lacked legal foundation, since the specific underlying transactions were not identified and did not support the calculated totals.

Using these illegal accounting techniques, the Army and Air Force eventually obligated $625 million from the "merged surplus" account to pay for the stock fund accounting policy change. This is $430 million more than originally requested by DOD but denied by Congress.

After reviewing all the facts in the case, GAO concluded that the obligation adjustments were illegal. They did not comply with the "Documentary Evidence Requirement for Government Obligations" specified in section 1501 of title 31, United States Code. GAO also concluded that the methods used by DOD to inform the Congress were not adequate and the information provided was insufficient.

Source: "Financial Management: Defense Accounting Adjustments for Stock Fund Obligations Are Illegal." GAO/AFMD-87-1, March 1987.

CASE NO. 2

Finding: Illegal use of funds.

AIR FORCE STOCK FUND

The Air Force stock fund sustained a $490 million loss between fiscal years 1980 and 1988, because aircraft fuel sales were not accurately recorded in the aviation fuels accounting management system.

In order to partially recoup the $490 million loss, the Air Force decided to withdraw $238 million from the "M" account. This decision was based on a claim that certain, specific obligations to the stock fund, which had been improperly recorded in previous years, had been identified. GAO said this action would have been perfectly legal, had those obligations been supported by documentary evidence required for all government contracts as specified in section 1501 of title 31, United States Code. Unfortunately, they were not.

The Air Force never identified the specific underlying transactions giving rise to the obligations in question.

The Air force once again failed to link previously unrecorded prior year obligations to actual sales records. Instead, the Air Force Finance Center relied on trial balances contained in the stock fund accounting system to establish the existence of accounts receivable. It was not possible to trace the accounts receivable recorded in the stock fund accounting system to original transactions, because the Air Force destroys source documents after 1 year. Is this legal?

The GAO concluded that these were not valid obligations and that the $238 million should be returned to the "M" account and the losses written off. Congress agreed with the GAO's assessment and directed that this be done in fiscal year 1990 appropriations bill.

In reaching this conclusion, the GAO underscored the need for strict compliance with the documentary requirements specified in section 1501. This provision, the GAO said, was enacted in 1955 because Congress thought that some agencies were overstating obligations "when, in fact, no real obligation existed." Is the Air Force guilty of such conduct in 1989?

The GAO issued a stern warning about the Air Force's failure to comply with section 1501.

"We are concerned," the GAO said, "if the Air Force is allowed in doubtful circumstances to restore previously unobligated amounts from the "merged surplus" and "M" accounts for payment to the stock fund (to fund new acquisitions), such action could undermine congressional control over the budgetary process and fiscal affairs."

Source: "Restoration of Funds to the Air Force Stock Fund Pursuant to 31 U.S.C. Section 1552(a)(2) To Recover Claimed Fuel Sales Losses." GAO/B-236940, October 17, 1989 (letter to Congressman MURTHA).

CASE NO. 3

Finding: Very questionable use of funds.

AIR FORCE B-1B BOMBER PROGRAM

When the Air Force encountered serious technical problems developing of the ALQ-161A—the defensive avionics system for the B-1B bomber, it initiated negotiations with the contractor aimed at "restructuring contract requirements" to "correct identified deficiencies." At the time, the Air Force claimed to be "holding the contractor's feet to the fire" and was determined to make the ALQ-161A meet contract specifications. A plan was finalized in January 1988.

Subsequent testing of the ALQ-161A in March-June 1988 revealed more "major design deficiencies." These indicated that the system would never meet contract specifications.

As a result of the new problems, further negotiations were held, resulting in still another recovery program.

The restructuring process was carried out in accordance with the "changes" clause and "correction of deficiencies" provisions in each contract. The "changes" clause authorizes the contracting officer—usually a low ranking military officer or civilian—to make changes "within the general scope fo the contracts." Although a contract's statement of work is specific and detailed, military officials suggest that determining what is within or beyond

scope of the original contract is a subjective task.

The "cardinal change" rule, established in court, is the means for judging what is within scope. It says:

The basic standard is whether the modified job was essentially the same work as the parties bargained for when the contract was awarded.

The contracting officer and general counsel concluded that the proposed modifications to the ALQ-161A were within the scope of the original contracts and therefore rightly charged to the original appropriations. On the basis of that determination, the Secretary of the Air Force approved a plan to use in excess of $1 billion of expired and "M" account funds to finance the contract modifications. While the GAO, after evaluating all the facts, concurred in those plans, they acknowledge that these were highly controversial decisions to say the least.

The central issue in this case revolves around the scope of work clause. Were the negotiated changes within the scope of the original contracts, or did they lie outside the scope? If the answer is yes, then the use of moneys from the "M" account to finance the changes was illegal.

An examination of the changes to the contracts raises serious questions in my mind as to whether they do indeed lie within the scope of the original contract.

What did the changes do? In a nutshell, they lowered the specified performance capabilities of the ALQ-161A and increased the cost. The original contracts contain very specific performance specifications. These were changed. They were lowered. The scope was reduced. Using the "cardinal change" rule adopted by the courts, the modified job was not the same one "the parties bargained for when the contract was awarded." It was, in fact, less than bargained for, and we paid more for it.

This is a continuing dilemma. If there is no change and if the work is within scope, then how do you account for the need for more money—except for correction of deficiencies to meet contract specifications.

There are other problems as well.

First, the B-1B had dumped just $527.1 million into the merged surplus account as of September 30, 1988, but plans called for drawing out $1 billion to execute the restructured contracts. The B-1B program would use about $500 million more in expired money than the program had contributed. To me, this sounds like an overobligation. It sounds like the Air Force was planning to spend more on the B-1B than Congress had appropriated for the B-1B. Though technically not a violation of the Antideficiency Act—section 1341 of title 31, United States Code—if constitutional limitations are ignored, since there was $2.4 billion in the "merged surplus" aircraft procurement account, the Air Force was clearly planning to spend more on the B-1B than Congress had authorized and appropriated.

Second, the Air Force was planning to overobligate B-1B appropriations by $500 million without telling Congress. At the time, there was no requirement to do so. Even within Air Force financial circles, it was kept very quiet. When newspaper reporters blew the cover on the whole operation, the Air Force notified Congress. These revelations nonetheless generated a lot of criticism in Congress. This, in turn, produced legislative limitations—new reporting requirements and specific restrictions on the use of lapsed appropriations for the ALQ-161A.

Source: "Strategic Bombers: B-1B Program's Use of Expired Appropriations." GAO/NSIAD-89-209, September 1989.

CASE NO. 4

Finding: Illegal use of funds.

MISSISSIPPI ARMY AMMUNITION PLANT

In January 1979, the estimated cost to complete the Mississippi Army ammunition plant [MSAAP] was $417 million. The plant was to be ready by December 1983. However, by December 1985, its cost had increased by $125 million, the project was far behind schedule, and many technical problems remained unresolved. And this was just the beginning.

To cover the cost overrun in the MSAAP contract, the Army authorized the use of $12 million from the surplus fund. Obligations of the $12 million were made in varying dollar amounts—some over $100,000 and some in lesser amounts. Not one was reported through appropriate Army financial channels.

The Army prepared a detailed plan, documentating how the $12 million would be used. This document was used to justify the request to draw $12 million from the surplus fund. It was transmitted up through the Army chain of command for a approval. Subsequently, when the Army began disbursing the $12 million, the items for which those funds were actually used differed from the approved plan in over half the cases. Several items were specifically identified "as additions or changes to the contractor's scope of work."

While Army officials openly acknowledged that the surplus fund was not to be used to change the original scope of work, their interpretation of scope of work for MSAAP allowed complete flexibility.

While such determinations are subject to policy and legal review, interpretations were found to vary widely. Some Army officials revealed that these interpretations were greatly influenced by the "looseness or latitude" in the wording of the original contract. This approach does not square with the way contracts are written. A contract's statement of work should be and usually is very precise.

Under the Army's flexible interpretation of scope of work, the Army could do whatever was deemed necessary to build a plant capable of producing a specified number of ammunition rounds per month. In the Army's mind, the original contract allowed complete flexibility as to how to achieve that goal. It allowed the technical staff to modify plant layout and/or quantities and types of machinery and equipment—all without changing the scope of work. One Army lawyer agreed that this interpretation meant that there was no limit on how much money could be drawn from the surplus fund to make the MSAAP meet established production levels.

The House Appropriations Committee's S&I staff found the Army's attitude toward scope of work was found to be "particularly troublesome." A lack of discipline was apparent.

Source: "A Report to House Appropriations Committee: DOD Portion of the Memorandum Surplus Fund and Related M Accounts." Surveys and investigations [S&I] staff, April 1986.

LOOPHOLE IN GRAMM-RUDMAN-HOLLINGS

The surveys and investigations [S&I] staff of the House Appropriations Committee has suggested that the unobligated balances in the surplus fund could be a potential loophole in the Gramm-Rudman-Hollings legislation.

In determining how much DOD spending authority needs to be sequestered to achieve Gramm-Rudman-Hollings outlay reduction targets, the S&I report states, the Congressional Budget Office [CBO] "give no explicit consideration to possible increases in the rate of obligations derived from the surplus fund." The S&I report concludes that those increases could "totally offset the anticipated outlay reduction—and it would not be known until after the fact."

Outlays from the "M" accounts are not insubstantial. In fiscal year 1987 they were $2.4 billion; fiscal year 1988—$3.7 billion; and fiscal year 1989—$3.9 billion.

The S&I report was prepared in 1986 and could be out of date. New procedures may be in place.

I have therefore asked the GAO to look into the matter—to determine to what extent the "M" and "merged surplus" accounts could undermine or negate the effects of the Gramm-Rudman-Hollings legislation.

CIRCUMVENTION OF ANTIDEFICIENCY ACT

Several months ago, I asked the American Law Division of the Congressional Research Service [CRS] to determine whether the balances in the "M" and "merged surplus" accounts were susceptible to Antideficiency Act violations.

I posed the question because both the DOD Inspector General and the GAO have reported on different occasions that the "M" and "merged surplus" accounts could be used as vehicles for circumventing the Antideficiency Act—section 1341 of title 31, United States Code.

Naturally, this provision of law is a matter of great concern to Government officials who handle money and contracts. Those who knowlingly and willfully violate it can receive a $5,000 fine and prison sentence of up to 2 years or both. Having unrestricted access to a $50 billion financial cushion obviously provides them with a certain measure of security.

The Antideficiency Act prohibits an employee of the U.S. Government from making or authorizing an expenditure or obligation exceeding an amount available in an appropriation or fund for an expenditure or obligation. It links obligations to their original appropriations. It ties an expenditure or obligation to an amount available in the appropriation for which the expenditure or obligation is made.

"M" and "merged surplus" accounts help to decouple—to breakdown—the linkage between appropriations and obligations.

Under the law, an "M" account balance is available to pay any obligation attributable to any of the appropriations from which it is derived. Consequently, payments from an "M" account do not need to be related to specific balances of appropriations transferred to it. When appropriations expire and lapse into the merged accounts, they lose their line item and fiscal year identity. Many different accounts

are lumped together under one general purpose category for each agency, like "Operation and Maintenance, Navy" or "Aircraft Procurement, Air Force."

According to the CRS report, an unpublished opinion issued by the GAO general counsel in 1974 arrived at the following conclusion: Once an appropriation balance reaches an "M" account, as a practical matter, it no longer is suspectible to violations of the Antideficiency Act, provided that the total of all such payments does not exceed the entire "M" account balance.

As the DOD IG has pointed out, once appropriations merge and lose their fiscal year identity, a violation of the Antideficiency Act is a remote possibility. Such a violation could occur only if identifiable obligations exceeded the entire "M" account balance plus the aggregate of all funds potentially restorable from the "merged surplus"—literally billions of dollars. The balances in many appropriations are so large that there is no risk of overobligation.

## THE BUDGET AND NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr SKELTON] is recognized for 30 minutes.

Mr. SKELTON. Mr. Speaker, in this whole budget business there is one area that leaves me with great concern, a subject that goes to the very heart of our Nation's ability to remain the bastion of freedom in this day and in this time. This is the budget as it relates to national security.

Recently, Mr. Speaker, you will recall that this House passed its budget, a good part of it dealing with national defense, national security, and in that budget we passed a budget authority of a $32.8 billion cut, which is a 10.4-percent cut, an outlay cut of $11½ billion for next year, a 3.7-percent cut.

At the present time, leaders here and in the other body across the Capitol and people in the White House are working in a summit hopefully to reach a positive solution on this budget. A good part of it, of course, a very important part will be that which relates to national security.

The results of this summit can set the stage for the future role of America as a world leader. As you know, as a result of World War II we assumed leadership in this world by becoming the bastion of freedom, by becoming the center of stability in Eastern Europe, Western Europe and other parts of the world. We did this because to have done otherwise would have created a void.

Now the question is whether we will assume this leadership position in the days ahead, whether this budget will allow us to do so, or whether we will create that void which we do not think is desirable.

Between World War I and World War II we did not seem to learn the lesson of preparedness and the necessity for national arms strength, though we should have. I can point back to 1934 when the Army of the United States merely had 138,000 members. At that time we were the 16th largest army in the world, and we had antique weaponry.

World War II came. We had some lead, but not much of a lead building up toward that. We won by the greatest of effort, I am convinced, one of the great efforts of all time.

Then, of course, in 1945, victory came both in Europe, came in the Pacific. People were joyous, of course. There was euphoria. The syndrome was to bring the boy's home, and we did. We cut down the troops in Europe immediately to some 70,000 troops, and we were dismantling our national security effort.

Within 5 years, Mr. Speaker, we all recall that we were again embroiled in a major war in Korea.

Then Vietnam came along where we fought for many years, unfortunately without a solid strategy to lead us.

Now we find ourselves having been victorious in the cold war, that is insofar as Eastern Europe is concerned, the cold war as we know it has been altered.

Back in 1945, just as today, we won a war that was different from a cold war, but we won a war, and the following year in 1946, Winston Churchill told us of the Iron Curtain that had descended across Europe.

In 1947, we established under the leadership of President Harry Truman who worked with this Congress the Marshall plan which brought Western Europe out of the ashes of that war.

In 1947, we also established under President Truman the Truman doctrine, which saved Greece and Turkey from communism.

In 1948, NATO was established.

The containment theory, the containment doctrine, the containment strategy concerning the Soviet Union and its expansionist efforts to spread communism throughout the world was under way, as we saw with President Truman and what he did.

Then in recent days we have seen that this containment strategy has succeeded. Communism has lost in Eastern Europe, freedom has won, containment has won, resolve has won, the West has won, NATO has won.

Admist all this euphoria, however, Mr. Speaker, we should realize that there is only 6 months of good news, as opposed to some 44 years of Iron Curtain rule in Eastern Europe.

I am convinced, Mr. Speaker, that it is too soon to relax our Western resolve. There is still cause for concern and there is still strong reason for remaining a viable, strong force, The Warsaw Pact is no longer the enemy, but there is an enemy out there, and that great enemy is what we call uncertainty. We see in Eastern Europe as a result of the crumbling of the Berlin Wall and the Iron Curtain those people in those Eastern countries are going to be expecting political freedom and they are going to be expecting economic opportunity. This will come about, hopefully, in years to come, and let us hope that it does come to pass, but there will not be immediate political freedom as they envision it and there will not be immediate economic opportunity as we would like for it to be. These high expectations will not be met within the near future, and as a result there could be turmoil, disagreement, all of which leads to more uncertainty.

As a matter of fact, back in 1945-46, it took some 10 years for us to put together a strong strategy and the doctrine in place that was successful in fighting communism. It may take 10 years for Eastern Europe to straighten itself out and with help from the West to win the hearts politically and to straighten out their economy so they can be part of this free world.

Mr. Speaker, I am convinced that now is the most challenging of times. Uncertainty gives this world a kaleidoscope of unforeseen events. It is a funny thing about kaleidoscopes. One can never predict what pattern will occur, what new pattern will show up in the lens of that kaleidoscope.

You know, there was something positive about the Berlin Wall and the Iron Curtain, because there was certainty. That certainty allowed us to put a plan and a policy in place. That is not the case today. That is not so. Uncertainty prevails. The Soviet Union finds itself with large questions of stability, but let us look at the Soviet Union and see what it has done only recently. It has given $6 billion in aid and weapons to Castro's Cuba. It has given $2½ billion to Vietnam in 1 year, Afghanistan $4 billion in 1 year, North Korea $1 billion in 1 year, Syria, $1½ billion in 1 year, Angola, $1 billion, and Libya $1 billion.

Again in another look at the U.S.S.R., we find it still has 30,000 nuclear warheads, the world's largest conventional army and a modern blue water navy. All of that still exists, together with a strong modernization of its armed forces that is taking place today.

□ 1940

Mr. Speaker, we also see when we think of the uncertainty that exists in this world the volatile Third World, those countries that heretofore did not find themselves militarily strong, today having nuclear weapons, chemical warfare capability, guided missiles, and strong conventional armies.

What about China? Mr. Speaker, where is it headed? Is it headed in a

positive direction or a negative direction?

Speaking of tinder boxes, the Middle East continues to be one. There have been threats and problems in Latin America, and we have, as we know, had to send military forces in Panama to help straighten out an intolerable situation and help bring freedom to come to pass there.

Terrorism continues to be a fear. Hostage taking, drug traffickers, the question of Japan.

There was recently a United States Marine lieutenant general who said that the main reason for America being in the Pacific and having troops in the Pacific was the presence of Japan.

Mr. Speaker, all of this shows that there are continuous uncertainties galore. We also see surprise, or the possibility of surprise, unhealthy alliances. This world was shocked in 1939, with the Molotov-Ribbentrop Treaty between Joseph Stalin's Soviet Union and Nazi Germany under Adolf Hitler. Could such a treaty, though unhealthy and though a surprise, come to pass once again? Mr. Speaker, we need to keep our sealanes open. We need to have a conventional capability that will deter would be aggressors. We need to keep free trade flowing, and we, of course, must keep human rights moving in the right direction.

Mr. Speaker, the specter of uncertainty is with us, and, therefore, we cannot predict what forces will dominate in the days ahead, and when we speak of predictions, there is a past set of predictions, the history of predictions not being very impressive. Please consider these examples, these predictions, out of the past: David Lloyd George, former Prime Minister of Great Britain, in 1936, said, "Germany has no desire to attack any country in Europe." Time magazine, 1939, "The modern German theory of victory by blitzkrieg is untried and, in the opinion of many experts, unsound," and John Foster Dulles, at that time an American diplomat who later became Secretary of State, said in 1941, "Only hysteria entertains the idea that Japan contemplates war upon us." Captain William Pulleston, former chief of the U.S. naval intelligence, said in 1941. "The Hawaiian Islands are overprotected. The entire fleet and air force could not seriously threaten Oahu," said just several days before the Japanese attack upon Pearl Harbor. Our own President, Jimmy Carter, in 1977, said that, "Iran is an island of stability in the Middle East." Secretary of the Navy Frank Knox, December 4, 1941, 3 days before Pearl Harbor, stated, "No matter what happens, the U.S. Navy is not going to be caught napping," and then there is a caption of a photograph of the U.S.S. *Arizona* in a program for the Army-Navy football game dated November 28, 1941, and some 8 days later we will recall that this Arizona was sunk and is presently at the bottom of Pearl Harbor, and this caption on that photo in that football program said, "It is significant that despite claims of air enthusiasts, no battleship has yet been sunk by bombs."

Mr. Speaker, the spirit expressed by these assessments from the past lives on today in what is shaping up to be a golden age of optimism. Each week's newspaper columns propose deeper cuts in U.S. Armed Forces on the grounds that there is insufficient danger to justify their upkeep. The forecasters have surveyed the future and see nothing that alarms them.

Ironically they project peace and stability mainly on the basis of spectacular changes within the last 6 months, changes that truly have surprised us, and yet I think, Mr. Speaker, there are other uncertainties and changes in the days ahead.

During these days that lie ahead and when uncertainty reigns, there are four things that we in our country should keep in mind and that we need: The first is we should keep good people in the armed services of the United States. Second, we need to keep the seed core that is the intellectual capital in the officer corps alive. Third, we need solid strategy for our national security as well as for our Western allies. Fourth, we need to keep the defense industrial base and our technology well suited to our day and time.

First, let us discuss briefly keeping good people in the U.S. Army, Navy, Air Force, and Marines. The quality of the people in our Armed Forces today is probably as high as we have had it since World War II. They are well trained, well motivated, and they are good men and women, because they are there because they want to be. They are professionals. If we are going to have a solid Armed Forces, we need the best people, and we have them. We must keep them, and although we will get smaller in numbers, we must keep those quality individuals, those men and women who are proud to serve their country and do so with enthusiasm and professionalism.

Regarding the second item, Mr. Speaker, I am chairman of the Committee on Armed Services panel on military education, and we have been looking for some time at the professional military education of our country. It is good, and it is getting better. We have had a number of recommendations set, to the credit of these services, many of those recommendations, probably 85 percent of them, have been adopted without corrective legislation. They realize, as we in this body realize, that we must keep the intellectual capital of the officer corps sound. Although we were unprepared between World War I and World War II in weapons and in numbers, we did probably by accident rather than by design have a strong intellectual capital in tactics, operational and strategic military thought. We must keep this as it has been, and if anything, get better. I commend the various war colleges, the five intermediate and the five senior war colleges for the efforts that they have done. We must keep this intellectual capital strong.

Third, there is a need for solid strategy for our national security. One reason we did not fare well in Vietnam was that we had no real strategy for winning that conflict. We had a strong strategy in World war II, and it worked. We need a blueprint. We need a policy. We need an overall strategy, and that is what we need to do as Americans and as the West and freedom-loving nations in this world must glue together that solid strategy, for if we do not, we will find ourselves with the wrong kind of doctrine, weapons, and military should unhappy days come to pass.

Fourth, we need to keep the defense industrial base and its technology alive. We have done well, because we have, as a country, always regarded the importance of air superiority. We cannot let that slip. We have always done well in undersea warfare and undersea detection. We cannot let that slip.

In other areas, we must keep the research and development in those Buck Rogers type of things that unfortunately may be commonplace on tomorrow's battlefield in the scope of study and research.

□ 1950

These are things, Mr. Speaker, that we need to do.

So as we enter this budget summit between ourselves and the other body and the White House, I think we should keep in mind that we should not rush to judgment and dismantle our Armed Forces, because we got there with a lot of hard work and planning and a lot of fine people. Let us not let the budget numbers dominate. Let us let strategy, let us let policy, make the decisions. Let us keep this challenge in mind during this entire budget summit in the days ahead and those days that are to follow. Let us not rush to judgment, Mr. Speaker. Let us shape our national security and the Armed Forces in light of the uncertainty of today, because uncertainty, unfortunately, is the polestar of decisionmaking in the days and months and years ahead.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. THOMAS of California (at the request of Mr. MICHEL), for today and

the balance of the week, on account of a death in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. LENT) to revise and extend his remarks and include extraneous material:)

Mr. IRELAND, for 60 minutes, today.

(The following Members (at the request of Mr. MINETA) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. NAGLE, for 5 minutes each day, on May 22 and 23.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LENT) and to include extraneous matters:

Mr. STANGELAND.

Mr. BROOMFIELD.

Mr. LAGOMARSINO.

Mr. ROGERS.

Mr. BLAZ.

Mr. MACHTLEY in eight instances.

Mr. CONTE.

Mr. KOLBE.

Mr. GILMAN.

Mr. LEWIS of California in two instances.

Mr. GINGRICH.

Ms. ROS-LEHTINEN.

The following Members (at the request of Mr. MINETA) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. MCMILLEN of Maryland.

Mr. FROST.

Mr. LAUGHLIN.

Mr. MARTINEZ.

Mr. HALL of Ohio.

Mr. MAZZOLI.

Mr. MONTGOMERY.

Mr. FALEOMAVAEGA.

Mr. VISCLOSKY.

Mr. NELSON of Florida.

Mr. FUSTER.

Mr. ACKERMAN.

Mr. ERDREICH.

Mr. SKELTON.

Mr. FEIGHAN.

Mr. WYDEN.

Mr. HOYER.

Ms. OAKAR.

## SENATE BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTION REFERRED

Bills, joint resolutions, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1128. An act for the relief of Richard Saunders; to the Committee on Interior and Insular Affairs.

S. 1738. An act to convey certain Oregon and California railroad grant lands in Josephine County, OR, to the Rogue Community College District, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1791. An act to amend the International Travel Act of 1961, to assist in the growth of international travel and tourism into the United States, and for other purposes; to the Committee on Energy and Commerce.

S. J. Res. 240. Joint resolution designating the week of June 10, 1990, through June 16, 1990, as "Multiple-Use Sustained-Yield Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 315. Joint resolution for the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day"; to the Committee on Post Office and Civil Service.

S. Con. Res. 133. Concurrent resolution providing for the use of the Capitol Rotunda; to the Committee on House Administration.

## BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On May 17, 1990:

H.R. 3961. An act to redesignate the Federal building at 1800 5th Avenue, North in Birmingham, Alabama, as the "Robert S. Vance Federal Building and United States Courthouse"; and

H.R. 1805. An act to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and for other purposes.

On May 18, 1990:

H.R. 3910. An act to require the Secretary of Education to conduct a comprehensive national assessment of programs carried out with assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1963.

## ADJOURNMENT

Mr. SKELTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 52 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, May 22, 1990, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3205. A letter from the Deputy Secretary of Defense, transmitting a memorandum of understanding between the United States and the Government of Italy on cooperative measures for enhancing air defense in Italy, pursuant to 10 U.S.C. 4542(e); to the Committee on Armed Services.

3206. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the National School Lunch Act; to the Committee on Education and Labor.

3207. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's 74th annual report covering its accomplishments during the fiscal year ended September 30, 1988, pursuant to 15 U.S.C. 46(f); to the Committee on Energy and Commerce.

3208. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to the Netherlands (Transmittal No. 10-90), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3209. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Venezuela (Transmittal No. 7-90), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3210. A letter from the Plan Administrator, Eighth Farm Credit District Employee Benefit Trust, transmitting its annual report for the year ending December 31, 1989, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3211. A letter from the Employee Benefits Manager, Farm Credit Bank of Columbia, transmitting the Bank's audited financial statement as of August 31, 1989, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Governmental Operations.

3212. A letter from the Chief Judge, U.S. Tax Court, transmitting the actuarial reports requested for the U.S. Tax Court Judges' retirement and survivor annuity plans for the year ending December 31, 1988, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3213. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period January 1, 1990 through March 31, 1990, pursuant to 2 U.S.C. 104a (H. Doc. No. 101-195); to the Committee on House Administration and ordererd to be printed.

3214. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3215. A letter from the Assistant Secretary, Non-Commissioned Officers Associations, transmitting the financial report for 1989, pursuant to Public Law 100-281, section 13 (100 Stat. 75); to the Committee on the Judiciary.

3216. A letter from the Vice President of Communications, Tennessee Valley Authority, transmitting the statistical summaries

annual report on its activities for the fiscal year October 1, 1988 through September 30, 1989, pursuant to 16 U.S.C. 831h(a); to the Committee on Public Works and Transportation.

3217. A letter from the Director, Congressional Budget Office, transmitting a copy of the report entitled, "Medicare's Disproportionate Share Adjustment for Hospitals"; to the Committee on Ways and Means.

3218. A letter from the Chairman, International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1992, pursuant to 31 U.S.C. 1110; to the Committee on Ways and Means.

3219. A letter from the Secretary of Transportation, transmitting a report on passenger metal detectors in response to the requirement in section 2(e) of the Undetectable Firearms Act of 1988; jointly, to the Committees on the Judiciary and Public Works and Transportation.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3030. A bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air; with amendments (Rept. 101-490, Pt. 2). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 3030. A bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air; with amendments (Rept. 101-490, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 286. An act to establish the Petroglypy National Monument in the State of New Mexico, and for other purposes; with amendments (Rept. 101-491). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. House Concurrent Resolution 69. A resolution to urge the development and implementation of a comprehensive United States oceans and Great Lakes policy (Rept. 101-492). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

By Mr. FORD of Michigan (for himself, Mr. SIKORSKI, Mr. GILMAN, Mrs. MORELLA, Mr. CLAY, Mr. HORTON, Mrs. SCHROEDER, Mr. YATRON, Mrs. OAKAR, Mr. MCCLOSKEY, Mr. ACKERMAN, Mr. DYMALLY, Mr. SAWYER, Mr. KANJORSKI, Mr. HAYES of Illinois, Mr. MCNULTY, Mr. UDALL, and Mr. DELUGO) introduced a bill (H.R. 4872) to establish the National Advisory Council on the Public Service, which was referred to the Committee on Post Office and Civil Service.

## MEMORIALS

Under clause 4 of rule XXII,

392. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Azerbaijan; to the Committee on Foreign Affairs.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 159: Mr. RINALDO.
H.R. 201: Mr. HAYES of Illinois.
H.R. 220: Mr. HOAGLAND, Mr. YATES, Mr. BOUCHER, and Mr. FROST.
H.R. 286: Mr. SHUMWAY.
H.R. 303: Mr. ROBERT F. SMITH.
H.R. 995: Mrs. BYRON.
H.R. 1068: Mr. PEASE and Mr. BRUCE.
H.R. 1546: Ms. PELOSI and Mr. RICHARDSON.
H.R. 2014: Mr. MAVROULES.
H.R. 2121: Mr. STANGELAND and Mr. HOAGLAND.
H.R. 2268: Mr. PENNY.
H.R. 2270: Mr. MILLER of Washington, Mr. HORTON, and Mr. GORDON.
H.R. 2285: Mr. ROE.
H.R. 2353: Mr. WHITTEN and Mr. FAZIO.
H.R. 2816: Mr. MAVROULES and Mr. MOAKLEY.
H.R. 2870: Mr. DYSON, Mr. WATKINS, Mrs. UNSOELD, and Mr. NEAL of North Carolina.
H.R. 3453: Mr. KILDEE, Mr. BRYANT, Mrs. KENNELLY, Mrs. SCHROEDER, Mr. MRAZEK, and Mr. CLAY.
H.R. 3693: Mr. ROE.
H.R. 3859: Mr. CLINGER.
H.R. 3914: Mr. SYNAR, Mr. SISISKY, Mr. HOAGLAND, Mr. ALEXANDER, Mr. HANCOCK, Mr. HERTEL, Mr. GUNDERSON, Mr. ESPY, and Mr. LAUGHLIN.
H.R. 3922: Mr. GIBBONS, and Mr. EMERSON.
H.R. 4079: Mr. STUMP.
H.R. 4096: Mr. KENNEDY, Mr. ROE, and Mr. MATSUI.
H.R. 4226: Mr. KYL and Mrs. VUCANOVICH.
H.R. 4310: Mr. LANTOS and Mr. DONNELLY.
H.R. 4362: Mr. LOWERY of California, Mr. ROYBAL, Mr. MINETA, Mr. CAMPBELL of California, Mr. LEWIS of California.
H.R. 4449: Mrs. BOXER.
H.R. 4640: Mr. YATRON.
H.R. 4641: Mr. SMITH of New Hampshire, Mr. TAUKE, and Mr. STARK.
H.R. 4690: Mr. BEREUTER, Mr. SERRANO, Mr. WOLF, Mr. HATCHER, Mr. VENTO, Mr. MILLER of Washington, and Mr. DYMALLY.
H.R. 4763: Mr. LEHMAN of Florida, Mr. MANTON, and Mr. FUSTER.
H.R. 4816: Mr. HATCHER, Mr. BROOMFIELD, and Mr. WYDEN.
H.R. 4818: Mrs. ROUKEMA, Mr. RINALDO, Mr. BERMAN, and Mr. BONIOR.
H.J. Res. 507: Mr. ANNUNZIO, Mr. WAXMAN, Mr. ROE, and Mr. NATCHER.
H.J. Res. 533: Mr. BOEHLERT, Mr. HUGHES, Mr. DELLUMS, Mr. NOWAK, Mr. MCEWEN, Mr. INHOFE, Mr. HAMMERSCHMIDT, Mr. CLAY, Mr. SERRANO, Mr. HOYER, Mr. SANGMEISTER, Mr. WALGREN, Mr. GILLMOR, Mr. ERDREICH, and Mr. TORRICELLI.
H.J. Res. 543: Mr. BUECHNER, Mr. RAHALL, Mrs. SAIKI, Mr. SAXTON, Mr. SCHAEFER, and Mr. PARKER.
H. Res. 384: Mr. MCCLOSKEY, Mr. MCDERMOTT, Mr. BEREUTER, Mr. FAUNTROY, Mr. BORSKI, Mr. PENNY, Mr. MFUME, Mrs. ROUKEMA, Mr. RUSSO, Mr. MCNULTY, Mr. MADIGAN, Mr. APPLEGATE, Mr. FAZIO, Mr. MATSUI, Mr. EDWARDS of California, Mr. BILBRAY, Mrs. PATTERSON, Mr. DIXON, Mr. FEIGHAN, Mr. JAMES, Mr. MRAZEK, Mr. KENNEDY, Mr. RANGEL, Mrs. UNSOELD, Mr. CARR, Mr. ESPY, Mrs. MORELLA, Mr. FOGLIETTA, Mr. KOSTMAYER, Mr. FALEOMAVAEGA, Mr. BUSTAMANTE, Mr. PANETTA, Mr. HUGHES, Mr. SABO, Mr. MOORHEAD, Mr. SHUMWAY, Mr. NEAL of North Carolina, Mr. ROBINSON, Mr. SMITH of New Jersey, Mr. GILMAN, Mr. BUECHNER, Mr. BRYANT, Mr. FORD of Tennessee, Mr. SIKORSKI, Mr. HORTON, Ms. SLAUGHTER of New York, Mr. ANDERSON, Mr. JONTZ, Mr. HERGER, Mr. LANCASTER, Mr. PRICE, Mr. UPTON, Mr. GEJDENSON, Mr. BROWN of California, Mr. GALLO, Mr. WHEAT, Mr. GLICKMAN, Mr. HYDE, Mr. TRAFICANT, Mr. GEPHARDT, Mrs. KENNELLY, Mr. GUARINI, Mr. STOKES, and Ms. LONG.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

175. The SPEAKER presented a petition of Michael Baldigo, Santa Rosa, CA, relative to computers; which was referred to the Committee on Ways and Means.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3030

By Mr. WHITTEN:

SEC. 326. MEASUREMENT OF THE VOLATILE ORGANIC COMPOUND CONTENT OF CERTAIN WATERPROOFING SEALERS.

No regulation, requirement, standard, guidance or state implementation plan pursuant to this Act shall require that the measurement of the volatile organic compound content of waterproofing sealers which are intended for application to multiple surfaces be performed by removing the water content by volume of such waterproofing sealers.

By Mr. BROWN of Colorado:

—Page At the end of section 505(d), insert the following new paragraph:

"(6) CERTAIN MUNICIPALLY-OWNED POWERPLANTS.—

"(A) During the Second Phase, the Administrator shall allocate and issue for each existing municipally-owned oil and gas-fired electric utility steam generating unit with nameplate capacity equal to, or less than, 40 MWe, with an actual or allowable 1985 sulfur dioxide emission rate below 1.2 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 percent capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

"(B) During the Second Phase, the Administrator shall allocate and issue annually for each existing municipally-owned coal-fired electric utility steam generating unit with nameplate capacity less than 25 MWe, with an actual or allowable 1985 sulfur dioxide emission rate below 1.2 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 percent capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

—At the end of the bill insert the following new title:

TITLE —EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR GEOTHERMAL AND OCEAN THERMAL PROPERTY

SEC. . OF ENERGY INVESTMENT CREDIT FOR SOLAR GEOTHERMAL AND OCEAN THERMAL PROPERTY.

(a) IN GENERAL.—Clauses (viii), (ix), and (x) of the table contained in subparagraph (A) of section 46(b)(2) of the Internal Revenue Code of 1986 (defining energy percentage) are amended to read as follows:

| | | | |
|---|---|---|---|
| "(viii) Solar energy property.—Property described in section 48(l)(4) (other than wind energy property). | 15 percent... | Oct. 1, 1990. | Dec. 31, 1993. |
| "(ix) Geothermal property.—Property described in section 48(l)(e)(A)(viii). | 15 percent... | Oct. 1, 1990. | Dec. 31, 1993. |
| "(x) Ocean thermal property.—Property described in section 48(l)(3)(A)(ix). | 15 percent... | Oct. 1, 1990. | Dec. 31, 1993. |

(b) EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAXES.—Paragraph (2) of section 4081(d) of such Code is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 3, 1993.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods after September 30, 1990, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986.

# EXTENSIONS OF REMARKS

## VERONICA REAGAN CARMICAL, ESSAY CONTEST WINNER

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. ROGERS. Mr. Speaker, 200 years ago, the Constitution of these United States was in its infancy. Our First President, George Washington, had been in office just a little over a year. Our first Congress had only begun to enact the laws of the land.

But the third branch of our Government, the judiciary, would not take a form recognizable to us until more than a decade later, when the Honorable John Marshall became Chief Justice of the U.S. Supreme Court.

It is in the spirit of celebration, of considering the foundations of this Nation, that I am proud to enter this essay from Veronica Reagan Carmical of Williamsburg, KY, into the eternal RECORD of this House.

Her astute essay on the importance of an independent Federal judiciary has won the praise of the Daughters of the American Revolution and the Commission on the Bicentennial of the U.S. Constitution, who judged it the best essay in the east central division of their recent nationwide essay contest.

I had the pleasure of meeting Veronica here in Washington a couple of weeks ago. Rarely have I met such a poised and articulate young lady, and I look forward to hearing of her future success in college, and in her adult life.

My congratulations also go to her parents, Mr. and Mrs. Oline Carmical, Jr., and to her fine teachers at the Williamsburg, KY, schools. I am quite sure they are all as proud of Veronica as I am.

I urge all of my colleagues to read this fine essay, and consider its meaning as we in this House write the laws of the land adjudicated by our independent Federal courts:

WHY ARE INDEPENDENT JUDGES IMPORTANT IN THE PRESERVATION OF OUR CONSTITUTIONAL SYSTEM OF GOVERNMENT?

(By Veronica Reagan Carmical)

In 1787 our founding fathers saw the necessity of a strong judicial system independent from the other two federal branches of government. Although they were vague in the composition of the judiciary, they did provide in Article III, Section I of the United States' Constitution that there would be one Supreme Court and other lower courts as Congress subsequently believed necessary. There were also other stipulations that the judges were given their posts for the duration of their lives, that they would be paid, and that their pay may never be decreased. The former has been interpreted to mean that a judge is nominated for a tenure of life during good behavior by the President, subject to federal Senatorial approval and his salary will never diminish. Specifically, a federal judge can never be removed from office unless he has been charged with a high crime or misdemeanor, impeached by a majority of a quorum in the United States' House of Representatives, and convicted by the votes of two-thirds or more of a quorum in the federal Senate.

Historically, federal judicial independence resulted in numerous analyses. Among the most notable of these was Number 78 of "The Federalist Papers," written by Alexander Hamilton, who favored life appointments for federal judges. Hamilton's only stated reservation regarding the matter was that in case of a judge who was insane or physically incompetent to hear and rule on cases before his court. Hamilton's opinion was apparently of little concern to the majority of the delegates at the 1787 Philadelphia Convention from which the Constitution emerged because that stipulation was not added in the document. By so many accounts, the establishment of an independent, essentially life-tenured judge fostered fair decisions; it hindered wealthy and otherwise powerful citizens from being able to sway a judge's decision because the latter would not fear the loss of his livelihood.

Indeed, a judiciary not affected by popular sentiment or special interest groups could constitute the wisest court system possible. Our founding fathers were by no means the first to arrange a judicial system in this manner. England was the first major nation to utilize this idea. Since the fifteenth century in England, a judge's rulings are supposedly fair and just, according to common law, equity, and statutory law. By analysis, one can see how the ordinary person might benefit from this because generally his cases are decided in the same manner as those involving more important persons.

Not all countries practice the appointment of their judges as part of some politically partisan process. France has had five radically different forms of government over the past two centuries, and each has had its own specific judicial system. One main idea has permeated from general French culture, however, through each of the five types; a student of law trains to be either an attorney or a judge. Therefore, French jurists are professional civil servants, not political appointees; they are nothing more or less than judges.

The American system of an independent judiciary has been tested many times over the years. In 1806 Chief Justice John Marshall came to the Supreme Court. Marshall's first year on the Court shows how unnecessary the Supreme Court was considered by the country as a whole. The Court only heard three cases that year; two involved disputes over ships captured as prizes on the high seas, and the third involved a title to a tract of western lands. These were the ordinary cases of that time. There was nothing extraordinary about these cases, but Marshall, a highly partisan Federalist, used them and others to build a judiciary independent of the executive and legislative branches. Federalist Marshall even occasionally ruled in favor of the majority Jeffersonian Party. Many of his rulings set definitive precedents because his reasons for his decisions seemed so different from either party's logic that he appeared to be acting at least semi-independently.

The greatest threat to the independence of the American federal judiciary came more than a century after death took John Marshall from the Supreme Court in 1835. In 1937 popular President Franklin D. Roosevelt, angered because he had been unable to name even one justice of the Supreme Court during his first four years in office and because holdover jurists from previous Republican and Democrat administrations had struck down so many New Deal statutes deemed necessary by Roosevelt for the United States to recover from the ravages of the nation's worst depression, sought to alter the High Court and other federal judicial bodies. After first toying with the idea of having his Congressional supporters sponsor a Constitutional Amendment to restrict the jurisdiction and authority of all federal courts, Roosevelt and Attorney General Homer Cummings decided to proffer a scheme for enlarging the Supreme Court and other levels of the federal judiciary. Specifically, through surrogates, Roosevelt and Cummings proposed to the Senate the appointment of an additional judge for each jurist at each bench level who, having reached the age of seventy years and six months, had not retired. Had their plan been legislatively enacted, Roosevelt would immediately have been able to nominate six additional justices for the Supreme Court. After lengthy debate, the "court packing" plan failed to pass the Senate and was never entertained in the House.

Had it succeeded, the Roosevelt-Cummings schemes would have demeaned the independence of the federal judiciary, especially the High Court, by lessening the importance of each judge. By reducing each's stature, the other branches, particularly the executive in this case, would correspondingly have been greatly enhanced in both power and prestige. Most of the plan's opponents stressed their opposition on grounds of preserving judicial independence and equality among the three federal branches of government. It is within the confines of such sentiments that both judicial independence and governmental balance of power continue to thrive in our federal system.

## COLUMNIST PATRICK BUCHANAN AGAIN CRITICIZES STATEHOOD FOR PUERTO RICO

### HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. FUSTER. Mr. Speaker, as a Democrat I do not always agree with the viewpoints of the nationally syndicated conservative columnist Patrick Buchanan, but once again I have to tell my colleagues that he is right on target with his latest column on a proposed political status plebiscite in Puerto Rico. I inserted Mr. Buchanan's first such column on this issue in

the RECORD last February, and today I want to draw to the attention of my colleagues his second column, entitled "Future State or Nation?" which appeared in the May 16 edition of the Washington Times.

As you know, Mr. Speaker, there is legislation pending in both the House and Senate which would authorize a congressionally sanctioned plebiscite in Puerto Rico next year between the options of statehood, independence, or an enhancement of the existing commonwealth status. Although I have great respect for the institution of statehood, I favor the enhanced commonwealth option as being in the best interests of both Puerto Rico and the United States.

President Bush favors the statehood option. But Mr. Buchanan, himself a former key Reagan White House official with well-known conservative credentials, seems to be a voice in the wilderness among national Republicans on the issue of Puerto Rico's political status. Mr. Buchanan's voice ought to be heard more often in Republican councils; he is telling it like it is on the issue of statehood for Puerto Rico. The White House ought to pay particular attention.

FUTURE STATE OR NATION?

(By Patrick Buchanan)

In this age of nationalism, when provinces, "republics," and "occupied territories" are struggling to break free and be born again, as nations—Quebec, Kasmir, Lithuania, Latvia, Estonia, Slovenia, Croatia, Soviet Georgia, Azerbaijan, Palestine—a question arises: What, exactly, is a nation? In "The Major Governments of Europe" (1960), Professor Herman Finer provides a definition.

"A nation," Mr. Finer writes, embraces, "a common territory, common language and literature, common ancestry (sometimes erroneously called 'race'), characteristic common customs, a shared history and tradition, shared cultural achievement (songs, dances, poetry, painting, and sculpture, architecture, food, dress, etc.), and, finally, a public philosophy embodied in a political constitution . . . men are not born free; they are born national."

By that definition, the island of Puerto Rico is a nation in utero, and, making her our 51st state is an invitation to chaos.

Again, the passions surrounding this issue argue for greater reflection, before Congress authorizes a plebiscite that could give Puerto Rico automatic statehood by 1992.

Consider but a few of the comments called forth by a recent column opposing statehood: "Seldom has the image of America been soiled with greater injustice and prejudice," wrote former Gov. Luis Ferre. "It was a gratuitous attack on 6,000,000 Americans." "Plain bigotry," said a second; a "perversely xenophobic attack," said a third. Island politicians accused me of being on the payroll of drug companies that stand to lose tax privileges, should statehood come.

The hysteria, the hyperbole, the threats—one writer said the Americans had best "beware of what would happen" if they do not "honor" in their home "what they preach internationally"—fairly dictate second thoughts. Why should it be an insult to Puerto Rico, or her thousands of veterans, to suggest she has all the attributes of nationhood? Is it an insult to Cuban-Americans to say we ought not, post-Castro, annex Cuba, but keep her as a friend, ally, and partner, on equal terms with the United States?

We Americans preach self-determination. Just as islanders have a right to determine their destiny, so, too, does the mainland. Neither the island, nor 250 million Americans, should be blackjacked into a marriage likely to wind up in a divorce court.

The arguments of Puerto Rican nationalist Raul Serrano-Geyls, whence Mr. Finer's definition was taken, deserve a hearing:

Puerto Ricans are a Caribbean people of Spanish heritage, separated by 1,000 miles from the mainland. They did not petition to join the union; they were seized as war booty in 1898. The people there have resisted every attempt to "Americanize" them, to melt them down. As Mr. Serrano-Geyls writes, "The immense majority of all poets, novelists, playwrights, composers, painters, sculptors, artisans, in sum, nearly all Puerto Ricans with a true artistic creative spirit, are either 'independenistas' (most of them) or 'populares' that believe in free association. It is extremely hard to find a true Puerto Rican artist that believes in statehood. As someone has said: 'No one in Puerto Rico has ever written a poem to statehood, or the United States.'" This is a mark of nationhood.

With tens of thousands of Puerto Ricans believing fiercely in an independent island, supported by the intelligentsia, it would be an act of supreme folly to tell them their dream is dead forever. Why do it? Why bring into the American Union a state with a built-in secessionist movement, determined to break the Union apart?

Since 1948, Puerto Rico has had her own Olympic team. When do the islanders cheer loudest? When it challenges Team USA. As Sen. Velda Gonzalez-Garcia writes, "When Governor Carlos Romero Barcelo, tried to avoid playing our national anthem and raising the Puerto Rican flag at the Pan American Games in Puerto Rico in 1979, [he got] an Olympic booing the Puerto Rican people will not forget."

Should Puerto Rico become our 51st state, we will have the same trouble tomorrow Canada has today with Quebec. Puerto Ricans will demand to keep their Spanish language, to have all legislative and judicial proceedings translated into Spanish. These demands will be echoed by Hispanic leaders in Texas, California and New Mexico. Puerto Rico's congressional delegation would form the core unit of a militant new Spanish-speaking caucus. And, like the Quebeckers, Puerto Ricans will insist on their status as a "distinct society." And, why should they not? They are a distinct society. But, upon this issue, Canada is almost breaking up.

All the signs of future trouble are present. On St. Patrick's Day in New York, Irish-Americans carry the American Flag; on Columbus Day, Italian-Americans do the same; but, on Puerto Rico Day, it is the Puerto Rican flag that is carried by thousands, a manifestation of the islanders' defiant refusal to surrender their national identity, to dissolve themselves in a great American melting pot.

Peat Marwick estimates that, under statehood, between 1992 and 2000, federal outlays to Puerto Rico, with half the per capita income of Mississippi, might rise by $36 billion. Puerto Rico could become the Anacostia of the Caribbean—with welfare doing the same destructive work on that island people that it has done to black Americans, Native Americans, Micronesians.

The conservative adage there applies: When it is not necessary to change, it is necessary not to change.

## THE URBAN STATE UNIVERSITY: KEY TO 21ST CENTURY AMERICA

### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. STOKES. Mr. Speaker, the education of our citizens is the cornerstone of our development as a nation. Our urban universities must improve, adapt and fit the needs of many constituents.

According to Dr. John A. Flower, president of Cleveland State University, "Urban state universities are now on the cutting edge of change confronting the educational, social, economic, technical and vocational issues of higher education." Dr. Flower recently had occasion to address the National Press Club in Washington, DC. His message focused on the unique mission of the urban state university.

Mr. Speaker, Cleveland State University, located in the heart of an urban area, currently serves apporoximately 18,500 regular students and an additional 14,000 who are enrolled as continuing education students. The university offers degree-granting programs in the arts and sciences, business, education, engineering, and urban affairs.

Mr. Flower, who rose from music professor to president of Cleveland State University, is one of a handful of college presidents in the United States from a fine arts discipline. He has addressed topics as diverse as ethics in academic, minority recruitment, and the role of athletics in college today.

Mr. Speaker, I am pleased to share Dr. Flower's remarks with any colleagues and hope they will take a moment to review his thoughtful analysis:

THE URBAN STATE UNIVERSITY

John A. Flower, a professor of music for four decades has been serving as President of Cleveland State University since July 1, 1988. An accomplished pianist, Flower is one of a handful of college presidents in the U.S. from a fine art discipline. For the 15 years immediately preceding his appointment, he served as CSU's chief academic officer.

As President, Flower has addressed topics as diverse as ethics in academia, minority recruitment and retention, and the role of athletics in colleges today. His attention to the symbiotic relationship of an urban university with its surrounding community has won high praise.

Located in the heart of an urban area, Cleveland State University currently serves approximately 18,500 students and has nearly 700 full-time and part-time faculty.

Flower's teaching career began in 1951 at the University of Michigan, and he while there rose from Instructor to Associate Dean. In 1966 he became dean of the College of Fine and Professional Arts at Kent State University, where he also served as associated provost and dean of the Blossom Festival School in cooperation with the Cleveland Orchestra.

A native of the State of Washington and a graduate of the University of Washington, Flower holds two master of music degrees (in piano and theory of music) and a Ph.D. in musicology from the University of Michigan. He also studied at the Conservatoire Americain in Fontainebleau, France.

Flower has worked on accreditation reviews of more than 125 colleges and universities and has presented scholarly papers around the world.

Flower served as a fighter-bomber pilot in World War II. He recently was elected to a two-year term as Chairman of the Ohio Aerospace Institute.

Locally, Flower is actively involved with numerous civic and cultural organizations including the Greater Cleveland Growth Association, the Cleveland Play House, and the Greater Cleveland Roundtable.

To search for truth and profess thought and advances in knowledge has always been the challenge of the American University. Teaching ever-changing skills to meet growing professional needs accompanies this challenge.

But as we move through the nineties and into the 21st century, that challenge is no longer enough. The Urban State University now has a vastly broadened mission. Impinging upon the historic teaching and research roles are a phalanx of problem issues. They include race relations, crime and violence, economic viability, and changing demographics. They require that higher education improve, adapt, and fit the needs of many constituencies.

The urban state university cannot be an ivory tower. It is part of the grit, grime, clamor, and violence of the city. Today there is no town-grown separation as there was for centuries. The critical mass of today's urban state university is the critical mass of its community.

This is the challenge:

To be seekers of the truth and protectors of the integrity of knowledge . . . but without the sanctuary of the historic campus as protection; to profess ethical and moral behavior . . . while being part of the swirl of the marketplace.

I am absolutely convinced this call to serving education and the urban citizenry draws dedicated students and faculty to urban state universities and community as mutually exclusive. They say the search for truth cannot occur amid the distractions of the marketplace and crackle of social change. I say, in the '90s and beyond, we have no choice.

Others continue, saying it is impossible to achieve the coupling of urban town and academic gown. Let them. The fact is that the necessity of effecting this synergism of cooperating is already upon us. That is why these campuses are the most vital, alive, and exciting places in America today.

The challenge is unique in the centuries-old history of universities.

Historically, the best and brightest—almost totally men until the last few generations—enrolled at mostly private and elite colleges and universities. They stayed for four years and then went home into preordained, family-based vocations. They married, became community leaders, and made preparations for their offspring to do the same.

But things changed after World War II. After the quite '50s, revolutionaries stormed campus gates in the 1960s. I know . . . I was there. I was an assistant professor at Michigan when Tom Hayden was working for the *Michigan Daily.* I was a Dean at Kent State in 1970. My office was in Taylor Hall. These events were cataclysmic.

However, universities settled back, adapted, and carried on.

They looked at little different . . . and acted a little different.

But they continued to keep Wall Street runing and Main Street viable, while law schools kept the lawyer pipelines filled. The best unversities maintained the flow of intellecutal Brahmins to serve Washington political leadership.

But that equation keeping private and elite universities . . . in the lead and hence America . . . leading the World . . . is now as out of date as the slide rule.

Urban state universities are now on the cutting edge of change and confronting the educational, social, economic, technical, and vocational issues created by the changing demographics of our pluralistic peoples.

By generally accepted definition, an American urban state university is government assisted, in a downtown locale, and surrounded by a diverse community with a historically strong industrial base in a metropolitan area of a million or more. In addition to serving traditional students, the university reaches out to minorities and to others in the workforce whose fathers and mothers never went to college.

A significant portion of the student body has historically had restricted access to higher education. The average student age is around 28, with most students having part-time or full-time jobs in addition to going to college. Many are already married and have family responsibilities. Many are enrolled part-time. They often take seven or eight years to earn their degrees.

Continuing education and skills training for older adults not in regular degree courses is also an increasingly important function. At my own university of over 18,500 regular students, an additional 14,000 are enrolled as continuing education students.

The urban state university is the vital cog in America's educational future; but it must obtain far greater government and business support to carry out its vital role and function.

Why?

America's urban centers are rapidly changing. Third-world and Hispanic immigrants and Blacks are growing in number. Women now make up nearly 50 percent of the workforce and should be two-thirds of the new workers in the early 21st century.

At the same time, it's no secret; the world economy is globalizing. Technological advances are accelerating exponentially. You don't have to go further than the pages of our daily newspapers to be astonished by the breakthroughs.

The skills we are now teaching in the urban state university today may not be relevant tomorrow. New skills are demanded by this breakneck change.

So who will create and impart a new curriculum for this one-world workforce? And continue to reeducate it?

Only one institution is capable of fulfilling such an agenda: the urban state university. Bascially a new form of higher education, it has come into its own only since World War II to meet the changes of the cities.

My own Cleveland State University is celebrating only its 25th Anniversary this year. Within the next quarter century, we could have 50,000 students taking classes in such courses as urban anthropology to ethics set forth by Aristotle.

Those and others will dominate a curriculum demanded by technological change. To meet these extraordinary challenges, the urban state university must experience its own perestroika.

Such change cannot be directed solely from inside ivy-covered walls. It will take a committed partnership of academia, business, and government to launch this restructuring-one that must be as comprehensive as is the nation's war on drugs, or any of other predicted megatrend problems of the coming century. In short, a campaign for uban higher education of enormous proportions.

There is precedent for this.

More than a century ago, the predominantly rural United States had a crying need for new knowledge and skills to improve farming. The classical upper-class education of the premier universities might have advanced Western thought, and by trickling down, helped energize industry, but it was not sufficient to spur farming and feed the growing populace.

At the height of the Civil War, with the backing of President Lincoln, Congress in 1862 passed the Morrill Act. The government deeded thousands of acres of land to states for agricultural and mechanical arts colleges. The Land Grant university grew in size and stature, reaching out to America's burgeoning middle class.

This special kind of campus stressed applied research and practical studies. In turn, A and M graduates primed the pumps of the rural economy and lent aid and comfort to the great industrial surge of the late 19th century. Land Grant universities served up poultry science with a side dish of Plato. And it worked. For almost a century.

But . . . Ohio in the last hundred years has gone from almost 85 percent rural to 80 percent urban. The rest of the nation did the same thing.

Private and state-owned institutions led the change. They encouraged enrollments of middle-class students and somewhat later, women and minorities. Some tried to hold on the finest in classical education while others stoked up graduate schools into monstrous research machines.

Latter-day urban state universities emerged after World War II. They provided opportunity for students traditionally excluded from higher education.

Their enrollment continues to grow, but these urban state universities are rapidly approaching a kind of academic gridlock. They will be unable to meet industry demands for an increasingly better-educated work force.

I am not advocating that we throw out the baby with the bath water or pitch out John Bunyan and John Milton, as have some with more fanatical academic agendas. Nor do I believe that the urban state university should become a glorified trade school. That would abrogate the elevated mission of the university.

The urban state university must continue teaching the disciplines of letters, sciences, fine arts, social services, and human health. These are requisite to keep civilization civilized. The radical changes must come in other aspects of curriculum and commitment. If this is a new model, so be it. If this tilts toward revolution rather than evolution, so be it.

Town and gown must come together. The urban state university can no longer be separated physically or emotionally from the broader community. Not if it purports to

take its rightful place in leading America competitively into the next century.

As a beginning, I have five prescriptions for urban state universities.

PRESCRIPTION 1: WORK IN A CLOSE ALLIANCE WITH BUSINESS

This is necessary to keep industry competitive and committed to stay in the geographic area. At Cleveland State University, we call this "partners in renewal." More than 85 percent of our graduates stay in the immediate area and keep banks, corporations, professional firms, and governmental institutions functioning.

The Cleveland State University Advanced Manufacturing Center does applied research for numerous clients, from small entrepreneurial ventures to the Ford Motor Company. You read stories about how Japanese car makers are out to render the United States auto industry outmoded. I tell you, we are helping area automotive plants to remain competitive because of new cost-saving technology from our labs.

What a beautiful blend of Adam Smith and John Henry Newman! In the coming years, such academic-business partnerships won't be a luxury, they'll be a necessity.

PRESCRIPTION 2: ESTABLISH STRONGER VOCATIONAL AND CONTINUING EDUCATION TRAINING

The jobs of tomorrow in an information economy will require exceptional skills. Many don't even exist today. What will workers do when forced to learn new skills or lose their jobs? Who will teach them? Business can't afford to do it alone. The urban state university must step in.

"The issue," predicted John Naisbitt and Patricia Aburdene in their best-selling *Megatrends 2000*, "is not poor-quality jobs or low wages. It's how to educate and train people to qualify for an abundance of good jobs. There are not nearly enough people with college degrees or advanced vocational and technical training to fill the more than two million new managerial, administrative, and technical jobs coming on-line annually," so say Naisbitt and Aburdene.

PRESCRIPTION 3: STRENGTHEN COMMUNITY LINKAGES

Let me brag a minute. Our College of Urban Affairs is a pioneer in this realm. It offers courses in public service and training programs for elected officials. We have proposed an Ohio Commission on Public Service patterned after the national Volcker Commission. It will study the personnel needs of government into the 21st century and then build a curriculum to educate future governmental administrators.

Cleveland State's biology department probably will not study the nesting habits of gooney birds in Guam, but we are working to keep the Lake Erie shoreline from eroding and studying ways to make the local rivers cleaner. Our College of Education has scores of programs reaching out to troubled Cleveland public schools.

PRESCRIPTION 4: EXPAND THE COMMITMENT TO MINORITIES

We all know the abysmal statistics on minorities in higher education. If we decry the cost of urban crime, drug addiction, and disease in human and financial terms, we are obligated to reach out to those most victimized by it: Blacks and other minorities.

The Black high school dropout rate in America's major cities is more than 50 percent. Minority enrollment and retention in higher education is appalling. But if urban state universities can't help minorities achieve a better education and a ticket to the American dream, who can?

There's no easy answer.

The minority student and faculty presence on campus must be improved. We have a Vice President for Minority Affairs and Human Relations who reports directly to the President. He's overseeing an $800,000 Cleveland Foundation grant for a new program to improve our ability to recruit and retain minority students.

This crusade must go beyond students. In 1988, more than 23,000 doctorates were granted by U.S. graduate schools. Only 805, I repeat, only 805, went to Blacks. If the Ph.D. is the passport to a faculty position, we also must help Blacks in obtaining postgraduate degrees.

PRESCRIPTION 5: FOSTER ETHICS AMONG STUDENTS, FACULTY, AND ADMINISTRATION SO THAT THEY TRANSLATE THIS BEHAVIOR TO THE COMMUNITY

If urban state universities are not setting the tone in the academics, athletics, and in their own business dealings, then we hardly can expect the business world to do much different. Degree programs, especially in the professions, must emphasize the importance of ethical behavior on professional practice. The same is true for the internal, daily interactions of faculty, administration, and staff.

These goals can't be accomplished on wishes. They will take money that cannot be generated solely from tuition or from begging the alumni or businesses or even state government. Cleveland State University is state-*assisted* not state-supported. Less then half our operating funds come from the state.

In that need, we're not much different from other urban state universities. That's why an enhanced federal commitment to the urban state university is so critical.

Congress in 1979 authorized money for an Urban Grant University Program to fund many of the same things I am talking about. But the money was never appropriated.

If we're serious about meeting this crisis, which has grown far more acute in the last decade, here's what should be done immediately to fill the aforementioned prescriptions.

1. *Congress should appropriate spending for the Urban Grant University Program*

Cleveland State University, a decade ago, felt this federal legislation was so important that we modeled our own College of Urban Affairs after it. I was responsible for its covenants and was attending physician at its birth. Armed with that federal blueprint, we went to the state legislature for line item funding assistance for our Urban University programs. Today, this College and the state's Urban University program stand as a successful and national prototype for urban state universities.

2. *President Bush should appoint a White House Commission on Urban State Universities*

Academic, business, and community leaders should be appointed to this panel to assess just how these institutions can obtain funds and work to solve the challenges outlined here. This would complement what the President has urged in his own sweeping education reform proposals.

They also would reinforce the six goals for higher education outlined by U.S. Education Secretary Lauro Cavazos to be reached by the year 2000. These include granting more degrees to minorities and improving proficiency in math, science, geography, history, and writing.

3. *Set up a national interdisciplinary committee of representatives from America's leading philanthropic foundations to study and fund urban state university programs*

4. *Encourage local, state, and federal funding of continuing adult education training at urban state universities*

Today, most of this is still self-supporting.

5. *Corporations must increase their support for urban state higher education commenstrate with the value received from our contributions of graduates and research*

Past formulas based on pretax profits are out of date and must be reconfigured upward. In the long run, this only makes good business sense.

Historically, colleges separated themselves from the community in which they resided so that scholars could seek and impart truth unencumbered by the marketplace and politics. Today in urban centers, the university and the marketplace are inseparable. We in urban academia no longer have the luxury of an ivory tower in which to retreat.

This nation turned to higher education over a century ago to meet a crisis. Universities did the job. Today's crisis is far more severe and far different from that earlier time.

Today, with a much vaster and diverse citizenry concentrated in urban centers, we must learn how to develop our human resources . . . human beings . . . many of whom in our inner cities are spinning in a vortex of despair. We must learn how to develop and as importantly manage our technical ability that in today's world grows at warp speed.

In human terms for the nation and world, this is a problem far more serious than that addressed by universities and colleges through the Morrill Act.

Today, only the urban state university can meet this challenge head on. With the committed support of business and government, we are ready and willing to lead the way for higher education in America.

## OLIN E. TEAGUE AWARD

## HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MONTGOMERY. Mr. Speaker, in a ceremony tomorrow in the House Veterans' Affairs Committee Hearing Room, Mr. Malcolm "Mac" Farmer, the vocational rehabilitation and counseling officer at the Huntington, WV, VA Regional Office and Ms. Helen Remington, a clinical nurse specialist at the Carl T. Hayden VA Medical Center in Phoenix, AZ, will be honored by the Department of Veterans Affairs with its 11th annual Olin E. Teague Award.

The Olin E. Teague Award is presented annually to a VA employee, or employees working as a team, whose achievements have been of special benefit to veterans with service-connected injuries.

Mr. Farmer has had a lengthy career in counseling and rehabilitation. His efforts to coordinate community, State, and Federal resources in the State of West Virginia have

been invaluable in providing employment opportunities to disabled veterans. Veterans of West Virginia have achieved a level of employment which would not have been possible were it not for Mr. Farmer's commitment. Earnings for these veterans increased as much as 500 percent from prerehabilitation to postrehabilitation status at a time when West Virginia had the highest unemployment rate in the United States.

Mr. Farmer has been a counseling psychologist with the VA since 1966 and prior to that was a rehabilitation counselor with the West Virginia Division of Vocational Rehabilitation. He served in the U.S. Air Force from 1951 to 1953. Attending college under the GI bill, Mr. Farmer completed a bachelors degree in psychology at the College of William and Mary. He then completed a master of science degree in rehabilitation counseling at the same school. Later, at Marshall University, he completed a graduate program in clinical psychology and was selected for membership in Psi Chi, a national honor society in psychology.

As an officer in VA's Vocational Rehabilitation and Counseling Division, his job is to assist eligible veterans in overcoming service-connected disabilities through vocational training, independent living services, and other rehabilitation counseling, plus employment assistance. Obviously, he has done his job exceptionally well.

Helen Remington, a rehabilitation clinical nurse specialist at the Carl T. Hayden Medical Center, Phoenix, AZ, has, through her personal commitment to meeting the needs of spinal cord injured veterans, made many contributions to rehabilitating spinal cord injured patients through an innovative education program which addresses the needs of patients and their families. Ms. Remington has designed and implemented workshops which provide up-to-date information to assist veterans and their spouses in the rehabilitation process. She has spent countless hours developing workshops, coordinating new materials and information from the fields of research, medicine, nursing, and social work, and locating notable speakers to present this information directly to veterans and their families.

Ms. Remington joined the VA in 1978 as an adult nurse practitioner in ambulatory care. Prior to that she held faculty, supervisory, and staff nurse positions in private sector hospitals in Idaho and in Phoenix, AZ. In 1977 she received a masters degree in nursing from Arizona State University, a bachelors degree in nursing from Idaho State University in 1970, and in 1978 was certified as a family nurse practitioner in the State of Arizona. She has been inducted into the Phi Kappa Phi National Honor Society and Sigma Theta Tau International Nursing Honor Society.

Throughout her career with the VA, Ms. Remington has consistently demonstrated dedication to providing high quality nursing care to disabled veterans and has been especially cognizant of the special needs of spinal cord injured patients. She was recognized by the Veterans of Foreign Wars with an Outstanding Service Award in 1986 and received the Barrier Buster Award from the Paralyzed Veterans of America in 1978. Ms. Remington's outstanding achievements exemplify outstanding Federal service. She is indeed worthy of being honored as a corecipient of the Olin E. Teague Award.

Mr. Speaker, there is no greater record of service to the Nation's veterans than that of the late Olin E. (Tiger) Teague, for whom the award is named. Tiger Teague served on the House Veterans Affairs' Committee for 32 years, 18 years as its chairman. No one before and no one since has had a greater understanding of veterans' concerns and needs nor has anyone done more to address them.

I know my colleagues will want to join me in offering our deep appreciation to Mac Farmer and Helen Remington. For their concern, dedication, and innovation in meeting the special rehabilitation needs of our disabled veterans, we congratulate them.

## PRESIDENT'S COMMISSION ON AVIATION SECURITY AND TERRORISM

### HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. BROOMFIELD. Mr. Speaker, the House Foreign Affairs Committee recently held a hearing on the findings of the President's Commission on Aviation Security and Terrorism. After the tragic loss of Pam Am 103 in 1988 over the skies of Scotland, President Bush established the Commission by Executive order and named Mrs. Ann McLaughlin, former Secretary of Labor, as Chairman. The following Commission members were also named: Senator ALFONSE M. D'AMATO, Representative JOHN PAUL HAMMERSCHMIDT, Senator FRANK R. LAUTENBERG, Representative JAMES L. OBERSTAR, Gen. Thomas C. Richards, U.S. Air Force—retired, and former Secretary of the Navy Edward Hidalgo.

I want to commend Mrs. McLaughlin for her excellent report. The Commission members and the professional staff also deserve our praise for their comprehensive and frank review of the deficiencies in the U.S. aviation security system. This report must not be read and forgotten. Our Government must ensure that the reports' recommendations are carefully reviewed and implemented. We owe the families of the victims of Pan Am 103 a commitment to excellence in the U.S. aviation security system.

The victims of the terrible terrorist act came from many countries and from many States. I would like to list the names of the Michigan residents who perished in that terrible disaster:

Lawrence Ray Bennett, Chelsea.
James Ralph Fuller, Bloomfield Hills.
Kenneth James Gibson, Romulus.
Pamela Elaine Herbert, Battle Creek.
Khalid Nazir Jaafar, Dearborn.
Gregory Kosmowski, Milford.
Louis Anthony Marengo, Rochester.
Anmol, Garina, and Suruchi Rattan, Warren.
Mary Edna Smith, Kalamazoo.
Arva Anthony Thomas, Detroit.
Jonathan Ryan and Lawanda Thomas, Southfield.

I believe that I can speak for other Members in saying that Congress will do everything that it can to enhance aviation security and put an end to terrorism in the air.

I want to share my statement from the House Foreign Affairs Committee hearing on the Commission's report with my colleagues in the Congress:

STATEMENT BY HON. WILLIAM S. BROOMFIELD

Mr. Chairman, I join you in welcoming our witnesses here today and look forward to their comments. Let me commend the President for establishing the Commission that prepared his comprehensive report. All of us owe a debt of gratitude to Ann McLaughlin, Chairman of the Commission, and its members and staff for their frank assessment of the weaknesses in the U.S. civil aviation security system. Let me also say that I look upon this report as a beginning, not an end.

This report must not be put on the shelf and forgotten. We owe the innocent victims of Pan Am 103 more than mere words and promises. The thoughtful recommendations in this study must not be ignored. We owe the families of those who perished over the skies of Scotland a commitment to excellence in aviation security. I don't want the release of this report to be a public relations event and nothing more. We owe the American travelers results and not mere fanfare. Security is a life and death matter and we must take it seriously.

We should look upon today as the beginning of the rebuilding of the American aviation security system. From the offices of the FAA to the security check points of Pan Am, it is time to be thorough and sophisticated about aviation security. Our efforts will take time, patience and funds and we must be ready to commit ourselves to the goal of making the skies safe for travelers. We must be creative in our approach to enhancing security. Our approach should include the use of available state-of-the-art detection technology to supplement existing screening techniques. We must also look at other tools in the fight against terrorists.

We must be willing to take a long, hard look at states that support international terrorism. Our air strike on Libya a few years ago produced surprising results. Qaddafi reduced his involvement in terrorism. There are times when covert action is an appropriate tool to use against terrorist-supporting states. International cooperation and the exchange of intelligence information are also critical if we are to win the battle against terrorism in the skies.

Let me commend the good work of the Scottish police and other police services in the United Kingdom for their brilliant investigative work on this tragedy and for their cooperation with our government. U.S. Government agencies involved in this painstaking investigation also contributed much to the overall investigative effort.

The citizens of Lokerbie, Scotland deserve our thanks for their caring and sensitive handling of a terrible experience for them, the victims' families and the American people.

I join the Chairman in promising to do everything possible here in Congress to help to dramatically improve the aviation security system. Today is the beginning of a security rebuilding effort. It is time to roll up our sleeves and get to work.

## PASS REPLACEMENT WORKER LEGISLATION THIS YEAR

### HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. FOGLIETTA. Mr. Speaker, the use of replacement workers as a means for management to win labor disputes is becoming more and more prevalent. Most recently, we saw it used in the Greyhound strike.

I draw my colleagues' attention to the editorial in the Philadelphia Daily News below, from May 1, 1990, regarding the use of replacement workers to jeopardize the collective- bargaining process as designed in the National Labor Relations Act of 1935. It presents more reasons to cosponsor—and pass—replacement worker legislation this year. I sponsored a bill (H.R. 2969) which would bar the use of replacement workers, whose hiring would prejudice the status of legal strikers, during the pendency of a strike. My colleague, BILL CLAY, has also sponsored similar legislation, H.R. 3936.

I urge my colleagues to consider this editorial and consider cosponsoring this important legislation today.

THE "PERMANENT REPLACEMENT"

Some statements are "pinhead profundities." They sound like they mean something, but are just the popular wisdom of people who don't think very much.

The all-time leader in that category is "There was a reason for unions back in the 30s, but . . ." This is generally uttered by somebody about to advocate replacing skilled union workers with anybody willing to work cheap.

Like Ronald Reagan, who inspired a union-busting fad, most recently taken up by the blundering monopolists at Greyhound Corp. If you can't run a business, blame the workers and replace them. That's what Reagan did with air traffic controllers, and that's what more and more private companies are trying.

The National Labor Relations Act of 1935 gives workers the right to strike without fear of being fired or punished. Unfortunately, the 1938 Supreme Court, even more troglodytic than the current one, ruled that the protection didn't apply to strikes for "economic reasons," which covers virtually all strikes.

So companies now hire "permanent replacements," which is newspeak for scabs who stay on after the strike is over. These are usually young people too dim to understand that they'll be 40 or 50 some day and swept out by another wave of "permanent replacements."

Companies used to be afraid to hire these bums because they feared quality of work would drop. It tends to when you replace a skilled machinist with somebody working for half pay. They used to be afraid pro-worker customers would stop buying their goods and services.

However, two things have happened. Union membership has dropped off, at least partially because of the sentiments expressed in the pinhead profundity. And American companies have stopped caring much about quality.

The delicate balance between management and labor in this country has been destroyed. Economic violence against workers is sanctioned by practice and by the administration. Everybody expects any bill reversing that ancient Supreme Court ruling to face a veto by George Bush, the smiling plutocrat.

It will take more than the simple homilies union leaders have gotten accustomed to in good times to restore balance. Politicians must feel heat or they won't consider sending "permanent replacements" packing, let alone repeal the odious Taft-Hartley Act.

It might even take militance. It has been a while since we had an old-fashioned sit-down strike. At least that takes up the space where "permanent replacements" take other people's jobs.

## EARTH DAY 1990

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MAZZOLI. Mr. Speaker, I rise today to thank and commend all the country's citizens—particularly those in Louisville and Jefferson County—who helped make Earth Day 1990 an outstanding success.

The 20th anniversary of Earth Day renewed the environmental conscience of America and educated our younger persons of the importance of preserving our natural heritage. Moreover, the message was clear that each individual can make a difference in cleaning and protecting the environment.

In my district of Louisville and Jefferson County, one program I wish to commend particularly is Operation Brightside. Operation Brightside brings volunteers from the public and private sectors together for a variety of beautification and maintenance activities such as trash pickup, planting and caring for flowers and trees, and raising the public awareness on keeping Louisville and Jefferson County a clean and happy place in which I live and work.

I am also happy to announce that a significant number of elementary and high schools in my district are initiating recycling programs, and extending them to their neighborhoods.

It is critical that America not let the spirit and momentum of Earth Day 1990 wane. In fact, it must get stronger.

My own environmental priorities are several and among them is working to raise the Environmental Protection Agency to full Cabinet rank. I proudly voted for this measure in the House and I hope the President will eventually sign it into law.

The Federal Government should take the lead in the separation of rubbish and trash and in the use of recycled materials even if the Government has to make a market for such materials by altering its procurement and pricing practices.

Congress needs to pass tough Clean Air Act amendments and insist that the President accept these tough standards by adopting the bill with a veto-proof majority.

And, I feel true progress cannot be made on solving the Nation's solid waste generation and disposal problems unless they are the focus of a concerned, coordinated national effort. One way to target the problems and develop solutions is to convene a White House Conference on Solid Waste Management and Disposal. I have introduced such a measure, House Concurrent Resolution 269 and I invite my colleagues to cosponsor my bill.

Mr. Speaker, protecting and maintaining the environment cannot be achieved by the few, no matter how great their expertise. Every last single American must recognize that if we do not protect the Earth, the Earth cannot possibly protect us from a multitude of disasters. It requires vigilance from us each day, and every day.

## INSIDE THE NEW ALLIANCE PARTY

### HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. DYMALLY. Mr. Speaker, I submit, for Members' review, a paper on the New Alliance Party, by Dennis L. Serrette, former 1984 candidate for President.

INSIDE THE NEW ALLIANCE PARTY AKA RAINBOW ALLIANCE AKA RAINBOW LOBBY AKA THE ORGANIZATION AKA

(By Dennis L. Serrette)

This paper comes after much thought and some distance from the New Alliance Party (NAP). When I broke ties with NAP after my 1984 presidential race, I felt I needed some time to evaluate the hodgepodge of contradictions, racism, sexism, and cultism that so revealed itself during the course of my campaign.

I knew when I joined NAP that it was not Black-led, and I knew when I left it was not Black-led. It took longer to understand that NAP was not even a progressive organization as it also portends.

Be that as it may, I probably still would not take the time to write about the organization. However, as a long-time activist who made the mistake of joining NAP, and who served on the organization's "Central Committee", I believe I have a responsibility to reveal the intense psychological control and millions of dollars Newman employs to get well-meaning individuals into our comunities (they target the Black community) to viciously attack Black leaders, Black institutions, and progressive organizations for purposes of building Newman's power base.

What follows is a relatively brief narrative on Fred Newman's operations, NAP being but one front. I have interchangeably used the names NAP, the organization, the International Workers Party (IWP), etc., for they are all run by, and consist of the same people. NAP is Newman's public electoral tactic, so it has many "members" (mostly who have been stopped on the street who paid a dollar for a paper, or some other come-on, who rarely actively participate, and often don't even know they joined) that are not a part of "the organization/IWP", i.e. Newman's followers.

I have attached some articles by Ken Lawrence, a progressive freelance writer. Lawrence began to watch Newman and his followers in 1974, when Lawrence, like many activists, was targeted by Lyndon LaRouche and his goons. As Lawrence explained, Newman and his followers had joined with LaRouche and remained with LaRouche in the aftermath of Mop-up. Reportedly, Newman even directed followers to partici-

pate in Operation Mop-up, a brutal attempt to destroy the left through intimidation and physical assaults.

I've also attached a recent article about LaRouche from the Washington Post. The similarities between the LaRouche and Newman operations are astounding.

At the outset, I want to answer the frequently asked question . . . Is Newman associated with LaRouche? I simply do not know. I understand that Newman originally completely denied having joined with LaRouche, claiming, instead, that it was his followers who had, but that he was forced to retract the denial in the face of overwhelming evidence. The story told to all organization members who were not with Newman at the time was that Newman and his followers were with LaRouche when he was "a leftist", "a split from SDS", pre-Operation Mop-up. I have since learned that this was a lie, that they joined after LaRouche had made a decisive right shift, and participated in the campaign to destroy the left. I did not see any direct evidence of a LaRouche connection while I was in NAP. But, I was never privy to what was going on at the top—Newman's household. Newman often bragged about how much he learned from LaRouche, and, as already noted, the reported organizational operations of LaRouche's group are frighteningly similar to those of Newman's group.

The New Alliance Party is but one of many front organizations controlled by Fred Newman.[1]

Newman is a man possessed with the need for power. Power at any cost to those around him and without regard to the political line. He will ruthlessly attack progressives without second thought, and reverse positions, if he deems it advantageous.

Like LaRouche's National Caucus of Labor Committees, Newman runs a very tightly controlled organization. Like LaRouche, Newman has created numerous organizations (most only paper) with divergent names; some to attract particular individuals, some solely to make money, many with names so similar to true left organizations that unknowing individuals are often fooled. (i.e. Rainbow Alliance and Rainbow Lobby which have no connection to Jesse Jackson's Rainbow Coalition; the Unemployed and Welfare Council which attacked the National Welfare Rights Organization, etc.)

Newman controlled all the resources, personnel, and policies of the organizations. When I left in 1984, he was living with three "wives". One was in charge of all the organization's finances, which Newman boasted well-surpassed $1 million; another controlled all personnel/members; and the third was in charge of "national operations."

The organization was elitist and oppressive, having set up its own internal caste system. Rank and file members worked 14 plus hours a day, often out on street corners raising money. Newman, on the other hand, spent most mornings reading in his large upper Westside apartment and jogging in Riverside Park. His workday began with his afternoon therapy sessions in his luxury Westside offices.

Newman and his chosen lieutenants often met and relaxed at his seaside mansion. The mansion was supported by a mandatory tax placed on members of the organization. Even if one could not afford food, the Long Island house tax had to be paid. Rank and file members were always taken along on trips to the mansion for the "honor" of cooking for and cleaning up after Newman and his chosen ones.

One of the big fights I had on my campaign, a fight which resulted in Nancy Ross and I thereafter travelling separately, reflects the racist, classist attitude that so permeated the organization's operations. Ross, myself, a white middle class female campaign worker, and a Black working class male campaign worker were staying at a Black reverend's home in the South. After a lovely breakfast, the white woman ordered the Black man to clean the kitchen while she and Ross relaxed. The reverend, embarrassed, asked that the kitchen be left as it was. It was his home, he stated, and he would take care of it. The white woman ignored the reverend and demanded that the Black man get up and clean. When I intervened, Ross indignantly insisted that they had every right to order such service from the worker.

Newman's/NAP's political positions vary according to what he believes he can best capitalize on at the time. The accompanying articles by Ken Lawrence document these shifting views, so I will not repeat this history. I personally witnessed this opportunism on a number of occasions. Quite notably, before it became obvious that Jesse Jackson's campaign would move grassroots folks nationwide, Newman harshly attacked Jackson. When it seemed as though Newman could exploit Jackson's movement, he used Jesse's name endlessly, in literature and elsewhere, and created the "Rainbow Alliance" and "Rainbow Lobby". Similarly, Newman strongly maintained that Louis Farrakhan was an insignificant right-winger. When it looked as though he could opportunize from Minister Farrakhan's popularity in the Black community, Newman's line took a 180 degree turn.

When progressive newspapers and individuals fail to support Newman, they become legitimate targets for destruction, even those he previously acclaimed. In my particular case, when I was promoting NAP, both the public and internal presentation of me was that of the leading Black progressive. When I raised issues of Newman's racism and exploitation of Blacks, I was labelled a nationalist (i.e. not a leftist). When I spoke honestly about NAP to persons outside the organization, articles began to appear in the National Alliance that would have made J. Edgar Hoover proud. I even received calls from friends that that NAP was calling up women friends of mine from years past to see if they could contribute "sexual" dirt to a paper about me. When they couldn't find the dirt, Lenora Fulani authored the article under the Theodore (Ted) Taylor, who NAP vociferously praised as a leading Black trade unionist when he associated with NAP, was attacked as a rank opportunist when he joined with SEIU. Gerena Valentine was lauded as New York's premier progressive elected official when he ran with a NAP affiliation, and harshly criticized when he broke with NAP.

Newman not only uses his paper, the National Alliance, to attack, but he uses the state in his attempt to destroy those he imagines to be his enemies. It has been widely reported how he sent his lackey attorney Harry Kresky to the FBI with the identification of a member of the weather underground who had taken his child away from the Newman cult.

Currently, Newman is using the state in his relentless efforts to destroy Charles Tisdale, the editor of The Jackson Advocate. Tisdale, a long time Black activist has risked his life to publish Jackson, Mississippi's only Black newspaper. Both his home and the Jackson Advocate offices have been firebombed by the KKK, who, like Newman, do not want to see a Black newspaper in Jackson.[2] Just this summer, Tisdale was shot at on two separate occasions.

Newman has brought a million dollar plus law suit against Tisdale and the Jackson Advocate. Why? When Newman saw the broad support Jesse Jackson received in the South, he decided to target some resources there. He assigned several New Yorkers to Mississippi. Tisdale, having knowledge about the Alliance, did not support NAP's claim on his community. Knowing the time and resources required to publish a newspaper, and the time and resources required to defend a law suit, Newman had Kresky slap a major lawsuit on Tisdale. After all, Kresky's services are free—he is a member of the organization, and accordingly, both he and his resources belong to Newman, as chair. It does not matter if NAP loses the case. NAP almost always loses. The suit serves its purpose of inflicting injury.

NAP had the audacity to ask me to testify against Tisdale. I told them that their request was outrageous. Next thing I knew, I too was in court, and receiving calls from Kresky threatening to have the Sheriff come to my home at night to arrest me. (The court dismissed their action against me.)

In short, Newman operates in total opposition to the movement. Both "the left" and "the movement" are considered enemies by Newman, just as they are by the right. Newman has labelled his suit against Tisdale a suit against the left, as though attacks on progressive institutions are a good thing. In fact, a review of the National Alliance will reveal far more venomous assaults on progressives than on reactionaries.

Newman uses left rhetroic well, and organizes with a left front. He appeals to what is good and progessive in people, and uses that to build his base. He will as quickly embrace as he will attack a movement, a progressive, an organization, a principle—based on how he can best opportunize from it. He unflinchingly lies to his membership, almost all of whom have absolutely no history in

[1] Others include New York Institute of Social Therapy and Research, Rainbow Alliance, East Side Center for Short Term Therapy, the Harlem Institute, Association of Better Communities, the New York City Unemployed and Welfare Council, George Jackson-Rosa Luxemberg Cultural Center, the National Alliance Newspaper, the New Black Alliance, Coalition of Grass Roots Women, the International Workers Party, and more. All are created and put to rest by Newman, according to the group or person he is targeting. (i.e. When they decided to go after me, they created the New Black Alliance (NBA)). Once I agreed to be the presidential candidate, the NBA was disbanded. Similarly, Newman created the New York City Unemployed and Welfare Council to pull in some welfare activists and attack the National Welfare Rights Organization. When Newman decided to switch the focus to electoral politics, he disbanded the New York City Unemployed and Welfare Council, deeply disappointing many of the "leaders" who had no say in the matter. James Scott, Alma Brooks, and Neter Brooks, whose names Newman continues to use, all left the organization. Newman creates the organization, chooses who among the inner circle will "lead" it, how it will be run, what it will do, and when it is no longer needed.

[2] It is relatively common for Newman's people to attack Black newspapers wherever they go if NAP isn't given extensive coverage.

the movement, and understand it exactly as Newman teaches.

Most members join "the organization" via politics or therapy. Once an individual has been drawn close, s/he is met by two lieutenants and told that there is a secret underground organization, the International Working Party (IWP), allegedly a left party organization. Membership in the organization requires that you reveal all your resources, and that you turn over everything to the organizations. (Even personal relationships are said to belong to the organization, so it is common for a member to report on his/her partner.) Mandatory bimonthly dues are assessed, and anything may be demanded at any time.

The IWP has been chaired by Newman since its inception. As far as I know, no one else has ever been considered as an alternative. The Central Committee members are all chosen by Newman. During the entire 2½ years I sat on the Central Committee, there was never a single policy debate by the CC once Newman made his position known. Once Newman asked who would rule if something happened to him. The CC chose a body of three. Newman said that they were wrong; Hazel Darren (his woman partner for the longest period) would be chair. It was so ordained.

There is an enormous amount of secret ritual surrounding the IWP—which, like most ritual, entices the members. Unlike most left organizations where the party is public and the membership is underground, Newman has created the reverse, and has used it as one of many isolating factors that maintain the membership.

Social therapy, Newman's creation, is considered the "backbone of the tendency." Every member is required to attend at least one social therapy (i.e. psychotherapy) session weekly, led by Newman's hand-picked, hand-trained therapists. (In most cases, Newman's top therapists are also his top spokespersons.) (Although the therapy is mandatory, members must still pay for the sessions.)

It was the IWP/Newman that assigned Nancy Ross to head NAP. It was Newman who decided that Ross would be moved into the Rainbow Alliance and that Emily Carter would be the head of NAP. It was Newman who decided that Carter would leave her child in New York, causing great pain to Emily, and be the Black face in the South.

WHAT IS THERAPY

What's a progressive guy like you doing in a organization like that? You must need your head examined . . . maybe some therapy will straighten you out.

Certainly, humor has its place, and I can at least add a bit of sarcasm, but believe me, NAP style, is no joke. It is a method for recruiting innocent, vulnerable, people, exploiting their vulnerabilities, and controlling their behavior.

As noted earlier, all members were required to attend therapy at least once/week. Some attend twice a week, or at times, even daily. Particular "patients" were targetted in sessions. The entire group then generally converged on the victim who generally broke down in tears. They are then forgiven, accepted, and praised. Topics range from the most personal aspects of one's life to the failure to give enough of oneself to the organization.

Almost every one of Newman's top lieutenants was recruited by Newman when they were suffering very severe emotional problems and had come as "patients" to Dr. Newman. None, but Carter, have a history in the movement, yet once they became completely subservient to and shaped by Newman, they were proclaimed leaders.

According to Newman, private time, private thoughts, "critical faculties," are all bourgeois. Once can only be cured of their bourgeois ideology in social therapy. If you disagree at all with one of Newman's Black lieutenants, the entire therapy group attacks you for being racist. If you disagree with a woman therapist, the entire group attacks you for being sexist. If you question the opinions of the therapists, you are resorting to your bourgeois critical faculties. When Newman is happy, everybody is happy. When Newman is mad, everyone is terrified.

Members are kept busy from sun-up, way past sun down. Family ties, at best, are strained. Members no longer have time to call family, to visit, even to attend funerals, holidays, or other special events. When members do visit their families, more often than not, another IWP member accompanies them. (Generally members have alienated themselves from all their other friends and all their close relationships are with fellow IWPers). Members generally share apartments, living communally, and often invite new recruits to move in with them. I cannot recall any member who lived with a non-organization person, unless there were designs to bring the non-member in. Members and potential members were often encouraged to quit their pre-IWP job, unless their job position was one Newman believed he could exploit. Absolute loyalty was due Newman and nobody else. One leading member of the CC proudly announced that if Fred told her to jump off a roof, she would do so, no questions asked.

Any problems that arise for members by this extreme regimentation wer dealt with in therapy. Bourgeois thinking, problems with "giving it all for the revolution" (i.e. for Newman), were dealt with by the group that had become the member's entire world; that knew their every vulnerability; that shaped their thinking and understanding of people, events, history. When I first joined, few members even read the newspaper. All history and politics were taught by Newman, or instructors taught by Newman.

Newman teaches that morality is bourgeois, and, places himself in the position of determining right and wrong for organization members. So, for example, monogamous relationships are deemed bourgeois. Members often sleep with the lovers of their best friends so that no personal relationships or loyalties surpass ones loyalty to Newman. As noted above, personal relationships are said to belong to the organization, and if deemed not to contribute will be terminated. Sex is often used, as well, to draw new recruits closer to the organization. A poignant example of Newman shaping the organization's morality was demonstrated in the last organization-wide meeting I attended in December, 1984. The theme of this meeting was "to kill." Members were given readings and attended small group sessions prior to the meeting to rev up their zeal for the two day event. The theme was that it was not enough to give your life for the cause, you had to be ready to kill for it. In an analogue to a religious revival meeting, member after member stood up and gave witness to the fact that they would not just give their lives for "Fred", they would kill for him also.

CONCLUSION

These few pages offer but an overview of a complex, dangerous organization. Dangerous, not only to the innocent, well-intentioned people who are caught in its grasp, but to the many it will try to exploit. Dangerous, because it uses a very progressive line, and untold millions of dollars, to prey on Black communities, to attack black leaders and institutions, and to assault progressive organizations at whim. Dangerous because it can lie outright—lie about being Black led when Blacks do not sit on the top, do not control the resources, do not control personnel; lie about its participation with LaRouche; lie about Charles Tisdale; lie about me; lie about whatever serves Newman's interests, and put forth spokespersons who come to believe these lies. Dangerous because members will do whatever they are told without ever evaluating what they are told. Dangerous because they have millions of dollars to infiltrate truly progressive organizations with members who are totally controlled by Newman, and a very slick newspaper that puts out a very progressive line while creating a completely false sense of who NAP is, prints blatant lies, as well as more subtle falsehoods and inneundos, about whomever Newman has targetted, (the vast majority of whom are progressives who have struggled for justice and freedom most of their lives and who haven't the resources to combat Newman's onslaught).

In conclusion, while I believe it is important that NAP be exposed for what it truly is, it is our job, not to dwell on NAP, which craves controversy, but to get into our communities and organize, organize, organize. It is the vacuum that has been left open that allows NAP and other oppressive organizations to abuse our communities. We must eliminate that vacuum with genuinely progressive, community-controlled organizations.

## WIC IN CRISIS

### HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. HALL of Ohio. Mr. Speaker, research by the staff of the House Select Committee on Hunger reveals that more than 50,000 at-risk women and children will be removed from the Special Supplemental Feeding Program for Women, Infants, and Children, commonly called WIC. This is a crisis, Mr. Speaker. Medical professionals have determined these women and their infants and young children to be at a nutritional risk. The WIS Program—one of our most effective programs—was designed to safeguard the health and well-being of these vulnerable people. Remove them from WIC and we remove those safeguards.

The cause of this crisis, Mr. Speaker, is that more than half the States are experiencing serious midyear financial short falls, due primarily to significantly higher than anticipated inflation rates for food and lower revenues from infant forumla rebates. The States are doing the best they can with the funds they have, but it is estimated that an additional $67 million will be needed by State WIC agencies to avoid removing thousands of poor and at-risk women, children, and infants from the program.

I would like to submit the following Select Committee on Hunger staff report which deta-

lis the crisis in WIC. I urge my colleagues to keep this information in mind as they consider our Nation's budgetary priorities:

WIC IN CRISIS

Initial research by the staff of the Select Committee on Hunger reveals that unexpected program shortfalls in many state WIC programs may force the termination of thousands of program participants before the end of the fiscal year. Preliminary findings suggest that an additional $67 million will be needed by state WIC agencies in FY 1990 to avoid the mid-program termination of thousands of poor women and children.

Between April 23rd and May 1st, 1990, the staff of the Select Committee conducted a telephone survey of state WIC Directors. Respondents were asked: (1) monthly participation rate; (2) if they were experiencing a shortfall; (3) shortfall amount (est.); (4) whether they had placed any restrictions on any criteria of participants and; (5) how many participants would be eliminated.

There are a variety of causes for the fiscal crisis, however, the most significant was a higher than anticipated inflation rate for food. State agencies were encouraged to expand their caseloads based on revenue provided by infant formula rebates (see below). Applications for WIC participation grew, many believe, because of increases in unemployment, Medicaid referrals, and overall awareness of the program. However, overall food costs increased higher than 4.5 percent inflation rate for which Congress appropriated funds in fiscal year 1990. Many states are reporting inflation rates of 8 percent to 20 percent. Therefore, rising food costs have made many states unable to sustain their current expanded caseloads.

The Child Nutrition and WIC Reauthorization Act of 1989 encouraged agencies to use savings from cost containment measures to expand their caseload. One such measure was the infant formula rebate system. Under it, formula companies bid for contracts in states by promising per-can rebates on infant formula purchased by or for WIC participants. USDA estimated that $450 million would be realized from rebates in 1990.

Under WIC program rules, applicants are served according to a six-step priority system. Priorities 1-4 serve pregnant and breastfeeding women, infants and children with either medically-caused nutritional deficiencies or with an inadequate dietary pattern that puts them at nutrional risk. Priorities 5 and 6 serve children (under five yrs) and post partum women at nutritional risk. Under the current fiscal squeeze, states are reducing their caseloads according to these priorities, eliminating persons from the lowest categories first.

The following data show the states' current monthly caseload (caseload); the amount of money needed to meet their caseloads for fiscal year 1990 (deficit); the priorities the states are not serving in order to stay within their funding limits (restrictions); and the number of participants eliminated per month as a result of eliminating the respective priorities (reduction). Some states have placed restrictions on the priorities statewide; others only in certain local agencies. Figures are based on average monthly rates.

[Dollars in thousands]

| State | Caseload (per month) | Deficit | Restriction | Reduction (per month) |
|---|---|---|---|---|
| Alabama | NA | | | |
| Alaska | 10,000 | $600 | 5,6 | 3,000 |
| Arizona | 45,000 | 400 | [1] 3,4,5,6 | 1,000 |
| Arkansas | NA | | | |
| California | 470,000 | 15,000 | | |
| Colorado | 50,000 | 1,450 | 5,6 | 2,000 |
| Connecticut | 53,000 | 300 | 6 | 2,000 |
| District of Columbia | NA | | | |
| Delaware | NA | | | |
| Florida | 198,000 | 3,600 | 5,6 | 3,000 |
| Georgia | 171,000 | 6,000 | 5,6 | 2,000 |
| Hawaii | NA | | | |
| Idaho | NA | | | |
| Illinois | NA | | | |
| Indiana | 105,787 | 1,500 | [1] 6 | |
| Iowa | 49,000 | 900 | 6 | 1,000 |
| Kansas | 40,000 | 10 | 5,6 | 3,000 |
| Kentucky | 92,000 | 4,000 | 6 | 2,000 |
| Louisiana | NA | | | |
| Maine | NA | | | |
| Maryland | NA | | | |
| Massachusetts | 78,000 | 1,600 | [1] 5,6 | 1,000 |
| Michigan | NA | | | |
| Minnesota | 77,000 | 900 | [1] 5,6 | 2,000 |
| Mississippi | NA | | | |
| Missouri | 92,000 | 2,200 | 5,6 | 2,000 |
| Montana | NA | | | |
| Nebraska | NA | | | |
| Nevada | 16,000 | 120 | 5,6 | 500 |
| New Hampshire | 15,000 | 400 | [1] 6 | 800 |
| New Jersey | NA | | | |
| New Mexico | NA | | | |
| New York | 371,000 | 3,000 | 5,6 | 3,600 |
| North Carolina | 138,000 | 3,000 | 5,6 | 1,500 |
| North Dakota | 16,000 | 225 | 6 | 800 |
| Ohio | 200,000 | 1,600 | [1] 4,5,6 | 2,000 |
| Oklahoma | 58,000 | 2,000 | 5,6 | 3,200 |
| Oregon | 49,000 | 1,500 | [1] 3,4,5,6 | 2,000 |
| Pennsylvania | NA | | | |
| Rhode Island | 16,000 | 128 | 5,6 | 500 |
| South Carolina | NA | | | |
| South Dakota | NA | | | |
| Tennessee | NA | | | |
| Texas | 354,000 | 12,500 | 3,4,5,6 | 3,000 |
| Utah | 49,000 | 2,000 | 5,6 | 2,200 |
| Vermont | NA | | | |
| Virginia | 87,000 | 600 | 6 | 1,200 |
| Washington | NA | | | |
| West Virginia | 37,000 | 612 | 3,4,5,6 | 3,000 |
| Wisconsin | 78,000 | 1,000 | [1] 3,5,6 | 3,000 |
| Wyoming | 9,500 | 37 | [1] 5,6 | 1,400 |
| Total | | 67,322,000 | | 52,700 |

[1] Denotes restrictions placed throughout local agencies only.

Note.—NA denotes States that either do not have a deficit or restrictions at this time.

## TRIBUTE TO THE WILSON AREA HIGH SCHOOL BAND

### HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. RITTER. Mr. Speaker, it is a pleasure for me to rise today to pay tribute to the Wilson Area High School Band from the Lehigh Valley of Pennsylvania.

The Wilson Area High School Band is in Washington this week to participate in the National Festival of the States Celebration—a musical salute to America. One band from each State in the Union was chosen to represent its State and the Mayor of the District of Columbia chose this group to represent the great State of Pennsylvania in this year's celebration.

The 110 members of the Wilson Area High School Band, under the direction of William Curnow, have participated in band competitions throughout Pennsylvania and around the country and have been recognized as one of the outstanding high school bands in America. The band will perform two concerts today in our Nation's Capitol—at 12 noon at Freedom Plaza and at 3 p.m. at the Lincoln Memorial.

Mr. Speaker, my colleagues, please join me in congratulating the student musicians of the Wilson Area High School Bank and their director, Mr. William Curnow, on receiving this distinguished national recognition.

## INTRODUCTION OF ADMINISTRATION'S WATER RESOURCES DEVELOPMENT ACT OF 1990

### HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. STANGELAND. Mr. Speaker, last week I introduced, by request, the administration's omnibus Corps of Engineers bill, the Water Resources Development Act of 1990.

This legislation, like its counterpart in the Senate, S. 2469 and S. 2470, will help provide House and Senate public works committees with a framework to enact into law an omnibus bill by year's end. So far this year, the House Public Works' Water Resources Subcommittee has held four hearings on corps' projects and programs. Members and public and private witnesses have testified about dozens of project proposals and program changes. Several are already included in the administration's package of legislative proposals.

This bill contains 18 proposals. Four are new projects that have made their way through the entire planning process and received the Secretary of the Army's approval and another is a project modification. The remaining proposals involve programmatic initiatives that range from increased cost-sharing and user fees to expanded research and development opportunities to personnel matters and emergency response authorities.

Personally, I have concerns about some of the provisions, such as the suggested changes to the successful section 22, planning assistance to States, and section 206, flood plain management services programs, as well as the proposal to more than triple the harbor maintenance trust fund fee. But the bill as a whole has some important initiatives, such as provisions on magnetic levitation transportation, and the corps existing section 1135 environmental demonstration program. These need to be part of the congressional debate.

Therefore, I'm pleased to introduce the Water Resources Development Act of 1990. I commend Assistant Secretary of the Army—civil works—Robert W. Page and others within the corps and OMB for their leadership. Committee chairman GLENN ANDERSON, ranking Republican JOHN PAUL HAMMERSCHMIDT, and subcommittee chairman HENRY NOWAK are also to be commended for their bipartisan long-standing support of the corps' program and their commitment to a 2-year reauthorization cycle.

Like me, they look forward to working with the administration and the Senate. I know all my colleagues on the Public Works Commit-

tee are eager to begin drafting comprehensive legislation. With continued guidance from the administration, I am hopeful we can enact a bill in the coming months that is environmentally sound, fiscally responsible, and responsive to the Nation's water resources needs.

## FINANCIAL REPORT

### HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. FROST. Mr. Speaker, as I have done each year of my service in Congress, I am today placing in the CONGRESSIONAL RECORD a thorough personal financial report through December 1989. While these disclosures go well beyond what is required by the financial disclosure rules of the House, I believe it is appropriate information for the RECORD:

*Balance sheet: Martin and Valerie Frost*

[As of Dec. 31, 1989]

| | |
|---|---|
| Assets: | |
| Condominium, Dallas, TX | $47,500.00 |
| House and lot, Arlington, VA | 292,100.00 |
| Home furnishings and other personal effects | 35,000.00 |
| Savings, Wright Patman Federal Credit Union | 51.69 |
| Checking account, Wright Patman Federal Credit Union | 1,087.05 |
| Retirement, U.S. Congress | 38,031.81 |
| Thrift savings plan | 11,922.70 |
| IRA's (Martin and Valerie) | 23,656.00 |
| Subtotal | 449,349,25 |
| Automobiles: | |
| 1984 Toyota van | 3,525.00 |
| 1985 Pontiac 600 | 4,550.00 |
| Subtotal | 8,075.00 |
| Stocks and bonds: | |
| 596 Shares Central and Southwest | 23,318.00 |
| 816 Shares Exxon | 40,902.00 |
| 209 Shares General Motors | 8,934.00 |
| 300 Shares Houston Industries | 10,575.00 |
| 281 Shares Eli Lilly | 18,546.00 |
| 1062 Shares Fundamental Investors | 17,204.00 |
| U.S. Savings Bonds | 300.00 |
| 300 Shares Wal-Mart | 13,012.00 |
| 8 Shares General Motors (E) | 435.00 |
| 8 Shares General Motors (H) | 199.00 |
| 123 Shares Waste Management | 4,182.00 |
| 590 Shares Blockbuster Entertainment | 9,956.00 |
| 120 Shares Merck | 9,090.00 |
| 75 Shares Schering Plough | 6,206.00 |
| Subtotal | 162,859.00 |
| Total assets | 620,283.25 |
| Liabilities: | |
| Mortgages: | |
| Wilmington Savings Fund Society (Dallas condominium) | 37,012.01 |
| Paine-Webber (Arlington residence) | 170,055.03 |
| Century National Bank (Arlington residence) | 36,083.39 |
| Subtotal | 243,150.43 |
| Installment loans: | |
| Open charge accounts (balance) | 1,000.00 |
| Total liabilities | 244,150.43 |
| Net worth: | |
| Total assets | 620,283.25 |
| Total liabilities | 244,150.43 |
| Total net worth | 376,134.82 |

## TRIBUTE TO LT. COL. LINWARD APPLING

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. SKELTON. Mr. Speaker, with great pleasure I rise today to recognize Lt. Col. Linward Appling, a dedicated leader of our Nation's young soldiers and a great American. Lieutenant Colonel Appling is the professor of military science at Lincoln University in Missouri. Because of his efforts, the Lincoln University Blue Tiger Battalion has become one of the top 10 ROTC programs in the Nation. In fact, just recently, the Blue Tigers became regional champions of the ROTC Ranger Challenge.

This was no easy accomplishment. Prior to August 1985, before Lieutenant Colonel Appling came to Lincoln University, the university's ROTC program suffered from weakness in training and academic performance, a situation which the Army was determined to resolve. The Army placed the program on probation and assigned Lieutenant Colonel Appling to the formidable task of revitalizing the program.

He arrived with orders to emphasize "quality rather than quantity," and he did just that. By training cadets according to active duty Army standards and encouraging them to live by the Blue Tiger motto, "training is everything and everything is training," he brought new spirit and skills to the battalion. Lieutenant Colonel Appling also initiated a program for community involvement in his pursuit of the high standards.

Through intense participation in community involvement, the Blue Tiger Battalion achieved the Department of the Army Community Relations Excellence Award. It has won that award for the past 4 years, every year since Lieutenant Colonel Appling took charge. In addition, the Blue Tigers' enthusiastic training brought the title to the Missouri Ranger Challenge in 1988 and 1989. And the Blue Tiger Battalion dominated this year's ROTC Ranger Challenge competition through its teamwork and overall performance.

I am sure my fellow colleagues in the House of Representatives will appreciate the dedicated duty that Lieutenant Colonel Appling has shown his cadets, the Army, and Lincoln University. I hope the Members of the House will join me in wishing Lt. Col. Linward Appling and his Blue Tiger Battalion as they move toward further accomplishments.

## TRIBUTE TO LINDA GOLD: FIRST-PLACE WINNER OF THE CONGRESSIONAL ARTS CAUCUS, AN ARTISTIC DISCOVERY COMPETITION FOR THE 14TH DISTRICT OF TEXAS

### HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. LAUGHLIN. Mr. Speaker, it is a great privilege for me to say that for the second consecutive year, a student from the 14th District of Texas has received national recognition for an entry in the Artistic Discovery Art competition.

The Congressional Arts Caucus established this competition in order to encourage and recognize the artistic talents of young Americans throughout our great country, and I am proud to have Linda Gold represent the 14th District of Texas this year.

Linda Gold, a senior at Rice High School in Altair, Texas is one of many national winners who will have artwork displayed along the tunnel leading to the United States Capitol. Her talent and the guideance of her instructor, Ms. Sandra Benje, are indicative of the high quality of students and teachers the 14th District has to offer the State of Texas and the United States of America.

## A TRIBUTE TO REV. CANON JOHN T. MOORE, JR.

### HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. BLAZ. Mr. Speaker, I rise today to pay tribute to an outstanding Guam educator, the Reverend Canon John T. Moore, Jr., who is retiring as headmaster of St. John's School in Guam.

Reverend Moore has served more than 19 years as headmaster of St. John's School. Dramatic changes have taken place at the school during his tenure. He provided the vision, direction, and leadership that has made St. John's the most prestigious educational institution in Guam today. He did this not only through his exceptional administrative skills but also with his zealousness in keeping abreast of modern educational practices, concepts, and techniques. He is also solely responsible for upgrading the quality of teachers at the school; instituting policy for certification of teachers; increasing their salaries and benefits; and throughout the years encouraging faculty and staff to develop their own personal growth and development. He is also responsible for instituting a scholarship program which gives financial aid to students on basis of need and academic performance.

A native of Mobile, AL, Father Moore attended Marion Institute and graduated from West Point in 1944. He served as a fighter pilot and flew combat missions for the Air Corps in World War II, and the Air Force during the Korean and Vietnam wars. On

August 1, 1971, Father Moore retired from the Air Force with the rank of colonel. His military decorations include the Legion of Merit with one oakleaf cluster, Distinguished Flying Cross, the Bronze Star with one oakleaf cluster, the Air Medal with 4 oakleaf clusters, the Philippine Republic Presidential Unit Citation, and the United States Presidential Distinguished Unit Citation. He also received 12 foreign service medals during his military career.

In 1973, he was ordained to the priesthood and in 1983, was appointed canon to the bishop-in-charge of the Episcopal Church in Micronesia.

Father Moore has been very active in community affairs. He is a member of the Guam Rotary Club, the Guam Chamber of Commerce and former member of the Guam board of education. As a member of the latter, he fought for and won equitable treatment of private schools with regard to school textbooks.

His steady guidance at St. John's School has proved critical to the school's growth and vitality, going hand-in-hand with his concern for the future of private schools in the territory. That concern bears fruit this year with the expansion of St. John's from a primary to a full-fledged secondary educational institution, with its first high school graduation taking place later this month.

Reverend Moore and his wife, the former Dorothy Worden Ecuyer of New Orleans, LA, have two children: Mrs. John J. Ryneska [Judith], and John, III.

The American Territory of Guam has benefited enormously from the pioneering spirit and vision of this outstanding education missionary, whose devotion to his church and his total commitment to excellence in education have won him great admiration and respect.

Mr. Speaker, one of the yardsticks by which we in leadership positions are measured is the impact we have on those whom we serve. I know I am speaking for those who know and have been associated with Father Moore when I say that we are all better for having known him.

On behalf of a grateful community I bid him adios and Si Yu'os Maase.

## A TRIBUTE TO CHRISTINE A. MAGUIRE

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Christine A. Maguire, of Woonsocket, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Woonsocket High School, in Woonsocket, RI.

This award is presented to the student, chosen by Woonsocket High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Christine has clearly met these criteria while at Woonsocket High School. This year, Christine is receiving the Principal's Leadership Award. She has been a member of the school Honor Society for 3 years and is a candidate for the Rhode Island Honor Society. She has been the vice president for her class the past 2 years and has participated on the student council. During her junior year, Christine was the secretary for Students Against Drunk Driving [SADD] and a class marshall. Among Christine's other extracurricular activities are the float committee, school newspaper, and yearbook activities editor. Christine is also an outstanding athlete and plays volleyball and tennis for Woonsocket High School.

I commend Christine for her outstanding achievements and wish her all the best in her future endeavors.

## A TRIBUTE TO LARYN ELIZABETH IVY

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Laryn Elizabeth Ivy, of Middletown, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Middletown High School, in Middletown, RI.

This award is presented to the student, chosen by Middletown High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Laryn has certainly met these criteria while attending Middletown High School. She is a member of the National Honor Society. Laryn has also won several awards while at Middletown. Among these awards are the American Legion Oratorical Contest and the Future Problem Solving Writing Contest where she placed second in Rhode Island. In addition, Laryn was the Middletown High School ambassador for Rhode Island for the Hugh O'Brian Youth Foundation. Laryn has also participated in Project Insight, Project Live Arts, and Powderpuff football.

I commend Laryn for her outstanding achievements and wish her all the best in her future endeavors.

## A TRIBUTE TO JEFFREY STRUMAR

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Jeffrey Strumar, of North Providence, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for North Providence High School, in North Providence, RI.

This award is presented to the student, chosen by North Providence High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Jeffrey has certainly met these criteria while at North Providence High School. He is graduating as the No. 1 student in his class with a 94 grade point average. Jeffrey has also been selected to the National Honor Society. He has participated in an exchange program between the United States and Japan. In addition, Jeffrey is a volunteer for the March of Dimes.

I commend Jeffrey for his outstanding achievements and wish him all the best in his future endeavors.

## A TRIBUTE TO MAISI ANNE PEARSON

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Maisi Anne Pearson, of Newport, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Rogers High School, in Newport, RI.

This award is presented to the student, chosen by Rogers High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Maisi has certainly met these criteria while attending Rogers. She is a member of both the Rhode Island and the National Honor Societies and has made the honor roll at Rogers. She has received the Brown University Alumni Book Award for English and has also earned a Bronze Medal in the Rhode Islands College Academic Decathlon. Maisi's extracurricular activities are also equally impressive. She is editor of the red and black literary magazine at Rogers and is a member of Amnesty International. In addition, she has participated in Project Live Arts, Close-Up Program in Washington, DC, and the Model United Nations Assembly in The Hague, Netherlands.

I comment Maisi for her outstanding achievements and wish her all the best in her future endeavors.

## A TRIBUTE TO SUZANNE CABRAL

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Suzanne Cabral, of Esmond, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Smithfield High School, in Smithfield, RI.

This award is presented to the student, chosen by Smithfield High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Suzanne has certainly met these criteria while at Smithfield High School. Suzanne has participated on the student council for 4 years and is currently the student council president. She has been a bandmember for 4 years as well. Among her other extracurricular activities

are the cheerleader squad, the Little Rhody Swim Team, softball, and track. In addition, Suzanne has been on the social committee and has participated in the Mentor Program.

I commend Suzanne for her outstanding achievements and wish her all the best in her future endeavors.

## A TRIBUTE TO LISA A. SCULLIN

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Lisa A. Scullin, of North Smithfield, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for North Smithfield Junior-Senior High School, in North Smithfield, RI.

This award is presented to the student, chosen by North Smithfield Junior-Senior High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Lisa has clearly met these criteria while at North Smithfield. She is a member of the National Honor Society and has made the honor roll all 4 years. Lisa's extracurricular activities are equally impressive. She has participated on the student council for 4 years. Lisa has been a cheerleader for the football and hockey teams for 4 years and was the captain of both squads this year. In addition, Lisa is a member of the Lettermen's Club, the math team, and the yearbook's senior and financial committees. She is also the secretary for the French Club of which she was been a member for 3 years.

Besides her outstanding work at school, Lisa is an exceptional citizen in her community. She is a yearly canvasser for the Leukemia Society and the North Smithfield Ambulance and Cancer Drives. She also performs volunteer work for Save the Bay.

I commend Lisa for her outstanding achievements and wish her all the best in her future endeavors.

## A TRIBUTE TO LINDA BOTELHO

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Linda Botelho, of Tiverton, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Tiverton High School, in Tiverton, RI.

This award to presented to the student, chosen by Tiverton High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Linda has clearly met these criteria while at Tiverton High School. Linda is a straight "A" student and is graduating fifth in her class. She is a member of the National Honor Society as well. In addition, Linda is a member of the drama club, school newspaper, school yearbook, and school band. Linda has received several medals for solo and ensemble performances as a bandmember and is a member of the all-State band. Linda has also received the Governor's Inauguration Citation and an award for her foreign language essay.

I commend Linda for her outstanding achievements and wish her all the best in her future endeavors.

## A TRIBUTE TO KATHLEEN C. WEYMAN

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Kathleen C. Weyman, of Barrington, RI, this year's recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Barrington High School, in Barrington, RI.

This award is presented to the student, chosen by Barrington High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Kathleen has certainly met these criteria while at Barrington High School. An honor roll student for 4 years, Kathleen has been selected as a member of the National Honor Society and the Rhode Island Honor Society. In addition, Kathleen has been named a commended student in the 1990 National Merit Program and has received the Brown University Book Award.

Kathleen's extracurricular achievements are also equally impressive. She is the president of the student council and the Modern Music Masters Club. Kathleen is also a member of the choral ensemble and the Peer Education Group. Kathleen has been a member of the Women's Athletic Club for 3 years and played soccer for Barrington. Kathleen is also a volunteer at Women and Infant's Hospital and has participated in the Brown University Summer Program.

I commend Kathleen for her outstanding achievements and wish her all the best in her future endeavors.

## A TRIBUTE TO MR. BIETO BESELER

### HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. WILSON. Mr. Speaker, it gives me great pleasure to join with many of my friends and neighbors to pay tribute to a dedicated civic and community leader, Mr. Bieto Beseler of Nacogdoches, TX.

Bieto is a man of enormous talent, energy, and inspiration. It is possible that if I had not had the pleasure of getting to know him and work with him over 20 years ago that I would not be standing before you today, because Bieto ran the advertising agency that I employed for one of my early campaigns for the Texas Legislature. Whether or not our friends in Nacogdoches consider this to be one of Bieto's successes in life, it is one I share with him and for which I will always be grateful.

May 30, 1990, has been proclaimed "Bieto Beseler Day" by the Nacogdoches Rotary Club. In looking over the pages of biographical information I have for Bieto, it seems impossible that just one day can encompass the pride and gratitude his community feels for him.

This is a man of the caliber that we all strive to be. He is filled with kindness, spirit, eternal youth, and great integrity. He has the right kind of stubborn streak—flexible enough for compromise but strong enough to follow through until the job is done.

He has served Nacogdoches as a city commissioner, mayor, active Rotary Club member, Mason, and business leader. At the age of 87 he will be relinquishing his job as secretary-treasurer for the Nacogdoches Rotary Club this year and, I expect, devoting the extra time this gives him to new pursuits. Perhaps he will return to his first vocation—music—and revive the "Night Prowlers" orchestra of his high school days.

Whatever the future holds for Bieto, he and his wife Faye have built a legacy of good work that has helped make their part of the world a better place. That is the kind of bottom line we should all try for in our lives, because in the long run it's the only one that counts.

## CELEBRATING NATIONAL POLICE WEEK

### HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. MARTINEZ. Mr. Speaker, in this day and age real role models are scarce. Today, I rise to salute a group of people that are truly heroes and role models for all of us. Police officers remain the pride and joy of our community. These dedicated men and women exist as the front line force protecting our neighborhoods, schools, homes, and against elements that seek to disrupt our way of life. Personally, one of my proudest moments was when my son entered the Monterey Park Police Reserves. This week we salute the underrecognized police officers from across the Nation that put their lives on the line each and every day to safeguard our safety and freedom. National Police Officers Week celebrates these true heroes and role models.

The National Law Enforcement Officers Memorial, which is being built over at Judiciary Square, will serve as testimony, not only as an expression of our gratitude to the law enforcement community, but also as a memorial to those who gave their lives in service to their fellow man. It is a small tribute to those who walk the beat every day. Too often we take our local cop for granted.

We are all painfully aware of the soaring number of violent crimes and the number of felonies involving illicit drugs. In the past 5 years, the number of violent crimes increased by more than 20 percent. Street cops often face drug dealers and violent felons armed with automatic weapons and backed by so-

phisticated international organizations. Yet, due to budgetary pressures and lack of qualified applicants, most large cities face a crisis in police recruiting. We in Congress exacerbate the situation by passing more stringent laws and demanding harsher penalties, impervious to the reality that these laws cannot be adequately enforced. Due to personnel shortages many complaints and less serious cases are not answered in a timely fashion. In city after city, the ration of police officers to violent crimes dramatically plunged over the years, from 3 or 4 to 1 in favor of the police a few years ago to 3 or 4 in favor of the criminals. Low pay and high stress further dissuade highly motivated, college educated applicants from entering law enforcement. Thus, last year, over 80 percent of police chiefs in urban areas report a severe shortage of applicants.

To address this crisis I authored title VI section 602 of the Equity and Excellence in Education Implementation Act (H.R. 4379). This measure will improve the quality of police forces by encouraging college-educated individuals to pursue a career in law enforcement while enhancing the educational levels—and hence the quality—of America's police forces. Minority and disadvantaged youths would also be given the opportunity to obtain a college education and enter a satisfying and worthwhile career field.

The provision simply authorizes the Government to forgive loans to college students who commit to a career in local law enforcement. Once graduated, they would enter a local police force for a 4-year commitment. The program would put more and better qualified cops on the street—where they are most needed while providing a great assistance to those youths selected to the program. This concept builds on the precedent of student loan forgiveness for public service in the Higher Education Act for some categories of teachers, the armed services, and Peace Corps/Visa volunteers.

By supporting this provision, Democrats would prove that we are tough on crime and drugs while seeking to expand the opportunity for disadvantaged youngsters to pursue a higher education and serve the public at the same time. In our effort to enact tough crime laws we forgot the cops. Now is our chance to rectify the situation. I strongly urge my colleagues to celebrate National Police Week by supporting my educational program for law enforcement.

## FIFTY YEARS OF SERVICE

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. LAGOMARSINO. Mr. Speaker, I rise to commend and take note of an important event in the community of Santa Maria, CA. On Tuesday, May 22, citizens will gather to pay tribute to the founders and supporters of the Marian Medical Center.

Much of the credit for establishing Marian Medical Center should go to the Sisters of Saint Francis of Penance and Christian Charity, who opened St. Mary's School in Santa Maria in September 1939.

Msgr. Thomas V. Murphy, pastor of St. Mary of the Assumption Catholic Church, knew that the citizens of Santa Maria wanted their own hospital. Consequently, he contacted the provincial for the order, and requested that the sisters commit to the establishment of a hospital in Santa Maria. The sisters made that commitment.

In 1940, the sisters opened Our Lady of Perpetual Help Hospital in Santa Maria. The hospital soon became known as Sisters' Hospital.

As the area grew, the hospital expanded to meet the increasing needs of the citizenry. By the 1960's, it was clear that the numbers of patients served, as well as the services themselves, had outgrown the confines of Sisters' Hospital. Plans were made for a larger site.

In 1967, Marian Hospital opened its doors. The modern, new hospital was made possible by the loyal support and generosity of many friends and benefactors, among them Capt. Allan G. Hancock and his wife, Marian Hancock, who donated the land for the new building.

Marian Hospital became Marian Medical Center in 1982 when the major addition of the south side of the four-story hospital was completed and ready for use.

Today, Marian Medical Center is a full service, state-of-the-art medical center, complete with a new extended care center and children's day care center.

Mr. Speaker, it is my honor and pleasure to extend to the citizens of Santa Maria, on behalf of the U.S. House of Representatives, our sincere congratulations and best wishes as they commemorate 50 years of service to the community, and our best wishes for the future.

## THE BUDGET RESOLUTION

### HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. McMILLEN of Maryland. Mr. Speaker, today I rise to make a few remarks regarding the budget resolution passed by the House of Representatives on May 1, 1990. While I voted in support of this measure, I was gravely concerned about certain provisions in the budget resolution.

I particular, I have some reservations regarding the practicality of the proposed total cut in the defense budget for fiscal year 1991.

None of us can help but be amazed by the dramatic political reforms that have swept through Eastern Europe and the Soviet Union in recent months. All over the Eastern bloc, the people are rejecting communism and demanding social reforms and a voice in their governments.

The economic reforms in these countries provide potential new markets for U.S. goods, and offer an opportunity for the development of free political and economic institutions. In this way, then, United States assistance in Eastern Europe is in our best interest.

Presently, about 60 percent—over $180 billion—of our defense budget is spent directly, or indirectly, to protect Europe against an attack by the Soviet Union and the Warsaw Pact. In light of the new political developments in these countries, we now have an historic opportunity to significantly reduce our defense spending without endangering our national security—and in turn, reduce our own budget deficit.

At the same time, we need to keep a balanced view with respect to our interests and needs at home. The challenge to us in Congress is to take advantage of this opportunity to lower defense costs, ensure that our national security is protected, and find the funds required to support vital programs for our own people.

As we begin consideration of reductions in our defense outlays, we must be careful not to haphazardly cut programs without a well thought-out strategic plan. We must remember that as swiftly as the pendulum has shifted toward greater freedom in East Europe and the prospects for a lasting peace between the superpowers has grown, just as quickly could the pendulum swing back toward political situation characterized by animosity and mistrust. While I am convinced that the nation's of Eastern Europe are on a irreversible path toward democracy and economic freedom, this road may be litered with periods of oppression.

## U.S. NEWS AND WORLD REPORT RANKS U.A.B. AMONG AMERICA'S TOP HOSPITALS

### HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. ERDREICH. Mr. Speaker, we in Birmingham have long known that our U.A.B. Medical Center is tops, and once again, that fact has been acknowledged by a national publication. In the April 30, 1990 edition of U.S. News and World Report, our medical center was ranked among America's top hospitals, and was specifically ranked 1 of the top 12 hospitals providing cardiac care in the Nation.

U.S. News and World Report, with the assistance of Georgetown University's Department of Community and Family Medicine, identified 1,485 doctors as being leaders in their fields or as having achieved high professional or academic stature. Four hundred of those doctors were contacted and asked to list, in no particular order, the 10 leading hospitals nationwise in his or her own specialty. The doctors surveyed named a total of 277 hospitals. According to the statistical rules, to be named, a hospital had to have been cited by at least five physicians in that specialty, and the number of doctors who cited it must have accounted for at least 20 percent of the number surveyed in the specialty.

While the survey results did not imply that other hospitals cannot deliver excellent care, as U.S. News and World Report pointed out, they should help citizens find the very best care possible if serious illness strikes.

I am sure my colleagues will forgive me if I boast just a bit about the fact that U.A.B. Medical Center, in my own home district, is

one of those hospitals that offers the very best care possible.

I guess a lot of us in Jefferson County, AL, often take it for granted that our U.A.B. Medical Center is the best. And that's why, every now and then, it makes you feel mighty proud when other people confirm something that we have known all along.

## SYLVIA BROWN AND FRIENDS OF THE VIRGIN ISLANDS AROUND THE COUNTRY SHOW THEIR SUPPORT

### HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. DE LUGO. Mr. Speaker, I come from a very small community, the U.S. Virgin Islands, but we enjoy a very big extended family throughout the United States.

I was reminded of that fact as I reviewed a petition signed by hundreds of Virgin Islanders and friends of the Virgin Islands who are concerned about the reconstruction of the Virgin Islands public schools after the devastation created by Hurricane Hugo. We are still living with that devastation and working pell mell to get our schools rebuilt by September so we are back in good shape for the next school year. The U.S. Department of Education, after considerable discussion, finally did come through. It conducted an accelerated review of the Virgin Islands grant application, made a significant grant of $43 million under its disaster aid program to make the repair and reconstruction possible, and waived the unusual 25-percent local matching requirement.

One special group has formed in the State of Kentucky to help us in the overwhelming job of reconstruction. Endeavors to Reinvest in Virgin Islands Education, under the able leadership of Sylvia J. Brown, has sprung up to offer national support to our reconstruction. ERVIE, as it is known, has circulated a petition throughout many States and hundreds of people have lent their name to our cause—rebuilding our schools and providing the best education possible to our students. They have forwarded their petition to President Bush, Education Secretary Cavazos, Virgin Islands Governor Farrelly, Virgin Islands Education Commissioner Creque, and president of the Virgin Islands Legislature, Bent Lawaetz, as well as myself.

Mr. Speaker, this sort of national concern is most welcome. I want to commend Sylvia Brown and her colleagues for their shared concern and determination to help their home in the U.S. Virgin Islands. It is heartening to see that Virgin Islanders who move to the mainland retain their strong commitment to the welfare of their home islands. Their efforts are a wonderful reminder that the Virgin Islands has many friends throughout this great country.

## TRIBUTE TO THE CLEVELAND ARCADE

### HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. FEIGHAN. Mr. Speaker, I rise today to pay tribute to one of northeast Ohio's most outstanding landmarks—the Cleveland Arcade. On Friday, May 31, the Arcade celebrates its 100th anniversary as Clevelands premier building complex.

As the first cornerstone of the Arcade was being laid on May 31, 1888, Cleveland was making its mark as one of America's great industrial centers. Some visionaries for Cleveland's future saw an opportunity to create a state-of-the-art architectural structure, more elaborate than any other in the United States. Their idea was to construct an enclosed passageway, five stories high, that included a collection of shops and businesses. This forerunner to the shopping mall connected superior Street and Euclid Avenue, two of downtown Cleveland's main thoroughfares.

The Arcade was designed by the revolutionary architect John Eisenmann. His plans detailed a very unconventional design and drew great skepticism. Mr. Eisenmann designed a building of arches that used a system of trusses rather than the commonly used crossbracing—an unheard-of concept. Contractor after contractor refused to construct this building, until finally the Detroit Bridge Co. came forward and agreed to make this vision a reality.

On May 30, 1890, the work was finished. The Arcade was heralded as the largest and tallest building ever attempted in the United States. This magnificent building has provided generation upon generation of Clevelanders with a place to shop, to browse, to eat, and to get shelter from foul weather.

While the Arcade is no longer the tallest or largest building in Cleveland, it is still a very important fixture. Its brilliance and beauty has enabled it to stand the test of time. Today's Arcade, under the fine direction of Harvey Oppmann and Oppmann Properties, remains a place that every Clevelander enjoys and admires. I would like to congratulate the Arcade on its 100th anniversary and give my best wishes for another century of success.

## COINAGE REFORM

### HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. KOLBE. Mr. Speaker, with the continuing success of Canada's new gold-colored dollar coin replacing its dollar note, and with House hearings on a new coin dollar for the United States scheduled for tomorrow, I would like to bring to the attention of this body the comments of Mr. David L. Ganz.

Mr. Ganz is the legislative council of the American Numismatist Association, the general counsel of the Professional Numismatists Guild, and a member of the Industry Council for Tangible Assets. He is regarded as perhaps the leading authority on coinage law in this country. His thoughts on coinage reform found in the May 16, 1990 issue of Coin World offer a well researched, fresh perspective of the $1 coin debate. I submit this article for the RECORD:

DOLLAR COIN CONTROVERSY BREWING ON FRONT BURNER—DECADE OF DISCUSSION AT END?

(By David L. Ganz)

Reissue of a mini-dollar and banning of circulating the dollar note brings to the forefront a controversy that has brewed for a decade, ever since the U.S. Treasury Department proposed it as part of the Susan B. Anthony dollar marketing plan in September 1979.

But it would hardly be the first time that a denomination of currency—or even coin—was retired by Congress to make way for progress as the nation's lawmakers defined it at that particular moment.

Advocated by The Coin Coalition, the new small-sized dollar would not bear the Anthony portrait, and would be issued with the intent of displacing the paper dollar that has circulated with the current familiar design and size since 1929.

Displacement of the dollar note by statute would be the essential difference between the 1990 strategy proposed to Congress and the manner in which the Anthony dollar was implemented a decade ago.

With congressional hearings on the new small-size dollar scheduled for mid-spring, the inevitable focus will be on the very issue that was divisive in 1979; whether the American people would tolerate elimination of their old friend, the dollar note.

Fortunately for serious numismatists, the proposal of The Coin Coalition does not prevent outright elimination of the $1 currency note in all forms; sheets would still be produced, as now, and offered to collectors.

But for the public at large, the proposal's sponsors believe that its only sure way of success is to eliminate competition and do what the Treasury Department itself proposed in 1979: "effect a displacement of $1 bills."

COLLECTOR SUPPORT

Coin collectors ought to be particularly interested in the proposal, and ought to be enthusiastic endorsers and supporters for the new mini-dollar coin, even if the price is elimination of the $1 paper note.

Reason one is that it will close off, with finality, the Anthony dollar series and create a new dollar coin in the process. Result: more interest in dollars ranging from Morgans to those of a century later.

Such a change will inevitably catch the attention of the regular media as well, which will likely feature numerous stories about coins and coin collectors, as well as paper money (and its collectors) together with the effect of money on society as a whole.

What that translates to is an opportunity to bring fresh blood into a group that desperately needs new members. Just as collectors of silver certificates (during their withdrawal from circulation in the late 1960s) attracted some to become paper money collectors, this entire program could serve to attract new blood to see coins and paper money in a historical, collectible context.

No one likes to kill off a coin, or a paper money issue, but it has certainly happened many times before. The half cent was eliminated in 1857, the 2- and 3-cent coins with the Coinage Act of 1873, and the 20-cent coins a very short life of just three years.

Fractional currency (paper currency of denominations less than $1) had a short life in several different series, denominations above $100 haven't been printed by the Bureau of Engraving and Printing since 1945, and the economy of the country has not been especially damaged by all this.

Visitors to coin bourse areas know that $1,000 notes and the occasional $5,000 note are still seen, though not used because of the modest premiums for their numismatic value. This would likely happen to $1 notes if Treasury were to withdraw them from regular issue.

They would remain legal tender, just as all coin and currency issued by the United States is by virtue of the provisions of the Coinage Act of 1965 that declare them to be so. But the paper dollar would, in general, no longer be used.

There is every reason to believe that the virtual elimination of the paper dollar, and the creation of a new mini-dollar, should spur growth in the use of a new coin and that, in fact, new use might occur with the $2 note, whose attractive Declaration of Independence signing scene has been used since 1976.

What all this probably points to is that after a honorable history, the dollar note is about passe—except to syngraphists—and that the future of the numismatic economy is most likely in a mini-dollar coin without the teletale paper counterpart.

As the congressional hearing process moves toward a recommendation, there will be moments of passion, but there would be no sense of loss.

For if numismatics is indeed history, then the dollar note that is retired will continue to be collected, and the new dollar coin will create new collectors, just as generations of numistmatic items have, and will continue to do.

## TO HONOR FATHER TELES

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. VISCLOSKY. Mr. Speaker, I wanted to take this opportunity to inform my colleagues in the House of Representatives of a significant milestone that will occur in my congressional district. On May 29, Rev. Dennis Teles will celebrate his 25th anniversary as a Catholic priest.

Father Teles is a product of northwest Indiana, having been born in east Chicago and raised in the region. After graduating from Bishop Noll High School in Hammond, he attended St. Mary's College in Orchard Lake, MI, and Mount St. Mary's Seminary in Norwood, OH.

Father Teles returned to northwest Indiana, after seminary and was ordained as a priest for the diocese of Gary, IN, on May 29, 1965. His career has taken him to every corner of northwest Indiana. He has served as an associate pastor at St. Peter's in LaPorte, Our lady of Perpetual Hope in Hammond, St. Mary's in east Chicago, St. Paul's in Valparaiso, St. Stanislaus in Michigan City and St. Patrick's in Chesterton. The father has also served as the school administrator at St. Mary's in Crown Point and pastor at Sacred Heart in LaPorte. Currently, he serves as the pastor at SS. Peter and Paul in Merrillville.

Those who have come into contact with Father Teles know him to be a man who has dedicated his life to helping his fellow brothers and sisters. He understands the people of northwest Indiana, sharing in their jobs and helping them through their sorrows. In this era of constant change and fluctuation, Father Teles has been a pillar of stability and constancy.

On the anniversary of his ordination, the SS. Peter and Paul Parish will celebrate and honor this servant of the Lord. This festive gathering will allow the people of northwest Indiana to formally thank the father for his efforts to improve the quality of life for all the residents of northwest Indiana. Simply stated, the region is a better place because of the work and deeds of Father Teles. I am sure that my colleagues join me in congratulating Father Teles and wishing him another 25 years of good health and continued service.

## DEDICATION OF KOSCIUSZKO PARK IN HOLYOKE, MA

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. CONTE. Mr. Speaker, on Sunday May 20, Holyoke, MA, dedicated a park in the center of the city in the name of Tadeusz Kosciuszko—a hero, a patriot, and a friend to liberty who will never be forgotten.

There could be no better time for this ceremony. After 50 years of oppression, Poland's people have won the freedom for which Kosciuszko fought. And with the help and support of the United States and millions of Polish Americans, they are joining together to build a free and prosperous country. As Poland leads Eastern Europe toward democracy and the world watches every action Lech Walesa and Tadeusz Mazowiecki make, it is fitting that the city of Holyoke honors the Polish officer who helped us win our freedom long ago.

When the news of the American Revolution reached Europe, Tadeusz Kosciuszko was a 30-year-old captain in the Polish Army. He gave up his commission, left his home and family, and sailed from Paris to Philadelphia to defend a nation he had never seen.

It is difficult for us today to understand the dimensions of that sacrifice. Kosciuszko's voyage is a simple trip today; it takes a passport, a visa and a few hours by plane. But in 1776, it was a sea journey that lasted weeks.

Kosciuszko and the other Polish volunteers braved Atlantic storms in leaky wooden boats with canvas sails. They risked shipboard disease and injury, in an age when doctors used leeches to cure illness and saws to amputate broken limbs. Their ships sailed across the cannon of the British Navy, which was all but unchallenged on the sea in those days. And in an era lacking newspapers and radio, they traveled without knowing whether the newly born United States would still exist when they arrived.

Kosciuszko enlisted in the Continental Army and served for 6 years as a colonel of engineers, joining first with General Gates's army at Ticonderoga. His fortifications were a key to the Continental Army's victory over the British General Burgoyne at Saratoga—the battle which secured the United States its crucial military alliance with France.

He fought in the California, commanded transportation in the campaign against General Cornwallis of 1781, and supervised the American artillery at the Battle of Yorktown, when Cornwallis' surrender ended the war and guaranteed our independence. After the war, a special Act of Congress awarded him American citizenship and promoted him to brigadier general.

His selfless and brilliant service in the War of Independence earned him immortality. He ranks at the head of the roll of those who fought side by side with Washington in the cause of liberty—Lafayette, Pulaski, von Steuben, and the others. We owe him a debt we can never repay.

Kosciuszko returned home to a Polish nation under deadly threat. As his country's finest soldier, he was chosen to command the resistance in 1792 against the czar's invading army, and led the nation again in the March rising of 1794. He and his soldiers fought on against terrible odds for over 6 months. In military terms, it was a hopeless war, and superior numbers ended it at Maciejowice. But partition was not defeat; for Poland remained strong and free in the hearts of its people.

That spirit, that love for country and liberty which is so evident every time I visit Poland, sustained the Poles throughout the dark century of partition. In America—nowhere more than western Massachusetts—it helped Polish immigrants make our democracy an economic giant. And it brought Poland through the terror of Nazi occupation and the oppression of communism.

For 50 years, since the day Hitler's troops opened fire on the defenders of the Post Office at Gdansk, Poland's people waited for their freedom. The bravery and determination of Kosciuszko and his soldiers as they fought for Poland's freedom in 1794 echoed in the courage of the Polish officers who rode out on horseback to face the Nazi tanks in the fall of 1939. And it echoed again in the peaceful struggle of the Solidarity workers, who have won back their country's liberty.

We see it in all those who followed Kosciuszko as defenders of freedm and as Polish patriots. It is a long and honorable list.

We recall Ignacz Paderewski, who fulfilled Kosciuszko's dream as the architect of Poland's independence in 1918.

Josef Pilsudski, the victor of the Miracle on the Vistula which preserved that independence.

The martyrs of the Katyn Forest, whose memory will never fade.

Lech Walesa, the union leader and Nobel laureate who is more responsible than anyone else for Eastern Europe's freedom.

And His Holiness John Paul II, whose tireless defense of faith, liberty, and human rights exemplifies Polish idealism and courage.

Last Sunday, we the people of Holyoke remembered the American Revolution of 1776, and the Polish volunteers who fought to preserve it. We honored the Eastern European

revolution of 1989, and the leaders of Solidarity who stand at the head of it. And we dedicated Tadeusz Kosciuszko Park to a hero of two nations whose name is a symbol for bravery, sacrifice, and freedom.

## TIME FOR MEDIGAP REFORM

### HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. WYDEN. Mr. Speaker, on May 16, 1990, I introduced the Medigap Fraud and Abuse Prevention Act (H.R. 4840), with the support of my colleagues JOHN DINGELL, HENRY WAXMAN, DOUG WALGREN, ED ROYBAL, JIM SCHEUER, GERRY SIKORSKI, JIM BATES, LOUISE SLAUGHTER, and JOLENE UNSOELD. A similar measure (S. 2640) was introduced in the Senate with the support and leadership of Senators DASCHLE, HEINZ, RIEGLE, PRYOR, ROCKEFELLER, and DURENBERGER.

I particularly want to credit and thank Chairman DINGELL, whose hearings on this issue in 1989 demonstrated the extent of the ongoing abuses and fraud in the Medigap industry. It's been a pleasure to work with him and his fine staff.

More than 20 million seniors spend more than 15 billion dollars annually on Medigap policies and many are being ripped off and cheated out of their limited, fixed incomes. Many of the policies that promise to fill in the gaps in Medicare are worth little more than the paper they're written on. And what's particularly outrageous is that Medigap scams are targeted at the very poor, the very old, and very sick.

The Medigap lobby says that there are only occasional instances of abuse. But our recent hearings have shown otherwise. For example, an elderly couple in California was sold 30 policies over a 2½-year period, with total premiums amounting to over $24,500. This couple's entire monthly income amounted to only $838 per month. An elderly woman in Pennsylvania was pressured into buying 28 policies over a 5-year period, with total premium costs exceeding $58,000. A 72-year-old woman was convinced to purchase 21 Medigap policies over a 2½-year period, at a cost of over $16,900.

Recent surveys clearly indicate that there are more than just occasional incidences of abuse. A 1989 AARP survey found that over 50 percent of Medicaid beneficiaries—those least likely to need or afford it—own a Medigap policy. Even the Health Insurance Association of America's own senior counsel recently admitted that 30 to 40 percent of the elderly own two or more policies—even though their own promotional materials state that people only need one policy.

From coast to coast, hard selling agents generate high commissions for themselves while vulnerable seniors are stuck with policies that are low value and duplicative. With a majority of policies paying out less than 50 cents in benefits on every premium dollar connected, some seniors have a better chance of winning the lottery than getting their money's worth out of their Medigap policy.

The Medigap industry has long been tarnished by a history of fraud and abuse. In 1980, Congress took steps that the Members believed would address the problem. But flagrant abuses persist because the 1980 legislation is more loophole than law. It created a voluntary, unenforceable patchwork of legal mumbo-jumbo under which there has never been a single prosecution.

The bipartisan legislation which has been introduced is designed to clean up the Medigap mess and ensure that Congress finally puts in place a regulatory system that weeds out the sleazy practices in the Medigap market.

The bill establishes new consumer protection standards so that consumers can truly compare policies and make informed choices about the coverage that is best for them. Benefit packages and terminology would be simplified to facilitate comparison and force insurers to compete on the basis of price and service instead of incomprehensible, frivolous variations in benefit packages.

Policies would have to be guaranteed renewable and no longer could low-income seniors on Medicaid be sold Medigap policies with impunity. The legislation moves strongly against the mail order policies often sold by celebrities and closes the loopholes in the current duplication statute.

New standards would restrict sales commissions to reduce the financial incentives now provided to agents to "churn" seniors from old policies to new policies in order to generate higher commissions. The discriminatory practice of medical underwriting would be prohibited, and seniors would only have to meet a maximum one-time 6-month waiting period. In addition, funds would be made available to States desiring to establish counseling programs for Medigap purchasers.

In addition, the legislation establishes a process to bar Medigap rate hikes if a company doesn't meet the loss ratio requirements in the bill. Under the bill, loss ratios would be raised to 70 percent for individual policies and 80 percent for group policies and would set in place, for the first time, a process where Medigap companies would have to get prior approval before they could get a rate hike. Even if a company doesn't request a rate hike, if it fails to meet loss ratio standards, it will be required to make refunds.

The General Accounting Office has reported that Medigap rate hikes this year are averaging 20 percent, and I have heard reports of some as high as 80 percent. Our legislation puts the brakes on some of these rate hikes and it is high time.

There are good companies and good agents. But the good companies and the good agents aren't going to be affected by this bill because they already meet the required standards. The bill is aimed at ridding the market of the sleazy companies and practices which have given the Medigap industry its bad name.

This legislation is strongly supported by the Consumers Union, Families U.S.A., the National Committee to Preserve Social Security and Medicare, the National Council of Senior Citizens, the Older Women's League, the National Insurance Consumers Organization, and the Consumer Federation of America.

I urge my colleagues to help protect seniors against Medigap scams and ripoffs by cosponsoring the Medigap Fraud and Abuse Prevention Act.

## A TRIBUTE TO TOM FLYNN

### HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the many outstanding achievements of Tom Flynn, the outgoing president of the Rancho Cucamonga Chamber of Commerce. In his 1989–90 service to the chamber, Tom has contributed enormously and made a tremendous difference to the people of Rancho Cucamonga.

Tom's accomplishments are many and varied. Following the theme, "Let's Make It Fun," he encouraged the chamber members to enjoy their many hours of volunteer service. Over his term, the business connection committee was extremely active. Two seminars were held, one on business people in the workplace and the second on advertising opportunities available to businesses. The committee also held four mini-seminars dealing with detecting substance abuse, drugs in the workplace, and two important sessions on earthquake preparedness. In addition, the "Check-It Program" was initiated, allowing businesses to take fingerprints as a form of identification from individuals using checks. The committee also sent letters to all new members, welcoming them to the chamber and enclosing complimentary tickets to the monthly networking breakfast.

The chamber's other committees remained very active under Tom Flynn's guidance. The ambassador corps committee worked a great deal with membership retention, surveying members 6 months after joining the chamber and encouraging new member involvement. The economic development committee worked with the city on economic issues, reviewed the National Electrical Code Enforcement on a citywide basis, and acted as liaison with other groups interested in economic development. The government relations committee implemented a Cucamonga and Ontario Chamber trip to Sacramento to discuss community issues with California State legislators. In addition, the committee also reviewed the false alarm ordinance dealing with businesses and residents who had too many false alarms causing fire and rescue personnel to respond without cause. In 1989, the Rancho Cucamonga Chamber also participated in the 50th anniversary celebration of the wine festival, dedicated to the heritage of the area.

Mr. Speaker, the accomplishments of the Rancho Cucamonga Chamber of Commerce under the leadership of Tom Flynn are numerous and certainly worthy of recognition by the House of Representatives. Please join me and my colleagues today in honoring his achievements and in wishing him the very best in the years ahead.

## ASIA-PACIFIC HERITAGE MONTH

### HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. FALEOMAVAEGA. Mr. Speaker, 2 weeks ago I was privileged to join other Members and colleagues to witness the signing of the official proclamation by our President at a special White House ceremony—to officially recognize the month of May as Asia-Pacific American Heritage Month.

Mr. Speaker, I want to share with our colleagues, the President's remarks and the tribute he made to the contributions of Asia-Pacific Americans to our Nation. Included also is the official proclamation itself that was signed by the President on May 7, 1990.

REMARKS BY THE PRESIDENT DURING SIGNING CEREMONY FOR ASIA-PACIFIC AMERICAN HERITAGE MONTH, MAY 7, 1990

First, let me just express a warm White House welcome to Prime Minister Namaliu from Papua, New Guinea. I just wanted to walk out with him, show him a little hospitality. I look forward, sir, to visiting with you this afternoon.

To Senator Inouye and Phil Gramm, welcome. To Representative Pat Saiki, my old friend, welcome back to the White House. And Norm Mineta, Ben Blaz; of course, Bill Broomfield; and Eni Faleomavaega—(laughter)—Eni, tough on your name, but I got close, didn't I? Okay. And all the Members of Congress who are with us here today, and a special welcome to Frank Horton. My heavens—Frank, because of your diligence in working with so many of your colleagues in the Congress in the support of Jeanne Jew and Ruby Moy, we established Asia-Pacific American Heritage Week.

Now, I'm proud to make one more step and proclaim this May to be the first Asia-Pacific American Heritage Month. (Applause). First, let me acknowledge with respect the gentleman in the Senate who was Frank's cosponsor—someone who has left us—a great man, a great friend who wrote both haiku and lasting legislation with that same graceful fluency. And I, of course, am talking about our beloved friend, the last Senator Spark Matsunaga of Hawaii. I think this ought to be his day. (Applause.)

We also have with us a number of Asian and Pacific American leaders from many walks of life: Virginia Cha, I.M. Pei, Dr. Taylor Wang, Nancy Kwan, Dr. Samuel Lee, Dr. T.D. Lee. And with us, also, some distinguished ambassadors. I also especially want to single out Governor Peter Coleman of American Samoa, and Lieutenant Governor Benjamin Manglona of the Northern Marianna Islands, and every member of their very distinguished delegations. Thank you all for being with us. You've come so far, and your presence is most welcome and deeply appreciated.

As I said, we're here in large measure because of the vision of Frank Horton and Spark Matsunaga. Spark's brilliant career was the culmination of a history that began 146 years ago with the arrival of Nisei, the first Japanese Americans to land on these shores. And now, people from Asia and the Pacific, from dozens of lands across a broad swath of the world that spans from the Middle East to the Philippines have found this new homeland called America.

They represent the whole range of religions—Christian, Muslim, Hindu, Buddhist. They're Arab, Iranian, Indian, Korean, Thai descent. But they will tell you that they are Americans first.

Look at the scope of America's demographic change. Cambodian, Laotian, Vietnamese neighborhoods flourish just across the Potomac River. The minaret of a mosque rises over the skyline of a Dallas suburb. The student body of a school in Southern California is made up almost entirely of Hmong children.

Pacific islanders have enriched the culture and heritage of Orange County. Filipinos have called America home since the first son of the Philippines arrived on these shores in 1763. All of these are subtle signs that Asian and Pacific Americans are our faster-growing minority population. They're changing America, and they are changing America for the better.

Some Asian and Pacific Americans come from families that have lived in America for more than a century. And others have literally just arrived—by boat or jumbo jet. But all can rely on strong communities, networks of family and friends, often with the support of a church, synagogue, mosque or temple.

So whatever their background, all enjoy strong communities—a great sense of community, too. These seven million Americans show us an example of how strong families can instill an abiding respect for the law, tenacity in the endeavor of life and work, and most of all, excellence in education.

Consider this: The latest U.S. Census showed that 75 percent of Asian Americans age 25 and over had at least a high school degree—well above the national average of 66 percent. This nation is incomparably richer because of great scientists like Nobel Price Winner Dr. Yuan Lee and the late An Wang. We are richer because of the talent of Michael Chang and the courage of the late Ellison Onizuka. And we are richer because of Asian Pacific American leaders, many of them with us here today.

Count among them Elaine Chao; number two in this enormous Department of Transportation of ours. Wendy Gramm, Chairman of the Federal Commission on Commodity Future Trading. Cindy Daub, Commissioner of the Copywright Royalty Tribumal; Kyo Jhin, who will be named shortly to a senior position at the Department of Veteran Affairs. My own—I say my own—our own Sichan Siv, on the White House staff, who fled the killing fields and is now doing an outstanding job for the White House in every way; and Julia Chang Bloch, U.S. Ambassador to Nepal, our first Asian-American Ambassador.

As shown by public-spirited leaders like Spark Matsunaga and those here today, Asian Pacific Americans are beginning to excel in the field of politics, just as they have excelled in every other field. While politics is often a second, third, or fourth generation profession, the time is coming when more and more Asian and Pacific Americans will seek office to lead our cities, our states and our nation. As America looks toward the Pacific in the century ahead, we will need your insights and your leadership as never before.

You know that the future of Europe has been very much on my mind of late. I think on the mind of all Americans. But America's destiny is also tied to the Pacific Rim. And I've lived in Asia, and I know that the fate of Asia and the Pacific is no less important to America than the future of Europe.

We are encouraged by the changes in Eastern Europe and by the rise of democracy to our south right here in our own hemisphere. Make no mistake about that. But we will not neglect Asia and the Pacific. (Applause.) My administration is committed to promoting open trade and fighting protectionism, so that the economic ties between the United States and Asia can continue to grow. Like Asian and Pacific Americans in the United States, these nations are a testament to the power of self-initiative. With time, we will create a true community of nations surrounding the Pacific Rim bound together by commerce, a shared commitment to democracy, and an abiding friendship.

And that's why we support the emerging Asian and Pacific democracies. And that's why we advocate peaceful change, why we will remain in solidarity with the aspirations of the peoples of these many lands. And that is why America must stand for more than mere material success. America must remain the beacon of liberty, a light of hope for the troubled, the oppressed, the downtrodden. The people of this land know that it is not enough to let a man purchase what he wants, he must be allowed to say what he believes. He must be allowed to go where he wants. He must be allowed to choose his government. Economic freedom alone will not provide sufficient room for the restlessness of the human spirit.

Let us, as we celebrate the contributions of Asian Pacific Americans to our precious freedoms, remember the restless millions who remain behind. In looking for inspiration they need look no further than the success of their grandchildren, their brothers, sisters and cousins, who found freedom in America.

And so it is in your honor that I sign this measure proclaiming this to be Asian Pacific American Heritage Month.

Thank you all. May God bless you. And may God bless the United States of America. [Applause.]

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ASIAN/PACIFIC AMERICAN HERITAGE MONTH, 1990

(By the President of the United States of America)

A PROCLAMATION

The history of Asian and Pacific Americans in the United States is a long and honorable one. Determined to uphold America's promise of freedom and opportunity for all, generations of Asian and Pacific men and women have helped this Nation to grow and prosper. A century and a half ago, many of these Americans contributed to the economic development of the United States through their labors on the plantations of Hawaii and in the mines of California. The important role played by many Asian and Pacific Americans in the building of the first transcontinental railroad is well documented; their determination and hard work are well known. With diligent effort and abiding faith in the American Dream, Asian and Pacific Americans have steadily advanced, earning ever greater respect and admiration from their fellow citizens.

Today, men and women of Asian and Pacific ancestry continue to make many important contributions to our Nation. In science, commerce, education, and the arts, Asian and Pacific Americans are not only sharing with us their unique talents and ideas, but also setting high standards of achievement. For example, through their commitment to academic excellence and their superlative accomplishments in many areas of study, Asian and Pacific American

students have provided a model for the Nation.

Time and again throughout our Nation's history, Asian and Pacific Americans have demonstrated their dedication to ideals upon which the United States is founded. In times of war and in times of peace, they have faithfully defended the principles of freedom and representative government. They have worked for the advancement of human rights and democratic ideals around the world, and they have promoted greater appreciation for our system of self-government here at home.

This month, all Americans join with our neighbors of Asian and Pacific descent as they celebrate the unique customs and traditions of their ancestral homelands. These customs and traditions have deeply enriched the wonderful heritage we share as a Nation.

Now, therefore, I, George Bush, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the month of May 1990 as Asian/Pacific American Heritage Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

In witness whereof, I have hereunto set my hand this seventh day of May, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

GEORGE BUSH.

## THE 100TH ANNIVERSARY OF THE CLEVELAND ARCADE

### HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Ms. OAKAR. Mr. Speaker, I am pleased to note the birthday this week of a very special honoree. The architectural masterpiece, the Arcade in my hometown of Cleveland, OH, is 100 years old this Memorial Day weekend.

The Arcade, which has hosted Presidents and Presidential candidates, office parties, and proms, opened its doors to a wondering public on May 26, 1890. It was then, and is now, a spectacular engineering feat that linked two nine-story office buildings with a skylighted five-story gallery of retail shops and offices.

In 1975, the Arcade became the first Cleveland building to be registered on the National Register of Historic Buildings. Its modern day success, following several years of neglect, is due, in no small measure, to the passion and vision of its present owner, Harvey Oppman.

Mr. Speaker, I ask permission to include in my remarks a brief, but colorful, history of the Arcade which appeared recently in my hometown newspaper, the Plain Dealer.

THE ARCADE TURNS 100, STRUCTURE REMAINS ARCHITECTURAL JEWEL

(By Wilma Salisbury)

As the Arcade's owner, Harvey Oppmann, grooms the building for its 100th birthday celebration this week, the structure remains unrivaled as one of Cleveland's premier landmarks and one of the finest buildings of its type in the world.

"I take great pride in the building," said Oppmann. "The Arcade is an architectural gem. It's been here 100 years. It's going to be here another 100 years, and people will still marvel at it."

The structure—with its spectacular interior space enclosed within monumental facades on two major downtown streets, Euclid and Superior Aves.—was recognized as an architectural and engineering marvel when it opened on Memorial Day 1890. It has undergone alterations and suffered from periods of neglect, but structural changes, interior additions and inconsistent maintenance have not harmed the integrity of the superb architecture.

What makes the Arcade great is its sensitive blending of innovative 19th-century engineering, dramatic Victorian architecture and elegant decorative detail.

Designed by Cleveland architect George H. Smith and Case Institute of Technology architect-engineer John Eisenmann, the $867,000 project was built for visionary entrepreneurs Stephen V. Harkness, Charles Brush, Louis H. Severance and John D. Rockefeller. The Arcade, a pioneering mixed-used private developoment, links two nine-story office buildings—one facing Superior Ave., the other facing Euclid Ave.—with a skylighted five-story gallery of retail shops and offices.

From Superior Ave., the Arcade looks like a typical late 19th-century office building. A great Romanesque arch rising from the sidewalk gives the entrance a cave-like image. Red sandstone and pressed brick walls, now blackened with age, express a ruggest monumentality. Elaborate carved decorations add a Byzantine accent. Everything about the facade says power, strength, stability and endurance.

The heaviness of the exterior gives way to a light-filled space that soars 100 feet from mosaic marble floors to an arched skylight. Thin columns support the webbed glass, iron and steel roof. Iron beams at roof level terminate in gilded cast-iron griffin heads, whose mouths once held lightbulbs.

Ornamental streetlamps march rhythmically along lacy balcony railings, Storefronts gleam with polished brass and gilded metal. A grand marble staircase sweeps up to the Euclid Ave. entrance.

The Euclid entrance to the Arcade originally was designed much like the monumental Superior Ave. facade. The Euclid arch was narrower, though, and it rested on stone piers.

In 1939, the rounded sandstone arch was replaced with a polished granite Art Moderne front that exemplified the taste of the times and identified the Euclid entrance as the building's front door. Though the new entrance lacks the grandeur of the old, it does not destroy the dramatic sequence of spaces leading into the 233-foot-long shopping street.

Pedestrians entering from Euclid Ave. pass through a lobby with a coffered ceiling, then turn a corner into a rotunda. There, magnificently unfolding before the eye is the entire shopping street in all its architectural splendor.

When the Arcade was conceived in the late 1880s, the architects were faced with the challenge of connecting two office buildings on two city streets that do not run parallel. In addition, Euclid Ave. is 12 feet higher than Superior Ave.

Their solution was to build two shopping streets of equal importance and to construct a grand staircase and an artfully designed rotunda at one end of the spacious arcade.

The engineering that Eisenman devised was incredibly daring for its day. The building stands on cast-iron columns and spread footings embedded in sandy soil and quicksand. The spectacular roof is supported by lean columns and a revolutionary system of trusses that eliminate the need for traditional tie rods. So radical was the roof design that no Cleveland company bid on it, and the job went to a Detroit bridge-building concern.

A spectacular engineering feat in an age of brilliant new technology, the skylighted arcade relates to the grand industrial architecture of the Crystal Palace in London and the Paris Exhibition of 1878. Cleveland architect Robert Gaede describes the Arcade as "an exciting demonstration of the vigor and virility of steel, a breathtaking indulgence in the structural exhibitionism of the time."

The Arcade initiated a type of pedestrian passageway that allowed people to move comfortably from one street to another, protected from weather and automobiles. Cleveland architect Peter van Dijk calls the arcade "a unique urban design device that is so civilized, convenient and delightful in a northern city."

The Arcade was followed by the smaller Euclid and Colonial arcades as well as the superb public passageways in Terminal Tower, Huntington Bank, the Bulkley Building and other downtown banks and office buildings. Unfortunately, Cleveland's civilized arcade tradition was abandoned in the Erieview Plan drafted by I.M. Pei in 1960.

But the open plazas he proposed did not suit the city's climate, and the arcade as a desirable public amenity is once again becoming an integral part of new and renovated downtown buildings.

While the concept of a protected pedestrian street was new to Cleveland a century ago, the idea of constructing a building with a hole in the middle was commonplace. Before the advent of powerful electric lighting, large buildings typically were constructed around light wells that allowed natural light to penetrate into interior spaces.

The Perry-Payne Building in the Warehouse District was renowned for its glass-roofed light court. Society Bank on Public Square was designed with a nine-story light well topped with a vaulted skylight. In recent years, old light wells at Stouffer Tower City Plaza Hotel and the New England Life Insurance Building have been covered with skylights and transformed into pleasant contemporary atriums.

When van Dijk first stepped inside the overwhelming interior of the Arcade in 1961, he expressed his amazement to a resident barber, who replied, "They don't build 'em like this anymore—all that wasted space."

With the development of bright interior lighting, rooms in the middle of large buildings no longer needed windows, and the light well became a thing of the past. To make more efficient use of the "wasted" space, light wells were frequently filled in with office floors.

When Oppmann purchased the Arcade in 1978, a developer had made a competitive bid to tear down the historic building and put up something new that would make more lucrative use of the valuable downtown real estate.

By that time, however, buildings with holes in the middle had come back into fashion, thanks to Atlanta architect John Portman and his spectacular atrium designs

for urban luxury hotels. Today, the skylighted atrium has become an expected amenity in modern hotels and speculative office buildings.

Although the quality of the Arcade should have put Cleveland on the international architectual map 100 years ago, the unique building did not receive much local publicity at its opening because the Garfield Memorial in Lakeside Cemetery was dedicated the same day.

Over the next 50 years, however, the Arcade developed into the pride of the city. The downtown showplace to see and be seen in, the spacious building was the site of band concerts, political conventions and other public gatherings.

The owners upgraded the building piece by piece with the addition of a center bridge at the Euclid Ave. level, a graceful center staircase at the Superior Ave. entrance, electric elevators, brass storefronts in place of the original tin trim, gilded friezes above store windows and new lighting fixtures that replaced palm-frond electrogasoliers. Eisenmann designed some of the additions.

The new Euclid Ave. entrance was the work of Cleveland architects Walker and Weeks. Except for the defacing entrance, the new architectural and decorative elements were designed with sensitivity to the original concept.

Improvements continued to be made until the mid-1940s. After that, the building went into a period of decline. Because of a lack of maintenance, brass storefronts tarnished, and painted walls peeled. Leaks in the skylight were covered with thick black tar. Missing mosaic chips left dangerous holes in the cracked marble floors. Along the shopping street, storefronts in prime locations were converted to medical offices and repair shops. In the office towers, many spaces were abandoned.

In the 1950s and '60s, Cleveland was more interested in urban renewal than in historic preservation. Slow to recognize the value of its fine architectural heritage, the city allowed the destruction of irreplaceable buildings, and the Arcade was not immune to threats of demolition.

The tide began to turn in 1975 when the Arcade became the first Cleveland building to be listed on the National Register of Historic Places. The Cleveland Area Arts Council spearheaded the revitalization of the neglected landmark by presenting noontime concerts, and commissioning a study from a Boston preservation company that recommended public ownership and management.

When Oppmann bought the building in partnership with a San Francisco architect and developer three years later, he initiated a rehabilitation program that won a national award and landed him on the cover of Historic Preservation magazine.

His first steps were to replace the glass panes in the skylight and install a profusion of plants and banners that created a festive atmosphere and diverted attention from architectural details that had not been repaired.

The restored skylight still leaks periodically when the bridge-like roof structure expands and contracts, but natural light shines through the opaque white glass with a soft quality that is lost when old skylights are replaced with synthetic materials and artificial lighting.

Over the last 12 years, Oppmann's piecemeal program of patching, fixing and upgrading the Arcade has been tied to the economics of operating an aged highmaintenance building.

Though not a perfect landlord or an uncompromising preservationist, Oppmann wins high marks for revitalizing the Arcade and maintaining its basic architectural character. To make the building more inviting, he has brought in a good mix of independently owned stores and has provided tables and chairs that invite people to linger. In addition, he has offered the historic space to non-profit organizations, launched a continuing rehabilitation program and kept the building viable as a mixed-use complex with class.

## A JERUSALEM RALLY

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Ms. ROS-LEHTINEN. Mr. Speaker, with the recent passing of the resolution recognizing Jerusalem as the undivided capital of the State of Israel, many citizens around the world are showing their support of the Holy City. In my district, on May 23, a rally will be held in Miami Beach to commemorate the capture of Jerusalem during the Six-Day War in 1967.

Yom Yerushalayim, or Jerusalem Day, will be held at Temple Emanu-El on Miami Beach. Sponsored by the American Zionist Federation of South Florida in cooperation with the Greater Miami Jewish Federation's Israel Affairs Committee, the 2 p.m. rally is sure to bring a crowd.

Speaking at the event is Israel's second-ranking envoy to the United States, Minister Plenipotentiary Oded Eran. Mr. Eran, who is the top assistant to Ambassador Moshe Arad, is a veteran career diplomat in the Israel Foreign Service.

Ambassador Moshe Liba, Israel's Consul General in Florida, also will participate in the program.

In Israel, a similar celebration will commemorate an undivided capital in Jerusalem. The ceremony at Ammunition Hill will recognize those who died in the Six-Day War.

I applaud Gerald Schwartz and Harriet Green of the American Zionist Federation of South Florida, and the greater Miami Jewish Federation's Israel Affairs Committee for the tremendous effort put forth towards the official observance of Yom Yerushalayim.

## PUSH FOR TAX HIKE NOW MAKES NO ECONOMIC SENSE

### HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. GINGRICH. Mr. Speaker, I would like to bring to the attention of the House an article written by Mr. Robert Akerman in the May 14, 1990, Atlanta Constitution.

Mr. Akerman correctly points out the need to keep the economy growing and that increasing taxes could push the country into "stagflation" like we experienced in the 1970's.

His perspective is useful as Congress and the administration begin the so-called budget summit talks.

PUSH FOR TAX HIKE NOW MAKES NO ECONOMIC SENSE

One of the points being overlooked in this talk about a possible deal to increase federal taxes is one that Ronald Reagan used to make. When his critics argued that a big government deficit puts pressure on credit markets and reduces the amount of credit available for the private sector, he would respond that when government cuts its borrowing needs by raising taxes, that money too is taken out of the private sector. If growth is to continue, then businesses and consumers just have to borrow more.

That's why he thought that the level of government spending was the real problem, and I never heard one of his critics respond effectively to his point. What sudden change has occurred that would lead the Bush administration away from that policy?

They talk about a change in the short-run outlook for the economy which has produced an upsurge in the projected deficit for the next fiscal year. Now I agree that deficit spending is bad in the long run, simply because whatever is bought with borrowed money costs more than whatever is paid for in cash. But that is no argument for raising taxes to avoid a crisis in the near future, since the government's impact on the private sector during the next fiscal year will be basically the same whether it takes the money out in taxes or in borrowing.

Apparently some people in the Bush administration are playing with perceptions. There is concern that inflation may be on the rise, and if the Federal Reserve Board tries to fight inflation by increasing interest rates even more, that will lead to a recession. But this is confusing to me, since the deficit projections seem to reflect a downward economic trend that already has begun. And if the deficit caused it by "crowding out" business expansion, it can't simultaneously be causing the economy to grow too fast and produce "inflation."

If there is crowding out, then whatever inflation we have must be due to cost-push factors rather than to the demand-pull force of easy credit. This in turn raises the question of whether higher taxes could be one of the cost-increasing factors. The payroll tax has just gone up again. The 1987 tax "reform" shifted more of the burden to corporations, and the end of the capital gains tax break in that year began an increase in the cost of capital for business expansion. In any event, neither supply-side nor Keynesian economics has ever held that a tax increase is an appropriate response to an economic slowdown, or the threat of one.

Because of government policies that ran in several directions at once, we did manage to achieve "stagflation" in the 1970s, when prices were rising but we were also constantly in or near a recession. That era ended only when Ronald Reagan began to reduce taxes, and it seems to me that a tax increase now is likely to take us "back to the future" rather quickly.

## A TRIBUTE TO DAVE MAUPIN, ACCOUNTANT ADVOCATE OF THE YEAR

### HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the outstanding contributions of Mr. Dave Maupin of Redlands, CA. Mr. Maupin has recently been named Accountant Advocate of the Year by the Small Business Administration and will be honored by the city of Redlands and the Redlands Chamber of Commerce on June 5.

Mr. Maupin is a sterling example of community leadership as evidenced by his many contributions including his service as chairman of the Redlands Small Business Week for the past 5 years. In the city of Redlands, Maupin is widely known by citizens as "Mr. Small Business" because of his energetic leadership in promoting National Small Business Week.

Mr. Maupin organized the Inland Empire Business Youth Conference in 1988 and 1989, efforts to encourage young people to pursue business careers. During the conference, several hundred area teenagers are invited to a dinner and to hear young entrepreneurs discuss their own "Secrets of Success." Keynote speakers for the conference have included John Dean, former aid to President Nixon and Charles Plumb, a Navy Top Gun pilot and ex-prisoner of war. In addition, over 100 high school students competed for three $500 scholarships in 1989 by completing essays on "The Role of Business in Creating a Kinder and Gentler Community."

Over the past 5 years, Mr. Maupin has organized a very successful Business Expo, attended by over 60 area businesses, designed to develop an awareness of and to promote small business. His efforts on behalf of the SBA's Small Business Week have given our Inland Empire valuable and worthwhile national recognition. Indeed, inquiries from other chambers of commerce suggest that the Redlands event has become a national model.

Mr. Speaker, the work of Mr. Maupin has greatly contributed to a better economic and financial climate for area small business. He has taken a unique approach to small business by recommending creative solutions to financial problems. In addition, he has made enormous contributions of both time and energy to promote small business in the community.

I urge you to join me and my colleagues today, Mr. Speaker, in honoring Mr. Dave Maupin—widely regarded as "Mr. Small Business"—as the Small Business Administration's Accountant Advocate of the Year. His years of dedicated and selfless service to the community is well-known and certainly worthy of recognition today by the House of Representatives.

## INDIA-PAKISTAN CRISIS OVER KASHMIR

### HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 21, 1990*

Mr. FALEOMAVAEGA. Mr. Speaker, the crisis in Kashmir Province in India has become most critical in that there is now military movement of troops by the Indian Government along the India-Pakistan border lines—all because of the problems over Kashmir.

Mr. Speaker, I want to share with my colleagues several articles written on this crisis, and again I call upon our President and Secretary Baker to take appropriate measures to prevent another armed conflict between India and Pakistan.

Mr. Speaker, one of the newspaper reporters, Mr. Jansen, rightfully suggests—why don't we let the people of Kashmir decide for themselves what they want in the future?

Mr. Speaker, I fear this crisis is going to be another bloody conflict if we don't do something about it, and the administration certainly ought to take action now to bring the leaders of these two countries to the negotiation table.

[From the Washington Times, May 21, 1990]

INDIA'S MANEUVERS PROMPT FEAR OF WAR

NEW DELHI, INDIA.—India is moving tens of thousands of battle-ready soldiers to its borders with Pakistan, prompting fear among Western diplomats of another war over Kashmir.

Western military experts say India also is seeking to buy large quantities of movable bridges, troop transport boats and other equipment that could be used in an attack.

In addition, the government recently formed a paramilitary unit called the National Rifles, which could undertake counterinsurgency operations in the troubled state formally known as Jammu-Kashmir, freeing the army to go to the border.

In Cairo, Egypt, yesterday, Pakistani Prime Minister Benazir Bhutto held out an olive branch to India, offering talks and saying war is no solution to the Kashmir dispute.

"The conflict will not lead to a settlement. * * * We are prepared to start a dialogue with India for a peaceful and political solution to the Kashmir problem," she told reporters.

Meanwhile in Islamabad, Pakistan, two senior U.S. officials urged Pakistan and India to tone down their war of words over Kashmir before it ignites another armed confrontation.

"Our major objective is to help both sides avoid a conflict over Kashmir * * * and to begin the sort of political dialogue that would not only reduce tensions, but lead to a peaceful and permanent settlement," Deputy National Security Adviser Robert Gates and John Kelly, assistant U.S. secretary of state for Near East and South Asian affairs, said in a statement.

Interviews with military experts from the West and Asia indicated several countries are seriously considering the possibility of war between Indian and Pakistan. One Western officer said his embassy is discussing contingency plans for withdrawal of embassy personnel and their families.

A month ago, many of the same officers said war was impossible.

"We've changed our assessment," a high-ranking Western officer said, "We think there now is a 50-50 chance."

Experts say the developments are doubly disturbing because both countries are believed to possess nuclear weapons technology. India exploded a nuclear device in 1974.

Both also have medium-range missiles.

Kashmir, the cause of the dispute, is the only Indian state with Moslem majority.

Both nations claim the region of Himalayan mountain peaks and valleys, and they have fought two wars over it since winning independence from Britain in 1947.

[From the New York Times (International), May 21, 1990]

U.S. URGES PAKISTAN TO SETTLE FEUD WITH INDIA OVER KASHMIR

(By John F. Burns)

ISLAMABAD, PAKISTAN, May 20.—Robert M. Gates, a special envoy sent by President Bush in an attempt to defuse tensions over the disputed territory of Kashmir, appealed to Pakistan's leaders today to avoid taking any military moves or other steps that might make a third war with India more likely.

Diplomats who spoke to reporters about Mr. Gates's 16-hour visit here said the American officials had conveyed to President Ghulam Ishaq Khan and other high-ranking Pakistani officials Mr. Bush's concern that incautious moves could drive the two nations into war over the civil unrest in Indian-held Kashmir. The diplomats said Mr. Gates would carry a similar message to top Indian officials, including Prime Minister V.P. Singh, in meetings that are scheduled for New Delhi on Monday.

Mr. Gates, Mr. Bush's deputy national security adviser, arrived here from Moscow, where he took part in talks between Secretary of State James A. Baker 3d and Eduard A. Shevardnadze, the Soviet Foreign Minister. The Moscow talks were said by United States officials to have included a resolve by Washington and Moscow to use their influence to reduce tensions over Kashmir.

India and Pakistan have gone to war over Kashmir in 1948 and 1965. Pakistan has demanded that the residents of Kashmir, who are predominantly Muslim, be allowed to choose their future in a plebiscite. India has insisted that Kashmir is an inalienable part of its territory.

With Prime Minister Benazir Bhutto away in Yemen seeking Islamic countries' support on the Kashmir issue, Mr. Gates faced Mr. Ishaq Khan and Lieut. Gen. Mirza Aslam Beg, the army commander. A Pakistani official said that Mr. Gates delivered a letter from President Bush expressing anxiety about a new war and urging efforts to stop the situation from deteriorating. A similar letter from Mr. Bush is to be delivered in New Delhi.

TOUGH TALKING WITH ALLY

Although the United States and Pakistan are longtime military allies while India has maintained close ties with Moscow, officials said there was "tough talking" here over the way that Pakistan has responded to recent developments. In particular, the officials said, Mr. Gates urged the Pakistani leaders to tone down their public statements, to avoid new military deployments that could be viewed by India as threatening and to restrain political parties in the Pakistan-held part of the disputed territory

from inciting or arming Kashmiris who cross over from the Indian side seeking assistance.

A senior Pakistani official said Mr. Ishaq Khan and General Beg responded "with irritation" to some of Mr. Gates's appeals. The reference to toning down public statements appeared aimed in part at Prime Minister Bhutto, who recalled at a public rally in March in Muzaffarabad, the capital of Pakistan-held Kashmir, that her father, Zulfikar Ali Bhutto, once vowed to fight a thousand-year war for Kashmir. General Beg has been quoted as saying that the Pakistani Army is ready for war and will shock India if it comes.

The Pakistani leaders were said to have told Mr. Gates that the United States should concentrate on getting India to halt its "terrorism" against the population of Kashmir, where the Muslim majority has faced a sharp crackdown by Indian forces. As for Pakistani statements, the leaders were said to have remarked that they had been "moderate enough." They also told Mr. Gates that Pakistani military movements in recent weeks had been less threatening than India's.

Despite their differences, Pakistani officials said they made clear to Mr. Gates that Pakistan welcomes American efforts to head off a war, and that it supports anything that the United States can do to encourage India to enter into discussions on the issue with Pakistan.

The officials said they were particularly pleased by an American assertion that the Kasmir issue should be resolved along the lines of the Simia agreement reached between Indian and Pakistan in 1972, in which the two governments undertook to settle the issue "by bilateral negotiations, or by any other peaceful means."

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[From the Washington Post, Apr. 29, 1990]

INDIA'S MOSLEM MINORITY FACING NEW ANXIETIES—THREAT OF WAR WITH PAKISTAN CREATES NEW FEARS OF PERSECUTION BY HINDU ACTIVISTS.

(By Steve Coll)

NEW DELHI, April 28.—The threat of war between India an Pakistan has created new pressures and anxieties for India's Moslem minority of 110 million people, many of whom fear persecution by Hindu activists if hostilities with Islamic Pakistan continue to escalate.

Talk of war now dominates bazaars and dinner tables from western Pakistan to eastern India, fueled by a popular insurgency by Moslems in India's disputed northern state of Jammu and Kashmir, as well as by heated threats form Islamabad and New Delhi about alleged hostile troop movements and interference in each other's affairs.

But nowhere are the anxieties about a fourth war between India and Pakistan more acute than among India's Moslems, who fear that resurgent Hindu conservatives are using tensions with Pakistan to mount increasing attacks against them. Some Indian Moslems say they fear large scale atrocities if war with Pakistan breaks out.

"The Moslems of India today feel a terrible sense of insecurity," said Syed Shahabuddin, a prominent Moslem leader and a member of India's parliament. "The 1980s were very bad * * *. The level of communal polarization is much higher than it was 10 or 20 years ago. Every Moslem is viewed with suspicion."

In the western state of Gujarat earlier this month, at least 60 people died when Hindus and Moslems attacked each other in a violent rampage lasting more than a week.

In the aftermath, a senior state government official reportedly accused local Moslems of harboring Pakistani agents. The charge was later contradicted by a Moslem member of Prime Minister V.P. Singh's cabinet after an inspection of the riot-torn area.

A tide of Hindu nationalism has lately altered India's politics by giving a prominent voice to Hindu religious leaders who sometimes accuse Moslems of disloyalty. And the surge in Hindu conservatism has been accompanied by a sharp increase in religious riots in which thousands have died in recent years.

Many of India's most important political leaders, including Singh, who is a Hindu, have taken pains to defend the rights of the country's Moslems even as the threats continue. These leaders insist there will be no official backlash against the minority if war erupts.

Among other things, they point out that Moslems are members of Singh's cabinet and are represented among the Indian army generals holding key commands along the Pakistan border. In fact, there are far fewer Moslems in the Indian armed forces than in the general population, where Moslems now make up about 13 percent of India's total of 820 million.

Many ordinary Moslems say they are not sure whether to believe the government's assurances that they will be protected, and they fear that vigilante attacks—supported by Hindu policemen or rightist politicians—could escalate sharply if the dispute over Kashmir continues.

"If there is war, there will be atrocities—not by the government, but by the Hindus," said Mohammed Yaseem, a tailor in a heavily Moslem neighborhood of north Delhi. "Ever since independence, the police and the Hindus have been cutting the Moslems' heads off. This time, it will only be worse."

Lower middle-class and poor Moslems interviewed here and in southern India in recent weeks drew a distinction between what they described as their loyal feelings toward the Indian government and their anger toward Hindu religious activists who help prop up Singh's minority administration.

"We will be with the government. We are faithful to the country to which we belong," said Mullah Mohammed Haroon, an activist in a New Delhi neighborhood rocked by Hindu-Moslem riots last month.

But if the uprising in Kashmir worsens or war with Pakistan erupts, he said, "Our trust of the Hindus will disappear."

There was relatively little conflict between India's Hindus and Moslems during the previous three wars with Pakistan, although tens of thousands of people from both communities were slaughtered in the religious violence associated with the partition of the British Empire in 1947, which immediately preceded the first Indo-Pakistan war.

During the second war, in 1965, a number of Indian Moslems were lynched and arrested on suspicion of being spies for Pakistan. Rumors swept through the country that Indian Moslems planned to poison the country's water supply, and at one point Moslems reportedly were removed from jobs at key water works.

But no evidence of widespread disloyalty by Moslems was ever presented, and the war ended before any major riots erupted.

A marked decline in public panic about Indian Moslems followed during the 1971 war. Indian government propagandists exhalted the achievements of Moslem officers and soldiers fighting in the Indian army on the western frontier with Pakistan in an effort to reassure both the Hindu and Moslem publics.

Today, the atmosphere appears to be far different. Some Hindu activists blame Indian Moslems for helping Pakistan foment trouble in Kashmir. Other activists urge that the northern state, whose sovereignty is disputed by India, Pakistan and China, be opened for Hindu resettlement, which would eliminate its Moslem majority.

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[From the New York Times (International), May 21, 1990]

U.S. DELEGATION VISITING AN INDIA IN POLITICAL CRISIS

(By Barbara Crossette)

NEW DELHI, May 20.—When a high-level American delegation arrives here tonight for talks on Monday on the separatist war in Kashmir, it is likely to find the Government of Prime Minister V.P. Singh preoccupied by its worst domestic political crisis since coming to power in December.

The American team is headed by President Bush's deputy national security adviser, Robert M. Gates. Significantly, for India, Mr. Gates is coming here fresh from discussions in Moscow and Islamabad. India, accustomed to playing off American and Soviet interests, confronts for the first time what appears from here to be superpower consensus.

The Americans are expected to convey Washington's concern about what the White House described as a "deteriorating situation" involving mounting human rights abuses in Kashmir, and the consequent threat of war between India and Pakistan over the disputed territory.

But the Indian Government's ability to deal with the Kashmir crisis appears to be falling victim to Prime Minister Singh's worsening internal political problems.

Like the only previous Indian Government not formed by the Congress Party, the Singh administration is being undermined by disputes in the governing coalition. Twelve years ago when that earlier non-Congress Government faltered, there was nothing of the magnitude of the Kashmir rebellion confronting India.

While the Prime Minister's allies on both the pro-Hindu right and Communist left complain that he is not being tough enough on Kashmiri Muslims, thousands of people are being arrested or hounded by Government forces, Indian human rights groups and fleeing Kashmiris say. As a result, no new political initiatives are being proposed.

More damaging to Mr. Singh's standing is the growing embarrassment to his administration caused by the activities of Deputy Prime Minister Devi Lal and his son, Om Prakash Chautala.

Mr. Lal, a powerful leader in the northern farm belt, has a history of violence and corruption that makes him anathema to the clean-govenment voters who propelled Mr. Singh to power in December. Mr. Chautala has been linked to vote fraud and poll violence in Haryana state. The violence culminated last week in the killing of a rival candidate in coming state elections in a constituency where Mr. Chautala, an unelected Chief Minister who inherited his position form his father, is seeking a seat.

Mr. Singh's association with Mr. Lal and his son proved costly this weekend, when the Prime Minister suffered two significant blows to his authority: Mr. Lal's candidate, S.R. Bommai, was chosen as president of Mr. Singh's own party, the Janata Dal, and one of his chief economic and social planners, L.C. Jain, resigned.

Mr. Jain, one of Asia's best known development experts and a follower of Mohandas K. Gandhi, resigned to protest Prime Minister Singh's silence on the recent events in Haryana, and his unwillingness to force Mr. Chautala to step down in the face of accusations of criminality.

Leading Indian newspapers are calling on Mr. Singh to live up to his image as a clean politician. Critics say the Prime Minister's pursuit of investigations into allegations of corruption in the administration of the former Prime Minister, Rajiv Gandhi, begin to look like witch-hunting if he refuses to punish criminality within his own Government and party.

When Mr. Singh took office in December, he was expected to bring a fresh approach to the problem of separatism in Kashmir and in Punjab state. In both cases, there was little disagreement among political analysts that shortsighted policies of Mr. Gandhi, framed for partisan purposes, had led to the flourishing of rebel political movements.

But Mr. Singh has chosen not to lay the blame for Kashmiri and Punjabi rebellions on Mr. Gandhi, on the late Indira Gandhi, who preceded him, or on the Congress Party. Instead, Mr. Singh, a skilled politician, has continued to rely on the use of military force.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 22, 1990, may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### MAY 23

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:30 a.m.
Armed Services
Defense Industry and Technology Subcommittee
Strategic Forces and Nuclear Deterrence Subcommittee
To hold joint hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on Department of Energy laboratory management.
SR-222

Commerce, Science, and Transportation
To hold hearings to review the Administration's technology policy and priorities.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Superfund, Ocean and Water Protection Subcommittee
Business meeting, to mark up S. 203, to authorize research into ground water contamination and remediation.
SD-406

Labor and Human Resources
To hold hearings on S. 1912, to prohibit States from restricting the right of a woman to terminate a pregnancy before fetal viability or at any time if the termination is necessary to protect the health or life of the woman.
SD-430

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the semiannual appearance of the Oversight Board of the Resolution Trust Corporation.
SD-538

Environment and Public Works
Superfund, Ocean and Water Protection Subcommittee
To hold hearings on S. 1697, to require local educational agencies to conduct testing for radon contamination in schools.
SD-406

Foreign Relations
To hold hearings on S. 2296, to authorize supplemental funds for fiscal year ending September 30, 1990 and to authorize funds for fiscal year 1991, both for the Department of State.
SD-419

Joint Economic
To hold hearings to examine rising health care costs, focusing on how U.S. firms compete.
2257 Rayburn Building

10:30 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of Management and Budget.
SD-116

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the Office of Inspector General.
SD-138

2:00 p.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings to examine the financial strength of the Federal Housing Administration.
SD-538

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold oversight hearings on the "Report of the Interagency Scientific Committee to Address the Conservation of the Northern Spotted Owl."
SD-366

Governmental Affairs
To hold hearings on the nomination of Jerry D. Jennings, of Michigan, to be Deputy Director of the Federal Emergency Management Agency.
SD-342

Labor and Human Resources
To hold hearings on the nomination of Michael L. Williams, of Texas, to be Assistant Secretary for Civil Rights, Department of Education.
SD-430

Select on Intelligence
To hold hearings on the Jacobs Panel recommendations on counterintelligence.
SH-216

2:30 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on the Department of Energy national security budget request for fiscal year 1991.
SR-253

### MAY 24

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for defense programs.
SD-192

Armed Services
To hold hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on management strategies for the defense builddown.
SR-222

9:15 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 2228, to develop a comprehensive program to ensure the wholesomeness of fish products intended for human consumption and sold in interstate commerce.
SR-253

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 647, to revise the Federal securities laws to revise the enforcement remedies for civil violations of those laws, S. 2058, to revise the Federal Deposit Insurance Act to regulate certain marketing activities engaged in on the premises of deposit-taking facilities of insured depository institutions, S. 1664, to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941, and proposed legislation to authorize funds for programs of the Defense Production Act of 1950, and to provide for fair trade in financial services.
SD-538
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine ways to expand U.S. exports abroad.
SR-253
Finance
To hold hearings to examine the costs and health impact of cigarette smoking, focusing on how it affects children.
SD-215
Foreign Relations
Business meeting, to mark up S. 2296, to authorize supplemental funds for fiscal year ending September 30, 1990 and to authorize funds for fiscal year 1991, both for the Department of State, S. Con. Res. 124, expressing the sense of the Congress regarding human rights violations against the Albanian ethnic minority in southern Yugoslavia, S. Con. Res. 60, expressing the sense of the Senate that an impartial investigation of all alleged sightings of Raoul Wallenberg since 1947 be made, and to consider pending nominations.
SD-419
Judiciary
Business meeting, to consider pending calendar business.
SD-226
Joint Economic
To hold hearings on the economic status of African-Americans.
2175 Rayburn Building
10:30 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the District of Columbia.
SD-138
1:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on space launch and command, control, communications and intelligence programs.
S-407, Capitol
2:00 p.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

MAY 25

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332
2:00 p.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

MAY 29

10:00 a.m.
Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings to examine competitive issues in infant formula pricing.
SD-226

JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192
2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.
SD-138

JUNE 6

9:00 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on the B-2 program.
SR-253
9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine the Federal Trade Commission's (FTC) antitrust jurisdiction over foreign companies.
SR-253
Veterans' Affairs
To hold hearings on the nominations of Donald L. Ivers, of New Mexico, and Jonathan R. Steinberg, of Maryland, each to be an Associate Judge of the U.S. Court of Veterans Appeals.
SR-418

JUNE 7

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253
Judiciary
To hold hearings to examine the effects on judicial nominees belonging to private clubs that discriminate.
SD-226
Veterans' Affairs
To hold oversight hearings on veterans prosthetics and special-disabilities programs.
SR-418
2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

JUNE 12

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration's satellite programs.
SR-253
Select on Ethics
To hold hearings on matters relating to the investigation involving Senator Durenberger.
SH-216
10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406
2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on eastern Europe.
SD-138

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2358, providing U.S. consumers the opportunity to enjoy the technological advancement in sound recording by use of digital audio tape recorders.
SR-253
Rules and Administration
Business meeting, to consider proposed legislation authorizing funds for fiscal year 1991 for the Federal Election Commission, proposed legislation providing for the management of Senate official mail, proposed legislation authorizing the purchase of 1991 "We the People" calendars for the use of the Senate, and other pending calendar business.
SR-301
2:00 p.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 1884, to establish a Bureau of Recyclable Commodities within the Department of Commerce to promote the use of recycled materials derived from municipal refuse.
SR-253
Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold hearings on proposed U.S. military training for Peru.
S-116, Capitol

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on

proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration's ocean and coastal programs.

SR-253

Veterans' Affairs

To hold hearings on title II and section 402 of S. 2100, relating to veterans physician pay and health issues, S. 1860, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war, S. 2455, to provide for recovery by the U.S. of the cost of medical care and services furnished for a nonservice-connected disability, S. 2456, to extend expiring laws authorizing the Department of Veterans Affairs to contract for needed care and to revise authority to furnish outpatient dental care, and other proposed legislation.

SR-418

JUNE 19

9:30 a.m.

Veterans' Affairs

To hold hearings on the nominations of James W. Holsinger, Jr., of Virginia, to be Chief Medical Director, and Stephen A. Trodden, of Virginia, to be Inspector General, both of the Department of Veterans Affairs.

SR-418

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.

SD-138

JUNE 20

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 1974, to require new televisions to have built in decoder circuitry designed to display closed-captioned television transmissions.

SR-253

JUNE 26

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.

Room to be announced

2:00 p.m.

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on S. 1772, to prohibit State lotteries from misappropriating professional sports service marks.

SD-226

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.

Room to be announced

JUNE 28

9:30 a.m.

Veterans' Affairs

Business meeting, to consider pending legislation relating to veterans compensation and health-care benefits.

SR-418

JULY 12

9:30 a.m.

Select on Indian Affairs

To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.

SR-485

## POSTPONEMENTS

MAY 22

9:00 a.m.

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for the Department of Defense, focusing on classified programs.

S-407, Capitol

# HOUSE OF REPRESENTATIVES—*Tuesday, May 22, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as we view our lives with their opportunities and disappointments, we are aware of those that have special need of our prayers and intercessions. We remember those whose deep concerns may be known only to themselves and another few, and we pray that Your abiding spirit will bless them in any anxiety or apprehension. May Your love, O God, that surrounds us and renews us each day, be with all Your people now and evermore. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from California [Mr. FAZIO] will please come forward and lead the House in the Pledge of Allegiance.

Mr. FAZIO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive requests for 1-minute statements, limited to five Members on each side. Additional 1-minute requests will be received at the end of the legislative business today.

## "KINDER AND GENTLER" MEANS FREE LEGAL REPRESENTATION FOR GENERAL NORIEGA

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, General Noriega is in the news again.

For 10 years, the Republican administration declared war on the one program we have to provide legal services for the poor.

In budget after budget, Ronald Reagan tried to kill the Legal Services Corporation and deny working Americans their right to legal representation.

When Congress rejected his proposals, he appointed a board hostile to the Corporation's existence.

The "kinder and gentler" Bush administration has proposed deep cuts in legal services, and today's news may reveal why:

They needed the money to provide legal assistance to the Panamanian drug lord and money launderer, Manuel Noriega.

Does this mean we provide legal aid for the most notorious criminals while ignoring the needs of working Americans whose only crime is seeking equal justice under the law?

Manuel Noriega has discovered what kinder, gentler means to him. And now we know what it means to President Bush.

## PROGRAM OF CLEAN COAL TECHNOLOGY MUST BE FAIR TO ALL

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, this House is in the middle of great debates on clean air. I support H.R. 3030 and, in fact, am a sponsor of the Clean Air Act.

In at least one instance, however, we are trying to push and pull at the same time.

This Nation is undoubtedly dependant upon coal to meet its domestic demands for electricity, and to effectively compete in the international market.

To do so, we need to continue to develop new clean coal technologies.

Provisions of H.R. 3030 divert clean coal technology program funds for the purpose of subsidizing the cleanup of eastern powerplants as a reward for their not having done it themselves. And penalizing areas of the country who have taken positive steps to clean up their air.

These provisions will terminate Federal funding of numerous western and eastern clean coal technology projects, which were selected, although funds have not yet been fully obligated. This provision is unfair and a setback to our national efforts to develop a program of clean coal technology.

## NORIEGA: PAY FOR YOUR DEFENSE OR GET A PUBLIC DEFENDER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, our Government has made yet another deal with Manuel Noriega. Uncle Sam recently said:

General, we will even pay your legal fees if you just keep your mouth shut. Because if the American taxpayers find out how much the CIA has paid you on their payroll to make drug peddlers and drug abusers and drug addicts out of our kids, they may even have a tax revolt in this country.

Furthermore, we will even go so far, we will even pay your legal fees. My god, don't say anything.

Mr. Speaker, this is a joke, an absolute joke. This is not even a CIA coverup any more. This is getting to be a buyout that is insulting the intelligence of the American people.

I say let General Noriega pay for that defense, or let him get a public defender, just like kids on the street. Who takes care of them? After all, General Noriega helped to make a lot of those drug addicts on the street.

## THE AMERICANS WITH DISABILITIES AMENDMENT

(Mr. BRENNAN asked and was given permission to address the House for 1 minute.)

Mr. BRENNAN. Mr. Speaker, as we vote today on the Americans With Disabilities bill, I think of a time when I was attorney general of my State of Maine and the then Gov. Jim Longley, came to my office to ask my advice on appointing a blind lawyer to be a trial judge.

I told the Governor, from my experience as a prosecutor and defense lawyer, it would be a mistake.

A blind lawyer could not do the job.

The Governor disregarded my advice and made the appointment anyway.

Six months later, I asked a number of lawyers and police officers how the blind judge was doing.

The answers were unanimous. He was doing a superb job. He was an excellent judge.

That was a big lesson for me in what people with disabilities can do.

And I believe that passage of the Americans With Disabilities Act will be a great lesson for more like me, all across this country.

I urge Members to vote for this very important civil rights bill.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## INSURANCE POLICY FOR AMERICA'S FLYING PUBLIC

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, the Transportation, Aviation and Materials Subcommittee is today considering an FAA reauthorization bill I believe is an insurance policy for America's flying public.

The bill contains a variety of outstanding but long-overdue research programs. They include funding for The Aircraft Catastrophic Failure Prevention Research Act of 1990, a bill I wrote with the intent to end the flying experiment mentality at FAA.

Another research program in the FAA reauthorization is in drug and alcohol testing.

The incident earlier this year in which Northwest Airline pilots were allowed to fly while intoxicated is intolerable.

I have written a program that ultimately will protect the flying public from those pilots and air traffic controllers who abuse alcohol and drugs.

Other programs calling for improved airport security to avoid tragic losses like those at Lockerbie, Scotland, and for safe screws and fasteners, are contained in this bill that should have been written years ago.

## MILITARY AID TO EL SALVADOR

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, we have tried to send messages to the Government and the military of El Salvador. We sent telegrams. We sent letters. We sent congressional delegations. We sent diplomats. We even sent DAN QUAYLE.

We demanded that they prosecute a few, just a few, of the gross human rights violations by the military and armed forces of that country. But El Salvador has not gotten the message.

We in America buy weapons for the Salvadoran army. We train them. We bring them to American bases. We train them in human rights. They took that training and those weapons, and this is what they did with them. They smashed into the Jesuit residence in San Salvador. They ordered six priests to lie face down on the grass, and then they opened fire.

□ 1010

Mr. Speaker, there is something desperately wrong in El Salvador, and the American people cannot understand why this country is aiding this butchery in this Government.

Today the House will vote on the Moakley-Murtha amendment to limit the war, to encourage peace negotiations, and to promote human rights, and I urge the House to support the Moakley-Murtha amendment.

## PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, the Speaker has recently announced a new policy with regard to the use of the Speaker's lobby for the recording by reporters by electronic device of interviews with Members. There has been some concern expressed about that particular policy with regard to the use of the recorders in the Speaker's lobby since that is regraded as a part of the floor. In particular, the concern is that you could have the use of very sensitive microphones there that could record private conversations that might be taking place in the Speaker's lobby, or even record conversations at the periphery of the House floor itself that were not meant for public consumption.

I was wondering, under my parliamentary inquiry, whether the Speaker could give the Members some assurance with regard to this policy that the recording devices will only be used for individual interviews, and would not be permissible for use as a means of recording conversations in the Speaker's lobby as a whole.

The SPEAKER. The gentleman is correct.

Mr. WALKER. So in other words, under this policy, this is strictly aimed at giving only the ability to interview individual Members at the table, and those recording devices would not be permitted to be on during other times that the reporter might be in the lobby?

The SPEAKER. The answer to the gentleman's parliamentary inquiry is that the gentleman is correct.

The Chair will ask the Clerk to read into the RECORD the guidelines established by the Chair for the conduct of this trial period of radio interview.

The Clerk read as follows:

POLICY FOR RADIO INTERVIEW TABLE IN SPEAKER'S LOBBY

(1) No tape recorder will be allowed inside the Speaker's Lobby, other than at a table set aside for the purpose. This table is provided for interviews, which should not disrupt the decorum of the House. Tape recorders must be taken immediately to the designated table.

(2) No more than four tape recorders will be allowed at the table at any one time. Reporters will be allowed to take tape recorders to the table on a rotating pass system. Passes will be distributed by the Radio/TV Gallery staff, who may, at their discretion, set a time limit on the use of the pass.

(3) The table can only be used for interviews of Members during House sessions. It cannot be used during joint meetings or joint sessions.

(4) Failure to honor restrictions placed on news organizations by the House gallery staff, or failure to return radio table passes at the designated time, may result in revocation of a news organization's right to use said passes in the future.

(5) The radio table and the policy for its use is available on a trial basis through the August recess of 1990. At that time the table and its use will be reassessed.

(6) All rules for broadcast coverage in the House will be reevaluated by the Speaker's Office and the Executive Committee at the beginning of each Congress.

Mr. WALKER. I thank the Chair.

## PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT ON TODAY AND BALANCE OF WEEK DURING THE 5-MINUTE RULE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may be allowed to meet during the 5-minute rule on today and the balance of the week for consideration of H.R. 3950.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## ANNOUNCEMENT OF DELAY OF VOTE ON S. 286, PETROGLYPH NATIONAL MONUMENT ESTABLISHMENT ACT OF 1990

The SPEAKER. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 286, as amended.

The Chair wishes to announce to the House that the voting machines are in some state of inoperation at the moment, and while the problem is being assessed by the technical staff, the Chair wishes to announce the delay of the vote on the pending suspension bill considered yesterday.

## AMERICANS WITH DISABILITIES ACT OF 1990

The SPEAKER. Pursuant to House Resolution 394 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2273.

□ 1015

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, with Mr. MCNULTY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, May 17, 1990, the

amendment offered by the gentleman from Texas [Mr. CHAPMAN] had been disposed of.

It is now in order to consider amendment No. 6 printed in House Report 101-488.

Mr. HASTERT. Mr. Chairman, I am the designee of the gentleman from Illinois [Mr. LIPINSKI].

Mr. HOYER. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Without objection, the gentleman from Maryland is recognized for 5 minutes.

There was no objection.

Mr. HOYER. Mr. Chairman, I make this request because of the fact that the gentleman from Illinois [Mr. LIPINSKI] has not arrived. The gentleman from Illinois [Mr. HASTERT] is here, but the Committee on Public Works and Transportation has not arrived. Members were under the belief that we would start at 10:30, so perhaps the gentleman from Illinois [Mr. HASTERT] could discuss the amendment.

Mr. HASTERT. Mr. Chairman, if the gentleman will yield, will our rights be protected?

The CHAIRMAN pro tempore. The rights of the gentleman from Illinois will be protected and he may offer the amendment. The gentleman is correct.

Mr. HOYER. Mr. Chairman, I would make it clear to the gentleman from Illinois that this is only for the purpose of having all of the parties come over from their offices. They expected to start at 10:30, and we are a little early.

Mr. HASTERT. I would agree to that.

The CHAIRMAN pro tempore. The gentleman from Maryland is recognized.

Mr. HOYER. Mr. Chairman, as the Members know, we are now embarking on the last day of consideration of the Americans With Disabilities Act, an act which has been designed to make accessible all of the services and opportunities that most Americans take for granted, but which for 43 million Americans who are disabled are not as readily accessible as they ought to be.

I think we are going to see today when this bill comes to a final vote an overwhelming vote from both sides of the aisle. President Bush has been a very strong supporter of this legislation. Members of the other side of the aisle, both in committee and on the floor, have been strong supporters, and of course this side of the aisle has been very strong in its support of the Americans With Disabilities Act.

We will consider today three amendments. They are the last remaining amendments. Two deal with transportation issues and one deals with the issue of remedies.

The issues dealing with transportation will deal with commuter rail and will deal with local options. We will be in opposition to both of those amendments on this side of the aisle. The proponents of those amendments will obviously argue their merits.

I might add that the administration is not supporting the two transportation amendments but is very strongly supporting the amendment to be offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Chairman, the Sensenbrenner amendment deals with the issue of remedies. That is to say, what remedies will be available to those whose civil rights are violated under the Americans With Disabilities Act. Will those remedies be the same as will be available to persons who are discriminated against because of race, color, national origin, religion or sex, or will they somehow be limited to specific rights? In particular, the issue will be whether or not we will leave to the 1990 civil rights bill the issue of what remedies will be available under title VII and under title II.

I would hope that we would reject the Sensenbrenner amendment. I would hope that we would reject it and leave for the Civil Rights Act of 1990 the determination of what remedies will be available to all persons or any person who has their civil rights discriminated against.

□ 1020

I believe that is the appropriate place with which to deal and not to specifically target the disabled for more limited remedies than others would have.

I believe, for the information of Members, that we will probably have 40 minutes on the Lipinski-Hastert amendment, 40 minutes on the Shuster amendment, and 1 hour on the Sensenbrenner amendment. If we do not get a rollcall, if the machine is not working, it might take a little longer, but I am hopeful we can conclude consideration of the Americans With Disabilities Act by 2 o'clock this afternoon.

We are looking forward to having all the members of the Committee on Public Works join us for this debate in the very near future. I know Mr. LUKEN and Mr. MINETA on our side will be speaking to these amendments as they are offered and that the Committee on Public Works and the Committee on Energy and Commerce are essentially, that is the majority side, is essentially in agreement; although as Mr. LIPINSKI will point out, the Committee on Public Works adopted the Lipinski amendment in committee. There was a jurisdictional question, and the Committee on Rules determined that the jurisdictional claim with respect to commuter rail in this instance lay with the Committee on Energy and Commerce.

So the basic document has the Energy and Commerce alternative, which is the alternative to which the Lipinski-Hastert amendment will apply.

Mr. MFUME. Mr. Chairman, will the gentleman yield?

Mr. HOYER. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. MFUME. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to take a moment, recognizing that we have, on behalf of a great number of us who have coauthored the Americans With Disabilities Act, I want to express my gratitude to the gentleman from Maryland for his assistance on this issue, for his leadership, for seeing us through a very difficult process last week and for being here today to ensure that his amendment process does not weaken this bill as it is.

There are so many people who are affected by it, to say that it is not significant is to belittle, I think, the strong significance that this sort of civil rights legislation means to our Nation.

So I would simply thank the gentleman from Maryland [Mr. HOYER] for his leadership again and urge him, as I have throughout the course of this debate, to try to, as best he can, sensitize other Members as to how crucial this bill is.

Mr. HOYER. I thank the gentleman for his comments.

Mr. Chairman, I want to congratulate the gentleman for his expertise as he chairs the Americans With Disabilities Act consideration in the Committee of the Whole House on the State of the Union.

The bill, as we find it, is a very, very significant historical step for it in the extension of civil rights protection for the disabled.

As I said, I think it bears repeating that this has been largely a bipartisan effort.

The CHAIRMAN pro tempore (Mr. MCNULTY). It is now in order to consider amendment No. 6 printed in House Report No. 101-488.

AMENDMENT OFFERED BY MR. LIPINSKI

Mr. LIPINSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LIPINSKI: IN SECTION 242(B), STRIKE PARAGRAPH (2) AND INSERT THE FOLLOWING:

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—Subject to subparagraph (B), a public entity which operates a fixed route system providing commuter rail service does not have to purchase or lease readily accessible and usable commuter rail vehicles to meet the requirements of this title—

(i) if such entity is meeting the requirements of subsection (b)(1) of this section relating to one car per train being accessible to individuals with disabilities within five years of the enactment of this Act;

(ii) if such entity provides clear, concise, and adequate notice, in its stations, of which cars are so accessible and the location of such cars on its trains;

(iii) if, in any case in which additional services are offered in a nonaccessible car of a train, such entity makes reasonable provision to ensure that such services are available to individuals with disabilities in the accessible car or cars of such train.

(B) ADDITIONAL ACCESSIBLE CARS TO MEET DEMAND.—In order for a public entity to be exempt under subparagraph (A), in any case in which actual continuing demand for accessible service cannot be met by the public entity with one accessible car per train, the public entity must use additional accessible cars per train as may be necessary to meet such demand.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. LIPINSKI] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, do we have a Member opposed?

Mr. THOMAS A. LUKEN. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, my amendment pertains to the public transportation section of the bill, specifically to the accessibility provisions for commuter rail.

As you know, the Committee on Public Works and Transportation took a long look at the ADA, with the goal of providing complete accessibility while maintaining the highest level of public transit service possible. In the process of marking up the bill, the Committee on Public Works adopted an amendment of mine pertaining to commuter rail and accessibility.

As we all know, in the final version of H.R. 2273 the issue of commuter rail will be addressed by the provisions of the Committee on Energy and Commerce. My amendment would essentially reinstitute the Public Works and Transportation version.

A primary element of the ADA's provisions for public transportation is the concept that all new purchases of public transportation vehicles must be accessible to the disabled after the bill's enactment. Clearly, this should be the approach for most public transit. In order to provide access to an intercity bus system, one must provide access to each bus. This will be the eventual result of the ADA. However, regarding commuter rail, I think it is reasonable and rational to take a slightly different perspective. When considering access to a train of four or five cars, it is reasonable to view the train as a whole. Access to one car per train, provided that the accessible car has sufficient capacity for the disabled ridership, qualifies the train as accessible. My amendment simply views the commuter train as a whole, demands that at least one car be accessible, and then provides a guarantee that additional accessibility will be provided if one car per train does not meet ridership demand.

First, the amendment maintains the one car per train rule, mandating that at least one car must be accessible as soon as practicable but no later than within 5 years. Additionally, it demands that the position of the accessible car on the platform be clearly indicated at all rail stations. This is designed to decrease train boarding confusion, allowing the disabled rider to expect the accessible car in the same place everyday. Furthermore, if any amenities are provided anywhere else on the train, such as bathrooms, diner or bar cars, they must be provided in the accessible car or cars. If these conditions are met in providing one accessible car per train, then commuter rail operators do not have to buy all new cars accessible.

The obvious objection to this one car per train rule is the question of whether all disabled riders will be accommodated in the one car. But with my amendment, the one car rule is by no means permanent. I point out to my colleagues section (B), which is the key to my amendment. It states that if continuing demand for accessible capacity is not met by one accessible car, then the operator must provide additional accessible cars as necessary to meet demand. In other words, if one accessible car meets demand, then one car constitutes accessibility. If it does not, then additional capacity must be provided.

I realize the leaders charging the ADA through Congress will frame this amendment as a weakening amendment. I encourage those claimants to take a close look at my amendment, which was the position adopted by the Committee on Public Works and Transportation, and compare it to the commuter rail provisions currently in the bill. I believe that this amendment along with my language detailing the intent of this provision offers far greater assurance that disabled riders will be comfortably accommodated.

To simplify this distinction: The current bill does mandate each new car must be accessible, but it allows a very broad interpretation of what qualifies as accessible. While my amendment only requires as many accessible cars as are necessary to meet ridership demand, it provides a strong interpretation of accessibility requirements on the train car.

You will notice my amendment requires that any services available anywhere on the commuter train, such as a bathroom, diner car or bar car, must be provided to the accessible car as well. The existing bill says no bathroom is required, even if every non-accessible car on the train includes a bathroom.

Also, in order to ensure the efficiency and workability of the one car per train rule, my amendment mandates that the rail operator must provide clear notice of where the accessible car on each train is located. This important provision will prevent the confusion on the train station platform which results from a person in a wheelchair having to wait for the approaching train and then moving on the crowded platform to the correct car to board. In most cases, the operator should be able to have the accessible car in the same place each day, which should make things easier for the disabled rider.

I can promise that the existing commuter rail provisions do not guarantee even these simple solutions. In fact, I think the existing requirements, when open to wide interpretation, do far less than my amendment to guarantee accessibility. To clarify this, I would like to describe briefly what the accessible commuter train will look like under my provision. As an example, I will use the current plan for accessibility adopted by Chicago's commuter rail service. I think it's appropriate to focus on Chicago's Metra, since many have claimed that this amendment is exclusively a Chicago amendment. That is simply not the case. I believe my approach is more reasonable, more rational, and guarantees accessibility. Illinois' plan for accessibility will provide complete accessibility, and Congress would be wise to use it as a model as my amendment does.

Under my amendment, each commuter train has one accessible car. As the train approaches the station, the disabled passenger would know exactly where to board, because it would be posted and the accessible car would be in the same place everyday. In Illinois, when the train pulls up, lifts on each side of the train would elevate riders into the car, where they would have adequate space to wheel in and secure their wheelchair. The car would have space for three or four wheelchairs. When these spaces are not occupied, fold down seats would be used by other passengers. There would also be a bathroom accessible to wheelchairs. Obviously, the accessible car is shared by passengers in wheelchairs and able bodied passengers. It is not a "cattle car" exclusively for the disabled. If those spots for wheelchairs are filled, my amendment requires that additional accessible cars are required on that train.

That is what accessibility would look like in Illinois. That is the scenario for providing accessibility on commuter trains under my amendment. Now lets take a look at what accessibility could look like under the current bill, as clarified by Energy and Commerce Committee report language.

Most important are the issues of lifts versus platform solutions and the accommodation of wheelchairs once aboard the train. Energy and Commerce report language makes clear that the existing bill does not require wheelchair lifts to provide accessibility at low platform stations. Rather, operators can use mini-platforms or movable ramps which wheelchairs ascend, and then enter the train. Well, in Illinois we looked at all the options for accessibility in coordination with the disabled community. The operators and the disabled agreed that these ramps, compared to lifts, are difficult to negotiate, more dangerous, and not preferred. Additionally, I point out that when a ramp is used to provide accessibility from a low platform, the ramp accesses only one train car. Theoretically, there is access to every car, but only by using the mini-platform or ramp. The de facto result is access to one car per train, a truism that opponents of my amendment would be wise to recognize. The most disturbing aspect of the current version is the fact that it may not really provide accessibility to an entire system. The Energy and Commerce report makes this clear, I quote: "there may be times at which a new car is itself accessible and usable but not able to be entered from every station it serves or from every point within a station. [This is not discrimination]." Obviously, a situation could arise where a person in a wheelchair can board the train but cannot exit at the desired stop. That is not full accessibility. In sharp contrast, the Public Works version along with my report language makes clear each station must be accessible, and even outline requirements for special events and other situations which will arise. With at least one car per train accessible, as my amendment guarantees, the disabled are ensured access to each train at every station. Apparently, the bill's language and its current interpretation offer no such assurances.

Under the bill and current report language, there is little to offer once the disabled passenger is aboard the commuter train. Access is required, but there need only be one spot in the car. So let's look at three people in wheelchairs who want to go to a baseball game, all boarding at the same station. Under my provisions, lifts elevate the riders into the accessible car, where they all have room. With only one space on an accessible car or cars, boarding via a platform ramp, one person boards at a time. I guess the train would have to move forward to access the next available door with an available wheelchair space inside. The three riders could not sit together. They would have no bathroom, even if every nonaccessible car on the train had a bathroom. In this situation, I believe my approach has clear benefits.

I point these scenarios out to highlight one important point. Mine is not a weakening amendment. Yes, it is a different approach than the current version, substantially different. But consider the two approaches, one approved by the Public Works and Transportation, one approved by Energy and Commerce. I want to provide one accessible car per train, more if necessary, but I want the definition of accessibility to mean lifts for low station platforms, with room for more than one wheelchair, and all the services offered anywhere on the train. The current bill provides accessibility to all newly purchased cars, but allows platform ramps, only requires one wheelchair slot, does not require equal services, and as report language indicates, does not even require every station be accessible.

I also point out that the vagueness of the current provision which is highlighted by the report will largely leave interpretation up to the courts. We should be working to limit, not promote, litigation on the ADA.

So anyone who would like to frame my provision as a weakening amendment should certainly acquaint themselves with the existing provisions for commuter rail and its interpretation by the Energy and Commerce report, which appeared in the RECORD May 15. It is a different approach, but I think it may be more successful in guaranteeing safe accessibility to every commuter train for the disabled.

Since the rationale of my amendment rests on section (B), which states that any continuing demand will be met by additional capacity, the logical question is what constitutes "continuing demand." When this provision was adopted by the Committee on Public Works and Transportation, I offered extensive report language to clarify the intent of this provision. The same would be necessary if this amendment is adopted. I'd be glad to explain the intent of this section and demonstrate how regulations will really put some teeth into this provision.

"Continuing demand" should be define as a regular demand on a given train line at a given period of the day. In interpreting demand, the definition must focus on demand being regular and consistent, not daily. If a given train's accessible car is filed daily to capacity, and on any given day or days of the week an additional person in a wheelchair waits for a ride and is not accommodated, that train cannot meet the demand. By no means does a given train need to operate over capacity five or seven days a week to be considered as "continuing demand." Rather, the demand, whether once a week or five times, must be regular or predictable. For instance, a person may have a part-time job and only ride a train three times a week. A student may ride to attend classes twice a week, or a person may travel to the hospital once a week. In all cases, if the demand is continuing and consistent to a train sometimes filled to capacity, the additional space must be provided.

While one-time special events which cause a sharp increase in wheelchair ridership would be a challenge, if special events which occur on a regular, scheduled basis (sporting events, concerts) were found to attract increased disabled ridership, increased accessible capacity must be provided. So, if the operator and the disabled community determined that trains downtown before Chicago Bears games, or before Civic Center concerts, did not accommodate the ridership, an adjustment in operations would be necessary, very similar to the adjustment for any other line's daily demand.

In both cases, regular demand and special events, cooperation between the operator and the disabled community will be vital to determining which trains at which times meet the criteria of "continuous demand." I believe it would be wise to mandate a consultation process or advisory committee for the determination of ongoing demand and new car need. Most importantly, such advisory committee would provide the mechanism for the disabled to call attention to a new regular demand, rather than relying solely on the conductor's reports. Metra, the commuter rail operator in Chicago, already uses such a committee to determine its budget and operations plans for accessibility. Such committee should be composed of representatives of the disabled community, but primarily wheelchair users as they are primarily affected by the commuter rail provisions of the ADA.

Finally, when it is determined that an increased demand cannot be met by one accessible car per train, the amendment states that the "public entity must use such additional accessible cars per train as may be necessary to meet such demand." I would like to clarify that the rail operator must do so promptly. When another car is determined necessary, this does not mean that the operator would have to purchase a brand new car from the manufacturer, which operators would argue takes 1 or 2 years. Rather, especially in large systems, providing an additional car is a matter of operational adjustments—rail yard changing to place another accessible car on a given train. For instance, in Illinois Metra will have over 180 acces-

sible cars in a fleet of roughly 650, and could make a car available without a problem. Unlike new purchases, these railyard changes could be adopted relatively quickly. DOT regulations could specify "When the provision of an accessible car to meet demand does not require new purchases from the manufacturer, but rather operational adjustments like rail yard switching, the additional accessible space or additional accessible car must be provided within 14 days of the determination of increased demand." In cases where increased capacity is provided by converting regular seating areas into additional wheelchair spaces, the turnover time could be even shorter, perhaps a week.

The points mentioned above—determination of continuing demand, providing for special events, mandated consultation between the operator and the disabled community, and the responsiveness of the operator to increased demand—are essential to the provisions for commuter rail in this amendment.

□ 1030

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT], the cosponsor of this amendment.

Mr. HASTERT. Mr. Chairman, the amendment we offer today, to require that every commuter rail train have at least one handicapped-accessible rail car, is a practical, not political, solution to the transportation needs of the handicapped. This provision, which was made part of the Public Works Committee's ADA legislation, gives the handicapped needed access. What it does not do, however, is demand that every communter rail system across the Nation spend hundreds of millions of dollars to purchase or reconstruct all rail cars to be accessible. Many of our transit authorities, including our own in Chicago, are suffering ongoing financial hardship.

The Lipinski-Hastert amendment guarantees that every handicapped person that wants to ride, can ride. If at any time one car per train is not sufficient to meet capacity, additional cars must be provided as needed. For those who would attempt to tout civil rights to cloud this issue, and demand that every rail car on every train be handicapped-accessible, I would suggest they examine their collective consciences. The commuter rail language in the bill before us today is riddled with exemptions and exceptions.

For example: only "key" stations in a system must be accessible. In New York City, only 38 of 465 stations, 8 percent, are classified as key stations. In Philadelphia, fewer than 20 percent. San Francisco cable cars and New Orleans street cars are entirely exempt from accessibility requirements.

Those who support this amendment are acknowledging the vital need for handicapped accessibility and providing the most logical and cost-effective way to get there. If we impose unnecessary additional financial hardships on already pressed transit systems we will harm all riders, including the handicapped. Fewer dollars mean scheduling reductions and limitations on new capital expenditures to improve transportation services. Those attempting to block this proposal should reflect upon their true motivations.

□ 1040

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. LIPINSKI. I yield to the gentleman from Illinois.

The CHAIRMAN. The Chair would point out that the gentleman from Illinois [Mr. LIPINSKI] controls the time.

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, the cost of having a lift on every coach is going to be passed off to the ridership. We are talking about a lot of people in Chicago who live in the inner city but whose jobs are out in the suburbs and who have to take public transportation to get to work. The fare is already prohibitive. This will only add to their burden. So while we are perhaps nominally helping one group, we are disadvantaging another group.

I will ask the gentleman from Illinois [Mr. LIPINSKI] this question: This will cost upward of $160 million, will it not, to make all the coaches on the Metra system accessible?

Mr. LIPINSKI. Mr. Chairman, if the gentleman will yield, it will cost about $150 million.

Mr. HYDE. Yes. It just seems to me that common sense and logic ought to obtain in this situation. If a train is accessible, then that ought to be sufficient until money is available to make every coach accessible.

Mr. LIPINSKI. Mr. Chairman, I want to thank the gentleman from Illinois [Mr. HYDE] and the gentleman from Illinois [Mr. HASTERT] for their statements.

The CHAIRMAN. The Chair wishes to advise the gentleman from Illinois [Mr. LIPINSKI] that he has 2 minutes remaining.

Mr. LIPINSKI. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the distinguished gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr Chairman, I yield myself such time as I may consume.

I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. LIPINSKI]. There are three main reasons why I cannot support this weakening amendment.

First, the amendment represents a step backward for disabled Americans. When Congress passed the Rehabilitation Act 17 years ago, the law prohibited discrimination against disabled individuals by entities receiving Federal financial assistance. Under current regulations, commuter railroads that decide to purchase new rail passenger cars must buy accessible cars. The provision the Committee on Energy and Commerce adopted, which is in the bill before us, specifically requires commuter railroads to buy new cars that are accessible, in addition to complying with the one car per train rule. The amendment being offered thus represents an unequivocal retreat from years of established statutory and regulatory law governing commuter railroads.

Second, this amendment is not supported by the administration or the disability community.

The Energy and Commerce Committee spent many hours with representatives of the disabled community in considering the proper scope of provisions governing accessibility for Amtrak and commuter railroads. These lengthy and intensive negotiations and discussions produced a set of mutually agreeable provisions which will improve accessibility for the disabled on Amtrak and commuter railroads, taking into consideration the financial and operating realities of these transportation providers. We should not undo the agreement which our committee reached with the disability community and the administration after extensive and sensitive deliberation.

Third, this amendment sets accessibility requirements for commuter railroads at the lowest common denominator. Most commuter railroads and Amtrak already have made good faith efforts to comply with existing laws and regulations governing accessibility. If we adopt this amendment today, we will be lowering standards which all commuter railroads must comply with in planning for the future.

The amendment thus runs contrary to the key tenets of this landmark legislation—that we should strive to plan, design, and engineer accessibility into our basic services and operations and that we should eliminate the counterproductive mindset that accessibility means special, inordinate, or superfluous changes to accommodate the basic needs of disabled Americans. The amendment also encourages segregation instead of integration. Under the amendment, all disabled riders will be forced to ride in one designated car, thereby creating a cattle car environment. This is directly at odds with the primary goal of this legislation.

I also have reservations about the meaning of the amendment. What does "actual continuing demand" mean? Who will make that determination? What is the effective date of the amendment? How does the amendment apply to accessibility requirements other than for mobility impaired individuals? What does "additional services" mean?

In conclusion, Mr. Chairman, the bill before us sets clear, enforceable, and fair provisions for Amtrak and commuter railroads, which were negotiated by our committee, the disability community, and the administration.

Adoption of this amendment will only serve to muddy the waters and will undercut the purposes of the legislation. I strongly urge my colleagues to reject this unnecessary amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, if the gentleman from Ohio has any other speakers, I would suggest that he proceed because I would still like to reserve my time since I only have 2 minutes left, unless the gentleman from Illinois wishes to yield some time to me. I could use it because I have other statements I would like to make.

The CHAIRMAN. The Chair will point out that the gentleman from Ohio [Mr. THOMAS A. LUKEN] retains the right to close debate. However, he may yield time to the gentleman from Illinois at his request if he wishes, and the Chair awaits some clarification.

Mr. THOMAS A. LUKEN. Mr. Chairman, I am glad to yield 3 minutes to the gentlewoman from Illinois [Mrs. COLLINS].±

Mrs. COLLINS. Mr. Chairman, I thank the gentleman for yielding.

I rise in opposition to the amendment offered by the gentleman from Illinois. This amendment is contrary to a basic goal which runs throughout this landmark civil rights legislation: that goal is to fully integrate disabled Americans into all aspects of life in our country.

Allowing commuter railroads to provide only one accessible car per train will ensure that disabled passengers are segregated from their fellow citizens well into the next century. There was a time in this country when I was required to ride in the back of the bus. I could not accept that kind of discrimination then, and I will not accept it now for any American. Allowing a few disabled passengers to ride a train is not enough. What disabled Americans seek with this legislation is the dignity which can only come with the full recognition of their civil rights.

To be segregated is to be misunderstood, even feared. If we have learned any lessons in the last 30 years, it is that only by breaking down barriers between people can we dispel the negative attitudes and myths that are the main currency of oppression. Imagine, if you will, that you are an employer deciding whether to hire someone with a mobility impairment; you may have concerns about whether that person can get to work every day on time. However, if you sit next to someone in a wheelchair every day on the train, I doubt that the question would enter your mind.

The amendment states that commuter railroads would be required to add additional accessible cars in response to actual continuing demand. Does that mean that if disabled citizens aren't buying tickets to ride on inaccessible trains that demand doesn't exist? If you used a wheelchair, would you show up for a ride on a train that experience tells you can't accommodate your needs? Of course not. Demand for services by the disabled can only manifest itself when the supply already exists. Train cars have a useful life of about 50 years. If we do not require accessibility for all newly purchased cars, we will not have achieved the goals of this bill for commuter railroads in the year 2000.

The costs of the changes required by this bill as it currently stands are modest; about what it costs for an air conditioner. Amortized over 50 years, the cost is negligible. Federal law already mandates accessibility for commuter railroads. Let us move forward, not backward, and vote against this weakening amendment.

Mr. DELLUMS. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I would like to compliment my distinguished colleague for her eloquent statement. I thank her for her statement of dignity and integrity, and I associate myself with the gentlewoman's remarks.

I also compliment the gentleman from Ohio [Mr. THOMAS A. LUKEN] for his detailed explanation as to why the majority of this body ought to reject the amendment.

Mrs. COLLINS. Mr. Chairman, I thank the gentleman from California [Mr. DELLUMS].

Mr. HASTERT. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS. I am happy to yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Chairman, I certainly admire the gentlewoman in the well. I have worked with her on many occasions. But I would like to point out that in this situation we give access to every person on every train.

In the city of New York, for instance, less than 10 percent, only 8 percent of the stations, are so that people can get in and get on the trains. In Philadelphia, it is less than 20 percent of the people.

Mrs. COLLINS. Mr. Chairman, I reclaim my time. Let me say this: This amendment provides that only one car would be required in each group of cars that constitutes a train to be used for public service. That is unfair.

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. COLLINS] has expired.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 1 additional minute to the gentlewoman from Illinois [Mrs. COLLINS].

□ 1050

Mrs. COLLINS. I thank the gentleman for yielding more time. Mr. Chairman, to say that only one car could be used by the disabled is unfair; it is unjust. It is segregation. My colleagues may call it a money matter and give patterns in other cities. It still remains the same. It is unfair and unjust to disabled Americans who are seeking their full civil rights in this Nation.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. ANDERSON], the chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Chairman, I rise in strong opposition to the amendment.

The disabled should not be segregated together in one commuter rail car as if they were being forced to sit in the back of the bus. They should have the same right to sit in any car on a commuter train as anyone else, so every new car should be accessible to the disabled.

Having each car accessible will also provide more capacity for wheelchair users on the train, since each vehicle would have space for wheelchairs rather than just on one car. Also foldup seats are commonly used on accessible vehicles to eliminate any loss of seating capacity involved in making cars accessible.

Different services, such as food or beverage services, are sometimes offered on different commuter rail cars and the car offering these services might not be the one which is accessible. Since wheelchair travel would not be possible between the cars, the disabled would be denied these services. Clearly, we should not pass a civil rights bill which provides a higher quality of service to one group of individuals and then deny these same services to individuals with disabilities.

For all of these reasons, I strongly urge a "no" vote on the amendment.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 2 minutes to the gentlewomen from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in opposition to this amendment.

My colleague from Illinois is attempting to offer an amendment that he believes will help Chicago, and most of the debate about this amendment has centered around the question of whether this amendment is truly in the interests of the disabled or not. Many believe it is not.

However, I would like to introduce another important concern into this debate. The approach that is being pursued here—with one car on each train accessible, and the accessible car arriving on the same place on the platform each time—will prove extremely difficult to manage for many other commuter railroads around the country.

The commuter railroad in my district, Metro-North, is adamantly opposed to this amendment because of the severe difficulties it would pose to the management of their system. The cars on Metro-North trains are reordered frequently during each day in order to meet ridership demands. If Metro-North is forced to keep one accessible car in a specific place on each train, it will increase costs and interfere with their schedules. In fact, they consider this requirement to be more burdensome than the requirements that are already in the bill.

I think we ought to oppose this amendment, not only because of the serious concerns it raises about segregating the disabled in a separate car on each train, but also because this amendment would wreak havoc on other commuter railroads in this Nation, who have indicated to me in strong terms that they prefer the language that we have already wisely written into this bill.

I would urge my colleague to oppose this amendment and preserve the text of the bill, which is not only in the interests of the disabled, but in the interests of other commuter railroads around the Nation.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I am afraid I must oppose very vigorously the amendment offered by the fine gentleman from Illinois.

Why should we grant a special exemption from the provisions of the ADA for commuter rail vehicles? These are public transit vehicles just like buses and metrorail type vehicles. They receive urban mass transportation funds just like buses and metrorail vehicles. Of course, then why should we grant this exemption? The obvious answer is that we should not.

I am also told that when leaving the train storage yards, it will be difficult to guarantee that one car per train is accessible. By passing this amendment, you will be ensuring that transit authorities continue to have this problem of matching an accessible commuter rail car to each train in perpetuity.

In the final analysis that means we would be perpetuating, perhaps forever, the denial of commuter rail service to individuals with disabilities.

It makes much more sense to buy new, accessible commuter rail vehicles and to make existing commuter rail cars accessible when they are remanufactured, as the ADA currently requires. The bill is very clear, all new cars and all new stations are made accessible and to that extent, the bill is consistent. In this way, over a period of time, individuals with disabilities will have access to all commuter rail cars, just like everyone else. They will not be segregated in a single, accessible rail car—a practice bearing an uncomfortable and unacceptable similarity to the days when blacks were forced to ride in the back of the bus.

That is why I urge my colleagues to defeat the amendment.

Mr. LIPINSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BARTLETT] so that the gentleman may ask a question or two.

Mr. BARTLETT. Mr. Chairman, I appreciate the gentleman from Illinois [Mr. LIPINSKI] yielding to me for two questions, and let me say at the outset that I have some sympathy for this amendment, but I have some concerns about the specific draft. So, I have two questions.

First, should this bill be referred to a conference, would the gentleman from Illinois [Mr. LIPINSKI] work with the conferees to insure, first, that a mechanism is reinstated in the amendment, as it was in the Committee on Public Works and Transportation, a mechanism to enforce the required accessibility on demand standard?

Mr. Chairman, the amendment of the gentleman from Illinois [Mr. LIPINSKI] has a requirement that, if there is a demand, then additional cars be purchased.

Mr. LIPINSKI. Very definitely I will do that. In fact, we have report language, if this amendment were to pass, covering that.

Mr. BARTLETT. Mr. Chairman, my second question is: Again, should we go to conference, the comments of the gentleman from Illinois [Mr. LIPINSKI] on the floor indicated that he wished his amendment to require more than the one or two seats per accessible car, but the number of seats on the car per train that is accessible be demand responsive, so it would be more than one or two seats. Would the gentleman also work with us on both of those amendments, not for report language out of the conference, but for statutory language in the bill as passed out of conference?

Mr. LIPINSKI. I would be more than happy to do that. Absolutely.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman from Illinois [Mr. LIPINSKI] for his clarification, and, based on that, I do think the amendment does need to be clarified in statute where we tighten it up somewhat, but I would be prepared to support it as it moves off the floor here.

Mr. LIPINSKI. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I just want to say, "Thank you, sir, for yielding."

My colleagues, I am offended, this saying this is a racial piece of legislation, that it is civil rights legislation. If my colleagues put a person in any designated spot in any car, they are setting him in a designated spot.

Mr. Chairman, I say to the gentleman from California that talks about this being an exception, "What about the exception in California and the cable car exception?"

The gentlewoman from New York [Mrs. LOWEY] talks about exemptions. What about 300 stations in her home State of New York that are being exempted out of this?

Mr. Chairman, this is access to everybody, and I think that is the whole underlying tone of this amendment.

□ 1100

Mr. LIPINSKI. In conclusion, Mr. Chairman, I simply want to say that if you really want to help out the disabled, if you really want to help out the transportation systems in this Nation, you will support this amendment. If you just read our amendment, our language, the Energy and Commerce Committee amendment and its language, you will see that for transportation and the disabled, we are far superior.

Mr. THOMAS A. LUKEN. Mr. Chairman, I yield myself 30 seconds to comment on the previous colloquy, which admits the point that I made in the opening statement that the actual continuing demand is a vague term which has not been defined. It has been admitted now by the other side that there is a defect which would have to be cured at a later time, and there are no assurances that it would be cured. That is an additional reason why this amendment should be rejected.

Mr. Chairman, I yield the balance of the time to the distinguished gentleman from Maryland [Mr. HOYER], the author of the principal legislation before us, to close debate.

Mr. HOYER. Mr. Chairman, I thank Chairman LUKEN for yielding me this time. I rise in strong opposition to the Lipinski amendment.

The Americans With Disabilities Act is premised on the notion that this society will no longer buy new or build new vehicles and buildings that are not accessible. Nobody, not New York, not Los Angeles, not New Jersey, nobody will buy cars which are not accessible. There are no exemptions for new cars. This amendment seeks to do that.

Furthermore, this amendment seeks to retreat from today's law. The regulations now pending, issued by the administration, require commuter rails to buy accessible new cars. Therefore, this not only is not consistent with the ADA protections that are being extended, it is not consistent with existing law and the administration's pending regulations.

Now, let me say that the administration does not support the Lipinski-Hastert amendment. They believe it is not consistent with their agreement of support for the Americans With Disabilities Act.

So point No. 1, the administration is opposed to this amendment.

Second, this amendment is opposed by the mayor of Chicago, with whom I talked last night.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, let us get that straight.

First of all, the mayor of the city of Chicago has nothing to do with commuter rail, No. 1.

No. 2, the mayor of the city of Chicago issued a letter stating he supports this bill. I am a cosponsor of this bill. I have some problems with it. He may or may not have some problems with this amendment.

Mr. HOYER. Well, I talked to him last night.

Mr. LIPINSKI. I spoke to him last night, too.

Mr. HOYER. He is talking to all of us.

Mr. LIPINSKI. He is a very expressive man.

Mr. HOYER. The President is opposed to the amendment. Mayor Daley is opposed to the amendment because he believes it is inconsistent with the protections extended by this bill.

Let me say further that the committee who has responsibility over this bill, and the chairman have all spoken on this issue.

New cars ought to be accessible. All new cars ought to be accessible. We ought to build in our society the psychology of accessibility to all people in our society.

The premise of the cost projections by the proponents of the Lipinski-Hastert amendment, I suggest, are incorrect in their assessment. First of all, they premise that two lifts on every car is essential. The bill does not say that. You can make cars accessible by changes at stations, even if they are not at grade. We have pictures depicting that. I do not have time to go through that show, but the fact of the matter is the premise of the cost projections is incorrect.

Second, it projects that all new cars have to have rest rooms. That is not required by this legislation. As a matter of fact, it specifically says it is not required in the report language.

The gentleman speaks of key stations. In fact, all key stations will need to be accessible. We do give time for that. We give up to 20 years for that, as the gentleman knows.

Why? Because we are sensitive to the cost involved and we want to give people the opportunity; but the bottom line of this legislation is that we are opening America to the disabled, not except here or except there or only if it is convenient here, we are opening America to the disabled.

I would urge the House to reject this amendment, reject it because it is a retreat from today's law, a law passed in 1973, the Rehabilitation Act that said we are going to make America accessible, and anybody who gets Federal funds needs to comply.

What is the problem here? The problem is, unfortunately, that one system uniquely in America has not made significant steps toward accessibility.

Now, I am sorry about that and I understand that may cause some problems, but this law has been on the books since 1973. One could have contemplated that.

Now, this system, particularly the Chicago system, as I understand it from the cost projections submitted to me by the sponsors of this bill, projects substantial acquisition of cars in the very near term.

Why? Because they have not purchased cars to date, because they were concerned about purchasing accessible cars.

In fact, I understand, I may be corrected, that there are three suits pending against that system for violation of State law, notwithstanding the Americans With Disabilities Act.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIPINSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 290, not voting 32, as follows:

[Roll No. 119]

AYES—110

| | | |
|---|---|---|
| Archer | Hancock | Myers |
| Armey | Hansen | Nielson |
| Aspin | Hastert | Olin |
| Ballenger | Hatcher | Packard |
| Bartlett | Hefley | Parker |
| Barton | Herger | Paxon |
| Bateman | Hiler | Poshard |
| Bentley | Hopkins | Pursell |
| Borski | Hubbard | Quillen |
| Brown (CO) | Huckaby | Rhodes |
| Bruce | Hunter | Ritter |
| Bunning | Hyde | Roberts |
| Burton | Inhofe | Rogers |
| Clinger | Ireland | Rostenkowski |
| Coble | Jones (NC) | Russo |
| Combest | Kyl | Sangmeister |
| Condit | Lagomarsino | Sarpalius |
| Courter | Lancaster | Schaefer |
| Cox | Leath (TX) | Schulze |
| Crane | Lewis (CA) | Shaw |
| Dannemeyer | Lewis (FL) | Shumway |
| Davis | Lightfoot | Shuster |
| DeLay | Lipinski | Skeen |
| Dickinson | Livingston | Skelton |
| Douglas | Lowery (CA) | Slaughter (VA) |
| Duncan | Marlenee | Smith (NE) |
| Edwards (OK) | Martin (IL) | Smith (TX) |
| Fawell | McCandless | Smith, Denny (OR) |
| Fields | McCollum | Stangeland |
| Frenzel | McCrery | Stenholm |
| Gallegly | McEwen | Stump |
| Gallo | McMillan (NC) | Tallon |
| Goss | Meyers | Thomas (WY) |
| Gradison | Miller (WA) | Upton |
| Grandy | Montgomery | Vucanovich |
| Grant | Moorhead | Young (FL) |
| Hall (TX) | Morrison (WA) | |

NOES—290

| | | |
|---|---|---|
| Ackerman | Dellums | Henry |
| Anderson | Derrick | Hertel |
| Andrews | DeWine | Hoagland |
| Annunzio | Dicks | Hochbrueckner |
| Applegate | Dingell | Horton |
| Atkins | Dixon | Houghton |
| AuCoin | Donnelly | Hoyer |
| Barnard | Dorgan (ND) | Hughes |
| Bates | Downey | Jacobs |
| Bellenson | Dreier | James |
| Bennett | Dwyer | Jenkins |
| Bereuter | Dymally | Johnson (CT) |
| Berman | Dyson | Johnson (SD) |
| Bevill | Early | Johnston |
| Bilbray | Eckart | Jones (GA) |
| Bilirakis | Edwards (CA) | Jontz |
| Bliley | Emerson | Kanjorski |
| Boehlert | Engel | Kaptur |
| Boggs | English | Kasich |
| Bonior | Erdreich | Kastenmeier |
| Bosco | Evans | Kennedy |
| Boucher | Fascell | Kennelly |
| Boxer | Fazio | Kildee |
| Brennan | Feighan | Kleczka |
| Brooks | Fish | Kolbe |
| Broomfield | Flake | Kolter |
| Browder | Foglietta | Kostmayer |
| Brown (CA) | Ford (MI) | LaFalce |
| Bryant | Frost | Laughlin |
| Buechner | Gaydos | Leach (IA) |
| Bustamante | Gejdenson | Lehman (CA) |
| Campbell (CA) | Gekas | Lehman (FL) |
| Campbell (CO) | Gephardt | Lent |
| Cardin | Geren | Levin (MI) |
| Carper | Gibbons | Levine (CA) |
| Carr | Gillmor | Lewis (GA) |
| Chandler | Gilman | Lloyd |
| Chapman | Gingrich | Long |
| Clay | Glickman | Lowey (NY) |
| Clement | Gonzalez | Luken, Thomas |
| Coleman (MO) | Goodling | Machtley |
| Coleman (TX) | Gordon | Madigan |
| Collins | Gray | Markey |
| Conte | Green | Martin (NY) |
| Conyers | Guarini | Martinez |
| Cooper | Gunderson | Matsui |
| Costello | Hall (OH) | Mavroules |
| Coughlin | Hamilton | Mazzoli |
| Coyne | Harris | McCloskey |
| Crockett | Hawkins | McCurdy |
| Darden | Hayes (IL) | McDade |
| de la Garza | Hayes (LA) | McDermott |
| DeFazio | Hefner | McGrath |

| | | |
|---|---|---|
| McHugh | Ridge | Staggers |
| McMillen (MD) | Rinaldo | Stallings |
| McNulty | Robinson | Stark |
| Mfume | Roe | Stearns |
| Miller (OH) | Rohrabacher | Stokes |
| Mineta | Ros-Lehtinen | Studds |
| Moakley | Rose | Sundquist |
| Molinari | Roth | Swift |
| Mollohan | Roukema | Synar |
| Morella | Rowland (CT) | Tanner |
| Morrison (CT) | Rowland (GA) | Tauke |
| Murphy | Roybal | Tauzin |
| Murtha | Sabo | Taylor |
| Nagle | Saiki | Thomas (GA) |
| Natcher | Savage | Torres |
| Neal (MA) | Sawyer | Torricelli |
| Neal (NC) | Saxton | Towns |
| Nowak | Scheuer | Traficant |
| Oakar | Schiff | Traxler |
| Obey | Schneider | Udall |
| Ortiz | Schroeder | Unsoeld |
| Owens (NY) | Schuette | Valentine |
| Owens (UT) | Schumer | Vander Jagt |
| Oxley | Sensenbrenner | Vento |
| Pallone | Serrano | Visclosky |
| Panetta | Sharp | Volkmer |
| Parris | Shays | Walgren |
| Pashayan | Sikorski | Walker |
| Patterson | Sisisky | Walsh |
| Payne (NJ) | Skaggs | Washington |
| Payne (VA) | Slattery | Waxman |
| Pease | Slaughter (NY) | Weber |
| Pelosi | Smith (FL) | Weiss |
| Penny | Smith (IA) | Whittaker |
| Perkins | Smith (NJ) | Whitten |
| Petri | Smith (VT) | Williams |
| Pickett | Smith, Robert (NH) | Wise |
| Pickle | Smith, Robert (OR) | Wolf |
| Porter | Snowe | Wolpe |
| Price | Solarz | Wyden |
| Rangel | Solomon | Wylie |
| Ravenel | Spence | Yates |
| Ray | Spratt | Yatron |
| Regula | | |
| Richardson | | |

NOT VOTING—32

| | | |
|---|---|---|
| Alexander | Ford (TN) | Mrazek |
| Anthony | Frank | Nelson |
| Baker | Hammerschmidt | Oberstar |
| Byron | Holloway | Rahall |
| Callahan | Hutto | Thomas (CA) |
| Clarke | Lantos | Watkins |
| Craig | Lukens, Donald | Weldon |
| Dornan (CA) | Manton | Wheat |
| Durbin | Michel | Wilson |
| Espy | Miller (CA) | Young (AK) |
| Flippo | Moody | |

□ 1131

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Mr. Thomas of California for, with Mr. Anthony against.

Messrs. VOLKMER, FLAKE, BROOMFIELD, and CAMPBELL of California, Mrs. ROUKEMA, and Mr. PETRI changed their vote from "aye" to "no."

Mrs. BENTLEY, Mr. McMILLAN of North Carolina, and Mr. COBLE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 101-488.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHUSTER: At the end of section 222, insert the following new subsection:

(d) WAIVER.—

(1) GENERAL RULE.—The Secretary may waive application of this section on an annual basis with respect to any public entity which operates a fixed route system in an urbanized area (as defined under section 12 of the Urban Mass Transportation Act of 1964) with a population of 200,000 or less or in an area other than an urbanized area if the following requirements are met:

(A) The public entity submits in writing, and the Secretary approves, a plan for meeting the transportation needs of individuals with disabilities in the service area of such system.

(B) The public entity demonstrates to the satisfaction of the Secretary that under the plan the transportation needs of such individuals will be met at least as effectively as such needs would be met by the fixed route system if all the vehicles on such system were readily accessible to and usable by such individuals.

(C) The public entity demonstrates to the satisfaction of the Secretary that it has established an advisory committee which is representative of individuals with disabilities in the service area.

(D) The public entity demonstrates to the satisfaction of the Secretary that it has held a public hearing, provided an opportunity for comment, and consulted with the advisory committee in preparing the plan.

(E) The public entity demonstrates to the satisfaction of the Secretary that there is no substantial opposition to such plan by individuals with disabilities in the service area of the fixed route system.

(F) Under the plan, the public entity will provide transportation to all individuals with disabilities in the service area of the fixed route system who cannot otherwise use the fixed route system.

(2) SUSPENSION OR REVOCATION.—The Secretary shall suspend or revoke a waiver granted to a public entity under this subsection if the Secretary determines that such entity is not providing transportation for individuals with disabilities in accordance with the plan of such entity approved by the Secretary under this subsection.

(3) DISCRIMINATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity to fail to provide transportation in accordance with its plan as approved by the Secretary under this subsection or to fail in any other manner to comply with such plan.

(4) DESCRIPTION OF TRANSPORTATION.—A plan to provide alternative transportation to individuals with disabilities under this subsection may provide for the provision of such transportation through either paratransit and other special transportation services or through a combination of such services and the use on the fixed route system of vehicles which are readily accessible to and usable by individuals with disabilities.

(5) RELATIONSHIP TO SECTION 223.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), section 223 shall apply with respect to any paratransit and special transportation services provided under a plan approved by the Secretary under this subsection.

(B) EXCEPTIONS.—Subsections (c)(1) and (e) of section 223 shall not apply with respect to any paratransit and special transportation services provided under a plan approved by the Secretary under this subsection. In lieu of subsection (c)(1)(A) of section 223, paragraph (1)(F) of this subsection shall apply with respect to such services.

(6) DUPLICATION OF EFFORT.—The Secretary shall take such action as may be necessary to minimize duplication in plans submitted under this section and section 223.

(7) ISSUANCE OF REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this subsection. Such regulations shall take effect at the same time as the regulations issued under section 223 take effect.

(8) TEMPORARY EXEMPTION.—Until the effective date of regulations issued to carry out this subsection, this section does not apply to any public entity which operates a fixed route system in an area described in paragraph (1).

In section 229(a), strike "section 223" and insert "sections 222(d) and 223".

In section 229(b), strike "section 223" and insert "sections 222(d) and 223".

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, ladies and gentleman, I would hope that you would focus on the substance of this amendment rather than on the emotional rhetoric against it. I would also emphasize that I am offering this amendment not only on behalf of myself but also on behalf of Congressman PEASE of Ohio, Congressman PETRI of Wisconsin.

First and foremost, this amendment provides a very restricted annual waiver on mandating 100 percent lift-equipped buses for those small communities and rural areas, small areas of 200,000 or less as defined by the Urban Mass Transit Administration, or rural areas.

It is important, Mr. Chairman, to note that there are several conditions which must be met before this waiver can be granted to a local transit authority.

This limited local option waiver can be granted only if certain conditions are met: First, the local transit authority must submit in writing a plan for meeting the transportation needs of the disabled in its community. Second, they must demonstrate that the needs of the disabled will be met at least as effectively as a 100 percent lift-equipped system.

Third, they must establish an advisory committee of local disabled representatives and must hold public meetings and consult with the advisory committee and, perhaps most importantly, get this, that there can be absolutely no waiver whatsoever unless the local disabled community has not substantial opposition to the plan.

Now, this is a fundamental difference between this amendment and the previous amendment which was offered. In this amendment, the local disabled community have a veto over such a waiver.

In effect, this shifts the power and the authority and responsibility away from the Washington disabled lobby to the local disabled community. For that reason alone, this amendment should receive very substantial support, in my judgment.

The Secretary must suspend or revoke the waiver if the entity is not providing service to the local disabled that meets all the requirements of the plan.

Now, Mr. Chairman, it is important to realize that when we talk about a lift mandate, mandating 100 percent-equipped lifts, that for thousands of disabled a 100 percent lift-equipped mandate on buses is zero accessibility for thousands of Americans who cannot get to and from the bus stop but rather who must have accessibility through what is called paratransit from their homes.

It is important to recognize, Mr. Chairman, that 100 percent lift accessibility is zero accessibility for thousands of the disabled who cannot get to the bus stop but who must have paratransit, minibus service to and from their homes.

It is also important to recognize that this bill does not provide one cent, one penny of money to support the very substantial requirement costs levied upon our transit authorities across the United States.

The American Public Transit Association, which represents our local transit authorities, says that the cost of this bill, the rail and fixed-route bus costs, range from $7.9 to $11.6 billion over the next two decades. The paratransit cost is $13 billion. So we are looking at a price tag on the transportation provisions alone of this bill of $20 billion over the next two decades, and this bill does not provide one penny to address that. What this bill does, unless it is corrected by this amendment, it mandates that every bus must have a lift.

□ 1140

The bill also says that we must supply paratransit, but there is a loophole. This is extremely important. There is a loophole that says we do not need to have paratransit if it there is "undue financial burden." Think about it for a minute. If we must, without exception, put lifts on every bus, if we do not get one cent more money to do this, and if we have a loophole that says we do not have to use paratransit if it is an undue financial burden, then obviously it is the paratransit that is going to suffer.

It is the people who need to get from their home to where they want to go, the people who cannot get to the bus stop, are the people who are going to suffer. There are thousands, hundreds of thousands of such disabled across America.

So what we should do is have at least a little confidence in our local communities, a little confidence in the local transit authority, a little confidence in the disabled community back home in our communities, and let them make a decision as to whether this must be 100 percent mandated lifts, or whether there can be some exceptions to this, so long as we provide accessibility for the disabled in a manner in which they agree is acceptable.

It is very important also to note that there are those who say this is a civil rights issue, and there can be no exceptions. Well, ladies and gentleman, there are many, many exceptions in this bill. The problem is the big cities have been taken care of. They have been given exceptions. But the small cities and rural America has not been given any exceptions. Consider this: In New York City, under this bill, only 38 of the 465 subway stations need to be equipped for accessibility. So 427 subway stations in New York City will not be equipped for the disabled. These are exceptions which have been given to the big city. In Philadelphia, only 31 of the 172 commuter rail stations need be equipped to serve the disabled. So 140 of those stations cannot serve the disabled. This is an exception. We have been given exceptions to the big cities. In San Francisco the cable cars do not need to provide accessibility. In New Orleans, the street cars do not need to provide accessibility. There are many, many exceptions to this bill. The big cities have been taken care of with their exceptions, but small community America, rural America, has been given absolutely no latitude at all.

We have said by this bill that we do not care what the local disabled community thinks, we are going to tell Americans, from Washington, DC, here, what Americans must do. We are going to mandate exactly how communities must proceed. I think it is very instructive, Mr. Chairman, to note that my dear friends and colleagues who put out a letter yesterday opposing this amendment, the two gentlemen from California, Mr. MINETA and Mr. ANDERSON, in their letter have noted that many cities have already stated that if this amendment prevails they will seek to take advantage of it. Think about that for a minute. What a terrible thing—cities across America have said that they think this is a good idea. What an awful thing for Washington, DC, to say, "No, local cities, no, rural America, no, local disabled community, you cannot decide what is best for you. We here in Washington, DC, know what is best for you."

Under the guise of calling it a civil rights bill, under the guise of saying there can be no exceptions, we have given numerous exceptions to the big cities, but no exception whatsoever to small city America and to rural America. Why do we not have at least a little confidence in our local areas? Why do we not recognize that very clearly this modest amendment gives a veto to the local disabled community? That is the heart of it. That is the guts of it. That is why the modest amendment should be supported.

Lastly, my friends in their letter say when they refer to those cities that are having 100 percent lift accessibility, and that is fine if a city wants to do it, let a city have 100 percent lift accessibility. They say, referring to those cities, if these cities can operate successful lift equipment systems, why can others cities not do so? Yes, sir, that is the bottom line, Members, let Washington, DC, decide what is best for your community. Let Members decide here on the banks of the Potomac what is good for Wisconsin or Pennsylvania or Utah. Let Members tell communities, let Members have no confidence in our local communities, let Members have no confidence in the local disabled community. Let Members rely on Big Brother, because Big Brother knows all.

This is a modest amendment. I urge Members to support it. Support it so that the local communities can have some say in this legislation, and most importantly, so that a veto over any waiver will be held in the hands of the local disabled community and not controlled by the Washington lobby here.

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the amendment.

I strongly believe that every public transit bus, most of which are paid for with 80 percent Federal funds, should have a wheelchair lift so the disabled can ride these buses just like their friends, fellow employees, and families. My State, California, has required lifts on every bus in cities of all sizes for over a decade. Long Beach Transit which is in my congressional district has a very successful wheelchair lift program. Johnstown, PA, Champaign-Urbana, IL, and Oshkosh, WI, are all cities of less than 60,000 yet each has a lift-equipped bus fleet. If these cities can operate successful lift-equipped systems, why can't other cities?

More importantly, how can anyone believe that the disabled have less of a right to transportation if they live in a city of 200,000 or fewer than those who live in larger cities. How can we let the latest census dictate the rights of individuals with disabilities? Why

should the disabled in these cities have to call in advance to receive paratransit service—often days in advance—just to do simple things like go to a restaurant or go to see a movie? Remember, separate but equal is inherently unequal.

Many transit systems in cities across America are already buying 100 percent of their buses wheelchair lift-equipped because this approach is more cost effective than providing the same, high level of needed passenger trips on paratransit vehicles.

When we are presented with an amendment which is not cost effective, and which establishes a "separate but equal" doctrine under the law, we should—and must—reject it.

Finally, Mr. Chairman, how can we pass an amendment which takes away a civil right which the Senate, the White House, and even the Department of Transportation in its recent notice of proposed rulemaking are willing to extend to individuals with disabilities. The answer is—we cannot.

I strongly urge a "no" vote on the amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, if my good friend argues that there should be no exceptions, then why in New York City are there 427 stations which the disabled cannot get to? And why in Philadelphia, 140? Why did the big cities have these exceptions where the disabled, according to my friend, are having their civil rights abridged because they cannot get to these stations? Why have we made exceptions to the big cities and not for rural and small town America?

Mr. ANDERSON. Mr. Chairman, in my State the big cities, every one of them, are doing it and they seem pleased. I know in my own city of Long Beach they are not only doing it but they are proud of doing it.

Mr. SHUSTER. If the gentleman will continue to yield, what is good for Long Beach is good for America, and we should have stuffed down our throats what the gentleman's community has decided to do for their community?

Mr. ANDERSON. Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to my friend, the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise in support of the Shuster amendment. I do so, and let me emphasize, as a supporter of the Americans With Disabilities Act. As a Member who has opposed all previous amendments to the bill, and as a Member who will vote yes on final passage.

□ 1150

But I support the Shuster amendment enthusiastically. It will add another measure of practicality and common sense to the bill.

Mr. Chairman, Congress faces a particular challenge when considering civil rights bills like ADA. That challenge is to strike a balance between protecting a civil right and maintaining a standard of practicality in the process. The great temptation is to throw all notions of workability to the wind in the belief that with civil rights there can be no compromise, that a person either has a civil right or a person does not. When that temptation is yielded to, the result is legislation noble in concept but unreasonable or burdensome in practice.

To their credit, the committees considering ADA seldom yielded to the temptation. By and large, ADA is a reasonable bill. It is a carefully balanced bill which attacks discrimination against the disabled without unrealistic, impractical, or burdensome requirements.

There is one area, I believe, where improvement can yet be made, and it is highlighted by the Shuster amendment.

Consider, Mr. Chairman, that transit systems in cities under 200,000 are marginal operations. They are struggling to make ends meet. They desperately need new equipment and are chronically short of money. It does not make sense to require them to spend extra money for wheelchair equipped buses if they can provide paratransit services which will fully meet the needs of the disabled. We should keep in mind that wheelchair equipped buses cost more money, and that the Congress has been unable to provide additional funds for transit system capital needs. That has been true over the last 10 years; it is true this year.

Fixed resources and more expensive buses mean few buses. Yet transit systems need more, not fewer, buses.

As others have said in this debate, referring to my good friend and colleague, the gentleman from Pennsylvania [Mr. SHUSTER], the handicapped in each community are fully protected by the Shuster amendment. No waiver to the accessibility requirement can be made if there is any substantial opposition to the plan by persons with disabilities in the area to be served.

That being the case, what purpose can be served by forcing smaller communities to buy more expensive buses out of fixed or even declining capital budgets?

Mr. Chairman, I realize that ADA supporters are urging all-out opposition to all allegedly weakening amendments, but no one requires that we check our common sense at the door when we come into the House Chamber. The Shuster amendment passes the test of common sense, and I urge its adoption.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank my friend for yielding this time to me.

Mr. Chairman, let me say to my colleagues that this amendment is directly contrary to the goals and purposes of the Americans With Disabilities Act. The act is designed to open up mainline transportation systems to people with disabilities. It is designed to make the America of the future accessible to all our citizens.

Mr. Chairman, to make this a reality requires mainstreaming of American citizens into mainline transportation systems everywhere.

Mr. Chairman, one of the great goals of this legislation is employment opportunities. Jobs will open up, but transportation is essential to the fulfillment of this dream and hope. But the proposed amendment does not address the issue of increased demand for transportation.

As disabled people become mainstreamed and employed, no transportation system can effectively and efficiently accommodate the large numbers of persons who are needed without accessible fixed route systems.

Finally, Mr. Chairman, the alternative is that this amendment would allow a huge number of communities to avoid the goals of integration of the ADA and to continue the segregation of their own residents through the use of inadequate and demeaning handicapped transit services.

Mr. Chairman, I urge a "no" vote on the amendment.

Mr. ANDERSON. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I regret to say I must strongly oppose the amendment offered by my good friend and distinguished colleague from Pennsylvania.

How can we sit here today and tell that pupil who is in a wheelchair and has attended elementary and secondary school with his or her friends for 10 years that mainstreaming doesn't include the right to ride on a public transit bus? How can we tell a disabled individual gladdened by the recent notice of proposed rulemaking issued by DOT, which will allow that individual to use a public transit bus for the first time, that this Congress is withdrawing that promise of access?

The answer is—we cannot, and that is the ADA requires every new fixed route public transit bus to be accessible to the disabled.

A civil right to equal transportation service does not diminish according to a city's population in the latest census. In fact, this latter aspect of the amendment could result in some par-

ticularly absurd situations. A disabled individual living in a community of 199,000 population would be denied equal transportation services for an entire decade—and for 20 years if more than 1,000 residents failed to move into the city in that first decade.

Where is the logic, much less the fairness, in that? How can we let the census control someone's civil rights?

No, to pass this amendment would be taking a step backward for this country—a country in which half of the buses bought annually are already accessible to people with disabilities who use wheelchairs.

On the other hand, the defeat of this amendment will help us reach the goal of 100 percent accessibility in all cities across America in a cost-effective way, at the same time we advance achievement of the civil right of equal transportation services.

Remember, no retrofitting of buses is required under the ADA. Unfortunately, this means that the disabled will continue to wait, probably for at least another decade, for 100 percent accessibility. But at least, by defeating this amendment today, we will eventually reach full accessibility.

The amendment also includes an endorsement of local option for meeting the transportation needs of individuals with disabilities.

Mr. Chairman, we have had variations of local option with regard to accessibility for people with disabilities in effect in cities across America for many years.

So, I raise a very basic question—if local option works, then why are we still debating the issue of accessibility for the disabled today?

I have seen "Dear Colleague" letters dating back to 1980 regarding this issue and here we are today—10 years later—still debating.

Why has a sizable majority of the disability community said that their needs are not being met by paratransit programs established under the policy of local option?

The answer is very clear to me—local option simply does not work as a national policy.

On the other hand, this ADA bill has the support of virtually every national organization which represents people with disabilities.

Can so many be so wrong? The answer is no; because it is the policy of local option which is wrong, and not the millions of Americans with disabilities who simply want to use public transit service.

I strongly urge a "no" vote on this amendment.

□ 1200

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise in support of the amendment proposed by my colleague from Pennsylvania, [Mr. SHUSTER]. In my opinion, that amendment further increases the transportation options available to disabled people.

The ADA bill before us seeks to improve access to transportation for the disabled. The Shuster amendment takes nothing away from the requirements already in the bill. It simply provides that if the local disabled community in any smaller city, without significant opposition within its ranks, believes that an alternative service would serve its needs better, and the local transit agency is willing to provide that service, then they can have it. This is an attempt to empower local disabled residents rather than dictating to them from Washington what they should want. If they want what the bill requires in its current form, they can have it. But, if they want something that they think is better, the amendment allows them to have that.

I repeat, this amendment takes nothing away. If the local disabled citizens want what is required in the bill—lifts on all buses—they can have that. If they prefer something else, however, we should not preclude that option. If these groups inside the beltway who claim to speak for all disabled people in the country are right about what disabled people really want then this amendment does nothing to prevent the installation of lifts on all buses nationwide. But if the disabled people in some cities want something else, this amendment allows them to have it. Clearly, for disabled people this is an improvement in the bill.

In my home town of Fond du Lac, population 35,000, the public transit authority currently operates an extensive paratransit service well beyond the operating hours for its main-line bus service. To ensure that its needs would be adequately met, the local disabled community was actively involved in structuring this successful plan. If Fond du Lac and hundreds of other small cities are forced to incur the additional expense of equipping and maintaining lifts on all of their buses, resources will necessarily be diverted from alternatives which in some cases are preferred by local disabled residents. In Fond du Lac, that means that paratransit will be cut back to only that which is required by the new ADA law: that is, service comparable to the existing main line bus service. In other words, for Fond du Lac and other cities the new ADA law without the Shuster amendment will result in a reduction rather than an increase in service for the disabled.

Some have suggested that unless a specific standard is imposed from Washington, access requirements will be circumvented at the State level. While I am aware of the limitations of the local option system we now seek to replace, I believe this amendment would ensure compliance with access requirements while still allowing for input from the very people this bill seeks to serve. We seek only to empower disabled residents so that they might have have some say in the type of system they prefer to meet their local transportation needs.

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Chairman, I call all of my colleagues' attention to this very responsible, commonsense amendment. This amendment says very simply to the small towns of America that, "If you can provide superior service for the disabled community that they choose, you should be permitted to do that."

Mr. Chairman, we have just heard some statements that somehow or another that, if we provide this special door-to-door treatment in the community, that that is a disservice to them.

Let me repeat what we just heard on the floor. it said that, if we gave door-to-door service to the disabled communities in small towns, that somehow or another we were doing them a disservice because we were not mainstreaming them. If we did not force them to sit in the wheelchair in the snow on the corner there and wait for the bus, then, if we went to the house and picked them up, that that somehow was unfair.

Mr. Chairman, I would submit that the Rockefellers, and the Carnegies and the Vanderbilts did not feel it was unfair to have door-to-door service, personalized service, and, when these local communities, as in Chillicothe, OH, have the facilities to pick them up and take them directly to where they are going, and the local disabled community prefers, that, who in the world are people in Washington to outlaw such a service?

Mr. Chairman and my colleagues, we just heard some statements from the larger cities. They do not have that problem because in New York they exempted themselves, Ninety-two percent of all the subway stops in New York were exempted. They do not have to provide this access service. In Philadelphia 80 percent were exempted. They do not have to provide that service, but what this law says, unless the amendment of the gentleman from Pennsylvania [Mr. SHUSTER] passes, that, "If you are a small town, if you are a rural community, and if you care about the disabled, and you provide this service for them, unless you mainstream them and make those changes to all the buses, or none at all, then your service will be disallowed," and that, my colleagues, is exactly the wrong step to take.

Mr. Chairman, if we care about the disabled and trust their judgment, let them decide. Let the local community make the decision, and this commonsense amendment, this amendment of the gentleman from Pennsylvania [Mr. SHUSTER], says that the local disabled community will make that decision.

Mr. Chairman, I encourage my colleagues to allow it to happen and support the amendment of the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. ANDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of this amendment because it will provide communities the flexibility they will need to meet one of the really essential functions of this bill—providing accessible transportation for the disabled—without unnecessarily eliminating existing services offered to the general public and without limiting access for the nondisabled population with mobility problems, particularly the elderly.

It is my feeling that the citizens in my rural district would be better served by having an alternative method of meeting their needs for mobility.

It should be obvious to all of my colleagues that smaller communities have fewer resources than urban mass transit systems and the effects of this bill on smaller communities would be severe.

It is important to realize that this amendment does not exempt a smaller community from meeting the needs of the disabled.

Rather any alternative service must meet the transportational needs of persons with disabilities as effectively as the fixed system would if all its vehicles were accessible.

This amendment requires any alternate plan to be approved by the Department of Transportation and there must be no significant opposition from the disabled community.

I think all of us are committed to providing access for disabled individuals. By supporting this amendment, you enable a community to more easily meet the accessibility needs of the disabled community that at the same time doesn't jeopardize services for the entire community.

Mr. SHUSTER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] is recognized for 4 minutes.

Mr. SHUSTER. Mr. Chairman, in conclusion I would emphasize that the facts of the matter are that our public transit service systems across America in this decade have suffered a 50 percent reduction in real money, real funding from the Federal Government—a 50 percent reduction, my colleagues, and this bill does not provide one penny, not 1 cent, to provide for the increased costs that the bill mandates. So, our public transit authorities across America which have already faced a crunch are going to be facing an even greater crunch.

Now I know the powerful Washington disabled lobby, without regard for what local community disabled leaders think apparently, say that they want to mandate a 100 percent lift without regard for the cost, without regard for where the money is going to come from, without regard for the fact that, if more money must be spent this way, mandated by Washington in this way, it will mean less money will be left to provide paratransit services to other disabled, as well as general, service.

We hear that we should mainline the disabled. Well, of course we have heard several times here today that in the big cities we provided exceptions. There is no mainlining for 90 percent of the people who get on the New York subway. They will not be accessible. There are exceptions for them, but for small town America, for rural America and for small city America the Washington disabled lobby has not seen fit to support flexibility so the local disabled community can make those decisions back home.

□ 1210

Indeed, the most important point about this amendment, Mr. Chairman, is that it has in it an ironclad veto whereby the local disabled lobbies, if they are opposed to this waiver, then the local transit authority cannot get the waiver. It is that simple. What more can we ask for? Let us support our localities, rather than letting Big Brother here in Washington make all these decisions.

Mr. ANDERSON. Mr. Chairman, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER], who has done such a tremendous job on this bill.

Mr. HOYER. Mr. Chairman, I thank the committee chairman for yielding me this time.

I rise in very strong opposition to the amendment offered by my good friend, the gentleman from Pennsylvania.

First of all, let me speak to a couple of the arguments that have been made. New York exemptions—all vehicles in New York must be accessible.

Mr. SHUSTER. Mr. Chairman, if the gentleman will yield, you just cannot get on them.

Mr. HOYER. All vehicles in Los Angeles must be accessible. All vehicles in every large city and every small town and every byway of America must be accessible, without exception.

Why? Because this Congress is saying the disabled are welcomed in, without exception, in New York or in a small town in the smallest place in America. That is what this bill is all about. This bill is about not segregating people who have felt segregated, about not discriminating against people who feel discriminated against. That is what this bill is about.

Section 504 which now exists, adopted in 1973, what does it say? It has been interpreted by the courts. It says that if you get Federal moneys, as all these systems do, you must be accessible. Forget about ADA. Forget about the Shuster amendment. It says you must be accessible.

This is a retreat from present law. This is saying that what we said in 1973 we did not mean. This is saying that although we say we want accessibility, we are going to hedge.

The requirements for public buses under section 504 were described in an en banc decision by the third circuit, and the premise that the local community could have a local option and paratransit only was specifically rejected by the court as inconsistent with the mandate of section 504.

Now in effect this is a retreat from that which we extended in 1973. Let us not back up on the disabled.

This is a bill to extend, not to restrict.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I will yield briefly to the gentleman from Ohio.

Mr. McEWEN. Mr. Chairman, I just want to clarify, the gentleman mentioned that all the subways in New York were going to be accessible.

Mr. HOYER. All new cars purchased by New York will be accessible.

Mr. McEWEN. The gentleman mentioned the cars. The fact is on the subway to get to the cars is exempted, so therefore they will never get to the cars. I am sure the gentleman did not want to leave that misunderstanding floating out there. They will not be able to get to the car because 92 percent of the subway stops are exempted under this bill, just as 80 percent are in Philadelphia.

Mr. HOYER. They are not exempted.

Mr. McEWEN. No; they are exempted.

Mr. HOYER. Mr. Chairman, I reclaim my time.

What we say is that key stations must be made accessible. Correct?

Now, why do we say that? Because we are concerned about cost. We are not irresponsible people. We understand clearly.

Now, if you get on a bus not at a station, then you say, "Well, we don't have a station."

All new vehicles must be accessible. We want to look toward the future. We want to say to manufacturers that you can make accessible vehicles. That is what we want to buy in America, be-

cause we want to service all—all of our people, including even those who are disabled. It is apples and oranges.

Now, obviously, there is a relationship. I understand that.

The gentleman indicated we need to be practical. We were practical. We think that making all new vehicles accessible not only as required by section 504 with respect to public entities, but it makes sense.

This amendment, Mr. Chairman, revisits the old and tired argument, the notion that localities should have the option of deciding to maintain segregated facilities and practices. We rejected that a long time ago. Let us reject it today.

Now, for those who raised the specter of paratransit being eliminated, nothing in this bill, I say to my good friend, the gentleman from Pennsylvania, in any way adversely affects paratransit to senior citizens to disabled folks, to anybody. In fact, if a system only has paratransit, if it chooses only to offer paratransit, then in that event its system is looked at. It does not even require that every vehicle in that system be accessible if it is only a paratransit system.

So I say, Mr. Chairman, first, do not give local options to exclude. Everybody in America is included in this bill right now, without exception. Do not pit big against small. Everybody is included.

Second, do not back up from present law.

Third, do not weaken one of the most important provisions that we have. This amendment will affect 80 percent of the communities of America. Do not say to the disabled of America that in 80 percent of the communities we are going to let you opt out of protections.

Mr. Chairman, this amendment weakens this bill. My good friend, the gentleman from Ohio, who is one of this body's strongest supporters of civil rights, and I disagree on this bill.

I hope this amendment is defeated, as was the last one and that we make the strongest possible statement for accessibility.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to my good friend, the gentleman from Ohio.

Mr. PEASE. Mr. Chairman, I appreciate the gentleman yielding to me.

I just want to emphasize that the point we are trying to make here is whether transit is going to be available at all. I do not think it helps our disabled very much if we say there is going to be a bus equipped with a lift for you if there are any buses at all, but there may not be any buses at all on your line, because our local transit system will have to cut back on purchases of buses because it lacks the money.

Mr. HOYER. Mr. Chairman, I will reclaim my time.

As the gentleman knows, local systems get 80 percent support from the Federal Government on these kinds of changes.

My time has expired. Vote no on the Shuster amendment.

Mrs. COLLINS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from: Pennsylvania. Equal access to transportation is the linchpin of this legislation. Inaccessible transportation is the primary obstacle for 43 million Americans who seek full participation in our society, and economy. By denying access to transportation, we keep millions of disabled citizens out of the workforce and locked in a state of unwanted dependency. That dependency costs our Nation $300 billion annually, and we can't afford it any longer.

This amendment would exclude the majority of disabled Americans from the equal transportation access provided by this bill. Seventy percent of our State capitals would be excluded, as well as, the cities where most of our major universities are located.

The amendment states that our smaller cities must provide alternative, para-transit systems in lieu of mainline transit accessibility. Such segregation not only undermines the intent of this legislation, but experience has taught us that separate is never equal. Currently, paratransit service to the disabled in Chicago requires a minimum of 48 hours advance notice. How many job prospects are eliminated by that requirement? Could any lawyer, or reporter, or businessperson perform on the job with such restrictions? The answer is an obvious no.

Many small cities currently operate accessible mainline transit systems successfully. The cost of lifts on buses, when amortized over the life of the vehicle, are minimal. And as demand and usage grow, accessible buses become even cheaper. It is estimated that acquiring just one additional rider will pay for a lift equipped bus within 1 year. The costs for para-transit systems can only grow. Mainline access may be the best bargain in town.

If passed, this amendment will roll back progress already made by the disabled. Recently, the Department of Transportation indicated that mainline access will be required for transit systems which receive Federal funds to comply with section 504. I hope that my colleagues will not allow this legislation to be used to hurt those Americans it was designed to help. I urge your opposition.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 266, not voting 18, as follows:

[Roll No. 120]

AYES—148

| | | |
|---|---|---|
| Andrews | Hastert | Penny |
| Archer | Hefley | Petri |
| Armey | Hefner | Porter |
| Aspin | Herger | Regula |
| Baker | Hiler | Rhodes |
| Ballenger | Hoagland | Ridge |
| Barnard | Holloway | Ritter |
| Bartlett | Hubbard | Roberts |
| Barton | Huckaby | Robinson |
| Bateman | Hunter | Rogers |
| Bereuter | Hyde | Rohrabacher |
| Broomfield | Inhofe | Rose |
| Brown (CO) | Ireland | Roth |
| Bruce | Jenkins | Rowland (GA) |
| Bunning | Johnson (CT) | Sarpalius |
| Burton | Kolbe | Schaefer |
| Callahan | Kyl | Schuette |
| Campbell (CA) | Lancaster | Schulze |
| Chapman | Leath (TX) | Sensenbrenner |
| Clinger | Lewis (CA) | Shaw |
| Coble | Lewis (FL) | Shumway |
| Coleman (MO) | Lightfoot | Shuster |
| Combest | Lipinski | Sisisky |
| Condit | Livingston | Skeen |
| Coughlin | Lowery (CA) | Smith (NE) |
| Cox | Madigan | Smith (TX) |
| Crane | Marlenee | Smith, Denny (OR) |
| Dannemeyer | Martin (IL) | |
| Darden | McCandless | Smith, Robert (NH) |
| DeLay | McCollum | |
| DeWine | McCrery | Smith, Robert (OR) |
| Dickinson | McDade | |
| Douglas | McEwen | Stangeland |
| Dreier | McMillan (NC) | Stearns |
| Duncan | Michel | Stenholm |
| Dyson | Miller (OH) | Stump |
| Edwards (OK) | Miller (WA) | Sundquist |
| Emerson | Molinari | Tauke |
| Fawell | Montgomery | Thomas (GA) |
| Fields | Moody | Upton |
| Frenzel | Moorhead | Vander Jagt |
| Gallegly | Morrison (WA) | Volkmer |
| Gekas | Myers | Vucanovich |
| Geren | Nielson | Walgren |
| Goodling | Obey | Walker |
| Goss | Olin | Weber |
| Gradison | Oxley | Weldon |
| Grandy | Packard | Whittaker |
| Grant | Parker | Young (FL) |
| Hancock | Paxon | |
| Hansen | Pease | |

NOES—266

| | | |
|---|---|---|
| Ackerman | Collins | Gaydos |
| Anderson | Conte | Gejdenson |
| Annunzio | Conyers | Gephardt |
| Anthony | Cooper | Gibbons |
| Applegate | Costello | Gillmor |
| Atkins | Courter | Gilman |
| AuCoin | Coyne | Gingrich |
| Bates | Crockett | Glickman |
| Beilenson | Davis | Gonzalez |
| Bennett | de la Garza | Gordon |
| Bentley | DeFazio | Gray |
| Berman | Dellums | Green |
| Bevill | Derrick | Guarini |
| Bilbray | Dicks | Gunderson |
| Bilirakis | Dingell | Hall (OH) |
| Bliley | Dixon | Hall (TX) |
| Boehlert | Donnelly | Hamilton |
| Boggs | Dorgan (ND) | Harris |
| Bonior | Downey | Hatcher |
| Borski | Durbin | Hawkins |
| Bosco | Dwyer | Hayes (IL) |
| Boucher | Dymally | Hayes (LA) |
| Boxer | Early | Henry |
| Brennan | Eckart | Hertel |
| Brooks | Edwards (CA) | Hochbrueckner |
| Browder | Engel | Hopkins |
| Brown (CA) | English | Horton |
| Bryant | Erdreich | Houghton |
| Buechner | Espy | Hoyer |
| Bustamante | Evans | Hughes |
| Campbell (CO) | Fascell | Jacobs |
| Cardin | Fazio | James |
| Carper | Feighan | Johnson (SD) |
| Carr | Fish | Johnston |
| Chandler | Flake | Jones (GA) |
| Clarke | Foglietta | Jones (NC) |
| Clay | Ford (MI) | Jontz |
| Clement | Frost | Kanjorski |
| Coleman (TX) | Gallo | Kaptur |

| | | |
|---|---|---|
| Kasich | Natcher | Skaggs |
| Kastenmeier | Neal (MA) | Slattery |
| Kennedy | Neal (NC) | Slaughter (NY) |
| Kennelly | Nowak | Slaughter (VA) |
| Kildee | Oakar | Smith (FL) |
| Kleczka | Ortiz | Smith (IA) |
| Kolter | Owens (NY) | Smith (NJ) |
| Kostmayer | Owens (UT) | Smith (VT) |
| LaFalce | Pallone | Snowe |
| Lagomarsino | Panetta | Solarz |
| Lantos | Parris | Solomon |
| Laughlin | Pashayan | Spence |
| Leach (IA) | Patterson | Spratt |
| Lehman (CA) | Payne (NJ) | Staggers |
| Lehman (FL) | Payne (VA) | Stallings |
| Lent | Pelosi | Stark |
| Levin (MI) | Perkins | Stokes |
| Levine (CA) | Pickett | Studds |
| Lewis (GA) | Pickle | Swift |
| Lloyd | Poshard | Synar |
| Long | Price | Tallon |
| Lowey (NY) | Pursell | Tanner |
| Luken, Thomas | Quillen | Tauzin |
| Machtley | Rangel | Taylor |
| Manton | Ravenel | Thomas (WY) |
| Markey | Ray | Torres |
| Martin (NY) | Richardson | Torricelli |
| Martinez | Rinaldo | Towns |
| Matsui | Roe | Traficant |
| Mavroules | Ros-Lehtinen | Traxler |
| Mazzoli | Rostenkowski | Udall |
| McCloskey | Roukema | Unsoeld |
| McCurdy | Rowland (CT) | Valentine |
| McDermott | Roybal | Vento |
| McGrath | Russo | Visclosky |
| McHugh | Sabo | Walsh |
| McMillen (MD) | Saiki | Washington |
| McNulty | Sangmeister | Waxman |
| Meyers | Savage | Weiss |
| Mfume | Sawyer | Whitten |
| Miller (CA) | Saxton | Williams |
| Mineta | Scheuer | Wilson |
| Moakley | Schiff | Wise |
| Mollohan | Schneider | Wolf |
| Morella | Schroeder | Wolpe |
| Morrison (CT) | Schumer | Wyden |
| Mrazek | Serrano | Wylie |
| Murphy | Sharp | Yates |
| Murtha | Shays | Yatron |
| Nagle | Sikorski | |

NOT VOTING—18

| | | |
|---|---|---|
| Alexander | Frank | Rahall |
| Byron | Hammerschmidt | Skelton |
| Craig | Hutto | Thomas (CA) |
| Dornan (CA) | Lukens, Donald | Watkins |
| Flippo | Nelson | Wheat |
| Ford (TN) | Oberstar | Young (AK) |

□ 1237

The Clerk announced the following pair:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Messrs. TAUKE and PAXON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SENSENBRENNER:

Strike section 107 and insert the following:

SEC. 107. ENFORCEMENT.

(a) IN GENERAL.—The remedies and procedures set forth in sections 706(a)-(f), 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)-(f), 2000e-6, 2000e-8, and 2000e-9) shall be available under this title, with respect to the Commission, the Attorney General, or any indivdiaul who believes that he or she is being subjected to discrimination on the basis of disability in violation of any provision of this title, or regulations promulgated under section 106, concerning employment.

(b) REMEDIES.—If, in any action brought pursuant to subsection (a) of this section, the court finds that the respondent has engaged in or is engaging in unlawful employment practices prohibited by this was charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of disability.

(c) APPLICATION OF OTHER LAW.—The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115) shall not apply with respect to civil actions brought under this section.

(d) PROCEEDINGS TO COMPEL COMPLIANCE.—In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought by the Commission or an individual under this section, the Commission may commerce proceedings to compel compliance with such order.

(e) APPEAL.—Any civil action brought under this section and any proceeding brought under subsection (d) shall be subject to appeal as provided in sections 1291 and 1292 of title 28, United States Code.

(f) EXCLUSIVITY OF REMEDIES.—The remedies and procedures set forth in this section shall be the sole remedies and procedures for violations of this title, except that the principles of construction set forth in subsections (a) and (b) of section 501 are fully applicable to this title.

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes, and the gentleman from California [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

MODIFICATION TO AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent to make a technical change in the amendment as reported in House Report No. 101-488. On line 4 of section (b), the word "was" should be changed to "as."

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. The amendment is modified.

The text of the amendment, as modified, is as follows:

Strike section 107 and insert the following:

SEC. 107 ENFORCEMENT.

(a) IN GENERAL.—The remedies and procedures set forth in sections 706 (a)-(f), 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)-(f), 2000e-6, 2000e-8, and 2000e-9) shall be available under this title, with respect to the Commission, the Attorney General, or any individual who believes that he or she is being subjected to discrimination on the basis of disability in violation of any provision of this title, or regulations promulgated under section 106, concerning employment.

(b) REMEDIES.—If, in any action brought pursuant to subsection (a) of this section, the court finds that the respondent has engaged in or is engaging in unlawful employment practices prohibited by this title as charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of disability.

(c) APPLICATION OF OTHER LAW.—The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115) shall not apply with respect to civil actions brought under this section.

(d) PROCEEDINGS TO COMPEL COMPLIANCE.—In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought by the Commission or an individual under this section, the Commission may commence proceedings to compel compliance with such order.

(e) APPEAL.—Any civil action, brought under this section and any proceeding brought under subsection (d) shall be subject to appeal as provided is sections 1291 and 1292 of title 28, United States Code.

(f) EXCLUSIVITY OF REMEDIES.—The remedies and procedures set forth in this section shall be the sole remedies and procedures for violations of this title, except that the principles of construction set forth in subsections (a) and (b) of section 501 are fully applicable to this title.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 6 minutes and 15 seconds.

Mr. Chairman, the amendment which I am sponsoring addresses the remedies provisions of the employment title of the Americans With Disabilities Act, H.R. 2273.

Currently, the ADA adopts the remedies provided by title VII of the Civil Rights Act of 1964. After pursuing the mandatory EEOC process, a plaintiff can bring a lawsuit in a local Federal district court to get back pay, with interest, injunctive relief, reinstatement, and attorneys' fees.

The purpose of this amendment is to clarify that the ADA calls for equitable relief as a remedy for employment discrimination. The amendment will neither expand nor contract the employment remedies currently available under the ADA which are the same as those afforded to women and racial minorities.

The intention of the amendment is not to provide lesser remedies for individuals with disabilities nor is it to put persons with disabilities at risk with respect to their rights under law, as some have alleged. On the contrary, I have wholeheartedly supported the Americans With Disabilities Act and have been working since the Subcommittee on Civil and Constitutional Rights first held hearings last summer to ensure that the bill provides meaningful opportunities for the disabled through elimination of discrimination.

This amendment will simply delink the remedies for employment discrimination in the Americans With Disabilities Act from the remedies contained in title VII of the Civil Rights Act of 1964.

Presently, the proposed Civil Rights Act of 1990—H.R. 4000—would amend title VII to provide for jury trials and compensatory and punitive damages remedies for intentional discrimination.

If H.R. 4000 is passed in its present form, punitive and compensatory damages would be back in the ADA. Not only does this break the deal previously agreed to, it would be quite a hit to the business community to subject them to punitive and compensatory damages for a newly enacted and comprehensive piece of legislation.

As originally introduced, the Americans With Disabilities Act would have provided greater remedies for the disabled than provided under current title VII law. H.R. 2273 originally contained a provision calling for the "remedies and procedures available under section 1981" of the Civil Rights Act of 1866. Section 1981 has been interpreted by the courts to allow for recovery of punitive and compensatory damages and jury trials in certain cases of employment discrimination. Inclusion of this language in the original version of the ADA would have allowed the recovery of expanded damages and jury trials for employment discrimination against the disabled under the ADA.

After intense negotiations between the other body and the Bush administration, an agreement was reached in August 1989 to, among other items, delete the reference to section 1981 procedures from the employment remedies provision in exchange for broadening the coverage under the public accommodations title. Thus, the ADA's employment remedies were limited to current title VII remedies. The decision was made to provide traditional "make whole" remedies in order to avoid the excessive and unnecessary litigation the original remedies provision would have caused. With this significant change, the other body passed the bill on September 7, 1989, by a vote of 76 to 8 and it was sent to the House for consideration.

This understanding of the deal reached on the ADA was expressed in a letter from Attorney General Thornburgh, on March 12, 1990. The letter stated:

A very critical element of this bill was that, as under title VII of the Civil Rights Act of 1964, the remedies it made available for violations of the employment title were limited to nondamage remedies that can be obtained in a trial before a judge. That formulation was crucial to the thrust and structure of a number of critical sections of the legislation. Because we were emulating the remedial scheme of title VII, those remedies were simply incorporated by reference. In return, the administration agreed to broad coverage under the public accommodations title, e.g. retail stores, doctors' and lawyers' offices, drug stores, and grocery stores—all establishments necessary for people with disabilities to be truly in the mainstream. This coverage is much broader than title II of the Civil Rights Act of 1964, which essentially prohibits discrimination on the basis of race in hotels, motels, restaurants, gas stations, and places of public entertainment.

The Kennedy-Hawkins bill would greatly expand the remedies available under title VII and hence, by reference, the remedies in the employment title of the ADA. The administration is opposed to that aspect of Kennedy-Hawkins. The ADA need not be held hostage to the legislative outcome on Kennedy-Hawkins, however, in order to ensure that a critical element of the agreement struck previously will be observed.

We want to work with Congress to resolve this problem. Accordingly, we have proposed that [the] incorporation by reference of title VII remedies be amended to spell out the precise remedies available under the ADA.

We . . . actively support such a clarifying amendment and continue to support expeditious passage of the ADA with this clarification.

Four committees of the House reviewed the Americans With Disabilities Act. Of those four, the Committee on Education and Labor, and the Committee on the Judiciary specifically considered the employment remedies provisions of the ADA. When the Committee on Education and Labor held its markup of H.R. 2273, the understanding was that the ADA's employment remedies were the equitable remedies of title VII—no more, no less. Again, when our Subcommittee on Civil and Constitutional Rights held hearings last fall, we understood that the remedies had previously included punitive and compensatory damages, but that the make-whole remedies of title VII had been agreed to be the disability and business communities, the White House, and the other body in order to ensure passage of the legislation. There was no indication that "if those remedies [would be] amended in the future, such remedies [would] also apply to the ADA."

The argument now raised in opposition to this amendment, that through the committee process, the House has somehow lent its support to the inclusion of title VII remedies in the ADA, "as they exist now or as they may be amended in the future" is simply not true. It was not until the introduction of H.R. 4000, in fact, that this Orwellian rewrite of legislative history appeared.

In addition, expansion of remedies, especially in the context of a new and comprehensive piece of legislation is illadvised. Employers and employees have had more than 25 years of experience with the procedures and remedies of title VII for discrimination based on race, color, religion, sex, or national origin. In enacting title VII and other employment discrimination statutes, Congress has consistently pursued a policy of encouraging mediation and conciliation in resolving disputes and in avoiding unnecessary litigation.

Although Federal agencies and recipients of Federal funds have been covered under the Rehabilitation Act prohibiting discrimination against the disabled since 1973, the mainstream of society, the retail stores, doctors' and lawyers' offices, drug stores, and grocery stores have no experience in compliance with antidiscrimination laws against the disabled. The possibility of a compensatory and/or punitive damages award and a jury trial in employment disputes, therefore, raises the stakes much higher without any corresponding increasing benefit to the disabled.

In order to be effective at eliminating discrimination against the disabled, the active cooperation of business will be required. I believe it is sound policy is to have the money that businesses spend to comply with the

ADA used to make facilities accessible and provide additional employment opportunities for the disabled rather than to provide a windfall to ambulance chasing attorneys.

Last week, at a Rose Garden ceremony honoring the U.S. Commission on Civil Rights, President Bush reaffirmed this principal stating:

> Our civil rights laws . . . should not be turned into some lawyer's bonanza, encouraging litigation at the expense of conciliation, mediation, or settlement.

I am convinced that this coupling of title VII remedies in the ADA with those in the Civil Rights Act of 1964 will unnecessarily open the door for the diversion of funds into the courtroom by padding the pockets of the lawyers rather than providing access to the disabled.

In conclusion, I want to stress that this is a modest amendment which in no way forecloses any of the rights of the disabled. It may be that the disabled should be accorded the benefit of expanded remedies—although I agree with President Bush that the make-whole remedies currently embodied in title VII are the better policy—however, there is virtually no legislative record in the House on which to base that determination. The issue was simply not considered in any reasoned manner by any of the committees having jurisdiction over the matter. In the future, if such a determination is deemed appropriate it should be consciously decided on the basis of a clear and comprehensive legislative record, not boot-strapped to another piece of legislation.

The administration supports House passage of H.R. 2273 and strongly urges the adoption of the amendment to include the specific employment discrimination remedies of title VII of the Civil Rights Act of 1964, rather than to incorporate those remedies by reference. I urge your support of the amendment as well.

□ 1250

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to make sure I understand what the gentleman is saying. It sounds to me like the gentleman's complaint is about the legislation dealing with title VII that may or may not come on later on. But if we adopted the gentleman's amendment and then later on the House decided there should be more expansive remedies for title VII, you would be precluding the disabled, treating them differently if we adopt this amendment.

Mr. SENSENBRENNER. Absolutely not. If H.R. 4000 is to expand remedies in the ADA, the adoption of my amendment will simply require you and the other supporters of H.R. 4000 to state how the remedies in the ADA will be expanded less than 2 or 3 months after President Bush signs this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Sensenbrenner amendment and in strong support of the Americans With Disabilities Act and urge my colleagues to vote for this critical legislation to extend basic civil rights to 43 million disabled Americans.

I thank my colleagues from the four House committees who have worked hard to bring this legislation to the floor today. The modifications made by these committees have improved and clarified the bill. I commend the chairman of the Democratic Caucus STENY HOYER for his leadership in shepherding this bill through the House. Finally, I would like to thank our former colleague Tony Coelho whose early and strong support of rights for the disabled is in large part responsible for our actions here today. Tony felt the effects of discrimination first hand when he was prevented from entering the priesthood because he had epilepsy. Although he won't be voting for this bill today, his vision and hard work have certainly paved the way for our consideration of this landmark legislation.

The late Senator Hubert Humphrey spoke about the moral test of government being how it treats those in the shadows of life, the sick, the needy, and the handicapped. For too long, the disabled have lived in the shadows of American life. They have been denied rights and opportunities afforded to others in our society. They have had a vague and imperfect imitation of the rights we take for granted—the right to work, the right to communicate, the right to live in the community—without fear of discrimination.

Mr. Chairman, disabled Americans are stepping out of the shadow world of the past. They are dismantling the physical and psychological barriers which get in the way of their full participation in our society. Who can forget the students at Gallaudet University who rose up in a stirring protest for equal rights for the disabled. Their actions led to the selection of a deaf president for the first time in the university's history and inspired people all over the world. Every day, other barriers are broken in less public though no less important ways. These heroic efforts are changing the way we think and treat the disabled.

Today we have an opportunity to shine the bright light of equality and justice onto the shadow world of discrimination. The Americans With Disabilities Act provides a comprehensive national mandate to end discrimination against individuals with disabilities and brings these people into the mainstream of social and economic life in the United States.

The bill prohibits discrimination in employment in a fair and realistic way. The daily discrimination against the disabled in employment situations is not only harmful to the individuals involved but also to the productivity of the Nation as a whole. Although two-thirds of disabled Americans age 16 to 64 are unemployed, 66 percent of the nonworking disabled want to work. Disabled Americans who are qualified to work in a position should not be discriminated against. This bill will put an end to this practice without disrupting business. Businesses have 2 to 4 years to make reasonable accommodations for a person with a disability unless those accommodations would impose an undue hardship on the employer.

The bill has important provisions for improving the accessibility of public transportation as well. It requires transit authorities to make transportation facilities accessible to persons with disabilities, including those in wheelchairs. Lifts must be provided for all new vehicles but no retrofitting is required. Paratransit services, which have been quite successful in my state of Minnesota, must be provided for those individuals who cannot use mainline service.

Other provisions of the Americans With Disabilities Act will improve the quality of life for the disabled. The bill provides for relay services to ensure telephone communications for the speech and hearing impaired. The measure also requires that all television public service announcements that are produced with Federal funding include close captioning for the hearing impaired. I am pleased that Congress is including itself under all parts of this important bill.

Mr. Chairman, I am glad that this bill has received strong bipartisan support in Congress and from the President. I expect the President to sign this bill and hope he will be supporting other civil rights legislation in the future. I urge my colleagues to support the Americans With Disabilities Act and oppose any amendments to weaken the bill. Our fellow disabled Americans deserve no less, they have long waited for this day when public law and policy recognize their needs indeed their rights to be a full participant in our society today and tomorrow.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I also rise in opposition to the Sensenbrenner amendment and in support of the legislation.

Mr. Chairman, I rise in strong support of the Americans With Disabilities Act. Specifically, I wanted to discuss the public accommodations requirements of this legislation, which are critical provisions for ensuring the right and ability of disabled citizens to participate equally in the life of their communities.

This section of the legislation builds on many successful precedents in State and local law. States like California, Pennsylvania, New York, North Carolina, Massachusetts, Connecticut, Iowa, Illinois, and others have offered models on which many aspects of the ADA are based. Thus, these locations can serve as a laboratory for judging the success or failure of such requirements, both in terms of how much accessibility is provided, and whether or not the requirements posed too

great a burden on operators of public accommodations, including small businesses.

On both questions, these experiments have been a big success, laying the groundwork for the ADA to increase benefits derived from such policies to millions of disabled Americans nationwide, on a uniform basis, in every State.

Mr. Chairman, the ADA's requirements are especially modest in regard to existing accommodations. Facilities in operation today must remove barriers only if doing so is easily accomplished and able to be carried out without much difficulty or expense.

If removing a barrier is not readily achievable, the service available to other patrons of the public accommodation must be provided the disabled persons via alternative methods if this can be done easily and inexpensively.

It should be noted that there are existing tax deductions that business operators can take advantage of, providing an incentive for compliance with this aspect of the ADA. A deduction of up to $35,000 can be taken for money spent on access features.

The provision of auxiliary aids and services are required, but only if providing them does not pose an undue burden.

In determining whether removing a barrier is readily achievable, the ADA lays out certain factors that are to be considered. They include:

First, the overall size of the business, including number of employees; number, type, and location of facilities; and the financial resources of the business and its individual facilities;

Second, the type of operation, including the composition and structure of the work force; and

Third, the nature and cost of the barrier removal.

The ADA explicitly allows businesses to consider the resources not only of the overall parent company to remove barriers, but the possibly more limited resources available at the particular location the barrier is to be removed.

The reason this standard is so important is because, contrary to common belief, many times, architectural barrier removal is not very expensive. Virtually every facility can greatly enhance its usability by disabled people without bearing an economic burden.

To give a few examples, facilities can: Install a permanent or portable ramp over an entrance step; install offset hinges to widen a doorway; relocate a vending maching to clear an accessible path; install appropriate handrails at stairs; create a designated parking space reserved for disabled persons; install a grab bar in an existing restroom; relocate stall partitions to make one restroom stall large enough to provide wheelchair maneuvering space; make closet rods adjustable for use at multiple heights; install signals to indicate accessible routes and features within buildings; install raised tactile labels on existing elevator panels; install an adapted elevator control panel or a wand for access to high control buttons; and install a Telecommunications Device for the Deaf [TDD] for use by deaf people.

These modest efforts can make a world of difference for persons with disabilities. The ADA's provisions on existing buildings are designed to make the owners of public accommodations think about the types of barriers which people with disabilities encounter, and to remove them if it can be done easily.

Mr. EDWARDS of California. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Chairman, the heart of the Americans With Disabilities Act is to give the same civil rights protection to persons with disabilities that racial minorities and women have.

These rights include remedies available to the victims. The victims of discrimination based on disability must not have lesser rights than others. This would amount to discrimination against persons with disabilities.

The Sensenbrenner amendment looks into the future and says that if the remedies for minority and women victims are strengthened, these remedies won't apply to persons with disabilities. Women and minorities will get better treatment than persons with disabilities. That is gross discrimination, in advance.

The remedies for employment discrimination in this bill are the same as the remedies of title VII of the Civil Rights Act of 1964: equitable relief—injunctions, reinstatement, hiring, and backpay.

Compensatory and punitive damages are not available to victims of employment discrimination, under both title VII and the ADA.

However, in a few weeks, if approved by the House Judiciary Committee, we will be voting on H.R. 4000, the Civil Rights Act of 1990.

As approved by the Education and Labor Committee, H.R. 4000 would provide compensatory and punitive damages for victims of intentional discrimination under title VII.

If H.R. 4000 is enacted with this provision, the remedies under this bill we are considering today, the ADA, would be strengthened, to be parallel with the remedies provided in H.R. 4000.

And they should be parallel. The remedies for victims of discrimination because of disability should be the same as the remedies for victims of race, color, religion, sex, and national origin discrimination.

Otherwise, persons with disabilities would be discriminated against.

The remedies should remain the same, for minorities, for women, and for persons with disabilities.

No more. No less.

Mr. SENSENBRENNER's amendment provides for a two-tier system, where women and minorities get a better break than persons with disabilities.

That's not fair. That's not equitable. That's discrimination.

Finally, Mr. Chairman, Mr. SENSENBRENNER's amendment is premature. We will in all probability be addressing the question of remedies for title VII in a few weeks when H.R. 4000 is before us.

We should not be doing it now. When H.R. 4000 is before us, that will be the appropriate time to consider the remedies for employment discrimination.

This bill, the Americans With Disabilities Act, provides for the same remedies as for a title VII violation—injunctions, reinstatement, hiring, and backpay.

Let's not discriminate in advance against persons with disabilities. Let's debate and vote on this issue at the proper time, when the change to title VII is considered as we vote on H.R. 4000.

I urge a "no" vote on the Sensenbrenner amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Mr. Chairman, I yield to the gentleman from Wisconsin, [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if the gentleman from California had been listening to my prepared remarks, he would have heard me state that my amendment merely states the remedies that are available in title VII within the ADA. The gentleman has alleged in his remarks that I am treating disabled people less favorably than women and other minorities.

Specifically, I inquire of the gentleman from California where in my amendment are women and other minorities given more favorable treatment than disabled people?

Mr. EDWARDS of California. Mr. Chairman, in response to the gentleman, the gentleman's amendment is locking out persons with disabilities for stronger remedies than women and minorities will receive in the event H.R. 4000 is approved, as approved by the Committee on Education and Labor.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Mr. Chairman, I yield to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman from California is making a very important statement. What he is saying is we have said there are no rights without remedies. But you have lesser rights if you have lesser remedies. And the committee is soon to determine whether we are going to expand remedies. At that point that is where the gentleman should be debating this issue. In the interim, we should not preemptively decide that disabled are not going to be able to participate at that time. I think the

gentleman is making an excellent statement.

Mr. Chairman, I rise in opposition to the Sensenbrenner amendment.

I thank the gentleman from California for making this so clear.

Mr. EDWARDS of California. Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I must preface my remarks by saying the last debate blew my mind. I thought we always legislated here on the floor of the House dealing with the legislation that is presently on the books. I did not know that we legislated based on what we think might happen down the track. If something happens down the track, then we come back and deal with that issue, but we certainly do not deal with it in advance.

Mr. Chairman, I rise in support of the amendment, and I do it for two basic reasons. First of all, the issue here today is a straightforward issue. It was agreed to by the administration, by the other body, by the disabled community. That is what was agreed to when, in a bipartisan fashion, the Senate fashioned the legislation 76 to 8.

□ 1300

That is exactly what we dealt with in the Committee on Education and Labor, not something else. We dealt with what the understanding was when the Senate passed the legislation.

So first of all, it seems to me we must stick with what it was we were dealing with and what we understood was the agreed-to agreement. That did not say anything more than title VII remedies of lost backpay and injunctive relief. It was a unanimous vote out of my committee simply based on that. That vote would have been different in my community, had we thought that we were talking about something different than what we agreed to by the other body, by the disabled community, and by the White House.

The second concern that I have I think deals with the whole body concept of trying to do what is best for the persons for whom we are trying to legislate. I have some problems here if we do not go along with the Sensenbrenner amendment. It seems to me what we basically say is we are not looking for reconciliation, we are looking for confrontation. I am not sure that helps the disabled person we are trying to help. It seems to me we want to quickly get them back on the job, backpay, and all that they have coming to them.

For instance, in my district, a gentleman hired a blind young woman. She is now his best drill press operator. He modified the drill press so that she could become his best drill press operator. Would she have ever gotten that opportunity with this legislation?

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the Sensenbrenner amendment. The whole purpose of the Americans With Disabilities Act is to recognize that discrimination against the disabled is just as wrong as discrimination on the basis of race, gender, or national origin. Ironically, this amendment would take a big step backward in the battle against discrimination by setting the disabled apart from other protected classes under the civil rights laws.

There may be legitimate debate on the issue of what remedies should be available under the civil rights laws, but it is unfair to lock the disabled into a lesser set of remedies. Let's debate the issue of remedies available to all protected classes when the Civil Rights Act of 1990 comes to the floor. It would be a serious blow to the disabled community to adopt this amendment.

I hope that the focus on lawsuits and remedies does not distract us from what this bill is about: new rights for the disabled. Rights and remedies are not the same thing, and I believe a court of law should be the place of last resort, not first resort, to enforce civil rights. A lawsuit is time consuming and expensive. I believe Americans are generally too prone to rush into court to resolve disputes that should be resolved through conciliation. I want to issue a challenge to the business and civil rights communities to find informal and creative ways to exercise the new rights granted under the ADA, so that people's precious time and money is spent on reasonable accommodation instead of litigation. In that regard, this bill includes an amendment I offered in the Judiciary Committee which encourages and provides for alternative resolution techniques, including mediator, conciliation, arbitration, and other dispute resolution methods to resolve disputes under this act before a decision to go into expensive litigation is made. While the language is purely voluntary, it establishes an important principle that we ought to try to avoid litigation under this bill, if possible, and that encouraging dispute resolution between the parties is a positive idea.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I have consistently supported in subcommittee and committee the Americans With Disabilities Act, and will certainly support it when it comes to final passage, because I believe this legislation will not only benefit the disabled, but ultimately all of America, as more disabled find it easier to enter the mainstream of American life and the mainstream of employment.

I support the Sensenbrenner amendment because I believe it is the most reasonable and least confrontational way to implement the very worthy objectives of this legislation. If this legislation is to be successful, it needs not only a consensus among those of us responsible for making the laws in Washington, but a broad consensus of all people throughout our country. The Sensenbrenner amendment removes a potentially overly punitive portion of this bill which may get in the way of this necessary broad consensus.

I urge my colleagues to support this important amendment.

The CHAIRMAN. The Chair will advise the author of the amendment, the gentleman from Wisconsin [Mr. SENSENBRENNER] that he has 20 minutes remaining, and the gentleman from California [Mr. EDWARDS] in opposition has 21 minutes remaining.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I do not even think I will use the entire 3 minutes because I think it is difficult not to be repetitious, since the issue here is so simple.

My colleague, the gentleman from Wisconsin [Mr. SENSENBRENNER], the author of the amendment, has very properly stated the law for Members, and I think we both share a sore throat and other ailments at this juncture, too. However, the Sensenbrenner amendment would freeze current title VII remedies into ADA for people with disabilities. Now, let me emphasize that word "current."

The bill before Members incorporates title VII remedies available today, this very minute, available to women and to minorities. It does not enlarge these remedies. It provides immediate parallel remedies. However, the amendment before Members would mean that if Congress chose to change the remedies under title VII for all other minorities, people with disabilities would simply not automatically have access to these same remedies.

Therefore, as the gentleman from Wisconsin properly said, his amendment neither expands nor contracts remedies but, in fact, he does freeze those remedies unnecessarily and forces the Congress at a later date to revisit this issue and undo that freeze if it so chooses.

Now, we have been told about H.R. 4000, the Civil Rights Act of 1990 that has been introduced that will be before Members eventually. This expands the remedies of title VII to include damages for intentional discrimination. So if there are changes to title VII, as a result of this legislation, and only at that time, all individuals who are covered under civil rights laws, people of different races, sex, religion, and now people with disabilities, would have the same remedies. By contrast, if we adopt this amendment, by freezing current title VII remedies for the disabled, we set up at that time a different system of remedies.

Mr. Chairman, it is inconceivable to me that future changes in title VII remedies would not automatically apply to disabled citizens as it is inconceivable to me that a future expansion in title VII will be denied people because of their race or their sex.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FISH. Mr. Chairman, I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

If my amendment is adopted, what is there to prevent the House, when it considers H.R. 4000, from amending the remedy section in the ADA?

Mr. FISH. Nothing whatsoever, except it is just an unnecessary step, in my judgment. The remedies under the law should flow to all the protected covered classes.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise in strong support of the amendment offered by my colleague from Wisconsin.

Mr. Chairman, I have taken an interest in the Americans With Disabilities Act since it was introduced last Congress, and I have always strongly believed that legislation is needed to extend basic civil rights to the disabled. I was, therefore, gratified when negotiations this past summer between the administration and the disability community, with input from the business community, produced a bill which seemed to resolve the most significant obstacles to enacting legislation in this Congress. That bill, S. 933, passed the Senate last year in early September, Mr. Chairman, while S. 933 contained many important changes, I can say quite categorically that the most important change which formed the keystone to the agreement was the express deletion of a provision allowing for punitive and compensatory damages from the employment remedy provisions and the retention of existing title VII remedies of lost backpay and benefits and injunctive relief such as reinstatement to a lost job.

Mr. Chairman, when the Education and Labor Committee marked up H.R. 2273, it took as a substitute to that bill a modified version of S. 933 as passed by the Senate. The modifications contained in that substitute were the result of lengthy, intense negotiations between the minority and majority on the committee together with the leading sponsor of the legislation, Mr. HOYER. I was very much involved in those negotiations and can state that the issue of proper remedies for employment discrimination rarely, if ever, came up. Why? Because all parties considered the issue completely resolved in the Senate-passed bill. Had there been any doubt as to whether the ADA still included punitive and compensatory damages, the issue would have been raised, endlessly debated, and never conceded. Indeed, the inclusion of such damages has proven to be one of the most contentious issues surrounding the Civil Rights Act of 1990.

Mr. Chairman, when the ADA was unanimously passed by the Education and Labor Committee last year—November 1989—it was months before the civil rights reform bill was even introduced—Feb. 1990. Again, the assumption at that time, as we were considering the Senate-passed version, was that employment remedies were to be backpay and injunctive relief. Mr. Chairman, the Sensenbrenner amendment simply codifies what the committees reported out.

None of this is to say, of course, that should the Congress ultimately choose to pass the civil rights reform bill with punitive and compensatory damages, that Congress could not, ultimately also decide that the ADA should also include such damages. But this sort of major change in a new, sweeping piece of legislation should not be done automatically by the flip of a switch. It should be done, if at all, after hearings within the appropriate committee structure.

Finally, Mr. Chairman—and I won't dwell on this because it should be raised at a different time and a different forum—I simply wish to note that there are good policy reasons why the inclusion of punitive and compensatory damages in the ADA would be inappropriate.

The remedies codified by the Sensenbrenner amendment have been in title VII of the 1964 Civil Rights Act for 25 years, and they have worked well. These remedies are basically the same as those in all other labor and civil statutes, for example, the National Labor Relation Act, the Rehabilitation Act of 1973, the Davis-Bacon Act, the Equal Pay Act, the Fair Labor Standards Act, the Age Discrimination in Employment Act, and, most recently, the Worker Adjustment and Retraining Notification Act—plant closings. These statutes, and I could list others, provide for injunctive relief and lost backpay, with only one providing for double lost backpay in certain kinds of cases. None provide for punitive and compensatory damages.

There are sound policy reasons why Congress has consistently adopted these types of remedies in employment law statutes. Remedies allowing for injunctive relief and backpay, and excluding punitive and compensatory damages, both deter discrimination and promote the prompt resolution of disputes, a resolution which puts the employee back to work in his or her rightful position as soon as possible. This has always been the goal of title VII and other employment law statutes and, I think everyone would agree, is the goal of the ADA. Employment laws must balance first, the need for employers to operate their workplaces without fear that a refusal to hire a single applicant or the discharge of one employee may lead to a six-figure, or higher, jury trial and second, the need to provide an adquate remedy once a wrong is shown to make the employee whole. Interwoven with this balancing is the concept that it is in everyone's interest—including society's—to get an applicant or employee unlawfully discriminated against back to work as soon as possible. Remedies of injunctive relief and lost backpay and benefits do exactly this while punitive and compensatory damages may only encourage employees to go to court for the "big win" and to resist settlement and resolution of the underlying issues. This is not some prediction made up yesterday; it is a well-recognized result arising from these kinds of damages, as reflected by the analysis in numerous courts which considered, and ultimately rejected, compensatory and punitive damages under the Age Discrimination in Employment Act [ADEA]. For example, the third circuit, in *Rogers* v. *Exxon Research & Engineering Co.*, 550 F.2d 834, 841 (1977) reasoned that compensatory damages would:

> Introduce an element of uncertainty which would impair the conciliation process. Haggling over an appropriate sum could become a three-sided conflict among the employer, the [EEOC], and the claimant. . . . [T]he possibility of recovering a large verdict for pain and suffering will make a claimant less than enthusiastic about accepting a settlement for only out-of-pocket loss in the administrative phase of the case. The net result can only be to substantially increase the volume of litigation in the trials.

The fifth circuit echoed that compensatory damages would:

> Introduc[e] a volatile ingredient into the tripartite negotiations involving [EEOC], employee, and employer which might well be calculated to frustrate rather than to "effectuate the purposes" of the Act. [*Dean* v. *American Security Insurance Co.*, 559 F.2d 1036, 1039 (1977), *cert. denied*, 434 U.S. 1066 (1978)].

The second circuit has said:

If an individual alleging discrimination knew he could recover compensatory damages if he refused to settle during the administrative process and commenced a civil suit, he would have little incentive to resolve the dispute during the conciliation process. [*Johnson* v. *Al Tech Specialties Steel Corp.*, 34 FEP Cases 861, 864 (1984).

One trial court observed:

If large tort recoveries are allowable under the ADEA, it is doubtful that alleged age discriminatees will enter into good faith conference and conciliation when around the corner lies the possibility of large dollar pain and suffering recoveries. [*Sant* v. *Mack Trucks, Inc.*, 424 F. Supp. 621 (N.D. Cal. 1976)].

Mr. Chairman, the Sensenbrenner amendment adopts the remedies which formed the basis for the broad bipartisan support of the ADA. These remedies, which are reflected in all other labor statutes, will both deter discrimination and promote the employment of the disabled. I therefore support the amendment.

□ 1310

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Chairman, I would like to say to my colleagues, the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from Texas [Mr. BARTLETT], that I am going to yield to them during my time because I want to engage in some conversation. It did not appear to me that the other side wanted to yield any time for that purpose.

Let me just ask the gentleman this question. I have 3 minutes, and I think between the two gentlemen they ought to be able to answer these questions.

Are you opposed to compensatory and punitive damages by any kind of civil rights violation, a violation of any kind or character? I assume the answer is going to be yes.

My second question is, if you are so opposed, in the likely event that the Congress in its wisdom decides, notwithstanding your objections, to provide that a jury, the same people who elect you and I, may make a determination whether in a proper case there should be punitive damages and compensatory damages allowed for other kinds of discrimination, are you then in favor of discriminating against people who have disabilities?

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. WASHINGTON. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I know that the gentleman did not intend to word his last question that way. I am not in favor of discriminating against persons with disabilities. I am strongly for a law that would prohibit discrimination. The question is, how much can someone sue for, not whether I am in favor of discriminating.

Mr. WASHINGTON. Mr. Chairman, let me elaborate on my question. I only have 3 minutes, and I do not want there to be any misconception.

If the Congress, over the gentleman's objection, adopts the language in H.R. 4000 that provides in a proper case for a jury to make a determination, or for the judge, if he or she is the trier of the facts, that there will be in such a proper case punitive and compensatory damages for race, gender, age discrimination, and the other provisions that are covered under title VII, would you not agree that it is not provided for people with disability, and if you so agree, are you in favor of discriminating against them or are you not in favor of discriminating against them?

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield, I do not agree with the premise of the gentleman's question. I do not believe that is discriminatory. What I do believe is that we ought to consider the damages and the remedies and the right to sue in landmark legislation like this after some careful consideration, based on all the facts, and we do not have all the facts. We ought to consider it at that time.

I further say to the gentleman that I have a list which I am going to submit for the RECORD of other civil rights and labor statutes that have been enacted by the Congress of the United States, none of which include compensatory or punitive damages. They include the National Labor Relations Act and the Rehabilitation Act of 1973.

Mr. WASHINGTON. Mr. Chairman, the gentleman can put those in the RECORD later. Let me reclaim my time, and then I will yield further to the gentleman.

We have had hearings, as the gentleman well knows, on H.R. 4000, because the gentleman has been a part of them. So the gentleman cannot say that there has not been any record made on whether we should have compensatory or punitive damages. We can say that it has not been made as far as ADA has been concerned, but we have had a record made, and I think Congress is of a mind to provide compensatory and punitive damages as they relate to other areas of civil rights.

And the gentleman cannot tell me that it is not discriminating. If we have apples and oranges, and you choose one remedy for the apples and a different remedy for the oranges, if that is not discrimination, I do not know what is.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, the Americans With Disabilities Act of 1990 is well intentioned, but it is more than that. It is an effort to lift the conscience level of us all to be more aware that the disabled, like all of us, have aspirations and talents and hopes and dreams. This bill is an idea whose time has come.

Yet, as Albert Schweitzer once observed, hardly anyone ever gets a good idea that they do not carry it too darned far. It is for that reason that I rise to support the Sensenbrenner amendment.

The amendment literally adopts the traditional remedies of EEOC conciliation, back pay, and court injunctions as the remedies for the enforcement of employment-related discrimination under title I of the ADA. As such, it is a replica of the remedies found under title 7 of the 1964 Civil Rights Act.

The Sensenbrenner amendment simply says that what you see and what is advertised as the enforcement remedies in the ADA is what you get. It is true that it attempts to guarantee that the enforcement provisions of title I of ADA will not be automatically changed simply by passage of the Civil Rights Act of 1990. If this amendment is not passed and if the Civil Rights Act were to pass in its present form, the remedies of title I of the ADA would be immediately broadened in effect to create or to add, I might say, a new negligence type of liability against all employers of this land of ours with a 2-year tort statute of limitations.

This new action, also calling for jury trials, would authorize potential million-dollar compensatory damages for emotional distress, pain and suffering, medical fees, fees for expert witnesses, ad infinitum, and punitive damages, including callous indifferences as a basis for awarding punitive damages. These types of awards could be obtained against employers for any violations of the ADA. And as I read it, it also includes unintentional violations. If Members do not think so, I ask them to read section 107. I assure the Members that most employers all across this land, public or private, do not realize that they could be sued for such damage awards as a result of any violations of the ADA.

In the past, Congress has invariably limited remedies in the employment law area to conciliation, lost backpay, and injunctional relief, and the examples include not only title 7, but the Age Discrimination in Employment Act, the National Labor Relations Act, the Fair Labor Standards Act, the Equal Pay Act, the Davis-Bacon Act, the Service Contract Act, and the Rehabilitation Act of 1973.

□ 1320

In addition, Mr. Chairman, it has been mentioned that, as originally introduced, it was the understanding between the parties who were negotiating that we would not have compensatory and punitive damages and jury trials with all of the explosion of lawsuits that go with them. When we look at the Civil Rights Act, that is another issue, but we certainly did not want those kinds of potential damage awards in the ADA. And that is only right, especially for a new employment-related discrimination law of the ADA's dimensions.

Surely, Mr. Chairman, there are going to be countless violations of this act made unintentionally and in good faith as the EEOC, public and private employers, employees, and unions strive to detemine what in the world is the congressional intent and the scope of the ADA's understandably subjective provisions.

Under these circumstances, the traditional employment discrimination enforcement provisions of title VII, which have been successful for over 26 years, are certainly in order as we launch the ADA. If 3 or 4 years from now my colleagues think we have to have that kind of intimidation against employers, well, OK, we can consider that then. But when we are comparing, enforcement provisions, we should look at, for instance, the 1973 Rehabilitation Act which binds the Federal Government. Are there any compensatory damages there or any punitive damage awards there against the Federal Government or, for that matter, against Members of Congress as to their employment practices? Of course not.

Now we are going to have to debate the Civil Rights Act, but let us not with a brand new act like this, let us not pile those kinds of potential damage awards upon America's employers. It wasn't necessary in the 1973 Rehabilitation Act nor is it necessary in the ADA. Rather it is a kind of intimidation upon the employers. It simply puts a chilling effect upon what has really been good will of all parties involved in this act up to this date.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman from California [Mr. EDWARDS] for yielding me this time.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is about discriminating against the disabled, or it is about nothing at all. This amendment would not be needed in any way, shape or form unless there is a desire down the road to have different remedies, different protections for the disabled from the protections we give in our other civil rights legislation under title VII.

This bill, as it comes to the floor, is very clear. It says the remedies in title VII apply. That is a principled statement. That says that this law will treat the disabled the same as we treat others who are subjected to discrimination in employment and in public accommodations and the like. This is an antidiscrimination bill.

Mr. Chairman, it is an abomination that we are being faced with an amendment that suggests that right in this antidiscrimination bill we plant the seeds of discrimination, discriminatory treatment before the courts, discriminatory treatment before the law.

We will have a debate later in this session about whether to extend or modify the remedies under title VII, and, when we have that debate, we will hear the arguments about whether there should be jury trials, whether compensation and punitive damages are appropriate, and that is a fair debate. It is an appropriate debate. But it should apply to all those who are protected under Federal law against discrimination. It ought not to be one rule for the disabled, another rule for other minorities, religious minorities, racial minorities, ethnic minorities.

Mr. Chairman, we are about to pass landmark legislation to obtain a goal that I think Americans wholeheartedly support, real and antidiscrimination protection for people with disabilities. Let us not sully that result with an amendment that undercuts the principle. Let those who believe that present title VII remedies, as misinterpreted by the Supreme Court, are adequate. Let them vote against H.R. 4000 at the time it is presented. Let those of us who believe that the Supreme Court got it wrong and that H.R. 4000 is the correct policy; we will support that legislation.

Mr. Chairman, let us not today, as we make a strong statement against discrimination to the disabled, let us not put into that law a new discrimination in the justice that these individuals can get in our courts.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in favor of the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER] to H.R. 2273, the Americans With Disabilities Act.

The real questions before us as we consider this amendment are whether we can have certainty about what we are voting on and whether all the possible interactive effects between this bill and proposed changes to the Civil Rights Act of 1964 will receive full, due consideration.

I believe both these questions can be answered "yes" only if we adopt the Sensenbrenner amendment today.

I don't want to get caught up in an argument about the semantics of an agreement on remedies among proponents of this bill, the administration, and the business community. We all are agreed, however, that the title VII remedies in the Civil Rights Act today are the remedies we want in the ADA today. The Sensenbrenner amendment clarifies that position without prejudice to further evaluation of ADA remedies when H.R. 4000, making changes in the 1964 Civil Rights Act, is further considered. However, rejection of the Sensenbrenner amendment leaves us with a good deal of uncertainty over just what we really are voting for.

We have not debated increasing the penalties and upgrading the remedies in the ADA to include pain and suffering and punitive damages. We have not debated whether these penalties and remedies should be upgraded to parallel H.R. 4000 remedies exactly, if H.R. 4000 passes.

At least on first impression, it strikes this Member that such a debate would be reasonable.

Identical remedies on paper do not necessarily translate into identical results in the real world. For example, under current title VII remedies, injunctive relief for a race, religion, or sex-based violation could include simple placement in the job the plaintiff sought. Under the ADA, current title VII injunctive relief could require expensive alterations for accessibility in order to accomplish that job placement. Maybe we do want ADA remedies to be exactly the same as whatever remedies are available under title VII. Or, maybe we would want, after careful consideration of how the two laws could interact, to fine tune some differences, for purposes of equity and more consistent results.

If we reject the Sensenbrenner amendment today, we can't know that these questions will ever be addressed. If we adopt the Sensenbrenner amendment, we know they will be considered, and perhaps resolved in the very same way the opponents of the Sensenbrenner amendment hope. But we shouldn't put the legislative process on autopilot by dismissing the request for considered debate. We shouldn't avoid reasonable questions with a superficial one-size-will-fit-all attitude.

Moreover, this body has never made uniformity of remedies within a body of law sacrosanct. That's why, every time we take up a new labor bill, like family and medical leave 2 weeks ago, we wind up reopening debates about restitution versus punitive damages. Two weeks ago we were told the Family and Medical Leave Act should have remedies and damages that don't

exist elsewhere in labor law, but today we are being told we should not debate the issues the Sensenbrenner amendment would ultimately force us to debate, because all civil rights laws simply should look the same.

If the intent of the opponents of this amendment is to defer questions of remedies and damages and take them up all at one time, then I submit that a vote for the Sensenbrenner amendment accomplishes that better than a vote against.

A vote for the Sensenbrenner amendment ensures that, when we consider H.R. 4000, we will consider the remedies and damages that may be specifically or uniquely appropriate to ADA violations. A vote against Sensenbrenner means we are buying a legislative pig in a poke.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, I thank the gentleman from California [Mr. EDWARDS] for yielding this time to me.

May I simply rise to set the record straight with respect to the references to the Committee on Education and Labor and the individuals who seem to anticipate action in the House on H.R. 4000?

Mr. Chairman, it is true that in its wisdom the committee, after extensive hearings, did make changes in the remedies under title VII and will, if approved by the House, extend the protections and the rights under title VII to other groups, particularly to women.

Now it seems that those who oppose that extension would today now oppose the extension to the disabled. The original theory of title VII was that rights and remedies should be uniformly available to all who suffer discrimination, and we have over a period of time under various administrations added the groups that are protected by title VII.

Now it just seems to me unreasonable to say that every other group that we have attempted to extend the protections to, that the disabled are somehow a second-class group that should not be considered.

Mr. Chairman, it is not only the matter of civil rights, and human rights and protection of groups in the American society. We extended title VII, and we originated title VII, because we considered that all Americans are needed in our society today.

□ 1330

We need the disabled, as we need women and we need minorities and other groups in the economy. We need them in our society as productive citizens. We need them as taxpayers so that they can produce the revenues to reduce the budget deficit. We do not want them to be dependent on other taxpayers. We want them to stand in a way equal to other taxpayers.

So it would seem to me that since we need them, they also need this protection.

Remedies have been dragged into this debate for some reason. I cannot conceive of individuals who are willing to say that individuals should be given legal protections and then not remedies. If protection is needed, so are remedies, and the two cannot be separated.

Having, it seems to me, lost the merit of the debate that certain citizens can be discriminated against in contrast to others, and having lost the debate on the question of dividing the protection among American citizens, someone has suggested that some deal has been made. I do not know how many in this House were parties to any deal that was made, but it certainly seems to me that any suggestion that a deal was made, and most of us are not aware of that deal, that those who made that deal should at least admit what type of a deal they entered into that would deal away the legal protections and the rights of over 24 million American citizens. I think we are entitled to know that.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise in support of the Sensenbrenner amendment.

You know, I sit here with a little surprise and concern because I was in the Judiciary Committee when Chairman EDWARDS and the group on that side of the aisle pretty much made a very convincing argument that remedies were not to be discussed because it was title VII remedies without punitive damages and compensatory, and that was the understanding in relationship to our discussion, which was true. That was the law under title VII, and is.

Now, I see nothing fair about attacking the Sensenbrenner amendment as being discriminatory, because if there is to be discrimination, it will be later on when you file an amendment that will be different than the existing remedies.

The Sensenbrenner amendment says, leave the remedies like they are. It does not say anything about different remedies for someone else, but the anticipation is that it will be necessary to discriminate against the disabled, by the arguments I have heard here. So the reverse is true. The discrimination comes against the disabled by those who would separate the remedies that are already in title VII, which are incorporated by reference.

It is especially repugnant to pass a bill and then to wait later for the remedies.

Mr. Chairman, what we are talking about is bringing our citizens to their knees, to their knees when you give the plaintiff the right to open-end damages, open-end damages in the form of compensatory and in the form of punitive damages.

I have heard the remark made that it is only for intentional acts. I have heard lawyers say that. Lawyers know that an intentional act is always when you breach the law. There is no such thing as negligent breach of the law. So when the businessman goes out there and makes a mistake, that is not negligence. That is an intentional breach of the law, even though the regulations have not been put forth.

Mr. Chairman, the amendment is in order and I am for it.

Mr. Chairman, I rise in strong support of the Sensenbrenner amendment. The amendment would make a critical clarification by making the remedies for discrimination under the ADA identical with the remedies that currently exist under title VII of the 1964 Civil Rights Act. Those remedies include back pay with interest, injunctions, orders of reinstatement or promotion, and other equitable relief which a court may fashion. These remedies are designed to put the individual into the position that he or she would have been in but for the discrimination. They provide real redress to a victim of discrimination without creating an incentive to go to court in hopes of winning a windfall damage award.

Another bill pending in Congress, the Supreme Court reversal bill sponsored by Mr. HAWKINS, would change those remedies so that plaintiffs could seek punitive and compensatory damages. Punitive damages, which are awarded to the plaintiff, are designed to punish the employer for its acts. There is no dollar limit in the amount that can be awarded. Compensatory damages, also known as pain and suffering damages, are awarded to the plaintiff to compensate for things such as mental anguish. There is no dollar limit on these damages either.

It is important to note that the Federal courts have been deciding cases under title VII for more than 25 years. As such, they are in a particularly good posture to assess the potential negative impacts of adding punitive and compensatory damages to title VII, and by reference to the ADA. I have examples here of what some of these courts have said about including expanded damages under title VII, and they are very revealing.

One court has stated that: "The possibility of a large verdict for pain and suffering will make a claimant less than enthusiastic about accepting a settlement." Another court has said that, and I quote again, "A system which would permit complainants potentially to recover considerably larger sums if they resist settlement and initiate litigation would undermine the central features of title VII."

Mr. Chairman, the lesson in this is clear. We should defer to the wisdom of the courts and keep remedies for employment discrimination designed to redress the victim without encouraging costly litigation. That is what the amend-

ment does, and I urge all of my colleagues to give it their full support.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, let me first extend congratulations to the committee chairman, the gentleman from California [Mr. EDWARDS], and the gentleman from Maryland [Mr. HOYER] and others, including the gentleman from California [Mr. HAWKINS], for the work the have done on this bill.

I rise in opposition to the gentleman's amendment, with great respect to him as one of the more thoughtful Members of our body, but it just seems to me in the sense of what is symmetrical and what is balanced here, and I happen to like symmetry and balance in architecture and other things, I think it would be unbalanced if we were to accept the Sensenbrenner amendment, because we would say that one class of people who are entitled to protection because they have been discriminated against would get one body of remedies, where another class of people, the same thing, they have been discriminated against, would get a second class of remedies.

So it seems to me, Mr. Chairman, to maintain the balance that there ought to be a reflection of that in the sense of the kind of remedies that are applied.

Let me also go beyond this to say that I think the bill itself is a wonderful piece of legislation. It is one of the major civil rights bills that this body will grapple with in the next Congress. I think it reflects a growing awareness, not just of altruism and charity and of doing something for people who need to have our attention, but this is a very important piece of legislation from our own self-interest as a nation. As we look down the road to the year 2000, and if we read the demographic studies, we will need people in the work force, people with talent, people with initiative, people with energy, and based upon my observations back home in Louisville at the Center for Successful Living, where I have had many opportunities to meet people who are disabled, I see in them this very pool of people with talent, energy, and intellect, that we need to accomplish our work as we go down toward the year 2000 to be competitive with the other nations of the world.

So I think this is a good bill from kind of a laboratory setting. It is a good bill because it does good things, but even more important than that, it does good things because it does smart things.

So again I oppose the gentleman's amendment, but rise in very strong support of the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank my friend and colleague for yielding me this time.

Mr. Chairman, last week President Bush said that our civil rights laws should not encourage litigation at the expense of conciliation, mediation, or settlement. Yet if we don't adopt the Sensenbrenner amendment, that is exactly what could happen to the ADA.

First let me stress that the Sensenbrenner amendment guarantees to victims of discrimination the same rights and remedies that are available to other protected classes under title VII. It takes absolutely nothing away in terms of its protection. It is simply designed to state that Congress believes that title VII remedies are appropriate for both the ADA and for title VII and that they should remain as they are.

Many people do not realize that the actual award given in a lawsuit is just the tip of the iceberg in terms of the total litigation costs. The more the incentive to litigate—as would surely be the case if the ADA is expanded to include punitive and compensatory damages—the higher the litigation costs.

What happens if employment discrimination damages get expanded under ADA and title VII? Under title VII with its current remedies, only 6 percent of the charged filed with the EEOC end up as lawsuits. The rest are disposed of through title VII's mediation and conciliation procedures. Of those cases that go to trial—an average of over 1,500 cases litigated each year—the attorneys fees average more than $96,000 per case.

A recent study by the Employment Policy Foundation estimates that title VII litigation will triple if it includes punitive and compensatory damages. If ADA is included, with its 43 million potential plaintiffs, even more lawsuits are sure to result.

The ADA with the addition of the Sensenbrenner amendment, will assure that the law will open the door to the workplace, rather than the door to the courthouse.

Mr. Chairman, a vote for the Sensenbrenner amendment is a vote for continuing an effective policy with respect to remedies for employment discrimination which has been in effect for over 25 years. I urge its support.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. BENNETT].

□ 1340

Mr. BENNETT. Mr. Chairman, I have just two points to make. One of them has been made many times before. But I want to accentuate how deeply those who are disabled appreciate this legislation.

Mr. Chairman, it is a very compassionate, very fine piece of legislation, and I am grateful on behalf of all others, very grateful, for this having occurred.

The second point I would like to make is that it would be, in my opinion, very poor taste and improper for us to make a distinction between those who are physically disabled under the civil rights concept of our country and those who have other civil rights situations that are addressed by civil rights legislation. I say that with hesitancy, because I love the gentleman from Wisconsin. I served with him on the ethics committee, and he is a magnificent legislator. It is a great pleasure to have served with him.

But I do think that the committees are correct in approaching this matter by giving equal opportunity for all people who are disabled or who have any other problem which would require civil rights attention.

Mr. Chairman, I thank the committee for doing it. I do say, from the bottom of my heart, however, I think it would be a mistake to distinguish in some way between the various people whose civil rights are being addressed in this legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time on this point.

Mr. Chairman, I rise in strong support of the Sensenbrenner amendment. I think we need to understand, as we conclude this debate, what it is really all about. It is about a question of whether we are going to codify in the law the present remedies or leave them as the bill currently has it, tied ambiguously to whatever fate title VII has in the future as far as the remedies sections are concerned.

It seems to me, under the circumstances, it is eminently reasonable to do what the gentleman from Wisconsin [Mr. SENSENBRENNER] wants to do and spell out what the remedies are, and they are in existing law under title VII, are going to be the remedies for ADA regardless, at the moment at least, of what we do with title VII, that is, injunctive relief and those things that have been spelled out here before.

The reason I say that is fairly simple. The proposals that are out there now to change title VII are going to allow compensatory and punitive damages. The real problem I have had with the ADA bill altogether, and I am going to vote for this bill, even though a lot of people think that I am out here with a lot of amendments and I am opposed, I am not, because I think the disabled need to have a civil rights bill like this one.

I think the problem we have had all along has been costs. It has been a question of how do we mitigate, how do we reduce, costs. It is far more complex under the civil rights legislation for the handicapped than it is for race or sex or any other kind of discrimination. There may be as many as 900, some people say, 900 different disabilities covered by this legislation. There are innumerable different situations in the workplace where the handicapped of different types will intermesh, and those situations will have to be resolved hopefully through processes that are short of litigation. It will be expensive, and even if there is a resolution occasionally by litigation, that will undoubtedly be a very expensive route.

I am suggesting, I think, we ought to have the same remedies as title VII. I think we want to do that. But I am not sure. I do not see any harm to letting us put into law now for the short run, at least, the solid, clear examples we know of the kind of relief, injunctive relief, that is presently in the law, and make sure as we go through this complex law, as it becomes effectuated, that we are not making a mistake by broadening it too soon.

I urge adoption of the Sensenbrenner amendment. It is a commonsense approach. I believe it ought to be adopted, and that we ought to pass the bill.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I oppose this amendment. It makes no sense to provide to disabled individuals remedies that are different from the remedies available to women, racial groups, and religious groups. People with disabilities have been second-class citizens for far too long. The fundamental purpose of the Americans With Disabilities Act is to correct that situation, but this amendment would perpetuate that second-class status.

Referencing the Civil Rights Act of 1964, which I supported and helped draft, as the ADA does now, assures that the remedies provided to the disabled will continue to parallel the remedies provided to these other groups. This is a fair concept and a good one.

A no vote on this amendment will be a vote for first-class citizenship for the disabled. I urge the Members to defeat the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Chairman, 13 years ago a Jeep that I was driving through a muddy rain forest in Hawaii flipped, pinning me underneath. My spine was shattered, and for several weeks I lay in a hospital paralyzed from the waist down. Life seems very different from the perspective of one who cannot walk or even use a restroom normally. I was lucky enough to recover fully.

That brief taste of a lifetime handicap showed me how courageous are the people who must live with these disabilities every day, and that is why I am so delighted that President Bush has been pushing so hard for passage of the Americans With Disabilities Act.

President Bush was led to understand that this bill did not include punitive damages, and that was the understanding of most of us here. That is important, because in many respects this legislation is vague. The definition of who is disabled is in large measure left to the courts. The definition of what is a reasonable accommodation is in large measure left to the courts.

In that context, punitive damages just do not make sense. The Sensenbrenner amendment will give the disabled the same remedies currently available to women and minorities under title VII. The Sensenbrenner amendment will assure that with this bill we empower the disabled, not the lawyers.

Mr. Chairman, I urge a "yes" vote on the Sensenbrenner amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, I rise in opposition to the amendment and in support of this magnificent piece of legislation, which is probably the most beneficial legislation we will pass in this session of Congress.

I want to emphasize the fact that, as the subcommittee chairman responsible for launching this legislation, we held many hearings, and we worked with a volunteer group of people from the community of people with disabilities. it was their great wish that we couple this bill and bind it tightly with the rest of the civil rights legislation. They wanted to make it quite clear that this is a completion of the civil rights agenda for America.

Justin Dart, who chaired the volunteer task force, held meetings all over the country in every State. People came out, and they wanted to emphasize the fact that this is a rights bill; it is a civil rights bill. It is not another set of one of those thousand points of light. This is not charity. This is a clarification and reaffirmation and establishment of certain basic civil rights.

At their requests, the first hearing we held here in Washington we invited Jesse Jackson as the leadoff witness. It was their request that everything possible be done to make it clear to everybody that this is the completion of the agenda for civil rights in America.

I hope we clearly understand that and vote no on this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, those who are opposed to my amendment seem to think that protections and rights are synonymous with remedies and lawsuits. I strongly disagree with that.

If anyone wants remedies in lawsuits, vote no on the Sensenbrenner amendment. If they want protections and rights, vote aye on the Sensenbrenner amendment.

Let us have the money that business spends on the ADA used to make places of employment and places of business more accessible to the disabled rather than using that money in the courtroom to pay lawyers' fees and litigation fees.

Support the Sensenbrenner amendment. Give the disabled something that they truly deserve, protections and rights.

Mr. Chairman, I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER].

□ 1350

Mr. HOYER. Mr. Chairman, I wish to thank the distinguished chairman of the subcommittee and also want to thank the chairman of the Committee on the Judiciary.

Mr. Chairman, we are about to take a historical action on the floor of this House. It is akin to the action we took in 1964, when we said to all Americans that you are not to be discriminated against, irrespective of your race, your color, your national origin, your sex, or other arbitrary distinctions.

We did not, however, in 1964, say that the disabled would be in that same category. So for 26 years, from that date, we have continued to allow both conscious and unconscious, unthinking, discrimination.

In a very bipartisan way with the leadership of the President and the leadership of the chairmen of the House and Senate committees, both sides of the aisles, we are going to say to the disabled, 43 million strong in America, that we no longer are going to allow that process to occur.

In the course of the consideration of that legislation, in the course of the discussions between the White House and the Senate, there was an agreement. There was an understanding. There was a commonsense resolution to a thorny issue.

In the original presentation of the bill punitive damages and compensatory damages had been included. Some said no, that is not fair. We ought to have parallel rights. All persons discriminated against ought to have the same remedies. As a matter of fact, Attorney General Thornburgh said ex-

actly that. He said, "The ADA wisely parallels in the disability area Title VII of the Civil Rights Act of 1964."

What did that mean? It meant, ladies and gentlemen, that we hold these truths to be self-evident, that all men are created equal and are endowed by their creator with certain unalienable rights, and among these are life, liberty, and the pursuit of happiness. Because they are all created equal, in the eyes of our law we will treat them equal.

This is the wrong amendment at the wrong time on the wrong bill. The gentleman from Pennsylvania got up and chastised us for talking about a bill that is to come. All of the debate in favor of the Sensenbrenner amendment I suggest has been on a bill that is yet to come to this floor.

Let us not say by adopting the Sensenbrenner amendment that the disability community remains in a second-class status in America. That is not what this bill is about. This bill is about all men and women being created equal, endowed not by the State, not by Congress, as some of our Communist friends tried to sell the world and are now failing in doing so, but by their creator, with certain unalienable rights. If those rights are transgressed, then their remedies ought to parallel the remedies of a black citizen or a female citizen or an ethnic minority citizen or any other citizen in America who was not treated consistently with the principles that has made this Nation the object of envy throughout the world, because we have pledged and our law stands ensconced in the world as standing for the proposition that every individual will be granted equal rights and equal remedies.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 227, not voting 13, as follows:

[Roll No. 121]

AYES—192

| | | |
|---|---|---|
| Andrews | Brown (CO) | Dannemeyer |
| Anthony | Bunning | Davis |
| Applegate | Burton | DeLay |
| Archer | Callahan | Derrick |
| Armey | Campbell (CA) | DeWine |
| Baker | Chandler | Dickinson |
| Ballenger | Chapman | Dornan (CA) |
| Barnard | Clarke | Douglas |
| Bartlett | Clinger | Dreier |
| Bateman | Coble | Duncan |
| Bentley | Coleman (MO) | Edwards (OK) |
| Bereuter | Combest | Emerson |
| Bilirakis | Cooper | English |
| Bliley | Coughlin | Fawell |
| Boehlert | Cox | Fields |
| Broomfield | Crane | Gallegly |
| Gallo | Madigan | Schaefer |
| Gekas | Marlenee | Schiff |
| Geren | Martin (IL) | Schuette |
| Gillmor | Martin (NY) | Schulze |
| Gingrich | McCandless | Sensenbrenner |
| Goodling | McCollum | Shaw |
| Goss | McCrery | Shumway |
| Gradison | McEwen | Shuster |
| Grandy | McMillan (NC) | Sisisky |
| Grant | Meyers | Skeen |
| Hancock | Michel | Skelton |
| Hansen | Miller (OH) | Slaughter (VA) |
| Hastert | Miller (WA) | Smith (IA) |
| Hayes (LA) | Molinari | Smith (NE) |
| Hefley | Montgomery | Smith (NJ) |
| Hefner | Moorhead | Smith (TX) |
| Henry | Morrison (WA) | Smith, Denny (OR) |
| Herger | Murphy | Smith, Robert (NH) |
| Hiler | Myers | Smith, Robert (OR) |
| Holloway | Nielson | Solomon |
| Hopkins | Olin | Spence |
| Hubbard | Ortiz | Stallings |
| Huckaby | Oxley | Stangeland |
| Hunter | Packard | Stearns |
| Hutto | Parker | Stenholm |
| Hyde | Parris | Stump |
| Inhofe | Paxon | Sundquist |
| Ireland | Payne (VA) | Tanner |
| James | Petri | Tauke |
| Jenkins | Pickett | Tauzin |
| Johnson (CT) | Porter | Thomas (GA) |
| Johnston | Price | Thomas (WY) |
| Kasich | Pursell | Upton |
| Kolbe | Quillen | Valentine |
| Kyl | Ray | Vander Jagt |
| LaFalce | Regula | Volkmer |
| Lagomarsino | Rhodes | Vucanovich |
| Lancaster | Ridge | Walker |
| Laughlin | Ritter | Weber |
| Leath (TX) | Roberts | Weldon |
| Lent | Robinson | Whittaker |
| Lewis (CA) | Rogers | Wolf |
| Lewis (FL) | Rohrabacher | Wylie |
| Lightfoot | Rose | Yatron |
| Lipinski | Roth | Young (AK) |
| Livingston | Roukema | Young (FL) |
| Long | Rowland (GA) | |
| Lowery (CA) | Sarpalius | |
| Machtley | Saxton | |

NOES—227

| | | |
|---|---|---|
| Ackerman | de la Garza | Hatcher |
| Anderson | DeFazio | Hawkins |
| Annunzio | Dellums | Hayes (IL) |
| Aspin | Dicks | Hertel |
| Atkins | Dingell | Hoagland |
| AuCoin | Dixon | Hochbrueckner |
| Barton | Donnelly | Horton |
| Bates | Dorgan (ND) | Houghton |
| Beilenson | Downey | Hoyer |
| Bennett | Durbin | Hughes |
| Berman | Dwyer | Jacobs |
| Bevill | Dymally | Johnson (SD) |
| Bilbray | Dyson | Jones (GA) |
| Boggs | Early | Jones (NC) |
| Bonior | Eckart | Jontz |
| Borski | Edwards (CA) | Kanjorski |
| Bosco | Engel | Kaptur |
| Boucher | Erdreich | Kastenmeier |
| Boxer | Espy | Kennedy |
| Brennan | Evans | Kennelly |
| Brooks | Fascell | Kildee |
| Browder | Fazio | Kleczka |
| Brown (CA) | Feighan | Kolter |
| Bruce | Fish | Kostmayer |
| Bryant | Flake | Lantos |
| Buechner | Foglietta | Leach (IA) |
| Bustamante | Ford (MI) | Lehman (CA) |
| Byron | Frost | Lehman (FL) |
| Campbell (CO) | Gaydos | Levin (MI) |
| Cardin | Gejdenson | Levine (CA) |
| Carper | Gephardt | Lewis (GA) |
| Carr | Gibbons | Lloyd |
| Clay | Gilman | Lowey (NY) |
| Clement | Glickman | Luken, Thomas |
| Coleman (TX) | Gonzalez | Manton |
| Collins | Gordon | Markey |
| Condit | Gray | Martinez |
| Conte | Green | Matsui |
| Conyers | Guarini | Mavroules |
| Costello | Gunderson | Mazzoli |
| Courter | Hall (OH) | McCloskey |
| Coyne | Hall (TX) | McCurdy |
| Crockett | Hamilton | McDade |
| Darden | Harris | McDermott |
| McGrath | Pickle | Spratt |
| McHugh | Poshard | Staggers |
| McMillen (MD) | Rahall | Stark |
| McNulty | Rangel | Stokes |
| Mfume | Ravenel | Studds |
| Miller (CA) | Richardson | Swift |
| Mineta | Rinaldo | Synar |
| Moakley | Roe | Tallon |
| Mollohan | Rostenkowski | Taylor |
| Moody | Rowland (CT) | Torres |
| Morella | Roybal | Torricelli |
| Morrison (CT) | Russo | Towns |
| Mrazek | Sabo | Traficant |
| Murtha | Saiki | Traxler |
| Nagle | Sangmeister | Udall |
| Natcher | Savage | Unsoeld |
| Neal (MA) | Sawyer | Vento |
| Neal (NC) | Scheuer | Visclosky |
| Nowak | Schneider | Walgren |
| Oakar | Schroeder | Walsh |
| Obey | Schumer | Washington |
| Owens (NY) | Serrano | Waxman |
| Owens (UT) | Sharp | Weiss |
| Pallone | Shays | Wheat |
| Panetta | Sikorski | Whitten |
| Pashayan | Skaggs | Williams |
| Patterson | Slattery | Wilson |
| Payne (NJ) | Slaughter (NY) | Wise |
| Pease | Smith (FL) | Wolpe |
| Pelosi | Smith (VT) | Wyden |
| Penny | Snowe | Yates |
| Perkins | Solarz | |

NOT VOTING—13

| | | |
|---|---|---|
| Alexander | Frenzel | Ros-Lehtinen |
| Craig | Hammerschmidt | Thomas (CA) |
| Flippo | Lukens, Donald | Watkins |
| Ford (TN) | Nelson | |
| Frank | Oberstar | |

□ 1412

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Mr. Thomas of California for, with Mr. Oberstar against.

Mr. ACKERMAN changed his vote from "aye" to "no."

Messrs. VOLMER, QUILLEN, DAVIS, and SPENCE changed their votes from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

Mr. STAGGERS. Mr. Chairman, during the Judiciary Committee's markup of the Americans With Disabilities Act, I entered into a colloquy with the distinguished chairman of the Subcommittee on Civil and Constitutional Rights, Mr. EDWARDS, regarding my concern pertaining to the impact of the ADA on the temporary worksite. This concern stemmed from conversations I've had with constituents in the construction industry. They pointed out that making certain types of accommodations on a temporary worksite, such as a construction jobsite, would be very difficult due to the frequently changing circumstances, structure, and terrain of such worksites.

I am pleased to say the Judiciary Committee report language, as well as the Education and Labor Committee report language, discuss the special circumstances of the temporary worksite. Both reports clarify the intent of the ADA, with regard to consideration of the type of operation maintained by the entity, in determining whether or not an accommodation would pose an undue hardship. Specifically, the Judiciary Committee report states an employer on a construction jobsite, for exam-

ple, would not be required to made accommodations which would fundamentally alter the nature of the site, or be unduly costly to implement or maintain. Furthermore, the committee recognizes that certain types of accommodations which may be easily made in a more traditional work setting, such as an office building, would impose an undue hardship on the nontraditional, temporary worksite.

The contractors I mentioned came to me because they are not sure what will be expected of them under the employment title (I) of the ADA. They raised the point that a construction jobsite is an ever-changing place of employment. As a project enters different phases of completion, points of accessibility change. An accommodation made today won't necessarily provide access tomorrow. In addition, many of the employees are temporary, in that they work for a particular employer only for the duration of that project. Employers on temporary worksites want assurances that this legislation will take into consideration the realities of their unique industry. I believe the committee report language addresses this situation, and I thank Mr. EDWARDS for his assistance on this important matter.

Certainly, this legislation will benefit the entire Nation by prohibiting discrimination against the estimated 43 million persons in this country with disabilities, and I strongly support that intent. However, Mr. Chairman, I think it is important to raise the issues during this debate which have concerned those who will have to comply with the act, particularly small businesses, and point out the steps the committee of jurisdiction have taken to clarify their obligation.

Mr. FISH. Mr. Chairman, as we consider the Americans with Disabilities Act [ADA] today, I would like to offer some comments on six amendments which I introduced and which were accepted by the Judiciary Committee during its consideration of the bill. These provisions have been incorporated into the bill before us. I would like to briefly describe the purpose of each of these amendments, as I believe that will be useful for Members of this body.

Section 101(8): Qualified individual with a disability ("Essential function of the job"):

The ADA, like section 504 of the Rehabilitation Act, defines "qualified individual with a disability" as an individual with a disability who, with or without reasonable accommodation can perform the essential functions of the job. The term "essential functions" is included in order to ensure that persons with disabilities are not disqualified because they cannot perform duties which are only marginal to the job. Employees often include tasks in job descriptions which are incidental to the actual job or are performed infrequently or not at all. A common example of this is the requirement that applicants possess drivers' licenses for non-driving jobs. Such a driving requirement serves to disqualify persons with disabilities which preclude driving. Employers often include this requirement because of the convenience of having an employee who drives do an occasional errand or because the employer believes that an employee who drives will not be late to work or will be able to work more overtime. These would not be valid reasons to exclude a person whose disability prevented him from driving, if the person was able to do the tasks of the actual job.

In addition, the essential function requirement focuses on the desired result rather than the means of accomplishing it. For example, in one case under the Rehabilitation Act, the employer required each employee to be able to perform the job with both arms. *Prewitt* v. *U.S. Postal Service,* 662 F.2d 292 (5th Cir. 1981). The plaintiff was unable to do this because his disability resulted in limited mobility in his left arm. The court found that the essential function of the job was the ability to lift and carry mail which the employee had proven that he could do, not the ability to use both arms. Moreover, the court found that the employer was required to adapt the work environment to determine whether the employee with the disability could perform the essential requirements of the job with reasonable adaptations.

Likewise, in a job requiring the use of a computer, the essential function is the ability to access, input, and retrieve information from the computer. It is not essential that the person be able to use the keyboard or visually read the computer screen, if the provision of adaptive equipment or software would enable the person with the disability—for example, impaired vision or limited hand control—to control the computer and access the information. The relevant question would be whether the acquisition of the equipment would be a reasonable accommodation, given the factors to be considered in making that determination.

The committee adopted addition language which states that consideration shall be given to the employer's judgment as to what functions of the job are essential. This amendment was added because of concerns that the essential function provision would be read to mean that the employee alone could define the essential functions and that the employer's judgment would be disregarded. The amendment simply clarifies that the employer's judgment should be considered, along with all other evidence. An amendment which would have created a presumption in favor of the employer's judgment was rejected. Hence, the amendment is neutral as to the weight that should be given to the employer's judgment about which functions are essential. Similarly, an amendment was approved on the floor which states that job descriptions developed by the employer shall be considered evidence of the essential functions of the job. Again, this amendment is neutral as to the weight to be given this evidence. Writing down a job function does not elevate its weight. The weight given to a written job description will depend on how closely it is tailored to the actual functions of the job. Moreover, a plaintiff may use the job description as evidence of discrimination. Hence, both amendments to the essential functions provision should be read to conform to existing law which considers evidence from both the plaintiff and defendant on the issue of essential functions.

Section 103(b)(3): Direct threat to others:

The committee adopted amendments to the employment and public accommodations sections of the bill to ensure that entities which excluded persons with disabilities from their programs on the basis of risk of harm to others did so based on the standard of a direct threat that could be proved to be a significant risk to the health or safety of others that cannot be eliminated with reasonable accommodation.

While the committee does not foresee that the employment or participation of an individual with disabilities would generally pose any risk, much less a significant risk, to the health or safety of others by the status of having a disability, the committee added this provision to allay the fears of those who believe that the nondiscrimination provisions of the bill could force employers and providers of benefits or services to employ or to interact with those individuals who pose such a risk.

In adopting this standard, the committee drew on case law developed under section 504 of the Rehabilitation Act of 1973, as amended. Under this case law, a person would not be considered qualified if he or she posed a direct threat to the health or safety of others. The formulation of this standard parallels the provision added to the Civil Rights Restoration Act of 1988 (Public Law 100–259, 102 Stat. 28) and the provision added to the Fair Housing Amendments Act of 1988 (Public Law 100–403, 102 Stat. 1619). Congress added both provisions in order to codify the Supreme Court decision in *School Board of Nassau County* v. *Arline,* 107 S.Ct. 1131, n.16.

Any claim that an individual poses a direct threat and a significant risk of harm to others must be established on the basis of objective evidence. Generalized assumptions, subjective fears and speculation are insufficient to prove the requisite direct threat to others.

If the employer determines, by objective evidence that is sufficiently recent as to be credible, and not from unsubstantiated inferences, that the applicant will pose a direct threat that is a significant risk to the health or safety of others, and that the threat cannot be eliminated by the provision of a reasonable accommodation, the employer may reject the applicant as an employee. Providers of public accommodations are intended to be held to the same standards as employers, with regard to denying services or benefits to persons with disabilities.

The applicant or participant is not required to prove that he or she poses no risk. Further, the determination of significant risk for persons with disabilities must be based on the current condition of the applicant, participant or employee. The decision to exclude cannot be based on merely an elevated risk of injury. See, *Mantolete* v. *Bolger,* 736 F.2d 1416 (9th Cir. 1985). This amendment adopted by the committee is intended to set a clear, defined standard which requires actual proof of significant risk to others.

Section 308(a)(1): The futile gesture doctrine:

Another amendment offered and accepted in the Judiciary Committee clarified the language in the title III enforcement provision which states that a person may file a civil action if he or she has reasonable grounds to believe that he or she was about to be subjected to discrimination. Concerns were raised as to the meaning of this provision in cases other than new construction or alterations of buildings. The explicit language describing the futile gesture doctrine was inserted to clarify

the circumstances when the "about to be" language would be applicable. This has been a well-established doctrine in title VII case law and is implied in title I.

Section 302(a): Prohibition of discrimination by public accommodations: General rule:

The committee adopted an amendment which clarifies that the prohibition against discrimination "in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations," applies to "any person who owns, leases (or leases to), or operates a place of public accommodation."

This amendment was added in order to make it clear that the prohibition against discrimination applies to the owner of the building that houses the public accommodation, as well as the owner or operator of the public accommodation itself. For example, an owner of a building that contains retail stores would be required to make readily achievable changes to accomplish access in common areas under the building owner's control. Without this provision, the purpose of title III could be undermined. A person with a disability could be prevented from entering the public accommodation because of an inaccessible entrance—which could be made accessible easily, without much difficulty or expense—i.e. in a readily achievable manner. Likewise, the owner would be required to modify policies which exclude people with disabilities, such as a no pets rule, in order to allow entrance to a person who uses a guide, signal or service dog. Any actions of the building owner which affect the ability of a person with a disability to use the public accommodation would be covered, to the extent provided in the non-discrimination provision of section 302.

The amendment also makes it clear that the owner and operator of the public accommodation are prohibited from discriminating in accordance with this title. Corporate headquarters would be covered to the same extent as the operator of the accommodation. For example, corporate headquarters could not continue to design new stores in an inaccessible manner in violation of section 303.

Finally, organizations which lease public accommodations for events which are open to the public are prohibited from leasing those public accommodations which discriminate against people with disabilities as defined by this title. This provision addresses concerns that were raised about the inability of people with disabilities to attend public events because of lack of access or discriminatory policies. This provision does not require organizations to lease only accessible facilities. It does, however, require organizations to lease facilities which are in compliance with this title. For example, an organization could not lease a conference center for a public event which refused to admit blind people who use guide dogs or refused to serve people who used wheelchairs.

Section 303: New construction and alterations in public accommodations and commercial facilities:

The Committee also approved an amendment which extended the obligation to carry out building alterations so that they result in accessibility in commercial facilities, as well as in public accommodations. This amendment was intended to correct an oversight in previous bills where the alterations section only applied to public accommodations. The intent of the ADA is to assure that construction performed in the future results in accessibility and useability by people with disabilities. In order to accommodate the concerns of businesses, a line was drawn between existing buildings where only those accessibility changes which are readily achievable are required, and new construction which must be accessible. In keeping with this purpose, it made sense to require that alterations which affect usability also be accessible in all commercial facilities. The bill does not require that existing buildings be altered for accessibility purposes. It simply requires that if and when alterations are performed that they incorporate accessibility requirements. Without this amendment, the anomalous situation could arise that a new commercial facility which was required to be accessible under the ADA could be altered to make it inaccessible.

Section 309: Examinations and courses:

The committee adopted an amendment which creates an obligation on all entities which provide tests and courses related to applications, licensing, certification or credentialing for secondary or post-secondary education, professional, or trade purposes to offer the examinations or courses in a place and manner that is accessible. This amendment was critical to the purposes of the ADA, to create equal opportunity for persons with disabilities. This purpose would be undermined if people with disabilities would be foreclosed from the same opportunities to prepare and qualify for educational and professional positions. For example, a law school graduate who used a wheelchair would be at a disadvantage if his classmates could take a bar preparation course that was held in an inaccessible site. Likewise, a person who is blind may be unable to compete in the S.A.T. exam without the assistance of a reader. The courses and examinations covered in this section were considered so critical to the intent of the ADA that the committee wanted to ensure the participation of people with disabilities.

CONCLUSION

In conclusion, the amendments that I offered and that were accepted by the Judiciary Committee are consistent with the purpose of the ADA—to open equal opportunities to people with disabilities. I look forward to the passage of the most historic piece of disability civil rights legislation of our times and feel honored to have had a part in drafting it.

Mr. HAYES of Illinois. Mr. Chairman, I rise in strong support of the Americans with Disabilities Act before us today. Ever since this great country was formed over 200 years ago Americans have had one common goal in life—democracy. After all this time it is a sad commentary that with all of our know how and all the advancements that we have made throughout our history, that we have not been able to achieve that goal for a vast number of citizens.

We have legislated against roadblocks for equal education, equal employment, equal opportunity and equal rights. Still, discrimination persists to eat away at the fabric of our society. One day we will overcome the hatred and bigotry that is harbored by a declining few in this country. Until that time, it is important that we go through the exercise we are involved in today. When enacted, the ADA bill before us will bring much of what society has to offer to those who can least afford to be denied full membership—I am talking about those with mental and physical disabilities.

Given the fact that there are over 43 million Americans suffering from some form of disability, this legislation will have a wide and far reaching impact on the lives of countless citizens. There simply is no excuse why these citizens should not have the full protection accorded everyone else in society.

While I am not so naive as to think this legislation alone will end the discrimination these individuals face each and every day, just as the Civil Rights Act of 1964 and the Rehabilitation Act of 1973 have changed our society for the better, the ADA will also have a profound positive impact on the quality of life of millions of Americans.

I urge my colleagues on both sides of the aisle to vote in support of this bill.

Mr. MORRISON of Connecticut. Mr. Chairman, this is a historic day. Twenty-six years after the enactment of the Civil Rights Act of 1964, which barred discrimination based on race, religion, national origin and gender, we are about to pass legislation that will bar discrimination against one of the Nation's largest minority groups—Americans with disabilities.

This bill extends to Americans with disabilities the civil rights that are guaranteed to all Americans. I am delighted that we are moving forward to empower Americans with disabilities, not only so that they may have access to the opportunities so many of us take for granted, but also so that we all may have access to their talents and productivity.

Mr. Chairman, one of the key accomplishments of this bill is the prohibition of discrimination on the basis of public accommodation. With the passage of this bill no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodation of any place of public accommodation.

The mandate provided in the ADA for architectural accessibility will be extremely important, particularly in States which have no access requirements today. In these places, disabled people and their advocacy organizations have long been frustrated by unsuccessful attempts to achieve access to public accommodations through voluntary efforts by the operators of those accommodations.

One refrain disabled people have heard over and over again is, "Why should we make our building accessible when we have no disabled customers?" This reflects an erroneous assumption. Disabled people tend to not even try to use a public accommodation that is inaccessible; therefore, the manager doesn't know what the demand for services would be among people with disabilities if the facility was accessible.

As society becomes more accessible, and disabled people become more fully integrated, most public accommodations will tend to have disabled customers.

Sometimes, managers of public accommodations don't contemplate the use by disabled

persons because of the unique physical nature of the public accommodation or the physical requirements for participation. But again, this is based on erroneous assumptions.

For example, at one time, it was unheard of for individuals using wheelchairs to play tennis, and tennis court designers and managers never contemplated disabled players wanting courts. However, wheelchair tennis is now an accepted athletic event, and it can be assumed that tennis courts should be wheelchair accessible.

In general, when participation by disabled persons isn't contemplated at a place or activity, erroneous assumptions about the skills and inclinations of disabled persons are being made. This is why the ADA requires access to all public accommodations.

One of the ADA's public accommodations requirements is that, when buildings are altered, the altered area must be made accessible to people with disabilities. Alterations include remodeling projects of all kinds. Additions to buildings should be considered alterations.

A related requirement is that an accessible path of travel must be provided to the altered area, if providing one would not be disproportionate in cost and scope to the overall alteration. An accessible path of travel should include whatever elements are necessary so that a disabled person can enter the facility, whether the person arrives by driving a car into the building's parking lot, or whether the person comes up the public sidewalk.

Also, facilities serving the altered area, like accessible restrooms, telephones, and drinking fountains, should be provided if they are not disproportionate in cost and scope to the overall alteration.

The "disproportionate" language in the bill is provided to offer operators of public accommodations relief in the situations where providing an accessible path of travel to an altered area would be so overwhelmingly expensive, in comparison to the originally intended scope of the alteration, that it would make the alteration financially infeasible. In this way, the bill offers a well-crafted requirement for accessibility, and balances it with the necessary financial protections for the operators of commercial establishments covered by the ADA.

For the Americans With Disabilities Act to provide a successful mandate for eliminating disability discrimination, it will be critical for it to be regulated and implemented very carefully. Implementation must take into account the actual problems that face disabled people on a daily basis in our society.

Two good examples include hotels and grocery stores, which present special challenges for implementation.

Disabled people are frequently frustrated by the inaccessibility of hotel rooms. Very few rooms, even in new hotels, are made fully accessible. The rest of the rooms often feature restroom doors too narrow to enter. Often, it has been impossible for disabled persons who need to fly to a city on short notice to do business, to find a usable hotel room. For the same reason, organizations of disabled persons are often stymied when trying to find a hotel for a conference, because virtually all hotels feature too few rooms to accommodate the organizations' disabled members.

For this reason, the ADA requires new hotels to meet a number of requirements. Common-use areas like lobbies and restaurants must be accessible, a few rooms must be fully accessible—including grab bars and wheelchair turning space in the restroom—and audio loops for the use of hearing-impaired persons must be available in meeting rooms. In addition, doors to all guestrooms, and doors to the restrooms in all guestrooms, must be of a standard wheelchair-accessible width.

This is a reasonable way to solve the problem. While it might not be reasonable to propose that every guestroom in a new hotel be fully accessible—including restroom grab bars and turning space—it is reasonable to require a percentage of fully accessible rooms and simply the appropriate door widths in the other rooms. Then, many wheelchair-users and other people with physical disabilities will be able to use those guestrooms which are not fully accessible. It will be much easier for disabled persons to book usable rooms when they don't have a lot of time in advance, and also it will greatly relieve the difficulties of organizations of disabled persons finding hotels to accommodate large groups.

Grocery stores present similar frustrations and sometimes complete discrimination. One practice which renders many grocery stores completely inaccessible is the placing of pole barriers around the entrance to the store in order to prohibit the removal of grocery carts. This practice is also found in other kinds of stores where carts are used. This will be illegal under the ADA; there must be at least one entry/exitway with a standard wheelchair-accessible width.

Also, in new grocery stores, supermarkets, convenience stores, and other stores with checkout stands, checkout stands should permit passage by wheelchairs through the customer pathway. This is not a new idea; but rather is the existing policy in Connecticut, California, and several other States.

It is not sufficient to provide only one accessible checkout stand per store. This practice has been shown ineffective in many existing locations, for two reasons. First, at various times of the day, some checkout stands are not in use. Often, this includes the accessible stand. Many times, disabled persons go to leave the store, only to discover that the only accessible checkout stand has a chain across it, with a sign saying "Please use another checkout stand."

Second, different checkout stands can have different functions. For example, some are express lines—"10 items or less" or similar rules—while others are not. Requiring all checkout stands to be accessible is not burdensome and achieves the necessary degree of accessibility.

Under the Americans With Disabilities Act, when facilities are altered, the altered area must be made accessible, and a path of travel and restrooms serving the altered area must also be made accessible, if not disproportionate in cost and scope to the overall alteration.

It is also important to note that, if the aggregate cost of an accessible path of travel, restrooms, telephones, and drinking fountains would be disproportionate to the overall alteration cost, the operator of the public accommodation is not relieved of the obligation to provide a subset of such features up to the point which would become disproportionate. The goal is to provide the maximum amount of accessibility that doesn't exceed the disproportionality limit.

If a selection must be made between accessibility features, those which provide the greatest use of the facility should be selected. For example, an accessible entrance would generally be the most important path of travel feature, since without it, the facility would be totally unusable by many persons with disabilities. An accessible restroom would have greater priority than an accessible drinking fountain.

One very important requirement of public accommodations under the ADA is the requirement to make reasonable accommodations in policies, practices, and procedures to afford services to disabled individuals, and to provide services through alternative methods if the removal of architectural and communication barriers in existing facilities is not readily achievable. This is a mandate for common sense. Logical changes which would enhance participation by people with disabilities are required, which sometimes will demand some ingenuity, but will rarely if ever be burdensome on the business operator.

For example, if a pizza parlor is on the second floor of a building with no elevator, an employee must be willing to bring a disabled persons' phoned-in order to them at the bottom of the steps. In a store, a salesperson must be made available for a reasonable length of time to assist a blind person in reading labels of items for sale.

In a movie theater, if some screens are upstairs and some are downstairs, movies should be rotated periodically so disabled patrons can see all the available films, even if they can't climb the stairs. And these rotations must be advertised so that the public knows what they can see when. In an elevator, if the buttons are too high and it would not be readily achievable to lower them, a wand or other device should be provided with which disabled persons can operate the elevator controls.

In an existing two-story restaurant which has no public elevator, but does have a freight elevator, if disabled persons who can't climb stairs wish to go to the second floor and wish to use the freight elevator, it must be made available to them, even if normal policy prohibits the public from such use.

Mr. McDERMOTT. Mr. Chairman, I rise in support of the Americans With Disabilities Act. This legislation represents the first comprehensive piece of civil rights legislation for people with disabilities—extending necessary protections that have long been denied to such individuals.

I am particularly pleased that this act will finally also extend necessary protection to people with HIV disease. These are individuals who have any condition along the full spectrum of HIV infection—asymptomatic HIV infection, symptomatic HIV infection or full-blown AIDS. These individuals are covered under the first prong of the definition of disability in the ADA, as individuals who have a

physical impairment that substantially limits a major life activity. As a physician, I know that although the major life activity that is affected at any point along the spectrum by the HIV infection may be different, an effect on some major life activity exists from the time of HIV infection.

As a physician, I also know all too well that we need to be in a fight against a disease, not in a fight against people with a disease. But, unfortunately, while much of America has responded with compassion and dignity to individuals with HIV disease, many others have not. For those individuals who still experience discrimination on the part of those who react out of ignorance and fear, the ADA will finally extend critical protection in the areas of employment, transportation and public accommodations.

In employment, the protections that exist in all aspects of employment decisionmaking, and with regard to the provision of reasonable accommodations, will be critical for people with HIV disease. The requirements regarding medical examinations are thoughtful, comprehensive, and will provide necessary protection. Finally, the protections regarding fringe benefits will be important for people with HIV disease. And, in public accommodations, the protections of the act will ensure that people with HIV disease receive necessary goods and services.

I am pleased that Congress is finally taking this historic step to extend protection to all people with disabilities—including people with HIV disease. I urge my colleagues to join me in voting for this important piece of legislation.

Mr. FAZIO. Mr. Speaker, I strongly support H.R. 2273, the Americans With Disabilities Act. It is long-overdue legislation, which will prohibit discrimination against Americans with disabilities in employment, public accommodations, transportation, and telecommunications.

The Civil Rights Act of 1964 barred discrimination on the basis of race, sex, color, religion, and national origin. Unfortunately, it does not address the very real problem of discrimination on the basis of disability. Every day, millions of disabled Americans face discrimination based solely on their disability, and have no recourse or remedy against those who are discriminating against them.

H.R. 2273 is a fair bill which was carefully drafted to take into consideration concerns from both sides. While it includes provisions to ensure that individuals with disabilities receive the rights and protections they deserve, it also makes certain that businesses will not be required to make unreasonable and excessive changes.

The time for passage of this legislation is long overdue. The 43 million Americans who are physically or mentally disabled have been treated as second class citizens for too long. This measure provides us with the opportunity to guarantee to those individuals with disabilities, the same broad-based protection against discrimination that all Americans enjoy. I urge my colleagues to support this legislation.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 4807, the "Americans With Disabilities Act of 1990."

Mr. Chairman, the committee of the whole adopted an amendment to section 507 of the bill that addresses the question of the right of disabled persons to enter wilderness areas by the use of wheelchairs.

Because there may be unresolved questions, I believe that it would be useful to clarify the current state of agency policies regarding this subject.

Central features of wilderness areas are their roadless character and the opportunities they afford for recreation that does not involve use of motorized devices such as motorcycles or all-terrain vehicles. Apparently, this has led some to believe that wheelchairs, too, are precluded even when their use is a medical necessity.

In the past, slight differences in regulations of the agencies managing wilderness areas may have added to the impression of some that such use was not permitted. The National Park Service and the Forest Service today have policy statements that specifically authorize the use of wheelchairs by mobility-impaired persons in wilderness areas. The National Park Service policy is spelled out in chapter 6, section 8 of the NPS Management Policies, while the Forest Service's 1986 Manual included an exemption of "wheelchairs when used as necessary medical appliances" from the general restrictions on motorized transport in wilderness areas, but in the past the regulations of the Bureau of Land Management [BLM] have been silent on wheelchair access to wilderness.

However, according to BLM Director Jamison, last year the BLM adopted an explicit policy confirming that wheelchair use in wilderness is permitted and BLM is revising its existing management regulations for wilderness areas to include language specifying that the use of wheelchairs by persons with mobility impairments is not considered as being use of mechanical transport or motorized equipment within the intent of those regulations.

Any lingering doubts about how the agencies view this matter should soon be removed, especially since the Forest Service has drafted new language for its manual that will even more clearly reflect the permissibility of wheelchair use.

Thus, Mr. Speaker, as a matter of record it has been clear for some time that there is no need to amend the Wilderness Act to accommodate wheelchair access. The agencies have correctly concluded that the Act does not prohibit use of wheelchairs in wilderness areas when such use is necessary because of a person's medical condition or disability.

For the further information of Members, I am here including a May 17, 1990, memorandum by the Congressional Research Service concerning the Forest Service's new manual language, a copy of a letter from BLM Director Cy Jamison to Representative RHODES, a member of the Committee on Interior and Insular Affairs, concerning that agency's revisions of its regulations, and a copy of the relevant portion of the National Park Service Management Policies.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
*Washington, DC, May 17, 1990.*

To: House Committee on Interior and Insular Affairs, Subcommittee on National Parks and Public Lands, Attention: Stan Sloss.

From: Betsy A. Cody, Analyst in Natural Resource Policy, Environment and Natural Resources Policy Division.

Subject: Wheelchair Access in Wilderness Areas.

Attached is a copy of the U.S. Forest Service's definition of "mechanical transport" as it appears in the agency's 1986 manual describing management policies. As you will note, the Forest Service definition "does not include wheelchairs when used as necessary medical appliances" (Title 2320.5).

Additionally, the Forest Service has drafted new language for its manual:

* * * mechanical apparatus that is medically necessary for basic mobility of any individual is considered to be part of that person and not subject to restrictions on mechanical transport.[1]

The above represents the Forest Service's current policy on wheelchair access in wilderness areas. As far as I know, this language has not been published in the Code of Federal Regulations.

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TITLE 2300—RECREATION, WILDERNESS, AND RELATED RESOURCE MANAGEMENT

10. Inform wilderness visitors that they face inherent risks of adverse weather conditions, isolation, physical hazards, and lack of rapid communications, that search and rescue may not be as rapid as expected in an urban setting in all publications and personal contacts.

11. Manage primitive areas as wilderness areas consistent with 36 CFR 293.17 until their designation as wilderness or to other use is determined by Congress.

*2320.5—Definitions*

1. *Wilderness.* An area of wilderness is defined in Sec. 2(c) of the Wilderness Act (16 U.S.C. 1131-1136). The term "wilderness" shall be applied to all National Forest System lands included in the National Wilderness Preservation System (NWPS). See 36 CFR 261 and 293.

2. *Untrammeled.* In the context of the Wilderness Act, an untrammeled area is where human influence does not impede the free play of natural forces or interfere with natural processes in the ecosystem.

3. *Mechanical Transport.* Any contrivance for moving people or material in or over land, water, or air, having moving parts, that provides a mechanical advantage to the user, and that is powered by a living or nonliving power source. This includes, but is not limited to, sailboats, hang gliders, parachutes, bicycles, game carriers, carts, and wagons. It does not include wheelchairs when used as necessary medical appliances. It also does not include skis, snowshoes, rafts, canoes, sleds, travois, or similar primitive devices without moving parts.

4. *Motorized Equipment.* Machines that use a motor, engine, or other nonliving power soruces. This includes, but is not limited to, such machines as chain saws, aircraft, snowmobiles, generators, motor boats, and motor vehicles. It does not include small battery or gas powered handcarried devices such as shavers, wristwatches, flash-

[1] Conversation with Denise McCaig, Recreation Management Staff, U.S. Forest Service, May 17, 1990.

lights, cameras, stoves, or other similar small equipment.

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U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
*Washington, DC, Oct. 13, 1989.*

Hon. JOHN J. RHODES III,
*House of Representatives,*
*Washington, DC.*

DEAR MR. RHODES: Thank you for your letter of October 6, 1989, regarding current Bureau of Land Management (BLM) policy concerning the operations of certain types of mechanical transport in designated wilderness areas. As you know, the BLM's policy for wilderness area management is based on the Wilderness Act of 1964 (Public Law 88-577), the Federal Land Policy and Management Act of 1976 (Public Law 94-579), and subsequent legislation that may contain specific language for the management of a given designated area.

The BLM policy determination is that existing wilderness legislation generally prohibits the use of motorized equipment and other forms of mechanical transport. Using this interpretation, mountain bikes and other non-motorized bicycles are prohibited because they are considered to be a form of mechanical transportation. H.R. 3172 would amend the Wilderness Act of 1964 to allow for the use of non-motorized bicycles. We are presently managing designated wilderness areas to exclude non-motorized bicycles. A copy of the BLM wilderness management regulations on motorized uses and mechanical transport prohibitions is enclosed.

The issue of the operation of wheelchairs by persons with mobility impairments in designated wilderness aeas is not as clear. As stated above and as a general rule, public use of motorized equipment or any form of mechanical transport is prohibited. As a policy exception, the BLM does not prohibit the use of wheelchairs by persons with mobility impairments in wilderness. The other National Wilderness Preservation System managing agencies (i.e., Forest Service, National Park Service, and the U.S. Fish and Wildlife Service) use this same approach. During 1990, the BLM will be revising the existing management regulations for the BLM wilderness areas, and we propose to include language that will specify that the use of wheelchairs by persons with mobility impairments are not considered as mechanical transport or motorized equipment within the intent of the regulations. Hopefully, this regulatory change should clarify the matter.

Let us assure you of our commitment to providing a variety of recreation and other types of use opportunities on lands managed by the BLM. Although wilderness areas may not be appropriate for all types of activities, lands outside wilderness areas can and are being used to provide for a broad range of activities including mountain biking. We will continue our efforts to improve legal and physical access by the mobility impaired to public lands administered by the BLM.

Thank you for your interest.

Sincerely,

CY JAMISON,
*Director.*

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NATIONAL PARK SERVICE

Wheelchair access is addressed in section 6:8 of Management Policies: U.S. Department of the Interior, National Park Service, 1988, as follows: *"Mobility impaired persons may use wheelchairs (as defined in 36 CFR 1.4) in wilderness."* [Emphasis added]

36 CFR 1.4(a) defines manual wheelchairs as ". . . a device that is propelled by human power, designed for and used by a mobility-impaired person." Motorized wheelchairs are defined as ". . . a self-propelled wheeled device, designed solely for and used by a mobility-impaired person for locomotion, that is both capable of and suitable for use in indoor pedestrian areas."

In addition, 36 CFR 1.2(3)(e) states:

The regulations in this chapter are intended to treat a mobility-impaired person using a manual or motorized wheelchair as a pedestrian, *and are not intended to restrict the activities of such a person beyond the degree that the activities of a pedestrian are restricted by the same regulations.* [Emphasis added]

Mr. GEJDENSON. Mr. Chairman, I rise in support of H.R. 2273, the Americans With Disabilities Act of 1990.

This is one of the most important bills the Congress has voted on since the Civil Rights Act of 1964. It builds on the great American traditions of equality and equal opportunity. It breaks down barriers which have insensitively segregated America's 43 million disabled citizens, literally stopped disabled people in their tracks, and held them back from opportunities other people take for granted. This bill opens new doors of opportunity for our disabled citizens and for our cumulative potential for growth and development as a society.

Because it eases disabled persons' access into the work force and other central community activities, the Americans With Disabilities Act of 1990 is good for American business and growth. Approximately two-thirds of disabled Americans are unemployed, but this tragic statistic can be drastically altered by simple measures, such as widening of doorways and construction of ramps to accommodate wheelchairs, and improving the accessibility of public transportation. The talents and contributions of disabled Americans are too often wasted because these citizens simply lack adequate access to the workplace.

The concerns of business are also reflected in this thorough and thoughtful legislation. For existing facilities, the standard is to make reasonable accommodation which does not cause the employer undue financial hardship. Indeed, the greatest impact of the Americans With Disabilities Act may be in the future, because the act requires that future construction of public facilities, large office buildings, and public transportation be accessible.

It is important to remember that any of us could join the ranks of the disabled at any time. Accidents and illnesses are equal opportunity disablers. I am pleased to support this important legislation to ensure equal opportunity for the disabled.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the Americans With Disabilities Act. This critical legislation would extend basic civil rights protection to a highly important yet often neglected segment of society—persons with disabilities.

For too long, persons with disabilities have been excluded and denied meaningful opportunities to participate in the economic and social mainstream of American life. This must be changed.

The need for this legislation is clear. Studies show that millions of Americans with disabilities are still subjected to widespread discrimination and segregation in all significant areas of their lives.

Despite existing disability rights and services, Federal and State laws are inadequate to address the discrimination faced by people with disabilities.

The forced dependency of our increasing population of people with disabilities has resulted in escalating economic burdens on Government, business, families, and taxpayers. It has been estimated that excluding 10 million citizens with disabilities from the workplace costs our society about $300 billion annually.

The Americans With Disabilities Act is the product of years of study and compromise. I am confident that this legislation, in its final form, will reflect both the urgent needs of persons with disabilities and the interests of employers and busineses who are concerned with the potential costs of compliance. In that connection, I am pleased that Chairman ROSTENKOWSKI has provided assurances that a small business tax credit for expenses associated with this measure will be considered by the Ways and Means Committee as it develops legislation later this year.

The Americans With Disabilities Act is a landmark affirmation of human rights for the 43 million Americans with disabilities. Partial equality is no longer tolerable for persons with disabilities. Partial equality, written into law, simply guarantees more segregation, more unemployment and more public and private expenditures for welfare. I strongly urge passage of this critically needed legislation.

Mr. DELAY. Mr. Chairman, the American people ought to see what is going on in this Chamber and outside these halls. Everyone is running around patting each other on the back, feeling wonderful about this bill, about how they are going to bring fairness to the disabled by the passage of ADA. We are going to stop discrimination against the disabled and this bill is going to do it.

I think it is very sad that we had an opportunity to pass a piece of legislation that could have made a statement by this country against discrimination against the disabled, giving them full opportunity and not hurting anyone in the process; yet those proponents who have worked on this bill find fault with what is happening here. The disabled community showed little or no compassion for people on the side when they were demanding compassion for their side.

The bill went through the entire process with people having sit-ins in our offices, calling people that would dare question the authors of this bill "devils incarnate."

The disabled community did not want compassion, did not want compromise, did not want to work out a deal so that there would be fairness on all sides. They demanded—they demanded that you vote for this bill without amendments. I think that what has happened during this process is very unfortunate.

It went through the Senate that way. Our administration made a deal on this bill back when it was in the Senate and our administration knew that there were some things in this bill that needed to be corrected, yet they failed to take a position on those issues. I will talk about the issues as we get into the

amendments, but I think this is really unfortunate because they are Americans out there who are trying to make a living, creating jobs, creating a future for this country, that have been abused, have been discriminated against in this bill, have been ignored when they have tried to work out some sort of way of knowing who is disabled, and how they comply with this bill.

The answer by the disabled community and the proponents of this bill is, "Well, let the courts decide."

Well, if you are a mom and pop operation out there trying to make a living, you cannot afford the lawyers that you will have to hire to defend yourself in court.

No consideration, only eight amendments brought to this floor and limited time to discuss those amendments. I think it is glossy unfair. I think this is a horrible piece of legislation. It could have been a good piece of legislation if Americans would have worked together in fairness and compassion.

I would like to take a few minutes to point out to my colleagues several of the provisions of the ADA that will adversely affect businesses in this Nation.

Small business are the backbone of America's economy. Yet, small businesses are curently facing a full array of legislation that they, not the public in general, are expected to pay for. Mr. Chairman, it is not inaccurate to say that businesses in this Nation are at risk. From the mandated increase in the minimum wage, to the mandated parental leave bill, to the clean air bill, to the Americans With Disabilities Act, the American businessman is being confronted with the stark reality of the 1990's—that if the liberals can't get the government to fund their new programs—they will require businesses to fund them. "Put it on the employer's nickel." That's what we're being told. Well, Mr. Chairman, this Member from Texas doesn't agree.

The Americans With Disabilities Act could be a very positive step, a landmark piece of legislation that would enable the disabled to fully participate in jobs and public facilities. But I'm afraid that instead, the bill will create frustration for business owners and employers who will not understand how to comply with the requirements of the bill. I'm also afraid that the bill will create bitterness against the disabled because of the spending mandate that it places on businesses. Mr. Chairman, mandating access for the disabled is a reasonable requirement. Mandating that a business spend money to provide that access is something different. But leaving the spending mandate open ended—with the courts determining how much small businesses must spend to accommodate the disabled—is unheard of. And this open-ended spending mandate is exactly what the ADA requires of small businesses.

Mr. Chairman, this Congress should not pass the ADA unless it also allows for a tax credit for businesses who will be forced to spend money on accommodations for the disabled. A bipartisan bill to provide a tax credit to small businesses has been introduced and enjoys the support of 186 cosponsors. H.R. 3500, the Small Business Access Improvement Act of 1989, would provide a tax credit for some of the businesses that will be forced by the courts to spend money because of the ADA. Mr. Chairman, this tax credit is not just a good idea, it is essential.

It is essential because the accommodations mandated by the ADA will cost money. Many advocates of the bill have maintained that the costs of the accommodations mandated by the bill will not be expensive, but the fact remains that the courts and the regulators will make that determination.

Even though opponents of the bill claim that the accommodations are no big deal, even the most frequent accommodations can prove costly for the small business. According to the National Federation of Independent Business, the following are average costs of the most frequent accommodations: $1,000 to $10,000 for a concrete ramp; $3,000 to widen and install a new exterior door; $300 to $600 to widen and install a new interior door; $200 to lower an existing water fountain; $300 to $3,000 to modify an existing rest room; $23/hour to hire a certified sign language interpreter; $2.50 per page to translate written text into Braille form; $5,000 to purchase a computer with speech synthesizer and appropriate software for the blind.

Mr. Chairman, it is clear that even frequent accommodations that will be mandated will cost money. Therefore, a tax credit must be provided for businesses that will be required to make accommodations under the ADA! I would like to insert into the record at this time, an article explaining the importance of this tax credit. The article explains that many of the costs of accommodations that were projected during consideration of the Fair Housing Amendments of 1988 turned out to cost much more than the proponents of the bill projected.

The article follows:

LAW MAY HANDICAP HOUSING EFFORT

(By Carolyn Lochhead)

Back in August 1988, when Congress was about to pass a law requiring that new apartments be made accessible to the disabled, particularly persons in wheelchairs, Sen. Edward M. Kennedy, a Massachusetts Democrat, assured colleagues that it would add just $27 to the construction cost of each new apartment. Sen. Tom Harkin, an Iowa Democrat, further admonished skeptics, who, he said, would tell "a Vietnam veteran who has lost his legs . . . that 10 bucks or $4 to widen the door to a bathroom is too much" to spend to make housing accessible.

Passage of the Fair Housing Amendments Act of 1988 was swift, and its full implementation is set for next March. But the law has already begun to take effect nationwide. Builders who have secured building permits since Jan. 13 are operating under the new rules. These require wheelchair accessibility to and through all new apartments in buildings with elevators and all ground-floor apartments in other new multifamily projects. Builders who fail to conform could face charges of housing discrimination.

As it turns out, the cost figures tossed about during the congressional debate—$27 here, $4 there—are in reality closer to $4,000 per apartment, on average. What were thought to be simple definitions of access—"usable, maneuverable"—are instead the subject of debate. What were considered minor changes in construction—wider doors, larger bathrooms—could in practice scuttle thousands of apartment projects by raising the size of entire buildings and making many sites impractical.

The regulatory crunch on apartment housing comes even as Congress frets over a shortage of affordable housing for poorer households. Affordable housing usually means multifamily housing. To some groups representing the disabled, affordability is a key ingredient in accessibility; if the law sharply raises housing costs, its very purpose would be defeated. The disabled, who generally have lower-than-average incomes, are among the first to see higher housing prices restrict their options.

"If the cost of all these accessibility features raises the cost of the apartment so high that [disabled people] can't afford it, then what have you achieved?" asks Fred Cowell, national advocacy director of the Paralyzed Veterans of America. A law's prohibitively expensive requirements that are too impractical and inflexible for builders to follow, the group argues, would merely create another barrier to access.

Notably, the housing act may be a harbinger of the Americans with Disabilities Act, a bill likely to pass Congress this year that would extend disability access rules to all existing commercial establishments, from beauty shops to bakeries. While everyone agrees that the bill's intentions are lofty, critics warn of skyrocketing costs and vague language whose meaning will ultimately be settled by the courts. Lawyers are already discussing "wrongful design" suits under the new law for multifamily housing.

So far, bureaucratic delay in issuing guidelines that tell builders exactly what they have to do to comply with the fair housing law has brought apartment construction to "a screeching halt," says Henry Hirsch, chairman of Engineered Concepts Inc., an Atlanta construction company. Building permits soared to beat the Jan. 13 deadline, as builders rushed to get clearance for projects under the old rules, and then dropped sharply in February as the new law took effect. Multifamily housing "really can't be built today," Hirsch says, "because nobody knows how to build it. Whoever does choose to build is taking a very major risk."

Preliminary drafts of guidelines from the Department of Housing and Urban Development (the final version is already more than a year behind schedule) promise to add thousands of dollars to the price of every new apartment covered by the law. That translates immediately into higher rents. about 1 percent per month for each $1,000 in higher costs. So a $4,000 increase in construction costs raises the rent roughly $40 a month.

A task force that brought together the National Association of Homebuilders and the National Coordinating Council on Spinal Cord Injury (led by the Paralyzed Veterans of America) estimated that HUD's draft guidelines would add $3,202 to $4,252 to the cost of each apartment in buildings with elevators, and $1,288 to $3,666 to each ground-floor apartment in walk-up projects.

The home builders and veterans, seeking a compromise that would hold down costs and achieve accessibility, came up with a detailed set of guidelines that lower those costs to a range of $1,318 to $2,256 for mid- to high-rise units and $674 to $2,564 for walk-ups. They contend that their plan would achieve better accessibility. "We can't make developers build units that aren't marketable, that won't sell and are expensive, because that doesn't make for a deal, and they won't enter into it," says Kim Beasley, director of barrier-free design for

the Paralyzed Veterans. "If we can't make these provisions easy to understand and relatively easy to apply and achieve the degree of accessibility that Congress intended, then it's a lost cause."

The HUD approach, these groups argue, is counterproductive and inflexible. The agency, for example, would make all bathrooms not only accessible but also large enough so that a wheelchair could be maneuvered in them. The task force says one "maneuverable bathroom" would suffice. To determine how to make units built on hilly terrain accessible, HUD proposes a vague formula that promotes second-guessing and litigation. With the HUD approach, says Beasley, "someone will say, 'Well, you could have raised the building 12 inches or moved it this much closer to the parking lot, and because you didn't and we think you could have made it accessible, we're going to sue.'"

Several other groups for the disabled argue that the home builders-veterans task force has overstated costs. Bonnie Milstein, senior staff attorney for the Mental Health Law Project, argues that the law's requirements are "minimal."

Nonetheless, builders say higher construction costs will arise primarily in two areas: added floor space in the interiors of apartments and site improvements to provide access to the units themselves, particularly on hilly terrain.

Although no one knows what HUD will ultimately require, it seems clear that bathrooms, kitchens and doorways, as well as areas next to doorways, will have to be wider to accommodate wheelchairs. As these elements grow, the building expands. While some groups for the disabled dispute this, builders note that the only way to maintain a constant building size is to take the space from other areas, by reducing the size of bedrooms or closets, for example, or by eliminating pantries. Rhond Roth, vice president of the National Multi Housing Council, calls this the "rob Peter to pay Paul approach to design."

The effect, he says, is to reduce the appeal of the unit by removing such desirable features as bedrooms that accommodate a queen-size bed—features that market research indicates renters want. To maintain marketability, he says, the size of the unit must grow, and "your costs are inevitably going to increase."

Beasley agrees. "If you take a foot out of the bedroom to increase the size of the bathroom, you can no longer say that you achieved accessibility at no cost. Something was sacrificed." In many cases, that sacrifice will be the developer's ability to rent the unit.

As the size of the apartments grows, density, or the number of units in the building, falls. A lower density spreads the cost of the project among fewer units, significantly raising the price of each apartment, especially in high-rise buildings.

Site access problems are more prominent for walk-up units, especially those built on hilly terrain, which is often the only vacant land left in cities. Hills usually mean steps. New draft accessibility rules could require extensive earth-moving or building massive ramps to entrances. When the task force applied one of the draft HUD rules to an actual building site in Northern Virginia, one result was a ramp 60 feet long. Site grading, particularly on rock, is extremely expensive. As soon as a sites' slope gradient reaches 10 percent, says Roth, "then your cost curve for making the buildings accessible just goes ballistic."

Costs will vary widely by site, and until HUD issues guidelines, no one knows exactly how high they might run. But it is clear that thousands of planned apartment units marginally profitable under the old rules will not be built. The more onerous the requirements and the greater the litigation exposure, the higher costs—and rents—will rise. The higher the cost, the fewer the apartments. As new construction drops, demand for apartments will be diverted to existing stock, fueling rent increases there.

An exemption in the regulations for town houses could turn the Fair Housing Amendments Act into something like a Town House Creation Act, as builders divert construction to buildings that are not covered by the law. Already, some developers are requesting rezonings.

I believe that this article accurately describes why a tax credit is in order. This article, by the way, is an excellent example of why the gentlemen from Virginia's [Mr. OLIN] amendment is needed.

There is another issue that could adversely affect small businesses. As introduced, the legislation states that the term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that he or she holds or desires.

Mr. Chairman, the term "essential functions" is too vague. Senate report language states, "The phrase 'essential functions' means job tasks that are fundamental and not marginal." It also states "In determining what constitutes the essential functions of the job, consideration should be given to the employer's judgment regarding what functions are essential as a matter of business necessity."

An amendment that passed in the House Judiciary Committee mark-up, put into the statute similar language contained in the Senate report. It clarified that ". . . consideration shall be given to the employer's judgment as to what functions of a job are essential."

But this clarification is not adequate either. The business community advocates further clarification of this phrase because businesses will be required to analyze the tasks of each job. Determining the essential functions will involve a painstaking analysis of job functions by the employer in order to determine which functions are essential and which functions are marginal.

Mr. Chairman, most businesses do not have the staff to undertake such an endeavor. I offered an amendment before the Rules committee which stated that if an employer required all applicants to perform a function, and could show that the current employees performed a function, then that function shall be deemed essential.

I would like to insert into the RECORD at this time, testimony given at a hearing held by the Republican Study Committee earlier this year on this issue. At the hearing an attorney here in Washington, Mr. Ronald Lindsay, explained the need for such an amendment.

Testimony of Mr. Ronald Lindsay follows:

TESTIMONY OF RONALD A. LINDSAY BEFORE THE REPUBLICAN STUDY COMMITTEE ON THE AMERICANS WITH DISABILITIES ACT

I am an attorney who practices in the area of employment discrimination. For the past ten years I have defended companies against charges of employment discrimination, including charges involving allegations of handicap or disability discrimination. Based on that experience, my own research in this area of the law and concerns that have been expressed to me and to other attorneys in my firm by a number of businesses, I would like to outline some suggestions on how the Americans with Disabilities Act, in particular, Title I of the Act, might be improved to limit the negative impact it may have on employers, especially small to mid-size employers.

Before I begin with some specific suggestions, I want to emphasize the dramatic differences between this bill and other employment discrimination legislation. The ADA has been described as just another civil rights measure that extends to the disabled the protections that have already been given to blacks, women and the elderly. It is not. Unlike Title VII of the Civil Rights Act of 1964 of the Age Discrimination in Employment Act which, at least theoretically, only require businesses to make decisions based on merit, the ADA expressly imposes costs on employers. The ADA tells employers that they must offer "reasonable accommodation" to the known physical or mental disabilities of a qualified applicant or employee. This is a significant departure from other civil rights legislation. At a time when we are legitimately concerned about the competitiveness of American business, it is questionable whether we should impose additional burdens on employers, especially if the magnitude and scope of these burdens is unclear.

There is another significant difference between the ADA and other federal civil rights legislation. Other civil rights legislation protects individuals in classes that are fairly readily definable. It is usually fairly easy to determine whether someone is a black or not, a woman or not, elderly or not. Not so with the disabled. The disabled are a class in name only. There are over a thousand different impairments that could render a person disabled, and, therefore, protected for purposes of the ADA. Moreover, an impairment that is disabling for one person might not be for another. A particular job might be suitable for a person with a moderate form of a given disability, but not a severe form of the same disability. At least as the legislation is currently written, determining whether a given accommodation to a person's disability is "reasonable" will entail evaluation of a whole host of factors. In short, for a business to determine whether it is engaging in unlawful discrimination against a disabled person may require a detailed, fact-specific, individualized inquiry. This case-by-case analysis would by itself result in a significant expenditure of time and money.

Let me now turn to some specific suggestions. A number of proponents of the ADA have contended that most of the accommodations that employers will be required to make will cost little or nothing and that, in any event, the bill indicates that employers do not have to accommodate a disabled worker if doing so will impose an "undue hardship" on the employer. I think it is fair to say that most accommodations are going to cost under a couple of hundred dollars. However, that is not going to be any consolation to the business that has to hire a $15,000 a year proofreader to assist a clerical worker who has developed a neurological disorder that substantially impairs his ability to complete paperwork. See *Arneson v.*

*Heckler*, 879 F.2d 393 (8th Cir. 1989). Similarly, the fact that the ADA indicates that the size and budget of a business will be taken into consideration in determining whether a given accommodation is reasonable will be small comfort to those employers who guess wrong about how the courts will view their resources.

I think the best way to deal with this problem is to put a statutory cap or ceiling on the costs an employer has to incur in accommodating disabled employees. One possibility would be to indicate in the bill that an employer will not be required to expend more than 5% of the salary for a particular position in accommodating a disabled employee. Thus, to accommodate a disabled employee in a position which pays $30,000 per year, the employer would not be required to expend more than $1,500. If the costs of accommodating the disabled are as small as the proponents of the legislation suggest, then this should not impede the entry of the disabled into the work force. A cap would, however, remove much of the uncertainty regarding the extent of an employer's duties. To take care of the situation in which an employer is asked to accommodate several disabled employees, a similar cap could be imposed on the total costs an employer has to incur on an annual basis to comply with the ADA (*e.g.*, no more than .05% of the employer's payroll).

Of course, a disabled individual is entitled to protection against employment discrimination only if he or she is "qualified," which is defined in the bill as being able to perform, with or without reasonable accommodation, the "essential" functions of the position the individual holds or desires. But what are the "essential" functions of a position? The report issued by the Senate Committee on Labor and Human Resources in conjunction with the Senate version of the bill states that "essential functions" means "job tasks that are fundamental and not marginal." This is defining the obscure by the vague. Unless we want courts requiring employers to provide a painstaking and minute analysis of all the tasks an individual might perform in a given job and then concluding that a function was not "essential" because it took up "only" 10 percent of the employee's time, see *Ackerman v. Western Electric Co.*, 643 F. Supp. 836 (N.D. Cal. 1986), aff'd, 860 F.2d 1514 (9th Cir. 1988), the definition of "essential" job functions should be clarified to indicate that deference will be given to an employer's judgment regarding what functions are "essential." The efficiency of American business will clearly suffer if we have judges or administrative agencies telling employers how they should operate their business.[1]

Some might contend that the suggestions I have made, particularly this last one, place too much trust in employers. I do not think so. The genius of the free enterprise system is that those who operate a business are given a powerful incentive to make employment decisions on the basis of merit: they make more money if they do so. Because of this incentive, and because of the uncertainty surrounding employers' obligations under the ADA, I feel confident in predicting that the overwhelming majority of the cases in which employers will be found to have violated the Act will involve good faith mistakes, for example, a mistake about whether the person is disabled or is qualified for the job. For that reason, it would clearly be improper to impose compensatory or punitive damages on employers for violations of the Act. The remedies provision of the ADA should explicitly indicate that a prevailing complainant may obtain only back pay or other equitable relief. In this regard I note that the Senate version of the ADA incorporated by reference the remedies provision of Title VII of the Civil Rights Act of 1964. The intent of this cross-reference was to limit relief under the ADA to back pay or other equitable relief. Unfortunately, there apparently will be an attempt in the near future to amend Title VII to provide for compensatory and punitive damages. If that happens, an important modification to the ADA that employers thought they had achieved will be lost. Therefore, in the version of the bill passed by the House there should be an express statement of the relief available under the ADA, rather than a mere cross-reference to Title VII.

These suggestions are certainly not the only ones that could be made to improve this bill. (I have not even touched on the public accommodations section of the Act.) Nonetheless, if these suggested modifications, or similar ones, are incorporated into the bill, I think they will significantly lessen the detrimental impact the ADA might otherwise have on the competitiveness of American business.

Mr. Chairman, the House Education and Labor version of the ADA defines undue hardship as, "an action requiring significant difficulty or expense." Readily achievable is defined as, "easily accomplishable and able to be carried out without much difficulty or expense."

Mr. Chairman, I believe that further clarification of the terms undue hardship and readily achievable is necessary. ADA proponents oppose providing further criteria for these terms by claiming that they are already defined in section 504 of the Rehabilitation Act of 1973. However, the appropriateness of section 504 regulations to be applied to the ADA is in question as the section 504 regulations apply to entities that are not primarily profitmaking enterprises. These entities are supported by the Federal Government and have the deep pockets that small businesses don't have.

The lack of clarification of this term unnecessarily puts disabled individuals at odds with business owners. Representative OLIN's amendment will specify that if an employer spends 10 percent of the annualized wage of the employee, then it will constitute an undue hardship. This amendment is necessary and should be passed. The NFIB has indicated that this will be one of their key business votes for this Congress.

Mr. Chairman, I would now like to address an issue which unfortunately has not received much attention on the House floor. Mr. Chairman, the bill defines discrimination as "excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association."

This language is intended to cover job applicants whose dependents are disabled, and persons who offer care to the disabled. For example, it is intended to provide that a father of a disabled child could not be discriminated against in employment because his child's disability may increase the cost of his employer's health insurance.

Mr. Chairman, this language is too broad, and will, I believe, result in coverage for nondisabled persons. Of particular concern is the potential for providing coverage for unmarried partners of the disabled, for unmarried partners of persons with HIV, and for unmarried partners of those individuals regarded as having the HIV.

My colleagues, Representative BARTLETT, Representative MCCOLLUM, and I have offered amendments to clarify that coverage of individuals who have a relationship or association to the disabled is limited to factors such as blood, marriage, adoption, or legal guardianship, or is based upon the provision of social service assistance or health care services to an individual. However, the Rules Committee did not allow these amendments to be offered on the House floor.

This amendment is, therefore, not part of this debate, but it is one very important example of why this bill must substantially improve before it is passed by this body.

Mr. Chairman, the ADA's protections for persons with mental impairments will prohibit civil and military authorities from adequately screening applicants who may suffer from mental, emotional, or behavioral disorders.

My colleague, Representative CHUCK DOUGLAS, offered an amendment before the Rules Committee allowing a government unit, charged with protecting the public safety, the ability to ask questions and conduct examinations that it feels necessary in order to determine whether an applicant possesses sufficient mental stability to perform job-related functions before an offer of employment is extended. The amendment was not allowed by the Rules Committee and is therefore not part of this debate. However, this is another example of why the bill needs further improvement before it should be passed by this body.

Mr. Chairman, as pending, the ADA exempts private clubs from the definition of employer, but includes churches and nonprofit organizations. My colleague from New Hampshire, Representative DOUGLAS, and I both offered amendments before the Rules Committee to exempt religious organizations from the definition of employer. Certainly, our churches deserve the same treatment we give to our country clubs. Groups supporting these amendments were the National Association of Evangelicals, the Association of Christian Schools International, the General Conference of Seventh-day Adventists, the International Church of the Foursquare Gospel, and the Concerned Women for America.

Mr. Chairman, I would like to briefly address the issue of contagious diseases. Current law, and the ADA, classify contagious diseases as disabilities. I disagree with this policy. I acknowledge that the infected have rights, but believe that sound public health policy must give priority to protecting those not infected, rather than those infected.

Mr. Chairman, I would also like to point out that the House Education and Labor version

[1] One possible way to clarify the current definition would be to add to the current definition of "qualified individual with a disability" the following language: "If an employer produces evidence showing that other individuals holding the employment position in question are required to have the ability to perform a specific function and have in fact performed this function, this will constitute prima facie evidence that the function is essential."

of the ADA allows for Congress to be covered by the bill. However, I believe that there is a weakness with the enforcement mechanism. The enforcement mechanism is through the Office of Fair Employment Practices [OFEP] which was established by House Resolution 558 in the 100th Congress. The OFEP is chaired by House Members and staffed by employees appointed by members of the House Administration Committee. The Education and Labor version of the ADA provides that an appeal to the OFEP is the only option for House employees who are victims of discrimination.

House employees may not take their case to a court of law. Many Members echo the concern of Senator CHUCK GRASSLEY, "Why should it be acceptable for Congress to be the defendant, trier, and judge in a suit against itself? Victims of discrimination should not be forced to move their claims within the very institution that has discriminated against them."

My colleague, Representative BILL DANNEMEYER, offered an amendment in the Judiciary Committee markup to specify that any determination made by the OFEP be subject to judicial review in the appropriate U.S. district court, and to require the accommodations mandated by the ADA to be paid for from Members' official expense accounts.

Under his amendment each congressional office would be required to make any accommodation that would be required of any small business. The amendment was defeated by the committee. Representative DANNEMEYER offered this amendment before the Rules Committee as well, but it was defeated there also. This amendment should be debated today. It is hypocritical that every small businessman is required to accommodate the disabled, but our congressional offices are not.

Finally, Mr. Chairman, I would like to point out to my colleagues that there is a problem with the ADA bill that has surfaced in response to the introduction of H.R. 4000, the Civil Rights Act of 1990.

The ADA and H.R. 4000 both propose that it shall be discrimination for an employer to use qualification standards or criteria that screen individuals unless the criteria is "Consistent with business necessity." "Consistent with business necessity" is too severe a standard to use for such purposes. The Supreme Court agreed with this in the recent Wards Cove decision.

A better standard would be "* * * unless the criteria serves legitimately an employment goal," or "unless the criteria is consistent with reasonable business practice".

The administration, which opposes H.R. 4000, holds that "consistent with business necessity" is too difficult for employers to prove in court, and that it would lead to the enactment of employment quotas. But, the ADA seeks to implement this standard also. Thus, the ADA seeks to overturn the Wards Cove decision, a decision that the Bush administration supports. Mr. Chairman, this issue has not been adequately addressed by Members from either side of the aisle, yet it is one more example of how much more work must be done on the ADA before it is passed by this body.

The last issue that I want to address is the issue of costs. Advocates of the legislation are quick to point out that the costs of the bill will be offset over time through the savings to the U.S. Treasury of the billions of dollars currently spent on Federal programs that support disabled individuals. However, as the costs of the bill to businesses, State and local governments, and the Federal Government are presently unknown, this justification cannot be accepted as valid.

Mr. Chairman, I agree with the intent of the legislation. Ending discrimination against the handicapped is a noble cause. However, the legislation as reported from the House committees, and as considered by the full House, is wrought with uncertainties. These uncertainties pose real and sobering consequences to businesses, to families, to the disabled, and to America's competitiveness. Mr. Chairman, until more can be known of these very serious consequences, I have no choice but to oppose passage of the ADA.

Mr. GINGRICH. Mr. Chairman, today the House will vote on H.R. 2273, the Americans With Disabilities Act. This historic measure is designed to bring some 43,000 Americans into the mainstream of our society.

Since 1973, Federal law has prohibited Federal agencies and recipients of Federal funds from discriminating against persons with disabilities. H.R. 2273 would extend that prohibition to the private sector, in employment, service and public transportation, public accommodations, and telecommunications.

Some may ask why a Republican President and Republican Members of Congress have actively worked for this expansion of civil rights law. To answer the question, look to the very foundation of conservative philosophy—individual opportunity.

Mr. Chairman, throughout our Nation's history, our disabled citizens have not been provided the opportunity to participate in all phases of society. Designed to provide 43,000 Americans with enhanced opportunities, this bill, then, embodies the conservative ideal of individual opportunity.

In August 1862, President Abraham Lincoln said, "It is difficult to make a man miserable while he feels he is worthy of himself and claims kindered to the great God who made him." What greater way to make a man feel "worthy of himself" than to give him hope through opportunity. Mr. Speaker, that's what this bill is all about.

I hope all Members will take time to review the bill before us today and compare it with the Senate-passed measure. The four House committees involved have made some key improvements to the legislation. The language has been tightened up in several important areas:

Current users of illegal drugs are not protected by the bill;

Anticipatory discrimination claims are limited to new construction;

Employers and public accommodations are only liable for discriminatory actions against their own employees or customers, not for actions taken by their contractors; and

Site-specific factors and parent-company factors must be considered when determining if a reasonable accommodation for a disabled employee is an undue hardship, or a barrier removal is readily achievable.

Improvements were also made in other sections of the bill, including public transportation. A full list of the major improvements is attached. By proceeding through its normal committee process, the House has crafted a superior bill to its Senate counterpart.

In adddition, last week on the floor, the House adopted two amendments which serve to further improve the bill. An amendment to allow small businesses an extended phase-in period for the public accommodations section of the bill was approved unanimously. Finally, an amendment to allow employers to move an employee with a communicable disease out of a food-handling position, provided the employee sustains no economic damage, was adopted.

Mr. Chairman, while major improvements have been made, there are still some problems. Any piece of legislation this complicated and far reaching is certain to create serious questions and concerns from those who ultimately will have to comply with its provisions. This is no exception.

But just as the committees worked their will, the House, and then the conference committee will work its will. We must send the President the best and most workable law we can write, so that 43,000 Americans will have more hope and opportunity for tomorrow than they have for today.

The House committee improvements made to the Senate bill.

IMPROVEMENTS IN THE EMPLOYMENT AND PUBLIC ACCOMMODATIONS TITLES

Drugs: Current users of illegal drugs are not protected by the ADA and the Rehabilitation Act of 1973.

Contract liability: Employers and public accommodations are only liable for discriminatory actions against their own employees or customers, not such actions taken by one of their contractors against other individuals.

Undue hardship and readily achievable: Site specific factors and parent company factors must be considered when determining if a reasonable accommodation for a disabled employee is an undue hardship—"significant difficulty or expense"—or a barrier removal for a disabled customer is readily achievable—(easily accomplishable without much difficulty or expense.)

Direct threat and safety: An individual with a disability who poses a significant risk to others cannot claim a right under the ADA to be in a workplace or public accommodation.

Anticipatory discrimination: Such discrimination claims are limited to new construction.

Damages: In pattern and practice cases brought by the Attorney General, when the Attorney General asks for monetary damages, such damages cannot include punitive damages.

PUBLIC TRANSPORTATION

Commuter rail: One car per train, rather than an unspecified number, must be made accessible.

Intercity private transit—buses: Although such companies must provide accessible transportation, they do not have to meet specific assessibility requirements for 6 or 7 years, depending on their size.

Key stations: These could have up to 30 years, as opposed to 20 years, to be made fully accessible.

Intercity rail: These would now have specific accessibility requirements, rather than unspecified requirements. Intercity rail would be expected to meet these capacity requirements: within 5 years, one space for an occupied wheelchair and one space for a folded chair in 50 percent of the coaches. Within 10 years this requirement would have to be met in 100 percent of the coaches. Doubling up to meet these requirements would be allowed, thus permitting nonaccessible coaches.

Mr. OWENS of New York. Mr. Chairman, it is important that the following clarifications relevant to employment be offered for the record.

The employment nondiscrimination provisions of the Americans With Disabilities Act define the term "qualified individual with a disability" as an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the job that such individual holds or desires.

"Essential functions" means job tasks that are fundamental and not marginal. The point of including this phrase is to ensure that employers can continue to require that all applicants and employees, with or without disabilities, can perform the essential—that is nonmarginal—functions of the jobs in question.

This concept was also addressed in the 1977 section 504 regulations issued by the Department of Health, Education, and Welfare which said, "inclusion of this phrase is useful in emphasizing that handicapped persons should not be disqualified simply because they may have difficulty in performing tasks that bear only a marginal relationship to a particular job." 42 Fed. Reg. 22686 (1977). In determining the essential functions of a job, consideration should be given to the employer's judgment, because an employer may require that every employee be qualified to perform the essential functions of the job.

The inclusion of the term "qualified" underscores the employer's perogative to choose and maintain qualified workers. The employer is free to select the most-qualified applicant, and is under no obligation to prefer applicants with disabilities over other applicants. But if two applicants are equally qualified, an employer is not permitted to select the nondisabled applicant solely due to the other applicant's disability, even if the disability means the employer would have to provide some kind of accommodation.

"Qualified" means whether the individual is qualified at the time of the job action in question. The mere possibility of future incapacity does not render the individual not qualified.

Employers may devise physical tests and other job criteria and tests as long as the criteria and tests are job-related and consistent with business necessity. For example, an employer can adopt the physical criterion that an applicant be able to lift 50 pounds, if that ability is necessary to an individual's ability to perform the essential functions of the job in question. But even if the criterion is legitimate, the employer must determine whether a reasonable accommodation would enable the applicant with a disability to perform the essential functions of the job without posing an undue hardship on the business.

The ADA prohibits the use of a blanket rule excluding persons with certain disabilities, except in the very limited situation where, in all cases, a physical condition by its very nature would prevent the person with a disability from performing the essential functions of the job, even with reasonable accommodations.

EMPLOYMENT—SOME FORMS OF DISCRIMINATION PROHIBITED

In addition to a general statement prohibiting employment discrimination on the basis of disability, the Americans With Disabilities Act goes into some detail on the various forms of discrimination which are prohibited.

One section specifies that discrimination includes segregating, limiting, or classifying an employee in a way that adversely affects his or her opportunities or status because of his or her disability. Employment decisions are to be based on facts, not on presumptions as to what a class of individuals with a particular disability can or cannot do.

It would be a violation of the ADA to deny employment to an applicant based on generalized fears about safety or absenteeism. Such fears are, by their very nature, based on averages and group-based predictions. Moreover, many studies have proven these fears to be myths which are statistically untrue. The famous study by the Du Pont Co. in 1973 was the first of many to show that disabled employees don't raise insurance costs and have equal or better attendance, performance, and safety records than average.

Employers may not deny health insurance coverage based on diagnosis or disability. Any limitations in insurance coverage must be limitations that are placed on all emloyees equally.

It is also considered discrimination under the ADA if an employer participates in a contractual or other arrangement or relationship with an organization that has the effect of subjecting a qualified applicant or employee with a disability to discrimination. This includes benefits and personnel-related contracts. For example, if a company contracts with another organization to provide personnel services, the contractor cannot treat the company's applicants or employees in any way that would be prohibited by the ADA if the company operated its own personnel functions.

The act also prohibits discrimination against any individual because of the known disability of another individual with whom the first individual has a relationship or association. For example, it would constitute discrimination for a nondisabled woman to be denied a job by an employer because she is the mother of a disabled child and the employer fears she would be absent too frequently due to her child's disability. However, if the hire was made, and the woman violated an across-the-board company policy relating to attendance or tardiness, she would not be protected because of her child's disability. The company does not owe its nondisabled employees accommodations under the ADA.

The act includes a requirement that employers must post notices in an accessible format to applicants and employees describing the ADA's relevant provisions.

EMPLOYMENT—MEDICAL EXAMINATIONS AND INQUIRIES

Historically, employment application forms and interviews have requested information concerning applicants' physical and mental condition. This information has often been used to exclude applicants with disabilities, particularly hidden disabilities like epilepsy, diabetes, emotional illness, heart disease, and cancer, before their actual ability to perform the job was even evaluated.

In order to eliminate these discriminatory practices and assure that misconceptions do not bias the employment selection process, the ADA sets forth a process which begins with the prohibition to preoffer medical examinations or inquiries. The requirements are parallel to the regulatory requirements under section 504 of the Rehabilitation Act of 1973.

What is prohibited is any identification of a disability by inquiry or examination at the prejob offer stage. Employers may ask questions which relate to the applicant's ability to perform job-related functions, but not whether they have a disability. For example, an employer can ask an applicant for a construction job if he or she can climb scaffolding and operate heavy construction tools, but cannot ask if he or she has a disability.

The only exception is that postoffer medical examinations may be conducted if they are given to all entering employees in a particular category, if the results are kept confidential, and if the results are not used to discriminate against individuals with disabilities—unless such results make the individual not qualified for the job. This rule meets the employer's need to discover job-related disabilities.

Once an employee is hired, the person's performance on the job is the best indicator of the person's qualifications. An inquiry or medical examination that is not job-related serves no legitimate employer purpose, and stigmatizes the individual with a disability.

Mr. ROWLAND of Connecticut. Mr. Chairman, I wish to indicate my unequivocal support for the Americans With Disabilities Act.

The disabled community has suffered for far too long. Time and time again, they have been told that they must conform to standards set by what is considered by others to be "normal." I am pleased that those days are finally over. From now on, the disabled will be protected from discrimination under Federal law. Passage of H.R. 2273 will enable the disabled to greatly expand their lives and enhance their quality of living. This is long overdue.

America is all about opportunity. However, the disabled have been denied full opportunity in this country. And this has not been because of the disabilities which these persons have, which in and of themselves can be daunting. Rather, it has been a result of external barriers which have prevented disabled individuals from fully participating in daily living. Let me briefly quote from a recent report of the United Nations Expert Group Meeting on Barrier-Free Design:

"Despite everthing we can do to assist each disabled person achieve his or her maximum potential in life, our efforts will not succeed until we have found the way to remove the obstacles to this goal: the physical bar-

riers we have created in public buildings, housing, transportation, houses of worship, centers of social life, and other community facilities, and the social barriers we have evolved and accepted against those who vary more than a certain degree from what we have been conditioned to regard as normal. More people are forced into limited lives and made to suffer by these man-made obstacles than by any physical disability."

Passage of this bill will remove the physical barriers to the disabled. Once the physical barriers have been eliminated, it is my hope and expectation that the social barriers will take care of themselves.

I do appreciate the concern voiced by some that the cost of compliance with this bill would be too high. However, I do not believe that cost should be an issue when it comes to providing civil rights protection for the disabled. Frankly, the present and future costs of disability to the country without this legislation would be much greater than any cost of this bill. Increased independence means increased productivity and greater self-sufficiency. This translates directly into a bigger and stronger work force, a more productive economy and less dependence on Government programs.

Mr. Chairman, this legislation is long overdue. I am pleased that Congress is finally addressing the rights of the disabled, and urge my colleagues to join with me in full support for H.R. 2273.

Mr. LEVINE of California. Mr. Chairman, I rise today to comment upon an important aspect of the bill before us.

One important contribution of the Americans With Disabilities Act is its rendering illegal and discriminatory program, service, or activity of State and local government.

Ever since section 504 of the Rehabilitation Act of 1973 was passed, it has been the law of the land that all programs and activities receiving Federal financial assistance cannot discriminate against people with disabilities. After the section 504 regulations were published and implementation efforts occurred, our Nation learned how beneficial these requirements were. Disabled people began to enter colleges, utilize social service programs, and take advantage of the wide spectrum of federally funded programs and activities in our Nation. Previously inaccessible courthouses and post offices were made accessible, and disabled persons could more fully participate in civic life.

However, comparable activities offered by State and local government have often been out of reach to disabled persons, because many States have no nondiscrimination mandates, and some which do are very poorly implemented.

In mandating nondiscrimination by State and local government, the ADA incorporates the section 504 regulations. This means that the entire spectrum of protections and considerations which have been successfully used to regulate Federal programs and activities will be available for State and local government. This includes requirements for program access, transition plans, nondiscrimination in employment and contracts, and all the other 504-related requirements.

One area that should be specifically addressed by the ADA's regulations should be the issue of nondiscrimination by police. Regretfully, it is not rare for persons with disabilities to be mistreated by the police. Sometimes this is due to persistent myths and stereotypes about disabled people. At other times, it is actually due to mistaken conclusions drawn by the police officer witnessing a disabled person's behavior.

For example, it is not unusual for a person with cerebral palsy, who might walk in a staggering manner, to be mistaken for someone who is drunk. Persons with epilepsy who are having seizures are often inappropriately dealt with by the police. Many times, deaf persons who are arrested are put in handcuffs. But many deaf persons use their hands to communicate, either through sign language or by writing a note to a nondisabled person who does not know sign language. The deaf person thus treated is completely unable to communicate.

Although I have no doubt that police officers in these circumstances are acting in good faith, these mistakes are avoidable and should be considered illegal under the Americans With Disabilities Act. They constitute discrimination, as surely as forbidding entrance to a store or restaurant is discrimination.

One way to cut down on these incidents is for police officers to receive training about various disabilities. Training programs are a good way to relay accurate information about disability. Some cities and States have already integrated this type of training, and their films, materials, and experience can serve as models.

Mrs. SCHROEDER. Mr. Chairman, the Americans With Disabilities Act will remove architectural and communication barriers that keep people with disabilities from fully participating in society. And it will also go a long way toward removing what may even be a more pernicious and destructive kind of barrier: barriers in attitude.

The attitudes nondisabled persons have toward fellow disabled citizens are often the most important factor leading to segregation, exclusion, discrimination, and unemployment. In the era we live in, we are witnessing a long-overdue shift, during which old prejudices are changing. The ADA will change these attitudes even more.

Some have claimed that, despite unfortunate prejudices, actual cases of discrimination against people with disabilities are rare. However, congressional testimony has revealed a picture of rampant, daily discrimination in every sphere of American life.

Mentally retarded persons are kept out of restaurants. Persons with cerebral palsy are turned away from theaters. Children with Down syndrome are not allowed to visit zoos. Employers cite fears of hiring disabled persons because their customers will feel uncomfortable or even repulsed. These cases reflect deep-seated misunderstanding which require the force of law to change.

One very important aspect of the Americans With Disabilities Act of 1990 is its broad sweep of coverage. The act correctly recognizes that disability discrimination is not limited to government offices and train stations; it is not limited to restaurants and hotels; it is not limited to places covered by other civil rights statutes.

Disability discrimination occurs in stores, auditoriums, and theaters, as well as doctors' and lawyers' offices. It is very important that the definitions in the ADA not be narrowed to exclude facilities which are crucial to carrying out one's daily life.

The requirement for access in new construction, like all requirements in the ADA, contains certain limitations and exemptions which are tailored to take into account the financial burdens on developers. These exemptions are provided despite the fact that, in new construction, the average cost of accessibility is less than one-half of 1 percent of the overall building cost. Often, access adds nothing at all to the overall building cost. But even so, the ADA has provided for an elevator exemption in buildings under three stories or under 3,000 square feet per story, if the building is not a health care facility or shopping center.

This exemption is intended to apply to a limited number of situations. It concludes only two-story or two-level buildings, or buildings with less than 3,000 square feet per level. Buildings with three or more stories or levels are not exempt unless they have less than 3,000 square feet per level. Basements are not to be included in this calculation. So, for example, if a new commercial building is to have a ground floor and a second floor to be occupied by stores and restaurants, but no basement, it needn't have an elevator. However, if a storage basement is included, the total of levels in the building is three, and it must have an elevator.

It is also important to note that, when the exemption does apply, it applies as an exemption for one feature only: the elevator. All other features related to accessibility must be provided on every level or story of the building.

This means that, in every new commercial building, the first floor must be fully accessible, including the entrance. One story must be designated as the first story, and include an accessible entrance.

All other floors must include access features, even if the elevator is exempted. This includes restroom accessibility and handrails on the stairs, features which are often needed by ambulatory disabled persons, even those who can climb steps to the second floor. This also includes hazard-warning provisions needed by people with visual impairments.

Another important note about this exemption is that it does not apply to one-story buildings. Since one-story buildings have no need for elevators, they must be fully accessible.

This exemption includes the important provision that the Attorney General can add occupancy types to the list of those kinds of facilities which cannot be exempted from elevators under any circumstances. This list already includes three occupancy types, delineated in the statute: shopping centers, shopping malls, and health care facilities. But the Attorney General can add others, which are found to be so compelling in their importance to the community, that they need to be accessible.

Particular attention should be paid to facilities which offer unique services or opportunities. For example, banquet rooms are often located on the second floor of restaurants or

motels, up a flight of steps. In a small town or city, the only banquet room could be inaccessible, rendering unavailable any group dinners, annual celebrations, or business luncheons to disabled persons in that town. In a situation like this, the town's brandnew two-story restaurant with upstairs banquet facilities should install an elevator.

Another important example is airports. There is generally only one airport in a city or town; no airport should be inaccessible to a person with a disability. It is expected that the Attorney General will assure that the elevator exemption does not serve to bar people with disabilities from such basic opportunities.

The requirement in the ADA for accessibility to newly constructed commercial facilities will make an enormous difference in integrating people with disabilities more thoroughly into all aspects of society. It will help fulfill the ADA's promise to extend civil rights protections to millions of disabled Americans.

One way in which many disabled persons have experienced discrimination is seating restrictions in theaters and other assembly areas. At times, overprotectiveness, misguided concerns for safety, and other myths and stereotypes have resulted in policies which limit disabled persons to seating only near exits.

What should be available to disabled persons, just as to nondisabled persons, is a variety of possible locations which are options for the disabled patron.

To achieve integrated seating in a variety of locations, there can be a few accessible spaces in the back, some in the front, and some alongside aisles, including the centermost aisle, in a row—or rows—located roughly midway back from the screen. Such placement has been a practice in some theaters for years, and poses no safety problems.

Current U.S. Government policy in Federal facilities specifically reinforces this concept. The Uniform Federal Accessibility Standards [UFAS], which have existed for several years and were developed by the Federal Government to regulate construction under the Architectural Barriers Act, explicitly requires seating in assembly areas like theaters to be in a variety of locations, and doesn't mention any restriction to the area near an exit. UFAS section 4.33.3 reads:

Wheelchair areas * * * and shall be located to provide lines of sight comparable to those for all viewing areas.

And the UFAS appendix, section A4.33.3 reads:

The location of wheelchair areas can be planned so that a variety of positions within the seating area are provided. This will allow choice in viewing and price categories.

The ADA recognizes that it is important to stop a violation of the act's access provisions before it occurs. It is a lot cheaper to make a building accessible to people with disabilities in the design stage than once the building is erected. For situations where discriminatory architectural barriers violate the ADA, the concept of anticipatory discrimination has been included.

Take the example of a new restaurant. The designers, for whatever reason, have designed a restroom which is not accessible to patron who uses a wheelchair, because it has a very narrow passageway. If the ADA did not have the anticipatory discrimination provision for just this circumstance, nothing could be done until the building is not only built but in actual operation.

On opening day, if a wheelchair-using patron tried to avail themselves of the restroom but found it to be wrongly designed, a case could be filed. If the court issued an injunction for the restaurant to provide wheelchair access to the restroom, a great deal of money might need to be spent to widen the passageway, not to mention losses from closing the facility during the period of reconstruction.

However, under the ADA as currently written, a complaint could be filed against this restaurant as soon as the design error is discovered—hopefully, as early as the blueprint stage. This is because the anticipatory discrimination clause allows for action in a situation where it is clear that the architectural barrier, when built, will preclude access by disabled persons. In this case, correcting the error could involve no more than the designer's time to redraw the passageway in an accessible fashion.

The ADA contains provisions addressing the possibility that interim accessibility regulations might be necessary, in case final regulations to be published pursuant to the ADA are delayed. These provisions provide direction to builders who might otherwise be caught with requirements to follow and no guidance as to how to carry out the ADA's mandate.

For new construction or alterations for which a State or local building permit is obtained prior to the issuance of final accessibility regulations by the Department of Justice [DOJ], and for which the construction or alteration begins within 1 year of the receipt of the permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the permit is issued will satisfy the ADA's accessibility requirements.

The exception is that if DOJ's final regulations have not been issued 1 year after the Architectural and Transportation Barriers Compliance Board [ATBCB] has issued their supplemental minimum guidelines also required in the ADA, compliance with these supplemental minimum guidelines issued by the ATBCB shall be necessary to satisfy the ADA's accessibility requirements.

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 2273, the Americans With Disabilities Act, which seeks to eliminate discrimination against persons with disabilities. This bill is a landmark piece of legislation. The Americans With Disabilities Act will guarantee equality of opportunity and participation in our society to the approximately 43 million disabled Americans.

The Americans With Disabilities Act [ADA] has been the subject of numerous hearings in Congress, and has been debated, modified, and approved by overwhelming bipartisan majorities in four different House committees. In fact, the ADA has passed these four committees by a combined vote of 152 to 11. At each stage in the legislative process, the questions and concerns of the business community have been taken into consideration, and the language of the bill amended to address these concerns. The result of these hearings is that we now have before us a bill that takes strong action to eliminate barriers to the full participation of the disabled in our society, without placing any undue burdens on businesses to accommodate the disabled.

Mr. Chairman, this bill also has the strong backing of the President, who has said, "ADA will form the foundation for policies and programs that can create opportunities for Americans with disabilities to find and hold jobs, and to enjoy the income and satisfaction that participation in society brings to us all."

Discrimination is a daily experience for individuals who have disabilities. It is time for our Nation to address the reality that Americans with disabilities are relegated to second-class citizenship. This bill will afford civil rights protections to all individuals with disabilities. The ADA states that people with disabilities are entitled to the same rights that all other Americans take for granted—the right to communicate, the right to work, the right to go wherever they wish. In short, the ADA grants to disabled Americans the right not to be left out anymore.

Passage of the Americans With Disabilities Act will increase the acceptance, dignity, and full participation of citizens with disabilities. By breaking down barriers in stores and offices, it would enable more disabled people to purchase goods and services. The act would free hundreds of thousands of citizens who are virtually prisoners in their homes because of inaccessible transportation and public accommodations.

Mr. Chairman, it is appalling that under the present Federal law, it is legal for a restaurant to refuse to serve a mentally retarded person, for a theater to deny admission to a person with cerebral palsy, for a dry cleaner to refuse service to someone who is deaf or blind. Today, we have the chance to correct this injustice by passing the Americans With Disabilities Act. I strongly urge my colleagues to join me in supporting the bill on final passage.

Mr. BORSKI. Mr. Chairman, I rise in strong support of H.R. 2273, the Americans With Disabilities Act.

As a member of the Public Works and Transportation Committee, I am particularly pleased with the bill's sections on public transportation.

The Americans With Disabilities Act represents a major breakthrough in ensuring that citizens who have been robbed of their mobility by disabilities or accidents can get to work, can pursue their interests, and broaden their lives with the access our Nation's public transportation facilities offer.

The acts' provisions on public transit accessibility will help greatly to break down the barriers that disabled Americans confront every day in their efforts to be self-reliant and productive members of society.

Mr. Speaker, giving access to America and everything it offers is the primary purpose of our transportation system.

Extending that access to every American is a major purpose of the Americans With Disabilities Act. ADA is first and foremost a basic civil rights protection.

Enactment of this very important legislation will help assure that disabled Americans have

access to America's buses, trains and other transit services.

The time for delay is over. I urge my colleagues to support H.R. 2273, and ensure that Americans with disabilities will be able to live full lives as workers and as citizens.

Mr. BONIOR. Mr. Chairman, I am honored to be an original cosponsor of the Americans With Disabilities Act and am pleased that we overwhelmingly passed this landmark legislation earlier today.

This is a proud day for the Nation when Congress finally extends to the disabled community the full rights of citizenship. Millions of people throughout the country have worked long and hard for this legislation. I want to take this opportunity congratulate all the people—especially those in the disabled community—who brought us to this historic moment.

For too long, our society has put up barriers to the disabled. Whether through fear of the unknown or ignorance of our own handicaps, we deny jobs or equal opportunities to those who appear to be different from us. More than two-thirds of our fellow citizens with disabilities who are of working age are unemployed. The vast majority want to work. To deny them the opportunity is intolerable.

There is not a disabled American alive today who has not experienced some type of discrimination. Discrimination erodes human aspirations and the human spirit. Not only does it destroy the self-worth of individuals, it undermines the economic and democratic integrity of our society. And this, too, is intolerable.

Today, after great effort by many distinguished Americans we have the opportunity to help right these wrongs. The Americans With Disabilities Act will extend the protections of the Civil Rights Act of 1964 to provide clear, strong, consistent, and enforceable standards addressing discrimination on the basis of disability.

This is a necessary and affirming step for all of us, both currently able-bodied and disabled. With this legislation, we can help remove this barrier to both an individual's and our entire country's potential for human and economic growth.

Mr. Chairman, I would also like at this time to discuss title IV of the ADA which is of extreme significance to the deaf community.

More than 55 years ago, Congress passed the Communications Act of 1934, requiring telephone companies to provide universal telephone service for all Americans. Despite this, in 1990, millions of deaf, hard of hearing and speech impaired citizens still do not have full accessibility to our Nation's telephone system.

Title IV will ensure full accessibility by requiring all common carriers to provide telephone relay services for both local and long distance calls within 3 years after enactment of the ADA. A relay service enables individuals who use telecommunication devices for the deaf [TDD's] to carry on telephone conversations with persons who use voice telephones.

The relay systems that exist in a few States fall short of meeting the basic telephone needs of individuals with hearing and speech impairments. These systems are often underfunded and understaffed. They impose restrictions on the number, length, and types of calls that can be relayed in their States.

Title IV requires relay services to be available 24 hours a day, 7 days a week, without restrictions on the type, length, or number of calls made by any relay service. The service provided must be functionally equivalent to that available to individuals without hearing impairments. This means that the rate that relayed calls are blocked should be no greater than the blockage rate for all telephone users. It also means that relay centers must be staffed by highly qualified operators who are skilled in typing, spelling and grammar. Operators must also be familiar with American sign language and other aspects of deaf culture that might have a bearing on the proper relaying of calls.

Relay systems must be able to accept relayed calls originating from TDDs that use either the ASCII or Baudot formats. Individuals, both hearing and deaf, must be able to easily access information about relay telephone numbers. In any given State, an individual must be able to find out the local relay number by calling a toll-free number, by checking local telephone directories, or by calling telephone operator information numbers.

The ADA provides telephone companies ample time for compliance. The bill requires that relay operations begin within three years after enactment. The technology needed to begin relay operations already exists. At House hearings, AT&T testified they could begin operations of a nationwide relay systems within 1 year. It is our intent that relay services begin as soon as possible.

The nationwide relay system envisioned by the ADA will dramatically improve the lives of hearing impaired and speech impaired Americans. Finally, these citizens will achieve a level of independence that will enable them to fully participate in society.

The Deaf President Now movement at Gallaudet University has made us all vividly aware of the aspirations for equal opportunity for qualified disabled Americans. I am proud to say that King Jordan, president of Gallaudet University, has shown by his example that in his words, "Deaf people can do anything but hear." But he, like other disabled Americans, sometimes needs a reasonable accommodation, such as a qualified interpreter, to perform on a level playing field. The ADA will finally give all disabled Americans the equal opportunity to compete and participate in the mainstream of American life.

Mr. CLEMENT. Mr. Chairman, I am pleased to see the Americans With Disabilities Act pass the House and I would like to insert some additional comments on some of the bill's provisions for the benefit of my colleagues.

TRANSPORTATION—USED AND REMANUFACTURED VEHICLES; HISTORIC VEHICLES

In addition to new vehicles, the ADA also poses requirements relating to used and to remanufactured vehicles.

Cities purchasing used vehicles must make a demonstrated good faith effort to ensure accessible used vehicles are bought. This provision is intended to provide some relief to small cities and rural regions which often buy used buses. If accessible vehicles cannot be found, inaccessible ones can be purchased.

The demonstrated good faith effort requirement means that a nationwide search must be made, multiple vendors contacted, and advertisements placed. Also, transit trade associations can be contacted to look for accessible used vehicles.

As time goes by and more buses are accessible due to the ADA, more of the used vehicles on the market will be accessible, and it should become progressively easier for transit authorities to find used accessible vehicles to purchase.

When buses are remanufactured, or remanufactured buses are leased, the vehicle shall be accessible to the maximum extent feasible. This applies to vehicles where the remanufacturing extends the vehicle's life by five years or more.

There is an exception for vehicles of historic character. If any portion of a transit system is included on the National Register of Historic Places, vehicles remanufactured for the system only must be accessible to the extent that making them accessible does not significantly alter their historic character. However, whatever accessibility features are consistent with the vehicles' historic character must be made.

PARATRANSIT—CURRENT SERVICE PROVIDERS ENCOURAGED TO CONTINUE

The pattern of paratransit service provision varies widely from city to city. There are many different kinds of organizations providing these services, with funding from private organizations, State and local government, Federal grants, and other sources. Those organizations which are private, and are not government transit entities operating fixed-route operations, are not directly governed by this title.

It is not the intent of the ADA to in any way reduce the paratransit services currently provided by a variety of organizations. Organizations are encouraged to continue, and to exceed the minimum requirements posed by the ADA whenever possible.

TRANSPORTATION—PARATRANSIT ELIGIBILITY

The transportation provisions of the ADA require that fixed route systems become accessible to people with disabilities over time, mainly through the requirement that newly purchased equipment be accessible. In addition, fixed route providers are to ensure the provision of supplementary paratransit services to persons who can't independently use the fixed route services.

The requirement for supplementary paratransit recognizes that there will always be some disabled persons who are unable to navigate the fixed route systems on their own. The reasons for this will vary widely. Some blind individuals who haven't received appropriate mobility training, or are traveling in a new area, or for a variety of other reasons, need paratransit. Some people with mental disabilities who need assistance getting where they're going, may need paratransit. Persons whose disabilities cause fatigue or those who cannot tolerate outdoor exposure may be completely unable to proceed on their own to bus stops, or from bus stops to their final distination, and need door-to-door service. Some persons who have uncontrolled convulsive

seizures will need specialized paratransit service. Some persons with AIDS may be too ill to negotiate the bus independently.

For these circumstances, publicly funded authorities which are charged with providing transportation to the general public, must ensure the provision of alternate paratransit service to those members of the general public who cannot use the mainline system. These persons are to be eligible for paratransit which is provided pursuant to the ADA.

Another category of eligible paratransit recipients will be persons traveling to places where the transit district has mainline bus routes but where no accessible buses are running within a reasonable period of their travel time. Logically, the paratransit service should also be extended to persons who cannot ride the fixed route service because lifts are disfunctional due to poor maintenance.

At least one associate may ride with any recipient of paratransit services. Paratransit operators are encouraged to allow additional riders if they are associated with a disabled individual and need to travel with him or her.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TRAXLER) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2273) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, pursuant to House Resolution 394, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DE LAY

Mr. DELAY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DELAY. Mr. Speaker, in its present form, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DELAY moves to recommit the bill, H.R. 2273, to the Committee on Rules with instructions to report the same to the House forthwith with the following amendment:

In section 104(c), add at the end the following new paragraph (and make appropriate conforming changes at the end of paragraphs (4) and (5));

(6) may take into consideration an individual's history of drug addiction or alcoholism, the period of time the individual has been free of drugs or alcohol, and whether the individual has successfully completed treatment for such condition before assigning or continuing to assign such individual to a safety sensitive position.

In title V, insert after section 509 the following new section (and redesignate subsequent sections, and conform the table of contents, accordingly):

SEC. 509A. EXECUTIVE AND JUDICIAL INCLUSION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purpose of this Act shall, subject to subsections (b) and (c), apply in their entirety to the executive and judicial branches of the Federal Government.

(b) EXECUTIVE BRANCH.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the executive branch of the Federal Government.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY EXECUTIVE ORDER.—The President shall, by executive order, establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The President shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(c) JUDICIAL BRANCH.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraphs (2) and (3), apply with respect to the conduct of the judicial branch of the Federal Government.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY ADMINISTRATIVE OFFICE OF UNITED STATES COURTS.—The Director of the Administrative Office of United States Courts shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) APPROVAL BY JUDICIAL CONFERENCE.—For purposes of paragraph (2), the Director of the Administrative Office of the United States Courts shall submit proposed remedies and procedures to the Judicial Conference of the United States. The remedies and procedures shall be effective upon the approval of the Judicial Conference.

(4) REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

Mr. DELAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DELAY] will be recognized for 5 minutes, and the gentleman from Maryland [Mr. HOYER] will be recognized for 5 minutes in opposition.

Mr. DELAY. Mr. Speaker, I offer this motion to recommit, and it has two sections in it. The first section deals with drug addiction and alcoholism and in that it allows the employer a little more discretion in taking into consideration the record of the employee as to how he has become rehabilitated in his drug habit or alcoholism.

What this amendment does is give employers a little more discretion in looking at the record of those drug addicts and alcoholics that may have been rehabilitated, and take a period of time as far as proving whether they have been rehabilitated or not, especially in safety-sensitive areas.

□ 1420

The other part of my motion deals with the judiciary branch and the executive branch of our Government and expands—expands—the remedies to those that are disabled, that are not covered, in my opinion, in the Civil Rights Act of 1964.

Mr. Speaker, I yield to the gentleman from Washington [Mr. CHANDLER] to explain the drug section of my motion.

Mr. CHANDLER. Mr. Speaker, I want the Members of the House to have the opportunity to answer a very important question. Do Members want to pass legislation that would require an employer, we will say it is a construction company, to immediately return to the job of crane operator or dump truck driver, someone who has been perhaps three or four times through drug rehabilitation treatment, or even alcohol? Do Members want to require that?

Now, statistically, I can tell Members we are not dealing with black and white. There is a broad area of gray. About two-thirds of the people who get off drugs for a while go back to using drugs again. Do Members want to run the risk of giving an employer no flexibility whatsoever to deal with that?

This amendment was carefully crafted to allow an employer to take into consideration how long has the individual been free of drugs or alcohol? Did they go through treatment? Are they making progress? This is not an attempt to discriminate, but to just allow some common sense to be applied in cases where we know people have caused serious injury in the past, and an employer desperately needs the protection of some flexibility to deal with this kind of eventuality.

If we do adopt this amendment, I think the bill would be far more defensible than it is without it. There is even some question about whether a

schoolbus driver is involved in this. No, an airline pilot is not, because that comes under Federal regulations. But rest most assured that a crane operator, a dump truck driver, someone who drives pizzas from the pizza-to-home delivery service, those kinds of jobs would be affected by my amendment.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. CHANDLER. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, just to clarify, I want to advise the gentleman that the schoolbus drivers that the gentleman just mentioned also are covered by the DOT regulations.

Mr. DELAY. Mr. Speaker, I yield myself the balance of my time.

Let me just say as far as the schoolbus driver is concerned, if they are an alcoholic and were fired for their alcoholism, went to a rehabilitation program, the school would have to rehire them immediately without any sort of proof that they had been successfully participating in the program.

The second part of my motion, Mr. Speaker, is No. 1, the judiciary is not covered under the ADA bill. Under the motion we cover the judiciary and give them a procedure by which they can comply with the bill. As Members well know, Congress is covered under the ADA bill. We also apply the ADA bill to the executive branch and give them procedures by which they can comply with the bill.

I might point out, by the way, that under the present remedies of the Rehabilitation Act of 1973, the only remedy to the Federal Government is the termination of Federal funds. If someone goes to the Social Security office, is discriminated against, is discriminated against and brings suit, the only remedy that the executive branch can bring is terminated funds for the Social Security office.

What we are simply doing is expanding the ADA bill to the judiciary branch and the executive branch, as it is to others, as we include it into this bill. Second, I just will finish with the point that if Hazelwood had been found to be an alcoholic, he would have to be rehired today to run the *Valdez*, if that job was open.

I am telling Members of the House that all we are doing is expanding, for safety-sensitive jobs, the opportunity for an employer, and in some cases it can be in temporary employment, just temporary employment, to see that they are receiving the benefits and rehabilitation and expanding the ADA to the executive branch and the judiciary branch.

Mr. EDWARDS of California. Mr. Speaker, I rise in opposition to the motion.

The bill has been carefully drawn with regard to drug and alcohol provisions, and we are satisfied that the provisions regarding drugs and alcohol are taken care of adequately in the bill. The direct threat is the test, and if any person poses a direct threat to the health or safety of others, then that person does not have to be hired.

Now, the second part of the bill, of the suggestion in the motion to recommit would include the judiciary and the executive branch, they are already covered by the Rehabilitation Act of 1973. This would be confusing and unnecessary to include them.

I urge a "no" vote on the motion to recommit.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in strong opposition to the motion to recommit and would urge the body to reject this motion.

First of all, let me make it very clear that I think all Members know the use of drugs, the illegal use of drugs is not, not protected by the ADA. Any person on the job that uses illegal drugs can be fired without reference to ADA. The use of alcohol on the job is not covered by any protections in the ADA. We made that very clear and careful. It is not covered, so that there is no fear that any Member will have that we are imposing on an employer, either someone who is abusing alcohol or abusing illegal drugs or any other drugs, for that matter, that impacts on their performance.

Second, and let me finish with this if I may, we have heard during the course of this debate some lamentations from the other side of the aisle, particularly some from this side, about carefully crafting amendments so that we do not open it for lawsuits. Listen to this language, "not of your judiciary branch and executive branch, which is now covered under the Rehabilitation Act of 1973."

□ 1430

With respect to the specifics of the amendment, by adding the addition of a paragraph 6 to section 104(c), we may take into consideration an individual's history of drug addiction or alcoholism, a history of 15 years ago, as our distinguished sponsor of the amendment has, and he is certainly very able and ought not to be discriminated against. He ought to be protected against arbitrary and capricious discrimination.

It then goes on to say, "The period of time the individual has been free of drugs or alcohol." There is no standard for business in there. There is no telling them that 1 year is sufficient or 5 years is sufficient or 10 years is sufficient. I could go through each part of this amendment. There is no specificity, notwithstanding the fact the sponsors of this have said we ought to specify.

In fact, what it does is subject those who may have been alcoholics at some point in time or those who may have used drugs some time ago to discrimination. That is not what we want to do.

This bill is very carefully crafted from the Rehabilitation Act. The President supports the bill in its present form and has said this amendment is not necessary.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, would the gentleman from Maryland agree that this is a drug vote?

Mr. HOYER. Absolutely not.

Mr. DELAY. That because it obtains to the executive branch and the judiciary branch——

Mr. HOYER. Mr. Speaker, reclaiming our time and if the gentleman will yield further, in answer to the gentleman's question, I would specifically reject the premise that this is a drug vote. This is a vote with respect to those who have been rehabilitated.

Mr. DELAY. Then, Mr. Speaker, will the gentleman answer this question? Would he explain the remedies under the Rehabilitation Act of 1973? There are no remedies in that act as they apply to the executive branch and the judiciary branch.

Mr. HOYER. I am sure the executive is going to carry out the act and is in fact carrying it out.

Mr. DELAY. I refer to the law, and it says to refer to title 6 of the Civil Rights Act of 1964, which states that the only remedy is to terminate Federal funds. The ADA bill has more remedies in it than the Rehabilitation Act of 1973. All we are doing is expanding the remedies offered to the disabled community.

Mr. HOYER. When you say, terminate Federal funds——

Mr. DELAY. I mean the executive branch and the judiciary branch.

Mr. HOYER. Reclaiming our time, just to clarify this for everybody's understanding, the gentleman presumably is referring to the executive and the judiciary to which he spoke. Obviously we are not going to cut off funds to the judiciary or the executive for a violation. That is not the remedy. The gentleman is incorrect on that.

Mr. DELAY. So there is no remedy?

Mr. HOYER. Mr. Speaker, I would urge a no vote on the motion to recommit.

The SPEAKER pro tempore (Mr. TRAXLER). The time of the gentleman from California [Mr. EDWARDS] has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—ayes 143, noes 280, not voting 9, as follows:

[Roll No. 122]

AYES—143

| | | |
|---|---|---|
| Archer | Hefley | Porter |
| Armey | Herger | Quillen |
| Baker | Hiler | Regula |
| Ballenger | Holloway | Rhodes |
| Bartlett | Hopkins | Ritter |
| Barton | Houghton | Roberts |
| Bateman | Hubbard | Robinson |
| Bentley | Hunter | Rogers |
| Bereuter | Hyde | Rohrabacher |
| Bilirakis | Inhofe | Ros-Lehtinen |
| Broomfield | Ireland | Roth |
| Brown (CO) | James | Roukema |
| Bunning | Johnson (CT) | Schaefer |
| Burton | Johnson (SD) | Schiff |
| Callahan | Kolbe | Schuette |
| Campbell (CA) | Kyl | Schulze |
| Chandler | Lagomarsino | Sensenbrenner |
| Coble | Leach (IA) | Shaw |
| Coleman (MO) | Lewis (CA) | Shumway |
| Combest | Lewis (FL) | Shuster |
| Coughlin | Lightfoot | Skeen |
| Cox | Lipinski | Slaughter (VA) |
| Crane | Livingston | Smith (NE) |
| Dannemeyer | Lowery (CA) | Smith (TX) |
| DeLay | Madigan | Smith, Denny (OR) |
| DeWine | Marlenee | Smith, Robert (NH) |
| Dickinson | Martin (IL) | Smith, Robert (OR) |
| Dornan (CA) | Martin (NY) | Solomon |
| Douglas | McCandless | Spence |
| Dreier | McCollum | Stangeland |
| Duncan | McCrery | Stearns |
| Edwards (OK) | McEwen | Stenholm |
| Emerson | McMillan (NC) | Stump |
| Fawell | Meyers | Sundquist |
| Fields | Michel | Tauke |
| Frenzel | Miller (OH) | Thomas (WY) |
| Gallegly | Miller (WA) | Upton |
| Gekas | Molinari | Vander Jagt |
| Gibbons | Moorhead | Vucanovich |
| Gingrich | Morrison (WA) | Walker |
| Goss | Murphy | Weber |
| Gradison | Myers | Whittaker |
| Grandy | Nielson | Wylie |
| Grant | Olin | Young (AK) |
| Gunderson | Oxley | Young (FL) |
| Hall (TX) | Packard | |
| Hancock | Pashayan | |
| Hansen | Paxon | |
| Hastert | Petri | |

NOES—280

| | | |
|---|---|---|
| Ackerman | Bilbray | Buechner |
| Anderson | Bliley | Bustamante |
| Andrews | Boehlert | Byron |
| Annunzio | Boggs | Campbell (CO) |
| Anthony | Bonior | Cardin |
| Applegate | Borski | Carper |
| Aspin | Bosco | Carr |
| Atkins | Boucher | Chapman |
| AuCoin | Boxer | Clarke |
| Barnard | Brennan | Clay |
| Bates | Brooks | Clement |
| Beilenson | Browder | Clinger |
| Bennett | Brown (CA) | Coleman (TX) |
| Berman | Bruce | Collins |
| Bevill | Bryant | Condit |
| Conte | Kasich | Ray |
| Conyers | Kastenmeier | Richardson |
| Cooper | Kennedy | Ridge |
| Costello | Kennelly | Rinaldo |
| Courter | Kildee | Roe |
| Coyne | Kleczka | Rose |
| Crockett | Kolter | Rostenkowski |
| Darden | Kostmayer | Rowland (CT) |
| Davis | LaFalce | Rowland (GA) |
| de la Garza | Lancaster | Roybal |
| DeFazio | Lantos | Russo |
| Dellums | Laughlin | Sabo |
| Derrick | Leath (TX) | Saiki |
| Dicks | Lehman (CA) | Sangmeister |
| Dingell | Lehman (FL) | Sarpalius |
| Dixon | Lent | Savage |
| Donnelly | Levin (MI) | Sawyer |
| Dorgan (ND) | Levine (CA) | Saxton |
| Downey | Lewis (GA) | Scheuer |
| Durbin | Lloyd | Schneider |
| Dwyer | Long | Schroeder |
| Dymally | Lowey (NY) | Schumer |
| Dyson | Luken, Thomas | Serrano |
| Early | Machtley | Sharp |
| Eckart | Manton | Shays |
| Edwards (CA) | Markey | Sikorski |
| Engel | Martinez | Sisisky |
| English | Matsui | Skaggs |
| Erdreich | Mavroules | Skelton |
| Espy | Mazzoli | Slattery |
| Evans | McCloskey | Slaughter (NY) |
| Fascell | McCurdy | Smith (FL) |
| Fazio | McDade | Smith (IA) |
| Feighan | McDermott | Smith (NJ) |
| Fish | McGrath | Smith (VT) |
| Flake | McHugh | Snowe |
| Foglietta | McMillen (MD) | Solarz |
| Ford (MI) | McNulty | Spratt |
| Frank | Mfume | Staggers |
| Frost | Miller (CA) | Stallings |
| Gallo | Mineta | Stark |
| Gaydos | Moakley | Stokes |
| Gejdenson | Mollohan | Studds |
| Gephardt | Montgomery | Swift |
| Geren | Moody | Synar |
| Gillmor | Morella | Tallon |
| Gilman | Morrison (CT) | Tanner |
| Glickman | Mrazek | Tauzin |
| Gonzalez | Murtha | Taylor |
| Goodling | Nagle | Thomas (GA) |
| Gordon | Natcher | Torres |
| Gray | Neal (MA) | Torricelli |
| Green | Neal (NC) | Towns |
| Guarini | Nowak | Traficant |
| Hall (OH) | Oakar | Traxler |
| Hamilton | Oberstar | Udall |
| Harris | Obey | Unsoeld |
| Hatcher | Ortiz | Valentine |
| Hawkins | Owens (NY) | Vento |
| Hayes (IL) | Owens (UT) | Visclosky |
| Hayes (LA) | Pallone | Volkmer |
| Hefner | Panetta | Walgren |
| Henry | Parker | Walsh |
| Hertel | Parris | Washington |
| Hoagland | Patterson | Waxman |
| Hochbrueckner | Payne (NJ) | Weiss |
| Horton | Payne (VA) | Weldon |
| Hoyer | Pease | Wheat |
| Huckaby | Pelosi | Whitten |
| Hughes | Penny | Williams |
| Hutto | Perkins | Wilson |
| Jacobs | Pickett | Wise |
| Jenkins | Pickle | Wolf |
| Johnston | Poshard | Wolpe |
| Jones (GA) | Price | Wyden |
| Jones (NC) | Pursell | Yates |
| Jontz | Rahall | Yatron |
| Kanjorski | Rangel | |
| Kaptur | Ravenel | |

NOT VOTING—9

| | | |
|---|---|---|
| Alexander | Ford (TN) | Nelson |
| Craig | Hammerschmidt | Thomas (CA) |
| Flippo | Lukens, Donald | Watkins |

□ 1453

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Mr. Thomas of California for, with Mr. Ford of Tennessee against.

Mr. BUECHNER changed his vote from "aye" to "no."

Mr. HALL of Texas and Ms. ROS-LEHTINEN changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HOYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 20, not voting 9, as follows:

[Roll No. 123]

AYES—403

| | | |
|---|---|---|
| Ackerman | Conte | Gillmor |
| Anderson | Conyers | Gilman |
| Andrews | Costello | Gingrich |
| Annunzio | Coughlin | Glickman |
| Anthony | Courter | Gonzalez |
| Applegate | Cox | Goodling |
| Aspin | Coyne | Gordon |
| Atkins | Crockett | Goss |
| AuCoin | Darden | Gradison |
| Baker | Davis | Grandy |
| Ballenger | de la Garza | Grant |
| Barnard | DeFazio | Gray |
| Bartlett | Dellums | Green |
| Bates | Derrick | Guarini |
| Beilenson | DeWine | Gunderson |
| Bennett | Dickinson | Hall (OH) |
| Bentley | Dicks | Hall (TX) |
| Bereuter | Dingell | Hamilton |
| Berman | Dixon | Hansen |
| Bevill | Donnelly | Harris |
| Bilbray | Dorgan (ND) | Hastert |
| Bilirakis | Dornan (CA) | Hatcher |
| Bliley | Douglas | Hawkins |
| Boehlert | Downey | Hayes (IL) |
| Boggs | Dreier | Hayes (LA) |
| Bonior | Duncan | Hefley |
| Borski | Durbin | Hefner |
| Bosco | Dwyer | Henry |
| Boucher | Dymally | Hertel |
| Boxer | Dyson | Hiler |
| Brennan | Early | Hoagland |
| Brooks | Eckart | Hochbrueckner |
| Broomfield | Edwards (CA) | Holloway |
| Browder | Edwards (OK) | Hopkins |
| Brown (CA) | Emerson | Horton |
| Brown (CO) | Engel | Houghton |
| Bruce | English | Hoyer |
| Bryant | Erdreich | Hubbard |
| Buechner | Espy | Huckaby |
| Bunning | Evans | Hughes |
| Bustamante | Fascell | Hunter |
| Byron | Fawell | Hutto |
| Callahan | Fazio | Hyde |
| Campbell (CA) | Feighan | Inhofe |
| Campbell (CO) | Fields | Ireland |
| Cardin | Fish | Jacobs |
| Carper | Flake | James |
| Carr | Foglietta | Jenkins |
| Chandler | Ford (MI) | Johnson (CT) |
| Chapman | Frank | Johnson (SD) |
| Clarke | Frenzel | Johnston |
| Clay | Frost | Jones (GA) |
| Clement | Gallegly | Jones (NC) |
| Clinger | Gallo | Jontz |
| Coble | Gaydos | Kanjorski |
| Coleman (MO) | Gejdenson | Kaptur |
| Coleman (TX) | Gekas | Kasich |
| Collins | Gephardt | Kastenmeier |
| Combest | Geren | Kennedy |
| Condit | Gibbons | Kennelly |

| | | |
|---|---|---|
| Kildee | Oakar | Skelton |
| Kleczka | Oberstar | Slattery |
| Kolbe | Obey | Slaughter (NY) |
| Kolter | Ortiz | Slaughter (VA) |
| Kostmayer | Owens (NY) | Smith (FL) |
| Kyl | Owens (UT) | Smith (IA) |
| LaFalce | Oxley | Smith (NE) |
| Lagomarsino | Pallone | Smith (NJ) |
| Lancaster | Panetta | Smith (TX) |
| Lantos | Parker | Smith (VT) |
| Laughlin | Parris | Smith, Denny (OR) |
| Leach (IA) | Pashayan | Smith, Robert (NH) |
| Leath (TX) | Patterson | Smith, Robert (OR) |
| Lehman (CA) | Paxon | Snowe |
| Lehman (FL) | Payne (NJ) | Solarz |
| Lent | Payne (VA) | Solomon |
| Levin (MI) | Pease | Spence |
| Levine (CA) | Pelosi | Spratt |
| Lewis (CA) | Penny | Staggers |
| Lewis (FL) | Perkins | Stallings |
| Lewis (GA) | Petri | Stangeland |
| Lipinski | Pickett | Stark |
| Livingston | Pickle | Stearns |
| Lloyd | Porter | Stokes |
| Long | Poshard | Studds |
| Lowery (CA) | Price | Sundquist |
| Lowey (NY) | Pursell | Swift |
| Luken, Thomas | Quillen | Synar |
| Machtley | Rahall | Tallon |
| Madigan | Rangel | Tanner |
| Manton | Ravenel | Tauzin |
| Markey | Ray | Taylor |
| Martin (IL) | Regula | Thomas (GA) |
| Martin (NY) | Rhodes | Thomas (WY) |
| Martinez | Richardson | Torres |
| Matsui | Ridge | Torricelli |
| Mavroules | Rinaldo | Towns |
| Mazzoli | Ritter | Traficant |
| McCandless | Roberts | Traxler |
| McCloskey | Robinson | Udall |
| McCollum | Roe | Unsoeld |
| McCrery | Rogers | Upton |
| McCurdy | Rohrabacher | Valentine |
| McDade | Ros-Lehtinen | Vander Jagt |
| McDermott | Rose | Vento |
| McEwen | Rostenkowski | Visclosky |
| McGrath | Roth | Volkmer |
| McHugh | Roukema | Vucanovich |
| McMillan (NC) | Rowland (CT) | Walgren |
| McMillen (MD) | Rowland (GA) | Walker |
| McNulty | Roybal | Walsh |
| Meyers | Russo | Washington |
| Mfume | Sabo | Waxman |
| Michel | Saiki | Weber |
| Miller (CA) | Sangmeister | Weiss |
| Miller (OH) | Sarpalius | Weldon |
| Miller (WA) | Savage | Wheat |
| Mineta | Sawyer | Whittaker |
| Moakley | Saxton | Whitten |
| Molinari | Schaefer | Williams |
| Mollohan | Scheuer | Wilson |
| Montgomery | Schiff | Wise |
| Moody | Schneider | Wolf |
| Moorhead | Schroeder | Wolpe |
| Morella | Schuette | Wyden |
| Morrison (CT) | Schulze | Wylie |
| Morrison (WA) | Schumer | Yates |
| Mrazek | Sensenbrenner | Yatron |
| Murphy | Serrano | Young (AK) |
| Murtha | Sharp | Young (FL) |
| Myers | Shaw | |
| Nagle | Shays | |
| Natcher | Sikorski | |
| Neal (MA) | Sisisky | |
| Neal (NC) | Skaggs | |
| Nowak | Skeen | |

NOES—20

| | | |
|---|---|---|
| Archer | Dannemeyer | Olin |
| Armey | DeLay | Packard |
| Barton | Hancock | Shumway |
| Bateman | Herger | Shuster |
| Burton | Lightfoot | Stenholm |
| Cooper | Marlenee | Stump |
| Crane | Nielson | |

NOT VOTING—9

| | | |
|---|---|---|
| Alexander | Ford (TN) | Nelson |
| Craig | Hammerschmidt | Thomas (CA) |
| Flippo | Lukens, Donald | Watkins |

□ 1500

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Craig against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DELLUMS. Mr. Speaker, I rise today to express my sincere joy at the final passage of H.R. 2273, the Americans With Disabilities Act. I feel deeply that in voting for this legislation, Members of this body have acted to enfranchise an entire class of Americans whose rights and liberties are finally on a par with every other citizen.

It is incredible that action on this vitally important civil rights issue has evaded us for so long. The story of our Nation's disparate treatment of disabled individuals is a sad conclusion. As a black American, I am especially proud to stand here as part of the coalition that has brought equal standing for the disabled in the eyes of the law. All minority Americans have shared the suffering of "separate but equal," and we rejoice collectively when that unjust standard can no longer be legally applied.

It is at moments like these, Mr. Speaker, when I am proud to be a Member of this body. We must remember that we are empowered with a special responsibility by the 14th amendment to the Constitution to ensure that every citizen, not just those of particular ethnic groups, not just those who arguably are "able-bodied," not just those who own property—but every citizen shall enjoy the equal protection of the laws.

Indeed, as the Supreme Court has noted:

It is fundamental that in no organ of government, state or federal, does there repose a more comprehensive remedial power than in the Congress, expressly charged by the Constitution with competence and authority to enforce equal protection guarantees. (448 U.S. at 483)

Our action in this area is therefore long overdue. The history of different, separate, and unequal treatment of persons with disabilities, especially those with severe disabilities, could not be clearer. That history is in fact a stark reminder of the prejudice and misunderstanding that has characterized the treatment of minority citizens. This disparate treatment establishes an abundant factual predicate for the relief granted by H.R. 2273. The Americans With Disabilities Act is a plenary civil rights statute designed to halt all practices that segregate persons with disabilities and those which treat them inferior or differently. By enacting the ADA, we are making a conscious decision to reverse a sad legacy of segregation and degradation.

The significance, historic and legal, of our decision to establish disability as a basis for civil rights protection cannot be overstated. We have been moved by the continuing destructive effect of segregation, and we are acting now to reverse those practices, root and branch, and to eliminate their legacy. In short, what we are saying is that a severe, lifelong disability may be handicapping, but more handicapping has been the practice of congregating services for persons with disabilities in settings different or separate from those in which the rest of us are provided those services.

Through the various hearings we have held in this body, not only in connection with the ADA, but also in connection with the Rehabilitation Act, the Education of the Handicapped Act, and the Developmental Disabilities Act, we have come to a knowledge of the capabilities and prospects for persons with disabilities entirely different from that which underlies the historic legacy and that continues today still to be boldly offered in justification of services that are separate or different. We have found that persons with severe disabilities, as a matter of fact, can live and work productively in the same settings in which their neighbors live and work.

Which brings us, Mr. Speaker, to what I view as the highest and best purpose for which this body can convene itself—to protect the fundamental rights and liberties of our citizens and to enact those measures necessary to guarantee their equal treatment under law. Today we have accomplished that purpose.

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Mr. HOYER. Mr. Chairman, H.R. 2273, the Americans With Disabilities Act, which is before the House today, is a bill which reflects an extensive process of deliberation and refinement. The bill was referred to four committees in the House of Representatives; the Education and Labor Committee; the Committee on Public Works and Transportation; the Energy and Commerce Committee; and the Committee on the Judiciary. A number of changes that were made by the Senate to the original ADA were adopted by the House committees. Then, in each of the House committees, there was extensive discussion and work on the provisions under the particular jurisdiction of that committee. The bill before the House today is an amalgam of the four bills that were reported by committee. On May 14, I introduced H.R. 4807, cosponsored by the four committee chairs and ranking members, which is a clean combination of the four bills. The rule which accompanied H.R. 2273 made in order the text of an amendment in the nature of a substitute consisting of the text printed in part one of the report accompanying the rule. That text is H.R. 4807, plus some technical corrections and language concerning congressional coverage.

I was privileged to be a part of the extensive work on this bill at all of its various stages in the House of Representatives. I believe that the process this bill has undergone has resulted in a strong act that sets forth clear, enforceable guidelines for businesses, employers, transportation providers and operators of telephone services across this country regarding the prohibition of discrimination on the basis of disability.

I would like to describe, therefore, the provisions of this bill, as I view them, as it now appears before the House and to note, where appropriate, changes that were made during the committee process and changes that were made in order to merge the four bills.

DESCRIPTION

SECTION 2: FINDINGS AND PURPOSES

As noted, the bill sets forth the findings and purposes of the act. These have not changed

since the original introduction of the bill. In fact, unfortunately, the findings that Congress made during the extensive hearings held on this bill, have not changed for generations. People with disabilities have encountered various forms of discrimination—from outright exclusion to overprotective rules to segregation due to attitudinal, architectural, transportation, and communication barriers. People with disabilities have experienced a history of unequal treatment and have formed insular groups, segregated from the rest of society. In addition, people with disabilities have lacked political power. For this reason, it is 26 years after the 1964 Civil Rights Act, that the ADA—the first comprehensive piece of civil rights legislation for persons with disabilities—is finally before us today.

The purpose of this bill, as set forth in section 2(b), is to provide a clear and comprehensive mandate for the elimination of discrimination against people with disabilities, to provide clear standards addressing discrimination and to ensure that the Federal Government plays a central role in enforcing these standards on behalf of people with disabilities through the issuance of clear and effective regulations and through strong administrative enforcement where provided by the act.

Section 2(b) of the bill also notes that Congress—in passing this bill—is invoking the sweep of its congressional authority, including the power to enforce the 14th amendment and the power to regulate commerce. Section 5 of the 14th amendment gives Congress the power to enforce that amendment through appropriate legislation. Congress has authority under this section to prohibit discrimination by State and local governments, see, for example, *Katzenbach* v. *Morgan,* 384 U.S. 641 (1966), and to prohibit discrimination in nongovernmental activities that has resulted from societywide discrimination, see, for example, *Heart of Atlanta Motel* v. *United States,* 379 U.S. 241, 279–286 (1964) Douglas, J., concurring; 379 U.S., at 291–93 (Goldberg, J., concurring).

Congress also, of course, has broad authority to pass antidiscrimination laws under the commerce clause, article I, section 8 of the Constitution. See, for example, *Heart of Atlanta Motel* v. *United States,* 379 U.S. 241 (1964); *Katzenbach* v. *McClung,* 379 U.S. (1964); *EEOC* v. *Wyoming,* 460 U.S. 226 (1983). The extensive hearings on the ADA amply demonstrate how discrimination against people with disabilities has made it difficult for them to participate in the commerical life of this country. The Harris polls, cited in a number of the committee hearings, set forth clearly the myriad ways in which people with disabilities have been precluded, through various forms of discrimination, from using public accommodations, from traveling, and from gaining employment. See Louis Harris and Associates, "The ICD Survey of Disabled Americans: Bringing Disabled Americans Into the Mainstream" (1986); "Implications for Federal Policy for the 1986 Harris Survey of Americans With Disabilities" (1988).

SECTION 3: DEFINITIONS

Section 3 of the bill includes definitions of "auxiliary aids and services," "disability," and "State." These are terms that appear in more than one title of the bill and therefore are defined in this section for purposes of the whole bill.

The definition of the term "disability" is key to the ADA. Throughout the process on the ADA, we were often asked to substitute for this definition a list of selected disabilities that would be the only disabilities covered under the act. That approach was rejected by every committee. Instead, the act retains the flexibility definition that was first adopted in Section 504 of the Rehabilitation Act of 1973, that has been in effect for over 15 years, and that was recently explicated clearly by the Supreme Court in *School Board of Nassau County* v. *Arline,* 480 U.S. 273 (1987).

The first prong of the definition covers individuals who have a physical or mental impairment that substantially limits a major life activity. Physical impairments cover all forms of physiological disorders, cosmetic disfigurements, or anatomical losses affecting different body systems. Mental impairments include a similar, broad range of cognitive, emotional, and mental disabilities. Under this prong of the definition, these impairments must also substantially limit some major life activity, such as caring for one's self, breathing, seeing, or working. Examples of impairments that substantially limit major life activities are visual or hearing impairments, mobility impairments, cerebral palsy, epilepsy, HIV infection, mental retardation, chronic schizophrenia, or heart disease.

The second prong of the definition covers individuals who have a record of an impairment. This covers, for example, an individual who has recovered from an impairment—such as cancer—but is discriminated against on the basis of that past impairment that substantially limits one or more major life activities.

The third prong of the definition covers individuals who are regarded as having an impairment. This prong of the definition is critical in ensuring adequate protection for all individuals who face discrimination on the basis of actual or perceived physical or mental impairments. The scope of this prong was recently explicated by the Supreme Court in School Board of Nassau County versus Arline, where the Court noted that while a particular impairment might not diminish a person's physical or mental capabilities, it might nevertheless limit that person's ability to participate in the community as a result of the negative reactions of others to the impairment. *Arline,* 480 U.S. 273, 283 (1987). Thus, for example, if an employer perceived that an applicant had an impairment which precluded that applicant from working for the employer, and refused to hire—or fired—the person on that basis, or if the owner of a public accommodation perceived a patron as being unable to enjoy the goods or services being offered, and discriminated against the patron on that basis, those individuals would be covered under the third prong of the definition, whether or not the person had an impairment that actually limited participation.

TITLE I: EMPLOYMENT

Title I of the ADA deals with employment. The provisions of the original title I of H.R. 2273, which incorporated a range of concepts, have now been incorporated within each title.

The substantive employment protections of the ADA are primarily derived from protections that exist under section 504 of the Rehabilitation Act of 1973. Much of the procedural and enforcement framework has been derived from title VII of the Civil Rights Act of 1964.

Section 102(a) sets forth the general rule of this title: a covered entity may not discriminate against a qualified individual with a disability, because of the disability of such individual, with regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions, and privileges of employment. The Education and Labor Report and the Judiciary Committee report further discuss the range of employment decisions and practices covered by the statute.

Section 102(b) sets forth constructions of the general rule. These constructions describe various forms of discrimination that are among those included within the general prohibition. Most of these provisions derived from the section 504 regulations to give example of the types of actions that would be prohibited under section 102(a).

For example, section 102(b)(1) sets forth the simple, straightforward requirement that a covered entity may not limit, segregate, or classify an applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of such an individual's disability.

Section 102(b)(2) provides that a covered entity may not enter into a contractual or other relationship that has the effect of subjecting the covered entity's applicants or employees to discrimination. These include relationships with referral agencies, labor unions, and entities providing fringe benefits or training programs. There was extensive discussion regarding this provision during consideration by the Education and Labor Committee and that Committee's report gives examples of how this important provision works.

Section 102(b)(3) provides that a covered entity may not use standards, criteria, or methods of administration that have the effect of discrimination or that perpetuate the discrimination of others who are subject to common administrative control. This provision is derived from the section 504 regulations.

Section 102(b)(4) provides that it is discrimination to exclude, or otherwise deny equal jobs or benefits, to a qualified individual with a disability because of the known disability of an individual with whom the qualified individual is know to have a relationship or association. This is an important provision which is designed to extend protection to those who experience discrimination because they live with, associate with, give care to, are married to, or have some other relationship with a person with a disability—and are discriminated against because of that association or relationship.

Section 102(b)(5) requires that reasonable accommodations be made to the known physical or mental limitations of an otherwise qualified individual with a disability. This is a central provision of the bill and various aspects of the provision were discussed at length during consideration of the bill.

First, as noted, an entity covered under the ADA may not discriminate against a "qualified individual with a disability." A qualified individ-

ual with a disability means a person who, with or without a reasonable accommodation, if necessary, can perform the essential functions of the job that the person holds or desires. The determination of whether a person is qualified must be made at the time of the employment action—for example, the point of hiring or promotion—and paternalistic concerns about what is best for the person with the disability cannot be used to foreclose employment opportunities.

There was extensive discussion regarding the concept of "essential functions" of a job. This is a key concept in ensuring non-discrimination protection for people with disabilities. At times, an employer may have a marginal, nonessential job function which a person with a disability cannot, in fact, do. The purpose of this provision is to establish that if a person with a disability can do the essential functions of a job, that person is considered a "qualified" individual for purposes of that job.

An amendment was added in the Judiciary Committee to clarify that consideration must be given to an employer's determination as to what job functions are essential. By contrast, an amendment that would have created a presumption in favor of the employer's determination of what was an essential function was rejected by that committee. An employer is the one that first designates the essential functions of the job. A person with a disability, who has been rejected because he or she cannot perform one of those functions because of his or her disability, can then challenge whether that function is, indeed, essential. At that point, a court should give consideration to the employer's judgment, as well as to the evidence submitted by the plaintiff, as to whether the function is, in fact, essential. Another amendment that has been added to the ADA provides that a court should consider as evidence of an essential function any written job description the employer may have. Of course, a job description which is not at all tailored to the actual functions of the job will, ultimately, have little weight. The fact that a task is written in a job description does not, by itself, mean that it is essential. A court, however, must consider the written job description as evidence, and then ultimately decide, based on the evidence submitted by both the person with a disability and the employer, what constitutes the essential functions of the job.

As noted, a person is considered qualified for a job position if, with reasonable accommodation, if necessary, the person can perform the essential functions of the job. The provision of reasonable accommodations to individuals with disabilities is a key requirement under section 504 and a key requirement under the ADA. While many people with disabilities may not require any reasonable accommodations at all to perform a job—they simply require an employer to shed his or her preconceived notions about the abilities of people with disabilities—the provision of a reasonable accommodation is critical for a number of people with disabilities.

Under the ADA, as under section 504, an accommodation need not be provided if it would impose an "undue hardship" on the employer. There is no hard and fast rule about what is or is not an "undue hardship." To the contrary, the strength of section 504, and the strength of the ADA, is that "undue hardship" is a flexible standard, which is designed to take into account a range of different factors. As the act provides, an accommodation is an undue hardship if it would require significant difficulty or expense on the part of the covered entity, when considered in light of the factors set forth in the act.

This consideration in light of the factors is an essential element in this area. In fact, a change was made in the bill to add explicitly to the standard the words: "when considered in light of the factors set forth in subparagraph (B) [of the statute]". Section 101(10). The importance of this flexible approach can be seen, for example), in a case such as *Nelson v. Thornburgh*, 567 F.Supp. 369 (E.D. Pa. 1983), as noted in the Judiciary Committee report. In that case, a group of state income maintenance workers who were blind requested several accommodations. In holding that section 504 required these accommodations to be provided, the court noted that while the costs of the accommodations were substantial, the additional dollar burden was only a small fraction of the agency's personnel budget. In light of those facts, the accommodations would not require a "significant expense" under the act and this would not be an undue hardship. Of course, the key point is that the same accommodation may well be an undue hardship for a small employer because it would require expending significant proportions of that employer's available resources.

This flexibility was, I believe, an important factor in the rejection by this House of an amendment that was offered which would have created a presumption that an accommodation that cost over 10 percent of an employee's annual salary constituted would be presumed to be an undue hardship and thus would not be required under the act. That provision was directly contrary to the flexible approach for determining undue hardship which is based on over a decade of experience under the Rehabilitation Act. As noted, the Rehabilitation Act approach focuses on the resources of the employer. A 10-percent cap provision would fail to protect adequately the rights of persons with disabilities to receive accommodations that would, in fact, not impose an undue hardship on an employer. For example, the provision failed to account for the fact that many accommodations, such as physical changes to facilities and the acquisition of equipment, last for many years and are used by employees other than the employee in question, and that businesses always amortize the cost of equipment over a period of years. Moreover, a 10-percent cap on accommodations based on an employee's salary would exclude the hiring or retaining of an employee who required an accommodation that exceeds that limit, but which would not truly impose an undue hardship on the employer.

In terms of the factors to be considered in determining whether a reasonable accommodation would constitute an undue hardship there was significant discussion—during both the Education and Labor and Judiciary Committee considerations of this bill—of the approach to take when one large company owns a number of small, local facilities. Concerns were raised that the parent company may choose to close down a local store operating at a margin rather than devote significant expenditures for reasonable accommodations. The added factors allow courts to consider such consequences to the local store. I believe the approach finally taken in the bill strikes the proper balance, by weighing the resources of both the large company and the local facility. By including the "site-specific" factors in the determination of undue hardship, it is assured that the situation at the local facility will be considered when determining what is an undue hardship to the covered entity.

Section 102(c) establishes a specific and important provision on medical examinations and inquiries. A basic principle underlying this title is that employment decisions must be made on the basis of merit, and not on the basis of stereotypes or preconceptions. This section, by prohibiting medical inquiries before an offer of employment is made, ensures that a procedure is established so that misconceptions do not bias the selection process. After an offer of employment is made, medical exams may be conducted under specific conditions. In addition, the section ensures that employees on the job are not unnecessarily identified as people with disabilities through a medical examination if there is no job-related reason to conduct such an examination. In order to respond to some questions raised by employers, however, the bill now expressly clarifies that voluntary medical examinations—for example, "wellness" programs often offered by corporations—are valid under this title.

Section 103 sets forth defenses available under the title. This section provides that a covered entity may defend the application of a qualification standard, test, or selection criteria that screens out or tends to screen out an individual with a disability by demonstrating that the standard, test, or criterion is job related and consistent with business necessity. The reports of both the Education and Labor Committee and Judiciary Committee describe this defense at greater length.

During consideration by the Judiciary Committee, section 103(b) was modified to state that the term "qualification standard" may include a requirement that an individual "not pose a direct threat to the health or safety of other individuals in the workplace." "Direct threat" is defined in section 101(8) to mean "a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation."

This provision and definition come from cases under section 504. Indeed, the definition of "direct threat" comes directly from the Supreme Court case of School Board of Nassau County versus Arline, which dealt with an individual who had turberculosis. The purpose of adding this provision was to allay any concerns on the part of those who unnecessarily feared that this title would require them to hire or retain employees who posed a significant risk to others. At the same time, the amendment was designed to set forth clearly in the title the specific standard that must be met before discriminating against an individual based on "fear of risk." Thus, this provision

protects individuals with disabilities from discrimination based on generalizations, fears, and "conventional widom" about risks they might pose. In order to apply the qualification standard, the covered entity must show that there is a significant risk posed by the individual that no reasonable accommodation could eliminate the risk, and that there is evidence supporting this determination is credible. For example, in the case of a person with a mental disability a court shall determine whether the evidence is sufficiently recent to be credible or for example, in the case of a person with a contagious disease a court shall determine that the assessment of risk is based on valid medical evidence.

Finally, section 104 of the title expressly excludes individuals who are current illegal users of drugs from the definition of a "qualified individual with a disability." The section continues coverage for individuals who are no longer illegally using drugs or are perceived as illegally using drugs, and expressly provides that testing applicants and employees for the illegal use of drugs is permitted. As both the Education and Labor Committee and Judiciary Committee reports explain, such drug testing may not be used to undermine the protection set forth in section 102(c) for individuals with disabilities who legally take drugs for their disabilities. Those reports also make clear that the current drug policies of the various sports leagues are valid under this title.

However, the language which appears in the Education and Labor report concerning this matter has certain typographical errors which I would like to correct. The current policies of the four professional sports leagues are completely consistent with the act and the ADA is not intended to disturb those policies. Furthermore, I intend to engage in a colloquy with the gentleman from Ohio [Mr. ECKART] which further discusses this matter. The language in the Education and Labor Report should have been as follows:

As noted, under section 104, employers may discipline or discharge employees who are current users of illegal drugs. The professional sports leagues have developed drug policies to deal with players who have current drug problems. The Committee has reviewed these policies because the leagues have raised questions as to whether such policies comply with the act.

The committee believes that the league's policies are in compliance with the requirements of this act. The National Football League permits its players who test positive on drug tests to enter a treatment program and not be disciplined on the first occasion. Players who test positive on a second occasion are permitted to receive treatment but are suspended for a minimum 30-day period or until later deemed fit to return. After a third positive drug test a player is banned from play and is ineligible for reinstatement for at least one year. This policy is consistent with the act.

The National Basketball Association permits players who voluntarily seek treatment for a current drug problem to obtain treatment without cost to the player on the first occasion without suffering any discipline. Players who are using drugs and do not seek treatment voluntarily and are subsequently detected are terminated for a minimum period of two years. Players who relapses and seek treatment on a second occasion are suspended but permitted to receive treatment and return when deemed fit. Players who relapse for a second time are dismissed and cannot seek reinstatement for at least 2 years. The decision to reinstate players in both the NBA and the NFL is based on an individualized determination that takes into consideration the player's satisfactory completion of a treatment program, conduct following the dismissal, including completion of any suspension period. This policy is consistent with the act.

Finally, Major League Baseball gives players who use drugs and those who test positive on a drug test an opportunity to obtain treatment before being disciplined. Players who relapse are disciplined but are permitted to obtain treatment on a second occasion. This policy is consistent with the Act.

As noted, these drug policies are entirely consistent with the nondiscrimination provisions of the Act. The Committee recognizes the right of these and other sports leagues to maintain the integrity of professional sports through the disciplinary procedures, including dismissal, and recognizes that these three leagues have established reasonable policies that provide a means for players to receive rehabilitation and for appropriate discipline including termination.

In addition, it is consistent with the act for leagues that wish to do so to dismiss players who illegally use drugs or who relapse again after an opportunity to obtain treatment while providing an opportunity to petition for discretionary reinstatement after a specified time period, upon a showing of rehabilitation, which includes abstinence from the use of illegal drugs to the satisfaction of the appropriate league authority, as one factor in the overall circumstances.

The National Hockey League has adopted a different policy that is also consistent with the Act. The National Hockey League suspends players who are involved with illegal drugs and provides an opportunity for reinstatement within a year based on a showing of positive rehabitative conduct.

The act is not intended to disturb the legitimate and reasonable disciplinary rules and procedures established and enforced by professional sport leagues; nor is it intended to disturb collectively bargained policies that have been entered into between league management and its players association that are not inconsistent with this Act.

Section 104(e) of the bill specifically addresses rail employees. This provision was added to ensure that drug testing that is being conducted by rail companies pursuant to rules and regulations other that the Department of Transportation regulations cited in section 104(c)(5) can be conducted, provided the testing program is otherwise lawful and the individual holds or seeks a job that the Department of Transportation has determined is safety-sensitive. In the view of the committee having railroad jurisdiction, the current Department of Transportation regulations do not encompass all truly safety-sensitive positions. In addition, testing conducted pursuant to this section must be accurate, as is required with the other testing permitted in this section, and adverse actions may be taken only against individuals who are currently engaging in the illegal use of drugs or are currently impaired on the job from alcohol use.

Section 107, the enforcement section of the title, cross-references the enforcement sections of title VII of the Civil Rights Act of 1964. The purpose of this cross-reference is to ensure that people with disabilities retain the same remedies and procedures that are available to women and minorities under the 1964 Civil Rights Act, i.e., injunctive relief, pay and benefits. As has been discussed at length during this process, there is currently a bill pending (H.R. 4000) that would expand the remedies and procedures available under title VIII. When that bill passes, the cross-reference to title VII in the ADA will assure that those remedies and procedures will be available to people with disabilities as well—as they well should be in a society based on parity and equality.

A clarifying amendment was added by the Judiciary Committee to this enforcement section, as well as to the enforcement sections in titles II and III. That clarifying amendment has been incorporated in the final bill. This amendment struck the words "shall be available" from section 107(a) and substituted the words "shall be the powers, remedies, and procedures this title provides." A concern had been expressed that the term "shall be available" could be misinterpreted to mean that a plaintiff under the ADA was not required to avail himself or herself of the same procedures—such as EEOC enforcement—that other minorities had to follow under title VII. Because, to the contrary, the central point of this provision was to establish parity with other minorities under title VII, this amendment was accepted as a clarifying amendment. While section 501(b) of the act ensures that other Federal laws—including the Rehabilitation Act of 1973—and State laws remain available for people with disabilities, the title VII remedies are the only remedies provided by title I of the ADA.

Because sections 501, 503 and 504 of the Rehabilitation Act remain in full force for entities covered under those provisions—see section 501(b) of the ADA—concerns were raised during the deliberation by the Education and Labor Committee that such entities might face duplicative administrative and judicial proceedings under the Rehabilitation Act and the ADA. In order to address that concern, a new provision was added to the enforcement section requiring that procedures be developed to avoid duplication of effort and imposition of inconsistent standards for the same requirements under this title and the Rehabilitation Act. That provision has been incorporated in the final bill.

TITLE II: PUBLIC SERVICES

Title II of the ADA covers public services. Essentially, it extends the requirement of section 504 of the Rehabilitation Act to all programs of State and local governments, regardless of the receipt of Federal financial assistance.

In order to accommodate the changes that were made in the Energy and Commerce Committee and the Public Works and Transportation Committee, title II of the bill has been somewhat restructured. Subtitle A now sets forth the general anti-discrimination provision and other relevant provisions for all public entities, which includes State and local governments, agencies and departments of a State, and Amtrak and commuter rail. Subtitle B deals specifically with certain transportation services provided by public entities.

SUBTITLE A

Section 202 of subtitle A, the general antidiscrimination provision, directly tracks the language of section 504 of the Rehabilitation Act. Instead of listing out all of the constructions of discrimination, however, as the other titles do, section 204 directs the Attorney General to issue regulations implementing this section that are consistent with this act and with regulations under section 504 of the Rehabilitation Act of 1973. Thus, to the extent that the constructions of discrimination in titles I or III have clarified what constitutes discrimination on the basis of disability, those constructions must be included, as long as they provide no less protection than the section 504 regulations. As a general matter, the regulations that have been issued under section 504 will govern this section and the same standards included in those regulations—and not anything lower—will apply to this section.

Title II covers the range of services, programs and benefits offered by State and local governments, without a requirement that such programs or activities received Federal financial assistance. Thus, title II extends to whatever spheres of authority a State or local government is involved in—including employment, health and service programs, the streets—which require curb-cuts—and the facilities owned or operated by such governments.

Section 504 has been critical in opening up public services and programs to people with disabilities and in ending segregation. Title II of this act is designed to continue breaking down barriers to the integrated participation of people with disabilities in all aspects of community life. While the integration of people with disabilities will sometimes involve substantial short-term burdens, the long-range effects of integration will benefit society as a whole.

Also, while it may sometimes appear more convenient to provide services to people with disabilities in a segregated manner, that does not constitute a valid justification for separate or different services under either section 504 or this title. While separate services which are designed to provide a benefit for people with disabilities—such as specialized recreation programs—are not prohibited by section 504 or by this title, the existence of such programs may not be used as a basis for excluding a person with a disability from a program that is offered to people without disabilities or for refusing to provide an accommodation in a regular setting.

As noted, title II covers the range of services, programs and benefits offered by State and local governments. It also includes providing training to public employees in order to ensure that discriminatory actions do not occur. For example, persons who have epilepsy are sometimes inappropriately arrested because police officers have not received proper training to recognize seizures and to respond to them. In my situations, appropriate training of officials will avert discriminatory actions.

Section 203 sets forth the enforcement provision for title II and incorporates the remedies, procedures and rights of section 505 of the Rehabilitation Act of 1973. As in title I, the Judiciary Committee adopted an amendment that deleted the term "shall be available," and substituted in its place "shall be the remedies, procedures, and rights this title provides." This change has been incorporated in the final bill. As in title I, the intent of the change is simply to clarify that the remedies provided by the Rehabilitation Act—as they currently stand or as they might be amended in the future—are the remedies that title II provides. The Rehabilitation Act provides a private right of action, with a full panoply of remedies. See, for example, *Miener* v. *State of Missouri,* 673 F.2d 969 (8th Cir. 1982); *Kling* v. *County of Los Angeles,* 769 F.2d 532 (9th Cir. 1985).

This enforcement provision, like the others in the ADA, must be read in conjunction with section 501(b), which provides that the ADA does not preempt other applicable laws that provide equal or greater protection. Thus, section 504 of the Rehabilitation Act is still available to be used, as are remedies available under 42 U.S.C. 1983 and State law claims.

SUBTITLE B

Subtitle B addresses specifically public bus and public rail transportation. Part I of the subtitle deals with all public transportation other than transportation by aircraft—which Congress has recently addressed in the Air Carrier Access Act—transportation by Amtrak and commuter rail. Part II deals with transportation by Amtrak and commuter rail.

PART I

Part I specifies, in further detail, the forms of discrimination that are prohibited by section 202 with respect to public buses, public light rail and rapid rail vehicles, and other public vehicles not covered under part II. As noted, section 202 applies to all public entities, as defined in the statute.

Part I lays out the basic, simple rule that every new bus, new rapid rail, new light rail, or other new vehicle used on designated transportation system must be accessible to individuals with disabilities, including individuals who use wheelchairs. This basic, simple rule will finally ensure that—at some point in the future—all of the mainline transportation systems will be fully accessible to individuals with disabilities. Of course, any accessibility equipment that will be bought for these vehicles must also be maintained in good operational order and must be operated when needed. Otherwise, the accessible mainline system will exist only in theory, and not in fact.

Even when the mainline system becomes fully accessible, there will be some individuals with disabilities who will not be able to use that system because of the severity or nature of their disability. In addition, until the mainline system becomes fully accessible, it will not be usable by many individuals with disabilities. To deal with those situations, the act requires that paratransit services be provided as well.

One of the changes that the Public Works and Transportation Committee made in the bill was to expand on and to clarify the paratransit requirement under the bill. Essentially, part I now sets forth an established minimum of paratransit services that must be provided under this act. This minimum requires that paratransit be provided to any individual with a disability who is unable, because of a physical impairment—including a vision impairment—or because of a mental impairment, to ride the mainline system without the assistance of another individual. It also requires paratransit service to be provided to an individual who has a specific impairment related condition that prevents that individual from traveling to or from the mainline system. Thus, for example, paratransit services would be provided to an individual who is blind who may lack the necessary mobility skills to safely traverse city streets. Such services would also be provided to an individual with a mental impairment who needs assistance in getting to a mainline stop, in counting change, and in getting off at the appropriate stop and to an individual who uses a wheelchair and a respiratory device who may need the assistance of another individual to help with the device.

To deal with the interim situation before the mainline system is fully accessible, the act also requires that paratransit services be available to a person who cannot use the system because there is no accessible vehicle available at the time, or within a reasonable period of such time, the person wishes to ride. The minimum also requires that paratransit service be made available to at least one other individual accompanying the person with the disability.

The act also requires the Secretary to establish certain minimum service criteria for the provision of these paratransit services. To guard against excessive costs, the act includes an "undue financial burden" limitation for public entities. Of course, it is expected that public entities will make every effort to ensure that their regular and their paratransit services are operated in a cost-efficient manner, so that more paratransit services can be provided prior to reaching the "undue financial burden" limitation.

While the changes made by the Public Works and Transportation Committee added clarity to the act, it was also important—in setting forth these clear guidelines—to note clearly that Congress intended that these guidelines be minimums. As long as a local entity meets the minimum, local entities are perfectly free to provide more service. For example, a local entity might choose to allow several individuals to accompany a person with a disability on a paratransit vehicle. Section 223(f) makes the point clearly that nothing in this section should be construed to cut back or to restrict the paratransit services currently being offered or that might be offered by local entities in the future.

I would also like to point out that the pattern of paratransit services currently varies widely from city to city. There are many different kinds of organizations which provide these services, which receive their funding from various sources. Those organizations which are private, and are not governmental transit entities operating fixed-route operations, are clearly not directly governed by this title.

Section 223(f) makes it clear, however, that the paratransit requirements of the ADA are not designed to reduce in any way the current level of services being offered by a variety of organizations. Entities that are currently providing paratransit services should be encouraged to continue to provide such services and, indeed, to provide such services beyond the minimum requirements set forth in this title.

The Public Works Committee also modified the alterations provision governing existing fa-

cilities. Under the modified provision, when a public entity undertakes an alteration that affects the usability of an area of a facility that contains a primary function, the entity must—to the maximum extent feasible—make the altered area accessible and, in addition, make the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area accessible as well. These latter alterations must be made if they are not disproportionate to the overall alterations in terms of cost and scope. A similar modification of an analogous provision was made in title III by the Education and Labor Committee and the Judiciary Committees and are discussed in the reports of those Committees accompanying the bill.

Part I also sets forth requirements for making existing key stations for rapid or light rail systems accessible over a period of time. The changes are supposed to be made as soon as practicable, but in any event, in no less than three years after enactment of the act. The act also allows an extension for extraordinarily expensive structural changes, for up to 30 years, upon application to the Secretary, with an additional requirement that at least two-thirds of the key stations must be accessible within 20 years. Thus, applications, submitted under this section will be granted only when, in fact, there are extraordinarily expensive structural changes that must be made. In addition, it is expected that among the two-thirds stations that must be made accessible within 20 years, priority will be given to those with high ridership, those that operate as feeder stations, and those that represent a geographic mix of stations.

The Public Works and Transportation Committee also added a provision regarding historic vehicles. The purpose of this provision is to establish that when historic vehicles are remanufactured, access features do not have to be included if the addition of such features would significantly alter the historic character of the vehicle. If there are some access features that can be included without significantly altering the historic character, those features must be included.

Part II of subtitle B deals with Amtrak and commuter rail. There was extensive discussion of this section with the Energy and Commerce Committee and I believe that the current provisions establish a strong, effective means of ensuring accessible transportation on Amtrak and commuter rail and recognizing the fiscal and operational realities of modern-day rail transportation.

As with part I, the general rule of non-discrimination set forth in section 202 applies to Amtrak and commuter rail, just as it applies to all other public entities. Part II, however, sets forth specific provisions with regard to accessibility of particular Amtrak and commuter rail cars and accessibility of stations. A detailed and specific plan for buying different types of Amtrak cars was worked out to ensure that individuals who use wheelchairs will have access to the same number of seats that would have been available had every new Amtrak coach car been built in a manner accessible to such individuals. In addition, there are time limits established for when these accessible Amtrak cars must be available. This approach ensures that, within a definite time period, access to Amtrak cars will be ensured for individuals who use wheelchairs. This approach also took into account, and met, the operational and financial concerns of Amtrak.

The report from the Energy and Commerce Committee clearly and carefully lays out the details of this plan and I will not repeat all of these details. I urge interested parties to read that report for useful guidance. I wish to note here only some specific points. The discussion of these points should not be construed as deemphasizing the importance of the other numerous points made in the Energy and Commerce report. Rather, this discussion exemplifies how the appropriate use of operational flexibility, rather than simply structural changes, can be used to provide access.

As the Energy and Commerce Committee report makes clear, the concepts of accessibility and usability entail more than simply accessibility to those who use wheelchairs. For example, new railroad cars might be required to include nonslip surfaces, contrast edges on steps, adequate illumination in boarding areas, tactile markings for identifying basic amenities, contrasting characters on signage, a public address system for audible announcements, and automatic door closing alarms to make the railroad cars accessible to and usable by individuals with all forms of disabilities.

I should note that there was extensive discussion regarding accessibility of dining cars. The bill provides that single-level dining cars do not have to be built in a manner that makes them accessible from the station platform, but also ensures that individuals who use wheelchairs will be able to enter the dining car by exiting from an accessible car and then reentering through the end door of the dining car. Although Amtrak officials are not required to move the train to allow this "exit and entry" of the individual who uses a wheelchair, personnel on the train should assist the individual who uses a wheelchair in those circumstances where the exit and entry can be done. In addition, the bill provides that "unless not practicable," Amtrak shall place an accessible car adjacent to the end of the dining car so that this "exit and entry" can work. The whole process of "exit and entry" depends on an accessible car being placed adjacent to the dining car and thus, unless not practicable, Amtrak should provide this accessible car adjacent to the dining car.

A similar effort is expected on the part of Amtrak with regard to bilevel dining cars and bilevel lounge cars. Under the bill, bilevel dining cars do not have to be built accessible to individuals who use wheelchairs, while bilevel lounge cars are required to be built accessible to such individuals. Amtrak officials indicated during discussions on this section that bilevel lounge cars were almost uniformly placed next to bilevel dining cars. It is expected that Amtrak will continue to buy these bilevel lounge cars and will continue to place them adjacent to the bilevel dining cars, unless not practicable, so as to ensure access by individuals who use wheelchairs to the same type of food service they could have received in the bilevel dining car. In addition, people with disabilities should not be treated as "different" and "special" in these lounge cars. During discussions on this section, Amtrak officials indicated they were thinking of expanding the bilevel lounge cars to include tables and food table service.

The commuter rail provisions of the bill were also clarified during the Energy and Commerce Committee deliberations. Under the bill, all new commuter rail cars must be built accessible to all individuals with disabilities, including individuals who use wheelchairs. The section now clarifies, in addition, that if there is no restroom provided to all other passengers on the car, an accessible restroom need not be included for individuals who use wheelchairs. In addition, because individuals who use wheelchairs do not transfer into a seat on a commuter car, there is no requirement that there be space to fold and store a wheelchair and no requirement that there be a seat to which the passenger can transfer.

The Energy and Commerce Committee adopted the same modification to the alterations provision that was adopted by the Education and Labor and Judiciary Committees. That provision is discussed in those reports and would apply here as well.

Interim accessibility requirements were adopted in subtitle B of title II and in title III as well. The purpose of these sections is to ensure predictability for architects and builders in the event that final regulations have not been issued under the act within the mandated time period. It is expected, however, that the regulations will be issued in a timely fashion so that this section will not need to be unduly used.

TITLE III

Title III bars discrimination, on the basis of disability, by any person who owns, leases, leases to, or operates a place of public accommodation. The purpose of this title is to finally open up all areas of American life to people with disabilities.

In order to set forth clearly the range of places covered under this title, the act lists 12 categories of places that are considered public accommodations under the law. While this list is exclusive, it is intended that the categories be interpreted broadly to include the range of places that would belong within the category. For example, category 5 is: "a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment." The intent is that any sales or rental establishment would be included within this section. Indeed, one of the clarifications made in the Judiciary Committee bill, and adopted in the final bill, was to delete the word "similar" that is, "or other similar sales or rental establishment" from the statute. The point is that a person alleging discrimination does not have to prove that a particular business is similar to one of the businesses listed for example, similar to a grocery store, but rather, that the business falls within the general category described.

Section 302(a) sets forth the general rule prohibiting discrimination under the title. The Judiciary Committee added a provision to this general rule that clarifies which entities are covered under the rule and this provision has been incorporated in the final bill. This addition clarifies that the requirements of the title apply to a person who owns, leases, leases to, or operates a public accommodation. Thus,

for example, the entities covered would be a company that owns a chain of restaurants, a company that leases a restaurant for an occasion, a company that owns a building and leases the building—or part of the building—to the restaurant, and a company that operates a restaurant.

Section 302(b)(1) sets forth the construction of the discrimination prohibited in a series of general prohibitions. As noted above, title I of the original H.R. 2273 has been deleted and its concepts incorporated within each title. These general prohibitions represent those of the original title I, and much of the discussion regarding the analogous provisions in the employment section apply here as well.

For example, there was significant discussion during consideration by the Education and Labor Committee regarding the contractual liability provisions of section 302(b), which are addressed in the report of that committee and in the report of the Judiciary Committee. The basic requirement is that an entity covered under title III may not use a contractual arrangement to subject its own customers and clients to discrimination.

The general prohibitions also provide protection for individuals and entities that have a relationship or an association with a person with a disability. Entities are included within this provision because, at times, businesses, service providers and organizations that provide services to or represent people with disabilities, such as people with HIV disease, are subject to discrimination as well.

Section 302(b)(2) sets forth specific prohibitions that fall within the construction or discrimination under this title. There should not be any conflict between these specific prohibitions and the general prohibitions, because this structure follows the structure adopted in the section 504 regulations issued in 1977. However, to the extent that there is any perceived conflict, the specific prohibitions govern.

The specific prohibitions provide that it is discriminatory to impose an eligibility criterion that screens out, or tends to screen out, a person with a disability. However, the covered entity can adopt such a criterion if it can demonstrate that the criterion is necessary for the provision of the goods or services being offered. (Section 302(b)(2)(A)(i))

This provision ensures important protection for people with disabilities, while still accommodating the truly legitimate needs of businesses. For example, entities covered under title III may not use a criterion for services that would deny services to a person with a disability, for example, no services to a person with cerebral palsy or that would screen out people with disabilities for example, requiring a driver's license for identification that screens out people with epilepsy when another equally valid form of identification would suffice. At the same time, however, covered entities may impose eligibility criteria that are necessary for the provision of services. For example, a height limitation for certain rides in an amusement park may screen out certain persons with disabilities of short stature, but will be a legitimate criterion because of safety concerns. The key requirement here is that the criterion must, in fact, be truly necessary for the provision of services. It is expected that courts will carefully scrutinize any assertion by an covered entity that a criterion which discriminates against people with disabilities is necessary. For example, in the safety context, criteria related to such concerns must be based on actual risks and evidence and not on speculation, stereotypes or generalizations about persons with disabilities.

A specific construction was added at the end of section 302 by the Judiciary Committee, section 302(b)(3), providing that nothing in the title shall require an entity to provide goods or services to an individual with a disability when such individual would pose a direct threat to the health or safety of others through the provision of such goods or services. The term "direct threat" is defined as "a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services."

This provision is analogous to one added in the employment title. Again, the purpose of the provision was simply to allay any unnecessary fears on the part of entities covered under this title and to set forth clearly the high standard that must be met before goods or services can be denied on the basis of "fear of risk." Thus, this specific construction basically explicates and describes a "necessary" eligibility criterion in the safety context.

The specific prohibitions also require that an entity covered under title III make reasonable modifications in policies or practices when such modifications are necessary to provide goods or services, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of the goods or services being offered. Section 302(b)(2)(A)(ii). For example, it would be discriminatory for a restaurant to refuse to alter a "no pets" rule for a person who uses a guide or a service dog, because such an alteration would not fundamentally alter the nature of the goods being provided.

It is also discriminatory under this title not to provide auxiliary aids or services to a person with a disability, unless the entity demonstrates that the provision of such aids or services would fundamentally alter the goods or services being offered or would result in an undue burden. Section 302(b)(2)(A)(iii). The term "undue burden" is analogous to the term "undue hardship" in the employment context. Like "undue hardship," the determination as to whether provision of an auxiliary aid or service constitutes an "undue burden" must be made on a case-by-case basis, based on the standard and factors used for determining an undue hardship. A critical factor in this determination is what constitutes an effective auxiliary aid or service in the context of the services or goods being provided—or a reasonable accommodation, in the context of employment. For example, while it may not be necessary to provide braille price tags for shoppers who are visually impaired, it may be necessary to provide braille manuals in the employment context. For this reason, although the term "undue burden" in title III is analogous to the term "undue hardship" in title I, the obligations of a business will vary depending on the context involved.

Finally, the specific prohibitions require an entity covered under title III to remove architectural barriers, structural communication barriers, and transportation barriers in existing facilities and vehicles when such removal is "readily achievable." (Section 302(b)(2)(A)(iv).) The term "readily achievable" is new—it does not appear in Section 504 regulations—and is defined in the title to mean "easily accomplishable and able to be carried out without much difficulty or expense." The basic purpose of this provision is to ensure that those physical access changes that can be made in existing facilities and vehicles without much difficulty or expense should be made. A deliberate decision was made in the ADA not to require extensive and expensive retrofitting. At the same time, however, a decision was made to place some requirement on covered entities so that changes that could be made without much difficulty or expense would get done. If such physical access changes are not readily achievable, then the covered entity must provide the goods or services through some alternative method, if such methods are readily achievable. (Section 302(b)(2)(A)(v)).

The approach taken by the ADA is essentially to focus on the future. Thus, while only "readily achievable" changes are required for existing facilities, the ADA establishes high standards for any new construction or alterations undertaken by public accommodations or commercial facilities.

The term "commercial facilities" is defined in the ADA as any facility that is intended for nonresidential use and whose operations will affect commerce. During consideration by the Education and Labor Committee, concern was raised that the term "potential places of employment"—the term used originally in H.R. 2273 and in S. 933 as passed by the Senate—might be confusing by implying that title III also incorporated some employment requirements. Because that was never the intent of the act—employment requirements are intended to be covered only under title I—the term "commercial facilities" was substituted for the term "potential places of employment." The same definition, however, that appears in S. 933 was retained. Thus, the scope of the definition remains as broad—covering any facility intended for non-residential use, whose operations affect commerce. (This would include office buildings, factories, transportation terminals, et ceteria.)

Section 303 sets forth the requirements for alterations and new construction. A change was made in the alterations section to require that when alterations are made to an area of a facility containing a primary function, the covered entity must—to the maximum extent feasible—also make the path of travel to the altered area and the facilities serving such area accessible, if such alterations would not be disproportionate to the overall alterations in terms of scope and cost. The reports of both the Education and Labor Committee and the Judiciary Committee address this provision and the manner in which it is intended to operate. As these reports note, it would clearly be disproportionate to require a covered entity to double the cost of a planned alteration. It would be consistent with the ADA, however, for the regulations to establish a specific standard, for determining the disproportionality

of the accessible path of travel and alterations of facilities.

In both the area of alterations and new construction, facilities must be built so that they are "readily accessible to and usable by" individuals with disabilities, including individuals who use wheelchairs. This is a term of art which contemplates a high degree of convenient accessibility for patrons and employees. For example, a new building should be designed so that a potential patron can get to a store, get into the store, and get to the areas where the goods are being provided. Similarly, a new building should be designed so that a potential employee can get to the building, get into the building, and get to and around the employment area.

Accessibility in new construction is important for persons with many kinds of disabilities, not only those with mobility impairments. For example, there are architectural features which are necessary to make a new building accessible to people with all kinds of disabilities. Under section 504 of the ADA, it is expected that the Architectural Transportation and Barriers Compliance Board [ATBCB] will collect information, conduct research, and issue guidelines on making new construction accessible to and usable by individuals with all kinds of disabilities.

The ADA includes an "elevator" exception for both new construction and alterations. Under this exception, facilities that are less than 3 stories, or have less than 3,000 square feet per story, are not required to install an elevator. A shopping center, shopping mall, professional offices of a health care provider, and any other category of facilities designated by the Attorney General as requiring an elevator are not subject to this exemption.

The ADA's basic accessibility requirements may not be evaded by constructing facilities in such a way that no story constitutes a "ground floor;" rather, at least one accessible ground story must be provided in each building. In addition, where ground level entry is provided from more than one story of a facility, each such story must still be readily accessible to and usable by individuals with disabilities.

The requirements regarding alterations and new construction are key provisions of the ADA. These requirements will help ensure that the new America will, in fact, be accessible to all people with disabilities.

Title III also covers transportation provided by private entities. These entities are covered in two separate sections. The specific prohibitions, sections 302(b)(2)(B)-(C), cover entities that provide transportation services, but are not primarily in the business of offering such services. This would include, for example, a business that runs a shuttle service on the side for its customers or a hotel that runs a transportation service for its patrons. Any new large vehicle—a vehicle with a seating capacity of more than 16 passengers—that such entities buy for a fixed route system must be accessible to persons with disabilities. If the entity is buying smaller vehicles for such a system, it must ensure that its system, when viewed in its entirety, offers an equivalent level of service to people with disabilities. If such entities are operating "demand responsive" systems, they must ensure that their system, when viewed in its entirety, provides an equivalent level of services to people with disabilities.

Section 304 covers entities that are primarily engaged in the business of transporting people. These entities are under the same general non-discrimination prohibitions as other entities covered under title III. In addition, there are specific provisions regarding accessibility of vehicles. Such entities must ensure that all new vehicles—other than certain exempted vehicles—used in fixed route systems are accessible, and that demand-responsive systems operated by such entities provide an equivalent level of service to people with disabilities. Provisions regarding remanufacturing rail cars and historic rail cars were added by the Energy and Commerce Committee.

The Public Works and Transportation Commitee refined the requirements governing over-the-road buses operated by private entities in section 305. The Office of Technology Assessment [OTA] is mandated to study various factors, including the access needs of people with disabilities and the effectiveness of various methods of providing accessibility to such buses. The Secretary of Transportation is required to issue interim requirements, under section 306, one year after enactment of the act, for accessibility to such buses—but such regulations may not require structural changes in over-the-road buses to provide access to persons who use wheelchairs or require the purchase of boarding assistance devices to assist such individuals. The inclusion of interim requirements are not intended to adversely influence or detract from the objectivity of the OTA study. Of course, once title III becomes effective—after 18 months—while providers of over-the-road bus service do not have to make structural changes in their buses or provide boarding ramps, such providers must still make such buses accessible to individuals with disabilities, including individuals who use wheelchairs, and must provide such individuals with assistance in boarding the buses if such individuals desire such assistance.

The OTA study must be completed within 36 months after the date of enactment of this act. Not later than 1 year after submission of the study, the Secretary of Transportation must issue new regulations that will implement the requirements for accessibility to over-the-road buses for individuals with disabilities, taking into account the results of the study. With regards to the regulations, it should be noted that the general regulations issued by the Secretary of Transportation for all transit providers under section 306(a)(1) would apply to providers of over-the-road buses as well, except where the special rules for providing access to such buses apply.

I should also point out that a decision was made not to require that accessible restrooms be placed on over-the-road buses, if such restrooms would result in a loss of seating capacity. However, as noted above, title III does require a modification of policies and procedures to accommodate individuals with disabilities. Thus, if an individual with a disability who was on the bus needed an accessible restroom, under the "modification of policies" provision, the provider of an over-the-road bus that did not have an accessible restroom would be required to ensure that the bus stopped at a rest stop that did offer an accessible restroom and that sufficient time was extended to the person with a disability to use that restroom.

Section 308 sets forth the enforcement procedures available under this title. The remedies and procedures set forth in title II of the Civil Rights Act of 1964 are the remedies and procedures this title provides. Again, the same amendment adopted in the Judiciary Committee is incorporated in the final bill, clarifying that the remedies of title II of the 1964 act, as they existed may be amended in the future, are the remedies provided by title III of the ADA. As in the other titles, section 501(b) ensures that remedies available under other Federal or State laws also continue to be available.

The Judiciary Committee also adopted a further clarifying provision, which has been incorporated in the final bill. The Judiciary Committee spelled out the type of "anticipatory discrimination" that was included under this title. The section had included a provision stating that a person who had "reasonable grounds for believing he or she was about to be discriminated against" could bring suit under the title. Concerns were raised as to what the "about to be" provision encompassed. This amendment first clarified, therefore, that any person who had reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303 could bring a suit. In other words, if a new construction or an alteration is being planned, and there are reasonable grounds for believing that such construction or alteration is being done without the accessibility features mandated by section 303, a suit may be brought. In addition, the amendment clarified that a person does not have to engage in a "futile gesture" if the person has notice that an entity covered under title III does not intend to comply with its provisions. For example, if a theatre has turned away six people with cerebral palsy and has indicated that it has a policy of turning away such individuals, a person with cerebral palsy can bring suit without first subjecting himself or herself to the humiliation of being turned away by the theatre. These elements of enforcement are those which exist under the other titles of the act—incorporated under the general phrase "alleging discrimination on the basis of disability"—but they have been explicated clearly in title III.

Damages are not available to private plaintiffs who bring suit for violations of title III. However, all forms of injunctive relief are available. Moreover, section 308(a)(2) explicitly mandates that injunctive relief must include orders to make facilities readily accessible to and usable by individuals with disabilities, to the extent provided by this title, and must include requiring the provision of an auxiliary aid or service, the modification of a policy or procedure, or the provision of goods or services through alternative methods, to the extent required by the title. This important relief that will be granted by the courts will be useful in ensuring prior compliance with the law.

Because private plaintiffs may not seek damages for violations of title III, however, the enforcement activity of the Attorney General under title III is particularly important. The Attorney General is charged with investigating alleged violations of the title and with undertaking periodic reviews of compliance of covered entities under the title. Under the ADA, the Attorney General may bring cases where there is a pattern or practice of discrimination by a covered entity, or where a single person or a group of persons has been discriminated against in violation of the title and such discrimination raises an issue of general public importance. It is expected that the Attorney General will take his or her responsibilities seriously under this act because many private plaintiffs will not find it feasible to bring suits for violations of this title because of the lack of availability of damages.

During consideration by the Education and Labor Committee, a provision was added allowing the Attorney General to certify that State or local laws meet or exceed the minimum standards for accessibility established by this title. This provision has been incorporated in the final bill. While such certification is designed to assist architects and builders in reducing the number of standards they must operate under, this provision may not be used as a means of reducing the protection available under this title. Thus, the Attorney General should carefully scrutinize any requests for certification and seriously consider any objections raised by individuals with disabilities to such certification, if such objections are made. The Education and Labor Committee report provides important guidance regarding this process.

TITLE IV

Title IV deals with the provision of telecommunication relay services. This requirement of the act will finally help end discrimination against deaf and hard of hearing individuals in our Nation's telecommunications network. By requiring nationwide relay services to be available for all local and long distance calls 24 hours a day, 7 days a week, this part of the bill will provide hearing impaired persons with the degree of independence necessary to benefit from other parts of the ADA. The relay services that are promised under title IV must offer telephone service that is functionally equivalent to telephone service enjoyed by hearing individuals. This means that relayed calls should not receive busy signals or delays that are any greater than those currently experienced by voice telephone users. It also means that operators handling relay calls must have the necessary typing, spelling, and grammatical skills to properly and efficiently relay calls. In addition, operators should be familiar with the cultural and linguistic differences of the deaf community, since it is this community that will be relying most on the relay services.

The Federal Communications Commission is charged with implementing and enforcing the telecommunication section of the ADA. In so doing, the FCC should make sure to receive input from those individuals who will be relying on the relay systems for everyday telephone service. The best way to do this will be for the Commission to form a Federal Advisory Committee that would assist the Commission in devising the requirements for relay systems and monitoring their operation and enforcement.

The Senate version of the ADA had contained a prohibition against the use of surcharges to fund interstate relay services. The House lifted this prohibition. The method of funding ultimately chosen for interstate services, however, should not be identified on telephone bills in a way that would suggest that relay services are only for deaf and hard-of-hearing individuals. There is no reason to single out and to stigmatize individuals with hearing impairments.

Relay services for everyone. They will serve to bridge the telecommunications gap that has existed for at least 55 years, when the Communications Act of 1934 was first passed. As such, information about relay services must be readily available to all individuals. The Commission should ensure that information about relay numbers in the various States is accessible to all TDD and voice telephone users through whatever means is necessary, including a central 800 number, directory assistance operator services, and telephone books.

Deaf and hard-of-hearing individuals have waited all too long to enjoy the basic telephone service that has come to be so fundamental to our lives. Title IV of this act will finally enable these individuals to enjoy equal access to this very essential part of American life.

TITLE V

Title V includes various miscellaneous provisions. Section 501(a) is a provision that governs the interpretation of the ADA. It provides that, except where otherwise provided in the ADA, this act should not be interpreted to apply a lesser standard than section 504 or than the regulations issued under section 504. Thus, for example, if section 504 regulations—or case law—has applied a particular standard, and the ADA has not explicitly adopted a different standard, then the section 504 standard—and not a lesser one—should apply. Of course, in situations where the ADA has adopted a different and lower standard than the section 504 regulations, then the ADA standard applies to the ADA.

Section 501(b) is an antipreemption provision that provides that the rights, remedies and procedures of any Federal law—including the Rehabilitation Act of 1973—and of any State law—including State common law—that provides protection for people with disabilities are not preempted. For example, the rights and remedies of section 504 of the Rehabilitation Act, of State laws prohibiting discrimination on the basis of disability, of 42 U.S.C. section 1983 and of State tort law remain available to people with disabilities. Of course, where section 504 has been explicitly modified by the ADA—such as in the section regarding Amtrak—section 504 as modified applies.

Section 501(c) provides that the ADA should not be construed to prohibit or restrict the underwriting or classification of risks in insurance plans. A specific balance was struck in this area, which ensures that insurance companies may continue to underwrite and classify risks based on sound actuarial principles, but that does not allow such underwriting to be used as subterfuge as a means to evade the purposes of title I and III of the act. The reports accompanying the Education and Labor Committee and Judiciary Committee bills describe this section and note the parameters of the requirements regarding insurance companies and employers.

Section 501(d) was added by the Judiciary Committee to address concerns raised by certain organizations representing individuals with visual impairments and it has been incorporated in the final bill. This provision ensures that nothing in the ADA shall be construed to require an individual with a disability to accept an accommodation or benefit which such individual chooses not to accept.

Section 504 requires the Architectural and Transportation Barriers Compliance Board [ATBCB] to issue minimum guidelines, to supplement the existing Minimum Guidelines and Requirements for Accessible Design [MGRAD], that will establish requirements to ensure that buildings, facilities, rail passenger cars, and other vehicles are accessible in terms of architecture and design, transportation and communication to individuals with all kinds of disabilities. This is an important job for the excellent staff at ATBCB. In the final bill, the time line for issuance of these supplemental guidelines was extended to 9 months, to give the ATBCB sufficient time to develop and issue the guidelines. As the Education and Labor Report noted, it is also expected that the board will consider whether other revisions or improvements of the existing MGRAD—including scoping provisions—are called for to achieve consistency with the intent and requirements of this Act. Such changes would then also be applied in the Uniform Federal Accessibility Standards [UFAS]. For example, under the current UFAS requirements, access in certain historic buildings is to be provided to all levels of a building or facility whenever practical. The final regulations in this area should clarify that such access to all levels is required unless doing so would threaten or destroy the historic integrity or would be structurally impracticable.

Requirements regarding historic properties were added by the Education and Labor Committee in section 504(c) and are incorporated in the final bill. While alterations that will truly threatens or destroy the historic significance of qualified historic buildings are accommodated through this provision, it is certainly expected that alterations and changes which do not threaten or destroy the historic significance of such buildings will be done.

Section 505 sets forth an attorney's fees provision. This provision is essentially complementary to those incorporated by reference in the other titles of the act, and is designed simply to set forth clearly the elements that were always considered to be included in those other provisions. Thus, attorney's fees may be awarded for all forms of judicial and administrative proceedings. In addition, litigation expenses are included within the rubric of attorney's fees. As such, those expenses are to be assessed against a plaintiff only under the narrow standard set forth in *Christianburg Garment.* Particularly because of the current unavailability of damages for private plaintiffs under the ADA, it is to be hoped that courts

will liberally apply the attorney's fee provision of the act.

Section 506 provides for an extensive technical assistance program. This program will be essential in ensuring knowledgeable and effective compliance with the act. It is expected that sufficient resources will be placed in this program in order that it may be truly effective.

The rest of the provisions of title V deal with congressional coverage, with further provisions regarding current illegal users of drugs—which are analogous to the provisions regarding such individuals in the employment context—and with various exclusions to the definition of disability that were adopted by the Senate and accepted in the House bill. One modification made in the last provision was to clarify that homosexuality and bisexuality were not considered—and indeed, were never considered—impairments under the act, and as such, are not covered disabilities under the act.

The Americans with Disabilities Act which comes before the House today represents a magnificent example of bipartisan deliberation. After 2 years of hearings, negotiations, and refinements, we have before us a bill that we can all be proud of. I urge my colleagues to pass the Americans with Disabilities Act.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2273, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. HOYER. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 2273, the Clerk be authorized to correct section numbers, cross-references, punctuation, and indentation, and to make other technical and conforming changes necessary to reflect the actions of the House.

The SPEAKER pro tempore (Mr. TRAXLER). Is there objection to the request of the gentleman from Maryland?

There was no objection.

GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, and I ask unanimous consent that I be allowed to include material detailing the development of the ADA to appear in the RECORD at the close of debate on the amendments, on H.R. 2273, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. HOYER. Mr. Speaker, pursuant to House Resolution 394, I call up from the Speaker's table the Senate bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. HOYER

Mr. HOYER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HOYER moves to strike all after the enacting clause of the Senate bill, S. 933, and to insert the provisions of the bill, H.R. 2273, as passed by the House, as follows:

*Resolved*, That the bill from the Senate (S. 933) entitled "An Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability", do pass with the following amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:


Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
Sec. 102. Discrimination.
Sec. 103. Defenses.
Sec. 104. Illegal use of drugs and alcohol.
Sec. 105. Posting notices.
Sec. 106. Regulations.
Sec. 107. Enforcement.
Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

SUBTITLE A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

Sec. 201. Definition.
Sec. 202. Discrimination.
Sec. 203. Enforcement.
Sec. 204. Regulations.
Sec. 205. Effective date.

SUBTITLE B—ACTIONS APPLICABLE TO PUBLIC TRANSPORTATION PROVIDED BY PUBLIC ENTITIES CONSIDERED DISCRIMINATORY

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

Sec. 221. Definitions.
Sec. 222. Public entities operating fixed route systems.
Sec. 223. Paratransit as a complement to fixed route service.
Sec. 224. Public entity operating a demand responsive system.
Sec. 225. Temporary relief where lifts are unavailable.
Sec. 226. New facilities.
Sec. 227. Alterations of existing facilities.
Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
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SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disad-

vantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

## TITLE I—EMPLOYMENT

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) Illegal use of drugs.—

(A) In general.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) Drugs.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person," "labor organization," "employment agency," "commerce," and "industry affecting commerce," shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) In general.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an other-

wise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) FOOD HANDLING JOBS.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) RAIL EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by railroads of authority to—

(1) test railroad employees in, and applicants for, positions involving safety-sensitive duties, as determined by the Secretary of Transportation, for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. ENFORCEMENT.

(a) Powers, Remedies, and Procedures.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. Such agencies shall establish such coordinating mechanisms in the regulations implementing this title and the Rehabilitation Act of 1973.

SEC. 108. EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

## TITLE II—PUBLIC SERVICES

### Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

### Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

#### PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

SEC. 221. DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) OPERATES.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) PUBLIC SCHOOL TRANSPORTATION.—The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) PURCHASE AND LEASE OF NEW VEHICLES.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) PURCHASE AND LEASE OF USED VEHICLES.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured

vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system; and

(B) to 1 other individual accompanying the individual with the disability.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) ADDITIONAL SERVICES.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) PUBLIC PARTICIPATION.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) PLANS.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) PROVISION OF SERVICES BY OTHERS.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) OTHER PROVISIONS.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) REVIEW OF PLAN.—

(1) GENERAL RULE.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) DISAPPROVAL.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least ⅔ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) KEY STATIONS.—Paragraph (1) shall not apply to a key station if the portion of such station providing access to the vehicle boarding or disembarking location has not been made readily accessible to and usable by individuals with disabilities who use wheelchairs at that station.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

## PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C 502(8));

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C 502(9));

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation;

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars;

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the

Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242(a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

## TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

### SEC. 301. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

### SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, ad-

vantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with

disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) DEFINITION.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. REGULATIONS.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 302(b)(2)(B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such

supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. ENFORCEMENT.

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) CIVIL ACTION.—Except for any civil action brought for a violation of section 303, no civil action shall be brought—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

(c) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2) (B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

## TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the reg-

ulations prescribed under this section, within the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) JURISDICTIONAL SEPARATION OF COSTS.—

"(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows:

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

## TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION.

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1)(b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients of grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, but no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

SEC. 508. TRANSVESTITES.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. CONGRESSIONAL INCLUSION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to subsections (b) through (d), apply in their entirety to the Senate, the House of Representatives, and all the instrumentalities of the Congress, or either House thereof.

(b) EMPLOYMENT IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) ADMINISTRATION.—

(A) In the administration of this subsection, the remedies and procedures made applicable pursuant to the resolution described in subparagraph (B) shall apply exclusively.

(B) The resolution referred to in subparagraph (A) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(3) EXERCISE OF RULEMAKING POWER.—The provisions of paragraph (2) of this subsection are enacted by the Congress as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) CONGRESSIONAL MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the Congress regarding matters other than employment.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) APPROVAL BY CONGRESSIONAL LEADERSHIP.—For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives and to an appropriate officer of the Senate, as designated by the Senate. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission, and the approval of the appropriate officer of the Senate.

(d) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

SEC. 510. ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use, except that it shall not be a violation of this Act for a ccvered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under title I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. WALKER. Mr. Speaker, reserving the right to object, I just want to know what it is we have been doing. It has been impossible to hear in the House.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I am happy to yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, in response to the gentleman's question, what the motion does is it substitutes the House-passed language, the Coelho bill that we have just adopted, into the Senate bill as the text of the Senate bill. That is all it does.

Mr. WALKER. Mr. Speaker, further reserving the right to object, is that for the purpose of sending it back to the Senate? Is that correct?

Mr. HOYER. The gentleman is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. HOYER].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 2273, was laid on the table.

## PERSONAL EXPLANATION

Mr. HUTTO. Mr. Speaker, I was in my district this morning conducting official business. Therefore, I was unable to vote on two of the amendments to H.R. 2273.

Had I been present I would have voted "aye" on the amendment offered by Mr. LIPINSKI and "aye" on the amendment offered by Mr. SHUSTER.

## PERSONAL EXPLANATION

Mr. OBERSTAR. Mr. Speaker, last month, when the House of Representatives considered the bill H.R. 2273, the Americans with Disabilities Act, my vote was not recorded on several amendments.

During the consideration of this historic legislation, I was in Indiana to attend the graduation ceremonies for my son, Ted, at Notre Dame University.

Had I been present, I would have voted "nay" on the Olin amendment, rollcall vote 117. I would have voted "nay" on the Chapman amendment, rollcall vote 118. I would have voted "nay" on the Lipinski amendment, rollcall vote 119. I would have voted "nay" on the Shuster amendment, rollcall vote 120. I would have voted "nay" on the Sensenbrenner amendment, rollcall vote 121.

## PETROGLYPH NATIONAL MONUMENT ESTABLISHMENT ACT OF 1990

The SPEAKER pro tempore. The unfinished business is the question de novo of suspending the rules and passing the Senate bill, S. 286, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 286, as amended.

The question was taken.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 17, as follows:

[Roll No. 124]

YEAS—415

| | | |
|---|---|---|
| Ackerman | Crane | Hamilton |
| Anderson | Crockett | Hancock |
| Andrews | Dannemeyer | Hansen |
| Annunzio | Darden | Harris |
| Anthony | Davis | Hastert |
| Applegate | de la Garza | Hatcher |
| Archer | DeFazio | Hayes (IL) |
| Armey | DeLay | Hayes (LA) |
| Aspin | Dellums | Hefley |
| Atkins | Derrick | Hefner |
| AuCoin | DeWine | Henry |
| Baker | Dickinson | Herger |
| Ballenger | Dicks | Hertel |
| Barnard | Dingell | Hiler |
| Bartlett | Dixon | Hoagland |
| Barton | Donnelly | Hochbrueckner |
| Bateman | Dorgan (ND) | Holloway |
| Bates | Dornan (CA) | Hopkins |
| Beilenson | Douglas | Horton |
| Bennett | Downey | Houghton |
| Bentley | Dreier | Hoyer |
| Bereuter | Duncan | Hubbard |
| Berman | Durbin | Huckaby |
| Bevill | Dwyer | Hughes |
| Bilbray | Dymally | Hunter |
| Bilirakis | Dyson | Hutto |
| Billey | Early | Hyde |
| Boehlert | Eckart | Inhofe |
| Boggs | Edwards (CA) | Ireland |
| Bonior | Edwards (OK) | Jacobs |
| Borski | Emerson | James |
| Bosco | Engel | Jenkins |
| Boucher | English | Johnson (CT) |
| Boxer | Erdreich | Johnson (SD) |
| Brennan | Espy | Johnston |
| Brooks | Evans | Jones (GA) |
| Broomfield | Fascell | Jones (NC) |
| Browder | Fawell | Jontz |
| Brown (CA) | Fazio | Kanjorski |
| Brown (CO) | Feighan | Kaptur |
| Bruce | Fields | Kasich |
| Bryant | Fish | Kastenmeier |
| Buechner | Flake | Kennedy |
| Bunning | Foglietta | Kennelly |
| Burton | Ford (MI) | Kildee |
| Bustamante | Frank | Kleczka |
| Byron | Frenzel | Kolter |
| Callahan | Frost | Kostmayer |
| Campbell (CA) | Gallegly | Kyl |
| Campbell (CO) | Gallo | LaFalce |
| Cardin | Gaydos | Lagomarsino |
| Carper | Gejdenson | Lancaster |
| Carr | Gekas | Lantos |
| Chandler | Gephardt | Laughlin |
| Chapman | Geren | Leach (IA) |
| Clarke | Gibbons | Lehman (CA) |
| Clay | Gillmor | Lehman (FL) |
| Clement | Gilman | Lent |
| Clinger | Gingrich | Levin (MI) |
| Coble | Glickman | Levine (CA) |
| Coleman (MO) | Gonzalez | Lewis (CA) |
| Coleman (TX) | Goodling | Lewis (FL) |
| Collins | Gordon | Lewis (GA) |
| Combest | Goss | Lightfoot |
| Condit | Gradison | Lipinski |
| Conte | Grandy | Livingston |
| Conyers | Grant | Lloyd |
| Cooper | Gray | Long |
| Costello | Green | Lowery (CA) |
| Coughlin | Guarini | Lowey (NY) |
| Courter | Gunderson | Luken, Thomas |
| Cox | Hall (OH) | Machtley |
| Coyne | Hall (TX) | Madigan |
| Manton | Penny | Smith (NJ) |
| Markey | Perkins | Smith (TX) |
| Marlenee | Petri | Smith (VT) |
| Martin (NY) | Pickett | Smith, Denny (OR) |
| Martinez | Pickle | Smith, Robert (NH) |
| Matsui | Porter | Smith, Robert (OR) |
| Mavroules | Poshard | Snowe |
| Mazzoli | Price | Solarz |
| McCandless | Pursell | Solomon |
| McCloskey | Quillen | Spratt |
| McCollum | Rahall | Staggers |
| McCrery | Rangel | Stallings |
| McCurdy | Ravenel | Stangeland |
| McDade | Ray | Stark |
| McDermott | Regula | Stearns |
| McEwen | Rhodes | Stenholm |
| McGrath | Richardson | Stokes |
| McHugh | Ridge | Studds |
| McMillan (NC) | Rinaldo | Stump |
| McMillen (MD) | Ritter | Sundquist |
| McNulty | Roberts | Swift |
| Meyers | Robinson | Synar |
| Mfume | Roe | Tallon |
| Michel | Rogers | Tanner |
| Miller (CA) | Rohrabacher | Tauke |
| Miller (OH) | Ros-Lehtinen | Tauzin |
| Miller (WA) | Rose | Taylor |
| Mineta | Rostenkowski | Thomas (GA) |
| Moakley | Roth | Thomas (WY) |
| Molinari | Roukema | Torres |
| Mollohan | Rowland (CT) | Torricelli |
| Montgomery | Rowland (GA) | Towns |
| Moody | Roybal | Traficant |
| Moorhead | Russo | Traxler |
| Morella | Sabo | Udall |
| Morrison (CT) | Saiki | Unsoeld |
| Morrison (WA) | Sangmeister | Upton |
| Mrazek | Sarpalius | Valentine |
| Murphy | Savage | Vander Jagt |
| Murtha | Sawyer | Vento |
| Myers | Saxton | Visclosky |
| Nagle | Schaefer | Volkmer |
| Natcher | Scheuer | Vucanovich |
| Neal (MA) | Schiff | Walgren |
| Neal (NC) | Schneider | Walker |
| Nielson | Schroeder | Walsh |
| Nowak | Schuette | Waxman |
| Oakar | Schulze | Weber |
| Oberstar | Schumer | Weiss |
| Obey | Sensenbrenner | Weldon |
| Olin | Serrano | Wheat |
| Ortiz | Sharp | Whittaker |
| Owens (NY) | Shaw | Williams |
| Owens (UT) | Shays | Wise |
| Oxley | Shumway | Wolf |
| Packard | Shuster | Wolpe |
| Pallone | Sikorski | Wyden |
| Panetta | Sisisky | Wylie |
| Parker | Skaggs | Yates |
| Parris | Skeen | Yatron |
| Pashayan | Skelton | Young (AK) |
| Patterson | Slattery | Young (FL) |
| Paxon | Slaughter (NY) | |
| Payne (NJ) | Slaughter (VA) | |
| Payne (VA) | Smith (FL) | |
| Pease | Smith (IA) | |
| Pelosi | Smith (NE) | |

NAYS—0

NOT VOTING—17

| | | |
|---|---|---|
| Alexander | Kolbe | Thomas (CA) |
| Craig | Leath (TX) | Washington |
| Flippo | Lukens, Donald | Watkins |
| Ford (TN) | Martin (IL) | Whitten |
| Hammerschmidt | Nelson | Wilson |
| Hawkins | Spence | |

□ 1525

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the Senate bill was amended so as to read:

A bill to establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes.

A motion to reconsider was laid on the table.

## REPRESENTATIVE SCHEUER SUPPORTS BATES-BOEHLERT-WAXMAN AMENDMENT TO CLEAN AIR BILL

(Mr. SCHEUER asked and was given permission to address the House for 1 minute.)

Mr. SCHEUER. Mr. Speaker, for some reason that I do not understand I am listed in a letter that is being circulated in the last couple of days as a supporter of the Bruce-Oxley amendment to the Clean Air Act. This is by accident, inadvertence, and mistake.

In fact, I am a supporter of the Bates-Boehlert-Waxman amendment to the Clean Air Act.

## PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT PROVIDING FOR CONSIDERATION OF H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1990

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight, May 22, 1990, to file a privileged report providing for consideration of H.R. 3030, the Clean Air Act Amendments of 1990.

The SPEAKER pro tempore (Mr. TRAXLER). Is there objection to the request of the gentleman from Michigan?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 4636, SUPPLEMENTAL ASSISTANCE FOR EMERGING DEMOCRACIES ACT OF 1990

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 395 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 395

Providing for the consideration of the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes.

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one and one-half hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be considered as having been read for amendment under the five-minute rule and all points of order against the bill are hereby waived. No amendment to the bill shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report, may only be offered by the Member specified or his designee, shall be considered as having been read and shall be debatable for the time specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. All points of order against the amendments printed in the report are hereby waived. Said amendments shall not be subject to amendment except as specified in the report. The amendments numbered one shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. If both amendments numbered four and five are adopted, only the latter amendment which is adopted shall be considered as having been finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 4636, it shall be in order to take S. 2364 from the Speaker's table and to consider said bill in the House. It shall then be in order to move to strike out all after the enacting clause of S. 2364 and insert in lieu thereof the provisions contained in H.R. 4636 as passed by the House, and all points of order against said motion are hereby waived.

□ 1530

The SPEAKER pro tempore (Mr. TRAXLER). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 395 is a modified open rule providing one and one half hour of general debate. One hour is to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Foreign Affairs, and one-half hour is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules.

All points of order against the bill and against its consideration are waived. The rule makes in order only the amendments printed in the report accompanying the resolution and waives all points of order against those amendments. The amendments are to be considered only in the order and manner specified in the report. They are debatable for the time designated, to be equally divided between the proponent of the amendment and a member opposed thereto. The amendments are not subject to amendment.

Mr. Speaker, House Resolution 395 specifically makes in order the following amendments: First, the amendments en bloc by Representative FASCELL of Florida, debatable for 10 minutes; second, the amendment by Representative KOSTMAYER of Pennsylvania, debatable for 20 minutes; third, the amendment by Representative DREIER of California, debatable for 20 minutes; fourth, the amendment by Representative BROOMFIELD of Michigan, debatable for 1 hour; and fifth, the amendment by Representative MOAKLEY of Massachusetts or Representative MURTHA of Pennsylvania, debatable for 1 hour.

The rule states that the amendments numbered 1 in the report are to be considered en bloc and are not subject to a demand for a division of the question in the House or in the Committee of the Whole.

The rule further states that if both the Broomfield amendment and the Moakley amendment are adopted, only the last amendment adopted shall be considered as having been adopted and reported back to the House.

Mr. Speaker, the rule provides one motion to recommit, with or without instructions. After passage of H.R. 4636, the rule makes it in order to take the bill S. 2364 from the Speaker's table and to consider the bill in the House. A motion to strike all after the enacting clause of S. 2364 and insert in lieu thereof the text of H.R. 4636, as passed the House, is in order. The rule waives all points of order against the motion.

Mr. Speaker, H.R. 4636 authorizes supplemental foreign aid appropriations for Nicaragua, Panama and other countries. In addition, the bill authorizes and places conditions on military assistance to El Salvador in fiscal year 1990 and fiscal year 1991.

H.R. 4636 authorizes many of the foreign operations components of H.R. 4404, the supplemental appropriation bill. In addition, the legislation authorizes assistance for sub-Saharan Africa. The bill establishes a new development fund for Africa and provides for Caribbean regional development.

Title V of the bill withholds 50 percent of the money authorized for military assistance to El Salvador for the remainder of fiscal year 1990 and in fiscal year 1991. The rule provides for ample time to debate El Salvador and makes in order two amendments to the title.

Mr. Speaker, the Rules Committee requested that amendments be submitted to us several days before we granted this rule. We made in order every

Republican Amendment submitted. In addition, on the issue of El Salvador the rule makes in order the Broomfield substitute, and even allows instructions on the motion to recommit. In my opinion, this is eminently fair treatment of the minority.

Mr. Speaker, we have endeavored to work with the minority and the administration on the issue of El Salvador. It was only when we reluctantly concluded that the current round of talks were not going to produce an agreement that we decided to proceed with this bill on the floor. I fully anticipate and hope that we will continue to seek a bipartisan compromise on the issue of El Salvador and I look forward to working with the minority and the administration to accomplish this.

Mr. Speaker, this is a good rule that provides for the expeditious consideration of H.R. 4636, and I urge its adoption.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend, the gentleman from Massachusetts, chairman of the Committee on Rules, for yielding me half the time; nothing unfair about that.

Mr. Speaker, I rise with certain misgivings about H.R. 4636, as well as the rule that provides for its consideration. But I believe that the bill should be debated and I will not ask for a "no" vote, however modified the rule may be.

I will have more to say about H.R. 4636 during the general debate, but for now I will make just a few comments about the rule, House Resolution 395.

As the good chairman indicated, this is a modified closed rule that makes in order consideration of five amendments. One of these five amendments will be an en bloc package of amendments, which are largely technical in nature. All told, Mr. Speaker, there were only three amendments filed with the Committee on Rules that are not made in order under this rule. As the chairman has said, I would note that every amendment filed by Republican Members is being accommodated under this rule, and we thank the gentleman for that.

There were three amendments that were not allowed: The Traficant amendment, the Atkins amendment and, I believe, one of the Kostmayer amendments.

It is my practice, Mr. Speaker, not to support a less than fully open rule unless such a rule has been worked out in advance by the bipartisan leadership. That was not the case with this rule. There is one other serious problem, but this is with the bill itself: Namely, the inclusion of an El Salvador provision, against the wishes of the administration.

Mr. Speaker and my colleagues, H.R. 4636 started out as a simple request from the administration to provide assistance to the new democratic governments, I say new democratic governments of Nicaragua and Panama. But the bill has ballooned into an omnibus foreign aid package and the El Salvador language is a particularly regrettable provision.

So we have before us a flawed bill, but the process must go forward, and I will not oppose the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the very eloquent gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I do not often come up on a rule and vote against it. I do not think there is a chairman of the House that has been more fair to everybody than the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. Speaker, I am going to vote "no" on the rule and vote "no" on the bill. I just want to say a few things briefly.

I am trying to figure out, after almost 6 years, how our Government works. What really confuses me is we have been borrowing $200 billion a year because we spend $200 billion a year more than we take in. Now, that is really a tragedy because we are running an insolvent government that, in my opinion, is fiscally on automatic pilot about to go belly up.

With that $200 billion, listen to what we do: About $150 billion, we go ahead and we borrow that money from the real rich countries and we turn around and take the $150 billion to provide defense and protection for those same rich countries who have lent us the borrowed money.

Some people would say that is important for national security to have this NATO Alliance.

□ 1540

They give Members all this malarkey every year. I listen to their debates. Then we come to foreign aid and we borrow $20 billion from rich countries, and take this borrowed money, and then we give it in the form of foreign aid to those so-called poor countries. Many of those so-called poor countries say "Yankee, go home."

Now, I am trying to figure this all out. We borrow money so that we can give it away. But let me tell Members what really bothers me. I would like someone to tell me if there is any country around the world that takes our foreign aid money and then buys our T-bills with it? And then we pay interest on the debt to countries buying our T-bills, with foreign aid money, that we borrowed from rich countries.

Now this, Members, is Congress.

My people, no jobs. "Well, TRAFICANT, supply side." No housing. "Well TRAFICANT, no parochialism." No highways. "Now, look, TRAFICANT, no demonstration money." No revenue sharing. "Look, TRAFICANT, we got a deficit." Urban development action grants. "What are you trying to do, TRAFICANT, break the bank?"

Let me tell Members what. This is a taxpayer's screw bill here today, and I love this, I really do. Members can call me all the names they want, but I offered an amendment, and I normally have my amendments approved, but my amendment would have called for a vote and it would have been defeated, but here's what it said. My amendment would have said, "Look, it is bad enough we are borrowing this money and then we are going to give it to someone else, and they are not even American." My amendment would have said that when they go ahead and use this $20 billion, they would buy American goods with it. Now, my amendment was not allowed, and my amendment was not allowed because people do not want recorded votes on the Traficant amendment to cut foreign aid or to challenge foreign aid.

Let me say there have been some elections in the past where a pay raise became an issue. I will say this on the floor. I may not be here, I will probably be defeated before this is all over, but there will come a day when your voting record on foreign aid is going to be the one that grabs Members right by the keister, and that is what I want. I want the litmus test to be this type of vote.

That is why I feel bad having to vote against any of the gentleman from Massachusetts, Mr. MOAKLEY's issues that he brings to the floor. I mean that. I appreciate the gentleman giving me the time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican on the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Speaker, despite being titled a "modified open rule," this rule is in fact a closed rule. It permits only a small number of specified amendments for limited debate.

The proponents of this rule say that it is justified by the emergency nature of the bill, which is primarily intended to provide assistance for Nicaragua and Panama. But, in fact, this bill has languished in the House of Representatives since January, when the President first urgently requested this assistance. If the House had acted more expeditiously, there could have been a richer debate on this bill.

Mr. Speaker, I am appreciative to the Rules Committee and its distinguished chairman, Mr. MOAKLEY, for the opportunity to offer a substitute amendment on El Salvador. I believe that the vote on the Broomfield-Byron amendment will reveal that the majority of the Members of this House do

not support hastily withdrawing military assistance from El Salvador, despite the concerns we all share about human rights abuses attributable to the Salvadoran military.

The Studds provision, contained in the bill, would remove United States support for the Government of El Salvador just as the process of serious negotiations with the FMLN guerrillas is resuming. It would allow the FMLN terrorist to win in the Halls of Congress what they have so far failed to achieve either at the ballot box or even on the battlefield. The Studds provision would reward the FMLN for its provocations and make United States assistance to El Salvador hostage to the actions of the insurgents.

Not only are the provisions of the bill on this subject misguided, the Moakley proposal is little better. Like Studds, the Moakley amendment would in all likelihood also lead to an immediate cutoff of half of currently authorized military assistance. It would also make this assistance and future assistance depend largely on the actions of the FMLN guerrillas.

The rule unfairly stacks the debate on El Salvador. If the Broomfield substitute is adopted over the Studds language in the bill, then Chairman MOAKLEY could offer an amendment which is virtually identical to the Studds provision. Let's be absolutely clear: The Moakley amendment is not a moderate alternative to Studds. It is another attempt to cut off assistance and force the President to veto this bill.

Let there be no doubt. The President will veto this bill if it contains either the Studds or Moakley provisions. On the other hand, the administration has unequivocally indicated that it supports the Broomfield-Byron substitute.

The administration, through Secretary of State Baker, has offered to negotiate seriously and in good faith on legislative conditions on further assistance to El Salvador. This bill, which is required to meet emergency needs in Nicaragua and Panama, is really not the place for resolution of this issue. Nevertheless, the administration supports the Broomfield-Byron provision at this time.

Mr. Speaker, for a truly effective policy in El Salvador, the leaders of this body must reach a meeting of minds with the administration and should not play a game of legislative chicken with much needed assistance for Nicaragua and Panama.

In conclusion, I hope that once we get into this debate, the Broomfield-Byron amendment will be adopted by the House so that United States assistance to El Salvador does not become hostage to the FMLN terrorists.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. MARKLEY].

Mr. MARKEY. Mr. Speaker, I rise in support of the Moakley amendment.

Mr. Speaker, 10 years ago, shortly before his brutal assassination, Archbishop Romero pleaded with us to stop sending military assistance to El Salvador. We did not listen to his plea. Over the ensuing 10 years we continued to send military aid. Since that time the situation has not improved and there has been no resolution of the conflict.

Last fall, six Jesuits, their housekeeper, and her young daughter were brutally killed by elements of the Salvadoran military. The Jesuits appealed to Salvadorans to reject the calls to violence from the right and left and heed their call to conscience.

Now it is time to heed their message and to cut military aid to El Salvador.

In Nicaragua, we pursued a military option before realizing that the best way to achieve democracy and peace was through negotiations, not through war.

In El Salvador, we have given $4 billion to the military over the last 10 years and what have we achieved? A Central American killing field which has left 70,000 dead.

Salvadoran democracy is being held hostage by the enemies of civilizing intelligence. Everyone knows the FMLN cannot force their way into power.

After 10 years the effort to defeat them has failed, and U.S. policy is bankrupt.

All that can be achieved through a military option is continued violence, misery, and death in El Salvador.

Mr. Speaker, El Salvador is not so much a country with a corrupt military, as a corrupt military with a country.

Fourteen out of the top 15 Salvadoran military commanders have risen to their positions despite having had documented abuses of human rights carried out by troops under their command. The judicial inquiry into the Jesuit murders is stalled, key witnesses sent out of the country, and crucial evidence has disappeared.

Enough is enough. There is no accountability in El Salvador for these abuses—the question now is whether there will be some accountability tied to United States military aid. It is time to place conditions on our assistance; intelligent conditions which will result in responses carefully calibrated to be elicited from this Government.

I urge my colleagues to support the Moakley substitute. It is a rational, common sense, balanced response to irrational conduct in that region of the world.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Bosco). The question is on the resolution.

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 108, not voting 19, as follows:

[Roll No. 125]

YEAS—305

| | | |
|---|---|---|
| Ackerman | Dymally | Kastenmeier |
| Anderson | Dyson | Kennedy |
| Andrews | Early | Kennelly |
| Annunzio | Eckart | Kildee |
| Anthony | Edwards (CA) | Kleczka |
| Applegate | Edwards (OK) | Kolter |
| Armey | Emerson | Kostmayer |
| Aspin | Engel | LaFalce |
| Atkins | English | Lagomarsino |
| AuCoin | Erdreich | Lancaster |
| Baker | Espy | Lantos |
| Barnard | Evans | Laughlin |
| Bates | Fascell | Lehman (CA) |
| Beilenson | Fazio | Lehman (FL) |
| Bennett | Feighan | Levin (MI) |
| Berman | Fish | Levine (CA) |
| Bevill | Flake | Lewis (GA) |
| Bilbray | Foglietta | Lipinski |
| Boehlert | Ford (MI) | Lloyd |
| Boggs | Frank | Long |
| Bonior | Frost | Lowey (NY) |
| Borski | Gallegly | Luken, Thomas |
| Bosco | Gallo | Machtley |
| Boucher | Gaydos | Madigan |
| Boxer | Gejdenson | Manton |
| Brennan | Gephardt | Markey |
| Brooks | Geren | Martin (NY) |
| Broomfield | Gibbons | Martinez |
| Browder | Gilman | Matsui |
| Brown (CA) | Glickman | Mavroules |
| Bruce | Gonzalez | Mazzoli |
| Bryant | Gordon | McCloskey |
| Buechner | Goss | McCurdy |
| Bustamante | Gradison | McDade |
| Byron | Grant | McDermott |
| Callahan | Gray | McGrath |
| Campbell (CO) | Green | McHugh |
| Cardin | Guarini | McMillan (NC) |
| Carper | Gunderson | McMillen (MD) |
| Carr | Hall (OH) | McNulty |
| Chandler | Hall (TX) | Meyers |
| Chapman | Hamilton | Mfume |
| Clarke | Hansen | Michel |
| Clement | Harris | Miller (CA) |
| Coleman (MO) | Hastert | Miller (OH) |
| Coleman (TX) | Hatcher | Miller (WA) |
| Collins | Hawkins | Mineta |
| Condit | Hayes (IL) | Moakley |
| Conte | Hayes (LA) | Molinari |
| Conyers | Hefner | Mollohan |
| Cooper | Hertel | Montgomery |
| Costello | Hoagland | Moody |
| Coyne | Hochbrueckner | Morella |
| Crockett | Horton | Morrison (CT) |
| Darden | Hoyer | Morrison (WA) |
| Davis | Hubbard | Mrazek |
| de la Garza | Huckaby | Murtha |
| DeFazio | Hutto | Myers |
| Dellums | Jacobs | Natcher |
| Derrick | Jenkins | Neal (MA) |
| Dicks | Johnson (CT) | Neal (NC) |
| Dingell | Johnson (SD) | Nowak |
| Dixon | Johnston | Oakar |
| Donnelly | Jones (GA) | Oberstar |
| Dorgan (ND) | Jones (NC) | Obey |
| Downey | Jontz | Olin |
| Durbin | Kanjorski | Ortiz |
| Dwyer | Kaptur | Owens (NY) |

| | | |
|---|---|---|
| Owens (UT) | Saiki | Stenholm |
| Pallone | Sangmeister | Stokes |
| Panetta | Sarpalius | Studds |
| Parker | Savage | Swift |
| Pashayan | Sawyer | Synar |
| Patterson | Scheuer | Tallon |
| Payne (NJ) | Schneider | Tanner |
| Payne (VA) | Schroeder | Tauzin |
| Pease | Schulze | Taylor |
| Pelosi | Schumer | Thomas (GA) |
| Penny | Serrano | Thomas (WY) |
| Perkins | Sharp | Torres |
| Pickett | Shays | Torricelli |
| Pickle | Sikorski | Towns |
| Poshard | Sisisky | Traxler |
| Price | Skaggs | Unsoeld |
| Quillen | Skeen | Valentine |
| Rangel | Skelton | Vento |
| Ravenel | Slattery | Visclosky |
| Ray | Slaughter (NY) | Volkmer |
| Regula | Smith (FL) | Walgren |
| Rhodes | Smith (IA) | Walsh |
| Richardson | Smith (NE) | Waxman |
| Rinaldo | Smith (NJ) | Weiss |
| Ritter | Smith (TX) | Weldon |
| Roe | Smith (VT) | Wheat |
| Rogers | Snowe | Whitten |
| Ros-Lehtinen | Solomon | Wise |
| Rose | Spratt | Wolpe |
| Rostenkowski | Staggers | Wyden |
| Rowland (GA) | Stallings | Wylie |
| Roybal | Stangeland | Yates |
| Russo | Stark | Yatron |
| Sabo | Stearns | |

NAYS—108

| | | |
|---|---|---|
| Archer | Henry | Ridge |
| Ballenger | Herger | Roberts |
| Bartlett | Hiler | Robinson |
| Barton | Holloway | Rohrabacher |
| Bateman | Hopkins | Roth |
| Bentley | Houghton | Roukema |
| Bereuter | Hughes | Rowland (CT) |
| Bilirakis | Hunter | Saxton |
| Bliley | Hyde | Schaefer |
| Brown (CO) | Inhofe | Schiff |
| Bunning | Ireland | Schuette |
| Burton | James | Sensenbrenner |
| Campbell (CA) | Kasich | Shaw |
| Clinger | Kyl | Shumway |
| Coble | Leach (IA) | Shuster |
| Combest | Lent | Slaughter (VA) |
| Coughlin | Lewis (CA) | Smith, Denny (OR) |
| Courter | Lewis (FL) | |
| Cox | Lightfoot | Smith, Robert (NH) |
| Crane | Livingston | |
| Dannemeyer | Lowery (CA) | Smith, Robert (OR) |
| DeLay | Marlenee | |
| DeWine | Martin (IL) | Spence |
| Dickinson | McCandless | Stump |
| Dornan (CA) | McCollum | Sundquist |
| Douglas | McCrery | Tauke |
| Dreier | McEwen | Traficant |
| Duncan | Moorhead | Upton |
| Fawell | Murphy | Vander Jagt |
| Fields | Nielson | Vucanovich |
| Frenzel | Oxley | Walker |
| Gekas | Packard | Weber |
| Gillmor | Parris | Whittaker |
| Gingrich | Paxon | Wilson |
| Grandy | Petri | Wolf |
| Hancock | Porter | Young (AK) |
| Hefley | Rahall | Young (FL) |

NOT VOTING—19

| | | |
|---|---|---|
| Alexander | Kolbe | Thomas (CA) |
| Clay | Leath (TX) | Udall |
| Craig | Lukens, Donald | Washington |
| Flippo | Nagle | Watkins |
| Ford (TN) | Nelson | Williams |
| Goodling | Pursell | |
| Hammerschmidt | Solarz | |

□ 1610

Mr. CLINGER changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 124 and No. 125.

## PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON WEDNESDAY, MAY 23, 1990, DURING THE 5-MINUTE RULE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit on Wednesday, May 23, 1990, while the House is reading for amendment under the 5-minute rule.

The purpose is for a full committee markup.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## SUPPLEMENTAL ASSISTANCE FOR EMERGING DEMOCRACIES ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 395 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4636.

□ 1512

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes with Mr. AUCOIN in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes; the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 munutes; the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 15 minutes; and the gentleman from New York [Mr. SOLOMON] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself not to exceed 4 minutes.

Mr. Chairman, I rise in strong support of H.R. 4636, which provides authorization for assistance for fiscal year 1990 for emerging democracies in the Western Hemisphere.

In brief, this bill: Gives the President the authority to provide supplemental assistance he requested for Panama, Nicaragua, and refugees; gives the President the authority to provide supplemental assistance for Haiti and for the Caribbean; creates a housing guaranty program for new immigrants in Israel; authorizes the repayment to the African-aid account the $30 million which was borrowed from existing appropriations earlier this year for emergency assistance for Panama, establishes specific policy guidelines for United States assistance for Africa and the Caribbean; and conditions United States military assistance to El Salvador on the behavior of the Government of El Salvador and on the FMLN guerrillas.

Mr. Chairman, the committee moved expeditiously on the principal purpose of this bill with good bipartisan cooperation. However, we were not able to work out a compromise agreement with the administration on the terms and conditions of our military assistance program to El Salvador. This delayed final action both in committee and with respect to the rule on consideration of this legislation.

I would like to thank the leadership and all interested Members for their efforts on behalf of this bill and hope that, having finally taken this bill up in the House, we can now let the legislative process work. Following passage of this bill today, we are prepared to go to conference immediately with the Senate. We will make every effort to complete that conference before both bodies take up the related supplemental appropriations conference report later this week.

While the money requested by the President is contained in the urgent supplemental which is ready to come back from conference, let me briefly sum up what we would lose by failing to enact this legislation: Incentives to abolish money-laundering in Panama; policy guidance for the use of funds in Panama, Nicaragua, and Haiti, authorities for a development fund for Africa and the Caribbean; and momentum toward establishing an effective, bipartisan congressional/executive branch agreement on our policy toward El Salvador.

Mr. Chairman, I urge my colleagues to support final passage of this bill and to insist on regular order in the legislative process.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on January 25, 1990, the President first requested legislation to provide $500 million in assistance for the newly elected Government of Panama.

On March 5, the President requested an additional $300 million in assistance for the newly elected democratic government of Nicaragua.

Four months have passed since the President made his initial request, yet we are still debating this package. What's more, it has become loaded down with unrelated provisions that will do nothing but provoke a Presidential veto.

For years, Members of this body have argued that we should give peace a chance in Central America. Over and over, I've heard it said that U.S. aid should support peaceful democratic

change, not continued warfare. Where are the voices for peaceful change now that we need them?

I recall some of the early criticisms of the President. He was called timid and cautious. Yet, it was he who acted right away on this important issue—and that was 4 months ago. I recall criticism of the President's aid requests for Panama and Nicaragua. The requests were called excessive. Yet, the bill before us exceeds his request by almost $180 million.

Not only has this bill been held up too long—not only does it authorize too much money—but the bill also contains a seriously flawed provision restricting aid to El Salvador.

The Studds language incorporated in title V places onerous conditions on military aid and gives the terrorist FMLN veto power over our assistance.

Peace negotiations have begun under U.N. auspices. Yet, the committee bill ignores the peace process.

The Secretary of State has tried to fashion a bipartisan approach to El Salvador. This committee bill is a partisan measure which rewards the FMLN for walking out of the peace talks last fall and launching a murderous offensive that claimed the lives of hundreds of innocent civilians.

The White House has indicated to me that the President will almost certainly veto the bill if this provision is not fixed.

The Studds amendment is pure veto bait. It has been drawn up for no other reason than to create a confrontation with the administration.

Everyone in this House knows that the real aid bill—the supplemental appropriations bill—comes up tomorrow. This is just an exhibition game. It's a way of playing to the galleries.

What's been lost in this exhibition of showmanship is the well-being of democracy in Nicaragua and Panama. While the elected leaders of those two countries are fighting for the survival of democracy, we are playing inside baseball—a game for the press galleries.

Mr. Chairman, Congresswoman BYRON and I will be offering an amendment to improve the El Salvador language, and I urge all Members to support this approach. By agreeing to our amendment we can assure passage of the bill, avoid a veto by the President, and finally get aid to the needy people of Panama and Nicaragua.

At this point I insert into the RECORD the statement of administration policy on H.R. 4636.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4636—SUPPLEMENTAL ASSISTANCE FOR EMERGING DEMOCRACIES ACT OF 1990

The Administration supports enactment of legislation to promote democracy in Nicaragua and Panama. Although H.R. 4636 authorizes programs and activities requested by the Administration, it also includes objectionable provisions that raise serious policy concerns and impinge significantly on the ability of the President to conduct foreign policy.

Without modifications to take into account the Administration's concerns regarding the bill's restrictions on military aid to El Salvador, the President's senior advisers would recommend that H.R. 4636 be vetoed. The Moakley amendment is very similar to the restrictions on El Salvador currently in H.R. 4636, and would also cause the President's senior advisers to recommend veto. Such restrictions would greatly hinder the Administration's ability to work towards peace in El Salvador. The Administration supports, as a substitute, the Broomfield-Byron amendment, which provides sufficient flexibility for providing assistance to El Salvador. Under the Broomfield-Byron amendment, the President shall withhold a portion of military assistance funds for El Salvador if he determines that the Government has not made demonstrated progress in the area of human rights, Jesuit murder investigation, administration of justice, and civilian control over the police.

H.R. 4636 also contains provisions that limit the President's flexibility to respond to changing conditions and to provide for an effective foreign assistance program. Accordingly, the Administration will seek to delete or modify those provisions that:

Impose numerous conditions, restrictions, and earmarks on regional assistance programs—i.e., particularly the separate policy and program requirements for the Caribbean. These requirements would limit the flexibility needed by the Administration to implement development assistance programs, and are contrary to the recommendations in the House Foreign Affairs Committee Task Force Report on Foreign Assistance.

Require the President to negotiate certain agreements with the government of Panama or otherwise prescribe the conduct of foreign negotiations.

Require prior notification or certification to Congress before certain foreign assistance funds could be obligated or expended for specified purposes.

Earmark funds for the establishment of an Agency for International Development (AID) mission in Namibia, thereby encroaching on the President's authority to conduct diplomatic relations with foreign governments.

Earmark the Emergency Refugee and Migration Assistance Fund, especially the earmarks for domestic refugee/migrant assistance, thereby precluding the flexibility required to administer such emergency assistance effectively.

□ 1620

Mr. FASCELL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I rise in support of the committee bill and the Moakley-Murtha substitute to improve it.

Our proposal would, for the first time, provide a strong incentive for both sides in the Salvadoran civil war to negotiate seriously for peace.

It would, for the first time, make the level of U.S. military aid conditional not only on the behavior of the government, but of the FMLN, as well.

Under our proposal, if U.S. aid is cut off, the armed forces will have only themselves to blame; and if paid is fully restored, the FMLN will be to blame. That's putting the responsibility exactly where it belongs.

Some say the substitute offered by the minority is preferable. But it is a substitute without substance. It accepts the premises of our bill; that negotiations are necessary; that the military must be reformed; that the FMLN must accept democracy; but it provides neither side with a real incentive to change. It requires nothing that the President could not have done on his first day in office. It changes nothing and waits 5 months to do it.

Today's excuse for inaction is that negotiations have just begun. It is a delicate time, we are told. But it is the ideal time. There could be no better time to approve a bill that would empower those who seek peace in El Salvador, while disarming, on both sides, the apostles of continued war.

Some say we shouldn't be dealing with El Salvador in this bill. But the promotion of peace and democracy in Central America is the heart and soul of this legislation. And what could be more urgent than stopping a brutal, bloody, senseless, stupid conflict that has killed 70,000 people, undermined civilian rule, throttled democracy and created refugees from Honduras to Dupont Circle? El Salvador belongs in this bill.

Some say this proposal would hurt President Cristiani by cutting military aid. But under our proposal, military aid will be reduced, if the government behaves, only if the FMLN stops attacking civilian targets; stops launching offensives; and stops acquiring arms. It must, in short, stop being the FMLN. Nothing we could do would be more helpful to President Cristiani, or more certain to promote peace.

As for the armed forces, I must tell you that—in my judgment—they do not deserve another nickel of our aid. They have grown so used to U.S. dollars; so immune to lectures on human rights; so arrogant in their use of power; so confident in their lies; so secure in their belief that we will never act on our ideals that they will never change unless we shock them into doing so—not with more empty rhetoric, but with a law that will finally hold them accountable for what they do.

Last November 16, one of the best-trained, most-experienced units in the Salvadoran military surrounded the sleeping quarters of six courageous and compassionate men; the soldiers forced those men to lie face down on the ground; and shot them in the back of the head. The soldiers came across a woman who cooked for those six Jesuit priests, and her 15-year-old daughter. They shot them both more than a dozen times. They did not want any witnesses.

But we are witnesses. Evidence in the Jesuits' case has disappeared. The investigation is at a standstill. Justice—again—may be denied. Of this, too, we are witnesses. But that is not all we have seen.

Over the past decade, we have seen thousands of campesinos, students, labor leaders, educators, priests, nuns—abducted, tortured, often mutilated—their bodies left in streets or tossed down wells or thrown in rivers. And we have heard their murderers lie repeatedly about those crimes, while thanking us—in the very next breath—for U.S. military aid.

We have also seen—if we have chosen to see—teenagers with their legs blown off by FMLN mines; mayors assassinated for doing their jobs; civilians caught in the crossfire of a guerrilla offensive launched in the name of the people, but not supported by the people.

Today, we must see—if we see anything at all—that the deaths on one side do not excuse the other. For there is no difference of politics or ideology that justifies the theft of human dignity; no provocation excuses murder or kidnapping or torture.

Today, we must see—unless we are blind—that every day we wait means more injustice, more suffering, more dead. El Salvador's future depends on peace.

I plead with you; do not turn away from what we have seen with our own eyes; from what we have seen in the eyes of the victims on all sides in El Salvador. Do not listen to those who tell you—yes, I agree with all that, but this is not the right time.

Vote your conscience. Not tomorrow; today. Not for a phony substitute; but for the Moakley-Murtha bill. Vote for the real thing; for the right thing; at the right time. Vote today for peace.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute of the time of the Committee on Rules to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, what the gentleman from Massachusetts failed to discuss was that this is a democratically elected government in El Salvador and that this democratically elected government in El Salvador is threatened by the Communist FMLN.

He talked about the atrocities perpetrated upon the people down there by the Government troops, but what he did not tell us was about the atrocities that are taking place on a daily basis by the Communist FMLN who cannot win at the ballot box so they try to get power through the barrel of a gun or through mines planted in areas so they can blow children's feet off. Here is a gentleman who was gunned down in the street indiscriminately by the FMLN; here is a little boy whose father was just killed, gunned down by the FMLN; here is a little girl who both of her legs were blown off by the FMLN. He did not talk about that. He did not talk about these two little children killed in an indiscriminate bombing in a shopping area in El Salvador by the FMLN.

There are the things my colleagues on the other side never tell you about.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, the original intent of this legislation was to authorize assistance for Panama and Nicaragua. I strongly support that assistance. It is a tragedy that the people of Nicaragua and Panama, who suffered for so long under dictatorial rule and how now have finally gotten the opportunity to experience democracy, have received more excuses than aid from the United States Government.

It is wrong for the Congress to play partisan politics while the future of democracy hangs in the balance in Panama and Nicaragua. For those who do not think this aid is critical, consider the following:

First, the Sandinistas' plundering of the Nicaraguan economy has left the Chamorro government with only about $3 million in hard currency;

Second, the spring planting season has already begun in Nicaragua, but farmers don't yet have the necessary seed, fertilizer or machinery to plant their crops. A good harvest is essential if Mrs. Chamorro's economic reforms are to succeed; and

Third, this legislation contains urgently needed money to help demobilize the Contras, who by OAS estimates have current food stocks of less than 2 weeks. If the Contras are not quickly reintegrated into Nicaraguan life, it could place severe strains on the relationship between Chamorro and the Nicaraguan army.

The situation is no better in Panama:

One in four Panamanians is now unemployed, GDP continues to fall, and private investment is dropping.

In light of the facts we know about the dire economic situations facing both Nicaragua and Panama, I am sorry that the majority insists on tying our economic aid to these emerging democracies to conditions on our aid to El Salvador. These issues are enormously different and Members should be ashamed that this urgently needed aid for Panama and Nicaragua is being held hostage to partisan politics.

I do not oppose conditionality on U.S. foreign assistance. I have always believed that it is the proper role of the Congress to determine under what terms our foreign aid will be provided. In the case of El Salvador, I agree that conditions may be in order, but the conditionality provisions in this legislation are very poorly-timed and are too restrictive.

As we debate cutting off aid to Salvador, the Cristiani government and the FMLN are sitting down to try to negotiate an end to their war. Just the fact that we are discussing this on the floor today gives the FMLN a huge boost in its negotiating position and places the Christiani government on the defensive. It will be tragic if the Congress, by having this debate today, tips the scale in favor of the FMLN.

Cutting off half of the remaining 1990 military aid to El Salvador and half the military aid next year will only weaken civilian control over the military and allow the FMLN to win in Washington what they could not in El Salvador.

For that reason, I urge Members to support the Broomfield-Byron amendment. If it does not pass, Mr. Chairman, I cannot vote for this bill and I will urge Members to oppose the bill.

□ 1630

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, let me start by saying that the proponents of the Broomfield amendment for some reason think that the basis for the Committee on Foreign Affairs' action was to draw some kind of needless or unnecessary confrontation with the administration or with the President over El Salvador. Nothing could be further from the truth. The fact is that the Central American policy of the Bush administration and the Reagan administration have been disastrous. We now have the opportunity to adopt a piece of legislation which will have impact which will provide an incentive to both sides in El Salvador to negotiate an end to the civil war.

Mr. Chairman, 10 years ago, Archbishop Oscar Romero was brutally murdered while saying Mass in San Salvador. In the decade since his assassination, over 70,000 other Salvadorans have been killed in a savage and relentless civil war—a civil war funded largely by the United States.

During these last 10 years, many here in Congress have repeatedly argued that United States military aid somehow inhibits El Salvador's brutal military from violating human rights. These supporters of aid claim that providing guns and ammunition somehow entices the military to stop murdering its own people.

How many years must the killing continue before our Government recognizes the absurdity of this approach? The arguments did not make sense in 1980, and after 10 years of savagery, they seem almost grotesque today. Archbishop Romero, the murdered American churchwomen, and the Jesuits, were all killed by individuals associated with the Salvadoran military. Yet we in the United States continue to debate the wisdom of sending more aid to that murderous army.

The only real solution to this tragic dilemma would be a complete cutoff of United States financial support for the Salvadoran military. The 10-year-old policy now in place has demonstrably and completely failed to bring peace and justice in El Salvador.

Today we have the first real opportunity in many years to make a significant change in United States policy toward El Salvador—a change in the right direction. The Foreign Affairs Committee included language in this supplemental authorization bill which would immediately suspend 50 percent of United States military assistance to El Salvador. Subsequent military aid would be strictly tied to demonstrable steps on the part of the Salvadoran Government and the FMLN to negotiate in good faith toward a solution to the conflict.

Since the committee's action, several improvements have been suggested by our colleagues Representative MOAKLEY and Representative MURTHA, and these refinements are included in the amendment now before the House.

Mr. Chairman, the adoption of this proposal will not offer a miracle cure to the civil war in El Salvador. Nor will it absolve the United States of continued responsibility for the abuse of the Salvadoran military—after all, 50 percent of the United States military aid will continue flow.

Yet the Foreign Affairs Committee approach—as refined by the Moakley-Murtha amendment—does move our policy in the right direction and provides real incentives for both sides to negotiate for a peaceful and just resolution of the conflict. I urge my colleagues to support the Moakley-Murtha amendment and to oppose any efforts to weaken this language.

Mr. Chairman, let me spend the remaining minute and one-half I have to discussing the underlying legislation, the aid and assistance to Panama and Nicaragua.

Those who were cheering mightily the American invasion of Panama and the capture of Gen. Manuel Noriega a few brief months ago as a justification for the slaughter of at least 300 Panamanian civilians, the death of 23 American military personnel, the devastation of the homes and countryside of Panama, can only read today's headlines to see what we achieved after all of that cost and devastation. General Noriega has just been granted by the U.S. Government the right to have his legal fees paid for by the taxpayers of the United States. The estimates are that that will cost about $3 million.

What is the reason that is being done? Because the Government of the United States does not want to reveal the fact that some $11 million were paid to Noriega while he was a CIA agent of the United States.

All of these problems result from our illegal and immoral invasion of Panama—which violated the United States Constitution, the United Nations Charter and the Charter of the OAS.

And the fact that we are authorizing funds to repair the damage does not excuse the fact that we violated our own laws and highest principles in the process.

In regard to Nicaragua, its people also were subjected to the most outrageous kind of behavior by the Reagan administration.

Much of the damage we are now trying to repair in Nicaragua is a result of the unrelenting war the United States waged against that small and impoverished nation.

Our support of the Contras—and their attempt to overthrow the Nicaraguan Government—are directly responsible for many of the problems now being experienced in Nicaragua.

And now the Contras have announced that they may not honor their agreement to lay down their arms.

Stories in today's newspapers suggest that the Contras have now said they will not live up to the agreement that they made to demobilize and lay down their arms. So much for the honor of the Contras.

This legislation authorizes funds for the repatriation and demobilization of the Contras. But these funds are contingent on the Contras willingness to disarm. If this legislation were in force today, given the Contras recent statements, these funds could not be delivered. The Contras must disarm and disband immediately, otherwise the $340 million authorized by this bill will simply be squandered.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I strongly rise to support today the efforts that we are making in this legislation to give assistance to Nicaragua and to Panama. I think over the last few years the rise of democracy in Latin America has been one of the great things that has happened in the events of the world.

We have now seen democracies flourishing in El Salvador, Nicaragua, and Panama, and we have a national security interest as well as a moral interest in seeing that those democracies survive and flourish and become good trading partners of ours in the future.

What disturbs me about this legislation are the provisions of restricting the aid to El Salvador that are in this bill. I think this is detrimental to the cause of peace in the negotiations with the FMLN, who are still the communist guerrillas operating in that country where we have a duly elected democratic president in President Cristiani, and I think that the concerns of those that want to place these restrictions are unfounded.

I happened to have been a member of the Moakley task force that went to El Salvador to investigate the deaths of the Jesuit priests. It is because of those brutal murders that none of us condone that these restrictions are now in this bill today.

Yet I think when you look back at the perspective of history, they are not justified. Death squads do not abound in El Salvador any more. We have a democratically elected government. The military basically has come under the control of the Cristiani government.

When you look at what has happened in this case itself, the interpretations that we are beginning to hear on the floor of the House with regard to the Jesuit deaths are all wrong. It seems to me we need to look at what really is happening.

We have had a thorough investigation. The task force itself says, and I quote, "* * * believes that Salvadorean President Cristiani has made a sincere effort to encourage professional investigation into the murders."

We have a bunch of officers who have been held and charged with these murders. We have a very high officer, Colonel Benavides, who is charged right now with the murders.

In the Salvadorean system of justice, a civilian judge has the investigation at the present time and he is taking that investigation forward as he is supposed to.

The investigation that this judge is doing, Judge Zamoro, is a very drawn out process under the nature of the laws of those governments in Latin America, all of them having a little different justice system from ours. But is seems to be operating.

I know I went out with the task force to interview the judge. I found him to be a remarkably frank individual who thought the case was very strong against these folks for the Jesuit deaths. He described the process which they were going to go through, a followup investigation, sort of a preliminary inquiry, followed by a deciding point on law, which would then take the case to a jury against these officers.

In the next week he has under consideration the Vice Minister of Defense, Sepeda, who will be interviewed by him, Chief of Staff Ponce, who is the highest ranking officer above Sepeda, has given two sworn statements already to Judge Zamoro, Minister of Defense Larios and Vice President of Defense-Republic Security Montano have stated that they are going to be testifying within the next week. All kinds of folks who are the key officers that we are talking about, worrying about, are all giving their statements to the investigating officer, Judge Zamoro.

I do not see where the problem is, and I think we ought to give the benefit of the doubt in this case to the newly elected, freely elected government of President Cristiani, that we all know has done an excellent job up

to this point in investigating the murders of these Jesuits, and giving the power to be able to deal with these Communist guerrillas, the FMLN, in a way that will finally bring peace. Let us not tie his hands. Let us not tie the hands of aid to the Salvadorean military and their government, right now at the critical juncture.

Let us let the Broomfield amendment carry the day. Let us let our President make those decisions, if indeed the investigation goes awry in the future, which it has not right now, and not put the shoe on the other foot and take away the aid and have it only trigger back if the FMLN do something disastrous out there.

We need to give this support to Cristiani now. I think we have that chance later in this vote on the floor when the Broomfield amendment comes up. I urge its adoption.

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, the outrageous murders of the Jesuits in El Salvador were just a ripple in the blood bath that has washed over that country for the past 10 years while the United States has pursued a policy that has American taxpayers financing death squads and torturers.

For 10 years, our tax dollars have gone to a military that views as enemies those who join unions, work with the poor, and criticize human rights abuses. The list of victims gets longer and longer. Since 1980, 70,000 people have been killed. The majority have been civilians killed by the military or death squads.

Let me tell you about some of those who have been killed. I have photographs here from the Nongovernmental Human Rights Commission of El Salvador. A group of church people in my district, church people, the Marin Interfaith Task Force on Central America, managed to get these photographs out of El Savador so that we could all see exactly what is going on there.

The face of war is not easy to look at, but I have an obligation to my constituents who risked their lives to share these photos with the American people. Therefore, I have decided to show just four of the hundreds of photographs I have access to show them as examples of the real brutality. I apologize if anyone finds it necessary to look away from these photographs.

□ 1640

The first one is a man and a woman. They were taken from their houses in April 1988, during the night by men dressed in olive drab and armed with M-16's. They were shot in the head. The woman had been raped. She was 77 years old.

The next one, three young men were found mutilated and dead in February 1988 in what is known in Salvador as a body dump. This one, a ravine between two cliffs, is called the devil's door. Their families said they had been taken away by men dressed in military uniforms. One of the victims was only 16.

Next, we have all heard of Herbert Anaya. He was president of the Independent Human Rights Commission when he was gunned down by two assailants in October 1987. He was preparing to take his children to school. This House memorialized his slaying.

As Members know, there is also violence from the FMLN. They too have committed grievous human rights abuses. This last photo is of government troops killed by the FMLN. Yes, the FMLN violates human rights, but we have not given the FMLN $4 billion since 1980 as we have given the Government of El Salvador. That is the difference. Blood is being shed with our tax dollars.

Mr. Chairman, President Cristiani has been in the newspapers talking about the progress his government is making in El Salvador. In the meantime, these abuses continue, despite the enormous rage unleased around the world by the murders of the Jesuits.

The Washington Post reported last week the disappearance of 30 more people in the first 3 months of this year. More than half disappeared after being detained by the military.

Mr. Chairman, I am one of those who has always supported strong strings on all aid to El Salvador. But I am supporting H.R. 4636 because it is a first step.

I would like to close by quoting the Moakley Commission. "During its visit to El Salvador, task force members heard the murders of the Jesuits described by high military officials as 'stupid,' 'self-defeating,' and 'dumb.' But no senior military official with whom we talked said it was wrong."

My colleagues, let us say these brutal murders were wrong. Support H.R. 4636.

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON].

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would like to advise the people in the gallery that they are here as guests of the House and outbursts and displays are not permitted under the rules of the House.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I want to take 30 seconds to try to set the record straight.

The gentlewoman from California showed pictures with Mr. Anaya, who was killed by the Communist FMLN guerrillas, and she is attributing his death to the government, which is totally incorrect.

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I do not have the time for yield.

Mrs. BOXER. The gentleman is incorrect.

Mr. BURTON of Indiana. I am not incorrect.

Mr. SOLOMON. Regular order.

The CHAIRMAN. The regular order is the gentleman from Louisiana [Mr. LIVINGSTON] controls the time.

Mr. BURTON of Indiana. Mr. Chairman, my second point I would like to make very briefly is that this is a duly elected government and the FMLN Communists down there have been threatening mayors and other elected officials and telling them they have 24 hours to get out of town, and if they do not then they kill them and their families. The gentlewoman does not mention that either.

Mr. LIVINGSTON. Mr. Speaker, how soon we forget. How many of us remember back to 1987, and the state visit of El Salvador's President, Jose Napoleon Duarte?

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The gentleman from Louisiana will suspend for one moment.

The Chair would also like to remind Members that the proper order is to address their remarks not to each other on the floor but to the Chair, and given the sensitive and controversial nature of the material the Committee is debating it would be wise for all Members to observe that practice.

The Chair now recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, how soon we forget. How many of us remember back to 1987, and the state visit of El Salvador's President, Jose Napoleon Duarte, to the United States? That heroic individual, a former political prisoner who withstood repeated torture and a death sentence, stood on the south lawn of the White House and publicly thanked the President of the United States and the American people and the Congress, yes, the Congress for our support of freedom in El Salvador.

And then he stepped off the platform, walked over to the Marine Honor Guard, and in front of an international audience he kissed the American flag.

Mr. Chairman, President Duarte is no longer with us. But the same 5 million Salvadoran people who elected him have elected another leader to carry on that country's fledgling democracy. That democracy has succeeded over the last 10 years despite threats, bombs, riots, revolution or attempted revolution, assassination,

murder, mayhem, and so forth at the hands of the Cuban and Sandinista financed and controlled FMLN.

That is the real issue, Mr. Chairman, not negotiations, not good faith efforts. This debate is about democracy, the fundamental right to choose your own leaders and not have them chosen for you by force.

El Salvador's rebels, the FMLN, like every repressive movement on this Earth, do not want democracy. They do not want negotiations and they do not want freedom. They want power. They want control, and they want it not through elections, they want it by force of arms, because they know they cannot win a free, and fair and open election.

It is time we stopped skirting the true issue. Anything that undercuts the Government of El Salvador also undercuts the will of the Salvadoran people who have voiced their feelings time and time again in free, and fair and open elections, at the polls, and have rejected what the FMLN have to offer.

So Mr. Chairman, let us stop torpedoing this democratic ally of ours in El Salvador and let us support full funding for the people of El Salvador and support the Broomfield amendment.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, it takes a lot more than elections to make a democracy. We have had a lot of autocratic governments and elections. It takes a free press. There is none in El Salvador. It takes an independent judiciary, and there is none in El Salvador. There is not a democracy.

Mr. LIVINSTON. The gentleman from Wisconsin was not there at those elections or the polls where the people voted for this government and 95 percent of those people turned out at the polls.

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in strong support of the Murtha-Moakley amendment to cut military aid to El Salvador by 50 percent for the current year, 1990, and next year.

The key to this bill is that, for the first time, it provides a real incentive for each side to negotiate successfully an end to the killing. I do not think I need to remind my colleagues in this Chamber that there are people on both sides of the El Salvador conflict who do not want successful negotiations. It would allow the President to restore the aid if the FMLN backed off the peace process, and it would give him authority to cut the military aid further if the El Salvador Government failed to negotiate seriously.

During this debate, some have said that it is playing politics to put an El Salvador amendment on this bill for Nicaragua and Panama, but the Broomfield amendment itself recognizes this bill is an appropriate vehicle for El Salvador policy because that is where it is being offered.

Some here say that we should not "tie the hands of the civilian Cristiani government" with this amendment. The fact is that there is over a year's worth of military aid already in the pipeline, some of it still left over from 1989. The Murtha-Moakley amendment would have no significant military effect in the field. But it would send a very important signal to both sides that the United States is serious about negotiation, and we want them to be also.

Finally, some here say that this is "not the right time" to bring this matter up. When is it the right time, if not now?

In November as we were last considering El Salvador aid, we were told we should not bring up any limiting or conditioning amendment because we did not know who committed those heinous murders of the Jesuit priests. In fact the gentleman from Michigan [Mr. BROOMFIELD] and others said that it probably it was the FMLN guerrillas that did it, and it would be too hasty for us to cut aid at that time. But 6 months have passed, and we now know that it was not the FMLN guerrillas but the military itself that committed these murders.

That is why we cannot call this government in El Salvador democratic. This is a country where the official military has been responsible for more torture and murder of unarmed civilians, often executed at point blank range, than the FMLN. There are heinous acts committed by both sides, but in financing the El Salvador military we are financing a military that murders its own civilians, executes its own priests, rapes its own nuns, bombs its own villagers. How can we stand up for democratic and American values if we keep financing that system without attaching any conditions? If this is not the right time to stand for our values, when would be?

The Murtha-Moakley amendment is serious, it is not playing politics. It would not tie the hands of the civilian government. This is the right time to stand up for basic American values.

We have spent 7 years and $4 plus billion in El Salvador without any serious conditons on the aid. We have not seen peace. We have not seen serious negotiations. We have not seen an end to human rights atrocities by the army. If we are not willing to put conditions on now, after what we have seen what moral commitment can our Nation claim?

It is time to put serious limits on this aid that will lead to an end of the killing.

Please support the Murtha-Moakley amendment.

□ 1650

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I had the privilege of being the senior Republican in our delegation that went to El Salvador to investigate the murder of the Jesuits. I am absolutely astonished at some of the things I am hearing said on this floor today. I am astonished to have heard the allegation that Herbert Anaya was killed by soldiers. Herbert Anaya was killed by the FMLN Communist terrorist guerrillas.

He was captured, he confessed and only when his family was threatened with death did he attempt to recant.

Ladies and gentlemen, we see here today an attempt to create what might be called moral symmetry between a duly elected, democratically elected Government of El Salvador and FMLN Communist terrorist guerrillas. It is wrong, it is dead wrong.

We are not dealing here with Sunday school teachers on the one hand, these FMLN Communist guerrillas; we are dealing with brutal terrorists.

Mr. Chairman, I brought back with me from El Salvador an AK-47 which was captured, taken from an FMLN Communist terrorist name Gallardo.

While it is not proper to bring that AK-47 here on the floor today, I have brought the silencer that was taken from that Communist terrorist guerrilla that was on that AK-47. And when Gallardo was interrogated and asked, "What do you use that AK-47 for? and most particularly, "Why do you have a silencer on it?". His answer was, "We in the FMLN use it to extract what might be called revolutionary justice."

Now, we all know revolutionary justice means assassination, assassination not of one or two or three or four but assassination of duly elected mayors, assassination of people who have the courage to stand up and speak in support of a democratically elected government.

Ladies and gentlemen, there is no moral symmetry here. We are talking about vicious Communist terrorists on the one hand and a duly elected government that is trying to bring about a better standard of life and bring about peace in El Salvador.

Now, it is true that historically there were death squads and the death squads and the military brutally murdered hundreds of innocent civilians. It was certainly true in the early 1980's.

But thank goodness we saw Napoleon Duarte bring an improvement to that situation; thank goodness we saw President Cristiani bring a further improvement to that situation. And today, while there are some excesses and nobody condones the murder of the Jesuits, the jury is still out on that and we should not destroy the Government of El Salvador. We should support the Broomfield amendment when the opportunity comes.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the bill and specifically the provisions which reduce and condition military aid to El Salvador.

Mr. Chairman, this bill provides the authorization for the foreign aid funds for Panama and Nicaragua which passed the House last month. I support providing aid to Panama to help it rebuild and promote the establishment of the fractured democratic institutions. The $470 million authorized by this bill will provide loans, credit and contributions to an international account enabling Panama to pay its debts to the International Monetary Fund. In addition, the bill authorizes $340 million in economic support funds for Nicaragua, as well as smaller amounts for Haiti, the Caribbean, and Africa.

For the first time, the House is considering legislation to withhold a large portion of the military assistance we provide to El Salvador. I believe such an action is needed to create strong incentives for both sides to negotiate for peace in El Salvador. Today we can send a message to the FMLN and the Government of El Salvador that this bloody struggle must end. Rather than prolonging the conflict, our Nation and American taxpayers can be an instrument of peace for this war-torn country.

Over the past 10 sad years, more than 70,000 Salvadorans have died and thousands more have been injured or made homeless by the civil war. The victims of this war have ranged from Archbishop Oscar Romero and other priests and nuns to labor activists, from Salvadoran Army leaders to peasant women and children. Most casualties have been innocent civilians—bystanders in a war between the Armed Forces, death squads and the guerrilla forces.

Since the election of President Cristiani last year, the level of violence and human rights abuses has regretably increased sharply. The decline of the centrist Christian Democratic government and the rise of the ARENA Party has clearly polarized the nation and led to greater extremism on both the right and left. The circumstance has gone from bad to worse. There has been a resurgence of murders by rightwing death squads as well as increased attacks by the FMLN forces.

Americans were particularly outraged by the last year's murder of six Jesuit priests and their housekeeper and her daughter. The priests were thoughtful proponents of peace who had been working for a negotiated settlement for many years. Their brutal murder allegedly by members of the Armed Forces was the worst example to date of the military ignoring civilian authority and taking the law into their own hands.

The investigation into the Jesuit murders has shown the inadequacy of the Salvadoran justice system. The Speaker's Special Task Force on El Salvador found a number of problems with the Government's investigation. These include the failure to investigate senior military officers other than Colonel Benavides and the lack of progress on gathering evidence against those already arrested. The task force also pointed out a lack of outrage or moral condemnation among senior military officials about the crime. Furthermore, the slipshod investigation is an the Salvadoran justice system at its best—a clear indication of the bankruptcy of El Salvador's criminal justice system. Thousands of other crimes have yet to even be investigated, much less brought to conclusion.

Several recent developments are cause for deep concern. Four soldiers who might have testified about the killings have been sent abroad. The colonel's diary and the log of the military school have incredibly disappeared. A number of other leads have been ignored. As of mid April, the investigation appeared to be at a standstill.

The bill addresses the inadequacy of the investigation by threatening a full cutoff of military aid if the Government fails to conduct a thorough and professional investigation into and prosecution of those responsible for the murder. A full cutoff would also be triggered if the Government declines to engage in good faith negotiations toward a cease-fire. The bill would restore all military aid if the FMLN fails to negotiate or if they receive significant military assistance from outside the country or if Cristiani's government is threatened by an FMLN offensive. I am hopeful that these carefully considered and well-balanced provisions will lead both sides to the negotiating table.

The United States has a special responsibility to assure that the Government of El Salvador is respecting human rights and vigorously pursuing a political settlement. Over the past 10 years, we have supplied over $4.5 billion in military and economic assistance to El Salvador and continue to provide over $1 million per day. While I understand the right of the government of El Salvador to restore and maintain order, the recipients of our aid should meet basic standards in the area of human rights and in efforts to reach a political settlement.

Despite the bleak outlook in El Salvador, there are reasons for hope that the decade long civil war will end. The people of El Salvador are tired of the prolonged conflict and want peace. The recent peace initiative of the U.N. Secretary General has yielded a commitment from both sides to negotiate. The end of hostilities in neighboring Nicaragua has contributed to a general lessening of tension in the Central America region.

I urge my colleagues to join me in supporting the Moakley-Murtha language on El Salvador to help the fragile peace process in El Salvador along.

Mr. SOLOMON. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, during the debate on the rule, I mentioned briefly the misgivings I have concerning this bill. Generally, I am concerned that a simple request by the administration to provide $720 million in emergency assistance to the struggling new democracies in Nicaragua and Panama has ballooned into an omnibus foreign aid package, replete with the language of micromanagement. More specifically, I am concerned about title V—the provision concerning aid to El Salvador. It is this provision that is largely responsible for the delay in bringing this bill to the floor. And it is this provision that makes such a mockery of the bill's announced purpose: to aid emerging democracies.

At the very least, Mr. Chairman, title V represents a kidney punch at the administration. President Bush and Secretary of State Baker have bent over backward to come to terms with Congress on Central American issues. The very fact that we can today call Nicaragua an emerging democracy is testimony to the success of that kind of an approach. And then along comes title V.

Only last week, Secretary Baker reiterated his assurances that the administration is willing and prepared to reach a bipartisan accord with Congress concerning El Salvador. But here Congress sits, months after President Bush requested aid for Nicaragua and Panama, holding those two countries hostage for the sake of doing some posturing on El Salvador. Let's look at the substance of title V; 50 percent of our military aid for El Salvador would be withheld right up front. And the FMLN Communist guerrillas would be given a de facto veto over that 50 percent, so long as their political representatives sit at a conference table and present a good appearance.

As a matter of fact, the only way El Salvador could receive the full amount, or close to the full amount, of aid requested by the administration, would be if the President certifies that the guerrillas are conducting, quote "substantial and sustained military operations that are jeopardizing the survival of the constitutional government of El Salvador." In other words, my colleagues, El Salvador gets the aid just as soon as the guerrillas are on the brink of victory. What kind of nonsense is that. Once again, Congress is a day late and a dollar short.

Mr. Chairman, title V is based on the premise that the Government of El Salvador, which has conducted six internationally observed elections, is morally equivalent to the guerrillas, which have never participated in any electoral process.

There is not a single word in title V about human rights abuses by the guerrillas. Not a single word is said, for example, about 3,000 innocent people killed by the guerrilla terrorist offensive in the cities of El Salvador last fall. Not a single word is said about

the guerrillas walking away from the peace table time and again, or about the guerrillas using innocent civilians as shields to wage war behind.

In short, Mr. Chairman, I would cite the Washington Post editorial of May 15—1 week ago today. The editorial presented a strong case for why military aid to El Salvador must continue. And in summary, it said, quote, "A vote for an aid cut is, perversely, a vote to fuel the war and burden negotiations," and kill more people.

Before concluding, Mr. Chairman, I would like to comment on the congressional procedures that are included in title V, the reason why this bill was subject to a sequential referral to the Rules Committee.

These procedures are advertised as being a so-called expedited process for Congress to provide aid to El Salvador after we receive the necessary certifications from the President. But, in fact, these procedures are so convoluted and fraught with ambiguities, as to defy description.

I will insert two analyses prepared by the Republican staff of the Subcommittee on the Legislative Process. One is an itemized list of problems and inconsistencies found in these procedures. The other is the minority views signed by every Republican member of the Rules Committee.

Suffice it to say right now, that the procedures whereby withheld funds could be made available to El Salvador are anything but expedited. Reading from the minority views in the committee report:

While it may not have been the intention of the drafters of this section to permit an "expedited" process to drag on for 7 months, there is no question that that is exactly what could happen under the bill as presently drafted.

The minority views then go on to detail all of the procedural gimmicks that would be available to opponents of aid to El Salvador.

And I would add that the Moakley-Murtha amendment does not make a bad provision better. As much as I like my good friends JOE MOAKLEY and JACK MURTHA, I have to say that their amendment offers only a marginal improvement compared with the bill's present conditions on leveraging the military aid. And the Moakley-Murtha amendment retains, word for word, the same convoluted procedures for expediting aid that I referred to a moment ago. All the same gimmicks would be available.

Mr. Chairman, title V is as ill-conceived as it is ill-timed. At a time when U.S. policy in Central America is bearing fruit, title V represents a regression, a return to partisan kidney punching at its worst. Title V should be changed via the Broomfield amendment. Failing that, it should be stricken from this bill altogether.

Mr. Chairman, earlier I made reference to the convoluted and ambiguous procedures that would govern the congressional response to a certification by the President that conditions in El Salvador warrant the delivery of military aid to that embattled country.

As you know, title V of H.R. 4636 withholds the bulk of United States military aid to El Salvador for fiscal year 1991, pending Presidential certification to Congress that conditions warrant the delivery in full of such promised aid.

The procedures which would govern the congressional response to such a certification have been advertised as being an expedited process for releasing the aid that had been withheld. A closer examination, however, reveals that these procedures are fraught with ambiguities and inconsistencies.

The Republican staff of the Subcommittee on the Legislative Process, Committee on Rules, has prepared a detailed analysis of the problems posed by these procedures.

For the benefit of my colleagues, I would like to insert in the RECORD an itemized list of the specific anomalies and ambiguities in these procedures, as well as the minority views of H.R. 4636 that were signed by the four Republican members of the Committee on Rules.

SUMMARY OF PROCEDURAL PROBLEMS WITH EL SALVADOR AID PROVISIONS OF H.R. 4636, SUPPLEMENTAL FOREIGN ASSISTANCE AUTHORIZATION

Title V of H.R. 4636 places various limits and conditions on U.S. military assistance to El Salvador. In fiscal 1991, the bill authorizes $85 million in such assistance, but withholds half unless the President makes certain determinations regarding the FMLN (rebels). Moreover, of the half that is not withheld, only half of that (i.e., one-fourth of the total) may be made available prior to March 1, 1991, at which time the President must report to Congress on the actions of the government and the FMLN towards achieving a negotiated peace.

The remaining unwithheld funds shall be made available at that time but may not be expended until the expiration of a 30-day congressional review period of the President's report. Any joint resolution reported from the House Foreign Affairs or Senate Foreign Relations Committees during the 30-day review period which places conditions or limits on fiscal 1991 military aid for El Salvador shall be privileged for consideration on the third day after it is reported or at any time thereafter.

Sec. 501(h) of H.R. 4636 establishes the expedited procedures for such joint resolutions. These procedures pose the following problems:

Any joint resolution reported prior to March 31, 1991, would remain privileged through Sept. 30, 1991; it need not be considered during the 30-day review period.

The prohibition on the inclusion in a joint resolution of provisions which are not "germane" to the limits and conditions of the joint resolution is not an appropriate parliamentary term since germaneness is used only with respect to amendments (provisions of a measure cannot be nongermane to that measure).

The four hours of general debate time is divided between a Member favoring and a Member opposing as opposed to the customary division of general debate time between the chairman and ranking minority member of the reporting committee; the bill permits amendments in the House, when it should be the Committee of the Whole, and limits debate time on them to such time as ordered by the House, when it should be under the five-minute rule. (Absent a rule, or a unanimous consent request or motion on each amendment, the House is not in a position to order time limits on amendments).

The bill provides that the final passage vote in the House would occur on the joint resolution and those amendments adopted in the Committee of the Whole. Any amendment adopted in the Committee of the Whole must first be readopted by the House.

MINORITY VIEWS ON H.R. 4636

The Rules Committee received a joint referral of H.R. 4636 because section 501(h) establishes procedures for the consideration by Congress of joint resolutions placing conditions or limitations on fiscal 1991 U.S. military assistance to El Salvador.

Section 501(h) is misleadingly headed, "Expedited Congressional Review Procedures." While the bill ostensibly creates a 30-day congressional review period for a presidential report, it actually authorizes up to seven months during which a privileged joint resolution could be considered by Congress.

Section 501(b)(2)(c) makes the balance of unwithheld funds available on March 1, 1991, when the President is required to issue a report to Congress on the progress of peace negotiations in El Salvador; but it bars the expenditure of those funds for 30-days "in order to provide time for congressional review of the report."

Section 501(h) defines "privileged joint resolution" as any joint resolution containing a limit or condition on military aid to El Salvador for fiscal year 1991 which "is reported" by the House Foreign Affairs or Senate Foreign Relations Committees "during the 30-day period beginning on March 1, 1991." The bill does not, however, require that the resolution be considered by Congress during that same 30-day review period. It only prohibits its privileged consideration prior to the third day after it is reported. There is no limit as to how long after it is reported it would remain privileged for consideration.

Since the joint resolution can only deal with fiscal 1991 funds, it would only be applicable for the balance of that fiscal year, that is, through September 30, 1991. At that point, any military aid still in the pipeline must be converted to humanitarian assistance under the terms of the bill.

While it may not have been the intention of the drafters of this section to permit an "expedited" process to drag on for seven months, there is no question that is exactly that could happen under the bill as presently drafted, so long as the resolution is reported prior to March 31, 1991.

This opens the way for all kinds of mischief. It could happen that such a joint resolution (or several) could be reported within the 30-day time frame without any plans for immediate floor consideration. And yet, several months later, should a hitch occur in negotiations, it might be called up in the House without any review of or hearings on the actual circumstances, simply to embarrass the Administration.

We are especially surprised that the Rules Committee majority even tepidly embraces such an open ended "expedited" process that both circumvents the Rules Commit-

tee's involvement and takes away the leadership's scheduling prerogatives. As the majority report notes:

Generally, the Committee takes a dim view of including expedited procedures in legislation and has worked with committees to minimize the practice.

We are even more astounded, though, as to the reason given for the committee's support of these particular expedited procedures:

However, the Committee notes that the procedures used in this bill are structured to allow a certain degree of flexibility in the consideration of a joint resolution.

Referring to seven months of "expedited congressional review procedures" as a "certain degree of flexibility" has to take the prize as the parliamentary understatement of the 101st Congress. If the joint resolutions were given any more flexibility they would be double-jointed.

We have no objection to expedited procedures in certain situations in which prompt congressional review and action is necessary to accommodate the implementation of executive actions. The committee and conference process is not designed to respond as quickly as might be necessary in such cases. This is the first time, however, that we can recall seeing an expedited review period that could stretch for up to seven months. Ordinarily the periods run 30-, 60-, or 90-days at the most.

There are other procedural problems with subsection (h): it prohibits nongermane provisions in joint resolutions yet bars points of order from being raised; it divides general debate time between a Member favoring and a Member opposing instead of the customary division of time between the reporting committee's chairman and ranking minority member; it provides for debate on amendments "in the House of Representatives to the extent ordered by the House," while at the same time implying that consideration is on the Committee of the Whole under the five-minute rule; and it prohibits separate votes in the House on amendments adopted in the Committee of the Whole.

In summary, subsection (h) is a procedural abomination. We strongly urge support instead for the minority substitute which remedies these procedural failings as well as making substantive improvements in the policy aspects of Title V.

JAMES H. QUILLEN.
JERRY B. SOLOMON.
LYNN MARTIN.
CHARLES PASHAYAN, Jr.

□ 1700

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. Goss], a distinguished member of the Committee on Foreign Affairs.

Mr. GOSS. Mr. Chairman, I think my colleagues have covered most of the salient points with regard to what is going on with the FMLN, the brutality, identifying them for what they are—Communists bent on terrorism.

What I want to talk about is how well the Government of El Salvador is doing right now in terms of its approval ratings in its own country. I quote here from a recent public opinion survey conducted by CID of Costa Rica. Members will recall that that was the firm used by former President Arias of Costa Rica, and frankly the only firm to accurately predict the Chamorro victory in Nicaragua. That firm poll indicates that President Cristiani presently holds a 72-percent favorable rating. The same survey also indicates a 72-percent popular support for the Salvadoran military, and an 80-percent favorable rating of the United States. Salvadorans are largely blaming the FMLN, Cuba, and Nicaragua for the civil war.

Mr. Chairman, I would also like to point out that earlier this year when I was in El Salvador speaking with President Cristiani, I asked specifically the question, what will happen if we send a signal from the U.S. Congress that we are cutting aid to the military in El Salvador? The President looked me in the eye and he said, "That will be a signal for the FMLN to go out and create a wave of terrorism." Well, Mr. Chairman, as a matter of record, just a few days after the Committee on Foreign Affairs did, in fact, vote in an amendment to cut aid, that a wave of terrorism, orchestrated by the FMLN, did take place, nationwide, in El Salvador. People were killed, women, children, innocent victims, as well as combatants. That is unacceptable.

I urge my colleagues to face the real facts in El Savador, what is really going on down there, support the Broomfield amendment. It is the right way. It is the right balance of carrots and sticks, and I think that the other proposals although well-intentioned, miss the mark.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the chairman of the full committee who has done as good a job as he could do in attempting to draft a first supplemental foreign aid package, but all of the debate we have heard this afternoon seems to be whether or not we are going to provide military aid for one side or the other in El Salvador, who are killing each other.

They are talking about the President wanting a mere $700 million besides the supplemental foreign aid. Supplemental foreign aid means over and above the already some $20 billion we have spent in foreign aid in this fiscal year.

I am here to talk about what is here for the United States of America. We are talking about who is killing who in El Salvador, and we cannot determine, if the U.S. Congress can be evenly divided, we cannot decide who is killing who. Yet we are talking about spending not $700 million but almost $1 billion in foreign aid in the supplemental aid package. We are providing money for housing, we are providing money for small business, we are providing money for the military on this side and the military on that side.

There are communities in need all over this country. I receive calls from small business people who are on the rocks, who need the help of their government. They cannot get it. I receive calls from people in this country who need housing, senior citizens. So much is needed in this country, and yet we stand here and debate hour after hour of spending another mere billion dollars, sending it around the world, and we do not even know who is killing who.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. HOUGHTON], a member of the Committee on Foreign Affairs.

Mr. HOUGHTON. Mr. Chairman, I would like to just take a little different track here. I support the Broomfield substitute amendment really because it de-emotionalizes the issue, and is the practical way of getting at what the real bill is all about, which is help to Nicaragua and to Panama.

There are really two issues here. There is the El Salvador issue which has its own tragedies. But really, when we take a look at the need here, it is for the need to prevent the financial collapse of two critical countries. One is Panama, the other is Nicaragua, which we were part of the process of provoking.

They would not be considered in the package if they were not in the same part of the world. I submit that there is no tie-in. I submit the El Salvador issue is not germane. I submit furthermore, that I feel so strongly about this that I would even vote for the Studds amendment if it were separated from this bill, which goes to the part of the need of two great nations.

The CHAIRMAN. The gentleman from New York [Mr. SOLOMON] has 5 minutes remaining, the gentleman from Michigan [Mr. BROOMFIELD] has 13 minutes remaining, the gentleman from Florida [Mr. FASCELL] has 9 minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 15 minutes remaining.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, later during consideration of this bill, my colleague from Pennsylvania [MR. MURTHA], will join me in offering an amendment to address the current realities in El Salvador, and I will ask for the support of my colleagues on this measure.

Yesterday both the FMLN and the Salvadoran Government signed a statement after 5 long days of negotiations indicating that "a cease-fire could occur before mid-September." Before that happens, however, both sides will engage in a series of talks on delicate issues such as reform of the

armed forces, human rights, electoral and constitutional reform, and the economic and social situations.

Mr. Chairman, today the United States Congress has the opportunity to help make that cease-fire—and an eventual negotiated end to the war in El Salvador—a reality.

This is not the first time the FMLN and the Salvadoran Government have talked, and this is not the first time we have heard lofty statements emanating from both sides. But if this is the first time that they are serious about peace, then let this Congress show it is equally serious.

The provisions in the Moakley-Murtha substitute make it more likely that both sides will keep their word.

Quite frankly, I do not have a whole lot of trust in either the FMLN, or the Salvadoran Armed Forces. They both lie and they both play politics with other peoples' lives.

Let us provide the necessary pressures to make a continuation of the current war policy less likely.

Mr. Chairman, over 70,000 Salvadorans have been killed in a conflict that has raged over a decade. And there are elements in both the right and left who are interested not in peace—but in a continuation of the war in order to sustain and expand their own power base.

I hope this Congress has had enough. I know the people of El Salvador, who have suffered enormously, want an end to the war and all of its horrible consequences.

Let us finally stand up for the majority of Salvadorans, who have said over and over again that they want peace now. Support the Moakley-Murtha substitute and support the peace process.

And I also urge my colleagues to vote "yes" on final passage of H.R. 4636—the fiscal year 1990 Supplemental Authorization for Emerging Democracies.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I think the gentleman who just spoke is absolutely entitled to his opinion. He was down there, and he can make his own judgment. I have no quarrel with that. But he showed a lot of arms that were coming in, and under the Moakley-Murtha amendment, once the aid is cut and these things happen, of course, the military aid goes up to 100 percent, so the Government or the military of El Salvador does not loose anything.

At this time I would like to read a statement from Dr. Fidel Chavez Mena, Secretary General of the Christian Democratic Party of El Salvador, and former Minister of Foreign Relations and Economic Planning in the Duarte government, who expressed the belief of his party——

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield just for a second?

Mr. MOAKLEY. I yield very briefly.

Mr. BURTON of Indiana. I have one real quick question.

Mr. Chairman, for years we have been alleging that weapons have been smuggled into El Salvador, and Members on the gentleman's side of the aisle have been denying they have been smuggled in. If this amendment passes, how are we going to know if the FMLN continues to have weapons smuggled in? We know that they just came in earlier this year.

Mr. MOAKLEY. Mr. Chairman, under the Moakley-Murtha amendment, if the President is convinced that a significant number of arms is coming into the FMLN, then he raises the money back up to 100 percent where it was before.

Mr. BURTON of Indiana. What does "significant" mean? The use of the word "significant," clearly means that some unidentified lesser level of weapons is acceptable.

Mr. MOAKLEY. "Significant" will be determined by the President, who will make the judgment.

Mr. BURTON of Indiana. But the gentleman himself does not have any definition of what "significant" means?

Mr. MOAKLEY. I cannot tell the gentleman what "significant" is. It means more than a lesser amount.

Mr. BURTON of Indiana. But the gentleman is the author of the amendment.

Mr. MOAKLEY. That is right, but "significant" will be determined by reasonable people under reasonable circumstances.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the chairman of the committee.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

Of course we knew that arms were being smuggled to the FMLN, and we had an investigation of it. We found out how it was done and how much of it was done. So it can be determined.

Under the legislation we are talking about here, the President would make that decision. I cannot imagine that the gentleman would find something with that. I thought I understood him correctly. Or did I misunderstand him?

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I just think when we are getting into this area, which is a very gray area as far as I am concerned, relative to the security and safety of El Salvador, if we are going to pass legislation dealing with the security of this nation and whether or not weapons are coming in or out, we ought to be more definitive than we are with this particular language. Just saying "significant" is not enough for me.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has expired.

Mr. MOAKLEY. Mr. Chairman, I yield myself 3 additional minutes.

Mr. Chairman, I will tell the Members what the word "significant" does not mean. The word "significant" does not mean one member of the FMLN walking down the street with a rifle over his shoulder. "Significant" is a term that will be determined by the President and his military advisers. I do not think there is any big question there.

Mr. BURTON of Indiana. Would the gentleman let me ask one more question? Would the gentleman yield?

Mr. MOAKLEY. Go ahead.

Mr. BURTON of Indiana. Mr. Chairman, let me quote this:

> The Esquipulas II (Arias) peace plan calls for the cessation of overt and covert military aid to insurgent forces "as an essential requirement for achieving a stable and lasting peace in the region."

Why would the gentleman want to go against the Arias agreement? This is a complete cessation, and the gentleman is saying, "significant." We are talking about all of it.

Mr. MOAKLEY. Mr. Chairman, we are talking about the carrot-and-stick, determining future aid to El Salvador, and that is why the word "significant," is used.

Mr. BURTON of Indiana. The gentleman did support the Arias peace plan, did he not?

Mr. MOAKLEY. Absolutely.

The CHAIRMAN. The gentleman will suspend.

The Chair will state that if the gentleman from Indiana or any other Member wishes a Member to yield, he should put the question to the Member who has the time.

Mr. BURTON of Indiana. Mr. Chairman, I did ask the gentleman to yield.

The CHAIRMAN. The Chairman recognizes the gentleman from Massachusetts [Mr. MOAKLEY], and if he wishes to yield, he may do so. The Chair recognizes him further at this time.

□ 1720

Mr. MOAKLEY. Mr. Chairman, as I said, in a recent statement by Dr. Fidel Chavez Mena, Secretary General of the Christian Democratic Party of El Salvador, and former Minister of Foreign Relations and Economic Planning in the Duarte government, he expressed the belief of his party that, "if El Salvador is truly moving toward peace, we will need military aid less and less."

His statement goes on to say that:

Freezing half the military aid, as proposed by Congress, makes exactly this point. If negotiations between the government and the FMLN advance toward concrete agreements, and if the FMLN abides by them, the frozen fifty percent will not be necessary and will not be delivered. We suggest that these funds be converted into direct economic and humanitarian assistance to further the investment in democracy and peace, which El Salvador wants and the United States has supported.

In sum, we believe, as did our late President Jose Napoleon Duarte, the founder of our Christian Democratic Party, that a combination of international pressure and support is beneficial to the negotiating process.

Mr. Chairman, that is a statement by Dr. Fidel Chavez Mena, Secretary General of the Christian Democratic Party of El Salvador.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank the gentleman from Michigan [Mr. BROOMFIELD], the distinguished ranking member of the full Committee on Foreign Affairs, for yielding, and I would like to, of course, express my appreciation to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished chairman of the Committee on Rules.

Mr. Chairman, I had the privilege of going to El Salvador, as some said earlier, to participate in that very important, but tragic, task force that went to investigate the murder of Father Ellacuria and the other Jesuits. It seems to me, Mr. Chairman, that we have a real tragedy here, and I think that the President of the United States has said it several times very emotionally.

If we had thought 1 year ago today that we would see Manuel Noriega out of office, out of control of Panama, and Daniel Ortega out of control of Nicaragua, most everyone in this House would be absolutely stunned. At that time, if we had in a bipartisan way talked about putting together some kind of aid package which would assist these people, who have been living under the repression of Noriega in Panama and Ortega in Nicaragua, I believe that we would have had complete bipartisan support for that package.

Mr. Chairman, that is exactly what the President of the United States is calling for here. He wants us to help these people who have, as has been said many times, these fledgling democracies which are attempting to reach out of this deep pit of totalitarianism to some kind of democratic form of government.

Mr. Chairman, they have taken that first and very bold step by having free and fair elections. We saw Guillermo Endara win by an overwhelming margin over a year ago, and we, of course, saw earlier this year, on February 5, Violeta Chamorro win.

Now that we have done everything we can to encourage that process, let us provide these people with the assistance needed.

So, Mr. Chairman, what do we do from this Congress? We decide, following the President's request, to hold hostage that very important package for the people of Panama and the people of Nicaragua.

Mr. Chairman, this is reprehensible, that we would consider in any way preventing the people of Nicaragua and Panama from getting this support without cutting off aid to the duly elected Government of El Salvador.

Mr. Chairman, we have seen for the first time in the history of El Salvador the transition from one democratically elected government to another in the history of that country, and, yes, last November 16 saw a real tragedy, the horrible massacre of those Jesuits. However, Mr. Chairman, it would not have taken place had the FMLN not on November 9 launched the largest urban assault ever in El Salvador, and we have got to recognize that our assistance to the Cristiani government is important.

As one of our Democratic colleagues on that important mission led by the gentleman from Massachusetts [Mr. MOAKLEY] said, "President Cristiani offers the best hope for the future of El Salvador."

Mr. Chairman, we know that he is working diligently on behalf of this package, and we need to ensure that the aid to El Salvador is consistent and strong.

The FMLN cannot get their support from the Soviets, the Government of Nicaragua, or Cuba. They are getting it from the U.S. Congress.

Mr. SMITH of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this legislation represents the first time in 10 years that the Congress will tell the Salvadoran Armed Forces that they do not have a blank check.

Ten years of giving the administration virtually a free hand and all the military aid they have requested, has resulted in a Salvadoran military which is impervious to civilian control and blindly permissive of human rights abuses.

The case of the six murdered Jesuits and their housekeepers, far from being an isolated case of human rights abuse, is a telling example of the Salvadoran military's contempt for justice. Key witnesses have been sent overseas, evidence in military custody has disappeared, and the judicial system has been intimidated to the point of paralysis. Clearly, the Congress must send a strong signal—and must send it now.

The committee's language on El Salvador deserves the support of the entire House. Passage of this provision would send a serious and unequivocal message to all segments of Salvadoran Society—particularly the combatants on both sides—that the United States is determined to support the negotiating process and the regional movement towards demilitarization and to see that justice is done in the case of the murdered Jesuit priests.

The provisions regarding military aid are clearly aimed at the military sectors of El Salvador, both Government and rebel. Furthermore, the provisions strengthen President Cristiani's ability to respond to El Salvador's needs. Economic and development assistance are not affected and should the 50-percent cut remain unaltered, these funds are converted to development assistance—which would help the neediest Salvadorans.

NOW IS THE TIME TO ACT

Last June, the administration argued that it was not the time to condition U.S. aid because it might signal a lack of support for President Cristiani. The Salvadoran military interpreted the lack of conditioning as a signal that their acts of harassment and abuse were acceptable.

Last September, the administration told the Senate that it was not the time to condition United States military aid because it might undermine talks between the Salvadoran Government and guerrillas. Lack of United State action led the Salvadoran military to again move forward with a campaign to harass, abuse, and attack any segment of the Salvadoran population which was opposed to their actions.

Last November, the administration again argued that it was not the time to suspend part of U.S. military assistance in response to the brutal murders of six Jesuits—that Congress should focus not on the crime but on the investigation of that crime. Lack of congressional action led the Salvadoran military to bring the investigation to a grinding halt.

Now, the administration again argues that a cut in aid would send the wrong signal at a point when negotiations are set to begin. Mr. Chairman, we have been sending the wrong signal all along. It is time to speak unequivocally to both sides and state that the United States is in support of peace and a negotiated settlement to the Salvadoran crisis.

REGARDING PANAMA AND NICARAGUA

The $720 million for Panama and Nicaragua will provide desperately needed assistance for the new and popularly elected governments in those two nations.

The Governments of Nicaragua and Panama are struggling to show their people that democracy can and does

work, that freely elected governments can face down the tremendous economic and social crises which have taken hold of the Central American region.

It is critical that we move quickly on this aid package. To delay would do further damage to our Nation's credibility in the region. We have promised that democracy does work, we have promised aid, and congratulated these new democracies. The time has come to meet our obligations and help these fledgling democracies fulfill their promise.

FREE TRADE WITH PANAMA

In addition to this aid package, I believe it is important to consider ways of increasing trade with these two nations. Privately, the Panamanian Government has expressed an interest in discussing the possibility of a free trade agreement with United States officials.

A free trade agreement would directly benefit the Panamanian private sector, the sector most damaged by United States sanctions, the United States invasion and subsequent looting.

While the $470 million package will be invaluable to the Endara government, it will not automatically spur activity in the private sector. To assure quick private sector growth, and the employment and economic growth that comes with it, Panama must again become an attractive trade and investment center. A free trade agreement with the United States would create such growth.

It is my hope that the State Department and other appropriate agencies will seize the initiative and begin to study the many benefits of a free trade agreement with the nation of Panama.

FORT WORTH, TX,
*May 14, 1990.*

Hon. BILL RICHARDSON,
*House of Representatives,*
*Washington, DC.*

DEAR BILL: When I retired from Congress last year, I vowed I would never lobby or harass my old colleagues about anything. Please indulge me one exception. It involves an area in which I've had a consuming interest—Latin America.

In my considered view, it is extremely important for Congress to move just as swiftly as possible to approve President Bush's emergency request for $720,000,000 in desperately needed economic aid to Panama and Nicaragua.

New popularly elected heads of state in both countries are striving mightily to demonstrate that democracy does work, and that freely chosen governments can come to grips with the staggering economic and social problems that beset the region.

The need is immediate, even desperate. Years of war and mismanagement have crippled the economies of the two countries. The aid proposed by President Bush, modest by our own standards, can make a major difference. It can give those impoverished economies a new lease on life.

It is important to our country's credibility in all of Latin America that we make good on our President's commitment in these particular instances. The delays of our legislative process are difficult at best for many to understand. If our country should renege on a pledge so publicly made, it would give rise to pervasive cynicism as to our motives and reliability.

Moreover, simple justice demands that we help to repair the widespread damage to public infrastructure and the private economy inflicted by U.S. arms and economic embargoes. Democracy can thrive in Latin America only when we show that it promotes economic justice.

Thanks for your consideration. I earnestly believe our early affirmative action is very important in a part of the world that is very important to us. Very best personal regards.

Sincerely,

JIM WRIGHT.

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SIDE-BY-SIDE COMPARISON OF THE EL SALVADOR LEGISLATION

| | House Foreign Affairs Committee H.R. 4636, Title V | Broomfield substitute |
|---|---|---|
| Effect on fiscal year 1990 military aid. | 50 percent withholding..... | None. |
| Reprogramming of withheld aid. | rechanneled into humanitarian aid. | None. |
| FMLN: Incentive to meet conditions of language. | 50 percent military aid withholding maintained. | No incentive. |
| FMLN: Punishment if conditions are not met. | Reinstatement of 100 percent of military aid to Armed Forces. | 0 to 100 percent reinstatement of military aid—but only if the aid has already been withheld. |
| Military: Incentive to meet conditions of language. | Maintenance of 50 percent of military aid. | 100 percent maintenance of military aid. |
| Military: Punishment if conditions are not met. | 50 percent of remaining aid would be withheld. | 0 to 100 percent of aid withheld depending on which of eight conditions are not met. |
| Resolution of Jesuit case. | 100 percent military aid withheld if not resolved. | 0 to 25 percent cut in military aid if not resolved. |
| Time frame for resolution of Jesuit case. | Action would be taken 6 months after murders. | Action would not be taken for at least a year after the murders. |
| in case of military coup. | 100 percent withholding..... | 100 percent withholding. |
| Judicial reform ..... | Promotes negotiations and allows the GOES and FMLN to resolve the reform question through the negotiations process. | Preempts the negotiations process by removing reform from the list of issues to be dealt with in negotiations. |
| Separation of police from military. | Leaves this issue in the hands of the negotiations process. | Offers $2 million in police aid even if the police are not separated from the military. |

CRITIQUE OF THE BROOMFIELD SUBSTITUTE AMENDMENT ON EL SALVADOR

CONCLUSION

The greatest weakness of the Broomfield amendment is its failure to signal strongly enough Congress' concern about the need for further reform of the Salvadoran military.

BACKGROUND

The Salvadoran military for many years has operated as a power unto itself, above the law and beyond the control of civilian authorities. This has proven to be as true during the tenure of President Alfredo Cristiani as it was under his predecessor, Jose Napoleon Duarte, notwithstanding the best efforts of each. Human rights abuses and massive corruption have been carried out with impunity.

The likely involvement of high level military officials in the November, 1989 murders of the Jesuit priests and their two associates has focused attention on the role of the military in Salvadoran society. The success of the current negotiations, of judicial reform, of efforts to improve human rights practices and establish a pluralistic democracy depend heavily on the extent to which the military can be made accountable to civilian authorities.

TALKING POINTS

1. The provisions related to the investigation and prosecution of November, 1989 murders of the Jesuits and their associates does not reflect the commitment made by the House last November with regard to this case.

The House, by a 409-3 vote last November 20, approved a resolution that "states unequivocally that a satisfactory resolution of this case is a pivotal test of El Salvador's democratic and judicial institutions and will be instrumental in determining continued U.S. support for the Government of El Salvador."

The Speaker's Special Task Force on El Salvador recently concluded that "the investigation and preparations for prosecuting the case have come to a virtual standstill. This is true both with respect to any investigation of possible senior officer involvement in the crimes, and to the gathering of further evidence against those already arrested. This lack of Salvadoran law, make it less and less likely that full justice will be done."

Under the Broomfield amendment U.S. policy toward El Salvador remains unchanged for another six months. With respect to the Jesuit case, no action would be taken before November, 1990—a full year after the murders. At that time, if the President determines that the government "is failing to conduct a thorough and professional investigation into, and prosecution of those responsible" for the murders, he must withhold up to 25 percent of the FY 91 military aid.

The November House resolution, together with Foreign Affairs Committee approval of a 50 percent "up front" withholding have created expectations both in the U.S. and in El Salvador. Approval of the Broomfield amendment, despite the conclusions of the Speaker's Special Task Force and recent additional information concerning problems in the case, would signal a failure of will on the part of the House. Such action is likely to undermine those in El Salvador—both within and outside the military—who are seeking to make the military accountable to the civilian authorities.

2. The current situation in El Salvador calls for clear, unequivocal action. The Broomfield amendment relies heavily on a process of conditioning aid that has been tried and proven largely ineffective.

The Broomfield amendment proposes to authorize expenditure of the full amount of military aid, and later review the performance of the government on specific criteria before determining whether to suspend a portion of the assistance.

This approach has been used in the past and has proven ineffective for two reasons:

First, the previous U.S. Administration demonstrated a willingness to certify progress on conditions where little or none existed; and

Second, the language of the conditions often reflected the ambivalence of Members of Congress who wanted to see improvements within El Salvador but were not willing to support a suspension of aid.

The current situation in El Salvador calls for clear, unequivocal action on the part of the U.S., such as that reflected in the House

Foreign Affairs Committee recommendations. Archbishop Roger Mahony made this point on behalf of the United States Catholic Conference: "By initially withholding a substantial portion of the military aid as yet unexpended in the current year and of that already authorized for next year, demonstrates that failure to respect human rights will have real consequences. It also demonstrates our active and strong commitment to the peace process . . . the enormity of the murders of the six Jesuit priests and the two women at the UCA, and of so many other unpunished crimes, calls for new approaches that clearly signal an end to business as usual."

The approach embodied in Title V of H.R. 4636—the immediate withholding of a substantial portion of aid—has been used on one other occasion. In FY 84, 30 percent of military aid was withheld until a verdict was rendered in the case of the murdered American church women. In the absence of strong action by Congress the case had languished in the Salvadoran judicial system for three years. Once aid was withheld, a verdict (albeit one that did not investigate or prosecute higher level military officers) was rendered within months.

3. The Broomfield amendment provisions concerning administration of justice programs and democratic initiatives cannot succeed until the Salvadoran military demonstrates a greater willingness to submit itself to civilian authority.

The amendment fails to acknowledge the role the Salvadoran military has played in obstructing the administration of justice and democratic initiatives in El Salvador, as well as the obstacles presented by the war itself.

The amendment would, for example, provide funds "to enhance the organizational and leadership skills of the members of such organizations [professional, civic, trade union, business, community, etc.] in order to increase citizen participation in democratic process."

An example reported in the press this week about the disappearance last December of the leaders of an agrarian reform cooperative in San Cayetano, (Department of Ahuachapan) illustrates the problem with the proposals in the Broomfield amendment for judicial reform and democratic initiatives. In addition to these recent disappearances, countless other civic, labor, church, agricultural, and peasant leaders have been murdered, arrested, tortured, disappeared or forced into exile as a result of their civic involvement.

The need to create a climate that allows broad participation in all aspects of civil society, including partisan politics, depends in the first instance on the restraint of the Salvadoran military and only secondarily on technical assistance and leadership training.

4. The amendment fails to take strong action to encourage the current negotiations process. Strong action at this time may enhance the possibility of early agreements that would improve the climate for national elections in March 1991.

Many in El Salvador, from across the political spectrum, are looking to the Assembly and municipal elections in March, 1991, as an important component of an overall resolution of the conflict. A number of reforms are needed, however, if the elections are to be conducted in a way that truly will contribute to peace. This is an area that is likely to be under consideration in the negotiations. With campaign season getting underway by September, 1990, these agreements will have to be reached at an early stage if they are to achieve the desired outcome. The U.S. must signal its seriousness of purpose earlier rather than later if it hopes to encourage successful negotiations on this issue.

THE BROOMFIELD AMENDMENT ON THE SALVADORAN MILITARY

The amendment seeks to address the problem of the Salvadoran military in the following ways:

Requires bi-annual reports from the President including an assessment of government policies with regard to "an end to the involvement in or support for acts of unlawful violence, secret detentions, abduction, torture, and murder by members of military, security, or police forces;"

Provides for the withholding of up to 25 percent of military aid if the President determines and reports to Congress not later than November 1, 1989 or May 1, 1990, that the government: is failing to conduct a thorough and professional investigation into the November, 1989 murders at the University of Central America; is failing to separate the police force from the Armed Forces and establishing a police force under civilian authority; and is failing to reorganize the structure and reduce the size of the Armed Forces following the successful completion of a negotiated settlement with the FMLN.

Requires approval by the Salvadoran president of the obligation or expenditure by the Armed Forces of all U.S. military aid.

The amendment also provides $10 million in ESF for Administration of Justice programs and activities and for a "Support for Democracy Program."

MAY 15, 1990.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Chairman, I rise to emphasize how important it is that the amendment of the gentleman from Michigan [Mr. BROOMFIELD] pass. Let me tell my colleagues where the battle is.

My colleagues have seen what went on in Ceausescu's government in Romania. They saw what happened in Nicaragua. They now see where the focus of attention is.

I recently met some months ago with the Human Rights Commission in Managua. They told about how that all of the support for the international support had been cut off from the Human Rights Commission inside Managua once the Communists took control there. They went back to some of their old suppliers. They went to the World Council of Churches and the other funding sources. They said why is it they are cutting off aid to us, who are human rights people, and they said, my colleagues; get this: Geneva said to Managua, they said, "We are no longer concerned about human rights abuses in Nicaragua. Our next target, our next goal, is El Salvador."

So, Mr. Chairman, I say to my colleagues, "You can just watch the coalition building. Now that they have lost Eastern Europe, now that they are losing Nicaragua, the next goal is El Salvador."

So, we have an amendment that says this. The amendment says that, even if they make progress on human rights, even if they have a serious investigation in the Jesuit case, even if they reform the military and the judicial system, even if they do all of those things, the aid is still cut off. If the Communist guerrilla front organization, the FMLN, refuses to launch an offensive, then the aid from America will still be held in abeyance.

Now, get that, get that, that, as long as the Communists do not launch an offensive, then the aid is withdrawn.

Now, talk about convoluted, backward thinking. I do not have any idea how in the world we can come up with the idea that we give veto power to the Marxist guerrillas that have spent the last 6½ weeks moving all of their caches of supplies from Nicaragua into El Salvador. Now that they are ready to try to undermine the democratically elected government, we are about to pass an amendment in this Congress that says that those people are given veto power over aid to an ally that has a democratically elected government.

□ 1730

Mr. MOAKLEY. Mr. Chairman, for purposes of debate only, I yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I want to use my time this evening to rise in support of the Moakley-Murtha amendment. This is a balanced amendment which will strengthen this bill and require both the government of El Salvador and the FMLN rebels to meet important conditions. It provides incentives for both sides to remain at the bargaining table.

Most importantly, this amendment contains positive incentives for peace.

The Moakley-Murtha substitute withholds 50 percent of Salvadoran military aid in the fiscal years 1990 and 1991, and links the restoration or elimination of this aid to specific conditions by the FMLN and the Salvadoran military, just as in the bill.

The substitute goes even further than the bill by adding a provision to trigger a cutoff or resumption of all military aid if either side is engaging in violent attacks on civilians.

It further strengthens this bill by requiring that all military aid be approved by President Cristiani, strengthening his hand in dealing with the military.

It authorizes election monitoring funds for the purpose of promoting democracy and monitoring the municipal and parliamentary elections in El Salvador in March 1991.

We need to act now to encourage current negotiations for a cease-fire and lay the foundation for democratic and judicial reforms that will bring all

Salvadorans into the political process by the March 1991 elections.

The United States must demonstrate that we will back up our concern for the murder of the six Jesuit priests, their housekeeper and her daughter, and other equally reprehensible crimes with a real change in policy.

Showing our full support for the Salvadoran government through unconditional aid has not proven successful. It has only helped institutionalize an independently wealthy segment of the military that assumes the United States will continue to fund the war no matter what.

Mr. Chairman, that false sense of security must be removed.

Let there be no mistake about it, the FMLN has also engaged in its share of human rights crimes. The point is that neither side is blameless. The bottom line is that it is time for a change. Justice dictates it and the war-weary Salvadoran people desperately yearn for it.

The United States must put its money where its mouth is. If we abhor human rights violations by both sides, we must support the Moakley-Murtha amendment and institute a positive change for peace today.

This amendment offers a real opportunity to forge a bipartisan policy toward El Salvador. This amendment allows us to constructively demonstrate our frustration over events in El Salvador, while at the same time encouraging both sides to negotiate in good faith.

The substitute would complement, not undermine, the peace negotiations which have recently begun between the Salvadoran government and the FMLN. It provides real carrots and sticks to help prod the negotiations forward.

If either side fails to negotiate in good faith during the peace talks, U.S. military aid will be eliminated or restored, depending on the conduct of the parties.

With this substitute, extremists in both the FMLN and the Salvadoran military will feel the consequences of obstructing negotiations. This substitute is not about punishing the Salvadoran military. It is about supporting those moderates in El Salvador who are seeking to negotiate and end to that terrible war.

I want to support those moderates, and a U.S. policy that will help to end this bloody civil war. I urge my colleagues to support the Moakley-Murtha substitute and final passage of this bill.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to the gentleman from Texas.

Mr. COLEMAN OF TEXAS. Mr. Chairman, if I could just for a moment refer to the previous speaker in the well who referred to convoluted thinking. It seems appropriate to me that finally the United States says to everybody else,"We will give you the money after you show us results in terms of your judicial system and bringing those people to justice."

Mr. Chairman, I thank the gentleman for yielding to me.

Mr. SOLOMON. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. DORNAN].

Mr. BROOMFIELD. Mr. Chairman, I reserve the balance of my time.

Mr. FASCELL. Mr. Chairman, I had one speaker. We are trying to get him here right now, so I will have to reserve the balance of my time for the moment.

Mr. MOAKLEY. Mr. Chairman, I also reserve the balance of my time.

□ 1740

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the gentleman from Michigan, for this generosity.

I must say that from our perspective on this side of the aisle it might be helpful to close our portion of the debate by suggesting that the House just might benefit by focusing on the reality that we come to the floor to discuss this very important issue in our own hemisphere at the very moment when the world is exploding, literally exploding, with hope. Democracy is ablossom around the world, and even in El Salvador, democracy is blossoming.

But, as I understand it, we began this process relative to this bill because we wanted to give some asssitance that was desperately needed to a couple of countries in Central America other than El Salvador, to Panama and to Nicaragua, and now because a few seem to want to link problems that we see in the past in El Salvador to this aid to these other democracies who so desperately need our help, that we are holding up the flow of that aid by the form that this bill is coming to us.

Let me suggest that President Cristiani, the new President elected by the people of El Salvador, is attempting to make real progress in his country. Let me also suggest that President Bush, the President of the United States, has had a fantastic impact in terms of the world's view of our own attitudes about that growth and strength and hope for democracy.

To suggest that we should use this time to return to that recent pattern of the Congress to want to have all us be Secretaries of State would be a very, very big mistake. I have great respect for the chairman of the Committee on Rules, and I understand his concern. I also have great respect for my leader, the ranking member on our policy committee.

The amendment he has crafted is a very, very professional piece of work. It recognizes that the Congress may want to have a careful means of taking a look at what goes on in El Salvador, but suggests that the President of the United States should be given that flexibility rather than our returning to the position of suggesting that we are the Secretary of State or we will serve as the President in this case.

In these closing moments of this debate, I would hope that we would focus upon that most important role of the Congress, that is, to give support to a strong and flexible foreign policy led by a President, I think, who has demonstrated very, very well that he has a pretty good idea as to how we can best help not only countries in Eastern Europe but very important growing democracies throughout our hemisphere as well, particularly El Salvador, Nicaragua, and Panama.

I urge the House to move very carefully here. I would urge the Members to support the Broomfield amendment when we go into that portion of our debate.

But at this point, I think we have discussed the pure partisan rhetoric enough, and it is time for us to focus one more time on what we were trying to do in the first place, and that is to quickly help the countries of Nicaragua and Panama.

Mr. FASCELL. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. SMITH].

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] is recognized for 7 minutes.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to commend the chairman of the Committee on Foreign Affairs for having brought this vehicle to the floor and for having provided leadership consistently along the lines that the President has been asking for.

The previous speaker, the gentleman from California [Mr. LEWIS], was correct; I mean, the initial aspect of this bill was, and still is, with reference to Panama and Nicaragua, but it pains me that for some reason we seem to begin each and every debate not ab initio, not from the beginning and the roots of the problems, but somewhat instanter, from the instant we get in the well; it is as if that new set of circumstances just erupted, that there has been no history, no past.

What is wrong with us? Why do we forget the history of these regions when we discuss foreign aid? Why do we forget what we did yesterday, last year, 10 years ago? Why do we forget what the history of these countries was, the history of the recipient coun-

tries for which our money is intended to provide significant help? It will not, you know, unless we do, in fact, remember the history.

Panama and Nicaragua have had significant and violent histories. We need to remember that they are in a position now with transition to democratically elect governments.

It will not be easy for them to provide all of the aspirations, the kinds of services and the kinds of allocation of goods, of education, of commercial enterprise, of freedom in every aspect all at once.

The basic premise of this bill is that we are going to take from what the President wants to do from the Defense Department money to provide these countries with the hope of being able to increase their democratic strengths, to strengthen democratic institutions and to give them ultimately the beginnings, the framework, the underpinnings of a free society, and we are doing that.

I do not think anybody here really debates that. Yes, there is an amendment about how much we should be involved in trying to make sure that the Panamanians are involved with us in coming to agreements on money laundering. Part of that is already in the bill, and there are some situations regarding Nicaragua and the use of the money, but for the most part we all agree.

But then we get to El Salvador, and again, for some reason, in El Salvador we seem to want to forget history.

The debate over the difference between the Moakley-Murtha amendment, and I commend the gentleman from Massachusetts, the chairman of the Committee on Rules, for his foresight and vision and his commitment to finding the truth in El Salvador; the differences are exacerbated so greatly here.

Mr. Chairman, we have had over 100 years of military rule in El Salvador. Then came Jose Duarte, supported on both sides of the aisle. Some on the Republican side were suspicious at first because he was really not a right-winger, much more of a leftist to moderate, but after time, people began to realize he was really committed to trying to do something to bring his country into the democratic column and to give them some hope in the latter part of the 20th century that they would not be stuck in the 19th century forever.

But he had problems. He had the death squads operating, then, after he was democratically elected just as they had operated previously, and he could not make peace with the FMLN, although people thought he was the best hope.

They kidnaped his daughter and held her hostage. And so we were disappointed, not surprised, but disappointed.

Mr. Duarte now is gone, died, after trying very hard to bring his country into the 20th century, and now we have another duly elected government, Mr. Cristiani from the right, but the death squads are still operating. The Republicans as well as the Democrats will all agree on that.

One of the speakers in the well on this side talked about the fact that the Jesuit priests were killed by the army, but, he said, but we still have to give the army the money they are entitled to.

Why must we forget history? When we have given money unfettered, it has not worked. It did not even work in Nicaragua.

□ 1750

The time that there began to be light at the end of the tunnel was the time we all got together on this floor and put some conditionality on the money and got the rest of the people in the region involved in the process. That is what we are trying to do here again.

The difference between the Moakley-Murtha amendment and the Broomfield amendment is somewhat akin to the Churchill story. We know what they are, we are just haggling over the penalty. I come down and I hope most Members will come down on the side of the Moakley amendment, mainly because it contains one provision that more than any other will be important for the future, for the future of El Salvador, and that is it gives the president of El Salvador more control over the military, which again we should not forget has run rampant in that country time after time through administration of left-leaning presidents and right-leaning presidents. We cannot forget the history of these countries. It is important.

I would urge you to support the Moakley-Murtha amendment and support this bill. This aid must flow. We must be able to establish democracy in the region.

The CHAIRMAN. The Chair would note that the gentleman from Michigan [Mr. BROOMFIELD] has one-half minute remaining and the gentleman from Massachusetts [Mr. MOAKLEY] has 3 minutes remaining.

Mr. BROOMFIELD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise today in support of the Moakley-Murtha amendment to the El Salvador provisions contained in H.R. 4636, the supplemental authorization bill for aid to Panama and Nicaragua.

The committee provisions before us today would provide for an immediate 50 percent cut in military aid to El Salvador, contingent on specific good-faith actions in peace negotiations by both the Salvadoran Government and the FMLN. The committee provisions were carefully crafted to encourage both parties—the Salvadoran Government and the FMLN—to participate in serious negotiations.

Mr. Chairman, H.R. 4636, the supplemental authorization bill for Panama and Nicaragua before us today contains an authorization for $30 million for Contra demobilization. The demobilization funds are to be channelled through the UN/OAS's International Support and Verification Commission—known as CIAV—and they are to be available only provided that the Contras abide by their agreement to disarm.

I rise today to bring to my colleagues' attention my concern about the recent action by the Contras, announced last Friday, to suspend indefinitely their agreement to disarm. To date, only approximately 1,000 of the estimated 16,0000 Contras have turned in their weapons to the U.N. forces. The elite Contra forces are being maintained in reserve. Reports on May 21, in fact, indicated that 1,500 Contras had returned to the Honduran side of the border where they had maintained their base camps. Through their actions, the Contras are now presenting a challenge to the authority of the Chamorro Government.

Many individuals here in Congress were able to support this demobilization aid to the Contras based on the fact that it would be solely for Contra demobilization, repatriation and resettlement. We must emphasize now that that is indeed the purpose of these funds. Any aid for Contra demobilization must go solely for Contra demobilization. This aid is not to maintain a standing army.

I am very concerned, Mr. Chairman, that the Contras have backed out of their agreement to demobilize. No funds should be released to the Contras if they are not fulfilling the conditions stipulated by Congress.

I wish to return to the Moakley-Murtha amendment which further strengthens the incentives and disincentives for participation in the peace process in El Salvador. If the FMLN causes the negotiations to collapse, launches another offensive, continues to receive substantial shipments of outside arms, assassinates or abducts civilian noncombatants or engages in acts of violence directed at civilian targets, President Bush could reinstate the military aid.

If the Salvadoran Government causes the negotiations to collapse, if there is less than a full investigation and prosecution of the individuals responsible for the assassinations of the six Jesuit priests, if the Salvadoran

military stages a coup, or if the Salvadoran military is assassinating or abducting civilian noncombatants or engaging in acts of violence directed at civilian targets, then the military assistance could be cut off entirely.

These are sensible conditions designed to keep both the government and the rebels at the negotiating table. The cut in aid is designed to send a serious message to those in El Salvador who choose guns over talks, both military and rebel.

The Salvadoran military is balking at participating in the negotiations between the FMLN and the Cristiani government. Without their participation, any real change will be difficult. Cutting military aid by 50 percent sends a signal that the United States will no longer condone their brutal actions. As long as the military continues to get full U.S. funding, there is no incentive for the military to pursue peace.

The tragedy of El Salvador gets worse. Last November, as I watched the reports of the escalation of the war in this tiny country, I saw many pictures of small children wounded as they were caught in the crossfire of an ideological battle which they are too young to understand.

There cannot and will not be a military victory in the Salvadoran war, by either side. Even American military advisers have acknowledged that a military victory is impossible. Without the possibility of a military victory, there is only one way to stop the war—negotiations. Today, we have an opportunity to promote the negotiations and at the same time, support the work of the Central American Presidents in their efforts to promote regional peace.

Over the course of the past 10 years, the United States has spent $4 billion in El Salvador and the situation there has progressively worsened. Human rights violations are tragically increasing and no one has yet to be successfully convicted for human rights abuses.

The murder of the six Jesuit priests galvanized the people of the United States. The assassination of the Jesuits has highlighted the serious problems with the Salvadoran justice system. The purported investigation and prosecution of those responsible for these heinous crimes has become a farce, with essential witnesses transferred out of the country on study programs, critical evidence such as journals, diaries and logs disappearing and the corrupt Salvadoran military structure pulling out all the stops to protect its own. President Cristiani has indicated that Colonel. Benavides may simply walk away from the murders.

A number of my colleagues who had prevously supported military assistance to El Salvador have now indicated their reluctance to support further aid. They, too, are frustrated with the lack of progress in resolving the crisis in El Salvador. The growing discontent in the United States Congress about the status quo in El Salvador is helping to increase the pressure for a negotiated political settlement to the war in Salvador. Today provides us with an opportunity to act positively to change United States policy toward El Salvador.

The escalation in the civil war in El Salvador, the tragic increase in death and destruction there, the serious rise in death squad activity and the recent assassinations of six Jesuit priests, the backbone of El Salvador's intellectual community, all cry out for action by the United States to change our policy.

While I support the committee provisions and the Moakley-Murtha amendment, I am disappointed that we are not voting today for a total cutoff of military aid to El Salvador. The sheer fact of the matter about the situation in El Salvador is that it is American taxpayers' dollars which are paying for the war there. We send $1.5 million a day, not a week, not a month, but $1.5 million a day to support the regime in El Salvador. Without our tremendous amount of foreign aid to this tiny country, the war could not go on.

Military assistance will only prolong the suffering. Negotiations are the only way to stop it. For the sake of the children of this war-torn country, we must renew our efforts to promote a negotiated political settlement to the Salvadoran civil war.

If we do not act to stop the war, if we do not act to send a message to El Salvador that we will not support repression there, we will be responsible for the deaths of many people whose sole goal in life has been to improve life for all Salvadorans. As we work to promote democracy in Central America, we should make sure that El Salvador is not left out of our efforts.

Mr. Chairman, a number of people in the San Francisco Bay area are actively involved in promoting peace in El Salvador. They support sister cities programs and visit Salvador on pastoral, humanitarian and religious delegations. Uniformly, they return from this tiny, war-torn country with one message, a message they hear repeatedly from their Salvadoran hosts, please cut the aid. Today, let us heed those voices and add ours to the groundswell for peace.

I urge my colleagues to support the Moakley-Murtha amendment, which strengthens the committee provisions on El Salvador.

Mr. BROWN of California. Mr. Chairman, I rise today in strong support of the Moakley-Murtha amendment to H.R. 4636. I want to address my comments to my colleagues who have not yet decided how to vote on the El Salvador aid restructuring proposals.

Some of my colleagues may be under the impression that the Moakley-Murtha amendment cuts military aid to only the Salvadoran Government and puts no pressure on the FMLN rebels.

In fact, Mr. Chairman, the beauty of this legislation is that even though the United States can only directly control the military aid that is given to the Salvadoran Government, Moakley-Murtha puts conditions on the behavior of the FMLN which, in effect, also cut its military aid. If the President of the United States certifies that the FMLN is continuing to receive significant shipments of outside military equipment, the Moakley-Murtha amendment calls for the resumption of full military aid to the Salvadoran Government. In addition, if the President certifies that the FMLN is undertaking offensive operations that threaten the survival of the Salvadoran Government, then full military aid to the Government resumes. Through this legislation, both sides are put in a straitjacket in terms of military aid to help ensure that both camps back away from a military solution to the conflict and negotiate in good faith for a diplomatic solution.

Since negotiations are just beginning again in El Salvador, some of my colleagues might be wondering whether this is the right time to be conditioning aid in a way that some have interpreted as weakening the position of the Salvadoran Government?

In fact, Mr. Chairman, the timing is perfect for this legislation because it will weaken the hands of those who are unwilling to seriously negotiate and respect human rights, while it strengthens the hands of those on both sides who want successful negotiations. With this legislation, Salvadoran President Cristiani can now turn to the extremists in the military and the far right-wing and warn them of the consequences of obstructing negotiating in terms they can appreciate. President Cristiani may have to publicly say that he opposes this legislation, but logically, if he is sincere about wanting peace and sincere about his willingness to make reasonable compromises, this legislation gives him the leverage he needs against the extremists in his party and the Salvadoran military. Likewise, on the FMLN side, this legislation increases the power of those who want to make compromises for peace, while it weakens the influence of those who want to pursue a military solution to the civil war.

Mr. Chairman, it is finally time for the Congress to answer the question: Are we going to start promoting peace and negotiations in El Salvador, as the Moakley-Murtha provisions will have us do, or are we going to continue helping El Salvador's extremists pursue a bloody, military approach to the civil conflict in that country? I urge my colleagues to support the Moakley-Murtha amendment.

Mr. FEIGHAN. Mr. Chairman, when we look book back at the situation in El Salvador, we look at a decade that was ushered in with the murder of four American churchwomen—two of them from my home State of Ohio. It is a decade of war that ended with the brutal killing of six Jesuit priests, their cook, and her daughter. In both cases, the Salvadoran mili-

tary, financed and trained with U.S. tax dollars, were implicated. Those events are bloody bookends to a decade in which 70,000 Salvadorans have been killed.

Today, we have the opportunity to change course. The Moakley-Murtha amendment gives us an opportunity to peg our policy directly to the process of peace negotiations. We have the opportunity to end the carte blanche approach to military aid to El Salvador and replace it with a policy that puts the United States foursquare behind the pursuit of a negotiated settlement to the war.

The Moakley-Murtha amendment sends a message to the FMLN that they will now be held accountable for their actions—for attacks against civilians, for car bombings, and political assassinations. At the same time, it sends a message to the Salvadoran high command that they must do what they have never done before. They must police their own ranks for those members who kill priests, bomb civilian targets, or threaten to topple the elected government. The Jesuits case is a litmus test of their willingness to take on this commitment.

Let's look at the Jesuits' case. According to the Moakley task force's interim report, the case is at a virtual standstill. Questions aimed at tracing the crime back to its intellectual authors are, according to the report unanswered and apparently, unasked. But beyond these observations, the task force interim report describes a policy failure in El Salvador. Our prolonged effort to establish respect for human rights has not worked. In the words of the Moakley report, "The Salvadoran justice system remains essentially an oxymoron—neither systematic, nor just."

Perhaps the most disturbing fact revealed in the Moakley report is that just 2 days before the crime, nearly all those now under arrest for the murder of the Jesuits, sat in a U.S.-taught training course on infantry patrol techniques and weapons training.

The Moakley task force reported to this House that its members were "* * * convinced that the military's contribution to the problems of human rights and a paralyzed judicial system are not caused by a few renegade officers; they reside at the heart of the armed forces as an institution."

We must acknowledge that this same military institution has been armed, financed and trained with U.S. tax dollars. The Jesuits' case cries out for a change in our policy. The Moakley-Murtha amendment puts that policy in place. I urge my colleagues to support it.

Mr. RAHALL. Mr. Chairman, I rise in strong opposition to H.R. 4636, a bill to authorize yet another billion dollars to foreign countries.

Mr. Chairman, I do not question the fact that there are many nations around the world which require economic development assistance. Clearly this is true. However, I do question if we have the resources to provide such assistance when there is such need in our own country.

Our deficit stands at $152.1 billion, our gross Federal debt at $2.8 trillion. Real earnings between 1973 and 1986 have declined 17 percent. Our merchandise trade deficit has risen from $19.3 billion to $118.5 billion since 1980.

Our method of addressing our serious budget problems has been tragically ironic. While we have freely provided economic development assistance to foreign countries, we have simultaneously cut every small program that could provide needed economic development assistance for our own people. EDA, ARC, UDAG, CDBG, and the EPA construction grants program for water and sewers are just a few of the domestic economic development programs which have fallen victim to this budget cutting. What is worse is that this method has been predictably ineffective.

Even more ironic is that while we are poised to pass a bill authorizing yet another billion dollars for foreign countries, we are struggling in a budget summit to make $60 billion worth of cuts, and find a way to exclude another $60 billion, used to bailout mismanaged savings and loans, from our deficit calculation. We must do so, and will probably have to change our deficit reduction laws to allow for more debt than previously anticipated, because we do not have the funds to pay off this massive debt and because our economy cannot absorb more that $60 billion worth of cuts.

The answer is not more taxes. The answer is reorder our spending priorities. Our first step should be for us to realize that we must address our problems at home before we can again assist other nations. The answer is to defeat this bill and use the billion dollars it authorizes to solve our problems.

Mr. GEPHARDT. Mr. Chairman, over the past year, in region after region throughout the world, the forces of democracy, moderation and reason are taking over. From Eastern Europe to southern Africa, from Nicaragua to Mongolia, people are coming together to solve problems that were thought intractable just a short time ago.

Today, we have an historic opportunity to help this movement toward global reconciliation spread to a nation on our own continent that has known no peace for more than a decade, El Salvador.

In the past few months, I have had the honor to meet with a number of religious leaders from El Salvador, including those who have been targets of persecution, death threats, and assassination attempts.

These courageous men and women have documented the continuing violence and repression in El Salvador against labor leaders, religious figure, human rights advocates, and ordinary citizens. To a person, they say that United States military aid to El Salvador is only serving to increase the violence there by encouraging the Government to resist a negotiated settlement.

They frequently raise the fundamental, unanswerable question: What have we gained as the result of the $4 billion of aid we have provided to El Salvador over the past decade?

More and more Americans are asking themselves the same question. They now accept that our policy toward El Salvador over the past decade has failed—failed to bring about fundamental reform of the military and judiciary, failed to rein in the death squads, and failed to bring peace to a war now entering its third decade.

A bipartisan consensus now calls for our Government to change its course.

The committee bill, enhanced by the Moakley-Murtha substitute, sends the clear message that a military solution to the problems of El Salvador is not possible, that it is time to bury the hatred along with the dead, and that a negotiated settlement based on fundamental reform and human rights is the only guarantor of lasting peace in this afflicted country.

The bill immediately transfers half our military aid to attack the real enemies in El Salvador, namely, illiteracy, malnutrition, and disease. It provides incentives for the Government and the opposition to negotiate under U.N. auspices. And it enhances the role of civilian authorities vis-a-vis a runaway military command.

Nothing less than this will suffice.

Mr. Broomfield's substitute is well-intentioned, but it does not go nearly far enough. It delays action for 5 months; it requires minimal conditions for a full restoration of military aid; it provides no incentives to the opposition FMLN to participate in negotiations. As such, the Broomfield substitute is a prescription for a status quo that none of us should accept.

Last session, when we voted to cut off aid to the Contras, we were warned by the last administration that this result would condemn Nicaragua to an eternity of totalitarian rule. History, and the election of Violeta Chamorro, proved those critics wrong then. I believe the opponents of the Moakley-Murtha amendment will be proved just as wrong.

I urge my colleagues to defeat the Broomfield substitute and support the committee bill enhanced by the Moakley-Murtha substitute.

Mr. DORGAN of North Dakota. Mr. Chairman, there is no question that there is an urgent need to get assistance to the new democracies of Panama and Nicaragua and to the provisional Government in Haiti which is trying to guide that country through democratic elections.

There is no question that the United States, which has long supported the Government and military in El Salvador, has an obligation to assist in the search for a negotiated settlement of the civil war which is widely acknowledged to be unwinnable.

The issue is what kinds of aid should we provide and under what conditions.

When the Bush administration sent us its proposals for fiscal year 1990 supplemental aid to Panama and Nicaragua, I made it clear as Chairman of the International Task Force on Hunger, that the Panama proposals in particular, constituted trickle down aid plan. We would have been handing over a blank check to the Panamanian Government, and providing nothing to meet the critical nutritional and health needs of children; nothing to rebuild Panama's primary health care system despite their serious deterioration caused by Noriega's misrule and United States sanctions.

The administration's proposals, if enacted, would have sent the new democratic Government of Panama a message of indifference to basic human needs. A Third World democracy which believes that restoring the health of the banking industry is action sufficient to address the nutritional needs of its desperately poor will not long survive as a democracy. That is why I voted against the supplemental appropriations bill, H.R. 4404.

The measure before us today is an improvement. I commend the Foreign Affairs Committee for its authorization of $50 million of the

Panama aid to meet the priority needs of its poorest people. I share the committee's concern about the deterioration of primary health care services in both Nicaragua and Panama—a decline which has been realistically documented by the Pan American Health Organization [PAHO]. To cite one distressing disease statistic compiled by PAHO, because of the suspension of mosquito control activities during the Nicaraguan war, malaria increased 100 percent from 1985 to 1988.

In the political disorder of the past several years, children have borne a disproportionate share of the burden—child malnutrition has worsened. I expect that the administration will faithfully follow the committee's injunction to channel increased levels of development assistance to child survival and health care programs to address the critical health care needs of children in both countries.

I want to raise a question about changes to the current Central American Survival Assistance Act, Public Law 101-215, which I authored last year. That law ensured that emergency medical aid to the civilian victims of Nicaragua's civil war would continue. The change in section 102(g) removes the word "noncombatant" thus making assistance available to any victim of the strife. This would be consistent with the reconciliation process being promoted by the democratically elected Chomorro government, assuming that the Contras will be demobilized. Only then, when they are former combatants, should they be considered for this aid, for only then could its use advance the humanitarian goals of Public Law 101-215. Is this interpretation of the intent of this change correct?

Both the Committee on Appropriation's Foreign Operations Subcommittee and the Foreign Affairs Committee are to be commended for correcting the failure of the Bush administration to request added funds for overseas refugees. In my role on the Hunger Committee, I heard testimony earlier this year that the State Department's refugee assistance budget on a per capita basis, had declined from $20 per refugee in 1985 to about $12 per refugee in 1989. We were told that up to 225,000 children, ages 1 to 5, who are in United Nations High Commissioner for Refugees care are suffering acute malnutrition. I support the increase in the Emergency Migration and Refugee Fund on the understanding that overseas refugees, who are from the world's poorest countries and who have a thin margin for survival, will be prime beneficiaries of increased spending from this fund.

The restoration of $30 million in aid to southern Africa to compensate for funds previously taken from Africa accounts is warranted. It is satisfying to see these funds being used to aid democratic development in that region. It seems to me that too often Americans have concentrated their enthusiasm for the surge of democracy on countries which previously had endured Communist rule. There also has been a condescending, albeit unspoken, view that some regions, including Africa, were different and not ready for multiparty democracy. Under this rationale we looked the other way while one party dictatorships abused human rights and wasted or stole our assistance dollars. This must stop. Our concern for human rights and democracy must be universal.

I also strongly support the authorization for up to $20 million in assistance to Haiti to help its provisional government steer the country through free and fair elections into democracy. Once Haiti has a government worthy of its people, one which is really striving to alleviate the grinding poverty of that land, I hope this body will remember its generosity toward Panama and Nicaragua, and provide adequate aid to our hemisphere's poorest country.

Aid to El Salvador was not addressed in the appropriations bill. The authorization measure, both as reported by the Committee on Foreign Affairs and in the Moakley-Murtha substitute, have my support.

Human rights abuses have been committed both by the Salvadoran military and by the rebel FMLN. All such violations of human rights are reprehensible. But our military aid to the Government imposes on us a particular moral obligation to ensure that its abuses stop. How can we continue to fully fund the Salvadoran military after its soldiers murder six Jesuit priests? How can we continue to provide money after we are told by Salvadoran authorities that key evidence against the highest ranking officer arrested for involvement in the atrocity has been lost?

Too often our administration, some of us in Congress, and foreign governments, act as if our assistance were an entitlement which should continue regardless of their behavior and changes in the international political environment.

That is the case with El Salvador.

The dramatic improvement of United States-Soviet relations and the onset of democracy in Panama and Nicaragua should reduce concerns in this country that a red tide is going to roll over Central America. This has been the justification for sending over $4 billion of our taxpayers money to the Salvadoran Government and military over the past 10 years.

Authorizing aid to the Salvadoran military under the title "Assistance to Emerging Democracies" is a perversion of the meaning of those words. I recognize, however, that the intent of the legislation as reported by the Foreign Affairs Committee, is not to provide additional aid, but to set tougher aid conditions. Frankly, I am skeptical of the efficacy of withholding only 50 percent of our military aid to encourage successful prosecution of those responsible for murdering the priests and encouraging negotiations to end the war. But I will support these provisions because they improve our current policy.

I would have preferred withholding 100 percent of our aid to the Salvadoran military. But, peace negotiations now are underway, in part because the FMLN recognizes that the changes in the international political situation make pursuit of its military option much less attractive. A total U.S. military aid cutoff at this delicate juncture some argue, could give the FMLN renewed confidence that it could gain a military victory and thus torpedo peace hopes.

I am voting against the Broomfield amendment, because although it appears to place conditions on U.S. military aid, these conditions would be more apparent than real. No money would be withheld now: Thus no clear human rights or peace message would be sent to the Salvadoran Government and military. Further, in the future, President Bush alone would decide whether any funds would be withheld if, for example, the Salvadoran investigation into the murders of the priests continued to be a farce.

Finally, I note the bill's provision which authorizes the President to transfer any unused military aid, of both fiscal year 1990 and fiscal year 1991, to development aid to serve the basic needs of the Salvadoran population. I cannot predict whether this laudable provision will in fact be used. But it sets the direction in which we should be heading. If this provision is used, I recommend that expenditures comport with the standards in the Central American Survival Assistance Act. Aid for basic human needs, "si"; aid to the military, "no."

In conclusion, I support the improvements in this bill to the previously passed supplemental.

Mr. JONES of North Carolina. Mr. Chairman, I want to thank Chairman FASCELL for inserting into the committee report on H.R. 4636 our concerns for training more Panamanian nationals at the U.S. Merchant Marine Academy and the U.S. Coast Guard Academy.

With the Government of Panama taking over complete control of the Panama Canal in the year 2000, it is in the interest of both the United States and Panama to train more Panamanians to develop the technical and managerial skills needed to operate the Panama Canal. An education at Kings Point or the Coast Guard Academy would well serve this purpose.

The Committee on Merchant Marine and Fisheries is amending the appropriate laws to permit more Panamanians into these two academies. By allowing the Government of Panama to use foreign aid funds for this purpose, we help both countries, as well as the individuals who receive the training.

I want to thank Chairman FASCELL again for making clear that it is a permissible and desirable use of funds in this aid package to cover the costs of Panamanian students at the Merchant Marine Academy and the Coast Guard Academy. I encourage our Government and the Republic of Panama to make immediate and aggressive use of this authority.

Mr. HALL of Ohio. I rise in strong support of H.R. 4636. I would like to commend the chairman of the Committee on Foreign Affairs, Mr. FASCELL, for his excellent work, and in particular for his work for poor people in Panama and Nicaragua and refugees overseas.

I am aware of the immediate needs of tens of thousands of children in Panama and Nicaragua, and am pleased that this bill earmarks money to meet priority needs of the poorest people of Panama. In addition, the committee report states the committee's support for increased levels of development assistance through the child survival and health program to address the critical health care needs of children in both countries. I am confident that the Bush administration will not neglect the children of these countries as we work to help build strong, equitable, democratic societies in these two countries.

I salute the committee for its efforts to help us meet the crisis in funding for refugees overseas. The Select Committee on Hunger had held a hearing on this issue, and I strongly endorse the committee's report language

which describes the critical budget shortfalls faced by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross. By increasing the authorized ceiling of the Emergency Refugee and Migration Assistance Fund, the committee has demonstrated its concern for the more than 15 million refugees around the world, many of whom flee their homes only to face continued hardships in refugee camps.

Mr. Chairman, I believe the situation of these refugees and displaced people is intolerable. In addition to the positive measures contained in H.R. 4636, it is clear that the Congress and the administration must continue to devote greater resources to assist refugees overseas.

I urge all Members to support this legislation.

Mr. WOLPE, Mr. Chairman, I rise in support of the legislation and want to commend my friend and chairman, Mr. FASCELL, for his diligence in crafting this bill.

Mr. Chairman, there is one part of this legislation which bears special mention and that is the language limiting military assistance to El Salvador. For the first time in a decade we have a unique opportunity to help advance the cause of peace in a country which has been torn by a bloody civil war. The graphic horrors of this war have been most notably symbolized by the brutal slaying of six Jesuit priests last November. At that time, last winter, Congress missed an opportunity to curtail a portion of the military aid to El Salvador when an amendment to the foreign aid bill was narrowly rejected by the House. Today, we must not make a similar mistake.

Frankly, I wish that this bill more closely followed the initiative proposed by my friend, Mr. DELLUMS, which would have terminated all aid to the Salvadoran Government, pending the resolution of the case of the six murdered Jesuits. In my view it is terribly wrong that American tax dollars are continuing to fund a government which is:

Incapable of controlling its own military;

Incapable of controlling the right-wing death squads that inflict terror on the Salvadoran people; and

Whose judicial system is so corrupt that it has yet to hold accountable a single military officer for crimes committed against innocent civilians.

Our support for the Salvadoran Government this past decade has not brought about the changes for which we had all hoped. We have not advanced our country's national interests or improved the lives of a majority of the Salvadoran people. Instead we have helped to perpetuate the strife and poverty which plagues this country.

Nonetheless, I recognize that significant steps have been taken within the past 2 months under the auspices of the United Nations to negotiate a settlement between the FMLN and the Salvadoran Government. We must all be encouraged by these talks. And that is why the language we have in this bill is an important first step.

The House bill and the Murtha-Moakley substitute, provide both the FMLN and the Salvadoran Government with incentives to remain at the bargaining table—which is exactly where they belong. The bill immediately withholds 50 percent of the military aid to El Salvador for fiscal year 1990. If the Salvadoran Government has not conducted a thorough investigation into the murders of the Jesuit priests or if it does not participate in good faith negotiations in the peace talks, all military aid would be terminated.

Similarly, if the FMLN continues to acquire significant amounts of arms from abroad or if it does not negotiate in good faith, then aid to the Salvadoran military can be restored.

I happen to be particularly supportive of the amendments which my colleagues, Mr. MURTHA and Mr. MOAKLEY, are offering that would add attacks on civilians by the FMLN or the Salvadoran armed forces as an additional condition for restoring or terminating military assistance. Also, the amendment requiring the Salvadoran president to approve of any military assistance will help strengthen civilian control of the armed forces. These amendments are sensible and will help improve the package we have before us today.

Finally, Mr. Chairman, I want to point out that I am painfully aware that there has been tremendous insensitivity to human suffering by both sides. Like the Salvadoran Army, the FMLN has displayed a callousness which has contributed to the enormous misery of the Salvadoran people. But the Salvadoran army is still armed and trained by our taxpayer dollars and as long as the Salvadoran Government is complicit in the terrorizing of civilians, we cannot reward that government with unconditional aid. We have the opportunity to send the strongest signal yet to the Government of El Salvador and the rebels that the U.S. Government wants to end the decade of bloodshed and terror in this Central American nation. I urge my colleagues' support for this bill, and the Moakley-Murtha substitute.

Ms. SCHNEIDER. Mr. Chairman, I urge my colleagues to support the Foreign Affairs Committee and vote for a real reduction in United States aid to El Salvador. Meaningful action to end the bloodshed in that country is long overdue.

Ten years ago, shortly before his assassination, Archbishop Romero urged the United States to cut off our military assistance. We did not follow his advice and for a decade, the United States has undertaken support of various Salvadoran governments in an attempt to quell the FMLN rebels. A decade of fighting and $4 billion in aid to the government and military forces, however, has brought neither peace nor prosperity to the people of El Salvador. Rather, it has contributed to warfare that has yielded 70,000 deaths and widespread suffering and pain.

I have been a long-time opponent of military support and have in the past supported restrictions on our aid. Today, we have a real opportunity. The Moakley-Murtha substitute not only restricts 50 percent of military aid, but also gives President Bush the authority to cut off or restore aid if either the Salvadoran Government or the FMLN do not negotiate in good faith. Both sides are guilty of human rights violations, both sides have promoted war and this legislation puts both sides on notice. Furthermore, the Moakley-Murtha substitute will actually strengthen the hand of President Cristiani in enhancing civilian control over the Salvadoran military by requiring that he approve the disbursement of all military aid.

The Moakley-Murtha substitute also puts action behind our condemnation of the killing of six Jesuit priests and the numerous other crimes of the preceding decade. Our previous attempts to leverage human rights concessions have clearly failed: not one Salvadoran military officer has been convicted of a human rights crime.

I also urge my colleagues not to be confused by arguments that the timing of our action is bad. On the contrary, our timing could not be better to empower those who seek peace and reconciliation in El Salvador. The Moakley-Murtha substitute will contribute to the peace process by giving both the FMLN and the Salvadoran Government a direct incentive to continue the initiative in Caracas, Venezuela.

We have seen the result of a bipartisan effort to end the Contra War in Nicaragua. Let us now vote to help those who have been hurt most by the bloodshed of the past decade and will benefit most from national reconciliation: the people of war-torn El Salvador.

I urge my colleagues to support the Moakley-Murtha substitute and oppose any amendments to weaken the committee language.

Mr. PEASE. Mr. Chairman, I rise reluctantly in opposition to passage of H.R. 4636, supplemental assistance for emerging democracies. I do so because this bill, like the corresponding supplemental appropriations bill, H.R. 4404, that we passed a few weeks ago reflects ad hoc decisionmaking in U.S. foreign assistance programs.

Last week, the Washington Post carried a three front-page articles about divergent philosophies within the Congress and the Bush administration regarding how to overhaul and update U.S. foreign aid laws and priorities. But one point of consensus emerged loud and clear—it is time to update a foreign aid program that is still administered under a law enacted in 1961 and largely unchanged since the mid 1970's.

President Bush has chastised the Congress for failing to provide him with more flexibility in the foreign aid program through which he can more effectively respond to dramatic geopolitical changes such as we have recently seen in Eastern Europe, the Soviet Union, and Latin America. I hope the Congress will take up his challenge and engage him in a thoughtful and comprehensive rewriting of U.S. foreign aid.

Until such a review is completed and the White House is willing to actively support legislation that fundamentally redirects U.S. foreign aid programs, I will continue to oppose the foreign aid requests President Bush sends to the Congress along with measures like this bill which perpetuate a very confused foreign assistance priorities. Specifically, this bill does little to speak to the following adverse trends in foreign aid: First, the concentrated maldistribution of aid to just five countries; second, the imbalance of spending priorities whereby too much emphasis is placed upon military aid and economic support funds, while far too little aid is devoted to humanitarian and development assistance; and third, increased spending without re-examining whether better

targeting of current levels of foreign aid spending might yield better results relative to more clearly defined, obtainable foreign aid purposes.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 4636 is as follows:

H.R. 4636

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Supplemental Assistance for Emerging Democracies Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Section 1. Short title and table of contents.
TITLE I—SUPPLEMENTAL ASSISTANCE FOR FISCAL YEAR 1990
Sec. 101. Assistance for Panama.
Sec. 102. Assistance for Nicaragua.
Sec. 103. Administrative uses of funds for Panama and Nicaragua.
Sec. 104. Assistance for Haiti.
Sec. 105. Assistance for the Caribbean.
Sec. 106. Migration and refugee assistance.
Sec. 107. Assistance for sub-Saharan Africa.
Sec. 108. Assistance to encourage negotiations leading to a peaceful transition to democracy in South Africa.
Sec. 109. Housing investment guarantee program for new immigrants to Israel.
TITLE II—OTHER AUTHORIZATIONS
Sec. 201. Claude and Mildred Pepper Scholarship Program.
Sec. 202. Certain international affairs activities.
Sec. 203. Gorgas Memorial Institute.
Sec. 204. Extension of au pair programs.
Sec. 205. Technical and conforming amendments to the Department of State Appropriations Act, 1990, and the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.
TITLE III—DEVELOPMENT FUND FOR AFRICA
Sec. 301. Short title.
Sec. 302. Development Fund for Africa.
TITLE IV—CARIBBEAN REGIONAL DEVELOPMENT
Sec. 401. United States policies.
Sec. 402. Priority areas for assistance.
Sec. 403. Protection of worker rights.
Sec. 404. Protection of public health.
Sec. 405. Support for women's role in development.
Sec. 406. Consultation, monitoring, evaluation, and reporting.
Sec. 407. Definition of Caribbean.
TITLE V—EL SALVADOR
Sec. 501. Assistance for El Salvador.

TITLE I—SUPPLEMENTAL ASSISTANCE FOR FISCAL YEAR 1990

SEC. 101. ASSISTANCE FOR PANAMA.

(a) ECONOMIC ASSISTANCE.—In order to support the efforts of Panama to restructure and restore its economy, restore relations with international financial institutions, address specific development problems, and strengthen democratic institutions, there are authorized to be appropriated $470,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(b) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this section shall be used to encourage and assist the Government of Panama in taking the necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(c) ALLOCATIONS OF ASSISTANCE.—Except as provided in subsection (e), the funds authorized to be appropriated by subsection (a) shall be allocated and used as follows:

(1) DEVELOPMENT ASSISTANCE.—$50,000,000 shall be for assistance, consistent with the authorities and policies of chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance)—

(A) to meet priority needs of the poorest people of Panama, including assistance for rural development, health, family planning, and education; and

(B) to address immediate environmental needs and other environmental problems, including through means such as debt-for-nature swaps.

Assistance under this paragraph may be provided directly or through regional or international institutions.

(2) PRIVATE SECTOR REVITALIZATION.—

(A) IN GENERAL.—$150,000,000 shall be for assistance to revitalize the private sector in Panama. Such assistance shall include the following:

(i) BUSINESS INVESTMENT AND INVENTORY.—Assistance to help business finance a resumption of investment expenditures and restock inventories. Priority should be given to those businesses that suffered from looting in late December 1989 and for which a rapid resumption of economic activity would generate substantial employment.

(ii) EXPORT PROMOTION.—Assistance for export promotion activities.

(B) TRADE AND DEVELOPMENT PROGRAM.—Of the funds allocated to carry out this paragraph, $3,000,000 shall be transferred to the Trade and Development Program for use under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421), except that this subparagraph applies only to such extent as is provided in advance in an appropriations Act.

(C) CREDIT ASSISTANCE.—Except for the assistance described in subparagraphs (A)(ii) and (B), assistance under this paragraph shall be provided through the commercial banking system and other financial intermediaries.

(3) PUBLIC INVESTMENT PROGRAM.—$110,000,000 shall be for assistance to revitalize public investment in Panama. Such assistance shall be provided as budget support to the Government of Panama to finance construction and other activities in such sectors as transportation, education, agricultural, and health. This assistance shall be administered by the Government of Panama and by nongovernmental organizations, with implementation to be carried out for the most part by private contractors.

(4) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—$130,000,000 shall be for assistance to assist Panama in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Panama and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(5) STRENGTHENING PUBLIC ADMINISTRATION.—Except as provided in subsection (d)(4), $30,000,000 shall be for—

(A) assistance to strengthen the administrative and management capabilities of the Government of Panama, including the National Banking Commission;

(B) assistance under section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c) to strengthen the administration of justice in Panama, including the Office of the Attorney General; and

(C) notwithstanding section 660 of that Act (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces)—

(i) training for the Public Forces and other civilian law enforcement forces of Panama in human rights, civil law, and investigative and civilian law enforcement techniques,

(ii) assistance in developing a civilian police training academy in Panama, and

(iii) assistance to finance the procurement for civilian law enforcement forces in Panama of equipment that are appropriate for standard civilian law enforcement requirements.

(d) LAW ENFORCEMENT ASSISTANCE.—

(1) PROHIBITION ON LETHAL EQUIPMENT.—Only equipment that is nonlethal may be provided under subsection (c)(5).

(2) LIMITATION ON EQUIPMENT.—Not more than $5,000,000 of the funds used under subsection (c)(5) may be used for the procurement of equipment for law enforcement forces of Panama.

(3) DEFINITION OF EQUIPMENT.—For purposes of this subsection and subsection (c)(5), the term "equipment" has the same meaning as is given the term "commodities" by section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c)).

(4) ASSISTANCE FOR OTHER COUNTRIES.—Up to $1,200,000 of the amount allocated pursuant to subsection (c)(5) may be used under section 534(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346(b)(3)) for countries in Latin America and the Caribbean other than Panama.

(5) LIMITATIONS NOT APPLICABLE.—The second sentence of section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), shall not apply with respect to assistance provided under subsection (c)(5), including assistance under paragraph (4) of this subsection.

(e) CHANGES IN ALLOCATIONS.—

(1) REDUCTION OF ALLOCATIONS IF APPROPRIATIONS ARE LESS THAN SUM OF SPECIFIED ALLOCATION AMOUNTS.—If the aggregate amount appropriated pursuant to the authorization of appropriations provided by this section is less than the amount authorized, then the amount allocated pursuant to each paragraph of subsection (c) shall be the amount which bears the same ratio to the amount specified in that paragraph as

the amount appropriated bears to the amount authorized.

(2) REALLOCATIONS.—Funds allocated pursuant to any paragraph of subsection (c) may be reallocated for use under any other such paragraph if, at least 15 days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(f) MONEY LAUNDERING.—

(1) CURRENT COOPERATION BY ENDARA GOVERNMENT.—The Congress—

(A) again commends the Endara government for its cooperation and assistance in freezing Panamanian bank accounts believed to be implicated in narcotics-related and other illegal financial transactions; and

(B) notes the willingness of the Endara government to enter into negotiations with the United States on information sharing regarding narcotics-related financial transactions.

(2) APPLICABILITY OF KERRY AMENDMENT TO PANAMA.—Panama shall be considered to be a country described in the second sentence of section 4702(c)(1) of the International Narcotics Control Act of 1988 (31 U.S.C. 5311 note; relating to "highest priority" countries for purposes of negotiations concerning laundering of United States currency).

(3) BANK RECORD SHARING AGREEMENT.—Not more than half of the funds appropriated pursuant to the authorization of appropriations provided in this section may be expended until—

(A) the Secretary of the Treasury reports to the Congress that the Government of the United States and the Government of Panama have reached an agreement for exchanging adequate records (as defined in section 4702(f)(2) of the International Narcotics Control Act of 1988) on international currency transactions in connection with narcotics investigations and proceedings; or

(B) if a report has not been submitted under subparagraph (A) as of the time the Secretary of the Treasury submits the final report required by section 4702(d) of that Act, the Secretary reports to the Congress that Panama is negotiating in good faith to reach such an agreement.

(4) 1991 NARCOTICS CERTIFICATION.—

(A) SEPARATE CERTIFICATIONS FOR BILATERAL AND MULTILATERAL ASSISTANCE.—In the case of the certification requirements of section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)), the President shall submit separate certifications with respect to Panama for fiscal year 1991 for purposes of paragraphs (1)(A) and (1)(B) of that section.

(B) REQUIREMENT FOR BILATERAL ASSISTANCE CERTIFICATION.—The President may make a certification with respect to Panama for fiscal year 1991 for purposes of paragraph (1)(A) of that section under paragraph (2)(A)(i) of that section (relating to countries which are fully cooperating with respect to illicit drug production, trafficking, and money laundering) only if an agreement has been signed by the Government of the United States and the Government of Panama that provides for—

(i) mutual access to records of financial transactions for purposes of drug-related law enforcement investigations, and

(ii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records for use in drug-related proceedings.

(5) EXPLANATORY NOTE REGARDING STATUTORY REFERENCE.—The International Narcotics Control Act of 1988 is title IV of the Anti-Drug Abuse Act of 1988.

(g) CONGRESSIONAL NOTIFICATIONS.—At least 15 days before each obligation of funds for assistance under this section (including assistance authorized by subsection (j)), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(h) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

(i) WAIVER OF BROOKE-ALEXANDER AMENDMENT.—The assistance authorized for Panama by this section may be provided notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)), and any similar provision of law relating to foreign assistance repayments.

(j) OTHER ASSISTANCE.—In addition to the funds authorized to be appropriated by this section for assistance for Panama, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Panama authorized by this section notwithstanding the provisions of law cited in subsection (i).

SEC. 102. ASSISTANCE FOR NICARAGUA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to help restore the productive capacity of the Nicaraguan economy, restore Nicaragua's relations with international financial institutions, provide support for long-term economic growth and development in Nicaragua, strengthen democratic institutions in Nicaragua, and provide assistance for the repatriation and reconciliation process in Nicaragua, there are authorized to be appropriated $340,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(b) ALLOCATIONS OF ASSISTANCE.—Except as provided in subsection (c), the funds authorized to be appropriated by subsection (a) shall be allocated and used as follows:

(1) RESTORING THE PRODUCTIVE CAPACITY OF THE NICARAGUAN ECONOMY.—$128,000,000 shall be for assistance to support the efforts of the Government of Nicaragua and the private sector in Nicaragua to restore the productive capacity of the Nicaraguan economy. Such assistance may include support for public and private sector imports of—

(A) agricultural equipment, spare parts, fertilizer, and other inputs needed to restore the agriculture sector;

(B) petroleum and oil products; and

(C) raw materials, equipment, intermediate goods, and spare parts to rehabilitate existing facilities and stimulate new productive enterprise in the industrial and agricultural sectors.

(2) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—$50,000,000 shall be for assistance to assist Nicaragua in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Nicaragua and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(3) ECONOMIC GROWTH AND DEVELOPMENT.—$75,000,000 shall be for assistance to assist Nicaragua to meet its longer-term economic growth and development needs, directly or through regional and other international institutions. Such assistance may include support for such activities as—

(A) programs to repair, improve, and maintain existing public infrastructure such as schools, health clinics, roads, and community facilities;

(B) provision of medical equipment, commodities, training, and other support for the health and family planning sectors;

(C) provision of assistance and training to improve government administration and strengthen democratic institutions;

(D) provision of technical assistance and training to the private sector to permit the rehabilitation and modernization of private enterprise in Nicaragua;

(E) support for primary school education and university level scholarships and training; and

(F) support for the agricultural sector through small farmer credit activities and improvement of input supply and production marketing systems.

(4) DEMOBILIZATION AND REPATRIATION; ASSISTANCE FOR REFUGEES AND DISPLACED PERSONS.—$87,000,000 shall be for assistance to support the demobilization and demilitarization process and to reintegrate former combatants (including members of the Nicaraguan Resistance), as well as Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict, into the social, economic, and political life of Nicaragua, as follows:

(A) DEMOBILIZATION, REPATRIATION, AND RESETTLEMENT OF MEMBERS OF THE NICARAGUAN RESISTANCE.—(i) $30,000,000 shall be used to support the voluntary demobilization, repatriation, and resettlement of members of the Nicaraguan Resistance and their families.

(ii) Such assistance shall be provided—

(I) through the International Commission of Support and Verification (CIAV) established by the Secretary General of the United Nations and the Secretary General of the Organization of American States pursuant to the agreement of the Central American Presidents at Tela, Honduras, on August 7, 1989, and

(II) in coordination with the Government of Nicaragua,

unless the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(iii) Assistance may be provided under this subparagraph for members of the Nicaraguan Resistance only if there is agreement that such members will give up their weapons as part of the demobilization process.

(B) ONUCA.—$2,000,000 shall be used to support the Observer Group for Central America (ONUCA) if, with the consent of the United Nations Security Council, it plays a role in supporting the voluntary demobilization of former combatants and supporting safe conditions in Nicaragua in accord with the Central American peace process.

(C) REPATRIATION AND RESETTLEMENT OF REFUGEES AND DISPLACED PERSONS.—

$55,000,000 shall be used for the repatriation and resettlement in Nicaragua of Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict in Nicaragua (without regard to whether they are within or outside Nicaragua). Such repatriation and resettlement shall be carried out under international auspices, including through the United Nations High Commissioner for Refugees (UNHCR) and the International Conference of Central American Refugees (CIREFCA), in coordination with the Government of Nicaragua. Assistance under this subparagraph may be provided under the authorities of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601 and following).

(c) CHANGES IN ALLOCATIONS.—

(1) REDUCTION OF ALLOCATIONS IF APPROPRIATIONS ARE LESS THAN SUM OF SPECIFIED ALLOCATION AMOUNTS.—If the aggregate amount appropriated pursuant to the authorization of appropriations provided by subsection (a) is less than the amount authorized, then the amount allocated pursuant to each paragraph of subsection (b) and each subparagraph of paragraph (4) of that subsection shall be the amount which bears the same ratio to the amount specified in that paragraph or subparagraph (as the case may be) as the amount appropriated bears to the amount authorized.

(2) REALLOCATIONS.—Funds allocated pursuant to any paragraph of subsection (b), or any subparagraph of paragraph (4) of that subsection, may be reallocated for use under any other such paragraph or subparagraph (as the case may be) if, at least 15 days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(d) CONGRESSIONAL NOTIFICATIONS.—At least 15 days before each obligation of funds for assistance under this section (including assistance pursuant to subsections (g) and (h)), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(e) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

(f) WAIVER OF BROOKE-ALEXANDER AMENDMENT.—The assistance authorized for Nicaragua by this section may be provided notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)), and any similar provision of law relating to foreign assistance repayments.

(g) EXPANDING USES OF SURVIVAL ASSISTANCE FOR VICTIMS OF CIVIL STRIFE IN CENTRAL AMERICA.—Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended—

(1) in the first sentence of subsection (a), by striking out "noncombatant";

(2) in the second sentence of subsection (a), by striking out "noncombatants" and inserting in lieu thereof "those"; and

(3) by repealing subsection (c).

(h) OTHER ASSISTANCE.—In addition to the funds made available by this section for assistance for Nicaragua, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Nicaragua authorized by this section, and to provide otherwise authorized training and services provided by the Office of Security of the Department of State for law enforcement personnel of Nicaragua for VIP protection and the physical protection of internationally protected persons and related facilities, notwithstanding the provisions of law cited in subsection (f).

(i) TRANSITION TO DEMOCRATIC GOVERNMENT.—

(1) SUSPENSION OF ASSISTANCE.—The President may suspend the provision of any assistance pursuant to this section if he determines that—

(A) there is not an orderly, peaceful, and complete transition from the existing Sandinista government to the duly elected democratic government in Nicaragua; or

(B) it is in the interest of the United States to suspend such assistance.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the President should work toward an orderly, peaceful, and complete transfer of power to the duly elected democratic government in Nicaragua.

SEC. 103. ADMINISTRATIVE USES OF FUNDS FOR PANAMA AND NICARAGUA.

Up to $10,000,000 of the funds authorized to be appropriated by sections 101 and 102 may be used for the purpose of paying administrative expenses incurred by the Agency for International Development in connection with carrying out its functions under those sections or under the Act entitled "An Act to implement the Bipartisan Accord on Central America of March 24, 1989", approved April 18, 1989 (Public Law 101-14).

SEC. 104. ASSISTANCE FOR HAITI.

(a) ASSISTANCE FOR FISCAL YEAR 1990.—

(1) ASSISTANCE FOR ELECTIONS AND CRITICAL IMPORTS.—There are authorized to be appropriated $20,000,000 as supplemental appropriations for fiscal year 1990 for assistance for Haiti under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), of which—

(A) up to $5,000,000 may be used for election assistance; and

(B) the remainder shall be used to finance critical imports.

Funds appropriated pursuant to the authorization of appropriations contained in this paragraph may be made available for obligation until expended.

(2) ANTI-TERRORISM ASSISTANCE.—Assistance may be provided for Haiti for fiscal year 1990 under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa and following).

(b) CONDITIONS ON ASSISTANCE.—The assistance authorized by subsection (a) shall be subject to the requirements of section 560(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), except that paragraph (1) of that section does not apply with respect to such assistance.

(c) CONGRESSIONAL NOTIFICATIONS.—Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies to the assistance authorized by subsection (a).

SEC. 105. ASSISTANCE FOR THE CARIBBEAN.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 as supplemental appropriations for fiscal year 1990 for assistance for the Caribbean under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund). Of that amount, $5,000,000 is authorized to be appropriated only for assistance for the Eastern Caribbean.

(b) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

SEC. 106. MIGRATION AND REFUGEE ASSISTANCE.

(a) FISCAL YEAR 1990 SUPPLEMENTAL AUTHORIZATION.—Section 104(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), is amended by striking out "$415,000,000" and inserting in lieu thereof "$458,409,000".

(b) EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND.—

(1) INCREASED AUTHORIZATION.—Section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)(2)) is amended by striking out "$50,000,000" and inserting in lieu thereof "$125,000,000".

(2) MIGRANT IMPACT ASSISTANCE.—If at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceeds $50,000,000 pursuant to the amendment made by paragraph (1), not less than one-third of the amount in excess of $50,000,000 shall be transferred under section 4(b) of that Act (22 U.S.C. 2603(b)) to appropriate Government agencies for use in providing migrant impact assistance to State and local governments to reimburse them for expenses they are legally required to incur with respect to migrants.

(3) AFRICAN AMERICAN HEBREW COMMUNITY IN ISRAEL.—Subject to paragraph (2), if at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceeds $50,000,000 pursuant to the amendment made by paragraph (1), up to $5,000,000 of that amount is authorized to be made available (without regard to paragraph (1) of that section) for assistance to address the needs of the African-American Hebrew community in Israel in accordance with an agreement among representatives of that community, the Government of Israel, and the Government of the United States.

(4) UNITED NATIONS RELIEF AND WORKS AGENCY.—Subject to paragraph (2), if at any time during fiscal year 1990 the unobligated amount available to carry out section 2(c) of that Act exceeds $50,000,000 pursuant to the amendment made by paragraph (1), up to $10,000,000 of that amount is authorized to be made available for a United States contribution to the United Nations Relief and Works Agency for Palestinian Refugees in the Near East.

SEC. 107. ASSISTANCE FOR SUB-SAHARAN AFRICA.

(a) ASSISTANCE FOR NAMIBIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 as supplemental appropriations for fiscal year 1990 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), which shall be for assistance for Namibia following its transition to an independent democratic country.

(2) USES OF ASSISTANCE.—Except as provided in paragraph (3), funds appropriated under this subsection shall be provided to the Government of Namibia for budgetary support and to nongovernmental organiza-

tions to finance development activities in the priority sectors of agriculture, health, education, and housing.

(3) AID MISSION.—Up to $1,000,000 of the funds appropriated under this subsection shall be used for the expenses of establishing and maintaining an Agency for International Development mission in Namibia.

(b) DEVELOPMENT ASSISTANCE.—There are authorized to be appropriated $5,000,000 as supplemental appropriations for fiscal year 1990 for the "SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE" account under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), which shall be for additional assistance for countries for which assistance under that account is allocated for fiscal year 1990 in the report submitted to the Congress pursuant to section 653 of the Act (22 U.S.C. 2413).

(c) ECONOMIC SUPPORT FUND ASSISTANCE.—There are authorized to be appropriated $5,000,000 as supplemental appropriations for fiscal year 1990 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 22346 and following; relating to the economic support), which shall be for assistance for countries for which assistance is allocated under the "SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE" account for fiscal year 1990 in the report submitted to the Congress pursuant to section 653 of the Act (22 U.S.C. 2413).

(d) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorizations of appropriations contained in this section may be made available for obligation until expended.

(e) NAMIBIA AND THE COMPREHENSIVE ANTI-APARTHEID ACT.—It is the sense of the Congress that as of March 21, 1990, when Namibia became self-governing, the definition of South Africa in the Comprehensive Anti-Apartheid Act of 1986 ceased to apply to Namibia.

SEC. 108. ASSISTANCE TO ENCOURAGE NEGOTIATIONS LEADING TO A PEACEFUL TRANSITION TO DEMOCRACY IN SOUTH AFRICA.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 as supplemental appropriations for fiscal year 1990 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), which shall be used to provide assistance, through the National Endowment for Democracy and other groups, to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa.

(b) SUSPENSION OF VIOLENCE.—An organization which has engaged in armed struggle or other acts of violence shall be eligible for assistance under this section only if that organization is committed to a suspension of violence in the context of negotiations to establish a democratic system of government in South Africa.

(c) PROHIBITION ON USING FUNDS TO SUPPORT VIOLENCE.—In order to receive assistance under this section, an organization must agree that it will not use any of the funds made available to it under this section for the purpose of supporting physical violence by any individual, group, or government.

(d) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorization of appropriations contained in this section may be made available for obligation until expended.

SEC. 109. HOUSING INVESTMENT GUARANTEE PROGRAM FOR NEW IMMIGRANTS TO ISRAEL.

(a) ESTABLISHMENT OF PROGRAM.—Title III of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 222A (22 U.S.C. 2182a) the following new section:

"SEC. 222B. GUARANTY PROGRAM FOR HOUSING FOR NEW IMMIGRANTS TO ISRAEL.

"(a) AUTHORITY.—The President is authorized to issued guaranties to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for housing projects in Israel for newly arrived immigrants in that country.

"(b) LIMITATION.—The total principal amount of guaranties issued under this section that are outstanding at any one time may not exceed $400,000,000. The limitation established by the second sentence of section 222(a) does not apply with respect to guaranties issued under this section.

"(c) TERMS AND CONDITIONS.—The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders.

"(d) FEES.—For each loan guaranteed under this section, the fee charged pursuant to section 223(a) shall be an initial fee of one quarter of 1 percent of the principal amount of such loan and an annual fee of one half of 1 percent of the outstanding principal balance of such loan, except that the total of all annual fees charged under this subsection each year shall not exceed $150,000.

"(e) APPROPRIATIONS ACTION REQUIRED.—The authority of this section may be exercised only to such extent or in such amount as may be provided in advance in appropriations Acts.".

(b) CONFORMING AMENDMENTS.—Section 223 of that Act (22 U.S.C. 2183) is amended—

(1) in subsection (a), by striking out "or 222A" and inserting ", 222A, or 222B";

(2) in subsection (b)—

(A) by inserting "or 222B" after "222" the first and third places it appears, and

(B) by inserting "and 222B" after "222" the second place it appears;

(3) in subsection (c), by inserting "or 222B" after "222";

(4) in subsection (d), by striking out "or 222A" and inserting ", 222A, or 222B";

(5) in subsection (f), by inserting "or 222B" after "222"; and

(6) in subsection (j)—

(A) in the second sentence, by striking out "this title" and inserting in lieu thereof "section 222", and

(B) in the third sentence, by inserting "under section 222" after "issued" both places it appears.

## TITLE II—OTHER AUTHORIZATIONS

SEC. 201. CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.

(a) FINDINGS AND PURPOSE.—The Congress finds that freedom and movement towards democratic government reform are increasing worldwide and that thousands of high school and college students from foreign countries visit the United States each year to live and study. It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable such students to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) GRANTS.—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000 for the fiscal year 1990 to carry out this section.

SEC. 202. CERTAIN INTERNATIONAL AFFAIRS ACTIVITIES.

(a) CANADA.—Section 2 of Public Law 86-42 is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

(b) MEXICO.—Section 2 of Public Law 86-420 is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

(c) TRANSITION RULE.—Funds appropriated by section 303 of the Department of State Appropriations Act, 1988, shall be available for use pursuant to the amendments made by subsections (a) and (b) only to the extent that that section is amended in order to appropriate additional funds pursuant to those amendments.

SEC. 203. GORGAS MEMORIAL INSTITUTE.

(a) FINDINGS.—The Congress finds that the purposes and activities of the Gorgas Memorial Institute of Tropical and Preventive Medicine, Incorporated (hereafter in this section referred to as the "Institute") can be most effectively achieved through incorporation of the Institute with the Pan American Health Organization.

(b) NEGOTIATIONS.—The Secretary of State is urged to enter into negotiations with the Republic of Panama and the Pan American Health Organization to assure a transition of control of the Institute and its laboratories to the Pan American Health Organization that is satisfactory to the interested parties.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,500,000 for each of the fiscal years 1991, 1992, and 1993 for payment of a voluntary contribution by the United States to the Pan American Health Organization to provide continued support for the Institute.

SEC. 204. EXTENSION OF AU PAIR PROGRAMS.

The au pair programs which are designated, as of the date of enactment of this Act, by the Director of the United States Information Agency may be continued in effect until such time as another agency of the United States is authorized to implement such programs.

SEC. 205. TECHNICAL AND CONFORMING AMENDMENTS TO THE DEPARTMENT OF STATE APPROPRIATIONS ACT, 1990, AND THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991.

The following provisions of law are repealed:

(1) Section 614 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162).

(2) Section 302 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246).

## TITLE III—DEVELOPMENT FUND FOR AFRICA

SEC. 301. SHORT TITLE.

This title may be cited as the "Development Fund for Africa Act".

SEC. 302. DEVELOPMENT FUND FOR AFRICA.

(a) ENACTMENT OF AUTHORIZATION FOR DEVELOPMENT FUND.—Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 9 the following new chapter:

### "CHAPTER 10—DEVELOPMENT FUND FOR AFRICA

"SEC. 496. LONG-TERM DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA.

"(a) FINDINGS.—The Congress finds that—

"(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

"(2) drought and famine in combination with other factors such as desertification, government neglect of the agricultural sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

"(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies contained in this section, for long-term development in sub-Saharan Africa.

"(c) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is—

"(1) equitable, in that it enables the poor to increase their incomes and their access to productive resources and services so that they can satisfy their basic needs and lead lives of decency, dignity, and hope;

"(2) participatory, in that it enables the poor to contribute knowledge and other resources and to make and influence decisions that affect their lives;

"(3) environmentally sustainable, in that it maintains and restores the renewable natural resource base of the economy and wisely uses nonrenewable resources; and

"(4) self-reliant, in that it is based on indigenous institutions, private and public, local and national, that have the capacity (including the human resources and finances) to carry out development policies.

Assistance provided under this section should also, in a manner consistent with the preceding provisions of this subsection, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

"(d) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

"(1) any reference in any law to chapter 1 of this part (including references to sections 103 through 106) shall be deemed to include a reference to this section; and

"(2) assistance under this section shall be provided consistent with the policies contained in section 102.

"(e) PRIVATE AND VOLUNTARY ORGANIZATIONS.—

"(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The Agency for International Development shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the Agency for International Development should consult closely with African, United States, and other private and voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub- Saharan Africa as described in subsection (c).

"(2) FUNDING FOR STRENGTHENING OF DEVELOPMENT EFFORTS.—In carrying out this section, the Agency for International Development should make available funds for the strengthening of development efforts by African, United States, and other private and voluntary organizations which have demonstrated effectiveness in or a commitment to the promotion of local grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

"(3) DEFINITION OF PRIVATE AND VOLUNTARY ORGANIZATION.—For purposes of this section, the term 'private and voluntary organization' includes (in addition to entities traditionally considered to be private and voluntary organizations) cooperatives, credit unions, trade unions, women's groups, higher education institutions, nonprofit development research institutions, other intermediaries, and indigenous local organizations, which are private and nonprofit.

"(f) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which has a local focus.

"(g) PARTICIPATION OF AFRICAN WOMEN.—The administering agency shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decision-making) and integration of African women in each of the critical sectors described in subsection (i).

"(h) TYPES OF ASSISTANCE.—

"(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize primarily projects and programs to address critical sectoral priorities for long-term development described in subsection (i).

"(2) REFORM OF NATIONAL ECONOMIC POLICIES.—

"(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may also include program assistance to promote reform of national economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of national economic policies to support the critical sectoral priorities described in subsection (i).

"(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers and the urban poor) and long-term environmental interests from possible negative consequences of the reforms.

"(3) OTHER ASSISTANCE.—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1) and (2). Limited amounts of assistance, however, may be furnished under this section to address other priorities for long-term development in sub-Saharan Africa as described in subsection (c).

"(i) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

"(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

"(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes at the macroeconomic and sector levels, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

"(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base in ways which increase agricultural production, through the following:

"(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations.

"(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

"(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

"(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

"(2) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children through the establishment of self-sustaining primary health care systems that give priority to preventive health.

"(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

"(4) EDUCATION.—Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

"(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment

opportunities in micro- and small scale labor-intensive enterprises.

"(j) MINIMUM LEVELS OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The Agency for International Development shall target the equivalent of not less than 10 percent of the amount authorized to be appropriated for each fiscal year to carry out this chapter for each of the following:

"(1) The activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

"(2) The activities described in subsection (i)(2).

"(3) The activities described in subsection (i)(3).

"(k) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

"(l) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

"(m) GENERATED LOCAL CURRENCIES.—

"(1) GENERATED UNDER THIS SECTION.—Local currencies generated under this section by the sale of imports or foreign exchange by the government of a country in sub-Saharan Africa shall be deposited in a special account established by that government. These local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which would be eligible for assistance under this section, except that the agreement shall require that the government of the country make available to the United States Government such portion of the amount deposited in the special account as may be determined by the President to be necessary for requirements of the United States Government. The Agency for International Development shall carefully monitor the deposit of local currencies and the use of such local currencies or their equivalent for specific developmental activities in accordance with this paragraph.

"(2) GENERATED UNDER OTHER AUTHORITIES.—Local currencies generated in sub-Saharan Africa under chapter 4 of part II of this Act or under section 106(b)(2), section 206, or title III of the Agricultural Trade Development and Assistance Act of 1954 that are to be used for development activities shall be used only for activities which would be eligible for assistance under this section.

"(n) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

"(o) POLICY ON USE OF FUNDS FOR PAYMENT OF OFFICIAL DEBT.—It shall be the policy of the United States that funds made available to carry out this section not be used to make payments with respect to any official debt owed to the United States Government, any foreign government, or any multilateral lending institution. Exceptions to this policy may be made—

"(1) only in certain instances where the recipient country's debt service is a significant barrier to development and where such payments would have a significant effect in leveraging additional flows of development finance; and

"(2) only after consultation with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(p) RELATION TO OTHER AUTHORITIES.—

"(1) ASSISTANCE UNDER OTHER AUTHORITIES.—The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally-funded programs which benefit sub-Saharan Africa shall continue to be funded under chapter 1 of part I of this Act.

"(2) TRANSFER AUTHORITIES.—(A) The transfer authority contained in section 109 of this Act shall not apply with respect to this section.

"(B) The transfer authority contained in section 610(a) of this Act may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

"(3) REPROGRAMMING NOTIFICATIONS.—Section 634A of this Act does not apply with respect to funds made available to carry out this section.

"(4) PROCUREMENT OF GOODS AND SERVICES.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, section 604(a) of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti-Apartheid Act of 1986.

"(q) SUPPORT FOR SADCC PROJECTS.—

"(1) AUTHORITY TO PROVIDE ASSISTANCE.—To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, funds made available to carry out this chapter may be used to assist sector projects, in the sectors specified in paragraph (2), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the 9 member states forming that regional institution.

"(2) SECTORS.—The sectors with respect to which assistance may be provided under this subsection are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

"(3) RELATION TO DFA POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this subsection shall be provided consistent with the policies and authorities contained in the preceding subsections of this section.

"SEC. 497. AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEVELOPMENT FUND FOR AFRICA.

"(a) AUTHORIZATIONS.—The Congress will authorize appropriations to carry out this chapter.

"(b) EXTENDED AVAILABILITY OF FUNDS.—Funds appropriated to carry out this chapter are authorized to be made available until expended. It is the sense of the Congress that the authority of this subsection should be used to extend the period of availability of those funds whenever appropriate to improve the quality of assistance provided under section 496.

"SEC. 498. FUNDING FOR INCREASED AID ORGANIZATIONAL RESOURCES FOR SUB-SAHARAN AFRICA.

"The Administrator of the Agency for International Development may transfer up to 5 percent of the funds made available each fiscal year to carry out this chapter to the appropriations account for the operating expenses of the Agency for International Development for use in increasing (above the level of resources available for fiscal year 1989) the organizational resources which the agency has available for development assistance activities for sub-Saharan Africa. These funds shall be in addition to amounts otherwise allocated to the agency's Bureau for Africa.".

(b) EVALUATIONS.—The Administrator of the Agency for International Development shall periodically evaluate the progress of the agency in achieving the purpose specified in section 496(c) of the Foreign Assistance Act of 1961, as enacted by this section. The Administrator shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate—

(1) an interim evaluation by October 1, 1992; and

(2) a summary evaluation by February 1, 1997.

(c) REPORTS TO CONGRESS.—As part of the annual Congressional presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a description of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961, including for each sub-Saharan African country a brief description of—

(1) the nature and extent of consultation to ensure local perspectives, as described in subsection (e)(1) and (f) of section 496;

(2) the degree of involvement of local people in the implementation of projects having a local focus;

(3) the assistance provided to private and voluntary organizations pursuant to section 496(e)(2), specifying the amounts obligated for such assistance and comparing these amounts with those provided for the previous fiscal year;

(4) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

(5) program assistance provided to promote national economic policy reforms, including the amounts obligated, the criteria used for assisting national reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

(6) assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated.

Each report shall also describe organizational changes undertaken pursuant to section 498 and the amounts obligated and the amounts expended for these changes.

(d) CONFORMING AMENDMENTS.—

(1) FOREIGN ASSISTANCE ACT.—The Foreign Assistance Act of 1961 is amended—

(A) in section 105(b)—

(i) by striking out "(b)(1)" and inserting in lieu thereof "(b)"; and

(ii) by striking out paragraph (2);

(B) in section 116(e)(1), by adding at the end thereof "Funds made available to carry out section 496 of this Act may only be used under this subsection with respect to countries in Sub-Saharan Africa.";

(C) by repealing section 121; and

(D) in subsections (f) and (g) of section 123, by striking out "121, and 491" in each subsection and inserting in lieu thereof "491, and 496".

(2) PUBLIC LAW 480.—The Agricultural Trade Development and Assistance Act of 1954 is amended—

(A) in section 106(b)(2), by inserting "(or, in the case of sub-Saharan Africa, programs directed at comparable objectives contained in section 496" after "Foreign Assistance Act of 1961";

(B) in clause (3)(A) of section 206(a), by inserting "(or, in the case of sub-Saharan Africa, comparable objectives contained in section 496 of that Act)" after "section 103 of the Foreign Assistance Act of 1961";

(C) in section 301(b), by inserting "(or, in the case of sub-Saharan Africa, programs directed at comparable objectives contained in section 496)" after "Foreign Assistance Act of 1961"; and

(D) in section 303(b), by inserting "(or, in the case of sub-Saharan Africa, under section 496)" after "section 103 of the Foreign Assistance Act of 1961".

## TITLE IV—CARIBBEAN REGIONAL DEVELOPMENT

SEC. 401. UNITED STATES POLICIES.

(a) IN GENERAL.—It shall be the policy of the United States in providing development and other economic assistance to the Caribbean—

(1) to help the poor (including women, the landless, subsistence food producers, urban workers, the unemployed, and indigenous populations) to participate in the development of their societies through a process of equitable economic growth that enables them to increase their incomes and their access to productive resources and services, to protect and advance their rights, and to influence decisions that affect their lives;

(2) to support development that is environmentally sustainable;

(3) to promote Caribbean self-reliance by providing assistance to indigenous national and regional governmental and nongovernmental institutions that have the capacity or potential to carry out development programs effectively;

(4) to support food production for national and regional consumption;

(5) to promote the diversification of industrial and agricultural production, the development of new products, and the integration of agricultural production with the development of industry and tourism;

(6) to help advance the process of regional economic integration by channeling assistance through regional organizations to the maximum extent possible;

(7) to support those national programs of economic adjustment that promote the policies enumerated in this section in order to help ensure that the burdens created by adjustment are not borne by the poor;

(8) to support employment generation while avoiding the displacement of traditional lines of small-scale production; and

(9) to preserve and reinforce traditional Caribbean culture and social values.

(b) DEVELOPMENT ASSISTANCE.—

(1) SUPPORTING INDIGENOUS DEMOCRATIC INSTITUTIONS.—Priority in providing assistance to the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall be given to supporting indigenous democratic Caribbean institutions (including farmers' unions, cooperatives, trade unions and other labor organizations, women's groups, and community organizations) that represent, work with, and benefit the poor, and through which the poor participate in making the decisions that affect their lives and their development. Such assistance shall be channeled to the maximum extent possible through United States institutions and Caribbean regional and national institutions that directly fund such democratic Caribbean institutions.

(2) PER CAPITA INCOME ELIGIBILITY CRITERIA.—In determining the eligibility of any country in the Caribbean for development assistance, the per capita income of that country shall be deemed to be no greater than the per capita income for the Caribbean as a whole.

(c) ECONOMIC SUPPORT FUND.—To the extent that assistance made available for the Caribbean under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is used to promote national economic policy reforms, such reforms shall be consistent with the policies enumerated in sections 402 through 405 of this Act.

SEC. 402. PRIORITY AREAS FOR ASSISTANCE.

To implement the policies set forth in section 401, priority in the allocation of funds for assistance for the Caribbean under chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to development assistance and the economic support fund, respectively), and in the allocation of the local currencies accruing as a result of the use of those funds, shall be given to the following:

(1) FOOD SELF-SUFFICIENCY.—Support to national ministries of agriculture, the appropriate specialized agencies of the Caribbean Community (CARICOM) and the Organization of Eastern Caribbean States, the Caribbean Development Bank, and indigenous nongovernmental organizations for efforts to achieve greater food self-sufficiency through increased staple food production for domestic consumption, including support for—

(A) the gathering of agricultural data;

(B) the coordination of agricultural research;

(C) the improvement of marketing, storage, and transportation systems;

(D) the provision of credit to agricultural producers; and

(E) improved coordination of regional planning for food self-sufficiency.

(2) RURAL DEVELOPMENT.—Support, principally through regional institutions, for rural development efforts designed to increase rural employment opportunities, enhance the quality of rural life, and retard rural-to-urban migration, including programs that provide access to land and necessary assistance to small producers and cooperatives.

(3) COMMUNITY-BASED AGRO-INDUSTRIES.—Support for locally owned cooperative and other small- and medium-scale industries engaged in the processing of indigenous resources, including support for the establishment of a marketing network to facilitate intraregional trade in food through programs that incorporate or serve small producers.

(4) FINANCIAL RESOURCES FOR SMALL- AND MEDIUM-SIZED FARM AND MANUFACTURING ENTERPRISES.—Provision of financial resources to small- and medium-sized farm and manufacturing enterprises through—

(A) the creation and capitalization of appropriate financial mechanisms; and

(B) measures to encourage Caribbean commercial banks and credit unions to provide risk capital to such enterprises.

(5) EXPANSION OF TOURISM.—Support for the expansion of tourism in the Caribbean through its fuller integration into the local economy, by providing assistance—

(A) to appropriate governmental and nongovernmental regional organizations for the design and coordination of programs for—

(i) the expansion of the use of local goods and services;

(ii) the development and implementation of a marketing strategy for tourism in the Caribbean; and

(iii) the promotion of investments in tourism integrated with the local economy; and

(B) for training and utilizing local expertise in hotel and restaurant management and other necessary skills.

(6) REGIONAL INTEGRATION.—Support for regional integration and institutions, including seeking the cooperation of other donor countries in promoting regional development in the Caribbean and including support for—

(A) efforts to regionalize and coordinate activities and prevent the proliferation and duplication of regional bureaucracies;

(B) the efforts of governmental and nongovernmental regional institutions to strengthen the infrastructure necessary to promote regional commercial activity and economic and social development;

(C) regional research institutes; and

(D) inter-island transportation and communication links, roads, and port facilities.

(7) UPGRADING TECHNICAL AND MANAGERIAL SKILLS.—Support for efforts of the countries of the Caribbean to upgrade the technical and managerial skills of their people, through—

(A) the increased utilization of local personnel, knowledge, technologies, and expertise in all development-related activities;

(B) support, including scholarships, for training in appropriate technical fields, including administration, finance, marketing, science, technology, environmental protection, and tourism; and

(C) support for increasing the capacity of Caribbean institutions to provide training in such fields.

(8) NATURAL RESOURCE BASE.—Promoting those small-scale, affordable, agricultural and industrial methods suited to local environmental, resource, and climatic conditions, and supporting such actions as the establishment of protected areas, the development of environmental curricula, and programs of public education and dialogue designed to sustain and enhance the renewable natural resource base of the Caribbean.

(9) PRIVATE SECTOR DEVELOPMENT.—Support for the diversification and promotion of Caribbean exports, for investments in the Caribbean that are appropriate to the needs of the region, and for the strengthening of private sector institutions, that would further the policy set forth in section 401(a)(5), and particularly that would strengthen the sector referred to in paragraph (3) of this section.

(10) DEMOCRATIC DEVELOPMENT AND THE ADMINISTRATION OF JUSTICE.—Support to broaden and deepen democratic institutions and values in the Caribbean and to assist countries in areas such as the administration of justice where requested by the recipient governments.

(11) ACCESS TO HUMAN SERVICES AND ASSISTANCE FOR HUMAN RESOURCES DEVELOPMENT.—Support for the provision of basic services to the citizens of the Caribbean using, as appropriate, governmental and non-governmental entities, with emphasis on sustainability of service delivery in areas such as basic education, primary health care, child survival, family planning, and prevention and control of acquired immune deficiency syndrome (AIDS).

SEC. 403. PROTECTION OF WORKER RIGHTS.

(a) DENIAL OF ASSISTANCE.—

(1) IN GENERAL.—Assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act—

(A) may not be provided to the government of any country in the Caribbean if that government does not extend, protect, and enforce internationally recognized worker rights for workers in that country (including workers within any designated zone); and

(B) may not otherwise be provided for a country in the Caribbean if the provision of that assistance would be inconsistent with promoting respect for internationally recognized worker rights.

(2) ASSISTANCE IF CERTAIN STEPS TAKEN.—Assistance may be provided to a government notwithstanding paragraph (1)(A) if that government is taking steps to adopt and implement laws that demonstrate significant, tangible, and measurable overall advancement in providing internationally recognized worker rights throughout the country (including in any designated zone).

(3) EXEMPTIONS.—Paragraph (1) does not apply with respect to development assistance or narcotics control assistance provided under this Act.

(b) ANNUAL REPORTS.—Each human rights report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 shall address how the provisions of this section were implemented during the preceding fiscal year.

(c) DEFINITIONS.—As used in this section—

(1) the term "designated zone" has the same meaning it has for purposes of the Trade Act of 1974; and

(2) the term "internationally recognized worker rights" has the same meaning as is given that term by section 502(a)(4) of the Trade Act of 1974.

SEC. 404. PROTECTION OF PUBLIC HEALTH.

The Agency for International Development shall not provide any assistance, directly or indirectly, for the use of any chemical or other substance in a country in the Caribbean if—

(1) that use is not permitted under laws of that country relating to protection of public health, or

(2) that use would not be permitted in the United States under laws of the United States relating to protection of public health.

SEC. 405. SUPPORT FOR WOMEN'S ROLE IN DEVELOPMENT.

In providing assistance to the Caribbean, the Agency for International Development shall place emphasis on ensuring the active participation of Caribbean women in the development process, particularly through—

(1) the promotion of greater access by women to productive resources and services, such as land, credit, and markets, thereby increasing the economic security of women and their dependents;

(2) programs that respond to and support women's domestic needs and activities, including the strengthening of community-based education, health, and childcare programs and other critical social services identified by poor women; and

(3) the involvement of Caribbean women in research on the factors that contribute to their economically vulnerable situation, in programs that address these factors, and in the design and implementation of development projects.

SEC. 406. CONSULTATION, MONITORING, EVALUATION, AND REPORTING.

(a) CONSULTATION.—In all stages of the design and implementation of assistance policies, programs, and projects in the Caribbean, the Agency for International Development shall take into account the perspectives of the rural and urban poor through close and regular consultation with Caribbean organizations that work with the poor and that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in the Caribbean, as described in section 401(a). The Agency for International Development shall reflect the results of such consultations in its annual planning documents.

(b) MONITORING.—The Agency for International Development shall monitor socioeconomic conditions in the Caribbean and the effect of United States economic assistance programs and policies on those conditions. The Agency for International Development shall involve Caribbean governments, and Caribbean nongovernmental organizations that work at the grassroots level, in such monitoring.

(c) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Office of Technology Assessment—

(1) shall conduct an evaluation of the performance of the Agency for International Development in carrying out this title; and

(2) shall report the result of that evaluation to the Congress.

(d) ANNUAL REPORTS TO CONGRESS.—The Administrator of the Agency for International Development shall submit to the Congress, at the same time as the annual congressional presentation materials for economic assistance are submitted, an analysis of—

(1) the effectiveness of the programs conducted under this title in furthering the polices set forth in section 401 and in carrying out each of the priorities of section 402, including the amounts expended on each such program;

(2) the nature and results of consultations under subsection (a), and the impact of such consultations on the programs undertaken to carry out this title; and

(3) the results of the monitoring under subsection (b).

SEC. 407. DEFINITION OF CARIBBEAN.

As used in this title, the term "Caribbean" includes Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Cayman Islands, Montserrat, Netherlands Antilles, Saint Christopher-Nevis, Turks and Caicos Islands, and the British Virgin Islands.

## TITLE V—EL SALVADOR

SEC. 501. ASSISTANCE FOR EL SALVADOR.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hostilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(B) the actions of each side that affect the basic human rights of the Salvadoran people.

(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

(1) FISCAL YEAR 1990: CONDITIONAL WITHHOLDING OF HALF OF REMAINING MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1990 that are unexpended on the date of enactment of this Act shall be withheld from expenditure for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(2) FISCAL YEAR 1991.—

(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (f), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

(3) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—

(A) DEVELOPMENT ASSISTANCE.—At the end of fiscal year 1990 and at the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1) or paragraph (2)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect

to the obligation of any funds so transferred.

(B) EXCEPTION.—Notwithstanding subparagraph (A) and paragraph (1), fiscal year 1990 funds withheld from expenditure pursuant to paragraph (1) may be used for cancellation expenses for military assistance programs for El Salvador, so long as such use does not result in the delivery of any military assistance to El Salvador.

(4) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1990 and fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

(5) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the representatives of the FMLN—

(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

(B) are rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress; or

(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN.

(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations; or

(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the 8 murders at the University of Central America on November 16, 1989.

(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

(f) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this Act and on March 1, 1991, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

(2) the status of the negotiations;

(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

(4) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people.

(g) SUPPORT FOR DEMOCRACY PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(2) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(h) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations,

during the 30-day period beginning on March 1, 1991;

(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than 4 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the Committee of the Whole, to final passage without intervening motion except one motion to recommit.

(8) FINAL PASSAGE IN THE SENATE.—In the Senate, immediately following the conclusion of the debate on a privileged joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote

on final passage of the joint resolution shall occur.

(9) APPEALS FROM DECISION OF THE CHAIR NOT DEBATABLE IN THE SENATE.—Appeals in the Senate from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a privileged joint resolution shall be decided without debate.

(10) CONGRESSIONAL RULEMAKING POWERS.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a privileged joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(i) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

The CHAIRMAN. No amendments to the bill shall be in order except those amendments printed in House Report 101-489. Said amendments shall be considered in the order and manner specified in said report, shall be considered as having been read, and shall not be subject to amendment. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a member opposed thereto.

The amendments numbered 1 shall be considered en bloc and shall not be subject to a demand for a division of the question.

If amendments numbered 4 and 5 are adopted, only the latter amendment adopted shall be considered as finally adopted and reported back to the House.

It is now in order to considered amendment No. 1 printed in House Report 101-489.

AMENDMENTS EN BLOC OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, pursuant to the rule, I offer five amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

Amendments en bloc offered by Mr. FASCELL: Page 31, after line 6, insert the following new section:

SEC. 110. AUTHORITY TO TRANSFER FY 1990 MILITARY ASSISTANCE FUNDS TO ECONOMIC ASSISTANCE ACCOUNTS.

For purposes of section 610(a) of the Foreign Assistance Act of 1961, funds made available for fiscal year 1990 to carry out section 23 of the Arms Export Control Act shall be deemed to be funds made available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961.

Page 31, after line 6, insert the following:

SEC. 110. REQUIREMENT THAT CERTAIN AIRCRAFT BE LEASED RATHER THAN SOLD.

(a) AVAILABILITY OF CERTAIN FUNDS TO SATISFY REQUIREMENT.—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961, funds appropriated for counter-narcotics programs by section 602 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) that are allocated for assistance for Bolivia and Peru may be used to finance the leasing to those countries, under chapter 6 of the Arms Export Control Act, of up to 11 UH-1H helicopters.

(b) COST OF LEASES.—Section 61(a)(3) of the Arms Export Control Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the helicopters if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(c) REIMBURSEMENT OF SDAF.—To the extent that helicopters so leased were acquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this section to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

(d) CERTAIN REPORTING REQUIREMENTS.—Leases financed under this section may be entered into without regard to the requirement of section 62 of the Arms Export Control Act for advance certification to the Congress; that section applies, however, to any renewal of any such lease.

Page 34, strike out lines 1 through 12.

Page 34, after line 12, insert the following:

SEC. 206. FUNDING FOR CERTAIN INTERNATIONAL EXPOSITIONS.

Section 201(b) of the Foreign Relations Authorizations Act, Fiscal Years 1990 and 1991, is amended—

(1) by striking out "SEVILLE WORLD'S FAIR" and inserting in lieu thereof "INTERNATIONAL EXPOSITIONS"; and

(2) by striking out "for fiscal year 1990, $7,30,000 for United States participation in the World's Fair in Seville, Spain" and inserting in lieu thereof $7,300,000 for United States participation in the International Expositions in Seville, Spain and Genoa, Italy".

Page 34, after line 12, insert the following:

SEC. 206. CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.

(a) SHORT TITLE.—This section may be cited as the "Center for Cultural and Technical Interchange between North and South Act of 1990".

(b) PURPOSE.—The purpose of this section is to promote better relations between the United States and the nations of Latin America, and the Caribbean and Canada through cooperative study, training, and research, by supporting in Florida a Center for Cultural and Technical Interchange Between North and South where scholars and students in various fields from the nations of the Hemisphere may study, give and receive training, exchange ideas and views, and conduct other activities primarily in support of the objectives of the United States Information and Educational Exchange Act of 1948 and other Acts promoting international, educational, cultural, scientific, and related activities of the United States.

NORTH-SOUTH CENTER.—In order to carry out the purpose of this section, the Director of the United States Information Agency shall provide for the operation in Florida of an educational institution to be known as the North-South Center, through arrangements with public, educational, or other nonprofit institutions.

(d) AUTHORITIES.—The Director of the United States Information Agency, in carrying out this section, may utlize the authorities of the United States Information and Educational Exchange Act of 1948. Section 704(b) of Mutual Security Act of 1960 (22 U.S.C. 2056(b)) shall apply in the administration of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropiated $10,000,000 for fiscal year 1991 to carry out this section. Amounts appropriated under this section are authorized to be made available until expended.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair now recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, pursuant to the rule, I now bring up five amendments en bloc. These amendments represent needs expressed by the administration with respect to our international narcotics control program in the Andean countries, authority for the United States to participate in the World's Fair International Exposition in Seville, Spain and Genoa, Italy in 1992, and authority to establish a Center for Cultural and Technical Interchange between North America and the other nations of the Western Hemisphere. Finally, the bloc includes a procedural amendment relating to the Commerce, Justice, State Appropriations Act of 1990.

These amendments are noncontroversial in nature and have been worked out in consultation with the ranking minority member of the committee, Mr. BROOMFIELD of Michigan, and other interested members on both sides of the aisle.

I urge the adoption of the en bloc amendments.

Mr. BROOMFIELD. Mr. Chairman, I rise to indicate my support for these en bloc amendments as proposed by the chairman of the committee, the gentleman from Florida [Mr. FASCELL].

Mr. Chairman, as the distinguished chairman of the House Foreign Affairs Committee has indicated, this en bloc amendment contains five provisions.

The first amendment enables the Department of Defense to forward helicopters to Peru and Bolivia to enhance antinarcotics efforts of those countries. The title to the helicopters would, however, remain in the United

States to ensure that their use is consistent with U.S. policy in the region.

The second amendment allows the transfer of funds from military assistance to economic assistance. This provision provides the President with the flexibility to respond to the rapidly changing needs of the Andean nations in their fight against drugs.

The third amendment strikes a portion of the bill which would release State Department funds at fiscal year 1990 levels. It is my understanding that this provision is a part of the supplemental appropriations conference report we are to consider tomorrow.

The fourth amendment authorizes $7.3 million to fund United States exhibits at the Seville World's Fair in Spain and at the Genoa, Italy Celebration to commemorate Columbus' discovery of America. While this money was previously authorized, it has not been appropriated.

The fifth amendment authorizes $10 million in 1991 for the establishment of a north-south center. This is an effort to build better relations between the nations of the Northern and Southern Hemispheres through the promotion of cultural and educational exchange and is, of course, subject to appropriation.

I have no objection to the en bloc amendments and I urge its adoption.

Mr. GOSS. Mr. Chairman, the Fascell en bloc amendment which we are debating today contains an amendment on the titling of aircraft that I would like to address in more detail. Although this is a technical amendment, the issue at stake is the President's Andean initiative and the precedent set for military assistance in general.

Section 484 of the Foreign Assistance Act of 1961, enacted in 1986, says that any aircraft provided under the INM program, or primarily for narcotics-related purposes under any other provision of law, may only be provided on a lease or loan basis. It is clear that the Congress intended to be able to reclaim aircraft promptly from countries in situations where the equipment was not being used for counternarcotics purposes.

The International Narcotics Control Act, which was passed in November 1989, authorized military equipment and assistance for the President's International Cocaine Control Program. Equipment is to be provided under the Arms Export Control Act which requires sales, meaning a transfer of title. As a consequence of this legislative conflict, helicopters intended for Bolivia and Peru in 1989 still have not been provided for fighting the drug war.

Congress and the administration have been attempting to resolve this issue over the period of the last 2 months. Mr. SMITH of Florida has offered a fix to the title issue while the administration has offered, as part of their 1991 legislative package, something entirely different. I think that it is only fair to give my colleagues the administration's solution to the conflict as well.

The administration amendment would grant authority to the President to waive section 484 and, in appropriate cases, transfer title to aircraft. Some of our narcotics-fighting allies may not accept aircraft unless title is transfered.

The Smith amendment on leasing or loaning aircraft would permit leases or loans under the Arms Export Control Act; this change has the potential to affect worldwide military assistance programs. While an immediate fix is needed in order to fully commence the centerpiece of the President's international program, Mr. Smith's amendment does not adequately respond to the problem.

Not only does mandatory leasing and loaning restrict the President's flexibility, it sends a signal to our counternarcotics allies that we distrust them. Even more important, such a requirement would thrust us into a more central role, when we want to keep the principal responsibility for the source country war on drugs with the Andean nations themselves. This very issue has been of increasing debate by my colleagues on the Foreign Affairs Committee in particular regard to U.S. military assistance to Peru.

While I agree on the intent of the legislation—that is, accountability on the part of foreign governments to use equipment for the purposes it was provided for—the ultimate authority over the use of any equipment is future year authorizations and appropriations. The multiyear Andean initiative explicitly states that if countries do not perform in narcotics control this year, they jeopardize their receipt of next year's counternarcotics and economic assistance.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Florida [Mr. FASCELL].

The amendments en bloc were agreed to.

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KOSTMAYER: Page 10, strike out line 10 and all that follows through line 2 on page 11 and insert in lieu thereof the following:

(3) AGREEMENT TO SHARE INFORMATION RELATING TO MONEY LAUNDERING.—Not more than half of the funds appropriated pursuant to the authorization of appropriations provided in this section may be expended until the Secretary of State, after consultation with the Secretary of the Treasury, certifies to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that the Government of the United States and the Government of Panama have signed one or more agreements that provide for mutual and timely access to records of financial transactions for purposes of investigations relating to illicit drug trafficking and money laundering.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. KOSTMAYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, as I understand the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER], it is the same language as the language in the bill except it eliminates the Presidential waiver. Am I correct on that?

Mr. KOSTMAYER. Mr. Chairman, the gentleman is correct.

Mr. FASCELL. We have examined the amendment, Mr. Chairman, and have no objection to it on this side.

Mr. KOSTMAYER. Mr. Chairman, I would yield to the distinguished gentleman from Michigan [Mr. BROOMFIELD] in order that he may accept my amendment, which I know is something he wants very much to do.

Mr. BROOMFIELD. Mr. Chairman, we are trying to put together two amendments, one involving the Kostmayer amendment and the other the Dreier amendment.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent that the Kostmayer amendment and the Dreier amendment be considered en bloc and be accepted.

The CHAIRMAN. The Chair will state that it is in order to consider a unanimous request only to modify a pending amendment.

Mr. FASCELL. Mr. Chairman, may I suggest that we act on the Kostmayer amendment first and then act on the Dreier amendment next. I will say to the gentleman from Michigan [Mr. BROOMFIELD] that we have examined the Dreier amendment and when we get to it, we are prepared on this side to accept it.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, the President has asked us to provide about a billion dollars in assistance to Panama; $470 million of that is in cash assistance in the bill before us, the rest is indirect assistance such as the restoration of the United States sugar quota, trade credits, and housing guarantees.

A billion dollars is a lot of money—some of us think that it is too much, Mr. Chairman. Nonetheless, I am prepared to recognize our obligation and responsibility to Panama and support the President's request, but not without a signed agreement between the two countries in which Panama shares money laundering information with the United States. That's just what this amendment does.

Under the committee bill, one half of the cash assistance is held back until such an agreement is signed, but the President is empowered to release all of the assistance if he certifies that Panama is negotiating an agreement in good faith on money laundering. My amendment strikes the provision in the bill allowing the President to release the assistance based only on this certification of good faith. Good faith is not enough, Mr. Chairman. The American taxpayer wants an agreement, signed, sealed and delivered.

Mr. Chairman, my amendment would not injure Panama's chances to rebuild itself. The

administration is committed to not seeking a waiver until November—surely a signed agreement can be reached by then, but if one has not been, something is terribly wrong and the remaining half of this assistance should not be released. In other words, Mr. Chairman, they have 6 months to reach an agreement.

Mr. Chairman, I believe that we have an obligation to help Panama to its feet, and I think that we should do so with all deliberate speed. But we have other critical concerns, including the need to stop money laundering in Panama. This amendment will help to do that.

□ 1800

Mr. BROOMFIELD. Mr. Chairman, if the gentleman will yield, we accept the Kostmayer amendment.

Mr. TORRES. Mr. Chairman, I rise today in support of the Kostmayer amendment to H.R. 4636, the Supplemental Assistance for Emerging Democracies Act. We need the Kostmayer amendment to ensure, once and for all, that an agreement is finalized with Panama to stop the laundering of billions of dollars of drug money through their banks. Without the Kostmayer amendment, we only have assurances that more talks will be held, that more time will pass before a serious effort to combat money laundering becomes law in Panama.

As a member of the Banking Committee, I have, for a number of years, been actively working to strengthen our domestic banking laws to curb money laundering through U.S. banks. I am equally distressed by drug money-laundering transactions in Panama, which are to a large extent, facilitated by Panama's current bank secrecy laws.

It is estimated that as many as one-third of all Panama's banks are involved in money laundering. Yet, not a one has been prosecuted for money laundering and all of them remain in operation today. Unfortunately, money laundering remains big business in Panama. This is just not acceptable as we in this country are undertaking an all-out war on drugs and drug-related crime. The American people are committed to ending the drug scourge and we should expect no less of a commitment from those countries to whom we extend our taxpayers' dollars.

While I am pleased to see the bill before us today withholds half of the aid to Panama until an agreement is signed, it allows the administration to release these funds upon certification that the Panamanians are negotiating in good faith. Unfortunately, good faith does not guarantee an agreement any time soon. It could take months, even years, before an agreement is reached. If, indeed, the negotiations are currently proceeding well, the Kostmayer amendment provides a terrific incentive to spur them along to completion.

The Kostmayer amendment allows us to secure from the Panamanians positive, measurable progress in the war on money laundering in exchange for our aid dollars. I urge my colleagues to support this amendment.

Mr. ANNUNZIO. Mr. Chairman, drugs are an international scourge. Drug-producing plants are grown in one country, processed in another and consumed in yet another. The profits are laundered through banks and shell corporations in other countries. No war against drug dealers can be won without international cooperation.

An amendment will be offered by Mr. KOSTMAYER to encourage the Panamanian government to join in the international effort against drugs and drug money laundering. I will support that amendment and urge Members to do likewise.

Panama earned a reputation as the money laundering capital of the world during the 1980's. Last fall, the Financial Institutions Subcommittee heard forma Federally-protected witness who worked for the Medellin drug cartel. He told about how easy it was to launder money in Panama. He told the Subcommittee that he dealt with the official in charge of drug interdiction and that the official reported directly to General Noriega.

Last December, American troops went to Panama to remove the regime of Manuel Noriega. Twenty-three young American men died to clean out the rat-infested corrupt government that provided both a pipeline for cocaine and a conduit for cash.

Now the new Panamanian government is dragging its feet on cooperating in tracking down money laundering. Apparently the Panamanian bankers are out to protect their profits from laundering dope money for cocaine killers.

Holding back half the $420 million in U.S. aid until a money laundering information sharing agreement is actualy signed will give the new government a powerful incentive to disregard the bleating of the corrupt bankers.

The responsible governments of the world have repeatedly expressed their concern for the need for a coordinated effort against money laundering. The G–7 Financial Action Task Force on Money Laundering released its report last month, including 40 action recommendations that the governments of the world should implement. In a letter to me on April 19, Treasury Secretary Brady pointed out that the recommendations "will facilitate greater cooperation in international investigations, prosecutions and forfeiture actions."

Recommendation 32 calls for nations "to improve * * * international information exchange relating to suspicious transactions, persons and corporations involved in those transactions."

In effect, the Kostmayer amendment requires Panama to implement this important G–7 Money Laundering Task Force recommendation with the United States. Surely, this is not too much to ask of a country with a previously shameful money laundering record that seeks to receive our aid.

Help fight money laundering by supporting the Kostmayer amendment when it is offered.

Mr. KOSTMAYER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does any Member seek time in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 101–489.

AMENDMENT OFFERED BY MR. DREIER OF CALIFORNIA

Mr. DREIER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DREIER of California: Page 9, line 23, strike out "and"; page 10, line 2, strike the period and insert in lieu thereof "; and"; and after line 2, insert the following:

(C) commends the Endara Government for—

(i) signing a counter-narcotics agreement;

(ii) taking the initiative to establish legal requirements to ensure the availability of currency and other financial transaction information to regulatory and law enforcement authorities; and

(iii) signing the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

(2) UNITED STATES POLICY.—It is the policy of the United States to support the efforts of the Government of Panama to ensure that abuse of Panama's private and public institutions by drug traffickers and money launderers will not again be permitted to occur. To this end, the United States should—

(A) pursue to a prompt conclusion the discussions initiated by the Government of Panama concerning arrangements for information sharing and other law enforcement agreements with a view toward formalizing appropriate arrangements to include—

(i) a mechanism for exchanging adequate records (as defined in section 4702(f)(2) of the International Narcotics Control Act of 1988) on international currency transactions in connection with narcotics investigations and proceedings;

(ii) mutual access to records of financial transactions for purposes of law enforcement investigations; and

(iii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records and other evidence for use in criminal proceedings;

(B) utilize funds appropriated under this and other Acts to provide appropriate training, materials, and equipment requested by the Government of Panama to facilitate implementation of such agreed arrangements;

(C) utilize funds appropriated pursuant to this and other Acts to provide appropriate training, materials, and equipment requested by the Government of Panama to ensure effective implementation of its recently adopted financial transaction requirements; and

(D) utilize funds appropriated pursuant to this and other Acts to assist the office of the Attorney General of Panama in obtaining appropriate training, materials, and equipment requested by the Government of Panama to ensure effective implementation of its declared policy of prosecuting drug traffickers and money launderers, and seizing their assets.

Page 10, line 3, strike out "(2)" and insert in lieu thereof "(3)"; line 10, strike out "(3)" and insert in lieu thereof "(4)"; page 11, line 3, strike out "(4)" and insert in lieu thereof "(5)"; and page 12, line 5, strike out "(5)" and insert in lieu thereof "(6)".

The CHAIRMAN. Under the rule, the gentleman from California [Mr. DREIER] is recognized for 30 minutes.

Mr. DREIER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to the distinguished gentleman from Florida, the chairman of the full committee.

Mr. FASCELL. Mr. Chairman, we have examined the gentleman's amendment on this side, and we are prepared to accept it.

Mr. DREIER of California. Mr. Chairman, I thank my friend.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, we also are in accord with the amendment and we support it on this side.

Mr. Chairman, one of the greatest challenges this country faces is the fight against the drugs that are wasting an entire generation of American youth.

That is not an easy challenge. Drugs is a big money business. As long as the money comes easy, America wouldn't be able to get the upper hand on the drug problem.

For too long, Panama has served as a money laundering point for the drug lords. Today, with a democratic government in Panama, we have a chance to close down this illegal operation.

That is why I support the Dreier amendment. It is the best chance we have to get at the source of the drug problem. The Dreier amendment has two advantages: It gets at the root of the problem, yet it recognizes the sovereignty of the Panamanian Government.

The Dreier amendment encourages the newly elected government of Panama to work with American officials to solve the money laundering problem. It includes mechanisms for exchanging information on currency transactions and for facilitating the use of evidence in criminal proceedings.

The Dreier amendment also calls on the administration to use funds in this legislation to provide training, material and equipment that Panama needs to close down the drug traffic.

The Dreier amendment offers the democratic government of Panama a hand, not a hammerlock. It is a constructive way to handle a very difficult problem.

I encourage my colleagues to support this amendment.

Mr. GILMAN. Mr. Chairman, I support the Dreier-Gilman amendment which refines the language in H.R. 4636, the bill before us. Our language is constructive, extending a helping hand to a friend willing to work with us in the war on drugs. It also leaves much of the committee-approved language on money laundering intact and has the support of the administration.

Our amendment encourages our government to work closely with Panamanian officials in formalizing arrangements concerning the exchange of records on currency transactions, and an efficient mechanism for obtaining evidence for use in criminal proceedings.

The Dreier-Gilman amendment also calls upon the administration ot utilize funds in this legislation to provide training, material and equipment to Panama to assist that country in carrying out these agreements designed to end money laundering. We need to do everything possible to help Panama rid itself of money launderers and drug traffickers. This amendment provides the help so desperately needed by the new democratic government of Panama.

Accordingly, I encourage my colleagues to support this amendment.

Mr. DREIER of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DREIER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 101-489.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOMFIELD: Page 65, beginning on line 11, strike all through page 78, line 11, and insert in lieu thereof the following:

SEC. 501. SHORT TITLE.

This title may be cited as the "El Salvador Peace, Security, Justice, and Democracy Act of 1990".

SEC. 502. STATEMENT OF POLICY.

It shall be the policy of the United States—

(1) to support the Government of El Salvador in order to strengthen democratic institutions and promote economic development, conditions of security, and efforts to achieve a lasting negotiated settlement to the armed conflict in that country;

(2) to support the Government of El Salvador's implementation of free and fair electoral practices as demonstrated by national, local, and municipal elections carried out in that country since 1984;

(3) to support the December 12, 1989, Declaration of San Isidro in which the Central American presidents back the Government of El Salvador in its efforts to find a solution to the Salvadoran conflict by "peaceful and democratic means", call on the Farabundo Marti National Liberation Front (hereinafter in this title referred to as the "FMLN") to "effectively and immediately cease hostilities" and to "reincorporate itself into the process of dialogue already undertaken", and emphatically demand that the FMLN "renounce all forms of violent action that directly or indirectly affects the civilian population";

(4) to support the efforts to achieve an end to hostilities and a lasting negotiated settlement of the armed conflict;

(5) to work with Latin American governments; the Organization of American States, and the United Nations to press the Soviet Union, Nicaragua, Cuba, and other countries to terminate support, both material and logistic, to the FMLN and to use the good offices of such governments and organizations to press the FMLN to negotiate seriously and in good faith with the Government of El Salvador;

(6) to promote greater respect for human rights by both sides in the conflict in El Salvador and to condition United States assistance on the commitment of both sides to investigate thoroughly and hold accountable those funds to be responsible for the murders of prominent Salvadorans, such as Jose Rodriquez Porth, Francisco Guerrero, elected municipal officials, and those murdered at the University of Central America and at San Sebastian among others;

(7) to support the separation of all police functions from the command and control of the armed forces of El Salvador and to reconstitute the police force as a civilian force directly responsible to, and under the control of, a civilian authority;

(8) to support the reorganization of the structure and reduction of the size of the armed forces of El Salvador after the completion of successful negotiations with the FMLN which establish a lasting political settlement to the armed conflict in that country;

(9) to support the reform of the system of justice in El Salvador emphasizing judicial training, court administration, and the revision of the legal code, among other activities, ultimately leading to the establishment of a strong, responsible, independent justice system; and (10) to take those steps necessary to ensure that United States development assistance for El Salvador is administered efficiently and effectively for the purposes for which it was intended.

SEC. 503. CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR.

(a) IN GENERAL.—The President shall ensure that military assistance for El Salvador for fiscal year 1991 is furnished in a manner which fosters demonstrated progress toward strengthening democratic institutions, economic development, and security of that country. To this end, the President in every appropriate instance shall impose conditions, in addition to those specified in subsection (c), on the furnishing of such assistance in order to achieve those goals, including the objectives described in subsection (b)(4).

(b) REPORTS.—Not later than November 1, 1990, and not later than May 1, 1991, the President shall submit to the Congress a detailed report covering the previous 6-month period (April 1 to September 30, 1990, and October 1, 1990, to March 31, 1991, respectively) that—

(1) specifies whether the President has made the determination described in subsection (c)(3);

(2) fully describes the policies of the Government of El Salvador for achieving strengthened democratic institutions, economic development, conditions of security, and a negotiated settlement to the conflict in that country;

(3) reviews comprehensively the factors contributing to the political, economic, and security situation in that country, including such factors as human rights, land reform, the economy of the country, refugees and displaced persons, the military situation, and guerrilla activity; and

(4) includes the President's detailed assessment of the strengths and weaknesses of the policies of the Government of El Salvador in protecting and advancing the human rights, in particular the right to security of person, of all persons in El Salvador during the period covered by the report with respect to each of the following objectives:

(A) An end to the involvement in or support for acts of unlawful violence, secret de-

tention, abduction, torture, and murder by members of military, security, or police forces.

(B) The establishment of an effective judicial system, operating under fair and efficient procedures, in which those charged with crimes are brought to timely justice and private disputes and grievances are resolved on the basis of respect for the rule of law, free from the taint of corruption and intimidation; and in particular, the taking of necessary measures to investigate, and prosecute those responsible for the 8 murders at the University of Central America on November 16, 1989.

(C) Effective freedom of the press and freedom of association, including the enforcement of measures against intimidation of the press and labor and peasant union members and leaders.

(D) Participation by the Government of El Salvador in negotiations with the FMLN, in good faith, for the purpose of achieving an end to hostilities and an equitable political settlement, based upon free and fair elections and conditions which will assure the physical security of all participants before, during, and after those elections.

(E) Full implementation of the land reform program, including the taking of necessary measures against illegal evictions and the furnishing of necessary credits, administrative support, technical assistance, and services to beneficiaries.

(F) In the event of continued hostilities perpetuated by the FMLN to which the Government of El Salvador responds, compliance by the Government of El Salvador with applicable rules of international law, in particular humanitarian principles the protection of civilians.

(c) LIMITATIONS ON MILITARY ASSISTANCE.—Military assistance for fiscal year 1991 may be provided for El Salvador only as follows:

(1) AMOUNT OF ASSISTANCE.—No more than $85,000,000 in such assistance may be provided for El Salvador.

(2) TERMINATION OF ASSISTANCE.—No such assistance shall be obligated for the Government of El Salvador if the President determines that—

(A) that government is declining to participate in good faith in negotiations with the FMLN leading to an end to hostilities and a permanent settlement to the armed conflict;

(B) that government is failing to support an active role for the Secretary General of the United Nations in those negotiations; or

(C) the duly-elected head of that government has been deposed by unconstitutional means, including a military coup or decree.

(3) WITHHOLDING OF ASSISTANCE.—The President shall withhold up to 25 percent of the military assistance funds allocated for El Salvador if he determines, and reports to the Congress pursuant to subsection (b), that—

(A) the Government of El Salvador has not made demonstrated progress in protecting and advancing internationally recognized human rights;

(B) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the eight murders at the University of Central America on November 16, 1989;

(C) the Government of El Salvador is failing to separate all police functions from the command and control of the armed forces of El Salvador and to reconstitute the police force as a civilian force directly responsible to, and under the control of, a civilian authority;

(D) the Government of El Salvador has not taken steps to reform the system of justice aimed at the establishment of a strong, independent, and responsible judicial system; or

(E) upon the successful completion of a negotiated settlement agreement with the FMLN, the Government of El Salvador is failing to reorganize the structure and reduce the size of the armed forces of El Salvador in a manner consistent with such an agreement.

(4) WAIVER BASED ON FMLN CONDUCT.—Paragraphs (2) and (3) shall not apply if the President determines, at any time, and reports to Congress that—

(A) the FMLN is declining to participate in good faith in negotiations for an end to hostilities and a permanent settlement to the armed conflict in El Salvador;

(B) the FMLN is failing to support an active role for the Secretary General of the United Nations in those negotiations;

(C) the FMLN is continuing to acquire or receive lethal military equipment from outside El Salvador;

(D) the FMLN is conducting acts of terrorism and economic sabotage, including attacks on civilians or government officials or violent actions which directly or indirectly affect the civilian population of El Salvador, including attacks on public transport systems of personnel, commercial establishments, telephone communications, or the electrical power system; or

(E) the FMLN is conducting sustained offensive military operations which increase the risk to noncombatants in El Salvador.

(5) FMLN HUMAN RIGHTS ABUSES.—In considering the determination in paragraph (4), the President shall take into account the extent to which the FMLN is conducting a thorough and professional investigation into and is holding accountable those members of the FMLN responsible for human rights abuses and politically motivated crimes in El Salvador, including the murder of prominent Salvadorans, such as Jose Rodriguez Porth, Francisco Guerrero, and elected municipal officials, among others.

(6) CIVILIAN APPROVAL OF MILITARY ASSISTANCE.—To ensure effective and efficient administration of such military assistance and to strengthen internal oversight over the use of such assistance in El Salvador, the President shall require that no military assistance provided for fiscal year 1991 shall be made available for use by the armed forces of El Salvador without the prior approval of the democratically elected President of El Salvador.

(d) FUNDS SUBJECT TO JOINT RESOLUTION.—Funds obligated or available for obligation under this section shall be subject to any joint resolution with respect to a report the President submits pursuant to subsections (b) or (c)(4).

(e) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations, during the 30-day period beginning on the date of submission of a report described in subsection (b) or (c)(4);

(B) which is being considered during that 30-day period;

(C) which would place conditions or limitations, on both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(D) which does not contain any provision which is not related to the conditions and limitations provided for in the joint resolution; and

(E) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a priviledged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself in to the Committee on the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) *Debate time.*—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than 4 hours, which shall be equally divided and controlled by the Chairman and Ranking Minority Member of the committee reporting the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, it shall be in order to consider amendments to a privileged joint resolution under the five-minute rule in the Committee of the Whole.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments to the joint resolution, the Committee on the Whole shall rise and

report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, together with any amendments adopted thereto, to final passage without intervening motion except one motion to recommit, with or without instructions.

(8) FINAL PASSAGE IN THE SENATE.—In the Senate, immediately following the conclusion of the debate on a privileged joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(9) APPEALS FROM DECISION OF THE CHAIR NOT DEBATABLE IN THE SENATE.—Appeals in the Senate from the decisions of the chair relating to the application of the rules of the Senate to the procedure relating to a privileged joint resolution shall be decided without debate.

(10) CONGRESSIONAL RULEMAKING POWERS.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a privileged joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitution right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(f) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or assistance with funds under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

SEC. 504. ASSISTANCE FOR HUMAN RIGHTS AND DEMOCRATIC INITIATIVES

(a) ADMINISTRATION OF JUSTICE.—

(1) OBJECTIVES.—The President may use funds made available under this subsection to support the programs and activities for El Salvador described in paragraph (2) in order to—

(A) promote increased adherence to internationally recognized human rights, as set forth in the Universal Declaration of Human Rights;

(B) improve the performance of institutions of democracy; and

(C) otherwise promote pluralism in El Salvador.

(2) PROGRAMS AND ACTIVITIES WHICH MAY BE SUPPORTED.—Funds made available under this subsection shall be available to support the following:

(A) Programs and activities to enhance the independence and performance of institutions of democratic governance, including support for judicial, electoral, and legislative processes.

(B) Programs and activities—

(i) to encourage the growth of independent associations by strengthening professional, civic, trade union, business, community, and other organizations, and

(ii) to enhance the organizational and leadership skills of the members of such organizations in order to increase citizen participation in democratic processes.

(C) Programs and activities to increase awareness of internationally recognized human rights (including by increasing the availability of information concerning the status of respect for internationally recognized human rights), improve the effective exercise of those rights, and strengthen respect for the rule of law.

(D) Programs and activities.—

(i) to support victims of abuses of internationally recognized human rights, including the direct provision of legal services, and

(ii) to support organizations and institutions seeking to bring to justice those responsible for perpetrating such abuses.

(E) Programs and activities to support a free and independent press.

(F) Programs and activities—

(i) to provide specialized professional training, scholarships, and exchanges for continuing legal education;

(ii) to promote the role of the bar in judicial selection, enforcement of ethical standards, and legal reform; and

(iii) to increase the availability of legal materials and publications.

(G) Programs and activities to support the revision and modernization of legal codes and procedures, including support for legislative bodies to assist them in accomplishing those ends.

(3) ELIGIBLE RECIPIENTS OF ASSISTANCE.—Assistance under this subsection may be furnished to the Government of El Salvador and to organizations, both public and nongovernmental, including national, regional, and international organizations. A portion of the funds made available to carry out this subsection shall be used for assistance provided to nongovernmental organizations.

(4) PROHIBITION RELATING TO ELECTIONS.—Assistance under this subsection may not be used to influence the outcome of any election.

(5) SUPPORT FOR DEMOCRACY PROGRAM.—The President, through an agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all predemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(6) FUNDING.—To carry out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(b) POLICE TRAINING.—

(1) AUTHORITY.—In order to encourage the separation of the law enforcement forces from the armed forces of El Salvador and to promote the professional development of the security forces of El Salvador, assistance made available under section 503(c) or under paragraph (3) of this subsection may, notwithstanding section 660 of the Foreign Assistance Act of 1961, be provided to El Salvador for fiscal year 1991 for purposes otherwise prohibited by section 660 of that Act; if the following conditions are met:

(A) The training provided with such assistance is provided by United States civilian law enforcement personnel.

(B)(i) The assistance is to be used for the purposes of professional development and training of the security forces of El Salvador in such areas as human rights, civil law, investigative and civilian law enforcement techniques, and urban antiterrorist training.

(ii) Any such assistance that is made available for equipment for these forces is intended to be used for the purchase of such equipment as communication devices, transportation equipment, forensic equipment, crime control and detection equipment, and personal protection gear. No such assistance may be used for the purchase of firearms.

(iii) Clause (ii) does not preclude the provision of consumables and spare parts for existing inventories of firearms.

(C) at least 30 days before obligating such assistance, the President certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate that the Government of El Salvador has made significant progress during the preceding 6 months in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the nonviolent expression of their political views, or prolonged detention without trial. Any such certification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

(2) DEFINITION.—For the purposes of this subsection, the term "civilian law enforcement personnel" means law enforcement personnel who are not members of the United States Armed Forces.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $2,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; related to the economic support fund).

SEC. 505. SUPPORT FOR NATIONAL RECONCILIATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to promote the process of national reconciliation in El Salvador, there are authorized to be appropriated $100,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) for use in accordance with this section.

(b) USE OF FUNDS.—

(1) ESCROW ACCOUNT.—Funds authorized under this section shall be placed in an escrow account subject to release only if the President determines and reports to Congress that an agreement between the Government of El Salvador and the FMLN for a political settlement to the conflict has been achieved.

(2) SUPPORT FOR RECONCILIATION PROCESS.—If the President makes the determination described in paragraph (1), funds authorized by this section shall be used to support the national reconciliation process, including programs—

(A) allowing for the monitoring and verification of the provisions of the agreement, including support for the involvement of the United Nations, the Organization of American States, and other appropriate international organizations;

(B) facilitating the demobilization, repatriation and relocation of FMLN and furthering their reintegration into Salvadoran civilian society;

(C) providing civilian retraining for members of the Salvadoran Armed Forces; and

(D) supporting the economic reconstruction of El Salvador necessary as a result of the war.

The CHAIRMAN. The gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes in behalf of his amendment, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment before the House is a bipartisan alternative to the Studds amendment contained in title V of H.R. 4636. I wish to thank the gentlelady from Maryland [Mrs. BYRON] for her work on behalf of the Broomfield-Byron amendment.

Our amendment is a measured and balanced approach to the situation in El Salvador. The amendment contains incentives for the democratically elected government to pursue necessary reforms. The amendment also contains disincentives for the FMLN to continue their campaign of terrorism and murder.

Our amendment requires that the President withhold up to 25 percent of military assistance unless the Government of El Salvador takes certain actions. This incentive for positive change is completely absent from the Studds and Moakley approach.

The Broomfield-Byron amendment would waive withholding requirements if the FMLN continues to engage in the terrorist conduct which has been denounced by the Central American Presidents as recently as last December.

Our amendment recognizes the need for consolidation of democracy in El Salvador but does not reward the FMLN for undertaking their November offensive, and does not undermine the peace negotiations that began last week.

There are nine major differences between our amendment and the Studds language in title V of H.R. 4636.

First, Broomfield-Byron has clear policy language supporting democratic reforms and the Central American peace process. Title V does not.

Second, Broomfield-Byron does not punitively slash fiscal year 1990 funds which have already been authorized and appropriated by bipartisan majorities in Congress.

Third, our conditions on the government of El Salvador create incentives for crucial changes, including the separation of the police from the military, judicial reform, and the reorganization of the military. Title V is silent on these key issues.

Fourth, our conditions on the FMLN include real accountability for terrorist actions, including assassinations, economic sabotage and violent killings of civilians. Title V is silent on these issues and would waive withholding only in the most extreme cases on FMLN footdragging.

Fifth, our amendment authorizes $10 million for democratic initiatives, including the administration of Justice program and the police training program which are critical for "civilianizing" the security forces and reforming the judicial process.

Sixth, our amendment requires that all military assistance be channeled through the office of the democratically-elected President. Title V contains no such requirement.

Seventh, our amendment authorizes $100 million in escrow for national reconciliation programs in the event a negotiated settlement is reached. Title V offers no incentives for national reconciliation.

Eighth, our reporting requirements extend far beyond title V, to include the status of land reform, judicial reform and human rights compliance by both sides of the conflict. The reports required by title V are limited in scope and ignore these key issues.

Finally, our amendment provides for more Congressional review than title V by subjecting any determinations regarding FMLN conduct to Congressioal review under expedited procedures. The expedited procedures in title V are expedited in name only; our amendment corrects those flaws.

Frankly, there is no reason for us to be debating this issue on the Floor today. The Secretary of State has offered repeatedly to work toward a bipartisan agreement on United States policy on El Salvador. Unfortunately, instead of pursuing a bipartisan policy, we are pursuing partisan politics.

I hope the House will choose the bipartisan course and endorse the Broomfield-Byron amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HAMILTON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Indiana [Mr. HAMILTON] is recognized for 30 minutes.

Mr. HAMILTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Broomfield substitute for the El Salvador provisions in H.R. 4636, and in support of the substitute that will be offered later by Congressmen MOAKLEY and MURTHA.

I support the Moakley-Murtha substitute's proposal to reduce military assistance to El Salvador because our present 10-year policy has not worked, and will not work.

El Salvador's decade-long conflict has taken 70,000 lives, uprooted one-fourth of its population, and left its economy in ruin.

Despite some $4 billion in U.S. assistance over the past 10 years, the Salvadoran Government has made little progress in: halting or investigating killings and abuses by security forces; addressing the social and economic roots of the conflict; or conducting negotiations to end the war.

No one can be satisfied with this record. Surely it is time to reject our failed policy and try a new approach.

TWO PROPOSALS

The proposals before us require us to choose between two fundamentally different approaches in El Salvador: The Moakley-Murtha substitute calls for an immediate 50-percent reduction in military assistance. Subsequent changes in assistance would depend upon progress on negotiations and human rights; and the Broomfield substitute would allow full military assistance to flow at this time. If the Salvadoran Government fails to make progress on human rights and reform, up to 25 percent of our assistance could be withheld later on.

The two proposals would send very different up-front signals to El Salvador.

MOAKLEY-MURTHA SUBSTITUTE

Mr. Chairman, the Moakley-Murtha proposal signals a departure from the policies of the past 10 years. Its cut in military assistance would get the attention of those in charge in El Salvador. It would convey to both sides our seriousness about a negotiated settlement and an end to human rights abuses. And it would not limit the Salvadoran Government's ability to protect itself or the civilian population.

Supporting the Salvadoran Government and armed forces with virtually unconditional aid has not worked. The government has believed that no matter what it did, our check would always be in the mail.

The immediate 50-percent cut in military assistance called for in the Moakley-Murtha substitute is a strong but reasonable response to the record of the Salvadoran armed forces over the past decade. For the first time, it would back up our stated policy with action.

The message of the Moakley-Murtha substitute is that: Both sides must stop fighting now, and start negotiating seriously; the United States will not tolerate a government that has failed during the past decade to convict a single ranking military officer for human rights crimes; and the level of our assistance will depend upon the ability of the government and the FMLN to halt human rights abuses and to pursue a negotiated settlement.

In short, the Moakley-Murtha substitute will strengthen the hand of those—on both sides—who want to negotiate.

BROOMFIELD SUBSTITUTE

The Broomfield substitute would send a message of "business as usual" to El Salvador. It would signal the continuation of current policy. It would say that nothing that happens in El Salvador will affect the level of U.S. assistance, but may only bring warnings of possible consequences. These warnings have long since lost their punch.

The substitute would give the Salvadoran Government 6 more months to clean up its act. The conditions are the same we have demanded for the past 10 years. Why should we expect the Salvadoran Government and armed forces would be willing to do in 6 months what they have not done in 10 years?

The Broomfield substitute does not change present policy in any substantial way. Enacting it would mean continuing a policy that has failed despite a 10-year trial and more than $4 billion in assistance.

ARGUMENTS AGAINST THE MOAKLEY-MURTHA SUBSTITUTE: RESPONSES

There are three major objections to a cut in military assistance at this time.

NEGOTIATIONS

First, supporters of the Broomfield substitute say that a cut in military assistance will upset the new U.N.-mediated negotiations between the Salvadoran Government and the FMLN.

On the contrary, the Moakley-Murtha proposal will improve the prospects for negotiations because it creates strong incentives for both sides to negotiate in good faith and avoid further armed conflict: If the government negotiates seriously and makes progress on human rights, it will continue to receive a substantial quantity of military assistance in fiscal years 1900 and 1991; if the FMLN fails to negotiate seriously, takes steps to improve its military position, or attacks civilians, full assistance to the government will be resumed; and if the FMLN does none of these things, the Salvadoran Government will not need the military assistance that is withheld.

The Moakley-Murtha substitute starts from the view that a military solution to the conflict is not possible, and that a negotiated settlement is in the interest of all Salvadorans. This substitute is tough on both sides. It uses the level of aid to support U.S. policy. It uses real carrots and real sticks to increase the interest of both sides in successful negotiations.

PUNITIVENESS

Second, supporters of the Broomfield substitute say that the Moakley-Murtha proposal's up-front cut in military assistance would be punitive. They say Salvadoran authorities should be given a chance to make progress on human rights, reform, and negotiations. They argue that a cut unfairly punishes all Salvadorans for the misdeeds of a few.

The Moakley-Murtha proposal supports those Salvadorans who want to end the war. It encourages negotiations. This is not punitive; rather it opens the door to a political solution. Could anything be more punitive to the people of El Salvador than a continuation of their present agony?

We have given the Salvadoran Government many chances over many years. It has failed to deliver. U.S. assistance is not an entitlement program. We are under no obligation to continue supporting governments that consistently ignore our concerns.

We should also keep in mind that progress on human rights and negotiations will help, not hurt, the Salvadoran Government. Such progress will undermine, not strengthen, the FMLN.

ABANDONING EL SALVADOR

Finally, proponents of the Broomfield substitute say that if we reduce military assistance, we will abandon El Salvador.

The provisions of the Moakley-Murtha substitute do not endanger the government of El Salvador: So long as the FMLN remains at the bargaining table, does not conduct offensive operations or attack civilians, and does not receive significant quantities of arms, the Salvadoran government will continue to receive all the military assistance it will need; if the FMLN threat grows, full military assistance can be restored; and the current military assistance pipeline for El Salvador totaled more than $100 million at the end of April. These unspent funds are ample to defend against any threat.

CONCLUSION

Mr. Chairman, a foreign assistance program that never changes, even when its objectives are not achieved, eventually loses its ability to influence events. This describes our policy toward El Salvador over the past decade.

We have consistently provided high levels of military and economic assistance. We have said that the continuation of this assistance depends upon demonstrated progress in a number of areas.

When progress did come, we repeated the conditions, but allowed assistance to flow.

Still no progress.

We have been very patient, but our message has not gotten through to those who hold power in El Salvador.

Our bluff has been called. It is time to change our policy. We want to see a negotiated settlement and an end to human rights abuses. The Moakley-Murtha substitute sends that clear and unambiguous message to El Salvador.

The Broomfield substitute does just the opposite. It says steady as you go. Continue current policy. Don't change a thing.

I urge my colleagues to vote now against the Broomfield substitute and to support the Moakley-Murtha substitute.

□ 1810

The CHAIRMAN. The gentleman from Indiana [Mr. HAMILTON] has consumed 10 minutes and has 20 minutes remaining.

Mr. HAMILTON. Mr. Chairman, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, if you truly want to have the power of the Armed Forces of El Salvador subordinated to the control of the elected civilian government, you must support the Broomfield-Byron amendment.

The Broomfield-Byron amendment mandates the separation of the police forces from the army, requires the reduction and reorganization of the Armed Forces following a negotiated settlement to the armed conflict and requires all military aid to be approved by the civilian President.

The Studds language is silent on these three objectives, and its approach offers no incentive for the military to submit to civilian authority.

The Studds language punishes a democratically-elected government and rewards Marxist Guerrilla terrorists.

The Studds language forces the United States to cut in half its commitment to a valued ally which has carried out Democratic elections that have unequivocally expressed the will of the Salvadoran people. Salvadorans have elected Democratic Presidents for the first time in decades and carried out a peaceful transition from the party in power to the opposition for the first time in its history. By the Studds language, we punish Democratic institutions and reward terrorism by the FMLN guerrillas.

While we all condemn the brutal slayings of the six Jesuit priests and two others last November, the number of innocent Salvadorans killed as a result of the FMLN guerrilla offensive last fall was much greater than those eight at the university. The cause of human rights in El Salvador will not be enhanced by making the Salvadoran military feel less secure by cutting their aid in half. We all certainly expect justice in the Jesuit murders, but we also expect justice for all Salvadorans who freely elected a Democratic government and rejected the terrorist tactics of the FMLN guerrillas.

I urge you to support the Broomfield-Byron amendment.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. LEVINE], a member of the committee.

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Broomfield amendment and in support of the Murtha-Moakley amendment.

Mr. Chairman, for the past 10 years the United States has provided nearly $4 billion in foreign assistance to El Salvador. The purpose for this assistance is to promote democracy and encourage human rights in this small agrarian country of roughly 5 million people. Unfortunately, this foreign assistance has not brought the reforms I consider mandatory for El Salvador to break from its long history of repression and violence. It is for this reason I am urging my colleagues to support this 50 percent reduction of military assistance to the Government of El Salvador. The amendment will provide the necessary leverage that I believe will bring about productive negotiations, and an end to the violence. This legislation was carefully constructed to provide incentives and disincentives to compel both sides to negotiate in good faith, and remain at the bargaining table until an agreement is reached. This policy is not the abandonment of an ally, but rather a long-overdue commitment to working toward a peaceful resolution of this civil war.

I am pleased that the Secretary General of the United Nations will oversee peace negotiations between the Salvadoran Government and the FMLN, and believe that this legislation will further encourage a peaceful settlement to the 10-year-old war. I recognize that many obstacles exist between the Government of El Salvador and the FMLN, both the reforming of the Salvadoran military and disarming the FMLN pose significant problems. However, these obstacles are not insurmountable. If the United States commitment to ending the war is to be effective, American aid must be conditioned. We in the Congress should take advantage of this historic opportunity to reunify Salvadoran society, because if we do not, the situation in El Salvador is likely to deteriorate. The United States must do everything in its power to bring about a peaceful conclusion to the civil war in El Salvador, and I encourage my colleagues to support this amendment.

Mr. LEVINE of California. Mr. Chairman, I rise today in strong opposition to the Broomfield substitute amendment and in support of the Moakley-Murtha substitute.

For 10 years, Congress has pleaded, cajoled, and threatened aid cutoffs to encourage human rights progress in El Salvador. The Broomfield amendment is yet another one of these empty exhortations, and not a very powerful one at that.

It is totally devoid of substantive effect on U.S. aid to the Salvadoran military. It makes no change in U.S. policy whatsoever. If anything, it will serve only to reassure the officer corps that it can continue its barbaric human rights abuses with impunity.

For 10 years, this has essentially been our message as we have permitted military aid to proceed unimpeded. Yet, the Salvadoran military has not heard, or has chosen not to believe, our threats, pleas, and exhortations. It has repeatedly called our bluffs, and we have never restricted aid.

No wonder, then, that the Salvadoran military now believes it has been given carte blanche to murder and brutalize anyone in El Salvador who disagrees with its policies. The vicious murder of Father Ellacuria and his colleagues last November tragically illustrates this view.

Clearly, those reponsible for this atrocity assumed business would proceed as it always has in the past. Indeed, Mr. Chairman, the Broomfield amendment would give these murderers precisely the solace they are seeking.

The speaker's task force on El Salvador, of which I am a member, released it's interim report on the Jesuit slayings several weeks ago. I urge my colleagues to review the findings of this report if they are considering casting their vote for the Broomfield amendment.

The report clearly describes the complete lack of remorse or moral condemnation within the Salvadoran military for the murder of the priests. it identifies the Salvadoran justice system as an oxymoron—neither systematic, nor just. It suggests the strong possibility that no arrests whatsoever would have been made had not an American officer come forward with confidential information that had been divulged to him privately. It condemns the failure of the investigation to make obvious inquiries of senior military officials. It concludes that it is increasingly unlikely that justice will be done in this case.

At a minimum, Members who think they support the Broomfield amendment should read pages 18-19 of the El Salvador Task Force Report, in which the night of the murders is recreated, and reflect upon the last decade of U.S. military support, training and assistance which has gone to support the very battalion responsible for these cold-blooded assassinations.

The central and most inescapable conclusion of the report is that these murders were not an isolated incident. I quote from the report:

We are convinced that the military's contribution to the problems of human rights and a paralyzed judicial system are not caused by a few renegade officers; they reside at the heart of the armed forces as an institution. Decades of power, tempered only by the need to maintain a working alliance with wealthy landowners and businessmen, have created an upper echelon within the armed forces that too often finds deference to civilian authority neither necessary nor desirable . . . as a result, the armed forces remain unwilling to police themselves, and only accept the right of other to do so when enormous pressure is applied.

The Broomfield amendment doesn't apply any pressure at all. Not only does it not tighten up the inconsequential certification requirements in existing law, it actually makes it even less likely an aid cut would ever be considered by making such consideration entirely dependent on FMLN actions.

The Broomfield amendment expresses laudable concern for the indirect effect FMLN military activities might have on civilians, but shows a shocking disregard for the civilian impact of murdering clergy, rule without law, and the violation of basic human rights by the military in El Salvador.

The Moakley-Murtha alternative changes American policy—appropriately expressing American outrage over the tragic lack of progress on human rights and judicial reform. The committee legislation is already a compromise. A number of us and a number of our constituents would prefer tougher provisions.

Most importantly, the language in the bill will support negotiations under way and will encourage both sides to stay at the negotiating table and make a sincere effort to achieve national reconciliation peacefully.

A vote for peace in El Salvador is a vote against Broomfield and for Moakley-Murtha.

□ 1820

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I have ruminated over this issue for the last week. It is an extremely difficult issue and one which I have considered with close scrutiny equal to any measure that has come before us during the 101st Congress.

The civil war in El Salvador has tragically killed 70,000 people and has ripped an already poor country to shreds. The FMLN has used terrorist tactics and at times indiscriminately violent methods to inflict an extraordinary amount of chaos and suffering on the Salvadoran people. On the other hand, the extreme right in El Salvador continues to perpetrate acts of barbarism. The most recent example is the killing of the Jesuit priests.

It is of utmost importance that we send a strong signal to the government of El Salvador, but I do not believe the language currently in the bill is appropriate, nor do I feel it will help to achieve the goal of placing a moratori-

um on the violence that plagues the beleaguered nation of El Salvador.

The Broomfield substitute seeks important objectives that the current language fails to address:

The Broomfield amendment: seeks to separate the police from the military; serves to improve the administration of the justice system; is conditioned upon the reorganization and reduction of the size of the Salvadoran armed forces if a settlement is reached; it requires all military aid to be approved by the Salvadoran President; and establishes a fund for reconciliation, reintegration, and reconstruction following a negotiated settlement.

The current language would cut off military assistance just as the Salvadoran government has agreed to participate in negotiations with the FMLN. The conditions set forth in the bill would send the wrong signals at the wrong time, undermining the peace initiatives now underway.

Mr. Chairman, I want to commend the gentleman from Michigan, the distinguished ranking Republican on the Committee on Foreign Affairs, Mr. BROOMFIELD for his extensive work on this difficult issue. I know he shares my concerns for the human rights violations in El Salvador, and I believe his measure will help to improve the quality of life of the Salvadoran people.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SOLARZ], a member of the committee.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding me this time. Today's debate has illustrated, I think, the existence of a widespread feeling on both sides of the aisle that our policy toward El Salvador is not working, and that the time has come for a new approach in an effort to bring the killings to an end, and get the kind of negotiations under way which provide the only real hope for a lasting solution to the problem of El Salvador.

We have before Members this evening, two different approaches to the achievement of that objective. One is embodied by the substitute offered by the gentleman from Michigan [Mr. BROOMFIELD]. The other comes in the form of a substitute offered by the gentleman from Massachusetts [Mr. MOAKLEY] and the gentleman from Pennsylvania [Mr. MURTHA]. Both substitutes, in my judgment, represent an improvement over existing policy.

However, for a variety of reasons, I believe that the Murtha-Moakley substitute is substantially more desirable and far more likely to achieve our objectives than the Broomfield substitute. There are, it seems to me three significant and fundamental differences between these two approaches.

The Murtha-Moakley approach would apply to both the 1990 and 1991 fiscal years. The Broomfield substitute, by comparison, only takes effect in the 1991 fiscal year. Now, I would submit that if a new policy makes sense on October 1, 1990, when the next fiscal year begins, then it surely makes sense on June 1, 1990, when this legislation will be enacted into law. If it does not make sense on June 1, then it should not make sense on October 1. In other words, if we need a new approach to El Salvador, it ought to take effect immediately, rather than postponing its effect until the beginning of the next fiscal year.

Second, the Murtha-Moakley amendment would cut off all aid, or at least all military assistance to the Government of El Salvador if they are not pursuing the investigation into the murder of the Jesuits, or if there is not a significant improvement in the human rights performance of the security forces.

Under the Broomfield substitute, by comparison, if the Government is not pursuing the case of the Jesuits, or if its security forces have once again gone on a rampage, the Government would still be eligible to receive up to 75 percent of the aid they are slated to get, which means that even if the Government walks away from the investigation of the Jesuits, even if the security forces go out and kill another 5 Jesuits, or 50 Jesuits, or go back to killing 1,000 innocent people a month as they were in the beginning of the 1980's, we would still be providing them with over $63 million in military assistance a year.

□ 1830

Mr. Chairman, I would submit that after all of the killing in El Salvador the time for us has come to say to the Government of El Salvador, "If you don't pursue the investigation of the killing of the Jesuits, if you don't bring your security forces under control, we are not going to give you any more military assistance."

Finally, the Murtha-Moakley substitute provides real incentives to both the Government and the FMLN to stop the killing and begin the process of negotiations, whereas the Broomfield substitute, while it purports to offer incentives to both, really offers only limited incentives to the Government and no real incentives whatsoever to the FMLN to begin the process of negotiations. To the FMLN the Broomfield substitute says that only if the Government refuses to negotiate will we refrain from restoring the full amount of aid promised to the Government if they agree to negotiate themselves. But what good does it do for the FMLN to demonstrate a willingness to negotiate in good faith if the Government is not willing to negotiate in good faith?

We are not playing games here. We are trying to get both sides to the negotiating table, and that is exactly what the Murtha-Moakley substitute does. It says to the Government, "If you are not willing to negotiate, you don't get any military assistance." It says to the guerrillas, If you are willing to negotiate in good faith and meet the other conditions in this legislation, we will then reduce by 50 percent the level of military assistance the Government would otherwise receive." That is a real incentive to both sides.

So, Mr. Chairman, I urge rejection of the Broomfield substitute, however well-intended it may be, and approval of the Murtha-Moakley substitute.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I really do not understand the last gentleman who spoke. He said the Government will not negotiate. They have been negotiating and negotiating until they are blue in the face. As a matter of fact, they were engaged in negotiations while the FMLN was planning and plotting its uprising, its bloody insurgency in San Salvador last November 11.

When I think of the distinguished sponsorship of this amendment—and I am speaking not of the studds amendment, because I assume that is by the boards and we are beyond that and we are talking about the Moakley-Murtha amendment—when I think of the distinguished sponsorship of that amendment, I am reminded of an old Italian saying: "Though you may dress the shepherd in silk, he will still smell of the goat." This amendment smells of the goat, if I may say it, although I am not an old Italian.

The difficulty of getting any money for the Government of El Salvador is similar to solving Rubik's cube; you just cannot do it. It is there on the surface, but you cannot get to it.

The gentleman from Indiana says there can be no military solution. Well, six elections have been held. Democracy is not a military solution. Democracy is a process. There have been six elections in El Salvador. Our policy must be working pretty well with these elections, with two of these elections being presidential elections, and the FMLN just does not hack it. They got about 4 percent of the popular support. They spend their time, while democracy is attempting to exercise itself, shooting people who want to go to vote, threatening people, and intimidating people.

You negotiate from strength. This amendment forces the elected constitutional government to negotiate from weakness. That is a sure-fire scenario for a bloody civil war. We should bring the killing to an end? We cannot bring

the killing to an end by disarming one side while the other side continues to be armed. You provide no incentives at all to the FMLN to stop its insurgency.

The harsh restrictions on military aid are only waived if the survival of the Government is jeopardized.

We have to read this amendment. This guarantees incentives to the FMLN to prolong the insurgency, and it guarantees that any help to the Government will come too late if it ever comes.

Now, we talk about neither side being blameless as though there is some moral symmetry. I would say that every killing by the FMLN has been authorized by the FMLN. But no killing by the right-wing death squads was authorized by Duarte to whom your support was mighty limpwristed, if you will pardon the expression, and your support to Mr. Cristiani is much in the same way. Cristiani did not authorize the murders of the Jesuits. That is the last thing he would want.

There are sociopathic people around, even on the West Bank, as there are in El Salvador, and we do not ruin a government and cut the legs out from under them because of the aberrational acts of a group.

Let me explain what we are doing here. Perception is everything, and the perception is to undercut the elected government, provide incentives to the FMLN, prolong the insurgency, while they nibble around the edges, and keep it going and give them a victory they could not win at the negotiating table and that, God knows, they cannot win in the election booth. And for what? What kind of a friend are we? You hold Mrs. Chamorro hostage until you ram this piece of work down the President's throat, you hold Panama hostage until you ram this piece of work down the President's throat, and you call yourselves reliable allies? God save us from such help.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman very much for yielding time to me.

Mr. Chairman, this is a very important time in the history of El Salvador and for the people of that war-torn nation. Both the Government and the FMLN have agreed to negotiations under the auspices of the United Nations, to try to bring the civil war that has so anguished that country to an end. Any action we take at this critical time must be deliberate, must be balanced, and must bring the same pressures to bear on both sides.

I rise in support of the Broomfield-Byron amendment because it holds both sides to higher standards than does the bill or Studds-Moakley amendment. Both the Studds-Moakley amendment and the Broomfield-Byron amendment require both sides to negotiate in good faith and require both sides to accept the role of the United Nations. Both amendments would waive any limits on aid if there is a military coup, and both amendments require that El Salvador continue to make progress on the Jesuit case.

The Broomfield-Byron amendment, however, requires that the Salvadoran Government make progress on three critical fronts on which the Studds-Moakley amendment is silent. The Studds-Moakley amendment does not require that there be progress on judicial reform, does not require that there be progress separating the police powers from the military powers, and does not require that there be progress on military reorganization and force reduction. It is only the Broomfield-Byron amendment that requires progress on these fronts.

It is the Broomfield-Byron amendment that takes a broader view and sets higher standards for the Salvadoran Government, and when we look at what has happened in Nicaragua after the elections, we can see how desperately important it is that these young countries reduce their military, separate the police power, and establish a strong judiciary. So it is only the Broomfield-Byron amendment that sets the high standards that will serve peace and human rights in El Salvador in the future.

Let us look at how the two amendments treat the FMLN. Why is it that Studds-Moakley is silent on economic sabotage? Blowing up powerplants, destroying roads, and not allowing people to market their crops are activities that are every bit as warlike and every bit as destructive of people's lives as many other acts of violence. Yet the Studds-Moakley amendment would allow those to go on without penalty during this peace period of negotiations.

We must remember that it was during the period of negotiations, when both sides were at the table, that the FMLN staged the most aggressive, the bloodiest, and the most brutal offensive of this civil war. We will recall that it was during a period of negotiations that the FMLN forward-deployed tons and tons of armaments in civilian neighborhoods, in the cities where the war had never been fought, where people in the past had been sheltered.

1840

So, Mr. Chairman, why is it that the Studds-Moakley amendment is silent on penalties for economic sabotage, and look at the policy that the Studds amendment takes toward violence. What it says is that "it's O.K., folks; a little violence, just not a lot."

Mr. Chairman, we have been through that in the past. They are very good at a little violence, just not a lot.

The Studds-Moakley amendment says, "If your violence is not targeted at civilians, it's OK." But how about the car bomb that was meant to get the general, but got 45 mothers, kids, adults, civilians, innocent people at the same time?

Lastly, Mr. Chairman, what about this business of arms? Why is it OK. to import a few new arms, just not a lot? Why is it OK for the FMLN to engage themselves in offensives but not substantial offensives? Are little skirmishes which perpetuate the terror and intimidation of the civil war during negotiations OK? Are little actions that terrorize, little ways that paralyze a society, little actions that erode the trust that negotiations depend on, OK. While one is supposed to be committed to negotiating peace? That is OK?

Mr. Chairman, the Broomfield-Byron amendment prevents that kind of violence, punishes economic sabotage, holds the FMLN to the kinds of high standards, as well as the El Salvadoran Government to the high standards that are essential, if there is to be trust; successful negotiations, peace and, ultimately, a government that supports human rights and economic opportunity in El Salvador.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD].

Mr. Chairman, the United States may finally be awakening from a 40-year nightmare—a national paroxysm of paranoia. The American people were told that Communists in Russia, in China and Eastern Europe, in Central America, and even in the State Department threatened our very existence. I didn't buy that line 10 years ago, and I certainly don't buy it today. I have more faith in the strength and vitality of our Nation than that.

It was only a few short years ago that the President of the United States tried to heap more fuel on the fires of fear by describing the menace of Communist hordes from Nicaragua sweeping through Mexico and across our borders. The citizens of Harlingen, TX, were advised that the most formidable threat to civilization since Attila the Hun lay in wait a mere day's drive south of their city limits.

Our policy in El Salvador is a relic from those years of fear. It's time we discarded the relic.

In El Salvador, the United States is supporting a corrupt oligarchy whose only ambition is the maintenance of power through terror. We hear about the most notorious murders—Archbishop Romero, the American churchwomen,

human rights leader Herbert Anaya, and the six Jesuit priests. But for most of the American people, the tens of thousands of Salvadorans killed and tortured by the military death squads are faceless statistics, at best.

Let us not mince words—the ARENA party in El Salvador is a fascist political movement—a movement whose credo is corruption, murder, and fear. Our hands are stained by the blood of tens of thousands of poor peasants and workers whose only crime was to aspire to a better life. We cannot begin to remove that spot by mere washing. A little water will not clear the stain of this body's support for the deeds of the army death squads.

But we can begin to make amends here today by supporting, for once, the aspirations of the common people of El Salvador by supporting peace and dialog. Oppose Broomfield and support the Moakley-Murtha substitute and cut aid to the Government of El Salvador.

Mr. OBEY. Mr. Chairman, reference has been made to partisanship and bipartisanship. I think I have demonstrated a great deal of cooperation with the administration in moving their Panama and Nicaragua supplemental forward.

However, Mr. Chairman, on this occasion I support the committee bill. I support the substitute of the gentleman from Massachusetts [Mr. MOAKLEY]. I oppose the amendment of the gentleman from Michigan [Mr. BROOMFIELD] because, after 10 years, it is time to say to the pathological thugs who have systematically slaughtered bishops, priests, and nuns, and any other civilians who call for decency, that we have had enough.

The amendment of the gentleman from Michigan [Mr. BROOMFIELD] is very simply a wimpout. It sends money without a message.

The amendment of the gentleman from Massachusetts [Mr. MOAKLEY] sends the right message because it cuts the military aid by 50 percent contingent only upon the behavior of the FMLN. It sends the following message; "Reform, or, boy, you're going to be on your own," and that is the message we ought to send.

Mr. Chairman, I will never forget a conversation which I had with a businessman in Salvador, a very important businessman who served as an adviser to President Duarte. When I was in Salvador, he said to me one evening, "I don't know what things are like in your Rotary Club, but in my Rotary Club, when I sit down, I see across the table two people who took a contract out on me." He said, "That's what our Rotary Club meetings are like."

Mr. Chairman, I suggest to my colleagues that is largely what Salvadoran society is like, and we are not going to help change it if we continue to send money without a message.

Mr. Chairman, the message ought to be, "Yes, we understand President Cristiani is a fine man, just as President Duarte was a fine man, but he will never gain control of his own society and his own military unless we send the message that the money faucet is going to stop," and this is the way we start that message today.

The FMLN in my judgment cannot defeat the Salvadoran Government or society. Only Salvador, in their behavior, only the misguided action of the Salvadoran elite, can do that.

We have a responsibility to people that we have tried to help for the last 10 years to be effective in the messages we are sending. I cannot think of a more ineffective message than to pass the amendment of the gentleman from Michigan [Mr. BROOMFIELD], and I urge my colleagues to support the committee bill and the substitute of the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Chairman, we are having this debate at the very time when the press is reporting good progress on talks in Caracas between the warring parties in Salvador. I think that those steps are going to play out if we give them a chance.

However, Mr. Chairman, there is a problem, and the problem was referred to earlier today on this floor, and it will continue to be referred to because it is a real problem, and the problem is this: that the FMLN is watching very, very closely what we are doing in the U.S. Congress with regard to aid. We are sending a signal by having this debate, and, when we sent that signal after the foreign affairs vote a few weeks ago, we had a wave of terrorism throughout the country of El Salvador. In fact, the FMLN in a communique on their attack on San Salvador specifically referred to the 50-percent cut that the Studds amendment called for.

So, think for a moment. If we are going to send a signal by failing to pass the amendment of the gentleman from Michigan [Mr. BROOMFIELD], the Broomfield version of how to approach this, if we fail to send that, we possibly run the risk of the FMLN misreading our intentions again and starting another wave of violence, as they have said they will do if they are not sure that the Cristiani government can deliver what they are asking at the negotiating table.

Mr. Chairman, suppose we lose the Cristiani government? What have we lost? We have lost a democratic government in a neighboring country, a duly elected, democratic government. What have we gained? We have gained chaos.

We seek peace and democracy for the people of Salvador. We do not seek chaos.

Consequently, Mr. Chairman, I think it is extremely important for us to remember that our vote here will be reported in more than the Washington Post. It will be reported among the players in the Salvador negotiations. It will also be reported downtown, and we have a message from downtown that this Studds language is not acceptable to the administration and that it will lead to a veto, and one has to ask the question: How then have we served the emerging democracies we seek to serve if we have put ourselves in stalemate with regard to the assistance so desperately needed?

Mr. Chairman, I believe there is a solution out there. I believe that we are on the path to negotiation, and I believe those negotiations have a better chance of coming to a desirable solution if there is relative harmony in Salvador during that negotiations process, and the way to achieve that relative harmony is to pass the version of the gentleman from Michigan [Mr. BROOMFIELD] that we are discussing. It provides tough conditions on the FMLN including terrorist attacks, assassination, economic sabotage, and so forth. It provides for 10 million for democratic initiatives and successful administration of justice, other human rights, other administration of justice provisions, and civilian control over the military.

Mr. BROOMFIELD. Mr. Chairman, I reserve the balance of my time.

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Chairman, the vote on the amendment of the gentleman from Michigan [Mr. BROOMFIELD] should be no. It has one defect that will not withhold money, military assistance. We are continuing to delude ourselves if we think our military aid is the magic that will tame the Salvadoran military. Our aid did not protect the six Jesuit priests. Our aid cannot even insure that their killers are brought to justice.

When the Moakley task force traveled to El Salvador in February, I visited a village in Chalatenango in which four children had just been killed by the Salvadoran military—with rockets and shrapnel stamped with the letters "USA." Just 3 months after the slaying of the priests—after worldwide condemnation of the Salvadoran military, their behavior did not change one bit.

For 10 years, we have seen these acts of terrorism go unpunished again and again—and yet we continue to throw our money at the Salvadoran military responsible for them. I cannot accept this.

The administration thinks that we should be patient and stay the course—that our aid will improve the human rights situation. But we have been patient; 70,000 Salvadorans have died for patience. We must tell the

Salvadoran military our patience has run out. Out outrage will not be tempered by idle promises that we have seen broken again and again.

Some say this is not the time to cut aid—that we should use it as the carrot to ensure the Salvadoran Government continues negotiations. But our aid is no longer an enticement to change. It is an endorsement of brutality and terrorism. Our silence is an endorsement as well, and I urge my colleagues to end this complicity and support the 50 percent cut in aid.

□ 1850

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank the distinguished ranking member for yielding me this time.

You know, at the end of my statement during general debate, Mr. Chairman, I said what some people thought might be slightly ironic, that while we have seen the Soviet Union, we have seen Nicaragua, we have seen Cuba cut off aid to the FMLN, it seems that they are looking to the United States Congress for their support now.

President Cristiani said just yesterday that it is very apparent that any kind of signal that the FMLN would receive from the U.S. Congress would in fact encourage the further attrocities which we saw last November and have been seeing recently.

There is a lot of talk about the degree of military assistance and how horrendous it is. Well, since 1985, Mr. Chairman, we have seen a 60-percent cut in military aid from the United States to the Government of El Salvador. That is from $226 million in 1985 to $88 million today.

Also, I think it is very important for us to look—now, the gentleman from California [Mr. DORNAN] loves to show these great charts here. I have a small graph here, Mr. Chairman, which shows the dramatic reduction in human rights violations in El Salvador from a high of 800 in 1980 down to an extraordinarily low number in 1988. We have seen continued improvement.

I think it is also very important, Mr. Chairman, for us to recognize that just last week the Washington Post had an editorial which addressed this issue very well, and I am going to read from it. It said:

> To imagine that the army would quietly absorb an aid cut and support the elected government in new negotiations is to live in a dream world. A vote for an aid cut is, perversely, a vote to fuel the war and burden negotiations.

We also know, Mr. Chairman, that we have seen this pattern back and forth. The FMLN have said time and time again, they have acknowledged to us that when they cannot win through a military offensive they move to the negotiating table. When they are at the negotiating table, they are planning their next military strike.

We saw great negotiations taking place last October. Then on November we saw this huge urban assault.

Mr. Chairman, it is very important that we maintain this consistent policy, because we do not want to, as the Washington Post has said, send this very perverse signal to the FMLN.

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I thank the distinguished gentleman from Indiana for yielding me this time.

Mr. Chairman, It is all very well and good to talk about democracy in El Salvador and say that President Cristiani is its best hope.

That may very well be, but the simple fact is that the Salvadoran military is not.

As one Jesuit Priest at the University of Central America said, "Cristiani is elected, the military is not."

How can we talk of a successful ongoing democracy when 6 priests and two women are brutally murdered in a blatant military foray with evident, strong links to the high command.

As members of the speaker's task force on El Salvador, we met recently with dozens of Salvadorans in all walks of life, including military, church, and campesinos, and others.

The interim report of that task force reveals a very flawed investigation, and even that problematic effort has been made possible only because of international outrage and hopes for continued military aid.

Meanwhile murders and disappearances of numerous others go uninvestigated. As our State Department readily, if informally, admits, El Salvador has no criminal justice system.

In the meantime, two bishops, their staff and numerous church workers report pervasive fear of the military. In fact the afternoon after the Jesuit murders, a military sound truck blared around the neighborhoods boasting of the crime and called for more killings.

One Salvadoran officer after another in talking about the church denies persecution of the church. They say they are Catholics or Christians themselves and that the military has chapel and religious services.

Such answers, Mr. Chairman, are an outrage, given the reality of life in El Salvador.

The Salvadoran military thinks, as one Jesuit asserted, that the United States will continue business as usual with military aid, regardless of atrocities.

Let us break this habit. Vote for the Moakley-Murtha substitute. It is a balanced incentive for both sides to begin to stop the killings.

Mr. BROOMFIELD. Mr. Chairman, to close the debate, I yield our remaining time to the gentlewoman from Maryland [Mrs. BYRON], the cosponsor of this amendment.

Mrs. BYRON. Mr. Chairman, I rise to support the Broomfield-Byron amendment because I think it will provide the better conditions under which a lasting peace can be achieved. It is peace, Mr. Chairman, that should be the goal of this legislation. The Speaker's Special Task Force on El Salvador concluded above all, "El Salvador must have peace." We all agree that peace could lead to major restructuring of El Salvador's political, military, and judicial systems.

I would like to focus on three specific conditions which Broomfield-Byron includes but the committee language omits. First, under our amendment the President shall withhold up to 25 percent of military aid if the Government does not take steps for judicial reform.

The task force states. "Unfortunately, the Salvadoran justice system flat out does not work." The judicial system is in shambles. The Jesuit case is stalled in part by the judicial system and in part by Judge Zamora proceeding very slowly. Second, under our amendment, the President shall withhold up to 25 percent of military aid if the Government does not separate the police from the military. For all intents and purposes they have no police as we know them. The task force states, "the need for reform within the military is obvious and admitted by the civilian leadership of El Salvador."

Third, under Broomfield, the President shall withhold up to 25 percent of military aid if the Government does not reduce and reorganize the Salvadoran military after a peace settlement has been reached. The existing committee language makes no mention of these issues and does not place any pressure on the Cristiani government to reform these institutions.

I would like to remind my colleagues that the Broomfield amendment implements the findings of the Speaker's Special Task Force on El Salvador in these areas.

□ 1900

Mr. Chairman, we should be just as interested in pursuing peace and promoting democracy in El Salvador as we are in every other emerging democracy in the world.

This amendment brings the best chance of peace. With peace comes substantial reforms that we all agree should occur.

In this country, sometimes we should be ashamed. In 1988, in our Presidential elections, only 55 percent of the voting-age population voted. The people in El Salvador have cried

out for democracy, and in that same year, 70 percent of the Salvadorans, many of them for the first time, voted in municipal elections. This was during a period of when the FMLN had knocked out 80 percent of the electricity, of the water, the communications, and all public transportation.

I watched the faces going to the polls, many for the first time, only to ask for what we already have, a vote for freedom. They now need our assistance more than ever to make political, military, and judicial reforms that they so desperately need, a reality for that freedom.

I urge the support of the Members for the Broomfield amendment to help this process along.

Mr. HAMILTON. Mr. Chairman, to conclude debate, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. KOSTMAYER].

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am happy to yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, I thank the gentleman so much for allowing me to correct the record which occurred during the general debate. I want to report that, according to Americas Watch, the charges against the individual arrested by the government for the murder of Herbert Anaya were dropped in April. The judge said his confession was coerced after a line bag torture tool was put over his head, another example, Mr. Chairman, of why we should defeat the Broomfield-Byron amendment.

Mr. KOSTMAYER. Mr. Chairman, this is last week's Christian Science Monitor, May 16:

> Salvadoran judges during the past 2 weeks have dropped charges against most of those accused despite strong evidence, U.S. officials say.

They are speaking of the 10 peasants who were murdered in San Sebastian.

Members may be wondering why they did not read this on page one, despite the fact it was in the newspaper. The reason they did not read it, the reason they did not see it on television, is because it is not news. It is not news anymore when the military in Salvador get away with murdering innocent people.

Mr. Chairman, from 1979 to 1989, we spent in Salvador $5,008,558,000; $5 billion over the last decade, and not one single military officer convicted of one single crime.

For 10 years we have tried this solution, and for 10 years it has failed. The death squads are still immune from justice.

We now have a choice. We are now at a crossroads deciding whether we should continue the war or whether we can end the war. The amendment offered by my fellow Pennsylvanian [Mr. MURTHA] and by the gentleman from Massachusetts [Mr. MOAKLEY] can help us to resolve this dilemma. It applies pressure to both sides.

Do not the Members see that the Broomfield amendment only applies pressure to the left? Listen to this, the Broomfield amendment allows up to 25 percent of the aid to be withheld. That means 1 percent; that means 2 percent; that means possibly 5 percent. How is the Government in Salvador going to react if we withhold 2 percent or 3 percent? We are already withholding 10 percent for existing human rights violations.

The Broomfield amendment allows the aid to continue even if the case of the Jesuits is not resolved. The Broomfield amendment does not even apply to money this year. It waits until next year.

We have already spent $5 billion. Why do we have to wait until next year?

The Broomfield amendment will not work. We need to recognize that the only way to solve this problem is to end the war.

The problems will not be solved in that country until the war is ended. The only way to end the war is to make a reduction in military assistance. That is what Murtha-Moakley does. I urge its adoption.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 243, not voting 14, as follows:

[Roll No. 126]

AYES—175

| | | |
|---|---|---|
| Archer | Cox | Grant |
| Armey | Crane | Gunderson |
| Baker | Dannemeyer | Hall (TX) |
| Ballenger | Darden | Hancock |
| Barnard | Davis | Hansen |
| Bartlett | DeLay | Hastert |
| Barton | DeWine | Hatcher |
| Bateman | Dickinson | Hefley |
| Bentley | Dornan (CA) | Henry |
| Bereuter | Douglas | Herger |
| Bilirakis | Dreier | Hiler |
| Billey | Duncan | Holloway |
| Boehlert | Edwards (OK) | Hopkins |
| Broomfield | Emerson | Houghton |
| Brown (CO) | Fawell | Huckaby |
| Buechner | Fields | Hunter |
| Bunning | Fish | Hutto |
| Burton | Frenzel | Hyde |
| Bustamante | Gallegly | Inhofe |
| Byron | Gallo | Ireland |
| Callahan | Gekas | James |
| Chandler | Gillmor | Jenkins |
| Clinger | Gilman | Johnson (CT) |
| Coble | Gingrich | Kasich |
| Coleman (MO) | Goodling | Kyl |
| Combest | Goss | Lagomarsino |
| Coughlin | Gradison | Lent |
| Courter | Grandy | Lewis (CA) |
| Lewis (FL) | Porter | Smith, Robert (NH) |
| Lightfoot | Pursell | Smith, Robert (OR) |
| Livingston | Quillen | Snowe |
| Lowery (CA) | Ravenel | Solomon |
| Madigan | Ray | Spence |
| Marlenee | Regula | Stangeland |
| Martin (IL) | Rhodes | Stearns |
| Martin (NY) | Ritter | Stenholm |
| McCandless | Roberts | Stump |
| McCollum | Rogers | Sundquist |
| McCrery | Rohrabacher | Tallon |
| McDade | Ros-Lehtinen | Tauzin |
| McEwen | Roth | Taylor |
| McGrath | Rowland (CT) | Thomas (GA) |
| McMillan (NC) | Rowland (GA) | Thomas (WY) |
| Meyers | Sarpalius | Upton |
| Michel | Saxton | Vander Jagt |
| Miller (OH) | Schiff | Vucanovich |
| Miller (WA) | Schuette | Walker |
| Molinari | Schulze | Weber |
| Montgomery | Sensenbrenner | Weldon |
| Moorhead | Shaw | Whittaker |
| Myers | Shumway | Wilson |
| Nielson | Shuster | Wolf |
| Oxley | Sisisky | Wylie |
| Packard | Skeen | Young (AK) |
| Parker | Skelton | Young (FL) |
| Parris | Slaughter (VA) | |
| Pashayan | Smith (NE) | |
| Paxon | Smith (NJ) | |
| Petri | Smith (TX) | |
| Pickett | Smith, Denny (OR) | |

NOES—243

| | | |
|---|---|---|
| Ackerman | Eckart | Lehman (FL) |
| Anderson | Edwards (CA) | Levin (MI) |
| Andrews | Engel | Levine (CA) |
| Annunzio | English | Lewis (GA) |
| Anthony | Erdreich | Lipinski |
| Applegate | Espy | Lloyd |
| Aspin | Evans | Long |
| Atkins | Fascell | Lowey (NY) |
| AuCoin | Fazio | Luken, Thomas |
| Bates | Feighan | Machtley |
| Beilenson | Flake | Manton |
| Bennett | Foglietta | Markey |
| Berman | Ford (MI) | Martinez |
| Bevill | Ford (TN) | Matsui |
| Bilbray | Frank | Mavroules |
| Boggs | Frost | Mazzoli |
| Bonior | Gaydos | McCloskey |
| Borski | Gejdenson | McCurdy |
| Bosco | Gephardt | McDermott |
| Boucher | Geren | McHugh |
| Boxer | Gibbons | McMillen (MD) |
| Brennan | Glickman | McNulty |
| Brooks | Gonzalez | Mfume |
| Browder | Gordon | Miller (CA) |
| Brown (CA) | Gray | Mineta |
| Bruce | Green | Moakley |
| Bryant | Guarini | Mollohan |
| Campbell (CA) | Hall (OH) | Moody |
| Campbell (CO) | Hamilton | Morella |
| Cardin | Harris | Morrison (CT) |
| Carper | Hayes (IL) | Morrison (WA) |
| Carr | Hayes (LA) | Mrazek |
| Chapman | Hefner | Murphy |
| Clarke | Hertel | Murtha |
| Clay | Hoagland | Nagle |
| Clement | Hochbrueckner | Natcher |
| Coleman (TX) | Horton | Neal (MA) |
| Collins | Hoyer | Neal (NC) |
| Condit | Hubbard | Nowak |
| Conte | Hughes | Oakar |
| Conyers | Jacobs | Oberstar |
| Cooper | Johnson (SD) | Obey |
| Costello | Johnston | Olin |
| Coyne | Jones (GA) | Ortiz |
| Crockett | Jontz | Owens (NY) |
| de la Garza | Kanjorski | Owens (UT) |
| DeFazio | Kaptur | Pallone |
| Dellums | Kastenmeier | Panetta |
| Derrick | Kennedy | Patterson |
| Dicks | Kennelly | Payne (NJ) |
| Dingell | Kildee | Payne (VA) |
| Dixon | Kleczka | Pease |
| Donnelly | Kolter | Pelosi |
| Dorgan (ND) | Kostmayer | Penny |
| Downey | LaFalce | Perkins |
| Durbin | Lancaster | Pickle |
| Dwyer | Lantos | Poshard |
| Dymally | Laughlin | Price |
| Dyson | Leach (IA) | Rahall |
| Early | Lehman (CA) | Rangel |

| | | |
|---|---|---|
| Richardson | Shays | Traficant |
| Ridge | Sikorski | Traxler |
| Rinaldo | Skaggs | Udall |
| Roe | Slattery | Unsoeld |
| Rose | Slaughter (NY) | Valentine |
| Rostenkowski | Smith (FL) | Vento |
| Roukema | Smith (IA) | Visclosky |
| Roybal | Smith (VT) | Volkmer |
| Russo | Solarz | Walgren |
| Sabo | Spratt | Walsh |
| Saiki | Staggers | Washington |
| Sangmeister | Stallings | Waxman |
| Savage | Stark | Weiss |
| Sawyer | Studds | Wheat |
| Schaefer | Swift | Whitten |
| Scheuer | Synar | Williams |
| Schneider | Tanner | Wise |
| Schroeder | Tauke | Wolpe |
| Schumer | Torres | Wyden |
| Serrano | Torricelli | Yates |
| Sharp | Towns | Yatron |

NOT VOTING—14

| | | |
|---|---|---|
| Alexander | Jones (NC) | Robinson |
| Craig | Kolbe | Stokes |
| Flippo | Leath (TX) | Thomas (CA) |
| Hammerschmidt | Lukens, Donald | Watkins |
| Hawkins | Nelson | |

□ 1924

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Nelson of Florida against.

Mr. Robinson for, with Mr. Stokes against.

Mr. Thomas of California for, with Mr. Hawkins against.

Mr. Kolbe for, with Mr. Jones of North Carolina against.

Mrs. LOWEY of New York and Mr. MOODY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 101-489.

AMENDMENT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOAKLEY:

Page 65, strike out line 10 and all that follows through line 11 on page 78 (title V of the bill) and insert in lieu thereof the following:

TITLE V—EL SALVADOR

SEC. 501. ASSISTANCE FOR EL SALVADOR.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hostilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(B) the actions of each side that affect the basic human rights of the Salvadoran people.

(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

(1) FISCAL YEAR 1990; CONDITIONAL WITHHOLDING OF HALF OF REMAINING MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1990 that are unexpended on the date of enactment of this Act shall be withheld from expenditure for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(2) FISCAL YEAR 1991.—

(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (g), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

(3) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—

(A) DEVELOPMENT ASSISTANCE.—At the end of fiscal year 1990 and at the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1) or paragraph (2)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect to the obligation of any funds so transferred.

(B) EXCEPTION.—Notwithstanding subparagraph (A) and paragraph (1), fiscal year 1990 funds withheld from expenditure pursuant to paragraph (1) may be used for cancellation expenses for military assistance programs for El Salvador, so long as such use does not result in the delivery of any military assistance to El Salvador.

(4) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1990 and fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

(5) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the representatives of the FMLN—

(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

(B) are rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress;

(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN; or

(4) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the 8 murders at the University of Central America on November 16, 1989; or

(4) the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may

submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

(f) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, military assistance for fiscal year 1991 may be delivered to the armed forces of El Salvador only with the prior approval of the President of El Salvador.

(g) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this act and on March 1, 1991, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

(2) the status of the negotiations;

(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

(4)(A) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people;

(B) progress made by the Government of El Salvador toward—

(i) the establishment of an effective judicial system, including the establishment of an independent, civilian investigative service;

(ii) ensuring freedom of the press and assembly; and

(iii) military reform, including the establishment of an officer promotion system based on merit and professional competence, respect for human rights, and respect for civilian control over the armed forces;

(C) the effects on the civilian population of El Salvador of economic sabotage and other acts of violence committed against civilian targets by the FMLN; and

(D) the status of investigations into the politically motivated murders of prominent political, religious, labor and other officials in recent years, and the extent to which the armed forces of El Salvador and the FMLN are each cooperating in those investigations.

(h) SUPPORT FOR DEMOCRACY PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(2) ELECTION MONITORING.—Of the amount made available to carry out this subsection, not less than $2,000,000 may be used only for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as Secretary General of the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(i) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations,

during the 30-day period beginning on March 1, 1991;

(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than 4 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the Committee of the Whole, to final passage without intervening motion except one motion to recommit.

(8) FINAL PASSAGE IN THE SENATE.—In the Senate, immediately following the conclusion of the debate on a privileged joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(9) APPEALS FROM DECISION OF THE CHAIR NOT DEBATABLE IN THE SENATE.—Appeals in the Senate from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a privileged joint resolution shall be decided without debate.

(10) CONGRESSIONAL RULEMAKING POWERS.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a privileged joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(j) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

The CHAIRMAN. The gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 30 minutes in support of his amendment, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, this amendment is really the Moakley-Murtha amendment. I yield 10 minutes to the cosponsor of the amendment, the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me talk for a minute about my experiences in El Salvador and the trips that I have made to El Salvador and tell Members why I think this Moakley amendment is so important.

Mr. Chairman, I took my first so-called junket to El Salvador in 1982, at the request of President Reagan. Our delegation monitored an election. When we landed we got into a bullet-proof, armored car with glass that was about 2 inches thick. We could hear explosions all around. Every one of us had a bodyguard, and the Government was in disarray.

I went to visit at that time Mr. Duarte. He had not been elected under the new constitution at that time. I met with him for a short period of time, and then they sent me over to see the person who really ran the country, General Garcia.

General Garcia proceeded to tell me what was going on in El Salvador and the problems and the aid that they would need. At that time they were in the process of having a constitutional election. The new media predicted that there would be a turnout of about 25 or 30 percent because the FMLN had promised that anybody that voted would have their fingers cut off.

□ 1930

Many people had no doubt that violence would occur and there was tremendous violence.

The FMLN did everything they could to keep people from voting. Father Hesburgh was on that same Presidential delegation to monitor the election I was on, and we flew out in a helicopter to a land in areas where there had not been any Americans for years. We landed in areas where there was heavy fighting. As a matter of fact, Father Hesburgh gave the last rites to a soldier, a Salvadoran soldier who had just been killed in the fighting.

But the people came out to vote in droves, even with the threat of violence. One lady—and I told this story to President Reagan, who later reported it on national television—said, "They can kill us, they can kill my family, but they can't kill us all."

Eighty percent of the people voted in that constitutional election.

They had a Presidential election and President Duarte was elected. I returned to El Salvador, and the only thing that changed as far as the violence goes is that we did not each have a bodyguard. They had one bodyguard for two people. We still had the armored cars, we still had the bombings and at nighttime the water was shut off in the hotel and the electricity went off and on all the time because the FMLN blew up the power stations continually.

So the country was still in disarray. Duarte was elected president. He did the best he could. He had an earthquake, a devastating earthquake. I flew down with Secretary Shultz, and we saw bodies still squeezed in between buildings that had fallen down.

In the middle of the turmoil, President Duarte tried to reform the agricultural system, President Duarte addressed the judicial reforms that were necessary, and he tried to take charge of the military, no easy matter.

Duarte fought, in addition to the economic conditions and the political situation, cancer.

Finally, he succumbed to cancer.

President Cristiani was elected. Now I am not a person who wants to interfere with the elected government of another country. I feel very concerned about that. I feel very strongly when there is a democratically elected president we should be very careful in giving them advice.

But when we pour $4 billion into a country in order to help them get established, I think we as a Congress, representing the American people, have every right to put some restrictions on that aid.

I have struggled for the past 6 months to take over $4 billion of previously appropriated funds out of the U.S. defense budget requested by the President, requested by the Secretary of Defense. Many of these funds have gone to foreign aid, in order to go to Poland, in order to go to Panama, in order to go to Nicaragua.

We have taken money out of our own defense in order to help these countries. We have a right to adjust aid to a country with institutions that are not adhering to democratic principles.

I say that President Cristiani is doing as good a job as any elected president could do under the circumstances. But let me tell you this, he needs help. He needs our moral support. He needs us to say to him, "We will not accept the killing that just went on." And if you remember the first reports about the killing was that it was the FMLN that had caused the killing, well, it turned out not to be true.

JOE MOAKLEY will tell you, I sat in his investigation and I said before it became public there was no question in my mind it was the military that perpetrated the killing.

We have charged two people in Panama with murder in our military. When you are in a war, that does happen. But that does not make an excuse for it and it does not mean there should not be reform and it does not mean that the United States should not stand behind that reform and take some action that forces the El Salvadoran Government to reform their judicial system and to reform their military.

Now are we doing anything to make sure that the FMLN adheres to those same principles? We certainly are. There is nobody who abhors the violence of both sides more than I do.

What we are trying to do today, we are trying to say to El Salvador, "Reform your military, reform your judicial system." We are also saying to the FMLN, "Stop the killing, stop the violence, stop the confrontation, and stop it soon."

Again I say we have every right to send that message because we have been depleting our own military resources by cutting $4 billion out of the defense of this Nation and sending it to these foreign countries. And the American people believe a democracy should adhere to the human rights principles that are so idolized by countries throughout the rest of the world.

You know, when I went down to El Salvador, nobody looked at the United States with more awe than the people of El Salvador, the president of El Salvador. I was so conscious of their idolization of the United States, I was so conscious of them believing in the principles of democracy and that that would solve their problems. What I am saying today is it has not worked up to this point. We have made progress. President Cristiani has done everything that he could.

In this amendment we say give the aid through Cristiani, let him get control of the military. Then, in addition to that, we are saying to the FMLN, "If you continue to perpetrate these atrocities, we will give the Government the full amount of aid."

If the war ends, they will not need the aid and there is no question that we can use that money in the United States for a number of reasons; for infrastructure and for other programs.

So my feeling today, my request is that we send a bipartisan message to the FMLN, to the extremists on the right and on the left to stop the killing, come to an agreement, end the fighting, and the United States will try to help in the long run.

So I ask you to vote for the Murtha-Moakley amendment which will stop the killing in El Salvador.

Mr. BROOMFIELD. Mr. Chairman, I rise in opposition to the Moakley amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. BROOMFIELD] is recognized for 30 minutes.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the Moakley amendment to title V. The Moakley amendment is identical to the Studds amendment with several provisions from the Broomfield-Byron amendment thrown in for superficial appeal.

Unlike the sponsors of this amendment, I did not have the opportunity to revise the substance of my amendment.

My amendment was filed with the Rules Committee on May 7. The language of the Moakley amendment was not made available to Republicans until May 16.

However, the merely cosmetic changes from the Studds language do not alter the fact that his amendment is every bit as objectionable, every bit as detrimental to peace, and every bit as likely to strengthen extremists as the original Studds language in title V.

The Moakley amendment contains only five changes from the Studds language. First, military aid must be channeled through the democratically elected President's office—an idea proposed in my amendment.

Second, the reporting requirements are expanded to incorporate areas which my amendment calls for.

Third, $2 million of the $10 million of democratic assistance is earmarked for monitoring the 1991 elections—a nice addition but one which has little real meaning since much of the funds would be devoted to that purpose with or without an earmark.

The final two changes deal with conditions on assassinations—providing for the termination of aid if Government forces carry out assassinations, and providing for a waiver of military aid withholding if the FMLN carries them out.

I am pleased to see the sponors have decided to place some restrictions on FMLN terrorism—but they have not gone nearly far enough. Their amendment still sanctions external arms aid to the FMLN, in direct violation of the Esquipulas II accord. Their amendment still sanctions virtually all offensive military action by the FMLN. Their amendment sanctions FMLN economic sabotage—sabotage which does more harm to the lives of poor Salvadorans then any conceivable or alleged governmental action.

Even the new assassination clause in the Moakley amendment comes into force only if killing or maiming attacks are directed at civilian targets. As I read that clause, it seems to mean that a car bomb killing children would not meet that standard as long as the car bomb was placed near a military barracks. That is hardly the way to discourage FMLN terror.

I urge the House to see the Moakley amendment for what it is: a baltant rejection of hope for bipartisan cooperation in the United States and an undermining of hope for a negotiated solution in El Salvador.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Oklahoma [Mr. MCCURDY].

Mr. MOAKLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, it is with great reluctance that I rise today in opposition to both the Broomfield-Byron amendment and the Moakley-Murtha amendment to the fiscal year 1990 supplemental authorization bill.

My reluctance stems not out of opposition to the essential assistance that we are providing to the new Governments of Panama and Nicaragua. I support those provisions, as well as those which offer much-needed aid to countries in southern Africa and the Caribbean, and the housing loan guarantees to Israel.

Rather, I oppose these amendments on the grounds that the amendments before us today have little to do with the important question of United States policy toward El Salvador. They reflect, Mr. Chairman, what has become the standard procedure for debates on foreign policy questions in the House of Representatives. Unable to reach a consensus and their partisan passions inflamed, liberals and conservatives on both sides of the aisle ram their proposals to the floor for a few hours of partisan debate and make it virtually impossible for the United States to conduct a coherent foreign policy.

These amendments have little to do with U.S. policy because we all know their ultimate fate. They will either be dropped in conference or vetoed by the President. Since the appropriations bills contain authorizations waivers, the money will eventually make its way to Panama and Nicaragua and render the authorization process obsolete.

I do not like either of the options. But if we must vote today, Mr. Chairman, let me explain briefly why I must oppose the amendments which concern El Salvador.

The Broomfield-Byron amendment contained some constructive language concerning the need to promote military and judicial reforms in El Salvador, and it strengthens the conditions on the behavior of the FMLN. But given that the President could only withhold up to 25 percent of United States military assistance after he certified that the Government of El Salvador was not in compliance with our conditions, the impact of this language on the Salvadoran military would be minimal at best.

With all due respect to its authors, the amendment would have done little to alter our present policy toward El Salvador. That in itself was reason enough to oppose the Broomfield-Byron amendment.

Conversely, the Moakley-Murtha amendment attempts to perfect language on El Salvador as reported by the Foreign Affairs Committee. Having served on the Speaker's Special Task Force on El Salvador with the distinguished chairman of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY], and the gentleman from Pennsylvania [Mr. MURTHA], I can certainly appreciate the sincerity in their efforts.

But in my view, the language adopted by the Foreign Affairs Committee contains serious flaws which are not addressed in the Moakley-Murtha amendment. At the very moment when the Government of El Salvador and the FMLN are negotiating, I agree with the Washington Post when it argued last week in an editorial that this is an inopportune moment to withhold 50 percent of the remaining fiscal year 1990 and 50 percent of the fiscal year 1991 military assistance to El Salvador. Indeed, today's Post reports that the Government and the FMLN have tentatively agreed to reach a cease-fire by mid-September.

By adopting this, the Moakley-Murtha amendment, we place at risk the delicate momentum toward negotiations that presently exists in El Salvador.

Furthermore, while I support a negotiated settlement to the war in El Salvador, the committee's language places all our efforts and pressures on what is bound to be a fragile and uncertain process that could last for months. Given the deep mistrust between the Government of El Salvador and the FMLN, and the violent nature of Salvadoran society, it is very possible that these talks could be derailed at some point. Should that occur, either the Government or the guerrillas will be blamed, military aid will be restored or eliminated completely, and the war in El Salvador could explode once again.

In the meantime, we will have accomplished nothing to encourage the types of military, judicial, and economic reforms that must take place if El Salvador is to strengthen its fragile democracy and respond to the needs of its people.

Mr. Chairman, like most of my colleagues in this body, on both sides of the aisle, I believe that our assistance to El Salvador should contain conditions. But those conditions should be aimed at strengthening democratic institutions, reforming the military and judicial systems, improving human rights, and supporting the views of our Central American allies, who have called upon the FMLN to lay down its weapons and join the political process in El Salvador.

Our policy toward El Salvador should not be based on the emotions of the moment. John Kennedy once said that: "The purpose of foreign policy is not to provide an outlet for our own sentiments of hope or indignations; it is to shape real events in a

real world." Too often the United States has ignored this counsel, particularly in Central America.

The odious murder of the Jesuit priests last November by members of the Salvadoran military enraged all of us who are concerned about the abuse of human rights in El Salvador. Continuing reports of corruption in the military and an officer promotion system that rewards incompetence and refuses to discipline members of the Armed Forces who commit human rights abuses simply cannot be tolerated any longer.

There is also the glaring need for El Salvador to overhaul its present judicial system, which breeds corruption among judges who work for menial wages, allows criminals to escape justice with relative ease, and is unworthy of a functioning democracy.

But neither of the amendments before us today will do anything to alter that situation. Change must occur, or the tenuous bipartisan consensus that now exits in favor of providing assistance to El Salvador will rapidly disappear. If the Cristiani government proves incapable of enacting and implementing military and judicial reform, following economic policies which will reach the impoverished people of El Salvador, and building a society based on the rule of law, then at that point I will be the first to argue that the United States should reconsider its interests in that troubled country.

But let us not delude ourselves about the situation on the ground in El Salvador. There are two sides to the violence that afflicts Salvadoran society. The FMLN has been instrumental in bringing El Salvador to its present state of near collapse.

Some cling to the fantasy that the FMLN is a revolutionary organization fighting for the rights of the Salvadoran people. Yet there is little reason to believe that the FMLN is a force for democracy in El Salvador. Indeed, for years they have espoused a rigid Marxist doctrine which, if ever brought to power, would only worsen El Salvador's misery.

The FMLN has murdered government officials, civilians, and destroyed much of the country's infrastructure. The day after I met with a former FMLN commander who had defected, the guerrillas murdered him in the streets of San Salvador and called it revolutionary justice.

Last year, while they were negotiating with the Government the guerrillas launched a massive offensive which resulted in the needless deaths of some 3,500 people.

So we should not be swayed by those who claim great expertise in human rights that United States military assistance is the only obstacle to a negotiated settlement in El Salvador.

Ten years ago the United States began its involvement in El Salvador. Some believe that nothing has changed in El Salvador since and that the United States should walk away from El Salvador.

But no one has ever argued that building a democracy in a country with El Salvador's violent past would be a simple endeavor. It is not easy in any country. Yet a candid look at the country should lead sensible people to conclude that there has been some positive change during the last 10 years. The people of El Salvador have expressed, through five free and fair elections, a clear desire to live under a democratic government. By authorizing $10 million for the National Endowment for Democracy to Strengthen Democratic Institutions in El Salvador, both of these amendments take an important step in building a sustainable democratic center.

Finally, Mr. Chairman, once the posturing on this vote is concluded, I hope that Congress and the administration will take advantage of the opportunity to reach a bipartisan accord that, for the first time, will place effective conditions on our assistance to El Salvador—conditions which will provide incentives for change and result in a positive outcome for the people of El Salvador.

This is not the last vote on El Salvador, and it is not likely to be the most important. The debate about El Salvador has so far focused on military aid and human rights. But building a democratic society in which all Salvadorans can participate freely and with a sense of security is equally important. Mr. Chairman, I will vote "no" on the substitute and "no" on final passage.

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Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, the Moakley-Murtha amendment which has a third sponsor who is unnamed—Rube Goldberg, I believe, because he must have dreamed up this amendment—it is an impenetrable maze. It is not going to end the fighting, it will prolong the fighting.

My good friend, the gentleman from Pennsylvania [Mr. MURTHA] talked about his trip down there, but he did not talk about the amendment. I can understand why. I do not think many people realize what this amendment does. Permit me to share the information with Members.

In fiscal 1991, the bill authorizes $85 million in such assistance, but withholds half, unless the President makes certain determinations regarding the FMLN. Moreover, on the half that is not withheld, only half of that may be made available prior to March 1, 1991, at which time the President must report to Congress on the reactions of the Government and the FMLN toward achieving a negotiated peace. The remaining withheld funds shall be made available at that time, but may not be expended, until the expiration of the 30-day congressional review period of the President's report. Any joint resolution reported from the Committee on Foreign Affairs or the Senate Committee on Foreign Relations during the 30-day review period, which places conditions or limits on fiscal 1991 military aid for El Salvador shall be privileged, for consideration on the third day after it is reported or at any time thereafter.

Now, any joint resolution reported prior to March 31, 1991, would remain privileged through September 30, 1991. It need not be considered during the 30-day review period, 7 months.

So, that is what we are dealing with. That is this amendment. It tilts the playing field in favor of the urban terrorists known as the FMLN. We are told there is no military solution. Well, there is a military solution, and the military solution is to aid the constitutionally elected government of Mr. Cristiani. The FMLN does not want a negotiated solution unless the Government shares power. They want to share power. They cannot win power at election time through the ballot box, because they do not have any popular support. They rise up in San Salvador and kill a couple of thousand people, and they do not have any popular support. So now we will help them along, by cutting 50 percent of the military aid to the duly elected government because they have not solved the Jesuits' murder yet.

□ 1950

Mr. Chairman, I know we have allies around the globe that have not solved all of their problems, too, but we do not demand of them satisfactory solutions or else we will cut their aid in half.

We speak of democratic principles. Why do we impose on the people of El Salvador more tyranny from the FMLN?

Mr. Chairman, I ask the Members to vote no on this amendment.

The CHAIRMAN. The Chair will state that the gentleman from Michigan [Mr. BROOMFIELD] has 22 minutes remaining and the gentleman from Massachusetts [Mr. MOAKLEY] has 19 minutes remaining.

The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, tonight I rise to support the Moakley-Murtha amendment. This debate proposes cutting this aid by 50 percent.

My only disappointment is that it is not a total cut.

I can only say this evening that the road to hell is paved with good intentions and the United States has meant well in El Salvador but to no avail. And unfortunately, our good intentions seem recently to be resulting in just the opposite of what we originally intended—democracy in El Salvador.

Our hope has always been that human rights would mean something in El Salvador. And yet, continuing evidence shows that this just has not been the case. All signs point to the fact that this won't be the case in the future. Unfortunately there is a persuasive mentality, especially by the military, that the end justifies the means. This was brutally made clear in the murder of the Jesuits and the two women last year.

It diminishes us as a nation to continue to send aid to El Salvador—to allow the trampling of people's rights exactly how the U.S. taxpayer would not want his money spent.

How ironic that this bill is called aid to emerging democracies—nations that have moved away from repressive rule and human rights violations and toward peace, and freedom. Yet included in this bill is more military aid to El Salvador—aid that throughout the years has fueled the military which has repeatedly demonstrated its disregard for human rights, peace and freedom.

I'm afraid the Moakley task force report says it best: "The Salvadoran judicial system is an oxymoron, neither systematic nor just." I believe supporting any more aid to the Salvadoran military to promote peace in El Salvador is an oxymoron—it will not buy peace, it is not just, nor moral.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, we have heard a great deal of condemnation directed at the Government of El Salvador. Let us remember how that government came into being:

March 1989: For the sixth time in 7 years, democratic elections are held throughout El Salvador. These were free, fair and monitored by observers from throughout the world. The winner, with 54 percent of the vote, was the current President, Alfredo Cristiani.

Three things stand out about that election. First, over 85 percent of the eligible voters actually turned out to vote. They did so because, in the words of a 60-year-old housewife, as quoted in the New York Times.

I'm not afraid of bullets. We have to vote to make a change in this country and show that El Salvador has guts.

Second President Cristiani won this election thanks to his support from the civilian population. Although permitted by law, the military does not vote in El Salvador's elections—let me repeat that: Although permitted by law, the military does not vote in El Salvador's elections. This is the decree from the Chief of El Salvador's Armed Forces, who wants to ensure that there is not even the illusion of partisanship within the military. So the fact that Christiani won is due entirely to his support within the Civilian population.

The third thing that stands out is the Cuban and Sandinista directed FMLN rebels wanted no part of this democratic process. The fact is, on that day, they launched sabotage raids in 10 of the country's 14 Provinces. Ten government soldiers were killed that day and 44 were wounded—all by the FMLN rebels, grand guardians of the people.

Now, this body is poised to hand over to the Communist rebels the very power they could not win at the ballot box. That is the travesty being discussed there today.

Consider this: According to a commission by USIA in March 1990 of this year, only 1 in 10 El Salvadorans have a favorable opinion of the FMLN—70 percent of the people view them unfavorably and 55 percent view them very unfavorably.

It gets more interesting: When asked whether the army or the FMLN has less respect for human rights, only 12 percent said the Army; 55 percent said the FMLN.

This poll was conducted by CID, the Gallup affilite in Costa Rica, and the poll takers bent over backward to ensure that people would give their honest opinions.

The El Salvadorans, I believe, gave their honest opinion to these pollsters because the results track so closely with that country's actual election results.

Now, here we sit, safely insulated from the horrors of guerrilla war, and some Members prepare to undercut the very democratic foundations we've been trying to nurture these last 10 years. We owe the Salvadorans our support—not the butchers who murdered the Jesuit priests—but the 5 million people who have continually voted against the FMLN in every single election held since that country became a democracy.

The FMLN rebels say they want negotiations. The problem is—you cannot negotiate democracy. Democracy means free elections and it means that all parties involved agree to settle their differences by forces of ideas—not force of arms.

FMLN rebels know only the force of arms and they wield that force with deadly accuracy. No amount of sugar-coated peace proposals covers the blood of the dozens of mayors and other government officials the FMLN has butchered.

Mr. Chairman, totalitarians always have a reason why you can't trust the people and why elections should not be held. Adolf Hitler called the Germans "voting cattle." The FMLN is no different.

Let us not do what the vast majority of El Salvadorans refuse to do—hand power over to the FMLN—and that is exactly what passage of H.R. 4636, in its current form, would help do.

SALVADORANS OVERWHELMINGLY REJECT FMLN GUERRILLAS; SOLIDLY SUPPORT CURRENT GOVERNMENT

(This report is based on the results of both USIA-commissioned and contractor questions placed on an omnibus survey of public opinion in El Salvador. A nationally representative sample of 1274 Salvadorans, age 18 and older, residing in 12 regional departments was interviewed in person. Two departments (with 10% of the population) were not surveyed due to FMLN/army activity. Fieldwork took place March 9-21, 1990, prior to the late March agreement between the government and the FMLN to renew peace talks. Special precautions were taken to minimize respondents' fear of repercussions from Salvadoran authorities and/or FMLN.)

MOST SALVADORANS VIEW FMLN WITH DEEP DISFAVOR

The continued sabotage of the economy and attacks on civilians have left the guerrilla umbrella organization, "Farabundo Marti de Liberacion Nacional" (FMLN), with little support among the Salvadoran public. Barely one Salvadoran in ten has a favorable opinion of the FMLN; seven-often have an unfavorable view. The public's rejection of the FMLN is of notable intensity; 55 percent have a "very unfavorable" opinion of the rebel organization (table 1). [1] However, more Salvadorans now blame Nicaragua and Cuba (49%) than the FMLN (15%) for the war's continuation, reflecting both the recent offers by the FMLN to negotiate for peace and the local media emphasis, in conjunction with the Nicaraguan elections, on the high levels of aid given the FMLN by the Sandinista government.

U.S. VIEWED WITH FAVOR BY ALMOST ALL; PLURALITY APPROVES AID AMOUNTS

The extent of U.S. involvement in El Salvador over the past decade has not compromised the traditionally high level of favorable Salvadoran opinion of the United States. Four-of-five Salvadorans have a favorable opinion of the U.S., with support extending across the Salvadoran political spectrum (table 3). A solid plurality (43%) of the Salvadoran public believes that the U.S. economic and military aid to the country is "about right," while 29 percent think the U.S. should provide more (table 4).

EARLY EXPECTATIONS OF CRISTIANI AND ARENA GOVERNMENT ARE UNFULFILLED

A non-USIA poll in September, 1989 indicated that Salvadorans had high expecta-

[1] Similar attitudes were found in a nationwide poll conducted in December 1988 by the Catholic University-affiliated Instituto Universitario de Opinion Publica (IUDOP), directed by Fr. Ignacio Martin-Baro, one of the Jesuit priests assassinated in December of 1989. Of that sample, which overrepresented women and the more educated, 60 percent had a "bad" or "very bad" view of the FMLN, while 11 percent had a "fair," "good," or "very good" opinion.

tions for Cristiani and the ARENA government at that time (three months after his inauguration): 69 percent thought that it was at least somewhat probable that spiraling inflation would be brought under control and 43 percent believed it likely that the ten-year war would end.[2] Nine months into President Cristiani's term, neither has been accomplished in the view of his countrymen. Many think not only that the cost of living has increased "a great deal" (78%), but that Cristiani has done little or nothing to ameliorate the situation (54%). This contrasts markedly with the opinion which prevailed in September, 1989 that the government had done "a great deal" (62%) or "a fair amount" (20%) to limit cost-of-living increases (tables 5,6). Next to the ongoing war (37%), most Salvadorans think that the deteriorating economy (28%) is the most serious problem they face today (table 7).

DISAPPROVAL OF CRISTIANI'S JOB PERFORMANCE IS MINIMAL

Although Salvadorans have yet to see their expectations met by the ARENA government, support for President Cristiani continues virtually unchanged from the high levels of six months ago. Salvadorans who believe he is doing a good job exceed those who say he is doing a bad job by a 4-to-1 margin (44%-10%). Approval is highest among ARENA supporters and diminishes leftward across the political spectrum. Even among supporters of the FMLN-affiliated Democratic Convergence (CD), more believe he is doing a good or "neither good nor bad" job than a bad one (table 8).

CRISTIANI'S POPULARITY REMAINS WIDESPREAD

Cristiani's personal popularity has remained as solid as his job performance levels: 72 percent have a favorable opinion of the president, more than any other Salvadoran politician (in September his favorable rating was 71%). Public support for ARENA politicians is not limited to Cristiani. Armando Calderon Sol, president of the party and mayor of San Salvador, is the nation's second most popular politiciana with a 65 percent approval level. However, approval for Roberto D'Aubuisson, founder of ARENA and long linked to death-squad activity in the early 1980s, declined substantially during the period, from 37 percent in September to 23 percent today (table 9).

ARMY HELD IN HIGH REGARD BUT FEW EXPECT CONVICTION OF OFFICERS ACCUSED OF JESUIT MURDERS

The Salvadoran army is viewed favorably by almost three-quarters of the Salvadoran public (72%). Only among the very small number of CD-party members does an unfavorable opinion prevail, reflecting the long conflict between members of the armed forces and radical groups in El Salvador (table 10).[3] Asked which group—the army or the FMLN—has less respect for human rights, a solid majority of respondents (55%) select the FMLN guerrillas, while a small minority (12%) cite the Salvadoran army (table 11).

Nevertheless, when it is stated that "the FMLN has insisted that it will only agree to negotiations if the armed forces are restructured and purged" at least one-third of the surveyed population (36%) favor a restructuring and purging of the armed forces. However, an equal number (36%) is opposed to such a reorganization.[4] Relatively few Salvadorans (28%) have any confidence that the military men accused of the murders of six jesuit priests in November will, if they are guilty, actually be convicted and sentenced by the courts. A large majority (72%) are either not very confident or do not have an opinion on the outcome of the judicial process (table 13).

Asked which conclusion to the war would be best for the Salvadoran people, respondents select a negotiated settlement between the FMLN and government (68% by a three-to-one margin over a military victory by the armed forces (20%) and by a better than 30-1 margin over a military victory by the FMLN (2%; table 14).

However, few Salvadorans are optimistic about the ultimate outcome of such negotiations. Less than one-in-five (17%) expects the war to end within three years; most can not say how long they believe it will continue (49%) while another 27 percent believe that it will go on for more than six years (table 15). These attitudes prevail despite the fact that most Salvadorans (54%) expect the FMLN to be "much weaker militarily" once the Sandinistas are out of power in Nicaragua and unable to provide current levels of logistical and advisory support (table 16).

CHAMORRO'S VICTORY IS APPLAUDED

Over two-thirds of the Salvadoran public believe that it is "good" (69%) rather than "bad" (3%) that Violeta Chamorro won the recent presidential elections in Nicaragua and most of those who support the electoral results that the Sandinistas will turn over full control of all government institutions to UNO (tables 17, 18).

HOW THE SALVADORAN POLL WAS TAKEN

This public opinion survey is based on face-to-face interviews with 1274 adults in El Salvador. Fieldwork took place March 9-21, 1990. Sample construction and fieldwork were performed by CID, the Gallup affiliate located in Costa Rica, in accordance with that firm's standard omnibus procedures. The USIA Office of Research developed and placed 15 questions on the survey, which were translated into Spanish by CID with review by the Office of Research. USIA received the tabulated findings the week of April 2, 1990.

The sample was selected by a modified probability method, and covered both urban and rural populations. Twelve of El Salvador's fourteen regional departments entered into the sample; two departments, Chaletanango and Morazan, with a population of approximately 545,000 (10% of El Salvador's estimated 1990 total) were not surveyed due to the high probability of conflict in these areas. Isolated very low-density areas in other departments were also excluded. One primary sampling point (psu), La Union city, had to be substituted when the local army commander refused to permit interviewing to take place. No more than ten households were contacted at each urban psu and twenty households, in two segments of ten each, were contacted at each rural psu. Respondents were selected by quotas for age, sex, education, and region, according to estimated population distributions. Due to the difficulty of returning to selected households if the indicated respondent was not available, immediate substitutions were made. Approximately 20% of each interviewer's work was verified through personal reinterviews.

To minimize respondents' potential fears of repercussions from either the armed forces or the FMLN if true opinions were expressed, interviewers wore clearly visible cards identifying themselves as working for a Costa Rican firm. This strategy mitigates against respondents giving false answers, and was successfully used in CID's pre-election polling in Nicaragua, where CID correctly found opinion favoring Chamorro over Ortega.

Ninety-five times out of one hundred, results from samples of this size will yield results which differ by no more than about 3 percentage points in either direction from what would have been obtained were it possible to interview everyone in the target population. However, the clustering technique increases this margin of error somewhat, as does the comparison of smaller subgroups. In addition, the practical difficulties of conducting any survey of public opinion in Central America may introduce other sources of error.

Results of the CID questions on the survey have been released in Central America by that firm.

*Question.* And the FMLN—do you have a favorable or unfavorable opinion of the FMLN? Is that somewhat favorable/unfavorable or very favorable/unfavorable?

TABLE 1.—SALVADORANS REJECT FMLN

[In percent]

| | Total public | Political affiliation[1] | | | |
|---|---|---|---|---|---|
| | | Arena | PDC | CD | Other/none |
| Date—March, 1990: | | | | | |
| Sample size | (1274) | (519) | (260) | (39) | (456) |
| Very favorable | 4 | 4 | 5 | 21 | 3 |
| Somewhat favorable | 7 | 7 | 6 | 23 | 6 |
| Total favorable | 11 | 11 | 11 | 44 | 9 |
| Somewhat unfavorable | 15 | 14 | 18 | 10 | 15 |
| Very unfavorable | 55 | 63 | 54 | 36 | 47 |
| Total unfavorable | 70 | 77 | 72 | 46 | 62 |
| Do not know/no response | 19[2] | 12 | 17 | 10 | 29 |
| Total | 100 | 100 | 100 | 100 | 100 |

[1] Ruling rightist party (54 percent of March presidential vote). PDC—Opposition Christian Democrat Party (37 percent of vote). CD—Democratic Convergence Party, newly formed left-wing party founded by members of FMLN's political arm (3 percent of vote). Due to the small number of respondents in this subgroup, results may vary by as much as 20 percent in either direction. Other—47 respondents expressed as support for other small parties. None—354 responents did not voice a party affiliation. These were relatively evenly distributed across geographical, age, and education subgroups, with no statistically significant concentration in any one subgroup.

[2] Unless otherwise noted, respondents giving "No response" did not exceed 5 percent of the sampled population. For this question "No response"—6 percent (6 percent for PDC, 9 percent for Other/none).

Source: USIA—commissioned question.

*Question.* In general, do you have a favorable or unfavorable opinion of the United States? Is that somewhat favorable/unfavorable or very favorable/unfavorable?

TABLE 3.—SALVADORANS HAVE HIGH OPINION OF THE UNITED STATES

[In percent]

| | Total public | Political affiliation | | | |
|---|---|---|---|---|---|
| | | Arena | PDC | CD | none |
| Date—March, 1990: | | | | | |
| Sample size | (1274) | (519) | (260) | (39) | (456) |

[2] Data are from a comparable nationwide survey of 1216 Salvadorans also conducted by CID.

[3] A December, 1988 IUDOP survey, cited above, found that 45% believed that the armed forces were doing a good job, while 33% thought they were doing neither a good nor bad job, and 10% believed they were doing a bad job.

[4] A May, 1989, IUDOP/UCA poll similar to that cited above found that most Salvadorans (76%) favored "cleaning up the Army" if it was a pre-condition to negotiations, but a large plurality (45%) was opposed to "reducing the army to its 1979 size."

TABLE 3.—SALVADORANS HAVE HIGH OPINION OF THE UNITED STATES—Continued

[In percent]

| | Total public | Political affiliation | | | |
|---|---|---|---|---|---|
| | | Arena | PDC | CD | none |
| Very favorable | 44 | 50 | 42 | 23 | 40 |
| Somewhat favorable | 36 | 33 | 36 | 36 | 38 |
| Total favorable | 80 | 83 | 78 | 59 | 78 |
| Somewhat unfavorable | 7 | 8 | 8 | 10 | 5 |
| Very unfavorable | 7 | 5 | 10 | 31 | 6 |
| Total unfavorable | 14 | 13 | 18 | 41 | 11 |
| Do not know/no response | 7 | 4 | 4 | 0 | 13 |
| Total | 101 | 100 | 100 | 100 | 102 |

Source; USIA-commissioned question.

*Question.* As you may know, the United States is currently giving substantial military and economic aid to El Salvador. Do you think the amount of this U.S. aid is too much, about right, or not enough, or haven't you heard enough to say?

*Table 4.—U.S. aid amounts about right*

[In percent]

| | *Total public* |
|---|---|
| Date—March, 1990: | |
| Sample size | 1274 |
| Too much | 14 |
| About right | 43 |
| Not enough | 29 |
| Do not know/no response | 15 |
| Total | 101 |

Source: USIA-commissioned question.

*Question:* Thinking back over the past four months, do you think the cost of living has risen a great deal, a fair amount, not very much, or has it stayed about the same?

TABLE 5.—MOST SEE SPIRALING INFLATION

[In percent]

| | Total public | Total public |
|---|---|---|
| Date | Sept. 1989 | March 1990 |
| Sample size | (1216) | (1274) |
| A great deal | 62 | 78 |
| A fair amount | 20 | 8 |
| Not very much | 18 | 7 |
| About the same | (1) | 6 |
| Don't know/No response | (1) | 2 |
| Total | 100 | 101 |

[1] In 1989 survey, final three response categories were combined.

Source: CID questions.

*Question.* And how much do you think President Cristiani's government has done to limit the cost-of-living increases—a great deal, a fair amount, not very much, or nothing at all?

TABLE 6.—MANY THINK CRISTIANI HAS DONE LITTLE TO CONTROL INFLATION

[In percent]

| | Total public | Total public |
|---|---|---|
| Date | Sept. 1989 | March 1990 |
| Sample size | (1216) | (1274) |
| A great deal | 62 | 12 |
| A fair amount | 20 | 28 |
| Not very much | 10 | 20 |
| Nothing at all | 8 | 34 |
| Don't know/No response | 0 | 7 |
| Total | 100 | 101 |

Source: CID questions.

*Question.* Now thinking again about the situation here in our country. What is the most serious problem that we have at this moment? (SHOW CARD)

*Table 7.—Plurality see war as most serious problem*

[In percent] *Total Public*

| | |
|---|---|
| Date March 1990: | |
| Sample size | (1,274) |
| Civil war | 37 |
| Government corruption | 6 |
| The economy | 28 |
| Crme and violence | 14 |
| Others | 10 |
| Don't know/No response | 5 |
| Total | 100 |

Source: CID question.

*Question.* On the whole, how would you rate Alfredo Cristiani's work as President—would you say it was very good, good, neither good nor bad, bad, or very bad?

TABLE 8.—FEW SEE CRISTIANI DOING A BAD JOB

[In percent]

| | Total public | Total public | Political affiliation | | | |
|---|---|---|---|---|---|---|
| | | | Arena | PDC | CD | Other None |
| Date | 09/89 | 03/90 | | | | |
| Sample size | (1,216) | (1,274) | (519) | (260) | (39) | (456) |
| Very good | 17 | 15 | 24 | 7 | 8 | 9 |
| Good | 28 | 29 | 37 | 20 | 15 | 27 |
| Total good | 45 | 44 | 61 | 27 | 23 | 36 |
| Neither good/bad | 47 | 40 | 30 | 50 | 36 | 44 |
| Bad | 6 | 6 | 4 | 12 | 21 | 3 |
| Very bad | 1 | 4 | 2 | 6 | 13 | 4 |
| Total bad | 7 | 10 | 6 | 18 | 34 | 7 |
| Don't know/No response | 1 | 7 | 3 | 4 | 8 | 12 |
| Total | 100 | 101 | 100 | 99 | 101 | 99 |

Source: CID question.

Question: Now, to change the topic, I have some names of Salvadoran politicians and I'd like you to give me your opinion—either favorable or unfavorable—of each of them.

TABLE 9: OPINIONS ON SALVADORAN POLITICAL LEADERS

| | September 1989, Favorable | March 1990 | | |
|---|---|---|---|---|
| | | Favorable | Unfavorable | DK/NR |
| (a) Alfredo Cristiani | 71 | 72 | 12 | 16 |
| (b) Armando Calderon Sol | 70 | 65 | 13 | 22 |
| (c) Fidel Chavez Mena | 38 | 45 | 26 | 29 |
| (d) Antonio Guevara Lacayo | 19 | 24 | 29 | 48 |
| (e) Fito Rey Prendes | 29 | 23 | 36 | 41 |
| (f) Roberto D'Aubuisson | 37 | 23 | 43 | 34 |
| (g) Antonio Morales Erlich | 21 | 21 | 40 | 39 |
| (h) Hugo Murillo | 11 | 13 | 30 | 57 |
| (i) Guillermo Ungo | 14 | 12 | 52 | 36 |
| (j) Ruben Zamora | 14 | 11 | 45 | 44 |
| (k) Mario Aguinada | 10 | 7 | 29 | 64 |

Source: CID question

Question: All things considered, do you have a favorable or unfavorable opinion of the Salvadoran army? Is that somewhat favorable/unfavorable, or very favorable/unfavorable?

TABLE 10: SALVADORAN ARMY HELD IN HIGH REGARD

[In percent]

| | Total public, March 1990 | Political affiliation | | | |
|---|---|---|---|---|---|
| | | ARENA | PDC | CD | Other/ None |
| Sample size: | (1274) | (519) | (260) | (39) | (456) |
| Very favorable | 37 | 46 | 34 | 18 | 32 |
| Somewhat favorable | 35 | 36 | 35 | 15 | 37 |
| Total favorable | 72 | 82 | 69 | 33 | 69 |
| Somewhat unfavorable | 8 | 8 | 10 | 10 | 6 |
| Very unfavorable | 8 | 5 | 12 | 44 | 5 |
| Total favorable | 16 | 13 | 22 | 54 | 11 |
| Don't know/No response | 12 | 6 | 10 | 13 | [1] 21 |
| Total | 100 | 101 | 101 | 100 | 101 |

[1] "No response"—6 percent.

Source: USIA-commissioned question.

Question: Of the two groups—the army and the FMLN—which has less respect for human rights? In other words, which of

these two groups has most abused the Salvadoran people?

TABLE 11: MAJORITY BELIEVE FMLN HAS LESS RESPECT FOR HUMAN LIFE THAN ARMY

*Total public, March 1990*

| | Percent |
|---|---|
| Sample Size | (1,274) |
| Army | 12 |
| FMLN | 55 |
| Both (volunteered) | 13 |
| Don't know/No response | 20 |
| Total | 100 |

Source: CID question.

Question: The FMLN has insisted that it will only agree to negotiations if the armed forces are restructured and purged. Do you favor or oppose a restructuring and purging of the armed forces? Do you somewhat favor/oppose or very much favor/oppose?

TABLE 12: OPINION IS DIVIDED ON ARMY RESTRUCTURING IF LINKED TO NEGOTIATIONS

[In percent]

| | Total public, March 1990 | Political affiliation | | | |
|---|---|---|---|---|---|
| | | ARENA | PDC | CD | Other/ none |
| Sample size: | (1,274) | (519) | (260) | (39) | (456) |
| Very much favor | 10 | 8 | 13 | 26 | 9 |
| Somewhat favor | 26 | 27 | 29 | 33 | 23 |
| Total in favor | 36 | 35 | 42 | 59 | 32 |
| Somewhat oppose | 13 | 17 | 14 | 10 | 8 |
| Very much oppose | 23 | 26 | 25 | 21 | 20 |
| Total opposed | 36 | 43 | 39 | 31 | 29 |
| Don't know/No response | 27 | 22 | 20 | 10 | 39 |
| Total | 99 | 100 | 101 | 100 | 0 |

Source: USIA-commissioned question

Question: As you may know, a number of military men have been accused of the murders of six jesuit priests last November and are now awaiting trial. If they are guilty, how confident are you that these men will actually be convicted and sentenced by the courts—are you very confident, somewhat confident, or not very confident?

TABLE 13: FEW HAVE CONFIDENCE IN SALVADORAN COURTS IN JESUIT CASE

[In percent]

| | Total public March 1990 | Political affiliation | | | |
|---|---|---|---|---|---|
| | | Arena | PDC | CD | Other/ None |
| Sample size | (1,274) | (519) | (260) | (39) | (456) |
| Very confident | 15 | 17 | 15 | 15 | 12 |
| Somewhat confident | 13 | 15 | 12 | 0 | 12 |
| Not very confident | 40 | 41 | 42 | 72 | 35 |
| Don't know/No response | [1] 32 | 27 | 30 | 13 | 41 |
| Total | 100 | 100 | 99 | 100 | 100 |

[1] "No response" equals 6 percent (9 percent for PDC supporters, 8 percent for Other/None).
Source: USIA-commissioned question.

Question: Which outcome to the war do you think would be best for the Salvadoran people—a military victory by the current government, or a military victory by the FMLN, or a negotiated settlement to the conflict?

TABLE 14: MOST FAVOR NEGOTIATIONS

*Total public, March 1990*

| | Percent |
|---|---|
| Sample size | (1,274) |
| Military victory by government | 20 |
| Military victory by FMLN | 2 |
| Negotiated settlement | 68 |
| Don't know/No Response | 10 |
| Total | 100 |

Source: USIA-commissioned question.

Question: Thinking about the war between the government and the FMLN, how much longer do you think the war will continue—less than one year, or between one year and three years, between three years and six years, or over six years?

TABLE 15: MOST SALVADORANS ARE PESSIMISTIC ON DURATION OF WAR

*Total public, March 1990*

| | Percent |
|---|---|
| Sample size | (1,274) |
| Less than 1 year | 6 |
| 1-3 years | 11 |
| 3-6 years | 8 |
| Over 6 years | 27 |
| Don't know/No response | 49 |
| Total | 101 |

Source: USIA-commissioned question.

Question: Some people say that the FMLN will be much weaker militarily once the Sandinistas are out of power. Others say that the FMLN will be just as strong militarily even though the Sandinistas are out of power. Which view is closer to your own?

TABLE 16: MOST EXPECT FMLN TO WEAKEN

*Total public, March 1990*

| | Percent |
|---|---|
| Sample size | (1,274) |
| Weaker | 54 |
| Just as strong | 19 |
| Don't know/No response | [1] 27 |
| Total | 100 |

[1] "No response" equals 6 percent.
Source: USIA-commissioned question.

Question: Now a couple of questions on the recent elections in Nicaragua. As you may know, Violeta Chamorro defeated Daniel Ortega and the Sandinista Front in the presidential elections. On the whole, do you think that it is good or bad that Chamorro won, or haven't you heard enough to say?

TABLE 17: MOST SALVADORANS APPLAUD UNO VICTORY

*Total public, March 1990*

| | Percent |
|---|---|
| Sample size | (1,274) |
| It is good | 69 |
| It is bad | 3 |
| Haven't heard enough | 16 |
| Don't know/No response | 12 |
| Total | 100 |

Source: USIA-commissioned question.

Question: (If says Chamorro victory good) Are you optimistic or pessimistic that the Sandinistas will turn over control of all government ministeries and forces to the new Chamorro government?

TABLE 18: BROAD OPTIMISM THAT SANDINISTAS WILL TURN OVER POWER

*Total public, March 1990*

| | Percent |
|---|---|
| Sample size | (1,274) |
| It is good | 45 |
| It is bad | 12 |
| Haven't heard enough | 12 |
| Don't know/No response | 31 |
| Total | 100 |

Source: USIA-commissioned question.

Mr. MOAKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in support of the Moakley-Murtha amendment. When the Jesuits and two others were murdered last November, we saw the most brutal sign of the Salvadoran military's indifference to human rights and the rule of law. The murders revealed a problem which has been an obstacle to peace for over a decade: The military still cannot distinguish between legitimate intellectual dissent and armed insurrection. Clearly, our just sending more military aid will not solve that problem or allow a democracy to develop. Understanding that there is brutality in both sides of this conflict, I believe we need to send a message that the United States Government will not support this kind of brutality.

I have supported aid, military and economic aid, to El Salvador for years. But based on my last trip to El Salvador it convinced me that this war will go on forever with thousands of additional casualties unless the United States pushes the parties to peace. This proposal will help us get there.

What incentive would the Salvadoran Government have to negotiate a peace agreement if United States aid continues to flow without regard to how it is used? The Salvadoran Government has taken the first positive steps toward peace talks with the FMLN in recent weeks only because of threats to reduce United States aid. If the threats prove empty, so will the government's efforts to negotiate with the FMLN to achieve peace. Let us not pass up a chance to vote for peace, support Moakley-Murtha.

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Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the Moakley amendment.

The Moakley amendment is essentially the Studds language from H.R. 4636 with a couple of additions from the Broomfield-Byron amendment.

The few changes it makes to the Studds language are not enough to make it any more acceptable.

It still rewards the FMLN guerrillas for its military offensive last November. It still punishes a democratically elected government. And, it still represents a rejection of the administration's effort to achieve a bipartisan consensus on El Salvador.

The Moakley amendment, as the Studds language it replaces, characterizes the two sides in El Salvador as

though they are competing democratic forces. The FMLN guerrillas are not social democrats. They are terrorists, assassins, and saboteurs.

The FMLN says it will not target civilians and then turns around and conducts military activities that cause civilian deaths.

The FMLN says it wants negotiations, but they walked out of negotiations last fall and started a major military offensive that cost the lives of more than 2,000 Salvadorans.

The Moakley amendment cuts military aid to the democratic government by 50 percent but says that the FMLN guerrillas can continue to receive lethal military aid from outside sources like Cuba and the Sandinistas in Nicaragua.

To encourage negotiations, to encourage a peace agreement and to encourage better performance in the observance of human rights, you do not accomplish those objectives by cutting in half military aid to a long-time, valued ally with a democratically elected government, so recognized by all the Central American Presidents.

I urge my colleagues to vote against the Moakley amendment.

Mr. MOAKLEY. Mr. Chairman, for purposes of debate only, I yield 1½ minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in support of the Moakley-Murtha amendment.

Yesterday, the arms control and foreign policy caucus issued a report documenting that serious human rights abuses have been carried out by troops under the command of 14 of the 15 most senior officers in charge of El Salvador's top commands.

When we got involved in El Salvador, we gambled that we could reform the El Salvador military. This report makes it tragically clear that this gamble failed.

Eleven of the fourteen commanders cited in the report received U.S. training. This raises doubts about the Salvadoran military's ability to absorb human rights principles and therefore about the relevance of the United States training itself.

After 10 years, we must recognize that we have been unable to instill respect for basic democratic values or the rule of law in the Salvadoran military.

One underlying justification for United States security assistance is to professionalize the military in a country like El Salvador and to foster in it a respect for civilian control.

In El Salvador, loyalty between officers prevails over justice. In none of the 50 cases covered by this report have even junior officers been brought to trial. They are protected by their colleagues.

There is widespread corruption in the Salvadoran military. Many officers have knowledge of each other's questionable business practices. United States officials interviewed for the report estimate that 15 percent of the Salvadoran Army is made up of ghost soldiers. These salaries end up lining the pockets of their commanders.

These are extremely disturbing findings.

Whatever one's political perspective on this issue these facts should not be ignored.

This is not a record of which we can be proud. This is not a policy we can continue to sustain.

I urge an aye vote on the amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I will have a smaller post card delivered to my colleagues' offices tomorrow.

This is a repeat, but good things are worth repeating, Mr. Chairman.

Mr. Chairman, I believe everyone in this House wants to see freedom in every country in Central America. Although Abraham Lincoln said in February of 1860, beginning the Presidential election, that different people have different definitions for the word "liberty," and the world has sought for centuries to come up with one unified definition, what some of my colleagues thought was eventually going to be liberty under Danial Ortega did not work out, and a handful of us here cozied up to him so closely that it was bordering on the obnoxious, if not the treasonous, but I think everybody realizes it was good that the first lady in the history of this hemisphere was elected to the Presidency of a country, and maybe, if we get money down there to Nicaragua to help liberty breathe, then maybe we will see the end of killing and terrorism in El Salvador.

Now I was just in the cloakroom and found a full page ad by the airline that I think is the best run in the United States of America, American Airlines, and they say that starting this summer they are going to add to the routes to Guatemala City, San Jose, Costa Rica, and Caracas flights to Belize, two cities in Honduras and to San Salvador, That is the best news I have seen for San Salvador for a long time.

Mr. Chairman, if the FMLN is emboldened by wrong signals inadvertently sent from this House and continues the killing of mayors, the assassinations of elderly priests, as the gentleman I mentioned earlier, an American with dual citizenship in San Salvador, Francisco Peccarini, if they have an idea that somehow or another they can rescue their failed 12-year slaughter in El Salvador by playing games at negotiations, the way we have seen in Vietnam with Le Duc Tho getting the Nobel Peace Prize as he was laying the very plans for a Communist conquest, 2 years of insane deliberation at Panmunjom, months wasted over what the size of the table would be.

Over this last week I have started reading Robert Conquest's book, "The Great Terror." The story of Stalin is so much more horrible than anybody ever discussed on the floor of this Congress over the last 70 years that it defied comprehension. Communism is so rotten and evil, so utterly bankrupt, right before our eyes in just the last few months, and why would anybody of good conscience in this Congress do anything to embolden these pathetic Farabundo Marti terrorists in El Salvador?

Mr. Chairman, I will tell my colleagues what I think on the next go-around because we keep revisiting this.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I strongly support the provision in this bill that would withhold 50 percent of this year's military aid to El Salvador. This kind of action is long overdue; and while I would rather see Congress take even stronger action, I believe this is a worthwhile and needed first step. I urge my colleagues to support this provision and oppose any weakening amendments.

Last week, the Washington Post opined that a vote to withhold military aid to El Salvador would in fact fuel the war and burden any negotiations. Incredibly, the Post argued that the best way to prevent further slaughter in El Salvador would be for the United States to continue to send $1.4 million per day in arms and ammunition, and trust the bloody Salvadoran Armed Forces to do the right thing.

This is the very same argument that the Reagan and Bush administrations have made for the past 10 years. Ten years during which time the Armed Forces have not been effectively reformed. Ten years during which soldiers led by United States-trained officers, armed with United States-supplied equipment, have brutally terrorized and tortured and often murdered Salvadorans by the tens of thousands. Ten years during which labor leaders, priests, human rights leaders, and farm organizers have been targeted for arrest and murder by the Armed Forces and their allied death squads.

That military aid strategy has been proved bankrupt. Enough is enough. It's time for a complete overhaul of our policy toward El Salvador. I hope this bill will start us on the way.

Make no mistake: I am no fan of the rebel FMLN forces. The FMLN has its own history of killings and human rights abuses. For example, human rights observers have amply documented the FMLN's inhuman tactic of mining areas used by civilians, and their cynical terror in killing mayors in rural areas. Similarly, their decisions in November to break off talks, go on the offensive, and use civilians as a shield were reprehensible. A U.S. policy that led to an FMLN victory would be awful.

But it is intolerable to continue to fund the current and macabre status quo. For a full decade, the Salvadoran military has succeeded in stifling any hope for a negotiated political settlement to the current civil war. The military has never had any reason to negotiate, because even after the most brutal and public abuses, the Reagan and Bush administrations have never seriously threatened an arms cutoff.

So it is up to us in Congress to create a mechanism where the Salvadoran military will have something to lose if negotiations don't proceed. Under the provisions of this bill, the Salvadoran Government must participate in good-faith negotiations to bring about a solution, or risk their entire military aid package.

To keep the military in line, another provision would cut off all military aid in the event of a coup by the military. And to ensure that the FMLN does not take advantage of these provisions, full aid could be restored if the FMLN balks at good-faith negotiations. So, we endeavor to make both sides behave.

This is not a perfect arrangement, but it's a good start and one that merits support. The leaders of this effort, including Mr. MOAKLEY, Mr. MURTHA, and Mr. BONIOR, deserve our thanks on this. Once again, I urge my colleagues to vote for this provision and to oppose any efforts to weaken it.

Mr. MOAKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Chairman, I rise in support of the Moakley-Murtha substitute conditioning military aid to El Salvador. There has never been a greater opportunity in the last 10 years to bring the bloody conflict in El Salvador to an end. Rapidly changing events around the world in the past year have opened a large window of opportunity which we should not let pass. Passage of this substitute could not be better timed to take advantage of the moment.

As our relations with the Soviet Union continue to improve, civil conflicts around the world are no longer framed in the context of an East-West struggle, and Soviet support for insurgent movements such as the FMLN is ending. The free and fair elections in Nicaragua have also demonstrated that there are peaceful and workable alternatives in the region far more preferable to continued conflict. These events have increased the chances for a negotiated settlement to end the war in El Salvador.

A decade of continued and bloody fighting in El Salvador has led only to a stalemate with no possibility of a military victory by either side. Tragically, this has resulted in over 72,000 Salvadoran deaths, mostly civilian, and cost American taxpayers over $4 billion. It has also caused divisiveness and rancor among the American people and, indeed, among Members of Congress, perhaps unparalleled since the Vietnam war. People on both sides and of all shades of opinion are weary of this seemingly unending conflict.

Mr. Chairman, it is highly appropriate that the initiative for peace be promoted by the United States. Because of our vast investment in time and resources in El Salvador, we have a special ability and responsibility to quickly change the course of the conflict and bring about peace. If the administration is reluctant to exercise the necessary leadership, the Congress must. By failing to act now, the United States will be implicitly condoning extremists on both sides and merely prolonging the inevitable outcome—a negotiated settlement—but at the cost of additional lives and money.

Let us examine this proposal carefully. It is a moderate, middle-of-the-road proposal to use American military aid as a lever to move the entire peace process forward. It would function as two-edged sword, for it would cut either way, providing incentives for both the Salvadoran Government and the FMLN to negotiate a permanent settlement of the war.

The starting point would be to cut 50 percent of the as yet unobligated fiscal year 1990 military aid program and 50 percent of the fiscal year 1991 level. If the Government fails to negotiate in good faith, or to conduct a serious investigation into the murder of the six Jesuit priests, or if the Salvadoran military attempts to overthrow the civilian government, all military aid would be terminated.

On the other hand, the onus is also on the FMLN, for it too must negotiate in good faith, not receive significant lethal military aid from abroad, and refrain from military actions that threaten the existence of the civilian Salvadoran government. Otherwise, all military aid will be restored.

Some have argued that it is unfair to withhold 50 percent of the military aid to El Salvador. After receiving more than $4 billion of assistance from this country, the Salvadoran Government can hardly complain that we have not been supportive. More to the point, why does that Government need military aid at current levels? If it is truly interested in negotiating a peaceful settlement, it should not be conducting military operations as before. If the FMLN disregards the peace initiative and either receives significant military aid from abroad or engages in significant military activity, the President can promptly restore military aid to the Government in toto. If the Government pursues peace in good faith, where is the risk?

Mr. Chairman, I think that this is an eminently fair and balanced proposal. The provision would support ongoing United Nations efforts to mediate the conflict and would protect the constitutional government of President Cristiani from actions to oust it by either the FMLN or the Salvadoran military.

This proposal also provides a vehicle for the administration and Congress to work together toward a mutual object—peace in El Salvador. It does not obstruct the President in his efforts, only requiring that he submit two reports to Congress which simply describe the status of peace negotiations, the criteria he will use to judge its progress, and actions adversely affecting human rights. This is information we will request in any event. If the Congress is unhappy with the situation at the time of the second report, the burden is on us to act within 30 days to disapprove or modify the President's request for the balance of the aid. The 50 percent cut in aid is not automatic.

Mr. Chairman, the time has never been better for a proposal such as this. It offers real hope that a decade of fighting can be brought to an end, thus freeing the Salvadoran people from the terror of war and lifting the burden of financing this costly conflict from the American taxpayer. I therefore urge my colleagues to support this measure.

Mr. MOAKLEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the Moakley-Murtha amendment, which will add further conditions on aid to El Salvador over and above those which are already contained in this bill.

It is absolutely essential that we act now to condition aid to El Salvador. In fact, I favor a much more significant change in policy than the one that is contained in this bill. I am a cosponsor of H.R. 3733, legislation proposed by Representative DELLUMS to cut off all aid to El Salvador until that nation dramatically improves its human rights record.

United States policy toward El Salvador is not working. We have sent billion of dollars of United States aid to El Salvador in recent years.

However, this aid has not contributed to an end to the bitter conflict in that nation.

It has not brought an end to the brutal murders of civilians by the military in that nation.

It has not brought an end to the outrageous human rights abuses in that nation.

Rather, the violence, the killings, and the human rights abuses continue unabated.

When six Jesuit priests and other civilians were brutally murdered in El Salvador last fall, I called on President Bush to suspend all military aid to El Salvador until death squad activities have ceased, the responsible parties have been brought to justice, and human rights reforms have been enacted. Although President Cristiani has now acknowledged that the Salvadoran army was responsible for the killings, the responsible parties have not yet been brought to justice, and there appears to be a significant question as to whether this will ever occur. I do not believe that we should continue U.S. aid unless the guilty parties are convicted and sentenced, and we are certain that these heinous crimes will not be repeated in the future.

In addition, we must do whatever is possible to encourage a diplomatic resolution of the conflict in that nation. The Moakley-Murtha substitute begins this essential process.

To help encourage a negotiated settlement of the war in El Salvador, the bill as drafted withholds 50 percent of United States military assistance to that nation. The aid could be restored or completely eliminated if the President certifies that specified actions by the Salvadoran Government or the rebels have occurred.

Importantly, all military aid to the Salvadoran Armed Forces would be terminated if the President determines at any time that: The Salvadoran Government has not conducted a thorough and professional investigation into the murders of the six Jesuit priests, their housekeeper, and her daughter; the Salvadoran President has been overthrown in a military coup; or the Salvadoran Government has not participated in good faith in peace talks or is not supporting an active United Nation role in the talks. This aid cutoff would apply to all

fiscal year 1990 and fiscal year 1991 military assistance.

At the same time, military assistance could be restored if the FMLN has not negotiated in good faith or has failed to support an active role for the United Nations in the peace talks; the United States Government has proof that the rebels are continuing to acquire significant shipments of military equipment from abroad; or the rebels have launched a military offensive which jeopardizes the survival of the Salvadoran Government.

The Moakley-Murtha substitute goes even further than the pending bill in placing additional conditions on aid to El Salvador. It also contains important provisions designed to strengthen civilian control over the military and to authorize funding for monitoring local elections in El Salvador. And it requests essential information from the President on progress made by El Salvador relating to judicial reform, freedom of the press and assembly, and military reform.

It is time to rethink our Nation's approach to the conflict in El Salvador. We cannot continue to blindly send United States dollars to El Salvador when atrocities of this nature continue to occur. While the Moakley-Murtha amendment does not go as far as I think it should, it represents a strong first step in the fight to end the horrible human rights abuses in El Salvador and to bring about a peaceful resolution of the conflict in that nation.

We simply cannot tolerate a continuation of the status quo, which perpetuates the cycle of violence in that nation. To do so makes the taxpayers of the United States accomplices to these atrocities. We must change United States policy toward El Salvador so that we will make a real contribution toward peace and democracy.

Once again, I urge the support of my colleague for the Moakley-Murtha amendment, which will begin this important process.

Mr. MOAKLEY. Mr. Chairman, for purposes of debate only, I yield 1½ minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I have been to El Salvador four times, and every time I go people are wringing their hands about the latest atrocity committed by the El Salvador military. There are atrocities on all sides; we know that. But we are not funding the atrocities by the FMLN. We are funding the El Salvador military.

On my last visit I went to a village called Corral el Piedra which the El Salvador Air Force, with our funds and with our weapons, bombed, rocketed, and strafed. The bombing killed 5 people, 4 of them children, and wounded about 30 others. The Government tried to blame the guerrillas for the deaths, but then it turned out the Government with our money had killed these civilians. The eventual rationale was that guerrillas had been seen in the area. But in this attack, no guerrillas were hurt, only civilians.

Mr. Chairman, those were our funds that financed that attack on unarmed civilians, and many others. If we are not prepared after 8 years and $4 billion to begin putting conditions on these moneys, given the fact that these atrocities against civilians, one after another, have been committed with our funds, I really wonder where the moral leadership of this Congress would be.

The key to this Murtha-Moakley amendment is that for the first time we would provide incentives for negotiations to be concluded, not just engaged in. Right now the El Salvador military has very little incentive to successfully conclude the negotiations, only to engage in the negotiations, for the El Salvador military is on a very lucrative gravy train of United States aid. The negotiations will only succeed when each side recognizes that the war will be defunded, and each side will eventually have to live with each other.

We have to make it clear that we know what our own intelligence people have said, that war is militarily unwinnable by either side. Thus negotiations have to happen, and they have to be concluded successfully. That is the only way the killing can stop. This amendment provides for the first time the incentives to accomplish that. We owe it to our own beliefs, and to the thousands who will yet be slain if the war is not ended, to pass this amendment.

□ 2010

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to the Moakley amendment.

I sent this bullet to my colleagues in a Dear Colleague letter earlier this week. This bullet was manufactured in Cuba last year. It was captured in El Salvador in March of this year.

If we establish ground rules on our aid to El Salvador, to the democratically elected Government of El Salvador, the only ammunition that will be flowing into El Salvador will be coming from Cuba. That will not lead to more democracy. That will lead to a Cuban-style dictatorship. Castro is not going to quit sending his bullets because of high-sounding rhetoric coming out of the Congress of the United States.

President Cristiani has courageously stepped forward to admit that renegades in his own armed forces committed murders against church men and women in El Salvador, but to threaten President Cristiani's aid is absurd and counterproductive and it will mean even more killings on both sides.

Holding a democratically elected government liable for a lack of progress toward a negotiated settlement which is totally dependent on the good intentions of Communist guerrillas will be even more absurd and more counterproductive.

There is no symmetry in this amendment. It is weighted on the side of the Communist guerrillas because it will cut off aid to Cristiani. It will mean a continuing flow from Cuba of this type of ammunition to the Communist guerrillas.

Let us defeat this amendment. Let us give democracy, President Cristiani and our friends, a fighting chance in Central America.

Mr. MOAKLEY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ.]

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, our friends on the other side of the aisle have denounced the amendment before us on the grounds that it would reward terrorism and penalize democracy.

I say it would do nothing of the sort. I think it is a constructive amendment. I think it is a creative amendment. I think it is a commendable amendment.

Our friends on the other side of the aisle say that if this amendment is adopted it could result in a 50-percent reduction in the level of our military assistance to the armed forces of El Salvador; but in order for that 50-percent reduction to take place, the President of the United States, no friend of urban terrorists, would have to find that the FMLN in El Salvador is willing to negotiate a settlement of the conflict in good faith, that it is no longer receiving significant amounts of military assistance from outside of the country, that it is no longer engaged in the assassination of civilians or is attacking civilian targets and that it is not posing a serious threat due to offensive operations to the survival of the Government of El Salvador.

Now, I want to ask my friends on the other side of the aisle, if in fact the FMLN is willing to negotiate a settlement and a cease-fire in good faith, if it is in fact no longer receiving significant amounts of arms from outside of the country, if in fact it is no longer assassinating civilians or attacking civilian targets, and if in fact it is not posing a serious threat to the survival of the government, then why not reduce the level of military assistance by at least 50 percent? Under those circumstances, if we are on the verge of a cease-fire, if the guerrillas are not attacking civilians or civilian targets, if they are not getting arms from outside the country, if they do not pose a threat to the survival of the government, then the government does not need 100 percent of the aid.

I would say to my friends on the other side of the aisle that $42.5 million, the cut that would be made in our military assistance to El Salvador, is a small price to pay to get a cease-fire, to get the guerrillas to stop receiving arms from outside the country,

to induce them to refrain from assassinating civilians and attacking civilian targets, we could increase by a factor of 10 or 100 the amount of military assistance to the Government of El Salvador, and it will not solve the problem; but by offering this modest incentive to the FMLN we may, in fact, be able to take a significant step toward a solution of the problem.

So Mr. Chairman, I urge the adoption of the Moakley-Murtha amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let us clarify who is who and what is what. At the outset of this debate, we were told we should support the Murtha-Moakley amendment because it would help President Cristiani.

Does President Cristiani support this amendment? I am told that he does not. So much for that reason for supporting the amendment, unless we are arrogant enough to believe that we know what is good for President Cristiani better than President Cristiani does.

We have been told that this is a balanced amendment. If that is so, would the FMLN be supporting an amendment which was truly balanced? I do not think so. I doubt the FMLN would come out for an amendment that was balanced in any way, shape, or form, and yet they support this amendment. At least I am told that their front group in the United States, called CISPES, supports it. That would seem to indicate that the amendment lacks balance, but instead leans toward the goals of the Communist guerrillas.

If you look at who is who and what is what, it seems to me you have no choice but to vote against the amendment.

Mr. MOAKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of the substitute amendment that the gentleman from Massachusetts has proposed. It is a good substitute, because it places additional conditions relating to the conduct of both the FMLN and the military forces of El Salvador and makes other conditions, such as providing for civilian control over the military, by making aid go through the President and other matters. It does not touch the funding.

Let me say, Mr. Chairman, that the rationale is hard for me to understand. The more I hear about this debate, the less I understand why we are debating it. If the rationale is that the FMLN is acting up because of this resolution, the President would have the right immediately to say he is going forward with the assistance, and I doubt that anybody could stop it.

Furthermore, if we assume that the FMLN is good, acting properly, what happens is this. The $130 million in military assistance still goes forward, half in fiscal year 1990, which is $70 million, and half in fiscal year 1991, which is roughly $42½ million, or roughly $130 million.

The substitute amendment does not take that money away from the people of El Salvador. It puts it on the economic side, where presumably if both parties are acting in good faith and they are acting for the benefit of the people of El Salvador, you need less military aid and more economic aid.

Finally, all the decisions on this are subjective. They will be made by the President of the United States.

If you do not vote for this substitute and you do not vote for the bill, remember this. You will be voting against assistance to Panama, assistance to Nicaragua, assistance to Haiti, assistance to the Caribbean, additional assistance for refugees in Africa, housing investment guarantees for Israel, and other important programs.

Mr. Chairman, I urge a vote for the substitute amendment and for the bill.

□ 2020

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I am truly perplexed at what we are doing here today.

For a long time the United States has tried to influence events in El Salvador, and through the efforts of the leadership on both sides of this body and the administration, we have made a lot of progress.

When Alfredo Cristiani was elected President of El Salvador, I think most of us felt that we had a real chance not only to assist economically but also to improve the conditions for human rights in El Salvador, and I do not think anyone here would suggest that President Cristiani has not tried very hard to achieve that result. As a matter of fact, I appreciated the comments of the gentleman from Pennsylvania who has coauthored this amendment in that regard, and I know that he has tried very hard to reach a common ground here in achieving both the goals of assisting economically and helping with regard to human rights.

But this amendment does not further that end. We know the President will veto the bill if either the Moakley amendment or the original bill are adopted. So what is the purpose of pursuing this amendment but to provide embarrassment and further contention on the issue?

We have provided aid in this amendment; 50 percent of the aid for the military would be cut, and 50 percent of the aid in the pipeline for 1990, and 50 percent of the 1991 aid would be cut. Why are we cutting the 1990 aid as we are already into this calendar year? There is not a real explanation as to how this is going to positively influence events in El Salvador.

It is just beyond me, Mr. Chairman, why, if we are really concerned about providing positive incentives to the Government of El Salvador, we are going to do this to them when it is very clear this is exactly counterproductive to their efforts to achieve human-rights reform.

We need to assist President Cristiani, not punish him Mr. Chairman, it just does not seem to me this proposal would provide any kind of positive incentive for President Cristiani.

What are we really trying to achieve here?

Then on the other side of the coin with regard to the FMLN, we do not hold them accountable if they engage in economic sabotage, if they continue to import arms in violation of the Arias peace accord which has, of course, been occurring, if they continue to launch a bloody offensive, it does not do anything about that, or the killing of civilians and in terrorist attacks.

It just does not seem to me, Mr. Chairman, that this amendment or the original bill is going to be productive. Therefore, I wonder what we are doing here.

Since the President will veto the bill, let us go back to a proposal that will actually have an influence in El Salvador that will positively influence events there both economically and in the sense of advancing the cause of human rights.

If we are able to do that, I think we can say we have done something good for the establishment of democracy and human rights in Central America.

So I reluctantly urge a no vote on the Moakley amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I am indicating that I will vote no on this amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield the balance of our time to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, let me say that I rise to speak against this amendment with great sadness. I have the greatest respect for the distinguished chairman of the Committee on Rules. I have great respect for the gentleman from Pennsylvania who has

so often been helpful in so many ways on defense and foreign policy, and yet as I look at the various analyses of the bill and of the amendment, as I talk with the State Department and the White House, I have to come to the conclusion that the Moakley-Murtha amendment is, in fact, simply Studds with a Pennsylvania accent, that it is in fact simply the same basic problem.

I want to start by reading from the Washington Post, because I think their editorial of Tuesday, May 15, said it all. They went right at, I think, what is the core problem with this amendment, and, frankly, the reason that I would urge the President to veto this bill in its current form or with this amendment.

The Washington Post, in an editorial entitled "To Help Salvadorans Negotiate," said the following:

The House Democrats have chosen an odd moment to press their attack on military aid to El Salvador. Formal negotiations between the Salvadoran government and guerrillas are due to start tomorrow in Caracas under the United Nations. These talks face great uncertainties, but the uncertainties could only be aggravated if the United States were to send "its" side to the table with a thunderous no-confidence gesture. Why would liberal Democrats think such a signal would make either government or insurgents more receptive to the concessions that both must make if something resembling peace is finally to come?

Part of the answer is that supporters of an aid cut are disgusted by the failure of El Salvador to bring the murderers of the Jesuits to swifter, surer justice. Nor is that terrible crime the only one that matters. The protesting congressmen are completely right to be disgusted. But they are not right to think that an aid cut is the best remedy. An aid cut is less likely to punish the armed forces, and least of all to ensure justice for the Jesuits, than to tip the armed forces even more toward vengence. The last time the army agreed to go along with negotiations, the guerrillas used the time to prepare and launch the most ferocious offensive of the war—in the cities last November. To imagine that the army would quietly absorb an aid cut and support the elected governemnt in new negotiations is to live in a dream world. A vote for an aid cut is, perversely, a vote to fuel the war and burden negotiations.

The United States could, of course, walk away from El Salvador. This would tend to be the practical effect of an aid cut, which would not only stiffen the military but tempt the guerrillas to play out talks to tire Congress. But this is a strange time to make a decision likely to add to El Salvador's agony. The turn from war to elections in Nicaragua sets a relevant example. For the first time in El Salvador, there's a serious mediator—the U.N. Moscow if not Havana has shown itself ready to turn down the Central American heat. The Bush administration asks for the opportunity to apply the bipartisanship it demonstrated it could put to good use in Nicaragua. It has a policy focused in the first instance on a cease-fire. This is the way to prevent further Jesuit slaughters and further FMLN assaults and to turn El Salvador onto a road to peace.

That is all the Washington Post. That is not a rightwing publication. That is not George Bush.

What is it saying? It is saying that we are at a tender moment in Central America when we have an opportunity to encourage the government and the guerrillas to negotiate to an agreement that would end the killing.

What does it say of the proposal from the Democratic left? It says, "It is to live in a dream world. A vote for an aid cut is, perversely, a vote to fuel the war and burden negotiations."

I know my friends mean well. I know how deeply their heart is burdened. But if the effect of what they are doing is to say to the hard-line elements of the army, "You had better slaughter everyone now before the American aid ends," if the effect of what they are doing is to say to the guerrillas, "You had better drag out the war until the U.S. Congress cuts off all the money," what a terrible tragedy, if those who in this House have most frequently spoken for peace were tonight to offer an amendment which even the Washington Post says may perversely increase the risk of bloodshed.

Then, of course, having realized that the original Studds proposal was a disaster, there is an effort to develop a figleaf to provide a few difference, and yet any reasonable analysis suggests that with only exceptions, all other provisions are identical, including the lack of positive incentives for the Government of El Salvador, the withholding of 50 percent of fiscal year 1990 and fiscal year 1991 military assistance, the tranching of 25 percent of fiscal year 1991 aid, and seriously flawed expedited procedures.

To vote yes on this amendment, I think, is to run a real risk of increasing the danger of war in El Salvador.

□ 2030

Mr. MOAKLEY. Mr. Chairman, I yield such time as he might consume to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, our policy in El Salvador has failed. The civil war in that country has gone on for 10 years now, and 70,000 people have died. The Salvadoran justice system is a farce, and based on the report of the Speaker's task force, it appears that the investigation of the November Jesuit murders has stalled. Even though we have seen several democratic elections, it is obvious that the military continues to be the strongest element in the country. It is also clear that neither the Government nor the guerrillas can win a military victory.

As we debate the issue of aid to El Salvador, it seems to me that we all have common hopes for the people of that country—to end the fighting and bloodshed, to foster respect for human rights, to encourage serious negotiations. In short, our goal is to help both sides in the Salvador conflict find solutions to their many conflicts and disagreements.

It is important that we send a message to both the government and the guerrillas that they must be willing to compromise. Negotiations without compromise are meaningless and I, for one, am not prepared to support a continuation of aid to El Salvador without progress in the peace talks.

The Broomfield substitute, which would not withhold any aid, is clearly not the way to go. It is little more than a smokescreen that calls for a continuation of business as usual. It would continue a seriously flawed policy at a time when substantial change is desperately needed.

I urge my colleagues to reject the Broomfield substitute and support the Moakley-Murtha plan. It strengthens the prospect of accomplishing the goals we share for resolving the conflicts that are tearing apart this war-torn country. It is certainly the only proposal I have seen that creates strong incentives for all parties in the conflict to engage in serious negotiations.

Under the terms of the Moakley-Murtha substitute, the United States would withhold half of all military aid provided in both fiscal years 1990 and 1991, unless the FMLN guerrillas launch a military offensive, refuse to participate in negotiations with the Cristiani government, receive large-scale arms shipments from foreign powers, assassinate or abduct civilians, engage in violent acts against civilians, or fail to stop such attacks by elements under FMLN control.

All military aid would be terminated if the Cristiani government is overthrown, if the government fails to conduct a thorough investigation into the 1989 Jesuit murders, if it refuses to negotiate with the guerrillas, or if the military is assassinating or abducting civilians, engaging in violent acts against civilians, or failing to stop such attacks by elements under its control.

There are many other provisions, including one which requires the prior approval of the President of El Salvador before any military assistance can be delivered to the armed forces. That should help take the much-needed step of strengthening civilian control over the military.

But in my view, the single most important aspect of this bill is that it provides incentives for peace, not for war. It encourages the FMLN to put down its arms and rejoin the democratic process. It encourages the government to control the thugs and assassins in the military. It tells the military that human rights violations will not be tolerated. And it makes it clear to both sides that the United States expects them to engage in the process of give-and-take that characterize all serious negotiations.

Mr. Chairman, I urge my colleagues to support the Moakley-Murtha substitute and the supplemental foreign aid bill.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I have left.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 8 minutes.

Mr. MOAKLEY. Mr. Chairman, for 10 long years, the people of El Salvador have confronted the harsh realities of war, and all its painful conse-

quences. They have been forced to suffer far more, than any of us in this chamber can possibly realize. And, now, they beg their leaders, and they plead with us, for peace.

Those of us in this chamber have had, over the years, heated debates on the issue of United States policies in Central America—and today is no exception. But I believe it is important to recognize that there are new attitudes and actions by the Bush administration and Members of both parties, to achieve common ground, and a bipartisan policy, towards dealing with El Salvador.

I commend Secretary of State Baker, and Assistant Secretary Aronson, for their willingness to attempt to reach an agreement on this issue. And, I hope, whatever the outcome of today's vote our negotiations with the administration will continue.

I also want to commend my colleagues on the other side of the aisle—many who have approached this delicate issue with great sensitivity. Despite the differences we may have over today's vote. I have no doubt that every Member of this body shares the goal of peace with democracy in El Salvador. I have no question about this.

And, I also have no question that the President of El Salvador, Alfredo Cristiani, is a man of good will, who has a deep commitment to the well being of his countrymen. I seek support for the Moakley-Murtha substitute in order to strengthen President Cristiani, to allow him the ability to lead his people to the future of peace and justice.

Mr. Chairman, over 6 months ago, in the middle of the night, six of the most respected Jesuit priests in El Salvador, along with their housekeeper and daughter, were brutally murdered by members of the Salvadoran military. Those who pulled the trigger and committed this heinous crime, included men trained with American money, by American servicemen, on American soil. We all bear some responsibility for this crime—in much the same way we must all bear some responsibility for the war, which has claimed over 70,000 lives.

The faces of the six holy men, and the mutilation of their bodies, are now known to all of us, and to all Americans. But sometimes, I think we have not seen, or have more easily forgotten, the faces of those 70,000 Salvadorans over the past 10 years who have lost their lives because of the war.

Mr. Chairman, every human being is holy and every human soul is deserving of justice.

On December 5, Speaker TOM FOLEY appointed me chairman of a special task force to monitor the Salvadoran Government's investigation into the murders of the Jesuits, and to report directly to him and to the Congress. The task force completed and submitted an interim report on April 30—which you have all seen.

It's a fair report—and it's an accurate report. It calls the Jesuit investigation flawed—and warns that the investigation is in danger of falling apart. It is important to emphasize that the investigation is in disarray, despite the fact that there has been an enormous amount of international pressure demanding that justice be done in this case.

And I truly believe that the existence of the task force and its report—and the concern of so many in this Congress—has helped achieve the very limited progress we have seen on the Jesuit case.

But, it is unrealistic to believe that every time there is a human rights abuse in El Salvador, the Speaker will appoint a task force to apply pressure to the appropriate authorities. And after 10 years of United States aid and influence, it is a sad commentary that congressional delegations—both Democratic and Republican—have felt compelled to travel to El Salvador to plead with the military. The investigators, the Attorney General, and the judge to move on the case. That is very troubling.

Also troubling is the fact that the murder of the Jesuits was not an isolated incident. The murders reflect problems within the Salvadoran armed forces that go far beyond the actions of a particular unit on a particular night. These murders are not simply the actions of a few renegade military and political figures operating at the margins of Salvadoran society but they stem from attitudes and actions that go to the very heart of the armed forces and other major institutions in that country.

Time and time again we have heard top Salvadoran military and political officials label the Jesuits and other religions as Marxists and enemies of the State.

Mr. Chairman, such accusations are an outrage. In the United States, such accusations would be an insult; in El Salvador, they could be a death sentence.

I knew two of the slain priests—Father Segundo Montes and Father Ignacio Ellacuria. They were friends. They were men of peace who condemned the violence on both sides. In fact, President Cristiani publicly praised the work of father Ellacuria.

But sadly, to this day, there is an attitude of suspicion and anger towards activist segments of the church that remains all too widespread within the Salvadoran armed forces and certain other sectors of Salvadoran society. It is an attitude that allowed for the murders of the six Jesuits.

Mr. Chairman, with deep regret I have concluded that the American people and the American Congress have been played for fools by the Salvadoran military and forces from both the left and the right, who need war to continue, in order to sustain and expand their power and dominance in that troubled land. Corruption is a way of life and American taxpayer money for 10 years now has not been used to build peace with democracy—but to destroy hope and build the private bank accounts of those who get rich at the expense of the Salvadoran people and the American people. This must end and it must end now.

Elements of the FMLN, like elements of the Salvadoran military, are committed not to peace but to war. Let me be clear that I condemn all parties, and all individuals, who ignore the needs of the Salvadoran people and seek only to sustain the war in order to sustain their power. The Moakley-Murtha proposal, I believe, will end this travesty, and restore to the civilian government of El Salvador, the rightful authority to meet the needs of its people and end the tyranny of the corrupt and violent.

Mr. Chairman, I am a bread and butter politician from South Boston—not a foreign policy expert. This is my first foray into the world of international politics. But when it comes to the issues of life and death, justice and injustice, dignity and inhumanity—you do not need a Ph.D. in foreign policy to take a stand.

I am taking a stand today. Enough is enough. The time to act has come. They killed six priests in cold blood. I stood on the ground where my friends were blown away by men to whom the sanctity of human life bears no meaning—and men who will probably never be brought to justice.

Mr. Chairman, it is time to act

The Moakley-Murtha substitute puts pressure on both sides to end the violence and negotiate peace.

Peace, if it comes, could mean a restructuring of the Salvadoran armed forces—and a major reduction in its numbers.

It could provide an opportunity to seriously reform the judiciary.

It could end the economic sabotage and political killings.

It could allow for greater respect for the views of political dissenters.

And it could allow the Salvadoran people a chance at true democracy—something they desperately want.

Mr. Chairman, I plead with my colleagues today to help make peace a reality in El Salvador.

Vote yes on the Moakley-Murtha alternative. And vote yes on final passage.

Mrs. LLOYD. Mr. Chairman, I rise today in opposition to the provisions contained in title V of H.R. 4636, as well as the substitutes to those provisions offered by my colleagues from Massachusetts, Pennsylvania, and Michigan. I think everyone in this Chamber desires

a peaceful settlement to El Salvador's tragic civil war, but I do not believe the options before us today advance that cause.

There is general agreement that the prospects for peace in El Salvador are brighter today than at any point in past. Cold war tensions are subsiding and support in the Soviet Union for proxy wars like the one it has helped carry on in El Salvador is evaporating. United Nations mediated peace talks between the Salvadoran Government and the FMLN have begun. The presence of the United Nations at the negotiating table lends these talks a credibility previous negotiations between the government and the FMLN lacked.

The question before us today is, "how can the United States best contribute to the prospect for peace in El Salvador and advance the negotiatons?" Asking this question is a lot easier than developing an aid policy which answers it.

The bottom line is that any aid program this body adopts today must be balanced. The incentives to negotiate in good faith and produce a lasting peace and the punishments for failing to do so must weigh as heavily upon the Government of El Salvador as they do the FMLN. An imbalanced approach will ultimately undermine the negotiating process. It is my opinion that none of the options before us today strike that balance. Adoption of any one of them, the recommendation of the Foreign Affairs Commitee, the Moakley/Murtha amendment, or the Broomfield amendment, will not further United States policy in El Salvador and contribute to a peaceful resolution of that country's civil war.

The Foreign Affairs Committee language and the Moakley/Murtha language rightfully condemn the human rights abuses by the Salvadoran military and calls upon the Cristiani government to prosecute those responsible for the heinous attack on six Jesuits and two women at Central American University last November. However, I believe it is inappropriate to cut fiscal year 1990 military aid. The broomfield amendment does not make any significant changes in United States policy towards El Salvador. Yet, the problems highlighted by the Speaker's Task Force on El Salvador with the Jesuit investigation and the Salvadoran judicial system, as well as the just initiated negotiations between the Cristiani government and the FMLN clearly suggest some changes in United States policy toward El Salvador are necessary.

There is a opportunity to reach a bipartisan accord on United States policy towards El Salvador which will contribute to a peaceful solution to that country's civil war. Today's debate preempts that possibility. Rather than address the issue of the United States' policy toward El Salvador during consideration of the fiscal year 1991 foreign aid bill, as I believe appropriate, the issue is being forced upon us prematurely without thoughtful consideration to the latest developments in El Salvador. I am speaking of reports in this morning's Washington Post that the Cristiani government and the FMLN have reached agreement setting September 1990 as the target date for implementation of a cease-fire.

Mr. Chairman, I urge my colleagues to vote "no" on all the amendments relating to title V, as well as "no" on final passage.

Mr. ATKINS. Mr. Chairman, I rise today to offer my support for the Moakley-Murtha substitute pertaining to aid to El Salvador in the supplemental foreign assistance to emerging democracies bill. For the first time, the United States would be withholding a large portion of military aid to El Salvador and, simultaneously, linking aid to the transgressions of the rebel FMLN forces as well as the Government of El Salvador itself.

The legislation before us today withholds 50 percent of the fiscal year 1990 funds that have not yet been spent, and 50 percent of the authorized fiscal year 1991 funds. Should the FMLN or the government cease to negotiate in good faith; if bloody reprisals begin anew; or if massive flows of arms are funneled to guerrilla forces, then assistance levels would reflect new circumstances. Moreover, this legislation insists that the Salvadoran Government finally conduct a thorough investigation of the Jesuit priests and bring to justice those who would commit such heinous crimes.

Among those who have taken up arms in El Salvador there are no innocents. The government and the rebels alike have wantonly and knowingly taunted and brutalized and terrorized the Salvadoran people. If the United States does not act, there will be no advocates left who have the strength, the will, or the power to sue for peace.

It is the Moakley-Murtha substitute which wisely looks after the innocent civilians of El Salvador. This provision has our aid serve as an inducement for long overdue relief for civilians living a life of fear and anguish. If the police or the military in El Salvador again begin the assassination or abduction of civilians; or if they commit acts of violence against civilian targets; or if they fail to control elements within El Salvador who brutalize civilians, all aid will be cutoff immediately. Likewise, if such acts are committed by the FMLN, the government forces would be put at an advantage.

Mr. Chairman, we can no longer be a party to the cycle of violence that has haunted Central America for so many years. We must admit to ourselves that our aid has not contributed to a more just and Democratic society in El Salvador. Indeed, we must face the fact that for the preponderance of Salvadorans, theirs is a frightening, repressive, and bleak world and, sadly, the United States has not thus far been able to help them. Let us now try something new; let us apply our massive amount of aid for the good of the innocent civilians or let us cease aid altogether. But, let us no longer give comfort to the combatants who wantonly murder priests, mothers, children, farmers, and all the Salvadoran innocents.

Mr. OWENS of New York. Mr. Chairman, I rise in strong support of the Moakley-Murtha substitute amendment for aid to El Salvador. I believe the committee reported provisions are good, but the Moakley-Murtha substitute is better.

During the past 10 years the United States has sent nearly $1 billion in military aid to El Salvador. During that time the Salvadoran military has expanded its power base, terrorized and murdered civilians, ignored even the most basic human rights, and acquiesced to death squad activities.

The ongoing abuses suffered by the Salvadoran people at the hands and weapons of the Salvadoran military grow to numerous to count and too ghastly to comprehend. The tragic murders of the Jesuit priests, their housekeeper, and her daughter has only been one of the more recent and one of the more widely publicized atrocities committed at the hands of the Salvadoran military. The time is growing increasingly urgent to send a strong and indisputable message that the United States will not support a military that considers itself above its own law. The Salvadoran military has never been held to account for all of the crimes of its members and even its leaders. This must end.

Ideally, Mr. Chairman, I would like to see all military aid to El Salvador stopped. As far as my constituents are concerned, the closer we get to the goal of no military aid to El Salvador, the better. We want to see peace in that country. But as long as the Salvadoran Government believes that we are willing to support their military activities indefinitely there will be no peace. We must show both the government and the FMLN that we are serious when we say we want peace. We must show them that we mean for this never-ending cycle of cease-fires and broken negotiations to stop now.

It is clear that the Moakley-Murtha substitute will only strengthen the peace promoting provisions contained in the bill. The provisions outlined for receipt of aid clearly support the peace process and do not in any way hinder the Salvadoran Government. If the FMLN does not negotiate in good faith or resumes hostilities toward the government or toward the Salvadoran people, the aid will continue. This substitute does not encourage the FMLN to break the cease-fire.

As with the rest of the world, Central America is undergoing significant democratic changes. Many of the corners of Central America are being swept with a new, refreshing, democratic breeze. As with our military policy in Eastern Europe and throughout the world, it is time to rethink and restructure our political policy in Central America.

Mr. Chairman, this is the most opportune time to demonstrate to the Salvadoran military that we intend for them to change their ways and to do so with all due speed. With the changes occurring throughout the world and even in Central America we cannot—indeed we must not—continue to write the Salvadoran military a blank check to continue its horrendous crimes against its own people.

If we have any conscience at all, we must support the Moakley-Murtha amendment to send as strong a message as possible to the Salvadoran military that we don't just want a cease-fire, we intend the abuses and the war to cease permanently.

Mr. FAZIO. Mr. Chairman, I strongly support the Moakley-Murtha amendment to H.R. 4636, which will strengthen the provisions in the legislation relating to El Salvador and promote a negotiated settlement to that nation's ongoing civil war.

The need for a peaceful settlement in El Salvador continues. Ten years of civil war has

claimed more than 70,000 lives and graphic accounts of brutal and senseless murders continue. The unsolved and unpunished murders last year of six Jesuit priests, their housekeeper, and her daughter, highlight the need for a policy which will address these atrocities and bring peace to the Salvadoran people.

The Moakley-Murtha substitute offers a reasonable approach for a peaceful settlement to the Salvadoran civil war. It provides strong incentives to both the Salvadoran military and the FMLN to stop the killings and prod the negotiations forward. It will strengthen the hand of those who want successful negotiations and weaken those who are not willing to seriously negotiate a settlement. Violence will be curtailed by both sides by either restoring or completely eliminating all aid on the basis of specific actions by the FMLN and the Salvadoran military.

We need to act now to encourage negotiations for a cease-fire and lay the foundation for democratic and judicial reforms that will bring all Salvadorans into the political process. Clearly the unconditional aid given in previous administrations to El Salvador has not reduced the violence and has not led to peace. The Moakley-Murtha amendment represents a viable solution to bringing about peace. I urge my colleagues to support this amendment.

Mr. CONTE. Mr. Chairman I rise in support of the Moakley-Murtha amendment. In the last 10 years, El Salvador has held six elections.

Three Salvadorans have held the presidency—the last two elected freely and fairly. We have seen some progress on rural land reform. The FMLN has cut back its demands in the peace talks to a point where almost everyone agrees that a negotiated peace is possible.

So I cannot agree when people say our policy has completely failed.

But it has failed to bring reform to the Salvadoran military.

The officer corps remains accountable neither to the President nor to the law, and if there is ever to be peace and true democracy in El Salvador, that must change.

Colonel Benavides, accused of ordering the murder of six Jesuit priests and two women at the University of Central America, spends most of his time in a cushy apartment and even made a vacation trip to the beach.

The military command "punished" a colonel accused of organizing a kidnapping ring by transferring him to the Salvadoran Embassy in Honduras.

A judge this month dropped charges against soldiers—accused of the unprovoked murder of 10 peasants at San Sebastian in 1988 despite the work our Ambassador has done to get a conviciton.

Mr. Speaker, this has got to stop.

And over the last 6 months, the deadlocked investigation of the killings at the University of Central America—the failure to punish the criminals who massacred teachers, who killed six peaceful men of God and an innocent mother and child—has convinced me that our current policy can't stop it.

The Moakley-Murtha amendment is not a radical amendment, nor is it an attempt to wash our hands of El Salvador's problems.

It is a positive incentive for military reform, for an end to disappearances and murder by the radical left or the death-squad right, and for negotiations in good faith.

It is an attempt to stop human rights abuses—rebel offensives and attempts to overthrow the government by violence.

It is a statement of support for Salvadorans of all political persuasions who want to end the war and sort out their differences in peace.

It has the support of President Duarte's Christian Democratic Party and the Archbishop of San Salvador.

I hope it will have the support of this House as well. Listen to the voice of America's Jesuit community before you vote.

Listen to my dear friend Father Donald Monan, the president of Boston College, when he asks us to heed the message of the killing at the university. I urge a vote for the Moakley-Murtha amendment.

Mr. GREEN. Mr. Chairman, with a population of less than 6 million people, El Salvador is the fifth largest recipient of United States aid. Despite $4.5 billion in American aid to El Salvador over the past decade, a bitter civil war continues to torment the people of that nation. Extremists on both the far left and far right have been guilty of committing terrible and indiscriminate violence against innocent civilians, and over 70,000 lives have been lost—among them teachers, priests, nuns, union members, students, and peasants.

Our money has not brought peace to El Salvador. The civil war is stalemated, and it appears that neither side is capable of a military victory. In February, Gen. Maxwell Thurmond, head of the U.S. Southern Command, testified before the Senate Armed Services Committee that the Salvadoran Army would not be able to achieve a military victory over the FMLN. The administration accepts that conclusion. On the other side, last November's FMLN offensive showed the rebels unable to launch a successful insurrection. The civilian population remains trapped in the middle.

I strongly supported President Duarte, and I hope that President Cristiani will follow in his path. However, our current policy of providing abundant military aid to El Salvador has not been successful in building democracy. Just as the eighties began in El Salvador with the murder of Archbishop Romero, so the decade ended with the savage murders of six Jesuit priests, their housekeeper, and her child last November. During the past decade, the Salvadoran judiciary has failed to prosecute anyone for the murder of Archbishop Romero. While eight members of the Salvadoran military have been arrested for their involvement in the Jesuit murders, there has been little significant progress made toward bringing to trial the authors of that senseless attack. Certainly one has to question the effectiveness of our 10-year assistance program to a military capable of killing religious workers.

With United States support, the Salvadoran military forces have grown in number from 14,000 to 52,000 over the last decade. In El Salvador, the military operate beyond the rule of law and are the perpetrators of serious human rights violations. Not one Salvadoran military officer has ever been convicted of a major human rights crime, despite extensive documentation. And yet, as noted previously, despite the size and power of the Salvadoran military, the civil war remains deadlocked. That situation is too costly for the American taxpayer to support, and too ruthless for the citizens of El Salvador to endure.

Both sides in the Salvadoran conflict have dealt brutally with civilians. I abhor the violence perpetrated by the FMLN, and condemn strongly their past tactics which have included assassination of democratically elected officials and violence against civilian noncombatants. Congress must push both parties in the Salvadoran conflict to develop a negotiated settlement as quickly as possible, and to respect a ceasefire.

Fortunately, earlier this month peace negotiations began between the FMLN and the Government of El Salvador under the auspices of the United Nations Secretary General's office. Today Congress has an opportunity to support that important effort by enacting the Moakley-Murtha plan, which provides incentives to keep both the Salvadoran military and the FMLN at the negotiating table.

The Moakley-Murtha proposal withholds 50 percent of our military assistance for fiscal years 1990 and 1991, with a transfer of the withheld aid to humanitarian assistance for El Salvador at the end of each fiscal year. The plan further provides both sides with a series of incentives to negotiate, and create disincentives for any attempts by either side to break off or delay the peace talks.

Specifically, the Moakley-Murtha proposal triggers the additional military assistance if the FMLN is engaged in assassinating or abducting civilian noncombatants, or is engaging in other acts of violence directed at civilian targets. On the other hand, the plan eliminates military assistance if the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, or are engaging in other acts of violence directed at civilian targets. The plan strengthens civilian control over military by requiring the prior approval of the President of El Salvador before military assistance may be delivered to the Armed Forces.

Finally, the Moakley-Murtha plan earmarks not less than $2 million for the Support Democracy Program authorized in the bill for registration, campaign, and election monitoring. In a few months, electoral campaigning will begin in El Salvador. The campaign season will culminate in March 1991 with mayoral and legislative assembly elections. Congress was instrumental in ultimately saying "No" to war in Nicaragua, paving the way for elections. Today we have a chance to encourage that same process to begin in El Salvador.

For 10 years the United States has supported a military solution to El Salvador's civil conflict. That approach has failed. The United Nations Secretary General's efforts to find a negotiated solution in El Salvador may not succeed unless real pressures are exerted on the Salvadoran military and the FMLN to accept concessions that are not in their institutional interests. I urge my colleagues to support the peace process in El Salvador and vote yes on Moakley-Murtha.

Mr. BRENNAN. Mr. Chairman, I rise today in strong support of H.R. 4636 and in strong support of the Moakley-Murtha amendment.

Since 1980, we have sent more than $4 billion to El Salvador, in our attempt to support the Duarte and Cristiani governments.

The decade began with the assassination of Archbishop Romero. It continued with years of civil war, and thousands of civilian casualties.

And the decade ended, tragically, with the barbaric killing of six Jesuit priests, their housekeeper, and her daughter.

Last November, I wrote to President Bush, asking him to use the entire diplomatic weight of the United States to press for an immediate cease fire, and for an immediate investigation of the murders. One hundred and twenty-four of you joined me in that letter, and we have written many such letters in the last decade.

But what have we gained, after 10 years, $4 billion, and uncounted letters, speeches, and petitions?

True, we have preserved a legitimately elected government, a nominal democracy. But the cost has been great. Thousands of innocents have paid with their lives; the investigation of Jesuit killings has slowed to a standstill; and a corrupt army, an army in which 14 of 15 leading officers have commanded troops accused of serious human rights abuses, threatens the stability of the state, and the lives of the citizens it should be protecting.

The bill before us is a fair one. It cuts remaining military aid for fiscal 1990 by 50 percent, and cuts fiscal 1991 military aid by the same amount.

However, the bill, especially with passage of the Moakley-Murtha amendment, provides safeguards for both the Salvadoran Government, and Salvadoran citizens.

If the FMLN threatens the existence of the government, or fails to negotiate in good faith, aid will be restored.

On the other hand, if the army stages a coup, or the investigation of murder of the Jesuits stalls, all military funds may be cut off, and turned into humanitarian aid.

Mr. Chairman, this bill, and the Murtha-Moakley amendment, offer real incentives for both the FMLN and the Cristiani government to negotiate in good faith.

We in the Congress must learn the lesson taught by 10 years of killings and atrocities by both sides: that continued funding of the Salvadoran Army, without constraints, leads to death: death of priests, death of untold numbers of civilians, and the death of justice in El Salvador.

I urge my colleagues to support this bill to promote peace in El Salvador.

Mr. MATSUI. Mr. Chairman, I join my colleagues in vehemently supporting the Moakley-Murtha substitute.

There is an argument that has been furthered today on the floor that I find difficult to understand. It is the notion that a cessation or reduction of military aid to El Salvador will somehow fuel the war in El Salvador. It is the idea that we as a nation should choose sides in the war in El Salvador based on which side has killed more people or even which side is justified in its killing.

I believe the argument before us is more basic than that. It comes down to this: Should the Government of the United States be a benefactor to military atrocities? Should we aggravate a battle that has already killed tens of thousands of innocent people? Should we aid the war or should we support peace?

The question is not whether or not we should tolerate atrocities by the FMLN. Atrocities are unsupportable regardless of the perpetrator. But it is important that we make a distinction here. We do not fund FMLN atrocities; we do monetarily support the butchery of the Salvadoran military. The disappearances and murders have not ended since the six Jesuits were killed. They continue.

It is time for this Congress and this Nation to take a stand against the abominations of the Salvadoran military. The message must be sent that if the military insists on continuing death squad activity, it will do so without the funding and implicit approval of the U.S. Government.

It is time to accept the fact that there will be no consolidation of political progress in El Salvador by military means. Ask the people of El Salvador what they want from the United States. Military suppression of the FMLN rebels? A toppling of the elected government? No. They want economic growth. They want jobs. They want hope for their future and the future of their children. The military solution to this conflict does not represent the politics of hope, it is the politics of despair.

The aid we have provided El Salvador in the 1980's almost triples that of any other Central American country, yet the country's economic progress lags behind nearly every country in the region. Why? Because our money has not gone to bring the country into the world economic community, but rather to persecute its own people. Despite over $2 billion in military aid since 1980, the Salvadoran military is nowhere near achieving a military or political victory.

Let me make clear that the time for demanding decency in terms of human rights or political liberty is long past. This cut in aid as a means for providing leverage for reform is a day late and a dollar short. But in terms of preserving our own honor in the international community, a conditional cut at the very least is absolutely essential. Moreover, at a time when we are witnessing tangible progress toward a peace process between the combatants in El Salvador, we should not jump-start the war process.

Mr. Chairman, the winds of political change which have swept through Eastern Europe have not reached El Salvador. American dollars are at least partly to blame for that. The Moakley-Murtha substitute offers us hope for political change. By divesting ourselves of the war in El Salvador we will be investing in the hope for a better future in that country. I urge my colleagues to support the substitute.

Mr. OWENS of Utah. Mr. Chairman, over the last decade, the United States has given more than $4 billion in foreign assistance to El Salvador. This aid, intended to protect an elected government and vulnerable democratic institutions from a Communist insurrection, has instead become part of the problem. We have become part of the problem.

Instead of fostering a process of political reconciliation, we have created an environment in which the Salvadoran Armed Forces can abuse human rights with impunity, while claiming to seek an elusive, impossible, military victory over the FMLN. Instead of strengthening democratic institutions, promoting judicial and agrarian reform, we have empowered the military at the expense of the civilian government. We have given the "tandona", 12 military commanders, the tools to subvert the very democracy which we seek to support.

The November murders of six Jesuit priests, their cook, and her daughter at the University of Central America reflect grievous and deeply rooted problems with the Salvadoran military and judicial system. As the Moakley task force on El Salvador reported, this investigation represents the Salvadoran justice system at its very best. Yet, the investigation has ground to a standstill, crucial evidence has been lost, and all those now charged with a crime might not have been arrested had an American military officer not provided incriminating testimony.

The horror of the Jesuit murders, of Archbishop Romero's brutal assassination, and countless other human rights abuses is compounded by the criminal negligence, the utter impotence, of the Salvadoran justice system. To continue ignoring this misconduct is to condone it, as we have done in the past with unconditional military assistance.

The provisions contained in the Moakley-Murtha substitute offer strong incentives for both sides of the conflict to negotiate in good faith, and to discontinue patterns of violence which victimize the innocent. This is timely and appropriate action, and I strongly urge your support.

Mr. LIGHTFOOT. Mr. Chairman, I previously supported many of the provisions contained in this legislation when the appropriation measure was passed by the House as H.R. 4404. However, several additions to the legislation prevent me from supporting the version before us today. I would like to take this opportunity to explain my concerns with the package we are debating today.

I voted for H.R. 4404 because I believe it is important to provide assistance to Panama and Nicaragua. We have an obligation to aid in repairing the economies of those countries. I also was supportive of providing additional funding for veterans' medical programs. Providing for the needs of our Nation's veterans cannot be neglected.

However, I have particular concerns about the amendment before us today known as the Studds-Solarz amendment. Like my colleagues, I have grave concerns about the state of affairs in El Salvador. I agree changes must be made in that country's human rights record. The abuses of the military must be brought to a halt and the murderers of the Jesuits must be brought to justice. I also agree the basic needs of the Salvadoran people must be met. We have provided millions of dollars in aid to that country which do not appear to have been well spent.

I have talked with many different people and gathered information on all sides of this issue to obtain the best understanding possible of the conflict in El Salvador.

We are at a critical juncture in Central America. Events in Nicaragua have taken a positive turn, and the Salvadoran Government and FMLN are engaging in United Nations brokered negotiations for a peaceful settle-

ment to the civil war. Incentives must be present for both sides to negotiate in good faith. There have been allegations on both sides of human rights abuses, violence, and lack of good faith in negotiations. At the moment we have a precarious balance which we do not wish to be upset.

As some people may be aware, I supported House Concurrent Resolution 236 passed by the House of Representatives last fall calling upon the Government of El Salvador to resume peace talks and prosecute those responsible for the murder of the six Jesuit priests. I also signed a letter to President Cristiani to insist on a timely investigation into the murders of the Jesuits.

Last year Congress voted in H.R. 2939 to limit military aid to El Salvador to $85 million, down from the $97 million requested by the administration. This is only about 20 percent of the $315 million provided to the country of El Salvador in the form of economic and development assistance. In light of the tremendous damage caused by the FMLN to El Salvador's economy—over 2 billion dollars' worth in the past decade—657 attacks to power lines and stations in 1989 alone caused repairs costing $8 million and $5 million in lost revenues—the economic assistance we provide has been desperately needed. I find it very frustrating that foreign aid must be used to assist in repairing existing facilities when El Salvador's people have so many other basic needs. I understand the FMLN blew up roughly 15 power structures a day during its November offensive.

Last year's legislation also contained a number of restrictions on military aid. It required the President to report semiannually on the progress on achieving a political settlement to the conflict, and it withheld $5 million in military aid until the President reports that the Salvadoran Government has pursued all avenues to prosecute those responsible for the murder of land reform specialists in 1981 as well as the massacre of 10 peasants in 1988, among other restrictions.

This was only the most recent effort by Congress to attach conditions on continued aid to El Salvador. Conditions on aid were also passed by Congress in 1981, 1983, and 1984 and subsequent years. These restrictions appear to have had little effect on conditions in El Salvador.

The question we are facing is what action can be taken to reduce human rights abuses and financial misuse of United States aid of the Salvadoran military while improving the economic conditions for the residents of El Salvador. The aid restrictions we are considering today are one option we have for addressing these problems.

We have seen a change in United States Government policy toward El Salvador. Unlike the previous administration, the Bush administration has taken a stand in support of a negotiated settlement, as it does not appear either side can gain a clear military advantage in this 10-year-old civil war. At the same time, the administration has asked for time to work out a compromise on policy toward El Salvador. I am disappointed members of the House Foreign Affairs Committee are pushing forward with aid restrictions before a compromise has been reached with the administration. The administration asked for time to reach a bipartisan agreement and this request has not been honored.

Furthermore, there are no guarantees a cutoff of military aid will lessen hostilities, let alone stop the war. In fact, I have concerns it may send the wrong signal to the FMLN to step up its insurgency if it appears the United States Government is less likely to come to the aid of the Salvadoran Government. In fact, with U.N. negotiations about to begin, the FMLN on May 2 attacked the presidential palace and home of the minister of public works, casting doubts once again about the sincerity of the FMLN in reaching a negotiated settlement. In addition, with Violetta Chamorro's announcement that she will permit the FMLN's support offices in Managua to remain open, there is further cause for concern.

As I stated earlier, I agree changes in our policy must be made. Better accountability of military expenditures should be required. But I am disturbed by the way this package is being forced upon us today without greater effort to arrive at a bipartisan policy approach. This package is, in my view, ill-timed. I will not rule out the possibility of supporting altered policy or further restrictions on military aid to El Salvador in the future. I simply cannot support this particular proposal at this particular moment. I believe the conditions at the moment are too fragile to jeopardize and I believe this administration is well-intentioned and should be given the benefit of the doubt in its willingness to work with Congress to find the best approach to our policy toward El Salvador.

Mr. DORNAN of California. Mr. Chairman, do not break that gavel. It is hurting my right ear.

Mr. Chairman, I come back to the well of this distinguished Congress again because, to quote the great modern philosopher, Yogi Berra, "It's deja vu all over again."

We have gone through this debate now so many times on this poor area of Central America. What are we learning in the majority about the intrinsic evil of communism? Apparently nothing.

The Berlin Wall came down on November 9. That sent a message to Africa, Central America, and most of the world, that the East Germans would not be running the Secret Security Police teaching Communists around the world how to set up police states and torture people.

Then we see Gorbachev with one problem after another, so people in Nicaragua and in the Farabundo Marti Communist guerrilla movement figured out that the arms pipeline was going to be choked off from Moscow. This left reliance on Castro alone, hence these surface-to-air missiles that, God forbid, may have been used to shoot down some airliner in Central America. God forbid that it be an Air Force airplane with a congressional delegation on it, because then we will start to hear the proper tough talk from the majority side of the aisle on the Communist terrorists in El Salvador.

Some 28 mayors have been killed by the FMLN Communists in El Salvador and there has been little outcry in the United States media.

Now, a Catholic priest was killed, a former Jesuit, laicized properly, an elderly gentleman 74 years of age named Francisco Pecarrini. He was murdered at noon, exactly the stroke of noon. People were listening to the angelus in San Salvador.

He also was an American citizen, not just a Salvadoran citizen. He was murdered on the ides of March, March 15, 4 days before the election, and it got zero to little press coverage in the United States of America.

With all the mayors that were killed down there, in addition to Professor Pecarrini who taught at Long Beach State College, why have we been so selective in our morality? I repeat, the slaughter, the massacre of the Jesuits at Central American University was an abhorrent, to say the word, human rights violation does not quite cover it. It was like the murder of the nuns back in December of 1980. It cries out for justice, but the justice system has been fractured in El Salvador by Communists assassination and terror from the Farabundo Marti gangsters.

We are saying in the Byron amendment that if the Government down there does certain things, and they have incentives to do this under the threat that we will hold back a quarter of the aid, contingent upon this good behavior, we will not send signals to the Communists that they are going to run the show at the negotiations.

Does anybody here remember Panmunjom, 2 years in Korea arguing over the shape of a table?

Why are we making ourselves beholden to the FMLN who have blood all over their hands from assassinating people up and down that country, this tiny little country, the smallest country with the highest population, equal in density to Massachusetts in all of Central America. The siege in El Salvador is now in its 11th year. Are we going to put ourselves in the position where the good behavior of the FMLN will determine when the Government gets the other 50 percent of the aid?

Do you know why the FMLN offensive ended and when it did? It ended on December 20. Do you know why it ended that day? Because the 82d Airborne was bailing out over Panama and the FMLN got the message. The rumors were flying around that the 82d may put a stop in on El Salvador on the way back. The Communists countered that with a rumor that Daniel Ortega had a troopship with 5,000 of the Sandinistas' finest troops ready to head up to El Salvador and battle the 82d Airborne.

The Farabundo Marti are morally bankrupt. They are assassins. They are terrorists. They are urban terrorists. I do not want to hook what we do in this House into what they do.

Mr. DORNAN of California. Mr. Chairman, I apologize in advance for the archaic rules of the House. One of these days we will get modern and you will have a monitor under your desk where you can see what we are showing on the floor, and these cameras will be allowed, as with any studio in the world, including Romania, to come in close. Then you will be able to see what we are talking about here and can track the debate, and all those who follow the debate through you, Mr. Chairman, will understand what we are looking at.

□ 1710

Here is the plane that crashed last November in El Salvador carrying in surface-to-air missiles supplied by Gorbachev, on one of his worst days, through Castro. Here is the flight log of the airplane with the base that it took off from inside Nicaragua. We have this thanks to the fabulous inauguration of Violeta Chamorro, the first lady President of the Western Hemisphere—and that includes the Aztec and Inca Empires. Before she starves to death down there in Nicaragua, maybe we will get some aid to her without using the blackmail process the help the Communists in El Salvador.

There they are, all lined up, Soviet-made surface-to-air missiles. They are shoulder-held weapons meant to terrorize and tear apart the country of El Salvador and possibly shoot down civilian airliners.

Mr. Chairman, the Broomfield-Byron amendment does retain some sanity in this process. This is a bill that is 2 months late. I do not know why we have let the people twist in the wind down in Panama and in Nicaragua, using El Salvador as a blackjack. But finally we are going to get this bill through, and the Dreier-Gilman amendment which the President dearly needs can get money down there for education, housing, and sanitation in Panama, and the Broomfield-Byron amendment will put some pressure on the government in El Salvador, without giving the wrong messages to the remaining Communist insurgency that is terrorizing, executing, and assassinating people in that little beleaguered country of El Salvador.

I went down there with Chairman MOAKLEY, a gentleman whom I greatly respect, and he knows I mean that sincerely.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 additional minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I went down there with Mr. MOAKLEY. It was a group of 15. It was initially going to be all democrats, and through the pleadings of the leadership on our side, Mr. MOAKLEY, being a gracious and fair gentleman, added five Republicans.

Now, there were some things down there that we could not interest the majority Members in doing, like visiting the home of Jennifer Casolo, the so-called church worker who had all these arms buried in her backyard. We have pictures of that, and I hope the Members will have a chance to look at those later here. But we could not interest anybody other than the five Republicans to go over to Jennifer Casolo's house.

But this is what really surprised me. When Mr. DREIER gets up to speak, he will show us a load of armaments captured. We met with the man who blew the whistle on this shipment, a Communist guerrilla from the insurgency named Mario. We met with him in one of the prisons. He is now talking a blue streak because he feels, without a secure situation down there, he will be the subject of an assassination. Yet we could not interest anybody on the majority side to hear the other side of the story in El Salvador.

The Broomfield language does what I want to see done in the name of the Jesuits. I was Jesuit-educated in all my high school years. I went to my 40th reunion Saturday night. I talked to some of the Jesuit priests at Loyola High School in Los Angeles.

It was terrible to stand in El Salvador at Central American University on the spot where these priests of God of the Society of Jesus were brutally slaughtered with automatic weapons by enlisted men while officers stood off in the shadows and watched. One of them, Father Joaquin Pedro Lopez y Lopez, is a cousin of the Ambassador of El Salvador to the United States. He was a dedicated priest who did not have anything to do with politics, ever. He was just interested in helping the poor. It is not that the others deserved to die in this horrible slaughter, but they were involved in varying degrees in politics.

I want to see justice done. But I ask the Members to consider this. Israel gets $3 billion a year, and I voted for every nickel of that.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

Mr. SOLOMON. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, Israel gets $3 billion a year and El Salvador gets $300 million, only one-tenth of what Israel gets.

There was a terrible slaughter, a human rights violation in Gaza two days ago perpetrated by a man who is undergoing tests for his sanity. He killed 8 people. The Israeli government has apologized profusely, and Israelis are going in to give blood up and down the entire length of that small beleaguered country. This never happens when Arabs slaughter Israelis. Yassar Arafat, wherever he is hiding out, brags about any killings like that.

No one in Israel who has his sanity is suggesting that the act of this madman is a government plot, that this dishonorably discharged soldier was doing something at the government's bidding. But why is my opinion not correct on this Colonel Benevides, the officer accused in the Jesuit slaughter in El Salvador? His son had just come down with a paralyzing, debilitating disease, and he misunderstood his orders. Why am I not entitled to my opinion? I am as good an investigator as any one of the other 14 Congressmen down there. So maybe it goes no higher, and maybe there is no authorship higher than Colonel Benevides in the government. The message we are all giving to the Government down there is to pursue this case and we will not cut off aid, but we will get their attention with the Broomfield amendment.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MOAKLEY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 163, not voting 19, as follows:

Text of amendment offered by Mr. MOAKLEY of Massachusetts and the recorded vote on this amendment to H.R. 4636 to authorize supplemental economic assistance for fiscal year 1990 to support democracy in Panama and Nicaragua, and for other purposes.

AMENDMENT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOAKLEY:

Page 65, strike out line 10 and all that follows through line 11 on page 78 (title V of the bill) and insert in lieu thereof the following:

TITLE V—EL SALVADOR

SEC. 501. ASSISTANCE FOR EL SALVADOR.

(a) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hos-

tilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(B) the actions of each side that affect the basic human rights of the Salvadoran people.

(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

(1) FISCAL YEAR 1990; CONDITIONAL WITHHOLDING OF HALF OF REMAINING MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1990 that are unexpended on the date of enactment of this Act shall be withheld from expenditure for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(2) FISCAL YEAR 1991.—

(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (g), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

(3) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—

(A) DEVELOPMENT ASSISTANCE.—At the end of fiscal year 1990 and at the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1) or paragraph (2)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect to the obligation of any funds so transferred.

(B) EXCEPTION.—Notwithstanding subparagraph (A) and paragraph (1), fiscal year 1990 funds withheld from expenditure pursuant to paragraph (1) may be used for cancellation expenses for military assistance programs for El Salvador, so long as such use does not result in the delivery of any military assistance to El Salvador.

(4) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1990 and fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

(5) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the representatives of the FMLN—

(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

(B) are rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress;

(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN; or

(4) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the 8 murders at the University of Central America on November 16, 1989; or

(4) the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

(f) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, military assistance for fiscal year 1991 may be delivered to the armed forces of El Salvador only with the prior approval of the President of El Salvador.

(g) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this act and on March 1, 1991, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

(2) the status of the negotiations;

(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

(4)(A) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people;

(B) progress made by the Government of El Salvador toward—

(i) the establishment of an effective judicial system, including the establishment of an independent, civilian investigative service;

(ii) ensuring freedom of the press and assembly; and

(iii) military reform, including the establishment of an officer promotion system based on merit and professional competence, respect for human rights, and respect for civilian control over the armed forces;

(C) the effects on the civilian population of El Salvador of economic sabotage and other acts of violence committed against civilian targets by the FMLN; and

(D) the status of investigations into the politically motivated murders of prominent political, religious, labor and other officials in recent years, and the extent to which the armed forces of El Salvador and the FMLN are each cooperating in those investigations.

(h) SUPPORT FOR DEMOCRACY PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(2) ELECTION MONITORING.—Of the amount made available to carry out this subsection, not less than $2,000,000 may be used only for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as Secretary General of the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 1991 under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(i) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITIION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations,

during the 30-day period beginning on March 1, 1991;

(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than 4 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the Committee of the Whole, to final passage without intervening motion except one motion to recommit.

(8) FINAL PASSAGE IN THE SENATE.—In the Senate, immediately following the conclusion of the debate on a privileged joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(9) APPEALS FROM DECISION OF THE CHAIR NOT DEBATABLE IN THE SENATE.—Appeals in the Senate from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a privileged joint resolution shall be decided without debate.

(10) CONGRESSIONAL RULEMAKING POWERS.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a privileged joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(j) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MOAKLEY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 163, not voting 19, as follows:

[Roll No. 127]

AYES—250

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| Ackerman | Dymally | Lehman (CA) |
| Anderson | Dyson | Lehman (FL) |
| Andrews | Early | Levin (MI) |
| Annunzio | Eckart | Levine (CA) |
| Anthony | Edwards (CA) | Lewis (GA) |
| Applegate | Engel | Long |
| Aspin | Erdreich | Lowey (NY) |
| Atkins | Espy | Luken, Thomas |
| AuCoin | Evans | Machtley |
| Bates | Fascell | Manton |
| Beilenson | Fazio | Markey |
| Bennett | Feighan | Martinez |
| Bereuter | Flake | Matsui |
| Berman | Foglietta | Mavroules |
| Bevill | Ford (MI) | Mazzoli |
| Bilbray | Ford (TN) | McCloskey |
| Boehlert | Frank | McDermott |
| Boggs | Frost | McGrath |
| Bonior | Gaydos | McHugh |
| Borski | Gejdenson | McMillen (MD) |
| Bosco | Gephardt | McNulty |
| Boucher | Gibbons | Mfume |
| Boxer | Gilman | Miller (CA) |
| Brennan | Glickman | Miller (WA) |
| Brooks | Gonzalez | Mineta |
| Browder | Gordon | Moakley |
| Bruce | Grandy | Mollohan |
| Bryant | Gray | Moody |
| Bustamante | Green | Morella |
| Callahan | Guarini | Morrison (CT) |
| Campbell (CA) | Hall (OH) | Morrison (WA) |
| Campbell (CO) | Hamilton | Mrazek |
| Cardin | Harris | Murphy |
| Carper | Hayes (IL) | Murtha |
| Carr | Hayes (LA) | Nagle |
| Chandler | Hefner | Natcher |
| Chapman | Henry | Neal (MA) |
| Clarke | Hertel | Neal (NC) |
| Clay | Hochbrueckner | Nowak |
| Clement | Horton | Oakar |
| Coleman (TX) | Hoyer | Oberstar |
| Collins | Hubbard | Obey |
| Condit | Hughes | Olin |
| Conte | Jacobs | Ortiz |
| Conyers | Johnson (SD) | Owens (NY) |
| Costello | Johnston | Owens (UT) |
| Coughlin | Jones (GA) | Pallone |
| Coyne | Jones (NC) | Panetta |
| Crockett | Jontz | Pashayan |
| de la Garza | Kanjorski | Patterson |
| DeFazio | Kaptur | Payne (NJ) |
| Dellums | Kastenmeier | Payne (VA) |
| Derrick | Kennedy | Pease |
| Dicks | Kennelly | Pelosi |
| Dingell | Kildee | Penny |
| Dixon | Kleczka | Perkins |
| Donnelly | Kolter | Pickle |
| Dorgan (ND) | Kostmayer | Poshard |
| Downey | LaFalce | Price |
| Durbin | Lantos | Pursell |
| Dwyer | Leach (IA) | Rahall |

| | | |
|---|---|---|
| Rangel | Sikorski | Udall |
| Regula | Skaggs | Unsoeld |
| Richardson | Slattery | Upton |
| Ridge | Slaughter (NY) | Valentine |
| Rinaldo | Smith (FL) | Vento |
| Roe | Smith (IA) | Visclosky |
| Rose | Smith (VT) | Volkmer |
| Rostenkowski | Solarz | Walgren |
| Roukema | Spratt | Walsh |
| Rowland (GA) | Staggers | Washington |
| Roybal | Stallings | Waxman |
| Russo | Stark | Weiss |
| Sabo | Studds | Weldon |
| Sangmeister | Swift | Wheat |
| Savage | Synar | Whitten |
| Sawyer | Tanner | Williams |
| Scheuer | Tauke | Wise |
| Schneider | Taylor | Wolpe |
| Schroeder | Torres | Wyden |
| Schumer | Torricelli | Yates |
| Serrano | Towns | Yatron |
| Sharp | Traficant | |
| Shays | Traxler | |

NOES—163

| | | |
|---|---|---|
| Archer | Hefley | Quillen |
| Armey | Herger | Ravenel |
| Baker | Hiler | Ray |
| Ballenger | Hoagland | Rhodes |
| Bartlett | Holloway | Ritter |
| Bateman | Hopkins | Roberts |
| Bentley | Houghton | Rogers |
| Bilirakis | Huckaby | Rohrabacher |
| Bliley | Hunter | Ros-Lehtinen |
| Broomfield | Hutto | Roth |
| Brown (CO) | Hyde | Rowland (CT) |
| Buechner | Inhofe | Saiki |
| Bunning | Ireland | Sarpalius |
| Burton | James | Saxton |
| Byron | Jenkins | Schaefer |
| Clinger | Johnson (CT) | Schiff |
| Coble | Kasich | Schuette |
| Coleman (MO) | Kyl | Schulze |
| Combest | Lagomarsino | Sensenbrenner |
| Cooper | Lancaster | Shaw |
| Courter | Laughlin | Shumway |
| Cox | Lent | Shuster |
| Crane | Lewis (CA) | Sisisky |
| Dannemeyer | Lewis (FL) | Skeen |
| Darden | Lightfoot | Skelton |
| Davis | Lipinski | Slaughter (VA) |
| DeLay | Livingston | Smith (NE) |
| DeWine | Lloyd | Smith (NJ) |
| Dickinson | Lowery (CA) | Smith (TX) |
| Dornan (CA) | Madigan | Smith, Robert (NH) |
| Douglas | Martin (IL) | Smith, Robert (OR) |
| Dreier | Martin (NY) | Snowe |
| Duncan | McCandless | Solomon |
| Edwards (OK) | McCollum | Spence |
| Emerson | McCrery | Stangeland |
| English | McCurdy | Stearns |
| Fawell | McDade | Stenholm |
| Fields | McEwen | Stump |
| Frenzel | McMillan (NC) | Sundquist |
| Gallegly | Meyers | Tallon |
| Gallo | Michel | Tauzin |
| Gekas | Miller (OH) | Thomas (GA) |
| Geren | Molinari | Thomas (WY) |
| Gillmor | Montgomery | Vander Jagt |
| Gingrich | Moorhead | Vucanovich |
| Goodling | Myers | Walker |
| Goss | Nielson | Weber |
| Gradison | Oxley | Whittaker |
| Grant | Packard | Wilson |
| Gunderson | Parker | Wolf |
| Hall (TX) | Parris | Wylie |
| Hancock | Paxon | Young (AK) |
| Hansen | Petri | Young (FL) |
| Hastert | Pickett | |
| Hatcher | Porter | |

NOT VOTING—19

| | | |
|---|---|---|
| Alexander | Hammerschmidt | Robinson |
| Barnard | Hawkins | Smith, Denny (OR) |
| Barton | Kolbe | |
| Brown (CA) | Leath (TX) | Stokes |
| Craig | Lukens, Donald | Thomas (CA) |
| Fish | Marlenee | Watkins |
| Flippo | Nelson | |

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Marlenee against.

Mr. Barnard for, with Mr. Kolbe against.

Mr. Stokes for, with Mr. Craig against.

Mr. Hawkins for, with Mr. Thomas of California against.

Mr. SARPALIUS and Mr. BUECHNER changed their vote from "aye" to "no."

Messrs. WASHINGTON, CHANDLER, and McMILLEN of Maryland changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2058

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Marlenee against.

Mr. Barnard for, with Mr. Kolbe against.

Mr. Stokes for, with Mr. Craig against.

Mr. Hawkins for, with Mr. Thomas of California against.

Mr. SARPALIUS and Mr. BUECHNER changed their vote from "aye" to "no."

Messrs. WASHINGTON, CHANDLER, and McMILLEN of Maryland changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. AuCoin, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4636) to authorize supplemental economic assistance for fiscal year 1990, to support democracy in Panama and Nicaragua, and for other purposes, pursuant to House Resolution 395, reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

□ 2100

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 171, nays 244, not voting 17, as follows:

[Roll No. 128]

YEAS—171

| | | |
|---|---|---|
| Ackerman | Ford (MI) | Nagle |
| Anderson | Ford (TN) | Natcher |
| Atkins | Frank | Neal (MA) |
| AuCoin | Frost | Nowak |
| Bates | Gejdenson | Oberstar |
| Beilenson | Gephardt | Obey |
| Bennett | Gibbons | Olin |
| Berman | Gilman | Ortiz |
| Bevill | Glickman | Owens (NY) |
| Bilbray | Gonzalez | Owens (UT) |
| Boehlert | Goodling | Pallone |
| Boggs | Gordon | Panetta |
| Bonior | Gray | Payne (NJ) |
| Borski | Green | Pelosi |
| Bosco | Hall (OH) | Penny |
| Boucher | Hamilton | Pickle |
| Boxer | Hertel | Price |
| Brennan | Horton | Rangel |
| Brooks | Hoyer | Richardson |
| Brown (CA) | Jacobs | Ridge |
| Bruce | Johnston | Roe |
| Bustamante | Kastenmeier | Rose |
| Campbell (CA) | Kennedy | Sabo |
| Cardin | Kennelly | Scheuer |
| Carper | Kildee | Schneider |
| Clarke | Kleczka | Schumer |
| Clay | Kostmayer | Serrano |
| Clement | LaFalce | Shays |
| Coleman (TX) | Lantos | Skaggs |
| Collins | Leach (IA) | Slattery |
| Condit | Lehman (CA) | Slaughter (NY) |
| Conte | Lehman (FL) | Smith (FL) |
| Conyers | Levin (MI) | Smith (IA) |
| Coyne | Levine (CA) | Smith (VT) |
| Crockett | Lewis (GA) | Solarz |
| de la Garza | Lowey (NY) | Spratt |
| DeFazio | Luken, Thomas | Staggers |
| Dellums | Machtley | Studds |
| Dicks | Manton | Swift |
| Dingell | Markey | Synar |
| Dixon | Martinez | Torres |
| Donnelly | Matsui | Torricelli |
| Dorgan (ND) | Mavroules | Towns |
| Downey | McCloskey | Udall |
| Durbin | McHugh | Unsoeld |
| Dwyer | McNulty | Vento |
| Dymally | Mfume | Visclosky |
| Early | Miller (CA) | Washington |
| Edwards (CA) | Miller (WA) | Waxman |
| Engel | Mineta | Weiss |
| Espy | Moakley | Wheat |
| Evans | Moody | Whitten |
| Fascell | Morella | Wise |
| Fazio | Morrison (CT) | Wolpe |
| Feighan | Morrison (WA) | Wyden |
| Flake | Mrazek | Yates |
| Foglietta | Murtha | Yatron |

NAYS—244

| | | |
|---|---|---|
| Andrews | Clinger | Frenzel |
| Annunzio | Coble | Gallegly |
| Anthony | Coleman (MO) | Gallo |
| Applegate | Combest | Gaydos |
| Archer | Cooper | Gekas |
| Armey | Costello | Geren |
| Aspin | Coughlin | Gillmor |
| Baker | Courter | Gingrich |
| Ballenger | Cox | Goss |
| Barnard | Crane | Gradison |
| Bartlett | Dannemeyer | Grandy |
| Bateman | Darden | Grant |
| Bentley | Davis | Guarini |
| Bereuter | DeLay | Gunderson |
| Bilirakis | Derrick | Hall (TX) |
| Bliley | DeWine | Hancock |
| Broomfield | Dickinson | Hansen |
| Browder | Dornan (CA) | Harris |
| Brown (CO) | Douglas | Hastert |
| Bryant | Dreier | Hatcher |
| Buechner | Duncan | Hayes (IL) |
| Bunning | Dyson | Hayes (LA) |
| Burton | Eckart | Hefley |
| Byron | Edwards (OK) | Hefner |
| Callahan | Emerson | Henry |
| Campbell (CO) | English | Herger |
| Carr | Erdreich | Hiler |
| Chandler | Fawell | Hoagland |
| Chapman | Fields | Hochbrueckner |

| | | |
|---|---|---|
| Holloway | Mollohan | Sensenbrenner |
| Hopkins | Montgomery | Sharp |
| Houghton | Moorhead | Shaw |
| Hubbard | Murphy | Shumway |
| Huckaby | Myers | Shuster |
| Hughes | Neal (NC) | Sikorski |
| Hunter | Nielson | Sisisky |
| Hutto | Oakar | Skeen |
| Hyde | Oxley | Skelton |
| Inhofe | Packard | Slaughter (VA) |
| Ireland | Parker | Smith (NE) |
| James | Parris | Smith (NJ) |
| Jenkins | Pashayan | Smith (TX) |
| Johnson (CT) | Patterson | Smith, Robert |
| Johnson (SD) | Paxon | (NH) |
| Jones (GA) | Payne (VA) | Smith, Robert |
| Jones (NC) | Pease | (OR) |
| Jontz | Perkins | Snowe |
| Kanjorski | Petri | Solomon |
| Kaptur | Pickett | Spence |
| Kasich | Porter | Stallings |
| Kolter | Poshard | Stangeland |
| Kyl | Pursell | Stark |
| Lagomarsino | Quillen | Stearns |
| Lancaster | Rahall | Stenholm |
| Laughlin | Ravenel | Stump |
| Lent | Ray | Sundquist |
| Lewis (CA) | Regula | Tallon |
| Lewis (FL) | Rhodes | Tanner |
| Lightfoot | Rinaldo | Tauke |
| Lipinski | Ritter | Tauzin |
| Livingston | Roberts | Taylor |
| Lloyd | Rogers | Thomas (GA) |
| Long | Rohrabacher | Thomas (WY) |
| Lowery (CA) | Ros-Lehtinen | Traficant |
| Madigan | Rostenkowski | Traxler |
| Martin (IL) | Roth | Upton |
| Martin (NY) | Roukema | Valentine |
| Mazzoli | Rowland (CT) | Vander Jagt |
| McCandless | Rowland (GA) | Volkmer |
| McCollum | Roybal | Vucanovich |
| McCrery | Russo | Walgren |
| McCurdy | Saiki | Walker |
| McDade | Sangmeister | Walsh |
| McDermott | Sarpalius | Weber |
| McEwen | Savage | Weldon |
| McGrath | Sawyer | Whittaker |
| McMillan (NC) | Saxton | Williams |
| McMillen (MD) | Schaefer | Wilson |
| Meyers | Schiff | Wolf |
| Michel | Schroeder | Wylie |
| Miller (OH) | Schuette | Young (AK) |
| Molinari | Schulze | Young (FL) |

NOT VOTING—17

| | | |
|---|---|---|
| Alexander | Hawkins | Robinson |
| Barton | Kolbe | Smith, Denny |
| Craig | Leath (TX) | (OR) |
| Fish | Lukens, Donald | Stokes |
| Flippo | Marlenee | Thomas (CA) |
| Hammerschmidt | Nelson | Watkins |

□ 2120

The Clerk announced the following pairs:

On this vote:

Mr. Nelson for, with Mr. Kolbe against.

Mr. Stokes for, with Mr. Robinson against.

Mr. Hawkins for, with Mr. Denny Smith against.

Messrs. McDERMOTT, CARR, and WALGREN changed their vote from "yea" to "nay."

Mr. OWENS of Utah changed his vote from "nay" to "yea."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REQUEST TO BE EXCUSED FOR MEDICAL REASONS—PERSONAL EXPLANATION

Mr. DENNY SMITH. Mr. Speaker, I ask to be excused from attendance in the House for the remainder of this evening so that I might undergo a series of medical tests that I am unable to reschedule. I regret this absence, but ask that the RECORD reflect that had I been present, I would have voted against the Moakley/Murtha amendment to H.R. 4636, and would have also voted against final passage.

## WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4641

Mr. HYDE. Mr. Speaker, I ask unanimous consent that I may withdraw my name as a cosponsor of the bill, H.R. 4641.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## STATE-SUPPORTED HOMES FOR VETERANS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 231) to designate the week of June 10, 1990 through June 16, 1990, as "State-Supported Homes for Veterans Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I certainly do not object to this legislation, but reserve the time in order to yield to the gentleman from Iowa [Mr. NAGLE], the chief sponsor of the joint resolution.

Mr. NAGLE. Mr. Speaker, I thank the gentleman for yielding to me. I will be mercifully brief because of the lateness of the hour.

I would point out that there are 59 State-supported veterans homes in 37 States that are providing professional, generic, long-term health care for the men and women of our armed services. The homes were started after the Revolutionary War, which makes these facilities America's oldest serving commitment to our Nation's veterans. Over 13,000 veterans are provided long-term care on a daily basis. Last year these homes provided 4.7 million patient days of daily care in the form of physical therapy, respiratory therapy, drug abuse counseling and family counseling.

The goals of the State veterans' homes are to provide appropriate quality care services to disabled and elderly veterans, to provide a clearinghouse for techniques and expertise in the care of veterans.

This resolution not only stands as historical testimony to the commitment we have toward our veterans, but it also honors the caregivers for the valuable service they provide to our Nation's veterans.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 231

Whereas since 1864, 36 States have established a total of 58 State-supported homes for the veterans of this Nation;

Whereas such States and the Department of Veterans Affairs support such State-supported homes for veterans and such State-supported homes for veterans currently serve critical needs of the veterans of this Nation;

Whereas such State-supported homes for veterans shall continue to serve the veterans of this Nation and meet the future needs of such veterans when the number of aging veterans increases at an accelerated rate in this Nation;

Whereas such State-supported homes for veterans provide an important resource for the veterans of this Nation, and for the families of such veterans;

Whereas the staff of such State-supported homes for veterans contribute to an enhanced quality of life for the veterans of this Nation, and for the families of such veterans; and

Whereas there is a need for greater public awareness of the vital and significant contributions of State-supported homes for veterans to this Nation: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week of June 10, 1990 through June 16, 1990, is designated as "State-Supported Homes for Veterans Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on Senate Joint Resolution 231, the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## UNITED STATES NOT PARTY TO HUMAN RIGHTS TREATIES

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, I wonder if my colleagues in the House realize that while the United States and its leaders in the highest levels of Government, continues to advocate the importance of human rights and individual freedoms throughout the world—over our own Government has refused to ratify several important international treaty conventions, which include the International Covenant on Economics, Social and Cultural Rights, and the International Convenant on Civil and Political Rights—commonly referred to as the International Covenants on Human Rights.

Mr. Speaker, I want to share with my House colleagues, an article which appeared recently in the Christian Science Monitor on the subject matter, and I believe the coauthors of the article, Senator DENNIS DECONCINI and Congressman STENY HOYER, did an excellent job to explain the problem and the solution in resolving this longstanding situation.

Mr. Speaker, let's be serious with this issue of human rights. If it is our expectation that other countries of the world should grant human rights principles to their citizens, then certainly we ought to do the same for our own people before preaching it to others.

[From the Christian Science Monitor, Apr. 18, 1990]

TIME TO RATIFY U.N. HUMAN RIGHTS COVENANT

(By Dennis DeConcini and Steny H. Hoyer)

The National Council of Churches recently initiated a campaign seeking US ratification of basic human rights treaties, including the International Covenant on Civil and Political Rights and the International Convenant on Economic, Social and Cultural Rights (collectively known as the International Convenants on Human Rights). Although the US voted for United Nations adoption of these treaties in 1966 and signed them in 1976, they have languished before the Senate for 10 years. The question the National Council poses is: Why has the US, a country with a strong human rights record, failed to ratify these convenants? The answer to this question lies in part in how the US approaches its own human rights problems.

Every country can improve its human rights record. The US is no exception. To this end, the US has developed extensive machinery for the promotion and protection of the rights espoused by these convenants. As a result, the most vocal and disparaging domestic critics of US civil and political rights practices generally concern themselves with improving this existing domestic machinery, rather than persuading their government to participate elsewhere. In short, because of the availability of redress on the national level, US citizens have not found it necessary to lobby the Senate for ratification of the covenants which provide international reinforcement for domestic efforts.

In fact, the persons who would most benefit from more US participation in the UN's human rights protection system are victims of human rights violations in other countries. By not ratifying the covenants, the US denies itself a forum in which to raise the plight of those who suffer under repressive regimes. Within those forums in which the US does participate—such as the Helsinki process—every time the US government is called upon to explain why the Senate has not acted on the covenants, it is forced to take time and attention from other human rights issues.

Some have explained US failure to ratify the covenants by pointing to the UN commitments of the USSR and other countries. For example, at the very time the International Covenants were submitted to the Senate for advice and consent in 1978, the Soviet Union was engaged in the Senate for advice and consent in 1978, the Soviet Union was engaged in a crackdown on human rights activists. A year later it invaded Afghanistan. Poland declared martial law in 1981 in stark contradiction to the very object and purpose of these pacts. Romania's house arrest of its own human rights rapporteur speaks for itself.

Obviously much has changed in the Soviet Union and Eastern Europe since 1978. The Soviet Union has now taken steps to clean up its human rights record and has attempted to fill the void left in the UN by the limited participation of the US. Gorbachev has supported UN peace initiatives in several regions of the world and took the lead in calling for submitting human rights disputes to the International Court of Justice. Hungary, the first Warsaw Pact country to openly criticize the human rights policies of a fraternal ally, has moved to use a UN forum to investigate Romania's treatment of ethnic Hungarians. Against this backdrop of increasingly credible East bloc participation in the UN's human rights process, the US is all the more conspicuous by its absence.

International human rights law is a new and promising way to promote foreign policy goals. A vacuum left by the US will surely be filled by others. The USSR and Eastern Europe are not the only countries able and willing to shape international human rights norms. All the permanent members of the UN Security Council have ratified these treaties—except the US. Among the 35 Helsinki-process countries eligible to become a party to these treaties—including the 16 members of NATO—only Ireland, Turkey, and the U.S. have not.

Will it take over 40 years to get the convenants ratified, as did the Genocide Convention? Not if action is taken in three quarters.

First, the American human rights community must make a concerted call for ratification. The same groups that lobby Congress on human rights in other parts of the world must understand that our overall efforts to achieve their goals are hampered by our failure to ratify these convenants. While most non-governmental organizations concerned with global and regional human rights abuses support ratification, they have failed to take the lead in calling for the Senate to act.

Second, the Senate must act. Beginning with new hearings, the Senate should quickly give its advice and consent to the president.

Finally, the administration must stop fence sitting and state its support of the covenants. For eight years the Reagan administration claimed to have the covenants "under review," and thus avoided taking any position at all. Sadly, the current administration announced last May that it, too, has no opinion and is continuing this lengthy "review" process.

Morris Abram, the US ambassador to the most recent Helsinki-process human rights meeting, answered our critics by noting that other countries "have signed these documents but are unwilling to live up to them; the United States, on the other hand, has failed to ratify them, but observes their terms. Which is more important?" If forced to choose, the clear answer to the ambassdor's question is that observance of these standards is more important than ratification.

But it is equally clear that we do not have to choose; we can do both. There is no reason why the Eastern countries should not be called upon to observe the standards they have openly and formally accepted; and there is no reason why the United States should not openly and formally accept the standards we claim to observe. By doing the latter, the US can enhance its position to do the former.

In the most recent agreement of the 35 countries participating in the Helsinki-process, the US committed itself to "consider acceding to the [International Covenants on Human Rights]." Our failure to abide by this promise will make our calls to other countries to live by theirs, ring hollow.

## GENERAL LEAVE

Mr. HEFLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the subject of the special order today by the gentleman from Wisconsin [Mr. PETRI].

The SPEAKER pro tempore (Mr. NAGLE). Is there objection to the request of the gentleman from Colorado?

There was no objection.

## STUDENT SUCCESS STORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 5 minutes.

Mr. GAYDOS. Mr. Speaker, during the past year or so, we have heard a lot about how terrible America's private career training schools are, how they have been ripping off men and women who are seeking to break the bonds of poverty, and how they have failed to teach those who want to learn a trade.

Mr. Speaker, I stand here today to tell you and my colleagues that contrary to these misconceived stereotypes, private career training schools—a vital and necessary segment of America's higher education community—are doing a great job of teaching career skills to hundreds of thousands of our citizens who, today, lead meaningful lives as productive, tax-paying Americans.

Too many of our colleagues seem to be more concerned with whether or not a particular career training school has a high or low default rate or whether the students have high school diplomas than with whether or not

that school is actually teaching students what they need to know for a successful career and placing them in career opportunities.

Career training students are more likely to complete their coursework and find jobs than students who enroll in any other sector of postsecondary study because career training schools have higher completion and placement records than any other sector of higher education—61 percent of career training school students successfully complete their coursework compared to 33 percent in the Job Corps, 43 percent at public community colleges, and 58 percent at 4-year colleges.

The placement rate for career training schools is 81 percent. This rate is not only higher than any other sector of higher education, it is also much more reliable because the figures must be documented for the Department of Education.

While it is distressing that such basic facts regarding career training schools can be completely overlooked, what is even more disturbing is how rarely and how little we hear about the students.

I would like to take a few minutes to tell you about just two of the millions of successful career school graduates—Quang Tang Ho and Robert Crolley.

Mr. Ho was 4 years old when his father was taken prisoner by the North Vietnamese. He and his family escaped and eventually settled in the United States.

The same year his mother died, Mr. Ho won a Scholastic Art Award Scholarship to attend the Colorado Institute of Art.

While he and his sister raised their five younger brothers and sisters who were also orphaned, Mr. Ho attended the school's visual communications program. He is so talented he was able to secure freelance jobs to help finance his education, but he also qualified for and received federally guaranteed student loans.

After graduating, Mr. Ho worked briefly for a small graphic arts studio before establishing his own firm—Quang Ho Illustration and Design in Denver, CO. His list of clients include Coors, Blue Cross/Blue Shield, Upjohn, and the Chicago Symphony. He is also a recipient of the Society of Illustrators Award.

As you know, students are not required to start payments on those guaranteed loans until 6 months after they finish or withdraw from their program of study. Mr. Ho, however, was so motivated he paid off his Stafford loans even before he graduated.

The next student I'm going to tell you about is not only very motivated, he is also very courageous. Robert Crolley decided to go-for-broke and change his career in an effort to keep his family off welfare.

Mr. Crolley supported himself and his family by working as a supervisor in a plastics factory until the factory closed down.

He was left with plenty of bills but no money to pay them. He struggled for 6 months before he found he could no longer make both ends meet.

He made a very important decision concerning his future and the future of his family when he reached this point. Instead of becoming a welfare statistic, Mr. Crolley decided to enroll in the Tri-State truck driver training program in Dayton, OH.

As you know, welfare can become a way of life for too many families when dependence on the programs is passed from father to son and mother to daughter, but, Mr. Crolley didn't let this happen. He took the initiative, worked hard, and today, he supports himself and his family by driving for Poole Truck Lines.

To let you in on another overlooked fact regarding career schools, when these two Americans chose career training to further their lives, they also eased the pocketbooks of our taxpayers at the same time.

A 1989 report by Shearson-Lehman-Hutton argues that taxpayers save $17,938 per student per year for every American who finishes a training program and gets a job earning $15,000. they say the money is saved through programs such as welfare, food stamps, women and infant care, housing, health care, and taxes on that $15,000 a year job.

Also, using figures calculated from a National Association of State Scholarships and Grant Programs report, it is estimated that for every one year of education in a private career school, taxpayers save $2,975 compared to the cost of educating a student in a 4-year college for the same period and $1,119 compared to the cost of educating a student in a community college for a similar time period.

Career training not only helps ease the pocketbooks of our Nation's taxpayers, it enables students to reach their goals and change their lives for the better.

The two students I talked about today have joined the ranks of the millions of successful career training school graduates. I take my hat off to all of these hard-working Americans and the schools who successfully educated them.

Keep up the good work.

□ 2130

## TRIBUTE TO VFW SUGARLOAF MEMORIAL POST NO. 6368, DUPO, IL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. POSHARD] is recognized for 5 minutes.

Mr. POSHARD. Mr. Speaker, there is a group in a town in my district, Dupo, IL, which I want to salute.

This is a group on which we have always been able to depend to keep us true to our traditional values and remind us of the freedoms so many have fought and died to defend. And I want to let you know about their contributions to our society.

Since 1946, the Veterans of Foreign Wars, Sugarloaf Memorial Post No. 6368, has provided outstanding service to veterans and the community where its members live.

And in all of those years, Post No. 6368 has enjoyed the support and dedication of the ladies auxiliary.

Ask any VFW commander and he will tell you a post is only as good as the auxiliary that works with it side by side. And that certainly is the case for this post.

To be a member of the auxiliary a woman has to be a close relative of a member of the post. During the years this post has survived and thrived, hundreds of women have assisted in making Dupo and the surrounding area a better place to live.

At the risk of leaving some of their good deeds unnoticed, I want you to know about the projects they have worked on. They include blood drives, poppy sales, youth education programs, volunteer work at the Jefferson Barracks Veterans' Administration Hospital, and a host of other deeds big and small that add up to a tremendous contribution.

Here is perhaps one of the most telling facts of all. The Sugarloaf Memorial Post No. 6368 has about 192 members. That is pretty solid membership.

But there are almost 300 in the ladies auxiliary. That is dedication. That is pride. That is being willing to spend a lot of time on behalf of your friends, family, and your community as a whole.

Where would we be in this country without the volunteer efforts of groups like the ladies auxiliary? How many young people have been influenced to live their lives in a patriotic, upstanding fashion because of their example? Probably too many to count. But that is the kind of thing that makes our lives just that much better.

Dupo is a great town. It is located in St. Clair County, just across the Mississippi River from St. Louis, and it has a rich heritage of community pride and progress. In the 44 years since the ladies auxiliary has served in a partnership with the Sugarloaf Memorial Post, the VFW has been there as a driving force for making life better in Dupo.

That is the spirit of America. We help people who need it. The VFW members have sacrificed as much as any living group of veterans, and I am

proud to represent these fine people in Congress.

Memorial day will be here soon and, I am pleased to congratulate them on their long history of achievement and service. They are great Americans, who demonstrate their love for their country by serving in this auxiliary, and by the way they live their daily lives.

May they continue their good work for generations to come.

## THE BENEFITS OF THE RESERVES ARE BOTH TANGIBLE AND INTANGIBLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to continue to share with my colleagues a series of articles which appeared in the Roll Call newspaper in the April 30, 1990, edition in a special policy brief, titled "National Guard and Reserves in a Changing World." This brief was developed to describe the roles and missions of the Reserve components and to educate the readers. I wrote the lead article in hopes of generating interest by the readers to learn more about the Guard and Reserve. I commend my colleagues to read these articles to gain a better appreciation of the Guard and Reserve. Today I'm sharing another in the series of articles that appeared in that April 30 Roll Call edition.

THE BENEFITS OF THE RESERVES ARE BOTH TANGIBLE AND INTANGIBLE

(By Maj. Gen. Evan Hultman)

The past decade has seen a dramatic increase in the size and capability of our nation's Reserve Forces. Our total military manpower expanded by 17 percent, due principally to a 36 percent increase in Reserve Force personnel.

The most dramatic increase was the Reserve contribution to the personnel strength of the total Army, which rose from 50 to 59 percent by the end of the 1980s. The Reserve components of the Air Force showed a corresponding growth from 25 to 30 percent of their Total Force. The Naval Reserve has grown by more than 50 percent in the 1980s to account for over 20 percent of the total Navy personnel.

During the 1980s, Reserve components were an integral part of US involvement in low-intensity conflicts around the globe—operations off the coast of Lebanon, refueling missions during the Libya strike, the Grenada rescue, and, most recently, as a part of Operation Just Cause in Panama.

The Reserve Components have met the challenges both at home and abroad during the 1980s and have demonstrated their leadership ability and training readiness to get the job done.

The 1990s should see increased emphasis on the role of the Reserve components and their contribution within the Total Force as defense planners revise the national defense policies in this era of a diminished threat, longer warning times, and defense budget constraints.

A further indication of the enhanced role and responsibility that have been given to Reserve Forces is the recent revision of the 1976 law giving the president authority to call up to 200,000 Reservists to Active Duty for up to 90 days for any operational or contingency requirement.

It is apparent that recent political changes in the Soviet Union and Eastern Europe have altered dramatically the nature of the military threat to our national security. There is less agreement on the nature of the changing threat, with its resulting greater instability and impact on our national security.

In recognition of these changes, the Reserve Officers Association (ROA) called for a comprehensive analysis of the evolving threat, the military force structure to counter the threat, and the most cost-effective mix of Active and Reserve units in the resulting military force.

Congress responded by requiring the Secretary of Defense to conduct such a study and submit the findings by the end of this year.

ROA's charter from Congress provides us with a real challenge: "The object and purpose of the Reserve Officers Association shall be to support a military policy for the United States that will provide adequate national security and to promote the development and execution thereof."

ROA is not advocating that absolutely no cuts be made in the Reserve Forces, nor are we recommending that as Active Forces are decreased there should be an automatic and equal increase in the Reserve Forces.

It is our position that because of the changing world situation and longer warning time prior to any attack on our allies, a defense strategy that takes maximum advantage of the inherent advantages of the Reserve Forces makes even more sense in the future than it has in the past.

Reserve Forces should be taking on some of the roles traditionally found in the Active components. We support the concept that when, in the Army for example, Active divisions are removed from the structure, the corresponding Reserve component support tail should also be removed from the total Army structure while ensuring that any personnel with critical "war stopper" skills are retained.

It is conventional wisdom that Reserve Forces are less expensive to operate than similar Active Force units. This is most apparent in manpower intensive units, such as infantry battalions where the cost reduction for maintaining a capability in the Reserve Forces instead of in the Active Force can be as much as 80 percent.

Operating aircraft squadrons in the Reserve Forces, by comparison, saves only about 30 to 50 percent when compared to similar Active Force units, depending on the operating tempo. This "saving" does not come without some "cost" in either peacetime operations capability being lost or greatly diminished or the increased time required to have some units available for mobilization or contingency requirements.

However, there are also less apparent tangible savings and significant intangible benefits of Reserve Forces. For example, most Reservists have the benefit of Active Duty service and training that they bring to the Reserve Forces. This alone saves countless millions of dollars each year by avoiding significant training costs the Reserve Forces would otherwise encounter.

On the intangible side, the nature of a citizen/Reservist ensures that our nation's military is not isolated from the people it is dedicated to serve and protect.

These are some of the issues that make the task of the ongoing Total Force Study Group difficult. Some of these same issues, particularly the scope of training that resides in the Reserve Forces today, make it imperative that the Reserve structure not be cut until the Total Force Study is completed and reviewed by Congress and the Reserve community.

ROA is advocating that our nation have a military force adequate to meet the emerging threat with the most cost-effective balance of Active and Reserve Forces. We must have no less, since freedom is our fundamental right.

## CHAIRMAN ANNUNZIO REPORTS PROGRESS TO ESTABLISH POLISH CREDIT UNIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, when the Polish people turned their back on communism and looked toward democracy, one of their first requests was for a restructuring of their financial institutions because they did not trust their $8 billion in zlotys, their national currency, around their homes, under mattresses and floorboards. The practice of hiding zlotys at home reduces the amount of deposits available to fund loans for the business ventures needed to get Poland's capitalism economy off the ground. The immediate reaction to the newly found freedom by the Polish people was the call for the creation of credit unions, the nonprofit institutions prevalent at many American workplaces.

On December 4, I wrote to Secretary of State James A. Baker III and Treasury Secretary Nicholas F. Brady to urge they do what they could to provide assistance to Eastern European nations, especially Poland, as they restructure their financial institutions. I specifically asked Mr. Baker to direct the Agency for International Development [AID] to promptly provide funds to the World Council of Credit Unions to help the Polish people with technical training to improve their economies.

Earlier this year, I met with a contingent from Solidarity who were in the United States to learn more about credit union history, philosophy, and operations.

Mr. Speaker, I would like to report that progress is being made. The Credit Union National Association has written to me to say that the World Council of Credit Unions has received an 18 month, $230,000 grant to assist the Polish people. The mission of the World Council is to organize, expand, and strengthen credit unions throughout the world as a means of promoting economic and social development. The AID funds will be used for a detailed technical team analysis of the market, legislative and financial climate in Poland, the subsequent design of a credit union development program and the initial implementation of that development program. A World Council technical team will be in Poland next month, and design of the long-term development program will be completed shortly thereafter.

Mr. Speaker, the Credit Union National Association also informs me that the World Council has received a request from Hungary to assist two cooperative groups there to carry out an orientation trip to the United States,

similar to the one by the Polish delegation in February and March. Several other free market countries also want to learn about the operations of credit unions. The council said it also has been asked to provide assistance to organizations interested in credit unions in Bulgaria and Czechoslovakia.

It appears that when peoples around the world throw off the mantle of communism, they turn to credit unions, the organizations owned and operated by its members according to democratic principles.

## TRIBUTE TO EUNICE KENNEDY SHRIVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. PETRI] is recognized for 60 minutes.

Mr. PETRI. Mr. Speaker, to imagine Eunice Kennedy Shriver stepping down from the helm of Special Olympics is almost like thinking the unthinkable. Eunice Shriver is Special Olympics, just as she is the spirit and substance of almost every program for people with mental retardation that has been developed over the past 30 years. In 1968, Eunice Shriver founded Special Olympics. She had faith that people with mental retardation could do many more things than even many experts thought they could. And she was right. Since that first track meet in 1968, millions of persons with mental retardation have taken part in sports activities through Special Olympics. And as they have become skilled in sports they have also learned the living skills that have made them valuable citizens at school, at home, in the community, and in the workplace. No single program has had as dramatic and lasting effects as Special Olympics. More than just another sports league, Special Olympics has become a worldwide movement for justice and equality for persons with mental retardation. And behind this movement, for 22 years, has been the energy and dedication of Eunice Kennedy Shriver. While we know that Special Olympics will grow and touch many more lives, it just will not be the same without Eunice Shriver. Whatever else she goes on to do now, she has left a legacy of human service that is unequalled in our generation.

Mr. MAZZOLI. Mr. Speaker, it's my pleasure to participate in today's special order in honor of Eunice Kennedy Shriver, who—after 22 years—is turning over the day-to-day responsibilities of the Special Olympics programs.

While her official role may change, her influence and guidance will, I am sure, continue to be an integral part of the Special Olympics.

Mr. Speaker, the timing of this special order is very appropriate. For earlier today, I joined with an overwhelming majority of my House colleagues in adopting the Americans With Disabilities Act, which seeks to prohibit discrimination against disabled individuals. However, long before the ADA bill was on the drawing board, Eunice Shriver was already showing the Nation—and the world—that individuals with mental retardation have the desire, the ability, and the right to participate in sports training and athletic competitions.

One of the unique and admirable aspects of the Special Olympics programs during Mrs. Shriver's tenure has been the fact that she has almost never solicited Federal funding for this program. She did not want it to be part of a huge bureaucracy but to rise and fall on its own merits and its own ability to attract private funds. And rise it has. Today, Special Olympics International raises more than $70 million from the private sector in every State and many Foreign countries, including China, Chile, the Soviet Union, Cuba, and the Netherlands, to support its year-round training and competitions. Almost 1 million athletes train and compete in 22 Olympic-type sports and 500,000 volunteers assume most of the coaching, training and fundraising responsibilities.

For my own part, I have, over the years, participated in the Nike Capital Challenge which raises money for the Special Olympics program, and I am proud that my Alma Mater, the University of Notre Dame, has been the site of the International Special Olympics.

Again, I commend and thank Eunice Shriver for her leadership during these 22 years, and no doubt, the support and participation in Special Olympics will continue to grow in the years ahead.

Mr. HORTON. Mr. Speaker, it is my distinct pleasure to recognize a special group of people today. It seems ironic that we should recognize these individuals on the day we consider one of the most important pieces of legislation to come before this House, the Americans With Disabilities Act. Through the vision and energy of Mrs. Eunice Kennedy Shriver we stand up here today to salute the participants of the Special Olympics.

The Special Olympics began in 1968, when Mrs. Eunice Kennedy Shriver started a day-camp for people with mental retardation. In that year, the First International Summer Special Olympic Games were held at Chicago's Soldier Field for 1,000 athletes from the United States, Canada, and France. Since then, the Special Olympics has had worldwide impact with some 750,000 athletes and 550,000 volunteers participating in year-round activities.

As dean of the New York congressional delegation, I am especially proud to honor these dedicated athletes. In my State of New York, the Special Olympics has grown from 100 Special Olympians in 1969, to the largest program of sports and athletics competition for children and adults with mental retardation in the United States. The New York Special Olympics serves nearly 28,000 Special Olympians in 38 regions of New York State through a network of more than 15,000 volunteers. I am deeply touched by the courage, determination, sportsmanship, and voluntarism that are displayed during these year-round events.

Mr. Speaker, the accomplishments of these individuals makes me very proud to be associated with them and the State of New York. I am confident that their dedication will enable them to continue to achieve and to be successful in the years ahead.

Mr. BROWN of Colorado. Mr. Speaker, there are few programs in the Nation as rewarding to its participants as Special Olympics. Special Olympic programs have given hundreds of thousands of persons with mental retardation more than just experience in sports. It has given them hope and self-esteem.

I would like to join the many people giving thanks to Eunice Kennedy Shriver for her selfless efforts that created this program and built it into the worldwide humanitarian project that it is today.

Eunice Kennedy Shriver will be missed as chair of Special Olympics International but each Special Olympic event is already a tribute to her.

Mr. KASTENMEIER. Mr. Speaker, Special Olympics is one of the great success stories of our time. It demonstrates all the good qualities of America: Initiative, creativity, compassion, volunteerism, private enterprise. And at the same time, it has brought out these same qualities in more than 80 countries with diverse cultures and economic systems. If it had not been for Eunice Kennedy Shriver, millions of children and adults all over the world would never have known the joy of competitive athletics, and the health that comes from regular, vigorous sports activity. Before Special Olympics, only 25 percent of this Nation's citizens with mental retardation received as much as 1 hour of physical activity per week. Most got none at all. They had never run a race, thrown a baseball, skated on a rink, skied a slope, swum or dived in a pool. Special Olympics changed all that because one courageous woman was convinced that people with mental retardation could do much more than many experts said they could. Because of Special Olympics, the public has a better understanding of the gifts and qualities of persons with mental retardation; parents of special children have a new sense of pride; and the athletes have developed a heightened self-esteem and confidence in their own ability. Instead of being segregated, Special Olympians are part of the mainstream of their communities. As Eunice Kennedy Shriver steps down as Special Olympics' first and only chairman, she can take great pride in a job well done. I and all the people of my district salute her.

Mr. FASCELL. Mr. Speaker, I am pleased to join our colleagues today as we pay tribute to Eunice Kennedy Shriver, founder and chairman of Special Olympics International. Mrs. Shriver's vision, her compassion, and her determination have left us with a program for mentally retarded persons that is unique in its aspirations and in its success.

The International Special Olympics today provides a forum for the athletic achievement of close to 1 million youngsters internationally. It is a source of pride and inspiration not only for the athletes involved but also for our country and the world. Small wonder that cities vie for the opportunity to host the culminating events, which attract worldwide attention.

This remarkable program arose out of Mrs. Shriver's lifelong commitment to improving the lot of the mentally retarded, and her ability to find the means to do so. Beginning in 1963, she sought to encourage revolutionary research into the development of resources for the retarded with funds from the Joseph P. Kennedy, Jr., Foundation. She also provided the impetus for various national projects such as the President's Panel on Mental Retardation and the Mental Retardation Facilities Construction Act of 1963, which supplied Federal funds to help the Nation's retarded persons

for the first time. Finally, she founded and developed the Special Olympics, a celebration of the talents and abilities of mentally retarded athletes and, again, an astonishing success.

Today, Eunice Shriver's dream of international athletic events involving mentally retarded athletes seems as natural as the original Olympics. Her vision has become an independent and enduring reality. We are all fortunate for this turn of events. As Mrs. Shriver relinquishes the day-to-day leadership of the Special Olympics International, we cannot thank her enough for her wisdom and her contributions to our world.

Mr. RICHARDSON. Mr. Speaker, 22 years ago, it was the fate of most children and adults with mental retardation to be hidden away at home or in institutions and to be denied participation in most of the activities the rest of us take for granted. But that was before Special Olympics. In 1968, one woman, Eunice Kennedy Shriver, had the courage and the vision to break down old myths and prejudices about mental retardation, and to insist that people with mental retardation could play team sports, could run a mile, could swim the length of a pool, and could take part in competitive sports. Since the first Special Olympics Games at Chicago's Soldier Field in 1968, Special Olympics has become a worldwide movement. Millions of special people and their families have taken part in the year-round programs since then. And millions more of the general public have learned that their special friends and neighbors are people with courage, character, and skill, who are worthy of their respect and their acceptance.

On behalf of the people of my district, I congratulate Eunice Kennedy Shriver on the remarkable achievements of Special Olympics and I wish her well as she focuses her energy and compassion on other programs on behalf of people with mental retardation.

## ECONOMIC DEVELOPMENT IN EASTERN EUROPE AND THE BALTIC

The SPEAKER pro tempore (Mr. NAGLE). Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 60 minutes.

Mr. LEACH of Iowa. Mr. Speaker, I rise to speak again to the issue of Eastern Europe and the Baltics and suggest a multipronged approach to economic development in the region.

Before turning to the economic issues of the moment, I would like to comment briefly on the basics of the historical and philosophical circumstances with which the region is confronted.

We appear to be on the cusp of one of the great turning points in history.

In a geostrategic sense, the Russian empire appears to be splintering from without and perhaps within.

In a philosophical sense, communism is in retreat, pell-mell.

At the root of the basics are theories of revolution, theories of the individual, theories of economics.

As we all have come to understand, communism is based on historical, particularly economic, determinism, with a presumptive vanguard elite leading a class struggle.

American revolutionary philosophy is premised on the empowerment of individuals endowed by a creator with inalienable rights.

Because Americans have a general aversion to radical thought and radical change—what Tocqueville described as a cultural penchant for moderation—we have a tendency to overlook one of the profoundest of political facts: that our political philosophy and heritage is profoundly more revolutionary than that provided by the Marxist model.

In contrast with communism, Jeffersonian democracy postulates change from the bottom up, not top down, and institutionalizes change in economic as well as political institutions.

The classic contrast between our systems is illustrated this week in the Baltics. Gorbachev asserts that the independence movement must be constrained by Soviet law and the Soviet Constitution. The Baltic peoples hold freedom springs not from law, but from the individual. Gorbachev calls the newly elected leaders of the Baltic states counterrevolutionaries. They consider themselves patriots.

It is imperative therefore that we recognize the profoundness of the juxtaposition of these two revolutionary paradigms, and understand that in a Jeffersonian context it is revolutionary to assume that governments derive their power and thus legitimacy from—and only from—the consent of the governed. It is counterrevolutionary to hold that freedom is a right granted and thus removable by law, one's own or anyone else's.

Our Founding Fathers were moral as well as political philosophers. They understood Locke's admonition that man was prone to excess and that, in fact, nothing was more dangerous than a good prince. Accordingly, they embraced Montesquieu's separation of powers doctrine and established a limited, constitutional republic.

Likewise, in contrast with the Socialist foundation of Marxism, Jeffersonian democracy embraced Lockean property concepts. Emphasis was placed on individual rights and private property, rather than social obligations defined by others and government ownership of the means of production.

The history of postwar Europe is the history of social experimentation. Western Europe has shown that individual peoples when given a choice prefer democratic institutions and that, with a partial exception in Scandinavia, the economic system that best fits democracy is free enterprise.

Eastern Europe has shown that experiments with state-sponsored coercion are doomed to failure and that the power of individual aspirations for freedom is greater than either the gun held by a foreign soldier or the nuclear trigger controlled by a foreign potentate.

All of us are learning anew the power of nationalism, the desire of people to carve their own destiny, to make their own mistakes. What appears clear at this juncture is that the Soviet soldier will no longer be countenanced in the region; what is unclear is whether current nation-state boundaries will hold, whether ethnic chaos will be unleashed, whether Democratic aspirations will produce lasting Democratic institutions, whether economic change will be fast or fair enough to satisfy the appetites of the people.

The irony is that as we move to down-size our armed forces and reduce military spending, Uncle Sam's pocket is not very deep. Washington is more concerned about the summit with Congress than the summit with the Kremlin, the shape of new taxes than the shape of a new Europe, the mandate to shrink the deficit instead of the cry to enlarge our economic commitments. The need for a Marshall plan for Eastern Europe may be self-evident; the likelihood is not.

The irony also is that if the current debt obligations of the Eastern European states are honored, any funds Washington may find to spare will be recycled to the region's principal creditors: the Germans, the Swiss, the French, and the Soviets.

Hence, recognizing the constraints of the political circumstance, I would urge five basic economic initiatives, some of which may be out of sync with out allies.

The first is debt forgiveness, a new Bush plan for Eastern Europe to complement the Brady plan for Latin America.

As everyone understands, President Bush is confronted by a vexing political catch-22 as he navigates our country through the unpredictable tides and currents shaping contemporary world affairs. In Eastern Europe the societal strains and economic dislocation created by the unprecedented transition from command to market economies seem increasingly formidable, even as bilateral U.S. aid dollars to propel growth appear to be—relative to the total scope of the problem—increasingly limited.

Neither American political party is contemplating either foreign aid increases or granting to the executive branch anything like the flexibility it needs to manage prudently our existing foreign aid program. While geostrategists within the leadership of the majority party have propounded the stunning thesis that the United States should proffer direct aid to an economically unreconstructed Soviet Union, my sense is that the driving priority ought to be for the United

States to emphasize above all the need to preserve the gains for freedom in Eastern Europe. In this context, we have little choice but to place an emphasis on reducing old debt rather than raising false expectations that substantial new money commitments from the U.S. Government are in the offing.

Accordingly, I have introduced legislation—The Democracy Defense Initiative—which authorizes the President in a multilateral context to write-down on a case-by-case public sector debt in Eastern Europe.

Like the Brady approach to commercial debt relief, official debt reduction in Eastern Europe quintessentially reflects President Bush's "will without wallet" lament. It is not only the maximum that can be expected under the circumstances, but a statesmanlike philosophical accommodation that should help bring American power and commitments more into balance.

Attendant to such an approach are three perplexing issues: the obligations of the commercial banks; the attitude of Western European official creditors; and the problem of precedent.

Treasury is particularly concerned that the cart not come before the horse, that commercial banks not have their credit liabilities strengthened at official expense. Unlike the Brady initiative, it is unlikely, in part because official debt is so much larger than commercial in Eastern Europe, that the private sector will reduce its debt first. The strategy should thus be to induce commercial debt reduction in tandem with official. The U.S. Government may have to be the lead horse, the "neigh leader" pulling the commercial stagecoach, but all must budge together.

Western Europeans, who hold the brunt of current debt have natural misgivings, but despite these it is the obligation of an American Presidency to lead. Precedent exists with the Brady initiative, with the mutual decisions of the past several years to write-down sub-Saharan Africa debt, and with the London Accord of 1953, in which the allies agreed to reduce $2 billion of German debt in order to strengthen Democratic governance in Bonn.

Given the Marshall plan and post-war German debt restructuring, we have every right to speak to our allies with moral force. If the Europeans are discomforted, so be it. The fact is that just as the Brady plan changed the landscape of international finance with its very introduction, a personally stamped Bush initiative of this nature would so change the expectational framework in Eastern Europe that in one form or another Western European governments would be hard pressed not to accede. We can't prudently go it alone; we can insist on allied unity, not for our sake, but for the sake of stability on their continent.

From an American perspective, the theoretical problem of precedent is more troubling. We have approximately $613 billion in official debt outstanding, of which Eastern European governments hold less than $4 billion. The pressure to restructure this debt will presumably grow. My sense is that this is a valid concern, but the risk and cost is worth it.

Poland, for instance, is the bellwether of freedom, and in that courageous country where the decision has been made to rupture the economy from its Socialist moorings real industrial production and real income is down dramatically. The country's current account balance is weakening at the same time its debt, despite Paris Club rescheduling, is accelerating. While it might be argued that simply throwing dollars at certain Eastern European problems could defer change and allow unsustainable enterprise to limp along for a year or two more, the case for lifting the debt burden is overwhelming in Poland and would serve as an action model which bolsters enterprise, not welfare.

A footnote, but not insignificant, issue is the losses that will be entertained by the export financing arms of various governments. The fact taxpayers may have to pick up the costs of past government financed export sales to Eastern Europe might help lead to a little more restraint in the use of such financing, which would be in the interest of the United States, which employs such financing approaches less than our competitors, and in the interest of long-, although not short-, term fiscal sanity for all governments.

The second initiative, which the U.S. Congress has already made a down-payment toward, is to provide modest direct aid, preferably to advance private sector development rather than bolster social or debt service. A strength of the American economy is its investment banking infrastructure, but caution should be signaled in the sparseness of precedent in the government's qualification as a prescient picker of winners in credit allocation games. In addition, there is likely to be certain disgruntlement that may develop among the parties not chosen for government directed capital allocation. Nonetheless, in particular as long as current debt arrangements are in place, the case for searching out new entrepreneurs and breaking from the existing economic infrastructure is overwhelming.

As for the savings potential and hence prospects of prudent internal credit allocations within Eastern European societies, particularly Poland, the case for helping establish a healthy private sector banking community as well as cooperative agricultural and credit union infrastructures untied to and undirected by a central government is powerful. Modest Western support and, more importantly, technical assistance is crucial in these endeavors. Legislation I have authored in this area is part of existing statute, but unfortunately to date has not received as much administration attention as I believe is warranted. The fact is that it is more important to develop institutions Eastern European people have confidence in so that the estimated $4 billion currently in mattresses or their equivalent in Poland alone can be tapped for indigenous, self-directed economic development.

Third, the President should put the prestige of his office and Congress should exhort American business to invest in Eastern Europe. The President has properly urged and agreed to help orchestrate private sector volunteer efforts, but there is no substitute for real American entrepreneurial commitments. Investments in jobs as well as ideas are in order. On the volunteer side, the Peace Corps should be authorized and provided emergency resources to give priority to business school rather than English teachers in Eastern Europe. America's business schools should be asked to adopt an Eastern European institution for exchange purposes just as American legislators ought to develop one-on-one ties with East European parliamentarians.

Fourth, and perhaps most importantly, the United States ought to negotiate a free trade agreement with the countries of Eastern Europe and the Baltics, beginning with Poland. Politicians too frequently assume that a bettering of world relations is likely to stem primarily from government-to-government ties. Actually business men and women, unelected people of commerce, are bringing the world closer together than public officials and stand a better chance to defend the sanity of peace from the insanity of war than any president or commissioner.

The idea of Free Trade Agreements, which the United States has precedentially established in the Caribbean, with Canada, and Israel, makes particularly good sense in Eastern Europe and the Baltics.

For Eastern Europeans it provides assured market access to the United States and thus stands as a beckoning incentive for American as well as European and Japanese investment.

For America the establishment of a Free Trade Agreement would not only provide the region a greater chance for economic progress and thus political stability, which is profoundly in our strategic interest, but it could serve to undercut from the backside any exterior trade walls the Western Europeans might consider erecting with the movement toward greater

economic unification symbolized by 1992.

For the Baltic states a Free Trade Agreement would underpin political as well as economic independence and give incentive for Westerners to make Latvia, and Estonia not only models of a free future, but ports of entry and exit ala Hong Kong for commerce with the Soviet Union.

Accordingly, I will this week be introducing legislation calling on the administration to commence early negotiations with the individual countries of Eastern Europe and the Baltic region, as on a case-by-case basis they establish constitutional democracies, adopt free enterprise, and move forthcomingly to guarantee rights of minorities, whether they be political, social, or ethnic. Clearly, certain complex CoCom limitations will have to be maintained as will rules to assure products exported under free trade arrangements are primarily of Eastern European and Baltic origin, but the fundamental premise of free and fair trade with this region is simple. The more tied with the West these countries become, the greater our strength and economic well-being.

Fifth, despite budget problems at home and the contingent liabilities implicit in lending from international financial institutions, the United States should become a constructive partner in the proposed European Bank for Reconstruction and Development [EBRD]. At a time when substantial troop reductions are under serious consideration in the European theater, the United States should replace military leadership with economic. Now may be a time to reduce troops; it isn't time to reduce economic ties. America cannot turn its back on Europe, especially at this time of such wrenching—and hopeful—economic and political transition.

From a self-interested perspective, United States participation in the EBRD allows our voice to be heard on strategic issues, such as potential Soviet borrowing, and represents a decrease in funding liabilities—we will have a 10 percent stake—as contrasted with direct assistance or the price tag of our participation in most other international institutions.

Of interest as well, leadership of the EBRD springs from France and disproportionally, Western and southern Europe. The United States may be reluctant to see the establishment of a new international financial institution, but if we want cooperation in other areas of trade and finance—from GATT to commercial bank standards to the Brady plan to potential debt reduction in Eastern Europe—we have an obligation to work constructively with ideas that emerge from Paris as well as Washington.

Finally, a note about the Baltics. President Bush has little choice but to take a low key tract, but there should be no misunderstanding in Moscow about the coincidence of American values and Baltic aspirations. Increased Muscovite coercion in the Baltics will jeopardize progressive Soviet trade ties with the West. Export-Import Bank guarantees, Overseas Prive Investment Corporation insurance, Soviet loans from or membership in the International Monetary Fund and World Bank, United States commercial bank loans to the Soviet Union, relaxation of CoCom export controls, the granting of most-favored-nation trade status, the extension of tariff benefits under the Generalized System of Preferences—all become jeopardized.

The Baltic problem may be Moscow's most vexing and, given the critical nature of this juncture in arms control discussions, inconvenient for the United States. Nevertheless, it cannot be ignored; nor can Baltic freedom be sacrificed for the advancement of other Western interests. The West may be in the process of winning World War III without firing a shot in Eastern Europe, but a new kind of economic war—with isolation rather than engagement being its most formidable tactic—may erupt with the Soviet Union if freedom in the Baltics is squelched.

Given the tenuousness of the change taking place in Eastern Europe and the chanciness of independence in the Baltics, the West can neither afford division nor lack of commitment and resolve. With the exception of the two cataclysmic wars of this century, what is taking place in Europe today is of unrivaled significance since, and perhaps including, the French Revolution. History demands that Washington not lose sight of what really matters at this time. The consequences would be too grave.

## CONFERENCE REPORT ON H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-493)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4404) "making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, "having met, after full and free conference, have agreed to recommend and to recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 19, 34, 52, 66, 68, 72, 76, 77, 98, 102, 103, 108, 109, 112, 121, 122, 132, 133, 134, 135, 148, 166, 177, 179, and 180.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 10, 13, 21, 31, 50, 61, 86, 90, 91, 92, 94, 95, 105, 106, 110, 119, 120, 125, 128, 129, 139, 146, 149, 150, and 156, and agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert *Departments of Commerce and Justice, the Judiciary, and Related Agencies*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$80,800,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$39,500,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$3,000,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$62,000,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*Missile procurement, Army, 1990/1992, $50,700,000;*

*Procurement of weapons and tracked combat vehicles, Army, 1990/1992, $5,500,000;*

And the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$45,200,000*; And the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$51,000,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Aircraft procurement, Navy, 1988/1990, $30,000,000;

Weapons procurement, Navy, 1989/1991, $40,600,000;

Weapons procurement, Navy, 1990/1992, $17,201,000;

And the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Other procurement, Navy, 1990/1992, $2,000,000;

Procurement, Marine Corps, 1990/1992, $15,200,000;

And the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$27,000,000*; and the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$102,358,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$20,000,000*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

*, and $10,000,000 shall be used to provide assistance, through the National Endowment for Democracy and other groups, to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa, as follows:*

*(a) SUSPENSION OF VIOLENCE.—An organization which has engaged in armed struggle or other acts of violence shall be eligible for assistance under this section only if that organization is committed to a suspension of violence in the context of negotiations to establish a democratic system of government in South Africa.*

*(b) PROHIBITION ON USING FUNDS TO SUPPORT VIOLENCE.—In order to receive assistance under this section, an organization must agree that it will not use any of the funds made available to it under this section for the purpose of supporting physical violence by any individual, group, or government.*

And the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert *$10,000,000*; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$3,100,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 6, 8, 9, 11, 12, 14, 15, 16, 17, 18, 20, 22, 23, 24, 25, 29, 38, 39, 40, 41, 43, 45, 46, 47, 48, 49, 51, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 67, 69, 70, 71, 73, 74, 79, 81, 82, 83, 84, 85, 87, 88, 89, 93, 96, 97, 99, 100, 101, 104, 107, 111, 113, 114, 115, 117, 118, 123, 124, 126, 127, 130, 131, 136, 137, 138, 140, 141, 142, 143, 144, 145, 147, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 162, 163, 164, 165, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, and 178.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W. G. (BILL) HEFNER,
SILVIO O. CONTE
(except amendment No. 171),
VIRGINIA SMITH
(except amendment No. 171),
MICKEY EDWARDS
(except amendment No. 171),
BILL GREEN
(except amendments Nos. 24 and 171),
HAROLD ROGERS
(except amendment No. 171),

*Managers on the Part of the House.*

MARK O. HATFIELD,
TED STEVENS,
JAMES A. MCCLURE,
THAD COCHRAN,
ROBERT W. KASTEN,
ALFONSE M. D'AMATO,
WARREN B. RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, Jr.,
BOB KERREY,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4404) making supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

### INTRODUCTION

This conference report brings together H.R. 4404 as it passed the House as a supplemental which, under Senate rules, was increased by adding a number of items. H.R. 4828 was introduced in the House which included numerous items added by the Senate to H.R. 4404, many of which the House conferees support but which were left out of H.R. 4404, the original House bill.

H.R. 4828 included funds to meet needs identified after completion of House action on H.R. 4404 on April 3. These include the floods in Arkansas, Louisiana, Oklahoma, and Texas; poor responses to the Census; a greater need for food stamps; older American employment services; disease prevention mostly for measles; Head Start; school dropout prevention; additional veterans loan guarantees, additional veterans medical care; and emergency fire repairs for the Corps of Engineers headquarters building.

The conferees on H.R. 4404 agreed to consider these matters as well as the matters in conference on H.R. 4404.

The result is a bill on which the conferees, House and Senate, have agreed.

The agreement includes the following major activities:

| | |
|---|---|
| Disaster Assistance | $216,000,000 |
| Census | 110,000,000 |
| Economic Support Panama | 420,000,000 |
| Economic Support Nicaragua | 300,000,000 |
| Forest Firefighting Funds | 434,000,000 |
| Older American Community Service Employment | 10,000,000 |
| State Unemployment Service Operations | 100,000,000 |
| Disease Prevention (measles vaccine) | 30,000,000 |
| Low Income Home Energy Assistance | 50,000,000 |
| Head Start | 166,000,000 |
| School Drop-Out Prevention | 20,000,000 |
| Food Stamp Program | 1,200,000,000 |
| Veterans Pensions | 190,000,000 |
| Veterans Loan Guaranties | 245,000,000 |
| Veterans Medical Care | 94,000,000 |
| Low-Income Housing | 72,000,000 |

## TITLE I—DISASTER ASSISTANCE

## DEPARTMENT OF DEFENSE—CIVIL

## DEPARTMENT OF THE ARMY

### CORPS OF ENGINEERS—CIVIL

#### GENERAL EXPENSES

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*GENERAL EXPENSES*

*For additional expenses to meet the present emergency needs for "General expenses", $15,000,000, to remain available until expended.*

*OPERATION AND MAINTENANCE, GENERAL*

*For additional expenses to meet the present emergency needs for "Operation and maintenance, general", $40,000,000, to remain available until expended.*

And in Title I of the House engrossed bill, strike the matter included under the heading Federal Emergency Management Agency, Disaster Relief (page 2, lines 24 and 25, and page 3, lines 1 and 2), and insert the following:

*For additional expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $50,000,000, to remain available until expended, which, together with $350,000,000 uncommitted and unobligated identified by the Federal Emergency Management Agency to be presently available, will provide over $400,000,000 for relief and assistance.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $15,000,000 for "General expenses" of the Corps of Engineers to cover the costs incurred as the result of the fire that damaged their Corps' Washington headquarters. Funds are also provided, $40,000,000, for "Operations and maintenance, general" urgently needed to repair the damage to Government facilities caused by the recent severe flooding in the South and Southwest United States. These funding amounts were included in H.R. 4828 which was introduced in the House of Representatives.

The conferees are aware of the severe flooding currently being experienced in the Texas, Louisiana, and Oklahoma areas. For many of these areas this is the flood of record, exceeding flooding events experienced more than fifty years ago.

The conferees also understand that numerous Federal flood control facilities and projects have been damaged and are in need of repair or rehabilitation, which is expected to require several million dollars. The full extent of the damage and associated repair costs will not be fully known until flood waters recede.

The conference agreement contains a total of $60,000,000 in funding for Flood and Coastal Emergencies of the Corps of Engineers for flood emergency preparation, flood fighting and rescue operations, and for the repair of flood facilities; and for other emergency operation and maintenance needs of the Corps.

The conferees strongly urge the Corps to use existing emergency and other project authorities to repair or rehabilitation damaged flood control facilities, and where necessary, to use available resources to fund the work. The conferees expect that funds taken from other activities be returned at the earliest possible time.

Within any funds available to the Corps of Engineers, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct, operate, and maintain the Fulton Historical Center in the vicinity of the Lock C site at Fulton, Mississippi, in accordance with the plans that have been developed by the Corps of Engineers' Mobile District, under the terms and conditions for completion of recreation facilities on the Tennessee-Tombigbee Waterway provided for in Public Law 99-88.

The conference agreement includes language under the Federal Emergency Management Agency appropriating $50,000,000 for the disaster relief account, which, together with $350,000,000 in unobligated funds identified as presently available, will provide $400,000,000 for relief and assistance. This language was included in the House introduced bill (H.R. 4828). The House and Senate passed versions of H.R. 4404 only provided for the appropriation of new funds.

Recently, severe storms, tornadoes and flooding have devastated parts of Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, Tennesse, and Texas. At least 13 deaths have been related to the disasters. At least 100 counties have been declared disaster areas or are being surveyed in the affected states. Accordingly, the conferees direct that of the funds appropriated in this Act, and from funds previously appropriated to the Federal Emergency Management Agency for disaster relief programs, such funds as necessary shall be made available to disaster declared areas in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$70,000,000, of which $10,000,000 shall be available for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service: Provided, That the Soil Conservation Service and the Agricutural Stabilization and Conservation Service are expected to address the needs arising from more recent disasters and, to the greatest extent possible, to continue to address the remaining needs form Hurricane Hugo: Provided further, That such funds are*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $60,000,000 for the Emergency Watershed Protection Program of the Soil Conservation Service and $10,000,000 for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service. An additional $10,000,000 is made available elsewhere in the bill for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service, for a total of $20,000,000. H.R. 4828, introduced in the House of Representatives, contained a total of $60,000,000 for the Soil Conservation Service and $20,000,000 for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service. The amount included in the agreement reflects the latest available estimates to meet the needs arising from natural disasters.

The conference agreement further provides that the Soil Conservation Service and the Agricultural Stabilization and Conservation Service are expected to address the needs arising from more recent disasters and, to the greatest extent possible, to continue to address the remaining needs from Hurricane Hugo.

The Appropriations Act for fiscal year 1990 included funding to operate and fully staff the Newport, Arkansas regional office of the Arkansas ground water conservation study. The conferees expect this office and other Arkansas SCS programs to be fully maintained.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $11,000,000 for disaster payments to carry out section 201(k)(2) of the Agricultural Act of 1949 for 1990 crops damaged by a natural disaster in 1989. This provision was also included in the House introduced bill (H.R. 4828).

Amendment No. 4: Deletes language proposed by the Senate regarding 31 U.S.C. 1513.

The conferees understand that as a direct result of the unanticipated inclusion of sequestration in the fiscal year 1990 reconciliation legislation, many agencies are being required to make staff reductions and to close offices that were not contemplated during the orderly appropriations process. The conferees are including a government-wide provision that permits funds apportioned for the fourth quarter to be used in the third quarter, where necessary. This will give agencies a longer time to develop alternative saving proposals or to develop supplemental appropriations requests. It is important that essential services such as food inspection, air traffic safety, law enforcement efforts, and the like not be unnecessarily curtailed.

It is expected that this will be used only in those instances where, after all other responsible alternatives have been exhausted, an agency would be forced to furlough employees or to close offices temporarily. The conferees expect those utilizing this provision to be accountable.

TITLE II—SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENTS OF COMMERCE AND JUSTICE, THE JUDICIARY, AND RELATED AGENCIES

Amendment No. 5: Inserts the heading, "Departments of Commerce and Justice, the Judiciary, and Related Agencies" as specified in the House introduced bill (H.R. 4828) instead of "Department of Justice and the Judiciary" as proposed by the House in the original Dire Emergency Supplemental and "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies" as proposed by the Senate as an amendment to that bill.

DEPARTMENT OF COMMERCE

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*DEPARTMENT OF COMMERCE*

*ECONOMIC DEVELOPMENT ADMINISTRATION*

*ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS*

*For an additional amount for "Economic Development Assistance Programs",*

*$424,000 for planning assistance for Economic Development Districts authorized by section 301(b) of the Public Works and Economic Development Act of 1965, as amended, which shall be obligated only for grants to maintain the level of assistance in effect on September 30, 1989, for each development district.*

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

*The limitation on the use of prior year funds for the Trade Adjustment Assistance Program, enacted under this head in Public Law 101-162, is repealed and funds appropriated for this program for fiscal year 1990 and prior years are available for obligation.*

*For an additional amount for "Operations and Administration", $1,445,000 which shall be obligated only for the Trade Adjustment Assistance Program for grants to recipient organizations.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the heading "Department of Commerce" that was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental. The conference agreement also includes a supplemental appropriation of $424,000 for the Economic Development Administration to maintain the level of planning grant assistance that was in effect for each economic development district as of September 30, 1989. This amount was included in the House introduced bill (H.R. 4838). The conference agreement also includes a language provision for the International Trade Administration repealing a limitation contained in the Fiscal Year 1990 Appropriations Act (P.L. 101-162) on the use of funds for the Trade Adjustment Assistance Program, and a supplemental appropriation of $1,445,000 for the Trade Adjustment Assistance Program. These provisions were also included in the House introduced bill (H.R. 4828). These provisions in the conference agreement, together with funds already available for fiscal year 1990, will provide a total of $14,517,000 and will ensure that all Trade Adjustment Assistance Centers will be able to remain open and maintain all planned commitments and services to clients for the current fiscal year.

BUREAU OF THE CENSUS

Amendment No. 7: Inserts a heading as proposed by the Senate. This heading was also included in the House introduced bill (H.R. 4828).

PERIODIC CENSUSES AND PROGRAMS

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

The conference agreement appropriates $110,000,000 to the Bureau for additional costs for the decennial census due to lower-than-expected response and employee productivity rates. This amount was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental. The conferees expect the Bureau of the Census to first use funds already appropriated before obligating any of the funds made available by this supplemental appropriations bill.

ADMINISTRATIVE PROVISION

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATIVE PROVISION

*Services performed after April 20, 1990 by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that services performed after April 20, 1990 by temporary employees of the Bureau of the Census for purposes relating to the 1990 decennial census shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code. This provision was included in the House introduced bill (H.R. 4828). The Senate amendment to the original Dire Emergency Supplemental contained language providing that services performed by temporary employees of the Bureau of the Census for purposes relating to the 1990 decennial census (as determined under regulations prescribed by the Secretary of Commerce) shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Amendment No. 10: Inserts a heading as proposed by the Senate. This heading was also included in the House introduced bill (H.R. 4828).

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

OPERATIONS, RESEARCH, AND FACILITIES

*For an additional amount for "Operations, research, and facilities", $8,762,000, to remain available until expended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment would have provided a supplemental appropriation of $15,482,000 for the Operations, Research, and Facilities account. The House bill contained no similar provision.

The conference agreement provides $8,762,000 in supplemental funds for the Operations, Research, and Facilities account. Of the total supplemental appropriation, $6,500,000 is provided for damage assessment analyses of the *Exxon Valdez* oil spill. This amount, together with $1,500,000 already appropriated, will provide a total of $8,000,000 for fiscal year 1990 for this activity. The remaining $2,262,000 in this supplemental appropriation, together with $4,600,000 in NEXRAD contract savings and $620,000 already appropriated and obligated for a ground satellite station and computer, will provide the resources to the National Weather Service to begin monitoring volcanic eruptions from Mount Redoubt in Alaska.

ADMINISTRATIVE PROVISION

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

ADMINISTRATIVE PROVISION

*Notwithstanding any other provision of law, a procurement for the Stuttgart, Arkansas, Fish Farming Experimental Laboratory shall be issued by the Administrator of the National Oceanic and Atmospheric Administrator or the Director of the United States Fish and Wildlife Service which includes the full scope of the work described in Department of the Interior Task Order No. 89-025, Contract No. 14-16-0009-86-007: Provided, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18; and also $6,000,000 is hereby appropriated to the United States Fish and Wildlife Service to procure a wildlife refuge site at no more than appraised market value and without the use of condemnation procedures at a location in Jasper and Marion Counties, Iowa, identified in a location map on file with the United States Fish and Wildlife Service and entitled "Walnut Creek National Wildlife Refuge".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes an administrative provision that was included in the House introduced bill (H.R. 4828), and as a Senate amendment to the original Dire Emergency Supplemental, which permits certain construction at the Stuttgart, Arkansas, Fish Farming Laboratory to begin in fiscal year 1990, notwithstanding the availability of funds. The conference agreement also includes a new provision not in either the House or Senate bills appropriating $6,000,000 to the Fish and Wildlife Service for procurement of a site for a wildlife refuge in central Iowa.

An unusual and unexpected opportunity has arisen to acquire a site for a wildlife refuge and outdoor laboratory on a tributary of the Des Moines River in central Iowa. Iowa is one of only two states which has no national park. In addition, virtually all of the land in Iowa has been homesteaded, cleared, and cultivated since the middle of the nineteenth century. A block of land is now available which is located completely within one watershed and if returned to its indigenous state would offer an unusual opportunity for interpretive programs, wetlands, a habitat for some 300 species of indigenous and migratory birds, the regrowth of many acres of now scarce species of trees, buffalo and elk which were indigenous to the area, and the largest native prairie grass fields in Iowa. It is estimated by the U.S. Fish and Wildlife Service that the area, properly managed, could also produce 3,000 ducks annually and support peak fall migrations of 30,000 ducks and 5,000 geese. It is adjacent to an area which is a stopover by thousands of woodstorks and white pelicans.

The proposal for such a refuge has been recommended by the Des Moines River Greenbelt Advisory Committee consisting of representatives of nine counties and several cities in the Des Moines River Greenbelt area and representatives of state government. It has also been approved by the Iowa Department of Natural Resources and numerous local officials.

A power company acquired most of the site for construction of a generating station and cooling facilities. It was obtained by voluntary purchase from numerous landowners, but the power company has recently abandoned these construction plans. But for this unexpected and unusual opportunity, such a uniquely suitable site would not be

available. Over one million people, including tens of thousands of school children, would be within easy driving distance and could use the area as an outdoor study area. The site should be acquired while it is still available.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

Amendment No. 13: Inserts a heading as proposed by the Senate. This heading was also included in the House introduced bill (H.R. 4828).

SALARIES AND EXPENSES, ANTITRUST DIVISION

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SALARIES AND EXPENSES, ANTITRUST DIVISION*

*(TRANSFER OF FUNDS)*

*For an additional amount for "Salaries and expenses, Antitrust Division", $2,500,000 to be derived by transfer from "Salaries and expenses, Federal Prison System".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $2,500,000 to be derived by transfer from surplus amounts in the Salaries and Expenses appropriation of the Federal Prison System. This provision was included in the House introduced bill (H.R. 4828). The Senate amendment to the original Dire Emergency Supplemental provided new budget authority of $2,500,000.

The conferees agree that these additional funds, needed to cover anticipated shortfalls in the collection of fees under the Hart-Scott-Rodino Act, are sufficient to allow the Antitrust Division to maintain its current level of operations for the remainder of fiscal year 1990.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

(TRANSFER OF FUNDS)

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which proposed an additional $7,400,000 for U.S. Marshals Service activities to be derived by transfer from surplus amounts in the Federal Prison System, Salaries and Expenses appropriation. This provision was also included in the House introduced bill (H.R. 4828). The conference agreement provides funds needed to handle unanticipated Marshals Service costs resulting from heightened security associated with the bombings in the Eleventh Judicial Circuit, an increased number of drug cases, and the trial of Manuel Noriega.

FEES AND EXPENSES OF WITNESSES

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which proposed an increase of $2,600,000 to the Fees and Expenses of Witnesses account. This provision was also included in the House introduced bill (H.R. 4828). The conference agreement will allow for the continuation of the services of the Witness Security Program, which is currently underfunded due to the sudden increase in drug cartel investigations.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*FEDERAL BUREAU OF INVESTIGATION*

*SALARIES AND EXPENSES*

*For an additional amount for "Salaries and expenses", $185,000,000, to remain available until expended, to defray expenses for the automation of fingerprint identification services including planning, site acquisition, construction, and other associated costs: Provided, That none of the funds included herein shall be available for automated system procurement prior to submission of an implementation plan thereon, pursuant to the notification procedures prescribed under Section 606 of Public Law 101-162, and a site shall not be selected or procured prior to notification of the appropriate Committees of the House of Representatives and the Senate.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment proposed an appropriation of $185,000,000 to allow the FBI to relocate and fully automate its Identification Division. The House bill contained no similar provision.

The conferees agree that modernization of the FBI's Identification Division (ID) is vitally needed. The ID provides fingerprint identification services on a nationwide basis to the criminal justice community. Currently several problems exist which threaten State and local law enforcement's heavy dependence on the ID. First, the ID has an extensive backlog of over 700,000 fingerprint cards and 2,000,000 criminal dispositions that are unfiled and unavailable. This backlog can be directly attributed to the instability of a workforce which experiences turnover rates that range from 15-30 percent annually. This high turnover results from the ID's inability to retain a predominantly low-graded, clerical workforce in a high cost of living area. Secondly, advances in technology have made the current ID system obsolete and unable to meet the demands of Federal, State and local law enforcement. Many States have far outdistanced the FBI in developing new automated fingerprint identification systems; however, these States are not automating in a consistent manner.

The conferees believe that the combination of the processing backlogs created by personnel shortages and the obsolescence of the current ID system will ultimately result in the collapse of this critical component of the criminal justice system. The conferees believe that the FBI should begin the planning and development of this modernized ID in fiscal year 1990 and the conference agreement provides $185,000,000 for this purpose. However, the conferees agree that the final decision on implementation of any FBI automation proposal depends upon the selection of an adequate automated system and must be made in consultation with the Congress. The conference agreement includes bill language which precludes the use of these funds for procurement of an automated system until after the notification procedures of the Committees on Appropriations of the House and Senate have been complied with. A final site has not been selected, and the conferees expect that, prior to any procurement of a site, justifications will be presented to the Congress, including a list of sites considered and the reasons used in determining the preferred site. The conferees also agree, regardless of the location of the proposed site, that current ID employees should be guaranteed employment either at the new site or with other FBI organizations in the greater metropolitan Washington D.C. area.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*FEDERAL PRISON SYSTEM*

*BUILDINGS AND FACILITIES*

*The language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1000-1001), is amended by adding the following after the period, "Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides authority for the Department of Justice to utilize funds transferred from the Assets Forefiture Fund to the Federal Prison System for construction of additional prison space to also be available for construction of U.S. Marshals Service detention facilities for unsentenced prisoners, for INS criminal alien detention facilities, and for Marshals Service facilities constructed under the Cooperative Agreement Program (CAP). This provision was also included in the House introduced bill (H.R. 4828). The Senate amendment to the original Dire Emergency Supplemental included the authority to construct, renovate and repair INS and Marshalls Service facilities.

The conference agreement will allow the Federal Prison System to reduce its current overcrowding by transferring unsentenced or illegal alien prisoners to new or expanded detention facilities, which can be opened faster than new prisons. The conference language provides the Marshals Service the ability to begin the renovation of its existing holding cells which are, for the most part, outdated and fail to meet Federal standards. Further, the agreement will allow the INS to use approximately $10,000,000 of the Assets Forefeiture Fund transfer to expand the capacity of five existing detention facilities by a total of 575 beds. Lastly, the conference agreement will allow the Marshals Service to use approximately $20,000,000 from the Fund to acquire over 1,000 additional bedspaces under the CAP program. In every instance, these projects are ready to be acted on, but lack the necessary funding. The conference language will make such funding available now.

The conferees expect that, for projects constructed under this new authority, the Department will work closely with State and local officials to assure community discussion, consideration and input on these projects. In addition, it is expected that all appropriate action will be taken to give interested parties adequate opportunity to voice concerns with any project, so that these concerns may be reflected in final planning.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SECRETARY'S SPECIAL LITHUANIA INDEPENDENCE AND RECOGNITION FUND

Amendment No. 19: Deletes the Senate amendment which would have appropriated $10,000,000 for certain expenses of establishing a United States Embassy in Lithuania as soon as possible in the event that the United States formally recognizes the independent government of the Republic of Lithuania. The House bill contained no provisions on this matter.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$25,503,000, and in addition, $4,500,000 to be derived by transfer from "Defender Services"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides new budget authority of $25,503,000 and authority to transfer $4,500,000 from surplus amounts in the Defender Services appropriation for a total of $30,003,000. This provision was included in the House introduced bill (H.R. 4828). The Senate amendment to the original Dire Emergency Supplemental provided new budget authority of $23,003,000.

The conference agreement provides: $5,253,000 for the mandatory costs associated with the 1990 pay raise for Federal judges, $22,750,000 to offset shortfalls in fee collections, and $2,000,000 to cover a shortfall in the Drug Dependent Offenders Program.

RELATED AGENCIES

Amendment No. 21: Inserts a heading as proposed by the Senate. This heading was also included in the House introduced bill (H.R. 4828).

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*DEPARTMENT OF TRANSPORTATION*

*MARITIME ADMINISTRATION*

*FEDERAL SHIP FINANCING FUND*

*For the "Federal Ship Financing Fund", $750,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, these funds shall be available to the Federal Maritime Administrator of the Department of Transportation only to acquire an appropriate vessel for transfer to the Government of the Territory of American Samoa to be used by that Government for inter-island transportation of cargo and passengers, and for repairs and maintenance necessary to provide for the United States Coast Guard's certification of such vessel: Provided further, That the Department of Defense shall transport such vessel to American Samoa without reimbursement and any appropriations available to the Department of Defense shall be available for this purpose.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides an appropriation of $750,000 to the Federal Ship Financing Fund to acquire an appropriate vessel for transfer to the Government of American Samoa to be used for inter-island transportation and for repairs and maintenance necessary to provide for U.S. Coast Guard certification of the vessel. The conference agreement also includes language requiring the Department of Defense to transport such vessel to American Samoa without reimbursement and makes appropriations to the Department of Defense available for this purpose. The Senate amendment to the original Dire Emergency Supplemental contained an administrative provision for the Maritime Administration which would have required the transfer of a certain vessel to the Government of American Samoa without reimbursement and would have required the Department of Defense to pay the cost of transporting the vessel to American Samoa without reimbursement. The House introduced bill (H.R. 4828) contained a $750,000 appropriation to the Federal Ship Financing Fund, subject to the enactment of an authorization, for the transfer of a certain ship to the Government of American Samoa and for the cost of refurbishing such vessel.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment appropriating $2,500,000 for the Federal Trade Commission. This amount was also included in the House introduced bill (H.R. 4828).

The conferees have received reports that the Commission's staff has develped a proposed policy that would limit the free transfer of soft drink franchises from one local bottler to another. The effective distribution of soft drinks in any given area depends critically on local bottling operations. As Congress recognized in enacting the Soft Drink Interbrand Competition Act of 1980, promoting competition among soft drink concentrate manufacturers should be of primary concern to policymakers in this industry. The conferees expect that the Commission will review its soft drink franchise transfer policies carefully, to ensure that those policies take account of the goals of Congress in enacting the 1980 Soft Drink Act.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

The Defense conference agreement on Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending, 1990, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 101-434 and Senate Report 101-272 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*PROCUREMENT*

*PROCUREMENT OF AMMUNITION, ARMY*

*(INCLUDING RESCISSION)*

*For an additional amount for "Procurement of Ammunition, Army", $238,000,000, to be used only for the construction of the RDX production facility at the Louisiana Army Ammunition Plant to remain available for obligation until September 30, 1992: Provided, That of the funds appropriated under this heading in the Department of Defense Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-51), $238,000,000 are rescinded.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ICEBREAKER

The House and Senate Committees on Appropriations have approved a transfer of funds within the Department of Defense to address funding shortfalls for CHAMPUS and Military Personnel. $50,000,000 of the funds transferred are from the fiscal year 1990 appropriations for one icebreaker. The conferees believe these funds are available based on the acquisition plan for the first vessel.

The conferees understand that the remaining $274,000,000 of the $329,000,000 appropriated for fiscal year 1990 fully funds construction of the first icebreaker.

The conferees direct that the Navy and Coast Guard proceed to acquire the first icebreaker with these funds.

The conferees recognize that additional funding may be required for specific outfitting and defense related features, and expect the Coast Guard and the Navy to report such additional requirements and estimates to the Congress not later than August 15, 1990.

The conferees believe that the icebreaker construction program remains a top priority for both the Navy and the U.S. Coast Guard, and expect the Navy and the Coast Guard to expeditiously proceed to acquire the first new icebreaker.

MILITARY CONSTRUCTION

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment, insert: *$7,000,000*

In lieu of the second sum named in said amendment, insert: *$3,000,000*

The managers on the part of the Senate will move to concur in the Amendment of the House to the amendment of the Senate.

The conference agreement appropriates $7,000,000 for Military Construction, Army National Guard instead of $9,000,000 as proposed by the Senate. This conference agree-

ment amount was included in the House introduced bill (H.R. 4828). The conference agreement also appropriates $3,000,000 for Military Construction, Army Reserve instead of $9,000,000 as proposed by the Senate. This conference agreement amount was also included in the House introduced bill (H.R. 4828).

The conferees expect the Department to utilize such funds for reprogrammings to finance project cost deficiencies.

GENERAL PROVISIONS

(RESCISSIONS)

Both the House and Senate bill rescinded certain Department of Defense prior year unobligated balances to offset new obligational authority for other programs funded in the bill. The total rescinded in the House bill was $1,796,792,000; the total rescinded in the Senate bill was $1,540,974,000. The conference agreement rescinds $2,028,461,000. The programmatic detail of the conference agreement on rescissions is shown in the table below:

| | |
|---|---|
| Military Personnel, Air Force: | |
| Permanent Change of Station Travel | 100,984,000 |
| Other Military Personnel Costs | 3,500,000 |
| Total | 104,484,000 |
| Operation and Maintenance, Army: | |
| DOD Directed Management Savings | 35,800,000 |
| Overseas Repair | 27,000,000 |
| Flying Hours | 18,000,000 |
| Total | 80,800,000 |
| Operation and Maintenance, Navy: | |
| DOD Directed Management Savings | 28,500,000 |
| IOWA Turret Repair | 11,000,000 |
| Total | 39,500,000 |
| Operation and Maintenance, Marine Corps: | |
| DOD Directed Management Savings | 3,000,000 |
| Operation and Maintenance, Air Force: | |
| DOD Directed Management Savings | 20,000,000 |
| SR-71 | 140,000,000 |
| Fuel Inventory | 200,000,000 |
| Overseas Repair | 20,000,000 |
| Total | 380,000,000 |
| Operation and Maintenance, Defense Agencies: | |
| DOD Directed Management Savings | 17,000,000 |
| CINC Initiatives | 45,000,000 |
| Total | 62,000,000 |
| Operation and Maintenance, Army Reserve: | |
| DOD Directed Management Savings | 896,000 |
| Operation and Maintenance, Navy Reserve: | |
| DOD Directed Management Savings | 209,000 |
| Operation and Maintenance, Air Force Reserve: DOD Directed Management Savings | 1,190,000 |
| Operation and Maintenance, Army National Guard: DOD Directed Management Savings | 2,125,000 |
| Operation and Maintenance, Air National Guard: DOD Directed Management Savings | 2,199,000 |
| Aircraft Procurement, Army, 1990-92: OV-1D Modifications | 16,000,000 |
| Missile Procurement, Army, 1990-92: Spares and Repair Parts | 50,700,000 |
| Procurement of Weapons and Tracked Combat Vehicles, Army, 1990-92: BFVS Modifications | 5,500,000 |
| Procurement of Ammunition, Army, 1990-92: | |
| M483 155mm Ammunition | 45,000,000 |
| Spares and Repair Parts | 200,000 |
| Total | 45,200,000 |
| Other Procurement, Army, 1988-90: Reserve Component Automation System | 23,000,000 |
| Other Procurement, Army, 1989-91: Reserve Component Automation System | 30,000,000 |
| Other Procurement, Army, 1990-92: | |
| Echelon Above Corps Communications | 11,000,000 |
| Spares and Repair Parts (BA 1) | 1,700,000 |
| Spares and Repair Parts (BA 2) | 37,300,000 |
| Simnet/Close Combat Tactical Trainer | 1,000,000 |
| Total | 51,000,000 |
| Aircraft Procurement, Navy, 1988-90: Spares and Repair Parts | 30,000,000 |
| Weapons Procurement, Navy, 1989-91: Tacit Rainbow | 40,600,000 |
| Weapons Procurement, Navy, 1990-92: | |
| AMRAAM (MYP) | 6,000,000 |
| Small Arms and Weapons | 5,700,000 |
| CIW Mods | 5,501,000 |
| Total | 17,201,000 |
| Other Procurement, Navy, 1988-90: AN/BLD-1 Interferometer | 16,500,000 |
| Other Procurement, Navy, 1990-92: Installation of Mod Equipment | 2,000,000 |
| Total | 2,000,000 |
| Procurement, Marine Corps, 1990-92: PLRS | 15,200,000 |
| Aircraft Procurement, Air Force, 1990-92: | |
| F-4G Wild Weasel | 30,700,000 |
| MC-130H-SOF | 1,093,000 |
| AC-130 Gunship-SOF | 1,521,000 |
| C-27A | 473,000 |
| Tanker, Transport, Trainer System | 938,000 |
| MH-60G | 1,297,000 |
| F/RF-4 | 12,300,000 |
| C-130 | 1,700,000 |
| C-135 (MYP) | 1,000,000 |
| OV-10 | 2,000,000 |
| Spares and Repair Parts | 5,300,000 |
| Industrial Responsiveness | 704,000 |
| Other Production Charges | 5,838,000 |
| Total | 64,864,000 |
| Missile Procurement, Air Force, 1988-90: Classified | 34,900,000 |
| Missile Procurement, Air Force, 1989-91: Sidewinder Modifications | 25,000,000 |
| Missile Procurement, Air Force, 1990-92: | |
| Peacekeeper (M-X) | 11,140,000 |
| Missile Replacement Equip-Ballistic | 5,000,000 |
| Adv Cruise Missile | 132,000 |
| SRAM-II | 69,000 |
| Spares and Repair Parts | 6,900,000 |
| Defense Satellite Comm System (MYP) | 901,000 |
| Classified Programs | 30,000,000 |
| Inflation Savings | 16,000,000 |
| Total | 70,142,000 |
| Other Procurement, Air Force, 1989-90: MARV | 17,900,000 |
| Other Procurement, Air Force, 1990-92: Special Update Program | 45,805,000 |
| Research, Development, Test and Evaluation, Defense Agencies, 1989-90: DOT&E Imp. Programs | 25,000,000 |
| Research, Development, Test and Evaluation, Defense Agencies, 1990-91: | |
| EEMIT | 10,000,000 |
| DNA | 10,000,000 |
| WWMCCS | 10,000,000 |
| Advanced Submarine Technology | 10,000,000 |
| Non Acoustic ASW | 10,000,000 |
| OSD Support | 5,000,000 |
| Air Defense Initiative | 15,000,000 |
| Total | 70,000,000 |
| Research, Development, Test and Evaluation, Army, 1989-90: | |
| R&D on NDI Items | 10,000,000 |
| Logistics Technology | 3,000,000 |
| Aircraft Modification/ Product Improvement | 5,000,000 |
| Total | 18,000,000 |
| Research, Development, Test and Evaluation, Army, 1990-91: | |
| Armored Systems Modernization | 26,000,000 |
| Landmine Warfare | 5,000,000 |
| Combat Feeding, Clothing, Equipment | 4,000,000 |
| Chemical Biological Defense Equipment | 7,000,000 |
| Exploitation of Foreign Items | 3,000,000 |
| SADARM | 10,000,000 |
| Screening/Smoke Material | 5,000,000 |

| | |
|---|---|
| Aviation—Adv. Development | 4,000,000 |
| Total | 64,000,000 |
| Research, Development, Test and Evaluation, Navy, 1989-90: V-22 ASW Variant | 5,000,000 |
| Research, Development, Test and Evaluation, Navy, 1990-91: | |
| Tacit Rainbow | 2,000,000 |
| Counter Communications | 2,000,000 |
| Link 11 Improvements | 2,000,000 |
| AAAM | 4,000,000 |
| Ship Development | 3,000,000 |
| P3 Modernization | 5,000,000 |
| NATO Frigate Replacement | 9,000,000 |
| Total | 27,000,000 |
| Research, Development, Test and Evaluation, Air Force, 1989-90: | |
| Seek Spinner, total | 19,900,000 |
| B-1B Cruise Missile | 50,000,000 |
| Hypervelocity Missile | 2,000,000 |
| WWMCCS | 2,000,000 |
| Force Enhancement | 4,000,000 |
| Total | 77,900,000 |
| Research, Development, Test and Evaluation, Air Force, 1990-91: | |
| In-House Lab Independent Research | 60,000 |
| Defense Research Sciences | 1,394,000 |
| Geophysics | 120,000 |
| Materials | 305,000 |
| Aerospace Flight Dynamics | 242,000 |
| Human Systems Technology | 170,000 |
| Aerospace Propulsion | 339,000 |
| Aerospace Avionics | 248,000 |
| Personnel Training and Simulation | 141,000 |
| Civil Engineering | 47,000 |
| Rocket Propulsion | 191,000 |
| Advanced Weapons | 125,000 |
| Conventional Munitions | 234,000 |
| Command/Control/Communications | 347,000 |
| Logistics Systems Technology | 75,000 |
| Advanced Materials for Weapons Systems | 71,000 |
| Aerospace Propulsion Subsystem Integration | 169,000 |
| Advanced Avionics for Aerospace Vehicles | 202,000 |
| Aerospace Vehicle Technology | 150,000 |
| Aerospace Structures | 141,000 |
| Aerospace Propulsion and Power Technology | 262,000 |
| Personnel Training and Simulation Technology | 61,000 |
| Advanced Fighter Technology Integration | 178,000 |
| Advanced Avionics Integration | 115,000 |
| Space and Missile Rocket Propulsion | 91,000 |
| Hypervelocity Missile | 16,000 |
| Advanced Spacecraft Technology | 147,000 |
| Space Systems Environmental Interactions | 31,000 |
| Conventional Weapons | 200,000 |
| Advanced Weapons Technology | 647,000 |
| Weather Systems—Advanced Development | 57,000 |
| Civil/Environmental Engineering Technology | 72,000 |
| C3I Subsystem Integration | 62,000 |
| Advanced Computer Technology | 63,000 |
| C3I Technology Development | 70,000 |
| Advanced Special Operations Research | 15,000 |
| Relocatable Target Capability Program | 41,000 |
| SRAM II—Engineering Development | 1,381,000 |
| Systems Survivability | 49,000 |
| KC-135 Squadrons | 14,000 |
| Joint Surveillance System | 12,000 |
| Surveillance Radar Stations/Sites | 86,000 |
| Over-the-Horizon Radar | 184,000 |
| SPACETRACK | 121,000 |
| Defense Support Program | 1,229,000 |
| Minimum Essential Emergency Network | 122,000 |
| Intelligence Advanced Development | 43,000 |
| Command, Control and Communication Applications | 50,000 |
| Aircraft Equipment Development | 10,000 |
| Nuclear Weapons Support | 14,000 |
| Tanker Transport Training System | 23,000 |
| SRAM-T | 350,000 |
| Aeromedical Systems Development | 47,000 |
| Computer Resources Management Technology | 74,000 |
| Overseas Air Weapons Control Systems | 13,000 |
| Tactical Air Control Systems | 110,000 |
| Airborne Warning and Control Systems | 232,000 |
| JT Tactical Command (TRI-TAC) | 22,000 |
| MAC Command/Control Systems | 70,000 |
| Force Enhancements | 246,000 |
| Long-Haul Communications | 20,000 |
| NAVSTAR GPS (User Equipment) | 384,000 |
| NAVSTAR GPS (Space) | 447,000 |
| Space Test Program | 665,000 |
| Satellite System Survivability | 95,000 |
| Manpower Personnel and Training Development | 35,000 |
| Advanced Launch System | 1,330,000 |
| Weather Systems—Eng. Develop | 46,000 |
| Ranch Hand II Epidemiology Study | 10,000 |
| Adv. System Engineering/Plan | 55,000 |
| Consolidated Space Ops Center | 95,000 |
| Space Shuttle Ops | 1,575,000 |
| Classified Project | 30,000,000 |
| F-16 | 10,000,000 |
| F-111 | 500,000 |
| HAVE SYNC | 2,400,000 |
| Range Improvements | 3,000,000 |
| F-15 | 3,000,000 |
| Advanced Launch System | 4,000,000 |
| AWACS | 3,500,000 |
| COMSEC | 500,000 |
| Flight Simulator Development | 1,500,000 |
| Seek Eagle | 300,000 |
| A-10 | 2,000,000 |
| AMRAAM | 4,000,000 |
| ASMS | 4,000,000 |
| Cheyenne Mountain | 10,000,000 |
| AWACS | 2,000,000 |
| Hypervelocity Missile | 1,000,000 |
| Surface Defense Suppression | 4,500,000 |
| Total | 102,358,000 |
| Navy Stock Fund | 15,000,000 |
| Air Force Stock Fund | 15,000,000 |
| Defense Stock Fund | 78,100,000 |
| Total | 108,100,000 |
| Subtotal, Department of Defense | 1,775,273,000 |
| Subtotal, Military Construction | 253,188,000 |
| Total rescissions, Department of Defense | 2,028,461,000 |

Amendment No. 26: Rescinds $80,800,000 from Operation and Maintenace, Army, instead of $23,305,000 as proposed by the House and $143,308,000 as proposed by the Senate.

Amendment No. 27: Rescinds $39,500,000 from Operation and Maintenance, Navy, instead of $38,834,000 as proposed by the House and $166,093,000 as proposed by the Senate.

Amendment No. 28: Rescinds $3,000,000 from Operations and Maintenance, Marine Corps, instead of $1,582,000 as proposed by the House and $21,236,000 as proposed by the Senate.

Amendment No. 29. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$380,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 30: Rescinds $62,000,000 from Operation and Maintenance, Defense Agencies, instead of $7,132,000 as proposed by the House and $62,056,000 as proposed by the Senate.

Amendment No. 31: Rescinds $16,000,000 from Aircraft Procurement, Army, 1990/1992, as proposed by the Senate instead of $28,600,000 as proposed by the House.

Amendment No. 32: Rescinds $50,700,000 from Missile Procurement, Army, 1990/1992, as proposed by the House instead of no rescission as proposed by the Senate.

Rescinds $5,500,000 from Procurement of Weapons and Tracked Combat Vehicles, Army, 1990/1992, instead of $69,400,000 as proposed by the House and no rescission as proposed by the Senate.

Rescinds no funds from Procurement of Ammunition, Army, 1988/1990, as proposed by the Senate instead of $238,000,000 as proposed by the House.

Amendment No. 33: Rescinds $45,200,000 from Procurement of Ammunition, Army,

1990/1992, instead of $200,000 as proposed by the House and $60,000,000 as proposed by the Senate.

Amendment No. 34: Rescinds $23,000,000 from Other Procurement, Army, 1988/1990, as proposed by the House instead of no rescission as proposed by the Senate.

Rescinds $30,000,000 from Other Procurement, Army, 1989/1991, as proposed by the House instead of no rescission as proposed by the Senate.

Amendment No. 35: Rescinds $51,000,000 from Other Procurement, Army, 1990/1992, instead of $68,100,000 as proposed by the House and $11,000,000 as proposed by the Senate.

Amendment No. 36: Rescinds $30,000,000 from Aircraft Procurement, Navy, 1988/1990, as proposed by the House instead of no rescission as proposed by the Senate.

Rescinds no funds from Aircraft Procurement, Navy, 1990/1992, as proposed by the Senate instead of $83,000,000 as proposed by the House.

Rescinds $40,600,000 from Weapons Procurement, Navy, 1989/1991, as proposed by the House instead of no rescission as proposed by the Senate.

Rescinds $17,201,000 from Weapons Procurement, Navy, 1990/1992, instead of $21,701,000 as proposed by the House and no rescission as proposed by the Senate.

Amendment No. 37: Rescinds $2,000,000 from Other Procurement, Navy, 1990/1992, instead of $22,378,000 as proposed by the House and no rescission as proposed by the Senate.

Rescinds $15,200,000 from Procurement, Marine Corps, 1990/1992, as proposed by the House instead of no rescission as proposed by the Senate.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$64,864,000;*

*Missile Procurement, Air Force, 1988/1990, $34,900,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$70,142,000;*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*Research, Development, Test and Evaluation, Army, 1989/1990, $18,000,000;*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$64,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 42: Rescinds $27,000,000 from Research, Development, Test and Evaluation, Navy, 1990/1991, instead of $29,598,000 as proposed by the House and $9,000,000 as proposed by the Senate.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$77,900,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 44: Rescinds $102,358,000 from Research, Development, Test and Evaluation, Air Force 1990/1991, instead of $237,542,000 as proposed by the House and $16,158,000 as proposed by the Senate.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$25,000,000;*

*Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $70,000,000;*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*Navy Stock Fund, $15,000,000;*

*Air Force Stock Fund, $15,000,000;*

*Defense Stock Fund, $78,100,000;*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*$36,523,000; Family Housing, Air Force, 1986/1990,*

*$25,200,000; Military Construction, Army, 1986/1990,*

*$2,850,000; Military Construction, Army, 1987/1991,*

*$4,295,000; Military Construction, Army, 1988/1992,*

*$10,470,000; Military Construction, Army, 1989/1993,*

*$29,931,000; Military Construction, Army, 1990/1994,*

*$27,700,000; Family Housing, Army, 1990/1994, $6,335,000,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement rescinds a total of $143,303,000 instead of $17,800,000 as proposed by the House and $36,522,000 as proposed by the Senate. The conference agreements includes a rescission of $27,800,000 as specified in the House introduced bill (H.R. 4828).

The conferees agree that recissions totaling $143,303,000 from fiscal years 1986 through 1990 shall be derived from the following projects:

| | |
|---|---|
| Family Housing, Air Force 1990-94: | |
| Germany-Ramstein AB: Family Housing (200 units) | −$18,722,000 |
| Projects outside the United States, Family Housing Construction Improvements. | −17,800,000 |
| Family Housing, Air Force 1986-90: | |
| Germany-Ramstein AB: Family Housing (400 units) | −25,200,000 |
| Military Construction, Army 1986-90: | |
| Projects outside the United States, General Reduction | −2,850,000 |
| Military Construction, Army 1987-91: | |
| Projects outside the United States, General Reduction | −4,295,000 |
| Military Construction, Army 1988-92: | |
| Projects outside the United States, General Reduction | −10,470,000 |
| Military Construction, Army 1989-93: | |
| Projects outside the United States, General Reduction | −29,931,000 |
| Military Construction, Army 1990-94: | |
| Projects outside the United States, General Reduction | −27,700,000 |
| Family Housing, Army 1990-94: | |
| Projects outside the United States, Family Housing Construction Improvements. | −6,335,000 |

OPERATION AND MAINTENANCE

Due to the requirement that supplemental appropriations be provided on a deficit neutral basis, the conferees found it necessary to recommend rescissions of funding in the Operation and Maintenance accounts. The conferees note, however, that they have worked closely with the Department of Defense and that $294 million of the rescissions, representing more than one-half of the total recommended reduction, were provided by the Department. Amounts recommended by the Department include $200 million available from a reduction in fuel inventories, $83 million in savings resulting from personnel efficiencies, and $11 million saved through the planned deactivation of the USS IOWA.

*DOD Directed Management Savings.*—The conferees agree to savings which result from Department of Defense management improvements. These savings include $83 million identified by the Department from the civilian hiring freeze. The conferees expect the Department to reduce those accounts affected by force structure changes. It is further expected that funds for medical programs/CHAMPUS will not be reduced since the Department of Defense has identified a continuing funding shortfall for these efforts. The conferees must emphasize that readiness of deployed combat forces should not be placed at risk and that OPTEMPO should be maintained. The conferees strongly recommend reductions in the areas of management and administration, with particular attention to management headquarters, including the Office of the Secretary

of Defense and the Washington Headquarters Service.

*SR-71.*—The fiscal year 1990 Defense Appropriations Act included an increase of $175,000,000 to "Operation and Maintenance, Air Force" in Strategic Forces (Budget Activity 1) specifically for continued operation of the SR-71 strategic reconnaissance aircraft. Additional funds in the amount of $32,000,000 were already included in the fiscal year 1990 budget request to cover the costs associated with the termination of the program.

The conferees now direct that $140,000,000 be rescinded from the FY 1990 appropriation due to the decision of Congress to discontinue the SR-71, and that these reductions be taken only from Strategic Forces (Budget Activity 1).

The conferees agree that at least six SR-71 aircraft, tall numbers 956, 962, 967, 971, 968, and 980 and at least six associated reconnaissance and electronic countermeasure sensor systems shall be stored and maintained by the Air Force in such a fashion as to be able to return to full flight operations in no more than 90 days. In addition, the conferees also agree that within funds already available to the Air Force, $4,000,000 shall be used solely to complete the depot maintenance and rework of the SR-71 trainer (tall number 956), and $2,000,000 shall be used solely to maintain the aircraft in a "flight ready" status as defined in T. M. SR-71-17, including periodic servicing of all aircraft fluid systems, engine maintenance, recuring fuel tank sealant, pneumatic system calibration, computer system verifications, spare parts stockage, and the necessary personnel to accomplish these and other tasks.

The conferees also agree that the Air Force and NASA may proceed with plans for the loan of three SR-71 aircraft as outlined by an exchange of letters dated December 22, 1989 and January 9, 1990 between the Administrator of NASA and the Chief of Staff of the Air Force, respectively. The conferees request that copies of the final Memorandum of Understanding between the Air Force and NASA governing the loan of these aircraft be forwarded to the House and Senate Committees on Appropriations.

Finally, the conferees agree that the above outlined program should not be considered a charter for reestablishment of SR-71 flight operations which were terminated as a part of the fiscal year 1990 budget deliberations. The intent of the conferees is to ensure that sufficient assets are protected to permit NASA to conduct necessary aeronautics flight research and to permit the Air Force to reestablish within 90 days SR-71 flight operations due to a crisis contingency or the non-availability of critical National Technical Means.

*Synthetic Aperture Radar.*—The conferees agrees that the ASARS-1 (Airborne Synthetic Aperture Radar System) sensor originally developed for the SR-71 can continue to provide a significant capability for intelligence collection, drug interdiction, and arms control monitoring. Unfortunately, pending the completion with the Soviets of various treaties and associated monitoring regimes, the Department of Defense cannot at this time clearly define the alternative platforms, such as U-2 or RC-135, which will use a modified ASARS-1. However, regardless of the eventual host platform or specific mission assignment, any potential platform will require that the ASARS-1 be modified to operate in a subsonic environment as opposed to the SR-71 Mach 3 capability. Consequently, except for the 6 ASARS-1 systems to be retained for the SR-71 as discussed elsewhere in this report, the conferees agree that no less than $4,000,000 is available only for costs associated with the common modifications required to slow the performance characteristics of the ASARS-1 independent of the host platform. The conferees estimate that this work will take up to one year to perform which will provide sufficient time for the Department to identify the new host platform and to program funds for the additional necessary modifications.

*Classified Programs.*—Additional guidance by the conferees is contained in a classified annex to this Statement of the Managers.

*Fuel Inventory.*—The Department of Defense has a fuel inventory of approximately 95 million barrels. Because of the likely reductions in force levels and operating tempo in fiscal year 1991, this inventory should be reduced by approximately six million barrels. Therefore, the Defense Stock Fund can transfer the resulting savings of at least $200 million to the Operation and Maintenance, Air Force appropriation. Accordingly, the conferees have agreed to a rescission of $200 million in O&M, Air Force.

*Civil Air Patrol.*—The conferees agree with Senate report language which directs the Air Force to pay up to $225,000 out of Air Force O&M funds for FBI investigations for Civil Air Patrol personnel.

As a related issue, the conferees agree that the $1,000,000 provided in fiscal year 1990 for the Civil Air Patrol's drug interdiction mission may also be used for training, administrative cost, and travel expenses if such activities are in support of their drug interdiction mission.

*CINC Initiatives Fund.*—In FY 1990, the Congress appropriated $50,000,000 to establish a Commanders-in-Chief (CINCs) Initiatives Fund to address the requirements of the various regional and functional CINCs. The fund, however, has not been used as planned and the Department's FY 1991 budget proposes termination of this effort.

In February, the Department of Defense transmitted a list of 31 CINC projects valued at $22,100,000. The Secretary of Defense subsequently decided to review these projects and has since only approved approximately $2,000,000, four percent of the Fund, for obligation. The conferees' review of several candidate projects also indicates a lack of firm requirements. For example, Forces Command proposed to use $1,645,000 to procure an automated local area computer network. Other initiatives would more appropriately be financed through foreign assistance.

In view of the Department's poor execution of the Fund and its resistance to maintaining a flexible fund for the CINCs, the conferees believe that remaining resources would be better used for the Supplemental Appropriations bill. Accordingly, the conferees recommended a rescission of $45,000,000 from "Operation and Maintenance, Defense Agencies."

*Library of Congress Contract.*—The conferees agree that, of the $2,000,000 originally appropriated to the Defense Intelligence Agency solely to continue a research contract with the Library of Congress, $912,000 shall be transferred to the Library for costs associated with terminating the contract, including a reduction-in-force. The remaining $1,088,000 no longer required for this purpose is available to the Defense Intelligence Agency for application to other programs previously approved in the appropriation and authorization processes.

PROCUREMENT

*NBC Protective Mask.*—The conferees agree to approve $9 million from the NBC Protective Mask program as a source of funds for the reprogramming for military personnel and the CHAMPUS funding shortfall. The conferees strongly support the NBC Protective Mask program, and agree to use the program as a source of funds only because of slippage in the program related to a delay in the availability of the technical data package for this important program. The DOD has advised the conferees that these funds are not executable in fiscal year 1990 and will be restored in the outyears.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*SEC. 202. Section 9080 of Public Law 101-165 is amended by inserting the following proviso before the period ": Provided, That except for M1 Garand and M1 carbine rifles, this provision does not restrict the use of funds for the destruction and disposal of other firearms".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to delete House language disallowing several deferrals and amend Senate language concerning excess and surplus nonautomatic firearms under .50 caliber.

It is the understanding of the conferees that the Department never intended to dispose of any M14 rifles, serviceable M1 Garand rifles, or 87 percent of the .45 caliber pistols since they may be required for other purposes. The conferees concur with this decision.

Due to the uncertainty of whether any of the unserviceable M1 Garand and M1 carbine rifles can be used to support the Director of Civilian Marksmanship Program and to loan or sell to various military associated organizations for use as ceremonial rifles, the conferees direct that the Department also not dispose of them. The Department is requested to report to the Committees on appropriations on the status of these rifles so that their disposal can be addressed in the fiscal year 1991 Defense Appropriations Bill.

For the small arms that are approved for disposal, the conferees direct that the Department of Defense shall be the responsible party for the destruction program and expect the Department of Defense to begin this destruction program expeditiously, with a goal of destroying them by the end of the fiscal year. It is also the intent of the conferees that all excess weapons shall be destroyed to the point that no remaining scrap can be used, in any fashion, in the production and/or repair of a firearm.

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which increases from $10,000,000 to $18,000,000 the amount of funds which may be obligated for the retrograde of chemical weapons from Europe before certain certifications are made.

Amendment No. 50: Changes section number as proposed by the Senate.

Amendment No. 51: Reported in technical disagreement. The managers on trhe part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

*(a) The appropriation "Research, Development, Test and Evaluation, Air Force" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165) is amended in the second proviso by striking out "1989" and inserting in lieu thereof "1990" and by striking the phrase "from the B-1B program that remain available for obligation".*

*(b) Section 8084 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by striking out "$109,895,000" and inserting in lieu thereof "$79,895,000".*

*(c) Section 8115 of the Department of Defense Appropriations Act, 1988 (Public Law 100-202) is amended by striking out "$90,895,000" and inserting in lieu thereof "$67,895,000".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

B-1B AS A CRUISE MISSILE CARRIER

The conferees agree to retain the requirement enacted by the Congress in the Department of Defense Appropriations Act, 1990 that the Air Force continue testing of advanced cruise missile capability for the B-1B bomber. The conferees believe such testing should be done in the near future while both the B-1B and advanced cruise missile test programs are still ongoing. Recognizing the Defense Department's desire to have a signed START treaty prior to conducting such testing, the conferees agree to require that fiscal year 1990 RDT&E funds be used instead of fiscal year 1989 funds, which for the latter will expire in just a few months. This approach extends the time available to the Defense Department to conduct an orderly program while also minimizing any complications in the finalization of the START treaty negotiations. Since the fiscal year 1989 funds will no longer be used for the purpose intended by Congress, they have been rescinded. The conferees expect the Air Force to obligate and expend the funds for the earmarked expeditiously after the signing of a START treaty.

HIGH DEFINITION DISPLAY TECHNOLOGY

The conferees are disappointed that the Administration has not responded to the Appropriations Conference report requirement for submission of a government wide plan to develop high definition display technology. The conferees agree with the Senate report which reiterates the need for such a policy and program. The conferees further agree that there are no longer any restrictions on DARPA from obligating the additional $20,000,000 which Congress appropriated in fiscal year 1990 for research of this technology.

BALANCED TECHNOLOGY INITIATIVE

The conferees agree that of the funds appropriated in fiscal year 1990 for the Balanced Technology Initiative, $2,300,000 is available only to complete user evaluation testing of the Ground Launched Hellfire weapon system.

CAPABILITY IMPROVEMENT PROGRAM

The conferees agree to rescind $25,000,000 in unobligated fiscal year 1989 funds appropriated for the operational test and evaluation capability improvement program. The conferees agree that the remaining funds shall be allocated as follows: Base Resources ($8,347,000); Test Asset Distribution ($2,500,000); SA-12 Expedient ($5,400,000); and Aerial Threats ($3,253,000).

ROCKET ASSISTED KINETIC ENERGY (RAKE) AMMUNITION

The Army is considering the termination of development of enhanced 105mm tank rocket assisted kinetic energy (RAKE) ammunition for which funds were appropriated in 1990. The Army has over 3,200 105mm M-1 tanks and the fiscal year 1991 budget terminates plans to replace them with 120mm M-1A2 tanks. Further, the Army has testified that it intends to procure a new 105mm armored gun system. In light of the Army's decision to retain a large 105mm fleet, abandoning the development of enhanced 105mm tank ammunition does not make sense. Further, continuing with the 105mm RAKE round allows this promising technology to be adapted to the 120mm M-1A1 fleet.

Developing larger caliber tank ammunition at the expense of 105mm rounds is inconsistent with the Army's stated intention of becoming a lighter and more mobile force. Accordingly, the Army is directed to continue development of the 105mm RAKE round at the amount appropriated.

RDT&E REPROGRAMMING SOURCES

Any RDT&E source of funds proposed by the Department of Defense in Military Personnel reprogramming requests submitted to Congress through April 1990 that have not been (1) explicitly approved to finance the Military Personnel or CHAMPUS reprogramming requests as approved by Congress or (2) otherwise rescinded by this Act are hereby disapproved.

Amendment No. 52: Deletes Senate language which included a general provision to increase funding available for the military personnel accounts by $780,000,000 in a deficit neutral across the board reduction of $2,100,000,000 from unobligated balances of all defense accounts, except military personnel, by an equal percentage. The conferees agree to handle this shortfall through the normal reprogramming process.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 205. (a) Not less than 30 days before a cooperative project agreement is signed or amended on behalf of the United States in conjunction with the NATO Research and Development program, the President shall transmit to the Committees on Appropriations of the Senate and House of Representatives a numbered certification setting forth the text and providing an explanatory statement on the purposes of the proposed agreement or amendment.*

*(b) Any cooperative project agreement or amendment referred to in subsection (a) shall contain a provision stipulating that United States participation under the agreement or amendment is subject to the availability of appropriated funds.*

*SEC. 206. Of the $6,000,000 provided in this Act in "Research, development, test and evaluation, Navy" for the Navy Medical Research and Development Command to support the unrelated marrow donor program, not less than $4,500,000 shall be provided as a grant to the National Marrow Donor Program Foundation.*

*SEC. 207. The last proviso under the head "Research, Development, Test and Evaluation, Navy" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165 (103 Stat. 1125)) is amended by deleting the phrase "to the Center" and inserting in lieu thereof "to the Mississippi Resource Development Corporation".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BONE MARROW RESEARCH AND DONATION PROGRAM

The Senate has concurred with a House amendment, similar to the House introduced bill (H.R. 4828), to provide $6,000,000 for the Navy Medical Research and Development Command to enhance efforts by the Department of Defense and the National Heart, Lung, and Blood Institute to support the National Marrow Donor Program. The conferees suggest that any Defense Department activities financed with these funds will be coordinated to the extent practicable with the National Heart, Lung and Blood Institute. Of the amount provided, $1,500,000 of these funds is to be used by the Navy to support and improve the tissue typing of active duty military and Defense Department civilian personnel, and their dependents, who volunteer to be included in the National Marrow Donor Program. It is also the intention of the conferees that the Navy make $4,500,000 of this funding available without delay to the National Marrow Donor Program Foundation, Inc. (NMDPF), to allow the NMDPF to tissue type as many volunteers as possible for inclusion in the national registry of marrow donors.

The conferees believe strongly that the funding of this effort should be contingent upon the National Marrow Donor Program's cooperation with other private bone marrow registries. This cooperation should include offering to exchange appropriate preliminary search information with the American Bone Marrow Donor Registry and other private registries, at no cost to the patient or other registry, thereby offering patients access to as many potential donors as possible.

The conferees recognize that the NMDP has the potential to save lives every day by matching terminally ill patients in need of bone marrow transplants with unrelated donors. In the 2½ years since the first match through the registry, more than 340 lives have been saved.

Bone marrow transplantation is the preferred treatment for more than 25 fatal blood disorders, and it is estimated that more than 5,000 to 10,000 Americans are in need of a transplant each year. A primary limitation of this treatment is the ability to find matched donors for patients in need of a transplant. There are more than 115,000 volunteers who already have had their blood typed and are listed in the national registry. The goal is a registry listing 250,000 volunteers nationwide and 1 million volunteers worldwide.

There is also a pressing need to ensure broad ethnic representation in the registry. Research has shown that genetics play a major role in a successful transplant. This research also shows that successful matches most often occur when donors and recipients have the same racial background. The $1,500,000 has been provided to the Navy to initiate a program to type volunteers of the armed forces because the military services provide a wide cross-section of races and ethnic backgrounds. The remaining funds

are included to permit the Navy, in cooperation with the National Heart, Lung and Blood Institute, to provide a grant to the NMDPF to type volunteers of minority groups and others who are on waiting lists to join the registry, but who cannot afford the lab fees for HLA typing.

This is a high priority, life-saving health program and the conferees expect that these funds will not be subject to any undistributed reduction or administrative budgetary limitations within the Department.

The conferees direct the Navy and the National Heart, Lung and Blood Institute, in consultation with the Board of Directors of the National Marrow Donor Program, to submit, no later than July 1, 1990, a detailed report outlining the specific activities to be supported by the total funding provided. This report should include, at a minimum, information about (1) the number of volunteers to be tested with these funds; (2) the projected ethnic and racial distribution of these volunteers; (3) the status of ongoing efforts to enhance cooperation between the National Marrow Donor Program and private donor registries; (4) a plan to broaden ethnic and racial representation in the National Marrow Donor Program; and (5) how the National Marrow Donor Program (NMOP) will allocate funds to entities such as donor centers, family bone marrow donation drives, and community "grass-roots" organizations in need of funding for the typing of potential donors.

ACOUSTICS CENTER

The conferees have included a provision, as included in the House introduced bill (H.R. 4828), which amends the Navy Research and Development paragraph in the Defense Appropriations Act, 1990, to conform the last proviso of that paragraph to previously enacted Defense Appropriations laws. The provision relate to the research effort at the National Center for Physical Acoustics.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 208. (a) Of funds available during fiscal year 1990 under the heading "Research, Development, Test and Evaluation, Defense Agencies", for the NATO Research and Development program—*

*(1) not less than $12,776,000 shall be transferred immediately upon enactment of this Act to the Defense Advanced Research Projects Agency to finance the advanced neural networks information processing technologies project; and*

*(2) not less than $12,224,000 shall be transferred immediately upon enactment of this Act to the Joint Department of Defense—Department of Energy Munitions Technology Development program.*

*(b) None of the funds referred to in subsection (a) may be transferred from the AV-8(B) radar development, F/A-18 radar upgrade, medium surface-to-air missile, and multifunctional information distribution system projects.*

*SEC. 209. None of the funds available to the Department of Defense may be used to purchase circuit breakers for U.S. Naval vessels unless the circuit breakers are manufactured in the United States from components which are substantially manufactured in the United States. For the purpose of this section, the manufacture of circuit breaker cradles in the United States by a foreign supplier shall not be deemed to constitute substantial U.S.-manufacture of circuit breakers. The Secretary of Defense may waive this provision if he determines that it is not in the national security interests of the United States or will have an adverse effect on a U.S. company.*

*SEC. 210. Notwithstanding any other provision of law, the Secretary of Defense shall participate in an infrastructure improvement demonstration program conducted by the Regional Equipment Center, Newport Township, Pennsylvania: Provided, That within 90 days following enactment of this Act, the Secretary shall provide directly such property within the control of the Department of Defense or any component thereof as mutually agreed to by the Regional Equipment Center and the Secretary and as necessary to carry out the provisions of this section.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees agree to include language, as included in the House introduced bill (H.R. 4828), which provides the Secretary of Defense with authority to enter into an infrastructure improvement demonstration program conducted by the Regional Equipment Center, Newport Township, Pennsylvania. This authority should allow the Department of Defense through the Defense Logistics Agency to enter into an agreement with the Regional Equipment Center, Newport Township, and to provide by loan or transfer to the Center any mutually agreed upon heavy equipment, machinery, and tools necessary for the Department to conduct and evaluate this pilot demonstration program.

In addition, the conferees are concerned that as the facilities of the Defense Department are closed or drawn down, DOD will be left with unneeded vast quantities of this type equipment which could be used by states, local municipalities, and non-profit organizations. Therefore, the conferees request the Department to evaluate this situation and request legislative relief as necessary.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 211. Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to fund the additional cost of pay and allowances, operational expenses and other costs associated with military operations in Panama known as Operation Just Cause: Provided, That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: Provided further, That the Secretary shall notify the Congress promptly of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.*

*SEC. 212. The Department of the Army shall explore the possibility of laying away and storing the equipment and hardware located at the Mississippi Army Ammunition Plant and make the buildings available for such other private use as may be possible.*

*SEC. 213. Of the funds available to the Department of Defense, $5,000,000 shall be made available only for the establishment of a National Defense Center for Environmental Excellence.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes section 211 as proposed by the Senate and sections 212 and 213 which were included in the House introduced bill (H.R. 4828).

*Mississippi Army Ammunition Plant.*—The conferees agree that there may be ways for the local area to use some of the facilities at the Mississippi Army Ammuniton Plant for non-defense purposes. The Defense Department is directed to investigate and report on this matter in six months.

*National Defense Center for Environmental Excellence.*—By the end of fiscal year 1989, there were 14,401 sites on 1,579 active installations and 7,200 sites on properties formerly owned or used by the Department identified with the potential for hazardous waste contamination. The number of sites requiring cleanup will continue to grow as the Department closes or realigns bases and as the Department proceeds with the chemical demilitarization program.

The conferees believe that it is time for the Department to establish a National Defense Center for Environmental Excellence (NDCEE). This Center should undertake the planning process to systematically structure a five-year program to address DOD's environmental technology requirements. The expertise of the Center for Hazardous Materials Research (CHMR), the National Environmental Technology Applications Corporation (NETAC), and other universities and organizations as required should be utilized by the Center.

Therefore, the conferees direct the Department to make available $5,000,000 to the University of Pittsburgh Trust—an existing non-profit corporation—to establish a separate not-for-profit subsidiary to develop this Center to be located in Johnstown, Pennsylvania. A representative list of initiatives to be considered by the Center follows; other initiatives as agreed to by the Department and the Center should also be addressed.

(1) Definition and staffing of a management, technical, and financial organization for the operation and administration of the NDCEE program.

(2) Systematic assessment with DOD-designated organizations to determine and prioritize the nature, seriousness and potential solutions in the following environmental technology needs areas:

Hazardous waste remediation
Management of RCRA-type wastes
Waste minimization
Municipal-type-solid waste and incineration issues
Air pollution control
Medical waste disposal
Mixed waste disposal
Contaminated site remediation
Chemical weapons destruction
Recycling
Water pollution control and water usage
Underground storage tanks
Nuclear waste disposal

(3) Identification and involvement of leading qualified academic, public and private sector environmental technology resources to develop a broadly based NDCEE consortium, capable of responding to the total breadth of DOD's environmental concerns.

Products from the first year's operation of the NDCEE program will include:

(1) A fully functioning not-for-profit NDCEE Program Office, with approved managerial, technical, administrative and financial systems in place;

(2) A detailed technical, management and budgetary plan for the full five year NDCEE program; and

(3) The solicitation of candidate organizations for the individual technology based NDCEE's required by DOD for the fully operating program.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 214. Of the funds made available for Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $4,000,000 shall be available only to conduct an operational test and evaluation (OT&E) of Individually Carried Record (ICR) technologies to be completed not later than August 31, 1991.*

*SEC. 215. Of the funds appropriated in fiscal year 1990 for the Defense Advanced Research Projects Agency's nuclear monitoring program, $6,500,000 is available only for the U.S.-Eurasian Seismic Studies Program administered by the Incorporated Research Institutions for Seismology.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

*Individually Carried Records (ICR).*—The conferees direct the Department of Defense to use $4,000,000 to conduct an operational test and evaluation (OT&E) of Individually Carried Record (ICR) technologies. Because of its past experience with this technology, the conferees expect that the U.S. Army Soldier's Support Center be consulted on the ICR Operational testing. However, the conferees agree to allow the Department of Defense to continue with the issuance of the Request for Proposal (RFP) for the Real Time Automated Personnel Identification System (RAPIDS). The RAPIDS is designed to provide machine readable Uniformed Services identification cards to 12 million active duty members, reservists, retirees and dependents. Following the completion of the ICR OT&E, the Department shall provide the result to the Committees on Appropriations of the House and Senate and provide an acquisition plan to replace the RAPIDS technology with the selected ICR technology for active duty military personnel, if appropriate. Furthermore, the Department is directed to incorporate into the RAPIDS RFP an optional upgrade using the ICR technology.

*DARPA.*—The conferees are concerned about an apparent misunderstanding of Congressional intent in adding funds to the fiscal year 1990 budget for DARPA's Nuclear Monitoring Program. While some of the additional funds were intended for general program support, the House authorization report (H. Rpt. 101-121, pg. 134) noted that not less than $8,000,000 be used for continuing and expanding the "existing seismological studies and data exchange program with the Soviets. . . ." The Senate authorization report (S. Rpt. 101-81, pp. 128-29) also clearly specified "$6,500,000 for the U.S.-Eurasian Seismic Studies Program."

The conferees understand that DARPA currently does not intend to allocate even the lesser amount to this program, and therefore direct that not less than $6,500,000 appropriated in fiscal year 1990 for Nuclear Monitoring be obligated for the U.S.-Eurasian Seismic Studies Program administered by the Incorporated Research Institutions for Seismology. DARPA may apply the value of equipment already purchased for this program against the $6,500,000 discussed above.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 216. Notwithstanding any other provision of law, the Secretary of the Air Force is authorized and directed to negotiate, compromise, and reach a determination with Shipco General, Inc. regarding contract dispute No. F29650-82-C-0201 prior to the end of fiscal year 1990. The Secretary is authorized to pay the agreed upon settlement amount from available funds.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to a general provision to resolve the Shipco claims issue. The Air Force is authorized and directed to negotiate a mutually satisfactory settlement with Shipco General, Inc. prior to the end of fiscal year 1990. This issue resulted from a dispute regarding the renovation of housing at Kirtland Air Force Base, New Mexico.

## CHAPTER III

## FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

### MULTILATERAL ECONOMIC ASSISTANCE

#### FUNDS APPROPRIATED TO THE PRESIDENT

#### INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*INTERNATIONAL ORGANIZATIONS AND PROGRAMS*

*Of the funds made available in Public Law 101-167, for "International Organizations and Programs", an additional $5,000,000 may be made available for payment to the United Nations Environment Program, to carry out the provisions of section 2 of the United Nations Environment Program Participation Act of 1973.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate amendment which provides up to $5,000,000 from fiscal year 1990 funds provided for International Organizations and Programs to be used for an additional payment to the United Nations Environment Program's Environment Fund. This provision was also included in the House introduced bill (H.R. 4828). The conferees have included technical changes to the Senate amendment correcting the title of the Environment Program. The Department of State is to give UNEP's Environment Fund the highest priority when reallocating fiscal year 1990 funds in the International Organizations and Programs account which are withheld pursuant to Section 526 of P.L. 101-167.

The conferees are concerned about progress in controlling substances that deplete the ozone layer. The conclusion of the Montreal Protocol on Substances that Deplete the Ozone Layer was an important step in controlling the problem of chlorofluorocarbons damage to the upper ozone layer. Parties to the Protocol have agreed in principle to establish a special fund to assist Third World nations to comply with the Protocol. The need for a United States contribution to this special fund will be addressed in the Foreign Operations, Export Financing, and Related Programs Appropriations Act for fiscal year 1991.

### BILATERAL ECONOMIC ASSISTANCE

#### FUNDS APPROPRIATED TO THE PRESIDENT

#### DEPARTMENT OF STATE

#### MIGRATION AND REFUGEE ASSISTANCE

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires that an equitable share of the refugee assistance funds provided in fiscal year 1990 be made available to fund the existing 2,000 semi-funded refugee admissions of Pentecostals, Evangelicals and Baptists from within Soviet refugee admission numbers. The conferees agreed that semi-funded refugee admissions also include admissions that are currently unfunded. This provision was also included in the House introduced bill (H.R. 4828).

#### BURMESE STUDENTS

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which states that funds provided in the fiscal year 1990 Foreign Assistant Appropriations Act for Burmese students may be used to provide assistance to any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict. This provision was also included in the House introduced bill (H.R. 4828).

The conferees strongly support assistance to refugee groups in need through regular multilateral international refugee efforts. Consequently, while they agreed to the provision in the annual act in response to an emergency situation related to students in the border areas and while they have agreed to provide the additional flexibility proposed by the Senate amendment, they are not prepared to agree quickly to long term or substantially increased bilateral funding of any Burmese person displaced in either Burma or Thailand. The conferees believe that an internationally organized multilateral program to assist such persons, restricted to discrete geographic areas, is the most appropriate approach to dealing with this problem.

#### AGENCY FOR INTERNATIONAL DEVELOPMENT

#### HAITI

Amendment No. 61: Inserts a new heading, as proposed by the Senate.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , *development assistance funds contained in prior foreign assistance appropriations acts that were not made available for Haiti, or pursuant to section 515 of such public law*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment permits deobligation/reobligation authority contained in Section 515 of the fiscal year 1990 Foreign Assist-

ance Appropriations Act and other previously made available development assistance funds to be used to fund the $10,000,000 earmarked for Haiti. The conferees believe that due to the relinquishment of power by General Prosper Avril the potential for democratic elections in Haiti may be greater today than any time in recent history.

The $10,000,000 in development assistance is to be in addition to other development assistance previously allocated for Haiti. The conferees agreed that none of the funds provided for Haiti are to be transferred from sub-Saharan Africa.

CHILE

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $10,000,000 in health related development assistance for Chile. This funding was also included in the House introduced bill (H.R. 4828).

Universal health care once existed in Chile. However, in the last sixteen years public spending on health has declined by 55 percent. Today 20 percent of the population, mostly rural poor, have no access to health care. These funds have been provided to help the newly elected government in Chile to launch a primary health care program targeted for the poor. The infusion of these funds will also help the process of consolidating democracy in Chile.

The conferees acknowledge that Chile does not meet normal guidelines for development assistance funds based on per capita income levels. However, Chile does have a large indigent population and these funds are urgently needed to jump-start Chile's primary health care system.

DEVELOPMENT ASSISTANCE FOR ANTI-NARCOTICS EFFORTS OF BOLIVA AND PERU

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*DEVELOPMENT ASSISTANCE FOR ANTI-NARCOTICS EFFORTS OF BOLIVIA AND PERU*

*Of the funds appropriated for fiscal year 1990 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), up to $25,000,000 should be available for Bolivia, and up to $20,000,000 should be available for Peru, for the following purposes—*

*(1) providing alternative income, employment, and social services for individuals involved in illicit coca and marijuana production.*

*(2) supporting investment in infrastructure, farm credit and extension services, and other development projects in non-coca production areas, and*

*(3) otherwise assisting, in accordance with chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), such countries in continuing their anti-narcotics efforts.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language providing up to $25,000,000 in development assistance for Bolivia and up to $20,000,000 in development assistance for Peru to be used for anti-narcotics purposes. The conferees have included language specifying that the assistance to be provided under this provision is to be in the form of development assistance. This language was also included in the House introduced bill (H.R. 4828).

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*(a) Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended in the undesignated paragraph under the heading "HOUSING AND OTHER CREDIT GUARANTY PROGRAMS"—*

*(1) by striking out "$100,000,000," and inserting in lieu thereof "$500,000,000"; and*

*(2) by inserting after "principal" in the last proviso under such heading the following: ", of which amount $400,000,000 in commitments shall be available during fiscal year 1990 or subsequent fiscal years only for the purpose of providing housing and infrastructure in Israel for Soviet refugees: Provided further, That with respect only to the $400,000,000 in commitments to be made for housing and infrastructure in Israel referred to in the preceding proviso—*

*"(1) the guarantees shall be made available for loans made during or after fiscal year 1990, notwithstanding the limitation contained in the third sentence of section 222(a) of the Foreign Assistance Act of 1961;*

*"(2) the guarantees shall be made available for loans in increments of at least $150,000,000 or the amount requested by the borrower, whichever is lesser; and that the Agency for International Development shall review the borrower's actual or planned expenditures to ascertain that such amounts have or will be expended in accordance with the preceding proviso;*

*"(3) section 223(j) of the Foreign Assistance Act of 1961 (22 U.S.C. 2183(j)) shall not apply to such commitments; and*

*"(4) fees charged by the Agency for International Development under section 223(a) of the Foreign Assistance Act of 1961 shall be—*

*"(A) an initial fee of $2,800,000; and*

*"(B) an annual fee in an amount not more than one-half of 1 percent of the maximum face value of guarantees which may be issued for any one country in a fiscal year pursuant to the penultimate sentence of section 223(j) of such Act.".*

*(b) Section 222(a) of the Foreign Assistance Act of 1961(22 U.S.C. 2182) is amended by striking out "$2,158,000,000" and inserting in lieu thereof "$2,558,000,000".*

The managers on the part of the Senate will move to concur in the amendment of the house to the amendment of the Senate.

The conference agreement includes $400,000,000 in housing guarantees for Israel. The housing guarantees will address the needs of the large influx of refugees coming to Israel from the Soviet Union. This provision was also included in the House introduced bill (H.R. 4828).

The conferees emphasize their intent that, consistent with past practice and policy regarding all assistance agreements with Israel, no assistance provided under this Housing Investment Guaranty program may be utilized beyond the pre-June 1967 borders of Israel.

The conferees note that the unprecedented numbers of Soviet Jews immigrating to Israel will result in the need for rapid construction of housing and infrastructure to absorb them. The conferees believe that Israel should make extensive use of American housing technologies and contractors in this program, and are concerned that there are tariff impediments to the importation by Israel of American housing materials. The conferees urge the Administration to seek agreement with Israel for the removal of these impediments to participation by American housing firms.

ECONOMIC SUPPORT FUNDS

PANAMA

Amendment No. 66: Deletes language proposed by the Senate setting conditions for providing funds for Panama.

The conferees remain very concerned that despite efforts by the Government of Panama to combat drug trafficking, the Panamanian banking system is still vulnerable to money laundering. This issue has been strongly addressed by both the House and Senate fiscal year 1990 supplemental authorizing bills. Consequently, while the conferees support tough language on this issue, it was felt that the issue should be handled through the appropriate authorizing legislation.

The conferees believe it is imperative that the United States Government and the Government of Panama: (1) reach agreement for exchanging records on international currency transactions in connection with narcotics investigations and proceedings, and (2) make steady progress towards signing a Mutual Legal Assistance Treaty.

In order to underscore the importance of reforming the Panamanian banking system to protect it against a repetition of past abuses, the conferees strongly urge that no more than 80 percent of the funds for Panama be provided unless the above conditions are met.

NICARAGUA

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language that states that the $30,000,000 provided in assistance for the Nicaraguan resistance voluntary demobilization, repatriation and resettlement may be made available only to members of the Nicaraguan resistance who agree to and are abiding by the terms of the cease-fire agreement and the addendum to the Toncontin Agreement signed on April 19, 1990. This provision was also included in the House introduced bill (H.R. 4828).

The conferees also have agreed that $2,000,000 of the funds appropriated for Economic Support Fund assistance for Nicaragua may be used to support the Observer Group for Central America (ONUCA).

NICARAGUA NOTIFICATIONS

Amendment No. 68: Deletes language proposed by the Senate specifying notification to the House Foreign Affairs and Senate Foreign Relations Committees concerning Nicaragua. The conferees understand that notifications under section 634A of the Foreign Assistance Act of 1961 are required by law whether or not they are specifically required by this Act. Section 634A(c) states that the Senate Foreign Relations and House Foreign Affairs Committees will be notified "to the same degree and with the same conditions as the President notifies the Committees on Appropriations". Since notifications of the Appropriations Committees are required in this chapter, an added reference to section 634A is unnecessary.

NICARAGUA ENVIRONMENTAL ACTIVITIES

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that up to $8,000,000 in Economic Support Funds provided for Nicaragua be used for environmental activities. This provision was also included in the House introduced bill (H.R. 4828).

FORESTRY PROTECTION

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the use of funds provided for Nicaragua or Panama for any project that would result in any significant loss of tropical forests. This provision was also included in the House introduced bill (H.R. 4828).

EVALUATION AND AUDIT

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires evaluations and audits of the funds provided for Nicaragua and Panama. This provision was also included in the House introduced bill (H.R. 4828).

The conferees recognizes that CIAV, UNHCR or other United Nations or internationally affiliated organizations will be audited in accordance with standard procedures applicable to UN-affiliated organizations.

The conferees also intend that the special auditing and evaluation requirements established in this provision will be applicable only through fiscal year 1991.

PANAMA AND NICARAGUA PROJECT ASSISTANCE

The conferees agreed that the Administration should carefully review the specific programs and projects to be proposed for Panama and Nicaragua. Private sector development and budget support are needed for both countries, but assistance for child survival, health and education are also critical needs in both countries. The conferees expect to receive notifications on assistance to Panama and Nicaragua that show a concern for the social as well as the private sector development needs in these countries.

LITHUANIA EMERGENCY RELIEF

Amendment No. 72: Deletes language proposed by the Senate providing up to $5,000,000 in emergency assistance to Lithuania.

CARIBBEAN

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

*That of the funds made available under this heading not less than $3,000,000 shall be made available only for Haiti to support the democratic electoral process: Provided further, That of the funds made available under this heading not less than $8,750,000 shall be made available only for Jamaica*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides a total of $15,000,000 in assistance for countries in the Caribbean. Funds in the amount of $3,000,000 have been earmarked for Haiti, $8,750,000 is earmarked for Jamaica. The conferees have agreed that funds not earmarked for Haiti and Jamaica are to be used to fund assistance to other countries in the Caribbean. The countries in the Caribbean Regional Program are to be given the highest priority in the allocation of these nonearmarked funds. The House has provided $15,000,000 for the Caribbean with a ceiling of no more than 50 percent to any one country. The Senate provided the same amount of funding, but earmarked $3,000,000 for Haiti and $10,000,000 for Jamaica.

The conferees expect the $3,000,000 in Economic Support Funds for Haiti to be used for electoral support, and to be in addition to other Agency for International Development funds available for technical assistance and other electoral needs. The conferees understand that this amount is insufficient to meet urgent electoral needs and urge the Administration to make additional Economic Support Funds available for this purpose from existing resources.

The conferees intend that the $3,000,000 provided in this section for Haiti be expended only after the following conditions have been met: (1) the Government of Haiti has named the members of a genuinely independent electoral council to conduct free, fair and open elections; (2) the Government of Haiti has established and promulgated an electoral law that is acceptable to such electoral council; (3) official investigations have been reopened in connection with the disruption of the November 29, 1987 election; and (4) meaningful steps are being taken by Haitian civil and military authorities to provide electoral security.

EASTERN CARRIBBEAN

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

*ASSISTANCE FOR THE EASTERN CARIBBEAN*

*For an additional amount to carry out the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961, $5,000,000, for assistance for countries of the Eastern Caribbean, to remain available through September 30, 1991.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to provide an additional $5,000,000 in development assistance funds for the Eastern Caribbean. This funding was also included in the House introduced bill (H.R. 4828). These funds are to be spent for the rehabilitation and recovery of the six major beneficiary countries in the Caribbean regional program.

SUB-SAHARAN AFRICA

Amendment No. 75: Appropriates $20,000,000 for the "Economic Support Fund" for assistance for sub-Saharan Africa instead of the $10,000,000 proposed by the Senate and the $25,000,000 proposed by the House. This provision was also included in the House introduced bill (H.R. 4828).

Amendment No. 76: Restores language stricken by the Senate earmarking $10,000,000 for Namibia. The Senate had stricken the House earmark for Namibia included in Amendment Number 76, and had included $10,000,000 for Namibia under amendment number 75. This provision was also included in the House introduced bill (H.R. 4828).

NAMIBIA

Amendment No. 77: Deletes language proposed by the Senate requiring a Presidential certification prior to obligating or expending funds for Namibia. Based on public and private assurances from the Government of Namibia that it is not the policy of that government to intervene militarily in Angola or to support military intervention from its territory into Angola, the conferees agreed that the language of the Senate amendment is unnecessary. The conferees assume that the Administration will watch the situation in Namibia and Angola closely and inform Congress if there is any breach of this policy by the Government of Namibia.

MOZAMBIQUE, ZAMBIA, AND SOUTH AFRICA DEMOCRACY

Amendment No. 78: Earmarks $10,000,000, as proposed by the House to provide assistance through the National Endowment for Democracy and other groups to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa. As proposed in the House bill, the provision contains restrictions concerning the suspension of violence and a prohibition on using funds to support violence.

Funds provided for South Africa shall be used to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa. These funds are intended exclusively to support the activities of the victims of apartheid. Funds shall be made available to help previously banned organizations develop their infrastructure, including office and communications equipment, vehicles, office space, clerical support and equipment needed for the publication and distribution of pamphlets. In administering the support for democratic political parties and organizations in South Africa, AID shall seek to subcontract with broad-based, non-partisan organizations such as the National Endowment for Democracy and the South African Council of Churches.

The conferees agreed to delete earmarks totalling $5,000,000 under the Economic Support Fund proposed by the House for Mozambique and Zambia. Instead, the Administration is encouraged to use $5,000,000 of the development assistance funds provided in the Act for sub-Saharan Africa to fund programs for Zambia and Mozambique.

This provision was also included in the House introduced bill (H.R. 4828).

HUMANITARIAN ASSISTANCE FOR ARMENIA AND ROMANIA

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*HUMANITARIAN ASSISTANCE FOR ARMENIA AND ROMANIA*

*(a) For an additional amount for "International Disaster Assistance", $5,000,000, to remain available until September 30, 1991, which sum shall be made available, notwithstanding any other provision of law, for humanitarian assistance, transportation of materials provided for such assistance, medical treatment, and education and vocational training to the victims of the Armenian earthquake of December 7, 1988, which assistance shall be channeled through United States private and voluntary organizations and other United States nongovernmental*

*organizations: Provided, That such funds are in addition to funds previously made available for such purposes: Provided further, That of the funds made available by this subsection for assistance for Armenia, up to 1 percent may be used by the Agency for International Development for costs of administering such program.*

*(b) Not less than $4,000,000 of the total amount of funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which funds were—*

*(1) appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167);*

*(2) made available through the exercise of the authority contained in section 515 of that Act; or*

*(3) appropriated for development assistance in prior foreign assistance appropriations acts,*

*shall be made available, notwithstanding any other provision of law, through international relief agencies and nongovernmental organizations for health assistance for children in Romania.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $5,000,000 in disaster assistance for Armenia to assist with recovery related to the devastating earthquake. The conferees agree that assistance may be used for longer-term recovery and reconstruction activities which aid the victims of the Armenia earthquake of December 7, 1988, and may include the provision of medical assistance, education and vocational training, as well as other assistance to help the recovery of this stricken area.

The conferees have agreed to provide not less than $4,000,000 for the health care needs of children in Romania from within fiscal year 1990 or prior year development assistance funds. These funds are urgently needed to address the acute shortage of basic medical supplies and substandard conditions under which many children, particularly orphans, are forced to live. To the extent feasible these funds should also be used to move children out of institutional care either through family reunification or adoption. The conferees also agree that none of the funds for Romania are to be derived from sub-Saharan Africa.

The conferees agree that $2,000,000 of the funds provided for children in Romania should be designated to support the UNICEF program in Romania. The remaining $2,000,000 should be designated for the International Committee for the Red Cross or other relief organizations operating in Romania.

The conferees agreed that a high-priority use for funds provided for Romania should also be to assist the development of professional child welfare and adoption entities. Both of these activities are currently in short supply in Romania. There is an urgent need for assistance to the appropriate Romanian authorities in order to develop professional mechanisms for both in-country and inter-country adoption. Therefore, the conferees strongly recommend that a priority for the utilization of these funds is to train child welfare and adoption specialists so that the emergency needs of orphaned Romanian children can be met and appropriate resources developed.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

Amendment No. 80: Appropriates $10,000,000 for sub-Saharan Africa development assistance instead of $20,000,000 as proposed by the Senate and $5,000,000 as proposed by the House. This provision was also included in the House introduced bill (H.R. 4828).

The conferees intend that this assistance will be used in the countries whose basic needs are the most critical. The conferees believe that priority should be given to Mozambique, Zambia and Uganda. Mozambique urgently needs humanitarian relief to overcome the devastation caused by years of civil war and drought. Zambia is in dire need of both health and education development assistance programs. In Uganda an estimated one million people are infected with the AIDS virus. Emergency assistance is urgently needed to combat this terrible epidemic and provide for the welfare of thousands of children orphaned by AIDS.

WAIVERS AND AUTHORITIES

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*WAIVERS AND AUTHORITIES*

*(a) Funds appropriated by this chapter for the "Economic Support Fund" for Panama shall be available as follows: (1) up to $1,200,000 may be provided to carry out the purposes of section 534(b)(3) of the Foreign Assistance Act of 1961 for countries in Latin America and the Caribbean other than Panama; (2) assistance may be provided for technical assistance, training, and commodities with the objective of creating a professional civilian police force notwithstanding section 660 of the Foreign Assistance Act of 1961, except that such assistance shall not include more than $5,000,000 for the procurement of equipment for law enforcement purposes in Panama, and shall not include lethal equipment; and (3) the limitations contained in the second sentence of section 534(e) of the Foreign Assistance Act of 1961 and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall not be applicable to assistance provided under this subsection.*

*(b) Funds appropriated under this chapter for Panama and Nicaragua, as well as during fiscal year 1990 funds otherwise available for economic assistance under other provisions of law and assistance under chapter 8 of part II of the Foreign Assistance Act of 1961, may be made available for Panama and Nicaragua notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, section 620(g) of the Foreign Assistance Act of 1961, or any similar provision of law relating to foreign assistance repayments.*

*(c) Funds appropriated under this Act may be made available notwithstanding section 10 of P.L. 91-672 and section 15 of the State Department Basic Authorities Act of 1956.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides the necessary waivers in order to obligate and expend funds provided in this Supplemental for foreign assistance programs.

The conference agreement also deletes language proposed by the Senate specifying notification to the House Foreign Affairs and Senate Foreign Relations Committees concerning notifications of obligations. The conferees understand that notifications under section 634A of the Foreign Assistance Act of 1961 are required by law whether or not they are specifically required by this Act. Section 634A(c) states that the Senate Foreign Relations and House Foreign Affairs Committees will be notified "to the same degree and with the same conditions as the President notifies the Committees on Appropriations". Since notifications of the Appropriations Committees are required in this Supplemental, an added reference to section 634A is unnecessary.

EXPORT-IMPORT BANK

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires that the funds provided for an Interest Equalization Program in the fiscal year 1990 Act be available subject only to the availability of qualified lenders under the program. This provision was also included in the House introduced bill (H.R. 4828).

The conferees expect the Bank to exercise prudent judgement in selecting suitable transactions for support under this program in accordance with its regular program criteria and policies.

## CHAPTER IV

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

BUREAU OF LAND MANAGEMENT

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided, That these funds also shall be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes and shall be obligated fully prior to use of any other funds for wildlife suppression and emergency rehabilitation and shall remain available until December 31, 1990*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This language allows the money appropriated to be available to repay advances to other appropriation accounts and to remain available until December 31, 1990.

This provision was included in the House introduced bill (H.R. 4828) and modifies a Senate amendment to the original Dire Emergency Supplemental.

U.S. FISH AND WILDLIFE SERVICE

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted in said amendment, insert the following:

*UNITED STATES FISH AND WILDLIFE SERVICE*

*RESOURCE MANAGEMENT*

*For an additional amount for "Resource Management", $827,000: Provided, That the Secretary, acting through the United States Fish and Wildlife Service, is authorized to enter into renewable contracts for the payment of reasonable and customary costs for delivery of Newlands Project water rights acquired by the Service to benefit the Federal and State wildlife areas in the Lahontan*

*Valley and the Fernley Sink in Nevada: Provided further, That the costs for delivery shall be those costs normally associated with the delivery of water to Newlands Project lands: Provided further, That the contracts shall be of a term not exceeding 40 years: Provided further, That any such contract shall provide that upon the failure of the service to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract subject to availability of appropriations: Provided further, That the Secretary, acting through the United States Fish and Wildlife Service, in accordance with applicable State law, may use water diversion, storage, and conveyance systems of Federal Reclamation Projects to benefit Federal and State wildlife areas in the Lahontan Valley and the Fernley Sink in Nevada.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides $827,000 for the Appropriate Technology for Rural Areas program instead of $1,000,000 as proposed by the Senate. The reduction eliminates that portion of the amount proposed by the Senate which would have provided funding beyond fiscal year 1990. The amount made available will repay funds borrowed to continue the activity to date as well as continue operations through September 30, 1990.

Several small technical changes were made to the Senate language that permits the U.S. Fish and Wildlife Service to enter into contracts with the Truckee Carson Irrigation District for payment of operation and maintenance fees for the delivery of Fish and Wildlife Service water to the Stillwater wetlands in Nevada.

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*NATIONAL PARK SERVICE*

*HISTORIC PRESERVATION FUND*

*Funds appropriated under this head in Public Law 101-121 shall remain available for obligation until September 30, 1991.*

*CONSTRUCTION*

*Of the funds made available under this head in the Department of the Interior and Related Agencies Appropriations Act, 1990 (Public Law 101-121), not less than $5,852,000 shall be made available immediately for design and construction activities associated with the Franklin Delano Roosevelt Memorial.*

*GEOLOGICAL SURVEY*

*SURVEYS, INVESTIGATIONS, AND RESEARCH*

*For an additional amount for "Surveys, Investigations, and Research", $6,246,000, to remain available until expended.*

*BUREAU OF INDIAN AFFAIRS*

*OPERATION OF INDIAN PROGRAMS*

*The paragraph under this head in Public Law 101-121 is amended by inserting in front of $54,000,000 the words "up to": Provided, That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation.*

*DEPARTMENTAL OFFICES*

*OIL SPILL EMERGENCY FUND*

*For an additional amount for the Department of the Interior for contingency planning, response and natural resource damage assessment related to the discharge of oil from the tanker Exxon Valdez into Prince William Sound, Alaska, and for other purposes authorized under this head in P.L. 101-45, $7,279,000: Provided, That all authorities associated with, and funds in, the Oil Spill Emergency Fund shall remain available until september 30, 1994: Provided further, That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Department of the Interior to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that $5,852,000 is available for design and construction of the Franklin D. Roosevelt Memorial as provided in Public Law 101-121. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

The managers have also agreed to extend the availability of the Historic Preservation Fund to September 30, 1991 to correct a technical error in Public Law 101-121.

The managers recommend an additional appropriation of $6,246,000 for emergency expenditures associated with the ongoing eruptions of Mount Redoubt Volcano near Anchorage, Alaska. Since the recent series of eruptions of this volcano occurred in December after passage of P.L. 101-130, this disaster does not qualify for allocations from the emergency fund established in section 108(d) of that law. The recommendation would make available additional monies necessary to permit the Geological Survey to monitor the Mount Redoubt Volcano for public safety purposes.

The managers have added language under the Bureau of Indian Affairs, Operation of Indian Programs account, to allow the Bureau to use whatever portion of the $54,000,000 provided in the fiscal year 1990 Act which is not needed for the costs of converting tribal contracts, for reprogramming to cover shortfalls in various Bureau programs in this fiscal year. The Bureau currently estimates that approximately $39,000,000 will be needed for the contract conversion costs. At the same time, the Bureau is estimating that there could be shortfalls in such programs as general assistance, contract support funds, teacher pay costs and student transportation costs, possibly totaling as much as $25,000,000. The change in the 1990 appropriations language will allow the Bureau to identify its highest priority needs for such programming, once the amount not needed for contract conversion is known, and to submit such reprogrammings to the Committees for approval as quickly as possible. This provision was included in the House introduced bill (H.R. 4828).

Language has also been included to prohibit the transfer of the Safety of Dams program from the Bureau of Indian Affairs to the Bureau of Reclamation in fiscal year 1990. This proposed transfer has been included in the Administration's budget request for fiscal year 1991, and the managers believe no preliminary actions related to this proposed transfer should be taken prior to the Committees' actions on the 1991 bill. This provision was included in the House introduced bill (H.R. 4828).

The managers are aware that there is a shortage of funds to carry out administrative functions related to the Hoopa-Yurok Indian Settlement Act. The managers direct that up to $500,000 shall be reprogrammed from the Hoopa-Yurok settlement funds provided in fiscal year 1990 to cover these administrative costs of the Bureau, with the proviso that these funds are to be restored to the settlement fund at the earliest possible opportunity.

The managers agree that $300,000 of funds appropriated for operation of juvenile detention centers in fiscal year 1990 may be used for an independent assessment of the status of fishery resources in the State of Wisconsin, to be conducted jointly by the Federal Government, State and six Chippewa tribal governments. These funds should be made available only when the State of Wisconsin has identified and committed the funds it will provide for this purpose.

In fiscal year 1990, a total of $200,000 was provided for the St. Regis Mohawk tribe, for development of law and order and tribal court systems on this reservation. The managers agree that $100,000 of these funds may be used for the conduct of peace forums and charter development for the tribe.

The managers also direct the Bureau to report to the Committees, by June 8, 1990, regarding the expenditure of these funds and to identify the additional requirements necessary to develop the law and order and tribal court systems on the reservation.

The managers agree that $705,000 shall be reprogrammed from available funds from various irrigation projects to replace the Zia Pueblo diversion dam and siphon. Other available funds will be considered for later reprogramming for the on-farm irrigation facilities for the Dolores Project in Colorado, once the concerns regarding the possible impact on an endangered species have been addressed.

The managers wish to reiterate language contained in the Statement of the Managers accompanying the fiscal year 1990 conference report for the Department of the Interior and Related Agencies Appropriations Act. Funds were not earmarked above the budget request for the Hannahville, Michigan Indian School. The Bureau is to proceed with planning, using existing funds, for phase II of the project to include the gymnasium and cafeteria while phase I construction is underway, and should funds become available to begin construction of phase II during fiscal year 1990, approval to reprogram funds for this purpose should be requested.

The managers recommend a supplemental appropriation of $7,279,000 for the Oil Spill Emergency Fund. Current balances in the Fund are only $267,000, with only approximately $4 million in anticipated recoveries from the Coast Guard's 311K account. The Department has identified $11,355,000 in remaining FY 1990 response, damage assessment, project support, and legal requirements associated with the Exxon Valdez oil spill in Prince William Sound, Alaska, on March 24, 1989. The recommendation will permit necessary oil spill work to continue on schedule.

Because additional monies for these recovery purposes are not expected to be provided by Exxon in the near future, bill language has been included to extend the Oil Spill Emergency Fund balances and authorities through September 30, 1994.

The conference agreement also includes bill language which prohibits the Department of the Interior from using any appropriated funds to make reimbursements to other Federal agencies for litigation costs associated with the Exxon Valdez oil spill. Funds made available for the Fish and Wildlife Service, the National Park Service and other Interior Department agencies should not be used to subsidize costs that are the responsibility of the department charged with the government's prosecution of this case.

The managers agree to reprogram in the National Park Service construction account $4,000,000 from savings and slippages associated with line-item construction projects to cover a planning shortfall. Within these funds, $150,000 is to conduct a suitability/feasibility study for an Abraham Lincoln research and interpretive center at or near Lincoln Home National Historic Site in Springfield, Illinois. The study should address the following items:

(1) location and accessibility to Lincoln Home National Historic Site; (2) interpretive programs addressing Lincoln's life and presidency through museum exhibits, audiovisual programs, and other media; (3) modern curatorial storage for Lincoln artifacts and memorabilia; (4) location and availability of documentary and artifactual material for research and display including the joint management and supervision of materials with other government agencies and private entities; (5) architectural concepts to ensure compatibility with the center's setting; (6) management and operation alternatives which could include State and private agencies; (7) estimates and funding alternatives for construction, maintenance, and operation of the centers. The report should be delivered to Congress no later than April 1, 1991.

The managers agree to the Senate provision which allows the reprogramming of $500,000 previously appropriated for the purchase of BLM of Blackwell Island for the purchase of three other parcels of land in the Coeur d'Alene BLM District.

The managers are dismayed that the National Park Service has refused to implement the following directive approved by the Congress: "[f]unds sufficient to complete the Farmington River study at a level beyond the current authorization are provided" (House Report No. 101-120). Therefore, the managers direct the National Park Service to provide immediately $85,000 for the Farmington River study now underway, and further direct that those funds shall be provided from monies previously appropriated for the General Administration activity, National Park Service. To the greatest extent practicable, funds budgeted for travel and administrative overhead should be used to provide this amount. In addition to these funds, the managers expect that the amount provided in the fiscal year 1991 budget request will be used to complete the study. No later than ten days after enactment of this act, the Director of the National Park Service shall report to the House and Senate Committees on Appropriations to certify that this directive has been implemented.

FOREST SERVICE

Amendment No. 86: Appropriates $256,700,000 for "Forest Service Firefighting" as proposed by the Senate instead of $256,000,000 as proposed by the House. This amount was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the house will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*NATIONAL FOREST SYSTEM*

*For additional expenses associated with assessment or recovery on National Forest System lands from Hurricane Hugo and the Exxon Valdez oil spill of March 24, 1989, or for assessment and recovery on associated lands affected by the Exxon Valdez oil spill, $8,633,000, to remain available until September 30, 1991: Provided, That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Forest Service to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.*

*CONSTRUCTION*

*Notwithstanding any other provision of law, funds originally appropriated under this head in P.L. 101-121, the Department of the Interior and Related Agencies Appropriations Act, 1990, in the amount of $371,000 for the Forest Service for the construction of an addition to the Starkville, Mississippi research office shall be available for a grant to Mississippi State University as the Federal share in the construction of a new University facility: Provided, That comparable space shall be provided to the Forest Service without charge for a reasonable period.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have also included $8,633,000 to allow the Forest Service to undertake the study and recovery efforts associated with the effects of the Exxon Valdez oil spill in Prince William Sound last year. These funds are to be used for coastal habitat assessments, archeological surveys, and economic evaluations. The managers have also included bill language prohibiting the Forest Service from using any of its funds to reimburse the Department of Justice costs associated with recouping payment for damages from the Exxon Corporation.

The managers have also included bill language which would authorize the use of funds appropriated in the FY 1990 Interior appropriations bill for a grant to Mississippi State University (MSU) as the Federal contribution towards the costs associated with construction of a new forestry building at the university. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental. The funds were appropriated for the Forest Service to expand its existing facility, by adding a new wing to the present structure. The conferees have no objection to the Forest Service providing these funds to MSU in exchange for space to be provided to the Forest Service, rent-free, for a period of twenty years. In approving this arrangement, the conferees make no commitment as to future funding for other joint-space arrangements contemplated by the Forest Service and MSU.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

*SETTLEMENT OF CLAIMS, FOREST SERVICE*

*The Forest Service is hereby authorized and directed to negotiate, compromise, and reach a determination on certain claims against the United States resulting from the Mink Fire (Bridger-Teton National Forest and Yellowstone National Park), Clover-Mist Fire (Yellowstone National Park and Shoshone National Forest), Storm Creek Fire (Yellowstone National Park and Gallatin-Custer National Forests), and Canyon Creek Fire (Lolo, Helena, Lewis and Clark National Forests) which were originally classified as prescribed fires but subsequently became wildfires. The Forest Service is directed to negotiate, compromise, and reach a determination on the original claims, or the claims filed by an insurer subrogated to the rights of a claimant, and to negotiate any other claims filed within ninety days of the date of enactment of this Act. Notwithstanding any other provision of the law, the Secretary of the Treasury is authorized and directed to pay the amount of each determination from the Claims, Judgments, and Relief Act Fund (Public Law 95-26): Provided, That the Secretary of the Treasury shall make no payments for claims which are determined by the Forest Service or the Department of Justice to be invalid under current law: Provided further, That nothing in this section shall prohibit any claimant from filing an appeal of any determination made by the Forest Service, Department of Agriculture, or Department of Justice pursuant to current law.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have agreed to language which will address the claims of those individuals who suffered damages as a result of the fires which occurred in the greater Yellowstone area in 1988. The language does not amend the Federal Tort Claims Act. The Forest Service is directed to negotiate, compromise and reach a determination on any claims already filed, or those that will be filed within ninety days after enactment of this Act, associated with these fires. Language is also included which continues current policy that allows a claimant to file an appeal after a decision has been reached.

CLEAN COAL TECHNOLOGY

Amendment No. 89. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

*DEPARTMENT OF ENERGY*

*CLEAN COAL TECHNOLOGY*

*Funds previously appropriated under this head for clean coal technology solicitations to be issued no later than June 1, 1990, and no later than September 1, 1991: Provided, That the aforementioned solicitations shall not be conducted prior to the ability to obligate these funds: Provided further, That pursuant to section 202 (b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That for the clean coal solicitations identified herein, provisions included for the repayment of government contributions to individual projects shall be identical to those included in the Program Opportunity Notice (PON) for Clean Coal Technology III (CCT-III) Demonstration Projects (solicitation*

*number DE-PS01-89 FE 61825), issued by the Department of Energy on May 1, 1989.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment delays the fourth and fifth clean coal technology solicitations as proposed by the Senate and specifies that, when issued, these solicitations must use repayment provisions used successfully in the third solicitation. This provision was included in the House introduced bill (H.R. 4828) and modifies a Senate amendment to the original Dire Emergency Supplemental.

The managers agree that changes to the clean air bill, proposed by a House authorizing committee, that would modify the clean coal technology program must be resolved before a reasonable solicitation can be issued. The proposed delay will allow such resolution.

The managers have added language to ensure that provisions dealing with the repayment of government provided funds will remain the same as in the third round of procurements. These provisions were developed over a four year period based on the experience of previous procurements and negotiations, and input from industrial participants, Congress, and the managers of the program. They appear to be working well.

Based on this long-term experience, and the clear fact that the implementation of this type of technology will become even more important with the passage of clean air legislation, the managers reject proposals put forth by the Department of Energy to increase repayment rates substantially. Such proposals, while they might increase the recovery of government-provided funds over periods of up to twenty years, might also act as a deterrent to industrial participation in the program, which is already over 50 percent cost-shared by industry. The purpose of the program is to accelerate the introduction of clean uses of coal in a more efficient manner in compliance with stringent new air quality standards, not the provision of investment returns to the Government at the expense of nascent markets.

## CHAPTER V

## DEPARTMENT OF LABOR

### EMPLOYMENT AND TRAINING ADMINISTRATION

#### COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Amendment No. 90: Appropriates $10,000,000 as proposed by the Senate. H.R. 4404 as passed the House included no funds for this purpose, but this same amount was included in H.R. 4828 as introduced in the House of Representatives.

### STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Amendment No. 91: Appropriates $99,600,000 from the Unemployment Trust Fund as proposed by the Senate instead of $96,000,000 as proposed by the House in H.R. 4404. H.R. 4828 as introduced in the House of Representatives contained $99,600,000 for this purpose.

The conferees direct the Department of Labor to use all of the supplemental funds to restore, to the extent possible, the 6.7 percent across-the-board reductions taken to States' base and contingency allocations for fiscal year 1990.

### EMPLOYMENT STANDARDS ADMINISTRATION

Amendment No. 92: Inserts heading as proposed by the Senate.

#### SPECIAL BENEFITS

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the date "June 15" named in said amendment insert the following: *August 15*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement changes the so-called drawdown date for the Special Benefits account to August 15 instead of June 15 as proposed by the Senate; the date under current law is September 15. The agreement also provides that unobligated balances remaining on September 30, 1990 shall remain available for obligation until September 30, 1991.

#### BLACK LUNG DISABILITY TRUST FUND

Amendment No. 94: Appropriates $700,000 from the Black Lung Disability Trust Fund as proposed by the Senate. H.R. 4404 as passed the House included no funds for this purpose, but the same amount was included in H.R. 4828 as introduced in the House of Representatives.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HEALTH RESOURCES AND SERVICES ADMINISTRATION

#### PROGRAM OPERATIONS

Amendment No. 95: Appropriates $2,300,000 for health care for the homeless as proposed by the Senate. While H.R. 4404 as passed the House did not include funds for this purpose, the amount provided in the conference agreement is the same as that included in H.R. 4828 as introduced in the House of Representatives.

### CENTERS FOR DISEASE CONTROL

#### DISEASE CONTROL, RESEARCH, AND TRAINING

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment insert: *$30,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $30,500,000, including $7,000,000 for measles outbreak control and $23,500,000 for the purchase of a second vaccination for measles immunization. H.R. 4404 as passed the House included no funds for this purpose, but the same amount was included in H.R. 4828 as introduced in the House of Representatives.

In addition, the conferees are agreed that an additional $5,000,000 shall be available for measles outbreak control by reprogramming from other immunization activities and that an additional $2,000,000 shall be available for hepatitis B screening in the same manner.

### ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

#### ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

*ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION*

*ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH*

*The second proviso under the heading "Alcohol, Drug Abuse, and Mental Health" in title IV of Public Law 101-164 is repealed effective September 10, 1990 if the treatment waiting period reduction grants are not specifically authorized prior to that date.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that the funding reserved for treatment waiting period reduction grants shall be available only for this purpose until September 10, 1990, pending reauthorization. If the program has not been reauthorized by that time, the Committees expect a reprogramming request by the Department for other drug abuse treatment, prevention, and research activities.

#### VACCINE INJURY COMPENSATION

Amendment No. 98: Deletes without prejudice language proposed by the Senate to modify amendments to the Public Health Service Act regarding vaccine compensation which were contained in the 1989 Reconciliation Act. H.R. 4404 as passed the House included no similar provision.

The conferees have deleted without prejudice bill language which would have made a number of technical corrections in the Vaccine Injury Compensation Act. The conferees are concerned, however, that drafting errors made in amendments to the compensation system in P.L. 101-239 have made it possible for claimants who are injured by vaccines to receive an award from the Vaccine Injury Compensation System and still file a civil suit. this result is contrary to the intent of the Vaccine Injury Compensation System and threatens the viability of the system. The conferees are concerned also about the effect of this problem on the Compensation Trust Fund. The conferees hope this problem can be resolved promptly through legislative action.

### FAMILY SUPPORT ADMINISTRATION

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

*REFUGEE AND ENTRANT ASSISTANCE*

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Refugee and Entrant Assistance", $6,000,000, to be distributed under the targeted assistance program, of which $5,000,000 shall be for health and educational services in areas affected as a result of the massive influx of Cuban and Haitian entrants during the Mariel boatlift, $500,000 shall be available for communities currently conducting a "Fish/Wilson" demonstration project and which have been heavily impacted by the recent influx of Soviet Pentecostals for health and employment services, and $500,000 shall be available for schools in areas impacted by the influx of Indochinese refugees who entered the United States after October 1, 1979, in which the enrollment of Indochinese students (including secondary migrants) is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons: Provided, That the amount provided herein shall be derived by transfer from funds appropriated in Public Law 101-166*

*for Student Financial Assistance for carrying out activities authorized under part E, section 465 of the Higher Education Act, as amended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes WIN rescission language proposed by the Senate, and substitutes new language which was not included in either House or Senate bill which provides an additional $6.0 million for Targeted Assistance under the Refugee and Entrant Assistance program. $5 million of these funds are provided to offset health and education costs incurred by areas which have been heavily impacted by the massive influx of Cuban and Haitian entrants during the Mariel boatlift. In addition, $500,000 is provided for communities currently conducting a "Fish/Wilson" demonstration project and which have been heavily impacted by the recent influx of Soviet Pentecostals for health and employment services, and an additional $500,000 is provided for schools in areas impacted by the influx of Indochinese refugees who entered the United States after October 1, 1979, in which the enrollment of Indochinese students (including secondary migrants) is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons.

The additional budget authority and outlays which result from this agreement are offset by a transfer from funds appropriated in Public Law 101-166 for Perkins loan teacher cancellation payments which are in excess of current requirements.

Of the amounts agreed to for refugee assistance, $5 million for Cuban-Haitian entrants was previously provided for in H.R. 4828 as introduced in the House of Representatives.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment insert the following:

*ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES*

*HUMAN DEVELOPMENT SERVICES*

*For an additional amount for carrying out the Head Start Act, $165,685,000, which shall remain available until December 31, 1990.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

H.R. 4404 as passed the House included no funds for this program, but $165,685,000 was included in H.R. 4828 as introduced in the House of Representatives.

The conferees are concerned over the length of time it has taken the Department to allocate Head Start monies. Therefore, the Department is directed to furnish the Committees with a report, no later than August 1, 1990, on the disbursement of funds for the expansion of the Head Start program that were provided in the regular FY 1990 appropriations act, as well as a timetable for the disbursement of the $165,685,000 provided in this supplemental bill. The Department is expected to move expeditiously in the allocation of funds for expansion in order that additional children are brought into the Head Start program as soon as possible.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SCHOOL IMPROVEMENT PROGRAMS*

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "School Improvement Programs", $20,945,000, to remain available until September 30, 1991, of which $19,945,000 shall be to continue funding of existing School Dropout Demonstration programs as authorized under title VI, Part A and $1,000,000 shall be for carrying out the Javits Gifted and Talented Education Program as authorized under title IV, Part B of the Elementary and Secondary Education Act of 1965, as amended: Provided, That $2,520,000 of the amount provided herein shall be derived by transfer from funds appropriated in Public Law 100-436 for Student Financial Assistance for carrying out activities authorized by Part E, section 465 of the Higher Education Act, as amended: Provided further, That funds available under Public Law 101-164 for grants to States under the Drug-Free Schools and Communities Act shall also be available for Indian Youth under sections 5112(a)(2) and 5133, and for Hawaiian Natives under sections 5112(a)(3) and 5134.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement modifies and consolidates language added by the Senate in amendments 101, 102, and 103 all of which relate to the School Improvement Programs appropriation account. The agreement provides the full $19,945,000 for dropout demonstration grants as proposed by the Senate and provides that these funds shall be allocated by the Secretary as continuation awards to grantees funded in 1989. The conferees expect these funds to be awarded by September 1, 1990.

The conference agreement also includes $1,000,000 for grants under the Javits Gifted and Talented Education program instead of the $4,000,000 proposed by the Senate in amendment No. 103.

The conferees have provided supplemental funding to be awarded within the normal competitive process to support additional pending applications for the Javits Gifted and Talented program. The conferees urge that special priority be given to applications from States that have yet to establish a comprehensive approach to teaching gifted and talented students particularly those students in urban areas. Applications which would address the problems of underrepresentation in gifted and talented programs for the economically disadvantaged, those students with limited English speaking ability and minority groups should be given priority.

Finally, the conference agreement deletes the additional appropriation of $2,038,000 for Drug-Free Schools included by the Senate under amendment 102 but includes language clarifying that funds previously appropriated under Public Law 101-164 for Grants to States are also available for Indian and Native Hawaiian Youth as provided for under the basic law. The conferees expect that an additional $2,038,000 will be made available for these activities.

The additional outlays which result from this agreement are offset by a transfer of Fiscal Year 1989 funds for Student Financial Assistance. These funds are in excess of current requirements for loan cancellation payments under the Perkins program as provided for under Public Law 100-436.

While H.R. 4404 as passed the House did not include any provisions similar to amendments 101, 102, and 103, the amounts agreed to are the same as provided for in H.R. 4828 as introduced in the House of Representatives.

Amendment No. 102: Deletes appropriations of $2,038,000 for "School improvement programs" proposed by the Senate. (see Amendment No. 101).

Amendment No. 103: Deletes appropriation of $4,000,000 for "School improvement programs" proposed by the Senate. (see Amendment No. 101).

EDUCATION FOR THE HANDICAPPED

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

*EDUCATION FOR THE HANDICAPPED*

*Funds appropriated under section 619 of the Education of the Handicapped Act for fiscal year 1989 shall remain available for obligation by States through September 30, 1992.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment makes a technical change extending the availability of fiscal year 1989 funds for Preschool Grants through September 30, 1992. This language was requested by the Administration in the Fiscal Year 1991 Budget. The conference agreement modifies language inserted by the Senate to make clear that the extended availability for obligation of funds for the Preschool Grant program applies to obligation by the States.

STUDENT FINANCIAL ASSISTANCE

Amendment No. 105: Deletes language proposed by the House relating to Pell grant shortfalls in the 1989-90 award year.

RELATED AGENCIES

Amendment No. 106: Inserts heading as proposed by the Senate.

NATIONAL COMMISSION ON CHILDREN

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended as follows:

In lieu of the sum named in said amendment, insert the following: *$400,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Amendment No. 108: Deletes language proposed by the Senate that would have provided additional funds for the White House Conference on Library and Information Services.

CHAPTER VI

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

CONGRESSIONAL DIRECTIVES

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

(DISAPPROVAL OF RESCISSION)

Amendment No. 109: Deletes Senate language which had the effect of disapproving Rescission Proposal No. R90-1, in the amount of $4,075,000 relating to the Buildings and Facilities account of the Agricultural Research Service. These funds will become available on June 18, 1990, without further action by the Congress.

COOPERATIVE STATE RESEARCH SERVICE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 110: Inserts a paragraph heading as proposed by the Senate.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $250,000 from the higher education account to the Federal Administration account of the Cooperative State Research Service. This transfer has been made in order to allow the development of a vocational agriculture curriculum for aquaculture education as intended by Congress in the fiscal year 1990 Rural Development, Agriculture, and Related Agencies Appropriations Act. This provision was included in the House introduced bill (H.R. 4828).

BUILDINGS AND FACILITIES

(DISAPPROVAL OF RESCISSION)

Amendment No. 112: Deletes Senate language which had the effect of disapproving Rescission Proposal No. R90-2, in the amount of $41,008,000 relating to the Buildings and Facilities account of the Cooperative State Research Service. These funds will become available on June 18, 1990, without further action by the Congress.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $8,000,000 for the Animal and Plant Health Inspection Service. The conference agreement includes $6,800,000 for grasshopper control efforts and $1,200,000 for the pseudorabies eradication effort. This provision was included in the House introduced bill (H.R. 4228).

FOOD SAFETY AND INSPECTION SERVICE

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*FOOD SAFETY AND INSPECTION SERVICE*

*For an additional amount for necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $4,400,000: Provided, That none of the funds appropriated or otherwise made available by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990, Public Law 101-161, shall be used to pay the salaries of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $553,000,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $4,400,000 for the Food Safety and Inspection Service instead of $6,884,000 as proposed by the Senate. The $4,400,000 provided will prevent the furlough without pay of any food inspectors. In addition, the conference agreement limits the export enhancement program to $553,000,000 instead of $556,000,000 as proposed by the Senate. H.R. 4828 included $4,400,000 for the Food Safety and Inspection Service and a ceiling of $550,000,000 on the export enhancement program.

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

*FEDERAL CROP INSURANCE CORPORATION*

*ADMINISTRATION AND OPERATING EXPENSES*

*For an additional amount for administrative and operating expenses, as authorized by the Federal Crop Insurance Corporation Act, as amended (7 U.S.C. 1516), $15,000,000: Provided, That these funds shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $15,000,000 for administrative and operating expenses of the Federal Crop Insurance Corporation as proposed by the Senate. In addition, the conference agreement makes the appropriation contingent upon the submission of an official budget request for a specific dollar amount. This provision was included in the House introduced bill (H.R. 4828).

The conferees expect that not less than $300,000 of the funds available to the Commission for the Improvement of the Federal Crop Insurance Program be returned to the Federal Crop Insurance Corporation administrative and operating expenses account. The conferees expect the Commission to terminate operations by the end of fiscal year 1990.

FARMERS HOME ADMINISTRATION

RURAL WATER AND WASTE DISPOSAL GRANTS

The conferees are advised that 89 percent of the users of the planned south Washington County, Arkansas rural development water project have water sources classified as unsafe, and note that some users are drawing water from stock ponds. The conferees will expect the Secretary to give attention to meeting the needs of this community, and consider using funds from the recovery of prior year obligations, if any, for this need.

WETLANDS

The conferees agree that wetlands described in Executive Order 11990 of the President shall be protected, thus reserving non-wetland farmlands for farming. The conferees further agree that in each case where foreclosed farmland was sold to the original owner or family member subject to wetlands easements on nonwetland farmland, excluding valid buffer zones, the Farmers Home Administration shall issue a deed free of such easement.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

The Administration has proposed the reduction of insured loan levels in the amounts of $23,500,000 for electric loans and $105,900,000 for telephone loans. The conferees reject this proposal.

Furthermore, the conferees direct that the maximum amounts of loan funds authorized in the 1990 Rural Development, Agriculture, and Related Agencies Appropriations Act be made available for obligation. An unfunded balance of $550,000,000 in eligible loan applications is anticipated for the end of fiscal year 1990. This situation is unnecessary because Congress has consistently made sufficient funds available to cover the need by authorizing a range of loan levels.

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Amendment No. 116: Appropriates $3,100,000 for the commodity supplemental food program instead of $4,700,000 as proposed by the Senate. The amount provided should allow the commodity supplemental food program to serve, at minimum, the March 1990 actual participation levels through the end of the fiscal year. This provision was included in the House introduced bill (H.R. 4828).

FOOD STAMP PROGRAM

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$1,200,000,000, which shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,200,000,000 for the food stamp program. In a letter to the House and Senate Appropriations Committees dated May 2, 1990, the Secretary of Agriculture stated:

* * * * *

The House bill contains $510 million. The Senate bill provides $705 million. Both of these figures were consistent at the time of their enactment with the best information that was available. However, more recent information which has just become available indicates that even the $705 million in the Senate bill may not be sufficient. Program participation is continuing to grow by nearly 200,000 individuals per month. Participation in March grew to almost 20.3 million, an increase of nearly 400,000 over February and 1.3 million (7 percent) since the end of last fiscal year. Continuation of this trend would mean that the unfunded need could approach $1.2 billion.

We will continue to monitor this program closely and keep the Committees informed. It is at least possible that the normal seasonal decline in participation may not occur in the next several months. This uncertainty causes us to again commend to your attention the Administration's proposal for an open-ended appropriation for this program. However, if the Committees continue to believe that a specific appropriation should be provided, our best advice is that a supplemental of at least $1.2 billion will cover the need and reasonable assurance that full benefits can be continued for the remainder of this fiscal year.

* * * * *

In view of the request of the Secretary of Agriculture, the conferees recommend that the food stamp program be fully funded at a level of $1,200,000,000.

In addition, the conference agreement makes the appropriation contingent upon the submission of an official budget request for a specific dollar amount. This provision was included in H.R. 4829.

INDEPENDENT AGENCY

COMMODITY FUTURES TRADING COMMISSION

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$2,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $2,000,000 for the Commodity Futures Trading Commission instead of $3,655,000 as proposed by the Senate. The House bill had no similar provision.

CHAPTER VII

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

Amendment No. 119: Appropriates $245,000,000 for the loan guaranty revolving fund as proposed by the Senate and specified in H.R. 4828, instead of $150,000,000 as proposed by the House in H.R. 4404.

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

Amendment No. 120: Appropriates $94,000,000 for medical care as proposed by the Senate and specified in H.R. 4828, instead of $50,000,000 as proposed by the House in H.R. 4404. The conferees agree that at least $30,000,000 of the amount provided is to be used to increase employment to the 194,638 level by the end of the fiscal year. The balance of up to $64,000,000 is for additional medical equipment and supplies.

Amendment No. 121: Restores language proposed by the House and stricken by the Senate earmarking $7,227,000,000 of the total 1990 medical care appropriation for personnel compensation and benefits object classifications. This will ensure adequate funds are made available to support an average employment of 194,638 by the end of the fiscal year.

DEPARTMENTAL ADMINISTRATION

Amendment No. 122: Restores language proposed by the House and stricken by the Senate increasing the amount available in the 1990 general operating expenses appropriation for travel by $1,000,000. This action does not increase the total amount of funds available in 1990 for general operating expenses but does provide the VA with flexibility to meet current requirements.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In the heading "Housing for the elderly and handicapped fund", strike the word "and" and insert *"or"*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement extends indefinitely the period during which fiscal year 1990 housing for elderly or handicapped fund direct loan authority is available, amended to make a technical change in the heading.

COMMUNITY PLANNING AND DEVELOPMENT

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*COMMUNITY DEVELOPMENT GRANTS*

*(INCLUDING TRANSFER OF FUNDS)*

*Notwithstanding the repeal of section 107(b)(3) of the Housing and Community Development Act of 1974 by section 105(b) of the Department of Housing and Urban Development Reform Act of 1989, funds appropriated under the Community Development Grants heading of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, pursuant to such section 107 shall be available for grants to Indian tribes.*

*The paragraph under this head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 849-850) is hereby amended by inserting, immediately before the final colon in the third proviso, a semicolon and the following: "and the amounts set forth for the 27 projects and purposes specified at page 19 (other than those three projects specified in this and the immediately preceding proviso) and for the first 10 projects specified on page 20, of the Joint Explanatory Statement of the Committee of Conference on H.R. 2916 (House Report 101-297), shall be made available for such projects and purposes".*

*The amount to be derived by transfer from the urban development action grants account to this head under Public Law 101-144 shall include all unobligated balances available at the end of fiscal year 1989: Provided, That such unobligated balances shall be made available for purposes authorized by section 106 of the Housing and Community Development Act of 1974: Provided further, That those amounts that are required to fund urban development action grant projects which have received preliminary approval in accordance with regulations promulgated by the Department of Housing and Urban Development shall not be transferred: Provided further, That the Secretary of Housing and Urban Development shall withhold from the amount subject to transfer such funds as may be necessary to comply with orders of United States Courts which direct the Secretary to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301).*

*Of the amount that otherwise would be available under this head under Public Law 101-144 for technical assistance activities to be allocated at the discretion of the Secretary, under section 107(b)(4) of the Housing and Community Development Act of 1974, $14,000,000 shall be made available under section 106 of such Act.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language which: (1) permits the use of community development grant funds appropriated in 1990 for grants to Indian tribes; (2) authorizes the special projects set forth in the 1990 conference report; (3) transfers unobligated balances in the urban development action grants program to the community development grants account; and (4) makes $14,000,000 of technical assistance funds available for section 106 activities as specified in the House introduced bill (H.R. 4828), instead of including only the first two paragraphs as proposed by the Senate.

Amendment No. 125: Deletes language proposed by the House and stricken by the Senate transferring unobligated balances from the urban development action grants program to the urban homesteading program to expand the homesteading of additional Federal Housing Administration properties.

Amendment No. 126: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate exempting the State of Vermont from certain rent control provisions. This language was also included in the House introduced bill (H.R. 4828).

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that the Beechwood Towers Housing Development Grant project in Pittsburgh not be canceled prior to December 31, 1990. This language was also included in the House introduced bill (H.R. 4828).

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

Amendment No. 128: Inserts language appropriating $500,000 for salaries and expenses as proposed by the Senate and specified in H.R. 4828.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 129: Inserts center heading as proposed by the Senate.

Amendment No. 130: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*ABATEMENT, CONTROL, AND COMPLIANCE*

*For an additional amount for "Abatement, control, and compliance", $1,800,000, to remain available until September 30, 1991: Provided, That of the funds appropriated under this head in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144), $500,000 shall be available for a lead storage battery recycling pilot project for the State*

*of New Jersey, to remain available until expended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language appropriating $1,800,000 for the additional cost of renovating a Great Lakes research vessel. This language was included in the House introduced bill (H.R. 4828).

The conferees also urge that from within available resources $900,000 be allocated to the State of Michigan for a zero waste sulfonation and other technologies program applied to municipal and household wastes.

Finally, the conferees are very concerned over the failure of the Administration to provide adequate policy attention to the issue of lead poisoning due to exposure to lead-based paint. While significant scientific and technical questions abound as to the nature of this health risk, effective testing techniques, and reasonable and cost-effective exposure abatement methodologies, the Federal Government has already initiated a multi-billion dollar program for public housing modernization, that will require public housing authorities to confront lead paint testing and abatement. The Congress provided $5,000,000 in EPA's fiscal year 1990 budget to begin work on developing a technically sound program and policy. The conferees are concerned that uncertainties over continued support of this work over the next few fiscal years have prompted EPA to propose application of these funds in a manner which fails to match the aggressive, legislatively-mandated abatement program of HUD. The conferees therefore direct EPA to revise its operating plan to accelerate research and policy development activities for the current year, including an appropriate augmentation of staff support for such studies.

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate extending the 1990 exemption from establishing State revolving loan funds for certain governments with construction grants appropriations to funds appropriated in prior and future years and makes a technical change in reference to the Republic of Palau. This language was also included in the House introduced bill (H.R. 4828).

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 132: Deletes language appropriating $500,000 for emergency management planning and assistance as proposed by the Senate.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Amendment No. 133: Deletes language rescinding $36,077,000 of 1990 space flight, control and data communications funds as proposed by the Senate.

Amendment No. 134: Appropriates $32,970,000 for research and program management as proposed by the House, instead of $45,000,000 as proposed by the Senate.

Amendment No. 135: Transfers $14,970,000 from the space flight, control and data communications account to the research and program management account as proposed by the House, instead of $27,000,000 as proposed by the Senate.

NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

(TRANSFER OF FUNDS)

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring $500,000 of the funds earmarked for the public housing modernization program in the 1990 annual contributions for assisted housing appropriation to fund the Commission. This language was also included in the House introduced bill (H.R. 4828).

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

(TRANSFER OF FUNDS)

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring $2,000,000 of the funds earmarked for the public housing modernization program in the 1990 annual contributions for assisted housing appropriation to fund the Commisison. This language was also included in the House introduced bill (H.R. 4828).

## CHAPTER VIII

## DEPARTMENT OF TRANSPORTATON

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $5,000,000 in liquidating cash for highway traffic safety grants and increasing the limitation on obligations for alcohol safety incentive grants by $5,000,000. This amount was also included in the House introduced bill (H.R. 4828).

## CHAPTER IX

## DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA FUNDS

Amendment No. 139: Inserts new chapter and headings for fiscal year 1990 supplemental appropriations for the District of Columbia government as proposed by the Senate. The District's supplemental request was submitted in House Document No. 101-186 and is included in H.R. 4228 as introduced in the House and as Senate amendments to the original Dire Emergency Supplemental. The District's fiscal year 1990 supplemental request reflects a net reduction in operating expenses of $25,466,000 and a net increase in the capital outlay program of $51,887,000. The recommendations of the conferees are discussed under subsequent amendments in this chapter.

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates an additional $99,000 and rescinds $3,317,000 for a net decrease of $3,218,000 in appropriations for the various departments and activities included under this heading. The appropriation and this recission were also in the House introduced bill (H.R. 4828).

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

*ECONOMIC DEVELOPMENT AND REGULATION*

*(INCLUDING RESCISSION)*

*For an additional amount for "Economic development and regulation", $50,000: Provided, That of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269), $10,498,000 are rescinded for a net decrease of $10,448,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates an additional $50,000 and rescinds $10,498,000 for a net decrease of $10,448,000 as contained in the House introduced bill (H.R. 4828) instead of appropriating an additional $50,000 and rescinding $10,478,000 for a net decrease of $10,428,000 as proposed by the Senate. The changes reflect technical adjustments required to conform the totals to the individual items that were submitted in the District's request.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

Amendment No. 142: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*PUBLIC SAFETY AND JUSTICE*

*(INCLUDING RESCISSION)*

*For an additional amount for "Public safety and justice", $7,750,000: Provided, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168, 103 Stat. 1269 to 1271), $2,739,000 are rescinded for a net increase of $5,011,000: Provided further, That of the $50,000,000 previously appropriated under the heading "Criminal Justice Initiative", $10,000,000 shall be paid to the District of Columbia government to pay amounts due to the Federal Bureau of Prisons and State governments and facilities for the housing of District of Columbia Code violators: Provided further, That by November 30, 1990, the District of Columbia government shall pay $10,000,000 (from current operating revenues collected during fiscal year 1991 and not from the proceeds of borrowed funds) to the United States Treasury, and such payment shall be credited to and be available for the purposes of the "Criminal Justice Initiative" for the construction of the Correctional Treatment Facility: Provided further, That no actions taken pursuant to any of the provisions of this heading may be carried out in a manner that will delay the construction of such Correctional Treatment Facility.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates an additional $7,750,000 and rescinds $2,739,000 for a net increase of $5,011,000 instead of appropriating an additional $7,750,000 and rescinding $5,739,000 for a net increase of $2,011,000 as contained in the House introduced bill (H.R. 4828) and the Senate amendment to the original Dire Emergency Supplemental. The conferees have also agreed, although reluctantly, to allow the District to finance $10,000,000 of the current operating expenses by using

$10,000,000 of the $50,000,000 in Federal funds previously appropriated for construction of the new Correctional Treatment Facility. This matter is discussed later in this report under "Drawdown of Correctional Treatment Facility Funds".

*Metropolitan Police Department.*—The conferees have not approved the request to rescind $3,000,000 in funds for the Metropolitan Police Department. The requested rescission of $3,000,000 would have reduced the department's ability to target specific areas of the city for enforcement purposes and would have lowered the police profile throughout the city. The rescission would have also jeopardized the department's ability to provide new recruits with adequate equipment and supplies, thus delaying their deployment. The conferees have not approved the reduction of $1,000,000 in the department's equipment budget to provide pay-as-you-go capital financing to renovate a building to house the Special Operations Division (SOD). It is the understanding of the conferees that units of the SOD were recently relocated from the site of the new correctional treatment facility and that the city's master plan calls for the eventual relocation of the SOD to a permanent site elsewhere in the District. This matter will be discussed during the upcoming hearings on the District's fiscal year 1991 budget.

*Drawdown of Correctional Treatment Facility Funds.*—The conference action also includes language that allows the District government to finance $10,000,000 of current operating expenses by using $10,000,000 of the $50,000,000 in Federal funds appropriated through fiscal year 1989 for construction of the new Correctional Treatment Facility. These funds will be used to pay the Federal Bureau of Prisons and various State governments and facilities for the costs of housing District of Columbia inmates in non-District facilities.

The conferees have reluctantly agreed to this financing arrangement and have done so only after adding language to require the District government to repay the $10,000,000 by November 30, 1990, from current operating revenues collected during fiscal year 1991 and not from the proceeds of borrowed funds. The conferees have not approved the District government's proposal to replace the Fedeal funds with borrowed funds which would burden future District taxpayers who would have to pay the interest costs on such funds over the amortized period. Likewise, the conferees are concerned that the financing of some programs originally funded in the operating budget has been switched to the capital budget which, of course, is financed with borrowed funds that have to be repaid over periods of 5 to 30 years requiring District taxpayers to shoulder the added burden of interest costs as well a the principal repayment. The conferees call on District officials to avoid such financing arrangements in the future.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*PUBLIC EDUCATION SYSTEM*

*(INCLUDING RESCISSION)*

*For an additional amount for "Public education system", $3,461,000, including $2,682,000 for the D.C. Public Schooools and $779,000 for the Public Library: Provided, That for the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 State. 1271), $7,882,000 for the D.C. Public Schools, $730,000 for the University of the District of Columbia, $779,000 for the Public Library $643,000 for the Commission on the Arts and Humanities, and $10,000 for the Education Licensure Commission are rescinded for a net decrease of $6,583,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates an additional $3,461,000 and rescinds $10,044,000 for a net decrease of $6,583,000 with specific allocations of the appropriations and rescissions as contained in the House introduced bill H.R. 4828) instead of rescinding $6,583,000 with no allocations as proposed by the Senate in its amendment to the original Dire Emergency Supplemental.

*District of Columbia School of Law.*—The conferees are concerned about the effect of the denial by the District government of the Law School's supplemental request. This action could endanger the School's ability to achieve timely American Bar Association (ABA) accreditation. The request totaled $1.5 million and included such essential items as increased rental costs ($62,000), ABA site inspection fee ($15,000), additional building security ($40,000), and library books and equipment ($525,000).

The Law School submitted its application for provisional accreditation to the ABA on December 6, 1989, thus beginning the accreditation process. The Law School's fiscal year 1991 budget request is based on receiving funds to cover its 1990 supplemental needs. The supplemental would have allowed the Law School to reduce it's dependence on District appropriated funds. The District Council's Committee on Education and Libraries stated in its report that "In short, rather than consider the base budget as sacrosanct, and thus ask for additional appropriations for every new need or initiative—which is the practice throughout most of the District Government, the Law School is attempting to be fiscally responsible at a time of limited, if not scarce, revenues. The simple fact that the Board of Governors of the Law School would voluntarily propose a reduction in appropriated funds spending in FY 1991 from expected FY 1990 total expenditures, is an indication of the Board's commitment to build a quality institution of higher legal education without unnecessarily expending taxpayers' dollars. It must also be emphasized that through base budget reductions and by expending the balance of its FY 1987 one-time only appropriation in FY 1990, the Law School will need less assistance from the taxpayers next fiscal year than this fiscal year, even though the Law School will have a first through third-year student population for the first time ever and will be undergoing an exhaustive American Bar Association on-site review."

The conferees direct District officials to review the current needs of the D.C. School of Law with an eye toward recommending a reprogramming to cover the School's highest priority increases for fiscal year 1990.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

Amendment No. 144: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*HUMAN SUPPORT SERVICES*

*(INCLUDING RESCISSION)*

*For an additional amount of "Human support services", $4,840,000: Provided, that $640,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees disability compensation: Provided further, That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $10,245,000 are rescinded for a net decrease of $5,405,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates an additional $4,840,000 and rescinds $10,245,000 for a net decrease of $5,405,000 as contained in the House introduced bill (H.R. 4828) instead of appropriating an additional $4,840,000 and rescinding $10,245,000 for a net increase of $5,405,000 as proposed by the Senate in its amendment to the original Dire Emergency Supplemental.

*Uncompensated Medical Care.*—The conferees have become aware of a serious problem at local hospitals concerning uncompensated medical care. According to information provided to the conferees, this problem could total $10,000,000 annually. The problem appears to be getting worse as a result of drug-related violence on the city's streets.

D.C. General Hospital expects to treat twice as many trauma patients as it did just three years ago and 60 percent of those will be uninsured. George Washington University Medical Center has rendered $22,000,000 worth of uncompensated care since 1988. In one recent quarter, the Washington Hospital Center provided more than $6,000,000 in medical care for which it received no payment.

This problem is not limited to the District. The City of Chicago has lost three trauma centers in the past two years as a result of these escalating costs. This does not have to happen and should not be allowed to happen in the District. The conferees expect to discuss this matter with District officials at upcoming hearings on the District's fiscal year 1991 budget and expect District officials to be fully prepared to discuss possible solutions such as those that have been undertaken in Maryland, Virginia, and California.

PUBLIC WORKS

(INCLUDING RESCISSION)

Amendment No. 145: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*PUBLIC WORKS*

*(RESCISSION)*

*Of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271 and 1272), $8,810,000 are rescinded: Provided, That none of the funds contained in this Act or any other Act shall be obligated or ex-*

*pended by the District of Columbia government to remove the safety fences at the Duke Ellington Memorial Bridge until—*

*(a) the Mayor's Agent, following an evidentiary determination, has found that the evidence indicates that the circumstances have changed to nullify the 1987 findings of the Mayor's Agent, HPA No. 87-377 (August 20, 1987), as to the benefits of the fences; and*

*(b) the Mayor has provided a detailed statement to the Committees on Appropriations of the House of Representatives and the Senate explaining the basis for the decision to remove the safety fences.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action rescinds $8,810,000 as contained in the House introduced bill (H.R. 4828) and the Senate amendment to the original Dire Emergency Supplemental and inserts language prohibiting the District government from obligating or expending funds to remove the safety fences at the Duke Ellington Memorial Bridge until the Mayor's Agent has found, following an evidentiary determination, that circumstances have changed to nullify the findings of the Mayor's Agent in *D.C. Department of Public Works* v. *ANC's 1-C and 3-C, et al,* HPA No. 87-377, and the Mayor has provided a detailed statement to the House and Senate Committees on Appropriations explaining the basis for the decision to remove the safety fences. The conference action requires that proper procedures and evidential findings, supported by facts, be made prior to final action. It should also be noted that the District's proposed action would require the District to repay the Federal government $172,000 in funds used to construct the fences in 1986. This would be in addition to the estimated $180,000 in District funds that would have to be paid for modifications to the Bridge.

WASHINGTON CONVENTION CENTER FUND

Amendment No. 146: Appropriates an additional $2,993,000 as included in H.R. 4828 and as a Senate amendment to the original Dire Emergency Supplemental for the three agencies financed under this heading.

REPAYMENT OF LOANS AND INTEREST

Amendment No. 147: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which rescinds $12,336,000 due to lower than anticipated capital expenditures and the capitalization of bond interest costs. This rescission was also included in the House introduced bill (H.R. 4828).

REPAYMENT OF GENERAL FUND DEFICIT

Amendment No. 148: Deletes language proposed by the Senate which would have repealed the paragraph in the fiscal year 1990 D.C. Appropriations Act that requires the District government to reduce its general fund accumulated deficit by $20,000,000.

SHORT-TERM BORROWINGS

Amendment No. 149: Appropriates an additional $3,349,000 as included in H.R. 4828 to cover the costs of issuing revenue anticipation notes in October 1989 rather than January 1990 as originally planned. This amount was also included in the Senate amendment to the original Dire Emergency Supplemental.

OPTICAL AND DENTAL BENEFITS

Amendment No. 150: Appropriates an additional $543,000 as included in H.R. 4828 to cover the costs required by an increase in the number of claims and an increase in the number of eligible employees. This amount was also included in the Senate amendment to the original Dire Emergency Supplemental.

ENERGY ADJUSTMENT

Amendment No. 151: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*ENERGY ADJUSTMENT*

*The paragraph under the heading "Energy Adjustment" in the Distict of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action repeals language in the fiscal year 1990 D.C. Appropriations Act which required the District government to reduce its energy costs by $2,000,000. The reduction in energy costs has been allocated to individual agencies within the applicable appropriation titles. This provision was included in the House introduced bill (H.R 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

EQUIPMENT ADJUSTMENT

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*EQUIPMENT ADJUSTMENT*

*The paragraph under the heading "Equipment Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action repeals language in the fiscal year 1990 D.C. Appropriations Act which required the District government to reduce its equipment costs by $6,100,000. The reduction in equipment costs has been allocated to individual agencies within the applicable appropriation titles. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

PERSONAL SERVICES ADJUSTMENT

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*PERSONAL SERVICES ADJUSTMENT*

*The paragraph under the heading "Personal Services Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.*

*SUPPLY, ENERGY AND EQUIPMENT ADJUSTMENTS*

*The Mayor shall reduce authorized supply, energy, and equipment appropriations and expenditures within object classes 20 (supplies), 30a (contracts), and 70 (equipment) in the aggregate amount of $5,000,000 within one or several of the various appropriation headings in this chapter: Provided, That notwithstanding any other provision of law, such reductions shall not be allocated to any activities or programs of the Metropolitan Police Department.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

*Personal services adjustment.*—The conference action repeals language in the fiscal year 1990 D.C. Appropriations Act which required the District government to reduce its personal services costs by $31,550,000. This lump-sum reduction has been allocated to individual agencies within the applicable appropriation titles. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

*Supply, energy, and equipment adjustments.*—The conference action inserts language to reduce supply, energy, and equipment costs by $5,000,000 instead of $2,000,000 as contained in the District's request and in the House introduced bill (H.R. 4828). The conference action also includes language providing that none of this reduction shall be allocated to any activities or programs of the Metropolitan Police Department.

CAPITAL OUTLAY

Amendment No. 154: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*CAPTIAL OUTLAY*

*(INCLUDING RESCISSION)*

*For an additional amount for "Capital outlay", $79,802,000, to remain available until expended: Provided, That $27,915,000 of prior year authority is rescinded for a net increase of $51,887,000: Provided further, That $2,362,000 shall be available for project management and $2,116,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Seante.

The conference action appropriates $79,802,000 and rescinds $27,915,000 of prior year authority for a net increase of $51,887,000 as contained in the House introduced bill (H.R. 4828) instead of appropriating $76,102,000 and rescinding $24,215,000 of prior year authority for a net increase of $51,887,000 as proposed by the Senate. The changes recommended by the conferees and included in the House introduced bill (H.R. 4828) are technical adjustments required to conform the totals to the individual items that were approved by the District and included in their request.

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

Amendment No. 155: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates an additional $12,026,000 and rescinds $17,680,000 for a net decrease of $5,654,000. This appropriation and this rescission were included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

CHAPTER X

Amendment No. 156: Inserts a center heading as proposed by the Senate.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 157: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which extends the availability of the $500,000 appropriated to the Office of Administration in fiscal year 1990 for the White House Conference on Indian Education. This amendment makes funds appropriated in fiscal year 1990 available until expended.

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS FOR NATURAL DISASTERS

Amendment No. 158: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

*FUNDS APPROPRIATED TO THE PRESIDENT*

*UNANTICIPATED NEEDS FOR NATURAL DISASTERS*

*For an additional amount for "Unanticipated Needs for Natural Disasters", $5,000,000, to remain available until expended, to enable the President to meet unanticipated needs arising from natural disasters occurring on March 13, 1990: Provided, That, notwithstanding any other provision of law, not less than $2,500,000 of such additional amount shall be available to meet disaster assistance needs in the State of Nebraska, and not less than $2,500,000 shall be available to meet disaster assistance needs in the State of Kansas.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recommend an appropriation of $5,000,000 to provide disaster assistance to communities in the States of Nebraska and Kansas which sustained significant tornado damage on March 13, 1990. To meet disaster assistance needs in the State of Kansas, not less than $2,500,000 shall be transferred to the Economic Development Administration for title IX sudden and severe dislocation projects. To meet disaster assistance needs in the State of Nebraska, not less than $2,500,000 shall be transferred to the Federal Emergency Management Agency for a grant to the State of Nebraska. This assistance shall be without regard to the requirements of the Robert T. Stafford Disaster Assistance Act.

CHAPTER XI

LEGISLATIVE BRANCH

U.S. SENATE

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

Amendment No. 159: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides the traditional payment to the widow of Spark M. Matsunaga, late a Senator from Hawaii.

TITLE III—GENERAL PROVISIONS

SEC. 306

Amendment No. 160: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds a general provision amendment Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (P.L. 101-162). The Senate amendment adds a new subsection to Sec. 610 of said Act which amends the term "export license applications" to include requests for approval of technical assistance agreements or services that would serve to facilitate the launch of U.S.-built satellites on Soviet- or Chinese-built launch vehicles. The House bill contained no similar provision.

The provision in the conference agreement is intended to clarify the language adopted in Sec. 610 of P.L. 101-162. That language prohibits the reinstatement or approval of export license applications for launch of U.S.-built statellites on Soviet- or Chinese-built launch vehicles unless the President reports to Congress that the People's Republic of China has made progress on certain political reforms or that the reinstatement or approval of such export license applications is in the national interest of the United States. The statutory language added by the conference agreement clarifies that such export license applications include requests for approval of technical assistance agreements or services that would facilitate launch of such satellites. The conferees emphasize that this provision applies only to export license applications by U.S. companies for such agreements which could facilitate the use of Soviet- or Chinese-built launch vehicles for possible launch of U.S.-built satellites. The conferees wish to make clear that, as under current law, the conference agreement allows the President to waive the new provision if he determines that approval of an export license application for such a technical assistance agreement is in the national interest of the United States.

Amendment No. 161: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 307. None of the funds appropriated by this or any other Act with respect to any fiscal year for contractual services support of the U.S. Antarctic Program may be obligated for procurement of a multibeam bathymetric sonar mapping system manufactured outside of the United States: Provided, That not to exceed $2,400,000 shall be available for the total cost of such procurement, including software: Provided further, That this section shall not be applicate to any procurement covered by the GATT Agreement on Government Procurement.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language concerning the procurement and cost of a mapping system for a research vessel. Parts of this language were in the Senate amendment and in the House introduced bill (H.R. 4828).

Amendment No. 162: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making a technical change in section 319 of the Department of Transportation and Related Agencies Appropriations Act, 1990, regarding the use of funds previously appropriated to the Federal Aviation Administration. This provision was also included in the House introduced bill (H.R. 4828).

Amendment No. 163: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate directing the Secretary of Transportation to make available funds previously appropriated for "Project Break-Even" administered by the Tri-County Metropolitan Transportation District of Oregon. This provision was also included in the House introduced bill (H.R. 4828).

Amendment No. 164: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 310. Funds appropriated under Public Law 101-164, the Department of Transportation and Related Agencies Appropriations Act, 1990, for Highway Demonstration Projects involving railroad overpasses in Las Vegas, New Mexico, may be used for construction: Provided, That for loans to the Chicago, Missouri and Western Railroad, or its successors, authorized in Public Law 101-164, $3,500,000: Provided further, That such loans shall be made available no latter than thirty days after enactment of this Act.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This provision was included in the House introduced bill (H.R. 4828) and as a Senate amendment to the original Dire Emergency Supplemental.

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks certain amounts appropriated in Public Law 101-130 and remaining available as of April 16, 1990, for the forest research, State and private forestry and National forest system accounts of the Forest Service. The language also provides that $15,153,000 of funds appropriated in Public Law 101-130 are rescinded.

Amendment No. 166: Deletes language proposed by the Senate which would have (1) removed the restriction on the use of locally-raised revenues to perform abortions in the District of Columbia while continuing the restriction on the use of Federal funds except in those cases where the mother's life is endangered, (2) allowed the death penalty in certain cases in the District of Columbia, and (3) required a study of early childhood education development programs in the District of Columbia.

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "313" insert: *312*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which amends the statutory authority of the United States Capitol Preservation Commission to provide for the transfer of works of fine art, to clarify the intent of the authorizing legislation with respect to certain project activities, and to require an annual report. The conferees wish to point out that the improvement and preservation projects subject to the approval of the Committees on Appropriations encompass planning, surveys, designs and other pre-construction activities, as well as the

construction and installation phases of these projects.

Amendment No. 168: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "314" insert: *313*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which extends the jurisdiction of the Capitol Police to include certain parking spaces and contiguous areas.

Amendment No. 169: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "315" insert: *314*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which amends the authority of certain Senate leaders with respect to the appointment of consultants.

Amendment No. 170: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "316" insert: *315*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which provides for donating surplus Senate personal computer and related equipment and training to the Polish parliament, the result of a recommendation by a Congressional staff delegation established pursuant to S. Con. Res. 74 (October 26, 1989). Additionally, $1,500,000 is reappropriated from unexpended balances in the appropriation account of the Sergeant at Arms and Doorkeeper of the Senate.

Amendment No. 171: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 316. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate in the case of the Senate and, subject to the approval of the Committee on Appropriations of the House of Representatives, any unexpended and unobligated funds in any appropriation account disbursed by the Clerk of the House in the case of the House of Representatives, which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for the expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein in the case of the Senate and for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the House wing of the United States Capitol, any House Office Building, or any room, corridor, or other space therein or for other purposes as authorized by law in the case of the House of Representatives.*

*In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Capitol, or an item historically accurate.*

*(b) All such items of art, fine art, or historical items referred it in subsection (a) shall be known as the "United States Senate Collection" in the case of the Senate and the "United States House of Representatives Collection" in the case of the House of Representatives.*

*(c) Disbursements for expenses incurred for the purposes related to the United States Senate Collection shall be made upon vouchers approved by the Chairman of the Senate Commission on Art or the Executive Secretary of the Senate Commission on Art in the case of the Senate and disbursements for expenses incurred for the purposes related to the United States House of Representatives Collection shall be made upon vouchers approved by the House Office Building Commission in the case of the House of Representatives.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides authority to use certain unexpended and unobligated funds within the contingent fund of the Senate for the conservation and restoration of items of art, as provided in the Senate bill and, in addition, confers similar authority for the House of Representatives, covering art restoration or any authorized expenditure, subject to the approval of the House Committee on Appropriations.

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "318" insert: *317*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the Senate language which provides transfer authority within the Senate contingent fund.

Amendment No. 173: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the section named in said amendment insert: *318*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the expenditure or obligation of funds made available to the Department of the Treasury for the downgrading of job classifications or the contracting out of positions in the U.S. Mint Police Force or the Bureau of Engraving and Printing Police Force. It also prohibits the use of funds for any studies to determine the feasibility of contracting out such activities.

BROOME COUNTY, NEW YORK TERMINAL HANDLING SERVICES FACILITY

The conferees are aware of the actions of the U.S. Postal Service in establishing a terminal facility in Broome County, New York which is operated entirely by a private contractor. The conferees believe that legitimate questions have been raised about this situation and its ramifications from the continuation of universal public delivery of the mail, the sancity of the mail and any broader plans the U.S. Postal Service may have to privatize the Postal Service. The conferees believe that these matters should be reviewed by the appropriate legislative committees.

HOLLY SPRINGS, MISSISSIPPI POST OFFICE

House Report 100-498, the conference report accompanying the fiscal year 1988 Appropriations Act (Public Law 100-202), contained the following language:

HOLLY SPRINGS, MISSISSIPPI POSTAL SERVICE

The conferees direct the Postal Service to continue to provide full postal service to the people of Holly Springs proper including upgrading, remodeling, and improving the U.S. Post Office building at 110 North Memphis Street in Holly Springs, Mississippi. It is contemplated that a new building for use as a center for sorting mail will proceed as long as the present building and service is maintained at the main post office and present service is maintained.

That language was an explanation of the following provision of permanent law:

Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street in Holly Springs, Mississippi.

(Public Law 100-202 and Public Law 100-440)

Under the agreement and pursuant to this permanent law, the United States Post Office building located at 110 North Memphis Street in Holly Springs, Mississippi, shall continue as the Post Office of Holly Springs, Mississippi, with present operations.

The center for sorting mail may be designated as a station.

Amendment No. 174: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

*SEC. 319. The Secretary of the Army is directed to execute a local cooperation agreement prior to July 1, 1990, for construction of a modification of the existing Gulfport Harbor project in Mississippi as authorized by the Supplemental Appropriations act, 1985, (Public Law 99-88), section 202(a) of the Water Resources Development Act of 1986 (Public Law 99-662), and section 4(n) of the Water Resources Development Act of 1988 (Public Law 100-676).*

*Within available funds, the Secretary of the Interior is authorized to obligate up to $12,000,000 to initiate safety of dams modifications at Mormon Island Auxiliary Dam (Folsom Dam and related facilities) of the Central Valley Project, California, authorized under Public Law 95-578, as amended, absent the transmission of the report de-*

*scribed in the proviso of section 5 of Public Law 95-578, as amended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement directs the Secretary of the Army to execute a local cooperation agreement for the Gulfport Harbor, Mississippi, modification project by July 1, 1990, as proposed by the Senate. This provision was also included in H.R. 4828 which was introduced in the House of Representatives.

The conference agreement also, due to the drought situation in California, provides for dam safety work. As a result of the drought conditions in California, the Bureau of Reclamation has the opportunity to initiate dam safety work at the Mormon Island Auxiliary Dam that will result in significant cost savings compared to performing the work when the reservoir is at higher levels. Accordingly, the conferees have authorized the Bureau to initiate work, including solidification of the foundation of Mormon Island Auxiliary Dam, even though the dam safety report required by Section 5 of Public Law 95-578 has not yet been submitted to Congress.

SEC. 320

Amendment No. 175: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *320*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the provision contained in the Senate amendment to the original Dire Emergency Supplemental and included in the House introduced bill (H.R. 4828) which repeals Sec. 614 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, and makes certain technical corrections to that Act and the Foreign Relations Authorization Act, FY 1990 and FY 1991.

COMMERCIAL ASPECTS OF U.S. FOREIGN ASSISTANCE

Amendment No. 176: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

*SEC. 321. COMMERCIAL ASPECTS OF UNITED STATES FOREIGN ASSISTANCE—(a). The Secretary of Commerce, after consulting with the Administrator of the Agency for International Development, the Secretary of Agriculture, the Secretary of Energy, the Secretary of Treasury, the Secretary of State, other appropriate agencies of the United States Government, and United States business organizations, shall conduct a study which examines and explores the foreign assistance programs currently engaged in by the United States Government and major international financing programs of the United States Government, through the Agency for International Development and other appropriate departments and agencies of the United States Government and explores mechanisms and ways by which the international economic competitiveness of the United States may be enhanced through such programs. In undertaking this study, the Secretary shall—*

*(1) examine the foreign assistance and major financing programs of Japan, West Germany, France, the United Kingdom, and such other international aid donors as the Secretary may designate, for the purpose of determining what mechanisms are in use to tie foreign assistance to, and advance the industrial and commercial interests of, the donor nations, in particular, the programs currently being engaged in and planned by such countries in the Eastern European countries of East Germany, Poland, Czechoslovakia, and Hungary; and*

*(2) determine, as far as possible, for each of fiscal years 1989 and 1990, and requested for fiscal year 1991, the dollar amounts and percentages of current United States programs which support United States business investment, exports, or other business-related activities, and shall compare that assessment with a similar assessment made for each of the other international aid donors examined by this study, on a region-by-region basis, with particular attention paid to the comparable efforts in the Eastern European countries referred to in paragraph (1).*

*(b) Not later than September 20, 1990, the Secretary of Commerce shall prepare and transmit to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on Foreign Affairs and Appropriations of the House of Representatives, a report setting forth the findings of the study conducted under subsection (a).*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment added a general provision requiring the Secretary of Commerce to conduct a study of the foreign assistance programs of the United States in consultation with the heads of certain United States Government agencies and Departments, explore mechanisms by which the international economic competitiveness of the United States may be enhanced through such programs and report those findings to the Appropriations Committees and Foreign Affairs Committees by September 1, 1990. The House bill contained no similar provision.

The conference agreement retains the Senate provision but makes certain changes in the language, including the reporting date and the scope of the study to include major international financing programs of the United States Government.

The conferees are concerned that the Secretary of Commerce may not have sufficient time to complete the study and thoroughly comply with all its substantial requirements in the time allowed by the conference agreement. The conferees expect the appropriate officials of the Department to keep the Appropriations Committee informed of any problems in this regard and to work closely with the Committees to ensure delivery of a study that is both timely and responsive to the conference agreement.

Amendment No. 177: Deletes Senate language nullifying the provision that restricts obligation or expenditure of $29,000,000 of Air Force, Operation and Maintenance funds until not less than $7,000,000 is expended as settlement to Contract Number F29650-82-C-0201.

CHILDREN IN CAMBODIA

Amendment No. 178: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *322.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agreed to provide, as proposed by the Senate, up to $5,000,000 in fiscal year 1990 development assistance funds for assistance through international relief agencies to children within Cambodia. This provision was also included in the House introduced bill (H.R. 4828). None of the funds provided may be made available directly or indirectly for the Khmer Rouge.

While assistance is already provided to the civilian population under the protection of the non-communist resistance on the Thai-Cambodian border, this assistance is intended to address the desperate needs of children, in the part of Cambodia controlled by the government in Phnom Penh, whose access to international assistance has been severely restricted by the isolation of their country. The funds are to be provided only through international relief agencies operating in Cambodia.

The Department of State and the Agency for International Development are to report to the Committees on Appropriations by July 15, 1990 and again by October 15, 1990 on the implementation of this provision.

LEASED HELICOPTERS FOR COLOMBIA

Amendment No. 179: Deletes language proposed by the Senate relating to the leasing of Marine Corps helicopters for Colombia. The conferees are in general agreement with the purpose of the Senate amendment which provided for the lease of four helicopters to Colombia for its drug interdiction program, including training of Colombian personnel in the operation, maintenance, logistical support and development of those helicopters. However, the conferees agreed that the appropriate authority for such a program is Section 506(a) of the Foreign Assistance Act. The Act was amended in the fiscal year 1990 Foreign Assistance Appropriations Act so that the President is authorized to draw down defense articles and provide military education and training for activities relating to international narcotics control assistance. The conferees urge the administration to consider using this authority to aid Colombia drug interdiction programs.

LITHUANIA SENSE OF THE SENATE

Amendment No. 180: Deletes language proposed by the Senate concerning Lithuania. The Sense of the Senate language has been passed by the Senate, and following past practice the conferees have agreed that further action is not necessary.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1990 budget estimates, and the House and Senate bills for 1990 follow:

| | |
|---|---|
| Budget estimates of new (obligational) authority, fiscal year 1990 | $1,699,194,400 |
| House bill, fiscal year 1990 | 615,674,000 |
| Senate bill, fiscal year 1990 | 827,985,400 |
| Conference agreement, fiscal year 1990 | 2,315,721,400 |
| Conference agreement compared with: | |
| Budget estimates of new (obligational) authority, fiscal year 1990 | +616,527,000 |

House bill, fiscal year 1990 ..... +1,700,047,400
Senate bill, fiscal year 1990 ..... +1,487,736,000

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVID R. OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. (BILL) HEFNER,
SILVIO O. CONTE
(except amendment No. 171),
VIRGINIA SMITH
(except amendment No. 171),
MICKEY EDWARDS
(except amendment No. 171),
BILL GREEN
(except amendments Nos. 24 and 171),
HAROLD ROGERS
(except amendment No. 171),
*Managers on the Part of the House.*

MARK O. HATFIELD,
TED STEVENS,
JAMES A. MCCLURE,
THAD COCHRAN,
ROBERT W. KASTEN,
ALFONSE M. D'AMATO,
WARREN B. RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PATRICK LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY M. REID,
BROCK ADAMS,
WYCHE FOWLER, JR.,
BOB KERREY,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
*Managers on the Part of the Senate.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BARTON of Texas (at the request of Mr. MICHEL) for today between the hours of 7 p.m. until tomorrow at 6 p.m., on account of a family medical emergency.

Mr. HAMMERSCHMIDT (at the request of Mr. MICHEL) for today on account of representing the President at the inauguration of President Lee Teng-Hui of the Republic of Taiwan.

Mr. KOLBE (at the request of Mr. MICHEL) for today from 3 p.m. on account of official business.

Mr. HUTTO (at the request of Mr. GEPHARDT) for today on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HEFLEY) to revise and extend their remarks and to include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, on May 22, 23, and 24.

Mr. LEACH of Iowa, for 60 minutes, today.

(The following Members (at the request of Mr. POSHARD) to revise and extend their remarks and include extraneous material:)

Mr. POSHARD, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HOCHBRUECKNER, for 5 minutes, on June 6.

Mr. WEISS, for 60 minutes each day, on June 5 and 6.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DYMALLY, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,972.

Mr. TORRES, prior to the vote on the Kostmayer amendment on H.R. 4636 in the Committee of the Whole today.

Mr. DENNY SMITH of Oregon, concerning his absence, immediately after vote on H.R. 4636, in House, today.

(The following Members (at the request of Mr. HEFLEY) and to include extraneous matter:)

Mr. LENT in two instances.
Mr. RHODES.
Mr. GINGRICH in two instances.
Mr. BLAZ.
Mr. BALLENGER.
Mr. GOSS.
Mr. LAGOMARSINO.
Mr. BURTON of Indiana in two instances.
Mr. SHUMWAY.
Mr. HENRY.
Mr. BUNNING.
Mr. GEKAS.
Mr. BAKER.
Mr. GOODLING.
Mr. MACHTLEY in 8 instances.
Mr. DREIER of California.

(The following Members (at the request of Mr. POSHARD) and to include extraneous matter:)

Mr. SABO.
Mr. YATRON.
Mr. SKELTON.
Mr. MILLER of California.
Mr. TORRICELLI in two instances.
Mr. ATKINS.
Mr. MRAZEK.
Mr. BONIOR.
Mr. FROST.
Mr. ROE in two instances.
Mr. LEHMAN of Florida.
Mr. STARK in two instances.
Mr. LANTOS.
Mr. MANTON in two instances.
Mr. WOLPE in three instances.
Mr. TRAFICANT.
Mr. KENNEDY.
Mr. LEVINE of California.
Mr. UDALL.

## ADJOURNMENT

Mr. LEACH of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 58 minutes p.m.) the House adjourned until tomorrow, Wednesday, May 23, 1990, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3220. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a copy of the original report of political contributions by Eugene L. Scassa, of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to Belize, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3221. A letter from the Administrator, Agency for International Development, transmitting the agencies annual report on competition for fiscal year 1989, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3222. A letter from the Chairman, Federal Election Commission, transmitting the Commission's inspector general semiannual report for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

3223. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the Report of the Proceedings of the Judicial Conference of the United States, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

3224. A letter from the Secretary, Department of Transportation, transmitting a copy of the National Transportation Strategic Planning Study, pursuant to 49 U.S.C. 308 nt.; to the Committee on Public Works and Transportation.

3225. A letter from the Secretary of Agriculture, transmitting two draft bills, the Plant Protection Act, and the Animal Health Protection Act; jointly, to the Committees on Agriculture, the Judiciary, Ways and Means, Foreign Affairs, Post Office of Civil Service, and Energy and Commerce.

3226. A letter from the Director, Office of National Drug Control Policy, transmitting a draft of proposed legislation to implement the national drug control strategy; jointly,

to the Committees on the Judiciary; Energy and Commerce; Public Works and Transportation; Merchant Marine and Fisheries; Foreign Affairs; Banking, Finance and Urban Affairs; Ways and Means; and Post Office and Civil Service.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee of conference. Conference report on H.R. 4404 (Rept. 101-493). Ordered to be printed.

Mr. BONIOR: Committee on Rules. House Resolution 399. Resolution providing for further consideration of H.R. 3030, a bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air (Rept. 101-494). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SCHEUER (for himself, Mr. ROE, Ms. SCHNEIDER, Mr. WALKER, Mr. BROWN of California, Mr. WOLPE, Mrs. LLOYD, Mr. VALENTINE, Mr. HAMILTON, Mr. NOWAK, Mr. PRICE, Mr. TANNER, Mr. BROWDER, Mr. BOEHLERT, Mr. MORRISON of Washington, Mr. HENRY, Mr. SMITH of Texas, Mrs. MORELLA, Mr. SHAYS, Mr. TRAFICANT, Mr. TORRICELLI, Mr. MINETA, Mr. MCCURDY, Mr. STALLINGS, and Mr. RITTER):

H.R. 4873. A bill to authorize appropriations for environmental research, development, and demonstration for fiscal years 1991, 1992, and 1993, and for other purposes; to the Committee on Science, Space and Technology.

By Mr. WAXMAN:

H.R. 4874. A bill to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BENNETT:

H.R. 4875. A bill to amend the Federal Water Pollution Control Act to make the lower St. John's River, FL, eligible for priority consideration under the National Esturary Program; jointly, to the Committees on Public Works and Transporation and Merchant Marine and Fisheries.

By. Mr. LENT:

H.R. 4876. A bill to amend the Ocean Dumping Ban Act of 188 to delay the effective date of the prohibition on the ocean dumping of sewage sludge; to the Committee on Merchant Marine and Fisheies.

By Mr. PICKLE:

H.R. 4877. A bill to redesignate the Austin Dam located near Austin, TX, as the "Tom Miller Dam"; to the Committee on Interior and Insular Affairs.

By Mr. SARPALIUS:

H.R. 4878. A bill to establish the Lake Meredith National Recreation Area in the State of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SCHUMER (for himself, Mr. LEACH of Iowa, Mr. LEHMAN of California, Mr. PRICE, Mr. ROTH, and Mr. VENTO):

H.R. 4879. A bill to require the President to submit quarterly reports through fiscal year 1993 on the estimated cost of resolving the savings and loan crisis and the estimated net new funding which will be required to meet such costs; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BENNETT:

H.R. 4880. A bill to extend veterans' preference on civil service examinations to members of the Armed Forces who are honorably discharged, pursuant to any reduction in force, after having served on active duty for at least 6 consecutive years; to the Committee on Post Office and Civil Service.

By Mr. JACOBS:

H.R. 4881. A bill to suspend temporarily the duty of certain composite diagnostic or laboratory reagents; to the Committee on Ways and Means.

By Mr. NAGLE:

H.R. 4882. A bill to establish a multilateral process of political and economic reform for Eastern Europe and the Soviet Union, to remove various trade restrictions, to encourage peaceful resolutions of regional conflicts, and to set a goal of a 50-percent reduction in United States military spending; jointly, to the Committees on Foreign Affairs; Ways and Means; Banking, Finance and Urban Affairs; Armed Services; and Rules.

By Mr. SCHUETTE:

H.R. 4883. A bill to amend section 922 of title 18, United States Code, to require that firearms dealers call a national hotline for a background check before transfer of firearms, and for other purposes; jointly, to the Committee on the Judiciary and Public Works and Transportation.

By Mr. DANNEMEYER:

H.J. Res. 573. Joint resolution to designate the period commencing on June 16, 1990, and ending on June 27, 1990, as "Food Science and Technology Week"; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana:

H.J. Res. 574. Joint resolution designating June 3-9, 1990, as a "Week for the National Observance of the 50th Anniversary of World War II"; to the Committee on Post Office and Civil Service.

By Mr. SANGMEISTER (for himself, Mr. MONTGOMERY, Mr. HARRIS, Mr. PAXON, Mr. PARKER, Mr. BURTON, of Indiana, Mrs. PATTERSON, Mr. EVANS, Mr. JONTZ, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. STAGGERS, Mr. GEREN, Mr. STUMP, Mr. MCEWEN, and Mr. MORRISON of Connecticut):

H.J. Res. 575. Joint resolution to designate June 25, 1990, as "Korean War Remembrance Day"; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO (for himself, Mr. SOLARZ, Mrs. SAIKI, Mr. BLAZ, and Mr. FALEOMAVAEGA):

H. Res. 398. Resolution urging United States ratification of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

393. By the SPEAKER: Memorial of the House of Representatives of the State of Illinois, relative to Federal crop insurance; to the Committee on Agriculture.

394. Also, memorial of the House of Representatives of the State of Illinois, relative to savings and loans associations; to the Committee on Banking, Finance and Urban Affairs.

395. Also, memorial of the House of Representatives of the State of Illinois, relative to a White House Conference on Aging in 1991; to the Committee on Education and Labor.

396. Also, memorial of the House of Representatives of the State of Illinois, relative to Lithuania; to the Committee on Foreign Affairs.

397. Also, memorial of the Legislature of the State of Alaska, relative to persons immigrating to and requesting asylum in the United States; to the Committee on the Judiciary.

398. Also, memorial of the Senate of the State of Hawaii, relative to natural disaster reduction; to the Committee on Post Office and Civil Service.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. LOWEY of New York:

H.R. 4884. A bill for the relief of Leore Shoshana Shemesh; to the Committee on the Judiciary.

By Mr. MCMILLAN of North Carolina:

H.R. 4885. A bill for the relief of Leslie Leigh Moore; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 222: Mr. JOHNSTON of Florida.

H.R. 446: Mr. HANCOCK and Mr. NIELSON of Utah.

H.R. 467: Mr. GLICKMAN.

H.R. 539: Mr. KOLTER and Mr. MARKEY.

H.R. 1227: Mr. OLIN, Mr. SCHAEFER, Mr. GINGRICH, Mr. MOORHEAD, Mr. LEATH of Texas, Mr. MCDERMOTT, Mr. GUNDERSON, Mr. CRANE, Mr. DOUGLAS, Mr. AUCOIN, and Mr. HAYES of Illinois.

H.R. 1287: Mr. ROHRABACHER.

H.R. 1317: Mr. JENKINS, Mr. DURBIN, Mr. LEWIS of California, Mr. TAUZIN, Mr. DREIER of California, Mr. LOWERY of California, Mr. COSTELLO, Mr. SANGMEISTER, Mr. BAKER, Mr. ROBERTS, Mr. DORNAN of California, Mr. MCCRERY, Mrs. MEYERS of Kansas, and Mr. GALLEGLY.

H.R. 1582: Mr. STARK, Mr. FOGLIETTA, and Mr. YATES.

H.R. 1875: Mr. ROWLAND of Georgia and Mr. RAVENEL.

H.R. 2121: Mr. GOSS, Mr. MILLER of Washington, and Mr. MACHTLEY.

H.R. 2228: Mr. SOLOMON.

H.R. 2353: Mr. DEFAZIO and Mr. MORRISON of Washington.

H.R. 2380: Mr. SCHAEFER.

H.R. 2418: Mr. DANNEMEYER.

H.R. 2460: Mr. JENKINS, Mr. TAYLOR, and Mr. NELSON of Florida.

H.R. 2776: Mr. DOWNEY and Mr. BRYANT.

H.R. 2852: Mr. BROWN of California.

H.R. 2951: Mr. LEVIN of Michigan.

H.R. 2952: Mr. LEVIN of Michigan.

H.R. 3099: Mr. BILIRAKIS, Mr. PALLONE, and Mr. POSHARD.

H.R. 3267: Mr. NEAL of North Carolina.

H.R. 3289: Mr. EDWARDS of Oklahoma, Mr. DENNY F. SMITH, and Mr. KOLBE.

H.R. 3421: Mr. CONDIT.

H.R. 3500: Mr. BRENNAN.

H.R. 3643: Mr. ROHRABACHER.

H.R. 3732: Mr. SHUSTER, Mr. NEAL of Massachusetts, Mr. MURPHY, Mr. DURBIN, and Mr. DYMALLY.

H.R. 3859: Mr. BUSTAMANTE.

H.R. 3880: Mr. TOWNS.

H.R. 3903: Mrs. ROUKEMA.

H.R. 3909: Mr. ESPY and Mr. POSHARD.

H.R. 3924: Mr. GALLEGLY, Mr. HYDE, and Mr. BUNNING.

H.R. 3958: Mr. WATKINS, Mr. MCGRATH, Mr. LANCASTER, Mr. SMITH of New Jersey, Mrs. VUCANOVICH, Mr. CLARKE, and Mr. SCHUETTE.

H.R. 3992: Mr. VOLKMER, Mr. MRAZEK, Mrs. UNSOELD, Mr. MAVROULES, and Mr. HOCHBRUECKNER.

H.R. 4026: Mr. JONTZ, Mr. KOLTER, and Mr. PARKER.

H.R. 4121: Mr. RITTER and Mr. RAVENEL.

H.R. 4138: Mr. SMITH of Florida.

H.R. 4212: Mr. KANJORSKI, Mr. HORTON, Mr. EMERSON, Mr. TOWNS, Mr. FIELDS, and Mr. DEFAZIO.

H.R. 4254: Mr. PRICE.

H.R. 4261: Mr. ARMEY.

H.R. 4287: Mr. FAUNTROY, Mr. HARRIS, Mr. ROWLAND of Connecticut, Mr. WOLPE, Mrs. MARTIN of Illinois, Mr. PORTER, Mr. PARKER, Mr. FAWELL, Mr. CHAPMAN, Mr. MADIGAN, Mr. SCHUETTE, Mr. DICKS, Mr. MCDADE, Mr. MYERS of Indiana, Mr. ERDREICH, and Mr. BURTON of Indiana.

H.R. 4324: Mr. LEVINE of California, Mr. TORRES, and Mr. OWENS of Utah.

H.R. 4329: Mr. PAYNE of New Jersey, Mr. RAVENEL, Mr. MCHUGH, Mr. PAYNE of Virginia, and Mr. HANCOCK.

H.R. 4379: Mr. LEVINE of California, Ms. PELOSI, Mr. WOLPE, and Mr. WILLIAMS.

H.R. 4391: Mr. SISISKY.

H.R. 4424: Mr. WEBER, Mr. BEREUTER, Mr. ROBERTS, Mr. MOORHEAD, Mr. DANNEMEYER, Mr. MADIGAN, Mr. MCCANDLESS, Mr. HASTERT, Mr. PETRI, Mr. CRAIG, and Mr. LOWERY of California.

H.R. 4453: Mr. HOUGHTON, Mr. KLECZKA, Mr. HYDE, and Mr. UPTON.

H.R. 4475: Mr. DOUGLAS, Mr. LIVINGSTON, Mr. RAY, Mr. BURTON of Indiana, Mr. KOSTMAYER, Mr. PACKARD, Mr. ALEXANDER, Mr. PAYNE of Virginia, Mr. STUMP, Mrs. SAIKI, Mr. HAMMERSCHMIDT, Mr. COBLE, Mr. IRELAND, Mr. KASTENMEIER, Mr. VALENTINE, Mr. HOCHBRUECKNER, Mr. JACOBS, Mr. SCHUETTE, Mr. HILER, Mr. CRAIG, Mr. GORDON, Mr. DEFAZIO, Mr. KANJORSKI, Mr. CHAPMAN, Mr. NOWAK, Mr. CLINGER, Mrs. UNSOELD, Mr. FEIGHAN, Mr. ROTH, Mr. DUNCAN, Mrs. ROUKEMA, Mr. CARR, Mr. JONES of Georgia, Mr. AUCOIN, Mr. HORTON, Mr. HUGHES, Mr. ERDREICH, Mr. MOORHEAD, Mr. PICKETT, Mr. JAMES, Mr. PAXON, Mr. SERRANO, Mr. HAYES of Louisiana, Mr. SCHIFF, Mr. SANGMEISTER, Mr. DARDEN, Mr. MRAZEK, Mr. BROWN of Colorado, Mr. RITTER, Mr. RAHALL, Mr. HATCHER, Mr. MILLER of Washington, Mr. MCHUGH, and Mr. UPTON.

H.R. 4494: Mr. MCCOLLUM, Mr. NEAL of Massachusetts, Mr. HATCHER, Mr. SHARP, Mr. GORDON, Mr. PARKER, Mr. BEVILL, Mr. BONIOR, Mr. DYMALLY, Mr. MCMILLAN of North Carolina, Mr. SMITH of Vermont, Mr. HALL of Texas, Mr. IRELAND, and Mr. STEARNS.

H.R. 4528: Mr. FALEOMAVAEGA and Mr. FOGLIETTA.

H.R. 4551: Mr. FAUNTROY, Mr. KILDEE, and Ms. PELOSI.

H.R. 4574: Mrs. BOXER, Mr. LEVINE of California, Mr. FOGLIETTA, Mr. WOLPE, Mr. DWYER of New Jersey, Mrs. UNSOELD, Mr. ROYBAL, and Mr. KOSTMAYER.

H.R. 4650: Mr. BOUCHER, Mr. EVANS, Mr. FOGLIETTA, Mr. JONTZ, Mr. MFUME, Mr. MARTINEZ, and Mr. WOLPE.

H.R. 4659: Mr. HATCHER, Mr. TOWNS, and Mr. GILLMOR.

H.R. 4684: Mr. PENNY, Mr. SERRANO, Mr. ECKART, Mrs. MARTIN of Illinois, and Mr. OWENS of New York.

H.R. 4688: Mr. CROCKETT, Ms. PELOSI, Mr. SYNAR, Mr. YATES, Mr. DYMALLY, Mr. HENRY, Mr. TOWNS, Mr. LANTOS, and Mr. MCNULTY.

H.R. 4697: Mr. DONALD E. LUKENS, Mr. BONIOR, and Mr. EMERSON.

H.R. 4698: Mr. DONALD E. LUKENS, Mr. BONIOR, and Mr. EMERSON.

H.R. 4731: Mr. LIPINSKI, Mr. WHEAT, Mr. FAUNTROY, and Mr. FORD of Tennessee.

H.J. Res. 374: Mr. GEJDENSON and Mr. STUDDS.

H.J. Res. 467: Mr. PARKER, Mr. SCHUETTE, and Mr. CHAPMAN.

H.J. Res. 469: Mr. COUGHLIN, Mr. ENGEL, Mr. GALLO, Mr. GAYDOS, Mr. GRAY, Mr. HANSEN, Mr. LEWIS of Florida, and Mr. PORTER.

H.J. Res. 481: Mr. CAMPBELL of Colorado, Mr. GEJDENSON, Mr. HASTERT, Mr. SERRANO, Mr. WEBER, and Mr. WEISS.

H.J. Res. 512: Mr. WYDEN, Mr. WEISS, Mr. STENHOLM, Mr. SMITH of Florida, Mr. RAHALL, Mr. PARKER, Mr. SAVAGE, Mr. SOLARZ, Mr. TAUZIN, Mr. WILSON, Mr. RANGEL, Mr. ROGERS, Mr. IRELAND, Mr. QUILLEN, Mr. AUCOIN, Mr. ANDERSON, Mr. BILBRAY, Mr. BORSKI, Mr. BENNETT, Mr. BOUCHER, Mr. SCHEUER, Mr. SLATTERY, Mr. TRAFICANT, Mr. WAXMAN, Mr. PERKINS, Mr. WALGREN, Mrs. BOXER, Mr. BUSTAMANTE, Mr. CARR, Mr. CLARKE, Mr. DARDEN, Mr. DICKS, Mr. DIXON, Mr. ENGEL, Mr. ESPY, Mr. FAZIO, Mr. FROST, Mr. GEPHARDT, Mr. NATCHER, Mr. PALLONE, Mr. POSHARD, Mr. SARPALIUS, Mr. SYNAR, Mrs. SAIKI, Mr. SPRATT, Mr. STAGGERS, Mr. TALLON, Mrs. UNSOELD, Mr. VISCLOSKY, Mr. WALSH, Mr. SPENCE, Mr. HUGHES, Ms. LONG, and Mr. HOCHBRUECKNER.

H.J. Res. 517: Mr. HUCKABY, Mr. TANNER, Mr. TAUZIN, Mr. FISH, Mr. DYSON, and Mr. CLEMENT.

H.J. Res. 526: Mr. SAXTON, Mr. SKEEN, Mr. VALENTINE, Mr. JACOBS, Mr. FRENZEL, Mr. HARRIS, Mr. SABO, Mr. CHANDLER, Mr. HOAGLAND, Mr. LIVINGSTON, Mr. KOSTMAYER, Mr. MADIGAN, Mr. MORRISON of Connecticut, Mr. DERRICK, Mr. THOMAS A. LUKEN, Mr. FRANK, Mr. MCCLOSKEY, Mr. JENKINS, Mr. WHITTAKER, Mr. SPRATT, Mr. CALLAHAN, Mr. BEVILL, and Mr. KASTENMEIER.

H. Con. Res. 5: Mr. ROE.

H. Con. Res. 172: Mr. LEVIN of Michigan and Mr. HAYES of Illinois.

H. Con. Res. 232: Mr. KOLTER, Mr. DOWNEY, and Mr. COX.

H. Con. Res. 246: Mr. BONIOR, Mr. MAVROULES, Mr. BOSCO, Mr. HOAGLAND, and Mr. GOSS.

H. Con. Res. 265: Mr. JONTZ.

H. Con. Res. 270: Mr. CARDIN.

H. Con. Res. 287: Mr. IRELAND, Mr. BENNETT, Mr. FOGLIETTA, Mr. PICKETT, Mr. STARK, Mr. MOORHEAD, and Mr. MINETA.

H. Con. Res. 291: Mr. DYMALLY, Mr. VOLKMER, Mr. PICKETT, Mr. HEFLEY, Mr. MRAZEK, Mr. WOLF, Mr. SCHUETTE, Mr. WILSON, Mr. DORNAN of California, Ms. ROS-LEHTINEN, Mr. MCEWEN, Mr. MCNULTY, Mr. GUARINI, Mr. PAXON, Mr. MILLER of Washington, Mr. NAGLE, and Mr. DYSON.

H. Con. Res. 293: Mr. MRAZEK, Mr. MATSUI, and Mr. SCHEUER.

H. Con. Res. 329: Mr. GILMAN, Mr. HYDE, Mr. SMITH of Florida, and Mr. FAUNTROY.

H. Res. 312: Mr. SHAYS and Mr. PERKINS.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4641A: Mr. HYDE.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

176. By the SPEAKER: Petition of city of Sweetwater, FL, relative to thoroughbred racing in Florida; to the Committee on Energy and Commerce.

177. Also, petition of Dr. Paul Baron Neuman of Kara Bagh, Sydney, Australia, relative to climatic and environmental changes worldwide; jointly, to the Committees on Agriculture and Energy and Commerce.

# SENATE—*Tuesday, May 22, 1990*

*(Legislative day of Wednesday, April 18, 1990)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*For I know the plans I have for you, says the Lord, plans for welfare and not for evil, to give you a future and a hope.*—Jeremiah 29:11 RSV.

Gracious Father, God of Abraham, Isaac and Israel, You made that beautiful promise to Your people Israel exiled in Babylon. We accept that word for ourselves. Thank Thee, Lord, that You are not only a transcendent God; You are imminent. You are in touch with the world You created. You are the Lord of history and the Ruler of the nations. Rule in our Nation, in our hearts and homes. Work Your perfect plan, in spite of us if necessary.

"Thy kingdom come, Thy will be done on earth as it is in Heaven." In Jesus' name. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the order, the majority leader is recognized.

## THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders today, there will be a period for morning business until 10:30 a.m., under the control of Senator GORE, for the purpose of statements on the subject of global warming. Following the global warming statements, there will be an additional period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each. At 11 this morning the Senate will resume consideration of S. 1970, the omnibus crime bill. Between the hours of 12:30 p.m. and 2:15 p.m. today, the Senate will stand in recess to accommodate the respective party conference luncheons.

Consideration of S. 1970 will resume at 2:15 p.m., and it is anticipated that rollcall votes will occur during today's session relative to this measure.

## CHINESE LEADERSHIP INTERVIEW

Mr. MITCHELL. Mr. President, last Friday I said President Bush should not renew most-favored-nation trading status for China at this time. I made that case based on the dismal record of the Chinese Government with respect to human rights.

In an interview aired on Friday evening, the General Secretary of the Communist Party in China inadvertently made the same case himself. The Secretary characterized Western reaction to the massacre of defenseless people in Beijing last summer as, and I quote him, "much ado about nothing."

He did not mean to strengthen the argument in this country against renewing most-favored-nation trading status with his country, but that seems to me the only decent response to his words. The Secretary said he does not "have any regret about the way in which we dealt with the events which took place last year in Beijing." No regrets.

It is evident that the Secretary is not alone. None of the Chinese leadership has expressed any regret about calling out tanks against unarmed people. The challenge to us as Members of the U.S. Senate is whether we will endorse that cynical view or reject it. Will we endorse that profoundly mistaken view of America or will we reject it, and emphasize that, for Americans, concerns about human freedom, justice, and human rights lie at the very core of our Nation and ourselves?

I urge my colleagues to give serious thought to this issue. The Secretary characterized the American reaction to the Tiananmen massacre as "some kind of misunderstanding, lack of understanding."

Did the Senators misunderstand what happened at Tiananmen Square? Is that what occurred last year? Will we endorse this Chinese Communist misstatement of our views? Should we, by now giving the Chinese Government what it wants, tacitly adopt the Chinese Government's casual dismissal of our concerns?

I say we should not. We should not because it is contrary to our principles, contrary to American interests, and wrong.

How can any leader call the cold blooded murder of nonviolent noncriminal citizens of his nation "much ado about nothing?" How can any leader reflect on the sight of armored tanks crushing defenseless people and conclude that foreign reaction to such a crime is exaggerated?

The leaders who decided that their own hold on power, their own privileges were worth a few hundred young lives deserve some response from the world community, especially from the United States. Our Nation's future lies with the people of China, not the cynical leaders who think they can paper over an outrage, a massacre of their own citizens, with words.

It is for that reason that I urge President Bush to reconsider his mistaken and failed policy toward China. By its actions, the Bush administration is sowing the seeds of disaster with respect to the next generation of leaders in China.

If there is one thing we Americans should know, it is that all governments, good and bad alike, eventually pass from the scene. What endures are the fundamental values of the society. Like other despots before them, the Chinese Government of today will pass from the scene in time. The question and the challenge for the Senate is whether we will continue to support a regime which caused the deaths of many of their own people, and call it "much ado about nothing."

Does the U.S. Senate agree that the massacre at Tiananmen Square was much ado about nothing? We will soon find out.

Mr. President, I yield the floor.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Without objection, the remainder of the time for the two leaders will be reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the order there will be a period for the transaction of morning business until the hour of 11 o'clock with the Senator from Tennessee [Mr. GORE] controlling the first hour.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

## THE MAJORITY LEADER'S SPEECH ON CHINA

Mr. GORE. Mr. President, in response to the very eloquent statement just made by the majority leader, I agree with the sentiments he has expressed. I wish to recount a brief anecdote related to me by a friend from Jackson, TN, a businessman who happens to be a Republican and happened to be visiting in Beijing at the time of the massacre.

At midnight, before the massacre, he was in Tiananmen Square, taking photographs, visiting with the young students there. He took photographs of the statue the young students called the "Goddess of Democracy" which so strikingly resembled the Statue of Liberty in New York harbor. He pointed, in his photograph, to something I had not noticed before. There were loudspeakers around the base of that statue. He said, "Senator, you will never believe what they were playing over those loudspeakers at midnight, in English." It was the old hymn "A mighty fortress is our God, a bulwark never failing."

He said that he and his friends standing there in Tiananmen Square were amazed to hear those familiar words coming across the square; and those sounds, mixed with the sight of the inspiring statue and the enthusiasm for democracy so evident in the faces and demeanor of the young men and women in Tiananmen Square, together, produced emotions inside my friend that, he said, are absolutely unforgetable.

Then a few hours later when the massacre began, he was, of course, moved to tears by the tragedy. And I was recalling his words as I listened to the eloquent statement by the majority leader, and I wished to commend the majority leader for his statement and share that anecdote with my colleagues here.

## INTERPARLIAMENTARY CONFERENCE ON THE GLOBAL ENVIRONMENT

Mr. GORE. Mr. President, I had originally asked for this time in order to present to the Senate the results of the Interparliamentary Conference on the Global Environment. Six of my colleagues from both sides of the aisle joined in organizing and hosting this conference.

We met last week to review the final recommendations of the conference and decided to come to the floor at a convenient time this week to present those recommendations. But after this time was scheduled, several committees scheduled markups this morning. It became inconvenient for several of the Senators who are members of the host delegation to participate this morning. As a result, we will choose another time convenient for the leaders and for the Senate to present our findings and recommendations in detail.

I would like to briefly preview that presentation, and then I would like to use the remainder of the time I will take this morning to discuss some legislation entitled the Ozone Protection Funding Act of 1990, which I will be introducing today.

First of all, Mr. President, I wish to thank the distinguished Presiding Officer, the President pro tempore of the Senate, for delivering the official welcome at the interparliamentary conference. When parliamentarians from 42 nations gathered here, including the counterparts of the President pro tempore of the Senate from 6 of those nations, we had quite a gathering and quite a dialog resulting in a set of consensus recommendations in seven areas: Global warming, the protection of the stratospheric ozone layer, deforestation and desertification, population policy, the oceans and estuaries of the Earth, the problem of sustainable development, and the protection of living species against the loss of what is called biodiversity.

It marked the first time that nations in what we refer to as the Third World or the underdeveloped world signed on to recommendations to lower the emissions of greenhouse gases in the atmosphere. Indeed, we were able to agree—parliamentarians from all nations—on a rather ambitious goal of a 50-percent reduction in greenhouse gas emissions by the year 2010. Not all of that, of course, is from $CO_2$. Only 20 percent in the illustrative set of reductions that we discussed would be from $CO_2$. Much of the rest would be from chlorofluorocarbons, which I am going to discuss in more detail in a moment, and from methane and the other greenhouse gases which are not quite as well-known as $CO_2$ as the cause of the problem.

In any event, on a later occasion, I will present, along with my colleagues who participated in cohosting this conference, the full recommendations from the conference.

The PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. GORE. I thank the Chair.

(The remarks of Mr. GORE pertaining to the introduction of S. 2666 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORE. Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROMANIA'S ELECTION

Mr. LIEBERMAN. Mr. President, I returned May 21 from a remarkable experience in which I served as coleader of an international delegation of observers to the elections that were held on Sunday, May 20. This delegation, though composed of people from 19 countries, was actually sponsored by the Democratic Institute for International Affairs and the Republican Institute for International Affairs of the United States of America, funded primarily with grants from the National Endowment for Democracy.

Mr. President, I wanted to take this opportunity to briefly report to my colleagues on the events leading up to and surrounding this historic election that occurred in Romania this past Sunday.

May I say first, so far as the Congress and the two major American political parties which made this delegation possible, in my opinion, it was an act of service. We were welcomed warmly by all Romanians whom we saw, and not only governmental and election officials. People who were on the streets or waiting to vote were surprisingly familiar with the presence of international observers and were grateful for that presence. They said to us quite explicitly that they thought our presence would make the prospects of a truly free and fair election more likely.

Clearly, the presence of a 60-person delegation from 19 countries was an expression of enthusiasm from outside of Romania for the revolution that occurred in December of last year.

Mr. President, people have asked and will ask, do I think the elections were free and fair or were they fraudulent. My answer is that the truth lies somewhere in between. The elections were not totally free and fair as we in Western democracies would define the terms of freedom and fairness. There was some fraud. But in my opinion, the fraud was not sufficient to affect the outcome of the election.

I think in making these comments we have to appreciate the context in which these elections occurred. In fact, it was a miracle that on Sunday, May 20, elections of any kind occurred in Romania when one considers the history of that country.

For me, the two most powerful impressions of this trip were the yearning for and excitement about democracy that I felt. I had an even greater sense, after talking to people and seeing the country, of how truly horrible and insane were the years of the Ceausescu dictatorship.

I think we saw in Romania what happens when governmental power, is totally unchecked. What you have is rule by the whim of an individual, unchecked by anyone.

The relics of this despotism are still there to be seen. They are there to be seen physically in an orphanage that I visited loaded with children, unwanted children, children whose parents could not care for them as a result of the policy by Ceausescu to increase the population of Romania by denying the Romanians, not only the right to legal abortion, but the right to legal birth control. You can see it in the extraordinary wasteful construction of a palace, literally a 1,000-room palace, about 80 or 90 percent finished, at a cost of billions of dollars, while the people of his country, during this decade, were sinking further and further into despair. In fact, they have the lowest standard of living in Europe today.

You can see it in the apartments that he decided to build along the road from the international airport in Bucharest, which in many ways is like a Hollywood movie front. He wanted visitors to not see the traditional Romanian village homes but something modern. There are apartments built so quickly that they have no running water and the plumbing is outside of them.

You can see it in the enormous environmental degradation that has occurred with no regard for the impact of their actions on the quality of their air, their water, or their health. You can in another sense feel it in the fear that still exists. After all, this is only 5 months after Ceausescu was overthrown and executed, after 25 years of ruling over a state-controlled, security police-controlled environment.

Mr. President, in that context, the very fact that elections occurred, as I have said, was a miracle, and perhaps that context explains why the elections which occurred were not perfect. Unfortunately, in the months after the revolution, some of those who were most centrally involved in the revolution have become disaffected. The students, who were a critical component in the revolution in Bucharest in 1989, are now protesting in University Square in Bucharest. The Hungarian population, an abused minority under Ceausescu, which viewed the coming of the revolution with hope now is disaffected from the ruling party. So, unfortunately, some of the revolutionary groups have become disenchanted. But still a campaign occurred, political parties were formed, and an election was held.

People have asked if the election was fair; did he really win it. I would say that there was fraud by some who supported Iliescu. Nonetheless, he is, in fact, a very popular man and, in part, he is a popular man because he is charismatic. He was anti-Ceausescu, and he has used his incumbency very well.

I think it is important for the American people to understand that as they react to this election. In the 5 months since he took office after the revolution, President Iliescu has, for instance, told the miners that they no longer have to work 7 days a week in the mines but can work 5 days. He said to the peasants, who have not owned any land, you can now own this small piece of land and enjoy profits from the produce that you develop on that land. He has said to retirees, I will raise your pensions. In fact, he has raised their pensions. He has effectively only raised them from $20 a month to $30 a month, but that is 50 percent. I can hear the response of the elderly if the President raised Social Security by 50 percent.

President Iliescu has taken food and consumer goods, which Ceausescu was exporting as a way of trying to eliminate the foreign debt of Romania, and put them back on the shelves where the Romanian people for the first time in years have had the opportunity to at least buy them. So he has enjoyed some popularity.

Is there political freedom? There is freedom of speech, certainly. There is a form of freedom of press. Perhaps the way in which freedom of the press is exercised explains how far Romania has yet to go. Before the revolution, there were 60 newspapers in the country and they were all controlled by Ceausescu and the Government security police. Today there are more than 1,000 newspapers, but in Romania there is really only one significant publishing house. It is controlled by the Government, as it was before, so that all of the opposition newspapers have to go to the Government publishing house to be printed, and that naturally led to accusations by the opposition parties and opposition papers that they were not being allowed to print enough newspapers, that the newspaper circulation system, which also is controlled by the Government, was not fairly distributing their newspapers.

So that while there is freedom of press, it is not freedom of press as we know it.

There are allegations by the opposition party that there were acts of harassment and violence against two of the Presidential candidates and several of the campaign workers.

We could not conclude in our observer delegation that, as has been suggested by the opposition parties, the Government controlled party, the National Salvation Front, was directly responsible for those acts of violence. But we did conclude that President Iliescu and those around him spent too much time explaining those acts of violence as natural occurrences in the first election after dictatorship, and not enough time condemning those acts of violence. In other words, they did not contribute adequately to the kind of environment that would have discouraged the intimidation that occurred.

The most significant, and I thought most fervent complaints that we heard, were about what happened in the preelection period leading up to election day. I concluded that there was not equal access and equal opportunity for all the candidates. Clearly, the National Salvation Front, the incumbent candidate, Iliescu, had an enormous opportunity to get his message out. In fact, there were whole sections of Romania where the revolution really has not come, where the local officials who controlled under Ceausescu remain in control today, where the opposition parties did not have the personnel nor the courage in some cases to actually enter the election.

It was the natural inclination of those who were in power, I think, to continue to favor the establishment, and Mr. Iliescu in that sense was the closest thing to an establishment candidate. In many ways, his victory can be seen as an expression by the people of Romania for stability. They are grateful for Ceausescu's end, but uncertain about the future. They wanted someone who would offer them a certain amount of stability.

On election day, there was tremendous enthusiasm, long lines at the polls, people excited about voting, willing to wait to vote, proud of what had happened. And yet, we did note throughout the country a certain amount of what we called fraud, and some of it, the kind of thing that sometimes happens in the United States, happened a lot in Romania on Sunday.

With local officials assisting voters in the voting booths, there was fear naturally arising about whether they were controlling their votes. In some cases, these were exceptions, extreme cases in which we saw actual ballot stuffing.

In another—this may express the desire of a lot of voters here in America sometimes—there was an instance where the voters were standing in line at a polling place and became so angry with the election officials about the delays that they chased them out of the voting headquarters. Then they went ahead and voted themselves for about an hour until the local police came back and restored their position.

But I would say again, by Western standards, there was some fraud on election day, but not enough to have altered the outcome. I think to judge the election we have to judge it as what it was, which was an election that occurred 5 months after a revolution from the most Stalinist despot that ruled in Eastern Europe; also, an interim election, an election that will form a constituent assembly, that must adopt a new constitution within

18 months and then hold new elections thereafter.

I think if observers return in 18 months or 2 years to observe the next round of elections, and find the fraud that we found and the unequal access that we found leading up to this election, they will have a lot more reason to condemn what happens than we did. I think we want to be in the position of criticizing, but also noting the remarkable strides forward that the Romanian Government has made. It seems to me that we have an opportunity within Romania.

I believe we have an opportunity in Romania to do what we are trying to do throughout Eastern Europe, which is to support the forces of democracy as a way to reduce the security threat to ourselves and to our allies in Western Europe.

We have an opportunity to support the development of market economies in these Eastern European countries, including Romania, as a source of trade and business for America itself. I think all of those factors are relevant as we approach the situation in Romania. Its economy is probably behind those of Hungary, Czechoslovakia, and Poland. Its political system is behind those countries. Yet there is an extraordinary opportunity for the principles of democracy and for American business, as well.

I conclude, based on what we have seen, that not enough has occurred in Romania to justify enormous aid or permanent extension of most-favored-nation status. But enough has occurred to offer targeted aid, certainly humanitarian aid for those babies in the orphanages throughout the country; and also the kind of training and entrepreneurship and the development of the market economy that we need; and particularly the extension of most-favored-nation status, but only for a year. Successive years would be conditional on the movement forward of democracy; the implementation of a truly free press; the opportunity for the political opposition to have equal opportunity to get their message across and get organized; and the development of a market economy.

Mr. President, I think that with that kind of support and pressure from the world, the newly elected leadership of Romania will have the opportunity to give to the people of Romania the freedom and improved standard of living that they have for so long desired and deeply deserve.

Mr. President, I thank my colleagues for giving me this time.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 10 minutes, and I also ask unanimous consent to speak beyond that if no other Member seeks recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

## IN SUPPORT OF THE VIOLENT CRIME CONTROL AND CRIMINAL PROCEDURES REFORM ACT

Mr. GRASSLEY. Mr. President, as a cosponsor of the Violent Crime Control and Criminal Procedures Reform Act, I rise to strongly support its passage and to urge my colleagues to do the same.

Authored by my distinguished colleague and ranking member of the Judiciary Committee, Senator THURMOND, this substitute is the one, true, meaningful, and only real crime control bill the Senate has before it at this time.

Our debate today is really about how our society is to maintain both its freedom and its civility.

Mr. President, we cherish our freedoms, both as individuals, and as a nation.

Fighting out from under the yoke of an imperial power, this young colonial nation has grown to be the world's bulwark insuring domestic tranquility, promoting the general welfare, and securing the blessings of liberty for over 200 years.

Today, we all are heartened by the peoples of Eastern and central Europe who are emerging from a half century of devastating conflict and the stifling oppression of authoritarian occupation.

Longing for the freedoms we take for granted, the peoples of Eastern and central Europe have looked to the United States and our Founding Fathers as their guide and inspiration.

I trust the fruits of their efforts will meet their aspirations; and of course some of the legislation we are debating on crime reform has something to do with this.

Mr. President, the freedoms we enjoy are not limited to being protected from an oppressive form of government.

Among its many guarantees, the Constitution guarantees that Americans will enjoy the freedoms of domestic tranquility and the protection afforded the general welfare.

It is idealistic to believe that domestic tranquility includes a reasonable expectation that people will respect each others privacy, or that people will be civil to one another, or that people will just plain "leave each other alone."

However, I believe the threshold of the guarantee of domestic tranquility does at least include the right to be free from being a victim of violent criminal activity.

As elected officials, we take an oath to uphold the Constitution, which is our supreme law of the land. Consequently, the welfare of the people must always be our supreme law. The constitutional mandates, and the very survival of our society, depend upon a host of resources. Foremost among these resources are law enforcement organizations at every level, of course, operating in a professional manner.

These organizations, in turn, depend upon sufficient training, tools, and resources, including laws that can be equally enforced, to fulfill their pledge to protect the public safety.

The Violent Crime Control and Criminal Procedures Reform Act is a direct, forceful, and responsible package that will provide law enforcement personnel at every level with overdue statutory resources.

The Department of Justice has written that the adoption of the Violent Crime Control Act "would be a fundamental contribution both toward enhancing the public's security against crime and improving the effectiveness of the Federal criminal justice system."

I believe this bill will help us to fulfill our constitutional obligation to protect the rights of the citizens of this great Nation, to guard their freedoms, and to ensure their domestic tranquillity, by protecting them from those who have no regard for the law at all.

I believe that this is the least we can do for those who are on the front line of the fight against crime and those who lay their lives on the line every day against the thugs who trample upon the peace and tranquillity of what should be a law-abiding society.

The Thurmond substitute contains several key provisions:

Title I restores a fair and enforceable Federal death penalty for crimes of murder, treason, and espionage.

Title II curbs the abuse of Federal habeas corpus civil procedures that have caused a backlog in the Federal courts and that have hampered the implementation of valid State criminal sentences, including valid State death penalties.

Title II provides that State adjudications will receive deference in the Federal proceedings. It also places reasonable time limits on State prisoners to make habeas corpus applications to the Federal system.

Title III creates a general good faith exception to the judge-made exclusionary rule for cases in which Federal law enforcement officers acted in an objective and reasonable, or let me say good faith, belief that their conduct was consistent with the Constitution's fourth amendment guarantee against unreasonable searches and seizures.

Title IV of the Thurmond bill enhances penalties for serious firearms offenses.

Finally, title V requires drug testing for Federal offenders on postconviction release, including probation, parole, and postimprisonment supervised release.

The death penalty provision in the Thurmond substitute restores an effective, fair, workable, and constitutional Federal death penalty for the following crimes: Treason; espionage; murder; certain crimes involving explosives; the destroying of trains; mailing injurious articles; air piracy in which death results; certain attempts to kill the President; murder by a Federal prisoner serving a life term; hostage-taking results in death; murder for hire; murder in the aid of racketeering; and, of course, a most important decision that Congress made last year, the crime of genocide.

In contrast, the death penalty provisions offered by the Senator from Delaware in his legislative proposal will effectively abolish not only the Federal death penalty, but also the death penalty in those States that presently have a death penalty statute.

Mr. President, by an overwhelming majority, the American public supports the imposition of capital punishment. The American people are usually out in front of politicians on issues like this, issues that matter most, issues of basic fairness, equality, and true justice.

As for the ultimate criminal sanction, which, of course, is the death penalty, the American people are not out to fill some psychological blood lust. However, they do know that when it comes to heinous, outrageous, and abominable criminal acts, the death penalty is necessary, appropriate, and in these circumstances, the only just punishment. To attach a lesser sanction against such criminal acts would, in my view, undermine our system of justice and its ability to deter crime.

Worse, the lack of the capital sentencing option, which would be the result if the provision of the Senator from Delaware is adopted, is an abdication of one of the most fundamental duties of our Government: The protection of the people.

To advocate the use of society's ultimate criminal sanction is not something that I take lightly. But the Constitution permits us the option to end a convicted criminal's life if certain prescribed procedures are followed, including appropriate, as well as constitutional, due process procedural safeguards, to ensure that mitigating and aggravating factors are taken into account during the sentencing portion of a criminal proceeding. And, as a matter of criminal law policy, in addition to much thought and study on my part, I believe that the capital punishment provision in the Thurmond substitute should be a sentencing option available for those who are convicted of crimes deemed to be affronts to civilized society.

The exclusionary rule provision of the Thurmond substitute allows reliable physical evidence, including, but not limited to, such evidence as narcotics seized from a drug trafficker, to be admitted into evidence in a criminal trial.

As is well known by now, the exclusionary rule is not a guarantee grounded in the Constitution.

It is a judge-made rule adopted by the Supreme Court for use in the Federal courts in 1914 (See *Weeks* v. *United States*, 232 U.S. 383) and for the States by the Supreme Court in 1961 (See *Mapp* v. *Ohio*, 367 U.S. 643)—to deter abusive law enforcement practices that might occur under the "color" of the protections afforded by the fourth amendment.

The fourth amendment, of course, guarantees that the people shall be "secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."

Consequently, the enforcement of the exclusionary rule excludes evidence from being considered at a criminal trial, where it has been determined that such evidence has been obtained illegally.

The overtechnical reliance upon the exclusionary rule has resulted in criminals—who have, in fact, been caught in the act of committing a crime—being set free; not because they are innocent, but because the evidence necessary to establish guilt is determined by the court to have been seized unreasonably.

I have already stated that it is the foremost responsibility of law enforcement officers to protect the citizenry. Sometimes in the performance of those duties, an officer makes a mistake.

There should be room to distinguish between a wholly unreasonable search of one's person or home, and the simple and honest mistake, made in good faith, of a law enforcement officer conducting a search under sometimes life-threatening circumstances.

To me that is just plain good old common sense.

Unfortunately, strict enforcement of the exclusionary rule results in all criminals and all crimes being treated alike.

In Michigan versus Tucker (1974), Justice Rehnquist said:

> Just as the law does not require that a defendant receive a perfect trial, only a fair one, it cannot realistically require that policemen investigating serious crimes make no errors whatsoever.

Ten years later, the Supreme Court, in United States versus Leon (1984), adopted a good faith exception to the exclusionary rule, in instances where a search was conducted pursuant to a warrant, issued by a magistrate, that was later invalidated.

The Supreme Court recognized that it is absurd to attempt to deter the conduct of a police officer who in good faith conducts a search pursuant to a warrant that the officer considers to be valid, or who has no reason to believe is invalid.

Can we really expect, as some courts seem to demand, that an officer should cross-examine the issuing judicial officer as to possible deficiencies in the warrant? I believe not.

And what about instances when an officer is acting under probable cause and reasonable good faith, without the benefit of a search warrant?

Should evidence that tends to prove the guilt or nonguilt of an individul be excluded because of an artificial reliance upon a rule which erects an artificial veil between the facts and common sense? I think not.

I think the American people have waited long enough for us to restore logic to the criminal justice system.

In keeping with the spirit of the rationale in Leon, title III of the Thurmond substitute requires that evidence be seized by a responsible law enforcement officer who has acted with an objectively reasonable good faith belief that his or her conduct was lawful.

As I have stated previously, the American people have a right to be secure in their dwellings, free from drug traffickers and similar predators.

The American people also have the right to prosecute those who would flagrantly disregard the laws of the United States and hide behind an overly legalistic reading of the fourth amendment of the U.S. Constitution.

By adopting the objective good faith exception to the exclusionary rule, no longer will a guilty defendant get a free ticket out of jail, for certainly no thoughtful reading of the fourth amendment, nor the judge-made exclusionary rule, ever intended such a result.

Mr. President, none of us wants the police breaking in our doors or indiscriminately making searches and seizures.

Certainly none of the supporters of this provision of the Thurmond substitute advocates such police-state tactics.

However, strict adherence to the exclusionary rule makes sense only in those instances where law enforcement personnel intended to break the law.

Title III does not abolish the exclusionary rule. It does, however, maximize the availability of reliable, physical evidence that may tend to prove the guilt or nonguilt of a defendant.

The exception to the exclusionary rule contained in title III of the Thurmond substitute is valid only so long as the law enforcement officer has acted in good faith and concludes that a particular set of facts and circumstances gives rise to probable cause.

The validity of the good faith of the law enforcement officer in question is to be determined by the finder of fact from an objective rather than subjective standpoint.

I believe that title III is essential in order to return the exclusionary rule to its original purpose of deterring unlawful police conduct.

Statistics indicate that drug cases have a high incidence of exclusionary rule search and seizure problems. With the adoption of title III, no longer will evidence, such as that which is seized from a drug trafficker or drug abuser, be thrown out of court when a law enforcement officer has acted objectively, in good faith, evidence that otherwise goes to the question of a defendant's guilt or nonguilt.

In conclusion, Mr. President, the Thurmond substitute offers us a real opportunity to enact a true crime package, rather than the hollow bill offered by the supporters of S. 1970, which is a crime bill in name only.

Mr. President, I am afraid that the bill offered by our colleague from Delaware does not pass the famous duck test.

True, it looks like a duck, it walks like a duck, and it even sounds like a duck.

But, let me assure you, it is not such a bird. It is only a turkey wearing duck's feathers.

The result of its passage will be to make it even more difficult for law enforcement personnel, prosecutors, and judges to protect the American people from criminals.

I know many of my constitutuents are sick and tired of efforts in Congress to act tough on crime, but not to in fact be tough. They want and deserve meaningful action from us.

So I urge my colleagues to support the substitute offered by the distinguished ranking member of the Judiciary Committee because this substitute happens to be the right thing to do.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

## EXTENSION OF MORNING BUSINESS

Mr. SPECTER. Mr. President, I have been asked by a representative of the leadership to ask unanimous consent that time for morning business be extended to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CRIME

Mr. SPECTER. Mr. President, we are considering the crime bill in the Senate today, a continuation from the opening discussion of yesterday. There is no problem or concern in America more important than crime. The primary function of government is to provide personal physical safety for its citizens, national defense on international problems, and domestic defense against the ravages of crime.

The crime problem is a matter of overwhelming importance in this country, as it has been for a long time. In the three decades that I have worked on the crime problem since I was an assistant district attorney in Philadelphia in 1959, I have personally seen the problems of crime in the streets, crime in our big cities, crime in our small towns, and crime in rural areas, grow by leaps and bounds.

It has always been my view that we could win the war on crime if we could devote sufficient resources to this very important issue. There have been many crime commissions. The one I worked on was the 1972 National Commission on Criminal Justice Standards and Goals which outlined a realistic blueprint to deal with crime in America.

Crime in the United States has become more acute with the advent of the drug problem. With the problems of cocaine and crack, crime has become a much more difficult problem today than it was 18 years ago when the National Commission on Criminal Justice Standards and Goals outlined the strategy to fight against crime.

Since coming to the Senate, the crime issue has been a major area of my concern, working on the Judiciary Committee and also on the Appropriations Committee. In the 98th, 99th, 100th, and 101st Congress, I have proposed major legislation which would allocate 1 percent of the Federal budget to the crime problem. Originally, when our budget was around $850 billion, that called for an allocation of about $8.5 million. At the present time, largely as a result with the problems with drugs, the Federal allocation has approximately come close to that 1 percent figure. But in the intervening time, the problem has become even more complex so that there remains an issue today as to whether 1 percent of our Federal budget is sufficient.

Mr. President, I would approach and have approached the problem of crime in two fundamental ways. One is to deal with the first offender, second offender, and youthful offenders working toward realistic rehabilitation. And, second, if a person then becomes a habitual offender—and by that I mean someone who has been committed three or more major crimes—then I think it is fair to, in effect, throw the book at that defendant with life sentences, to separate that person from society. But before that can be done, in my view, there has to be an opportunity for the youthful offender, first offender, even second offender to have realistic rehabilitation.

It is no surprise when a functional illiterate leaves jail without a trade or skill that that individual returns to a life of crime. It is no surprise that when a person cannot read or write, has no job, goes back on the street, and if not the first impulse, if not the second impulse, it does not take long for recidivism to take hold. That has been the result of the problems of crime in this country. We have not really worked at rehabilitation in any meaningful way.

When I served as chairman of the District of Columbia subcommittee in 1983, 1984, 1985, and 1986, our subcommittee crafted a program for the District of Columbia to provide for literacy training, to provide for job training, to provide for job placement. While that program has had some difficulties, it has made significant strides forward and has been significantly successful with demonstrated statistical facts showing that where education, literacy and job training has been provided, the people who have left the District of Columbia jails have had a higher rate of success on the outside in finding and in holding jobs.

Part of that program was the effort to construct a new jail in the District of Columbia and some $30 million, $40 million of Federal funds were allocated. As a demonstration of how slow the process is, in 1990, we still have not made a great deal of progress on the jail because of citizen disputes, but it is going forward. It is illustrative.

I know the distinguished Presiding Officer smiles. It is a pleasure to have his attention because most of the time with a single Senator on the floor in this cavern making speeches which are largely unnoted perhaps except for somebody watching on C-SPAN II. The fact is that the jail is moving forward under that initiative. If it is hard to get a jail constructed, which is a relatively simple task, consider how much more difficult it is to apply rehabilitation to work with functional illiterates who have come out of the school system not knowing how to read and write and have turned to a

life of crime. Take that person when they are 20, 21, or 27 trying to give them literacy training and then try to give them job training and try to find them jobs. There is a realistic hope of accomplishing that and the experience in the District of Columbia, while not perfect and very problemsome for a lot of reasons, has made some significant strides forward.

Mr. President, I believe that it is necessary as a plank for America to work on the juvenile offender, the first offender and the second offender to try to provide that kind of realistic rehabilitation.

I have introduced legislation which would encourage the States to emphasize such realistic rehabilitation. I intend to offer on this bill, Mr. President, a measure which would stimulate some State action. As a matter of federalism, the Congress cannot appropriately order the States to have rehabilitation programs, but we can condition our grant of Federal funds, for example, on the States moving in that direction. As I say, I have introduced legislation in the past and I intend to offer an amendment on that subject when the time is appropriate on this bill.

Mr. President, if society offers the first offender, juvenile offender, even second offender, a chance at realistic rehabilitation and that individual then fails and becomes a three-time loser, then I think it is fair to have life sentences, to separate that person from society.

Some 40 States in the United States have adopted this approach over the years called the habitual offender statute. States have provided if someone does commit three or four major offenses, that person then is classified as an habitual offender and ought to go to jail for life. That was the thrust of legislation which I introduced in 1981 and kept with, and finally, in 1984 we passed as part of the Omnibus Crime Control Act.

The Federal Armed Criminal Sentencing Act which provides for a life sentence under the Federal system, entitles a person to probation after serving 15 years. However, the act provides for a mandatory sentence of 15 years to life for someone who is caught in the possession of a firearm who had committed three major offenses. That is the Federal equivalent of what had been in so many of the States under the habitual offender laws.

The problem then, Mr. President, becomes one of having sufficient space for incarceration. Based on my experience as district attorney of Philadelphia and as a result of hearings which we have had in the Judiciary Committee, it is my judgment that there are approximately 200,000 to 400,000 career criminals in this country. That was an estimate which this Senator advanced in the early 1980's. There may be more by this time as a result of the increased problem of narcotics.

The job is to have enough jails to hold those prisoners. A career criminal, Mr. President, is someone who commits a major robbery or a major burglary. The statistics show and case studies show that these career criminals commit in the range of 700 crimes a year.

This Senator has proposed legislation, as I say, as part of the major package going back to the early eighties to provide $10 billion for the construction of jail cells in this country which would house these prisoners.

Finally, after a great deal of effort, there has been a focus of attention in this country on additional jail cells. President Bush has come forward with a very significant sum of money for this prison construction. This is an issue which was part of the campaign effort, campaign effort which involved the furlough issue, and involved Willie Horton, but also a more comprehensive plank in then Vice President Bush's campaign effort which included this prison construction. This Senator made a contribution to the formulation of that plan. That has been carried forward so that we now are moving to have jails.

I believe, Mr. President, the Federal Government ought to take a greater role in providing prison space for the category of habitual offenders for a number of reasons. First, when you have someone who is an habitual offender, they are moving in interstate commerce, and most of the time involved in drugs, it would be appropriate for the Federal Government to house these habitual offenders because of the Federal nexus to the problem. In addition, it would be appropriate as a way of encouraging, in the State courts, the use of the habitual offender statute.

In the 97th, 98th, 99th, and 100th Congresses that legislation has been proposed by this Senator. So it is a long evolving process, but I believe that ultimately there will be a greater recognition by the Federal Government of this role.

I am glad to see the distinguished chairman of the Judiciary Committee have as part of his plan regional Federal jails to help the States. That proposal does not tie directly to habitual offenders, but it is in line with the basic concept that the Federal Government does have a responsibility and a role in housing State convicts.

We know today that there is a horrendous problem of overcrowding in the State prisons, and there have been thousands of prisoners released prematurely. In one celebrated case in Little Rock, AR, where a person was convicted of murder in the first degree on a robbery-felony murder, was sentenced to 25 years in jail, which in Arkansas is the practical equivalent of life, he walked out of court and walked out onto the street because there was no jail to put him in.

Judges have testified before the District of Columbia Subcommittee in 1984 and 1985 that they frequently release people who ought to go to jail because there is insufficient space. That is a problem which we have not yet begun to grapple with.

So it is no surprise that there are violent criminals on the street when we have apprehended, convicted, and sentenced them, but they are not in jail because there is insufficient jail space. So it is no wonder that those people are back on the street and committing more crimes, and it is proof positive to the basic proposition that we have not allocated sufficient resources for this very important problem.

In the bill before the Congress at the present time, Mr. President, there is a great deal of concern on the issue of the death penalty. I believe that the death penalty is a deterrent. That judgment is based upon some 12 years of experience as an assistant district attorney and as a district attorney, and from the experience I have had in the 10 years I have been in the Senate on the Judiciary Commitee. It is a judgment call.

Frankly, the statistics go either way. As in most circumstances, you can find a statistical set to prove virtually anything you seek to prove. But I have seen professional robbers and burglars who will not carry weapons in the course of a robbery or burglary because they do not want to face the death penalty. When we come to the subject in further debate I will amplify those cases and the underlying factors which led to that conclusion.

Whether or not I am accurate that it is a deterrent, there is no question about the fact that 37 States have decided the death penalty is something they want carried out. The practical fact of the matter is with the lengthy delays on habeas corpus proceedings—that is the Latin term, habeas corpus, "produce the body"—where the propriety of the conviction is tested in the Federal courts and in the State courts. In these cases, proceedings can go on for years, an average of 7 years, and some cases last as long as 15 years. In fact, one case lasted as long as 17 years.

Mr. President, it is my view that the death penalty has to be very, very carefully applied, both as a matter of justice to the individual who is being subjected to that possible penalty and also in order to be able to retain the death penalty.

When the issue as to age comes up in our Judiciary Committee meetings, I have long voted that we ought not to apply the death penalty to anyone

under 18 years of age. It is not an easy call. A number of my colleagues have called for the death penalty for those who are 17 or 16, wanting to put the cutoff at age 16. There is no magic test as to what the appropriate age is. There are many juveniles who are 16 and 17 or even younger who are hardened criminals, and when you take a look at their records and their conduct there is a strong inclination to say the death penalty ought to be applied here. But as a judgmental factor and as an overview, I think that society ought not to extract the death penalty from those who are under 18 years of age, both as a matter of the age of the individual and also as a matter of societal restraint that we are to be able to retain the death penalty.

So I disagree with the decision of the Supreme Court of the United States which upheld the death penalty as a matter of State determination for those under 18, although it is a different question as to whether there ought to be a constitutional bar contrasted with a public policy determination made by a legislative body. I believe that a wiser course, as I say, is to limit the death penalty to those 18 years of age or older.

Similarly, when it comes to the issue of those who are mentally retarded, I disagree with the decision of the Supreme Court of the United States in giving States latitude to apply the death penalty to those who are mentally retarded. I believe that these issues ought to be resolved in a conservative way. When I say conservative, I mean that the death penalty ought to be restrictively applied and in close questions we ought to exercise societal restraint, both in fairness to those individuals and also in order for society to retain the death penalty, because I believe that if it is overused we will lose it.

One of the amendments, Mr. President, involves the issue denominated as the Racial Justice Act. When you so denominate a matter as racial justice it is pretty hard to vote against it. It is one of the great attributes that imaginative Senators or more imaginative staffs have of putting labels on bills so they cannot be resisted.

The Racial Justice Act in essence provides for a statistical determination to show that the death penalty has been applied in a racially discriminatory manner. It is a very complex measure. I voted in favor of the provision during the committee deliberations. I have since rethought the matter because of a concern, as I have studied the matter in greater depth, that it may set up a system which is unwieldly and impractical, and it may also move away from individualization for determination of the death penalty. A hallmark of the American criminal justice system and especially on the death penalty has been individualization; that is, taking a very close, hard, careful, very careful look at the individual involved in terms of the murder in question, the aggravating circumstances, the mitigating circumstances, that individual's prior record. I am rethinking and restudying this issue and have had quite a number of meetings on it, studied it in depth, and intend to continue to do so before the matter is called to the floor.

The issue of applying the death penalty to major drug dealers is also a matter of concern where there was no causally connected death. I have introduced legislation which would provide for the death penalty for a major drug dealer, even though you cannot show a specific death resulting. I broached this issue about a year ago with Assistant Attorney General Edward Dennis, the Assistant Attorney General in charge of the Criminal Division, and sought the administration's position which was forthcoming a few weeks later, and then crafted a bill and introduced it last fall.

This is a difficult issue because it raises a possible constitutional question as to whether constitutionally the death penalty may be imposed on an individual where you cannot prove a death results. The Supreme Court of the United States has held that the death penalty may not be applied to someone convicted of rape because the death penalty is disaproportionate. The Supreme Court of the United States has also held that you may not apply the death penalty to a coconspirator who is the driver of the getaway car in a robbery-murder because that individual is too remote.

But I believe where you have major drug dealers selling drugs, they know that the natural and probable consequence of the sale of drugs is to result in death. My bill provides for the imposition of the death penalty on a second conviction for such an individual.

We have had traditionally the death penalty for crimes like espionage or sabotage where no death resulted, because society's interest in national defense and national security was such that if someone was convicted of espionage or sabotage or treason the death penalty was appropriate.

I believe that those are analogs and analogies to a major drug dealer, even though you cannot prove death results. I expect this will be a contested issue on the Senate floor. It is one where I think we ought to expand the death penalty.

I have been disturbed that there has not been an effective Federal death penalty since Furman versus Georgia except for the Uniform Code of Military Justice and the 1988 legislation which we passed on major drug kingpins where death did result.

Last year, I introduced a provision for the death penalty in cases of terrorists, starting off with the most egregious kind of crime where I thought it would be clearest that the death penalty ought to be applied, and I offered that as an amendment to the State Department authorization bill. Under an agreement, we took it off the bill so it could be considered as a freestanding bill with 4 hours of debate. That bill was considered and passed the Senate overwhelmingly by a vote of 79 to 20 on October 26, 1989.

That was step one in trying to bring back the death penalty for a wide variety of traditional Federal offenses—murder, of course, of a Federal agent, robbery of a Federal bank, assassination of a President, use of explosives, a wide variety of cases which had traditionally been covered with the death penalty. Those are incorporated now in legislation advanced on both sides of the aisle. I think it is very important to bring back the Federal death penalty.

Mr. President, I have spoken at some length because no other Senator has appeared on the floor seeking recognition. But even with this length, I am only touching on a few of the matters which will be embodied in the debate on the crime bill, and of which I have a direct concern. But the final matter that I shall discuss is an amendment which I offered on Friday to establish a timetable for Federal habeas corpus proceedings.

The reality is that there is not much of a death penalty in America today, notwithstanding that 37 States have the death penalty. There is not much of a death penalty because, with some 2,400 men and women on death row in America, there have only been about 125 executions since 1976. So that the deterrent effect of capital punishment really cannot be demonstrated in this context.

We know that punishment can deter only if two factors are present: swiftness and certainty. Without those two factors, deterrence cannot be present. Obviously, you do not have swiftness. In some cases it takes as long as 17 years with the average case taking 7 years. And you cannot have certainty in the context where you may not be caught, and if you are caught you may not be convicted. If you are convicted, you may not get the death penalty, and if you get the death penalty, you most likely will not be executed given the statistical range.

In 1972, Furman versus Georgia came down, and everybody on death row was exonerated because their cases were tried in the context in which it was determined constitutionally impermissible by Furman versus Georgia. Then other cases have come down. Each time the death penalty is struck down, all those on death row are granted an automatic reprieve because the Supreme Court of the

United States established standards which were not known when those defendants were tried and convicted.

So that enormous delay, realistically viewed, destroys the efficacy of the death penalty in this country.

Mr. President, I have proposed a significant revision of postconviction proceedings because of my view that it is possible to give those convicted of murder in the first degree and sentenced to death an appropriate review in a much shorter time, providing adequate counsel is appointed.

That is a sine qua non, an indispensable prerequisite for any system which administers criminal justice which includes the death penalty.

My bill, which was introduced on Friday and which I intend to offer as an amendment to this crime package, would call for the filing of a petition for writ of habeas corpus in the Federal court within 30 days after the final decision on direct appeal from the conviction and imposition of the death penalty.

Mr. President, my legislation calls for the elimination of State habeas corpus proceedings as a jurisdictional prerequisite of Federal habeas corpus proceedings because in the State courts those proceedings are customarily pro forma. They go before the same court where the person is tried and sentenced to death. That case has already gone to the State supreme court, which has upheld the trial and the death penalty. The only additional ingredient customarily is the issue of competency of counsel. And as a matter of practice, it is pro forma. Several years are consumed in that process.

The defendant's rights can be adequately protected, providing he gets a decent lawyer, in a single Federal court habeas corpus proceeding. It is possible, Mr. President, to set a timetable which would move that along. We find that it is a common practice in many States for long delays to occur before the warrant of death is signed by the Governor calling for the imposition of the death penalty. That sets a procedural sequence where there is no requirement for the filing of habeas corpus review on constitutional grounds until the break in the imposition of the death penalty.

Then the cases go through collateral habeas corpus proceedings in the State courts for several years. Then there is a repetition in the Federal courts. During this time, there are frequently intervening decisions by the Supreme Court of the United States, expanding within its rights. Then they start all over again with this interminable process.

Mr. President, with provisions for adequate counsel, the defendant is on notice at the time the State supreme court holds that the death penalty matter is going to have to go forward to the Federal habeas corpus proceedings because, while the petition for a writ of certiorari is applied for, it is granted so infrequently that it is a virtual certainty that the case will go to the Federal habeas corpus, and that is the time for the preparations to be made for that Federal habeas corpus proceeding.

That is the time when counsel ought to be preparing that petition for writ of habeas corpus. I think it is timely and fair to require that it be filed within 30 days after the Supreme Court of the United States denies a petition for writ of habeas corpus. If they take the case, of course, there is review. But if the Supreme Court denies the writ of habeas corpus, that is the time for the petition timing to start.

The issues have been litigated, aside from the issue of incompetency of counsel or some intervening factual materials. They have been litigated in the State criminal proceeding.

It is then reasonable, Mr. President, to call for an answer by the State within 20 days, which is customary now, and then to limit the U.S. district court for 3 months for an evidentiary hearing, for arguments, briefing, and decision.

These cases, under my amendment, would be made a priority item for the Federal courts, and it would not be burdensome. In the State of Pennsylvania, Mr. President, we have had, over the past decade, some 120 death cases pending. Seventy of them have come out of Philadelphia and 40 from the remainder of the State. I am advised by the district attorney, Ron Castille, that 12 such cases arise each year. In the Eastern District Court of Pennsylvania, where there are 22 full-time judges and another 8 senior judges, that would be one capital case every 2 years.

I think it is then appropriate to establish a timeframe in the circuit court of 110 days, and that is not much faster than is currently the standard, again taking these cases on a priority basis, and a timetable in the U.S. Supreme Court of 110 days.

This sequence, Mr. President, would eliminate problems which are now present by the intervening rights. The Supreme Court of the United States has held that a person applying for Federal habeas corpus should not be entitled to the benefit of a decision which came down establishing new rights after his case had run its initial appeal. I believe that this rule is not an appropriate one and, of course, the Congress of the United States has the authority to establish the law on this subject, as to what is the scope of review.

I saw Chief Justice Rehnquist describe this point on television, and as he describes it, it could not be applied if there was a fundamental right involved. I suggest, Mr. President, that there would be more time consumed on what was or was not a fundamental right than it would take to decide the entire issue.

Again, in considering whether the defendant ought to have the benefit of the intervening rights, Mr. President, I believe that the benefit of the doubt ought to be given to the defendant, again, on the basic point that I make that capital punishment has to be applied with societal restraint, both in the interest of fairness to the individual and in the interest of retaining capital punishment.

The other major controversy which has arisen on the bills which have been filed, on the controversy between the Powell Commission, the commission chaired by former Chief Justice Lewis Powell, and the point of view of the judicial conference is what the scope of review should be, whether it ought to be limited to the question of innocence or whether it ought to consider also the question of penalty and how that ought to be articulated.

Here again, Mr. President, I believe that the broader standard has to be applied, again in the context of fairness to the individual and retention of the death penalty, and this is under the category of societal restraint. When hearings were held before the Judiciary Committee, this issue was addressed by Justice Powell, and I cite a brief portion of his testimony to this effect. Justice Powell testified:

> A miscarriage of justice, it sort of lies in the eyes of the beholder. I also repeat what I said earlier, that, for the most part, innocence is not an issue in these cases. The question is whether or not a death sentence was appropriate and whether or not the trial was fair.

This is the testimony of former Justice Powell in commenting on what the scope of review should be. So that when you get into the nitty-gritty and into the question-and-answer session, Justice Powell realistically comes down to the broader standard when he says: "The question was whether or not a death sentence was appropriate and whether or not the trial was fair."

So that when we really apply the death penalty and are about to extract the extreme penalty which, as I say, I think is fair, so that society can have every legitimate weapon in its arsenal to fight violent crime, the defendants for whom the death penalty is imposed necessarily ought to have a review of the sentencing process and, as Justice Powell himself puts it, "Whether the trial was fair." No matter how you articulate the term "miscarriage of justice," and a variety of other standards, you come down to what is basic fairness, and I do not think we come to a point in our courts where we will exact the death penalty without having given that ultimate process of review.

Mr. President, I have a number of comments, in the intervening time, on my amendment on speeding up the timetable. Some are concerned that it is a big step to eliminate State habeas corpus proceedings. I think that concern arises in the minds of those who have not been through State habeas corpus proceedings. They just are not meaningful.

One concern was raised about a slight disadvantage to the prosecuting attorneys, because the fact-finding State habeas corpus proceeding is to be handled with deference in the Federal court. But giving up that small advantage is far outweighed on the benefit of eliminating the several years taken up by State habeas corpus proceedings.

When you take a close look at that procedural advantage, Mr. President, it evaporates in most Federal court proceedings, because the Federal courts hold their own evidentiary hearings. If a Federal court wishes to reach and invalidate what a State court has done in cases—and I shall discuss those at greater length when this issue comes to the floor—the Federal courts make those decisions in any event.

I have litigated these cases in State habeas corpus matters and also on Federal habeas corpus matters, and this timetable is workable. There is an approach on the subsequent Federal habeas corpus petitions that they may not be filed unless leave is obtained from a court of appeals, so that the court of appeals should be the gatekeeper to stop the repetitious petitions for writs of habeas corpus.

Mr. President, I see my colleague from Colorado on the floor seeking recognition, so I shall conclude at this point. I urge my colleagues, in the crafting of the bill which is before us, to take a very hard look at the broad aspect of crime in America and to try to deal with the issue of realistic rehabilitation for the youthful offender, the first offender, and the second offender, both in the interest of that individual and also in the interest of society's willingness to extract a life sentence for the habitual offender. I do not think we will come to that judgment, and to impose the life sentence on the habitual offender as a society, until we provide that kind of an opportunity for rehabilitation to the juvenile and the first and second offenders.

As we work through the issue of the death penalty, which is a very important weapon in the arsenal against violent crime, we must structure legislation which will give defendants access to adequate counsel, because if there is not adequate counsel, nothing that we provide would work, and that means access to the records as well. With adequate counsel and with the priority in the Federal courts, we can speed up the lengthy Federal court habeas corpus timetable to a year. I would expect others to want a longer period of time. None of these timetables are nonnegotiable. There is a great deal that we can do in the Congress of the United States, through the Federal Government, if we analyze these problems closely, if we supply sufficient funding, and if we move to realistic solutions. I thank the Chair and yield the floor.

## EXTENSION OF MORNING BUSINESS

Mr. WIRTH. Mr. President, I ask unanimous consent that morning business be extended to 12:30 p.m. and Senators be allowed to speak therein.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

## JILL IRELAND, A REMARKABLE WOMAN

Ms. MIKULSKI. Mr. President, I rise today to pay tribute to a remarkable woman. Jill Ireland was a British actress and cancer crusader who spent the last years of her life fighting the debilitating disease of breast cancer but did not let it defeat her. Instead, she fought in public, where her courageous 5-year battle brought hope and inspiration to both the ailing and the healthy. With her death last week we lost a very special advocate for women's health.

In books and frequent lectures about her battle with the disease, Ms. Ireland spoke eloquently about self-respect and optimism in the face of devastating illness. She wrote a best-selling book about fighting her disease entitled "Life Wish." She called herself a survivor, not a victim.

In January 1988 she testified before the Senate Committee on Labor and Human Resources, of which I am a member, representing the American Cancer Society. At this hearing Jill pleaded eloquently for a bill I had introduced to address the critical heatlh issue of early detection of breast cancer through mammography, so that other women would not have to suffer as she had suffered with this terrible disease. As she stated at that hearing:

> If it were not for a mammogram, which detected my cancer before I did, I would not be standing before you today, pleading for the lives of American women. My tumor was not detectable by examination. It took a mammogram to save my life. If all women knew about the benefits of screening, and if it were available to them, so many women could be spared surgery, painful treatment, and death.

Mammography screening can detect breast cancer when it is in its very early stage. At this early stage, the chances for cure are over 90 percent. Yet is is estimated that fewer than 10 percent of women over 65 have mammograms regularly. One primary reason for this is that the cost of a mammogram can be a tremendous burden for an elderly women on a fixed income.

Jill Ireland can no longer stand here and plead for the lives of others; it is up to us to carry on that work for her. I know of no better way to attempt to carry on in her footsteps than to continue to press for measures which enable all women to receive mammography screening and other necessary medical services.

As Jill Ireland stated before my committee:

> Breast cancer is a great leveler. It knows no boundaries. It does not respect income levels, ethnic distinctions or social standing. It strikes the young, people in full stride of their most productive years and it strikes the elderly—many of whom are surviving on a mere $400 a month from Social Security.

Our memorial to this exceptional woman must be to ensure that no woman experiences the devastating effects of breast cancer simply because she could not afford to have a mammogram.

## DROPOUT PLANS NOT WORKING

Mr. KOHL. Mr. President, I rise today and ask unanimous consent that the article, "Dropout Plans Not Working, Study Finds," appearing in the New York Times on May 16, be printed in the RECORD. Joseph Berger writes:

> New York City schools spent more than $120 million in the last four years to prevent students from dropping out, but most of the participants did not improve their attendance or their academic work, a major new study says.
>
> The study, which is being released today, underscores again how intractable the dropout problem is and how difficult it is to alter the habits and the outlook of students by starting in adolescence.

New York City schools have taken the initiative to try to find what works in helping to reduce a high dropout rate. The article goes on to discuss approaches that are working and approaches that haven't worked in meeting the needs of the young people of New York City.

On April 30, the Senate unanimously agreed to an amendment which would continue funding for school demonstration dropout prevention programs for 1 year until a new round of competition for demonstration project grants can be completed by the Department of Education. Meanwhile, there will be more examples of projects undertaken by States and local governments—as in the programs described in the article by Mr. Berger—demonstrating both success and failure. But at least the efforts are being made to find what works, and what works best in each of the thou-

sands of communities across this Nation which are facing a tremendous dropout rate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 16, 1990]

DROPOUT PLANS NOT WORKING STUDY FINDS

(By Joseph Berger)

New York City schools spent more than $120 million in the last four years to prevent students from dropping out, but most of the participants did not improve their attendance or their academic work, a major new study says.

The study, which is being released today, underscores again how intractable the dropout problem is and how difficult it is to alter the habits and the outlook of students by starting in adolescence.

Board of Education officials said the findings pointed to a need for making instruction more appealing to students, and not merely intensifying attendance and guidance services, as dropout programs have tried to do.

Former Chancellor Bernard Mecklowitz said the study suggested that dropout prevention had to begin much sooner, perhaps as early as nursery school.

AT A COST OF $8,000 A PUPIL

The study, prepared by the board from research by faculty members at Teachers College of Columbia University, is expected to lead to a major reshaping of the dropout program. Chancellor Joseph A. Fernandez is scheduled to brief the board today on revising the dropout progam, which deals with junior high school and high school students.

From 1985 through 1989, the system, responding to a persistently high dropout rate, showered the 150,000 participants in two parallel dropout programs, with services costing a total of $120 million, or $8,000 a pupil.

Attendance officals, equipped with automatic dialers called parents to prod the students to attend. Guidance counselors advised on careers and family problems. Neighborhood workers visited homes and trained youngsters for jobs. One community group even provided training for wilderness survival.

The results, the authors of the study concluded, were disappointing. About 40 percent of the high school students showed improved attendance. Less than 45 percent increased the number of courses they passed from one year to the next. More than half the original participants had dropped out by the third year of the program, far higher than the citywide average of 30 percent.

Most damning of all, the study suggested was a comparison between students who were in the program for three years. Both groups showed the same decline in attendance. The study did not give specific figures.

Officials of the program had set a goal of improving the attendance and academic achievement of the majority of the participants.

POLITICS AND SPEED

Although dropout figures are notoriously subject to manipulation, the board's figures indicate that almost 30 percent of the students older than 14 dropped out before they might have graduated.

A study in 1988 by a group of black, Hispanic and Indian educators said the rates for minority students had reached epidemic proportions, with 82 percent of Hispanic students, 53 percent of black students and 46 percent of Indians leaving. The board's figures for minorities are far lower.

Many educators said the problem had to be addressed long before high school. Indeed, the best results were achieved at a handful of elementary schools in the programs.

"Taking children who are already at risk and who already have one foot out of the school is worth the effort, but it doesn't pay the kind of dividends that the long-term approach pays," said Mr. Mecklowitz, now head of a principals' training institute at the Bank Street College of Education. "It's easier to prevent someone from smoking if they never start. If you get children on a positive educational track, they're going to continue their education."

The politics surrounding education, he said, often demand quick results. Working on the problem through early programs, he said, could take eight or more years and may not be as politically palatable as quicker programs.

In the mid-80's, the board, responding to criticism, started the two programs at 98 junior high and 36 high schools, as well as 5 elementary schools. The Mayor's office largely paid for one and the state, largely through bills sponsored by the chairmen of the Senate and Assembly Education Committees, paid for the second. The bills were written to assure that most of the money went to the most-troubled urban schools, bypassing the usual formulas that critics said often shortchanged the city in favor of suburban and rural areas.

INSUFFICIENT CREDITS

The programs, which eventually merged, picked students whose attendance and academic records suggested that they were likely to drop out. Both tried similar strategies, with efforts to have students attend, after-school programs and health referrals. Schools enlisted community organizations to develop job training, counseling and other programs.

An evaluation of the programs, by Joseph C. Grannis, a professor of education at Teachers College and supplemented by the board's research, found that participants were not earning sufficient credits each year to enable them to earn a diploma in four, or even five years.

High school students attended about two-thirds of the time and passed 40 percent of their courses. Average attendance declined year after year.

About 25 to 30 percent of the participants, the study said, were regularly promoted. By the third year of the program, 1987-1988, 50.7 percent of the first group of high school students had dropped out.

DECISION ABOUT SCHOOL

The executive director of the division of strategic planning at the board, Robin Willner, cited the focus of the program. In the mid-80's, she said, educators believed that schools needed the guidance counselors and attendance teachers who had been cut back in the fiscal crisis of the 70's. The findings of the dropout study, she said, indicate that such services solve just part of the problem.

"Children need enormous support, but they are also making a decision about school," she said. "The initial program focused on what was wrong with the children and did not sufficiently focus on what was wrong with the school. Children are making a decision about the school.

"If children went back to the same classes and the same program they walked away from the first time, they would walk away again. What about fixing the school, so when you bring them back they want to stay?"

Professor Grannis, who wrote the Teachers College study, declined to comment until the study is released.

## JIM HENSON

Mr. LEVIN. Mr. President, yesterday in New York, funeral services were conducted for Jim Henson, the creator of the Muppets, who died suddenly last week.

Jim Henson brought to this Nation and to the world joy and learning as well as the joy of learning through his never ending cast of creations. Whether it was teaching children to count and read, or teaching adults the value of keeping alive the child in themselves, Jim Henson's art and insight enriched the fabric of our culture for over 30 years.

Because his characters were lovable but not beautiful by any classic definition, he was able to teach children that beauty was in an attitude and in an approach to life. He also taught them that just because individuals looked different from each other, there was no reason why they could not work together in a spirit of community. In an environment which could lead children to think that being mean is an ideal, Kermit the Frog showed that it was good to be caring and thoughtful, even if you were sometime awkward in expressing those feelings. Fozzie Bear, through his repeated and usually ill-fated attempts to be a standup comic, showed children that they should not be afraid to try and try again if they really wanted to achieve something. And even Miss Piggy, that supreme example of comic self-indulgence, let children see in a humorous way the downside of thinking only about "moi."

Jim Henson through his loving creativity taught children all of that and at the same time reminded the rest of us of it, as well.

Mr. President, it is an ironic tribute to Jim Henson that it was his very success that deepens our sadness. It was the reality of his fantasy that makes us feel that in his passing we have lost a part of our own world. But, his legacy is that the fantasy will still endure for the benefit of all of our children and for the benefit of the children in all of us.

## NATIONAL HEALTH CARE PROPOSAL

Mr. INOUYE. Mr. President, today I am pleased to submit for the record a summary of a national health care proposal developed by the National Association of Social Workers [NASW].

Our health care system is in critical need of fundamental restructuring if we are to provide access to quality health care to the millions of Americans who have no coverage. We all know that health care costs are skyrocketing. Almost 12 percent of our gross national product is spent on health care with expenditures projected to reach 15 percent by the year 2000. Thirty-seven million Americans are uninsured with 50 million more who have inadequate coverage. A shocking 12 million of the uninsured are children, who from infancy are denied the benefits that medical technology has to offer. As alarming as these statistics are, the situation only continues to become more bleak as ever increasing numbers of employers eliminate health coverage or cutback on health benefits. We can no longer pay lipservice to the need for change. The health of our Nation's citizens is on the line.

NASW, representing 127,000 professional social workers nationwide, has taken this challenge seriously. They have developed a far-reaching plan that promotes a single, simplified health program that would be implemented by the States under Federal guidelines, and financed through progressive taxation and an employer-paid payroll tax. Unlike our present two-tiered system, every citizen would have equal access to comprehensive health, mental health and long-term care services. The NASW proposal would permit consumers freedom of choice to select among participating public and private providers.

Social workers practice in virtually every kind of health and mental health care setting. This breadth of experience is reflected in the proposal's emphasis on health education and preventive care, health care delivery that addresses the total needs of the individual, coordinated care to ensure a continuum of services for those with multiple health problems, and the availability of resources that enable access to health services for underserved populations. This is a program that supports access to comprehensive health care but does so within a framework that promotes administrative efficiency and cost-conscious service delivery through a single-payer system, prospective global budgeting for States and hospitals, fee schedules for all practitioners and expenditure targets, an emphasis on community-based outpatient programs rather than costly inpatient programs and health care planning at all levels.

This proposal addresses the need for a national health care system—not just a plan that proposes to increase access while continuing the same inefficient, costly, fragmented health system. This proposal challenges all of us. I believe NASW speaks not only for its own members but for all our citizens who feel that it is time for this country to ensure that everyone has the right and access to quality health care. Mr. President, I ask for unanimous consent that the text of this summary be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY—NASW NATIONAL HEALTH CARE PROPOSAL

The NASW national health care proposal fundamentally restructures the current health care system. The program offers full coverage to high quality, cost-efficient, and equitably-financed health and mental health care to all Americans. The national health plan proposes a single federally-administered, single-payer system with state responsibility to ensure delivery of health services, payment to all providers, and planning in accordance with federal guidelines. The plan provides coverage of comprehensive benefits, including long-term care. Enrollees have the freedom to choose among a full-range of public and private providers, including alternative delivery plans.

The national health care plan is financed primarily through a progressive federal dedicated tax on personal income and an employer-paid payroll tax with reduced rates for small businesses and for new firms facing economic hardship. States are expected to contribute their fair share, and are permitted to supplement their state global budgets. Limited copayments on certain services could be implemented, if needed, to control utilization of services.

While it's anticipated that the plan's costs may initially come close to the current level of health care expenditures, approximately $600 billion a year (11.7% of the gross national product), the unique delivery system improvements and the cost containment features built into the proposal are expected to decrease health care expenditures over time. The national health plan expands coverage to the 37 million people previously uninsured, as well as the millions more who are underinsured, and eliminates the inequities in paying for health care that characterize our current system.

The principal features of the NASW national health care plan are as follows:

COVERAGE AND ENROLLMENT

All persons residing in the United States are covered through the national health plan. Each person has the freedom to choose from among any of the participating public and private providers, facilities or care delivery options, including Integrated Health Service Plans (IHSPs). IHSPs are nonprofit, consumer-controlled plans which provide comprehensive health care services in their own facilities to an enrolled population. Individuals will enroll in the national health plan in the state in which they reside.

Coverage through employers or other privately purchased health insurance is discontinued, although private insurance plans may provide coverage for services not covered under the national health plan.

BENEFITS

Covered benefits include primary prevention and health promotion services; care coordination services; outpatient primary care services; mental health services; substance abuse treatment and rehabilitation programs; rehabilitation services; hospital services; inpatient and outpatient professional services; laboratory and radiology services; long-term care, including home and community-based services; hospice care; prescription drugs; dental care; hearing and speech services; and vision care.

EXCLUSIONS

Health services that are excluded from coverage include cosmetic surgery, except medically necessary reconstructive surgery; and certain amenities in inpatient facilities, such as private rooms, unless medically necessary.

COST-SHARING

There are no deductibles. The National Health Board (NHB) may require copayments, if necessary, to control utilization, with the following limitations: copayments must not impede access to health care; copayments must be modest in amount; the mechanism for charging and collecting must be administratively efficient; and co-payments must not implement means-testing.

Residents of nursing homes and other residential facilities are required to pay a modest room and board fee. These fees may be waived for those below the poverty line.

IMPROVED SERVICE DELIVERY PROVISIONS

The NASW national health plan provides unique and improved prevention and health promotion services; promotes comprehensive, coordinated, and continuous care that addresses the total health needs of every person through the use of primary care providers, care coordination services, and the promotion of IHSPs as comprehensive, integrated health delivery plans; provides access to health services to underserved populations; promotes the expansion of community-based health and mental health services; and establishes state screening and care coordination systems for the delivery of long-term care.

ADMINISTRATION

A new federal National Health Board (NHB) is established as an independent agency to administer the national health care plan.

All responsibilities of the Health Care Financing Administration are transferred to the NHB. Medicare, Medicaid, CHAMPUS, and the Department of Veterans Affairs' health program are phased out under the national health care plan.

The NHB provides the states with an annual global budget for all covered state health care expenditures. The global budget for each state is based on a formula that considers size of population, age distribution, the cost of delivering care, socioeconomic factors, and a number of key health status indicators. State global budgets will include all state health block grant funds.

The states will, in accordance with federal guidelines, ensure the implementation of all state health services, determine the distribution of all health care funding, develop and administer a mechanism to pay and reimburse all health care providers, work with localities and the NHB regional offices in undertaking health planning and coordination with appropriate social and human services, implement a quality assurance program, administer a consumer advocacy and information program, and license and regulate all health care providers and facilities.

PAYMENT TO PROVIDERS

The states will pay providers in the following manner:

Hospitals will receive a prospective global budget, which will be developed through annual negotiations between the designated state agency and the hospital. Global budg-

ets will only be used for operating expenses. Separate funds for capital expansion and purchase of expensive, highly-specialized equipment will be subject to approval by the state.

Other health care facilities, e.g. community clinics, migrant health centers, nursing homes, rehabilitation facilities, and Integrated Health Service Plans will be paid either on the basis of a prospective global budget or capitation as determined by the state.

Autonomous health care practitioners and group practices will be reimbursed on the basis of fee-for-service, although group practices may choose capitation. The reimbursement rate will be based on a national fee schedule, adjusted for regional variations, and negotiated by the NHB and a representative organization for each category of health care practitioner. The fee schedule will be a resource-based relative value scale similar to that being implemented for physicians under Medicare.

QUALITY ASSURANCE AND CONSUMER PROTECTION

The NHB will establish a National Council on Quality Assurance and Consumer Protection that is responsbile for determining guidelines and overseeing the quality assurance system as it is carried out by the NHB, the Peer Review Organizations, and the Consumer Boards. The NHB will establish quality assurance standards and certification and licensing criteria for all health care providers.

Peer Review Organizations (PROs) as provide for in Title XI of the Social Security Act will be extended to cover all types of health care providers and services. The PROs will be responsible for utilization review and quality control, and must be multidisciplinary in composition and reflect the types of services review. Each PRO is required to have a Consumer Board that will oversee the PROs, make recommendations on PRO contracts and carry out educational programs.

The NHB will develop a national health care data base on quality, effectiveness, utilization and cost of care with respect to all types of health and mental health services.

A consumer advocacy program will be established on the federal and state levels to administer ombudsman programs, hotlines for complaints, consumer information and education programs.

The national health plan will contain a consumer bill of rights.

PLANNING

The national health plan requires local, state and regional planning. At each level, the health planning function will include collecting and evaluating data on: the supply of and demand for health resources, the distribution of such resources, and the health needs of the population in a given jurisdiction. Goals and priorities will be formulated to serve as guides to the development of health policy and programs at each level of government.

FINANCING

The national health care plan is financed primarily from a dedicated tax on personal income and an employer-paid payroll tax. Additional sources of revenue include a state contribution based on a formula that ensures that each state pays its fair share, a dedicated estate tax, an increase in the cigarette and alcohol tax, a tax on types of businesses which have been proven to expose workers to substances that cause chronic and fatal diseases, illnesses and disabilities.

All revenues are placed in a National Health Care Trust Fund. All current federal appropriations for health programs are folded into the national health program and transferred to the Trust Fund.

Small businesses are protected by a cap on the amount they must contribute, and new firms facing financial hardships are protected by a reduced payroll tax rate for the first 3 years of operation.

TRAINING AND EDUCATION

The NHB will collect and compile data for publication related to the supply, composition and distribution of trained health care personnel.

The health plan provides for increased federal funding for a number of existing and new programs to increase the supply of needed health care personnel; encourage more health practitioners to work in underserved areas; support programs that help disadvantaged students to successfully complete health training programs; provide retraining programs for those who are displaced as a result of the program; support new approaches to continuing education programs in rural areas; and enable educational institutions to hire qualified staff to teach the importance of mental and psychosocial health in prevention, treatment and health promotion.

RESEARCH

The plan provides funds for research efforts that focus on the need to: continue basic biomedical and comprehensive mental health research; eliminate or control the major diseases affecting the greatest number of people; develop alternative models of health delivery for special populations; study the impact of psychosocial well-being on illness and disease; develop approaches to encouraging health life styles; and study effective intervention models for the mentally impaired.

The plan also directs research efforts toward examining the impact of care coordination on treatment effectivenesses and efficiency.

Additionally, funds would be available to continue to develop quality indicators for measuring treatment effectiveness in all types of inpatient and outpatient health care settings, and to develop practice guidelines that can assist physicians and other health care practitioners. Research will also be directed at reducing the number of unnecessary medical and diagnostic procedures.

MEDICAL MALPRACTICE REFORMS

The plan directs the NHB to establish a special commission to develop recommendations for medical malpractice reform. The goals of such reforms are to reduce the costs associated with malpractice insurance, reduce the basic for malpractice claims, target physicians and other health care providers who are incompetent, and develop mechanisms that will protect consumers who are victims of malpractice.

## THE S&L CRISIS

Mr. WIRTH. Mr. President, we are about to embark on a crime bill on the Senate floor and I hope we get to it. There will be a great deal of discussion during that debate about drug crimes, and there should be; about violent crimes in the Nation's streets, and there should be. We will have a vigorous debate on the death penalty. I am sure that we will have a vigorous debate on the assault provisions, and other items of not insignificant note and great controversy.

I hope, as well, we will have an opportunity during the crime bill to focus once again on perhaps the greatest example of white collar crime that has existed in our Nation's history and that is the S&L crisis. This is the largest single financial crisis in our Nation's history. We have never faced any kind of a scandal like this before. Did I say crisis? Scandal. We have never faced anything like this, and it is going to end up costing the American taxpayer hundreds of billions of dollars.

And the question is who done it? The American taxpayer is beginning to ask questions of all of us and law enforcement authorities: Who is responsible and how are we going to recover some of this ill-gotten gain? These are perfectly logical, perfectly legitimate questions to be asked, because we are finding the more we look into this the more we discover the amount of criminal fraud involved.

Mr. President, let me give you some examples: Recently Attorney General Thornburgh, President Bush's Attorney General, spoke of "Epidemic of Fraud in the S&L Industry," and the Attorney General told us that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by S&L officers. I am going to repeat: 25 to 30 percent of thrift failures can be attributed to criminal activity by S&L officers. This is from the Attorney General.

In another study the General Accounting Office when they looked at 26 thrift failures and case studies to see what happened, how did this happen, what went on, they found that in these 26 thrift failures in each of the insolvent institutions there appeared to be fraud and insider abuse.

We ought to be getting after this, and the American taxpayer knows we ought to be getting after it. In fact, when we passed FIRREA, the legislation designed to start to stabilize the S&L industry, we allocated $75 million additional funding for the Justice Department. The Chair voted for that; we all voted for that.

We thought this was an appropriate expenditure of money, increasing the funding necessary for the Attorney General, U.S. attorneys, and FBI agents. But, unfortunately, the current Justice Department has said that they do not want to spend the money. They do not want to pursue these cases of fraud, abuse, and criminal activity. "We do not need the money," they told us, when, in fact, just the opposite is what the data is showing us. The political level down there says, "We do not want to spend the money."

Talk to the working people at the Justice Department and they say, "Absolutely, we have to spend money to get additional FBI agents and to get additional U.S. attorneys on the job."

Whey do they say that? Not only because the Attorney General himself found all these cases of criminal activity, not only because the GAO found all this, but the FBI itself.

Let me tell you what is going on down there. The FBI received more than 20,000 referrals involving fraud in the financial services industry, more than 20,000 that the bureau cannot examine because they do not have the personnel to do so. They certainly want to, but they are being told from the top down, "Do not get into this." There are 20,000 referrals involving fraud in the financial industry that they cannot pursue.

Now, you might say maybe those are just credit card complaints or something like that. That is not the case. More than 1,000 of these referrals to the FBI we have been able to discover are major cases that involve losses of $100,000 or more. Yet they say: "We cannot use the money; we do not want these additional FBI agents; we do not want these additional U.S. attorneys."

It does not make a lot of sense to me and I suspect when the American public catches on to this it will not make a great deal of sense to them. That is the information coming from the Justice Department itself, from the working people of the Justice Department. "These are all the referrals we have that we cannot do anything about, because we do not have the personnel."

What else are we finding out? Timothy Ryan, the new Director of the Office of Thrift Supervision, about whom we had a very spirited debate, has been in a very good and chosen set of visits going around talking to all of us on the Banking Committee, who had been critical of his appointment, coming up to meet us. We have been finding out what he is doing, getting to know him. I was very pleased to spend a good deal of time with him. He came to my office, and we had an extensive discussion. Enforcement was one of the topics he wanted to discuss.

Mr. Ryan in the process of that discussion told me the following: He indicated that bank and thrift regulators were sending the Department of Justice 8,000 referrals per month regarding criminal and civil violations, and there were now at the Department of Justice 80,000 cases pending. This is the new Director of the Office of Thrift Supervision saying they are sending to the Department of Justice 8,000 referrals a month; they have 80,000 cases pending. This is the same Department of Justice that is telling us that they do not need any more resources.

I had offered an amendment during the time of the supplemental appropriation—and we had works, the Chair will remember, in the supplemental appropriation—for some $450 million for Panama. Clearly we have to do some things for Panama. We caused a great deal of destruction. We want to help rebuild the country. We look at the rationale, how do you get the $450 million. In the rationale, forgetting the $450 million, the administration had included $30 million emergency supplemental funding, $30 million for the promotion of tourism as an emergency supplemental item that we had to have right now, we are told, to promote tourism this spring and this summer before the fiscal year comes out.

I think most people looking at this are going to say, there probably is not an emergency, and I do not think we ought to be spending and can usefully spend $30 million in a dire emergency supplemental to promote tourism in Panama.

Why, Mr. President, we only spend altogether in the United States out of Federal Treasury, $14 million for tourism. I am sure that the Presiding Officer would think we could spend $14 million to promote Cape Cod and tourism in Massachusetts alone; spend that amount of money in the State of Colorado alone. All we spend annually in the United States is $14 million, but we are going to spend $30 million to promote tourism in Panama.

Common sense said to me, it does not seem to me that probably is a dire emergency supplemental. Why do we not make a shift? Why do we not shift the money from the Panama fund that is going to promotion of tourism and instead let us spend that money to pursue fraud, waste, abuse and criminal activity, and see if we can recover those hundreds of thousands of dollar cases that we know are there, millions and millions of dollars, probably billions of dollars, see if we can start to enforce the law and send some of these people to jail.

Do you know anyone in the S&L crisis who has gone to jail? Do your constituents know anyone who has gone to jail? Not many do. There has been a lot of gagging around this and lots of guys waiting for the statute of limitations to run out. Maybe they are going to be OK. I think there is, maybe, a sense of urgency in all this.

Unfortunately, when that amendment was offered, and Senator DIXON was a strong supporter of the amendment, and others were strong advocates of the amendment, the minority raised a procedural point of order. You could not transfer money from within one part of the budget to another part of the budget without getting a waiver of the Budget Act. That required 60-plus votes. We were not able to have 60 votes to do that and we did not transfer that money, and now under the dire emergency supplemental we are going to spend $30 million to promote tourism in Panama but not going to spend the money that is authorized to hire the FBI agents and to hire the U.S. attorneys for the purpose of going after this fraud, waste, abuse and criminal activity.

It may or may not be that the supplemental bill is the place to bring this amendment up again, but the purpose of my taking the floor today was to again outline to my colleagues the size and scope of the problem that sits out there, the need among our financial institutions for the kind of pursuit of the people that have been disobeying the law and effectively stealing from the American public.

The Attorney General is telling us at least 25 to 30 percent of the thrift failures can be attributed to criminal activity. That is from the Attorney General. The FBI has more than 20,000 referrals involving fraud which they cannot pursue. More than 1,000 of those are major cases.

Mr. Ryan is telling us the Justice Department is getting 8,000 referrals per month, and there are now 80,000 cases pending. If we do not think this is a crisis, the American public certainly does. It knows it is a crisis, Mr. President. I can assure you as this crime bill comes up there will be a variety of initiatives taken related to the S&L industry, related to the pursuit of ill-gotten gain and this criminal activity.

We not only have criminal activity that relates to the drug trade, we have white color criminal activity, and it is about time we pursued a good deal of that as well. I hope we will have the opportunity in this crime bill to fashion the kinds of amendments that are going to be necessary.

Mr. President, I yield the floor.

## TRIBUTE TO COL. MARK LOWRY

Mr. SASSER. Mr. President, I rise today to recognize 35 years of service to our great country by Col. Mark Lowry II, who, in June of this year will complete his command of the 401st Military Police Prisoner of War Camp, in Nashville, TN.

Throughout his many years of service, Colonel Lowry has distinguished himself on all fronts. He is a 1960 graduate of West Point and holds a doctorate degree from Syracuse University.

While in the Active Army, Colonel Lowry completed coursework at the Military Police School, Command and General Staff College, the National Defense University, and the Army War College.

Colonel Lowry has served with the 101st Airborne Division at Fort Campbell, KY, 173d Airborne Brigade in

Okinawa, and Headquarters, U.S. Army, Ryukyu Islands. He served two tours of duty in Vietnam, the last as operations officer, G3, Headquarters, U.S. Army, Vietnam.

Returning to the United States, Colonel Lowry served on the faculty at West Point for 4 years, whereupon he traded active service for the U.S. Army Reserve.

Colonel Lowry served with distinction in four assignments with the 100th Training Division in Kentucky. He had two battalion-level commands and, under his direction, the 100th Leadership Academy soared to unprecedented achievements and was widely recognized as a standard-setting unit in the 5th Army.

In 1987, after serving assignments to 5th Army Headquarters at Fort Sam Houston and 2d Army Headquarters in Atlanta, Colonel Lowry brought his experience and talents to Tennessee, where he assumed control of the 401st.

A decorated veteran, a highly respected and inspiring leader, Colonel Lowry now leaves the Volunteer State for the rich bluegrass of Kentucky. I want to take this opportunity to commend him for his partriotism, his valor, and his commitment to his country.

## CONGRATULATIONS TO DR. RALPH SCORZA, ARTHUR S. FLEMING AWARD RECIPIENT

Mr. BYRD. Mr. President, I have long put an emphasis on the need to achieve excellence in the classroom, in the workplace, and in the community. Consequently, when I find an individual who has exhibited excellence, and that individual happens to live in West Virginia, I take special pride in calling those achievements to the attention of the Senate.

Today, I congratulate Dr. Ralph Scorza on receiving the Arthur S. Fleming Award on May 3 of this year. The Arthur S. Fleming Awards Program honors outstanding young men and women in the Federal Government who have performed outstanding and meritorious work. Dr. Scorza is one of the five individuals governmentwide receiving this award this year for outstanding achievement in science and technology.

Dr. Scorza is a research horticulturist at the Appalachian Fruit Research Station in Kearneysville, WV. He has pioneered research on peach tree growth habits, canopy architecture, and light interactions with regard to high density production systems. Dr. Scorza was the first to report a spur-type peach tree, and has released a new peach cultivar "Bounty" and a nectarine "Earliscarlet." Peach cultivation has been declining in many areas of the United States, and particularly in the Northeast during the last 25 years. Much of this decline is due to high production costs associated with disease, insects, and crop loss due to cold. It is because of research such as that being undertaken by Dr. Scorza and others at the Appalachian Fruit Research Station that we can look forward to healthier, more productive, and more cold-resistant peach trees.

Dr. Scorza's pursuit of excellence does not stop at the door to his laboratory. He is a Cub Scout leader, has been involved in coaching elementary schoolchildren in the local American Youth Soccer Organization, and has spoken to local elementary school classes about careers in science. Dr. Scorza has shared his expertise in plant science by teaching classes at the local elementary school and guiding local college students through research projects in his laboratory as a part of a program to give college biology students practical research experience.

I commend Dr. Scorza for his dedication and for his pursuit of excellence. I also commend him for the work he is doing to encourage our young people to enter the scientific field. We need more people like Dr. Scorza, and I wish him a long and productive career.

## TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,893d day that Terry Anderson has been held in captivity in Beirut.

## J.A. JONES CONSTRUCTION CO. CELEBRATES 100 YEARS OF BUSINESS

Mr. HELMS. Mr. President, this year marks a century of business for J.A. Jones Construction Co., and I am proud to note the commemoration of this special centennial celebration.

In 100 years, the company founded by brickmason, James A. Jones, has grown into the 12th largest construction company in the United States. The Jones signature is seen on diverse projects from barracks to bridges, towers to tunnels, in city skylines and landscapes. During these 100 years, J.A. Jones Construction Co. has expanded operations from its headquarters in Charlotte, NC, into 40 States and more than 60 countries. As a diversified general contractor, J.A. Jones now employs more than 8,000 people worldwide.

Jones' construction is seen throughout the Charlotte skyline, having built the first skyscraper in the Carolinas in 1908 and, more recently, the tallest building in the Carolinas. J.A. Jones Construction is also well known outside North Carolina and throughout construction and engineering circles for such landmarks as the National Gallery of Art east wing in Washington, DC; AT&T Headquarters in New York City; and the Peachtree Plaza Hotel in Atlanta, GA.

J.A. Jones Construction played an invaluable role in our country's war efforts through construction projects during World War II and Vietnam. In 1945, the U.S. Department of War awarded the Army-Navy "E" Award for excellence in war production for the company's role in the Manhattan project with the construction of the gaseous diffusion plant at Oak Ridge, TN. From 1965 to 1972, J.A. Jones Construction participated in the military construction program in Vietnam. This was the first time a civilian contractor has been asked to work in a war zone. Deputy Assistant Secretary of Defense Edward Sheridan said:

> The volume and diversification of work performed in a few short years in a hostile environment staggers the imagination.

The company has a long association with the U.S. Army Corps of Engineers, dating back to the Great Depression with the construction of Albrook Airfield in Panama. That association has continued through the years and now includes contracts for a medical center in Egypt, a Voice of America relay station in Morocco, and a powerplant in New York State. Gen. H.J. Hatch of the U.S. Army has commended Jones' work with the Corps of Engineers and its long history of civil military activities noting the company's timely completion of projects and quality work.

J.A. Jones Construction has played a historic role here in the U.S. Capitol. In the fifties and sixties, the company constructed the addition to the Capitol's east front and performed interior restoration work. In 1984, the Architect of the Capitol again awarded the contract for renovation of the Capitol's west front to a Jones company.

Overseas, J.A. Jones Construction has designed and upgraded security facilities for several U.S. Embassies. The company's work brought high praise from Assistant Secretary Robert Lamb, Bureau of Diplomatic Security in the State Department, who noted Jones' "outstanding commitment to excellence" and the company's "great service to our country."

Mr. President, J.A. Jones Construction Co. places a high priority on commitment and service to the U.S. Government. The company is a strong supporter of the Government's efforts to privatize many government facilities. Jones is currently constructing a high-temperature water cogeneration plant in Watertown, NY, for the U.S. Army and will own and operate the completed project for the Government. This arrangement benefits all parties involved.

Both the Federal and State governments have placed environmental concerns high on the agenda. J.A. Jones

Construction shares these concerns and is eager to implement ideas that will prevent the deterioration of our living environment. Jones is also working to preserve the infrastructure of the country through evaluation and replacement of highways and bridges, water and sewer mains, and waste treatment plants.

Today, the Jones Group oversees Jones Construction and 12 subsidiaries throughout the country. The group continues to make construction history. It is currently rebuilding the Newark Airport in New Jersey and the world's tallest concrete structure in Chicago. J.A. Jones Construction Co. is now building a drydock for the Trident submarine fleet in Georgia and continues to upgrade security facilities for U.S. State Department Embassies in many countries. In its hometown, Charlotte's One First Union Center is one of Jones' proudest achievements.

As J.A. Jones Construction Co. and the Jones Group look to the next 100 years, the tradition and high standard of quality marking each Jones endeavor will ensure continued success and reinforce its position as an industry leader.

North Carolina takes pride in the accomplishments of J.A. Jones Construction. On behalf of my fellow North Carolinians, I extend my sincere congratulations on the celebration of this remarkable company's centennial and offer best wishes for continued success in the next century.

## DRUG ABUSE TREATMENT AND PREVENTION IMPROVEMENT ACT

Mr. CRANSTON. Mr. President, last Thursday, the distinguished chairman of the Labor and Human Resources Committee, Mr. KENNEDY, introduced S. 2649, the Drug Abuse Treatment and Prevention Improvement Act of 1990. I am proud to be a cosponsor of this important and far-reaching legislation.

I have long believed that we will never successfully beat back the drug plague until so-called demand-reduction activities—drug treatment and prevention—receive serious attention and support at least on a par with supply-reduction activities law enforcement and interdiction. As long as drug addicts who want to get off of drugs are turned away from treatment programs and as long as young people see no real alternatives to the drug culture and the profitable criminal activities of drug-trafficking gangs, we cannot and will not succeed.

Mr. President, S. 2649 seeks to establish comprehensive and long-term drug treatment and prevention programs. It recognizes that a broad spectrum of programs is needed to meet different community and population needs, such as programs targeted to pregnant women and children and individuals incarcerated in prison. I congratulate the chairman for his vision and his leadership in introducing this legislation.

Mr. President, I am particularly pleased that S. 2649 includes provisions, based on legislation I introduced, to enhance community drug prevention efforts and to expand training programs concerning drug abuse prevention.

Over the last couple of years, I have been holding public forums and meeting with community leaders throughout California on how best to reduce the demand for drugs. Working at the grassroots level, these parents, teachers, and community leaders are truly the foot soldiers in the war on drugs. But they need help. They need the financial assistance to put together comprehensive, effective and community-wide drug prevention programs. And they need the technical assistance to develop the strategies most likely to succeed.

As a result of these forums, last June, I introduced the proposed Comprehensive Community Substance Abuse Prevention Act, S. 1233. This bill would direct the Office of Substance Abuse Prevention [OSAP] to support coalitions of public and private organizations that represent law enforcement, schools, health and social service agencies, community-based organizations, and substance abuse prevention specialists in their efforts to develop substance abuse prevention programs. Representatives from among the clergy, academia, business, parents, youth, the media, and civic and fraternal groups would also be included in the community coalitions.

The bill would also establish a National Substance Abuse Prevention Training Program. Because of the emphasis over the last 10 years of dealing with the drug epidemic from a law enforcement point of view, there are few individuals trained in the field of drug prevention. Training programs are badly needed to enable communities to develop and implement comprehensive drug prevention programs.

Mr. President, $50 million has been appropriated for fiscal year 1990 for community prevention programs. The program is being conducted under a general authority for OSAP. I believe, however, that more specific congressional direction is needed to provide this new program with the greatest chance for success. I also believe the legislation is necessary to ensure the program's continuation in future years. This legislation would provide a blueprint for the implementation and continuation of this essential program.

Mr. President, there are many other provisions of this bill that I think are outstanding, including provisions to expand research into new medications to treat drug addiction that Senator BIDEN proposed and provisions to enhance drug treatment programs that Senator KENNEDY discussed previously. I again want to congratulate the Senator from Massachusetts and urge the enactment of this bill.

## REAUTHORIZATION OF THE RESOURCE CONSERVATION AND RECOVERY ACT

Mr. BURDICK. Mr. President, as chairman of the Committee on Environment and Public Works, I rise to discuss the reauthorization of the Resource Conservation and Recovery Act, also known as RCRA. On June 1, 1989, I stated that after Clean Air Act amendments, the next priority of the Environment and Public Works Committee would be RCRA reauthorization amendments. While I have tried to adhere to a schedule which would have had the committee reporting such amendments to the Senate in sufficient time to allow us to pass the legislation, conference with the House, and send a bill to the President for his signature this year, events may well have overtaken us.

It is well known that committee members, along with many other Senators, were engaged in a long, exhaustive debate on amendments to the Clean Air Act. The urgent need to address liability issues regarding oilspills, highlighted by the Exxon oilspill in Prince William Sound, AK, led my committee to send oilspill legislation to the Senate in mid-1989. The Senate subsequently passed that bill, and we are now engaged in a conference with the House on the oilspill issue. The House of Representatives is soon expected to pass its version of Clean Air Act amendments. Assuming it does so, I expect that we will be in conference on the Clean Air Act by mid-June.

Mr. President, it is anybody's guess now long it will take to get through the clean air conference and to have a conference report before the Senate for a vote. Because time is short, with only 14 weeks before Congress is expected to adjourn sine die, I can no longer assume that there exists enough time for the requisite hearings, markups, and debate necessary to address the wide range of RCRA issues in committee and on the Senate floor.

Amendments to the Resource Conservation and Recovery Act will not be a simple matter. The waste reduction, recycling, composting, and other matters related to municipal solid waste will require much consideration and will, in all likelihood, affect the population at large and numerous economic sectors, as well. Though I prefer to keep changes to the RCRA hazardous waste title to a minimum, any legislation in this area is always contentious.

Recently promulgated EPA land ban rules have already been the subject of controversy. I suspect commenters will have much to say about them in the context of reauthorization activities. A myriad of other hazardous waste issues are also likely to surface.

The Environmental Protection Agency has, for a considerable time, been working on pollution prevention legislation. We hope the Office of Management and Budget will clear the agency's draft and allow EPA to send an administration-approved package to us for consideration. Much of the administration's proposal relates to the municipal solid waste provisions of RCRA. Indeed, I am informed that many of the ideas contained in EPA's draft pollution prevention bill are similar to those contained in legislation introduced last year by Senator BAUCUS as S. 1113 and by Senator CHAFEE as S. 1112.

On the hazardous waste side, RCRA is the statute which, I believe, represents a strong connection among all environmental media: land, air, ground water, surface water. Consequently, I believe RCRA reauthorization rightfully should include waste reduction or pollution prevention issues. I believe that it would be wasteful for my committee and for the Senate to address such issues separately from RCRA itself. Were a freestanding waste reduction bill to proceed, it is my judgment that we would have to revisit similar issues in RCRA reauthorization.

I now intend that RCRA reauthorization be my committee's first priority in the 102d Congress. In order to proceed as soon as possible on such legislation next year, I have asked the chairman of the Environmental Protection Subcommittee, Senator BAUCUS to thold additional RCRA hearings this year. Senator BAUCUS and I have agreed that subsequent to those hearings we will work toward a comprehensive RCRA package for our consideration in the next Congress. In the interim, I have directed my staff to meet with interested parties to discuss their RCRA related concerns and ideas.

Mr. President, I hope those interested in the reauthorization of the Resource Conservation and Recovery Act now have a better understanding of the committee's plans regarding such important legislation. Again, all interested parties are invited to discuss with the committee their thoughts on solid and hazardous waste.

## ANNOUNCEMENT OF RCRA HEARINGS

Mr. BAUCUS. Mr. President, now that the Senate has passed clean air legislation, I have been getting many inquiries from my colleagues about the schedule for reauthorizing the Resource Conservation and Recovery Act. As chairman of the Environmental Protection Subcommittee, I want to spend a few moments to notify my colleagues of my plans for RCRA legislation.

I have publicly mentioned on several occasions that, after clean air legislation has been put to rest, RCRA will be the next major environmental initiative. As my colleagues know, the Environmental Protection Subcommittee and the full Committee on Environment and Public Works spent the better part of this Congress discussing and debating clean air legislation. And we are still not finished.

The House is now considering their own clean air bill, and we expect to be in conference shortly. And as my colleagues also know, we are now in the midst of a conference on oilspill legislation.

This is all to say that, while RCRA is the next major piece to environmental legislation, given our workload, it is doubtful that we will have enough time to fully debate all of the complex and controversial RCRA issues this year. But, as subcommittee chairman, I want to let my colleagues know that I intend to begin serious RCRA discussions this year.

Last June I held a hearing on pending RCRA legislation. I intend to continue hearings on RCRA issues, beginning next month. On or about June 26 I will hold a hearing to consider interstate waste transport issues. This politically charged issue will be at the heart of the RCRA debate.

For my colleagues who do not yet understand this issue, the interstate waste transport controversy calls into question the extent of States rights. And let me point out that in our environmental laws we have been very careful to reserve a State's right to provide more restrictive controls within each State. States should not be deprived of their right and obligation to protect their citizens and environment from the hazards of solid waste. In my own State of Montana, we feel strongly that our State should not become a dumping ground for the rest of the Nation.

The latest controversy—regarding the creation of State barriers to restrict the interstate transport of solid waste—is pitting waste exporting States against waste importing States. It is calling into question just how far States are allowed to go. The hearing will provide the first opportunity to examine this issue in detail, and more importantly decide what we can do about it.

I also plan to hold a hearing on recycling. I plan to use this hearing to examine recycling incentives and disincentives. I intend to examine regulations, policies, and other barriers which discriminate against recycling, as well as policies that can be used to stimulate recycling.

These hearings will continue to establish a foundation for enacting comprehensive RCRA legislation in the next Congress.

This will not be easy. But as chairman of the Environmental Protection Subcommittee I will be working toward a comprehensive RCRA package. I have discussed these plans with Chairman BURDICK and we both agree that this is what we need to do.

I am convinced, as is Chairman BURDICK, that there is no single problem and no single solution. Our Nation has many solid waste problems and we must provide for a variety of solutions. We must resist the temptation to tackle the sexy issues—like pollution prevention—now and leave the tough but critically important issues until tomorrow, when it may be too late.

During this Congress a number of individual bills have been introduced to tackle different portions of this crisis. Many are excellent bills and my colleagues should be commended for their leadership on the issue. But as I'm sure they will agree, as separate bills they will not solve our crisis. But weaved together in a comprehensive fashion, they will help us through the solid waste maize and put us on track toward a responsible solid waste program.

I look forward to working with my colleagues to join me in working to enact strong comprehensive RCRA legislation.

## RECESS

The PRESIDING OFFICER. Under the previous order the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

The PRESIDING OFFICER. In my capacity as the Senator from North Carolina, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of Senate Joint Resolution 324 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PASSAGE OF THE AMERICANS WITH DISABILITIES ACT BY THE HOUSE OF REPRESENTATIVES

Mr. McCAIN. Mr. President, I am pleased that the House of Representatives has just passed the Americans With Disabilities Act. This important legislation, of which I was proud to be an original cosponsor, will ensure equality for our Nation's 43 million disabled citizens.

I am particularly gratified that the telecommunications section, title IV, was passed and will now open our Nation's telecommunications network to the 24 million Americans who are hearing and/or speech impaired. Mr. President, the ADA continues the goal of universal telephone service which I set forth 2 years ago when I introduced the Telecommunications Accessibility Enhancement Act of 1989, which subsequently became Public Law 100-542. That bill mandated that the Federal Government become accessible to our deaf and hearing impaired citizens. Here, we require that the whole Nation be accessible.

It has been over 100 years since Alexander Graham Bell invented the telephone as a device to help his deaf wife. Can you imagine not being able to pick up a phone and call anyone, anyplace? The telephone has become an essential part of our daily lives and commerce, but as a result, it has also become one of the major barriers deaf and hard of hearing people must face everyday.

We must ensure that our entire telephone system truly becomes universal. Last year I introduced S. 1452 to mandate that accessibility. This measure was incorporated into the ADA as title IV, and it will move us closer than ever before toward granting the hearing- and speech-impaired community the type of independence and greater opportunities sought by other sections of the ADA.

Legislation, however, cannot alone break down the walls of isolation or solve all these problems. Action at all levels of society, by each of us, is critical. If given the opportunity, the only thing that limits these individuals are their own dreams—but we must all work especially hard to make sure they are given the opportunity.

Mr. President, the opportunity I speak of is a very fragile concept. Our Nation stands on the world stage as the torch bearer of freedom and opportunity. The ADA reaffirms our historical commitment to that goal. I am confident that by passing this legislation, we are sending forth a resounding message that we will not accept discrimination and that Americans should be viewed on the basis of merit, nothing else.

I call on everyone who has expanded the concept of opportunity to rally together and make equal opportunity more than law, but a state of mind. I call on these heroes of the American way, individuals such as Justin Dart, I. King Jordan, and others who daily overcome the barriers society places before them to continue their fight and never, never give up.

Mr. President, I want to thank my colleagues for their help and support as I crafted title IV of the ADA, but most importantly, I want to thank the 24 million deaf and hearing impaired Americans who have continued their valiant crusade to see their dreams become reality.

Mr. President, I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DEATH PENALTY FOR MAJOR DRUG DEALERS

Mr. D'AMATO. Mr. President, on November 21, 1989, I introduced S. 1955, along with 33 cosponsors. That bill provided for the death penalty for major drug dealers, because I believe that those who sow the seeds of death and destruction should face the death penalty.

They are indeed the worst of the worst, and they deserve the death penalty. They bring death and destruction to our communities. They make us prisoners in our own homes.

I pointed out, there were 33 cosponsors. It was carefully crafted and drawn to deal with those who lead the criminal enterprise system within the drug cartels—not the street corner dealer, not the addict, not the young college student who might become involved in a small transaction of the selling of drugs to a friend or a fellow student—but for those who were involved in at least three felonies and for those that distribute the large quantities that we hear increasingly more about. We define it as 30 kilograms or 66 pounds of heroin; 150 kilograms, which translates into 330 pounds of cocaine; or enterprises which receive $10 million during any 12-month period from the manufacture, importation, or the distribution of drugs.

Mr. President, let us look at some of the relevant things that take place in our communities, in our urban centers, and throughout our Nation. Because of these dealers, traffickers in death, we not only have the kinds of robberies and killings and muggings, and the fear that is constant and pervasive not only in our inner core cities but throughout our rural hamlets, but we have something much more tragic—the most innocent of the innocent; we hear of children shot down on playgrounds because of turf battles. What about the 200,000 addicted babies that are born each year whose mothers are drug addicts. That is 200,000 babies annually; again the most innocent of the innocent.

We need to talk about the incredible pain and anguish that that brings to a family, and the incredible cost it brings to society.

Last week the drug czar, William Bennett, submitted legislation similar to my death penalty bill as part of his National Drug Control Strategy Implementation Act.

His legislation, which I intend to file as an amendment to S. 1970, permits the death penalty for major drug dealers and drug kingpins who attempt a killing to obstruct an investigation or prosecution and for drug-related killings resulting from extreme recklessness, for example, killing of innocent bystanders during a shootout among drug dealers.

As you recall, we passed legislation 2 years ago which brought about the death penalty, for the first time, for a killing that comes about as a result of the drug organizations and the kingpin ordering that killing. I understand that in Chicago, for the first time, that Federal law is being implemented.

This bill says that where there is that reckless endangerment, where innocent bystanders are shot down, the death penalty can be applicable. It is interesting to note that this body passed that legislation overwhelmingly and that, in conference, the House of Representatives dropped it out. What they were thinking about is beyond me, because, again, if a person demonstrates that kind of reckless disregard for innocent bystanders, why should he not face the death penalty?

The only change I make in the legislation and the amendment which I intend to offer along with others of my colleagues is to make it clear that those who commit these crimes, if they are not sentenced to the death penalty, will be sentenced to life in prison. So you can say that this

amendment to our crime package will provide life imprisonment or the death penalty.

Why do I do that? Because, Mr. President, we have heard those who say, if you offer a bill that provides penalties of 20 years up to life that this is more severe. So, we are making a statement very clearly that there will be, if you are convicted, life imprisonment at the least and the death penalty where the jury finds that there are no extenuating circumstances and you are a major importer or transactor of the kind of drugs we are talking about. As far as this Senator is concerned, there are no mitigating circumstances; there are no mitigating factors. They are responsible for consigning the innocent of the innocent, 200,000 babies a year, to a living death of being born into addiction. These people forfeit their right, as far as I am concerned, to be treated any more humanely than the death penalty.

Mr. President, 34 percent, one third, of the convicted murderers surveyed by the Justice Department in 1986 used a drug every day in the month before their crimes, and a third to a half of the homicides in our Nation's cities are drug related. Three-quarters of all robberies and half of all felony assaults by young people now involve drug users. Over one-third of all violent felonies are committed by persons under the influence of drugs.

I cite these statistics to show the kind of incredible impact and harm these major dealers and organizations have on our communities and how this nation has, because of these dealers, lost its domestic tranquility.

In one 12-month period in Miami, 573 narcotics users were responsible for committing over 12,000 crimes, 6,000 robberies and assaults and 6,700 burglaries.

A 1983 study, conducted by researchers at Temple University, the Johns Hopkins University School of Medicine, and the University of Maryland, produced a staggering statistic in terms of what happens to those people who do become addicted, what happens to their lives and how that transcends into a community. Three hundred fifty-four heroin addicts in this study committed over 770,000 crimes over a 9-year period of time. We are talking about walking crime machines.

When people wonder about the loss of domestic tranquility and people wonder about the loss of quality of life that is taking place in our communities, one must look to the drug epidemic as a cause. The drug traffickers know how dangerous the crimes they commit are but they do not care. The fact is that they know that innocent people will die. The fact is they know that they traffic in a dangerous business. But the fact of the matter is that this Government has lacked the gumption to stand up and say, yes, we know and we recognize that this is not going to stop the drug epidemic, but it certainly symbolizes that we are going to undertake a serious effort. Those who are responsible for the tragic consequences that are taking place in our communities, who are part and parcel of this, and who make these profits and are responsible for incredible shipments or sales of these drugs—and I call them merchants of death—that they should be prepared to face the ultimate punishment. And I think that sends a very strong message.

Hopefully, with the adoption of other measures, in the areas of education, training, rehabilitation, and drug testing, we can turn the tide. Drug testing as well as education is going to play an important role in attempting to reverse that tide.

Mr. President, I ask unanimous consent that the text of the amendment that I will be proposing along with other Members be printed after my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place insert the following:

SECTION . SHORT TITLE.

This subtitle may be cited as the "Drug Kingpin Death Penalty Act of 1990."

SEC. . DEATH PENALTY AUTHORIZATIONS AND PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.

"SEC. 3591. SENTENCE OF DEATH.

"A defendant who has been found guilty of—

"(a) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(b) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person; or

"(c) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: Provided, That no person may be sentenced to death who was less than eighteen years of age at the time of offense; and provided that if a defendant described in section 3591(b) or (c) is not sentenced to death, said defendant shall be sentenced to life in prison.

"SEC. 3592. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge. The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTIONS OF VIOLENT OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, seri-

ous bodily injury or death upon another person.

"(3) PREVIOUS CONVICTIONS OF DRUG OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(4) PREVIOUS CONVICTIONS OF VIOLENT AND DRUG OFFENSES.—The defendant has previously been convicted of a Federal or State offense, punishable by a term of imprisonment of more than one year, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, and has previously been convicted of a Federal or State offense, committed on a different occasion and punishable by a term of imprisonment of more than one year, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(5) SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(6) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(7) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act (21 U.S.C. 845) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act (21 U.S.C. 845a) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(9) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act (21 U.S.C. 845b) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(10) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factors exist.

"SEC. 3593. SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purposes of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 3592(b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation

regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"SEC. 3594. IMPOSITION OF A SENTENCE OF DEATH.

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"SEC. 3595. REVIEW OF A SENTENCE OF DEATH.

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"SEC. 3596. IMPLEMENTATION OF SENTENCE OF DEATH.

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"SEC. 3597. USE OF STATE FACILITIES.

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"SEC. 3598. APPOINTMENT OF COUNSEL.

"(a) FEDERAL CAPITAL CASES.—

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3699(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination the court shall issue an order: (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C); denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"SEC. 3599. COLLATERAL ATTACK ON JUDGMENT IMPOSING SENTENCE OF DEATH.

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In any case in which a sentence of death has been imposed for an offense against the United States and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28,

United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings; and

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed."; and

(b) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty ..... 3591".

Mr. D'AMATO. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

## JIM HENSON

Mr. ADAMS. Mr. President, I rise today to pay tribute to a man who has impacted the lives of millions of Americans with his creative genius. Last week, Jim Henson, the creator of "Sesame Street" and "The Muppets" died tragically and suddenly of pneumonia.

There are no words that can adequately describe the feeling of sadness across the Nation at the news of Jim Henson's death. But, sometimes it is true that one picture is worth at least a thousand words. One picture that I want to share, even though I must do it descriptively with words, is an image of one house in this town, the Nation's Capitol.

There is a house in this city that contains a big plate glass window. In that window hangs four children's drawings of Kermit the Frog, Big Bird, and Bert, and Ernie. Tears are coming from the eyes of Kermit, Bert, and Ernie, and Big Bird is saying, "Bye Friend."

We have lost a friend. A friend who spent his life caring about all of our children and grandchildren. I cannot imagine that we will see the likes of Jim Henson again soon. He brought magic and hope to so many households across this Nation. He reached out to help children read, learn science and math and to help them realize that learning can be fun. He showed them how to be good citizens, good neighbors, and to distinguish right from wrong.

"Sesame Street" and "The Muppets" will continue but they will never again be quite the same. There will have to be a new Kermit and Ernie. But as will all those who have influenced the course of history, Jim Henson leaves a legacy behind him that will endure and continue to go on capturing the imagination of millions and millions of children in years to come.

## OPENNESS AND PREDICTABILITY IN DEFENSE AND SPACE

Mr. DOLE. Mr. President, last week, Lt. Gen. George L. Monahan, Director of the Strategic Defense Initiative Organization traveled to Geneva to provide Soviet negotiators at the defense and space talks with an in-depth look at the progress being made in the SDI Program.

General Monahan outlined the architecture which is taking shape around the promising brilliant pebbles—highly independent, small, low-cost satellites which would acquire, track, and destroy nuclear weapons flying toward the United States.

Moreover, the general answered all Soviet questions regarding the SDI Program.

In my view, through the Monahan visit the United States took a significant step toward furthering openness in the area of defense and space. Openness has long been a U.S. objective at these talks.

The value of openness is that it contributes to predictability in the strategic relationship. It does so by averting miscalculation and surprise which can be destabilizing.

The United States has traditionally been open about its defense policy, while the Soviet Union has been closed. The SDI Progam, among others, has been conducted openly as is evident in the annual report to the Congress on the strategic defense initiative.

My colleagues may recall that last December, top Soviet scientists toured two United States labs engaged in work on strategic defenses. This trip was organized by the United States in order to demonstrate how a U.S. proposal in the defense and space talks—visits to labs—would work. And, the Soviets, upon their return to Geneva, accepted this United States concept.

To followup on the December visit, the United States recently proposed that we and the Soviets each choose a ballistic missile defense project for a pilot run through all the U.S. proposed predictability measures: data exchange, meetings of experts, briefings, exercise of ABM test satellite notification procedures, visits to labs and observations of tests.

If we are able to do this, we will be well on the way to a free-standing agreement on predictability measures which the United States proposed just last month.

Predictability measures will not resolve all our differences in defense and space, but efforts like this recent visit to Geneva by General Monahan should demonstrate to the Soviets that we truly want an open, cooperative transition to a more stable deterrence—a deterrence which includes defenses. This, after all, is the United States objective at the defense and space talks.

As I have said before, the goal of arms control is to enhance stability and security. A cooperative transition to greater reliance on defenses will serve to enhance deterrence and thus, stability, as we move to lower levels of offensive weapons under a START regime.

And, as the President noted earlier this year, strategic defense "doesn't threaten a single person anywhere in the world * * * God forbid, if it ever had to be used, it would be used against missiles, not against people."

Mr. President, 5 years ago, maybe even a year ago, few would have imagined that the United States and the Soviet Union could even come this far together in the defense and space talks. But, I believe that the United States and the Soviet Union share some compelling interests—such as greater stability and security against the threat of ballistic missile proliferation—that could serve to move us even closer in this endeavor.

## THE MONTREAL PROTOCOL

Mr. LEAHY. Mr. President, there are reports that the White House has, against the recommendations of the State Departmnent and the Environmental Protection Agency, decided not to join over 140 other nations in setting up a special fund to assist poor Third World countries to comply with the Montreal protocol to reduce the emission of chlorofluorocarbons into the atmosphere. This is a replay of the White House decision earlier this year not to provide U.S. leadership in negotiating an international agreement on global warming.

Conclusion of the Montreal protocol was a fundamental step forward in controlling the problem of CFC damage to the upper ozone layer, and it is very much in the long-term national interests of the United States that there be maximum compliance with its requirements. This is why I am so disappointed with this latest sign of Bush administration refusal to cooperate with other nations in fighting international environmental threats such as global warming, and release of CFC's. There is an international meeting in June to negotiate additional arrangements under the Montreal Convention and to capitalize this special fund. I regret that the administration apparently intends not to declare its intention to make a U.S. contribution.

My information is that the United States share of a $100 million fund to help Third World compliance with the Montreal protocol would be $25 million over 3 years, or about $8.3 million per year. This is a pittance alongside the more than $8 billion the President has requested for security assistance in the fiscal year 1991 budget.

Mr. President, the legislation introduced today by Senator GORE would authorize a United States contribution of up to $25 million for the Montreal protocol. I strongly support it and only wish the President would use the authority he already has to provide these funds at the June meeting.

In my capacity as chairman of the Foreign Operations Subcommittee and in anticipation of Senator GORE's legislation, I recently included language in the statement of managers accompanying the fiscal year 1990 supplemental appropriations bill, indicating my intention to provide sufficient funds in the 1991 foreign operations bill for a U.S. contribution. We cannot stand by and allow U.S. leadership in protecting the atmosphere to be eroded for lack of $8 million. I will be contacting the members of my subcommittee soon to ask for their help and support as I seek the necessary money out of security assistance.

## "SONG OF STATEHOOD" RHODE ISLAND'S BICENTENNIAL

Mr. PELL. Mr. President, the month of May is a very special time in the historical calender of Rhode Island. On May 4, 1776, Rhode Island became the first of the Thirteen Colonies to declare its independence from the British crown. And 14 years later, on May 29, 1790, Rhode Island became the last of the Colonies to join the Union of States.

The same patriots who were determined to assert their independence from Britain were almost as reluctant to cede any of that independence to the new Federal Union. Only after 3 years of acrimonious debate over States rights did the motion to join the Union eke through the general assembly by a 34-to-32 vote.

Perhaps because of some lingering sense of the narrowness of that historic vote, its 200th anniversary is being observed rather quietly this year. I hasten to assure my colleagues, however, that there is no move afoot to reconsider the matter.

One Rhode Islander who wants to celebrate the occasion appropriately is Virginia Louise Doris, historian and poetess who frequently commemorates in epic verse important milestones of Rhode Island's history. I ask unanimous consent that her poem entitled "Song of Statehood" be printed in the RECORD at this point.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

"SONG OF STATEHOOD" RHODE ISLAND 1790–1990

Statehood, sweet statehood! our voices resound,
Queen by God's blessing, unsceptred, uncrowned!
Statehood, proud statehood! our pulses repeat,
Warm with her life-blood, as long as they beat!

Listen! The music of their dream perchance may linger still
In the old familiar places beneath their Emerald Hill.

Here at this alter our vows we renew
Still in thy cause to be loyal and true,
True to thy flag on the field and the wave,
Living to honor it, dying to save!

Wake in our breasts the living fires,
The holy faith that warmed our sires,
Thy spirit shed through every heart,
To every arm thy strength impart!

Our lips should fill the air with praise,
And pay the debt we owe,
So high above the songs we raise
The floods of garlands flow.

Harken! The trill of their drama perchance may linger still
In the new explored arbors beneath their Emerald Hill.

Statehood, sweet statehood! our voices resound,
Queen by God's blessing, unsceptred, uncrowned!
Statehood, proud statehood! our pulses repeat,
Warm with her life-blood, as long as they beat!

This Poem is dedicated to the Isle of Rhode men who drafted the proclamation of statehood, de fide!

While hope shall on her anchor lean,
May history fondly turn
To wreath the amaranth and the palm
Around their funeral urn. In Memoriam.

Land of Roger Williams, the Providence peacemaker and our founder! (1636)

## ACHIEVEMENT OF NORTH PROVIDENCE, RI

Mr. PELL. Mr. President, I wish to share with my colleagues the outstanding achievement of the town of North Providence, RI. The North Providence Senior Center Partnership was awarded the 1990 Community Achievement Award from the Administration on Aging for its excellent work in promoting community public/private partnerships to serve the needs of area senior citizens. I congratulate the town of North Providence and the NPSCP for receiving this honor.

Mr. President, in the late 1970's the North Providence Senior Center noticed a shortage of primary care physicians in their community and a resulting lack of accessibility to health care to many of the area's senior citizens. Emergency rooms were being overutilized at high costs to senior citizens and to the State.

The senior center, in concert with the town of North Providence, the Brown Medical School and Roger Williams General Hospital acted to fill the void. The solution—the establishment of a primary health care clinic at the North Providence Senior Center. The partnership now serves the needs of 200 of the town's senior citizens and their early intervention on numerous occasions has prevented disabling and more serious and costly illnesses for many seniors.

Rising health care costs and increasingly limited State and Federal budgets have made it more and more difficult to ensure that our Nation's senior citizens receive the care they need and deserve. The North Providence Senior Center Partnership fills a gap in services to the elderly by a carefully planned and innovative coordination of public and private efforts. The town of North Providence has risen to the task in an increasingly difficult situation.

In addition, Mr. President, I am pleased to report that since the inception of this partnership in North Providence other similar partnerships have been developed in other parts of my home State. These initiatives are especially critical in Rhode Island which boasts the Nation's third highest population of senior citizens.

The town of North Providence and the NPSCP truly deserve this award for excellent work in coordinating

community and public resources to provide care and services to senior citizens and for the example which the partnership has set in other parts of the State.

Mr. President, I congratulate Ms. Kathleen M. McKeon of the Rhode Island Department of Elderly Affairs; the Honorable Salvatore Mancini, mayor of North Providence; Ms. Corinne Calise Russo, director of the North Providence Senior Center; Mr. John Testa, chairman of the board of the North Providence Senior Citizens Center, and Dr. Marsha Fretwell, of Brown University's Program in Geriatric Medicine, who have been invited to Washington to receive this award.

## SENATE JOINT RESOLUTION 304

Mr. SHELBY. Mr. President, on May 3, I introduced Senate Joint Resolution 304 which designates October 17, 1990, "National Drug-Free Schools and Communities Education and Awareness Day." This joint resolution focuses schools on kicking off their 1990-91 academic year with drug education and awareness programs, which they will share with their communities on October 17, and throughout the year. I am happy to note that we already have 22 cosponsors for this joint resolution.

For too long, this country focused its antidrug abuse campaign on "Just Say No." Now, Mr. President, we are waking up and realizing that just saying "no" will not solve our problems. Rather, we must provide our children with positive choices to which they can say "yes." However, this is a very difficult job and one that can not be accomplished by any single group. Providing choices to which our children can say "yes" is a three-step process which requires the involvement of parents, educators, and members from all segments of the community.

The first step is to teach our children that the decisions they make affect not only themselves, but also their families, friends, schools, and communities. Our youth must learn that such decisions often have long-term effects which can irreversibly change their lives, for example, using drugs once can cause a student to lose a college scholarship or not be hired to a good job.

The second step is to provide our children with decisionmaking tools which will serve them throughout their lives. Decisionmaking tools are what we employ every day when we analyze the effects of the choices we make and view our options. Today's world is a complex and confusing place; therefore, we must teach our youth to cope with the many difficult situations they will find themselves in so they can confront and conquer problems instead of escaping through the use of drugs.

The third step is to provide our children with positive alternatives. These alternatives need to include, but not be limited to, after school sports programs, activities, and clubs, as well as community service projects and employment opportunities. We must provide our youth with enough positive alternatives to say "yes" to so they no longer view drugs as a viable option.

Self-esteem is critical for our youth. Unfortunately it is not something we can teach or give our children. However, it is something we can nurture and help our children develop. To do so, we must show our youth how important they are to us. If we as parents, educators, and community members do not show our children that they are important to us, how can we expect our children to value themselves and their communities. Listening to and becoming active participants in our youths' lives is the best way to demonstrate to our children their importance. While this role is often easier to see when discussing parents and teachers it is still vitally important that the community reach out to our youth.

Mr. President, I urge my colleagues to become cosponsors of the joint resolution.

## MESSAGE BY MAYOR DINKINS TO NEW YORK CITY ON RACIAL HARMONY

Mr. MOYNIHAN. Mr. President, as we proceed here on this floor, Mayor David Dinkins, in New York City, is speaking to a unity rally at the Cathedral of St. John the Divine.

Mayor Dinkins speaks with determined reason against bigotry, ignorance, and hate. He is, with inspiring effort, striving to calm the fears and passions which have ignited into violence, and have infected communities with noxious vigor. We fervently hope that his words find their audience with composing effect. New York City could scarcely be more in need for just that.

Mr. President, I ask unanimous consent that the text of this address by Mayor Dinkins be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY MAYOR DAVID N. DINKINS

Good evening and thank you all for coming—and caring—about this City we all call home.

Look around you. This is a beautiful sight, in a magnificent place, and there is a feeling here—a spirit and a power—that simply cannot be denied.

So look around. Look at all the people who have joined here tonight out of concern for our community.

We are New York City—a gorgeous mosaic of race and religion, national origin and sexual orientation.

We come from every corner of every borough, old and young, disabled and temporarily able bodied, some with a little money and some with next to none. But we all came tonight because we care—about walking the streets without fear of force or violence; about having an affordable home and sending out kids to a decent school; and about living in peace with dignity and respect.

So look around you—look at your neighbor, look at all your neighbors. You are looking at the people who can change this City.

We are a proud and powerful people. We came here in droves, from around the world, seeking freedom and opportunity.

But the promise of New York has not always become the reality of our lives here in our hometown.

The poverty of the old world often gave way to the deprivation of the new world, for the streets were not paved with gold.

And the official discrimination of the old south was replaced by the unofficial—but sometimes more painful—prejudice of the north; for too long now, the dream deferred has seemed like a dream denied.

Too often, African-Americans came up from the red clay hills of Georgia, the fertile fields of Alabama and the Mississippi Delta, just to be ghettoized and victimized in Harlem, Bed-Stuy and South Jamaica.

And for Latinos, life in East Harlem and the South Bronx was sometimes little better than the lives they left behind in San Juan and Santo Domingo.

Some say this society has done all it can—but I say we've only just begun our long march for freedom.

Just a generation ago, legal segregation was still the law of this land.

Many Asians had been in this country, building and working for a long, long time, yet Koreans and other Asians were still excluded by quotas.

And the Ku Klux Klan and other haters were spreading their poison against African-Americans, Jews and Catholics alike.

So today, we have come a long way, but racism is still with us—and the lessons taught to us by Doctor Martin Luther King, Junior remain as valid and viable today as they were a generation ago.

When the cynics say there is nothing that can be done, let us remember Rosa Parks—and let's recall the power of principle.

And when we hear the voices of despair who say there's nothing more we can do about poverty and injustice, let's remind ourselves that on his last day on earth, Doctor King walked the picket line with sanitation workers—so likewise, let's renew our commitment to coalition.

Here tonight, in this hallowed hall, let us rededicate ourselves to the values of justice, opportunity and caring; let's renew our commitment to the spirit of struggle; and let's open a new front in the old fight for decency, tolerance and respect.

When a few shout out words of hate, we can drown them out with acts of hope.

When the bigots resort to violence, we can contain them and condemn them with our unity.

And when the instigators seek to turn us against each other, we can respond by turning to each other—and coming together to fight our common foes: cracks and crime; poverty, prejudice and pollution.

That's what brings us together: the shared sentiments and combined convictions of people squirming and struggling through the hard passages of urban life.

My friends, these are tough times in our City. The economy, of the nation and the region, barely sputters along. Crack and

AIDS have combined to create hardships like we've never seen before. And for ten long, hard years now, the national government has acted as if this City—and all cities—were on another planet.

I believe in foreign aid—and I support it for democracies around the world. I just wish we could get a little bit of it here in New York.

I promise you all, again here tonight, that I will devote every ounce of energy I have to confronting these challenges. But let me tell you, things will not get better overnight. And none of us will get ahead if we're fighting each other over crumbs falling from the the table of opportunity.

We are witnessing the children of the immigrants and the oppressed fighting each other as never before. The powerless are trying to prove their power by hurting those who are just as powerless.

It must stop—and it must stop now.

It matters not whether you are African-American, Italian, Puerto Rican, Dominican, Haitian, Jewish, Greek, Korean, Vietnamese, Indian, West Indian, native American—for no matter where you come from or what's been done to you—you have no right to lash-out against others.

Each of us must ask ourselves, our families and our own communities: Why do we fear people who are different—people we don't even know? Why do we use words and names that hurt when we've felt that sting ourselves?

No one among us can say we're immune; we're all in this together.

Each of us could be a victim; some of us—like Yusuf Hawkins—are victimized just because of the color of our skin, and we will never forget that those who killed him are guilty of racism in the first degree.

We must not allow his sacrifice to be forgotten.

So each of us must search for solutions.

There are a lot of communities in this City—and within each community there are a lot of conflicts.

I'll be walking the streets, meeting with you in your neighborhood schools, churches and synagogues. But I can't come to every community and I can't intervene in every conflict. And those who say that my presence is the solution misunderstand the problem.

Bias and bigotry wear a thousand different faces, in a thousand different places. And I look at each incident—each attack on decency, justice and the rule of law that protects us all—and I wonder where people learn to hate.

I'm tired of hatred. I've seen too much of it—too much pain and too much suffering—and I'm sick of it.

So let me be blunt: I need your help; I need you to be my eyes and ears, and my arms and legs in the community; I need you to be my companions in this campaign for respect and unity.

And I ask you to carry this spirit, the spirit of New York, of tolerance and togetherness, back with you to your neighborhoods.

When you're back home, I hope you will continue this campaign—by speaking with your family, your neighbors, and your colleagues.

Get involved—and stay involved.

Let's get to work fighting to bring infant mortality down and to get literacy and opportunity up.

Help out with your local anti-crime group—or work with me to make our schools community centers so kids have a place to go besides the evil world held out by the drug dealers.

Give me a hand—by speaking-up and speaking-out for new homes for our people, not new homeports for nuclear battleships.

Do what you can, but find something to do each day—just one thing—everyday, to spread the spirit.

Reach out to a neighbor or a local merchant to whom you've never spoken. Find out where he comes from; find out who she is. Give them a blue ribbon. Let your guard down—and let your neighbors into your life.

Find one group in your neighborhood—or one more group—and join. And whether it's your block association or parents association, your tenants' group or community group, go to the next meeting, stand up and say: let's fight bigotry and teach tolerance; let's band together to demand justice and to make our City better; and ask, "what can we do?"

Just say it, for these simple words—repeated time and time again—will unleash the energy and ingenuity bottled up inside all of us who want life to get better.

For there is much you can do.

Organize forums for people of different cultures and communities to come to know one another, as people, as individuals.

Write to your State Senator to urge passage of the bias-related violence bill that includes protection for gays and lesbians. Remind them those who killed James Zappalorti because he was gay are just as culpable and just as despicable as those who killed Michael Griffith because he was African-American, those who assaulted Victor Ramon because he was Latino, and those who killed Israel Rosen because he was a Hasidic Jew.

And when school is out and kids are on the streets and in the parks, make it your business to know what they're up to. Find something for them to do; talk with them; and give them a job or a chore if you can. We must not let them go to waste, for we must not lose our most precious opportunity.

I believe we have it within our power, in this City, in this decade, to transform our diversity from a source of division into a beautiful blossom of creativity, imagination and strength.

This is the time to come together—to create a wave of energy and unity so powerful that it can wash away the hate and the hurt.

So right here, right now, let us resolve to join in a permanent campaign to bring our City together.

Let us locate the love of life and love for this City that lies within each of us—and let's focus it and channel it to build a better City.

Together, let's follow our hopes and not our fears—because together, we can change the world.

Together—all together—we can spread the spirit of respect, of tolerance and unity into every corner of this City.

Tonight is just the start. We'll be talking and working and marching together for a long time to come. But someday, we will look back on this day, and we'll say that this was the time when New York woke up, turned around, and set out again to become the best place on earth.

Thank you.

God bless you.

And keep the faith.

## SUPPORT FOR CRIME CONTROL AND REFORM

Mr. COATS. Mr. President, I am pleased to be a cosponsor of S. 1971, the Violent Crime Control and Criminal Procedures Reform Act, introduced by Senator THURMOND. This omnibus package of legislative initiatives takes seriously both the prevalence of violent crime in America and the necessity for punishment. It incorporates criminal law and procedural reform measures called for by President Bush and contained in his national drug control strategy and crime control package.

Enactment of this legislation is strongly supported by the Department of Justice. In the words of Attorney General Thornburgh:

> Its adoption would be a fundamental contribution both toward enhancing the public's security against crime and improving the effectiveness of the Federal criminal justice system.

Let me mention the key provisions of S. 1971. Title I establishes constitutional procedures for implementation of the Federal death penalty for certain capital crimes and authorizes the death penalty for additional aggravated crimes, such as attempts to assassinate the President, hostage taking where death results, and genocide. It embodies most of the provisions of S. 32, which was recently reported by the Senate Judiciary Committee, but does not include the language of the so-called Racial Justice Act, and it is almost identical to legislation passed by the Senate in 1984 by a vote of 63 to 32. I shall discuss the death penalty provision at greater length later.

Title II reforms current habeas corpus procedures to promote finality of litigation and speedier criminal convictions in State courts. This provision incorporates the recommendations of the Powell commiteee which was formed in June 1988 by Chief Justice Rehnquist to look into the problems of delay and the lack of finality in capital cases. This provision was contained in similar legislation which passed the Senate in 1983 by a vote of 67 to 9. I shall return to this reform shortly.

Title III codifies the good faith exception to the exclusionary rule which has been sanctioned by the Supreme Court of the United States. Unfortunately evidence has been excluded at trial in many cases involving violent crime and drugs because a law enforcement officer mistakenly and innocently violated search and seizure rules, preventing conviction of known criminals. The Supreme Court has recognized that the exclusionary rule should not be used when the officer has acted in good faith. S. 1971 will close this legal loophole which has allowed violent criminals and drug offenders to go free on a technicality, so

that henceforth evidence of guilt will be admissible whenever the State shows that the arresting officer acted in good faith compliance with the fourth amendment.

Title IV strengthens the penalties for drug-related crimes and other violent crimes involving the use of firearms. This provision permits consideration of pretrial detention for certain offenses involving firearms and explosives, provides mandatory revocation of supervised release for possession of a firearm, and increases the penalties for giving false information in connection with the acquisition of a firearm.

Title V provides for mandatory drug testing of Federal defendants on postconviction release.

Title VI, which incorporates the provisions of S. 326 which earlier passed the Senate as an amendment to antidrug legislation, will enable the prosecution and imprisonment of persons who corrupt the administration of government at the Federal, State, and local levels.

Finally, section VII would facilitate the use of officially sanctioned undercover investigations, including sting operations, to combat crimes of trafficking in, or receiving stolen or counterfeited property.

Mr. President, I wish to comment briefly on two very important sections of S. 1971 which I believe are critical to the success of our wars on drugs and crime in America.

The Thurmond bill provides an enforceable Federal death penalty for a number of aggravated crimes, most of which result in the taking of innocent life. Specifically it would establish the necessary constitutional procedures for implementation of the death penalty for those Federal crimes which curently authorize a death sentence, namely, treason, espionage, murder, certain crimes involving explosives where death results, wrecking trains where death results, and air hijacking where death results. In addition, the legislation authorizes the death penalty for several additional serious crimes—murder by a Federal prisoner serving a life sentence, the taking of hostages where death results, murder for hire, murder in aid of racketeering, genocide and certain Presidential assassination attempts.

Let me add personally I do not believe that capital punishment should ever be imposed simply out of utility or vengeance. It must be imposed only when an innocent life is deliberately taken. Thus, it may be an appropriate penalty for certain violent crimes resulting in the murder of innocent victims. That is why I have voted in the past for the death penalty for drug-related murder, but not for peacetime espionage where no death results. Accordingly I am troubled by imposition of death for attempts to kill when no murder occurs. In S. 1971, however, the death penalty would be provided only if the defendant is found guilty beyond a reasonable doubt of an attempt to assassinate the President which results in bodily injury to the President or comes dangerously close to causing his death.

I am convinced that this crime control bill provides the necessary safeguards and complies with the constitutional procedures approved by the Supreme Court to ensure that capital punishment will be imposed only under very limited circumstances involving the most violent and heinous of crimes. For instance, the death penalty may be imposed for specific Federal aggravated offenses pursuant to a sentencing hearing only if it is determined that the death penalty is justified. In homicide cases the jury must find at least one threshold requirement regarding the defendant's state of mind at the time of the offense; if not, the death penalty cannot be imposed. The bill prohibits execution of a person under 18 years of age at the time of the crime—versus 16 years under current law. It also bars imposition of a death sentence on a pregnant woman and on mentally retarded persons, regardless of the nature of the crime. And a State employee will be excused from participating in an execution if such participation is contrary to his or her religious or moral beliefs.

The bill also sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified. For instance, the Government has the burden of proving beyond a reasonable doubt the aggravating factors, while the defendant must show any mitigating factor by a preponderance of the evidence, and if the jury is not unanimous in finding a particular aggravating factor, the death penalty cannot be imposed. The jury must then decide whether aggravating factors outweigh mitigating factors to justify a death sentence, but regardless of such a finding, the jury still has the discretion to refrain from imposing the death penalty and must be so instructed. If the defendant appeals his death sentence, the appellate court must consider the entire record including trial evidence, information submitted, and the procedures employed during the sentencing hearing, and special findings returned at sentencing as to aggravating factors.

Thus, S. 1971 clearly provides strong protections and guarantees for the Federal criminal defendant convicted of an offense for which the death penalty is available. I am persuaded that this legislation contains sufficient procedural safeguards which will prevent arbitrary and capricious imposition of the death penalty for capital crimes.

Clearly, the death penalty provisions of S. 1971 are far superior to those contained in S. 1970, the Biden bill. Title I of that bill incorporates the language of the so-called Racial Justice Act, based on the unsubstantiated claim that the death penalty has been administered in a way that shows a significant risk of racial discrimination to both defendants and victims of crime in violation of the Constitution for which current legal safeguards are inadequate.

The Racial Justice Act in the Biden bill stipulates that capital punishment cannot be used whenever a death sentence "furthers a racially discriminatory pattern," and provides that, to establish a prima facie case of such a pattern, a petitioner must merely offer evidence that there is a disproportion between the number of persons in a racial group who are sentenced to death or executed and the number of persons from that racial group in the aggregate of persons who are arrested for, charged with or convicted of crimes that are punishable by death under any circumstances. Similarly, the petitioner need only show that there is a disproportion between the number of persons in a racial group who constitute the victims of crime for which the death penalty is actually imposed and the number of persons in that racial group who make up the class of persons against whom crimes are committed that may be punished by death under any circumstances. To rebut such a prima facie case, the Government would have to establish by clear and convincing evidence that "identifiable and pertinent nonracial factors persuasively explain the observable racial disparities comprising the pattern."

The Racial Justice Act would also require every jurisdiction that authorizes capital punishment to set up an elaborate central data bank on racial factors and other information related to all persons charged with or victims of crimes in death penalty cases. The act's provisions would apply retroactively to all defendants subject to the death penalty, whether or not they raised any claim of racial discrimination or that claim was raised and rejected by the court. Finally, the act mandates the appointment of counsel and provision of other services to any indigent person raising such a claim in a death penalty case.

Aside from the unjustifiable claim that the death penalty has been applied in a manner that unconstitutionally discriminates against certain racial groups—a claim rebuttable by the Bureau of Justice's 1988 statistics showing that 66.2 percent of those sentenced to death were white while whites constituted only 50 percent of those who commit murder—the Racial Justice Act is fundamentally flawed and wrong-headed in that it would require imposition of the death penalty

purely on the basis of race and statistics.

The Supreme Court has already rejected this approach to racial justice in the courtroom in the case of *McCleskey* v. *Kemp*, 481 U.S. 279 (1987). Justice Powell, writing for the majority, held that the question of whether a death sentence was unconstitutionally affected by racial discrimination must be determined by evaluating the fairness of the procedures applied in the particular case in question. The Court specifically rejected the argument that deviations from statistical racial proportionality in the imposition of past death sentences could provide a basis for invalidating the death penalty in cases which otherwise complied with the requirements constitutionally imposed by the Court's earlier decisions. The Constitution requires highly individualized determinations based on the moral culpability of individual defendants, not on a comparison of racial proportionality. In the words of Justice Powell:

> Each jury is unique in its composition, and the Constitution requires that its decision rest on consideration of innumerable factors that vary according to the characteristics of the individual and the facts of the particular capital case. Id. at 294.

The only effective way to achieve the goal of a nondiscriminatory system of sentencing in capital cases is to adhere to the strict requirements for fairness and due process that have been articulated by the Supreme Court in a series of capital punishment decisions.

I agree with Senators THURMOND, HATCH, and other members of the Judiciary Committee who stated that the Racial Justice Act "imposes an unworkable and unconstitutional system of statistical sentencing." As Attorney General Thornburgh observed, the Racial Justice Act:

> relies on dramatically incorrect factual assumptions, employs constitutionally impermissible mechanisms, and would inject race into the prosecution of death penalty cases to an extent unprecedented in the United States.

By mandating that a criminal justice system not susceptible to mathematical predictability produce, nonetheless, mathematically predictable results, this act would effectively abolish capital punishment.

Under the Thurmond and administration proposals, the death penalty will be administered in a way that strengthens racial neutrality and prevents discrimination. The jury must focus on the existence and weight of specific aggravating and mitigating factors which do not allow race or other such factors to be considered. S. 1971 specifically requires an instruction to the jury that the race, religion, national original, and sex of the defendant or victim must not be considered. Moreover, each juror must certify that these factors did not enter his or her decision regarding the death sentence.

By contrast, the death penalty provisions of the Biden bill would make any death penalty unworkable—not just at the Federal level but in State courts as well. That is not just my view; it is also the opinion of the Attorney General. Senator GRASSLEY of Iowa, a member of the Senate Judiciary Committee which reported out that act on a close vote—himself a strong supporter of the death penalty—voted against the death penalty bill for that reason alone.

Indiana is one of 37 States which impose the death penalty for certain crimes. The Biden bill would effectively nullify the death penalty in my State. My fellow Hoosiers and the Indiana d legislature have spoken on this issue, and I do not believe that their collective judgment should be nullified by the Congress.

The other issue remedied in S. 1971 which I wish to address is habeas corpus reform. I am not referring to the writ of habeas corpus referred to in the Constitution which guarantees to persons detained prior to conviction the right to know the charges on which they are held. I am speaking of the statutory remedy afforded to State prisoners to challenge their convictions or sentences by petition filed in Federal district court. Under section 2254, of title 28, United States Code State prisoners have a virtually unlimited right to challenge their convictions, using habeas corpus petitions to relitigate their cases over and over again, throughout their prison terms. Because the prisoner has nothing to lose and everything to gain from prolonging this litigation, it has become evident that the habeas corpus remedy has been abused.

Let me cite examples of the kind of abuses common to habeas corpus petitions by Federal prisoners. One death row inmate, sentenced over 10 years ago for murdering four innocent persons, for which he does not deny guilt, recently received a stay of execution by the Supreme Court of the United States. This marked the fourth time his case had been before the Supreme Court. You may recall the horrible case in Illinois of John Wayne Gacy who was convicted of murdering 33 young men, including several Indiana youths. Although it has been 13 years since he was sentenced to death, his appeals go on and on. It is conceivable that he will be able to delay the carrying out of his sentence for at least 20 years.

These are by no means isolated instances of using habeas corpus to prevent the speedy execution of justice. Unless Congress acts soon to remedy this abuse, some of the most notorious criminals who have been convicted of most heinous crimes in our history could die of natural causes before their adjudicated penalties are executed.

Title II proposes amendments to various sections of chapter 153 of title 28 of the United States Code and a related Federal rule of appellate procedure in order to eliminate habeas abuses which have had the effect of overturning State death penalty convictions and nullifying State capital punishment laws. These amendments contain the legislative recommendations of the Ad Hoc Committee on Federal habeas corpus in capital cases chaired by former Associate Supreme Court Justice Lewis Powell which thoroughly addressed the problem of habeas corpus review of capital cases in which the prisoner had or had not been offered counsel.

The Powell committee recommendations were aimed at achieving one goal. In the words of its chairman:

> Capital cases should be subject to one complete and fair course of collateral review in the State and Federal system, free from the time pressure of impending execution, and with the assistance of competent counsel for the defendant. When this review has concluded, litigation should end.

I agree with this goal. We need to reform habeas corpus procedures so as to minimize Federal judicial interference with State capital convictions and at the same time ensure finality of litigation.

This proposal would allow a State to bring capital litigation by its prisoners by providing competent counsel for inmates on State collateral review. Participation in these new procedures would be optional with the States. Because it is optional, the changes would cause minimal intrusion on State prerogatives. But for those States concerned with delay in capital litigation, the Powell committee believed that the procedural mechanisms would furnish an incentive to provide the counsel that are needed for fairness.

This proposal also provides for a 6-month period within which a Federal habeas petition must be filed. This 6-month period begins to run only upon the appointment of counsel for the prisoner—or the prisoner's refusal of the offer of counsel—and is tolled during the pendency of all State court proceedings. In light of the provision for counsel and the exhaustion requirement that the prisoner's Federal petition contain the same claims made in the State petition, 6 months is clearly adequate time for the development and presentation of claims by the prisoner. Moreover, a further extension of time is available for cases where good cause is shown. This change would prevent petitions in cases in which the passage of time has made a reliable adjudication of the petitioner's claim or retrial of the petitioner difficult or impossible.

The proposal also provides for an automatic stay of execution which is to remain in place until Federal habeas proceedings are completed or until the prisoner has failed to file a petition within the allotted time. This automatic stay would ensure that habeas claims not be considered by a court under the time pressure of an impending execution. It should eliminate the rush litigation over stay motions that is troubling for both litigants and the courts.

Federal habeas proceedings under these amendments would encompass only claims that have been exhausted in State court. With the provision for counsel, there should be no reason for the defendant's failure to raise claims in State court. The change in current practice under this bill is the provision for immediate presentation of new claims in Federal court in extraordinary circumstances. Moreover, subsequent and successive Federal habeas petitions can no longer be the basis of a stay of execution or grant of relief absent extraordinary circumstances and a colorable showing of factual innocence.

I believe that the amendments provided in the Thurmond bill will ensure fairness and promote finality in habeas corpus proceedings. In the words of Associate Justice Powell:

> The fundamental requirement of a criminal justice system is fairness. In habeas corpus proceedings fairness requires that a defendant be provided a searching and impartial examination of his claims. Fairness also requires that if a defendant's claims are found to be devoid of merit after such examination, society is rightfully entitled to have the penalty prescribed by law carried out without unreasonable delay.

This proposal fills a gap that now exists by encouraging the appointment of competent counsel in State habeas corpus or collateral proceedings—the same right that is now available to every capital defendant at State trial and appeal and in Federal habeas corpus proceedings. Moreover, this proposal assures that upon completion of State proceedings a defendant will have one opportunity to have his claims reviewed carefully by the Federal courts. Thereafter, assuming no infirmity is found in the conviction and absent exceptional new developments, judicial proceedings will be at an end.

In summary, this legislation balances the need for finality in death penalty cases with the requirement that a defendant have a fair examination of his claims. Therefore, if the conviction and sentence are found to be appropriate, judicial proceedings will be at an end, absent any exceptional developments in the defendant's case.

The effect of the Thurmond amendments will be to preclude granting relief with respect to matters that have been fully and fairly adjudicated in State proceedings. These changes would enhance the finality of State criminal adjudications and avoid duplicative litigation of claims that have already been adequately considered and decided.

These amendments also make clear that a Federal court can deny a habeas petition on the merits without requiring prior exhaustion of State remedies. This change would avoid a waste of judicial resources when a prisoner presenting a frivolous petition is sent back to the State system to exhaust State remedies.

By contrast, the habeas corpus provisions contained in title II of the Biden bill would not remedy the abuses that have led to the endless litigation and relitigation resulting from the present system of repetitive habeas corpus review that has undermined the capital punishment laws of Indiana and other States. In fact, I believe that S. 1970 would increase the number of habeas cases. Under section 2257(c)(3) a State prisoner on death row can receive a stay of execution and obtain another review of his conviction and sentence in Federal courts if he alleges that such relief is "necessary to prevent a miscarriage of justice." No wonder retired Associate Justice of the Supreme Court Lewis Powell and the chief judges of both the Fifth and Eleventh Circuit Courts of Appeal have testified that the enactment of title II of S. 1970 will result in more, not fewer habeas corpus cases.

Justice Powell also testified concerning the deleterious effect that would result should the procedural default rule in S. 1970 be enacted. The Biden bill would overrule the leading precedent in *Wainwright* v. *Sykes*, 433 U.S. 72 (1977), which held that a State prisoner could not raise in Federal court a claim which he is legitimately barred from raising in State court unless he can show good cause for the default which resulted in prejudice to his case. This is a reasonable rule, which would allow every genuine case of constitutional error to be heard, while reducing the number of unnecessary habeas corpus cases.

The Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases—the Powell committee—in its report of August 23, 1989, specifically recommended restricting successive habeas corpus petitions to those involving questions of guilt or innocence. This recommendation corresponded to the opinion in *Kuhlmann* v. *Wilson*, 477 U.S. 436, 454 (1986). However, S. 1970 would overrule the Supreme Court and expand current law by permitting any petition alleging a "miscarriage of justice" to be reviewed.

Moreover, title II has no effective time limitation. Although the Biden bill, in section 2258(1), proposes to limit the availability of Federal habeas corpus relief to the first 365 days after the prisoner has exhausted all his available State court remedies, there is a significant exception which destroys the effectiveness of such a rule. Whenever the State prisoner seeking review of a capital sentence files a petition for certiorari in the Supreme Court—and he can file as many of these petitions as he needs—the statute of limitations is tolled.

Finally, S. 1970, in section 2260, would create an absolute right of appeal from adverse rulings on habeas petitions. Under current law, most unsuccessful petitioners may appeal the dismissal of their habeas petitions only when the district judge issues a certificate of probable cause, asserting that the legal issues raised are not entirely frivolous. This change would further aggravate the current case overload being experienced by the Federal courts of appeals.

The point is: Regardless of one's personal views concerning the effectiveness or justice of the death penalty, so long as a State and its citizens believe that capital punishment is appropriate and it is that State's law, it should be imposed in a timely way according to constitutional procedures. Permitting the appeals process to be dragged out for years and years, as too frequently happens under current habeas corpus procedures, is bad public policy for it makes a mockery of the criminal justice system. Justice delayed is justice denied. The Thurmond bill remedies this situations; the Biden bill cannot.

For the reasons I have discussed, I consider the Thurmond crime control package of reforms in S. 1971 to be far better than the Biden proposals in S. 1970. Whatever reservations I may have concerning the death penalty, I regard the urgency of crime control legislation to be of primary importance if we are to address seriously the crime and drug problems in our Nation.

We have read the awful statistics and seen the death and terrible damage that crime, violence, and drugs have done to our social fabric. We all realize that action is long overdue. We must act now to provide a comprehensive death penalty with constitutional procedures and protections, increase the penalties for those who use firearms in the commission of crime, and reform those criminal procedures which result in delay and injustice within our criminal justice system. I call on my Senate colleagues to join me in swiftly passing effective, tough, and fair crime control legislation. The law-abiding citizens of our Nation deserve and demand it.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is closed.

## OMNIBUS CRIME BILL

The PRESIDING OFFICER. The Senate will resume consideration of S. 1970, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator METZENBAUM be recognized to offer an amendment relative to the banning of assault weapons; that there be 2 hours of debate equally divided on his amendment; that upon the expiration or yielding back of time, the Senate, without any intervening action or debate, vote on a motion to table the Metzenbaum amendment; that if the motion to table the Metzenbaum amendment is not successful, there be no limitation on time or on amendments to this amendment; that upon the disposition of the Metzenbaum amendment, Senator HATCH be recognized to offer an amendment to strike the language in the bill relating to assault weapons; that there be 3 hours of debate equally divided on the Hatch amendment; that upon the expiration or yielding back of time, the Senate proceed to vote, without any intervening action or debate, on the Hatch amendment; that no other amendments or motions be in order prior to the disposition of these two amendments; and that the agreement be in the usual form with respect to division of time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, and I shall not object, I think it is precisely the request Senator MCCLURE made earlier. We cannot contact him now. He is in the middle of a speech. We have been on the bill almost a day and nothing has happened. This does reserve the right to table. I assume Senator MCCLURE can make that motion to table if he wishes. So I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation. I will advise Senators, therefore, that both of these matters will be disposed of today so that there will be at least these two rollcall votes today. In the meantime, discussions will be continuing on efforts to resolve the remaining issues on the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio [Mr. METZENBAUM] is recognized.

AMENDMENT NO. 1676

[Purpose: To define the term "assault weapon" and to ban the sale of large-capacity magazines]

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1676.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, between lines 4 and 5, insert the following:

"(J) Springfield Armory SAR-48 (.308 caliber) and its variations;

"(K) Cobray SWD 9mm in any of its variants;

"(L) Mossberg Model 500 Bullpup 12 shotgun;

"(M) Ruger Mini-14/5F semiautomatic firearms;

"(N) Feather AT-9 centerfire semiautomatic in 9mm;

"(O) AP 9, 9mm assault pistol;

"(P) Thompson Ordnance M1, semiautomatic in .45 caliber;

"(Q) Franchi SPAS 12 shotgun;

"(R) Heckler and Koch HK-94 pistol;

"(S) Austrian Automatic Arms SAP pistol;

"(T) F.I.E. Spectre P. pistol;

"(U) Sterling Mark 7 pistol;

"(V) all other models by the same manufacturer with the same design which may have slight modifications or enhancements including a folding stock; adjustible sight; case deflector for left-handed shooters; left-handed fire adapter; shorter barrel; wooden, plastic, or metal stock; large size magazine; different caliber provided the caliber exceeds .22 rimfire; bayonet mount; tripod or bipod mount; or flash suppresser; and

"(W) any other firearm with an action design identical or nearly identical to an assault weapon specified in this pargraph which has been redesigned from, renamed, renumbered, or patterned after one of such specified assault weapons regardless of the company of production or country of origin, or any other firearm which has been manufactured or sold by another company under a licensing agreement to manufacture or sell an identical or nearly identical assault weapon as those specified in this paragraph, regardless of the company of production or country of origin."

SEC. . BAN ON SALE OF MAGAZINES AND BELTS HOLDING GREATER THAN 15 ROUNDS OF AMMUNITION.

(a) BAN.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive or possess a large-capacity detachable magazine or large-capacity ammunition belt, which can be employed by a semiautomatic firearm.

"(2) This subsection does not apply with respect to—

"(A) any transfer, importation, transporting, shipping or receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof; or

"(B) any transfer, transporting, shipping, receiving or possession of such magazine or ammunition belt that was lawfully possessed before the date of this subsection, except that no federally licensed firearms dealer shall transfer such magazine or ammunition belt."

"(3) For purposes of this subsection—

"(A) The term 'large-capacity magazine' means a box, drum or other container which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or a magazine which can be readily converted into a large-capacity magazine. Such term shall not include any magazine that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.

"(B) The term 'large-capacity ammunition belt' means a belt or strip which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or an ammunition belt which can be readily converted into a large-capacity ammunition belt. Such term shall not include any ammunition belt that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.".

(b) PENALTY SECTION.—Section 924 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(1) Whoever violates the provisions of this Act relating to large capacity detachable magazines and ammunition belts shall be fined not more than ten thousand dollars, imprisoned not more than two years, or both.".

Mr. METZENBAUM. Mr. President, the amendment that I have offered is an effort to strengthen the assault weapons provisions of the crime bill. The amendment contains provisions that were part of my assault weapons bill, S. 386, which I introduced in February of last year along with Senators CHAFEE, PELL, CRANSTON, WIRTH, GLENN, KENNEDY, DODD, MOYNIHAN, ADAMS, LAUTENBERG, and KERRY.

What prompted me to introduce that bill was a tragic event that took place on January 17 of last year on a Stockton, CA, schoolyard. It was recess time at Cleveland Elementary School. Four hundred children were playing in the schoolyard when a deranged man opened fire with an AK-47 assault rifle. In less than 2 minutes, he fired over 100 rounds. A round is a bullet. Each round is a bullet.

The tragic result was 5 children dead and 30 wounded. No reason; no logic; no explanation; no cause. The gun used by Patrick Edward Purdy on that day was not a hunting rifle designed for sportsmen but a combat weapon made in China for use by Communist troops.

Purdy carried enough ammunition to arm a small army. He had two large magazines, 75 rounds; the other, 35

rounds. Prior to that day, I admit, I had never even heard of an AK-47. But as my colleagues know, I have long been concerned with the ease with which criminals and mentally ill people can obtain firearms in our society.

I felt that perhaps something should be done, and I began to look into the issue of these assault weapons. I conferred with my friends in the law enforcement community since I had already relied on their expertise in matters relating to firearms legislation. They told me how the problem of assault weapons was not new to the police officer on the street. For some time, the police have faced criminals, particularly drug dealers, who are heavily armed with these weapons of war. These assault weapons in the hands of criminals put our law enforcement officers at a great disadvantage in any exchange of gunfire.

In 1986, eight FBI agents in Miami became involved in a gunfight with two bank robbers, one of whom was armed with a Ruger mini-14/5F assault weapon. The result was two agents killed, five wounded before the gunman was fatally shot.

Two years ago in Los Angeles, a police officer was shot and killed by a gang member armed with an AR-15, an assault weapon similar to the U.S. Army's M-16. Three years earlier, another Los Angeles police officer was killed when ambushed by a gunman armed with a MAC-10.

And in 1988, a Dallas police officer was killed by a gunman armed with a TEC-9. In 1988, in San Diego, one deputy sheriff was killed and two were seriously wounded in a shootout with a lone gunman armed with an AK-47.

As the Stockton massacre frankly illustrated, police officers are not the only victims of assault weapon violence. Last year in Los Angeles, a 2-year-old boy and a teenager were killed when a gunmen using an assault weapon fired on a crowd from a speeding car. Six people were killed in a Florida shopping center when a gunman opened fire with a Ruger mini-14/5F. And last September, a disgruntled employee, being treated for mental illness, entered a Louisville, KY, printing plant armed with an AK-47, open fired and killed 7 of his coworkers and wounded 13 others.

My friends in the Senate, in every instance when you saw this on the nightly TV and your wife saw it and your children saw it, you were distraught and they were distraught and the American people were concerned. They said, "Why does this need to happen? Why should these police officers be mowed down? Why should children in a schoolyard be killed for no purpose at all? Because somebody has a gun that can shoot so many bullets so rapidly?"

Today we are debating this issue, as to whether or not we ought to include more assault weapons to be banned than those that are presently banned as imports into this country.

While I studied this issue and learned about it, I came to learn that while thousands of these weapons are imported into the United States each year, about 75 percent of all assault weapons in this country are made in this country. The police groups I conferred with were clear and unanimous in their recommendations—ban assault weapons. And why not. They are concerned about their lives each day, each night, they go out there to protect us. If the drug dealer or the criminal, whatever his activities may be, is armed with more weaponry than the police officer, the police officer all too often has to pay with his life.

Perhaps Los Angeles Police Chief Daryl Gates said it best when he told the Senate Judiciary Committee, "I think it is a nonpartisan issue," said he, "I really do. And the police of America are pleading with you. I mean we are pleading with you. My guys are pleading with you. We need something done and we are asking you to get it done."

I remember the day he testified. He was being pressed by one of my colleagues on the opposite side of the aisle, and I remember he went out of his way to say to my colleague on the other side of the aisle, the other political party than mine, "I'm a member of your party. I agree with you most of the time, and I need you to agree with me on this issue." He made it very clear that it was not a Democrat or Republican issue. He was, as a Republican, pleading with us, pass this legislation.

While drafting my bill, I was hearing some people argue that these assault weapons were suitable for hunting. I have never been opposed to people owning firearms for hunting, sport shooting. There are a lot of hunters in Ohio, and this amendment would not deny them or any other sportsman the right to hunt that they have today.

I want to emphasize that. There is nothing in this amendment that would take away any sportsman's right to hunt or any sportsman's right to go to a gallery and have target practice.

I had a member of my staff contact a number of State game wardens and guns stores throughout the country to be certain that I was right in what I just represented to you, to see if hunters have any use for these assault weapons and large magazines. I learned that most hunters use bolt action or lever action guns and that those hunters that do use semiautomatic rifles do so with magazines of between five and eight rounds. In fact, many State laws limit the number of rounds that you can have in the magazine while hunting.

I remember I told you that the ones that Purdy had, one magazine contained 70 rounds and the other contained 35 rounds. So much for the argument that sportsmen would be hurt by a ban on assault weapons.

But even when I received that information, I thought there was one more group I would consult while drafting my bill. I contacted the National Rifle Association. I said to the National Rifle Association I was drafting legislation on assault weapons, and I invited their input. They declined, saying that they would oppose any effort, any effort, to limit the availability of assault weapons.

I have been on a number of programs with spokespersons for the National Rifle Association, and in each instance I have said to them I am prepared to negotiate; I want to be reasonable. If you can tell me there is something wrong with the language of my amendment or my bill, let us work it out together. I said my door is open. They never came through that door. So I went ahead and introduced my bill with the support of the law enforcement community, and that bill is pretty much the essence of this amendment. I am proud to stand before you and say that the law enforcement community supported my bill and supports the amendment that is on the floor today.

We held hearings on my bill. We heard from police officers and victims of shootings and from the NRA. Then the NRA started their campaign of lies and distortion against the bill and me, too. But not all NRA members were opposed to an assault weapons ban. Former President Reagan, a member, said, "Semiautomatic military weapons should not be sold to sportsmen or the public in general." Our former colleague, Senator Barry Goldwater, who has appeared in magazine ads for the NRA, said, "I've never used an automatic or semiautomatic for hunting. There's no need to. They have no place in anybody's arsenal. If a SOB can't hit a deer with one shot, then he ought to quit shooting." Even President Bush, an NRA member, realized that something had to be done, and he banned the importation of foreign-made assault weapons.

When that occurred, I praised the President. I thought he had joined the team and understood the problems of assault weapons for the law enforcement community in this country. I praised him for taking the first step banning the importation of assault weapons. Then I waited for him to take the logical next step, banning assault weapons made in this country. But I waited and I waited and I waited. Nothing happened.

The President has refused to support legislation that would ban the sale of assault weapons made in this

country. Frankly, I say to my colleagues in the Senate, that position defies logic. How can you possibly say you are going to permit the manufacture of assault weapons in this country, permit them to be exported, but ban the importation of those same weapons, or similar ones? Seventy-five percent of the assault weapons used in this country are made in this country.

So, Mr. President, how can you possibly explain your position, unless it was some kind of a trade matter? But it was not in this instance. He mentioned nothing about that. How can you explain banning the importation of foreign-made assault weapons and not be willing to ban those made in this country? It does not make sense. It is illogical. And the American-made ones are every bit as deadly.

Any police officer will tell you that with an imported assault weapon or a domestic assault weapon, you are just as dead one way or the other.

Shortly after the President announced his import ban, my colleague on the Judiciary Committee, Senator DECONCINI, introduced his assault weapons bill. That bill did not go as far as mine did. It covered fewer weapons and did not address the problem of large magazines.

Mr. THURMOND. Mr. President, will the distinguished Senator yield for a half a minute?

Mr. METZENBAUM. Without losing my right to the floor.

Mr. THURMOND. Mr. President, I am now due at the Armed Services Committee in a meeting. I have some other meetings this afternoon. I am going to request that the able Senator from Utah handle this amendment and the next amendment, the two amendments on firearms, and ask him to take my place.

Mr. METZENBAUM. Mr. President, before my colleague from South Carolina leaves, I want to say to him that I hope he might wait 5 or 7 minutes, because I wanted to quote some words of his in connection with this issue to which I am now addressing myself.

Mr. THURMOND. I will stay for that if it will not take over 5 or 7 minutes.

Mr. METZENBAUM. I will not.

Even the DeConcini bill was claimed to be a compromise; it did not change the NRA position. The NRA opposed his bill as strongly as it opposed mine.

To my colleagues, I say if you are going to oppose the NRA and their political operatives, you may as well restore the strengthening language that is included in my amendment that law enforcement wants. If you vote for the DeConcini bill or the Metzenbaum amendment, the NRA will not love you, but I will guarantee if you vote for the strongest language banning assault weapons, the law enforcement community will. Yes, and so will the American people.

The amendment that I offer today would strengthen the DeConcini bill in two important ways. First, it adds to a list of banned assault weapons 13 other American-made assault weapons. This amendment, like the DeConcini bill, would not affect the guns that are currently owned by anyone. It would merely prohibit the future sale of these specifically listed weapons. The amendment also bans nearly identical firearms so that gun manufacturers cannot circumvent the law by making minor cosmetic changes in the design of a banned firearm.

That language was carefully drafted with the assistance of firearms experts to ensure that it applies only to a firearm—that is one of the listed assault weapons—with only superficial changes. Opponents of assault weapons restrictions have distorted the facts, saying that all semiautomatic guns, including some legitimate hunting rifles, would be banned by this legislation. That is not true.

They say there is no way to distinguish between semiautomatic assault weapons and semiautomatics used by hunters and sportsmen. The Bush administration has found otherwise.

Last year, after a 3-month comprehensive study, the Bureau of Alcohol, Tobacco and Firearms concluded there "are viable clear differences between semiautomatic assault rifles and semiautomatic rifles used in traditional sports." That is from the Bureau of Alcohol, Tobacco and Firearms.

The assault weapons that my amendment would add have been identified by law enforcement groups as the most dangerous ones. While assault weapons account for one-half of 1 percent of all privately owned firearms, an assault weapon is 20 times more likely to be used in a crime than a conventional firearm. These are the weapons of choice of criminals, especially those in the drug trade.

Everybody talks about the necessity of winning the war on drugs. Yet we are hesitant to take a major step toward disarming the enemy in that war.

Again, I repeat, none of these weapons have any sporting purpose. Hunters do not use them; drug dealers do. By voting against my amendment, you vote against law enforcement, and you vote to protect the drug dealers' right to use assault weapons.

My amendment also bans the sale of magazines larger than 15 rounds. This provision was in my original bill, at the suggestion of law enforcement groups. They correctly point out that nobody uses large magazines for hunting. There is no need to fire that many bullets. Any good hunter knows your first shot is your best shot.

The 75-round magazine attached to Patrick Purdy's gun enabled him to turn a playground into a playing field. All of the law enforcement officers who testified at two Judiciary Committee hearings we had last year stressed the importance of having legislation that would ban the sale of not just assault weapons, but of the large magazines as well.

I am happy to say that I am in good company in supporting a ban on large magazines. A few months after I introduced my bill, President Bush announced his anticrime package in a speech at the National Peace Officers Memorial Day ceremony on the steps of the Capitol. He called for the banning of magazines larger than 15 rounds. The President put it this way:

> One thing that we do know about these assault weapons is that they are invariably equipped with unjustifiably large magazines. The notorious AK-47—

Said the President—

> for example, comes with a magazine that pumps 30 explosive bullets without reloading. That is why we stand on the steps here in front of the Capitol and ask support for our legislation prohibiting the importation, manufacture, sale, or transfer of these insidious gun magazines of more than 15 rounds.

That is the end of the President's quote. That magazine was included when the President's bill, S. 1225, was introduced in the Senate by my distinguished colleague from South Carolina. That bill, with a magazine ban is his bill, is cosponsored by ROBERT DOLE, the minority leader; and Senators SPECTER, MCCLURE, D'AMATO, DECONCINI, SIMPSON, WILSON, MCCONNELL, NICKLES, and KASSEBAUM.

In introducing that bill last June, Senator THURMOND said:

> As a direct response to the deadly firepower used by drug kingpins, hired thugs, and other violent offenders, the President is calling for important restrictions on clips and magazines that hold more than 15 rounds. Legitimate sportsmen and hunters can still pursue their avocation without undue interference.

Senator THURMOND was right when he said it at that time. He is right today.

These guns do not need these large magazines, and my amendment includes a provision to eliminate the large magazines. It is only fair to say that my amendment also adds a number of assault weapons.

But I would say to my colleague from South Carolina, if it be the case that my amendment should be voted down, and the amendment which includes the larger list of semiautomatic assault weapons and the ban on the magazines, I hope that he will see fit to be a supporter of a ban on those larger magazines today, as he was then, and I hope that he will join with me, or I will join with him, in an amendment to ban magazines which holds more than 15 rounds.

I thank the distinguished Senator for remaining.

Mr. THURMOND. Mr. President, if the Senator will yield for just a

minute. We have to take steps to stop this violence in this Nation. There is no question about it.

However, a great many people feel that the lawless element, those who bring in drugs and guns, are going to smuggle them in some way. There is a strong feeling on the part of many people that the best way is to give stiff punishment if they use those guns in the form of violence.

In other words, in the bill, the provision I have contained in the substitute provides for 10 years in prison. We think that might be more effective than this other method. If that does not work, then we can try something else. We have to take very step we can to stop this violence.

I commend the Senator for his interest in trying to stop violence, and to get the people in this country to abide by the law.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the time taken by the Senator from South Carolina not be charged against the minority or the majority, and that we each continue to have the 2 hours that we had originally.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Further carrying on with this dialog we just had with the Senator from South Carolina, the Senator from Ohio has no problems about increasing the penalty. I would be prepared to cosponsor an amendment having to do with banning of the larger magazines, and increasing the penalties for violating the law. I do not have any problem about that at all. I hope that, if this amendment does not pass, the Senator from South Carolina will see fit, or someone in his stead, to join with me in supporting the President of the United States' position in banning magazines that contain more than 15 rounds.

As I said previously, I appear to be in the company of some of the NRA's best friends in my support of a ban on large magazines. While I am attempting to strengthen Senator DECONCINI's bill, I want to make it clear that I applaud his effort to take some action to limit the availability of these weapons of war.

But we can pass the DeConcini amendment, hopefully, and we also can pass the ban on large magazines, which is not in his amendment and which is in mine. But, if mine should fail, we can put that in. I hope that some of those who will lead the opposition to my proposal will see fit to support a ban on magazines containing more than 15 rounds, as has been urged by the President of the United States and as has been provided for in a bill pending in this body, supported and introduced by Senator THURMOND and a number of other Senators, whose names I mentioned previously.

As a matter of fact, coming back to Senator DECONCINI's amendment, I want to point out that his amendment, his provision in the bill, covers a lesser number of assault weapons, some of the imported ones, some of those manufactured in this country. It took a lot of courage for Senator DECONCINI to offer that amendment in the committee, because the Senator from Arizona is not known as an advocate of gun control. In fact, in July 1988, he was named legislator of the month by the NRA.

I have received a lot of different honors since I have been here in the U.S. Senate, and I am very proud of each and every one of them, but I know there is one that I am never going to receive. The NRA is never going to name me legislator of the month, and you can bet all the tea in China on that.

Forgetting any past support Senator DECONCINI had given the NRA, after he proposed his amendment, which is far less strong than mine, the NRA attacked him as fiercely as they ever did any Senator. They went after him tooth and nail.

I know something about being attacked by the NRA. I have been in that privileged position. In 1988, when I was running for reelection in Ohio, the NRA, I am proud to say, made me their No. 1 target for defeat. I did not make their honor roll or their legislator of the month, but I was made a target in the elections of 1988. The NRA sent out thousands of letters to my constituents; they supported my opponent. They took out newspaper ads against me; they used radio and TV ads against me. They mounted a full court press. As a matter of fact, in a letter to their membership that year, they said: "Our biggest foe, HOWARD METZENBAUM, is up for reelection, but he is not unbeatable."

What had I done to earn such opposition? Had I done something to violate the laws of this country or something that transgressed on the rights of the NRA or their members? Let me tell you what I did. I introduced a bill banning plastic guns that terrorists use to get through airport metal detectors. The U.S. Congress thought that was good legislation. We passed it, and it was signed into law.

The second thing I did is I pushed for passage of a bill banning cop-killing bullets that could go through bullet-proof vests worn by police officers. The NRA opposed that very strongly. As a matter of fact, they kept it from coming to the Senate floor for about 8 months. And the only way it finally came to the Senate is I indicated I was going to add it as an amendment to some agriculture bill that one of the NRA's strongest supporters very badly wanted. It really did not belong on an agriculture bill, but I had no other way of getting it to a vote. So when I threatened to add it to the agriculture bill, which would then have forced my colleague who was supporting the agriculture bill to vote either against the bill with my amendment on it and thereby against his own bill, or for it and have to vote for my ban on cop-killer bullets, he finally came over to me and said, "Let us work this out and see if we cannot bring your measure to a vote at an early date." We did, and it passed, and if my recollection serves me right, it was something like 98 to 1.

I also introduced a bill NRA did not like, requiring a 7-day waiting period before the purchase of a handgun. We have not passed that yet, but we will, and we will do it with the support of Jim Brady and his wife. Jim Brady, who was shot down when he was with President Reagan, has testified before our committee in connection with the need for a 7-day waiting period. We will pass that bill. But to the NRA, those bills that I supported were sufficient reason to make me their No. 1 target in 1988.

In order to try to defeat me, the NRA never minded resorting to lies. Lies are their stock in trade. They lie and lie and lie, and the worst part is, too often they get away with it. NRA was saying back in Ohio that I wanted to take away everybody's gun. I do not have any legislation to take away everybody's gun. I never had such legislation, and I do not contemplate introducing or proposing such legislation. That did not bother NRA. They were not worried about the facts; they were only worried about trying to defeat HOWARD METZENBAUM.

I remember numerous times when campaigning back home in Ohio, at a union meeting or a veterans meeting or someplace, and someone would come up to me and say, "Senator, why are you trying to take our guns away?" I would say, "Who said I am trying to take your gun?" The reply would be, "I got this letter from the NRA." I would say, "The bills I support are against plastic guns and cop-killer bullets and for a 7-day wait to buy a handgun." Then I would say, "Do you have any need for a plastic gun or cop-killer bullets or a need to get a handgun in less than a week?" The answer normally would be, "No, I do not need any of those things. I did not know that is all your bills do. The NRA says you want to ban all guns."

I would hear the same thing time and time again in Ohio, because of the lies told by the NRA. In fact, sometimes I would be speaking at a meeting, and if there were some people in the crowd who were sportsmen and hunters, I would say, "I guess some of you have something on your mind be-

cause you received literature from NRA." And they would start to shake their heads, yes, they have, and I would state the facts and get the facts out to the electorate of Ohio.

Obviously, their lies did not work. In spite of the attacks by NRA, I am pleased to say that I was sent back here to the U.S. Senate.

I was not the only Member of Congress that they attacked. In a mailing to their members, they said:

> Our biggest foe, HOWARD METZENBAUM, is up for reelection, but is not unbeatable. Neither is his anti-gun buddy in the House, BILL HUGHES, of New Jersey, who is also up for election, along with other prominent anti-gunners, such as TED KENNEDY, of Massachusetts; FRANK LAUTENBERG, of New Jersey; JOHN CHAFEE, of Rhode Island; and dozens of others.

All of them were targeted for defeat by the NRA. You know the facts: All of them were reelected. The same 1988 letter talks of the strong support the NRA intended to give to their Senate supporters, and they named two of them. One was in Nebraska and the other was in Nevada.

I am happy to report for my colleagues that the ones they marked for defeat they were not successful in defeating and those that they were very strongly supporting in Nebraska and Nevada did not return to this body. Apparently their support is not that meaningful.

I mention this because, frankly, the amendment that I offer today has struck fear into the hearts of my colleagues, the Senators in this body. My colleagues come up to me and say: "I agree with you. Assault weapons should be banned, but I cannot vote for your amendment because the NRA would go after me in my next campaign."

I say to my colleagues: Do not be afraid of the NRA. Their record shows there is no reason to be. The NRA is a paper tiger. Its bark is louder than its bite, and the record proved that. There is a reason, because opinion polls show that the American people overwhelmingly support responsible gun laws.

Perhaps the most revealing of these polls was one taken earlier this year by CNN and Time magazine, as a matter of fact, headed "Who Is The NRA? A look at America's embattled gun lobby." That poll showed something quite interesting. It showed that 73 percent of gun owners think assault weapons should be banned. Seventy-three percent of gun owners think assault weapons should be banned. As a matter of fact, the Time magazine article reported that 73 percent of all gun owners favor registration of semiautomatic guns.

I want to make it clear. My amendment does not go that far. I have nothing in this amendment providing for registration. But that is what gun owners are saying throughout the country. I would guess that the American people are far greater in numbers and support of the amendment that I offer here today. With support such as that, 73 percent from gun owners, the largest support from people across the country, no Senator need be afraid of the wrath of one special interest group, the NRA.

But Senators fearing the NRA, frankly, is not the issue here. The issue is whether police officers should have to perform their duties in fear of being outgunned by some drug dealer. It is whether school children should have to play in fear while in their own schoolyard. It is whether any person should have to fear being caught in the crossfire of a street gang shootout.

People have a right not to be afraid. People have a right to expect some courage from their elected officials. Let us show some courage here today. Let us stand up to the National Rifle Association and stand up with the police officers of this country. By supporting this amendment you cast your vote with the law enforcement officers of this country. You cast your vote with the overwhelming majority of people in this country.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. I yield such time as I may so need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATCH. Mr. President, I rise in opposition to the amendment and for very good reason.

I state at the outset of this debate that the only real assault these so-called assault weapons provisions make is on the legitimate rights of law-abiding Americans.

Let us understand that over the last several years we have witnessed a steady attack on the second amendment rights of law-abiding Americans. For the most part, these attacks, often in the name of reducing crime, have focused on the availability of and access to handguns. In the 101st Congress, those opposed to the right to bear arms have shifted gears. With the introduction of S. 1970 and similar legislative proposals, law-abiding gun owners find themselves confronted with an attack on the right to possess semiautomatic long arms.

Because they realize they are attacking the rights of legitimate, honest, law-abiding sports people, they bring up a bugaboo called the National Rifle Association. Frankly, I am not arguing for the National Rifle Association. I think there are a lot of good people there. But that is not the issue. The issue is the rights of law-abiding citizens to have their own weapons and to have semiautomatic long arms which they have used for hunting purposes for 100 years.

I have watched this issue with interest. When I first heard of reference made to the assault weapons issue, I thought to myself, the media must be referring to criminals who have somehow gained easy access to the fully automatic military weapons that we had severely restricted with passage of the Firearms Owners Protection Act, a couple of Congresses ago.

I know about that. I managed the floor on that bill. We restricted it then.

Then I started to read the legislation that was being written. Boy, was my first assumption wrong.

As I read through these bills, I was amazed to find that the weapons under attack were semiautomatic long arms, firearms that employ a firing action that has been popularly used in hunting weapons for over 100 years. My next thought was that somehow, despite statutory language that has been on the books for some time now, the weapons being referred to must be easily converted from semiautomatic to fully automatic. Why else would the media refer to these rifles with such a fiendish sounding name as assault weapons? It was therefore with anticipation that I reviewed the Judiciary Committee hearings to find if the testimony received would reveal that some of these weapons were readily convertible. Again, I was wrong.

Testimony by witnesses indicated that very few of these semiautomatic weapons were actually being converted to fully automatic. The witnesses testified that it was actually very difficult to bring about such a change and, in fact, police testimony indicated that for the most part, when these weapons had been confiscated as crime weapons, they had not been converted. By that time, of course, I began to have a sneaking suspicion in the back of my mind that what we were actually confronting was simply a new effort by the antigun groups and media to attack the constitutionally guaranteed right to keep and bear arms. It seems that it is only for dramatic effect, that the semiautomatic firearms under attack are being referred to as assault weapons.

If you change the stocks on some of these weapons, you have weapons that have been used for hunting for many, many years and used by honest, decent law-abiding citizens who would not hurt a flea.

After a careful review of this amendment, the underlying amendment, and the other antifirearm legislation that has been considered by the Judiciary Committee in connection with this issue, I want to repeat, as I stated at the outset of these remarks, the only real assault that these so-called assault weapon bills make is on the le-

gitimate rights of law-abiding citizens. Furthermore, regardless of terminology, this legislation will not have any real impact in reducing the number of violent crimes committed with these or other weapons.

DEFINITION OF "ASSAULT WEAPONS"

The Bureau of Alcohol, Tobacco and Firearms has no definition of assault weapon. The military definition—a selective fire weapon capable of firing in either an automatic or semiautomatic mode—is inapplicable to the commercial arena. Indeed, with the enactment of the Firearms Owners Protection Act, the private purchase of new fully automatic machineguns is banned and the possession of existing automatic machineguns is highly restricted, requiring an extensive background check and permission from both local law enforcement and the Federal Government before such a firearm can be transferred to a new owner. The proponents of this amendment and the underlying legislation have sought a workable definition of assault weapons, other than simply listing guns by brand name and model, but they have been unable to produce one.

This lack of a definition for assault weapons has been a major stumbling block to gun control advocates from the outset of the consideration of this legislation. The firearms listed in this amendment and the bill employ a semiautomatic firing action. They are not fully automatic, neither are they readily or easily convertible to fully automatic. In fact, the semiautomatic firing action employed in these firearms is the same as the action found in every popular semiautomatic hunting rifle. And, as I mentioned earlier, the technology behind the semiautomatic firing action has been employed for well over 100 years.

These weapons utilize a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round. Furthermore, they require a separate pull of the trigger to fire each cartridge. You cannot simply hold the trigger and fire all the cartridges in the magazine as with a machinegun.

In the attempt to generate support for banning these guns, they have been referred to as assault weapons, a term which conjures up some idea of terrible weapons that have no purpose other than killing innocent people. When pressed on a definition for this term, the typical response is that these are dark, sinister-looking weapons that are well suited for combat—in other words, you will know one when you see one.

Regardless of what they are called, these firearms are functionally no different from semiautomatic hunting rifles. A semiautomatic rifle used for hunting has the same capability as a semiautomatic rifle that cosmetically looks more sinister, or vice versa. And that is the only difference between many hunting rifles and the firearms listed in this legislation—there appearance. The weapons in this amendment, and in S. 1970 are referred to individually by model type and brand name because it is inherently impossible to define assault weapon in such a way so as not to also ban many, if not virtually all, semiautomatic hunting rifles.

The proposed banning of specific firearms causes me grave concern about the potential impact on other semiautomatic weapons because they are all functionally the same.

SECTION ANALYSIS

Mr. President, to appreciate the effect of the pending amendment, it is necessary to examine the underlying language which it would amend.

While the Judiciary Committee devoted a great deal of time to the consideration of the assault weapons issue in general, surprisingly little time was devoted to the specifics now found in S. 1970 and the underlying amendment. There were two hearings in which assault weapons in general and the merits of an earlier version of S. 1970 and other proposals were discussed, but the committee received little testimony in the way of section-by-section analysis.

There is the underlying problem in attempting to define assault weapons so as not to include hunting weapons. The firing action of the weapons listed in these bills is the same as any other semiautomatic weapon. Furthermore, any semiautomatic firearm that employs a detachable ammunition clip or magazine is capable of accepting a clip holding any number of rounds. The only distinction between these firearms and the firearms listed in these bills is that the latter look more sinister.

To overcome the definitional problem, these legislative efforts simply list those particular firearms which their sponsors would like to ban. This approach, however, raises some concerns. In the event that manufacturers of the listed firearms change the names of the firearms or make minor modifications in the firearms to avoid the prohibitions placed on these guns, a discretionary determination will have to be made on whether or not the prohibitions still stand.

As my colleagues may remember, last Congress, during the consideration of the plastic gun bill, this discretionary authority question was one of the major issues I, and others, saw at that time.

I am sure that I, and I am also sure that others, will oppose any such discretion being granted to the Secretary of the Treasury. Similar questions arise with respect to those sections which would require the use of Federal firearms purchase forms, the form 4473, for the future transfer of those assault weapons already legally owned.

As noted in the majority report on S. 747, the bill "requires current owners of a firearm listed in section 3, and purchased prior to the act's effective date, to acquire a form 4473, or equivalent, from any federally licensed gun dealer." This same approach is found in S. 1970 and the underlying amendment. The Secretary of the Treasury would promulgate regulations which with which gunowners and dealers must comply, within 90 days. Although the majority report gives no guidance on these regulations, we assume that such regulations would take into account adequate notice to gunowners and possible situations in which a gun dealer might refuse to comply with a form request.

Additional concerns remain about the application of these sections requiring from 4473. Some concern has been expressed about the use of the copy of form 4473 which must be retained by each current owner of one of the listed guns. Will this form eventually become a carry permit for each individual gun? Will an owner need to carry the form whenever he or she transports or uses the firearm? Will law enforcement agents be empowered to confiscate the listed firearms if the form 4473 is not physically with the firearm at all times? Will these officers be allowed to go to the house of any citizen who they know owns one of these weapons and demand to see the form 4473? Exactly how will these sections be enforced? These questions have not been addressed either during the hearings or during committee debate.

In my view, the form 4473 requirements appear to be subtle registration requirements. Under title 18, United States Code, section 922(r), a new section proposed in this legislation, no later than 90 days after the Secretary of the Treasury issues regulations regarding the acquisition of copies of form 4473, each current owner of the banned firearms listed in the bill must obtain a copy of the form that was filled out when the firearm was originally purchased from a licensed dealer. If the firearm was purchased before the forms were originally required or if the current owner is not able to ascertain which dealer from which a previous owner might have purchased the gun, then the owner must go to any other licensed dealer and fill out a new form. The dealer and the owner must each maintain a copy of that form. Thereafter, for each subsequent sale or other transfer of that particular firearm, each new purchaser or owner must fill out a new form 4473; a record of the sale or transfer must be noted on the earlier copy of form 4473 already held by the seller or transferor; a copy of the new form 4473 and the amended old form 4473 must be maintained by the cur-

rent seller and purchaser; and they are required to obtain copies of any form 4473 that is created from any future transaction regarding that firearm.

In other words, while there may not be a central registry for the listed firearms here in Washington, DC, each person who owns one of these firearms when the bill is enacted will become the registrar for that firearm. That owner will be required to obtain a copy of the original form 4473. The owner must maintain a copy of a new form 4473 when he or she sells or transfers the gun, and, pursuant to the second sentence of title 18, United States Code, section 9922(r)(3), as added by this bill, obtain copies of all future forms 4473 involved in subsequent transactions involving that firearm.

This last requirement is particularly troubling when read in conjunction with the penalties section of the bill. Under those provisions, any person who knowingly fails to obtain the required copies of form 4473 may be fined up to $1,000 or imprisoned for up to 6 months, or both. If the original owner knows that the subsequent owner has resold the firearm, but the subsequent owner refuses a request to provide the original owner with a copy of the new form 4473, as required by this bill, the original owner is subject to the proposed penalities even though he or she made all possible attempts to comply with the law. Each future owner of the firearm in question is likewise responsible for obtaining copies of forms for all subsequent transactions that might occur after he or she transfers the gun. These sections of the bill are unworkable and unfair. Their full consequences were never analyzed or discussed by any of the witnesses before the committee.

And the pending amendment could expand these form 4473 requirements to literally every semiautomatic weapon.

Now, come on. That is why those of us who live in the Midwest and those of us who love to hunt and those of us who love to fish and be outdoors get sickened by this type of stuff, all done under this excited, frenetic, scare-all-the-people idea that somehow these weapons are going to be used in the commission of crimes. They are not. And you will not be able to stop the importation of illegal arms by those who are criminals, anyway.

Senator THURMOND is absolutely right when he says the way to stop this misuse of automatic and semiautomatic weapons, is to get tough on crime, not tough on law-abiding citizens by making it so miserable to own firearms that none of them can.

Let me just talk about this amendment.

First, in addition to expanding that stupid form and all of the subsequent forms, it would add more guns to the list of those already specifically mentioned by name.

While this long list of guns is objectionable, even more troubling are the catchall subsections which are very ambiguous. The first subsection V bans all other models by the same manufacturer with the same design which may have slight modifications or enhancements in every case. These modifications include things such as folding stocks, adjustable sights, and others. Under subsection V, the Secretary has the discretion to decide what other models made by the same manufacturers have the same design as those listed and will then instruct the Bureau of Alcohol, Tobacco, and Firearms to enforce the law against those weapons as well.

Thus, citizens will not find out whether a firearm falls within this clause until they wind up in court and Federal judges start telling us if the Secretary and BATF have properly exercised their discretion. Talk about bureaucracy, talk about ensnarlments, talk about a way of nailing decent, honest, law-abiding sports people. As if this discretion would work is objectionable enough.

Subsection W of this amendment then goes on to include any other firearm regardless of the manufacturer with an action design that is identical or nearly identical to the specifically listed weapons and which has been redesigned from or patterned after one of those listed firearms. With this subsection, the Secretary's discretion is broader still.

Some experts with whom I have consulted have indicated that virtually all semiautomatic weapons employ actions that are nearly identical. I received a letter from the Bureau of Alcohol, Tobacco, and Firearms I would like to print in the RECORD which states that the meaning of "action design" is unclear and its inclusion within the definition of assault weapons could be interpreted to include many conventional sporting semiautomatic weapons. This section could easily be read to include all semiautomatic firearms, including hunting rifles, which I understand the sponsors of this measure claim they do not wish to ban.

Mr. President, I ask unanimous consent to print the letter from the Bureau of Alcohol, Tobacco, and Firearms in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BUREAU OF ALCOHOL,
TOBACCO AND FIREARMS,
*Washington, DC, July 12, 1989.*

HON. ORRIN G. HATCH,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HATCH: This is in reference to your letter requesting our opinion whether the language in S. 386, the Assault Weapon Control Act of 1989, or S. 747, the Antidrug, Assault Weapons Limitation Act of 1989, could be read to include all semiautomatic firearms.

Section 2 of both bills would amend 18 U.S.C. § 922 to make it unlawful for any person to transfer, import, transport, ship, receive, or possess an "assault weapon." This provision would not apply to the transfer, receipt, importation, or possession by or under the authority of a Government entity, or any lawful transfer or possession of an "assault weapon" before the effective date of the bill.

Section 3 of both bills would define the term "assault weapon" to include: (1) certain named firearms, (2) all models of the named firearms, and (3) any firearms which have an "action design which is identical or nearly identical to the named firearms." The meaning of the phrase "action design" is unclear and its inclusion within the definition of assault weapons could be interpreted to include many conventional sporting semiautomatic weapons. We are unsure whether the sponsors of the legislation intend to prohibit such firearms and would recommend that this provision be clarified.

We trust this information is responsive to your inquiry and, again, apologize for the delay in our reply.

Sincerely yours,

STEPHEN E. HIGGINS,
*Director.*

(Mr. KERRY assumed the chair.)

Mr. HATCH. Mr. President, this amendment appears to leave the door to firearms restriction wide open. This amendment also proposes the banning of large-capacity gun clips.

I am opposed to this amendment because it will not have any effect on violent crime and it will be, in fact, impossible to enforce. Short of registering existing large-capacity clips, there is no way of determining if such clips were possessed before the date of enactment of this bill.

It is my belief that this amendment would result in an administrative and enforcement nightmare. I defy anyone to present a plan which will effectively carry out the banning under this amendment. For someone who is even semiproficient in the use of a firearm, it will not matter whether a clip holds 5, 10, 15, or even 100 rounds. It takes a matter of seconds to change the clip on a semiautomatic firearm, and this amendment would simply have no useful effect.

In summary, the second amendment to the Constitution provides that every citizen of this country has the right to keep and bear arms in order to help in the preservation of our freedom. By banning the fireams listed in this legislation, Congress would seriously undermine that constitutionally protected right. Moreover, this bill will not keep the listed weapons out of criminals' hands and, even if it did so, these criminals will be able to obtain other weapons to commit their crimes. But it will not do that. The criminals always have access to these. They always have access to things that the rest of the community does not.

While the ban on the listed firearms may serve the purpose of appearing to

respond to the incidents of violent crime, in my view such a ban constitutes only a form of gun control, not crime control. Indeed, if this legislation's proponents had confidence in gun control as an effective means of crime control, the underlying legislation would not sunset after 3 years.

This language does not belong in this crime bill. It simply does not belong. I have to say that I get a little tired of some of the cheap shots that are taken from time to time by some of these gun control groups at the sporting organization called the National Rifle Association. Yes; they are very strong proponents of the right to keep and bear arms. Yes; they are very strong proponents of the law-abiding sportsmen and women in this country. Yes; they spend millions of dollars and all kinds of time teaching young people how to care for, treat, and use hunting weapons. Yes; they do an awful lot of good in our society from the Olympics to training young people in the safe use of firearms.

I get a little tired of some of the cheap shots that are being taken against them, because they are a tough group of people. They do believe in the sportsmanship of maintaining arms, keeping them, and handling them in an appropriate way and they, above all, are tough as nails on crime because they do not want weapons used in the commission of crimes.

Every time we try to get tougher on the criminal side of this, we wind up with this type of stuff.

I just want to say that I think every organization, I suppose, has aspects we can criticize politically. But the fact of the matter is this organization does a lot of good.

I can tell my colleagues, this bill is going to do a lot of harm. This amendment will do destructive harm to every sports person in this country. This amendment would do destructive harm to a lot of people who honestly want to own these weapons and want to use them for sporting purposes and rightfully ought to be able to since the same firing action in what are listed in this amendment and the underlying bill basically are virtually the same.

I think we have to go after criminals and quit going after the honest law-abiding citizens.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, how much time does the Senator from California wish?

Mr. CRANSTON. Not more than 5 minutes.

Mr. METZENBAUM. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, few Californians, let alone Americans, remember who James Huberty and Patrick Edward Purdy were. These names will forever be tied to two tragedies which occurred in California in San Ysidro and in Stockton. Some Californians and some Americans will remember their names forever with horror.

James Huberty wielded an American version of the Uzi semiautomatic weapon. Patrick Edward Purdy brandished an AK-47. Their names and their weapons are linked forever with anguished parents and loved ones who were shocked beyond belief that their children and relatives could be cut down so brutally and so swiftly. None of the residents of these communities can every forget that Purdy fired over 100 rounds of ammunition in less than 2 minutes. He killed 5 children, he wounded another 29, and he wounded 1 teacher. Huberty was armed with a gun which was advertised as "the perfect choice for the sportsman who wants unfailing reliability and top performance in a rugged compact size." He killed 21 people.

I am glad that the language in the measure now before us bans the Uzi and the AK-47. That ban must be kept in the bill. But there are similar assault weapons the bill does not ban. It should do so. Therefore, I support the Metzenbaum amendment.

Mr. President, I support the right of legitimate gun owners and sportsmen to possess guns. But I do not believe that weapons whose sole purpose is to make the killing of human beings more efficent are weapons for sportsmen. Nor do I believe that such weapons ought to be available to the general public. Nonetheless, our laws today allow assault weapons, which can only be characterized as the machines of war, which could flood our streets with blood and turn them into urban trenches.

I am not alone in this recognition of the danger posed by assault weapons. A little over a year ago, the California legislature passed the Nation's first law banning military-style semiautomatic assault weapons. Similarly, the Los Angeles City Council outlawed the sale and possession of assault weapons. Even President Bush, a lifetime member of the National Rifle Association, instituted a ban on certain foreign-made assault weapons.

These legislative actions reinforce the belief that the privilege of gun ownership does not and cannot extend to any and every gun. These are not simply the actions and opinions of detached observers catering to the whims of gun abolitionists. Police officers, the Nation's front-line defenders, also recognize the threat which these weapons pose to the officers on the street.

The chief of the Los Angeles Police Department has testified that such weapons should be legislated out of the hands of killers because they turn our streets into battlefields. The National Association of Police Officers, the National Sheriffs Association, and the International Association of Chiefs of Police have also voiced support for Federal legislation regarding assault weapons. We should back up our police.

What the legislators and police organizations recognize is that as criminals become more armed, so must the police. If this mini-arms race goes unchecked, we run the risk of turning our cities into American versions of Beirut.

Mr. President, the legislation before us is a crucial step toward striking the balance between legitimate gun ownership and protection of the public. The true sportsman will not be impeded by this legislation in his or her use of a weapon. The law enforcement officers will face less firepower in his or her daily duties, and the public will begin to understand that we are serious about curbing assault weapon violence, and the public will be safer.

There is one question I want to leave for consideration, Mr. President. Imagine that assault weapons are already prohibited and that the Senate were voting on whether to legalize them. Who would support that bill for legalization? Drug gangs, organized crime, or the James Hubertys and Patrick Edward Purdys of our Nation?

The time for action is now. I urge adoption of the amendment offered by the Senator from Ohio, HOWARD METZENBAUM.

Mr. METZENBAUM. Mr. President, I thank my colleague from California for his support. I appreciate the fact of his willingness to stand up and be counted strongly in support of our amendment.

Mr. President, I wish to take one moment to clarify a matter. In the Democratic conference this morning, I was asked about whether any additional weapons could be added to this legislation by a member of the administration, and I indicated that in some circumstances it could. That was not the correct answer. I want to clarify that. No additional weapons may be added by a member of the administration.

The language of the amendment does provide that, if there is something almost identical which is called something a little bit different than the gun that is banned, that would be added. But the administration does not have—nor anybody in the administration—the right to add additional weapons.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I compliment the distinguished Senator

from Utah for the comments he has made already, and the leadership which he has given in the fight to preserve the constitutional right to keep and bear arms.

I will not take long, but I would like to remind my colleagues that the Constitution of the United States does not give us rights. The Constitution of the United States and the Bill of Rights guarantees us the continuation of rights which are believed to have been endowed upon us as free human beings by our Creator.

The framers of the Constitution very clearly had that in mind at the time they adopted the Bill of Rights, including the second amendment to the Constitution of the United States, dealing with the right to keep and bear arms. It is not something that they suddenly dreamed up. It is something that had been discussed over a decade or more prior to that time in the debate over what are the inalienable rights of man, and the right to keep and bear arms was believed by the framers of the Constitution to be one of such rights which when the Constitution was written were guaranteed to us. It was not something they decided to give to us that we did not have.

So the burden lies on the part of the other people who wish to deprive us of rights which we believe we are endowed with as free men and women in a free society, and the burden is on them to explain to us why they wish to inhibit the freedom of human beings.

Let us stop for a moment and look at what the Senator from California said just a moment ago. The Senator raised the issue of Mr. Purdy. Let us look at the facts in the Purdy case. Let us not look at the emotions, because none of us would deny what was done was horrible. It was revolting. It sickened each of us, and each of us as a parent, as a grandparent, must be concerned about whether something like that might happen to one of our family.

But let us look at the Purdy case. It was not a crime of gun ownership. It was a failure of the criminal justice system that produced Mr. Purdy. As a matter of fact, the lesson to be drawn from the Purdy case is that he should have been in jail. He was a criminal. Our criminal justice system released him from jail and he committed a horrible crime. It was not a failure of the second amendment of the Constitution but a failure of the justice system in our country.

Mr. Purdy had been arrested for the crimes of drug possession, solicitation of sex, illegal possession of dangerous weapons, receipt of stolen property, attempted robbery, criminal conspiracy, firing a pistol in a national forest, and resisting arrest. Those were things for which he had been charged, and the criminal justice system released him without ever once making a felony conviction record.

That was not because of the second amendment to the Constitution. It was because our criminal justice system failed to take him off the streets of our country. He plea bargained on some of those charges, which resulted in misdemeanor convictions only and not felonies. His last contact with the criminal justice system before he committed this terrible crime was a probation report that described him as a danger to himself and others.

It was not because he had not committed crimes that disqualified him from gun ownership. It was not because he had not been identified as a danger to society. It was because the criminal justice system failed to protect society against that kind of a psychopathic killer.

Yes, because of the lack of a felony record, he could and did comply with and pass much more strict statutes than we are dealing with here today. He passed a 15-day waiting period and a police background check. For those police organizations that say, "Hey, just give us a waiting period; we will stop all of this kind of violent crime," the Purdy case proves as a matter of fact it does not. Mr. Purdy passed a 15-day waiting period test, and he passed a police background check required under the California law to purchase five pistols. It was a criminal justice system failure that resulted in the death of those schoolchildren in California, not ownership of firearms in the hands of legitimate and law-abiding citizens.

Now, let us look for a moment at what is in the amendment with respect to what is proposed to be banned. I do not mean to go through the entire list and discuss each one of them, but I notice that subsection (M) under the Metzenbaum amendment, the Ruger Mini-14 would be banned specifically. I happen to know from my contact with sportsmen that the Ruger Mini-14 happens to be a weapon that is used a great deal by those who just go out and plink and target shoot, and the various kinds of recreational shooting familiar to those of us who keep and own and use firearms ourselves.

I would look at subsection (T) as an example; F.I.E. Spectre P. pistol. Somebody has decided that this is an assault weapon, whatever that may mean, but Senator METZENBAUM says in his amendment ban it. We have decided that it is dangerous and it should be banned.

Very recently the Maryland board that has to pass on the suitability of weapons of this kind under provisions of the Maryland statute approved this as an appropriate firearm for ownership by the ordinary American citizen, and yet that judgment by this board is going to be wiped out by somebody's idea, whomever it may be, that indeed that particular weapon ought to be banned.

The PRESIDING OFFICER. The 5 minutes yielded to the Senator have expired.

Mr. HATCH. I yield 2 additional minutes.

Mr. McCLURE. I thank the Senator for yielding more time. I will not take long, because I think most Members of this body are already familiar with these issues and are prepared to vote.

I intend to allow them to do that very soon.

The thing what concerns me about this basic thrust is that, because somebody has an abhorrence for a crime, they wish to strike out the instrument of that crime, not the perpetrator of the crime but the means by which the crime was perpetrated. Let us assume that somebody used a Molotov cocktail against a schoolbus full of children. Does that mean we are going to ban gasoline? Let us look at the incidents of mayhem on our highways from those who are drunken drivers? Are we going to ban automobiles?

Let us look at the criminal behavior of the individuals rather than the means by which they perpetrate these crimes against our society, rather than looking at the instrument they use.

As a matter, of fact, I am not sure what an assault rifle is. Am I a criminal because I own and use a 1903 A-3 Remington? That was the assault rifle of its day. Does that mean that my brother is a criminal because he has the 30-40 Krag that my father used and carried in World War I? It was the assault rifle of the 1890's. What is an assault rifle? What is there about a weapon that says it is so repulsive that we do not want it? In whose mind and by what criteria do we come to that conclusion?

Finally, Mr. President, with respect to the allegation the Senator just made about the discussion in the Democratic caucus earlier today, does this bill give anybody the right to ban weapons? I will say categorically, yes, it does.

There is discretionary action to determine what is similar or like or a slight modification. That is arbitrary discretion in the mind of some administative official to determine whether that provision is operative.

No amount of talk can take away the fact that this amendment gives discretion to administrative officials to exercise the same kind of arbritary judgment that the Senator from Ohio has exercised in drafting this amendment; the same kind of arbitrary discretion that says the mini-14 is an assault weapon; the people that own it are somehow criminal psychopaths, and there are a lot of people out there—I suspect some of the Senator's constituents in Ohio may be condemned as

criminal psychopaths in the mind of the Senator from Ohio as a result of this language—for the same kind of arbitrary discretion that says the Maryland board is wrong in describing the one pistol that I referred to earlier as an appropriate weapon to be owned by ordinary citizens. And the Senator from Ohio says, "Oh, I know that this is an assault weapon that should be banned."

I hope that the motion to table the Metzenbaum amendment will be agreed to and we can get on to discussing the very important measures that are involved in this crime package—and legitimately in the crime package—that deal with the incidence of crime, deal with the punishment of criminals, and to protect the American public against violent crime.

I thank the Chair.

I thank the Senator from Utah.

Mr. METZENBAUM. Mr. President, how much time does the Senator from Ohio have?

The PRESIDING OFFICER. Seventeen minutes, 15 seconds.

Mr. METZENBAUM. Mr. President, let me first address myself to the constitutional issue and yield myself 3 minutes for this purpose.

When we talk about the right of people to keep and bear arms, that shall not be infringed upon; it is in the Constitution. But the Supreme Court has recognized that it is a part of a total sentence. That sentence says:

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

So we are talking about a militia, a well-regulated militia, and guns that one owns in connection with that well-regulated militia. This matter has been before the Supreme Court a number of times on the constitutional issue, and in no instances has the Supreme Court ruled that that language in the Constitution gives an unlimited right to own guns.

My colleague from Idaho talks about the Ruger Mini-14/5F which is the Ruger model with a folding stock which makes it easy for criminals to conceal. Hunters do not need folding stocks, but criminals do, because they do not want to be walking around with a big gun all day long or when they are out on their night escapades. So they want the folding stock.

This gun actually was used to gun down FBI agents in Florida and one of those agents testified before our committee in connection with that loss of life that occurred to one of his fellow FBI agents.

Having said that, my colleague speaks about this gun or that gun, something Maryland did, did not do. I would say to my colleague that if he came to me and said, "This gun does not belong on the list and, if you take that off, we can support the amendment," my guess is we could work out something.

That is what I said to the NRA. I make no bones about it. I am not an authority on guns. I do not know much about guns. In order to compile this list, I went to the best source we could find, the Bureau of Alcohol, Tobacco and Firearms. I am not suggesting that they support this amendment. I am not sure whether they do or they do not. But I am saying that they were the ones who told us which guns properly belonged in this category.

Mr. President, one of my colleagues, I believe, is on the way to the floor to speak further on this subject.

I suggest the absence of a quorum.

Mr. HATCH. Will the Senator withhold?

Mr. METZENBAUM. I certainly do.

Mr. HATCH. My colleague makes the case for the particular point we are making. To compile the gun list, he went to the appropriate governmental authority and asked them what to include. They gave him this list. Look, it is a subjective judgment. It is one of the things that we are complaining about.

With regard to the second amendment, we have been over this issue many times in the past. It is my view that the right to keep and bear arms is an individual right to be enjoyed by all citizens if they so choose. In 1982, the Constitutional Subcommittee of the Judiciary Committee produced a report that I think makes several very effective arguments for this position.

In further support of that position the Supreme Court, in the recent case of U.S. versus Verdugo-Urguidez, a 1990 case, the Supreme Court equates the rights preserved in the second amendment with those preserved in the 1st, 4th, 9th, and 10th amendments. These are rights, according to the Supreme Court, to be enjoyed by all, as opposed to the rights guaranteed in the fifth and sixth amendments, which extend to criminal defendants.

That is precisely what we have been saying. The very arguments out of the mouth of the proponent of this particular amendment, my friend from Ohio, I think makes the case that we have been making here today and the distinguished Senator from Idaho has so eloquently made.

With that, I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I suggest the absence of a quorum, but I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, I do not intend to object, do I understand I have about 15 minutes left?

The PRESIDING OFFICER. Fourteen, twenty-three.

Mr. METZENBAUM. The Senator from Utah has about 24 minutes left. I wonder if he would mind, until such time as we get down to an even amount of time left, charging it against himself.

Mr. HATCH. I am prepared to even yield the time, except we have the distinguished Senator——

Mr. METZENBAUM. I am waiting for Senator KENNEDY. I want to be sure he has enough time.

Mr. HATCH. Here is Senator KENNEDY. The distinguished Senator from Wyoming, also, would like to speak, and I know the Senator from Massachusetts is here.

Mr. METZENBAUM. The Senator from Ohio has 14 minutes left and the Senator from Massachusetts may take it.

Mr. METZENBAUM. Mr. President, I have no objection, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY, Mr. President, I ask for 7 minutes.

Mr. METZENBAUM. Without objection, I yield 7 minutes.

Mr. KENNEDY. Mr. President, I rise to support the amendment of the Senator from Ohio. Senator METZENBAUM has, over a long and distinguished career, made an extraordinary contribution to the safety and the security of the people of this country by his tireless efforts to try and deal with the proliferation of weapons of violence in our society.

Once again this afternoon the Senate of the United States will have an opportunity to address a very basic and fundamental issue that does not take a great deal of time to debate, an issue which has been presented in the Judiciary Committee on a number of different occasions, an issue that has basically been studied to death.

Mr. President, I believe that with the acceptance of the Metzenbaum amendment, we will do more in terms of safety and security for the American family than any other provision in this legislation. I think all of us know

that in a short while we will have the opportunity here in the Senate to see whether the Members are prepared to stand up to the authority and the power of the National Rifle Association, which has placed this particular amendment and the DeConcini amendment on the top of their legislative agenda.

The Members of this body will have a very clear choice, so to speak, Mr. President. On the one hand, they will be able to vote on behalf of the National Rifle Association. On the other hand, they will be able to vote for their local police men and women in this country, those that are out patroling the streets of this Nation, those men and women who put their lives on the line virtually every day, those men and women whom we call upon to try and come to grips with the problems of substance abuse and the drug kings in our society. We will have a chance to find out where the Members of the U.S. Senate stand on this issue.

The Senator from Ohio has presented the case that has been made by thoughtful men and women who are on the front lines of American defense in law enforcement. There are repeated examples of how these law enforcement officials are trying to deal with violence in our society and are basically outgunned by these types of weapons. What possible response is there to the amendment of the Senator from Ohio? Well, you get your noses under the tent on these assault rifles, then who knows what is going to be down the road in terms of legitimate hunting weapons in this society?

Mr. President, that is hogwash. That argument has been around here for 20-odd years. It is irrelevant to this debate and discussion. Every Member of this body understands it, Mr. President. We are talking about an issue which even Secretary Bennett was persuasive in terms of getting this President of the United States, who had looked at this in a different way, to take a very limited step with regard to the prohibition of certain types of assault weapons into the United States.

Then we asked him, why not include assault pistols; they are even more preferable to the assault rifles. We will study that; we will give that a little more study by the administration.

Mr. President, we all know what is at issue here. It is a question of safety and security. One-half of 1 percent of the weapons brought in here fall within these categories; yet, they are used by the most sophisticated drug barons in our country.

Then we are in the intolerable position of taking those which are manufactured here in the United States and shipping them down to the Andean countries. We shake our fist at those Andean countries and send big aircraft carriers out there telling them to stop this violence, stop this transportation of the various illicit substances; meanwhile, we are sending right in there the weapons of destruction that put at risk the lives of courageous men and women who are trying to bring about peaceful change through democratic process and procedures. We do it shamelessly, Mr. President, absolutely shamelessly.

Mr. President, this is an issue that has been around. We can take this small step with regard to the automatic weapons. We know where the American people stand. I have not seen the most recent polls, but the one that I just saw about a year ago by the American people was 83 to 10.

We know the Members around here hope and say, well, let us just vote against the Metzenbaum amendment, and we will take our chances with the DeConcini and, by God, that NRA will not forget it. That is true. They are betting again that the American people, hard-working families who are trying to provide for their families, for their children, would just sort of forget about his until next election time.

Well, Mr. President, I believe that there is a movement out there. We saw those extraordinary killings that have taken place in school yards across this country, and I think the American people have said: "We have had enough." And, hopefully, with that sense and that feeling among the families of this country on this issue, saying we have had enough, the Senate will vote in support of the Metzenbaum amendment.

Mr. President, I support the strengthening amendment proposed by my colleague, the Senator from Ohio, just as I supported a similar proposal, S. 386, when it was considered by the Senate Judiciary Committee last year.

The assault weapons language in this Democratic crime package only attacks a small portion of the domestic assault weapon problem. This amendment, sponsored by the Senator from Ohio, a courageous leader on these issues, would attack the assault weapons issue more broadly. The Senate should act swiftly on this measure and send it to the other body for its approval. Action to stem the proliferation of assault weapons is long overdue.

This amendment would expand the list of assault weapons banned pursuant to the Democratic crime package. This amendment would also add a provision restricting the sale of ammunition magazines and ammunition belts in excess of 15 rounds, as President Bush proposed last year.

The weapons that will be added to the list reflect the expert assessment of the finest of our law enforcement community. The expanded list includes eight domestic assault weapons, five foreign made assault rifles and five foreign made assault pistols.

This proposal would ban a specific list of semiautomatic assault weapons identified by law enforcement as a danger to the community. The weapons are listed by name, model, and manufacturer. To make sure our intent is not easily evaded, the proposal applies to these weapons even if they are modified in minor, cosmetic ways. It does not apply to conventional semiautomatic rifles, shotguns or handguns. It also does not apply to popular semiautomatic hunting rifles, such as the Remington 4 and similar weapons.

The committee's efforts on the assault weapons issue date back to the early stages of the 1988 drug bill—before assault weapon violence became commonplace and before some urban neighborhoods began turning into free fire zones. These guns have put awesome killing power in the hands of drug runners and other criminals.

With this legislation, we have a chance to stem the tide of assault weapons and the senseless violence they cause.

Two decades have passed since Congress enacted major legislation restricting firearms sales.

Since then, we have witnessed a runaway arms race as neighborhoods descend into anarchy, ruled by heavily armed gangs and others who answer to no law.

Assault weapons put awesome killing power in the hands of drug runners, hate groups, and other criminals. Assault weapons go by names like: "Street Sweepers," "Bushmaster," "Paratrooper," and the "Commando."

The ease with which these weapons can be obtained is fueling the arms race on the streets of every community in America. There is no reason that individuals should find it easier to acquire assault weapons than it is to acquire a drivers license or a pet cat.

Sales of assault weapons across the United States increased from 4,000 in 1985 and 1986 to over 40,000 in 1988 and even more last year. In the past few years, tens of thousands of assault weapons have entered the United States.

Many of these guns wind up in the hands of drug dealers who use them against officers of the law and innocent bystanders. Jamaican drug traffickers have smuggled over 1,200 assault weapons to dealers in the North. Sophisticated firearms have been seized in more than half of all crack arrests.

The popularity of assault weapons among criminals in the United States and drug traffickers in South America continues to grow. For the first time since police began categorizing weapons by type, semiautomatic pistols are outdistancing revolvers and all other

firearms as the weapon of choice of criminals. According to a recent study of Bureau of Alcohol, Tobacco, and Firearms weapons tracing records, in the 15 months between January 1, 1988, and March 27, 1989, semiautomatic models moved ahead of revolvers and the trend toward semiautomatics continues. In addition, despite the fact that only 0.5 percent of the 200 million privately owned guns are assault weapons, those guns turn up in disproportionate numbers in a variety of crimes:

Nearly 30 percent of all firearms traced to organized crime, gun trafficking and terrorist crimes in the past year were assault weapons;

Nearly 12.4 percent of the weapons traced to narcotics crimes were of the assault variety.

The use of assault weapons in crime rose more than 78 percent in 1988 over 1987.

The addition of assault pistols to the prohibition is crucial. Not only are many of the assault pistols on the market as lethal as the assault rifles, they are easy to conceal.

Gun industry catalogs market assault pistols by freely noting that they have relatively little sporting use and are primarily designed for military and combat purposes: Jane's Infantry Weapons describes the Uzi assault pistol as:

A shortened and lightened modification of the Uzi submachinegun * * *. It has been designed for civilian use, but there are obivious applications to military and security forces.

A test report on the British made Sterling Mark 7 assault pistol describes it as a "pistol * * * in name only; it is an assault weapon."

The Gun Digest Book of Assault Weapons describes the Spectre pistol as:

A semiautomatic pistol, with all the submachine gun features. It accepts the standard submachine gun magazines.

The Gun Digest also made the following general statement about assault pistols:

You can buy perfectly legal versions of the Uzi, MAC-10, M-16, Sterling and countless other modern assault weapons. The vast majority of these weapons were built for and sold to the same individual that wanted a souvenir M-1 rifle or carbine.

Special Weapons magazine talks this way about the Uzi carbine, minicarbine and pistol:

Let me first say that the prime design purpose of the weapons covered here is combat.

Lest anyone doubt the popularity or killing power of assault pistols as compared to assault rifles, keep in mind that a Cox Newspapers study concluded that three of the five weapons most often traced to crime in 1988 were the following assault pistols: MP-25, J22, and TEC-9. The same study noted that,

For the first time since records on firearms used in crimes have been kept in the United States, semiautomatic pistols outnumber revolvers.

Similarly, the Washington Times reported last year that experts have described the MAC-10 as the "Weapon of Choice" for Colombian assassins because the small assault pistol fires powerful .45 caliber ammunition at a rate of hundred of rounds per minute.

Cox concluded that while assault guns make up only 0.5 percent of the 200 million privately owned firearms in the United States, in 1988 and the first quarter of 1989, assault guns showed up in nearly 30 percent of all firearms traced to organized crime, gun trafficking and crimes committed by terrorists in the United States. Out of 385 weapons traced by the Bureau of Alcohol, Tobacco and Firearms [BATF] at the request of the Colombian Government, the majority were found to have been bought illegally in the United States.

Cox:

Semiautomatic guns patterned after military firearms are the favored weapon of a growing number of criminals, especially violence-prone drug gangs that infest larger U.S. cities.

Cox:

Of the thousands of gun models sold in the United States, just 10 of them—all members of the so-called assault gun family—accounted for 12.4 percent of the Nation's drug-related crime.

Cox:

In sheer numbers, assault guns were most common in drug-related crime, accounting for 12.4 percent of all narcotics firearms traced. On the west coast, that frequency jumped to 21 percent, and in Arizona to 38.6 percent.

Over 2 years ago, when our national drug director was Secretary of Education, William J. Bennett urged the Reagan Justice Department to take action on assault weapons. Bennett concluded that:

The easy access to firearms has put increasing firepower in the hands of drug traffickers. We should consider supporting legislation to better manage the production, importation, and sale of automatic weapons and other firearms, as sought by the major law enforcement organizations.

Secretary Bennett clearly understood the increasing linkage between drugs, guns, and drug-related crime. The organized narcotics trade generates enormous amounts of cash and huge amounts of narcotics.

Guns are the tools of protection for organized drug traffickers.

One week after Bennett became drug director, he persuaded President Bush to examine the dangerous spread of assault weapons like the AK-47. Within weeks, Bennett announced the administration's decision to halt importation of a specific list of foreign-made assault weapons, compiled after thorough examination of the issue by a panel of experts at the Bureau of Alcohol, Tobacco and Firearms.

The BATF experts examined each weapon and surveyed gun clubs and other experts before it arrived at its conclusions.

The Bush administration's 1989 ban on a specific list of assault weapons imports is a significant step in the right direction and I applaud it.

The real test is whether Congress has the will to apply the logic of the Bush administration's ban on certain assault weapons imports to assault rifles made in America and sold over the counter with few questions asked. The import ban only encompasses 25 percent of the assault weapons in the United States.

The 75 percent that are manufactured domestically include the TEC-9 and the Ruger Mini-14 which are among the weapons of choice for narcotics traffickers.

Congress must take the next step and ban domestic production.

The time is long past for Congress to enact legislation to ban the sale and transfer of assault weapons, while protecting the interests of law-abiding citizens. Until we tighten the controls on the sale of these and other dangerous weapons whose only use seems to be to kill human beings, the proliferation of assault weapons and the senseless violence they cause will continue.

Critics of this proposal argue that it is too broad and that it will effectively ban most semiautomatic rifles, shotguns, and pistols. This is plainly wrong.

The National Rifle Association and other critics try to equate assault weapons with all semiautomatics. While all assault weapons are semiautomatics, very few semiautomatics are assault weapons. Of the estimated 20 to 30 million semiautomatics in existence, roughly 1 million—3 to 5 percent—are assault weapons; because this proposal is not comprehensive, an even smaller number would be covered under the Democratic proposal.

Do not be misled by other criticism of this proposal:

It would not give the Treasury Secretary or the Bureau of Alcohol, Tobacco and Firearms special authority to ban all sales of new semiautomatics; it would neither require gun owners to register semiautomatics nor require that they submit to an FBI background check for each such weapon they currently own;

Gun owners would not be required to pay a transfer fee because of this legislation;

Semiautomatic gun owners would not be required to obtain written permission from the Treasury Secretary to transport a semiautomatic weapon across State lines; and

This legislation would not result in punishment for an inadvertent failure to follow its requirements.

At a time when budget constraints make it difficult for law enforcement agencies to outfit themselves with basic crime-fighting equipment, drug dealers and other criminals are increasingly able to expand their own firepower by purchasing assault weapons. Too often, measures which would restrict such purchases fail because of the gun lobby's inability to distinguish between the interests of legitimate sportsmen and the serious problem of gun crimes in our society.

For those who wondered whether senseless daily gun killings in America could get worse, the answer lies in the fact that gruesome killings caused by easily obtained assault weapons are becoming all too frequent. And for those, like the National Rifle Association, who opposed our efforts during deliberations on the 1988 Anti-Drug Abuse Act to limit paramilitary weapons, and others who opposed our efforts to prevent gun violence in schools, we know how wrong were their claims that existing laws are adequate.

This legislation bans the sale and transfer of assault weapons, while protecting the interests of law-abiding citizens. Until we tighten the controls on the sale of these weapons, their proliferation and the senseless violence they cause will continue.

Some of the witnesses who testified before the Judiciary Committee during hearings on assault weapons, like some opponents of this amendment, would have us ignore the weapons and deal only with the criminals. Their arguments are half-right. We should be doing more to combat the criminals.

But we should not ignore the weapons they use or the countless law enforcement officials from around the Nation who plead for help in stemming the flow of ever-more powerful guns.

Legislation to restrict assault weapons has the overwhelming support of the Nation's police, including the 90,000-member National Association of Police Organizations, which has indicated that it will—

• • • vigorously support the provisions of [the Democratic crime package] as a moderate but responsible measure designed to deal with the proliferation of weapons which have no purpose other than to gun down and maim police officers and other innocent citizens including young children.

In its letter to Members of this body, the National Association of Police Organizations emphasized that:

[T]he Bush administration already has banned the importation of these lethal weapons of mayhem.

The Senate must now follow suit with legislation which would ban their counterparts.

This issue is literally a matter of life and death for the law enforcement officials who support these proposals.

In Escondido, CA, a diagnosed schizophrenic walked into a gun store in December 1987, lied on his Federal form about his arrest record, mental condition, and drug use, and purchased the Norinco variation of the AK-47 assault rifle. The following day, under the influence of methamphetamines, he used his new acquisition to kill a San Diego County Deputy Sheriff, wound two other deputies, and hold police off for over 12 hours. The ensuing shootout resulted in the exchange of 300 shots.

In December 1988, a Dallas police officer was killed while making an undercover narcotics purchase. The weapon used was a TEC-9 assault pistol.

Last spring, a MAC-11 assault pistol was used by a man in Louviers, CO, to kill himself, but not before he used it to kill a woman and her mother and wound a police officer.

Last August, a New Jersey State trooper was shot four times in the chest and abdomen by drug traffickers wielding a MACK-11 assault pistol.

The 200,000-member Fraternal Order of Police and the 3,300-member National Sheriffs Association and the other leading law enforcement organizations across this country support this measure. They are on the front lines of the war on crime. They know what is needed, and so does the Senate.

Once again, I commend the Senator from Ohio for bringing this amendment to the Senate which, as I say, I believe will do more about peace, stability, and tranquillity in our communities than perhaps anything else in this bill. I thank the Senator.

Mr. METZENBAUM. Mr. President, I thank the distinguished Senator from Massachusetts. Over a period of years, since I have been here and before I got here, he has been in the forefront in attempting to remove the guns from the streets of America.

He has had courage. He has spoken up and spoken out and sometimes under very difficult circumstances. But his support is very meaningful to us in connection with this amendment. We are very grateful to him for coming over to speak in behalf of it. I think what we are talking about is so well enunciated by him.

This is not a very controversial issue. This issue really says, Do you believe that the streets of America should continue to be filled with gun dealers and racketeers and criminals who have weapons that are stronger, more effective, more powerful than the law enforcement officers of this country?

This concerns me, as I stand here at this moment and I say to myself, Why is it this way? Why do my colleagues in the Senate not have the courage? They have courage in so many other areas but when it comes to the NRA and this one issue of guns, so many buckle under, so many say: "I wish there were not an amendment coming to the floor. I wish I did not have to vote on it."

I can only say this: The American people are on my side, whether the NRA is or is not, and obviously they are not. The fact is if there is some particular language in my amendment that you are not comfortable with, then we will change it. But overall the issue is, Do you want to permit an unlimited proliferation of guns, semiautomatic weapons, in the hands of the criminals, or, today, are you prepared to stand up and cast a vote for law and order and cast the vote for those little children who were mowed down in a California schoolyard?

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I do not believe the American people as a whole do support his side. Frankly, polls sometimes show remarkable numbers because polls are asked in different ways. If the American people knew that their right to keep and bear arms is going to be removed because of these types of activities, I think they would vote this down overwhelmingly.

Second, I have never seen the criminals in this country have any difficulty at all getting these weapons. They can get them. They do not worry about registration. They do not worry about the BATF or all these laws, rules, and regulations that are going to be saddled, if this amendment passes and the underlying amendment, upon good, law-abiding, decent sportspeople. That is what is really involved here, more Government.

Let me tell you another thing. This is an important issue. The very people who support these types of amendments when it comes time to getting really tough on crime, when it comes down to capital punishment, which we know deters, not only specifically because that person is never going to commit murder again, but generally, and it deters among some of the worst criminals on this Earth, not only because of capital punishment, but in so many other ways when you try to strengthen the criminal laws of this country they worry more about the rights of criminals than the rights of victims. I think it is important to worry about both sides.

Our Constitution protects criminals' rights and that ought to be maintained, and we ought to get as tough on criminal activity in this country as we can. If you want a perfect illustration of how easy some of these people are in this body on crime and criminal activity, look at S. 1970 and compare it

to the Thurmond substitute, and I think it will give you a pretty good insight into what is really going on here. We are talking about law-abiding, decent people.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. HATCH. I would like to not do it on my time if I could help. I will yield on the Senator's time.

Mr. METZENBAUM. I do not have time remaining.

Mr. HATCH. Mr. President, what is the time situation?

The PRESIDING OFFICER. Nineteen minutes and twenty seconds.

Mr. HATCH. I yield to the distinguished Senator for a question.

Mr. KENNEDY. Mr. President, will the Senator outline what sporting purposes it would have?

Mr. HATCH. I make it clear the action on all these rifles is exactly the same as long hunting rifles. It is difficult to determine the difference between the two. I cite the particular time according to BATF that would lead to banning all long hunting rifles with similar actions. That is what BATF tells me.

The second amendment is not just sporting weapons either. Section 3, according to BATF, the Department of Treasury says:

> Section 3 of both bills would define the term "assault weapon" to include: (1) certain named firearms, (2) all models of the named firearms, and (3) any firearms which have an "action design which is identical or nearly identical to the named firearms." The meaning of the phrase "action design" is unclear and its inclusion within the definition of assault weapons could be interpreted to include many conventional sporting semiautomatic weapons.

That is how radical this amendment is. That is why so many of our sporting people are up in arms objecting to this type of stuff. What I am saying is let us get tough on the criminals. Let us quit getting tough on the people who are sports-related people, who are honest and decent. That is the story that is never asked in these polls.

The American people are basically fair. They know that we have had time-honored rights to go hunting and use guns for sporting purposes and teach our kids how to target shoot, and so forth. They would resent it if they knew that this type of activity is for no other reasons than to take guns away from people who have always abided by the law and frankly those who do not abide by the law would have access to them anyway.

I challenge friends on the other side to get tough on crime. Let us not get tough on the law-abiding citizens. Let us really do some habeas corpus reform. Let us do get the death penalty, the strong penalty used only in the most heinous crimes and most vicious committed crimes and let us stop these 16- and 17-year multiple appeals going on that cost the taxpayers millions and millions of dollars that are frivolous.

Mr. KENNEDY. Does the Senator support the Bush ban?

Mr. HATCH. I do not.

Mr. KENNEDY. The Senator does not.

Mr. HATCH. I believe it is taking away rights of decent, law-abiding citizens, and I think the President even has second thoughts about it.

Mr. KENNEDY. Does the Senator differ with the police organizations who are risking their lives every day and have indicated support of these particular proposals? Does the Senator think that they are representing the legitimate interests of policemen and women across this country who are on the frontline, and many of them are members of the NRA, or does the Senator think they are being duped, too?

Mr. HATCH. Let me answer that question. I think if a poll were taken of the vast amount of law enforcement officers of this country, they would vote this amendment down almost 100 to 1. Let me tell the Senator another thing. Every one of those police officers that I know of or at least the vast majority are for the death penalty, too.

Do not use the argument on me and argue against the death penalty on the other side of this case.

If I could, Mr. President, the fact of the matter is that the leaders of some of the police organizations do support the DeConcini amendment. The rank and file do not. I have to tell you there is going to be a lot of uproar over this. The fact is that the officers on the streets, some of them do support that, but the majority of them do not.

But I will tell you almost to a person they all support capital punishment in these vicious, rotten murders that are going on in our society by vicious, rotten people who sometimes get out and murder others, some of whom are on death-row and murdered some of the officers in the jails and penitentiaries. They are in because of multiple appeals and other soft things we are trying to do all the time in this body.

This is our chance right now on this crime bill. It is our chance to get tougher on these criminals. It is our chance to put our money where our mouths are. I have to admit that it is important to always take care of constitutional rights, but I think there are constitutional responsibilities, too. I just want to say that there are victims' rights that are not being taken care of every time we are soft on crime.

Mr. METZENBAUM. Mr. President, will the Senator from Utah yield for a question on my time?

Mr. HATCH. If I could, let me yield to the distinguished Senator from Wyoming because I have to leave the floor for a minute.

I yield such time as the distinguished Senator from Wyoming needs.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Wyoming.

Mr. SIMPSON. How much time is remaining?

The PRESIDING OFFICER. The Senator from Utah has 13 minutes 51 seconds remaining and the Senator from Ohio has 5 minutes and 3 seconds remaining.

Mr. HATCH. I yield 8 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 8 minutes.

Mr. SIMPSON. Mr. President, I see my good colleague from Massachusetts is not in the Chamber. I wanted to respond to him in the best faith on this. Senator METZENBAUM is also carrying on a cause that he has long held dear.

The issue is so clear, if we just try to keep in mind the difference between those of us who live, say, in a State like Wyoming and those who live in, say, the State of Massachusetts. There are signs at the border of the State of Massachusetts that say that anyone who is apprehended with a weapon in their possession is given an automatic fine of $100 and a prison sentence. I cannot remember the exact punishment.

It is very clear that such a border sign in Wyoming would be totally offensive and unbelievable. Wyomingites would never understand why a person in Massachusetts would be punished for that, any more than a person in Massachusetts could understand a person of good intellect, and sharp as a tack, with a gun in the back of his pickup on a rack, that he uses to shoot coyotes and other predators. It is a sport weapon, and the owners simply go about their lawful business. There it is right there. These gun owners are not slobbering beasts just tooling along the highway looking for a fellow human being to blast away. Making that distinction is the tough part of this issue.

I knew Jim Brady before he became a part of the Reagan administration. He has been one of my loveliest friends since I came to Washington. His wife Sarah is a magnificent lady who goes all across this land talking about these kinds of things. She does it with great passion, great logic, and great patience. But this amendment brings us to the point where we really are intruding on a person's right to own a weapon, which happens to be a semiautomatic.

I know it is hard for people to believe, but there are things like .270 rifles that are magnificent hunting weapons. I have one. I shoot deer. I do not mount them. I eat them. I do not get some macho kick out of that.

Some people go out and bang cattle in the head every day, butcher them,

and eat them. Nobody says anything about that. But if you say that you go out and get a deer around here; people go crazy. They think you are some kind of a sadistic nut. So that is what you have to deal with when you deal with these gun control issues.

This amendment is really an infringement. It is an infringement on certain weapons people use lawfully and appropriately—Ruger semiautomatic, .22 rifle, for instance. My daughter is a better shot with one than I am, and she does not kill anything. She dislikes hunting. But she does enjoy target shooting. That type of legal activity is exactly what you are reaching with this amendment. I know it is hard to believe. Do not throw anything—but it is true.

I cannot say it clearly enough. I do not think anyone here "buckles under" to the NRA. The NRA is speaking for, obviously, a great number of American people. If we really are listening to the American people, which we say we are—we are going to find out in a few minutes with this vote. Because we represent the American people—we will find out how they feel about this. But what the American people really feel is: Put these guys in the clink. Take this screwball Purdy, who blasts away little children—a terribly brutal and savage act. He opened fire. Put him away. Help us do that.

Why do the proponents of this amendment not help the American citizens "salt away" some "animals," who are worse animals than the animals you could ever go hunting for and kill with a gun? These criminals have no remorse. Read what is happening in New York City. The fabric of that city is breaking down because 13- and 14- and 15-year-olds are allowed to do anything they want to, apparently. They do it with gusto and savageness. They have no remorse. Start putting those people in the clink. Get capital punishment going. Get habeas corpus petitions restricted and reduce all the things we go through in the exercise of an effort to put these particular people away. Let us lay some heavy penalties on them. Help us do that. Then we will see where we have to go to refine the law and we will begin to make corrections.

There are some real "nuts" out there. That is what the American people know. Do we think the American people are going to sit still in their homes while a bunch of "nuts" are running around on the outside? This debate is being watched somewhere. Probably in prisons around the country they are sitting there in their cells watching television and just giggling; saying, "What do you think that means to us? We will get our guns any way we want them. That is the hideous background laughter to this debate.

I hope my colleagues will keep another thing in mind. Those of us who support the constitutional right to keep and bear arms are not some kind of hideous people who really do not care or who get some macho kick out of carrying guns on our hips out in the wild West. That is not what we are talking about.

My grandmother was a very gentle, and genteel, woman. She lived to be 100. She always "packed a little iron" toward the end of her life. She did finally put it under the bed. We all thought it was quite good of her. It was a very gentle little derringer she had for many years. She said:

> That is what I learned about living in the West. I had people who tried to take my babies and my animals, and sometimes this is the only way I could protect myself.

So it really is not as bad as my colleagues think. I say to people, help us put away these sick, sick people, who are in our society, instead of allowing them to get out time after time, helped by a bunch of "bleeding hearts" who just outdo themselves.

I always say: "Button your shirt, your heart fell out. Let us 'try 'em and fry 'em.'" That will start a lot of good action in the United States. It will stop a lot of crime, and we will not have to worry so much about the legal use of guns.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. Six minutes and 20 seconds to the Senator from Utah controlled by the Senator from Idaho; 5 minutes and 3 seconds controlled by the Senator from Ohio.

Mr. McCLURE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 3 minutes.

Mr. McCLURE. Mr. President, I want to take this time to indicate, partially, a response to what the Senator from Massachusetts said a moment ago. I wish he were on the floor to hear this comment. I hope he is hearing it elsewhere.

There is an organization known as the Law Enforcement for the Preservation of the Second Amendment. That does not come from the wide open spaces of Idaho nor the big game hunting territories of Wyoming. That organization is headquartered in Waterford, NJ. I will not take the time to read the names of all the people that are on a partial list of steering committee members for that organization, but there is a sergeant from Arizona, a deputy sheriff from California, there are others from California, a lieutenant from Florida and a deputy sheriff from Florida, a sergeant from Illinois, a major from Indiana, an officer from Kansas, a trooper in Louisiana, a detective sergeant in Mississippi, and a police chief in New Hampshire, a police officer in New Jersey, a deputy sheriff in New York, a police chief in Ohio, a sergeant from Ohio, and a sergeant from Utah. That is just a partial reading from a listing of the steering committee members of the Law Enforcement for Preservation of the Second Amendment.

I want to read just one portion of this statement from them.

> The thousands of law enforcement officers belonging to LEPSA believe that such legislation is not only unreasonable and unworkable, but will breed contempt for the law, and those of us who enforce it.

Mr. President, I ask unanimous consent that that entire document be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> LAW ENFORCEMENT FOR THE PRESERVATION OF THE SECOND AMENDMENT,
>
> *Waterford, NJ, January 23, 1990.*
>
> To: Members of the U.S. Senate.
>
> From: L.E.P.S.A.
>
> Subj: Unreasonable/unworkable legislation.
>
> The entire membership of LEPSA, a law enforcement organization with constituents in all 50 states, urges you to scuttle any attempt at passage of S. 1970, S. 1971, and S. 1972. In short, we would urge you to rebuff any attempt at banning any type of firearm, under any pretext. Those few positive aspects embodied within these bills is negated by their intolerable attempt to ban firearms in the name of "crime-control". The thousands of law enforcement officers belonging to LEPSA believe that such legislation is not only unreasonable and unworkable, but will breed contempt for the law, and those of us who enforce it!
>
> We would wish to emphasize the need to consider constructive alternatives to the Biden/Thurmond notions that everyone should suffer for the criminal transgressions of a few. LEPSA is supporting legitimate crime suppression proposals; 1. Massive expansion of our nation's prison capacity through the utilization of unneeded military land assets for prison expansion, 2. Mandatory sentencing for crimes committed with firearms, and 3. Implementation of a "Point-Of-Purchase" firearms screening system (such as the one being studied by the U.S. Justice Dept.). Basically, all of these proposals involve little more than giving existing laws the teeth they now lack, and focusing all governmental energies on punishing criminals, rather than the general public. Those among us must suffer with every ill-conceived piece of legislation that we are compelled to enforce. Whatever "good intentions" lie beneath these bills won't mean anything on the street. Without adequate prison capacity, and through misdirecting your energies, we as lawmen will look upon your efforts as nothing more than "legislative masturbation". For these reasons we urge you not to support these bills.
>
> Sincerely,
>
> THOMAS J. AVENI, JR.,
> *LEPSA Founder/NJ Rep.*

Mr. McCLURE. Mr. President, I also wish to make reference to a publication, the Dickson Herald, Dickson, TN:

"Cops Speak on Gun Ban," a "public voice," published in that newspaper.

The following headlines probably sound familiar to you: "Police Bitterly Oppose NRA Stand." "NRA Defends Cop Killer Teflon Bullet." "Tough New Gun Laws Needed to Keep Guns From Criminals." "Assault Rifles Should Be Banned." These headlines share one common feature. They are all false.

The article goes on to make a statement on behalf of law enforcement officers from Dickson, TN, in opposition to this type of legislation.

I ask unanimous consent that that article also be printed in the RECORD in full at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Diekson (TN) Herald, Mar. 29, 1990]

COPS SPEAK ON GUN BAN

The following headlines probably sound familiar to you:

1. "Police Bitterly Oppose N.R.A. Stand"
2. "N.R.A. Defends Cop Killer Teflon Bullet"
3. "Tough New Gun Laws Needed To Keep Guns From Criminals"
4. "Assault Rifles Should be Banned"

These headlines share one common feature, they are all FALSE!

Take number one for example. The vast majority of America's rank and file street cops support the N.R.A. in every way. A high percentage of cops are members of the N.R.A.

Now look at number two. There does not seem to be a single documented report of any cop ever being killed by a teflon-coated bullet. Besides, many non-teflon bullets can out-penetrate the so-called "Cop Killer" rounds.

And now number three. This is one of our favorites! You don't have to worry about armed criminals—if they are behind bars where they belong! Patrick Purdy killed five children on a playground recently, yet prior to that he was set free by the courts on seven occasions after being arrested for serious crimes! In addition to that, he was classified as mentally unstable! So instead of putting him away, our system allowed this mentally unstable multiple offender full freedom—to kill at his will! And his case is identical to thousands of others, it is not an isolated incident.

And now number four. Lawmakers are banning assault rifles because Patrick Purdy killed five children with one. He could have killed that many innocent children with a bowie knife, then the lawmakers could go after knives. He could have driven a car through the playground killing far more than five children, what then?

When will we start making criminals pay for their deeds instead of decent citizens who own firearms for legitimate reasons? Why do lawmakers fear and detest armed citizens and at the same time pamper armed criminals?

We would all benefit from Criminal Control, but who really benefits from Gun Control? Two groups of people come to mind. First, the violent criminal-killers, rapists, muggers, burglars, robbers, kidnappers and drug dealers. These people would benefit in a big way-job safety! They will be armed no matter what kind of laws we pass, but YOU will be unarmed! The criminal is the predator and you will be his defenseless prey, thanks to the lawmakers you voted into office to serve your needs. If you were a violent criminal, wouldn't you support strict gun control? You bet! The second group of people who would benefit from gun control is Organized Crime. These "businessmen" would make gun and ammo running into a blackmarket venture equal to rum running of prohibition days. They would smuggle factory-made foreign guns and ammo into the U.S. by the tons. They would manufacture crude guns in underground machine shops. They would steal police and military weapons and ammo. And they would peddle these items on every street corner in America! If you were an organized crime boss, wouldn't you love a financial windfall like gun control? Of course! Does this make you wonder who is really behind gun control and who our elected officials are really being influenced by?

Nashville Police Chief Joe Casey and a few other law enforcement political figureheads may oppose the N.R.A. and your right to keep and bear arms, but most of us in law enforcement hope that the N.R.A. gets bigger and tougher each year and we hope and pray that your elected lawmakers can see things your way, so they can keep their jobs come election time! The word VOTE does ring a bell, doesn't it?

You have heard the old saying, "When guns are outlawed, only the outlaws will have guns." That's not true. When guns are outlawed, only outlaws, cops, and politicians (who took your guns) will have guns. Where does that leave you? Pinned down in the crossfire!

Some of us who signed this letter have been shot at in the line of duty. But you (the decent citizen) didn't do it, and we (cops) don't want YOUR guns, any of them, from AK-47's down to .22 pistols, no more than we want your cars, because drunks and reckless drivers kill 35,000 innocent people each year. Not even your high-performance sports cars!

In closing, we urge you to do two things. Join the N.R.A. today. It is the spearhead behind your constitutional right to keep and bear arms. Secondly call or write all of your local, state and national lawmakers and tell them how you feel. Tell them it is better to crowd prisons with criminals than to crowd our streets and neighborhoods with them. And tell them you have got as much right to own guns for self-defense as cops and lawmakers do. Tell them to protect your right to keep and bear arms or you will replace them with someone who will, when election time rolls around. Tell them: "The Cops" sent you!

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I heard discussions this afternoon about the guns we are talking about banning are really guns that are used for hunting. Here is one picture of one called the MAC-10. There is nothing about that gun anybody would use for hunting. That is not a hunting gun.

Here is the MAC-11. This is not a hunting gun. That is the kind of gun criminals use when they are on the streets. Here is another one, the Intratec or the TEC-9. That is not a hunting gun. That is the kind of gun that you use when you are a drug lord or drug dealer and you want to go out and protect yourself and maybe mow down some of your competitors and, worst of all, mow down police officers in this country.

You can give all the arguments you want about the police not being supportive of this amendment, but the fact is they are. You can say some members are not, and there is going to be some convention, they have gone to a convention. This is not new legislation. This is a subject we have been discussing for a long time, the fact is, and the issue is simple: Either you are with the law enforcement groups or you have yielded to the pressure of the NRA. That is how simple it is. It is not complicated at all.

I respect those who are not going to vote for this amendment. But let us face it, we have two divided sides: law enforcement on one side and the NRA on the other side.

I do not doubt some of my western colleagues who have already spoken feel very strongly about this amendment. They talk about capital punishment. Capital punishment has nothing to do with this particular amendment except if you happen to be a police officer, you are the one who is giving of your life, and that is a kind of capital punishment as far as they are concerned.

I say this is a very simple issue. Sure, there will be some old ones that are out there, but we will get rid of those eventually because there is nothing in the bill that would take away the guns that are presently owned. But if you bought a new one and you were caught with it, you would be in violation of the law. I think that is a step in the right direction.

It will not solve the problem completely, but it is the least we can do to try to save the lives of the law enforcement officers of this country.

I reserve the remainder of my time.

Mr. McCLURE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 3 minutes 17 seconds. The Senator from Ohio has 2 minutes 37 seconds.

Mr. McCLURE. I thank the Chair. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. McCLURE. Mr. President, I guess if I were in the position of the Senator from Ohio, I would try to make it that kind of either/or. Either you are for policemen or for the NRA. The fact of the matter is law enforcement officers by and large, and certainly by the tens of thousands across this country, do not agree with the statement that was just made. It is not that kind of an either/or statement.

There are millions of citizens across this country that regard this as a constitutional right switch. Are you going to tamper unnecessarily and needlessly with the rights guaranteed to us by the Constitution of the United States; are you going to give cavalier, back-of-the-hand treatment to something that has been very carefully protected over the years?

Certainly, the Senator from Ohio and others are correct; that right to keep and bear arms is not an unlimited right any more than is the right of free speech. But we are concerned every time there is an infringement upon the right of free speech with that infringement upon a constitutionally guaranteed right.

I submit to my colleagues, we should be no less careful in this instance dealing with second amendment rights than we are with dealing with other rights guaranteed to us under the Constitution.

Mr. President, this is not just the kind of line described by the Senator from Ohio with the good guys wearing badges on one side and the bad guys being NRA members on the other side. NRA members are friends of mine. The organization is a fine organization, in my view.

The Senator from Ohio has a right to have his opinion about the NRA as an organization, and about the individuals who are dues-paying members of that organization. That is not something I share with him in condemnation of those people who feel very strongly about the Constitution and the rights guaranteed in the Constitution.

If you really believe this amendment will help effect law enforcement, then I think you are misled. If you really care about law enforcement, then do enact tough laws with respect to the incidence of crime. Get criminals off the street; get them put in jail; do something about habeas corpus; do something about the exclusionary rule; do something about capital punishment. On those, you will find almost unanimous agreement among law enforcement officers. They are in favor of those steps. They are not in favor of this step.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time will be deducted equally. There are 28 seconds remaining on the side of the Senator from Idaho, and 2 minutes 37 seconds remain for the Senator from Ohio.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have time left. I will not take it all. I just want to conclude my remarks with a quote given by one of the law enforcement officers today at a press conference the law enforcement organizations had indicated their support of my amendment, and for Senator DECONCINI's amendment. I think it sums it all up, and I think it is just eloquently stated. He said: "I am tired of going to my brothers' funerals."

I think that is what this amendment is all about. "I am tired of going to my brothers' funerals," as a law enforcement officer said. That is what this issue is that is before us.

My President, I am prepared to yield back the remainder of my time, if my colleague is.

Mr. MCCLURE. Mr. President, I think I have 28 seconds left. I do not mean to try to get the last word in. I will repeat that back to the Senator from Ohio when we are dealing with getting criminals off the street.

I yield back my time.

Mr. DOLE. Mr. President, I rise to congratulate my colleague from Ohio for offering an amendment which, under the theory that reductions in crime will only occur when we ban all the guns, is a better amendment than the underlying DeConcini amendment.

The Metzenbaum amendment specifically bans more guns outright and gives discretion to unelected bureaucrats to ban the rest of the guns when they feel like it. I assume if any guns remain available after these first two swipes, we would get them under an amendment next year.

But, what do we really get with this amendment? Why should we not ban these assault weapons, this sole reason that we have crime on the streets of America?

First of all, the term assault weapons is traditionally applied to rifles used by the military, like the M-16. The key feature of assault weapons is that they can, by the flip of a lever, be made into either a machinegun—which is correctly called an automatic firearm—or into a rifle which shot one bullet at a time—which is correctly called a semiautomatic when it uses this type of loading mechanism or action.

Under Federal law, true assault weapons are already banned using the definition of "ban" employed by both Senators METZENBAUM and DECONCINI. But, they are not really banned; a law abiding citizen can still obtain and legally possess one. The only difference between these and other firearms is that new ones cannot be manufactured and a Federal permit and background check are required to purchase and possess a true assault weapon.

So, the Metzenbaum amendment merely seeks to change the definition of assault weapon, arbitrarily, by a list which we are told represents the source of evil.

But the list is arbitrary. It creates a category that is neither fish nor fowl. Currently, we treat automatic weapons as one category, and firearms which shoot ony one bullet or shell with each pull of the trigger as a separate category.

The Metzenbaum amendment creates a category of pistols, rifles, and shotguns that have as the only common denominator the distinction of appearing on the Metzenbaum list.

They aren't assault weapons, because they are not automatic weapons—or machineguns—they are Metzenbaum weapons.

The second problem I have with the Metzenbaum amendment is that creates even a further category—the bureaucrat list. The new result would be to change today's law to say there are two types of guns. The first category would be machineguns, Metzenbaum guns, and bureaucrat guns. The second category would be guns which remain to be banned.

Rather than trying to create distinctions where none exist, we should stop those individuals who will abuse the responsibility of gun ownership. First, all felons, illegal aliens, those dishonorably discharged from the military. These individuals are already prohibited from owning firearms, and we have a program which, while being implemented slower than we would like, will be able to immediately identify them through a computer. Just like a credit check which is undertaken when someone uses a credit card, we will have a computer check on everyone buying a firearm.

And this will work, except in one instance. And I would challenge my colleague from Ohio to help find the solution to the remaining category—those who have a mental impairment to the extent that gun ownership should be at least temporarily denied. Proponents of gun bans cite celebrated cases—John Hinkley shooting President Reagan and his Press Secretary, Jim Brady, Patrick Purdy shooting the schoolchildren in Stockton, CA, Joseph Wesbecker shooting fellow employees at a print shop in Louisville, KY, or Lori Dunn who shot schoolchildren and herself in a suburb of Chicago. While they do not mention it, they could add Charles Whitman who killed 15 people while firing from the clock tower on the campus of the University of Texas in August 1967.

The common thread here is not the type of gun, but that they all had some contact with mental health professionals. This is a difficult but real problem. If we had some way to identify these killers, to keep guns—all guns—from them, these tragedies would not have occurred. As I said, the type of gun was not important, all guns have the ability to kill.

We must find some way to keep guns from falling into the wrong hands, and I hope my colleague will join me in finding that true solution to our problem.

Mr. CHAFEE. Mr. President, I have listened carefully to those in favor of assault weapons ban and also to those who adamantly oppose such bans. Many arguments have been made, and debate has been sharp.

The law enforcement community wants an assault weapons ban. They view such a ban as a crime control tool. Right now, they are waging war against criminals who are stocked with firepower worthy of Rambo. Criminals who are better stocked than some small armies, it seems to me. If we are serious about fighting crime, we should help those out there who are doing the fighting for all of us.

Assault weapons represent less than one-half of 1 percent of all privately owned firearms. Yet a comprehensive survey of Bureau of Alcohol, Tobacco and Firearms' gun trace requests shows that assault weapons are 20 percent more likely to be used for crime then any others.

Last year, after studying 50 kinds of weapons, BATF advised the President that all but 7 were not being used for hunting and sporting purposes. The agency looked carefully at the guns, looking for components that point to military—not hunting or sporting—use. Examples of these components are large-capacity ammunition magazine, a folding stock, silencers, bayonets, barrel shrouds. Hunters and target shooters don't need these things. Military fighters do. And drug dealers do. Based on this knowledge, the President banned the importation of 43 types of assault rifles, and he deserves great credit for doing so.

An import ban, however, cannot stop domestic manufacture of assault weapons. And that means criminals—anyone—can still get these military-style guns. In fact, such weapons can be easier to obtain than a marriage license or library card. These are the same guns that can pierce concrete.

That availability is frightening. We have seen terrible massacres—Stockton, in Louisville—in the past couple of years by persons wielding assault weapons. Those senseless deaths filled Americans with horror and revulsion and a sense of loss; and every poll I've seen shows overwhelming public support for limiting the availability of these guns.

No one is trying to wrest hunting guns from law-abiding citizens. We are trying to keep military weapons away from criminals. Assault weapons like the AK-47 are designed for one thing only: to kill human beings. The Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers are asking our help to get these military weapons off of our streets.

I believe this amendment will be a major step foward in achieving that goal.

The PRESIDING OFFICER. The Senator from Ohio has yielded back his time. All time is expired.

Under the previous order, the question occurs on agreeing to the motion to table the amendment of the Senator from Ohio [Mr. METZENBAUM].

Mr. McCLURE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] is absent on official business.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—82

| | | |
|---|---|---|
| Akaka | Ford | Mack |
| Armstrong | Fowler | McCain |
| Baucus | Garn | McClure |
| Bentsen | Gore | McConnell |
| Biden | Gorton | Mitchell |
| Bingaman | Graham | Murkowski |
| Bond | Gramm | Nickles |
| Boren | Grassley | Nunn |
| Boschwitz | Harkin | Packwood |
| Breaux | Hatch | Pressler |
| Bryan | Hatfield | Pryor |
| Bumpers | Heflin | Reid |
| Burdick | Heinz | Riegle |
| Burns | Helms | Robb |
| Byrd | Hollings | Rockefeller |
| Coats | Humphrey | Roth |
| Cochran | Inouye | Rudman |
| Cohen | Jeffords | Sanford |
| Conrad | Johnston | Sasser |
| D'Amato | Kassebaum | Shelby |
| Danforth | Kasten | Simpson |
| Daschle | Kerrey | Specter |
| DeConcini | Kohl | Stevens |
| Dixon | Leahy | Thurmond |
| Dole | Levin | Wallop |
| Domenici | Lieberman | Warner |
| Durenberger | Lott | |
| Exon | Lugar | |

NAYS—17

| | | |
|---|---|---|
| Adams | Kennedy | Pell |
| Bradley | Kerry | Sarbanes |
| Chafee | Lautenberg | Simon |
| Cranston | Metzenbaum | Wilson |
| Dodd | Mikulski | Wirth |
| Glenn | Moynihan | |

NOT VOTING—1

Symms

So the motion to lay on the table amendment No. 1676 was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah [Mr. HATCH] is recognized to offer an amendment.

AMENDMENT NO. 1681

(Purpose: To strike the gun provisions)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1681.

Strike on page 46, line 15, through page 53, line 5.

The PRESIDING OFFICER. Under the previous order, there will be 3 hours of debate on the Hatch amendment, equally divided and controlled in the usual form. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, this amendment that I have just sent to the desk will strike all of the Antidrug, Assault Weapons Limitation Act, found in title IV of S. 1970.

As I have said before, the only real assault these so-called assault weapons provisions make is on the legitimate rights of law-abiding citizens.

As I mentioned during our earlier debate, the Bureau of Alcohol, Tobacco, and Firearms has no definition of assault weapons. The military definition—a selective fire weapon capable of firing in either an automatic or semiautomatic mode—is inapplicable to the commercial arena. Indeed, with the enactment of the Firearm Owners Protection Act a few years ago, the private purchase of new fully automatic machineguns is banned, and the possession of existing automatic machineguns is highly restricted, requiring an extensive background check and permission from both local law enforcement and the Federal Government before such a firearm can be transferred to a new owner.

The proponents of this particular bill, and similar restrictive legislation, have sought a workable definition of assault weapons, other than simply listing guns by brand name and model, but they have been unable to produce one.

The lack of a definition for assault weapons has been a major stumbling block to gun control advocates from the outset of the consideration of this legislation. The firearms listed in this bill employ a semiautomatic firing action. They are not, and I repeat not, fully automatic, neither are they readily or easily convertible to fully automatic. In fact, the semiautomatic firing action employed in these firearms is the same as the action found in every popular semiautomatic hunting rifle in existence today. As I mentioned earlier, the technology behind the semiautomatic firing action has been employed for well over 100 years.

We have overwhelmingly voted down an amendment to ban some semiautomatic firearms. We should support

that vote and vote to strike the ban on the rest of these particular weapons.

The committee report on S. 747, which is virtually identical to this legislation, states that the purpose of this bill "is to reduce the number of deaths and injuries attributable to assault-type semiautomatic firearms abuse by drug traffickers and violent criminals." The assumption by proponents of these bills is that drug traffickers and violent criminals rely on such firearms being available in the commercial arena. While this bill, if enacted into law, would reduce the number of these firearms available to law-abiding citizens, it will not restrict access to them by drug traffickers and violent criminals.

As the committee learned during hearings on the assault weapon issue, most firearms used during the commission of crimes are obtained through illegal means. It, therefore, seems highly likely that a drug trafficker who is able to smuggle large amounts of illegal drugs into the country will have little difficulty in obtaining these weapons by illegal means. I do not believe, based on testimony received by the committee, that the bill will affect the overall incidence of death and injury resulting from crime. If denied a particular type of weapon, a violent criminal will simply find another weapon to carry out his or her goal.

It has been argued time and time again, if Congress truly wants to reduce death and injury caused by violent crime and not merely shift the focus from one weapon to another, then the proper scope of any legislation should be directed at the criminals themselves. As long as the criminal justice system allows violent criminals to commit crimes with little or no threat of apprehension or serious punishment, it will not matter how many guns or weapons we actually ban. Criminals will continue to find weapons to use in their heinous activity, and law abiding citizens will experience an infringement of their constitutionally protected rights.

I believe that the most effective approach toward reducing death and injury due to violent crime must involve major adjustments to the criminal justice system. The Federal death penalty must be reinstated and enforced.

Both the exclusionary rule and habeas corpus proceedings must be reformed. Federal and State prison facilities must be expanded, and sentences requiring internment in those facilities must be carried out to their full term. We need additional law enforcement agents, prosecutors, and judges. In short, we need to reinforce deterrence in the criminal justice system by instituting certain firm and sure enforcement of our criminal laws. Some of these steps have been taken in the appropriations bills and the drug legislation that we worked on last year, but there is still much more that we can do.

I spent a great deal of time, during the earlier debate on the Metzenbaum amendment, discussing the form 4473 requirement under this bill. These requirements are only going to burden law-abiding citizens. It is burdensome; it is unfair. And I refer those interested to my prior comments concerning form 4473.

In summary, the second amendment is, I think, a valuable amendment, that provides each citizen of this country the right to keep and bear arms in order to help in the preservation of our freedom.

By banning the firearms listed in this legislation, Congress would seriously undermine that constitutionally protected right. Moreover, this bill will not keep the listed weapons out of criminals' hands, and, even if it did so, those criminals will be able to obtain other weapons to commit their crimes. While the ban on the listed firearms may serve the purpose of appearing to respond to the incidence of violent crime, in my view, such a ban constitutes only a form of gun control, not crime control.

Indeed, if the legislation's proponents had confidence in gun control as an effective means of crime control, then why do they sunset the underlying legislation after 3 years?

My friend from Arizona indicated on the MacNeil show earlier this evening they do not know how it is going to work, and therefore they have that sunset provision in, and that is reasonable. That will protect the public from abuse. That means 3 years of what we consider to be abuse and abusive practices. We have seen it happen in the past. That was the whole reason for the Firearm Owners Protection Act. It was on this floor a number of years ago, and I led the fight for it on this side. That bill stripped a lot of the laws from their abusive, bureaucratic, overly regulated approaches to the decent, honest, law-abiding sports people in this country.

I think, why do this? Why not go after the criminals? Why not do what we all know has to be done? Why abuse the decent, law-abiding, supporting people? this language does not belong in this crime bill.

I urge my colleagues to support this amendment to strike this language. I think it is important that we ban this language, and I think it is important that we do it straight up and that we make it clear that we are not going to tolerate the further abuse of decent, law-abiding, honest sports people. I think it is easy to get emotional over some injustices that occur in our society and some of the things that happen.

There is no use in kidding ourselves. None of us want anyone to suffer from the use of firearms. As a general rule, those who use firearms illegally do so because of the failure of our justice system, not because we need legislation like this that would actually make it more difficult for the decent, law-abiding, honest-sporting people of this country.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator reserves the remainder of his time.

Who yields time?

The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I rise in opposition to the motion to strike title IV of S. 1970.

The people of this Nation have spoken, and they have spoken loud and clear. In an age of increasing violence, it is important to note that in recent polls the American public has overwhelmingly supported Federal legislation banning the manufacture, sale, and possession of semiautomatic assault weapons. A Gallup poll conducted nationwide between February 28 and March 2 of last year found 72 percent of the American public in favor of such legislation. That is more than 7 out of every 10 people polled. When broken down between gun owners and nongun owners, 68 percent of the gun owners favored such legislation compared to 76 percent for nongun owners. The Gallup poll has since been confirmed in separate polls conducted by NBC, the Wall Street Journal, and CBS News.

A Yankelovich-Clancy-Shulman poll conducted for Time and CNN in February 1989 found that 84 percent of the American public thinks that violence from the use of guns is becoming a bigger problem in this country. In my home State of Arizona, where guns have long been a part of everyday life, 69 percent of the people polled believe that semiautomatic weapons should be banned. In the great State of Utah, a poll published in the Salt Lake Tribune showed that 74 percent of Utahns agreed with President Bush's ban on import of assault weapons. By a 2-to-1 margin, the people of Utah supported the Antidrug Assault Weapon Limitation Act which is in a provision in this bill also known as S. 747.

Mr. President, in recent months we have taken tremendous strides in the war on drugs. Yet the problems of drug use, drug-related crime, and drug-related violence continue to escalate.

The drug war has taken an enormous toll on families, on children, on jobs, on safety in our society, in our communities and neighborhoods, and on the very well-being of this entire country. As the Nation faces this enemy from within, all available resources must be brought to bear on the war on drugs.

I applaud President Bush and my distinguished colleagues for their solid commitment to taking the steps necessary to end the scourage of drugs in this country.

But I remain concerned, concerned for the safety of law enforcement officers who increasingly find themselves facing drug dealers armed with sophisticated equipment and heavy firepower.

In my own State of Arizona, law enforcement officials along the Mexican border wage a constant battle against smugglers who arm themselves with military-style weapons and other high-technology hardware firepower.

In our cities, gangs fight turf wars, armed with assault weapons, often killing or severely wounding innocent bystanders because of capability of spray firepower. Police officers and law enforcement groups from all parts of the country report that assault weapons are rapidly becoming the weapons of choice for drug dealers. We in Congress must not stand idly by while our police and the people of this Nation are subjected to the violent ravages of drug-related crime.

Our law enforcement officers are literally fed up with this situation. That is what was said today at a press conference. Indeed, every major law enforcement organization in America supports this legislation, including the Fraternal Order of Police, the International Brotherhood of Police Officers, the National Sheriff's Association, the National Association of Police Organizations, the Police Executive Research Forum, the Major Cities Chiefs, the National Organization of Black Law Enforcement Executives, and the Police Management Association. These groups want congressional action to avert another tragedy from occurring.

Over here to my left, Mr. President, is a detailed list of all the organizations that endorsed this particular section of the bill that is before us. They oppose the motion to strike offered by the distinguished Senator from Utah.

Mr. President, these assault weapons that I am describing are not simply handguns, hunting rifles, or sporting rifles. I am describing civilian versions of military firearms, often equipped with combat hardware, and designed for one purpose and one purpose only—pure, cold, killing efficiency.

Consider, for example, the AK-47, an assault rifle designed in Russia and currently manufactured in China and other countries. The AK-47, even in its semiautomatic civilian form, can fire up to 80 rounds of ammunition in 1 minute. One minute. The AK-47 is equipped with a flash suppressor, allowing the shooter to remain hidden at night. It will take a high-capacity magazine, allowing the shooter to fire multiple rounds without reloading. It has a pistol grip so that it can be spray-fired from the hip, and has a folding stock so that it can be easily concealed. Finally, the AK-47 has a barrel mount designed to accommodate a bayonet, which serves no sporting purpose.

That is the picture of the gun that is commonly used.

This is supposed to be a sporting rifle with a bayonet, with a muzzle suppressor so you cannot see where the shot is coming from. Tell me that that is used for hunting and I will eat the stock of it.

Speaking of the stock, it collapses, so you can fire it from the hip. These are literally not sporting guns in anybody's imagination and it is hard to believe we would see the resistance of the organizations to oppose the banning of these weapons and making it illegal to possess them.

Consider also the TEC-9, manufactured in Florida and traced to one in five crimes involving an assault weapon in the United States. The manufacturer calls this gun "as tough as your toughest customer." Among other things, the TEC-9 has a threaded barrel designed to accommodate a silencer, and is equipped with a 36-round magazine. It also has a barrel shroud which cools the barrel during rapid firing and allows the shooter to grasp the barrel during rapid fire without incurring serious burns. Gang members love this gun because in their drive-by shootings from their automobiles and assaults on other people, they do not have to aim; they just spray. Tell me that that is a gun you are going to shoot wild turkeys or deer with, and you obviously cannot sustain that. With the multiple shots they have a greater chance, the organized crime and drug dealers have, of hitting someone because they can spray that firepower.

An example is officer Dan Pratt of the Los Angeles Police Department who was killed in a drive-by shooting. Fifteen shots were fired at him but only one hit him. That was enough to kill him, and he was armed with a revolver.

Mr. President, these assault weapons were never intended for hunting or sporting purposes. Silencers, barrel shrouds, pistol grips, bayonets, folding stocks—these are the trademarks of assassins, not sportsmen. And, I am sorry to say, they are rapidly becoming the favored tools of the drug lords and violent criminals. These weapons were designed solely to conduct modern warfare; that is exactly what drug dealers are using them for in their war against police.

Let me support that statement with some specific examples.

On August 23, 1989, a New Jersey State trooper was shot four times in the chest and abdomen by three drug dealers armed with a MAC-11 assault weapon after the trooper pulled them over for a routine traffic stop.

I will put the MAC-11 picture up there so we can get a quick picture of what the MAC-11 looks like. That is the typical type of weapon that the drug dealers are using today to combat law enforcement. I am sorry to say the law enforcement in Arizona and most agencies do not have that kind of weapon yet to respond.

On June 15, 1989, Arizona Department of Public Safety officers raided a Tucson, AZ, home, seizing five AK-47's, an assault shotgun, ammunition, $3,000 in cash and an ounce of cocaine.

On March 23, in Colorado, a gunman armed with a MAC-11 assault pistol kidnaped a woman, killed her and her mother, raped another woman, and wounded several other people. And the stories go on and on. In my own State, a Navajo County deputy sheriff made a routine traffic stop. Before he was able to exit his automobile the passenger of the stopped vehicle got out with an Uzi-type weapon and sprayed the deputy's windshield with 24 rounds. Three of these rounds hit the deputy and he died 3 days later.

The stories go on. These are stories that police officers will tell you if you just ask them to come in and talk to you. There just is no end to it.

Let me give a couple of examples, if there is any doubt whatsoever.

Pima County, where I live, near Tucson, AZ, extends to the border. I was Pima County attorney for 4 years before I came to the Senate, and I personally know many of the Pima County law enforcement officers; I worked with them then. Many of them are still around. These officers are facing a growing arsenal of weaponry. They are literally scared to go out on the border because they are going to end up with this type of weapon being shot at them and they do not have the responding firepower. They do not have it yet.

Recently Clarence Dupnick, the sheriff of Pima County, reported that in a 6-week period 30 search warrants were served by his SWAT team and AK-47's were confiscated under each warrant. Each one.

This is out of 30 warrants that were issued by this sheriff alone. An AK-47 was in every one of those arrests.

Last October a Tucson police officer tried to stop a car for speeding and found himself in a chase. As he began to close in on the speeding car he saw the barrel of the semiautomatic rifle coming out of the car window. The officer reported that gunmen "blew out the back window, and he started shooting, maybe 50 rounds or so. You could see that muzzle flashing." The car hit a curb and crashed into a median. Both gunmen fled, one carrying an AK-47 and the other carrying an AR-15. As the officer would later describe the shootout, "It was luck

that I could be here today to talk about it."

Mr. President, our law enforcement officers should not have to rely on luck. They should not have to rely on going into their combat with that kind of weapon against them.

There are those who contend these types of firearms serve no legitimate use. Frankly, I am not convinced that they do serve a legitimate use. When one considers the awesome destructive power of these weapons, there increasing use by drug dealers, and the threat they pose to law enforcement officers and civilians alike, it becomes painfully clear the Congress must act to do something to curb this carnage that is happening to our law enforcement.

Proliferation of these assault weapons has had an incredible impact upon our law enforcement. The cop on the beat is heavily outgunned.

Dewey Stokes, who is the president of the Fraternal Order of Police, the largest police organization in the United States, says increasingly this battle finds the cop on the beat heavily outgunned. The superior firepower now possessed by the criminal elements in many of this Nation's cities has already taken an enormous toll of our police officers.

These are the words from the men and the women who have to face this situation every day. They are the ones who have to fight the drug war for America.

The assault weapon rage has indeed caused our law enforcement officials to make some adjustments. The FBI is a perfect example of how the proliferation of assault weapons has changed the terms of the war that they have to conduct.

FBI Director William Sessions commented at a recent hearing that the assault weapon problem has caused the FBI to initiate a search for a new standard issue firearm, a firearm which, as he puts it, would restore the advantage in firepower and reliability to the agent over the armed criminal.

Mr. President, I have always been and will continue to be a strong supporter of the constitutional right to bear arms. My voting record is very clear in this body and on the Judiciary Committee. The NRA has been kind enough to single me out as the legislator of the month for my participation in preserving what they consider to be the second amendment rights of the Constitution, and I am pleased to have that award, or that compliment.

Because of my commitment to the second amendment and my opposition to legislation which infringes on this constitutional right, I have had the full support of the NRA over the 13 or 14 years that I have been in the Senate.

When I ran for reelection in 1988, I was strongly endorsed by the NRA and other organizations like that. I say now as I have said all along: The bill that we have here, this particular bill before us, and the motion to strike it—that motion is to strike not an antigun bill but an antidrug bill. I am sorry to say the NRA has refused to face reality, the reality of what the assault weapon is doing to the officers on the street.

When I first started looking at this issue I asked the NRA to help out, see if they would help draft some legislation that would deal with this problem and assist the law enforcement community and grant them some kind of protection based on getting rid of some of these weapons. I unfortunately could not get them to move on it because of their beliefs, and they have every right to those.

It is time for us to do something. This is an antidrug bill that, to me, is overdue. I approach this very cautiously because I do not want a bureaucracy or the Federal Government telling me what weapon I can own or use. This does not do that.

By using the tactic the NRA has used, it is succeeding in alienating, in my judgment, its closest friend in the fight the NRA likes to place itself in—that is against the criminal element. The NRA has refused to participate in a constructive manner except to say let us have more enforcement, and we will get into that later.

The NRA support is clearly not a litmus test, in my judgment. I think every Member here has to stand on his own and not be worried about what the repercussions are. If my colleagues are looking for the political side of it, the polls strongly support this particular part of the bill, and the entire bill for that matter.

I am not the only politician in Arizona, I might say—as conservative as my State is—who is speaking out on the assault weapon issue. Former Senator Barry Goldwater, who has been a member of the NRA for years and who is seldom, if ever, accused of harboring a liberal thought, was quoted in the Washington Post last year regarding semiautomatic weapons. Let me read to my colleagues what our former colleague said:

> I'm completely opposed to selling automatic rifles. I don't see any reason why they ever made semiautomatics. I've been a member of the NRA; I collect, make and shoot guns. I've never used an automatic or semiautomatic for hunting. There's no need to. They have no place in anybody's arsenal. If any SOB can't get a deer with one shot, then he ought to quit shooting.

I take a little bit more conservative approach than my former colleague, Senator Goldwater, and I suggest there are legitimate reasons to own semiautomatic firearms. I also believe it is acceptable to hunt deer, even if it takes two shots.

The point I am making is that the assault weapon proliferation and the change it has caused in the streets of America should make us all rethink our positions on the semiautomatic assault weapon issue. It is not only law enforcement, however, who is concerned about the destruction and death caused by assault weapons. This bill is also supported by the American Medical Association, the American Public Health Association, and many, many others.

Recently we have observed a disturbing trend. It was quoted at a hearing on this bill. A surgeon from a Chicago hospital testified, and she said:

> Recently we have a very disturbing trend. Victims are now coming in with multiple bullet wonds through many different parts of their bodies; in shock, barely alive; many times it is difficult to decide which organ system to address first.
>
> It is not atypical to have several such victims come in, especially on a Friday or Saturday night, and require immediate life-saving operations.

(Mr. DIXON assumed the chair.)

Mr. DECONCINI. Mr. President, I have been in contact with law enforcement groups across the country, as well as the Bureau of Alcohol, Tobacco, and Firearms. The statistics are frightening, Mr. President. According to the BATF, there has been a tremendous surge in requests to import semiautomatic assault weapons.

For example, in 1986, the BATF approved the import of 4,000 AK-47 assault rifles. By 1988, that figure had increased tenfold to 44,000. And in 1989, the BATF received requests to import over 113,000 AK-47 assault rifles.

The National Drug Policy Coordinator, William Bennett, cited these figures last year when he announced the administration decision to ban the importation of certain semiautomatic assault rifles. The NRA and others oppose this. They said, "You are going to destroy and take away our constitutional right."

Nobody has lost any constitutional right by the banning of those guns. I submit the administration has made a good start, but it has not gone far enough. Not only are imports of assault weapons that are not banned on the rise, but domestic manufacture is also increasing to make up the particular problem.

A TEC-9, one of the most popular assault guns in the country and traced to one out of every five crimes involving an assault weapon, is being produced at the rate of 3,000 per month. This is double the number being manufactured last year at the same time.

Not only has the actual number of these weapons increased at an alarming rate, but there has been a dramatic increase in their use in the commission of crime. According to the BATF, the number of assault weapons linked to crime has doubled over the last 3 years. It is also the general consensus of law enforcement officials that the

ever-increasing presence of assault weapons in the illicit drug trade and other types of crimes places the safety and every life in America in danger.

A 1989 study by the Washington Bureau of Atlantic Journal Constitution provided a case in point. The study tabulated trace request forms filed with the Bureau of Alcohol, Tobacco, and Firearms. According to the study, assault weapons constituted approximately one-half of 1 percent of the over 200 million privately owned firearms in the United States. However, these weapons were used in 1 of every 10 crimes resulting in firearm traces last year.

The bottom line is that an assault weapon is 20 times more likely to be used in the commission of a crime than a conventional firearm—20 times more. In response to the concerns voiced by the law enforcement groups and BATF, I introduced the Antidrug Assault Weapon Limitation Act, known as S. 747.

This bill is concise. It is a direct attack on the spread of assault weapons and their use in the commission of violent and drug-related crimes. The bill is tightly focused on nine specific types of assault weapons that have emerged as the firearm of choice of violent criminals.

By focusing on these nine specific types, I have attempted to avoid general categories which might inadvertently include legitimate hunting and sporting firearms.

The bill is very straightforward. It will prohibit future imports of five imported types of firearms and make that the law, not subject to the President's change by Executive order or the Treasury, and the future manufacture of four domestic semiautomatic weapons. It will not prohibit legal ownership of the listed firearms, provided they are legally owned at the time the bill is enacted.

In addition to barring future imports or manufacture of the specified firearm, the bill imposes tough penalties for the use of an assault weapon in the commission of a violent or drug-trafficking crime. Specifically, any person using or carrying an assault weapon in the commission of one of these crimes will face imprisonment of up to 10 years in addition to the punishment provided for the commission of the actual crime.

The bill also imposes new penalties for the theft of firearms and the smuggling of firearms while engaged in drug trafficking or violent crime. The bill also provides a mandatory revocation of a supervised release if the defendant is found in possession of a firearm and the court has provided as a condition of release that the defendant refrain from possessing any firearm.

This bill also contains two additional provisions that should have the support of all of us who are not only concerned about our second amendment rights, but also about doing something to stop the maiming and killing of our citizens—our children and our police officers—with these drug guns.

It calls for an 18-month study by the Attorney General to determine the effect of the provisions of the act on violent and drug trafficking crimes. The bill also has a sunset provision that ends the prohibition on these assault weapons after 3 years. This should provide us with sufficient time to see whether or not this works.

I do not stand here, Mr. President, and make representations that this is the answer to the war on drugs. What I say is let us try something that is not going to infringe on anybody's constitutional rights if they already own the gun. It is only going to go after those drug dealers that would have one of these guns and not properly get the form.

I do not believe this is a panacea, and I do not support more restrictive versions because I think it is worth trying this to see how it works.

We have to attack the drug war, in my judgment, on all fronts. But I will not stand up here and claim that this bill is the complete solution, because it very well may not be and probably is not. But in 18 months, we are going to have a comprehensive study of all crimes in the country in which firearms were involved, and we will see whether the banning of this saved some lives and actually had some good benefits to our law enforcement.

In our war against drugs, we have asked for all groups and sectors of America to join us and to make some sacrifice. I am requesting the gun manufacturers to join us. I hope they will take this bill, if it is passed with this provision in it, as a message that we can no longer tolerate our law enforcement officers being out-gunned by drug traffickers with assault weapons manufactured right here in the United States.

I believe this bill represents a reasonable approach to the issue that we are talking about here; and that is, semiautomatic assault weapons and the constitutional right to bear arms, and to do something about the war on drugs.

The second amendment cannot be said to sanction destructive violence by drug dealers and violent criminals. Daryl Gates, chief of police of Los Angeles, probably described how assault weapons should be treated under our second amendment about as well as anybody I know when he said the following:

> A reasonable right to bear arms does not mandate that weapons designed and built for the express purpose of killing human beings on battlefields be made available to the general public.

That is the chief of police of the city of Los Angeles, a conservative law enforcement official.

I am willing to try this measure. I think it is worth the effort, and I hope my colleagues will look at it from the standpoint of an attack on the war on drugs.

In order to stem the flow of drugs and arms into the country, a Federal law, in my judgment, is required. State laws banning assault weapons are simply ineffective if the weapons can be easily purchased in a neighboring State. I strongly urge everyone to look at this from a different perspective and not from the perspective of the fear and intimidation of what the voters are going to say, because the voters are going to support this.

Mr. President, I believe strongly in our second amendment right to bear arms, but I also believe that the right of our citizens to life is the most precious right we have. So I urge the defeat of the amendment offered by the Senator from Utah.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I think it needs to be pointed out to all of our colleagues that five out of the nine guns the distinguished Senator from Arizona is talking about are already banned by the President of the United States. Manufactured offshore, he has banned them from this country. There is no reason to have them in this bill. The other four are domestically manufactured.

Frankly, the letters and the comments that I get from my fellow Utahans, and I think from people all over this country, basically consist of this: we do not want the Federal Government telling us honest, law-abiding people that we cannot own some of these guns as collectors. That is the way a lot of them own them. A lot of them buy them because they collect guns, they love guns, and they want to have them in their arsenals or in their museums or in their gun cabinets or whatever.

Second, a lot of them like to plink with them and like to go out and target shoot with them. These guns are basically good guns. They can shoot with them. And they have lots of fun doing it, and they do it in a law-abiding decent, honorable way.

Third, these guns are not generally used for hunting, so that is a red herring. Frankly, I do not know of any of these pistol-type guns that are used for hunting. They are used for collections; they are used for plinking; they are used for target practice; they are used for sporting purposes and gunnery range purposes.

Fourth, why take these rights of ownership away from our honest, law-abiding citizens? That is not going to

stop the criminals from getting them. If it did, maybe that would be a good argument, but it does not. I might add that the criminals are going to use those guns whether or not they are sold in this country. They are going to be illegally used. That is always the case.

The way to solve this problem is through tougher criminal enforcement procedures. That is the way to solve this problem.

My distinguished colleague from Arizona referred to a Utah poll regarding this bill. I am not sure how the questions in that poll were phrased, but poll questions are poll questions. You can make them come out almost any way you want. But I do know that my constituent mail from Utah is overwhelmingly against what he wants to do and opposed to this bill.

Furthermore, during a recent series of meetings that I conducted in my home State, I found that most of my constituents are against this. Now, true, there are always some who are for this type of legislation. But our experience in the past is, if you pass legislation like this, it is not going to hurt the criminals; it is not going to stop criminal use of weapons; it is going to hurt decent, honest, law-abiding sports people. Regardless of what the distinguished Senator from Arizona says as to the narrow scope of this particular part of this bill, it is still an infringement on the second amendment rights of American citizens to keep and bear arms.

The only citizens who are going to be affected by the type of language which the distinguished Senator from Arizona is advocating are those who comply with the law. They are the only ones who are going to be affected, because criminals will not be prohibited from getting the listed firearms, and they for sure are not going to comply with the requirements of Form 4473 in this bill. They are not going to that. Only law-abiding American citizens do that, and, if they do do it and they make a mistake, they will find themselves hauled into Federal court with all of onus of that, with the need to attorneys, and all of the might of the honorable Federal Government arrayed against them, and they will find themselves being fined for $1,000 and maybe even sentenced to 6 months in jail. That is the way they have done it in the past.

That is one reason the distinguished Senator from Idaho and myself and others worked so hard to get the Firearm Owners Protection Act, commonly known as the McClure-Volkmer bill, named after my friend from Idaho, because we were sick and tired of this kind of legislation that abuses the decent, honorable sports people of this country. That is what happens.

The way to reduce violent crime in the streets is to put the criminals in jail. We need to enforce firearm statutes that are already in place, and we are not doing that. So why abuse, through the type of legislation, decent, honorable, law-abiding citizens when five of these are already banned by the President and the other four are domestically manufactured? I have to say many people love to have these because they collect them. It is a legitimate thing for them to do. Many of them love to have them because they love to shoot them in target practice. I do not know if anybody hunts with them; maybe there are some. But that is their right. We can make all the ridiculing remarks we want. We are talking about sports people in this country. They are not criminals. This type of legislation implies that some of them might be.

We have to fight that, and I hope our colleagues on both sides will listen to this important debate. It is a question not to criminal activity on the part of honest people; it is a question of whether or not we are going to continue to pour it on the honest people while ignoring the criminals who are never going to comply with this legislation anyway.

I yield 15 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 15 minutes.

Mr. GRASSLEY. Mr. President, I supported the motion to table the amendment by the Senator from Ohio [Mr. METZENBAUM].

I also support the motion to strike the gun control provisions in the crime bill, that have been authored by the Senator from Arizona [Mr. DECONCINI].

I opposed similar provisions in the Judiciary Committee, of which I am a member.

Aristotle once observed that law is reason free from passion.

The senseless deaths of innocent individuals make it easy for us to be inclined to create laws as a reaction to our anger and grief—to legislate by passion instead of reason.

However, we can only serve the best interests of all Americans if we set aside our anger and employ our wisdom.

There are 60 to 65 million firearms owners in the United States. There are around 200 million firearms in existence.

Of the approximately 200 million firearms, less than two-tenths of 1 percent are misused.

Or, as a constituent of mine from Spencer, IA, noted: 99.8 percent of the firearms in our country today are used properly.

I believe that the second amendment is the "forgotten civil right," and is every bit as important as any right guaranteed by any other amendment in the bill of rights.

Many Americans, including many Iowans, desire firearms for legitimate uses such as personal protection or for sporting purposes.

I find it very curious that some—who advocate an ever expanding and broad interpretation of the various individual rights enumerated in our constitution—are often quite willing—indeed, some can't wait—to constrict, narrow, or limit the right to keep and bear arms enumerated in the second amendment.

I believe that our deliberations should reflect efforts to protect that right—as we have sworn to protect any other portion of the constitution—rather than infringe upon it.

On March 29, 1989, Paul Craig Roberts, a nationally syndicated columnist, observed that "our leaders invariably blame crime on inanimate objects, such as guns, or law abiding citizens, otherwise known as 'society'. The criminal himself is seen as a victim of society."

Legislation that bans guns deflects the responsibility of both the criminal and the legal system, to those who sell or import guns. These individuals become the scapegoat.

Firearms should be controlled only if there is sufficient evidence that firearms currently held legally by individual, law-abiding citizens pose a serious threat to the general safety and welfare of the public.

An article in the San Diego Union earlier this year found that so-called assault weapons comprise less than 1 percent of the 4,800 firearms that the San Diego Police Department confiscated last year.

Further, in the District of Columbia—which has been labeled the "murder capital" and the "drug war zone" of America—police rarely encounter an assault weapon, according to a Washington Post article of March 6, 1989.

I maintain that it is not enough to dislike the personal ownership of classes of firearms—nor is it enough to believe that people should not own firearms. Troublesome social issues are not solved by compounding the problem with ill-conceived legislation.

First, there is a lack of hard evidence in the form of statistics that proves exactly where firearms fall within the spectrum of weapons used in crimes of violence.

Nearly all of the pronouncements regarding the danger posed by semiautomatic firearms is based upon anecdotal information.

The Uniform Crime Report for 1987 indicates that rifles—including so-called assault rifles—are used in only 4 percent of homicides committed in the United States.

There is no evidence to support the well-worn phrase that "there is a full-scale war in our city street that is

being fueled by these assault weapons".

Second, attempts to attach a definition to assault weapons are flawed.

The measures we are presently considering would encompass at a minimum 3.4 to 4 million firearms, plus millions more if the language: "identical or nearly identical to an assault weapon," is vigorously enforced.

Without an adequate means of identifying what attributes constitute an assault weapon, the supporters of banning these firearms are reduced to relying on a list of banned firearms, based on a manufacturer's name or by terminology that refers to a firearm's model type.

This is a sure prescription for an administrative nightmare.

And, since there are at least 3.5 to 4 million semiautomatic assault rifles—that look like their military counterparts in private hands—that would fall under the explicit terms of the proposed legislation, the documentation and tracking of such weapons would be a major administrative undertaking, to say the least.

Third, the perception of fairness in the law is a keystone for public support of the social contract between the Government and the governed.

The legitimate owners of firearms in our country are increasingly concerned with the debate over firearms that seems to be going on without the facts.

Many of these law-abiding citizens believe that a constitutionally guaranteed right—the second amendment's right to keep and bear arms—is being treated as a less important right than others guaranteed in the Constitution.

These folks agree that there is a crisis in the country regarding firearms, but the crisis involves the abuse of firearms by criminals—not by law-abiding citizens.

I share these very real concerns of these law-abiding American citizens.

I believe that one common thread that unites many of the crimes committed in America today is: Not the type of weapon used, but the person who commits the crime.

The source of interpersonal violence in our society is not the weapons used, but the lack of respect for our fellow human beings, and an absence of concern about the consequences of our actions.

In fact, statistics show that the recidivism rate of those incarcerated in many States is between 60 to 80 percent.

Such evidence suggests to me that gun control does not translate into crime control.

A gentleman from Des Moines wrote me to express his view—one that I agree with—that the blame for crimes should be placed on the individual pulling the trigger, and not on the particular object he or she chooses to use during the commission of the crime.

I cannot agree that gun control legislation protects the residents of our inner cities or rural America.

Therefore, efforts that concentrate on punishing the actions of individuals—rather than outlawing the possession of individual firearms—would seem to me to be more effective and appropriate.

We need to put our criminals behind bars and keep them there. We cannot allow individuals who commit crimes that involve the use of a firearm to negotiate their sentences with prosecutors.

In the meantime—regarding the measures before us—many have tried, but no one has been able to find a mechanical difference that distinguihses a so-called semiautomatic assault weapon, from a semiautomatic hunting rifle. No one has even been able to give a practical definition to the term "assault weapon."

Yet, some are willing to establish a precedent that will group all of these firearms together and classify them as illegal assault weapons.

By attempting to address a problem with the wrong solution, we may be creating another situation that is even more deadly.

A high school teacher from Cresco, IA, called me to express his concerns about the proposed legislation that would ban some semiautomatic firearms. He contends that many of his high school students enjoy hunting. He is afraid that if their firearms are outlawed, out of boredom, they could turn to drugs.

Now certainly, boredom from a lack of something to do is absolutely no excuse to turn to using drugs, or committing any kind of crime for that matter. I am absolutely adamant in condemning such behavior.

However, I do not consider a high school teacher to be an irresponsible member of the community.

I think he is only trying to relay his realistic assessment of the potential results of such a gun-ban law.

I believe that his opinion should be given great consideration. I believe that we should be very cautious about the potential consequences of our actions regarding this issue.

In conclusion, freedom from fear is one of the traditional four freedoms.

The President has called for a partnership among the Federal Government and the cities and States to take back the streets by taking criminals off the streets.

The law-abiding citizens of America must not only be safe, they must feel safe.

The right to keep and own firearms is no license to harm others; therefore, the individual must be held accountable for any harm caused to others, with no excuses—not the instrument used to cause harm.

Once again, I urge my colleagues to support the real, anticrime provisions contained in the Thurmond substitute and to oppose the anticrime firearms provisions of S. 1970.

Mr. President, I yield the floor.

The PRESIDING OFFICER. I inform the managers on both sides that the distinguished manager on behalf of the committee has 61 minutes, 12 seconds, the distinguished manager on behalf of those advocating the motion to strike has 61 minutes and 8 seconds, 4 seconds difference. Who yields time?

Mr. McCLURE. Mr. President, I yield to the Senator 15 minutes.

The PRESIDING OFFICER. The Senator from Idaho yields 15 minutes to the Senator from Alabama.

The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in support of a motion to strike title IV of S. 1970. I believe that this provision, which prohibits law-abiding citizens from purchasing certain semiautomatic firearms and regulates the ownership of those firearms already owned by citizens, is a violation of the second amendment in the Bill of Rights.

First and foremost in my determination to support the sriking of title IV is my concern for those Americans residing in rural areas. In most cases, it is highly unlikely that these citizens have ready-access to police protection. In these situations, a firearm could be their only means of security. At least that is their perception and belief.

While the second amendment has been controversial in recent times, it was certainly clearer to the framers of the Constitution. I would ask my colleagues to read the December 1989 issue of the Yale Law Journal, specifically an article by Prof. Sanford Levinson entitled "The Embarrassing Second Amendment." While I do not agree with everything Professor Levinson writes, his thoughts that firearms are protected by the Constitution are strong. He may be right that military-style semiautomatic firearms may be the most clearly protected firearms of all.

I do not intend to review all of the literature regarding the private right of citizens to keep and bear arms. Yet the history is clear, and it clearly weighs against the type of action we are today contemplating.

In the Federalist, No. 46, James Madison predicted that encroachments by the National Government would provoke "plans of resistance" and an "appeal to a trial of force." He wrote that a standing army "would be opposed [by] a militia amounting to near half a million citizens with arms in their hands." Alluding to "the advantage of being armed, which the Americans possess over the people of

almost every other nation," Madison continued:

Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms.

By refusing to strike title IV, this body would send a message to citizens throughout the country, that we are afraid to trust them with certain semiautomatic firearms.

The framers were explicit in insisting that American citizens would be able to possess military-type small arms. Noah Webster, the influential federalist of dictionary fame, stated:

Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed, and constitute a force superior to any band of regular troops that can be, on any pretense, raised in the United States.

What became the second amendment was seen as embodying the proposal drafted by Samuel Adams:

That the said constitution be never construed to authorize congress * * * to prevent the people of the United States, who are peaceable citizens, from keeping their own arms * * *.

THE SUPREME COURT AND THE SECOND AMENDMENT

Some allege that the second amendment is a collective right, and that it has been so interpreted by the Supreme Court. Mr. President, this is an inaccurate statement.

The U.S. Supreme Court has analyzed the second amendment as guaranteeing an individual right to keep and bear arms— particularly arms that could be used for militia purposes. It has also held that all guarantees of the Bill of Rights are entitled to respect, and must be interpreted consistently with the intent of the framers. A ban on transfer or possession of semiautomatic firearms would be inconsistent with second amendment jurisprudence as developed by the Supreme Court.

In *United States* v. *Verdugo-Urquides* [108 L.Ed. 2d 222, 232-3, 10 S.Ct. 1056, 1060-61 (1990)], the U.S. Supreme Court makes clear that the second amendment protects the rights of all law-abiding persons. The Court stated:

"The people" seem to have been a term of art employed in select parts of the Constitution * * *. The Second Amendment protects "the right of the people to keep and bear arms," and the Ninth and Tenth Amendments provide that certain rights and powers are retained by and reserved to "the people." * * * While this textual exegesis is by no means conclusive, it suggests that "the people" protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community.

The other opinions in the case did not dispute the above. Concurring, Justice Stevens stated that "aliens who are lawfully present in the United States are among those 'people' who are entitled to the protection of the Bill of Rights. * * *" [108 L. Ed.2d at 241].

During Reconstruction, the Court stated that the rights of the people "peaceably to assemble for lawful purposes" and "of bearing arms for a lawful purpose" were not "granted" by the Constitution because they existed long before its adoption [*United States* v. *Cruikshank*, 92 U.S. 542, 551, 553 (1876)]. The amendments which recognize these rights serve to "restrict the powers of the national government * * *" [Id. at 553]. A later opinion again recognized "the right of the people to keep and bear arms" and repeated that the second amendment is a limitation "upon the power of Congress and the National government * * *" [*Presser* v. *Illinois*, 116 U.S. 252, 265 (1886). *Miller* v. *Texas*, 153 U.S. 535, 538 (1894) repeats that "the restriction of" the second and fourth amendments operate "upon the Federal power."].

At the turn of the century, the Court wrote of "the freedom of speech and of the press" and "the right of the people to keep and bear arms" that "the law is perfectly well settled that the first ten Amendments to the Constitution, commonly known as the Bill of Rights, were not intended to lay down any novel principles of government, but simply to embody certain guarantees and immunities which we inherited from our English ancestors * * *" [*Robertson* v. *Baldwin*, 165 U.S. 275, 281-2 (1897)].

In *United States* v. *Miller* [307 U.S. 174 (1939)], the Court avoided determining whether a short barrel shotgun had to be registered under the National Firearms Act in order to be consistent with the second amendment. The district court had declared the Act unconstitutional as in violation of the second amendment, and thus no evidence was in the record that such a shotgun was an ordinary military arm. The Supreme Court remanded the case for fact-finding based on the following:

In the *absence of any evidence* tending to show that possession or use of a "shotgun having a barrel of less than eighteen inches in length" at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is *not within judicial notice* that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense. [*Aymett* v. *State*, 2 Hump. 154, 158 (307 U.S. at 178)].

Whether a semiautomatic firearm today is ordinary military equipment or could contribute to the common defense should be within judicial notice, but is at a minimum a factual issue which is easily resolved in the affirmative by noncontrovertible evidence. The Miller court did not suggest that the possessor must be a member of the militia or National Guard, asking only whether the arm could have militia use. The private, individual character of the right protected by the second amendment appears to have been unquestioned.

Referring to the militia clause of the Constitution, the Supreme Court stated that "to assure the continuation and render possible the effectiveness of such forces the declaration and guarantee of the Second Amendment were made." [307 U.S. at 178]. The Court then surveyed colonial and State militia laws to demonstrate that "these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time." [307 U.S. at 179].

I will now read from the Yale Law Review Journal:

Returning, though, to the question of Congress' power to regulate the keeping and bearing of arms, one notes that there is, basically only one modern case that discusses the issue, *United States v. Miller*,[82] decided in 1939. Jack Miller was charged with moving a sawed-off shotgun in interstate commerce in violation of the National Firearms Act of 1934. Among other things, Miller and a compatriot had not registered the firearm, as required by the Act. The court below had dismissed the charge, accepting Miller's argument that the Act violated the Second Amendment.

The Supreme Court reversed unanimously, with the arch-conservative Justice McReynolds writing the opinion.[83] Interestingly enough, he emphasized that there was no evidence showing that a sawed-off shotgun "at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia." [84] And "[c]ertainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense." [85] *Miller* might have had a tenable argument had he been able to show that he was keeping or bearing a weapon that clearly had a potential military use.[86]

Justice McReynolds went on to describe the purpose of the Second Amendment as "assur[ing] the continuation and render[ing] possible the effectiveness of [the Militia]." [87] He contrasted the Militia with troops of a standing army, which the Constitution indeed forbade the states to keep without the explicit consent of Congress. "The sentiment of the time strongly disfavored standing armies; the common view was that adequate defense of country

[82] 307 U.S. 174 (1939).

[83] Justice Douglas, however, did not participate in the case.

[84] *Miller*, 307 U.S. at 178.

[85] *Id.* at 178 (citation omitted).

[86] Lund notes that "commentators have since demonstrated that sawed-off or short-barreled shotguns are commonly used as military weapons." Lund, *supra* note. †, at 109.

[87] 307 U.S. at 178.

and laws could be secured through the Militia—civilians primarily, soldiers on occasion." [88] McReynolds noted further that "the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators [all] [s]how plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense." [89]

It is difficult to read *Miller* as rendering the Second Amendment meaningless as a control on Congress. Ironically, *Miller* can be read to support some of the most extreme anti-gun control arguments, e.g., that the individual citizen has a right to keep and bear bazookas, rocket launchers, and other armaments that are clearly relevant to modern warfare, including, of course, assault weapons. Arguments about the constitutional legitimacy of a prohibition by Congress of private ownership of handguns or, what is much more likely, assault rifles, might turn on the usefulness of such guns in military settings.

Some common military firearms from the time Miller was decided to the present include the M-1 Garand and M-1 carbine semiautomatic rifles; and the M-2 carbine, M-14, and M-16 automatic rifles; 12 gauge semiautomatic and pump shotguns; and .45 caliber and 9 millimeter semiautomatic pistols.

While it has not discussed the second amendment in any detail since Miller, the Supreme Court has recently denied that some Bill of Rights freedoms "are in some way less 'fundamental' than" others. "Each establishes a norm of conduct which the Federal Government is bound to honor—to no greater or lesser extent than any other inscribed in the Constitution. Moreover, we know of no principled basis on which to create a hierarchy of constitutional values * * *" [*Valley Forge College* v. *Americans United,* 454 U.S. 464, 484 (1982)].

After quoting the first amendment, the Court has referred to "the equally unqualified command of the second amendment: 'the right of the people to keep and bear arms shall not be infringed.'" [*Konigsberg* v. *State Bar of California,* 366 U.S. 36, 49 n. 10 (1961)].

The framers intended to "safeguard fundamental values which would far outlast the specific abuses which gave it birth." [*United States* v. *Chadwick,* 433 U.S. 1, 9 (1977)]. Moreover, constitutional protections for physical objects—such as the press, arms, and houses—are not frozen into colonial technologies:

We may asume that the framers of the Constitution * * * did not have specifically in mind the selection and elimination of candidates for Congress by the direct primary any more than they contemplated the application of the commerce clause to interstate telephone, telegraph and wireless communication, which are concededly within it. But in determining whether a provision of the Constitution applies to a new subject matter, it is of little significance that it is one with which the framers were not familiar. For in setting up an enduring framework of government they undertook to carry out for the indefinite future and in all the vicissitudes of the changing affairs of men, those fundamental purposes which the instrument itself disclosed. [*Tashjian* v. *Republican Party of Connecticut,* 479 U.S. 208, 226 (1986)].

Mr. President, in reviewing all of this, I feel that the argument that title IV is unconstitutional has much merit.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Alabama yields the floor.

Who yields time?

The Senator from Arizona is recognized.

The senior Senator from Arizona.

Mr. DECONCINI. Mr. President, I yield 5 minutes or whatever the Senator from Nebraska would like.

The PRESIDING OFFICER. For the information of the managers, the Senator from Arizona has 40 minutes and 54 seconds; the Senator from Utah has 43 minutes and 41 seconds.

How many minutes are yielded to the distinguished Senator from Nebraska?

Mr. DECONCINI. I yield the Senator from Nebraska 5 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. KERREY. Mr President, I do rise in support of the position of the Senator from Arizona in opposition to striking this law provision. Before I comment and describe why, let me say that in the short and happy time that I have been a Member of this body I have heard on repeated occasions that what we need in the United States of America are people who will disregard public opinion and simply stand and say what they believe is right; and why is there not more of that, particularly in the Senate, I have heard it said.

I think we have an example of that tonight. It is not a popular position in Arizona; it is not an easy position for a westerner to take. I must confess that part of the reason that I come to the floor in support is that I trust that the Senator from Arizona thought this through very carefully and that he believes in it very much. He fought in the committee for it. He thought it through very carefully and he runs a great deal of risk. The next time some journalist or some observer of this body laments the absence of leadership, people willing to stand upon principle, let it be said that the Senator from Arizona did that here today.

Second, let me also say that I have a clean slate here in this venture since the NRA opposed me in 1982 when I ran for Governor and again in 1988 saying incorrectly that I was antigun and against collecting guns. So I have a clean slate. I have a great deal of admiration for the educational side and almost none for the political side. So I can look at this issue without being terribly concerned that anything worse than what happened to me in 1982 or 1988 will happen if I choose to put myself before the voters again.

I being my analysis of this by saying it is not without precedent that we do in fact take away at times in a measured way the freedom of people. I believe we are doing that in this case. I have listened to people say that we are not, but in fact we are. There is no question. I have friends who own some of these weapons and they have purchased them for the purpose of target shooting.

They purchased them for perferctly legitimate reasons. And I understand that, in fact, I am, in supporting this legislation, restricting their freedom.

But I also believe in the doctrine of relative rights. My freedom is not absolute. The Chair will cut me off in 5 minutes, for example. I do not have the right to stand and say anything I want, or to do anything I want. I measure my freedom against the freedom of other people and their capacity to live with order and protection.

I have heard it said all we are simply doing is letting people who were in the service do the same things on the private side they did when they were in the service. I listened to Gary Anderson of the NRA, a man whom I respect a good deal, say there were a lot of people who fired the AR-16 in the service, and therefore on that principle we should permit them to fire it outside of the service. It is a persuasive argument.

However, when I was in the service, I enjoyed firing the light antitank weapon, and I was pretty good at it. And I enjoyed throwing a grenade or two when I had the opportunity to do that. But you do not give me the opportunity to do that on the weekends here in Washington, to go out and find a field where I can enjoy firing a law or two, as I did fire a law.

I am concerned that we provide an exemption for law enforcement. I must tell the Chair, I believe one of the reasons the second amendment is there is in fact the Founding Fathers were concerned about a government so much having the right to have arms. They wanted to make sure they preserved that right for themselves. And to preserve the right to organize militias, as well.

I have concluded in the end that the protections are sufficient that the Senator from Arizona has provided us, particularly the waiting period, particularly saying we have a 3-year sunset provision in this, we have an 18-month study to evaluate the efficacy of the new law, and particularly, since I believe the Senator from Arizona is

[88] *Id.* at 179.
[89] *Id.*

very concerned about the paperwork and the bureaucracies of Government and what it might require of people to conform to this law. I see a real and present danger, particularly with law enforcement people, as they try to control the scourge of drugs in this country.

With several of these weapons I have no difficulty at all saying they ought to be outlawed. The fundamental question I had at the beginning and that I still have is: Will this work? My opposition to previous gun control measures has been based upon my belief that they would not work. This one I believe has a chance, in fact, of improving public safety, of decreasing unnecessary killings in our cities and in our towns. And, as a consequence, I am willing to roll the dice and run a bit of a risk.

We will be denying some freedom to the American people. Make no mistake about that. But make no mistakes as well that there were sufficient precedents for us doing that before, for the purpose of protecting order and for the purpose of establishing a more safe place for all to live.

Finally, I say again, I believe the Senator from Arizona should not just be commended for fighting this battle in the face of great opposition, not just supported for the thoroughness with which he has examined this issue, but he should be pointed to with pride the next time the idle observer of this body concludes that there is no one around with the courage to stand up on principle and declare their beliefs.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Arizona.

Mr. DECONCINI. I will yield to the Senator from Kansas, if she will indicate how much time she would like.

Mrs. KASSEBAUM. I believe, Mr. President, 5 minutes.

Mr. DECONCINI. I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 minutes.

Mrs. KASSEBAUM. Mr. President, I rise not as a legal scholar or a lawyer. I rise as a mother of sons who like to hunt. I also have never believed that banning guns would solve our crime problem. But I rise, I hope, with some—at least from my own perspective—common sense on this particular issue at this time.

I, like all of my colleagues, I am sure, have received a lot of mail, a lot of phone calls on this particular issue. Most of it, really, has been from people feeling very strongly that, as a matter of fact, they oppose any form of gun control.

On the other side are those who raise questions and are very angry about the brutality and the bloodshed that they believe is caused by the widespread and easy access to firearms. It is always difficult to find or even seek a middle ground in a debate as polarized as this one becomes.

However, I believe we must carefully weigh the legitimate interests that exist on both sides of this issue. On the one hand, every citizen has a right to safe streets and neighborhoods. On the other, hunters and sportsmen, and I would say all who wish to, have a right to own and use firearms for purposes that no one disputes are legal.

I support that right, even though I believe it is too often overstated as a right to bear almost any firearm that has ever been invented.

The facts, as I see them, are these. Today, drug rings, street gangs, and other criminal elements are able to obtain a host of paramilitary assault weapons with firepower far in excess of police officers on patrol, and often equal to police special weapons teams.

Weapons like the MAC-10 or the TEC-9 are relatively easy to conceal and can spray a large number of bullets with indiscriminate accuracy. The so-called Street Sweeper is a shotgun with a rotary magazine designed to fire off a dozen shotgun blasts very rapidly.

Mr. President, I frankly cannot imagine any legitimate hunting or sporting purpose for this kind of weapon. No hunter, certainly, in Kansas, in his right mind, would go after a deer or a pheasant with this firepower. No sportsman, concerned with highly accurate target shooting, would use such a weapon in a serious match.

I have concluded, Mr. President, that while banning assault weapons of this type would curtail the rights of some gun enthusiasts, the people who would benefit most from widespread, easy access to such weapons are criminal elements who least deserve our consideration.

I believe, therefore, that the limited ban in this bill on nine specific assault weapons is a necessary step to protect the lives of police officers and private citizens. And it seems to me to say a message about what we are about, as citizens of this country.

In many ways, this issue reminds me of the debate 2 years ago on the so-called plastic guns, which could pass through metal detectors without triggering an alarm. These weapons were a real and immediate threat to security at airports and other public facilities. In that case, the National Rifle Association initially opposed any limit on plastic guns, but later agreed to language that addressed the problem of protecting public safety.

I believe the NRA can and should join in a similar effort on this issue. Surely there is no rational reason to allow the continued sale of easily concealed, rapid-fire weapons of the type listed in the DeConcini bill. Surely, there is no public interest in the sale of large magazines that would allow someone to fire off 30 to 40 bullets at a time, which is not part of the language of the DeConcini measure that we are talking about right now, but it is something President Bush originally proposed to restrict.

For the life of me, I cannot comprehend why the National Rifle Association would object to this limited ban on specific assault weapons that could help curtail access by criminals without doing real harm to legitimate gun owners.

I agree with the NRA and others that gun bans cannot solve all of our crime problems. I strongly agree that we must have strict enforcement of existing laws, and I support the tougher penalties and fines called for in Senator THURMOND's proposal.

But I also do not see why these nine weapons should not be banned. Mr. President, I do not think this is the camel's nose under the tent. This is always an argument used when we get into a particular situation and we fear the next step will be something more.

Surely we can bring judgment to bear when we believe a case is well stated and it should be made, and we should stand up and be counted, when we can see at least that it might have some small merit.

I think anyone who has read this bill knows it does not allow anyone, elected or unelected, to ban all semiautomatic weapons or to confiscate every rifle and shotgun in America, as some have stated who have made calls into my office.

Mr. President, I do not think any gun ban should be done lightly, and it was for this reason that I could not support the broader ban proposed by Senator METZENBAUM, which I believe was too sweeping and vague.

But I am weary of propaganda, strong-arm tactics, and threats. It is time for common sense and reason to prevail on this issue. A limited ban on assault weapons is in the public interest. It is time for us to act responsibly and to ban these weapons and also to seek tough enforcement of our laws.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. McCLURE. Mr. President, I thank the Senator from Utah for yielding. I take this time to respond to two or three of the statements made on the floor during the debate so far. Obviously, I am at a disadvantage compared to the Senator from Kansas. I cannot rise as a mother, and that, I hope, is both obvious and irrefutable.

But I can rise as a father and a grandfather, someone who is as concerned about the safety of my family, my community, and my streets as anyone else in this country. So let us not get into the question of whether we care about safety. Let us talk about whether this bill addresses safety, whether, indeed, it does anything at all meaningful with respect to the incidence of violent crime on the streets of our country.

I could not help but notice, as the Senator from Arizona was defending the provision in the bill, that he not once made the distinction between legally owned and illegally possessed firearms. Not once in the entire debate did he recongize the fact that much of the crime, if not most of the crime, committed by drug gangs are by guns that are illegally possessed in the first place or illegally acquired or that are, by themselves, illegal firearms.

I notice that he left on the stand, as he concluded his debate, a picture of an Intratec TEC-9. I believe that is one in his oral argument he referred to as having a threaded barrel so that a silencer could be put on. A silencer is prohibited by current law. It is illegal to have one under current law. So there are those who will pretend by passing a second law, maybe making it doubly illegal, it will be doubly impossible for anyone to use it. How silly can we get with respect to that particular kind of argument? If it is illegal under a given law, then it is a law enforcement question and not a question of, once again, banning it under a separate list for a different reason.

The Senator from Arizona made reference to a Colorado case. He either did not know or conveniently did not say that in that Colorado case to which he had reference, the gun was stolen from a person who possessed it legally and did not use it illegally, and the banning of the purchase of the firearm would in no way have changed the commission of that crime. It was an illegal crime by a mentally deranged person, who stole the gun and used it in that crime rampage. How familiar is that story as we look at the various incidents of crime around this country to which people point with a tremendous amount of emotion, if not reason.

Much has been made in the debate against the Hatch amendment today, which I support, and I think I should state very clearly I do support it. I think the provision in the bill is unwise, unwarranted, and is a further encroachment. It is a camel's nose under the tent, in my view.

Why do I view it that way? Because I watched, and we passed the 1968 Gun Control Act, and, in spite of the very obvious excesses of that bill, it took us nearly 20 years to correct some of the most obvious abuses under that bill. What was the argument against our attempts to correct the abuses? The bill had failed because it did not go far enough.

So we just finished the debate. How long should the list be? Should it be this long or should it be this long? I suspect there are those who voted against the Metzenbaum amendment so they could vote against the Hatch amendment so they could say a list this long is all right, but a list this long is a violation of the constitutional rights, and that way they have it both ways when they go back home. That is not an unfamiliar tactic around here either.

But the fact of the matter is the limitation stated in the DeConcini provision in the bill has almost nothing to do with making guns unavailable to criminals. All of the statistics that I have seen over the years will indicate that most of the firearms used in violent crime are illegally obtained and/or illegally possessed.

There has been quite a lot suggested here today that if, indeed, you ban these from importation or ban them from purchasing in this country, then criminals will not have them. Let me ask my colleagues this: If, indeed, criminals can import tons of illegal narcotics into this country, how are they going to be inhibited from bringing a few more pounds of illegal guns into this country?

Criminals involved in the drug trade will continue to have these firearms. They are doing an illegal activity already. What do they care it may be an illegal activity to have a gun? It is illegal to be selling the drugs. So you only compound their law violations, but you do not inhibit their conduct simply by passing another law that has more effect upon law-abiding citizens than it does upon those criminals.

Much has been said about the police are outgunned on the streets. Let me suggest, Mr. President, that if that were true, the police would have these firearms. The fact of the matter is the police do not judge these firearms to be the most effective to be used by the law enforcement agencies. It has been said several times how many of these guns have been seized, confiscated from drug dealers. As I recall, under the law, a confiscated firearm can be made available to law enforcement officials.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLURE. Will the Senator yield me 3 additional minutes?

Mr. HATCH. I am delighted to yield 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. McCLURE. Mr. President, if, indeed, the police believe these to be superior firearms and are readily available to them at no cost through the confiscated weapons that are seized from the drug dealers, then the police would have them and would be using them. The very fact the police do not carry them normally, do not use them normally, tells us the problem is something other than the fact that these firearms are the source of the problem. It is not true. There are other reasons why police are gunned down in the street, and there is not anyone who is more concerned about that than is the Senator from Idaho.

But let us focus on what produces the crime and how we eliminate that crime. As the Senator from Kansas indicated a moment ago, let us focus on these provisions that are contained in the Thurmond substitute. Let us focus on law enforcement that gets these would-be criminals off the street.

I am disturbed when I read of law enforcement officials who say, "I cannot enforce that law against juveniles carrying these firearms because I simply do not have enough resources," and it is already against the law for them to be carrying a concealed weapon.

I might just say parenthetically to the Senator from Kansas, we are not here talking about easily concealable weapons. That is another issue, a separate, distinct other issue. This has nothing to do with easily concealable. I have not seen anybody limping down the street with an AK-47 stuffed in his pants leg. That just is not a part of the problem we are dealing with.

I do believe there are problems with respect to heavily armed criminals involved in illicit trade, and the police need our help, they desperately need our help, but they do not need the kind of action that is taken here in a congressional decision as to whether or not we ought to limit the rights of an individual in our society trying to exercise in a lawful manner rights which are guaranteed in the Constitution of the United States. This is unwise legislation. In my judgment, it is unconstitutional legislation, and the worst part of it is it has almost no relevance to dealing with the problem that is identified with the sponsors of this provision.

I hope we will adopt the Hatch amendment and get on with the question that is really addressing this body, and that is, how do we deal with violent crime?

Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DeCONCINI. Mr. President, I yield to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I just want a minute to respond to the Senator from Idaho because we certainly agree on the law enforcement provision. When he mentioned the language of the Metzenbaum amend-

ment and why perhaps some voted against it as a screen then to vote for the DeConcini language, I point out when the Senator used the example of the legislation in 1968, which was before my time here, I think the very reasons the Senator mentioned that there were problems with that legislation was that it was not drafted in a way that was precise.

That is why we get frequently into a great deal of difficulty, and it is one of the reasons, as I mentioned, I voted against the language of Senator METZENBAUM, because it was vague.

There were two aspects that were catch-all language, where the amendment states, "all other models by the same manufacturer with the same design", for instance, is not precise. Again, "Any other firearm with an action design identical or nearly identical to an assault weapon specified in this paragraph," and so forth. I think, personally, that is why we do have to be careful. The DeConcini language is much more specific and narrowly drawn. I want to make that point, Mr. President, because I think it is a major distinction among others, between the two approaches.

Mr. McCLURE. Mr. President, will the Senator yield to the Senator from Idaho 1 additional minute.

The PRESIDING OFFICER. The Senator from Utah yields to the Senator from Idaho.

Mr. McCLURE. I thank the Chair. I say to the Senator from Kansas, the 1968 gun control law was not flawed because it was imprecise. It was flawed because it aimed at the wrong target. It attempted to do, in 1968, what this provision attempts to do now. It aimed at firearms, not at criminal misbehavior. That is what was wrong with the 1968 law, and that is why 2 years ago we got some substantial changes made in the other direction.

Mrs. KASSEBAUM. Mr. President, I would just like to say now we are attempting to deal with both, law enforcement and some types of firearms.

Mr. DECONCINI. Mr. President, I want to point out a couple of things. The distinguished Senator from Idaho said that criminals only obtain their guns illegally or something close to that, or most of them.

That just is not the case. Oakland, CA, law enforcement authorities did a study of this and only 12 percent of the 383 assault weapons confiscated between 1986 and 1988 in that jurisdiction were illegally obtained. The remaining 88 percent were purchased legally over the counter. So we are talking about you are not being able to buy these guns over the counter, so they are going to have to steal them if they are going to use these guns, and they have other things to do. Other things include selling drugs.

Then the Senator points out that, well, more enforcement. How often have we heard that argument—well, we just get tough and so more enforcement.

Look at what has happened on the enforcement side. It has not been the administration that has asked for more for enforcement. It has been the Congress that has added more for enforcement. In the Bureau of Alcohol, Tobacco and Firearms, the 1987 request of the administration was for $178.5 million. We appropriated $198.5 million. The Congress said let us do more for enforcement. The administration opposes this bill.

In 1991, the administration is proposing a reduction of 185 staff for the BATF. This cut is being made to offset increased costs of pay.

Mr. President, it just does not wash that this bill is a copout, or whatever you want to call it, to the Metzenbaum bill. The Metzenbaum bill, as the Senator from Kansas pointed out, includes any firearm with an action, that means a firing action, designed identical or nearly identical to an assault weapon specified in this paragraph, which has been redesigned from, renamed, and renumbered or patterned after one of such specific assaults.

So anything identical can be and is included so you are talking about a very widespread bill.

I have the greatest respect for the Senator from Ohio. He has stood on this floor and made splendid arguments. He just has not been able to convince me. That is one of the reasons. I do not want some unelected official to arbitrarily say yes, it is identical or nearly identical so it goes into the category. So there is a great deal of difference between these two bills. I think it ought to be noted.

The Senator from Idaho also says that the police would use these weapons if they thought they were superior. Well, the police are moving to use these weapons because not only are they superior, but it is the only way they can combat these drug dealers.

The FBI is now issuing Uzi's or something similar to that because they have to have the firepower. The border patrol in my State along the southwest border, if they can get the money for them, are going to have, and some of them do have, M-16's.

Why? You ask them. Because they are getting shot at by these things and they are not covering themselves. They know what is superior. They are trying to catch up with the God-awful weapons these drug dealers are using.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GRAMM. Mr. President, I ask the Senator from Utah to yield me 5 minutes.

Mr. HATCH. I will be happy to yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, there are several points I wish to make. I would not speak except we are under a time limit and so we are all going to be here anyway. I think the distinguished Senator from Idaho has spoken very clearly on this subject. If people are listening to the debate and they enter it with two things; No. 1, at least any kind of practical or logical approach to the problem; and, No. 2, any kind of institutional knowledge about the fact that there are probably at least 100 million firearms, as a conservative estimate, owned legally in the United States—we do not know how many are owned illegally—the logic of the Senator is irrefutable. Since we are here anyway, and silence is consent, I want to say a little bit about this subject. First of all, I think it is interesting that as terrible as the assault rifles are, this bill does not propose that we make people turn them in. If they are all this bad, if they are all this dangerous, why are we not going to try to take them up?

Second, Mr. President, does it make sense that we let somebody go out and, with a background check, buy an automatic weapon, but we are going to ban the purchase of semiautomatic weapons?

My point is that the bill is structured not to meet a problem, not to deal with a legitimate threat. If it were dealing with a legitimate threat of automatic and semiautomatic weapons, it would propose taking up those weapons, not just preventing their sales; it would ban the resale and confiscate automatic weapons. In fact, this amendment is set out to deal with a political perception. That is what I would like to focus on.

Mr. President, I never cease to be amazed at the arrogance of government. I never, ever cease to be amazed at the arrogance with which government claims capacity to accomplish things which any reasonable, knowledgeable person knows government cannot do.

Does anybody really believe that the passage of this amendment, or our failure to strike this bill language is going to prevent people that are going to go out and kill somebody, the ability to obtain a weapon to do it? With 100 million firearms in the country, with millions of these kinds of weapons owned legally now, does anybody really believe that anyone who is going to go out and kill somebody in a gangland drug murder is going to be deterred by the fact that the weapon he possesses is possessed illegally?

In fact, as I talk to law enforcement officials around my State, when they raid crack houses or engage in major drug busts, they almost always find

class 3 weapons, automatic weapons, and yet I am not aware that any of those automatic weapons are licensed. And the law says you have to have an FBI background check, and you have to have it licensed, and you have to pay $200 to do it.

So that is a law that is on the books. If it makes you feel good, you can go find a dusty law book somewhere, look at it and feel safe. But the plain truth is the people that want these weapons have them. So what we are really dealing with here is a symptom. The symptom is the fact that people are using firearms to violate the law, and to kill people.

There are really two fundamental ways of approaching that, it seems to me. One is to say let us take the guns away. It is very revealing to me that that is not what is being proposed here. What is being proposed here is sort of a political sham. We will not take the guns away, we will just say you cannot buy legally any new ones.

The other alternative, the alternative that I think has some chance of working, the one I would like to see tried, and the one that at some point during the consideration of this bill I intend to offer—there will be many solutions, and there is nothing magic about mine. But the alternative is to penalize very severely the people that abuse firearms.

That is an amendment that I will offer later in the debate—and I hope we adopt the motion to strike. If we do not, I will offer my amendment as a substitute to this language. If we are successful here I will offer my amendment free standing to the bill.

My amendment is very simple. If you are carrying any firearm, period, single shot or whatever—if you are carrying a firearm while you are committing a drug felony or a violent crime, if you are apprehended, and you are convicted of that firearm violation, no matter what sentence you get for the drug felony, or the violent crime, you are going to do 10 years in prison without parole for possessing the firearm. Second, if you discharge the firearm with intent to do bodily harm, you are going to get 20 years in prison without parole. And, if you kill somebody, you are going to be put to death.

Mr. President, I submit that is going to do a lot more to, one, deter people from carrying firearms while they are out committing drug felonies, or violent crimes. No. 2, it will deter them from using the firearm once they have made the mistake of carrying it. No. 3, if they kill somebody, they are going to be put to death. So we are going to have an effective ultimate deterrent.

If our objective is to respond politically to a concern the public has, then we can do it by the provision in this bill. But if our objective is to deal with the problem, to protect our fellow citizens, to protect our bleeding Nation, the way to do that is by adopting this motion to strike and then impose stiff minimum mandatory sentences, and the death penalty.

I thank the Chair.

Mr. DODD. Mr. President, I rise in opposition to the Hatch amendment. As I do so, I am well aware that this is not the first time this body has debated gun control—nor will it be the last. During the 1960's, the Senate debated legislation to restrict mail-order purchases of firearms, and supporters and opponents of gun control trotted out the very same arguments in use at the present. I can only hope that the current debate will end as the one in the sixties did—with enactment of needed gun control legislation.

My father, the late Senator Thomas Dodd, was the sponsor of that legislation during the 1960's. His support for gun control resulted from his own personal experience in law enforcement. He was a special agent for the FBI in the 1930's, and he spent his wedding night staking out one of John Dillinger's suspected hideouts. Between 1938 and 1945, he served as an assistant to five successive Attorneys General of the United States. In these capacities, my father saw firsthand the threat posed to law-abiding citizens by drug addicts, criminals, and crackpots who obtain firearms.

That is why in 1961, as chairman of the Senate Subcommittee on Juvenile Delinquency, he ordered a study of interstate firearms sales. The findings were disturbing. No existing law prohibited mail-order sales of firearms to drug addicts, children, crackpots, or criminals. The study also found that a wide variety of foreign military surplus weapons, from handguns to bazookas and antitank guns, were readily available to all who sought them. As a result of this study, my father introduced legislation in 1963 to stop mail-order sales of handguns.

Mr. President, opponents of my father's measure fought against it for 5 long years. they argued that it was unconstitutional. They asserted that it would be ineffective at keeping firearms out of the hands of criminals and other people unfit to have them. They claimed that it amounted to nothing other than a burden on law abiding citizens. In the interim, President Kennedy was shot by an assassin armed with a fraudulently obtained mail-order rifle. It was only in 1968, after the twin tragedies of the murders of Martin Luther King, Jr. and Senator Robert Kennedy that my father and fellow proponents of gun control were able to overcome resistance and put an end to mail-order sales of firearms.

I hope it will not be 5 years before we act to end further sale of semiautomatic assault weapons. I believe that Americans have witnessed evidence enough of the awesome and awful capabilities of these weapons when they fall into the wrong hands. We have seen Patrick Purdy's senseless rampage with a semiautomatic AK-47 in a Stockton schoolyard, and Joseph Wesbecker's deranged shootings at a Louisville newspaper plant. We have seen police officers killed by outlaws armed with semiautomatic assault weapons, while the officers themselves are armed only with their service revolvers. Moreover, it is clear that semiautomatic assault weapons are more apt to be used in criminal activities than are other types of firearms. While semi-automatic assault weapons account for but one-half of 1 percent of all privately owned firearms in this country, they accounted for 10 percent of all firearms traces requested of the Bureau of Alcohol, Tobacco and Firearms by law enforcement officials between January 1988 and April 1989.

Mr. President, opponents of this measure would have us believe that the guns covered by this bill are identical in form and function to conventional firearms. Indeed, the firearms covered by this measure are similar to conventional guns in that they are semiautomatic. One pull of the trigger, one shot. But in ancestry, design, and most importantly, magazine capacity, these firearms are most closely related to military weapons. The Bureau of Alcohol, Tobacco and Firearms, admitted as much last year, when it permanently banned importation of 43 types of foreign-manufactured semiautomatic assault weapons—including 9 covered by this legislation—because they had no sporting purpose. Clearly, it makes little sense to ban foreign firearms that are considered to be dangerous while permitting the domestic manufacture of similar firearms to continue unabated.

Mr. President, both experience and common sense tell us that a ban on these types of firearms will help to staunch the supply of these weapons in the hands of criminals and crazies. The fewer the number of these guns that are in civilian hands, the lower the chance that a shipment will go awry, or that an assault weapon will be stolen from a law-abiding citizen. In the wake of the 1986 ban on new machine guns, the Drug Enforcement Administration found that its seizure of machineguns have decreased, while seizure of other weapons has increased.

Mr. President, for my father, gun control was not a liberal issue. It was not a conservative issue. It was a law and order issue. And so it should be today. The legislation before us today is backed by a host of law enforcement groups, including the National Sheriffs Association, the National Association of Police Organizations, the Fraternal Order of Police, the Interna-

tional Association of Chiefs of Police, and the Police Executive Research Forum. When law enforcement officers tell us that they are facing a new problem in the battle against criminals, we owe it to them to listen, and to help in any way we can to make their work easier and the odds against their survival better.

I urge rejection of the Hatch amendment.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, parliamentary inquiry. Whose time is being charged in this quorum call?

The PRESIDING OFFICER. The Senator asked for the quorum call. The time is charged against him.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the time for the quorum call not be charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. SIMON. Mr. President, I speak with the consent of the Senator from Arizona, who controls the time here.

First of all, I want to commend my colleague from Arizona for showing incredible courage. What we need in this body is more people who have the fortitude to stand up and say what is in the best interest of this country. I have seen him do that time and time again in committee, and here he is doing it on the floor of this body, and I want him and everyone to know I am proud to serve with him.

There were two points the Senator from Arizona made just a little bit ago that I would like to repeat and then make a few other comments. First, the survey by the Oakland police, that of the guns confiscated in the process of drug raids and so forth. Twelve percent of those guns were obtained illegally.

Let us not fool ourselves with this myth that if we pass this, it will not make any difference to the criminal element. The reality is that it is going to make a difference. Perhaps not a huge difference, but a difference, and a huge difference to those families where needless death has occurred.

Second, while it is not part of this bill, the proposal by the administration, the staff, that BATF be cut by 185, that is not the direction we ought to be going in if we are interested in law enforcement in this country.

Will this amendment solve all of the problems we have? Absolutely not. No one pretends this. The real question is—and I say this to my colleagues from Idaho for whom I have great respect—will this proposal in this bill, thanks to the Senator from Arizona, discourage proliferation? I think the answer is that it can. To what degree, we do not know. But let us give it a try.

I have to say, as I approach various amendments on this floor, sometimes I consider a lot of them very gray; they are not clear cut. This one, at least to the Senator from Illinois, is clear cut. This one is a question of whether we are going to provide greater safety for the people of our country. And I know the political liability. It is no secret that some of the people on my staff are urging me not to vote the way I just voted on the Metzenbaum amendment, and the way I am voting on this one. But let us all recognize that we are not going to be here forever.

I just, a couple of hours ago, learned that my wife's brother died. It makes you think about how long you are going to be around here. Whether it is death or an election or retirement, we are not going to be around here forever, and we ought to be thinking about what we can contribute. I would like to contribute something substantial. In a small way, we can do it right here. One-half percent of the weapons of this country are the kind described in the DeConcini amendment. Yet, they are involved in about 30 percent of the crimes. Can we do better? Well, of course, we can do better.

They call one gun the "street sweeper." Why do they call it the street sweeper? Is it because we can clean our gutters and get all the candy wrappers and Pepsi cans off the streets? Of course not. It is called a street sweeper because we can sweep the streets of people. That is the only purpose of that gun.

Do we need to tolerate that in our society? I do not think so. I remember the testimony of the chief of police of Los Angeles who described himself as a conservative Republican, who said that 60 percent of the people who were killed by these guns are innocent bystanders. But he said:

> If you do not do something to stop the proliferation of these weapons, I am going to ask for these weapons for my police. You know what will happen if I have to ask for them for my police? Sixty percent of the people who are going to be killed are going to be innocent bystanders.

Are we going to have an endless arms race here? I hope we can do better. I hope, frankly, that we can work out some kind of a compromise. I asked for a meeting with the officers of the National Rifle Association in my office, and they were there, together with their counsel, for whom I have great respect. We all know him. But it was very clear when we met in my office that they were not interested in any practical compromise, because they felt they had the votes here today to beat this kind of an amendment, or any other amendment that comes up.

Maybe they are right today. But I just add that I have been in this business long enough to know that the pendulum swings from one side to the other. The coal industry in my State opposed any acid rain legislation. I told them years ago, there is going to be acid rain legislation, and you ought to be formulating it so that it is sensible, so that it does not hurt the Midwest. They did not want to have anything to do with that. They were going to resist all acid rain legislation.

You know what happened. We passed it, and it hurts the Midwest. I do not know what will happen, but the Midwest will get hurt and part of the reason is that the coal industry in my State, in the Midwest, did not have the foresight to say let us get a sensible compromise.

The National Rifle Association people who are unwilling to work out sensible compromises may well win today and tomorrow and the next day. But let me tell you the danger is that that pendulum is going to swing too far.

I live in hunting territory down in southern Illinois. Our home on 12 acres is right next to the Shawnee National Forest. I see more deer than I do people most days. The last time I was home I saw 16 deer right near my place. I am around hunters all the time.

I want to defend the rights of hunters and responsible citizens to have guns. But that is not what this is about. That is not what this fight is about.

This bill is not the answer to all the crimes that we have in this country. There is no single answer. But this bill provides a part of the answer and we ought to be willing to make that step. It takes a little bit of courage on our part, not as much courage as the Senator from Arizona has shown, but a little bit. I hope we would have the courage to do it.

We face the choice, and it is really a fairly simple choice. We face the choice of siding with the gun lobby or the law enforcement people. In that choice, I am going to stick with the law enforcement people.

Mr. President, I am going to ask for quorum call. I ask unanimous consent that the time of the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

## MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that we have a period of morning business now with Senators permitted to speak therein; that the time not count against the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE HOUSE

At 9:38 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4151. An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes.

At 6:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4252. An act to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, New Hampshire.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 324. Concurrent resolution concerning human rights, democracy, and illicit narcotics production and trafficking in Burma.

## MEASURES REFERRED

The following bill was read the first and second time by unanimous consent, and referred as indicated:

H.R. 4151. An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes; to the Committee on Labor and Human Resources.

H.R. 4252. An act to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, NH; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 324. Concurrent resolution concerning human rights, democracy, and illicit narcotics production and trafficking in Burma; to the Committee on Foreign Relations.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports, and documents which were referred as indicated:

EC-3017. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report entitled "Medicare's Disproportionate Share Adjustment for Hospitals"; to the Committee on Finance.

EC-3018. A communication from the Secretary of Labor, transmitting, pursuant to law, the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974; to the Committee on Finance.

EC-3019. A communication from the Assistant Secretary of Legislative Affairs, U.S. State Department, transmitting, pursuant to law, a report on what steps the United Nations Environment Program [UNEP] had taken to implement the concerns expressed by the General Accounting Office in its June 1989 study on UNEP; to the Committee on Foreign Relations.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-495. A resolution adopted by the Senate of the State of Hawaii to the Committee on Commerce, Science, and Transportation.

"SENATE RESOLUTION NO. 5

"Whereas, the Pacific states, which include Alaska, Washington, Hawaii, Idaho, Oregon, California, and the Canadian Province of British Columbia share a common resource, the Pacific Ocean; and

"Whereas, a large part of the economy of these states depends on the renewable resources of the Pacific Ocean; and

"Whereas, it is the goal of these Pacific states and the Province of British Columbia to conserve the long-term values, benefits, and natural resources of the Pacific Ocean and to set an example by giving priority to the proper management and protection of renewable ocean resources over nonrenewable ones; and

"Whereas, the Pacific Ocean's renewable resources are continually threatened with degradation and destruction from improper offshore oil and gas development, potential seabed mineral mining impacts, and the potential oil spills resulting from transshipment of oil; and

"Whereas, many proposed developments originate with the federal government, but impact Pacific states directly; and

"Whereas, ocean developers and shippers would prefer to work cooperatively with one regional body which overseas ocean resources; and

"Whereas, the federal government has encouraged states to work together on ocean issues through the Coastal Zone Management Act; and

"Whereas, Section 309 of the Coastal Zone Management Act provides advanced Congressional consent for a compact of Pacific states; and

"Whereas, a compact between the Pacific states and the Province of British Columbia would provide a method to address common needs and concerns in the Pacific Ocean; and

"Whereas, regional cooperation, planning, and action are required to achieve the ocean conservation goal of Pacific states: Now, therefore, be it

*"Resolved by the Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990,* That the United States Congress, the Pacific state legislatures, and the legislature of the Province of British Columbia are respectfully urged to support the establishment of a compact of Pacific states and the Canadian Province of British Columbia to provide for future planning and protection of ocean resources which are of regional concern, develop a coastwide oil spill response plan, and to oversee the management and utilization of ocean resources so as to ensure their continued contribution to the economies of Pacific states and the Province of British Columbia; and be it further

*Resolved,* That the Ocean Resources Committee of the Western Legislative Conference of the Council of State Governments is urged to develop specific compact language for transmittal to the legislatures of the affected states and province; and be it further

*Resolved,* That should Idaho's inclusion as a signatory of the compact interfere with Section 309 of the Coastal Zone Management Act, then Idaho be precluded from being a signatory; and be it further

*Resolved,* That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Members of Hawaii's congressional delegation, the Ocean Resources Committee of the Western Legislative Conference of the Council of State Governments, and to each of the presiding officers of the legislative bodies of each Pacific state mentioned, and the Canadian Province of British Columbia."

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POM—496. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION 90-23

"Whereas, The federal government's enforcement of its "no net loss" of wetlands policy has become mired in controversy; and

"Whereas, in the past, marshes, swamps, bogs, and wet meadows were not associated with environmental protection issues; now deemed "wetlands", such lands are the focus of stringent enforcement action; and

"Whereas, The definition of a wetland is imprecise and broad and susceptible to so many interpretations that almost any mud puddle or dry bottom land qualifies as a wetland; and

"Whereas, The "no net loss" of wetlands policy is also vague and imprecise and in need of significant clarification; and

"Whereas, Governmental agencies, in their efforts to protect wetlands, are, in effect, condemning property without either due process or just compensation because once property is designated as a wetland it become off-limits for farming and ranching activities; and

"Whereas, "Normal" farming and ranching activities are to be exempt from permitting requirements for dredging and filling wetlands; and

"Whereas, The agricultural exemption for basic production practices is being inconsistently applied by the Environmental Protection Agency and the U.S. Army Corps of Engineers; and

"Whereas, There are a number of instances where farmers and ranchers have been fined or imprisoned for continuing to farm and ranch their lands consistent with longstanding farming and ranching activities; and

"Whereas, the results of implementing such stringent enforcement action are beginning to emerge, with consequences causing great hardship to landowners: Now, therefore, be it

*"Resolved by the Senate of the Fifty-seventh General Assembly of the State of Colorado, the House of Representatives concurring herein:*

"(1) That the Congress of the United States pass the Agricultural Wetlands Exemption Act introduced in the Second Session of the One Hundred First United States Congress.

"(2) That the policy of "no net loss" of wetlands be clarified and simplified for purposes of equitable and consistent enforcement.

"(3) That the definition of wetlands and the delineation criteria with respect to identifying a wetland be clarified with specificity; and be it further

*"Resolved,* That a copy of this Resolution be transmitted to the Chief Justice of the United States Supreme Court, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and each member of Congress from the State of Colorado."

POM—497. A resolution adopted by the Northeast Georgia Presbytery; to the Committee on Foreign Relations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 648. A bill to amend the Securities Exchange Act of 1934 (Rept. No. 101-300).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 1109. A bill to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System (Rept. No. 101-301).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1839. A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes (Rept. No. 101-302).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1875. A bill to redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Tommy G. Thompson, of Wisconsin, to be a member of the Board of Directors of the National Railroad Passenger Corporation for a term of 4 years.

Tommy G. Thompson, of Wisconsin, to be a member of the Board of Directors of the National Railroad Passenger Corporation for the remainder of the term expiring April 27, 1990.

Rear Adm. William J. Kime, U.S. Coast Guard, to be Commandant, U.S. Coast Guard for a term of 4 years with the grade of admiral while so serving.

Andrew Camp Barrett, of Illinois, to be a member of the Federal Communications Commission for a term of 5 years from July 1, 1990.

The following rear admiral, as Vice Commandant, U.S. Coast Guard with the grade of vice admiral while so serving:

Martin H. Daniell, Jr.

The following rear admiral, as Commander, Pacific Area, U.S. Coast Guard with the grade of vice admiral while so serving:

A. Bruce Beran

The following officer of the U.S. Coast Guard Reserve for appointment to the grade of rear admiral (lower half):

George R. Merrillees.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORE (for himself, Mr. PELL, Mr. MITCHELL, Mr. LEAHY, Mr. WIRTH, Mr. KERRY, Mr. BAUCUS, Mr. BIDEN, Mr. ADAMS, Mr. CRANSTON, and Mr. LIEBERMAN):

S. 2666. A bill to authorize the United States contribution to an international account established by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Protocol, and for other purposes; to the Committee on Foreign Relations.

By Mr. KENNEDY:

S. 2667. A bill to establish a National Needs Trust Fund to invest the peace dividend in the future of America; to the Committee on Labor and Human Resources.

By Mr. MITCHELL:

S. 2668. A bill to amend the Internal Revenue Code of 1986 to exempt certain transportation by ferry from the tax imposed on transportation by water; to the Committee on Finance.

By Mr. JOHNSTON (by request):

S. 2669. A bill to provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 2670. A bill to amend the Trade Act of 1974 in order to require reciprocal responses to foreign acts, policies, and practices that deny national treatment to United States investment; to the Committee on Finance.

By Mr. CRANSTON:

S. 2671. A bill for the relief of Restituta Cayubit Brick; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 2672. A bill to establish a United States Marshals Foundation; to the Committee on the Judiciary.

By Mr. KOHL:

S. 2673. A bill for the relief of Dragan Stankovic; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 2674. A bill to provide for the reestablishment of the gray wolf in Yellowstone National Park and the Central Idaho Wilderness Areas; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY (for himself and Mrs. KASSEBAUM):

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week"; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. INOUYE, Mr. ADAMS, Mr. CHAFEE, Mr. DIXON, Mr. GLENN, Mr. HEFLIN, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. McCLURE, Mr. MOYNIHAN, Mr. PELL, Mr. ROTH, Mr. SANFORD, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 324. Joint resolution to designate June 3, 1990, as "Week of the National Observance of the 50th Anniversary of World War II"; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. GORE (for himself, Mr. PELL, Mr. MITCHELL, Mr. LEAHY, Mr. WIRTH, Mr. KERRY, Mr. BAUCUS, Mr. BIDEN, Mr. ADAMS, Mr. CRANSTON, Mr. BUMPERS, and Mr. LIEBERMAN):

S. 2666. A bill to authorize the United States contribution to an international account established by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Protocol; and for other purposes; to the Committee on Foreign Relations.

OZONE PROTECTION FUNDING ACT

Mr. GORE. Mr. President, I would like to discuss the Ozone Protection Funding Act of 1990. This legislation, which I am introducing today, authorizes funds for the purpose of assisting developing nations in their efforts to comply with the Montreal protocol on substances that deplete the ozone layer, including bilateral assistance and the U.S. contribution to an international account established by the parties to the protocol.

I remember quite well, Mr. President, when we ratified the protocol. It is the first and, to date, the most important international agreement protecting the global environment. That

protocol contained a passage endorsed by all here who voted for it which clearly contemplates assistance from the wealthy developed nations of the world to the poorest nations in the process of attempting to develop their economies, in order to help them develop and use substitutes for the chlorofluorocarbons that are responsible for depleting the stratospheric ozone layer.

Mr. President, this problem is, in some ways, difficult to discuss simply because it sounds a little like a science fiction movie. Many people still have difficulty believing that the environment of the entire Earth could be affected by the activities of human civilization. We tend to assume that our activities cannot possibly have any irreparable effect on the Earth itself because the Earth is such a large place.

Mr. President, 500 years ago, most people believed the Earth was flat and they walked ouside and looked at the horizon and the Earth did, indeed, look flat. The new model of a round Earth was based on mathematical calculations: difficult to touch, difficult to understand, and there was, indeed, great resistance to those who urged upon humankind the new realization that the Earth was not flat but was round.

Today when one walks outside and the environment seems all right, there is the temptation to conclude that all this talk about a threat to global environment is nonsense and there is nothing really amiss. But, Mr. President, something is amiss. There has been a dramatic change. First, the population explosion is so dramatic. It took a million years to reach a population of 2 billion people, and yet in the last 40 years, we have gone from 2 to 5 billion and in the next 40 years we will go at least to 10 billion and perhaps to a number higher than that.

Second, the technological and scientific revolution has greatly magnified the ability of each human being on Earth to have an impact on the environment.

Third, we have a very old way of thinking about our relationship to the environment which does not take into account our new collective ability to change the Earth's environment. As an example, Mr. President, the air in this historic Chamber all of us in here now are breathing into our lungs has six times as many chlorine atoms as it did 40 years ago or when this Chamber was built or, for that matter, 3 billion years ago in this particular spot on the surface of the Earth. It is not surprising that in a period of only 40 years, the air everywhere on Earth could be changed so dramatically as to increase the concentration of a basic element—chlorine—by 600 percent at the North Pole, the South Pole, in West Virginia, in Tennessee, in Washington, DC, and Beijing, China—everywhere on Earth? That is because 40 years ago, we began using a new family of chemicals called chlorofluorocarbons. These chemicals were part of the industrial and scientific revolution which has been accelerating throughout this century and burst into a new form after World War II with the cessation of hostilities and the diversion of moneys into the building up of our industrial strength which has had such beneficial effects but which has also had some harmful and deleterious effects for the environment which we are only now beginning to recognize.

That chlorine which we are breathing into our lungs now does not, as far as we know, hurt human health directly. But it is those chlorine atoms in the stratosphere which are responsible for eating away the hole in the ozone layer and thinning the stratospheric ozone layer above Washington, DC, Tennessee, West Virginia, China, everywhere else on the face of this Earth.

I noticed in the newspapers yesterday the reports of the explorers who had just completed their trek across Antarctica. Our colleague from Minnesota, Senator DURENBERGER, has given the Senate regular updates on their journey which I have enjoyed. Upon the conclusion of their journey, they reported on something that was not discussed very much during their trek. They walked under the ozone hole as they were crossing the continent of Antarctica, and they had to wear special protective clothing; they had to keep every part of their skin covered up because the extra ultraviolet radiation striking the surface of the Earth underneath the ozone hole is so dangerous to human health.

One of the explorers accidentally exposed the skin of his face for a few hours during their journey, and he was so burned that he became nauseous for a long period afterward. He required extensive medical attention and did survive—all this because of just a few hours underneath this intense ultraviolet radiation.

Mr. President, the circumstances in Antarctica are so unique that the dangers there during 3 months of the year now exceed the dangers from ozone depletion anywhere else in the world. But it is a clear warning.

Last year another team of scientific explorers came back from the Arctic region of the North Pole with the disturbing and troubling news that now an ozone hole has opened above the North Pole—a smaller one, not as deep as the one above the South Pole, but clearly another warning.

The air above this Capitol building in the stratosphere has thinned; the ozone layer has thinned about 3 to 4 percent over the last few decades. The scientists tell us that if we continue to put these chemicals into the atmosphere, damage to the ozone layer will accelerate.

What will be the consequences? Skin cancer is one of the best known consequences. Indeed, in parts of the world now, those inhabited parts of the world closest to the South Pole, skin cancer rates are climbing dramatically. In fact, in Australia, Mr. President, when the weather report comes on the news each day, they report on the temperature, the barometric pressure, the wind speed, and the levels of ultraviolet radiation.

In Patagonia, in the southernmost part of South America, there has been advice from the Health Ministry of Argentina to the citizens of the southernmost inhabited community of that nation to stay indoors during the 3 months of the year when the ozone layer is thinnest in the Southern Hemisphere, redefining the relationship between men, women, children and the sky.

Do we wish to stand and do nothing as this threat continues to worsen worldwide? Should we pretend the danger is only at the South Pole or the North Pole when we know full well from the evidence presented by the scientists that it is a threat present all over the Earth? I think not.

Mr. President, my religious faith, if I may be indulged for a moment in some personal comments, includes the parable of the unfaithful servant who was left in charge of the master's house and who was told that if the vandals came to ransact the house while he had fallen asleep, that would be no excuse; he would be held accountable nonetheless.

In a manner of speaking, this Earth is the home in which we all live, and in effect it is being ransacked today by the collective actions of all of us using these dangerous chemicals, proceeding in a manner that results in destruction of the global environment. It is insufficient for us to claim that we do not know anything about it; we are asleep; we are not aware of the problem; and therefore it does not matter whether we react to it or not.

What do we tell our grandchildren when they find an Earth very different from the one we inherited from our grandparents? Do they have a right to expect stewardship from us, a level of concern and care for the Earth appropriate to the threat which it now faces? Of course they do. When will we wake up?

The least controversial threat of all is the threat to the stratospheric ozone layer. There are many others: global warming, which I have discussed in this Chamber on many occasions; the destruction of the rain forests; the loss of living species. During the lifetimes of the young pages who work in this Chamber, the scientists

tell us we may see the loss of more than half of all the living creatures God put on this Earth unless we change the pattern of activity which is now leading to their destruction.

But today let me focus on this least controversial issue, that is, the destruction of the stratospheric ozone layer by a family of chemicals just used in the last four decades. We in the United States and in the other nations wealthy enough to have a robust industrial sector have been developing substitutes for these chlorofluorocarbons, and for most of the applications where chlorofluorocarbons are now used, substitutes are becoming available rapidly. We have entered into this international agreement to phase out chlorofluorocarbons as quickly as possible.

What about the developing nations, the poorer nations aspiring to lift their standards of living to some level approximating that enjoyed in the United States of America, nations like India, China, the poorest nations in Africa and Latin America? They agreed to consider joining this global effort to phase out these chemicals if they could look forward to some assistance in introducing the substitutes that are now becoming available in the developed world. We agreed in principle to that kind of assistance.

Then the world entered a follow-up negotiation to put some teeth in the Montreal Protocol, to say to the entire world, "Now we are ready to be serious about solving this problem, we are ready to really put into place the measures to introduce the substitutes." Other nations in the world which have been signatories to the Montreal protocol agreed to accept this principle and to participate in the formation of a development fund that would assist the poorest nations in introducing the substitutes for these harmful technologies.

One Nation, the United States, decided not to go along. Did our Environmental Protection Agency take that position? No, of course not. The Environmental Protection Agency knows full well how serious this crisis is. They advised the President, of course, to join this fund, and to follow through on the commitments we made in the Montreal Protocol.

What about the State Department? Of course, the State Department advised the President, yes, we must join this fund, and take the responsible actions to save the Earth's environment.

Then why would the President reject the advice of the Environmental Protection Agency and the State Department, the two parts of his administration most directly involved with the issue at stake here? Because Mr. John Sununu in the White House said the ideology is more important than saving the Earth's environment, that ideology should guide this decision, and the President, unfortunately, decided to reject the advice of the environmental policymakers in his administration, to reject the advice of the State Department, and adopt a "Go-it-alone; What, me worry?" policy on the environment. It is a mistake, Mr. President, a very serious mistake.

This policy will, I hope, be ultimately reversed. It is so wrong. It really has to be reversed, but a great deal of damage can be done between now and the time the President finally wakes up and reverses this policy. As a result, I am introducing legislation today to have the Congress of the United States take the initiative where the President of the United States has refused to do so.

I am proud to be joined in this effort by my good friend and colleague from Rhode Island, the chairman of the Foreign Relations Committee, Senator PELL; by the distinguished majority leader, my friend, Senator MITCHELL; by my friend, the chairman of the Foreign Operations Subcommittee of the Appropriations Committee, which appropriates the money in this case, Senator LEAHY; by my friend from Colorado, and my colleague and partner in so many efforts to protect our environment, Senator WIRTH; by my friend from Massachusetts, who has also been an invaluable ally in efforts to protect the global environment, Senator KERRY; by my friend from Montana, who has been an outstanding leader in this policy area, Senator BAUCUS; by my friend from Delaware, long active in this field, Senator BIDEN; by my friend from Washington, who has expressed his concern and been active on the issue, Senator ADAMS; by my friend from California, Senator CRANSTON, who has provided distinguished leadership in this area; by my friend from Arkansas, who has brought effectiveness and eloquence to this issue from the early days of this concern, Senator BUMPERS.

Mr. President, earlier this month, along with many of my colleagues, I heard the news that President Bush had decided to go it alone and put forward a policy in direct opposition to what every other nation in the world was doing on this issue, and I sent a letter to the President which was cosigned by 11 of my colleagues. At the conclusion of my statement, I will ask unanimous consent to put that letter into the RECORD.

But let me just paint the picture. The negotiations were in Geneva at the time. They were putting the final touches on this new agreement. Then the news was delivered by our negotiators that shocked the world community. The entire conference broke down. There was an uproar. Every single speaker from that point forward in this international negotiation concentrated exclusively on trying to figure out what in the world was going on in the minds of the President and his principal advisers on this subject, Mr. Sununu and Mr. Richard Darman of the Office of Management and Budget, that they would override the EPA and the State Department.

It was such a serious mistake. There is still a great deal of puzzlement around the world as to why we would have originally signed the Montreal protocol if the President was not prepared to go through with it and to live up to it at a time when the threat is so evident. It really is a very puzzling development. And, of course, it is a diplomatic embarrassment brought to us by the "floppy hats and sunglasses" gang within this administration. It is an embarrassment, and something, which as I have said earlier, I hope that we will soon change.

So, Mr. President, I believe it is high time for this administration to change its policy, stop the foot dragging, and begin to offer some leadership instead.

I would like to accompany the legislation with a series of statements from leading publications in this country: Time magazine, which entitled its analysis of this issue "A Baffling Ozone Policy"; the New York Times, which entitled its editorial opinion "Overboard on Ozone"; the Washington Post, which entitled its editorial opinion "A Serious Mistake on CFCs"; and lengthy business analysis entitled "Pennywise on Ozone?"; the editorial from the Chattanooga Times entitled "Backsliding on the Environment", and then the text of the letter to which I referred earlier, which has been signed by most of the cosponsors that I mentioned, and in addition Senator JOE LIEBERMAN of Connecticut; the Senator from New Jersey [Mr. LAUTENBERG]; and the other Senator from New Jersey [Mr. BRADLEY]. I ask unanimous consent to print those documents in the RECORD, as well as the full text of the bill.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2666

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ozone Protection Funding Act of 1990."

SEC. 2. FINDINGS.

The Congress finds that—

(1) the depletion of the stratospheric ozone layer by manmade chemicals is a global phenomenon, whose solution will require national action and international cooperation;

(2) while stratospheric ozone depletion has had its most pronounced effects in polar regions, depletion is occurring worldwide, with current levels over the United States already reduced by about 2 percent to 3 percent;

(3) a depleted ozone layer will allow more ultraviolet-B radiation to reach the Earth's surface, with serious health implications for

all peoples, as well as deleterious effects on agricultural crops and natural ecosystems;

(4) in order to terminate emissions of chlorofluorocarbons and other ozone-depleting substances as rapidly as possible, the highest priority must be given to developing and deploying safe alternative chemicals and technologies worldwide, to replace ozone-depleting substances;

(5) many developing nations that have not signed the Montreal Protocol on Substances that Deplete the Ozone Layer are now acquiring inefficient, chlorofluorocarbon-based refrigeration equipment, which could lead to large increases in emissions of ozone-depleting chemicals in the coming decades;

(6) in order to assist developing nations in acquiring non-ozone depleting chemicals and technologies, the Parties to the Montreal Protocol agreed in principle to provide special funding for that purpose; and

(7) the United States' share of that assistance has been determined during recent negotiations to be a minimum of $25 million over the next three years, with a possible increase to $75 million over the next three years if the remaining nations that have not ratified the Montreal Protocol do so.

SEC. 3. OBJECTIVE AND NATIONAL GOAL.

(a) The objective of this Act is to protect human health and natural ecosystems from all known and potential dangers due to depletion of the stratospheric ozone layer, which is or would be caused by emissions of chlorofluorocarbons, halons, or other ozone-depleting chemicals.

(b) In order to achieve the objective of this Act, it is the national goal to provide a United States contribution to an international account established by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Protocol.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of State up to $25 million in each of Fiscal Year 1991, Fiscal Year 1992, and Fiscal Year 1993, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Montreal Protocol on Substances that Deplete the Ozone Layer, including bilateral assistance and the United States contribution to an international account established by the parties to the Protocol.

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U.S. SENATE,
*Washington, DC, May 9, 1990.*

The PRESIDENT,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: We are writing to request a meeting with you at the earliest possible date to discuss your recent decision to oppose efforts to strengthen the Montreal Protocol. We are deeply disappointed in your decision and gravely concerned about its implications for the United States and for all of the nations of the world. We strongly believe this decision should be reversed immediately so that the Geneva negotiations may produce meaningful new agreements.

By refusing to support an international effort to help developing nations move toward environmentally safe technologies, the United States is threatening to undermine the Montreal Protocol, the single most important international agreement to date to protect the world's environment. At a time when the United States should be providing leadership in the world community, it is instead being isolated within a world community that recognizes an urgent problem and the critical need for action.

We are concerned that advice from the Environmental Protection Agency and the Department of State is being ignored and, in fact a course opposite to their recommendations is being pursued by our negotiators. It is unconscionable to us that U.S. negotiators would be instructed to reject a provision calling the industrialized nations of the world to provide minimal sums for technology conversion to developing nations who want to comply with the Protocol. Serious questions remain about our policy in light of this action.

The negotiations underway in Geneva are critical to the massive international effort to reduce emissions of ozone-depleting chemicals—an effort prompted by hard, scientific evidence that if we reduce emissions of these chemicals we can protect the ozone layer which shields all life on earth from dangerous ultraviolet radiation.

Here in the U.S. Senate, we acted to strengthen our laws to reduce the use and emissions of these chemicals: we called for the faster phase-out of ozone-destroying chemicals, we called on the federal government to develop a plan to promote the safest alternatives, and we called for the immediate prohibition on the export of technologies that produce these chemicals. We believe that U.S. companies could be in a position to develop alternatives, and to lead the world to post-CFC technologies. This would not only be a great benefit for the environment, but also for U.S. competitiveness in world markets.

Immediate action is needed to change the direction of Administration policy on these issues. We look forward to discussing these matters with you further as soon as possible.

Sincerely,

Al Gore, Alan Cranston, Patrick J. Leahy, John F. Kerry, Joseph Lieberman, Max Baucus, Claiborne Pell, Joseph R. Biden, Jr., Frank R. Lautenberg, Timothy E. Wirth, Brock Adams, Bill Bradley.

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[From time magazine, May 21, 1990]

A BAFFLING OZONE POLICY

George Bush has come under heavy fire for failing to live up to his promise to be the Environmental President. Last month, he infuriated environmentalists by arguing that action against the threat of global warming should wait for more research. The man behind that go-slow position was John Sununu. An announcement by the U.S. delegate to a United Nations meeting in Geneva last week came as a further shock: the U.S. will oppose the creation of a new $100 million fund to help developing countries avoid using chlorofluorocarbons.

CFCs, used as refrigerants and solvents, are believed to be destroying the planet's ozone layer, and President Bush has joined in a worldwide call for sharp cut in their use. But by refusing to supply additional funds to help Third World countries switch to substitutes, the U.S. would make reductions difficult. The White House argues that the money should come from existing World Bank funds and not from new contributions—but also admits that the World Bank does not have the extra money available.

At least there is some legitimate controversy over the science of global warming. There is virtualy none when it comes to ozone depletion. So why is the U.S. balking, when the country's share would amount to no more than $25 million over the next three years? Sununu and Budget Director Richard Darman contend that the economic costs of protection the environment have been overlooked. They fear the precedent of turning money over to international bodies that may try to dictate how countries, including the U.S., respond to environmental problems.

Even with Sununu's and Darman's influence, such stances may in the end prove to be unsustainable. Predicts, Senator Albert Gore of Tennessee: "If the Administration persists in its position, eventually it will be so isolated and so embarrassed that the President will have to reverse himself." Thus Bush's campaign pledge would be fulfilled, but against the President's will.

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[From the New York Times, May 11, 1990]

OVERBOARD ON OZONE

Every President needs a Darth Vader in the White House to thwart special pleaders and scrutinize even apply-pie issues. President Bush's chief of staff, John Sununu, and Budget Director, Richard Darman, have played this role zestfully in curbing what they see as excessive solicitude for the environment. But in their latest foray, an assault on the international effort to protect the ozone layer, they have simply abandoned all sense of proportion and judgment.

The U.S. persuaded the world to reach agreement on phasing out production of CFC's, a class of industrial chemicals that destroy the life-protecting layer of ozone in the upper atmosphere. Many developing countries that signed the Montreal protocol of 1987 asked for help in converting to the most costly substitutes, and Washington agreed in principle to provide it.

An international group in Geneva has been working out the details, and proposed setting up a fund to which the U.S. would contribute around $20 million a year. The State Department and Environmental Protection Agency urged the Administration to support the proposal. But Mr. Darman and Mr. Sununu have now instructed that it be opposed.

There is only one ozone layer, and there are a lot of people in India and China. It's in America's own interest for these and other developing economies to abandon CFC's as soon as possible. If the price tag is only $20 million, it is bargain, particularly as the Treasury is reaping windfall profit taxes of $5 billion from the CFC industry as it phases down.

The considerable damage already done to the ozone layer has been caused by CFC's manufactured in the United States. It's not too much to ask that Americans help less-developed countries avoid the same error.

Every speaker from other countries at the Geneva conference expressed dismay at the U.S. stand. It's glorious to stand along against the world when one is right, less so to cling to a position that puts the U.S. in the doghouse of world opinion.

Mr. Sununu and Mr. Darman are said to fear that modest help on CFC's now would lead to greater demands later if the world agrees to take action against the gases of global warming. But that's an issue for the future, to be dealt with on its merits. The threat to the ozone layer, and all living things on the planet, is present and real.

A Secretary of the Interior in the Reagan Administration once suggested that the way to solve the ozone problem was to continue producing CFC's but let people buy sunglasses and sunscreen lotion to protect

against the bath of ultraviolet rays. Mr. Bush risks gaining a reputation for equal profundity unless he quickly instructs Messrs. Darman and Sununu to quit trifling with serious issues.

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[From the Washington Post, May 11, 1990]

A SERIOUS MISTAKE ON CFC'S

This time President Bush has made a serious mistake in his environmental policy. He has suddenly pulled the United States out of the international plan, which it had supported until this week, to cut Third World production of the highly damaging gases known as CFCs. The rich countries had an agreement—or thought they had one—to put up a modest amount of aid to help poor countries convert their manufacturing from CFCs to less-harmful alternatives. CFCs generated on the other side of the Earth are a threat to the health of Americans. You have to wonder what's going on in the White House.

Mr. Bush was right earlier this year when he refused to lead a massive campaign against global warming. Some environmentalists are pressing for a hugely expensive and disruptive attempt to reduce emissions of carbon dioxide. But, as Mr. Bush said, the scientific evidence is far from adequate to support that. The administration sensibly proposed, instead, to go after those gases that are demonstrably dangerous for other reasons and which, by the way, would also contribute to global warming. The secretary of state, James A. Baker, laid out that policy in an excellent speech last February and, in fact, used CFCs as the leading example.

CFCs—chlorofluorocarbons—are widely used in refrigeration, air conditioning and the production of some plastics. When they escape into the upper atmosphere, they eat away at the high ozone layer, which protects the planet from radiation that causes skin cancer. A huge hole in the ozone layer has already appeared over Antarctica, and it is urgent to prevent it from widening farther. There is no scientific doubt at all about this one. The chemical industry is stoutly supporting the elimination of CFCs and is developing alternatives to replace them.

As for the money involved, the American contribution to the CFC aid fund would be $25 million over three years. That is less than 1 percent of the money raised by the tax imposed on CFC production in this country to speed up its disappearance. The extreme feebleness of the White House's defense of this new position on CFCs lends credence to the suspicions that it is based less on careful thought than on a visceral dislike of the environmental movement among some of the White House aides—notably, John H. Sununu, the chief of staff.

Immediately after the White House announced this decision, 12 Republican senators, led by John H. Chafee of Rhode Island, sent Mr. Bush a letter warning him that it's a classic case of being penny-wise and pound-foolish. The aid fund, they told him, is the world's best chance of getting the developing countries to join the industrial ones in preserving the ozone layer that shields us all. The Republican senators—Mr. Bush's friends and supporters—urged him to reverse himself. It's good advice.

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[From the New York Times, May 16, 1990]

ECONOMIC SCENE: PENNY WISE ON OZONE?

(By Peter Passell)

It was time to ante up last week on the latest global deal to save the ozone layer, and the Bush Administration decided not to play: The White House announced it would not share the cost of weaning poor countries from the use of ozone-depleting chemicals before they became truly addicted. Subsidies to encourage the substitution of nonpolluting gases in air-conditioners, refrigerators and plastic insulation, the Administration suggested, would have to come from the existing resources of the World Bank.

This decision may not have surprised hard-line "greens" who have always interpreted President Bush's efforts to find a middle road to environmental virtue as a rationale for pollution as usual. But it bewildered political operatives who viewed American leadership on ozone as an easy way for the President to win points with the folks who reach for their checkbooks whenever they see a picture of a baby seal. Perhaps most important, it confounded policy analysts within the Administration who are eager to apply economic principles to pollution control and thought they had an ally in the White House.

Chlorofluorocarbons—CFC's for short—are cheap, nontoxic gases that are almost perfect as refrigerants and aerosols. Once released, however, they wreak havoc on the layer of ozone in the upper atmosphere that absorbs much of the ultraviolet radiation from sunlight. Most experts believe that a failure to control the production of CFC's and a few related chemicals would lead to dramatic increases in skin cancer and eye cataracts, as well as disrupting plant life at the base of the aquatic food chain.

According to the Environmental Protection Agency, the projected loss of ozone would lead to an extra 170 million cases of cancer by the year 2075 within the United States alone. The estimated cost in medical bills and premature mortality: $3.5 trillion. That is no misprint: $3.5 trillion.

Happily, though, an ozone fix would be relatively cheap. The E.P.A. estimates that a 50 percent cut in CFC production would eliminate about 95 percent of the damage. And the cost of the switch to less damaging chemicals would run to less than $40 billion. Or perhaps much less: Stephen DeCanio, an economist at the University of California at Santa Barbara, believes that cheaper, more efficient substitutes for CFC's now in the technological pipeline would reduce the cost to about $3 billion.

That is why the Reagan Administration signed onto the Montreal Protocol in 1987, agreeing to cut CFC use in half by the year 2000. Congress later put teeth into the decision, imposing a tax on CFC's that will encourage recycling and substitution, as well as collecting some $5 billion over the next five years. And this year President Bush went a step further, responding to new evidence of accelerating deterioration of the ozone layer by agreeing in principle to a complete phaseout of CFC's.

While the industrialized countries all seem prepared to bear the domestic costs of a rapid phaseout of CFC's, two larger potential users, China and India, do not. And their failure to go along would undercut the logic of a global agreement. China alone, Mr. DeCanio notes, plans to produce some 300 million refrigerators over the next few decades.

Consequently, northern Europe has been lobbying hard for a fund to subsidize the transfer of benign refrigeration technologies to the have-nots. And since Washington was asking Americans to spend billions of dollars to rid the country of CFC's, analysts widely assumed the Bush Administration would view its 20 percent slice of a $100 million-a-year carrot as a minuscule price to pay for broad compliance. But something happened to the Administration's position on the way to the latest global forum.

The least implausible explanation for Mr. Bush's tough line is that he fears the precedent. The $20 million token may be enough to convince the poorest third of the world to forgo CFC's. But delivery might lead to demands for a hundred times that much to require the use of fossil fuels that are implicated in global warming. Better, then, to rely on the stick rather than the carrot: The Administration wants to make CFC Treaty compliance a condition for receiving loans from the World Bank.

But even many of the Administration's friends believe the President's advisers are worrying about the wrong precedent. Since Mr. Bush took office, his economists have been urging caution before continuing big bucks to solving poorly understood environmental problems. By failing to act decisively when action plainly does make economic sense, the President is in danger of losing the initiative to those who care not a whit about costs.

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[From the Chattanooga Times]

BACKSLIDING ON THE ENVIRONMENT

The Bush administration has taken the misguided position of reneging on a commitment to help developing nations phase out their use of chemicals that are destroying the Earth's protective ozone shield. This is hardly the work of an "environmental president."

Stratospheric ozones filters out excessive ultraviolet radiation from the sun, which can cause skin cancer, eye disease and damage to crops and wildlife. The primary culprits in the layer's disintegration are chlorofluorocarbons, commonly known as CFCs.

The Montreal Protocol of 1987 calls for a 50 percent cut in production and use of CFCs by 1999. And there is general agreement that meeting that goal should merely be a step toward eliminating these chemicals, widely used as refrigerants and solvents and for insulation foam.

But many of the developing countries that signed the Montreal Protocol did so with the understanding that the United States and other developed nations would help them make the transition to the more expensive substitutes for CFCs. The United States agreed in principle then to provide that assistance. Two months ago the United States agreed with other industrial nations to establish a new fund for financial and technical assistance to stop the use of CFCs in the developing world. Now the Bush administration opposes such a fund.

Ironically, the new U.S. position was made public as representatives of about 50 nations met in Geneva to prepare for a U.N. conference on strengthening the Montreal Protocol. The Bush policy was much discussed in Geneva, and it is not surprising that it was universally denounced.

A member of the Brazilian delegation noted that the ability of developing nations to adhere to the Montreal Protocol "depends on the political will of our partners in the developed world." And India and China, with their massive populations, have refused to sign the protocol absent assurances of financial assistance. So the Bush administration's position both dims the prospect of strengthening the treaty and makes it less

likely that the full promise of the existing protocol will be realized.

There is simply no good reason for Mr. Bush's backsliding. The U.S. contribution to the assistance fund would be only $20 million a year and could easily be paid from the $5 billion in excise taxes the government will collect from the CFC industry over the next five years. Moreover, it is appropriate that the United States, a major producer of the CFCs that have damaged the ozone layer, should help our poorer neighbors find a better way.

But there seems to be developing in the administration a hostility to international cooperation on environmental issues. There was, for instance, the U.S. effort at the recent conference on global warming to dampen enthusiasm for action on that issue. And in a recent speech, budget director Richard Darman raised the specter of environmentalism as a mask for political ideologies that represent a threat to American values. His attempt to impute sinister motives to those who call for global cooperation on solving global environmental problems should be repudiated by the president.

And it should be remembered that while blame for retrenchment on environmental issues is often laid at the doorstep of Mr. Darman or White House Chief of Staff John Sununu, George Bush is the president. What his administration does is his policy. Mr. Bush should acknowledge the wrongheadedness of the recent policy change on the CFC assistance fund and reverse it.

Mr. GORE. Thank you, Mr. President.

Mr. President, again on another occasion, I will take the floor with my colleagues who were members of the host delegation to the Interparliamentary Conference on the Global Environment for a full presentation of the recommendations and findings of that conference.

One of those findings addressed this issue I have spoken about this morning, and was fully consistent with the legislation that I am introducing today, and I commend this legislation to my colleagues.

I note that 12 of our colleagues on the Republican side of the aisle sent a separate letter to President Bush very similar to the one that 12 of us on this side of the aisle sent, urging the President to change his policy on protecting the ozone layer.

So it really is a bipartisan concern, and one which I hope the President will respond to.

Mr. PELL. Mr. President, today I join Senator GORE in introducing a bill which authorizes U.S. contributions to an international fund to help developing nations avoid dependency on the use of chlorofluorocarbons or CFC's. This bill is urgently needed.

In 1987, 23 nations, the European Community, and the United States, took a remarkable step in the history of international efforts to protect the global environment by negotiating the "Montreal Protocol on Substances That Deplete the Ozone Layer." This ground-breaking agreement committed signatories to reducing their emissions of CFC's by 50 percent by the year 1999.

Equally important, the signatories recognized that protection of the ozone layer would require a global effort and that for this effort to be effective, developed nations would need to provide assistance to developing nations to help them use substitutes for CFC's.

Unfortunately, 2 weeks ago, the Bush administration reneged on this commitment by opposing the creation of an international fund expressly for this purpose. This shortsighted decision made a mockery of administration claims to leadership on international environmental issues.

For $25 million over 3 years, the administration could have supported a fund that, by preserving the stratospheric ozone layer, could save thousands of lives over the next decade from the ravages of skin cancer and help prevent global climate change. Put another way, the administration has decided that the health of thousands of American citizens is not worth the $8 million annual contribution the United States would have made to the proposed CFC fund.

Not only does the administration's decision ignore the interests of the American people, it also undermines policy commitments most recently by Secretary of State Baker in a speech to the National Governors Association. In that speech, he noted:

> We fully recognize, however, that developing countries may need some additional aid in order to meet the incremental costs associated with fulfilling their international environmental obligations.

Mr. President, I for one support U.S. participation in the creation of a CFC fund. This fund is one of the best investments that we as a nation can make to protect the health of our people and the environment of our planet.

I would hope that in the few weeks prior to the next meeting of the parties to the Montreal protocol, the administration will also come around to support increased aid for creation of a CFC fund. This step would send a reassuring signal to our diplomatic partners and to the developing nations that the United States is serious about its commitments stemming from the Montreal protocol. In order for this policy reversal to take place, I believe it is essential that Secretary of State Baker reassert the State Department's role in formulating U.S. international environmental diplomacy; decisions on these issues should be made by the Secretary of State and not the White House Chief of Staff.

Mr. President, the bill we are introducing today underscores the U.S. commitment to protecting the global environment. I commend it to my colleagues and urge their support.

By Mr. KENNEDY:

S. 2667. A bill to establish a National Needs Trust Fund to invest the peace dividend in the future of America; to the Committee on Labor and Human Resources.

NATIONAL NEEDS TRUST FUND

● Mr. KENNEDY. Mr. President, today I am introducing legislation to encourage the Nation to invest in the future and meet the essential domestic challenges facing us. Dramatic changes in the Soviet Union and Eastern Europe have substantially reduced our defense needs. A major national debate is now underway to determine the size of the peace dividend and how to make effective use of the savings.

The most appropriate baseline to measure the size of the peace dividend is the savings in military spending above and beyond the budget request of the Bush administration. In effect, the President's request ignored the opening of the Berlin Wall and the far-reaching changes that have taken place in Eastern Europe and the Soviet Union. The administration proposed a 5-year plan for military expenditures in fiscal years 1991 through 1995 that simply reflected the gradually declining path of defense spending that we have been following ever since the peak of the Reagan military buildup in 1985.

In all likelihood, the actual size of the peace dividend, at least for the next fiscal year, will be determined by the outcome of the current budget summit. But the House of Representatives has already adopted a budget resolution that gives us a realistic estimate of the savings that can be achieved in Pentagon spending. The House-passed resolution proposes the following peace dividends, measured in terms of budget authority:

| Fiscal year: | *Amount in billions* |
|---|---|
| 1991 | $24 |
| 1992 | 32 |
| 1993 | 43 |
| 1994 | 52 |
| 1995 | 60 |
| Total 5 years peace dividend | 211 |

These savings, averaging over $40 billion a year for the next 5 years, are large by any standard—except when measured against the magnitude of the unmet challenges we face. But if we invest these peace dividends wisely now and in the years ahead, we can make a sizable start in addressing these challenges, reviving our economy, and revitalizing our country.

In my view, because these domestic needs are so great, we should not use the peace dividend to reduce the deficit, as some have suggested. The Gramm-Rudman deficit reduction process has been on track in recent years, and it is still on track today, requiring us to balance the Federal budget by the mid-1990's.

We can reach that deficit target as planned, without dipping into the peace dividend or jeopardizing the unusual opportunity we now have to invest in long-neglected vital needs. Essential domestic programs, shortchanged to finance defense, should not be depleted further as part of any plan to resolve the current budget crisis or bail ourselves out of the massive savings and loan mess.

That does not mean I oppose any or all domestic spending cuts. We need to reduce nonessential spending wherever possible, and I have supported such cuts in the past. But we also need to devote significant new resources to meet essential domestic needs.

With our standard of living now only sixth in the world, our highest budget priority should be rebuilding our economy and investing in fundamentals that have long been ignored—from education and health care to research and transportation. These priorities all paid the price for the steep military buildup of the past decade. Now, because of the peace dividend, we have a once-in-a-lifetime opportunity to address these priorities properly, and we must not throw it away.

At the same time, the arrival of the peace dividend must not become an excuse for the needless proliferation of old spending programs or the random invention of new programs. The peace dividend is there to be invested, not just spent.

To avoid the danger that Congress and the administration will yield to special interest pleading and fritter away the peace dividend on pork barrel spending, the legislation I am introducing today creates a National Needs Trust Fund. Savings from the military budget will be invested through the trust fund in designated, critical national priorities—such as education, health care, research and development, job training, reviving our faltering transportation system, and other critical parts of our infrastructure, and converting military plants to peacetime production. Investments such as these are essential to our future, and we cannot afford to neglect them any longer.

In spending the peace dividend, we must judge both current and new programs by their actual performance, not just our good intentions. The returns must be measurable and real. Conditioning programs on results is critical to gathering public support for such spending. The peace dividend can become a way to start solving our problems, as distinct from merely throwing money at them.

We must start with the education of very young children, because our future depends on their generation. Head Start must be made available to 100 percent of eligible children, instead of the shameful 20 percent who are now served. We must encourage States and local governments to provide access to child care, and to begin education programs for all young children. Each dollar we invest in early childhood education now will save $6 in the future in lower costs for welfare, unemployment, and crime.

We must break the downward spiral of student dropouts and academic failure, by restructuring our school systems and investing in the hardest pressed schools of our communities. We must enhance the status of teaching, to keep good teachers in the classroom and attract new ones to the profession. We must provide more support for math and science instruction and for antidrug education. We must ensure that no students anywhere in the Nation are denied a college education because their families cannot afford it. Above all, we must stop investing in star wars and start investing in star schools.

In health care, it is an American disgrace that 37 million citizens have no insurance at all. It is an American tragedy that millions of severely disabled senior citizens are struggling to survive in their own homes or their children's homes, because decent home care and long-term nursing care are neither available nor affordable. It is an American scandal that we are unwilling to help three-quarters of the drug addicts who seek treatment and cannot get it—and that we refuse to face up to the epidemic of AIDS that is forcing the health care system to the brink of collapse.

We must deal with the challenge of economic conversion—an unparalleled opportunity to turn the talents of our most highly skilled citizens to serve the Nation's highest interests. Engineers and contractors who once built rockets and tanks can now build the bridges, airports, and rapid rail and telecommunications systems that will be the heart of our 21st-century economy. Scientists in no-longer-needed defense labs can craft solutions to the massive new needs to clean up the environment, and create safe—and nonnuclear—energy sources.

Economic conversion is more than adjustment assistance to displaced workers and disrupted communities. It is also the liberation of talent and treasure to revitalize our free enterprise system—and assure that America never becomes an economic colony of Germany or Japan.

Perhaps most of all, we must use the peace dividend to encourage opportunities for community service by all citizens, not just those who have wealth. Our goal is nothing less than to reinspire the youth of America to make service to others a part of our future. A quarter century ago, President Kennedy summoned all citizens to ask what they could do for their country. Americans responded by the millions, and together we built the strongest nation and the strongest economy in the world.

We lost sight of that goal in the medecade of the 1980's. But citizens across the country can help us find it again. Service to others—to the community and the Nation—is an idea as old as America, but it still symbolizes America at its best. It was the spirit of the first frontier and of the new frontier—and with our involvement and commitment, it will be the spirit of the next frontier as well.

Investing in America is sound social policy—and sound economics too. Missiles built to be launched across the frontiers of other nations can now be replaced with master teachers and microbiologists pushing back the frontiers of knowledge.

As the areas of old and dangerous confrontations with the Soviet Union continue to decline, we can open new and more hopeful confrontations with our own economic future. We need to regain the vigor and economic leadership of our own Nation, which did so much and spent so much to restore the freedom of so many others. We must begin to wage new battles—for our own people, for our own ideals and best ambitions. It is the right and only thing to do.

There is a famous saying in American history that "God looks after fools, drunkards, and the United States of America." Now, because of the peace dividend, we have a fresh chance—a chance to make up for the proliferation, waste, and neglect of the past decades.

The peace dividend is an unexpected nest egg for the Nation. We cannot afford to waste it, any more than a typical family would gamble away their life savings. The windfall from the collapse of communism should be invested wisely, in ways well-designed to meet the challenge of rebuilding our economy and country. Let us hope that we are equal to this unprecedented challenge and opportunity.

Mr. President, I ask unanimous consent that a table illustrating the calculation of the peace dividend and the text of the legislation may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2667

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as "The National Needs Trust Fund Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) recent developments have significantly reduced tensions between the United States and the Soviet Union;

(2) as a result of the reduction of tensions, fewer funds need to be devoted by both countries to military expenditures;

(3) the reduction in military spending by the United States is a peace dividend that should be available to meet urgent domestic priorities; and

(4) funds attributable to the peace dividend should be placed in a National Needs Trust Fund and invested in areas most likely to strengthen the competitive position of the United States in the international economy.

SEC. 3. NATIONAL TRUST FUND.

(a) ESTABLISHMENT.—There is established within the Treasury of the United States a National Needs Trust Fund (hereafter in this Act referred to as the "Trust Fund"), consisting of such amounts as are appropriated to the Trust Fund under subsection (e).

(b) EXPENDITURE OF FUNDS.—(1) Amounts in the Trust Fund shall be available, as provided in appropriations Acts, to support any authorized Federal program in any or all of the following areas:

(A) early childhood education or development;

(B) elementary, secondary and higher education;

(C) job training, job retraining, and conversion of the economy from a Cold War economy to a peacetime economy;

(D) basic research and development;

(E) communications and transportation infrastructure;

(F) health care; and

(G) such other fundamental investments as Congress may determine are necessary to strengthen the economic and competitive position of the United States and to build a stronger future for the Nation.

(2)(A) Amounts in the Trust Fund shall be available only to supplement and not supplant Federal, State, and local expenditures in the areas described in paragraph (1).

(B) For the purposes of subparagraph (a), expenditures from the Trust Fund shall not be taken into consideration in determining Federal, State, and local expenditures in the areas described in paragraph (1).

(c) MANAGEMENT.—The Trust Fund shall be managed in the same manner as trust funds are managed under section 9602 of the Internal Revenue Code of 1986.

(d) EVALUATION AND REPORT.—In fiscal year 1991 and every 2 fiscal years thereafter, the Congressional Budget Office shall evaluate the impact of expenditures from the Trust Fund, and shall submit a report to the Congress on such evaluation.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $24,000,000,000 for fiscal year 1991, $32,000,000,000 for fiscal year 1992, $43,000,000,000 for fiscal year 1993, $52,000,000,000 for fiscal year 1994, and $60,000,000,000 for fiscal year 1995 to carry out the provisions of this Act.

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DEFENSE SPENDING—Budget Authority

[Current year dollars in billions]

| | Fiscal year— | | | | |
|---|---|---|---|---|---|
| | 1991 | 1992 | 1993 | 1994 | 1995 |
| Administration request | 307 | 313 | 318 | 322 | 326 |
| House budget resolution | 283 | 281 | 275 | 270 | 266 |
| Peace dividend | 24 | 32 | 43 | 52 | 60 |

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By Mr. MITCHELL.

S. 2668. A bill to amend the Internal Revenue Code of 1986 to exempt certain transportation by ferry from the tax imposed on transportation by water; to the Committee on Finance.

EXEMPTION OF TAXATION ON CERTAIN FERRY TRANSPORTATION

Mr. MITCHELL. Mr. President, I am introducing legislation today to address a problem that has arisen with a provision in the Omnibus Reconciliation Act of 1989 that imposes a $3 departure tax on ship passengers. That provision originated in the Senate Commerce Committee and was intended to apply to passengers on cruise ships and gambling voyages. The language of the statute is vague, however, and the Internal Revenue Service is concluding in soon to be released rules, that the tax will apply to a much broader class of passenger ship traffic, including ferry services that operate between Maine and Nova Scotia.

The two ferry services carry trucks, cars and passengers in on an 11 hour trip between Portland and Bar Harbor, ME and Yarmouth, NS. Because the Portland vessel leaves in the evening for an 11 hour voyage that extends past midnight, it is most probably subject to the departure tax because it "extends over 1 or more nights". The Bar Harbor ferry leaves in the morning and arrives within the day but there is incidental gambling on board which brings it within statutory language that applies the departure tax in the case of vessels "transporting passengers engaged in gambling".

It is my understanding that the Commerce Committee did not intend to apply this new departure tax to these types of ferry operations. The tax was instead meant to apply to cruise ships and gambling ships. Nevertheless, the IRS will be giving a reasonable interpretation to the statutory language when it applies the tax to the ferry operations in Maine. A similar vessel operating between Seattle, WA and Victoria, will also be subject to the tax.

The legislation I am introducing today corrects this problem by exempting voyages on ferrys from the departure tax. The definition of "ferry" is picked up from 19 U.S.C. 58 the Customs user fee established in 1985 legislation. Paragraph C of that section exempts "ferrys" from the Customs fee and this legislation would do the same with respect to the international depature tax on ship passengers.

This legislation is not intended to give a special break to a certain class of passenger ships. It is instead intended to permit the IRS to carry out the objectives of the statute: to tax cruise ships and gambling ships, not ferry boats.

Mr. President, I ask unanimous consent that a copy of the introduced legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2668

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. TRANSPORTATION BY WATER.

(a) IN GENERAL.—Section 4472(1) of the Internal Revenue Code of 1986 (relating to definitions of covered voyage) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN FERRIES.—The term "covered voyage" shall not include a voyage on a ferry being used—

"(i) to provide transportation only between places that are no more than 300 miles apart, and

"(ii) to transport only—

"(I) passengers, or

"(II) vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 7504 of the Revenue Reconciliation Act of 1989.

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By Mr. JOHNSTON (by request):

S. 2669. A bill to provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

INCREASING APPROPRIATION CEILINGS FOR CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

● Mr. JOHNSTON. Mr. President, I am introducing today at the request of the Department of the Interior a bill to provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes.

I ask unanimous consent that the bill, a section-by-section analysis, executive communication which accompanied the proposal from the Department of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2669

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. ACQUISITION CEILING INCREASES.

The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

(a) Channel Islands National Park, California: section 208 of the Act of March 15, 1980 (94 Stat. 77) is amended by striking out "$30,100,000" and inserting in lieu thereof "$48,940,000";

(b) Chesapeake and Ohio Canal National Historical Park, Maryland and District of Columbia: section 8(b) of the Act of January 8, 1971 (84 Stat. 1980) is amended by

striking out "$28,400,000" and inserting in lieu thereof "$34,740,226"; and

(c) Cumberland Island National Seashore, Georgia: section 10 of the Act of October 23, 1972 (86 Stat. 1068) is amended by striking out "$28,500,000" and inserting in lieu thereof "$36,079,500".

SEC. 2. DEVELOPMENT CEILING INCREASES.

The limitations on appropriations for development of units of the National Park System contained in the following Acts are amended as follows:

(a) Cuyahoga Valley National Recreation Area, Ohio: section 6(b) of the Act of December 27, 1974 (88 Stat. 1788) is amended by striking out "$13,000,000" and inserting in lieu thereof "$22,223,000"; and

(b) Kalaupapa National Historical Park, Hawaii: section 110 of the Act of December 22, 1980 (94 Stat. 3324) is amended by striking out "$1,000,000" and inserting in lieu thereof "$4,190,000".

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SECTION-BY-SECTION ANALYSIS

Section 1. Acquisition ceiling increases. Amends statutory limitations on appropriations for land acquisition in following National Park System areas:

(a) Channel Islands National Park, CA: from $30,100,000 to $48,940,000;

(b) Chesapeake and Ohio Canal National Historical Park, MD-DC: from $28,400,000 to $34,740,226; and

(c) Cumberland Island National Seashore, GA: from $28,500,000 to $36,079,500.

Section 2. Development ceiling increases. Amends statutory limitations on appropriations for development in following National Park System areas:

(a) Cuyahoga Valley National Recreation Area, OH: from $13,000,000 to $22,223,000; and

(b) Kalaupapa National Historical Park, HI: from $1,000,000 to $4,190,000.

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DEPARTMENT OF THE INTERIOR,
*Washington, DC, May 4, 1990.*

Hon. J. DANFORTH QUAYLE,
*President of the Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System, and for other purposes."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The President's budget estimate for fiscal year 1991 for the National Park Service includes funds for land acquisition at three units of the National Park System and for development at two units of the System which exceed statutory limitations on appropriations for these purposes. Such limitations are contained in the enabling legislation for each unit. The enclosed draft bill would amend each enabling Act to increase the appropriation limitation by an amount sufficient to accommodate the budget estimate.

Acquisition ceiling increases are recommended for three areas. At Channel Islands National Park in California, an increase of $18,840,000 is needed to accommodate $4,340,000 already appropriated over the current ceiling (under authority of P.L. 95-42) and $14,500,000 in the fiscal year 1991 budget. At Chesapeake and Ohio National Historical Park, Maryland and the District of Columbia, an increase of $6,340,226 is needed to accommodate $7 million in the fiscal year 1991 budget ($659,774 remains unappropriated under the existing ceiling). At Cumberland Island National Seashore in Georgia, an increase of $7,579,500 is needed to accommodate $10 million in the fiscal year 1991 budget ($2,420,500 remains unappropriated under the existing ceiling).

Development ceiling increases are recommended for two areas. at Cuyahoga Valley National Recreation Area, Ohio, an increase of $9,223,000 is needed to accommodate $915,000 already appropriated over the current ceiling and $8,308,000 in the fiscal year 1991 budget for completion of two construction projects, the rehabilitation of utilities at the Kendall Unit ($1,508,000) and waste removal, filling, and restoration of the Krejci toxic waste site ($6,800,000).

At Kalaupapa National Historical Park, Hawaii, an increase of $3,190,000 is needed to accommodate $3,510,000 in the fiscal year 1991 budget ($320,000 remains unappropriated under the existing ceiling). This will complete replacement of the old water distribution lines, which are a health risk and a fire hazard.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

CONSTANCE B. HARRIMAN,
*Assistant Secretary.*●

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By Mr. REID:

S. 2670. A bill to amend the Trade Act of 1974 in order to require reciprocal responses to foreign acts, policies, and practices that deny national treatment to United States investment; to the Committee on Finance.

FAIR INVESTMENT ACT OF 1990

Mr. REID. Mr. President, today I am introducing the Fair Investment Act of 1990. This legislation is a companion bill to H.R. 3699, introduced by Representative TOM CAMPBELL on November 17, 1989. As of today, this legislation has 97 cosponsors in the House and strong bipartisan support.

The Fair Investment Act of 1990 is a direct result of the unfair business practices of Japan, Korea, and other countries.

We all know about the unfair trading practices of Japan and Korea. They slap obscenely high tariffs on American beef and cars so that our products cannot be sold in their countries. Then, they turn around and flood this country with cheap products and consistently undersell us. And they do this at the very time that the American taxpayer is paying for their military defense. We are subsidizing their national security so that they can take advantage of us economically.

The untold story is what the Japanese and Koreans are doing to us through unfair investment practices.

The Japanese are the most extreme in their unfairness. Consider what they think is fair investment in the United States.

The Japanese have penetrated just about every American industry. These incursions have had more than a few big ticket items. Sony Corp. recently paid $3.4 billion for Columbia Pictures. Rockefeller Center, the home of NBC and one of the most prestigious addresses in New York City, now has a Japanese landlord. Seventy percent of Honolulu is controlled by Japanese investors.

It's no wonder the Organization for Economic Cooperation, and Development calls our economy "the most open in the world." If other nations played by our rules, we would be in good shape; but they don't.

In contrast to our free and open markets, Japan is practically off-limits to American investors. For years, many United States manufacturers have tried to sell their goods in Japan—only to face repeated delays and setbacks.

The primary problem is that the Japanese distribution system has not accommodated American goods. For example, Japanese auto dealers often refuse to sell American-made cars. The alternative—establishing an entirely separate distribution system—is prohibitively expensive in most instances. Only a few American companies, such as the Amway Corp., have been able to establish their own, independent distribution systems to achieve market penetration.

Japan may be the worst offender, but it is hardly alone in this international double standard.

South Korea has flooded the American car market with Hundai's during the past several years. They like free trade when they come to America. They hate it on their own doorstep. And they have proven it in their investment policies, by outlawing foreign investment in 28 lucrative industries, including farming, publishing, and radio and television broadcasting.

This double standard is also practiced by European countries—who also rely on American military power to gain an economic advantage over us.

France will not grant most-favored-nation status to the United States or other countries outside the European Community. Approval to invest in France is sometimes even linked to specific requirements like maintaining a positive balance of trade. Recent cases have demonstrated that U.S. firms have had difficulty in obtaining such approval.

But it remains the Japanese who perpetuate the cruelest hoax on America—talking about free trade and open investment, while closing their borders in an economic move that mortally damages American workers and businesses.

Japan's economy is dominated by a shadow government of business leaders who make many of the decisions affecting that country's industrial, economic, and trade policies. This internal cartel of interlocking corporations is known as "keiretsu." Because of the keiretsu, economic power in Japan is extremely concentrated, even

to the detriment of the vast majority of Japanese citizens.

This tightly knit control group is closed to all newcomers—Japanese as well as foreign. Most Japanese investors cannot penetrate the powerful, secretive keiretsu.

These are the Japanese men who make it almost impossible for American retailers to establish a presence in Japan. They keep restrictive laws on the books in Japan, such as the legal right of small store owners to contest the opening of large department stores in their neighborhoods.

An American retailer can expect to wait 10 years before opening doors for customers. Ten years is a long time to receive any return on an investment. And that's only if the American investor gets past all the Government regulations and potential lawsuits from small store owners.

One of the most egregious examples of discrimination occurs against Americans who merely want to invest in the Japanese capital markets. While the Japanese continue to buy controlling interests in American companies and freely enter our corporate board rooms as voting members of corporate boards of directors, they prohibit Americans from doing the very same thing in their country. They will sell us the stock and take our money, but they won't allow us to vote as stockholders.

Mr. T. Boone Pickens' experiences as a shareholder of Koito Manufacturing Co. are a perfect example of this unfairness.

He is now the company's largest shareholder, but Mr. Pickens cannot even get a look at the company books and records. Representation on the Koito board is out of the question. The corporate insiders controlling Koito do not want a foreigner to have a look at how their system operates.

This outrageous behavior has even prompted ordinary Japanese citizens to write in support of Pickens' efforts.

Earlier this month, a small businessman from Japan testified anonymously before a House subcommittee on the anticompetitive behavior of keiretsu. Testifying from behind a cloak so the keiretsu could not retaliate against him, this brave Japanese businessman described how he is forced to accept arbitrary price cuts, hire particular individuals, and blacklist suppliers who act independently of the keiretsu.

The Fair Investment Act of 1990 would stop the double standard that allows Japan and other countries to take our money without giving anything in return.

This legislation would use the successful carrot and stick approach. If foreign countries practice fair investment and don't discriminate against us, we won't retaliate against them. But if they discriminate against our businessmen, then they shouldn't expect to get a free ride in this country.

It's a question of fairness, that's all. If they play fair, so will we.

To achieve this reciprocal relationship, the Fair Investment Act amends section 301(c) of the Trade Act of 1974 (19 U.S.C., section 2411(c)) to authorize reciprocal responses to foreign acts, policies, and practices that deny national treatment of U.S. investments. My bill merely seeks the creation of the "level playing field" that has been talked about but has never materialized.

The current administration, like its predecessor, views open investment and free trade as the two policy components to cure our foreign trade ills. Unfortunately, the pursuit of these policies has done nothing to improve our staggering trade deficit. I think I know why. Only our Government has a truly open and free trade policy.

The Japanese Government does everything in its power to preserve, protect, and defend Japanese industry. It's time we in the United States did the same thing for our economy.

We in Congress must pass legislation that encourages a reciprocal trade relationship. The policymakers in the administration must implement fair investment and fair trade policies. Failing to place Japan on the Super 301 list demonstrates they have not yet learned the wisdom of those kind of policies.

Mr. President, Congress is watching the implementation of our trade policies very carefully and it appears Americans keep getting shortchanged in these matters. Therefore, it is time to give our trade negotiators the proper tools. The legislation I am introducing today does just that. It puts a nation's money where its mouth is. If a nation really has free trade laws, then it will receive the benefit of America's open market. If it places restrictions on foreign investment on our economy, then America will place the same restrictions on investments here. This is a reasonable response to a situation that has grown out of control.

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By Mr. CRANSTON:

S. 2671. A bill for the relief of Restituta Cayubit Brick; to the Committee on the Judiciary.

RELIEF OF RESTITUTA CAYUBIT BRICK

Mr. CRANSTON. Mr. President, I am today introducing a private relief bill on behalf of Mrs. Restituta C. Brick, a citizen of the Philippines, the widow of a U.S. serviceman, John P. Brick, and the mother of their 3-year-old daughter born and raised in the United States.

In November 1986, Mrs. Brick became a widow when her husband sustained fatal head injuries due to a vehicular accident. They had only been married 3 weeks and were planning to relocate in San Diego, CA, in the following month.

Serviceman and Mrs. Brick met in the Philippines in October 1984 while Serviceman Brick was stationed aboard the U.S.S. *Schenectady* at Subic Bay. Serviceman Brick filed the appropriate marriage forms with the United States Navy and with the Philippine Government in May 1986, but they had to wait until October 17, 1986, for the ceremony due to delays on the part of both the United States and the Philippine Government.

In expectation of relocating to San Diego in December 1986, Serviceman Brick filed the necessary forms and affidavit of support to secure his wife's U.S. permanent residency on October 27, 1986. Unfortunately, the petition was not approved prior to his untimely death. After his death, Mrs. Brick came to San Diego for her husband's funeral and to give birth to their only child.

Mrs. Brick has resided with her inlaws in Escondido, CA, since her arrival. They have welcomed Mrs. Brick into their family as an adopted daughter and are extremely hopeful that she and their granddaughter, Katherine, will be able to remain in the United States permanently.

As the spouse of a U.S. citizen, Mrs. Brick would not have had difficulty obtaining a permanent resident visa had her husband survived. It is only due to his unexpected death that she has been denied permanent residency. In fact, because Mrs. Brick married a member of the U.S. Navy, she has already successfully completed a background check by the U.S. Government. Mrs. Brick's only alternative to private legislation is to wait 18 years for her daughter, a U.S. citizen, to be old enough to file a petition on her behalf.

Serviceman and Mrs. Brick had always planned to raise and educate their children in the United States. Understandably, Mrs. Brick hopes to remain in the United States to fulfill the wishes of her husband and raise their daughter, Katherine, here. I believe that this is a clear and compelling case for which private legislation is necessary. Mrs. Brick has no other viable alternative and she has arrived at this situation through no fault of her own. I am hopeful that my colleagues will support this bill.

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By Mr. THURMOND:

S. 2672. A bill to establish a United States Marshals Foundation; to the Committee on the Judiciary.

UNITED STATES MARSHALS FOUNDATION ESTABLISHMENT ACT

● Mr. THURMOND. Mr. President, I am pleased to introduce today legislation which would establish a United States Marshals Foundation.

The U.S. Marshals Service last year celebrated its bicentennial anniversary. Created by the First Congress in the Judiciary Act of 1789—the U.S. marshals and the Federal judicial system were established in the same legislation. George Washington appointed the first 13 marshals, and for the next 150 years the marshals was the only Federal agency authorized to make arrests and enforce Federal law.

Though best known as the frontier lawmen, U.S. marshals were the first Secret Service men and even took the population census every 10 years until 1870. Because they perform general purpose law enforcement duties, marshals are often confused with the CIA, FBI, the county sheriff, and other law enforcement agencies.

U.S. marshals, appointed by the President, are under the jurisdiction of the Justice Department. Last year, the 2,694 marshals (including 94 full marshals and 2,600 sworn deputies) arrested 14,000 Federal fugitives—more than all other Federal law enforcement agencies combined. They protected 505 judicial facilities and 1,611 judges and magistrates. Their responsibilities include not only ensuring security and proper decorum in the courtroom, but also providing personal protection for judges, U.S. attorneys, jurors, and witnesses while away from the court facilities when warranted. Their court security officers detected 55,970 weapons at courthouse checkpoints and they administered the Witness Security Program with its 5,500 protected witnesses and 6,000 witness family members. The Marshals' National Prisoner Transportation Network transported 92,000 defendants to 333,987, court appearances, and last year the marshals managed almost $1 billion in property seized from alleged lawbreakers in the National Asset Seizure and Forfeiture Program.

I feel it is only appropriate to elevate and strengthen public knowledge of law enforcement in general, and the U.S. Marshals Service in particular by introducing this legislation to establish a United States Marshals Foundation. The legislation is modeled after similar legislation which established the National Fish and Wildlife Foundation and the National Park Foundation. Governed by a board of directors, the Foundation would be a charitable and nonprofit corporation and would not be an agency or establishment of the United States. The directors—appointed with the advice and consent of the Director of the U.S. Marshals Service—would serve for terms of 4 years, and the legislation requires that they be knowledgeable or experienced in law enforcement matters.

I urge my colleagues to join with me in supporting this worthwhile legislation.●

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By Mr. McCLURE:

S. 2674. A bill to provide for the reestablishment of the gray wolf in Yellowstone National Park and the Central Idaho Wilderness Area; to the Committee on Energy and Natural Resources.

NORTHERN ROCKY MOUNTAIN GRAY WOLF RESTORATION ACT

Mr. McCLURE. Mr. President, today I am introducing a bill that will bring about the return of the gray wolf to Yellowstone National Park and to the Wilderness of central Idaho.

My bill, the Rocky Mountain Gray Wolf Restoration Act of 1990, is the result of almost 3 years of attempting to bring together the opposing sides in an issue that is as polarized as any I have seen in my 24 years in the Congress.

At the center of the bill is a plan that will guarantee the return of the wolf to some of his ancestral haunts within the next few years. It also provides for the protection of the interests of those who live and work in the three states directly affected and who must be able to depend on access and use of public lands to make their living and those who have private lands adjacent to public lands.

The Northern Rockies Gray Wolf Reintroduction and Management Act provides for the transplanting and maintaining a minimum of three mating pairs of gray wolves into each of two core zones. One of the zones is 2.2-million-acre Yellowstone National Park. The second zone is an area of roughly 2 million acres located in central Idaho within the boundaries of the Selway-Bitteroot and River of No Return Wilderness areas.

Within those two core zones, as well as within portions of northwestern Montana where natural recovery is already well underway, wolves will continue to be listed as endangered. Transplanted wolves as well as those which might eventually make their own way into the zones will be fully protected as long as they remain within the core zone boundaries.

Core zone translocations under provisions in the bill in conjunction with the natural process underway in the Glacier Park area will guarantee safe sanctuary and provide an opportunity to maintain adequate gene pools as wolf populations increase and disperse throughout the northern Rockies.

The process in the solution I offer on this issue has not been developed in a vacuum. In fact, experts like Dr. David Mech—probably the authority on wolves in North America—and Dr. Steve Fritts, wolf coordinator for the U.S. Fish and Wildlife Service have both examined my approach. While they agree there might be better ways to get the job done from a purely biological standpoint, they also acknowledge that the proposed program can work.

Along with providing for translocating and maintaining minimum numbers of wolves within the core zones, the bill provides for the immediate delisting of wolves outside the core zones. Such action, while viewed with suspicion and opposed with philosophical arguments by some environmental organizations is the necessary ingredient to make it workable in the three States directly affected.

When Congress passed the Endangered Species Act, it envisioned legislation to make certain that species would not become extinct. The key to success of the law was finding a way to conserve and protect species truly in danger of becoming extinct. In fact, the act has become a vehicle by which some organizations and individuals seek to halt all activities on our public lands which they happen to oppose.

Mr. President, I would submit to you that such use of the Endangered Species Act was not envisioned nor would it have been condoned by a majority of those who originally crafted the law.

As the act applies to the gray wolf, there are three major points I would like to make. First, and perhaps most important, the wolf is not endangered as a species. There are thousands alive and well in North America including an estimated 1,200 to 1,500 in Minnesota, Wisconsin, and Michigan.

Second, transplanted wolves would not be the same wolf that probably roamed in and around the park historically. That particular subspecies is already extinct. Neither by reintroducing—or by allowing natural colonization to take place—would we be protecting and conserving that particular animal.

While that point may not seem important to some, I believe arguments about the return of the wolf to the Northern Rockies as an endangered species should recognize the fact before considering what is or is not the proper legal way to get the job done.

And last but not least, this bill would speed up actual recovery of wolf populations in precisely the same geographic areas recommended in the wolf recovery plan that has been approved by the Department of the Interior.

Arguments that the areas need to be larger are unfounded. Yesterday, the National Park Service released to Congress the results of its studies about how reintroduction might affect Yellowstone Park.

The official recovery plan calls for a target of 10 packs—approximately 100 animals—within each of the three areas to be recovered before delisting takes place. In the Yellowstone area, that plan concluded that an area almost three times the size of the park would be necessary to support such a number.

The study released yesterday, after 2 years of intensive examination of both new and already existing information, concludes that the park proper could likely sustain a population of up to 13 packs.

In fact, wolves are not going to know or care where recovery plan lines or my core zone lines are drawn. They will roam wherever necessary to find adequate food and habitat. In my opinion, that means that within a short time following translocation of wolves from Canada or Alaska, some of them are going to take off for a look at the rest of the world.

As long as wolves straying outside the core zones do not become a threat to domestic livestock or pets, do not—in the opinion of professional wildlife managers—threaten the survival of other wildlife species, or otherwise wind up in unacceptable conflict, they will remain free to live wherever they please.

Research indicates that wolf and ungulate populations are generally inversely proportional and cyclical over relatively long periods of time. My bill provides for professional management of that critical balancing act when necessary by restoring management authority over the wolf outside the boundaries of the core zones to the appropriate State fish and game departments in the three States involved.

Despite most of the rhetoric, reintroduction of wolves is not opposed just by the livestock industry. Hunting organizations are very concerned about what might happen to key elk herds we have worked for years to develop, and wolves seem to eat a lot of elk—especially calves—when they are available.

The Park Service study says that one wolf will eat 7 to 28 ungulates each year. That means that 100 wolves in Yellowstone Park or central Idaho could be expected to consume up to 3,000 animals annually.

In fact, the study shows that elk populations in the Park can be expected to decline by 10 to 25 percent; bison populations by 5 to 20 percent; and mule deer populations by 10 to 30 percent. Those numbers are not insignificant. For example, based on current populations, a recovered population of wolves in Yellowstone would kill approximately 3,000 elk per year.

Mr. President, as I stated near the beginning of my remarks, this issue has become about as polarized as any I can remember since coming to Washington. Some groups want to use the wolf as a surrogate for other agendas. Others have used it to raise a lot of money from citizens of this country truly concerned about the place of the wolf in our environment. Still others have used it for political purposes. What a shame that the laws of this Nation can be subverted for purposes other than the reason the law was originally written.

On either end of the issue spectrum are the hard liners, those who will use the wolf as a surrogate and those whose pioneering ancestors—with a lot of help and support from the Federal Government—finally managed, in the early part of this century, to virtually wipe out this animal they viewed as a threat to their survival.

Mr. President, we must not allow arguments over what is past to force us into decisions today which may, in the future, be found to be just as misguided as how some view those earlier decisions.

Like it or not, our world has changed and there is no turning back the clock of history as much as we might wish it to be so. Those whose radical positions place them at one end of the spectrum or the other on this issue should not be allowed to hamper the resolution of an issue that is important to all the American people.

The gray wolf has been on the endangered species list since 1973, the year the Endangered Species Act was passed. The single exception to that classification is in the State of Minnesota where they are classified as threatened.

The original recovery plan for the gray wolf in the Northern Rockies was written in 1974. The team responsible for the plan was asked to review and revise the plan in 1983. That task was completed in 1987.

The recovery team felt that recovery by natural dispersal was not practical for Yellowstone within the foreseeable future. Instead, they recommended a reintroduction program.

In central Idaho, they recommended waiting for 5 years to see if natural recolonization would begin by means of dispersing animals from Canada and northwestern Montana.

As I have already noted, wolves from Canada or Alaska that might be available for reintroduction are not the same subspecies that would have historically been found in the Yellowstone area. According to experts, that wolf—commonly referred to as the "buffalo wolf"—has been extinct since at least the late 1920's. The recovery plan itself does not recognize any gray wolf subspecies. In other words, as far as the official recovery plan is concerned, a wolf is a wolf and as far as the Government is concerned it doesn't matter that the species of concern longer exists.

The three States involved are owned largely by the Federal Government. Thirty percent of Montana, 50 percent of Wyoming and 64 percent of Idaho is federally owned. Access to and use of the public lands and resources on them has a great deal to do with the economy of our sparsely populated States. When the economy suffers, so do our communities and our people.

The working men and women of our States have no alternative but to rely on continued access to and the use of grass, water, logs and minerals from public lands to support their families. Those working people have mortgages to pay just like you and I; they have bills that are due each month; and they want to be able to feed and clothe their chidlren just as you and I do.

Reintroducing the wolf into their back yards presents a very real threat to them and they will resist any and all such efforts unless their own concerns are considered.

Mr. President, it is relatively easy for you and me and other Government workers to support actions such as the reintroduction mandated by my bill because our income and ability to make a living is not threatened. If recovery of the wolf is to be successful, we must recognize the legitimate concerns of the hundreds of honest, hard-working citizens who will be directly affected by our actions here in Congress. In my opinion, we have a responsibility to protect their right to make an honest living and to live the lifestyle they have chosen.

The effects of the reintroduction of wolves into the two areas proposed in my bill will be felt across a spectrum of land ownerships including a national park, wilderness areas, national forest lands, and both State and private lands.

Mr. President, I believe this bill provides exactly what the Congress had hoped for when it passed the Endangered Species Act. It provides for the reintroduction, population maintenance and permanent protection for wolves in large portions of the three geographically distinct areas recommended by the wolf recovery team.

It also provides authority for State management and control of problem wolves outside the core zone sanctuaries.

And finally, it provides a means of protecting the interests of the people most directly affected by any decision we make.

I hope my colleagues will join me in this attempt to resolve this important issue. By doing, so, the American people may soon be able to once again hear the wailing howl of the wolf in the Northern Rockies and in Yellowstone.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2674

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,* That this Act may be referred to as the Northern Rocky Mountain Gray Wolf Restoration Act of 1990.

SEC. 2. Within two years from the date of enactment of this Act, the Secretary of the Interior is directed to introduce three Alpha pairs of gray wolves each into Yellowstone National Park and into the Idaho portion of the Selway-Bitteroot and River of No Return Wilderness areas within the areas designated as "Core Zone" on the map entitled "Wolf Core Zone—Idaho, Montana, Wyoming" dated May 17, 1990. Prior to introduction of such wolves, the Secretary shall consult with the Governors of Idaho, Montana, and Wyoming and the Secretary of Agriculture.

SEC. 3. Upon introduction, natural dispersal of the wolves shall be permitted and no effort may be taken to restrict such dispersal: *Provided,* That, the Secretary shall immediately replace any wolves that do not remain within the core zones. Each wolf introduced pursuant to this Act shall be equipped with a radio collar for monitoring purposes. At such time as the Secretary determines that three pair have established themselves within the core zone in Idaho for a period of three years, the Secretary shall restrict the boundaries of the core zone to coincide with the established territories.

SEC. 4. The Secretary is authorized and directed to permit the natural re-colonization of gray wolves in the area designated as a "Natural Recovery Area" on the map entitled "Natural Recovery Area-Montana" dated May 22, 1990.

SEC. 5. Effective on the date of enactment, the gray wolf is hereby declared and determined not to be a threatened or endangered species within the meaning of the Endangered Species Act (P.L. 93-205, 87 Stat. 884, as amended) outside the areas designated as "Core Zone" on the map referred to in section 2 of this Act and outside the area designated as a "Natural Recovery Area" on the map referred to in section 4 of this Act within the States of Idaho, Montana, and Wyoming and may not be so determined in the future other than by specific designation as such in an Act of Congress.

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By Mr. BRADLEY (for himself and Mrs. KASSEBAUM):

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week"; to the Committee on the Judiciary.

GEOGRAPHY AWARENESS WEEK

● Mr. BRADLEY. Mr. President, I rise today with my distinguished colleague from Kansas [Mrs. KASSEBAUM] to introduce a resolution to declare the week of November 11 to November 17, 1990, as "Geography Awareness Week."

Mr. President, 3 years ago, I introduced the first Geography Awareness Week resolution, because I saw alarming reports of geographic illiteracy in our Nation. Surveys found that our Nation's students had at best a distorted understanding of our world and at worst were totally ignorant of the most basic geography. A survey by the Asbury Park Press in one part of New Jersey found that on the average, 12th graders could identify only 41 percent of the States. In Dallas, 25 percent of the high school students could not name Mexico as the country that bordered the United States to the south. In Boston, 39 percent of the surveyed students could not name the six New England States.

Mr. President, since Congress first took note of the problem by establishing Geography Awareness Week, we have started to confront the problem of geographic illiteracy. Many schools have reintroduced geography as part of their curriculum. But much needs to be done to revitalize and expand the role of geography in the public consciousness.

Three years ago, I sponsored the first statewide geography bee in New Jersey. Over 600 eighth graders from all over the State competed. Robin Cadwallender, a 13-year-old eighth grader from Hopatcong, NJ, won that competition. Now, we have a national geography bee (modeled after that first New Jersey bee) which is in its second year. All 50 states are involved in the competition, run much like the national spelling bee.

In addition, for the past 3 years, I have challenged elementary school classes to develop outstanding geography class projects. The response has been phenomenal. In fact—last year, 14,000 students and 450 teachers from 200 schools in New Jersey participated in the program. I gave one school an outstanding achievement award, and 10 schools special recognition awards for their efforts. I am proud of all the students and teachers who have participated over the past 3 years.

I believe that national attention must be focused on the importance of world geography in preparing our young people for the future of an increasingly interdependent and interconnected world. Knowledge of geography offers necessary perspectives and information for understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world.

Yet even with this critical need to know, a majority of American students today still receive no significant exposure to geography in school. This is illustrated by a recent Gallup poll which ranked Americans in the bottom third in an international test of geographic knowledge, with those aged 18 to 24 ranking last. Less than half of these young people could find Central America on a map; only one in three could locate Vietnam; and three-quarters could not find the Persian Gulf. Clearly, continued ignorance, such as this, places the United States at a distinct disadvantage in matters of business, politics, and the environment.

That's why I am introducing this resolution—to focus national attention on the essential role that knowledge of world geography plays in our lives. It is my hope that this will be just one step in a revitalization of the study of geography. All of our citizens should have access to the sort of education which will help them appreciate both the great beauty and diversity of this Nation and its place in the world.●

● Mrs. KASSEBAUM. Mr. President, once again I am pleased to join Senator BRADLEY in introducing a resolution designating the week of November 11 through 17, 1990, as "National Geography Awareness Week." I cannot stress enough how important the knowledge of geography is in a world of constant change and emerging democracy. One cannot appreciate the transformations taking place in Eastern Europe and South America without the knowledge of geography.

The commemoration of Geography Awareness Week has provided the United States with an opportunity to concentrate on the national improvement of geographic literacy. For three consecutive years public officials, schools, businesses and communities have participated in special events and activities promoting the nation's geography awareness.

Currently, American students receive limited exposure to geography in their curricula. According to the results of the National Assessment of Education Progress in geography, the Nation's high school seniors responded correctly to only 57 percent of the geography test items. Only 33 percent of the students tested could correctly identify the order of the oceans, moving West to East from Africa. Clearly, unless renewed emphasis is placed on geography, the United States will remain at a distinct disadvantage in international business and politics.

I believe National Geography Awareness Week will once again strengthen public awareness of the importance of improving geographic literacy in our educational systems and our communities. I urge our colleagues to join Senator BRADLEY and me in supporting this resolution.●

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By Mr. DOLE (for himself, Mr. INOUYE, Mr. ADAMS, Mr. CHAFEE, Mr. DIXON, Mr. GLENN, Mr. HEFLIN, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. MCCLURE, Mr. MOYNIHAN, Mr. PELL, Mr. ROTH, Mr. SANFORD, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 324. Joint resolution to designate June 3 through 9, 1990, as "Week of the National Observance of the 50th Anniversary of World War II"; to the Committee on the Judiciary.

WEEK OF THE NATIONAL OBSERVANCE OF THE 50TH ANNIVERSARY OF WORLD WAR II

Mr. DOLE. Mr. President, today, on behalf of myself, Senator INOUYE and my distinguished cosponsors, I offer a joint resolution to commemorate the week of June 3 through June 9, 1990, as the National Observance of the 50th Anniversary of World War II.

It seems to me, that with the rapid spread of democracy and freedom throughout Eastern Europe, it is especially fitting that we now honor those Americans who fought and sacrificed during World War II to lay the foundations of this new freedom unfolding in Europe.

There is no doubt that America's contribution during World War II was decisive in the defeat of the violent tyrannies that had ignited the most destructive war in history. It was the bravery, productivity, and genius of the American people that made this victory possible.

The U.S. contribution began long before Pearl Harbor: American ships ensured that England kept its sea lanes open; American intelligence experts were breaking the codes that would be a key to our future naval victories in the Pacific and the Atlantic; and the U.S. Army was perfecting the tactics that would allow our forces to take North Africa, Italy, and France. By 1940, there were Americans actually flying combat missions as volunteers over England and China.

With America's full entry into the war, the American people were galvanized into action that would change the world. American valor on the battlefield was supported by the efforts of the American farmer and worker, as we became the most productive nation in history. Billions of tons of ships, aircraft, and vehicles were produced at unprecedented rates. And, as the arsenal of democracy became an awesome reality to our enemies, American farmers produced enough food to feed the world. It's also important to remember that our farmers saved both our allies and our defeated enemies from starvation after the war.

Our Nation's productivity was exceeded only by its creative genius. American science and technology gave us the ability to transform imagination into reality, with an engineer's exacting precision. The computer would increase our capabilities in all fields. New medical techniques and pharmaceuticals would provide new possibilities in health care. New materials and processes would forever change our manufacturing and construction techniques.

Moreover, the period between 1940 and 1945 was a time of great transition for our Nation. Internationally, we became a superpower. Domestically, we experienced great social changes, as vast population shifts changed the demographics of our Nation, and women took on new challenges in the workplace which would redefine their roles in society.

The week of June 3 to June 9, is especially significant to our Nation. It was during this first week in June 1942, at Midway, that our naval forces dealt a devastating blow to the Japanese navy, a victory so complete, that it never recovered. It was in this week in 1944, that Americans liberated Rome from the Fascists and stormed the beaches of Normandy, to liberate Europe from the Nazis.

Mr. President, I believe we need to honor the men and women of this Nation who gave their all so that others could live in freedom. I, therefore, send this joint resolution to the desk to authorize the President of the United States to issue a proclamation establishing the week of June 3 to June 9, 1990, as the Week of the National Observance of the 50th Anniversary of World War II.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 324

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over 400,000 Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history, and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1990 and 1995, over 9,000,000 American veterans of World War II will hold reunions and conferences and otherwise commemorate the 50th anniversaries of various events relating to World War II;

Whereas June 4, 1990, marks the anniversary of the Battle of Midway and June 6, 1990, marks the anniversary of the D-Day battle: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That June 3, through June 9, 1990, is designated as "National World War II Observance Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate activities and ceremonies.

## ADDITIONAL COSPONSORS

S. 324

At the request of Mr. WIRTH, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 324, a bill to establish a national energy policy to reduce global warming, and for other purposes.

S. 345

At the request of Mr. DODD, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 345, a bill to grant employees family and temporary medical leave under certain circumstances, and for other purposes.

S. 435

At the request of Mr. REID, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exeptions from certain rules determining contributions in aid of construction.

S. 682

At the request of Mr. SIMON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 682, a bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association," "Visiting Nurse Service," "VNA," "VNS," or "VNAA," or the unauthorized use of the name or insignia for the Visiting Nurse Association of America.

S. 980

At the request of Mr. MITCHELL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 980, a bill to amend the Internal Revenue Code of 1986 to improve the effectiveness of the low-income housing credit.

S. 1140

At the request of Mr. MITCHELL, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1140, a bill to to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 1579

At the request of Mr. FOWLER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1579, a bill to amend the National Historic Preservation Act, the Historic Sites Act, the Archaeological Resources Protection Act, and the Abandoned Shipwreck Act, and certain related acts to strengthen the preservation of our historic heritage and resources, and for other purposes.

S. 1690

At the request of Mr. DODD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1690, a bill to establish programs to improve foreign language instruction, and for other purposes.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in conection with civil service retirement, and for other purposes.

S. 1911

At the request of Mr. DODD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 1930

At the request of Mr. GORE, the name of the Senator from Hawaii [Mr. INOUYE], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1930, a bill to amend the Higher Education Act of 1965 to require colleges and universities to establish and disclose campus security policies and to inform students and employees of campus crime statistics, and for other purposes.

S. 2179

At the request of Mr. SIMON, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2179, a bill to maintain funding for State and local law enforcement programs in the war against drugs and crime.

S. 2186

At the request of Mr. MCCONNELL, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2186, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 2189

At the request of Mr. PRYOR, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2189, a bill to establish a grant program to provide health insurance information, counseling, and assistance to individuals eligible to receive benefits under title XVIII of the Social Security Act, and for other purposes.

S. 2250

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. WARNER], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2385

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2385, a bill to establish the National Forest Foundation.

S. 2434

At the request of Mr. D'AMATO, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2434, a bill to permit the implementation of the Department of Transportation antidrug program rule for recipients of Federal mass transit assistance.

S. 2447

At the request of Mr. JOHNSTON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2447, a bill to establish the Bayou Cocodrie National Wildlife Refuge.

S. 2598

At the request of Mr. GRAMM, the name of the Senator from Texas [Mr. BENTSEN] added as a cosponsor of S. 2598, to amend title 38, United States Code, to authorize the Secretary of Veteran Affairs to make grants (in conjunction with the Secretary of Defense) for the establishment of research centers at qualifying medical schools to carry out medical research in areas of interest to the Department of Veterans Affairs.

S. 2611

At the request of Mr. HARKIN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2611, a bill to authorize assistance to the Washington Center for Internships and Academic Seminars.

SENATE JOINT RESOLUTION 271

At the request of Mr. MCCONNELL, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate July 10, 1990 as "Wyoming Centennial Day."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Hawaii [Mr. INOUYE], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE JOINT RESOLUTION 283

At the request of Mr. CRANSTON, the names of the Senator from Illinois [Mr. DIXON], the Senator from North Dakota [Mr. CONRAD], the Senator from Alabama [Mr. SHELBY], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 283, a joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park.

SENATE JOINT RESOLUTION 289

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Utah [Mr. HATCH], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 289, a joint resolution to designate October 1990 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 299

At the request of Mr. JOHNSTON, the names of the Senator from Illinois [Mr. SIMON], the Senator from Maine [Mr. COHEN], the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. MCCLURE], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 299, a joint resolution to designate the period October 1, 1990, through October 1, 1991, as the "Year of the Wetlands."

SENATE JOINT RESOLUTION 301

At the request of Mr. PELL, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Iowa [Mr. GRASSLEY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Ohio [Mr. GLENN], the Senator from Nevada [Mr. REID], the Senator from Kansas [Mr. DOLE], the Senator from West Virginia [Mr. BYRD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. BRYAN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 301, a joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 304

At the request of Mr. SHELBY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from California [Mr. WILSON], the Senator from Tennessee [Mr. SASSER], the Senator from Vermont [Mr. JEFFORDS], the Senator from Texas [Mr. BENTSEN], the Senator from Washington [Mr. ADAMS], the Senator from California [Mr. CRANSTON], the Senator from Hawaii [Mr. AKAKA], the Senator from Louisiana [Mr. BREAUX], the Senator from Nebraska [Mr. EXON], the Senator from

Kentucky [Mr. FORD], the Senator from Ohio [Mr. GLENN], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Nebraska [Mr. KERREY], the Senator from Colorado [Mr. WIRTH], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Mississippi [Mr. LOTT], the Senator from Missouri [Mr. BOND], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Missouri [Mr. DANFORTH], the Senator from Washington [Mr. GORTON], the Senator from Florida [Mr. MACK], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 304, a joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day."

SENATE JOINT RESOLUTION 308

At the request of Mrs. KASSEBAUM, the names of the Senator from Virginia [Mr. WARNER], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. DIXON], the Senator from Idaho [Mr. MCCLURE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Dakota [Mr. PRESSLER], the Senator from Vermont [Mr. JEFFORDS], the Senator from Washington [Mr. ADAMS], the Senator from New York [Mr. MOYNIHAN], the Senator from Indiana [Mr. LUGAR], the Senator from California [Mr. WILSON], the Senator from Alaska [Mr. STEVENS], the Senator from Alabama [Mr. SHELBY], the Senator from Indiana [Mr. COATS], the Senator from North Dakota [Mr. BURDICK], the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. HEFLIN], the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. GORE], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. SASSER], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 308, a joint resolution to designate the month of June 1990, as "National Huntington's Disease Awareness Month."

SENATE JOINT RESOLUTION 311

At the request of Mr. INOUYE, the names of the Senator from Tennessee [Mr. SASSER], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 311, a joint resolution to designate the month of November 1990 as "National American Indian and Alaska Native Heritage Month."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to the American communities.

## AMENDMENTS SUBMITTED

## CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

### McCONNELL AMENDMENT NO. 1674

(Ordered to lie on the table.)

Mr. MCCONNELL (for himself, Mr. KERRY, Mr. BRYAN, Mr. BURNS, Mr. SANFORD, Mr. REID, and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

At the appropriate place, insert the following:

(a) NEGOTIATIONS.—(1) The Attorney General shall enter into negotiations with the appropriate law enforcement and judicial agencies and any other officials of any foreign country with jurisdiction over companies who manufacture, market, sell or purchase certain precursor and/or essential chemicals used in the production of illicit narcotics. The priority of negotiations should be determined based on an assessment by the Attorney General which countries have jurisdiction over companies that may be knowingly or unknowingly supplying chemicals for the illicit manufacture of controlled substances.

(2) The purposes of the negotiations shall be to (a) establish a list of precursor and essential chemicals contributing to the illicit manufacture of controlled substances, as defined in the section 102 Controlled Substances Act (21 U.S.C. 802); (b) reach one or more international agreements on a method for maintaining records of transactions of these listed chemicals; (c) establish a procedure by which such records may be made available to (and kept confidential as necessary by) United States law enforcement authorities for the exclusive purpose of conducting an investigation relative to precursor chemicals, essential chemicals and/or controlled substances contributing to the manufacture of illicit narcotics; (d) encourage chemical source countries to enact national chemical control legislation which would (i) impose specific record keeping and reporting requirements for domestic transactions involving listed chemicals; (ii) establish a system of permits or declarations for imports and exports of listed chemicals; and (iii) authorize government officials to seize or suspend shipments of listed chemicals based on evidence that they may be destined for the illicit manufacture of controlled substances.

(b) REPORTS.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit an interim report to the Judiciary Committee and the Foreign Relations Committee of the Senate on progress in the negotiations. Not later than eighteen months from date of enactment, the Attorney General shall submit a final report to the aforementioned Senate Committees on the result of negotiations identifying countries with which agreements have not been reached and which have jurisdiction over companies believed to be engaged in the manufacture, marketing, sale or purchase of precursor and/or essential chemicals used in illicit manufacture of controlled substances.

(c) PENALTIES.—After consulting with the Attorney General and the Director of National Drug Control Policy, the President shall impose penalties or sanctions including temporarily or permanently prohibiting any corporation, partnership, individual or business association (i) refusing to maintain records for the purpose of monitoring and regulating transactions of listed precursor chemicals, or (ii) refusing to make such records available to United States law enforcement authorities for investigative purposes from engaging in any or all transactions within the commerce of the United States.

(d) DEFINITIONS.—A record under subsection (a) shall be retrievable and include the date of the transaction, the identity of each party to the transaction, including the ultimate consignee, an accounting of the quantity and form of listed chemical(s) and a description of the method of transfer.

(e) This Act shall not apply to the manufacture, distribution, sale import or export of any drug which may, under the Federal Food, Drug and Cosmetic Act be lawfully sold over the counter without prescription.

### McCONNELL AMENDMENT NO. 1675

(Ordered to lie on the table.)

Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . PORNOGRAPHY VICTIMS' COMPENSATION ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Pornography Victims' Compensation Act of 1990".

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds and declares that—

(A) protecting freedom of speech, within the bounds of safety to individuals and society, is essential to the preservation of a just and free society;

(B) consistent with the constitutional protection of freedom of speech, the State has a legitimate interest in restricting sexually explicit material, if there is a danger of harm or actual harm to individuals or society, such as the sexual exploitation of children by child pornography, the invasion of privacy and the home by indecent broadcasts, or the promotion of rape and sexual homicide by violent sexual material;

(C) the Attorney General's Commission on Pornography in 1986 found clinical and experimental evidence of a causal relationship between exposure to sexually explicit materials and sexual aggression, including the commission of unlawful sexual acts;

(D) the Attorney General's Commission on Pornography also found evidence that sexually explicit material need not be legally obscene to stimulate anti-social and potentially unlawful sexual aggression, if the material presents violation acts in a clear sexual context, or the sexual abuse of children:

(E) behavioral studies of serial murderers conducted by the Federal Bureau of Investigation have revealed a strong correlation between heavy exposure to violent sexual material and violent serial criminality;

(F) investigations conducted by the Child Pornography and Protection Unit of the United States Customs Service have revealed a nearly absolute correlation between heavy consumption of child pornography and child sexual abuse, including the use of child pornography to entrap children into the performance of sexual acts;

(G) recent psychological studies indicate a correlation between the growing number of children and youths who commit rape and other violent sexual offenses, and the declining age of first exposure to sexually explicit materials;

(H) sexual crimes such as rape and child abuse usually leave life-long psychological scars that may prevent the victims and his or her family from leading normal, fulfilled lives;

(I) the State has a legitimate interest in protecting its citizens, including children, from sexual crimes and in preventing such crimes through reasonable, effective, and constitutional means; and

(J) the State has a legitimate interest in providing adequate compensation to the victims of sexual crimes for their physical injuries, complete medical and psychological treatment, and continuing pain and suffering.

(2) PURPOSE.—It is the purpose of this section to require the producers, distributors, exhibitors, disseminators, and sellers of sexually explicit visual material to be jointly and severally liable for all damages resulting from any sexual offense that was at least partially caused by the sexual offender's exposure to the sexually explicit material.

(3) CONSTRUCTION.—The cause of action created by this section shall be available to any cause of action against a sex offender or any sexual offense.

(c) CAUSE OF ACTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a civil action may be instituted in an appropriate court against a producer, distributor, exhibitor, disseminator, or seller of sexually explicit visual material, pursuant to the provisions of this section, by—

(A) a victim of a rape, sexual assault, sexual abuse, sexual murder, or sexual crime as described under the relevant State or Federal law, whether or not such rape, assault, abuse, murder, or crime has been prosecuted or proven in a separate criminal proceeding.

(B) the estate of such a victim, or

(C) the guardian or survivors of any such victim.

(2) PROOF AND EVIDENCE.—To recover pursuant to the provisions of this section, the individual bringing such action must prove, by a preponderance of the evidence, that—

(A) the victim was a victim of a rape, sexual assault, sexual abuse, sexual murder, or sexual crime, as defined under the relevant State or Federal law, whether or not such rape, assault, abuse, murder, or crime has been prosecuted or proven in a separate criminal proceeding;

(B) the material—

(i) is obscene;

(ii) is child pornography; or

(iii) in the case of rape, sexual assault, sexual abuse, sexual murder, or any other violent sexual crime, is both sexually explicit and violent;

(C) the material was a proximate cause of the offense, by—

(i) inciting the sexual offender to commit the offense perpetrated against the victim; or

(ii) producing imminent lawless action or was likely to incite or produce imminent lawless action;

(D) the defendant is a producer or distributor of the material, or exhibited, disseminated, or sold the material to the sexual offender; and

(E) the sale or transport of the material affects interstate or foreign commerce.

(3) SEXUALLY EXPLICIT VISUAL MATERIAL AS CAUSE.—For purposes of this section, the finder of fact may reasonably infer that the sexually explicit visual material was a proximate cause of the offense, by inciting the offender to commit the offense if any of the following are found—

(A) similarities between the acts depicted in such material and the actual offense;

(B) tesimony of the offender to the effect that such material incited the commission of the offense; and

(C) testimony of experts, to the effect that such material incited or tended to incite the offender to commit the offense.

(4) APPLICABILITY.—The provisions of this section shall apply only to visual depictions of sexually explicit activity, including photographs, films, video-tapes, and live performances. The provisions of this section shall not apply to written descriptions, texts, or narratives.

(5) DAMAGES.—Any person who has brought an action pursuant to the provisions of this section and has met the requirements of the provisions of this section shall be awarded economic damages and compensation for pain and suffering as well as reasonable attorney's fees and costs of the suit.

(6) STATUTE OF LIMITATIONS.—Any action commenced under this subsection shall be forever barred unless the complaint is filed within 6 years after the right of action first accrued or, in the case of a person under a legal disability, not later than 3 years after the termination of such disability.

(d) DEFINITIONS.—For the purposes of this section, the term—

(1) "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) bestiality;

(C) masturbation;

(D) sadistic or masochistic abuse; or

(E) lascivious exhibition of the genitals or pubic area of any person;

(2) "violent" describes any acts or behavior, or any material that depicts such acts or behavior, in which women, children, or men are—

(A) victims of sexual crimes such as rape, sexual homicide, or child sexual abuse;

(B) penetrated by animals or inanimate objects; or

(C) tortured, dismembered, confined, bound, beaten, or injured, in a context that makes these experiences sexual or indicates that the victims derive sexual pleasure from such experiences;

(3) "minor" describes any person under the age of 18 years; and

(4) "child pornography" describes any depiction of a minor engaging or participating in sexually explicit conduct as defined in section 2256 of title 18, United States Code.

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## METZENBAUM AMENDMENT NO. 1676

Mr. METZENBAUM proposed an amendment to the bill S. 1970, supra, as follows:

On page 49, between lines 4 and 5, insert the following:

"(J) Springfield Armory SAR-48 (.308 caliber) and its variations;

"(K) Cobray SWD 9mm in any of its variants;

"(L) Mossberg Model 500 Bullpup 12 shotgun;

"(M) Ruger Mini-14/5F semiautomatic firearms;

"(N) Feather AT-9 centerfire semiautomatic in 9mm;

"(O) AP 9, 9mm assault pistol;

"(P) Thompson Ordnance M1, semiautomatic in .45 caliber;

"(Q) Franchi SPAS 12 shotgun;

"(R) Heckler and Koch HK-94 pistol;

"(S) Austrian Automatic Arms SAP pistol;

"(T) F.I.E. Spectre P. pistol;

"(U) Sterling Mark 7 pistol;

"(V) all other models by the same manufacturer with the same design which may have slight modifications or enhancements including a folding stock; adjustible sight; case deflector for left-handed shooters; left-handed fire adapter; shorter barrel; wooden, plastic, or metal stock; large size magazine; different caliber provided the caliber exceeds .22 rimfire; bayonet mount; tripod or bipod mount; or flash suppresser; and

"(W) any other firearm with an action design identical or nearly identical to an assult weapon specified in this paragraph which has been redesigned from, renamed, renumbered, or patterned after one of such specified assault weapons regardless of the company of production or country of origin, or any other firearm which has been manufactured or sold by another company under a licensing agreement to manufacture or sell an identical or nearly identical assault weapon as those specified in this paragraph, regardless of the company of production or country of origin."

SEC. . BAN ON SALE OF MAGAZINES AND BELTS HOLDING GREATER THAN 15 ROUNDS OF AMMUNITION.

(a) BAN.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive or possess a large-capacity detachable magazine or large-capacity ammunition belt, which can be employed by a semiautomatic firearm.

"(2) This subsection does not apply with respect to—

"(A) any transfer, importation, transporting, shipping or receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof; or

"(B) any transfer, transporting, shipping, receiving or possession of such magazine or ammunition belt that was lawfully possessed before the date of this subsection, except that no federally licensed firearms

dealer shall transfer such magazine or ammunition belt.

"(3) For purposes of this subsection—

"(A) The term 'large-capacity magazine' means a box drum or other container which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or a magazine which can be readily converted into a large-capacity magazine. Such term shall not include any magazine that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.

"(B) The term 'large-capacity ammunition belt' means a belt or strip which holds more than fifteen rounds of ammunition to be fed continuously into a semiautomatic firearm, or an ammunition belt which can be readily converted into a large-capacity ammunition belt. Such term shall not include any ammunition belt that has been permanently modified so that it will not hold more than fifteen rounds of ammunition.".

(b) PENALTY SECTION.—Section 924 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(1) Whoever violates the provisions of this Act relating to large capacity detachable magazines and ammunition belts shall be fined not more than ten thousand dollars, imprisoned not more than two years, or both.".

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## BURNS AMENDMENT NO. 1677

(Ordered to lie on the table.)

Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . FINANCIAL INCENTIVES FOR CITIZEN INVOLVEMENT IN THE WAR AGAINST DRUGS.

Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "Justice—" and inserting "Justice:";

(2) in subparagraph (A)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period; and

(3) in subparagraph (B)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period; and

(4) in subparagraph (C)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period;

(5) in subparagraph (D)—

(A) by striking "the" the first place it appears and inserting "The"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in subparagraph (E)—

(A) by striking "disbursements" and inserting "Disbursements"; and

(B) by striking the semicolon at the end and inserting a period;

(7) in subparagraph (F)—

(A) by striking "for" the first place it appears and inserting "For"; and

(B) by striking the semicolon at the end and inserting a period;

(8) in subparagraph (G)—

(A) by striking "for" the first place it appears and inserting "For"; and

(B) by striking the semicolon at the end and inserting a period;

(9) in subparagraph (H)—

(A) by striking "after" and inserting "After";

(B) by striking "H" and inserting "(I)"; and

(10) by inserting after subparagraph (G) the following:

"(H)(i) For the payment of an award to any person or persons who provide information leading to the arrest and conviction under Federal law of any individual or individuals for the unlawful sale, or possession for sale, of a controlled substance or a controlled substance analogue. The aggregate amount of such award shall be equal to 50 percent of the fair market value (as of the date of forfeiture) of all property forfeited to the United States as a result of such conviction and pursuant to a law enforced or administered by the Department of Justice: *Provided,* That payment of such awards shall not reduce the amount of such moneys or property available for distribution to State and local law enforcement agencies.

"(ii) For the payment to the State or States in which the Federal offense was committed by such individual or individuals, of an incentive award to encourage such State or States, at their option, to establish a program (including outreach) to pay rewards to individuals who provide information leading to the arrest and conviction under State law of individuals for the unlawful sale, or possession for sale, of controlled substances or controlled substance analogues. The aggregate amount of such incentive award shall be equal to 5 percent of the fair market value (as of the date of forfeiture) of all property forfeited to the United States as a result of the convictions referred to in clause (i) and pursuant to a law enforced or administered by the Department of Justice.

"(iii) For purposes of this subparagraph—

"(I) the term 'controlled substance' has the meaning stated in section 102(6) of the Controlled Substances Act;

"(II) the term 'controlled substance analogue' has the meaning stated in section 102(32) of the Controlled Substances Act; and

"(III) the term 'individual' does not include an individual who is convicted under Federal or State law for the unlawful sale, or possession for sale, of a controlled substance or a controlled substance analogue.".

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## DeCONCINI (AND OTHERS) AMENDMENT NO. 1678

(Ordered to lie on the table.)

Mr. DeCONCINI (for himself, Mr. D'AMATO, Mr. JOHNSTON, Mr. BIDEN, Mr. WILSON, Mr. CRANSTON, Mr. COATS, Mr. BOSCHWITZ, Ms. MIKULSKI, Mr. SIMON, Mr. DOMENICI, Mr. BRADLEY, Mr. LOTT, Mr. SHELBY, Mr. INOUYE, Mr. SARBANES, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. BRYAN, Mr. HEFLIN, Mr. MOYNIHAN, Mr. BURNS, Mr. GORE, Mr. REID, and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the end of the bill add the following new title:

### TITLE —FEDERAL LAW ENFORCEMENT PAY REFORM

SEC. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Pay Reform Act of 1990".

SEC. . PAY FOR LAW ENFORCEMENT OFFICERS.

(a) AMENDMENTS.—

(1) IN GENERAL.—Subchapter VII of chapter 53 of title 5, United States Code, is amended by adding at the end the following:

"§ 5376. Pay for law enforcement officers

"(a) For the purpose of this section, the term 'law enforcement officer' means any law enforcement officer within the meaning of section 8331(20) or section 8401(17) with respect to whom the provisions of subchapter III of chapter 53 apply (or would apply, but for this section).

"(b) Except as otherwise provided in subsection (c)—

"(1) effective for pay periods beginning on or after October 1, 1990, and until otherwise provided for under this subsection—

"(A) The minimum rate of basic pay for a law enforcement officer whose position is classified at a grade above GS-2 and below GS-11 shall be determined in accordance with the following table:

| "If classified at the following grade: | The minimum rate of basic pay shall be the rate payable for the following step of that grade (determined using the rates of basic pay in effect as of September 30, 1990): |
|---|---|
| GS-3 | step 10; |
| GS-4 | step 10; |
| GS-5 | step 10; |
| GS-6 | step 8; |
| GS-7 | step 6; |
| GS-8 | step 6; |
| GS-9 | step 4; |
| GS-10 | step 3; and |

"(B) the rate for each step above the minimum rate for each grade under subparagraph (A) shall, for any law enforcement officer, be the rate prescribed by the Office of Personnel Management, taking into consideration the minimum rates set forth in subparagraph (A) and the need to provide for appropriate pay relationships within and between grades;

"(2) in order to ensure the continued competitiveness of the rates of pay established under this subsection—

"(A) the Office of Personnel Management shall prescribe regulations under which the Office shall—

"(i) compare rates paid to law enforcement officers under this subsection with the rate generally being paid to individuals performing the same levels of work for State and local governments (determined on a nationwide basis); and

"(ii) determine whether an increase should be made under this paragraph as of the next opportunity allowable under subparagraph (B) and, if so, the size of that increase; and

"(B) whenever the Office makes an affirmative determination under the provisions of subparagraph (A)(ii), provide for any pay increase determined under those provisions to be appropriate, effective beginning with the first applicable pay period beginning on or after October 1, 1993, or October 1 of any third year thereafter (whichever occurs next);

"(3) effective at the beginning of the first applicable pay period beginning on or after the first day of the month in which an adjustment takes effect under section 5305 in the rates of pay under the General Schedule, the rates of pay in effect under this subsection shall be adjusted by the overall

average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule; and

"(4) the Office shall prescribe such regulations as may be necessary for the coordination of paragraphs (2) and (3).

"(c)(1) The purpose of this subsection is to establish a pay-adjustment mechanism for law enforcement officers which takes into account the fact—

"(A) that the cost of living in certain parts of the United States is appreciably higher than in others; and

"(B) that the Government's success in recruiting and retaining the best-qualified individuals to serve as law enforcement officers, particularly in areas having higher living costs, will in large part depend on its ability to keep rates of pay at levels that are competitive with those offered by State and local governments.

"(2) To carry out the purpose of this subsection, the Office of Personnel Management shall prescribe regulations which shall provide for the following:

"(A) The establishment of an appropriate number of geographic regions (established using consolidated metropolitan statistical areas, as defined by the Office of Management and Budget) with respect to which pay comparisons shall be made, special pay rates for law enforcement officers may be established or adjusted, and the provisions of this subsection shall otherwise be carried out.

"(B)(i) Procedures for identifying those regions for which higher pay rates are needed, as identified under clause (ii).

"(ii) A region shall be considered to satisfy the requirements for higher pay rates if, using the average of—

"(I) a value (determined by the Office, and expressed as a percentage) representing that region's relative cost of living, as compared with the cost of living in the United States as a whole, and

"(II) a value (determined by the Office, and expressed as a percentage) representing the relative size of the average salary for State and local law enforcement officers within that region (expressed as a single weighted average salary), as compared with the average salary for State and local law enforcement officers in the United States as a whole (expressed as a single weighted average salary),

such region is determined to be at least 5 percent above the national average (which, for purposes of this clause, shall be deemed to be equal to 100 percent).

"(C) Procedures under which higher rates of pay for law enforcement officers within a particular region shall be established or adjusted under this subsection.

"(3)(A) A rate of basic pay payable to a law enforcement officer under this subsection may not be less than the rate to which such officer would otherwise be entitled if this subsection had not been enacted.

"(B) A rate of basic pay payable to a law enforcement officer under this subsection, based on such officer's serving in a particular region, shall cease to apply if such officer is transferred or reassigned to a place outside of such region.

"(4) The first rates of pay established under this subsection shall be effective for pay periods beginning on or after April 1, 1991, and, notwithstanding any other provision of this subsection, shall be based on pay data compiled by the National Advisory Commission on Law Enforcement, as contained in its report under section 6160(h) of the Anti-Drug Abuse Act of 1988. Subsequent adjustments under this subsection may be made, effective for applicable pay periods beginning on or after October 1, 1993, and October 1 of any third year thereafter, subject to the preceding paragraphs of this subsection.

"(d)(1) the Bureau of Labor Statistics shall conduct such pay surveys as may be necessary in order to compile any data (relating to rates of pay being paid by State or local governments) which may be necessary to carry out this section. To the extent practicable, data so compiled shall reflect rates of pay in effect as of Janaury 1, 1993, and January 1 of every third year thereafter.

"(2) Except as otherwise expressly provided for in this section, any comparisons or determinations under this section shall, to the extent that they involve rates of pay or other data relating to State or local government, be based solely on data compiled under this subsection.

"(e)(1) If higher rates of basic pay under subsection (c) are in effect for any law enforcement officers within a goegraphic region (as established under subsection (c)(2)(A)), the head of the agency concerned (or designee thereof) may, with respect to any employee described in paragraph (2), provide for such higher rates of basic pay as the agency head (or designee) considers appropriate.

"(2) Authority under this subsection may be exercised with respect to any employee of the agency who—

"(A) are assigned to the same organizational unit or component, and the same geographic region (as established under subsection (c)(2)(A)), as the law enforcement officers receiving the higher rates of basic pay; and

"(B) perform services ancillary to or in support of those performed by law enforcement officers within that unit or component.

"(3) The head of each agency (or designee thereof) shall prescribe such regulations as may be necessary to carry this subsection out within such agency.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 5, United States Code, is amended by adding after the item relating to section 5375 the following:

"5376. Pay for law enforcement officers.".

(b) SAME BENEFITS FOR OTHER LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The appropriate agency head (as defined in paragraph (3)) shall prescribe regulations under which the purposes of the amendments made by subsection (a) shall be carried out with respect to individuals holding position described in paragraph (2) (and appropriate support personnel under the jurisdiction of such agency head).

(2) APPLICABILITY.—This subsection applies with respect to any—

(A) member of the United States Secret Service Uniformed Division;

(B) member of the United States Park Police;

(C) special agent within the Diplomatic Security Service;

(D) postal inspector;

(E) probation officer (referred to in section 3672 of title 18, United States Code); or

(F) pretrial services officer (referred to in section 3153 of title 18, United States Code).

(3) DEFINITION.—For the purposes of this subsection, the term "appropriate agency head" means—

(A) with respect to any individual under paragraph (2)(A), the secretary of the Treasury;

(B) with resepct to any individual under paragraph (2)(B), the Secretary of the Interior;

(C) with respect to any individual under paragraph (2)(C), the Secretary of State;

(D) with respect to any individual under paragraph (2)(D), the Postmaster General; and

(E) with respect to any individual under paragraph (2)(E) or (2)(F), the Director of the Administrative Office of the United States Courts.

(c) REPORT TO CONGRESS.—Not later than January 1, 1993, the Office of Personnel Management, in consultation with Federal law envorcement agencies and law enforcement employee groups, shall submit to Congress, in writing, a plan to establish a separate pay and classification system for law enforcement officers and specifications for legislation to implement such plan.

SEC. . RETENTION ALLOWANCES.

(a) IN GENERAL.—Subchapter IV of chapter 59 of title 5, United States Code, is amended by adding at the end the following:

**"§ 5949. Retention allowances for law enforcement officers**

"(a) For the purpose of this section, the term 'law enforcement officer' means—

"(1) a law enforcement officer within the meaning of section 5376(a);

"(2) a member of the United States Secret Service Uniformed Division;

"(3) a member of the United States Park Police;

"(4) a special agent within the Diplomatic Security Service;

"(5) a postal inspector;

"(6) a probation officer (referred to in section 3672 of title 18, United States Code); and

"(7) a pretrial services officer (referred to in section 3153 of title 18, United States Code).

"(b)(1) Notwithstanding any other provision of law, and in order to retain highly qualified law enforcement officers who possess special skills or experience or whose continued services are particularly important due to factors associated with the geographic area to which they are assigned, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a law enforcement officer.

"(2) Under any such agreement, the law enforcement officer shall agree to complete a specified period of service in such agency in return for an allowance, for the duration of such agreement, in an amount determined by the agency head and specified in the agreement, but not to exceed $10,000 per year.

"(c) In order to be eligible for an allowance under this section, a law enforcement officer must then satisfy the age and service requirements under section 8336 or 8412, as the case may be, for entitlement to an annuity.

"(d) Any agreement entered into by a law enforcement officer under this section shall be for a period of 1 year of service in the agency inmvolved unless the officer requests an argument for a longer period of service.

"(e) Unless otherwise provided for in the agreement under subsection (f), an agreement under this section shall provide that the law enforcement officer, in the event that such officer voluntarily, or because of misconduct, fails to complete at least 1 year

of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the officer.

"(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the law enforcement officer may elect to terminate such agreement, and the amounts, if any, required to be refunded by the law enforcement officer for each reason for termination.

"(g)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, 84, or 87, or other benefits related to basic pay.

"(2) Any allowance under this section for a law enforcement officer shall be paid in the same manner and at the same time as the officer's basic pay is paid.

"(h) An agency head may delegate, in whole or in part, any functions vested in such agency head under this section."

"(b) TABLE OF SECTIONS.—The table of sections for chapter 59 of title 5, United States Code, is amended by adding after the item relating to section 5948 the following:

"5949. Retention allowances for law enforcement officers.".

SEC. . RELOCATION PAYMENTS.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is amended by inserting after section 5724c the following:

**"§5724d. Relocation payments for law enforcement officers**

"(a) For the purpose of this section, the term 'law enforcement officer' has the same meaning as under section 5949(a).

"(b) Under such regulations as the head of an agency (or designee thereof) may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to such agency for administrative expenses are available for payments under this section.

"(c) Payments under this section—

"(1) may be paid to any law enforcement officer within the agency who is transferred or reassigned, in the interest of the Government, to an area or region (not within a foreign country) having higher than average housing costs (as determined under the regulations); and

"(2) may not be made to a law enforcement officer if, or to the extent that, such payment would cause the total amount paid to such officer under this section to exceed $20,000 (including, in the case of any individual who is married to another law enforcement officer, any amounts paid under this section to the spouse).

"(d) An agency may make a payment under this section only after the law enforcement officer selected agrees in writing to remain a law enforcement officer for a period of time (not to exceed 3 years) specified in the agreement, unless separated for reasons beyond the officer's control which are acceptable to the agency. If the individual violates the agreement, any money paid to the individual under the agreement is recoverable from the individual as a debt due the United States.".

"(b) TABLE OF SECTIONS.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724c the following:

"5724d. Relocation payments for law enforcement officers.".

SEC. . OTHER AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) MINIMUM RATE FOR NEW APPOINTMENTS.—

(1) IN GENERAL.—Section 5333 of title 5, United States Code, is amended by adding at the end the following:

"(c) In applying subsection (a) with respect to a law enforcement officer (within the meaning of section 5376(a)), the reference in such subsection to 'GS-11' shall be deemed to read 'GS-3'.".

(2) OTHER OFFICERS.—Each of the appropriate agency heads (as defined in section (b)(3)) shall prescribe regulations under which the purpose of the amendment made by paragraph (1) shall be carried out with respect to individuals under section (b)(2) under the jurisdiction of such agency head.

(b) INCENTIVE BONUS FOR FOREIGN LANGUAGE CAPABILITIES.—

(1) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—AWARDS TO LAW ENFORCEMENT OFFICERS FOR FOREIGN LANGUAGE CAPABILITIES

"§ 4521. Definition

"For the purpose of this subchapter, the term 'law enforcement officer' has the same meaning as under section 5949(a).

"§ 4522. General provision

"An award under this subchapter is in addition to the basic pay of the recipient.

"§ 4523. Award authority

"(a) An agency may pay a cash award, up to 25 percent of basic pay, to any law enforcement officer employed in or under such agency who possesses and makes substantial use of 1 or more languages (other than English) in the performance of official duties.

"(b) Awards under this section shall be paid under regulations prescribed by the head of the agency involved (or designee thereof). Regulations prescribed by an agency head (or designee) under this subsection shall include—

"(1) procedures under which foreign language proficiency shall be ascertained;

"(2) criteria for the selection of individuals for recognition under this section; and

"(3) any other provisions which may be necessary to carry out the purposes of this subchapter.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—AWARDS TO LAW ENFORCEMENT OFFICERS FOR FOREIGN LANGUAGE CAPABILITIES

"4521. Definition.
"4522. General provision.
"4523. Award authority.".

(c) AGE FOR MANDATORY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(b) of title 5, United States Code is amended—

(A) in the first sentence, by striking "law enforcement officer or a"; and

(B) by inserting after the first sentence the following: "A law enforcement officer who is otherwise eligible for immediate retirement under section 8336(c) of this title shall be separated from the service on the last day of the month in which he becomes 57 years of age or completes 20 years of service if then over that age."

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(b) of title 5, United States Code, is amended—

(A) in the first sentence, by striking "law enforcement officer or" each place it appears; and

(B) by inserting after the first sentence the following: "A law enforcement officer who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which that law enforcement officer becomes 57 years of age or completes 20 years of service if then over that age."

(d) OVERTIME RATES.—Section 5542(a) of title 5, United Stats Code, is amended by adding at the end the following:

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, for an employee who is a law enforcement officer (within the meaning of section 5949(a) of this title), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.".

(e) LIMITATION ON PREMIUM PAY.—Section 5547 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The provisions of subsection (a) shall not apply to the pay of a law enforcement officer for any pay period in which such officer is required to perform overtime under section 5542(a) or administratively uncontrollable overtime under section 5545(c)(2).

"(2) Notwithstanding the provisions of paragraph (1), no law enforcement officer may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the scheduled rate of pay for level V of the Executive Schedule.

"(3) For purposes of this subsection, the term 'law enforcement officer' has the same meaning as under section 5949(a).".

(f) DEFINITIONAL AMENDMENT.—Section 5541(2)(iv) of title 5, United States Code, is amended to read as follows:

"(iv) a member of—

"(I) the Metropolitan Police or the Fire Department of the District of Columbia; or

"(II) a member of the United States Secret Service Uniformed Division, a member of the United States Park Police, a special agent within the Diplomatic Security Service, a postal inspector, a probation officer (referred to in section 3153 of title 18), or a pretrial services officer (referred to in section 3153 of title 18), other than for purposes of sections 5545(a) and 5546;".

On page 2, add at the end of the matter related to the table of contents the following:

TITLE —FEDERAL LAW ENFORCEMENT PAY REFORM

Sec. . Short title.
Sec. . Pay for law enforcement officers.
Sec. . Retention allowances.
Sec. . Relocation payments.
Sec. . Other amendments to title 5, United States Code.

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## SPECTER AMENDMENT NOS. 1679 AND 1680

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill S. 1970, supra, as follows:

AMENDMENT No. 1679

Section 1. Authorization of Death Penalty.

Section 408(e)(1) of the Controlled Substances Act (21 U.S.C. 848(e)(1)), as amended by—

(1) deleting the word "and" at the end of paragraph (A);

(2) deleting the period at the end of paragraph (B) and inserting in lieu thereof "; and"; and

(3) inserting the following new paragraph (C):

"(C) any person who commits an offense in violation of subsection (a) under the conditions set forth in subsection (b) after one or more prior convictions of him under this section have become final, may be sentenced to death, or shall be imprisoned for life and fined in accordance with subsection (a) of this section. In a hearing held pursuant to subsection (i), the trier of fact shall consider those aggravating and mitigating factors hereafter described to the extent they are relevant to an offense which did not directly result in death.".

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AMENDMENT No. 1680

SHORT TITLE

SECTION 1. This Act may be cited as the "Torture Victim Protection Act of 1989".

LIABILITY; LIMITATIONS ON REMEDIES

SEC. 2. (a) Every person who, under actual or apparent authority of any foreign nation, subjects any person to torture or extrajudicial killing shall be liable to the party injured or his or her legal representatives in a civil action.

(b) The court shall decline to hear and determine a claim under this section if the defendant establishes that clear and convincing evidence exists that the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred. The court shall not infer the application of any statute of limitations or similar period of limitations in an action under this section.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "torture" shall include any act by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on a person for such purpose as obtaining from that person or a third person information or a confession, punishing that person for an act that person or a third person has committed or is suspected of having committed, or coercing that person or a third person, or for any reason based on discrimination of any kind; and

(2) the term "extrajudicial killing" means a deliberated killing without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensible by civilized peoples.

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## HATCH AMENDMENT NO. 1681

Mr. Hatch proposed an amendment to the bill S. 1970, supra, as follows:

Strike on page 46, line 15, through page 53, line 5.

## MEDALS IN COMMEMORATION OF THE CENTENNIAL OF YOSEMITE NATIONAL PARK

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## McCLURE AMENDMENT NO. 1682

Mr. McCLURE proposed an amendment to the bill (S. 2388) to provide for the striking of medals in commemoration of the centennial of Yosemite National Park, as follows:

At the end of S. 2388, add the following new title:

TITLE III—SILVER PROOF SETS

SEC. 301. SHORT TITLE.

This title may be cited as the "Silver Coin Proof Sets".

SEC. 302. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Subsection (a) of section 5132 of title 31, United States Code is amended by re-designating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) In addition to the proof sets under paragraph (1), the Secretary shall annually sell to the public directly and by mail, sets of proof coins minted under paragraphs (1) through (6) of section 5112(a) of this title in which, notwithstanding any other provision of law, the coins described in paragraphs (1), (2), (3), and (4) of section 5112(a), shall be an alloy of 90 percent silver and 10 percent copper. All coins under this paragraph shall have a Mint mark indicating their place of manufacture. For purposes of subsection (a)(3) of section 5111 of this title, and paragraph (1) of this subsection, all coins minted under this paragraph shall be considered numismatic items.

"(B) The Secretary shall obtain silver for coins authorized under this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 USC, 98 et seq.). At such time as the silver stockpile is depleted, the Secretary shall acquire silver for such coins by purchase of silver mined from natural deposits in the United States, or in a territory or possession of the United States. Within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the silver. The Secretary may issue such regulations as may be necessary to carry out this paragraph.

"(C) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code."

SEC. 303. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

"(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee."

## CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

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## AKAKA (AND INOUYE) AMENDMENT NO. 1683

(Ordered to lie on the table.)

Mr. AKAKA (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill S. 1970, supra, as follows:

At the appropriate place in the bill, add the following new title:

TITLE —ICE ENFORCEMENT AND PREVENTION ACT

SECTION 1. SHORT TITLE.

This title may be cited as the "Ice Enforcement and Prevention Act of 1990."

SEC. 2. STRENGTHENING FEDERAL PENALTIES.

(a) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

(b) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

SEC. 3. EDUCATION AND PREVENTION.

(a) Not later than six months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than four state-wide or regional methamphetamine prevention demonstration programs, including one such project in California, Hawaii, Oregon and such other state that is experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There is authorized to be appropriated $4,000,000 in fiscal years 1991 and 1992 to establish and operate the model demonstration programs required under subsection (b) of this section.

(c) Not later than 18 months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical educational merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

SEC. 4. RESEARCH AND TREATMENT

(a) The Director of the National Institute on Drug Abuse, through the Medications Development Program, shall prioritize the development of a drug to treat addictions to:

(1) amphetamine,
(2) methamphetamine,
(3) crystal methamphetamine, and
(4) chemically related stimulants.

(b) The Director of Health and Human Services shall investigate or cause to be investigated the syndrome that results from methamphetamine addiction at birth.

(c) The Director shall, on the basis of the findings from subsection (6), develop a protocol for treating, physically and mentally, newborns afflicted with methamphetamine addiction.

Mr. AKAKA. Mr. President, I have an amendment at the desk which I have introduced and hope the committee will be able to consider it at the earliest opportunity. It would carry out a multipronged attack on the use of crystal meth.

Crystal meth, or "ice" as it is known on the streets has the potential for overtaking "crack" cocaine as the most insidious drug of choice for our young people today. Although both crack and ice may be smoked, the similarity ends there. Ice is cheaper—only $50 will buy enough of the drug to keep someone high for a week; its high lasts anywhere from 7 to 30 hours; it leaves its user prone to extreme, uncontrolled violence; and many times it is taken in conjunction with other drugs.

Mr. President, I regret to say that my own State of Hawaii is setting the nationwide trend on smoking ice. In fact, last year, as a member of the House Select Committee on Narcotics Abuse and Control, I sought the assistance of William Bennett, the Director of National Drug Control Policy in urging the administration to address the looming ice epidemic. I renewed my plea to Mr. Bennett again this March before a House Appropriations Subcommittee hearing. Unfortunately, it appears that the administration is continuing to underestimate Hawaii's ice problem, which soon may become everyone's problem.

I disagree with the notion that ice poses no threat to the United States at the present time. A National Institute of Drug Abuse [NIDA] study showed that in 1989 there was a 70-percent increase nationwide in hospitalizations related to ice.

In the area of enforcement and crime prevention, I am proposing a tough, no-nonsense, no-compromise approach. The message will be clear. We want ice off the streets, out of the schoolyard, and beyond the reach of our young people. And if you violate the law, you will do time—hard time.

My amendment attacks ice distribution by allowing prosecutors to seek sharply increased penalties for major crystal meth dealers. For example, under my amendment an ice dealer who sells 5 grams of ice—up to 200 hits—faces up to 40 years in prison, double the penalty under the existing law. It also doubles the mandatory minimum penalty for midlevel ice dealers from 5 to 10 years.

The second aspect of my amendment directs the Institute of Drug Abuse to improve the methods of treating ice addicts and assist with the treatment of infants born with ice addictions. Finally, my amendment would develop a model educational program in the State of Hawaii to educate students against the dangers of ice.

I stongly believe that we must act immediately to let the drug dealers know that we want ice away from our most precious natural resources, our Nation's young people. Ice is like a cancer. We can treat it now before it becomes a serious problem, or we can wait until it spreads so far that there will be no hope for a cure.

Thank you, Mr. President. I urge my colleagues to support this important amendment.

Mr. President, I ask unanimous consent that section-by-section analysis of my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 101. This section creates stiff federal penalties for the production, manufacture, sale or distribution of "ice," a highly pure and smokable form of methamphetamine. Under existing law, the penalties for "ice" are the same as those for methamphetamine generally, regardless of the fact that "ice" is more highly addictive and physically dangerous than methamphetamine.

Specifically, this amendment provides a penalty of not less than 10 years and up to life imprisonment for the manufacture, distribute or possession with intent to distribute extremely large quantities of "ice" (25 grams or more). For mid-level distribution (2 grams or more), the federal penalty is not less than 5 years and not more than 40 years.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, May 22, beginning at 10 a.m., to conduct a business meeting to mark up S. 2183, the Water Resources Development Act (as modified).

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 22, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, May 22, at 10 a.m. for a hearing on the nomination of Annice M. Wagner, to be associate judge, District of Columbia Court of Appeals.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, May 22, at 2:15 p.m., for a hearing on "Job Training and Education for the Homeless as Authorized by the Stewart B. McKinney Homeless Assistance Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, May 22, 1990, at 10 a.m. to conduct an oversight hearing on deposit insurance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 22, 1990, at 10 a.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PROJECTION FORCES AND REGIONAL DEFENSE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Armed Services Committee Subcommittee on Projection Forces and Regional Defense be authorized to meet in open session on Tuesday, May 22, 1990, at 9:30 a.m. to receive testimony on the Navy Shipbuilding and Conversion Program in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the

Senate on Tuesday, May 22, 1990, at 4 p.m. to receive a briefing on the supplemental appropriations conference; to review and decide on alternative sources for the manpower personnel reprogramming; and to consider a CHAMPUS reprogramming.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, May 22, 1990, at 2 p.m. in open session to consider the nomination of Lt. Gen. Carl W. Stiner, USA, to be general and commander-in-chief, U.S. Special Operations Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### AUNT MAE

● Mr. KOHL. Mr. President, 100 years ago, on May 21, 1890, Mae Croak was born in the city of Chicago. Ultimately she had the good sense to move to Wisconsin and, as a result, I have the good fortune to represent her in the Senate. In recognition of her birthday, I rise to pay a small tribute to her today.

Mae's mother, born Catherine Anastasia Jackson, was an Irish woman who emigrated to our country from London in 1880. Her father, Thomas Francis Croak, was a "true American," having been born on the Fourth of July in 1864. Mae was the third of nine children, and after the early death of her father and eldest sister, much of the responsibility for raising this clan fell on her shoulders. In an effort to meet that responsibility, she lied about her age and went to work at Marshall Fields when she was just 14 years old. After 17 years at Fields, she began an even longer distinguished career with the Pullman Co.

While her work history is impressive, I think there is something else we can learn from Mae Croak. You know, sometimes I think that in every immigrant family there must have been at least one saint, one person always relied on for strength and love and support. Aunt Mae was that saint to her 8 brothers and sisters, to her 15 nieces and nephews, to her 47 grand nieces and nephews, and to the 22 great grand nieces and nephews so far born to her family. Aunt Mae is a bridge to the past for the youngest of them, and she was diaper changer, babysitter, and nurse to most of the older ones. Visits from Aunt Mae were always a highpoint for her family and friends; they looked forward to seeing her—and getting the special treats she always brought and listening to her sing "Is It True What They Say about Dixie."

Mr. President, most of the small incidents of steadfast love that demonstrate what is best in this world remain unreported. For the RECORD, I would like to simply mention one example Aunt Mae's commitment to the best of human values. When her sister Frances was in a nursing home for several years, Aunt Mae and another sister, Evelyn—a wonderful person in her own right who is a mere 86—did not let a day pass without one of them staying with her. That kind of love cannot be understood, Mr. President, it can only be cherished—and it should be recognized.

The Croak clan is blessed by having Aunt Mae with them still. Her quick memory and good humor make her a delightful companion, and her 100 years make her a living history book. I would like to just share a few reflections on this amazing century Mae witnessed.

The year Mae was born, Congress was in the midst of passing the Sherman Antitrust Act. Benjamin Harrison was President; the railroad barons were kings. We had not yet invented the car, and the Wright Brothers had not flown. Oklahoma became a territory that year, as Wyoming and Idaho became States; 1890 was the year Yosemite National Park was created and the year peanut butter was invented. Tchaikovsky was composing, Ibsen was writing, Monet was painting. And a pitcher named Cy Young signed that year with Cleveland.

Think of the progress Aunt Mae has seen. Mae was 27 when the United States entered World War I. She was 40 when we entered the Depression. While we may not have found another pitcher like Cy Young, we did manage to put a human on the Moon. She now uses cordless telephones and remote control color televisions, and the young girls who call her great great Aunt Mae learn about computers in school.

Mr. President, 100 years is a landmark in time. We recognize the amazing achievement simply to have survived that long in good health. But Aunt Mae is and has been something very special in this world, in ways which far outnumber her years. The lives she has touched with her kindness all carry a bit of Aunt Mae's grace with them. The members of her family are engaged in productive lives, contributing to their communities in many important ways all over the United States. We all owe a special debt to our ancesters, to the sacrifices they made, and to the world they helped create for us. In the name of Mae Croak, I would like to take this occasion to say "thank you" to the thousands of saints in the thousands of families who have helped make America great. And in the name of the thousands of Americans who have been touched by this wonderful woman, I would like to say. "happy birthday, Aunt Mae." May it bring you as much joy as you have brought us.●

### RETIREMENT OF JOHN BONASSI, MAYOR OF GREEN TREE, PA

● Mr. HEINZ. Mr. President, at the end of this year, after 14 years in local elected office, Mayor John Bonassi of Green Tree, PA, will be retiring from public service. I rise today to recognize his accomplishments and dedicated service to Green Tree and neighboring communities.

John's government service spans two decades, as an appointed official in county government, as Green Tree councilman, as council president, and most recently as mayor. I might add, as well, that this Senator has an especially keen appreciation for John's talents, as he also served for a number of years as my executive assistant in Pittsburgh, directing my Senate office operations in western Pennsylvania.

As a lifelong resident of Green Tree, John exhibited an early interest in his community's affairs. At the age of 30, he was elected to council for the first of three consecutive terms, and during his last 6 years he was elected president of council. In 1986 his constituents demonstrated their confidence in him by electing him their mayor.

John has worked tirelessly on behalf of his constituents—to secure both public and private investment in jobs and economic growth, to improve the quality of roads and streets, to make the borough a safe and good place to live, and to educate parents and children alike about the dangers of drugs and alcohol. Indeed, in all of these endeavors and more he always sought to raise the standard of living for Green Tree residents.

John brought a well-developed professionalism to his responsibilities, in budgeting, personnel, and providing local services. But John's constituents count on him not just to make sure the streets are plowed free of snow and safe to walk at night. They know, too, that they can find him ready with a listening ear, or a fresh notepad to take down their ideas and concerns, or perhaps just to talk across the fence about the weather. His personal concern for people recalls all that is uniquely special to America's small towns. Indeed, John's ideals have played a significant role in making Green Tree a great community, large or small.

Mr. President, from thousands of neighborhoods and communities like Green Tree, our Nation draws its values and innate strength. On behalf of all of my Pennsylvania constituents, I salute my good friend, John Bonassi, for doing so much for his community,

and in a larger context, for supporting the small town foundation of our democracy.●

## TRIBUTE TO RICHARD CISEK

● Mr. DURENBERGER. Mr. President, the Minnesota Orchestra will soon lose a great man, a great manager and a great leader when Richard Cisek retires later this year.

I first met Dick Cisek when I served as executive director of the Governor's Commission on the Arts in Minnesota. The wisdom and insight he shared, helped develop my own thoughts and attitudes toward music and the arts in general. And as we now face trying times here in the Congress for funding for the arts, it is these values that I return to to help guide my efforts.

Through his 32 years with the Minnesota Orchestra as public relations director, general manager, and finally as president, Dick shepherded the Minnesota Orchestra from a 35-week, two concerts a week performance to a full 52-week ensemble. He turned a city orchestra into an orchestra that reaches to all areas of the State and the region. Under Cisek's direction, the Minnesota Orchestra has turned into one of the country's finest orchestras.

Mr. President, while Cisek would be the last person to call himself a great artist, he was indeed that. His love and understanding of the music allowed Dick to never lose sight of the fact that music making is first an artistic activity, not a business. But through his skill and leadership, he was able to take the music and apply the business techniques he learned at the Warton School of Finance and Commerce to come up with a delicate balance between policy and performance that has helped pass on to others the music he loves so dearly.

Cisek has engineered some of the early performances of such great composers as Leonard Slatkin, Pinchas Zukerman, Henry Mancini, Marvin Hanisch, Andre Watts, and Andre Previn. As each of these artist has moved on, so too is it time for Dick Cisek to move on. He will now take a well deserved rest and spend time with his family. But he will also continue to assist the orchestra and will continue to share with others the love he has found in music. The departure of Dick Cisek closes the door to an eloquent and successful chapter of the Minnesota Orchestra. He will be missed.●

## APPOINTMENT OF RICHARD WEST, JR., AS DIRECTOR OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

● Mr. BINGAMAN. Mr. President, a few weeks ago, I had the pleasure of recommending Richard West, Jr., to serve as Director of the National Museum of the American Indian. But to be quite honest, I do not know how much my words of praise mattered—Rick's strong qualifications and experiences in the Indian community and in Washington beckoned him to this most important position.

Although I could elaborate on Rick's impressive educational and work experiences, I think it is more appropriate to focus on the mutual respect he shares with the Indian community. This museum—which has been a labor of love for so many people on the Hill and across the country—will, of course, be a tremendous source of pride for the Indian people. But it will also be much more: It will be a place where opinions are formed, where stereotypes are dispelled, and where a better understanding of native Americans begins. The knowledge learned and the myths broken will last a lifetime and they will even be passed down to future generations.

With the proper tools, with the proper care, and with the proper direction, visitors to this museum can learn about the real contribution of the native American culture. I believe that Rick will offer that proper direction. His life experiences—as a person whose upbringing was built on a Cheyenne cultural heritage, as a member of family that enjoys a national reputation in the art world, and as a person whose long time work with the Indian tribes and in Indian affairs has earned him the respect of the Indian people—indicate that he will do an outstanding job serving not only the Indian community, but also the many millions of us who have such a great respect and interest in this most unique and fascinating culture. It is with a great sense of pride that I offer my congratulations to Rick.●

## OPPOSITION TO ENACTMENT OF IDAHO WILDERNESS ACT HEARD

● Mr. JOHNSTON. Mr. President, over the past several weeks I have received almost 40,000 postcards from individuals all over the country regarding S. 371, the Idaho Wilderness Act. These cards, all of which are indentical, strongly oppose the enactment of S. 371 and urge the Senate to defeat it. There have been no efforts to bring this measure before the Senate and with the significant workload still remaining before the end of the Congress, chances that this bill will pass the Senate this year are slim.

Mr. President, rather than respond to each card individually, I am taking this opportunity to acknowledge the receipt of the cards and to express my appreciation to those who expressed their views on this matter.●

## THE CALENDAR

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar items 550 and 552 en bloc; that the committee amendments, where appropriate, be agreed to; that the bills as amended, where amended, be read a third time and passed; that the motion to reconsider the passage of these bills be laid on the table.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. CRANSTON. I further ask unanimous consent that the consideration of these calendar items appear individually in the RECORD and that any statements appear at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AROOSTOOK BAND OF MICMACS SETTLEMENT ACT

The Senate proceeded to consider the bill (S. 1413) to settle all claims of the Aroostook Band of Micmacs resulting from the band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes, which had been reported from the Select Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the part of the bill intended to be inserted are shown in italic.)

S. 1413

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aroostook Band of Micmacs Settlement Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS AND POLICY.—Congress hereby finds and declares that:

(1) The Aroostook Band of Micmacs, as represented as of the time of passage of this Act by the Aroostook Micmac Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Micmac Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(2) The Band was not referred to in the Maine Indian Claims Settlement Act of 1980 because historical documentation of the Micmac presence in Maine was not available at that time.

(3) This documentation does establish the historical presence of Micmacs in Maine and the existence of aboriginal lands in Maine jointly used by the Micmacs and other tribes to which the Micmacs could have asserted aboriginal title but for the extinguishment of all such claims by the Maine Indian Claims Settlement Act of 1980.

(4) The Aroostook Band of Micmacs, in both its history and its presence in Maine, is similar to the Houlton Band of Maliseet Indians and would have received similar treatment under the Maine Indian Claims Settlement Act of 1980 if the information avail-

able today had been available to Congress and the parties at that time.

(5) It is now fair and just to afford the Aroostook Band of Micmacs the same settlement provided to the Houlton Band of Maliseet Indians for the settlement of that Band's claims, to the extent they would have benefited from inclusion in the Maine Indian Claims Settlement Act of 1980.

(6) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Aroostook Band of Micmacs. During this same period, the United States provided few special services to the Band and repeatedly denied that it had jurisdiction over or responsibility for the Indian groups in Maine. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this settlement.

(b) PURPOSE.—It is the purpose of this Act to—

(1) provide Federal recognition of the Band;

(2) provide to the members of the Band the services which the United States provides to Indians because of their status as Indians; and

(3) place $900,000 in a land acquisition fund and property tax fund for the future use of the Aroostook [Band of Micmacs.] *Band of Micmacs; and*

(4) ratify the Micmac Settlement Act, which defines the relationship between the State of Maine and the Aroostook Bank of Micmacs.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Band" means the Aroostook Band of Micmacs, the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Aroostook Band of Micmacs is represented, as of the date of enactment of this Act, as to lands within the United States, by the Aroostook Micmac Council.

(2) The term "Band Tax Fund" means the fund established under section 4(b) of this Act.

(3) The term "Band Trust Land" means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Band.

(4) The term "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including (but not limited to) minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

(5) The term "Land Acquisition Fund" means the fund established under section 4(a) of this Act.

(6) The term "laws of the State" means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof.

(7) The term "Maine Implementing Act" means the Act entitled "Act to Implement the Maine Indian Claims Settlement" that was enacted by the State of Maine in chapter 732 of the Maine Public Laws of 1979, as amended by chapter 675 of the Maine Public Laws of 1981 and chapter 672 of the Maine Public Laws of 1985, and all subsequent amendments thereto.

*(8) The term "Micmac Settlement Act" means the Act entitled "Act to implement the Aroostook Band of Micmacs Settlement Act" that was enacted by the State of Maine in chapter 148 of the Maine Public Laws of 1989, and all subsequent amendments thereto.*

[(8)] *(9)* The term "Secretary" means the Secretary of the Interior.

SEC. 4. AROOSTOOK BAND OF MICMACS LAND ACQUISITION AND PROPERTY TAX FUNDS.

(a) LAND ACQUISITION FUND.—There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Land Acquisition Fund, into which $900,000 shall be deposited by the Secretary following the appropriation of sums authorized by section 10.

(b) BAND TAX FUND.—(1) There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Tax Fund, into which shall be deposited $50,000 in accordance with the provisions of this Act.

(2) Income accrued on the Land Acquisition Fund shall be transferred to the Band Tax Fund until a total of $50,000 has been transferred to the Band Tax Fund under this paragraph. No transfer shall be made under this subsection if such transfer would diminish the Land Acquisition Fund to a balance of less than $900,000.

(3) Whenever funds are transferred to the Band Tax Fund under paragraph (2), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the total amount of $50,000 has been transferred to the Band Tax Fund.

(4) The Secretary shall manage the Band Tax Fund in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), and shall utilize the principal and interest of the Band Tax Fund only as provided in paragraph (5) and section 5(d) and for no other purpose.

(5) Notwithstanding the provisions of title 31, United States Code, the Secretary shall pay out of the Band Tax Fund all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

(A) for which the Band is determined to be liable;

(B) which are final and not subject to further administrative or judicial review; and

(C) which have been certified by the Commissioner of Finance in the State of Maine as valid claims that meet the requirements of this paragraph.

(c) SOURCE FOR CERTAIN PAYMENTS.—Notwithstanding any other provision of law, if—

(1) the Band is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest and penalties thereon, and

(2) there are insufficient funds in the Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full,

the deficiency shall be paid by the Band only from income-producing property owned by the Band which is not held in trust for the Band by the United States and the Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

(d) PROCEDURE FOR FILING AND PAYMENT OF CLAIMS.—The Secretary shall, after consultation with the Commissioner of Finance of the State of Maine, and the Band, prescribe written procedures governing the filing and payment of claims under this section.

SEC. 5. AROOSTOOK BAND TRUST LANDS.

(a) IN GENERAL.—Subject to the provisions of section 4, the Secretary is authorized and directed to expend, at the request of the Band, the principal of, and income accruing on, the Land Acquisition Fund for the purposes of acquiring land or natural resources for the Band and for no other purposes. Land or natural resources acquired within the State of Maine with funds expended under the authority of this subsection shall be held in trust by the United States for the benefit of the Band.

(b) ALIENATION.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be alienated only by—

(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c);

(B) takings for public use pursuant to the laws of the United States; or

(C) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Band to another member of such Band.

(3) Land or natural resources held in trust for the benefit of the Band may, at the request of the Band, be—

(A) leased in accordance with the Act of August 9, 1955 (25 U.S.C. 415 et seq.);

(B) leased in accordance with the Act of May 11, 1938 (25 U.S.C. 396a et seq.);

(C) sold in accordance with section 7 of the Act of June 25, 1910 (25 U.S.C. 407);

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (25 U.S.C. 323 et seq.);

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the Band, as the circumstances require, so long as payment does not exceed 25 percent of the total value of the interests in land to be transferred by the Band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

(c) CONDEMNATION BY STATE OF MAINE AND POLITICAL SUBDIVISIONS THEREOF.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act.

(2) The consent of the United States is hereby given to the State of Maine to further amend the [Maine Implementing Act] *Micmac Settlement Act* for the purpose of

embodying the agreement described in paragraph (1).

(d) ACQUISITION.—(1) Lands and natural resources may be acquired by the Secretary for the Band only if the Secretary has, at any time prior to such acquisition—

(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Band Tax Fund contains $50,000; and

(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 4(d).

(2)(A) No land or natural resources may be acquired by the Secretary for the Band until the Secretary files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired.

(B) For purposes of subparagraph (A), a filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.

(3) Notwithstanding the provisions of the first section of the Act of August 1, 1888 (40 U.S.C. 257) and the first section of the Act of February 26, 1931 (40 U.S.C. 258a), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General of the United States, in the United States and condemn interests adverse to the ostensible owner.

(4)(A) When trust or restricted land or natural resources of the Band are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited into the Land Acquisition Fund and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the Band shall designate, with the approval of the United States, and within 30 days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land acquired from the proceeds that is not acquired in trust shall be held in fee by the Band. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired from the proceeds.

(B) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters involved in such condemnation proceedings in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

(5) Land or natural resources acquired by the Secretary in trust for the Band shall be managed and administered in accordance with terms established by the Band and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or other applicable law.

SEC. 6. LAWS APPLICABLE.

(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Aroostook Band of Micmacs. The Band shall be eligible to receive all of the financial benefits which the United States provides to Indians and Indian tribes to the same extent, and subject to the same eligibility criteria, generally applicable to other federally recognized Indians and Indian tribes.

(b) APPLICATION OF FEDERAL LAW.—For the purposes of application of Federal law, the Band and its lands shall have the same status as other tribes and their lands accorded Federal recognition under the terms of the Maine Indian Claims Settlement Act of 1980.

(c) ELIGIBILITY FOR SPECIAL SERVICES.—Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Band in Aroostook County, Maine, shall be eligible for such services without regard to the existence of a reservation or the residence of members of the Band on or near a reservation.

(d) AGREEMENTS WITH STATE REGARDING JURISDICTION.—The State of Maine and the Band are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by, or held in trust for the benefit of, the Band or any member of the Band. *The consent of the United States is hereby given to the State of Maine to amend the Micmac Settlement Act for this purpose: Provided, That such amendment is made with the agreement of the Aroostook Band of Micmacs.*

SEC. 7. TRIBAL ORGANIZATION.

(a) IN GENERAL.—The Band may organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the Band when acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act. The Band shall file with the Secretary a copy of its organic governing document and any amendments thereto.

(b) MEMBERS.—For purposes of benefits provided by reason of this Act, only persons who are citizens of the United States may be considered members of the Band except persons who, as of the date of enactment of this Act, are enrolled members on the Band's existing membership roll, and direct lineal descendants of such members. Membership in the Band shall be subject to such further qualifications as may be provided by the Band in its organic governing document, or amendments thereto, subject to approval by the Secretary.

SEC. 8. IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT.

For the purposes of this section, the Band is an "Indian tribe" within the meaning of section 4(8) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(8)), except that nothing in this section shall alter or affect the jurisdiction of the State of Maine over child welfare matters as provided by the Maine Indian Claims Settlement Act of 1980.

SEC. 9. FEDERAL FINANCIAL AID PROGRAMS UNAFFECTED BY PAYMENTS UNDER THIS ACT.

(a) STATE OF MAINE.—No payments to be made for the benefit of the Band pursuant to this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) BAND AND MEMBERS OF THE BAND.—(1) The eligibility for, or receipt of, payments from the State of Maine by the Band or any of its members shall not be considered by any department or agency of the United States in determining the eligibility of, or computing payments to, the Band or any of the members of the Band under any Federal financial aid program.

(2) To the extent that eligibility for the benefits of any Federal financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $900,000 for the fiscal year 1990 for transfer to the Aroostook Band of Micmacs Land Acquisition Fund.

SEC. 11. INTERPRETATION.

In the event of a conflict of interpretation between the provisions of the Maine Implementing Act, *the Micmac Settlement Act*, or the Maine Indian Claims Settlement Act of 1980 and this Act, the provisions of this Act shall govern.

SEC. 12. LIMITATION OF ACTIONS.

No provision of this Act may be construed to confer jurisdiction to sue, or to grant implied consent to the Band to sue, the United States or any of its officers with respect to the claims extinguished by the Maine Indian Claims Settlement Act of 1980.

Mr. COHEN. Mr. President, I am very pleased that the Senate is set to approve S. 1413, legislation to settle the claims of the Aroostook Band of Micmacs. Passage of this legislation will correct an unintentional oversight that occurred when the Maine Indian Claims Settlement Act was signed into law in 1980. With the enactment of MICSA, the Micmac Tribe of Maine was excluded from the settlement's provisions despite the fact that it was an existing tribe with a claim similar to that put forward by another Maine tribe, the Houlton Band of Maliseets, which was included in the 1980 settlement. For a number of legitimate reasons, the Micmac's claim was not presented at the time of the negotiations on the Maine settlement bill and so it was not included in the final act.

While this might be seen as a minor slight, the impact on the Micmacs was substantial. With passage of the 1980 act, the State of Maine withdrew its own tribal assistance programs, from which the Micmacs had received funds. To make matters worse, however, the Micmacs also were cut off from Federal funding and have been unable to benefit from various programs like

health services, child welfare, and education. For a poor tribe whose members are basketmakers and migrant laborers, the omission from the 1980 act has made it extremely difficult for the tribe to tackle its unemployment, illiteracy, and health problems.

S. 1413 aims to remedy this unfortunate situation by providing the Aroostook Band of Micmacs with Federal recognition and a $900,000 land trust fund so that a permanent land base can be secured. It is a bill that simply addresses the basic unfairness which has resulted from the enactment of the original Maine Settlement Act.

This bill has gained significant support in Maine, having been memorialized by the Maine State Legislature and strongly supported by the State's attorney general. Legislation to implement the Federal law in Maine has already been approved by the legislature. It is obvious that the need for addressing this issue is quite compelling.

I want to add a few words of thanks to several people who helped in securing passage of this bill in the Senate. The first is my dear colleague, Senator INOUYE, chairman of the Select Committee on Indian Affairs, whose support for this bill has been invaluable. In addition, Pete Taylor of the committee's staff deserves thanks for his wise counsel and guidance in the drafting and consideration of the bill.

Finally, I must commend Becca Yturregui and Reed Dyer, students at Winthrop High School in Winthrop, ME, for revealing, in a most eloquent fashion, the real needs of the Micmacs and the importance of bringing to the tribe a fair resolution of this issue. Becca and Reed, at the urging of their teacher, Linda McKee, organized a group at Winthrop High called Students Organized to Support Micmacs. Thus began a kind of cultural exchange program between the Winthrop students, who lived hundreds of miles from the Micmacs, and their Micmac peers. From all accounts, the program has been an unqualified success. Becca and Reed traveled to Washington, DC, in March to testify at the hearings on S. 1413, and their strong message of support had a great impact on all who listened.

The Senate is now poised to follow Becca and Reed's lead and approve S. 1413. It is only fair that we do so, and I hope the bill will be enacted into law in the near future so that the Aroostook Band of Micmacs can obtain the benefits that have been accorded other Maine tribes.

I thank my colleagues for their support of this legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 1413) was passed.

## HOUSING AND COMMUNITY DEVELOPMENT ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 2354) to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to Indian tribes, and for other purposes.

Mr. McCAIN. Mr. President, I am pleased that the Senate is moving to prompt consideration of S. 2354, my bill making technical corrections necessitated by the enactment of the Housing and Urban Development Reform Act of 1989.

When the HUD Reform Act was adopted, the authority to make community development block grants to Indian tribes was inadvertently eliminated. There was no intention to do so; in fact, we have appropriated $27 million for this purpose for the current year.

This bill will restore the authority to make such grants under a 1 percent set-aside for Indian tribes. It is supported by the Department of Housing and Urban Development, and was approved unanimously by the Select Committee on Indian Affairs.

I have sought to move this bill expeditiously because applications by tribes for funding have already been received and are under review in regional HUD offices. Prompt action will allow the most meritorious applications for economic development projects on reservations to be soon aproved, and construction or rehabilitation work to begin.

I thank all of my colleagues for their support of S. 2354. I hope that the House will move swiftly and favorably on S. 2354.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. AMENDMENTS TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

(a)(1) Subsection (c) of section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by inserting immediately after "Federal assistance provided" the following: "to States and units of general local government".

(2) Subsection (a) of section 106 of such Act (42 U.S.C. 5306(a)) is amended to read as follows:

"(a)(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year, the Secretary shall reserve for grants to Indian tribes not less than one percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

"(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use in accordance with section 107.

"(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorid, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) and (2) of subsection (b).".

(3) Paragraphs (1) and (2) of subsection (b) of section 106 of such Act (42 U.S.C. 5306(b)) are each amended by deleting "after taking into account the set-aside for Indian tribes under paragraph (7), the" and inserting in lieu thereof "The".

(4) Paragraph (7) of subsection (b) of section 106 of such Act (42 U.S.C. 5306(b)) is repealed.

(5) Paragraph (1) of subsection (d) of section 106 of such Act (42 U.S.C. 5306(d)) is amended by deleting "section 107 and section 119" and inserting in lieu thereof "paragraphs (1) and (2) of subsection (a) of section 106".

(6) Paragraph (2) of subsection (e) of section 107 of such Act (42 U.S.C. 5307(e)) is amended by inserting immediately after "this section" a comma and the following: "section 106(a)(1),".

SEC. 2. AMENDMENTS TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT.

(a) Subsection (c) of section 702 of the Department of Housing and Urban Development Reform Act of 1989 is repealed.

(b) Subsection (e) of section 702 of such Act is amended by deleting "1991" and inserting in lieu thereof "1990".

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 515, 548, 549 en bloc; that the Committee amendments, where appropriate, be agreed to; that the bills, as amended, where amended, be deemed read a third time and passed; that the motion to reconsider the passage of these bills be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that any statements relating to these calendar items appear at the appropriate place in the RECORD, and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DESIGNATIONS OF COMPONENTS OF THE WILD AND SCENIC RIVERS SYSTEM

The bill (H.R. 644) to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System, was considered, ordered to a third reading, read the third time, and passed.

## ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 2088) to amend the Energy Policy and Conservation Act to extend the authority for titles I and II, and for other purposes; which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

That this Act may be referred to as the "Energy Policy and Conservation Act Amendments of 1990";

SEC. 2. EXTENSION OF AUTHORITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended—

(a) in section 104(b)(1) by striking out "August 15, 1990" and inserting in lieu thereof "September 30, 1993";

(b) in section 171, by striking out "August 15, 1990" each place it appears and inserting in lieu thereof "September 30, 1993"; and

(c) in section 281, by striking out the term "August 15, 1990" each place it appears and inserting in lieu thereof "September 30, 1993";

SEC. 3. ENLARGEMENT OF SPR TO ONE BILLION BARRELS.

(a) Section 159 of the Energy Policy and Conservation Act (Public Law 94-163), as amended (42 U.S.C. 6239), is amended by adding the following new subsections:

"(i) No later than eighteen months after enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of negotiations undertaken pursuant to part C. The report shall—

"(1) describe the terms of any contracts negotiated pursuant to part C and any cost savings that would result from such contracts relative to the costs of acquisition pursuant to part B.

"(2) give estimates, or ranges of estimates, of any cost savings that would likely result from additional contracts that could be negotiated pursuant to part C for completion of the storage of one billion barrels of petroleum products in the Reserve relative to the costs of acquisition pursuant to part B.

"(j) No later than twenty-four months after enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall amend the Strategic Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum products in the Reserve. Such amendment shall comply with the provisions of section 159 and shall detail the Secretary's plans for the design, construction, leasing or other acquisition, and fill of storage and related facilities of the Reserve to achieve such one billion barrels of storage. Such amendment shall not be subject to the congressional review procedures contained in section 551. In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities.".

(b) Section 160 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6240), is amended—

(1) by substituting in paragraph (c)(3)—

(A) the term "fiscal year 1993" for the term "fiscal years 1988 and 1989", and

(B) the term "1,000,000,000" for the term "at least 750,000,000", and

(2) in paragraph (d)(1)—

(A) by substituting in subparagraph (A) the term "1,000,000,000" for the term "750,000,000", and

(B) in inserting before the period at the end of subparagraph (B) the words "and the Secretary has amended the Strategic Petroleum Reserve Plan as required by section 159(j).".

SEC. 4. PREDRAWDOWN DIVERSION OF SPR OIL.

(a) Section 161 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6241), is amended by adding the following new subsection:

"(h)(1) If the President finds that a severe energy supply interruption may be imminent, then the execution of new contracts for petroleum products for injection into the Strategic Petroleum Reserve may be curtailed or suspended for a period not to exceed thirty days, and the provisions of sections 160 (c) and (d) shall not apply: *Provided, however,* That the President may extend such finding for additional thirty-day periods if he finds that the conditions that justified the initial finding still exist.

"(2) The period during which such Presidential findings is in effect, and the quantity of any petroleum products involved, shall be disregarded in applying the provisions of such subsections for periods following the effective period of such finding.

"(3) When such a finding is in effect, the Secretary is authorized to sell, in accordance with rules or regulations which he shall promulgate, any petroleum products acquired for storage in, but not injected into, the Strategic Petroleum Reserve.".

(b) Section 167(b)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6247(b)(3)) is amended by inserting a comma and the words "and from the sale of petroleum products under section 161(h)" before the period at the end of the section.

(c) Section 167(d) of the Energy Policy and Conservation Act (42 U.S.C. 6247(d) is amended by inserting a comma and the words "and from the sale of petroleum products under section 161(h)" after the words "such section".

SECTION 5. LEASING AUTHORITY.

Title I of the Energy Policy and Conservation Act is amended by adding the following new part after part B and redesignating parts accordingly:

"PART C—SUPPLEMENTARY OIL RESERVE

"DECLARATION OF POLICY

"SEC. 171. (a) The Congress finds that budgetary constraints have hindered completion of a one billion barrel Strategic Petroleum Reserve, and that establishment of a Supplementary Oil Reserve can help diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and contribute to the effectiveness of the international energy program.

"(b)(1) It is hereby declared to be the policy of the United States, to the extent consistent with the Strategic Petroleum Reserve program, to encourage supplementation of the Strategic Petroleum Reserve and other domestic petroleum product stocks by contracting for Supplementary Oil Reserve storage of petroleum products in, or readily accessible to, the United States by private firms or foreign governments in facilities not owned by the United States, and by contracting for Supplementary Oil Reserve storage in Government-owned facilities.

"(2) The purpose of this part is to add to the Secretary's existing authority under part B to contract for petroleum products and storage and related facilities for the Strategic Petroleum Reserve by authorizing the Secretary to contract for Supplementary Oil Reserve storage in facilities other than those of the Strategic Petroleum Reserve, and for Supplementary Oil Reserve storage, in otherwise unused Strategic Petroleum Reserve storage facilities, of petroleum products owned by any person or government.

"(3) It is the policy of the United States that the authorities provided by this part shall be used as a complement to the Strategic Petroleum Reserve and not in any manner which reduces the effectiveness of, or diminishes the control of the President and the Secretary over, the drawndown or distribution of the Strategic Petroleum Reserve.

"DEFINITIONS

"SEC. 172. Terms used in this part have the same meaning that they have in part B.

"CONTRACTING FOR PETROLEUM PRODUCTS AND FACILITIES

"SEC. 173. (a) The Secretary may contract for Supplementary Oil Reserve storage, in storage facilities other than those of the Strategic Petroleum Reserve, of petroleum products not owned by the United States.

"(b) Petroleum products stored under such a contract are subject to the Secretary's authority under section 161 (except sections 161(e) and (g)) to draw down and distribute petroleum products, as if those petroleum products were in the Strategic Petroleum Reserve.

"USE OF STRATEGIC PETROLEUM RESERVE FACILITIES

"SEC. 174. (a) The Secretary may contract for Supplementary Oil Reserve storage, in otherwise unused Strategic Petroleum Reserve facilities, of petroleum products not owned by the United States, to the extent consistent with the purposes of part B and of this part. A contract entered into under this section shall not limit the discretion of the President or the Secretary to conduct a drawdown and distribution of the Strategic Petroleum Reserve.

"(b) Petroleum products stored under any such contract are subject to the authority of the Secretary under section 161 (except sections 161(e) and (g)) to draw down and distribute petroleum products, as if those petroleum products were in the Strategic Petroleum Reserve.

"(c) The Secretary may store petroleum products under this section with or without charge, or pay a fee for their storage.

"STRATEGIC PETROLEUM RESERVE TIE-IN

"SEC. 175. (a) If the Secretary determines that one or more contracts or proposed contracts for Supplementary Oil Reserve storage of petroleum products under section 173 or 174 would for their duration achieve benefits comparable to equivalent storage of petroleum products in the Strategic Petroleum Reserve and that, because of budgetary constraints, equivalent storage of petroleum products in the Strategic Petroleum Reserve cannot be accomplished, the Secretary may so notify each House of the Congress, including in his notification the same information required under section 154(e) with regard to storage and related facilities proposed to be included, or petroleum products proposed to be stored, in the Strategic Petroleum Reserve. From sixty calendar days after notification, all petroleum products actually stored under such a contract shall be counted as part of the Strategic Petroleum Reserve for purposes of part B.

"(b) Petroleum products counted as part of the Strategic Petroleum Reserve under this section, if otherwise eligible, qualify to satisfy an applicable provisions for Regional Petroleum Reserves or noncontinuous storage under part B.

"(c) Notwithstanding any other law, the expiration of a contract for the storage of petroleum products under section 173 or 174 is not a violation of any requirement concerning the size or rate of fill of the Strategic Petroleum Reserve. For purposes of section 160(d), the reduction in the quantity of crude oil in storage in the Strategic Petroleum Reserve attributable to expiration of such a contract is considered to occur between the end of the fiscal year in which expiration actually occurs and the beginning of the following fiscal year.

"IMPLEMENTATION

"SEC. 176. (a) Notwithstanding subsection 160(c), the Secretary may use, for the acquisition of petroleum products or of petroleum product storage under this part, without further appropriation, funds available for the planning, administration, acquisition, and construction of storage and related facilities of the Strategic Petroleum Reserve, and funds available for the acquisition, transportation, and injection of petroleum products into the Strategic Petroleum Reserve. For the purposes of this section, the acquisition of petroleum products includes payments of amounts due upon the expiration, termination or other conclusion of the acquisition contract.

"(b) The Secretary, in any contract entered into under this part, may provide for the acquisition by purchase or exchange of stored petroleum products by the United States, for storage in, or use in connection with, a drawdown and distribution of petroleum products from the Strategic Petroleum Reserve.

"(c) An amendment of the Strategic Petroleum Reserve Plan is not required for any action taken under this part.

"(d) Petroleum products stored and facilities used in the Supplementary Oil Reserve have the same status as petroleum products and facilities owned by the United States for all purposes associated with the exercise of the laws of any State or political subdivision thereof.

"(e) Contracts under this part may be of such duration as the Secretary considers necessary or appropriate.

"(f) For purposes of any law or regulation affecting the solicitation, negotiation, execution or performance of contracts, contractual action pursuant to this part need not comply with applicable laws and regulations (other than those directly relating to safety, health or the environment) governing the construction of facilities, or the acquisition or provision of services or property.

"(g) Upon the expiration, termination or other conclusion of a contract with a foreign government or agency thereof entered into under section 173 or 174, the President, notwithstanding any other law, may permit export of crude oil which has been stored pursuant to such contract.

"(h) The Secretary may agree to binding arbitration of disputes under any contract, including a contract with a foreign government or agency thereof, entered into pursuant to section 173 or 174.

"(i) Section 3(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)) shall apply to a bill submitted by the President in implementation of an international agreement or other agreement negotiated in fulfillment of this part, as if the international agreement of other agreement were an agreement approved under section 2(a) of that Act when the President determines that it is necessary or appropriate to amend, repeal or enact a statute of the United States to implement a requirement of, or amendment to, the international agreement or other agreement.".

SEC. 6. EXEMPTION FROM INTERSTATE COMMERCE ACT.

Section 159 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6239), is amended by adding the following new subsection:

"(k) A storage or related facility of the Strategic Petroleum Reserve owned by or leased to the United States is not subject to the Interstate Commerce Act."

SEC. 7. AUTHORITY TO ALLOW EXCHANGE OF SPR OIL.

Section 161 of the Energy Policy and Conservation Act, as amended (42 U.S.C 6241), is amended by adding the following new subsection:

"(h) Notwithstanding any other law, the President may permit any petroleum products withdrawn from the Strategic Petroleum Reserve in accordance with this section to be sold and delivered for refining or exchange outside of the United States, in connection with an agreement for the delivery of refined petroleum products to the United States.".

SEC. 8 CONFORMING AMENDMENTS.

The Energy Policy and Conservation Act is amended by inserting in the table of contents at the end of Title I—Matters Related to Domestic Supply Availability, the following items:

"PART C—SUPPLEMENTARY OIL RESERVE

"Sec. 171. Declaration of Policy.
"Sec. 172. Definitions.
"Sec. 173. Contracting for Petroleum Products and Facilities.
"Sec. 174. Use of Strategic Petroleum Reserve Facilities.
"Sec. 175. Strategic Petroleum Reserve Tie-In.
"Sec. 176. Implementation.".

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 2088) was passed.

## JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL

The Senate proceeded to consider the bill (H.R. 1159) to amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment.

On page 2, line 18, strike "Interior.", and insert the following: "Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Juan Bautista de Anza National Historic Trail without the consent of the owners thereof.".

So as to make the bill read:

H.R. 1159

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Juan Bautista de Anza National Historic Trail Act".

SEC. 2. JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL.

(a) DESIGNATION.—Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following:

"(17) The Juan Bautista de Anza National Historic Trail, a trail comprising the overland route traveled by Captain Jaun Bautista de Anza of Spain during the years 1775 and 1776 from Sonora, Mexico, to the vicinity of San Francisco, California, of approximately 1,200 miles through Arizona and California, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) entitled 'Juan Bautista de Anza National Trail Study, Feasibility Study and Environmental Assessment' and dated August 1986. A map generally depicting the trail shall be on file and available for public inspection in the Office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Juan Bautista de Anza National Historic Trail without the consent of the owner thereof. In implementing this paragraph, the Secretary shall encourage volunteer trail groups to participate in the development and maintenance of the trail.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 10(c)(2) of the National Trails System Act (16 U.S.C. 1249(c)) is amended by striking the first sentence and inserting: "Except as otherwise provided in this Act, there is authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by section 5(a).".

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1159), as amended, was passed.

## YOSEMITE NATIONAL PARK CENTENNIAL MEDAL ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 537, S. 2388, Yosemite National Park commemorative medals bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2388) to provide for the striking of medals in commemoration of the centennial of Yosemite National Park.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coin Act of 1990".

### TITLE I—YOSEMITE CENTENNIAL MEDALS

SEC. 101. SHORT TITLE.

This title may be cited as the "Yosemite National Park Centennial Medal Act".

SEC. 102. YOSEMITE NATIONAL PARK CENTENNIAL MEDALS.

(a) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission of Fine Arts.

(b) SALE OF MEDALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the medals issued under this title shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) SURCHARGES.—All sales shall include a surcharge of $2 each.

SEC. 103. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of medals issued under this title shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park to be administered by the National Park Foundation. The net income from the fund shall be paid to the Secretary of the Interior for purposes of funding special supplemental projects relating to back country trail development and rehabilitation, and the preservation of Sequoia groves within the boundaries of Yosemite National Park.

SEC. 104. SALE OF MEDALS IN NATIONAL PARK FACILITIES.

The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to allow—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in national park facilities.

SEC. 105. METAL CONTENT AND SIZE OF MEDALS.

The medals authorized to be struck and delivered under this title shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

SEC. 106. NATIONAL MEDALS.

The medals authorized by this title are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 107. EXAMINATION OF RECORDS.

The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National Park Foundation which are related to the medals authorized by this title.

### TITLE II—GENERAL PROVISIONS

SEC. 201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first designated coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 1 years after it is first issued. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 203. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary of the Treasury and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of enactment of this Act. In selecting new designs, the Secretary of the Treasury shall consider, among other factors, thematic representatives of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of laws; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary of the Treasury upon consultation with the United States Commission on Fine Arts.

SEC. 205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the striking of medals in commemoration of the centennial of Yosemite National Park, and for other purposes."

AMENDMENT NO. 1682

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1682.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of S. 2388, add the following new title:

### TITLE III—SILVER PROOF SETS

SEC. 301. SHORT TITLE.

This title may be cited as the "Silver Coin Proof Sets".

SEC. 302. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Subsection (a) of section 5132 of title 31, United States Code is amended by re-designating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) In addition to the proof sets under paragraph (1), the Secretary shall annually sell to the public directly and by mail, sets of proof coins minted under paragraphs (1) through (6) of section 5112(a) of this title in which, notwithstanding any other provision of law, the coins described in paragraphs (1), (2), (3), and (4) of section 5112(a), shall be an alloy of 90 percent silver and 10 percent copper. All coins under this paragraph shall have a Mint mark indicating their place of manufacture. For purposes of subsection (a)(3) of section 5111 of this title,

and paragraph (1) of this subsection, all coins minted under this paragraph shall be considered numismatic items.

"(B) The Secretary shall obtain silver for coins authorized under this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. et seq.). At such time as the silver stockpile is depleted, the Secretary shall acquire silver for such coins by purchase of silver mined from natural deposits in the United States, or in a territory or possession of the United States within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the silver. The Secretary may issue such regulations as may be necessary to carry out this paragraph.

"(C) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code."

SEC. 303. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

"(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal Contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee."

Mr. McCLURE. Mr. President, the amendment I offer has been agreed to by the Senate and the House. However, due to circumstances beyond my control, it has not yet been enacted. Unfortunately, to my knowledge, there is no opposition to this measure, it simply dies because it has been attached to vehicles which are defeated for other reasons. Therefore, I hope it will make it this time and will not get caught up in an unrelated debate.

Mr. President, this amendment is very simple. It directs the Secretary of the Treasury to issue coin proof sets which are 90 percent silver. Under existing law, proof sets are issued which include the dollar, half dollar, quarter, dime, nickel, and penny. This amendment requires that the dollar, half dollar, quarter, and dime will be 90 percent silver and 10 percent copper. These proof sets will be in addition to the proof sets currently issued under section 5132 of title 31.

A year ago, a poll was conducted in the Coin World paper. Over 1,100 responses were received. Of those, 92.3 percent said they would purchase proof sets containing 90 percent silver coins, even though the prices would be greater than the current proof set prices. Responses were from collectors, investors, dealers, and others.

Mr. President, I believe it is clear that the American public would like the opportunity to purchase proof coins which are 90 percent silver. Therefore, I hope this legislation will be enacted quickly and sent to the President for his signature.

The PRESIDING OFFICER. The question in on agreeing to the amendment.

The amendment (No. 1682) was agreed to.

Mr. CRANSTON. I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2388

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coin Act of 1990".

TITLE I—YOSEMITE CENTENNIAL MEDALS

SEC. 101. SHORT TITLE.

This title may be cited as the "Yosemite National Park Centennial Medal Act".

SEC. 102. YOSEMITE NATIONAL PARK CENTENNIAL MEDALS.

(a) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission of Fine Arts.

(b) SALE OF MEDALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the medals issued under this title shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) SURCHARGES.—All sales include a surcharge of $2 each.

SEC. 103. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of medals issued under this title shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park to be administered by the National Park Foundation. The net income from the fund shall be paid to the Secretary of the Interior for purposes of funding special supplemental projects relating to back country trail development and rehabilitation, and the preservation of Sequoia groves within the boundaries of Yosemite National Park.

SEC. 104. SALE OF MEDALS IN NATIONAL PARK FACILITIES.

The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to allow—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in national park facilities.

SEC. 105. METAL CONTENT AND SIZE OF MEDALS.

The medals authorized to be struck and delivered under this title shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

SEC. 106. NATIONAL MEDALS.

The medals authorized by this title are national medal for purposes of chapter 51 of title 31, United States Code.

SEC. 107. EXAMINATION OF RECORDS.

The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National Park Foundation which are related to the medals authorized by this title.

TITLE II—GENERAL PROVISIONS

SEC. 201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end of the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first designated coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 2 years after it is first issued. After that 2-year period, the bicentennial coin shall ahve its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1 year after date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 203. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end of the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary of the Treasury and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of enactment of this Act. In selecting new designs, the Secretary of the Treasury shall consider, among other factors, thematic representations of the following constitutional

concepts: freedom of speech and assemply; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary of the Treasury upon consultation with the United States Commission on Fine Arts.

SEC. 205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE III—SILVER PROOF SETS

SEC. 301. SHORT TITLE.

This title may be cited as the "Silver Coin Proof Sets".

SEC. 302. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Subsection (a) of section 5132 of title 31, United States Code is amended by re-designating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) In addition to the proof sets under paragraph (1), the Secretary shall annually sell to the public directly and by mail, sets of proof coins minted under paragraphs (1) through (6) of section 5112(a) of this title in which, notwithstanding any other provision of law, the coins described in paragraphs (1), (2), (3), and (4) of section 5112(a), shall be an alloy of 90 percent silver and 10 percent copper. All coins under this paragraph shall have a Mint mark indicating their place of manufacture. For purposes of subsection (a)(3) of section 5111 of this title, and paragraph (1) of this subsection, all coins minted under this paragraph shall be considered numismatic items.

"(B) The Secretary shall obtain silver for coins authorized under this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 USC, 98 et seq.). At such time as the silver stockpile is depleted, the Secretary shall acquire silver for such coins by purchase of silver mined from natural deposits in the United States, or in a territory or possession of the United States within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the silver. The Secretary may issue such regulations as may be necessary to carry out this paragraph."

"(C) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 303. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

"(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AUTHORITY FOR COMMITTEES TO FILE REPORTS DURING RECESS OR ADJOURNMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the recess-adjournment of the Senate the Senate committees may file reported Legislative and Executive Calendar business on Thursday, May 31, between the hours of 11 a.m. and 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination, Calendar No. 777, Carl J. Kunasek to be Commissioner on Navajo and Hopi Relocation.

Mr. President, I ask that any statements appear in the RECORD as if read; that a motion to reconsider be laid on the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NAVAJO AND HOPI RELOCATION

The legislative clerk read the nomination of Carl J. Kunasek, of Arizona, to be Commissioner on Navajo and Hopi Relocation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

STATEMENT ON THE NOMINATION OF CARL KUNASEK

Mr. McCAIN. Mr. President, I am pleased to be able to support Mr. Carl Kunasek, the President's nominee for the position of Navajo-Hopi Relocation Commissioner. I am delighted that the Select Committee on Indian Affairs unanimously supported this nomination. I thank our distinguished chairman, Senator INOUYE for his leadership and courtesy in moving this nomination forward. Mr. Kunasek has a long and distinguished career in the Arizona State Legislature and has exhibited both the leadership and personal commitment that are necessary for a position of public office. These fine qualities will serve him well in his position as Navajo-Hopi Relocation Commissioner.

I think those of us who worked on the recent amendments to the Navajo-Hopi Relocation Act can appreciate the magnitude of the job at hand for the new commissioner. We have seen the many difficulties faced by both tribes as the location program was implemented and as the program progressed. We have wrestled with many very difficult and heart-rending situations.

The time is at hand to complete the process of delivering relocation benefits to those eligible persons who are most in need, to continue the progress that has been achieved in the development of the new lands project, to ensure that eligible relocatees receive the benefits to which they are entitled, and to work toward the development of joint projects and cooperative approaches to community development.

Recently, I was greatly encouraged by the creation of a joint Navajo and Hopi airport authority to operate and maintain the new airport at Tuba City. The FAA awarded $1.8 million to the Navajo and Hopi tribes for the construction of the airport. This award represented an important milestone in the efforts of both tribes to seek areas of mutual benefit and pursue cooperative development projects. I believe that we can all share in this effort and that as the new relocation commissioner Mr. Kunasek's leadership and dedication can only serve to expand opportunities to the people of both tribes.

Again, I would like to offer my congratulations to Mr. Kunasek. I wish him every success in this difficult undertaking.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to Legislative Session.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Chair.

(The remarks of Mr. McCLURE pertaining to the introduction of S. 2674 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

## ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.; RESERVATION OF LEADER TIME; AND RESUME CONSIDERATION OF S. 1970

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Wednesday, May 23, and that following the prayer, the Journal of proceedings be deemed approved, that the time for the two leaders be reserved for their use later in the day; that following the reservation of leader time, the Senate resume consideration of S. 1970, the omnibus crime legislation, and upon resumption of the bill there be 45 minutes for debate on the Hatch amendment, No. 1681, with 30 minutes under the control of Senator DECONCINI and 15 minutes under the control of Senator HATCH; that when the time is used, the Senate proceed to vote on the Hatch amendment, No. 1681, without any intervening action, and that no amendments be in order to the Hatch amendment.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. Under the unanimous-consent agreement just approved, a vote will occur on the Hatch amendment to strike the DeConcini provision from the bill at 10:15 a.m. tomorrow morning.

I regret the inconvenience to Senators by the lengthy delay that has ensued. There have been discussions between the managers and other interested Senators in an effort to resolve this and other matters related to the bill. We hope to have a further announcement later this evening in that regard, with respect to action taken following the disposition of the Hatch amendment.

I appreciate the effort made by all those concerned. I again regret the inconvenience to Senators as a result of this delay, but we will proceed to vote tomorrow morning at 10:15 on the Hatch amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, under a previous unanimous-consent agreement, the Senate will vote on the Hatch amendment No. 1681 tomorrow at 10:15 a.m. I am now about to propound a unanimous-consent request for the next matter to be considered with respect to the pending legislation following disposition of the Hatch amendment.

## UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that immediately following disposition of the Hatch amendment No. 1681, Senator GRAHAM be recognized to offer an amendment modifying the Biden language in title II of the bill; that without any intervening action or debate, the amendment be considered agreed to; that title II be considered original text for the purpose of further amendment; that Senator THURMOND then be recognized to offer a perfecting amendment in behalf of himself and Senator SPECTER regarding title II of the bill, notwithstanding the fact that the title has previously been amended; that there be 6 hours for debate on the Thurmond amendment, equally divided in the usual form; that after all time is used or yielded back, the Senate proceed to vote, without any intervening action or debate on the Thurmond amendment; that no other amendments or motions be in order to the Thurmond amendment; that following the disposition of the Thurmond amendment, no other amendments on the subject of habeas corpus be in order to this bill prior to third reading; and that the expedited procedures authorized in section 7323, Public Law 100-690, shall not apply to the consideration of S. 1757.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. THURMOND. Just a minute, Mr. President.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. THURMOND. No objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation, the distinguished acting Republican leader, the chairman and ranking member of the committee. So the Senate should be aware that we will vote on the Hatch amendment at about 10:15 tomorrow, then have 6 hours of debate on the Thurmond amendment relating to habeas corpus, with a vote on that at the conclusion or yielding back of that time.

Mr. President, I yield to the distinguished junior Senator from Hawaii.

(The remarks of Mr. AKAKA pertaining to a proposed amendment are printed in today's RECORD under "Amendments Submitted.")

## RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER (Mr. BIDEN). In my capacity as a Senator from the State of Delaware, on behalf of the majority leader, and if the distinguished Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9:30 a.m. tomorrow, Wednesday, May 23, 1990.

There being no objection, the Senate, at 10:44 p.m., recessed until Wednesday, May 23, 1990, at 9:30 a.m.

## CONFIRMATION

Executive nomination confirmed by the Senate May 22, 1990:

NAVAJO AND HOPI RELOCATION

CARL J. KUNASEK, OF ARIZONA, TO BE COMMISSIONER ON NAVAJO AND HOPI RELOCATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

# EXTENSIONS OF REMARKS

## THE CONTINUING CRISIS IN THE KASHMIR PROVINCE

**HON. ENI F.H. FALEOMAVAEGA**

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. FALEOMAVAEGA. Mr. Speaker, I want to bring to your attention the grim conditions presently confronting the people of Kashmir Province as a result of the repressive policies of the Indian Government against these people. I call upon President Bush and Secretary Baker to take action to investigate these events that are taking place in Kashmir.

Mr. Speaker, I submit for the RECORD several relevant newspaper accounts of the problems on Kashmir.

[From the Washington Post, May 6, 1990]

INDIAN CRACKDOWN IN KASHMIR HELPS FUEL SEPARATIST CAUSE—MILITANTS, TROOPS SKIRMISH DAILY IN CITY

(By Steve Coll)

SRINAGAR, INDIA.—Rifle shots popped like firecrackers in the thin mountain air of this once-idyllic capital of Kashmir. A panicked horde of civilians rushed down a dirty alley from the main road, the men slapping mules into motion, the women gathering children under their arms as they ran.

Metal storefront shutters clanged shut. As if on cue, veiled women leaned from apartments above and pulled their windows closed. "Crossfiring," several of those fleeing called out.

Moslem militants who favor separation from India had ambushed an Indian army patrol around the corner, prompting the soldiers to return fire at a crowd of civilians. Two young men were wounded in the legs, hospital doctors said later. There were unconfirmed reports that a soldier died.

Bloody skirmishes between militant separatists and Indian soldiers now occur several times a day in Srinagar, a former tourist haven gripped these days by anger, fear and violence after five months of armed rebellion, prolonged curfews and a brutal crackdown by Indian security forces.

The Indian government contends that the situation is coming under control, but the popular separatist uprising here that has led India and Pakistan to threaten a fourth war for control of Kashmir appears more intractable than ever. Interviews with scores of Kashmiris over several days—from slum dwellers to doctors and bankers—suggested that the crackdown has polarized the population, driving many previously neutral civilians to the side of the militants.

Hindu-majority India claims full sovereignty over the region, while Islamic Pakistan urges that Kashmiris be allowed to choose their own destiny in a plebiscite. Meanwhile, Kashmiri militants have taken matters into their own hands, regularly attacking Indian soldiers and assassinating government officials.

Well-armed urban guerrillas here, some of whom have apparently obtained weapons originally supplied by the United States to Afghan rebels based in Pakistan, continue to operate with virtual impunity despite the presence of about 15,000 Indian soldiers and paramilitary troops in the Kashmir Valley. And the region's people, most of whom are Moslems, appear to be broadly sympathetic to the militants, despite severe deprivations caused by around-the-clock curfews, house-to-house searches, arbitrary detentions and beatings meted out by security forces.

The valley's several million residents have been confined to their homes for long, uninterrupted stretches—12 continuous days and nights at one point during April—while soldiers pour through slum buildings and house boats nestled along the city's lakes and canals. The searches appear to have raised the population's temper to the boiling point.

"When they have taken the gun against the people, why not take up a gun—if we have to die tomorrow, why not today?" asked Mohammed Yusuf, a 70-year-old retired school teacher.

Yusuf wept as he told how two days earlier, his son, an engineer visiting from his home in the Middle East, had been beaten by security forces after refusing to wash off anti-Indian slogans painted on a tree on the street in front of his house.

"They fell on him. They began to beat him with rifles. They hit on his head, and I fell on him and they hit me. They took him away. His whole body is injured . . . What has happened to us? I am an old man. I can't fight them."

In a slum quarter across town, Bashir Ahmed, a tailor, displayed deep scars on his arms, shoulders and feet, which he said were the result of beatings administered by Indian soldiers after he was detained during a house-to-house search in April. Ahmed said he was beaten with sticks and rifle butts until he passed out.

"I thought, 'This is the end of my life.' I asked, 'Just shoot me.' But they only beat me."

Indian government officials describe the reports of abuses by security forces—including alleged rapes and widespread thefts—as exaggerations concocted by propogandists for the separatist militants. Kashmiris opposed to the government agree that the valley is rife with rumors about atrocities allegedly committed by soldiers, and that many of the rumors are unfounded.

But physical evidence of abuses by security forces—in the form of scars, bruises, smashed windows and charred buildings—is widely visible in Srinagar.

Indian forces have virtually occupied the city, which normally overflows in May with foreign and Indian tourists attracted by the colors of the springtime bloom and spectacular views of peaks in the Himalayan range. Sandbag bunkers with machine gun barrels protruding have been erected by the army in front of hotels and handicraft shops. The houseboats, hiking trails and lakeside walks are empty.

Jammu and Kashmir Gov. Jagmohan, who has overseen the recent Indian crackdown, during which more than 300 people have died, said the recent curfews and searches were forced upon him by the Moslem militants. He denied that there had been excesses by Indian soldiers.

But Jagmohan, who uses only one name, said he had no plans to ease the crackdown. "Now I am saving the [Indian] union," he said. "How many people did Abraham Lincoln kill? If I have to use force, there is a moral legitimacy to it."

Jagmohan said his approach had produced "a massive gain" for the Indian government. But the valley's economy, which depends heavily on tourism, has been virtually shut down, and many Kashmiris said they felt they no longer had anything left to lose by fighting the Indians.

A network of police informers, known as mukhbirs and developed by the Indian government here, coupled with the growing strength of the armed militants, has forced ordinary Kashmiris to take sides as they never have before. "Now there are only two choices," said a Srinagar businessman. "You become a mukhbir or a mujahed," or Moslem holy warrior.

Doctors at a downtown Srinagar hospital said that because of a recent epidemic of meningitis in the city, a number of people had died, unable to reach medical help during the curfews. The doctors complained of acute shortages of medicines, including drugs for testing cancer.

"I'm sure Pakistan should give their highest award to Jagmohan for pushing people to become Pakistanis." said one doctor. "There are many [Kshmiri] nationalists who have become pro-Pakistani. A doctor is a suspect. A bureaucrat is a suspect, an engineer, a businessman. If we are all suspects [to the Indians], who is with them?"

The anger and desperation expressed by Kashmiris in interviews appears to have fed the growing strength of the valley's radical Islamic militant groups, particularly the Hezbollah mujaheddin, whose members say they have received money and arms—including U.S.-made Stinger anti-aircraft missiles, rocket-propelled grenades and land mines—from private sources in Pakistan, Saudi Arabia and Iran, as well as from the U.S.-backed Afghan mujaheddin rebels.

In recent months, the pro-Pakistan Hezbollah has joined the nationalistic, pro-independence Jammu and Kashmir Liberation Front in a coordinated and apparently well-planned insurgency against the Indian security forces. "We have to prepare [Kashmiris] for a long-term war, instead of a short-term war," said, instead of a short-term war," said a Hezbollah guerrilla who uses the nom de guerre Nadim.

He said his group is stockpiling weapons for what he called a "new phase" of the uprising, including assassinations of Indian government officials, plane hijackings and a full-scale guerrilla war in the Kashmir mountains. "The first thing at this time is just to catch them sleeping," he said.

While Nadim sat talking in a slum house just 50 yards from a well-manned Indian army bunker, a 15-year-old colleague brought in one of Hezbollah's weapons, an AK-47 automatic assault rifle with Chinese markings and bullets manufactured in the United States—the same type of weapon supplied by the U.S. government to Afghan

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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rebels based across the border in Pakistan. Nadim said some Kashmiri Hezbollah guerrillas had received training from the Afghan rebels.

Many Kashmiris interviewed expressed discomfort about Hezbollah's fundamentalist ideology and pro-Pakistan stance—Islamac guerrillas have smashed and forced the closing of the valley's popular bars, video shops and cinemas as part of their crusade. Nevertheless, virtually all of Kashmir's Moslems appear to support the immediate goal of the insurgency, which is to expel India from the region, which it has controlled since independence in 1947.

"It is a matter of circumstances—if we are being terrorized, we must take up arms. It is permitted by the Koran," said Mullah Mohammed Hussain, 71, who said he had been detained and beaten by Indian security forces and told that he should stop preaching in his local mosque. "We are not going to be with India. They must either leave us, or, if they don't, we will go for the holy war."

Five months ago, many Kashmiris interviewed here said they were adamantly opposed to any war between India and Pakistan for control of the region because they wished to achieve independence on their own. Now the public mood appears to have shifted.

While few of those interviewed openly longed for war, a number said that because the international community has expressed little support for Kashmiri aspirations for independence, they now believe that only a military victory by Pakistan could free the valley from Indian control.

Kashmiris have struggled to define an identity for themselves separate from India for more than 40 years, but in the Indo-Pakistan wars of 1948, 1965 and 1971, valley residents watched quietly while the rival armies clashed along the border. This time Kashmiri militants and civilians would make life difficult for the Indian forces by stepping up guerrilla attacks and sabotaging roads and communications.

"We want the problem to be solved through peaceful means," said a Srinagar teacher. "But if that is not possible, we welcome war."

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[From the New York Times, Apr. 22, 1990]

INDIA AND PAKISTAN MAKE THE MOST OF HARD FEELINGS

(By Barbara Crossette)

ISLAMABAD PAKISTAN.—Heirs of a shared ancient history, products of the same colonial administration and home to similar peoples and languages, Pakistan and India might be expected to understand and communicate with each other in times of crisis. Yet more than 40 years after their simultaneous creation, their differences have them once again polishing the words and weapons of war.

The crisis, once again, is over Kashmir, the predominantly Muslim region long disputed between Islamic Pakistan and Hindu-dominated India.

Indians and Pakistanis are drifting toward what many of them feel instinctively is a dangerous state of belligerence because grandstanding is politically useful to two beleaguered Prime Ministers, V.P. Singh and Benazir Bhutto.

There probably will not be a war, at least not in the near future, experienced diplomats and officials say. But this kind of peace is disturbing.

Democracy's normal brakes are failing, as most news organizations in both countries trumpet the government line rather than examine it. Neither the Pakistani nor the Indian Parliament is debating the issue in any productive way. Myths are thrown around: Pakistan is run by generals. India is out to conquer the region. Neither side seems interested in negotiating.

"South Asians, all of us, seem to have a fatal problem in politics," a Pakistani official said, "We do not analyze and we don't seem to understand where things are taking us. We are driven by events."

Pakistan and India have fought three times over the picturesque Kashmir Valley: in 1947, in 1965 and as part of a larger war in 1971. The last, inconclusive talks on Kashmir followed in 1972. Now, no questions are asked more frequently on both sides of the border than these: Will there be another war? And why?

India says Pakistan is behind a secessionist movement blazing out of control in the Indian part of Kashmir Indians produce "evidence" of Pakistani training camps and official plots, but diplomats say much of this does not stand up to investigation.

Pakistan, with better evidence and a stronger legal position—New Delhi won't allow a United Nations mandated plebiscite the valley—accuses India of supressing Kashmiri self-determination.

Separatism began to grow dramatically in India's Jammu and Kashmir state in 1987, when the Congress Party of former Prime Ministers Rajiv Gandhi co-opted the last independent, mainstream Kashmiri party and rigged elections there. In his first crisis after taking office in November. Prime Minister Singh, Mr. Gandhi, successor, freed jailed separatists to secure the release of the abducted daughter of his Home Minister, a Kashmiri Muslim.

With Kashmiris emboldened by the militants victory, unrest grew. New Delhi cracked down and since late January score of people have been killed in clashes with the police. Srinagar, the summer capital, remains under curfew.

The cause of a beleaguered Muslim people is a powerful one in Pakistan, and Mr. Bhutto, her administration drifting from crisis to crisis, has made the most of it. A diplomat said "there is no other single issue that has consolidated her position here as much as Kashmir." Pakistanis say that Ms Bhutto's emotive language recalls the style of her father, the late Zulfakar Alt Bhutto, when he fanned the flames that led to the 1971 war with India.

Mr. Singh's brinksmanship is also a matter of political survival. He precarious minority Government depends on support from the Hindu right and ideological left, neither of which wants to concede power to Muslims in Kashmir.

As threats grow harsher, military forces on both sides are getting prepared. Still, the overwhelming military superiority of India would seem a deterrent to conflict. Diplomats here say that the Pakistani military leadership, wary of this, might try to step in to cool the civilian Government's language.

Ms. Bhutto plans a speaking tour of Pakistani Kashmir, a semi-autonomous region, soon to back her party's candidates in elections on May 21. Tension is high there, as Indian Kashmiris arrive from across the cease-fire line with accounts of Indian brutality.

In India, there is also reported to be a cautious attitude among military leaders, some of whom were bruised by getting into the wrong kind of war in Sri Lanka. There are also concerns about a more advanced Pakistani Army growing out of its pivotal role in supplying the Afghan rebels.

In a candid interview with the news magazine India Today, Gen. Krishnaswami Sundarji, a former army chief, suggested that India's military edge may have eroded slightly. He also took issue with his Government's assertion that the war of secession in Kashmir was created in Islamabad.

The current conditions are not something that they have engineered." he said of Pakistan. It's something we've also done or not done in the last few years in Kashmir."

A LEGACY OF CONFLICT

1947—When British India is partitioned into India and Pakistan, a Muslim revolt backed by tribesmen from Pakistan flares up against the maharaja governing the state of Jammu and Kashmir, or simply Kashmir, Indian forces are dispatched to suppress the uprising and Pakistan sends troops to back the rebels.

1949—Fighting ends with a United Nations cease-fire. Kashmir is divided between Pakistan and India along the cease-fire line. Pakistan controls roughly a third of the region, in the west and northwest, and India the rest. Repeated clashes break out along the cease-fire line.

1956—A vote by the assembly in the Indian controlled part of Kashmir leads to the formation of the Indian state of Jammu, and Kashmir. India spurns Pakistani protests, backed by United Nations resolutions for a plebiscite on the future of the entire region. Azad Kashmir, or Free Kashmir, remains under the control of Pakistan.

1962—Indian and Chinese forces clash over a portion of northeastern Kashmir where China has built a road of strategic importance.

1965—War breaks out again between India and Pakistan over Kashmir. A United Nations ceasefire ends the fighting.

1971—India again fights Pakistan, wresting independent Bangladesh from what was East Pakistan. A secondary front in the war is Kashmir, where India makes some gains.

1972—India and Pakistan agree to a new cease-fire line along positions held at the end of the 1971 war.

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[From the Washington Times, May 14, 1990]

KASHMIRIS SET FOR HIGH-TECH WAR

(By Shamim ur Rahman)

MUZAFFARABAD, KASHMIR.—Calling themselves soldiers of God, the latest batch of Kashmiri youths crossed the porous border with India into Pakistani-controlled Kashmir, claiming to have been primed for battle by Afghan war veterans.

Some of them said they were trained to use rifles, anti-tank weapons and even anti-aircraft guns in their rebellion against Indian rule of Kashmir.

"I can operate Kalashnikovs [rifles], light machine guns and the anti-tank weaponry," Shafiq Ahmed, a 26-year-old militant in the Jammu and Kashmir Liberation Front, said in a recent interview.

"I received weapons training in the semi-autonomous tribal area" on the Pakistan-Afghanistan frontier, added Hamshal Siddiqi, who comes from Baramula, on the Indian side of Kashmir.

Claiming that he fought with the Afghan resistance against the pro-Soviet regime in Kabul, he said he was trained inside Afghanistan.

"I am now trained to operate the anti-aircraft guns," Mr. Siddiqi said.

These militants, whose fighting skills appear to have been more polished recently, said they started the anti-India fight with "sticks and stones."

"Now we fight with weapons snatched from the Indian soliders or bought from the arms smugglers," the militants said, echoing Afghan resistance tactics.

Those crossing the border call themselves soldiers of God and come with few assets in search of guns and bombs to carry on the armed struggle against "outsiders in Kashmir," the Indian troops.

Their targets are the troops, government installations or pro-New Delhi officials.

Gun trade is easy in the Afghan tribal area, where people can buy arms even with Indian currency. Authorities in the Afghan resistance based in Peshawar, bordering Afghanistan, have no control over the arms dealers and avoid comments on such deals.

"These youth not only got practical training by participating in the Afghan jihad [holy war], but also returned to the occupied Kashmir with substantial weapons," said Ghulam Mohammed Safi, chief of the Kashmiris' Hizbul Mujahideen, which is backed by the Pakistani fundamentalist movement Jamaat-i-Islami.

Mr. Safi, a science graduate and a vocal leader of the multiparty alliance in Kashmir, came here a few months ago, apparently to coordinate with the local Jamaat-i-Islami, which is also well entrenched in Kashmir and India.

Zigzagging hundreds of miles across snow-capped high peaks on the way from Indian-held Kashmir's capital of Srinagar—the hub of the secessionist campaign—thousands of people have reached Muzaffarabad, the capital of Pakistan-administered Azad (free) Kashmir.

The Kashmiris, having blood relations on both sides, never recognized the Line of Control delineated as the border after the partition of the northern Himalayan state in 1949.

As the militancy grew, the perception of the valley's younger generation has also changed. For a sizable number of the educated, unemployed youths it is no longer a question of choosing between India and Pakistan.

They now demand "total independence," although others want to postpone the issue for the moment. But almost all arriving here after an arduous journey seemed united on one point—liberation from Indian rule.

The Indians also seem to have taken a cue from the Kabul-Soviet forces, another militant observed. Like the Soviets, he said, they are indulging in not only house-to-house, but "room-to-room searches."

The action outrages Kashmiri sentiments, as respect for women in the home is important for them, a Jamaat-i-Islami spokesman said.

"More and more people are supporting the struggle," he said, noting the Indians did not realize that "violation of sanctity of women" would lead to a rise in recruits.

## KEY TO DEMOCRACY IN AFRICA

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. BURTON of Indiana. Mr. Speaker, the recent victory by the UNITA freedom fighters at Mavinga, illustrates graphically the fact that there is no military solution to the tragic conflict in Angola. UNITA has offered unconditional talks and a reconciliation process, and it is now up to the MPLA government to respond.

The people of Angola were promised democracy in 1975, and had it snatched away from them by Cuba, the Soviet Union, and the MPLA. It is time to give back to the Angolan people their shot at democracy.

I would like to commend to my colleagues this essay about Dr. Savimbi and UNITA by Rev. Maurice Dawkins, distinguished public servant, tireless fighter for civil rights, and former Republican Senate candidate in Virginia.

JONAS SAVIMBI KEY TO DEMOCRACY IN AFRICA

Democracy in Eastern Europe, as an amazing revolutionary process, has startled world opinion and freedom fighters have gained new hope in those countries where one party authoritarian rule still prevails.

Hungary, Czechoslovakia, East Germany, Poland and segments of the U.S.S.R. have been joined by Nicaragua and the Philippines as examples of democratization. Free and fair elections in Namibia have encouraged African freedom fighters to continue to struggle for the right to vote and choose their own leaders and determine their own destiny.

Against this background, the question must be asked in the spirit of the late Robert Kennedy—Why not? Why not free elections in Angola? Why not a ceasefire and U.N. monitored negotiations to follow up the Accord between Cuba, South Africa and Angola to make Namibia independence a reality.

Unfortunately, Angola and the freedom and democracy movement led by UNITA's Jonas Savimbi does not get the kind of high visibility coverage that Poland's Solidarity Movement with Lech Waleasa has enjoyed.

Instead the high powered well connected U.S. left wing public relations machinery does a superb job of painting a negative picture or even arranging for a complete black out of the "fight for democracy" in Angola.

Their propagandists would have the reader believe that the present ruling Marxist Government does not differ ideologically from the United States Government. The one-party rule, the ruthless seizing of power with the help of four and a half billion dollars of Soviet military power and Cuban mercenaries backed by the Warsaw Pack Countries Technical Assistance is pushed aside. The U.S. commitment to multiparty politics, one man one vote and free and fair elections is not mentioned. The failure of the Dos Santos government to permit opposition political views to be considered is swept under the rug.

Instead those who broke the original Alvor Agreement that called for MPLA-UNITA and FNLA participation in a democratic political process are depicted as reasonable—misunderstood—free market advocates who will make great trading partners for America.

They would have us believe that the hardline Marxist Leninists in Angola who are more in line with Castro than with Gorbachev are about to become neocapitalists and adopt a conciliatory policy granting amnesty to the "UNITA rebels" who want freedom and democracy so bad that they are willing to die for it.

They smoothly and adroitly avoid any recognition of the MPLA military failure to crush the desire for freedom from autocratic dictatorship and the hunger for independence, self determination, democratic free elections. Hiding behind the smoke screen of American anti-apartheid hatred for South Africa's inhumanity to man—he fails to tell the true facts about UNITA's anti-apartheid position and Savimbi's fierce opposition to South African control of Angola's destiny. He would have you believe that in a 15 year civil war, the only casualties were the victims of UNITA—that the MPLA and the 60,000 Cubans, the North Koreans and East Germans and North Vietnam and Portuguese mercenaries units never killed any Angolan families and children.

They would have you believe that the helicopters and MIG fighters, tanks and artillery under the guidance of Soviet "Advisers" never dropped bombs or fired rounds of ammunition that hit and killed innocent Angolans.

They would have you believe that peace initiatives and offers of political negotiations to open the Benguela Railway to permit economic trade were never undertaken by UNITA even after they soundly demonstrated that there could be no military victory in the Angolan civil war.

Most of all, they would have you believe that Dr. Jonas Savimbi is totally bad and Eduardo dos Santos is totally good. That is not so!

Savimbi, the son of a Christian minister, himself a practicing protestant, has organized or encouraged the organization of Catholic and Protestant churches in Jamba, the capitol of Free Angola territory. This man, a product of the Mao Tse Tung guerrilla training is an efficient military commander fighting a war against tremendous odds. He is also a product of the fight for freedom against Portuguese colonialism, a strong advocate of democracy and free elections to let people determine their own destiny. He also has learned all about communism and like Lech Waleasa, Corazon Aquino, and Violeta Chammoro, knows that freedom is not possible under one party Marxist dictatorship. He saw the flaws in the communist system even before Gorbachev did. He has turned to America and the free world for help while the dictatorship in Angola turned to the communist world for help.

Free market economies and one man one vote politics have been adopted as standard brand doctrine by this advocate of democratization.

For the survival of his people who faced total destruction—he accepted help from any source available—a drowning man does not care who throws him a plank or a life preserver. His anti-apartheid convictions were never compromised as military supplies came from South Africa.

This brilliant strategist and tactician is a consummate politician and has earned the respect of even his enemies for his skill in international diplomacy. Privately the African heads of state will tell you he is one of the best products that African politics has produced.

He is an important key to unlock the door of opportunity for democracy in the southern region of Africa. His vision of a Free Angola holding free elections monitored by the United Nations following the Namibia model has captured the imagination and mobilized the energies of Angolans who are willing to fight and die to make his dream a reality. A guerrilla movement cannot survive without the support of the masses of the population.

A free and fair election based on one man one vote in Angola would give independence, freedom and democracy movements in all of Africa a very much needed impetus.

The corrective medicine for dictatorship is democracy. If it is good for Namibia and South Africa, then one man one vote ought to be good for Angola too. What's good for the goose is good for the gander.

Multi-party democracy in Namibia should encourage multi-party democracy in Angola. Who knows, perhaps the dictatorships in Liberia and Ethiopia could learn a lesson from Ortega in Nicaragua and admit that people need to have a right to self-determination. Democracy would have a real future in Africa in the 21st century if the visions of Jonas Savimbi prevails. The Front Line nations in the southern region could perhaps serve as a model in a post apartheid era. Freedom and democracy could perhaps one day break out in Africa as it is today breaking out in Europe. The historical necessity for political economic and social change ultimately could prevail on the African continent. The status quo conservative will perhaps one day accept the realities of freedom as advocated by the reformers.

This vision of peace and brotherhood and the end of black fratricide is what Dr. Jonas Savimbi shared with some of the African-Americans who have visited with him in Jamba. This expression of hope for the future is what this man has shared with African-Americans who have been willing to listen to him when he visited the United States.

Is this a man too dangerous to sit at the conference table with President dos Santos of Angola—I think not! Is this a man that the African Heads of State would have included in any plans for the future of Angola—I think so!

These are the true facts.

The true picture is one where Jonas Savimbi is seen clearly as a key to democracy in Africa.

By Dr. Maurice Dawkins.

Reverend Maurice Dawkins was the Virginia Republican candidate for the U.S. Senate in 1988. He has served in a subcabinet position during the Lyndon Johnson Administration. He was Professor of Domestic Policy and Urban Affairs at the Presidents Executive Training Institute at Charlottesville. He was the West Coast Chairman of Martin Luther King Christian Leadership Conference and the Chairman of the West Coast NAACP Convention as well as President of the Los Angeles branch. The late A. Philip Randolph appointed him as West Coast Coordinator for the 1963 march on Washington. He was a founding member of the American Committee on Africa, a board member of the Negro Leadership Conference on Africa, and one of the early members of TransAfrica in its organizing year. He has traveled and visited with leaders in Angola, South Africa and was appointed by President Bush to serve on the observer team at the Namibia elections.

## IN HONOR OF CHARLES VIOLA

### HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Mr. Charles Viola who has been selected "All American Commander" by the National V.F.W.

Charles was born and raised in Fort Lee, NJ. He served honorably in the U.S. Army in Korea. He worked for Universal Pictures for 18 years and later was employed as a restaurant manager.

Charles was elected post commander of the Cairola-Barber Post 2342 V.F.W in 1964, and was elected post commander 13 out of the past 15 years. After joining the post in 1958, he became club manager in charge of all post affairs. He was selected "All State Commander" in 1966 and again this year. he is the only post commander in the State of New Jersey to receive this honor.

This year the post achieved 200 percent of last year's membership. The National V.F.W. chose Charles for their "All American Commander Team." He has received many awards from State and National V.F.W.'s, and he has made Post 2342 a model for all others throughout the Nation. Charles has dedicated his life to serving the V.F.W. and the community of Fort Lee. He served as the chairman of the Memorial Day Parade in Fort Lee last year, and was invited to do so again this year. Charles is one of those special few who truly make a difference in our society.

Mr. Speaker, I am proud to join in paying tribute to this exceptional man and extend my best wishes to him.

## TRIBUTE TO "MAN OF THE YEAR" MICHAEL HASHIN

### HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. YATRON. Mr. Speaker, today I would like to pay tribute to one of the most inspiring men in Schuylkill County. I am speaking of Mr. Michael Hashin, who has been selected by the American, Slovak, Ukrainian, Russian Club of Schuylkill County as "Man of the Year." Mr. Hashin has well-deservedly earned such an honor. Through his dedication to his family, church, community, and business, he has served as an exemplary member of the Minersville community.

As a successful businessman, Mr. Hashin has generously contributed his knowledge and expertise to numerous community organizations, such as the Minersville Municipal Water Authority, the Miners National Bank Advisory Board of Directors, the Minersville Merchants Association, and the Nativity BVM High School. Furthermore, serving as a trustee of the St. Nicholas Ukrainian Catholic Church and as manager of its catering service, in addition to being a member of the Holy Name Society, Shamokin Deanery, Mr. Hashin has been an outstanding church leader.

Mr. Speaker, Mr. Hashin has brought guidance, inspiration, and leadership to the community, and he epitomizes the essence of civic and community service. It is only fitting that he be recognized for his contributions to Schuylkill County. Indeed, it is an honor and a privilege to commend Michael Hashin and to say thank you for his outstanding service.

## GOOD SHIP ESTHER FOUNDATION

### HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the Good Ship Esther Foundation of southwestern Michigan. The foundation was organized to transform the *Good Ship Esther,* a 36-foot boat built in 1896 for the U.S. Navy, into a solar-powered ship. The ship was totally remodeled by adding 300 square feet of photovoltaic solar panels which would give it a full power to travel 6 knots.

Cofounders of the nonprofit organization, Bruce Herron of Ganges and Richard Orawiec of Pullman, launched the solar-powered ship at South Haven Port, along the shores of Lake Michigan, as part of the opening celebration of Earth Day. The *Good Ship Esther* is an effort to bring worldwide attention to the use of solar power as an alternative energy source. In June 1990, the foundation members plan to sail the solar-powered vessel from South Haven, MI, to Chicago, IL. After its initial voyage, it will continue on route to New York City while stopping along the way to promote the use of solar power.

Mr. Speaker, I am sure that my colleagues will want to join me in commending members of the Good Ship Esther Foundation for their efforts in addressing the plaguing energy and environmental problems that we face as a nation. We owe all who continue to participate in this educational effort an enormous amount of gratitude.

## TRIBUTE TO THE BOROUGH OF NAZARETH, PA, ON ITS 250TH ANNIVERSARY

### HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to the Borough of Nazareth, PA, on the occasion of its quartimillenial this year.

The land on which Nazareth, PA, was established was known as The Barony of the Rose. William Penn had deeded the land to his daugher Letetia for the payment of one red rose annually.

In the late 1730's, the Moravians left Moravia in what was then Germany and settled in the colony of Georgia to establish a Christian mission. Border uprisings between the Span-

ish in Florida and the English in Georgia led the Moravians to accept the invitation of a methodist evangelist George Whitfield to relocate in Pennsylvania. Whitfield's purpose was to establish a school for blacks in Pennsylvania.

Fanning out from Philadelphia in search of land, the search led the Moravians to purchase and settle this land which today is Nazareth. The school that Whitfield envisioned was started in 1740 and finished in 1743. It was never used as a school. In 1741, the Moravians bought the entire tract of 5,000 acres to establish a society of brotherhood and cooperation. The Whitfield House was used as a church home from which a communal form of existence took place.

Nazarth Hall, an example of the best form of Moravian architecture, was erected in 1745. It became an elementary and secondary school and then a military academy before closing in 1929. The buildings today are apartments, Moravian craft houses and preserved open space—a beautiful place to visit.

Nazareth remained as a strict Moravian community until a petition was presented to Northampton County Court in 1855, asking for borough status. Borough status was granted in 1856.

Approximately 23,000 people populate the Nazareth area, making a living in various ways. Cement manufacturing has played the most important part in the economy for many years. Other industries have become vital to Nazareth's economy, including textiles, woodworking and agriculture. The process of dehydrating alfalfa was invented in here. Nazareth is also the home of Martin Guitar company, an internationally recognized manufacturer.

Nazareth is also home to world champion race car driver Mario Andretti and his racing family. In 1987, the Pennsylvania International Raceway was opened on the site of the old Nazareth speedway. Drivers, their teams and spectators come from all over the world to participate.

Nazareth boasts a comprehensive educational program from nursery care through senior high school, including vocational-technical training, and school district support of the Northampton Community College. Nazareth is known for the quality of its public education program.

Mr. Speaker, I would also like to recognize the civic organizations in the Nazareth area who make an invaluable contribution to the borough through commuity service:

General Federation Women's Clubs.
Kiwanis Club of Nazareth.
Nazareth Women's Club.
Ladies of Retirement Age (LORA).
Men of Retirement Age (MORA).
Nazareth Area Chamber of Commerce.
Lower Nazareth Lioness Club.
Lower Nazareth Township Women's Club.
Nazareth Area Industrial Management Club.
Nazareth Business and Professional Women's Club.
Nazareth Heritage, Incorporated.
Nazareth Lions Club.
Nazareth Lioness Club.
Rotary Club of Nazareth.
Hecktown-Lower Nazareth Lions Club.
Tatamy-Stockertown Lions Club.
Buskill Township Lions Club.
Whifield Lodge 662 F. & A.M.
Moravian Historical Society.

In particular, I would like to recognize the 250th Anniversary Celebration Committee of Nazareth and its officers—Robert Reichard and Robert Danner, co-chairmen; Edith Oswald, vice chairman; Robert Rolling, treasurer and Kathleen Unger, secretary. These volunteers have been the coordinating and driving force behind what is sure to be an outstanding and memorable celebration.

Mr. Speaker, my colleagues, please join me in congratulating the good people of Nazareth, PA, on its 250th anniversary.

## CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. ROE. Mr. Speaker, I rise today to participate in the Congressional Call to Vigil for Soviet Jewry. At the outset, I would like to thank my colleagues, Representatives PETER KOSTMAYER and JOHN MILLER, cochairmen of the 1990 Congressional Call to Conscience Vigil for Soviet Jewry, for coordinating this effort.

How ironic it is that glasnost for the Soviet Union, and soaring emigration figures for Jews leaving the Soviet Union, have unleashed the ugly forces of anti-Semitism in the Soviet Union. Groups such as Pamyat and others openly speak of eliminating the Jewish presence from "Mother Russia," the infamous "Elders of the Protocols of Zion" is sold from bookstores, and prominent Soviet writers, invited by the United States Government to tour America, publicly espouse and defend anti-Semitic canards and half-truths, accusing the Jews of the Soviet Union for many of the problems, past and present, that have plagued all of the Soviet peoples. Glasnost was certainly not meant to produce this anti-Semitic reaction, yet this is what precisely has happened, and not only in the Soviet Union, but in Eastern Europe as well.

Despite the record emigration numbers, and in light of the increasing tide of anti-Semitism, it is vital that all those Soviet Jews who wish to leave, and all refuseniks, be allowed to do so. One such person is Dr. Irena Voronkevich of Moscow. She has been waiting for over 10 years to emigrate, and there is no conceivable reason why a 77-year-old woman, a professor of botany who has not worked in a decade, should be denied a visa for what the Soviet authorities consider are security reasons.

This woman has endured her share of suffering in her lifetime. Stalin's police murdered her father in 1938, her husband fell on the battlefield in 1943, and she raised her son alone for those many years. He was a long-term refusenik, who with his family and her mother first applied for a visa in 1979. They were refused, and told to wait for 10 years. They reapplied in 1987, were turned down again, and told to wait until 1992 to reapply. Now, the date for application has been changed to 1997. In 1989, the son was granted a visa, but his mother was turned down again.

Mr. Speaker, this world-renowned botanist, who has published in the Soviet Union as well as abroad, does not present a threat to the security of the Soviet State. Her continued incarceration directly violates the Helsinki accords and the Vienna concluding document binding the Soviet authorities to the principle of freedom of immigration. I have written to President Gorbachev asking him to intercede in this case, to help allow this magnificent woman to live out the years she has left with her son and grandchildren. As much as we admire glasnost, we cannot lose sight of the fact that many Soviet Jews, such as Dr. Voronkevich, are arbitrarily denied their fundamental rights. We must, under current conditions, use all and every available means to assist those Soviet Jews who wish to emigrate from the Soviet Union.

## RAYMOND W. SMITH HONORED BY THE AMERICAN CANCER SOCIETY

### HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MANTON. Mr. Speaker, I have the pleasure to represent Raymond W. Smith, who currently serves as the president and chief executive officer of Maspeth Federal Savings in Maspeth, NY. Raymond Smith was born in Middle Village and has been with Maspeth Federal Savings for 40 years.

Recently, Raymond Smith was honored by the American Cancer Society, Queens division, for his outstanding leadership and effectiveness as a member of the Cancer Society's executive committee. I urge my colleagues to review the following article on the career and achievements of Raymond W. Smith which appeared in a commemorative issue of the Maspeth Federal Savings newsletter. I know my colleagues join me in congratulating Mr. Raymond W. Smith.

HAPPY 40TH ANNIVERSARY MR. SMITH!

In January of 1950, a young man started to work at the local bank, Maspeth Federal Savings, as an Assistant Teller, his name was Raymond W. Smith.

Here is a look at his illustrious career:

January, 1950: Assistant Teller.
January, 1953: Teller.
January, 1960: Auditor.
February, 1967: Treasurer.
June, 1969: Vice President & Treasurer.
November, 1972: Vice President, Treasurer & Personnel Director.
July, 1974: Elected to the Board of Directors.
January, 1975: Secretary to the Board of Directors.
June, 1975: Vice President, Secretary & Personnel Director.
November, 1977: Executive Vice President, Managing Officer & Secretary to the Corporation.
October, 1978: President.
December, 1983-Present: President & Chief Executive Officer.

Raymond Smith was born in Middle Village and in his youth moved to Maspeth,

where he attended Public High School 78. A graduate of Grover Cleveland High School, Mr. Smith served in the U.S. Army during the Korean War.

His wide ranging education in banking and finance includes special programs at the Institute of Financial Education, Adelphi University; Garden City, Hofstra University; Hempstead, LaGuardia Community College; Long Island City and C.W. Post Center, Brookville. He also attended the American Savings & Loan Institute of Indiana University.

A licensed insurance and real estate broker and a Certified Financial Planner, Mr. Smith is a past president of the Queens County Group and the Long Island Group of Savings Institutions. He is also a member of the Fiancial Managers Society and the Independent Free Appraisers. Is also a past member of the Board of Directors New York League of Savings Institution, and since 1985 a member of the Board of Directors of the Queens Botanical Gardens.

A long time community activist, he is a member of the Maspeth Lions Club and the Catholic Accountants Guild and is on the Executive Commitee of the Queens Division of the American Cancer Society, where he serves as Treasurer, and was very recently honored by the American Cancer Society, with the "Medal of Honor".

Mr. Smith and his wife, Dorothy, reside in Glen Head, Long Island. They have two daughters, Kathleen and Janet.

Once again Mr. Smith, Congratulations!

On Saturday, February 24th, 1990, the American Cancer Society, Queens Division, honored Raymond W. Smith, President and Chief Executive Officer, of Maspeth Federal Savings.

At a gala black tie affair, Terrace on the Park, Flushing Meadow Park, Queens, was turned into "The Jewels of India" with a very special Guest of Honor, His Excellency, Dr. Karan Singh, Ambassador of India to the United States.

Mr. Smith is on the Executive Committee of the Queens Division of the American Cancer Society, where he serves as Treasurer. Under his able leadership and direction, the Queens Division financial strength has grown in a constant upward motion for the past ten years, reversing a serious negative cash balance. The fund balance went from below 0% to 100%.

The Division now has the substantial resources to fund the programs and services that Queens Cancer Patients and their families so desperately need.

In addition to providing his financial acumen, Mr. Smith has been a dedicated volunteer in supporting every American Cancer Society activity and event since he joined the Board of Directors years ago.

The Honor awarded to Mr. Smith, the "Medal of Honor", is an award that not only he and his family can be proud of, but one that all Maspeth Federal Savings employees and friends can be proud of also.

Mr. Smith, our hats are off to you! Congratulations!

## ADL RESEARCH REPORT

## HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. DYMALLY. Mr. Speaker, I wish to bring to the attention of the Members a report from the Anti Defamation League of B'nai B'rith regarding the New Alliance Party: A Study in Deception.

### THE NEW ALLIANCE PARTY: A STUDY IN DECEPTION

#### INTRODUCTION

One of the most visible and vocal groups to emerge on the far left in recent years is the New Alliance Party. Part Marxist sect, part therapy cult, part entertainment enterprise (producer of "talent shows" and "Musicruises" in New York City featuring big name performers), the party is active across the country, running candidates in both national and local elections, and promoting its unique brand of radicalism. New Alliance Party politics is an amalgam of eccentric "therapy" theories, revolutionary rhetoric, black nationalism, and sexual references. It is tainted with anti-Semitism and an intense anti-Israel bias.

Although the party claims to be led by blacks and other minorities and by women, in fact its leadership is centered in one man: Fred Newman.

Like the extremist politics of Lyndon LaRouche (with whom the party was once affiliated), the New Alliance Party has the trappings of a cult: a one-man leadership and authority figure in Fred Newman; a small, devoted following; a wide variety of "front groups" that spread its message; an ability to raise money successfully; and a private agenda not readily evident from the party's public positions.

This report will examine the history and background of the party, its mode of operation, its recurrent themes and doctrines, and the manipulative methods it uses to advance its goals.

#### EARLY HISTORY

The New Alliance Party (NAP) is in large measure the handiwork of Fred Newman, a one-time college teacher whose therapeutic theory and practice have inspired the formulation of several small, cult-like organizations over the past decade. Newman was a philosophy instructor in the City College of New York when he first came to notice in the radical political community. In 1968 he formed a collective called "If-Then" which boasted that its pamphlets and brochures were the most obscene in New York. "If-Then" evolved into the Centers for Change, a commune that ran sensitivity groups; there, Newman also beagn a therapy clinic.

In 1974 Newman and his small band of followers joined Lyndon LaRouche's National Caucus of Labor Committees (NCLC), a bizarre sect making a transition from the far left to the far right. The NCLC at that time had just completed a campaign of violence and intimidation against other left-wing groups and was concentrating on charges that the Rockefeller interests and the CIA were engaged in a massive brainwashing effort. After a brief stay in the NCLC, Newman and his followers resigned to form the International Workers Party (IWP).

The IWP, formed in 1974, called for the formulation of united fronts with working class organizations and movement groups to lead to "international socialist revolution." It claimed to have disbanded in 1976, and its activists formed the New York City Unemployed and Welfare Council, whose president, Joyce Dattner, was a Newman follower. A host of other Party fronts soon appeared, including the Coalition of Grass Roots Women, New York City Union of Lesbians and Gay Men, Federation of Independent Unions, New Black Alliance and Women's Independent Democratic Organization. Finally, in 1979, the Newmanites organized the New Alliance Party.

#### EXTENDING THE NAP'S REACH

While there are probably not many more than a hundred hard-core members of the New Alliance Party, several thousand people may be involved in its front groups. The NAP claims to have thirteen thousand dues-payers and a hundred thousand readers of its weekly newspaper, the *National Alliance.* However, the *National Alliance* had a paid circulation of only 6,167 in 1989. On occasion NAP candidates for public office have received a substantial vote. Dennis Serrette and Nancy Ross, the NAP's presidential ticket in 1984, were on the ballot in thirty-three states; the ticket received 47,209 votes. (Serrette broke with the party shortly afterwards. Testifying in a deposition dated May 29, 1987, Serrette described the group as a therapy cult that used Newman's brand of therapy as a means of controlling its members. See Appendix B.)

#### 1988 PRESIDENTIAL TICKET

In 1988 the New Alliance Party presidential ticket headed by Dr. Lenora Fulani was on the ballot in all fifty states. Fulani, the party's most visible and effective representative, is a psychologist and "director of social therapy" for the organization's medical centers. She was certified by the Federal Election Commission to receive federal matching funds of $205,565.18. She received a national vote of 201,430 or less than one-quarter of one percent of the total vote cast.

#### NEW YORK CITY: POLITICS AND PRIMARY

The party's center of activity to be on the Upper West Side of New York, where it has tried to be active in community politics. It has focused its attacks on Democratic reformers and occasionally supported some traditional Democrats. For several years its co-chair was New York City Councilman Gilberto Gerena-Valentin of the Bronx. The NAP's goal is to build an independent party to counter "fascism."

The NAP ran candidates in New York City's primary election in September, 1989. The NAP's candidate for City Council President, Rafael Mendez, received 193,842 votes, about 25 percent of the total vote cast. The party's candidate for Manhattan Borough President, Barbara R. Taylor, recevied 31,968 voted, about 16 percent of the total vote. While these results might be construed by some observers as representing a "protest vote," the party's performance in the primary was an impressive one, and its most significant garnering of votes thus far.

#### ROLE OF THE "THERAPY CENTERS"

Fred Newman's psychological theory, implemented by what he calls "social therapy," holds that each individual is governed by a "bourgeois ego" that prevents unity with others and encourages self-gratification. The role of the radical therapist is to lead the individual to overthow the dictatorship of the bourgeois ego and to liberate the proletarian ego by means of a personal revolution.

Newman directs a group of eight so-called "medical and therapeutic" centers in the New York area, as well as individual centers in Boston, Chicago, Los Angeles, Philadelphia, Washington, DC, Denver, and Jackson, Mississippi. The party, which claims to have regional offices in 26 states, attempts to be politically active in areas where these therapy centers are located.

The New York Institute for Social Therapy and Research, set up in 1978, became

the headquarters for Newman's therapy practice; its profits appear to be the major source of funding for the New Alliance Party. Party members and supporters have been recruited from patients undergoing therapy at the Institute.

An article in the *Village Voice* of June 1, 1982 observed: The most disturbing aspect of NAP * * * has remained conistent from the beginning: the total integration, under Fred Newman's guidance, of psychotherapy and political recruitment. * * * With about 300 patients, at least half of whom are NAP members and many of whom pay around $40 an hour for group sessions, the Institute's annual cash flow may be above $500,000 a year. A substantial part of that sum finds it way into NAP and its satellites, but there is no way of knowing how much.

Four years later, an article in *Newsday* revealed: But perhaps the most controversial aspect of the party is its network of six therapy clinics, grouped together under the Institute for Social Therapy and Research. The Institute, which sometimes works with Medicaid and Medicare patients, treats 1,500 patients a month, Newman said. Therapists connected with the party follow a "drug-free" program of treatment, stressing the social origins of emotional illnesses, he said.

Also in 1986, the black newspaper, *New York Voice* (Nov. 1, 1986) wrote of the NAP's Harlem center of the Institute for Social Threapy and Research:

The three-year-old Harlem center * * * offers group, individual, family, and couples therapy as well as workshops, seminars and medical testing and referral. * * *

"Race and class, being a woman or being gay is not neutral to emotional health but must be considered," said Dr. Fulani, who says she was radicalized in the sixties when she realized that the model for excellence was the white upperclass male. * * * Therefore, for her and for the staff and clients at the center, the emotional and medical issues they address are seen as political.

Fulani * * * has been accused by critics of brainwashing the people who come to the center. In response to these charges, she says: "To some significant extent emotional problems are social and there is a realtionship between psychology and politics. We're just more open about it."

The *Village Voice* article noted earlier (entitled "Psychopolitics") provided further insight into the cult aspects of the NAP. The article noted that Newman "has determined [the party activists"] political direction at every turn" and has "treated most of the NAP leaders" with his "social therapy." The article went on:

Understanding "social therapy" from reading works of Fred Newman and his various collaborators isn't a simple undertaking. * * * Yet half a dozen blooklets and pamphlets Newman has self-published over the past 10 years do offer some clues about what he calls the "practice of method"—which he regards as the best way to teach Marxism. * * * the end result, when a cure is achieved, is that "the patient is organized * * * [a cure] must result in the patient performing revolutionary acts * * * acting in ways which reject * * * the mode of understanding, explaining and meaning authoritarianly identified with bourgeois ideology. * * * This may sound like a formula for indoctrinating patients into NAP, and vice versa—especially because the Institute funnels money into NAP organizations, seeks members at NAP events, and teaches and trains current and prospective members of NAP and its affiliates. * * *

Former NAP activist Dennis Serrette has described the group as "basically a threapy cult centered around the person of Dr. Fred Newman." Serrette characterized NAP as "an organization that portrays itself as a Marxist-Leninist organization when, in effect, they were nothing more than a power play by an individual to just exercise control over a large number of people." He described the overall atmosphere of party meetings as follows: "I certainly felt that the folks that were in there were basically under some assumption or intimidation that they shouldn't oppose anything that came from the front. I fet that way, I felt intimidated." (See Appendix B.)

NAP ANTI-SEMITISM: THE JEWISH "DEAL WITH THE DEVIL"

For years the New Alliance Party has been plagued by charges of anti-Semitism—for good reason. In the *National Alliance* of October 25, 1985, Fed Newman referred to Jews as "the storm-troopers of decadent capitalism," and complained that they had "sold their souls to the devil—international capitalism."

Fred Newman's further remarks in this vein about Jews were contained in this *National Alliance* article (a transcript of his speech to the NAP's 1985 regional convention in Harlem), entitled "Breaking a Deal with the Devil":

* * * I'm saying all this because I want you to know what happened, what the Jewish people as a people did in response to almost being destroyed. I want to share this with you honestly and openly because it's very painful to say aloud. As a people, we responded to that genocide by selling our souls to the devil.

And the contact with the devil has been clear-cut. It become clearer every day and we have to hear it in New York and have to hear it in Johannesburg, and we have to hear it in the Middle East; we have to hear it throughout the world. The contract with the Jewish people, with the Jewish leadership, has been: "We're going to let you live. We're going to let you survive. We're going to make sure it never happens to you again as long as *you* function as the stormtroopers of decadent capitalism against people of color the world over! That's the goddamned deal with the devil * * *

You make sure that you Jews will be in the forefront in the war against the empowerment of Black people, of Puerto Rico people, in this country. We need you to play that role. We have the right to use you to play that role. We will degrade your struggle and your degradation by waving the flag of your Holocaust in the name of putting down and oppressing other sisters and brothers. * * *

A special issue of *Stono*, a new NAP publication, entitled "What of the Jew?" appeared in August, 1989. In an editorial, *Stono*—speaking "as Marxist thinkers and activists"—stated:

The deal with the devil, [i.e., Jews serving capitalism] forged in the wake of the Holocaust, was quite explicitly made; the survivors had the Scylla-and-Charybdis choice of doing the bidding of capital or dying. * * *

Elsewhere, *Stono* asserted: "Our anti-zionism needs little explanation: We oppose the Jewish colonization of Palestine."

NAP is a fervent supporter of anti-Semitic Muslim leader Louis Farrakhan. It has claimed that "it was the racist white media which inaccurately portrayed Farrakhan as anti-Semitic." In a statement supportive of Farrakhan at the party's Harlem convention in 1985, Newman again proclaimed his "devil" theory, this time attacking Zionism:

The history of Zionism, the manipulation that is Zionism, is nothing more than the making of a deal with the devil * * * To be saved * * * means to follow and build the leadership, the great struggle of people of color all over the world, and in the United States of America, to follow the leadership of the Afro-American people . . . . as Jews, as Puerto Ricans, as gays, as straights—because that's the progressive leadership that will end these sick, vulgar, inhuman deals with devils. So as with Minister Farrakhan, our party is about "doing in the devil." And we'll do in the devil in the way that we can. Whatever Minister Farrakhan can do by way of helping us in doing in the devil—we don't turn anybody away!

In 1986 Practice Press, the party's publishing arm, published a pamphlet titled "The Hon. Louis Farrakhan: A Minister of Progress." It is advertised weekly in the *National Alliance*. The introduction to the pamphlet states that Farrakhan and the New Alliance Party "are the leading targets of Zionist terror," and calls Farrakhan "the most progressive religious leader on the American political landscape."

MORE HOSTILITY TOWARD ISRAEL AND JEWS

Regarding Israel, Jews and Zionism, Newman has further stated: As a well-paid client state, Israel's function was always to defend Washington's politics and American capital in the Middle East. The dirty role for the American Zionist Jew, and the new Jew, was to support Washington's advance and survival and to use Israel as a bargaining chip in the ongoing political poker game that was post-war, cold war politics * * * the Judeo-Christian God, long controlled by finance capital, authorized the murder and dislocation of the Palestinian people. Israel's right to exist is actually capitalism's might-makes-right to create whatever the hell it needs. * * * The so-called Jewish lobby which, myth has it, spends and works feverishly to maintain U.S. support for Israel, is an insult to Jewish intelligence, and especially, Jewish entrepreneurial skills. * * * From the West Bank to the West Side of Manhattan international Jewry was being forced to face its written-in blood deal with the capitalist devil. * * * The Jew, the dirty Jew, once the ultimate victim of capitalism's soul, fascism, would become a victimizer on behalf of capitalism; a self-righteous dehumanizer and murderer of people of color; a racist bigot who in the language of Zionism changed the meaning of 'Never Again' from 'Never Again for anyone' to 'Never Again for us—and let the devil take everyone else'. * * * there was no room for Zion, no less community, no less communism, in Zionism. And international Jewry, which bravely survived German fascism, succumbed to American capitalism. Zionism was the hitman. * * *

The *National Alliance* has stridently attacked the Anti-Defamation League. On November 21, 1986, the newspaper described ADL as "A multi-million dollar slander machine against progressive, and Black and Latino leaders, and Arab and pro-Arab organizations, purposely setting these groups up for attack by an increasingly sophisticated Jewish fascist underground modeled on Israel terrorist groups" The paper's lead article in the February 2, 1989 issue was entitled, "The ADL: Jews Without Principles."

In another article attacking the ADL entitled, "ADL May Pay Heavy Price for Attacks on Fulani," the *National Alliance* (De-

cember 26, 1986) stated: Says Fred Newman, a Jew who was viciously attacked by the ADL, "The Anti-Defamation League * * * and many other so-called Jewish leadership groupings are dangerous to be sure. On the other hand they are really a pack of bullies who thrive on scaring progressive-minded Jewish people the world over. If Jews and non-Jews stand up in solidarity to these police agents, these disgraces to Judaism, these liars, the likes of the ADL will be destroyed."

TARGETING THE BLACK COMMUNITY

The NAP is actively involved in courting the black community on many fronts. In addition to its support for Louis Farrakhan, it has attempted to forge an alliance with New York radical activist Rev. Al Sharpton, and its newspaper runs a weekly ad for an "Al Sharpton Defense Fund." The *National Alliance* contains effusive praise both for Farrakhan and Sharpton on a regular basis. Moreover, in general, a great many of the articles in *National Alliance* feature subjects of particular interest to the black community, regarding political, social and cultural events.

Dr. Lenora Fulani has also been a strong supporter of Tawana Brawley, whose 1988 claims of having been raped by a white police officer were later discredited. Fulani marched in Poughkeepsie along with other backers of the New Alliance Party in March 1988, in support of Brawley's "struggle against white male supremacists." Fulani stated of Brawley: "Her struggle is our struggle. Her fight is our fight." (New York *Daily News*, March 8, 1988.)

The group's deceptively named front group, the "Rainbow Lobby," (a name very similar to that of Rev. Jesse Jackson's "Rainbow Coalition"), actively solicits money in black and liberal communities around the country. The organization's entertainment enterprise, "All Stars Talent Show," sponsors talent competitions in black communities throughout the New York area under the sponsorship of another front group, "The Community Literacy Research Project." NAP's most prominent black figure, Dr. Fulani, frequently writes for such black newspapers as *Big Red News* and the *Black American*, and party press releases about Fulani are published in many of the major black newspapers in the New York area. And, as noted, the Institute for Social Therapy and Research has a major facility in Harlem.

INDOCTRINATING STUDENTS

The American Psychological Association's newspaper, the *APA Monitor*, described the party's Barbara Taylor School in its April, 1988 issue. (Barbara Taylor is a leading member of the party.) The school comprises a day care center and elementary school at two sites in Harlem, and purportedly has one hundred students, ages 3-13. The *Monitor* reported that the school curriculum is "scientifically based" on the theories of Soviet psychologist Lev Vygotsky and, among others, party leaders Lenora Fulani, Fred Newman, and Lois Holzman. Key social issues are explored by "visiting courts and government officers, creating mock trials and role plays, and the use of the media." The school states that contributions to it are tax-deductive.

In a profile of the school, New York *Newsday* (October 6, 1988) reported that students were sent to Poughkeepsie to march in a demonstration in support of Tawana Brawley, and to be demonstration in Washington "memorializing those who suffered in the bombing of Libya." The article reported that the school had "social therapy groups" for its children, and that "numerous leaflets posted on the door promote New Alliance Party activities * * *". *Newsday* wrote:

The Barbara Taylor School seems suffused not just with an unusual educational approach but with a specific political agenda * * *

While the curriculum for social studies is "adapted" from a traditional seventh-and-eighth grade syllabus established by the Board of Education, there is a noticeable twist. "The basic foundation of the curriculum is the perspective of historical materialism," the introduction begins. "It is not the history of great men; it is the history of the organization of production. It is a working class history of the U.S."

RECENT NAP ACTIVITIES

The past year has seen an intensification of NAP activities on many fronts. NAP activities, enterprises and front groups have multiplied.

The party has recently produced two more publications: *Probe*, "the intelligence magazine of the working left," and *Stono*, "an international journal of culture and politics." Both publications are lavishly produced. *Stono*, states it is "anti-Zionist and pro-Jewish * * * we oppose the Jewish colonization of Palestine * * * a brutal settler regime supported by U.S. arms and money." *Stono* runs an advertisement for itself in *Probe* which features a picture of a young black girl holding a large rifle.

A *National Alliance* article referred to some of the other NAP enterprises: "New Alliance Productions, which produces one of the country's largest amateur talent events, the All-Stars Talent Show Network * * * Musicruise, a summer festival of 'music under the stars' on the Hudson River dayline featuring artists like Dizzy Gillespie, Hugh Maskela * * * The International People's Law Institution, which now takes on most contentious human and civil rights cases from Haiti to Harlem.* * *"

According to the Boston newspaper, *The Tab*, the NAP's Rainbow Lobby collected money from more than 1,000 people when it knocked on doors in Brookline and Newton in the summer of 1989. *The Tab* reported NAP activist Nancy Ross' assertion that the Rainbow Lobby "ranks as the 11th largest grassroots lobby in the country with about 150,000 members nationwide."

A NEW "CULTURAL CENTER"

The most significant recent development the party has reported is the construction of a new 9,000 square foot complex, the Castillo Cultural Center, in Manhattan's Greenwich Village. A two column banner headline in the *National Alliance* announced: "U.S. Left Opens $2.7 Million Psychology and Cultural Center."

The newspaper reported that the center would house the group's East Side "Center for Short Term Psychotherapy," which "grosses nearly $45,000 a month, $35,000 of which is income directly from the practice of Social Therapy." The Castillo Cultural Center, "a multi-disciplinary collective of radical artists," would occupy about 6,000 square feet. According to the article, the price tag for the space came to "nearly $1 million." The center will house an "art factory" [sic], a darkroom, a workshop and a publishing house. The article also stated that the Castillo Center "grosses in the neighborhood of $55,000 a month, or nearly three quarters of a million dollars annually." It announced a series of plays under the title, "A Festival of Revolution," including one by Fred Newman, "No Room for Zion."

An article in the *Village Voice* (October 17, 1989) referred to several artists and other cultural figures who have lent their names to the Castillo Center, and noted:

One side of Castillo's $2.7 million (!) loft serves as offices of the Institutes for Social Therapy and Research, run by Fred Newman, also head of the Castillo Center and the mastermind of NAP. * * *

How are they *paying* for it all? Lenora Fulani * * * told me this is a "white liberal question".* * * Signs on the wall record the total for last month's efforts—$33,293. At that (unbelievable) rate, the center would have eaten up nearly seven years' fundraising.

If this is an "art factory," where is the theater, the painting studio, the dance space? If this is about building a "multiracial, multi-ethnic, working people's cultural movement," why haven't community-based art groups been invited to participate?

THE MONEY TRAIL

The National Alliance has explained how the New Alliance Party raises money: "[Fred] Newman turned to the Social Therapy Centers * * *. Therapy was the one activity of the political network of which he was the architect that generated a financial surplus * * *. He assembled a team of grassroots organizers—he called them Community Social Workers—who began going door to door with a portfolio of community-based service organizations, soliciting members and contributors. The experiment was oriented towards creating a mass production organizing model that could turn the practice of political organizing into a money making activity which could in turn fund the expansion of the mass organizing * * *.

The article went on to describe NAP's outreach efforts in middle income communities following the formation of the Rainbow Lobby in 1985. "The results," the article noted, "were startling."

Within weeks the canvassers were raising between $50 and $100 in one evening shift * * *. Canvassers collected consistently large amounts of money * * *. Nearly 35,000 people have joined the Lobby in the last four years and an additional 90,000 have contributed to its cause. By 1988, the Lobby had dozens of canvassers in the field, was running a telemarketing operation to reach contributors for follow-up donations and grossed $548,000. In 1989 the Lobby has put 60 canvassers in the field and projects that it will gross $1.2 million.

* * * The scientifically proven responsiveness of broad cross sections of the population to a door-to-door appeal for more democracy gave Newman the data he needed to design the ground-breaking matching funds drive for * * *. Dr. Lenora Fulani * * *. In 1988 Fulani became the first African American woman in history to qualify for federal primary matching funds. Over 66,000 people contributed to the drive. Her campaign raised a total of $2,757,548—$938,798 of which was the matching grant from the federal government. (According to the New York Times of August 17, 1989, the Fulani campaign had adjusted receipts of $2.15 million and expenditures of $2.13 million.)

FOREIGN POLICY POSITIONS: THE LIBYAN CONNECTION

The New Alliance Party has maintained sympathetic support for the Libyan regime of Col. Muamar Quaddafi. Dr. Lenora Fulani headed a New Alliance Party delega-

tion at an "international Peace gathering" in Tripoli on April 14, 1987 to "commemorate * * * the genocidal U.S. bombing of the Gulf of Sidra and the Libyan coast." The National Alliance reported on April 24, 1987 that Dr. Fulani stated: "It was so extraordinarily moving, so powerful to be a part of an entire nation's demonstration against U.S. militarism and racism." Highlights of the conference included an appearance by Muammar el Qaddafi.

A simultaneous demonstration was held in Lafayette Park in Washington, D.C. at which the New Alliance Party participated along with the Nation of Islam, the General Conference of Libyan Students in the USA, the All-African People's Revolutionary Party (a radical group headed by Kwame Toure, the former Stokely Carmichael) and several other groups.

In November, 1987, at a tribute to Nation of Islam Minister Akbar Muhammad, Fulani again took the opportunity to express her solidarity with the Libyan people and rail against the "terror of the U.S. government on people of color around the world."

After the shooting down of two Libyan MIG planes by the U.S. in January, 1989, the National Alliance ran a full page article condemning the act. The article stated: "Outside the U.S., few take seriously the American charges that Qaddafi is a * * * terrorist," and "the specter of Libyan chemical weapons [is not] causing the rest of the world to tremble." The article continued, "no country has used chemical weapons against a civilian population on so huge a scale as the U.S." (National Alliance, January 19, 1989).

For the third year in a row, two rallies were held in 1989, in New York and Washington, marking the U.S. bombing of Libya. In New York, a reception was held at the Castillo Cultural Center. Speakers included Dr. Lenora Fulani, Fred Newman, and Dr. El Moakkif, representing the Libyan regime. The speeches condemned "these Democratic and Republican murders" (National Alliance, April 27, 1989). The article stated: "It is not generally acknowledged that the bombing of Tripoli was an assassination attempt against Qaddafi in retaliation for his—and his people's—support for liberation struggles around the world."

Fred Newman stated: "Some so-called progressives do not give unconditional support to the Libyans, the Congolese people, the Palestinians and others. They will not stand up to American imperialism regardless of the political price. That is a criminal act. * * *"

OTHER FOREIGN CONCERNS

In April, 1988, the National Alliance mourned the death of Palestinian terrorist Abu Jihad (also known as Khalil al-Wazir), former second-in-command of the PLO. (Abu Jihad was known for his involvement in Black September, the PLO underground terrorist cell of the early 1970's responsible for the 1972 Munich Olympic massacre of eleven Israeli athletes.) The newspaper published an "In Memoriam" article with a picture of Abu Jihad and Yasir Arafat, and stated that "the international progressive community" was mourning "the loss of one of its greatest political-military tacticians." The newspapers credited Abu Jihad with leading "the first Palestinian guerilla attack against Israel" in January, 1965, and lamented his "assassination by a Zionist murder squad."

The new party magazine, Stono, wrote in August, 1989: [W]e recognize the Palestine Liberation Organization as the sole, legitimate political representative of the Palestinian people. . . . While the majority of Jews continue to support the repression against the Palestinian nationalist movement, increasing numbers have become disillusioned with Jewish national utopianism."

The other major foreign policy area of concern for the New Alliance Party is the African country of Zaire. The party, its Rainbow Lobby and U.S.-Congo Friendship Committee, are actively involved in a "Dump Mobutu" (the leader of Zaire) movement. The Rainbow Lobby sponsored a forum in November, 1989, at the annual conference of the African Studies Association (ASA) in Atlanta on the subject: "Are Mobutu's Days Numbered?"

SEX AND THE NAP

The New Alliance Party's "therapy" places an emphasis on overt sexuality and its projects and publications reflect that tone.

On November 16, 1989, "Comrade Eugene" wrote to the National Alliance complaining about "x-rated graphics and other pornographic illustrations" in the newspaper. Dan Friedman, managing editor, replied that "[I]t is our duty as revolutionists to destroy the vile and oppressive organization of sex under capitalism. In order to do this work, we can not confine sex to the bedroom, to the toilet stall or to the closet. We must participate in public displays of sexuality. * * *"

Several leaders and members have testified to their "love" for Fred Newman. Dr. Lenora Fulani wrote in the National Alliance (November 16, 1989), "Yes, Fred Newman and I do have a very intimate, close, sensuous, powerful and passionate relationship."

Until late in 1989, the National Alliance ran a weekly column entitled "Sexually Speakin' and Otherwise" by therapist and NAP activist Freda Rosen that dealt with a wide range of sexual issues.

Finally, in an article in Practice (Winter, 1990), entitled "The Women I Live With," Fred Newman wrote that he considers himself "an American Marxist/Leninist revolutionary" but also "a controversial revolutionary," noting, "I don't like the institution of the family in any of its forms." After quoting an unnamed critic of the NAP who had asserted that Newman had three wives, Newman observed: "I do not 'have' three wives. In fact I have none . . . But I am terribly, terribly in love and empowered by all the women I live with." Newman's article went on to describe the personalities of, and his relationships with, seven women who have all taken active part in various NAP activities.

TO SUM UP

Given its ability to attract money, votes, attention and acceptance, its tactics of deception and manipulation—as well as its radical brand of anti-Semitism—the New Alliance Party is of concern to the democratic community. It is an organization on the fringe of American politics whose history and propaganda suggests a strong affinity with other anti-democratic and anti-Semitic forces in our society.

APPENDIX A

New Alliance Party front groups and enterprises include the following entities:

*The Rainbow Lobby (Washington, DC).[1]

U.S. Congo Friendship Committee.

Musicruise (Boat cruises in Manhattan that feature famous musicians).

All Stars Talent Show Network.

Harlem Institute for Social Therapy and Research.

Bronx Institute for Social Therapy and Research.

East Side Center for Short Term Psychotherapy.

New York Institute for Social Therapy and Research.

Stewart Polk Center.

Free legal clinics (one in Harlem, three in the Bronx).

People's Independent Democratic Club (Bronx).

Association of Progressive Helping Professionals.

The Barbara Taylor School (Harlem).

Castillo Cultural Center (Greenwich Village).

Coalition for a Progressive New York.

International People's Law Institution.

Adam Abdul Hakeem Coalition to Save Our Youth.

New Alliance Productions.

This group also publishes four periodicals: the *National Alliance, Practice* (a journal of "psychology and economics"), *Stono* and *Probe.*

The NAP also maintains its "therapy centers" in Boston, Chicago, Denver, Jackson, Mississippi, Los Angeles, Philadelphia, and Washington, D.C.

APPENDIX B

AN INSIDER'S VIEW

Dennis Serrette, former NAP presidential candidate, provided an inside view of the party when he was a witness on May 29, 1987 in the lawsuit of plaintiff Emily Carter of the New Alliance Party against the Jackson (MS) *Advocate.* The Mississippi newspaper had run articles critical of the NAP. Questioned by New Alliance Party lawyer Harry Kresky, Serrette said that the only person wielding absolute power in the party was its leader, Fred Newman. Serrette stated: "The inner circle to me was only Fred and those who Fred may have had to share his thinking, who carried out his bidding * * * his wives * * * I think Hazel Daren, Gail Elberg * * * and Debra Greene. Those were the people who live with him * * *."

Serrette stated that another organization, the International Workers Party, was in effect the "underground" apparatus of the party. He testified: "Well, the New Alliance Party was basically an organization put together by * * * Fred and some of those who may have served him, to possibly hide the existence of IWP. * * * it was considered secret * * *."

The group's focus on "therapy" was particularly disturbing to him, Serrette asserted. "They seemed more preoccupied to me around therapy than they did [with regard to] the political." Serrette found many similarities between the behavior of Lyndon LaRouche's groups and the Party, including its use of character assassination: " * * * their attempts to uncover and to defame me by calling up people to talk about my sexual life. * * * I felt that that was sort of like a tactical thing that the LaRouche people might be using * * * there was no other organization I could ever recall that controlled their people the way the New Alliance Party * * * with therapy, had controlled their people, and the National Caucus of Labor Committees [a Lyndon LaRouche group] in my opinion * * *

[1] Not affiliated with Rev. Jesse Jackson's National Rainbow Coalition, Inc.

seemed to have absolute control of their people in basically the same way. So those are some of the similarities that had me thinking that, well, I really have my doubts about what I was a part of."

"TACTICAL" EFFORT TOWARD BLACK COMMUNITY

Instead of being a "black-led group" as it pretended to be, Serrette said, "the party exploited this imagery, but it was a lie, it was clearly a tactical means of using blacks, and a racist scheme of using black and Latino and Asian people to do the bidding of one man, namely Fred Newman * * *" Serrette went on to state the treatment of blacks within the New Alliance Party was "unequal" and "very abusive." He found this similar to the treatment of blacks by LaRouche's National Caucus of Labor Committees.

Serrette stated that he began to be suspicious about who was running things when he noticed that "there was a lot of people who weren't advertised as operatives or officers in the New Alliance Party, which tended to have very high * * * amount of respect within the New Alliance Party and seemed to be giving orders, you know running things, it just seemed far too organized, it seems like the people in charge are not always the people who are making the decisions around here. * * *" It was at this point, he said, that he learned of the existence of a "secret organization, and that they were asking me to be a member of that organization, and the nature of it was that it was Marxist-Leninist. * * * I said absolutely, you know, this is great, you know, but what is it?" Serrette stated that this "secret" organization was the International Workers Party, and "They made it clear to me that this was a secret organization."

A SECRET AGENDA

Serrette was queried: "Why was it secret?" He answered: "Well, the reason that I was given was that they didn't feel that an above-ground organization would be able to carry out, you know, changing this country in an effective way, meaning the changing of the social order * * * The New Alliance Party was basically * * * above-ground for the IWP." He went on to state: "It basically served as an electoral function to attract people there and to organize them into organizations and eventually take them in as members of, I imagine the IWP."

THERAPY AS MANIPULATION

Asked about the function that "therapy" played in the group, he said "Fred Newman was the chief therapist. It was my experience that he was, he and whoever he may have appointed for those who trained therapists and generally, it was those he placed in control and in power. Lenora Fulani is the chief therapist, that's the way she was in there. * * *"

Serrette defined the therapy as "a way of controlling every aspect of their lives."

Asked about how the party financed itself, Serrette said that the bulk of finances came from the therapy centers. He was asked: "How much money are we talking about?" He answered: "A lot of money, a lot of money. As a matter of fact, it was stated in one meeting * * * that the organization. * * * had made a million dollars that year."

Serrette was asked: "Do you know or do you have an opinion whether members of this organization would kill if they were so instructed by Mr. Newman?" He responded: "I wouldn't be surprised of anything that this organization might do upon instruction from Fred Newman. I certainly believe that given the therapy and the way that people have taken directly to him, that they would do anything, just about, that he would ask them to do."

Referring to the group as a "cult," Serrette summed up his opinion of the NAP by characterizing it as "an organization that portrays itself as a Marxist-Leninist organization when, in effect, they were nothing more than a power play by an individual to just exercise control over a large number of people." He described the overall atmosphere of party meetings as follows: "I certainly felt that the folks that were in there were basically under some assumption or intimidation that they shouldn't oppose anything that came from the front. I felt that way, I felt intimidated."

## IN RECOGNITION OF DESOTO SCHOOLS SUPERINTENDENT FRANK MOATES

### HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. FROST. Mr. Speaker, on July 1 of this year, Mr. Frank Moates will retire after serving 16 years as the superintendent of public schools in DeSoto, TX. Before all my colleagues, I would like to personally commend and thank Superintendent Moates for his work on behalf of the families in DeSoto.

We entrust no one with a more important assignment than the educators of our children. We ask them to prepare and guide our most precious resource, our children. Frank Moates, throughout his distinguished career has indeed proved worthy of this trust.

A recent profile from the Dallas Morning News summarizes well Superintendent Moates' contributions to the DeSoto community and to our Nation. I would like to share it with my colleagues.

[From the Dallas Morning News, Apr. 29, 1990]

DESOTO'S MOATES RETIRING

(By John Yearwood)

J.B. Boisse was returning to class at Frank D. Moates Elementary School when he spotted a familiar figure strolling down the hall.

The 9-year-old ran past his third-grade classroom to give a big hug to Frank Moates, who held up his hand for a "high five" from the youngster.

"Are you doing well today?" asked Mr. Moates, before hugging J.B. and walking him to class.

Inside the classroom, J.B.'s classmates all ran to Mr. Moates, offering hugs and kisses.

"They are all my kids," said Mr. Moates, the DeSoto school superintendent, "and they are all special."

The trip to the school was routine for Mr. Moates. But every visit during the last few months has taken on special significance. On July 1, Mr. Moates will retire after 16 years as superintendent.

He will be replaced by John Moore, 49, assistant superintendent of instruction with the North Little Rock, Ark., Public School District.

Mr. Moates, 59 who was paid an annual salary of $77,000, will leave the job as one of the district's most popular superintendents.

"I like him a lot. I feel like he's a close friend," said J.B. "He's a real nice guy, and I really appreciate him. I don't want him to leave."

School board President Gordon Roak said it will be difficult to forget the mild-mannered Mr. Moates and his contributions to the district.

"He has gotten us through a lot of changes and transitions and allowed the district to come out ahead and stay ahead," Mr. Roak said.

During Mr. Moates' 16 years at the helm, the DeSoto district doubled its enrollment, built a half-dozen new schools, improved academic test scores and jumped to Class 5A athletic competition.

DeSoto residents can feel proud to send their children to the district's schools, he said.

"I feel we compare very favorably with surrounding districts. If you look at test scores, we are always above state and national norms," said Mr. Moates. "We are very proud of this. We feel that we more than meet the test of quality schools."

The task of shaping the district into one that earned the respect of others was not always without controversy. Two years ago, school officials won a bitter showdown with some residents in a tax rollback election. Mr. Moates became the district's point man and ended up in the center of the issue.

Mr. Roak said he came to truly admire Mr. Moates during that tumultuous period, as he fended off personal attacks by proponents of the rollback.

"It took a pretty heavy toll on him," Mr. Roak said. "Despite the personal attacks, he stood tall."

Although the rollback campaign became negative, some proponents now say they harbor no ill feeling toward Mr. Moates and they wish him well in retirement.

President Tommy Cole, who supported the rollback, said he has since lost any bitterness he had toward the superintendent and the school district. There was never any doubt, he said, about whether Mr. Moates was doing a good job running the district.

"He has done fine, and I wish him well," Mr. Cole said. "When you are in a town 16 years, you aren't going to make everybody happy. You can't. But right now, nobody's mad at him."

Mr. Moates said he always was careful about how he spent school funds. The tax dispute made him more frugal and sensitive to residents' concerns, he said.

As a youngster growing up in Beaumont, Mr. Moates never thought he woud one day be fighting for funds to build schools so children can have a better education. He said becoming an educator was not one of the careers he had "a burning desire" to pursue.

"I was intrigued by law enforcement," he said.

It wasn't until he was a college student in Beaumont that he became interested in teaching.

Mr. Moates said his love for teaching began while he was working as a teacher's aide at an elementary school to help pay his way through college.

"My experience with teachers there and the young people probably had the biggest single impact on the change," he said.

After graduating from the University of Texas at Austin, Mr. Moates went to work for the Burleson Independent School District, becoming a teacher and assistant superintendent.

He spent 10 years in Burleson before being named superintendent of the Malakoff Independent School District.

Mr. Moates was hired as superintendent in DeSoto in 1974 to replace Fred Nickles, who had retired. He said more responsibility and a new challenge brought him to the southwest Dallas County suburb.

"I was looking for a little larger district," he said.

Malakoff had about 2,000 students compared with DeSoto's 2,800.

Dr. Bob Coggins, who was on the school board when Mr. Moates was hired, said he impressed school board members throughout the interview process.

"The thing that impressed me the most was when we were discussing salary," Dr. Coggins said. "We asked him what he wanted to be paid. He said, 'I'll tell you what. You pay me what you want for the first year, and if I don't like you at the end of the year, I'll leave. If you don't like me, you don't have to renew my contract.'

"That's the way it was left. He was hired at the salary of the outgoing superintendent."

Dr. Coggins, who has since left the school board, gave Mr. Moates high marks for the job he has done.

"I feel like he ran a good, tight ship and did what the board asked him," Dr. Coggins said.

Mr. Moates said he received several job offers during the last 16 years, but always decided to stay with the DeSoto district because of the backing of staff members and the community.

"The public has been very supportive," he said. "It's a comfortable place to be."

He also credited students with his decision to remain in DeSoto. He said he tries to visit the district's 10 campuses often.

At Moates Elementary, principal E. Mac Geren said the high fives and hugs Mr. Moates received from students were genuine.

"The reaction he received today was spontaneous and it would be tomorrow," said Mr. Geren. "He's just very student-oriented and well-liked by students."

## THE ROLE OF THE NATIONAL COUNCIL ON DISABILITY IN THE DEVELOPMENT OF ADA

### HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. GINGRICH. Mr. Speaker, The National Council on Disability is an independent Federal agency comprised of 15 Presidentially appointed members. The Council's mandate is to review policies and programs which impact upon persons with disabilities and make recommendations to the President and the Congress concerning how these policies can be improved. In 1984, the National Council issued a policy statement entitled "National Policy for Persons with Disabilities," which articulated the need for legislation which would provide comprehensive civil rights protections for persons with disabilities. After the publication of this statement, the National Council held numerous forums across the country in which it heard from literally thousands of persons with disabilities about the discrimination they face every day.

In February 1986, the National Council issued a major report to the President and the Congress entitled, "Toward Independence." In this report the National Council outlined the key components required for comprehensive civil rights legislation protecting persons with disabilities. This report was well received by the Congress and has become central in the development of the "Americans With Disabilities Act" [ADA]. In January 1988, the National Council issued another report, "On the Threshold of Independence," in which the National Council authored the specifics of the "Americans With Disabilities Act of 1988." The goals of the ADA, currently being debated by the House of Representatives, are to remove attitudinal, architectural, transportation, communication, and employment barriers which exist for persons with disabilities in American society.

I agree with the National Council on Disability in its belief that the provisions of this legislation send persons with disabilities a clear message that their dream of equal civil rights protections will soon become a reality.

## TRIBUTE TO JOHN M. "MAC" AICHELE

### HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. GEKAS. Mr. Speaker, I rise to ask my colleagues to join me in recognizing a Pennsylvania whose accomplishments and contributions to the community are indeed exemplary.

John M. "Mac" Aichele is an example of the spirit of community service. He is retired president and former chairman of the board of the Milton S. Hershey School in beautiful Hershey, PA. This school was founded to provide a home and academic training to orphaned boys. The tradition of dedication to others has continued through the years as countless students have been educated on the school's sprawling campus.

In addition to overseeing the education of his students, Mac has been involved with a long list of organizations, including the Harrisburg Community Theater, the Hershey Sumphony Orchestra Association, the M.S. Hershey Foundation, and the Dauphin County Mental Health/Mental Retardation Board. He currently serves on the boards of the Boy Scouts of America, Family and Children's Service, and Ronald McDonald House.

Clearly, Mr. Speaker, Mac is one of the "points of light" on which our Nation depends. His selflessness represents the very best that we can be. On behalf of my constituents, I thank him for his work.

## RICHARD COHEN ON "MADNESS AND MALICE" IN THE MIDDLE EAST

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. LANTOS. Mr. Speaker, the anguishing event of last weekend in Israel in which a mentally unstable Israeli killed eight Palestinians in a reminder to all of us of the irrational tragedies that far too often take place despite concerted efforts of government leaders and officers to prevent them.

Today's Washington Post published an excellent article by columnist Richard Cohen which puts this tragic event in its appropriate context. As Cohen notes, when a similar event took place in 1985 and an Egyptian soldier stationed in the Sinai went berserk and killed seven unarmed Israeli tourists, the Israeli Government responded by deciding that a soldier is not a nation. But in the aftermath of this latest tragedy, Arab leaders throughout the Middle East—including so-called moderates, as well as the PLO—have used the occasion to fan the flames of violence and unrest in Israel.

Mr. Speaker, I ask that Richard Cohen's outstanding article be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to give it careful and thoughtful attention.

MADNESS AND MALICE

(By Richard Cohen)

In 1985 an Egyptian solider stationed in the Sinai went berserk, killing his own commander and seven unarmed Israeli tourists. A number of the tourists, including a 10-year-old boy, apparently bled to death because other Egyptian soldiers would not permit an Israeli medical team to aid the victims. For a moment, the Middle East tensed up and then relaxed. In essence, Israel said that one soldier is not a nation. The peace with Egypt was never in doubt.

Now, though, something similar has happened within Israel. There, a former soldier also has gone berserk, killing seven Palestinians. The gunman has been characterized as deranged, attributing his action to the loss of a girlfriend and an alleged rape by Arabs when he was a boy. Nonetheless, both the Palestine Liberation Organization and several Arab governments have not hesitated to use this horrible incident in their propaganda war against Israel.

Kuwait simply labeled the killer a "Zionist" and said his action would "lead to a new cycle of violence in the region." A PLO spokesman called the killings "a message to the Arab summit" about to begin in Baghdad, and a PLO official, Yasser Abed Rabbo, asked Egypt to close the Israeli Embassy in Cairo. "What is happening in the occupied territories is an act of organized crime carried our under the supervision and planning of the Israeli government," he said. From Damascus and Amman have come similar statements.

Well, first of all, the killing did not take place in the Occupied Territories, but in Israel proper. (The victims were, however, residents of the occupied Gaza Strip who had come to Israel seeking work.) In the second place, there is not a scintilla of evidence that the Israeli government had anything to do with the killings. If it had, then possibly the gunman would have been allowed to escape and not have been arrested. The current Israeli government is capable of doing some bonehead things, but not even its severest critic would suspect it of wanting to foment the riots in the Occupied Territories and Israel proper that followed the killings.

Maybe it's understandable that Arab leaders (and non-Arab ones in Tehran) would overreact to the recent massacre. After all, both the West Bank and Gaza Strip are under military occupation, and from time to

time it's a harsh one. The intifada proceeds, and with it comes a daily loss of life, including, of course, children. To some Israelis (and others), these deaths are the inevitable result of rebellious activity, such as stone throwing. To Arabs though, the victims are just kids who want to live in a Palestinian state. It's the occupation that's killed them, not their behavior.

Palestinians long ago made the point that they are entitled to their own state. But they have not yet made another and possibly more important point: that if they get that state they will not continue their war against Israel. Very likely, Arab leaders know that the rampage of a single Israeli does not represent government policy. Yet their followers are a different matter. They are quite willing to believe—indeed, for generations they have been taught—that the so-called Zionists are ruthless killers. Until recently, for instance, the PLO itself did not stoop to distinguish between soldiers and, say, women and children on a kibbutz.

Now both the PLO and certain Arab governments will not distinguish between state policy and a single man who went berserk. By inflamming populations in their own countries and within Greater Israel (Israel plus the Occupied Territories) they show themselves to be more passionate than logical and hardly punctilious when it comes to truth. By claiming that the massacre is anything more than a tragedy, they are propagating a lie.

But there is yet another issue that has to be dealt with. Washington has been putting pressure on Israel to come to the bargaining table and deal with the Palestinians. So far that hasn't happened. But if someday it should, Israel has to be assured that the Palestinian leadership can sell some sort of compromise to its people. Given the performance of the leadership following the shooting, any compromise will be a harder sell. Indeed, Israelis can argue that when it counts, the PLO leadership reverts to the same old rhetoric—and maybe the same old terrorism.

It would have been wonderful if the shootings had been followed by efforts on the part of Arab leaders to calm the situation. It would have been wonderful if they had said that an Egyptian had done something similar. It would have been wonderful if any Arab leader, including Egypt's Hosni Mubarak, had repeated what Mubarak himself said following the 1985 massacre in Sinai: "a limited incident that can happen anywhere, carried out by an insane man."

Anywhere, by definition, includes even Israel.

## THE WONDERFUL WOMEN OF HADASSAH

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. BURTON of Indiana. Mr. Speaker, I wish to pay a special tribute to Hadassah, the largest Jewish women's organization in the world. The tireless women of Hadassah are indeed great humanitarians and they deserve our support.

The Hadassah Medical Center in Jerusalem is one of the finest medical institutions in the world. In addition, it provides the very best care to Jews and Arabs alike. Many Arabs wounded as a result of the terrible unrest in the West Bank have been treated at Hadassah. No one seeking treatment has been turned away.

Hadassah has also trained many Arab doctors and nurses from the West Bank and Gaza. The Palestinians, in Israel and in the territories enjoy the highest health care standards of any Arab population in the mideast. I have also been particularly impressed with Hadassah's activities in Africa. They played a key role in the construction of a brandnew, top-notch hospital in Kinshasa, Zaire. They also set up a unique eye clinic in a remote area of Kenya to treat 600 blind patients.

It is my great pleasure to salute the wonderful women of Hadassah, and I would like to enter into the RECORD a press release announcing Hadassah's eye project in Kenya.

HADASSAH DOCTORS BRING GIFT OF SIGHT TO BLIND KENYANS

NEW YORK, March 26.—Six hundred blind men, women and children in a remote section of the African nation of Kenya will see—some for the first time—after a unique expedition, in April, by eye surgeons from Hadassah-Hebrew University Medical Center in Jerusalem. The doctors will perform free eye operations on blind sufferers of cataracts, retinal detachment and other eye diseases.

In Kenya, leaflets and posters written in Swahili are publicizing the medical expedition, April 12 to 16, proclaiming, "Free Medicine, Free Operations, Free Eye Camp by Hadassah-Hebrew University Hospital in Jerusalem."

Professor Hanan Zauberman, head of the Ophthalmology Department of Hadassah-Hebrew University Medical Center, in Jerusalem, will lead the team from Israel, which includes senior Hadassah ophthalmologist, Dr. Itzhak Hemo, as well as several Hadassah nurses.

Kenyan doctors and the Nairobi-based Royal Commonwealth Society for the Blind will assist the Israeli team. The Nairobi Hebrew Congregation and the Lions Club of Kenya are co-sponsoring the event with Hadassah and the Israel Foreign Ministry.

Altogether some 600 Kenyans are expected to travel to Kabarak, where the surgical team will operate at a compound called President's Farm. Most of the patients will come from the Nekuru area in Kenya. Kabarak is 180 kilometers north of Nairobi.

Hadassah Hospital will loan advanced equipment for the unusual surgical camp, enabling doctors to remove cataracts through three millimeter incisions instead of routine 10-millimeter incisions.

Advanced vitreoretinal surgery will be performed for blind patients suffering from long-standing retinal detachment, according to Professor Zauberman in Jerusalem.

In an exchange component of the program, African doctors and nurses travel to Jerusalem for training in the Eye Department at Hadassah Hospital. Other countries that have received assistance from Hadassah in the field of eye care include, Liberia, Tanzania, Ruwanda, Ethiopia and Lesotho. Thirteen doctors from Africa and Latin America are currently studying in the three-year post-graduate course at Hadassah in Jerusalem.

During the past 10 years, the Hadassah Hospital's Eye Department and the Foreign Ministry have established eye centers in three African countries—Kenya, Malawi and Swaziland.

Hadassah's eye-care work in Africa began 30 years ago under the direction of the late Professor Isaac Michelson. Liberia was the initial African nation to establish a relationship with the Eye Department at Hadassah Hospital. Today, there are major Hadassah eye clinics in Kenya, Swaziland and Malawi.

Hadassah, the Women's Zionist Organization of America, with 385,000 members in 1,500 chapters and groups in the United States is the largest Zionist organization in the world. It supports medical, educational and youth resettlement programs in Israel. In the United States, it sponsors youth groups and offers educational programs for its membership.

## IN HONOR OF ANTHONY J. IURATO

### HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Anthony J. Iurato on the occasion of his retirement as the chief of police of the city of Hackensack.

Tony is a lifelong resident of Hackensack. He has been married for many years to the former Betsy Lee Coffey. They have 3 daughters, Sandra Lynn Sharkey, Angel Stoegner, and Margie Ann Torrance, 13 grandchildren and 1 great-granddaughter.

Tony is a veteran of World War II when he served from 1943 to 1946 as an aerial gunner in the U.S. Army Air Force. He then attended the New Jersey State Police Academy and was appointed patrolman in the Hackensack Police Department on January 3, 1950. He rose quickly among the ranks, being promoted to sergeant in 1953, lieutenant in 1956, deputy chief in 1965, and chief of police in 1966. Tony's hard work and determination to serve the community of Hackensack is clear in that he has dedicated his life to the protection of his hometown.

Tony has attended numerous technical schools in police practice, procedure and administration, including FBI. National Academy, Executive Command Course, and Management Seminar. He is a life member of the International Association of Chiefs of Police, a life member of the New Jersey State Chiefs of Police, and a member of the Bergen County Police Chiefs Association. He was elected honorary president of Bergen County Police Chiefs Association, he is a member of the Patrolmen's Benevolent Association, and the International Narcotics Association. He is the cofounder of Bergen County Narcotics Task Force, and member of the American Legion—Honor Legion Police Departments of the State of New Jersey.

Tony has received numerous awards including three Exceptional Duty Medals and Chief's Achievement Award from the Bergen County Police Chief's Association.

He was appointed by the Governor to the State Law Enforcement Planning Agency in 1988. He is currently serving as the deputy

city manager of Hackensack. This is a man who never hesitates to share his time and talent, energy and enthusiasm with the community he so loves.

Mr. Speaker I am proud to join in paying tribute to this exceptional man. He is one of those outstanding few who truly make a difference in society. I extend my best wishes to him on this special occasion.

## COSPONSORS OF HOUSE RESOLUTION 393

### HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. YATRON. Mr. Speaker, House Resolution 393 which I sponsored concerning the Tiananmen Square massacre of June 4, 1989, in the People's Republic of China passed the House by voice vote on Monday, May 21, 1990.

In the process of considering this legislation, 10 of our colleagues were inadvertently left off the cosponsor list. All of these Members have been leaders in promoting human rights in China. At this point, I would like the RECORD to reflect that the following Members were intended to be cosponsors of House Resolution 393:

Representative CHRISTOPHER SMITH.
Representative ENI F.H. FALEOMAVAEGA.
Representative JAIME B. FUSTER.
Representative SAM GEJDENSON.
Representative FRANK MCCLOSKEY.
Representative ROBERT J. LAGOMARSINO.
Representative LAWRENCE J. SMITH.
Representative DOUGLAS BEREUTER.
Representative ELIOT L. ENGEL.

## VERMONTVILLE MAPLE SYRUP FESTIVAL

### HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. WOLPE. Mr. Speaker, I rise today in honor of the Vermontville, MI, Maple Syrup Festival on the occasion of its 50th annual celebration.

Although the festival is celebrating its 50th anniversary, maple syrup production in the Vermontville area actually goes back hundreds of years to members of the indigenous Potawatomi tribe, who later taught some white settlers from Vermont how to produce the sweet syrup. Since that time, syrup has been produced and sold in Vermontville.

During a conversation at a Vermontville barber shop in 1940, Milton Lamb, an area businessman, suggested that the village have a gathering to promote both community spirit and the community's product, maple syrup. Later that year, the Vermontville Maple Syrup Festival Corp. was formed and the maple syrup festival was launched. The first festival was held in the high school gymnasium with approximately 250 people attending the pancake and syrup dinner. More than 2,500 people came to see Miss Phyllis Hager crowned the first Maple Syrup Festival Queen.

In the ensuing 50 years the festival has grown from its small beginnings to become one of Michigan's preeminent yearly events—and a major source of community income. The festival now includes carnival rides, parades, arts and crafts, and other events. The pancakes and maple syrup, however, continue to be the main attraction for the many thousands of people throughout Michigan who are drawn to Vermontville for this special occasion.

Mr. Speaker, with the support of the good people of Vermontville, the maple syrup festival has become one of those unique events that help define the community spirit of the small towns of our Nation. It is my sincere wish that this festival continue to enjoy another 50 years of success.

## IN RECOGNITION OF AUSTIN, TX, MAYOR TOM MILLER

### HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. PICKLE. Mr. Speaker, today I am introducing legislation which would redesignate the Austin Dam located near Austin, TX, as the "Tom Miller Dam."

This dam has been known locally as the Tom Miller Dam since its construction in the late 1930's. The current structure stands on the same site where two previous dams had been built and destroyed. The first was destroyed in an April 7, 1900, storm that brought 5 inches of rain to the central Texas hill country in 15 hours. A second dam was later erected on the same site, but it was destroyed by two floods in 1915. For more than 20 years, the city did not try again to rebuilt the Austin Dam. However, in 1936 Mayor Tom Miller initiated the drive to obtain funds for the construction of a third dam at this same location.

Mayor Miller approached the Lower Colorado River Authority for funds in 1936. The LCRA, only 3 years old at the time, was completing Buchanan and Inks dams and had begun construction of Mansfield Dam. Mayor Miller and a contingent of LCRA and local officials joined forces to obtain Federal funds for the new dam. Lyndon B. Johnson, just elected to Congress, and Alvin Wirtz, then general counsel for LCRA, worked with the Public Works Administration, the Bureau of Reclamation, Reconstruction Finance Corporation, and other agencies to obtain loans and grants amounting to $14 million for the reconstruction of this important dam.

The dam was dedicated April 6, 1940 and today remains a vital part of LCRA's flood control system for cental Texas. I can remember what life in Austin was like before this dam was built. I was a student at the University of Texas when the flood of 1935 nearly swept the whole city away. And I was attending classes when a second flood devastated the city in 1938. With the completion of the Tom Miller Dam, the people of Austin could utter a collective sigh of relief. This dam has become a symbol of strength and security for the community.

At the time of its dedication, the dam was named by the Austin Chamber of Commerce after Mayor Tom Miller for his part in the rebuilding project; however, the Federal Government does not normally approve of federally-funded projects being named for living persons and denied the chamber's request. Thus, in Washington, the structure is recorded as "Austin Dam." Yet if you ask anyone in Austin, TX, the name of the dam, the answer would be "Tom Miller Dam."

The purpose of this legislation is to officially bestow upon this dam the name it has unofficially had since 1940, the "Tom Miller Dam." It is appropriate that one of the most important structure in Austin should bear the name of one of the city's most colorful leaders. Tom Miller was one of the city's greatest public servants, and Austin owes much of its current prosperity to his judgment and foresight.

Tom was a strong supporter of Franklin Roosevelt and the New Deal, and he put himself in a position to support the programs that literally built the modern city of Austin. The dams and lakes above and below Austin stand as evidence of his achievement, and the Lower Colorado River Authority and rural electrification are evidence of the progress he helped to initiate. The lives of all the residents of central Texas have been touched by Tom Miller.

When the history of Austin is written, one of the brightest chapters will be dedicated to Tom Miller. Time cannot obscure the fact that he was truly one of Texas' great leaders, and I hope the Congress will recognize his contributions by acknowledging officially the designation of the Austin Dam as the "Tom Miller Dam."

## TRIBUTE TO CAPT. DAVID L. COFFY

### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Capt. David L. Coffy, of my 17th Congressional District of Ohio, who is receiving the Congressional Fire Service Institute Heroism Award.

On the morning of April 8, 1990, Captain Coffy rescued twin 3-year-old boys and their mother from their burning home. He arrived at the burning home and began assessing the situation. He learned that the two boys and their mother were trapped on the second floor of the house. Captain Coffy entered the house at the second floor window and immediately located Luke Timko and passed him to a policeman who was waiting on a ladder. He then located the second twin, Daniel Timko, who was also passed out to a waiting police officer.

Captain Coffy entered the house a third time to locate Patricia Timko, the mother of the two boys. He located her in her bedroom and proceeded to remove her from the burning house when a fellow firefighter arrived and assisted Captain Coffy.

Captain Coffy's efforts were valiant and above and beyond the call of duty. He risked

his own life to save the lives of three other people. He displayed outstanding courage and fortitude and he is more than deserving of the Congressional Fire Service Institute Heroism Award. We owe him a great deal for the service and dedication he has given to the Brookfield Township community.

## H.R. 4868, THE SOCIAL WORKERS ENDORSE SUBSTANCE ABUSE TREATMENT CORPS ACT

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. STARK. Mr. Speaker, last week, Representatives GREEN, GLICKMAN, GRANT, and I, introduced H.R. 4868, the Substance Abuse Treatment Corps Act. The bill is designed to help students obtain training in alcohol and drug abuse treatment in exchange for service in areas of the country where there are shortages of substance abuse treatment personnel.

I am pleased to report that the National Association of Social Workers has endorsed this proposal and I hope other Members of the House will join us in achieving the enactment of this legislation.

The NASW letter follows:

NATIONAL ASSOCIATION OF SOCIAL WORKERS INC.,
*Silver Spring, MD, May 15, 1990.*

Hon. FORTNEY H. STARK,
*U.S. House of Representatives, Longworth House Office Building, Washington, DC.*

DEAR REPRESENTATIVE STARK: On behalf of the 127,000 members of the National Association of Social Workers (NASW), I wish to extend our association's support for the Substance Abuse Treatment Corps Act. Your leadership in introducing legislation which responds to the critical shortage of alcohol and substance abuse treatment professionals is to be commended.

NASW believes that the National Health Service Corps model offers a proven means of recruiting, training and placing the needed professionals in underserved rural and urban areas. In addition, the approach provides the necessary educational assistance by which dedicated individuals who reside in communities with a high incidence of alcohol and substance abuse may become qualified treatment providers, thus encouraging retention of the needed providers once the service obligation is met.

NASW applauds your continuing efforts in developing legislation which responds to the treatment needs of individuals and their families who suffer from alcohol and substance abuse. We look forward to working with you throughout the development of this important legislation.

Sincerely yours,

MARK G. BATTLE, ACSW,
*Executive Director.*

## TRIBUTE TO WESTSIDE UNITED METHODIST CHURCH OF PATERSON, NJ, ON ITS 100TH ANNIVERSARY

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. ROE. Mr. Speaker, it is with the deepest reverence and the greatest sense of pride that I rise today to salute an outstanding house of worship in my Eighth Congressional District of New Jersey which, for a full century, has been a spiritual focal point and a beacon of faith for countless numbers of worshipers in the greater northern New Jersey area.

I am speaking of the Paterson Westside United Methodist Church of Paterson, NJ, which is celebrating its 100th anniversary in 1990. This historic occasion was observed with a special celebration at the church on Sunday, May 20, and was tremendous source of pride to all in attendance, and specially the pastor, Rev. Warren R. Brandt, Resident Bishop Neil L. Irons, and district superintendent, Rev. Hae Jong Kim.

Mr. Speaker, the history of Paterson Westside United Methodist Church is indeed a rich one. For the benefit of you and our colleagues, I would like to insert for the RECORD the history of this truly fine house of worship:

CHURCH HISTORY

Its early roots go back to 1868, three years after the end of the American Civil War, when a Sunday School was first organized. The Stony Road Mission, or the mission on the mountain, was established by the Cross Street Church to serve the western part of Paterson. In 1873 this mission was established by James Steele and Cornelius Velsor. The mission and its forerunner, the Sunday School, met in private kitchens, a wood shed and the depot of the Lackawanna Railroad to serve the religious needs of this determined group of Christians. Finally a small chapel was built in 1876 on the site of the present church.

On April 8, 1890, the Rev. J.H. Robertson was the first ordained minister assigned to the group. True to Wesley's tradition, he rode the Paterson Methodist Circuit serving the Calvary Sunday School, West Paterson (Westside) Sunday School and Cedar Cliff. Preaching in the morning at Calvary, and afternoons at Cedar Cliff, Rev. Robertson finished the circuit by preaching evenings at West Paterson. A month later, May, 1890, the Stony Road mission was organized as the West Paterson Methodist Episcopal Church and on June 1, 1890, 24 members were received from Cross Street Church along with three members accepted on probation.

Calvary and West Paterson shared pastors from 1891 until the spring of 1893 when West Paterson was made a separate appointment and Rev. H. A. G. Westerfield was appointed pastor. The last services were held in the old chapel on July 31, 1904. The new church, which was to cost $6,000.00 had the cornerstone laid on September 24, 1904.

Rev. H. C. Lytle, who had been appointed pastor in 1903, saw his new church finished by December 1904 and dedicated on January 15, 1905. Within two years the church building debt had been paid off through pledges and chowder sales held by the Ladies Aid Society.

The enthusiastic congregation had no sooner completed its church when it saw the need for a recreation clubhouse and in 1906 a big frame building complete with a bowling alley and basketball court was constructed. The structure served until fire destroyed it in 1923. It was rebuilt in 1924 being replaced by the present masonry structure and renovated in 1962.

Fire has proved a nemesis not only for the church hall but the sanctuary itself. Fires on January 16, 1924, and February 26, 1939, damaged the structure and repairs were made but the fire on January 25, 1941, completely gutted the building with the cornerstone and some furniture being salvaged. The congregation met in the chruch hall until the new structure was opened and dedicated debt free on December 14, 1941. The cornerstone from the original church had been salvaged from the fire and capped with a new stone reading "Rebuilt in 1941."

We have gone from wooden shed, to kitchens, to railroad depot, to chapel, to frame church, to brick church . . . We have had our name changed from Stony Road Mission, to West Paterson Methodist Episcopal, to Westside, to Westside United Methodist . . . We have seen generations come and go . . . We have seen good times and bad . . . But the determination of this congregation to worship the Lord and do His good works has and will continue to remain unchanged.

Mr. Speaker, I appreciate the opportunity to present a portion of the history of this distinguished church that has remained dedicated to helping others and guiding them spiritually. As Westside United Methodist Church of Paterson, NJ, celebrates its 100th anniversary, I know that you and all of our colleagues here in Congress will want to join me in extending our warmest greetings and felicitations for both the service and guidance it has provided for its community, State, and Nation.

## TRIBUTE TO THE VOCATIONAL INDUSTRIAL CLUBS OF AMERICA ON THEIR 25TH ANNIVERSARY

### HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. RITTER. Mr. Speaker, it is my great honor and privilege to salute the Vocational Industrial Clubs of America on the occasion of its 25th anniversary.

Since its founding on May 8, 1965, in Nashville, TN, VICA has been—and continues to be—a vitally important leader in delivering and improving vocational-technical education in our public secondary and postsecondary institutions.

VICA has provided what our Nation now so eagerly seeks: a labor force imbued with pride in work, and a personal commitment to leadership, citizenship, academic excellence, and quality skill training. Nearly 4 million students have improved their futures through VICA programs. They have enhanced their job and leadership skills to become productive and valued employees and business owners. Many have pursued further education in the course of developing their careers.

VICA's exemplary programs continue to serve their principal partners: employers, teachers, and nearly 250,000 students in 12,500 programs every year. In serving them, VICA serves the Nation as well. I have seen this in my own district where VICA is a major force in our own Quality Valley, USA Program, the Lehigh Valley's community of excellence. In fact, the Lehigh Valley of Pennsylvania is well represented on VICA's board by my good friend and constituent, Elmer Gates, chief executive officer of Fuller Co. in Bethlehem. In addition to serving as a VICA Industry Councils Chairman, Elmer is the chairman of Quality Valley, USA.

VICA's active partnership with over 250 national corporations, trade associations, and labor organizations have contributed to the furtherance of vocational-technical education. VICA's leadership has also built similar partnerships at the state and local levels.

VICA's members have built and improved their communities through their club activities, using both their vocational and leadership skills.

As the President stated in his proclamation for Vocational-Technical Education Week earlier this year:

If the United States is to remain a leader in the increasingly competitive global market place, it must not only be committed to excellence in the production of goods and services, but also be capable of achieving it. By preparing young men and women for work in highly specialized technical fields, vocational-technical education programs make an important contribution to our Nation's strength and productivity.

VICA's 25th anniversary year theme is "Quality at Work," acknowledging the many opportunities that vocational education provides for fulfilling work that serves the growing needs of our population for professional, and skill services. VICA has been putting the President's words into practice for the last quarter century.

Mr. Speaker, I hope my colleagues—and communities across America—will join me in voicing appreciation for VICA. Furthermore, I encourage all educators, students, and citizens at large to support and partake of the vocational education program offered by VICA and to duly note and acknowledge the value this organization contributes to our economic well-being and the well-being of our citizens.

## A TRIBUTE TO ERIC FRANKLIN

### HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in recognizing an exceptional young man from my congressional district in Pennsylvania.

Eric Franklin Bush of Muncy will be awarded the rank of Eagle Scout on May 31, 1990. As a member of Boy Scout Troop 21 in Montoursville, Eric has distinguished himself as a leader and a productive member of his community. His 25 merit badges are evidence of his versatility and industry, and his Eagle Scout project, to restore several bus sheds, benefited local schools and improved the appearance of this township.

Eric's accomplishments extend beyond Scouting. A class officer, he maintains honor roll status at Muncy High School. He works part time, and is involved in several other activities.

Mr. Speaker, Scouting is an honorable enterprise, one which Eric has pursued for 10 years with enthusiasm, dedication, and dignity. We congratulate him on his impressive achievements.

## FRANK PRINCIPE—THE "PRINCE" OF MASPETH

### HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MANTON. Mr. Speaker, on May 28, 1990, the community of Maspeth, NY will hold its annual Memorial Day Parade. This year, Frank Principe will serve as the Grand Marshal of the Maspeth Memorial Day Parade. Maspeth is located in the Ninth Congressional District, which I have the privilege to represent.

Mr. Speaker, Frank Principe is a remarkable engineer and an outstanding public servant. West Maspeth's thriving industrial district is largely the work of Frank Principe. At the beginning of World War II, Frank undertook a major development project, constructing 44 buildings in Queens.

Today, at age 81, Frank remains active in his community. As chairman of the West Maspeth Local Development Corp., a nonprofit organization he founded in 1982, Frank works to create new jobs for the unemployed, expand business opportunities, and improve the transportation system in the area. Frank also is a leader in the effort to alleviate the problem of homelessness.

Mr. Speaker, I can think of no one more deserving to serve as chairman of the Maspeth Memorial Day Parade than Frank Principe. I urge my colleagues to read the following article on Frank Principe, which appeared in the Queens Ledger.

[From the Queens Ledger, Apr. 19, 1990]

THE "PRINCE" OF MASPETH, FRANK PRINCIPE TO BE GRAND MARSHAL

(By Brian Winzeworth)

The cluttered desk nestled inside the Spartan trailer in West Maspeth, like the man who has laid claim to it for the past eight years, greets visitors with a sense of dynamics, of many tasks underway at once. A stack of well-used brown envelopes labeled "City Charter" and "The Homeless" occupy its worn surface.

Nearby lie a pile of telephone messages from area residents seeking assistance in bringing lawsuits against the city for failure to repair a sagging street which has caused water mains to leak and rupture.

Above the desk, which remains perpetually pigeon-toed in-between a copy machine and a long narrow table, a diploma from Cornell University proclaims "Francis Joseph Principe, Chief Engineer" for all to see.

For the 81-year-old resident of Maspeth, this "no frills" office is appropriate. His desk is the desk of a chief engineer, one whose busy career began before the first warehouse in West Maspeth's industrial district even began being built.

Today, the chief engineer no longer undertakes massive construction projects like the 44 buildings he erected in Queens at the onset of World War II.

Instead, Principe, who has been chosen as the grand marshal of this year's Memorial Day parade in Maspeth, busies himself with developing new jobs for the unemployed and improving the local "quality of life."

"The idea is to give local jobs to local people," he said one recent afternoon inside the trailer headquarters for the West Maspeth Local Development Corporation, a not-for-profit organization he created in 1982.

Appropriately, the shiny trailer sits in the front yard of David and Warshol Plumbing on 49th Street, overlooking much of the area Principe helped to mold more than a half-century ago. There, Principe spoke about his beloved Maspeth and, in doing so, revealed some of the personal qualities which have earned him the status as the grand marshal of this year's parade.

Parades have always played an important role for the Principes ever since the family immigrated from Italy to the East New York section of Brooklyn at the turn of the century. His father, Louis, was a brick layer by profession but a grand marshal at heart.

Louis belonged to an Italian Society, a membership which was a source of great joy to both father and, later, son who at the impressionable age of nine enjoyed the opportunity of seeing his dad elected as grand marshal.

"It was a big parade and he was the grand marshal," Principe recalled with a hint of elation in his voice. "I remember my father marching. Now it's happening to me. It's very exciting!"

Indeed, the ensuing years would prove to be very tantalizing for the young Frank Principe. Brooklyn was a place of rapid change during the 1920s and 1930s as the Depression came and went, leaving in its aftermath a housing boom.

The elder Principe, through his association with the Masons, became involved with various business ventures in the borough, particularly major industrial developments like the Bush Terminal near the Brooklyn Navy Yards. Meanwhile, the junior Principe was learning the basic skills for his success in later life at Manuel Training High School, a hands-on vocational institution.

Upon his graduation from Cornell University in 1931, Principe found himself in a unique situation: He possessed an extraordinary vocational background, yet had no actual work background!

His father soon offered him a piece of advice that he never forgot. "You need work? Go to work!"

By that time, Louis Principe had become a builder of citywide reputation, and was involved with a new housing development on 65th Place known as the Ridgewood Gables. It was also at that time many banks failed, casting a shadow on the city's economy which postponed the building of many new homes and slowed the completion of those already in progress.

The Democrats in New York were advocating the so-called "California" homes—sturdy houses for a "cheap" $4,990—for the middle working class in the Maspeth area during the decade before World War II, Principe recalled. In the interim, he had finished the Gables which his father had

begun and having moved into the six-story apartment complex, became the president of the Ridgewood Plateau Civic Association and built nearby Maurice Park.

After a flurry of negotiations, culminating with a stamp of approval on the hood of a Cadillac (driven all the way from Washington, D.C. for the occasion), Principe managed to obtain the first HFA (Home Financial Assistance) loan in the United States.

The war began and with it a need for fighting men and machine—and builders like Principe.

The area of land known today as West Maspeth didn't exist prior to 1944: in its place was a huge swamp of about 100 square acres. The Maspeth Creek, named after indigenous Indians, ran eastward along where Principe's trailer stands.

As the chief engineer for the project, his task was a simple but arduous one: fill in the creek and adjacent land and build an array of warehouses in a hurry to help the nation's war effort.

"Frank, don't knock yourself out! The war won't last forever!" a superior told Principe when the chief engineer said he wanted to erect structures that would remain standing for many decades. Contrary to his instructions, Principe build them the only way he knew how—the right way.

After the war, the factories which weren't suppose to last fell silent but remained standing, eventually being sold to private industry for other purposes.

In those days, the American Legion began to observe an annual ceremony to the nation's fallen war heroes, with post 783 hosting a memorial day parade through Maspeth.

In September, 1984, Queens Borough President Claire Schulman declared a Frank Principe Day. He was honored along with wife Virgina, their children, son Lee James and daughter Virgina, and four grandchildren, at the Mariott Hotel.

"The past 60 years in local history have been very exciting," said Principe who, in addition to running the development corporation, has become a member of Community Board 5.

Frank Principe, community activist and expert builder, will be at the head of Maspeth's parade come May 28th. It's his parade—and in many ways, his town.

## REDUCED SPENDING RATHER THAN INCREASED TAXES

### HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. GINGRICH. Mr. Speaker, the lead editorial in the May 16, 1990, Atlanta Constitution makes the case for reduced spending rather than increased taxes in addressing the problem of the deficit.

Let me just highlight one paragraph:

Truth is, there are literally thousands of ways to cut the federal budget without imposing real harm. It's no mystery. Various political think tanks, such as the Heritage Foundation, have offered examples of unwarranted federal spending for the past decade.

Mr. Speaker, I believe the majority of American people share this same sentiment.

This message is one which I will carry with me to the budget summit talks.

The article follows:

[From the Atlanta Constitution, May 16, 1990]

PRESIDENT SHOULD HAVE SAID: "READ MY LIPS: NO BUDGET CUTS"

In hindsight, we very much regret that President George Bush didn't travel the country vowing: "Read my lips, no budget cuts."

Had he done so, the natural alliance of journalists and politicians inside the Washington Beltway might well have mobilized the country to demand a reduction in federal spending.

Instead, the president promised no new taxes, thereby launching the Washington establishment on its favorite pastime: Demonstrating to the rest of the country that they know more about these matters than the president.

Reams of copy have flowed from inside the Beltway offering eloquent accounts of the impossibility of avoiding higher taxes. The president may not understand politics and the budget, but the Washington media and politicians—whose policies have failed to win the nation's endorsement in five of the last six national elections—certainly did.

The administration and congressional leaders now are gathered in a budget summit with "no preconditions," which Beltway insiders see as the ultimate acceptance of their compelling arguments in support of higher taxes.

We don't have a good feeling about this summit.

Democrats have demonstrated already that they are hopeless captives of a tax-and-spend ideology, proposing as they do to use a non-existent "peace dividend" of money-to-be-borrowed to create new social spending programs.

Mr. Bush, too, has shown a disturbing tendency to propose and compromise, to divide the difference on spending. The result, of course, is that nothing fundamentally changes, except the tax rates.

Truth is, there are literally thousands of ways to cut the federal budget without imposing real harm. It's no mystery. Various political think tanks, such as the Heritage Foundation, have offered examples of unwarranted federal spending for the past decade.

All of them, of course, are protected by some special interest, whether farmers, veterans, the elderly, mayors and governors, or the medical profession. The problem has been that Congress and the administration lacked the resolve to face down special interests.

Having been driven to a budget summit, we hope now that actual cuts in indefensible programs are as much a part of the discussion as higher taxes.

Higher taxes, regardless of Mr. Bush's weakening resolve, are not the solution. The solution was and remains spending reductions and the elimination of programs that have outlived their purpose.

We trust that's the message Sen. Wyche Fowler and Rep. Newt Gingrich are taking to the negotiating table.

## NATIONAL MARITIME DAY—MAY 22, 1990

### HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. JONES of North Carolina. Mr. Speaker, today, Tuesday, May 22, 1990, is National Maritime Day. This is the day set aside every year to honor the thousands of men and women who have devoted their lives to the American-flag merchant marine. It is also an occasion to remember the thousands of American merchant mariners who lost their lives confronting the natural forces of the wind, weather, and the sea. We also remember and salute those mariners who perished at the hands of the enemies of the United States.

The United States is one of a handful of representative governments which thrive on peace. There is a longing in the American spirit for peace. Individual Americans realize that this is an imperfect world. Armed force is sometimes necessary to ensure the continuation of the Republic, but Americans would rather devote their time and effort to their families, their careers, and the betterment of their communities.

It is a paradox of American history that peace is usually associated with hard times for our shipbuilders and ship operators, as well as for the men and women who crew our merchant vessels. When a national emergency is declared, we look to our ships to deliver the cargoes necessary to support the military. In other periods, this Nation is content to allow unseen and unguided market conditions to undercut the American merchant marine. We must remember that our ultimate security is dependent upon our ability to build, operate, and crew merchant vessels. That is why National Maritime Day is so important.

As chairman of the Committee on Merchant Marine and Fisheries, I ask all who enjoy the fruits of peace and victory to remember the cost at which they were purchased. We are all grateful to those who perished on the *Murmansk Run,* to those who were incinerated delivering petroleum to our allies, to the hundreds of merchant mariners taken prisoner of war. We remember too the men and women who worked in our shipyards day and night to build the tankers and cargo ships which carried the United States to victory. All that sacrifice and all that work must not be forgotten.

And so I ask all Americans to celebrate the true meaning of National Maritime Day, 1990, and remember those who cannot be with us today. This peaceful celebration is possible because the men and women of the American merchant marine answered the call to act in the national interest.

## A TRIBUTE TO JOHN A. NEDJEDLY

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MILLER of California. Mr. Speaker, for the past 40 years Californians have known the dedication of John A. Nedjedly, a former State senator from Contra Costa County. I would like to take a few moments to highlight the illustrious public career and community service work of Senator Nedjedly.

Prior to his legislative career, John served Contra Costa County in many capacities. These positions ranged from deputy district attorney, city attorney for Walnut Creek, Contra Costa County Counsel, and finally three terms as Contra Costa County district attorney. His ability to assess the needs of the community led him to write the "Little Master Plan", which made it possible for the city of Walnut Creek to develop its central business district.

In 1969, by a special election, John was elected to represent the Seventh State Senatorial District. During his time in office, John wrote bills dealing with law enforcement and administration of justice, local governments, public health and consumer protection. His strongest interest, however, was in environmental protection. John was the author of numerous major pieces of legislation providing for the most effective management of California's natural resources, including the State's most comprehensive solid waste management program. For his leadership and efforts in this area, Senator Nedjedly received the American Motors Award of 1966 as one of the "Ten Outstanding Americans in the Field of Conservation".

Today, John still has an interest in community issues, and is very active in county affairs. He is founder and president of the Contra Costa Youth Association, chairman of the County Board of Supervisors Committee on Pre-Trial Release and Criminal Justice, Contra Costa County Council, director of the Council of Community Services, Park and Recreation Council, County Health Association and Children's Vision Center of the East Bay, just to name a few. Senator Nedjedly, as a Scoutmaster, is actively involved with the Boy Scouts of America, particularly with the Boy Scouts of Contra Costa County. John is an Eagle Scout as well.

On Thursday, May 24, 1990, the Easter Seal Society of Contra Costa, Solano, and Napa Counties will honor John Nedjedly. The Easter Seal Society has established Camp Nejedly-Hawley Lake, an Easter Seal camp for disabled children, a project close to John's heart.

Mr. Speaker, I would like to take this opportunity to commend Senator Nedjedly for his sincere interest and continued involvement in community affairs. These efforts have certainly earned him the respect and appreciation of the members of the community. I also thank Senator Nedjedly for 40 years of dedicated service to California and to Contra Costa County.

## THE CASE OF POET JACK MAPANJE

### HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. LEWIS of Georgia. Mr. Speaker, I wish to call to the attention of my colleagues the situation of one of Africa's greatest poets, Jack Mapanje. Mr. Mapanje is a Malawian writer and theoretical linguist who has been in prison since September 1987. His crime was to write poetry which too vividly depicted the reality of his country. Malawi suffers under the 25-year long dictatorship of Life President Kamuzu Banda.

The Congressional Committee to Support Writers and Journalists was created to support and defend people, like Jack Mapanje, who are in jail solely because of their written words. I serve as a member of the steering committee of the Congressional Committee to Support Writers and Journalists, along with my colleagues, Congressman BILL GREEN, Senator BOB GRAHAM, and Senator MARK HATFIELD. The bipartisan group includes 74 Members of the House of Representatives and 15 Senators. We have written letters on 175 cases in over 40 countries. Among the cases we have taken up is Jack Mapanje. We have repeatedly urged his unconditional release.

A description of Jack Mapanje, provided by the human rights organization Africa Watch, as well as one of his poems follows:

On September 25, 1987, Malawian police arrested Jack Mapanje, the country's best-known poet. Since then, the internationally regarded writer and theoretical linguist has remained imprisoned in Mikuyu Prison, in southern Malawi, without charge or trial. Despite widespread international protest, the Malawian government has given no reason for Mapanje's detention.

Unfortunately, in a country as fiercely repressive as Malawi, the real reason for Mapanje's detention seems painfully clear: until his arrest, Mapanje had skillfully avoided Malawi's Censorship Board and used his poetry to criticize the 25 year rule of Life-President H. Kamuzu Banda. Even after prohibiting the sale of Mapanje's volume of poetry, "Of Chameleons and Gods," it appears that Banda's government could not tolerate the popularity of Mapanje's metaphorical, personal and political verse.

Malawi's Censorship Board has become universally notorious for its liberal use of the red pencil—literature banned in the country ranges from Marx and Engels, to Ernest Hemingway, James Baldwin, Graham Greene and George Orwell. In such difficult circumstances, it was quite an accomplishment that Jack Mapanje avoided censorship and imprisonment for as long as he did.

Mapanje, of course, was acutely aware of the political pressures facing a poet in Malawi. His first volume of poetry, "Of Chemeleons and Gods," was not cleared for sale in Malawi, but was also not banned, leaving the collection in a curious vacuum—individuals could not be prosecuted for possessing the volume, but bookstores could not sell it. This move was made, Mapanje felt, because banning the book outright "would make me a hero, and they didn't want one of those." Indeed, Mapanje was amused at the thought that attempting to avoid the attention of the Censorship Board may actually have improved his poetry, by forcing him to employ metaphors which broadened the scope of his writing.

On a different level, Mapanje was fearful of a society in which censors decide the content of national culture. In a speech in 1986 at the Second African Writers' Conference, Mapanje said: "In certain parts of independent Africa . . . censorship is deliberately established to discourage the development of authentic culture." He believed, however, that "African writers, artists and scholars must be the custodians of African culture; not the censors and politicans they represent."

Jack Mapanje's self-declared war against censorship reached a critical state in 1987. Earlier, in 1986, he had delivered a speech at a conference in Stockholm entitled "Censoring the African Poem: Personal Reflections", in which he described his ongoing conflicts with the Malawi Censorship Board. By 1987, Mapanje had planned to release a second volume of poetry, provisionally entitled "Out of Bounds." It appears, though, that the Malawian authorities were fearful of the criticism that this volume might contain, and also worried about an invitation extended to Mapanje to become a writer-in-residence at the University of Zimbabwe. It was presumbly felt that from the safety of Harare, Mapanje would feel less constrained about openly criticizing the Malawian government.

At the time of Jack Mapanje's arrest, in September 1987, Malawian authorities took him in handcuffs to the University of Malawi, where he headed the Department of English, searched his office and seized various manuscripts. Mapanje's volume of poetry "Of Chameleons and Gods," was also banned.

Jack Mapanje is presently being held at Mikuyu Prison. For the first 20 months of his incarceration, he was not allowed visits from his family or friends, and was not allowed to see a priest—Mapanje is a practicing Roman Catholic. It is believed that international protest over his incarceration may have helped improve these conditions, but Malawian authorities have maintained a steadfast silence on his detention.

The destructive effects of censorship on Malawi, however, continue unabated, damaging not only artists and citizens but also the political leadership of the country itself. For, as Mapanje stated: "censorship ultimately protects African leadership against truth."

Reprinted below is one of Mapanje's poems from his volume "Of Chameleons and Gods." The poem, which several of Mapanje's acquaintances had told him was "too dangerous", describes the situation facing a government minister who has lost his job and has to return to his home village. The ex-minister, in his arrogance, assumed that he would never have to leave the capital and had not tried to improve his village.

MAKING OUR CLOWNS MARTYRS (OR RETURNING HOME WITHOUT CHAUFFEURS)

We all know why you have come back home with no
National colours flanking your black mercedes benz.
The radio said the toilets in the banquet halls of
Your dream have grown green creepers and cockroaches
Which won't flush, and the orders you once shouted

To the concubines so mute have now locked you in.
Hard luck my friend. But we all know what currents
Have stroked your temper. You come from a breed of
Toxic frogs croaking beside the smoking marshes of
River Shire, and the first words you breathed were
Snapped by the lethal mosquitoes of this morass.
We knew you would wade your way through the arena
Though we wondered how you had got chosen for the benz.
You should have been born up the hills, brother where
Lake waters swirl and tempers deepen with each season
Of the rains. There you'd see how the leopards of
Dedza hills comb the land or hedge before their assault.
But welcome back to the broken reed-fences, brother;
Welcome home to the poached reed-huts you left behind;
Welcome to these stunted pit-latrines where only
The pungent whiff of buzzing flies gives way.
You will find your idle ducks still shuffle and fart
In large amounts. The black dog you left still sniffs
Distant recognition, lying, licking its leg-wounds. And
Should the relatives greet you with nervous curiosity
In the manner of masks carved in somebody's image,
There is always across the dusty road, your mad auntie.
She alone still thinks this new world is going shit.
She alone still cracks about why where whys are crimes.

## INTRODUCTION OF RESOLUTION URGING UNITED STATES RATIFICATION OF SOUTH PACIFIC ENVIRONMENTAL CONVENTION

**HON. ROBERT J. LAGOMARSINO**
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. LAGOMARSINO. Mr. Speaker, I am introducing a resolution today entitled, "Urging United States Ratification of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region." The convention has two protocols dealing with the ocean dumping of wastes and pollution emergencies. The protocols should help to prevent or avert the damaging consequences of the ecological tragedies of oilspills and hazardous waste pollution in the South Pacific.

The United States has an opportunity to demonstrate international leadership in preserving and protecting one of the Earth's greatest resources, the oceans; and specifically the South Pacific Ocean region, by bringing the convention and related protocols into force through U.S. ratification. Not only should the United States be one of the countries which brings the convention into force, but the practical mechanisms provided for by the convention are needed to protect the marine ecosystem.

The United States signed the convention and related protocols in 1986 with 13 other countries. The administration has yet to submit the convention and protocols to the Senate for advice and consent to ratification—10 ratification or accessions are required to bring the convention into force; 8 signatory states have deposited notices of ratification or accession: Republic of the Marshall Islands, May 1987; Cook Island, September 1987; Federated States of Micronesia, June 1988; Australia, July 1989; Solomon Islands, August 1989; Papau-New Guinea, September 1989; Fiji, September 1989; and New Zealand, May 3, 1990.

The resolution calls for the President to submit the convention and—as necessary—the related protocols to the Senate for its advice and consent to ratification. The administration has expressed full support for the convention and protocols and is expected to submit them in the near future.

The resolution also urges the Senate to consider the convention and protocols without delay once submitted, in order to permit full participation and cooperation of the United States in the South Pacific Regional Environment Program, including the SPREP Work Program. The resolution states that the United States should commit a fair share of the resources necessary to support the work program and those activities necessary to implement the provisions of the convention and its protocols. The administration has provided an equitable U.S. contributions of $90,000 to SPREP in 1990.

The SPREP was adopted in 1982 by governments of the South Pacific region at the Rarotonga Conference on the Human Environment in the South Pacific. SPREP was formed under the auspices of a number of different South Pacific regional organizations and components of the United Nations: the South Pacific Commission, the South Pacific Bureau for Economic Cooperation, the United Nations Environment Program, and the U.N. Economic and Social Commission for Asia and the South Pacific.

The combined efforts of these regional and international organizations was considered necessary to help the many small and distant island countries to effectively address potential ecological threats of an increasingly industrialized world. The two principal aspects of SPREP are the convention and the Work Program.

The SPREP Work Program concentrates on the major environmental problems confronting the Pacific island countries: marine pollution, pesticide control, natural resources management, environmental education, climate change and sea level rise. While some continental countries share in these same concerns, the fragile, distant, and often small low elevation island countries are particulary vulnerable.

I want to acknowledge the support of my colleagues who have joined me in sponsoring this resolution, including the chairman of the Foreign Affairs Subcommittee on Asian and Pacific Affairs, my good friend from New York, STEVE SOLARZ. Chairman SOLARZ recently issued a report of the congressional delegation to the South Pacific which he led, "Problems in Paradise: United States Interests in the South Pacific." One of the report's recommendations for U.S. policy in the region is to "ratify SPREP Convention and associated protocols." The recommendation was one of several which will enhance U.S. relations in the Pacific.

I also want to thank PAT SAIKI, BEN BLAZ, and ENI FALEOMAVAEGA for joining this effort to urge the administration and the Senate to take prompt action to bring into force the convention and protocols to protect the fragile and invaluable marine resources and ecosystems of the Pacific.

The following is the resolution in full:

RESOLUTION

Whereas the Earth's fragile ecological system requires the attentive stewardship of Man;

Whereas water covers three-fourths of the Earth's surface, with the Pacific Ocean containing over half of the total volume;

Whereas the Earth's marine ecosystems are increasingly threatened due to expanding populations and industry and their accompanying residues and wastes;

Whereas Pacific governments adopted a South Pacific Regional Environment Program (hereinafter in the preamble of this resolution referred to as "SPREP") in 1982 at the Rorotonga Conference on the Human Environment, which was formed under the auspices of the United Nations Environment Program, the United Nations Economic and Social Commission for Asia and the South Pacific, the South Pacific Bureau for Economic Cooperation, and the South Pacific Commission;

Whereas SPREP has two aspects, the Work Program and the Convention, to address Pacific Ocean environmental concerns;

Whereas the United States is supporting the SPREP Work Program budget directed toward marine pollution, pesticide control, natural resources management, environmental education, climate change, and sea level rise;

Whereas the SPREP Convention for the Protection of the Natural Resources and Environment of the South Pacific Region was opened for signature in Noumea, New Caledonia on November 24, 1986, 14 countries having signed the Convention;

Whereas the Convention has two protocols on ocean dumping and spills;

Whereas the first protocol, the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, regulates the deliberate disposal of wastes at sea in the Convention Area, taking into account that under Article X of the convention the parties agree not to dump radioactive wastes or other radioactive matter;

Whereas the second protocol, the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region, provides a regime for preventing and combating pollution incidents through the mutual sharing of information, preparation of contingency plans, and strengthening of response capabilities; and

Whereas the Convention will enter into force with the ratification, acceptance, approval, or accession of 10 of the signatory countries, and 8 signatures have already ratified or acceded to the Convention: Now, therefore, be it

*Resolved*, That it is the sense of the House of Representatives that—

(1) the President should submit the Convention for the Protection of the Natural Resources and Environment of South Pacific Region, and (as necessary) the related protocols, to the Senate for its advice and consent to ratification;

(2) upon the submission of such Convention and protocols to the Senate, the Senate should without delay consider and give its advice and consent to ratification in order to permit full participation and cooperation of the United States in the South Pacific Regional Environment Program effort to protect and manage the marine and coastal environment, to combat pollution emergencies, and to prevent dumping; and

(3) the United States should commit a fair share of the resources necessary to support—

(A) the Work Program of the South Pacific Regional Environment Program, and

(B) those activities necessary to implement the provisions of the Convention and its protocols.

## THE 75TH ANNIVERSARY OF THE ARMENIAN MASSACRES

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. BURTON of Indiana. Mr. Speaker, on April 20, President Bush issued a statement which recognized "the terrible massacres suffered in 1915–1923 at the hands of the rulers of the Ottoman Empire." The President added, "On this seventy-fifth anniversary of the massacres, I wish to join with Armenians and all peoples in observing April 24, 1990 as a day of remembrance for the more than a million Armenian people who were victims."

While this statement correctly avoided the term genocide, it regrettably makes the same mistake as Senate Joint Resolution 212 (S.J. Res. 212), a resolution sponsored by Senator Robert Dole and debated on the Senate floor earlier this year. Like Senate Joint Resolution 212, a resolution which designates April 24 as a national day of remembrance for the "Armenian genocide of 1915–1923," President Bush's recent statement presents only one side of the Armenian equation.

Therefore, I would like to share with President Bush and my colleagues the historical facts which took place in the Ottoman Empire during that time. There is no doubt that thousands of Armenian civilians died as a result of the terrible conditions and actions of the time. Famine, epidemics and intercommunal fighting, combined with a poorly executed forced relocation policy for the Armenian population, all contributed to a tragic loss of life for Christians and Moslems.

However, it is morally wrong to recognize the suffering of Armenians without acknowledging that it was the result of a civil war initiated by Armenian revolutionaries in collaboration with invading Czarist Russian armies. The goal of these revolutionaries was to impose an exclusively Armenian state in an area of the Ottoman Empire where Armenians were a minority. The civil war took its toll on both sides. Yet, few recognize the 2 million Turks that perished during this conflict, many at Armenian hands. These losses are no less significant than those of the Armenians.

It's time to leave to historians the task of assembling the historical facts and determining what really occurred during this turbulent period of time. President Bush's statement endorses a specific historical version of tragic events about which there remains considerable controversy among historians and scholars. Most importantly, it demonstrates a lack of sensitivity for one of our most loyal allies.

I regret the suffering and tragedy experienced by Armenians. However, it's a great mistake to stoke the fires of ancient grievances. Public statements and congressional legislation will not solve the Armenian issue. After 70 years, it is time to look to the future and not dwell on the past.

## EDGAR FLEETHAM

### HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. WOLPE. Mr. Speaker, I rise today to pay tribute to the longest serving public servant in my congressional district in southwestern Michigan, Mr. Edgar Fleetham, on the occasion of his retirement from elected office.

Ed has been an elected official since 1936, when he won the Sunfield Township treasurer's seat at age 21. Subsequently, in recognition of his remarkable responsiveness and dedication to serving his constituents, he was elected to a variety of other positions—township board member, township supervisor, Sunfield High School Board of Education member, and Eaton County commissioner. It is from his district county commission seat that he is now retiring.

However, this amazing list of public offices only touches the surface of Edgar Fleetham's involvement in public matters. During the last half-century he has also served on the boards of a number of organizations, including the Tri-County Mental Health Board, the Michigan Association of Public Health Boards, the Michigan Association of Counties, and the Michigan Association of Local Public Health.

In addition to his public service commitments, Mr. Fleetham has served as the lay leader of the Sunfield United Methodist Church for 46 years. He is also a loving husband, father, grandfather, and great-grandfather.

Mr. Speaker, it is obvious that Michigan and Eaton County will lose a great public servant when Edgar Fleetham retires this year. His commitment to public service and his responsiveness to his constituents have been his trademarks these many years—and these characteristics have been repaid with the affection and respect his constituents hold for him. We are all in his debt, and I know that my colleagues will want to join with me in wishing Edgar Fleetham all of the best of the occasion of his retirement from public office.

## IN RECOGNITION OF BAY HAVEN ELEMENTARY SCHOOL

### HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. GOSS. Mr. Speaker, in today's competitive world, the United States faces a tremendous challenge in preparing our children to lead this Nation into the next century.

In meeting that challenge, we depend upon our communities and the creative dedication of teachers and school administrators, whose work often goes unrecognized and unrewarded. In an era of troubling statistics about our national education system, individual success stories deserve our attention and should become the focus of our efforts to effect positive change.

Mr. Speaker, today I rise to recognize one success story—the Bay Haven School for Basics Plus, located in Sarasota, FL. This elementary school has just recently been honored by the Federal Department of Education under the 1989–90 Blue Ribbon Schools Program for "unusually effective" achievement and excellence.

One of 497 schools in the country nominated for this recognition, Bay Haven is 1 of only 221 schools to receive the award, whose purpose is to "identify and call attention to unusually successful public and private elementary schools and, through publicity and other means, to encourage their emulation by other educators."

Those of us in southeast Florida are very familiar with the tremendous contribution the Bay Haven School for Basics Plus makes in getting our youngest students off to a strong start. This type of national recognition is not only well-deserved, but will also help to spread the word about the good work the teachers, administrators, families, and students at Bay Haven are doing every day.

Under the leadership of its dynamic principal, Marilyn Highland, Bay Haven boasts several innovative programs, including a new concept where fourth-grade students visit a nearby University of South Florida campus for a brief introduction to college life. School officials hope such early exposure to higher education will help encourage children to stay in school.

Perhaps one of the school's most unique characteristics is its emphasis on family involvement. In fact, parents are asked to sign a contract with the school underscoring their commitment to play an active role in their children's education.

As a guest at a recent Bay Haven Spirit Day rally, I was impressed with both the enthusiasm and the discipline of the students and the dedication of the staff. Certainly winning the National Blue Ribbon Schools Program Award is a well-deserved honor for Bay Haven, but the real reward for the school's efforts lies in the unmistakeable fact that its programs are working.

## DEFEAT OF THE PATRIOT ENERGY COAL PLANT

### HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. ATKINS. Mr. Speaker, I rise to pay tribute to local officials and concerned citizens in the town of Ayer, MA who banded together to defeat the proposed siting of a 240-megawatt coal burning plant in their town. Unfortunately, I can't be with them to celebrate at tonight's board of selectmen meeting. However, I share their celebratory mood and I will be with them in spirit.

Last week, the Massachusetts Energy Facilities Siting Council [EFSC] hammered the final nail in the coffin of the Patriot Energy proposal by denying Patriot an extension for proceeding with its siting application. While lawyers representing Patriot have indicated that it would be possible for the company to reapply for a siting license, I can assure the town that the proposal is dead. Thanks to the town's success in pointing out the clear and present dangers the facility would have posed to the local environment, the project has absolutely no chance of being approved by either the EFSC or the Massachusetts Department of Environmental Protection. As a result, any subsequent application by Patriot Energy would simply be an exercise in futility.

I believe that the manner in which the town approached this situation will serve as a model for officials in other towns to follow. Rather than simply saying not in my backyard, town officials devoted a great deal of time and effort to establishing strong ties to the citizens groups who opposed the project. Together, they carefully researched the proposed coal-burning technology, collected and disseminated information on the steps needed to protect their aquifer, and calmly and rationally exposed the inadequacies contained in the draft environmental impact report.

I was honored to work with them in this fight against environmental disaster. While I deal with policy issues relating to clean air and clean water on a daily basis as a result of my seat on the subcommittee that funds the Environmental Protection Agency, I still relish the opportunity to step in at the grassroots level and join my fellow citizens in a fight against something that clearly threatens our environment. I hope that we can build upon this experience not only to stop future threats to our community, but also to work together to provide the environmental quality and economic growth that we all seek for the town of Ayer.

## AMELIA—A BIT OF PARADISE IN MY DISTRICT

### HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. BENNETT. Mr. Speaker, I have in the district I represent a "bit of Paradise." I am proud to say that Amelia Island Plantation, Amelia Island, FL, in my congressional district, has emerged as the Family Resort of the Year (1989) from a Family Circle magazine tally of nearly 6,000 respondents. As well, Amelia Island Plantation, Amelia Island, FL has been designated by the television program, "Lifestyles of the Rich & Famous," as being one of the "World's 10 Most Beautiful Beaches."

"Amelia Island Plantation is a four-star golf and beach resort on Florida's northernmost barrier island spread out over 1,250 woodsy acres," states Family Circle, and further quoting comments of the voters: "Still has the lush, green, woody feel. Unspoiled.—A.B.W., McComb, Miss." "Excellent program for children: Ours didn't want to come home. Made kids feel special with varied activities and caring staff.—I.O., Kennesaw, GA." "We visit every year. The children enjoy the youth program; we enjoy the relaxation.—S.K., Rochester, N.Y." (Family Circle, April 3, 1990.

Mr. Speaker, I take this opportunity to vouch for the beauty of Amelia Island and to submit for the RECORD a copy of an article from the local newspaper, the Fernandina Beach News-Leader. It is my pleasure to represent in Congress such a world renown location.

PLANTATION WINS AWARD

(By Ruby Christian)

Readers of Family Circle magazine agree with Amelia Island Plantation's focus on making provisions for family-style vacations, the publication reported in its April issue.

The resort caters to families yet enables parents to get off by themselves or gather with an adults-only group.

The Plantation won the magazine's beach resorts category after 6,000 readers responded to Family Circle's invitation to vote.

The Plantation and four other resorts emerged as overall national favorites.

Plantation General Manager Jack Healan said he believes the winning combination includes the Amelia Island site's natural beauty, professional staff and outstanding recreation department which caters to family needs. Children are not only given care when parents choose to be away from them, activities are provided to keep the youngsters happy, he pointed out.

The Plantation won the first-ever Premier Property Award in 1989 which was given by the Resort and Commercial Recreation Association.

"Through company support and a dedicated staff, our recreation department has grown in size and capabilities," said Karyl Stewart, director of the recreation department on when the Premier Property Award was announced.

## GILLIAN MITCHELL AND JACQUALINE BAIRD: STORY OF SUCCESS

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. LEHMAN of Florida. Mr. Speaker, Miami has long been the destination of choice for immigrants from dozens of countries, and these newcomers have contributed greatly to our community. Two who have made a difference are Gillian Mitchell and Jacqualine Baird, British twins who came to Miami and founded a successful swimwear company called Twins 27 years ago.

I have played tennis for years at Miami Shores with these two women. I never could tell them apart on the court, only in their cars, because they had different license plates: "1st Twin" and "2nd Twin."

I knew they were good tennis players, but not until I read a recent article in New Miami magazine did I learn about their business success. I would like to share this article with my colleagues.

GILLIAN MITCHELL AND JACQUALINE BAIRD—IN THE SWIM WITH TWINS

(By Hope Katz)

Roll after roll of the colors of summertime line the walls of the Twins warehouse in Hialeah, stock for the next generation of bikinis. Fire engine red, marigold yellow, cinnamon, tangerine, snow white, hot pink. These are the shades of 1990.

"This year is going to be our biggest ever, because color is what's selling suits," says Gillian Mitchell. "If a girl is walking down the beach wearing cotton candy pink and another is wearing red hot pink, who would you look at?"

Mitchell should know. Twins, the company that she and twin sister Jacqualine Baird founded 27 years ago, will manufacture a quarter million of the slight swimsuits this year. Sales are expected to exceed $4 million. And all from the "extremely brief two-piece," as Webster's puts it, which the twins started making as a lark.

The sisters came to Miami Beach in the early '60s, British show girls who arrived in the last the Gleason-era hey-day—by way of Berlin and Cairo.

"We were performing our song-and-dance act as the Hamilton Twins," says Baird, who designs most of the Twins suits. "We were trotting around the globe, performing in theaters and having a wonderful time."

"It was when we were playing a club in Puerto Rico that we got the idea about making bikinis," says Mitchell, the marketing side of the team. "On the beach, all of the girls were asking us where we'd gotten our bikinis. In Puerto Rico, you could wear a bikini on the beach, but not around the pool. Meanwhile, everyone in Europe was wearing bikinis. The girls on the beach knew this, and they asked us if we'd make them some just like the ones we had. That started us thinking."

A few days later the twins had sewn several suits and put them in the Caribe Hotel dress shop, on consignment. The first order sold out, "and that was our entrance into the world of high fashion," says Baird.

That was in 1963, and the sisters decided to set themselves up in the bikini business in South Florida. With an investment of $10,000 from each of the twins, and an additional $25,000 from partner Barney Boardman, they opened in the rear of a small boutique in Hollywood, supporting themselves mostly from their evening work at nightclubs in the Fontainebleau and Diplomat hotels.

"For the first year we didn't take a salary. We also didn't have time to sew all the suits ourselves. So, we hired several local ladies to do the sewing for us. We would take them the patterns and materials, then pick up the finished product and drop off the new orders. We spent a lot of time in the car," says Baird.

In the mid-1960s, they decided to move the production under one roof. They moved to their current warehouse in Hialeah, hired a staff of seamstresses and started doing business full-time. "The hardest thing was getting fabric. No one wanted to help us because we had no collateral. A few did help, and we have been eternally grateful. Of course, many didn't, and when they came back trying to sell material to us, we didn't forget that," says Mitchell.

Now the sisters develop a line of about 100 suits each year, which is pared down to a "top 20" list. The suits retail for $20 to $55, and are distributed to 1,500 shops in the U.S., Costa Rica, El Salvador, Nicaragua, Venezuela, and most recently, Holland. A large portion of their business also comes from distribution on Royal Caribbean Cruise Line, where their biggest seller is the whole-piece suit embroidered with gold lamé.

Like many twins, Mitchell and Baird often finish each other's sentences and thoughts. With seven children between them, the pair banter and giggle like kids themselves. At 58, they don't show their age. "We love what we do," says Mitchell. "Our employees [95 in all] are like family."

"They were the first to come up with interchangeable tops and bottoms, so that a girl whose bust is not in proportion to her hips could still get a good fitting bikini," says Michael Chitoff, president of the Swimwear Association of South Florida. "They are very contemporary. They keep up with all the looks and are very creative."

The twins say the look for the '90s, especially for juniors, is hotter, attention-getting colors. For the more sophisticated bather, however, the twins say bright neons will be replaced by lavender, coral and violet.

What captures the eye in the 1990s is a far cry from the initial impact their line had in the '60s. "When we first arrived in the U.S., bikinis were new fashion in the States," says Mitchell. "I remember the first time we went to the beach in our suits. We were in Atlantic City, and a policeman came over to us and told us we couldn't be walking around like that. He promptly put us in a cab and told the driver to take us home."

## PRAISE FOR LAWRENCE COUNTY HEAD START

### HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. KOLTER. Mr. Speaker, I rise today before the full U.S. House of Representatives to commend and praise Lawrence County Head Start Inc. of 301 East Long Avenue, New Castle, PA, in my Fourth Congressional District.

Lawrence County Head Start is celebrating its 25th anniversary of servicing deserving children since its inception.

The organization, which has serviced more than 3,000 children and families in the past 25 years, is honoring the occasion with a special anniversary banquet.

Mr. Speaker, I am very proud of the positive and worthwhile impact that Lawrence County Head Start has had on the entire community and that is why I rise before the House and honor Lawrence County Head Start today.

## TRIBUTE TO MR. BOB ROGERS

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. DREIER of California. Mr. Speaker, the Congress has recognized that we must place a stronger emphasis on quality education in our schools. In order to do so, it is necessary that we draw attention to those individuals who, through hard work and tireless service, give so much to the educational community.

Mr. Bob Rogers, an administrator at Claremont McKenna College for 33 years, is retiring today after a rewarding career. The Claremont McKenna College Alumni Association has expressed its appreciation to Bob in the form of the following resolution:

RESOLUTION

Whereas Robert G. Rogers is a 1952 graduate of Claremont McKenna College; and

Whereas he returned to Claremont McKenna College on August 1, 1957 as an Admission Officer under the direction of Emery R. Walker, Jr., then Dean of Admission and Financial Aid, serving both the College and the recently founded Harvey Mudd College; and

Whereas he assisted in the admission of the first three classes of Pitzer College, upon that institution's inauguration in 1963; and

Whereas during the first twenty-five years of his tenure at Claremont McKenna College he served successively as Assistant Dean, Associate Dean, and then Senior Associate Dean of Admission and Financial Aid for both Claremont McKenna College and Harvey Mudd; and

Whereas he also served as Chairman of the School and College Relations Committee of the Western Region of the College Board and as a member of the Executive Committee of the same organization during the late 1960's and early 1970's; and

Whereas he founded an Alumni Admission program in 1974 at the College called the Claremont Alumni Schools Program, or "CLASP", which has become an essential part of the activities of this Association; and

Whereas the Claremont McKenna College Alumni Association, recognizing his many contributions to the College, presented him with its Distinguished Service Award on June 6, 1976; and

Whereas he is now retiring, after 33 years of devoted service to Claremont McKenna College; and

Whereas by reason of his remarkable achievements and inspiration, and as a consequence of the affection which this Association holds for him, our fellow alumnus, and in order to convey to him such gratitude and findings: Now therefore, be it

*Resolved,* That on behalf of all alumni of Claremont McKenna College, the Claremont McKenna College Alumni Association hereby expresses its sincere appreciation and best wishes to Robert G. Rogers, Class of 1952, as he begins his well deserved retirement.

This 22d day of May, 1990.

By William Woods, 1989-90 President.

## EQUINE PROGRAM AT THE NORTH WIND UNDERSEA INSTITUTE

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. ENGEL. Mr. Speaker, this week in my district, a group of wild American mustangs are being brought for the first time ever to New York City to become part of a unique program created by the North Wind Undersea Institute. For the past 2 years, the Equine Program at North Wind has been teaching youngsters about the role of the horse in the development of civilization. The program is one way in which North Wind successfully spreads its message of environmental conservation and awareness.

The interaction that will take place between the students and the wild mustangs is an example of the hands-on educational approach of North Wind. Through the Equine Program, inner city children learn about compassion and respect for all animals. They also learn about our responsibility to help preserve and protect our planet and all living things.

I have been working with North Wind since it came into existence over 10 years ago, and I was pleased to help secure a grant from the Department of the Interior for this program. I know that in addition to making learning fun for our young people, North Wind takes its environmental work very seriously. For example, studies of the wild American mustangs as part of North Wind's Equine Heritage Conservancy Program will explore current environmental issues and multiple-use land mangement.

The fine work done by North Wind is a credit to the dedication of its executive director, Michael Sandlofer, and his staff. It is always a pleasure to work with people who care so much about the world in which we live.

## WHY DON'T THE SOVIETS CARE ABOUT STEALTH?

### HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. SABO. Mr. Speaker, as part of its overall plan for defense spending in the 1990's, the Bush administration argues that the United States should build the B-2 Stealth bomber because—among other reasons—the arms control agreement we are currently negotiating encourages its deployment. Under the counting rules in the Strategic Arms Reduction Treaty [START], bombers carrying gravity bombs would count for one warhead, while the warheads carried on air-launched cruise missiles [ALCM's] would be discounted by 50 percent. If, for example, a B-2 bomber were carrying 20 gravity bombs, they would count as one warhead, while 20 ALCM warheads carried by a B-2 would count as 10.

Thus, the Soviet Union has agreed to a treaty that will encourage the United States to deploy the Stealth bomber. Why?

The first possible reason is that the Soviets possess or intend to deploy a large bomber force which will be loaded with large numbers of gravity bombs. However, it appears unlikely the Soviets will expand greatly their bomber fleet. Their newest aircraft, the Blackjack, is equivalent to our B-1B but suffers from substantial problems in crew comfort, weapons system use, and refueling. As a result, production rates have been cut and the Pentagon does not expect the Soviet's future strategic bomber fleet to match ours in size or effectiveness.

Another reason may be the Soviet's existing comparative advantage in Air defense systems. In a large-scale nuclear strike with current arsenals, where air attacks certainly would be preceded by ballistic and tactical missile strikes on the Soviet air defense network, this advantage would be negligible: air defenses would largely cease to exist by the time bombers could arrive to penetrate it.

But in a world dominated by bomber forces, conventional air defenses could play a much larger role in degrading an attack launched through the air. The Soviets maintain such defenses. The United States does not. Which country would benefit most from a treaty that encouraged moving nuclear weapons from missiles, against which there is no defense, to bombers, against which only the Soviets have defenses?

Advocates of the B-2 argue that it will make the Soviet investment in air defense obsolete and, although Soviet defenses could be thickened with additional radars, interceptor aircraft, and electronics to deal with the B-1B, the B-2's special characteristics make it invulnerable to possible system upgrades.

But are the Soviets concerned about Stealth technology? Many analysts claim it can be countered by readily available technology. Just as important, like all bombers a sizable portion of the B-2 force could be destroyed on the ground. Finally, even the Pentagon admits that a major part of the B-2's mission—destroying mobile targets such as missiles—is beyond the reach of current technology.

So there is a third possible reason, that in a fundamental sense the B-2 simply does not matter. Instead, it will play the role of a "rubble bouncer," arriving on the scene only after thousands of nuclear warheads have done the lion's share of the damage. Even under the terms of the proposed START treaty, the United States could retain some 5,000 land- and sea-based missile warheads, more than enough to destroy the political, military, and economic infrastructure of the Soviet Union. The ballistic missile warheads would be backed up by thousands of sea- and air-launched cruise missiles. Seen in this light, the more than 2,000 bombs that could be carried by the B-2 would simply be unnecessary.

In short, the Soviets may have concluded that since the B-2 is irrelevant to the balance between United States and Soviet nuclear forces they have no reason to stop us from wasting tens of billions of dollars on its production and operations.

If so, it would certainly answer this paradox: If, as the Air Force claims, it will be nearly impossible for the Soviets to detect and defeat the B-2 bomber, why don't they seem to care?

Plagued by high costs, criticized as lacking any real mission, and increasingly irrelevant to a changing world, the B-2 may find itself fulfilling only the singular mission of drawing vitally needed dollars from other national security areas and from growing domestic problems. As we review the administration's proposed defense budget for next year, the B-2 should be the first item to go.

## A TRIBUTE TO DAVE McLOUGHLIN

### HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. SHUMWAY. Mr. Speaker, today, I ask that my colleagues join with me in commending and paying tribute to an outstanding public servant as he prepares to retire following a dedicated and distinguished career. Dave McLoughlin will step down from the position of Director, Office of Training at the Federal Emergency Management Agency [FEMA] at the end of this month. His departure will leave very large shoes to fill, and will constitute a loss not only for FEMA, but also for the Nation.

In addition to his doctorate in education, Dave possesses a wealth of knowledge and experience in the field of emergency management, from natural disasters to terrorist attacks. Thus he has made invaluable contributions to FEMA and its mission. He began his Federal service in 1957 as an instructor in the Federal Civil Defense Administration's Chemical, Biological, and Radiological Defense School. By 1971, he had been named Deputy Director of the Defense Civil Preparedness Agency, region IV, in Battle Creek, MI. His next appointment was to the position of planning staff supervisor on terrorism for the Federal Preparedness Agency in Washington. Through his participation in the Presidential reorganization project, Dave contributed his expertise to FEMA's very creation, ensuring that the Agency evolved into an efficient, comprehensive, and expert response team to all national emergencies. There could not have been a more qualified individual to fulfill his many roles there, from his initial appointment in 1979 to the position of Assistant Director of Training and Education to the present day.

Many of my colleagues, especially from California, have special reason to be grateful to Dave, particularly during his service as Deputy Associate Director of FEMA's State and local programs. Time and again, as flood alternated with drought, California has been threatened, and Dave's expertise provided relief. He always identified the extent of our disaster situations promptly, and expedited needed relief. In addition to professionalism, he always demonstrated caring and concern.

Dave's exceptional contributions have been honored at the highest level. He has received both the President's Meritorious Rank Award in 1986, as well as the President's Distinguished Service Award, in 1989. I am confident that his life will continue to be marked with successful contributions, no matter what endeavor he undertakes.

In conclusion, Dave McLoughlin embodies all the qualities demanded of a dedicated public servant. I only wish there were many more like him. He will be badly missed but, more importantly, he will be well remembered. I know that my colleagues will be pleased to join with me in extending hearty congratulations to Dave on a job well done, as well as every best wish to him and to his wife, Carol, for fruitful and rewarding years ahead.

## GETTYSBURG HOSPITAL AUXILIARY

### HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. GOODLING. Mr. Speaker, I would like to take a moment today to recognize the Gettysburg Hospital Auxiliary. This year will mark the 70th anniversary of this fine organization and the many contributions the auxiliary has made to the growth of Gettysburg Hospital.

The Gettysburg Hospital Auxiliary boasts more than 1,000 members who have given freely of their time and efforts to raise funds for the Gettysburg Hospital. The successful fund-raising efforts have enabled the hospital to purchase new equipment and establish much desired patient services.

I would like to take this time to thank the members of this fine organization on behalf of myself and the citizens of Adams County and the Commonwealth of Pennsylvania.

## TRIBUTE TO THE PERKINS SCHOOL FOR THE BLIND

### HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. KENNEDY. Mr. Speaker, I am proud to represent an organization from my home district that provides one of the best examples of why we should pass the Americans With Disabilities Act today. The Perkins School for the Blind in Watertown, MA, with some seed money from the Federal Government, has entered into a partnership with major corporations in New England such as Raytheon and New England Telephone to place individuals with handicaps in permanent jobs. The Projects With Industry Program has placed over 220 individuals from all across New England who are visually impaired or blind in jobs such as computer programmers or customer service representatives. These individuals with disabilities would probably be at home on Social Security insurance without this assistance. Perkins School for the Blind, because of its vision and commitment, has opened the door to mainstream society for persons with disabilities. We should learn from this success story and open the doors for thousands more individuals by passing the AWDA today.

## CULTURAL EXCHANGE BETWEEN THE TWO SUPERPOWERS

### HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MRAZEK. Mr. Speaker, one of the more pleasing benefits of the thaw in United States-Soviet relations is the opportunity for various forms of cultural exchange between the two superpowers. This reality can only serve to enrich the lives of citizens in both countries, while simultaneously fostering further bilateral understanding of each country for the other.

One cultural category which has benefited directly from the new openness, Mr. Speaker, is the circus. An exchange program involving the National Circus Project USA of Westbury, Long Island, recently resulted in American circus artists performing with Soviet circus troupes for the first time since 1967. This breakthrough came on the heels of a National Circus Project Exchange program which saw a Soviet circus entertainer brought to America to perform for and teach circus skills to American schoolchildren.

The two American circus artists who traveled to the Soviet Union, Greg Milstein and John Foss, carried with them greetings and American flags which I and my Senate colleagues, PAT MOYNIHAN and AL D'AMATO, were privileged to provide. At the beginning of their journey, they became the first American circus performers to participate in the Soviet Circus Festival, a competition for circus artists. In the spirit of international friendship. The American artists did not participate in the competition at the festival, but instead gave a demonstration performance of their talents for the Soviet audience.

Later, the pair was invited to perform with the Latvian State Circus, breaking the 23-year drought of American circus performance in Soviet circuses. At the same time, a precedent for future circus exchanges was created, opening up an estimated one-fifth of the world's circus-viewing audience to American performers.

Mr. Speaker, I'm sure that I speak for my colleagues when I congratulate Jean Paul Jenack, executive director of the National Circus Project USA, Mr. Milstein, and Mr. Foss for their respective roles in helping to promote the cause of international understanding through this important cultural exchange. I wish these gentlemen and their colleagues in the American circus industry the best as they continue their efforts to foster international good will through their future projects.

## PERSONAL EXPLANATION

### HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. UDALL. Mr. Speaker, today, a letter was distributed to all House Members with my signature indicating my support for the Bruce-Oxley CFC amendment to the Clean Air Act. Unfortunately, my signature was added in error. I would like the record to state that I am not in favor of the Bruce-Oxley amendment and will be supporting the Bates-Boehlert amendment when the House considers this important issue.

## A CONGRESSIONAL SALUTE TO THE LINDE DIVISION-UNION CARBIDE INDUSTRIAL GASES, INC., COMMEMORATING THE LINDE "ROOTING FOR AMERICA PROGRAM"

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. ANDERSON. Mr. Speaker, it is a pleasure to rise and pay tribute to the Linde Division-Union Carbide Industrial Gases, Inc., for the successful inauguration of the Linde National Rooting for America Program. On May 22, 1990, the national meeting of this program's local coordinators will take place. This occasion gives me the opportunity to honor the Linde Division of Wilmington, CA, for its environmental and economic commitment to the community and the Nation.

At a time when we are all becoming much more cognizant of the environmental degradation of our world, Linde has emerged as a corporate leader in enhancing environmental protection efforts. "Rooting for America" is a 10-year, nationwide initiative to foster environmental awareness, promote the planting and survival of trees, and build community spirit in the towns and municipalities across the country that host Linde facilities. In Wilmington, Linde established a community tree planting council to oversee the program. Under the leadership of the planting council's tree council, with trees and funds provided by Linde, 2,000 trees and seedlings were planted by local school children, scouts, and residents. From the outset of this program, Linde has been a symbol of commitment to environmental excellence in the 1990's. I should note, however, Linde's contributions to the south bay area are not just environmental.

The Linde Division-Union Carbide Industrial Gases, Inc. has been an integral member of the Wilmington and Los Angeles city industrial community since 1967. Linde's air separation plant in Wilmington is southern California's largest producer of oxygen, nitrogen, and argon, and a primary supplier of important resources for the fields of medical and health care, steel production, metal fabrication, electronic and semiconductor manufacturing, oil refining, food processing, and numerous other industries.

In addition to the environmental and industrial contributions to Los Angeles and the south bay area, Linde has contributed over $69 million in wages; $230 million for electrical energy, $70 million for other utilities, suppliers, service, and taxes; and $58 million for truck fleet operations.

These economic contributions have assisted in making southern California the preeminent economic leader in the country.

Mr. Speaker, it is indeed an honor and a pleasure to pay my respect to this company. Linde's concern for the environment, the safety and health of its employees and the surrounding community has shaped the values of this corporation to the degree that neither profits nor production will come before the safe operation of its plants. When it comes to health, safety, and environmental performance, Linde is second to none. On this occasion, my wife, Lee, joins me in extending my heartfelt thanks to this innovative and valued Wilmington company. We wish Linde many successes in the years to come.

## COMMENDING SUMNER HIGH SCHOOL IN KENTWOOD, LA, FOR WINNING FIRST PLACE IN AN ANNUAL NATIONWIDE CONTEST FOR THE BEST ANTI-DRUG PROGRAM DESIGNED AND RUN BY STUDENTS

### HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. BAKER. Mr. Speaker, I would like to take this opportunity to commend students at Sumner High School in Kentwood, LA, for winning first place in the senior high school competition of an annual nationwide contest for the best antidrug program designed and run by students.

During my many antidrug seminars at local high schools, students universally expressed the need for strong measures to help them to say no to peer pressure that encourages illegal drug and alcohol use. Clearly, the students at Sumner High School have been able to rally other students around an efficient program to combat negative peer pressure.

When you consider that the average age of first use is an alarming 12.5 years old, it becomes paramount to initiate creative antidrug programs in our schools which reach and motivate students to help others to say no to drugs. I am very proud of the students at Sumner High School, and believe that they have set an excellent example on how to work together to stop the serious problem of illegal drug and alcohol use.

Clearly, Sumner High School students have shown excellent leadership. I would also like to extend my congratulations to the principal, faculty and staff, parents, and other community groups who have helped the students put forth this program.

## THE CASE OF RAOUL WALLENBERG—THE TRUE TEST OF SOVIET GLASNOST

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. LANTOS. Mr. Speaker, in just a few days Soviet President Mikhail Gorbachev will be in the United States for a critical summit meeting with President Bush. While all Americans welcome the changes that President Gorbachev has brought to the Soviet Union

and to the countries of Eastern and Central Europe, there are still serious questions that remain regarding the commitment to democratic reform, freedom of expression, and pluralism in the Soviet Union.

The major test of that commitment to openness, to glasnost is the willingness of the Soviet leadership to resolve the matter of Raoul Wallenberg, the Swedish hero who saved the lives of as many as 100,000 Hungarians during the Holocaust.

Mr. Speaker, there is a moral commitment for us in the United States to continue to press the Soviets for the release of Wallenberg and a full public accounting of his imprisonment in the Soviet Union since 1945. It was at the request of the U.S. War Refugee Board that Wallenberg undertook his dangerous mission to Budapest in 1944, and in 1981 Wallenberg became an honorary citizen of the United States, the second person after Sir Winston Churchill to be so recognized.

Mr. Speaker, an excellent article on Wallenberg and the forthcoming United States-Soviet summit by Spencer Warren appeared this morning in the Christian Science Monitor. Mr. Warren is a former member of the Policy Planning Staff at the State Department and was formerly counsel to one of our colleagues in the Senate.

I ask that Mr. Warren's outstanding article be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to give it careful and thoughtful attention.

[From the Christian Science Monitor, May 22, 1990]

WALLENBERG: A MAJOR TEST OF GLASNOST

(By Spencer Warren)

Glasnost has brought commendable openness to Soviet history. The Kremlin has owned up to the 1939 pact with Hitler partitioning Poland, and has admitted the 1940 Katyn Forest massacre of 15,000 Polish officers and other prisoners.

But there is another crime it has to face. It didn't involve whole nations, but only one man, probably the noblest figure of the 20th century: Raoul Wallenberg.

The exploits of this selfless man are now well known. A 31-year-old architect and businessman, scion of a wealthy Swedish diplomatic and banking family, he traveled to Hungary in July 1944 as a special attaché to the Swedish legation in Budapest. Hungary at the time was an ally of Nazi Germany and was home to the last surviving large Jewish community in Europe. Wallenberg, who had studied in the United States, had been encouraged to undertake his mission by a representative of the U.S. War Refugee Board, which had been created by President Roosevelt, belatedly, in January 1944. The board financed much of Wallenberg's efforts.

When Wallenberg arrived in Hungary, the government of Admiral Horthy had just halted, under international pressure, the Nazi mass deportations (directed by Eichmann), which in two months had carted about 400,000 Jews off to the ovens at Auschwitz. Most of Budapest's 230,000 Jews remained in the capital. With a staff of about 300, mostly Jews, he set up safe houses under Swedish diplomatic protection and gave out Swedish passports by the thousand, saving at least 20,000 people.

In October, the Germans overthrew Horthy after he made armistice overtures to the Allies, installing the fascist Arrow Cross party in his place. Arrow Cross gangs were turned loose against the Jews, massacring 10,000 to 15,000. On Christmas Day 1944, 78 children in one of Wallenberg's shelters were machine-gunned and beaten to death. He forestalled other attacks, confronting armed thugs and intervening with authorities, threatening retribution after the war.

In November, with the collapse of the rail system, the Nazis forced about 40,000 Jews on a death march west toward Austria. Wallenberg drove along the columns, giving out food, medical, and other assistance, and succeeded in pulling out hundreds and returning them to refuge in Budapest. "He • • • showed us that one human being cared," said one survivor. As the Russian armies approached, the S.S. and Arrow Cross were planning to kill the 70,000 Jews remaining in the ghetto, but Wallenberg's threat of postwar retribution may have been crucial in averting this horror. Thus, this wealthy man who forsook the comfort of neutrality, saved, directly and indirectly, up to 100,000 people.

Eichmann and the Arrow Cross made Wallenberg a hunted man, but he eluded them. Then, in January 1945, he disappeared into Russian hands, never to be heard from again. The Soviet line, issued in 1957, and contradicting an earlier statement denying any knowledge, is that Wallenberg died of a heart attack in the KGB's Lubyanka prison in Moscow in 1947, age 35. Last October, after 44 years, they handed over to a Swedish delegation, which included surviving relatives, his passport, personal effects, and a card registering him as a prisoner in the Lubyanka dated Feb. 6, 1945. Maintaining the 1957 position, they also turned over the handwritten note by a long-deceased doctor attesting to Wallenberg's alleged death.

In the past two years Soviet authorities and journals have discussed the case and lauded Wallenberg's heroism, conceding his arrest was "a tragic mistake that has never been corrected." They attribute lack of further evidence to destruction of records by Stalinist authorities, and argue that millions of Russians also disappeared.

But the family and the many Wallenberg committees around the world reject this and believe he is alive, noting numerous reports of sightings through the years. The Soviets may fear the embarrassment of releasing Wallenberg, or revealing details of his fate (was he tortured?) and the reasons for his arrest (he may have been suspected as a US spy), and could be trying to appease Western opinion by placing the onus on their predecessors.

The Reagan and now the Bush administrations have recognized the US responsibility to pursue this case; Wallenberg's mission was sponsored by the US, and in 1981 he became the second foreigner (Churchill was the first) to be made an honorary citizen. Secretary of State Baker raised the matter with Soviet Foreign Minister Shevardnadze last September. Treading a delicate diplomatic path, President Bush must raise it again with Mr. Gorbachev at the summit.

Raoul Wallenberg is our conscience. In mankind's blackest hour, when unsurpassed human depravity seemed to rule, and those who could have helped, including the US, did far too little, he was a beacon of goodness and light. When we see the vicious hatreds of those times rising again in Eastern Europe and Russia, as if the 6 million Jews had never perished, Wallenberg's example forever reminds us that humanity can be redeemed.

## IN FAVOR OF BILL AIDING HANDICAPPED AMERICANS

### HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. BUNNING. Mr. Speaker, I rise in support of the Americans With Disabilities Act. Handicapped Americans and Americans with disabilities are a tremendous national resource and we cannot afford to lock them out of the Nation's work force or marketplace. This bill will go a long way at fully integrating the handicapped into our society.

When the ADA was first introduced, and in fact when it first came to the House floor, I had some very serious reservations about it. I felt that the definitions in the bill were too vague and that it would invite a flood of law suits against small businesses.

However, over the past few days, amendments have been added to the bill which I think address these concerns. By delaying the enforcement of the public accommodations provisions for small businesses and by specifying that an employer can use a written job description as evidence in determining the essential functions of a job, we have taken away a good deal of the uncertainty that plagued the original bill.

Although I would have liked to have seen the Sensenbrenner amendment and the Olin amendment accepted as well, I do believe the bill has been improved sufficiently to merit passage. I urge my colleagues to vote for this important step toward opening the door of society for the handicapped.

## GREAT FRENCH FRY WAR

### HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. HENRY. Mr. Speaker, our U.S. Trade Representative, Carla Hills, met in Ottawa last Friday with the Canadian Prime Minister.

I hope that our Trade Representative was not served french fries at lunch because she would have been in danger of choking if she was aware of the blatant manner in which the Canadians have very cleverly kept American processed french fries out of their market while selling aggressively in ours.

By smokescreen regulation on incoming frozen potato products, the Canadians keep the entire Canadian domestic, wholesale french fry market to themselves—while at the same time they are poised to possibly build two new frozen potato processing plants very close to our border in Maine with their sights on our market. We have no similar lockout provision.

Mr. Speaker, it is necessary for the United States to take action so that the Canadians cannot have their french fries and eat them too.

## PERSONAL EXPLANATION

### HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. BALLENGER. Mr. Speaker, on Tuesday, May 15, I was en route to the House Chamber for a vote on House Resolution 381, but unfortunately, did not make it to the House floor before time had expired. I would like the record to show that had I been present, I would have voted "aye" on rollcall No. 108.

## TRIBUTE TO DR. JOSEPH POWER KELLY

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. SKELTON. Mr. Speaker, with much pleasure I rise today to recognize a special individual, Dr. Joseph Power Kelly, provost of Webster University in St. Louis, MO. He has contributed 25 years of service to American higher education at Webster University, and many of his finer students have been residents of my Fourth Congressional District in Missouri. Webster University's graduate programs in Kansas City have provided excellent opportunity for the pursuit of master's degrees in teaching and business. Of course, those programs have been managed by Provost Kelly.

As a young man in his home State of Montana, Joe Kelly began an exemplary youth in high school, distinguishing himself as a scholar and an athlete at Butte Boys' Central. He continued to pursue athleticism and academics throughout college at Montana State University, where he became "Jumpin' Joe" for perfecting the new art of the high arcing jump shot. At the same time, he excelled in the study of history and politics.

"Jumpin' Joe" Kelly continued to integrate his interest in history and political science into his life. After finishing his university career, he shared his historical knowledge as a high school professor, until he became the executive director of the Montana Democratic Party.

The lure of being an active leader in politics drew him away from teaching, yet he eventually continued his pursuit of being an educator. He earned his doctorate in political science from Washington University in St. Louis, and in 1965, Dr. Kelly became an administrator at Webster University, where he has become widely known and greatly appreciated throughout a quarter of a century.

Joe Kelly has set an excellent example for students and scholars of my Fourth Congressional District, as well as for the State of Missouri and the Nation. I hope my fellow Members of Congress will join me in congratulating him for his leadership and dedication to education.

## THE 28TH ANNIVERSARY OF THE BELLMORE-MERRICK UNITED SECONDARY TEACHERS ASSOCIATION

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. LENT. Mr. Speaker, this year marks the 28th anniversary of the Bellmore-Merrick United Secondary Teachers Association. At a dinner-dance, June 14, this year's retirees from the Bellmore-Merrick school district will be honored for their many years of loyal and dedicated contributions to the field of education. In addition, professionals from the schools and local communities will be recognized as well for their accomplishments.

Secondary education serves as a critical step in the academic preparation of our young people as they venture out into the world. Whether they go on to college or join the working world, what students learn in high school will help them become active, concerned members of society. Secondary teachers, therefore, have a tremendous influence in shaping our young people into the future leaders of America.

Since the association was established in 1961, it has grown to become a powerful advocate for teachers and helped to foster positive changes to promote learning in the classroom. Therefore, I'd like to extend my sincere appreciation to President Lou DeFilippo and all the members of the Bellmore-Merrick United Secondary Teachers Association for their exemplary work to promote excellence in education. Their significant efforts are deeply appreciated. Thank you, and best wishes on this important occasion.

## A TRIBUTE TO JEANNINE SUSAN BLANCHET

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Jeannine Susan Blanchet, of Central Falls, RI, this year's recipient of the Congressman RONALD K. MACHTLEY Academic and Leadership Excellence Award for William M. Davies Jr., Technical High School, in Lincoln, RI.

This award is presented to the student, chosen by William M. Davies Jr., Technical High School, who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Jeannine certainly met these criteria during her high school years. She is the salutatorian for her class and has been a member of the National Honor Society for 4 years. She has also won a Merit Award and took first place in a data processing competition.

I commend Jeannine for her outstanding achievements and wish her all the best in her future endeavors.

## A TRIBUTE TO MRS. ATHELINA H. LATHAM

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mrs. Athelina H. Latham on receiving an honorary degree from the Rhode Island School of Design in Providence, RI.

Athelina is receiving this degree in recognition of her many outstanding accomplishments and achievements in the world of art and art education. Today at the age of 82, Athelina is still a vibrant teacher and generously shares her talents with others. Her career in art has spanned almost 60 years and has taken place across the country. She has taught in New York City and Chicago and in her home State of Rhode Island in several institutions. She has taught art to people of all ages, from children to senior citizens. Her achievements are not only in the field of art education but also in hat and glove design. In 1940, she opened the successful Latham French Glove Studio in Chicago, IL, where she received national recognition for her unique designs.

It is a great pleasure for me to congratulate Athelina H. Latham on her receiving an honorary bachelor of fine arts degree from the Rhode Island School of Design. I wish her all the best and continued success in the future.

## A TRIBUTE TO RHODE ISLAND GOVERNMENT AGENCIES

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an exemplary government program that aims at alleviating hunger among our Nation's most needy citizens.

The U.S. Department of Agriculture recently supplied Rhode Island with surplus food to be distributed through State government agencies. I commend the Rhode Island Department of Human Services, the Department of Elderly Affairs, Community Action agencies, and the Office of Food Purchases for a job well done, getting the food distributed quickly and efficiently.

If one child, one senior citizen, goes to bed hungry or undernourished we are condemned with the guilt of failing to provide the bare necessities for our citizens. This is certainly one program that we cannot afford to overlook.

The many dedicated and hard-working people who compose these agencies deserve a good measure of appreciation for their service to our needy citizens. I pledge my support for this program and its efforts on behalf of our Nation's needy citizens.

## A TRIBUTE TO JOHN W. TAYLOR

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize John W. Taylor of Middletown, RI, who is being honored as "Elk of the Year" by the members of Newport Lodge No. 104 of the Benevolent and Protective Order of Elks.

John has been selected by his fellow members for his outstanding and dedicated contributions to many worthy causes throughout the years. John has been instrumental in raising thousands of dollars for many worthwhile charities and has truly distinguished himself in his community. He has given countless hours and days for the sake of others, all for the benefit of his fellow citizens. Among John's accomplishments are raising over $6,000 for the Muscular Dystrophy Association through a bowl-a-thon that was coordinated with other charitable groups in the area. He also ran a fundraiser for Nicholas Tasso, an 18-month-old child who has a congenital heart condition. Over 600 people from the community attended this fundraiser to help with Nicholas' medical costs.

It is with great pleasure that I salute John W. Taylor for all his exemplary charitable work. His spirit of compassion for his fellow citizens serves as a model for us all.

## A TRIBUTE TO KAREN GRECO

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Karen Greco of Cranston, RI, who has been selected to receive one of two national Very Special Arts Young Playwrights Awards.

Her play, "Ritty and Jesus Came to Dinner and Enjoyed a Plate of Borscht," has been chosen as a national winner in the very performance of the play at the Kennedy Center in Washington, DC, on June 4. Very Special Arts was founded in 1974 by Jean Kennedy Smith as an educational affiliate to the John F. Kennedy Center for the Performing Arts. Very Special Arts provides opportunities in the arts to individuals with disabilities. Very Special Arts Rhode Island has been working toward this goal since 1986.

Each year young playwrights submit scripts nationwide to the Young Playwrights Program. These scripts must deal with some aspect of disability. For Karen, the play has a special meaning that transcends winning the competition. Karen's play is based on her own experience as the daughter of a mentally ill mother. "Ritty" is a two-character play in which a daughter and her schizophrenic mother speak to the audience. Karen's play is truly a powerful piece, not only for its content but also for its personal nature with Karen.

It is with great pleasure that I congratulate Karen for her outstanding achievement. I wish her the best and success in her future endeavors.

## A TRIBUTE TO REV. WILLIAM J. O'NEILL

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Rev. William J. O'Neill of Jamestown, RI, who is celebrating his 25th anniversary of his ordination into the priesthood.

Reverend O'Neill, who is now the pastor of St. Mark Parish in Jamestown, has faithfully carried out his solemn oath for a quarter of a century now. I extend my most sincere congratulations to Reverend O'Neill and wish him all the best in the future.

## A TRIBUTE TO DR. ROBERT C. ARRUDA

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to recognize an individual who has so unselfishly given of himself to our Nation's youth.

Dr. Robert C. Arruda of Bristol, RI, is receiving a Fulbright Fellowship for the summer of 1990, in Buenos Aires, Argentina. He is among 20 of America's finest citizens chosen to establish this important cultural and educational bond with Argentina. Dr. Arruda is a college professor of French, Spanish, and Portuguese and has made a lifelong commitment to teaching these languages and cultures to everyone. He firmly believes that global communication is a means toward world peace and has dedicated his career toward promoting this goal. He is a well-respected member of his community and has given countless numbers of hours to many charitable causes.

I would like to thank Dr. Robert C. Arruda for his devotion to his job and his community. He has demonstrated a love for his work that transcends the classroom and pushes others toward better communication. I hope that others may follow his example. I wish him all the best and future success in all his endeavors.

## A TRIBUTE TO MRS. ELIZABETH G. BRITO

### HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to congratulate a member of my community for all of her outstanding efforts on behalf of our Nation's most valuable resource—our students.

Mrs. Elizabeth G. Brito of Bristol, RI, has been awarded a Christa McAuliffe Fellowship to continue research and expand a system-wide Thinking/Learning/Study Skills Program currently in place in the Bristol Public Schools. Mrs. Brito is the chairperson of the English department at Bristol High School. Her dedication to her profession and her students has continually grown and strengthened as evidenced by her drive to create a learning atmosphere conducive to excellence and achievement. She is also a respected civic leader and has given many hours to a multitude of charitable causes.

I would like to thank Elizabeth for her dedication to her profession and her students. Her love for the work and her community serves as a model for us all. I wish her all the best and continued success in the future.

## INTRODUCTION OF H.R. 4878, THE OCEAN DUMPING BAN EXTENSION ACT

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. LENT. Mr. Speaker, during the last Congress, we made the determination to stop the dumping of sewage sludge in our oceans. This is an environmentally sound decision, and I was proud to coauthor the Ocean Dumping Ban Act of 1988, which ended this filthy practice.

But Mr. Speaker, the most well-intentioned plans can and often do go awry. Such a situation is occurring in Nassau County, NY, which I have the pleasure of representing in the Congress. In order for Nassau County to stop the ocean dumping of sewage sludge by December 31, 1991, it has been ordered to build a dewatering facility in Bay Park, a small, residential community.

Bay Park is uniquely unfit for the siting of a sludge dewatering facility. The existing sludge treatment facility is ringed by single family homes. The only access to and from the plant is a single-lane roadway, that winds its way through quiet, residential streets, past a junior/senior high school and three elementary schools. Eighteen-wheel rigs will come roaring through this quiet neighborhood, one every 15 minutes, each and every day.

Nassau County officials are opposed to the siting of the plant in Bay Park. They petitioned the Federal court for an extension of time in which they could enter into contracts with private vendors, so that the sludge could be processed in nonresidential areas without endangering the health and well-being of suburban Nassau County. Unfortunately, the extension request was denied.

Mr. Speaker, my bill is simple: it will grant a 1-year extension to Nassau County so that they may pursue the private vendor option, which is the most environmentally sound manner in which to dispose of sewage sludge. This action is not unprecedented; I understand that the city of New York has been allowed an additional 1 year in which to formulate its alternative to ocean dumping. By granting this additional time, we will afford the residents of Bay Park the opportunity to live without the fear of massive trucks and potentially hazardous sludge endangering the lives of their families.

We pursue environmental policies to better the lives of the people we serve. My constituents are clearly being endangered by the current way in which the Ocean Dumping Ban Act is being implemented. I urge my colleagues to support this truly environmental action, and allow Nassau County's 1.2 million residents the opportunity to devise an environmentally sound method to dispose of sewage sludge.

## CONGRATULATIONS TO MOUNT VERNON DARE GRADUATES

### HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. POSHARD. Mr. Speaker, I am pleased to let you know about a group of future leaders in this country who are attending school in Mount Vernon, IL.

These students have worked with some dedicated adults to complete the DARE Program. They have made a commitment to staying off drugs and learning more about the pitfalls of growing up in this complicated world.

Young people need to know they have the love and support of their families and communities if they are going to take a stand and do the right thing. This is an important first step which I am proud to support.

On behalf of all of southern Illinois, I congratulate the Mount Vernon community for its dedication on this important issue. I wish them continued success in their efforts.

I would like to enter their names into the CONGRESSIONAL RECORD so they may receive the recognition they deserve.

MOUNT VERNON SIXTH GRADE SCHOOLS

Dr. Lawrence Loveall, Superintendent; Dr. Nick Osborne, Assistant Superintendent; Ron Massey, Mount Vernon City Police Chief; Trooper Dave Turner, Illinois State Police.

HORACE MANN SCHOOL

Principal—Mr. Jerry Clemens; Teacher—Mr. Sidney Milliner. Students—Shanda Boling, Risa Cole, Tina Cooper, Ayanna Dinwiddie, Lisa Drew, Leslie Ellis, Jennifer Eskew, Jacquelyn Goddard, Michael Lynn Heck, Eva Helm, Chris Hudgens, Starla Jackson, Christopher Johnston, Ami Jo Jolliff, Emily Mahan, Jason Ridley, Gentry Rudd, Chevette Sanders, Amy Scarber, Brandi Thompson, Donnell Young, William B. Rustin, Markesha Doggan, Anthony Rainey, Billie Wallis, Stacy Rainey, Melodie Johnson, Teny Karch.

BENJAMIN FRANKLIN SCHOOL

Principal—Dr. James Upchurch; Teacher—Mike Vaughan. Students—Crystal Austin, Brandi Bowdler, Aaron Bradford, Dameon Brown, Andrew Buckley, Christy Daniels, Anthony Dickey, Jamie Ellis, Kimberly Fares, Susan Hicks, Jamie Hughey, April Johnson, Amanda Leibold, Billy Lockeby, Brian Lowry, Mark McKinney, Robert Mooney, Justin Morgan, Kristy Peacock, Shana Ramirez, Lori Ramsey, Holly Reynolds, Kellie Schuster, Paula Scott, Amanda Smith, Hazel Smith, Christina Williams.

ABRAHAM LINCOLN SCHOOL

Principal—Carl Baker; Teacher—Rebecca Krueger. Students—Melanie Aissa, Kenneth Allen, April Bain, Ben Bartolomucci, Alex Black, John Brown, Charlotte Cotton, Steve Davis, Andrea Dickneite, Jenny Eller, Beth Ellis, Jacque Epperson, Cheryl Glenn, Julie Griffin, James Hargrove, Kesha Harper, Olivia Hart, Alex Hathaway, Tammy Henson, Michael Hicks, Rosalind Hodge, Amy Hopper, John Horner, Lincoln James, Jeff Johnson, Landon Jones, Michael Kroeschen, Shareen Ladd, Aaron Lewis, Charles Longwell, Billy Miller, Nina Navarro, Amanda Nixon, Danny Pribble, Raymond Richards, Dennis Riley, Matt Rogers, Nitai Spiro, Matt Sweeten, Wendy Tankersley, Rachel Taylor, Cameron Wagner, Doug Wetzel, Anthony White, Jon Wilimzig, Edon Williams, Jeff Wimberly, Sabrina Winter, Kelly Wood.

J.L. BUFORD SCHOOL

Principal—Anson Smith; Teacher—Kurt Strothman. Students—Marc Apostol, Dedrick Bell, Chrissy Bolerjack, Lana Catlin, Eric Cho, Danny Day, Dalyn Eggemeyer, Beth Farris, Richard Flanagan, Jessica Hall, Katrina Haslow, Christie Hulbert, Cortell Jennings, Jared Knapp, Colin McLane, Jennifer Mickelsen, Jeffrey Moore, Chris Palmer, Christy Ray, Jessica Scherer, Adam Stowers, Chris Throgmorton, Gavin Turner, Scott Williams, Mary Jo Willmore, Kip Woodgett, Lloyd Neal, Katheryn Ferrall, Shawn Flatt.

Teacher—Sue Nance. Students—Brandon Anderson, Brian Atchison, Christina Barrett, Jason Bowden, Valerie Carr, Sara Coatney, Nathan Davis, Kenneth Elzy, Melody Etzkorn, Brandon Folsom, Jennifer Galiher, Roger Graham, Sandy Hall, Crystal Hernadez, Josh Johnson, Cynthia Kee, Jennifer McDonald, Michael Martin, Andrew Meyer, David Morgan, Angie Phoenix, Troy Pietsch, Andy Ratcliff, Traci Schell, Amber Strickland, Willie Suggs, Ryan Toliver, Neal Wells, Susanna Widicus, Steven Willis.

DR. ANDY HALL SCHOOL

Principal—Dr. Judith York; Teacher—John Cherry. Students—Michael Barner, Randy Boyd, Kelly Bumpus, Stephanie Caldwell, Broderick Disroe, Tyrone Harris, Stacy Hawkins, Rebecca Hefner, April Hodges, Mat Hodges, Ann Jones, Chris Jones, Michelle Jones, Amy Meeks, Kathy Meredith, Kishia Neal, Misty Odle, Denise Perkins, Kristopher Prior, Scott Scrivner, Earnetta Secrest, Jayson Silliman, Kim Stokes, Larry Wright, Michael Yon, Brad Hale, Keisha Lewis, DeDe Wilson, Wendy Wert.

## "OPERATION JUST CAUSE" VETERANS REMEMBERED

### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. GAYDOS. Mr. Speaker, the month of May has special significance for America's military veterans and their families.

This Monday, May 28, is Memorial Day; a day when the Nation as a whole bows its head in honor of its deceased veterans, particularly those killed in battle.

Earlier this month, on May 8, some of us remembered it was VE Day; the 45th anniversary of the end of World War II in Europe.

And, this past weekend, Saturday, May 19, was "Armed Forces Day" when Americans paused to pay tribute to the men and women who now wear the uniform of their country.

In connection with the latter event, I was privileged to take part in a ceremony hosted by VFW Post 5008 in East Pittsburgh, PA, that may have been the only one of its kind in the Nation. The program did more than just recognize today's military personnel. It singled out for special acknowledgment those veterans who participated in "Operation Just Cause" in Panama last December.

Four members of the armed services who took part in that action dedicated a plaque in memory of the 23 Americans killed in the line of duty.

It has been said the Nation which forgets its veterans will itself be forgotten. Let me assure everyone here the people of East Pittsburgh and southwest Pennsylvania have not—and will not—forget them.

On behalf of my colleagues in the Congress I commend those who participated in the remembrance of "Operation Just Cause" and, in the process, remembering all veterans:

Robert Matthews, commander, VFW Post 5008; Frank Marko, adjutant, American Legion Post 2, Guy Bordogna, past commander/service officer, VFW Post 5008; John Biedrzycki, past county commander/past district commander, VFW; Tom Berlich, mayor of East Pittsburgh; the Reverends Robert J. Boyle, Russell Maurer, John Fedornock, and E. Jerome Alexis, a former POW.

Helen Marchitello, president of VFW Ladies Auxiliary; Kathleen Adams, president of American Legion Ladies Auxiliary; Rear Adm. John Rohleder, USN retired; State Senator Michael Dawida; State Representative Tom Michlovic; Allegheny County Commissioner Larry Dunn; county recorder of deeds Michael Della Vecchia; members of the firing squad from Turtle Creek VFW Post 207; Curt Verner and David Kaufman, who played "Taps"; Helen Harchelroad, decorations; and members of Woodland Hills Junior Chorus.

Dedicating the memorial plaque to their fallen comrades were 1st Lt. Earl Gentile, U.S. Army, of North Braddock, PA., a neighboring community; and Chiefs Lawrence Barrett, Richard Hansen, and David Knauff, representing the U.S. Navy.

Mr. Speaker, what I witnessed last Saturday made me very proud to be an American, very proud to be a veteran and very proud of the people I represent in the Congress of the United States.

## CONGRESS SHOULD STOP DELAYING AID TO CENTRAL AMERICAN EMERGING DEMOCRACIES

### HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. RHODES. Mr. Speaker, President Bush has implored Congress to act expeditiously on his request for assistance to Panama and Nicaragua, and has insisted that Congress not leave for the Memorial Day recess until a bill which he can sign is on his desk.

The President is absolutely right, and in fact I wish he had gone farther and threatened to

use his constitutional power to hold Congress in session until such a bill is passed.

It is nothing short of scandalous that Congress has not acted on the President's request for assistance to Panama, which came in January, or for Nicaragua, which came in March. These two countries are in desperate need. President Chamorro of Nicaragua has been forced to the humiliation of sending a cable to the President, begging him for emergency interim assistance. The President has been forced to the humiliation of telling her that he does not have the authority even to provide her country with emergency assistance.

This is outrageous.

These two countries are in the condition they are in because of explicit policies of the United States. This country imposed economic sanctions on both Panama and Nicaragua, supported military efforts in Nicaragua, and mounted our own military effort in Panama to pursue our goal of promoting democracy in Central America. The people of both countries responded in freely held elections by throwing out their dictators and installing democratic regimes and reforms. They have done what we asked of them, and now we refuse to provide them with the assistance they need to restore their economies and to ensure the success of their aspirations for peace, freedom, and democracy. At the same time, the Congress is threatening to cut off aid to El Salvador, a democracy threatened with destruction by a Marxist insurgency.

Have we gone crazy?

It is time to lay the responsibility for this unconscionable inactivity right where it belongs: at the doorstep of the Democrats in Congress, starting with Speaker FOLEY and Majority Leader MITCHELL, and including every single Democrat Member of the House and Senate. The President of the United States has been reduced to pleading and even threatening the Congress to get it to do its duty and to uphold the word and the obligation of this country and to take the initial steps necessary to restore dignity to the people of Central America.

How can we be proud of forcing the duly elected president of a sovereign nation, whose success we applauded, to come begging to Washington for assistance she was long ago promised? How can we be proud of destroying the economies of two countries to further our interests, and then walking away from them when our goals are achieved? How can we be proud of abandoning a fledgling democracy whose very existence is threatened?

Can we conclude from all of this that the Democrats don't want democracy to succeed in Central America, that they want Noriega back in power in Panama, the Sandinistas to return to Nicaragua, the Marxists to rule El Salvador? What other conclusion can we draw?

President Bush, keep the Congress in town until it does its duty. The people of Nicaragua and Panama deserve no less.

## CLEAN AIR ACT AMENDMENTS OF 1990

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air.

Mr. ROGERS. Mr. Chairman, the measure reported out of the Energy and Commerce Committee is a comprehensive, complex, and tough bill. The House compromise is tougher than the administration's proposal, and in some key aspects, tougher than the legislation which passed the Senate.

I am acutely aware of the 10-year stalemate that has plagued previous attempts to reauthorize the Clean Air Act. Much credit of course must be given to the President for breaking that log jam, and much credit must be given to the able leader of the Energy and Commerce Committee, Mr. DINGELL, and the ranking Republican member from New York, Mr. LENT. Concessions have been worked out on a number of issues, including air toxics provisions, a tail pipe standard agreement, and new requirements for ozone nonattainment problems in the most heavily polluted cities. While the auto companies are not wildly enthusiastic, they have a can do attitude about these requirements, at least for the first phase of these requirements.

But, we live in a very complex industrialized society. For every requirement we enact there is an economic impact, there is a job impact, a small business impact, and those tabs must be paid. The Business Round Table recently published a comprehensive analysis of the costs of various clean air proposals. Their best cost estimates using models developed by several organizations range from $31 billion to $104 billion. Moreover, a Harvard University report on environmental regulation and U.S. economic growth finds that pollution abatement controls were a significant contributor to the growth slowdown of the 1970's. There is an economic price to be paid, and we must readily acknowledge that the price is high.

The Commerce Department reports that we currently spend $32 billion a year on environmental regulations. Consequently, we have seen significant improvements in the air quality across the country. For example, today's cars are 25 times cleaner than 20-year-old cars. The Environmental Protection agency reports that since 1978 emission of ambient airborn lead declined 88 percent. From 1973 to 1988, despite an 85-percent increase in coal use nationwide, sulfur dioxide emissions have decreased 35 percent. Nitrogen oxides have declined 12 percent since peaking in 1978. In my home State of Kentucky, electric utilities have cut sulfur dioxide emissions in half from 1975 to 1985, while increasing the amount of coal burned by 17 percent. All these decreases are the result of the current clean air law.

But as we look for ways to continue these improvements, we may well jeopardize the only course that can guarantee a cleaner environment. The solution to our nation's pollution problems is innovation, better technology, and unleashing the power of the human mind in a free society. The results we seek cannot be achieved if we go after them with the heavy artillery of big government. History tells us that closed societies, where Government controls technology and innovation, have dismal success records at achieving clean air goals. I am concerned that we are forgetting the lessons of history. It is not surprising to me that the West Germans have had to waive the air pollutant standards on East German cars. That is a typical problem of command-control economies. We must not move in that direction. The first principle of any clean air bill should be maximizing flexibility for innovation.

Last, Mr. Chairman, but certainly not least, I want to focus on the acid rain title of the bill. Although this title has also been worked out in committee, I remain deeply concerned that title V is not a fuel-neutral bill. Because of the effects of the so-called cap in phase II, the acid rain provisions will severely restrain the use of coal for utilities in high growth States. Although the committee report acknowledges this problem, the agreement does not, in my opinion, address this issue.

Moreover, the economic impacts of the acid rain title on coal communities in Kentucky will be concentrated on Kentucky's small coal towns which are almost exclusively dependent on mining for their economic viability.

In my district, which is sometimes referred to as a low-sulfur coal area, only 20 percent of the coal can meet the stricter 1.2 pounds-per-milion BTU standard required in phase II. EPA has greatly underestimated the potential mining-related job loss in its cost estimates. According to estimates from the Clean Air Working Group [CAWG], the potential jobs at risk of being lost from clean air in my district could be as high as 1,400. One coal company in particular is now threatened with extinction because of the uniquely crafted features of the sulfur dioxide emission allowance system. Eight hundred jobs in Whitley and Knox counties are at risk. Ironically, this firm produces 2.5 million tons of some of the lowest sulfur coal in the State of Kentucky, and it generates $100 million of revenues into the Kentucky economy. That hits us very hard when parts of my district are already suffering with unemployment rates as high as 18 percent. Although I have discussed this problem with committee members at great length, the committee was unable to resolve the problem.

We also know that the acid rain title will mean higher utility rates for Kentucky's ratepayers. The latest estimates from the Kentucky Energy Cabinet reveal that Kentucky's consumers will pay anywhere from 12 to 18 percent more for their electricity, depending on how utilities comply.

Finally, Mr. Chairman, what about the science behind the acid rain issue? Let me close by discussing the National Acid Rain Precipita-

tion Assessment Program [NAPAP] that was established in 1980. This report was planned as a comprehensive 10-year study. Over the decade, the cost of that program has risen to over one-half billion dollars. The NAPAP Program is the most broadly based analysis on the effects and causes of acid rain ever undertaken. The Commission has reviewed over 5,000 documents and studies, more than 300 authors explained their findings, and more than 100 peer reviewers examined the reports.

Although the final report will be out in September, a draft was presented to an international conference of scientists in February. According to the program administrator, there is little probability that any of the conclusions would be changed. Therefore, the report offers very conclusive and significant findings.

The findings under section 18 that deal with forests are, and I quote:

There is no evidence of a general or unusual decline of forest in the United States or Canada due to acidic deposition or any other stress factor. Moreover, there is no case of forest decline in which acidic deposition is known to be a predominate cause.

In turning to the issue of crop yields, the NAPAP report states and I quote:

Ambient sulfur dioxide concentrations by themselves are not responsible for regional scale crop yield reduction in the United States.

Mr. Chairman, these excerpts offer a revealing look at what the scientists are saying about acid rain. This is a $1 million problem with a $1 billion price tag. Unfortunately, the debate in Congress is not about science. The proposal to control emissions that form acid rain—now being debated on the House floor—could cost $5 to $10 billion a year; the benefits, in terms of reduced damage, are uncertain and, at best, quite small.

I have a summary of each section of the NAPAP report; and, I insert that summary in the RECORD:

SUMMARY

The following summary comments are keyed to the individual section numbers in the Detailed Comments section which follows:

1. $SO_2$ Emission Trends.—National $SO_2$ emissions decreased by approximately 25% from 1973-1983 and have remained relatively constant since that time. Without new controls, emissions may increase or decrease by as much as 20% between 1990 and 2010. Emissions are expected to decline from 2010 to about 2030 as pre-NSPS plants retire. New plant growth after 2010 could result in an increase in total emissions after 2030, when all pre-NSPS plants have been retired.

2. $SO_2$ Effects Categories.—Regional scale $SO_2$ effects are usually evaluated for surface waters, forests, crops, materials, human health and visibility (see items 3 through 8 below).

3. Surface Waters.—A percentage (0 to 6 percent of mid-Atlantic, northeastern and midwestern lakes and streams are acidic and a further percentage (0 to 18 percent additional) are highly sensitive to acidification ($<50$ $\mu$eg L acid neutralizing capacity [ANCI]). Florida is a special case. Biological impacts occur in some acidic and sensitive waters. In the Northeast, the time for biological recovery may be long, so that little near term benefit would be expected to result from rapid emission reduction. In the Mid-Appalachian Region, the time scale of acidification and/or recovery (chemical and biological) is an important unknown. It will be reported in the NAPAP 1990 Assessment. Preliminary findings suggest that in some mid-Atlantic subregions, significant acidification may occur within a few decades.

4. Forests.—Impacts from acidic cloudwater in combination with other stresses affect some high elevation spruce forests in the East. However, there is no evidence of widespread forest damage from acidic deposition. Long-term changes in the chemistry of some sensitive soils are expected, although it is uncertain whether this will affect forest health.

5. Crops.—$SO_2$ emissions do not reduce crop yields, except possibly on a local basis near very large sources. Crop plants are not sensitive to the wet deposition of acidic substances.

6. Visibility.—NAPAP has not conducted independent research on visibility effects or values. However, visibility benefits should be included in any assessment of $SO_2$ emissions reduction, and are being included in NAPAP's Integrated Assessment. Atmospheric sulfate particles derived from $SO_2$ emissions are a significant contributor to reduced visibility and emission reductions will lead to improved visibility.

7. Human Health.—NAPAP program has not conducted independent research on the "direct" effects associated with inhalation of $SO_2$ or its transformation products, which include acid sulfate aerosols. The health risks associated with acid aerosols are being evaluated by EPA for possible inclusion as a National Ambient Air Quality Standard. Reductions of $SO_2$ emissions would reduce risks associated with current loadings. NAPAP continues to evaluate the results of research conducted on the "indirect" health effects of acid deposition (e.g., related to mobilization of lead, mercury or other metals in acidic waters).

8. Materials.—Both wet and dry sulfur deposition accelerates the deterioration of carbonate stone, galvanized steel, paint, etc. Materials benefits would be greatest if deposition in urban areas is reduced, thus local sources need to be considered.

9. Nitrogen Oxide Emissions.—$NO_2$ emission control will be beneficial in several regions. This favors the use of technologies that remove $NO_2$ including low $NO_2$ burners and clean coal technology (CCT) compared to the current generation of scrubbers in cases where controls may be required at existing plants.

10. Impact in Canada of U.S. $SO_2$ Emissions.—U.S. emissions reductions intended to benefit effects categories, e.g., surface waters, health and visibility, in the Adirondack area and New England will also benefit geographical areas in northeastern Canada. There is no supportable evidence, however, for widespread impacts on Canadian forests.

11. Economic Valuation of Benefits.—No comprehensive benefit evaluation is available, nor likely in the next year. Control strategy evaluations must necessarily involve both economic and physical measures.

12. Control Strategy Implications.—Enhanced energy conservation is the lowest cost means of emission reductions. Coal substitution and coal washing (where not already practiced) are low cost options for near term (e.g., by 1995) emission reductions. Clean Coal Technology (CCT) has many benefits (including reduced global climate impacts) compared to current scrubber technology, but will need a post-2000 deadline (e.g., 2003-2005) for full implementation.

For its integrated Assessment, NAPAP is evaluating the timing, magnitude, location, and costs of various control options. The issues revolve around the use of currently available techniques such as, fuel switching, coal cleaning, LIMB, duct injection, and scrubbing versus the next generation of clean coal technologies. The Clean Coal Technology Program will be resolving technical and economic questions of emerging techniques so that their performance and penetration rate can be determined.

13. NAPAP Assessment Reports.—NAPAP's fully reviewed reports (to appear in late-1989 and 1990) and the NAPAP International Conference in February 1990 are intended to assure credibility for the technical information generated by the program for use by policymakers in the development of acid rain control legislation.

1. $SO_2$ Emission Trends—Past and Projected:

1.1 National $SO_2$ emission rates have declined by 25 percent (from 32 to 24 million tons per year) between 1973 and 1988. Much of this reduction occurred in Ohio River Valley and midwestern states. Most of the reduction had been achieved by 1983, and national $SO_2$ emission levels have been approximately constant during the past five years.

1.2 The fraction of $SO_2$ emissions from tall stack sources increased during the 1973-1988 period. As a result, the reduction in long-range transport has been less than the 25 percent reduction in emissions.

1.3 If no new control legislation is adopted, various projections of national $SO_2$ emissions during the next 20 years range between $\pm 20$ percent or more, compared to current levels, depending upon assumptions about energy demand, fuel mix and new control technology penetration rate at existing power plants. Beyond 2010, there is general agreement that $SO_2$ emissions will decline, as a result of the retirement of older, higher emitting plants.

1.4 For this memorandum, a maximum emission reduction of 12 million tons per year (50 percent decrease) was considered, in order to comment on the expected benefits in the case of the largest reductions proposed in the current acid rain debates. Smaller total decreases (e.g., 6, 8 or 10 million tons per year) would result in smaller benefits; however, the relationship between emission reductions and benefits may not be linear. Two schedules for the 50 percent reduction case were considered:

2000 Target: 50 percent decline (from 24 to 12 million tons per year) by 2000, with constant emissions after 2000.

2005 Target: A 25 percent decline (24 to 18 million tons) by 2000, a further 25 percent decline (18 to 12 million tons) by 2005, with constant emissions after 2005.

2. Effects Categories for $SO_2$ Impacts:

2.1 The following effects categories are usually considered when evaluating the potential regional benefits of $SO_2$ emission reductions:

Surface Waters: Effects on lakes, streams, and coastal estuaries—both chemical and biological.

Forests: Effects on unmanaged and commercial forests.

Crops: Effects on agricultural crops.

Materials: Effects on exposed construction materials and cultural resources.

Health: Direct (inhalation) and indirect (other pathways) effects on human health.

Visibility: Effects on visual range through the atmosphere.

2.2 Important Note: Ozone (and other oxidants) and nitrogen oxides also can cause effects in the above categories, as noted in the following sections. Such ozone and nitrogen oxide effects will not be improved by $SO_2$ emission reductions alone.

The extent of changes in effects which may arise from ozone and nitrogen oxide would depend on the selection of control methods which included reductions in more than sulfur emissions alone.

3. Sulfur Deposition Effects on Surface Waters:

3.1 Current Status of Surface Waters: A percentage (0 to 6 percent) of eastern and midwestern lakes and streams are acidic, and a further percentage (0 to 18 percent additional) of these lakes and streams are highly sensitive to acidification. Regional distributions of lake and stream acidity are summarized in the following table. While this survey information cannot be used to establish the cause of a water body's status, it provides a description of the number of acidic and very sensitive surface waters for the population sampled. Biological impacts are expected in acidic waters and may occur in sensitive surface waters. Snowmelt and intense summer storms can increase surface water acidity and lead to many more acidic waters than reported, particularly during biologically sensitive times of the year.

| Region [1] | Status (number of lakes or streams in percent) | |
|---|---|---|
| | Acid (ANC $<0\mu eg\ L^{-1}$ | Most sensitive (ANC $<50\mu eg\ L^{-1}$ |
| Lakes: [2] | | |
| Northeast | 5 | 19 |
| Upper Midwest | 2 | 15 |
| Southern Blue Ridge | 0 | 1 |
| Florida [3] | 22 | 35 |
| Mountainous West | 0 | 17 |
| Streams: | | |
| Interior Mid-Atlantic | 3 | 11 |
| Mid-Atlantic Coastal Plain | 6 | 24 |
| Interior Southeast | 0 | 5 |
| Florida [3] | 12 | 61 |

[1] Regions reported are as defined in NAPAP and EPA documents. Values reported are regional averages. Proportions of acidic and most sensitive surface waters within defined subregions are considerably lower or higher than this average.

[2] Small lakes (less than ten acres) were not sampled by EPA but in some areas (e.g., New York's Adirondack Mountains) are more likely to be acidic than larger lakes.

[3] Compared to other regions, it is better established that surface water acidity in Florida is the result of other processes in addition to acidic deposition.

3.2 Future Projections:

Indications are that the steady-state hypothesis holds in the Northeast, i.e., taken as a region, surface waters are in equilibrium with sulfur inputs. In the Southern Blue Ridge Province systems are not in equilibrium and are still absorbing sulfur. Assuming these conditions to be true, the following results may be expected.

The relationship between acidity changes and sulfur additions is complex. In general, percentage changes in sulfur will be accompanied by small changes in acidity.

3.2.1 Constant $SO_2$ Deposition: In the Northeast, little change will occur: few acidic systems will recover and few additional systems will become acidic. In the Southern Blue Ridge Province, significant changes could occur after the protective capacity of watersheds is exhausted (especially sulfate absorption capacity). Biological impacts will generally follow changes in acidity.

The Mid-Appalachian Region (part of the Interior Mid-Atlantic Region) is presently a key unknown. Significant research for this region is being completed and will be included in the NAPAP 1990 Assessment. This research was undertaken when EPA's National Stream Survey showed that sensitive surface waters occurred in some of the mid-Atlantic regions and the additional analyses suggest that significant acidification may occur within a few decades.

3.2.2 2000 Target Emission Reductions: In the Northeast, a percentage of systems will eventually improve chemically. This response will not be immediate since the watersheds will "bleed" sulfur into surface waters and a limited number of systems may continue to acidify. Due to the $SO_2$ reduction, more systems improve (chemically) than become acidic. Changes in acid neutralizing capacity will not be as large as change in sulfate. Biological recovery (e.g., self-reproducing fish populations) may require additional time. In the Southern Blue Ridge Province, the rate at which acidification occurs is slowed. Although there are few acidic systems at present, it is possible that some systems may become acidic in the future.

3.2.3 2005 Target Emission Reductions: Surface waters in the Northeast will respond similarly to the 2000 target case, except that the responses will be displaced in time, by less than five years. Recovery (chemical and biological) will occur but the response will not be immediate. Systems in the Southern Blue Ridge Province will continue to receive net increases in sulfur for an additional period. More systems may become acidic over this decade, but the additional number of acidified systems would be small.

4. Sulfur Deposition Effects on Forests:

4.1 Current Status: Preliminary indications suggest there is no widespread forest damage from acidic deposition. High elevation spruce forests in the eastern United States are effected by acidic cloud impacts, in combination with other stresses. At high elevations (>3400 ft) in the Adirondack and Green Mountains, the growth of red spruce has declined and mortality has increased (>50 percent dead.) Mortality in the Southern Appalachian Mountains is within the natural range but growth has declined. These forests represent less than 0.01 percent of the total eastern forested area. Cumulative effects of acidic deposition on some soils in the East may affect soil fertility in about 50 years. Sulfur deposition has changed soil nutrient status in the Midwest but this does not appear to have affected forest health.

The finding of "no widespread sulfur damage to forests" is widely acknowledged among most forest scientists, but varies from the views commonly reported in the media. NAPAP's state-of-science critical reports, with extensive reviews by all interest groups, are intended to assure credible findings on forest status. It is generally agreed that ozone reduces forest health in southern California and possibly also in some areas of the eastern U.S.

4.2 Future forecasts

4.2.1 Constant Sulfur Deposition: Continued decline of red spruce may occur at high elevation, although the remaining trees may be genetically more resistant to ozone and acid stress. Effects would occur only in association with another stress, e.g., drought, extreme low temperatures.

Some forest soils in sensitive regions in the East will exhibit reduced fertility from acidic deposition in about 50 years. This may affect forest growth.

4.2.2 2000 Target Emission Reduction: Current information suggests that only high elevation spruce growth would be improved if sulfur deposition were reduced. Although this represents less than 0.01 percent of the forests in the U.S., it is an important natural resoruce in our National Parklands. High elevation forests are also important in erosion protection. Possible changes in soil chemistry in sensitive regions in the East would be reduced and delayed if deposition were significantly reduced.

4.2.3 2000 and 2005 Target Emission Reductions: The reduction of stress on high elevation spruce growth would be delayed by a time of less than five years. Long-term (50-year) soil acidification improvement would be delayed slightly. Cumulative changes in the chemistry of sensitive soils would be reduced, but not as rapidly.

5. Sulfur Deposition Effects on Agricultural Crops:

5.1 Current Status: The yield per acre of most crops in North America has increased steadily over time for the past 60 years because of genetic improvements through crop breeding and improved management practices such as fertilization, irrigation and pesticide application. Year-to-year and site-to-site variations in crop yield are principally the results of natural environmental factors and management differences. Research indicates that crop yield is not impacted by acid rain. However, in many regions of the country, ambient levels of ozone reduce the yields of some crops by 1 to 15%.

5.2 Future Forecasts:

5.2.1 Constant Sulfur Deposition: No changes in crop yield are expected if current levels of $SO_2$ emissions continue.

5.2.2 2000 or 2005 Target Emission Reduction: No agricultural benefits are expected with any reductions in $SO_2$, except possibly on a local scale (within a few miles) near large smelters, refineries, or multiple point sources.

The benefits associated with the input of sulfur (a plant nutrient) to agricultural regions would be reduced if $SO_2$ emissions were reduced. This would result in higher sulfur fertilizer requirements to maintain optimal crop growth. Any control strategies that reduce ozone levels (e.g., $NO_2$ reduction) would likely benefit agricultural production.

6. $SO_2$ Emission Effects on Visibility

6.1 Current Status:

Summertime visibility over much of the eastern U.S. has decreased to a current visual range of generally less than 20km for areas east of the Mississippi River, except for northern New England, where it is 40 to 60km. Estimates of natural visibility in the East suggest background levels of visual range between 60 to 80km; substantially more than current levels in the East but still less than half of current western levels. Degradations in western visibility have not been as severe as in the East. Western visibility generally ranges from 100–200km.

In the rural East, reduced visibility results primarily from light scattering by fine particles, predominantly sulfate particles. In urban areas and in the rural West, light absorption and scattering by carbon particles is also important. The higher humidity in the East significantly increases the light scattering by sulfate particles compared to the West. Scenic vistas are affected by pollution at all 35 National Parks within the contiguous 48 states, and sulfate particles

are the single most important factor in visibility impairment.

6.2 Future Forecasts:

6.2.1 Constant $SO_2$ Emission: Visual range would remain constant under current $SO_2$ emissions levels.

6.2.2 2000 or 2005 Target Emission Reduction: Visual range should improve immediately if $SO_2$ emissions are reduced, although quantification of the relationship is not yet possible. (Quantitative estimates are being prepared for the NAPAP assessment reports.)

7. $SO_2$ Emission Effects on Human Health

7.1 Current Status:

Both $SO_2$ and sulfate aerosols can result in bronchoconstriction in asthmatics and changes in mucociliary clearance. The $SO_2$ National Ambient Air Quality Standards (NAAQS) are met in most regions of the nation, and the remaining $SO_2$ nonattainment cases are subject to further regulatory control under existing Clean Air Act authorities. In 1985, the $SO_2$ NAAQS were exceeded in parts of 60 counties in 16 states.

Only a few direct measurements of ambient acidic sulfate aerosol concentrations have been made, and the highest measured levels are slightly lower than the concentrations which cause the effects mentioned above. However, some epidemiological studies suggest the possibility of long-term chronic effects resulting from exposure to high ambient levels of acid aerosol. EPA is currently considering the need for an acid aerosol ambient standard, and NAPAP is developing its analysis in close collaboration with the EPA regulatory decisionmaking.

Violations of the ozone NAAQS occur in many regions in the U.S. and it is likely that decrements in lung function occur in sensitive individuals in these areas.

Several indirect health impact mechanisms are being evaluated, including the possible mobilization of lead in low pH drinking water systems, and of mercury in lakes, with subsequent accumulation in fish used for food consumption. These studies are continuing; reported risk estimates will likely be low, but may not be negligible in all cases. (NAPAP's state-of-science reports to be released for public review in November 1989 will report on these risks.)

7.2 Future Forecasts:

7.2.1 Constant $SO_2$ Emissions: Chronic effects (if any) from acid aerosols would continue among sensitive individuals.

Indirect health risks (if any) would continue at approximately current levels.

7.2.2 2000 or 2005 Target Emission Reduction: Large-scale (50%) emission reductions would benefit individuals in those localities not currently attaining the $SO_2$ NAAQS. However, broad $SO_2$ emission reductions may not be a very inefficient means of achieving these benefits (i.e., if such emission reductions were not otherwise required).

Indirect health risks (if any) would be reduced. If significant indirect risks were confirmed, evaluation of specific emission reduction requirements in the affected regions would be necessary.

8. Sulfur Deposition Effects on Materials:

8.1 Current Status:

Acidic deposition increases the rate of deterioration of some building materials (e.g., galvanized steel and carbonate stone), some surface coatings (e.g., carbonate paint) and cultural resources (e.g., statues). The relationships between acidic deposition rates and deterioration rates for various materials are not well quantified, and are currently being investigated. Because of the large overall external maintenance costs for structures in the nation, enhanced deterioration from acidic deposition could potentially be significant. This is problematic since no generally accepted estimates of maintenance costs resulting from all air pollution impacts (nor from acidic deposition specifically) are currently available. Also, no credible analysis of consumer maintenance practices has yet been done. Additional information on this issue is anticipated for the 1990 Assessment.

Since most of the nation's materials and cultural resources are in urban areas, the focus of control decisions is similar to health effects, i.e. local sources need to be considered. Emissions from a limited number of remote sources (e.g., power plants) may result in a less than proportional impact on urban structures.

8.2 Future Forecasts:

8.2.1 Constant Sulfur Deposition: Current levels of surface deterioration will continue. Local situations of corrosion and other air pollution impact have been described but larger regional patterns of damage (i.e., those which would benefit from large regional $SO_2$ emissions reduction) are not well-characterized and constitute a significant gap in our knowledge.

8.2.2 2000 or 2005 Target Emission Reduction: Emission reductions will, at a minimum, provide an additional margin of safety relative to possible regional scale materials impacts from acidic deposition. No estimates of specific benefits are currently available. (NAPAP will report on the materials benefits which may result from sulfur emission controls in its Integrated Assessment in 1990. Because of significant data and inventory limitations, specific projections are unlikely. However, bounding estimates will be reported.)

9. Importance of Nitrogen Oxide ($NO_2$) Emission Reductions:

$NO_2$ emissions, which result from all combustion sources (i.e., both motor vehicles and stationary sources) can cause three types of effects on the regional scale:

Acidic deposition—typically 10 to 30 percent of that caused by sulfur oxides in the East. However, $NO_2$ may be a major component of acidic deposition to the extent that it occurs in the West.

Ozone ($O_3$) is produced photochemically by $NO_x$ and volatile organic compounds (VOC). The $O_3$ production or degradation rate depends on the local ratios and absolute amounts of $NO_x$ and VOC. This is very important because of the widespread nonattainment of the $O_3$ standard.

Contribution to eutrophication of coastal waters—may be a significant contribution (10 to 20 percent) in some cases.

Nitrates, derived from $NO_x$ may be important in some acute acidification episodes in surface waters.

In view of the possible effects, the question of $NO_x$ controls should be addressed as part of any evaluation of $SO_2$ control strategy.

Current $SO_2$ scrubber technologies remove very little $NO_x$ emissions. However, currently available low $NO_x$ burners may achieve 30-50 percent reductions. Some of the Clean Coal Technologies now being demonstrated (fluidized bed combustors, advanced scrubbers) also remove 30 to 50 percent of $NO_x$ emissions.

10. Impact of U.S. Emissions on Canada:

The principal impact of acidic deposition in southeastern Canada is the same as in the northeastern United States—acidification of a percentage of watersheds and lakes in geologically sensitive regions. Because of the large number of Canadian lakes in sensitive regions, this is a particular concern. Acidic deposition in both Canada and the United States results from sources on both sides of the border. It is generally agreed that the net transboundary flux of sulfur oxides is from the United States to Canada.

Canadian government representatives frequently assert significant forest damage as a result of acidic deposition. (Indeed, some of the best documentation of severe forest damage from extremely high levels of sulfuric dioxide impact come from the Canadian experience near the nickel smelter in Sudbury, Ontario—the world's largest individual $SO_2$ source.) Most Canadian and U.S. scientists now agree that there is no scientific basis to relate widespread forest effects to current levels of deposition. Long-term cumulative impacts on the fertility of certain soils is being evaluated with respect to possible forest affects.

Canadian representatives have expressed specific concerns about acidic deposition impacts on its sugar maple industry. Current information indicates that insert infestation and management practices significantly contribute to the observed impacts. Note: Canadian production of maple syrup was at a record high level in 1988.

U.S. emissions reductions intended to benefit effects categories (e.g., surface waters, health and visibility) in the Adirondack area and New England will also benefit the principal areas of concern in Southeastern Canada.

II. Economic Valuation of Benefits:

NAPAP has avoided basing its assessments on explicit comparisons of the economic benefits and costs of controls, partly because only limited information is available on the economic values associated with some of the effects. NAPAP is currently conducting economic benefit evaluations in a limited number of situations, and will report on methodologies employed and specific results in its assessment reports.

Because of the impracticality of developing credible benefit estimates for all impacts by 1990, NAPAP is evaluating alternate emission reduction strategies on a comparative basis, in order to report on strategies which achieve largest benefits (as determined by either physical or economic measures, as appropriate) for similar control costs.

Because economic evaluation methodologies are not well agreed upon for all of the effects/benefits categories relevant to acidic deposition, NAPAP's comparative evaluation of control strategies recognizes three categories of benefits. Benefits in individual categories can be cross-compared for the various control strategies evaluated, but cannot be combined into a comprehensive dollar estimate of benefits. The categories are:

(1) Health related benefits—having special public policy importance;

(2) Economically evaluated benefits—including market estimates (e.g., productivity in commercial forests) and behavior base estimates (e.g., recreational use of lakes); and

(3) "Conservation benefits"—including preservation of remote lakes and mountaintop forests, for which economic evaluation methods are not well agreed upon.

12. Control Strategy Implications Resulting From the NAPAP's Effects and Technology Analyses:

The time scale for biological recovery of lakes and streams in the Northeast may be long in the Northeast so that little near

term benefit would be expected to result from rapid emission reduction. The time scale and importance of other effects (lakes and streams in other eastern regions, possible health effects, materials impact, forest response, visibility impacts) is still being evaluated. If the time scale of all significant effects is long, rapid imposition of controls will not result in significant near term benefits. This suggests that slower but less costly control strategies should be evaluated carefully. Specifically:

There is general agreement that moderate emission reductions (e.g., 3 to 5 million tons of $SO_2$) can be achieved within approximately five years by currently available technology. This includes coal substitution, coal cleaning. LIMB duct injection, and enhancements to existing scrubber technology.

LIMB technology has been demonstrated for wall-fired boilers and is attractive from a cost-effectiveness standpoint for control of $SO_2$ and $NO_2$ emissions.

Scrubber technology is continuing to advance with a focus on increased removal efficiency and reliability and/or reduced costs. The current technology is ready for implementation with known cost, performance and environmental impacts.

Clean Coal Technologies, including repowering and advanced energy conversion techniques, are being demonstrated. These technologies are potentially lower emitting and more cost effective than current technologies. The demonstration program will help develop these technologies as well as clarify their ultimate performance, cost, and penetration rates.

The Clean Coal Technologies (CCT) currently being demonstrated have several significant advantages compared to the current generation of flue gas desulfurization (scrubber) technologies:

Improved energy efficiency through greater kilowatt output per ton of fuel consumed (less $CO_2$ emissions and global climate impact).

Significant $NO_2$ emission reduction (30-50 percent in some cases) not achieved by current scrubbers.

More manageable wastes, compared to scrubber sludge.

Potential future export markets (coal and combustion technology) for the United States.

Wide deployment of CCT instead of scrubbers would require an extension of the deadline to achieve the full planned emission reduction beyond 2000 (i.e., to 2003-2005) unless a "crash program" of technology demonstrations is pursued.

13. Future NAPAP Assessment Reports on Benefits and Strategy Evaluation:

NAPAP will complete a large series of State-of-Science and State-of-Technology reviews, and an Integrated Assessment reporting on comparative evaluations of control strategy options, during the next 16 months. All NAPAP documents will have extensive review by U.S. and foreign scientists, and interest groups concerned with acid rain issues. These NAPAP reports will provide the following:

Credibility.—This is the most important scientific product of NAPAP's work. Reasonable national agreement on the major cause-effect relationships, and the effectiveness of the planned control strategy, is most important. NAPAP's extensive scientific and public review procedures address the need for credibility. The NAPAP International Conference on Acid Rain, scheduled for February 1990, will be the most visible part of the extensive review process.

Completion of scientific, technological and economic studies.—NAPAP will continue to provide decision-makers currently available information upon requst, for analysis of legislative options, while its several key cause-effect analyses and other studies are being completed.

Comparative evaluation of strategies.—These analyses will aid decision-makers in the evaluation of legislative options until a law is adopted, and will guide regulatory management in the years ahead.

## H.R. 2273

### HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. CLEMENT. Mr. Speaker, I am so happy to see this momentous legislation finally come to the floor for a vote. It has been a long time coming—too long in my opinion—but it looks like the handicapped community is about to receive the same civil rights guarantees that the rest of us already take for granted.

Mr. Speaker, I have long been a cosponsor of H.R. 2273, the Americans With Disabilities Act, and feel that the rights and protections that it provides for the thousands of handicapped individuals amongst us is long overdue. Most of us do not know and, therefore, cannot empathize with the plight of the handicapped in our society. We do not know, for example, how it must feel to be unable to travel back and forth to work or school, how it must feel to be unable to get a drink of water because the fountain is too high, or to be unable to use a restroom because it is not properly equipped to accommodate a handicapped person.

Passage of the legislation before us will make life a little easier for those who already have it hard. It will make it easier for these people to function independently in a society that is always in a hurry and does not have time to lend a helping hand.

We have heard a lot of economic concerns in relation to this bill; about how much its going to cost a local government or a private company to abide by the regulations that the ADA will impose. Economic considerations are very real; I share them and I personally know the Public Works Committee, of which I am member—as well as the other committees of jurisdiction I am sure—has tried to be reasonable in terms of effective dates and phase-in requirements so as to ease the financial strain of meeting the ADA.

However, what we are talking about here is no less than civil rights guarantees for the handicapped. What we are talking about is the right to work, the right to travel, the right to be independent in America—the country that the world looks to for freedom and opportunity. After all, denying the handicapped the rights of the ADA because of financial considerations is akin to denying blacks the vote because it would cost a lot of money to register them and to establish more polling places to accommodate the additional voters.

The ADA is right, Mr. Speaker, and it is badly needed throughout America. I stand ready to fully support the intent of the bill and sincerely hope that it will help to ease some of the stress and burden in the lives of our handicapped.

## LET US COMMEMORATE THOSE BRAVE CHINESE WHO HAVE SACRIFICED FOR HUMAN RIGHTS IN CHINA

### HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 22, 1990*

Mr. FEIGHAN. Mr. Speaker, 1 year ago thousands of brave, youthful, Chinese peacefully demonstrated in Tiananmen Square in Beijing. Far from attempting to be disruptful, they wanted nothing more than to engage in dialogue with those who claimed to rule in the name of the people. The demonstrators wanted to offer their input into solving the corruption that permeates the Chinese leadership; they wanted to offer their support for reformist elements in that leadership. They merely expressed their desire that the leadership of their country be more responsive to the expressed needs of the people.

As we are so painfully aware, their peaceful and reasonable demands were met with a brutal and unconscionable reaction by the Chinese leadership. Hundreds were slaughtered; many thousands more were hunted down and arrested. Confessions and self-incriminations were extracted and the guilty were executed or thrown into prison, where many languish to this day.

I would like to draw attention to the case of Su Ding. Su is dean of the East-West Art Institute of the Sichuan Academy of Social Sciences and was arrested last August while trying to leave China to serve as a visiting scholar this year at Arizona State University. He was charged with having engaged in anti-party activities during the time of the Tiananmen Square demonstrations and with favorably recommending a book that was labeled "Anti-party." Su is beieved held incommunicado. I became aware of this case through the efforts of my distinguished colleagues, Mr. TED WEISS and Mr. JOHN MILLER who have initiated an "adopt-a-prisoner" crusade to draw attention to individual cases of repression in China. I urge my colleagues to join us in doing so.

Last week, the Human Rights, Asia and Pacific and International Economic Policy and Trade Subcommittees of the Foreign Affairs Committee heard testimony from many reputable sources concerning the current human rights situation in China. All agreed that in the year since the crackdown in Tiananmen Square, the situation has gotten worse. To now, the Chinese leadership has been unresponsive to United States efforts to encourage them to improve their human rights record. Now, Congress must increase the pressure on the leadership of China to do so.

Today we have before us House Resolution 393 and I commend my colleague Mr. GUS YATRON, for having introduced it. This resolution expresses the sympathy that all Americans feel for those Chinese who were murdered for daring to stand up for their beliefs. It expresses our support for those Chinese still

fearing reprisal for having expressed their yearning for democracy, and commends those who have incurred risk in continuing that struggle. This resolution calls on the Government of China to release those still imprisoned for their beliefs and to respect internationally accepted human rights now and in the future. I am an original cosponsor of this legislation, and I respectfully urge all my colleagues to join me in support of it.

# SENATE—*Wednesday, May 23, 1990*

*(Legislative day of Wednesday, April 18, 1990)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Owe no man any thing, but to love one another: for he that loveth another hath fulfilled the law.* * * Love worketh no ill to his neighbour: therefore love is the fulfilling of the law.*—Romans 13:8,10.

Eternal God, in the pragmatic world in which we live, in the culture in which we are immersed, these words of the Apostle Paul sound totally irrelevant. Yet we know in our hearts that this is the wisdom of the ages—the opposite of violence, hate, indifference, and all the destructive forces in life. Somehow, Father in Heaven, quicken us to this ultimate reality—the way of reconciliation, healing, and fulfillment. Help us to see the world is starved for love, wives for love of husbands, husbands for love of wives, children for love of parents, parents for love of children. Help us to understand, Father in Heaven, like oil eliminates friction, love brings peace. Help us to love one another as Thou dost love us.

In Jesus' name whose love is unconditional, universal and eternal. Amen.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## OMNIBUS CRIME BILL

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1970, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hatch amendment No. 1681, to strike provisions that would prohibit the manufacture, sale, and possession of certain semiautomatic (assault) weapons.

AMENDMENT NO. 1681

The PRESIDENT pro tempore. There will now be 45 minutes debate on the Hatch amendment, amendment No. 1681, with 30 minutes under the control of the Senator from Arizona [Mr. DECONCINI] and 15 minutes under the control of the Senator from Utah, [Mr. HATCH].

Who seeks recognition? The Senator from Utah, [Mr. HATCH].

Mr. HATCH. Mr. President, I ask unanimous consent we put in a quorum call with the time charged against neither Senator.

The PRESIDENT pro tempore. The Chair did not understand the request.

Mr. HATCH. Mr. President, I ask unanimous consent we put in a quorum call with the time charged against neither Senator DECONCINI nor myself. He is coming and he will, I think, speak first.

The PRESIDENT pro tempore. Without objection, it is so ordered. The absence of the quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, before we vote on my amendment to strike the assault weapons language from this bill, I would like to list one last time the reasons I oppose the assault weapons provisions.

This bill would, for the first time, ban semiautomatic firearms. There is no functional difference between the weapons listed in this bill and any other semiautomatic weapon. They all employ a firing action that has been commonly used in firearms for over 100 years. The only difference between these weapons and other semiautomatic firearms is their appearance.

Despite some of the arguments we heard during earlier debate on this amendment, these weapons are not the weapons of choice of criminals. Statistics tell us that handguns and shotguns are still the most likely weapons to be used in the commission of a crime. For example, of all of the guns seized by police in Los Angeles and San Francisco in 1988, less than 3 percent were the assault style weapons listed in this and other bills. In New York City, police recovered more than 16,300 guns in 1988—only 25 were semiautomatic military-style rifles now banned from importation by the administration. And here in Washington, DC, police report that none of the assault weapons banned from importation were recovered in 1988. The fact that the Bureau of Alcohol, Tobacco and Firearms is tracing more assault weapons does not lend support to this language. BATF only traces firearms which it is asked to trace. They do not trace every crime weapon. And the Bureau has stated that they do not necessarily agree with those who cite their trace findings as indicative of the percentage of these weapons used in the commission of crimes.

The vast majority of the hundreds of thousands of the listed weapons already possessed around the country, are used for legitimate lawful activities such as self-defense in the home, target shooting, and collecting. Some for hunting, but mainly for legitimate lawful activities of self-defense in the home, target shooting, and collecting. There may be some who use these for hunting, but not very many.

While they may not be used by many people for hunting purposes, I would simply note that the second amendment says nothing about limiting the use or ownership of firearms to hunting.

This language focuses not on crime or criminals, it focuses on the second amendment rights of law-abiding citizens. It will not prevent hardened criminals or deranged psychopaths from obtaining a weapon if that is what they want to do. These people will find their weapons of choice no matter how many guns we ban. Since the majority of crime weapons are obtained through illegal channels, this assault weapons ban will simply make no difference at all.

This assault weapons language imposes self-registration requirements on current owners of restricted firearms. These requirements impose a complicated, cumbersome, unworkable, and unfair imposition on honest, law-abiding gun owners. The criminals will not comply with these requirements. And we do not know if the administration even believes that this registration system will work. We do know, however, that the administration is opposed to this portion of the bill.

Current owners of these firearms may find themselves in violation of the registration requirements, through no fault of their own, if they cannot obtain copies of the 4473 forms that result from future sales of the weapons unknown to the current owner.

Anyone who violates the record-keeping registration requirements im-

posed by this bill will be in violation of Federal law, and could be charged with a felony. Even technical mistakes that result in a violation of these confusing requirements can result in a felony charge which, under firearms statutes already a part of the Criminal Code, would prohibit that person from ever owning another firearm.

This would mean all firearms, not just assault weapons. As I already mentioned, some will find that they have violated the law long after they may have sold the weapon involved simply because the new owner chose to transfer the firearm without providing any type of notification to the original owner.

If these assault weapons, which the bill would ban, are so bad, then why are these provisions effective for only 3 years? Indeed, these particular provisions in S. 1970 are even stranger yet.

The Senate just yesterday tabled by an overwhelming 82-to-17 vote the Metzenbaum amendment which would have banned all so-called assault weapons. In my opinion, such a ban would not have prevented criminals from obtaining any of these firearms or any other firearms. The criminal always finds a way to get the weapon he wants.

The provisions of S. 1970 ban fewer so-called assault weapons than the Metzenbaum amendment banned. Even if the provisions of S. 1970 achieved the impossible and kept all the listed guns out of the hands of criminals, all the guns that remain lawful for purchase under this bill would be readily available. These provisions cannot possibly, even on their face, keep so-called assault weapons out of the hands of hardened criminals.

Mr. President, these provisions strike at the heart of our constitutionally protected right to keep and bear arms. Other than their appearance, these weapons are not different from millions of other weapons that are always considered legitimate. There are legitimate, lawful purposes for owning these weapons, and I do not believe that we should be opening the door to banning new classes of weapons simply because the media chooses to single them out. The facts do not support the need to ban these weapons.

Mr. President, I just have to say in closing that the only people who are going to be hurt by the DeConcini language in this bill are going to be the honest, law-abiding citizens who want to collect, own, target shoot, and, yes, sometimes hunt with these guns. There are legitimate rights of these people to collect these weapons. They are not going to misuse them. The fact of the matter is we are always going to have criminals get what they want and they are not going to register pursuant to the onerous burdens in this bill within the underlying bill.

Mr. President, I am tired of the honest, law-abiding gun owners of this country being assaulted all the time by those who really have as their own purpose the desire of getting rid of all guns. I am not speaking in this regard of the Senator from Arizona. I know he feels differently on that. But most of the impetus for this type of legislation comes from those who really want to ban all weapons.

Mr. President, there is no real, logical, justifiable reason for doing it in this case and taking away the rights of decent, law-abiding owners of guns. The fact of the matter is, I hope our colleagues will support this amendment and strike these provisions from the bill so we can then get about doing the rest of the criminal bill itself.

I reserve the remainder of my time.

I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDENT pro tempore. Without objection, the Senator's request will be granted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, further proceedings under the quorum call will be rescinded.

The Senator from Arizona [Mr. DECONCINI] is recognized.

Mr. DECONCINI. I thank the Chair.

Mr. President, we have heard the arguments that these weapons that criminals use are stolen and that they are illegally obtained. Last night, I introduced the information from the Oakland report that showed only 12 percent of close to the 400 guns that were confiscated over a 3-year period in Oakland were illegal guns. They were not purchased over the counter.

So these weapons are available today over the counter in any gun store that you go to. The people who use these guns for criminal activity go in and buy them. Why should they steal them when all they have to do is send in a straw man, if they are a felon? In Arizona, we have evidence that for $100 they get a straw man to go in and buy these guns. Why should they involve themselves with any kind of criminal activity when it is very easy to buy them?

Mr. MCCLURE. Will the Senator yield on that point?

Mr. DECONCINI. On the Senator's time, I will be glad to yield.

Mr. HATCH. I yield to the Senator from Idaho.

Mr. MCCLURE. I want the record to reflect immediately after the comments of the Senator from Arizona that if, indeed, a straw man was sent in, that is an illegal purchase and, therefore, if you are depending on statistics that show an illegal purchase but based on a straw man purchase that is, by law, illegal today.

Mr. DECONCINI. Let me just respond to the Senator, I said in Arizona.

Mr. HATCH. Is this on the Senator's time?

Mr. DECONCINI. This is my time if the Chair would so rule that I am back on my time.

The PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. DECONCINI. I said in Arizona there was evidence of a straw man. The report I cited last night, the Oakland report, indicated that 12 percent—Oakland, CA, did a survey—of the 383 assault weapons confiscated between 1986 and 1988 were illegally obtained. The remaining 88 percent were purchased legally, over the counter. I think it is important to note, this gun costs less than $300 so why would you want to steal it? Good Lord, drug dealers can certainly afford $300 for a gun.

Mr. HATCH. I say to the Senator on that point——

Mr. DECONCINI. On the Senator's time.

Mr. HATCH. The testimony before the committee was 80 percent.

Mr. DECONCINI. Pardon?

Mr. HATCH. That 80 percent of all these guns were illegally obtained. I agree there are aberrations in the country, that may be true, although I do not think they can show whether straw men purchased the guns or not. Eighty percent is the testimony before the committee.

Mr. DECONCINI. Mr. President, all I can cite is the most current survey taken in Oakland, CA, by the law enforcement people there of the confiscated weapons that they confiscated during arrest of criminal activity. Only 12 percent of the 383 assault weapons confiscated between that time were illegally obtained.

Mr. President, I would like to go through some of these guns drug dealers use that the opponents want us to believe are the guns law-abiding citizens want to use to hunt and to shoot targets.

We first have the MAC-11. This gun happens to already be banned. BATF banned the production of the MAC-10 in 1982 because it was too easily converted to fully automatic. The company continues to make this gun, however, and it is, based on the design, only changed enough to not fall into the category of the MAC-10. It is equipped with a 32-round magazine, a favorite of surveillance and soldiers of fortune. This gun is for military purposes. It is cheap. It is from $200 to $300. It is ad-

vertised by its manufacturer as "the gun that made the eighties roar."

Next we have the AK-47, which is so familiar to so many people. It is manufactured by Poly Technologies. It is a civilian model of the fully automatic AK-47 designed by the Soviets and currently produced by the Chinese for United States import. It is equipped with a 30-round magazine but it can handle a 5-, 20- or 40-round magazine as well as a 75-round magazine. As fast as you can pull the trigger, that gun will discharge, so you can shoot easily 75 rounds in 1 minute. This is the gun used by Purdy in Stockton, CA. The price is about $370. But recently the gun price has gone up, since the shooting in Stockton, to about $1,500. We have a number of examples of this gun being used in Arizona against law enforcement.

Then we have the Colt AR-15. It is a civilian model of the military M-16 that was widely used in Vietnam, not for hunting of deer but hunting of the Vietcong. It is equipped with a 5-round magazine but it can hold a 20- or 30-round magazine. Its list price is $750. In 1988 and 1989 it was ranked third among all assault guns used in crime according to the BATF trace statistics. Of 591 weapons traced in 1988 and in just the first quarter of 1989, the only records I have here, they had 128 of those confiscated.

The next one is the TEC-9. It is a 9-millimeter Lugar pistol, automatic pistol. It is domestically produced in Florida, as I have said before. It is favored as an intimidation factor, advertised as an intimidation factor. A Miami manufacturer manufactures about 3,000 of these a month. It is equipped with a 36-round magazine. It can take more. But that is this part here. Those rounds can be fired in about 45 seconds. It is favored by drug dealers because the TEC-9 is inexpensive and it is easily concealable within a coat. The list price is $380, sometimes less than that.

Ten assault gun models account for 90 percent of the crimes involving assault guns. One out of every five assault weapons traded is a TEC-9.

The next one I want to show you is called the Steyr-Aug. This is manufactured in Austria. It is a civilian version of the Austrian assault weapon originally designed to be converted to different models. It accepts a variety of military hardware, 30 rounds standard, detachable magazine. It can take up to 42 rounds.

Mr. President, this is a gun that you do not see hunters using as they tromp through the woods shooting wild turkey or deer, or even on the shooting range.

The next one is the Uzi Galil. This is a civilian version of the newest combat weapon produced by Israel military industries. It has been banned by the President, as have all of these foreign imports. We do not know how long that will last. This will make it permanent for 3 years. It is equipped with a telescopic lens. It has a muzzle velocity of 860 millimeters per second. It has not shown up in the tracing statistics yet.

There is also the Uzi carbine. It is a rifle and pistol combined, a civilian model of the fully automated Uzi introduced by the Israel military industry for import. This is the gun the Israeli military use when they go to war. It is equipped with 10- or 25-round magazine.

We have the Beretta AR-70 manufactured in Beretta, Italy. This is how this gun is advertised:

> When the name of the game is firepower. Ultimate rifle for shooters who demand optimum firepower. Offers heavy firepower, yet weighs about 8 pounds.

This is a weapon that is being used against our police today.

Then we have the FN-FAL manufactured in Belgium. It is the NATO caliber semiautomatic rifle. This is a combat weapon used by NATO in Europe today if, God forbid, there was military action. This has a detachable magazine. Twenty rounds is standard. It can take 10 rounds. It is ranked 13 among assault weapons traced in the first quarter of 1989.

Then we have what is known as the Streetsweeper, the Striker 12. This is domestically produced after the import ban by the President. It is a 12-round, drum fed with 12-gauge ammunition. It fires 12 rounds of 12 gauge in less than 3 seconds. Yesterday I said it would take 15 seconds. In less than 3 seconds this chamber can be emptied. It is not going to be emptied on deer because it would absolutely blow the deer away. It is going to be emptied on people and is used for spraying human beings. That was the reason it was developed by the South Africans as an apartheid control weapon. It is for the military, and this is the law enforcement version. It is advertised as the perfect police entry weapon, born in Rhodesia, improved in South Africa, and then patented and perfected and totally manufactured in the United States. It ranks 17 among all assault weapons traced in the first quarter of 1989.

Mr. President, it is clear to me that the time has come that these guns should not be available on the street, at least for a trial period of time. We are not infringing on anybody's second amendment rights. We bar people from having bazookas today or Stinger missiles and machineguns because it has been upheld that Congress can put on those restrictions without barring and infringing on the second amendment rights of anybody.

So, Mr. President, I am hopeful that my colleagues in this Chamber will make the tough decision. I know the political ramifications of even talking about this. Believe me, I have had this bill up around here for more than a year. I had a recall petition attempted against me because I dared to offer something to fight drugs in what I thought was a constructive way that would not infringe on the second amendment rights.

Mr. President, I am going to ask unanimous consent that the vote on the Hatch amendment occur at 10:30, and that any excess time under the Hatch amendment be divided between both Senator HATCH and myself.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. DECONCINI. Excuse me, Mr. President. That the vote be set for 10:35. I ask unanimous consent that the request be changed to 10:35.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears no objection. It is so ordered.

Mr. DECONCINI. I thank the Chair.

I understand there are a couple of Senators who do want to speak in favor of this amendment and are on their way. I only say, Mr. President, it is really whether or not we want to support law enforcement finally with a modest approach to this particular problem that they are facing on a day-to-day basis.

Mr. President, I ask unanimous consent that a letter from the Arizona Association of Chiefs of Police, the Grand Lodge of the Fraternal Order of Police, National Headquarters, and several other letters of support from law enforcement agencies be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ARIZONA ASSOCIATION
OF CHIEFS OF POLICE,
*Phoenix, AZ, August 8, 1989.*

Hon. DENNIS DECONCINI,
*U.S. Senate, Washington, DC.*

Dear SENATOR DECONCINI: On behalf of the Arizona Association of Chiefs of Police, I would like to commend your support of legislation banning certain specified assault rifles. As you are aware, in January of this year a deputy sheriff was shot to death near Flagstaff by criminals using assault rifles.

This illustrates the nationwide problem law enforcement officers are facing today from the unrestricted availability of assault weapons to criminals and persons who are mentally unstable.

It is clear that the National Rifle Association leadership has chosen to take an unrealistic and inflexible stance evidenced by their continued opposition to any legislation attempting to regulate assault weapons. These weapons have absolutely no hunting or legitimate sporting purpose. It is time that all Americans display your type of courage and conviction to take a stand against the NRA and their unreasonable and uncompromising policies.

I have personally talked to many members of the NRA who do not support the stance their leadership is taking. These people feel the NRA leadership is entirely out of touch with the membership. While we all agree

banning certain rifles will not be the overall cure for the problem, it is a step in the right direction. Legislation such as you are sponsoring gives law enforcement officers a tool which enables us to deal with people who illegally possess these dangerous weapons.

Once again, you have displayed your courage, initiative and integrity to support law enforcement officers and protect innocent citizens from slaughter. It does not go unnoticed you do this in the face of strong opposition from the powerful NRA lobby. Rest assured the Chiefs Association will stand behind you and asssist in any way possible to overcome this strong opposition.

Thank you again for your courageous efforts to combat violence and drug trafficking in this country.

Sincerely,

GARY D. LATHAM,
*Chief of Police.*

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FRATERNAL ORDER OF POLICE,
*Louisville, KY, July 16, 1989.*

Hon. DENNIS DECONCINI,
*U.S. Senate, E. Broadway Blvd., Tucson, AZ.*

DEAR SENATOR DECONCINI: Congratulations from the more than 4,000 law enforcement officers in Arizona who support your efforts in SB747. At a recent state conference in Prescott, the assault weapons bills were discussed. We support your effort to limit these types of weapons. Many of us are sportsmen and members of the NRA, and we are concerned with the impact of your bill. But more importantly, we are mindful of the ever increasing daily assaults on ourselves and the innocent victims in America.

We are fed up with the mindless argument that sportsmen and every day citizens have a right to own any type of weapon available. If your bill was unconstitutional, the NRA would not be putting millions into the lobbying effort. They would simply win the battle in court. Common sense tells us that gun legislation is not new and must keep pace with growing technology.

We urge you not to withdraw your bill in favor of the Thurmond Crime Package. We are not in favor of a watered down version that will not solve anything.

Very truly yours,

PATRICK DEJONGHE.

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FRATERNAL ORDER OF POLICE,
*Louisville, KY.*

DEAR MR. MCCOY: I would also like to extend the opportunity to the Senator to write an article in our newsletter. We mail to over 6,000 members in Arizona four times a year. You can send any communication directly to me and I will take care to have it included.

Sincerely yours,

PAT.

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METROPOLITAN POLICE DEPARTMENT,
*St. Louis, MO, February 7, 1989.*

Senator PAUL SIMON,
*Subcommittee on the Constitution, of the Senate Judiciary Committee, Washington, DC.*

DEAR SENATOR SIMON: I regret that I will not be able to attend the Senate Hearings concerning Semi-Automatic Assault Weapons being conducted on Friday, February 10, 1989, but my schedule will not allow me to leave my duties to the Department at this time.

As a law enforcement official I am troubled by the increasing misuse of these types of weapons. I have always supported and will continue to support any legislation that will protect the public from the sale of weapons which have no sporting value. The public and law enforcement community are facing an ever increasing danger from those persons who have used the current laws to purchase these type weapons which more and more are being modified and used to commit crimes of horrible proportion. The Brady Amendment and the ban on Teflon coated bullets are steps in the right direction, but even tighter controls are needed in the areas of semi-automatic and automatic weapons being made accessible to just anyone who wishes to purchase one.

I will continue to fight any legislation which will allow semi-automatic assault weapons to flourish unchecked and out of control, and give my whole-hearted endorsement to legislation prohibiting unqualified access to any weapons which have no sporting value or legitimate need for anyone to possess.

If I can be of any future help to you concerning this or similar matters, please do not fail to call upon me.

Sincerely,

ROBERT E. SCHEETZ,
*Colonel, Chief of Police.*

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POLICE OFFICERS ASSOCIATION,
JOLIET POLICE DEPARTMENT,
*Joliet, IL, April 7, 1989.*

Hon. PAUL SIMON,
*Dirksen Senate Building, U.S. Senate, Washington, DC.*

DEAR SENATOR SIMON: I have been a Joliet police officer for over twenty-one years. During that time, I have seen first hand the tragedies caused by the proliferation of firearms in our nation.

When I first became a police officer, a "man with a gun" or "shots fired" call in Joliet was unusual. Now these types of calls have become common. This city has been faced with an escalating gang problem. The criminal used to be poorly armed. Now we are taking well-made 9mm semi-automatic pistols off the street. It is just a matter of time before we are opposed by automatic weapons with superior fire-power.

It is for this reason that I am urging you to vote in favor of "The Assault Weapon Control Act of 1989," S. 386. I believe the survival of police officers in the future may literally depend on the elimination of AK-47's, UZI's and similar weapons.

Please vote in favor of this bill in order to take these military weapons off the market. I would appreciate hearing your position on this matter. Thank you.

Sincerely,

LT. NICHOLAS W. WEISS,
*Chairman.*

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CITY OF SAN JOSE, CA,
*May 2, 1989.*

Senator HOWARD METZENBAUM,
*Russell Senate Office Building, Washington, DC.*

DEAR SENATOR METZENBAUM: The San Jose Police Department strongly supports your effort to outlaw military type assault rifles. The mayor and city council of San Jose have also passed a resolution urging the State Legislature to outlaw assault rifles. We view these weapons as having no place in a civilized society. Last year, within the boundaries of San Jose alone we seized 154 such weapons; tragically, each and every weapon is capable of causing a Stockton type massacre.

The following organizations also want assault rifles outlawed: the National Association of Chiefs of Police, the Major City Police Chief's Association, the California Police Chief's Association, the California Peace Officers Association, the San Jose Peace Officers Association (the collective bargaining agency for all San Jose police officers), the Federation of Police, the State Troopers Association, the Police Executive Research Forum and just about every legitimate law enforcement agency in the United States.

Hopefully your committee will not be distracted by the National Rifle Association's frantic efforts to confuse the public about the overwhelming desire of law enforcement to have these weapons of war outlawed. The NRA has searched throughout the country to find a few individual police officers opposed to the overwhelming majority opinion of law enforcement. These individuals have every right to their own opinion but your committee should realize that they are a very small minority. I urge you in the interest of the safety of police officers and citizens alike to pass this legislation.

Sincerely,

JOSEPH D. MCNAMARA,
*Chief of Police.*

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NATIONAL SHERIFFS' ASSOCIATION,
*Alexandria, VA.*

RESOLUTION—NATIONAL SHERIFFS' ASSOCIATION SUPPORT OF THE S. 386

Whereas, America's Sheriffs have major responsibilities for local law enforcement in the United States; and

Whereas, Sheriffs, their officers and deputies are being confronted with criminals, including narcotics violators and other violent criminals; and

Whereas, narcotics violators and other violent criminals frequently arm themselves with assault type semi-automatic weapons and misuse these weapons in the pursuit of their criminal activity against law enforcement; and

Whereas, the continued use of these assault weapons has contributed to the rising number of murders of law enforcement officers and innocent civilian victims

Therefore, be it resolved that the National Sheriffs' Association goes on record as strongly supporting the Congress of the United States passage of Senate Bill-386 or similar legislation at the Federal level.

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ILLINOIS ASSOCIATION OF CHIEFS OF POLICE,
*Winnetka, IL, March 22, 1989.*

The PRESIDENT,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: You are to be applauded for your decision to stop the import of military-style semi-automatic assault weapons.

It is my understanding that First Lady Barbara Bush and the country's newly installed Drug Czar William Bennett provided measurable support for your heightened concern about the mentality that says these assault weapons have some kind of useful purpose for the civilian population.

Now you must work to focus the attention of Congress on the passage of laws to ban the sale, possession, and manufacture of para-military assault rifles like the Chinese-made AK-47. Both houses of the legislature in California have recently passed such laws and even their conservative Governor George Deukmejian has said he will sign such a law.

Additionally, Colt Industry's decision to suspend sales of such assault weapons is admirable. We would like to see other gun

manufacturers in the United States take a similar lead.

For the safety and welfare of all of our citizens, there really is no choice but to try to eliminate these assault weapons while clearly separating this issue from all the other gun control debates rending this country.

You have the ability to influence legislation which could make access to these assault weapons more difficult. It seems a small price to pay and we sincerely believe that the true hunter/fisherman/rifleman will not suffer as a result of such a sane, limited, freedom-respecting method of limiting gun violence.

Sincerely,

CHIEF CARL DOBBS,
*President.*

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[Vanguard, San Jose Police Officer's Association, March 1989]

PENDING LEGISLATION ON "ASSAULT TYPE" WEAPONS

(By Carro J. Grande, President)

Members of the San Jose Police Officers Association have voted overwhelmingly to support California State Attorney General John Van de Kamp in his endorsement of Senate Bill 292 and Assembly Bill 357. Both pieces of legislation address a level of responsibility avoided by elected bodies over the years because of well organized lobbies threatening an erosion of our constitutional rights.

San Jose's police officers have very recently experienced a serious loss of life associated with the possession of a deadly weapon by a careless and deranged person. Similar tragedies have also recently occurred in Stockton and Los Angeles, California, inflicted by persons possessing the assault type weapons addressed in the proposed legislation. We believe it is time the majority of our society be protected and shielded from the trauma inflicted by the reckless ownership and discharging of such weapons. The proposed legislation protects the law-abiding rational citizens in their desire to possess assault type weapons, but blanketly removes the guns access by the unstable individual who feels a need to vent their personal image of low self-esteem on unsuspecting victims. We applaud the authors of AB 292 and AB 357 as this legislation is socially necessary and long overdue.

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*Office of the Mayor,*
*Boston, MA, February 10, 1989.*

Hon. PAUL SIMON,
*Chair, Senate Judiciary Committee's Subcommittee on the Constitution, Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR SIMON: As you well know, the escalating use of high powered weapons is one of the most important issues facing our cities today. The "drug war" we have been referring to for years has become a real war on the streets of our cities with real weapons now the rule, not the exception. The firepower of the drug lords armed with assault weapons has overpowered that of our nation's police departments and put the lives of police officers and innocent people in danger every day. I commend you for moving quickly to hold hearings on proposals to ban the sale of these assault weapons. Your leadership on this critical issue in the 101st Congress will be invaluable.

Attached is a statement which I delivered at the U.S. Conference of Mayor's Second Annual Conference on Crime and Drugs on Monday, February 6, 1989. The message was well received and led to passage of a resolution by the Mayors and Police Chief's in attendance calling for a ban on the manufacture and importation of semi-automatic assault weapons. Conference participants also called on Congress to reverse its position on the Brady Amendment "in view of the mass murders of children and other innocent people that have taken place in this country since its defeat."

While I applaud local initiatives to ban the sale of assault weapons and/or to impose a waiting period on the purchase of firearms, this is not a problem which can be solved city by city or even state by state. It is a national problem which cries out for a national solution, which is why your leadership is so important.

Unlike many of the other pressing problems you and I confront each day, the solution to the gun issue has virtually no price tag. The only price tag to be paid is if Congress fails to act. It is the increased social costs of fear and death in our neighborhoods. It is the price paid when a policeman is gunned down or when a child kills a child over a vial of crack.

I respectfully request that my attached statement along with editorials which appeared in the Boston Herald and Boston Globe be submitted for the record at today's hearing. I urge immediate consideration of legislation such as S. 386 introduced by Senator Metzenbaum, and quick passage of a final bill.

Again, thank you for your leadership on this very critical issue.

Sincerely,

RAYMOND L. FLYNN,
*Mayor of Boston.*

Mr. DECONCINI. Mr. President, I want to refer to one letter from the Fraternal Order of Police in Louisville, KY. It is to myself, and it says:

DEAR SENATOR DECONCINI: Congratulations from the more than 4,000 law enforcement officers in Arizona who support your efforts in SB747. At a recent state conference in Prescott, the assault weapons bills were discussed. We support your effort to limit these types of weapons. Many of us are sportsmen and members of the NRA, and we are concerned with the impact of your bill. But more importantly, we are mindful of the ever increasing daily assaults on ourselves and the innocent victims in America.

We are fed up with the mindless argument that sportsmen and every day citizens have a right to own any type of weapons available. If your bill was unconstitutional, the NRA would not be putting millions into the lobbying effort. They would simply win the battle in court. Common sense tells us that gun legislation is not new and must keep pace with growing technology.

Mr. President, I think it says to all, the law enforcement people are scared. That is the word we do not like to use, but that is the word they will tell you. They are frightened. They want some support. They want some help.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

Mr. HATCH. I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. MCCLURE. I thank the Senator for yielding.

Mr. President, in the limited time that we have available to us this morning, I certainly do not want to prolong the debate because I suspect most Members have made up their minds, but it is a little puzzling to note which portions of the evidence that is before the body should be brought forward now.

I want to call attention to just one misleading aspect of the comments made by the Senator from Arizona. I do not accuse him of attempting to mislead, but I think the statistics themselves are misleading because the Senator from Arizona was referring to what percentage of guns traced or what percentage of these kinds of guns seized in crimes were of a particular kind of gun that is banned by his provision in this bill.

The point is that a very, very small proportion of guns used in crimes are the so-called assault rifles; a very, very small number. And if you only have 10 and one of them is one of the banned list, that means 10 percent of all those that are seized.

I would like to call attention to the report of the Florida Assault Weapons Commission. The interim report—because they did not complete their study in the time assigned to them—was filed on March 1, 1990. Anyone who is really interested in how many times these so-called assault rifles are used in crime should look at the Florida Assault Weapons Commission interim report. You will suddenly find that very, very few of the crimes committed in the State of Florida were committed with the so-called assault rifles.

I would like to read a statement made by Detective Jimmy L. Trahin of the Los Angeles Police Department, Firearms-Ballistics Unit, who testified on May 5, 1989, before a subcommittee of this body.

I will not read the entire statement, but I will start after the first paragraph and see how far I can go.

With 18 years as a law enforcement officer with the Los Angeles Police Department, 12 of those years have been spent as a Detective Training Officer assigned to the Firearms-Ballistics Unit. My vocation and experience in firearms identification has put me in a unique position to witness first hand the realistic, and I repeat, the realistic magnitude of the problems relating to firearms in criminal activity. Although my testimony here is not as an official spokesman for the Los Angeles Police Department, it will be factual, not conjecture, and based on my personal experience and training in the field of nearly two decades.

Since I will endeavor to be realistic, let's address the facts and not myths.

Do we have a large quantity of violent crime involving firearms? The answer is yes.

Do we have a larger quantity of violent crime without firearms involved? The answer is yes.

Have we had an increase in so-called assault weapons being involved in violent crimes? The answer is yes.

I use the term "so-called" assault weapons because somewhere in this recent hysteria these military-style semi-automatic firearms have been mislabeled with the term "assault". The actual definition relates to a selective fire gun capable of semi and full automatic fire utilizing an intermediate cartridge.

We have definitely seen an increase in the criminal use of these firearms during the past 8 years. We have also seen an increase in quality semi-automatic pistols, shotguns, and other weapons during the same time period.

Are these assault weapons the criminals "weapons of choice"? The answer is no.

We take into custody more handguns, or shotguns, or 22 caliber rifles than any quantity of assault weapons that are seized. From an informal survey that we took on over 4,000 guns that were taken into custody during a 1 year period, slightly more than 120 would be classified under this definition of assault weapon. That's approximately 3%; not the 20-50% embellished figures I've been hearing rumored.

Are the majority of these firearms being illegally converted to full automatic machine gun status? The answer is no. Our Unit receives about a dozen guns a year that have been modified or attempted to be modified. Approximately half are failures or completely unreliable. Why? The vast majority of such firearms are difficult to convert and require extensive modification. In the past, the three most common firearms that have been utilized for conversions consisted of: The MAC-10/11 variants manufactured by RPB and SWD; the Uzi carbine and the Colt AR-15.

Why were these the most popular conversions? Not necessarily that the conversion was easy, but the simple availability of substitution machine gun parts. This loophole has now been closed with the passage of the McClure-Volkmer Act of 1986 regarding accessibility of parts.

On the other hand, if any criminal has the intense desire to create a machine gun, any semi-automatic firearm can be used. The National Firearms Act of 1934 (55 years old) prohibits fabrication and possession of unregistered machine guns, silencers, and sawed-off shotguns. The threat of prison does not seem to have deterred the criminal. In fact, we seize more sawed-off sporting shotguns than we do assault weapons. Even common 22 caliber rifles have been converted. An interesting note is that we have never had an AK-47 converted, a TEC-9 converted, and HG&K 91 or 93 converted.

Mr. President, I ask unanimous consent that that testimony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL TESTIMONY ON ASSAULT WEAPONS, MAY 5, 1989

(By Detective Jimmy L. Trahin, Los Angeles Police Department Firearms-Ballistics Unit)

Ladies and Gentlemen: I'm honored with the privilege of being asked to testify before this Subcommittee hearing regarding the pending legislation dealing with the so-called assault weapons issue.

With 18 years as a law enforcement officer with the Los Angeles Police Department, 12 of those years have been spent as a Detective Training Officer assigned to the Firearms-Ballistics Unit. My vocation and experience in firearms identification has put me in a unique position to witness first hand the realistic, and I repeat, the realistic magnitude of the problems relating to firearms in criminal activity. Although my testimony here is not as an official spokesman for the Los Angeles Police Department, it will be factual, not conjecture, and based on my personal experience and training in the field for nearly two decades.

Since I will endeavor to be realistic, let's address the facts and not myths.

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We have definitely seen an increase in the criminal use of these firearms during the past 8 years. We have also seen an increase in quality semi-automatic pistols, shotguns, and other weapons during the same time period.

Are these assault weapons the criminals "weapon of choice"? The answer is no.

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Why were these the most popular conversions? Not necessarily that the conversion was easy, but the simple availability of substitution machine gun parts. This loophole has now been closed with the passage of the McClure-Volkmer Act of 1986 regarding accessibility of parts.

On the other hand, if any criminal has the intense desire to create a machine gun, any semi-automatic firearm can be used. The National Firearms Act of 1934 (55 years old) prohibits fabrication and possession of unregistered machine guns, silencers, and sawed-off shotguns. The threat of prison does not seem to have deterred the criminal. In fact, we seize more sawed-off sporting shotguns than we do assault weapons. Even common 22 caliber rifles have been converted. An interesting note is that we have never had an AK-47S converted, a TEC-9 converted, and H&K 91 or 93 converted, a Valmet M76 converted and so on. An attempted conversion was attempted on one Ruger Mini-14 in the past 12 years I have been in the unit and it didn't work. Why? 99% of these so-called assault weapons are not easily converted.

Who owns the majority of these military-style firearms? The law abiding citizen. I can also categorically state that if you took a survey of police officers in this country, you would find that the vast majority would own at least one of these guns for off-duty personal use.

When a law is passed for societies protection, it must do two things.

(1) It must solve the problem or show realistically that it will accomplish something to curb the problem; and

(2) The people must have respect for the law knowing it is in their best interest.

Considering number 1, does anyone firmly believe that banning assault weapons will curtail the crime problem? Has restrictive gun laws worked here in Washington or New York City? Is there any correlation with strict gun control and a decrease in crime? The answer is no. I've talked to hundreds of fellow police officers and the overwhelming majority agree that banning so-called assault weapons is not going to realistically decrease violent crime, gang activity, or narcotics trafficking.

There's no question that the citizens of this country are frustrated and outraged with the ever increasing crime problem. The reaction by some is to do anything, whether or not it works, and without careful consideration of the consequences. It's wishful thinking and hope that if we control some of these guns, crime will decrease.

Restrictive laws on these so-called assault firearms will be giving the concerned citizen a false sense of security in the belief that crime will supposedly diminish. That's not going to happen. Although it's too early to reach any definitive conclusion, I have observed absolutely no positive effect whatsoever on the crime problem in Los Angeles since the local assault weapon ban was enacted 3 months ago.

Let's consider the second requirement of a law: "The people must respect it".

If a law is passed with the illusion of hope that it will do something, the people must be behind it. Restrictive gun control directed at assault weapons will not strike fear in the hearts of the criminal. I firmly believe, however, that it will have a detrimental impact on the respect for the law by the hundreds of thousands of average citizens who possess these military-style firearms. Law enforcement requires the peoples support. We do not need to create a new class of criminals.

It's unfortunate that we cannot enforce the thousands of gun laws presently existing. We do not have enough police, prosecutors, courts, judges, jails, prisons, or money. The entire criminal justice system is totally inundated. A criminal is lucky to do one third of his sentence in jail. Present gun laws are not being enforced. While testifying in excess of 400 times in firearms related cases during the past 12 years, I have failed to see any significant use of the enhancement laws pertaining to guns involved in crimes. The majority of the time they are not even filed. If filed on, they are reduced

or plea bargained away. Fact: there is no deterrent to using a gun in a crime.

In conclusion, I accept the fact that jumping on the assault weapon ban is the "trendy" thing to do, whether or not it accomplishes something productive. It should be of utmost importance that the consequences of slowly deteriorating the 2nd Amendment to our Constitution be examined.

The problem is not bad guns versus good guns . . . it's the bad guys using any gun in a criminal act with the knowledge that punishment for his actions will not be pursued. It is ludicrous to believe that the pending legislation regarding assault weapons will decrease crime. Based on my experience, I personally feel it will create more problems for law enforcement than it will solve, especially for the law abiding citizen. I urge you to consider my testimony here today.

Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, I want to leave the record very clear about the Los Angeles Police Department that has been cited here a couple of times. I want to read into the RECORD a letter from the Los Angeles Police Protective League, composed by police officers of the city of Los Angeles.

This letter happens to be to Senator HOWARD METZENBAUM. I will ask unanimous consent that it appear in the RECORD at a later time.

It says:

DEAR SENATOR METZENBAUM: In response to your inquiry, the Los Angeles Police Protective League supports legislation that would control sales and possession of assault type semi-automatic weapons not only in California but on the federal level as well.

As active members of the National Association of Police Organizations (NAPO), we have supported S. 386 through our NAPO representative and Vice President William Pattison who has testified before the Senate Judiciary Committee on the Constitution. Our Chief of Police, Daryl F. Gates, has also testified as to the need for federal control of semi-automatic assault weapons before the same committee.

We appreciate your efforts to de-escalate the level of violence in our country and to provide law enforcement officers the support they need in providing a safer America for all of our people.

So if he supports that one, he certainly supports this.

Also, Chief of Police Gates testified before the Judiciary Committee. He said:

These weapons, in my judgment, have to go. And I do not have any problem in defining those that are assault weapons. I can tell you because I have had two police officers killed with assault weapons, one very similar to the one that was held up here, an AR-15.

Officer Dan Pratt was killed by an individual in a drive-by shooting who shot at him 15 times, hit him once. That officer would be alive today had he not been confronted with an assault rifle.

Another officer, another drive-by shooting. A MAC-10, an automatic pistol; he was shot at 17 times and hit seven times as he was picking up his little boy from the church school.

What they do is that they just spray and then they have got the firepower to do that spraying, and when they spray, they hit anyone who happens to be there, and they don't really care. We had 240 gang killings last year, 240 in the city of Los Angeles; 60 percent of those that were killed were not gang members.

Mr. President, I do not know anybody that has a stronger support for the second amendment and a stronger political philosophy, quite frankly, in law enforcement than Chief of Police Daryl Gates. He is a strong supporter of this legislation.

Mr. President, I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, I join those that have spoken last evening and earlier today in commending the Senator from Arizona for the amendment which he has seen incorporated into this Democratic crime legislation and for the courage which he has demonstrated in standing by it. Despite the statements that have been made by opponents of this particular provision, I think it is an important provision, and I am very hopeful that it will remain in the bill.

Mr. President, the arguments that have been made against the DeConcini amendment, both last evening and today, go to a number of different arguments. First of all, there are those that say that this kind of amendment violates their notion of a constitutional right to bear arms. We heard that argument yesterday, and we heard it again this morning.

Mr. President, if we are to follow that particular argument to its logical conclusion, then we would permit the sale of machineguns, bazookas and grenade launchers. No one is possibly suggesting that the legislation which is on the books at the present time prohibiting American from owning bazookas and grenade launchers or restricting the sale of machineguns is unconstitutional. We do not hear that. We just hear, if you go after these kinds of assault weapons, it is interfering with gun collectors and with their so-called constitutional rights.

That is hogwash, Mr. President. We have seen, over the last 25 years, where steps have been taken, very modest steps, indeed, in terms of the regulation of certain pistols and rifles. Those statutes have not been struck down by the courts of this country as violating the consitutional right to bear arms. If you go back as far as the 1968 legislation, they have not been struck down. So there is a legitimate mandate for the Congress of the United States to enact legislation to try to protect law enforcement officials and the public.

This amendment has been crafted skillfully, I believe, by the Senator from Arizona, to target the most dangerous types of assault weapons. We hear those who say we want to strike those modest restrictions down because it interferes with the rights of hunters.

What are these characteristics that these so-called hunters want to be able to use? One principal characteristic is that the assault weapon tends to be held at the hip. That makes for a great sporting weapon. I have had the opportunity to hunt in a very limited way, and I have been out there with some hunters. I have not seen those hunters hold their weapons at their hip and spray dozens of rounds of ammunition in a matter of seconds. That says something about a hunter; they are going to brandish an assault weapon and hold it at the hip and spray out the ammunition in seconds. Shorter barrels sacrifice accuracy. Users of assault weapons are not interested in the accuracy. One of these weapons is called the "Streetsweeper." They want to spray their ammunition.

Who is kidding who, that these are sporting weapons, held at the hip, spraying their ammunition out there? They are trying to defend this as a sporting weapon. This is a sporting weapon? In many instances they are readily concealable assault pistols. That is one of the characteristics. How many of those hunting rifles that sportsmen use are readily concealable?

This amendment does not apply to popular hunting rifles, but it applies to some of the most dangerous of the pistols. Some of these assault weapons employ barrel shrouds to cool the weapon during rapid fire. That is really a hunting weapon. I suppose the typical hunter wants to be able to cool that barrel after spraying ammunition across the countryside while hunting. You want to have that barrel shroud out there to cool the weapon during rapid fire. Then you have threaded barrels, which are fitted for silencers. Who in the world is thinking that that is a sporting weapon, Mr. President? That is basically what we are dealing with.

The arguments can be made here that we have to get the criminal off the streets, and all of us are for that. This is why we support the entire Democratic crime package. But we heard that argument a number of years ago, and since that time, we have seen hundreds of thousands and millions of additional weapons out there. Well, they say these gun restrictions do not stop crime. Mr. President, in my own State of Massachusetts that had additional kinds of restrictions on small concealable weapons, some 85 percent of all the weapons

that were used in crimes of violence were obtained outside the State. We are defenseless because individuals are able to go across the borders.

Mr. President, as I said, the kinds of weapons that I just mentioned here are the kind that are included in the DeConcini amendment. Shame on those individuals who say that these are sporting weapons. They are not sporting weapons; they are used in crimes of violence, and they are used in the drug trade. They pose a very substantial threat to the life and the well-being of the police officers of this country. I hope the Senate will not vote to strike this particular amendment. I commend the Senator from Arizona for seeing that it is included in the legislation.

I support the assault weapons provisions in the Democratic crime package. Frankly, I am convinced that we must do more. This proposal in no way restricts the rights of law-abiding citizens to possess or obtain other, legitimate semiautomatic firearms.

But this legislation will reduce the number of deaths and injuries from semiautomatic assault weapons by drug traffickers and other violent criminals.

This proposal would ban a specific list of semiautomatic assault weapons identified by law enforcement as a danger to the community.

The weapons are listed by name, model, and manufacturer. This legislation does not apply to conventional semiautomatic rifles, shotguns, handguns, or popular semiautomatic hunting rifles.

Drug Director William Bennett long ago understood the connection between narcotics and firearms. He was instrumental in the administration's ban on a specific list of foreign-made assault weapons, complied after thorough examination of the issue by BATF experts.

The import ban is a significant step, but it only encompasses 25 percent of the assault weapons in the United States. The remaining 75 percent are made right here and they are just as deadly.

This legislation takes the next step. I would take one additional step and authorize a careful review by BATF of the remaining 75 percent, applying the same exacting standards to those guns that it applied in determining which imports to ban.

Assault weapons put awesome killing power in the hands of drug runners, hate groups, and other criminals. The ease with which these weapons can be obtained is fueling the arms race on the streets of every community in America. Study after study by Cox Newspapers, BATF and others document the growing preference for assault weapons among organized crime and drug traffickers.

The time is long past for Congress to enact legislation to ban the sale and transfer of assault weapons, while protecting the interests of law-abiding citizens.

This legislation has the overwhelming support of our Nation's police, including the 90,000-member National Association of Police Organizations, the International Association of Chiefs of Police, the 200,000-member Fraternal Order of Police, and the other leading law enforcement organizations across this country share those views.

This is literally a matter of life and death for law enforcement.

In Escondido, CA, in December 1987, a diagnosed schizophrenic lied on his Federal gun purchase form about his arrest record, mental condition, and drug use, and purchased an AK-47-type assault rifle. The next day, under the influence of methamphetamines, he used the AK-47 to kill a San Diego County deputy sheriff, wound two other deputies and hold police off during a 12-hour shootout.

In December 1988, a Dallas police officer was killed while making an undercover narcotics purchase. The weapon used was a TEC-9 assault pistol.

Last year, a MAC-11 assault pistol was used by a man in Louviers, CO, to kill himself, but not before he used it to kill a woman and her mother and wound a police officer.

Last August, a New Jersey State trooper was shot four times in the chest and abdomen by drug traffickers wielding a MAC-11 assault pistol.

Mr. President, we should not shortchange the law enforcement community on this issue. They are on the front lines of the war on crime. They know best.

They know what is needed, they asked for this and tougher measures over 1 year ago when a lone gunman opened fire on unsuspecting schoolchildren in Stockton, CA.

Mr. DECONCINI. I thank the Senator from Massachusetts. He has been out on this floor for the 14 years that I have been here, working on this type of legislation. I have not always been supportive of his efforts, because I thought they went too far. But I thank the Senator for speaking today as eloquently as he always does, in getting to the point right away. I thank him for the kind remarks. I also thank the junior Senator from Nebraska for his remarks last night and the senior Senator from Illinois, who spoke on behalf of this legislation.

I ask the Chair how much time I have remaining.

The PRESIDING OFFICER. The Senator has 11 minutes, 17 seconds remaining.

Mr. DECONCINI. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I have to say that I enjoyed the remarks of the distinguished Senator from Massachusetts, as I always do. He is a very energetic spokesperson for his particular side.

We are not talking about automatic weapons here that you spray the forest with. They are banned already by the law. We have agreed to that long ago. We are not talking about hunting weapons necessarily. There may be some of those that are used for hunting. Most of these weapons are used for collection, for plinking, for target practice, and for just plain good sportsman activities.

Frankly, the honest people who buy these do not use them in criminal activity. If we banned all of those, and all that Senator METZENBAUM called for yesterday, and another 40 that probably would look just as bad as these, you still would not stop the dishonest criminals from using weapons because they can get them overseas even though they are now banned by the President of the United States, five of these nine. You can still get them overseas.

They can still get them in a variety of ways. They can still steal them. I guess you can say if they are not sold, you cannot steal them. The fact is, why do we pass legislation that affects only the decent, honest people, because the crooks, criminals, and vicious people are going to be able to get these, regardless.

I have to take a little issue with Chief Gates. Chief Gates is not one of the great police people who stand up for second amendment rights, to keep and bear arms. Chief Gates is one of the law enforcement leaders in this country who has always, as far as I know, called for gun control. He has always been on the side of gun control.

I am not criticizing his sincerity on that but do not lump him with the vast majority of police officers in this country who do not want gun control, sports people who themselves appreciate having the right to keep and bear whatever arms they want to within the law.

The fact remains that Officer Trahin's testimony shows that the firearms that the distinguished Senator from Arizona is criticizing here today in his bill are not the weapons of choice by criminals. The fact is that the statistics show this. So do not use Chief Gates for us. Chief Gates is always going to be for gun control. We are talking about decent, honest, law-abiding citizens who want to collect these.

I have to say, on the rifles, if you take the metal parts off and replace them with wood parts, you have a

sporting rifle. It is exactly the same gun.

With regard to the machine pistols, they are not used for hunting; they are used for target practice and for collecting.

The honest people are not misusing their weapons. It is the criminals who are. We should go after criminals and not honest people. This bill will make it absolutely burdensome to honest people, to be persecuted as they were before the Firearms Owners Protection Act passed.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, how much remains?

The PRESIDING OFFICER. Two minutes and 47 seconds.

Mr. HATCH. Let me yield 2 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 2 minutes.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, it is difficult to summarize in a short period of time what the basic arguments are.

Mr. President, the persistent growth of violent crime in this country has given rise to increasingly emotional attacks on the ownership of certain firearms. The response to the scourge of drug crime reminds me of a remark made around the turn of the century when the Nation was embroiled in a railroad strike. Henry Cabot Lodge said to Teddy Roosevelt, "Isn't there something we can appear to be doing?"

Time does not change politicians much, and there are a number of my colleagues who are bent on appearing to do something. By placing restrictions on some firearms, so-called assault weapons, they propose to halt the violence that invariably accompanies illegal drug trade. Now, if we are dealing with appearances, it is easy to frighten the public with lurid visions of superguns, guns that turn Sunday School teachers into maniacal drug lords.

Mr. President, we are dealing here with a perception so superficial that it amazes me that any thoughtful person can accept it. We have a myopic pursuit of the public perception of legislative responsiveness—even if the response is misguided or misinformed. Any firearm has the potential for misuse. Any firearm can be safely and lawfully used. Are we to assume that if, say, the Senator from Arizona or the Senator from Ohio, or the Senator from Massachusetts came to possess a MAC-10, none of us in this body would be safe? Would actually touching and holding this sinister looking firearm turn these gentlemen into dangerous criminals? Of course not. The very notion is absurd. On the other hand, there are many violent criminals who are a danger whether armed or unarmed. Semiautomatic technology has nothing whatever to do with the human psyche, which is where crime and violence truly have their source. As I understand, Cain did not shoot Abel with an assault rifle.

It is appearance, Mr. President, that make a MAC-10 different from many hunting rifles. And based on that appearance alone, some of my colleagues are prepared to impose senseless restrictions on the millions of American firearms owners who use semiautomatics for hunting, target shooting, collecting and home protection. I have heard it said that none of us need this type of firearm. How peculiar that honest people should be required to justify the practice of a constitutional right! What kind of a country would this be if we were obliged to prove the necessity to practice our religion, or state our views?

No, I believe, like Thomas Jefferson, that:

> Our legislators are not sufficiently apprised of the rightful limits of their power; that their true office is to declare and enforce only our natural rights and duties, and to take none of them from us.

And:

> No freeman shall be debarred the use of arms within his own lands.

The very first shot of the Revolution was fired because the Government was sending its troops to disarm the colonial citizenry and render them helpless against the excesses of Parliament.

The criminals, especially the street criminals and dope dealers that the police fear, obtain their weapons illegally in the first place. Many fully automatic assault-type weapons used in crime are smuggled in from Central America with the dope. We have been unable to prevent millions of illegal aliens and tons of illegal narcotics from entering our country each year. How would a new law which punishes honest people for the crimes of others do anything but set up a more vigorous black market in guns, and further enrich the underworld kingpins in our country.

It is particularly ironic that convicted felons would not be affected by the registration scheme set forth in this bill. The Supreme Court has ruled that convicted felons are exempt from registering their guns, even machineguns. *Haynes* v. *U.S.*, 309 U.S. 85.

Mr. President, the requirements for obtaining a 4473 for all semiautomatic firearms listed in this bill are a bureaucrat's dream. The practical impossibility to complying with these standards ought to be immediately evident. This bill also would require anyone who sold such a firearm to maintain records concerning every subsequent sale. This is absurd. This has nothing to do with public safety. It is nothing more or less than unwarranted harassment of honest firearms owners.

And after all this flurry of paperwork, we are not one step closer to solving real, violent crime. We have simply created a new, nonviolent crime. Legislation produced under emotional pressure is rarely effective and frequently does more harm than good. The answer lies not in appearing to do something about semiautomatic firearms," but in doing something about criminality and criminal behavior.

Mr. President, what we are really dealing with is the appearances rather than the facts. I do not know whether the assault rifle which I own is illegal or not, or immoral or not. It happens to be my favorite hunting rifle. It is a 1903 A-3 .30-06, which I bought a number of years ago in a military conformation. It is suggested if it holds a bayonet it is unacceptable. This military rifle I have still has a bayonet lug on it. I assume it makes me half guilty.

I own more than one semiautomatic. The first rifle I bought as a young man was a .22 semiautomatic. I hope that does not make me a criminal.

I own a semiautomatic pistol that my father carried when he was prosecuting attorney back in the prohibition days. When out raiding stills, it was thought necessary to have a firearm to protect yourself. He carried that semiautomatic pistol which I still have. I take some pride in it. I hope that does not make me immoral or a criminal.

The whole thrust of this legislation that we seek to strike from the bill today is against law-abiding citizens like myself. It does not affect criminal activity. it has almost no relevance to the incidence of crime and will have almost no impact on drug-related crime at all, as the statistics show, and as has been said over and over again on the floor of the Senate and in the committee hearings before this body and the other body. We are talking about a myth, not a fact.

I hope the Hatch amendment is adopted and that we again refocus our attention as we had to do earlier against violent crime, not against the means which some people believe might be used in violent crime.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I reserve the remainder of my time.

I ask the distinguished Senator from Arizona if he could yield 5 minutes to me.

The PRESIDING OFFICER. The Senator from Arizona has 11 minutes and 10 seconds remaining.

Mr. DECONCINI. I am glad to yield.

Mr. HATCH. Frankly, unless the distinguished Senator has anything to add, I am happy to let that time run.

Mr. DECONCINI. Mr. President, for purposes of someone getting here at 10:30 a.m. or being able to get here to the vote, I will only say I have to take exception with the distinguished Senator and friend from Idaho that there is no evidence that these guns are owned just by law-abiding citizens. These guns are found in criminals' hands. They are used by drug dealers, and there is no question about it.

The Senator raises a good point. He says, number one, it is a myth that this legislation is going to do anything about stopping criminal activity. When asked the question, is this legislation going to stop the drug dealers from killing our police and innocent people, I do not know. I do not know.

What it does do is put a ban on these selective guns now that are continuously coming forward when the police make arrests on drug cases and it says during that period of time that that ban is there, for the first 18 months the Justice Department will do a comprehensive study of all crime throughout the country dealing with where guns are involved and see whether or not there are less of these guns confiscated.

If it does not work, what have we lost? We have lost 3 years and the loss of this gun. And if it does not work, it automatically goes back on the shelf.

If that study is overwhelming, then this body will have to face this issue again. It is not going to go away. It is not permanent law. It has a sunset provision. How much more protection can you give to the law-abiding citizens, to the hunter, to the target shooter? I do not know what else we can do if we really want to attack this problem of these guns in the dangerous hands of drug dealers. I think this bill does it without infringing on those second amendment rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah controls no additional time.

Mr. DECONCINI. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Utah is recognized for 5 minutes chargeable to the Senator from Arizona.

Mr. HATCH. Mr. President, I appreciate my esteemed colleague from Arizona yielding to me. I know he is sincere in making his arguments. I have to admit these weapons have appearances that look as if they could cause great difficulty. If you can change the stocks on those weapons and hand grips, you basically have sporting rifles. It is the same action, same approach that the semiautomatic weapons use. We are not dealing with automatic weapons.

Second, I think a point we really have not emphasized enough is this bill is another bureaucratic nightmare for the wrong people. The only people that this bill is going to affect will be decent, law-abiding, honest collectors, plinkers, target shooters, sports people. Frankly, they are not out there spraying the countryside with bullets, except in target practice. They love these guns and they love to own them and they love to show them. They love to exchange them among legitimate sporting people.

I happen to not own any of these. The fact of the matter is, I would not mind owning some of them because they are nice weapons. But, I do own guns that would fit in the category of assault weapons that are legitimate hunting guns.

This is a bureaucratic nightmare that comes down on the wrong people. It is not going to do a doggone thing about criminal activity in this society, not going to do a doggone thing about stopping guns going to criminals. They are going to get them anyway, and they are not going to comply with the registration requirements of this particular bill. They are not going to comply with them.

The fact of the matter is decent, law-abiding citizens are going to be hauled into court, charged with Federal crimes, have to hire attorneys, have to defend themselves, and if they get convicted can never own a gun again. And they are going to be fined at a $1,000 rate, plus 6 months in jail.

Why? Because they failed to file a form or, in some cases, failed to get the form from somebody who will not give it to them.

It is not simply going down to a gun shop and asking them for a form to fill out. It is under certain circumstances but not under others.

So, Mr. President, if it did something to the criminals, maybe there would be an argument here. It only does bad things to the honest sports people. When we came up with the Firearms Owner's Protection Act, the whole impetus driving that act was we were tired of sports people being abused by the Federal Government, under the most technical, ridiculous circumstances.

That is what this does. And it is offensive to sporting people around this country. Frankly, if you really ask the law enforcement officers, the rank and file around this country, the vast majority of them would disagree with Officer Gates, who was always for gun control.

He has a right to be for that. I am not going to criticize him for that. Certainly the distinguished Senator from Massachusetts has a right to feel the way he does, more than almost anybody. The fact of the matter is, it still does not justify picking on the decent, law-abiding citizens of this country who want to collect, target shoot, plink, and, yes, use these guns for hunting if they want to. It is legitimate to hunt.

I just get tired of the Federal Government, with these types of rules and regulations coming in, making it difficult for everybody. That is what this bill does. That is the problem.

More than that, if this happens to stay in this bill and it does happen to become law, I guarantee that is just step No. 1, and everybody knows it. That is why these are fought so hard. Because every time they get one little inch, they will try to take another yard the next time you turn around.

So that is why we have to stand up as sports people and say: Hey, no more of this. Let us not pick on those who are honest, decent people. Let us go after the criminals, and let us do it with tough, criminal laws, which, by the way, S. 1970 is not. That is why we are going to debate that plus habeas corpus reform right after this vote takes place, and we will show it is not a tough law.

Let us go after the real criminals, the people who are wrecking our society, and let us not pick on the honest sports people.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator controls 2 minutes and 8 seconds.

Mr. DECONCINI. I want to thank Karen Robb, Dennis Burke, and others in my office for the effort and work they have given here, and also I want to thank a number of Senators who have worked with their colleagues here to make the arguments the last couple of days in support of this bill.

Mr. President, I think we are very close to winning this victory today. I hope Members who have not decided, as they walk in here, will take a look

at these weapons, take a look at these organizations.

The statement has been made the line police officer does not support this. I take exception that these organizations do not represent the vast majority of their members. These are law enforcement organizations, for the most part. These are the police and the cops on the street. These are the ones who say we have to have some support from you legislators in Washington, DC. Many of them are members of the NRA, and other second amendment rights organizations.

Mr. President, it is a tough vote for some. I understand that. I have been down that road, believe me, on this issue as well. But it is a safe vote because it is the right vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I rise today in opposition to Senate bill 1970 and in support of the Hatch amendment. We have all heard arguments on both sides of this issue and the preponderance of evidence demands that we reject this kind of firearms law. We've had testimony from the Justice and Treasury Departments, as well as an expert at the Smithsonian Institution, to the effect that military-style semiautomatic rifles are different only in appearance from millions of other semiautomatic rifles, shotguns, and handguns. We have seen the record of gun control and it is a record of crime fighting failure. Assuming that criminals will abide by gun restrictions is dangerously naive. The District of Columbia is the best example of the effect of gun ban laws. The District has some of the strictest gun control laws in the Nation, yet today our Nation's Capital is known as the "Murder Capital."

We have also heard from our constituents and their message, at least to me, is clear: they oppose unworkable, ineffective gun bans and instead are demanding reform of a woefully inadequate criminal justice system.

I am going to vote against this gun ban proposal, and I encourage my colleagues to do so as well. Before you cast your votes, I ask you to remember the Constitution and the bill of rights. That truly remarkable document has stood as our guide for more than 200 years and must continue to do so. While debating anticrime bills, the Senate has discussed at length the fourth amendment right against unreasonable search and seizure, the sixth amendment right to counsel, and the eighth amendment right against cruel and unusual punishment. It is time that we discuss the second amendment as we debate another gun control proposal.

It is clear from the speeches and letters of the day and the Constitution itself that the Founding Fathers included the right to freely choose to own and use arms in the bill of rights—a document guaranteeing individual liberties and freedoms. Men like James Madison, Thomas Jefferson, and Patrick Henry recognized the political importance of the citizenry's ability to bear arms, a premise which has carried on into the 20th century. In the early years of World War II thousands of private citizens, the militia if you will, brought their own arms when they volunteered for service. Thousands more rifles, shotguns, and handguns were sent to England to arm the citizenry in preparation for a Nazi invasion. Yes, the Founding Fathers were remarkably farsighted when it came to the political right of private citizens to own arms. One need only look to the Soviet's desire to disarm the freedom seeking Baltic populace to understand this.

It is also clear that those who helped build this country recognized sport, recreation, hunting, collection, and self-protection as legitimate reasons for possessing arms. What we must acknowledge is that today's semiautomatic firearms are just as protected as their forebears—muskets and pistols—were in 1789. Constitutional rights do not change because of technological advancements—radio and television are protected by the first amendment though neither existed 200 years ago. Similarly, semiautomatic firearms are protected by the second amendment, and 20 million Americans have exercised their rights and possess such a firearm.

A vote for S. 1970 or other restrictive proposals will not affect criminals or reduce the violent crime rate. A vote for S. 1970, however, will deny millions of Americans choice and in doing so will violate the bill of rights that so many Americans have fought to preserve.

Finally, another point should be made. No citizen has the right to abuse their second amendment right to bear arms. Anyone who breaks the law, anyone who uses a firearm in a crime, can be and should be fully punished under the law. Law abiding gun owners should not be asked, however, to give up their rights because of criminals—criminals who would ignore gun control laws anyway. I hope that the advocates of these restrictive gun control amendments would advocate victim's rights and stronger criminal law-enforcement against the perpetrators of crime, rather than bills that restrict the constitutional rights of law-abiding citizens. For unless we crack down on criminals and get them off the streets, we cannot solve the problem that legitimately concerns American society.

Mr. BYRD. Mr. President, a crime epidemic is sweeping across our country today. This epidemic has become so common and so pervasive that many Americans cannot remember the days when families could sit on their front porches without fear of harassment by drug dealers, when one could walk down public streets at night without fear of being robbed or mugged, and even killed. In those days, young mothers allowed children to play freely in public parks, and one could drive down a street at night without the fear of getting lost and wondering how safe it was to stop and ask directions. I remember when seeing a policeman patrol a local school was strange; now it is a common, daily occurrence.

Crime and adjusting to the fear of crime have become a way of life for many. I am saddened to listen to the nightly news and hear of criminals snuffing out innocent lives. I read of young men being viciously murdered for a pair of Nike sneakers, a leather jacket, or $20.

The statistics that support the growing crime rate are appalling. For example, in 1951, New York tallied 244 homicides. In 1989, that number reached nearly 1,900. Here in the District of Columbia, murders average close to one a day. Nationally, in 1951, there were 3.2 policemen for every felony committed in the United States; this year nearly 3.2 felonies will be committed per every police officer.

I know, Mr. President, that something has to change. We have to stop the crimes that are distorting and disrupting the way of life for so many innocent, law-respecting Americans.

The bill that we are debating today attempts to do just that. The anticrime measure before us attempts to provide a comprehensive approach to fighting the crime epidemic so prevalent in America today. By expanding death penalty offenses, limiting the number of Federal appeals, and permitting the use of illegally seized evidence under certain circumstances, we are upping the price of criminal acts.

What is especially important in this measure, however, is the provision that would make it more difficult for criminals to obtain the weapons that are wreaking the havoc across our country today. The antiassault weapon language contained in S. 1970, would prohibit the transfer, shipping, receiving, transport, or possession of nine specific assault weapons. On July 7, 1989, by Executive Order, the President permanently prohibited the importation of 43 types of semiautomatic weapons. Even though these weapons are banned from being imported, man-

ufacturers here in the United States have turned to producing and selling virtual copies of the banned weapons. The language in this bill would ban that practice by prohibiting the shipping, receiving, possession, or transfer of nine of the most common types of assault weapons.

This weapon ban is desperately needed. Such a ban will make it less convenient for criminals to disturb, harass, and assault innocent families and individuals. The Judiciary Subcommittee on the Constitution heard oral testimony on the merits of banning assault weapons in May 1989. The committee was told that assault weapons are involved in virtually every drug seizure taking place today along the Southwest border of the United States. A study conducted by the Atlanta Journal concluded that an assault weapon is 20 times more likely to be used in a crime than is a conventional firearm. The same study indicates that even though assault weapons account for less than 1 percent of the total number of firearms privately owned, these weapons surfaced in approximately 30 percent of all firearms traced to organized crime, including drug cartel activity, gun trafficking, and crimes committed by terrorists in the United States during 1988 and the first quarter of 1989.

Mr. President, I want everybody to grasp a distinction here. The nine assault weapons listed that would be banned by this legislation are not rifles for sportsmen, nor are they hunting rifles or weapons commonly used by law-abiding citizens to protect their lives or property. These guns are semiautomatic assault weapons. They have names like "streetsweeper," "bushmaster," and "commando." In a civilized society, nobody needs to own such an assault weapon. The only individuals who need these weapons are criminals, especially drug dealers. These are the weapons that allow the criminals to be better armed than our police officers. The average citizen does not keep a streetsweeper or a MAC-11 by his bedside to protect his life or property.

Now, I have always opposed any measure that would lead to the confiscation of guns used for sports or hunting purposes, or the confiscation of guns used by law-abiding citizens for the protection of life and property, and I will continue to oppose such measures. However, there is no need for private citizens to own assault weapons.

Contrary to the assertions of some, the vote on this measure is not a vote on gun control—it is a vote on crime control. The law enforcement community including the National Association of Police Organizations, Inc., representing well over 100,000 rank-and-file State and local police officers vigorously support this language. It is time for us to stop supporting our criminals and start supporting the law enforcement community. To win the war on crime, they need our help. I hope that my colleagues will join me in supporting the fight against crime and remain firm on keeping the assault weapon language in S. 1970.

Mr. SYMMS. Mr. President, I rise in strong support of the Hatch motion to strike the DeConcini gun ban included in the pending legislation. With only technical changes, title IV of S. 1970 is the same language offered by the senior Senator from Arizona and approved last year by the Judiciary Committee on a 7-6 vote with one member absent. It bans 14 specific semiautomatic firearms and would make criminals of American citizens who seek to purchase or transfer any of the more than 600,000 of those guns currently owned in the United States. It is not crime control; it is gun control, pure and simple, and it would not be included in any true crime control package.

All of us, Mr. President, are shocked and outraged when horrible crimes like the Stockton and Louisville tragedies occur. Our hearts go out to the victims and our anger toward the violent perpetrators who commit such acts runs deep. We all feel a need to do something in hopes of preventing such acts in the future. S. 1970 is not the answer, and even if the Senate strikes the gun ban lanaguage, as I expect we will do shortly, the remaining bill will require serious revision before it will truly be useful in getting criminals off the streets.

I have had an opportunity to review yesterday's debate on the gun ban, and one question sticks in my mind—who will be affected by this bill? That is the crux of this debate. The Justice Department tells us that criminals, the very persons we want to control, do not acquire guns through legitimate channels. Instead, they acquire firearms and other contraband through the black markets which exist across the country. Moreover, law enforcement statistics show that military-style semiautomatic firearms are rarely featured in crime. In fact, evidence from cities like New York, Los Angeles, Washington, DC, and San Francisco indicates that semiautomatic military-style firearms play a miniscule role in overall violent crime.

Some have said the semiautomatic mechanism is the problem and it should be banned. I can assure my colleagues such a proposal would not be accepted lightly by the 20 million Americans who own a semiauto rifle, shotgun, or handgun. Why do so many Americans own these guns? Sport, recreation, collection, and self-defense. And approximately 3 million semiauto military-style rifles are owned by law-abiding citizens for exactly the same reasons.

This legislation by its very nature can only affect honest citizens. The DeConcini language in this bill requires private citizens to keep records of the firearms they own—and any subsequent transfer of a listed gun—for the Government for the first time in U.S. history. The enforcement nightmare created by this provision is truly mind-boggling. Does anyone envision local law enforcement officers checking gun owners at target ranges or gun clubs for their 4473 forms? Are BATF or Treasury agents going to attend rifle competitions like the national matches at Camp Perry to inspect the records of the competitors? I hope not; the law enforcement community has far greater concerns to deal with.

On the other hand, does anyone expect criminals who may possess a prohibited firearm to keep the records required using 4473 forms? If the purpose of the bill is to punish criminals, why then is the penalty a misdemeanor? Is that to make S. 1970 less objectionable to our constitutents as we try to explain our position and vote? One fact I can attest to is that whatever the penalty for not keeping records, criminals will not comply or be deterred from acquiring guns illegally. Only swift, sure, severe punishment for using a firearm will help reduce gun use in crime; and those laws are already on the books. What we have to do is enforce them.

I strongly encourage my colleagues to vote for the Hatch motion to strike, and let us get on with the demanding work necessary to shape S. 1970 into a true crime control package.

Mr. MITCHELL. Mr. President, I will vote against the effort to strike the firearms provision from the crime bill.

I do so, not because it is the entire answer to violent crime in our Nation, but because it is a reasonable, moderate and feasible recognition that our Nation can accept some limits on firearms ownership when the firearms in question have no valid hunting or sporting purpose.

We already limit the ownership of machineguns, because they have no valid hunting or sporting purposes. We should also do so with the firearms specified in this legislation, because they too have no valid hunting or sporting purpose.

President Bush endorsed this view last year when he barred the importation of 43 types of assault weapons which were determined to have no valid hunting or sporting purpose.

The effect of the language in the bill before us is to conform U.S. domestic law to the action President Bush took with respect to imported weapons.

The bill goes directly to and is limited to only the firearms specifically named in the law.

These are listed by name: Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs, all models; Action Arms Israeli Military Industries UZI and Galil; Beretta AR-70 [SC-70]; Colt AR-15, and CAR-15; Fabrique Nationale FN/FAL, FN/LAR, and FNC, MAC-10 and MAC-11; Steyr AUG; Intratec TEC-9; and Streetsweeper/Striker 12.

The claim that this law would limit ownership or use of regular hunting rifles is entirely false. By its specific language, it does not affect any weapons other than those listed by name.

The claim that this specific list somehow reaches to all long-arms is an example of the use of misleading rhetoric and overstatement. It is false. The law would reach precisely what is listed and nothing more.

The legislation further requires that an 18-month study be undertaken to determine if the reduction in supply of these weapons has an effect on the firepower that our police face on the streets every day.

What the opponents of this legislation do not like to acknowledge is that they are helping make our streets unsafe for our police.

Despite their law-and-order rhetoric, the opponents of this legislation are making sure that our police continue to be outgunned as they try to protect all of us from criminals.

The facts are simple: These weapons—not hunting rifles or target rifles—but these military-style semiautomatic weapons make up less than one-half of 1 percent of the firearms currently owned in our Nation.

Fewer than 1 gunowner in 200 even owns one of these weapons; 199 gunowners out of every 200 do not own them, have seen no need to buy them, and do not use them. That is the fact.

But the aspect of that fact which disturbs our police is that although the actual number of these guns in circulation now is minimal, they account for almost a third of all the weapons traced to organized crime, terrorism, and gun trafficking.

The testimony of American police officers from virtually every State of the Union supports this point.

Police officers use and respect firearms. Many of them are hunters and sportsmen in their free time. Yet the vast majority of police officers support efforts to limit the availability of these weapons.

There is a simple reason for that. The difference to a policeman facing a suspect with a handgun or a suspect armed with the equivalent of a military weapon is the difference between police work and guerrilla warfare.

We should not be tolerating a situation in which our police fear for their lives because the weapons wielded by drug gangs are more powerful than the weapons the police themselves are allowed to use. Those who are so loud in their protestations of support for our police need to think about that.

We are sending dedicated police, men and women, into the streets of our cities to face the equivalent of warfare because a very vocal special interest wants to exert an extreme position on the ownership of firearms.

I am aware of the concerns that some have raised about the precedent of interfering with the legitimate rights of law-abiding Americans to own and use firearms legally. I am also aware that some have sought to exploit those concerns by claiming, incorrectly, that this legislation threatens the ownership of semiautomatic hunting weapons.

Efforts to misinform hunters and sportsmen are nothing new in this field, unfortunately. We saw the same misinformation efforts launched against the penetrating ammunition that made police body armor useless.

We saw the same misinformation when we began the effort to prevent the widespread development of firearms that could defeat detection by metal detectors at airports and other public places vulnerable to armed terrorists.

So in order to counteract the misinformation, let me clearly state now: This bill will have no effect on any legitimate sportsman in the State of Maine or elsewhere. It will not prevent the purchase, ownership or legal use of any semiautomatic hunting weapon.

Those whose fears have been raised by the misinformation campaign about this legislation should ask themselves if their rights have been infringed by the ban on cop-killer bullets or plastic guns. Have Americans become less free since those laws took effect? The answer, obviously, is no. We have simply recognized that current-day threats demand laws that reflect current realities.

Our Nation has accepted restrictions on the private ownership of machineguns with no apparent loss of individual liberty. Most of our States require permits for concealed weapons.

Most of our States have firearms laws of various kinds on the books. And most Americans who own and use firearms legally find those changes in our society acceptable.

In Maine, for example, possession or use for sporting purposes of semiautomatic firearms with magazine capacities of more than five cartridges is barred by State law. I have never met a Maine sportsman who believes that a hunter needs more firepower than that. Maine's law enforcement officers have never had to prosecute a person for using such equipment in hunting.

The Maine law and Maine experience reflect the overwhelming truth about semiautomatic assault-style weapons. They are not weapons used by sportsmen or hunters. They are not firearms for hunting. And in Maine, their use for such a purpose is illegal.

So the question remains: What value do we serve by retaining the ready availability of such firearms?

I am also aware that this legislation, by itself, will not solve the problem of violent crime or halt the criminal misuse of firearms in our society.

But no action, by itself, will solve that problem. And if we subject every proposal to the test of perfection, we would do nothing at all in the face of crime and the misuse of firearms.

The legislation is moderate, limited, and specific in its reach and its intent. It does not do more or promise more than a modest reduction in the firepower that our police must face on the streets each day.

It will not take from any legal owner of these weapons the right to own them. It does not prohibit the legal transfer of these weapons between law-abiding collectors. Its paperwork requirements are not onerous.

And unlike the slogans of its opponents—which provide no answer to any of the real-world problems—this legislation contains a self-correcting feature.

If it cannot be shown to have reduced the criminal circulation of these guns in 3 years, it will automatically cease to have effect.

If it does show a reduction in the criminal circulation of these weapons, Congress and the public will have the opportunity to debate again the value of allowing them to be readily available.

Maine is the home of more hunters per capita than virtually any other State in the Union. Maine's hunters and sportsmen know my voting record in strong support of the constitutional right to bear arms. Maine's hunters and sportsmen can distinguish between reasonable laws and unreasonable restrictions on their rights.

If I thought this measure would infringe unreasonably on any Maine hunter, I would not support it. But careful examination of the law—not the false claims made about the law, not the hysterical rhetoric about what might happen—careful examination of the law itself persuades me it will not harm the interests of any law-abiding hunter in Maine or any other State.

Accordingly, I will support its retention in the bill.

Mr. LEVIN. Mr. President, earlier in this debate, I voted against the Metzenbaum amendment on assault weapons. That amendment would have expanded on the provisions of the DeConcini assault weapons bill by adding 12 more types of guns to the list of banned weapons, among other provisions. I voted against that amendment because I was concerned that some of the guns on that expanded list could have legitimate uses in sports

and recreation. I do not believe in banning guns that are used legally and responsibly by hunters and other sportsmen.

I do favor the DeConcini bill, however. It achieves a reasonable balance between the legitimate interests of hunters and sportsmen and the compelling need to protect the public and law enforcement officers from dangerous assault weapons with no legitimate purpose except mayhem. I will, therefore vote against the Hatch amendment to strike the DeConcini language from the bill.

The PRESIDING OFFICER. All time has expired. Under the previous order, the question now is on agreeing to the amendment of the Senator from Utah. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—48

| | | |
|---|---|---|
| Armstrong | Garn | McClure |
| Baucus | Gorton | McConnell |
| Bingaman | Gramm | Murkowski |
| Bond | Grassley | Nickles |
| Boschwitz | Hatch | Pressler |
| Breaux | Heflin | Reid |
| Bryan | Heinz | Roth |
| Burns | Helms | Rudman |
| Coats | Hollings | Sanford |
| Cochran | Humphrey | Shelby |
| Cohen | Johnston | Simpson |
| Danforth | Kasten | Specter |
| Domenici | Lott | Stevens |
| Durenberger | Lugar | Symms |
| Exon | Mack | Thurmond |
| Ford | McCain | Wallop |

NAYS—52

| | | |
|---|---|---|
| Adams | Fowler | Mikulski |
| Akaka | Glenn | Mitchell |
| Bentsen | Gore | Moynihan |
| Biden | Graham | Nunn |
| Boren | Harkin | Packwood |
| Bradley | Hatfield | Pell |
| Bumpers | Inouye | Pryor |
| Burdick | Jeffords | Riegle |
| Byrd | Kassebaum | Robb |
| Chafee | Kennedy | Rockefeller |
| Conrad | Kerrey | Sarbanes |
| Cranston | Kerry | Sasser |
| D'Amato | Kohl | Simon |
| Daschle | Lautenberg | Warner |
| DeConcini | Leahy | Wilson |
| Dixon | Levin | Wirth |
| Dodd | Lieberman | |
| Dole | Metzenbaum | |

So, the amendment (No. 1681) was rejected.

Mr. DOLE addressed the Chair.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I move to reconsider the vote on the Hatch amendment, No. 1681. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to reconsider the Hatch amendment occur at 1:30 p.m. today; that under the previous order the Senate now proceed to consideration of the Graham amendment and that the agreement governing debate and disposition of that amendment be modified to permit the interruption thereof at 1:30 for the vote on the motion to reconsider made by the Senator from Kansas.

The PRESIDING OFFICER. Is there objection?

The majority leader.

Mr. MITCHELL. Mr. President, I modify my request. Under the previous order, the Graham amendment will be accepted by voice vote and then the Senate will be on the Thurmond amendment. So I modify it to state that the Senate will be considering the Thurmond amendment, and the previous order be modified to permit interruption of the debate on that amendment at 1:30 for the vote on the motion to reconsider.

The PRESIDING OFFICER. Is there objection to the unanimous request of the majority leader?

Mr. METZENBAUM. Reserving the right to object, and I have no intention of objecting, is it my understanding that no quorum call could be put in prior, in order to preclude the vote occurring at 1:30, and that no quorum call could be put in at 1:30?

Mr. MITCHELL. Mr. President, we have an understanding that the vote will occur at 1:30.

Mr. METZENBAUM. I thank the majority and minority leader.

Mr. DOLE. I ask one additional request; if in fact the motion to reconsider prevails, that there be an immediate vote on the amendment?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues and the distinguished Republican leader, the managers, and other Senators.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. BIDEN. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Under the previous order the Senator from Florida [Mr. GRAHAM] is now recognized to offer an amendment.

AMENDMENT NO. 1686

(Purpose: To reform habeas corpus procedures)

Mr. GRAHAM. Mr. President, I send an amendment to the desk, which will be in the form of a modification to title II of the bill now pending.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. DECONCINI, and Mr. BRYAN, proposes an amendment numbered 1686.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike title II of the bill and insert the following:

TITLE II—HABEAS CORPUS REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1990".

SEC. 202. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new title:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"2257. Mandatory stays of execution; duration; limits on stays of execution; successive petitions

"2258. Filing of habeas corpus petition; time requirement; tolling rules

"2259. Certificate of probable cause inapplicable

"2260. Counsel in capital cases; trial and post-conviction; standards

**"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsection (b) is satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2260 of this title.

"(c) No counsel appointed pursuant to subsection (b) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(d) The ineffectiveness or incompetence of counsel appointed under this chapter during State of Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

**"§ 2257. Mandatory stays of execution; duration; limits on stays of execution; successive petitions**

"(a) Upon the entry in a court of record of an order pursuant to section 2260 of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title—

"(A) before a court of competent jurisdiction;

"(B) in the presence of counsel; and

"(C) after having been advised of the consequences of his decision.

"(c) If one of the conditions provided in subsection (b) is satisfied, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence; and

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed, or in the validity of the sentence of death.

**"§ 2258. Filing of habeas corpus petition; time requirement; tolling rules**

"(a) Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 365 days after the date of filing in the State court of last resort of an order issued in compliance with section 2260(a)(2) of this title.

"(b) The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any periods in which a State prisoner under capital sentence has properly filed request for post-conviction review pending before a State court of competent jurisdiction which period shall, if all State filing rules are met in a timely manner, run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort, and further until final disposition of the matter by the Supreme Court of the United States, if a timely petition for review is filed; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inabilty to file the habeas corpus petition within the 365-day period established by this section.

**"§ 2259. Certificate of probable cause inapplicable**

"The requirement of a cerificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

**"§ 2260. Counsel in capital cases; trial and post-conviction; standards**

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall—

"(1) provide for counsel to—

"(A) indigents charged with offenses for which capital punishment is sought;

"(B) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(C) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; and

"(2) provide for the entry of an order of a court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that—

"(A) the prisoner is not indigent; or

"(B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b)(1)(A) Except as provided in paragraph (2), at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such cerification authorities) to perform the responsibilities set forth in sub-paragraph (B).

"(B) The certification authority for counsel at any stage of a capital case shall be—

"(i) a special committee, constituted by the State court of last resort or by State statute, relying on staff attorneys of a defender organization, members of the private bar, or both;

"(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

"(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

"(C) The certification authority shall—

"(i) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death;

"(ii) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

"(iii) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed, or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) In a State that has a publicly-funded public defender system that is not organized on a statewide basis, the requirements of paragraph (1) shall have been deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a State funded public defender organization, and if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) insure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

"(d) If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to prac-

tice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(e) Notwithstanding any other provision of this section, a court, for good cause, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(f) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (g). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(g) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.".

(b) AMENDMENTS TO TABLE OF CHAPTERS.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases..... 2256"

SEC. 303. LAW CONTROLLING IN FEDERAL HABEAS PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by inserting after section 2255 the following:

**"§ 2255A. Law controlling Federal habeas corpus proceedings**

"All claims in habeas corpus petitions brought by State prisoners in State custody who are subject to a capital sentence shall be governed by the law as it was when the petitioner's sentence became final, supplemented by any interim change in the law promulgated by the Supreme Court, if the Supreme Court determines, in light of the purpose to be served by the change, the extent of the reliance on previous law by law enforcement authorities, and the effect on the administration of justice, that it would be just to give prisoners the benefit of the interim change in law.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for chapter 153 of title 28, United States Code, is amended by inserting after the item for section 2255 the following:

"2255A. Law controlling Federal habeas corpus proceedings.".

(c) APPLICABILITY OF SECTION.—The amendments made by this section shall apply only to prisoners whose sentences have become final after the date of enactment of this Act.

The PRESIDING OFFICER. Under the previous order, the Graham amendment is agreed to and shall be considered as original text for the purpose of further amendment.

The amendment (No. 1686) was agreed to.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. KOHL. Mr. President, I ask unanimous consent to speak as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

Mr. KOHL. I thank the Chair.

(The remarks of Mr. KOHL pertaining to the introduction of S. 2675 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

VOTE

The PRESIDING OFFICER. The hour of 1:30 having arrived, under the previous order the question is on agreeing to the motion to reconsider the vote by which amendment No. 1681 was rejected.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BINGAMAN. Mr. President, on this vote I have a pair with the Senator from Rhode Island [Mr. CHAFEE]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea."

I therefore withhold my vote.

(During the course of this vote, Mr. BINGAMAN withdrew his live pair with the Senator from Rhode Island [Mr. CHAFEE] and voted in the affirmative. The following tally, No. 104, reflects such vote.)

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 49, nays 50, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—49

| | | |
|---|---|---|
| Armstrong | Garn | McConnell |
| Baucus | Gorton | Murkowski |
| Bingaman | Gramm | Nickles |
| Bond | Grassley | Pressler |
| Boschwitz | Hatch | Reid |
| Breaux | Heflin | Roth |
| Bryan | Heinz | Rudman |
| Burns | Helms | Sanford |
| Coats | Hollings | Shelby |
| Cochran | Humphrey | Simpson |
| Cohen | Johnston | Specter |
| Danforth | Kasten | Stevens |
| Dole | Lott | Symms |
| Domenici | Lugar | Thurmond |
| Durenberger | Mack | Wallop |
| Exon | McCain | |
| Ford | McClure | |

NAYS—50

| | | |
|---|---|---|
| Adams | Glenn | Mikulski |
| Akaka | Gore | Mitchell |
| Bentsen | Graham | Moynihan |
| Biden | Harkin | Nunn |
| Boren | Hatfield | Packwood |
| Bradley | Inouye | Pell |
| Bumpers | Jeffords | Pryor |
| Burdick | Kassebaum | Riegle |
| Byrd | Kennedy | Robb |
| Conrad | Kerrey | Rockefeller |
| Cranston | Kerry | Sarbanes |
| D'Amato | Kohl | Sasser |
| Daschle | Lautenberg | Simon |
| DeConcini | Leahy | Warner |
| Dixon | Levin | Wilson |
| Dodd | Lieberman | Wirth |
| Fowler | Metzenbaum | |

NOT VOTING—1

Chafee

So the motion was rejected.

Mr. ROCKEFELLER. Mr. President, today, I voted to retain the antidrug assault weapons limitation provisions in the pending legislation, the omnibus crime package. My vote came after weighing heavily the views and arguments of my constituents, law enforcement officials, experts, and my colleagues. It is extremely important that my reasons are clear, especially to the people of West Virginia whom I am deeply privileged to represent in the Senate.

To put it most simply, this was a vote to protect the citizens of West Virginia and throughout this land from senseless crimes and violence. I am still a strong, fervent supporter of the second amendment and the constitutional right to bear arms. My vote does not represent any uncertainty about this position.

I came to the conclusion that the proposed ban on nine types of semiautomatic assault weapons is a necessary, warranted step in our country's war on drugs and crime. Violent and drug-related crimes have soared by 30 percent in the last decade. Every 20 seconds, a violent crime is committed in America. Police and law enforcement officials—along our borders, in our cities, and in every corner of America—are being gunned down by drug traffickers, gang leaders, and other violent criminals.

Underneath these trends of tragedy and horror is the emergence of assault weapons. As we have heard from the Director of the Federal Bureau of Alcohol, Tobacco and firearms, "it is the general consensus of law enforcement officials that the ever-increasing presence of assault-type rifles in the illicit drug trade and in other types of crime places the safety and the very lives of the American public in immediate peril."

It is abundantly clear from official surveys, news accounts, and the documented experiences of law enforcement officials throughout the country that semiautomatic assault weapons have become the favored weapon—the weapon of choice—among a growing number of criminals, especially the

drug gangs plaguing America's cities. For example, an intensive study performed by Cox Newspapers found that an assault gun is 20 times more likely to be used in a crime than a conventional firearm. After looking at 43,000 gun traces sent by police throughout the country, to a central Federal storehouse, researchers found that assault weapons showed up in 10 percent of these traces. Assault weapons made up almost one-third of all firearms traced to organized crime, gun trafficking, and crimes committed by terrorists in the United States in a period of 1 year, 1989, and the first quarter of 1989.

These are the reasons that the country's law enforcement organizations have come to the President, this administration, and the Congress for help, and more importantly, for protection. They have told us that they cannot keep our streets safe, protect our children from drugs and violence, and maintain order when they, themselves, are in constant danger of being maimed or killed by the destructive weapons of criminals. Our law enforcement officers are being outgunned and overpowered by the spread of assault weapons throughout the criminal and drug underworld.

As I have always said, there is no single solution or method for winning the war on drugs. I still firmly believe that we must mobilize the resources and exercise the legal tools to combine effective drug education, drug treatment, interdiction, eradication, and law enforcement in the intensive, all-out assault on drug use and drug distribution. The Antidrug Assault Weapons Limitation Act is a carefully designed, highly targeted step to help carry out this assault successfully. It responds to the desperate cries for help from police officers, sheriffs, and drug enforcement agents in West Virginia and throughout America. It seeks solely to isolate the destructive weapons of criminals, not to limit or impinge on the weapons and guns that citizens such as hunters, sportsmen, or collectors wish and have the right to own.

The bill proposes to bar the new manufacture or import of nine very specific types of assault weapons, five which are foreign-made and four which are domestically produced. In fact, it's crucial to point out that President Bush initiated the idea of curbing semiautomatic assault weapons, by taking the bold step last year, or July 7, 1989, of imposing an Executive order to ban the importation of 43 types of semiautomatic weapons. As our President said in an Oval Office address, drugs are a "grave threat sapping our strength as a nation" that requires us to wage an attack on every front.

The bill pending before us today does not ban legal ownership of the nine listed weapons. And it imposes harsh penalties on future criminals who are caught using an assault weapon to combat a violent or drug-related crime. A new mandatory penalty of an extra 10 years of prison, would be slapped on the criminal on top of any punishment imposed for the commission of the actual crime.

It is important to point out that the bill is designed to sunset the assault weapon ban in 3 years after its effective date. An intensive 18-month study of the impact of the ban is to be undertaken as soon as the ban goes into effect, in order to provide thorough information and answers. The proponents of the ban openly acknowledge that we do not and cannot know the precise effects that a curb on these deadly weapons will have on protecting our citizens and controlling crime in the way that law enforcement officials at every level believe it will. But in my view, we have a moral and social obligation to wage a relentless battle against crime and drugs, and to take decisive action to protect innocent and law-abiding citizens. Through the study, and when the bill must be considered for renewal, we will have the opportunity to thoroughly assess whether a ban on these specific weapons of choice for criminals was effective or whether it should expire.

In conclusion, I wish to underscore my hope that this section of the anticrime bill will be recognized and respected for what it is—it is an anticrime, antidrug, antiterrorist, and antiviolence initiative. The ceaseless wave of drugs that has poured into America will not be stemmed unless we mobilize as a country and take extraordinary measures to eliminate this extraordinary threat. Our citizens' right to bear arms is not in peril, but I certainly hope that the ability of criminals and drug criminals to prey on the people and law enforcement officials in my State and throughout America is in grave and immediate danger.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina [Mr. THURMOND] is recognized to offer a perfecting amendment regarding title II of the bill. There will be 6 hours of debate on the Thurmond amendment equally divided and controlled by the Senator from South Carolina [Mr. THURMOND], and the Senator from Delaware [Mr. BIDEN] or their designees.

The Senator from Delaware.

Mr. BIDEN. Mr. President, as the Chair indicated, there is a 6-hour time limitation on this amendment. What is at stake here is the bill before us now contains a provision relating to habeas corpus, the so-called Biden bill that is sitting at the desk. It has been amended by Senator GRAHAM so that there is now a habeas corpus provision in the legislation sitting before us that will be better known from this point as the Graham-Biden habeas corpus provision.

By unanimous consent, we agreed with our Republican colleagues and the distinguished Senator from South Carolina that he would offer a substitute to that portion of the bill before us, let me explain this to my colleagues, the habeas corpus provision. This will be the only vote on habeas corpus we will have in the entirety of our debate on this crime bill. That means from now until the time we end this debate on crime, this will be the debate.

There will be no amendments to the substitute about to be offered by my friend from South Carolina. So at some point, hopefully well before 6 hours are up—but that is the time that has been allotted—we will have one vote on whether or not the Graham habeas corpus provision that is in the bill now or the Thurmond-Specter provision which is about to be sent to the desk will prevail. I just wanted to set that out. I now will be delighted to yield the floor to my distinguished friend from South Carolina.

Mr. THURMOND. Mr. President, while Senators are here, and before they will be moving out, I just want to say if they want to end these long appeals, if they really want habeas corpus, they better adopt this amendment.

AMENDMENT NO. 1687

(Purpose: To amend title 28 of the United States Code to provide special habeas corpus procedures in capital cases)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. SPECTER, Mr. HATCH, and Mr. SIMPSON, proposes an amendment numbered 1687.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike Title Two and insert in lieu thereof the following: "TITLE TWO—HABEAS CORPUS REFORM"

SEC. . SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus petition; time requirements; tolling rules.
"2264. Evidentiary hearings; scope of Federal review; district court adjudication.
"2265. Certificate of probable cause inapplicable.
"2266. Counsel in capital cases; trial and post-conviction standards.
"2267. Law controlling in Federal habeas corpus proceeding; retroactivity.
"2268. Habeas corpus time requirements.

**§ 2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

"(a) This chapter shall apply—

"(1) to—

"(A) cases in which the defendant is tried for a capital offense; or

"(B) cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence; and

"(2) only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2266 of this title.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State defendants tried for a capital offense and all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the defendant or prisoner upon a finding that the defendant or prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the defendant or prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant or prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent—

"(1) a State defendant being tried for a capital offense; or

"(2) prisoner under capital sentence during direct appeals in the State courts,

shall have previously represented the defendant or prisoner at trial or on direct appeal in the case for which the appointment is made unless the defendant or prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter of this title. This subsection shall not preclude the appointment of different counsel at any phase of Federal post-conviction proceedings.

**§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions**

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2261(c) of this title for a prisoner under capital sentence, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to this chapter. The application must recite that the State has invoked the procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under this chapter within the time required in section 2263 of this title; or

"(2) upon completion of district court and court of appeals review under this chapter, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new fundamental right that is retroactively applicable; or

"(C) is due to the fact the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the filing of any successive petition for a writ of habeas corpus is authorized by the appropriate court of appeals in accordance with section 2264(c) and the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed, or newly discovered facts, which are not based upon or include opinion evidence, expert or otherwise, which would be sufficient to undermine the court's confidence in the validity of the death sentence.

**"§ 2263. Filing of habeas corpus petition; time requirements; tolling rules**

"(a) Any petition filed under this chapter for habeas corpus relief must be filed in the appropriate district court not later than 60 days after the filing in the appropriate State court of record of an order issued in compliance with section 2261(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes; and

"(2) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 60 day period established by this section. A court that finds that good cause has been shown shall explain in writing the basis for such a finding.

(b) A notice of appeal from a judgment of the district court in a claim under this chapter shall be filed within 20 days of the entry of judgment.

(c) A petition for a writ of certiorari to the Supreme Court of the United States in a claim under this chapter shall be filed within 20 days of the issuance of the mandate by the court of appeals.

**"§ 2264. Evidentiary hearings; scope of Federal review; district court adjudication**

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court—

"(1) shall determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) May conduct an evidentiary hearing when the court, in its discretion, determines that such hearing is necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it within the time limits established in section 2268 of this title.

"(c)(1) except as provided in paragraph (2), a district court may not consider a successive claim under this chapter.

"(c)(2) A district court may only consider a successive claim under this chapter if the petitioner seeks leave to file a successive petition in the appropriate court of appeals."

"(c)(3) In a case in which the appropriate court of appeals grants leave to file a successive petition, the time limits established by this chapter shall be applicable to all further proceedings under the successive petition.

**§ 2265. Certificate of probable cause inapplicable**

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter.

**"§ 2266. Counsel in capital cases; trial and post-conviction standards**

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall:

"(1) provide for counsel to indigents charges with offenses for which capital punishment is sought, to indigents who have been sentenced to death and who seek ap-

pellate or collateral review in state court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court.

"(2) provide for the entry of an order of a court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that (A) the prisoner is not indigent; or (B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b)(1) Except as provided below, at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibilities set forth below. The certification authority for counsel at any stage of a capital case shall be:

"(i) a special committee, constituted by the State court of last resort or by State law, relying on staff attorneys of a defender organization, members of the private bar, or both; or

(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

The certification authority shall:

(iv) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death; and

(v) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

(vi) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed; or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) In a State that has a publicly funded public defender system that is not organized on a statewide basis, the requirements of section 2261(b) shall have been deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a state funded public defender organization, if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) ensure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) If a State has not elected to establish one or more statewide certification authorities to certify counsel eligible to be appointed before trial to represent indigents, in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

(d) If a State has not elected to establish one or more statewide certification authorities to certify counsel eligible to be appointed after trial to represent indigents, in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(e) Notwithstanding this subsection, a court, for good cause, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(f) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (g). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(g) The court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.

**"§ 2267. Law controlling in Federal habeas corpus proceedings; retroactivity**

"In cases subject to this chapter, all claims shall be governed by the law as it was when the petitioner's sentence became final. A court considering a claim under this chapter shall consider intervening decisions by the Supreme Court of the United States which establish fundamental constitutional rights.

**"§ 2268. Habeas corpus time requirements**

"(a) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing.

"(b) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(c) The Supreme Court shall act on any petition for a writ of certiorari in a case brought under this chapter within 90 days after the petition is filed.

"(d) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases..... 2261".

(c) AMENDMENT TO SECTION 2254 OF TITLE 28.—Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.".

Mr. THURMOND. Mr. President, I rise today to offer, along with Senator SPECTER, a tough habeas corpus reform proposal which strikes at the heart of our Nation's habeas corpus problem—delay. Delay, delay, that is what is taking place. This amendment, which is cosponsored by Senator HATCH and Senator SIMPSON, would strike the habeas reform proposal contained in the Biden bill, which expands death row inmates rights, and replace it with a new proposal which appropriately addresses the need to establish a definite timeframe for Federal consideration of death penalty cases. This proposal was arrived at after consultation with several members of the Judiciary Committee and embodies a consolidation of the Powell habeas corpus proposal contained in my substitute and an amendment drafted by Senator SPECTER.

Although I have introduced another habeas proposal which the Attorney General and I believe to be preferable, S. 88, I have decided to offer this amendment which will effectively end abuse of the habeas procedure. The issue of habeas corpus reform has lingered in Congress for several years and we must act. After conferring with a number of Senators and experts in this area, I am convinced that this proposal warrants adoption by this body and is vastly superior to the proposal pending in S. 1970.

This Nation is facing a crisis in its criminal justice system. Federal habeas corpus and collateral attack procedures are in dire need of reform. This is evidenced by the glut of habeas petitions in the Federal system. In addition, Federal courts have proven to be slow in their action on and, in some cases, willingness to act upon habeas petitions. The large increases in the number of habeas corpus filings, many of which are frivolous and used as a delaying tactic, and the inordinate length of time death row immates spend litigating in the Federal system, require that legislation be enacted to reform habeas corpus.

Habeas petitions have grown by vast numbers in recent years. In 1941, State prisoners filed 127 habeas corpus petitions in the Federal district courts. By 1961, that figure had risen to 1,020. Over the years, that number has continued to rise with Federal district courts receiving an incredible 9,880 habeas petitions in 1988. The problem of these numerous filings is compounded by the extraordinary delay in

habeas corpus filings and court action. With respect to delay on the part of our Federal courts, a witness who testified at a recent Judiciary Committee cited a habeas corpus case he was involved with where the Federal court took 3 years to decide on one habeas petition. The result of these related problems is years of delay between sentencing and a final judicial resolution and imposition of the death sentence.

The Thurmond-Specter amendment is based, in substantial part, upon the recommendations of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases chaired by former Associate Supreme Court Justice Lewis Powell. This committee, commonly referred to as the Powell Committee, was formed by Chief Justice William Rehnquist in June 1988. The Powell committee was charged with inquiring into the necessity and desirability of legislation directed toward avoiding delay and the lack of finality in capital cases in which the prisoner had been offered counsel. Pursuant to the Chief Justice's request, the Powell committee made its recommendations and proposed a legislative remedy to the problem of habeas corpus review in capital cases.

Mr. President, this amendment incorporates the Powell committee recommendations and proposes new statutory procedures for Federal habeas corpus review of capital sentences. It is aimed at achieving the following goal: death penalty cases should be subject to one complete and fair course of collateral review in the State and Federal system, free from the time pressure of impending execution, and with the assistance of competent counsel for the defendant. Once this appropriate, fair review is completed, the criminal process should be brought to a conclusion.

This proposal allows a State to bring death penalty litigation by its prisoners within the new statute by providing competent counsel for inmates at trial and on State and Federal habeas corpus review. Participation in the new procedures is optional with the States. This legislation also provides for a 60-day period within which a Federal habeas petition must be filed. This 60-day period begins to run on the appointment of counsel. In addition, this legislation provides for an automatic stay of execution, which is to remain in place until Federal habeas proceedings are completed. This provision ensures that habeas claims not be considered by a court under the time pressure of an impending execution. Every claim raised by a death row inmate will be subject to one full and complete review.

Mr. President, where this amendment mostly differs from the underlying bill, S. 1970, and provides effective, true reform is that it establishes a timetable for completion of Federal habeas corpus appeals. The delay in carrying out our Nation's death sentences has brought our judicial system into disrepute. Families of victims are forced to suffer, year after year, while murderers sit on death row. Cases involving capital punishment have dragged through the courts for as long as 18 years. The vast majority of this delay is spent in Federal court. This amendment would, for the first time, establish a definite timetable for completion of Federal habeas corpus cases within 1 year from the time the death sentence becomes final in State court. It would bypass State habeas corpus proceedings which currently involve so much delay. Yet, prisoners would still be permitted to pursue State habeas while proceeding through the Federal system. The essential aspects of the timetable are that:

First, Federal habeas petitions must be filed within 60 days of the final action in the State court proceeding resulting in the death penalty.

Second, a final decision must be made on the claim by the U.S. district court within 110 days from the filing of the habeas corpus petition.

Third, a final decision must be made by the U.S. Court of Appeals within 90 days after, the final judgment of the U.S. district court.

Fourth, final action on a grant or denial of certiorari by the Supreme Court of the United States must be made within 90 days from the final judgment of the court of appeals.

Fifth, continuances would be prohibited except on the showing of good cause.

Sixth, no subsequent Federal habeas corpus petition may be entertained unless specific permission for the filing of such a claim is granted by the court of appeals for that circuit.

This expedited timeframe is both just and practical because it bypasses the long delays inherent in State habeas corpus proceedings, without eliminating a State prisoner's right to pursue State review while his Federal case is proceeding. In addition, it establishes State habeas corpus proceedings as the highest priority in the Federal judicial system.

Mr. President, in other areas this amendment is similar to the underlying bill, S. 1970, since it addresses the concerns regarding the issue of standards for qualified counsel and the issue of retroactivity. The Thurmond-Specter amendment adopts the competency of counsel standards contained in the Biden-Graham bill. The counsel provision provides that a State supreme court can establish its own standards for counsel or the State can choose to adopt the competency requirements already required under Federal habeas law. In addition, this amendment permits Federal courts to consider a successive claim which is based upon intervening decisions by the Supreme Court which establishes fundamental rights which are retroactively applicable. Under the original Powell proposal, these claims could not be heard. The effect of this change would be to permit a Federal court to hear a claim, whether or not the death row inmate has been through the Federal system, if the Supreme Court were to hand down a decision which is retroactive and establishes a fundamental right.

Mr. President, where our amendment differs from the underlying Biden-Graham proposal is the effect the change on retroactivity, which both proposals contain, will have on the ability to carry out death sentences. Without the timetable contained in my amendment, death row inmates will be able to continue to litigate new claims over and over again in Federal court. This Biden-Graham approach, would permit claims to be raised several years after the sentence was imposed. This difference is a critical difference in the two competing proposals. Our bill protects the right of a death row inmate to habeas corpus. However, unlike Biden-Graham habeas, it puts specific timetables in place so that death penalty cases do not drag on endlessly for years.

In addition, the underlying Biden-Graham bill has broad rights to successive petitions which would further expand death row inmates rights. I find this approach unacceptable and unreasonable. The Biden-Graham proposal would permit any Federal court to grant a second, third, or fourth habeas petition if the court did not believe the sentence was appropriate. By contrast, the Thurmond-Specter amendment would only permit U.S. Courts of Appeals to grant the right to have a second petition heard. Clearly, I believe the underlying bill would vastly expand the rights of death row inmates. It makes no sense for Congress to pass a death penalty bill in one title of a crime package, while in another title, enact a habeas corpus proposal which make the death penalty virtually impossible to impose.

Mr. President, finally, it is important to remember that both of these proposals are voluntary to the States. States can choose to opt into the alternative procedures or choose to remain subject to current habeas law. The Thurmond-Specter amendment offers the States, in exchange for the appointment of qualified counsel, a definite timetable for review in Federal court. The Biden-Graham proposal requires that the State appoint qualified counsel in exchange for nothing but continued Federal intervention and more litigation. No State—not one—will choose to opt into the Biden-Graham proposal. Biden-Graham is

not a viable proposal which States will find acceptable.

It is clear that the Biden-Graham proposal is still very similar to the original Biden bill. It contains a habeas corpus provision which would have the effect of increasing both the number of cases in Federal court and the cost of litigation to the Government. According to Justice Lewis Powell, the Biden-Graham proposal would increase—I repeat that according to Justices Lewis Powell, a member of the United States Supreme Court, who is chairman of the committee, who brought up the Powell proposal, and who was appointed by Chief Justice Rehnquist, and this is what Justice Powell says—it would increase, not decrease the number of habeas corpus cases. In fact, the Department of Justice referred to the the original proposal contained in the underlying bill, S. 1970, as a "step in the wrong direction." The Biden-Graham proposal weakens and qualifies the time limitations and finality provisions of the Powell Committee proposal as to ensure that no State would opt into its coverage. Simply put, the Biden proposal would expand the rights of criminal defendants.

By contrast, our amendment truly balances the need for finality in death penalty cases with the requirements that a defendant have a fair and timely examination of all his claims. Thereafter, if the conviction and sentence are found to be appropriate, judicial proceedings will be at an end, absent any exceptional developments in the defendant's case.

Mr. President, finality—I repeat, finality—of litigation and the elimination of the habeas abuse which currently surrounds State death penalty convictions is critical. Law abiding citizens are justifiably fed up with death row inmates using procedural loopholes and unwarranted judicial delay to their benefit. It is time we acted. Legislation which reforms the current habeas process must be meaningful reform which effectively addresses this problem. I believe this legislation is the most effective and tough proposal before the Senate.

In summary, the glut of habeas petitions in the Federal system and the unacceptable delay in execution of capital sentences are all evidence of the dire need for real reform—not reform legislation which will lead to more litigation and abuse. The function of the criminal justice system is to seek the truth. Once established, procedures such as habeas corpus must not go on endlessly to prevent the imposition of appropriate and just punishment. Additionally, prisoners must not be allowed to file frivolous claims which do not warrant the time and energy of those charged with the responsibility of handling them. As Justice Powell stated during his testimony before the committee, the current situation brings our judicial system into disrepute. Justice Powell, who is, incidentally, opposed to the death penalty, nevertheless respects the right of the majority to see to it that constitutionally imposed sentences of death are carried out. It is the duty of this Congress to do the same. Criminal cases must be brought to a close. Endless consideration of issues in criminal cases that have no merit and are filed only for purposes of delay must be eliminated from our judicial system. Federal courts must act upon habeas corpus petitions so that the States can carry out an appropriate and just sentence. The principles of justice, upon which our criminal justice system is based, demand that we take action. It is imperative that we pass this much needed reform measure.

In closing, the Members of this body have a clear choice—a vote for the Biden-Graham proposal is a vote to allow death penalty cases to drag on year after year, while a vote for the Thurmond-Specter proposal is a vote to bring endless death penalty appeals to a close.

For these reasons, I strongly urge my colleagues to support this amendment.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. BURDICK). Senator SPECTER is recognized.

Mr. SPECTER. Mr. President, I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield the distinguished Senator such time as he requires.

Mr. SPECTER. I thank my distinguished colleague, Senator THURMOND.

I will start by congratulating Senator THURMOND for an excellent presentation and congratulate him further on the outstanding work he has done, not only on the current legislation, but in the 10 years that I have been here on the Judiciary Committee, in his capacity as chairman and as ranking member. I, similarly, congratulate the distinguished chairman, Senator BIDEN, for the work which he has done on this legislation and his work as chairman of the committee. And it is my thought, even my hope, that as this debate proceeds, it might be possible to work out some of the underlying disagreements and even to find a consensus as we discuss this important issue.

Mr. President, the amendment which has been offered, captioned the Thurmond-Specter amendment, cosponsored principally by the distinguished Senator from Utah [Mr. HATCH] and the distinguished Senator from Wyoming [Mr. SIMPSON] has been the product of very extensive work and, in accordance with the general legislative approach, very substantial modifications and revisions, even in the course of the past 24 hours. So that my submission to my colleagues is that the gaps have been narrowed on the way important issues, on the consideration on second or subsequent petitions as to the penalty aspect, as well as innocence or quilt, under an appropriate standard; and also there has been an appropriate consideration for what we call intervening Supreme Court decisions, not to use the term retroactive but, substantively, it involves the same matter.

This amendment also provides for appropriate appointment of counsel, investigators and experts, where necessary, in the trial process and in the Federal habeas corpus appeals. As this issue is presented, it is a carefully crafted approach which would satisfy the two critical interests: First, society's interest in having the death penalty carried out in a fair, timely, and judicious manner; second, appropriate protection for the defendant so that the defendant has adequate counsel at all stages of the proceedings and that the defendant has an adequate opportunity to litigate the relevant issues when he challenges the appropriateness of the imposition of the death penalty.

Mr. President, there is general agreement that the American judicial system has broken down with the long delays on appeals in death penalty cases. That has become apparent, as noted by the distinguished Senator from South Carolina, when some cases take as long as 17 or 18 years and when the average is 8 years before the Federal courts have concluded the appellate process on death penalty cases.

What happens, Mr. President, is that the public has lost confidence in the system. The 2,500 inmates on death row are subjected to Russian roulette with stays and delays, a system which takes a heavy toll on everyone, including the defendants. It is not very fair to defendants, although doubtless those on death row would prefer the long delays to the alternatives of execution. But it is a system that makes no sense either for the public. The lengthy delay directly undercuts, vitiates, and eliminates the basic purpose of punishment, which is deterrence.

Deterrence is necessarily based on two factors: swiftness and certainty. Obviously, there can be no swiftness if the appellate process takes 8 years or 18 years, and there is no certainty because of the vagaries of being caught, the vagaries of being convicted; if convicted, the vagaries of having the death penalty; and where the death penalty is imposed, the uncertainty of having that penalty carried out in a system where 125 people have been executed since 1976 of the some 2,600

plus who have been placed under the death penalty.

Mr. President, defendants are entitled to a thorough, fair review in the Federal courts of the State criminal trial process which results in conviction and the imposition of the death penalty. But the kind of procedure which we have should not be used to defeat capital punishment. Capital punishment is obviously a very difficult issue, and there are strong differences of opinon. However, 37 States have established the death penalty. The Federal Government virtually has no death penalty and has had none since Furman versus Georgia in 1972, because the Federal laws have not been recodified to take into account the requirements of the Supreme Court on aggravating and mitigating circumstances.

So at the present time under the Federal system we have only the Uniform Code of Military Justice and we have the 1988 legislation on drug kingpins.

My own view is that capital punishment is a deterrent. I base that on experience as an assistant district attorney and district attorney of Philadelphia, where I have seen many, many cases where professional robbers, and burglars would not carry a weapon in the course of a robbery or burglary because they were afraid of the death penalty.

The cases are numerous where it has been established that defendants are apprehensive about the death penalty. So in my judgment there is a very solid evidentiary base to establish a judgment, and it is a judgment call that the death penalty is a deterrent. Perhaps in the course of this discussion, if this issue becomes relevant or debated, I will move to some of the citations of the evidentiary base to conclude that capital punishment is a deterrent.

Mr. President, beyond my own view that capital punishment is appropriate, I have consistently maintained the position that it has to be very, very carefully administered and it has to be appropriately limited both in the interest of fair imposition on defendants and also in the interest of retaining the death penalty in the arsenal of weapons, because if we overuse the death penalty, I believe that we will lose it, that it will not be retained in our system of criminal justice.

When I was district attorney of Philadelphia, I personally reviewed all the cases, which had been the standard for the DA's in that city for many years and still is the standard, and I believe the standard which prevails generally, so that the ranking authority, duly elected prosecuting attorneys, make that decision at the highest level.

When I was district attorney, my office established very rigid standards for calling for the death penalty. Long before the law precluded the use of a peremptory challenge to exclude Afro-Americans in my district attorney's office, we did not exercise peremptory challenges to exclude Afro-Americans from juries.

Under Pennsylvania law, as it was under the laws of the States generally, a peremptory challenge may be exercised without any cause shown. The number varies from State to State. In Pennsylvania you have 20 challenges, and there had been a practice in the past to strike Afro-Americans from the jury.

When I became district attorney, I stopped that practice because I thought it was unfair. Later the courts in this country have precluded the prosecutor from striking Afro-Americans peremptorily because of its inherent unfairness.

Mr. President, since coming to the Judiciary Committee, early on I voted against Federal legislation which would impose the death penalty on 16-year-olds and 17-years-olds because of my view that we ought to apply the death penalty carefully and not to use it on those under 18. Certainly there are many 16- and 17-year-olds who are hardened criminals, who have bad records, and have committed vicious crimes, but I believe that societal restraint is warranted in not imposing the death penalty in these cases.

Similarly, I disagreed with the decision of the Supreme Court of the United States in upholding the application of the death penalty for those who were retarded. I think that is a bad judgment. I think you have to have societal restraint as a matter of fairness to the individual and societal restraint if we are to maintain the applicability of the death penalty.

Mr. President, in this context then, what we have before the Senate today is the determination of what standards are appropriate in Federal court review. Bear in mind that before a case gets to the Federal court a defendant has been indicted, tried with a jury, convicted of murder in the first degree, had the death penalty imposed, and taken the case to the supreme court in the State where the incident occurred. If the death penalty is upheld, then the matter may go to the Supreme Court of the United States on a petition for a writ of certiorari which, as a practical matter, are rarely heard by the Supreme Court.

Then comes the issue of what is called collateral attack or habeas corpus proceedings. Habeas corpus is a Latin phrase which means have the body, and it means that the body must be produced to determine the legality of the detention or legality of carrying out the penality, which, of course, in this case, is the death penalty.

Mr. President, the new features which are present in the legislation we are presenting here today, added to the amendment filed by the distinguished Senator from South Carolina, are the provisions to eliminate State habeas corpus proceedings as a preliminary or prerequisite to filing a petition for writ of habeas corpus in the Federal court.

The States will still retain the authority to have habeas corpus proceedings as they may choose, but under the Thurmond-Specter amendment that is not a prerequisite. The reason that it is not a prerequisite and the reason that there is a change in this law is because of the relative meaninglessness of State habeas corpus proceedings which can take years.

What happens on a State habeas corpus action is that after the supreme court of the State, say the State of Pennsylvania, has decided that the conviction was proper, the death penalty was proper, and the U.S. Supreme Court has declined to review the case, then it goes back to the trial court and a petition for a writ of habeas corpus is filed alleging errors that have already been decided by the State's highest court with the possible addition of incompetency of counsel.

But when a State lower court, in a State like Pennsylvania, hears the habeas corpus challenge which has already been ruled on by the supreme court of the State, then invariably the lower court dismisses it; it goes to the State supreme court; they have already heard it, and there is a dismissal there pretty much in a perfunctory way.

The net effect is that State habeas corpus proceedings do not amount to much, but they are perfunctory, and all of the functions which are performed by State habeas corpus are duplicated then when the case goes for Federal habeas corpus. But in the Federal system there is a fresh court, a different court, not the court where the defendant was tried, but the U.S. district court. There is a different appellate court. So you have a different court system and you have a tradition for an independent review.

This is not to say that you cannot have State habeas corpus proceedings, but if you want to go to the Federal court this amendment eliminates the prior requirement that you first exhaust State remedies before going to the Federal court. It also establishes a timetable which requires the defendant to move promptly.

One of the really critical aspects of the pending legislation, and this is legislation advocated by both Senator BIDEN and by Senator THURMOND and myself, relate to the provisions for the appointment of counsel. This has always been a very difficult matter in many of the States. It is not possible to have a criminal justice system func-

tion fairly unless adquate counsel is provided. If a person does not have a lawyer—a good lawyer and an experienced lawyer—to go through the complexities of a criminal trial, justice cannot be obtained. From the vantage point of 1990, it is frankly surprising that it took so long in our system of criminal justice to have the requirements that someone who is on trial even for a capital case have consel appointed.

That was decided by the Supreme Court of the United States in the mid-forties in Betts versus Brady and extended in Gideon versus Wainwright in 1963 to all criminal cases where the sentences are longer than 6 months.

This legislation requires that if a State wishes to have the advantage of these new speedy habeas corpus proceedings, the State must provide adequate counsel, adequate investigative service and adequate witnesses, as defined in some detail under this bill.

Bear in mind, Mr. President, that this legislation does not impose upon the State a requirement that it undertake this course.

But, it offers the State the availability of these speedy processes in the Federal court, if the State complies with these requirements. The Congress does not seek to impose its direction on the States, out of respect for federalism. But, as is customary in many similar lines, we say to the States that if you want an advantage—as, for example, in the case of Federal highway funds—if you want Federal highway funds, you have to limit the drinking age to 21. We are not saying the States have to have the legal drink age of 21, but if they want Federal funding on highways, they have to have it.

That is what is required here. If the States want the advantage of this speedy habeas corpus proceeding which will enable them to carry on their criminal justice system with reasonable promptness, instead of in 8, or 18 years, then they have to undertake the requirements set forth in this legislation.

The requirements are detailed as to the procedures for the establishment of panels of qualified lawyers or, in the absence of that, to have a lawyer with either 5 year's practice, plus 3 year's litigating felony cases, which is the requirement which the Congress set forth in the 1988 drug laws. Then the court has the authority to appoint investigators, expert witnesses, and the court shall fix the compensation to be paid.

Of course, in the administration and carrying out of all these laws, there is necessarily the requirement of a good-faith effort to see to it that the fees are fair and reasonable. We cannot micromanage the court systems and establish an hourly rate for every State in the United States or every county. That depends upon local circumstances.

But it is the obligation of the trial judges, in the State courts where these capital cases are tried, to see that that is done. It is the obligation of the Federal judges, the U.S. district court judges, when they have a lawyer appointed for the habeas corpus proceedings, to see to it that adequate counsel is provided so that fairness is maintained. That kind of judicial supervision is necessary.

Mr. President, once there is the assurance that adequate counsel is present, and that there are funds to pay for investigators, and there are funds to pay for expert witnesses, then there is no reason why we should not establish a timetable which would conclude these cases in a reasonable period of time. This amendment requires the Federal courts to give them expedited treatment. The first and highest priority in the Federal courts will be the habeas corpus appeals from the death sentence.

Congress legislated many years ago on the subject of speedy trials in Federal courts, so it is a logical adjunct for the Congress now to address the timeframe on the handling of habeas corpus proceedings in the Federal courts.

Mr. President, the Thurmond-Specter amendment requires that the petition for a writ of habeas corpus be filed in the Federal court within 60 days from the final action by the Supreme Court of the United States in denying certiorari. But the reality is that the 60-day requirement comes on top of approximately 4 to 6 months, which the system has, to see to it that counsel is appointed after the State supreme court has upheld the death penalty. That is the activating date.

When the State supreme court has upheld the imposition of the death penalty, everyone is on notice that the process should begin at that time to appoint counsel, and that counsel should at that point begin to prepare for the Federal habeas corpus proceeding because it is apparent from our experience that such a small number of cases are ever taken by the Supreme Court of the United States on certiorari that it is a certainty, a virtual certainty, that the case is going into Federal habeas corpus and that is the moment for action.

The whole range of the death penalty cases are of sufficient importance in the administration of criminal justice, Mr. President, that these cases cannot be business as usual. You simply cannot let the files lie around for 6 months or a year until the petition is filed. Under the existing practices, the petitions for a writ of habeas corpus are not filed until an execution date has been set, and they languish for months or years before they reach that point with the legal processes taking their toll, after the final decision on the judicial appellate process.

Mr. President, after the petition for a writ of habeas corpus is filed, the State would have the customary 20 days to file a responsive pleading. At that juncture the U.S. district court which has jurisdiction would have the responsibility to give this case expedited treatment. And, under the statute, it would have 110 days in total: 20 days filing time, plus 90 days for disposition of the case.

If the case is complicated and requires more time, discretion would be vested in the district court to extend the time for the filing of the petition so that the 60 days has that latitude and flexibility. The court could extend the time for the decision within 110 days total, but only on a showing of good cause, to be specified by the court.

Mr. President, I have handled habeas corpus cases in the State court and that is the basis for my representation and argument that they are duplicative and meaningless. Similarly, I have handled cases in the Federal court. This timeframe is realistic, especially given priority attention for these cases to be so resolved.

Mr. President, there would not be any undue burden on the Federal courts. If we take Philadelphia, for example, there are approximately 10 to 12 death cases coming out of the Philadelphia court system each year.

Interestingly, of the 110 people on death row in Pennsylvania, 70 come from Philadelphia, 40 from the remainder of the State. Considering 10 to 12 death cases a year, that would be less than 1 case per judge on the Federal court. In Philadelphia, there are 18 permanent judgeships and 10 senior judges, so a judge would have a case once every 2½ or 3 years.

Similarly, in the case of Florida I am advised by the State attorney general's office there that there are approximately 25 death sentences imposed each year. Florida has 27 district judges. So it would be less than one a year in the State of Florida.

Texas has, again according to the State attorney general's office, approximately 25 to 30 death sentences each year. In Texas, there are 36 district judges and 10 senior judges. So on the average it would be one every 18 to 20 months in the State of Texas. So the burden is not excessive for the district court to give priority attention to these cases.

If more judges are necessary, Mr. President, the Congress has to provide them, as we are currently with the bill introduced last week to provide 86 additional Federal judges. We must provide the necessary judicial manpower to carry out the administration of criminal justice and have adequate

judges to give the appropriate attention which these cases require.

Mr. President, beyond the district court, the case would then go to the court of appeals under a timetable, again, of 110 days. This is about the same timetable now utilized in most circuit courts of appeal: 20 days for the pleadings, and a briefing and argument schedule to encompass 110 days. Again, if more time is necessary, the statute provides for the flexibility on the showing of good cause with the specific reasons being cited.

Once the case is concluded by the court of appeals, then there is again a requirement that the Supreme Court of the United States conclude the case within 110 days. If cert is denied, that would be not too far from the current standards.

(Mr. LAUTENBERG assumed the chair.)

Mr. SPECTER. Mr. President, at every stage of the proceeding, the Congress would be asking or directing the courts to give these cases priority attention. We ask for the priority attention because in the absence of this priority attention, the death penalty, as a weapon in the arsenal of society's means to protect itself, is rendered virtually meaningless. So that this timetable in the Federal court would provide for review in approximately 1 year from the initial decision of the Supreme Court of the United States in denying certiorari on the appeal from the decision by the State's highest court.

Realistically, as noted before, it is 4 to 6 months in addition to that because after the State's highest court has upheld the imposition of the death penalty and we know it is going to the Federal courts, it takes that much time to go to the Supreme Court of the United States on a petition for certiorari.

Mr. President, on the two items which have been in contention—and there are only two issues which have been hotly contested—it is my submission that this amendment establishes a realistic and workable procedure as the amendment has finally been drafted.

One of the arguments has been whether there should be consideration on subsequent petitions of only innocence of guilt or also on the penalty itself. One of the very difficult factors in the administration of justice where the death penalty is imposed is that after you establish a system where a man or woman is tried before a jury and can produce all sorts of mitigating circumstances, and that case is then heard by the State supreme court which upholds it, then there is a habeas corpus petition filed in the Federal court. There is no limit on what the Federal court can hear at that time in an evidentiary proceeding to give full and fair review to what has happened in the State court. But after the district court has decided it and it has been reviewed by the court of appeals and certainly applied for at the Supreme Court, then there is invariably the situation which would arise when the death penalty application is imminent for another petition for a writ of habeas corpus to be applied for. It is this repetition which has resulted in the long delays of up to 18 years, and it is this repetition that has to be dealt with but dealt with in a fair manner.

The Thurmond-Specter amendment provides that a subsequent petition may be filed only if leave is granted by the court of appeals. So that it is not a matter of going back to the district judge who may be tough or may be lenient. It goes on the second petition, or subsequent petition, to the court of appeals—three judges—and if the defendant is to have the opportunity to have another hearing, he has to persuade, or she has to persuade, two of three of those court of appeals judges that there is some merit in having another appeal. That is a fair test which has a balance on a gatekeeper with discretion, a standing—the court of appeals—and always a gatekeeper which will exercise, as best we can in any system of justice, the appropriate discretion.

This is a novel approach, candidly, suggested to me by a very distinguished judge in the court of appeals.

The controversy has arisen as to what should be the standard applied when someone goes in for Federal habeas corpus after they have had the full State review and the full first Federal review.

The Powell Commission took the position that the scope of review ought to be limited only to the question of innocence. The judicial conference, a group of circuit judges and other Federal judges, took the position that there ought to be review not only as to innocence or guilt, but also a review as to the propriety of the penalty.

The earlier approach, in this amendment, was to limit it to what the Powell Commission said, but that has since been changed. So now there is an inclusion of consideration on a subsequent appeal to the penalty aspect if there is a showing of fact on newly discovered materials.

So that now the provision reads as follows, Mr. President. I read it because this is a very important provision:

> The filing of any successive petition for a writ of habeas corpus is authorized by the appropriate Court of Appeals in accordance with section 2264(c).

I might explain that that is the gatekeeper leave granted by the court of appeals. The text goes on:

> And the facts underlying the claim would be sufficient, if proved, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed, or newly discovered facts which are not based upon or include opinion evidence, expert or otherwise, which would be sufficient to undermine the court's confidence in the validity of the death sentence.

So that in this standard, we have the essence of what has been urged by the judicial conference. We have a subsequent petition allowed if there is a contention of innocence or if there are newly discovered facts which bear upon the validity of the death sentence.

It appropriately, Mr. President, does not allow a second round of Federal habeas corpus, a second bite of the apple, so to speak, if you get a new opinion from a new psychiatrist which could have been obtained at any time. So there is the allowance, if there is a newly discovered fact which bears upon the question of death penalty, as well as on the question of innocence.

Mr. President, I believe that that is an appropriate determination because I do not believe that it is wise or conscionable to exclude an individual on his or her way to the death penalty if there is a fact of this nature which bears either on the question of innocence, guilt, or on the question of the propriety of the sentence.

This comes in significant measure, Mr. President, from the testimony of Justice Powell himself when he appeared before the Judiciary Committee in a very lengthy session and made this comment which appears at page 359 of the RECORD from November 8 of last year, where Justice Powell testifies:

> I repeat what I said earlier, that for the most part, innocence is not an issue in this case. The question is whether or not a death sentence was appropriate, and whether or not the trial was fair.

Focus in on that, Mr. President. When Justice Powell comes to grips with the application of an appropriate standard, Justice Powell moves beyond what the Powell Commission said on seeking to limit subsequent petitions only to the question of innocence or guilt when he says, and again I quote:

> The question is whether or not a death sentence was appropriate.

So that is what is comprehended within the modification of the amendment which is now pending before the Senate.

Mr. President, the other principal bone of contention between the two positions has been the question on whether later decisions by the Supreme Court of the United States would be available to someone whose appellate process had already run its course, the so-called retroactively issue.

After a good deal of effort, the Thurmond-Specter amendment I think strikes the right balance on this difficult issue. Again, it is in accord-

ance with societal constraint and in accordance with the basic approach that the defendant ought to be accorded appropriate breadth before the death penalty is imposed. The substance of the Thurmond-Specter amendment provides as follows:

A court considering a claim under this chapter shall consider intervening decisions by the Supreme Court of the United States which establish fundamental rights.

What Chief Justice Rehnquist had been arguing for was to allow a death row defendant the benefit of decisions on fundamental rights and decisions which were intervening after he had run the appellate process intitially.

But, Mr. President, the most important aspect of the thrust of the Thurmond-Specter amendment is that we establish a timetable where there will be relatively few intervening appellate court-Supreme Court rights granted. That happens when it takes 18 years for a case to be decided. If you took a span of even 8 years, which is the average, in the 1960's, you would have an Escobedo, Miranda, and lineups, and search and seizure. You would have a whole panoply of new rights which would arise. So that when a defendant was tried, before a case would run through the Federal habeas corpus system, he would go through the State system and in that intervening time there would be a new right on confession. That case would go up and come back down, and by that time there would be a new right up on lineups. That case would go up, and before it was finished there would be a new right on search and seizure. That case would go up, and before it was finished there would be a new right on the selection of juries. It is a fact that in the evolving system of criminal justice in this country we have added substantial new rights to defendants.

Mr. President, if you want to read a shocking decision, even though you may be a nonlawyer, pick up the decision of the Supreme Court of the United States in Brown versus Mississippi, a case which was handed down in 1936. Although it was not so long ago, there was a time when the Supreme Court of the United States did not have anything to say about any case tried in the State courts because under our concept of federalism, when a State court had decided the criminal case, that was that; the Supreme Court would not touch the criminal case, notwithstanding the fact that the 14th amendment was passed immediately after the Civil War. But it took until 1936 for the Supreme Court of the United States to say that the provisions of due process of law placed a Federal limitation on what a State could do.

The defendant in Brown versus Mississippi was an African-American man who was brutalized virtually beyond description. He was taken to a neighboring State, beaten, a noose around his neck, and hanged to obtain a coerced confession. Finally in 1936 the Supreme Court of the United States said, enough; States cannot undertake those kinds of practices in the United States of America without having the Federal court step in and stop that kind of a practice.

I think no one would begin to disagree with that kind of a decision today just as we do not disagree at all with the decision in Brown versus Board of Education or many of the decisions of the Supreme Court which have brought a sense of decency and justice to this country.

But then the rights have continued. And I am not going to engage in an extensive discussion as to how those rights have evolved, but many of them have been very tough on law enforcement.

I recall when Miranda versus Arizona came down imposing a new standard for policy interrogation which applied from the date of the decision on June 13 of 1966, so that in cases which had been investigated a week before, a month before, when confessions had been appropriately obtained under existing standards—we had a case in Philadelphia, Commonwealth versus Hickey, where a man robbed a cab driver and murdered him and the police went to his apartment and found the gun and materials that proved to be from the body of the cab driver. They questioned the defendant in accordance with the existing rights under Escobedo versus Illinois, but they did not give the Miranda warnings: you have a right to remain silent, and everything you say can and will be used against you; that you have a right to a lawyer, and if you do not have a lawyer the State will provide one, and if you start to talk and change your mind, you can stop at any time. Who, in May 1966, would have predicted that a month later the Supreme Court would come down with that ruling? But the Supreme Court did, and many cases were wiped out, and I think inappropriately wiped out after there had been an evolving standard under Mapp versus Ohio in search and seizure and lineups, and so forth. So as these cases have moved through the State habeas corpus proceedings and Federal habeas corpus, before they are finally decided, new rights have been created.

This amendment takes a realistic look at the criminal justice system, and we say for the first time that the emperor has no clothes, when you require a State habeas corpus proceeding which takes several years to be a jurisdictional requirement before going into Federal habeas corpus, because in a Federal habeas corpus you get all of the rights.

For the first time the Congress will have spoken in this bill to establish meaningful requirements for appointment and payment of counsel, investigators, and expert witnesses if the State wants the advantage of this expedited habeas corpus proceedings. It will do justice to the defendants, and it will do justice to society by allowing the procedure which will meaningfully allow the imposition of the death penalty in appropriate cases.

I thank the Chair and yield the floor.

Mr. President, may I inquire as to how much time remains?

The PRESIDING OFFICER. There is approximately 2 hours remaining for the Senator from South Carolina and a full 3 hours remain for the Senator from Delaware.

Mr. SPECTER. I thank the Chair.

Mr. GRAHAM. Mr. President, I thank the Chair.

Earlier today, I proposed, and the Senate accepted, a modification of the underlying bill which substituted a new title II as it relates to habeas corpus. While that process was underway on the amendment that was cosponsored by Senator DECONCINI and Senator BRYAN, a similar effort was underway with Senator THURMOND and Senator SPECTER. It is reminiscent of some experiences in science. It was at the end of the 19th century that a scientist in India and another scientist in Cuba, halfway around the world, were both attempting to understand the cause of yellow fever.

And independently they both reached the determination that the cause was a particular form of mosquito which had in a period of its maturity served as the carrier for what at that time was one of the world's most dreaded diseases. These two scientists, thousands of miles apart, ended up with the same diagnosis and the same prescription for the resolution of this dreaded disease.

In some ways, that process has been occurring with this legislation. We started off independently, Senator THURMOND, Senator SPECTER, Senator DECONCINI, Senator BRYAN, and myself, and attempted to understand and arrive at a reasonable resolution of this issue.

I believe that the result is an underlying amendment, which is now part of the bill, and an amendment which has been offered by the Senators from South Carolina and Pennsylvania, which is very similar.

The good news with that is I believe there is every reason to believe that this Senate will pass by a strong vote a very considerable reform in the current habeas corpus law, and that the result of that will be a greater sense of real justice, real justice in the sense that decisions will be made on evidence which is relevant, which is relatively fresh; decisions will be made on a timely basis; the public's confidence

that the judicial process has some capability of reaching finality will be restored.

I am very pleased with that, and I wish to commend all of my colleagues who have participated in the effort that has brought us so close. I also wish to commend former Supreme Court Justice Lewis Powell and the members of this committee, whose efforts contributed so substantially to the result that we have reached today.

Their distinguished committee, which was made up of five Federal or former Federal judges, pooled their practical experience and sought outside counsel on options for habeas corpus reform.

The consensus that reform is needed was quickly formed. That recognition of the need for reform is now held broadly within this Chamber. The reasons for that recognition and need for reform are obvious.

Mr. President, from 1961 to 1986, State prisoners filing habeas corpus petitions in Federal district courts increased by 786 percent, a 786-percent increase between 1961 and 1986. The number of State prisoners' habeas corpus petitions filed in Federal courts has jumped from 497 cases in 1987, and 438 cases in 1988. This brings us to an all-time high number of 9,880 habeas corpus petitions in the last 4-quarter year.

Mr. President, Senator SPECTER has had the opportunity to deal with these cases from the perspective of a Federal prosecutor. I had the responsibility of dealing with it from the perspective of a Governor of a State with a large number, over 300 persons, on death row.

I would like to review what actually happens in these cases under the current law. The case I am going to cite is hypothetical in that it is an amalgamation of a number of cases with very similar factual circumstances.

An individual commits a heinous crime, a multiple murder, in our State. It has to be under circumstances that shock the consciousness of the citizenry. That murder results in a trial, a conviction by a jury, a recommendation by that jury, and then finally a judicially imposed sentence of death.

Let us assume that that occurred in 1978. There is then a period of direct appeals, first to the Florida Supreme Court, and then a request, and if granted, an appeal before the U.S. Supreme Court, a direct appeal. That process takes until 1981.

Then there is a period of habeas corpus review in the State courts because under the current law there is the principle of exhaustion of State remedies before access to the Federal court is available.

In our State we have now adopted a provision very similar to what this bill would provide, and that is a statute of limitations. You have to bring your case before the State court within a period of time, or you suffer the potential sanction of losing access to the court. It is my understanding that there are approximately five other States that have adopted a similar statute of limitations.

Let us assume that process requires 2 years to run. We are now up to 1983.

Then the person waits. What they wait for is the signing of a death warrant. In Florida, that occurs after there has been a clemency hearing in which the individual has an opportunity to present the widest possible range of evidence on the specific facts of the case, personal circumstances, issues that would go beyond what we would consider the law and go to the issue of mercy.

If that case is rejected—if clemency is not granted—then it becomes the responsibility of the Governor to sign a death warrant. Typically, that warrant is signed for a date 30 days subsequent. Twenty days of that period pass. At the end of that 20 days, a petition is filed in the Federal court for a Federal collateral appeal review.

The Federal court, now faced with a complicated case, only 10 days or less left until an execution is going to occur, is requested to enter a stay of execution which is almost automatically granted.

Then a long process of Federal collateral review commences. That process will typically end again at the U.S. Supreme Court. Assuming that that claim has been denied, then there is a review to determine whether another clemency process is appropriate, whether there has been any change of circumstances that would indicate clemency, not previously granted, might be considered.

Assuming that is not the case, another death warrant is signed for a date approximately 30 days in the future. Twenty days into that death warrant, another Federal collateral appeal petition is filed, raising a second issue, an issue different from that which had been raised in the first instance.

That process rolls forward until now we are in the late spring of 1990. That individual, 12 years after the incident, 12 years after the original conviction, still awaits a final determination as to punishment.

That is a typical consequence of the way in which the current law operates, in reality.

I believe that we need to move towards reform, which will have goals of finality, of certainty, of assuring that all issues are raised at one time, that they are raised sufficiently close to the events so that if the issue is, for instance, did this person have a competent lawyer at the time of trial, you would have some people with recollections sufficiently fresh, with memories of the incidents at trial to be able to advise appellate courts as to what actually happened so that we would not be dealing with a sense of fantasy, but with reality in our quest for real justice.

Both the bill as modified by the amendment that has now been adopted, and the amendment offered by Senators THURMOND and SPECTER, have similar objectives.

I would like to lay out at this time, Mr. President, what I think are the principal issues within this common objective, and then discuss some of the differences.

I will state that it was only approximately an hour ago, when the Senator from South Carolina offered his final amendment, that we had an opportunity to review it. And it may be at a later point in this debate that I will return for a more thorough analysis of some of the areas of difference.

But I will attempt to lay out what appear to be the principal issues and areas of disagreement at this time.

I suggest that there are six basic issues within the question of reform of the Federal collateral appeals process. First, there is the issue of a statute of limitations for filing Federal habeas corpus claims; second, the right to competent counsel for indigent inmates in these collateral appeals of capital cases; third, a review of the procedural default rules; under what circumstances can a defendant raise issues during the collateral appeals process that had not been raised during the direct appeal or during the trial itself. Next, what are the limits on the filing of successive petitions? Finally, the rules that relate to the retroactivity, the application of new law as enunciated by the U.S. Supreme Court to a case that occurred years in the past.

We can look at these issues one at a time. First, the imposition of a new statute of limitations on filing Federal habeas corpus claims. This is not a new idea. In 1983, the Senate passed a 1-year time limit for the filing of Federal habeas corpus petitions. Under the current law, as I indicated in my hypothetical example, there is relatively little or no incentive for State inmates to file petitions for Federal habeas corpus relief until an exception date is set.

In most instances, the defendant who is incarcerated, but feels that he has some legitimate claim to raise in a habeas corpus proceeding, has every incentive to want to expedite that. If they are able to receive relief, based on their petition, they might get a new trial, or they might be outright released. If they fail, they are in no worse condition than they were on the day they filed the petition.

What is unusual about capital cases is that the incentives are reversed. The defendant is reluctant to file that

last petition, knowing that if that is denied, then that is the ultimate result, and they are going to face the ultimate punishment.

So the fundamental purpose of all of these proposals is to create some sense of timeliness in bringing these appeals. Justice is not well served under the current scenario. There is a flurry of activity of almost chaotic nature which surrounds the signing of the death warrant in the days leading up to execution, as attorneys move from court to court trying to find a friendly forum that will grant them some delay or relief. This disparages the public's opinion, attitude, and perception of the justice system.

This amendment would allow inmates 1 year to file a Federal habeas petition from the time the sentence has been affirmed in the direct appeal of the State court of last resort. This 1-year period can be stayed during a review by the U.S. Supreme Court, based on a request petition for certiorari or during any period in which the petitioner is seeking relief under State habeas corpus procedures.

This 1-year time limit, as I indicated, is consistent with legislation that the Senate passed in 1983. It is also the same time limit which is contained in legislation offered earlier this year by both Senator BIDEN and Senator THURMOND and legislation which I have offered.

The second issue is the accessibility to competent counsel for indigent defendants facing capital sentences. Mr. President, I particularly applaud the Powell Committee for identifying this critical element of habeas corpus reform. In adequate representation at trial and on appeal is often the underlying cause for the plurality of claims which slow the finality of State court judgment. That is not to say that there is not a pool of very fine, highly qualified lawyers to handle capital cases. However, most witnesses who appeared before the Judiciary Committee on this topic lamented the accessibility of good lawyers for indigent inmates. In my State, the State of Florida, by statute, we have created a public defender office to provide competent counsel at the trial level and an office of capital collateral representatives to provide competent counsel for collateral appeals in capital cases.

The Powell Committee recommended that should inmates be limited in the time of filing an appeal—if the statute of limitation concept is adopted—representation should be available for such collateral appeals.

Senator BIDEN, in his original proposal, had provided a similar approach, and I am pleased to say that, in the amendment that has been offered by Senator THURMOND and Senator SPECTER, almost a verbatim adoption of the competency of counsel and the procedures for their selection and compensation has been secured. This is not an issue which is in controversy.

The third issue involved in debate on habeas corpus reform relates to the so-called procedural default rules. Procedural default rules determine under what circumstances an issue which was not raised in a defendant's original trial can be raised in a collateral proceeding.

In the 1977 case of Wainwright versus Sykes, the U.S. Supreme Court reaffirmed its opinion that claims not previously raised may be heard only under three conditions: First, when the failure to raise them was a result of illegal State action; second, when the Supreme Court recognizes a new law that it then retroactively applies; and third when the failure to raise the claim was because certain facts could not have been discovered through the exercise of reasonable diligence. This test, as the Senator referred to, is the "cause" and "prejudice" test. That is, you have to show that there is a just cause for raising this, a reason to bring to the court's attention a matter not previously raised, and that cause has to have caused real prejudice. This rule affords an adequate guarantee that the Federal habeas corpus courts will not be barred from hearing appropriate claims.

The Powell Committee did not recommend any changes in the rules on procedural default. Again, Mr. President, I am pleased to observe that this is an area in which there is no disagreement. Both the amendment offered by the Senator from South Carolina and the Senator from Pennsylvania and what is now the underlying amendment to the bill itself essentially adopts the Powell Committee's position in the previous law relating to procedural default.

The fourth issue has to do with the concept of successive petitions. This is a very important issue. The question is, after the 1-year filing limit is passed, under what conditions can an inmate raise an unheard claim in the Federal court? To use a hypothetical example: Having gone to Federal court once with a petition for habeas corpus and having been unsuccessful, can one go back a second, third, fourth time, raising additional claims? Successive petitions should, in my opinion, and in the opinion of the Powell Committee, be limited to only the most extenuating circumstances. The Powell Committee would allow successive petitions only in extenuating circumstances and only when the claim went to the guilt or innocence of the prisoner.

In this area, both the Senator from South Carolina, the Senator from Pennsylvania and our underlying amendment have digressed slightly from the Powell recommendation, in that we have also recognized the appropriateness under extenuating circumstances of bringing petitions where the validity of the sentence, as well as guilt or innocence, is at issue. That is to say——

Mr. SPECTER. Will the Senator yield for a question?

Mr. GRAHAM. The Senator would like to yield after he finishes about 10 minutes of explaining the issues and attempting to articulate what I sense to be areas of agreement and remaining areas of disagreement.

To return to the hypothetical, if the issue is whether the judge or the jury, depending on which institution has the responsibility for determining the imposition of death, had properly taken into account aggravating circumstances, if there were extenuating reasons why certain information was not brought to the attention of the court in the first habeas corpus petition, we would recognize the fact that that is a legitimate area as is the basic issue of guilt or innocence.

I might say that it has been suggested that up to 70 or 80 percent of the cases which get to the United States Supreme Court through the Federal habeas corpus procedure as applied to capital cases go to the issue of sentencing and the validity of that sentence rather than to the issue of guilt or innocence itself. But I underscore that the ability to bring a successive petition, whether for guilt or innocence, or for the validity of the sentence, should be only available under the narrowest of conditions.

The statute should not contain vague standards such as miscarriage of justice or other words that would tend to encourage future litigation. The amendment which we have proposed, which is now the underlying amendment in this bill, would allow review of successive petitions only when the facts underlying the claim undermine the confidence of the court in the jury's determination of guilt or the validity of the sentence, a standard which is very similar to the standard which has been proposed by the Senators from South Carolina and Pennsylvania.

Finally, the issue of retroactivity: No State will be able to have an effective death penalty statute unless that statute is considered to be fair. One of the most difficult issues of fairness is where an individual was found guilty under a certain State law and then, at sometime in the future, the law is changed. And the question is, Should they get the benefit of that new law which might avoid their being executed, giving them some reasonable basis to pursue a habeas corpus claim, or should they be executed under the law as it existed at the time that they were originally sentenced?

The 1989 Supreme Court case of Teague versus Lane established a basic rule that new law arising after a sen-

tence became final may not be applied in a habeas corpus proceeding.

We have suggested a modification which, again, I believe is very close to that which has been proposed by the Senators from South Carolina and Pennsylvania, and that is we would provide that law cannot be applied retroactively unless the U.S. Supreme Court has promulgated that new law. That is to say, it could not have been promulgated by a court in the Federal system below the Supreme Court and specifically made that law retroactive in its application.

Mr. President, this summary indicates that on the major issues there is wide area of agreement.

Let me just turn in closing to our preliminary analysis of the amendment as offered by the Senators from South Carolina and Pennsylvania as to where we think there are some areas of difference. One area of difference is in the application of State habeas corpus.

The tradition has been that the Federal courts would not intervene until the individual had had a full hearing of his collateral claims in the State court. And I might quote at this time some of the rationale for that. This is from a statement by Justice Lewis Powell, the chairman of the Powell Committee, which states:

> Federal law now requires that before claims may be asserted in a Federal habeas corpus petition they must first be presented to State courts. This represents appropriate respect for federalism. A State court system should have the opportunity to address any errors on its own before intrusion by the Federal system.

The provision that is contained in the amendment by the Senators from South Carolina and Pennsylvania would essentially say thats the exhaustion of State remedies requirement would be waived, and by setting a 60-day time limit in which to bring Federal cases it would virtually necessitate that the prisoner move in the Federal system first.

The argument, as I understand it, for that is the argument of expedition, that the State habeas corpus proceeding is essentially meaningless, that it should be preempted and the defendant directed to the forum that really counts, the Federal system.

First, I disagree with that statement of federalism. The fact is that each State has its own State criminal law. All of these people by definition are State prisoners. They have been prosecute: they have been tried; they have been found guilty under State law.

My State, in some areas, has provisions that are significantly different than the Federal law, one being, the taking of depositions during a criminal proceeding.

Therefore, it is appropriate that the collateral review process start in the State courts which have the jurisdiction of looking at both allegations of misapplication of State law and also have the responsibility to review for compliance with Federal law.

Once that process is completed, and if the State court has made the determination that all State procedures were properly abided by, and in their judgment Federal procedures, then the State collateral appeal process is exhausted. At that point, the prisoner has an opportunity to go into the Federal court, which will only be looking at the issue of compliance with Federal law.

So I believe there is, as Justice Powell indicates, a very basic rationale of federalism for the exhaustion of State remedies.

The argument is made that it will result in expedition, that you will save all this time that now is taken up in the State collateral review process. I disagree with that. What is going to happen is not a termination of the State procedure but rather a reordering.

In the hypothetical I cited, the State habeas corpus process was availed of and exhausted first before the Federal. If the amendment, as offered by the Senators from South Carolina and Pennsylvania, would be adopted, what would happen is that you would have the Federal procedures, then you would have the prisoner going into the State system second.

I do not agree with the argument that what will happen is that you will have parallel procedures, that is procedures in the Federal court and the State court proceeding on the same clock. It is not in the interest of the prisoner to have that occur. It is in the interest of the prisoner to determine what ordering will delay final judgment as long as possible.

So what is going to happen is you are going to have the State proceeding not avoided, but just shifted to the end of the process which will result if there was, in fact, some State defect. You will not find that out until the very end rather than as is the case today, and I think appropriately so, to make that determination at the beginning of the collateral appeal process.

Mr. President, a second area of difference between the approach that is now in the bill and that offered by Senators THURMOND and SPECTER has to do with the judicial time limits. They would set a 60-day period in which to bring that first Federal appeal. We would set a 1-year period. I believe that the 1-year period is more orderly and appropriate. These are complicated cases. Typically the collateral appeal is not handled by the same attorney who handled the appeal at trial and direct appeal.

The reason for that is very obvious. One of the standard issues raised in the collateral appeal is the competency of that counsel. So it is not very likely that you are going to have the same attorney who tried the case and appealed the case doing the collateral appeal, where, in that collateral appeal they are raising the issue of their own professional competence. So there needs to be a period of time in order for that transition to new counsel to occur.

The 1-year period is the period that this Senate, in 1983, felt to be appropriate. The 1-year period was the period that Senator THURMOND, when he introduced his original habeas corpus bill, felt was appropriate. It is the period that Senator BIDEN had included in his original bill. And it was the period that myself and several cosponsors had included in our bill.

Most States, those of which have set a statute of limitations for State proceedings, have set a limit of more than 1 year. In the State of Florida it is 2 years that is given as the statute of limitations to file in the State court. So I believe the period that is suggested, that is the period of 1 year, is an appropriate one.

A second issue that concerns me is the time limits that occur after the petition is filed. The amendment by the Senators from South Carolina and Pennsylvania would set various timeframes in which the Federal courts must act.

We have similar provisions in other areas of Federal criminal procedure. There is what is called the speedy trial rule, which essentially says that, if you are charged with a criminal offense, the prosecution has to bring your trial within a certain number of days. If they fail to do so, if they fail to meet that speedy trial rule, you can go to the court and ask for a dismissal of the charges. That is a basic part of our sense of fair play, that you cannot be accused of a crime and then just left in limbo indefinitely awaiting your trial.

So the sanction for nonperformance on a timely basis is essentially against the public. The public loses its right to try an individual for violation of law, if that trial does not take place on a timely basis.

The question I have is what are the sanctions, and against whom, if the Federal courts do not comply with the time periods contained in this amendment? If we say the Federal court within 120 days has to hear the petition and 125 days elapse and they have not done so and there is no acceptable excuse for that delay, what happens? Does the same thing happen that occurs at the trial level, and that is that the charges are dismissed, the prison door is opened, the defendant is released?

I think that is a very serious issue, of us, through the legislative process, attempting to set a whole new set of rights for a State prisoner in the col-

lateral appeal process, and that is the right to be heard within a certain number of days. What happens if that right of the State prisoner to be heard within that number of days is not in fact accomplished? That is a significant second difference, which on first analysis exists between the underlying amendment and the amendment offered by the Senators from South Carolina and from Pennsylvania.

Mr. President, in conclusion, I am very pleased to be here today, when I think that we are within a short period of time of adopting a very fundamental, balanced, and I hope soon to become law, reform in habeas corpus. There are few things we could do which would have a more salutary effect on the criminal justice system. There are few things we could do that would more help to restore the public's confidence in our basic sense of justice than to reform this process which has been trivialized, which has been the subject of delay, the subject of obfuscation, and increasingly the subject of ridicule by the public, directed at our justice system.

So, Mr. President, I applaud all of those who have brought us to this point today. The amendment we have offered demonstrates the seriousness of our effort to achieve reform in this area. We are serious about protecting the constitutional rights of defendants. We are serious about securing order and finality in capital cases.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, habeas corpus reform is probably the most important issue in the debate so far, although all of the issues involved in this matter are very, very important issues. And, to that extent, I want to compliment the distinguished Senator from Florida. Although I do not think his is the better proposal, it is so much better than what the original Biden proposal was in the bill, and I know he has a profound imprint on it. It is basically a movement in the right direction. He deserves an awful lot of credit, because I understand the conflict and the difficulties on his side of the aisle. We have some of that over here, but nothing like what the distinguished Senator from Florida has to contend with on his side of the aisle. What he has done is singularly very, very important.

What the distinguished Senator from Delaware has done is also very important. At the beginning of this debate, I raised almost all of the issues that the distinguished Senator from Florida has tried to address in the technical amendments he has filed.

They are not so technical. They are very substantive amendments. And I think regardless of what the Senate does, we have a chance here of really having a least a step forward in habeas corpus reform, something that many of us felt could not occur except for what has been done by the distinguished Senator from Florida.

But, having said that, let me just point out some of the disadvantages of his approach vis-a-vis the Thurmond-Specter-Hatch approach—and it is no secret I helped work on the Thurmond-Specter-Hatch approach. I would list the following. No. 1, the distinguished Senator from Florida, in the changes he has brought about, waits until all State proceedings are exhausted before allowing Federal habeas to proceed. We need to know that that can be 3 to 5 years to 10 years and maybe even more. But somewhere between 3 and 10 years before that matter is resolved.

No. 2, he does not set any time limits on the courts to require them to dispose of these habeas corpus cases. So they can go on, on either side of that tree—for the State habeas approach through the Federal habeas approach—for very lengthy periods of time.

No. 3, and I think one of the most critical differences is, he allows successive petitions and stays of execution by a single Federal district trial judge. That is a very significant difference between the two approaches. There are almost 700 district judges, certainly more than 600 in this country. In every district court in this country, in every jurisdiction, there are always one or more judges who, the minute you file a habeas corpus petition, grant it. It does not make any difference whether it is frivolous or not, it is granted. We have at least one, and in many cases more than one, who would grant a Federal petition for habeas corpus for almost any reason no matter how frivolous. That is what is ruining this system.

There are other reasons why I think the Thurmond-Specter-Hatch approach is better. Even so, I pay tremendous tribute and homage to the distinguished Senator from Florida for the efforts he has made.

Frankly, I do not think the Congress should be in the business of telling the Supreme Court what is the effect of their decisions, and I think that, again, is what happens with the Graham-Biden amendment.

What are the advantages of the Thurmond-Specter-Hatch amendment? I would like to appeal to my good friend because I think he has given thoughtful reflection to this. He has been a Governor of a major State in this Union. He has seen the abuse of habeas corpus, time after time, especially in his jurisdiction, but all jurisdictions have seen abuses of habeas corpus petitions. He has seen the tremendous costs to taxpayers that really are just running out of control. And he knows that this is a serious problem.

I would like to appeal to him to look at some of the provisions of the Thurmond amendment. No. 1, the Thurmond-Specter-Hatch amendment requires a death row inmate to file his Federal habeas corpus petition within 60 days after the death sentence becomes final, that is, after appointment of postconviction counsel. So there is a timeframe. They have to move. They are not going to be waiting until the last second so they can keep the person alive for that much longer. They have to move and they have to do so in a good-faith, legitimate effort with legitimate arguments.

No. 2, it prohibits any Federal district court judge from thereafter granting any other habeas petition or stay of execution. This is what the Thurmond-Specter-Hatch amendment does. You get around these judges for whom it does not make any difference what the law is, they are going to grant that petition no matter what it means because of their own personal ideology or philosophy. It is easier for a trial judge to do that. It is almost impossible for an appellate panel of judges to do that.

No. 3, the Thurmond-Specter-Hatch amendment gets around that process and that problem by requiring the petition to be authorized by circuit court of appeals authorization before any successive petition may be brought. So you have to go straight to the circuit court of appeals. It is much more likely that you are going to have, not only a more sophisticated look at the petition, but also that they are not going to put up with the frivolity of petitions that go on today.

No. 4, the Thurmond-Specter-Hatch amendment forces the courts, both trial and appellate courts, to act expeditiously.

The district court has to decide the case within 110 days. That is in the interest of everybody, to be frank. The circuit court has to decide the case within 90 days, and then the Supreme Court within a 90-day period thereafter. So we have speedy, quick, efficient, honest, just approaches to this. But it is still a timely approach. That saves the taxpayers millions of dollars while still protecting the rights of the accused, the rights of the defendant.

No. 5, the Thurmond-Specter-Hatch approach does not postpone consideration of the State's claim at all. That is a State matter. State habeas corpus can proceed at exactly the same time, or subsequently, as the State determines best. It can go on at the same time the Federal habeas petition is filed. Nothing prevents the State. We do not interfere with the State approach toward habeas corpus at all. They can do whatever they want to do, and they can take whatever time they want. But we all know that States are much less likely to grant

habeas corpus petitions than the Federal courts. The reason that is so is because there are some Federal district judges you can absolutely count on to grant a Federal habeas corpus petition regardless of what the merits are, regardless of how frivolous or inconsequential it may be, because of ideology and because of a different belief.

I brought up on Monday, the Andrews case in Utah. I spoke at some length about that Utah case, State versus William Andrews. I complained about the 26 separate appeals or reviews of judgment that this 1 death row prisoner has obtained. Fifteen of those twenty-six appeals or reviews have been in Federal court. They have been in the Federal system. His other 11 appeals have been in the State system.

I just learned that one of these appeals which I had shown on my chart as pending was, in fact, decided against Mr. Andrews on May 12 of this year.

Guess what else has occurred in this case? While I was speaking on the floor of the Senate on Monday, Andrews filed another appeal, No. 27, 16 years after he committed his crime.

What was his crime? Everybody knows. There is no question of guilt. The evidence is so overwhelming and compelling that even Andrews does not deny it. He and another friend went into a hi-fi shop. They tortured the people there. They drove pencils into the ear of at least one, poured Drano down their throats, tortured them, beat them up, and then shot them in cold blood. Everybody knows that.

There is no question they did it. There is no question of guilt. There is no question it was a heinous crime. There is no question that William Andrews deserved the death penalty. And that is what he got. But 17 years later, he was, as of the time I was speaking on the floor decrying this type of a situation and this type of a procedural system, filing his 27th appeal.

All I can say is this has cost the State of Utah millions of dollars. There are legitimate reasons for the petition of habeas corpus—I am a great believer in the petition of habeas corpus—I believe it is a way of rectifying wrongs, but not like this.

That is why the Thurmond-Specter-Hatch approach really is a good approach. If we can get enough colleagues to vote for that, we will send one heck of a beautiful message. I will tell my colleagues something, I will be for this bill regardless of what happened on the gun issue. I am not happy about that, as a person from the West, as someone who made the principal arguments against it. I will be for this bill assuming we can correct some of the other things that are wrong with it and assuming that we can have decent resolution of the capital punishment sections of the bill. But it will go a long way toward causing me to want to support this bill.

That is a pretty big concession on my part, if you stop and think about it, because I feel very deeply about the assault weapons issue that we were talking about. I think many people in my State feel very deeply, and the people all across this country. That was a serious, significant issue.

But this is so important, this is such an important criminal issue, such an important constitutional set of issues, such an important criminal justice issue that I would feel very, very good about it if we agreed to the Thurmond-Specter-Hatch amendment.

I think the distinguished Senator from Florida would feel good about it. He knows this is a better approach because he has thoughtfully looked at this. That is not taking a thing away from him because his approach is a step in the right direction. I never thought it would happen on that side of the floor. I am not being critical. I know there are sincere people who love these appeals—who hate the death penalty so much that they are willing to do anything, no matter what the cost. That is not good law, not a good approach.

I do not blame them for fighting against the death penalty if they feel that way. That is their right. Some of these views are very legitimate from their viewpoint; not from mine, but from their viewpoint. I do not see how any of us can allow this system to go on: Multiple appeals, the right to come up with any frivolous reason to get an appeal and to cost the taxpayers and everybody else in the process.

William Andrews filed this 27th appeal on Monday, while I was talking about and criticizing the fact he had 26 up to then. He objected in this appeal to the Federal magistrate who had denied him relief. This judge had actually conducted a new evidentiary hearing, 16 years after the original crime, to determine if Andrews' right to an impartial jury had been satisfied. In a thorough, 62-page opinion, the judge concluded that no evidence of any constitutional violation or other irregularity in the Andrews trial existed. Instead, he concluded that the prisoner's conduct was "an abuse of the writ."

Andrews had filed another plea to have a thorough review of his latest frivolous complaint reexamined by a Federal court. I presume this will be taken right on up to the Supreme Court of the United States of America with all of those consequent delays, with all of the costs involved, all from a person who literally deserves the judgment that he has received.

Mr. President, I would like to speak with a little more specificity on the issue of habeas corpus reform because I think this is such an important issue. I have to say that I naturally am in support of the Thurmond-Specter-Hatch amendment on habeas corpus. I believe it is one of the most imaginative and effective answers to a difficult legislative issue that I have seen in the time I have been here.

In all honesty, we did not have this put together as of last night. We tried very, very hard. We worked hard all last night and most of the day today. Frankly, I did not expect that the Senate would today be considering a habeas corpus bill that would really reform the system. I did not think that we would see a bill that would truly limit the number of cases that could be brought and that would limit the amount of time that those cases would take. Under the Thurmond-Specter-Hatch amendment, this accomplishes both of those goals.

It is clear, the Graham amendment constitutes, represents a good faith effort to address the habeas corpus in death penalty cases. But it is equally clear that that amendment does not do enough. It is likely, I believe, that this approach to our habeas problems will result in the filing of not fewer but more cases. It will thus have the effect of delaying death sentences, not allowing them to be carried out.

The Graham amendment would introduce new avenues of delay and postponement to be exercised by prisoners on death row. Unlike the Thurmond-Specter-Hatch amendment, this amendment sets no limit on the number of habeas petitions that can be filed by a death row inmate. Even more important, the Graham amendment does not even try to set a time limit on the filing and trying of the habeas corpus petition.

That is the great innovation of the Thurmond-Specter-Hatch amendment, that it sets an absolute watertight timeframe, within which a death row inmate's Federal review remedies will be exhausted. After that time, all further proceedings, with one limited exception, shall be in the State courts or in clemency proceedings before the State's Governor or board of pardons. That is where the serious cases of heinous crimes belong, not in the Federal courts.

Let me explain. Under the Thurmond-Specter-Hatch amendment, Federal habeas corpus proceedings come first, not second, as they do under current practice. State habeas review can be provided by any State, of course, but if a prisoner wants a Federal court to review his death sentence for constitutional defects, he must seek such review within 60 days of his case becoming final. The State postconviction review, if any, will still be available after the Federal habeas process is complete, or it can go on at the same time.

The great advantage of the Thurmond-Specter-Hatch amendment is that this Federal habeas process will reach an end, and it will be quick. First, a State seeking the benefits of the new habeas procedures must provide appointed counsel in postconviction proceedings. The Thurmond-Specter-Hatch amendment requires that.

I personally would not have gone that far, but I am not against it. I just say that it does require appointed counsel.

Then within 60 days after the appointment, the habeas petition must be filed in the appropriate Federal district court.

Next, the trial court must determine the habeas petition within 110 days of filing. Any appeal of the district court determination must be filed in the Federal court of appeals within another 110 days. If further appeal to the Supreme Court is sought, it must be filed within 20 days of the issuance of the mandate by the court of appeals. Then the Supreme Court must in turn render its decision within 90 days of the filing of the petition.

Now, that is a remarkably tight schedule for any case to follow, but it is appropriate for these death penalty appeals. They deserve the priority attention of our courts and the Thurmond-Specter-Hatch amendment ensures they will receive it.

The Graham amendment. Why have I concluded that the Graham amendment, despite its expressed intent to reform habeas, has failed? First, because proposed section 2257(c), which purports to withdraw Federal district court jurisdiction over successive habeas petitions, contains an exception so broad that it entirely swallows the purported habeas limit and renders it useless.

That exception would allow successive petitions in Federal district court, where the prisoner was raising a new issue that had not previously been presented in State or Federal court and "the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed, or the validity of the sentence of death."

The Graham amendment provides an avenue for the prisoners to relitigate and relitigate the appropriateness of the death sentence that was returned. The only practical limitation is that the prisoner has to think of a new issue not raised before.

Well, that should not be hard. There are plenty of attorneys out there ready to volunteer their services, and they are very creative in these matters. All they have to do is keep creating one new issue after another and they can take multiple successive habeas appeals.

The Thurmond-Specter-Hatch amendment, on the other hand, has something very different to say about a Federal district judge's ability to entertain a second habeas petition for a death row inmate. He or she has none. No Federal trial judge, not one of the more than 600 now serving will have jurisdiction to consider a successive habeas petition under the Thurmond-Specter-Hatch amendment. Now, that is habeas reform.

They have their role to play in the original appeal, but no successive appeal will be granted in the first instance by a Federal district judge, so there is not going to be this automatic granting of a successive petition.

Instead, the Thurmond-Specter-Hatch amendment would only allow Federal court review of the second petition where a Federal court of appeals has specifically authorized the filing of such a case.

In other words, the circuit court is going to have to make that determination and, let me tell you, they are going to be much more specific on what the law is than these district judges. Thus, the ability of a single Federal district judge to derail the entire appellate process, which is now so often seen in the death penalty area, will end if the Thurmond-Specter-Hatch amendment is adopted. That is a revolutionary change in our law. It is as welcome as it is overdue.

What that says is, purely and simply, that after the first petition for habeas starts in the district court and goes all the way up to the Supreme Court, if there is a successive petition filed, it goes straight to the appellate court, the circuit court of appeals, and they have to grant the right for it to go on from there.

I can tell you they are not going to do that very often unless there is legitimate reason for doing so. And if there is, then they should and they will. That is the way it should work. But it puts a finality to this that really ought to be there to stop the 27 different, frivolous, fruitless, awful appeals by William Andrews and others in similarly situated circumstances.

Once a successive petition is filed under the Graham amendment, the district court, the court of appeals, and the Supreme Court can each take their own time in deciding the case. There is no incentive for quick action whatsoever. And with all the pressures of the courts, they are not going to be quick any more than they are today.

Under the Thurmond-Specter-Hatch amendment, each of those courts is placed under careful deadlines to ensure their quick attention to these important cases. The entire Federal portion of their appeal should be over within a year. Contrast that to the 17 years that the death row inmates such as Utah prisoner William Andrews has been able to tie up the Federal courts and the State with their appeals under the current system. And the average of these habeas petitions is years. It amounts to years and years and years.

The Graham amendment also expands the right of appeal from adverse rulings on habeas petitions. Under present law, most unsuccessful habeas petitioners may only appeal the dismissal of their petitions where the district judge issues a certificate of probable cause asserting that the legal issues presented by the case are not entirely frivolous. The Graham amendment creates, for the first time, an absolute right to have habeas decisions reviewed on appeal, and that is in his proposed section 2259.

I want to tell my colleagues it is absolutely guaranteed that this will further aggravate the current overload being experienced by the Federal courts of appeals. Moreover, the new appeals allowed by the Graham amendment will by definition be frivolous cases which would not previously have been litigated beyond the trial level. Those who are experts in this field know that, and I know it.

I acknowledge that the Thurmond-Specter-Hatch amendment makes a similar change in the law, but there is little or no potential for delay resulting from this change in the overall framework of the strict limits that Thurmond-Specter-Hatch would establish. In other words, we set time limits. Yes, we protect their right to have a successive appeal, but we set time limits in the process, and in successive appeals we require them to go straight to the circuit courts which will decide these matters fairly, equitably, and quickly.

These are the principal reasons why any Senator who truly favors reform of the habeas corpus system should oppose the habeas corpus provisions of the Graham amendment. That bill, while a step in the right direction, while clearly intended and far superior to the proposal I criticized last Monday, is not, I am afraid, true habeas corpus reform. It would result in habeas even further out of control.

The habeas provisions of the Thurmond-Specter-Hatch amendment by contrast are designed to establish a new time limitation, generally 1 year, after the death sentence becomes final for instituting and trying habeas cases.

Now, I urge my colleagues, this should be a bipartisan issue; this should not be a Democrat versus Republican issue as the assult weapons issue became. Yes, there were a few Republicans who voted with the vast majority of Democrats on that particular issue. That was certainly a partisan vote. There is no question about it. We all know which way it went. There is no question that it came down to partisan politics, but this one should not.

Every one of us has to live with this system. Every one of our States are crying for help. Every one of our criminal law enforcement people who have any sense about this are crying for help. Everybody admits the system is breaking down. Everybody looks at the Andrews case and just sighs and wonders how this great country can allow this situation to continue.

So I urge my colleagues to support the Thurmond-Specter-Hatch amendment and oppose that of Senator GRAHAM. I recognize that there are some in this body, a small minority, who favor the abolition of the death penalty in all circumstances. I do not expect them to vote for the Thurmond-Specter-Hatch amendment—they should not; their personal beliefs are that way—because, I have to tell you, the Thurmond-Specter-Hatch amendment will certainly, beyond doubt, ensure that death sentences are carried out.

So as to those who are against it, I cannot blame them. I cannot blame them for voting against Thurmond-Specter-Hatch. But those who are for it, those who are really tired of the criminal elements in our society, who really want to do something about it, this is now the best chance we have ever had in the history of Congress to do something about this out-of-whack situation.

After 1 year has passed, the death sentences, by Thurmond-Specter-Hatch, will be imposed in the various States, and they will be carried out unless the States themselves or the U.S. Supreme Court stays the execution. All rights are protected, but there will be no frivolity, that is, no successive appeals that are frivolous. There will not be any more abuse of the system; there will not be any more of this tremendous cost to society.

Finally, we will have an effective death penalty in this country that is certain, that is reasonably swift, and one which at the same time protects every conceivable constitutional right of the defendant.

The Chief Justice of the U.S. Supreme Court, William Rehnquist, spoke on the subject of habeas corpus just last week. He made an important point when he noted that no other country in the world allows final criminal convictions to be reopened and reexamined in the courts. Only pardon and executive clemency are generally available. No other country in the world does what we do.

Compare that to the American situation, where we regularly allow not one but two complete postconviction reviews of criminal sentences. Foreign lawyers and judges cannot understand why we do that. Do we have so little faith in our criminal justice system?

We have one review in the State courts. Then we have one in the Federal courts. We come back, back, back, again and again; 27 in the case of William Andrews.

I have to say—maybe it is an appropriate place to put this in the RECORD—that I myself do not like capital punishment. I myself would only use it under the most heinous criminal circumstances. I would not allow it to be used indiscriminately, if I had my way. But I have no doubt there is an appropriate criminal sanction under certain circumstances, and it ought to be one that can be opted for by society.

I do not have any desire to put people to death. Nobody does that who thinks it through. I will tell you, we have to get tough in this country. Our kids are beset with drugs and criminal activity. They are beset with all kinds of other activity; beset with bad examples all over this country.

We have to get tough, and one of the best deterrents I know of is to let them know there is punishment if you are going to maliciously, in a heinous way, kill somebody, and willfully. You are going to face the possibility of the death sentence.

I have to say, from that standpoint, I am one of the most vociferous advocates of the death penalty. As Judge Henry Friendly, of the Second Circuit, once remarked:

> The proverbial man from Mars would surely think we must consider our system of criminal justice terribly bad if we are willing to tolerate such efforts at undoing judgments of conviction. * * * His astonishment would grow when we told him that the one thing almost never suggested on collateral attack is that the prisoner was innocent of the crime.

Judge Friendly summed it all up. Almost anybody has to wonder about a system where nobody really questions the guilt of the defendant, the criminal or the prisoner, if you want to use that term. It is almost never even considered, because everybody knows that the criminal committed the crime. What we have here is an attempt to try under any circumstances to vindicate that criminal's rights over the rights of the victims that he killed.

Mr. President, lawyers, judges, and laymen are astonished that the American criminal justice system allows postconviction review of sentence, and it allows it twice, not only in the State, but in the Federal courts, and many times thereafter.

I concede, regrettably, it may be too late in the day to abolish habeas corpus across the board, an action that this body debated in 1968. But it is even probably too late to abolish Federal habeas in a particular jurisdiction, as we did in 1970 when Congress abolished Federal habeas in the District of Columbia. That despite the fact that every critic I am aware of concedes that the experiment of abolishing habeas in the District of Columbia has worked remarkably well. No criminal defendant's rights have been abused because of it.

No, we cannot enact those sweeping changes today, even though the two previous Attorneys General of the United States called for the total abolition of habeas corpus. But we can ensure that the postconviction proceedings that we keep in place are not abused. The Thurmond-Specter-Hatch amendment gives us that assurance. The Graham amendment, despite all its good intentions, simply does not.

We know where we will be if the Thurmond-Specter-Hatch amendment becomes law. One year after a death sentence becomes final, Federal court review, in all but the most extraordinary cases, will be over. Petitions seeking a stay of execution from a single Federal district judge will simply be turned away as beyond the jurisdiction of the court to grant.

There will be no question about it. There will be nothing on which the court need rule.

We do not know where we will be if the Graham amendment becomes law. First, its Federal habeas provisions will not come into effect immediately after the death sentence becomes final. It would wait until all available State remedies are exhausted. The process usually takes several years, and again, in some instances, it takes as long as a decade, or even more.

The notorious Illinois case of John Wayne Gacy illustrates these points very well. That individual stands convicted of the murder of 33 young men. No one in American history has been convicted in connection with so many deaths.

Gacy has received 12 separate death sentences for his crimes. The murders were committed between 1975 and 1978, and Gacy was sentenced to death way back in 1980. But it took 9 years for Gacy's death sentences to be finally affirmed on direct appeal. You talk about protections of a defendant; 9 years, just on the issues of his death sentence. That is a not surprising amount of time, given the thoroughness of direct appeal and the nature of these crimes.

So the death sentences became final in May of 1989. What happens next? Under current law, which would not be changed by the Graham amendment, Gacy must exhaust every avenue of postconviction relief available to him in the Illinois courts. That could take another 3 to 5 years. We are up to 13 to 15 years, or even more.

Then and only then would he be able for the first time to turn to the Federal courts and begin the process of filing what will surely be a series of habeas corpus petitions. All that the Graham amendment requires basically is that each new habeas petition that Gacy files assert some new ground for relief. You have to be a pretty poor at-

torney not to come up with dozens of new grounds for relief on multiple occasions and on successive petitions for habeas.

How does the Thurmond-Specter-Hatch amendment handle this case? Today, habeas corpus would almost certainly be over and whatever further remedies that he might have, he would have to seek from the Illinois courts.

Had Thurmond-Specter-Hatch been law last May when Gacy's death sentence became final, the State of Illinois could have immediately appointed competent postconviction counsel.

That would have started the strict habeas deadlines under Thurmond-Specter-Hatch. Gacy would have had 60 days to file the Federal habeas petition or lose it forever. Once filed, the case would be finally decided, all the way through the Supreme Court of the United States, within a year.

If Thurmond-Specter-Hatch were the law last year, he would be unable today to seek a stay of his death sentence in any Federal district court in America. The final resolution of his 12 death sentences would be in the hands of the Supreme Court of Illinois, where it should be, and in he hands of the Governor of Illinois, where it should be, or, if a fundamental constitutional claim arises and he can show it, which I am sure he cannot, then his case could be in the hands of the Supreme Court of the United States of America. He would still have all those protections. If that were the case, we would not have to wonder, and neither would he, about the ultimate disposition of that case.

If the Graham amendment had become law last May, how would that have affected the Gacy case? Basically, not at all. The prisoner would be in exactly the same position he is in today, going through the slow, deliberate process of exhausting the State court remedies, even though he has been in court for 10 years on appeal already. At some point In the future, years from now, we can expect that Gacy would file his first habeas petition in Federal Court. How long would it take that court to rule on the case? We can be sure that without the deadlines of the Thurmond-Specter-Hatch amendment, it would be a very, very long time.

It is true that, under the Thurmond-Specter-Hatch amendment, a prisoner can bring a successive petition under extraordinary circumstances. That is one of its strengths. It is not inflexible. But notice how the successive petitions must be handled. First, and most important, no Federal district court can hear a successive petition until the relevant Federal court of appeals first grants authorization for the new habeas filing. That is a significant change in the law, which I guarantee will result in substantial cutbacks on the filing of frivolous cases.

In order for the appellate court to grant authority for the district court to hear a successive petition, the prisoner is going to have to make some very specific allegations showing his or her entitlement to relief. First, relief may be granted if there is newly discovered evidence relating to guilt or innocence. Everyone agrees on the importance of allowing unlimited review in such a case. I do not think any of us would deny that.

Second, the claims relating to the appropriateness of the sentence of death may be considered, but only if based on new factual evidence. To clarify this point, the amendment language specifies that the factual evidence necessary to establish a successive petition cannot be opinion evidence, but must be factual. That means we are not going to have the phony approach of every psychiatrist in the world coming up with some new reason to overturn the death sentence.

Habeas corpus sounds complicated, but it is not. It is about justice, and most people have a strong, accurate, innate sense of what is just and what is not. It is simply not just, by any standard, that a murderer such as Gacy in Illinois, or William Andrews in Utah should be allowed to delay his death sentence indefinitely.

Death sentences are unique. A prisoner sentenced to life in prison is at least serving his sentence while appealing. But in capital cases, every year that goes by without the execution of sentence is a year in which justice has been denied, denied to the victims of these horrible crimes and denied to society. Every year that goes by, justice is denied, especially when there is really no real reason to do what they are doing. That is what is happening all over America today.

Again, I point out that habeas corpus reform is all about justice. Ask the people of Illinois whether they would prefer a system of justice in which John Wayne Gacy's Federal appeals would now be over, or one in which they would still not have started, and would have the prospect of stretching as far into the future decades as any of us can see. What do you think their answer will be? If you can answer that question, I think you can decide between the Thurmond-Specter-Hatch amendment and the Graham amendment. Only the Thurmond-Specter-Hatch amendment really deals with the crisis in death penalty litigation.

I am hoping that our colleagues will put aside partisan feelings, winning or losing here, and do what is right for America. I guarantee that your law enforcement people will be very happy if you adopt the Thurmond-Specter-Hatch amendment here today. I hope we will, because it is the greatest opportunity that I have ever seen in the history of the Congress to do something worthwhile and substantial about this problem.

Senator GRAHAM has done a terrific job with the Graham amendment, and he has brought people further than I thought some could be brought, but it is not far enough if you want to make real inroads on this problem and do it in an intelligent way, a constitutional way, a protection-of-the-defendant way, but also in a consideration-of-the-victims way. This is the way to go. This is our chance. This is a chance to help every State in this Union to stop these frivolous appeals and the tremendous millions and billions of dollars that they cost. This is a chance to really do it right.

Keep in mind that at the same time, although we set time limits, we give them the right to competent counsel. That is something that really I do not think we have to do, because there have been competent counsel handling this anyway. But this is a guaranteed right that the Thurmond-Specter-Hatch amendment would do.

I hope our colleagues will look at this and vote for it. This is the last chance to do something substantive on this issue. If you do not want to do that, Graham is certainly an improvement over what the original Biden amendment was in this bill, S. 1970. But it does not go far enough and does not solve the problem. John Wayne Gacy, William Andrews, and all like them will continue to file successive petitions as long as their attorneys think up new ideas to keep them alive. Frankly, there has to be a finality about these things. There has to be a time when we say, "You know you did it. We know we did it." We know that there is a price to be paid for doing things like this, and we want people in this country to know it so that less of this criminal type of activity, heinous criminal activity, will occur.

That is why the dealth penalty is a deterrent. I know a number of prison guards who would be alive today had the death penalty been carried out on time. They were killed by people on death row. The fact of the matter is, we have to stop this. We have to stop this insanity of costing unnecessary billions of dollars just because some people do not want to see the death penalty enforced, when 85 percent of the American people are fed up with the criminal activities of certain elements of our society and want the death penalty to be an option, so we can deter some of this offensive criminal activity.

I hope our colleagues will support the Thurmond-Specter-Hatch amendment. It is the best opportunity we will ever have, and I do not think we will see this opportunity for a long time to come. As good as Graham

moved us forward, it is not far enough, because John Wayne Gacy and others like him will be alive for many, many years after Graham is enacted into law, assuming that it is.

If we pass the Thurmond-Specter-Hatch amendment, it will go a long way toward making me a supporter of this bill, a long way, regardless of the prior vote on the assault weapons. I have to say that this is one of the most important issues that this body has ever seen, and it is time to do something about it. With that, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MIKULSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, I want to express my commendation for the remarks made by the able Senator from Utah [Mr. HATCH]. Senator HATCH is a valuable member of the Judiciary Committee. He is a profound lawyer, and he has expanded on this matter, I think, in a way that ought to convince anybody that the proposal we have offered is preferable and should be adopted by the Senate.

There is no use to pass any habeas corpus at all unless it means something, unless it is going to prevent this delay that has been going on for years and years.

In my State, only 3 weeks ago a man went to the electric chair. They took 11 years to send him there. He killed four people and he killed a fifth one, a women; he disfigured her for life. He went through all the courts. It went to the Supreme Court on four different occasions.

Madam President, it is just inexcusable that it would take that long. We have to shorten these things. We have a bill here that will shorten it to about 1 year and that will take care of it. If people really want a habeas corpus bill, now is the chance to get it.

The PRESIDING OFFICER. The Senator from Delaware, the chairman of the Judiciary Committee.

Mr. BIDEN. Madam President, I have refrained from speaking on my legislation to this point because I do think that the proposal offered by my friend from South Carolina, the ranking member of the committee, is solid improvement over that from where we started.

Let me say at the outset that both of these proposals are significant changes in the great writ; both of these proposals are significantly different than what the law is at this moment.

Reference was made earlier by my friend from South Carolina, who was, along with me, the subject of discussion by the Chief Justice, with regard to proposed changes in habeas corpus law. We have also been the subject of other discussions, and I believe the ranking member, Senator THURMOND, said that former Justice Powell had commented on the Graham proposal, Biden as amended by Graham, or however you want to phrase it.

But the fact is that former Justice Powell never commented on Graham, only on Biden and specific items about which Powell said Biden would add delay; that is, the miscarriage of justice rule that had been in my original legislation has been deleted. It has been deleted by Graham. So let us start off with the facts.

Let me say that there have been few legal actions that have been more venerated in our legal system than the great writ of habeas corpus. When we tamper with that, we touch the very roots of our system of justice.

For some time now complaints have been raised that habeas corpus is being abused to gain delay, not to gain justice. As a result, last year's drug bill set up a timetable for consideration of habeas corpus reform. Consistent with that timetable, I introduced legislation on habeas corpus reform in October of last year.

Despite some of the charges that have been leveled against it, I believe my bill is truly balanced reform. It reformed and streamlined the habeas corpus system without in any way forsaking anyone's constitutional rights.

My bill would have limited prisoners to one habeas corpus petition, and that would be the first time ever that the prisoners were so limited. Now they can file as many habeas corpus petitions, from 2 to 2,000, as they want.

My bill would have limited the time in which prisoners may file a habeas corpus petition, not just how many, to 1 year. Again, this would have been the first time ever that a limit was placed on the time in which a habeas petition could be filed. Now, a petition can be filed any time, from 2 to 20 years after the conviction.

Having said all that in support of the Biden bill, I must now add that I have come to the conclusion, somewhat reluctantly, to support the more conservative amendments offered by Senator GRAHAM and have agreed to their being attached to my amendment.

While I would prefer to leave my bill as it was, I am more interested in getting a bill that will, in fact, reform habeas corpus, than no bill at all.

Senator GRAHAM's amendment, in my view, makes this a more conservative and tougher bill, but overall provides the kind of balanced reform that I can support.

Senator GRAHAM's amendment limits prisoners to one habeas corpus petition in a 1-year time period, and it narrows the reach of my bill on four specific issues.

First, Senator GRAHAM's amendment offers more flexibility to the States to comply with the counsel provisions of the act.

One of the key elements of any habeas corpus reform, in my mind, is providing competent counsel to death row prisoners. In my original proposal, I provided specific standards to ensure that counsel would be competent: Five years litigating experience and 3 years of trying felony cases, some measure by which we know that in the most complicated and important cases of all in the criminal justice system an indigent person was, in fact, being provided with competent counsel.

Senator GRAHAM has persuaded me that the States are entitled to a greater role in the standard-setting process. His amendment added to the bill would permit the States either to adopt the standards in my original bill or set their own standards through an independent certification authority.

I believe that allowing the States to adopt their own standards is likely to achieve wider acceptance of these habeas corpus reform measures and, therefore, I supported the change in my original proposal.

The second difference between Senator GRAHAM's amendment and my original bill is in the area of second petitions. Senator GRAHAM's alternative is a much more stringent rule than the rule in my bill. Reluctantly, I have been persuaded this is a necessary compromise.

Under my original proposal, a death row prisoner could, in certain limited circumstances, file a second petition if he could show that it would result in a "miscarriage of justice" if he did not have an opportunity to file a second petition.

I continue to believe, based on the Supreme Court cases from which that term was taken—I just did not pick the term "miscarriage of justice" out of the air—that a "miscarriage of justice" exception is not the "loophole" that its opponents claim it to be.

Nevertheless, in the interest of clarity and to avoid any appearance that this reform does not mean what it says, that prisoners will be limited to one, and only one, habeas corpus petition, I have reluctantly decided that the best alternative is to drop the phrase in the exception of "miscarriage of justice," in the second petition. Thus, the Graham amendment limits the possibilities of any second habeas corpus petition.

At the same time, the amendment makes clear that innocence is not the only extraordinary case justifying an exception to the one petition rule, and obviously no one would want to suggest that a second habeas corpus petition would not be filed if in the inter-

im it was determined that there was evidence to prove that the person was innocent. I hope no one would think of suggesting that, although there has been a suggestion some may have.

But beyond that, not only in this extraordinary ability to file second petitions going to be available in the cases where there is evidence suggesting that there is innocence but the amendment makes it clear that innocence is not the only extraordinary case justifying an exception to the one-petition rule. An attack on the sentence, for example, where there has been perjury, is equally justified.

So, not only could you have someone who was, in fact, guilty, but the sentence not justified, if you could show that perjury as it related and impacted upon the imposition of the sentence. It seems to me that should be able to be shown.

The third difference between my original bill and the Powell Committee bill concerns so-called procedural default. Under that doctrine, a claim not raised by a defendant at the proper time in State court cannot be raised in the Federal habeas petition.

My bill would have made specific changes to the law in that area, changes I continue to believe have substantial merit. Prisoners should not be the victims of their appointed counsel's failure to bring claims in the State court, particularly where the cost may be their lives. It is a heck of a trade-off. Having an attorney who is not so bright not stating the claim that may have prevented you from being sentenced to death in the first place, to say, just because that not-so-bright attorney failed to understand the law and raise that claim—and we now know that they did not raise that claim—tough, we are going to hang you anyway. That does not seem to me to be particularly fair, as I said, particularly where the cost is one's life.

The Graham amendment is silent on this point, and I chose to accept that silence. In accepting that silence, I am making what I believe to be a major change in my bill, a change I hope will convince everyone that I am serious about tough habeas corpus reform. I have only come to accept the change because it is the price, I believe, that has to be given in order to achieve true habeas corpus reform and not some unusual proposal that does not warrant consideration and effectively obliterates the great writ.

Finally, the fourth difference between my original bill and the Graham amendment is on the topic of retroactivity. Until last year, prisoners generally got the benefit of changes in the law that were handed down after their sentence became final but before they had a chance to file a habeas corpus petition. Last year, however, the Supreme Court changed that rule, barring prisoners from the benefit of changes in the law that occurred after they were sentenced.

Now a prisoner sentenced 1 day after a major Supreme Court case cannot claim any benefit from that case, while a prisoner sentenced 1 day before can. That seems to me, where someone's life is at stake, not just nor sound. The mere fact that the Court did not recognize a right the day a person was sentenced, after they had filed their petition, seems to me to be overly technical. It seems to me to be overly technical to suggest they should not be able to have the benefit of that, as one who maybe did not file until the day after the decision.

My bill would have made a rather significant change in the law to correct that problem. The Graham amendment corrects it, but is considerably more conservative. It limits my original provision in two ways. First, changes in the law will not apply to prisoners currently on death row. Second, changes in the law will only apply when the Supreme Court has explicitly said they will apply.

Although this amendment does not express all of my wishes for reform in this area, it does satisfy my most serious concern. For the sake of compromise and for the sake of habeas corpus reform, I lent my support to the changes Senator GRAHAM has proposed.

Now we are coming very, very close. The differences, although real, are not nearly as broad nor as deep nor as wide as they were before this process began. And I hope there is a possibility of one of two things happening. One, us agreeing to compromise the true differences that are left, and do that as expeditiously as possible. Or, if we cannot do that, then for us to quickly yield back our time and vote on this matter rather than take all 6 hours. I do not want to cut off anybody's rights. I am not suggesting to do that at the moment. I am making a broad statement.

Let us either compromise the three or four differences that are left, and there are not many more than that, maybe five, and they do not go to the heart of habeas corpus reform, or get on with the business of voting on this amendment.

I see my colleague from South Carolina rising. I might note he has made significant compromise to this point. I might add, although he is a man with whom I have worked for years and with whom I have often compromised—hopefully we both believe for the benefit of the country and the interests of justice—I suggested a number of these compromises to him last night but I was not nearly as persuasive, nor nearly as incisive, nor nearly as effective as, apparently, the Senator from Pennsylvania [Mr. SPECTER] was.

There have been a number of compromises made. I am not suggesting that compromise has not been made. It has. And there is real compromise. But there are only a few outstanding issues that separate the two bills and I suggest we either resolve them by compromise or we, as soon as is reasonable to check on either of our sides who else would like to speak, prepare to yield back a lot of the time, to get on with the vote, to get on with some other issues in the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina

Mr. THURMOND. Madam President, my original bill was a much tougher bill but I decided I would accept the provision that Justice Powell, a former member of the U.S. Supreme Court, recommended. There was a committee of judges set up and they studied this question and they made recommendations. That was going to be in my bill, to introduce here. But after talking to a number of Senators, including Senator HATCH, and including Senator SIMPSON, and the Senator from Pennsylvania, I decided we may even go further and make some modifications to that.

We cannot go any further. There is no use to pass this bill if you are going to compromise where it will not accomplish anything. These appeals in some cases have gone on for years. In my State, I just recited the case 4 years ago where a man killed four people, thought he killed another woman, and it was 11 years from the time he was sentenced to death until the time he was finally executed.

Senator HATCH said in his State a case went for 16 years. I understand in Oklahoma, one went for 18 years.

The public is disgusted with that. The public wants action. The public wants delay no longer. The bill that has been offered here by my distinguished friend will not get the results it should.

The bill we have offered here, we weakened it a lot, but it will get results. We cannot go any further. I appreciate my friend's suggestion. I worked with him all I could. I have gone, gone, gone as far as I can go.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I am sure the Senator did not mean to imply the bill of the Senator from Delaware would allow anyone to file petitions for 18 years. Either bill will correct the aberrations he has suggested. There is no question about that.

I have a little bit of surprise, frankly, at one thing. After serving at the elbow of my friend from South Carolina for so many years now, I know of his great respect for the State courts. I know of his great respect for Justice Lewis F. Powell.

Justice Powell, a former Associate Justice of the Supreme Court, now retired, will, in testimony tomorrow before the Committee on the Judiciary, say the following with regard to a little thing that has always been of great interest to my friend from South Carolina, States rights.

I might add, the bill put forward by my friend from South Carolina cuts out the State courts at the front end. It says we are not going to worry about whether or not there is any movement through the State courts. We are going to go straight to the Federal courts, eliminate the State courts, and we are going to go to judges in the Federal court and set time limits. So far so good, but what about federalism and States rights? Justice Powell will say,

> Federal law now requires that before claims may be asserted in a Federal habeas corpus petition, they must first be presented to State courts. See *Rose* v. *Lundy*, 455 U.S. 509, (1982). This represents appropriate respect for federalism—a State court system should have an opportunity to address any errors on its own before intrusion by the Federal system.

That is the fundamental remaining difference between the bill offered by my friends from South Carolina and from Pennsylvania.

They do it in the name of expediting the process, and it does expedite the process arguably. It does because if you do not have habeas corpus going through the State courts, then you can cut off the difference between the Powell Committee report on this point and the position taken by the Thurmond-Specter bill. You could arguably save up to 2 years potentially, arguably. But I say only arguably becasue after you go through the federal system, they can still go back to the State courts for collateral review. It does not cut them out.

So the point that I am making is this: That in the name of being tougher, the distinguished Senator from South Carolina has cut out the right of the State of South Carolina to make its own judgments, at least at the front end, to correct its own errors if there are any at the front end. And he has not in fact saved any time because what will happen is that at the end of the Federal process, they will then be able to go back to State court and file a habeas corpus petition.

So the differences we have here are not fundamental in terms of time. The most significant difference is in terms of whether the State should be cut in or not. If the State does not want to have habeas corpus review, they can make that judgment. But I do not know how many times I have heard my friend from South Carolina say, let the States make those decisions. But do not say, as we are saying here, "State court, we're going to start without you; we do not want to know what you think about this; we're going to take care of it."

There are several other differences. Again, I do not mean to imply that my friend from South Carolina has not compromised. He has, and I appreciate that very much. I just think with a little more focus on the rights of the States and a little more focus on each of us giving a little bit more—because I have given a great deal as well from where I was —we could close this thing down very quickly and get on to other important issues. But I understand if we cannot do that, I am ready to vote on this.

I see one of my colleagues, Senator KENNEDY, who has not spoken on the issue and wants to speak on the issue. I assume he is seeking recognition. I am prepared to yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I seek recognition to make a brief comment or two as to what Sentor BIDEN had to say. I shall not be long. I think it orderly if I make a comment at this point.

When the distinguished Senator from Delaware says that appropriate recognition is not being given to States rights, I will forcefuly disagree with him on two counts: One is that the State has been given a full opportunity to correct its errors. The State is being given a full opportunity to do justice because it has that opportunity on the direct appeal.

When the Thurmond-Specter bill permits going into Federal court without going through State habeas corpus proceedings, we are not saying a thing about the States rights to have habeas corpus. We are dealing solely and exclusively with delineating when the Federal court will entertain jurisdiction. That is the prerogative of the Congress of the United States to say and define when you may go into the Federal courts on habeas corpus. It has always been the Federal law, as established by the Congress, that the jurisdiction of the Federal court was not extended in habeas corpus until there had been a collateral attack in State habeas corpus proceedings.

So our responsibility, simply stated, is to see to it that Federal habeas corpus does not take 8 years or 18 years.

When the distinguished Senator from Delaware says you can go back to the State courts under the Thurmond-Specter bill, he is exactly right. But it is also true that you can go back to the state courts, under the current system where you have direct appeal, State habeas corpus, Federal habeas corpus. You can always go back to the State court at that stage. There is nothing at all to prevent going back to the State courts as long as the State courts will entertain that claim.

But the very significant advance from the legislation which Senator THURMOND and I are offering is that you do not have to exhaust meaningless State habeas corpus in order to get into the Federal courts. That is for the Congress to determine when you can get into the Federal courts.

Those who have practiced in the State courts and who have handled these State habeas corpus proceedings know that they are pro forma; that after the State supreme court has upheld the conviction of the death penalty and you go back to a lower court and reassert the same claims, the lower court is not going to disagree with the State supreme court, nor is the State supreme court going to disagree with itself.

When you go to the Federal court for habeas corpus, then for the first time you have an independent review. The only issue which the State court can litigate differently in habeas corpus than on direct appeal is the question of competency of counsel, and that it can do. But there is adequate opportunity in dealing with the defendant's substantive rights to take that up in the Federal court habeas corpus.

If I might have the attention of the Senator from Delaware, what I just said he has heard before and I think he might agree with it if we were in the Cloakroom. I believe we can deal with the State habeas corpus issue and I believe we can agree with the time parameters. I am not in concrete on 160 days or some other timeframe. I think we can work out that timeframe, although I think we do it in a way that does not allow unncessarily large blocks of time.

The two critical issues which I think have to be resolved are the issues on innocence or penalty. I want to compliment in the most eloquent terms the willingness of the distinguished Senator from South Carolina to agree to the more expansive view, beyond what the Powell Committee said. The distinguished Senator from South Carolina had moved from his bill in the first instance to the Powell Committee and then made a meaningful move from the Powell Committee when we had extensive discussions.

The distinguished Senator from Utah, Senator HATCH, was very eloquent in articulating the importance of considering in a subsequent petition the issue of death penalty beyond innocence, the issue of penalty if there are new facts—not opinions, not psychiatric judgments which can be obtained in a different fashion, but a factual matter. When the distinguished Senator from South Carolina heard that contention and thought this might bridge the gap, he was willing to accommodate his own preference.

In discussions in the Cloakroom with some of the distinguished Senators on the other side of the aisle, I think that is something which—Senator THURMOND's view—as modified, I think, would be acceptable.

The last issue which, candidly, is the toughest issue is the issue on intervening rights. There, again, concessions were made in the final analysis not to have additions made to the sentence which reads, on the issue of intervening rights:

A court considering a claim under this chapter shall consider intervening decisions by the Supreme Court of the United States which established fundamental constitutional rights.

It is my view that this language is a good accommodation of some very tough positions on that matter. I believe that if we cannot come out with an agreement, it will have much more force on this issue when we take it to conference, much more force and weight with the American people than if we decide this issue within a 10-vote margin. I think the most we are going to have here is 55 to 45, and we may well prevail on this side of the aisle.

But however we prevail, the force of our position will have so much more acceptance by the public, not quite analogous but sort of like talking about the desegregation decision where the Court came to a unanimous opinion on a very important matter in order to have that kind of public confidence. I submit that we are really right down to that one sentence on intervening rights which is the crux of reaching an agreement.

I thank the Chair and yield the floor.

Mr. BIDEN. I am not sure that I disagree. The Senator may be correct, that it is the most important distinction and difference. I am happy to continue while others seek the floor to see if there is anything we can do to bridge that gap. But in the meantime, when we started this little bit of discussion, Senator KENNEDY, who was seeking recognition, must have thought that both of us were inclined to go beyond our inclination to go in this debate at this moment, and he has left the floor. So unless someone else is seeking recognition at the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. BIDEN). Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I thank the Chair.

Mr. President, I am proud to be a cosponsor of S. 271, introduced by our distinguished colleague, the senior Senator from Florida, at the beginning of the 101st Congress. I know, having worked with him, that he has labored mightily over the last year or so on habeas corpus reform.

I know it is an interest that the President shares, and that you have worked with him on.

I applaud both his leadership and your own, Mr. President, in bringing us to the position where we now consider the essence of the Graham amendment.

Mr. President, this is not a debate about whether habeas corpus reform is necessary. I think all would agree that it is. Current habeas corpus procedures allow multiple postconviction challenges to State criminal convictions in Federal court. Although not mandated in the Constitution, they have in fact been in practice for more than a century, dating back to 1867, and have in my judgment been abused by many prisoners to continue to challenge their conviction in the Federal courts.

In 1945, the Federal courts were confronted with petitions for habeas corpus in 535 cases.

Forty-five years later that number had grown to, indeed exploded to, some 10,389. That is an increase of 1,800 percent, clogging the criminal justice system and providing for endless delay. Responding to this growing concern, the Chief Justice of the Supreme Court created the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, chaired by former Justice Lewis Powell. The Powell Committee, formed in June 1988, issued its report to the Judicial Conference in September 1989.

I had the privilege last evening, Mr. President, to have a chance to visit with Justice Powell about habeas corpus reform, and he remarked that, although there were different views aired by the committee, there was a universal agreement by all who made presentations that reform in habeas corpus procedures were necessary.

The committee found, after deliberation, that only a fraction of the worst murderers convicted and sentenced to a capital sentence actually had that sentence carried out. Today there are 2,200 convicted murderers on death row awaiting execution, 52 in my own State of Nevada. Justice Powell also stated that the average length of time between conviction and execution has been more than 8 years.

Mr. President, I submit to you that this delay between conviction and the carrying out of the death sentence is unacceptable. The criminal justice system, while designed to protect constitutional and procedural safeguards, should be swift and fair, protecting the public at large, and providing justice for the victim, as well as justice for the accused, and finality as part of the judicial process. It has often been said that justice delayed is justice denied. That adage has been most frequently applied to the litigants themselves. Mr. President, I suggest that the public is also entitled to justice, and when justice is not carried out swiftly, the public is deprived of justice as well.

The Powell committee reported that a major problem with the current system is the need for qualified counsel to represent indigent prisoners at all stages. Justice Powell also recommended that a time limit on the filing of habeas corpus petitions would reduce unnecessary delay in the criminal justice system.

Mr. President, the amendment offered by the distinguished Senator from Florida, accepted by you, provides for a statute of limitations for filing of Federal habeas claims, a right to competent counsel for indigent inmates, limits in the filing of successive petitions, and rules for retroactivity. Many of these reforms were recommended by the Powell committee.

The amendment, which has been accepted, provides for a longer time limit on the filing of Federal habeas claims than that recommended by Justice Powell. The limit of 1 year would, in my judgment, provide ample time for counsel to be changed and thoroughly briefed throughout the trail and the appeals process. It does not—I emphasize this—allow the clock to continue to tick endlessly for years at a time, clogging up the criminal justice system with excessive delays.

This amendment would limit successive or second petitions for review of original convictions and of sentencing where relief is based on a claim not previously presented in the State and Federal courts. In other words, only on very extraordinary conditions would successive petitions be allowed.

The Graham amendment embodies the essence of the guidance suggested by the Powell committee, Mr. President, and provides for sensible and essential reform of the Federal habeas process.

I commend Senator BIDEN for his leadership in processing the omnibus crime bill and that of our colleague, Senator GRAHAM, in initiating the amendment which is before us today.

I yield the floor.

Mr. SIMPSON. Mr. President, this is a very important part of this legislation. I think the American people have made it very clear that they are just plain sick and tired of the endless delays on appeals of murder convictions. Convictions that are for especially vicious and foul murders. That is what we are talking about. Also, remember that the death penalty is imposed by a jury.

I am convinced that the Thurmond-Specter legislation is an excellent re-

sponse to the demands of Americans to curtail these numbing efforts that just continually drag on in our judicial system. Unlike the Graham-Biden alternative, the Thurmond-Specter package applies to both Federal capital cases and to State capital cases. I cannot understand why the Graham-Biden proposal does not specifically recognize a Federal death penalty. I cannot understand that.

With respect to the appointment of counsel for indigent defendants, the Thurmond-Specter substitute is tougher. It requires that in cases where a defendant does not want court-appointed counsel, the court then makes a specific order in the record which reflects that the defendant made his choice "knowingly and willfully."

This section also recognizes that the petitioner might not be indigent. These people are not all just poor beggers running around, being duped by the system just so they can be salted away 6 feet deep. That is not what is happening here. There are petitioners who have learned to milk this system in spades. That is who we are talking about. There is a possibility that a petitioner may not be indigent and, therefore, is not entitled to appointed counsel at the Government's expense. This finding would be made part of the record as well.

The Graham-Biden proposal apparently does not think it should be necessary to make defendants pay their own way whenever they can. That is a puzzling part of this. By following the Thurmond-Specter proposal, all defendants are ensured that they have representation by competent counsel.

Arguments by convicted murderers that their original attorneys were incompetent have been so much overused, and abused, in habeas petitions to a degree that is almost beyond comprehension. Both of these proposals have strong provisions that ensure that attorneys representing these murder defendants are very competent. This will eliminate a great many frivolous arguments on that issue.

I think a major difference to share with my colleagues is in the area of successive petitions. The problem with the Graham-Biden proposal is that their language creates a giant loophole in the law, the kind of loophole that has already generated 8- to 15-year delays in these matters. The Graham-Biden proposal overturns retroactivity across the board, which allows many appeals to a jury decision to impose the death penalty. That has nothing to do with guilt, only whether the death sentence is appropriate the second time around. The Thurmond proposal imposes significant restrictions on how a convicted murderer can challenge the jury decision to impose death in a second habeas petition.

The Thurmond-Specter proposal says that a second habeas petition can only be raised if the defendant gets approval from the appropriate Federal circuit court of appeals. This procedure does away with the need to get a certificate of probable cause, which is current practice. This practice is also greatly abused. Some district courts issue these certificates very casually.

The Biden-Graham proposal creates a presumption that the defendant's position has merit. What an absurdity. This all but assures that the convicted murderer will be allowed to file successive petitions. It is this precise practice which we are trying to reform.

The Thurmond-Specter proposal corrects the problem; the Biden-Graham proposal perpetuates the problem, perhaps makes matters even worse. But both proposals allow the petitioner to challenge the guilt phase of the trial. The proponents take great pains to eliminate any risk of executing an innocent defendant. No one in this Chamber is interested in executing an innocent defendant.

We seem to start on the premise that some are here to save the innocent and others are not. We are all here to save the innocent. That is not what we are talking about. Get that out of the debate.

The next big difference is the time allowed to file a habeas petition in death penalty cases. The Thurmond-Specter bill gets serious. We allow 60 days after the judgment and sentence in the State court have become final. The Biden-Graham proposal gives the defendants a full year. Believe me, they will wait as long as possible in the hopes that evidence or witnesses will be lost and the memories fade. Also, and please hear this, the Biden-Graham proposal has written another 1-year and 3-month delay into the procedure, during which the convict and his attorney can dream up a magnificent good excuse for filing late.

Since there is supposedly, under this legislation, a competent attorney on hand beginning at the trial—that is what everyone would want to see—there is no reason at all that the paperwork cannot be ready in time to file within 2 months, as the Thurmond-Specter proposal states. So here it is, the Biden-Graham with still another 1-year and 3-month delay, or Thurmond-Specter with a 2-month delay. Take your pick.

The Thurmond-Specter proposal is a very tough reform bill. Again, as I read these proposals, we get down to two really big differences. In the Biden-Graham proposal there are some giant loopholes, big enough to drive a "Wyoming cattle truck" through. There are built-in delays, at least 2 years of delays, as opposed to a maximum of 1-year in the Thurmond-Specter bill.

Which version do our constituents want? We are going to find out soon. I read my mail, not just all the mail from Wyoming but some from around the country. The American people are sick and tired of watching these vicious, brutal animals, drag the same old nonsense through the courts over and over again for years and years.

Senator WILSON just referred to a man on death row for 11 years, who is appealing again, as I speak. He is one of the most active locker-room lawyers in America, and that is what we have here. These are people who get into the State library, get into the State law libraries or the Federal libraries and are just bright enough, and clever enough, to just crank it out. Somebody is always there to protect them. They are smug, arrogant, cynical and twisted. I do not know why our system should have to break down under their prowess.

So let us certainly be more than fair to the defendants. We really do that in America. Anyone who says we do not take care of criminal defendants in America is smoking something.

We have the Miranda decision which was, in its own way, good when it was decided, and then was terribly abused. We have had other good decisions like that, they get used, abused, and then the people go on to greater crimes.

But let us also start being fair to the people who pick up the tab for these endless delays and frivolous appeals. Let us also be fair to the voters of at least 37 of the States which have voiced their concerns by having capital punishment statutes. Let us exhaust the remedies before we exhaust all of the resources of the judicial system, pandering to a clever lot of manipulators and often their counsel, too. I think that time has come.

We are a remarkable, civilized society, and we do meet our obligations to the lesser of society and to those less fortunate, the disempowered, and all of that. But for heavens sakes, we all see this abuse. No wonder people are frustrated, pained, and some of them—especially family members of someone who has suffered at the hands of one of these people—completely lose their respect for the laws of the United States. That is not good. They become scofflaws of society because they know that nothing ever gets done. Under this provision something will finally get done.

Let me just note with regard to retroactivity, which is a burning issue as any other part of this, that the Biden-Graham proposal allows full retroactivity with new rules, and overrules a string of Supreme Court cases in the process. I think that opens the floodgates to a deluge of new petitions. Section 2267 of the Thurmond proposal allows retroactivity application of new rules on fundamental, constitutional

rights, only in habeas proceedings brought under this chapter. There are many that participated in the crafting of that section. I was one of these people and I can tell you that the Thurmond-Specter proposal is intended only to codify existing law and not to overrule that law.

So, those are some of the things that are of concern to me. We will soon vote on this. We are either doing a crime bill or we are pretending to do a crime bill. And we are either doing a bill that is up front—I would hope that we could do a bipartisan crime bill.

I have watched Senator BIDEN, the chairman of the Judiciary Committee, and Senator THURMOND, our well regarded and respected ranking member. These two men work closely together. It would have been good if we could have come up with a bipartisan bill. We are going to craft something, going to get into a couple of more "hot ones" like the Racial Justice Act—boy, tell us what that one is. The needless trickery and the games in here are what makes it tough to legislate.

If one would just get up on their hind legs and say, "I hate the death penalty and would not have anything to do with it," that is guts and that is courage. But when you only then play around with words and semantics—I have heard enough of that in the last 2 days. I went to law school and then practiced law for 18 years. I felt like I had been out to lunch during most of the discussion yesterday. You have some very bright people, speaking almost in tongues—I would love to know sometimes what they are speaking.

I think we should have a rule. I am just going to throw this in—I know it will receive very little acknowledgment or credence—that before you can come here to weave your wonders on the staff of a Senator you must first go practice law somewhere in real life for 5 years. See how it really is out there among the great unwashed. It would be a shocking thing. I have said it before right from this podium. These are bright, creative, privileged people who are often on the Law Review. They are skilled. They are remarkable. We should heed them. But we must be careful when they pile distinction upon distinction and nuance upon nuance and try to get away with it. Not one of them really knows where they want to go, they have lost the big view and some have lost their way.

So, let us get in here and put together a thoughtful bill, not to see who can diddle the President or who can get to Senator JOE BIDEN, or who can hang who on the most votes on the death penalty, or who will be called a racist because we did not do a right thing on a racial justice bill. That does not have a thing to do with it. The racial justice caper is nothing more than a ploy to avoid standing up to be counted if you do not like capital punishment.

So, to trot that thing out—a bill that says you must execute as many blacks as you will whites—how is that for a marvelous and stupid kind of a proposal? Call it a racial justice thing if you want, but in certain areas of this country you are going to have capital punishment on too many blacks. In other areas you are going to have capital punishment on too many whites. Who among you wants to impose a quota on imposition of the death penalty?

What does that have to do with anything in the real world? If you commit a crime, whether you are black or white, if you are responsible for it, you will pay the ultimate penalty called death, as directed by a jury of your peers. You then go through the appeal process after that jury trial, through the appellate processes, to the Supreme Court, and they say "you have been sentenced to death, a jury unanimously found that sentence weighed all of the mitigating circumstances, and you will die."

Once that message goes out in this country, we will have fewer problems in our society. There is no question in my mind that is true. It does not have a thing to do with whether you are black, or white or brown. It has to do with the fact you have committed a terrible crime, against your fellow man, in a most heinous and ugly and foul way.

As I say, in my ragged practice of the law, doing a couple of first-degree murder trials and some other "little capers" with human beings, I learned one thing above all: you must remember that there are animals in the world. They are called human animals but they are, indeed, animals. The sooner we arrive at a sensible way, an honest way, a confident way, a caring way—there is no need to chuckle that one aspect away either—to give them every benefit this marvelous society can give them, the better. And if they fail at every step of the proceedings, then shut it off. Get on with the action. And the action is the finality of the death sentence.

As soon as society—who have been ready to go on that—and the criminal element know that this is the way it is in America, I honestly believe things will begin to turn around in this country. And as soon as we deal with juveniles who commit adult crimes as if they were adults, we will begin to make progress there too.

I do hope Senator THURMOND's proposal will receive the careful attention of the body. I think it is a darned good proposal. In fact it is pretty close to what could be a bipartisan proposal except for nuances of meaning, which have really shrouded it and really we have almost reached an absurd and perhaps indistinguishable distinction which in my mind may not actually make any really significant difference.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from South Carolina.

Mr. THURMOND. I wish to compliment the able Senator from Wyoming for bringing out the points he did, the differences between these two proposals. There is no question about it, if you want a tough proposal that will get action, that amendment we have offered will do it. We feel, and the Justice Department feels, that the amendment offered by Senator BIDEN and Senator GRAHAM will not do the job. Why take a chance? It would be better to pass nothing, unless we are going to get results.

As I stated, it has been delay, delay, delay. People have been killed. It has been years and years before the sentence is finally executed. It just does not make sense.

I remind the Senate, too, that these organizations I am going to read endorsed my original bill, which was a tougher bill. We came down to the Powell amendment and then we have even modified that.

These organizations even went for the other bill: The International Narcotic Enforcement Officers Association; Airborne Law Enforcement Association; Society of Former Special Agents of the FBI; the National Troopers Coalition; the Virginia Association of Chiefs of Police; the Victims Assistance Legal Organization; the Federal Criminal Investigators Association; and the FBI National Academy Associates. The attorney generals in a majority of the States, a majority of the attorney generals in the whole United States including the Attorney General of the United States, approved my original bill.

We have tried to go along here to get a consensus and we weakened our bill to try to do that. All these organizations here were for the original bill. A majority of the attorney generals were for the original bill. The Attorney General of the United States was for the original bill. President Bush was for the original bill.

Are they worth listening to? These people have dealt in crime all these years and what they want is something reasonable that will get results. What about the victims here, who have been killed? Their families suffer, years and years, before there is final completion of the act. It just does not make sense.

If my colleagues want a habeas corpus bill to get results, vote for this bill. If they do not want that, vote for the other bill.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield the distinguished Senator from

California such time as he may require.

The PRESIDING OFFICER. The Senator from California [Mr. WILSON] is recognized.

Mr. WILSON. Mr. President, I thank the distinguished manager. I rise in support of his amendment.

The passion he has just exhibited is entirely warranted. It brings to mind the passion, not spoken but felt, by crime victims in my State. Mr. President, there are now a number of crime victims organizations in California, with a growing number of members, unhappily, as the number of victims increases.

What we have before us is an amendment that seeks to limit an abuse of the use of the writ of habeas corpus. The writ of habeas corpus has long been recognized, in the United Kingdom, the United States, in my State of California, as the most powerful remedy available in the law for curing some miscarriage of justice. It overcomes almost all other considerations in allowing a court to consider whether or not extraordinary circumstances exist in a criminal case which demand extraordinary relief. It can be said that habeas corpus is at the very foundation of our system of criminal justice.

But, Mr. President, having said that, it also needs to be said, as has been said by the distinguished Senator from South Carolina, this important remedy has been very much subject to abuse; in his State, in mine, and all across the Nation. As death row populations swell, as inmates on death row grow older and older, there is clear evidence that the system is not working.

In my State, twice, the people have voted—not the legislature, but the people have voted—for a remedy which they felt necessary in order to provide them adequate protection from violent crime. They have voted a death penalty on two occasions.

But, Mr. President, in the years and years that have ensued since they did so, they have been denied the protection of that death penalty. They voted for it in the belief that the death penalty is a deterrent, at least in those cases where a crime of violence has taken place, not in a fit of passion but as the result of premedition.

They are entitled to that protection, it seems to me. But what is very clear, Mr. President, is that even as we are debating this here, as debate ensues in my State and others, there are people who continue to argue that the death penalty is not a deterrent. Mr. President, it is not a deterrent if it is not enforced.

Simply stated, what the Thurmond amendment seeks to do is to give some guarantee that when the accused has been afforded the remedy of a judicial system that allows for appeal and for the use of the habeas corpus petition, that there be some finality. Because we are all, I think, whether lawyers or not, familiar with the bromide, the maxim that comes to first-year law students in their study in the criminal law, that justice delayed is justice denied.

Well, so it is, but not nearly as much to the accused as, after trial, to those who are crime victims, who have to relive the ordeal that they first experienced when either they experienced the trauma of crime or when they, worse, lost a loved one.

The other effects it has spread far beyond the immediate victims of crime, Mr. President, to those who, as general members of society, begin to feel that the criminal justice system will not protect them.

I hope I will be pardoned for the pride with which I speak of law enforcement in my home State. Whether I go to the office of the U.S. attorney in New York or to FBI headquarters here in Washington, or the office of the DEA in North Miami, I have been told, "You have as fine a law enforcement in California as exists anywhere in the world. They are the most dedicated; they are the most conscientious; they are the most professional. They are highly skilled."

The fact of the matter is that ironically in our State, the streets are needlessly dangerous; in part, because of a drug traffic that is seeking a large and lucrative market; in part, because the State criminal law is far too lenient.

But most recently, Mr. President, the focus has been on the failure of the criminal justice system, both State and Federal, to afford some finality to make real the threat to criminals that if they take a life, they will have to pay with their own. The death penalty has not been a deterrent because it has not been enforced and it has not been enforced because of the abuse of the habeas corpus process.

Currently, the focus is upon Robert Alton Harris. Mr. Harris has been on death row in the California penal system for over 11 years. He has just recently filed a fresh petition. Those who have been reading the newspapers and reading, again and again, the recital of the facts of this grim case in which this cold-blooded murderer shot down two teenage boys in cold blood and then ate the hamburger of one, found, through comments at the time, that his callousness was almost beyond belief.

The facts in the case are not in dispute. He has even filed a petition on the grounds, Mr. President, that it is cruel and unusual punishment that he has spent 11 years on death row when, of course, the length, the duration of his stay there has been affected by the filing of one petition after another on his behalf. It is not unlike the celebrated case of the killer who threw himself on the mercy of the court declaring himself an orphan after he had murdered his parents.

This is a situation in which the ironies abound. But the intolerable irony is that with all of the effort, all of the risk taken by conscientious law enforcement officers, with all of the tax dollars expended on a criminal justice system that begins with detection by these law officers and then takes the criminal accused through the courts in a lengthy, lengthy system that, in my judgment, fully protects the rights of the accused but does not begin to protect the rights of the victims, with all that is spent on probation, all that is spent on that court system, all that is spent on parole, on corrections, the people of my State, and I suspect many others, feel that they are not adequately protected.

Recently, a rather shocking survey revealed that 1 in 5 in my State had experienced some criminal violation within the past 5 years and that a majority expected that they would within the next 5 years. Mr. President, that is intolerable. We can speak all we wish to of affording opportunity in a variety of ways.

We spend a great deal of time on this floor, and quite properly, talking about education, about the needs to make our young people competitive in a global marketplace so that they can compete and win. We all know that for too many, their horizons are limited and extend not much further than an ambition to be a member of a drug gang.

We also know that for a great many, their lot in life will perhaps include being crime victims, in part because this drug traffic is so rampant, but, in part, Mr. President, because the risks are seen as rather minimal, even in the extreme case of the taking of a life.

What happens when someone decides that in order to support a habit he will rob a liquor store or a gas station late at night when there is a single attendant and decides that the odds are with him if he pulls the trigger because he may eliminate the sole witness to his crime? And, in fact, if he is caught, in some States where there is no death penalty, I say the odds very definitely favor his pulling the trigger. But even in those States where there is a death penalty but where it is not enforced because of the abuse of the habeas corpus process, the effect is much the same. Rational criminals clearly figure that the odds are in their favor, not in favor of the citizen; that the profits greatly outweigh the risk to them even in the most extreme case where they are paid to eliminate a witness, paid to eliminate competition in the drug traffic.

Mr. President, I repeat, that is not a tolerable situation. It is not tolerable

to have public confidence undermined with respect to the most basic right that a civilized society should afford its citizens: The right not to become crime victims, the right to feel safe in their own homes and unafraid to leave them. That is not the case in my State. It is not the case in all too many where people are afraid in their homes and afraid to leave them.

Mr. President, what is being sought here is not a denial of the due process and the Bill of Rights protections that we celebrate, and quite properly, with pride in a Nation that has afforded fairness and justice unparalleled in the history of civilization. But to do so, Mr. President, does not require that we continue to abuse the process in a way that undermines quite reasonably the confidence of ordinary citizens, decent people, entitled to expect and receive the protection of the law. That is what is at stake here. That is what the Thurmond amendment is all about.

I cannot urge too strongly that we adopt it because if we fail to adopt it, Mr. President, once again the American people will have heard that the Senate of the United States has had the opportunity to make them safer, to attempt to at least change the odds in their favor. If we fail, they will rightly ask why. Why is it that we have this overweening concern for the rights of the accused at such great cost to the rights of the citizens? Why do we not worry as much about the victims of crime as those who are thought to be victimized by a criminal system which does not afford them limitless rights of appeal?

The answer, Mr. President, is that it is not justice to those ordinary citizens. It is certainly not justice to those crime victims if we perpetuate a system that permits its abuse in a way that makes it impossible for those citizens to feel confident because the reasonable expectation is that, in fact, the death penalty will continue to be on the books as a dead letter, unenforced because we permit limitless filings of petitions for habeas corpus.

That is the situation now. It is wrong. We must change it. The Thurmond amendment will change it.

I commend my friend from South Carolina who has many virtues. But perhaps the most important of those is tenacity in the cause of justice to citizens. And he recognizes that that system is not working and that the time has come to change it. Indeed, when the number of death row inmates across the Nation numbers in the thousands, it is past time to change it.

Mr. President, no amount of words will bring back Wyatt Loggins or Robert James DeVaul, who were among the victims of serial killer Randy Kraft. No amount of words on this floor will bring back Michael Baker and John Mayeski, the two teenage victims of Robert E. Harris, nor will they bring back Dayle Okakaki, a victim of the nightstalker, Richard Ramirez.

The list of death row inmates is exceeded greatly by the list of their victims. The comfort we can give to those who are the loved ones of those victims is rather limited, but at the very least they are entitled to believe in this country that we will do justice. We do not do justice with a system that permits those who have been convicted by facts that are no longer in dispute to continue to escape the penalty that the law provides by the abuse of this process.

Mr. President, the time has indeed come to adopt the Thurmond amendment.

I thank the Chair and yield the floor.

Mr. THURMOND. Mr. President, I commend the able Senator from California for his very pertinent remarks. They are right on point. He has again emphasized that the people of this country are sick and tired of the delay, delay, delay in the criminal justice system. Cases go on, as we have stated here, 7, 8, 10, 12, 16, and in one case we understand 18 years. How do the families feel? Put yourself in their shoes.

Mr. President, I now yield to the distinguished Senator from Iowa for 15 minutes.

Mr. GRASSLEY. Mr. President, I commend the Senator from South Carolina. I thank him for yielding to me. I support his compromise.

The question to ask when we inquire whether the Federal habeas corpus system needs reform is not what procedures will apply to a capital defendant who has only "one bite at the apple" but what procedures will apply where the defendant has already had numerous "bites at the apple," including having the same claims heard by several different State and Federal courts?

Congress can change these procedures—established by statute in 1867—without doing violence to any right already guaranteed to individuals under the Constitution.

The present Federal habeas corpus statute has fostered a system that no longer seems to be interested in the factual guilt or innocence of a defendant.

Instead, prisoners appear to be encouraged to attempt to persuade some Federal judge that some kind of technical error has occurred during the criminal prosecution against them.

The present system allows a State prisoner to relitigate virtually every aspect of his or her confinement—from pretrial through postconviction proceedings—an unlimited number of times throughout their term of confinement.

The elevation of procedure over substance deprives the criminal justice system of a crucial element of deterrence: Swiftness and certainty of punishment.

Particularly in capital cases, the present habeas corpus system undermines the effectiveness of the death penalty as both a deterrent and as a legitimate expression of society's moral outrage concerning the most abominable of intentional killings.

Consequently, the will of the people in the 36 States that have a death penalty is being thwarted by repetitious litigation.

Because of my strong belief in federalism and my preference that the States make their own decisions in most areas, I have supported habeas corpus reform since the beginning of my service in the Congress.

My goal is to eliminate pointless and duplicative relitigation of claims that have already been fairly considered and decided by State courts at both the trial and appellate levels.

Only then will we make it possible to obtain real justice by eliminating unreasonable and illogical results in criminal proceedings.

Mr. President, our goal should be to avoid inconsistencies in the treatment of similar cases.

Unfortunately, the result of the present habeas system encourages inconsistencies.

We need to establish a standard that affords protection for both a defendant's due process rights and the integrity of State and Federal criminal procedures.

As we all know, the current habeas corpus system allows for no end to the litigation of a State criminal conviction. This results in using the Federal courts to review ad nauseum convictions in State courts.

We need to establish some realistic and logical finality to these cases.

I believe that reasonable time limits—similar to those contained in the Thurmond-Specter proposal—afford every State prisoner an opportunity to apply for Federal habeas corpus relief following the conclusion of the State criminal process.

Reasonable time limits will create a means for control of the filing of petitions years or even decades after the natural conclusion of criminal proceedings, because, as a practical matter, the passage of time may make reliable determinations of asserted claims—either during a retrial of the petitioner or during another collateral proceeding—difficult or practically impossible.

Consequently, without in any way prejudicing the substantive rights of State criminal defendants, a system of reasonable time limits on habeas cases maintains orderly procedures already contained in other areas of Federal

criminal law and it assures finality of State criminal adjudications.

Mr. President, we cannot allow our search for a true, meaningful, and workable solution to the present Federal habeas corpus morass to be led astray.

We cannot afford to merely go through an exercise in reshaping reality to fit certain slanted notions of fairness or even right and wrong.

If our efforts result in only the illusion of reform, we face the prospect of complicating the ever-growing gridlock in capital litigation.

We must balance greater certainty and finality in capital sentences, in exchange for a full and fair adjudication of a defendant's claims.

As I have said before, the question is not what procedures will apply to a capital defendant who has only "one bite at the apple" but what procedures will apply where the defendant has already had numerous "bites at the apple," including having the same claims heard by several different State and Federal courts?

A reasonable and rational habeas appeals system will not allow claims to be raised in successive Federal habeas corpus petitions that have nothing to do with the question of defendant's factual innocence or guilt.

A reasonable and rational habeas appeals system will not allow claims to be raised in successive petitions despite the absence of any justification for the defendant's failure to raise the same claims in earlier proceedings.

By encouraging claims unrelated to the factual guilt or innocence of the defendant or by encouraging relitigation of claims from the sentencing phase of the capital proceedings, the goal of finality is defeated.

Furthermore, I believe very strongly that we cannot abandon well-settled law regarding the difference to be given State procedural rules.

We know that delay results in effective abridgment of the sentence of a capital defendant.

Therefore, convicted capital defendants have a greater incentive to withhold claims for use in later proceedings than any other convicted criminal incarcerated in prison.

Our actions in this area of law should not establish the dangerous presumption that only by depriving the States of procedural bars and defenses and expanding the scope of Federal habeas corpus review and the role of Federal courts, can there be any assurance of adequate constitutional review of capital cases.

Mr. President, we need to focus on what actually happened during a particular criminal proceeding, rather than on issues such as the background or compensation of a lawyer representing a capital defendant.

I believe that we should be more concerned with the impact of the habeas system on America's citizens and on the victims of crime, actual or potential, rather than being concerned with its impact on America's lawyers.

It seems to me that if we are really interested in serving the public interest by ensuring that capital cases will not be delayed because of, among other reasons, a lack of qualified counsel, we must carefully consider options on how the habeas appeals system should be reformed.

I have attempted to keep in mind four goals as we go about the task of reforming the Federal habeas corpus system:

First, a State capital defendant's case should be afforded a full and fair series of appeals—both directly and collaterally—based upon the prisoner's guilt or innocence and the procedures followed during the State's criminal trial proceedings.

Second, when the capital defendant has exhausted his State remedies, he should be afforded another series of equally full and fair appeals in the Federal courts.

Third, once a State capital defendant's conviction and sentence are found to be appropriate, judicial proceedings should be concluded.

Fourth, Federal habeas corpus relief should remain an extraordinary remedy which should upset a State conviction only where necessary to redress a fundamental injustice.

Mr. President, no reform proposal as sweeping as this is ever perfect.

While the Thurmond-Specter proposal may not achieve what I originally hoped we could achieve, it is a positive step.

I urge my colleagues to support it.

I yield the floor.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Iowa for his splendid arguments on this subject. He is a valuable member of the Judiciary Committee, and we thank him very much.

Mr. President, I yield 5 minutes to the able Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank the distinguished ranking member for yielding 5 minutes, and while I feel strongly on this issue, I might not use the 5 minutes.

But let me in my own way state why I think the Thurmond-Specter amendment should be agreed to.

We speak of habeas corpus reform as if it is something that average Americans are not concerned about, something that average Americans do not understand.

Let me tell you, Mr. President, there is no question, whether it be in the State of Nebraska, the State the distinguished occupant of the chair comes from, or the State of New Mexico, if you ask average citizens what they think about those who are waiting on death row for 8, 10, 11, 12, 15 years while the courts of this country are determining their fate, and while they are on their sixth or seventh or eighth appeal to the U.S. Supreme Court, if you ask average Americans of good common sense what they think about it, they will tell you, "We do not understand how this kind of justice can continue in our great country." So it is an average, everyday American concern.

First, we should note that this applies only to death penalty cases. That is what a lot of people are worried about. On average right now, because of the numerous appeals through the habeas corpus process, it takes an average of 8 years after a conviction, after using all of the processes of the States, on average, 8 years of waiting around for the process to determine with finality that justice has been served and the will of the people is to be complied with. A jury has been impaneled and has convicted and has sentenced, and still they wait.

So I think everyone should know this is a major issue in our country, and people want us to decide it with some justice and fairness, but with some degree of common sense and finality. The approach of the Thurmond-Specter amendment seems to the Senator from New Mexico to be eminently fair. I see it as very simple, but profound.

First, this amendment would apply once the case is all finished—the convicted murderer has had his day in State court, a jury has convicted him, and then found he should have the death penalty. He has exercised all his State remedies and he is there with that case completed.

What this amendment says is that the judges in the Federal system, from those who sit at the trial level to the circuit and to the Supreme Court, have to understand that it is important that they expedite this process. So it is given high priority. They must put it at the top of the roster and hear it. After all, there are not thousands of these cases.

So we say to them, "You do it." We say to the defendant, "You have 60 days after all that has been finished—you have had your trial, you have had your appeals, and you have gone to your State supreme court. Now you have 60 days to get your appeal ready." But contrary to prior law, we furnish him with a lawyer in the event he is indigent. He no longer has to write up his own habeas corpus process. He gets a lawyer. Within 60 days, he files.

Then we say to the Federal judge, "You put it at the top of the list and you hear it." Then we say to the circuit judge, "Judges, if it is appealed, you put it at the top of the list and

you hear it." Then we say to the U.S. Supreme Court the same.

So, we are saying within 1 year after that has been filed, there will be an adjudication by the best courts in the land, yes or no. It seems to me that is pretty fair. But second, we say since we want to be absolutely certain and do not want to deny another bite at that apple of appeal, we give you other opportunities to appeal. But, what we say is that they should not be frivolous. They should not be just filed to get you a stay for another 15 months or 2 or 4 years.

We say if you want to file a second or subsequent time, you have a lawyer and you send it up to three judges at the circuit court. And they have to decide whether there is some cause. If they say, "It looks like we missed something," then it starts again, and you get another time through, Federal judge, circuit judge, all the way to the Supreme Court. It sems to me nothing could be fairer. I think we ought to do this. It is high time.

I thank the manager for the time, and I yield the floor.

Mr. THURMOND. Mr. President, I want to commend that excellent statement by the able Senator from New Mexico. He is not a member of the Judiciary Committee, and he has not had an opportunity to know about the bills along this line that have been before the committee for years, but he understands that the American people are sick and tired of these delays.

I want to emphasize this: Under our bill, we will bring a conclusion in 1 year. Under the Biden bill, it could be indeterminate for years.

Mr. President, I yield to the able Senator from California.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mr. WILSON. Mr. President, I thank the Chair. I thank my friend from South Carolina.

Mr. President, I want to raise a point of concern. I have already spoken at some length in support of the Thurmond amendment. I will not reiterate what I have said.

I have a concern that we have not, either in this amendment or in the Graham amendment, or elsewhere in the Biden proposal, addressed the necessary point with respect to application of what we adopt here as limitations upon the abuse of the habeas corpus procedure, and how it shall be applicable to existing death row inmates.

It seems to me that we would be terribly derelict, Mr. President, if we did not spell that out in the law. I am well aware that there is a unanimous-consent agreement that prevents the modification of the amendments that are pending and that have already been acted upon, but I address to my colleagues an urgent plea that we not leave this subject, and specifically that we not leave this legislation, without having amended it, so as to make clear the application of the limitations upon the habeas corpus process to existing inmates of death row.

We have had, as I pointed out, the recent instance in California of yet another filing by Robert Alton Harris, who has been on death row there for over 11 years since his conviction.

Mr. President, whatever we decide by way of a limit upon the abuse of the present process, what we need to do is to make clear specifically how it applies to the literally thousands of inmates of death rows and prisons across the Nation. Let there be no doubt that we are grandfathering them somehow, so that in the prospective application of this law we will have no application of its requirements to those who are presently on death row, convicted of a capital offense.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I am glad the Senator brought that out. This bill would apply to those on death row. He said some have been there for 11 years, and they may be there 5 or 10 more years if we do not pass this bill. We limit it to 1 year. That is what the public wants, what the law enforcement people want, what the President wants, what the Attorney General wants, what the majority of attorneys general in the United States want.

Mr. President, I think we are about ready for a vote. The Republican leader wanted to make some closing remarks. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, there are some points I want to clarify. On the issue of States rights, Senator BIDEN states that the Thurmond-Specter proposal would infringe upon States rights. This is not the case. This bill would not—I repeat, would not—eliminate State habeas corpus review. Under our proposal, death row inmates may file State habeas petitions whenever the State law permits. No State laws are touched.

In addition, the Biden-Graham bill, according to the Department of Justice, would overturn the case of Teague versus Lane, which held the changes in law are not to be applied retroactively in collateral proceedings. In other words, by overturning Teague, the Senate would be expanding the rights of death row inmates, murderers; it would expand the rights of convicted murderers on death row.

The PRESIDING OFFICER. The Chair advises the Senator from South Carolina that all of his time has expired.

Mr. THURMOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The time will be charged to the Senator from Delaware. The clerk will call the roll.

The assistant clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the able Senator from Delaware has agreed to yield several minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. Does the Senator yield time to the Senator from Utah?

Mr. BIDEN. I yield 5 minutes to my distinguished friend from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 5 minutes.

Mr. HATCH. Mr. President, I thank my distinguished colleague from Delaware, the chairman of the Judiciary Committee, and also my distinguished friend and colleague from South Carolina, the Republican leader on the Judiciary Committee, for allowing me the extra time.

I will take a few minutes to just briefly summarize why I think we really have to pass the Thurmond-Specter amendment if we are to enact true habeas corpus reform.

This is our last chance. To me this is the most wonderful opportunity we have had to really correct the excesses of habeas that have been going on for years. The Gacy case since 1980, that is just through the process of appeal. Now they just filed their first habeas case, the first habeas petition. By the time they get through with that, that is another 10 years or more. Yet this man is convicted of murdering 33 boys, as I recall.

In the case of William Andrews, 17 years, having murdered a number of people after torturing them and pouring Drano down their throats. After 26 appeals, 15 in the Federal courts, 11 in the State courts, he just filed his 27th appeal while I was speaking here on the floor on Monday decrying this situation.

He knows, and everybody else knows, that he committed those murders. It is a just penalty. Everybody knows it. There is no more good argument. His appeals are frivolous. Everybody knows that. But they will keep filing them as long as we keep this current system.

And the difference between these two amendments is that the Thurmond-Specter-Hatch amendment ends these appeals beyond reasonable limits.

Mr. THURMOND. One year.

Mr. HATCH. I have to say that the Graham amendment is a serious, good-faith effort on the part of the distinguished Senator from Delaware [Mr. BIDEN] and the distinguished Senator from Florida [Mr. GRAHAM] to address this habeas situation. But it just plain does not do it. The debate now is between the Thurmond-Specter-Hatch amendment, which addresses habeas now, and the Graham amendment, which is content to allow the same system to continue.

If Graham is enacted here today and becomes the law, it is a step in the right direction, but it will not stop these frivolous appeals at a cost of what I think are billions of dollars to the American public, unnecessary dollars to the American public.

There has to be an end to this, and we have the chance right here with the Thurmond-Specter-Hatch amendment to put an end to it and do it in the way that protects all of the interests, all of the rights of the defendant in the most reasonable way. It does have finality, it does give the defendant his opportunity for court, or his day in court, in every way, but it puts a time constraint and a time limitation on what happens.

The Thurmond amendment requires the death row inmate to file a Federal habeas corpus petition 60 days after the death sentence becomes final. It prohibits any Federal district judge from thereafter granting any other habeas petition for stay of execution.

It requires a circuit court of appeal authorization before any successive petition may be brought. That is a major advancement in this issue. It is a fair advancement. You are giving them a complete jump to the circuit court of appeals where we know we have the appellate ability to handle thee matters in the very best constitutional way. If they do not like it, they then can go to the Supreme Court of the United States. And it forces the trial court and the appellate court to act expeditiously.

The district court has to decide the case in 110 days, the circuit court in 90 days, and the Supreme Court in 90 days after that. It does not postpone consideration of State claims at all. They can do it.

The difference under Thurmond is we resolve the problem; under Graham, we do not resolve it, even though I have to admit there have been some improvements over what the original bill had to say.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the distinguished chairman of the committee has agreed the Senator can talk.

Mr. DOLE. I will talk in my leader's time.

Mr. President, was leader time reserved earlier?

The PRESIDING OFFICER. Yes, 10 minutes of the leader time has been reserved.

Mr. DOLE. I understand the distinguished Senator from South Carolina has more time.

Mr. BIDEN. I will be happy to yield to the Republican leader.

Mr. DOLE. I will use my leader time.

Mr. President, everyone in the Senate has either read about or heard about the so-called habeas corpus merry-go-ground.

Thousands upon thousands of habeas petitions clog the Federal district court dockets each year; 40 percent of these petitions are filed more than 5 years after a person has been convicted. And nearly one-third of the petitions are filed more than a decade after conviction.

Yes, that is right. A full decade.

Former Chief Justice Warren Burger described the habeas quagmire this way:

> I have seen cases—and this occurs in many courts today—where 3, 4, or 5 trials are accorded to the accused with an appeal following each trial and reversal of the conviction on purely procedural grounds. * * * In one case more than 60 jurors and alternates were involved in 5 trials * * * more than 30 different lawyers participated * * * and more than 50 appelate judges reviewed the case of the appeals. * * * The tragic aspect was the waste and futility since every lawyer, every judge and every juror was fully convinced of the defendant's guilt from beginning to end.

I think it is fair to say that we all share the former Chief Justice's concerns. And we all agree that habeas reform is absolutely essential if we are really interested in restoring some rationality to our criminal justice system.

THE SOLUTION

When it comes to meaningful habeas reform, there is only one proposal on the table—and that's the proposal offered by my distinguished colleagues, Senators THURMOND and SPECTER.

Both Senators have studied the issue. They have worked hard on the issue. And their proposal, if enacted, would improve the habeas system in at least three significant ways.

First, the Thurmond-Specter amendment gets serious with deadlines. It requires defendants to file a habeas petition in Federal court within 60 days of any final judgment and sentence by a State supreme court.

Not 1 year, as proposed by my distinguished colleagues, Senators BIDEN and GRAHAM. Not 9 months. Not even 6 months, but 60 days.

The Thurmond-Specter amendment also requires any defendant whose Federal habeas application is denied to file a Supreme Court petition for certiorari within 20 days of the denial. And even more, it requires the Supreme Court to make a final decision within 90 days of the filing of the cert. petition.

Mr. President, criminal defendants may not like these deadlines. Criminal defense attorneys may feel put out. And the nine Justices on the Supreme Court may not like Congress giving them deadlines and telling them how to schedule their official business.

But, in my view, clear-cut and unbreakable deadlines are essential if we're really serious about reducing the delays in the habeas process. And in my view, meaningful deadlines are essential to any habeas reform proposal.

Second, the Thurmond-Specter amendment limits the availability of second or successive petitions—the petitions, in other words, that are a field day for creative attorneys who gin-up spurious claims to keep their clients in the litigation pipeline.

The Thurmond-Specter amendment would stop this abuse by providing that a successive petition can only be raised in two specific circumstances: First, if evidence becomes available that calls into question the guilt or innocence of the defendant; or second, if a previously undiscoverable fact comes to light that calls into question the appropriateness of the original sentence.

Perhaps more importantly, the Thurmond-Specter amendment requires a criminal defendant to actually get the approval of a Federal court of appeals before a district court can hear a successive petition.

Mr. President, this approach strikes a fair balance. With the Federal appellate courts as the gatekeepers, it will ensure that frivolous claims are not raised in successive habeas petitions. And, at the same time, it will greatly reduce the risk of executing an innocent person or a person who does not deserve a capital sentence.

When it comes to the successive petitions issue, the Thurmond-Specter approach beats the Graham-Biden approach hands down.

The Graham-Biden proposal would allow Federal courts to hear a successive petition so long as the facts alleged by the defendant—if proven—would place a defendant's guilt into question.

In other words, no proof is required. No real facts are required. Just make some allegations. Just allege some

facts, and a district court can hear the successive habeas petition.

Mr. President, this approach is not habeas reform. It will not reduce the habeas caseload.

It is simply a prescription for opening up the successive petition floodgates and for clogging the courts even further with frivolous claims.

Finally, the Thurmond-Specter amendment would allow the Federal courts to consider—the habeas cases—only those intervening decisions by the U.S. Supreme Court which establish fundamental constitutional rights.

This is a limited retroactivity exception that makes sense. And it is only fair, since fundamental constitutional rights would be at issue.

The Graham-Biden proposal, however, would go beyond fundamental constitutional rights. It would allow the courts in habeas cases to consider "any interim change in the law promulgated by the Supreme Court." I repeat: "any interim change in the law."

This is obviously a much broader retroactivity exception. And it will simply encourage the filing of more—unwelcome and unneeded—habeas petitions.

CONCLUSION

Mr. President, the Thurmond-Specter approach to habeas corpus reform is sound. It is comprehensive. And it will go a long way toward putting a stop to the endless litigation delays that clog the courts and consume precious judicial resources.

This is a limited retroactive exception that makes sense and it is only fair since fundamental constitutional issues would be at issue.

Mr. President, I know this is an important issue, an important decision. If we are concerned about reform, if we are concerned about what I referred to in the earlier quote from the former Chief Justice Warren Burger, it would seem to me that this approach should be adopted. I urge my colleagues to support the Thurmond-Specter amendment when we vote later this evening.

Mr. President, I reserve any time I may have.

Mr. KENNEDY. Mr. President, I intend to vote against the amendment of the Senator from South Carolina. I prefer the Graham-Biden alternative, although I continue to favor additional measures in several areas to protect constitutional rights.

Stronger counsel standards and compensation modeled on the work of the American Bar Association should be guaranteed to capital defendants and habeas petitioners; more protection should be provided to habeas petitioners whose claims fall victim to unfair procedural default rules which allow ignorance, neglect or incompetence of counsel to extinguish constitutional rights; and more should be done to undo recent Supreme Court retroactivity decisions that virtually eliminate the ability of habeas petitioners to obtain full and fair review of many potentially meritorious claims. These issues go to the heart of our system of justice and its ability to ensure access to equal justice for all. Nevertheless, the Graham-Biden alternative contains worthwhile provisions to secure counsel for capital defendants and habeas petitioners, and it deserves the support of the Senate.

The writ of habeas corpus is one of the great historical bulwarks of Anglo-American jurisprudence, and it continues to play a fundamental and unique role in our modern system of justice. Habeas corpus review of death sentences is the principal means of relief available to a wrongfully convicted individual facing execution. It has spared the lives of many innocent persons who were unconstitutionally convicted and sentenced to death. The rights at issue include the right to a fair and speedy trial, a fairly constituted jury, competent counsel, and access to evidence and witnesses, are essential attributes of fairness in our system of justice. Habeas petitions have saved many individuals from constitutional violations of their rights and ultimately spared their lives, often after repeated denials of relief in State court systems.

I oppose the death penalty, because capital punishment is wrong in principle and wrong in practice. The death penalty is fundamentally flawed, because of the likelihood that innocent people will be executed. No system of justice, however wise or resourceful its judges and juries may be, can eliminate this risk. That is a risk we accept when the punishment is imprisonment, because a jailed defendant can always be set free when innocence is proved. But that is a burden we cannot tolerate when the punishment is death.

The risk of executing innocent persons is no theoretical, hypothetical, proposition. A recent Stanford Law Review study lists 350 cases in which defendants convicted of capital or potential capital crimes in this century have later been found innocent.

A 1978 Indian conviction and death sentence were overturned when, on retrial, it was shown that his conviction had rested on perjured testimony.

In 1988, a defendant was released from prison in Florida after it was determined that he had been convicted on the basis of testimony the prosecutors knew to be false.

All of these violations were revealed on habeas. The list goes on and on. How can any of us shut the door to relief in cases such as these?

The need for counsel in capital cases is a protection that former Justice Lewis F. Powell, who chaired the Habeas Corpus Study Committee, and others have advocated for years. The Powell committee proposal, as modified recently by the Judicial Conference, would provide counsel for State habeas proceedings and this proposal is a starting point. But I believe that meaningful representation by counsel must include minimum attorney competence standards based on experience, as well as adequate compensation, monitoring and investigative resources where necessary.

The Graham-Biden democratic proposal goes further than the Thurmond-Spector proposal and it should be supported.

The Thurmond-Specter alternative errs in favor of swifter review of constitutional claims, at the expense of fair and adequate representation of those claims. To reduce a habeas petitioner's ability to obtain review of constitutional claims in federal court in exchange for representation by counsel, is a lopsided bargain without additional guarantees as to the adequacy of the counsel's representation and adequate procedural opportunity to be heard. Habeas corpus review necessarily entails consideration of complex constitutional and procedural issues, and often requires experienced investigation. The stakes facing a habeas petitioner in a capital case leave no room for error.

At every stage in a capital proceeding, whether at trial or on post-conviction review, counsel must be familiar with the arcane procedures that apply in death penalty cases. Meaningful representation by counsel at the trial level, in particular, in capital proceedings would go even further to assure fairness and render the post-conviction review process more manageable.

Inevitably, the death penalty is applied to minorities and to the poorest, the least popular, and the least powerful members of society. Consequently, too many defendants facing the death penalty at trial are represented by attorneys who are poorly prepared, underpaid, overworked. The result is often only minimal legal assistance.

The infliction of death at the hands of Government brutalizes our society instead of atoning for crime. To short change individuals charged with capital offenses, in terms of the quality of their representation or their ability to obtain meaningful review of their constitutional claims, unfairly prejudices them. I urge the Senate to support the Gramm-Biden alternative and oppose the Thurmond-Specter amendment, and to recognize that further reform is needed to ensure that if capital punishment is inflicted at all, at least it is inflicted fairly.

If it is to be applied at all, capital punishment ought to be applied only where notions of fairness are given priority. Despite procedural safeguards, mistakes are often made in criminal prosecutions; in the first 6

months of 1987, for example, eight men were released in four States because their innocence was finally determined after many years on death row.

Habeas corpus review of death sentences is virtually the only means of relief available to a wrongfully convicted individual facing execution whose constitutional rights have been violated.

In 1983, an inmate in a Florida prison was within 15 hours of his scheduled execution and had been fitted for his burial suit when the Federal court of appeals issued a last-minute stay. His conviction was later overturned, and the main prosecution witness subsequently recanted his testimony. The defendant was never retried.

In 1967, a habeas petitioner came within hours of execution before the granting of his petition led to the discovery that the prosecutor claimed that the petitioner's clothing was stained with the victim's blood and induced a witness to testify to that effect, despite the fact that the prosecutor knew that the stains were paint, rather than blood.

In 1982, the eleventh circuit remanded a capital case where defense lawyers repeatedly stressed to the jury that they were only representing the defendant because they had to, and that their client, who his counsel described to the jury as "a little old nigger boy," was not unlike "the kind of people that we have historically put to death here in Georgia."

In 1988, the Supreme Court remanded for a new trial a case in which the defendant was sentenced to death by a jury that was selected after the prosecutor secretly induced the jury commission to underrepresent blacks and women in jury pools.

In 1985, a conviction and death sentence of a mentally retarded defendant were reversed after it was established that the prosecutor had withheld evidence that a key eyewitness—who at trial had positively identified the defendant as the assailant—had told the police shortly after the arrest that he could not identify the perpetrator.

A 1976 conviction was overturned on retrial in Arizona after it was determined by five expert witnesses that the victim had not been murdered but had died instead of pneumonia.

Mr. BIDEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I yield 3 minutes to the distinguished Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, this has been a very full and instructive debate this afternoon. We end where we started, and that is in substantial agreement. The differences between the provision that is in the bill at the present time and the provision offered by the Senators from South Carolina and Pennsylvania are 90 to 95 percent identical, or at least consistent in terms of the objectives that they have. I believe, therefore, that within that relatively small ambit of disagreement, that the provisions which are in the bill represent the sounder policy.

Let me just mention two of those areas of difference. One is the question of setting time limits once a petition has been filed in a Federal court. Under the provision as offered by the Senators from South Carolina and Pennsylvania, a petition, once having been filed, must be heard by the Federal courts within a stipulated number of days, 110 days, and then other dates subsequent in the Federal process.

That sounds very good and sounds as if it would advance the objective of finality and certainty. The difficulty is, what is the sanction if those timetables are not met? The concern I have is with the timetable, the sanction, for failing to meet a similar time requirement at a trial level where there is the obligation of a speedy trial, bringing a person to trial within a certain number of days from the time that they are indicted; if the Government fails to meet that test and if the court is delayed in carrying out its responsibility, the sanction is against the Government, against the people in the form of a dismissal of the charges. And the accused person walks free.

An unknown is what is going to happen under the proposal offered by the Senators from South Carolina and Pennsylvania in the event that the timetables which they set are not met. Are we going to have an anomalous situation in which a State prisoner held for a capital offense, who has filed in a Federal court and the Federal court has not met its time period, that that prisoner is going to have his jail cell opened? I think that we would not want to create that possibility.

Second, Mr. President, is the issue of exhaustion of remedies. I believe that the procedure which we have outlined, which maintains the tradition that a Federal prisoner would exhaust his State remedies before going into Federal court, is sound in terms of federalism and in terms of the judicial process and will not add to the total time required for collateral appeals.

So, Mr. President, those are two significant differences in a sea of similarity. I urge that the amendment that has been offered be defeated and that the underlying amendment be thus adopted.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 2 minutes to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I am pleased that the Senate is turning this week to consideration of an omnibus crime control package.

This package includes a number of items of which consideration is long overdue, as well as a number of new ideas worthy of our debate.

I want to take a minute this afternoon to focus on one particular item of significance—reform of habeas corpus procedures.

The distinguished senior Senator from South Carolina may recall how many years Congress has debated this issue. Certainly much longer than I have been here.

Finally, we are at the place where action is at hand.

Studies have been conducted, hearings held all over the country, and numerous recommendations have been forwarded for congressional review.

The most widely publicized recommendations are those of a special commission appointed by Supreme Court Chief Justice William Rehnquist and chaired by former Supreme Court Justice Lewis Powell.

This distinguished commission—made up of five Federal judges—pooled their practical experience and sought outside input on options for habeas corpus reform.

The Powell Commission reiterated what we know: The current habeas corpus statutes allow unnecessary delay in the delivery of justice.

These statutes are a deterrence to finality in a State courts' determination of guilt and imposition of capital sentences.

I have introduced legislation on this subject, as have a number of Members from both parties in both Chambers.

In fact, the Senate passed habeas corpus reform legislation in the early 1980's, but the bill was never debated in the full House.

The Powell Commission report and recommendations issued in 1989 have become the cornerstone for consensus on how to reform habeas corpus statutes.

The Powell Commission put forth a new idea which has brought the schools of differing thought on this issue to the table.

This idea is the linkage of ensuring inmates accessibility to competent counsel to the imposition of stricter habeas corpus statutes.

Practically every witness that has appeared before the Judiciary Com-

mittee in the past year on this issue has talked about the effect of inadequate counsel in slowing down the execution of State criminal law.

Mr. President, I am pleased to stand here today in support of Senator GRAHAM'S habeas corpus amendment. I have long been a cosponsor of legislation that would provide reform for habeas corpus. There is no question in my mind that there is a dire need for reform of the habeas corpus writ. For years now the Federal courts have been inundated with habeas corpus petitions, a large number of which are trivial at best. The backlog in the Federal court system is immense.

Senator GRAHAM'S proposal is a workable solution that should receive wide support in this body. It allows the States to choose what they each individually believe to be the best method of providing competent counsel for death penalty cases. It is important that defendants receive counsel, even those who commit the most heinous crimes. I also know that there are numerous good attorneys in my State of Arizona who are willing to provide free counsel to death row inmates. They are not necessarily career criminal attorneys, but they are good lawyers who are willing to put in the time to represent these death row inmates. Let each State decide what kind of experience requirement is necessary.

I need not get into any more of the details of the bill, but I think it is a good proposal, and I support it.

Mr. BIDEN. I yield 2 minutes to the Senator from South Carolina, and then I will yield back all my time.

Mr. THURMOND. Mr. President, I want to say there is a tremendous difference in these bills. Under our proposal you wind it up in 1 year. These things have gone on now where there was 11 years on a case. In Utah one went for 16 years.

In Oklahoma one went for 18 years. We have to bring finality. Ours is a much tougher bill. It winds it up in 1 year.

Now, under their bill, they can continue, and it may go a number of years. That is the difference.

Do you want 1 year or do you want to go for a number of years which can be done under the Biden bill? That is the main question. Finality, finality.

The people are sick and tired of these delays. So, if you want to get results, I think you will vote for our bill. If you want to carry on the present system that has improved some but not too much, vote for their bill.

Mr. BIDEN. Mr. President, I yield back the remainder of the time.

The PRESIDING OFFICER (Mr. ROCKEFELLER). All time is yielded back.

Mr. BIDEN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. BIDEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Louisiana [Mr. BREAUX] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—47

| | | |
|---|---|---|
| Armstrong | Gramm | Murkowski |
| Bond | Grassley | Nickles |
| Boschwitz | Hatch | Nunn |
| Burns | Heflin | Pressler |
| Byrd | Heinz | Rockefeller |
| Coats | Helms | Roth |
| Cochran | Hollings | Rudman |
| Cohen | Humphrey | Shelby |
| D'Amato | Kassebaum | Simpson |
| Danforth | Kasten | Stevens |
| Dixon | Lott | Symms |
| Dole | Lugar | Thurmond |
| Domenici | Mack | Wallop |
| Exon | McCain | Warner |
| Garn | McClure | Wilson |
| Gorton | McConnell | |

NAYS—50

| | | |
|---|---|---|
| Adams | Ford | Metzenbaum |
| Akaka | Fowler | Mikulski |
| Baucus | Glenn | Mitchell |
| Bentsen | Gore | Moynihan |
| Biden | Graham | Packwood |
| Bingaman | Harkin | Pell |
| Boren | Hatfield | Pryor |
| Bradley | Inouye | Reid |
| Bryan | Jeffords | Riegle |
| Bumpers | Kennedy | Robb |
| Burdick | Kerrey | Sanford |
| Conrad | Kerry | Sarbanes |
| Cranston | Kohl | Sasser |
| Daschle | Lautenberg | Simon |
| DeConcini | Leahy | Specter |
| Dodd | Levin | Wirth |
| Durenberger | Lieberman | |

NOT VOTING—3

| | | |
|---|---|---|
| Breaux | Chafee | Johnston |

So the amendment, (No. 1687), was rejected.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the motion to reconsider the vote by which the Thurmond amendment was defeated.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to reconsider the vote by which the Thurmond amendment was defeated occur tomorrow morning at 10 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. Mr. President, I, like all Americans, am anxious to take action against the scourge of violent crime that has plagued our country. It is incumbent upon us, here in the Congress, to point toward the most sensible means of addressing this problem. That is why I have reservations about certain provisions of S. 1970, currently before the Senate.

In the last several months, I have received letters from hundreds of Delaware constituents who oppose the gun control provisions of S. 1970. These letters express concern about the unfair burden that this bill would place upon law-abiding citizens. As the bill stands, anyone who owns a weapon covered by the bill, even if lawfully owned prior to the enactment of this legislation, would have to fill out a form to continue lawful ownership. Further, if the weapon was ever sold or transferred, both parties in the transaction would have to keep records of the transfer. While these recordkeeping requirements are supposedly aimed at drug traffickers and violent criminals, it is highly unlikely that such criminals would bother with these forms. If not, they would be subject to fines of $1,000 or 6 months in jail. These penalties hardly seem a deterrent for the hardened drug criminal. On the other hand, honest law abiding gun owners are burdened with the task of recordkeeping and filling out forms, and if they slip up, they could be sent to jail.

I am also concerned about a section of the bill which allows the Secretary of the Treasury to recommend new types of weapons to be banned. This provision opens the door for future gun regulation and could potentially affect guns that are used for legitimate sporting purposes. Hunters and sportsmen from around my home State of Delaware have expressed strong opposition to this portion of S. 1970. It is on their behalf that I will continue to look for ways to attack crime in this country that do not place an extra burden on the honest citizen.

I have been a longtime supporter of the right to bear arms as embodied in the second amendment of the U.S. Constitution. In the past, however, I have favored sensible measures restricting certain types of weapons. In the last Congress, I supported the Undetectable Firearms Act of 1988, which effectively outlaws plastic weapons that cannot be detected by airport x-ray machines. I also voted to outlaw the individual ownership of machine guns, and to stop the importation of the infamous "Saturday Night Special" handgun. In all of these cases my priority has been to address the criminal problem without undermining the rights of lawful gun owners.

Mr. President, I will continue to take an active role in combating the problem of violent crime in this country. While I feel it is appropriate to encourage people to join in this effort, I do not feel that it is fair to strap them with responsibility. We must all work together to solve the problems that lay before us.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that Senator THURMOND now be recognized to offer an amendment relating to the bill's provision on mental retardation; that there be no debate tonight on that amendment; that the Senate resume consideration of the bill and the Thurmond amendment Thursday, May 24, at 8:30 a.m., and that at that time there be 90 minutes equally divided on the Thurmond amendment, and that the vote on the Thurmond amendment occur at 11 a.m.

I further ask unanimous consent that upon disposition of the Thurmond mental retardation amendment Senator GRAHAM of Florida be recognized to offer an amendment to strike section 107 of the bill, and that there be 2 hours for debate equally divided on the Graham amendment; that when all time has been used or yielded back, the Senate, without any intervening action or debate, vote on the Graham amendment; that upon disposition of the Graham amendment, Senator THURMOND be recognized to offer an amendment relating to the subject of mitigating factors, that there be 4 hours of debate equally divided on the Thurmond amendment; that when all time has been used or yielded back, the Senate, without any intervening action or debate, vote on the Thurmond amendment.

I further ask unanimous consent that no further amendments or motions to recommit be in order prior to the disposition of these three amendments and that no other amendments relating to age, mental capacity, or aggravated or mitigating circumstances in the Thurmond amendment be in order, and that the agreement be in the usual form with respect to the division of time.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1690

(Purpose: To add a "right versus wrong" standard to the term mentally retarded)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 1690.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 7, strike the period after the word "retarded" and insert in lieu the following: "and is wholly lacking in the capacity to understand the difference between right from wrong.".

Mr. BIDEN. Mr. President, I thank my colleague and his staff particularly for working out this unanimous-consent agreement. For the record, so that it is clarified, age, mental capacity and aggravated and mitigating circumstances in the Thurmond amendments relate to the death penalty. That is what we are referring to.

I should point out that by earlier consent there is a vote and will be a vote tomorrow at 10 a.m. on the motion to reconsider the Thurmond amendment relative to habeas corpus. That will occur at 10 a.m. tomorrow.

Mr. President, I see my colleague from Montana is here. I yield the floor.

Mr. BURNS. I thank the Senator.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Montana is recognized.

(The remarks of Mr. BURNS pertaining to the introduction of S. 2679 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO JOE GIBBS

Mr. WARNER. Mr. President, I rise on behalf of myself and my colleague, Senator ROBB, to pay tribute to a fine Virginian and exemplary gentleman, Joe Gibbs, who is the recipient, this year, of the Northern Virginia Community Foundation's Founder's Award.

Founded in 1978 by a group of northern Virginia residents who sought to improve the quality of life in their area, the Northern Virginia Community Foundation endeavors to promote and acknowledge significant individual contribution to the community. The foundation is supported by individual, corporate, and foundation gifts. It provides funding assistance for northern Virginia programs in the arts, education, and youth activities as well as health and civic programs.

The Founders Award, the most prestigious award given by the foundation, is presented each year to that individual who has distinguished himself through outstanding community service and dedication to the betterment of northern Virginia. This year's recipient is Joe Gibbs, the head coach of the Washington Redskins, and a resident of Vienna, VA.

This year's Founder's Award recipient has spent most of his life developing the potential of young men. Several years ago, as a counselor to inner-city youths, Coach Gibbs witnessed, first hand, the negative influences that can pull teenagers into a cycle of despair and poverty. He was compelled to help these boys, and began, in 1983, to look for a way to do it.

In 1986, Joe, with the generous assistance of all segments of the community, opened the Youth for Tomorrow New Life Center, near Manassas, VA. Today, the New Life Center is, both a home and an educational center from which young men begin their lives anew.

The program at the New Life Center provides a substitute family which teaches the need for obedience and self-discipline. Boys at the center strive to achieve goals in all areas of their lives: social, academic, spiritual, physical, financial, vocational, and citizenship. Presently the center is oper-

ating at full capacity, with many success stories in its files.

March of 1989 saw the establishment of the Joe Gibbs Charities organization, set up to enhance the activities of the Youth for Tomorrow program. In addition to providing funding for the center, last year's gala at the Kennedy Center also raised funds for Hope for a Drug Free America, the Doug Williams Foundation, and ONE Ministries.

Already the winningest coach in Redskins history and one of only 19 NFL coaches to ever register 100 victories, Coach Joe Gibbs is beginning his 10th season in Washington. Few have accomplished so much so quickly, and the Gibbs era has been one of quality as well as quantity.

In addition to his 102 victories, Joe Gibbs has led the Washington Redskins to 3 NFC championships, 4 division titles, 5 playoff appearances, and 3 Super Bowl games, 2 of which brought home the Lombardi trophy.

In his customary manner, Joe is quick to credit this achievement to others. "It is a reflection on our entire organization, beginning with the great ownership provided by Mr. Cooke," said Gibbs, "that is not possible without sacrifices by players, assistant coaches, scouts, and the support of great fans."

But it is Joe Gibbs who deserves the credit. From the moment he left his post as offensive coordinator of the San Diego Chargers in 1981 to join the Redskins, he set the tone for success. In 1982 he became the first head coach in 20 years to be named Coach of the Year by Associated Press in consecutive seasons. And in that same year, his team posted the sixth best record in NFL history and went on to win Super Bowl XVII. A year later, his offense set an NFL record for points in a season on the way to Super Bowl XVIII. Coach Gibbs now ranks as the fourth winningest active coach in the NFL.

The hallmark of Joe Gibbs' career, on the sidelines and off, has been that of consistent success. Whether in youth counseling, Christian outreach work, community development, or coaching footabll, Joe Gibbs's success touches the lives of many. We are pleased to salute Joe Gibbs as a coach, citizen, and father, and an extraordinary Virginian.

## TRIBUTE TO DR. DAWSON ALLEN

Mr. NUNN. Mr. President, my purpose for seeking the floor is to pay tribute to Dr. Dawson Allen of Milledgeville, GA, who celebrates his 96th birthday today. Dr. Allen is truly a renaissance man. His life and its achievements deserve the attention of the Senate.

Most of Dr. Allen's life was devoted to the practice of psychiatry at Allen's Invalid Home in Milledgeville. During his professional career, he was in charge of care for women patients at this institution, while his late brother, Dr. Edwin Allen, attended to men. When his father established this institution in the final years of the last century, it was the first private-care institution for mentally disturbed patients south of Baltimore. Previously, only State-supported care was available to families in our region. In that era, care provided by the State amounted to little more than custodianship. An incalculable number of victims of despair and depression found new hope under the private care of Dr. Allen, his brother, and his father and their psychiatric insight.

He has also been a successful cattle farmer. Just as he and his brother had a division of labor in patient care, they also divided their farming interests. Dawson Allen raised dairy cows and produced milk and other dairy products, while his brother, Edwin, raised beef cattle.

Dr. Allen's most lasting legacy, however, is beautiful carpets of red and green over the countryside of Georgia. A strain of crimson clover that he and his brother developed now covers much of Georgia where there was once eroded red clay on wornout fields. This is a Dawson Allen legacy that will last forever. Dr. Allen's strain of crimson clover is used to restore nutrients to the soil and prevent erosion. It is today used all over Georgia in pastures and along roads. Georgia is a beautiful State that is made even more beautiful by Dr. Allen's crimson clover.

An Associated Press article about his botanical achievement recently appeared in the Atlanta Journal and Constitution, and I will ask unanimous consent that it appear at the conclusion of my remarks.

Dr. Allen remains alert and active at 96. Although his eyesight has failed him, his active, fertile mind has not. He remains abreast of current developments, thanks to the National Library Service for the Blind, administered by the Library of Congress. This service keeps him supplied with current books on tape, and he spends much of his day listening to them. His visitors sometime express concern that the service has a tendency to provide one with more information about the contents of those books than one with a short attention span can absorb. Few visitors can match the depth of his understanding of the world around him.

It is a special privilege for me to take note of Dr. Allen's 96th birthday and his life of achievements as well as this interesting Associated Press article about him. I wish him many happy returns.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Atlanta Journal and Constitution, May 14, 1990]

BROTHERS' EXPERIMENTS WITH CLOVER TURNED OUT LUCKY FOR STATE'S HIGHWAYS

MILLEDGEVILLE, GA.—The familiar red blooms of clover that border Georgia's highways and byways each spring have their roots in Baldwin County.

"My brother Edwin and I started working with the reseeding clover in the '30s," said 95-year-old Dawson Allen, who still lives in Milledgeville.

They eventually cultivated the reseeding Allen strain that later was combined with two other Georgia strains to produce Dixie Reseeding Crimson Clover, commonly seen throughout Georgia today.

Despite his achievement in botany, Dr. Allen's background is in medicine. A native of Baldwin County, he attended Georgia Military College and the University of Georgia, where in 1916 he received one of the school's first bachelor's degrees in medicine.

He continued his studies at the College of Physicians and Surgeons of Columbia University, graduating in 1918. After a medical internship at New York Hospital and service in the U.S. Medical Reserve Corps, he returned to Milledgeville as county health commissioner and later as pathologist at what now is Central State Hospital.

"I became interested in experimenting with the clover when I noticed it voluntarily returning on the Grounds" of the hospital each spring, Dr. Allen said.

Unlike most clover, that variety survived the hot Georgia summers and would regerminate the next spring.

"I theorized that the clover reseeded due to its genetic property," Dr. Allen said. "About 80 percent of the seed was hard seed that would not immediately germinate but would come back the next year."

In hopes of developing larger pastures of clover, he and his brother experimented by hand-stripping 14 pounds of clover seed and sowing it on top of the ground on a half-acre plot.

Dr. Allen continued the experiment after he left the state hospital to become psychiatrist for the female patients of Allen Invalid Home, a private-care facility owned and operated by his father, Dr. Henry Dawson Allen Sr. It was there that the Allen brothers began in earnest their cultivation of what became the Allen strain of crimson clover.

The 2,200-acre site left ample room to maintain farming and cattle operations as a sideline. So, besides their medical duties, the brothers also took charge of the cattle operations.

Feeding the cows was one reason for developing the clover. Another was that the land, purchased for $4.50 an acre, was badly eroded from overproduction of cotton. That prompted the Allens to begin a soil conservation program using the clover.

With those goals, they harvested the seed from the original clover field and continued planting larger plots until they had reached a 300-acre pasture of crimson clover in 1952.

"We were hoping to produce a year-round pasture by using the crimson clover in conjunction with Dallis grass, Bermuda grass and carpet grass," Dr. Allen said. "However,

we were able to graze cattle only about nine months out of the year, so we still had to feed the cattle during the winter months."

There were other setbacks. Dr. Allen, who had one of the largest herds of Jersey dairy cows in the state, was forced to stop grazing his milk cows in the clover pasture when Pet Milk Co. complained about the taste of the milk. But the clover field didn't go to waste—the Allens moved the beef cattle to the clover pastures.

Word of the brothers' clover experiment spread. And in the 1940s the agriculture department of the University of Georgia became interested in the Allen strain of reseeding clover.

By combining the Allen strain with the Thornton strain from Flowery Branch and the Hardy strain from Senoia, it produced the Dixie Reseeding Crimson clover.

This clover is used extensively along the shoulders of highways throughout the state to retain soil, prevent erosin and provide decoration.

"The Georgia Department of Transportation plants about a ton of Dixie clover a year," said DOT agronomist Jerry Hall. "We plant about 20 pounds to the acre."

In 1953, the Progressive Farmers Club of Baldwin County recognized the success of the crimson clover cultivation by hanging a bronze plaque on the Baldwin County Courthouse grounds commemorating the Allens' efforts.

Dr. Allen, who turns 96 this month, remains involved in many activities.

"A friend of mine recently won a ribbon at a local flower show with one of my irises," Dr. Allen said. "That really makes me proud."

## TRIBUTE TO GILBERT H. GODNICK

Mr. LEAHY. Mr. President, I lost a very good friend Monday. Gilbert H. Godnick, we all called him Gillie, is dead at 63.

Gillie was a businessman. He operated a family furniture business in Rutland, where he was born. He loved Rutland. The city was his life, and he served as alderman and mayor before running for the Vermont Senate from Rutland County.

Gillie figured if you were his friend, he had license to give you advice. One of the smartest things I ever did was to listen.

He was a community leader, devoted to progress and a better life for residents of the Rutland area.

He was a strong mayor, and had a businessman's impatience with the pace of government. He liked to see things get done, and was not a man for blue ribbon commissions or extended studies by well-paid consultants.

He was a generous man who promoted and raised money for a number of charities, including the Jimmy Fund, which helps finance the treatment of children with cancer. He helped bring Vermont Day back to Fenway Park in Boston in the seventies and used that occasion to make a most generous donation to the Jimmy Fund from the merchants and people of the Rutland area.

He was a colorful mayor and State senator who pounded home his message in the halls of the State House: We live here too. Pay attention to our part of the State.

He was a man who always kept his word and his commitment to the people he served.

Marcelle and I send our deepest sympathy to Gillie's family and the hundreds of friends he leaves in Rutland, and throughout Vermont. We extend special words of sympathy to his widow Aline. She and Gil have always been special friends of ours and we know how much she will miss him.

Mr. President, I ask that the editorial that appeared in the May 22, 1990, edition of the Rutland Herald be printed in the CONGRESSIONAL RECORD in memory of this distinguished Vermonter.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Rutland Daily Herald, May 22, 1990]

GILBERT G. GODNICK

The death of former state Sen. and Mayor Gilbert G. Godnick yesterday at the age of 63 deprived Rutland of one of its leading citizens. He left a lasting impact on this community as a retail merchant, public official and colorful personality who maintained vigorous activity in pursuit of his many interests long after he was dogged by poor health.

A conservative Democrat of the old school, he probably deviated from the party line almost as often as he joined his colleagues in supporting their policies and objectives. His service in the state Senate began during the sessions of 1981-82 and continued through 1987-88. He served as a member of the Rutland Board of Aldermen during the period 1969-73 before devoting eight years to the office of mayor. He was a World War II veteran of the European theater.

Gil Godnick was a successful retail merchant who managed to find time for a variety of community activity which included an extensive interest in the work of the Salvation Army and the United Way in addition to a political career lasting 20 years. He gave the impression of having a choleric temperament that was encouraged by high facial color and a distinctive manner of speaking that was often imitated by one of his lawyer friends. His manner somehow created the illusion that the hair rose on the back of his neck when he was irate about some problem or political issue. He fought a losing battle with heart disease and excessive weight during most of his mature life.

Well before he became mayor Gil Godnick was a leader in inaugurating the annual Loyalty Day parade, which has continued to be a popular event with strong public support in a city that isn't exactly noted as a parade community.

In his first campaign for mayor in 1973 he carried every ward against two opponents and continued to be a popular figure throughout his service at City Hall. His second election in 1975 was a "landslide." In his last campaign in 1979 in a close contest he defeated John J. Daley, a former mayor and lieutenant governor of the state. As mayor Godnick appointed a Downtown Development Committee that was responsible for establishing the Downtown Development Corp. The DDC program resulted in numerous improvements in the downtown section of the city including the parking deck and the establishment of the office of city planner and community development director.

Only recently he had expressed his opposition to the city's support of the Finard-Zamias mall south of Rutland in the town.

As a state senator he worked assiduously for more help from Montpelier for Rutland area highway improvements and other projects. He was one of the first Democrats elected to the state Senate from Rutland County. Unlike many Democrats, he was a spokesman for business and development interests rather than environmental objectives.

The term rugged individualist might well have been devised to fit people like Gilbert Godnick. He will be remembered for his service to Rutland and the state as well as for his memorable characteristics of personality and speech.

## TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,894th day that Terry Anderson has been held in captivity in Beirut.

## THE RIGHT TO PRAYER IN SCHOOL

Mr. HATCH. Mr. President, the first amendment protects religious liberty. The framers of the Constitution intended our children to have the right to prayer in school. Yet that right was censored since the early 1960's when the Supreme Court banned school prayer.

Next Friday I will deliver the baccalaureate address at Southern Utah State College at Cedar City, UT, and I am pleased that the service will include prayer.

But in other graduation ceremonies across our Nation—both at the university and at the high school level—the prayer is banned.

A good friend of mine, a church leader, and a former president of Brigham Young University in Provo, UT, summed up the idea of freedom and religious censorship in a timely article published in today's Wall Street Journal.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD for my colleagues to read.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 23, 1990]

WHEN "FREEDOM" BECOMES RELIGIOUS CENSORSHIP

(By Dallin H. Oaks)

In this graduation season, many high-school administrators will be deciding whether to include prayer in their ceremo-

nies. The issue is more and more a subject of debate. The new discussion reflects a growing pattern of hostility to religion in the U.S.

In short, many understand the law today as being hostile rather than neutral toward religion—as forbidding all public prayers rather than simply prohibiting state-authored and state-required prayers in public schools.

When the Supreme Court decided the original school prayer case in 1962 (*Engel v. Vitale*), I interpreted the decision to forbid only state-authored and state-required prayers. As such, I thought the case was correctly decided. What I did not forsee, but what was sensed by people whose vision was far greater than my own, was that this decision would set in motion a chain of legal and public and educational actions that would bring us to the current circumstances in which we must reaffirm and even contend for religious liberty.

Such a situation exists in the U.S. today. In Utah, for example, controversies have arisen over prayers offered in high-school graduation exercises. A suit filed on behalf of two students in one school district last year objected that prayers being offered were "denominational," since they mentioned the name of Jesus Christ. The suit asked that such prayers be "non-denominational."

Interpreting this as a plea for a court order requiring that the name of Jesus Christ not be used in prayers offered at a public high-school graduation exercise, I thought of the first school prayer decision. In that case, the Supreme Court said government had no power to write prayers. Before Americans acquiesce to the use of judicial power to indicate that words cannot be included in a prayer, they should remember that if it is not part of the business of government to write a prayer, then it is not part of the business of a court to censor a prayer.

The Supreme Court voiced that principle just six years ago in rejecting an argument that the prayers in a state legislative assembly were illegal because they were always offered by a chaplin of one religious denomination. The court said: "The content of the prayer is not of concern to judges where, as here, there is no indication that the prayer opportunity has been exploited to proselytize."

Under this reasoning, the attempt in Utah to have a court dictate what could not be included in a prayer would not succeed. But even a winning case can be expensive to defend, and in the graduation-exercise case, this economic pressure persuaded the school board to do away with prayers as part of their graduation exercises.

Following the 1962 Supreme Court decision on prayer in schools, eminent legal scholars ridiculed the idea that the court's school prayer decisions would lead to a great gulf between religion and public life. What the legal scholars did not foresee is the extent to which the school-prayer and Bible-reading decisions would shift the burden of proof with respect to religious practices in public life. In the past, religion had been an accepted part of public life in America. It has become something that had to prove its right to remain in the public square. By the 1970s earlier principles had hardened into mechanical formulas that can be interpreted in ways hostile to religion.

Many citizens and some educators have come to consider it bad taste or even illegal for public-school teachers to mention religious influences or commitments. No wonder Americans suffer appalling ignorance of their political and cultural origins.

Studies show that textbook authors have avoided references to God or to religion. For example, one textbook in use today defines "pilgrims," originally a religious term, as "people who make long trips." In another text, no religious event is included in a list of hundreds of important events over a 200-year period in American history, and the religious origins of pre-Civil War abolitionism and the recent Civil Rights movement are commonly skimmed over or totally omitted.

Initially, the Supreme Court's school prayer decision outlawed only state-authored and state-required prayers. Later, the courts forbade any prayers in public-school classrooms—even prayers that were privately composed or optional. The courts were concerned with the possibility that impressionable young students would be coerced by such publicly sponsored religious exercises. Despite the absence of coercion from prayers in adult settings, and despite the fact that prayers are frequently offered in legislative and other public meetings in every state in the union, some have continued their efforts to force the abolition of prayers at government or other public meetings. Immense resources have been devoted to thrashing out the constitutional limits on prayer.

Appellate court opinions issued in the past several years have split on the legality of prayers at high-school graduation exercises. The U.S. Supreme Court has not yet ruled on any such controversy. I hope the court will reaffirm a 1952 opinion: "When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs."

As the law stands today, school boards challenged on the legality of prayers offered on public ceremonial occasions must choose among continuing such prayers and risking expensive litigation, abandoning prayer and being seen as relinquishing treasured practices, or substituting a moment of silence in which all are invited to offer private devotions.

The last option is likely to be unacceptable to most. In my view, the one alternative that is entirely unacceptable is for a school district to attempt to prescribe or censor prayers to be offered at any function in the district.

Religion should have a place in the public life of our nation. To honor this principle with prayers in the graduation exercises of high-school students is to honor the religious plurality of our nation and the religious liberty it was founded to protect.

## C.R. SMITH, A GREAT PIONEER OF AVIATION

Mr. BENTSEN. Mr. President, in 1928 a tall, young Texas accountant was asked by his boss to do the books and oversee operations of some small airlines which his company had just acquired. "I'm not interested in aviation," he protested. Eventually, however, he agreed. "OK, I'll try it for a while," said C.R. Smith.

That young man went on to become the first president and guiding spirit of American Airlines. He had vision, drive, and success. By helping to shape and build one of our premier industries, civil aviation, he truly made a difference in the way we live.

Cyrus Rowlett Smith, usually called simply "C.R.", was born in Minerva, TX, in 1899. Although he lacked sufficient high school credits for regular admission, he got special permission to enroll in the University of Texas. Bright and energetic, he was president of his junior class, was admitted to two honor societies, and operated his own advertising business during his college years.

When asked to oversee operations of what was to become American Airlines, C.R. Smith displayed his characteristic intelligence, hard-driving determination, and mastery of detail. He could be found inspecting hangars and clerical offices and cockpits, talking to employees and observing every facet of his company's operations.

He was especially sensitive to what passengers wanted. He emphasized safety in order to reassure the public about air travel and he insisted that planes be designed for comfort and economy.

In 1934, determined to get a better aircraft than was being built for his competitors, he made a lengthy long-distance call to Donald Douglas, Sr., in California. Smith told Douglas numerous changes he wanted in the new DC-2, including a wider body and increased passenger loads. That plane, built to Smith's specifications, became the workhorse of civil aviation for more than a decade—the DC-3. More than 10,000 were built, and the very first put into passenger service was called the Flagship Texas.

Mr. President, let me cite one story which illustrates his character very well. A friend saw Smith waiting in a long standby line at National Airport and asked him why he did not board. In his usual laconic way, Smith answered, "Flight's booked full." His friend pointed out that he was president of the airline. "They're paying customers," Smith responded.

When America entered the Second World War, C.R. Smith volunteered his aviation and managerial skills to the war effort. He helped establish and was later deputy commander of the Air Transport Command. His war work won him numerous awards, including the Distinguished Service Medal, the Legion of Merit, and the Air Medal. As I subsequently learned, when there was some confusion over his military records from the war, Smith never accepted his major general's paychecks.

He also served in Lyndon B. Johnson's cabinet as Secretary of Commerce during 1968.

C.R. Smith was more than a financial and marketing genius in aviation. He was a sophisticated, cultivated

man. He was an avid reader and a skilled dry fly fisherman. He was an early and enthusiastic collector of Western art, much of which he gave to the University of Texas.

He was admired and respected by those who worked with him, by those who worked for him, and by his competitors, who recognized his skills. At his death last April 4, he was properly hailed as a great pioneer in civil aviation.

Mr. President, I think we can all learn valuable lessons from the long and productive life of C.R. Smith. With old-fashioned virtues and modern techniques, he built a strong company, shaped a major industry, and served his country. In no small way, he helped make air travel the safe and convenient mode of transportation it is for us today.

## EL SALVADOR'S MILITARY LEADERS

Mr. LEAHY. Mr. President, I rise to bring to the attention of other Senators and the American people a report just released by the House Arms Control and Foreign Policy Caucus. This report, entitled "Barriers to Reform: A Profile of El Salvador's Military Leaders," is years overdue.

I want to commend Senator HATFIELD and Representatives HOWARD BERMAN and GEORGE MILLER for commissioning this report. They have done a great service for those of us who for years have watched in horror as an estimated 70,000 Salvadorans lost their lives. Throughout those years, despite strong evidence of collaboration between Salvadoran military officers and rightwing death squads, not one officer has been convicted of a human rights violation. For far too long, while the United States has bankrolled the Salvadoran buraucracy and military at a rate of over $1 million per day, the Congress has been kept in the dark about the true colors of the Salvadoran military leadership.

This report contains information which should make even the staunchest supporter of United States policy toward El Salvador stop and think again. It describes the career records of the 15 officers who now hold the primary commands in the Salvadoran military, and tracks documented human rights abuses by troops under their commnd during the past 10 years.

By matching information on officers' previous assignments with reports of abuses of human rights, the report concludes that 14 of the 15 of El Salvador's commanding officers have risen to their positions despite documented abuses, including murder and torture of noncombatants, by troops under their command.

This includes Chief of Staff Emilio Ponce, the Minister and two vice Ministers of Defense, the heads of the three security forces and five of the six major brigades.

In not one of the over 50 cases documented in the report have even the junior officers been brought to trial.

And, of the 14 commanders whose troops reportedly committed abuses, 11 received U.S. training, some for many years.

Mr. President, according to the Salvadoran press, President Cristiani has denounced this report as part of an FMLN propaganda campaign. As one Senator who has publicly condemned the abuses of the FMLN, including last year's offensive in San Salvador, I urge President Cristiani to give this report the serious attention it deserves. He himself has spoken of the need to reform the Salvadoran military. This report only confirms the extreme urgency of that need, beginning at the highest levels.

For fiscal year 1991, the administration is requesting another $90 million for the Salvadoran military. The Foreign Operations Subcommittee will be marking up that bill in the next 2 to 3 months. This report, in addition to progress in peace negotiations and in the prosecutions of those responsible for murdering the Jesuits and other unresolved human rights cases, will factor heavily in what I propose to the subcommittee for aid to El Salvador in that bill.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 2:43 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 231. Joint resolution to designate the week of June 10, 1990 through June 16, 1990, as "State-Supported Homes for Veterans Week."

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 640) to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents (Rept. No. 101-303).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Annice M. Wagner, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years; and

Jerry D. Jennings, of Michigan, to be Deputy Director of the Federal Emergency Management Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KOHL (for himself, Mr. HEINZ, Mr. PRYOR, Mr. GRASSLEY, Mr. KASTEN, Mr. KERRY, Mr. MOYNIHAN, Mr. SIMON, and Mr. GLENN):

S. 2675. A bill to amend title 13, United States Code, to provide for the enumeration in the census of members of the Armed Forces assigned outside of the United States, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCONNELL:

S. 2676. A bill directing the Secretary of Transportation to establish an instrument landing system at Bowling Green-Warren County Airport, Bowling Green, KY; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. KASTEN, Mr. SIMON, Mr. GRASSLEY, and Mr. HARKIN):

S. 2677. A bill to extend for 2 years the operation of sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. HEINZ, and Mr. PRYOR):

S. 2678. A bill to clarify the deductability under the Internal Revenue Code of 1986 of liabilities incurred in connection with minimum premium plans; to the Committee on Finance.

By Mr. BURNS (for himself, Mr. DASCHLE, Mr. CONRAD, Mr. PRESSLER, and Mr. BAUCUS):

S. 2679. A bill to protect irrigation, power, and recreation on the Missouri River; to the Committee on Enviroment and Public Works.

By Mr. BUMPERS:

S. 2680. A bill to provide for the relief of certain persons in Stone County, AR deprived of property as a result of a 1973 dependent resurvey by the Bureau of Land

Management; to the Committee on Energy and Natural Resources.

By Mr. DIXON (for himself and Mr. D'AMATO):

S.J. Res. 325. A joint resolution to disapprove of renewal of most-favored-nation status for the People's Republic of China [PRC]; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. LAUTENBERG):

S.J. Res. 326. A joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HEINZ (for himself, Mr. PRYOR, Mr. COHEN, Mr. GLENN, Mr. PRESSLER, Mr. BRADLEY, Mr. GRASSLEY, Mr. BURDICK, Mr. WILSON, Mr. JOHNSTON, Mr. SIMPSON, Mr. BREAUX, Mrs. KASSEBAUM, Mr. SHELBY, Mr. REID, Mr. GRAHAM, and Mr. KOHL):

S. Con. Res. 134. A concurrent resolution expressing the sense of Congress concerning a 1991 White House Conference on Aging; to the Committee on Labor and Human Resources.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself, Mr. HEINZ, Mr. PRYOR, Mr. GRASSLEY, Mr. KASTEN, Mr. KERRY, Mr. MOYNIHAN, Mr. SIMON, Mr. LAUTENBERG, and Mr. GLENN):

S. 2675. A bill to amend title 13, United States Code, to provide for the enumeration in the census of members of the Armed Forces assigned outside of the United States, and for other purposes; to the Committee on Governmental Affairs.

INCLUSION OF MEMBERS OF THE ARMED FORCES ASSIGNED OUTSIDE OF THE UNITED STATES IN THE CENSUS

Mr. KOHL. Mr. President, today I am introducing legislation which would require the Census Bureau, in cooperation with the Department of Defense, to count overseas military personnel based on the place where they enlisted or, their "home of record." I am pleased to add Senators HEINZ, PRYOR, GRASSLEY, BRADLEY, KASTEN, KERRY, MOYNIHAN, SIMON, LAUTENBERG, and GLENN as original cosponsors of this bill.

The enumeration of oversea military personnel is strictly for reapportionment purposes. The Commerce Department and Census Bureau, on Friday, May 18, 1990, announced its policy to count these personnel based on their last U.S. residence of 6 months or longer. This would place a disproportionate amount of these persons in States with large military staging facilities, causing an automatic inaccuracy in the census. My legislation will require the Census Bureau and Department of Defense to count overseas military personnel and their dependents based on their "home of record." This will effectively distribute them more equally and fairly throughout the Nation.

The last time overseas military personnel were counted in a census was in 1970. At that time, the Census Bureau used the "home of record" as the means for enumerating them. I believe this to be the most fair and accurate method to carry out the enumeration of these personnel.

According to Census Bureau projections, 1.6 to 2 million persons would be affected by the Commerce Department's decision. As many as 18 seats in the House of Representatives could be transferred due to the new census figures. For some States, a change of only 1,000 individuals could cause the loss of a seat in the House.

We are all aware of the problems the Census Bureau is having with counting all Americans. Less than two-thirds of Americans have returned their questionnaires. Now, I am concerned that the Census Bureau wants to put some of the people they do count in the wrong place. The decision to count active duty military personnel based on their "last duty station" rather than their "home of record," is outrageous. It is inconsistent with past Census Bureau policies. It is not fair. And, it would not make good public policy. When dedicated men and women choose to serve our Nation in the Armed Forces, their individual home States should not be disadvantaged because of it.

I ask your support of this legislation, which will contribute to an accurate and successful 1990 census, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2675

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 141 of title 13, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) Effective beginning with the 1990 decennial census of population, in taking any tabulation of total population by States for purposes of the apportionment of Representatives in Congress among the several States, the Secretary shall take appropriate measures to ensure that—

"(1) no member of the armed forces shall be excluded based on such member's being assigned to a post outside the United States; and

"(2) each member of the armed forces so assigned shall be enumerated at such member's 'home of record', as defined by the Department of Defense for administrative purposes.".

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By Mr. McCONNELL:

S. 2676. A bill directing the Secretary of Transportation to establish an instrument landing system at Bowling Green-Warren County Airport, Bowling Green, KY; to the Committee on Commerce, Science, and Transportation.

BOWLING GREEN INSTRUMENT LANDING SYSTEM

Mr. McCONNELL. Mr. President, today I rise to introduce legislation which would provide the Bowling Green-Warren County Airport with an instrument landing system [ILS]. Briefly, my bill would require the Secretary of Transportation, acting through the Federal Aviation Administration, to provide an ILS for Bowling Green, KY.

Bowling Green is one of the fastest growing communities in the Commonwealth of Kentucky and the Nation. With this growth, the need for an expanded and improved airport has increased substantially. Presently, the airport is making every effort to expand its current facility and is attempting to meet the growing needs of the area. However, without an ILS, the airport will be greatly limited in its ability to serve Bowling Green and Warren County.

At present, the airport is trying to attract a major airline to establish passenger and commuter air service. Certainly, this is a key element in meeting the needs of those who use the airport. As one can imagine, Mr. President, the lack of an ILS makes it difficult to attract such an airline and has a negative impact on airport safety as well.

Those who currently use the airport include the general public, local industry, Western Kentucky University's sports teams, other universities flying into Bowling Green to play Western, as well as Fort Campbell's use of the airport as an additional training facility. Unfortunately, the lack of an ILS allows these groups to fly into Bowling Green only under near perfect weather conditions. Anything less than perfect would require a flight to be diverted to another airport. I find this unacceptable and believe that a community the size of Bowling Green warrants an ILS.

Another major factor to consider is the further economic growth of the community. While I am convinced that this area will continue to grow and prosper, I believe that the airport can be a major catalyst for development into the 1990's. At this time, it is my understanding that Bowling Green is the only community of its size in Kentucky that does not have an ILS. In light of the Commonwealth of Kentucky's recent commitment to provide $240,000 for acquisition of an ILS, it is imperative that Federal support for a landing system be provided.

Mr. President, I urge my colleagues to support this bill and ask for its timely consideration.

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By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. KASTEN, Mr. SIMON, Mr. GRASSLEY, and Mr. HARKIN):

S. 2677. A bill to extend for 2 years the operation of sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; to the Committee on the Judiciary.

EXTENSION OF THE REFUGEE ACT

● Mr. LAUTENBERG. Mr. President, I rise to introduce a 2-year extension of the Lautenberg-Morrison law which makes it easier for certain historically persecuted groups of refugee applicants to enter the United States as refugees. This legislation passed the Senate by a vote of 97 to 0 last year, and became law as part of the Fiscal Year 1990 Foreign Aid Appropriations Act. It sunsets on October 1, 1990.

I am extremely pleased to have as original cosponsors of this bill Senator KENNEDY, the distinguished chairman of the Senate Judiciary Committee's Immigration Subcommittee, Senator SIMON, also a member of that subcommittee, Senators GRASSLEY, KASTEN, and HARKIN. I would also note that Congressman MORRISON, the law's sponsor in the House last year, and the chairman of the House Judiciary Subcommittee on Immigration, is introducing the same bill on the House side.

The legislation has been endorsed by the American Jewish Committee, the Council of Jewish Federations, the Hebrew Immigrant Aid Society, World Relief, the Ukrainian National Association, Inc., the U.S. Catholic Conference, and the Lutheran Immigration and Refugee Service.

I'm also pleased that extension of this law also has the support of Secretary Baker, who acknowledged that to me in a hearing before the Senate Appropriations Subcommittee on Commerce, Justice, State, and Judiciary on April 25, 1990.

The law we passed last year formally recognized that the historical experience of certain persecuted minorities in the Soviet Union and Southeast Asia, and a pattern of arbitrary denials of refugee status to members of these minorities, entitled them to a temporarily relaxed standard of proof in determinations about whether they are refugees. This law, for fiscal year 1990, lessened the evidence required for Soviet Jews, Soviet Evangelical Christians, religiously active Soviet Ukrainian Catholics and Orthodox, and certain categories of Vietnamese, Laotians, or Cambodians to qualify for admission to the United States as a refugee. Once a refugee applicant proves he or she is a member of one of these groups, he or she only has to prove a "credible basis for concern" about the possibility of persecution. Refugee applicants normally must prove a "well-founded fear of persecution."

The law also provides for the adjustment of status from parolee to permanent resident for nationals of the Soviet Union, Vietnam, Laos, or Cambodia who entered the United States on or after September 1, 1988, and before September 1, 1990, as parolees. To qualify, they must prove they have been physically present in the United States for at least 1 year.

The 2-year extension we now propose would mean that parolees in the specified groups who entered the country after August 15, 1988, and before September 1, 1992, may qualify for this adjustment of status. It would also extend for 2 years the requirement that decisions made to deny applications for refugee status must be in writing and state the reasons why the application was denied.

Current law provides that members of the protected groups who were denied refugee status between August 15, 1988, and the date the law was enacted are eligible to reapply for refugee status under the terms of the law. The 2-year extension would make those who were denied refugee status between August 15, 1988, and October 1, 1992, eligible to reapply under the terms of the law.

Finally, the law provided for a GAO review of processing in the Soviet Union to see how the law was being implemented. This new legislation includes a requirement for another review.

The Lautenberg-Morrison law is working as intended. It has replaced an arbitrary and slow process of refugee adjudication in the Soviet Union and Southeast Asia with a stable, consistent and fair process. It has meant that people already terrorized by longstanding hatred and persecution in their native lands are not further traumatized by a system that does not recognize their suffering, or makes arbitrary distinctions between people who have suffered similar fates.

This law has had a real and positive impact on refugee applications. Denial rates for Soviet Jews decreased from about 36 percent last March before Lautenberg-Morrison to 8 percent for February of 1990, and 11 percent in March. For Soviet Pentecostals, a review done by World Relief shows that no Soviet Pentecostals applying for refugee status were unfairly denied refugee status.

We continue to need this liberalized standard because conditions for the persecuted groups in the Soviet Union and Southeast Asia have not significantly improved. The conditions that caused them to seek refuge last year still exist, and in some cases, have worsened.

While Soviet Jews have been permitted to emigrate in much greater numbers, those remaining face a greatly increased threat to their well-being. Pogroms are a very real possibility, and heightened harassment, violence, and public expressions of hatred by anti-Semitic groups like Pamyat are already occurring.

Pentecostals, who are concentrated in areas far from the cities, continue to be harassed for their religious beliefs. Ukrainian Catholic and Orthodox congregations have been permitted to exist, but they remain illegal. Harassment of believers continues and worship is still obstructed, especially in Eastern Ukraine, an area less open to the West.

Although the historic persecution of these groups continues, even the Immigration and Naturalization Services acknowledges that denial rates would go up if the relaxed standard embodied in this law were permitted to sunset in October 1990. If this law expires at the end of this fiscal year, denial rates for Soviet Jews would go up to about 40 percent. Given the present contingent of only 6 INS adjudicators in Moscow, INS officials believe it would be impossible to interview enough people to fill the 40,000 refugee visas available in 1990.

Moreover, the GAO report done pursuant to the requirements of this law, entitled "Soviet Refugees: Processing and Admittance to the United States," found that two of the six rooms in which Soviet refugee applicants are being interviewed are unsatisfactory because they do not provide sufficient privacy. Because the lack of privacy creates an atmosphere in which an applicant may legitimately fear speaking the truth about persecution, the protection offered by the Lautenberg-Morrison law is still needed. I ask unanimous consent that a copy of this report appear in the RECORD following my remarks.

With rising anti-Semitism and the closing off of direct flights to Israel, Soviet Jews face long waits to leave the Soviet Union and go to Israel. By allowing this law to sunset, we would be erecting yet another hurdle to the escape of Jews from the Soviet Union.

Further, the delays in implementing this law through regulations argue for an extension. Although the law was passed in December, the regulations for refugees were not in place and operating till the beginning of February for the Soviet Union, a 2-month delay. I am told that in Southeast Asia, the regulations did not actually take effect until late February or early March.

In addition, regulations for the section on the adjustment of status of parolees already in the United States still do not exist. This delay has prompted some organizations concerned with parolees now here to con-

template litigation against the INS for this delay.

For all of these reasons, it is imperative to extend this law for another 2 years.

I urge my colleagues to support this bill, and I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2677

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. 2-YEAR EXTENSION OF SECTIONS 599D AND 599E OF THE FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1990.

(a) EXTENSION OF CATEGORIES OF ALIENS FOR PURPOSES OF REFUGEE DETERMINATIONS.—Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended—

(1) in subsection (b)(3), by striking "fiscal year 1990" and inserting "for each of fiscal years 1990, 1991, and 1992", and

(2) in subsection (e), by striking "October 1, 1990" each place it appears and inserting "October 1, 1992".

(b) EXTENSION OF ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES.—Section 599E(b)(2) of such Act is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1990.

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[U.S. General Accounting Office, Report to Congressional Requesters, May 1990]

SOVIET REFUGEES: PROCESSING AND ADMITTANCE TO THE UNITED STATES

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
*Washington, DC, May 9, 1990.*

Hon. JOSEPH R. BIDEN, Jr.,
*Chairman, Committee on the Judiciary, U.S. Senate.*

Hon. JACK BROOKS,
*Chairman, Committee on the Judiciary, House of Representatives.*

The Foreign Operations Appropriations Act for fiscal year 1990, Public Law 101-167, directs GAO to report on the implementation of section 599D, pertaining to the processing and admittance of Soviet refugee applicants to the United States during fiscal year 1990. Section 599D, referred to as the Lautenberg Amendment, requires the Executive branch to establish refugee processing categories for Jews, Evangelical Christians, Ukranian Catholics and Ukranian Orthodox Church members and gives members of these categories [1] an enhanced opportunity to qualify for refugee status when being interviewed.

We evaluated the Department of State and Immigration and Naturalization Service (INS) efforts to implement the requirements of the Lautenberg Amendment. More specifically, we determined (1) the adequacy and timeliness of the adjudication process, (2) the adequacy of staffing for processing refugee applicants, and (3) whether Soviet refugee processing in Rome was being effectively phased out. To the extent that information was available, we also compared the cost of conducting refugee processing in both Moscow and Rome.

INS and the Department of State are implementing the Lautenberg Amendment. We believe INS' implementing guidance responds to the amendment and potentially provides enhanced consideration of category cases for refugee status. However, because the amendment does not affect the interview scheduling priories,[2] all category members may not be scheduled for interview. Because INS did not implement its guidance until February 1, 1990, it is too early to assess the overall impact of the Lautenberg Amendment on fiscal year 1990 Soviet refugee adjudications.

Moscow processing was on track for meeting its fiscal year 1990 interviewing goals as of mid-March. Whether the operation in Moscow can sustain existing or meet the higher processing goals in future years depends upon adequate staffing resources, expanded office space, and the Soviet Union's enactment of liberalized emigration legislation.

INS officers were not always sufficiently documenting their reasons for denying refugee claims. Adequate documentation is important because when denied claims must be reviewed by other INS officials, the claims are sustained or reversed on the basis of the documentation. Without adequate documentation in the files, INS reviewers are unable to determine whether the officers' denial decisions were appropriate. INS officials said that INS would re-emphasize to its interviewing officers the importance of documenting their adjudication rationale. INS also said it is now requiring supervisory review of category cases to ensure the adjudication decision was justified. Similar statements were made in the past when we alerted INS to documentation problems, but the problem remained uncorrected overseas.

Phasing our Soviet refugee processing in Rome is proceeding more quickly than anticipated with most Soviet refugees expected to depart by June 1990. Refugee departures have been delayed pending INS' receipt of sponsorship assurances from voluntary agencies in the United States.

Processing Soviets for refugee status in Moscow, instead of Rome, enables U.S. officials to better manage the refugee flow into the United States and reduce refugee processing costs. At least initially, the flow has been better managed because Moscow processing enables U.S. officials to establish Soviet refugee admissions ceilings based on U.S. foreign policy objectives and budgetary consideration, rather than on the number of individuals the Soviet government allows to emigrate. It also allows the U.S. government to give priority to adjudicating Soviet applicants with close family and other ties to the United States, instead of adjudicating according to the refugee application date.

Although a precise comparison of refugee processing costs between Moscow and Rome is difficult to make, our estimate of the cost to process Soviet refugees shows that processing a refugee in Moscow could be less than one-half the cost of processing a refugee in Rome.

BACKGROUND

For more than a decade, most Soviets seeking U.S. refugee resettlement were processed by INS in Rome, Italy. They traveled to Rome either through Moscow or through Vienna. Soviets with permission to emigrate directly to the United States, mostly Armenians, registered with the U.S. Embassy in Moscow, and then traveled to Rome for INS processing. Soviets existing the Soviet Union with Israeli entry visas, mostly Jews, traveled initially to Vienna, Austria, and then to Rome for INS processing.

During most of this period, the number of Soviet refugee applicants was relatively small. However, as a result of political changes within the Soviet Union, the number of Soviets recently applying for refugee resettlement in the United States has rapidly increased. For example, in fiscal year 1987, fewer than 4,000 Soviets applied for refugee admission, but by fiscal years 1988 and 1989 the numbers had increased to over 20,000 and almost 100,000, respectively. State Department officials estimate that preliminary questionnaires representing about 800,000 Soviets will be received during fiscal year 1990.

In response to the outflow of Soviet citizens in 1988, the administration began to make major policy adjustments to its Soviet refugee program. One of the first adjustments occurred in August 1988, when INS began to adjudicate refugee claims at the U.S. Embassy in Moscow. This adjustment eliminated the need for Soviets with permission to emigrate directly to the United States to travel to Rome for refugee processing.

A second major adjustment also occurred in August 1988, when the U.S. Attorney General issued a policy requiring INS to adjudicate Soviet refugee applicants on a case-by-case basis, in accordance with the INS worldwide adjudication standard. Until that time, the United States granted nearly automatic refugee status to almost all Soviet citizens wishing to emigrate.

The new policy ended this practice by requiring Soviet refugee applicants—like all other refugee applicants—to establish individually that they suffered persecution or had a well-founded fear of persecution to qualify for refugee status. This change was necessary, according to U.S. officials, to bring the Soviet refugee program into compliance with the Refugee Act of 1980, as well as to ensure that the limited refugee admissions available for Soviets were used by bona fide refugees.

In anticipation that some Soviet citizens would be denied refugee status under the new adjudication practice, the Attorney General extended an offer of public interest parole to all Soviets found ineligible for refugee status. Parole status entitles a Soviet to enter the United States but does not provide U.S. government financial aid or the right to apply for permanent resident status, as does refugee status.

Under this standard, INS began to deny Soviets refugee status. During fiscal year 1989, INS denied refugees status to about 11,500 Soviets in Moscow and about 5,300 Soviets in Rome. Because some denied Soviets were from ethnic or religious groups that had historically experienced discrimination or persecution within the Soviet

[1] The term "category" has a special meaning within the context of the Refugee Act of 1980. It means that such groups are of special humanitarian interest to the United States because of a history of mistreatment or persecution in their home countries, and therefore warrant special consideration for refugee status.

[2] Refugee applicants are classified within six refugee processing priorities according to whether they have close family or other ties to the United States. This is done to ensure orderly management of refugee admissions and that the refugees of most concern to the United States have admission priority.

Union, concerns were raised by congressional members and others about how consistently the worldwide standards were being applied. Also, U.S. officials were concerned about the political implications of Soviets remaining indefinitely in Italy. Few Soviets denied refugee status in Rome were accepting parole status and most did not wish to emigrate to Israel.

A third major change occurred about a year later. In September 1989, the administration announced that Rome processing for Soviet refugee applicants would be phased out. Under the phase-out provisions, only Soviets with Soviet exit permission to Israel dated before October 1, 1989, and an Israeli entry visa dated before November 6, 1989, would be processed in Rome. All other Soviets interested in U.S. refugee resettlement would have to be scheduled for INS interviews in Moscow. At the same time, the Attorney General directed INS to begin adjudicating Soviet refugee applicants in Rome according to a new, more generous adjudication standard and to review all previously denied cases in light of the new standard.

State and INS officials cited several reasons for the decision to consolidate Soviet refugee processing in Moscow, including (1) a recognition that the United States could not resettle all Soviets wishing to emigrate from the Soviet Union, (2) the need to better manage the program by being able to establish Soviet refugee admissions ceilings and give priority to Soviets with ties to the United States, (3) the high cost of the Rome processing, (4) concern about the hardship facing Soviets denied refugee status in Rome, and (5) fairness and consistency concerns resulting from two processing locations.

A fourth major change was the enactment of the Lautenberg Amendment in November 1989, requiring the Executive branch to establish four refugee processing categories for Soviet applicants processed during fiscal year 1990.

### IMPLEMENTATION OF LAUTENBERG AMENDMENT

The administration began implementing the Lautenberg Amendment on February 1, 1990, in accordance with INS implementing guidance, dated January 24, 1990. The new guidance establishes four refugee processing categories for Jews, Evangelical Christians, Ukranian Catholics, and members of the Ukranian Orthodox Church; requires case-by-case adjudications; and lowers the approval threshold for category members to make it easier for them to qualify as refugees. As the legislation intended, INS is applying the guidance retroactively to all category applicants denied refugee status since August 1988. However, because INS did not implement its guidance until February 1, 1990, it is too early to assess the overall impact of the Lautenberg Amendment on fiscal year 1990 Soviet refugee adjudications.

Fiscal year 1990 is a transition year for Soviet refugee processing, with applicants being processed in both Moscow and Rome. About 45,000 of the 50,000 Soviet refugee admissions authorized in fiscal year 1990 are being processed in Rome (about 31,000 had departed for the United States by March 15, 1990) and the remaining refugee admissions are being processed in Moscow. During fiscal year 1990, before INS implemented the Lautenberg Amendment, almost 78 percent of the category applicants interviewed in Moscow were approved for refugee status. In Rome, during the same period, 99 percent of the applicants interviewed (mostly Jews) were approved for refugee status. INS reported that during February 1990, officers approved refugee status for 90 percent and 99 percent of the category members adjudicated in Moscow and Rome, respectively.

INS expects to complete interviewing fiscal year 1989 Moscow refugee applicants by December 1990. For fiscal year 1990 registrants, interview scheduling priority is being given to those with close family or other ties to the United States or who are of special interest to the United States. Soviets with a low refugee processing priority may never be scheduled for an INS interview. With preliminary questionnaires representing about 800,000 Soviets expected to be received in fiscal year 1990 and a Soviet refugee admissions ceiling of 50,000, it is generally anticipated that only Soviets with high priority processing codes will be interviewed. Soviets with a high interview priority wait about 3 to 6 months from the time they submit preliminary questionnaires until the INS interview date, and an additional 6 months before departing to the United States, if approved for refugee status.

### NEW INS PROCEDURES APPEAR TO IMPROVE THE PROCESS, BUT SOME PROBLEMS REMAIN

The new procedures for processing in Moscow appear to be working, although not without initial problems. The Washington Processing Center, established in October 1989, has assumed most of the administrative refugee processing functions previously performed by the U.S. Embassy in Moscow. Both the Washington Processing Center and the Embassy were meeting their fiscal year 1990 processing goals as of mid-March 1990. A State Department official estimates that 15,000 to 20,000 Soviets may be approved for refugee status in Moscow during this fiscal year. Because it currently takes about 6 months to process refugees for travel, those approved after March 1990 will not depart for the United States until fiscal year 1991. However, whether processing in Moscow will meet future refugee admission goals depends upon resolving the chronic staffing shortage in Moscow, expanding and renovating the Moscow Embassy office space, and the Soviet Union's passage of more liberalized emigration legislation.

We also noted that Soviet refugee departures were being delayed because voluntary agency sponsorship assurances were not available.[3] As of February 28, 1990, about 13,000 refugees were wating for sponsorship assurances in Rome and Moscow. Some of these had been waiting more than 4 months.

We also found that INS interviewing officers were not always sufficiently documenting the rationale for denial decisions in the applicant's case file, although this is required by INS in its "Worldwide Guidelines for Overseas Refugree Processing" and its January 24, 1990 guidance. Without such documentation, the case files are incomplete, and INS' reviewing officials cannot determine the appropriateness of the reasons for denying refugee claims. INS officials informed us this problem would be resolved.

### ADEQUACY OF STAFFING

Consolidated Soviet refugee plans call for a 22-person refugee processing unit at the U.S. Embassy in Moscow. This staffing level has not been met and, as a result, some processing requirements have been delayed.

[3] Refugees must have sponsorship assurances before departing to the United States. The sponsorship assurances identify the voluntary agency or individual that has agreed to assist the refugee's resettlement in the United States.

Moreover, Embassy and INS officials are concerned that INS officers may not be able to keep abreast of the interviews scheduled in the coming months. On March 23, 1990, just prior to when the Washington Processing Center would be scheduling applicants for July, the Embassy asked the Center to reduce the number of interviews scheduled daily in July from 72 to 50 families.

### PHASING OUT SOVIET REFUGEE PROCESSING IN ROME

The phaseout of Soviet refugee processing in Italy is nearing completion. By mid-March 1990, INS had essentially completed interviewing Soviet refugee applicants and was reducing its staff. Voluntary agencies reported only 120 refugee applications pending submission to INS, and that fewer than 40 Soviets had entered the Vienna/Rome processing route in February 1990. According to INS officials, all Soviets should depart from Rome by June 1990 if voluntary assurances are not delayed.

### COST COMPARISON OF PROCESSING IN MOSCOW AND ROME

Refugee processing in Moscow will significantly reduce program costs because Moscow processing does not involve federally funded care and maintenance expenses or voluntary agencies' administrative and processing assistance. Such expenses and services, which are incurred in Rome processing, are expected to comprise about 77 percent of the total program cost for processing Soviets in Rome this fiscal year.

### RECOMMENDATIONS

Because the Lautenberg Amendment requires INS to state, to the maximum extent feasible, the reason for denying refugee status to category cases, and INS documentation of denial decisions has been a continuing problem, we recommend that the INS Commissioner direct INS supervisors to review denied category cases and certify that the documentation is sufficient to support the decision.

### SCOPE AND METHODOLOGY

To meet our legislated requirement, we reviewed pertinent legislation, regulations, and files on Soviet refugees and interviewed State Department, the Washington Processing Center, and INS officials. We also interviewed representatives of three voluntary agencies involved with Soviet refugees. During January 1990, we visited Moscow and Rome to observe refugee processing interview INS adjudicating officers, observe refugee interviews, and review refugee case files.

We did not obtain agency comments on this report, but we discussed its contents with State and INS officials, and their comments have been incorporated where appropriate. Our work was performed between October 1989 and March 1990 in accordance with generally accepted government auditing standards.

More detailed information on the administration's implementation of the Lautenberg Amendment and refugee processing in Moscow and Rome is in appendix I.

We are sending copies of this report to the Secretary of State, the Immigration and Naturalization Service, and other interested parties upon request.

This report was prepared under the direction of Harold J. Johnson, Director, Foreign Economic Assistance Issues. He can be reached on (202) 275-5790 if you have any

questions. Other major contributors are listed in appendix V.

FRANK C. CONAHAN,
*Assistant Comptroller General.*

## APPENDIX I—IMPLEMENTING THE LAUTENBERG AMENDMENT

### ESTABLISHING REFUGEE PROCESSING CATEGORIES

The Lautenberg Amendment directs that the administration establish at least four categories of Soviet refugee applicants who share common characteristics that identify them as targets of persecution in the Soviet Union, including categories for: Jews, Evangelical Christians, and Soviets who are current members of, and demonstrate public, active, and continuous participation (or attempted participation) in the religious activities of the Ukrainian Catholic Church or the Ukrainian Orthodox Church.

We found that INS and the Department of State have taken steps to increase INS officers' background knowledge of category applicants. Country-condition reports concerning the treatment of category members have been compiled and disseminated to INS officers, and the State Department is routinely providing pertinent information to INS offices in Rome and Moscow. INS officers have attended INS training courses on adjudicating Soviet refugee claims and on implementing the Lautenberg Amendment guidance. During our February 1990 visits to Moscow and Rome, our interviews with INS officers indicated that, overall, they were knowledgeable about conditions in the Soviet Union.

### ADJUDICATING CATEGORY CASES

The Lautenberg Amendment states that category members may establish, for purposes of admission as a refugee, that they have a well-founded fear of persecution on account or race, religion, nationality, membership in a particular social group, or political opinion by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution.

According to INS and State officials, the Amendment language does not establish criteria for adjudicating category cases that are substantially different from the worldwide adjudication standards. However, these officials explained that the legislative history of the Lautenberg Amendment indicated that its sponsors intended that a more generous standard be applied in adjudicating category cases. Therefore, INS adopted some of the sponsors' language pertaining to the types of assertions applicants could make to establish a credible basis for a concern about the possibility of persecution in its implementing guidance, issued January 24, 1990. According to INS officials, the burden of proof with respect to having a well-founded fear of persecution nevertheless remains with the refugee applicant.

The Lautenberg Amendment, coupled with the new adjudication guidance effectively makes it easier for category members to qualify for refugee status, although it still does not provide presumptive refugee status. Non-category cases in Moscow continue to be adjudicated in accordance with the INS worldwide adjudication standard. In Rome, the Attorney General's September 14, 1989 guidance governs the adjudication of the few non-category cases.

An INS official stated that lowering the approval threshold makes it more difficult to adjudicate category cases because the distinctions between approvable and deniable refugee applications are lessened. This was evident during the first 3 weeks of implementation, when all of the category cases were approved in Moscow. INS supervisors in Moscow were instructed to review all category cases before the decisions are finalized to ensure accurate application of the guidance. By the end of February 1990, February's approval rate in Moscow for category members was about 90 percent. An INS official said that after INS adjudicators have become accustomed to using the new guidance supervisors will continue to review all denied category cases but will review approved cases on a sample basis only.

### INS REVISING REFUGEE DENIAL LETTER

The Lautenberg Amendment requires that each INS decision to deny refugee status to a category applicant be in writing and state, to the maximum extent feasible, the reason for the denial. To satisfy this requirement, INS prepared a pro forma denial letter that requires INS officers to check one of the several listed reasons for denying refugee claims.

An INS official explained that the adjudicating officer's case notes must provide the support and rationale for the new denial notification letter. Our review of adjudicated case files in Moscow and Rome showed, however, that some INS officers' notes did not explain the rationale for denying the case and, thus, could not support a detailed written basis for the denial.

INS officials said that insufficient documentation continues to be a problem, although INS training emphasizes the documentation requirement, and supervisors are instructed to evaluate the adequacy of documentation when they review cases. They said that after we brought similar documentation problems to their attention in October 1989,[1] INS officers and supervisors in Moscow and Rome were reminded of the requirements to document all decisions. We were told that INS officers and supervisors would be reminded again about the problem.

### REVIEWING DENIED REFUGEE CLAIMS

The amendment requires that catagory applicants, who were denied refugee status after Agust 14, 1988, and before enactment of the legislation, be permitted to reapply for such status. An INS official said that the review was extended to all category applicants denied from August 1988 until February 1, 1990. INS established a panel in Rome to review all category cases denied in Moscow and Rome. The panel reviewed 960 category applicants (210 Rome applicants and 750 Moscow applicants), in accordance with the new adjudication guidance, and granted refugee status to 620, or about 64 percent, of them.

### ALLOCATING SOVIET REFUGEE ADMISSIONS

The amendment directs the President to allocate 1,000 of the fiscal year 1990 Soviet refugee admissions to those who are members of the Ukrainian Orthodox Christian category or the Ukrainian Catholic category. The 1,000 admissions have been allocated, but administration officials believe that only a very small percentage will be used.

Historically, few Ukrainians have applied for refugee status. Although 1,000 fiscal year 1990 Soviet refugee admissions have been allocated to Ukrainians, State officials believe that no more than 100 will enter the United States before the end of the fiscal year. Ninety-four fiscal year 1990 Ukrainian applicants were scheduled for interviews, as of March 15, 1990.

### REFUGEE PROCESSING IN MOSCOW

With the decision to phase out processing Soviet refugee applicants in Rome, on October 1, 1989, the administration began implementing new procedures for processing refugee applicants at the U.S. Embassy in Moscow. These procedures included establishing the Washington Processing Center (WPC) to assist with many of the administrative functions associated with refugee processing in Moscow. Soviets register for refugee consideration by submitting preliminary questionnaires,[2] obtained from the U.S. Embassy in Moscow or other sources, to the WPC via international mail or the Embassy. The WPC reviews the preliminary questionnaries for completeness, verfies affidavits of relationships, schedules INS interviews, notified individuals of their interview date, and prepares travel documents for refugees and parolees. INS began interviewing the first WPC-processed cases in January 1990. (See app. II.)

WPC is scheduling about 4,000 individuals monthly for INS interview. A complete assessment of its capabilities, however, cannot be done until applicants processed by WPC begin to arrive in the United States. A WPC official estimated that, as of mid-March 1990, preliminary questionnaires representing about 362,000 Soviets had been received. WPC had 45,300 individuals in process as of that date.[3] About 80 percent of the individuals in process are category members. Because of the volume of preliminary questionnaires, 3 to 6 months may elapse between when a questionnaire is mailed to the WPC and when the WPC enters it into the automated system.

On a monthly basis, WPC tries to schedule equal numbers of fiscal year 1989 and fiscal year 1990 cases for INS interview. Because the demand for refugee consideration within these two groups far exceeds the fiscal year 1990 Soviet refugee admissions ceiling, WPC schedules Soviets for interview in accordance with INS refugee processing priority codes[4] and the date Soviets submitted their preliminary questionnaires. Those with relatives or other ties to the United States, P-1 through P-5 processing codes, are allocated 80 percent of the monthly interviews. Soviets without such ties to the United States are designated a P-6 processing code and are scheduled for 20 percent of the interviews. Within this percentage, however, interview preference is given to certain types of P-6 Soviets including Evangelical Christians, Ukrainians, and Jews with distant relatives in the United States or Jews experiencing hardships. Other P-6 Soviets, who have submitted preliminary questionnaires for refugee consideration in fiscal

[1] In July 1989, we sampled denied Soviet refugee claims that were adjudicated in Moscow and Rome and determined that the INS officers had provided rationale for their denial decisions in less than 50 percent of the cases. We discussed our preliminary findings with INS officials in October 1989.

[2] Preliminary questionnaires submitted to the WPC since October 1, 1989, are considered to be registrations for interview rather than applications for refugee status. Those Soviets who filed for refugee status prior to October 1, 1989, are considered to be applicants, as are Soviet in the Vienna-Rome pipeline.

[3] The number of preliminary questionnaries does not equal the number of potential Soviets seeking refugee consideration, because only individuals 21 years of age and older are required to submit preliminary questionnaries.

[4] Refugees are classified within six priorities according to their ties to the United States. This is done to ensure orderly management of refugee admissions and that the refugees of most concern to the United States have admission priority.

year 1990, may never be interviewed. (See app. III for the detailed definitions of the INS processing priority codes.)

As of mid-March 1990, for fiscal year 1990 cases in progress at WPC about 70 percent of the individuals had the P-6 processing code. Figure 1.1 compares the processing priority codes for these individuals.

The INS at the U.S. Embassy in Moscow was meeting its fiacal year 1990 monthly interviewing goal as of mid-March 1990. In Moscow, we noted the following for fiscal year 1990:

Since the first preliminary questionnaires were distributed in Moscow in October 1989, demand for them continued, with about 451,000 questionnaires distributed by the Embassy and the WPC as of the end of February 1990.[5]

WPC notifies Soviets through the international mail and, if possible, through relatives in the United States, of their INS interview date. About 91 percent of the Soviet applicants scheduled for interview in February met their interview appointment.

The interview process has been efficient because applicants are submitting more complete and thorough paperwork than in 1989. Embassy officials attribute this improvement to better preparation instructions.

When we were in Moscow in January 1990, each INS officer was adjudicating about 12 cases (45 applicants) daily. We observed interviews, ranging from 15 minutes to over one hour, and noted consistency in the type of questions INS officers asked.

According to State officials, Soviet citizens approved for refugee status were told to expect a 6-month wait before they could travel to the United States due to post-interview processing requirements. Consequently, Soviets approved after March will be admitted to the United States under the fiscal year 1991 refugee admissions ceiling. The 6-month wait is attributable primarily to the time needed to obtain voluntary agency sponsorship assurances and complete post-interview processing at WPC.

Between October 1, 1989 and February 28, 1990, INS officers in Moscow had interviewed 16,069 applicants, most of whom had applied during fiscal year 1989. A WPC official estimated that all fiscal year 1989 cases in the priority 1 through 5 groups will be interviewed by the end of July 1990 and the remaining 1989 cases by December 1990. State officials said that INS will continue interviewing refugee applicants in Moscow even after the fiscal year 1990 refugee admissions ceiling has been met. The officials said a backlog of approved refugees pending departure will develop during fiscal year 1990.

State Department officials believe that processing in Moscow has permitted the United States to better manage the flow of Soviet refugees into the United States. They said that processing in Moscow enables the United States to establish Soviet admission ceilings based on U.S. foreign policy and budgetary considerations, rather than on the number of people the Soviet Union allows to emigrate. Furthermore, they said that the new scheduling procedures permit the United States to give interviewing priority to Soviet citizens with close family or other ties to the United States. In the past, Soviets were interviewed in chronological order based on their application date, rather than by refugee processing priority codes.

State and INS officials said that the new processing procedures provide the opportunity to significantly increase the number of Soviets that can be processed at the U.S. Embassy in Moscow. The extent to which the Embassy will be able to increase its processng goals, we believe, depends on whether the State Department and INS are able to resolve several problems were observed.

STAFFING PROBLEMS

State Department and INS officials agree that the Moscow Embassy refugee processing unit has been chronically understaffed. The staffing plan calls for 22 staff (9 INS officers, including a 3-person management team and 6 interviewing officers, and 13 support staff). The Embassy reported that nearly all non-INS refugee processing staff will depart by August 1990 and that there were no scheduled replacements for the INS staff that would be departing soon. As of mid-March 1990, only 4 INS interviewing officers were in Moscow and both INS and embassy officials were concerned about whether current refugee processing levels could be sustained. Shortages of support staff have caused delays in preparing refugee travel packets, responding to applicant's inquiries, and processing parolees for travel. On March 23, 1990, the Embassy requested that the WPC reduce the interview schedule in July from 72 cases to 50 cases daily, because of the staffing shortage.

State and INS officials attribute Moscow staffing problems to several factors: (1) most INS refugee processing positions are temporary duty assignments requiring unaccompanied tours and hotel living; (2) Soviet entry visas procedures are cumbersome and prevent timely staff rotation; and (3) staff fluent in Russian are hard to find.

The Departments of State and Justice are considering an increase in the Embassy's permanent staff ceiling level to accommodate refugee processing staff; INS is recruiting Russian language staff to train as adjudicating officers; and State has contracted with a private U.S. firm to provide 16 support staff. State officials said that the staffing problem should be resolved by September 1990.

MARGINAL FACILITIES

Facilities used for refugee processing, including interviewing, at the Embassy in Moscow are marginal. According to INS officials and our observations, two of the six interview rooms are unsatisfactory because they do not provide refugee applicants sufficient privacy during their INS interview. An Embassy official agreed that INS offices are unsatisfactory, but stated that so were most Embassy offices. They said that about a $4-million renovation of existing Embassy facilities was underway.

The renovated space will provide 10 INS interview rooms, 3 management offices, and space for administrative support staff and waiting rooms.

SOVIET EMIGRATION LAW STILL A PROBLEM

U.S. processing in Moscow is predicated on the assumption that Soviet citizens approved as refugees will be able to emigrate to the United States. According to Embassy and State Department officials, Soviet authorities have allowed their citizens to emigrate only at the invitation of close relatives abroad, or, in the case of Jews, to Israel. As of mid-January 1990, INS had approved about 2,100 Soviets (in the P-6 refugee processing priority) for refugee status who did not have close relatives or other ties to the United States. An Embassy official said that these refugees technically did not qualify for exit permission under existing Soviet emigration law. Although it is not known how many of these had applied for Soviet exit permission, an Embassy official said some denials had been reported. A State Department official said that a liberalized Soviet emigration law is expected to be enacted this year. However, the State official said that if the law is not enacted and obtaining exit permission proves to be a problem, refugee processing would be reassessed.

PHASING OUT ROME REFUGEE PROCESSING

INS expects to completely phase out the Vienna/Rome processing route by June 1990, when all the refugees in Rome depart for the United States. The number of Soviets entering Vienna for INS processing has declined from about 5,500 in December, 1989, to fewer than 40 in February, 1990. According to an INS official, INS is using both the U.S. Attorney General's guidance issued September 14, 1989, and the Lautenberg Amendment guidance to adjudicate refugee claims. Over 99 percent of the applicants interviewed in Rome during fiscal year 1990, as of February 28, 1990, had been approved for refugee status. INS processing statistics indicate that about 45,000 Soviet refugees will be processed in Rome during fiscal year 1990.

As of mid-March 1990, INS' fiscal year 1990 processing statistics for Soviet refugee applicants indicated that nearly 31,000 refugees and 40 parolees had departed for the United States, and that about 14,000 were approved for refugee status and were pending departure. At that time only 86 applicants were pending INS interviews, and an additional 120 Soviets were in Rome but had not yet submitted their refugee applications to INS.

Delays in receiving voluntary agency sponsorship assurances or medical reports have resulted in large numbers of approved Soviet refugees remaining several months in Rome. For example, in mid-March 1990, about 59 percent of the estimated 14,000 refugees pending departure were awaiting such documentation. A State official said that due to the tremendous surge in Soviet refugees since 1988, voluntary agencies' ability to supply timely sponsorship assurances has been strained. A State official said that since the number of Soviet refugees is decreasing due to the declining Rome refugee applicant population, the timeliness of sponsorship assurances there should improve. However, according to State and INS officials, this problem, in general, may continue in Moscow into the next few years if Soviet refugee admission ceilings remain at their current or higher levels.

COST COMPARISON OF REFUGEE PROCESSING IN MOSCOW AND ROME

Although a precise comparison of refugee processing costs between Moscow and Rome is difficult to make, our analysis of the refugee processing budgets for overseas expenditures for fiscal years 1989, 1990, and 1991, indicates that the program budget for Moscow processing in fiscal year 1991 could be less than one-half that of Rome for fiscal years 1989 and 1990. In fiscal year 1991, the first year of completely centralized Moscow processing, we estimate that the United States will spend about $1,000 per refugee admitted from Moscow for transportation to the point of resettlement in the United States, INS administrative expenses in Moscow and WPC costs. In contrast, our analysis shows that the United States may

[5] Preliminary questionnaires are also distributed by voluntary agencies n the United States, but the questionnaires distributed by the agencies are included in this number.

spend as much as $2,600 per refugee processed in Rome this fiscal year for care and maintenance, voluntary agency services, transportation to the point of resettlement in the United States, and INS administrative expenses in Rome. (See app. IV.)

Processing refugees in Rome is significantly more expensive, because, unlike in Moscow, the United States provides refugee applicants subsistence and administrative assistance while being processed. The United States has traditionally provided for the care and maintenance (housing and meals) of Soviet refugee applicants from their arrival in Vienna to their departure to the United States, or until INS denies their refugee claim. Additionally, the United States provides funding to voluntary agencies to assist Soviet refugee applicants through INS processing. Such assistance includes transportation from Vienna to Rome, medical examinations and help in preparing INS documentation. Care and maintenance expenses and voluntary agency services account for about 77 percent of the cost of processing refugees in Rome in fiscal year 1990.

## Appendix II—Centralized Soviet Refugee Processing Procedures

The following procedures apply only to Soviets registering for refugee consideration after October 1, 1989.

### REGISTERING FOR REFUGEE CONSIDERATION

Soviet seeking refugee status in fiscal year 1990 submit preliminary questionnaires to the WPC and are then considered refugee registrants. They obtain preliminary questionnnaires from the U.S. Embassy in Moscow, American Consulate in Leningrad, the WPC, relative or voluntary organizations in the United States or any other source (e.g., a duplicated copy of the form produced in the Soviet Union). Completed questionnaries are mailed to the WPC via international mail, through contacts in the United States, or through the U.S. Embassy or Consulate in the Soviet Union.

### PRELIMINARY PROCESSING

WPC processes preliminary questionnaires according to date received. WPC enters biographical data from each questionnaire into the Automated Refugee Tracking System (ARTS), assigns a case number, tentatively designates a refugee processing priority code, and determines whether an Affidavit of Relationship is required. Soviet citing relatives in the United States must have the relatives submit the affidavits, which are verified by INS before registrants' refugee processing tentative priority codes are finalized. For incomplete questionnaires, WPC notifies the Soviet citizen that additional information is needed before processing can continue.

Soviets with completed preliminary questionnaires and verified Affidavits of Relationships are eligible for INS interview consideration. ARTS generates eligible registrants for INS interview according to the following objectives:

(1) 50 percent of the interviews scheduled for a given month are for Soviets who applied for refugee status in fiscal year 1989, the remaining 50 percent are for fiscal year 1990 registrants.

(2) 80 percent of all interviews scheduled for a given month are for refugee applicants with ties to the United States, such as those with P-1 through P-5 processing priority codes.

(3) 20 percent of all interviews scheduled for a given month are for refugee applicants who are of national interest, such as those with P-6 processing priority code. These refugees have been defined to include Evangelicals, those claiming membership in the Ukrainian Catholic or Orthodox Church, and Jews with distant relatives in the United States.

Also, hardship cases are included in this group (including cases where the applicant missed the October 1, 1989, cutoff date for Rome processing and has suffered hardship, cases where the family unit was split, refugees of special concern whose admission is in the public interest, and all other refugees).

WPC notifies the applicants of their interview dates via international mail and, if possible, also through relatives in the United States. (The refugee registrants become refugee applicants once their interviews are scheduled.) The INS refugee application forms, which the applicants must submit to INS on their interview date, are included in the interview notification package. The applicants are also encouraged to bring an Affidavit of Support to the INS interview in order to initiate expedited parole processing, if necessary.

WPC provides the monthly interview schedule and brief bio-data on each case to the Embassy in Moscow.

### U.S. EMBASSY AND INS PROCESSING PROCEDURES

Refugee applicants arrive at the U.S. Embassy in Moscow with completed refugee documents. Embassy support staff review the documents for completeness and INS officers interview the applicants. At the end of the day, applicants are told whether they qualify for refugee or parole status and what additional information will be needed before they can depart for the United States.

Denied applicants' files are retained at the Embassy for two weeks to allow for Requests for Reconsideration. (Denied applicants are informed at the time of interview that the files will remain in Moscow for only 2 weeks. After this period, any motions to reconsider are sent to the WPC for review and adjudication, or if necessary, to schedule another interview in Moscow.)

INS officials at the Embassy send the results of the interview and interview packages to WPC to initiate post interview processing.

### WPC POST-INTERVIEW PROCESSING

WPC initiates security name checks on each applicant and sends biographical information to the Refugee Data Center in New York to initiate voluntary agency sponsorship assurances.

WPC prepares travel packets [1] for refugees and parolees and sends them to the Embassy in Moscow. Refugees purchase their own tickets to the United States and must show them when they pick up the travel packets. The Embassy in Moscow notifies WPC of refugee travel arrangements.

The travel packet and forms prepared at the United States' port of entry are returned to the WPC for holding until the refugees apply to adjust their refugee status or other INS service is warranted. At that time, INS sends the files to the local Refugee Data Center for permanent holding.

[1] The travel packet includes: INS admission forms, medical forms for Public Health, Customs Declaration, assurance documentation, and employment-related forms for the U.S. Department of Labor.

## Appendix III—Refugee Processing Priorities Effective October 1, 1986

### PRIORITY ONE (WORLDWIDE)

Compelling Concern/Interest: Exceptional cases of refugees (a) in immediate danger of loss of life and for whom there appears to be no alternative to resettlement in the United States or (b) of compelling concern to the United States, such as former or present prisoners and dissidents.

### PRIORITY TWO (WORLDWIDE)

Former U.S. Government Employees: Refugees employed by the U.S. government for at least one year prior to the claim for refugee status, as well as individuals who were not official U.S. government employees but who for at least one year were so integrated into the U.S. government offices as to have had the effect and appearance of U.S. government employees.

### PRIORITY THREE (WORLDWIDE)

Family Reunification: Refugees who are spouses, unmarried sons, unmarried daughters, or parents of persons in the United States. (The status of the anchor relative in the United States must be one of the following: U.S. Citizen, lawful permanent resident alien, refugee, [parolee] or asylee.)

### PRIORITY FOUR (AFRICA, EASTERN EUROPEAN/SOVIET UNION, AND LATIN AMERICAN REFUGEES)

Other Ties to the United States: Refugees employed by U.S. foundations, voluntary agencies, or business firms for at least one year prior to the claim for refugee status and refugees trained in the United States or abroad under U.S. auspices.

### PRIORITY FIVE (WORLDWIDE)

Additional Family Reunification: Refugees who are married sons or daughters, unmarried siblings, married siblings, grandparents, or grandchildren of persons in the United States; or more distantly related individuals who are part of the family group and dependent on the family for support.

### PRIORITY SIX (WORLDWIDE)

Otherwise of National Interest: Other refugees in specified regional groups whose admission is in the national interest.

## Appendix IV—Estimated Per Capita Costs for Soviet Refugee Processing

TABLE IV.1.—VIENNA/ROME: FISCAL YEAR 1990 ESTIMATED PER CAPITA

| | Refugees processed by: | |
|---|---|---|
| | HIAS [1] | Other agencies |
| State Department: | | |
| Care and maintenance [2] | $825 | $1,600 |
| Administrative and Processing | 615 | 327 |
| Transportation Loan [3] | 659 | 659 |
| Subtotal | 2,099 | 2,586 |
| INS: Rome administrative | 60 | 60 |
| Total | 2,159 | 2,646 |

[1] The Hebrew Immigrant Aid Society.

[2] Care and maintenance and administrative expenses differ because HIAS has agreed to provide some private support for these expenses, whereas the U.S. government fully reimburses such expenses of the other voluntary agencies.

[3] The total per capita for transportation loans includes $435 for travel to the United States and $224 for domestic travel and associated costs to point of resettlement.

Note: The U.S. Soviet refugee admissions ceiling for fiscal year 1990 is 50,000. State Department officials estimate that the United States will admit about 43,000 Soviet refugees from Rome and about 5,000 from Moscow. Some 35,000 from Rome will be fully-funded, as will be the 5,000 from Moscow. Approximately 8,000 from Rome will be "privately-funded" admissions for which the United States pays only care and maintenance. The remaining admissions, about 2,000, are unfunded as of March 15, 1990.

TABLE IV.2.—MOSCOW: FISCAL YEAR 1991 PROJECTED PER CAPITA

| | |
|---|---|
| State Department: | |
| Transportation Loan [1] | $913 |
| Washington Processing Center | 36 |
| Subtotal | 949 |
| INS: Moscow administrative | 113 |
| Washington Processing Center | 25 |
| Subtotal | 138 |
| Total | 1,087 |

[1] The total per capita for transportation loans includes $620 for travel to the United States and $293 for domestic travel and associated costs to point of resettlement. Prior to fiscal year 1991, the United States had not provided international transport loans to Soviet refugees leaving from Moscow; however, State Department plans to begin offering such loans in fiscal year 1991.

Note: Fiscal year 1991 estimates are based on 40,000 fully-funded Soviet admissions to the United States.

APPENDIX V—MAJOR CONTRIBUTORS TO THIS REPORT

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION WASHINGTON, DC

David R. Martin, Assistant Director Susan Gibbs-Joseph, Evaluator-in-Charge MaeWanda Michael-Jackson, Senior Evaluator Tana M. Davis, Evaluator.●

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By Mr. RIEGLE (for himself, Mr. HEINZ, and Mr. PRYOR):

S. 2678. A bill to clarify the deductibility under the Internal Revenue Code of 1986 of liabilities incurred in connection with minimum premium plans; to the Committee on Finance.

TAX TREATMENT OF MINIMUM PREMIUM PLANS

● Mr. RIEGLE. Mr. President, I am introducing today, along with Senator HEINZ and Senator PRYOR, a bill that addresses a problem that places property and casualty companies in a catch-22 situation with the Internal Revenue Service over the treatment of termination reserves on minimum premium plans.

Property and casualty companies need legislative relief because the IRS has reached alternative, but inconsistent, conclusions on minimum premium plans. In two separate determinations—Technical Advice Memorandum 87-05-003 and GCM 39609—the IRS denied any unpaid loss deduction for the taxpayer's minimum premium plan reserves on the ground that the risk of loss does not arise until the policy terminates or until the employer ceases to make required payments. In the same rulings, however, the IRS denied an unearned premium deduction for the same amounts, arguing that the risk of loss already occurred. These two conclusions are inconsistent.

A minimum premium plan is a funding arrangement for accident and health insurance under which most of what would otherwise be paid as premiums is paid into a separate account which is then drawn upon by the insurance company to fund the payment of benefits under the plan. Economically, a minimum premium plan is indistinguishable from a conventional accident and health insurance plan.

The legislation I introduce today would clarify that amounts reflected as reserves or other liabilities on a property and casualty company's annual statement for future claim payments under minimum premium accident and health plans are properly deductible during the policy period.

Last fall, the Senate Committee on Finance included an essentially identical provision in its revenue reconciliation proposal. The provision was dropped, however, when all miscellaneous amendments were deleted on the Senate floor. During debate on budget reconciliation, it was stated by Chairman BENTSEN that if the IRS did not resolve this matter in a fair and equitable manner the committee would again consider the issue. Similar comments were made on the House floor by Chairman ROSTENKOWSKI.

The issue has not been satisfactorily resolved, and therefore it is necessary to proceed with legislation.

I urge other Members of the Senate to join with me in supporting this legislation.●

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By Mr. BURNS (for himself, Mr. DASCHLE), Mr. CONRAD, Mr. PRESSLER, and Mr. BAUCUS:

S. 2679. A bill to protect irrigation, power, and recreation on the Missouri River; to the Committee on Environment and Public Works.

IRRIGATION AND RECREATION ON THE MISSOURI RIVER

Mr. BURNS. Mr. President, I rise to introduce a bill this evening. We have another situation growing in the upper Midwest, the high plains, and it is called drought. Eastern Montana, the Dakotas, are experiencing hardly any rainfall at all. Stream flow on the Missouri River has gone way down. Reservoirs along the upper Missouri and those drainages are continuing to go down. I have a bill that is cosponsored by Senator CONRAD of North Dakota, Senator PRESSLER of South DAKOTA, and Senator BAUCUS of Montana. I ask unanimous consent they be made cosponsors of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. What has happened along the Missouri River is that most of the people in the upper Missouri have been asked to give up some of their water just to maintain the barge traffic on the lower Missouri. This is the seventh, maybe the eighth year that we have experienced this kind of a drought with not much snow pack in the mountains and that water being down. We have very, very serious problems with power, with irrigation, with our recreation activity, and of course with the municipalities that depend on the flow of that stream.

Basically, what this bill does is it tells the Corps of Engineers that now is the time we hold some of that water to guarantee stream flow in the lower Missouri and hold some of that water to fulfill the needs on the upper Missouri.

Last year I saw fields as they were planted, and when the reservoir levels dropped water went below the levels of the intake pipes and of course irrigation stopped and we saw crops burn up. I do not think that the people of Montana and the Dakotas should be asked to sacrifice their only way to make a living for the sake of a little bit of barge traffic downstream.

It is my understanding that we have plenty of water in Louisiana, Texas, and Oklahoma. If we could turn that around and make it run uphill, we would sure do it. We cannot do that. We have to ensure that we maintain our supplies in the upper Missouri.

Mr. President, the Missouri River is the lifeblood of the State of Montana and other up river States. That lifeblood is being slowly drained away by the Corps of Engineers. The corps is draining the reservoirs of the upper Missouri in an attempt to keep the river downstream high to accommodate river traffic.

Mr. President, the newspapers have been filled with reports of excess water in our Southern States. The damage there is high. The costs are high and rising. But what isn't being reported is another damaging weather situation in another part of the country.

Mr. President, we are facing another year of drought in the northern Great Plains. Agriculture is our most important industry, tourism ranks second. Water is what drives our economy. With water we can make a good living. Without water we suffer.

We need the water for irrigation, for power generation, and for recreation. That is why, I, in good conscience cannot continue to stand by and allow our water to be drained from the lakes of Montana, North and South Dakota without doing something.

There are pushes in all directions for the waters of the upper Missouri River. The lower States all need the water for commerce. I understand that. I hope, however, that the U.S. Army Corps of Engineers also understands the concerns I have and that the people of the State of Montana have. There is common ground here, but a solution must take our concerns into consideration as well as those of other parts of the country.

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By Mr. BUMPERS:

S. 2680. A bill to provide for the relief of certain persons in Stone County, AR, deprived of property as a result of a 1973 dependent resurvey by the Bureau of Land Management; to the Committee on Energy and Natural Resources.

SETTLEMENT OF FOREST SERVICE LANDLINE SURVEY DISPUTE

● Mr. BUMPERS. Mr. President, today I am introducing legislation to resolve a dispute in my State involving a Forest Service landline survey and approximately 25 adjacent landowners. I am hopeful that enactment of this legislation will put to rest what has become a very difficult and contentious issue.

In 1973, the Bureau of Land Management [BLM] conducted a dependent resurvey of a portion of township 15 north, range 12 west in Stone County, AR, for the Ozark National Forest. During the preparation of this survey, the BLM found what it believed to be evidence of the original Government Land Office [GLO] survey conducted in 1890. This evidence, in the form of a remnant of the original GLO corner at the northeast corner of section 12, was located approximately 200 feet from the monuments set years before by several private surveyors. It is these earlier private surveys, as well as a 1935 survey conducted by the Forest Service, that have been used by the Forest Service and private landowners to mark their respective boundaries in this area for almost 60 years.

In reality, however, the problem really goes back much further. In an April 27 letter to one of the affected landowners regarding this situation, the Department of Agriculture states:

To compound the problem it appears that even though public domain lands in this area were reserved for national forest purposes in 1908, no attempt was made by the United States to locate the original survey corners. The existing property boundaries were accepted as the line between Federal and private lands without further survey. Also when the Forest Service marked the landlines several decades later, they again relied on the established lines on the ground. They did not take the time to mark the landlines in the 56 community correctly or they did not apply the expertise to property locate the Federal-private property lines before marking.

The situation we are confronted with now is that beginning late last year the Forest Service, using the 1973 BLM dependent resurvey, finally began to mark its official boundaries based on that BLM survey. As a result of this survey, the Forest Service has identified several encroachments on Federal land by adjoining private landowners. As you might imagine, Mr. President, the individual property owners affected by this new survey do not consider themselves encroaching on the Forest Service or anyone else. Many of these people and their predecessors and ancestors have lived on and used this land for over 70 years. In many instances, generations of the same family have occupied these properties, made improvements, grown crops, and raised livestock. Now, after all these years, these people are being told that this land doesn't belong to them and that under existing law the only remedy available to most of them is to purchase the land from the Government at its current fair market value. In my view, this is clearly an unacceptable solution to this problem.

Mr. President, the Forest Service personnel involved in this situation in Arkansas recognize that this is a problem. The supervisor of the Ozark National Forest, Lynn Neff, and his staff have been very helpful to me and my office in seeking a solution to this problem that is both fair to the individuals involved and Government. Under existing law, however, the Forest Service's options are limited.

The bill I am introducing today would authorize and direct the Secretary of Agriculture to convey these disputed lands to the owners of the adjacent property without further consideration if the claimants comply with certain requirements specified in the legislation.

Mr. President, the Forest Service estimates that a total of some 50 acres is involved in this case. It further estimates that the total value of these lands is probably somewhere between $7,500–$8,000. For those of us in the Congress used to dealing with bills affecting millions of acres of land and millions if not billions of dollars, this may not sound like a significant issue.

Let me assure my colleagues that for these people, their families, and the community of 56 Arkansans, this is a matter of extreme urgency and importance. I plan to do all I can to help them resolve this issue and I hope I can count on the support of my colleagues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 2680

*Be it enacted in the Senate and the House of Representatives in the United States of America in Congress assembled,* That

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized and directed to convey, without consideration, all right, title and interest of the United States in and to certain lands in Stone County, Arkansas, to any person claiming to have been deprived by the United States of title to such land (hereinafter in this Act referred to as the "claimant"), provided the Secretary determines that such claimant satisfies the conditions set forth in subsections (b) and (c).

(b) CONDITIONS OF CONVEYANCE.—Lands shall be conveyed by the Secretary only to claimants owning real property located adjacent to National Forest System lands in Stone County, Arkansas, and only for claims arising as a result of—.

(1) the dependent resurvey conducted by the Bureau of Land Management (hereinafter in this Act referred to as the "BLM") of a portion of Township 15 North, Range 12 West, Stone County, Arkansas, as executed by the BLM in 1973; or

(2) subsequent Forest Service surveys based on the BLM resurvey referred to in paragraph (1).

(c) DOCUMENTATION REQUIRED.—(1) Any application by a claimant for conveyance of title shall be accompanied by a description of the land to be conveyed, information relating to the claim of ownership of such land, proof of the claimant's residential or agricultural use of such land, and such other information as the Secretary may require.

(2) Such application must be submitted to the Secretary not later than two years after the date of enactment of this Act.●

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By Mr. DIXON (for himself and Mr. D'AMATO):

S.J. Res. 325. Joint resolution to disapprove of renewal of most-favored-nation status for the People's Republic of China [PRC]; to the Committee on Finance.

DISAPPROVAL OF MOST-FAVORED-NATION TRADING STATUS FOR THE PEOPLE'S REPUBLIC OF CHINA

● Mr. DIXON. Mr. President, I am introducing Senate Joint Resolution 325 at this time because the President will be making his plans on whether to renew China's most-favored-nation status shortly, and I want to let the administration know of my strong feelings, as well as those of Senator D'AMATO, on this issue.

I will make more extensive remarks on Thursday morning, May 24, 1990.

I ask unanimous consent that a copy of the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 325

Whereas the People's Republic of China has been a beneficiary of most-favored-nation status since it was first granted in 1980;

Whereas the Government of the People's Republic of China brutally attacked and killed thousands of unarmed prodemocracy students in Tiananmen Square on June 3, 1989;

Whereas the Government of the People's Republic of China steadfastly refused to acknowledge the deaths or the Chinese military's direct involvement in the massacre;

Whereas the Government of the People's Republic of China has stepped up the persecution of the Roman Catholic Church and other religious groups;

Whereas the Government of the People's Republic of China has purged or persecuted Chinese academics, journalists, police, and government officials who expressed any support for the democracy movement, and has placed new restrictions on international travel and study on any of its citizens suspected of supporting democratic ideals;

Whereas the Government of the People's Republic of China refuses to provide the names of those arrested and the crimes they are charged with, and conducts most of the trials of those accused in secret;

Whereas the Government of the People's Republic of China refuses to allow dissident Fang Lizhi and his wife Li Shuzian free passage out of country;

Whereas the Government of the People's Republic of China continues to repress and imprison voices of democracy within China;

Whereas the Government of the People's Republic of China has introduced new measures intended to suppress freedom of thought and speech against the populace;

Whereas the Government of the People's Republic of China continues to intimidate China students in the United States, and their families in the People's Republic of China for their prodemocracy activities;

Whereas such actions stand in defiant contrast to the values, principles, and policies of the United States;

Whereas most-favored-nation status has enabled the People's Republic of China to develop a growing trade surplus with the United States, amounting to 9.7 billion dollars between 1988 and 1990; and

Whereas renewal of most-favored-nation status would show United States support for a brutal, murderous regime and ignore the actions taken by the Government of the People's Republic of China against Chinese students and others who believe in and fight for democracy: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, products of the People's Republic of China shall not receive nondiscriminatory treatment (most-favored-nation treatement) during the one-year period beginning on the date of the enactment of this joint resolution.●

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By Mr. D'AMATO (for himself and Mr. LAUTENBERG):

S.J. Res. 326. Joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism"; to the Committee on the Judiciary.

DAY OF OBSERVANCE FOR THE VICTIMS OF TERRORISM

● Mr. D'AMATO. Mr. President, today I am introducing a resolution calling for the designation of December 21, 1990, as a day of observance for the victims of terrorism. Senator LAUTENBERG, my friend from New Jersey and chairman of the Transportation Appropriations Subcommittee who served with me on the President's Commission on Aviation Security and Terrorism, joins me as an original cosponsor of this resolution.

On December 21, 1988, a terrorist bomb destroyed Pan American World Airways Flight 103, killing all 259 passengers and crew on board, and 11 residents of Lockerbie, Scotland, on the ground. This was not an act directed against any one person; this was an act directed against this country, and its values and democratic ideals—all of which were symbolized by the American flag painted on the tail of that airliner.

The horrors of the destruction of Pan Am 103 at 31,000 feet over the tiny village of Lockerbie cannot be overstated. In our report to the President, the Commission recognized that we as a country have a special obligation to these victims of acts of terrorism that are in reality acts of aggression against this Nation. Accordingly, our report makes a series of recommendations to accomplish just that—including compensation for such innocent victims. We are working on separate legislation to implement the Commission's recommendations.

Mr. President, we cannot undo the damage, the pain, the suffering and the loss inflicted by the terrorists who in a cold and heartless act destroyed the lives of the Pan Am 103 victims and shattered the lives of their families and friends. Pan Am 103 families have persevered and endured; their courage and commitment is a shining example to us all. But perhaps more importantly, that courage and commitment, in a free and democratic country, has resulted in major changes—the Presidential Commission being just one tangible piece of evidence.

So, it is fitting that we provide due recognition to those who perished simply because terrorists wanted to kill Americans on an American flag carrier. This resolution would designate December 21, 1990, the 2-year anniversary of the destruction of Pan Am 103, as a day of observance of the victims of terrorism. Let us remember all those who have been the object of terrorist attacks simply because they are symbols of our Nation, the beliefs we hold dear, and the values that have made this country great. And let us rededicate ourselves to the protection of our citizens and the eradication of terrorism.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD in its entirety.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 326

Whereas, on December 21, 1988, Pan American World Airways Flight 103 was destroyed over Lockerbie, Scotland, by a terrorist bomb, resulting in the death of 270 people, including the airline passengers and crew and persons on the ground;

Whereas The United States Government has a special obligation to the innocent victims of acts of terrorism that are directed toward the United States and not at innocent persons;

Whereas the United States must remain ever vigilant in protecting the citizens of this Nation against acts of terrorist violence:

Whereas it is appropriate for the people of the United States to commemorate the innocent victims of terrorism and the tragic suffering that results from acts of terrorism: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That December 21, 1990, is designated as a "Day of Observance for the Victims of Terrorism", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies, activities, and programs.●

## ADDITIONAL COSPONSORS

S. 370

At the request of Mr. CHAFEE, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 370, a bill to amend the Land and Water Conservation Fund Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and outdoor recreational heritage, and for other purposes.

S. 434

At the request of Mr. REID, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 434, a bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State.

S. 454

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 454, a bill to provide additional funding for the Appalachian development highway system.

S. 455

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 455, a bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs.

S. 501

At the request of Mr. D'AMATO, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 501, a bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase the amount of, the exclusion for amounts received under qualified group legal services plans.

S. 567

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to allow income from the sale of certain used automobiles to be computed on the installment sales method, and for other purposes.

S. 700

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 700, a bill to amend the Internal Revenue Code fo 1986 to meet the growing challenge of America's infrastructure needs.

S. 865

At the request of Mr. METZENBAUM, the names of the Senator from Delaware [Mr. BIDEN, the Senator from

Colorado [Mr. WIRTH], the Senator from Wisconsin [Mr. KOHL], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 865, a bill to amend the Sherman Act regarding retail competition.

S. 982

At the request of Mr. REID, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 982, a bill to repeal a provision of Federal tort claim law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 1273

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1511

At the request of Mr. PRYOR, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S.1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1664

At the request of Mr. HEINZ, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1860

At the request of Mr. BOREN, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Nebraska [Mr. EXON], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1860, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 1974

At the request of Mr. HARKIN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1974, a bill to require new televisions to have built in decoder circuitry.

S. 1981

At the request of Mr. HOLLINGS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1981, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment and for other purposes.

S. 2041

At the request of Mr. SYMMS, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 2041, a bill to amend title XVIII of the Social Security Act to provide uniform national conversion factors for services of certified registered nurse anesthetists.

S. 2078

At the request of Mr. WARNER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2078, a bill to recognize the organization known as the National Center for Therapeutic Riding.

S. 2161

At the request of Mr. HATFIELD, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2161, a bill to establish within the Department of Education an Office of Vocational and Adult Education and Community Colleges.

S. 2239

At the request of Mr. PELL, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2239, a bill to amend title 10, United States Code, to require sealed bids and competitive proposals for the procurement of professional services by the Department of Defense to be evaluated on the basis of a 40-hour work week.

S. 2250

At the request of Mr. DECONCINI, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2384

At the request of Mr. BOREN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2384, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 2445

At the request of Mr. BOSCHWITZ, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2445, a bill to amend the Food Stamp Act of 1977 to require participating retail food stores and wholesale food concerns to provide their taxpayer identifying numbers to the Secretary; to establish criminal penalties applicable to laundering funds obtained from trafficking in coupons; and for other purposes.

S. 2605

At the request of Mr. PRYOR, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Montana [Mr. BAUCUS], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2605, a bill to amend title XIX of the Social Security Act to provide mechanisms to control Medicaid drug prices while assuring that beneficiaries receive quality medical care, physicians' prerogative to prescribe is protected and the role of pharmacists is enhanced.

S. 2666

At the request of Mr. GORE, the names of the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2666, a bill to authorize the United States contribution to an international account established by the parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, for the purpose of assisting developing nations in their efforts to comply with the provisions of the Protocol, and for other purposes.

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the names of the Senator from Indiana [Mr. COATS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from North Dakota [Mr. BURDICK], the Senator from Pennsylvania [Mr. SPECTER], the Senator from California [Mr. WILSON], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the names of the Senator from Washington [Mr. GORTON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Vermont [Mr. JEFFORDS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Texas [Mr. BENTSEN], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint

Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 281

At the request of Mr. DECONCINI, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 281, a joint resolution to designate September 13, 1990, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE JOINT RESOLUTION 292

At the request of Mr. PELL, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 292, a joint resolution to designate the year 1991 as the "Year of the Lifetime Reader."

SENATE JOINT RESOLUTION 301

At the request of Mr. PELL, the names of the Senator from New York [Mr. D'AMATO], the Senator from Alabama [Mr. HEFLIN], the Senator from Texas [Mr. BENTSEN], the Senator from California [Mr. CRANSTON], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 301, a joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 304

At the request of Mr. SHELBY, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Virginia [Mr. ROBB], the Senator from Maryland [Ms. MIKULSKI], the Senator from Utah [Mr. GARN], the Senator from Wisconsin [Mr. KOHL], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 304, a joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

## SENATE CONCURRENT RESOLUTION 134—RELATIVE TO THE WHITE HOUSE CONFERENCE ON AGING

Mr. HEINZ (for himself, Mr. PRYOR, Mr. COHEN, Mr. GLENN, Mr. PRESSLER, Mr. BRADLEY, Mr. GRASSLEY, Mr. BURDICK, Mr. WILSON, Mr. JOHNSTON, Mr. SIMPSON, Mr. BREAUX, Mrs. KASSEBAUM, Mr. SHELBY, Mr. REID, Mr. GRAHAM, and Mr. KOHL) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 134

Whereas White House Conferences on Aging were called by Presidents in 1961, 1971 and 1981, establishing a rich tradition of effective, nonpartisan dialogue on issues affecting the nation's senior citizens;

Whereas Congress, under the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note), authorized the President to call a White House Conference on Aging in 1991;

Whereas the President has not yet called for a 1991 White House Conference on Aging;

Whereas one of the goals of such conferences is full participation by individuals, State and local governments, and public and private organizations;

Whereas further delay in the call for a 1991 White House Conference on Aging could jeopardize the goal of full participation and limit the success and value of the conference's recommendations and findings for Congress;

Whereas it remains the sense of Congress that a 1991 White House Conference on Aging will make meaningful contributions to public debate over a wide range of issues and programs affecting the nation's elderly; and

Whereas planning for such a conference has been delayed in anticipation and expectation of a Presidential announcement: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that the President should immediately call for a 1991 White House Conference on Aging and begin planning and implementing such a conference without delay.

● Mr. HEINZ. Mr. President, I rise today to express the sense of the Congress on a topic of importance to all generations of Americans: the convening of the 1991 White House Conference on Aging. With my esteemed colleagues, I submitted a concurrent resolution calling upon the President to call without delay for the beginning of planning and preparation for this Conference.

The history of the decennial White House Conferences on Aging is long and diverse, encompassing the agenda of aging policy issues from 1961 to the last conference in 1981. At these meetings, scholars, advocates, and policymakers have established a rich tradition of effective, nonpartisan dialog. Society has reaped the benefits of that dialog in new strategies for addressing the concerns and difficulties of our growing older population. In 1961, for example, conferees hammered out the policy agenda for Medicare; in 1971, they forged initiatives in minority health policy.

The time has come to meet again. In 1990, the issues affecting older persons—income security, health, housing, and social services among the most pressing—have reached unprecedented complexity and are in urgent need of new solutions.

An important example is the issue of long-term care: A growing proportion of our population is in need of community-based care or nursing home care. Indeed, the number of very elderly people, who are three times more likely to need personal care than younger retirees, is growing more than twice as fast as the general population. We must develop a policy and a clear vision of the way we will fund and deliver long-term care to meet the needs of that population. And, as we found in the Pepper Commission, we need our best thinkers from many fields to reach that goal.

The need for a national policy on long-term care illustrates well the fact that aging issues affect not only the elderly themselves, but all generations of Americans. According to a recent poll, four out of five Americans have been affected in the past 4 years by the need for long-term care for someone close to them. Many Americans have served personally as caregivers; 70 percent of all community-based long-term care is provided by family members. Those who carry a heavy share of the burden are the women of the "sandwich generation," with growing children and aging parents, who frequently must leave jobs and forgo opportunities in order to cope with the demands of care for loved ones. Our policy on long-term care must recognize and respond to their needs, in order to keep families together and keep capable workers in the work force.

Clearly, planning for a successful conference of this magnitude cannot take place overnight. Rather, it will require an extraordinary amount of time and coordination to assure the dialog will be productive. I share with many aging advocates a growing concern that further delay in authorization will jeopardize the very purpose and usefulness of the conference. For past White House conferences, the Chief Executive signaled the time for preparation at least a year in advance—a minimum deadline which will soon have passed.

The responsibility and authority to convene the Conferences on Aging are given by Congress to the President; we

can now only urge and advise. As advocates for solutions to aging issues, we stand ready to start the race to a gathering of excellent minds in a meaningful discourse on these issues. We believe the President will take up this opportunity to authorize the White House Conference on Aging, and we urge immediate action.●

● Mr. COHEN. Mr. President, I am pleased to join my colleagues on the Special Committee on Aging in submitting a concurrent resolution calling for a White House Conference on Aging in America.

Currently, the elderly comprise 12 percent of the population nationwide. As America ages and people live longer, that percentage will increase. Current estimates indicate that, by the year 2040, the population over 65 will have doubled and the population over 85 will have quadrupled. There will be many more Americans needing the support of Federal programs like Medicare and Social Security, many more elderly needing the attention provided by long-term care services, and many more retirees seeking ways of offering their vast skills to American society.

Estimates suggest, for example, that 1.9 million people live in nursing homes, but by 2040 that figure may reach 4.6 million. We need to adequately fund Medicaid and Medicare to ensure that the most vulnerable and fragile Americans are not denied the care they so desperately need. We need to find ways of drawing talented and compassionate people into careers which serve those who need long-term care. And we need to ask ourselves how best to prepare for the future when the demand for long-term care will dwarf our current needs.

The current debate over the Social Security reserves is another indication that we must address the long range health of our system of support for retirees. The Committee on Aging recently held hearings on the Social Security Administration and its service to beneficiaries. An elderly woman testified that, discouraged from applying for supplemental income, she became a charity case. She told the committee that she live on dried beans and a few potatoes while she waited to receive her monthly check. An advocacy group for the aging helped her get the benefits which she had been wrongly denied. But the years of struggle remain a vivid recollection and an unnecessary hardship.

Too often, however, we think of the elderly as frail and helpless. To those who are, we must extend our aid. But nursing homes and the hardship of survival are but a part of the picture. Last fall, my colleague Congresswoman SNOWE and I held a hearing in Maine on health care for the rural elderly. We had the privilege of hearing some remarkable stories, none more heartening than that of Roy Gallagher, a 78-year-old gentleman from East Machias. He stated that, "[I]n Maine, especially in my experience in Washington County, we are so proud and independent that we don't want to entangle anybody else in our affairs. We want to do it on our own."

Roy Gallagher's statement conveys the spirit of independence and self-reliance that is the hallmark of our country. Elderly citizens have much to give to our Nation and we need to be as grateful for their contributions as we are sensitive to their needs. A survey of voluntarism recently showed that 40 percent of those 65 to 74 volunteer an average of 6 hours each week—the largest number of hours in any age group surveyed. Any assessment of the elderly in America will draw attention to the many civic-minded older Americans who give definition to the term, "community service."

A Conference on Aging would give us the opportunity to step back and assess American attitudes toward—and treatment of—this important segment of our population. It would give us new perspectives on the Federal role in serving the needs of this population. And it would remind us that Americans—old and young—share a common dedication to our country, devotion to family, and, ultimately, journey through life.

I urge my colleagues to support the concurrent resolution we are submitting today calling for this conference.●

## AMENDMENTS SUBMITTED

## CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH

### SPECTER AMENDMENTS NOS. 1684 AND 1685

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

AMENDMENT No. 1684

At the appropriate place, insert the following:

That (a) Congress finds that—

(1) career criminals commit a larger percentage of the violent and major felonies afflicting society, causing immeasurable physical injury to innocent persons and damage, destruction, or loss to their property estimated at billions of dollars annually, thereby terrorizing law-abiding citizens, disrupting the community, and undermining respect to law:

(2) the continuing criminal activity of career criminals adversely affects interstate commerce;

(3) despite prior convictions for serious offenses, many repeat offenders are placed on probation or sentenced to unduly short terms of imprisonment by State judges, to the detriment of public safety;

(4) many repeat offenders cannot reasonably be rehabilitated and, unless incarcerated for life, will commit further felonies;

(5) many States have "habitual criminal" statutes providing for life sentences for repeat offenders, upon subsequent felony convictions;

(6) many State prison systems are severely overcrowded, understaffed, and unable to confine convicts sentenced to life imprisonment under such statutes in a safe, secure, and humane manner;

(7) State judges may be deterred by the lack of sufficient prison space, staff, and funding from imposing life sentences for offenders as provided by State law, and the legislatures in those States without habitual criminal statutes may be dissuaded by such considerations from enacting such statutes;

(8) the interests of justice and public safety would be served if State authorities felt free to impose life sentences for repeat major offenders unrestrained by such considerations;

(9) the Federal Bureau of Prisons sometimes has empty cells available and can make additional space available by consolidating inmates, consistent with suitable standards, and ultimately can open additional institutions and cells, without great cost or delay, in certain Federal facilities, including abandoned military facilities and Public Health Service Hospitals; and

(10) the Federal Bureau of Prisons has an outstanding record in safety, effectively, and humanely confining inmates sentenced to life imprisonment.

(b) The Congress declares that the purpose of this Act is to remove undue restraints on States imposing life sentences on repeat major offenders by authorizing the Federal Government to assume custody of prisoners sentenced under State habitual criminal statutes to imprisonment for life, without cost to the State.

SEC. 2. (a) Upon request by a State pursuant to section 3, the Federal Bureau of Prisons of the Department of Justice shall promptly arrange and accept custody of convicts who are sentenced to life imprisonment under the habitual criminal statutes of a State, to the extent that space is or can be made readily available in the Federal prison system. The Federal Bureau of Prisons shall confine such convicts until certification to the Attorney General by appropriate authorities of the State that the sentence of a transferred prisoner has been terminated by parole, pardon, or otherwise as provided by State law, or, absent such certification, for the natural life of the prisoner.

(b) This act shall apply only to the incarceration of persons sentenced to imprisonment for life under the State habitual criminal statutes after the date of enactment.

SEC. 3. (a) All applications for Federal incarceration under this Act shall be subject to approval by the Attorney General of the United States and shall include a certification by the State that the prisoner to be transferred has been sentenced to life imprisonment under a State habitual offender statute.

(b) The Attorney General shall have the authority to review the nature and circumstances of the offenses committed by any prisoner who is proposed for transfer and the existing capacities of the State prison system from which transfer is sought. The Attorney General may reject any application for Federal incarceration based upon

such consideration and upon the availability of space in the Federal prison system. The decisions of the Attorney General under this subsection shall not be subject to review by Federal or State courts.

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AMENDMENT NO. 1685

At the appropriate place, insert the following:

That this Act may be cited as the "National Violent Crime Program Authorization Act, Fiscal Year 1990".

SEC. 2. On the basis of evidence, information, and documents and testimony collected by the committees and subcommittees of the Congress and the reports and recommendations of various national commissions, including the National Commission on Criminal Justice Standards and Goals (1973) and the Attorney General's Violent Crime Task Force (1981), the Congress hereby makes and adopts the following findings:

(1) Violent crime and drug trafficking have become a severe national problem affecting the personal safety and general welfare of citizens of the United States and an intolerable burden upon Interstate Commerce.

(2) The economic costs of crime are estimated to exceed $100,000,000,000 per year and the total cost of crime including pain, suffering, and psychological duress are estimated to exceed $500,000,000,000 per year.

(3) The Federal Government presently allocates approximately $6,500,000,000 of its annual budget to crime control and criminal justice. This allocation represents just over one-half of 1 per centum of the Federal budget.

(4) It is estimated that spending by State and local law enforcement and criminal justice agencies of the various States is approximately $24,000,000,000 a year. Due to limited revenues, rising costs, and other factors, the States and localities are severely limited in their capability to provide greater resources for law enforcement and criminal justice.

(5) Every year, serious crime afflicts one in every five American households. One in every ten households is affected by criminal violence.

(6) The violent crime rate in America has reached unprecedented and intolerable levels. The violent crime rate has risen 400 per centum since 1945; the United States suffers from a crime rate which is many times that of any other industrial democracy.

(7) The resources available at all levels of government are seriously inadequate to secure public safety. Consequently, only a small fraction of crimes result in an arrest, a small fraction of arrests result in trial and conviction, in contrast to plea bargain, and only a small fraction of convictions for violent offenses result in sentences to prison.

(8) Career criminals constitute less than 10 per centum of all persons arrested but commit more than 60 per centum of the offenses. Despite the priority accorded to them, career criminals are often not handled effectively due to inadequate resources.

(9) Likewise, crime prevention programs have not been given sufficient resources, resulting in much serious crime that could have been prevented. Particular attention is needed for juvenile offenders to break the escalating crime cycle, for drug addicted offenders and for providing literacy and training in marketable job skills to prisoners nearing the end of their sentences.

(10) Drug trafficking, which is estimated to have grown to an $80,000,000,000 a year business that contributes to and causes a high proportion of the violent activity, has not been curtailed despite recent increases in the level of effort, particulary by Federal enforcement agencies.

(11) The prison systems in more than forty States are so overcrowded as to be subject to court orders to release inmates prematurely and to deter judges from imposing sentences in individual cases that fit the crime and the criminal. The prison population has risen sharply in recent years. However, in many States few if any prisons have been built in recent decades.

(12) Major efforts are needed to improve the treatment of victims and witnesses in criminal cases and to compensate them for physical and economic injury and loss.

(13) In order to insure speedy justice, numerous court reforms are needed, including improved case screening and diversion programs, use of computers and other techniques to control judicial calendars.

(14) To improve the arrest rate, conviction rate, and sentences for career criminals, special units are needed in police departments, prosecutors' offices, and other agencies.

In light of the foregoing, a comprehensive national program must be commenced. Such a program should devote 1 per centum of the Federal budget or approximately $10,000,000,000 for a period of up to ten years with the goal of cutting violent crime for profit in half.

SEC. 3. In order to begin such a program in fiscal year 1990 and to begin it in a gradual, orderly manner, there is authorized to be appropriated for the fiscal year ending September 30, 1990, to carry out the National Violent Crime Program:

(a) For the detection, investigation, apprehension, prosecution, and incarceration of individuals involved in violent crime activity and drug trafficking, not otherwise provided for, $1,200,000,000, of which $300,000,000 for construction of new facilities and construction, remodeling, and equipping buildings and facilities at existing detention and correctional institutions shall remain available until expended, and notwithstanding any other provision of law, there is authorized payment in advance for expenses arising out of contractual and reimbursable agreements with State and local enforcement agencies engaged in cooperative violent crime and drug trafficking enforcement activities, as follows:

| | (Millions) |
|---|---|
| Fugitive programs | 125 |
| New Federal prosecutions for violent crimes, such as bank and commercial robbery | 175 |
| Drug enforcement | 300 |
| Training, lab, identification, and other support services and technical assistance to States by Federal agencies | 150 |
| Research and development, for example, design means to end plea-bargaining and cut trial delays in half | 150 |
| Construction of correctional facilities for Federal inmates and operating costs | 125 |
| Temporary detention facilities for State inmate "overflow" and permanent prisons for confinement of all State habitual offenders sentenced to life | 175 |

(b) For Justice assistance and to carry out the functions of the Justice Office of Assistance, $3,650,000,000, all of which shall remain available until expended: *Provided*, That such funds may only be used to carry out the National Violent Crime Program, pursuant to regulations issued by the Head of Justice Office Assistance and policies and priorities established by the Attorney General in consultation with the Congress and appropriate congressional committees, as follows:

| | (Millions) |
|---|---|
| Improve investigations with special detective squads | 300 |
| Improve case screening and diversion | 75 |
| Improve violent crime prosecutions by forming career criminal units | 75 |
| Improve convict diagnosis, classification, and correctional programming | 175 |
| Prison and other construction | 625 |
| Job training/prison industry/functional literacy training | 175 |
| Juvenile delinquent intervention | 425 |
| Runaways and missing children | 175 |
| Victim/witness | 300 |
| Crime prevention—Schools | 300 |
| Crime prevention—Neighborhoods | 300 |
| Crime prevention—Commercial | 300 |
| Drug treatment | 300 |
| Calendar control applying research and development results to specific localties | 125 |

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## GRAHAM (AND OTHERS) AMENDMENT NO. 1686

Mr. GRAHAM (for himself, Mr. DECONCINI, and Mr. BRYAN) proposed an amendment to the bill S. 1970, supra, as follows:

Strike title II of the bill and insert the following:

TITLE II—HABEAS CORPUS REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1990".

SEC. 202. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new title:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment
"2257. Mandatory stays of execution; duration; limits on stays of execution; successive petitions
"2258. Filing of habeas corpus petition; time requirement; tolling rules
"2259. Certificate of probable cause inapplicable
"2260. Counsel in capital cases; trial and post-conviction; standards

**"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsection (b) is satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort

or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2260 of this title.

"(c) No counsel appointed pursuant to subsection (b) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(d) The ineffectiveness or incompetence of counsel appointed under this chapter during State of Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

**"§ 2257. Mandatory stays of execution; duration; limits on stays of execution; successive petitions**

"(a) Upon the entry in a court of record of an order pursuant to section 2260 of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title—

"(A) before a court of competent jurisdiction;

"(B) in the presence of counsel; and

"(C) after having been advised of the consequences of his decision.

"(c) If one of the conditions provided in subsection (b) is satisfied, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence; and

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed, or in the validity of the sentence of death.

**"§ 2258. Filing of habeas corpus petition; time requirement; tolling rules**

"(a) Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 365 days after the date of filing in the State court of last resort of an order issued in compliance with section 2260(a)(2) of this title.

"(b) The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any periods in which a State prisoner under capital sentence has properly filed request for post-conviction review pending before a State court of competent jurisdiction which period shall, if all State filing rules are met in a timely manner, run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort, and further until final disposition of the matter by the Supreme Court of the United States, if a timely petition for review is filed; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 365-day period established by this section.

**"§ 2259. Certificate of probable cause inapplicable**

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

**"§ 2260. Counsel in capital cases; trial and post-conviction; standards**

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall—

"(1) provide for counsel to—

"(A) indigents charged with offenses for which capital punishment is sought;

"(B) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(C) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; and

"(2) provide for the entry of an order of a court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that—

"(A) the prisoner is not indigent; or

"(B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b)(1)(A) Except as provided in paragraph (2), at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibilities set forth in subparagraph (B).

"(B) The certification authority for counsel at any stage of a capital case shall be—

"(i) a special committee, constituted by the State court of last resort or by State statute, relying on staff attorneys of a defender organization, members of the private bar, or both;

"(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

"(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

"(C) The certification authority shall—

"(i) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death;

"(ii) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

"(iii) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed, or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) In a State that has a publicly-funded public defender system that is not organized on a statewide basis, the requirements of paragraph (1) shall have been deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a State funded public defender organization, and if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) insure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

"(d) If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(e) Notwithstanding any other provision of this section, a court, for good cause, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consider-

ation of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(f) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (g). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(g) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.".

(b) AMENDMENTS TO TABLE OF CHAPTERS.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases..... 2256"

SEC. 303. LAW CONTROLLING IN FEDERAL HABEAS PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by inserting after section 2255 the following:

**"§ 2255A. Law controlling Federal habeas corpus proceedings**

"All claims in habeas corpus petitions brought by State prisoners in State custody who are subject to a capital sentence shall be governed by the law as it was when the petitioner's sentence became final, supplemented by any interim change in the law promulgated by the Supreme Court, if the Supreme Court determines, in light of the purpose to be served by the change, the extent of the reliance on previous law by law enforcement authorities, and the effect on the administration of justice, that it would be just to give prisoners the benefit of the interim change in law.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for chapter 153 of title 28, United States Code, is amended by inserting after the item for section 2255 the following:

"2255A. Law controlling Federal habeas corpus proceedings.".

(c) APPLICABILITY OF SECTION.—The amendments made by this section shall apply only to prisoners whose sentences have become final after the date of enactment of this Act.

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## THURMOND (AND OTHERS) AMENDMENT NO. 1687

Mr. THURMOND (for himself, Mr. SPECTER, Mr. HATCH, and Mr. SIMPSON) proposed an amendment to the bill S. 1970, supra, as follows:

Strike Title Two and insert in lieu thereof the following: "TITLE TWO—HABEAS CORPUS REFORM"

SEC. . SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2263. Filing of habeas corpus petition; time requirements; tolling rules.

"2264. Evidentiary hearings; scope of Federal review; district court adjudication.

"2265. Certificate of probable cause inapplicable.

"2266. Counsel in capital cases; trial and post-conviction standards.

"2267. Law controlling in Federal habeas corpus proceeding; retroactivity.

"2268. Habeas corpus time requirements.

**§ 2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

"(a) This chapter shall apply—

"(1) to—

"(A) cases in which the defendant is tried for a capital offense; or

"(B) cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence; and

"(2) only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2266 of this title.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State defendants tried for a capital offense and all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the defendant or prisoner upon a finding that the defendant or prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the defendant or prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant or prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent—

"(1) a State defendant being tried for a capital offense; or

"(2) prisoner under capital sentence during direct appeals in the State courts,

shall have previously represented the defendant or prisoner at trial or on direct appeal in the case for which the appointment is made unless the defendant or prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter of this title. This subsection shall not preclude the appointment of different counsel at any phase of Federal post-conviction proceedings.

**§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions**

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2261(c) of this title for a prisoner under capital sentence, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to this chapter. The application must recite that the State has invoked the procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under this chapter within the time required in section 2263 of this title; or

"(2) upon completion of district court and court of appeals review under this chapter, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new fundamental right that is retroactively applicable; or

"(C) is due to the fact the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the filing of any successive petition for a writ of habeas corpus is authorized by the appropriate court of appeals in accordance with section 2264(c) and the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed, or newly discovered facts,

which are not based upon or include opinion evidence, expert or otherwise, which would be sufficient to undermine the court's confidence in the validity of the death sentence.

**"§ 2263. Filing of habeas corpus petition; time requirements; tolling rules**

"(a) Any petition filed under this chapter for habeas corpus relief must be filed in the appropriate district court not later than 60 days after the filing in the appropriate State court of record of an order issued in compliance with section 2261(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes; and

"(2) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 60 day period established by this section. A court that finds that good cause has been shown shall explain in writing the basis for such a finding.

(b) A notice of appeal from a judgment of the district court in a claim under this chapter shall be filed within 20 days of the entry of judgment.

(c) A petition for a writ of certiorari to the Supreme Court of the United States in a claim under this chapter shall be filed within 20 days of the issuance of the mandate by the court of appeals.

**"§ 2264. Evidentiary hearings; scope of Federal review; district court adjudication**

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court—

"(1) shall determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) May conduct an evidentiary hearing when the court, in its discretion, determines that such hearing is necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it within the time limits established in section 2268 of this title.

"(c)(1) except as provided in paragraph (2), a district court may not consider a successive claim under this chapter.

"(c)(2) A district court may only consider a successive claim under this chapter if the petitioner seeks leave to file a successive petition in the appropriate court of appeals."

"(c)(3) In a case in which the appropriate court of appeals grants leave to file a successive petition, the time limits established by this chapter shall be applicable to all further proceedings under the successive petition.

**§ 2265. Certificate of probable cause inapplicable**

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter.

**"§ 2266. Counsel in capital cases; trial and post-conviction standards**

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall:

"(1) provide for counsel to indigents charges with offenses for which capital punishment is sought, to indigents who have been sentenced to death and who seek appellate or collateral review in state court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court.

"(2) provide for the entry of an order of a court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that (A) the prisoner is not indigent; or (B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b)(1) Except as provided below, at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibilities set forth below. The certification authority for counsel at any stage of a capital case shall be:

"(i) a special committee, constituted by the State court of last resort or by State law, relying on staff attorneys of a defender organization, members of the private bar, or both; or

(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

The certification authority shall:

(iv) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death; and

(v) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

(vi) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed; or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) In a State that has a publicly funded public defender system that is not organized on a statewide basis, the requirements of section 2261(b) shall have been deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a state funded public defender organization, if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) ensure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) If a State has not elected to establish one or more statewide certification authorities to certify counsel eligible to be appointed before trial to represent indigents, in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

(d) If a State has not elected to establish one or more statewide certification authorities to certify counsel eligible to be appointed after trial to represent indigents, in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(e) Notwithstanding this subsection, a court, for good cause, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(f) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (g). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(g) The court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.

**"§ 2267. Law controlling in Federal habeas corpus proceedings; retroactivity**

"In cases subject to this chapter, all claims shall be governed by the law as it was when the petitioner's sentence became final. A court considering a claim under this chapter shall consider intervening decisions by the Supreme Court of the United States which establish fundamental constitutional rights.

**"§ 2268. Habeas corpus time requirements**

"(a) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing.

"(b) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(c) The Supreme Court shall act on any petition for a writ of certiorari in a case brought under this chapter within 90 days after the petition is filed.

"(d) The Administrative Office of United States Courts shall report annually to Con-

gress on the compliance by the courts with the time limits established in this section.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases..... 2261".

(c) AMENDMENT TO SECTION 2254 OF TITLE 28.—Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.".

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## D'AMATO AMENDMENT NO. 1688

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place insert the following:

SECTION . SHORT TITLE

This subtitle may be cited as the "Drug Kingpin Death Penalty Act of 1990."

SEC. . DEATH PENALTY AUTHORIZATIONS AND PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

CHAPTER 228—DEATH PENALTY

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death

"SECTION 3591. SENTENCE OF DEATH.

"A defendant who has been found guilty of—

"(a) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(b) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person; or

"(c) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: Provided, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense; and provided that if a defendant described in section 3591(b) or (c) is not sentenced to death, said defendant shall be sentenced to life in prison.

"SEC. 3592. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTIONS OF VIOLENT OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death uopn another person.

"(3) PREVIOUS CONVICTIONS OF DRUG OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(4) PREVIOUS CONVICTIONS OF VIOLENT AND DRUG OFFENSES.—The Defendant has previously been convicted of a Federal or State offense, punishable by a term of imprisonment of more than one year, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, and has previously been convicted of a Federal or State offense, committed on a different occasion and punishable by a term of imprisonment of more than one year, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(5) SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(6) USE OF FIREARM.— In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(7) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act (21 U.S.C. 845) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act (21 U.S.C. 845a) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(9) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act (21 U.S.C. 845b) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(10) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factors exist.

"SEC. 3593. SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good

cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing, to determine the punishment to be imposed. Prior to such a hearing no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 3592(b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—

In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

SEC. 3594. IMPOSITION OF A SENTENCE OF DEATH.

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

SEC. 3595. REVIEW OF A SENTENCE OF DEATH.

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including——

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.——

"(1) If the court of appeals determines that——

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"SEC. 3596. IMPLEMENTATION OF SENTENCE OF DEATH.

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marahal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract

shall be required, as a condition of that employment or contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

SEC. 3597. USE OF STATE FACILITIES.

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State of local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

SEC. 3598. APPOINTMENT OF COUNSEL.

"(a) FEDERAL CAPITAL CASES.——

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Nothwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"SEC. 3599. COLLATERAL ATTACK ON JUDGMENT IMPOSING SENTENCE OF DEATH.

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In any case in which a sentence of death has been imposed for an offense against the United States and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings; and

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed."; and

(b) In the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty ..... 3591".

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## DECONCINI AMENDMENT NO. 1689

(Ordered to lie on the table.)

Mr. DECONCINI (for himself, Mr. D'AMATO, Mr. HATCH, Mr. MURKOWSKI, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITION OF CERTAIN DRUG ADVERTISEMENTS.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting a new subsection (c) as follows:

"(c)(1) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any direct or indirect advertisement, knowing, or under

circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote or facilitate the distribution or transfer of a Schedule I controlled substance.

"(2) As used in this section, the term 'indirect advertisment' means an advertisement for a catalogue of Schedule I controlled substances, the name, address, phone number, or similar information relating to a contact for obtaining a Schedule I controlled substance, and any similar advertisement whose purpose is to indirectly promote or facilitate the transfer or distribution of a Schedule I controlled substance.".

## THURMOND AMENDMENT NO. 1690

Mr. THURMOND proposed an amendment to the bill S. 1970, supra, as follows:

On page 19, line 7, strike the period after the word "retarded" and insert in lieu the following: "and is wholly lacking in the capacity to understand the difference between right from wrong.".

## NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, June 7, 1990, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2340, the Indian Children's Services and Family Violence Prevention Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on Thursday, June 14, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building on Indian Health Service nurse shortage.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on Thursday, June 21, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 2451, to establish in the Department of the Interior a Trust Counsel for Indian Assets.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Thursday, June 21, 1990, to hold hearings. The committee will receive testimony on the following legislation: Senate Concurrent Resolution 122, to establish an Albert Einstein Congressional Fellowship Program, at 9:30 a.m.; and Senate Resolution 206, to establish a point of order against material that earmarks research moneys for designated institutions without competition, at 10:30 a.m.

Senators and Representatives who wish to testify or submit a statement for the hearing record on Senate Concurrent Resolution 122 or Senate Resolution 206 are requested to have their staffs contact Carole Blessington of the Rules Committee at 224-0278. Individuals and organizations interested in providing oral or written testimony are also requested to contact Ms. Blessington.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, May 23, at 2 p.m., for a hearing on the nominations of Michael Williams to be Assistant Secretary of the Office of Civil Rights, Department of Education.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, May 23, at 9:30 a.m., for a hearing on "The Freedom of Choice Act: The Health Aspects of Abortion."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, May 23, beginning at 9:30 a.m., to conduct a markup of S. 203, the Ground Water Research and Education Act and, immediately following the markup, at 10 a.m., to conduct a hearing on pending legislation to require local educational agencies to conduct testing for radon contamination in schools (S. 1697; the Radon Testing for a Safe Schools Act).

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday May 23, 1990 at 2 p.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Armed Services Committee, Subcommittee on Strategic Forces and Nuclear Deterrence be authorized to meet in open session on Wednesday, May 23, 1990, at 2:30 p.m. to receive testimony on Department of Energy budget requests for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE AND THE SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence and the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet jointly during the session of the Senate on Wednesday, May 23, 1990, at 9:30 a.m. to receive testimony on Department of Energy laboratory management in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, May 23, at 2 p.m. for a hearing on the nomination of Jerry D. Jennings, nominee to be Deputy Director, Federal Emergency Management Agency [FEMA].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BIDEN. Mr. President, I ask unanimous consent that the subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate 2 p.m., Wednesday, May 23 for a hearing to receive testimony on the "Report of the Interagency Scientific Committee to address the conservation of the Northern Spotted Owl."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., Wednesday, May 23 for a business meeting to conduct pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 23, 1990, at 9:30 a.m. on the competitive challenge facing the U.S. in-

dustry: Review of the administration's technology policy, priorities, and competitiveness strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, May 23, 1990, at 2 p.m. to hold a business meeting on the 1990 farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, May 23, 1990, at 10 a.m. to conduct a hearing on the semiannual report of the Resolution Trust Corporation Oversight Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, May 23, 1990, at 2 p.m. to conduct a hearing on the financial strength of the Federal Housing Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 23, at 10 a.m. to hold a hearing on the supplemental State authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 23, at 2 p.m. to hold a nomination hearing on Harry Shlaudeman to be Ambassador to the Republic of Nicaragua.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

## BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

The report shows that current level spending is under the budget resolution by $3.5 billion in budget authority, and over the budget resolution by $4 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $114.6 billion, $14.6 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC. May 21, 1990.*

Hon. JIM SASSER,
*Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1990 and is current through May 18, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 concurrent resolution on the budget (H. Con. Res. 106). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the 1986 first concurrent resolution on the budget.

Since my last report, dated May 14, 1990, the Congress has cleared for the President's signature H.R. 1805, an act making technical amendments to title 5 of the United States Code. This action decreases the current level estimate of outlays.

Sincerely,

ROBERT D. REISCHAUER.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONGRESS, 2D SESS., AS OF MAY 18, 1990

[In billions of dollars]

| | Current level [1] | Budget resolution H. Con. Res. 106 | Current level +/− resolution |
|---|---|---|---|
| Fiscal year 1990 | | | |
| Budget authority | 1,325.9 | 1,329.4 | −3.5 |
| Outlays | 1,169.2 | 1,165.2 | 4.0 |
| Revenues | 1,060.3 | 1,065.5 | −5.2 |
| Debt subject to limit | 3,026.7 | 3,122.7 | −96.0 |
| Direct loan obligations | 19.1 | 19.3 | −.2 |
| Guaranteed loan commitments | 114.7 | 107.3 | 7.4 |
| Deficit | 114.6 | [2] 100.0 | [3] 14.6 |

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amendment [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT, 101ST CONGRESS, 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS, MAY 18, 1990

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| I. Enacted in previous sessions: | | | |
| Revenues | | | 1,068,600 |
| Permanent appropriations and trust funds | 954,917 | 791,226 | |
| Other legislation | 639,255 | 638,374 | 566 |
| Offsetting receipts | −237,825 | −233,738 | |
| Total enacted in previous sessions | 1,356,347 | 1,195,862 | 1,069,166 |
| II. Enacted this session | | | |
| III. Continuing resolution authority | | | |
| IV. Conference agreements ratified by both Houses: | | | |
| Amtrak Reauthorization and Improvement Act (H.R. 2364) | −10 | | −10 |
| An Act making technical amendments to Title 5, U.S. Code (H.R. 1805) | | −1 | |
| Total conference agreements | −10 | −1 | −10 |
| V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution: | | | |
| Salaries of judges | −2 | 5 | |
| Payment to judicial officers' retirement fund | −4 | −4 | |
| Judicial survivors' annuities fund | −3 | −3 | |
| Fees and expenses of witnesses | −2 | | |
| Justice assistance | −4 | | |
| Fisherman's guaranty fund | 1 | 1 | |
| Administration of territories | −1 | | |
| Firefighting adjustments | −624 | −192 | |
| Federal unemployment benefits [FUBA] | 5 | | |
| Advances to unemployment trust fund | (48) | (48) | |
| Special benefits | −24 | | |
| Black Lung disability trust fund | 52 | 52 | |
| Special benefits, disabled coal miners | 21 | | |
| Grants to states for Medicaid | −907 | | |
| Payments to health care trust funds | (325) | (325) | |
| Family support payments to States | 84 | 84 | |
| Payments to states for AFDC work programs | 15 | 15 | |
| Payments to states for foster care | −83 | | |
| Health professions student loan insurance fund | −25 | −7 | |
| Guaranteed student loans | −175 | | |
| College housing and academic facilities loans | −3 | −3 | |
| Rehabilitation services | −79 | | |
| Payments to widows and heirs | (1) | (1) | |
| Reimbursement to the rural electrification fund | 111 | 111 | |
| Dairy indemnity program | (1) | (1) | |
| Conservation reserve program | 720 | | |
| Special milk program | −2 | | |
| Food stamp program | −800 | | |
| Child nutrition programs | −74 | | |
| Federal crop insurance corporation fund | (1) | | |
| Agriculture credit insurance fund | 342 | | |
| Rural housing insurance fund | (1) | | |
| Rural communication development fund | (1) | | |
| Payments to the farm credit system financial assistance corporation | −2 | | |
| Coast Guard retired pay | −17 | | |
| Payment to civil service retirement | (84) | (84) | |
| Government payments for annuitants | −3 | −2 | |
| Readjustment benefits | −62 | | |
| Compensation | 448 | 398 | |
| Pensions | −62 | | |
| Burial benefits | −4 | | |
| Loan guaranty revolving fund | 238 | 238 | |
| Disaster relief | −1,000 | −883 | |
| Total entitlement authority | −1,757 | 62 | |
| VI. Adjustment for Economic and Technical Assumptions | −28,685 | −26,763 | −8,900 |

THE CURRENT LEVEL REPORT, 101ST CONGRESS, 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS, MAY 18, 1990—Continued

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Total current level as of May 18, 1990 | 1,325,895 | 1,169,159 | 1,060,256 |
| 1990 budget resolution H. Con. Res. 106 | 1,329,400 | 1,165,200 | 1,065.500 |
| Amount remaining: | | | |
| Over budget resolution | | 3,959 | |
| Under budget resolution | 3,505 | | 5,244 |

[1] Less than $500 thousand.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.●

## ROGER EBLE DAY

● Mr. BURNS. Mr. President, I rise to proclaim Roger Eble Day in Billings, MT. Today we are urging the community of Billings to pay special tribute to a most outstanding superintendent in recognition of his extraordinary leadership abilities.

Roger has a reputation as an innovator in education. He was the first doctoral student sponsored by the Missoula County Board and in 1976, he received his doctorate in education administration and supervision from the University of Montana.

Throughout his educational career, Roger Eble has been active in a variety of civic and professional activities, including Special Olympics, Carroll College, YMCA Board, Chamber of Commerce, Rotary, School Administrators of Montana, Phi Delta Kappa, United Way, and the Lutheran Church.

It is with great sadness that I introduce this proclamation into the RECORD. Roger has been diagnosed with terminal cancer and will not be with us for much longer. I cannot emphasize the impact he has had upon education in Montana and he will be sorely missed.

With that Mr. President, I ask to have printed in the RECORD Roger's biography and a proclamation by the County of Yellowstone.

The material follows:

U.S. SENATE,
*Washington, DC, May 23, 1990.*

Mr. ROGER F. EBLE,
*Tommy Armour Circle, Billings, MT.*

DEAR ROGER: It gives me great pleasure to submit a few words from this lofty place called Washington, DC. There is nobody any loftier, in my opinion, than you, Roger. I just wish we had a train load of "can do" folks like you around, but God did not want to over-burden us with such talents.

I am delighted that a scholarship fund is being set up with your permission, to seek out those who go into public education, setting for themselves the standards that you have set for yourself. I am aware that those standards may be a handicap for some, but they never have been for you.

This is what this is all about—self set standards, not standards imposed by some high-minded, low-productive government agency who would tell us all that men and women are equal regardless of God-given talents or the lack thereof.

You are the symbol of what is good about America—one who is, and will always be, dedicated to the high ideals of public education. There is no higher calling than perfecting the art of preparing and shaping young minds for life.

But you, old Roger, didn't stop there. You went on to develop the art of managing. After all, that is what binds the ole machine together and makes it work. One must gain the respect of those who are the nuts and bolts—the folks who serve the community on the school boards, the PTAs, the teachers, the folks that keep the physical plants in ship shape and most importantly—the students. Respect from and for this community, while maintaining the high standard and integrity of a public trust, has been the result of your efforts.

You are a man, a husband, a father, and a public servant who has known joy and elation as well as sorrow and disappointment, and that is why you are so special. You and your unique qualities are what inspire a Nation's people to higher levels. I thank God this little ole Iowa boy walks through our community.

Phyllis joins me in this salute and we sure wish we could be with you all this evening. God bless you all.

Sincerely,

CONRAD BURNS,
*U.S. Senator.*

### IOWA BORN AND BRED

On November 18, 1939, Roger Franklin Eble was born to Edith and George Eble in Council Bluffs, Iowa. Seven years later, Roger was joined by a sister Barbara. Roger's mother Edith was a homemaker and teacher, and his dad George was a grocery store owner and an outstanding civic leader who participated in many of the town's activities and was highly respected throughout southwest Iowa.

Roger's formative years were spent in the rural southwest town of Shelby. There he enjoyed the friendship of Melvin Berg and Ralph Peterson. Roger also showed an affinity for music and sports. He played the clarinet and sang in the school chorus. A true competitor, he ran track and played baseball, basketball and football, winning numerous athletic awards during his high school career. Roger was a member of two Shelby state tournament basketball teams.

In 1956 as a high school junior, Roger met Karen Lou Thomsen from nearby Avoca, Iowa. They were married in 1960 and graduated from the University of Iowa in 1961, both becoming teachers in Underwood, Iowa. Roger taught social studies from 1961-64 at Underwood Junior High School and was the wrestling and football coach for the high school. After taking one year off to sell IBM computers in Omaha, Nebraska, Roger returned to the field of education—his real love—and took the job of high school principal at Tri-Center High School in Neola, Iowa. He was 26. In 1965, he also received his master's degree in educational administration from the University of Nebraska.

In 1968, Roger made a big decision to leave Iowa and take his young family which now included a daughter Michelle and son Charles to Missoula, Montana, where at age 29, Roger Eble became the principal at Hellgate High School. He was the youngest high school principal in the United States.

Roger came to Hellgate with a reputation as innovator in education and with plans to institute flexible modular scheduling and optional study halls. Modular scheduling involved laying out the school day in blocks so that the length of classes could be varied according to the needs of the course and the materials being covered.

Eble was principal of Hellgate High for six years before moving on to become the Director of the Missoula County High School at Ft. Missoula. There he supervised business education, forestry and vocational agriculture classes and child-care courses. In addition, he coordinated the district's student-teacher program. During this time, Roger also became the first doctoral student sponsored by the Missoula County School Board. In 1976, he received his doctorate in Educational Administration and Supervision from the University of Montana. Two more daughters—Shannon and Holly—were added to the Eble family.

In 1977, Roger Eble was rising to the top of the educational administration ladder as he look the job of Superintendent of Schools in Libby, Montana. Three years later at the age of 40, Eble became the superintendant for Helena District #1. The Helena school board was impressed with Eble's orientation toward students and classroom experience. While at Libby, Eble had required himself and all of the administrative staff to teach in some area. His practice was to teach one day a month.

Continuing with his personal style of leadership, Eble established himself as a popular superintendent in Helena from 1980-87. Educators in Helena reported: "He gives us the job to do, he gives us the direction to take and we do it."

In May 1987, Eble was named the new superintendent of the Billings Public Schools, the largest school district in Montana. Eble came to the district after an acrimonious period when there had been dissension among the school board, teachers, superintendent and public. In a short period of time, Eble was credited with healing the rifts in the Billings district and restoring harmony, in spite of extreme budget constraints and the necessity to lay off 109 staff members.

Throughout his educational career, Roger Eble has been active in a variety of civil and professional activities, including Special Olympics, Carroll College, YMCA Board, Chamber of Commerce, Rotary, School Administrators of Montana, Phi Delta Kappa, United Way, and the Lutheran Church. While campaign chairman of the Billings United Way, he helped to raise over one million dollars for the first time in the campaign's history. In 1989, In recognition of his extraordinary leadership abilities, Roger Eble was awarded the G.V. Erickson Award by his peers in education. He has also been honored by the Rotary Club of Billings, the Montana Association of School Curriculum Directors, and the Billings Education Association.

With his reputation as an educator and leader at its peak, Roger Eble announced his retirement due to ill health effective June 30, 1990.

### PROCLAMATION

Whereas in 1968, Roger Eble came to Missoula, MT from Iowa and was the youngest high school principal in the United States; and

Whereas Roger Eble had a reputation as an innovator in education and planned to institute flexible modular scheduling and optional study halls; and

Whereas from Missoula Hellgate High, he moved on to become the Director of the Missoula County High School at Fort Missoula where he supervised business education, forestry and vocational agriculture classes and child-care courses; and

Whereas during this time, Roger became the first doctoral student sponsored by the Missoula County Board and in 1976, he received his doctorate in Educational Administration and Supervision from the University of Montana; and

Whereas in 1977, Roger Eble was rising to the top of the educational administration ladder and took the job of Superintendent of Schools in Libby, Montana, three years later became the Superintendent for Helena District #1; and

Whereas in May of 1987, Roger Eble was named the new Superintendent of Billings Public Schools, the largest school district in Montana; and

Whereas in a short period of time, Roger was credited with healing the rifts in the Billings District and restoring harmony in spite of extreme budget constraints and the necessity to lay off 109 staff members; and

Whereas throughout his educational career, Roger Eble has been active in a variety of civic and professional activities, including Special Olympics, Carroll College, YMCA Board, Chamber of Commerce, Rotary, School Administrators of Montana, Phi Delta Kappa, United Way, and the Lutheran Church.

Now therefore, we, the Board of County Commissioners of Yellowstone County, Billings, Montana do hereby proclaim Wednesday, May 23, 1990, and "Roger Eble Day in Billings" and urge our community to pay special tribute to a most outstanding Superintendent in recognition of his extraordinary leadership abilities and, as reported by educators in Helena, "He gives us the job to do, he gives us the direction to take and we do it."●

## EXPLANATION FOR RECORD ON VOTING ABSENCES

● Mr. LIEBERMAN. Mr. President, as an observer to the elections in Romania, I was away from Washington on official business from May 17, 1990, to May 21, 1990. I was coleader of a 60-member international delegation sponsored by the National Democratic Institute/National Republican Institute for International Affairs.

On May 17, 1990, there were four rollcall votes in the Senate for the RECORD. I would like to inform my constituents and colleagues how I would have voted had I been present that day.

On rollcall votes 98 and 99—amendments 1638 and 1648 to S. 195, the Chemical and Biological Weapons Proliferation Act, I would have voted "aye." On rollcall vote 100—a motion to close debate on the committee substitute for S. 195, I would have voted "aye." On rollcall vote 101—final passage of H.R. 3033, as amended, I would have voted "aye."●

## THE 25TH ANNIVERSARY OF THE RHODE ISLAND CHAPTER OF THE CONSTRUCTION SPECIFICATIONS INSTITUTE

● Mr. CHAFEE. Mr. President, this year marks the 25th anniversary of the Rhode Island chapter of the Construction Specifications Institute. CSI is a nationwide organization that establishes uniform standards for documents used in building our bridges, workplaces, and homes.

Rhode Island's CSI chapter began in 1965 through the efforts of Harry Johnson, who worked as a specifications writer for the Providence architectural firm of C.E. MaGuire. At that time, the construction industry was hampered by the lack of a uniform set of standards for preparing blueprints and other documents. Harry Johnson realized that the best way for Rhode Island's construction industry to become more competitive was to adopt CSI's standards and form a Rhode Island chapter.

Since 1965, uniform building specifications have been used to strengthen and modernize Rhode Island's infrastructure. CSI's standards play an important role in virtually every engineering and building project undertaken in Rhode Island today.

CSI of Rhode Island has grown beyond its initial purpose by contributing valuable educational programs to engineers and architects, and by helping their industry respond to the changing needs of society. For instance, the Rhode Island chapter has earned many awards from CSI's national body for its outstanding seminars on topics ranging from fire safety to hazardous materials to alternative energy resources. When new laws were enacted to ensure access to buildings for people with disabilities, Rhode Island's CSI chapter joined the Paraplegic Association of Rhode Island in teaching industry members how to accommodate the needs of people with disabilities within blueprints and related structural documents.

Therefore, Mr. President, I ask my colleagues to join me in congratulating all of the members of the Rhode Island chapter of the Construction Specifications Institute for their 25 years of commitment to excellence.●

## S. 940, THE JEMEZ AND PECOS RIVERS WILD AND SCENIC RIVERS ADDITION ACT OF 1989

● Mr. DOMENICI. Mr. President, last night the Senate approved H.R. 644, which designates segments of the Pecos River and of the East Fork of the Jemez River in New Mexico as components of the Wild and Scenic Rivers System.

Last year, Senator BINGAMAN introduced S. 940, the Senate companion legislation to H.R. 644. I was pleased to cosponsor this bill, which passed the Senate in September 1989. I want to congratulate my colleague, Senator BINGAMAN, for his efforts on this important legislation. Without his diligent efforts, this legislation would not have been possible.

H.R. 644 was introduced in the House of Representatives by Congressman BILL RICHARDSON of New Mexico. H.R. 644 was amended in the House with language that restates and slightly modifies the provisions contained in the Wild and Scenic Rivers Act regarding the issuance of patents to mining claims within the corridor of rivers included in the Wild and Scenic Rivers System. In particular, a patent for lands included in the Wild and Scenic Rivers System will convey title only to the mineral deposits as the right to the use of such surface and surface resources as are required to carry on prospecting and mining operations. No patent may be issued for the surface estate. Nothing in H.R. 644 shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations prescribed by the Secretary of Agriculture.

The year 1988 marked the 20th anniversary of the Wild and Scenic Rivers Act. The first wild and scenic river in the Nation was a portion of the Rio Grande in northern New Mexico. New Mexico marked the anniversary of the enactment of the act and the designation of the Rio Grande with the passage of legislation that Senator BINGAMAN and I worked on to designate 24.6 miles of the Rio Chama as part of the Wild and Scenic Rivers System.

The designation of the Rio Chama gave New Mexico a total of approximately 78 miles of wild and scenic rivers. Approximately 53 miles of rivers in New Mexico are original components of the Wild and Scenic Rivers System. These 53 miles encompass about 49 miles of the rugged Upper Rio Grande River and the lower 4 miles of the Red River feeding into the Rio Grande near Questa, NM.

Now, after a period of careful consideration and public review, H.R. 644 will protect segments of two more rivers for the benefit and enjoyment of present and future generations. It will add 31.5 miles to the system in New Mexico—11 miles of the East Fork of the Jemez River and 20.5 miles of the Pecos River, both located in the outstanding scenery of the Santa Fe National Forest. The designation of these two rivers is a commendable way to begin the second 20 years of the Wild and Scenic Rivers System in New Mexico.

The Wild and Scenic Rivers Act provides the criteria for qualification as a wild and scenic river. A river must "possess outstandingly remarkable scenic, recreation, geologic, fish and wildlife, historic, cultural, or other

similar values." These two river segments fulfill these criteria and will be worthy additions to the Wild and Scenic Rivers System.

The East Fork of the Jemez River originates in the Valles Caldera as a small, meandering stream in the vast crater. It passes through Valles Rhyolite cliffs, a sheer-walled canyon, on its way to its junction with the Rio San Antonio, where the Jemez River is formed. This river segment passes through the heart of the Jemez Mountains' most popular recreation area.

H.R. 644 designates 5 miles of the East Fork as a "scenic river," 4 miles as a "wild river," and 2 miles as a "recreational river."

The Pecos River, famous in the folklore of the frontier, flows out of the Pecos Wilderness through rugged granite canyons and waterfalls and passes by small, high-mountain meadows. It is one of New Mexico's most heavily used trout streams.

H.R. 644 designates 13.5 miles of the Pecos River as a wild river, and 7 miles as a recreational river.

With the designation of these river segments, New Mexico will now have segments of 5 rivers as part of the system, which now includes portions of more than 70 rivers nationwide. Currently there are more than 7,300 miles in the National Wild and Scenic Rivers System.

I do want to make clear, however, that my support for this bill has been conditioned upon several assurances that I have received from the Forest Service.

First, the Forest Service will not have nor will it utilize condemnation authority to acquire fee title to private lands in the river corridors to be designated under H.R. 644. The only interests in land that the Federal Government might acquire are scenic easements, and these will only be obtained from willing sellers in this case.

Second, individuals who currently own private land in the river corridors designated under H.R. 644 will continue to be able to use and develop their property as they have in the past. H.R. 644 does not divest private property owners of any rights that they currently have.

Third, property owners in the recreational river corridors designated under H.R. 644 will be able to construct new facilities on their property. Property owners in the scenic river corridors will also be able to construct new facilities on their property, so long as such facilities do not interfere with the free flow of the river.

Fourth, there is no current mining activity within the river corridors designated under H.R. 644. However, there is a patent application pending for approximately 180 acres of mining claims within the corridor proposed for the East Fork of the Jemez River. No provision in H.R. 644 or the Wild and Scenic Rivers Act will diminish the claimants right to mine the minerals claimed on the 180 acres. Any patent that may be issued for these approximately 180 acres will convey title only to the mineral deposits and the right to the use of such surface and surface resources as are required to carry on mining operations. Any mining that may occur on Federal lands within the corridor will be subject to reasonable regulations as are prescribed by the Secretary of Agriculture.

Fifth, the Forest Service does not intend to seek an additional appropriation of water rights as a result of the designation of these rivers under the Wild and Scenic Rivers Act.

Sixth, the House amendment will not impose any undue new restrictions to lands included in this bill beyond those already in the Wild and Scenic Rivers Act.

Mr. President, in conclusion, I strongly support H.R. 644. The Pecos and East Fork of the Jemez are rivers that clearly meet all the criteria for inclusion in the Wild and Scenic Rivers System. They are truly beautiful national treasures that need protection under the Wild and Scenic Rivers Act.●

## HUNTINGTON, NY, FIGHTS DRUG ABUSE HEAD ON

● Mr. MOYNIHAN. Mr. President, I rise to speak to my colleagues on the most important issue of substance abuse prevention. I specifically refer to the fine efforts of the Huntington Union Free School District in Huntington, NY.

Huntington Union Free School District has published a parent's guidebook to substance abuse prevention entitled "What You Can Do." The booklet describes symptoms of drug abuse behavior, the effects of illegal drugs, and specific approaches on assisting drug-abusing children. Huntington superintendent of schools Richard B. Strock's introduction, "Our Goal Is Drug Free Students," outlines the goals of Huntington's program. I ask that his introduction be printed in the RECORD.

The introduction follows:

OUR GOAL IS DRUG-FREE STUDENTS

Our society is threatened by the scourge of illegal drugs. Especially our children are at risk as the result of this growing menace. The Huntington Public Schools are committed to protecting them.

First, we must be vigilant in our efforts to maintain a drug-free school environment. We need to send a very clear message to our students and to those who would corrupt them that we will not tolerate the use or sale of drugs in our schools. We will use whatever lawful means are at our disposal to punish those who disregard our warning.

Second, we will do everything in our power to influence our children to avoid the deleterious effects caused by the abuse of alcohol and other drugs. Through our substance abuse curriculum, we hope to enable our young people to avoid the pitfalls of drug involvement.

Third, we will cooperate with the families of students who become drug-involved to develop appropriate intervention strategies to help these students break out of the destructive cycle of substance abuse.

We cannot do this job alone. We need the cooperation of parents and other responsible adults in our community to send an unequivocal message to our young people—Don't Use Drugs!

This handbook has been developed to provide parents with basic information on substance abuse prevention. It will be distributed to every parent who has a child enrolled in our schools. Please read it and join with us in our continuing efforts to help our students stay drug free. Together we can make a difference in the lives of our children!

RICHARD B. STOCK,
*Superintendent of Schools.*●

## IN HONOR OF MS. ANNE ROSS FAIRBANKS

● Mr. D'AMATO. Mr. President, I rise today to honor the contributions to society of Ms. Anne Ross Fairbanks, one of my constituents from Troy, NY. In this age of indifference it is refreshing to find exceptional individuals who give of themselves to better the lives of those less fortunate. Ms. Fairbanks is one of those exceptional individuals; last week, in recognition of her dedication and self-sacrifice, President Bush named her his 147th "Daily Point of Light."

Ms. Fairbanks is truly a special human being. At the age of 67 she has channeled her energies into the service of her fellow man. Since 1985, Ms. Fairbanks has volunteered much of her time to the Joseph's House, an overnight shelter for the homeless. She also donates 10 to 20 hours a week helping out at an American Red Cross Bloodmobile.

I hold Ms. Fairbanks up as an example and a challenge to senior citizens all over America. Voluntarism and community service are not just for the young. Ms. Fairbanks has devoted her retirement years to feeding the hungry, helping the needy, and sheltering the homeless. President Bush said "From now on in America, any definition of a successful life must include serving others." Ms. Fairbanks has certainly had a successful life.

I ask all older Americans who have retired after successful careers to consider this: Now that you have retired, now that you finally have some free time, will you not do as Ms. Fairbanks has done and give a little of that time to your community, to those who desperately need not your money, but your time?●

## TUCSON STRONGLY SUPPORTS THE EXPANSION OF DAVIS-MONTHAN AIR FORCE BASE

● Mr. DECONCINI. Mr. President, last night, nearly 3,000 Tucson citizens gathered at the Tucson Convention Center to demonstrate their strong support for Davis-Monthan Air Force Base and its mission. Interest was so great that an overflow location had to be established for the crowd to listen to the hearing over the public address system.

As I indicated last week, Mr. President, Davis-Monthan AFB is being studied for possible closure by the Air Force, as directed by law. In January, the Air Force announced its intention to close Myrtle Beach, SC AFB. But, in order to comply with the law, it must also study "reasonable alternatives." Davis-Monthan and England AFB, Louisiana were determined to be the "reasonable alternatives."

The people of Tucson and Pima County are to be congratulated for their enthusiastic demonstration of support for Davis-Monthan. At an earlier public meeting held by the Air Force at Myrtle Beach, approximately 600 residents attended to express their views on the Air Force's intentions. A similar meeting is scheduled to be held in Alexandria, LA, tonight for the purpose of obtaining public comment on England AFB.

I would have liked to have been with my fellow Tucsonans last night, but debate on the assault weapons portion of the crime bill prevented my attending. Arizona's Governor, Rose Mofford, however, relayed my statement of support for Davis-Monthan and did an excellent job of expressing the State's support for the base. The Arizona Legislature passed a resolution yesterday urging President Bush and other political and military leaders to "carefully study all alternatives to closing or reducing the function of Davis-Monthan Air Force Base * * * a vital military base for Arizona's economy as well as our defense."

Similarly, Tom Volgy, the mayor of Tucson delivered a letter to the Secretary of the Air Force, Donald B. Rice, and announced the adoption of a resolution by the Tucson City Council urging the Department of the Air Force, the President, and the Congress to make a long-term commitment to the continued operation of D-M as the site for future consolidation of other Air Force activites. I will ask that the text of the letter from the mayor, as well as the resolution adopted by the city council and my statement which was presented at the public hearing last night, appear in the RECORD at the conclusion of my statement.

On June 7, I will be pleased to lead the Arizona delegation and Tucson officials in a meeting with Secretary Rice. At this meeting, I am certain that these officials will eloquently present their case that Davis-Monthan should not be closed, but instead expanded. The Secretary will also hear the words of one of his officers, Major Tom Cooper, who stated at the Myrtle Beach meeting that closing Davis-Monthan "and relocating these units would be prohibitively expensive." Many people used these words last night. Mr. President, I agree.

I ask that the material to which I referred earlier be printed in the RECORD.

The material follows:

CITY OF TUCSON,
*Tucson, AZ, May 21, 1990.*

HON. DONALD B. RICE,
*Secretary of the Air Force, Department of the Air Force,*
*The Pentagon, Room 4E871 Washington, DC.*

DEAR MR. RICE: The Tucson community was shocked recently to learn that the Air Force is seriously considering the closure of Davis-Monthan Air Force Base as an alternative to closure of Myrtle Beach AFB. Tucson and Davis-Monthan have a very strong 63-year history of mutual support and partnership. Tucson has provided a good home to those on active duty. In addition, our incomparable climate and lifestyle have led over 13,200 retired military personnel plus their dependents to currently make Tucson their home.

Davis-Monthan provides the Air Force with an incomparable strategic resource for equipment storage, personnel training, operational administrative functions, drug interdiction, and numerous missions. It is a very efficient base with almost no downtime due to weather; it is located in close proximity to the Goldwater Gunnery Range. According to figures from the Air Force, the United States has nearly $9 billion invested in facilities and inventories at Davis-Monthan.

At the same time, Davis-Monthan is a critical component of the Tucson economy. It is the second largest employer and the Air Force has estimated that Davis-Monthan had a $386 million impact on the local economy during 1989. I believe the latter numbers may be understated.

Tucson is a strong supporter of Davis-Monthan. The City and County have taken numerous actions over the past decades to assure the long-term viability of the base. In 1986, the City annexed the base, agreed to provide numerous services and at the same time extended the lease of over 4,300 acres of City land to the east of the base to the year 2052. This provides an important open buffer for the base. Land use plans have also been adopted which protect the base from encroachment. And finally, the City recently adopted one of the toughest Airport Environs Zones in the country which more than meets the criteria established by the AICUZ report. The latter ordinance places strict limits on building height, establishes employment density limits, restricts public accommodation, prohibits sensitive uses, and requires sound attenuation in facilities over a wide area.

As a further indication of the community's support for Davis-Monthan, the Mayor and Council unanimously adopted the attached Resolution at today's meeting. The Resolution urges the Air Force first to keep Davis-Monthan open and operational, but in addition it also calls on the Air Force to transfer additional missions/activities to Davis-Monthan.

I look forward to meeting with you on June 7. I very much appreciate your making the time available to discuss these and other issues related to the future of Davis-Monthan Air Force base.

Sincerely,

THOMAS J. VOLGY
*Mayor.*

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RESOLUTION No. 15324

Whereas, Davis-Monthan Air Force Base has been a vital part of the Tucson community since 1927; and

Whereas, Davis-Monthan Air Force Base is a critically essential component of the Tucson economy, serving as the second largest employer in the community and generating an estimated $386,000,000 (three hundred eighty six million dollars) in economic impacts in 1989; and

Whereas, Davis-Monthan Air Force Base provides much-needed medical and other services to the large number of military retirees and their families in Tucson, as well as to the many retired military winter visitors to Tucson; and

Whereas, Davis-Monthan Air Force Base and the Goldwater Gunnery Range are strategically located to serve a critical role in our national defense preparedness and in the on-going war on drugs; and

Whereas, Tucson offers a climate providing unequaled opportunities for nearly unlimited flying conditions as well as for aircraft storage and maintenance; and

Whereas, Tucson has acted affirmatively to protect the environs of Davis-Monthan Air Force Base from encroachment so as to ensure its long-term operational viability; and

Whereas, Davis-Monthan Air Force Base provides unparalleled opportunities for expanded missions dealing with administrative functions, flight training, aircraft maintenance and storage, and reduction of drug smuggling: Now, therefore, be it resolved by the mayor and council of the City of Tucson, Arizona, as follows:

Section 1. That the Department of the Air Force, and other essential government decisionmakers be strongly informed and advised of the City of Tucson's strong support for the continued and expanded operation of Davis-Monthan Air Force Base.

Section 2. That the various City officers and employees be and they hereby are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

Section 3. Whereas, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this resolution become immediately effective, an emergency is hereby declared to exist, and this resolution shall be effective immediately upon its passage and adoption.

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STATEMENT OF SENATOR DENNIS DECONCINI

I regret that Senate responsibilities prevent me from being with you tonight, but I appreciate Governor Mofford's kind offer to submit my formal statement for the hearing record. We are very fortunate that the Governor has become personally involved in this issue. It is another example of the "hands-on" leadership we have come to expect from this proud Arizonan.

As for the issue we are discussing tonight, I agree with the Air Force. I agree with Major Tom Cooper of the Tactical Air Command who stated at the Myrtle Beach scoping meeting in March that closing Davis-

Monthan "and relocating these units would be prohibitively expensive."

I think it would be helpful if I quoted more of Major Cooper's statement. He discussed the alternatives which the Air Force considered when it determined that the removal of A-10s is necessary because of the drawdown of our forces in Europe. He stated that, "There are two A-10 bases in the continental United States other than Myrtle Beach. These are at Davis-Monthan, Arizona, and England Air Force Base, Louisiana. Davis-Monthan is the only A-10 training location and has an established training infrastructure, including academic and simulator facilities. It is also the home of the 41st Electronic Combat Squadron, the only EC-130 unit in the continental United States. The 602nd Tactical Air Control Wing with an OA-10/OV-10 training squadron and an extensive ground tactical air control system mission; and the Air Force Logistics Command's Aerospace Maintenance and Regeneration Center, sometimes referred to as the "aircraft boneyard." Closing this base and relocating these units would be prohibitively expensive. Davis-Monthan was therefore excluded from further consideration."

The reasons which resulted in D-Ms initial prohibition from further consideration at that time are just as true today.

Major Cooper continues by explaining that when examining a base for closure, the Air Force also considers the base's potential for growth and its ability to adapt to changes in mission and force structure. As we have already noted, Davis-Monthan has proven itself to be a very diverse and adaptable base. I would not be surprised to see its role and mission expanding in the future as the A-10 is replaced with a faster fighter. The Air Force states that it will be shifting to stateside bases from overseas bases in the future. D-Ms accessibility to the Goldwater Range and other unimpeded air space makes it ideal for these future roles. For instance, with the possibility that Bergstrom AFB in Texas will be closed, D-M could gain the C-130s or other missions which have been stationed there. For that matter, the A-10s at either Myrtle Beach or England AFBs could be transferred to D-M if they are not.

On April 30, the Air Force announced that it planned to expand the scope of the Environmental Impact Statements (EIS) of its proposal to close Myrtle Beach Air Force Base (AFB), South Carolina. As required by law, the Air Force has expanded it to include the study of two "reasonable alternatives," England AFB, Louisiana and Davis-Monthan AFB, Arizona. These EIS studies are being made in order to comply with the base closings law and the National Environmental Policy Act (NEPA).

You will recall that on January 29, 1990, Secretary of Defense Cheney announced his intention to initiate a second round of overseas and domestic base closings. One of the bases on his list was Myrtle Beach. As Air Force spokesman Captain Jack Giese has stated, "Myrtle Beach was the Air Force's choice after we looked at all three last year." I see no reason to conclude that the Air Force's determination will change in any way and I welcome the opportunity for the Air Force to gather additional data which will assuredly strengthen the case that Davis-Monthan AFB is essential.

Unlike the first round of base closings, which were determined after a cursory study by an independent commission, most base closings must adhere to specific legal criteria. These include a detailed analysis and EIS evaluation required under the NEPA law, as well as implementing Council of Environmental Quality regulations. As part of that study process, the Air Force will prepare two EISs for use in decision making regarding the proposed closure and final disposition or reprogramming of property by the Air Force. The first EIS will be prepared to assess the impact of the possible closure of each Air Force base; the second would be prepared only if there is a final decision for closure.

The study of Davis-Monthan AFB, which will begin shortly, can only serve to demonstrate the exceedingly important role served by D-M for the Air Force. Additionally, the study will likely demonstrate the expandability of D-M if the Air Force determines that such a route would be desirable in the future.

This study should also void many of the problems associated with the 1988 Base Realignment and Closing Commission. We in Arizona know only too well the problems which can occur when the functions of a base are not studied or are not studied thoroughly. At Fort Huachuca, the Army and the Secretary of Defense are only beginning to appreciate the value of Fort Huachuca, and are concluding that the realignment of the Information Systems Command is a waste of the taxpayer's dollars. With this additional, serious study of three bases, the Air Force can avoid making a similar mistake.

Those of us from southern Arizona, and those who have spent any time in the area, know that our weather is great year round. The conditions are ideal for training new pilots. We have at least 350 days of perfect flying weather annually. Neither South Carolina nor Louisiana can boast these perfect conditions. That is one of the original reasons why Davis-Monthan was located in the Tucson area.

Davis-Monthan AFB performs multiple roles, unlike those at the other bases being considered. The reason the Air Force has advocated closing Myrtle Beach is because it is solely a base for the A-10 aircraft which the Air Force plans to phase out of its inventory. D-M, on the other hand, is the host of the 836th Air Division which includes two wings—the 355th Tactical Training Wing, which uses A-10s exclusively, and the 602nd Tactical Air Control Wing, which uses OA-10s and OV-10 Broncos. The A-10s at Myrtle Beach are operational and designed to fly low in support of United States ground forces in Europe. The A-10 Thunderbolt is known as the "tank-killer aircraft." The A-10s at Davis-Monthan, conversely, are used for pilot training. While our presence in Europe is decreasing and the probability of a major conventional confrontation is thankfully reduced, there remains a need for trained pilots. D-M fits that role.

Davis-Monthan is home to the EC-130 Hercules and the 836th Medical Group. The Hercules performs a critical mission in support of both tactical ground and air operations by jamming communications and other electronics. Additionally, there are several small units at Davis-Monthan, including three F-16 fighters used by the Montana Air National Guard; training activities for the Arizona National Guard, and the expected addition in the 3rd quarter of this fiscal year of 10 F-16s from the Royal Dutch Air Force. Myrtle Beach and England AFBS have just one wing of A-10s.

Davis-Monthan also plays a major role in the drug war. It is the home of the Tucson Branch of the U.S. Customs Service Air Interdiction Program. In 1971, Customs initiated its national lead role in the surveillance and interdiction of aircraft crossing our borders with illicit narcotics on board. At that time, four Aviation Branches, strategically located along the southern border of the United States, were opened to allow Customs to undertake timely interdiction activities. The Tucson Air Branch provides a 24 hour a day, 7 days a week operational base for anti-drug smuggling activities. It employs 125 full time operations, maintenance, and investigative personnel. By 1991, it will have a total fleet of 16 interception, apprehension, and support aircraft critical to carrying out air interdiction missions on the southwest border.

The main advantage to locating the Customs Air Branch in Tucson was its ability to be co-located at Davis-Monthan Air Force Base. The site provides not only a vital security advantage, but a strategic location for interdiction of drugs from the major southern drug smuggling routes. Importantly, it is distant from the heavily congested aviation routes surrounding the Tucson International Airport. Since its inception, the Air Branch relationship with the Air Force has been an excellent one and one that continues to make Customs more efficient in interdicting illegal narcotics destined for U.S. markets. The sharing of costs for fuel and support services by both Customs and the Air Force make the location a major economic advantage to both parties. Without the continued operation of the Customs Aviation Branch at Davis-Monthan, we will sacrifice not only the financial benefits of co-location, but also the effectiveness of the Customs Service as a major deterrent in this nation's war on drugs.

Compared to many other parts of the country, southern Arizona is not heavily developed nor heavily populated. While we are proud of Arizona's environmental legacy and are cognizant of the fragility of the Sonoran Desert, we have access to appropriate undeveloped land for expansion of D-M should the Air Force determine that it would be in the Nation's best interests.

Finally, Davis-Monthan AFB is unique among the nation's air force bases. It is the home of the Aircraft Maintenance and Regeneration Center or AMARC. This facility is the "graveyard" for more than 3,000 retired and mothballed planes. These planes can be kept in this status indefinitely and the dry desert air is ideal for this purpose. In time of war, many of these planes could be brought back into service, if necessary.

Because AMARC is the only facility of its kind in the Air Force, this graveyard for planes will almost certainly remain open forever, thus preventing Davis-Monthan from ever being entirely dismantled. For this reason, the Air Force would never realize any true profit from attempting to close D-M in the future.

Davis-Monthan has approximately 5,400 military personnel on its payroll, as well as about 1,400 federal civilian employees and 1,000 non-federal, or contractor, employees. Tucson recently felt the impact of the closure of IBM's Tucson facility; costing 2,500 jobs locally. Any decisive reduction in functions or employment at Davis-Monthan would have a substantial adverse impact on Tucson as a whole. The base is a major contributor to the greater Tucson economy and, according to Ben Beuhler-Garcia of the Tucson Metropolitan Chamber of Commerce, the "civic contributions of D-M are great—to the Community Food Bank, the

Boy Scouts and the United Way, to mention a few." Contributions such as these are difficult to quantify, but the ripple effects to the community are significant.

In conclusion, the study of reasonable alternatives to the closure of Myrtle Beach AFB, South Carolina, by the Air Force will convince the Air Force that Davis-Monthan is not only essential, but is a likely site for future expansion. I can only echo the words of Major Tom Cooper, "Closing this base and relocating these units would be prohibitively expensive." I look forward to examining the conclusions of this study.●

## FORMER MEMBER OF CONGRESS WILLIAM D. HATHAWAY ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, I again urge all Senators to sign on to Senate Joint Resolution 235, a proposed constitutional amendment to limit congressional terms. Although Senator DECONCINI and I introduced this bill in January 1990, I continue to hear from Americans all over the country who want a term limit on Congress.

Americans are dissatisfied with the way Congress has dealt with crucial national problems of which the annual budget debacle is only one example. We need a regular influx of new Members with fresh idealism, and the courage to act on it.

I ask that a letter I have recently received from former Member William D. Hathaway appear in the RECORD immediately following my remarks. Mr. Hathaway served Maine from 1965 to 1973 in the House, and from 1973 to 1979 in the Senate.

The letter follows:

FEDERAL MARITIME COMMISSION,
*Washington, DC, February 27, 1990.*

Hon. GORDON J. HUMPHREY,
*Hart Senate Office Building, Washington, DC.*

DEAR GORDON: I wholeheartedly support S.J. Res. 235 and wish you and your colleagues well in your endeavor to obtain its passage.

If you need any help, don't hesitate to call on me.

Sincerely,

WILLIAM D. HATHAWAY.●

## EL SALVADOR

● Mr. LIEBERMAN. Mr. President, I would like to make some comments about recent developments in Central America. I am heartened that negotiations were opened between the Government of El Salvador and the guerrillas on May 16 at a neutral site in Venezuela. While they are unlikely to lead to a quick end to the war, there are signs that both sides may be making a serious effort to negotiate an end to the conflict. The government has indicated that it is willing to consider reducing the size of the army and to accept internationally verified safe-havens for the guerrillas. The guerrillas are no longer demanding government ministries that are not gained through elections. Perhaps the progress that has been made in Nicaragua is having an impact on both sides.

There has been far less progress, however, in the human rights situation. The most egregious case, of course, involves the murder of the six Jesuit priests and their two employees. I note that Speaker FOLEY's Special Task Force on El Salvador has expressed concern that this tragedy has not been investigated thoroughly enough. The report notes that the main suspect, Colonel Benavides, may not be convicted, even though some of his subordinates have admitted that he ordered them to kill the priests. Apparently, one of the rules of evidence in El Salvador is that the testimony of one codefendant is not admissible as evidence against another person charged with the same crime. This traditional Latin American legal prohibition originated in a desire to prevent biased testimony.

Nonetheless, most Latin American countries now allow the judge some flexibility in determining whether codefendant testimony should be allowed. El Salvador should do the same. Legalisms aside, the murderers of the priests should not go free. El Salvador will not be a credible democracy until these men are punished.

U.S. aid will—and should be—called into question if this case is not adequately prosecuted.

The problems surrounding the investigation are symptomatic of deeper short-comings in the El Salvador legal system. El Salvador is in desperate need of judicial reform. The government does not have enough judges or prosecutors to investigate human rights cases. And it pays less than $500 a month to those that it can afford to hire. Less money shoud be spent on the military, and more on the judiciary.

Judicial reform also will require independent police and security forces. As of now, the police are subordinate to the army, which contains elements who are opposed to investigating human rights abuses. A civilian-controlled police would reduce the influence of the army. If genuine reform occurs, the guerrillas may be more willing to abandon the battlefield for the political arena. Until then, the guerrillas will continue to fear being murdered if they enter political life in El Salvador, as has been the case in Colombia.

Mr. President, we hear talk about a peace dividend in the United States. But there is also a need for a peace dividend in El Salvador. Peace would lead to a restructuring of the military, including the transfer of the security forces to direct civilian control. A peace dividend would lead to a reduction of El Salvador's military budget, and an increase of funds spent on the Justice Ministry. And, of course, the most important dividend would be peace itself.●

## BOOKER T. WASHINGTON HIGH SCHOOL

● Mr. FOWLER. Mr. President, I rise to pay tribute to the students and faculty of Booker T. Washington High School in Atlanta, GA, who are carrying on a very important tradition of excellence in education.

This comes to mind because Tracey Thornton of my staff, who serves as counsel for budget and appropriations, and who has been with me ever since my days in the U.S. House of Representatives, is a graduate of Washington High. On June 7, she will be returning to her alma mater to address the class of 1990 as the senior luncheon speaker. Washington High is rightly proud of its many accomplished graduates, of whom Tracey is one of the foremost.

Washington High began operation way back in 1924, as the first public high school for blacks in Atlanta. That was an important breakthrough at the time. Washington High began its history, in the spirit of its namesake, with a mandate for advancement and opportunity for all our citizens. In 1925, the only exact replica of the Booker T. Washington monument in Tuskegee, AL, was erected at the school's entrance.

As times have changed and the doors of opportunity have opened wider for blacks, Washington High has expanded its mandate and stepped up to meet that challenge.

Largely through the efforts of the school principal, Dr. R.L. Collins, Washington High was placed on the National Register of Historic Places in 1986, in recognition of its historical significance and its contributions to the community and the Nation. Dr. Collins, the fifth principal in Washington High's 66-year history, assumed office in 1972. He has served the school well, and will long be honored for his many contributions.

But Dr. Collins, the students, and faculty of Washington High have many contributions yet to make. In spite of all the progress we have achieved in recent decades, there is still no absolute guarantee of equality and equal opportunity for blacks. There will be a continuing struggle to solidify our progress and to move forward to an even better day. We are now considering a civil rights bill in Congress to aid in that effort.

Still, it will be young people who make the most of their educations, who are determined to get somewhere from nowhere if need by, who will make the real difference. That is the spirit of Booker T. Washington, who

taught that education would make the difference, that education would bring economic prosperity, acceptance, and a better life for blacks.

Booker T. Washington led by example. He was born in a one-room cabin with a dirt floor and grew up in poverty in West Virginia, where he was able to attend school 3 or 4 months out of each year. He himself determined that, against all obstacles, he would study at the renowned Hampton Institute in Virginia.

He took his small earnings from working in the mines of West Virginia and traveled as far as Richmond, where he arrived penniless and slept in a hole under a sidewalk. He awoke the next day and found himself near a vessel from which pig iron was being unloaded. So he talked his way into a job unloading pig iron and stayed there until he had earned his way to Hampton, with a surplus of 50 cents.

He worked his way through Hampton Institute and graduated with honors in 3 years. Later, he built Tuskegee Institute from the ground up—starting with $2,000 from the State of Alabama, one teacher, 30 students, an old church building and a shanty—into one of the leading educational institutions in our Nation, rivaling his own alma mater.

Booker T. Washington believed that one of the most important roles of education was to build character. He demonstrated that character.

That tradition has been carried on through the years by Dr. Collins and the rest of the men and women who have served and taught at Booker T. Washington High since 1924. I urge the students of Washington High to make that character manifest in 1990 and beyond, and to lead by your example.●

## INDIAN ENVIRONMENTAL REGULATORY ENHANCEMENT ACT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 554, S. 2075, a bill to authorize grants to enable Indian tribal goverments to regulate environmental quality.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2075) to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 2075

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Environmental Regulatory Enhancement Act of 1990".

GRANT PROGRAM

SEC. 2. Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall award grants to Indian tribes for the purpose of funding **[**75**]** 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to regulate environmental quality pursuant to Federal and tribal environmental laws.

"(2) The purposes for which funds provided under any grant awarded under paragraph (1) may be used include, but are not limited to—

"(A) the training and education of employees responsible for enforcing, or monitoring compliance with, environmental quality laws,

"(B) the development of tribal laws on environmental quality, and

"(C) the enforcement and monitoring of environmental quality laws.

"(3) The **[**25**]** 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) that are not to be paid from such grant may be paid by the grant recipient in cash or through the provisions of property or services, but only to the extent that such cash or property is from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

"(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes to the Secretary in such form as the Secretary shall prescribe.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "section 803A" each place it appears and inserting in lieu thereof "sections 803(d) and 803A", and

(2) by adding at the end thereof the following new subsection:

'(d) There are authorized to be appropriated **[**5,000,000**]** $8,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, 1995, and 1996, for the purpose of carrying out the provisions of section 803(d).".

Mr. McCAIN. Mr. President, I would like to thank my colleagues for giving this legislation their full consideration and support. The Indian Environmental Regulatory Enhancement Act of 1990 begins to address some of the major environmental needs in Indian country. This bill would authorize the administration on native Americans in the Department of Health and Human Services to award grants to Indian tribes for the purpose of improving the capability of tribal governments to regulate environmental quality on Indian reservations pursuant to Federal and tribal laws.

For many years, Indian tribes have been attempting to address their own environmental problems without adequate Federal assistance. Historically, the Federal agencies with responsibility for environmental regulation on Indian lands have not provided adequate staff or resources to Indian tribes to develop effective environmental regulatory programs on the reservations. In order to combat growing environmental threats to Indian reservations, Indian tribes have initiated programs to improve environmental quality. Some of the environmental threats impacting Indian tribes are problems related to hazardous waste dumping on reservation lands, pesticides leaching into ground water aquifers, illegal discharges into reservation water systems, and uranium mill tailings remaining largely untreated on reservation lands. This legislation will provide some of the tools necessary for Indian tribes to address these mounting environmental concerns.

In the first session of the 101st Congress on June 23, 1989, the Select Committee on Indian Affairs held an oversight hearing on the administration of Indian programs by the Environmental Protection Agency. Among the more important needs identified was the need for assistance to train professional staff to monitor and enforce tribal environmental laws. Indian tribes have found that there is little Federal funding available through the Environmental Protection Agency to provide badly needed technical expertise; to conduct the environmental surveys necessary to determine the source and scope of pollution affecting the reservation; to hire qualified personnel with the necessary background and experience; to develop tribal environmental codes and to set environmental standards for the reservation. In many cases, the grant awards from the Environmental Protection Agency were not sufficient to even hire one professionally trained staff person for tribal environmental regulatory programs. Overall, tribal leaders have indicated a need for more than $20 million in annual ANA funding for the purposes authorized by the Indian Environmental Regulatory Enhancement Act.

The Indian Environmental Regulatory Enhancement Act would authorize $8,000,000 to be appropriated to the administration on native Americans for grant awards to Indian tribes for the purpose of improving the capability of tribal governments to regulate environmental quality pursuant to Federal and tribal laws. These grants would be made available for employee training and education, tribal code development, and improved enforcement

and monitoring. The grants would require a 20-percent match from any other funding source, or with service on in-kind property.

The financial assistance which would be made available is not intended to relieve the Environmental Protection Agency of its primary responsibility to assist tribal governments. Rather, the assistance offered by this bill is intended to provide some much needed flexibility for tribal governments. For nearly 20 years, Congress neglected to include tribal governments in the Federal environmental regulatory system. We have recently acted to correct this oversight, but we have not provided adequate financial resources to assist the tribes in their efforts to promote environmental quality. It is my hope that this bill will serve as a catalyst for increased Federal and tribal efforts to develop sound environmental regulatory programs on Indian lands.

I thank my colleagues for their support of S. 2075. I hope that the House will give prompt consideration to this legislation.

Mr. McCLURE. Will the Senator from Arizona enter into a colloquy for the purpose of clarifying my understanding of S. 2075?

Mr. McCAIN. I would be pleased to do so.

Mr. McCLURE. It is my understanding that S. 2075 is intended to be neutral in issues of jurisdiction. Under the existing Federal environmental statutes there is an established mechanism for the Environmental Protection Agency, and the Secretary of the Interior to review, evaluate and make determinations regarding any assertion of tribal regulatory jurisdiction. This process includes a requirement of notice to any affected State and affords the States an opportunity for participation prior to any final determination of the extent of tribal jurisdiction. Further, it is my understanding that these jurisdictional determinations must be made by the Environmental Protection Agency before any EPA funds are awarded to tribes for the purpose of establishing an environmental regulatory program. As part of this process EPA regularly encourages tribes and States to enter into agreements which identify mutual goals for the protection of the environment and human health and safety as well as specifying the enforcement responsibilities of the tribes and States.

Mr. McCAIN. The Senator from Idaho is correct. S. 2075 is not intended to affect in any way the process which the Senator has described. In fact, S. 2075 is intended to provide tribes with some of the financial resources necessary to enter into that process. It is my understanding that the Administration on Native Americans currently awards grants for the development of tribal environmental regulatory codes. S. 2075 would authorize ANA to award grants which are more precisely tailored to the existing Federal environmental statutes and their provisions relating to Indian tribes. It is my further understanding that ANA would limit this grant program to those tribes which are actively pursuing delegations of regulatory authority from EPA in order to maximize the effective use of Federal and tribal funds which are expended for the purpose of protecting environmental quality on Indian lands. Grant funds would definitely be made available to further the negotiation and implementation of cooperative agreements between tribes and States to promote environmental quality. As the Senator knows, I have always favored efforts to promote cooperation between the tribes and States on matters of mutual concern.

I thank the Senator from Idaho for his clarification and his support for S. 2075.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 2075), as amended, was passed, as follows:

S. 2075

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Environmental Regulatory Enhancement Act of 1990".

GRANT PROGRAM

SECTION. 2. Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall award grants to Indian tribes for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to regulate environmental quality pursuant to Federal and tribal environmental laws.

"(2) The purposes of which funds provided under any grant awarded under paragraph (1) may be used include, but are not limited to—

"(A) the training and education of employees responsible for enforcing, or monitoring compliance with, environmental quality laws,

"(B) the development of tribal laws on environmental quality, and

"(C) the enforcement and monitoring of environmental quality laws.

"(3) The 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) that are not to be paid from such grant may be paid by the grant recipient in cash or through the provision of property or services, but only to the extent that such cash or property is from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

"(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes to the Secretary in such form as the Secretary shall prescribe.".

AUTHORIZATION OF APPROPRIATIONS

SECTION. 3. Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "section 803A" each place it appears and inserting in lieu thereof "sections 803(d) and 803A", and

(2) by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated $8,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, 1995, and 1996, for the purpose of carrying out the provisions of section 803(d).".

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the bill, as amended, was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 778 and 779, Calendar No. 780, Calendar No. 781, Calendar No. 782, and Calendear No. 783.

I further ask unanimous consent that the nominees be confirmed en bloc; and that the statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; and that the President be immediately notified of the Senate action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I might point out that when I asked unanimous consent on the Executive Calendar that all those items had been cleared on the Republican side.

The nominations considered and confirmed en bloc are as follows:

NATIONAL RAILROAD PASSENGER CORPORATION

Tommy G. Thompson, of Wisconsin, to be a member of the Board of Directors of the National Railroad Passenger Corporation for a term of 4 years.

Tommy G. Thompson, of Wisconsin, to be a member of the Board of Directors of the National Railroad Passenger Corporation for the remainder of the term expiring April 27, 1990.

IN THE COAST GUARD

Rear Adm. William J. Kime, U.S. Coast Guard, to be Commandant, U.S. Coast

Guard for a term of 4 years with the grade of admiral while so serving.

The following officer of the U.S. Coast Guard Reserve for appointment to the grade of rear admiral (lower half):

George R. Merrilees.

The following rear admiral, as Vice Commandant, U.S. Coast Guard with the grade of vice admiral while so serving.

Martin H. Daniell, Jr.

The following rear admiral, as Commander, Pacific Area, U.S. Coast Guard with the grade of vice admiral while so serving.

A. Bruce Beran.

FEDERAL COMMUNICATIONS COMMISSION

Andrew Camp Barrett, of Illinois, to be a member of the Federal Communications Commission for a term of 5 years from July 1, 1990. (Reappointment.)

STATEMENT ON THE NOMINATION OF J. WILLIAM KIME

Mr. LAUTENBERG. Mr. President, I rise in support of the nomination of Bill Kime to be the 19th Commandant of the Coast Guard. Admiral Kime has a distinguished record in his 33 years of service in the Coast Guard. Importantly, his diverse record includes service as captain of the Port of Baltimore and chief of the Office of Marine Safety, Security, and Environmental Protection—both jobs critical to the protection of our marine environment. Admiral Kime has also served as chief of operations of the 7th Coast Guard District in Miami, a position on the front lines of our drug interdiction effort.

Most recently, Admiral Kime has served as Commander of the 11th Coast Guard District in California. Many of my colleagues will remember the very successful cleanup of the *American Trader* oilspill earlier this year. It was the hard work of Bill Kime, along with some fortuitous offshore winds, that kept damage to the beaches of Huntington and Newport, CA, to a minimum.

I have walked Alaskan beaches with Bill Kime, witnessing firsthand the devastation of the *Exxon Valdez*. I also had the opportunity to meet with Admiral Kime earlier this month to discuss his nomination. In both instances, I found an officer of great ability and vision who recognizes the new challenges facing the Coast Guard. One critical challenge that must be met is the need to invigorate and enhance the Coast Guard's efforts in the areas of marine safety and environmental protection.

Perhaps more than any other State, my State of New Jersey is vulnerable to deficiencies in the Coast Guard's marine environmental protection effort. In the past, sewage and medical wastes have spoiled our fisheries and our beaches. In just the last 3 years, the number of oilspills in New Jersey waters has almost tripled, while the amount of oil transported on our waters has increased only slightly. At the current rate, New Jersey will have almost 350 spills by the end of 1990. Mr. President, this record is unacceptable and must be reversed. From our conversations, I believe that Bill Kime, with his extensive experience in law enforcement, marine safety, and environmental protection, is committed to that task.

Another concern is plastics pollution washing up on our beaches. Just 2 weeks ago, my Appropriations Subcommittee on Transportation, which has funding responsibilities for the Coast Guard, looked into the Coast Guard's efforts at enforcing the international ban on the dumping of plastics at sea, commonly known as Annex V of the MARPOL Treaty. What I found, Mr. President, was most disturbing. Of the roughly 40 violations cited by the Coast Guard since March 1989, all but one came from either the 7th or 8th Coast Guard district in the Southeastern United States and the Gulf of Mexico. Except for one violation cited by the Marine Safety Office in Boston, there were no violations cited in the Northeast or the Mid-Atlantic Region. I would like to believe that the absence of cited violations indicates that there isn't a problem with plastics dumping in my region. Frankly, Mr. President, I know better and so does the Coast Guard.

Mr. President, Bill Kime was the lead negotiator for the international plastics dumping ban. If you will excuse the pun, Mr. President, Bill Kime is credited with resurrecting the plastics dumping ban and many other parts of the MARPOL Treaty from the garbage can. This unfortunate enforcement record does not do Bill Kime the credit he deserves after seeing the treaty through to its ratification.

Mr. President, this MARPOL enforcement record in my view is not a reflection of complacency on the part of the Coast Guard. Rather, it is a matter of competing priorities within a multimission agency. The district commanders in my region of the country have many things on their plate; fisheries patrols, drug interdiction, their normal search and rescue and navigation missions, and responding to an increasing number of oilspills.

Even so, we cannot accept an either/or situation when it comes to pollution prevention. We cannot settle for plastics pollution because we are concentrating on oil pollution. We must commit ourselves to preventing both, along with combating all the other forces that threaten our marine environment. That kind of commitment requires leadership—the kind of leadership that will make these priorities felt all the way from the admiral to the seaman. As Bill Kime takes the top job, I must implore him not to forget his roots in marine environmental protection and marine safety as he faces the many difficult decisions that await him.

In addition to facing many difficult decisions, Bill Kime will also face some very important opportunities as the Coast Guard enters its third century. The recent changes in the U.S.S.R. and Eastern Europe present an opportunity to deemphasize Coast Guard's continually expanding role in defense readiness. The growing Navy presence in the Caribbean and the Gulf of Mexico may offer an opportunity to maintain our efforts in drug interdiction while freeing up Coast Guard assets and personnel to commit to marine environmental protection and other critical missions, such as fisheries patrols and marine safety.

Mr. President, I wish that I could have come to the floor to say that I expect to be in a position to make life easier for Bill Kime. But fiscal reality does not allow me to be optimistic. The Coast Guard's budget has grown rapidly in recent years—up more than $600 million, almost 25 percent, since 1985. It is not likely to see much growth in the future.

The budget request before my subcommittee for fiscal year 1991 seeks an increase of 5.9 percent above the total level of resources provided to the Coast Guard in 1990. And this request only partially addresses funding increases anticipated in the pending oilspill legislation. Further, it must be recognized that our Appropriations Subcommittee on Defense provided $300 million in operating expenses for the Coast Guard last year. Compared to the level of resources provided in last year's Department of Transportation Appropriations Act, the budget request before my subcommittee, just for operating expenses, seeks an increase of more than 25 percent, an increase of almost half a billion dollars. This request will be very difficult to meet. It is one of the reasons why I am working diligently through this year's budget process to ensure the highest possible mark for Transportation.

Mr. President, the Coast Guard has a long and proud tradition that now spans 200 years. The men and women of the Coast Guard serve their country well. Bill Kime knows that I intend to do whatever I can to ensure that the Coast Guard will have the necessary resources to execute its many critical missions. Mr. President, I have confidence that Bill Kime is up to the challenges that await him, and I look forward to working with him in the years to come.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## ORDERS FOR TOMORROW

RECESS UNTIL 8:30 A.M.; APPROVAL OF JOURNAL; RESERVATION OF LEADER TIME; RESUME CONSIDERATION OF S. 1970; RECESS UNTIL 11 A.M. FOLLOWING VOTE

Mr. BIDEN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m. Thursday, May 24; that, following the prayer, the Journal of the proceedings be deemed approved; that the time for the two leaders be reserved for their use later in the day; and that, following the reservation of leader's time, the Senate resume consideration of S. 1970, the omnibus crime legislation.

I further ask unanimous consent that upon the conclusion of the vote scheduled to begin at 10 a.m., the Senate stand in recess until 11 a.m.

Mr. President, I understand that the Republican leadership is in agreement with this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order until 8:30 a.m. Thursday, May 24.

There being no objection, the Senate, at 9:09 p.m., recessed until Thursday, May 24, 1990, at 8:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate May 23, 1990:

### DEPARTMENT OF STATE

WILLIAM B. MILAM, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF BANGLADESH.

JAMES DANIEL PHILLIPS, OF KANSAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF THE CONGO.

THOMAS W. SIMONS, JR., OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF POLAND.

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MICHAEL T. BASS, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994, VICE JAMES CLAYBURN LA FORCE, JR., TERM EXPIRED.

### IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be general*

LT. GEN. ROBERT C. OAKS, xxx-xx-xxxx U.S. AIR FORCE.

### IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

*To be lieutenant general*

MAJ. GEN. WILLIAM H. RENO, xxx-xx-xxxx U.S. ARMY.

### IN THE AIR FORCE

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

GERALD S ALONGE, xxx-xx-xxxx
MARK A BARNES, xxx-xx-xxxx
BRIAN C BELL, xxx-xx-xxxx
ROBERT D BERGER, xxx-xx-xxxx
MARK J BOROCZ, xxx-xx-xxxx
WILLIAM L BRIGMAN, xxx-xx-xxxx
ERIC D CAIN, xxx-xx-xxxx
PHILLIP M COCHRAN, xxx-xx-xxxx
STEPHEN R CONKLING, xxx-xx-xxxx
DANIEL J COURTOIS, xxx-xx-xxxx
KYM A COUVILLION, xxx-xx-xxxx
JOHN T CUNNINGHAM, xxx-xx-xxxx
BRIAN M DEVILEY, xxx-xx-xxxx
DAVID T GARNER, xxx-xx-xxxx
BRENT R HOFFMANN, xxx-xx-xxxx
ROLAND T JANZEN, xxx-xx-xxxx
STANFORD K KEKAUOHA, xxx-xx-xxxx
MICHAEL F KELLY, xxx-xx-xxxx
KIM D KOKKO, xxx-xx-xxxx
THEODORE S KOPEC, JR, xxx-xx-xxxx
RODNEY D KYZER, xxx-xx-xxxx
MARK T LEAVITT, xxx-xx-xxxx
JOHN F LEPORE, JR, xxx-xx-xxxx
GREGORY M LESTER, xxx-xx-xxxx
WALTER J LINDSLEY, xxx-xx-xxxx
EARL C PILLOUD, xxx-xx-xxxx
JEFFERY M RAYFORD, xxx-xx-xxxx
MATTHEW S ROBERSON, xxx-xx-xxxx
BRIAN D ROMAN, xxx-xx-xxxx
THOMAS M RUEDIGER, xxx-xx-xxxx
RONALD R RUTLEDGE, xxx-xx-xxxx
ROBERT J SKINNER, xxx-xx-xxxx
JAMES R SMITH, xxx-xx-xxxx
TIMOTHY A STACEY, xxx-xx-xxxx
ROBERT V SURPRENANT, xxx-xx-xxxx
RAMON A TRISTANI, JR, xxx-xx-xxxx
STEPHEN E VANGUNDY, xxx-xx-xxxx
MICHAEL A WILLIAMS, xxx-xx-xxxx

### IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624, 628 AND 1552, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH A SINGLE ASTERISK ARE NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE. THE OFFICER IDENTIFIED WITH TWO ASTERISKS WAS SELECTED FOR PROMOTION BY THE ARMY BOARD FOR CORRECTION OF MILITARY RECORDS:

ARMY

*To be colonel*

* PRESTON L. FUNKHOUSER III, xxx-xx-xxxx

*To be lieutenant colonel*

** EDDIE R. DOWNING, xxx-xx-xxxx

*To be major*

DYFIERD A. HARRIS, xxx-xx-xxxx

MEDICAL SERVICE CORPS

*To be lieutenant colonel*

JEFFERY F. GREENE, xxx-xx-xxxx

*To be major*

* STEPHEN M. DOWNS, xxx-xx-xxxx

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENTS IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A), 594 AND 3353:

MEDICAL CORPS

*To be colonel*

JOSE A CASTRILLO-CRUZ, xxx-xx-xxxx
RONALD F CROWN, xxx-xx-xxxx
DAVID W FURNAS, xxx-xx-xxxx
CHARLES J LARSON xxx-xx-xxxx
DAVID A SPENCER, xxx-xx-xxxx

*To be lieutenant colonel*

RICHARD W BIEK, xxx-xx-xxxx
JOHN L GUSTAVUS, xxx-xx-xxxx
HERNANE C RESTAR, xxx-xx-xxxx

### IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR PROMOTION AS RESERVES OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 593, 8366, AND 8372, OF TITLE 10, UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8372 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE OF 8 MARCH 1990, AND PROMOTIONS MADE UNDER SECTION 8366 SHALL BE EFFECTIVE UPON COMPLETION OF SEVEN YEARS OF PROMOTION SERVICE AND TWENTY-ONE YEARS OF TOTAL SERVICE, UNLESS A LATER PROMOTION EFFECTIVE DATE IS REQUIRED BY SECTION 8372(C), OR THE PROMOTION EFFECTIVE DATE IS DELAYED IN ACCORDANCE WITH SECTION 8380(B) OF TITLE 10.

CHAPLAIN CORPS

*To be lieutenant colonel*

ROBERT L. ALSLEBEN, xxx-xx-xxxx
ROBERT A. BRECKENRIDGE, xxx-xx-xxxx
WILLIAM A. COCHRAN, xxx-xx-xxxx
GLENN O. DARE, xxx-xx-xxxx
PAUL T. DOTSON, xxx-xx-xxxx
ALICE A. HOWARD, xxx-xx-xxxx
LINDA E. JORDAN, xxx-xx-xxxx
THOMAS E. JORDAN, xxx-xx-xxxx
FRANCIS W. LORDEMANN, xxx-xx-xxxx
FRANCIS W. LORDEMANN, xxx-xx-xxxx
ARLAN D. MENNINGA, xxx-xx-xxxx
ARTHUR R. MERRELL, xxx-xx-xxxx
HENRY J. YOUNG, xxx-xx-xxxx

JUDGE ADVOCATE

*To be lieutenant colonel*

DONALD A. ANDERSON, xxx-xx-xxxx
GARY M. BAGLIEBTER, xxx-xx-xxxx
MICHAEL D. BART, xxx-xx-xxxx
JOHN P. BEALL, xxx-xx-xxxx
ROBERT W. BECKER, xxx-xx-xxxx
KELLY R. BECKLEY, xxx-xx-xxxx
JAMES L. BIRKEL, xxx-xx-xxxx
MALCOLM L. BURDINE, xxx-xx-xxxx
HENRY M. BURWELL, xxx-xx-xxxx
WILLIAM H. CHANDLER, xxx-xx-xxxx
KIM T. CHAZE, xxx-xx-xxxx
WILLIAM F. CLORAN, xxx-xx-xxxx
DONALD R. COLPITTS, xxx-xx-xxxx
BARRY A. COOK, xxx-xx-xxxx
JAMES J. COOK, xxx-xx-xxxx
GERARD V. DALESSIO, JR, xxx-xx-xxxx
DAVID G. DARUGH, xxx-xx-xxxx
WALTER A. DAVIS, xxx-xx-xxxx
KENNETH C. DICKSON, xxx-xx-xxxx
GRAYDON W. DIMKOFF, xxx-xx-xxxx
PHILIP W. EGLSAER, xxx-xx-xxxx
ROBERT E. FERENCIK, JR, xxx-xx-xxxx
EDMUND G. FLYNN, xxx-xx-xxxx
DERRICK R. FRANCK, xxx-xx-xxxx
JAMES D. FREEDMAN, xxx-xx-xxxx
FRANCIS GARGER, xxx-xx-xxxx
DON R. GORDON, xxx-xx-xxxx
ROGER L. GOSSARD, xxx-xx-xxxx
JAMES B. HALSTED, xxx-xx-xxxx
JOSEPH J. HINDS, xxx-xx-xxxx
CRAIG E. HODGE, xxx-xx-xxxx
THOMAS C. HOUCK, xxx-xx-xxxx
DENNIS E. JONTZ, xxx-xx-xxxx
STEPHEN P. KRCHMA, xxx-xx-xxxx
ROBERT T. LEE, xxx-xx-xxxx
G. M. LENNON, xxx-xx-xxxx
RANDALL L. LEVEL, xxx-xx-xxxx
RICHARD H. LLOYD, xxx-xx-xxxx
JAY W. MCCAIN, xxx-xx-xxxx
ROBERT M. MCGEHEE, xxx-xx-xxxx
DAVID F. MORRIS, xxx-xx-xxxx
ALAN J. PARRY, xxx-xx-xxxx
ANTHONY J. PERFILIO, xxx-xx-xxxx
JOHN T. PHILLIPS, xxx-xx-xxxx
NICHOLAS E. PHILLIPS, xxx-xx-xxxx
GARY P. PRICE, xxx-xx-xxxx
MARK C. RAMSEY, xxx-xx-xxxx
RICHARD L. REEH, xxx-xx-xxxx
ROBERT D. REINHARD, xxx-xx-xxxx
LYLE O. REINSCH, xxx-xx-xxxx
ANDREW F. REISH, xxx-xx-xxxx
DAVID F. RICHARDS, xxx-xx-xxxx
GARY J. ROSNICK, xxx-xx-xxxx
RICHARD D. ROTH, xxx-xx-xxxx
STEPHEN H. ROVAK, xxx-xx-xxxx
LARRY E. SCHWARTZ, xxx-xx-xxxx
CHARLES W. SELTZER, xxx-xx-xxxx
STEVEN R. SHANAHAN, xxx-xx-xxxx
FREDERICK R. STEVENS, xxx-xx-xxxx
RONALD R. STICKA, xxx-xx-xxxx
SCOTT W. STUCKY, xxx-xx-xxxx
GORDON O. TANNER, xxx-xx-xxxx
JAY A. THOMPSON, xxx-xx-xxxx
ROBERT E. WISNIEWSKI, xxx-xx-xxxx
WENDALL E. WOOD, xxx-xx-xxxx

### IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER PROVISIONS OF TITLE 10, U.S.C., SECTION S 593(A) AND 3385:

ARMY PROMOTION LIST

*To be colonel*

HENRY J. COOK, III, xxx-xx-xxxx
GARY P. COPP, xxx-xx-xxxx
DORSEY C. CROCKETT, xxx-xx-xxxx
PALUEL J. FLAGG, xxx-xx-xxxx
GRADY A. JENKINS, xxx-xx-xxxx
GREGORY A. JESSUP, xxx-xx-xxxx

VERNON A. JONES, xxx-xx-xxxx
JAMES E. ROSS, xxx-xx-xxxx
ONOFRIO P. TERRAGNA, JR., xxx-xx-xxxx

MEDICAL CORPS

*To be colonel*

JOHN J. SALCHERT, xxx-xx-xxxx

MEDICAL SERVICE CORPS

*To be colonel*

EDWARD A. FERGUSON, xxx-xx-xxxx
DOUGLAS E. WELSH, JR., xxx-xx-xxxx

ARMY PROMOTION LIST

*To be lieutenant colonel*

GRANT I. BEYL, xxx-xx-xxxx
DARWIN G. BOSTIC, xxx-xx-xxxx
MANUEL BRILLONRODRIGUEZ, xxx-xx-xxxx
CARL W. BURGERHOFF, xxx-xx-xxxx
LAWRENCE J. CARMICHAEL, xxx-xx-xxxx
JULIA J. CLECKLEY, xxx-xx-xxxx
GILBERTO COLON, xxx-xx-xxxx
CARMELO CRESPOCABAN, xxx-xx-xxxx
JAMES M. DRAKE, xxx-xx-xxxx
MICHAEL T. ESKEY, xxx-xx-xxxx
LARRY W. GUDERJOHN, xxx-xx-xxxx
KENNETH E. HALL, xxx-xx-xxxx
ROBERT J. HASSER, xxx-xx-xxxx
VERN P. HOUGH, xxx-xx-xxxx
JAMES W. KELLEHER, xxx-xx-xxxx
ROBERT C. KING, xxx-xx-xxxx
ELIZABETH KINGSMAN, xxx-xx-xxxx
DANNY D. KINNEY, xxx-xx-xxxx
PHILLIP R. KROEKER, xxx-xx-xxxx
WILLIAM H. LOGAN, JR., xxx-xx-xxxx
MICHAEL W. LONG, xxx-xx-xxxx
RONALD L. LUCAS, xxx-xx-xxxx
PAUL H. MCLAUGHLIN, xxx-xx-xxxx
WENDALL W. MCMILLAN, xxx-xx-xxxx
RONALD E. MCROBERTS, xxx-xx-xxxx
JAMES R. MORGAN, xxx-xx-xxxx
ARNOLD W. MUNCRIEF, xxx-xx-xxxx
JOSEPH F. NASH, xxx-xx-xxxx
ALBERT E. NEWTON, xxx-xx-xxxx
JOHN A. NOLLETTE, xxx-xx-xxxx
PHILIP F. NOTO, xxx-xx-xxxx
EUGENE M. OTT, JR., xxx-xx-xxxx
JAMES A. PATTON, xxx-xx-xxxx
KENNETH W. PFEIFFER, xxx-xx-xxxx
JOHN K. POVALL, xxx-xx-xxxx
DON M. PREWITT, xxx-xx-xxxx
KENNETH J. PROSSICK, xxx-xx-xxxx
WILLIAM G. SHAW, xxx-xx-xxxx
DANNY C. SHORT, xxx-xx-xxxx
WILSON TORRES, xxx-xx-xxxx
JON L. TROST, xxx-xx-xxxx
FRANK T. TUCKER, III, xxx-xx-xxxx
CLYDE A. VAUGHN, xxx-xx-xxxx
SMYTHE J. WILLIAMS, xxx-xx-xxxx
JEFFREY L. YEAW, xxx-xx-xxxx

CHAPLAIN

*To be lieutenant colonel*

ARIEL R. MATIENZO LOPEZ, xxx-xx-xxxx

ARMY NURSE CORPS

*To be lieutenant colonel*

MICHAEL J. EDMISON, xxx-xx-xxxx
MARIE E. KRUCKMAN, xxx-xx-xxxx

MEDICAL CORPS

*To be lieutenant colonel*

EDWARD Y. MATHEKE, xxx-xx-xxxx

MEDICAL SERVICE CORPS

*To be lieutenant colonel*

BRADLEY J. GERVAIS, xxx-xx-xxxx
ALONZO F. RODRIGUEZ, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

*To be lieutenant colonel*

ARNOLD A. ASP, xxx-xx-xxxx
MARGUERITE *. BARNETT, xxx-xx-xxxx
JOHN V. *. BARSON, xxx-xx-xxxx
RICHARD *. BEDNARCZYK, xxx-xx-xxxx
GREGORY N. BENDER, xxx-xx-xxxx
DAVID A. *. BERMAN, xxx-xx-xxxx
HOUSTON *. BOGUS, JR., xxx-xx-xxxx
JAMES R. *. BOSSCHER, xxx-xx-xxxx
EDWARD E. *. BUNCH, xxx-xx-xxxx
ANNELORE F. *. BUTLER, xxx-xx-xxxx
DEAN E. *. CALCAGNI, xxx-xx-xxxx
PRESTON C. *. CALVERT, xxx-xx-xxxx
ROBERT W. *. CAMERON, xxx-xx-xxxx
JOHN W. *. CASSELS, xxx-xx-xxxx
ROBERT *. CASSINGHAM, xxx-xx-xxxx
EDWIN T. *. CASTANEDA, xxx-xx-xxxx
MICHAEL E. *. COATS, xxx-xx-xxxx
JEFFREY D. *. COE, xxx-xx-xxxx
LYDIA A. *. COFFMAN, xxx-xx-xxxx
PAUL S. *. COLLINS, xxx-xx-xxxx
MICHAEL Q. COSIO, xxx-xx-xxxx
JOHN D. *. COWSAR, xxx-xx-xxxx
BERNARD L. *. CROSBY, xxx-xx-xxxx
JOSEPH M. *. DAI xxx-xx-xxxx
NANCY A. *. DAWSON, xxx-xx-xxxx
GREGORY J. *. DEWERD, xxx-xx-xxxx
MARGRETTA M. *. DIEMER, xxx-xx-xxxx
THOMAS A. *. DILLARD, xxx-xx-xxxx
CRAIG F. *. DONATUCCI, xxx-xx-xxxx
DAVID P. *. DOOLEY, xxx-xx-xxxx
JOSEPH P. *. DUCEY, xxx-xx-xxxx
DAVID M. *. DUNNING, xxx-xx-xxxx
FRANK R. *. EBERT, xxx-xx-xxxx
EDWARD M. *. EITZEN, JR., xxx-xx-xxxx
ARN H. *. ELIASSON, xxx-xx-xxxx
NATHAN *. ERTESCHIK, xxx-xx-xxxx
DOUGLAS W. *. FELLOWS, xxx-xx-xxxx
ROBERT F. *. FINDLAY, xxx-xx-xxxx
STEPHANIE D. *. FLAGG, xxx-xx-xxxx
KEVIN T. *. FOLEY, xxx-xx-xxxx
CHARLES W. FOX, xxx-xx-xxxx
PHILIP R. *. FRANK, xxx-xx-xxxx
THOMAS E. *. GAINES, xxx-xx-xxxx
CARLOS *. GONZALEZ, xxx-xx-xxxx
DANIEL *. GORDON, xxx-xx-xxxx
MARK F. *. GORDON, xxx-xx-xxxx
STEVEN F. *. GOUGE, xxx-xx-xxxx
WILLIAM J. *. GRABSKI, xxx-xx-xxxx
LEROY M. *. GRAHAM, xxx-xx-xxxx
STEVEN A. *. GREENWELL, xxx-xx-xxxx
ERIK M. GREGORIE, xxx-xx-xxxx
FRANCIS M. *. GRESS, xxx-xx-xxxx
FRANCIS G. *. GRILLO, xxx-xx-xxxx
ROBERT A. GROVER, xxx-xx-xxxx
KIP R. *. HARTMAN, xxx-xx-xxxx
CLIFTON A. *. HAWKES, xxx-xx-xxxx
GARY L. *. HAYES, xxx-xx-xxxx
RANDAL H. *. HENDERSON, xxx-xx-xxxx
ROSE M. *. HENDRIX, xxx-xx-xxxx
JEROME E. *. HERBERS, xxx-xx-xxxx
MILO L. *. HIBBERT, xxx-xx-xxxx
WILLIAM T. HIGHFILL, xxx-xx-xxxx
PAMELA S. *. HILL, xxx-xx-xxxx
WILLIAM S. *. HILL, xxx-xx-xxxx
RALPH M. *. HINTON, xxx-xx-xxxx
KENNETH J. *. HOFFMAN, xxx-xx-xxxx
GWENDOLYN *. HOLEMAN, xxx-xx-xxxx
QUENTIN A. HUMBERD, xxx-xx-xxxx
LEE R. *. HUNTER, xxx-xx-xxxx
STEPHEN C. *. INSCORE, xxx-xx-xxxx
KEVIN T. *. JAMES, xxx-xx-xxxx
DUANE J. *. JEFFERS, xxx-xx-xxxx
JAMES C. JOHNS, xxx-xx-xxxx
JOSEPH P. *. JOHNS, xxx-xx-xxxx
JAMES E. *. JOHNSON, xxx-xx-xxxx
STEPHEN R. *. JONES, xxx-xx-xxxx
MARTIN G. *. JOURDEN, xxx-xx-xxxx
RAY F. *. KEATE, xxx-xx-xxxx
JOHN M. *. KIRK, xxx-xx-xxxx
MARGARET J. *. KNAPP, xxx-xx-xxxx
MAURICE KRASHIN, xxx-xx-xxxx
JAYASHREE *. KRISHNAN, xxx-xx-xxxx
RICKY D. *. LATHAM, xxx-xx-xxxx
BOBBILYNN H. *. LEE, xxx-xx-xxxx
JERRY W. *. LOCKARD, xxx-xx-xxxx
JENICE N. *. LONGFIELD, xxx-xx-xxxx
DAVE E. *. LOUNSBURY, xxx-xx-xxxx
RAYMOND F. *. LOWER, xxx-xx-xxxx
PHILLIP L. *. MALLORY, xxx-xx-xxxx
MICHAEL D. *. MATSON, xxx-xx-xxxx
RONALD A. *. MAUL, xxx-xx-xxxx
PAUL K. *. MAURER, xxx-xx-xxxx
MARTHA *. MCCOLLOUGH, xxx-xx-xxxx
DAVID R. *. MCFARLAND, xxx-xx-xxxx
JOHN H. *. MCGATH, xxx-xx-xxxx
TED A. *. MCMURRY, xxx-xx-xxxx
JOHN M. *. MCNAMARA, xxx-xx-xxxx
THOMAS C. *. MICHELS, xxx-xx-xxxx
ELIZABETH A. *. MOONEY, xxx-xx-xxxx
KENNETH W. *. MOSS, xxx-xx-xxxx
MARCIA *. MUGGELBERG, xxx-xx-xxxx
MICHAEL A. *. NOCE, xxx-xx-xxxx
JANET K. *. ONEAL, xxx-xx-xxxx
LORRIN W. *. PANG, xxx-xx-xxxx
CARL A. *. PATOW, xxx-xx-xxxx
OPHELIA *. PATTERSON, xxx-xx-xxxx
THOMAS *. PENNINGTON, xxx-xx-xxxx
PHILIP G. *. PERKINS, xxx-xx-xxxx
JAMES A. PFAFF, xxx-xx-xxxx
RICHARD B. *. PHINNEY, xxx-xx-xxxx
JOHN M. *. PLEWES, xxx-xx-xxxx
WILLIAM K. *. POSTON, xxx-xx-xxxx
LAWRENCE E. PUPA, xxx-xx-xxxx
THOMAS *. QUARNSTROM, xxx-xx-xxxx
KRISTIN B. *. RAINES, xxx-xx-xxxx
THOMAS M. *. RALSTON, xxx-xx-xxxx
KATY L. *. REYNOLDS, xxx-xx-xxxx
JOANNE L. *. RHOADS, xxx-xx-xxxx
ANDREW W. ROBERTSON, xxx-xx-xxxx
PAUL B. *. ROCK, xxx-xx-xxxx
NORBE *. ROSADOTOLEDO, xxx-xx-xxxx
WILLIAM *. ROUNDTREE, xxx-xx-xxxx
DAVID C. RUCK, xxx-xx-xxxx
MELVIN D. *. RUSSELL, xxx-xx-xxxx
JOSE L. *. SANCHEZ, xxx-xx-xxxx
DAVID W. *. SARGENT, xxx-xx-xxxx
PAUL S. SCHAEFER, xxx-xx-xxxx
WAYNE A. *. SCHIRNER, xxx-xx-xxxx
ROBERT L. *. SHERIDAN, xxx-xx-xxxx
ROGER L. *. SIDDOWAY, xxx-xx-xxxx
RICHARD H. *. SNYDER, xxx-xx-xxxx
GILBERTO *. SOSTRE, xxx-xx-xxxx
PAUL C. *. SOWRAY, xxx-xx-xxxx
LEONARD C. *. SPERLING, xxx-xx-xxxx
MERLE S. *. SPRAGUE, xxx-xx-xxxx
ROGER W. *. STRICKLAND, xxx-xx-xxxx
JOAN *. SULLIVAN, xxx-xx-xxxx
RITA L. *. SVEC, xxx-xx-xxxx
JOHN R. *. TARR, xxx-xx-xxxx
GREGG W. *. TAYLOR, xxx-xx-xxxx
MARK S. *. TAYLOR, xxx-xx-xxxx
LENARDO D. *. THOMPSON, xxx-xx-xxxx
PHILLIP J. *. TODD, xxx-xx-xxxx
RAY U. *. TOMKINS, xxx-xx-xxxx
ROGER D. *. TUGGLE, xxx-xx-xxxx
LARRY E. *. URRY, xxx-xx-xxxx
STEPHEN C. *. VANCE, xxx-xx-xxxx
WILLIAM O. *. WALKER, xxx-xx-xxxx
GEORGE W. *. WEIGHTMAN, xxx-xx-xxxx
HERBERT G. *. WHITLEY, xxx-xx-xxxx
STEVEN J. *. YEVICH, xxx-xx-xxxx
KUNCHUL *. YOON, xxx-xx-xxxx
HAE S. *. YUO xxx-xx-xxxx
ERIC J. ZEIDMAN, xxx-xx-xxxx
DARYL N. *. ZEIGLER, xxx-xx-xxxx

CHAPLAIN

*To be major*

CHARLES R. *. BAILEY, xxx-xx-xxxx
LAWRENCE M. *. BARRY, xxx-xx-xxxx
DAVID E. *. BATES, xxx-xx-xxxx
PAUL M. *. BOMBA, xxx-xx-xxxx
WILLIAM B. *. BROOME, xxx-xx-xxxx
ANDREW J. *. BULLARD, xxx-xx-xxxx
TERRY D. *. COOK, xxx-xx-xxxx
JOHN C. *. DEKEN, xxx-xx-xxxx
ROBERT A. *. DIGGS, xxx-xx-xxxx
THOMAS E. *. DRAKE, xxx-xx-xxxx
WALTER E. *. DREW, xxx-xx-xxxx
LARRY L. *. EAKES, xxx-xx-xxxx
DALE D. *. ELLENS, xxx-xx-xxxx
JEFFREY R. *. FOSTER, xxx-xx-xxxx
STEPHEN C. *. FOUNTAIN, xxx-xx-xxxx
RICHARD B. *. GARRISON, xxx-xx-xxxx
JERRY W. *. GRAHAM, xxx-xx-xxxx
ROBERT L. *. HELTON, xxx-xx-xxxx
GEORGE M. *. HEMINGWAY, xxx-xx-xxxx
FREDERICK *. HOADLEY, xxx-xx-xxxx
JAMES D. *. JONES, xxx-xx-xxxx
KENNE *. KOLENBRANDER, xxx-xx-xxxx
LAWRENCE C. *. KRAUSE, xxx-xx-xxxx
JERALD P. *. MARCOE, xxx-xx-xxxx
JAMES E. *. MAY xxx-xx-xxxx
WILLIAM *. MERRIFIELD, xxx-xx-xxxx
JOHNNY W. *. MIMS, xxx-xx-xxxx
STEVEN E. *. MOON, xxx-xx-xxxx
ANDREW R. *. MULVANEY, xxx-xx-xxxx
STEPHEN L. *. NAGLER, xxx-xx-xxxx
TED W. *. NICHOLS, xxx-xx-xxxx
RICHARD L. *. PACE, xxx-xx-xxxx
EARL B. *. PAYTON, xxx-xx-xxxx
CHARLES M. *. RECTOR, xxx-xx-xxxx
CHARLES D. *. REESE, xxx-xx-xxxx
JAMES R. *. RITCHIE, xxx-xx-xxxx
CURTIS C. *. SCHLOSSER, xxx-xx-xxxx
WARNER B. *. SIMO, xxx-xx-xxxx
LARRY S. *. SMEDLEY, xxx-xx-xxxx
MICHAEL S. *. STEELE, xxx-xx-xxxx
HAROLD G. *. TYLER, xxx-xx-xxxx
WILLIAM *. UNDERWOOD, xxx-xx-xxxx
MARK T. *. WERNER, xxx-xx-xxxx

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

*To be commander*

SANDRA KRAUS ADSIT
WILLIAM S. ADSIT
GEORGE MOT AKOB
GARELD WALTER ANDERSON
WILLIAM MARTI ANDERSON
FANANCY L. ANZALONE
ROBERT J. BACKER
WILLIAM CRA BAERTHLEIN
MICHAEL JUSTIN BAILEY
JAY MILTON BAKER
FREDERICK V. BAUER
JEFFREY L. BELL
JOHN T. BESTOSO
LAWRENCE STILWEL BETTS
PAUL ROBERT BIGGS
ALBERT R. BLACKY
MICHAEL BOLGER
MAURICE LOUIS BOUCHARD
KAREN MIKELAIT BOWDEN
RAYMOND E. BOZMAN
JOHN E. BRITT
JAMES LUTHER BUCK
ERNEST JOHN CAMPONOVO
MICHAEL D. CANTY
ROBERT P. CARRILLO
STEVEN CHALFIN
PEGGY JAN CHANDLER
EUGENE PAUL CHRISTIAN
JAMES MICHAEL CRUTCHER
GENE LEE DOWELL
JOHN H. EDMUNDS
RICHARD BRUCE ELLIS
ROBERT STEWART EPSTEIN
RONALD JOSEPH ESCUDERO
MICHAEL WILLI FAHLGREN
JOHN A. FORNADLEY
JAMES N. FRAME
DAVID J. FUNSCH
SHAMEEM K. GHAURI

NEIL FRANK GIBBS
GREGORY C. GRAY
THOMAS W. GROSSMAN, JR
RAFAELA GUTIERREZ
FRANK WESLEY HALL
KONRAD EDMUND HAYASHI
LAURA W. HENDRICKSON
DONALD STEVEN HERIP
FRANK K. HIXON
KENNETH HOLLINGSWORTH
CHARLES BRETT HON
THOMAS KEITH HUISMAN
DAVID H. HUNTER
DAVID BRUCE JONES
LEO KUSUDA
LORENZ FREDERIC LASSEN
JERRY MICHAEL LINENGER
ISMAEL PADILLA LOPEZ
ELEANOR CONCEP MARIANO
ROBERT A. MARLEY
DONALD R. MASON
ROBERT GOODIN MCALPINE
JOHN WILLIAM MILLER
LEE PATRICK MILLER
ROBERT MORALES
RICHARD L. MORRISSEY
MARC S. MURAMATSU
MARK CLARK MUSMANNO
ANDREW PHILL NEUHAUSER
STEVEN L. NICHOLS
BRENDON NICHOLSON
KENNETH E. NIXON
JESUS ARNALDO M. OLCESE
DOMINIC PAPARELLA
HAROLD C. POSTON
JOHN BOURKE RAFF
PAUL WILHELM RAGAN
JOHN S. REIFSCHNEIDER
STEVEN WESLEY REMMENGA
ROBERT L. RINGERING
MIGUEL ANGEL RODRIGUEZ
CARLOS ALBERTO ROSENDE
WILLCOX KIRKLAN RUFFIN
RONALD P. SEN
MICHAEL GEREN SENEFF
WILLIAM F. SIEBERT, JR
DREW KEVIN SIEGEL
MICHAEL L. SMITH
ROBERT S. SMITH
JAMES E. SNYDER
ROBERT TIMOTHY SPIRO
JAMES R. STOREY
RONALD L. THOMAS
PAUL HARMON UHLE
DAVID S. WADE
SUSAN JENNIFER WALKER
MARK R. WALLACE
BRIAN W. WAMSLEY
WILLIAM G. WATKIN
TIMOTHY BALDWIN WATSON
DEAN ANGELA WELDON
DENNIS ALONZO WILSON
PAUL RONALD WOLFF
LAWRENCE ALVIN WOOD
MICHAEL YEDINAK
WILLIAM MARTIN YUDT

SUPPLY CORPS OFFICERS

*To be commander*

DAVID JAMES BACA, III
JOHN ROBERT BACKUS
ALBERT NED BALZANO
JAMES LAWRENCE BARRETT
JOHN ALAN BAUMGARTEN
JOSEPH J. BEACHAM
STEPHEN ALLEN BEDARD
DENNIS VICTOR BELT
PAUL MARCUM BLAND
KENNETH CHARLES BODIN
JOSEPH HENRY BOGGIO
RICHARD ALAN BOYD
CARL THOMAS BRIGHT
ROBERT O. BROWN
WILLIAM VINCENT BUDD
WILLIAM ALOYSIUS CAMPBELL
GLENN CANIGIANI
STEPHEN MARK CARR
WAYNE GORDON CHESLEY
ROGER NELSON CLARK
SHAW HANN COHE
ROBERT ARTHUR COLLARD
CURTIS LEE COY
JERRY SILVIO DEFILIPPO
DAVID NEAL DOYLE
JOHN WILLIAM DRERUP, JR
PETER MARK EVANS
JOHN DUDLEY FARLIN
FREDERIC BRIAN FARRIS
WILLIAM JOSEPH FENZAN
RICHARD LEE FULTON
GARY WHITNEY GAMO
LANCE DARROW GILMORE
WALTER JOHN GORDON
ROBERT HAMMOND
FRANK THOMAS HARMER
TIMOTHY JAMES HARP
KURT RANDALL HUFF
RAYMOND ROGER JOHANSON
JOHN LESLIE JONES
JOYCE BOLTON JORDAN
ROBERT KEVIN KEARNEY
JOHN PETER KELLY
JOSEPH WILLIAM KENNEY
CHRISTOPHER DENNIS KNAGGS
BRUCE G. LALONDE
FRANKY LANE
FRANK JOHN LAURO
ROBERT EUGENE LEE
DARYL RAY LOTT
FRANCIS ANTHONY MANNO
RICHARD INCREASE MATHER, JR
DANNY GERALD MATTHEWS
STEVEN WILLIAM MCKINZIE
WILLIAM S. MCNARY
BROOKS PALMER MERRITT, JR
JOHN ERIC MILNER
JAMES LINNEEN MITCHELL
WILLIAM BRETON MONTGOMERY
ROBERT JAMES MUNDELL
RAYMOND EUGENE MYERS
ROBERT GLYNN NANNEY
DEAN TATSUMI NARIMATSU
WILLIAM MICHAEL NEWELL
WILLIAM J. NICOL
ROBERT MCCAFFERY NOONAN
KEITH RAYMOND NOSTRANT
MICHAEL JAMES NOWLAN
STEVEN ALAN PARK
EARL GEORGE PARSHALL
PHILIP MARK PFEIL
JAMES P. POE
JOHN STEPHEN PROCTOR
DANIEL EDWARD RACH
MICHAEL EUGENE RILEY
JOHN GREGORY RIPPERTON
GARY WAYNE ROERIG
MICHAEL SYLVESTER ROESNER
JAY F. ROSAPEPE
WILLIAM JAMES SARGENT
RICHARD LAMONT SCHUBERG
DAVID GEORGE SHANAHAN
THOMAS BENSON SKINNER, JR
ALBERT BENNY SLIGH, JR
STEPHEN EVERETT SMITH
MICHAEL HENRY SPENCER
CHRISTOPHER PETER STEELE
RICHARD LEON STEWART
DANNY CARL STRUEBING
ALAN S. THOMPSON
PATRICK ALLAN THORNTON
DONALD CAREY TISON
TIMOTHY STEVEN TRAAEN
GEORGE MARSHALL TUSING, II
JEANNE KAY VARGO
THOMAS GEORGE VAYDA
CHARLES THOMAS VICKERS
TERRY LEE WARD
THEODORE WILLIAM WARD
GARY NEAL WATKINS
JOE DONALD WATSON, JR
TERRY EUGENE WIGHT

CHAPLAIN CORPS OFFICERS

*To be commander*

ROBERT HAROLD ADAIR
FRED ROCKWELL ARCHER, JR
THOMAS ROSS ATKINS
NORMAN LESLIE AUERBACK
EDGAR SPENCER BANKHEAD
HERBERT JAMES BARKER
WILLIAM THOMAS BENNETT
THOMAS EDWARD BETTS
GERALD JACKSON BLACKBURN
RONALD JOSEPH BUCHMILLER
ANTHONY HERMIT CARPENTER
MICHAEL A. DIAZ
RONALD WAYNE DURHAM
RALPH STEPHEN EPPERSON
GEORGE DONALD FESSLER
L. SUSAN GARMENT
ARLO RALPH GIBSON, JR
EUGENE THOMAS GOMULKA
JAMES G. HARWOOD
FRANKLIN ERNEST HAYS
SIMON PETER GIANAN IGNACIO
ALAN N. KEIRAN
FRANK S. KLAPACH
ALFREDO SONCUYA LABARO
JOSEPH RICHARD LAMONDE
BRUCE ALAN MARTIN
JERRY ELVIN MCNABB
DAVID LAWRENCE METZGER
DONALD ARCHIE MORRIS, SR
EDWARD ARTHUR NEWHOUSE
EILEEN LOUISE OHICKEY
JAMES PATRICK OKIELTY
DOUGLAS JAMES OLAUSON
DANIEL H. OTTAVIANO
GARY REX POLLITT
JOHN W. POPE
JOHNNA LEE PRECUP
CURTIS ALLEN RUSSELL
MITCHELL SCHRANZ
DOMINICK SIMONELLI
ALBERT ISSAC SLOMOVITZ
EDWIN DOUGLAS STANFIELD
JULIUS ALEXANDER THOMAS
RAY DUANE UMBAUGH
RAE O. WEIMER
CAROLYN CELESTINE WIGGINS
RONALD GERALD WILKINS
DALE EDWARD WILLIAMS

CIVIL ENGINEER CORPS OFFICERS

*To be commander*

ARTHUR DOUGLAS AYARS, JR
JIMMIE ALVIN BELL
THOMAS EDWARD BRUBAKER
ROBERT JAMES COWAN
STEPHEN CHARLES DUBA
DENNIS ALAN FEWELL
BRAD J. FOWLER
DANIEL LEE GRIGSBY
GEORGE FREEMAN HAINES, III
EVERETTE L. HERNDON, JR
DAVID EDOUARD JACQUES
STEVEN WAYNE JOHNSON
ERNEST JOSEPH KATZWINKEL
JOSEPH MICHAEL LOFASO
JAMES ALEXANDER J. MCCONNELL
THOMAS DAVID MCMURRAY
WILLIAM PETER OSTAG
JAMES E. OWENS
CHARLES G. PAVLOS
ROBERT LUTHER PHILLIPS
JOHN M. SHREWSBURY
MICHAEL ROY SUNDBERG
RICHARD EARL WAGNER
VERNON J. WALTERS
JAMES RANDOLPH WILLIAMS, JR
JON CHRISTOPHER WYMAN
JOSEPH W. ZORICA

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

*To be commander*

CHARLES ADLAI ALLEN
LAWSON R. ALMAND
JOHN THOMAS CARTY
CAROL JEAN COOPER
JOHN JOSEPH DESCHAUER
JAMES F. DUFFY
CHRIS EUGENE ELDER
THOMAS L. GILEVICH
KENNETH A. KRANTZ
MICHAEL F. LOHR
LARRY A. MCCULLOUGH
KEVIN PATRICK MCMAHON
JAMES J. QUIGLEY
JOHN PATRICK QUINN
BRIAN DAVID ROBERTSON
JAN ROSEN SERAFINI
THOMAS R. TAYLOR
ROBERT JOHN WHITE

DENTAL CORPS OFFICERS

*To be commander*

ALEX D. EHRLICH
ROBERT EDWAR ETHERIDGE
DEIDRA BARNES FLANARY
HOWARD C. FLEISCHER
RICHARD C. HAHN
CURTIS L. HAYDEN
MICHAEL P. HILL
DONNA RAHN HUGGINS
JAY W. JOHNSON
JONATHAN D. KARAMAN
DAVID WILLIAM KIDD
KENNETH M. KLEIN
GENE MICHAEL KOHLER
PAMELA N. MINKE
TOM R. NEIHART
EUGENE VINCENT J. NOLFI
DAVID R. OLINZOCK
WILLIAM C. RODDY
ROD MICHAEL ROGGE
DANIEL G. SCRUGGS
WILLIAM SWITTS
ANTHONY P. VARBONCOEUR
KENNETH RONALD WRIGHT

MEDICAL SERVICE CORPS OFFICERS

*To be commander*

MARTHA BETHE ALEXANDER
CURTIS GLENN ARMSTRONG
RALPH EDWARD BALLY
MELVIN THOMAS BAXTER
BRIAN GEORGE BRANNMAN
JERRY LEE BRITTAIN
JOHN EDWARD CARSTEN
JACK DOWMAN CHAPMAN, II
CLARENCE RAY CLINE
ROBERT WARREN CONNORS
WILLIAM HENRY CRAIG, JR
THOMAS NEILL CROSBY
MICHAEL SNYDER CROSS
MICHAEL DANIEL CURLEY
CHARLES THOMAS DUDLEY
RONALD JOSEPH ELLIS
MELVIN JOSEPH ELY, JR
MICHELINE YVONN EYRAUD
STANLEY LANE FISH
JOHN CHARLES FOWLER
THOMAS WAYNE GALE
JOHN NICHOLAS GALLIS
CHARLES LEE GEORGE
JOHN STEVEN GIBSON
RONALD DARYL GOODNOUGH
JOHN ANDERSON HALL
PATRICIA CAR HARRELSON
JEFFREY PAUL HARRISON
NAPOLEON HODGES
DAVID CARL JOHANSON
AUSTIN FREEMAN I. JONES
RICHARD LYN LAFONTAINE
MICHAEL GEORGE LEVRINI
JOHN ROBINSON LEYSATH
MICHAEL GAB LILIENTHAL
WILLIAM LYNN LITTLE
ALBERT BENJAMIN I. LONG
KENNETH ALVIN LOVE
GEORGE CORT MASSEY
STEVEN G. MATTHEWS
THOMAS RICHARD MCCOY
MICHAEL LEE MCDONALD
LARRY TILMON MERCER
ROBERT WILLIA MOYNIHAN
VINCENT WAYNE MUSASHE
VLADIMIR NACEV
RICHARD PAGE NIELSEN
DAVID LAWRENCE NORMAN
KENNETH RUSS OCKERMANN
FRANK CHARLES PETHO
KENNETH D. PURK, JR
EMMETT WAY QUESENBERRY
PAUL VINCENT QUINN, JR
BARBARA ANN RECKER
KEVEN CHARLES REED
WALTER ALBERT REY, JR
STEPHEN CHARLES RICE
EDWARD LEWIS ROBINSON
LAWRENCE WI SCHOENBERG
JOHN EDWARD SHORE
WILLIAM ALBERT SILVA
HARVEY LARAND SIMPKINS
HENRY GERHAR SPOLNICKI
KENNETH RAY STILL
SHELDON THOMA STODDARD
MICHAEL TRO TAMBURELLO
JOHN EDWARD TRACY
WILLIAM DEAN TRAVIS
ERNEST JOSEPH UFFENS
MARCIA A. WALZ
FAYTHE MARIE WEBER
FRED RICHARD WHITE
JOHN CARL WOCHER
CHARLES ROY J. WOODWARD
MARK TRACY WOOSTER
EDWARD PATTERSON WYATT
DAVID ANDREW WYNKOOP

NURSE CORPS OFFICERS

*To be commander*

DEBORAH ANN ANDERSON
MAURICIO APARICIO, III
KATHLEEN JANE BAILEY
PATRICIA KATHER BANNOW
MARY ANN ERVIN BAUMANN
DIANE MARIE BERRY
JOSE BLANCO
ALICE IRENE BOVA
CHERYL LYNN BRANDI
REBECCA SUE BROWN
CHRISTINE BRUZEKKOHLER
PATRICIA MARGARET BULL
BARBARA JEAN CARLSON
EDWARD GALE CONDON, III
PEGGY BAI CRISCITIELLO
LINDA MARY CUMMINGS
MELODIE COOK DACORTA
JOANN JUSTINE DEVINS
LYNETTE ROSE EIDEM
DENNIS LAWRENCE ELLIS
MARYLOUISE KA FELHOFER
KATHLEEN E. FITZGERALD
SUE ALICE FLOOD
DONALD ALAN FLOYD
LOUISE ROSEMARY GEORGE
ALLEN D. GIBBARD
TERRY FORSTER GLOVER
JESSE HERNANDEZ
KATHLEEN ANN HIATT
LISA DIANN HILES
HARRIET ZECH HUNTER
JOHN WAYNE HUTCHINS, JR
MARY ANN JARMULOWICZ
SHIRLEY ANN JETT
DEBORAH YOUNG KAMIN
RONALD WALLACE KING
SANDRA LEE KOSSLER
ELLEN REBECCA LAHMAN
KATHRYN STEELE LANGLEY
PATRICIA GAI LAUERMANN
MARGARET S. LAWLER
DIANE MARIE LEDONNE
DOUGLAS KEITH LEIBY
SUSAN BRADLEY LENSING
SUZAN HENRIETTA MADER
MARGARET ANN MARINOW
ANDREA JANIS MASSER
DEBORAH WHITNE MATHEWS
SUZANNE O. MCCARTHY
RANDALL A. MCCONNAUGHEY
BARBARA WEAK MCREDMOND
LISSA KAYE MEHALLICK
JOSEPH WILLIAM MILLER
SUZANNE MARIE MORGAN
CHARLES BERNARD MOUNT
PATRICIA CATHAR MURPHY
JIMMIE LEROY OLIVER
BETTY HARRIS OMEROD
MARLA KATHER PATTERSON
KAREN ELIZABET RAFALKO
DONNA KAY RHODEY
WILLIAM EDWAR RICHBURG
HAYWARD LEE RISSER
MARION LOUISE ROCK
LUCILLE ALMA RYERSON
MARY STRAIN SAVITSKY
BARBARA JANE SCHMITZ
DONNA DEPOY SPENCER
LOREN EDWIN SPITZER
JEANNETTE THERIAULT
JUDITH LYNN TUCKER
SANDRA L. TYNAN
GEORGENE BIRGI WAECKER
MARILYN JEAN WAHL
THERESE ANN WHITE
VIANNA LEE WITCHER

LIMITED DUTY OFFICERS (STAFF)

*To be commander*

MICHAEL EVERETT DRAIN
CRISPIN A. TOLEDO

IN THE NAVY

THE FOLLOWING NAMED LIMITED DUTY OFFICERS, TO BE REAPPOINTED AS PERMANENT LIMITED DUTY OFFICERS IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE SECTIONS 531 AND 5589(A):

*To be lieutenant, limited duty officers, line, USN, permanent*

RODANTE P. ALLANIGUE
THOMAS E. BARNES, JR
TIMOTHY S. BOYDSTUN
ANGELO CONTINO
PHILIP A. DELGADO
ROBERT D. JONES
DANIEL K. KELLEHER
KURT V. KLIPPEL
DALE K. KUTSCH
VIRGIL A. MCCALL
BRIAN F. MCSHEFFREY
WALTER P. OLKOWSKI
CHRISTOPHER D. PIPER
GERALD C. ROXBURY
EDWARD R. SMITH
PAUL C. STEWART
ALLAN J. THOME
ARTHUR L. VALDE, JR
JAMES A. WHITE
ALMUR S. WHITING, III
DON S. ZITTRAUER

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED AS PERMANENT LIMITED DUTY OFFICERS IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

*To be lieutenant, limited duty officers, line, USN, permanent*

DANNY L. ACHTERFELD
VICTORINO A. ALCANTRA
CYNTHIA A. ALDERSON
JOSEPH A. ALDOUPOLIS
WARREN D. ALLISON
DONALD R. AMOS
JOSE V. AMPER
SHELIA V. ANDERSON
AURELIO O. ANDIC
TITO M. ARANDELA, JR
WILLIAM B. ASHTON
DAVID H. ATCHISON
WILLIAM N. AUDETTE, JR
EDWARD J. BAKER
CHARLES R. BALDWIN, JR
JOHN R. BALDWIN
KEITH S. BARBER
ROBERT B. BELL
GORDON L. BELLEVUE
KAY E. BENSON
RANDY L. BERGMAN
BILLY L. BIBLER
WILLIAM T. BIVENS
DANIEL W. BLEDSOE
JAMES R. BOCKERT
RONALD L. BOISVERT, JR
WILLIAM BOOZER
ROBERT W. BOSERMAN, II
MICHAEL A. BOSLET
DAVID P. BOWERS
MICHAEL E. BRALEY
TERENCE A. BRENNAN
JAMES R. BREON
GEORGE BRIGGS, JR
JOHN W. BROOKS
TIMOTHY J. BROOKS
JEFFREY F. BROWN
THEODORE R. BROWNELL
JOHN H. BRUNNER
DON S. BUDDE
DIANA J. BURNS
JOHN B. BURNS
WILLIAM L. BURRESS
DENNISNEWELL BURT
DANIEL B. BUTLER
MICHAEL E. CALL
REID D. CARR
JOSEPH C. CASTELL
SCOTT E. CHISM
DONALD B. CHRISTOPHER
DAVID C. CHRISTOPHERSON
DONALD T. CIESIELSKI, JR
WILLIAM A. CLACK
MARY V. CLARK
LEON O. COCHRAN
WILBUR L. COFFMAN
STEVEN D. COLE
ANDREW A. COLETTI
JAMES E. COLLETT, III
BILLY J. COLTRAIN
GROVER M. COMER, III
DAVID R. CONNER
ELLIOTT S. CORBETT, III
RANDALL W. CORMAN
TOMMY L. COUCH
ROBERT CRATE
AARON A. CRAYCROFT
SUE A. CRESS
ROBERT D. CRIST
RICHARD R. CSUHTA
EDWIN CUNNINGHAM
MARK A. DAHLKE
RICHARD H. DAVIES
ERNEST W. DAVIS
GREGORY W. DAVIS
RONALD B. DAVIS
RONALD F. DAVIS
KENNETH H. DEAL
RAFAELITO B. DEJESUS
STEVEN A. DELANCY
SILVESTER R. DELROSARIO
WILLIAM F. DENEWETT
WAYNE DENMARK
JOHN M. DENNETT
DREW F. DETTLOFF
MARGARET M. DHAENE
RICKY L. DICK
ROBERT A. DONNICK
KENNETH A. DRUMMOND
GARY F. DUNDON
MICHAEL R. DUNKLE
WILLIAM P. DUNN
JAMES R. EDDY
ANDY D. EERNISSE
PAUL E. ERICKSON
EDWARD C. EVANS
MARK R. EVANS
KENT C. FERGUSON
KENNETH R. FIELDS, JR
STEPHEN C. FILIPOWICZ
DAVID A. FINKE
RANDALL L. FISCHER
JUDILEE D. FITZHUGH
TIMOTHY C. FLOWERS
ROBERT P. FOOR, JR
BILLIE J. FORBUS
STUART T. FOSTER
LORENZO S. FRANCISCO
RICHARD A. FUERST
RICHARD N. GATES
RONALD E. GATES
NICHOLAS L. GIANACAKOS
RAY A. GILLESPIE
ALLEN R. GOINS
JAMES F. GOINS
GARY K. GOODE
JOHN M. GRAVES
CARL C. GREEN
GARY GREEN
CLIFFORD O. GRIFFIN, II
ANN M. GRIM
RICHARD H. GRIMM
STEVEN J. GULINO
MARK A. HALLOWELL
BRADLEY F. HARDIN
WILLIE HAWK, JR
RICHARD F. HAZZARD
MICHAEL A. HEGARTY
RICHARD H. HENDREN
MARVIN D. HENSLEY
FREDERIC W. HEPLER
GEORGE L. HERNDON
MITCH A. HESKETT
SHARRIS L. HEUSSER
DONNA F. HINDS
DAVID W. HIRRAS
RICKY L. HOLT
RONALD D. HOLT
NORMAN D. HOWARD
RICHARD A. HUMES
GLENN E. HUNSBERGER
ALBERT L. IANNITTO, JR
CURT D. ISBELL
KEVIN R. JACKSON
ROBERT A. JACKSON
KEITH P. JENKINS
CLIFTON T. JOHNSON
LOUIS J. JORFI, JR
KIRK D. KANODE
MICHAEL A. KELLENBERGER
JEAN T. KELLEY, JR
STEVEN J. KEMPER
DAVID E. KIMBALL
DENNIS R. KING
LEO D. KING
JON M. KLING
CLAYTON C. KNIGHT
JEFFREY M. KNIGHT
GARRVAN D. KNOX
KENNETH A. KOHLER
PAMELA S. KOVACH
MATTHEW J. KRAUSMANN
LEE B. KULHANEK
STEPHEN M. KURAK
PHILIP G. LAQUINTA
ERNEST E. LASHUA
CHARLES L. LAVENE
WILLIAM J. LEWIS
JAMES M. LIGHTBODY
PETER R. LINTNER
DAVID P. LIPPOLD
LEONARD G. LITTLE, JR
WILLIAM A. LITTLE
ROBERT G. LOCKE
PAUL D. MACFARLANE
TERENCE P. MALLOY
JORGE L. MANRIQUE
GARY L. MARCOTTE
ERNESTO G. MARIANO
DWAYNE A. MARKLEY
RANDAL T. MARTIN
TERRY M. MARTIN
LEONIDES MARTINEZ
MARY R. MATTHEWS
RONALD D. MATULA
WALTER M. MATUSZEWSKI
ROBERT J. MCCARTHY
WILLIAM F. MCDONALD
ERNEST W. MCDOWELL
CLAUDE E. MCGINLEY
JAMES J. MCGRATH, JR
WILLIAM D. MCPHERSON
KENNETH H. MCSPADDEN
JON A. MCSWEENEY
KEVIN G. MCTAGGART
DENNIS D. MEARS
STEPHEN P. MELNICK
MARIO M. MERCADO
HAROLD T. MERRILL
KENT L. MILLER
MICHAEL E. MITCHELL
RALPH L. MITCHELL, JR
MARVIN L. MOHL
EUGENE M. MOORE
STEVEN J. MORAWIEC
MICHAEL D. MORIARITY
THOMAS R. MOSS
GARY E. MURRAY
KEVIN K. NELSON
LARRY W. NESBY
HAROLD A. NEVILL
ROBERT M. NEWTON
DANIEL M. OHR
KEVIN R. OLEARY
MICHAEL D. OLIVER
MARY P. OLLIGES
RICHARD N. OSTER
WILLIAM L. OUELLETTE
JOHN N. PARIS
TIMOTHY W. P. PATON
DEBRA A. PAXTON
RICKY L. PEARSON
AARON R. PEREZ
MICHAEL A. PETRILLO
DA HUMBERTO M. PINE, JR
RICKS W. POLK
JAMES R. POPP
JESSE E. PROTHRO
ERIC L. RASMUSSEN
DAVID J. RATTAY
MICHAEL J. RAY
FRED R. REINSHUTTLE
CRAIG REMIG
MAX M. RESNICK
WALTER J. REYNOLDS
THOMAS A. RITTAL, II
RAY A. RITTWAGER
ANGEL R. RIVERA
RICHARD A. ROBINSON, SR
JEFFREY T. ROTH
STEPHEN M. SALKA
JOHN A. SAMPSON
EDWARD A. SAWYER
DONALD L. SAYRE
JOHN L. SCHAFER
LAWRENCE W. SCHEIBLE, JR
JEFFREY M. SCHMIDT
DONALD H. SCHMITT
MICHEAL SCHNEEKLOTH
GERALD A. SCHRAGE
DAVID A. SCHRIEBER
BRIAN F. SCHWARK
MICHAEL G. SCIOLI
MICHAEL J. SCOTT
JOHN S. SEALS, SR
ROCKY J. SEELBACH
RICKY L. SELEY
PATRICK B. SHEPLER
MICHAEL L. SLOANE
JAMES E. SMIT
ERIC N. SMITH
MARK P. SMITH
DEBRA L. SOCORSO
DAVID A. SPANGLER
EDWARD L. SPIRES
RICHARD D. STALCUP
ARTHUR L. STANLEY
VERNON T. STEEN
WILLIAM F. STODDARD, JR
ROLAND STRICKLEN
JOHNNY L. SUMNERS
MICHAEL H. SUMRALL
SUSAN C. SWIDER
JAMES C. TAPPEN
LELAND D. TAYLOR
JEFFREY W. THOMAS
JACK A. THOMPKINS
BERNARD S. THOMPSON
LEONARD T. THOMPSON
MICHAEL L. THOMPSON
THOMAS J. THOMPSON
THOMAS J. TROTTO
ALBERT L. TULLUS
PETER S. TURICK
MICHAEL D. TUSOW
WILLIAM F. TYSON
DWAYNE A. VANDERWALL
KENNETH W. VENABLE
RICHARD E. VERBEKE
MARK A. VIA
RICHARD K. VINE
CLINTON A. VOLLONO
DONALD E. VOSHALL
DENNIS A. VREM
OAKLEY K. WATKINS, III
DANIEL J. WELKE
KAREN S. WERNER
MICHAEL L. WHITE
MICHAEL R. WHITE
DEBRA J. WHITEHURST
REGGIS W. WHITEHURST
KENNETH L. WICKHAM
MARK O. WIDTFELDT
JEFFREY G. WILCOSKY
DAVID B. WILKIE
ROBERT A. WILLEN
EDWARD W. WILLIAMS
LELAND D. WILLIAMS
NANCY L. WILLIAMS
ROY N. WILLIAMSON
MARK A. WISNIEWSKI
ERIC M. WOOD
CHARLES R. WOODWORTH
WILLIAM J. WREN
JEFFREY B. WRIGHT
CHARLES W. YARD
MICHAEL A. YATES
MICHAEL B. YOAST
GAIL E. ZEISSER
JOHN M. ZELNIK
MICHAEL J. ZIELINSKI
WALTER I. ZITTEL

THE FOLLOWING NAMED LIMITED DUTY OFFICER, TO BE REAPPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS AS A LIMITED DUTY OFFICER OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

*To be lieutenant, limited duty officer, supply corps, USN, permanent*

BARRY L. HENRY

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

*To be lieutenant, limited duty officers, supply corps, USN, permanent*

GENARO T. BELTRAN, JR
MILTON W. FRAZIER
VICENTE R. GILL
JOHN H. HORNBROOK, III
CHARLES D. KENNEY
JOHN R. ROGERS
MICHAEL J. SPRAGUE

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

*To be lieutenant, limited duty officers, civil engineer corps*

*To be USN, permanent*

STUART L. J. DAHL
JOHN W. GILMORE
JAMES A. HASTY
EDGAR W. LEONARD
WILLIAM M. TURNER

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LAW PROGRAM AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

*To be lieutenant, limited duty officers, law program, USN, permanent*

GREGORY M. CHAPMAN
JAMES J. MAISANO
JOHN E. SAWYER

## CONFIRMATIONS

### Executive Nominations Confirmed by the Senate May 23, 1990:

NATIONAL RAILROAD PASSENGER CORPORATION

TOMMY G. THOMPSON, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL RAILROAD PASSENGER CORPORATION FOR A TERM OF 4 YEARS.

TOMMY G. THOMPSON, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL RAILROAD PASSENGER CORPORATION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 27, 1990.

IN THE COAST GUARD

REAR ADM. WILLIAM J. KIME, U.S. COAST GUARD, TO BE COMMANDANT, U.S. COAST GUARD FOR A TERM OF 4 YEARS WITH THE GRADE OF ADMIRAL WHILE SO SERVING.

FEDERAL COMMUNICATIONS COMMISSION

ANDREW CAMP BARRETT, OF ILLINOIS, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1990.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

GEORGE R. MERRILEES

THE FOLLOWING REAR ADMIRAL, AS VICE COMMANDANT, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

MARTIN H. DANIELL, JR.

THE FOLLOWING REAR ADMIRAL, AS COMMANDER, PACIFIC AREA, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

A. BRUCE BERAN

# HOUSE OF REPRESENTATIVES—*Wednesday, May 23, 1990*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. FAZIO].

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*May 23, 1990.*

I hereby designate the Honorable VIC FAZIO to act as Speaker pro tempore on today.

THOMAS S. FOLEY,
*Speaker, House of Representatives.*

## PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we give thanks, O God, for the gifts of creation, may we also see more clearly our responsibility to care for the Earth and all its glories. As we did not create the world and live here but for a time, we are stewards of its good graces and ought assume the tasks of treating the environment with care, so that its fruits of plenty may be for us and for our descendents and all the years to come. Grant this, O God, our earnest prayer. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Florida [Mr. STEARNS] will please come forward and lead the House in the Pledge of Allegiance.

Mr. STEARNS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## PERMISSION FOR SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE OF COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE ON TOMORROW

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce be permitted to sit while the House is reading a measure for amendment on Thursday, May 24, 1990, under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to inquire of the gentleman from Massachusetts [Mr. MARKEY] whether or not this has been cleared with the minority. It is the Committee on Energy and Commerce that will have the bill on the floor today, and it seems to me the gentleman will have Members from both parties that would be involved in the battle on the floor that would be unable to attend a meeting of the subcommittee. I am a little confused by the request. Is this something that the minority has signed off on?

Mr. MARKEY. Mr. Speaker, if the gentleman will yield, Mr. LENT, Mr. RINALDO, and Mr. MICHEL have all signed off on it. We cleared it with them.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## BRUTALITY AGAINST PALESTINIANS MUST STOP

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in the last 30 months over 700 Palestinians have been murdered on the West Bank and the Gaza Strip. Over 160 of those Palestinians were children that averaged 10 years old. Over 6,500 Palestinian children have been injured by gunfire, and not one Palestinian has been armed.

Mr. Speaker, Palestinian stones are no match for Israeli cannons. But for some reason Congress, who has been the champion of human rights all over the world, has turned its eyes and turns its face from the plight of the Palestinian people.

I say today that the Palestinian people are also God's children and this brutality must stop. The silence in the House of Representatives is deafening. I encourage every Member of this body to support President Bush's peace plan for the Israelis and the PLO to negotiate. The PLO are the known representatives of the Palestinian people. I think there is too much killing on the West Bank and the Gaza Strip.

## SELF-DETERMINATION FOR KASHMIR

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, on May 21, Kashmir's leading Moslem priest was murdered in his office. This recent atrocity illustrates the heinous crimes being committed in the disputed territory between Pakistan, India, and China.

I rise today to encourage self-determination for the people of Kashmir. The oppressed Moslem-majority population of Kashmir has longed for independence for more than 40 years.

Over the past few months, we have heard reports of escalating violence in Kashmir, innocent people being killed and injured, and thousands of Indian military police attempting to exert greater control over the Kashmiris. A curfew and economic embargo has been placed on the capital city, Srinagar. No doubt, human rights violations are occurring everyday.

Unfortunately, we have been unable to document the truth about what is happening in this region because international human rights organizations have not been able to conduct investigations there. I have cosponsored legislation (H.R. 4641) that would deny development assistance funds to India unless their government allows human rights organizations to monitor human rights in Kashmir.

Pakistan and India have fought three wars along the border of Kashmir since 1947, and a fourth war would not serve either country's interests. A speedy resolution to this conflict would be in the best interests of everyone.

It is my hope that the people of Kashmir will be given the long-awaited opportunity to determine how they might be governed.

## TRIBUTE TO LADIES OF NEW YORK STATE AMERICAN LEGION AUXILIARY

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. McNULTY. Mr. Speaker, I rise today to commend the ladies of the New York State American Legion Auxiliary.

Under the able leadership of President Helen G. Klimek, of Loudonville, this organization has begun a significant effort to prevent blindness in children.

The most common cause of poor vision in children is amblyopia, or "lazy eye," which affects as many as 10 million Americans. While early treatment is very effective, many children are denied access to treatment due to inadequate vision screening in the preschool years.

Mrs. Klimek has devoted her presidency to the development of a reliable, inexpensive, and easy-to-administer vision screening test for preschoolers. The implementation of such a test would ultimately benefit children not only in New York State, but around the country, and around the world.

Three New York hospitals, the Albany Medical Center, the Childrens' Hospital of Buffalo, and the childrens' eye clinic at Columbia-Presbyterian Hospital in New York City, are working together to develop the vision screening test.

Mr. Speaker, I applaud Mrs. Klimek and all of the individuals involved in this project for their commitment to protecting the vision of our children.

## PROVIDING FOR FURTHER CONSIDERATION OF H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1990

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 399 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 399

*Resolved,* That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air, and the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitue recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except the amendments printed in the supplemental report of the Committee on Rules accompanying this resolution or as specified herein. The Committee on Rules is hereby authorized to file a supplemental report at any time after the adoption of this resolution. Said amendments shall be considered in the order and manner specified in the report, shall be considered as having been read, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. All points of order against any amendment printed in the report are hereby waived. Said amendments shall not be subject to amendment. The amendments numbered one and three each shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. If more than one amendment in any of the following topic areas: (1) MACT; (2) CFCs; (3) OCS; and (4) clean cars are adopted, only the last amendment in each topic area which is adopted shall be considered as fully adopted and reported back to the House. In each topic area, it shall be in order to consider an amendment offered only with the concurrence of Representative Dingell of Michigan, Representative Lent of New York, Representative Waxman of California and Representative Madigan of Illinois in lieu of the amendments printed in the report of the Committee on Rules and all points of order against such amendments are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House or any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 3030, it shall be in order to take from the Speaker's table the bill S. 1630 and to consider said bill in the House, and it shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 3030 as passed by the House and all points of order against said motion are hereby waived. It shall then be in order to move to insist on the House amendment to S. 1630 and to request a conference with the Senate.

□ 1015

The SPEAKER pro tempore (Mr. FAZIO). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] pending which I yield myself such time as I may consume.

Mr. Speaker, on April 24, our Nation celebrated the 20th anniversary of Earth Day. Today, upon passage of H.R. 3030—the Clean Air Act amendments—we will ensure that our good words are backed by even better deeds.

We will take one more step in making this the environmental Congress in the environmental decade.

In Michigan, concern for the environment could not be greater. We are surrounded by the beauty of the Great Lakes. Water is our way of life.

Twenty years ago, we were worried that the Great Lakes were dying.

Today, the fish are alive, but we can't eat them because they are filled with deadly toxics much of which has fallen into the Lakes and entered the food chain from the air.

Twenty years ago, our ancient forests and mountain streams were healthy. Today, they are silent victims of acid rain.

Twenty years ago, the villians of clean air were aging smokestacks from industry. Today, they are much more diffuse: small sources spread over wide geographic areas which collectively have a potent impact on the air we breathe.

According to the Environmental Protection Agency, 121 million Americans live in areas where pollution levels exceed standards established under the Clean Air Act.

Half of our Nation's population is breathing polluted air.

We pay the price through respiratory disease, cancer, and shortened lives.

The health effects of breathing bad air will cost us far more in the long run than taking the necessary steps now to address our worst pollution problems.

H.R. 3030 will result in more Federal control on more harmful substances than any other environmental law Congress has ever enacted.

H.R. 3030 will result in sweeping emissions controls on factories and electric powerplants.

It will significantly reduce toxic air pollutants and reverse the harmful effects of acid rain. By the year 2000, sulfur dioxide emissions will be reduced by 10 million tons annually.

H.R. 3030 sets standards for the major pollutants contributing to urban smog, and all but nine cities must comply with these standards by the year 1999.

It will clean up our national parks, and greatly enhance the enforcement power of the Federal Government to make sure that polluters pay.

And H.R. 3030 will provide for cleaner burning cars and fleet vehicles.

Under current law, tailpipe emissions have already been reduced by up to 96 percent. Under H.R. 3030, automakers will be required to reduce nitrogen oxide emissions by another 60 percent, and hydrocarbons by another 40 percent in the next 6 years.

No single industry has moved so far, so fast in cleaning up the environment as the automobile industry.

In short, H.R. 3030 will completely overhaul the original Clean Air Act of 1977.

I also rise in strong support of the Wise amendment which will ensure that everyone who is displaced by this legislation has a fair shake in finding new employment.

We all benefit from cleaner air, and we should not balance the costs on the backs of our workers.

Today, Democrats stand united in support of clean air. H.R. 3030 is a Democratic bill.

Chairman JOHN DINGELL has done a remarkable job in shepherding this legislation to the floor. Together with HENRY WAXMAN and the rest of the Energy and Commerce Committee, he has put together a bill that goes much further than the administration's original proposal.

Last year, Congress adopted tough oilspill legislation. And this year, we will revise the Clean Air Act.

Since the first Earth Day in 1970, this will be the 25th major environmental bill enacted because Democrats have taken the lead.

Together these two bills will help preserve our air and our water for generations to come.

House Resolution 399 is a modified open rule providing for the further consideration of H.R. 3030.

The rule makes in order the amendment in the nature of a substitute recommended by the Energy and Commerce Committee now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule.

The rule makes in order only the amendments printed in the supplemental report accompanying this resolution. The Rules Committee may file a supplemental report any time after the adoption of this resolution.

The amendments are to be considered in the order and manner specified in the report. The debate time is equally divided and controlled, and all points of order against the amendments are waived. The amendments are not subject to amendment.

Amendments numbered 1 and 3 each are to be considered en bloc and are not subject to division.

If more than one amendment is adopted on any of the following four issues, only the last amendment passed shall be considered as finally adopted: First, maximum available control technology; second, chlorofluorocarbons; third, Outer Continental Shelf oil leasing; and fourth, production of clean cars.

In each topic area, House Resolution 399 makes in order an amendment only with the concurrence of Representatives DINGELL, LENT, WAXMAN, and MADIGAN in lieu of the amendments printed in the report. All points of order against such amendments are waived.

The following amendments will not be voted on the floor as separate issues, but are instead included as part of the Energy and Commerce Committee amendment: An amendment by Representative WYDEN on national parks; by Representative RICHARDSON on reformulated gasoline; by Mr. TRAFICANT's "Buy America" provision; by Mr. CARDIN on limiting exposure to lead; and my own amendment to help train workers engaged in removing asbestos.

Finally, the rule provides one motion to recommit with or without instructions.

In order to facilitate a conference with the Senate, after passage of H.R. 3030, it shall be in order to take from the Speaker's table the bill S. 1630, the Senate clean air bill. It shall then be in order to move to strike out after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 3030 as passed by the House. The House may then request a conference with the Senate.

Mr. Speaker, House Resolution 399 is a fair rule allowing an open and lengthy discussion on one of the most important environmental issues facing our Nation. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the gentleman from Michigan [Mr. BONIOR] has ably explained the provisions of the rule.

Mr. Speaker, may I ask the gentleman did he get unanimous consent to change the provisions in the rule to set a deadline for the filing of the supplemental report?

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I have not done that yet. I am planning to discuss that with the chairman and others, but from my perspective I see no problem with it at this point. But I would prefer to discuss it a little bit before we proceed.

Mr. QUILLEN. I am pleased the gentleman is going to ask unanimous consent to change the text of the rule. The rule as reported gives the Committee on Rules authorization to file a supplemental report at any time without any time limitation. I understand that is going to be changed to limit filing to "the day of May 23, 1990." So I support that unanimous-consent request the gentleman from Michigan will make.

Mr. Speaker, we are here today on clean air. It is a high-sounding name. I do not know how anyone could be against it until they look a little bit more closely into the proposals that have been offered.

I agree with President Bush that we should not complicate our economic development to the point that we are going to lose jobs, or slow our surge forward which has provided more jobs for all Americans.

But we know we need clean air legislation. We know that what we have had in the past has worked well, but perhaps not well enough.

Passing this legislation as reported by the committee affects all of our industries in this Nation. It affects all of the coal industry, all of the chemical industry, and practically everything else including our utilities that provide the electricity that we must have in our everyday lives and our everyday industrial production. There is no question but that it affects all of these things.

So do not be deceived by the fact that clean air is an appealing title. Look at each amendment that is offered. There will be 19 possible options, not all of which will be offered. So look at each one and decide for yourself the best not only for your district or State but the Nation and world as well.

The automobile industry is going to be affected considerably, affected to the point that they might be forced to build cars that they cannot sell. What is going to happen to the economy if plants are closed or if automobiles are shipped to showrooms that cannot be sold?

The Rules Committee met late last night and was in session until almost midnight voting out a rule that could be filed. Negotiations were going on between the gentleman from Michigan [Mr. DINGELL] and the gentleman from California [Mr. WAXMAN]. I know they worked hard to reach a compromise that would be palatable to everyone, and that is impossible to do. So here we are on Wednesday, scheduled for a Memorial Day district work period shortly, faced with 16 hours of debate, 1 hour on the rule, making it 17 hours of debate with all of the votes that will come up. I would hope that this House would stay in session tonight late and tomorrow until we hammer out this legislation and get to the supplemental appropriation so that Members can keep their commitments back home for the district work period.

Mr. Speaker, this rule is a complicated rule, and I congratulate the gentleman from Michigan [Mr. DINGELL] and the gentleman from California [Mr. WAXMAN] for their patience in trying to work out a compromise satisfactory to all. My congratulations also to the members of the Committee on Energy and Commerce and the administration and to the members of the Rules Committee, and to the gentleman from Massachusetts [Mr. MOAKLEY] for his patience.

So let us not fool ourselves into believing that clean air is the only factor we have to consider. Clean air is a high-sounding name. But Members should look beneath the title and decide what to do that is best for our State and our country.

Mr. Speaker, at this point I do have some requests for time if the gentle-

man from Michigan would like for me to yield.

Mr. BONIOR. Mr. Speaker, will the gentleman yield for just one moment?

Mr. QUILLEN. I yield to the gentleman from Michigan.

□ 1030

Mr. BONIOR. Madam Speaker, I would just like to clarify one point. When one looks at the rule or the mock sheet that supports the rule and lists the amendments, one counts the time, and the gentleman counted 16 hours. Quite frankly, I made the same mistake when I was trying to add up the time this morning. But it should be pointed out to my colleagues that under the four major categories that we set up, the king of the hill, the MACT, the CFC's, the OCS, and the clean air category, there will not necessarily be 3 hours in each section; there may be 1, and at the most, there will be 2.

So my point is that we are not talking about 16 hours; we are probably talking more in the neighborhood of 10 to 12 hours for this bill. I just wanted my colleagues to know that.

Mr. QUILLEN. Madam Speaker, I certainly thank the gentleman for his clarification. I was adding up the number of minutes and hours in the rule itself, but I am happy to know that the time will not spread out over 16 hours.

Madam Speaker, I yield 4 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Madam Speaker, I thank the gentleman for yielding this time to me.

Madam Speaker, I rise in support of the rule for further consideration of H.R. 3030, the Clean Air Act amendments. For 13 years Congress has been deadlocked over the issue of clean air. This year, under the leadership of President George Bush and with a strong spirit of compromise among congressional leaders, we have been able to craft legislation that will significantly improve the air we breathe without placing the American economy in jeopardy.

H.R. 3030 as reported is a comprehensive bipartisan compromise. It is the result of months of painstaking effort on behalf of the members of the Energy and Commerce Committee, as well as environmentalists, representatives of industry, and the administration. It is carefully balanced, and it achieves the greatest pollution reduction at the least cost to the American consumer.

I want to pay tribute to the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL] and to the gentleman from California [Mr. WAXMAN] for their willingness to work out compromises on so many of the troubling issues that were presented to us.

Using the Bush language as a starting point, the interests of the environment and the economy were weighed in arriving at complex solutions to our air quality problems. The bill's 10 million ton sulfur dioxide reduction makes it the strongest acid rain provision ever considered by Congress, yet it does so in a way that helps those areas of the country, like the Midwest, which will be asked to bear the greatest share of the cleanup cost.

Likewise, we arrived at compromises on the thorny issues of tailpipe emissions, smog, and air toxics, so that—unlike prior years—we find ourselves in a position of agreement on the most important issues framing the clean air debate.

When we reach final consideration, H.R. 3030 must still meet President Bush's tests of reasonableness and balance that he outlined to the Senate when that body considered amendments to the Clean Air Act.

Madam Speaker, I believe that H.R. 3030—as reported and with the committee amendments that are in order under this rule—meets President Bush's five tests of balance and reasonableness. It is a delicate mosaic, whereby hundreds and thousands of complex, intricate tiles form one completed picture.

This rule, while restrictive, defers to the committee's bipartisan efforts to resolve the complex environmental issues at stake here. At the same time, this rule provides for amendments on several policy issues, which we did not resolve in committee. These include MACT standards, CFC's, and production mandates for automobiles.

Responsible alternative amendments will be offered on CFC's and clean fuel vehicles for consideration by the House.

The rule also makes in order amendments dealing with the Outer Continental Shelf.

Also in order is the wise labor protection amendment. I will strongly oppose this amendment when it is taken up in title I.

As we discuss and debate each of these amendments, we must remember how far we have come, and ask ourselves whether the adoption of a particular amendment will result in the collapse of our compromise efforts, a lack of consensus in the Congress and, finally, the likelihood of a Presidential veto if the five tests of balance and reasonableness do not continue to be met.

Madam Speaker, I join my distinguished colleague, the chairman of the Energy and Commerce Committee, in urging that the Rules Committee adopt a rule that will focus the House debate on outstanding areas of major disagreement.

Mr. BONIOR. Madam Speaker, I yield 5 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Madam Speaker, I thank my colleague for yielding time to me.

Madam Speaker, in a word, I believe this is a gag rule. Yes, there are 19 amendments that are going to be permitted to be offered. Yesterday I was told there would be five or six, but most of these amendments are recycled amendments that could have been offered in the committee and were offered in the committee process. The Members who are not on those committees have no access essentially to offering an amendment on the floor.

Madam Speaker, I would not be speaking out in this way if I did not believe that our country has an energy security problem, and that we are not addressing it.

Madam Speaker, I chair the Subcommittee on Economic Stabilization, and that subcommittee investigated over a period of 3 years our continuing problem with securing energy in sufficient and efficient supplies. In particular, the committee was informed that electric energy for the eastern seaboard is 2 percent less than needed to meet the current demand. In 1988, for example, Harvard University was closed for only the second time in its history because of blackouts. I am warning the Members of this body and indeed the administration that we are going to see blackouts in this country the likes of which we have not seen before. The problem will be aggravated by this current bill because the experts on electric reliability predicted that 12,600 megawatts of electric generating capacity will be permanently retired. The capacity margin has dropped already below 3.6 percent in terms of minimum safety requirements.

Madam Speaker, in 1982 and 1983 we were energy dependent by 28 percent. In 1989 we are now 42 percent energy dependent, and by the year 2000 we will be 60 percent energy dependent. By 1995, when many Eastern coal mines are closed permanently, we will be more dependent than ever before, and that is just the tip of the iceberg.

So, Madam Speaker, it is imperative that our country be resourceful and use all our resources. My environmental record is the second highest in my State, but one of the things that struck me was the backward looking motion of this bill when it comes to new technologies. The bill goes backward. It depends on 1960 technologies with respect to scrubbers being used, and it does not in any way address the issue of clean coal technology, and since 1987 we have spent nationally $3 billion on this type of technology. My own State of Ohio has spent $700 million alone, and we are on the cutting edge of new technologies that not only will help our own country and is the most forward way to go but will help

the European countries and China, all of whom use sulfur type coal.

Madam Speaker, we have an opportunity to export our knowledge on clean coal, but we are not given the opportunity to even debate that issue on the floor. I find that outrageous. Clean coal technology has already proven in the laboratory that it removes up to 99 percent of sulfur dioxide and similar amounts of nitrous oxide. Scrubbers do not even prevent nitrous oxide emissions. And more important to the problem of global warming, carbon dioxide would be reduced.

Madam Speaker, I think it is really outrageous that in a bill of this magnitude Members of Congress who do not serve on the appropriate committees but who have had hearings on related issues were not even allowed to offer an amendment. I think that kind of a gag rule—and make no mistake, that is what this is, even though we have all these other amendments—is the wrong way to go. We need for the world and for our own country a long term, environmental quality lifestyle, and we need long-term planning. We are always trying to slam the door shut on futuristic kinds of technologies.

So, Madam Speaker, I intend to vote strongly against the rule, and I ask my colleagues to do the same thing so that we can truly have a debate on this issue.

Mr. QUILLEN. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Madam Speaker, I rise in opposition to the rule.

The rule does not make in order an amendment that would, I think, put this bill in its proper perspective. This bill should be renamed the Third World Redevelopment Act of 1990, because the House-passed version of the bill will export 350,000 jobs to places outside the United States and the Senate-passed bill will export 700,000 jobs to places outside the United States.

There are seven titles to the bill, but I will talk briefly about three of them. The first one is the nonattainment area. If we leave the existing Clean Air Act alone, by the mid 1990's all but a handful of cities in America will be in attainment. One of those areas that will be in nonattainment will be southern California. We have some of the dirtiest air around. What we should be doing—and this is provided in the act itself—is to provide that in an area that has dirty air after the mid-1990's, from nonattainment, that the local authorities have the authority to require that new cars sold in that region have further restrictions on what comes out of the tailpipe. The fact of the matter is that the cars coming off the assembly lines in America today reduce pollution by 96 percent from what it was in 1966. This bill will squeeze out an additional 2 to 3 percent at a cost that is very extreme for every consumer in this country, namely, $600 to $1,000 per car for extra pollution control equipment.

Now, people who live in these half a dozen cities in the mid-1990's that are in nonattainment are going to have to pay for that. I live in such a region, and we will do that. But I do not believe that this cost should be borne by other areas across this country.

Dealing with acid rain, we taxpayers paid $600 million to develop the NAPAP study. This is what it said to us: 2 percent of the lakes in America are now acidic. Most have been this way since preindustrial times. If we do nothing, the number of acidic lakes will decline.

The selection of a 10-million-ton reduction of $SO_2$ was nothing more than a political statement. It has never been anything but that from the beginning, and we should recognize it for what it is—legislative overkill.

The third area deals with toxics. In order to get off the list, a compound or a product of a compound that is one of the 200 on the list must satisfy EPA that the risk to a citizen or a consumer is less than one in a million. Well, let me define what a one-in-a-million risk is. If we ride in an airliner for 2,400 miles or drive a car for 40 miles or paddle a canoe for 6 minutes, any one of us who do those things has one chance in a million of being killed. We are going to demand that kind of a standard on a person emitting pollutants in this country? This is just legislative overkill.

Madam Speaker, I realize that this bill has a powerful impetus pushing it, but I think the responsible thing for us to do is to protect American jobs, and I ask for a no vote on the rule and on the bill.

Ever since Congress passed the first Clean Air Act almost 20 years ago, the Government has reduced air pollution principally by imposing restraints on large entities—oil companies, the major auto manufacturers, and the chemical industry—which were politically acceptable targets of the Government's antipollution efforts. So long as the burden has remained on these corporate polluters, the environmental movement has prospered and grown.

Indeed, this strategy has a significantly reduced total emissions of the major pollutants. According to the Environmental Protection Agency, since 1978 emissions of ambient airborne lead have declined by 88 percent, sulphur dioxide emissions have dropped by 35 percent, carbon dioxide by 32 percent, particulate matter by 21 percent, ozone by 16 percent, and nitrogen oxide by 12 percent. But some argue that these reductions have not sufficiently protected the health of many Americans. For that reason, we have embarked upon the second phase of the fight for clean air.

This second phase will require that the Congress consider pollution control strategies that will inconvenience the average citizen. Finding acceptable ways to change the daily behavior of millions of Americans will become an essential component of any viable pollution control strategy. It remains to be seen, for example, whether the average citizen will voluntarily restrict his use of the family car. Residents in major metropolitan areas such as Los Angeles, New York, Houston, and Chicago may find environmental policemen in their backyards, telling them to douse their barbeques or mothball their gas-powered lawnmowers. They may have trouble finding a dry cleaner or bakery, and the local hardware store will almost certainly not carry their favorite brand of paint.

Someday we may encounter a backlash from citizens who resent these sort of intrusions into their everyday lives. Low income citizens, especially, will suffer from restrictions that place a cap on economic growth in their neighborhoods and which may threaten or eliminate their jobs. Will compliance with pollution control strategies break down according to the economic class of the citizen being asked to make these sacrifices? I hope not.

To avoid this sort of resistance, we must be sure that the measures we adopt actually deliver the promised improvement in overall air quality. Nothing would be worse than the embark on an expensive and controversial air pollution control odyssey that promises much, but fails to win the support of the American public.

Because the committee essentially rewrote H.R. 3030, there have been no credible estimates of the overall environmental or economic impact of the changes adopted these past few weeks. We all know, however, that several of the titles, such as the acid rain, air toxics, and nonattainment titles, will cost tens of billions of dollars annually and threaten hundreds of thousands of existing jobs. We also know that both the cost and the environmental benefit derived from removing that last ton of sulphur dioxide or hydrocarbons is enormous, relative to the cost of removing the first ton. The question we must address is whether the costs associated with removing that last ton justify the accompanying loss of jobs and competitiveness.

ACID RAIN

What prompted the week-long spectacle of intense negotiations between the so-called clean and dirty States on title V? Why did so many representatives of the utility industry choose to camp outside the Energy and Commerce hearing room for days at a time as these deliberations proceeded?

Simply put, we were attempting to allocate the future economic growth among the various regions of this Nation, as measured by our use of utility-generated electricity. The growth regions harbor very serious and, I believe, legitimate doubts over title V's effect on their future ability to grow and to meet the needs of their constituents. But, as important as this struggle is to the future of these regions, including my own, did we ever question the necessity for a 10 million ton reduction? No. For political reasons, that discussion was off the table.

The best data available on the acid rain problem comes from the preliminary report of the National Acid Precipitation Assessment

Program [the NAPAP study], yet one hears no mention of these initial findings. In fact, after spending so much of the taxpayer's money, the Congress should at least have waited for this data before plunging ahead on this issue. Would the same silence prevail if the findings had been different?

This study cost the Federal taxpayers $600 million, yet it has been completely ignored. The preliminary report concludes that only 2 percent of our lakes are acidic and that most of the acidic lakes in the Northeast have been that way since preindustrial times. NAPAP concluded that even if we do nothing, the number of acidic lakes in the Northeast will decline over the next 20 years and increase only marginally over the 50 years. Similarly, the NAPAP scientists found no evidence of widespread forest decline in North America related to acidic deposition. In fact, they believe that doubling the current level of sulfur dioxide emissions would have little effect over the next century.

One would think that these preliminary findings from a $600 million Government-funded study would have whetted the committee's appetite for the final report due later this year. An exhaustive study such as this should, at the very least, influence the final work product of this committee. But, instead, the committee accepted the premise that the reduction in sulfur dioxide should equal 10 million tons, not a ton more or less. Of course, 10 million tons is a political figure, chosen for political reasons, and seems to have attained the status of holy writ in the course of our deliberations.

In future years, when utilities encounter difficulty obtaining growth allowances under this act, or when our consumers' electric bills rise incessantly, we may wonder why the committee acted before the final release of such an ambitious study. Scholars and other observers of this process will ponder why the NAPAP data was left to collect dust while we spilled blood over the allocation of the allowance pie. We may wonder why we never considered options that would have achieved 80 or 90 percent of the emission reductions contained in this bill while avoiding unnecessary job losses and other economic costs.

THE NUCLEAR OPTION

Another issue which the committee ignored is the role that nuclear energy plays in cleaning our air. In attempting to lower emissions of sulphur dioxide and nitrogen oxide from our utility plants, the single most cost efficient and pollution-free alternative is nuclear power.

According to the Republican leader of the committee, Representative NORMAN LENT of New York, three coal or oil fired plants are required to replace the energy capacity of the Shoreham plant on Long Island, which has been delayed for more than a decade by environmental obstructionists. We must understand that every time we delay or postpone the operation of a new nuclear powerplant, we implicitly choose to burn more fossil fuels. How many of the oil or gas fired plants currently in operation or under construction would even be needed if we were to exercise our nuclear option?

JOBS

I note with interest that one of my colleagues, Mrs. COLLINS, offered an amendment to provide relief to low-income persons who face significant increases in their utility bills as a consequence of the provisions in title V. Mrs. COLLINS should be applauded for her concern on this issue. But a $10 or $20 per month utility bill increase is the least of the problems facing America's low income families as a result of this legislation. In fact, hundreds of thousands of low-income persons will suffer, directly and indirectly, from the provisions in this bill. Like the NAPAP findings, the effects of H.R. 3030 on America's underclass population have also been ignored.

A study by Robert W. Hahn and Wilbur A. Steger concluded that workers living in areas defined by the Department of Commerce as "underclass" areas—areas with high levels of chronic unemployment, low per capita income, high numbers of high school dropouts, et certera—"would be most affected by any increases in unemployment or underemployment caused by the Clean Air Act." The Clean Air Act amendments, they say, may well spell economic disaster for thousands upon thousands of already extremely troubled and hard-pressed Americans.

They estimate the Clean Air Act will place up to 2 million American jobs at risk. The air toxics title alone would jeopardize between 600,000 and 1 million jobs. As we all know, these jobs are largely at the lower end of the economic spectrum. Doesn't this require that we engage in more of what my colleague from Pennsylvania, Mr. RITTER, calls accountability? Before we happily vote for a measure that will devastate many regions and industries in this country, shouldn't we be sure that these ambitious regulatory schemes will yield some real health and environmental benefits? And, when the livelihoods of so many are at stake, isn't this burden of proof a very high one? Would a bill that achieves 90 percent of the environmental gains in the bill before us now, but which saves many of the jobs that will be destroyed, be a better bargain in the long run?

Given the enormous scope and expense of the air toxics title, just what do we know about the relationship between air toxics and human cancer? In 1981, two renowned epidemiologists from Oxford, Sir Richard Doll and Richard Petro, were commissioned by the Office of Technology Assessment to assess this relationship. At that time, alarmists were generating headlines with claims that between 70 and 90 percent of all human cancer was pollution related. They concluded that pollution accounted for only 2 percent of cancers. Their findings are summarized below:

| Cancer contributor | Percentage of total cancers |
|---|---|
| Diet | 35 |
| Tobacco | 30 |
| Infection | 10 |
| Sexual behavior | 7 |
| Occupation | 4 |
| Geophysical factors | 3 |
| Alcohol | 3 |
| Pollution | 2 |
| Medical treatments | 1 |
| Food additives | less than 1 |
| Industrial products | less than 1 |
| Unknown and other | 3 |

The EPA has accepted these estimates. As syndicated economics columnist Warren Brookes points out, a 1989 EPA risk assessment study titled "Unfinished Business" estimated that no more than 1.2 to 2.5 percent of all human cancers are caused by pollution. EPA regulatory efforts, moreover, would prevent only a fraction of these cancers—or between 0.25 and 1.3 percent of all cancers. Knowing this, who wants to be the one to deliver the news that a factory is closing due to a hypothetical cancer risk that is not as significant as smoking, diet, and other behaviorally induced factors?

For the first time in Federal law, title III of this bill quantifies the standard of residual risk analysis to be followed by the EPA. Instead of leaving this sort of analysis to expert epidemiologists, the Congress has decided in its wisdom that the EPA Administrator may remove a source of air toxics from EPA's list only when he determines that the risk of carcinogenic health effects in humans is less than "1 in 1 million to the individual in the population who is most exposed to emissions of such pollutants from the source." Dr. Vernon Houk, Director of Environmental Health at the Centers for Disease Control, criticizes a 1 in 1 million risk assessment standard:

When we push risk assessment to 1 in 1 million, we are talking scientific, not to mention economic, nonsense. Do you know what 1 in 1 million really is? It's the risk you take in driving your car 40 miles; taking a commercial jetliner 2,500 miles; canoeing for 6 months.

Every time a person travels by air from Washington to Los Angeles, in other words, he faces a risk comparable to that presented by some of the air toxics regulated under this act. We accept this microscopic level of risk in the case of air travel; we should also accept it in our industrial plants and factories.

TRANSACTION COSTS

At the micro level, the transaction costs associated with this legislation are enormous. To an entrepreneur, time is money. The costs of complying with the paperwork required under this act, especially the permitting requirements in title IV, will undoubtedly deter many individuals from starting their own businesses. The penalties section, moreover, may deter small businessmen from competing in industries that must comply with these provisions. Businessmen will think twice before expanding an existing business, out of fear that such an expansion would trigger one of the threshholds in the air toxics or nonattainment titles. Who suffers the most from these decisions? Low wage workers, of course.

American businesses hoping to compete in international markets will soon find that the cost of complying with environmental regulations is prohibitive. We already spend twice as much on pollution control—$85 billion per year—than does the entire European Community—which spends only $42 billion per year.

OZONE NONATTAINMENT

No one is more aware of the problems caused by urban smog than I, having lived in the southern California region all my life. But, again, issues which should have occupied much of this committee's time were largely ignored for political reasons. Two examples are the EPA standard for ozone nonattainment and various incentives to hasten the turnover of the current auto fleet.

An area is considered to be nonattainment for ozone if the fourth highest daily monitor

reading taken during the most recent 3-year period registers an ozone concentration above 0.12 parts per million for more than 1 hour. It is important that the standard ultimately adopted be a reasonable one because the consequences that follow designation as an ozone nonattainment area are quite expensive. Is nonattainment status warranted for areas with marginal nonattainment problems? While no one doubts the necessity of implementing strict pollution control measures in areas such as Los Angeles, the applicability of title I to areas with minor smog problems should have prompted more debate and attention than it did.

That this standard deserves stricter scrutiny is evident from the date collected by the American Petroleum Institute, which found that every nonattainment area in America, with the exception of Los Angeles, was in compliance with the ozone standard at least 99.5 percent of the time between 1981 and 1985. Some of these areas, which must now adopt expensive control measures, were in compliance 99.98 percent of the time. Put another way, some areas in complete compliance with the ERA standard 4,999 out of every 5,000 hours, yet are designated as nonattainment areas. What health threat justifies nonattainment status for areas such as these?

Second, with the exception of an amendment offered by Mr. BARTON, there was no discussion of the emission reductions that can be achieved from either tuning up old cars in need of maintenance or encouraging consumers to take them off the road entirely. Pre-1983 model year cars account for 43 percent of the vehicle miles traveled, yet contribute 84 percent of the carbon monoxide and hydrocarbons and 72 percent of the nitrogen oxide.

Syndicated environmental columnist Alston Chase believes the Congress should look for ways to expedite the turnover of our auto fleet in order to remove these old, dirty cars from our roads. He writes:

Like its predecessor, the present bill does little to stop the biggest polluters—old cars. Instead, owners of new cars must foot the bill. Emissions requirements, according to the Commerce Department, added around $1,800 to the cost of a new car in 1987. So people buying autos in Maine or Montana will be paying to eradicate smog in Los Angeles.

Unfortunately, the committee never addressed an ozone attainment strategy which would allow a stationary source, such as a dry cleaner or small factory, to obtain emission offsets from mobile sources—that is, cars. Such an approach would do more to clean up the southern California skies than anything else in the committee's product.

H.R. 3030 requires auto manufacturers to install cannisters and other emission control devices to reduce emissions from the evaporation of fuels, hydrocarbon emissions by 40 percent, and nitrogen oxide emissions by 60 percent. It is important to recall, however, that auto emissions have been reduced by 90 percent since 1970, and 96 percent since 1966, so these additional reductions represent an overall decrease of only 2 to 3 percent of the 1970 level.

I have enclosed three charts which show how much we have already reduced emissions from auto tailpipes. It is important to place these expensive new regulations in some perspective.

These requirements will add between $600 and $1,000 to the price of a new car, a price that every consumer will pay, regardless of whether they live in an attainment or nonattainment area. While it is important to squeeze every bit of cleanliness out of future cars, we should ask ourselves whether smog-ridden areas such as Los Angeles could be better served by offering the owners of pre-1983 model year cars tax incentives to replace their old, dirty cars with newer, cleaner ones. Rather than requiring consumers in pristine areas of this country to pay $600 more for a car that is only martinally cleaner than the cars being manufactured today, we could achieve the greatest emissions reductions through incentive-based policies that make it financially attractive for consumers in our dirtiest cities to purchase clean vehicles.

CONCLUSION

For all the above reasons, I believe that H.R. 3030 will destroy hundreds of thousands of American jobs, many of them held by low wage workers, for health and environmental benefits that are speculative at best. Stricter environmental regulation and the paperwork it entails will make American products less competitive in international markets, where our industries must compete with companies that do not face the sort of regulations imposed here in America. As a result, our trade deficit will grow and the American underclass will find it more difficult to get out of the poverty trap.

At some point in the near future, I predict that Americans will rebel at some of the measures contained in this legislation, and they will force all of us to reexamine these assumptions. This backlash need not be antienvironmental, it need only be rational.

California Jobs-at-risk from H.R. 3030 by county

| *County* | *Jobs* |
|---|---|
| Del Norte | 99 |
| Humboldt | 667 |
| Mendocino | 519 |
| Napa | 258 |
| Sonoma | 1,466 |
| Butte | 0 |
| Nevada | 60 |
| Shasta | 266 |
| Tehama | 561 |
| Trinity | 117 |
| Sacramento | 4,367 |
| Solano | 1,077 |
| Yolo | 487 |
| San Francisco | 5,590 |
| Marin | 1,191 |
| Contra Costa | 6,765 |
| Alameda | 15,351 |
| Santa Clara | 32,888 |
| San Mateo | 6,476 |
| Santa Cruz | 1,398 |
| Amador | 187 |
| El Dorado | 381 |
| Lassen | 128 |
| Modoc | 0 |
| Placer | 929 |
| Plumas | 371 |
| San Joaquin | 2,880 |
| Sierra | 169 |
| Fresno | 3,401 |
| Merced | 27 |
| Stanislaus | 1,571 |
| Monterey | 17 |
| San Luis Obispo | 184 |
| Santa Cruz | 1,398 |
| Kern | 1,489 |
| Kings | 0 |
| Tulare | 1,762 |
| Calaveras | 0 |
| Madera | 0 |
| San Joaquin | 2,880 |
| Tuolomne | 168 |
| Santa Barbara | 2,114 |
| Ventura | 5,309 |
| Inyo | 175 |
| Los Angeles | 89,970 |
| San Bernadino | 4,286 |
| Riverside | 3,228 |
| Orange | 27,149 |
| San Diego | 14,179 |
| Imperial | 175 |
| Total | 239,852 |

□ 1045

Mr. BONIOR. Madam Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, it is my intention to support this rule. I think that it will make for wide-ranging debate which will address many of the issues relative to clean air, and in the long run we will come out with a good piece of legislation; but Madam Speaker, I must express my disappointment about one aspect of this rule and that is relative to air toxics.

I had proposed an amendment which would give us more information about the health effects of air toxics. There is much that we do not know about health effects of air toxics. Once maximum achievable control technology is instituted, then beyond that there is a residual risk. There was a risk assessment study in that area of residual risk. It was approved by the National Academy of Science, supported by the National Academy of Science. What we wanted to do was have a study about exactly how certain air toxics would affect an individual's health.

Let me give you an example of what I am talking about. We are all very much familiar with dioxin, but there is a great deal that we do not know about dioxin. Because of the rapid advancement of science, we are now able to determine in serum the level of dioxin. We can determine three parts per quadrillion the level of dioxin in an individual.

Now once we make a determination about that chemical being in an individual's serum, we can make a determination as to whether or not it has had some effect on the bodily processes of that individual, and we can further make a determination about whether or not any disease has been caused by that amount of dioxin.

It seems to me that we need to get the very best scientific information that we can in determining what the

health effects would be on an individual relative to certain chemicals.

I wanted to have this study so that the National Academy of Science in conjunction with universities and various other scientific groups could give us that information, but this amendment which I wanted to offer was not accepted. I am very disappointed that it was not accepted. It seems to me that the Congress ought to support that type of study so we can get the very best information that we can. So many times it seems to me that Congress makes decisions in the scientific area without really having adequate knowledge, so I am very disappointed that this amendment was not accepted.

I hope possibly in conference or at some future time we will be able to get this type of study instituted.

Mr. QUILLEN. Madam Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Madam Speaker, I appreciate the gentleman yielding this time to me.

Madam Speaker, this rule is deserving in a couple instances, and I think we need to focus on it and hopefully get it modified in at least one of the places where I have a problem.

There is a new sentence in this rule, something which is unprecedented for the House to do. That is, we have a sentence that says:

> The Committee on Rules is hereby authorized to file a supplemental report at any time after the adoption of this resolution.

Meaning that at any time after the adoption of the resolution, the Rules Committee could come to the floor with a whole host of new amendments that the House may or may not agree to and file a report, and the House would never have any opportunity to act upon them.

I think that is a very disturbing precedent to set, that the Committee on Rules can ignore the processes of the House and bring forth new amendments.

Now, what I have suggested as a way around this is to assure that the intent of the committee is carried out and yet we do not set this new precedent is to say that the report can be filed today, and I am hopeful that we can get that kind of modification.

I would be glad to yield to the gentleman from Michigan to ask him if we can modify the rule in order to assure that supplemental reports would have to be done on this day.

Madam Speaker, I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Madam Speaker, it is the intention of the gentleman from Michigan to offer a unanimous consent request on this day of May 23, 1990, at some point.

Mr. WALKER. That would help, and I appreciate the gentleman doing that so that we can take care of at least this gentleman's concern about that new provision in the rule.

The second thing I am concerned about is the process used to bring this supplemental report to the floor and some of the amendments that are going to be included in it. As an example, I happen to be the coauthor of an amendment that is going to be brought to the floor out of the Committee on Science, Space, and Technology. We worked very hard on that research amendment. I understand that in the supplemental report that the Rules Committee has added language to our amendment. In one case I knew about the language. The gentleman from New York [Mr. SOLOMON] came to us, consulted with both the majority and the minority and asked that we approve his amendment being made in order. We did so.

In the case of the gentleman from California [Mr. DYMALLY], who has also been added to the amendment, it is my understanding that the Rules Committee staff consulted with the majority committee staff on the Committee on Science, Space, and Technology, and were told flatly, "We do not want that amendment in our package."

No consultation was ever done with the minority, and yet the Rules Committee took it upon themselves to modify our amendment in their supplemental report. For the life of me, I am puzzled as to why the Rules Committee thinks that they know more than the Committee on Science, Space, and Technology, about our own amendment. Why should the Rules Committee be allowed to modify our amendment by its own action? Why could not the gentleman from California [Mr. DYMALLY] bring his amendment to the floor and have that debated? Why should the Rules Committee be in a position of doing something where they were specifically told by the committee of jurisdiction, "No, we don't want that done."

I think there is a kind of arrogance involved in that decisionmaking which is completely unacceptable.

I, for one, am disturbed now that I have to bring an amendment to the floor that does not have the approval of our full committee. This is an issue that was never brought before our full committee, and now our committee is being asked to bring to the floor an amendment which does not reflect the work of our committee. That is completely unacceptable.

I do not see how you can possibly justify the fact that you have done something like that. If you wonder why we get upset then when we get open-ended language in an amendment or in a rule, this is a good example of why we have a right to be disturbed, because the Rules Committee has taken upon itself in this instance to make a substantive decision without the approval of the committee of jurisdiction.

I would hope that maybe we could get another modification to strike that provision so that the Committee on Science, Space, and Technology, could offer on the floor the amendment that it wants to offer, not the amendment that the Rules Committee has modified for its purposes.

So I think we have reason to be disturbed about the aspects of this rule. I appreciate the gentleman from Michigan making the one modification. I wish we could get the other one.

Mr. QUILLEN. Madam Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Madam Speaker, I rise to oppose this gag rule, conceived in subterfuge and irresponsibility.

I have never been more disappointed in all my political life than I am as I stand here on the floor today to object to this.

I would think that our forefathers who wrote the Constitution of the United States, the first amendment rights to free speech, would be spinning in their graves to know what is going on today. It defies all sense of logic to allow a bill that is going to economically and socially devastate a community and its people, and then deny these people the right to be heard in front of the people's House, and that is what we are. We are elected by those people.

Whatever happened to the constitutional right of free speech? Everybody is always talking about it. Where is it? What every happened to human rights?

This Congress is kinder and gentler to abusers of human rights in the world than they are to their own people, in El Salvador and in China and in the Soviet Union where they are denying people, and yet we are offering to give them most-favored-nation status in trade and then sending them money.

People in my district and in Appalachia and in other Midwestern States where coal provides much of the power for the United States, they need help against the onslaught of the environmentalists and those who seek to destroy us, those whose very lifeblood will be stripped, these people in my district and in Appalachia who depend for their livelihood and quality of life, their ability to be able to educate, to house, to clothe, to feed their children, they cannot do it because this bill—you are not going to see it in the next 6 months, but in the next couple years you are going to see the devastation that comes down the pike.

There was a study from the Carnegie Mellon University that backs this up. They say that upwards of 4 million jobs will be at risk when this bill is

passed and that there will be at least 750,000 jobs lost.

Now, if you think that is any small potatoes, check your own local unemployment office, talk to people who lose their livelihoods, the Midwestern States which have been the breadbasket, which have provided the food for the world and this country, have built steel mills, glass factories, and potteries. What is our reward now for keeping America strong? Denigration and denial, that is what we get.

Well, you are wrong, wrong, wrong on this, and I think I should have the opportunity to be able to offer amendments to this bill.

I am going to ask for a vote against the previous question.

Mr. QUILLEN. Madam Speaker, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Madam Speaker, I rise in support of the rule. Admittedly there are some difficulties with the rule. Any time you have a complicated piece of legislation that involves regional interests, there are going to be some concerns about that; but I have to say in all candor that the Rules Committee did a superb job in crafting this rule, giving everyone an opportunity to present their arguments. I do support the rule and will vote accordingly.

I want to take this opportunity to talk briefly about an amendment that I will be offering with my good friend and colleague, the gentleman from Illinois [Mr. BRUCE] dealing with CFC's. This will be the second proposal offered under CFC's. I would ask the membership to take a good look at where we are going with the Montreal protocol, how it affects the world situation with CFC's, and understand that our amendment tracks the Montreal protocol much closer than the Bates-Boehlert proposal that will be offered before that.

It is important to understand that the administration supports our proposal. It is a far-reaching proposal that goes a long way in reducing CFC's, but at the same time maintains American jobs where they belong and protects us against competition that would be unfair if we were to do a unilateral effort.

So I do rise in support of the rule and ask that you vote for the rule so that we can get on with the debate on this historic issue.

Mr. BONIOR. Madam Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I intend to vote against this rule. It has a number of problems, not the least of which is a jurisdictional grab that is not insignificant to a lot of us. But let me describe a very serious problem that I think it has with something called the Clean Coal Technology Program. We have a program called the Clean Coal Technology Grant Program. This country has an enormous amount of coal that it can and will burn to supply energy to America.

Obviously, the question is, how can we burn it with less environmental consequences? How can we develop clean coal technology through research?

Well, we put together a program to provide that research opportunity all around the country to determine how we can develop new clean coal technology.

This bill that comes to the floor today takes all that money, every bit of it, and says, "What we want to do is turn this national research program into a regional subsidy to retrofit polluting plants." That makes no sense. Retrofitting plants that are polluters with money that we have determined should go for research for clean coal technology is a foolish priority.

So I wanted to offer an amendment to strip this money grab, and the Rules Committee said, "No, not at all. You can't get into this bill. You can't offer an amendment."

We are going to take this bill to the floor with no opportunity on this floor to challenge this distortion of a national program designed to promote research to enhance the environmental ability to use coal for our energy, and turn it into a regional subsidy to retrofit powerplants.

□ 1100

That is an outrage. I do not intend to vote for this rule. I think they ought to allow an amendment to strip this provision. This should not be happening in the House of Representatives.

I hope my colleagues will vote against the rule as well.

Let me ask them to come to the floor with bills that are reasonable. Ask them to give us rules that offer amendments, give us the opportunity to offer amendments to strip this type of nonsense out of these bills.

Madam Speaker, I intend to vote against the rule and I hope my colleagues will do the same.

MODIFICATIONS TO HOUSE RESOLUTION 399 OFFERED BY MR. BONIOR

Mr. BONIOR. Madam Speaker, I ask unanimous consent on page 2 of House Resolution 399, line 18, after the words "supplemental report," to strike "at any time" and insert "on this day, May 23, 1990,".

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of House Resolution 399, as modified, is as follows:

H. RES. 399

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air, and the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except the amendments printed in the supplemental report of the Committee on Rules accompanying this resolution or as specified herein. The Committee on Rules is hereby authorized to file a supplemental report on this day, May 23, 1990, after the adoption of this resolution. Said amendments shall be considered in the order and manner specified in the report, shall be considered as having been read, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. All points of order against any amendment printed in the report are hereby waived. Said amendments shall not be subject to amendment. The amendments numbered one and three each shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. If more than one amendment in any of the following topic areas: (1) MACT; (2) CFCs; (3) OCS; and (4) clean cars are adopted, only the last amendment in each topic area which is adopted shall be considered as finally adopted and reported back to the House. In each topic area, it shall be in order to consider an amendment offered only with the concurrence of Representative Dingell of Michigan, Representative Lent of New York, Representative Waxman of California and Representative Madigan of Illinois in lieu of the amendments printed in the report of the Committee on Rules and all points of order against such amendments are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 3030, it shall be in order to take from the Speaker's table the bill S. 1630 and to consider said bill in the House, and it shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 3030 as passed by the House and all points of order against said motion are hereby waived. It

shall then be in order to move to insist on the House amendment to S. 1630 and to request a conference with the Senate.

Mr. BONIOR. Madam Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I rise to oppose this rule. I intended to offer a substitute to the proposed Richardson-Madigan amendment that would expand the scope of the reformulated gasoline provisions that are intended to be enacted into law by this bill. Absent that opportunity, I think that I should oppose this rule.

This morning when I was driving to the Capitol, I followed a bus that was spewing out exhaust all over those who followed it, and that exhaust contained poison hydrocarbons that can affect the health of those who breathe them. We know how to clean up that exhaust. We know how to reduce those hydrocarbons, to eliminate that poison, and what do the oil companies say about that?

Madam Speaker, what have they said about that? Remember when we were working to take the lead out of gasoline, and the oil companies said, "We cannot do that." They did take it out, but they replaced it with aromatic hydrocarbons, benzene, xylene, toluene—in other words, paint thinner that we are breathing that is part of the fuel sold on the market today.

We can require these oil companies to clean up the fuels by adding oxygen. We know how to do that. It is a technology that I personally have demonstrated in my own vehicle for over 16 years. It is cheap. It is economical. It is easy to do and all of us can do it.

I believe that we should allow the people of this country to breathe cleaner air by utilizing the technology that we have to clean up the fuels that are sold on the commercial markets.

I think the people in California and New York and in Washington should be able to breathe cleaner air.

Some of my colleagues may have reservations about even the incremental steps taken by this amendment because of a big-money, big-oil advertising campaign.

They shouldn't, Madam Speaker, because those arguments really cannot hold water.

Let's look at what big oil says about proposals for specific reformulated gasoline standards, and let's compare that to the truth.

Big oil says we should trust them. They have the petroleum chemists, they hear our call to clean up the fuels, they know best how to do it, and if we just leave them alone they'll clean up gasoline.

Well, we tried that. That's what we did when we told them to get lead out of gasoline.

What they did, ladies and gentlemen, was this: they put paint thinner in our gasoline.

In industrial settings, these substances—benzene, toluene, xylene—are handled with great caution and under intensive government regulation. But whenever you pull up to the self-serve nozzle, they are like as not to slosh all over your exposed skin.

As a matter of fact, I'm told there is so much benzene in today's gasoline that if OSHA defined America's service stations as workplaces, many of them could not operate.

Now, we can require the oil companies to get these substances out of gasoline. But we don't want to deprive the consumer of his octane, and we don't want to let the oil companies to replace poison with poison, as they did in the case of lead.

So what does the legislation proposed to add?

It proposes to add oxygen. There are eight separate EPA-approved additives to put oxygen in gasoline. There is ethanol; there is MTBE, which is an ether made from methanol; there will be in the near future ETBE, which is an ether made from ethanol; and there are others.

Big oil says that oxygenated reformulated gasoline will require a $1 billion-a-year subsidy. Presumably they refer to the 6-cent-per-gallon ethanol exemption from the Federal gasoline excise tax.

That's a sham argument, Madam Speaker. For one thing, you don't have to use ethanol to meet the requirements. You can use other additives like MTBE.

For another thing, I hope you will excuse me if I'm a little skeptical about the tears big oil is shedding for the Federal Treasury.

Do you remember the oil depletion allowance?

Do you remember intangible drilling costs?

Now, I don't begrudge oil those tax benefits. I've voted for bills that contained them. I think it's necessary to have a strong domestic oil industry.

But I think it's a little much for one of the most heavily subsidized industries in America to make a public show of wringing its hands in worry over what subsidies are doing to the deficit.

It's no secret that I'm a supporter of ethanol. We don't have any ethanol plants in Arkansas right now, and we don't grow a lot of corn. But we're always looking for new products, new markets for those products, and new value-added agricultural industry.

Ever since the energy crises of the 1970's, I've worked to shift a piece of the $100 billion motor fuels market away from the oil fields of the Middle East to the grain fields of the middle south.

I've seen estimates that the other body's reformulated gasoline language, which is similar to the Richardson-Madigan amendment, would increase ethanol demand by more than 2 billion gallons over current levels. If feed grains are at $2.50 a bushel, that's more than $2 billion a year in new farmgate income by the turn of the century.

And, because the oxygen content of the Senate proposal is so low, there might be an even bigger market for makers of MTBE and other oxygenates. That means a shot in the arm for the natural gas and coal-producing regions of our great Nation, and believe me, they need it.

I believe in reformulated gasoline because I think it's wrong that the big oil companies have done everything they can to keep Arkansas farmers out of the fuel business.

I believe in reformulated gasoline because I think it's wrong that a commuter in Los Angeles, CA, has a 1-in-10,000 chance of contracting leukemia just from sitting in traffic and inhaling benzene fumes for up to 2 hours a day.

I believe in reformulated gasoline because I think it's time that we displaced some of that foreign oil in our gas tanks and did something about the fact that 40 percent of our trade deficit is due to our addiction to foreign oil.

In fact, if I had my wishes, we would be deciding on a mandatory oxygen content for all the Nation's gasoline today.

While we may not do so now, I predict that within 3 years this House will favorably consider such legislation. It will do so because oxygenated fuels are winners—winners for our environment, winners for our economy, and winners for our energy security.

Madam Speaker, there is one good thing we can say about this bill, and that is it does take a step in the right direction. It is long overdue, but it is limited. The effects of the bill are limited to nine nonattainment cities. There are more than 100 that do not attain the ozone standard in the law.

I will ask the gentleman from New Mexico [Mr. RICHARDSON] about the so-called opt-in provisions and what they mean to States that want to breathe clean air. Do we have the right, or do the States have the rights, to expand the scope of this bill?

Mr. RICHARDSON. Madam Speaker, will the gentleman yield?

Mr. ALEXANDER. I am happy to yield to the gentleman from New Mexico.

Mr. RICHARDSON. Madam Speaker, the answer to my colleague is "Yes." As the gentleman indicates, there is an opt-in provision that allows

any other nonattainment area to adopt these standards of its own free will and, subject to any domestic capacity, any State or locality may, in order to maintain attainment or just as a matter of general public policy, adopt these gasoline standards.

Madam Speaker, I thank the gentleman for his leadership over the years on this issue.

Mr. ALEXANDER. Madam Speaker, I rise in opposition to this rule.

Mr. QUILLEN. Madam Speaker, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER].

REQUEST FOR REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3030

Mr. DANNEMEYER. Madam Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 3030.

The SPEAKER pro tempore [Mrs. SCHROEDER]. The bill has been reported. The gentleman's statement will appear in the RECORD.

Mr. QUILLEN. Madam Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Madam Speaker, I rise to oppose the rule.

This bill is the most significant regulatory instrument in history over industry, over transportation, and over energy and the jobs of the American workers that are included in those sectors of our economy.

I had an amendment that would have targeted the performance of the Clean Air Act Amendments of 1990, would have listed the top 25 air pollutants, worst first, would have listed EPA's cost in regulating them, would have listed the society's cost in regulating them, and then most importantly, to the Congress, to the public, it would have listed the benefits that we gained from these amendments. That amendment, unfortunately, was not accepted by the Rules Committee.

I had an amendment on clean coal. Madam Speaker, this is a scrubber bill. Scrubbers substitute a solid waste disposal problem for an air-pollution problem. Each 1,000-megawatt electric generating unit produces 1 square mile, 1 foot thick, of nasty sludge every single year. What happens to that? Clean coal reduces that new waste disposal problem.

The idea was to promote clean coal, to extend the deadline, to have a payback provision with interest; the air is cleaned up further. That amendment was not accepted either.

I had an amendment that would have not obsoleted, as Waxman-Lewis will do, obsolete the diesel engine in America. Our entire truck-based over-the-road transportation system is based primarily on heavy-duty diesel transport, and Waxman-Lewis cuts that off at the knees in spite of major new regulation on diesels in 1991 and the mandate for a smokeless diesel in 1994. That amendment was not allowed either.

I might say that Tauzin-Fields, the amendment to Waxman-Lewis, does much more to keep the heavy duty diesel engine both clean and competitive in our economy.

I want to say one last word on the Wise amendment. The Wise amendment is a wise amendment. We are spending in response to the amendments conceivably $250 billion over the next 5 years. For what real environmental benefits? Lord knows. Maybe very marginal environmental gain. But what we do know is it will cause significant dislocation amongst American manufacturing workers.

The Wise amendment puts out $50 million a year, $250 million total over 5 years. It is a drop in the bucket compared to the overall cost and the impact of this bill. I urge my colleagues to support the Wise amendment.

Mr. BONIOR. Madam Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Madam Speaker, there are many difficult decisions to be made on the Clean Air Act. The one thing that is clear is we must decide if we are going to protect the public health.

Anyone who has observed this process or participated in it knows how extremely difficult it is to get 10 people, 30 people, or in our case, 435 people to come to a final decision on something this complex and this important.

The reason we have rules like this before us as we do on tax bills and on our environmental legislation is because we recognize that we cannot get a collective decision when we allow each and every intricate issue to be articulated and to tear us apart. Our sister body, the U.S. Senate, had great difficulty and missed their schedules by far as a result of a complex way in which they tried to proceed.

I think we are correct to do this.

I did want to correct the RECORD on one thing, that the clean-coal technology is not a research program, it is a demonstration program. It will go forward fundamentally as before. It will do not only retrofits, but it will also do repowering. It will be, as President Reagan insisted, part of our answer on acid rain.

What we have done is not restrict the program. What we have done is to say that eligibility shall depend on whether or not you have to take expensive actions under the Clean Air Act here.

□ 1110

I believe we will see the program accelerated as a result of requirements in this legislation, and I think that we want to see and guarantee that we advance our clean-coal technology in this country.

Mr. GORDON. Madam Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Madam Speaker, I am going to vote for the rule. I think the immediacy and the importance of this issue is such that it should be debated and brought to the floor. But the gentleman from Ohio [Mr. APPLEGATE] is going to bring to a vote the previous question, and those who are disgruntled should look very carefully at the measures of the gentleman from Ohio [Mr. APPLEGATE], which I will as well, and consider an opportunity for those who have been left out.

I appreciate the fact that my Buy American resolution was included and will be offered by the gentleman from Ohio [Mr. APPLEGATE] in the en bloc amendments. We are going to lose jobs through this measure and Congress should be aware today that we do not throw the baby out with the bath water. There may be massive job loss due to this bill.

In that regard I think that retrofitting and the expenditure by both the public and privatre sector should take a look at American-made goods and American-made products.

But I want to bring this down to the common level here. When I was a kid growing up in Youngstown, OH, right up the hill from the steel mills, my mother would go out on that little front porch twice a day and she would take that broom and sweep that soot off the porch.

Well, today there is no soot on those front porches. Today there are no steel mills in Youngstown, and, ladies and gentlemen, there is not even a Traficant home due to EPA, misguided trade laws and policies, and finally urban removal. That is urban removal, and that is an issue for another day.

Madam Speaker, I am cautioning the Members of this House to be careful with this bill, that we do not set in motion a policy and a program that is needed for America, but that devastates the economic infrastructure of the people who depend on livelihood the most.

I would also like to say that I appreciate the fact that we would at least encourage those individuals, those companies, those entities, those Government agencies and entities, to purchase American-made goods and services. I thank the committee and I thank my neighbor, the gentleman from Ohio [Mr. ECKART], for helping me in that process.

Mr. GORDON. Madam Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Madam Speaker, as the sponsor of the reformulated gasoline provision with my colleague, Mr. MADIGAN, I am pleased that a bi-

partisan committee agreement was reached on this critical issue so that it could be included in the committee amendment.

DESCRIPTION OF TODAY'S GASOLINE

The gasoline that we burn today is a complex mixture of toxic compounds and is responsible for over half of the Nation's toxic air pollution and much of our urban smog. In fact, today's gasoline is significantly more harmful than gasoline of a decade ago, containing more aromatic compounds and more volatile chemicals than ever before. The result is more fuel evaporation, more air pollution, and greater toxic exposure to the American public.

Currently, no meaningful standards govern the composition of gasoline. However, it does not have to be this way. Gasoline can be changed to a far more benign formulation while improving engine performance. Toxic and aromatic compounds can be replaced with much cleaner alcohols or alcohol derivatives such as methanol, ethanol, ethyl tertiary butyl ether [ETBE] and methyl tertiary butyl ether [MTBE] made by oil and chemical companies.

DESCRIPTION OF AMENDMENT: OZONE NONATTAINMENT

The Richardson-Madigan provision will require the 9 worst ozone nonattainment cities to sell clean gasoline that has been reformulated to remove ozone forming and toxic air pollutants. Other cities may opt-in as the program gets under way, however, EPA may delay the implementation dates to ensure that there is an ample domestic supply of reformulated gasoline.

DOES NOT MANDATE A RECIPE OR SO-CALLED GOVERNMENT GAS

The Richardson-Madigan provision does not mandate a "recipe" or so-called government gas, nor does it mandate ethanol. Instead the amendment establishes minium basic standards to reduce ozone forming and toxic air pollutants in gasoline. So long as equivalent or greater emissions reductions are achieved, oil companies are free to formulate their gasoline any way they choose.

In fact, Arco is already marketing a cleaner formulation of gasoline for the same price as regular gas in southern California. Shell, Marathon, Phillips, Conoco, and others are also reformulating gasoline at this time.

CARBON MONOXIDE NONATTAINMENT

The Richardson-Madigan provision would also require all 44 carbon monoxide nonattainment cities to sell gasoline containing a minimum of 2.7 percent oxygen to reduce carbon monoxide to acceptable levels. Those serious CO areas that fail to reduce CO to acceptable levels by the deadline would be required to sell oxygenated fuels containing 3.1 percent oxygen.

SIGNIFICANT HEALTH AND ENVIRONMENTAL BENEFITS

There are significant health and environmental benefits to be gained from reformulated gasoline. For example, during refueling or in stop and go traffic, gas station employees, motorists and pedestrians are exposed to dangerous levels of cancer causing toxics found in gasoline.

In fact, the American Lung Association estimates the annual health costs of automobile pollution range from $4.4 to $93.4 billion. The Richardson-Madigan provision requires a 15 percent reduction in toxic compound by 1994 and prohibits the dumping of these toxics in gasoline sold in attainment cities.

The Richardson-Madigan provision also requires a 15 percent reduction in ozone forming precursors by 1994. It is estimated that 20 percent of New York City's air pollution problems can be solved simply by cleaning up its gasoline. Additionally, by increasing the oxygen content of gasoline to 2.7 percent in CO nonattainment cities, it is estimated that carbon monoxide emissions can be reduced from between 15 and 34 percent.

SIGNIFICANT ENERGY, AGRICULTURAL AND TRADE POLICY BENEFITS

The Richardson-Madigan provision also has significant energy, agricultural, and trade policy benefits. Energy policy analysts have been concerned for years about our increasing reliance on OPEC—$60 billion of foreign oil and hundreds of millions of dollars of aromatic compounds are imported annually.

By replacing imported aromatics with domestically produced alcohols made from corn, wheat, or other crops, we provide an important boost to our midwestern farmers and reduce the need for farm price supports. According to the GAO, this new market could save the U.S. Treasury more than $1.2 billion now spent on farm price supports annually.

To ensure that we don't rely more heavily on foreign imports, the Richardson-Madigan provision provides waivers if there is insufficient domestic supply. In short, by reducing our reliance on imported oil and aromatic compounds, our balance of trade is sure to improve.

SIGNIFICANT CONSUMER AND AUTOMOTIVE BENEFITS

I would also highlight the consumer and automotive benefits of the Richardson-Madigan provision. The high levels of aromatic and olefins found in today's gasoline fouls engines, and creates deposits which lead to engine knocking.

By limiting the aromatic content of gasoline and requiring additives to prevent accumulation of deposits, the Richardson-Madigan provision will lead to longer and more satisfactory car performance. In fact, oxygenated fuels are recommended by General Motors to improve air quality, a policy Ford and Chrysler will soon endorse as well.

I would also point out that the Richardson-Madigan provision will discourage the purchase of unneeded octane. The recent GAO report on octane fraud indicated that despite hyping of high octane fuels, only a small percentage of new cars require fuels above 87 octane. The Richardson-Madigan provision will reduce the emphasis on octane rating and focus on producing cleaner gasoline to improve engine performance, the public health and the environment.

SIGNIFICANT ECONOMIC AND ENVIRONMENTAL BENEFITS

In closing, the Richardson-Madigan reformulated gasoline provision is environmentally and economically cost effective. Older, precatalytic cars are a significant portion of the emissions inventory, yet they cannot be retrofitted with pollution controls.

By cleaning up gasoline, our provision helps reduce pollution from all vehicles, including the oldest and dirtiest cars. Needed emission reductions can be achieved for only a few pennies per gallon, rather than ratcheting down on small stationary sources like bakeries, dry cleaners, and other small businesses with minimal environmental benefits.

REBUTTALS TO OIL COMPANY ARGUMENTS AGAINST THE RICHARDSON-MADIGAN AMENDMENT

Argument: The amendment mandates a recipe for reformulated gasoline.

Rebuttal: The Richardson-Madigan amendment establishes minimum standards to reduce ozone forming and toxic compounds. So long as equivalent or greater emissions reductions are achieved, oil companies are free to formulate their fuels any way they choose.

Argument: The amendment is tantamount to an ethanol mandate.

Rebuttal: There are seven alcohol and ether blends or oxygenates that can provide the oxygen required in the Richardson-Madigan amendment, including methyl tertiary butyl ether [MTBE] made from oil and chemical companies.

Argument: The amendment will decrease some pollution but increase others.

Rebuttal: The Richardson-Madigan amendment expressly prohibits a fuel from being certified for sale if it results in increased nitrogen oxide emissions.

Argument: There will not be enough capacity to meet demand.

Rebuttal: If there is insufficient domestic capacity to meet demand, the Richardson-Madigan amendment provides for a series of waivers.

Argument: Consumers won't buy reformulated gasoline.

Rebuttal: Consumers prefer the Richardson-Madigan reformulated gasoline amendment because it reduces the aromatic content of gasoline which fouls engines, creates engine deposits, and causes engine knocking.

Argument: The amendment will cost billions.

Rebuttal: The Congressional Research Service, and other independent analysts estimate that gasoline can be reformulated for only a few pennies per gallon.

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TALKING POINTS IN SUPPORT OF THE RICHARDSON-MADIGAN AMENDMENT

RICHARDSON-MADIGAN AMENDMENT

Our amendment carefully tracks the Dachle-Dole-Harkin Amendment that passed the Senate by an overwhelming vote of 69 to 30. There are two important differences:

Our amendment strengthens the legislation in terms of reducing allowable benzene, a potent carcinogen, in gasoline. It also calls for greater reductions in air toxics as well as a more demanding schedule for reducing ozone levels.

Our amendment provides the oil industry with the flexibility they seek. EPA is required to approve other gasoline formulations that will result in equal to or greater reductions than will be achieved by the formulation prescribed by our amendment. We also provide the oil industry with the flexibility to average aromatic levels in reaching the limits established by legislation.

BTX—BENZENE, TOLUENE, AND XYLENE

When lead was phased out of gasoline, the oil companies turned to the aromatics, BTX, to regain the lost octane. They had other options:

They could have turned to the oxygenates: methanol, ethanol, Oxinol and other formulations—instead they fought the entry of these competitive fuels into their market, using questionable and allegedly illegal tactics. They now face litigation in Federal court for their actions.

They could have practiced "truth in advertising," accepting the reality they already knew—they were overselling octane to the disadvantage of the consumer and the environment while boosting profits. They could have cut back on their high octane gasoline "hype" and reduced the flow of polluting aromatics into gasoline with no loss of performance and with real economic and environmental benefits to the driving public.

BTX, combined with the olefins, foul the engine, the catalyst, and the environment. That is why General Motors and others join with the Congress in calling for a reduction in aromatics to 25%.

The removal of the cancer-causing agent benzene, called for in our amendment, is not enough to reduce the cancer causing effects of BTX in gasoline. There is a double whammy—some toluene and xylene convert to benzene in the combustion process.

The only answer is to reduce the levels of these troublesome chemicals in gasoline. Our amendment calls for these reductions.

GOVERNMENT GAS

The oil industry first touted reformulated gasoline to defeat the Administration's call for alternative fuels. Having largely succeeded in that effort, they then turned their attack on clean gasoline formulations that evolved over years of careful research and investigation.

They might have succeeded in their campaign to label the efforts of the United States Congress as bumbling interference in the marketplace where it not for four important factors:

The congressional position was carefully researched, and arrived at only after needed compromises to protect the environment and the reasonable interest of all parties involved;

General Motors essentially endorsed the "government gasoline" formulation as being best for cars of the past and the future;

The oil companies have lost too much of their credibility with the American public and the Congress of the United States.

If the oil companies can produce a gasoline that is better economically and environmentally than the one defined by the Congress and suggested by General Motors, EPA has been instructed, by our amendment, to certify that gasoline.

Where is the "beef?"—A threat to market domination is not a beef that most Americans are going to take seriously.

COST OF THE RICHARDSON-MADIGAN AMENDMENT

API and the oil companies started out claiming that the Daschle-Dole-Harkin Amendment would cost $100 billion dollars, regardless of the number of cities involved. Regrettably, the Department of Energy threw their weight behind API in an attempt to defeat the Senate amendment. Now, after the "cold shower of reality" has cleared a few minds, the number is down to $20 billion or so.

I will stick with the numbers that EPA and the respected Information Resources Inc. developed at the outset—less than $4 billion. A recent commitment by Tenneco to build a 12,500 bbl/day MTBE plant in Texas at a price of roughly $175 million, verifies the EPA and IRI calculation. 22 plants of that size would provide all the oxygen needed to meet the requirements of our amendment.

Of equal importance is the octane "hype" pushed by the oil companies. They take between a nickel and a dime, on the average, for every gallon of gasoline sold in the country for octane that is "blown out the tailpipe" to the disadvantage of the environment and the driving public. That loss is more than enough to cover the cost of our amendment.

AUTO PERFORMANCE

The API is claiming that "government gas" will lead to poor engine performance.

If "government gas" is so bad, why is General Motors suggesting the same formulation? Maybe it is time to shift the clean up responsibility of the nation's air to the oil companies who have enjoyed a free ride while the auto industry, and the consumers, have had to pay the price for reducing tailpipe emissions by more than 90% while gasoline has gotten dirtier.

We also believe that it is time to bring to an end the "high octane" fix the oil companies have been using to pick up an extra nickel or dime, on average, for every gallon of gasoline sold. As levels of aromatics and olefins in gasoline rise to satisfy the octane "hype," the gasoline gets dirtier. Dirty gasoline means dirty combustion and dirty engines. Dirty engines require higher octane to prevent pinging. The driver is forced to buy a higher octane gasoline. The lost nickel turns into a lost dime, or maybe even a quarter.

ARCHER DANIELS MIDLAND (ADM)

ADM and Senator Dole have taken a lot of heat in the process of launching the transition from almost total dependence on fossil transportation fuels to a position of increased reliance on domestic and renewable energy. After a decade of head-on fighting, ethanol has a total of 0.8% of the gasoline market; its competitive oxygenate, MTBE, has a little more than one percent of the market. The way the oil companies have been "beefing," we are led to believe that a two or three percent loss of their gasoline market would be a disaster. Hardly.

ADM is a "smart" company and one of the better engineering firms in their line of business in the world. Had it not been for ADM, the oil companies would have long ago wiped out the emerging ethanol industry.

However, our amendment does not play into the ADM court. It brings competition to the gasoline marketplace. It brings competition to the ethanol marketplace. If ADM does not respond to the challenge of sharing their advantage to the benefit of the farm community, the environment, and the well being of the nation, the Congress will find ways of dealing with that level of power. The extension of the ethanol tax benefits is on the horizon. Let's see how the dust settles on the Clean Air Act. We can deal with the "arrogance of power misused" in due time.

ETHANOL TAX SUBSIDIES

There is endless talk about the tax subsidies the ethanol industry is receiving. It is true, the industry receives government support, and not all of that support has been used wisely. But:

Every emerging energy industry has received government support in one form or the other—the oil industry has continued to enjoy theirs for almost a century—the nuclear industry, only a generation or two. The ethanol industry is a new-comer. The methanol industry is complaining loudly that they are not getting their share. The methanol industry has two problems: they can ride on the coat tail subsidies of the oil and gas industries, and their biggest voice is based beyond the borders of the United States.

The subsidies received by the ethanol industry have been more than offset by savings in farm program outlays. The more agricultural products going into ethanol production, the less the subsidy needed to maintain a favorable price balance for the U.S. in the international marketplace.

Subsidies of any sort are troublesome. But, time, depleting oil reserves, and advancing technology make the support for ethanol a good bet for the country.

FOOD PRICES

API and the oil companies complain that an expanded ethanol industry will increase the price of food. Again, misleading:

The production of ethanol removes only the starch or sugar from the feedstock—all the protein, fiber, oils, nutrients, some of the starch, and the yeast added during fermentation, remain behind to enrich the by-product used for feed and food. The lost carbohydrate energy can be made up with less-cost hays or legumes.

Most of the grains we ship overseas, a big market for U.S. agricultural production, is used to feed animals for their protein market. We can keep the ethanol and the chemical value home and send them the valuable protein to mix with domestic carbohydrates—everybody wins.

The cost of food is mostly in processing and marketing. Check you loaf of bread, your box of cereal, or your pound of chicken/beef/pork and trace it back to the value of the feed grain. Of course there is a connection, but any loss as a result of ethanol production will be more than made up by a strengthened farm economy unencumbered by costly production limitations.

OZONE

API and the oil companies complain that the use of ethanol will add to the formation of surface level ozone. Again, misleading:

Ozone formation in a function is the amount of volatile organic compounds (VOCs) released to the environment as a result of evaporation of the fuel, or emitted in the exhaust; the photo-chemical reactivity of the released compounds; and the amount of carbon monoxide included in the release. Routinely, this combination of releases is less with an ethanol enriched gasoline as compared to "dirtier gasoline."

The oil companies, in their routine refusal to accept ethanol, have made no attempt to formulate a gasoline that could take advantage of the economic and environmental benefits of ethanol to reduce ozone. "Ear rings can't do much to a hog." On the other hand, ethanol can add very positive environmental (ozone) benefits to a properly formulated base gasoline.

Oil companies make no mention of the benefits of ETBE, an ether made from ethanol in the same manner that MTBE is made from methanol, in reducing ozone. MTBE outsells ethanol to the oil companies two to one, not for economic or environmental reasons, but because of oil company determination to control the market with fossil fuels. ETBE, because of its low vapor blending pressure, high octane, favorable distillation curve, and oxygen content, is probably the best gasoline component to bring down ozone levels.

CARBON MONOXIDE

At last, one issue where there is agreement all around. The oxygenates will reduce CO emissions from 5 to 34 percent depending on the amount of oxygen in the resulting fuel and the vintage of the car. The older the car and the greater the amount of oxygen, the greater the CO reduction. The newer the car and the lower the oxygen content, the less CO benefit.

Even with the most modern car, the level of oxygen in our amendment should lead to a 15-20 percent reduction in carbon monoxide.

NITROGEN OXIDES

More than 75 percent of the air we and our engines burn is made of nitrogen. When that nitrogen is subjected to high temperatures (over 1000 degrees fahrenheit), that nitrogen is converted into nitrogen oxides—$NO_x$. That $NO_x$ combines with ozone precursors like VOCs and CO to form ozone.

API and the oil companies claim that ethanol-enriched gasoline increases $NO_x$ levels. It all depends:

The oxygen in ethanol leans out the burn and less air is required to properly burn the fuel. Less air, less nitrogen, less $NO_x$. But, that depends on engine settings.

Ethanol cools the combustion process. Less temperature, less $NO_x$. But, that depends on engine settings.

So, it all depends on how the gasoline is formulated and how the running parameters of the engine are set.

Actually, the issue of $NO_x$ is moot; my amendment does not allow for any increase in $NO_x$.

If the oil companies, the automakers, and the oxygenated fuels (ethanol, methanol, ETBE, ETBE) industries would work together they could formulate a fuel and design engines to reduce $NO_x$.

METHANOL

My amendment opens up the competition in the gasoline market. Methanol will play a major role in providing the required level of oxygen.

Of the seven EPA approved oxygenated fuel blends, five contained methanol in some form.

Currently, about twice as much MTBE (made from methanol) as ethanol is used by the oil companies for octane and oxygen.

It is estimated that about twice as much methanol as ethanol will be used to meet the oxygen requirement of the legislation and to provide the octane lost as the oil companies phase down aromatic levels in their gasoline.

HYDROCARBON RELEASES

API claims that the ethanol-enriched gasoline will increase levels of hydrocarbons releases. Again, misleading:

Repeated studies over the years show conclusively that ethanol-enriched gasoline reduces the release of unburned hydrocarbons;

Ethanol, when added to gasoline, does increase the vapor pressure of the mixture. Evaporative emissions will increase: However, if a favorable blendstock is provided by the oil companies for ethanol, the resulting vapor pressure will not add to evaporative emissions;

The ethers, ETBE and MTBE, actually reduce vapor pressures, evaporative emissions, and unburned hydrocarbons.

It is the same story—if the oil companies are willing to accept the alcohols and the ethers, accommodations can be made to reduce hydrocarbon emissions.

LOSS TO THE HIGHWAY TRUST FUND

There is no question that the marketing of ethanol enriched gasoline enjoys an excise gasoline tax exemption. The question is, who gets that benefit? Let us say that:

The rack price of unleaded regular gasoline is $.60 a gallon. As a base, ethanol, when blended with gasoline, replaces that fuel on a gallon per gallon basis—it is worth $.60;

The rack price of octane is $.02 an octane point. Ethanol, on the average, provides 2.5 points of octane when one gallon is blended with nine gallons of gasoline—the ethanol is worth $.50 as an octane additive;

$.60 plus $.50 is $1.10, about what ethanol is worth in today's market.

Where does the $.60 a gallon excise tax credit per gallon of ethanol go? It goes to the oil companies that blend the ethanol into gasoline for the market.

Again, cooperation between the oil companies and the ethanol industry could lead to a phase down of the excise tax exemption that comes out of the highway trust fund.

As to the future—ETBE will not receive the excise tax exemption and it will not impact on the highway trust fund. It receives a tax credit that is: (1) Taxable; (2) comes out of the general revenues; and (3) a benefit to the taxpayer in that it reduces the cost of farm program outlays by an amount greater than the cost of the benefit (the GAO and CRS have repeatedly verified these calculations).

ETHANOL MANDATE

There are seven EPA approved oxygenated fuels to meet the requirements of my amendment. Two more are being considered by EPA and will likely be approved.

The process of approving oxygenates for inclusion in gasoline by EPA will continue.

Further, if oil companies can demonstrate that their formulation (containing no oxygen or less oxygen than called for in my amendment) is equal to or better than the specified formulation, EPA must certify that new oil company gasoline formulation.

My amendment opens up the marketplace for a wide variety of high-grade liquid fuels. The API is fighting to maintain exclusive control of the marketplace on its terms.

RURAL IMPACT

For too long, American farmers have been paid not to grown crops or have been forced off the land due to a lack of markets for their crops.

This legislation will provide new markets for 300 million to 800 million bushels of corn (or corn equivalents—milo, sweet sorghum, potatoes, barley, sugar belts, sugar cane, wheat, and variety of waste streams) annually. These new markets will permit reductions in farm program outlays with major savings to the taxpayers.

Further, technology now exists to integrate fully ethanol production with a variety of food, feed, fiber, fuel, fertilizer, and chemical feedstock processes. This provides major opportunities to take advantages of the economies of integration, making the economies of scale less important.

These integrated systems can be located right in farm country, taking the value added where it will do the most good for the rural economy, with major economic impact multiplier benefits to the entire nation.

These integrated systems, taking advantage of a synergistic relationship with nature, will permit increased agricultural production while actually enhancing the environment.

My amendment will provide a needed "jump start" for the rural economy.

POTENTIAL ETHANOL PRODUCTION

The production of ethanol in this country is limited only by the creativity and hard work of the American people.

Ethanol can be made from anything that can be fermented, including waste paper, agricultural waste, trees and grass. Ethanol can even by made from sewer sludge or animal manure.

What we have before us in the opportunity to turn to America's greatest resources—bountiful land, favorable weather conditions, and hard working and creative people—to clean up the nation's air, back us out of the oil barrel, and to revitalize some of our basic industries.

There will be no trouble providing the oxygenated fuel blends required by legislation through ethanol production and through the production of the other oxygenates approved by EPA. The phase-in schedule, and limiting the requirements to nine cities, provides additional flexibility.

ALDEHYDE EMISSIONS

Aldehydes can cause a problem in that they are an irritant and contribute to ozone formation. However, modern engine and catalyst technology can deal with aldehyde emissions.

Combustion of methanol generally produces formaldehyde emissions. Ethanol causes acetaldehyde emissions which are less harmful and are less photochemically reactive than formaldehyde emissions.

The combustion of gasoline also causes aldehyde emissions.

Further, the ethers—MTBE and ETBE—(the preferred forms of oxygenates) largely eliminate concern over aldehyde emissions.

WHAT DO THE OIL COMPANIES SAY

They are saying a lot of things bad about "government gas," about ethanol, and about the "ethanol mandate."

They have hired "research firms" to prove their points using incorrect assumptions and questionable proceedures.

Underneath it all they are saying "leave the transportation fuel market alone."

WHAT ARE THE AUTO COMPANIES SAYING

General Motors has suggested a gasoline formulation essentially identical to the one proposed by my amendment.

General Motors recommends oxygenated fuels for clean air.

All automakers approve the use of ethanol blends.

Car are 90% cleaner than they were 20 years ago.

The automobile industry has assumed a disproportionate share of the burden of cleaning-up vehicle and fuels related emissions.

For a long time the auto industry have been asking the oil companies to provide the driving public with cleaner gasoline.

That is what my amendment does.

Mr. QUILLEN. Madam Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Madam Speaker, as many of my colleagues are aware, I have worked for several months with other members of the Energy and Commerce Committee to craft reasonable clean air language on alternative fuels. Mobile sources contribute significantly to the smog problem in Houston. TX, as well as other cities across the country. It is imperative that not only automobile manufacturers, but also producers of motor fuels contribute to the clean up of these emissions.

Therefore, I strongly support mandating that cleaner burning gasolines be used in our dirtiest cities. The Hall-Fields amendment adopted by the Energy and Commerce Committee requires the use of clean-burning reformulated gasoline for existing vehicles, that is—old dirtier cars and trucks—in the nine worst ozone cities.

Congressman HALL and myself entered into an accommodation. As a sponsor of the amendment, I support it. It is the product of days of negotiations between committee members including Chairmen DINGELL and WAXMAN, Congressmen LENT, HALL, SYNAR, and TAUZIN. It is far from perfect—and I will expand on that in a minute—but it is a compromise reached, I thought, in good faith by all parties. It is my understanding that input in the negotiations was received by all interested parties including farm groups and the petroleum industry.

That is why I cannot understand why the gentleman from New Mexico is upset that the compromise is included in the committee amendment as was intended.

Speaker FOLEY made it clear that he wanted clean air legislation resolved by this body with minimal controversy, and in a timely manner. The leadership told the Energy and Commerce Committee that it wanted issues worked out so that we could vote on this legislation prior to the Memorial Day recess. Honoring the Speaker's request, numerous controversial issues were negotiated and resolved by committee members and folded into the committee amendment. That is where the amendment belongs. And that's why our compromise is there.

Therefore, I want to repeat—our accommodation is a compromise. It is not opposed by the petroleum industry. All of the gentlemen's efforts to make it sound controversial aside—it is not controversial. I strongly urge all of my Republican colleagues to support this aspect of the committee amendment.

With that said, I would be remiss if I did not discuss the major elements of this proposal which must be improved in conference.

First, there is no test for feasibility. We have no idea if a gasoline can be made that meets the stringent standards required by the amendment, especially in the outyears. There is no scientific data to determine the ability to achieve the hazardous air pollutant reductions. The amendment gives EPA no authority to test for feasibility, or adjust the requirements if the fuel cannot be made.

Second, although the formula from reformulated gasoline can be met by an equivalent fuel, we are still pushing a formula. This makes no sense. Congress should establish a goal for how clean we want the fuel to be and leave it to the experts to meet that goal in the most efficient and cost-effective manner.

Third, there is no system to determine the availability of components needed for these fuels. For example, requiring 44 mainly large cities to sell only fuel containing 2.7 percent oxygen by 1992 is most likely impossible. There is not enough ethanol and ether capacity in this country to supply that much oxygen in such a short timeframe. There should be waivers in the carbon monoxide nonattainment program for lack of domestic capacity as well as for implementation of more cost-effective alternative measures.

Finally, this amendment offers no opportunity to determine the environmental impact of this complex and costly new program. The auto and petroleum industries are currently engaged in a massive research program to determine the cleanest fuel/vehicle combination possible. This amendment ignores that research. I believe that independent experts should be allowed to examine current and future data in this area and that EPA should be required to adjust the program as needed based on this review.

In closing, Madam Speaker, this matter has been negotiated and agreed to by the members of the Energy and Commerce Committee and it should not be offered separately, its not controversial. I urge all of my colleagues to support it and work with me to make needed improvements as we move to conference.

Mr. GORDON. Madam Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Madam Speaker, let me commend the Committee on Rules. This is an extraordinarily complex bill, and there are some extraordinarily controversial issues yet remaining to be settled on this House floor. The Committee on Rules has looked at those differences of opinion and has accorded as under this rule an opportunity to have those issues settled within the context of this rule.

For example, there is a major difference of opinion over whether or not in the alternative fuels section we ought to have incentives driving the marketplace for cleaner cars and mandates on fleets, or whether we ought to mandate Detroit to produce cars that may or may not be sold. That is a legitimate and yet controversial issue. The Committee on Rules has provided us ample opportunity to settle that debate on the floor.

In addition, we will be settling issues dealing with CFC's, dealing with an issue dealing with getting information on whether or not we have global warming problems. We will settle the issue of whether or not we want to compensate workers displaced.

We are providing in effect in this rule ample opportunity to settle those issues which we did not come to closure on and the major work that the Committee on Energy and Commerce did. It is with confidence I support this rule and urge Members to support it.

Mr. QUILLEN. Madam Speaker, I yield myself the balance of my time to close debate on this side.

As I said, this bill has a very high sounding name, "Clean Air." Who can be against it? But look underneath. It is not what it is purported to be. There are many inequities. But I am convinced that negotiations between the gentleman from Michigan [Mr. DINGELL] and the gentleman from California [Mr. WAXMAN] and others produced the best that was possible under the circumstances.

Madam Speaker, I urge my colleagues to look very carefully before voting for the rule.

I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. SCHROEDER). The gentleman from Tennessee [Mr. QUILLEN] has utilized all of his time.

Mr. GORDON. Madam Speaker, for purposes of debate only, I yield 1 minute to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Madam Speaker, I rise to support the rule and to compli-

ment the members of the Committee on Rules in drafting this document that is before us. There were many demands placed on the Committee on Rules. A lot of people had a lot of different amendments, moving in different directions. There were many disputes that had to be resolved in a very short timeframe.

Madam Speaker, the rule that is before us was drafted with a great deal of care and very conscientious effort, fair to everybody. It will give us an orderly way to proceed with this most important bill in the national interest.

Madam Speaker, I commend the Committee on Rules. I look forward to supporting the rule and urge all Members to join me in doing so.

Mr. GORDON. Madam Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. APPLEGATE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 106, not voting 14, as follows:

[Roll No. 129]

YEAS—312

| | | |
|---|---|---|
| Ackerman | Clay | Feighan |
| Anderson | Clement | Fields |
| Annunzio | Coleman (MO) | Fish |
| Aspin | Coleman (TX) | Flake |
| Atkins | Collins | Foglietta |
| AuCoin | Condit | Ford (MI) |
| Barnard | Conte | Ford (TN) |
| Bateman | Conyers | Frank |
| Bates | Cooper | Frost |
| Beilenson | Coughlin | Gallegly |
| Bennett | Courter | Gallo |
| Bereuter | Crockett | Gaydos |
| Berman | Darden | Gejdenson |
| Bevill | Davis | Gephardt |
| Bilbray | de la Garza | Geren |
| Bilirakis | DeFazio | Gillmor |
| Bliley | Dellums | Gilman |
| Boehlert | Derrick | Glickman |
| Boggs | Dickinson | Gonzalez |
| Bonior | Dicks | Gordon |
| Borski | Dingell | Goss |
| Bosco | Dixon | Gradison |
| Boucher | Douglas | Grandy |
| Brennan | Dreier | Grant |
| Brooks | Durbin | Gray |
| Broomfield | Dwyer | Green |
| Browder | Dymally | Gunderson |
| Brown (CA) | Dyson | Hall (OH) |
| Bruce | Early | Hall (TX) |
| Bryant | Eckart | Harris |
| Bustamante | Edwards (CA) | Hatcher |
| Callahan | Engel | Hawkins |
| Campbell (CA) | English | Hayes (IL) |
| Campbell (CO) | Erdreich | Hayes (LA) |
| Carper | Espy | Hefner |
| Carr | Evans | Henry |
| Chapman | Fascell | Hertel |
| Clarke | Fazio | Hiler |
| Hoagland | Moakley | Sharp |
| Hochbrueckner | Molinari | Shays |
| Horton | Mollohan | Sikorski |
| Houghton | Montgomery | Skaggs |
| Hoyer | Moorhead | Skeen |
| Hubbard | Morella | Skelton |
| Huckaby | Morrison (CT) | Slattery |
| Hughes | Morrison (WA) | Slaughter (NY) |
| Hyde | Mrazek | Smith (FL) |
| Jacobs | Murphy | Smith (IA) |
| Johnson (SD) | Murtha | Smith (NE) |
| Johnston | Myers | Smith (NJ) |
| Jones (GA) | Nagle | Smith (VT) |
| Jones (NC) | Natcher | Smith, Robert (NH) |
| Jontz | Neal (MA) | Snowe |
| Kanjorski | Neal (NC) | Solarz |
| Kaptur | Nielson | Solomon |
| Kastenmeier | Nowak | Spence |
| Kennedy | Oberstar | Spratt |
| Kildee | Obey | Staggers |
| Kleczka | Olin | Stallings |
| Kolbe | Ortiz | Stangeland |
| Kolter | Owens (NY) | Stearns |
| Kostmayer | Owens (UT) | Stenholm |
| LaFalce | Oxley | Stokes |
| Lagomarsino | Pallone | Studds |
| Lancaster | Panetta | Swift |
| Lantos | Parker | Synar |
| Laughlin | Parris | Tallon |
| Leach (IA) | Pashayan | Tanner |
| Lehman (CA) | Patterson | Tauke |
| Lehman (FL) | Paxon | Tauzin |
| Lent | Payne (NJ) | Taylor |
| Levine (CA) | Payne (VA) | Thomas (GA) |
| Lewis (CA) | Pelosi | Thomas (WY) |
| Lewis (GA) | Penny | Torres |
| Lipinski | Perkins | Torricelli |
| Livingston | Pickett | Towns |
| Lloyd | Price | Traxler |
| Long | Pursell | Udall |
| Lowery (CA) | Rahall | Unsoeld |
| Lowey (NY) | Ravenel | Valentine |
| Luken, Thomas | Ray | Vander Jagt |
| Machtley | Rhodes | Vento |
| Madigan | Richardson | Visclosky |
| Manton | Rinaldo | Volkmer |
| Markey | Roe | Walgren |
| Martin (IL) | Ros-Lehtinen | Walsh |
| Martin (NY) | Rose | Waxman |
| Martinez | Roukema | Weber |
| Mavroules | Rowland (CT) | Weiss |
| Mazzoli | Rowland (GA) | Weldon |
| McCandless | Roybal | Wheat |
| McCrery | Sabo | Whittaker |
| McCurdy | Saiki | Whitten |
| McDade | Sangmeister | Williams |
| McDermott | Sarpalius | Wilson |
| McHugh | Sawyer | Wise |
| McMillan (NC) | Saxton | Wolf |
| McMillen (MD) | Schaefer | Wolpe |
| McNulty | Scheuer | Wyden |
| Meyers | Schiff | Wylie |
| Mfume | Schneider | Yates |
| Michel | Schroeder | Yatron |
| Miller (CA) | Schuette | |
| Miller (WA) | Schumer | |
| Mineta | Serrano | |

NAYS—106

| | | |
|---|---|---|
| Alexander | DeLay | Inhofe |
| Andrews | DeWine | Ireland |
| Anthony | Donnelly | James |
| Applegate | Dorgan (ND) | Jenkins |
| Archer | Dornan (CA) | Johnson (CT) |
| Armey | Downey | Kasich |
| Baker | Duncan | Kennelly |
| Ballenger | Edwards (OK) | Kyl |
| Bartlett | Emerson | Levin (MI) |
| Bentley | Fawell | Lewis (FL) |
| Boxer | Gekas | Lightfoot |
| Brown (CO) | Gibbons | Marlenee |
| Buechner | Gingrich | Matsui |
| Bunning | Goodling | McCollum |
| Burton | Guarini | McEwen |
| Byron | Hamilton | McGrath |
| Cardin | Hammerschmidt | Miller (OH) |
| Chandler | Hancock | Moody |
| Clinger | Hansen | Oakar |
| Coble | Hastert | Packard |
| Combest | Hefley | Pease |
| Costello | Herger | Petri |
| Cox | Holloway | Pickle |
| Coyne | Hopkins | Porter |
| Crane | Hunter | Poshard |
| Dannemeyer | Hutto | Quillen |
| Rangel | Sensenbrenner | Stark |
| Regula | Shaw | Stump |
| Ritter | Shumway | Sundquist |
| Roberts | Shuster | Traficant |
| Rogers | Sisisky | Upton |
| Rohrabacher | Slaughter (VA) | Vucanovich |
| Rostenkowski | Smith (TX) | Walker |
| Roth | Smith, Denny (OR) | Young (AK) |
| Russo | Smith, Robert (OR) | Young (FL) |
| Schulze | | |

NOT VOTING—14

| | | |
|---|---|---|
| Barton | Lukens, Donald | Savage |
| Craig | McCloskey | Thomas (CA) |
| Flippo | Nelson | Washington |
| Frenzel | Ridge | Watkins |
| Leath (TX) | Robinson | |

□ 1141

The Clerk announced the following pair:

On this vote:

Mr. Nelson for, with Mr. Craig against.

Messrs. HUTTO, PACKARD, and SCHULZE changed their vote from "yea" to "nay."

Messrs. HENRY, CAMPBELL of California, BEREUTER, and PARRIS changed their vote from "nay" to "yea."

So the previous question was rendered.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. LENT. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mrs. SCHROEDER). The gentleman will state his parliamentary inquiry.

Mr. LENT. Madam Speaker, am I correct that the next vote, or the vote that is about to occur will be on the rule allowing consideration of H.R. 3030, President Bush's clean air bill?

The SPEAKER pro tempore. The gentleman is correct.

Mr. MATSUI. Mr. Speaker, I join my colleagues in supporting passage of House Resolution 399, the rule for the Clean Air Act Amendments of 1990.

The Clean Air Act was last amended by Congress in 1977. That fact in and of itself is an embarrassment to the institution. The technological advances industry has developed in the last 13 years, the newly discovered air contaminants that are unregulated by current law, and the inability of the 1977 amendments to correct some of its intended targets make enactment of new clean air legislation essential.

No State is in greater need of the environmental relief contained in this package more than my home State of California. The major urban air quality problem in California is ozone smog. Los Angeles is the only extreme violator of ozone standards in the country; furthermore, we have one severe violator in the city of San Diego and three serious transgressors, including my home city of Sacramento. This legislation contains the mechanisms, through the use of clean fuels and clean-fuel vehicles in non-attainment areas, to make wholesale reductions in ozone smog on a fixed timetable.

But California is not merely a collection of urban areas. Indeed, among the State's most

valuable resources are its many national parks and wilderness areas. The bill as amended by the proposed Energy and Commerce Committee amendment will establish programs to remedy the problem of regional haze which is beginning to plague western parks.

Finally, California's beautiful and valuable coastal regions will receive additional protection from atmospheric emissions from offshore oil and gas platforms.

This is not a flawless piece of legislation. But like the membership of the body which has produced it, this bill represents a confluence of regional and ideological interests. Furthermore, the rule we are considering is attentive to the dynamics of the contrasting views of the House on this issue. The rule, like the legislation it will restrict, is a delicate balancing act. Hopefully, it will yield a clean air bill that will improve the health of the environment as well as our Nation's citizens.

In short, Mr. Speaker, this bill has been a long time in coming and we must not let this opportunity escape us. This package will undoubtedly be the crowning achievement in a year of increased environmental awareness, and I urge my colleagues to support passage of the rule to allow for its immediate consideration.

The SPEAKER pro tempore. The question is on the resolution, as modified.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STARK. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 317, nays 105, answered not voting 10, as follows:

[Roll No. 130]

YEAS—317

| | | |
|---|---|---|
| Ackerman | Clay | Fazio |
| Anderson | Clement | Feighan |
| Annunzio | Coleman (MO) | Fields |
| Aspin | Coleman (TX) | Fish |
| Atkins | Collins | Flake |
| AuCoin | Condit | Foglietta |
| Barnard | Conte | Ford (MI) |
| Bateman | Conyers | Frank |
| Bates | Cooper | Frost |
| Beilenson | Coughlin | Gallegly |
| Bennett | Courter | Gallo |
| Bereuter | Cox | Gaydos |
| Berman | Crockett | Gejdenson |
| Bevill | Darden | Gephardt |
| Bilbray | Davis | Geren |
| Bilirakis | de la Garza | Gillmor |
| Bliley | DeFazio | Gilman |
| Boehlert | Dellums | Gingrich |
| Boggs | Derrick | Glickman |
| Bonior | Dickinson | Gonzalez |
| Borski | Dicks | Gordon |
| Bosco | Dingell | Goss |
| Boucher | Dixon | Grant |
| Boxer | Dornan (CA) | Gray |
| Brennan | Douglas | Green |
| Brooks | Dreier | Gunderson |
| Broomfield | Durbin | Hall (OH) |
| Browder | Dwyer | Hall (TX) |
| Brown (CA) | Dymally | Hamilton |
| Bruce | Dyson | Harris |
| Bryant | Early | Hatcher |
| Bustamante | Eckart | Hawkins |
| Byron | Edwards (CA) | Hayes (IL) |
| Callahan | Engel | Hayes (LA) |
| Campbell (CA) | English | Hefner |
| Campbell (CO) | Erdreich | Henry |
| Carper | Espy | Hertel |
| Carr | Evans | Hiler |
| Chapman | Fascell | Hoagland |
| Clarke | Fawell | Hochbrueckner |
| Horton | Montgomery | Shays |
| Houghton | Moorhead | Sikorski |
| Hoyer | Morella | Skaggs |
| Hubbard | Morrison (CT) | Skeen |
| Huckaby | Mrazek | Skelton |
| Hughes | Murphy | Slattery |
| Hyde | Murtha | Slaughter (NY) |
| Jacobs | Myers | Smith (FL) |
| Johnson (SD) | Nagle | Smith (IA) |
| Johnston | Natcher | Smith (NE) |
| Jones (GA) | Neal (MA) | Smith (NJ) |
| Jones (NC) | Neal (NC) | Smith (VT) |
| Jontz | Nielson | Smith, Denny (OR) |
| Kanjorski | Nowak | Smith, Robert (NH) |
| Kaptur | Oberstar | Snowe |
| Kastenmeier | Obey | Solarz |
| Kennedy | Olin | Solomon |
| Kildee | Ortiz | Spence |
| Kleczka | Owens (NY) | Spratt |
| Kolbe | Owens (UT) | Staggers |
| Kolter | Oxley | Stallings |
| Kostmayer | Pallone | Stangeland |
| LaFalce | Panetta | Stearns |
| Lagomarsino | Parker | Stenholm |
| Lancaster | Parris | Studds |
| Lantos | Pashayan | Swift |
| Laughlin | Patterson | Synar |
| Leach (IA) | Paxon | Tallon |
| Leath (TX) | Payne (NJ) | Tanner |
| Lehman (CA) | Payne (VA) | Tauke |
| Lehman (FL) | Pelosi | Tauzin |
| Lent | Penny | Thomas (GA) |
| Levine (CA) | Perkins | Torres |
| Lewis (CA) | Petri | Torricelli |
| Lewis (GA) | Pickett | Towns |
| Lipinski | Price | Traficant |
| Livingston | Pursell | Traxler |
| Lloyd | Quillen | Udall |
| Long | Rahall | Unsoeld |
| Lowery (CA) | Ravenel | Valentine |
| Lowey (NY) | Ray | Vander Jagt |
| Luken, Thomas | Rhodes | Vento |
| Machtley | Richardson | Visclosky |
| Madigan | Ridge | Volkmer |
| Manton | Rinaldo | Walgren |
| Markey | Roe | Walsh |
| Martin (IL) | Ros-Lehtinen | Washington |
| Martin (NY) | Rose | Waxman |
| Martinez | Roukema | Weber |
| Mavroules | Rowland (CT) | Weiss |
| Mazzoli | Rowland (GA) | Weldon |
| McCandless | Roybal | Wheat |
| McCrery | Sabo | Whittaker |
| McCurdy | Saiki | Whitten |
| McDade | Sangmeister | Williams |
| McHugh | Sarpalius | Wilson |
| McMillan (NC) | Savage | Wise |
| McMillen (MD) | Saxton | Wolf |
| McNulty | Schaefer | Wolpe |
| Meyers | Scheuer | Wyden |
| Mfume | Schiff | Wylie |
| Michel | Schneider | Yates |
| Miller (CA) | Schroeder | Yatron |
| Miller (WA) | Schuette | |
| Mineta | Schumer | |
| Moakley | Serrano | |
| Molinari | Sharp | |

NAYS—105

| | | |
|---|---|---|
| Alexander | Dorgan (ND) | Johnson (CT) |
| Andrews | Downey | Kasich |
| Anthony | Duncan | Kennelly |
| Applegate | Edwards (OK) | Kyl |
| Archer | Emerson | Levin (MI) |
| Armey | Ford (TN) | Lewis (FL) |
| Baker | Gekas | Lightfoot |
| Ballenger | Gibbons | Marlenee |
| Bartlett | Goodling | Matsui |
| Bentley | Gradison | McCollum |
| Brown (CO) | Grandy | McDermott |
| Buechner | Guarini | McEwen |
| Bunning | Hammerschmidt | McGrath |
| Burton | Hancock | Miller (OH) |
| Cardin | Hansen | Mollohan |
| Chandler | Hastert | Moody |
| Clinger | Hefley | Morrison (WA) |
| Coble | Herger | Oakar |
| Combest | Holloway | Packard |
| Costello | Hopkins | Pease |
| Coyne | Hunter | Pickle |
| Crane | Hutto | Porter |
| Dannemeyer | Inhofe | Poshard |
| DeLay | Ireland | Rangel |
| DeWine | James | Regula |
| Donnelly | Jenkins | Ritter |
| Roberts | Shumway | Sundquist |
| Rogers | Shuster | Taylor |
| Rohrabacher | Sisisky | Thomas (WY) |
| Rostenkowski | Slaughter (VA) | Upton |
| Roth | Smith (TX) | Vucanovich |
| Russo | Smith, Robert (OR) | Walker |
| Sawyer | Stark | Young (AK) |
| Schulze | Stokes | Young (FL) |
| Sensenbrenner | Stump | |
| Shaw | | |

NOT VOTING—10

| | | |
|---|---|---|
| Barton | Lukens, Donald | Thomas (CA) |
| Craig | McCloskey | Watkins |
| Flippo | Nelson | |
| Frenzel | Robinson | |

The Clerk, announced the following pairs:

On this vote:

Mr. Nelson for, with Mr. Craig against.

Mr. Robinson for, with Mr. Thomas of California against.

Mr. LEWIS of California changed his vote from "nay" to "yea."

So the resolution, as modified, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## SUPPLEMENTAL REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1990

Mr. BONIOR, from the Committee on Rules, submitted a supplemental privileged report (Rept. No. 101-494, part II) on the resolution (H. Res. 399) providing for the further consideration of the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, which was referred to the House Calendar and ordered to be printed.

## PARLIAMENTARY INQUIRY

Mr. WALKER. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Madam Speaker, the report that has now been filed pursuant to the rule is the only report that would be permitted under the rule, is that correct?

The SPEAKER pro tempore. That is correct.

Mr. WALKER. Madam Speaker, I thank the Chair.

## CLEAN AIR ACT AMENDMENTS OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 399 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3030.

□ 1204

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, with Mr. HOYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, May 21, 1990, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill shall be considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3030

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

*SECTION 1. SHORT TITLE, REFERENCE, AND TABLE OF CONTENTS.*

*(a) SHORT TITLE.—This Act may be cited as the "Clean Air Act Amendments of 1990".*

*(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Clean Air Act.*

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*Sec. 103. Additional provisions for ozone nonattainment areas.*
*Sec. 104. Additional provisions for carbon monoxide nonattainment areas.*
*Sec. 105. Additional provisions for particulate matter (PM-10) nonattainment areas.*
*Sec. 106. Additional provisions for areas designated nonattainment for sulfur oxides, nitrogen dioxide, and lead.*
*Sec. 107. Provisions related to Indian tribes.*
*Sec. 108. Miscellaneous provisions.*
*Sec. 109. Interstate pollution.*
*Sec. 110. Conforming amendments.*

*TITLE II—PROVISIONS RELATING TO MOBILE SOURCES*

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*Sec. 202. Emission standards for certain motor vehicles.*
*Sec. 203. Conforming amendment.*
*Sec. 204. Carbon monoxide emissions at cold temperatures.*
*Sec. 205. Evaporative emissions.*
*Sec. 206. Control of vehicle refueling emissions.*
*Sec. 207. Mobile source-related air toxics.*
*Sec. 208. Emission control diagnostics systems.*
*Sec. 209. Auto warranties.*
*Sec. 210. Heavy-duty trucks.*
*Sec. 211. Nonroad engines and vehicles.*
*Sec. 212. Vehicle certification.*
*Sec. 213. In-use compliance—recall.*
*Sec. 214. Compliance program fees.*
*Sec. 215. Information collection.*
*Sec. 216. Fuel volatility.*
*Sec. 217. Diesel fuel sulfur content.*
*Sec. 218. Lead substitute gasoline additives.*
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*Sec. 220. Fuel waivers.*
*Sec. 221. Market-based alternative controls.*
*Sec. 222. State fuel regulation.*
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*Sec. 224. High altitude testing.*
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*TITLE IV—PERMITS*

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*TITLE V—ACID DEPOSITION CONTROL*

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*TITLE VI—PROVISIONS RELATING TO ENFORCEMENT*

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*Sec. 602. Compliance certification.*
*Sec. 603. Administrative enforcement subpoenas.*
*Sec. 604. Enforcement of administrative orders.*
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*Sec. 708. Authorization.*

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*TITLE I—PROVISIONS FOR ATTAINMENT AND MAINTENANCE OF NATIONAL AMBIENT AIR QUALITY STANDARDS*

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*Sec. 102. General provisions for nonattainment areas.*
*Sec. 103. Additional provisions for ozone nonattainment areas.*
*Sec. 104. Additional provisions for carbon monoxide nonattainment areas.*
*Sec. 105. Additional provisions for particulate matter (PM-10) nonattainment areas.*
*Sec. 106. Additional provisions for areas designated nonattainment for sulfur oxides, nitrogen dioxide, and lead.*
*Sec. 107. Provisions related to Indian tribes.*
*Sec. 108. Miscellaneous provisions.*
*Sec. 109. Interstate pollution.*
*Sec. 110. Conforming amendments.*

*SEC. 101. GENERAL PLANNING REQUIREMENTS.*

*(a) AREA DESIGNATIONS.—Section 107(d) (42 U.S.C. 7407(d)) is amended to read as follows:*

*"(d) DESIGNATIONS.—*

*"(1) DESIGNATIONS GENERALLY.—*

*"(A) SUBMISSION BY GOVERNORS OF INITIAL DESIGNATIONS FOLLOWING PROMULGATION OF NEW OR REVISED STANDARDS.—By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of a new or revised national ambient air quality standard for any pollutant under section 109, the Governor of each State shall (and at any other time the Governor of a State deems appropriate the Governor may) submit to the Administrator a list of all areas (or portions thereof) in the State, designating as—*

*"(i) nonattainment, any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant,*

*"(ii) attainment, any area (other than an area identified in clause (i)) that meets the national primary or secondary ambient air quality standard for the pollutant, or*

*"(iii) unclassifiable, any area that cannot be classified on the basis of available information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant.*

*The Administrator may not require the Governor to submit the required list sooner than 120 days after promulgating a new or revised national ambient air quality standard.*

*"(B) PROMULGATION BY EPA OF DESIGNATIONS.—(i) Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) submitted under subparagraph (A) as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.*

*"(ii) In making the promulgations required under clause (i), the Administrator may make such modifications as the Administrator deems necessary to the designations of the areas (or portions thereof) submitted under subparagraph (A) (including to the boundaries of such areas or portions thereof). Whenever the Administrator intends to make a modification, the Administrator shall notify the State and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate. The Administrator shall give such notification no later than 120 days before the date the Administrator promulgates the designation, including any modification thereto. If the Governor fails to submit the list in whole or in part, as required under subparagraph (A), the Administrator shall promulgate the designation that the Administrator*

deems appropriate for any area (or portion thereof) not designated by the State.

"(iii) If the Governor of any State, on the Governor's own motion, under subparagraph (A), submits a list of areas (or portions thereof) in the State designated as nonattainment, attainment, or unclassifiable, the Administrator shall act on such designations in accordance with the procedures under paragraph (3)(B) (relating to redesignation).

"(iv) A designation for an area (or portion thereof) made pursuant to this subsection shall remain in effect until the area (or portion thereof) is redesignated pursuant to paragraph (3) or (4).

"(C) DESIGNATIONS BY OPERATION OF LAW.—(i) Any area designated with respect to any air pollutant under the provisions of paragraph (1) (A), (B), or (C) of this subsection (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated, by operation of law, as a nonattainment area for such pollutant within the meaning of subparagraph (A)(i).

"(ii) Any area designated with respect to any air pollutant under the provisions of paragraph (1)(E) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated by operation of law, as an attainment area for such pollutant within the meaning of subparagraph (A)(ii).

"(iii) Any area designated with respect to any air pollutant under the provisions of paragraph (1)(D) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated, by operation of law, as an unclassifiable area for such pollutant within the meaning of subparagraph (A)(iii).

"(2) PUBLICATION OF DESIGNATIONS AND REDESIGNATIONS.—(A) The Administrator shall publish a notice in the Federal Register promulgating any designation under paragraph (1) or (5), or announcing any designation under paragraph (4), or promulgating any redesignation under paragraph (3).

"(B) Promulgation or announcement of a designation under paragraph (1), (4) or (5) shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (relating to notice and comment), except nothing herein shall be construed as precluding such public notice and comment whenever possible.

"(3) REDESIGNATION.—(A) Subject to the requirements of subparagraph (E), and on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate, the Administrator may at any time notify the Governor of any State that available information indicates that the designation of any area or portion of an area within the State or interstate area should be revised. In issuing such notification, which shall be public, to the Governor, the Administrator shall provide such information as the Administrator may have available explaining the basis for the notice.

"(B) No later than 120 days after receiving a notification under subparagraph (A), the Governor shall submit to the Administrator such redesignation, if any, of the appropriate area (or areas) or portion thereof within the State or interstate area, as the Governor considers appropriate.

"(C) No later than 120 days after the date described in subparagraph (B), the Administrator shall promulgate the redesignation, if any, of the area or portion thereof, submitted by the Governor in accordance with subparagraph (B), making such modifications as the Administrator may deem necessary, in the same manner and under the same procedure as is applicable under clause (ii) of paragraph (1)(B), except that the phrase '60 days' shall be substituted for the phrase '120 days' in that clause. If the Governor does not submit, in accordance with subparagraph (B), a redesignation for an area (or portion thereof) identified by the Administrator under subparagraph (A), the Administrator shall promulgate such redesignation, if any, that the Administrator deems appropriate.

"(D) The Governor of any State may, on the Governor's own motion, submit to the Administrator a revised designation of any area or portion thereof within the State. Within 18 months of receipt of a complete State redesignation submittal, the Administrator shall approve or deny such redesignation. The submission of a redesignation by a Governor shall not affect the effectiveness or enforceability of the applicable implementation plan for the State.

"(E) The Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless—

"(i) the Administrator determines that the area has attained the national ambient air quality standard;

"(ii) the Administrator has fully approved the applicable implementation plan for the area under section 110(k);

"(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

"(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

"(v) the State containing such area has met all requirements applicable to the area under this Act.

"(F) The Administrator shall not promulgate any redesignation of any area (or portion thereof) from nonattainment to unclassifiable.

"(4) NONATTAINMENT DESIGNATIONS FOR OZONE, CARBON MONOXIDE AND PARTICULATE MATTER (PM–10).—

"(A) OZONE AND CARBON MONOXIDE.—(i) Within 120 days after the date of the enactment of the Clean Air Act Amendments of 1990, each Governor of each State shall submit to the Administrator a list that designates, affirms or reaffirms the designation of, or redesignates (as the case may be), all areas (or portions thereof) of the Governor's State as attainment, nonattainment, or unclassifiable with respect to the national ambient air quality standards for ozone and carbon monoxide.

"(ii) No later than 120 days after the date the Governor is required to submit the list of areas (or portions thereof) required under clause (i) of this subparagraph, the Administrator shall promulgate such designations, making such modifications as the Administrator may deem necessary, in the same manner, and under the same procedure, as is applicable under clause (ii) of paragraph (1)(B), except that the phrase '60 days' shall be substituted for the phrase '120 days' in that clause. If the Governor does not submit, in accordance with clause (i) of this subparagraph, a designation for an area (or portion thereof), the Administrator shall promulgate the designation that the Administrator deems appropriate.

"(iii) No nonattainment area may be redesignated as an attainment area under this subparagraph.

"(iv) Notwithstanding paragraph (1)(C)(ii) of this subsection, if an ozone or carbon monoxide nonattainment area located within a metropolitan statistical area or consolidated metropolitan statistical area (as established by the Bureau of the Census) is classified under part D of this title as a Serious, Severe, or Extreme Area, the boundaries of such area are hereby revised (on the date 45 days after such classification) by operation of law to include the entire metropolitan statistical area or consolidated metropolitan statistical area, as the case may be, unless within such 45-day period the Governor (in consultation with State and local air pollution control agencies) notifies the Administrator that additional time is necessary to evaluate the application of clause (v). Whenever a Governor has submitted such a notice to the Administrator, such boundary revision shall occur on the later of the date 8 months after such classification or 14 months after the date of the enactment of the Clean Air Act Amendments of 1990 unless the Governor makes the finding referred to in clause (v), and the Administrator concurs in such finding, within such period. Except as otherwise provided in this paragraph, a boundary revision under this clause or clause (v) shall apply for purposes of any State implementation plan revision required to be submitted after the date of the enactment of the Clean Air Act Amendments of 1990.

"(v) Whenever the Governor of a State has submitted a notice under clause (iv), the Governor, in consultation with State and local air pollution control agencies, shall undertake a study to evaluate whether the entire metropolitan statistical area or consolidated metropolitan statistical area should be included within the nonattainment area. Whenever a Governor finds and demonstrates to the satisfaction of the Administrator, and the Administrator concurs in such finding, that with respect to a portion of a metropolitan statistical area or consolidated metropolitan statistical area, sources in the portion do not contribute significantly to violation of the national ambient air quality standard, the Administrator shall approve the Governor's request to exclude such portion from the nonattainment area. In making such finding, the Governor and the Administrator shall consider factors such as population density, traffic congestion, commercial development, industrial development, meteorological conditions, and pollution transport.

"(B) PM–10 DESIGNATIONS.—By operation of law, until redesignation by the Administrator pursuant to paragraph (3)—

"(i) each area identified in 52 Federal Register 29383 (Aug. 7, 1987) as a Group I area (except to the extent that such identification was modified by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990) is designated nonattainment for PM–10;

"(ii) any area containing a site for which air quality monitoring data show a violation of the national ambient air quality standard for PM–10 before January 1, 1989 (as determined under part 50, appendix K of title 40 of the Code of Federal Regulations) is hereby designated nonattainment for PM–10; and

"(iii) each area not described in clause (i) or (ii) is hereby designated unclassifiable for PM–10.

*Any designation for particulate matter (measured in terms of total suspended particulates) that the Administrator promulgated pursuant to this subsection (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall remain in effect for purposes of implementing the maximum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(d), until the Administrator determines that such designation is no longer necessary for that purpose.*

*"(5) DESIGNATIONS FOR LEAD.—The Administrator may, in the Administrator's discretion at any time the Administrator deems appropriate, require a State to designate areas (or portions thereof) with respect to the national ambient air quality standard for lead in effect as of the date of the enactment of the Clean Air Act Amendments of 1990, in accordance with the procedures under subparagraphs (A) and (B) of paragraph (1), except that in applying subparagraph (B)(i) of paragraph (1) the phrase '2 years from the date of promulgation of the new or revised national ambient air quality standard' shall be replaced by the phrase '1 year from the date the Administrator notifies the State of the requirement to designate areas with respect to the standard for lead'.".*

*(b) GENERAL REQUIREMENTS FOR IMPLEMENTATION PLANS.—Section 110(a)(2) (42 U.S.C. 7410(a)(2)) is amended to read as follows:*

*"(2) Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—*

*"(A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;*

*"(B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—*

*"(i) monitor, compile, and analyze data on ambient air quality, and*

*"(ii) upon request, make such data available to the Administrator;*

*"(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D;*

*"(D) contain adequate provisions—*

*"(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—*

*"(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or*

*"(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility,*

*"(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);*

*"(E) provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision;*

*"(F) require, as may be prescribed by the Administrator—*

*"(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,*

*"(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and*

*"(iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection;*

*"(G) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;*

*"(H) provide for revision of such plan—*

*"(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and*

*"(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act;*

*"(I) in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas);*

*"(J) meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection);*

*"(K) provide for—*

*"(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and*

*"(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;*

*"(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover—*

*"(i) the reasonable costs of reviewing and acting upon any application for such a permit, and*

*"(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),*

*until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title IV;*

*"(M) provide for consultation and participation by local political subdivisions affected by the plan;*

*"(N) provide for establishment (consistent with the requirements of this Act) of a small source technical assistance entity that shall—*

*"(i) offer to audit the operations of small sources to determine compliance with all requirements of this Act or offer to refer small sources to qualified auditors;*

*"(ii) provide information on alternative technologies, including equipment, chemical products, and methods of operation, which will help reduce air pollution;*

*"(iii) facilitate lawful cooperation among small generators and other persons where such cooperation would further comply with this Act; and*

*"(O) no later than 4 years after the date of the enactment of the Clean Air Act Amendments of 1990, contain a permit program meeting the requirements of title IV.".*

*(c) ADDITIONAL PROVISIONS.—Section 110 (42 U.S.C. 7410) is amended by adding the following at the end thereof:*

*"(k) ENVIRONMENTAL PROTECTION AGENCY ACTION ON PLAN SUBMISSIONS.—*

*"(1) COMPLETENESS OF PLAN SUBMISSIONS.—*

*"(A) COMPLETENESS CRITERIA.—Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate minimum criteria that any plan submission must meet before the Administrator is required to act on such submission under this subsection. The criteria shall be limited to the information necessary to enable the Administrator to determine whether the plan submission complies with the provisions of this Act.*

*"(B) COMPLETENESS FINDING.—Within 60 days of the Administrator's receipt of a plan or plan revision, but no later than 6 months after the date, if any, by which a State is required to submit the plan or revision, the Administrator shall determine whether each part of the plan or revision meets the minimum criteria established pursuant to subparagraph (A). Any plan or plan revision that a State submits to the Administrator, and that has not been determined by the Administrator (by the date 6 months after receipt of the submission) to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria.*

*"(C) EFFECT OF FINDING OF INCOMPLETENESS.—Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to subparagraph (A), the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof).*

*"(2) DEADLINE FOR ACTION.—Within 12 months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the minimum criteria established pursuant to paragraph (1), if applicable (or, if those criteria are not applicable, within 12 months of submission of the*

plan or revision), the Administrator shall act on the submission in accordance with paragraph (3).

"(3) FULL AND PARTIAL APPROVAL AND DISAPPROVAL.—In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall approve such submittal as a whole if it meets all of the applicable requirements of this Act. If a portion of the plan revision meets all the applicable requirements of this Act, the Administrator may approve the plan revision in part and disapprove the plan revision in part. The plan revision shall not be treated as meeting the requirements of this Act until the Administrator approves the entire plan revision as complying with the applicable requirements of this Act.

"(4) CONDITIONAL APPROVAL.—The Administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

"(5) CALLS FOR PLAN REVISIONS.—Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date prescribed under part D, unless such date has elapsed).

"(6) CORRECTIONS.—Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

"(l) PLAN REVISIONS.—Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

"(m) SANCTIONS.—The Administrator may apply any of the sanctions listed in section 179(b) at any time (or at any time after) the Administrator makes a finding, disapproval, or determination under paragraphs (1) through (4), respectively, of section 179(a) in relation to any plan or plan item (as that term is defined by the Administrator) required under this Act, with respect to any portion of the State the Administrator determines reasonable and appropriate, for the purpose of ensuring that the requirements of this Act relating to such plan or plan item are met. The Administrator shall, by rule, establish criteria for exercising his authority under the previous sentence regarding application of sanctions to portions of a State not in a nonattainment area subject to this section or part D.

"(n) SAVINGS CLAUSES.—

"(1) EXISTING PLAN PROVISIONS.—Any provision of any applicable implementation plan that was approved or promulgated by the Administrator pursuant to this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect as part of such applicable implementation plan, except to the extent that a revision to such provision is approved or promulgated by the Administrator pursuant to this Act.

"(2) ATTAINMENT DATES.—For any area not designated nonattainment, any plan or plan revision submitted or required to be submitted by a State—

"(A) in response to the promulgation or revision of a national primary ambient air quality standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990, or

"(B) in response to a finding of substantial inadequacy under subsection (a)(2) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990),

shall provide for attainment of the national primary ambient air quality standards within 3 years of the date of the enactment of the Clean Air Act Amendments of 1990 or within 5 years of issuance of such finding of substantial inadequacy, whichever is later.

"(3) RETENTION OF CONSTRUCTION MORATORIUM IN CERTAIN AREAS.—In the case of an area to which, immediately before the date of the enactment of the Clean Air Act Amendments of 1990, the prohibition on construction or modification of major stationary sources prescribed in subsection (a)(2)(I) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) applied by virtue of a finding of the Administrator that the State containing such area had not submitted an implementation plan meeting the requirements of section 172(b)(6) (relating to establishment of a permit program) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990) or 172(a)(1) (to the extent such requirements relate to provision for attainment of the primary national ambient air quality standard for sulfur oxides by December 31, 1982) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, no major stationary source of the relevant air pollutant or pollutants shall be constructed or modified in such area until the Administrator finds that the plan for such area meets the applicable requirements of section 172(c)(5) (relating to permit programs) or subpart 5 of part D (relating to attainment of the primary national ambient air quality standard for sulfur dioxide), respectively.".

(d) CONFORMING AMENDMENTS.—Section 110 (42 U.S.C. 7410) is amended as follows:

(1) Strike out subparagraph (D) of section 110(a)(3).

(2) Strike out paragraph (4) of section 110(a).

(3) In subsection (c)—

(A) strike out subparagraph (A) of paragraph (2);

(B) strike out paragraph (2)(C);

(C) strike out paragraph (4); and

(D) in paragraph (5)(B) strike out "(including the written evidence required by Part D),".

(4) Strike subsection (d) and in section 302 (42 U.S.C. 7602) add the following new subsection after subsection (p):

"(q) For purposes of this Act, the term 'applicable implementation plan' means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110, or promulgated under section 110(c), or promulgated or approved pursuant to regulations promulgated under section 301(d) and which implements the relevant requirements of this Act.".

(5) strike out subsection (e).

(6) In subsection (g), strike "the required four month period" and insert "12 months of submission of the proposed plan revision".

(7) In subsection (h)—

(A) strike "one year after the date of enactment of the Clean Air Act Amendments of 1977 and annually thereafter" and insert "5 years after the date of the enactment of the Clean Air Act Amendments of 1990, and every 3 years thereafter"; and

(B) strike the second sentence of paragraph (1).

(8) In subsection (a)(1) strike "nine months" each place it appears and insert "3 years (or such shorter period as the Administrator may prescribe)".

(e) FEDERAL FACILITIES.—Section 118(a) (42 U.S.C. 7418(a)) is amended by inserting ", including fees that meet the requirements of title IV or any other reasonable service charges that are equally applicable to, and paid by, facilities owned or operated by State, regional, or local government entities," immediately after "respecting the control and abatement of air pollution".

(f) CONFORMITY REQUIREMENTS.—Section 176(c) (42 U.S.C. 7506(c)) is amended by striking "(1)", "(2)", "(3)" and "(4)" where they appear, by inserting "(1)" after "(c)", and by adding the following at the end thereof: "Conformity to a plan means—

"(A) conformity to a plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and

"(B) that such activities will not, considering any growth likely to result from such activities—

"(i) cause or contribute to a failure to attain any standard in any area; or

"(ii) delay timely attainment of any standard or any required interim emission reductions.

"(2) No later than one year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of Transportation, shall promulgate criteria and procedures for determining conformity and for keeping the Secretary of Transportation and the Administrator informed about such projects. Such procedures shall include a requirement that each State containing an ozone or carbon monoxide nonattainment area shall submit to the Administrator and the Secretary of Transportation, within 18 months after such date of enactment, a revision to its implementation plan that includes, for each such nonattainment area, criteria and procedures for assessing the

conformity of any plan, program or project subject to the conformity requirements of this subsection.".

SEC. 102. GENERAL PROVISIONS FOR NONATTAINMENT AREAS.

(a) DEFINITIONS.—(1) Part D of title I is amended by inserting immediately after "PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS" the following:

"Subpart 1—Nonattainment Areas in General

"Sec. 171. Definitions.
"Sec. 172. Nonattainment plan provisions.
"Sec. 173. Permit requirements.
"Sec. 174. Planning procedures.
"Sec. 175. Environmental protection agency grants.
"Sec. 176. Limitations on certain federal assistance.
"Sec. 177. New motor vehicle emission standards in nonattainment areas.
"Sec. 178. Guidance documents.".

(2) Section 171 (42 U.S.C. 7501) is amended as follows:

(A) In the introductory language, strike out "and section 110(a)(2)(I)".

(B) Amend paragraph (1) to read as follows:

"(1) REASONABLE FURTHER PROGRESS.—The term 'reasonable further progress' means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.".

(C) Amend paragraph (2) to read as follows:

"(2) NONATTAINMENT AREA.—The term 'nonattainment area' means, for any air pollutant, an area which is designated 'nonattainment' with respect to that pollutant within the meaning of section 107(d).".

(b) NONATTAINMENT PLAN PROVISIONS IN GENERAL.—Section 172 (42 U.S.C. 7502) is amended to read as follows:

"SEC. 172. NONATTAINMENT PLAN PROVISIONS IN GENERAL.

"(a) CLASSIFICATIONS AND ATTAINMENT DATES.—

"(1) CLASSIFICATIONS.—(A) On or after the date the Administrator promulgates the designation of an area as a nonattainment area pursuant to section 107(d) with respect to any national ambient air quality standard (or any revised standard, including a revision of any standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990), the Administrator may classify the area for the purpose of applying an attainment date pursuant to paragraph (2), and for other purposes. In determining the appropriate classification, if any, for a nonattainment area, the Administrator may consider such factors as the severity of nonattainment in such area and the availability and feasibility of the pollution control measures that the Administrator believes may be necessary to provide for attainment of such standard in such area.

"(B) The Administrator shall publish a notice in the Federal Register announcing each classification under subparagraph (A), except the Administrator shall provide an opportunity for at least 30 days for written comment. Such classification shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (concerning notice and comment) and shall not be subject to judicial review until the Administrator takes final action under subsection (k) or (l) of section 110 (concerning action on plan submissions) or section 179 (concerning sanctions) with respect to any plan submissions required by virtue of such designation.

"(C) This paragraph shall not apply with respect to nonattainment areas for which classifications are specifically provided under other provisions of this part.

"(2) ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(A) The attainment date for an area designated nonattainment with respect to a national primary ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable, but no later than 5 years from the date such area was designated nonattainment under section 107(d), except that the Administrator may extend the attainment date to the extent the Administrator determines appropriate, for a period no greater than 10 years from the date of designation as nonattainment, considering the severity of nonattainment and the availability and feasibility of pollution control measures.

"(B) The attainment date for an area designated nonattainment with respect to a secondary national ambient air quality standard shall be as expeditiously as practicable after the date such area was designated nonattainment under section 107(d).

"(C) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the attainment date determined by the Administrator under subparagraph (A) or (B) if—

"(i) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(ii) in accordance with guidance published by the Administrator, no more than a minimal number of exceedances of the relevant national ambient air quality standard has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this subparagraph for a single nonattainment area.

"(D) This paragraph shall not apply with respect to nonattainment areas for which attainment dates are specifically provided under other provisions of this part.

"(b) SCHEDULE FOR PLAN SUBMISSIONS.—At the time the Administrator promulgates the designation of an area as nonattainment with respect to a national ambient air quality standard under section 107(d), the Administrator shall establish a schedule according to which the State containing such area shall submit a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2). Such schedule must, at a minimum, include a date or dates, extending no later than 3 years from the date of the nonattainment designation, for the submission of a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2).

"(c) NONATTAINMENT PLAN PROVISIONS.—The plan provisions (including plan items) required to be submitted under this part shall comply with each of the following:

"(1) IN GENERAL.—Such plan provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards.

"(2) RFP.—Such plan provisions shall require reasonable further progress.

"(3) INVENTORY.—Such plan provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of this part are met.

"(4) IDENTIFICATION AND QUANTIFICATION.—Such plan provisions shall expressly identify and quantify the emissions, if any, of any such pollutant or pollutants which will be allowed, in accordance with section 173(a)(1)(B), from the construction and operation of major new or modified stationary sources in each such area. The plan shall demonstrate to the satisfaction of the Administrator that the emissions quantified for this purpose will be consistent with the achievement of reasonable further progress and will not interfere with attainment of the applicable national ambient air quality standard by the applicable attainment date.

"(5) PERMITS FOR NEW AND MODIFIED MAJOR STATIONARY SOURCES.—Such plan provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with section 173.

"(6) OTHER MEASURES.—Such plan provisions shall include enforceable emission limitations, and such other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date specified in this part.

"(7) COMPLIANCE WITH SECTION 110(a)(2).—Such plan provisions shall also meet the applicable provisions of section 110(a)(2).

"(8) EQUIVALENT TECHNIQUES.—Upon application by any State, the Administrator may allow the use of equivalent modeling, emission inventory, and planning procedures, unless the Administrator determines that the proposed techniques are, in the aggregate, less effective than the methods specified by the Administrator.

"(9) CONTINGENCY MEASURES.—Such plan shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator.

"(d) PLAN REVISIONS REQUIRED IN RESPONSE TO FINDING OF PLAN INADEQUACY.—Any plan revision for a nonattainment area which is required to be submitted in response to a finding by the Administrator pursuant to section 110(k)(5) (relating to calls for plan revisions) must correct the plan deficiency (or deficiencies) specified by the Administrator and meet all other applicable plan requirements of section 110 and this part. The Administrator may reasonably adjust the dates otherwise applicable under such requirements to such revision (except for attainment dates that have not yet elapsed), to the extent necessary to achieve a consistent application of such requirements. In order to facilitate submittal by the States of adequate and approvable plans consistent with the applicable requirements of this Act, the Administrator shall, as appropriate and

*from time to time, issue written guidelines, interpretations, and information to the States which shall be available to the public, taking into consideration any such guidelines, interpretations, or information provided before the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(e) FUTURE MODIFICATION OF STANDARD.—If the Administrator relaxes a national primary ambient air quality standard after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, within 12 months after the relaxation, promulgate requirements applicable to all areas which have not attained that standard as of the date of such relaxation. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas designated nonattainment before such relaxation.".*

*(c) NEW SOURCE PERMIT REQUIREMENTS.—Section 173 (42 U.S.C. 7503) is amended as follows:*

*(1) Strike the center heading and "SEC. 173." and insert:*

*"SEC. 173. PERMIT REQUIREMENTS.".*

*(2) Insert "(a) IN GENERAL.—" before the first sentence.*

*(3) Insert the following after "(1)": "in accordance with regulations issued by the Administrator for the determination of baseline emissions in a manner consistent with the assumptions underlying the applicable implementation plan approved under section 110 and this part,".*

*(4) Make the following amendments in subparagraph (A) of paragraph (1):*

*(A) Insert "sufficient offsetting emissions reductions have been obtained, such that" immediately after the comma following "commence operation".*

*(B) Strike "allowed under the applicable implementation plan" and insert "(as determined in accordance with the regulations under this paragraph)".*

*(5) Make the following amendments in subparagraph (B) of paragraph (1):*

*(A) Insert "in the case of a new or modified major stationary source which is located in a zone (within the nonattainment area) identified by the Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted," at the beginning thereof.*

*(B) Strike "'172(b)" and insert "172(c)".*

*(6) Make the following amendments in paragraph (4):*

*(A) Insert "the Administrator has not determined that" after "(4)".*

*(B) Strike "being carried out" and insert "not being adequately implemented".*

*(C) Replace the period at the end thereof with "; and".*

*(7) Add the following new paragraph after paragraph (4):*

*"(5) an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.".*

*(8) Strike "(1)(A) shall be legally binding" in the concluding sentence of subsection (a), as redesignated by this subsection and insert "(1) shall be federally enforceable".*

*(9) Add a new subsection (b) to read as follows:*

*"(b) PROHIBITION ON USE OF OLD GROWTH ALLOWANCES.—Any growth allowance included in an applicable implementation plan to meet the requirements of section 172(b)(5) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall not be valid for use in any area that received or receives a notice under section 110(a)(2)(H)(ii) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or under section 110(k)(1) that its applicable implementation plan containing such allowance is substantially inadequate.".*

*(10) Add the following new subsections at the end thereof:*

*"(c) OFFSETS.—(1) The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant only by obtaining emission reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the State may allow the owner or operator of a source to obtain such emission reductions in another nonattainment area if (A) the other area has an equal or higher nonattainment classification than the area in which the source is located and (B) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located. Such emission reductions shall be, by the time a new or modified source commences operation, in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.*

*"(2) Emission reductions otherwise required by this Act shall not be creditable as emissions reductions for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by this Act shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of paragraph (1).*

*"(d) CONTROL TECHNOLOGY INFORMATION.—The State shall provide that control technology information from permits issued under this section will be promptly submitted to the Administrator for purposes of making such information available through the RACT/BACT/LAER clearinghouse to other States and to the general public.".*

*(d) PLANNING PROCEDURES.—Section 174 (42 U.S.C. 7504) is amended to read as follows:*

*"SEC. 174. PLANNING PROCEDURES.*

*"(a) IN GENERAL.—For any ozone or carbon monoxide nonattainment area, the State containing such area and elected officials of affected local governments shall, before the date required for submittal of the inventory described under sections 182(a)(1) and 187(a)(1), jointly review and update as necessary the planning procedures adopted pursuant to this subsection as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, or develop new planning procedures pursuant to this subsection, as appropriate. In preparing such procedures the State and local elected officials shall determine which elements of a revised implementation plan will be developed, adopted, and implemented (through means including enforcement) by the State and which by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. The implementation plan required by this part shall be prepared by an organization certified by the State, in consultation with elected officials of local governments and in accordance with the determination under the second sentence of this subsection. Such organization shall include elected officials of local governments in the affected area, and representatives of the State air quality planning agency, the State transportation planning agency, the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, the organization responsible for the air quality maintenance planning process under regulations implementing this Act, and any other organization with responsibilities for developing, submitting, or implementing the plan required by this part. Such organization may be one that carried out these functions before the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(b) COORDINATION.—The preparation of implementation plan provisions and subsequent plan revisions under the continuing transportation-air quality planning process described in section 108(e) shall be coordinated with the continuing, cooperative and comprehensive transportation planning process required under section 134 of title 23, United States Code, and such planning processes shall take into account the requirements of this part.*

*"(c) JOINT PLANNING.—In the case of a nonattainment area that is included within more than one State, the affected States may jointly, through interstate compact or otherwise, undertake and implement all or part of the planning procedures described in this section.".*

*(e) MAINTENANCE PLANS.—After section 175 insert:*

*"SEC. 175A. MAINTENANCE PLANS.*

*"(a) PLAN REVISION.—Each State which submits a request under section 107(d) for redesignation of a nonattainment area for any air pollutant as an area which has attained the national primary ambient air quality standard for that air pollutant shall also submit a revision of the applicable State implementation plan to provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation. The plan shall contain such additional measures, if any, as may be necessary to ensure such maintenance.*

*"(b) SUBSEQUENT PLAN REVISIONS.—8 years after redesignation of any area as an attainment area under section 107(d), the State shall submit to the Administrator an additional revision of the applicable State implementation plan for maintaining the national primary ambient air quality standard for 10 years after the expiration of the 10-year period referred to in subsection (a).*

*"(c) NONATTAINMENT REQUIREMENTS APPLICABLE PENDING PLAN APPROVAL.—Until such plan revision is approved and an area is redesignated as attainment for any area designated as a nonattainment area, the requirements of this part shall continue in force and effect with respect to such area.*

*"(d) CONTINGENCY PROVISIONS.—Each plan revision submitted under this section shall contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such provisions shall include a requirement that the State will implement all*

*measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area before redesignation of the area as an attainment area. The failure of any area redesignated as an attainment area to maintain the national ambient air quality standard concerned shall not result in a requirement that the State revise its State implementation plan unless the Administrator, in the Administrator's discretion, requires the State to submit a revised State implementation plan.".*

*(f) INTERSTATE TRANSPORT PROVISIONS.—*

*(1) INTERSTATE TRANSPORT COMMISSIONS.—After section 176 (42 U.S.C. 7506) insert:*

*"SEC. 176A. INTERSTATE TRANSPORT COMMISSIONS.*

*"(a) AUTHORITY TO ESTABLISH INTERSTATE TRANSPORT REGIONS.—Whenever, on the Administrator's own motion or by petition from the Governor of any State, the Administrator has reason to believe that the interstate transport of air pollutants from one or more States contributes significantly to a violation of a national ambient air quality standard in one or more other States, the Administrator may establish, by rule, a transport region for such pollutant that includes such States. The Administrator, on the Administrator's own motion or upon petition from the Governor of any State, or upon the recommendation of a transport commission established under subsection (b), may—*

*"(1) add any State or portion of a State to any region established under this subsection whenever the Administrator has reason to believe that the interstate transport of air pollutants from such State significantly contributes to a violation of the standard in the transport region, or*

*"(2) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the attainment of the standard in any area in the region.*

*The Administrator shall approve or disapprove any such petition or recommendation within 18 months of its receipt. The Administrator shall establish appropriate proceedings for public participation regarding such petitions and motions, including notice and comment.*

*"(b) TRANSPORT COMMISSIONS.—*

*"(1) ESTABLISHMENT.—Whenever the Administrator establishes a transport region under subsection (a), the Administrator shall establish a transport commission comprised of (at a minimum) each of the following members:*

*"(A) The Governor of each State in the region or the designee of each such Governor.*

*"(B) The Administrator or the Administrator's designee.*

*"(C) The Regional Administrator (or the Administrator's designee) for each Regional Office for each Environmental Protection Agency Region affected by the transport region concerned.*

*"(D) An air pollution control official representing each State in the region, appointed by the Governor.*

*Decisions of, and recommendations and requests to, the Administrator by each transport commission may be made only by a majority vote of all members other than the Administrator and the Regional Administrators (or designees thereof).*

*"(2) RECOMMENDATIONS.—The transport commission shall assess the degree of interstate transport of the pollutant or precursors to the pollutant throughout the transport region, assess strategies for mitigating the interstate pollution, and recommend to the Administrator such measures as the Commission determines to be necessary to ensure that the plans for the relevant States meet the requirements of section 110(a)(2)(D). Such commission shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).*

*"(c) COMMISSION REQUESTS.—A transport commission established under subsection (b) may request the Administrator to issue a finding under section 110(k)(5) that the implementation plan for one or more of the States in the transport region is substantially inadequate to meet the requirements of section 110(a)(2)(D). The Administrator shall approve, disapprove, or partially approve and partially disapprove such a request within 18 months of its receipt and, to the extent the Administrator approves such request, issue the finding under section 110(k)(5) at the time of such approval. In acting on such request, the Administrator shall provide an opportunity for public participation and shall address each specific recommendation made by the commission. Approval or disapproval of such a request shall constitute final agency action within the meaning of section 307(b).".*

*(2) AMENDMENTS CONFORMING TO TRANSPORT PROVISIONS.—Section 106 (42 U.S.C. 7406) is amended as follows:*

*(A) Insert "or of implementing section 176A (relating to control of interstate air pollution) or section 184 (relating to control of interstate ozone pollution)" immediately following "section 107".*

*(B) Insert "any commission established under section 176A (relating to control of interstate air pollution) or section 184 (relating to control of interstate ozone pollution) or" immediately following "program costs of".*

*(C) Insert "or such commission" in the last sentence immediately following "such agency".*

*(D) Insert "or commission" at the end thereof, immediately before the period.*

*(g) SANCTIONS.—After section 178 (42 U.S.C. 7508) insert:*

*"SEC. 179. SANCTIONS AND CONSEQUENCES OF FAILURE TO ATTAIN.*

*"(a) STATE FAILURE.—For any implementation plan or plan revision required under this part (or required in response to a finding of substantial inadequacy as described in section 110(k)(5)), if the Administrator—*

*"(1) finds that a State has failed, for an area designated nonattainment under section 107(d), to submit a plan, or to submit 1 or more of the elements (as determined by the Administrator) required by the provisions of this Act applicable to such an area, or has failed to make a submission for such an area that satisfies the minimum criteria established in relation to any such element under section 110(k),*

*"(2) disapproves a submission under section 110(k), for an area designated nonattainment under section 107, based on the submission's failure to meet one or more of the elements required by the provisions of this Act applicable to such an area,*

*"(3)(A) determines that a State has failed to make any submission as may be required under this Act, other than one described under paragraph (1) or (2), including an adequate maintenance plan, or has failed to make any submission, as may be required under this Act, other than one described under paragraph (1) or (2), that satisfies the minimum criteria established in relation to such submission under section 110(k)(1)(A), or*

*"(B) disapproves in whole or in part a submission described under subparagraph (A), or*

*"(4) finds that any requirement of an approved plan (or approved part of a plan) is not being implemented,*

*unless such deficiency has been corrected within 18 months after the finding, disapproval, or determination referred to in paragraph (1), (2), (3), and (4), one of the sanctions referred to in subsection (b) shall apply, as selected by the Administrator, until the Administrator determines that the State has come into compliance, except that if the Administrator finds a lack of good faith, both of such sanctions shall apply until the Administrator determines that the State has come into compliance. If the Administrator has selected one of such sanctions and the deficiency has not been corrected within 6 months thereafter, both of such sanctions shall apply until the Administrator determines that the State has come into compliance. In addition to any other sanction applicable as provided in this section, the Administrator may withhold all or part of the grants for support of air pollution planning and control programs that the Administrator may award under section 105.*

*"(b) SANCTIONS.—The sanctions referred to in subsection (a) are as follows:*

*"(1) HIGHWAY FUNDS.—The Secretary of Transportation shall not approve any project or award any grant under title 23, United States Code, other than for safety or mass transit.*

*"(2) OFFSETS.—In applying the emissions offset requirements of section 173 to new or modified sources or emissions units for which a permit is required under part D, the ratio of emission reductions to increased emissions shall be at least 2 to 1.*

*"(c) NOTICE OF FAILURE TO ATTAIN.—(1) As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.*

*"(2) Upon making the determination under paragraph (1), the Administrator shall publish a notice in the Federal Register containing such determination and identifying each area that the Administrator has determined to have failed to attain. The Administrator may revise or supplement such determination at any time based on more complete information or analysis concerning the area's air quality as of the attainment date.*

*"(d) CONSEQUENCES FOR FAILURE TO ATTAIN.—(1) Within 1 year after the Administrator publishes the notice under subsection (c)(2) (relating to notice of failure to attain), each State containing a nonattainment area shall submit a revision to the applicable implementation plan meeting the requirements of paragraph (2) of this subsection.*

*"(2) The revision required under paragraph (1) shall meet the requirements of section 110 and section 172. In addition, the revision shall include such additional measures as the Administrator may reasonably prescribe, including all measures that can be feasibly implemented in the area in light of technological achievability, costs, and any nonair quality and other air quality-related health and environmental impacts.*

"(3) The attainment date applicable to the revision required under paragraph (1) shall be the same as provided in the provisions of section 172(a)(2), except that in applying such provisions the phrase 'from the date of the notice under section 179(c)(2)' shall be substituted for the phrase 'from the date such area was designated nonattainment under section 107(d)' and for the phrase 'from the date of designation as nonattainment'.".

(h) FEDERAL IMPLEMENTATION PLANS.—Section 110(c)(1) (42 U.S.C. 7410(c)) is amended to read as follows: "(1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—

"(A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under section 110(k)(1)(A), or

"(B) disapproves a State implementation plan submission in whole or in part.".

SEC. 103. ADDITIONAL PROVISIONS FOR OZONE NONATTAINMENT AREAS.

Part D of title I is amended by adding the following new subpart at the end thereof:

"Subpart 2—Additional Provisions for Ozone Nonattainment Areas

"Sec. 181. Classifications and attainment dates.
"Sec. 182. Plan submissions and requirements.
"Sec. 183. Federal ozone measures.
"Sec. 184. Control of interstate ozone air pollution.
"Sec. 185. Enforcement for Severe and Extreme ozone nonattainment areas for ailure to attain.
"Sec. 185A. Transitional areas.
"Sec. 185B. $NO_x$ and VOC study.

"SEC. 181. CLASSIFICATIONS AND ATTAINMENT DATES.

"(a) CLASSIFICATION AND ATTAINMENT DATES FOR 1989 NONATTAINMENT AREAS.—(1) Each area designated nonattainment for ozone pursuant to section 107(d) shall be classified at the time of such designation, under table 1, by operation of law, as a Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for ozone shall be as expeditiously as practicable but not later than the date provided in table 1.

"TABLE 1

| Area class | Design value * | Primary standard attainment date ** |
|---|---|---|
| Marginal | 0.121 up to 0.138. | 3 years after enactment |
| Moderate | 0.138 up to 0.160. | 6 years after enactment |
| Serious | 0.160 up to 0.180. | 9 years after enactment |
| Severe | 0.180 up to 0.280. | 15 years after enactment |
| Extreme | 0.280 and above. | 20 years after enactment |

* The design value is measured in parts per million (ppm).

** The primary standard attainment date is measured from the date of the enactment of the Clean Air Amendments of 1990.

"(2) Notwithstanding table 1, in the case of a severe area with a 1988 ozone design value between 0.190 and 0.280 ppm ,the attainment date shall be 17 years (in lieu of 15 years) after the date of the enactment of the Clean Air Amendments of 1990.

"(3) At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each ozone nonattainment area, the Administrator shall publish a notice announcing the classification of such ozone nonattainment area. The provisions of section 172(a)(1)(B) (relating to lack of notice and comment and judicial review) shall apply to such classification.

"(4) If an area classified under paragraph (1) (Table 1) would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the initial classification, by the procedure required under paragraph (3), adjust the classification to place the area in such other category. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for ozone in the area, the level of pollution transport between the area and other affected areas, including both intrastate and interstate transport, and the mix of sources and air pollutants in the area.

"(5) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in Table 1 of subsection (a) if—

"(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

"(b) NEW DESIGNATIONS AND RECLASSIFICATIONS.—

"(1) NEW DESIGNATIONS TO NONATTAINMENT.—Any area that is designated attainment or unclassifiable for ozone under section 107(d)(4), and that is subsequently redesignated to nonattainment for ozone under section 107(d)(3), shall, at the time of the redesignation, be classified by operation of law in accordance with Table 1 under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(3), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified under this paragraph.

"(2) RECLASSIFICATION UPON FAILURE TO ATTAIN.—(A) Within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date. Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with Table 1 of subsection (a) to the higher of—

"(i) the next higher classification for the area, or

"(ii) the classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

No area shall be reclassified as Extreme under clause (ii).

"(B) The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each area that the Administrator has determined under subparagraph (A) as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

"(3) VOLUNTARY RECLASSIFICATION.—The Administrator shall grant the request of any State to reclassify a nonattainment area in that State in accordance with Table 1 of subsection (a) to a higher classification. The Administrator shall publish a notice in the Federal Register of any such request and of action by the Administrator granting the request.

"(4) FAILURE OF SEVERE AREAS TO ATTAIN STANDARD.—(A) If any Severe Area fails to achieve the national primary ambient air quality standard for ozone by the applicable attainment date (including any extension thereof), the fee provisions under section 185 shall apply within the area, the percent reduction requirements of section 182(c)(2)(B) and (C) (relating to reasonable further progress demonstration and $NO_x$ control) shall continue to apply to the area, and the State shall demonstrate that such percent reduction has been achieved in each 3-year interval after such failure until the standard is attained. Any failure to make such a demonstration shall be subject to the sanctions provided under this part.

"(B) In addition to the requirements of subparagraph (A), if the ozone design value for a Severe Area referred to in subparagraph (A) is above 0.140 ppm for the year of the applicable attainment date, or if the area has failed to achieve its most recent milestone under section 182(g), the new source review requirements applicable under this subpart in Extreme Areas shall apply in the area and the term 'major source' and 'major stationary source' shall have the same meaning as in Extreme Areas.

"(C) In addition to the requirements of subparagraph (A) for those areas referred to in subparagraph (A) and not covered by subparagraph (B), the provisions referred to in subparagraph (B) shall apply after 3 years from the applicable attainment date unless the area has attained the standard by the end of such 3-year period.

"(D) If, after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator modifies the method of determining compliance with the national primary ambient air quality standard, a design value or other indicator comparable to 0.140 in terms of its relationship to the standard shall be used in lieu of 0.140 for purposes of applying the provisions of subparagraphs (B) and (C).

"(c) REFERENCES TO TERMS.—(1) Any reference in this subpart to a 'Marginal Area', a 'Moderate Area', a 'Serious Area', a 'Severe Area', or an 'Extreme Area' shall be considered a reference to a Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or

an Extreme Area as respectively classified under this section.

"(2) Any reference in this subpart to 'next higher classification' or comparable terms shall be considered a reference to the classification related to the next higher set of design values in Table 1.

"SEC. 182. PLAN SUBMISSIONS AND REQUIREMENTS.

"(a) MARGINAL AREAS.—Each State in which all or part of a Marginal Area is located shall, with respect to the Marginal Area (or portion thereof, to the extent specified in this subsection), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection except to the extent the State has made such submissions as of the date of the enactment of the Clean Air Act Amendments of 1990.

"(1) INVENTORY.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.

"(2) CORRECTIONS TO THE STATE IMPLEMENTATION PLAN.—Within the periods prescribed in this paragraph, the State shall submit a revision to the State implementation plan that meets the following requirements—

"(A) REASONABLY AVAILABLE CONTROL TECHNOLOGY CORRECTIONS.—For any Marginal Area (or, within the Administrator's discretion, portion thereof) the State shall submit, within 6 months of the date of classification under section 181(a), a revision that includes such provisions to correct requirements in (or add requirements to) the plan concerning reasonably available control technology as were required under section 172(b) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in guidance issued by the Administrator under section 108 before the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) SAVINGS CLAUSE FOR VEHICLE INSPECTION AND MAINTENANCE.—(i) For any Marginal Area (or, within the Administrator's discretion, portion thereof), the plan for which already includes, or was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included, a specific schedule for implementation of a vehicle emission control inspection and maintenance program, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision that includes any provisions necessary to provide for a vehicle inspection and maintenance program of no less stringency than that of either the program defined in House Report Numbered 95-294, 95th Congress, 1st Session, 281-291 (1977) as interpreted in guidance of the Administrator issued pursuant to section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or the program already included in the plan, whichever is more stringent.

"(ii) Within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review, revise, update, and republish in the Federal Register the guidance for the States for motor vehicle inspection and maintenance programs required by this Act, taking into consideration the Administrator's investigations and audits of such program. The guidance shall, at a minimum, cover the frequency of inspections, the types of vehicles to be inspected (which shall include leased vehicles that are registered in the nonattainment area), vehicle maintenance by owners and operators, audits by the State, the test method and measures, including whether centralized or decentralized, inspection methods and procedures, quality of inspection, components covered, assurance that a vehicle subject to a recall notice from a manufacturer has complied with that notice, and effective implementation and enforcement, including ensuring that any retesting of a vehicle after a failure shall include proof of corrective action and providing for denial of vehicle registration in the case of tampering or misfueling. The guidance which shall be incorporated in the applicable State implementation plans by the States shall provide the States with continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer. No later than 2 years after the Administrator promulgates regulations under section 202(m)(3) (relating to emission control diagnostics), the State shall submit a revision to such program to meet any requirements that the Administrator may prescribe under that section.

"(C) PERMIT PROGRAMS.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that includes each of the following:

"(i) Provisions to require permits, in accordance with sections 172(c)(5) and 173, for the construction and operation of each new or modified major stationary source (with respect to ozone) to be located in the area.

"(ii) Provisions to correct requirements in (or add requirements to) the plan concerning permit programs as were required under section 172(b)(6) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in regulations of the Administrator promulgated as of the date of the enactment of the Clean Air Act Amendments of 1990.

"(3) PERIODIC INVENTORY.—

"(A) GENERAL REQUIREMENT.—No later than the end of each 3-year period after submission of the inventory under paragraph (1) until the area is redesignated to attainment, the State shall submit a revised inventory meeting the requirements of subsection (a)(1).

"(B) EMISSIONS STATEMENTS.—(i) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the State implementation plan to require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement, in such form as the Administrator may prescribe (or accept an equivalent alternative developed by the State), for classes or categories of sources, showing the actual emissions of oxides of nitrogen and volatile organic compounds from that source. The first such statement shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. Subsequent statements shall be submitted at least every year thereafter. The statement shall contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.

"(ii) The State may waive the application of subparagraph (A) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State, in its submissions under subparagraphs (1) or (3)(A), provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.

"(4) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.1 to 1.

The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. The requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the ozone standard by the applicable attainment date in any Marginal area. Section 172(c)(9) (relating to contingency measures) shall not apply to Marginal Areas.

"(b) MODERATE AREAS.—Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area, make the submissions described under subsection (a) (relating to Marginal Areas), and shall also submit the revisions to the applicable implementation plan described under this subsection.

"(1) PLAN PROVISIONS FOR REASONABLE FURTHER PROGRESS.—

"(A) GENERAL RULE.—(i) By no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for volatile organic compound emission reductions, within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, of at least 15 percent from baseline emissions, accounting for any growth in emissions after the year in which the Clean Air Act Amendments of 1990 are enacted. Such plan shall provide for such specific annual reductions in emissions of volatile organic compounds and oxides of nitrogen as necessary to attain the national primary ambient air quality standard for ozone by the attainment date applicable under this Act. This subparagraph shall not apply in the case of oxides of nitrogen for those areas for which the Administrator determines (when the Administrator approves the plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment.

"(ii) A percentage less than 15 percent may be used for purposes of clause (i) in the case of any State which demonstrates to the satisfaction of the Administrator that—

"(I) new source review provisions are applicable in the nonattainment areas in the same manner and to the same extent as required under subsection (e) in the case of Extreme Areas (with the exception that, in applying such provisions, the terms 'major source' and 'major stationary source' shall include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 5 tons per year of volatile organic compounds);

"(II) reasonably available control technology is required for all existing major sources (as defined in subclause (I)); and

"(III) the plan reflecting a lesser percentage than 15 percent includes all measures

*that can feasibly be implemented in the area, in light of technological achievability.*

*To qualify for a lesser percentage under this clause, a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher category.*

*"(B) BASELINE EMISSIONS.—For purposes of subparagraph (A), the term 'baseline emissions' means the total amount of actual VOC or $NO_x$ emissions from all anthropogenic sources in the area during the calendar year of the enactment of which the Clean Air Act Amendments of 1990, excluding emissions that would be eliminated under the regulations described in clauses (i) and (ii) of subparagraph (D).*

*"(C) GENERAL RULE FOR CREDITABILITY OF REDUCTIONS.—Except as provided under subparagraph (D), emissions reductions are creditable toward the 15 percent required under subparagraph (A) to the extent they have actually occurred, as of 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, from the implementation of measures required under the applicable implementation plan, rules promulgated by the Administrator, or a permit under title IV.*

*"(D) LIMITS ON CREDITABILITY OF REDUCTIONS.—Emission reductions from the following measures are not creditable toward the 15 percent reductions required under subparagraph (A):*

*"(i) Any measure relating to motor vehicle exhaust or evaporative emissions promulgated by the Administrator by January 1, 1990.*

*"(ii) Regulations concerning Reid Vapor Pressure promulgated by the Administrator by the date of the enactment of the Clean Air Act Amendments of 1990 or required to be promulgated under section 211(h).*

*"(iii) Measures required under subsection (a)(2)(A) (concerning corrections to implementation plans prescribed under guidance by the Administrator).*

*"(iv) Measures required under subsection (a)(2)(B) to be submitted immediately after the date of the enactment of the Clean Air Act Amendments of 1990 (concerning corrections to motor vehicle inspection and maintenance programs).*

*"(2) REASONABLY AVAILABLE CONTROL TECHNOLOGY.—The State shall submit a revision to the applicable implementation plan to include provisions to require the implementation of reasonably available control technology under section 172(c)(1) with respect to each of the following:*

*"(A) Each category of VOC sources in the area covered by a CTG document issued by the Administrator between the date of the enactment of the Clean Air Act Amendments of 1990 and the date of attainment.*

*"(B) All VOC sources in the area covered by any CTG issued before the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(C) All other major stationary sources of VOCs that are located in the area.*

*Each revision described in subparagraph (A) shall be submitted within the period set forth by the Administrator in issuing the relevant CTG document. The revisions with respect to sources described in subparagraphs (B) and (C) shall be submitted by 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, and shall provide for the implementation of the required measures as expeditiously as practicable but no later than May 31, 1995.*

*"(3) GASOLINE VAPOR RECOVERY.—*

*"(A) GENERAL RULE.—Not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to require all owners or operators of gasoline dispensing systems to install and operate, by the date prescribed under subparagraph (B), a system for gasoline vapor recovery of emissions from the fueling of motor vehicles. The Administrator shall issue guidance as appropriate as to the effectiveness of such system. This subparagraph shall apply only to facilities which sell more than 10,000 gallons of gasoline per month (50,000 gallons per month in the case of an independent small business marketer of gasoline as defined in section 325).*

*"(B) EFFECTIVE DATE.—The date required under subparagraph (A) shall be—*

*"(i) 6 months after the adoption date, in the case of gasoline dispensing facilities for which construction commenced after the date of the enactment of the Clean Air Act Amendments of 1990;*

*"(ii) one year after the adoption date, in the case of gasoline dispensing facilities which dispense at least 100,000 gallons of gasoline per month, based on average monthly sales for the 2-year period before the adoption date; or*

*"(iii) 2 years after the adoption date, in the case of all other gasoline dispensing facilities.*

*Any gasoline dispensing facility described under both clause (i) and clause (ii) shall meet the requirements of clause (i).*

*"(C) REFERENCE TO TERMS.—For purposes of this paragraph, any reference to the term 'adoption date' shall be considered a reference to the date of adoption by the State of requirements for the installation and operation of a system for gasoline vapor recovery of emissions from the fueling of motor vehicles.*

*"(4) MOTOR VEHICLE INSPECTION AND MAINTENANCE.—For all Moderate Areas, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan that includes provisions necessary to provide for a vehicle inspection and maintenance program as described in subsection (a)(2)(B) (without regard to whether or not the area was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included a specific schedule for implementation of such a program).*

*"(5) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.15 to 1.*

*"(c) SERIOUS AREAS.—Except as otherwise specified in paragraph (4), each State in which all or part of a Serious Area is located shall, with respect to the Serious Area (or portion thereof, to the extent specified in this subsection), make the submissions described under subsection (b) (relating to Moderate Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Serious Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 50 tons per year of volatile organic compounds.*

*"(1) ENHANCED MONITORING.—In order to obtain more comprehensive and representative data on ozone air pollution, not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 the Administrator shall promulgate rules, after notice and public comment, for enhanced monitoring of ozone, oxides of nitrogen, and volatile organic compounds. The rules shall, among other things, cover the location and maintenance of monitors. Immediately following the promulgation of rules by the Administrator relating to enhanced monitoring, the State shall commence such actions as may be necessary to adopt and implement a program based on such rules, to improve monitoring for ambient concentrations of ozone, oxides of nitrogen and volatile organic compounds and to improve monitoring of emissions of oxides of nitrogen and volatile organic compounds. Each State implementation plan for the area shall contain measures to improve the ambient monitoring of such air pollutants.*

*"(2) ATTAINMENT AND REASONABLE FURTHER PROGRESS DEMONSTRATIONS.—Within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan that includes each of the following:*

*"(A) ATTAINMENT DEMONSTRATION.—A demonstration that the plan, as revised, will provide for attainment of the ozone national ambient air quality standard by the applicable attainment date. This attainment demonstration must be based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.*

*"(B) REASONABLE FURTHER PROGRESS DEMONSTRATION.—A demonstration that the plan, as revised, will result in VOC emissions reductions from the baseline emissions described in subsection (b)(1)(B) equal to the following amount averaged over each consecutive 3-year period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, until the attainment date:*

*"(i) at least 3 percent of baseline emissions each year; or*

*"(ii) an amount less than 3 percent of such baseline emissions each year, if the State demonstrates to the satisfaction of the Administrator that the plan reflecting such lesser amount includes all measures that can feasibly be implemented in the area, in light of technological achievability.*

*To lessen the 3 percent requirement under clause (ii), a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher classification. Any determination to lessen the 3 percent requirement shall be reviewed at each milestone under section 182(g) and revised to reflect such new measures (if any) achieved in practice by sources in the same category in any State, allowing a reasonable time to implement such measures. The emission reductions described in this subparagraph shall be calculated in accordance with subsection (b)(1) (C) and (D) (concerning creditability of reductions). The reductions creditable for the period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, shall include reductions that occurred before such period, computed in accordance with subsection (b)(1),*

*that exceed the 15-percent amount of reductions required under subsection (b)(1)(A).*

*"(C) $NO_x$ CONTROL.—The revision may contain, in lieu of the demonstration required under subparagraph (B), a demonstration to the satisfaction of the Administrator that the applicable implementation plan, as revised, provides for reductions of emissions of VOC's and oxides of nitrogen (calculated according to the creditability provisions of subsection (b)(1) (C) and (D)), that would result in a reduction in ozone concentrations at least equivalent to that which would result from the amount of VOC emission reductions required under subparagraph (B). Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidance concerning the conditions under which $NO_x$ control may be substituted for VOC control or may be combined with VOC control in order to maximize the reduction in ozone air pollution. In accord with such guidance, a lesser percentage of VOCs may be accepted as an adequate demonstration for purposes of this subsection.*

*"(3) ENHANCED VEHICLE INSPECTION AND MAINTENANCE PROGRAM.—*

*"(A) REQUIREMENT FOR SUBMISSION.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for an enhanced program to reduce hydrocarbon emissions and $NO_x$ emissions from in-use motor vehicles registered in each urbanized area (in the nonattainment area), as defined by the Bureau of the Census, with a 1980 population of 200,000 or more.*

*"(B) EFFECTIVE DATE OF STATE PROGRAMS; GUIDANCE.—The State program required under subparagraph (A) shall take effect no later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, and shall comply in all respects with guidance published in the Federal Register (and from time to time revised) by the Administrator for enhanced vehicle inspection and maintenance programs. Such guidance shall include—*

*"(i) a performance standard achievable by a program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under section 202; and*

*"(ii) program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard.*

*Compliance with the performance standard under clause (i) shall be determined using a method to be established by the Administrator.*

*"(C) STATE PROGRAM.—The State program required under subparagraph (A) shall include, at a minimum, each of the following elements—*

*"(i) Computerized emission analyzers, including on-road testing devices.*

*"(ii) No waivers for vehicles and parts covered by the emission control performance warranty as provided for in section 207(b) unless a warranty remedy has been denied in writing, or for tampering-related repairs.*

*"(iii) In view of the air quality purpose of the program, if, for any vehicle, waivers are permitted for emissions-related repairs not covered by warranty, an expenditure to qualify for the waiver of an amount of $450 or more for such repairs (adjusted annually as determined by the Administrator on the basis of the Consumer Price Index in the same manner as provided in title IV).*

*"(iv) Enforcement through denial of vehicle registration (except for any program in operation before the date of the enactment of the Clean Air Act Amendments of 1990 whose enforcement mechanism is demonstrated to the Administrator to be more effective than the applicable vehicle registration program in assuring that noncomplying vehicles are not operated on public roads).*

*"(v) Annual emission testing and necessary adjustment, repair, and maintenance, unless the State demonstrates to the satisfaction of the Administrator that a biennial inspection, in combination with other features of the program which exceed the requirements of this Act, will result in emission reductions which equal or exceed the reductions which can be obtained through such annual inspections.*

*"(vi) Operation of the program on a centralized basis, unless the State demonstrates to the satisfaction of the Administrator that a decentralized program will be equally effective. An electronically connected testing system, a licensing system, or other measures (or any combination thereof) may be considered, in accordance with criteria established by the Administrator, as equally effective for such purposes.*

*"(vii) Inspection of emission control diagnostic systems and the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems.*

*Each State shall biennially prepare a report to the Administrator which assesses the emission reductions achieved by the program required under this paragraph based on data collected during inspection and repair of vehicles. The methods used to assess the emission reductions shall be those established by the Administrator.*

*"(4) CLEAN-FUEL VEHICLE PROGRAMS.—(A) Except to the extent that substitute provisions have been approved by the Administrator under subparagraph (B), the State shall submit to the Administrator, within 42 months of the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan for each area described under section 212 to include such measures as may be necessary to ensure the effectiveness of the applicable provisions of the clean-fuel vehicle program prescribed under section 212, including all measures necessary to make the use of clean alternative fuels in clean-fuel vehicles (as defined in section 216) economic from the standpoint of vehicle owners. Such a revision shall also be submitted for each area that opts into the clean fuel-vehicle program as provided in section 212.*

*"(B) The Administrator shall approve, as a substitute for all or a portion of the clean-fuel vehicle program prescribed under section 212, any revision to the relevant applicable implementation plan that in the Administrator's judgment will achieve long-term reductions in ozone-producing and toxic air emissions equal to those achieved under section 212, or the percentage thereof attributable to the portion of the clean-fuel vehicle program for which the revision is to substitute. The Administrator may approve such revision only if it consists exclusively of provisions other than those required under this Act for the area. Any State seeking approval of such revision must submit the revision to the Administrator within 24 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve or disapprove any such revision within 30 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall publish the revision submitted by a State in the Federal Register upon receipt. Such notice shall constitute a notice of proposed rulemaking on whether or not to approve such revision and shall be deemed to comply with the requirements concerning notices of proposed rulemaking contained in sections 553 through 557 of title 5 of the United States Code (related to notice and comment). Where the Administrator approves such revision for any area, the State need not submit the revision required by subparagraph (A) for the area with respect to the portions of the Federal clean-fuel vehicle program for which the Administrator has approved the revision as a substitute.*

*"(C) Where the Administrator approves under section 214 any market-based alternative emissions reduction plan applicable in an area, the Administrator may approve a plan revision for the area providing for changes to the plan provisions otherwise required by this paragraph to ensure consistency with such alternative emissions reduction plan.*

*"(D) If the Administrator determines, under section 179, that the State has failed to submit any portion of the program required under subparagraph (A), then, in addition to any sanctions available under section 179, the State may not receive credit, in any demonstration of attainment or reasonable further progress for the area, for any emission reductions from implementation of the corresponding aspects of the Federal clean-fuel vehicle requirements established in section 212.*

*"(5) TRANSPORTATION CONTROL.—(A) Beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990 and each third year thereafter, the State shall submit a demonstration as to whether current aggregate vehicle mileage, aggregate vehicle emissions, congestion levels, and other relevant parameters are consistent with those used for the area's demonstration of attainment. Where such parameters and emissions levels exceed the levels projected for purposes of the area's attainment demonstration, the State shall within 18 months develop and submit a revision of the applicable implementation plan that includes a transportation control measures program consisting of measures that will reduce emissions to levels that are consistent with emissions levels projected in such demonstration. The revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall include implementation and funding schedules that achieve expeditious emissions reductions in accordance with implementation plan projections. In the alternative, the State may offset the impact of increased vehicle miles traveled and congestion levels by implementing other controls on other source categories that will produce reductions comparable to those that would be achieved by implementation of such transportation demand management program, consistent with the emission reduction schedules in the plan.*

*"(B) Any plan revision under this subsection shall include measures to reduce congestion, including passenger vehicle trips and miles traveled per trip.*

*"(6) DE MINIMIS RULE.—The new source review provisions under this part shall ensure that increased emissions of volatile organic compounds resulting from any*

physical change in, or change in the method of operation of, a stationary source located in the area shall not be considered de minimis for purposes of determining the applicability of the permit requirements established by this Act unless the increase in net emissions of such air pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred.

"(7) SPECIAL RULE FOR MODIFICATIONS OF SOURCES EMITTING LESS THAN 100 TONS.—In the case of any major stationary source of volatile organic compounds located in the area (other than a source which emits or has the potential to emit 100 tons or more of volatile organic compounds per year), whenever any change (as described in section 111(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that such increase shall not be considered a modification for such purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds concerned from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such election, such change shall be considered a modification for such purposes, but in applying section 173(a)(2) in the case of any such modification, the best available control technology (BACT), as defined in section 169, shall be substituted for the lowest achievable emission rate (LAER). The Administrator shall establish and publish policies and procedures for implementing the provisions of this paragraph.

"(8) SPECIAL RULE FOR MODIFICATIONS OF SOURCES EMITTING 100 TONS OR MORE.—In the case of any major stationary source of volatile organic compounds located in the area which emits or has the potential to emit 100 tons or more of volatile organic compounds per year, whenever any change (as described in section 111(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of section 173(a)(2) (concerning the lowest achievable emission rate (LAER)) shall not apply.

"(9) CONTINGENCY PROVISIONS.—In addition to the contingency provisions required under section 172(c)(9), the plan revision shall provide for the implementation of specific measures to be undertaken if the area fails to meet any applicable milestone. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator upon a failure by the State to meet the applicable milestone.

"(10) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.2 to 1.

Any reference to 'attainment date' in subsection (b), which is incorporated by reference into this subsection, shall refer to the attainment date for serious areas.

"(d) SEVERE AREAS.—Each State in which all or part of a Severe Area is located shall, with respect to the Severe Area, make the submissions described under subsection (c) (relating to Serious Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Severe Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of volatile organic compounds.

"(1) VEHICLE MILES TRAVELED.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that includes all reasonably available techniques for reducing aggregate vehicle emissions and, at a minimum, identifies and adopts specific enforceable strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area. The State shall consider, at a minimum, measures specified in section 108(f). If the State fails to include any such measure, the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to attain the national primary ambient air quality standard for ozone.

"(2) OFFSET REQUIREMENT.—For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.3 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

"(3) ENFORCEMENT UNDER SECTION 185.—By December 31, 2000, the State shall submit a plan revision which includes the provisions required under section 185.

Any reference to the term 'attainment date' in subsection (b) or (c), which is incorporated by reference into this subsection (d), shall refer to the attainment date for Severe Areas.

"(e) EXTREME AREAS.—Each State in which all or part of an Extreme Area is located shall, with respect to the Extreme Area, make the submissions described under subsection (d) (relating to Severe Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. The provisions of clause (ii) of subsection (c)(2)(B) (relating to reductions of less than 3 percent) and the provisions of clause (ii) of subsection (b)(1)(A) (relating to reductions of less than 15 percent) shall not apply in the case of an Extreme Area. For any Extreme Area, the terms 'major source' and 'major stationary source' includes (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 10 tons per year of volatile organic compounds.

"(1) OFFSET REQUIREMENT.—For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.5 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

"(2) MODIFICATIONS.—Any change (as described in section 111(a)(4)) at a major stationary source which results in any increase in emissions from any discrete operation, unit, or other pollutant emitting activity at the source shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that for purposes of complying with the offset requirement pursuant to section 173(a)(1), any such increase shall not be considered a modification if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of the air pollutant concerned from other discrete operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. The offset requirements of this part shall not be applicable in Extreme Areas to a modification of an existing source if such modification consists of installation of equipment required to comply with the applicable implementation plan, permit, or this Act.

"(3) USE OF CLEAN FUELS OR ADVANCED CONTROL TECHNOLOGY.—For Extreme Areas, a plan revision shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990 to require, effective 8 years after such date, that each new, modified, and existing electric utility and industrial and commercial boiler which emits more than 25 tons per year of oxides of nitrogen—

"(A) burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low polluting fuel), or

"(B) use advanced control technology (such as catalytic control technology or other comparably effective control methods) for reduction of emissions of oxides of nitrogen.

For purposes of this subsection, the term 'primary fuel' means the fuel which is used 90 percent or more of the operating time. This paragraph shall not apply during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act of 1978).

"(4) TRAFFIC CONTROL MEASURES DURING HEAVY TRAFFIC HOURS.—For Extreme Areas, each implementation plan revision under this subsection may contain provisions establishing traffic control measures applicable during heavy traffic hours to reduce the use of high polluting vehicles or heavy-duty vehicles, notwithstanding any other provision of law.

"(5) NEW TECHNOLOGIES.—The Administrator may, in accordance with section 110, approve provisions of an implementation plan for an Extreme Area which anticipate development of new control techniques or improvement of existing control technologies, and an attainment demonstration based on such provisions, if the State demonstrates to the satisfaction of the Administrator that—

"(A) such provisions are not necessary to achieve the incremental emission reductions required during the first 10 years after the

*date of the enactment of the Clean Air Act Amendments of 1990; and*

*"(B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions.*

*Such contingency measures shall be submitted to the Administrator no later than 3 years before proposed implementation of the plan provisions and approved or disapproved by the Administrator in accordance with section 110. The contingency measures shall be adequate to produce emission reductions sufficient, in conjunction with other approved plan provisions, to achieve the periodic emission reductions required by subsection (b)(1) or (c)(2) and attainment by the applicable dates. If the Administrator determines that an Extreme Area has failed to achieve an emission reduction requirement set forth in subsection (b)(1) or (c)(2), and that such failure is due in whole or part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with subsections (b)(1) and (c)(2).*

*Any reference to the term 'attainment date' in subsection (b), (c), or (d) which is incorporated by reference into this subsection, shall refer to the attainment date for Extreme Areas.*

*"(f) $NO_x$ Requirements.—The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of this section) of oxides of nitrogen. This subsection shall not apply in the case of oxides of nitrogen for those sources for which the Administrator determines (when the Administrator approves a plan or plan revision) that net air quality benefits are greater in the absence of reductions of oxides of nitrogen from the sources concerned. This subsection shall also not apply in the case of oxides of nitrogen for—*

*"(1) nonattainment areas not within an ozone transport region under section 184 if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment of the national ambient air quality standard for ozone in the area, or*

*"(2) nonattainment areas within such an ozone transport region if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not produce net ozone air quality benefits in such region.*

*"(g) MILESTONES.—*

*"(1) REDUCTIONS IN EMISSIONS.—6 years after the date of the enactment of the Clean Air Amendments of 1990 and at intervals of every 3 years after, the State shall determine whether each nonattainment area (other than an area classified as Marginal or Moderate) has achieved a reduction in emissions during the preceding intervals equivalent to the total emission reductions required to be achieved by the end of such interval pursuant to subsection (b)(1) and the corresponding requirements of subsections (c)(2)(B) and (C), (d), and (e). Such reduction shall be referred to in this section as an applicable milestone.*

*"(2) COMPLIANCE DEMONSTRATION.—For each nonattainment area referred to in paragraph (1), not later than 90 days after the date on which an applicable milestone occurs (not including an attainment date on which a milestone occurs in cases where the standard has been attained), each State in which all or part of such area is located shall submit to the Administrator a demonstration that the milestone has been met. A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require, by rule. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.*

*"(3) SERIOUS AND SEVERE AREAS; STATE ELECTION.—If a State fails to submit a demonstration under paragraph (2) for any Serious or Severe area within the required period or if the Administrator determines that the area has not met any applicable milestone, the State shall elect, within 90 days after such failure or determination—*

*"(A) to have the area reclassified to the next higher classification,*

*"(B) to implement specific additional measures adequate, as determined by the Administrator, to meet the next milestone as provided in the applicable contingency plan, or*

*"(C) to adopt an economic incentive program as described in paragraph (4).*

*If the State makes an election under subparagraph (B), the Administrator shall, within 90 days after the election, review such plan and shall, if the Administrator finds the contingency plan inadequate, require further measures necessary to meet such milestone. Once the State makes an election, it shall be deemed accepted by the Administrator as meeting the election requirement. If the State fails to make an election required under this paragraph within the required 90-day period or within 6 months thereafter, the area shall be reclassified to the next higher classification by operation of law at the expiration of such 6-month period. Within 12 months after the date required for the State to make an election, the State shall submit a revision of the applicable implementation plan for the area that meets the requirements of this paragraph. The Administrator shall review such plan revision and approve or disapprove the revision within 9 months after the date of its submission.*

*"(4) ECONOMIC INCENTIVE PROGRAM.—(A) An economic incentive program under this paragraph shall be consistent with rules published by the Administrator and sufficient, in combination with other elements of the State plan, to achieve the next milestone. The State program may include a nondiscriminatory system, consistent with applicable law regarding interstate commerce, of State established emissions fees or a system of marketable permits, or a system of State fees on sale, import, or manufacture of products the use of which contributes to ozone formation, or any combination of the foregoing or other similar measures. The program may also include incentives and requirements to reduce vehicle emissions and vehicle miles traveled in the area, including any of the transportation control measures identified in section 108(f).*

*"(B) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish rules for the programs to be adopted pursuant to subparagraph (A). Such rules shall include model plan provisions which may be adopted for reducing emissions from permitted stationary sources, area sources, and mobile sources. The guidelines shall require that any revenues generated by the plan provisions adopted pursuant to subparagraph (A) shall be used by the State for any of the following:*

*"(i) Providing incentives for achieving emission reductions.*

*"(ii) Providing assistance for the development of innovative technologies for the control of ozone air pollution and for the development of lower-polluting solvents and surface coatings. Such assistance shall not provide for the payment of more than 75 percent of either the costs of any project to develop such a technology or the costs of development of a lower-polluting solvent or surface coating.*

*"(iii) Funding the administrative costs of State programs under this Act. Not more than 50 percent of such revenues may be used for purposes of this clause.*

*"(5) EXTREME AREAS.—If a State fails to submit a demonstration under paragraph (2) for any Extreme Area within the required period, or if the Administrator determines that the area has not met any applicable milestone, the State shall, within 9 months after such failure or determination, submit a plan revision to implement an economic incentive program which meets the requirements of paragraph (4). The Administrator shall review such plan revision and approve or disapprove the revision within 9 months after the date of its submission.*

*"(h) RURAL TRANSPORT AREAS.—(1) Notwithstanding any other provision of section 181 or this section, a State containing an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census), which area is treated by the Administrator, in the Administrator's discretion, as a rural transport area within the meaning of paragraph (2), shall be treated by operation of law as satisfying the requirements of this section if it makes the submissions required under subsection (a) of this section (relating to marginal areas).*

*"(2) The Administrator may treat an ozone nonattainment area as a rural transport area if the Administrator finds that sources of VOC (and, where the Administrator determines relevant, $NO_x$) emissions within the area do not make a significant contribution to the ozone concentrations measured in the area or in other areas.*

*"(i) RECLASSIFIED AREAS.—Each State containing an ozone nonattainment area reclassified under section 181(b)(2) shall meet such requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.*

*"(j) MULTI-STATE OZONE NONATTAINMENT AREAS.—*

*"(1) COORDINATION AMONG STATES.—Each State in which there is located a portion of a single ozone nonattainment area which covers more than one State (hereinafter in this section referred to as a 'multi-State ozone nonattainment area') shall—*

*"(A) take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State imple-*

mentation plans applicable to the nonattainment area concerned; and

"(B) use photochemical grid modeling or any other analytical method determined by the Administrator, in his discretion, to be at least as effective.

The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a multi-State ozone nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

"(2) FAILURE TO DEMONSTRATE ATTAINMENT.—If any State in which there is located a portion of a multi-State ozone nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for ozone in that portion within the required period, the State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 182 (relating to plan submissions and requirements for ozone nonattainment areas). If the Administrator makes such finding, the provisions of section 179 (relating to sanctions) shall not apply, by reason of the failure to make such demonstration, in the portion of the multi-State ozone nonattainment area within the State submitting such petition.

"SEC. 183. FEDERAL OZONE MEASURES.

"(a) CONTROL TECHNIQUES GUIDELINES FOR VOC SOURCES.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines, in accordance with section 108, for 11 categories of stationary sources of VOC emissions for which such guidelines have not been issued as of such date of enactment, not including the categories referred to in paragraphs (3) and (4) of subsection (b) of this section. The Administrator may issue such additional control techniques guidelines as the Administrator deems necessary.

"(b) EXISTING AND NEW CTGS.—(1) Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, and periodically thereafter, the Administrator shall review and, if necessary, update control technique guidance issued under section 108 before the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) In issuing the guidelines the Administrator shall give priority to those categories which the Administrator considers to make the most significant contribution to the formation of ozone air pollution in ozone nonattainment areas, including hazardous waste treatment, storage, and disposal facilities which are permitted under subtitle C of the Solid Waste Disposal Act. Thereafter the Administrator shall periodically review and, if necessary, revise such guidelines.

"(3) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidances in accordance with section 108 to reduce the aggregate emissions of volatile organic compounds into the ambient air from aerospace coatings and solvents. Such control techniques guidances shall, at a minimum, be adequate to reduce aggregate emissions of volatile organic compounds into the ambient air from the application of such coatings and solvents to such level as the Administrator determines may be achieved through the adoption of best available control measures. Such control technology guidance shall provide for such reductions in such increments and on such schedules as the Administrator determines to be reasonable, but in no event later than 10 years after the final issuance of such control technology guidance. In developing control technology guidance under this subsection, the Administrator shall consult with the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration with regard to the establishment of specifications for such coatings. In evaluating VOC reduction strategies, the guidance shall take into account the applicable requirements of section 112 and the need to protect stratospheric ozone.

"(4) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidances in accordance with section 108 to reduce the aggregate emissions of volatile organic compounds and PM-10 into the ambient air from paints, coatings, and solvents used in shipbuilding operations and ship repair. Such control techniques guidances shall, at a minimum, be adequate to reduce aggregate emissions of volatile organic compounds and PM-10 into the ambient air from the removal or application of such paints, coatings, and solvents to such level as the Administrator determines may be achieved through the adoption of the best available control measures. Such control techniques guidances shall provide for such reductions in such increments and on such schedules as the Administrator determines to be reasonable, but in no event later than 10 years after the final issuance of such control technology guidance. In developing control techniques guidances under this subsection, the Administrator shall consult with the appropriate Federal agencies.

"(c) ALTERNATIVE CONTROL TECHNIQUES.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue technical documents which identify alternative controls for all categories of stationary sources of volatile organic compounds and oxides of nitrogen which emit, or have the potential to emit 25 tons per year or more of such air pollutant. The Administrator shall revise and update such documents as the Administrator determines necessary.

"(d) GUIDANCE FOR EVALUATING COST-EFFECTIVENESS.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall provide guidance to the States to be used in evaluating the relative cost-effectiveness of various options for the control of emissions from existing stationary sources of air pollutants which contribute to nonattainment of the national ambient air quality standards for ozone.

"(e) CONTROL OF EMISSIONS FROM CERTAIN SOURCES.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) BEST AVAILABLE CONTROLS.—The term 'best available controls' means the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

"(B) CONSUMER OR COMMERCIAL PRODUCT.—The term 'consumer or commercial product' means any substance, product (including paints, coatings, and solvents), or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of volatile organic compounds. The term does not include fuels or fuel additives regulated under section 211, or motor vehicles, non-road vehicles, and non-road engines as defined under section 216.

"(C) REGULATED ENTITIES.—The term 'regulated entities' means—

"(i) manufacturers, processors, wholesale distributors, or importers of consumer or commercial products for sale or distribution in interstate commerce in the United States; or

"(ii) manufacturers, processors, wholesale distributors, or importers that supply the entities listed under clause (i) with such products for sale or distribution in interstate commerce in the United States.

"(2) STUDY AND REPORT.—

"(A) STUDY.—The Administrator shall conduct a study of the emissions of volatile organic compounds into the ambient air from consumer and commercial products (or any combination thereof) in order to—

"(i) determine their potential to contribute to ozone levels which violate the national ambient air quality standard for ozone; and

"(ii) establish criteria for selecting consumer and commercial products or classes or categories thereof which shall be subject to control under this subsection.

The study shall be completed and a report submitted to Congress not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) CONSIDERATION OF CERTAIN FACTORS.—In establishing the criteria under subparagraph (A)(ii), the Administrator shall take into consideration each of the following:

"(i) The uses, benefits, and commercial demand of consumer and commercial products.

"(ii) The health or safety functions (if any) served by such consumer and commercial products.

"(iii) Those consumer and commercial products which emit highly reactive volatile organic compounds into the ambient air.

"(iv) Those consumer and commercial products which are subject to the most cost-effective controls.

"(v) The availability of alternatives (if any) to such consumer and commercial products which are of comparable costs, considering health, safety, and environmental impacts.

"(3) REGULATIONS TO REQUIRE EMISSION REDUCTIONS.—

"(A) IN GENERAL.—Upon submission of the final report referred to in paragraph (2), and from time to time thereafter, the Administrator shall propose regulations for the control of any VOCs from consumer and commercial products which, in the Administrator's judgment, emit volatile organic compounds into the ambient air that may reasonably be anticipated to contribute to ozone levels that violate the national primary ambient air quality standard for ozone. Such regulations shall take into account the technical feasibility, the costs of achieving such control, the lead time required for such control, and competition. Such regulations may exempt health use products for which the Administrator, in consultation with the Commissioner of the Food and Drug Administration determines

*there are no suitable substitute. In order to carry out this section, the Administrator may, by regulation, control or prohibit any activity, including the manufacture or introduction into commerce, offering for sale, or sale of any consumer or commercial product which results in emission of volatile organic compounds into the ambient air. Not later than one year after proposal of regulations under this subsection, the Administrator shall promulgate such regulations. From time to time, and under the same procedures, the Administrator may revise any of the regulations promulgated under this subsection.*

*"(B) REGULATED ENTITIES.—Regulations under this subsection may be imposed only with respect to regulated entities.*

*"(C) USE OF CTGS.—For any consumer or commercial product the Administrator may issue control techniques guidances under this Act in lieu of regulations required under subparagraph (A) if the Administrator determines that such guidance will be substantially as effective as regulations in reducing emissions of volatile organic compounds which contribute to ozone levels in areas which violate the national ambient air quality standard for ozone.*

*"(4) BEST AVAILABLE CONTROLS.—Upon submission of the find report under paragraph (2), the Administrator shall list all categories of commercial or consumer products which release significant evaporative emissions of VOCs. At such time the Administrator shall divide the list into 4 groups establishing priorities for regulation based on the factors listed in paragraph (2). Every 2 years after promulgating such list the Administrator shall regulate one group of categories until all 4 groups are regulated. The regulations shall require best available controls.*

*"(5) SYSTEMS OF REGULATION.—The regulations under this subsection may include any system or systems of regulation as the Administrator may deem appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or reasonable fees, charges, and other economic incentives (including marketable permits and auctions of emissions rights) concerning the manufacture, processing, distribution, use, consumption, or disposal of the product.*

*"(6) FEES, ETC.—Any fees, charges, or other funds established and collected by the Administrator under such regulations shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available until expended, subject to annual appropriation Acts, solely to carry out the activities of the Administrator for which such fees, charges, or collections are established or made.*

*"(7) ENFORCEMENT.—Any regulation established under this subsection shall be treated, for purposes of enforcement of this Act, as a standard under section 111 and any violation of such regulation shall be treated as a violation of a requirement of section 111(e).*

*"(8) STATE ADMINISTRATION.—Each State may develop and submit to the Administrator a procedure under State law for implementing and enforcing regulations promulgated under this subsection. If the Administrator finds the State procedure is adequate, the Administrator shall approve such procedure. Nothing in this paragraph shall prohibit the Administrator from enforcing any applicable regulations under this subsection.*

*"(9) SIZE, ETC.—No regulations regarding the size, shape, or labeling of a product may be promulgated, unless the Administrator determines such regulations to be useful in meeting any national ambient air quality standard.*

*"(10) STATE CONSULTATION.—Any State which proposes regulations other than those adopted under this subsection shall consult with the Administrator regarding whether any other State or local subdivision has promulgated or is promulgating regulations on any products covered under this part. The Administrator shall establish a clearinghouse of information, studies, and regulations proposed and promulgated regarding products covered under this subsection and disseminate such information collected as requested by State or local subdivisions.*

*"(f) MARINE VESSEL STANDARDS.—*

*"(1) SCHEDULE FOR STANDARDS.—(A) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate standards applicable to the emission of VOCs and any other air pollutant from loading and unloading of marine tank vessels which the Administrator finds causes, or contributes to, air pollution that may be reasonably anticipated to endanger public health or welfare. Such standards shall require the application of reasonably available control technology, considering costs, any nonair-quality benefits, environmental impacts, energy requirements and safety factors associated with alternative control techniques. To the extent practicable such standards shall apply to loading and unloading facilities and not to marine vessels.*

*"(B) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds (after consultation with the Secretary of the department in which the Coast Guard is operating) necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period, except that the effective date shall not be more than 2 years after promulgation of such regulations.*

*"(2) REGULATIONS ON EQUIPMENT SAFETY.—Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Secretary of the Department in which the Coast Guard is operating shall issue regulations to ensure the safety of the equipment and operations which are to control emissions from the loading and unloading of marine tank vessels, under section 3703 of title 46 of the United States Code and section 6 of the Ports and Waterways Safety Act (33 U.S.C. 1225). The regulations issued by a State or political subdivision regarding emissions from the loading and unloading of marine tank vessels shall be consistent with the regulations regarding safety of the Department in which the Coast Guard is operating.*

*"(3) AGENCY AUTHORITY.—(A) The Administrator shall ensure compliance with the vessel emission standards prescribed under paragraph (1)(A).*

*"(B) The Secretary of the Department in which the Coast Guard is operating shall ensure compliance with the regulations issued under paragraph (2).*

*"(4) STATE OR LOCAL STANDARDS.—After the Administrator promulgates standards under this section, no State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions from marine vessels subject to regulation under paragraph (1) unless such standard is no less stringent than the standards promulgated under paragraph (1).*

*"(5) ENFORCEMENT.—Any standard established under paragraph (1)(A) shall be treated, for purposes of enforcement of this Act, as a standard under section 111 and any violation of such standard shall be treated as a violation of a requirement of section 111(e).*

*"(g) OZONE DESIGN VALUE STUDY.—The Administrator shall conduct a study of whether the methodology in use by the Environmental Protection Agency as of the date of the enactment of the Clean Air Act Amendments of 1990 for establishing a design value for ozone provides a reasonable indicator of the ozone air quality of ozone nonattainment areas. The Administrator shall obtain input from States, local subdivisions thereof, and others. The study shall be completed and a report submitted to Congress not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The results of the study shall be subject to peer and public review before submitting it to Congress.*

*"SEC. 184. CONTROL OF INTERSTATE OZONE AIR POLLUTION.*

*"(a) OZONE TRANSPORT REGIONS.—A single transport region for ozone (within the meaning of section 176A(a)), comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia, is hereby established by operation of law. The provisions of section 176A(a) (1) and (2) shall apply with respect to the transport region established under this section and any other transport region established for ozone, except to the extent inconsistent with the provisions of this section. The Administrator shall convene the commission required (under section 176A(b)) as a result of the establishment of such region within 6 months of the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(b) PLAN PROVISIONS FOR STATES IN OZONE TRANSPORT REGIONS.—(1) In accordance with section 110, not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 (or 9 months after the subsequent inclusion of a State in a transport region established for ozone), each State included within a transport region established for ozone shall submit a State implementation plan or revision thereof to the Administrator which requires the following—*

*"(A) that each area in such State that is in an ozone transport region, and that is a metropolitan statistical area or part thereof with a population of 100,000 or more comply with the provisions of section 182(c)(2)(A) (pertaining to enhanced vehicle inspection and maintenance programs); and*

*"(B) implementation of reasonably available control technology with respect to all sources of volatile organic compounds in the State covered by a control techniques guideline issued before or after the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(2) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study identifying control measures capable of achieving emission reductions comparable to those achievable through vehicle refueling controls contained in section 182(b)(3), and such measures or such vehicle refueling controls shall be implemented in accordance with the provisions of this sec-*

tion. Notwithstanding other deadlines in this section, the applicable implementation plan shall be revised to reflect such measures within 1 year of completion of the study. For purposes of this section any stationary source that emits or has the potential to emit at least 50 tons per year of volatile organic compounds shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area were classified as a Moderate nonattainment area.

"(c) ADDITIONAL CONTROL MEASURES.—

"(1) RECOMMENDATIONS.—Upon petition of any State within a transport region established for ozone, and based on a majority vote of the Governors on the Commission (or their designees), the Commission may, after notice and opportunity for public comment, develop recommendations for additional control measures to be applied within all or a part of such transport region if the commission determines such measures are necessary to bring any area in such region into attainment by the dates provided by this subpart. The commission shall transmit such recommendations to the Administrator.

"(2) NOTICE AND REVIEW.—Whenever the Administrator receives recommendations prepared by a commission pursuant to paragraph (1) (the date of receipt of which shall hereinafter in this section be referred to as the 'receipt date'), the Administrator shall—

"(A) immediately publish in the Federal Register a notice stating that the recommendations are available and provide an opportunity for public hearing within 90 days beginning on the receipt date; and

"(B) commence a review of the recommendations to determine whether the control measures in the recommendations are necessary to bring any area in such region into attainment by the dates provided by this subpart and are otherwise consistent with this Act.

"(3) CONSULTATION.—In undertaking the review required under paragraph (2)(B), the Administrator shall consult with members of the commission of the affected States and shall take into account the data, views, and comments received pursuant to paragraph (2)(A).

"(4) APPROVAL AND DISAPPROVAL.—Within 9 months after the receipt date, the Administrator shall (A) determine whether to approve, disapprove, or partially disapprove and partially approve the recommendations; (B) notify the commission in writing of such approval, disapproval, or partial disapproval; and (C) publish such determination in the Federal Register. If the Administrator disapproves or partially disapproves the recommendations, the Administrator shall specify—

"(i) why any disapproved additional control measures are not necessary to bring any area in such region into attainment by the dates provided by this subpart or are otherwise not consistent with the Act; and

"(ii) recommendations concerning equal or more effective actions that could be taken by the commission to conform the disapproved portion of the recommendations to the requirements of this section.

"(5) FINDING.—Upon approval or partial approval of recommendations submitted by a commission, the Administrator shall issue to each State which is included in the transport region and to which a requirement of the approved plan applies, a finding under section 110(k)(5) that the implementation plan for such State is inadequate to meet the requirements of section 110(a)(2)(D). Such finding shall require each such State to revise its implementation plan to include the approved additional control measures within one year after the finding is issued.

"(d) BEST AVAILABLE AIR QUALITY MONITORING AND MODELING.—For purposes of this section, not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria for purposes of determining the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone. Such criteria shall require that the best available air quality monitoring and modeling techniques be used for purposes of making such determinations.

"SEC. 185. ENFORCEMENT FOR SEVERE AND EXTREME OZONE NONATTAINMENT AREAS FOR FAILURE TO ATTAIN.

"(a) GENERAL RULE.—Each implementation plan revision required under section 182 (d) and (e) (relating to the attainment plan for Severe and Extreme ozone nonattainment areas) shall provide that, if the area to which such plan revision applies has failed to attain the national primary ambient in quality standard for ozone by the applicable attainment date, each major stationary source of VOCs located in the area shall, except as otherwise provided under subsection (c), pay a fee to the State as a penalty for such failure, computed in accordance with subsection (b), for each calendar year beginning after the attainment date, until the area is redesignated as an attainment area for ozone. Each such plan revision should include procedures for assessment and collection of such fees.

"(b) COMPUTATION OF FEE.—

"(1) FEE AMOUNT.—The fee shall equal $5,000, adjusted in accordance with paragraph (3), per ton of VOC emitted by the source during the calendar year in excess of 80 percent of the baseline amount, computed under paragraph (2).

"(2) BASELINE AMOUNT.—For purposes of this section, the baseline amount shall be computed, in accordance with such guidance as the Administrator may provide, as the lower of the amount of actual VOC emissions ('actuals') or VOC emissions allowed under the permit applicable to the source (or, if no such permit has been issued for the attainment year, the amount of VOC emissions allowed under the applicable implementation plan ('allowables')) during the attainment year. Notwithstanding the preceding sentence, the Administrator may issue guidance authorizing the baseline amount to be determined in accordance with the lower of average actuals or average allowables, determined over a period of more than one calendar year. Such guidance may provide that such average calculation for a specific source may be used if that source's emissions are irregular, cyclical, or otherwise vary significantly from year to year.

"(3) ANNUAL ADJUSTMENT.—The fee amount under paragraph (1) shall be adjusted annually, beginning in the year beginning after the year of enactment, in accordance with section 402(b)(3)(B)(v) (relating to inflation adjustment).

"(c) EXCEPTION.—Notwithstanding any provision of this section, no source shall be required to pay any fee under subsection (a) with respect to emissions during any year that is treated as an Extension Year under section 181(a)(5).

"(d) FEE COLLECTION BY THE ADMINISTRATOR.—If the Administrator has found that the fee provisions of the implementation plan do not meet the requirements of this section, or if the Administrator makes a finding that the State is not administering and enforcing the fee required under this section, the Administrator shall, in addition to any other action authorized under this title, collect, in accordance with procedures promulgated by the Administrator, the unpaid fees required under subsection (a). If the Administrator makes such a finding under section 179(a)(4), the Administrator may collect fees for periods before the determination, plus interest computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes), to the extent the Administrator finds such fees have not been paid to the State. The provisions of clauses (ii) through (iii) of section 402(b)(3)(C) (relating to penalties and use of the funds, respectively) shall apply with respect to fees collected under this subsection.

"(e) EXEMPTIONS FOR CERTAIN SMALL AREAS.—For areas with a total population under 200,000 which fail to attain the standard by the applicable attainment date, no sanction under this section or under any other provision of this Act shall apply if the area can demonstrate, consistent with guidance issued by the Administrator, that attainment in the area is prevented because of ozone or ozone precursors transported from other areas. The prohibition applies only in cases in which the area has met all requirements and implemented all measures applicable to the area under this Act.

"SEC. 185A. TRANSITIONAL AREAS.

"If an area has not violated the NAAQS for ozone for the 36-month period commencing on January 1, 1987, and ending on December 31, 1989, the Administrator shall suspend the requirements of this subpart until December 31, 1991. By June 30, 1992, the Administrator shall determine by order, based on the area's design value as of the attainment date, whether the area attained such standard by December 31, 1991. If the Administrator determines that the area attained the standard, the Administrator shall require, as part of the order, the State to submit a maintenance plan for the area within 12 months of such determination. If the Administrator determines that the area failed to attain the standard, the Administrator shall, by June 30, 1992, designate the area as nonattainment under section 107(d)(4).

"SEC. 185B. $NO_x$ AND VOC STUDY.

"The Administrator, in conjunction with the National Academy of Sciences, shall conduct a study on the role of ozone precursors in tropospheric ozone formation and control. The study should examine the roles of oxides of nitrogen and volatile organic compounds emission reductions, the role of biogenic volatile organic compounds emissions, and the basic information required for air quality models. The study should be completed and a report submitted to Congress within 2 years of the date of the enactment of the Clean Air Act Amendments of 1990.".

SEC. 104. ADDITIONAL PROVISIONS FOR CARBON MONOXIDE NONATTAINMENT AREAS.

Part D of title I is amended by adding the following new subpart at the end:

"Subpart 3—Additional Provisions for Carbon Monoxide Nonattainment Areas

"Sec. 186. Classifications and attainment dates.

"Sec. 187. Plan submissions and requirements.

"SEC. 186. CLASSIFICATION AND ATTAINMENT DATES.

"(a) CLASSIFICATION BY OPERATION OF LAW AND ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(1) Each area designated nonattainment for carbon monoxide pursuant to section 107(d) shall be classified at the time of such designation under Table 1, by operation of law, as a Moderate Area or a Serious Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for carbon monoxide shall be as expeditiously as practicable but not later than the date provided in Table 1:

"TABLE 1

| Area classification | Design value | Primary standard attainment date |
|---|---|---|
| Moderate | 9.1–16.4 ppm. | December 31, 1995. |
| Serious | 16.5 and above. | December 31, 2000. |

"(2) At the time of publication of the notice required under section 107 (designating carbon monoxide nonattainment areas), the Administrator shall publish a notice announcing the classification of each such carbon monoxide nonattainment area. The provisions of section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

"(3) If an area classified under paragraph (1), Table 1, would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the date of the enactment of the Clean Air Act Amendments of 1990 by the procedure required under paragraph (2), adjust the classification of the area. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for carbon monoxide in the area, the level of pollution transport between the area and the other affected areas, and the mix of sources and air pollutants in the area. The Administrator may make the same adjustment for purposes of paragraphs (2), (3), (6), and (7) of section 187(a).

"(4) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter in this subpart referred to as the 'Extension Year') the date specified in Table 1 of subsection (a) if—

"(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(B) no more than one exceedance of the national ambient air quality standard level for carbon monoxide has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

"(b) NEW DESIGNATIONS AND RECLASSIFICATIONS.—

"(1) NEW DESIGNATIONS TO NONATTAINMENT.—Any area that is designated attainment or unclassifiable for carbon monoxide under section 107(d)(4), and that is subsequently redesignated to nonattainment for carbon monoxide under section 107(d)(3), shall, at the time of the redesignation, be classified by operation of law in accordance with Table 1 under subsections (a)(1) and (a)(4). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(2), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified.

"(2) RECLASSIFICATION OF MODERATE AREAS UPON FAILURE TO ATTAIN.—

"(A) GENERAL RULE.—Within 6 months following the applicable attainment date for a carbon monoxide nonattainment area, the Administrator shall determine, based on the area's design value as of the attainment date, whether the area has attained the standard by that date. Any Moderate Area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with Table 1 of subsection (a)(1) as a Serious Area.

"(B) PUBLICATION OF NOTICE.—The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each area that the Administrator has determined, under subparagraph (A), as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

"(c) REFERENCES TO TERMS.—Any reference in this subpart to a 'Moderate Area' or a 'Serious Area' shall be considered a reference to a Moderate Area or a Serious Area, respectively, as classified under this section.

"SEC. 187. PLAN SUBMISSIONS AND REQUIREMENTS.

"(a) MODERATE AREAS.—Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area (or portion thereof, to the extent specified in guidance of the Administrator issued before the date of the enactment of the Clean Air Act Amendments of 1990), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection, within such periods as are prescribed under this subsection, except to the extent the State has made such submissions as of such date of enactment:

"(1) INVENTORY.—No later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.

"(2) VEHICLE MILES TRAVELED.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall contain a forecast of vehicle miles traveled in the nonattainment area concerned for each year before the year in which the plan projects the national ambient air quality standard for carbon monoxide to be attained in the area. The forecast shall be based on guidance which shall be published by the Administrator within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990. The plan revision shall provide for annual updates of the forecasts to be submitted to the Administrator together with annual reports regarding the extent to which such forecasts proved to be accurate. Such annual reports shall contain estimates of actual vehicle miles traveled in each year for which a forecast was required.

"(3) CONTINGENCY PROVISIONS.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall provide for the implementation of specific measures to be undertaken if any estimate of vehicle miles traveled in the area which is submitted in an annual report under paragraph (2) exceeds the number predicted in the most recent prior forecast or if the area fails to attain the national primary ambient air quality standard for carbon monoxide by the primary standard attainment date. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator if the prior forecast has been exceeded by an updated forecast or if the national standard is not attained by such deadline.

"(4) SAVINGS CLAUSE FOR VEHICLE INSPECTION AND MAINTENANCE PROVISIONS OF THE STATE IMPLEMENTATION PLAN.—Immediately after the date of the enactment of the Clean Air Act Amendments of 1990, for any Moderate Area (or, within the Administrator's discretion, portion thereof), the plan for which is of the type described in section 182(a)(2)(B) any provisions necessary to ensure that the applicable implementation plan includes the vehicle inspection and maintenance program described in section 182(a)(2)(B).

"(5) PERIODIC INVENTORY.—No later than September 30, 1995, and no later than the end of each 3 year period thereafter, until the area is redesignated to attainment, a revised inventory meeting the requirements of subsection (a)(1).

"(6) ENHANCED VEHICLE INSPECTION AND MAINTENANCE.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 in the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, a revision that includes provisions for an enhanced vehicle inspection and maintenance program as required in section 182(c)(3) (concerning serious ozone nonattainment areas), except that such program shall be for the purpose of reducing carbon monoxide rather than hydrocarbon emissions.

"(7) ATTAINMENT DEMONSTRATION AND SPECIFIC ANNUAL EMISSION REDUCTIONS.—In the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, no later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to provide, and a demonstration that the plan as revised will provide, for attainment of the carbon monoxide NAAQS by the applicable attainment date and provisions for such specific annual emission reductions as are necessary to attain the standard by that date.

The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. In the case of Moderate Areas with a design value of 12.7 ppm or lower at the time of classification, the requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the carbon

monoxide standard by the applicable attainment date.

"(b) SERIOUS AREAS.—Each State in which all or part of a Serious Area is located shall, with respect to the Serious Area, make the submissions applicable under subsection (a) to Moderate Areas with a design value of 12.7 ppm or greater at the time of classification, and shall also submit the revision and other items described under this subsection. Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 the State shall submit a revision that includes the transportation control measures as required in section 182(d)(1) except that such revision shall be for the purpose of reducing CO emissions rather than volatile organic compound emissions. Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to require that gasoline sold, supplied, offered for sale or supply, dispensed, transported or introduced into commerce in the larger of—

"(1) the Consolidated Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) (CMSA) in which the area is located, or

"(2) if the area is not located in a CMSA, the Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) in which the area is located,

be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide (as determined by the Administrator), with fuels containing such level of oxygen as is necessary, in combination with other measures, to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area. The revision shall provide that such requirement shall take effect no later than October 1, 1993, and shall include a program for implementation and enforcement of the requirement consistent with guidance to be issued by the Administrator. Notwithstanding the preceding provisions of this paragraph, the revision described in this paragraph shall not be required for an area if the State demonstrates to the satisfaction of the Administrator that the revision is not necessary to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area.

"(c) AREAS WITH SIGNIFICANT STATIONARY SOURCE EMISSIONS OF CO.—

"(1) SERIOUS AREAS.—In the case of Serious Areas in which stationary sources contribute significantly to carbon monoxide levels (as determined under rules issued by the Administrator), the State shall submit a plan revision within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, which provides that the term 'major stationary source' includes (in addition to the sources described in section 302) any stationary source which emits, or has the potential to emit, 50 tons per year or more of carbon monoxide.

"(2) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive any requirements that pertain to transportation controls, inspection and maintenance, or oxygenated fuels where the Administrator determines by rule that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in the area.

"(3) GUIDELINES.—Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidelines for and rules determining whether stationary sources contribute significantly to carbon monoxide levels in an area.

"(d) CO MILESTONE.—

"(1) MILESTONE DEMONSTRATION.—By March 31, 1996, each State in which all or part of a Serious Area is located shall submit to the Administrator a demonstration that the area has achieved a reduction in emissions of CO equivalent to the total of the specific annual emission reductions required by December 31, 1995. Such reductions shall be referred to in this subsection as the milestone.

"(2) ADEQUACY OF DEMONSTRATION.—A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) FAILURE TO MEET EMISSION REDUCTION MILESTONE.—If a State fails to submit a demonstration under paragraph (1) within the required period, or if the Administrator notifies the State that the State has not met the milestone, the State shall, within 9 months after such a failure or notification, submit a plan revision to implement an economic incentive and transportation control program as described in section 182(g)(4). Such revision shall be sufficient to achieve the specific annual reductions in carbon monoxide emissions set forth in the plan by the attainment date.

"(e) MULTI-STATE CO NONATTAINMENT AREAS.—

"(1) COORDINATION AMONG STATES.—Each State in which there is located a portion of a single nonattainment area for carbon monoxide which covers more than one State ('multi-State nonattainment area') shall take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State implementation plans applicable to the nonattainment area concerned. The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a multi-State nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

"(2) FAILURE TO DEMONSTRATE ATTAINMENT.—If any State in which there is located a portion of a multi-State nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for carbon monoxide in that portion within the period required under this part the State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 187 (relating to plan submissions for carbon monoxide nonattainment areas). If the Administrator makes such finding, in the portion of the nonattainment area within the State submitting such petition, no sanction shall be imposed under section 179 or under any other provision of this Act, by reason of the failure to make such demonstration.

"(f) RECLASSIFIED AREAS.—Each State containing a carbon monoxide nonattainment area reclassified under section 186(b)(2) shall meet the requirements of subsection (b) of this section, as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than the attainment date) where such deadlines are shown to be infeasible.

"(g) FAILURE OF SERIOUS AREA TO ATTAIN STANDARD.—If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that a program of incentives and requirements as described in section 182(g)(4) shall be applicable in the area, and such program, in combination with other elements of the revised plan, shall be adequate to reduce the total tonnage of emissions of carbon monoxide in the area by at least 5 percent per year in each year after approval of the plan revision and before attainment of the national primary ambient air quality standard for carbon monoxide.".

SEC. 105. ADDITIONAL PROVISIONS FOR PARTICULATE MATTER (PM-10) NONATTAINMENT AREAS.

(a) PM-10 NONATTAINMENT AREAS.—Part D of title I is amended by adding the following new subpart after subpart 3:

**"Subpart 4—Additional Provisions for Particulate Matter Nonattainment Areas**

"Sec. 188. Classifications and attainment dates.

"Sec. 189. Plan provisions and schedules for plan submissions.

"Sec. 190. Issuance of guidance.

"SEC. 188. CLASSIFICATIONS AND ATTAINMENT DATES.

"(a) INITIAL CLASSIFICATIONS.—Every area designated nonattainment for PM-10 pursuant to section 107(d) shall be classified at the time of such designation, by operation of law, as a moderate PM-10 nonattainment area (also referred to in this subpart as a 'Moderate area') at the time of such designation. At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each PM-10 nonattainment area, the Administrator shall publish a notice announcing the classification of such area. The provisions of section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

"(b) RECLASSIFICATION AS SERIOUS.—

"(1) RECLASSIFICATION BEFORE ATTAINMENT DATE.—The Administrator may reclassify as a Serious PM-10 nonattainment area (identified in this subpart also as a 'Serious Area') any area that the Administrator determines cannot practicably attain the national ambient air quality standard for PM-10 by the attainment date (as prescribed in subsection (c)) for Moderate Areas. The Administrator shall reclassify appropriate areas as Serious by the following dates:

"(A) For areas designated nonattainment for PM-10 under section 107(d)(4), the Administrator shall propose to reclassify appropriate areas by June 30, 1991, and take final action by December 31, 1991.

"(B) For areas subsequently designated nonattainment, the Administrator shall reclassify appropriate areas within 18 months after the required date for the State's submission of a SIP for the Moderate Area.

"(2) RECLASSIFICATION UPON FAILURE TO ATTAIN.—Within 6 months following the applicable attainment date for a PM-10 nonat-

*tainment area, the Administrator shall determine whether the area attained the standard by that date. If the Administrator finds that any Moderate Area is not in attainment after the applicable attainment date—*

*"(A) the area shall be reclassified by operation of law as a Serious Area; and*

*"(B) the Administrator shall publish a notice in the Federal Register no later than 6 months following the attainment date, identifying the area as having failed to attain and identifying the reclassification described under subparagraph (A).*

*"(c) ATTAINMENT DATES.—Except as provided under subsection (d), the attainment dates for PM-10 nonattainment areas shall be as follows:*

*"(1) MODERATE AREAS.—For a Moderate Area, the attainment date shall be as expeditiously as practicable but no later than the end of the sixth calendar year after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the attainment date shall not extend beyond December 31, 1994.*

*"(2) SERIOUS AREAS.—For a Serious Area, the attainment date shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the date shall not extend beyond December 31, 2001.*

*"(d) EXTENSION OF ATTAINMENT DATE FOR MODERATE AREAS.—Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in paragraph (c)(1) if—*

*"(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and*

*"(2) no more than one exceedance of the 24-hour national ambient air quality standard level for PM-10 has occurred in the area in the year preceding the Extension Year, and the annual mean concentration of PM-10 in the area for such year is less than or equal to the standard level.*

*No more than 2 one-year extensions may be issued under the subsection for a single nonattainment area.*

*"(e) EXTENSION OF ATTAINMENT DATE FOR SERIOUS AREAS.—Upon application by any State, the Administrator may extend the attainment date for a Serious Area beyond the date specified under subsection (c), if attainment by the date established under subsection (c) would be impracticable, the State has complied with all requirements and commitments pertaining to that area in the implementation plan, and the State demonstrates to the satisfaction of the Administrator that the plan for that area includes the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State, and can feasibly be implemented in the area. At the time of such application, the State must submit a revision to the implementation plan that includes a demonstration of attainment by the most expeditious alternative date practicable. In determining whether to grant an extension, and the appropriate length of time for any such extension, the Administrator may consider the nature and extent of nonattainment, the types and numbers of sources or other emitting activities in the area (including the influence of uncontrollable natural sources and transboundary emissions from foreign countries), the population exposed to concentrations in excess of the standard, the presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and the technological and economic feasibility of various control measures. The Administrator may not approve an extension until the State submits an attainment demonstration for the area. The Administrator may grant at most one such extension for an area, of no more than 5 years.*

*"(f) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive any requirement applicable to any Serious Area under this subpart where the Administrator determines that anthropogenic sources of PM-10 do not contribute significantly to the violation of the PM-10 standard in the area. The Administrator may also waive a specific date for attainment of the standard where the Administrator determines that nonanthropogenic sources of PM-10 contribute significantly to the violation of the PM-10 standard in the area.*

*"SEC. 189. PLAN PROVISIONS AND SCHEDULES FOR PLAN SUBMISSIONS.*

*"(a) MODERATE AREAS.—*

*"(1) PLAN PROVISIONS.—Each State in which all or part of a Moderate Area is located shall submit, according to the applicable schedule under paragraph (2), an implementation plan that includes each of the following:*

*"(A) For the purpose of meeting the requirements of section 172(c)(5), a permit program providing that permits meeting the requirements of section 173 are required for the construction and operation of new and modified major stationary sources of PM-10.*

*"(B) Either (i) a demonstration (including air quality modeling) that the plan will provide for attainment by the applicable attainment date; or (ii) a demonstration that attainment by such date is impracticable.*

*"(C) Provisions to assure that reasonably available control measures for the control of PM-10 shall be implemented no later than December 10, 1993, or 4 years after designation in the case of an area classified as moderate after the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(2) SCHEDULE FOR PLAN SUBMISSIONS.—A State shall submit the plan required under subparagraph (1) no later than the following:*

*"(A) Within 1 year of the date of the enactment of the Clean Air Act Amendments of 1990, for areas designated nonattainment under section 107(d)(4), except that the provision required under subparagraph (1)(A) shall be submitted no later than June 30, 1992.*

*"(B) 18 months after the designation as nonattainment, for those areas designated nonattainment after the designations prescribed under section 110(b)(4).*

*"(b) SERIOUS AREAS.—*

*"(1) PLAN PROVISIONS.—In addition to the provisions submitted to meet the requirements of paragraph (a)(1) (relating to Moderate Areas), each State in which all or part of a Serious Area is located shall submit an implementation plan for such area that includes each of the following:*

*"(A) A demonstration (including air quality modeling)—*

*"(i) that the plan provides for attainment of the PM-10 national ambient air quality standard by the applicable attainment date, or*

*"(ii) for any area for which the State is seeking, pursuant to section 188(e), an extension of the attainment date beyond the date set forth in section 188(c), that attainment by that date would be impracticable, and that the plan provides for attainment by the most expeditious alternative date practicable.*

*"(B) Provisions to assure that the best available control measures for the control of PM-10 shall be implemented no later than 4 years after the date the area is classified (or reclassified) as a Serious Area.*

*"(2) SCHEDULE FOR PLAN SUBMISSIONS.—A State shall submit the demonstration required for an area under paragraph (1)(A) no later than 4 years after reclassification of the area to Serious, except that for areas reclassified under section 188(b)(2), the State shall submit the attainment demonstration within 18 months after reclassification to Serious. A State shall submit the provisions described under paragraph (1)(B) no later than 18 months after reclassification of the area as a Serious Area.*

*"(3) MAJOR SOURCES.—For any Serious Area, the terms 'major source' and 'major stationary source' include any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 70 tons per year of PM-10.*

*"(c) MILESTONES.—(1) Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 171(1), toward attainment by the applicable date.*

*"(2) Not later than 90 days after the date on which a milestone applicable to the area occurs, each State in which all or part of such area is located shall submit to the Administrator a demonstration that all measures in the plan approved under this section have been implemented and that the milestone has been met. A demonstration under this subsection shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration under this subsection is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.*

*"(3) If a State fails to submit a demonstration under paragraph (2) with respect to a milestone within the required period or if the Administrator determines that the area has not met any applicable milestone, the Administrator shall require the State, within 9 months after such failure or determination to submit a plan revision that assures that the State will achieve the next milestone (or attain the national ambient air quality standard for PM-10, if there is no next milestone) by the applicable date.*

*"(d) FAILURE TO ATTAIN.—In the case of a Serious PM-10 nonattainment area in which the PM-10 standard is not attained by the applicable attainment date, the State in which such area is located shall, after notice and opportunity for public comment, submit within 12 months after the applicable attainment date, plan revisions which provide for attainment of the PM-10 air quality standard and, from the date of such submission until attainment, for an annual reduction in PM-10 or PM-10 precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for such area.*

"(e) PM-10 PRECURSORS.—The control requirements applicable under plans in effect under this part for major stationary sources of PM-10 shall also apply to major stationary sources of PM-10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM-10 levels which exceed the standard in the area. The Administrator shall issue guidelines regarding the application of the preceding sentence.

"SEC. 190. ISSUANCE OF RACM AND BACM GUIDANCE.

"The Administrator shall issue, in the same manner and according to the same procedure as guidance is issued under section 108(c), technical guidance on reasonably available control measures and best available control measures for urban fugitive dust, and emissions from residential wood combustion (including curtailments and exemptions from such curtailments) and prescribed silvicultural and agricultural burning, no later than 18 months following the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall also examine other categories of sources contributing to nonattainment of the PM-10 standard, and determine whether additional guidance on reasonably available control measures and best available control measures is needed, and issue any such guidance no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990.".

(b) PM-10 INCREMENTS IN PSD AREAS.—Section 166 (42 U.S.C. 7476) is amended by adding the following new subsection at the end:

"(f) PM-10 INCREMENTS.—The Administrator is authorized to substitute, for the maximum allowable increases in particulate matter specified in section 163(b) and section 165(d)(2)(C)(iv), maximum allowable increases in particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers. Such substituted maximum allowable increases shall be of equal stringency in effect as those specified in the provisions for which they are substituted. Until the Administrator promulgates regulations under the authority of this subsection, the current maximum allowable increases in concentrations of particulate matter shall remain in effect.".

SEC. 106. ADDITIONAL PROVISIONS FOR AREAS DESIGNATED NONATTAINMENT FOR SULFUR OXIDES, NITROGEN DIOXIDE, AND LEAD.

Part D of title I is amended by adding a new subpart after subpart 4 as follows:

"Subpart 5—Additional Provisions for Areas Designated Nonattainment for Sulfur Oxides, Nitrogen Dioxide, or Lead

"Sec. 191. Plan submission deadlines.
"Sec. 192. Attainment dates.
"Sec. 193. General savings clause.
"Sec. 194. Air Pollution Release Investigation Board.

"SEC. 191. PLAN SUBMISSION DEADLINES.

"(a) SUBMISSION.—Any State containing an area designated or redesignated under section 107(d) as nonattainment with respect to the national primary ambient air quality standards for sulfur oxides, nitrogen dioxide, or lead subsequent to the date of the enactment of the Clean Air Act Amendments of 1990 shall submit to the Administrator, within 18 months of the designation, an applicable implementation plan meeting the requirements of this part.

"(b) STATES LACKING FULLY APPROVED STATE IMPLEMENTATION PLANS.—Any State containing an area designated nonattainment with respect to national primary ambient air quality standards for sulfur oxides or nitrogen dioxide under section 107(d)(1)(C)(i), but lacking a fully approved implementation plan complying with the requirements of this Act (including part D) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, shall submit to the Administrator, within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990, an implementation plan meeting the requirements of subpart 1 (except as otherwise prescribed by section 192).

"SEC. 192. ATTAINMENT DATES.

"(a) PLANS UNDER SECTION 191(a).—Implementation plans required under section 191(a) shall provide for attainment of the relevant primary standard as expeditiously as practicable but no later than 5 years from the date of the nonattainment designation.

"(b) PLANS UNDER SECTION 191(b).—Implementation plans required under section 191(b) shall provide for attainment of the relevant primary national ambient air quality standard within 5 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(c) INADEQUATE PLANS.—Implementation plans for nonattainment areas for sulfur oxides or nitrogen dioxide with plans that were approved by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990 but, subsequent to such approval, were found by the Administrator to be substantially inadequate, shall provide for attainment of the relevant primary standard within 5 years from the date of such finding.".

SEC. 107. PROVISIONS RELATED TO INDIAN TRIBES.

(a) DEFINITION OF AIR POLLUTION CONTROL AGENCY.—Section 302(b) (42 U.S.C. 7602(b)) is amended by—

(1) deleting "or" at the end of paragraph (3);

(2) striking the semicolons at the end of paragraphs (1), (2), and (3) and inserting periods at the end of each such paragraph; and

(3) adding the following new paragraph after paragraph (4):

"(5) An agency of an Indian tribe.".

(b) DEFINITION OF INDIAN TRIBE.—Section 302 (42 U.S.C. 7602) is amended by adding new subsection (r) to read as follows:

"(r) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(c) SIPS.—Section 110 (42 U.S.C. 7410) is amended by adding the following new subsection after subsection (n):

"(o) INDIAN TRIBES.—If an Indian tribe submits an implementation plan to the Administrator pursuant to section 301(d), the plan shall be reviewed in accordance with the provisions for review set forth in this section for State plans, except as otherwise provided by regulation promulgated pursuant to section 301(d)(2). When such plan becomes effective in accordance with the regulations promulgated under section 301(d), the plan shall become applicable to all areas (except as expressly provided otherwise in the plan) located within the exterior boundaries of the reservation, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.".

(d) TRIBAL AUTHORITY.—Section 301 (42 U.S.C. 7601) is amended by adding at the end thereof the following new subsection:

"(d) TRIBAL AUTHORITY.—(1) Subject to the provisions of paragraph (2), the Administrator—

"(A) is authorized to treat Indian tribes as States under this Act, except for purposes of the requirement that makes available for application by each State no less than one-half of 1 percent of annual appropriations under section 105; and

"(B) may provide any such Indian tribe grant and contract assistance to carry out functions provided by this Act.

"(2) The Administrator shall promulgate regulations within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, specifying those provisions of this Act for which it is appropriate to treat Indian tribes as States. Such treatment shall be authorized only if—

"(A) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(B) the functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and

"(C) the Indian tribe is reasonably expected to be capable, in the judgment of the Administrator, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and all applicable regulations.

"(3) The Administrator may promulgate regulations which establish the elements of tribal implementation plans and procedures for approval or disapproval of tribal implementation plans and portions thereof.

"(4) In any case in which the Administrator determines that the treatment of Indian tribes as identical to States is inappropriate or administratively infeasible, the Administrator may provide, by regulation, other means by which the Administrator will directly administer such provisions so as to achieve the appropriate purpose.

"(5) Until such time as the Administrator promulgates regulations pursuant to this subsection, the Administrator may continue to provide financial assistance to eligible Indian tribes under section 105.".

SEC. 108. MISCELLANEOUS PROVISIONS.

(a) TRANSPORTATION PLANNING GUIDANCE.—(1) Section 108(e) (42 U.S.C. 7408(e)) is amended by revising the first sentence to read as follows: "Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990 and periodically thereafter as necessary to maintain a continuous process of transportation and air quality planning, including emissions inventory development, the Administrator shall, after consultation with the Secretary of Transportation and State and local officials, update the June 1978 Transportation-Air Quality Planning Guidelines.".

(2) So much of subsection (f)(1) of section 108 (42 U.S.C. 7408) as precedes subparagraph (B) is amended to read as follows:

"(f) INFORMATION TO BE AVAILABLE.—(1) Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish and make available to appropriate Federal, State, and local environmental and transportation agencies, and from time to time thereafter the Administrator shall revise—

"(A) information, prepared as appropriate after consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, regarding the emission reduction potential of

transportation control measures, including—

"(i) trip-reduction ordinances;

"(ii) employer-based transportation management plans;

"(iii) transit improvements;

"(iv) traffic-flow improvements;

"(v) areawide rideshare programs;

"(vi) park-and-ride and fringe parking programs;

"(vii) work-schedule changes;

"(viii) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high occupancy vehicles;

"(ix) programs to control extended idling of vehicles;

"(x) vanpool purchase incentives;

"(xi) incentives for employer-based transportation management plans;

"(xii) programs to limit portions of road surfaces to the use of nonmotorized vehicles or pedestrian use, both as to time and place;

"(xiii) programs for secure bicycle storage facilities and other facilities, including bicycle lanes;

"(xiv) programs for new construction and major reconstruction of paths or tracks solely for use by pedestrian or other nonmotorized means of transportation; and

"(xv) telecommuting.

In considering such measures for inclusion in any State implementation plan or revision thereto as may be required under this Act, the State shall choose from among and implement such measures as necessary, and should ensure adequate access to downtown, other commercial, and residential areas and avoid measures that increase or relocate emissions and congestion rather than reduce them.".

(b) RACT/BACT/LAER CLEARINGHOUSE.—Section 108 (42 U.S.C. 7408) is amended by adding the following at the end thereof:

"(h) RACT/BACT/LAER CLEARINGHOUSE.—The Administrator shall make information regarding emission control technology available to the States and to the general public through a central database. Such information shall include all control technology information received pursuant to State plan provisions requiring permits for sources, including operating permits for existing sources.".

(c) STATE REPORTS ON EMISSIONS-RELATED DATA.—Section 110 (42 U.S.C. 7410) is amended by adding the following new subsection after subsection (o):

"(p) REPORTS.—Any State shall submit, according to such schedule as the Administrator may prescribe, such reports as the Administrator may require relating to emission reductions, vehicle miles traveled, congestion levels, and any other information the Administrator may deem necessary to assess the development effectiveness, need for revision, or implementation of any plan or plan revision required under this Act.".

(d) NEW SOURCE STANDARDS OF PERFORMANCE.—(1) Section 111(b)(1)(B) (42 U.S.C. 7411(b)(1)(B)) is amended as follows:

(A) Strike "120 days" and insert "one year".

(B) Strike "90 days" and insert "one year".

(C) Strike "four years" and insert "8 years".

(D) Immediately before the sentence beginning "Standards of performance or revisions thereof" insert "Notwithstanding the requirements of the previous sentence, the Administrator need not review any such standard if the Administrator determines that such review is not appropriate in light of readily available information on the efficacy of such standard.".

(E) Add the following at the end: "When implementation and enforcement of any requirement of this Act indicate that emission limitations and percent reductions beyond those required by the standards promulgated under this section are achieved in practice, the Administrator shall, when revising standards promulgated under this section, consider the emission limitations and percent reductions achieved in practice.".

(2) Section 111(f)(1) (42 U.S.C. 7411(f)(1)) is amended to read as follows:

"(1) For those categories of major stationary sources that the Administrator listed under subsection (b)(1)(A) before the date of the enactment of the Clean Air Act Amendments of 1990 and for which regulations had not been proposed by the Administrator by such date, the Administrator shall:

"(A) propose regulations establishing standards of performance for at least 25 percent of such categories of sources within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990;

"(B) propose regulations establishing standards of performance for at least 50 percent of such categories of sources within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(C) propose regulations for the remaining categories of sources within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990.".

(e) SAVINGS CLAUSE.—Section 111(a)(3) (42 U.S.C. 7411(f)(1)) is amended by adding at the end: "Nothing in title II of this Act relating to nonroad engines shall be construed to apply to stationary internal combustion engines.".

(f) REGULATION OF EXISTING SOURCES.—Section 111(d)(1)(A)(i) (42 U.S.C. 7411(d)(1)(A)(i)) is amended by striking "or 112(b)(1)(A)" and inserting "or emitted from a source category which is regulated under section 112".

(g) CONSULTATION.—The penultimate sentence of section 121 (42 U.S.C. 7421) is amended to read as follows: "The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to ensure adequate consultation.".

(h) DELEGATION.—The second sentence of section 301(a)(1) (42 U.S.C. 7601(a)(1)) is amended by inserting "subject to section 307(d)" immediately following "regulations".

(i) DEFINITIONS.—Section 302 (42 U.S.C. 7602) is amended as follows:

(1) Insert the following new subsections after subsection (r):

"(s) VOC.—The term 'VOC' means volatile organic compound, as defined by the Administrator.

"(t) PM-10.—The term 'PM-10' means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers, as measured by such method as the Administrator may determine.

"(u) NAAQS AND CTG.—The term 'NAAQS' means national ambient air quality standard. The term 'CTG' means a Control Technique Guideline published by the Administrator under section 108.

"(v) NOx.—The term 'NOx' means oxides of nitrogen.

"(w) CO.—The term 'CO' means carbon monoxide.

"(x) SMALL SOURCE.—The term 'small source' means a source that emits less than 100 tons of regulated pollutants per year, or any class of persons that the Administrator determines, through regulation, generally lack technical ability or knowledge regarding control of air pollution.

"(y) FEDERAL IMPLEMENTATION PLAN.—The term 'Federal implementation plan' means a plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a State implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as fees, marketable permits, or auctions of emissions allowances), and provides for attainment of the relevant national ambient air quality standard.".

(2) Section 302(g) (42 U.S.C. 7602(g)) is amended by adding the following at the end: "Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term 'air pollutant' is used.".

(j) POLLUTION PREVENTION.—Section 101 (42 U.S.C. 7401) is amended as follows:

(1) Amend subsection (a)(3) to read as follows:

"(3) that air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of States and local governments; and".

(2) Amend subsection (b)(4) by inserting "prevention and" immediately after "pollution".

(3) Add a new subsection (c) to read as follows:

"(c) POLLUTION PREVENTION.—A primary goal of this Act is to encourage or otherwise promote reasonable Federal, State, and local governmental actions, consistent with the provisions of this Act, for pollution prevention.".

(k) Title I is amended by adding the following after section 192:

"SEC. 193. GENERAL SAVINGS CLAUSE.

"Each regulation, standard, rule, notice, order and guidance promulgated or issued by the Administrator under this Act, as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect according to its terms, except to the extent otherwise provided under this Act, inconsistent with any provision of this Act, or revised by the Administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in any area which is a nonattainment area for any air pollutant may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.".

(l) BOUNDARY CHANGES.—Section 162(a) (42 U.S.C. 7472(a)) is amended by adding at the end thereof the following: "The extent of the areas designated as Class I under this section shall conform to any changes in the boundaries of such areas which have occurred subsequent to the date of the enactment of the Clean Air Act Amendments of 1977, or which may occur subsequent to the date of the enactment of the Clean Air Act Amendments of 1990.".

(m) BOUNDARIES.—Section 164(a) (42 U.S.C. 7474(a)) is amended by inserting im-

mediately before the sentence beginning "Any area (other than an area referred to in paragraph (1) or (2)" the following: "The extent of the areas referred to in paragraph (1) and (2) shall conform to any changes in the boundaries of such areas which have occurred subsequent to the date of the enactment of the Clean Air Act Amendments of 1977, or which may occur subsequent to the date of the enactment of the Clean Air Act Amendments of 1990.".

(n) ASSESSMENTS.—Section 108 (42 U.S.C. 7408) is amended by adding at the end thereof a new subsection (g) to read as follows:

"(g) ASSESSMENT OF RISKS TO ECOSYSTEMS.—The Administrator may assess the risks to ecosystems from exposure to criteria air pollutants (as identified by the Administrator in the Administrator's sole discretion).".

(o) REVIEW OF REPORTS AND PUBLIC PARTICIPATION.—Section 307 (42 U.S.C. 7607) is amended by adding the following after subsection (g):

"(h) REPORTS.—No report required by this Act to be submitted to Congress shall be subject to judicial review.

"(i) PUBLIC PARTICIPATION.—It is the intent of Congress that, consistent with the policy of the Administrative Procedures Act, the Administrator in promulgating any regulation under this Act, including a regulation subject to a deadline, shall ensure a reasonable period for public participation of at least 30 days, except as otherwise expressly provided in section 107(d), 172(a), 181(a) and (b), and 186(a) and (b).".

(p) ETHICS, FINANCIAL DISCLOSURE, AND CONFLICTS OF INTEREST.—Section 318 (42 U.S.C. 7618) is repealed.

(q) INFORMATION PROMOTING COMPLIANCE BY SMALL SOURCES.—The following new section is added after section 128:

"SEC. 129. INFORMATION FOR SMALL SOURCES.

"(a) IN GENERAL.—The Administrator shall develop, collect, evaluate, and coordinate information on compliance methods and technologies for small sources. The Administrator shall maintain a central reference library of such information, and shall disseminate such information to States or other persons seeking to comply with this Act.

"(b) EDUCATION PROGRAMS FOR SMALL SOURCES.—The Administrator shall, in cooperation with the States and their small source technical assistance programs created pursuant to section 110(a)(2)(N), develop programs for educating small sources about their obligations under this Act and means to comply.".

SEC. 109. INTERSTATE POLLUTION.

(a) AMENDMENTS TO SECTION 126.—Section 126 (42 U.S.C. 7426) is amended as follows:

(1) In subsection (b)—

(A) in the first sentence, following "major source", insert "or group of stationary sources"; and

(B) strike "110(a)(2)(E)(i)" and insert in lieu thereof "110(a)(2)(D)(ii) or this section".

(2) In subsection (c)—

(A) in the first sentence, following the words "violation of", insert "this section and"; and

(B) strike "110(a)(2)(E)(i)" wherever it appears and insert in lieu thereof "110(a)(2)(D)(ii) or this section".

(b) AMENDMENT TO SECTION 302.—Section 302(h) (42 U.S.C. 7602(h)) is amended by inserting before the period ", whether caused by transformation, conversion, or combination with other air pollutants".

SEC. 110. CONFORMING AMENDMENTS.

The Clean Air Act is amended as follows—

(1) Strike, in section 161 (42 U.S.C. 7471), "identified pursuant to section 107(d)(1)(D) or (E)" and insert "designated pursuant to section 107 as attainment or unclassifiable".

(2) Strike, in section 162(b) (42 U.S.C. 7472(b)), "identified pursuant to section 107(d)(1)(D) or (E)" and insert "designated pursuant to section 107(d) as attainment or unclassifiable";

(3) Strike, in section 167 (42 U.S.C. 7477), the reference to "included in the list promulgated pursuant to paragraph (1)(D) or (E) of subsection (d) of section 107 of this Act" and insert "designated pursuant to section 107(d) as attainment or unclassifiable".

(4) Strike subsections (a) and (b) of section 176 (42 U.S.C. 7506).

(5) Amend section 307(d)(1) (42 U.S.C. 7607(d)(1)) as follows:

(A) Subparagraph (C) is amended to read as follows:

"(C) the promulgation or revision of any standard of performance under section 111, or emission standard or limitation under section 112(d), any standard under section 112(f), or any regulation under section 112(g)(1)(D) and (F), or any regulation under section 112(m) or (n),".

(B) Subparagraph (F) is amended to read as follows:

"(F) the promulgation or revision of any regulation under title V (relating to control of acid deposition),".

(C) Delete "and" at the end of subparagraph (M), redesignate subparagraph (N) as subparagraph (U), and add the following new subparagraphs after subparagraph (M):

"(N) the promulgation or revision of any regulation pertaining to consumer and commercial products under section 183(e),

"(O) the promulgation or revision of any regulation pertaining to field citations under section 113(d)(3),

"(P) the promulgation or revision of any regulation pertaining to urban buses or the clean-fuel vehicle, clean-fuel fleet, and clean fuel programs under section 212,

"(Q) the promulgation or revision of any regulation pertaining to nonroad engines or nonroad vehicles under section 213,

"(R) the promulgation or revision of any regulation relating to motor vehicle compliance program fees under section 217,

"(S) the promulgation or revision of any regulation pertaining to market-based alternative controls under section 214, the promulgation or revision of any regulation under title IV,

"(T) the promulgation or revision of any regulation under section 183(f) pertaining to marine vessels, and".

## TITLE II—PROVISIONS RELATING TO MOBILE SOURCES


Sec. 201. Clean fuel requirements.
Sec. 202. Emission standards for certain motor vehicles.
Sec. 203. Conforming amendment.
Sec. 204. Carbon monoxide emissions at cold temperatures.
Sec. 205. Evaporative emissions.
Sec. 206. Control of vehicle refueling emissions.
Sec. 207. Mobile source-related air toxics.
Sec. 208. Emission control diagnostics systems.
Sec. 209a. Auto warranties.
Sec. 210. Heavy-duty trucks.
Sec. 211. Nonroad engines and vehicles.
Sec. 212. Vehicle certification.
Sec. 213. In-use compliance—recall.
Sec. 214. Compliance program fees.
Sec. 215. Information collection.
Sec. 216. Fuel volatility.
Sec. 217. Diesel fuel sulfur content.
Sec. 218. Lead substitute gasoline additives.
Sec. 219. Nonroad fuels.
Sec. 220. Fuel waivers.
Sec. 221. Market-based alternative controls.
Sec. 222. State fuel regulation.
Sec. 223. Enforcement.
Sec. 224. High altitude testing.
Sec. 225. Technical amendments.


SEC. 201. CLEAN FUEL REQUIREMENTS.

(a) DEFINITIONS.—Section 216 (42 U.S.C. 7550) is amended by adding the following at the end:

"(7) URBAN BUS.—The term 'urban bus' has the meaning provided under regulations of the Administrator promulgated under section 202(a).

"(8) CLEAN ALTERNATIVE FUEL.—The term 'clean alternative fuel' means any fuel (including methanol, ethanol, or other alcohols (including any mixture thereof containing 85 percent or more by volume of such alcohol with gasoline or other fuels), reformulated gasoline, diesel, natural gas, liquefied petroleum gas, and hydrogen) or power source (including electricity) used in a clean-fuel vehicle (or clean-fuel fleet vehicle) that complies with the standards and requirements applicable to such vehicle under this title when using such fuel or power source.

"(9) CLEAN-FUEL VEHICLE AND CLEAN-FUEL FLEET VEHICLE.—The term 'clean-fuel vehicle' means any motor vehicle that, when operated on clean alternative fuel, complies with the requirements of section 212(b). The term 'clean-fuel fleet vehicle' has the meaning provided in subsection (f).

"(10) EMISSIONS OF OZONE-FORMING VOLATILE ORGANIC COMPOUNDS.—The term 'emissions of ozone-forming volatile organic compounds' means motor vehicle exhaust and evaporative, refueling, and running loss emissions of oxygenated and nonoxygenated hydrocarbons, excluding methane, and, after such exclusion, adjusted for reactivity.

"(11) COVERED FLEET.—The term 'covered fleet' means 10 or more motor vehicles which are owned or operated by a single person. In determining the number of vehicles owned by a single person for purposes of this paragraph, all motor vehicles owned by such person, by any person which controls such person, by any person controlled by such person, and by any person under common control with such person shall be treated as owned by such person. The term 'covered fleet' shall not include motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers (including demonstration vehicles), motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, or nonroad vehicles.

"(12) COVERED FLEET VEHICLES.—The term 'covered fleet vehicles' includes only motor vehicles in a covered fleet which are centrally fueled (or capable of being centrally fueled, as determined by rule by the Administrator) and centrally maintained (or capable of being centrally maintained), in accordance with usual practices and daily operations, primarily at a facility located in the nonattainment area and provided by, and under the direct control of, the owner or operator of the covered fleet.".

(b) CLEAN FUEL REQUIREMENTS.—Section 212 (42 U.S.C. 7546) is amended to read as follows:

"SEC. 212. CLEAN FUEL REQUIREMENTS.

"(a) URBAN BUSES.—

"(1) IN GENERAL.—Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Adminis-

*trator shall promulgate regulations under this subsection applicable to new urban buses operated primarily in a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) with a 1980 population of 750,000 or more. The Administrator shall also promulgate comparable regulations for existing urban buses operated primarily in such areas which, after January 1, 1995, have their engines replaced or rebuilt, taking into consideration costs, energy, safety, and other relevant factors, including lead time.*

*"(2) REQUIREMENT.—The regulations under this subsection shall provide that all new urban buses purchased or placed into service and operated by owners or operators of urban buses in the areas referred to in paragraph (1) shall be clean-fuel vehicles capable of operating, and shall be exclusively operated, on clean alternative fuel.*

*"(3) EFFECTIVE DATE AND PHASE-IN.—The Administrator shall prescribe a schedule phasing in the applicability of the requirements established by this subsection for new urban buses over the 1992 through 1995 model years as follows: the requirements shall apply to 10 percent of new urban buses purchased or placed into service in model year 1992; the requirements shall apply to 25 percent of new urban buses purchased or placed into service in model year 1993; the requirements shall apply to 60 percent of new urban buses purchased or placed into service in model year 1994; and the requirements shall apply to 100 percent of such buses in model year 1995 and thereafter. At least 30 percent of the total purchases of new urban buses for all areas in each model year after January 1, 1995, shall be clean fuel vehicles that exclusively use either natural gas, ethanol, or methanol or another clean alternative fuel with comparable emissions, as determined by the Administrator. The Administrator shall prescribe emission standards for pollutants other than particulates under section 202 for urban buses to be considered clean fuel vehicles in model year 1992 and before application of standards under subsection (b). Such standards shall be comparable to the standard for particulates under this subsection.*

*"(4) APPLICATION.—Application of one or more of the requirements prescribed under this subsection may be delayed by up to 2 years if the Administrator determines that such a delay will substantially advance the technology, improve the benefits, or lower the costs of the urban bus program established by this subsection.*

*"(5) PARTICULATE MATTER.—The regulations under section 202(a)(1) applicable to emissions of particulate matter from 1991 through 1993 model year urban buses capable of operating on diesel fuel shall contain a standard which provides that emissions of particulate matter from such buses may not exceed 0.25 grams per brake horsepower-hour. Emissions of particulate matter from urban buses purchased or placed into service after model year 1993 that use clean alternative fuels shall not exceed 0.10 grams per brake horsepower-hour. The emission standard shall be prescribed by regulation within 180 days after the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(b) STANDARDS FOR CLEAN-FUEL VEHICLES.—*

*"(1) IN GENERAL.—A motor vehicle that, when operated on a clean alternative fuel, is certified to meet the applicable emissions standards under section 202 for carbon monoxide, oxides of nitrogen, and particulate matter, and is certified to meet the emission standards specified in paragraph (2), (3), or (4), as applicable, shall be considered a clean fuel vehicle within the meaning of section 216 and this section.*

*"(2) STANDARDS FOR PASSENGER CARS AND LIGHT-DUTY TRUCKS UP TO 3,750 LBS. (LVW).—Within 26 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate standards under this paragraph applicable to all passenger cars and all light-duty trucks of up to 8,500 lbs. gross vehicle weight rating (gvwr) with a loaded vehicle weight (lvw) of up to 3,750 lbs. that are to be considered clean-fuel vehicles.*

*"(A) OZONE-FORMING VOCS.—The standards contained in the regulations under this paragraph shall require that total vehicle emissions of ozone-forming volatile organic compounds not exceed the level set forth in table 1 for such vehicles manufactured in the applicable model year:*

*"TABLE 1*

| Applicable model year | Standard |
|---|---|
| (Phase 1) 1995 through 1999. | 0.86 grams per mile* |
| (Phase 2) 2000 and after. | 0.72 grams per mile** |

**Achieving 0.86 gpm with 100% of such vehicles achieves the same reductions as achieving a 30% reduction from a 0.95 gpm car on 30% of the vehicles.*

***Achieving 0.72 gpm with 100% of such vehicles achieves the same reductions as achieving an 80% reduction from a 0.95 gpm car on 30% of the vehicles.*

*"(B) OTHER SUBSTANCES.—*

*"(i) PHASE 1.—The regulations under this paragraph shall require that, for vehicles manufactured in the model year 1995 and thereafter, total vehicle emissions of benzene, 1,3-butadiene, gasoline vapors, polycyclic organic material (POM), including POM in diesel particulates, and formaldehyde shall not exceed the level that, in the Administrator's judgment, may be reasonably expected to achieve a 12 percent reduction from the baseline in the annual incidence of human cancer attributable to such emissions. The baseline for determining the 12 percent reduction shall be the annual incidence of human cancer attributable to emissions of such air pollutants from such conventional gasoline-fueled vehicles certified to meet the standards under section 202 for model year 1994. For purposes of determining the level of such emissions from conventional gasoline-fueled vehicles for such model year 1994 standards, emissions shall be measured from vehicles using 1990 certification gasoline (indoline) with a Reid Vapor Pressure of 9.0 psi which was determined by the Administrator in September 1989 in a Special Report entitled 'Analysis of the Economic Effects of Methanol as an Automotive Fuel' to produce ozone forming volatile organic compound emissions of 0.95 gpm.*

*"(ii) PHASE 2.—The Administrator shall revise the regulations under this paragraph applicable to any model year after the model year 1999 to substitute a 24 percent reduction for the 12 percent reduction referred to in clause (i), except that if the Administrator determines on petition or on the Administrator's own motion, that (for any model year after model year 1999) it is not technically feasible to reduce emissions of such air pollutants, taking into consideration the availability and cost of the technology, and noise, energy, and safety factors, by 24 percent, the Administrator shall revise the regulations under this paragraph to limit such emission to a level that may reasonably be anticipated to achieve reduction of not less than 18 percent in the annual incidence of human cancer attributable to such emissions and include the basis for that determination in such regulations. The Administrator shall act on any such petition within 9 months after it is received.*

*"(3) LIGHT-DUTY TRUCKS.—The Administrator shall, by rule, establish standards and emission reduction levels under this subsection for light-duty trucks of up to 8,500 lbs. gross vehicle weight rating (gvwr) with a loaded vehicle weight (lvw) of 3,750 lbs. or more but less than or equal to 5,750 lbs. (lvw) manufactured during the model year 2000 and thereafter.*

*"(4) HEAVY-DUTY TRUCKS.—Effective for model years 2000 or later, the Administrator may at any time, by rule, establish standards and emission reduction levels under this subsection for motor vehicles with a gross vehicle weight rating (gvwr) of 8,500 lbs. or more. The standards and emission reduction referred to in this paragraph and paragraph (3) shall contain emission standards and reductions comparable in stringency to those under paragraph (2), taking into account the weight class and operating conditions and uses for which such vehicles are designed and the Administrator shall take into consideration the availability and cost of applicable technology and noise, energy, and safety factors. The standard established under this paragraph shall not apply with respect to emissions of particulate matter from urban buses. Such standards and reductions shall not take effect before the end of the fourth full model year after promulgation.*

*"(5) COMPLIANCE.—In determining compliance by vehicles and engines in actual use with the emission standards and reductions prescribed under this subsection by testing in-use vehicles on certification-type fuels, only vehicles that have been detectably abused, tampered with, or not maintained in a manner that would likely affect emissions performance may be excluded from the sample tested pursuant to section 207(c). When a vehicle that operates on 2 kinds of fuel is certified or tested, it shall be certified or tested on one fuel only after all traces of the other fuel that can practically be removed from the vehicle's fuel system have been removed. The Administrator may require a manufacturer to remedy nonconforming engines or vehicles pursuant to section 207(c) either (A) when a substantial number of vehicles fails to comply with the applicable emissions standards and reductions prescribed under this subsection or (B) when the average emissions performance of a representative sample does not satisfy the applicable emission standards and reductions prescribed under this subsection. Recall procedures established under this paragraph apply only to standards and reductions promulgated pursuant to this section. Any manufacturer shall be treated as complying with the requirements of this subsection if the manufacturer specifies the use of the reformulated gasoline specified by the Administrator under subsection (c)(5) and if the vehicles produced by such manufacturer for sale in the covered areas comply with the standards and requirements established under section 202 (and related provisions of this title) that are generally applicable to such vehicles in the model year in which they are produced. For purposes of this sub-*

*section, the emission level of ozone-forming volatile organic compounds shall be determined by the Administrator by testing, in accordance with the requirements and procedures of section 206, a representative sample of vehicles with no more than 62,000 miles of proper in-use operation in customer hands, as provided in the report referred to in subsection (b)(2)(B)(i). Compliance shall be determined based on the mean level of the applicable emissions from such representative sample.*

*"(6) EPA AUTHORITY.—Nothing in this section shall be construed to give the Administrator authority to mandate the production or sale of clean-fuel vehicles or to specify as applicable, the models, lines, or types of, or marketing or price practices, policies, or strategies for, vehicles subject to this section. Nothing in this section shall be construed to give the Administrator authority to mandate marketing or pricing practices, policies, or strategies for fuels.*

*"(7) CREDITS.—The Administrator shall, by rule, promulgate regulations for granting a manufacturer an appropriate amount of credits toward compliance with the requirements of this subsection for clean-fuel vehicles that achieve emission reductions greater than those required of such vehicles under this subsection and for clean fuel vehicles in classes or categories not required under this subsection. A manufacturer granted credits may use such credits or transfer some or all of the credits for use by one or more other manufacturers in the same area included in the fleet program by subsection (f) in demonstrating compliance with such requirements. Such credits may be used to treat vehicles which do not meet the requirements of this subsection as complying with the requirements of this subsection. Credits may not be used to permit the manufacture or sale of any vehicle which does not comply with standards set forth in section 202. The Administrator may make the credits available for use after consideration of enforceability, environmental and economic factors and upon such terms and conditions as the Administrator finds appropriate.*

*"(c) AVAILABILITY OF CLEAN FUELS.—*

*"(1) IN GENERAL.—Clean alternative fuels shall be made available by fuel providers as specified by the Administrator in any area in which clean-fuel vehicles or clean-fuel fleet vehicles are required to be made available under this section.*

*"(2) AVAILABILITY.—The Administrator shall determine the clean alternative fuels to be made available, and the amounts thereof necessary, to allow operation of vehicles so that they comply with the applicable emissions standards, based on motor vehicle manufacturers' projections of future sales of clean-fuel vehicles, and clean-fuel fleet vehicles consultations with the affected fleet operators and State and local governments and on a determination of cost effectiveness, taking into consideration technological feasibility, health, environment, and safety, net air quality improvement, fuel availability, consumer acceptance, capability of production of vehicles and fuels, and other relevant factors, including an evaluation of the differing characteristics of commercial, government, and passenger fleets and the capability of centrally fueled and maintained fleets to utilize clean fuels.*

*"(3) MINIMUM AVAILABILITY REQUIREMENTS.—At a minimum one clean alternative fuel shall be offered for retail sale at retail gasoline dispensing facility dispensing at least 50,000 gallons of motor vehicle fuel per month, on average, in the areas in which such vehicles are required to be made available. The Governor of any State in which the requirements of this subsection apply may modify such requirements exempting some such facilities for a period not longer than 5 years after such requirements first apply, provided that information available to the Governor indicates that such fuels will be otherwise readily available throughout the area. If a retail gasoline dispensing facility would have to remove or replace one or more motor vehicle fuel underground storage tanks and accompanying piping in order to comply with the provisions of this section, and it had removed and replaced such tank or tanks and accompanying piping prior to the date of the enactment of the Clean Air Act Amendments of 1990, it shall not be required to comply with this subsection until a period of 7 years has passed from the date of the removal and replacement of such tank or tanks.*

*"(4) CREDITS.—The Administrator shall, by rule, promulgate regulations for granting persons subject to the requirements prescribed under this subsection appropriate credits for making greater quantities of clean alternative fuels available than required under this subsection or for making available fuel which result in greater emission reductions than required under this subsection, and any person granted credits may transfer some or all of the credits for use by one or more persons in the same area included in the fleet program under subsection (f) in demonstrating compliance with such requirements. The Administrator may make the credits available for use after consideration of enforceability, safety, environmental, and economic factors and upon such terms and conditions as the Administrator finds appropriate.*

*"(5) PERFORMANCE OF CLEAN FUEL.—The Administrator shall by regulation establish specifications for any clean alternative fuel required to be made available under this subsection as the Administrator finds necessary to reduce or eliminate an unreasonable risk to public health, welfare, or safety associated with its use or to ensure acceptable vehicle maintenance and performance characteristics. In determining the specifications for each fuel or fuels to be made available, the Administrator shall select the specifications resulting in the maximum level of emissions reductions that can be achieved to the extent that it is needed to meet the standards for the applicable model years, provided that such specifications will result in the establishment of a cost effective combination of fuel or fuels and motor vehicle technology. Such specifications shall include at least one specification for a reformulated gasoline that can be utilized in gasoline-fueled vehicles satisfying the emissions standards prescribed under section 202 for the applicable model years to satisfy the requirements of subsection (b).*

*"(6) ENFORCEMENT.—A fuel provider who fails to make such fuel available as required by this section and in the regulations under this subsection shall be liable for a civil penalty under the first sentence of section 205.*

*"(d) CLEAN FUEL VEHICLE PROGRAM.—*

*"(1) IN GENERAL.—For purposes of subsections (b) and (c), all new passenger cars and all new light-duty trucks weighing up to 3,750 lbs. (lvw) manufactured in model year 1995 and thereafter and sold (in ozone nonattainment areas having a 1988 ozone design value at or above 0.180 parts per million and having a 1980 population of 250,000 or more) at the first retail sale in such areas shall be clean fuel vehicles unless the Administrator has approved a substitute program under section 183(c)(3)(B). For purposes of identifying such areas, the design value shall be calculated according to the most recent interpretation methodology issued by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(2) PROGRAM APPLICATION.—Subject to provisions of paragraph (3), paragraph (1) may apply to any Serious ozone nonattainment area (as classified under subpart 2 of part D of title I) at the request of the Governor of the State in which the area is located upon the approval of the Administrator. The Administrator shall approve by rule any such request where the Governor of the State has made a determination that inclusion of the area in the clean fuel vehicle program is appropriate and would result in progress toward attainment of the national ambient air quality standard for ozone and the Administrator finds in such rule that such request is reasonable, taking into consideration the manufacturer's projection and availability of clean alternative fuels, and such determination is not arbitrary or capricious. Any additional requirements resulting from such approval shall become applicable after such period as the Administrator finds in such rule necessary for the requisite vehicles and fuels to be made available, giving appropriate consideration to model availability and the cost of compliance within such period.*

*"(3) PUBLIC HEARING.—In promulgating any regulation under this section, the Administrator shall hold at least one public hearing and shall consider the ozone, toxic and global warming benefits of the program; safety and public health issues and measures necessary to avoid any risks involved; technology, cost effectiveness, clean alternative fuel availability, results of public and private research and testing, capability of manufacturers of vehicles and fuel providers to make available such fuels and vehicles; ways to ensure customer acceptance; the expected cold start performance, serviceability, maintenance, durability, and reliability of the vehicles likely to be produced; other environmental, economic, energy, national security, and safety implications of the program; along with the results of ongoing programs demonstrating the use of motor vehicles operated on clean alternative fuels.*

*"(e) EPA DETERMINATION.—The requirements prescribed under subsections (c) (relating to availability of clean alternative fuel) and (d) (relating to the clean-fuel vehicle program) shall be delayed by up to 2 years if the Administrator determines—*

*"(1) within 30 months of the date of the enactment of the Clean Air Act Amendments of 1990 that a delay will substantially advance the technology, improve the benefits, or lower the costs of the clean-fuel vehicle program, or will ensure that the manufacturers and fuel providers will have a minimum of 3 full model years after promulgation of regulations under subsections (b), (c) and (d), or*

*"(2) that a delay is appropriate due to the likelihood of a national economic recession.*

*"(f) FLEET VEHICLE PROGRAM.—*

*"(1) CLEAN-FUEL FLEET VEHICLES.—*

*"(A) PASSENGER CARS AND LIGHT-DUTY TRUCKS OF UP TO 3,750 LBS. (LVW).—For purposes of this subsection, the term 'clean-fuel fleet vehicle' means a clean fuel vehicle that meets the applicable requirements of subsection (b) and meets a standard for ozone-forming volatile organic compounds that requires that total vehicle emissions of ozone-*

forming volatile organic compounds not exceed the level set forth in table 2, in the case of all passenger cars and light-duty trucks of up to 8,500 lbs. gross vehicle weight rating (gvwr) with a loaded vehicle weight (lvw) of up to 3,750 lbs., manufactured in the applicable model year:

"TABLE 2

| Applicable model year | Standard |
|---|---|
| (Phase 1) 1995 through 1999. | 0.66 grams per mile |
| (Phase 2) 2000 and after. | 0.25 grams per mile |

"(B) PHASE 2.—Under Phase 2, clean-fuel fleet vehicles referred to in subparagraph (A) shall also meet a reduction in emissions of other substances (as described under subsection (b)(2)(B)) of a percentage to be determined by the Administrator, by rule, that may reasonably be expected to result from the use of clean alternative fuel and clean-fuel vehicle technologies that comply with the ozone-forming VOC standards prescribed under Phase 2 or as revised under subparagraph (C).

"(C) ADJUSTMENT OF PHASE 2 REDUCTION.—The Administrator may in response to a petition filed by a manufacturer or fuel provider, or on the Administrator's own motion, by rule adjust the Phase 2 level specified in table 2 of subparagraph (A) from 0.25 gpm to not greater than 0.53 gpm if the Administrator determines in such rule that such adjustment is appropriate, giving consideration to the need to provide for attainment of the national ambient air quality standard for ozone in the areas to which this subsection applies and the technical and economic feasibility, of achieving a 0.25 gpm standard taking into consideration adequate lead time, energy, noise, and safety factors. Unless the Administrator promulgates under this subparagraph a standard of 0.53 gpm for total ozone forming volatile organic compounds, the Administrator may, in order to achieve the reduction required under this subparagraph, by rule, waive the standard for oxides of nitrogen applicable to any class or category of vehicles or engines in Phase II and establish a different standard under this title, except that such standard shall not exceed, in the case of passenger cars and light duty trucks up to 3,750 loaded vehicle weight (lvw) 0.7 grams per mile (gpm).

"(D) FLEET VEHICLES WITH LVW ABOVE 3,750.—The Administrator shall, by rule, establish standards under this subsection for emissions of ozone-forming volatile organic compounds from clean-fuel fleet vehicles manufactured in model years 1995 and thereafter with a gross vehicle weight rating of 8,500 lbs. or less with a loaded vehicle weight (lvw) of 3,751 lbs. or more but less than or equal to 5,750 lbs. (lvw) loaded vehicle weight. In addition, the Administrator may at any time, by rule, establish such standards for clean-fuel fleet vehicles with a gross vehicle weight rating (gvwr) of 8,501 lbs. or more. The standards referred to in this paragraph shall be comparable to the standards under subparagraph (A) or, as revised, under subparagraph (B). The phase-in under paragraph (2)(C) shall apply to vehicles described in this subparagraph in the same manner as to light-duty vehicles referred to in paragraph (2)(C). The Administrator shall provide lead time of 4 full model years after promulgation.

"(2) STATE IMPLEMENTATION PLAN REVISION FOR AREAS WITH DESIGN VALUE 0.18 OR HIGHER.—(A) Each State in which there is located all or part of an ozone nonattainment area subject to the clean-fuel vehicle program under subsection (d) or a consolidated Metropolitan Statistical Area (as defined by the United States Office and Management and Budget) located at an altitude greater than 4,000 feet and having a 1980 population of 300,000 or more shall prepare and submit, pursuant to section 110 and part D, a revision of its implementation plan for each such area providing for effective implementation and enforcement of the requirements of this subsection with respect to covered fleets. The revision shall include mechanisms to facilitate the transfer of credits under paragraph (6). Except in the case of an area referred to in subparagraph (B), the plan revision shall be submitted within 30 months after the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall extend by rule the requirements of this subsection to any Serious ozone nonattainment area not subject to the clean fuel vehicle program under subsection (d) if the area is of comparable size and population to the areas subject to such program under subsection (d) and if the Administrator finds in such rule that extending such requirement is needed for attainment of the national primary ambient air quality standard for ozone in such area, taking into consideration the applicable State implementation plan in effect under title I, and other relevant factors.

"(C) The plan revision required under this subsection shall contain provisions requiring at least 30 percent of all new light-duty vehicles that are covered fleet vehicles acquired for use in the area by the operator of each covered fleet beginning with vehicle model year 1995, at least 50 percent of such vehicles in model year 1997, and at least 70 percent in model year 1998 and each model year thereafter be clean-fuel fleet vehicles and require (consistent with the requirements of this section regarding retail sales of fuel) fuel providers in such area to make available and accessible clean alternative fuels for such vehicles. The plan revision required under this subsection shall contain provisions substituting a 3 full model year phase-in schedule for Phase 2 vehicles at 0.25 gpm. At any time after plans are required to be submitted under this paragraph, the Administrator may by rule increase the minimum percentage of the new vehicles purchased or leased subject to the requirement of this paragraph beginning in model year 2000 or thereafter as necessary to ensure that the maximum feasible percentage of covered fleet vehicles in the area are clean-fuel fleet vehicles and operate on clean alternative fuels.

"(D) Each State shall develop such plan in consultation with fleet operators, motor vehicle and engine manufacturers, fuel providers, including fuel producers and distributors, and other interested persons and shall take into consideration the covered fleet vehicles operational range, specialty uses, vehicle and fuel availability (including fueling practices of such operator's fleet), conversion capability, costs, safety, resale value of vehicles and equipment, and other relevant factors. If a State determines, based on such factors, that the requirements of this subsection cannot be feasibly achieved or would create an undue economic hardship for the State or such fleets, the State may include a lesser percentage of clean-fuel fleet vehicles than required by subparagraph (C) in its implementation plan. The Administrator shall consider and address such factors in any such rule under subparagraph (C).

"(E) The choice of a clean-fuel fleet vehicle from available vehicles and a clean alternative fuel shall be made by the fleet owner or operator subject to the requirements of this subsection and the availability of such vehicles and fuels by motor vehicle manufacturers and fuel providers.

"(3) VEHICLE AVAILABILITY EXEMPTION.—The Administrator shall establish by rule (not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990) standards to be used to determine the availability of suitable clean-fuel fleet vehicles, taking into consideration vehicle size and type, driving range, cargo area, capacity, Federal and State axle and gross weight limits, engine performance, unique requirements for vehicle use, and other factors which may create undue economic hardship for covered fleet operators. The Administrator shall include in such rule a procedure under which a State or the Administrator shall, upon a showing by a fleet operator that suitable clean-fuel fleet vehicles or clean alternative fuels are not reasonably available from, as appropriate, a vehicle manufacturer or fuel provider, exempt such operator from the requirements of this subsection for a period of one year. The fleet operator may certify annually thereafter that such suitable clean-fuel fleet vehicles or clean alternative fuels are not available, and the State or the Administrator shall thereupon provide further annual exemption from the requirements of this subsection upon such certification, unless the Administrator or the State finds that the standards established under subparagraphs (A) and (B) can be met.

"(4) EMISSION REDUCTION CREDITS.—The Governor shall issue appropriate credits to each fleet operator for the use of clean-fuel fleet vehicles in excess of the percentage required under this subsection or for the use of clean fuel vehicles which have emissions lower than required under subparagraph (A), (B), or (C) of paragraph (1) of this subsection. The Governor shall also issue appropriate credits to operators of clean-fuel fleet vehicles within the nonattainment area but not subject to the requirements of this subsection. Any person granted such credits may trade, sell, or otherwise transfer some or all of such credits to a fleet operator who may use such credits to demonstrate compliance with the requirements of this subsection.

"(5) TRANSPORTATION CONTROL CREDITS.—The Administrator shall, by rule, ensure that transportation control measures that restrict vehicle usage do not apply to any covered fleet vehicle that is a clean-fuel vehicle meeting the applicable requirements of this subsection. Any State which obligates the operator of a clean-fuel fleet vehicle in compliance with this subsection to comply with the transportation control measures specified in section 108(f)(1)(A)(viii) (relating to high occupancy vehicles) or (i) (relating to trip- reduction ordinances) may not credit toward the percent emission reduction requirement achieved under section 183(b)(3)(B) any emission reduction pursuant to this subsection. Notwithstanding the provisions of the previous sentence, a State may credit under section 183(b)(3)(B) any emission reductions pursuant to this subsection if the State demonstrates to the satisfaction of the Administrator that any in-

crease in emissions which would result from traffic congestion caused by the operation of such fleet vehicles exceeds the emission reductions attributable (directly or indirectly) to the use of clean fuel fleet vehicles under this subsection.

"(6) VOLUNTARY COMPLIANCE.—(A) For purposes of this paragraph, the Administrator may, on the Administrator's own motion or in response to a petition from any person, establish voluntary standards for emissions of ozone-forming volatile organic compounds for any class or category of covered fleet vehicles over 8,500 lbs. gross vehicle weight rating (gvwr) which are not otherwise subject to standards under paragraph (1). The standards prescribed under this subparagraph shall be comparable to the standards under paragraph (1).

"(B) The operator of any covered fleet vehicles meeting the voluntary standards under subparagraph (A) may elect to have those vehicles operating within an area subject to paragraph (2) treated the same as a clean-fuel fleet vehicle for purposes of paragraphs (4) and (5), and the State shall take into account the emissions reductions directly attributable to voluntary compliance under this paragraph. Once such an election has been made, the operator and the vehicles covered by the election shall be subject to the same obligations and conditions as if the vehicles were subject to a standard under paragraph (1).

"(7) APPLICATION OF OTHER PROVISIONS.—This subsection shall not apply to urban buses subject to subsection (a) or to Federal Government fleets subject to subsection (h).

"(g) OXYGENATED FUELS.—

"(1) MODERATE CO AREAS WITH DESIGN VALUE ABOVE 12.7.—Each State in which there is located all or part of an area classified under section 186 as a Moderate Area for carbon monoxide which has for the most recent year a carbon monoxide design value at or above 12.7 parts per million at the time of classification (as calculated according to the most recent methodology issued before the date of the enactment of the Clean Air Act Amendments of 1990 by the Administrator) shall submit to the Administrator a State implementation plan revision under section 110 and part D of title I for such area. The plan revision shall be submitted within 1 year after the classification of the area. The plan revision shall contain provisions to require that gasoline sold, supplied, offered for sale or supply, dispensed, transported or introduced into commerce be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide (as determined by the Administrator), to contain not less than 2.0 percent oxygen. The revision shall provide that such requirement shall take effect no later than October 1, 1993, and shall include a program for implementation and enforcement of the requirement consistent with guidance to be issued by the Administrator. The Administrator may waive, in whole or in part, the requirements of this paragraph upon a demonstration by the State to the satisfaction of the Administrator that the use of oxygenated fuels would prevent or interfere with the attainment by the area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide. The Administrator may, upon demonstration by the State satisfactory to him, waive the requirement of this paragraph where he determines that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in an area. Notwithstanding the preceding sentences in this paragraph, the revision described in this paragraph shall not be required for an area if the State demonstrates to the satisfaction of the Administrator that the revision is not necessary to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of such standard thereafter in the area and that there is an alternative means to achieve attainment and maintain such standard thereafter in the area that is more cost effective.

"(2) SERIOUS CO AREAS.—(A) In the case of a State in which there is located all or part of an area classified under section 186 as a Serious Area for carbon monoxide, the provisions of section 187(b)(4) of this Act shall be treated as satisfied only if the level of oxygen referred to in such provisions is at least 2.7 percent by weight.

"(B) The Administrator may, in whole or in part, waive the requirements set forth in this paragraph upon a demonstration by the State to the satisfaction of the Administrator that the use of oxygenated fuels which comply with such requirement would prevent or interfere with the attainment by the area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide.

"(3) WAIVER.—The Administrator may, upon demonstration by the State satisfactory to him, waive the requirement of subparagraph (A) of paragraph (2) where the Administrator determines that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in an area. Notwithstanding the requirement of subparagraph (A) of paragraph (2), the revision described in that subparagraph shall not be required for an area if the State demonstrates to the satisfaction of the Administrator that the revision is not necessary to provide for attainment of the national primary ambient air quality standard for carbon monoxide by the applicable attainment date and maintenance of such standard thereafter in the area and that there is an alternative means to achieve attainment and maintain such standard thereafter in the area that is more cost effective.

"(4) FUEL DISPENSING SYSTEMS.—Any person selling oxygenated fuel at retail pursuant to this subsection shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that the fuel is oxygenated and will reduce the carbon monoxide emissions from the motor vehicle and indicate such other pertinent information for the benefit of the public.

"(5) GUIDELINES.—The Administrator shall promulgate guidelines, within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, allowing the use of marketable oxygen credits from fuels with higher oxygen content than required to offset the sale or use of fuels with a lower oxygen content than required.

"(6) DEADLINE ADJUSTMENT.—For any area classified as a Serious Area under section 186(b), the Administrator shall adjust the deadlines referred to in this subsection where necessary.

"(7) CONSTRUCTION.—Nothing in this subsection shall be interpreted as requiring an oxygenated fuels program in an area which is in attainment for carbon monoxide and such program is not necessary to maintain such standard thereafter in the area.

"(h) FEDERAL GOVERNMENT AGENCY FLEETS.—

(1) REQUIREMENT.—The President, within 180 days after the date of the enactment of the Clean Air Act Amendments of 1990, shall initiate actions providing that each department, agency, or instrumentality of the United States operating passenger cars or light-duty trucks, or both, primarily in Serious, Severe, or Extreme ozone nonattainment areas designated under subpart 2 of part D of title I, shall ensure, subject to applicable Federal procurement and related laws and annual appropriation Acts, that the maximum number of such new vehicles purchased shall be clean-fuel fleet vehicles meeting the requirements of subsection (f) of this section and that such purchases shall meet the following minimum schedule:

"(A) 30 percent of such new vehicles purchased after September 30, 1995 shall be clean-fuel vehicles meeting the requirements of subsection (f).

"(B) 50 percent of such new vehicles purchased after September 30, 1996 shall be clean-fuel vehicles meeting the requirements of subsection (f).

"(C) 70 percent of such new vehicles purchased after September 30, 1998 shall be clean-fuel vehicles meeting the requirements of subsection (f).

The President or the President's delegate may reduce the percentage of such vehicles specified in this paragraph for any model year if the department, agency, or instrumentality concerned demonstrates that the required percentage cannot be feasibly achieved or would impose unreasonable costs for the Government or would impair the mission of a department, agency, or instrumentality. For purposes of this subsection, the provisions of subsections (d)(2) and (d)(3) shall apply to each such department, agency, or instrumentality.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection for the fiscal year ending September 30, 1993, and each fiscal year thereafter. Such funds shall be available until expended.

"(3) REQUIRED OPERATION.—The President, or the President's delegate, shall before October 1, 1992, issue regulations to ensure that a vehicle acquired pursuant to this subsection—

"(A) shall be supplied with appropriate clean alternative fuel in its primary area of operation, using commercially available fueling facilities to the maximum extent practicable; and

"(B) shall be operated exclusively on such fuel except when operated so as to make it impracticable to obtain such fuel.

"(4) CONSIDERATION.—(A) Funds appropriated for carrying out this subsection shall be applied on a priority basis for expenditure first in areas of the United States which the President determines have the most severe air pollution problems.

"(B) A Federal officer or agency responsible for deciding which types of clean fuel vehicles to acquire in order to comply with this subsection shall consider as a factor in such decision which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent in meeting the mission needs of such officer or agency.

"(5) COST OF VEHICLES TO FEDERAL AGENCY.—(A) Funds appropriated under this subsection for the acquisition of vehicles under this subsection shall be applicable only—

"(i) to the portion of the cost of vehicles acquired under this subsection which exceeds the cost of comparable conventional fueled vehicles;

"(ii) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional fuel vehicles; and

"(iii) to the portion of the costs of operating and maintaining such vehicles which exceeds the costs for such purposes required for comparable conventional fueled vehicles.

"(B) The President or the President's delegate shall ensure that the cost to any Federal agency receiving vehicles under this subsection shall not exceed the cost to such agency of a comparable conventional fueled vehicle.

"(6) VEHICLE COSTS.—The incremental cost of vehicles acquired under this subsection over the cost of comparable conventional fueled vehicles shall not, consistent with applicable law, be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

"(7) EXEMPTIONS.—The requirements of this subsection shall not apply to any of the following:

"(A) Vehicles being operated as an experiment in the use of alternative fuels other than alcohol, natural gas or other gaseous hydrocarbons, or electricity, or to emergency vehicles or to nonroad vehicles.

"(B) Vehicles with respect to which the President or the President's delegate has claimed an exemption based on national security consideration.

"(C) Vehicles being operated for emergency or law enforcement purposes.

"(8) SUPERCLEAN FEDERAL VEHICLE DEMONSTRATION PROGRAM.—(A) The President shall require that 10 percent of the new vehicles purchased by each department, agency, or instrumentality of the United States subject to this subsection in each of the years 1995, 1996, 1997, 1998, and 1999 shall be experimental vehicles which are designed to emit not more than 0.19 grams per mile of volatile organic compounds. Such vehicles shall operate on a diversity of alternative fuels. The certification, warranty and recall provisions of sections 206 and 207 of this title shall not apply to such vehicles.

"(B) The President shall establish a program to demonstrate, test, and report on the emissions performance, durability, and reliability of the vehicles purchased under this paragraph.

"(C) In making determinations under other provisions of this section regarding the technical feasibility of meeting emissions standards, the President shall take into account the results of the demonstrations, tests, and reports under subparagraph (B).

"(D) Experimental vehicles purchased under this paragraph shall be considered clean fuel vehicles for purposes of meeting the requirements of this subsection and such vehicles shall be credited towards the number of clean fuel vehicles required to be purchased by departments, agencies, and instrumentalities of the United States.

"(i) VEHICLE CONVERSIONS.—(1) The requirements of this section may be met through the conversion of existing gasoline or diesel-powered vehicles to a clean-fuel vehicle which comply with the applicable requirements of subsection (f).

"(2) The Administrator shall, consistent with the requirements of this title applicable to new vehicles, promulgate regulations governing such conversions. Such regulations shall establish criteria for such conversions which will ensure that a converted vehicle will, when operating on such clean alternative fuel, comply with the applicable standards under this section. Such regulations shall apply the provisions of sections 206, 207, 208, and 209 to such conversions with such modification of the applicable regulations implementing such sections as the Administrator deems necessary to implement this subsection. Any person who obtains a certification under this paragraph shall be considered a manufacturer for purposes of sections 206 and 207 and related enforcement provisions. Nothing in the preceding sentence shall require a person who obtains a certification under this paragraph to warrant any part or operation of a vehicle other than what is required under sections 206 and 207. Nothing in this paragraph shall serve to limit the applicability of any other warranty to unrelated parts or operations. The Secretary of Transportation shall, if necessary, promulgate rules under applicable motor vehicle laws regarding the safety of converted vehicles.

"(3) The conversion from a vehicle capable of operating on gasoline or diesel fuel only to a clean-fuel vehicle shall not be considered a violation of section 203(a)(3) if such conversion complies with the regulations promulgated under this subsection.

"(4) Nothing in this subsection shall be construed to require such conversions of any motor vehicle in order to achieve compliance with the requirements of subsection (b) or (f).

"(j) TANK AND FUEL SYSTEM SAFETY.—The Secretary of Transportation shall, in accordance with the National Motor Vehicle Traffic Safety Act of 1966, promulgate applicable regulations regarding the safety and use of fuel storage cylinders and fuel systems, including appropriate testing and retesting, in conversions of motor vehicles.

"(k) INFORMATION COLLECTION.—For purposes of enforcing regulations implementing this section, the Administrator may, subject to the provisions of section 208(b), by regulation, require manufacturers, distributors, and retailers of motor vehicles or motor vehicle fuels to establish and maintain records, make reports, and provide information concerning the sales of—

"(1) motor vehicles capable of operating on clean alternative fuel; and

"(2) clean alternative fuels.

Nothing in this subsection shall be construed to limit the Administrator's authority under section 114, 206, or 208.

"(l) CALIFORNIA VEHICLE PROGRAM.—In the case of ozone nonattainment areas in the State of California only, notwithstanding section 209, the State may establish more stringent standards to be applicable under subsections (b) and (f) than the standards referred to in such subsections.

"(m) REDUCTIONS IN REFUELING EMISSIONS.—Reductions in refueling emissions whether achieved from retail fuel dispensing facilities ('Stage II') or vehicle-based ('onboard') controls shall be considered in the determination of compliance with the reductions in ozone-forming volatile organic compounds and other substances required under this section.

"(n) REFORMULATED GASOLINE FOR CONVENTIONAL VEHICLES.—(1) Within 24 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administration shall, after holding at least one public hearing, promulgate regulations under section 211 establishing specifications for cleaner gasoline to be used in conventional gasoline fueled vehicles. Such standards shall require the greatest reduction in ozone-forming volatile organic compounds and air toxic emissions achievable through the reformulation of conventional gasoline, taking into consideration the cost of achieving such emission reductions, and health, environmental and energy impacts. The regulations may establish specifications for gasoline intended for use in vehicles manufactured to use leaded gasoline that are different from the specifications established for gasoline intended for use in vehicles manufactured to use unleaded gasoline.

"(2) Beginning January 1, 1995, the Administrator shall require that such reformulated gasoline or cleaner fuels be offered for sale in all ozone nonattainment areas with a 1988 design value at or above 0.18 parts per million (as calculated by the most recent interpretation methodology issued by the United States Environmental Protection Agency before the date of the enactment of the Clean Air Act Amendments of 1990).

"(o) CONSULTATION WITH DEPARTMENT OF ENERGY AND DEPARTMENT OF TRANSPORTATION.—The Administrator shall coordinate with the Secretaries of the Department of Energy and the Department of Transportation in carrying out the Administrator's duties under this section.".

(c) CONFORMING AMENDMENT.—Section 202(a)(4) (42 U.S.C. 7521(a)(4)) is amended by striking out "standards prescribed under this subsection" every place it occurs and inserting "requirements prescribed under this title".

SEC. 202. EMISSION STANDARDS FOR CERTAIN MOTOR VEHICLES.

(a) STANDARDS.—Section 202 (42 U.S.C. 7521) is amended by adding the following at the end thereof:

"(g) NMHC AND CO STANDARDS FOR MODEL YEARS AFTER 1993.—Effective with respect to the model year 1994 and thereafter, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC) and carbon monoxide (CO) from passenger cars and light-duty trucks (LDTs) shall contain standards which provide that emissions from a specified percentage of each manufacturer's sales volume of such cars and trucks shall comply with the levels specified in table 1. The specified percentage shall be 40 percent in model year 1994, 80 percent in 1995, and 100 percent thereafter.

"TABLE 1.—EMISSION STANDARDS FOR NHMC AND CO FROM GASOLINE AND DIESEL FUELED PASSENGER VEHICLES AND LIGHT-DUTY TRUCKS OF UP TO 6,000 LBS. GVWR

| Vehicle type | Column A * (5 yrs/50,000 mi) | | Column B ** (10 yrs/100,000 mi) | |
|---|---|---|---|---|
| | NMHC | CO | NMHC | CO |
| Passenger Cars. | 0.25 | 3.4 | 0.31 | 4.2 |
| LDT's (0-3,750 lbs LVW). | 0.25 | 3.4 | 0.31 | 4.2 |
| LDT's (3,751-5,750 lbs LVW). | 0.32 | 4.4 | 0.40 | 5.5 |

Standards are expressed in grams per mile (gpm).

LVW refers to loaded vehicle weight and GVWR refers to gross vehicle weight rating each as defined by EPA in regulations in effect as of the date of the enactment of the Clean Air Act Amendments of 1990.

* In the case of the standards under column A, for purposes of certification under section 206, the applicable useful life shall be 5 years or 50,000 miles (or the equivalent) whichever first occurs.
** In the case of the standards under column B, for purposes of certification under section 206, the applicable useful life shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs.

"(h) $NO_x$ AND PM STANDARDS FOR MODEL YEARS AFTER 1993.—Effective with respect to the model years after 1993 in the case of passenger cars, and effective with respect to model years after 1994 in the case of light-duty trucks (LTDs), the regulations under subsection (a) applicable to emissions of oxides of nitrogen ($NO_x$) and particulate matter (PM) from such cars and trucks shall contain standards which provide that such emissions from a specified percentage of each manufacturer's sales volume of such cars and trucks shall comply with the levels specified in table 2. In the case of passenger cars, the specified percentage shall be 40 percent in model year 1994 and 100 percent thereafter. In the case of light-duty trucks, the specified percentage shall be 40 percent in model year 1995 and 100 percent thereafter.

TABLE 2.—EMISSION STANDARDS FOR $NO_x$ and PM From Gasoline and Diesel Fueled Passenger Cars and Light-Duty Trucks (LDTs) of Up to 6,000 LBS. GVWR

| Vehicle type | Pollutant | Standard * |
|---|---|---|
| Passenger cars and LDT's with LVW of 3,750 lbs. or less. | $NO_x$ | 0.4 gpm |
| | PM | 0.08 gpm |
| LTD's with LVW of 3,751 to 5,750 lbs. | $NO_x$ | 1.0 gpm |
| | PM | 0.08 gpme |

Standards are expressed in grams per mile (gpm).
LVW refers to loaded vehicle weight and GVWR refers to gross vehicle weight rating each as defined by EPA in regulations in effect as of the date of the enactment of the Clean Air Act Amendments of 1990.
* For these standards, for purpose of certification under section 206, the applicable useful life shall be 5 years or 50,000 miles (or the equivalent), whichever first occurs.

"(i) PHASE II STUDY.—(1) The Administrator, with the participation of the Office of Technology Assessment, shall study whether or not further reductions in emissions from passenger cars and light-duty trucks should be required pursuant to this title. The study shall consider whether to establish with respect to model years commencing after January 1, 2003, the standards and useful life period for gasoline and diesel-fueled passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less specified in the following table:

"TABLE 3—Pending Emission Standards for Gasoline and Diesel Fueled Passenger Vehicles and Light-Duty Trucks With 3,750 LBS. LVW OR LESS

| Pollutant | Emission level* |
|---|---|
| NMHC | 0.125 gpm |
| $NO_x$ | 0.2 gpm |
| CO | 1.7 gpm |

* Emission levels are expressed in grams per mile (gpm). For vehicles and engines subject to this subsection for purposes of section 202(d) and any reference thereto, the useful life of such vehicles and engines shall be a period of 10 years or 100,000 miles (or the equivalent), whichever first occurs.

Such study shall also consider other standards and useful life periods which are more stringent or less stringent than those set forth in table 3 (but more stringent than those referred to in subsections (g) and (h)).

"(2)(A) As part of the study under paragraph (1), the Administrator shall examine the need for further reductions in emissions in order to attain or maintain the national ambient air quality standards, taking into consideration the waiver provisions of section 209(b). As part of such study, the Administrator shall also examine—

"(i) the availability of technology (including the costs thereof), in the case of passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less, for meeting more stringent emission standards than those provided in subsections (g) and (h) for model years commencing not earlier than after January 1, 2003 and not later than model year 2006, including the lead time and safety and energy impacts of meeting more stringent emission standards; and

"(ii) the need for, and cost effectiveness of, obtaining further reductions in emissions from such passenger cars and light-duty trucks, taking into consideration alternative means of attaining or maintaining the national primary ambient air quality standards pursuant to State implementation plans and other requirements of this Act, including their feasibility and cost effectiveness.

"(B) The Administrator shall submit a report to Congress no later than June 1, 1997, containing the results of the study under this subsection, including the results of the examination conducted under subparagraph (A). Before submittal of such report the Administrator shall provide a reasonable opportunity for public comment and shall include a summary of such comments in the report to Congress.

"(3)(A) Based on the study under paragraph (1) the Administrator shall determine, by rule, within 3 calendar years after the report is submitted to Congress, but not later than December 31, 1999, whether—

"(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003 and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

"(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii).

The rulemaking under this paragraph shall commence within 3 months after submission of the report to Congress under paragraph (2)(B).

"(B) If the Administrator determines under subparagraph (A) that—

"(i) there is no need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will not be available as provided in paragraph (2)(A)(i), in the case of passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); or

"(iii) obtaining further reductions in emissions from such vehicles will not be needed or cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall not promulgate more stringent standards than those in effect pursuant to subsections (g) and (h). (Nothing in this paragraph shall prohibit the Administrator from exercising the Administrator's authority under subsection (a) to promulgate more stringent standards for passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less at any other time thereafter in accordance with subsection (a).)

"(C) If the Administrator determines under subparagraph (A) that—

"(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

"(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall either promulgate the standards (and useful life periods) set forth in table 3 of paragraph (1) or promulgate alternative standards (and useful life periods) which are more stringent than those referred to in subsections (g) and (h). Any such standards (or useful life periods) promulgated by the Administrator shall take effect with respect to any such vehicles or engines no earlier than the model year 2003 but not later than model year 2006, as determined by the Administrator in the rule.

"(D) Nothing in this paragraph shall be construed by the Administrator or by a court as a presumption that any standards (or useful life period) set forth in table 3 shall be promulgated in the rulemaking required under this paragraph. The action required of the Administrator in accordance with this paragraph shall be treated as a nondiscretionary duty for purposes of section 304(a)(2) (relating to citizen suits).

"(E) Unless the Administrator determines not to promulgate more stringent standards as provided in subparagraph (B) or to postpone the effective date of standards referred to in table 3 of paragraph (1) or to establish alternative standards as provided in subparagraph (C), effective with respect to model years commencing after January 1, 2003, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), oxides of nitrogen (NOx), and carbon monoxide (CO) from motor vehicles and motor vehicle engines in the classes specified in table 3 of paragraph (1) above shall contain standards which provide that emissions may not exceed the pending emission levels specified in table 3 of paragraph (1).".

(b) CONFORMING AMENDMENT.—Section 202(d)(1) (42 U.S.C. 7521(d)(1)) is amended by inserting ", except as otherwise specifically provided in this title" before the semicolon at the end thereof.

(c) REVISED STANDARDS.—Subparagraph (C) of section 202(b)(1) (42 U.S.C. 7521(b)(1)(C)) is amended to read as follows:

"(C) The Administrator may promulgate regulations under subsection (a)(1) revising any standard prescribed or previously revised under this subsection, as needed to protect public health or welfare, taking costs, energy, and safety into account. Any revised standard shall require a reduction of emissions from the standard that was previously applicable. Any such revision under this title may provide for a phase-in of the standard.".

(d) PROMULGATION.—Section 202(b)(2) (42 U.S.C. 7521(b)(2)) is amended to read as follows:

"(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of the enactment of the Clean Air Act Amendments of 1990), shall be promulgated by regulation within 180 days after such date.".

SEC. 203. CONFORMING AMENDMENT.

Section 206(f)(1) (42 U.S.C. 7525(f)(1)) is amended by inserting "and light-duty trucks" immediately after "light-duty vehicles and engines".

SEC. 204. CARBON MONOXIDE EMISSIONS AT COLD TEMPERATURES.

Section 202 (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (i):

"(j) COLD CO STANDARD.—(1) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under subsection (a) of this section applicable to emissions of carbon monoxide from 1993 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit. The regulations shall contain standards which provide that emissions of carbon monoxide from a manufacturer's vehicles when operated at 20 degrees Fahrenheit may not exceed, in the case of light-duty vehicles, 10.0 grams per mile, and in the case of light-duty trucks, a level comparable in stringency to the standard applicable to light-duty vehicles. The standards also shall provide that each manufacturer's light-duty vehicle and light-duty truck fleets shall comply with applicable standards according to the following schedule: at least 40 percent of 1993 model year vehicles shall comply with applicable standards; at least 80 percent of 1994 model year vehicles shall comply with applicable standards; and 100 percent of 1995 and later model year vehicles shall comply with applicable standards.

"(2)(A) Not later than December 31, 1993, the Administrator shall complete a study assessing the need for further reductions in emissions of carbon monoxide and the maximum reductions in such emissions achievable from 1998 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit.

"(B) The Administrator may promulgate (and from time to time revise) regulations under subsection (a)(1) of this section applicable to emissions of carbon monoxide from 1998 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit, as needed to protect public health and welfare, taking costs into account.

"(3) The Administrator also may promulgate regulations under subsection (a)(1) applicable to emissions of carbon monoxide from heavy-duty vehicles and engines when operated at cold temperatures.".

SEC. 205. EVAPORATIVE EMISSIONS.

Section 202 (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (j):

"(k) CONTROL OF EVAPORATIVE EMISSIONS.—The Administrator shall promulgate (and from time to time revise) regulations applicable to evaporative emissions of hydrocarbons from all gasoline-fueled motor vehicles—

"(1) during operation; and

"(2) over 2 or more days of nonuse;

under ozone-prone summertime conditions (as determined by regulations of the Administrator). The regulations shall take effect as expeditiously as possible and shall require the greatest degree of emission reduction achievable by means reasonably expected to be available for production during any model year to which the regulations apply, giving appropriate consideration to fuel volatility, and to cost, energy, and safety factors associated with the application of the appropriate technology. The Administrator shall commence a rulemaking under this subsection within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990. If final regulations are not promulgated under this subsection within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall submit a statement to the Congress containing an explanation of the reasons for the delay and a date certain for promulgation of such final regulations in accordance with this Act. Such date certain shall not be later than 15 months after the expiration of such 18 month deadline.".

SEC. 206. CONTROL OF VEHICLE REFUELING EMISSIONS.

Section 202(a)(6) (42 U.S.C. 7521(a)(6)) is amended to read as follows:

"(6) ONBOARD VAPOR RECOVERY.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate standards under this section requiring that all new light-duty motor vehicles manufactured in the third model year after the model year in which the standards are promulgated and thereafter shall be equipped with vehicle-based ('onboard') systems for the control of evaporative emissions during vehicle refueling. The Administrator shall determine, in consultation with the Secretary of Transportation, that such systems are safe. The standards shall require that such systems provide a minimum evaporative emission capture efficiency of 95 percent. The requirements of section 182(b)(3) (relating to stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards and the Administrator may revise or waive the application of the requirements of such section 182(b)(3) for areas classified under section 181 as Serious, Severe, or Extreme for ozone, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this paragraph are in widespread use throughout the motor vehicle fleet.".

SEC. 207. MOBILE SOURCE-RELATED AIR TOXICS.

Section 202 (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (k):

"(l) MOBILE SOURCE-RELATED AIR TOXICS.—

"(1) STUDY.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study of the need for, and feasibility of, controlling emissions of toxic air pollutants which are unregulated under this Act and associated with motor vehicles and motor vehicle fuels, and the need for, and feasibility of, controlling such emissions and the means and measures for such controls. The study shall focus on those categories of emissions that pose the greatest risk to human health or about which significant uncertainties remain, including emissions of benzene, formaldehyde, and 1, 3 butadiene. The proposed report shall be available for public review and comment and shall include a summary of all comments.

"(2) STANDARDS.—Within 54 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on the study under paragraph (1), promulgate (and from time to time revise) regulations under subsection (a)(1) or section 211(c)(1) containing reasonable requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels. The regulations shall contain standards for such fuels or vehicles, or both, which the Administrator determines reflect the greatest degree of emission reduction achievable through the application of technology which will be available, taking into consideration the standards established under subsection (a), the availability and costs of the technology, and noise, energy, and safety factors, and lead time. Such regulations shall not be inconsistent with standards under section 202(a). The regulations shall, at a minimum, apply to emissions of benzene and formaldehyde.".

SEC. 208. EMISSION CONTROL DIAGNOSTICS SYSTEMS.

(a) EMISSION CONTROL DIAGNOSTICS.—Section 202 (42 U.S.C. 7521) is amended by adding the following after subsection (l):

"(m) EMISSIONS CONTROL DIAGNOSTICS.—

"(1) RULEMAKING.—The Administrator, after consideration of environmental benefits, technology, safety, and economic factors, shall promulgate (and from time to time revise) regulations requiring manufacturers to install on all new motor vehicles and motor vehicle engine diagnostics systems capable of—

"(A) accurately identifying, to the extent practicable, emission-related systems deterioration or malfunction which could cause or result in failure of the vehicle to comply with emission standards established under this section,

"(B) alerting the vehicle's owner or operator to the likely need for emission-related components or systems maintenance or repair,

"(C) storing and retrieving fault codes specified by the Administrator, and

"(D) providing access to stored information in a manner specified by the Administrator.

"(2) EFFECTIVE DATE.—The regulations prescribing emission control diagnostics systems under paragraph (1) of this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period and energy and safety factors.

"(3) STATE INSPECTION.—The Administrator, by regulation, may require States that have implementation plans under section 110 containing motor vehicle inspection and maintenance programs to amend their plans within 2 years of promulgation of the regulations to provide for inspection of emission control diagnostics systems (as prescribed by regulations under paragraph (1) of this subsection) and the maintenance or repair

of malfunctions or system deterioration identified by or affecting such diagnostics systems.

"(4) EMISSIONS CONTROL DIAGNOSTICS.—The Administrator shall, by regulation, require manufacturers—

"(A) to provide standardized connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, or repair on all motor vehicles and motor vehicle engines;

"(B) to provide standardized access to the emission control diagnostics system through such connectors which shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer; and

"(C) to provide standardized output of the data from the emission control diagnostics system through such connectors to a scanning device which shall be usable without the need for any unique decoding information or device.

"(5) INFORMATION AVAILABILITY.—The Administrator, by regulation, shall require (subject to the provisions of section 208(c) regarding the protection of methods or processes entitled to protection as trade secrets) manufacturers, including motor vehicle or motor vehicle engine manufacturers, to make available in a timely manner, under reasonable terms and conditions to any person engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines any information reasonably necessary to utilize fully the emission control diagnostic system and to make effective emissions related repairs and service. No such information may be withheld under section 208(c) if that information is provided (directly or indirectly) by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines. Such information shall also be available to the Administrator, subject to section 208(c), in carrying out the Administrator's responsibilities under this section.

"(6) REVIEW OF DATA.—The Administrator may, in promulgating regulations under this section, review data output from emission control diagnostic systems and revise such regulations to improve the emissions repair effectiveness by use of such data. In the review process, the Administrator should consult with the industry, including vehicle manufacturers, parts manufacturers, diagnostic equipment manufacturers, and motor vehicle repair service providers, regarding the quality and usefulness of the data provided by the emission control diagnostic system, technology developments in motor vehicle emission control diagnostics, and any other matters that would lead to improving the effectiveness of emission control systems repairs and maintenance.

"(7) BRAND, CORPORATE, AND TRADE NAMES.—The Administrator, in promulgating regulations under this subsection, shall require that information and data from the emissions control diagnostics systems not require the use of any component or service which is identified by brand, trade, or corporate name, as provided by subparagraphs (A) and (B) of section 207(c)(3).

"(8) RULEMAKING.—The Administrator shall commence a rulemaking under this subsection within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990. If the final regulations under this subsection are not promulgated within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall submit a statement to the Congress containing an explanation of the reasons for the delay and a date certain for promulgation of such final regulations in accordance with this Act. Such date certain shall not be later than 15 months after such 18-month deadline.".

(b) SCHEDULED REPLACEMENT.—The last sentence of section 207(a)(3) (42 U.S.C. 7541(a)(3)) is amended to read as follows: "The term 'designed for emission control' as used in the preceding sentence means a catalytic converter, a thermal reactor, an emission control diagnostics system, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions (not including those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control).".

SEC. 209. AUTO WARRANTIES.

Section 207 (42 U.S.C. 7541) is amended as follows:

(1) Strike out "useful life (as determined under section 202(d))" each place it appears in subsection (b) and insert "the warranty period (as determined under subsection (i))".

(2) Strike so much of section 207(b) as follows the third sentence thereof.

(3) Add the following new subsection at the end thereof:

"(i) WARRANTY PERIOD.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) and subsection (b), the warranty period, effective with respect to new motor vehicles and engines manufactured in the model year 1995 and thereafter, shall be the first 2 years or 24,000 miles of use (whichever first occurs), except as provided in paragraph (2).

"(2) SPECIFIED MAJOR EMISSION CONTROL COMPONENTS.—In the case of a specified major emission control component, the warranty period for purposes of subsection (a)(1) and subsection (b) shall be 5 years or 50,000 miles of use (whichever first occurs). As used in this paragraph, the term 'specified major emission control component' means only a catalytic converter or electronic emissions control unit. Nothing in this Act shall be construed to provide that any part (other than a part referred to in the preceding sentence) shall be required to be warranted under this Act for the period of 5 years or 50,000 miles referred to in this paragraph.

"(3) INSTRUCTIONS.—Subparagraph (A) of subsection (b)(2) shall apply only where the Administrator has made a determination that the instructions concerned conform to the requirements of subsection (c)(3).".

(4) Amend subsection (a)(1) by adding the following at the end thereof: "In the case of vehicles and engines manufactured in the model year 1995 and thereafter such warranty shall require that the vehicle or engine is free from any such defects for the warranty period provided under subsection (i).".

SEC. 210. HEAVY-DUTY TRUCKS.

Section 202(a)(3) (42 U.S.C. 7521(a)(3)) is amended as follows:

(1) Strike subparagraphs (A), (B), (C), (D), and (E) and insert the following:

"(A)(i) Unless the standard is changed as provided in subparagraph (B), regulations under paragraph (1) of this subsection applicable to emissions of hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter from classes and categories of heavy-duty vehicles or engines manufactured during or after model year 1983 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology.

"(ii) In establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may base such classes or categories on gross vehicle weight, horsepower, type of fuel used, or other appropriate factors.

"(B) On the basis of information available to the Administrator concerning the effects of air pollutants emitted from heavy-duty vehicles or engines and from other sources of mobile source related pollutants on the public health and welfare, and taking costs into account, the Administrator may promulgate regulations under paragraph (1) of this subsection revising any standard promulgated under or before the date of the enactment of the Clean Air Act amendments of 1990 (or previously revised under this subparagraph).".

(2) Redesignate subparagraph (F) as subparagraph (C).

(3) Add a new subparagraph (D) to read as follows:

"(D) The Administrator shall study the practice of rebuilding heavy-duty engines and the impact rebuilding has on engine emissions. On the basis of that study and other information available to him, the Administrator may prescribe requirements to control rebuilding practices, including standards applicable to emissions from any rebuilt heavy-duty engines (whether or not the engine is past it's statutory useful life), which in the Administrator's judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare taking costs into account. Any regulation shall take effect after a period the Administrator finds necessary to permit the development and application of the requisite control measures, giving appropriate consideration to the cost of compliance within the period and energy and safety factors.".

SEC. 211. NONROAD ENGINES AND VEHICLES.

(a) DEFINITIONS.—Section 216 (42 U.S.C. 7550) is amended by adding the following at the end thereof:

"(13) NONROAD ENGINE.—The term 'nonroad engine' means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 or section 202.

"(14) NONROAD VEHICLE.—The term 'nonroad vehicle' means a vehicle that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.".

(b) DEFINITION OF MANUFACTURER.—Paragraph (1) of section 216 (42 U.S.C. 7550) is amended by striking out "new motor vehicles or new motor vehicle engines" every place it occurs and inserting "new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines".

(c) EMISSION STANDARDS.—Section 213 (42 U.S.C. 7547) is amended to read as follows:

"SEC. 213. NONROAD ENGINES AND VEHICLES.

"(a) EMISSIONS STANDARDS.—(1) The Administrator shall conduct a study of emissions from nonroad engines and nonroad vehicles to determine if such emissions cause, or significantly contribute to, air pollution which may reasonably be anticipated to endanger

public health or welfare. Such study shall be completed within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) After notice and opportunity for public hearing, the Administrator shall determine within 12 months after completion of the study under paragraph (1), based upon the results of such study, whether emissions of carbon monoxide, oxides of nitrogen, and volatile organic compounds from new nonroad engines or nonroad vehicles are significant contributors to ozone or carbon monoxide concentrations in more than 1 area which has failed to attain the national ambient air quality standards for ozone or carbon monoxide.

"(3) If the Administrator makes an affirmative determination under paragraph (2), within 18 months thereafter the Administrator shall promulgate (and from time to time revise) such regulations as the Administrator deems appropriate containing standards applicable to emissions from those classes or categories of new nonroad engines and new nonroad vehicles which in the Administrator's judgment cause, or contribute to, such air pollution, taking into account costs, noise, safety and energy factors associated with the application of technology which the Administrator determines will be available for the engines and vehicles to which such standards apply. The regulations shall apply to the useful life of the engines or vehicles (as determined by the Administrator).

"(4) If the Administrator determines that any emissions from new nonroad engines or vehicles not covered by paragraph (2) significantly contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, the Administrator may promulgate (and from time to time revise) such regulations as the Administrator deems appropriate containing standards applicable to emissions from those classes or categories of new nonroad engines and new nonroad vehicles which in the Administrator's judgment cause, or contribute to, such air pollution, taking into account costs, noise, safety, and energy factors associated with the application of technology which the Administrator determines will be available for the engines and vehicles to which such standards apply. The regulations shall apply to the useful life of the engines or vehicles (as determined by the Administrator).

"(b) EFFECTIVE DATE.—Standards under this section shall take effect at the earliest possible date considering the lead time necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period and energy and safety.

"(c) SAFE CONTROLS.—Effective with respect to engines or vehicles to which standards under this section apply, no emission control device, system, or element of design shall be used in a new nonroad engine or new nonroad vehicle for purposes of complying with such standards if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function. In determining whether an unreasonable risk exists, the Administrator shall consider factors including those described in section 202(a)(4)(B).

"(d) ENFORCEMENT.—The standards under this section shall be subject to sections 206, 207, 208, and 209, with such modifications of the applicable regulations implementing such sections as the Administrator deems appropriate, and shall be enforced in the same manner as standards prescribed under section 202. The Administrator shall revise or promulgate regulations as may be necessary to determine compliance with, and enforce, standards in effect under this section.".

(d) STATE STANDARDS.—Section 209 (42 U.S.C. 7543) is amended by adding the following at the end thereof:

"(e) STATE STANDARDS.—No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from new nonroad engines or nonroad vehicles subject to regulation under this Act. Subsection (b) shall not apply for purposes of this subsection.".

SEC. 212. VEHICLE CERTIFICATION.

(a) ADDITIONAL TESTING PROCEDURES.—Section 206(a) (42 U.S.C. 7525(a)) is amended by adding the following after paragraph (3):

"(4)(A) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall revise the regulations promulgated under this subsection to add test procedures capable of determining whether 1993 and later model year light-duty vehicles and light-duty trucks, when properly maintained and used, will pass the inspection methods and procedures established under section 207(b) for that model year, under conditions reasonably likely to be encountered in the conduct of inspection and maintenance programs, but which those programs cannot reasonably influence or control. The conditions shall include fuel characteristics, ambient temperature, and short (30 minutes or less) waiting periods before tests are conducted. The Administrator shall not grant a certificate of conformity under this subsection for any 1993 or later model year vehicle or engine that the Administrator concludes cannot pass the test procedures established under this paragraph.

"(B) From time to time, the Administrator may revise the regulations promulgated under subparagraph (A), as the Administrator deems appropriate.".

(b) PROJECTED SALES NOT EXCEEDING 300.—Section 206(a)(1) (42 U.S.C. 7525(a)(1)) is amended by striking the third sentence and inserting the following: "In the case of any original equipment manufacturer (as defined by the Administrator in regulations promulgated before the date of the enactment of the Clean Air Act Amendments of 1990) of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed 300, the Administrator shall not require, for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine, operation of any vehicle or engine manufactured during such model year for more than 5,000 miles or 160 hours, respectively, unless the Administrator by regulation prescribes otherwise. The Administrator shall apply any adjustment factors that the Administrator deems appropriate to assure that each vehicle or engine will comply during its useful life (as determined under section 202(d)) with the regulations prescribed under section 202.".

SEC. 213. IN-USE COMPLIANCE—RECALL.

Section 207(c) (42 U.S.C. 7541(c)) is amended by adding the following at the end thereof:

"(4) INTERMEDIATE IN-USE STANDARDS.—

"(A) MODEL YEARS 1994 AND 1995.—For passenger cars and light-duty trucks of less than 6,000 lbs. gross vehicle weight rating (GVWR) which are subject to standards under table 1 of section 202(g) in model years 1994 and 1995 (40 percent of the manufacturer's sales volume in model year 1994 and 80 percent in model year 1995), the standards applicable to NHMC and CO for purposes of this subsection shall be those set forth in table A in lieu of the standards for such air pollutants otherwise applicable under this title, except that any more stringent standards in effect for such purpose before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect until a more stringent standard takes effect as provided in paragraph (5).

"TABLE A.—INTERMEDIATE IN-USE STANDARDS

| Vehicle type | NMHC | CO |
|---|---|---|
| Passenger cars | 0.32 | 5.2 |
| LDT's (0-3,750 LVW) | 0.32 | 5.2 |
| LDT's (3,751-5,750 LVW) | 0.41 | 6.7 |

"(B) MODEL YEARS 1996 AND 1997.—In the model years 1996 and 1997, passenger cars and light-duty trucks of less than 6,000 lbs. gross vehicle weight rating (GVWR) which are not subject to final in-use standards under paragraph (5) (60 percent of the manufacturer's sales volume in model year 1996 and 20 percent in model year 1997) shall be subject to the standards for NHMC and CO for purposes of this subsection set forth in table A in lieu of those set forth in paragraph (5), except that any more stringent standards in effect for such purpose before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect until a more stringent standard takes effect as provided in paragraph (5).

"(C) USEFUL LIFE.—In the case of the in-use standards applicable under this paragraph for purposes of applying this subsection the applicable useful life shall be 5 years or 50,000 miles or the equivalent (whichever is less).

"(5) FINAL IN-USE STANDARDS.—After the model year 1995, for purposes of applying this subsection, in the case of the percentage specified in Implementation Schedule B of each manufacturer's sales volume of passenger cars and light-duty trucks of less than 6,000 lbs. gross vehicle weight rating (GVWR), the standards applicable to NHMC and CO shall be those set forth in table B in lieu of the standards for such air pollutants otherwise applicable under this title:

"TABLE B.—FINAL IN-USE STANDARDS

| Vehicle type | Column A * | | Column B ** | |
|---|---|---|---|---|
| | NMHC | CO | NMHC | CO |
| Passenger cars | 0.25 | 3.4 | 0.31 | 4.2 |
| LDT's (0-3,750 LVW). | 0.25 | 3.4 | 0.31 | 4.2 |
| LDT's (3,751-5,750 LVW). | 0.32 | 4.4 | 0.40 | 5.5 |

Standards are expressed in grams per mile (gpm). LVW refers to loaded vehicle weight as defined by EPA in regulations in effect as of the date of the enactment of the Clean Air Act Amendments of 1990.

* In the case of the standards under column A, for purposes of applying this subsection the applicable useful life shall be 5 years or 50,000 miles (or the equivalent), whichever first occurs.

** In the case of the standards under column B, for purposes of applying this subsection the applicable useful life shall be 7 years or 75,000 miles (or the equivalent), whichever first occurs.

"IMPLEMENTATION SCHEDULE B—IMPLEMENTATION OF FINAL IN-USE STANDARDS

| Model year | Percent |
|---|---|
| 1996 | 40 |
| 1997 | 80 |
| 1998 | 100.". |

SEC. 214. COMPLIANCE PROGRAM FEES.

Part A of title II is amended by adding the following new section at the end thereof:

"SEC. 217. MOTOR VEHICLE COMPLIANCE PROGRAM FEES.

"(a) FEE COLLECTION.—Consistent with section 9701 of title 31, United States Code, the Administrator may promulgate (and from time to time revise) regulations establishing fees to recover all reasonable costs to the Administrator associated with—

"(1) new vehicle or engine certification under section 206(a),

"(2) new vehicle or engine compliance monitoring and testing under section 206(b), and

"(3) in-use vehicle or engine compliance monitoring and testing under section 207(c).

The Administrator may establish for all foreign and domestic manufacturers a fee schedule based on such factors as the Administrator finds appropriate and equitable and nondiscriminatory, including the number of vehicles or engines produced under a certificate of conformity.

"(b) SPECIAL TREASURY FUND.—Any fees collected under this section shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.

"(c) LIMITATION ON FUND USE.—Moneys in the special fund referred to in subsection (b) shall not be used until after the first fiscal year commencing after the first July 1 when fees are paid into the fund.

"(d) ADMINISTRATOR'S TESTING AUTHORITY.—Nothing in this subsection shall be construed to limit the Administrator's authority to require manufacturer or confirmatory testing as provided in this part.".

SEC. 215. INFORMATION COLLECTION.

Section 208 (42 U.S.C. 7542) is amended to read as follows:

"SEC. 208. INFORMATION COLLECTION.

"(a) MANUFACTURER'S RESPONSIBILITY.—Every manufacturer of new motor vehicles or new motor vehicle engines, and every manufacturer of new motor vehicle or engine parts or components, and other persons subject to the requirements of this part, shall establish and maintain records, perform tests where such testing is not otherwise reasonably available under this part (including fees for testing), make reports and provide information the Administrator may reasonably require to determine whether the manufacturer or other person has acted or is acting in compliance with this part and regulations thereunder, or to otherwise carry out the provision of this part, and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to and copy such records.

"(b) ENFORCEMENT AUTHORITY.—For the purposes of enforcement of this section and section 207(c), officers or employees duly designated by the Administrator upon presenting appropriate credentials are authorized—

"(1) to enter, at reasonable times, any establishment of the manufacturer, or of any person whom the manufacturer engages to perform any activity required by subsection (a), for the purposes of inspecting or observing any activity conducted pursuant to subsection (a), and

"(2) to inspect records, files, papers, processes, controls, and facilities used in performing any activity required by subsection (a), by such manufacturer or by any person whom the manufacturer engages to perform any such activity.

"(c) AVAILABILITY TO THE PUBLIC; TRADE SECRETS.—Any records, reports, or information obtained under this part shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or a particular portion thereof (other than emission data), to which the Administrator has access under this section, if made public, would divulge methods or processes entitled to protection as trade secrets of that person, the Administrator shall consider the record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. Any authorized representative of the Administrator shall be considered an employee of the United States for purposes of section 1905 of title 18 of the United States Code. Nothing in this section shall prohibit the Administrator or authorized representative of the Administrator from disclosing records, reports or information to other officers, employees or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under the Administrator's control from the duly authorized committees of the Congress.".

SEC. 216. FUEL VOLATILITY.

Section 211 (42 U.S.C. 7545) is amended by adding the following new subsection after subsection (g):

"(h) REID VAPOR PRESSURE REQUIREMENTS.—(1) Not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations making it unlawful for any person during the high ozone season (as defined by the Administrator) to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch (psi). Such regulations shall also establish more stringent Reid Vapor Pressure standards as the Administrator finds necessary to generally achieve comparable evaporative emissions (on a per-vehicle basis) nationwide, taking into consideration the enforceability of such standards, the need of an area for emission control, and economic factors.

"(2) Such regulations shall provide that the requirements of this subsection shall take effect not later than the high ozone season for 1992, and shall include such provisions as the Administrator determines are necessary to implement and enforce the requirements of this subsection.

"(3) In establishing standards for fuel volatility under this subsection, the Administrator shall permit a 1.0 pound per square inch (psi) tolerance level for gasoline containing at least 10 percent ethanol. A manufacturer or processor of gasoline containing at least 10 percent ethanol shall be deemed to be in full compliance with such standards if the Administrator provides a certification (based on testing) or other evidence acceptable to the Administrator that—

"(A) the gasoline portion of the blend complies with the gasoline volatility standards under this subsection,

"(B) the ethanol portion of the blend does not exceed its waiver conditions under subsection (f)(4), and

"(C) no additional alcohol or other additive has been added to increase the Reid Vapor Pressure of the ethanol portion of the blend.

"(4) The provisions of this subsection shall apply only to the 48 contiguous States and the District of Columbia.".

SEC. 217. DIESEL FUEL SULFUR CONTENT.

Section 211 (42 U.S.C. 7545) is amended by adding the following new subsection after subsection (h):

"(i) SULFUR CONTENT REQUIREMENTS FOR DIESEL FUEL.—(1) Effective October 1, 1993, no person shall manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 per centum (by weight) or which fails to meet a cetane index minimum of 40.

"(2) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations to implement and enforce the requirements of paragraph (1). The Administrator may require manufacturers and importers of diesel fuel not intended for use in motor vehicles to dye such fuel in a particular manner in order to segregate it from motor vehicle diesel fuel.

"(3) The sulfur content of fuel required to be used in the certification of 1991 through 1993 model year heavy-duty diesel vehicles and engines shall be 0.10 percent (by weight). The sulfur content and cetane index minimum of fuel required to be used in the certification of 1994 and later model year heavy-duty diesel vehicles and engines shall comply with the regulations promulgated under paragraph (2).".

"(4) The States of Alaska and Hawaii may be exempted from the requirements of this subsection in the same manner as provided in section 324. The Administrator shall take final action on any petition filed under section 324 for an exemption from the requirements of this subsection, within 12 months from the date of the petition.".

SEC. 218A. LEAD SUBSTITUTE GASOLINE ADDITIVES.

(a) ADDITIVES.—Section 211 (42 U.S.C. 7545) is amended by adding the following at the end thereof:

"(j) LEAD SUBSTITUTE GASOLINE ADDITIVES.—(1) After the date of the enactment of the Clean Air Act Amendments of 1990, any person proposing to register any gasoline additive under subsection (a) or to use any previously registered additive as a lead substitute may also elect to register the additive as a lead substitute gasoline additive for reducing valve seat wear by providing the Administrator with such relevant information regarding product identity and composition as the Administrator deems necessary for carrying out the responsibilities of paragraph (2) of this subsection (in addition to other information which may be required under subsection (b)).

"(2) In addition to the other testing which may be required under subsection (b), in the case of the lead substitute gasoline additives referred to in paragraph (1), the Administra-

tor shall develop and publish a test procedure to determine the additives' effectiveness in reducing valve seat wear and the additives' tendencies to produce engine deposits and other adverse side effects. The test procedures shall be developed in cooperation with the Secretary of Agriculture and with the input of additive manufacturers, engine and engine components manufacturers, and other interested persons. The Administrator shall enter into arrangements with an independent laboratory to conduct tests of each additive using the test procedures developed and published pursuant to this paragraph. The Administrator shall publish the results of the tests by company and additive name in the Federal Register along with, for comparison purposes, the results of applying the same test procedures to gasoline containing 0.1 gram of lead per gallon in lieu of the lead substitute gasoline additive. The Administrator shall not rank or otherwise rate the lead substitutive additives. Test procedures shall be established within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990. Additives shall be tested within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990 or 6 months after the lead substitute additives are identified to the Administrator.

"(3) The Administrator may impose a user fee to recover the costs of testing of any fuel additive referred to in this subsection. The fee shall be paid by the person proposing to register the fuel additive concerned. Such fee shall not exceed $20,000 for a single fuel additive.

"(4) There are authorized to be appropriated to the Administrator not more than $1,000,000 for the first full fiscal year after the date of the enactment of the Clean Air Act Amendments of 1990 to establish test procedures and conduct engine tests as provided in this subsection. Not more than $500,000 per year is authorized to be appropriated for 5 subsequent fiscal years.

"(5) Any fees collected under this subsection shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.".

SEC. 219. NONROAD FUELS.

(a) FUELS AND FUEL ADDITIVES.—Section 211(a) (42 U.S.C. 7545(a)) is amended by inserting "(including any fuel or fuel additive used exclusively in nonroad engines or nonroad vehicles)" immediately after "fuel or fuel additive".

(b) ANALYTICAL TECHNIQUES.—Section 211(b)(2)(B) (42 U.S.C. 7545(2)(B)) is amended by striking "or" after "vehicle" and inserting in lieu thereof a comma, and by inserting immediately after "vehicle engine," the phrase: "nonroad engine or nonroad vehicle,".

(c) REGULATION.—Section 211(c)(1) (42 U.S.C. 7545(c)(1)) is amended by striking "or" after "motor vehicle" and inserting in lieu thereof a comma, and by inserting immediately after "motor vehicle engine" a comma followed by "or nonroad engine or nonroad vehicle".

SEC. 220. FUEL WAIVERS.

(a) COVERAGE.—Section 211(f)(1) (42 U.S.C. 7545(f)(1) is amended by inserting "(A)" immediately after "(1)" and by adding the following new subparagraph at the end thereof:

"(B) Effective upon the date of the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206.".

(b) CONFORMING AMENDMENT.—Section 211(f)(3) (42 U.S.C. 7545(f)(3)) is amended by inserting "(A)" immediately after "(1)".

SEC. 221. MARKET-BASED ALTERNATIVE CONTROLS.

Section 214 (42 U.S.C. 7548) is amended to read as follows:

"SEC. 214. MARKET-BASED ALTERNATIVE CONTROLS.

"(a) ALTERNATIVE CONTROLS IN SOME OZONE NONATTAINMENT AREAS.—(1) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations that, to the maximum extent feasible and notwithstanding any other section of this title, allow any fuel refiner to control emissions from motor vehicle fuels by one or more means different in type or degree from, and instead of, emission control measures prescribed under this title and section 182(b)(3) (relating to stage II refueling vapor recovery), so long as the alternative control measures achieve at least the same emissions reductions (as determined by the Administrator) over the same time period as the control measures that they would replace. The regulations shall establish performance standards for motor vehicle fuels marketed in areas described under section 212(d). The Administrator shall base such performance standards on the emission reductions that, in the Administrator's judgment, may reasonably be anticipated to result from implementation of the control measures for which motor vehicle fuel refiners may substitute alternative controls under this subsection. The regulations shall provide that any fuel refiner may substitute alternative control measures if it demonstrates, and the Administrator finds, that the combination of control measures that it would employ (including any prescribed control measures) would at least meet the performance standard applicable to it. Any fuel refiner seeking approval of alternative control measures must submit a proposal to the Administrator within 24 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator must approve or disapprove any such proposal within 30 months of the date of the enactment of such Amendments. The Administrator shall publish any proposal to employ alternative control measures submitted by a fuel refiner in the Federal Register upon receipt. Such notice shall constitute a notice of proposed rulemaking on whether to approve or disapprove the proposal and be deemed to comply with the requirements concerning notice of proposed rulemaking contained in sections 553 through 557 of title 5 of the United States Code (relating to notice and comment). Until the Administrator finds that the refiner has succeeded in demonstrating that it would at least meet the performance standard, the refiner shall remain subject to all of the applicable requirements prescribed under this title. The regulations also shall provide for enforcement of alternative control measures approved under this subsection.

"(2) The regulations promulgated under this subsection shall allow to the maximum extent feasible fuel refiners to demonstrate compliance with the performance standards prescribed under paragraph (1) through averaging of reductions of ozone-producing emissions among fuel refiners, and over time, so long as averaging would achieve at least the same emissions reductions (as determined by the Administrator) as would be achieved by compliance with such performance standards in the absence of such averaging. Such regulations shall not permit manufacturers to comply with the requirements of this title through averaging of emission levels required to be achieved by vehicles manufactured by such manufacturers.

"(b) NATIONWIDE ALTERNATIVE CONTROLS.—The Administrator may promulgate regulations that, notwithstanding any other section of this title, allow any fuel refiner to control emissions from motor vehicles fuels by one or more means different in type or degree from, and instead of, emission control measures prescribed under this title or section 182(b)(3) (relating to stage II refueling vapor recovery), if first it demonstrates, and the Administrator finds, that the alternative control measures it would employ would achieve at least the same emissions reductions (as determined by the Administrator) over the same time period as the control measures that they would replace. The regulations promulgated under this subsection may also permit fuel refiners and fuel marketers to demonstrate compliance with applicable control measures through averaging of reductions of ozone-producing emissions among fuel refiners and fuel marketers, and over time, so long as such averaging would achieve at least the same emissions reductions (as determined by the Administrator) as would be achieved by compliance with such performance standards in the absence of such averaging. The regulations shall also provide for enforcement of alternative control measures approved under this section.".

SEC. 222. STATE FUEL REGULATION.

(a) IN GENERAL.—Section 211(c)(4)(A) (42 U.S.C. 7545(c)(4)(A)) is amended as follows:

(1) Strike out "use of a" and insert "any characteristic or component".

(2) In clause (i) after "control or prohibition" insert "of the characteristic or component of a fuel or fuel additive".

(3) In clause (ii) after "such" insert "characteristic or component of a".

(b) FINDING OF NECESSITY.—Section 211(c)(4)(C) (42 U.S.C. 7545(c)(4)(C)) is amended by adding the following at the end: "The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measures that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable. The Administrator may make a finding of necessity under this subparagraph even if the plan for the area does not contain an approved demonstration of timely attainment.".

SEC. 223. ENFORCEMENT.

(a) INSPECTIONS AND TESTING.—Section 203(a)(2) (42 U.S.C. 7522(a)(2)) is amended to read as follows:

"(2)(A) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under section 208;

"(B) for any person to fail or refuse to permit entry, testing or inspection authorized under section 206(c) or section 208;

"(C) for any person to fail or refuse to perform tests, or have tests performed as required under section 207(c) or section 208;".

(b) TAMPERING WITH VEHICLE EMISSION CONTROLS.—(1) Section 203(a)(3) (42 U.S.C. 7522(a)(3)) is amended to read as follows:

"(3)(A) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or

"(B) for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use; or".

(2) At the end of section 203(a) (42 U.S.C. 7522(a)) insert the following: "No action with respect to any device or element of design referred to in paragraph (3) shall be treated as a prohibited act under that paragraph if (i) the action is for the purpose of repair or replacement of the device or element, or is a necessary and temporary procedure to repair or replace any other item and the device or element is replaced upon completion of the procedure, and (ii) such action thereafter results in the proper functioning of the device or element referred to in paragraph (3). No action with respect to any device or element of design referred to in paragraph (3) shall be treated as a prohibited act under that paragraph if the action is for the purpose of a conversion of a motor vehicle for use of a clean alternative fuel (as defined in this title) and if such vehicle complies with the applicable standard under section 202 when operating on such fuel, and if in the case of a clean alternative fuel vehicle (as defined by rule by the Administrator), the device or element is replaced upon completion of the conversion procedure and such action results in proper functioning of the device or element when the motor vehicle operates on conventional fuel.".

(c) DEFINITION.—Section 216 (42 U.S.C. 7550) is amended by adding the following at the end:

"(15) MOTOR VEHICLE OR ENGINE PART MANUFACTURER.— The term 'motor vehicle or engine part manufacturer' as used in sections 207 and 208 means any person engaged in the manufacturing, assembling or rebuilding of any device, system, part, component or element of design which is installed in or on motor vehicles or motor vehicle engines.".

(d) CIVIL AND ADMINISTRATIVE PENALTIES.—Section 205 (42 U.S.C. 7524) is amended to read as follows:

"SEC. 205. CIVIL PENALTIES.

"(a) VIOLATIONS.—Any person who violates sections 203(a)(1) or 203(a)(4), any manufacturer or dealer who violates section 203(a)(3)(A), or any person who violates regulations prescribed under sections 212 (a), (b), (f), or (i) shall be subject to a civil penalty of not more than $25,000. Any person other than a manufacturer or dealer who violates section 203(a)(3)(A) or any person who violates section 203(a)(3)(B) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (3)(A), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. Any such violation with respect to section 203(a)(3)(B) shall constitute a separate offense with respect to each part or component. Any person who violates section 203(a)(2), or regulations prescribed under section 212(c), shall be subject to a civil penalty of not more than $25,000 per day of violation.

"(b) CIVIL ACTIONS.—The Administrator may commence a civil action to assess and recover any civil penalty under subsection (a) of this section, section 211(d), or section 213(d). Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has the Administrator's principal place of business, and the court shall have jurisdiction to assess a civil penalty. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

"(c) ADMINISTRATIVE ASSESSMENT OF CERTAIN PENALTIES.—

"(1) ADMINISTRATIVE PENALTY AUTHORITY.—In lieu of commencing a civil action under subsection (b), the Administrator may assess any civil penalty prescribed in subsection (a) of this section, section 211(d), or section 213(d), except that the maximum amount of penalty sought against each violator in a penalty assessment proceeding shall not exceed $200,000, unless the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review. Assessment of a civil penalty under this subsection shall be by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person. The Administrator may compromise, or remit, with or without conditions, any administrative penalty which may be imposed under this section.

"(2) DETERMINING AMOUNT.—In determining the amount of any civil penalty assessed under this subsection, the Administrator shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require.

"(3) EFFECT OF ADMINISTRATOR'S ACTION.—(A) Action by the Administrator under this subsection shall not affect or limit the Administrator's authority to enforce any provision of this Act; except that any violation,

"(i) with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or

"(ii) for which the Administrator has issued a final order not subject to further judicial review and the violator has paid a penalty assessment under this subsection,

shall not be the subject of civil penalty action under subsection (b).

"(B) No action by the Administrator under this subsection shall affect any person's obligation to comply with any section of this Act.

"(4) FINALITY OF ORDER.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (5).

"(5) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed in accordance with this subsection may seek review of the assessment in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, within the 30-day period beginning on the date a civil penalty order is issued by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall file in the court a certified copy, or certified index, as appropriate, of the record on which the order was issued within 30 days. The court shall not set aside or remand any order issued in accordance with the requirements of this subsection unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion, and the court shall not impose additional civil penalties unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any proceedings, the United States may seek to recover civil penalties assessed under this section.

"(6) COLLECTION.—If any person fails to pay an assessment of a civil penalty imposed by the Administrator as provided in this subsection—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to that amount and interest, the United States' enforcement expenses, including attorneys fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be in an amount equal to 10 percent of the aggregate amount of that

person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.".

(e) ENFORCEMENT OF FUELS REGULATIONS.—Section 211(d) (42 U.S.C. 7545(d)) is amended to read as follows:

"(d) PENALTIES AND INJUNCTIONS.—

"(1) CIVIL PENALTIES.—Any person who violates subsection (a), (f), or (g) of this section or the regulations prescribed under subsection (c), (h), or (i) of this section or the regulations prescribed under subsection 212(c) or who fails to furnish any information or conduct any tests required by the Administrator under subsection (b) of this section shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation. Any violation with respect to a regulation prescribed under subsection (c) of this section or section 212(c) which establishes a regulatory standard based upon a multiday averaging period shall constitute a separate day of violation for each and every day in the averaging period. Civil penalties shall be assessed in accordance with subsections (b) and (c) of section 205.

"(2) INJUNCTIVE AUTHORITY.—The district courts of the United States shall have jurisdiction to restrain violations of subsections (a), (f), and (g) of this section and of the regulations prescribed under subsection (c), (h), or (i) of this section or section 212(c), to award other appropriate relief, and to compel the furnishing of information and the conduct of tests required by the Administrator under subsection (b) of this section. Actions to restrain such violations and compel such actions shall be brought by and in the name of the United States. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.".

(f) MISFUELING.—Section 211(g) (42 U.S.C. 7545(g)) is amended to read as follows:

"(g) MISFUELING.—No person shall introduce, or cause or allow the introduction of, leaded gasoline into any motor vehicle which is labeled 'unleaded gasoline only,' which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, which is a 1990 or later model year motor vehicle, or which that person knows or should know is a vehicle designed solely for the use of unleaded gasoline. Nothing in this section shall limit the applicability of section 211(d)(3).".

SEC. 224. HIGH ALTITUDE TESTING.

Section 215 (42 U.S.C. 7549) is amended by adding the following at the end thereof:

"(e) HIGH ALTITUDE TESTING.—The Administrator shall promptly establish at least one testing center (in addition to the testing centers existing on the date of the enactment of the Clean Air Act Amendments of 1990) located at a site that represents high altitude conditions, to ascertain in a reasonable manner whether, when in actual use throughout their useful life (as determined under section 202(d)), each class or category of vehicle and engines to which regulations under section 202 apply conforms to the emissions standards established by such regulations. For purposes of this subsection, the term 'high altitude conditions' refers to high altitude as defined in regulations of the Administrator in effect as of the date of the enactment of the Clean Air Act Amendments of 1990.".

SEC. 225. TECHNICAL AMENDMENTS.

The Clean Air Act is amended as follows:

(1) In section 202(b)(3) (42 U.S.C. 7521(b)(3)), strike out "(3) For purposes of this part—" and redesignate subparagraphs (A), (B) and (C) of section 202(b)(3) as paragraphs (16), (17), and (18) of section 216, redesignate clauses (i) and (ii) of new paragraph (16) as subparagraphs (A) and (B), respectively, in new subparagraph (B) strike "as provided in clause (i)" and insert "as provided in subparagraph (A)", and after "by subsection (b)" insert "of section 202".

(2) Strike out section 202(b)(4) (42 U.S.C. 7521(b)(4)).

(3) Strike out section 202(b)(5) (42 U.S.C. 7521(b)(5)).

(4) In section 202(b)(6) (42 U.S.C. 7521(b)(6))—

(A) strike out "(A)" after "(6)",

(B) strike out subparagraph (B), and

(C) redesignate paragraph (6) as paragraph (3) and redesignate clauses (i) through (iii) as subparagraphs (A) through (C).

(5) Strike out section 202(b)(7) (42 U.S.C. 7521(b)(7)).

(6) Strike out section 203(c) (42 U.S.C. 7522(c)).

(7) Strike out "announce in the Federal Register and" in section 206(e) (42 U.S.C. 7525(e)).

(8) In section 206(f) (42 U.S.C. 7525(f))—

(A) strike out "(1)" after "(f)", and

(B) strike out paragraph (2).

(9) In section 207(g) (42 U.S.C. 7526(g)), strike out "(but not designed for emission control under the terms of the last three sentences of section 207(a)(1)" and insert "(but not designed for emission control under the terms of the last sentence of section 207(a)(3))".

(10) In section 231(a) (42 U.S.C. 7571(a)), strike out paragraph (1) and redesignate paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

## TITLE III—HAZARDOUS AIR POLLUTANTS

Sec. 301. Technology-based standards for hazardous air pollutants.

SEC. 301. TECHNOLOGY-BASED STANDARDS FOR HAZARDOUS AIR POLLUTANTS.

Section 112 (42 U.S.C. 7412) is amended to read as follows:

"SEC. 112. HAZARDOUS AIR POLLUTANTS.

"(a) DEFINITIONS.—For the purposes of this section—

"(1) MAJOR SOURCE.—The term 'major source', for pollutants other than radionuclides, means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 metric tons per year or more of any hazardous air pollutant or 25 metric tons per year or more of any combination of hazardous air pollutants which have been listed pursuant to subsection (b). The Administrator may establish a lesser quantity for a major source other than specified in the previous sentence on the basis of the potency, characteristics of the air pollutant, or other relevant factors. For radionuclides, such term shall have the meaning specified by the Administrator by rule, considering radiation dose.

"(2) AREA SOURCE.—The term 'area source' means any source that is not a major source but that is a member of a source category listed under this section based on aggregate emissions, or potential aggregate emissions, of a listed pollutant or pollutants.

"(3) NEW SOURCE.—The term 'new source' means a stationary source the construction or reconstruction of which is commenced after the Administrator proposes regulations under this section establishing an emission standard applicable to such source category or subcategory pursuant to subsection (d) or (f).

"(4) ELECTRIC UTILITY.—The term 'electric utility steam generating unit' means any fossil fuel fired steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the facility.

"(5) OTHER TERMS.—The terms 'stationary source', 'owner or operator', and 'existing' source shall have the same meaning as such terms have under section 111(a).

"(b) HAZARDOUS AIR POLLUTANT LIST.—

"(1) ESTABLISHMENT OF LIST.—The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

| CAS number | Chemical name |
|---|---|
| 75070 | Acetaldehyde |
| 60355 | Acetamide |
| 75058 | Acetonitrile |
| 98862 | Acetophenone |
| 53963 | 2-Acetylaminofluorene |
| 107028 | Acrolein |
| 79061 | Acrylamide |
| 79107 | Acrylic acid |
| 107131 | Acrylonitrile |
| 107051 | Allyl chloride |
| 92671 | 4-Aminobiphenyl |
| 62533 | Aniline |
| 90040 | o-Anisidine |
| 1332214 | Asbestos |
| 71432 | Benzene (including benzene from gasoline) |
| 92875 | Benzidine |
| 98077 | Benzotrichloride |
| 100447 | Benzyl chloride |
| 92524 | Biphenyl |
| 117817 | Bis(2-ethylhexyl)phthalate (DEHP) |
| 542881 | Bis(chloromethyl)ether |
| 75252 | Bromoform |
| 106990 | 1,3-Butadiene |
| 156627 | Calcium cyanamide |
| 105602 | Caprolactam |
| 133062 | Captan |
| 63252 | Carbaryl |
| 75150 | Carbon disulfide |
| 56235 | Carbon tetrachloride |
| 463581 | Carbonyl sulfide |
| 120809 | Catechol |
| 133904 | Chloramben |
| 57749 | Chlordane |
| 7782505 | Chlorine |
| 79118 | Chloroacetic acid |
| 532274 | 2-Chloroacetophenone |
| 108907 | Chlorobenzene |
| 510156 | Chlorobenzilate |
| 67663 | Chloroform |
| 107302 | Chloromethyl methyl ether |
| 126998 | Chloroprene |
| 1319773 | Cresols/Cresylic acid (isomers and mixture) |
| 95487 | Cresols/Cresylic acid (isomers and mixture) |
| 108394 | Cresols/Cresylic acid (isomers and mixture) |
| 106445 | Cresols/Cresylic acid (isomers and mixture) |
| 98828 | Cumene |
| 94757 | 2,4-D, salts and esters |
| 3547044 | DDE |
| 334883 | Diazomethane |
| 132649 | Dibenzofurans |
| 96128 | 1,2-Dibromo-3-chloropropane |
| 84742 | Dibutylphthalate |
| 106467 | 1,4-Dichlorobenzene(p) |
| 91941 | 3,3-Dichlorobenzidene |

| CAS number | Chemical name |
|---|---|
| 111444 | Dichloroethyl ether (Bis(2-chloroethyl)ether) |
| 542756 | 1,3-Dichloropropene |
| 62737 | Dichlorvos |
| 111422 | Diethanolamine |
| 121697 | N,N-Diethyl aniline (N,N-Dimethylaniline) |
| 64675 | Diethyl sulfate |
| 119904 | 3,3-Dimethoxybenzidine |
| 60117 | Dimethyl aminoazobenzene |
| 119937 | 3,3'-Dimethyl benzidine |
| 79447 | Dimethyl carbamoyl chloride |
| 68122 | Dimethyl formamide |
| 57147 | 1,1-Dimethyl hydrazine |
| 131113 | Dimethyl phthalate |
| 77781 | Dimethyl sulfate |
| 534521 | 4,6-Dinitro-o-cresol, and salts |
| 51285 | 2,4-Dinitrophenol |
| 121142 | 2,4-Dinitrotoluene |
| 123911 | 1,4-Dioxane (1,4-Diethyleneoxide) |
| 122667 | 1,2-Diphenylhydrazine |
| 106898 | Epichlorohydrin (1-Chloro-2,3-epoxypropane) |
| 106887 | 1,2-Epoxybutane |
| 140885 | Ethyl acrylate |
| 100414 | Ethyl benzene |
| 51796 | Ethyl carbamate (Urethane) |
| 75003 | Ethyl chloride (Chloroethane) |
| 106934 | Ethylene dibromide (Dibromoethane) |
| 107062 | Ethylene dichloride (1,2-Dichloroethane) |
| 107211 | Ethylene glycol |
| 151564 | Ethylene imine (Aziridine) |
| 75218 | Ethylene oxide |
| 96457 | Ethylene thiourea |
| 75343 | Ethylidene dichloride (1,1-Dichloroethane) |
| 50000 | Formaldehyde |
| 76448 | Heptachlor |
| 118741 | Hexachlorobenzene |
| 87683 | Hexachlorobutadiene |
| 77474 | Hexachlorocyclopentadiene |
| 67721 | Hexachloroethane |
| 822060 | Hexamethylene-1,6-diisocyanate |
| 680319 | Hexamethylphosphoramide |
| 110543 | Hexane |
| 302012 | Hydrazine |
| 7647010 | Hydrochloric acid |
| 7664393 | Hydrogen fluoride (Hydrofluoric acid) |
| 123319 | Hydroquinone |
| 78591 | Isophorone |
| 58899 | Lindane (all isomers) |
| 108316 | Maleic anhydride |
| 67561 | Methanol |
| 72435 | Methoxychlor |
| 74839 | Methyl bromide (Bromomethane) |
| 74873 | Methyl chloride (Chloromethane) |
| 71556 | Methyl chloroform (1,1,1-Trichloroethane) |
| 78933 | Methyl ethyl ketone (2-Butanone) |
| 60344 | Methyl hydrazine |
| 74884 | Methyl iodide (Iodomethane) |
| 108101 | Methyl isobutyl ketone (Hexone) |
| 624839 | Methyl isocyanate |
| 80626 | Methyl methacrylate |
| 1634044 | Methyl tert butyl ether |
| 101144 | 4,4-Methylene bis(2-chloroaniline) |
| 75092 | Methylene chloride (Dichloromethane) |
| 101688 | Methylene diphenyl diisocyanate (MDI) |
| 101779 | 4,4'-Methylenedianiline |
| 91203 | Naphthalene |
| 98953 | Nitrobenzene |
| 92933 | 4-Nitrobiphenyl |
| 100027 | 4-Nitrophenol |
| 79469 | 2-Nitropropane |
| 684935 | N-Nitroso-N-methylurea |
| 62759 | N-Nitrosodimethylamine |
| 59892 | N-Nitrosomorpholine |
| 56382 | Parathion |
| 82688 | Pentachloronitrobenzene (Quintobenzene) |
| 87865 | Pentachlorophenol |
| 108952 | Phenol |
| 106503 | p-Phenylenediamine |
| 75445 | Phosgene |
| 7803512 | Phosphine |
| 7723140 | Phosphorus |
| 85449 | Phthalic anhydride |
| 1336363 | Polychlorinated biphenyls (Aroclors) |
| 1120714 | 1,3-Propane sultone |
| 57578 | beta-Propiolactone |
| 123386 | Propionaldehyde |
| 114261 | Propoxur (Baygon) |
| 78875 | Propylene dichloride (1,2-Dichloropropane) |
| 75569 | Propylene oxide |
| 75558 | 1,2-Propylenimine (2-Methyl aziridine) |
| 91225 | Quinoline |
| 106514 | Quinone |
| 100425 | Styrene |
| 96093 | Styrene oxide |
| 1746016 | 2,3,7,8-Tetrachlorodibenzo-p-dioxin |
| 79345 | 1,1,2,2-Tetrachloroethane |
| 127184 | Tetrachloroethylene (Perchloroethylene) |
| 7550450 | Titanium tetrachloride |
| 108883 | Toluene |
| 95807 | 2,4-Toluene diamine |
| 584849 | 2,4-Toluene diisocyanate |
| 95534 | o-Toluidine |
| 8001352 | Toxaphene (chlorinated camphene) |
| 120821 | 1,2,4-Trichlorobenzene |
| 79005 | 1,1,2-Trichloroethane |
| 79016 | Trichloroethylene |
| 95954 | 2,4,5-Trichlorophenol |
| 88062 | 2,4,6-Trichlorophenol |
| 121448 | Triethylamine |
| 1582098 | Trifluralin |
| 540841 | 2,2,4-Trimethylpentane |
| 108054 | Vinyl acetate |
| 593602 | Vinyl bromide |
| 75014 | Vinyl chloride |
| 75354 | Vinylidene chloride (1,1-Dichloroethylene) |
| 1330207 | Xylenes (isomers and mixture) |
| 95476 | Xylenes (isomers and mixture) |
| 108383 | Xylenes (isomers and mixture) |
| 106423 | Xylenes (isomers and mixture) |
| | Antimony Compounds |
| | Arsenic Compounds (inorganic including arsine) |
| | Beryllium Compounds |
| | Cadmium Compounds |
| | Chromium Compounds |
| | Cobalt Compounds |
| | Coke Oven Emissions |
| | Cyanide Compounds[1] |
| | Glycol ethers[2] |
| | Lead Compounds |
| | Manganese Compounds |
| | Mercury Compounds |
| | Mineral fibers[3] |
| | Nickel Compounds |
| | Polycylic Organic Matter[4] |
| | Radionuclides (including radon)[5] |
| | Selenium Compounds |

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

[1] X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)2

[2] includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH2CH2)n-OR' where
n = 1, 2, or 3
R = alkyl or aryl groups
R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH2CH)n-OH Polymers are excluded from the glycol category.

[3] includes glass microfibers, glass wool fibers, rock wool fibers, and slag wool fibers, each characterized as "respirable" (fiber diameter less than 3.5 micrometers) and possessing an aspect ratio (fiber length divided by fiber diameter) greater than 3.

[4] includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C

[5] a type of atom which spontaneously undergoes radioactive decay.

"(2) ADDITIONS AND DELETIONS.—The Administrator may add or delete a substance from the list under paragraph (1).

"(A) ADDITIONS.—A substance may be added to the list under paragraph (1) if the Administrator determines in the Administrator's judgment that the substance is an air pollutant and that there is sufficient evidence to establish that the pollutant is known to cause or can reasonably be anticipated to cause in humans one or more of the following:

"(i) cancer or developmental effects, or

"(ii) serious or irreversible—

"(I) reproductive dysfunctions,

"(II) neurological disorders,

"(III) heritable gene mutations,

"(IV) other chronic health effects, or

"(V) adverse acute human health effects.

"(B) DELETIONS.—The Administrator may delete a pollutant from the list under paragraph (1) if the Administrator determines that the criteria described in subparagraph (A) do not apply. For pollutants on the list which do not have a CAS number and which are comprised of more than one unique chemical substance, the Administrator may determine that one or more of such substances shall not be considered a hazardous air pollutant if the Administrator determines that such substance or substances do not meet the criteria described in subparagraph (A).

"(C) FURTHER INFORMATION.—If the Administrator determines that information on the health effects of a substance is not sufficient to make a determination required by this paragraph, the Administrator may use any authority available to the Administrator to acquire such information.

"(3) PETITIONS.—Beginning at any time after the list is published under subsection (c), any person may petition the Administrator to modify the list of hazardous air pollutants under this subsection by adding or deleting a substance. Within 18 months after receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision. Any such petition shall include a showing by the petitioner that there is adequate data on the health effects of the pollutant or other evidence adequate to support the petition. The Administrator may not deny a petition solely on the basis of inadequate resources or time for review. No air pollutant which is listed under section 108(a) may be added to the list under this section.

"(4) REVIEW.—The Administrator shall periodically review the list established by this subsection and publish the results thereof and, where appropriate, revise such list by rule.

"(c) SOURCE CATEGORY LIST.—(1) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish, and shall from time to time, but no less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and area sources designated under paragraph (3) of the air pollutants listed pursuant to subsection (b)(1).

"(2) For the categories and subcategories the Administrator lists, the Administrator shall establish emission standards under subsection (d), according to the schedule in subsection (e).

"(3) The Administrator shall list and designate, based on actual or estimated aggregate emissions of a listed pollutant or pollutants, sufficient categories and subcategories of area sources to ensure that area sources representing 90 percent of the area source emissions of each hazardous air pollutant are subject to regulation under this section. For purposes of this section, the term 'area sources' shall not include motor

vehicles or nonroad vehicles subject to regulation under title II.

"(4) The Administrator may, in the Administrator's discretion, list any category or subcategory previously regulated under this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990.

"(5) The Administrator may decide not to list a source category or subcategory, and the Administrator may withdraw a source category or subcategory from the list under this subsection, on petition of any person or on the Administrator's own motion, whenever the Administrator makes the following determination or determinations, as applicable:

"(A) In the case of hazardous air pollutants emitted by sources in the category or subcategory that may result in cancer in humans, a determination that no source in the category or subcategory (or group of sources in the case of area sources) emits such hazardous air pollutants in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual in the population who is most exposed to emissions of such pollutants from the source (or group of sources in the case of area sources).

"(B) In the case of hazardous air pollutants that may result in adverse health effects in humans other than cancer, a determination that emissions from no source in the category or subcategory concerned (or group of sources in the case of area sources) exceed a level which is adequate to protect public health with an ample margin of safety.

The Administrator shall grant or deny a petition under this paragraph within 1 year after the petition is filed.

"(6) The Administrator shall establish a separate category or subcategory covering research or laboratory facilities, as necessary to assure the equitable treatment of such facilities. For purposes of this section, 'research or laboratory facility' means any stationary source whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner.

"(d) MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY EMISSION STANDARDS.—(1) The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources in accordance with the schedule provided in subsection (e). The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards. The Administrator may set standards for emissions of radionuclides from a category or subcategory separately from regulating other listed pollutants emitted by that category or subcategory.

"(2) Emission standards promulgated under this subsection shall be applicable to new and existing major sources and area sources in each category or subcategory, and shall require the maximum degree of reduction in emissions of the air pollutants subject to this section (including a prohibition of such emissions, if achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any nonair quality and other air quality-related health and environmental impacts, and energy requirements, determines is achievable through application of measures, processes, methods, systems or techniques including measures which—

"(A) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications such as reuse or recycling;

"(B) enclose systems or processes to eliminate emissions;

"(C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

"(D) are design, equipment, work practice or operational methods, or radiation dose standards;

"(E) establish requirements for operator training or certification; or

"(F) are a combination of the above.

If the Administrator finds that it is not feasible to prescribe or enforce an emission standard, the Administrator may instead issue regulations requiring any of the measures identified in this paragraph, or any combination of such measures. None of the measures described in subparagraphs (A) through (D) shall, consistent with the provisions of section 114(c), in any way compromise any United States patent or United States trademark right, or any confidential business information, or any trade secret or any other intellectual property right.

"(3) The maximum degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator. Emissions standards promulgated under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in the same category or subcategory but shall be at least as stringent as the emissions controls achieved in practice by the best controlled similar sources. Consistent with the preceding provisions of this paragraph, these determinations for new and existing sources, shall take into account energy, environmental, economic impacts, and other costs as well as any other factors identified by the Administrator by rule. If the Administrator finds that no similar source employs controls reflecting the maximum available control technolgy, the Administrator may establish emissions standards or regulations meeting the requirements of this section without regard to the performance of similar sources. Emission standards under this section for radionuclides shall be set based upon radiation dose.

"(4) Emission standards or other regulations promulgated under this subsection shall be effective upon promulgation.

"(5) In promulgating emission standards for a source category under this subsection, the Administrator shall prescribe a date for compliance with the standards for existing sources. In no event shall such date be later than 3 years after promulgation of the standards.

"(6) With respect only to categories and subcategories of area sources listed pursuant to subsection (c), the Administrator may, in lieu of the authorities provided in paragraph (2) and subsection (f), elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of listed hazardous air pollutants.

"(7) The Administrator shall from time to time, but no less often than every 8 years after promulgation of standards under this subsection, review and, if appropriate, revise such standards.

"(e) SCHEDULE FOR STANDARDS.—(1) The Administrator shall promulgate standards for categories and subcategories listed under subsection (c) according to the following schedule:

"(A) Emission standards for not less than 10 categories or subcategories shall be promulgated not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) Emission standards for 25 per centum of the listed categories and subcategories shall be promulgated not later than 4 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(C) Emission standards for an additional 25 per centum of the listed categories and subcategories shall be promulgated not later than 7 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(D) Emission standards for the remaining categories and subcategories shall be promulgated not later than 10 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(E) In the case of source categories and subcategories listed after publication of the initial list required under subsection (c)(1), emission standards under this section for the category or subcategory shall be promulgated within 10 years after the date of the enactment of the Clean Air Act Amendments of 1990, or within 2 years after the date on which such category or subcategory is listed, whichever is later.

"(2) In determining priorities for promulgating standards under subsection (d), the Administrator shall consider—

"(A) the quantity and location of emissions or reasonably anticipated emissions of air pollutants subject to this section that each category or subcategory will emit;

"(B) the known or anticipated adverse effects of such pollutants on public health; and

"(C) the efficiency of grouping categories or subcategories according to the pollutants emitted, or the processes or technologies used.

"(f) RESIDUAL RISK.—(1) Not later than 8 years after the date of the enactment of the Clean Air Act Amendments of 1990 the Administrator shall investigate and report, after consultation with the Surgeon General and after an opportunity for public comment, to Congress on:

"(A) Methods of calculating the risk to public health remaining, or likely to remain, from sources subject to regulation under this section after the application of standards under subsection (d).

"(B) The public health significance of such estimated remaining risk and the technologically and commercially available methods and costs of reducing such risks.

"(C) The actual health effects with respect to persons living in the vicinity of sources, any available epidemiological or other health studies, risks presented by background concentrations of hazardous air pollutants, any uncertainties in risk assessment methodology or other health assessment technique, and any negative health consequences to the community of efforts to reduce such risks.

"(D) Recommendations as to legislation regarding such remaining risk.

"(2) If Congress does not act on any recommendation submitted under paragraph (1), the Administrator shall, within 8 years after promulgation of standards for each

category or subcategory of sources pursuant to subsection (d), promulgate standards for such category or subcategory in accordance with this section (as in effect before the date of the enactment of the Clean Air Act Amendments of 1990) if promulgation of such standards is required in order, in the Administrator's judgment, to provide an ample margin of safety to protect public health in accordance with this section (as in effect before the date of the enactment of the Clean Air Act Amendments of 1990). The Administrator shall determine whether or not to promulgate such standards, and if the Administrator decides to promulgate such standards, shall promulgate the standards, 8 years after promulgation of the standards under subsection (d) for each source category or subcategory concerned. In the case of categories or subcategories for which standards under subsection (d) are required to be promulgated within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall have 9 years after promulgation of standards under subsection (d) to make the determination under the preceding sentence and, if required, to promulgate the standards under this paragraph. Nothing in subsection (c)(5) or (g)(1)(A) or in any other provision of this section shall be construed as affecting, or applying to, the Administrator's interpretation of this section, as in effect before the date of the enactment of the Clean Air Act Amendments of 1990.

"(3) Any emission standard established pursuant to this subsection shall become effective upon promulgation.

"(4) No air pollutant to which a standard under this subsection applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

"(A) such standard shall not apply until 90 days after its effective date, and

"(B) the Administrator may grant a waiver permitting such source a period of up to 2 years after the effective date of a standard to comply with the standard if the Administrator finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

"(g) ALTERNATIVE EMISSIONS LIMITATIONS.—(1) Notwithstanding the requirements of subsection (d), a State with a program approved under title IV, may issue a permit that authorizes—

"(A) a major source (or area sources in a category or subcategory in an area) to comply with alternative emission limitations in lieu of standards under this section, if the owner or operator presents evidence sufficient to demonstrate that emissions from the source (or such area sources) in compliance with such limitations—

"(i) in the case of hazardous air pollutants emitted by the source (or such area sources ) which may result in cancer in humans, do not cause a lifetime risk of cancer greater than one in 1,000,000 to the actual person who is most exposed to emissions of such pollutants from such source (or group of sources in the case of area sources); and

"(ii) in the case of hazardous air pollutants that may result in adverse health effects in humans other than cancer, do not exceed a level which is adequate to protect public health with an ample margin of safety;

"(B)(i) any existing source, for which the owner or operator demonstrates that it has achieved a reduction of 90 percent or more in emissions of listed pollutants (95 percent or more in the case of listed particulate pollutants) from the source before proposal of an applicable standard promulgated pursuant to subsection (d), to meet emission limitations based on such reduction in lieu of such standard for a period of 5 years from the otherwise applicable compliance date; the reduction shall be determined with respect to verifiable and actual emissions on an annual average basis and in a base year not earlier than calendar year 1987, unless emissions in the base year are artificially or substantially greater than emissions in other years before implementation of emissions reduction measures;

"(ii) any existing source to comply with a standard under subsection (d) 5 years after promulgation if the source, within 5 years before proposal of the standard under subsection (d), has achieved a level of emission rate or emission reduction which complies (or would comply if the source is not subject to such standards) with the best available control technology determination (as defined in section 169(3)), which is applicable to the source category and prevailing at the time the reduction is achieved; and

"(iii) any existing source to comply with a standard under subsection (d) 5 years after promulgation if the source, within 5 years before proposal of the standard under subsection (d), has achieved a level of emission rate or emission reduction which complies (or would comply if the source is not subject to such standard) with the lowest achievable emissions rate (as defined by section 171) which is applicable to the source category and prevailing at the time the reduction is achieved.

The Administrator shall review emissions from sources subject to emissions limitations under subparagraph (B) according to subsection (f) at the same time that other sources in the category or subcategory are reviewed.

"(2) The Administrator shall promulgate regulations to carry out paragraph (1) as expeditiously as practicable, but not later than 24 months after the date of the enactment of the Clean Air Act Amendments of 1990.

"(3) Rules published pursuant to paragraph (1) may identify categories or subcategories of sources listed under subsection (c) for which no alternative emission limitations may be established, including categories or subcategories of area sources for which emission standards are promulgated to control combined emissions from sources, rather than emissions of individual sources.

"(4) The regulations under paragraph (1) shall establish methods for assessing the significance of public health risks and methods for evaluating evidence presented by an owner or operator applying for alternative emissions limitations under this subsection. Any modeling demonstration performed to support a showing under subsection (g)(1)(A) shall comply with such regulations. Any stack height credit used in a modeling demonstration shall be based on the lesser of actual stack height of the source as it existed on January 1, 1989, or the stack height credit as provided in regulations issued by the Administrator.

"(5) An existing source which achieves the reduction referred to in paragraph (1)(B)(i) after the proposal of an applicable standard but before January 1, 1994, may qualify under paragraph (1)(B)(i) if the source makes an enforceable commitment to achieve such reduction before the proposal of the standard. Such commitment shall be enforceable to the same extent as a regulation under this section.

"(6) Any State with a program approved under title IV may issue a permit that grants an extension permitting an existing source up to 2 additional years to comply with standards under subsection (d) if such additional period is necessary for the installation of controls. An additional extension of up to 3 years may be added for mining waste operations if the 5-year compliance time is insufficient to dry and cover mining waste in order to reduce emissions of any pollutant listed under subsection (b).

"(7) No alternative emission limitation under this paragraph shall take effect until it is approved by the Administrator.

"(8) If the State in which a source is located does not have a program approved under title IV, the Administrator may grant any extensions authorized under this subsection for such source.

"(h) PRECONSTRUCTION AND OPERATING REQUIREMENTS.—After the effective date of any standard or under subsection (d) or (f), or an alternative emission limitation under subsection (g)—

"(1) no person may construct any new major source subject to such emission standard or limitation unless the Administrator, or a State with a permit program approved under title IV, determines that such source, if properly constructed and operated, will comply with the standard or limitation; and

"(2) no person may operate any new or existing source subject to an emission standard or limitation except in compliance with such standard or limitation (and any schedule which is applicable under subsection (d)(5) or (f)(4)).

"(i) TECHNICAL ASSISTANCE.—The Administrator shall establish and maintain an air toxics clearinghouse and center to provide technical information and assistance to State and local agencies and, on a cost recovery basis, to others on control technology, health and ecological risk assessment, risk analysis, ambient monitoring and modeling, and emissions measurement and monitoring. The Administrator shall use the authority of section 103 to examine methods for preventing, measuring, and controlling emissions and evaluating associated health and ecological risks. Where appropriate, such activity shall be conducted with not-for-profit organizations.

"(j) PRESIDENTIAL EXEMPTION.—The President may exempt any stationary source from compliance with any standard or limitation under this section for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed 2 years. The President shall report to Congress with respect to each exemption (or extension thereof) made under this subsection.

"(k) SAVINGS PROVISION.—(1) Any standard under this section in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in force and effect after such date unless modified as provided in this section before the date of the enactment of such Amendments or under such Amendments. Each such standard shall be reviewed and, if appropriate, revised, to comply with the requirements of subsection (d) within 10 years after the date of the enactment of the Clean Air Act Amendments of

*1990. If a timely petition for review of any such standard under section 307 is pending on such date of enactment, the standard shall be upheld if it complies with this section as in effect before that date. If any such standard is remanded to the Administrator, the Administrator may in the Administrator's discretion apply either the requirements of this section, or those of this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(2) Notwithstanding paragraph (1), no standard shall be established under this section, as amended by the Clean Air Act Amendments of 1990, for radionuclide emissions from (A) elemental phosphorous plants, (B) grate calcination elemental phosphorous plants, (C) phosphogypsum stacks, or (D) any subcategory of the foregoing. This section, as in effect prior to the date of the enactment of the Clean Air Act Amendments of 1990, shall remain in effect for radionuclide emissions from such plants and stacks.*

*"(3) Notwithstanding section 307 of this Act, no action of the Administrator adding a pollutant to the list under subsection (b), listing or designating a source category or subcategory under subsection (c), or determining whether or not to promulgate a standard under subsection (f)(2), shall be final agency action subject to judicial review, except that any such action may be reviewed under such section 307, if otherwise final, when the Administrator issues emission standards for such pollutant or category.*

*"(l) ELECTRIC UTILITIES.—The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall develop and describe in the Administrator's report to Congress alternative control strategies for emissions which may warrant regulation under this section. The Administrator shall regulate electric utility steam generating units under this section if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required in this subsection.*

*"(m) ACCIDENT PREVENTION, DETECTION, AND RESPONSE.—*

*"(1) REGULATIONS AND GUIDANCE.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate, in consultation and coordination with the Secretaries of Transportation and Labor and the laws administered by the Secretaries, reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases into the ambient air of an air pollutant listed under this subsection from a stationary source subject to standards promulgated under this section and for response to such releases by the owners or operators thereof. The Administrator shall utilize the expertise of such Secretaries and others in promulgating such regulations. As appropriate, such regulations shall cover the use, operation, repair, replacement, and maintenance of equipment to monitor, detect, inspect, and control such releases, including the training of persons in the use and maintenance of such equipment and in the conduct of periodic inspections. The regulations shall include procedures and measures for emergency response after an accidental release in order to protect public health and the environment. The regulations shall cover storage, as well as operations. To ensure effectiveness, reasonableness, and avoidance of duplication, such regulations shall be promulgated and implemented in a manner consistent with other applicable law, including the other provisions of this section, and consolidated to the maximum extent practicable with similar requirements under other law. The regulations shall, to the greatest extent possible, recognize differences in size, operations, processes, class and categories of sources, and the voluntary actions of such sources to prevent such releases and respond to such releases. The regulations shall take effect 3 years after the date of promulgation, or 3 years after the addition of a substance to the list under this subsection, whichever is later.*

*"(2) LIST.—As part of the regulations under paragraph (1), the Administrator shall promulgate an initial list of significant air pollutants which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause serious adverse effects to public health and the environment. For purposes of promulgating such list, the Administrator shall use the list of extremely hazardous substances published under the Superfund Amendments and Reauthorization Act of 1986, with such modifications as the Administrator deems appropriate. The list shall include ammonia (CAS Number 7664417) and hydrogen sulfide (CAS Number 7783064). The regulations shall include an explanation of the basis for establishing the list. The list may be revised from time to time by the Administrator and shall be reviewed at least every 5 years. No air pollutant for which a national primary ambient air quality standard has been established shall be included on any such list. No substance, practice, process, or activity regulated under part B shall be subject to regulation under this subsection. At the time any air pollutant is listed, the Administrator shall establish a reasonable minimum quantity for the pollutant, taking into account toxicity, dispersibility, combustibility, or flammability and the likelihood of an accidental release.*

*"(3) DEFINITIONS.—For purposes of this subsection:*

*"(A) RELEASE.—The term 'release' means the direct or indirect introduction of any substance into the ambient air.*

*"(B) ACCIDENTAL RELEASE.—The term 'accidental release' means a release which is not routine and which is not authorized pursuant to any permit or emission limitation or standard under this Act or any other provision of Federal or State law.*

*"(n) PROTECTION OF GREAT LAKES AND CHESAPEAKE BAY.—*

*"(1) STUDY AND REPORT TO CONGRESS.—The Administrator shall investigate the sources of atmospheric deposition of hazardous air pollutants (and their atmospheric transformation products) on the Great Lakes, the Chesapeake Bay, and their tributary waters and evaluate the adverse effects to human health and the adverse environmental effects, including the tendency to bioaccumulate and effects resulting from indirect exposure pathways, caused by such deposition. Such investigation and evaluation shall include monitoring of listed substances in the ambient air, biological sampling for such substances (or their organic forms) in fish and wildlife within the Great Lakes, the Chesapeake Bay, and their tributary waters, and an analysis to characterize the sources of such substances. The Administrator shall report to Congress on the results of the investigation and evalution within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall afford an opportunity for public review of the report before submitting it to Congress and shall include a summary of the public comments with the report.*

*"(2) ADDITIONAL REGULATION.—As part of the report to Congress, the Administrator shall determine whether the other provisions of this section are adequate to prevent serious adverse effects to human health and serious or widespread environmental effects, including such effects resulting from indirect exposure pathways, associated with atmospheric deposition on the Great Lakes, the Chesapeake Bay, and their tributary waters of hazardous air pollutants (and their atmospheric transformation products). The Administrator shall take into consideration the tendency of such pollutants to bioaccumulate. Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on such report and determination, promulgate, in accordance with this section, such further emissions standards or control measures as may be necessary and appropriate to prevent such effects, including effects due to bioaccumulation and indirect exposure pathways.*

*"(o) TECHNICAL ASSISTANCE FOR SMALL SOURCES.—The Administrator (and States with permit programs) shall establish means and measures to supply technical assistance and information to area sources and stationary sources that are not major stationary sources to help carry out the requirements of this section, including meeting the applicable standards and obtaining needed permits. The assistance should cover information on availability and types of equipment, measures, methods, practices, processes, and techniques in reducing emissions of air pollutants and preventing and detecting accidents. The Administrator should establish and maintain a clearinghouse of such information.*

*"(p) HYDROFLUORIC ACID.—(1) Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study to determine if there is a net benefit to public safety, human health, and the environment from the use by oil refineries of any substance or process which is an alternative to hydrofluoric acid. The study shall include an analysis of the loss of human life or damage to human health in the event of a reasonable worst-case accidental release of hydrofluoric acid or sulfuric acid or other alternative substance, the customary air and water emissions associated with the use of hydrofluoric acid or sulfuric acid or other alternative, the production of waste from the customary use of hydrofluoric acid or sulfuric acid or other alternative, and the risk and consequences of accidents from the transportation of hydrofluoric acid or sulfuric acid or other alternative. In making the determination regarding net benefit, the Administrator shall not consider the financial costs associated with the use of any alternative accidental release mitigation systems which could be rendered inoperable in the event of an earthquake, or the cause of a worst-case accidental release. In making the determination regarding net benefit, if the Administrator considers the likelihood of the risk or danger to human health and the environment from a worst-case accidental hydrofluoric acid release, the Administrator*

shall also consider similar probabilities resulting from the use of any alternative. In the event that existing data on hydrofluoric acid or sulfuric acid or alternative proves inadequate for the study, the Environmental Protection Agency shall perform the necessary data collection or field tests. The study shall examine both acute and chronic risks.

"(2) If the Administrator determines there is an alternative that provides a net benefit to public safety, human health, and the environment, not later than 1 year and 3 months after the completion of the study under paragraph (1), the Administrator shall promulgate regulations requiring each oil refinery in the Nation to convert to such alternative within 10 years. The Administrator is authorized to make differing determinations on a site-specific basis.

"(3) Not later than 2 years after the completion of the study under paragraph (1), the Administrator shall make recommendations to Congress, and is authorized to promulgate regulations to implement, methods to mitigate or eliminate the danger of a worst-case accidental release of hydrofluoric acid at all other commercial facilities, including the use of alternative processes or substances which provide a net benefit to public safety, human health, and the environment, and relocation of facilities to unpopulated areas.

"(q) MICKEY LELAND URBAN AIR TOXICS RESEARCH CENTER.—

"(1) ESTABLISHMENT.—The Administrator shall oversee the establishment of a National Urban Air Toxics Research Center, to be located at a university, a hospital, or other facility capable of undertaking and maintaining similar research capabilities in the areas of epidemiology, oncology, toxicology, pulmonary medicine, pathology, and biostatistics. The center shall be known as the Mickey Leland National Urban Air Toxics Research Center. The geographic site of the National Urban Air Toxics Research Center should be further directed to Harris County, Texas, in order to take full advantage of the well developed scientific community presence currently on site at the Texas Medical Center as well as the extensive data previously compiled from the comprehensive monitoring system currently in place.

"(2) BOARD OF DIRECTORS.—The National Urban Air Toxics Research Center shall be governed by a Board of Directors to be comprised of 9 members, the appointment of which shall be allocated pro rata among the Speaker of the House, the majority leader of the Senate and the President. The members of the Board of Directors shall be selected based on their respective academic and professional backgrounds and expertise in matters relating to public health, environmental pollutions, and the industrial hygiene. The duties of the Board of Directors shall be to determine policy and research guidelines, submit views from center sponsors and the public and issue periodic reports of center fundings and activities.

"(3) SCIENTIFIC ADVISORY PANEL.—The Board of Directors shall be advised by a Scientific Advisory Panel, the 13 members of which shall be appointed by the Board, and to include eminent members of the scientific and medical communities. The Panel membership may include scientists with relevant experience from the National Institute of Environmental Health Sciences, the Center for Disease Control, the Environmental Protection Agency, the National Cancer Institute, and others, and the Panel shall conduct peer review and evaluate research results. The Panel shall assist the Board in developing the research agenda, reviewing proposals and applications, and advise on the awarding of research grants.

"(4) FINDINGS.—The center shall be established and funded with both Federal and private source funds.

"(r) OIL AND GAS WELLS.—(1) Notwithstanding the provisions of this section, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources, and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this section.

"(2) In the case of oil and gas wells listed under this section, in promulgating regulations under this section, the Administrator shall determine whether oil and gas wells present a risk greater than that referred to in subsection (g)(1)(A). If the Administrator determines that such wells do present a risk greater than the levels referred to in subsection (g)(1)(A) the Administrator shall promulgate standards under this section applicable to such wells.

"(s) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—(1) The Secretary of Energy and the Administrator shall jointly undertake a 6-year study to assess coke oven production emission control technologies and to assist in the development and commercialization of technically practicable and economically viable control technologies which will have the potential to significantly reduce emissions of hazardous air pollutants from coke oven production facilities. In identifying control technologies, the Secretary and the Administrator shall consider the range of existing coke oven operations and battery design and the availability of sources of materials for such ovens as well as alternatives to existing coke oven production design.

"(2) The Secretary and the Administrator are authorized to enter into agreements with persons who propose to develop, install, and operate coke production emission control technologies which have the potential for significant emissions reductions of hazardous air pollutants provided that Federal funds shall not exceed 50 percent of the cost of any project assisted pursuant to this subsection.

"(3) The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study shall make recommendations to the Administrator identifying practicable and economically viable control technologies for coke oven production facilities to reduce residual risks remaining after implementation of the standard under subsection (d) (MACT).

"(4) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1996 to carry out the program authorized by this subsection.

"(t) REPORT ON COSTS AND BENEFITS.—Commencing on January 1, three years after the date of the enactment of the Clean Air Act Amendments of 1990 and annually thereafter, the Government Accounting Office, in consultation with other agencies, such as the Environmental Protection Agency, the Department of Labor, the Department of Commerce, the United States Trade Representative, the National Academy of Sciences, the National Academy of Engineering, the Council on Environmental Quality, and the Surgeon General, shall provide a report to Congress on the incremental human health and environmental benefits and incremental costs associated with compliance with the provisions of the Maximum Achievable Control Technologies prescribed by the Clean Air Act Amendments of 1990. The report shall include, for each source category and subcategory for which MACT is prescribed, the effects on human life, human health, the environment, and the economy (including both positive impacts and impacts detrimental to jobs and communities resulting from loss of employers and employment, etc.), energy security impacts, the actual emissions reductions as a result of the Clean Air Act Amendments of 1990, the effect on United States products and industrial competitiveness in national and international markets and any impacts on employment in the affected areas contributed to by the emission control requirements.".

TITLE IV—PERMITS

Sec. 401. Permits.

SEC. 401. PERMITS.

Add the following new title IV after title III:

"TITLE IV—PERMITS

"Sec. 401. Definitions.
"Sec. 402. Permit programs.
"Sec. 403. Permit applications.
"Sec. 404. Permit requirements and conditions.
"Sec. 405. Notification to Administrator and contiguous states.
"Sec. 406. Other authorities.
"Sec. 407. Small source and technical and environmental compliance assistance program.

"SEC. 401. DEFINITIONS.

As used in this title—

"(1) AFFECTED SOURCE.—The term 'affected source' shall have the meaning given such term in title V.

"(2) MAJOR SOURCE.—The term 'major source' means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is either of the following:

"(A) A major source as defined in section 112.

"(B) A major stationary source as defined in section 302 or part D of title I.

"(3) TERMS DEFINED IN SECTION 112.—For sources subject to standards under section 112, the terms 'new source', 'stationary source', and 'area source' shall have the meaning given such terms in that section.

"(4) TERMS DEFINED IN SECTION 111.—For sources subject to standards under section 111, the terms 'new source', 'modification', 'existing source', and 'stationary source' shall have the meaning given such terms in that section.

"(5) SCHEDULE OF COMPLIANCE.—The term 'schedule of compliance' means a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation or emission prohibition.

"(6) PERMITTING AUTHORITY.—The term 'permitting authority' means the Administrator or the air pollution control agency authorized by the Administrator to carry out a permit program under this title.

"SEC. 402. PERMIT PROGRAMS.

"(a) VIOLATIONS.—After the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate

an affected source (as provided in title V), a major source, any other source (including an area source) subject to standards or regulations under section 111 or 112, any source required to have a permit under parts C or D, or any other stationary source designated by regulations promulgated by the Administrator, except in compliance with a permit issued by a permitting authority under this title. Nothing in this subsection shall be construed to alter the requirements of sections 165, 172, and 173 regarding the requirement that a permit be obtained before construction. The Administrator may, in the Administrator's discretion, promulgate regulations to exempt one or more source categories from the requirements of this subsection if the Administrator finds that such an exemption would be consistent with the purposes of this Act.

"(b) REGULATIONS.—The Administrator shall promulgate within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990 regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include each of the following:

"(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of applications.

"(2) Monitoring and reporting requirements.

"(3)(A) A requirement under State law that the owner or operator of all sources subject to the requirement to obtain a permit under this title pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable costs of developing and administering the permit program, including the reasonable costs of—

"(i) reviewing and acting upon any application for such a permit,

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of the enactment of the Clean Air Act Amendments of 1990, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

"(iii) emissions and ambient monitoring,

"(iv) preparing generally applicable regulations, or guidance,

"(v) modeling, analyses, and demonstrations, and

"(vi) preparing inventories and tracking emissions.

"(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

"(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in subparagraphs (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than $25 per ton of each regulated pollutant, or such other amount as the Administrator may determine adequately reflects the reasonable costs of the permit program.

"(ii) As used in this subparagraph, the term 'regulated pollutant' shall mean (I) a volatile organic compound; (II) each pollutant regulated under section 111 or 112; and (III) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

"(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

"(iv) The requirements of clause (i) shall not apply if the permitting authority demonstrates that collecting an amount less than the amount specified under clause (i) will meet the requirements of subparagraph (A).

"(v) The fee calculated under clause (i) shall be increased (consistent with the need to cover reasonable costs) in each year beginning after the year of the enactment of the Clean Air Act Amendments of 1990 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For purposes of this clause—

"(I) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year, and

"(II) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

"(C)(i) If the Administrator determines, under subsection (d), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under subsection (i), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this title, collect reasonable fees from the sources identified under subparagraph (A) without regard to the requirements of subparagraph (B).

"(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes).

"(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected. Any fee required to be collected by a State or interstate agency under this subsection shall be utilized solely to support the air pollution control permit program of such State or interstate agency as provided in this paragraph.

"(4) Requirements for adequate personnel and funding to administer the program.

"(5) A requirement that the permitting authority have adequate authority to:

"(A) issue permits and assure compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this Act;

"(B) issue permits for a fixed term, not to exceed 5 years;

"(C) assure that upon issuance or renewal permits incorporate emission limitations and other requirements in an applicable implementation plan;

"(D) terminate, modify, or revoke and reissue permits for cause; and

"(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in an amount not less than $10,000 per day for each violation, and appropriate criminal penalties.

"(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete and for processing such applications for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications.

"(7) Authority to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 403(e), subject to the provisions of section 114(c) of this Act.

"(c) SINGLE PERMIT.—A single permit may be issued for a facility with multiple sources.

"(d) SUBMISSION AND APPROVAL.—Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Governor of each State shall develop and submit to the Administrator a permit program under State law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority to carry out the program. Not later than 1 year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator may approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b). If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within 180 days after receiving notification. If the Governor fails within such period to resubmit an approvable program, the Administrator—

"(1) shall, to the extent the permit program would implement an applicable implementation plan, withhold final action on plan revisions affecting one, or a small group of, major sources; and

"(2) may in the Administrator's discretion take either or both of the following actions:

"(A) apply any of the sanctions specified in section 179(b) of this Act other than the sanction specified in section 179(b)(2); or

"(B) promulgate a program, or partial program, under this title.

"(e) SUSPENSION.—The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may, in such notice, retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this subsection should be construed to limit the Administrator's ability to enforce permits issued by a State.

"(f) PARTIAL PERMIT PROGRAM.—The Governor of a State may submit, and the Adminis-

trator may approve, a partial permit program. No partial permit program shall be approved unless, at a minimum, it applies, and ensures compliance with, this title and each of the following:

"(1) All requirements established under title V applicable to 'affected sources'.

"(2) All requirements established under section 112 applicable to 'major sources', 'area sources,' and 'new sources'.

"(3) All requirements of title I (other than section 112) applicable to sources required to have a permit under this title.

Approval of a partial program shall not relieve the State of its obligation to submit a complete program, nor from the application of any sanctions under this Act for failure to submit an approvable permit program.

"(g) INTERIM APPROVAL.—If a program (including a partial permit program) submitted under this title substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than 2 years after such approval, and may not be renewed.

"(h) EFFECTIVE DATE.—The effective date of a permit program, or partial or interim program, approved under this title, shall be the effective date of approval by the Administrator.

"(i) ADMINISTRATION AND ENFORCEMENT.—Whenever the Administrator makes a preliminary determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, the Administrator shall notify the permitting authority of such determination and the reasons therefor. Such notice shall be made public. If the permitting authority fails to take action to assure adequate administration and enforcement, the Administrator may in the Administrator's discretion, but not before 90 days after issuing such notice, take one or more of the following actions—

"(1) withdraw approval of the program or portion by rule;

"(2) propose to apply any of the sanctions specified in section 179(b) of this Act other than the sanction specified in section 179(b)(2); or

"(3) promulgate a program, or portion of a program, under this title.

"SEC. 403. PERMIT APPLICATIONS.

"(a) APPLICABLE DATE.—Any source specified in section 402(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates—

"(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 402(a).

"(b) COMPLIANCE PLAN.—(1) The regulations required by section 402(b)(1) shall include a requirement that there is submitted with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months.

"(2) The regulations shall further require the permittee to periodically certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report, consistent with provisions of the United States Constitution regarding self-incrimination, any violations of such requirements to the permitting authority.

"(c) DEADLINE.—Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible corporate official, who shall certify the accuracy of the information submitted.

"(d) TIMELY AND COMPLETE APPLICATIONS.—Except for sources required to have a permit before construction under sections 165, 172, or 173, if an applicant has submitted a timely and complete application for a permit required by this title, but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit under this title shall be in violation of section 402(a) before the date on which the source is required to submit an application under subsection (c).

"(e) COPIES; AVAILABILITY.—A copy of each permit application, compliance plan, emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

"SEC. 404. PERMIT REQUIREMENTS AND CONDITIONS.

"(a) CONDITIONS.—Each permit issued under this title shall include emission limitations and standards, a schedule of compliance, and such other conditions as are necessary to assure compliance with applicable requirements.

"(b) MONITORING AND ANALYSIS.—The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act.

"(c) INSPECTION ENTRY, MONITORING CERTIFICATION AND REPORTING.—Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

"(d) GENERAL PERMITS.—The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this title. No source covered by a general permit shall thereby be relieved from the obligation to file an application under section 403.

"(e) TEMPORARY SOURCES.—The permitting authority may issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including ambient standards and compliance with any applicable increment or visibility requirements under part C of title I. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

"(f) NO LESS STRINGENT REQUIREMENT.—(1) A permit may not be reissued or modified to contain emission limitations or other requirements that are less stringent than the comparable emission limitations or requirements in the previous permit or that applied to the source under an applicable implementation plan.

"(2) Notwithstanding paragraph (1) of this subsection, a permit may be reissued or modified, in accordance with section 405 of this title, to contain a less stringent emission limitation or other requirement (other than standards established under section 111 or 112) if the applicant shows that the revised emission limitation or requirement is consistent with any demonstration of attainment and any progress requirement in an approved implementation plan, the requirements of part C or section 173 of the Act, and will not otherwise interfere with attainment of the ambient air quality standards, progress requirements, and any other requirements of this Act and that—

"(A) the increased emissions authorized by the permit are compensated for by emissions reductions from another permitted facility, as determined under rules prescribed by the Administrator;

"(B) material and substantial alterations or additions to the permitted source occurred after permit issuance;

"(C) information is available that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and that, if known, would have justified the application of a less stringent emission limitation or requirement at that time;

"(D) technical mistakes or mistaken interpretations of law were made in issuing the permit; or

"(E) the permittee demonstrates, in accordance with procedures prescribed by the Administrator, that it has installed the controls required to meet the emission limitations and requirements in the permit and has properly constructed and tested the facility, but has nevertheless been unable to achieve the emission limitations specified in the permit, in which case the limitations in the revised, reissued, or modified permit may reflect the level of emission control actually achieved.

"(3) No permit may be reissued to contain emission standards less stringent than those established under sections 111 or 112 and applicable to the source unless the applicable standard has been revised, or, for a standard under section 112, an alternative emission limitation has been established under section 112(g).

"(g) COMPLIANCE.—Compliance with a permit issued under this title shall be deemed compliance with section 402. Except as otherwise provided by the Administrator by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of this Act. The preceding sentence shall not apply in the case of a standard issued under

section 112(f). Compliance with a permit issued under a partial program under section 402(f) shall be deemed compliance only with those requirements for which the program was approved.

"SEC. 405. NOTIFICATION TO ADMINISTRATOR AND CONTIGUOUS STATES.

"(a) TRANSMISSION AND NOTICE.—(1) Each permitting authority shall transmit to the Administrator a copy of each permit application, including any compliance plan and any application for alternative emission limitations under section 112(g), or for a permit modification, submitted under this title, and shall provide notice, in accordance with regulations promulgated by the Administrator, of every action related to the consideration of the application, including each permit proposed to be issued by the authority.

"(2) The permitting authority shall notify all States contiguous to the State in which the emission originates of each permit application, and each draft permit or proposed permit forwarded to the Administrator under this section, and shall provide an opportunity for such States to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and the reasons therefor.

"(b) OBJECTION BY EPA.—The permitting authority shall respond in writing if the Administrator (1) within 45 days after receipt of the proposed permit under subsection (a)(1), or (2) within 45 days after receiving notification under subsection (a)(2), objects in writing to its issuance as not in compliance with the requirements of this Act, including the requirements of section 110(a)(2)(D). With the objection, the Administrator shall provide a statement of the reasons for the objection. A copy of the objection and statement shall be provided to the applicant.

"(c) ISSUANCE OR DENIAL.—If the permitting authority fails within 90 days after the date of an objection under subsection (b), to submit a permit revised to meet the objection, the Administrator shall issue or deny the permit in accordance with the requirements of this title. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection.

"(d) WAIVER OF NOTIFICATION REQUIREMENT.—(1) The Administrator may waive the requirements of subsections (a) and (b) at the time of approval of a permit program under this title for any category (including any class, type, or size within such category) of sources covered by the program.

"(2) The Administrator may, by regulation, establish categories of sources (including any class, type, or size within such category) to which the requirements of subsections (a) and (b) shall not apply.

"(3) The Administrator may exclude from any waiver under this subsection notification under paragraph (a)(2). Any waiver granted under this subsection may be revoked or modified by the Administrator by rule.

"(e) REFUSAL OF PERMITTING AUTHORITY TO TERMINATE, MODIFY, OR REVOKE AND REISSUE.—If the Administrator finds that cause exists under section 402(b)(5)(D) to terminate, modify, or revoke and reissue a State permit under this title, the Administrator shall notify the permitting authority and the source of the Administrator's finding. The permitting authority shall, within 90 days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend such 90 day period for an additional 90 days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b). If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within 90 days, the Administrator may, after notice and in accordance with fair and reasonable procedures, terminate, modify, or revoke and reissue the permit.

"SEC. 406. OTHER AUTHORITIES.

"(a) STATE OR INTERSTATE AUTHORITIES.—Nothing in this title shall prevent a State, or interstate permitting authority, from establishing additional permitting requirements not inconsistent with this Act.

"(b) ACID DEPOSITION PROGRAM.—Nothing in this title shall be construed to authorize the Administrator, or a State, to modify or revoke any allowance granted under title V.

"SEC. 407. SMALL SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.

"(a) PLAN REVISIONS.—Consistent with sections 110 and 112, each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under this section, plans for establishing a small source technical and environmental compliance assistance program. Such submission shall be made within 24 months after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve such program if it includes each of the following:

"(1) Adequate mechanisms for developing, collecting, evaluating, and coordinating information concerning compliance methods and technologies for small sources.

"(2) Adequate mechanisms for advising small sources on pollution prevention, including providing information concerning alternative technologies, process changes, products, and methods of operation that help reduce air pollution.

"(3) A designated State office within the relevant State agency to serve as ombudsman for small sources in connection with the implementation of this Act.

"(4) A program for permits that meets the requirements of subsection (c).

"(5) Adequate mechanisms to assure that small sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under this Act.

"(b) PROGRAM.—The Administrator shall establish within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990 a small source technical assistance program. Such program shall—

"(1) assist the States in the development of the program required under subsection (a) and section 112(o) (relating to technical assistance for small sources);

"(2) issue technical guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution prevention methods applicable to small sources; and

"(3) provide for implementation of the program required under subsection (c) in any State that fails to submit an applicable program under that paragraph.

"(c) STATE PERMIT PROGRAM.—The State shall establish a permit program for small sources located within a nonattainment area, ozone transport area, or subject to a standard under section 112 consistent with the other provisions of this title. Such program shall provide that—

"(1) a small source shall have the option of obtaining an individual permit under this subsection as a substitute for any general permit issued under this title;

"(2) such individual permit shall be developed after consultation with the small source or with duly authorized representatives of the small sources;

"(3) individual permits issued under this subsection to small sources shall require compliance with applicable standards, regulations, or requirements under this Act, including emission limitations, pollution control measures, and recordkeeping and reporting requirements under this Act, except that methods of and time for compliance with any such standard or requirement may be modified for a small source in such permit based on the technical and financial capability of the small source or group of sources and the availability of less burdensome alternatives, and, in particular, pollution prevention measures; any such modifications shall achieve equivalent emission reductions consistent with the public health, welfare, and environmental protection goals and deadlines of this Act;

"(4) any individual permit issued to a small source under this subsection shall be issued in accordance with the procedures of this title, and shall be subject to review by the Administrator, as provided in this title;

"(5) the State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of a small source; and

"(6) requirements for continuous emission monitoring will not be imposed on a small source (or sources) unless the State (or the Administrator) has determined that such requirements are necessary and appropriate.

"(d) ELIGIBILITY.—For purposes of this section, eligibility for participation in the program under this subsection shall be limited to small sources (as defined in this Act) which are small businesses (as defined in the Small Business Act). The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from coverage any category or subcategory of sources that the Small Business Administrator determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(e) MONITORING.—The Administrator shall direct the Agency's Office of Small and Disadvantaged Business Utilization through the Small Business Ombudsman (hereinafter in this section referred to as the 'Ombudsman') to monitor the Small Business Environmental Compliance Assistance Program under this subsection. In carrying out such monitoring activities, the Ombudsman shall—

"(1) render advisory opinions on the overall effectiveness of the Small Source Technical and Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(2) make periodic reports to the Congress on the compliance of the Small Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(3) review information to be issued by the Small Source Technical and Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(4) have the Small Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(f) COMPLIANCE ADVISORY PANEL.—(1) There shall be created a Compliance Advisory Panel (hereinafter referred to as the 'Panel') on the State level of not less than 7 small business owners. This Panel shall—

"(A) render advisory opinions concerning the effectiveness of the Small Source Technical and Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(B) make periodic reports to the Administrator concerning the compliance of the State Small Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(C) review information for small stationary sources to assure such information is understandable by the layperson; and

"(D) have the Small Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(2) The Panel shall consist of—

"(A) 2 members selected by the Governor;

"(B) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and subparagraph (C) shall not apply);

"(C) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(D) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs.".

TITLE V—ACID DEPOSITION CONTROL

Sec. 501. Acid deposition control.
Sec. 502. New source performance standards.

SEC. 501. ACID DEPOSITION CONTROL.

Add the following new title after title IV:

"TITLE V—ACID DEPOSITION CONTROL

"Sec. 501. Findings and purposes.
"Sec. 502. Definitions; data.
"Sec. 503. Allowance program.
"Sec. 504. First Phase sulfur dioxide emission reduction program.
"Sec. 505. Second Phase sulfur dioxide emission reduction program.
"Sec. 506. Nitrogen oxides emission reduction program.
"Sec. 507. Permits and compliance plans.
"Sec. 508. Repowered sources.
"Sec. 509. Election for additional sources.
"Sec. 510. Excess emissions.
"Sec. 511. Monitoring, reporting, and recordkeeping requirements.
"Sec. 512. Compliance with other provisions.
"Sec. 513. Enforcement.
"Sec. 514. Report to Congress.
"Sec. 515. Clean coal technology incentives.
"Sec. 516. Severe energy supply interruptions and energy fuel supply shortages.
"Sec. 517. Protection of low-income households.
"Sec. 518. DOE units.
"Sec. 519. Auction.
"Sec. 520. Regulatory reforms to reduce air emissions.
"Sec. 521. Effect of provisions on certain Federal agencies.

"SEC. 501. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the presence of acidic compounds and their precursors in the atmosphere and in deposition from the atmosphere represents a threat to natural resources, ecosystems, materials, visibility, and public health;

"(2) the principal sources of the acidic compounds and their precursors in the atmosphere are emissions of sulfur and nitrogen oxides from the combustion of fossil fuels and other industrial processes;

"(3) the problem of acid deposition is of national and international significance and cannot be addressed adequately without effective State-Federal and international cooperation;

"(4) strategies and technologies for the control of precursors to acid deposition exist now that are economically feasible, and improved methods are expected to become increasingly available over the next decade;

"(5) current and future generations of Americans will be adversely affected by delaying measures to remedy the problem;

"(6) reduction of total atmospheric loading of sulfur dioxide and nitrogen oxides will enhance protection of the public health and welfare and the environment;

"(7) control measures to reduce acid deposition precursor emissions from steam-electric generating units should be initiated without delay.

"(b) PURPOSES.—The purpose of this title is to reduce the adverse effects of acid deposition through reductions in annual emissions of sulfur dioxide of approximately 10,000,000 tons from 1980 emission levels, and reductions in annual emissions of oxides of nitrogen of approximately 2,500,000 tons relative to their levels in the year 2000, in the 48 contiguous States and the District of Columbia, while providing for the continued use of all fossil fuels for electric generation and ensuring electric reliability. It is also the purpose of this title to encourage energy conservation and the use of renewable resources and to encourage pollution prevention as a long range strategy, consistent with the provisions of this title, for reducing air pollution and other adverse impacts of energy production and use and, to the greatest extent possible, to prevent or mitigate potential losses or shifts in employment and other socioeconomic impacts caused by such reductions and prevention.

"(c) COVERAGE.—This title shall apply only in the 48 contiguous States and the District of Columbia.

"SEC. 502. DEFINITIONS; DATA.

"(a) DEFINITIONS.—As used in this title—

"(1) AFFECTED SOURCE.—The term 'affected source' means a source that includes one or more affected units.

"(2) UNIT.—The term 'unit' means a fossil fuel-fired steam production device such as a boiler or furnace used to combust fuel to produce steam.

"(3) AFFECTED UNIT.—The term 'affected unit' means a unit for which annual allowances are allocated under this title.

"(4) ELECTRIC UTILITY STEAM GENERATING UNIT.—The term 'electric utility steam generating unit' has the meaning provided by section 112(a)(4), except that such term does not include any qualifying small power production facility or qualifying cogeneration facility (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) (A) that sells power pursuant to a long-term contract to supply electricity executed on or before December 31, 1989, or (B) with respect to which a State regulatory authority issued an order on or before December 31, 1989, directing the purchasing utility to execute such a contract with such a facility.

"(5) EXISTING ELECTRIC UTILITY STEAM GENERATING UNIT.—The term 'existing electric utility steam generating unit' means an electric utility steam generating unit that commenced commercial operation before the date of the enactment of the Clean Air Act Amendments of 1990. Any such unit which is modified, reconstructed or repowered after such date shall continue to be an existing electric utility steam generating unit for purposes of this title.

"(6) NEW ELECTRIC UTILITY STEAM GENERATING UNIT.—The term 'new electric utility steam generating unit' means any electric utility steam generating unit which is not an existing electric utility steam generating unit.

"(7) ALLOWANCE.—The term 'allowance' means an authorization, as described in section 503(f), issued by the Administrator under this title, to emit, during any single calendar year, a ton of sulfur dioxide (or nitrogen oxides in the case of nitrogen oxide allowances issued under section 509).

"(8) BASELINE.—Except as otherwise provided in this title, the term 'baseline' means the annual quantity of fossil fuel consumed, measured in millions of British thermal units ('mmBtu'), calculated as follows:

"(A) For each electric utility steam generating unit in commercial operation before January 1, 1985, the baseline shall be the average annual quantity of fuel (in mmBtu) consumed during calendar years 1985, 1986, and 1987, as recorded pursuant to Department of Energy Form 767. For any unit for which these forms were not filed, the baseline shall be the annual fuel consumption level specified for that unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2 (including where applicable, the National Utility Reference File (NURF)). The Administrator shall exclude periods during which a unit is shut down for a continuous period of 4 months or longer, and make appropriate adjustments under this paragraph. Upon petition of the owner or operator of any unit, the Administrator may make appropriate baseline adjustments for accidents that caused prolonged outages.

"(B) For each existing electric utility steam generating unit that commenced commercial operation on or after January 1, 1985, the baseline shall be the unit's average annual fuel consumption (in mmBtu) at a 65 percent capacity factor, except that upon petition of the owner or operator, the Administrator may establish as the baseline for any such unit—

"(i) the annual average fuel consumption (in mmBtu) for the first 3 full consecutive

calendar years beginning after the unit commenced commercial operation, or

"(ii) if it is not feasible to use such 3-calendar year period, the unit's annual average fuel consumption (in mmBtu) for a representative calendar year after 1985, as calculated pursuant to a method which the Administrator shall, by regulation, prescribe.

"(C) For any other unit, the baseline shall be the average annual quantity of fuel consumed (in mmBtu) by that unit, as established by the Administrator by rule.

"(9) COMPLIANCE PLAN.—The term 'compliance plan' means the compliance plan required under title IV.

"(10) CONTINUOUS EMISSION MONITORING SYSTEM.—The terms 'continuous emission monitoring system' and 'CEMS' mean the equipment used to sample, measure, analyze, and provide, on a continuous basis, a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs./mmBtu), pounds per hour (lbs./hr.)), or such other items as the Administrator may, by rule, prescribe under section 511(a).

"(11) FIRST AND SECOND PHASE.—The term 'First Phase' means the period after December 31, 1995, and before January 1, 2001, and the term 'Second Phase' means the period beginning January 1, 2001.

"(12) PERMITTING AUTHORITY.—The term 'permitting authority' has the meaning given that term in title IV.

"(13) CLEAN COAL TECHNOLOGY.—The term 'clean coal technology' means any technology, including any technology applied at the precombustion, combustion, or postcombustion stage, at a new or existing electric utility steam generating unit which will achieve significant reductions in air emissions of any pollutant or pollutants associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of the enactment of the Clean Air Act Amendments of 1990.

"(14) REPOWERING.—The term 'repowering' means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or a derivative of one or more of these technologies, or any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and of achieving significantly greater waste reduction relative to the performance of technology in widespread commercial use as of the date of the enactment of the Clean Air Act Amendments of 1990, as determined by the Administrator, in consultation with the Secretary of Energy.

"(15) STATE.—The term 'State' means one of the 48 contiguous States or the District of Columbia.

"(16) ACTUAL 1985 EMISSION RATE.—For any unit, the term 'actual 1985 emission rate' means the lesser of the rate described in subparagraph (A) or (B), expressed in lbs./mmBtu—

"(A) The unit's average emission rate for sulfur dioxide or oxides of nitrogen for the calendar year 1985 as reported in the National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2 (National Utility Reference File (NURF), if applicable).

"(B) The emission rate (if any) applicable to the unit under the applicable implementation plan for the calendar year 1985, based on documentation in existence before January 1, 1990.

In the case of an existing unit that was not in commercial operation in calendar year 1985, the term 'actual 1985 emissions rate' means the unit's emissions rate for a representative calendar year after 1985, as determined by the Administrator. The Administrator shall select the representative calendar year to be used for such purposes within 1 year after the enactment of the Clean Air Act Amendments of 1990.

"(b) CORRECTION OF DATA.—The Administrator shall, upon application or on the Administrator's own motion, by December 31, 1991, correct any factual errors in data from which affected Second Phase units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under this title. The failure of the Administrator to correct any alleged factual error in such reports shall not be subject to judicial review.

"SEC. 503. ALLOWANCE PROGRAM.

"(a) ALLOCATION OF ANNUAL ALLOWANCES FOR EXISTING UNITS.—The Administrator shall allocate annual allowances to the owner or operator of the affected units at an affected source in the annual amounts calculated under this title. First Phase allowances may not be allocated or issued for the Second Phase. Nothing in the preceding sentence shall be construed to prohibit the banking of unused First Phase allowances to be carried forward and added to allowances allocated in subsequent years, including years in the Second Phase. Except as provided in section 508(d) and 509, the removal of an existing affected unit or source from commercial operation at any time after the date of the enactment of the Clean Air Act Amendments of 1990 (whether before or after commencement of the First Phase or Second Phase) shall not terminate or otherwise affect the allocation of allowances for the First Phase or for the Second Phase to which the unit is entitled. Allowances shall be allocated and issued by the Administrator without cost to the recipient.

"(b) EPA ALLOWANCE SYSTEM REGULATIONS.—

"(1) IN GENERAL.—(A) Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate such regulations under this section as may be necessary to implement the allowance system established under this section.

"(B) The regulations under this section shall ensure that (i) allowances are issued and allocated in a timely manner, (ii) the allowance system functions effectively, efficiently, and competitively and without discrimination, (iii) allowances are reasonably transferable temporarily or permanently by purchase, lease, or otherwise, and (iv) allowances are not used to impede access to, or competition for, electric energy in any market.

"(C) The regulations under this section shall otherwise protect the integrity and value of such allowances and of the allowance system from fraud or misuse.

"(D) The regulations under this section shall be consistent with requirements for electric utility reliability, including central dispatch and the need to meet or cope with emergencies of any kind, and shall govern the issuance, transfer, holding, use, and banking of all allowances.

"(E) The regulations under this section shall provide that the allowances issued under this title may be transferred among the owners or operators of affected sources and other persons, including a multistate electric utility and new independent power producer units. Such regulations shall permit the transfer of the right to receive allowances prior to the issuance of such allowances. Such regulations shall permit transfers, including transfers by auction or through the mechanism of a reserve, only within each of the 2 major geographic regions of the country as defined by the Administrator in such regulations, except as provided in subsection (e) in the case of new units, and except that an owner or operator, as of the date of enactment of the Clean Air Act Amendments of 1990, of 2 or more affected units may transfer allowances among such units, irrespective of regional boundaries.

"(2) REVIEW AND REVISION.—The Administrator shall review the allowance program established under this section, and the regulations implementing such program, at intervals of at least every 4 years after promulgation of such regulations and shall make the results of such review public. Based on such review, the Administrator shall amend such regulations to the extent necessary, consistent with the purposes and provisions of this title.

"(3) CONSULTATION.—In the development and promulgation of regulations under this section and in the administration of the allowance program established under this section, the Administrator shall consult with, and utilize the expertise of, the Secretary of Energy and the Federal Energy Regulatory Commission. In the case of State regulated electric utilities, the Administrator shall also consult with, and obtain the advice of, the applicable electric utility ratemaking authority of the State. The Administrator shall also consult with, and obtain the advice of, representatives of regulated and nonregulated electric utilities. The Administrator shall also consult with the interested public. The Administrator shall particularly consult with the Commission and such ratemaking authorities concerning issues of operation and ownership of affected units under applicable laws, tariffs, regulations, and contractual arrangements to ensure that the allowances are properly issued and recorded and that the allowance system functions as provided by paragraph (1).

"(4) MULTIPLE OWNERSHIP.—(A) The Administrator shall include in the regulations under this section requirements under this paragraph regarding the issuance of allowances for an affected unit where the affected unit is owned by more than one person. Such regulations shall require that, unless the owners of the unit otherwise provide by contract, allowances for the affected unit shall be issued to each person owning a share in the unit in proportion to the ownership shares.

"(B) The regulations under this paragraph shall also require that, unless the owners of the unit otherwise provide by contract, whenever any owner is required by contract to contribute to the costs of control of emissions at the unit and the level of emissions control at such unit makes allowances issued to such unit available for transfer, the owners required to contribute to such costs of control shall share such transferable allowances in proportion to each owner's contribution to such costs.

"(C) The regulations under this paragraph shall also provide, for the purpose of this section, that—

"(i) the term 'owner' shall include the holder of a leasehold interest in an affected unit or any part thereof and shall not in-

clude a passive lessor, or a person who has an equitable interest through such passive lessor, whose rental payments are not based directly or indirectly upon the revenues or income from the affected unit; and

"(ii) where a utility purchases power from an affected unit under a life-of-the-unit, firm power contractual arrangement, such utility shall be considered an owner in proportion to its contractual share.

For the purposes of clause (ii) of this subparagraph, the term 'life-of-the-unit, firm power contractual arrangement' means a contractual arrangement under which a utility receives a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs for the life of the unit.

"(c) INTERPOLLUTANT TRADING.—The regulations under subsection (b) shall provide, subject to any applicable restrictions pursuant to section 520, for trading and banking of allowances for sulfur dioxide and oxides of nitrogen, including the establishment of a baseline under section 509 for emissions of oxides of nitrogen. Such regulations shall provide that, for trading purposes, 1.5 pounds of oxides of nitrogen shall be equivalent to 1.0 pound of sulfur dioxide. Interpollutant trades of allowances for use in areas failing to meet the applicable national primary ambient air quality standard for ozone, nitrogen dioxide, sulfur dioxide, or PM-10 shall be subject to approval by the Administrator in accordance with such regulations.

"(d) ALLOWANCE TRACKING SYSTEM.—(1) The Administrator shall establish a system for issuing, recording, and tracking allowances under this title, and shall specify by regulation, promulgated as provided in subsection (b), the procedures and requirements for that system.

"(2) All allowance allocations and transfers shall, upon recordation by the Administrator, be deemed a part of each unit's permit for purposes of section 507.

"(3) The Administrator shall take such steps as may be necessary to ensure that allowance transfers are recorded within 14 working days after receipt of a properly certified notice of such transfer and that persons receiving or transferring allowances file accurate annual reports regarding such transactions and that persons holding allowances during any year file accurate annual reports regarding the number of such allowances held. Transfers of allowances shall not be effective until written certification of the transfer on a proper form (signed by a responsible official of each party to the transfer) is received and recorded by the Administrator. All such transfers shall be consistent with the purposes and requirements of this title and shall not result in emissions of sulfur dioxide (or, if applicable, nitrogen oxides) in any year in excess of the total number of allowances authorizing such emissions in that year, including allowances carried forward from previous years.

"(4) In order to insure electric reliability, such regulations shall not prohibit or affect temporary increases and decreases in emissions within utility systems or power pools that result from their operations, including emergencies and central dispatch, and such temporary emissions increases and decreases shall not require transfer of allowances among units nor shall it require recordation. Notwithstanding the preceding sentence, the total tonnage of emissions in any calendar year (calculated at the end thereof) from each unit involved shall not exceed the allowances allocated to the unit for the calendar year concerned and issued to the owner or operator of the unit for that year, plus or minus allowances transferred to or from the unit for such calendar year or carried forward to that year from prior years.

"(5) Regulations under this section shall provide, consistent with the purposes of this title, for the identification of unused allowances and for such unused allowances to be carried forward and added to allowances allocated in subsequent years.

"(6) No allowance allocated to any unit for a subsequent year may be carried backward and added to allowances in an earlier year.

"(7) The provisions of section 1001 of title 18 of the United States Code shall apply to reports under this section and to the recordation of allowance transactions and holdings under this section.

"(e) NEW ELECTRIC UTILITY STEAM GENERATING UNITS.—In the Second Phase, the owner or operator of each new electric utility steam generating unit must hold allowances equal to the annual tonnage of sulfur dioxide emitted by the unit. Notwithstanding the geographic limitations referred to in subsection (b), such new units may obtain allowances from any person, consistent with the regulations issued under this section.

"(f) NATURE OF ALLOWANCES.—An allowance issued under this title is a limited authorization to emit sulfur dioxide or nitrogen oxides in accordance with the provisions of this title. Nothing in this title or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization by Act of Congress. Consistent with section 512, nothing in this section relating to allowances shall be construed as affecting the application of, or compliance with, any other provision of this Act to an affected unit or source, including the provisions related to applicable National Ambient Air Quality Standards and State implementation plans. Allowances under this title may not be extinguished by the Administrator. Nothing in this section shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges or affecting any State law regarding such State regulation or as limiting State regulation (including any prudency review) under such a State law. Nothing in this section shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established. Allowances, once issued to a person by the Administrator, may be received, held, and temporarily or permanently transferred in accordance with this title and the regulations of the Administrator without regard to whether or not a permit is in effect under title IV or section 507 with respect to the unit for which such allowance was originally issued and recorded. Each permit under this title and each permit issued under title IV for any affected unit shall provide that the affected unit may not emit an annual tonnage of sulfur dioxide in excess of the allowances allocated to that unit for the year concerned and issued to the owner or operator of the unit for that year, plus or minus the allowances transferred to or from the unit for that year or carried forward to that year from prior years. Nothing in title IV or section 507 shall be construed as affecting any allowances issued in accordance with this title or as authorizing a permitting authority to establish, in issuing a permit, conditions affecting allowances issued under this title.

"(g) PROHIBITION.—It shall be unlawful for any person to hold or transfer any allowance issued under this title, except in accordance with regulations issued by the Administrator.

"(h) ISSUANCE.—The Administrator shall issue First Phase allowances under this title promptly following the promulgation of regulations under this section. The Administrator shall issue Second Phase allowances under this title promptly following publication of the list and the making of any required adjustments under subsection (i), but no later than 6 months after publication of the final list under subsection (i).

"(i) 8,900,000 TONS OF SECOND PHASE ALLOWANCES.—

"(1) LIST OF ALLOWANCES TO BE ISSUED.—The Administrator shall publish, not later than December 31, 1991, but before issuing Second Phase allowances, a proposed list of all Second Phase allowances to be allocated and issued under this section based on this title (other than section 509). After notice and opportunity for public comment on such proposed list, but no later than December 31, 1995, the Administrator shall publish the final list of all Second Phase allowances.

"(2) 3,980,000 TONS FOR CLEAN UNITS AND SMALL UNITS.—If the Administrator determines that the total of Second Phase allowances to be issued under this title (other than under section 509) to units with an actual 1985 emissions rate below 1.2 lbs/mmBtu and to units with a nameplate capacity below 75 Mwe would be more or less than 3,980,000 tons per year, the Administrator shall adjust the number of allowances to be issued under this title for the Second Phase to those units to ensure that such tonnage will equal 3,980,000 tons per year. The Administrator shall reallocate any reduction or increase in allowances to each such affected unit on the basis of the ratio which the allowances which (but for the preceding sentence) would be issued to such unit bears to the total allowances which (but for the preceding sentence) would be issued to all of such units.

"(3) 4,920,000 TONS FOR LARGE UNITS EMITTING AT 1.2 OR ABOVE.—If the Administrator determines that the total tonnage of Second Phase allowances to be issued under this title (other than section 509) to units with an actual 1985 emissions rate of 1.2 lbs/mmBtu or greater and a nameplate capacity of 75 Mwe or greater would be more or less than 4,920,000 tons per year, the Administrator shall adjust the allowances to be issued under this title for the Second Phase to those units to ensure that such allowances will equal 4,920,000 tons per year. The Administrator shall reallocate any reduction or increase in allowances to each such affected unit on the basis of the ratio which the tonnage of allowances which (but for the preceding sentence) would be issued to such unit bears to the total allowances which (but for the preceding sentence) would be issued to all of such units.

"(4) TOTAL LIMIT.—In no event shall the Administrator issue Second Phase allowances in excess of 8,900,000 tons per year under this title (other than under section 509).

"(5) DEDUCTION AND RESERVE TO COMPENSATE FOR INTERRUPTIBLE GAS PROVISIONS.—In order to compensate for potential emissions of sulfur dioxide from interruptible gas units as described in section 505(h), in cal-

culating under this subsection the allowances to be issued under this title (other than section 509), the Administrator shall deduct from the total allowances which would otherwise be issued to all affected units referred to in paragraph (2) for the Second Phase allowances equal to 75,000 tons per year. The Administrator shall credit such allowances to a Reserve for Gas Supply Interruptions. Every 3 years after establishing such reserve the Administrator shall allocate the unused allowances to all affected units referred to in paragraph (2) on a pro rata basis. For purposes of this paragraph, for any such unit, the term 'pro rata basis' means the ratio which the allowances allocated under this title to that unit bears to the allowances allocated under this title to all such units.

"(j) ENERGY CONSERVATION AND RENEWABLE ENERGY.—

"(1) DEFINITIONS.—As used in this subsection:

"(A) The term 'qualified energy conservation measure' means a cost effective measure, as identified by the Administrator in consultation with the Secretary of Energy, that increases the efficiency of the use of electricity provided by an electric utility to its customers.

"(B) The term 'qualified renewable energy' means energy derived from biomass, solar, geothermal, or wind as identified by the Administrator in consultation with the Secretary of Energy.

"(C) The term 'electric utility' means any person, State agency, or Federal agency, which sells electric energy.

"(2) ALLOWANCES FOR EMISSIONS AVOIDED THROUGH ENERGY CONSERVATION AND RENEWABLE ENERGY.—

"(A) IN GENERAL.—The regulations under paragraph (4) of this subsection shall provide that for each ton of sulfur dioxide emissions avoided by an electric utility, during the applicable period, through the use of qualified energy conservation measures or qualified renewable energy, the Administrator shall allocate and issue a single allowance to such electric utility, on a first-come-first-served basis from the Conservation and Renewable Energy Reserve established under subsection (k), to the extent allowances are available for issuance from such Reserve.

"(B) REQUIREMENTS FOR ISSUANCE.—The Administrator shall issue allowances to an electric utility under this subsection only if all of the following requirements are met:

"(i) Such electric utility is paying for the qualified energy conservation measures or qualified renewable energy directly or through purchase from another person.

"(ii) The emissions of sulfur dioxide avoided through the use of qualified energy conservation measures or qualified renewable energy are quantified in accordance with regulations promulgated by the Administrator under this subsection.

"(iii)(I) Such electric utility has adopted and is implementing a least cost energy conservation and electric power plan which evaluates a range of resources, including new power supplies, energy conservation, and renewable energy resources, in order to meet expected future demand at the lowest system cost.

"(II) The qualified energy conservation measures or qualified renewable energy, or both, are consistent with that plan.

"(III) Electric utilities subject to the jurisdiction of a State regulatory authority must have such plan approved by such authority. For electric utilities not subject to the jurisdiction of a State regulatory authority such plan shall be approved by the entity with rate-making authority for such utility.

"(iv) In the case of a State regulated electric utility, the Secretary of Energy certifies that the State regulatory authority with jurisdiction over the electric rates of such electric utility has established rates and charges which ensure that the net income of such electric utility after implementation of specific cost effective energy conservation measures is at least as high as such net income would have been if the energy conservation measures had not been implemented. Upon the date of any such certification by the Secretary of Energy, all allowances which, but for this paragraph, would have been issued under subparagraph (A) before such date, shall be issued to the electric utility.

"(v) Such utility or any subsidiary of the utility's holding company owns or operates at least one affected unit.

"(C) USE OF ALLOWANCES.—The allowances issued under this subsection may be used to authorize emissions only at units owned or operated by an electric utility which is implementing a least cost energy plan meeting the requirements of subparagraph (B)(iii)(I) and approved as provided in subparagraph (B)(iii)(III).

"(D) PERIOD OF APPLICABILITY.—Allowances under this subsection shall be issued only with respect to kilowatt hours of electric energy saved by qualified energy conservation measures or generated by qualified renewable energy after January 1, 1992 and before the earlier of (i) December 31, 2000, or (ii) the date on which any electric utility steam generating unit owned or operated by the electric utility to which the allowances are issued becomes subject to this title (including those sources that elect to become affected by this title, pursuant to section 509).

"(E) DETERMINATION OF AVOIDED EMISSIONS.—

"(i) APPLICATION.—In order to receive allowances under this subsection, an electric utility shall make an application which—

"(I) designates the qualified energy conservation measures implemented and the qualified renewable energy sources used for purposes of avoiding emissions,

"(II) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

"(III) demonstrates that the requirements of subparagraph (B) have been met.

Such application for allowances by a State-regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility. The authority shall review the application for accuracy and compliance with this subsection and the rules under this subsection. Electric utilities whose retail rates are not subject to the jurisdiction of a State regulatory authority shall apply directly to the Administrator for such approval.

"(F) AVOIDED EMISSIONS FROM QUALIFIED ENERGY CONSERVATION MEASURES.—For the purposes of this subsection, the emission tonnage deemed avoided by reason of the implementation of qualified energy conservation measures for any calendar year shall be a tonnage equal to the product of multiplying—

"(i) the kilowatt hours that would otherwise have been supplied by the utility during such year in the absence of such qualified energy conservation measures, by

"(ii) 0.004,

and dividing by 2,000.

"(G) AVOIDED EMISSIONS FROM THE USE OF QUALIFIED RENEWABLE ENERGY.—The emissions tonnage deemed avoided by reason of the use of qualified renewable energy by an electric utility for any calendar year shall be a tonnage equal to the product of multiplying—

"(i) the actual kilowatt hours generated by, or purchased from, qualified renewable energy, by

"(ii) 0.004,

and dividing by 2,000.

"(H) PROHIBITIONS.—(i) No allowances shall be issued under this paragraph for the implementation of programs that are exclusively informational or educational in nature.

"(ii) No allowances shall be issued for energy conservation measures or renewable energy that were operational before January 1, 1992.

"(3) SAVINGS PROVISION.—Nothing in this subsection precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

"(4) REGULATIONS.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 and in conjunction with the regulations required to be promulgated under subsections (b) and (c), the Administrator shall, in consultation with the Secretary of Energy, promulgate regulations under this subsection. Such regulations shall list energy conservation measures and renewable energy sources which may be treated as qualified energy conservation measures and qualified renewable energy for purposes of this subsection. Allowances shall only be issued if all requirements of this subsection and the rules promulgated to implement this subsection are complied with. The Administrator shall review the determinations of each State regulatory authority under this subsection to encourage consistency from electric utility to electric utility and from State to State in accordance with the Administrator's rules. The Administrator shall publish the findings of this review no less than annually.

"(k) CONSERVATION AND RENEWABLE ENERGY RESERVE.—The Administrator shall establish a Conservation and Renewable Energy Reserve under this subsection. The reserve shall contain total allowances equal to 400,000 tons which shall be available for issuance following promulgation by the Administrator of regulations under this section, 200,000 tons of which may be used to authorize emissions after January 1, 2001 and the remaining 200,000 tons of which may only be used to authorize emissions after January 1, 2006. The Administrator shall issue allowances which can be used to authorize emissions after January 1, 2001 before issuing allowances which can only be used to authorize emissions after January 1, 2006. In order to establish 300,000 tons of such reserve, the Administrator shall reduce—

"(A) the tonnage specified in subsection (i)(2) by 10,000 tons per year for the first 10 years of the Second Phase, and

"(B) the tonnage specified in subsection (i)(3) by 20,000 tons per year for the first 10 years of the Second Phase.

The remaining 100,000 tons of such 400,000 ton total in the reserve shall be credited to the reserve, without regard to any limitations set forth in subsection (i). If allowances remain in the reserve after January 2, 2011, the Administrator shall allocate and

issue 75 percent of such allowances to Second Phase affected units on a pro rata basis. For purposes of this paragraph, for any Second Phase unit, the term 'pro rata basis' refers to the ratio which the reductions made in such unit's allowances in order to establish the reserve under this paragraph bears to the total of such reductions for all Second Phase units.

"(l) CONTINGENCY GUARANTEE FOR CERTAIN NEW INDEPENDENT POWER PRODUCTION FACILITIES.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'independent power producer' means any person who owns or operates, in whole or in part, one or more new independent power production facilities.

"(B) The term 'new independent power production facility' means a facility that—

"(i) is used for the generation of electric energy, 80 percent or more of which is sold at wholesale;

"(ii) is project-financed (as such term is defined by the Secretary of Energy within 3 months of the date of the enactment of the Clean Air Act Amendments of 1990);

"(iii) does not generate electric energy sold to any affiliate (as defined in section 2(a)(11) of the Public Utility Holding Company Act of 1935) of the facility's owner or operator; and

"(iv) is a new unit required to hold allowances under subsection (e).

"(C) The term 'required allowances' means the allowances required to operate such unit for so much of the unit's useful life as occurs after commencement of the Second Phase.

"(2) ENTITLEMENT TO WRITTEN GUARANTEE.—Any independent power producer that submits an application to the Administrator establishing that such independent power producer—

"(A) proposes to construct a new independent power production facility for which allowances are required under this title;

"(B) will apply for financing to construct such facility after January 1, 1990, and before the date of the early auction under section 519(a);

"(C) has submitted to each owner or operator of an affected unit listed in table A (in section 504) a written offer to purchase the required allowances for $750 per ton; and

"(D) has not received (within 180 days after submitting offers to purchase under subparagraph (C)) an acceptance of the offer to purchase the required allowances

shall, within 30 days after submission of such application, be entitled to receive the Administrator's written guarantee (subject to the eligibility requirements set forth in paragraph (3)) that such required allowances will be made available for purchase from the reserve established under section 519(c) and at a guaranteed price. The guaranteed price at which such allowances shall be made available for purchase shall be $1,500 per ton, adjusted by the percentage, if any, by which the Consumer Price Index (as determined under section 402(b)(3)(B)(v)) for the year in which the allowance is purchased exceeds the Consumer Price Index for the calendar year in which the auction takes place.

"(3) ELIGIBILITY REQUIREMENTS.—The guarantee issued by the Administrator under paragraph (2) shall be subject to a demonstration by the independent power producer, satisfactory to the Administrator, that—

"(A) the independent power producer has—

"(i) submitted a good faith bid in the auction under section 519(a);

"(ii) made good faith efforts (after the auction under section 519(a)) to purchase the required allowances from the owners or operators of affected units to which allowances will be allocated, including efforts to purchase at annual auctions under section 519(b), and from industrial sources that have volunteered to become affected units pursuant to section 509; and

"(iii) such bids and efforts were unsuccessful in obtaining the required allowances; and

"(B) the independent power producer will continue to make good faith efforts to purchase the required allowances from the owners or operators of affected units and from industrial sources.

"(4) ISSUANCE OF GUARANTEED ALLOWANCES FROM RESERVE UNDER SECTION 519(c).—From the reserve established under section 519(c)(2), upon payment of the guaranteed price, the Administrator shall issue to any person exercising the right to purchase allowances pursuant to a guarantee under this subsection the allowances covered by such guarantee. Persons to which guarantees under this subsection have been issued shall have the opportunity to purchase allowances pursuant to such guarantee from such reserve before the allowances in such reserve are offered for sale to any other person.

"(m) INCENTIVE ALLOWANCES FOR EARLY REDUCTIONS.—(1) The Administrator shall promulgate regulations under this subsection within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990. Following promulgation of such regulations, the Administrator shall allocate and issue allowances during the First Phase to the owner or operator of each unit which is a First Phase affected unit if the owner or operator of the unit establishes to the satisfaction of the Administrator that—

"(A) the unit has reduced sulfur dioxide emissions in any year after the such date of enactment, but before the First Phase (hereinafter in this subsection referred to as the 'prior year'),

"(B) such emission reductions are not otherwise required under this Act,

"(C) such emission reductions are obtained solely through the installation or additional use of a technological system of continuous emission reduction which achieves at least a 70 percent reduction from the potential combustion concentration; and

"(D) the unit complies with section 511 (relating to monitoring, reporting, and recordkeeping).

"(2) Each allowance issued as provided in this subsection shall authorize a single ton of sulfur dioxide emissions for a single year during the First or Second Phase. Except as provided below, the tonnage of allowances issued under this subsection for any unit shall be equal to the amount by which (A) the product of the unit's baseline multiplied by the unit's 1985 actual sulfur dioxide emissions rate (in lbs per mm Btu), divided by 2,000 lbs./ton exceeds (B) the unit's actual tonnage of sulfur dioxide emissions for the prior year concerned. No allowances shall be allocated as provided in this subsection for emission reductions resulting from reduced utilization. Allowances may be allocated under this subsection only for emission reductions achieved after the enactment of the Clean Air Act Amendments of 1990 as the result of the installation or additional use of a technological system of continuous reduction meeting the requirements of subparagraph (C) of paragraph (1).

"(n) ALTERNATIVE ALLOWANCE ALLOCATION FOR UNITS IN CERTAIN UTILITY SYSTEMS WITH OPTIONAL BASELINE.—

"(1) OPTIONAL BASELINE FOR UNITS IN CERTAIN SYSTEMS.—In the case of a First Phase unit which (as of the date of the enactment of the Clean Air Act Amendments of 1990)—

"(A) has an emission rate below 1.0 lbs mmBtu,

"(B) has decreased its emissions rate by 60 percent or greater since 1980, and

"(C) is part of a utility system which has a weighted average emission rate for all fossil fueled-fired units below 1.0 lbs/mmBtu,

at the option of the owner or operator of such unit, the unit's baseline may be calculated (i) as provided under section 502(a)(8), or (ii) by utilizing the unit's average annual fuel consumption at a 60 percent capacity factor. Such election shall be made no later than March 1, 1991.

"(2) ALLOWANCE ALLOCATION.—Whenever a unit referred to in paragraph (1) elects to calculate its baseline as provided in clause (ii) of paragraph (1), the Administrator shall allocate allowances to the unit for the First and Second Phase in an amount equal to the baseline selected multiplied by the lower of the average emission rate for such unit in 1989, or 1.0 lbs./mmBtu. Such allowance allocation shall be in lieu of any allocation of allowances under sections 504 and 505. For purposes of applying subsection (i), the units referred to in this subsection shall be treated as units with an actual 1985 emission rate of 1.20 lbs./mmBtu or greater, regardless of the option elected.

"SEC. 504. FIRST PHASE SULFUR DIOXIDE EMISSION REDUCTION PROGRAM.

"(a) FIRST PHASE AFFECTED UNITS.—(1) For the First Phase (beginning December 31, 1995) each unit listed in table A is a First Phase affected unit under this section. Each source that includes one or more of such affected units is an affected source under this section.

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (tons)

| State | Plant Name | Unit | Phase I Allowances |
|---|---|---|---|
| Alabama | Colbert | 1 | 13,570 |
| | | 2 | 15,310 |
| | | 3 | 15,400 |
| | | 4 | 15,410 |
| | | 5 | 37,180 |
| | E.C. Gaston | 1 | 18,100 |
| | | 2 | 18,540 |
| | | 3 | 18,310 |
| | | 4 | 19,280 |
| | | 5 | 59,840 |
| Florida | Big Bend | 1 | 28,410 |
| | | 2 | 27,100 |
| | | 3 | 26,740 |
| | Crist | 6 | 19,200 |
| | | 7 | 31,680 |
| Georgia | Bowen | 1 | 56,330 |
| | | 2 | 54,770 |
| | | 3 | 71,750 |
| | | 4 | 71,740 |
| | Hammond | 1 | 8,780 |
| | | 2 | 9,220 |
| | | 3 | 8,910 |
| | | 4 | 37,640 |
| | J. McDonough | 1 | 19,910 |
| | | 2 | 20,600 |
| | Wansley | 1 | 70,770 |
| | | 2 | 65,430 |
| | Yates | 1 | 7,210 |
| | | 2 | 7,040 |
| | | 3 | 6,950 |
| | | 4 | 8,910 |

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (tons)—Continued

| State | Plant Name | Unit | Phase I Allowances |
|---|---|---|---|
| | | 5 | 9,410 |
| | | 6 | 24,760 |
| | | 7 | 21,480 |
| Illinois | Baldwin | 1 | 42,010 |
| | | 2 | 44,420 |
| | | 3 | 42,550 |
| | Coffeen | 1 | 11,790 |
| | | 2 | 35,670 |
| | Grand Tower | 4 | 5,910 |
| | Hennepin | 2 | 18,410 |
| | Joppa Steam | 1 | 12,590 |
| | | 2 | 10,770 |
| | | 3 | 12,270 |
| | | 4 | 11,360 |
| | | 5 | 11,420 |
| | | 6 | 10,620 |
| | Kincaid | 1 | 31,530 |
| | | 2 | 33,810 |
| | Meredosia | 3 | 13,890 |
| | Vermilion | 2 | 8,880 |
| Indiana | Bailly | 7 | 11,180 |
| | | 8 | 15,630 |
| | Breed | 1 | 18,500 |
| | Cayuga | 1 | 33,370 |
| | | 2 | 34,130 |
| | Clifty Creek | 1 | 20,150 |
| | | 2 | 19,810 |
| | | 3 | 20,410 |
| | | 4 | 20,080 |
| | | 5 | 19,360 |
| | | 6 | 20,380 |
| | E. W. Stout | 5 | 3,880 |
| | | 6 | 4,770 |
| | | 7 | 23,610 |
| | F. B. Culley | 2 | 4,290 |
| | | 3 | 16,970 |
| | F. E. Ratts | 1 | 8,330 |
| | | 2 | 8,480 |
| | Gibson | 1 | 40,400 |
| | | 2 | 41,010 |
| | | 3 | 41,080 |
| | | 4 | 40,320 |
| | H. T. Pritchard | 6 | 5,770 |
| | Michigan City | 12 | 23,310 |
| | Petersburg | 1 | 16,440 |
| | | 2 | 32,380 |
| | R. Gallagher | 1 | 6,490 |
| | | 2 | 7,280 |
| | | 3 | 6,530 |
| | | 4 | 7,650 |
| | Tanners Creek | 4 | 24,820 |
| | Wabash River | 1 | 4,000 |
| | | 2 | 2,860 |
| | | 3 | 3,750 |
| | | 5 | 3,670 |
| | | 6 | 12,280 |
| | Warrick | 4 | 26,980 |
| Iowa | Burlington | 1 | 10,710 |
| | Des Moines | 7 | 2,320 |
| | George Neal | 1 | 1,300 |
| | M.L. Kapp | 2 | 13,800 |
| | Prairie Creek | 4 | 8,180 |
| | Riverside | 5 | 3,990 |
| Kansas | Quindaro | 2 | 4,220 |
| Kentucky | Coleman | 1 | 11,250 |
| | | 2 | 12,840 |
| | | 3 | 12,350 |
| | Cooper | 1 | 7,450 |
| | | 2 | 15,320 |
| | E.W. Brown | 1 | 7,110 |
| | | 2 | 10,910 |
| | | 3 | 26,100 |
| | Elmer Smith | 1 | 6,520 |
| | | 2 | 14,410 |
| | Ghent | 1 | 28,410 |
| | Green River | 4 | 7,820 |
| | H.L. Spurlock | 1 | 22,780 |
| | Henderson II | 1 | 13,340 |
| | | 2 | 12,310 |
| | Paradise | 3 | 59,170 |
| | Shawnee | 10 | 10,170 |
| Maryland | Chalk Point | 1 | 21,890 |
| | | 2 | 24,330 |

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (tons)—Continued

| State | Plant Name | Unit | Phase I Allowances |
|---|---|---|---|
| | C. P. Crane | 1 | 10,330 |
| | | 2 | 9,230 |
| | Morgantown | 1 | 35,260 |
| | | 2 | 38,480 |
| Michigan | J. H. Campbell | 1 | 19,280 |
| | | 2 | 23,060 |
| Minnesota | High Bridge | 6 | 4,270 |
| Mississippi | Jack Watson | 4 | 17,910 |
| | | 5 | 36,700 |
| Missouri | Asbury | 1 | 16,190 |
| | James River | 5 | 4,850 |
| | Labadie | 1 | 40,110 |
| | | 2 | 37,710 |
| | | 3 | 40,310 |
| | | 4 | 35,940 |
| | Montrose | 1 | 7,390 |
| | | 2 | 8,200 |
| | | 3 | 10,090 |
| | New Madrid | 1 | 28,240 |
| | | 2 | 32,490 |
| | Sibley | 3 | 15,580 |
| | Sioux | 1 | 22,570 |
| | | 2 | 23,690 |
| | Thomas Hill | 1 | 10,250 |
| | | 2 | 19,390 |
| New Hampshire | Merrimack | 1 | 10,190 |
| | | 2 | 22,000 |
| New Jersey | B.L. England | 1 | 9,060 |
| | | 2 | 11,720 |
| New York | Dunkirk | 3 | 12,600 |
| | | 4 | 14,060 |
| | Greenidge | 4 | 7,540 |
| | Milliken | 1 | 11,170 |
| | | 2 | 12,410 |
| | Northport | 1 | 19,810 |
| | | 2 | 24,110 |
| | | 3 | 26,480 |
| | Port Jefferson | 3 | 10,470 |
| | | 4 | 12,330 |
| Ohio | Ashtabula | 5 | 16,740 |
| | Avon Lake | 8 | 11,650 |
| | | 9 | 30,480 |
| | Cardinal | 1 | 34,270 |
| | | 2 | 38,320 |
| | Conesville | 1 | 4,210 |
| | | 2 | 4,890 |
| | | 3 | 5,500 |
| | | 4 | 48,770 |
| | Eastlake | 1 | 7,800 |
| | | 2 | 8,640 |
| | | 3 | 10,020 |
| | | 4 | 14,510 |
| | | 5 | 34,070 |
| | Edgewater | 4 | 5,050 |
| | Gen. J.M. Gavin | 1 | 79,080 |
| | | 2 | 80,560 |
| | Kyger Creek | 1 | 19,280 |
| | | 2 | 18,560 |
| | | 3 | 17,910 |
| | | 4 | 18,710 |
| | | 5 | 18,740 |
| | Miami Fort | 5 | 760 |
| | | 6 | 11,380 |
| | | 7 | 38,510 |
| | Muskingum River | 1 | 14,880 |
| | | 2 | 14,170 |
| | | 3 | 13,950 |
| | | 4 | 11,780 |
| | | 5 | 40,470 |
| | Niles | 1 | 6,940 |
| | | 2 | 9,100 |
| | Picway | 5 | 4,930 |
| | R.E. Burger | 3 | 6,150 |
| | | 4 | 10,780 |
| | | 5 | 12,430 |
| | W.H. Sammis | 5 | 24,170 |
| | | 6 | 39,930 |
| | | 7 | 43,220 |
| | W.C. Beckjord | 5 | 8,950 |
| | | 6 | 23,020 |
| Pennsylvania | Armstrong | 1 | 14,410 |

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (tons)—Continued

| State | Plant Name | Unit | Phase I Allowances |
|---|---|---|---|
| | | 2 | 15,430 |
| | Brunner Island | 1 | 27,760 |
| | | 2 | 31,100 |
| | | 3 | 53,820 |
| | Cheswick | 1 | 39,170 |
| | Conemaugh | 1 | 59,790 |
| | | 2 | 66,450 |
| | Hatfield's Ferry | 1 | 37,830 |
| | | 2 | 37,320 |
| | | 3 | 40,270 |
| | Martins Creek | 1 | 12,660 |
| | | 2 | 12,820 |
| | Portland | 1 | 5,940 |
| | | 2 | 10,240 |
| | Shawville | 1 | 10,320 |
| | | 2 | 10,320 |
| | | 3 | 14,220 |
| | | 4 | 14,080 |
| | Sunbury | 3 | 8,760 |
| | | 4 | 11,450 |
| Tennessee | Allen | 1 | 15,320 |
| | | 2 | 16,770 |
| | | 3 | 15,670 |
| | Cumberland | 1 | 86,700 |
| | | 2 | 94,840 |
| | Gallatin | 1 | 17,650 |
| | | 2 | 17,310 |
| | | 3 | 20,020 |
| | | 4 | 21,260 |
| | Johnsonville | 1 | 7,790 |
| | | 2 | 8,040 |
| | | 3 | 8,410 |
| | | 4 | 7,990 |
| | | 5 | 8,240 |
| | | 6 | 7,890 |
| | | 7 | 8,980 |
| | | 8 | 8,700 |
| | | 9 | 7,080 |
| | | 10 | 7,550 |
| West Virginia | Albright | 3 | 12,000 |
| | Fort Martin | 1 | 41,590 |
| | | 2 | 41,200 |
| | Harrison | 1 | 48,620 |
| | | 2 | 46,150 |
| | | 3 | 41,500 |
| | Kammer | 1 | 18,740 |
| | | 2 | 19,460 |
| | | 3 | 17,390 |
| | Mitchell | 1 | 43,980 |
| | | 2 | 45,510 |
| | Mount Storm | 1 | 43,720 |
| | | 2 | 35,580 |
| | | 3 | 42,430 |
| Wisconsin | Edgewater | 4 | 24,750 |
| | La Crosse/ Genoa | 3 | 19,090 |
| | Nelson Dewey | 1 | 6,010 |
| | | 2 | 6,680 |
| | N. Oak Creek | 1 | 5,220 |
| | | 2 | 5,140 |
| | | 3 | 5,370 |
| | | 4 | 6,320 |
| | Pulliam | 8 | 7,510 |
| | S. Oak Creek | 5 | 9,670 |
| | | 6 | 12,040 |
| | | 7 | 16,180 |
| | | 8 | 15,790 |

*"(2) For the First Phase, each existing electric utility steam generating unit with nameplate capacity of 100 MWe or greater, not included in Table A, that emits sulfur dioxide at an annual rate of 2.50 lbs./mmBtu or greater, for any calendar year after the date of the date of enactment of the Clean Air Act Amendments of 1990 and prior to the Second Phase is also a First Phase affected unit under this section. The Administrator shall promulgate regulations to prevent abuse of this paragraph, which shall*

provide that no unit shall be treated as a First Phase affected unit to which allowances are allocated under section 503 where the Administrator finds that the owner or operator of the unit has increased the unit's emissions rate for any calendar year after such date of enactment for the purpose of becoming a First Phase affected unit under this section eligible to receive such allowances.

"(3) After the commencement of the First Phase, no First Phase affected unit referred to in paragraph (1) or (2) shall emit sulfur dioxide in any calendar year in a tonnage amount which exceeds the annual First Phase allowances allocated for that unit and issued to the owner or operator of the unit, plus or minus the allowances transferred to or from the unit, or carried forward from prior years.

"(b) FIRST PHASE EMISSION TONNAGES.—For each affected unit listed in Table A, for the First Phase, the Administrator shall allocate to the unit and issue to the owner or operator of the unit the annual tonnage of sulfur dioxide allowances specified in Table A, reduced by 6 percent. For each affected unit described in subsection (a)(2), for the First Phase, the Administrator shall allocate to the unit and issue to the owner or operator of the unit annual tonnage of sulfur dioxide allowances equal to the product of such unit's baseline multiplied by an emission rate of 2.35 lbs/mmBtu, divided by 2,000 lbs/ton. The allowances calculated under this section shall apply only during the First Phase. Nothing in this subsection shall be construed to treat any unit which does not emit sulfur dioxide at a rate in excess of 2.50 lbs/mm Btu as a First Phase affected unit.

"(c) AUTHORITY TO SUBSTITUTE UNITS.—The owner or operator of an affected unit under subsection (a) may submit a proposal to substitute for any unit which is an affected unit under this section any other unit or units under the control of the same owner or operator. In order to make such substitution, the owner or operator shall submit an alternative proposal to the Administrator for approval in conjunction with submission of a permit application and compliance plan under section 507(c)(1). Any proposal must include—

"(1) designation of the substitute affected units to which the tonnage amounts under subsection (a) shall apply, in addition to, or in lieu of, the original affected units designated under that subsection;

"(2) specification of the baseline, the actual 1985 sulfur dioxide emission rate, and the authorized annual tonnage amount for the original affected unit;

"(3) calculation of the calendar year 1985 annual tonnage emitted by the substitute units, based on the baseline for each unit, as defined in section 502, multiplied by the unit's actual 1985 emission rate;

"(4) specification of the emission rates, and the annual tonnage amounts that would be applicable to the original and substitute affected units;

"(5) documentation, satisfactory to the Administrator, that the reassigned tonnage amounts will, in total, achieve the same or a greater reduction in emissions than the reduction that would have been achieved by the requirements of subsection (a); and

"(6) such other information as the Administrator may require.

The Administrator shall review and act on any proposal in accordance with subsection (d).

"(d) ADMINISTRATOR'S ACTION ON A PROPOSAL.—(1) The Administrator shall review and approve any proposal meeting the requirements of subsection (c). If a proposal does not meet the requirements of subsection (c), the Administrator shall disapprove it. The Administrator shall act on a proposal within 6 months after receipt of a complete submission.

"(2) For an approved proposal, each substitute unit and source shall be deemed affected under this title and the Administrator shall act on the submission in accordance with section 507(c). The Administrator shall allocate allowances to the affected units in accordance with the approved proposal. For a disapproved proposal, the Administrator shall issue allowances in accordance with subsection (a). The Administrator's action on any proposal submitted under subsection (c) shall not require a hearing or opportunity for public comment, and shall not be subject to judicial review.

"(e) COMPLIANCE EXTENSION FOR CERTAIN SOURCES USING CERTAIN TECHNOLOGICAL MEANS OF EMISSIONS REDUCTION.—No allowances shall be issued or required for calendar year 1996 for any affected unit which uses a technological means of continuous emission reduction (that commences operation after the enactment of the Clean Air Act Amendments of 1990 and achieves at least a 70 percent reduction from the potential combustion concentration) to control sulfur dioxide emissions for purposes of compliance with the requirements of this title during the First Phase. For any such unit, the allowances allocated to the unit for the last 4 years of the First Phase shall be reduced, under rules promulgated by the Administrator, by a total tonnage amount over such 4-year period equal to the amount by which the actual emissions of sulfur dioxide from the unit during the calendar year 1996 exceed the allowances which would (but for this subsection) be allocated to that unit for calendar year 1996. This subsection shall not apply to any unit for which allowances are allocated under subsection (m) (relating to incentive allowances for early reductions).

"(f) TWO FOR ONE ALLOWANCE PROGRAM.—

(1) RESERVE: TOTAL TONNAGE.—The Administrator shall establish a reserve of First Phase allowances to be allocated based on this subsection. The total tonnage of allowances in the reserve shall be equal to 6 percent of the total allowances specified (prior to the 6 percent reduction under section 504(b)) in Table A for the First Phase (other than the allowances specified in such table for the units referred to in section 518, relating to DOE units and any units which are not treated as First Phase affected units by reason of the last sentence of subsection (b)) multiplied by 5.

"(2) ADDITIONAL ALLOWANCES FOR CERTAIN UNITS.—In addition to allowances allocated to units described in this paragraph under other provisions of this section, the Administrator shall allocate First Phase allowances under this paragraph to each First Phase affected unit which—

"(A) uses a technological means of continuous emission reduction (achieving at least a 70 percent reduction from the potential combustion concentration) to control sulfur emissions for purposes of compliance with the requirements of this title during the First Phase, which technological means commences operation after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(B) emits sulfur dioxide during the First Phase at an annual rate of 1.20 lbs/mmBtu or less.

"(3) ADDITIONAL ALLOWANCE ALLOCATIONS.—The tonnage of additional allowances allocated under paragraph (2) to each unit referred to in paragraph (2) shall be equal (to the extent adequate allowances are available in the reserve referred to in paragraph (1)) to the amount by which (A) the product of 1.2 lbs/mmBtu multiplied by the unit's baseline, divided by 2,000, exceeds (B) the projected actual annual tonnage emitted by the unit during the First Phase, as determined by the Administrator under regulations promulgated by the Administrator. Such regulations shall insure that such allowances are allocated equitably among the units referred to in paragraph (2) and that the projected emission reductions are achieved by the units to which such allowances are issued. If allowances remain in the reserve at the end of the First Phase, such remaining allowances shall be allocated and issued to all First Phase affected units on a pro rata basis. For purposes of the preceding sentence, for any First Phase unit, the term 'pro rata basis' refers to the ratio which the First Phase allowances allocated to that unit under this title (determined without regard to this subsection) bears to the total of all First Phase allowances allocated to all First Phase units under this title (determined without regard to this subsection).

"SEC. 505. SECOND PHASE SULFUR DIOXIDE EMISSIONS REDUCTION PROGRAM.

"(a) SECOND PHASE AFFECTED UNITS.—(1) During the Second Phase each unit for which an annual tonnage of Second Phase allowances is allocated as provided in this section shall be a Second Phase affected unit under this section. Each source that includes one or more Second Phase affected units under this section shall be an affected source for the Second Phase.

"(2) During the Second Phase, no Second Phase affected unit shall emit sulfur dioxide in an annual tonnage amount which exceeds the Second Phase allowances allocated for that unit and issued to the owner or operator of the unit under section 503, plus or minus the allowances transferred to or from the unit, or carried forward from prior years.

"(b) ELECTRIC UTILITY STEAM GENERATING UNITS 75 MWE OR ABOVE EMITTING 1.20 LBS MMBTU OR ABOVE.—For each year during the Second Phase, the Administrator shall allocate and issue allowances under section 503 for each existing electric utility steam generating unit with a nameplate capacity of 75 MWe or greater and an actual 1985 emissions rate of 1.20 lbs/mmBtu or greater (as certified by the owner or operator thereof) in an amount equal to the product of the unit's baseline, multiplied by an emissions rate equal to 1.20 lbs/mmBtu, divided by 2,000 lbs/ton.

"(c) ELECTRIC UTILITY STEAM GENERATING UNITS BELOW 75 MWE EMITTING 1.20 LBS MMBTU OR ABOVE.—

"(1) IN GENERAL.—For each year during the Second Phase, the Administrator shall allocate and issue allowances under section 503 for each existing electric utility steam generating unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate of 1.20 lbs/MMBtu or greater in accordance with the same rules as are applicable under subsection (b), except as otherwise provided in this subsection.

"(2) ELECTION FOR SMALL SYSTEMS.—(A) If a unit referred to in paragraph (1) is owned by an electric utility with, as of December 31, 1989, a total steam electric generating capacity of 500 megawatts or less, the owner

*or operator of the unit may make an election to be covered by this paragraph for the period January 1, 2001 to December 31, 2010 (or for such shorter period as adequate allowances are available in the Small System Account established under this paragraph). Such election shall be made by January 1, 1997, and may be revoked at any time after that date. During the period that any such election is in effect, the unit may emit sulfur dioxide in excess of the allowances allocated to the unit under paragraph (1) if the unit does not exceed an annual emissions rate equal to the unit's 1985 annual average emissions rate. The allowances allocated to the unit pursuant to paragraph (1) for such 10-year period shall be treated as used by the unit and may not be transferred or banked for as long as the election remains in effect.*

*"(B) No later than January 1, 1998, and before January 1 of each successive year through 2009, for each unit for which an election is in effect under this paragraph, the Administrator shall forecast or calculate, as appropriate, the annual tonnage of sulfur dioxide emissions from the unit in excess of the allowances allocated for that unit under paragraph (1). Such excess shall hereinafter in this paragraph be referred to as the 'excess tonnage'. Allowances equal to the excess tonnage shall be deducted from the Small System Account established under subparagraph (D) of this paragraph. On each of the dates referred to in the preceding sentence, the Administrator shall issue a public report specifying the number of allowances to be deducted from the Small System Account for units for which an election is in effect under this paragraph, the number of allowances previously deducted from the Account, the number of allowances remaining available in the Account, and the projected period for which allowances will be available in the Account under this paragraph.*

*"(C)(i) The Administrator is authorized, on petition of an owner or operator of a unit with a nameplate capacity below 75 Mwe that is part of an electric utility system as described to clause (ii) that is particularly well controlled and primarily dependent on units with a nameplate capacity below 75 Mwe, to treat any such unit as a unit owned by a utility referred to in subparagraph (A) for purposes of participation in the Small System Account so long as such units do not exceed a 2.5 lb/mmBtu emission rate for sulfur dioxide.*

*"(ii) The electric utility system referred to in clause (i) is any system (I) which, as of the date of the enactment of the Clean Air Act Amendments of 1990, had at least 20 percent of its fossil-fuel capacity controlled by flue gas desulfurization devices, (II) which has more than 10 percent of its fossil-fuel capacity consisting of coal-fired units of less than 75 Mwe, and (III) which has no large units (greater than 400 Mwe) with easy or modest FGD Retrofit Cost Factors (according to the Emissions and the FGD Retrofit Feasibility at the 200 Top Emitting Generating Stations, prepared for the United States Environmental Protection Agency on January 10, 1986).*

*"(D) For purposes of this paragraph, the Administrator shall establish a Small System Account which shall contain (prior to any deductions under this paragraph) total allowances equal to the difference between—*

*"(i) 2.5 lbs/mmBtu multiplied by the baseline of each of the units subject to section 518 (relating to DOE units), and*

*"(ii) 0.4 lbs/mmBtu multiplied by the baseline of each of such units,*

*multiplied by 5 and divided by 2,000 lbs per ton.*

*"(d) ELECTRIC UTILITY STEAM GENERATING UNITS EMITTING BELOW 1.20 LBS/MMBTU IN 1985.—*

*"(1) IN GENERAL.—Except as otherwise provided in this subsection, for each year during the Second Phase the Administrator shall allocate and issue allowances under section 503 for each existing electric utility steam generating unit with an actual 1985 sulfur dioxide emission rate below 1.20 lbs/mmBtu in an annual amount equal to the product of the unit's baseline multiplied by the unit's 1985 actual emissions rate, divided by 2,000 lbs/ton, unless the owner or operator of the unit elects an alternative allowance amount under subsection (e). Such election and any other election under subsection (e), shall be made no later than March 1, 1991.*

*"(2) 100 PERCENT GAS UNITS.—Allowances shall not be required during the Second Phase for, and the Administrator shall not allocate or issue Second Phase allowances for, an electric utility steam generating unit with an actual 1985 sulfur dioxide emission rate below 0.20 lbs/mmBtu which burns only natural gas as a fuel and which burned only natural gas as a fuel during the calendar years 1985 through 1987. If a unit covered by this paragraph exceeds any fuel or emissions requirement set forth in this subsection, this subsection shall not apply and the unit shall be treated as a new electric utility steam generating unit required to obtain allowances under this title.*

*"(3) CERTAIN ULTRA CLEAN UNITS WITH LOW CAPACITY FACTORS IN 1985.—For the purposes of this section, in the case of any unit operated by a utility that furnishes electricity, electric energy, steam, and natural gas within an area consisting of a city and 1 contiguous county, and in the case of any unit owned by a State authority, the output of which unit is furnished within that same area consisting of a city and 1 contiguous county, the Administrator shall allocate and issue under section 503 from the reserve under paragraph (5), to the extent allowances are available in such reserve, in addition to the allowances otherwise allocated to such units under this section, 7,000 allowances to the utility and 2,000 allowances to the State authority. Such allowances shall be hereinafter referred to in this subsection as 'additional allowances'.*

*"(4) UNITS WHICH CONVERTED TO COAL.—For each year during the Second Phase, the Administrator shall allocate and issue under section 503 from the reserve under paragraph (5), to the extent allowances are available in such reserve, allowances for each existing utility unit located east of the Mississippi that has completed conversion from predominantly gas fired operation to coal fired operation between January 1, 1985, and December 31, 1987, for which there has been issued a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq., repealed 1987) in an annual amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable sulfur dioxide emissions rate, divided by 2,000 lbs/ton, unless the owner or operator of such unit has obtained allowances equal to its actual emissions. Allowances allocated and issued under this paragraph to any such unit that are additional to the allowances which would otherwise be issued to the unit under this section shall be hereinafter in this subsection referred to as 'additional allowances'.*

*"(5) SPECIAL RESERVE FOR ADDITIONAL ALLOWANCES UNDER PARAGRAPHS (3) AND (4).—For purposes of allocating and issuing the additional allowances referred to in paragraphs (3) and (4), the Administrator shall reserve from the allowances allocated and issued during the Second Phase to units referred to in section 503(i)(3) allowances equal to 13,300 tons per year. For purposes of adjusting the allowances issued under this Act pursuant to section 503(i)—*

*"(A) the additional allowances allocated and issued to any unit under paragraph (3) and (4) shall be treated as allowances for units referred to in section 503(i)(3) and shall not be treated as allowances for units referred to in section 503(i)(2), but*

*"(B) such additional allowances shall not be subject to adjustment and reallocation under section 503(i).*

*Nothing in the preceding sentence shall be construed to affect the application of section 503(i) or any other provision of this title to allowances allocated and issued to units referred to in paragraph (3) or (4) which are not additional allowances within the meaning of paragraph (3) or (4).*

*"(e) ELECTION FOR CERTAIN UNITS EMITTING BELOW 1.20 LBS/MMBTU—*

*"(1) COAL UNITS EMITTING 0.6 OR LESS.—For the Second Phase, at the election of the owner or operator of an existing electric utility steam generating unit which is a coal-fired unit with an actual 1985 sulfur dioxide emission rate of 0.60 lbs/mmBtu or less, the Administrator shall allocate and issue allowances under section 503 to the unit in an annual amount equal to the product of the rate computed under subparagraph (A) multiplied by the fuel consumption computed under subparagraph (B), divided by 2,000 lbs/ton.*

*"(A) The rate computed under this paragraph shall be the most stringent of:*

*"(i) 0.60 lbs/mmBtu, or*

*"(ii) the most stringent emission rate (if any) (in lbs/mmBtu) applicable to the unit under the applicable implementation plan, as in effect on December 31, 1989, based on documentation in existence before January 1, 1990.*

*"(B) The fuel consumption computed under this subparagraph shall be one of the following (as elected by the owner or operator):*

*"(i) the unit's fuel consumption at a 60 percent capacity factor, or*

*"(ii) the unit's baseline multiplied by 120 percent.*

*An election to use either clause (i) or (ii) for purposes of this subparagraph for any unit owned by any owner or operator shall apply with respect to all other units owned or operated by the owner or operator which are subject to this paragraph.*

*"(2) COAL UNITS EMITTING 0.6 TO 1.2.—During the Second Phase, at the election of the owner or operator of an existing electric utility steam generating unit which is a coal-fired unit with an actual 1985 sulfur dioxide emission rate greater than 0.6 lbs/mmBtu (but less than 1.2 lbs/mmBtu), the Administrator shall allocate and issue allowances under section 503 to the unit in an annual amount equal to the product of the unit's 1985 actual emissions rate, multiplied by one of the following (as elected by the owner or operator), divided by 2,000 lbs/ton:*

*"(A) the unit's fuel consumption at a 60 percent capacity factor, or*

"(B) the unit's baseline multiplied by 120 percent.

An election to use either subparagraph (A) or (B) for purposes of this paragraph for any unit owned by any owner or operator shall apply with respect to all other units which are owned or operated by that owner or operator and which are subject to this paragraph.

"(3) CERTAIN OIL OR GAS UNITS EMITTING 0.6 OR LESS.—During the Second Phase, at the election of the owner or operator of an existing electric utility steam generating unit which is an oil- or gas-fired unit with an actual 1985 sulfur dioxide emission rate of 0.6 lbs/mmBtu or less, the Administrator shall allocate and issue allowances under section 503 to the unit in an annual amount equal to the product of 120 percent of the unit's baseline multiplied by the most stringent of the following, and divided by 2,000 lbs/ton:

"(A) 0.6 lbs/mmBtu.

"(B) The most stringent emission rate for fuel oil, if any, in lbs/mmBtu applicable to the unit under the applicable implementation plan in effect on December 31, 1989, based on documentation in existence before January 1, 1990.

No unit which burned as its fuel during the period 1980 through 1989 on average more than 90 percent natural gas may elect to have allowances allocated and issued as provided in this paragraph.

"(4) OIL OR GAS UNITS EMITTING 0.6 TO 1.2.—During the Second Phase, at the election of the owner or operator of an existing electric utility steam generating unit which is an oil- or gas-fired unit with an actual 1985 sulfur dioxide emission rate greater than 0.6 lbs/mmBtu (but less than 1.2 lbs/mmBtu), the Administrator shall allocate and issue allowances under section 503 to the unit in an annual amount equal to the product of 120 percent of the unit's baseline, multiplied by the unit's actual 1985 emissions rate, divided by 2,000 lbs/ton.

"(f) CERTAIN UNITS TREATED AS EXISTING UNITS.—For the Second Phase, the Administrator shall allocate and issue allowances under section 503 to each electric utility steam generating unit which is listed in Table B of this subsection in an annual amount equal to the amount specified in Table B.

TABLE B

| Unit | Allowances |
|---|---|
| Brandon Shores | 8,907 |
| Miller 4 | 9,197 |
| TNP One 2 | 2,507 |
| Zimmer 1 | 18,458 |
| Spruce 1 | 7,647 |
| Clover 1 | 2,796 |
| Clover 2 | 2,796 |
| TNP One 3 | 2,506 |
| Twin Oak 1 | 9,158 |
| Cross 1 | 6,401 |
| TNP One 4 | 2,506 |

For purposes of making adjustments under section 503(i), the units referred to in this subsection shall be treated as units described in section 503(i)(3). No allowances shall be allocated under this subsection to a unit listed in Table B that fails to commence commercial operation before December 31, 1995.

"(g) BASELINE FOR CERTAIN UNITS IN STATE EXPERIENCING 25 PERCENT POPULATION GROWTH.—(1) For each existing electric utility steam generating unit in commercial operation before January 1, 1985 and operating in a State which—

"(A) has experienced population growth in excess of 25 percent between 1980 and 1988 (according to State Population and Household Estimates, with Age, Sex, and Components of Change: 1981-1988, issued by the United States Department of Commerce), and

"(B) had an installed electric generation capacity of more than 30,000,000 kw in 1988,

the baseline for purposes of this section shall be the annual average fuel consumption (in mmBtu) during any 3 consecutive calendar years between 1980 and 1989 (as selected by the owner or operator) in lieu of the years otherwise applicable for such purposes under section 502(a)(8). Such election shall be made not later than March 1, 1991.

"(2) The Administrator shall calculate the amount by which annual allowances allocated to the units referred to in paragraph (1) exceeds the amount of annual allowances which would be allocated to such units in the absence of paragraph (1). The amount of such excess allowances (if any) issued to such units shall be adjusted pro rata to ensure that the total of such excess allowances allocated to all such units will equal 40,000. For such purposes, the term 'pro rata' refers to the ratio which the allowances which would be issued to each such unit (without regard to the 40,000 allowance limitation) bears to the allowances which would be issued to all such units (without regard to such 40,000 allowance limitation).

"(3) In order to allocate and issue allowances to the units referred to in paragraph (1), the Administrator shall reserve allowances in the amount of 40,000 each year from the Second Phase allowances withheld under section 519(b).

"(h) INTERRUPTIBLE GAS UNITS.—(1) This subsection shall apply only to electric utility steam generating units which burned as their fuel during the period 1980 through 1989 more than 90 percent natural gas, and which purchase natural gas under an interruptible contract. Each such unit shall be referred to in this subsection as an 'interruptible gas unit'.

"(2) So long as sufficient allowances are available in the Reserve for Gas Supply Interruptions established under section 503(i)(5), the Administrator shall issue to the owner or operator of any interruptible gas unit (and deduct from such reserve) allowances for emissions of sulfur dioxide for any year during the Second Phase at a tonnage level in excess of the allowances otherwise allocated and issued to the unit under this section if each of the following requirements are met:

"(A) The excess emissions referred to in this paragraph are temporary emissions during a period or periods in which natural gas supplies are interrupted (as certified by the owner or operator in such form as the Administrator may require) under—

"(i) an interruptible contract, or

"(ii) State law,

by reason of either weather or other unusual factors not under the control of the owner or operator of the unit. The total of the periods of such interruption in any calendar year may not exceed 25 percent of that calendar year (hereinafter in this paragraph referred to as the 'interruption period').

"(B) During the interruption period, emissions of sulfur dioxide from the unit shall not exceed the lower of—

"(i) 0.5 lbs per million Btu, or

"(ii) the most stringent rate applicable to the unit under the applicable implementation plan.

"(C) The unit burns as its fuel more than 90 percent natural gas during any period other than the interruption period.

"(3) If an interruptible gas unit fails to meet any requirement of this subsection, the owner or operator of the unit shall be required to obtain allowances under this title for the excess emissions referred to in paragraph (2).

"SEC. 506. NITROGEN OXIDES EMISSION REDUCTION PROGRAM.

"(a) PROGRAM.—Emission rate requirements for nitrogen oxides shall be met in the Second Phase by coal-fired electric utility steam generating units with a nameplate capacity of 75 MWe or greater. Emission rate requirements under this section shall not apply to cyclone or wet-bottom boilers unless the Administrator promulgates a rule under subsection (c), and includes in such rule the finding referred to in the last sentence of subsection (c). For cell burners, any such emission rate requirement shall be based on commercially available burner technology.

"(b) $NO_x$ EMISSION RATE LIMITATIONS.—The Administrator shall, by rule, within 3 years after the enactment of the Clean Air Act Amendments of 1990 establish a program under this section and section 111 to reduce total nitrogen oxide emissions by approximately 2,500,000 tons below 1989 projected emissions for calendar year 2000. Pursuant to such program, the Administrator shall establish emission rate limitations under this section, to take effect at the beginning of Second Phase based on the application of low nitrogen oxides burner technology for each type of boiler. In establishing such limitations the Administrator shall take into consideration boiler age and configuration, safety, efficiency, technology, and other relevant factors. In addition, if necessary for purposes of such program, the Administrator shall, consistent with the requirements of section 111, revise new source performance standards under section 111 for emissions of oxides of nitrogen from electric utility steam generating units to insure that such new source performance standards are no less stringent than the emission rate limitations required under this subsection. Any unit subject to an emission rate limitation under this section shall not be an affected unit for nitrogen oxides for purposes of this title, except as provided in section 509.

(c) ADJUSTMENT OF 2,500,000 TON REDUCTION.—The Administrator may promulgate a rule in calendar year 1996 or any time thereafter increasing the tonnage of reductions in oxides of nitrogen required to be achieved under this section from 2,500,000 tons up to not more than 4,000,000 tons if the Administrator finds, in such rule, that such reductions are—

(1) needed either for purposes of reducing acid deposition or for meeting the national primary ambient air quality standard for ozone, and

(2) cost effective, taking into consideration alternative means of reducing such deposition or achieving such standard under this Act, and the practicability of the necessary control technology.

In making any finding under item (1) above, the Administrator shall take into account (A) the reductions in oxides of nitrogen achieved or expected to be achieved under other provisions of this Act and (B) the findings of the study under section 185B. Such rule shall include an explanation of the basis for such findings. To provide such reductions, the Administrator (as part of such rule) may establish or revise new source performance standards under section 111 for nitrogen oxide control. Such rule

shall provide reasonable lead time, taking into consideration safety, costs, technology, and other relevant factors, including the requirements of subsection (b). Any such rule may apply to cyclone or wet-bottom boilers, or both, if the Administrator finds that methods are available for reducing emissions from such boilers that are as cost effective as the application of low nitrogen oxides burner technology in the case of wall-fired or tangentially-fired boilers.

"SEC. 507. PERMITS AND COMPLIANCE PLANS.

"(a) PERMIT PROGRAM.—The provisions of this title shall be implemented, subject to section 503, by permits issued to units subject to this title in accordance with the provisions of title IV, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

"(1) annual emissions of sulfur dioxide or nitrogen oxides (if applicable) in excess of the allowances allocated to that unit for the year concerned and issued to the owner or operator of the unit for that year, plus or minus the allowances transferred to or from the unit for that year or carried forward to that year from prior years;

"(2) exceedances of applicable emissions rates, and

"(3) contravention of any other provision of the permit.

Permits issued to implement this title shall be issued for a period of 5 years, notwithstanding title IV.

"(b) COMPLIANCE PLAN.—Each initial permit application shall be accompanied by a compliance plan for the source to comply with its requirements under this title. Where an affected source consists of more than one affected unit, such plan shall cover all such units, and for purposes of section 402(c), such source shall be considered a 'facility'. Nothing in this section regarding compliance plans or in title IV shall be construed as affecting allowances. The compliance plan shall provide all necessary information on the schedule and means by which the source will achieve compliance with its First or Second Phase requirements, including specification of any additional allowances beyond the initial allocation that will be used to achieve compliance. The Administrator may also require—

"(1) for a source, a demonstration of attainment of national ambient air quality standards, and

"(2) from the owner or operator of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance at the affected sources.

"(c) FIRST PHASE PERMITS.—The Administrator shall issue permits to First Phase affected sources under section 504.

"(1) PERMIT APPLICATION AND COMPLIANCE PLAN.—(A) Not later than 27 months after the date of the enactment of the Clean Air Act Amendments of 1990, the owner or operator of each First Phase affected source under section 504 shall submit a permit application and compliance plan for that source in accordance with regulations issued by the Administrator under paragraph (3). The permit application and the compliance plan shall be binding on the owner or operator for purposes of this title and section 402(a), and shall be enforceable in lieu of a permit until a permit is issued by the Administrator for the source.

"(B) In the case of a compliance plan for a First Phase affected source under section 504 for which the owner or operator proposes to meet the requirements of that section by reducing utilization of the unit by 20 percent or more, as compared with the baseline prescribed in section 502(8)(A), or by shutting down the unit, the owner or operator of the unit shall include in the compliance plan a specification of the means to compensate for the reduced output of the affected source, including a specification of (i) any other source of electric energy, (ii) any energy conservation or load management programs, and (iii) any imported energy or the other energy that will provide electrical generation. The affected source, and any unit to be used for such compensating generation, if not otherwise affected under section 504, shall be deemed affected under section 504 and subject to the Phase I requirements of this title, except that allowances shall be allocated to such unit in an amount equal to the product of the unit's baseline multiplied by the unit's actual 1985 emission rate, divided by 2000 lbs/ton.

"(2) EPA ACTION ON COMPLIANCE PLANS.—If the Administrator determines that a proposed compliance plan does not satisfy the requirements of this title or title IV, the plan shall be disapproved within 6 months after receipt of a complete submission. If a plan is disapproved, it may be resubmitted for approval with such changes as the Administrator shall require consistent with the requirements of this title and within such period as the Administrator prescribes as part of such disapproval.

"(3) REGULATIONS; ISSUANCE OF PERMITS.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations, in accordance with title IV, to implement a Federal permit program to issue permits for affected sources under this title. Following promulgation, the Administrator shall issue a permit to implement the requirements of section 504 and the allowances provided under section 503 to the owner or operator of each affected source under section 504. Such a permit shall supersede any permit application and compliance plan submitted under paragraph (1).

"(4) FEES.—During the First Phase, no fee shall be required to be paid under section 402(b)(3) or under section 110(a)(2)(L) with respect to emissions from any unit which is a First Phase affected unit under section 504.

"(d) GOVERNOR'S APPROVAL.—Any owner or operator submitting a First Phase permit application and compliance plan under subsection (c) shall request an approval from the Governor of any State within which the source is located that the application and compliance plan are consistent with State law. Where required by State law, the Governor's approval may preclude the use of coal produced outside the State at the source. The Governor's approval shall be a condition of any permit issued by the Administrator to the source unless the Administrator, within 60 days after receipt, notifies the Governor that the approval is inconsistent with the provisions or purposes of the Act or with other compelling national interest. In the event that the Governor fails or refuses to act on a request for approval within 90 days after receipt of the request, the requirements of this subsection shall be waived with respect to such application and compliance plan.

"(e) SECOND PHASE PERMITS.—(1) To provide for permits for (A) new electric utility steam generating units required under section 503(e) to have allowances, (B) affected units or sources under section 505, and (C) existing coal-fired electric utility steam generating units subject to nitrogen oxide emission reductions under section 506, each State in which one or more such units or sources are located shall submit in accordance with title IV, a permit program for approval as provided by that title. Upon approval of such program, for the units or sources subject to such approved program the Administrator shall suspend the issuance of permits as provided in section 402(e) of title IV.

"(2) The owner or operator of each affected source under section 505 shall submit a permit application and compliance plan for that source to the permitting authority, not later than January 1, 1996.

"(3) Not later than December 31, 1997, each State with an approved permit program shall issue permits to the owners or operators of affected sources under section 505 (Second Phase affected sources) that satisfy the requirements of title IV and this title and that submitted to such State a permit application and compliance plan pursuant to paragraph (2). In the case of a State without an approved permit program by July 1, 1996, the Administrator shall, not later than January 1, 1998, issue a permit to the owner or operator of each such affected source. In the case of affected sources for which applications and plans are timely received under paragraph (2), the permit application and the compliance plan, including amendments thereto, shall be binding on the owner or operator and shall be enforceable as a permit for purposes of this title and section 402(a) until a permit is issued by the permitting authority for the affected source. The provisions of section 558(c) of title V of the United States Code (relating to renewals) shall apply to permits issued by a permitting authority under this title and title IV.

"(4) The permit issued in accordance with this subsection for an affected source shall provide that the affected units at the affected source may not emit an annual tonnage of sulfur dioxide in excess of the allowances allocated to each such unit and issued to the source for the year concerned, plus or minus the allowances transferred to or from such units for that year or carried forward from prior years. In the case of a unit referred to in section 505(c)(2), relating to election for small systems, the permit shall also provide that such unit may not exceed the annual emissions rate specified in that section.

"(f) UNITS SUBJECT TO CERTAIN OTHER LIMITS.—The owner or operator of any unit subject to an emission rate requirement under section 506 shall submit a permit application and compliance plan for such unit to the permitting authority, not later than January 1, 1998. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of title IV and this title, including any appropriate monitoring and reporting requirements. Unless designated under section 509, such a unit shall not receive, and is not obligated to emit oxides of nitrogen in conformance with, allowances issued for oxides of nitrogen under this title.

"(g) NEW UNITS.—The owner or operator of each source that includes a new electric utility steam generating unit shall submit a permit application and compliance plan to the permitting authority not later than 24 months before the later of (1) the date of the commencement of the Second Phase, or (2) the date on which the unit commences operation. The permitting authority shall issue a permit to the owner or operator of the unit

*that satisfies the requirements of title IV and this title.*

*"(h) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section. In considering any permit application and compliance plan under this title, the permitting authority shall ensure coordination with the applicable electric ratemaking authority, in the case of regulated utilities, and with unregulated public utilities.*

*"(i) PROHIBITION.—(1) It shall be unlawful for an owner or operator required to submit a permit application or compliance plan under this title to fail to submit such application or plan in accordance with the deadlines specified in this section or to otherwise fail to comply with regulations implementing this section.*

*"(2) It shall be unlawful for any person to operate any source subject to this title except in compliance with the terms and requirements of a permit application and compliance plan (including amendments thereto) or permit issued by the Administrator or a State with an approved permit program. For purposes of this subsection, compliance, as provided in section 404(g), with a permit issued under title IV which complies with this title for sources subject to this title shall be deemed compliance with this subsection as well as section 402(a).*

*"(3) In order to ensure reliability of electric power, nothing in this title or title IV shall be construed as requiring termination of operations of an electric utility steam generating unit for failure to have an approved permit or compliance plan, except that any such unit may be subject to the applicable enforcement provisions of section 113.*

*"SEC. 508. REPOWERED UNITS.*

*"(a) AVAILABILITY.—Not later than January 1, 1998, the owner or operator of any Second Phase affected unit may demonstrate to the permitting authority that such unit will be repowered with a qualifying clean coal technology to comply with the requirements applicable to that unit pursuant to section 505 or 506. The owner or operator shall, as part of any such demonstration, provide, not later than December 31, 2000, satisfactory documentation of a preliminary design and engineering effort for such repowering, an executed contract for the majority of the equipment to repower such unit, and such other information as the Administrator may require by regulation. The replacement of an existing electric utility steam generating unit with a new electric utility steam generating unit using a repowering technology referred to in section 502(a)(14) which is located at a different site, shall be treated as repowering of the existing unit for purposes of this title and such replacement unit shall not be treated as a new electric utility steam generating unit within the meaning of section 502 if—*

*"(1) the replacement unit is designated by the owner or operator to replace such existing unit,*

*"(2) the existing unit is retired from service on or before the date on which the designated replacement unit enters commercial operation, and*

*"(3) the designated replacement unit is located in the same air quality control region as the existing unit.*

*"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) for any unit shall be granted an extension of the date on which such unit is required to comply with Second Phase requirements. Such date shall be extended from December 31, 2000 to December 31, 2003. The extension shall be specified in the permit issued to the source under section 507, together with any compliance schedule and other requirements, consistent with this title, necessary to meet Second Phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j).*

*"(2) If (A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to repower such unit with a clean coal unit, and (B) such owner or operator demonstrates to the satisfaction of the Administrator that the repowering technology to be utilized by such unit has been properly constructed and tested on such unit, but nevertheless has been unable to achieve the emission reduction limitations and is economically or technologically infeasible, such existing unit may be retrofitted or repowered with equipment or facilities utilizing another clean coal technology or other available control technology.*

*"(c) CONTROL REQUIREMENTS.—A repowered unit replacing an existing unit qualifying for an extension under this section shall not be required to meet any standard of performance under section 111. A repowered unit replacing an existing unit qualifying for an extension under this section shall not be subject to the requirements of part C or D of this Act if the projected emissions from the repowered unit will not result in an increase in emissions, relative to predemonstration actual emissions of the existing unit, as determined by the Administrator, of any pollutant regulated under this Act. For purposes of calculating projected emissions for purposes of this paragraph, a 70 percent capacity factor shall be used. Notwithstanding the provisions of this subsection, no new unit (1) designated as a replacement for an existing unit, (2) qualifying for the extension under subsection (b), and (3) located at a different site than the existing unit shall receive an exemption from the requirements imposed under section 111 and parts C and D of the Act.*

*"(d) ALLOWANCES.—(1) For the 3-year extension period granted to an affected unit under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of—*

*"(A) emissions limit for sulfur dioxide applicable to the unit under the applicable implementation plan, or*

*"(B) its actual emission rate for 1996.*

*Such allowances may not be transferred or used by any other source to meet requirements of this title.*

*"(2) The owner or operator of the affected unit for which an extension has been granted under this section shall notify the Administrator 60 days in advance of the date on which the affected unit is to be removed from operation to install the repowering technology. Effective on that date, allowances shall be issued for the unit in the tonnage calculated by multiplying 1.20 lbs/mmBtu times the units baseline, divided by 2,000 lbs/ton. Allowances for the year in which the source is removed from operation to install the repowering technology shall be prorated accordingly, and are transferable.*

*"(3) In the case of any unit for which an extension has been granted under this section, the allowances allocated and issued for calendar years after repowering is complete shall be equal to 1.20 lbs/mmBtu multiplied by the unit's baseline, divided by 2,000 lbs/ton.*

*"(4) Allowances shall be allocated and issued under this section for a designated replacement unit which replaces an existing unit (as provided in the last sentence of subsection (a)) in lieu of allocating and issuing allowances for the existing unit.*

*"(5) For the purpose of making adjustments under section 503(i), the units with an extension under this subsection shall be treated as having allowances allocated and issued under paragraph (3).*

*"(e) CERTAIN UNITS SELECTED FOR NEGOTIATIONS.—For purposes of allocating and issuing Second Phase allowances under this title, in the case of any oil and gas fired electric utility steam generating unit which has been selected for negotiations leading to award of clean coal demonstration funding by the Secretary of Energy before July 27, 1989, the Administrator shall allocate allowances to such unit in accordance with paragraph (3) of subsection (d), in lieu of allocating allowances to that unit pursuant to section 505, but no such unit shall be eligible for an extension under this section.*

*"(f) PROHIBITION.—It shall be unlawful for the owner or operator of a repowered source to fail to comply with the requirements of this section, and any regulations to implement this section.*

*"SEC. 509. ELECTION FOR ADDITIONAL SOURCES.*

*"(a) APPLICABILITY.—The owner or operator of any existing unit or process source that is not an affected unit for sulfur dioxide or oxides of nitrogen, or both as the case may be, may elect to designate that unit or process source as an affected unit under this section for such pollutant or pollutants. Such an election may be submitted to the Administrator for approval anytime after promulgation of regulations under this section. The Administrator shall approve a designation that meets the requirements of this section. Following approval, such designated unit or process source shall be treated as an affected unit for purposes of this title and shall receive allowances as provided in this section for periods following such approval.*

*"(b) ESTABLISHMENT OF BASELINE.—The baseline for a unit designated as an affected unit under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if not available, the Administrator may prescribe a baseline based on alternative representative data.*

*"(c) ALLOWANCES FOR AFFECTED UNITS.—(1) Allowances allocated and issued under this title for sulfur dioxide or nitrogen oxides to a unit which is an affected unit under this section shall be equal to the product of the unit's baseline multiplied by the unit's actual 1985 emission rate in lbs/mmBtu, divided by 2,000 lbs/ton.*

*"(2) Beginning in the Second Phase, the allowances for oxides of nitrogen for a unit for which an election is in effect under this section for oxides of nitrogen shall be determined based on the rate prescribed under section 506 for any unit subject to that section and any such unit shall be required only to comply with such allowances and shall not also be subject to an emission rate requirement under section 506.*

*"(3) This subsection shall not apply to any process source.*

"(d) PROCESS SOURCES.—The Administrator shall establish, by regulation by 1995, a program for designation of process sources which commenced operation before the date of the enactment of the Clean Air Act Amendments of 1990 as affected units for purposes of this section. The Administrator shall define the sources that may be included (not including any unit as defined under this title), specify the emission baseline and other data requirements, prescribe CEMS or other monitoring requirements, and promulgate permit, reporting, and any other requirements necessary to implement such a program.

"(e) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the allowances calculated under subsection (c) or (d), in accordance with section 503. Section 503(i) shall not apply to the allowances issued under this section. Such allowances may be transferred and banked in accordance with the provisions of this title. The permitting authority shall issue a permit for units and process sources which are designated as affected units under this section in the same manner as provided in section 507.

"(f) LIMITATION.—Any unit or process source which is designated under this section as an affected unit shall not transfer or bank allowances produced as a result of emission reductions resulting from reduced utilization or shutdown or compliance with any other provisions of this Act (other than section 112 or this title) except that in the case of a reduced utilization or shutdown such allowances may be transferred or carried forward for use in subsequent years to the extent that—

"(1) any such reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section with thermal energy generated by any other unit or units subject to the requirements of this title, and

"(2) the designated unit's allowances are transferred or carried forward for use only at such other replacement unit or units.

"(g) IMPLEMENTATION.—The Administrator shall issue regulations to implement this section not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990.

"SEC. 510. EXCESS EMISSIONS ENFORCEMENT FEE.

"(a) EXCESS EMISSIONS ENFORCEMENT FEE.—The owner or operator of any affected source that emits sulfur dioxide or nitrogen oxides for any calendar year in excess of the allowances it possesses for that calendar year (hereinafter referred to as 'excess emissions') shall be liable for the payment of an excess emission fee. That fee shall be equal to the excess emissions multiplied by $2,000. The fee shall be due and payable without demand to the Administrator as provided in regulations issued by the Administrator. Any such funds shall be deposited in the United States Treasury pursuant to 31 U.S.C. 3302 (the 'Miscellaneous Receipts Act'). Any fee due and payable under this section shall not diminish any fine, penalty or fee imposed on the same source under any other section of this Act.

"(b) EXCESS EMISSIONS OFFSET.—The owner or operator of any affected source liable for payment of a fee under subsection (a) shall also offset the excess emissions by reducing emissions of the air pollutant concerned by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The owner or operator of the source shall, within 60 days after the end of the year in which such excess emissions occurred, submit to the Administrator, and the State, a plan to achieve the required offsets. The Administrator shall also deduct allowances equal to the excess emissions tonnage from those issued for the source for the calendar year, or succeeding years, following the year in which the excess emissions occurred.

"(c) FEE ADJUSTMENT.—The Administrator shall, by regulation, adjust the fee specified in subsection (a) for inflation, based on the Consumer Price Index, beginning in calendar year 1996 and annually thereafter.

"(d) PROHIBITION.—It shall be unlawful for the owner or operator of any source liable for a fee and offset under this section to fail to pay the fee under subsection (a) or to fail to provide, and thereafter comply with, a plan as required by subsection (b), or to fail to offset excess emissions as required by subsection (b).

"(e) SAVINGS PROVISION.—Nothing in this title shall limit or otherwise affect the application of section 113 or section 304.

"SEC. 511. MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS.

"(a) APPLICABILITY.—All affected sources subject to this title shall be required to install and operate CEMS and quality assure the data for sulfur dioxide, nitrogen oxides, opacity and volumetric flow for each unit subject to this title. The Administrator shall, by regulations issued not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, specify the requirements for CEMS, for alternative methods that provide sufficiently reliable and timely information, and for recordkeeping and reporting of information from such systems. Where 2 or more units utilize a single stack, a separate CEMS shall not be required for each unit, and for such units the regulations shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for each such unit.

"(b) FIRST PHASE REQUIREMENTS.—Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, the owner or operator of each unit subject to section 504 shall install and operate CEMS, quality assure the data, and keep records and report in accordance with regulations issued under subsection (a).

"(c) SECOND PHASE REQUIREMENTS.—Not later than January 1, 1995, the owner or operator of each source subject to sections 505 or 506 which has not previously met the requirements of subsection (a) shall comply with those requirements. Upon commencement of commercial operation of each new electric utility steam generating unit, the unit shall comply with the requirements of subsection (a).

"(d) UNAVAILABILITY OF CEMS.—If CEMS data is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner and, by regulation, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions fees and offsets under section 510 in accordance with such regulation which shall be issued not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990.

"(e) PROHIBITION.—It shall be unlawful for the owner or operator of any source subject to this title to operate a source without complying with the requirements of this section, and any regulations implementing this section.

"SEC. 512. COMPLIANCE WITH OTHER PROVISIONS.

(a) GENERAL.—Except as otherwise expressly provided in this Act, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any source subject to this title from compliance with any other applicable requirements of this Act.

"(b) NEW SOURCE REVIEW OF COMPLIANCE.—No physical change in, or change in the method of operation of, a stationary source for purposes of reducing emissions from such source in order to comply with this title shall be treated as a modification for purposes of section 111 or part C of title I of this Act if such change does not increase the potential emissions of any air pollutant from such source above the potential emissions before the change.

"SEC. 513. ENFORCEMENT.

"A violation by the owner or operator of a source subject to this title of the prohibitions of, requirements of, or regulations promulgated pursuant to, this title shall be a violation of this Act. Operation of an affected source to emit sulfur dioxide or nitrogen oxides in excess of its allowances shall be deemed a violation, with each ton emitted in excess of allowances held constituting a separate violation.

"SEC. 514. REPORT TO CONGRESS.

"Not later than January 1, 2003, the Administrator shall assess and submit a report to Congress on the environmental effects of the emission reductions under this title.

"SEC. 515. CLEAN COAL TECHNOLOGY INCENTIVES.

"(a) REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATIONS.—The Administrator shall promulgate regulations under this section to revise requirements under section 111 and parts C and D of title I, as appropriate, to facilitate temporary and permanent clean coal demonstration projects, consistent with the attainment and maintenance of national ambient air quality standards and prevention of significant deterioration as provided in subsections (b) and (c). Such regulations shall address physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration means—

"(1) a project using funds appropriated under the heading 'Department of Energy—Clean Coal Technology', or

"(2) a similar project funded through appropriations for the Environmental Protection Agency.

"(b) TEMPORARY PROJECTS.—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with all State implementation plans and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or parts C or D of title I.

"(c) PERMANENT PROJECTS.—Any permanent demonstration project that complies with all State implementation plans and other requirements necessary to attain and maintain the national ambient air quality standards shall not be subject to the requirements of part C or D of title I or section 111 if the

projected emissions from the project will not result in an increase in emissions, relative to its predemonstration actual emissions, as determined by the Administrator, of any pollutant regulated under this Act. For purposes of calculating projected emissions for purposes of this paragraph, a 70 percent capacity factor shall be used.

"(d) PREEXISTING REQUIREMENTS.—Any clean coal demonstration technology project shall be subject to its preexisting obligations under this Act until such time as it qualifies under regulations implementing this section for alternate requirements.

"(e) PHASE I AFFECTED SOURCES.—(1) A clean coal technology demonstration project defined in subsection (A)(1) of this section may use funds allocated to procurements issued subsequent to May 1, 1989, only if the project is installed at a facility owned or operated by the owner of an affected source subject to section 504(a) (relating to First Phase sulfur dioxide tonnage allowances).

"(2) A clean coal technology demonstration project defined in subsection (a)(2) of this section may be funded after enactment of the Clean Air Act amendments of 1990 only if the project is installed at a facility owned or operated by the owner or operator of an affected source subject to section 504(a) (relating to First Phase sulfur dioxide tonnage allowances).

"SEC. 516. SEVERE ENERGY SUPPLY INTERRUPTIONS AND ENERGY FUEL SUPPLY SHORTAGES.

"(a) EPA ORDER.—(1) The owner or operator of any unit or source required to have allowances under this title as a condition of operation may apply to the Administrator for an order under this subsection whenever, by reason of one or more of the conditions specified in subparagraph (A), (B), or (C) of paragraph (2), the total calendar year emissions of sulfur dioxide from such units and sources owned or operated by such owner or operator exceeds the allowances held by such owner or operator for that calendar year (including allowances held in reserve for contingencies). If, upon such an application, the Administrator finds, after consultation with the Secretary of Energy, that by reason of one or more of such conditions—

"(A) the ability of the owner or operator to comply with the requirements of this title has been significantly impaired,

"(B) the unit or source has emitted an amount of sulfur dioxide or oxides of nitrogen which exceeds the allowances held by the owner or operator (including allowances held in reserve for contingencies), and

"(C) the owner or operator had, before the occurrence of the condition referred to in subparagraph (A), (B), or (C) of paragraph (2), established a reasonable reserve for contingencies but that reserve did not contain sufficient allowances to cover such excess,

the Administrator shall promptly issue an order providing that allowances shall not be required to authorize such excess emissions. The Administrator shall act upon any application under this subsection in an expedited manner. Upon issuance of any such order, the emissions covered by such order in excess of the allowances held by the owner or operator shall not be treated as a violation for purposes of section 513 or for purposes of any other provision of this Act.

"(2) The conditions referred to in paragraph (1) are as follows:

"(A) A severe energy supply interruption (as defined in section 3(8) of the Energy Policy and Conservation Act) has been declared or a determination has been published by the President (including the basis of such determination) that there exists a national or regional fuel supply shortage which is, or is likely to be, of significant scope and duration and of an emergency nature and it causes or may cause a major adverse impact on public health or safety or welfare or on the economy and results, or is likely to result, from an interruption in the supply of fuel or from sabotage or an act of God.

"(B) A catastrophe has occurred that the President finds gives rise to an emergency (as defined in section 102(1) of the Disaster Relief and Emergency Assistance Act) in any part of the United States that requires an assured supply of electricity to save lives and protect property, public health and to avert or lessen the threat of a major disaster.

"(C) A catastrophe has occurred which the President finds gives rise to a major disaster (as defined in section 102(2) of the Disaster Relief and Emergency Assistance Act) in any part of the United States that requires an assured supply of electricity to alleviate the damage, loss, hardship, or suffering caused by such major disaster.

Any order under this subsection shall include such terms and conditions as the Administrator, in consultation with the Secretary of Energy, deems necessary to lessen or minimize the impact of the order consistent with the purposes of this title. The Administrator shall submit a report to Congress on all orders issued under this section. The authority of the President under this section may not be delegated to any other person.

"(b) GAS CURTAILMENTS.—Notwithstanding any emission limitation or allowance requirement applicable under this title, any electric utility steam generating unit that burned as its fuel during the period 1985 through 1987 more than 90 percent natural gas may emit during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act of 1978), sulfur dioxide at the lower of—

"(1) 0.5 lbs per million Btu, or

"(2) the most stringent rate applicable to the unit under the applicable implementation plan

if the unit burns oil during such curtailment. Notwithstanding section 505 no such unit shall be treated as a new unit required to obtain allowances under this title by reason of this subsection.

"SEC. 517. PROTECTION OF LOW-INCOME HOUSEHOLDS.

"(a) APPLICATION.—This section shall apply to each electric utility, subject to rate regulation by a State regulatory authority whose annual sales of electric energy exceed 500,000,000 kilowatt hours.

"(b) IDENTIFICATION OF EXPENDITURES.—Each State regulatory authority may, in accordance with the applicable procedures thereof, require each utility referred to in subsection (a) to identify, for purposes of this subsection, expenditures needed for purposes of compliance with First Phase or Second Phase of this title and to identify on an annual basis the expenditures made for such purposes within the past 12 months and the expenditures projected to be made for such purposes within the succeeding 24 months. These expenditures shall include both capitalized items and expensed items. Normal cost allocation principles shall apply where costs incurred may be related in part to other purposes or requirements. Such authority may make exceptions from the requirements of this section where the authority determines that the amount of such expenditures cannot be reasonably segregated and identified.

"(c) TREATMENT OF EXPENDITURES.—No utility which has identified expenditures under subsection (b) may, as determined by such authority, include in the rates and charges imposed on any income-eligible retail ratepayer any portion of the expenditures made by such utility to comply with this title. There shall be provision for notice and a public hearing on the sole issue of whether to exempt low-income residents. Any decision whether or not to exempt low-income residents and the reasons therefor must be provided to local officials. This subsection shall apply with respect to the first utility bill submitted by the utility to an income eligible ratepayer after the documentation referred to in subsection (d) is received by the utility (or after the ratepayer is found by the utility to be automatically eligible.)

"(d) INCOME-ELIGIBLE RETAIL RATEPAYER.—

"(1) IN GENERAL.—For purposes of this section, during any 12-month period an income-eligible retail ratepayer shall be any ratepayer of an electric utility subject to the provisions of subsection (b) who provides documentation to the utility (in such form and manner as the State regulatory authority shall, by rule, specify) satisfactory to establish that such ratepayer is an individual who is eligible at the commencement of such period for benefits under any of the following:

"(A) The Low-Income Home Energy Assistance Program (LIHEAP).

"(B) The supplemental security income program under title XVI of the Social Security Act.

"(C) Women, Infants and Children (WIC).

"(D) Food stamps.

"(E) Medical assistance under title XIX of the Social Security Act.

"(F) The Weatherization Assistance Program (WAP).

"(G) A State plan approved under section 402 of the Social Security Act (AFDC).

"(2) APARTMENTS.—Such term also includes any ratepayer who provides documentation to the utility (in such form and manner as the State regulatory authority shall, by rule, specify) satisfactory to establish that such ratepayer leases units in a multiple unit residential dwelling to individuals if ⅔ or more of the units are occupied by individuals who, at the commencement of such period, are eligible for any of the benefits referred to above.

"(3) AUTOMATIC ELIGIBILITY.—No documentation shall be required under this subsection in any case in which a ratepayer is known to the utility to be eligible for one of the types of assistance specified above.

"(4) STATE, LOCAL, PRIVATE NONPROFIT ORGANIZATIONS.—An electric utility shall accept documentation regarding any individual ratepayer under this subsection from any State, local, or private nonprofit organization which administers any of the programs referred to in paragraph (1).

"(e) OUTREACH.—Each utility subject to this section as provided in subsection (a) shall undertake measures, directly or through the services of low-income assistance organizations, to publicize the program under this section to the low-income community.

"(f) FALSE DOCUMENTATION.—Any person who is not an income-eligible ratepayer within the meaning of subsection (d) and who fraudulently provides false documentation to an electric utility purporting to establish that such person is an income-eligible ratepayer within the meaning of subsection (d) shall be liable to the utility for an amount equal to three times the full amount

of any reduction in rates obtained by reason of such false documentation.

"SEC. 518. DOE UNITS.

"(a) ALLOWANCE ALLOCATIONS FOR CERTAIN UNITS.—In lieu of allocating allowances to the units at the Joppa, Kyger Creek, and Clifty Creek powerplants as provided in section 504 and section 505, the Administrator shall allocate and issue First Phase and Second Phase allowances pursuant to section 503 to each such unit in an amount equal to 0.4 lbs/mmBtu multiplied by the unit's baseline, divided by 2,000.

"(b) COMPLIANCE.—The Secretary of Energy shall require that affected units at each powerplant listed in Table A of section 504(a) which provides, by contract with the Secretary of Energy, more than 75 percent of the energy generated to Federal facilities on a regular basis may only utilize, for purposes of compliance with this title, a technological system of continuous emission reduction or the purchase of allowances, or any combination of the foregoing. Subject to appropriation, the Secretary of Energy shall pay the costs of construction and installation of such system of continuous emission reduction and a share of the operating costs of such system proportional to the energy purchased by the Secretary of Energy.

"SEC. 519. AUCTION.

"(a) EARLY AUCTION.—

"(1) IN GENERAL.—The Administrator, in consultation with the Secretary of the Treasury, shall conduct an auction before March 31, 1992, at which owners or operators of affected units may offer allowances for sale (hereinafter referred to as the 'early auction').

"(2) DOCUMENTATION.—Before the early auction, the Administrator shall issue to affected units such documentation as may be necessary for the owner or operator of such units to legally transfer through such auction their rights to receive allowances and for the Administrator to record such transfers. If the Administrator fails to provide such documentation within such period, for purposes of the auction, Table A in section 504 (adjusted by the 6 percent amount referred to in section 504) shall be treated as entitling the owners or operators of the units specified in Table A to receive the allowances specified in Table A (as so adjusted) during the First Phase.

"(3) LIMIT ON SALE OF SECOND PHASE ALLOWANCES.—No owner or operator of a unit or units for which Second Phase allowances are to be issued may sell at the early auction more than 50 percent of the allowances to be allocated to those units, based on the list of Second Phase allowances to be published by the Administrator by December 31, 1991.

"(4) SEALED OFFER TO SELL.—Owners or operators of units that elect to participate in the early auction shall specify (by a date set by the Administrator) in a sealed offer to sell: (A) the number of allowances to be offered for sale at the early auction, and (B) the minimum price at which such allowances may be sold at such auction.

"(5) NOTICE.—The Administrator shall publish a notice of the total number of allowances to be offered for sale at the early auction under this section.

"(6) SEALED BID SCHEDULES.—Any person may submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowances at specified prices.

"(7) SALES.—The Administrator shall match the lowest offers to sell under this subsection with the highest bids submitted in the bid schedules. All allowances for which the Administrator has established a match shall be sold at the bid price.

"(8) EFFECT OF SALE AT AUCTION.—Any sale of allowances completed through the auction under this section shall constitute—

"(A) an immediate obligation by the buyer to pay to the purchaser an amount equal to the matched bid price multiplied by the total number of allowances; and

"(B) an obligation of the seller to provide the allowances subject to such bid to the purchaser.

The failure of any person to comply with such obligations shall be considered a violation punishable by the Administrator as provided in section 113(c).

"(9) FUNDS TRANSFERRED.—No funds transferred from a purchaser to a seller of allowances under this subsection shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or to the Administrator.

"(b) ANNUAL ALLOWANCE AUCTIONS.—

"(1) 5 PERCENT TAP.—The Administrator shall withhold 5 percent of the allocation of allowances for each year which would (but for this subsection) be issued for each affected unit at an affected source. The Administrator shall record such withholding for purposes of transferring the proceeds of the allowance sales under this subsection. Except for the allowances reserved for sale or other distribution under subsection (c) and section 505(g) (relating to States experiencing population growth in excess of 25 percent), all allowances withheld under this paragraph shall be offered for sale by the Administrator at auctions under paragraph (2).

"(2) ANNUAL AUCTIONS.—Commencing in June of 1993 and in June of each year thereafter, the Administrator shall conduct auctions at which the allowances referred to in paragraph (1) shall be offered for sale in accordance with regulations promulgated by the Administrator, in consultation with the Secretary of the Treasury. One-third of the allowances referred to in paragraph (1) which authorize emissions in calendar year 1996 shall be offered for sale at the auction held under this paragraph in 1993; one-third of such allowances shall be offered for sale at the auction held under this paragraph in 1994; and one-third of such allowances shall be offered for sale at the auction held under this paragraph in 1995. In 1996 and thereafter, all of the allowances referred to in paragraph (1) which authorize emissions in the next calendar year shall be offered for sale. The auction shall be open to any person. A person wishing to bid for such allowances shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowances at specified prices. Such regulations shall allocate the auctioned allowances on the basis of bid price, starting with the highest-priced bid and continuing until all allowances for sale at such auction have been allocated. The regulations shall not permit that a minimum price be set for the purchase of withheld allowances. Allowances purchased at the auction may be used for any purpose and at any time after the auction, subject to the provisions of this title.

"(3)(A) Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, within 90 days of receipt, the Administrator shall transfer the proceeds from the auction under paragraph (2), on a pro rata basis, to the owners or operators of the affected units at an affected source from whom allowances were withheld. No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

"(B) At the end of each year, any withheld allowances not sold at the auction shall be returned, without charge, on a pro rata basis to the owners or operators of the affected units from whose allocation the allowances were withheld. For purposes of this paragraph, for any affected unit, the term 'pro rata basis' refers to the ratio which the allowances allocated to that unit bears to the allowances allocated to all affected units.

"(4) Any person holding allowances not withheld under paragraph (1) which authorize emissions of sulfur dioxide for the same year as the allowances being sold at any auction under this subsection may submit those allowances to the Administrator to be offered for sale at such auction. The proceeds of any such sale shall be transferred by the purchaser to the person submitting such allowances for sale. The holder of allowances offered for sale under this paragraph may specify a minimum sale price. Any person may purchase allowances offered for auction under this paragraph. Such allowances shall be allocated to purchasers on the basis of bid price after the auction under paragraph (2) is complete. No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

"(5) The Administrator shall record and publicly report the nature, prices and results of each auction under this subsection, including the prices of successful bids, and shall record the transfers of allowances as a result of each auction in accordance with the requirements of this section. The transfer of allowances at such auction shall be recorded in accordance with the regulations promulgated by the Administrator under this section.

"(c) SPECIAL RESERVATIONS OF ALLOWANCES WITHHELD UNDER SUBSECTION (b).—

"(1) RESERVES.—Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing the reserves referred to in paragraphs (2), (3), (4) and section 505(g) (relating to States experiencing population growth in excess of 25 percent). A portion of the Second Phase allowances withheld under subsection (b) shall be placed in such reserves, as provided in such provisions.

"(2) RESERVE FOR DIRECT SALE AT $1,500 PER TON.—(A) In accordance with regulations under paragraph (1), the Administrator shall establish a Direct Sale Reserve containing allowances in the amount of 100,000 tons per year to be offered for sale as provided in this paragraph. Allowances in the Direct Sale Reserve shall be offered for sale at a price of $1,500 per allowance, adjusted by the Consumer Price Index.

"(B) Requests to purchase allowances from the Direct Sale Reserve under this paragraph shall be approved in the order of receipt until no allowances remain in such Reserve, except that an opportunity to purchase such allowances shall be provided to the independent power producers referred to in section 503(l) before such allowances are offered to any other person. Each applicant shall be required to pay 50 percent of the

total purchase price of the allowances within 6 months after the approval of the request to purchase. The remainder shall be paid on or before the transfer of the allowances.

"(C) If the Administrator determines that, during any period of 3 consecutive calendar years after 1997, less than 50 percent of the allowances available in the Direct Sale Reserve established under this paragraph have been purchased under this paragraph, the Administrator shall terminate the reserve and make such allowances available for auction under subsection (b)(2).

"(3) RESERVE FOR DIRECT SALE TO UNITS IN STATES WITH AVERAGE EMISSION RATES BELOW 0.9 MMBTU.—(A) In accordance with regulations under paragraph (1), the Administrator shall establish a Direct Sale Reserve containing allowances in the amount of 25,000 tons per year during the first 10 years of the Second Phase to be offered for sale as provided in this paragraph. Allowances in the Direct Sale Reserve shall be offered for sale at a price of $750 per allowance, adjusted by the Consumer Price Index.

"(B) Requests to purchase allowances from the Direct Sale Reserve under this paragraph shall be approved in the order of receipt until no allowances remain in such Reserve. Each applicant shall be required to pay 50 percent of the total purchase price of the allowances within 6 months after the approval of the request to purchase. The remainder shall be paid on or before the transfer of the allowances.

"(C) Only an owner or operator of a unit located in a State with a Statewide average sulfur dioxide emission for electric utility steam generating units of 0.9 lbs per mmBtu shall be eligible to purchase allowances under this paragraph.

"(D) If the Administrator determines that, during any period of 3 consecutive calendar years, less than 50 percent of the allowances available in the Direct Sale Reserve established under this paragraph have been purchased under this paragraph, the Administrator shall terminate the reserve and make such allowances available for auction under subsection (b)(2).

"(4) RESERVE FOR DISTRIBUTION TO CERTAIN UNITS.—The Administrator shall reserve allowances in the amount of 62,000 tons per year from the Second Phase allowances withheld under subsection (b) for distribution under this paragraph. The Administrator shall distribute such reserved allowances to coal fired electric utility steam generating units which have 1985 sulfur dioxide emission rates less than 1.75 lbs/mmBtu and greater than 1.2 lbs/mmBtu and which are part of a utility system with a 1985 system-wide average sulfur dioxide emission rate for coal fired units of 1.5 lbs/mmBtu or less. Each such unit shall receive such allowances in a tonnage amount equal to 50 percent of the amount computed as follows: multiply 1.2 lbs/mmBtu by the amount by which the unit's fuel consumption at a 60 percent capacity factor exceeds the unit's baseline. The allowances computed under the preceding sentence shall be adjusted to ensure that the total of the allowances distributed under this paragraph is equal to 62,000. The Administrator shall reallocate to each unit any reduction or increase in the allowances to be distributed based on such adjustment on the basis of the ratio which the allowances which would (but for such adjustment) have been distributed to such unit bears to the total allowances which would (but for such adjustment) have been distributed to such units.

"(5) PROCEEDS.—Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, the Administrator shall require that the proceeds of any sale under this subsection be transferred, within 90 days after the sale, without charge, on a pro rata basis to the owners or operators of the affected units from whom the allowances were withheld and that any unsold allowances be returned, without charge, on a pro rata basis, to such owners or operators. No proceeds of any sale under this subsection shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or to the Administrator. For purposes of this paragraph, for any affected unit, the term 'pro rata basis' refers to the ratio which the allowances allocated to that unit bears to the allowances allocated to all affected units.

"SEC. 520. REGULATORY REFORMS TO REDUCE AIR EMISSIONS.

"(a) PROHIBITION.—No State regulated electric utility shall be eligible for interpollutant trading under section 503(c) unless the State regulatory authority exercising ratemaking authority over such utility has certified by January 1, 1995, to the Administrator that the State regulatory authority and such utility have complied with subsection (b) of this section.

"(b) STATE REGULATORY RULEMAKING—Not later than January 1, 1995—

"(1) each such utility shall undertake and complete a planning process and prepare a plan which evaluates a range of resources, including both new power supplies and energy conservation, in order to meet expected future demand at the lowest system cost and provide to such State regulatory authority such plan;

"(2) each such State regulatory authority shall review and consider each plan provided under paragraph (1) and identify and implement appropriate State regulatory mechanisms to ensure that implementation of the plan referred to in paragraph (1) is profitable to the utility; and

"(3) each such utility shall implement any plan approved by the State regulatory authority.

The State regulatory authority shall specifically identify under paragraph (2) regulatory mechanisms to ensure that utility investments in energy conservation and load management measures do not restrict or impair a utility's ability to earn its authorized rate of return.

"(c) UNREGULATED UTILITIES.—All owners or operators of affected units under Phase I whose wholesale rates are not subject to the jurisdiction of the Federal Energy Regulatory Commission or of a State regulatory authority, shall develop and implement, through a public hearing process, a least-cost plan as described in section 520(b)(1) by January 1, 1995. The plan shall be submitted to the Administrator, the Secretary of Energy, and Congress and shall be updated every 2 years.

"(d) STATES CHOOSING NOT TO ADOPT.—If a State regulatory authority chooses not to implement the regulatory reforms under subsection (b)(2), it shall submit by January 1, 1995, to the Administrator a written statement of its determination not to implement such proposed reforms together with its reasons for not doing so.

"(e) SAVINGS PROVISION.—Nothing in this section precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

"(f) DEFINITIONS.—As used in this section:

"(1) The term 'State regulatory authority' means any State agency which has ratemaking authority with respect to the sale of electric energy or energy services by any electric utility (other than such State agency).

"(2) The term 'State regulated electric utility' means any electric utility with respect to which a State regulatory authority has ratemaking authority.

"SEC. 521. EFFECT OF TITLE ON CERTAIN FEDERAL AGENCIES.

"Nothing in this title shall be construed to prohibit the Tennessee Valley Authority from receiving, retaining, and using, in accordance with other applicable law, any funds received under this title from the sale of allowances.".

SEC. 502. NEW SOURCE PERFORMANCE STANDARDS.

(a) REPEAL.—Section 111(a)(1) (42 U.S.C. 7411(a)(1)) is amended to read as follows:

"(1) The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.".

(b) REVISED REGULATIONS.—Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate revised regulations for standards of performance for new electric utility steam generating units commencing construction after the date on which such regulations are proposed that, at a minimum, require any source subject to such revised standards to emit any pollutants for which a standard has been promulgated pursuant to section 109 at a rate not greater than would have resulted from compliance by such source with the applicable standards of performance under this section before such revision.

(c) APPLICABILITY.—The provisions of subsections (a) and (b) apply only so long as section 503(e) of the Clean Air Act (relating to new electric utility steam generating units) remains in effect.

TITLE VI—PROVISIONS RELATING TO ENFORCEMENT

Sec. 601. Section 113 enforcement.
Sec. 602. Compliance certification.
Sec. 603. Administrative enforcement subpoenas.
Sec. 604. Enforcement of administrative orders.
Sec. 605. Scope of emergency orders.
Sec. 606. Contractor listings.
Sec. 607. Judicial review pending reconsideration of regulation.
Sec. 608. Citizen suits.
Sec. 609. Enhanced implementation and enforcement of new source review requirements.
Sec. 610. Movable stationary sources.
Sec. 611. Enforcement of new titles of the Act.

SEC. 601. SECTION 113 ENFORCEMENT.

Section 113 is amended to read as follows:

"SEC. 113. FEDERAL ENFORCEMENT.

"(a) IN GENERAL.—

"(1) ORDER TO COMPLY WITH SIP REQUIREMENTS.—Whenever, on the basis of any information available to him, the Administrator finds that any person has violated or is in violation of any requirement of an applicable implementation plan, the Administrator

shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of the violation is issued, the Administrator may, without regard to the period of violation (subject to section 2462 of title 28 of the United States Code)—

"(A) issue an order requiring such person to comply with the requirements of such plan,

"(B) issue an administrative penalty order in accordance with subsection (d), or

"(C) bring a civil action in accordance with subsection (b).

"(2) STATE FAILURE TO ENFORCE SIP OR PERMIT PROGRAM.—Whenever, on the basis of information available to him, the Administrator finds that violations of an applicable implementation plan or an approved permit program under title IV are so widespread that such violations appear to result from a failure of the State in which the plan or permit program applies to enforce the plan or permit program effectively, he shall so notify the State. In the case of a permit program, the notice shall be made in accordance with title IV. If the Administrator finds such failure extends beyond the 30th day after such notice (90 days in the case of such permit program), he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan or permit program (hereafter referred to in this section as 'period of federally assumed enforcement'), the Administrator may enforce any requirement of such plan or permit program with respect to any person by—

"(A) issuing an order requiring such person to comply with such requirement,

"(B) issuing an administrative penalty order in accordance with subsection (d), or

"(C) bringing a civil action in accordance with subsection (b).

"(3) EPA ENFORCEMENT OF OTHER REQUIREMENTS.—Except for a requirement enforceable under the preceding provisions of this subsection, whenever, on the basis of any information available to him, the Administrator finds that any person has violated, or is in violation of, any requirement of section 111(e) of this title (relating to new source performance standards), section 112 of this title (relating to standards for hazardous emissions), section 114 of this title (relating to inspections, etc.), section 402(a) or 403(c) of title IV (relating to permits), or any prohibition of title V (relating to acid deposition control) (including a requirement of any rule, order, waiver, or permit promulgated or approved under any provision of such sections or titles and including any requirement for the payment of any fee owed to the United States under this Act), the Administrator may—

"(A) issue an administrative penalty order in accordance with subsection (d),

"(B) issue an order requiring such person to comply with such requirement,

"(C) bring a civil action in accordance with subsection (b) or section 305, or

"(D) request the Attorney General to commence a criminal action in accordance with subsection (c).

"(4) REQUIREMENTS FOR ORDERS.—An order issued under this subsection (other than an order relating to a violation of section 112) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1)) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate officers. An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State or the Administrator from assessing any penalties nor otherwise affect or limit the State or the United States' authority to enforce under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act or with a term or condition of any permit or applicable implementation plan promulgated or approved under this Act.

"(5) FAILURE TO COMPLY WITH PART C OR PART D OF TITLE I.—Whenever, on the basis of information available to him, the Administrator finds that a State is not acting in compliance with any requirement of part C or part D of title I, he may—

"(A) issue an order prohibiting the construction or modification of any major stationary source in any area to which such requirement applies;

"(B) issue an administrative penalty order in accordance with subsection (d), or

"(C) bring a civil action under subsection (b)(5).

"(b) CIVIL JUDICIAL ENFORCEMENT.—The Administrator shall, as appropriate, in the case of any person which is the owner or operator of an affected source, a major emitting facility, or a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day for each violation, or both, in any of the following instances:

"(1) Whenever such person violates any requirement of an applicable implementation plan as provided in subsection (a). Such an action shall be commenced (A) during any period of federally assumed enforcement, or (B) more than 30 days following the date of the Administrator's notification under subsection (a)(1) that such person is violating such requirement.

"(2) Whenever such person violates any requirement of section 111(e) of this title (relating to new source performance standards), section 112 of this title (relating to standards for hazardous emissions), section 114 of this title (relating to inspections, etc.), section 165(a) of this title (relating to preconstruction requirements), an order under section 167 of this title (relating to preconstruction requirements), an order under section 303 of title III (relating to emergency orders), section 402(a) or 403(c) title IV (relating to permits), or any prohibition of title V (relating to acid deposition control) (including a requirement of any rule, order, waiver, or permit promulgated or approved under such sections or titles, and including any requirement for the payment of any fee owed the United States under any such provision.

"(3) Whenever such person attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) has been made.

Any action under this subsection may be brought in the district court of the United States in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty, to collect any fees owed the United States and any noncompliance assessment and nonpayment penalty owed under section 120 and to award any other appropriate relief. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.

"(c) CRIMINAL PENALTIES.—(1) Any person who knowingly violates any requirement of section 111(e) of this title (relating to new source performance standards), section 112(h) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to inspections, etc.), section 165(a) of this title (relating to preconstruction requirements), an order under section 167 of this title (relating to preconstruction requirements), an order under section 303 of title III (relating to emergency orders), section 402(a) or 403(c) of title IV (relating to permits), or any prohibition of title V (relating to acid deposition control), (including a requirement of any rule, order, waiver, or permit promulgated or approved under such sections or titles, and including any requirement for the payment of any fee owed the United States under this Act) shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not to exceed 5 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(2) Any person who knowingly—

"(A) makes any false statement, representation, or certification in, or omits material information from or knowingly alters, conceals, or fails to maintain or file, any notice, application, record, report, plan, or other document filed or required to be filed, maintained, or used for purposes of compliance with this Act (whether with respect to the requirements imposed by the Administrator or by a State);

"(B) fails to notify or report as required under this Act; or

"(C) falsifies, tampers with, or renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this Act

shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 2 years, or both.

"(3) Any person who knowingly fails to pay any fee owed the United States under title I, III, IV, or V shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 1 year, or both. If a con-

*viction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.*

*"(4) Any person who negligently releases into the ambient air any hazardous air pollutant listed pursuant to section 112 or any extremely hazardous substance listed pursuant to section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11002(a)(2)) that is not listed in section 112, and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment for not more than 1 year, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.*

*"(5)(A) Any person who knowingly releases into the ambient air any hazardous air pollutant listed pursuant to section 112 or any extremely hazardous substance listed pursuant to section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11002(a)(2)) that is not listed in section 112, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment of not more than 15 years, or both. Any person committing such violation which is an organization shall, upon conviction under this paragraph, be subject to a fine of not more than $1,000,000 for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any air pollutant for which the Administrator has set an emissions standard or for any source for which a permit has been issued under title IV, a release of such pollutant in accordance with that standard or permit shall not constitute a violation of this paragraph or paragraph (4).*

*"(B) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury—*

*"(i) the defendant is responsible only for actual awareness or actual belief possessed; and*

*"(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant;*

*except that in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.*

*"(C) It is an affirmative defense to a prosecution that the conduct charged was freely consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—*

*"(i) an occupation, a business, or a profession; or*

*"(ii) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.*

*The defendant may establish an affirmative defense under this subparagraph by a preponderance of the evidence.*

*"(D) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.*

*"(E) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.*

*"(6) For the purpose of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer.*

*"(d) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES.—(1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000, per day of violation, whenever, on the basis of any available information, the Administrator finds that such person—*

*"(A) violates any requirement of an applicable implementation plan (such order shall be issued (i) during any period of federally assumed enforcement, or (ii) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person is violating such requirement); or*

*"(B) violates any other requirement of section 111(e) of this title (relating to new source performance standards), section 112 of this title (relating to standards for hazardous emissions), section 114 of this title (relating to inspections, etc.), section 165(a) of this title (relating to preconstruction requirements), an order under section 167 of this title (relating to preconstruction requirements), an order under section 303 of title III (relating to emergency orders), section 402(a) or 403(c) title IV (relating to permits), or any prohibition of title V (relating to acid deposition control) including a requirement of any rule, order, waiver, or permit promulgated or approved under such sections or titles, and including any requirement for the payment of any fee owed the United States under this Act; or*

*"(C) attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.*

*The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $200,000 and the first alleged date of violation occurred no more than 12 months prior to the initiation of the administrative action, except where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount or longer period of violation is appropriate for administrative penalty action. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review.*

*"(2)(A) An administrative penalty assessed under paragraph (1) shall be assessed by the Administrator by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person.*

*"(B) The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under this subsection.*

*"(3) The Administrator may implement, after consultation with the Attorney General and the States, a field citation program through regulations establishing appropriate minor violations for which field citations assessing civil penalties not to exceed $5,000 per day of violation may be issued by officers or employees designated by the Administrator. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or to request a hearing on the field citation. If a request for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, or to assess the statutory maximum penalty pursuant to other authorities in the Act, if the violation continues.*

*"(4) Any person against whom a civil penalty is assessed by the Administrator under this subsection may seek review of such assessment in the United States District Court for the District of Columbia or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, within 30 days following the date the civil penalty order is issued under paragraph (2), or the final decision in a hearing under paragraph (3) is rendered, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator or Attorney General, as appropriate, shall promptly file in such court a certified copy, or certified index, as appropriate, of the record on which the order or final decision was issued within 30 days. Such court, in the case of an assessment under paragraph (2), shall not set aside or remand such order or final decision unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any such proceedings, the United States may seek to recover civil penalties assessed under this section.*

*"(5) If any person fails to pay an assessment of a civil penalty—*

*"(A) after the order making the assessment or field citation has become final, or*

*"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator,*

*the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or decision or the date of the final judgment, as the case may be). In such*

an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings.

"(e) PENALTY ASSESSMENT CRITERIA.—(1) In determining the amount of any penalty to be assessed under this section or section 304(a), the Administrator or the court, as appropriate, shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

"(2) A penalty may be assessed for each day of violation. For purposes of determining the number of days of violation for which a penalty may be assessed under this section or section 304(a), or an assessment may be made under section 120, the violation shall be deemed to commence on the first provable date of violation and to continue each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

"(f) REWARDS.—The Administrator may pay a reward, not to exceed $10,000, to any person who furnishes information or services which lead to a criminal conviction or a judicial or administrative civil penalty for any violation of titles I, III, IV, or V of this Act enforced under this section. Such payment is subject to available appropriations for such purposes as provided in annual appropriation Acts. Any officer, or employee of the United States or any State or local government who furnishes information or renders service in the performance of an official duty is ineligible for payment under this subsection. The Administrator may, by regulation, prescribe additional criteria for eligibility for such a reward.

"(g) SETTLEMENTS; PUBLIC PARTICIPATION.—At least 30 days before a consent order or settlement agreement of any kind under this Act (other than enforcement actions under section 113, 120, or title II, whether or not involving civil or criminal penalties, or judgments subject to Department of Justice policy on public participation) is final or filed with a court, the Administrator shall provide a reasonable opportunity by notice in the Federal Register to persons who are not named as parties or intervenors to the action or matter to comment in writing. The Administrator or the Attorney General, as appropriate, shall promptly consider any such written comments and may withdraw or withhold his consent to the proposed order or agreement if the comments disclose facts or considerations which indicate that is inappropriate, improper, inadequate, or inconsistent with the requirements of this Act. Nothing in this subsection shall apply to civil or criminal penalties under this Act.".

SEC. 602. COMPLIANCE CERTIFICATION.

(a) RECORDS, REPORTS, MONITORING, ETC.—Section 114(a)(1) is amended to read as follows:

"(1) the Administrator may require any person who owns or operates any emission source, who manufactures emission control equipment or process equipment, who the Administrator believes may have information necessary for the purposes set forth in this subsection, or who is subject to any requirement of this Act (other than a manufacturer subject to the provisions of section 206(c) or 208 with respect to a provision of title II) on a one-time, periodic or continuous basis to—

"(A) establish and maintain such records;

"(B) make such reports;

"(C) install, use, and maintain such monitoring equipment, and use such audit procedures, or methods;

"(D) sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Administrator shall prescribe);

"(E) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical;

"(F) submit compliance certifications in accordance with section 114(a)(3); and

"(G) provide such other information, as he may reasonably require; and".

(b) MONITORING AND COMPLIANCE CERTIFICATIONS.—Section 114(a) is amended by adding the following new paragraph at the end:

"(3) The Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (A) identification of the applicable requirement that is the basis of the certification, (B) the method used for determining the compliance status of the source, (C) the compliance status, (D) whether compliance is continuous or intermittent, (E) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be public information. Nothing in this paragraph shall be construed as requiring disclosure of information subject to exemption from disclosure under subsection (c) of this section as trade secrets or that is subject to applicable law concerning self-incrimination. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement this Act.".

(c) JUDICIAL REVIEW.—Section 307(b)(1) is amended by inserting "or revising regulations for enhanced monitoring and compliance certification programs under section 114(a)(3) of this Act," immediately before "or any other final action of the Administrator".

SEC. 603. ADMINISTRATIVE ENFORCEMENT SUBPOENAS.

Section 307(a) is amended by striking out "(1)" after "(a)" and by striking "or section 202(b)(5)" and immediately after "section 202(b)(4) or 211(c)(3)" inserting ", any investigation, monitoring, reporting requirement, entry, compliance inspection, or administrative enforcement proceeding under section 113, section 114, section 120, section 205, section 206, section 208, section 303 or section 306".

SEC. 604. ENFORCEMENT OF ADMINISTRATIVE ORDERS.

Section 303 is amended by striking "(a)" and by striking out subsection (b).

SEC. 605. SCOPE OF EMERGENCY ORDERS.

Section 303 of the Clean Air Act, as amended by section 604 of this Act, is further amended as follows:

(1) Strike "the health of persons," and insert "public health or welfare, or the environment" and after the words "abate such sources" insert "or have not acted adequately to abate such sources".

(2) Amend the second sentence to read "If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment.".

(3) Strike the last 2 sentences in their entirety.

SEC. 606. CONTRACTOR LISTINGS.

Section 306(a) is amended as follows:

(1) Strike "113(c)(1)" and insert "113(c), 205(d), 211(d)(3), and 212(e)".

(2) Insert at the end thereof: "For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.".

SEC. 607. JUDICIAL REVIEW PENDING RECONSIDERATION OF REGULATION.

Section 307(b)(1) is amended by adding at the end thereof: "The filing of a petition for reconsideration by the Administrator of any otherwise final rule or action shall not affect the finality of such rule or action for purposes of judicial review nor extend the time within which a petition for judicial review of such rule or action under this section may be filed, and shall not postpone the effectiveness of such rule or action.".

SEC. 608. CITIZEN SUITS.

(a) CIVIL PENALTIES.—Section 304(a) is amended by inserting immediately before the period at the end thereof: ", and to apply any appropriate civil penalties (except for actions under paragraph (2))".

(b) PENALTY FUND.—Section 304 is amended by adding the following new subsection after subsection (f):

"(g) PENALTY FUND.—Penalties received under subsection (a) shall be deposited in a special fund in the United States Treasury for licensing and other services. Amounts in such fund and authorized to be appropriated shall remain available until expended, for use by the Administrator to finance air compliance and enforcement activities. The Administrator shall annually report to the Congress about the sums deposited into the fund, the sources thereof, and the actual and proposed uses thereof.".

(c) INTERVENTION BY EPA.—Paragraph (2) of section 304(c) is amended to read as follows:

"(2) In any action under this section, the Administrator, if not a party, may intervene as a matter of right at any time in the proceeding. A judgment in an action under this section to which the United States is not a party shall not, however, have any binding effect upon the United States.".

(d) SERVICE OF COMPLAINT; CONSENT JUDGMENTS.—Section 304(c) is amended by adding the following new paragraph after paragraph (2):

"(3) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the Government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.".

SEC. 609. ENHANCED IMPLEMENTATION AND ENFORCEMENT OF NEW SOURCE REVIEW REQUIREMENTS.

Section 167 is amended by striking "the construction of a major emitting facility" and inserting "the construction or modification of a major emitting facility".

SEC. 610. MOVABLE STATIONARY SOURCES.

Section 302 is amended by adding the following subsection at the end thereof:

"(z) STATIONARY SOURCE.—The term 'stationary source' means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216.".

SEC. 611. ENFORCEMENT OF NEW TITLES OF THE ACT.

Section 120(a)(2)(A) is amended as follows:

(1) Insert ", 167, 303," after "111" in clause (ii).

(2) Redesignate clause (iii) as (iv) and in new clause (iv) strike "clause (i) or (ii)", and insert "clause (i), (ii), or (iii)".

(3) Insert the following new clause after clause (ii)

"(iii) a stationary source which is not in compliance with any requirement of title IV, V or VII of this Act, or".

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Grants for support of air pollution planning and control programs.
Sec. 702. Annual report repeal.
Sec. 703. Review and revision of criteria and standards.
Sec. 704. Air pollutant release investigation board.
Sec. 705. Emission factors.
Sec. 706. Land use authority.
Sec. 707. Virgin Islands.
Sec. 708. Authorization.

SEC. 701. GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND CONTROL PROGRAMS.

(a) GRANTS.—Subparagraphs (A) and (B) of section 105(a)(1) are amended to read as follows:

"(A) The Administrator may make grants to air pollution control agencies, within the meaning of paragraph (1), (2), or (4), or (5) of section 302, in an amount up to three-fifths of the cost of implementing programs for the prevention and control of air pollution or implementation of national standards. For the purpose of this section, "implementation" primary and secondary ambient air quality means any activity related to the planning, developing, establishing, carrying-out, improving, or maintaining of such programs.

"(B) Subject to subsections (b) and (c) of this section, an air pollution control agency which receives a grant under subparagraph (A) in which contributions less than the required two-fifths minimum shall have 3 years following the date of the enactment of the Clean Air Act Amendments of 1990 in which to contribute such amount. If such an agency fails to meet and maintain this required level, the Administrator shall reduce the amount of the Federal contribution accordingly.".

(b) CONFORMING AMENDMENT.—Section 105(a)(1)(C) is amended by striking "(B)" and inserting "(A)".

(c) LIMITATION ON GRANTS.—Section 105(b) is amended by—

(1) inserting "(1)" immediately after "(b)"

(2) striking all that follows "(3) the financial need of the respective agencies."; and

(3) redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C) respectively.

(d) LIMITATION.—Section 105 is amended by redesignating subsection (c) as paragraph (2) of subsection (b) and by striking all that follows "into which such area extends." in the newly designated paragraph (2) and inserting "Subject to the provisions of paragraph (1) of this subsection, no State shall have made available to it for application less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.".

(e) MAINTENANCE OF EFFORT.—Section 105 is amended by inserting the following new subsection after subsection (b):

"(c) MAINTENANCE OF EFFORT.—(1) No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year. In order for the Administrator to award grants under this section in a timely manner each fiscal year, the Administrator shall compare an agency's prospective expenditure level to that of its second preceding fiscal year. The Administrator shall revise the current regulations which define applicable nonrecurrent and recurrent expenditures, and in so doing, give due consideration to exempting an agency from the limitations of this paragraph and subsection (a) due to periodic increases experienced by that agency from time to time in its annual expenditures for purposes acceptable to the Administrator for that fiscal year.

"(2) The Administrator may still award a grant to an agency not meeting the requirements of paragraph (l) of this subsection if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such a grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds. No grants shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.".

(f) COSTS.—Section 106 is amended by striking "three-fourths of the air quality planning program costs of such agency" and inserting "three-fifths of the air quality implementation program costs of such agency".

SEC. 702. ANNUAL REPORT REPEAL.

Section 313 is repealed.

SEC. 703. REVIEW AND REVISION OF CRITERIA AND STANDARDS.

(a) REVIEW AND REVISION OF CRITERIA.—Section 109(d)(1) is amended to read as follows: "(1)(A) Not later than 5 years after enactment of the Clean Air Act Amendments of 1990 and thereafter as provided in subparagraph (C), the Administrator shall (i) complete a review of the criteria published under section 108 and the standards promulgated under this section (ii) make such revisions in the criteria as may be appropriate to reflect advances in scientific knowledge, and (iii) determine whether it is appropriate to propose revisions of the standards based on the applicable criteria. In making revisions or determinations under this subparagraph, the Administrator may use such procedures as the Administrator deems appropriate. Notice of revisions and determinations made under this subparagraph shall be published in the Federal Register not later than 30 days after the revisions or determinations, respectively, are made, and copies shall be made available to the general public.

"(B) If the Administrator determines under subparagraph (A) that it is appropriate to propose revision of a standard, the Administrator shall commence rulemaking proceedings under section 307(d) and make such revisions as are appropriate as expeditiously as practicable but not later than 3 years after such determination is made. The Administrator may elect to follow the same procedure with respect to a determination that it is inappropriate to propose a revision of a standard.

"(C) After the first review and (as appropriate) revision of a standard under this paragraph, the Administrator shall repeat the process specified in subparagraphs (A) and (B) from time to time for such standard. The review specified in subparagraph (A) shall be completed not later than 5 years after completion of the last review of the standard or, if the standard was revised as a result of such review (or judicial review), not later than 5 years after completion of such revision. For any new standard promulgated after the date of the enactment of the Clean Air Act Amendments of 1990, the first review under subparagraph (A) shall be completed not later than 5 years after the date of promulgation.

"(D) A determination under subparagraph (A) that it is inappropriate to propose a revision of a standard shall be reviewable as a final action under section 307(b). If the Administrator elects to commence rulemaking proceedings under subparagraph (B) with respect to such a determination, the determination shall be reviewable only upon completion of the rulemaking. A determination under subparagraph (A) that it is appropriate to propose revision of a standard shall not be subject to judicial review under section 307(b) or otherwise.

"(E) The Administrator may review and revise criteria or standards earlier or more frequently than required under this paragraph.".

(b) CONFORMING AMENDMENT.—Section 109(d)(2)(B) is amended by striking "January 1, 1980, and at five-year intervals thereafter," and inserting "5 years after the date of the enactment of of the Clean Air Act Amendments of 1990 and thereafter at intervals corresponding to the Administrator's review of criteria and standards under paragraph (1).".

(c) ISSUANCE OF AIR QUALITY CRITERIA.—Section 108(a)(2) is amended by striking "12 months" and inserting "3 years".

(d) CONFORMING AMENDMENT.—Section 108(c) is amended by striking "criteria or" in the first sentence.

(e) PROMULGATION.—Section 109(a)(2) is amended by striking "the Administrator shall' and all that follows down through the period at the end of such paragraphs and inserting; the Administrator shall promulgate proposed national primary and secondary ambient air quality standards as appropriate for such air pollutant not later than 3 years after such issuance. The procedure provided for in subsection (d) shall apply to the revision of such standards.".

(f) REVISION OF STANDARDS.—Section 109(b) is amended by striking the second sentence of paragraph (1) and the second sentence of paragraph (2).

SEC. 704. AIR POLLUTANT RELEASE INVESTIGATION BOARD.

Add the following new section after section 193:

"SEC. 194. AIR POLLUTANT RELEASE INVESTIGATION BOARD.

"(a) ESTABLISHMENT.—There is established within the Environmental Protection Agency an Air Pollutant Accidental Release Investigation Board to be appointed by the Administrator for the purpose of investigating major life-threatening releases of air pollutants. The Board shall consist of 3 members which serve at the pleasure of the Administrator. The Board shall establish reasonable rules of procedure.

"(b) MEMBERSHIP.—The Board shall establish panels to investigate such releases. Any panel of the Board shall consist of 4 employees of the United States Environmental Protection Agency and the Secretary of Labor selected jointly by the Administrator and the Secretary of Labor at the request of the Board. With the consent of the head of any other Federal agency, the Administrator may also select an employee of such agency as a member of a panel in place of an employee of the Environmental Protection Agency.

"(c) DUTIES.—(1) The Board shall investigate or cause to be investigated (in such detail as it shall prescribe), and independently determine the facts, conditions, and circumstances and the cause or probable cause or causes of, any major life-threatening release of an air pollutant, except:

"(A) any release of source, byproduct, or special nuclear material from a nuclear incident which the Nuclear Regulatory Commission is authorized to investigate, and

"(B) any transportation-related release, including marine oil spills, which the National Transportation Safety Board (NTSB) is authorized to investigate.

The Board should utilize the expertise and experience of other agencies, including the NTSB.

"(2) For any investigation performed under paragraph (1) of this subsection, the Board shall develop a written report on the facts, conditions, and circumstances of the release and include appropriate recommendations and shall make such reports available to the Administrator, the Secretary of Labor, and Congress and available to the public. No proposed or final report of the Board shall be subject to review of the Administrator or any agency or to judicial review in any court.

"(d) POWERS.—(1) The Board, or upon the authority of the Board, any member thereof, may, for the purpose of carrying out subsection (c), hold such hearings, sit and act at such times and places, and administer such oaths, as the Board or such officer or employee deems advisable.

"(2) In addition to that described in paragraph (1), the Board may use any information gathering authority of the Administrator under this Act, including the subpoena power provided in section 307(a)(1) of this Act.

"(e) EVIDENCE.—No part of the conclusions, findings, or recommendations of any report of the Board relating to any accidental release or the investigation thereof shall be admitted as evidence or used in any action or suit for damages in which the United States is a party arising out of any matter mentioned in such report.".

SEC. 705. EMISSION FACTORS.

Part A of title I, as amended by section 108(g) of the Act, is amended by adding the following new section at the end thereof:

"SEC. 130. EMISSION FACTORS.

"Within 6 months after enactment of the Clean Air Act Amendments of 1990, and at least every 3 years thereafter, the Administrator shall review and, if necessary, revise, the methods ('emission factors') used for purposes of this Act to estimate the quantity of emissions of carbon monoxide, volatile organic compounds, and oxides of nitrogen from sources of such air pollutants (including area sources and mobile sources). In addition, the Administrator shall establish emission factors for sources for which no such methods have previously been established by the Administrator. The Administrator shall permit any person to demonstrate improved emissions estimating techniques, and following approval of such techniques, the Administrator shall authorize the use of such techniques. Any such technique may be approved only after appropriate public participation. Until the Administrator has completed the revision required by this section, nothing in this section shall be construed to affect the validity of emission factors established by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990.".

SEC. 706. LAND USE AUTHORITY.

Part A of title I, is amended by section 706 of this Act, is amended by adding the following at the end thereof:

"SEC. 131. LAND USE AUTHORITY.

"Nothing in this Act constitutes an infringement on the existing authority of counties and cities to plan or control land use, and nothing in this Act provides or transfers authority over such land use.".

SEC. 707. VIRGIN ISLANDS.

Section 324(a)(1) (42 U.S.C. 7625-1 (a)(1)) is amended by inserting "the Virgin Islands," after "American Samoa,".

SEC. 708. AUTHORIZATION.

Section 327 is amended to read as follows:

"SEC. 327. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this Act such sums as may be necessary.".

TITLE VIII—OTHER PROVISIONS

Sec. 801. Establishment of program to monitor and improve air quality in regions along the border between the United States and the United States of Mexico.
Sec. 802. Equivalent air quality controls among trading nations.
Sec. 803. Report on costs and benefits.
Sec. 804. United States-Mexico office within EPA.

SEC. 801. ESTABLISHMENT OF PROGRAM TO MONITOR AND IMPROVE AIR QUALITY IN REGIONS ALONG THE BORDER BETWEEN THE UNITED STATES AND THE UNITED STATES OF MEXICO.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") is authorized, in cooperation with the Department of State and the affected States, to negotiate with representatives of the United States of Mexico to establish a program to monitor and improve air quality in regions directly along the border between the United States and the United States of Mexico. The program established under this section shall be conducted for a period of 60 months beginning on July 1, 1990.

(b) MONITORING AND REMEDIATION.—

(1) MONITORING.—The monitoring component of the program conducted under this section shall identify and determine sources of pollutants for which National ambient air quality standards (hereinafter referred to as "NAAQS") and other air quality goals have been established in regions along the border between the United States and the United States of Mexico. Such monitoring component of the program shall include, but not be limited to, the collection of meteorological data, the measurement of air quality, the compilation of an emissions inventory, and shall be sufficient to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. Such monitoring component of the program shall collect and produce data projecting the level of emission reductions necessary in both the United States of Mexico and the United States to bring about attainment of both primary and secondary NAAQS, and other air quality goals, in regions along the border in the United States. Such monitoring component of the program shall include to the extent possible, data from monitoring programs undertaken by other parties.

(2) REMEDIATION.—The Administrator, in cooperation with the Department of State is authorized to negotiate with appropriate representatives of the United States of Mexico to develop joint remediation measures to reduce the level of airborne pollutants to achieve and maintain primary and secondary NAAQS, and other air quality goals, in regions along the border between the United States and the United States of Mexico. Such joint remediation measures may include, but not be limited to measures included in the Environmental Protection Agency's Control Techniques and Control Technology documents. Such remediation program shall also identify those control measures implementation of which in the United States of Mexico would be expedited by the use of material and financial assistance of the United States. With respect to those control measures identified as requiring funding of the United States for projects within the United States of Mexico, the Administrator shall attempt to the maximum extent practicable to utilize resources of the United States of Mexico that would offset costs of the United States in implementing joint remediation measures under this section. Such joint remediation measures shall be included as enforceable control strategies in the state implementation plan for the respective nonattainment area.

(c) STUDY AND REPORTS.—

(1) GAO STUDY.—The Comptroller General of the General Accounting Office shall, conduct a study and issue a report to Congress not later than January 1, 1994, on the pro-

*gram conducted under this section. Such study shall—*

*(A) summarize the project to date,*

*(B) make recommendations on ways to improve the program; and*

*(C) make recommendations on the advisability of continuing the program or expanding the program to include Canada and other nations.*

*(2) REPORT OF ADMINISTRATOR.—The Administrator shall, not later than July 1, 1991, and each year thereafter during the operation of the program described in this section, report to Congress on the progress of the program in bringing nonattainment areas along the border of the United States into attainment with primary and secondary NAAQS. The report issued by the Administrator under this paragraph shall include recommendations on funding mechanisms to assist in implementation of monitoring and remediation efforts.*

*(d) FUNDING AND PERSONNEL.—The Administrator shall, where necessary, make available, subject to appropriation Acts, such funds, personnel, and equipment as may be necessary to implement the provisions of this section. In those cases where direct financial assistance of the United States is provided to implement monitoring and remediation programs in the United States of Mexico, the Administrator shall develop grant agreements with appropriate representatives of the United States of Mexico to assure the accuracy and completeness of monitoring data and the performance of remediation measures which are financed by the United States. Such funding agreements, subject to appropriation Acts, shall include authorization for the Administrator to—*

*(1) review and agree to plans for monitoring and remediation;*

*(2) inspect premises, equipment and records to insure compliance with the agreements established under and the purposes set forth in this section; and*

*(3) where necessary, develop grant agreements with affected States to carry out the provisions of the section.*

*(e) CONSIDERATION OF FACTORS IN NONATTAINMENT AREAS.—When approving state implementation plans for nonattainment areas (as defined in section 171(2) (42 U.S.C. 7501(2)), the Administrator shall take into account the impacts of the sources of pollutants coming from the United States of Mexico and the role of the United States in developing monitoring and remediation plans with the United States of Mexico to bring about attainment of both primary and secondary NAAQS and other air quality goals in regions along the border in the United States.*

*SEC. 802. EQUIVALENT AIR QUALITY CONTROLS AMONG TRADING NATIONS.*

*(a) FINDINGS.—The Congress finds that—*

*(1) all nations have the responsibility to adopt and enforce effective air quality standards and requirements and the United States, in enacting this Act, is carrying out its responsibility in this regard;*

*(2) as a result of complying with this Act, businesses in the United States will make significant capital investments and incur incremental costs in implementing control technology standards;*

*(3) such compliance may impair the competitiveness of certain United States jobs, production, processes, and products if foreign goods are produced under less costly environmental standards and requirements than are United States goods; and*

*(4) mechanisms should be sought through which the United States and its trading partners can agree to eliminate or reduce competitive disadvantages.*

*(b) ACTION BY THE PRESIDENT.—*

*(1) IN GENERAL.—Within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the President shall submit to the Congress a report—*

*(A) identifying and evaluating the economic effects of—*

*(i) the significant air quality standards and controls required under this Act, and*

*(ii) the differences between the significant standards and controls required under this Act and similar standards and controls adopted and enforced by the major trading partners of the United States,*

*on the international competitiveness of United States manufacturers; and*

*(B) containing a strategy for addressing such economic effects through trade consultations and negotiations.*

*(2) ADDITIONAL REPORTING REQUIREMENTS.—(A) The evaluation required under paragraph (1)(A) shall examine the extent to which the significant air quality standards and controls required under this Act are comparable to existing internationally-agreed norms.*

*(B) The strategy required to be developed under paragraph (1)(B) shall include recommended options (such as the harmonization of standards and trade adjustment measures) for reducing or eliminating competitive disadvantages caused by differences in standards and controls between the United States and each of its major trading partners.*

*(3) PUBLIC COMMENT.—Interested parties shall be given an opportunity to submit comments regarding the evaluations and strategy required in the report under paragraph (1). The President shall take any such comment into account in preparing the report.*

*(4) INTERIM REPORT.—Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, the President shall submit to the Congress an interim report on the progress being made in complying with paragraph (1).*

*SEC. 803. REPORT ON COSTS AND BENEFITS.*

*Commencing on the second year after the date of the enactment of the Clean Air Act Amendments of 1990 and annually thereafter, the Comptroller General of the General Accounting Office, in consultation with other agencies, such as the Environmental Protection Agency, the Department of Labor, the Department of Commerce, the United States Trade Representative, the National Academy of Sciences, the Office of Technology Assessment, the National Academy of Engineering, the Council on Environmental Quality, and the Surgeon General, shall provide a report to the Congress on the incremental human health and environmental benefits, and incremental costs beyond current clean air requirements of the new control strategies and technologies required by this Act. The report shall include, for such strategies and technologies, an analysis of the actual emissions reductions beyond existing practice, the effects on human life, human health and the environment (including both positive impacts and those that may be detrimental to jobs and communities resulting from loss of employers and employment, etc.), the energy security impacts, and the effect on United States products and our industrial competitiveness in national and international markets.*

*SEC. 804. UNITED STATES-MEXICO OFFICE WITHIN EPA.*

*Title III is amended by inserting the following after section 325:*

*"SEC. 325A. UNITED STATES-MEXICO AIR QUALITY.*

*"(a) ESTABLISHMENT OF OFFICE.—In coordination with the Secretary of State, the Administrator shall establish in the Office of International Activities a United States-Mexico Air Quality Office to be under the direction of a Director for United States-Mexico Air Quality affairs (hereinafter in this section referred to as the Director).*

*"(b) DUTIES OF DIRECTOR.—In addition to such other air quality duties as may be delegated to the Director, the Director shall have the responsibility to carry out each of the following:*

*"(1) A binational study of the prospects in Mexico for clean fuel automobiles and clean fuels (especially natural gas given Mexico's competitive advantage in this area).*

*"(2) A study on the possibility of standardized regulations between the United States and Mexico on air quality to contribute to greater coordination between the two jurisdictions.*

The CHAIRMAN. No amendments are in order to said substitute except the amendments printed in the supplemental report accompanying House Resolution 399, which shall be considered in the order and manner specified in the report, shall be considered as having been read, and shall not be subject to amendment.

The amendments numbered 1 and 3 each shall be considered en bloc and shall not be subject to a demand for a division of the question.

If more than one amendment in any of the following topic areas: First, MACT; second, CFC; third, OCS; and fourth, clean cars are adopted, only the last amendment in each topic area which is adopted shall be considered as finally adopted and reported back to the House.

In each topic area, it shall be in order to consider an amendment offered only with the concurrence of Representatives DINGELL, LENT, WAXMAN, and MADIGAN in lieu of the amendments printed in the supplemental report accompanying House Resolution 399.

AMENDMENTS EN BLOC OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. DINGELL: Page 4, in the table of contents, strike the item relating to section 703, renumber the items relating to sections 704 through 707 accordingly, insert "707. Virgin Islands" after the item relating to section 706 as so renumbered.

Page 129, line 13, strike "in" and insert "air".

Page 133, insert closing quotation marks and a period at the end of line 11.

Page 410, line 5, strike "No allowances shall be" and all that follows down through line 8.

Page 439, line 9, strike "(A)" and insert "(a)".

PERMITS AND ENFORCEMENT

Page 23, line 14, insert "and" after the semicolon.

Page 24, line 3, strike "; and" and insert a period.

Page 24, strike lines 4 through 7.

Page 321, line 6, strike all after "parts C or D" through line 16 on page 321 and insert: "or any other stationary source category or subcategory designated (in whole or in part) by regulations promulgated by the Administrator which shall include a finding setting forth the basis for such designation, except in compliance with a permit issued by a permitting authority under this title. Nothing in this subsection shall be construed to alter the requirements of sections 165, 172, and 173 regarding the requirement that a permit be obtained before construction. The Administrator may, in the Administrator's discretion, promulgate regulations to exempt 1 or more source categories or subcategories (in whole or in part) from the requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories or subcategories, except that the Administrator may not exempt any major source from such requirements.".

Page 322, line 8, strike "costs of developing and administering the permit program" and insert "(direct and indirect) costs required to develop and administer the permit program requirements of this title, including section 407".

Page 324, line 12, strike the parenthetical and insert "(consistent with the need to cover the reasonable costs authorized by subparagraph (A))".

Page 327, line 8, after "complete" and after "applications" insert a comma and strike "and".

Page 327, line 11 before the period, insert ", renewals, or revisions, and including an opportunity for judicial review of the final permit action by the applicant or any person who participated in the public comment process".

Page 327, line 12, after "Authority" insert ", and reasonable procedures consistent with the need for expeditious action by the permitting authority on permit applications and related matters,".

Page 327, after line 15 insert:

"(8) A requirement that the permitting authority, in the case of permits with a term of 3 or more years for major sources, shall require revisions to the permit to incorporate applicable standards and regulations promulgated under this Act after the issuance of such permit. Such revisions shall occur as expeditiously as practicable and consistent with the procedures established under paragraph (6) but not later than 18 months after the promulgation of such standards and regulations. No such revision shall be required if the effective date of the standards or regulations is a date after the expiration of the permit term. Such permit revision shall be treated as a permit renewal if it complies with the requirements of this title regarding renewals.

"(9) Provisions to allow changes within a permitted facility (or one operating pursuant to section 403(d)) without requiring a permit revision, if the changes are not modifications under any provision of title I and the changes do not exceed the emissions allowable under the permit, provided that the facility provides the Administrator and the permitting authority with advance notification of the changes.".

Page 327, line 18, before "Not" insert "(1)".

Page 328, line 14, strike "If the Governor" and all that follows down through line 2 on page 329 and insert:

"(2) Except in the case of a program referred to in subparagraph (B), if the Governor does not submit a program as required under paragraph (1) or if the Administrator disapproves a program submitted by the Governor under paragraph (1), in whole or in part, the Administrator may, in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

"(B) If the Governor does not submit a program as required under paragraph (1) which is applicable to each nonattainment area (as defined in part D of title I) in the State and which applies to all air pollutants for which national ambient air quality standards have been promulgated, or if the Administrator disapproves any such program submitted by the Governor under paragraph (1) in whole or in part, within 18 months after the date required for such submittal or the date of such disapproval, as the case may be, the Administrator shall apply such sanctions in the same manner and conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

"(3) If a program meeting the requirements of this title has not been approved in whole for any State within 2 years after the date required for submission of such a program under paragraph (1), the Administrator shall promulgate a program under this title for that State.".

Page 330, after the period in line 21, insert "The effective date of a permit program, or partial permit program, promulgated by the Administrator shall be the date of promulgation.".

Page 330, line 22, insert "(1)" before "When-".

Page 330, line 23, strike "preliminary".

Page 331, line 1, strike "shall" and insert: "may, in the Administrator's discretion, apply any of the sanctions specified in section 179(b), except as provided in paragraph (2).

"(2) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title in the case of a program applicable to a nonattainment area (as defined in part D of title I), within 18 months after the date of the notice under paragraph (1), the Administrator shall apply the sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

"(3) Whenever the Administrator has made a finding under paragraph (1) with respect to any State, unless the State has corrected such deficiency within 18 months after the date of such finding, the Administrator shall, within 2 years after the date of such finding, promulgate a program under this title for that State. Nothing in this paragraph shall be construed to affect the validity of a program which has been approved under this title or the authority of any permitting authority acting under such program until such time as such program is promulgated by the Administrator under this paragraph.".

Page 332, in line 2, strike "section 402(b)(1)" and insert "section 402(b)".

Page 332, in line 21, strike "corporate".

Page 332, after line 22 after the period, insert: "The permitting authority shall approve or disapprove a completed application (consistent with the procedures established under this title for consideration of such applications) within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-quarter of such permits will be acted on by such authority annually over a period of not to exceed 4 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications not subject to subsection (d).".

Page 333, line 2 after "title" insert "(including renewals)".

Page 333, line 24 before the period, insert: "of this Act. Such conditions shall be consistent with this title and the regulations under section 402."

Page 334, line 4, before the period, insert ", but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance and shall not be required if technology for such monitoring is unavailable for a source category. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of title V, or where required elsewhere in this Act.".

Page 335, strike line 9 and all that follows down through line 8 on page 337.

Page 337, line 14 before the period, insert "if the permit includes the applicable requirements of such provisions or if the permitting authority in acting on the permit application and the written record of the permit proceeding, made a determination in writing that such other provisions are not applicable (whether or not such determination is expressed in the permit)".

Page 338, line 2, strike "every" down through "including" in line 3.

Page 338, line 4, after "to be issued" insert "and issued".

Page 338, line 5 after "all States" insert "whose air quality may be affected and that are".

Page 338, line 7, strike ", and each draft permit".

Page 339, in line 14 before the period, insert: "other than major sources".

Page 339, in line 18 insert: "The preceding sentence shall not apply to major sources.".

Page 340, strike line 21 and insert: "Nothing".

Page 341, strike lines 1 through 4.

Page 343, line 21, after "except that" insert "prescribed work practice or technological", strike "and time for", and in line 22, after "standard or requirement" insert "or the schedule for implementing such methods, if any".

Page 344, line 3, after "emission reductions" insert "for each regulated air pollutant subject to the permit and shall be"

Page 344, line 20, strike "subsection" and insert "section".

Page 344, line 21, insert "which are not major sources and" and after the period on page 344, line 23, add "The State may include by petition small sources that are major sources. The State shall grant or deny the petition within 6 months after the petition is filed.".

Page 367, line 5, strike "establish, in issuing a permit" and insert "modify or revoke any allowance issued under this title or, in issuing a permit to establish".

Page 462, line 13, page 463, line 4, page 467, line 14, insert "or permit" after "plan".

Page 467, after line 4, insert:

"(6) DE MINIMIS TECHNICAL VIOLATIONS.—This section shall not apply to any de minimis or technical violations, as determined by the Administrator.

Page 467, strike line 20 and all that follows down through line 10 on page 468 and insert:

"(2) whenever such person violates any other requirement of title I, III, IV, or V, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated or approved under this Act or for the payment of any fee owed the United States under this Act.

Page 469, line 7, after "any" insert "requirement of an applicable implementation plan (during any period of federally assumed enforcement or more than 30 days after having been notified under subsection (a) (1) by the Administrator that such person is violating such requirement), any order under subsection (a) of this section, any requirement of part B of title I,".

Page 469, line 9, strike "112(h)" and insert "112".

Page 470, strike lines 4 through 11 and insert:

"(A) makes any false statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan, or other document required to be filed or maintained under this Act (whether with respect to the requirements imposed by the Administrator, or the State pursuant to the requirements of this Act applicable to the State)".

Page 474, strike line 17 and all that follows down through line 6 on page 475 and insert: "violates any other requirement of title I, III, IV, or V, including a requirement of any rule, order, waiver or permit promulgated or approved under this Act or for the payment of any fee owed the United States under this Act.

Page 478, line 6, before the comma insert "as provided in this subsection".

Page 478, line 22, before the period, insert: "and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter."

Page 480, line 24, strike the closing quotation marks.

Page 480, after line 24, insert:

"(h) OPERATOR.—For purposes of the provisions of this section and section 120 the term 'operator', as used in such provisions, shall include any person who is senior management personnel or a corporate officer. Such term shall not include any person who is a stationary engineer or technician responsible for the operation, maintenance, repair, or monitoring of equipment and facilities and who often has supervisory and training duties but who is not senior management personnel or a corporate officer. For purposes of subsection (c)(4) of this section, the term 'a person' shall not include an employee who is carrying out his normal activities and who is not a part of senior management personnel or a corporate officer. For purposes of paragraphs (1), (2), and (3) and (5) of subsection (c) of this section the term 'a person' shall not include an employee who is carrying out his normal activities and who is acting under orders from the employer."

Page 483, line 4, after the period insert: "The Administrator shall promulgate rules to provide guidance and to implement this paragraph within 2 years after the enactment of the Clean Air Amendments of 1990."

Page 486, after line 16, insert:

(e) OTHER REQUIREMENTS.—Section 304(f) is amended by striking the period at the end of paragraph (3), inserting "; or" and adding the following new paragraph at the end thereof:

"(4) any other standard, limitation, or schedule established under any permit issued pursuant to title IV or under any applicable State implementation plan approved by the Administrator, any permit term or condition, and any requirement to obtain a permit as a condition of operations.".

(f) UNREASONABLE DELAY.—Section 304(a) is amended by adding the following at the end thereof: "The district courts of the United States shall have jurisdiction to compel (consistent with paragraph (2) of this subsection) agency action unreasonably delayed, except that an action to compel agency action referred to in section 307(b) which is unreasonably delayed may only be filed in a United States District Court within the circuit in which such action would be reviewable under section 307(b). In any such action for unreasonable delay, notice to the entities referred to in subsection (b)(1)(A) shall be provided 180 days before commencing such action.".

(g) PAST VIOLATIONS.—Section 304(a) is amended by inserting immediately before "to be in violation" in paragraphs (1) and (3) "to have violated (if there is a prima facie demonstration that the alleged violation has been repeated or continuous) or". The amendment made by this subsection shall take effect with respect to actions brought after the date 2 years after the enactment of the Clean Air Act Amendments of 1990.

(h) DEFERRED ACTIONS.—Section 307(b)(2) is amended by adding the following at the end thereof: "Where a final decision by the Administrator defers performance of any nondiscretionary statutory action to a later time, any person may challenge the deferral pursuant to paragraph (1).".

Page 485, line 13, before "Penalties" insert "(1)".

Page 485, line 21, strike the closing quotation marks.

Page 485, after line 21, insert the following:

"(2) Notwithstanding paragraph (1) the court in any action under this subsection to apply civil penalties shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in paragraph (1), be used in beneficial mitigation projects which are consistent with this Act and enhance the public health or the environment. The court shall obtain the view of the Administrator in exercising such discretion and selecting any such projects. The amount of any such payment in any such action shall not exceed $100,000.".

MINERAL FIBERS

On page 286, delete "Mineral Fibers", and insert in lieu thereof "Fine Mineral Fibers"; also strike the text of footnote 3, and insert in lieu thereof "includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less."

SOLVENTS

Page 116, strike line 20 and all that follows down through line 23 on page 117 and insert:

"(A) IN GENERAL.—Upon submission of the final report under paragraph (2), the Administrator shall list those categories of consumer of commercial products that the Administrator determines, based on the study, account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer or commercial products in areas that violate the NAAQS for ozone. Credit toward the 80 percent emissions calculation shall be given for emission reductions from consumer or commercial products made after the date of enactment of this section. At such time, the Administrator shall divide the list into 4 groups establishing priorities for regulation based on the criteria established in paragraph (2). Every 2 years after promulgating such list, the Administrator shall regulate one group of categories until all 4 groups are regulated. The regulations shall require best available controls as defined in this section. Such regulations may exempt health use products for which the Administrator determines there is no suitable substitute. In order to carry out this section, the Administrator may, by regulation, control or prohibit any activity, including the manufacture or introduction into commerce, offering for sale, or sale of any consumer or commercial product which results in emission of volatile organic compounds into the ambient air.

Page 115, line 12, strike "selecting" and inserting "regulating".

Page 118, strike line 14 though 24.

ASBESTOS

Page 498, after line 4, insert the following and make the necessary conforming changes in the table of contents:

SEC. 707B. PROVISIONS REGARDING ASBESTOS

(a) TRAINING.—The National Institute of Environmental Health Sciences is authorized to award one-time start-up grants under this section to joint labor-management trust funds and to nonprofit government employee organizations to establish and operate (for the duration of the period of authorized funds) programs for the training and education of workers who are or may be engaged in abatement, removal, and response with respect to friable asbestos containing material in nonschool public and commercial buildings. Applications for grants under this paragraph shall be submitted in such form and manner, and contain such information, as the National Institute for Environmental Health Sciences prescribes. There is authorized to be appropriated to carry out this paragraph the sum of $10,000,000 for fiscal years 1991, 1992, 1993, and 1994. For purposes of this subsection, the term "public and commercial buildings" has the meaning given such term by section 202 of the Toxic Substances Control Act (15 U.S.C. 2642).

(b) ASBESTOS ACCREDITATION REGULATIONS.—(1) For purposes of protecting human health from asbestos emissions during response actions carried out with respect to asbestos-containing materials in nonschool public and commercial buildings, the Administrator of the Environmental Protection Agency shall promulgate regulations to require accreditation for persons who—

(A) inspect for asbestos-containing material in nonschool public or commercial buildings; or

(B) design or conduct response actions with respect to friable asbestos-containing material in nonschool public or commercial buildings.

(2) The accreditation program contained in the regulations shall include requirements identical to those in the model contractor accreditation plan promulgated by the Administrator under section 206(b) of the Toxic Substances Control Act (15 U.S.C. 2646(b)), except that the requirements with respect to number of hours of training for workers conducting response actions shall be as follows:

(A) To become accredited, any worker conducting response actions in a nonschool public and commercial building shall undergo not fewer than 40 hours of training, at least 12 of which shall be nonclassroom, hands-on training.

(B) To maintain accreditation, such a worker shall complete an 8-hour refresher course annually.

(3) In exercising authority under this subsection, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(4) For purposes of this section, the terms "asbestos-containing material", "public and commercial building", "response action", and "friable asbestos-containing material" have the meaning given those terms by section 202 of the Toxic Substances Control Act (15 U.S.C. 2642).

(5) Regulations shall be promulgated under this section not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990.

COMBUSTION OF CONTAMINATED USED OIL IN SHIPS

Page 507, after line 12, insert the following new section and make the necessary conforming changes in the table of contents:

SEC. 805. COMBUSTION OF CONTAMINATED USED OIL IN SHIPS.

Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator of the Environmental Protection Agency shall complete a study and submit a report to Congress evaluating the health and environmental impacts of the combustion of contaminated used oil in ships, the reasons for using such oil for such purposes, the alternatives to such use, the costs of such alternatives, and other relevant factors and impacts. In preparing such study, the Administrator shall obtain the view and comments of all interested persons.

FEES AND PENALTIES

Page 105, line 19, strike ", import,".

Page 433, line 1, strike "FEE" and insert "PENALTY".

Page 433, line 2, strike "FEE" and insert "PENALTY".

Page 433, lines 7, 8, 13, and 17, strike "fee" each place it appears and insert "penalty".

Page 434, line 3, strike "FEE" and insert "PENALTY".

Page 434, lines 4, 8, and 9, strike "fee" each place it appears and insert "penalty".

Page 348, in the table below line 2, strike the item relating to section 510 and insert the following:

"SEC. 510. EXCESS EMISSIONS ENFORCEMENT PENALTY.

Page 436, line 4, strike "fees" and insert "penalties".

CONFORMITY AND SANCTIONS PROVISIONS

Page 29, beginning on line 1, strike "The Administrator shall" and all that follows down through line 5 and insert:

The Administrator shall, by rule, establish criteria for exercising his authority under the previous sentence with respect to any deficiency referred to in section 179(a) to ensure that, during the 24-month period following the finding, disapproval, or determination referred to in section 179(a), such sanctions are not applied on a statewide basis where one or more political subdivisions covered by the applicable implementation plan are principally responsible for such deficiency.

Page 33, strike line 22 and all that follows through line 2 on page 34 and insert the following:

"(2) In the case of a plan or program developed pursuant to the comprehensive planning process under section 134 of title 23 of the United States Code (hereinafter in this subsection referred to as a 'transportation plan') conformity to a plan approved or promulgated under section 110 (hereinafter in this subsection referred to as an 'applicable implementation plan') shall be determined for the transportation plan taken as a whole and shall not be determined for projects included in such plan, except as provided in paragraphs (3) and (4). In determining conformity in the case of any such transportation plan, subparagraphs (A) and (B) of paragraph (1) shall apply and in addition, the transportation plan shall provide for the implementation of the transportation provisions of the applicable implementation plan. In making a determination of conformity under subparagraph (A) of paragraph (1), emissions resulting from such plans and programs shall be required to be consistent with baseline emission inventories and emission reduction projections and schedules assigned to those plans and programs in the applicable implementation plan.

"(3) If a transportation plan has been found to conform to an applicable implementation plan as provided in paragraph (2), any project included in such conforming transportation plan shall be treated as conforming to the applicable implementation plan if—

"(A) it is a control measure from the applicable implementation plan; or

"(B) it comes from the conforming transportation plan and the design and scope of such project have not changed since the conformity finding regarding such transportation plan.

"(4) If a transportation plan has been found, within the previous 2-year period, to conform to an applicable implementation plan as provided in paragraph (2), any project not referred to in paragraph (3) shall be treated as conforming to the applicable implementation plan only if it is demonstrated—

"(A) that the projected emissions from such project would not cause the transportation plans and programs within the nonattainment area to exceed the emission reduction projections and schedules assigned to such plans and programs, or

"(B) that any emissions resulting from such project are, before such project is approved, taken into account (i) in a revised transportation plan which conforms as provided in paragraph (2), or (ii) in a revised applicable implementation plan.

"(5) No later than one year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria and procedures for determining conformity (except in the case of transportation plans and projects) of, and for keeping the Administrator informed about, the activities referred to in paragraph (1). No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate criteria and procedures for demonstrating and assuring conformity in the case of transportation plans and projects.

Page 34, line 6, strike "18" and insert "24".

ALLOWANCES FOR EARLY REDUCTIONS

Page 384, after line 17, insert:

"(3)(A) For purposes of receiving allowances for early reductions under this subsection, the requirements of subparagraph (C) of paragraph (1) and the last sentence of paragraph (2) shall not apply in the case of a unit that receives authorization from the Governor of the State in which such unit is located to make early reductions and that is part of a utility system that meets the following requirements: (i) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1980, and December 31, 1985; and (ii) the weighted capacity factor of all coal-fired units within the utility system averaged over the period from January 1, 1985, through December 31, 1987, was below 50 percent. A unit that is a Second Phase affected unit (but not also a First Phase affected unit) and part of a utility system that includes 1 or more First Phase affected units shall receive allowances for early reductions made during the First Phase if the unit meets the requirements of this subsection (other than subparagraph (C) of paragraph (1) and the last sentence of paragraph (2)) and the requirements of the preceding sentence, except that for the purposes of applying this subsection to any such Second Phase affected unit, the prior year concerned shall be any year after the commencement of the First Phase but prior to the Second Phase.

"(B) In the case of a First Phase affected unit described in subparagraph (A), the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which (i) the product of the unit's baseline multiplied by the unit's 1985 actual sulfur dioxide emission rate (in lbs. per mmBtu), divided by 2,000, exceeds (ii) the allowances specified for such unit in table A, reduced by 6 percent. In the case of a Second Phase affected unit described in subparagraph (A), the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which (I) the product of the quantity of fossil fuel consumed by the unit (in mmBtu) in the prior year multiplied by the lesser of 2.35 or the most stringent emission rate (in lbs. per mmBtu) applicable to the unit under the applicable implementation plan, divided by 2,000, exceeds (II) the unit's actual tonnage of sulfur dioxide emission for the prior year concerned. Allowances allocated under this subsection to units referred to in subparagraph (A) may be allocated only for emission reductions achieved as a result of physical changes or changes in the method of operation made after the date of enactment of

the Clean Air Act Amendments of 1990, including changes in the type or quality of fossil fuel consumed.

"(C) In no event shall the provisions of this paragraph be interpreted as an event of force majure or a commercial impracticability or in any other way as a basis for excused nonperformance by any utility system under a coal sales contract in effect before the date of the enactment of the Clean Air Act Amendments of 1990.

BASIC RESEARCH ON HEALTH EFFECTS OF AIR POLLUTANTS

Page 494, after line 8, insert:

(g) Section 103 is amended by adding the following new subsection at the end thereof:

"(g) STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences shall conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, cooperative agreements, and contracts, as well as through intramural studies and contracts. The procedures applicable to grants and contracts under title IV of the Public Health Service Act shall be followed for purposes of this subsection.

"(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of health care providers in environmental health.

"(3) The Director of the National Institute of Environmenal Health Sciences shall assure that programs under this subsection shall not duplicate other research undertaken by the Administration.

"(4) There is authorized to be appropriated to the National Institute of Environmental Health Sciences to carry out this subsection such sums as may be necessary, to remain available until expended.".

ROCKET ENGINE TESTING

Page 47, line 2, strike the closing quotation marks.

Page 47, after line 2, insert:

"(e) ROCKET ENGINES OR MOTORS.—The permitting authority of a State shall allow a source to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at any existing or modified major source that tests rocket engines or motors under the following conditions:

"(1) Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this subsection.

"(2) The source demonstrates to the satisfaction of the permitting authority of the State that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

"(3) The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate Federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

"(4) The source will comply with an alternative measure, imposed by the permitting authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the permitting authority may impose an emissions fee to be paid to such authority of a State which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous 3 years. The permitting authority shall utilize the fees in a manner that maximizes the emissions reductions in that area.".

REID VAPOR PRESSURE

Page 257, strike lines 10 through 14 and insert: "Vapor Pressure standards in a nonattainment area as the Administrator finds necessary to generally achieve comparable evaporative emissions (on a per-vehicle basis) in nonattainment areas, taking into consideration the enforceability of such standards, the need of an area for emission control, and economic factors. Such regulations shall not make it unlawful for any person to sell, offer for supply, transport, or introduce into commerce gasoline with a Reid vapor pressure of 9.0 pounds per square inch (p.s.i.) or lower in any area designated under section 107 as an attainment area.".

HYDROGEN FUEL CELL VEHICLES

Page 498, after line 6, insert:

SEC. 708A. HYDROGEN FUEL CELL VEHICLE STUDY AND TEST PROGRAM.

The Administrator of the Environmental Protection Agency, in conjunction with National Aeronautics and Space Administration, and the Department of Energy shall conduct a study and test program on the development of a hydrogen fuel cell electric vehicle. The study and test program shall determine how best to transfer existing NASA hydrogen fuel cell technology into the form of a mass-producible, cost effective hydrogen fuel cell vehicle. Such study and test program shall include at a minimum a feasibility-design study, the construction of a prototype, and a demonstration. This study and test program should be completed and a report submitted to Congress within 3 years after the enactment of the Clean Air Act Amendments of 1990. This study and test program should be performed in the university or universities which are best exhibiting the facilities and expertise to develop such a fuel cell vehicle.

PIPELINE PUMP STATIONS

Page 316, line 10, after "compressor" insert "or pump".

PLANNING ASSISTANCE

Page 498, line 8, before "There" insert "(a) IN GENERAL".

Page 498, line 9, strike the closing quotation marks.

Page 498, after line 9, insert:

"(b) GRANTS FOR PLANNING.—There are authorized to be appropriated (1) not more than $50,000,000 to carry out section 175 beginning in fiscal year 1991, to be available until expended, to develop plan revisions required by subpart 2, 3, or 4 of part D of title I, and (2) not more than $15,000,000 for each of the fiscal years 1991, 1992, and 1993 to make grants to the States to prepare implementation plans as required by subpart 2, 3, or 4 of part D of title I.".

AIR EMISSIONS REGULATED UNDER RCRA

Page 319, line 5, strike the closing quotation marks.

Page 319, after line 5, add the following:

"(u) In the case of any category or subcategory of sources the air emissions of which are regulated under subtitle C of the Solid Waste Disposal Act, the Administrator shall take into account any regulations of such emissions which are promulgated under such subtitle and shall, to the maximum extent practicable and consistent with the provisions of this section, ensure that the requirements of such subtitle and this section are consistent.".

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On page 158, after the period in line 23 insert: "In issuing guidelines and making determinations under this section, the Administrator (in consultation with the State) shall take into account emission reductions achieved, or expected to be achieved, under title V and other provisions of this Act.".

ACCIDENTAL RELEASES

Page 307, line 15, strike all after "source" through "section" and insert "as defined in this subsection".

Page 308, line 19, after "promulgate" insert "not later than 24 months after enactment of this subsection".

Page 308, line 10, strike the comma after "shall" through "possible," and insert ", as appropriate," and on line 23 change "and" to "or".

Page 309, line 3, after the period insert "The initial list shall include chlorine, anhydrous ammonia, methyl chloride, ethylene oxide, vinyl chloride, methyl isocyanate, hydrogen cyanide, tetrachloroethylene, ammonia, hydrogen sulfide, phosgene, and bromine, anhydrous hydrogen chloride, hydrogen fluoride, anhydrous sulfur dioxide, sulfur trioxide. The initial list shall include at least the 100 air pollutants which the greatest risk of causing serious adverse effects to public health or the environment from accidental releases.

Page 309, line 8, after "Administrator" insert "on his own motion or by petition".

Page 309, line 18, after the period insert: "The Administrator shall establish procedures for the addition and deletion of substances from the list established under this subsection consistent with those applicable to the list in section 112(b).".

Page 309, strike line 19, and all that follows down through line 4 on page 310 and insert:

"(3) FACTORS TO BE CONSIDERED.—In listing substances under this subsection, the Administrator shall consider each of the following criteria:

"(A) The severity of any acute adverse health effects associated with accidental releases of the substance.

"(B) The likelihood of accidental releases of the substance.

"(C) The potential magnitude of human exposure to accidental release of the substance.

"(4) THRESHOLD QUANTITY.—At the time any substance is listed pursuant to this subsection, the Administrator shall establish by rule, a threshold quantity for the substance, taking into acount the amount of the substance which, as a result of an accidental release, is known to cause or may reasonably be anticipated to cause the serious acute adverse effects to human health for which the substance was listed. The Administrator shall exempt from the requirements of this subsection, a cargo tank (commonly known as a nurse tank and considered an implement of husbandry) transporting anhydrous ammonia, and operated by a private carrier exclusively for agricultural purposes, as described in the regulatons under 49 CFR 173.315(m), as in effect on the date immediately prceding the date of the enactment of the Clean Air Act Amendments of 1990 and used in agriculture.

"(5) RISK MANAGEMENT PLANS.—The regulations under this subsection shall require the owner or operator of stationary sources at which a substance listed under this section is present in quantities greater than a threshold quantity established pursuant to paragraph (4) to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of substances listed under this subsection from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment. Such plan shall provide for compliance with the requirements of this subsection and shall also include each of the following:

"(A) HAZARD ASSESSMENT.—A hazard assessment to assess the potential effects of, an accidental release of any substance listed under this section from the stationary source. This assessment shall include an estimate of potential release quantities and a determination of downwind effects, including potential exposures to affected populations. Such assessment shall include a previous release history of the past 5 years, including the size, concentration, and duration of releases, and shall include an evaluation of worst case accidental releases.

"(B) PREVENTION PROGRAM.—A program for preventing accidental releases of substances listed under this section, including safety precautions and maintenance, monitoring and employee training measures to be used at the source.

"(C) RESPONSE PROGRAM.—A response program providing for specific actions to be taken in response to an accidental release of a listed substance so as to protect human health and the environment, including procedures for informing the public and local agencies responsible for responding to accidental releases, emergency health care, and employee training measures.

At the time regulations are promulgated under this section, the Administrator shall promulgate guidelines to assist stationary sources in the preparation of risk management plans. The guidelines shall, to the extent practicable, include model risk management plans.

"(6) COMPLIANCE WITH RISK MANAGEMENT PLAN.—The owner or operator of each stationary source covered by paragraph (5) shall register a risk management plan prepared under this section with the Administrator before the effective date of regulations under this section in such form and manner as the Administrator shall, by rule, require. Plans prepared pursuant to this subsection shall also be submitted to the Air Pollutant Release Investigation Board, to the State in which the facility is located, and to any local agency or entity having responsibility for planning for or responding to accidental releases which may occur at such source, and shall be available to the public under section 114(c). The Administrator shall establish, by rule, an auditing system to regularly review and, if necessary, require revisions in risk management plans to assure that the plans comply with this section. Each such plan shall be updated periodically as required by the Administrator, by rule.

"(7) CONSISTENCY WITH CERTAIN STANDARDS; SMALL BUSINESS CONCERNS.—Any regulations promulgated pursuant to this subsection shall, to the maximum extent practicable consistent with the purposes of this subsection, be consistent with the recommendations and standards established by the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), the American Society of Testing Materials, and other similar organizations. The Administrator shall take into consideration the concerns of small businesses in promulgating regulations under this subsection.

"(8) ACCIDENTAL RELEASE INVESTIGATION BOARD.—(A) There is hereby established an independent board to be known as the 'Accidental Release Investigation Board'.

"(B) The Board shall consist of 5 members, including a Chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, toxicology, or air pollution regulation. The terms of office of members of the Board shall be established by the President. Any member of the Board, including the Chairperson, may be removed for inefficiency, neglected duty, or malfeasance in office. The Chairperson shall be the Chief Executive Officer of the Board and shall exercise the executive and administrative functions of the Board.

"(C) The Board shall investigate or cause to be investigated (in such detail as it shall prescribe), and determine the facts, conditions, circumstances, and causes or probable causes of any significant accidental release of a regulated substance or a substance which is unregulated (but could reasonably satisfy the factors of paragraph (3)) into the ambient air from a stationary source resulting in a fatality or serious injury, except for the following:

"(i) Any release of source, byproduct, or special nuclear material from a nuclear incident which the Nuclear Regulatory Commission is authorized to investigate.

"(ii) Any transportation-related release, including marine oil spills, which the National Transportation Safety Board (NTSB) is authorized to investigate.

The board may utilize the expertise and experience of other agencies.

"(D) The Board shall coordinate its activities with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related. The Board shall enter into a memorandum of understanding with the Occupational Safety and Health Administration so as to limit duplication of activities. In no event shall the Board forego an investigation where a sudden accidental release involving the production, processing, handling, or storage of a chemical substance causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.

"(E) For any investigation performed under subparagrpah (A), the Board shall develop a written report on the facts, conditions, circumstances, cause or probable causes of the release. No report of the Board shall be subject to review by the Administrator or any Federal agency or to judicial review in any court. No part of the conclusions, findings, or recommendations of any report of the Board relating to any accidental release or the investigation thereof shall be admitted as evidence or used in any action or suit for damages arising out of any matter mentioned in such report.

"(F) Any report of the Board pursuant to paragraph (3)(B) may include recommendations to the Administrator or the Secretary of Labor for the adoption of regulations concerning the detection and prevention of accidental releases into the ambient air of regulated substances and for the mitigation of the potential effects of such releases under the authority of this section or under the Occupational Health and Safety Act. Any such recommendations shall be specified and shall identify the regulated substance or class of regulated substances to which the recommendations apply.

"(G) Within 2 years after enactment of this section and every 2 years thereafter, the Board shall issue reports to Congress, Federal, State, and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, and other interested persons recommending the adoption of regulations for the prevention of accidental releases of regulated substances into the ambient air and for the mitigation of the potential adverse effect on human health or the environment as a result of accidental releases. The Board may include proposed rules or orders which should be issued by the Administrator under the authority of this section or by the Secretary of Labor under the Occupational Health and Safety Act. Any such recommendations shall be specific and shall identify the regulated substance or class of regulated substances to which the recommendations apply. The Administrator and the Administrator of the Occupational Safety and Health Administrator shall respond to the recommendations within 12 months after receipt thereof. If either the Administrator or the Administrator of the Occupational Safety and Health Administration fail to conform to the recommendations, such Administrator shall publish an explanation of the reasons for not conforming to such recommendations.

"(H) The Board shall establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigatory jurisdiction. Reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations. The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

"(I)(i) The Board, or upon the authority of the Board, any member thereof, may, for the purpose of carrying out this subsection, hold such hearings, sit and act at such times and places, and administer such oaths, as the Board or such officer or employee deems advisable.

"(ii) In addition to that described in paragraph (A), the Board may use any information gathering authority of the Administrator under this Act, including the subpoena power provided in section 307(a)(1) of this Act.

"(J) Any records, reports, or information obtained by the Board shall be available to the Administrator, the Secretary of Labor, the Congress and the public, except that upon a showing satisfactory to the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position, the Board shall consider

such record, report, or information, or particular portion thereof confidential in accordance with section 1905 of title 18, United States Code, except that such record, report, or information may be disclosed to other officers, employees, and authorized representatives of the United States concerned with carrying out this Act or when relevant under any proceeding under this Act. This paragraph does not constitute authority to withhold records, reports, or information from the Congress. Whenever the Board conducts an investigation of a facility pursuant to this subsection, employees and their representatives shall have the same rights to participate in such inspections as provided for in the Occupational Safety and Health Act.

"(10) DEFINITIONS.—For the purposes of this section—

"(A) The term 'accidental release' means an unanticipated emission of a regulated substance (except as provided in section 9(c)) into the ambient air from a stationary source.

"(B) The term 'regulated substance' means a substance listed pursuant to this subsection.

"(C) The term 'stationary source' means any buildings, structures, or installations (i) which belong to the same industrial grouping, (ii) which are located on one or more continguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) at which a regulated substance is present in excess of threshold quantities established by the Administrator.".

Page 494, strike line 9 through line 15 on page 496 and redesignate the succeeding sections accordingly.

Page 319, after line 5, insert:

SEC. 302. CHEMICAL PROCESS SAFETY MANAGEMENT.

(a) The Secretary of Labor shall act under the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) to prevent accidental releases of chemicals which could pose a threat to employees. Not later than 12 months after the date of enactment of this section, the Secretary of Labor, in coordination with the Administrator, shall promulgate, pursuant to the Occupational Safety and Health Act, a chemical process safety standard designed to protect employees from hazards associated with accidental releases of highway hazardous chemicals in the workplace.

(b) The Secretary shall include as part of such standard a list of highly hazardous chemicals, which include toxic, flammable, highly reactive and explosive substances. The list of such chemicals may include those chemicals listed by the Administrator under section 302 of the Emergency Planning and Community Right to Know Act of 1986, title III of the Superfund Amendments and Reauthorization Act (SARA). The Secretary may make additions to such list when a substance is found to pose a threat of serious injury or fatality in the event of an accidental release in the workplace.

(c) Such standard shall, at minimum, require employers to:

(1) develop and maintain written safety information identifying workplace chemical and process hazards, equipment used in the processes, and technology used in the processes;

(2) perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of the workplace effects of a range of releases, estimation of the health and safety effects of such a range on employees;

(3) consult with employees on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

(4) establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation, and emergency responses;

(5) periodically review the workplace hazards assessment and response system;

(6) develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

(7) provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

(8) ensure contractors and contract employees are provided appropriate information and training;

(9) train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(b) of SARA;

(10) establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

(11) establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

(12) conduct pre-start-up safety reviews of all newly installed or modified equipment;

(13) establish and implement written procedures to manage change to process chemicals, technology, equipment and facilities; and

(14) investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

(d) Nothing in this section may be construed to diminish the authority of the States and political subdivisions thereof.

(e) In exercising any authority under this subsection, the Administrator shall not, for the purposes of section 653(b)(1) of title 29, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

VISIBILITY PROTECTION

Page 498, after line 4, insert the following new sections and make the necessary conforming changes in the table of contents:

SEC. 707A. CLASS I AREAS.

(a) CLASS I AND II AREAS.—Section 164(a)(1) is amended by adding after "seashore" the words ", regardless of the date on which established".

(b) NATIONAL PARK AND WILDERNESS AREAS.—Section 164(a)(2) is amended by striking out "ten thousand acres in size" and inserting "5,000 acres in size (in the case of a national wilderness area) or 6,000 acres in size (in the case of a national park)".

(c) PUBLIC HEARINGS.—Section 164(b)(1)(A) is amended by inserting in the first sentence after "redesignated" the phrase "(or as near as practicable to such area in the case of a wilderness area)".

(d) ADVERSE IMPACTS ON AIR QUALITY-RELATED VALUES.—Section 165(d)(2)(C) is amended by striking out clause (ii), by inserting "or air quality-related values" after "air quality" and by adding the following at the end of clause (i) "A permit shall also not be issued if the Federal Land Manager of such lands, or the Administrator, or the Governor of an adjacent State containing such an area, files a notice making a showing, together with documentation, that such emissions may cause or contribute to an adverse impact on the air quality-related values (including visibility) of such lands, unless the owner or operator of the facility demonstrates that such emissions will not cause or contribute to the alleged adverse impact on the air quality-related values (including visibility) identified in such showing.".

(e) NOTICE TO FEDERAL LAND MANAGERS.—Section 165(d)(2)(A) is amended to read as follows: "(A) At the same time as the State transmits a copy of a permit application and notice under paragraph (1) to the Administrator, the State shall also provide a copy thereof of the Federal land manager and the Federal official charged with direct responsibility for management of any lands within a class I area, or an area described in paragraph (1) or (2) of section 164(a), which may be affected by emissions from the proposed facility. The Administrator shall require applications submitted under paragraph (1) to contain sufficient information to enable the Federal land manager of such Federal lands to determine the effects of such facility on the air quality related values (including visibility) of such Federal lands. The permitting authority shall consult with the Federal land manager for each such area to determine if the application is complete.".

(f) POLLUTANTS COVERED.—Section 165(d)(2)(C)(i) is amended by striking out "particulate matter and sulfur dioxide" and inserting "any air pollutant for which maximum allowable increases or other measures are in effect under section 163 or 166".

(g) POSTCONSTRUCTION MONITORING.—Section 165(a)(7) is amended by adding the following before the "; and" the phrase "and on air quality related values, including visibility, in class I areas which may be affected by emissions from the proposed facility".

(h) ADVERSE IMPACTS.—Section 165(d)(2)(C) is amended by adding the following at the end thereof:

"(v) In determining under this subparagraph or subparagraph (B) whether emissions from a facility will have an adverse impact on air quality-related values (including visibility), allowable emissions from other existing and permitted sources shall also be taken into account."

(i) PRECONSTRUCTION MONITORING.—The first sentence of section 165(e)(2) is amended by inserting the following before the period at the end thereof: "and to determine the effect emissions from such facility may have on air quality related values, including visibility, in class I areas which may be affected by emissions from the proposed facility.".

(j) IDENTIFICATION OF POTENTIAL ADVERSE IMPACTS.—Section 165(d)(2)(B) is amended by adding the following at the end thereof: "In addition to the other authority provided by this section, the Federal land manager charged with the direct responsibility for management of such lands may, by rule,

identify the air quality related values of such lands and the potential adverse impacts of air pollution on such values.".

(k) CLASS I PARKS.—Section 162 is amended by adding the following at the end thereof:

(c) Upon enactment of this subsection all national parks which exceed 6,000 acres in size which were established after the enactment of the Clean Air Amendments of 1977 and before January 1, 1990, shall be class I areas and may not be redesignated.".

"(1) REGULATIONS.—Section 301(a)(1) is amended by adding the following at the end thereof: "Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall amend the regulations under part C of title I to assure that the requirements of the amendments made by section 707A of the such Amendments (relating to class I areas) are met.

SEC. 707B. REGIONAL HAZE IMPAIRING VISIBILITY IN CLASS I AREAS.

(a) DEFINITIONS.—(1) Section 169A(g) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end thereof:

(8) the term 'regional haze' means widespread regionally homogeneous haze resulting from manmade air pollution."

(2) Section 169A(g) is amended by striking "nonair quality" in each place it appears in paragraph (1) and (2).

(b) ADDITIONAL REQUIREMENTS.—Section 169A of the Clean Air Act is amended by adding the following after subsection (g):

"(h) PROTECTING VISIBILITY AND AIR QUALITY RELATED VALUES IN CLASS I AREAS.—

"(1) EPA RULES.—Not later than 1 year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall propose rules, and within 2 years after such date of enactment, promulgate final rules, amending the regulations under subsection (a)(4) to assure that the requirements of this part are met with regard to visibility protection and the protection of air quality related values in areas protected under this part.

"(2) STATE PLAN REVISIONS.—The regulations under paragraph (1) shall require that revisions of the implementation plans for visibility protection under section 169A, and for the prevention of significant deterioration of air quality under this part, be submitted to the Administrator within one year after promulgation of such amendments. Such plan revisions shall comply with the requirements of this part.

"(3) REGIONAL HAZE PLANS.—The Administrator shall provide information to States regarding control measures for specific classes of sources for which guidance has not been provided under other provisions of this Act and which may reasonably be anticipated to cause or contribute to regional haze impairing visibility in an area identified under subsection (a)(2). In amending the regulations under subsection (a)(4), the Administrator shall provide guidelines for the identification by States of areas where sources may reasonably be anticipated to cause or contribute to regional haze. In addition the Administrator shall promulgate guidelines for the establishment of control strategies in those areas for use by the States if necessary to achieve reasonable progress toward the national goal specified in subsection (a).

"(4) REASONABLE PROGRESS.—The regulations under paragraph (1) shall establish criteria and procedures for determining whether reasonable progress toward the national goal specified in subsection (a) is being made in accordance with this section. The criteria shall include a method for determining baseline visibility in each Class I area identified under subsection (a)(2) and for determining whether reasonable progress toward the national goal is being achieved. In adopting such criteria, the Administrator shall consider both annual average visibility and shorter periods that may reflect seasonable patterns and the frequency of severe visibility impairment episodes. The regulations may allow the use of not more than 3 years as the baseline period, and shall require commencement of baseline monitoring within 6 months following promulgation.

"(i) REVIEW OF PROGRESS TOWARD NATIONAL GOAL.—(1) The Administrator, in consultation with the Federal land manager for each mandatory class I area referred to in subsection (a)(2), shall periodically review the status of visibility impairment in such areas and determine whether reasonable progress toward the national goal set forth in subsection (a) is being achieved. The first review under this subsection shall be completed 6 years after the date required for promulgation of the regulations required by subsection (h), and subsequent reviews shall be completed at 5-year intervals thereafter.

"(2) Whenever the Administrator determines that reasonable progress toward the national goal set forth in subsection (a) is not being achieved, the Administrator shall require such revisions of the applicable implementation plan or plans for such area as are necessary to make reasonable progress toward such national goal. The Administrator shall require that such plan revisions be submitted within one year after making any such determination. The Administrator shall not require plan revisions in any State if he determines that such state has adopted all feasible measures that can be expected to achieve reasonable progress. For the purpose of regional haze control, in determining best available retrofit technology, the Administrator may consider the estimated average contribution to visibility impairment from a source or group of sources located in an area identified under guidelines issued under subsection (h)(3). The determinations made by the Administrator under this subsection shall be after notice and an opportunity for public comment.

"(3) At a minimum, for any class I area to which this section applies, reasonable progress toward the national goal set forth in subsection (a) shall include each of the following:

"(A) Preservation of the frequency of days in which the visibility in the area is least impaired by manmade air pollution.

"(B) Over each review period, there shall be a perceptible improvement in average visibility in the area, as compared to the average visibility in the area during the prior review period or the baseline in the case of the first review period.

"(C) Over each review period, there shall be a perceptible improvement in frequency of days when the worst visibility attributable to manmade air pollution occurs, as compared to the frequency of days of the worst visibility attributable to manmade air pollution during the prior review period or the baseline in the case of the first review period.

"(4) The Administrator shall adopt numeric standards for measuring and modelling perceptible improvement, and a reference method specifying a technological method for measuring such improvement.

"(j) RELATIONSHIP TO OTHER PROVISIONS.—In promulgating regulations and amendments to regulations under this section, the Administrator shall take into account the reductions in air pollution obtained pursuant to other provisions of this Act, including the reductions obtained under title V (relating to acid deposition control). States may take credit for emission reductions required by other provisions of this Act (including provisions of an applicable implementation plan) in determining whether additional control strategies are needed to achieve reasonable progress toward the national goal. Nothing in this section shall be construed to require emission reductions of any air pollutant in any area designated as a nonattainment area for that air pollutant at a more rapid rate than required under part D.

"(k) IMPACT OF UNCONTROLLED SOURCES.—(1)(A) The Administrator shall undertake and complete, within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, studies to measure the impact of any uncontrolled major stationary source emitting more than 7,000 tons/year of sulfur dioxide on the air quality-related values (including visibility) of class I areas listed under subsection (a)(2) located within 100 miles of the uncontrolled major stationary source. The Administrator shall conduct studies of such sources under this subsection in accordance with priorities established by the Administrator based on aggregate emissions, location in relation to the class I area, weather patterns and likelihood of impact on the air quality-related values (including visibility) of such area. Studies under this section shall be conducted in consultation with the Federal official charged with direct responsibility for the management of each such class I area and the Federal land manager of each such class I area. These studies may include, but are not limited to, tracer studies requiring the source to release continuously tracers in the source's emissions to enhance the studies' ability to attribute impacts to the source. As part of the studies, the Administrator may require the source to install continuous emission monitors for sulfur oxides and nitrogen oxides or for other air pollutants as he deems necessary or to conduct tracer studies. The study shall include the identification of alternative regulatory strategies that could achieve the goal of section 169A(a)(1) and the costs (economic, energy, and social) of each such alternative. Within 1 year following completion of the study of any source under this subsection, the Administrator shall, in consultation with the Federal land managers, make a determination under subsection (b)(2)(A) with respect to the uncontrolled major stationary source and determine whether the applicable State plan needs to be revised in accordance with such determination. Such determination shall be made after notice and opportunity for comment.

"(2) For purposes of this subsection, the term 'uncontrolled major stationary source' means a major stationary source which—

"(A) does not use a technological means of emission control achieving at least a 50 percent reduction in emissions of sulfur dioxide from the potential combustion concentration; and

"(B) had an actual 1985 emission rate for sulfur dioxide below 1.2 lbs./mmBtu.

"(l) SAVINGS PROVISION.—The requirements and authorities established pursuant to this section shall be in addition to, and not in lieu of any other requirement or au-

thority under any other provision of this Act or under any other authority of law.

"(m) AREAS COVERED.—The provisions of subsections (h) through (l) of this section shall not apply east of the 100th meridian.".

REFORMULATED GAS

Page 220, strike line 6 and all that follows down through line 4 on page 221. [all of section 212(n) of the Clean Air Act as added by section 201 of H.R. 3030]

Page 221, after line 14, [at the end of section 201 of H.R. 3030] insert:

(d) REFORMULATED GASOLINE.—Section 211 is amended by adding the following new subsection at the end thereof:

"(k) CLEAN FUELS FOR CONVENTIONAL VEHICLES.—(1) Within 1 year after the enactment of the Clean Air Act Amendments of 1990 the Administrator shall promulgate regulations under this section establishing requirements for cleaner gasoline to be used in gasoline-fueled vehicles. Such regulations shall require the greatest reduction in emissions of ozone forming volatile organic compounds (during the period referred to in subparagraph (B)(i)) and emissions of hazardous air pollutants achievable through the reformulation of conventional gasoline, taking into consideration the cost of achieving such emission reductions, any nonair-quality and other air-quality related health and environmental impacts, including reactivity and relative toxicity, and energy requirements. Such requirements shall comply with the more stringent of either the requirements set forth in subparagraph (A) or the requirements set forth in subparagraph (B), except that the requirements of subparagraph (A) (iii) and (iv) shall apply in all cases. For purposes of determining the more stringent provision, subparagraphs (B)(i) and (B)(ii) shall be considered independently. The requirements of subparagraph (C) shall apply in all cases.

"(A)(i) The benzene content of the fuel shall not exceed 0.8 percent by volume.

"(ii) The aromatic hydrocarbon content of the fuel shall not exceed the following limits: 30 percent by volume after January 1, 1992, 28 percent by volume after January 1, 1994, and 25 percent by volume after January 1, 1996.

"(iii) The fuel shall have no lead content.

"(iv) The fuel shall contain additives to prevent the accumulation of deposits in engine fuel supply systems.

"(v) the oxygen content of the fuel shall equal or exceed the following: 2.0 percent by weight as of January 1, 1992, 2.5 percent by weight by January 1, 1993, and 2.7 percent by weight by January 1, 1994, except as otherwise required by this Act.

"(B)(i) During the high ozone season (as defined by the Administrator), the total emissions of ozone forming volatile organic compounds from representative model year 1990 vehicles when using the fuel shall, in the aggregate, be at least 15 percent below the total emissions of ozone forming volatile organic compounds from such vehicles when using 1990 certification fuel. Effective in calendar year 1997 and thereafter, 20 percent shall be substituted for 15 percent in applying this subparagraph. Effective in calendar year 2000 and thereafter, 25 percent shall be substituted for 20 percent in applying this clause.

"(ii) During the entire year, the total emissions of hazardous air pollutants from representative model year 1990 vehicles when using the fuel shall, in the aggregate, be at least 15 percent below the total emissions of hazardous air pollutants from such vehicles when using 1990 certification fuel (or to such other levels as the Administrator determines will achieve at least as great a reduction in aggregate adverse health effects as such 15 percent reduction). Effective in calendar year 1997 and thereafter, 20 percent shall be substituted for 15 percent in applying this subparagraph. Effective in calendar year 2000 and thereafter, 25 percent shall be substituted for 20 percent in applying this clause. For purposes of this clause, within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, by rule, determine appropriate measures of and methodology for ascertaining the emissions of hazardous air pollutants (including calculations, equipment, and tolerances) and their aggregate health effects.

"(C) The total emissions of oxides of nitrogen from representative vehicles when using the fuel shall in the aggregate be no greater than the level of such emissions from such vehicles when using conventional gasoline (as defined by the Administrator) of the same grade which meets the requirements applicable under this section.

"(2) The regulations promulgated under this subsection shall include procedures under which the Administrator shall certify fuels as complying with the requirements established pursuant to paragraph (1). Under such regulations, the Administrator shall establish procedures for any person to petition the Administrator to certify an alternative fuel formulation, or slate of fuel formulations. The Administrator shall certify a fuel formulation or slate of fuel formulations if such fuel or fuels (A) achieves equivalent or greater reductions in emissions of ozone forming volatile organic compounds an emissions of hazardous air pollutants than are achieved by a fuel meeting the requirements of paragraph (1) and (B) complies with the requirements of subparagraph (C) of paragraph (1). Such procedures shall further require that the Administrator shall approve or deny such petition within 90 days of receipt, and failure to act within such time shall be deemed a denial of such petition. Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall determine the level of emissions of ozone forming volatile organic compounds and emissions of hazardous air pollutants emitted by representative model year 1990 motor vehicles when operating on 1990 certification fuel.

"(3)(A) Effective January 1, 1994, no person may sell or dispense to the ultimate consumer, and no fuel refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers, in any ozone nonattainment area classified under subpart 2 of part D of title I as Severe or Extreme any fuel for use in conventional gasoline-fueled vehicles that has not been certified by the Administrator under this subsection.

"(B) Effective January 1, 1992, until January 1, 1994, no person may sell or dispense to the ultimate consumer, and no fuel refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers, in any such area any fuel for use in conventional gasoline-fueled vehicle that has not been certified by the Administrator under this subsection as complying with subparagraph (A)(ii) and (v) and subparagraph (C) of paragraph (1).

"(4)(A) Upon the application of the Governor of a State, the Administrator shall apply the prohibition set forth in paragraph (3) in any area in the State classified under subpart 2 of part D of title I as a Marginal, Moderate, or Serious area, and in any such case, the Administrator shall establish an effective date for such prohibition as he deems appropriate, not later than January 1, 1994, or 1 year after such application is received, whichever is later. The Administrator shall publish such application in the Federal Register upon receipt.

"(B) If the Administrator determines, on his own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient domestic capacity to produce fuel certified under this subsection, the Administrator shall, by rule, extend the effective date of such prohibition in Marginal, Moderate, or Serious areas for one additional year, and may, by rule, renew such extension for 2 additional one-year periods. The Administrator shall act on any petition submitted under this paragraph within 6 months after receipt of the petition. The Administrator shall issue such extensions for areas with a lower ozone classification before issuing any such extension for areas with a higher classification.

"(5)(A) The regulations promulgated under this subsection shall provide for the granting of an appropriate amount of credits to a person who produces and certifies a fuel that—

"(i) has an oxygen content that exceeds the minimum oxygen content specified in paragraph (1); or

"(ii) has an aromatic hydrocarbon content that is less than the maximum aromatic hydrocarbon content specified in paragraph (1).

"(B) The regulations described in subparagraph (A) shall also provide that a person who is granted credits may use such credits, or transfer all or a portion of such credits to another person, for the purpose of complying with this subsection.

"(C) The regulations promulgated under subparagraphs (A) and (B) shall ensure the enforcement of the requirements for the issuance, application, and transfer of the credits. Such regulations shall prohibit the granting or transfer of such credits for use with respect to any fuel in a nonattainment area, if the use of such credits would result in—

"(i) an average fuel aromatic hydrocarbon content (taking into account all fuel used in all conventional gasoline-fueled vehicles in the nonattainment area) higher than the average fuel aromatic hydrocarbon content that would occur in the absence of such credits; and

"(ii) an average fuel oxygen content (taking into account all fuel used in all conventional gasoline-fueled vehicles in the nonattainment area) lower than the average fuel oxygen content that would occur in the absence of such credits.

"(6) Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations applicable to gasoline to ensure that gasoline (other than gasoline subject to the requirements of paragraph (1)) does not result in emissions of ozone forming volatile organic compounds, nitrogen oxides, or carbon monoxide, or aggregate emissions of hazardous air pollutants from representative motor vehicles in excess of the levels of emissions of such pollutants that would result if conventional gasoline of a similar grade sold in calendar year 1989 were used in such vehicles. Such regulations shall take effect no later than January 1, 1992.

"(7) For purposes of this subsection, the term '1990 certification fuel' means fuel

used in exhaust and evaporative emissions testing for 1990 model year vehicles.

Page 207, strike line 24 and all that follows down to "shall submit" in line 8 on page 208 and insert "(1) CO NONATTAINMENT AREAS.—Each State in which there is located all or part of an area classified under section 186 as a Moderate or Serious area for carbon monoxide".

In the third sentence of section 212(g)(1), page 208, line 15, after "commerce" insert: "in the larger of—

"(A) the Consolidated Metropolitan Statistical Area (CMSA) in which the area is located, or

"(B) if the area is not located in a CMSA, the Metropolitan Statistical Area in which the area is located,

Page 208, line 13, in the third sentence of section 212(g)(1) strike "supplied, offered for sale or supply, dispensed, transported, or introduced into commerce" and insert "or dispensed, to the ultimate consumer or sold or dispensed directly or indirectly by fuel refiners or marketers to persons who sell or dispense to ultimate consumers,".

Page 208, line 18, strike "2.0" and insert "2.7" in the third sentence of section 212(g)(1).

Page 208, line 20, in section 212(g)(1), strike "1993" and insert "1992".

Page 209, line 10, strike "Notwithstanding" and all that follows through line 3 on page 211 (the last sentence of section 212(g)(1) and all of paragraphs (2) and (3) of 212(g)).

Page 208, line 23, and page 209, line 6, [in section 212(g)(1)] strike "may" and insert "shall".

Page 212, after line 2 (after section 212(g)(7)), insert:

"(8) If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that the minimum oxygen content of gasoline referred to in paragraph (1) shall be 3.1 percent by weight unless such requirement is waived in accordance with the provisions of this section.

LEAD POISONING CENTERS

Page 498, after line 4, insert:

SEC. 707A. CREATION OF CENTERS FOR PREVENTION OF LEAD POISONING.

The Toxic Substances Control Act is amended by inserting after section 31 the following:

"SEC. 32. CENTERS FOR PREVENTION OF LEAD POISONING.

"(a) ESTABLISHMENT.—The Administrator shall establish, and provide funding through grants, one or more centers for prevention of lead poisoning. The centers shall be established at institutions of higher education in the United States and shall assist the Administrator in carrying out this title.

"(b) APPLICATIONS.—An institution of higher education may apply for grants under subsection (a) by submitting an application to the Administrator in the form, at the time, and containing the information that the Administrator shall require.

"(c) SELECTION CRITERIA.—The Administrator shall award grants under subsection (a) to institutions of higher education pursuant to the following criteria:

"(1) The capability to provide leadership in making national contributions to the prevention of lead poisoning.

"(2) Demonstrated capacity to conduct research of lead poisoning prevention, including the development of innovative and safe methods for lead paint abatement.

"(3) The appropriateness of the projects proposed to be carried out by the grant recipient.

"(4) The recipient's commitment of at least $100,000 in budgeted institutional funds to research of lead poisoning prevention.

"(5) The presence at the institution of an interdisciplinary staff with demonstrated expertise in lead poisoning prevention.

"(6) The institution's demonstrated ability to disseminate results of it's research and educational programs through an interdisciplinary continuing education program.

"(d) FEDERAL SHARE.—The Federal share of a grant awarded under subsection (a) shall not exceed 80 percent of the cost of establishing and operating the center and related research activities carried out by the recipient.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'center' means a center for prevention of lead poisoning; and

"(2) the term 'institution of higher education' has the meaning given that term in section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a).".

BUY AMERICA

Page 507, after line 12, insert:

SEC. 805. AMERICAN MADE PRODUCTS.

It is the sense of the Congress that—

(1) existing equipment and machinery retrofitted to comply with the Clean Air Act's "Best Available Control Technology" language and all other specifications within the Act be produced in the United States and purchased from American manufacturers.

(2) The construction of new industrial and utility facilities comply to the Act's specifications through the incorporation of American made equipment and technology.

(3) Individuals, groups, and organizations in the public sector strive to purchase and produce American made products that improve our nation's air quality.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] will be recognized for 15 minutes, and a Member in opposition will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, under the rule I offer the Energy and Commerce Committee amendments en bloc. This amendment represents many hours of successful negotiations and discussions with committee members and others to resolve some of the issues remaining from the committee's markup. We have agreed on a comprehensive set of amendments to the Clean Air Act covering such matters as visibility, permits, enforcement, reformulated gasolines, accidental releases, and a number of other matters, including a number of technical and conforming changes to the reported bill.

In particular, I want to recognize the hard work and willingness to compromise of Mr. HALL, Mr. FIELDS, Mr. RICHARDSON and Mr. MADIGAN on reformulated gasolines. Their efforts resulted in a compromise which achieves greater environmental benefits than the original amendment while also providing the oil industry with needed flexibility. In addition, the compromise provides more benefits for farmers than the original amendment.

The reformulated gasoline amendment does not require the use of only those fuels which meet the specific chemical formulation such as benzene, aromatic and oxygen content outlined in subparagraph (A) of the amendment. It requires EPA to test the volatile organic compound and hazardous air pollutant emissions associated with that particular formula and compare those percentage reductions to the performance standards set out in subparagraph (B). The more styringent emissions reduction target of either subparagraph (A) or (B) will be required. It then allows the sale of a fuel which achieves comparable or greater emission reductions but which does not meet the specific formula outlined regarding aromatics and oxygen content, and does this through an EPA certification process. The certification authority for these equivalent fuels applies to all fuels required by this subsection in subparagraph 1, beginning in 1992.

Mr. Chairman, I believe this effort on the part of our committee and on the part of the Members will speed the passage of the legislation today and ensure its enactment. I strongly urge support of these amendments and I congratulate all of the Members on both sides of the aisle for their tireless efforts in resolving these matters.

The CHAIRMAN. Does any Member rise in opposition to the amendments?

Mr. LENT. Mr. Chairman, I rise in support of the amendments.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. LENT] will be recognized for 15 minutes.

There was no objection.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Energy and Commerce Committee amendments. These amendments reflect the tireless efforts of the committee to address several issues which were deferred during full committee markup.

First, the committee amendments include a compromise on the permits and enforcement provisions of the Clean Air Act.

Second, the committee amendment contains a compromise between the gentleman from Texas [Mr. BARTON] and the gentleman from New Mexico [Mr. RICHARDSON] on the provisions of the bill which deal with hazardous air pollutants, on the issue of how to handle accidental releases of hazardous substances.

Third, our colleagues on the committee most interested in visibility in and around our national parks worked together in splendid fashion to settle their differences.

Finally, the committee amendment includes provisions on so-called reformulated gasoline. Under the committee amendment, only reformulated gasoline will be allowed to be sold in the Nation's nine worst ozone nonattainment areas. While the original version of the Richardson-Madigan amendment would have had the Congress dictate a particular recipe for making cleaner gasoline, under the committee amendment, EPA will establish requirements for reformulated gasoline, based on the greatest reduction in emissions of ozone-forming compounds and hazardous substances that are technologically and economically feasible. A mechanism is established whereby our energy industry will be able to have EPA certify a fuel as complying with the act, even though it follows a gasoline formula different from that to be produced by EPA, so long as the proposed substitute achieves emission reductions equal to or greater than those from the formula set by EPA. This performance-based approach is better than a straight recipe-oriented one in which Congress would specify a specific gasoline formula.

I want to emphasize that this reformulated gasoline amendment, while not perfect in all of its many details, will, nonetheless, do a great deal to clean up the air, because reformulated gasoline can be used in existing vehicles without making modifications to the automobile.

I emphasize this point because later in our deliberations we will be asked to choose between the production mandate for clean fuel vehicles in the Waxman-Lewis amendment and the incentive-oriented approach in the Tauzin-Hall-Fields-Dingell-Lent amendment. The addition of this reformulated gasoline amendment will do more—and do it faster—than would mandating exotic alternative fuel vehicles, as would be the case under Waxman-Lewis.

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Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, the short time in which we are deliberating on this committee amendment really cannot do justice to a full explanation of the very significant compromises that have been reached on a whole range of issues. I do want to acknowledge the work of the gentleman from Oregon [Mr. WYDEN] and the gentleman from Massachusetts [Mr. CONTE] and their legislation dealing with the protection of the national parks, and the gentleman from New Mexico [Mr. RICHARDSON] on the reformulated gasoline provision.

We are not going to hear a long debate on the Richardson amendment, despite the full-page ads in almost every publication about how horrendous the Richardson proposal would be. We are not going to have a long debate because the reformulated gasoline amendment is reasonable. It has such a consensus behind it that it is wrapped in the committee amendment.

The legislation represented in this committee amendment is the result of many long hours of work by many people. It is an amendment that contains very good provisions, very strong provisions, and I urge all of the Members to support this committee amendment.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE], the ranking minority member of the Committee on Appropriations.

Mr. CONTE. Mr. Chairman, I rise in support of the committee amendment, and I am pleased to join my colleague, Congressman WYDEN in sponsoring the national parks protection provision that is included in this committee package.

I want to first commend Congressman WYDEN for leadership on this issue. It is an important provision, with lasting affects and significant impacts.

The Wyden-Conte amendment is designed to strengthen protections for national parks and other special public lands, the crown jewels of the public trust.

The National Park Service estimates that the scenic vistas in the parks are affected by man-made pollution over 90 percent of the time. For example, the Grand Canyon, which has been extensively studied, can present a breathtaking view of up to 200 miles on a clear day. But on a bad day, visitors can barely see the other side of the canyon, only 10 miles away.

A similar threat can be documented at other parks in the system, and we have an obligation to protect the beauty and majesty of our parks, free from pollution and contamination. This protection is warranted if not for the beauty itself, then for the protection of a substantial investment by the Federal Government.

As a member of the Interior Appropriations Subcommittee, I have worked to provide hundreds of millions of dollars for the acquisition of sensitive park lands and the operation and maintenance of our national park system. In the last 10 years alone, the Congress has provided over $1 billion for land acquisition for the Park Service. That is no small amount. It is a substantial investment to protect.

This important role for the Federal Government—to preserve our national treasurers for future generations—is advanced by the Wyden-Conte amendment. In 1977, Congress addressed the problem of air pollution and regional haze in our parks and directed the EPA to control park visibility problems. However, 13 years later the EPA has still not completed these important regulations.

This provision, now a part of the committee package, is designed to provide special protections for parks in the West and to update protections for newer national parks and wilderness preserves, like those in Alaska.

Mr. Chairman, let me close with a few words from our first "Environmental President," the father of the national park system, the Rough Rider himself, Teddy Roosevelt. In a 1907 Message to the Congress, President Roosevelt said:

> To waste, to destroy our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very property which we ought by right to hand down to them amplified and developed.

President Roosevelt's words are as relevant today as they were at the turn of the century. We have an obligation to pass on our environment, our natural resources protected and in tact, so that our children and grandchildren can use and enjoy these precious treasures. The Wyden-Conte amendment provides the roadmap for us to leave this lasting legacy.

I urge my colleagues to support this amendment through conference and support the committee amendment.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ANDERSON], chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Chairman, I thank the gentleman for yielding time to me and I do have a question.

On Monday, the Committee on Public Works and Transportation reported an amendment to H.R. 3030. Is it the understanding of the gentleman from Michigan that the text of that amendment is included in the amendment now under consideration?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. The gentleman is correct, and I want to commend him for his effort on this matter. I know that the gentleman's amendment, particularly the conformity review issue, is of great importance to State and local government associations, State departments of transportation and the transportation community as a whole. It is also good for the environment. Without the leadership and hard work of the gentleman from California, that

amendment would not have been possible.

Mr. ANDERSON. I thank the gentleman for his kind words and I rise in support of his amendment.

Mr. Chairman, in this amendment, the House will be approving important changes to the bill that will allow the orderly and efficient conduct of the Nation's transportation program. The Committee on Public Works and Transportation received a sequential referral and approved an amendment which will further the cause of clean air while recognizing the need for the upgrading of the Nation's infrastructure.

Now, more than ever before, we as a nation face a mounting array of challenges to our health and safety from worsening environmental conditions. Unless sweeping changes are made in the way we travel, the next decade will only bring increasing gridlock and traffic congestion, declining air quality and increasing dependence and reliance on foreign oil.

The Committee on Public Works and Transportation has recognized there is an environmental crisis. Our actions have demonstrated that we are no strangers to the needs of protecting our human health and irreplaceable natural resources. We believe they are a cornerstone in the building of a better and safer America.

At the same time, we also believe that infrastructure and its beneficial impact on economic development can coexist with the goal of a cleaner environment. We can improve our air quality as well as have an efficient and easily accessible transportation system. Through careful planning, we can reduce the emissions that pollute our air while meeting the vital transportation needs of our Nation.

Clean air and freedom of movement can mutually coexist, and I believe that the action which we are taking today will further that goal.

I appreciate the cooperation of Chairman DINGELL and Congressman WAXMAN on these amendments. We have reached an agreement that will help this Nation meet its critical clean air goals while minimizing the impact on efforts to assure a sound highway system.

The committee amendment addresses two issues: conformity review and sanctions.

On conformity review, the committee amendment would require that State transportation plans and programs, first, eliminate or reduce the severity and number of clean air violations, and second, not cause or contribute to a failure to meet clean air goals.

These are the same two requirements in H.R. 3030 are reported by the Committee on Energy and Commerce. The committee amendment would add a third requirement: That State transportation plans provide for the implementation of transportation provisions in accordance with a State's clean air plan.

The addition of this third requirement is an attempt to ensure that clean air transportation projects go forward. It also means, however, that the committee amendment imposes a tougher standard on State transportation plans than H.R. 3030 does.

In addition, on conformity review, the committee amendment guards against project-by-project review as provided in H.R. 3030.

It is my understanding that the language of H.R. 3030 assumes that individual highway projects must enhance air quality or they can't go ahead. The report accompanying H.R. 3030 states that "it many not always be necessary that each individual project fully meets the conformity criteria on its own merits." To me that says that there are times when it may be necessary.

The committee amendment addresses this by stating that if a transportation plan as a whole conforms to a State's clean air program, then any project in the plan is deemed to conform if it is a control measure or its design and scope have not changed.

The basis for conformity, therefore, is the plan taken as a whole and not each individual project in it. This approach is widely supported by State and local government associations, State transportation departments and transportation groups.

For new projects—projects not in the plan—the committee amendment provides that they would conform if, first, projected emissions from them would not cause the transportation plan as a whole to exceed the emission reduction requirements of the State implementation plan; or second, that any emissions from them are taken into account in a revised transportation or State clean air plan.

Lastly, and most importantly, the committee amendment would change the language in H.R. 3030 which for practical purposes gave the Environmental Protection Agency sole authority for determining criteria for compliance of highway projects. While we all recognize the expertise of EPA in determining air quality, I question the agency's knowledge of our Nation's transportation needs. Therefore, the amendment requires that EPA issue the regulations with the concurrence of DOT. Without DOT agreement, the regulations cannot be issued. I think that makes sense. Each agency should bring to the table its own area of expertise and the final resolution of policy should be a balance between the two.

On the issue of sanctions, the committee amendment provides that after 18 months, the sanction cannot be statewide if a political subdivision of a State is principally responsible for the noncompliance. In an additional 6 months, EPA may extend sanctions statewide. This gives a State, after the initial 18 months, 6 additional months to remedy the noncompliance of a locality or region before there is any threat of a statewide sanction.

The Public Works and Transportation Committee amendments are protransportation and proclean air. They are fully compatible with the clean air goals of this overall bill while allowing the continuation of many important transportation programs.

These amendments make H.R. 3030 a better bill, both from the goal of clean air and improved transportation. I look forward to our working as conferees with my colleagues from the Committee on Energy and Commerce to make sure the bill continues to recognize the Nation's clean air and transportation needs.

I have some additional comments, subparagraph (b) of paragaph (1) of section 176(c) of the Clean Air Act as added by 101(f) of H.R. 3030 refers to the "growth likely to result for such activities" subject to conformity review.

In addition to providing for the periodic emission reductions required in this act, each implementation plan is required to identify total emissions projected within the timeframe of the implementation plan in order to assure attainment of national standards within the timeframes allowed by the act. Accordingly, each implementation plan will define its attainment strategies in relation to the total emissions associated with population increases projected over the timeframe of the implementation plan.

Within this context, as the committee's report language clarifies, a transportation plan or program shall demonstrate that the total emissions from the regional population levels served by such plan or program are within the framework of total emissions for the population levels projected by the implementation plan.

Subparagraph (3)(b) in the proposed amendment refers to the "design and scope" of a transportation project. The terms "design and scope" are meant to refer to the transportation function(s) defined for a transportation project in the applicable transportation plan and to the transportation system capacity proposed for a transportation project in the applicable transportation plan and shall include the overall amounts of capacity from each type of transportation function, such as mixed flow and transit/HOV lanes, assigned to specific projects.

The amendment also refers to the "schedule set forth in such applicable implementation plan" and the "schedules assigned to those transportation plans and programs in the applicable implementation plan."

The capital funding required for such transportation plans and programs is substantial and is affected significantly by local, State, and Federal budgeting and revenue processes. Environmental review for large scale transportation plans, programs, and projects generally result in long lead times required for the implementation of programs and projects. Recognizing these constraints, the Federal Government requires environmental assessments for individual transportation projects to consider the projects in the context of the transportation system expected to be in place at the end of a 20-year timeframe. Each implementation plan's attainment schedule should similarly allow for the relatively long lead times required for transportation plan and program implementation and should further allow for long-term funding uncertainties that may affect the order in which transportation programs and projects are actually implemented within the 20-year timeframe.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY], a member of the Subcommittee on Health and the Environment.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I am happy to yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I certainly applaud the members of the committee for the outstanding job they have done, particularly on this compromise.

I rise in support of the Richardson-Madigan amendment for reformulated gasoline and I do so for three reasons: First, it will reduce pollution levels in the nine most heavily polluted cities; second, it will lead to an estimated 100-percent increase in the production of ethanol, thus materially assisting American's corn farmers; and third, it will help to cut our budget deficit.

Ethanol and clean air go hand-in-hand. Utilization of ethanol means a cleaner fuel, and a cleaner fuel means cleaner air. So it makes sense to encourage the development of a reformulated gasoline that utilizes ethanol, as this amendment does.

But it should also be noted that the amendment does not mandate the use of ethanol. It allows the oil companies to use alternative combinations if they achieve the required emissions reductions.

Projections are that perhaps no more than 30 percent of the reformulated gasoline will contain ethanol. Even that level, however, will result in a doubling of ethanol production. That will add jobs in central Illinois, where much of the ethanol is produced, and will help to offset the possible loss of jobs due to other provisions of the clean air bill.

It will also provide additional markets for corn, thus benefiting our corn farmers in the Midwest. Estimates are that the price of corn could go up by some 12 cents a bushel as a result of doubled ethanol production.

Furthermore, the increased demand for corn will reduce Federal farm support payment costs by nearly $1 billion a year, according to a GAO study released earlier this year. About half of this savings will be offset by lower revenues on the tax side, but the net result will still be a lower deficit by nearly one-half billion dollars annually.

So, many good things will result from the enactment of this amendment, and I urge its adoption.

Mr. BLILEY. Mr. Chairman, I rise in support of the Committee on Energy and Commerce's en bloc amendment. This document includes many technical corrections that further refine this bill. More importantly, this amendment includes a number of substantial agreements on important aspects of the Clean Air Act that strengthen an already strong bill.

In particular, I am proud of my efforts to produce a provision that will enhance our pristine air in our magnificent national parks. This provision is finely tailored to the particular visibility problems that we are facing in our western national parks. It both strengthens current law regarding plume blight and also requires EPA to enact new regulations regarding regional haze.

Just as important, this provision recognizes the tremendous benefit that the current smog and acid rain titles of this bill will have on our eastern national parks. This provision recognizes the difference in the challenges faced by our eastern national parks as compared to our western parks. This provision is a clear statement that titles I, II, III, and V of this bill are going to go a long way to not only protecting our citizens' health but to cleaning up our national parks such as the lovely Shenandoah in my home State of Virginia.

I want to express my appreciation to the author of the amendment, my colleague Mr. WYDEN, for this commitment to the development of sound policy instead of press release politics. His cooperation and reasonableness are to be commended. I also want to recognize the outstanding efforts of my colleagues Mr. SYNAR, Mr. NIELSON, Mr. SCHAEFFER, and Mr. SWIFT for their invaluable aid in the fashioning of this compromise. I urge all of my colleagues to support this strong measure.

Mr. Chairman, one of my paramount interests with respect to the Clean Air Act Amendments of 1990 has been to try to encourage utilization of the principle of cost-effectiveness in this legislation. That has not always been easy or politically possible. However, if done in consonance with an appropriate level of protection for health and environment, the public will be better served by this ambitious bill. On the other hand, to the extent that H.R. 3030 departs from that principle, it justifiably can be accused of wasting precious resources without a commensurate benefit being bestowed upon society.

Title III of H.R. 3030, relating as it does to hazardous air pollutants, is a portion of this bill where the potential for control overkill is particularly great because the public values protected are especially fragile and sensitive, both in perception and reality. Nevertheless, proceeding with caution, with health and environmental protection being the objective, the principle of cost-effectivness can be employed here as well. To that end, I would like to speak to some language that I was able to get placed in title III in the set of committee amendments to be offered en bloc. The text of that language is as follows:

On page 319, after line 5, add a new subsection as follows:

"(u) In the case of any category or subcategory of sources the air emissions of which are required under subtitle C of the Solid Waste Disposal Act, the Administrator shall take into account any regulations of such emissions which are promulgated under such subtitle and shall, to the maximum extent practicable and consistent with the provisions of this section, ensure that the requirements of such subtitle and this section are consistent."

The purpose of my amendment language is to allow EPA to avoid imposing additional emission limitations on a source category or subcategory when such limitations would be unnecessary and duplicative. The amendment would not automatically exclude source categories that are subject to controls under another program, but would simply require the Administrator, to the maximum extent practicable and consistent with the provisions of section 301, to ensure the consistency of subtitle C of the Solid Waste Disposal Act [SWDA] and this section. After all, the purpose of the legislation is to place an appropriate level of control and is not to enshrine control for control's sake. This is particularly important in light of the ambitious schedule for regulation under title III and the strain it will place on both EPA resources and those of the regulated community.

EPA is currently well along in the process of promulgating stringent air emissions for several specific types of facilities for the same pollutants that are listed under title III of H.R. 3030, as reported. For industrial boilers and furnances that burn hazardous waste fuel, EPA has proposed both technology-based and health-based emissions limitations on potentially hazardous air pollutants that may be emitted by such sources. See 54 FR 43718, October 26, 1989; 52 FR 16982, May 6, 1987. These regulations, which are more stringent than the requirements that currently apply to hazardous waste incinerators, are being promulgated pursuant to RCRA, not the Clean Air Act, and are expected to be issued in final form within a year.

Compliance with these regulations will require many facilities to install expensive new control technology and to go through an elaborate and costly permitting process. To require EPA to impose an additional layer of regulation on sources that EPA may determine will be appropriately controlled by another regulatory program would yield no environmental benefits, but it could impose a large burden on both the regulated facilities and Federal and State permit writers. Even if the level of emissions control required under different regulations is essentially the same, the

costs of subjecting facilities to detailed monitoring and operating requirements that have been separately promulgated pursuant to different statutory authority, or by different offices within EPA and different State agencies, are likely to be high.

In my view, my language tries to rationalize the appropriate level of control under this legislation with that in a companion environmental statute. Indeed, section 1006(b) of the SWDA requires integration with the Clean Air Act of all provisions of SWDA for purposes of administration and enforcement and avoidance of duplication to the maximum extent practicable. To me this is nothing more than the exercise of common sense.

I would hope that the conference committee would also ensure internal consistency and cost effectiveness with respect to the various provisions of the clean air bill that we will send to the President and, indeed, with respect to the Clean Air Act that it amends. One example that comes to mind relates to municipal waste incineration. I am aware that we do not have in our bill a specific provision regulating municipal waste incineration. However, absent such a specific provision it could happen that such incinerators might find themselves regulated in an inappropriate way under generic provisions of title III of H.R. 3030. The bill passed by the other body, S. 1630, has a specific set of regulations applicable to municipal waste incinerators which largely builds on the ongoing rulemaking for those sources. Presumably, since the more specific will override the more general language, the municipal waste incinerators will not find themselves inappropriately regulated by the generic requirements of title III of S. 1630. It is important to remember when we proceed to conference that we must reconcile our absence of such specific provisions with the precise language of the other body in such a way as to provide the appropriate level of control and to avoid inconsistency. On December 20, 1989, EPA proposed stringent emissions limitations and compliance schedules for existing municipal waste combustors—see 54 FR 52209—and for new, modified or reconstructed municipal waste combustors, see 54 FR 52251. Hearings on those regulations, which have long been in the developmental stage and have been the subject of extensive comments, commenced in January 1990, and further comments for the record were filed by March 1, 1990.

Another example comes to mind with respect to the appropriate level of regulation of those substances which are on both the 301 list and the initial list of substances under those other provisions of title III regulating sudden and accidental releases. It is clear that, unless there is a commitment to avoid inconsistency, duplication, and inappropriate control, some of the sources of those chemicals will find themselves subjected to regulatory overkill. It is important that this matter be clarified. Proposed section 112(c)(4) provides discretionary authority to the Administrator to list categories or subcategories under section 112(c) that had been regulated under section 112 prior to enactment. No health benefit would flow from requiring EPA to promulgate new section 112 standards for sources that are meeting standards that provide an ample margin of safety under existing NESHAPS. Accordingly, because of this, section 112(c)(4) authority should be utilized only if the applicable standard needs to be revised. Of course, in some instances, the existence of new sudden and accidental requirements may make the lack of need for any additional title III regulation even more compelling.

Furthermore, it is apparent that if the title III MACT requirements are to work sensibly, it is important that the appropriate control measure be employed in light of the nature of the facility to be regulated. Some industries have processes which are central to given subcategories of the industry. In my view, the other body employed the proper approach and degree of flexibility wherein it recognized on pages 170 and 171 of Report 101-228 to accompany S. 1630 that "The Administrator may consider the type of process employed in making decisions on subcategories and standards." Of course, there is nothing in the language of H.R. 3030 that would prevent such an interpretation. Indeed, such an interpretation and use of subcategorization is vital to prevent the cost-ineffective application of a MACT which is inappropriate to the kind of process that is integral to a source.

Lastly, the bill designates on the list of regulated hazardous air pollutants 17 broad categories of pollutants without a CAS number. To ensure that substances are not unnecessarily regulated by emission standards based on the health risks posed by a very different toxic pollutants within the same broad pollutant category, the bill allows EPA to delete from regulation those unique chemical substances that do not meet the criteria for adding a pollutant to the list of toxic air pollutants. Also, to ensure that unique chemical substances that are only mildly toxic and noncarginogenic are regulated on the basis of the specific risks posed by the unique chemical substances and not on the basis of risks posed by a known human carcinogen or a severely toxic unique chemical substance in the same pollutant category, the Administrator should establish emission standards with respect to the health and environmental effects of the substances actually emitted by a source.

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Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana [Mr. SHARP], chairman of the Subcommittee on Energy and Power.

Mr. SHARP. Mr. Chairman, I rise in strong support of the committee amendment which represents some significant policy changes. Particularly, I want to support the Richardson amendment and the Wyden amendment.

The Richardson amendment, which only failed by one vote in the committee, will take us a long way to meeting auto pollution problems in this country, because it addresses the problem of older cars on the road. It will bring into the marketplace what we call reformulated gasoline. It will bring into the marketplace a fuel that has a higher oxygen content, which will help us in some communities meet the problems of ozone and in others to meet the problems of carbon dioxide.

This is a very important step forward. It will put pressure on our oil industry to meet it. It will bring into the marketplace additional additives. Especially ethanol will have a wider role to play in this. Most importantly, it will bring us a much improved health climate for our people.

We know our new cars are doing basically a very good job of meeting pollution requirements, and we are going to make those tougher in this legislation. One of our major concerns is what about that fleet of thousands and hundreds of thousands of cars out there on the road that are under older requirements and are deteriorating in their ability to meet the requirements.

The Wyden visibility amendment fills a gap in the committee-reported bill. While the air in the East will reap enormous visibility benefits from the acid rain provisions of the bill—reducing haze—more must be done to protect the beautiful vistas in the Western United States.

The regional haze program included in this compromise will finally—after 13 years of inaction by the Environmental Protection Agency—set national goals and requirements for cleaning up ubiquitous pollution.

The Wyden amendment also strengthens existing law regarding the protection of our national parks from visible pollution. Indiana Dunes and the Hoosier National Forest will be better protected because of this action.

Mr LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Chairman, I rise in strong support of the committee amendment.

Throughout this debate, a leading motivation of Members—and rightly so—has been to protect those industries critical to their home State. For me, and others whose State's primary industry is tourism, visibility in our national parks is of vital importance.

Predictably, numerous studies have shown that Americans place a high value on protection and preservation of our natural resources. Congress reflected this concern in its 1977 amendments to the Clean Air Act by establishing a national visibility goal—the prevention of any future, and the remedying of any existing, impairment of visibility in class I areas. Unfortunately, EPA has failed to carry out this important task.

As a result of this inaction, National Park Service monitoring indicates that in excess of 90 percent of the time, scenic vistas are affected by manmade pollution within the lower 48 States. As the West inevitably grows, so too will the problem. Even with enactment of H.R. 3030, perceptible deterioration of visibility will undoubtedly take place in the West. We must simply do more.

I am therefore pleased to join Congressman WYDEN in his effort to see the intent of the 1977 amendments carried out. By requiring that EPA issues long-awaited regional haze regulations, we can begin to make the improvements we pledged to ourselves and our constituents. And with the progress made over the last 12 years, a lack of technology is no longer an excuse.

Before closing, I would like to commend those who worked long and hard in bringing this compromise about. As with so many issues, committee members were able to put their differences aside and develop a responsible solution. Special recognition of course goes to Chairman DINGELL and Congressmen LENT and WAXMAN without whose efforts an agreement would not have been possible. But the same can likely be said of other committee members, Mr. BLILEY, Mr. SYNAR, Mr. SHARP, and Mr. NIELSEN whose commitment to protecting these valuable resources in an economically sensible fashion has brought us to this point. I commend especially my staff member David Eck and finally again I commend the gentleman from Oregon [Mr. WYDEN].

I urge my colleagues to join me in support of this amendment and endure that the national parks so important to my home State—and to all of us—are protected for many years to come.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, I would like to call the House's attention to a provision in the Energy and Commerce Committee amendment that addresses the issue of asbestos in nonschool public and commercial buildings. Everyday millions of Americans are potentially exposed to unsafe levels of asbestos in our Nation's buildings. In 1988 EPA estimated that there are over 700,000 buildings with asbestos-containing materials. Airborne asbestos poses a health risk to building occupants as well as construction and service workers.

My amendment provides for the training and accreditation of individuals who work with asbestos-containing materials in public and commercial buildings. The amendment requires accreditation and training for persons who inspect, design, or conduct response actions in nonschool public and commercial buildings. The regulations are to include requirements identical to those in the model contractor accreditation plan promulgated under section 206(b) of the Toxic Substances Control Act, except that workers conducting response actions shall undergo not fewer than 40 hours of training, and to maintain accreditation, such a worker shall complete an 8 hour refresher course annually. I intend that the 40-hour accredited training and the 8-hour refresher training to mean actual classroom training and hands-on training time, exclusive of breaks and meals.

In order to prevent further disease from asbestos, this amendment is designed to protect human health from airborne asbestos by establishing trianing and accreditation standards in order to protect workers and the public from asbestos hazards in buildings. In order to achieve this aim, the amendment also establishes training grants administered by the National Institute of Enviromental Health Sciences, the Government agency well qualified in this area, to further worker education and training. The grant program provides is targeted to joint labor-management trust funds and to nonprofit government employee organizations for establishing and operating programs for the duration of the period of authorized funds. The authorization provides for $10,000,000 a year in grant funds for fiscal years 1991, 1992, 1993, and 1994. The amendment provides for one-time startup grants and are renewable for the full 4 years. Many joint labor-management trust funds have ongoing programs under the Asbestos Hazard Emergency Response Act for asbestos in the Nation's schools. This amendment establishes a training program for nonschool public and commercial buildings and those trust funds with ongoing programs are eligible for these grants in order to establish and operate programs for training workers who will be accredited under this amendment.

Asbestos has been long recognized as a threat to human health. This amendment aims to protect human health and the environment through the training of a skilled work force to handle a known airborne health hazard.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I will vote in favor of enactment of H.R. 3030, Clean Air Act Amendments of 1990, with enthusiasm.

The Clean Air Act Amendments of 1990 have traversed a long and rocky road through both Houses of the Congress. Finally, we find ourselves in a position to enact legislation that will improve our health and environment. Passage of this legislation will end over a decade of ineffective clean air policies.

I commend the leadership of the House on both sides of the aisle, especially the Energy and Commerce Committee, Chairman DINGELL and Mr. LENT, for their efforts to bring the bill, H.R. 3030, Clean Air Act Amendments of 1990, to the floor for consideration.

Mr. Chairman, I must admit that when the Committee on Energy and Commerce reported this bill, I had serious concerns about the effect the legislation would have on the future of the Nation's surface transportation programs.

However, over the past few weeks, the Committee on Public Works and Transportation has worked in good faith with the Committee on Energy and Commerce to address concerns that directly affect the Nation's surface transportation programs. On Monday, the two committees reached an agreement on amendments for inclusion as part of the committee amendment supported by the Committee on Energy and Commerce. Our agreement takes a balanced approach to addressing the Nation's environmental problems while also addressing its transportation needs.

Also, on Monday, the Committee on Public Works and Transportation, ordered reported, the bill, H.R. 3030 with amendments that reflect the understanding of the agreement between the two committees.

At the Federal level, the responsibility for widespread failure to reduce mobile source pollution since 1977 rests with the Environmental Protection Agency [EPA] and the Department of Transportation [DOT]. For the future, both Departments must work together to reduce emissions. For that reason, the Energy and Commerce and Public Works and Transportation Committees agreed to include provisions in the Clean Air Act Amendments of 1990 to provide for an effort by both EPA and DOT to assure conformity of transportation plans and projects.

The amendments to the legislation agreed to by both committees are only intended to improve the implementation of the Clean Air Act without neglecting the need to move people and goods.

These amendments address two areas: Sanctions and conformity requirements.

Under the sanctions provisions, the EPA Administrator will be required to establish criteria for exercising his or her authority to impose sanctions on those political subdivisions that have adequate authority to correct air-quality deficiencies. The Public Works and Transportation Committee, in conjunction with the Energy and Commerce Committee, also support revising the conformity requirements in H.R. 3030, as reported, to permit EPA and DOT to work together to determine which transportation projects conform to the State implementation plan.

These are strengthening provisions to the Clean Air Amendments of 1990.

Over the last two decades, the Congress has struggled to develop solutions to improve air quality. Success has eluded us.

Now, we have an opportunity to enact legislation to clean up dirty air.

Americans are looking to us for leadership and we must provide that leadership by enacting strong and workable clean air legislation. Further, we can ensure that H.R. 3030 is workable by adopting these modest, but important adjustments to H.R. 3030 to strengthen the bill and facilitate its implementation.

Mr. Chairman, I urge passage of the Energy and Commerce Committee

amendment to this historic legislation, the Clean Air Amendments of 1990.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, I would like to commend the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], the gentleman from California [Mr. WAXMAN], and the other members of the Energy and Commerce Committee for the great work they have done. We had good compromises in many areas. I am happy to have worked with the gentleman from Oregon [Mr. WYDEN], the gentleman from Virginia [Mr. BLILEY], the gentleman from Colorado [Mr. SCHAEFER], and the gentleman from Oklahoma [Mr. SYNAR], on the visibility over national parks amendment, which I think is fair, which meets the objectives of the National Parks Service and also does it in a way where we can preserve our national parks without destroying the current developments around them.

Mr. Chairman, I am also pleased that the amendment included the compromise of the Hall-Fields and Richardson-Synar alternative fuels amendments which were so closely contested.

I would also like to commend my colleagues for accepting into the committee amendments a technical amendment on controls for PM-10 precursors.

This amendment directs the Administrator to consult with the State when issuing guidelines and making determinations on PM-10 and PM-10 precursors. It also directs the Administrator to take into account emission reductions achieved, or expected to be achieved, under title V and other provisions of this act.

This is important so that sources that have emissions that may contribute to PM-10 nonattainment will not have to put on onerous unnecessary controls. It also allows the State, the body that does have the information on what is contributing to nonattainment to have a role in this process.

I am disappointed the rule did not provide for me to allow my National Acid Precipitation Assessment Program [NAPAP] amendment. I believe that study will show that we are overdoing on the acid rain aspects of this bill. The report may show that we have reduced sulphur dioxide by at least 800,000 to 1 million more tons than we are given credit for, and if we could take that into consideration we could have taken some of the pressure off the Midwest and also provide more growth in our Western and Southern States. So I am sorry that was not allowed. Perhaps we will be able to make that correction later.

Mr. Chairman, in spite of that deficiency, I do support the amendment and I congratulate all the Members who had a part in its drafting including the many dedicated members of the committee and personal staffs.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, the committee amendment to title I of the bill includes important revisions to the section on consumer or commercial products.

The bill requires a comprehensive study on the ozone implications of these products. It is expected that the study will provide a much-needed data base and a better understanding of the relative net environmental impacts of these products. This will provide a sound basis for regulation.

At the conclusion of the study, the EPA Administrator is required to list those categories of products that the Administrator determines, based on the study, account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer or commercial products in areas that violate the NAAQS for ozone.

Thereafter, the Administrator is to list four groups and promulgate regulations every 2 years for one group until all groups are subject to best available controls.

Mr. Chairman, I rise to compliment the chairman and my colleague Mr. WAXMAN on the long hours of hard work they put into the evolution of the consumer or commercial products section of the bill.

I think that the committee has reached a sensible approach to a very complicated subject. I am particularly pleased that the language now emphasizes the importance of photochemical reactivity as a key criterion to be used by the Administrator in determining the categories of emissions to be listed.

It is commendable that we are recognizing the fundamentals of atmospheric chemistry in this area by requiring that emissions be considered on a reactivity-adjusted basis before being considered for regulation. The term reactivity-adjusted basis requires a focus of regulatory controls on the more reactive VOC's by relating the amount of urban ozone formed to the weight of the VOC emitted to the ambient air, thereby achieving the most cost-effective control measures.

I am pleased that we have provided the Administrator very specific factors for determining the criteria for selecting product categories which are to be subject to control.

It is notable that, as the recent OTA report "Catching Our Breath" points out, some 25 percent of the national VOC emissions inventory may result from unregulated sources, of which OTA includes commercial and consumer products as one of a number of contributors, along with other sources such as surface coatings, degreasing, drycleaning, and asphalt paving.

The committee's definition of "consumer or commercial product" is, however, different from OTA's. The committee's definition of "consumer or commercial products" is much broader and is intended to encompass the universe of sources referenced in the OTA report as well as other sources.

I am especially gratified that we have not singled out any particular products or form of product for regulation, but, rather, we have focused on ambient air VOC emissions from the universe of consumer or commercial products as specifically defined in the bill, which includes VOC's that may result from the use, consumption, storage, disposal, destruction, or decomposition of such products.

The committee also recognizes that efforts to decrease VOC emissions from these products are ongoing and are expected to increase after enactment, even before the best available control regulations are promulgated. Accordingly, the bill recognizes these efforts and requires the Administrator to give credit for postenactment reductions when listing categories and promulgating regulations of the four product groups.

Mr. LENT. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of the portion of this amendment to H.R. 3030, the clean air act amendments of 1990 which embodies changes considered in depth by the Committee on Public Works and Transportation and which was unanimously reported out of our committee.

The Public Works and Transportation Committee is extremely concerned that without this amendment certain provisions of H.R. 3030 would severely hinder the attempts of State and local transportation officials across this country to address critical transportation needs.

Our committee has worked with the Energy and Commerce Committee over the course of the last week, and the committees have come to an agreement on changes to H.R. 3030 which will satisfactorily resolve our concerns. I want to thank Mr. DINGELL, Mr. LENT, and Mr. WAXMAN for their cooperation in focusing on these important matters and for their willingness to join us in support of these changes.

As it relates to transportation programs, this amendment makes three basic changes. First, it sets out in detail how transportation plans, programs, and projects will be evaluated for conformity with State clean air plans. The amendment ensures that conformity will be determined for a transportation plan or program as a

whole, not for individual projects within a transportation plan.

Mobile source air pollution is best evaluated at the regional planning level. Only at this level can the many interrelated influences of land use changes, cost increases, travel demand, modal choice, and other important factors be adequately assessed.

There may be projects, however, that for some reason are not included in a transportation plan, or projects that have changed substantially in design or scope. This amendment provides that these types of projects will be carefully analyzed to prevent evasion of clean air goals.

This amendment will also guarantee the full participation of the Department of Transportation in the process of promulgating criteria and procedures for determining the conformity of transportation plans.

The Department of Transportation has extensive experience with transportation control measures and a thorough understanding of factors which influence vehicle miles of travel and congestion reduction. The requirement in this amendment that the Environmental Protection Agency issue conformity guidelines only with the concurrence of the Department of Transportation is a change I strongly endorse.

H.R. 3030 provides substantial discretion to the Administrator of EPA to require that Federal highway funds be cut off for violations of the Clean Air Act. The amendment under consideration ensures that this sanction, if necessary, will be aimed to the level of Government responsible for taking the action necessary to come into compliance. Highway funds could not be cut off in the first instance for an entire State for a violation in just one part of the State if the local government has primary responsibility for correcting the violation.

The public works portion of this amendment will promote the clean air goals of H.R. 3030 while ensuring that Congress can move forward with a strong national transportation policy. I urge my colleagues to consider the transportation challenges facing them in their own districts and to vote for this extremely constructive change in H.R. 3030.

In closing, I wish to thank the distinguished chairman of the Public Works and Transportation Committee, Mr. ANDERSON; the chairman of the Surface Transportation Subcommittee, Mr. MINETA; and my colleague, Mr. SHUSTER, for their leadership on this matter. As the Public Works and Transportation Committee considers reauthorization of surface transportation programs in the coming months, the environmental impacts of our transportation systems will remain an important consideration. I am pleased that there is such strong commitment within the Public Works and Transportation Committee for a balanced approach to meeting the environmental and transportation challenges that confront us.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, let me take this opportunity to thank the gentleman from California [Mr. WAXMAN] and the gentleman from Michigan [Mr. DINGELL], as well as all other Members involved in getting to this point. I think it shows that compromise is the order of the day. I would particularly like to commend the gentleman from New Mexico [Mr. RICHARDSON] for his reformulated gasoline section. That section contains a key principle, that environmental performance and not congressional formula should control with respect to gasoline specifications.

Mr. Chairman, I would also like to commend the gentleman from Oregon [Mr. WYDEN] and the gentleman from Massachusetts [Mr. CONTE] for their excellent work on the parks amendment. It will do exactly what the gentleman from Massachusetts said, protect our crown jewels. It will protect more areas, cover more pollutants, and will require issuance of regional haze regulations within 2 years. This is good news for those who are concerned about these crown jewels. This amendment will go a long way in moving us forward toward clean air.

Mr. Chairman, I am pleased to join with my friend from Oregon in cosponsoring the visibility amendment. On March 9, 1990, my Subcommittee on Environment, Energy, and Natural Resources held an oversight hearing on air quality in our national parks and wilderness areas. We found that although Congress had directed the EPA to protect these areas in the 1977 Clean Air Act, many of these treasured places were still being seriously affected by air pollutants 13 years later.

The subcommittee released a GAO report at the hearing which detailed the many flaws in the program designed to protect our cleanest areas. The report showed that most of the pollution that enters our parks and wilderness areas comes from sources exempted from the current Prevention of Significant Deterioration Program, the program relied on to solve the problem. Even worse, a majority of these areas were left out of the program because they were too small or created after the 1977 amendments.

We heard testimony from the National Park Service that some visibility impairment exists at almost all western parks. In many cases the pollution was so bad that it was apparent even to tourists seeing these sights for the first time. Yet the current bill as reported does little to improve the situation.

We also heard EPA Assistant Administrator Rosenberg state that the impact of title V on visibility was unclear, and that sulfur emissions in the West might even increase up to 23 percent under its provisions. Despite these dire predictions, neither the bill submitted by the President nor the bill reported out by the Energy and Commerce Committee contains a visibility section.

Our hearing also showed that EPA was not using its statutory authority to protect parks and wilderness areas. While EPA has the power to go after distant sources of park pollution, it has ducked its responsibility and failed to issue the regulations to do the job. The Agency claimed it lacked the expertise and data to issue these regional haze regulations. But this position was directly contradicted by other Government witnesses.

Even worse, EPA has not gone after nearby sources of park pollution. Our hearing showed that the Agency has not required the studies which could trace this pollution to its source and required cleanup.

Finally, EPA has done nothing to protect currently clean areas from becoming degraded in the future. These "clean air" areas are the source of the best visibility days in the West. Without them, in some areas, there would never be clean air.

This amendment deals with most of these issues. It protects more areas, covers more pollutants, requires issuance of regional haze regulations within 2 years, and mandates tracer studies for large unregulated sources not covered by title V. Unfortunately, one big issue was dropped in negotiations—protection for clean air areas through the establishment of multi-State regional commissions. This idea, which orginated with the Alliance for Acid Rain Control, is still in the Senate bill.

I hope it will be adopted in conference. Our precious crown jewels deserve no less

REFORMULATED GASOLINE

Mr. Chairman, this bill requires us to balance the need for tough environmental standards with realistic challenges for American business. With this amendment we are asking the petroleum industry to do its fair share to help clean the air.

This amendment was produced after many hours of intense negotiation between representatives of producing States and agricultural States with input from JOHN DINGELL, HENRY WAXMAN, NORM LENT, and ED MADIGAN, as well as my producing State colleagues, RALPH HALL, BILLY TAUZIN, and JACK FIELDS. It is a substantial improvement over the amendment offered in committee. It lays out an important challenge: The development of reformulated gasoline with clean air benefits for the millions of vehicles currently on the road.

This is a tough amendment, Mr. Chairman. Indeed, it may be somewhat too ambitious. Beginning in 1992, only 19 months from now, we are requiring all of the gasoline in nine major urban areas, some 22 percent of the total U.S. supply, to be reformulated gasoline. This is a monumental task, and we should not minimize the amount of ingenuity and capital investment it will take for the American petroleum industry to comply with these requirements. Since the cost of any changes will be paid for by American consumers we must make sure that this new program contributes to progress on clean air.

But while this amendment is tough, I am encouraged that our negotiations have validated a key principle, environmental performance,

and not a congressional formula for gasoline specifications. While the amendment outlines one benchmark fuel, it also allows for an alternative certification procedure. The potentially tougher performance objectives permit technological innovation, economic efficiency, and some flexibility. In short, if an oil company can make a cleaner fuel by another combination of ingredients, it gets both the chance and the challenge to do so.

Mr. Chairman, although I think we have improved this amendment enough to send it to conference, it is far from perfect. Frankly, I am not confidant that the performance objectives set out are technologically feasible, whether the time frame for rulemaking and compliance are realistic and fair, and whether the base from which emissions performance will be judged is correctly established. I also question whether we have left enough room in this amendment for the regulators and the engineers to maneuver. These are issues which must be dealt with in conference.

It is often said about pollution control legislation that it must force technology to be effective. But when it comes to making gasoline for existing automobiles, we cannot ignore the laws of thermodynamics and chemistry. We also cannot and should not demand ever-incresing investment to produce gasoline that will fuel an ever-dwindling fleet of old cars.

The conferees will have to carefully weigh some adjustments to this measure to build in flexibility and safeguards. History has shown, Mr. Chairman, that energy supply disruptions, especially gasoline dislocations, can have a profound impact on our economy. Remember, the supply disruptions in 1973 and 1979 affected only about 1 million gallons per day of supply. Just that part of this amendment which deals with oxygenated fuels may affect 20 times that much gasoline.

The conferees will have to build in a process to determine whether the domestic supply of gasoline will be unduly disrupted. They should also build in a reality check to determine the overall feasibility of producing fuel without increasing $NO_x$ emissions and the need for, and feasibility of, the second and third phases of VOC and toxic reductions. Finally, and importantly, I believe the conferees should adjust the baseline for VOC and toxics reductions, as well as the $NO_x$ cap, to more clearly reflect the fleet of cars on the road that will actually use this fuel.

Mr. Chairman, I said at the outset that we should expect the oil industry to make a contribution to clean air. And although I will vote to send this amendment to conference, I am compelled to question whether this amendment asks the oil industry to go beyond its fair share. I look forward to improvements that the conferees will make.

□ 1230

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], a member of both the Subcommittee on Health and the Environment and the Subcommittee on Energy and Power.

Mr. FIELDS. Mr. Chairman, before I proceed, I would like to address a statement made earlier in debate by my colleague from New Mexico, Mr. RICHARDSON. It is important to clarify that the petroleum industry is not opposed to Congress requiring the production of reformulated gasoline in our dirtiest cities. Even though some of us want to improve the reformulated section between final floor action and conference.

Moving to the provisions of the reformulated gasoline amendment, it would require significant reductions in hazardous air pollutants. It also would require reductions in volatile organic compounds [VOC's]. There are a number of substances that fall into both categories, significant examples include benzene, toluene, and xylene. In that case, you get to credit emissions reductions of such substances against the percentage reductions required for both VOC's and hazardous air pollutants. For example, reductions in benzene emissions would count as both a reduction in VOC's and in hazardous air pollutants. EPA's regulations regarding compliance with this program should reflect this.

This amendment also allows no increase in $NO_x$ emissions from vehicles using reformulated gasolines. When determining whether there is a $NO_x$ increase, emissions should be evaluated from a representative mix of vehicles on the road in 1990.

It would be misleading to consider only the newest vehicles. Newer vehicles are much cleaner due to more advanced emission control systems and are not representative of the existing vehicle fleet. A gasoline reformulation which includes more oxygen in the fuel will tend to increase $NO_x$. However, this effect will be understated in certain new vehicles with adaptive learning systems and oxygen sensors because they continually adjust the engine calibration to minimize emissions.

Finally, reformulated gasolines are required to be sold only in severe and extreme ozone nonattainment areas. Other areas can be included only if a State chooses to get in through the established procedures, and such requests must be approved by the Administrator.

Mr. DINGELL. Mr. Chairman, could the Chair inform me how much time remains on both sides?

The CHAIRMAN. The gentleman from New York [Mr. LENT] has 1 minute remaining and the gentleman from Michigan [Mr. DINGELL] has 8½ minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I rise in support of the committee amendment.

Mr. Chairman, manmade pollutants have crept into our parks like a thief and a vandal. If a gang of hoods came into these national treasures and fouled the views, scarred the trees, and damaged the foilage and threatened our visitors' health, we would throw them in jail. But polluters are doing it every single day, and they have been able to do it with impunity for too long.

Now, as a result of the bipartisan efforts in the Energy and Commerce Committee, Mr. SCHAEFER, Mr. BLILEY, Mr. NIELSON, Mr. SYNAR, Mr. LENT, and Chairman DINGELL, the excellent work of the gentleman from Massachusetts [Mr. CONTE], and the gentleman from Minnesota [Mr. VENTO], who are not on the committee, we have a chance to set in place a legal timetable for reducing pollution at our national treasures. It is long overdue.

The National Park Service estimates that under this legislation, if we do not offer this amendment, we will see something like a 300-percent increase in visibility degradation at Grand Canyon, up to a 500-percent increase in visibility degradation at Glacier and Montana, and I urge my colleagues to support the amendment.

Included in this amendment are two sections, 707A and 707B, dealing with the Prevention of Significant Deterioration Program and, more specifically, protection of national parks and other federally owned protected areas.

These sections originated in an amendment prepared for committee consideration by myself with the help and considerable skills of the gentleman from Oklahoma [Mr. SYNAR], the gentleman from New Mexico [Mr. RICHARDSON], and the gentleman from Colorado [Mr. SCHAEFER]. With the additional guidance of two of the most knowledgeable members of this body on public lands issues, the gentleman from Minnesota [Mr. VENTO] and the gentleman from Massachusetts [Mr. CONTE], we prepared a version for floor consideration.

Through the extraordinary efforts of these Members, the gentleman from Virginia [Mr. BLILEY], the gentleman from California [Mr. WAXMAN], the gentleman from Utah [Mr. NIELSON], the gentleman from Washington [Mr. SWIFT], the gentleman from Indiana [Mr. SHARP], the gentleman from New York [Mr. LENT], and the gentleman from Michigan [Mr. DINGELL], the amendment has been shaped into one with broad support, and so is included in this package of committee-endorsed amendments.

Because these sections are somewhat complex and because no explanation of them appears in the committee report, I would like to take the time to explain parts of them here.

In the 1977 Clean Air Act amendments, Congress made a commitment to protect our national parks, wilderness areas, and other clean areas. That commitment has not been met.

The General Accounting Office, in a report requested by the gentleman from Oklahoma [Mr. SYNAR], evaluated the effectiveness of the Clean Air Act's Prevention of Significant Deterioration [PSD] Program in protecting parks and wilderness areas from air pollution. That report found that the PSD Program was failing. One reason was that Federal land

managers were not playing an effective role in the PSD permit process. GAO found that Federal land managers have limited notice and opportunity to comment on applications, limited data about the polluter, limited analysis of available data, and limited interaction with the permitting authority and applicant.

Several parts of section 707A of this amendment address these problems. Subsection (e) requires that the States transmit a copy of the PSD permit application for a new or modified source to the Federal land manager and the Federal official charged with direct responsibility for management of a class I area or mandatory class II area under section 164(a). This requirement replaces the requirement in current law that the State need only submit the application to the EPA Administrator, who would then forward copies to land managers. The new provision will assure that land managers get prompt, direct notice of potential new sources so the managers can effectively participate in the permit process.

States must forward notice to any class I or mandatory class II area "which may be affected by emissions from the proposed facility." Where appropriate, this should include areas in other States. At so early a stage in the permitting process, the State will not be able to determine with certainty what protected areas will be affected. Instead, the State should alert the managers of any protected area that may be affected so that the managers can carry out their obligations to protect their lands.

This may require notice to a land manager of an area beyond the 50-kilometer range of EPA-approved air quality models or even beyond the "significant impact" zone established in EPA guidance. EPA has approved the use of mesoscale models for midrange evaluations such as the impact analysis prepared for sources affecting Teddy Roosevelt National Park. Some Federal land management agencies have developed models for even longer range analyses. These land managers should get notice in order to preserve their opportunity to prepare such analyses. Failure to give early notice forecloses effective reviews such as these.

Notice should go out where emissions from a source may contribute to adverse impacts on air quality related values or represent a major portion of an area's increment, even if below the "significant impact" level in EPA's guidance. Otherwise, increased emissions may "contribute to" or exacerbate adverse impacts on air quality related values in protected areas without adequate review.

Identification of potentially affected Federal lands should happen very early in the permit process. In order to determine the appropriate preconstruction monitoring under amended section 165(e)(2), permitting authorities should consult with land managers even before a formal permit application is filed.

Under this provision, the permitting authority may require air quality monitoring to determine baseline concentrations, visibility measurements, resource surveys to identify species that may be affected, or analysis of impacts from existing pollution levels in class I areas. Since the results of such monitoring need to be submitted with the permit application, the monitoring protocol must be established well in advance. To make the monitoring relevant, the permitting authority should involve both the land managers and the applicant in its design.

The amendment also requires the Administrator to require applications to contain sufficient information to enable Federal land managers to determine the effects of emissions from the proposed facility on air quality related values—including visibility—of protected lands. This provision is central to ensuring that the land manager has adequate data to evaluate the impacts of the proposed source. Current law—section 165(e)—requires an air quality impact analysis that addresses the impact of emissions on numerous resources within the "air quality control region." Permitting authorities have often ignored this provision. It has rarely been used to obtain sufficient information about specific resources in protected federal lands that may be adversely affected.

As part of the rulemaking implementing this section, the Administrator should reconsider the requirements for analyses under existing rules. In order to meet the needs of land managers, these analyses should identify soils, vegetation, wildlife, watersheds, and other resources in protected national lands that may be affected by increased emissions. The Administrator should also require analysis of such impacts in class I areas beyond the boundaries of the air quality control region where the proposed source is located.

At a minimum, the Administrator should adopt procedures that give the Federal land manager a major role in selecting the monitoring for air quality related values required under amended section 165(e)(2) and to ensure effective consultation regarding the completeness of the application under this section.

Another provision designed to overcome the Federal land manager's lack of adequate information and analytic capability, as well as to remedy the failure of some States to respond to land manager concerns, is the amendment to section 165(d)(2)(C). It requires the permit applicant to respond once the land manager of a class I area has made a "showing, together with documentation, that such emissions may cause or contribute to an adverse impact on the air quality related values of such lands."

The purpose of this amendment is to require the Federal land manager to define the issues regarding air quality related values by making a specific showing that adverse impacts to the identified resources may occur. The burden then shifts to the applicant to demonstrate that emissions will not cause or contribute to adverse impacts.

Three aspects of this amendment deserve note. First, it relieves the permit applicant of any obligation to address impacts of air quality related values in a class I area unless the land manager makes the initial showing of possible harm. The land manager may make this showing on a case-by-case basis by timely submission of documentation to the permitting authority. In making such showings, the land manager may rely on rules issued in accordance with 5 U.S.C. section 553 under the authority of amended section 165(d)(2)(B).

Second, in order to trigger the applicant's duty to respond, the land manager must: first identify resources—including visibility—that may be affected by pollutants expected to be emitted from the project; and second, show that such pollutants have the potential to cause or contribute to impacts on such resources that are known to be adverse or may reasonably be anticipated to be adverse. The land manager does not have to establish that the pollutants will cause or contribute to concentrations that are known to be harmful, nor does he have to establish the level of pollution known to cause harm. He need only go so far as to show, based on scientific research conducted on or off-site or the opinion of generally recognized experts in the field, that there is a reasonable basis for concern that pollutants of the type proposed to be emitted may have adverse impacts on resources—including visibility—known to be present in the protected area.

Third, once the land manager makes the initial showing required to trigger a response from the applicant, the permit may not be issued until the applicant demonstrates that emissions from the facility will not cause or contribute to the specified potential adverse impacts identified by the Federal land manager.

When the Administrator revises the regulations under section 161 to implement this revision to section 165(d)(2)(C), he should clarify the procedures that will apply when a land manager makes an initial showing. Once a land manager makes the threshold showing, the application should be deemed incomplete until the applicant responds with the necessary demonstration. This will serve to toll the 1-year deadline—section 165(c)—for agency action on an application until after all the information necessary for the permitting authority to make a decision has been submitted. It will also protect the applicant's opportunity to make an adequate demonstration by ensuring that a State is not forced to act on the application under shorter State deadlines before there has been time to obtain relevant data or prepare analyses. This approach will also protect the public's right to effective participation in the permit decision by making sure that all the relevant information, including the applicant's revised application—which may include new data regarding impacts or more stringent emission limitations, or both—is available as part of the public record before a new comment period opens and the permit hearing required by section 165(a)(2) is scheduled.

Section 707A also redesignates by operation of law all national parks created after the enactment of the Clean Air Act Amendments of 1977 but before January 1, 1990, as mandatory Federal class I areas—subsection (k)—and many other Federal lands as mandatory class II areas—subsections (a) and (b). The redesignation of these lands does not affect the baseline date or baseline concentration for any pollutant established for such areas. Any baseline already established is retained. As mandatory class I Federal areas, the national parks redesignated by this amendment are included within the areas subject to the visibility protection program under section 169A of the act. I encourage the Administrator to add them to the list of important visibility areas under section 169A(a)(2).

Section 707B supplements the visibility protection requirements enacted in section 169A by the 1977 amendments and the visibility regulations promulgated by the Administrator at 51 CFR subpart P. The provisions added by this amendment are intended to require the Administrator to complete the regulatory program partially adopted in 1980 (45 Fed. Reg. 80084, Dec. 2, 1980), but never completed.

This amendment is necessary because EPA has refused to promulgate regulations addressing regional haze. EPA's 1980 "Phase I" visibility regulations only address the visibility impairment that EPA described as "plume blight." These regulations were limited to "control the impairment that can be traced to a single existing stationary facility or small group of stationary facilities * * * control of new sources to prevent future impairment, and require States to adopt strategies such as review of other existing sources not meeting the more stringent source-size requirements for existing stationary facilities in order to remedy existing and prevent future visibility impairment." (45 Fed. Reg. 80085). At that time, EPA promised to adopt "future phases [to] extend the visibility program by addressing more complex problems such as regional haze and urban plumes." 45 Fed. Reg. 80086. That promise has not been kept.

The State of Vermont attempted to adopt a regional haze plan to implement all of the visibility program requirements, but was rebuffed by EPA on the ground that EPA could not act on the Vermont plan without first having adopted regional haze regulations. EPA's decision was affirmed by the Second Circuit Court of Appeals in State of Vermont versus EPA. Subsequently, seven States sued EPA to compel the issuance of the missing visibility program regulations. That case, State of Maine versus EPA, was dismissed by the First Circuit Court of Appeals on the ground that the district court lacked jurisdiction to compel EPA to perform the remainder of its rulemaking duties under the 1977 amendments. As a result, efforts to compel EPA action by the courts have been stymied.

And so we start again. Research by the National Park Service [NPS] and others has given us a much better understanding of the causes and composition of regional haze. In his April 5, 1990, letter to Chairman DINGELL, Secretary Lujan summarized the findings of the NPS research:

Interior has certified to EPA that regional haze impairs scenic views at all 60 NPS monitoring locations at 60 sites in excess of 90 percent of the time. Fine particles less than 2.5 microns in diameter cause most of the visibility impairment in most park units except in parts of the Pacific Northwest, where carbonaceous materials dominate the fine particulate mass. In the Colorado Plateau area sulfates cause 40 to 60 percent of the manmade visibility impairment on the average, with organics also contributing significantly to the impairment.

The NPS has studied visibility in the Grand Canyon more intensively than in any other park. The addition of relatively small amounts of fine particle pollution can have a significantly greater impact on visibility in a relatively clean area like the Grand Canyon, than in an area like Shenandoah National Park. Thus, although the Grand Canyon is blessed with some of the cleanest air in the National Park System, the views are perceptibly degraded to various degrees by manmade pollutants on most days and are significantly obscured during multiday visibility eposides. Sulfates are responsible for 40 to 60 percent of the manmade impairment at Grand Canyon on the average, and for virtually all of the impairment during these episodes.

At the Government Operations oversight hearing in March 1990, convened by the gentleman from Oklahoma [Mr. SYNAR], EPA presented the results of the expected impact of the administration acid rain bill on sulfur dioxide emissions in the 11 Western States and concluded that regional emissions could increase by 23 percent by 2010. At the same hearing, the National Park Service witnesses reported the results of their analysis of the likely visability impacts of these increases. They showed that the increases from powerplants alone would cause a 200- to 300-percent deterioration of visibility in the Grand Canyon, and up to a 500-percent deterioration of Glacier National Park. In short, our country would lose still more of the pristine clear days of these parks.

Such deterioration of air quality in the Nation's most spectacular national parks is unacceptable. The purpose of this amendment is to require EPA to develop a regional haze program that will prevent such harm to visibility in mandatory class I area. This will require EPA to go beyond its current PSD Program, which entails a case-by-case analysis of impacts form individual sources, and develop a regional approach to reduce emissions of pollutants known to cause regional haze. Such a program must provide integrated regulation of both existing and new sources to achieve effective visibility improvements.

This mandate is incorporated into the definition of "reasonable progress," which requires perceptible improvement in both average visibility and worst case episodes with maintaining the clearest days. In issuing guidance to implement this requirement for reasonable progress, EPA should consider all reasonable options, including but not limited to requiring offsets from new sources.

This amendment establishes new deadlines for the Administrator to complete promulgation of regulations to address regional haze. These regulations supplement elements of EPA's existing visibility protection regulations with regard to monitoring visibility, establishing visibility baselines for mandatory class I Federal areas, measuring progress toward the national visibility goal and achieving reasonable progress toward the national goal. Such regulations are to be issued within 2 years of enactment. Failure to promulgate timely regulations will constitute a failure to perform a nondiscretionary duty under section 304.

The States are required within 1 year thereafter to submit revisions to their existing State implementation plans for visibility protection to implement EPA's new regulations. If a State fails to submit a timely plan, the Administrator will have an obligation to promulgate a Federal plan for the State.

The amendment requires EPA to build the visibility program regulations around a phased approach designed to achieve "reasonable progress toward the national goal" contained in subsection 179A(a)(1). "Reasonable progress" is defined in the amendment to require a "perceptible improvement" in visibility during each review period, starting 6 years after the promulgation of EPA's new visibility regulations, and continuing each 5-year period thereafter.

Visibility improvements during the first review period are expected from two provisions of the amendment. The first requires the States to adopt regional haze plans—paragraph (h)(3)1. The second requires the Administrator to study the visibility impact of plumes from the large uncontrolled sources of sulfur dioxide that are within 100 miles of mandatory class I areas—subsection (k)—and require the installation of emission controls in accordance with the requirements of section 169A(b)(2)(A) and EPA's revised regulations for achieving reasonable progress.

State regional haze plans are to be based on guidelines issued by the Administrator for the identification by the States of areas around each mandatory class I area where pollution sources may be reasonably anticipated to cause or contribute to regional haze. The Administrator's guidance will include criteria for identifying the States in proximity to a class I area that must submit such plans. The state plans are also required to adopt control strategies for the sources located in such areas to reduce emissions to the extent needed to achieve reasonable progress toward the national goal. The Administrator is required to provide information regarding control measures for classes of sources likely to be contributing to regional haze in such areas. If control techniques guidance has already been published for such source, the Administrator may rely on previously published guidance.

The plume studies required by subsection (k) are to be based on the experience derived from the plume study performed at the Navajo Powerplant in Arizona. The Navajo plant study demonstrates that emissions from a large source can be distinguished from the mass of pollution comprising regional haze. Once the plume from an individual source can be distinguished, its impact on visibility impairment at a class I area can be isolated and a decision made regarding the installation of best available retrofit technology. Subsection (k) requires the Administrator to conduct such studies on units emitting more than 7,000 tons per year of sulfur dioxide which are located within 100 miles of a mandatory class I federal area, do not use a technological means of emission control that achieves at least 50 percent reduction in emissions of sulfur dioxide and which emitted less than 1.2 lbs./mmBtu during 1985.

Within 1 year following the completion of each of such studies, the Administrator shall make a determination regarding whether each such source "emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area" as provided in section 169A(b)(2)(A). Unless the Adminstrator finds that the source qualifies for an exemption under section 169A(c), he shall require the revision of the applicable implementation plan for the source to require the installation of the controls on accordance with subsection

(b)(2)(A). Studies to be performed under this section are in addition to any requirement under current law and should not provide a basis for delaying action on plume studies already conducted, or any agency actions that are subject to court-ordered deadlines under current law or that have already been submitted to the Office of Management and Budget to review.

The Administrator's final determination under subsection (k) regarding the need for a revision of an applicable implementation plan under subsection (b)(2)(A) is to be made within 3 years of enactment, or approximately at the time for submission of a regional haze plan by each State. It is important that the Administrator adhere as closely as possible to this schedule so that the States will know what control measures will be required for such sources, if any, thus providing a basis for determining whether the control of sources other than those studied under subsection (k) will be needed to achieve reasonable progress. At the time the Administrator makes a determination under subsection (k), he shall not assume that controls will be required on other sources to achieve reasonable progress, but shall rely exclusively on the criteria contained in subsection (b)(2)(A).

The savings clause added as section 169A(1) clarifies that the remedies provided for the protection of visibility in class I areas are not exclusive. Although the savings clause does not apply to the east, it should not be read to imply a limit on actions available in the east under existing law. Also, nothing in this amendment should be read to prevent the Administrator from applying current "plume blight" rules in the east or adopting a national regional haze program at some point.

The East was exempted from the provisions in section 707B in recognition of the tremendous improvement in visibility that should result there from acid rain controls and other provisions in H.R. 3030. In those few areas of the west where emissions will decrease under the acid rain program, those reductions should naturally be counted toward achieving reasonable progress. Conversely, if the Acid Rain Program proves to allow localized increases in emissions near eastern class I areas, EPA should use its existing powers to address the problems and to achieve the national goal Congress set in 1977: "prevention of any future and remedying of any existing impairment of visibility in mandatory class I Federal areas which impairment results from man-made air pollution."

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, as the sponsor of the accidental air toxic releases provision with my colleagues Mr. BRYANT, Mr. SLATTERY, and Mr. BARTON, I am pleased that a bipartisan committee agreement was reached on this critical issue so that it could be included in the committee amendment.

STATISTICS

There have been more than 11,000 accidental releases of toxic chemicals in the United States between 1980 and 1987. As a result, more than 300 people have died and more than 10,000 were injured. Just last year, a tragic accidental chemical leak in Texas led to an explosion that killed as many as 22 people.

CURRENT LAW DOES NOT ADDRESS ACCIDENTAL AIR TOXIC RELEASES

Many of you may recall the 1984 catastrophic accidental release in Bhopal, India, which killed over 2,000 people and caused more than 200,000 injuries. It would be reassuring to think that we had avoided such a disaster here because of careful planning and thorough government oversight. Sadly, that is not at all the case. Nothing in current law requires chemical or other industrial facilities handling toxic chemicals to take steps to avoid the accidental release of dangerous chemicals into the air.

In fact, an EPA study concluded that since 1980, 17 different chemical accidents in the United States had the potential to create disasters as great as the one in Bhopal. According to EPA, were it not for fortuitous circumstances such as wind blowing away from population centers, and accidents occurring at remote rather than heavily populated locations any one of these 17 accidents could have produced results as deadly as those in Bhopal.

WHAT THE PROVISION DOES: RISK MANAGEMENT PLANS

The Richardson-Bryant-Slattery-Barton provision will help detect and stop air toxic accidents from occurring, and help minimize the consequences of those accidents that do occur. EPA would be required to establish a list of 100 dangerous chemicals to be regulated under these provisions. More importantly, facilities handling air toxics would be required to evaluate their risk of accidental toxic releases, and prepare risk management plans.

Risk management plans would include: a hazard assessment of the potential effects and exposures to surrounding communities; a prevention program including employee training; and a response program providing the specific actions to be taken in response to an accidental release.

ACCIDENTAL RELEASE INVESTIGATION BOARD

The provision would also establish an independent Accidental Release Investigation Board to investigate air toxic accidental releases and recommend changes to reduce the risk of future accidents. This Board is modeled after the extremely successful National Transportation Safety Board.

In addition, a number of provisions are included to address concerns raised by small businesses and small farmers.

SENATE LANGUAGE: OSHA

Finally, the Richardson-Bryant-Slattery-Barton provision also includes language that was passed in the Senate. This language clarifies the roles of the various Federal agencies involved in the prevention of accidental chemical releases, in particular, that of the Occupational Safety and Health Administration.

OSHA MUST PROMULGATE CHEMICAL PROCESS SAFETY STANDARDS

First, it would require OSHA to promulgate a chemical process safety standard requiring employers to take steps to prevent accidental air toxic releases, and set up procedures to mitigate and respond to releases should they occur. This includes training workers in emergency response.

Second, EPA is required to review the OSHA standard as part of its coordination function. Third, workers would be granted so-called walkaround rights when EPA or the Accident Release Board conducts an investigation. And, last, it requires the Board and OSHA, which have overlapping authorities, to set up a memorandum of understanding to avoid duplication.

Mr. Chairman, as the sponsor of the reformulated gasoline provision with my colleague, Mr. MADIGAN, I am pleased that a bipartisan committee agreement was reached on this critical issue so that it could be included in the committee amendment.

DESCRIPTION OF TODAY'S GASOLINE

The gasoline that we burn today is a complex mixture of toxic compounds and is responsible for over half of the Nation's toxic air pollution and much of our urban smog. In fact, today's gasoline is significantly more harmful than gasoline of a decade ago, containing more aromatic compounds and more volatile chemicals than ever before. The result is more fuel evaporation, more air pollution, and greater toxic exposure to the American public.

Currently, no meaningful standards govern the composition of gasoline. However, it does not have to be this way. Gasoline can be changed to a far more benign formulation while improving engine performance. Toxic and aromatic compounds can be replaced with much cleaner alcohols or alcohol derivatives such as methanol, ethanol, ethyl tertiary butyl ether [ETBE] and methyl tertiary butyl ether [MTBE] made by oil and chemical companies.

DESCRIPTION OF AMENDMENT: OZONE NONATTAINMENT

The Richardson-Madigan provision will require the nine worst ozone nonattainment cities to sell "clean" gasoline that has been reformulated to remove ozone forming and toxic air pollutants. Other cities may opt in as the program gets underway, however, EPA may delay the implementation dates to ensure that there is an ample domestic supply of reformulated gasoline.

DOES NOT MANDATE A RECIPE OR SO-CALLED GOVERNMENT GAS

The Richardson-Madigan provision does not mandate a recipe or so-called government gas, nor does it mandate ethanol. Instead the amendment establishes minimum basic standards to reduce ozone forming and toxic air pollutants in gasoline. So long as equivalent or greater emissions reductions are achieved,

oil companies are free to formulate their gasoline any way they choose.

In fact, ARCO is already marketing a cleaner formulation of gasoline for the same price as regular gas in southern California. Shell, Marathon, Phillips, Conoco, and others are also reformulating gasoline at this time.

CARBON MONOXIDE NONATTAINMENT

The Richardson-Madigan provision would also require all 44 carbon monoxide nonattainment cities to sell gasoline containing a minimum of 2.7 percent oxygen to reduce carbon monoxide to acceptable levels. Those serious CO areas that fail to reduce CO to acceptable levels by the deadline would be required to sell oxygenated fuels containing 3.1 percent oxygen.

SIGNIFICANT HEALTH AND ENVIRONMENTAL BENEFITS

There are significant health and environmental benefits to be gained from reformulated gasoline. For example, during refueling or in stop and go traffic, gas station employees, motorists and pedestrians are exposed to dangerous levels of cancer causing toxics found in gasoline.

In fact, the American Lung Association estimates the annual health costs of automobile pollution range from $4.4 to $93.4 billion. The Richardson-Madigan provision requires a 15-percent reduction in toxic compound by 1994, and prohibits the "dumping" of these toxics in gasoline sold in attainment cities.

The Richardson-Madigan provision also requires a 15-percent reduction in ozone forming precursors by 1994. It is estimated that 20 percent of New York City's air pollution problems can be solved simply by cleaning up its gasoline. Additionally, by increasing the oxygen content of gasoline to 2.7 percent in CO nonattainment cities, it is estimated that carbon monoxide emissions can be reduced from between 15 and 34 percent.

SIGNIFICANT ENERGY, AGRICULTURAL, AND TRADE POLICY BENEFITS

The Richardson-Madigan provision also has significant energy, agricultural, and trade policy benefits. Energy policy analysts have been concerned for years about our increasing reliance on OPEC—$60 billion of foreign oil and hundreds of millions of dollars of aromatic compounds are imported annually.

By replacing imported aromatics with domestically produced alcohols made from corn, wheat, or other crops, we provide an important boost to our midwestern farmers and reduce the need for farm price supports. According to the GAO, this new market could save the U.S. Treasury more than $1.2 billion now spent on farm price supports annually.

To ensure that we don't rely more heavily on foreign imports, the Richardson-Madigan provision provides waivers if there is insufficient domestic supply. In short, by reducing our reliance on imported oil and aromatic compounds, our balance of trade is sure to improve.

SIGNIFICANT CONSUMER AND AUTOMOTIVE BENEFITS

I would also highlight the consumer and automotive benefits of the Richardson-Madigan provision. The high levels of aromatics and olefins found in today's gasoline fouls engines, and creates deposits which lead to engine knocking.

By limiting the aromatic content of gasoline and requiring additives to prevent accumulation of deposits, the Richardson-Madigan provision will lead to longer and more satisfactory car performance. In fact, oxygenated fuels are recommended by General Motors to improve air quality, a policy Ford and Chrysler will soon endorse as well.

I would also point out that the Richardson-Madigan provision will discourage the purchase of unneeded octane. The recent GAO report on octane fraud indicated that despite hyping of high octane fuels, only a small percentage of new cars require fuels above 87 octane. The Richardson-Madigan provision will reduce the emphasis on octane rating and focus on producing cleaner gasoline to improve engine performance, the public health and the environment.

SIGNIFICANT ECONOMIC AND ENVIRONMENTAL BENEFITS

In closing, the Richardson-Madigan reformulated gasoline provision is environmentally and economically cost effective. Older, precatalytic cars are a significant portion of the emissions inventory, yet they cannot be retrofitted with pollution controls.

By cleaning up gasoline, our provision helps reduce pollution from all vehicles, including the oldest and dirtiest cars. Needed emission reductions can be achieved for only a few pennies per gallon, rather than ratcheting down on small stationary sources like bakeries, dry cleaners, and other small business with minimal environmental benefits.

REBUTTALS TO OIL COMPANY ARGUMENTS AGAINST THE RICHARDSON-MADIGAN AMENDMENT

*Argument.* The amendment mandates a recipe for reformulated gasoline.

Rebuttal. The Richardson-Madigan amendment establishes minimum stardards to reduce ozone forming and toxic compounds. So long as equivalent or greater emissions reductions are achieved, oil companies are free to formulate their fuels any way they choose.

*Argument.* The amendment is tantamount to an ethanol mandate.

Rebuttal. There are seven alcohol and ether blends or oxygenates that can provide the oxygen required in the Richardson-Madigan amendment, including methyl tertiary butyl ether [MTBE] made from oil and chemical companies.

*Argument.* The amendment will decrease some pollution but increase others.

Rebuttal. The Richardson-Madigan amendment expressly prohibits a fuel from being certified for sale if it results in increased nitrogen oxide emissions.

*Argument.* There will not be enough capacity to meet demand.

Rebuttal. If there is insufficient domestic capacity to meet demand, the Richardson-Madigan amendment provides for a series of waivers.

*Argument.* Consumers won't buy reformulated gasoline.

Rebuttal. Consumers prefer the Richardson-Madigan reformulated gasoline amendment because it reduces the aromatic content of gasoline which fouls engines, creates engine deposits, and causes engine "knocking."

*Argument.* The amendment will cost billions.

Rebuttal. The Congressional Research Service, and other independent analysts estimate that gasoline can be reformulated for only a few pennies per gallon.

COMPARISON OF RICHARDSON AMENDMENT AND S. 1630

| Reformulated gasoline | Richardson | S. 1630 |
|---|---|---|
| Timeframe | Administrator shall promulgate standards effective Jan. 1, 1994. | Administrator shall promulgate standards effective Jan. 1, 1992. |
| Scope | 1989 design value greater than 0.18 ppm (9 cities). | 1989 design value greater than 0.18 ppm (9 cities). |
| Opt-in | Other ozone areas may implement standards if EPA and DOE certify adequate supplies. | Other ozone areas may implement reformulated fuels standards. |
| Opt-out | EPA shall certify other fuel fomulations which demonstrate equal or greater benefits. | EPA may certify other fuel formulations but oxygen standard must be maintained. |
| Specifications | | |
| Benzene | Not more than 0.8 percent vol. | Not more than 1 percent vol. |
| Aromatic content: (maximum). | 30 percent vol. in 1992, 28 percent vol. in 1994, 25 percent vol. in 1996. | 30 percent vol. in 1992, 28 percent vol. in 1994, 25 percent vol. in 1996. |
| Ozone-forming emissions | Reduced 15 percent by 1995, 20 percent in 1997; and 25 percent in 2000. (No $NO_x$ increase). | 15 percent reduction in VOC's (No $NO_x$ increase). |
| Oxygen content: (minimum). | 2.0 percent wt. in 1992, 2.5 percent wt. in 1993, 2.7 percent wt. in 1994. | 2.0 percent wt. in 1992, 2.5 percent wt. in 1993, 2.7 percent wt. in 1994. |
| Lead | No lead content. Effective: Jan. 1, 1994. | No lead content. Effective Jan. 1, 1992. |
| Additives | Additives to prevent deposits by Jan. 1, 1994. | Additives to prevent deposits by Jan. 1, 1994. |
| Hazardous air pollutants | Reduced 15 percent by 1995, 20 percent in 1997, and 25 percent in 2000. | No similar provision. |
| Trading credits | Yes (oxygenates and aromatics). | Yes (oxygenates only). |
| Carbon Monoxide Non-attainment | | |
| Classification | Moderate $\leq$ 14 ppm, Serious $>$ 14 ppm, (44 cities). | Moderate $\leq$ 14 ppm, Serious $>$ 14 ppm, (44 cities). |
| Oxy-fuel program | All non-attainment areas must sell fuel containing 2.7 percent wt. oxygen, if area does not reach attainment, a 3.1 percent standard must be implemented. | All nonattainment areas must sell fuel containing 3.1 percent oxygen. |
| Labeling | Oxygenated fuels would be labeled at retail. | Oxygenated fuels would be labeled at retail. |
| Date of enactment | Not later than Oct. 1, 1992. | Not later Oct. 1, 1991. |

THE RICHARDSON-MADIGAN REFORMULATED FUELS AMENDMENT

The Richardson-Madigan Amendment will substantially reduce fuel-source pollution while being cost-effective for refiners and providing consumers with the high performance fuels we expect.

Moreover, it provides the proper balance between establishing sound environmental standards for gasoline while assuring appropriate industry flexibility in producing gasoline. Specifically, the Richardson-Madigan amendment will: Reduce toxic aromatic compounds to no more than 25% in gasoline sold in the most polluted cities; require 2.7% oxygen as a means of safely, economically and effectively reducing CO pollution and replacing the lost octane volume represented by reduced aromatics; and reduce ozone-forming toxic emissions by 15 percent.

Today's gasoline may contain as many as 200 different hydrocarbon chemicals. In general, unleaded gasoline contains 40-60 percent paraffins, 30-50 percent aromatics and about 10 percent olefins.

Over the past several years, in response to the lead-phasedown mandated by EPA and

in order to maximize gasoline octane, the major oil refineries have dramatically increased the severity of the catalytic reformers, which while increasing octane also dramatically increases the level of aromatic compounds found in the finished gasoline.

Aromatics are highly toxic, particularly benzene, a known carcinogen. Other aromatics, such as xylene, are also highly reactive which exacerbates ozone pollution.

According to some recent studies, exposure to benzene in gasoline refueling operations, evaporative emissions in automobiles and tailpipe emissions result in 200 additional cancer cases every year in the Los Angeles basin alone. In addition, the higher aromatic levels of today's gasoline have dramatically increased ozone formation in our nation's cities.

Aromatics can be easily reduced and economically replaced, however, by operating catalytic converters less severely and adding oxygenates to replace lost octane value. No capital costs are required to lower reformer severity.

As refiners lower reformer severity, oxygenates such as MTBE, ETBE and ethanol blends can make up for and improve the lower octane gasoline produced at the refinery. There is adequate oxygenate supply to meet the oxygen content standards.

EPA has determinated the environmental benefit of oxygenated fuel use is directly related to the amount of oxygen in the fuel. The higher the oxygen percentage content, the more effective oxygenated fuels would be in reducing pollution.

BTX—BENZENE, TOLUENE AND XYLENE

Aromatic hydrocarbons, obtained from the heavier petroleum distillates found in crude oil that are not suitable for use as gasoline, are manufactured in a petroleum refinery by such processes as catalytic reforming and catalytic cracking.

The aromatic content of gasoline has grown significantly since lead phasedown was implemented nearly 15 years ago—from 22 percent of the total gasoline pool to more than 33 percent today.

In 1990, as the country's motor gasoline pool reaches almost 110 billion gallons, aromatic hydrocarbons comprise more than one-third of the amount—almost 40 billion gallons!

Each of the aromatic hydrocarbon constituents of BTX—benzene, toluene, and the mixed xylenes—are unquestionably toxic at certain dosage levels causing a serious public health concern.

According to Dick Wilson, the Director of EPA's Office of Mobile Sources, "over half of the cancer incidence [due to toxic chemcials] is caused by pollution coming from cars."

Aromatic hydrocarbons in gasoline have also exacerbated urban ozone formation in our nation's cities.

According to recent EPA estimates, almost 19 million metric tons of VOC's are emitted into the atmosphere each year in this country, and more than one-third of them, 6.5 million metric tons, are attributable to highly photo-reactive components in today's gasoline.

For improved public health and clean air, gasoline must be made cleaner, aromatic levels must be reduced, and clean octane alternatives must be utilized.

The increased use of high octane-oxygenated blending components such as ethanol, MTBE and ETBE can go a long way toward reformulating gasoline to improve public health and reduce ozone pollution while assuring the continued availability of high performance motor fuels which American consumers have come to expect.

The clear conclusion is that for both public safety and the environment the Congress should require the sale of cleaner gasolines; i.e. reduced levels of dangerous aromatics—Benzene, Toluene and Xylene, and increased levels of cleanburning, high octane/oxygen alternatives.

GOVERNMENT GAS

Statement: The major oil companies complaint that the Congress is requiring refiners to meet a gasoline recipe when setting performance standards would make more sense.

Response: In fact, the Amendment sets standards for chemical components of gasoline and not a specific fuel formulation. Target levels for hydrocarbon aromatics, benzene, air toxics and oxygenates are included, but specific fuel formulations are left to the discretion of the oil companies.

In addition, the Amendment contains a provision that allows the oil industry to produce fuels of equal or greater environmental benefit without meeting specific targets in the Amendment.

Over the last 20 years as cars have gotten cleaner, gasoline has gotten dirtier.

Gasoline today is responsible for over half the air toxics and nearly two-thirds of the urban smog (ozone).

The last time Congress reformulated gasoline (lead phasedown) the oil companies took out the lead, but replaced the lost octane with a 50% increase in toxic aromatic chemicals.

The reformulated gasoline specifications in the Amendment are the result of many months of working with petroleum experts, auto industry executives and environmentalists.

The Co-Chairman of the Auto-Oil Industry Fuels Testing Program is Joe Colucci of General Motors. On April 25, 1990, during an Oil Industry Forum, he put forward specifications for the "ideal reformulated gasoline" from the auto industry's standpoint. Specifically, General Motors recommends: 25% cap on aromatics; 0.8% maximum of benzene; and 2.5% minimum oxygenates.

General Motors' "ideal" fuel formulation is virtually identical to the fuel standards called for in the Amendment.

COST OF REFORMULATED GASOLINE

Statement: The Amendment will cost the oil refiners in excess of $30-50 billion. In addition, gasoline prices for consumers will increase by 30 cents per gallon.

Response: Recognizing that oxygenates will displace a portion of the octane market currently dominated by hydrocarbon aromatics, oil companies have sought to exaggerate the cost of replacing aromatics with safe octane enhancers.

During consideration of the Senate reformulated gasoline amendment, the API stated reformulated gasoline would cost refiners more than $100 billion! Today, API says the cost is closer to $20-25 billion.

The Federal EPA and Department of Energy have prepared a cost assessment of reformulated gasoline which states that the reformulated gasoline amendment will cost an estimated $1 billion a year. This amounts to an increase in gasoline prices of less than 4 cents per gallon.

In addition, because the EPA reformulated gasoline cost calculation is based on refinery modeling, offsets such as alternative markets for chemicals produced and octane values from alternative fuels that are used are likely to substantially reduce the cost to refiners.

Finally, it is important to note that reducing ozone and carbon monoxide levels through the production and use of reformulated gasoline is by a factor of five the least expensive option available to any nonattainment area.

There will be no price increase in gasoline to the consumers if the oil companies produce and offer for sale gasolines that contain only that level of octane necessary for the vast majority (over 98%) of the automobiles in America. Automobiles do not need 90-plus octane gasolines.

AUTOMOBILE PERFORMANCE

Statement: Major oil companies have made the claim that automobile warranties do not cover the use of oxygenated fuels such as ethanol blends. Thus, the Amendment threatens the consumer with fuel related performance problems and costly repair bills.

Response: Every auto manufacturer in the world, selling cars in the United States, fully warranties the use of 10% ethanol blends in their automobiles.

Since 1978, when General Motors took out full page newspaper advertisements in support of the use of ethanol, every model year has been fully covered for safe and dependable operation on ethanol blends.

With their 1990 Auto Warranty language, General Motors recommends the use of ethanol for air pollution reasons. The 1990 GM warranty language reads as follows:

"Gasolines for Cleaner Air:

"The fuel that you use can contribute to cleaner air. General Motors recommends that you use only gasoline treated with detergent additives that prevent deposit formation in your engine. These gasolines will help keep your engine in tune and your emission control system working properly.

"The use of oxygenated materials in gasoline can also contribute to cleaner air, especially in those parts of the country where carbon monoxide and ozone levels are high. Where available, General Motors recommends use of oxygenated fuels such as MTBE and ethanol in gasoline."

ETHANOL TAX SUBSIDY

Statement: Ethanol receives a tax subsidy in the form of a six cent reduction off the nine cent federal excise tax in gasoline. This amounts to a $.60 per gallon subsidy for ethanol. The passage of the clean air bill with the reformulated fuels amendment could require a billion dollar subsidy for ethanol.

Response: The oil companies who purchase the ethanol for blending with gasoline to make "gasohol" are the only corporate entities that are eligible to claim the tax incentive for ethanol.

No ethanol producer or manufacturer can claim the excise tax exemption for ethanol blended fuels.

The ethanol tax incentive is scheduled to expire in September 1993. The clean air legislation has no metion of an extension to the ethanol incentive.

In 1989, 840 million gallons of ethanol were produced in the U.S.: 8.4 billion gallons of ethanol blended fuels; $500 million in gasoline excise taxes was not collected; $170 million in increased business income tax payments; and $330 million in gasoline taxes not collected.

In 1990, a General Accounting Office Report stated that ethanol fuels, produced from surplus grain would save taxpayers between $480 and $560 million after the lost

revenue in gasoline excise taxes was reimbursed.

ARCHER DANIELS MIDLAND (ADM)

Statement: The largest U.S. producer of ethanol is ADM, which controls over 75% of the U.S. production. The ethanol incentive and the oxygenated fuels programs are benefiting just one huge grain processor.

Response: ADM control less than 53 percent of the annual ethanol production capacity. ADM owns four separate ethanol production facilities.

The total annually domestic ethanol industry production capacity stands at over 1.1 billion gallons. While ADM's market share has remained relatively stable over the past several years, other plants have contributed to the total production capacity, thus shrinking ADM's size in the market.

ADM produces a number of food, feed and fuel products at its grain milling and processing facilities. When sweeteners are being made in the summer months from starch, the ethanol production capacity is essentially shut down.

The ethanol subsidy or incentive is not available to ADM or any other ethanol producer. While the ethanol marketing incentive does not make ethanol cheaper to manufacture or more profitable to sell in the market, it does make ethanol competitive in the gasoline octane market.

Since ADM started producing ethanol, not a single nickle of the federal incentive has gone to ADM.

AN EXPANDED ETHANOL PROGRAM WILL RAISE FOOD PRICES

Statement: Major oil companies have made the statement that the Amendment could inadvertently cause a tremendous "run-up" in food prices due to shortages for grain for feed and food supplies.

Response: Ethanol is produced from the most abundant and least cost feedstock in the world, starch. Starch is available from a host of feedstocks which could eventually be converted into ethanol, including beet and cane sugar, potatoes, corn or sorghum, and cassava.

In the U.S. much of the supply management programs in place have been concerned with over-production, not shortages. This means that there is ample feedstock to expand ethanol production without impacting the supply/demand equations and therefore price.

What ethanol does offer is the opportunity for the farmer to produce for a domestic market, to expand production and generate economies of scale to keep prices stable. It also offers the government to free itself from farm program costs for production would be for the marketplace and not the government programs.

25% of the consumer cost of food is the farm price. Thus, the consumer absorbs only 25% of a commodity price increase.

87% of total corn usage is for feed. Expanding ethanol production produces more feed in the form of high protein gluten feed and meal.

Since only the starch is used in the ethanol production, the high protein feeds remain in the poultry and livestock cycle. Ethanol production merely compacts the nutrient feed value of a corn kernel. In fact, an expanded ethanol program would probably result in lower poultry and meat prices.

Expanded ethanol production would make more corn oil available to the food chain.

A buffer against rising food prices is the Acreage Reduction Program. In the past it has been used to curtail over production. But it can also be used to offset shortages. Today, 10 million acres of corn are in the ARP . . . a 1.15 billion bushel reserve against shortfalls in supply.

OZONE

Statement: According to a recent Sierra Research Report, ethanol increases the formation of ozone.

Response: While Sierra Research did release a report which concluded that ethanol exacerbates ozone formation, it is important to note that the Report was commissioned by the American Petroleum Industry to undermine Congressional efforts to enact reformulated fuels standards—the API report contradicts the proven conclusions of numerous environmental studies conducted by the U.S. EPA and other scientific examiners over the past several years.

In fact, one EPA official has been quoted as saying that the API Report is a "cannon shell of misinformation."

In general, the Sierra Research/API Study is flawed in that it used a prototype vehicle not representative of in-use vehicles; used a motor fuel not representative of commercial gasoline; used reactivity factors that are obsolete and inaccurate, failed to take into account the automotive emissions advantages attributable to older model cars.

A February 1988 study prepared by Systems Applications, Inc. (SAI), of San Raphael, California, documents that reductions in carbon monoxide caused by ethanol blends can offset increases in ozone formation attributable to the increased volatility of ethanol blends, and, in fact, at RVP's of 9.0 psi and lower, ethanol blends can slightly reduce ozone formation.

Based on their review of SAI's initial study, EPA agreed that reductions in carbon monoxide should be considered with regard to ozone abatement efforts. In a January 1988 document transmitted to all 50 state air quality planning agencies, the EPA stated:

"States receiving ozone SIP calls and considering adoption of an alternative fuels program should account for its impact on both hydrocarbon and CO emission inventories, since both are inputs to the latest model for predicting future ozone attainment. Directionally, CO emission reductions from alternative fuels will assist in attaining the ozone NAAOS, but the strength of this effect has not yet been documented for the range of local conditions which affect ozone formation." (Guidance On Estimating Motor Vehicle Emission Reductions From the Use of Alternative Fuels and Fuel Blends, January 1988)

CARBON MONOXIDE

Statement: Levels of oxygen above 2.0 percent do not yield additional CO reductions.

Response: The addition of molecular oxygen contained in ethyl alcohol causes more air to be available in the fuel, thus the air/fuel ratio in the internal combustion engine is altered to the extent that the engine is more efficient and dramatically reduces CO emissions.

Since 1987, EPA has recognized that the use of ethanol blends can reduce fleetwide carbon monoxide exhaust emissions by 25 percent.

EPA published a technical document to be used by the States in revising their SIP's in the post-1987 era, "Guidance on Estimating Motor Vehicle Emissions Reductions From the Use of Alternative Fuels and Fuel Blends." This document lists the following exhaust emissions reductions that can be achieved by using ethanol blends:

| | Percent |
|---|---|
| Non-catalyst (pre-1974 vehicles) | −22.8 |
| Open-loop catalyst (1975–1981 vehicles) | −33.4 |
| Closed-loop catalyst (post-1981 vehicles) | −17.2 |

Moreover, EPA has also stated that there is a linear relationship between oxygen and CO reduction, i.e. the higher percentage of oxygen by weight in the fuel, the "leaner" the effective fuel-to-air ratio will be and the more oxygen is available to enhance the combustion process. As the fuel-to-air ratio becomes leaner, CO emissions are reduced.

As EPA has concluded that the percentage of oxygen by weight in the automobile's final fuel determines the amount of CO emissions reduction, there is no question that gasohol substantially reduces CO emissions. This occurs because of the high oxygen content of ethanol. The oxygen content of gasohol is 3.7 percent by weight.

NITROGEN OXIDES NOX

Statement: Ethanol increases NOx emissins which exacerbates ozone pollution.

Response: There have been numerous tests done on ethanol blended gasolines to determine the impact on NOx emissions. For example:

A Report prepared by the Department of Energy revealed that nitrogen oxides exhaust emissions from 53 test vehicles operating on 10-percent ethanol blends were reduced an average of 5.7 percent when compared to non-alcohol base gasoline exhaust emissions.

A Report prepared by engineers from General Motors Research Laboratories revealed that GM production vehicles with closed-loop catalytic converters operating on 10 percent ethanol blends had "significantly lower" exhaust nitrogen oxides emissions (22 percent) when compared to non-alcohol gasolines.

A Report prepared by the Southwest Research Institute for the EPA revealed that the use of 10 percent ethanol blends in 1975–1980 test vehicles exhibited "little or no effect" on nitrogen oxides exhaust emissions.

Moreover, reformulating gasolines to remove the more dangerous gasoline components and replacing them with clean-burning ethanol will provide even greater NOx reductions:

A recent report by Systems Applications Inc. concluded that if ethanol were used in a one-for-one replacement of the xylene fraction in unleaded gasoline in 100 percent of the motor vehicles in the City of Los Angeles that nitrogen oxide levels would be reduced by 8.8 percent.

These results of ethanol's impact on NOx emissions (or lack thereof) are consistent with EPA's conclusions that the use of ethanol blends will not exacerbate ozone formation.

EXHAUST HYDROCARBON (HC) EMISSIONS

Statement: The use of ethanol blends increases the emission of HC.

Response: In fact, EPA has definitively stated that the use of ethanol will substantial *reduce* exhaust HC emissions.

In the EPA's "Guidance on Estimating Motor Vehicle Emissions Reductions From the Use of Alternative Fuels and Fuel Blends", the Agency concludes that the following HC exhaust emissions reductions can be achieved by using ethanol blends:

| | Percent |
|---|---|
| Noncatalyst (pre-1974 vehicles) | −4.2 |
| Open-loop catalyst (1975-1981 vehicles) | −14.5 |
| Closed-loop catalyst (post-1981 vehicles) | −2.4 |

EPA has stated that if all cars used 10-percent ethanol blended gasolines, an average per vehicle HC exhaust emission of volatile organic compounds (VOC's) would be reduced from 1.043 grams per mile to 0.961 grams per mile—an 8.5 percent reduction!

IMPACT TO THE HIGHWAY TRUST FUND

Statement: The tremendous market being created for ethanol will dramatically reduce monies available to the Highway Trust Fund—curtailing much needed infrastructure projects and causing employment losses in the road construction industry.

Response: Because the proposed clean fuels amendments may result in the increased use of ethanol as an oxygenate, however, oil companies have suggested that this "ethanol mandate" will dramatically reduce federal highway dollars. This is incorrect.

First, the Richardson-Madigan proposal does not require the use of ethanol. In fact, there are as many as seven EPA-approved fuels additives which will compete in the oxygenate market, including the most widely used oxygenate—MTBE, a methanol-based fuel additive produced by the major oil companies. None of these other oxygenates will impact the HTF at all.

To the extent that ethanol may be used, however, a recently released study by the Government Accounting Office concluded that while HTF revenues are reduced by the use of ethanol, because of decreased federal farm program costs, the government will actually continue to realize a net savings of between $460 and $580 million annually.

Even without these budget savings, however, it is important to note that any decrease in HTF dollars would not effect the level of funding available for road construction projects. The HTF currently has a $9 billion surplus. Appropriations to any individual state, and the resulting employment, are not effected by the excise tax exemption for ethanol blended gasolines.

While I would agree that the Congress should find a way to reimburse the HTF from the significant budget savings attributable to reduced farm program costs—the fact is the federal ethanol marketing incentive has been an extremely successful and cost-effective program, providing renewable domestic sources of energy while reducing pollution in our nation's cities—we should not sacrifice the tremendous environmental benefits this fuel can provide while we await the resolution of an accounting adjustment.

GASOHOL MANDATE

Statement: The 2.7 percent oxygen standard contained in the Richardson-Madigan amendment effectively mandates the use of only one fuel—ethanol.

Response: The requirement for 2.7 percent oxygen contained in the Richardson-Madigan Clean Octane/Reformulated Fuels Amendment is a "fuel neutral", environmentally sound fuel performance standard which will greatly reduce carbon monoxide and ozone pollution while not favoring any particular oxygenated fuel.

In fact, there are several oxygenated fuels which could meet the 2.7 percent standard today, including:

1. ARCONOL.—Tertiary Butyl Alcohol (3.7 percent oxygen)

2. Dupont Waiver.—5 percent methanol, 2.5 percent ethanol (3.7 percent oxygen)

3. Ethanol.—any blend more than 6 percent by volume (up to 3.5 percent oxygen)

4. Ethanol with MTBE.—2 percent methyl tertiary butyl ether and up to 10 percent by volume ethanol and cosolvent alcohols (3.7 percent oxygen)

5. Methanol with MTBE.—2 percent methyl tertiary butyl ether and up to 5 percent by volume methanol and minimum 2.5 percent by volume cosolvent alcohols (3.7 percent oxygen)

6. MTBE.— 15 percent methyl tertiary butyl ether by volume (2.7 percent oxygen)

7. OCTAMIX.—5 percent methanol, with other alcohol cosolvents (3.7 percent oxygen)

8. OXINOL 50.—4.75 percent methanol, 4.75 percent TBA (3.5 percent oxygen)

There are other fuels which may soon receive specific fuel waivers from EPA which will allow them to blend at the 2.7 percent oxygen standard or higher including ETBE and OTBE.

The Amendment also establishes an oxygen credits trading program which will allow all fuels—regardless of oxygen content—to compete in the marketplace. The oxygen credits trading program will allow fuel marketers choosing to sell gasoline with an oxygen content of less than 2.7 percent, including regular gasoline which has no oxygen content, to purchase oxygen credits from fuel marketers selling gasoline blended with any of the above oxygenates.

CORN/FOOD PRICE IMPACT

Statement: An increased demand for ethanol will increase the price of corn, which will be reflected in higher food prices paid by the consumer.

Response: According to a study just completed for the National Corn Growers Association (NCGA), called "Corn 2000: The Future of Ethanol", the relationship an expanded ethanol market would have to the price of corn and food would be as follows:

Increased demand for corn to produce ethanol would result in a modest increase in corn plantings over the 1993-2000 period of about 1.8 million acres per year. Producer flexibility would permit farmers to shift planting of other crops to corn in order to accommodate this demand without necessarily increasing total area planted to all crops.

A feed grain set-aside program would *not* be required beginning in 1996. This would result in a significant savings to taxpayers in government spending for farm programs.

Increased demand for ethanol would cause corn prices to increase an average of 4.5 percent over baseline levels during the 1993-2000 period.

Increased ethanol demand will have a small impact on consumer food prices and the overall rate of inflation. The Consumer Price Index for food would increase less than 2 percent over baseline levels and the overall CPI would increase about 0.3 percentage points.

These slight increases in food prices to consumers should be viewed in light of increased income and employment that are also expected to result from higher ethanol use. Despite these changes American consumers will still spend a smaller share of their disposable income on food than consumers in any other developed country in the world.

RURAL IMPACT

Statement: The economic impact on rural America will be limited relating to the production of reformulated gasoline.

Responses: Recent studies clearly indicate that reformulated gasolines which contain oxygenates such as ethanol will have a significant impact on rural economic development.

The U.S. can increase domestic capacity to produce ethanol to meet a demand of 3.3 billion gallons by the year 2000. The estimated cost of plant and equipment investment would total $3.4 billion.

The combination of increased agricultural output and investment for new ethanol facilities will add $14.4 billion to total U.S. Gross National Product (GNP). In addition, household income will increase almost $5.5 billion dollars.

Investments in new plant construction and the upgrading of capacity in existing plants would create investments in excess of $3.4 billion. In total, according to the "Corn 2000" study, over 461,000 new jobs would be created by the year 2000.

The economies of the states where new ethanol facilities will be constructed would also benefit. Of the 17 states covered in "Corn 2000" a $14 billion increase in Gross State Product (GSP) is projected, from 1993-2000. It is anticipated for example that Texas would increase it's GSP by over $860 million while creating over 27,000 new jobs within the state during this seven year period.

Increased demand for ethanol is expected to result in increased aggregate output, higher consumer incomes, and more jobs. These gains will come from at least two major areas: increased agricultural output and larger investment in plant and equipment required to produce the additional required 1.6 billion gallons of ethanol needed by the year 2000.

POTENTIAL ETHANOL PRODUCTION

Statement: In an expanded oxygenated fuels market it is doubtful that the ethanol industry could meet the increased demand created by the oil industry.

Response: The ethanol industry now has 60 producing plants in this country, with an overall capacity of 1.2 billion gallons annually. The potential for increasing production to 1.8 billion gallons in a short term span utilizing existing non-producing facilities is excellent.

There are a number of plants that are currently shut down that could be reactivated on very short notice. The combined capacity of these plants is over 600 million gallons annually.

New plant construction already on the drawing board has a total projected capacity of over 500 million gallons annually.

According to the NCGA "Corn 2000" study, it is not unrealistic to expect the ethanol industry to be able to produce in excess of 3.3 billion gallons of ethanol annually by the year 2000.

This production would be created with only a slight increase in corn production and would create new jobs for over 460,000 people while generating over $14 million in additional Gross State Product.

The production of 3.3 billion gallons of ethanol would be the equivalent of 30.3 billion gallons of 10 percent blended gasoline, or nearly one-third of Americas total annual gasoline sales.

While it is true that ethanol cannot totally replace gasoline, it is also true that for every 42 gallons of ethanol used, the need for 84 gallons of imported oil is displaced. A production level of 3.3 billion gallons would diplace 6.6 billion gallons of imported oil or roughly 12 percent of our import needs. At an average of $20 per barrel, that equates to

a potential reduction of over $3 billion dollars annually.

ALDEHYDES

Statement: The burning of oxygenated fuels creates increased emissions of formaldehyde.

Response: The combustion of ethanol in gasoline engines does not produce formaldehyde. Formaldehyde, is produced from the combustion of methanol not ethanol.

Ethanol, when utilized in an internal combustion engine produces aldehydes. Aldehydes are significantly less toxic than formaldehyde.

However, automotive engineers have proven that the aldehyde and formaldehyde emissions can be effectively controlled through the use of a catalytic converter.

Gasoline produces both formaldehyde and other aldehydes. The increase of aldehyde emissions from the use of oxygenated fuels over regular unleaded gasoline, are relatively small.

WHAT THE OIL COMPANIES HAVE SAID ABOUT ETHANOL

Given the negative advertising campaign launched against ethanol blended gasolines upon the introduction of the Richardson-Madigan Reformulated fuels amendment, it is revealing to look at what oil companies have said in the past about this fuel:

Chevron: "Chevron, as a longtime marketer of gasolines with ethanol in Kentucky and Tennessee, certainly does not share any view that ethanol is somehow an undesirable additive. We know from our marketing of Chevron gasolines with ethanol, and our consumer response, that Chevron gasolines with ethanol provide consistent high performance in customer cars . . . We are proud of the quality of our Chevron gasolines with ethanol."—July 10, 1986.

Amoco: "While a number of fuel suppliers do not offer any alcohol-blended products, *Amoco has been and continues to be a major purchaser and marketer of ethanol.* We would not continue to offer our customers an alcohol blend if that fuel had caused performance problems."—August 15, 1986.

Texaco: "Since the inception of our ethanol marketing program in 1979, Texaco has sold more than one billion gallons of ethanol blended fuels. We have found that these products provide customer satisfaction equivalent to that provided by gasolines without ethanol and that they have been readily accepted as a motor fuel."—July 10, 1986.

ARCO: "ARCO Chemical has been a strong supporter of the use of alcohols in gasoline."—July 25, 1986.

Mobil: "Mobil continues to believe that ethanol blends present no special quality control problems as long as the fuels are properly blended and handled."—July 24, 1986.

WHAT THE AUTO INDUSTRY SAYS ABOUT ETHANOL

All 19 domestic and foreign automobile manufacturers marketing vehicles in the U.S. fully warranty the use of 10-percent ethanol in their vehicles.

In fact, last year, Roger B. Smith, Chairman of General Motors, announced that beginning with 1990 model cars and trucks, GM would begin recommending the use of oxygenated fuels. In making the announcement, Smith stated, "The advantage here is that the oxygen from the ether or alcohol portion of these special fuel blends can act to make the engine's air-to-fuel ratio leaner, (and) the result is less carbon monoxide."

The 1990 GM warranty language reads:

Gasolines for Cleaner Air: "The fuel that you use can contribute to cleaner air. General Motors recommends that you use only gasolines treated with detergent additives that prevent deposit formation in your engine. These gasolines will help keep your engine in tune and your emission control system working properly.

The use of oxygenated materials in gasoline can also contribute to cleaner air, especially in those parts of the country where carbon monoxide and ozone levels are high. Where available, General Motors recommends use of oxygenated fuels such as MTBE and ethanol in gasoline."

Moreover, representatives of the auto industry have suggested fuel formulations virtually identical to the standards established in the Richardson-Madigan amendment.

Joseph Colucci, GM's Fuels and Lubricants Department, recently published his recommendation for a reformulated fuels standard. That formulation included a 25 percent cap on aromatics, a 0.8 percent cap on benzene, 9 psi vapor pressure, deposit control additives and a 2.5 percent minimum oxygen requirement.

Apparently, the auto industry is extremely comfortable with both the use of ethanol blended gasolines and the fuel formulation established in this amendment.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in support of the compromise amendment.

Mr. Chairman, congratulations are in order for Chairman DINGELL and Chairman WAXMAN, who have worked ardently to bring together various factions in working out a viable compromise on the outstanding issues. Few issues in this compromise package are more important to the well-being of our urban areas than reformulated gas. It is at the gas pump, and at the tailpipe, that we can achieve some of our greatest air pollution reductions. I have special interest in the passage of this reformulated gas amendment, as Baltimore would be one of the cities covered by the legislation. Persistently in the top 10 ozone non-attainment areas of the country, Baltimore needs this special treatment. Importantly, the measure has a much needed degree of flexibility in it—specifically, cities in the future that fall below their ambient air quality requirements can opt into the system, provided that the EPA judges that doing so would not create a dramatic gas supply problem. And contention about gasoline formulation requirements have been mollified to a large extent. The proposal allows for deviation from the guidelines of the law if no discernable benefit is proven to come from the reformulation plan. I am particularly pleased about the scope of the plan—by marketing reformulated gas in nine cities initially, we are approaching the solution in a cost-effective manner, one that allows refiners time to make the necessary adjustments for the coming new gasoline market.

From national parks haze problems to the issues surrounding accidental release of toxic chemicals, Representatives DINGELL, WAXMAN, and LENT, plus a whole host of others, have proven that compromise can be achieved. No doubt exists—we are well on the way to achieving our goal of better air quality for all Americans in the coming century.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the committee amendment. I especially want to give credit to the gentleman from Oregon [Mr. WYDEN] and others who worked on the aspects dealing with parks and public lands. I would like to point out this does affect parks and wilderness areas.

Ironically, some of the special areas, our national heritage, are among the most sensitive and fragile areas with regard to pollution. We designated and conserved such areas because of their visual qualities, and of course because of their natural qualities, their cultural and historic qualities. But obviously if we cannot see them we cannot enjoy them, and the damage doesn't end with the ability to view such resources.

The administration failed in the mid-1980's to come up with protections envisioned and put in place in the Clean Air Act of 1977. Hopefully that will not happen again when these new provisions are enacted into law.

Mr. Chairman, most important is the overall effect of air quality and air pollution to our public lands and parks improvement embraced in this bill H.R. 3030. As we march through the consideration of the amendments and the passage of this final bill, we will be doing much more to protect the parks and other fragile public lands and their ecosystems.

This amendment, importantly, puts the land manager in a enhanced position, that individual will be notified so that he or she can stand up and protect those important public lands and parks that may be affected by air quality changes. This amendment is really an important step, but it obviously needs the spirit, the guidance, and the resources behind it to accomplish the goals it espouses.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I thank the distinguished gentleman for yielding time to me.

Mr. Chairman, I have a statement that I offer on behalf of the gentleman from Oklahoma [Mr. EDWARDS]. The National Institute for Petroleum and Energy Research, a DOE research facility in Bartlesville, OK, is already well equipped and fully staffed for research on and testing of fossil fuels. So I would hope, Mr. Chairman, that EPA and others would take full advantage of this distinguished facility already equipped to help us move into this new area of reformulated fuels.

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I am glad to yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, I would like to thank the gentleman from Oklahoma and the gentleman from Texas for their support of this compromise and join them in commending the work of an eminent research center. This DOE facility, formerly known as the Bartlesville Energy Research Center—and formerly a part of my own district—is world renowned for its fossil energy research work. It has also been widely used for research in this particular area for a decade. For example, NIPER has performed fleet test evaluations for industrial clients and done contract work for EPA and the California Air Resources Board on evaporative fuels. I understand that EPA's own lab is 2 or 3 years away from duplicating what NIPER can do.

So I wholeheartedly agree with my friend from Oklahoma that we should take advantage of NIPER's expertise in this area, rather than attempting to duplicate it at other government laboratories.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of the committee compromise amendment on reformulated gasoline. It is a vast improvement over the original Richardson proposal which would have dictated the precise formula for this fuel.

I also rise, Mr. Chairman, to remind my colleagues of a renowned institution in my district which may be able to play an important role in the testing of these new fuels. The National Institute for Petroleum and Energy Research [NIPER], a DOE research facility in Bartlesville, OK, is already well-equipped and fully staffed for research on and testing of fossil fuels.

While the Environmental Protection Agency's laboratory may be equipped for some of the research and testing that will be required, its facilities may not be entirely adequate. For instance, in the area of controlled temperature chassis dynamometer tests, which measure different kinds of auto emissions, NIPER has a dynamometer equipped to operate at temperatures ranging from 20° F to 110° F. I understand that EPA's lab does not have this temperature capability at this time.

Moreover, NIPER already has extensive experience in this area. In fact, just last year, Arco selected NIPER as one its two labs to test EC–1 reformulated gasoline—the product under discussion here. So I would hope, Mr. Chairman, that EPA and others would take full advantage of this distinguished facility already equipped to help move us into this new era of reformulated fuels.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the committee amendment and note that this is a historic day because the bill, when it is passed into law, will open up the vast automotive fuels business to the American farmer who produces ethanol that will be blended with gasoline in order to clean the hydrocarbons from the automotive emissions.

Mr. LENT. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to commend the leadership of the committee as well as others who have worked to bring this compromise about. Who would have imagined even a week ago that many of these very difficult issues could have been settled in this very progressive and advantageous way.

I especially want to compliment them on the provision regarding our national parks and public lands. That is a great step forward.

Mr. LENT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is the most troubling amendment I have seen in quite some time. At a time that we are rebuilding American industry and towns and States are competing for new industries to replace older more polluting industries, we are moving to give Eastern States a competitive advantage over the Western States. And we are doing this in the name of environmental protection. It is wrong and it is unconstitutional to discriminate against States located on one side of a man-made line on a map.

Further, we allow a Governor of a neighboring State to file a notice to deny a permit in another State based on a showing that the plant emissions may cause an impact on air quality related values. Any one familiar with State rivalries knows that States will compete for industries. To allow a neighboring Governor to veto a plant in a State is wrong and misguided. If we have a problem with air pollution in an individual park, we should deal with that on a park-by-park basis. To adopt this approach instead is to hit small communities near our national parks and Western States with a sledge hammer.

Finally, I ask if anyone here can explain why the 100th meridian allows discrimination among States.

I oppose the amendment.

Mr. DURBIN. Mr. Chairman, I rise in strong support of the reformulated gasoline and oxygenated fuel provisions that will be included in the Clean Air Act. These provisions will strengthen our effort to clean up the air in our Nation's cities, and will give the citizens of those cities the opportunity to use a highly beneficial clean fuel—ethanol—that my constitutents are prepared to provide in abundance.

Despite what the American Petroleum Institute has been saying, the bill will not mandate the use of ethanol. It sets a standard requiring an oxygen content of 2.7 percent for reformulated gasoline used in ozone nonattainment areas and for oxygenated fuels used in carbon monoxide nonattainment areas. This standard can be met by a variety of fuels, including MTBE, an oil-company produced fuel additive that is already used in approximately 16 percent of our Nation's fuel.

But many gasoline marketers and consumers will prefer to use gasoline containing ethanol, because of ethanol's environmental benefits. Ethanol is a high-octane fuel that can help to reduce ozone pollution, because it can replace the aromatic compounds in gasoline that exacerbate ozone formation. In addition, ethanol can reduce carbon monoxide [CO] emission by up to 25 percent.

Currently, ethanol is used in approximately 8 percent of our Nation's gasoline supply. In cities that have established strong oxygenated fuel programs, consumers have embraced the use of ethanol as a means of cleaning up the air they breathe. Now, the citizens of many more cities will have the option of using ethanol for environmental reasons.

Mr. Chairman, the Clean Air Act will encourage the use of clean fuels such as ethanol because of their environmental benefits, but when consumers use ethanol they actually help to solve several other national problems as well.

Since ethanol is produced domestically, it reduces our Nation's trade deficit and increases our energy security.

Since it is produced from renewable feedstocks, it reduces the formation of carbon dioxide, which is a contributor to global warming.

Since it is produced from American grain, it provides an outlet for our abundant agricultural production, which cuts the budget deficit by reducing the cost of our farm programs.

And since it is produced in rural areas, it provides jobs and generates additional economic activity in the rural parts of our country that have faced years of economic struggle.

In short, the use of ethanol is a good idea for economic, environmental, trade, energy, security, and budgetary reasons.

Mr. Chairman, the Clean Air Act does not mandate ethanol use, but it provides an incentive for oil companies to do so. I know that many more gasoline marketers will use ethanol as a result of this bill. I hope the oil industry as a whole will recognize ethanol's benefits and make the choice to use ethanol in large quantities. If they do so, it will benefit not only their consumers, but our entire Nation.

Mrs. COLLINS. Mr. Chairman, I rise in support of the committee en bloc amendment sponsored by Chairman DINGELL. It contains language resulting from compromises on a broad array of issues. It is an exemplary product that showcases the potential of negotiation and working together for common goals. The result is a well balanced agreement that equitably takes care of everyone's needs. I commend each and every member of the Energy and Commerce Committee for the effort that went into this amendment as I have enjoyed working together toward this admirable product.

One part of this amendment that I would like to highlight concerns the "citizen suit" provisions of the Clean Air Act, as addressed in title VI of the bill. It is based on an amend-

ment that I have been developing since September of last year and its bottom line is: Strong enforcement.

Over a decade ago, Congress enacted sweeping amendments to the Clean Air Act designed to assure that the Nation would make real progress toward improved air quality. Unfortunately, many of these congressional directives were never carried out by the EPA or were disregarded by particular polluters.

The Clean Air Act contained a remedy for such inaction by the EPA. Among other things, the "citizen suit" provision established the principle that citizens could hold the EPA accountable for a failure to do its job. It did so by allowing citizens to bring suit against the EPA Administrator in Federal court. This principle was restated in 1973 by the court in NRDC versus EPA: "The public suit seems particularly instrumental to the statutory scheme when against the EPA itself; for only the public—certainly not the polluter—has the incentive to complain if the EPA falls short * * *."

Unfortunately, the EPA has managed to blunt the effectiveness of the citizen suit as a toll for enforcing Congress' mandates. In case after case—especially throughout the 1980's—the EPA has successfully fought citizen cases on procedural grounds, never even reaching the merits of the cases. The EPA argued that it was irrelevant whether it was blatantly violating a clear congressional directive because the citizen suit provision, as written, simply did not permit the court to hold the agency responsible. As was observed in a 1986 case, Bethlehem Steel Corp. versus EPA in my home State of Illinois: "It seems apparent from the EPA's conduct that its main objective is to preclude—or at least delay as long as possible—judicial review of these claims."

We cannot and should not guarantee that any particular citizen suit will be victorious. That depends on the statute giving rise to the suit and the EPA's—or private polluter's—conduct in fulfilling its obligations under that statute. However, we can—and we must—guarantee that the courts will have power to at least hear the merits of citizen's claims. The courts must also have the power to determine whether the EPA is violating the law by failing to act.

The amendment which I prepared, and the resulting compromise agreed to by the committee, is narrowly tailored to redress the more important jurisdictional problems that have arisen under the Clean Air Act and ensure that private polluters are subject to the law.

First, it makes clear that if the EPA unreasonably delays action, the EPA cannot defend itself on procedural grounds that the court has no jurisdiction. In recent years, big problems have resulted from the Administrator unreasonably delaying action. Often, individuals affected by the EPA's stalling techniques have not been allowed to bring lawsuits because the Administrator claimed the issue was still being reviewed by the EPA. The committee amendment will ensure that Federal courts can compel action by the EPA that has been unreasonably delayed.

Second, the amendment clarifies that a deferral of performance by the EPA can also be challenged in court. Thus, when action is taken, but the action in effect defers performance of a statutory duty to a later time, the Federal courts will have jurisdiction to compel prompt performance of that duty.

Third, the amendment would clarify that citizens are able to bring suits against particular polluters stemming from past violations of the act in addition to present violations. In almost all of our laws across the country, a past violation is treated as a sufficient wrong to give rise to legal action. There is no reasonable justification for treating violations of the Clean Air Act differently. Similarly, there is no reason to suggest that certain portions of H.R. 3030 are enforceable through "citizen suits" while other parts may be disregarded without repercussion.

Fourth, the language expands and enumerates areas of the Clean Air Act that absolutely can be challenged in Federal court by private citizens. The expansion inlcudes: Any aspect of a State implementation plan; any aspect of a permit; and the failure to obtain a permit.

Finally, the provision offers an additional option to a court that chooses to impose civil penalties on a polluter, as enabled by H.R. 3030. While the penalty could accrue to the Federal Treasury, the court would be given discretion to direct that up to $100,000 of the penalty payments be committed to "beneficial mitigation projects" which enhance public health or the environment. These payments will help to ameliorate air quality problems rather than merely assess responsibility for their occurrence.

In short, Mr. Chairman, anyone who believes in enforcement will be pleased with the citizen suit provisions of the en bloc committee amendment. We have devoted much time and effort toward clean air. Without strong enforcement provisions, however, our efforts are only hot air. I urge my colleagues to support the committee's en bloc amendment.

Mr. MRAZEK. Mr. Chairman, I am pleased this important clean air reauthorization bill has finally reached the House floor and I am happy to support it. While H.R. 3030 addresses many of the most pressing clean air issues, I am disappointed that the Energy and Commerce Committee did not address the issue of emissions limitations from solid-waste incineration plants.

The Senate clean air bill, S. 1630, addresses this problem and I certainly support its provisions on emissions standards.

Many States, including New York, have viewed incineration as almost a panacea to their waste-disposal problems. The EPA estimates that by the year 2000, there will be 400 incinerators nationwide, disposing 33 percent of the country's waste. Communities in my congressional district on Long Island have also considered this technology.

Unfortunately, the reality of incineration is that, unless it is well managed and controlled, it may very well solve one environmental problem only to be responsible for another. This is because the process of incineration emits tons upon tons of toxic chemicals into the air to spread over wide areas. Even a quick inspection of the sorts of garbage which are incinerated could show why incinerators must be strictly controlled. Batteries, plastics and the like are burned, sending a poisonous chemical "cocktail" into the air and then into our environment. Among these toxic chemicals are dioxins, one of the most dangerous known to man.

Despite the fact that the environmental and health risks from proliferation of dioxins are considerable, few States have taken action to regulate emissions to set limits on dioxins and other dangerous chemicals.

If incineration is to be the wave of the future, as it seems to be, it is vital that strict limits be set which will prevent incinerators from endangering the health and welfare of us all. Dioxins are considered one of most toxic chemicals known. Small concentrations have been known to kill laboratory animals. Human exposure to dioxins can affect liver function, the renal system, lipid metabolism and can promote neurological damage. The human health effects of emitted dioxins are not well documented; however, virtually every municipal incinerator tested has shown traces of these substances in its emissions.

I have addressed this problem in legislation (H.R. 2052) I introduced in the last two Congresses that would control emissions of dioxins from resource-recovery plants and municipal-waste incinerators. I am disappointed that the House is not addressing standards such as this one in H.R. 3030, and hope when the House takes up solid waste issues under Resource Conservation and Recovery Act [RCRA], the issue of the regulation of incineration plants will be addressed. I will consider offering H.R. 2052 as an amendment at that time.

H.R. 2052 mandates that each new and modified plant must adhere to strict emissions standards for dioxins—does not permit emissions of more than 0.1 nanograms per normal cubic meter at 10 percent carbon dioxide. I chose this particular standard because it is the figure that has been adopted by Sweden, the country that has done the most research into the topic. In 1985, Sweden's environmental protection agency halted construction of all new plants when it felt that an important evaluation of the health and evironmental side effects of incineration was necessary. Dioxins were the primary concern. The Swedish Government had become concerned about the implications of incineration after high levels of dioxin had been found in Baltic Sea fish and mother's milk.

After the extensive study, Sweden determined new facilities could be built, but only if serious measures were taken to meet new, more stringent standards. These are the exact standards my bill would mandate.

Sweden also determined that these standards could be met with current technology. The study concluded that with today's technology, emissions of dioxin could be reduced by up to 90 percent from present levels. Sweden has resumed construction of new incinerators with the standards in place. These new, stringent standards can be met with current technology. For example, reduction in emissions can be made by increasing combustion efficiency and installing plants with more advanced flue gas cleaning.

I believe this is a long-overdue and responsible approach to the problem of dioxin emissions. In light of the risks that incinerators pose to our health and environment, swift action must be taken. For too long, the Federal Government has failed to deal effectively with airborne pollution. While EPA estimates that 15,000 airborne chemicals should be assessed for their toxicity, they have only actually regulated seven. And dioxin—one of the most dangerous of all—is still not regulated by the Federal Government. While EPA has done little to protect America's air, Congress can and must take measures to prevent our air from becoming a dump for toxic chemcials.

If incinerators are part of our solid waste sollution, we need to ensure that incinerators only operate with strict emissions standards. This is the only way we can prevent a solution to one environmental problem from becoming the cause for another. Therefore, I strongly encourage House conferees to accept the Senate language on emissions standards for incinerators.

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The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. DINGELL].

The amendments en bloc were agreed to.

AMENDMENT OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Roe: Page 507, after line 12, insert the following new titles:

TITLE IX—CLEAN AIR RESEARCH

SEC. 901. CLEAN AIR RESEARCH.

(a) REFERENCES IN TEXT.—Unless otherwise specified, references in the text of this section to sections or other provisions are references to sections or other provisions of the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) RESEARCH AND DEVELOPMENT PROGRAM.—Section 103(b) is amended—

(1) in paragraph (6) by striking "and" after "control thereof;";

(2) in paragraph (7) by striking the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) construct such facilities and employ staff as are necessary to carry out this Act.".

(c) AIR POLLUTANT MONITORING AND EMISSIONS INVENTORIES.—Section 103(c) is amended to read as follows:

"(c) AIR POLLUTANT MONITORING AND INVENTORIES.—In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants, including precursors of acid deposition. Such program shall include the following elements:

"(1) Consideration of individual, as well as complex mixtures of, air pollutants and their chemical transformations in the atmosphere.

"(2) Development of improved monitoring and modeling techniques to increase understanding of the sources of acid aerosols and the precursors of acid deposition.

"(3) Establishment of a national network to monitor, collect, and compile data with quantification of certainty in the status and trends of air emissions, deposition, air quality, surface water quality, forest condition, and visibility impairment, and to ensure the comparability of air quality data collected in different States and obtained from different nations.

"(4) Development of necessary instrumentation and quality assurance protocols for continuous monitoring of precursors of acid deposition.

"(5) The Administrator, in consultation with the Federal Coordinating Council for Science, Engineering, and Technology, shall oversee an experimental and analytical research effort, with the experimental research to be carried out at the Liquefied Gaseous Fuels Spill Test Facility. In consultation with scientists at Lawrence Livermore National Laboratories, the Administrator shall develop a list of chemicals and a schedule for field testing. Analysis of a minimum of 10 chemicals per year shall be carried out, with the selection of a minimum of one chemical for field testing each year. Highest priority shall be given to those chemicals that would present the greatest potential risk to human health as a result of an accidental release from a fixed site or related to the transport of such chemicals. The purpose of such research shall be to—

"(A) develop improved predictive models for atmospheric dispersion which at a minimum—

"(i) describe dense gas releases in complex terrain with variable winds;

"(ii) improve understanding of the effects of turbulence on dispersion patterns; and

"(iii) consider realistic behavior of aerosols by including physicochemical reactions with water vapor, ground deposition, and removal by water spray;

"(B) evaluate existing and future atmospheric dispersion models by—

"(i) the development of a rigorous, standardized methodology for dense gas models; and

"(ii) the application of such methodology to current dense gas dispersion models using data generated from field experiments; and

"(C) evaluate the effectiveness of hazard mitigation and emergency response technology for fixed site and transportation related accidental releases of toxic chemicals.

Models pertaining to accidental release shall be evaluated and improved periodically for their utility in planning and implementing evacuation procedures and other mitigative strategies designed to minimize human exposure to hazardous air pollutants released accidentally.

"(6) Development of improved monitoring and modeling techniques to increase understanding of the sources of ozone precursors, ozone formation, ozone transport, regional influences on urban ozone, regional ozone trends, and interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

"(A) improve the ability to inventory emissions of volatile organic compounds and nitrogen oxides that contribute to urban air pollution, including anthropogenic and natural sources;

"(B) improve the understanding of the mechanism through which anthropogenic and biogenic volatile organic compounds react to form ozone and other oxidants; and

"(C) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

"(7) Periodic reports to the Congress which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring and modeling data collected pursuant to this subsection.

"(8) Opportunities for participation by industry, public interest groups, scientists, and other interested parties on the development of air pollution models under this subsection.".

(d) HEALTH EFFECTS.—Section 103(d) is amended to read as follows:

"(d) HEALTH EFFECTS.—(1) The Administrator shall conduct a research program on the short- and long-term effects of air pollutants on human health, includng the effects of acid deposition and acid aerosols. In conducting such research program the Administrator—

"(A) shall conduct studies, including epidemiological, clinical, and laboratory studies, as necessary to identify and evaluate effects of air pollutants on human health;

"(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

"(C) shall consult with other appropriate Federal agencies to ensure that similar research being conducted in other agencies is coordinated and is not duplicative.

"(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof. Such research program shall include the following elements:

"(A) The creation of an Interagency Task Force to coordinate such program. The Task Force shall include representatives of the National Institute for Environmental Health Sciences, the Environmental Protection Agency, the Agency for Toxic Substances and Disease Registry, the National Toxicology Program, the National Institute of Standards and Technology, the National Science Foundation, and the Department of Energy. This Interagency Task Force shall be chaired by a representative of the Environmental Protection Agency and shall convene its first meeting within 60 days after the date of enactment of this subparagraph.

"(B) An evaluation, within 12 months after the date of enactment of this paragraph, of each of the hazardous air pollutants listed under section 112(b) of this Act, to decide, on the basis of available information, their relative priority for preparation of environmental health assessments pursuant to subparagraph (C). The evaluation shall be based on reasonably anticipated toxicity to humans and exposure factors such as frequency of occurrence as an air pollutant and volume of emissions in populated areas. Such evaluation shall be reviewed by the Interagency Task Force established pursuant to subparagraph (A).

"(C) Preparation of environmental health assessments for each of the hazardous air pollutants referred to in subparagraph (B), beginning 6 months after the first meeting of the Interagency Task Force and to be completed within 60 months thereafter. No fewer than 38 assessments shall be published annually. The assessments shall be prepared in accordance with guidelines developed by the Administrator in consultation with the Interagency Task Force and the Science Advisory Board of the Environmental Protection Agency. Each such assessment shall include—

"(i) an examination, summary, and evaluation of available toxicological and epidemiological information for the pollutant to ascertain the levels of human exposure which pose a significant threat to human health and the associated acute, subacute, and chronic adverse health effects;

"(ii) a determination of gaps in available information related to human health effects and exposure levels; and

"(iii) where appropriate, an identification of additional activities, including toxicological testing, needed to identify the types or levels of exposure which may present significant risk of adverse health effects in humans.".

(e) ECOSYSTEM STUDIES.—Section 103(f) is amended to read as follows:

"(f) ECOSYSTEM STUDIES.—In carrying out subsection (a), the Administrator shall conduct a research program to improve understanding of the cause, effects, and trends of ecosystems damage from air pollutants, including acid deposition. Such program shall include the following elements:

"(1) Identification of regionally representative and critical ecosystems for research.

"(2) Evaluation of risks to ecosystems exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of those effects.

"(3) Development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses associated with air pollution.

"(4) Evaluation of the effects of air pollution on water quality, including assessments of the short- and long-term ecological effects of acid deposition and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and groundwater.

"(5) Evaluation of the effects of air pollution, including acid deposition, on forests, materials, crops, and other terrestrial and aquatic systems exposed to air pollutants.

"(6) Estimation of the ecological damages and their associated costs which have occurred as a result of exposure to air pollutants.".

(f) POLLUTION PREVENTION AND EMISSIONS CONTROL; COORDINATION OF RESEARCH; AND ACID DEPOSITION RESPONSE.—Section 103 is amended by inserting after subsection (f), the following:

"(g) POLLUTION PREVENTION AND EMISSIONS CONTROL.—In carrying out subsection (a), the Administrator shall conduct a basic engineering research and technology program to develop, evaluate, and demonstrate strategies and technologies for air pollution prevention, including the prevention of acid deposition. Such strategies and technologies shall be developed especially for those pollutants which pose a significant risk to human health and the environment, and may include nontechnological strategies for pollution prevention. Such program shall include the following elements:

"(1) Improvements in strategies and technologies for simultaneously reducing multiple air pollutants from fossil fuel power plants and other combustion facilities including sulfur oxides, nitrogen, oxides, heavy metals, PM-10 (particulate matter), carbon monoxide, and carbon dioxide. Such strategies and technologies shall include—

"(A) improvements in the relative cost-effectiveness and long range implications of various air pollutant reduction and control strategies such as flue gas desulfurization, clean coal technologies (including retrofit control technologies for sulfur oxides and nitrogen oxides such as in-duct injection, LIMB, and spray-dry scrubbing processes), energy conservation including end-use efficiency, and fuel-switching to cleaner fuels such as natural gas; and

"(B) improvements in methods for training personnel employed by fossil fuel power plants and other combustion facilities.

"(2) Improvements in air pollution prevention strategies and technologies, especially those which simultaneously prevent multiple air pollutant emissions, for stationary sources other than fossil fuel power plants. Such strategies and technologies shall be considered for existing and new facilities, and shall to the extent possible be considered as part of the design process for new facilities.

"(3) Improvements in strategies and technologies for preventing air emissions from mobile sources, including development of, and evaluation of the relative cost effectiveness of, methods for reducing emissions of carbon dioxide from mobile sources.

"(4) Improvements in strategies and technologies for preventing air emissions from nonpoint pollution sources.

"(5) Improvements in strategies and technologies for preventing, detecting, and correcting accidental releases of hazardous air pollutants.

"(6) An analysis of the relative costs and benefits of tire disposal methods, including a comparison of waste-to-energy methods to alternatives such as asphalt-rubber and polymer treatment of ground rubber, and the promotion of improvements in strategies and technologies that dispose of tires in ways that avoid adverse air quality impacts.

Nothing in this subsection shall be construed to authorize the imposition on any person of air pollution control requirements. The Administrator shall consult with other appropriate Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.

"(h) COORDINATION OF RESEARCH.—The Administrator shall develop and implement a plan for identifying areas in which activities authorized under subsections (c), (d), (f), and (g) can be carried out in conjunction with other Federal ecological and air pollution research efforts. The plan, which shall be submitted to Congress within 6 months after the date of enactment of this subsection, shall include—

"(1) an assessment of ambient monitoring stations and networks to determine cost effective ways to expand monitoring capabilities in both urban and rural environments, including monitoring of air pollutants and other airborne chemicals of concern;

"(2) a consideration of the extent of the feasibility and scientific value of conducting the research program under subsection (e) to include consideration of the effects of atmospheric processes and air pollution effects; and

"(3) a methodology for evaluating and ranking pollution prevention technologies, such as those developed under subsection (f), in terms of their ability to reduce cost effectively the emissions of air pollutants and other airborne chemicals of concern.

Not later than 2 years after the date of enactment of this subsection, and every 2 years thereafter, the Administrator shall report to Congress on the progress made in implementing the plan developed under this subsection, and shall include in such report any revisions of the plan.

"(i) ACID DEPOSITION RESPONSE ACTION.—(1) The President shall submit to the Congress, within 6 months after the date of enactment of this subsection, a plan describing activities and assigning responsibilities for Federal research on acid deposition, and including coordination of the activities of the Administrator under this subsection.

"(2) The President shall develop, and submit to the Congress within 1 year after the date of enactment of this subsection, an assessment framework for reporting complicated technical information about acid deposition in a manner useful to policymakers and the public to assist in formulating a response. Such framework should include guidelines for the reporting of—

"(A) actual and projected annual emissions trends;

"(B) actual and projected acid deposition trends;

"(C) effects of such depositions, including changes in the chemistry of surface water quality and forest conditions related to acid deposition;

"(D) average ambient concentrations of acid deposition precursors and their transformation products;

"(E) descriptions of the confidence level associated with each conclusion to aid policymakers in using the information.

"(3) The President shall provide Congress with a report that delineates research activities and results in accordance with the framework provided for in paragraph (2), two years after the date of enactment of this subsection, with updates biennially thereafter.

"(4) On the basis of the information provided in the updated assessments, the President shall report to Congress on the reduction in deposition rates that must be achieved in order to prevent adverse ecological effects.".

(g) MISCELLANEOUS.—(1) Section 104 is amended by striking "low-cost" each place it appears and inserting in lieu thereof "cost-effective".

(2) Section 104(c) is amended to read as follows:

"(c) CLEAN ALTERNATIVE FUELS.—The Administrator shall conduct a research program to identify, characterize, and predict air emissions and other potential environmental effects related to the production, distribution, storage, and use of clean alternative fuels to determine the risks and benefits to human health and the environment relative to those from using gasoline and diesel fuels. The Administrator shall consult with other appropriate Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.".

(h) ASSESSMENT OF INTERNATIONAL AIR POLLUTION CONTROL TECHNOLOGIES.—The Administrator of the Environmental Protection Agency shall conduct a study that compares international air pollution control technologies of selected industrialized countries to determine if there exist air pollution control technologies in countries outside the United States that may have beneficial applications to this Nation's air pollution control efforts. With respect to each country studied, the study shall include the topics of urban air quality, motor vehicle emissions, toxic air emissions, and acid deposition. The Administrator shall, within 2 years after the date of enactment of this Act, submit to the Congress a report detailing the results of such study.

(i) ADIRONDACK DESTRUCTION ASSESSMENT.—The Administrator of the Environmental Protection Agency shall establish a program to research the effects of acid deposition on waters where acid deposition have been most acute. The Administrator shall enter into a multi-year contract for such purposes with an independent university which has a year-round field analytical laboratory on a body of water of not less than 25,000 acres nor greater than 75,000 acres, which lies within a geographic region designated as a Biosphere Reserve by the Department of State. The facility must have demonstrated the capability to analyze relevant data on said body of water over a period of 20 years as well as extensive ecosystem modeling capabilities. There is authorized to be appropriated to carry out this subsection not less than $6,000,000.

TITLE X—DISADVANTAGED BUSINESS CONCERNS

SEC. 1001. DISADVANTAGED BUSINESS CONCERNS.

(a) IN GENERAL.—In providing for any research relating to the requirements of the amendments made by the Clean Air Act Amendments of 1990 which uses funds of the Environmental Protection Agency, the Administrator of the Environmental Protection Agency shall require that each contract which is to be entered into for such research provides that not less than 10 percent of such research will be conducted by a disadvantaged business concern.

(b) DEFINITION.—

(1)(A) For purposes of subsection (a), the term "disadvantaged business concern" means a concern—

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly traded company, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) the management and daily business operations of which are controlled by such individuals.

(B)(i) A for-profit business concern is presumed to be a disadvantaged business concern for purposes of subsection (a) if it is at least 51 percent owned by, or in the case of a concern which is a publicly traded company at least 51 percent of the stock of the company is owned by, one or more individuals who are members of the following groups:

(I) Black Americans.

(II) Hispanic Americans.

(III) Native Americans.

(ii) The presumption established by clause (i) may be rebutted with respect to a particular business concern if it is reasonably established that the individual or individuals referred to in that clause with respect to that business concern are not experiencing impediments to establishing or developing such concern as a result of the individual's identification as a member of a group specified in that clause.

(C) The following institutions are presumed to be disadvantaged business concerns for purposes of subsection (a):

(i) Historically Black colleges and universities, and colleges and universities having a student body in which 40 percent of the students are Hispanic.

(ii) Minority institutions (as that term is defined by the Secretary of Education pursuant to the General Education Provision Act (20 U.S.C. 1221 et seq.)).

(iii) Private and voluntary organizations controlled by individuals who are socially and economically disadvantaged.

(D) A joint venture may be considered to be a disadvantaged business concern under subsection (a), notwithstanding the size of such joint venture, if—

(i) a party to the joint venture is a disadvantaged business concern; and

(ii) that party owns at least 51 percent of the joint venture.

A person who is not an economically disadvantaged individual or a disadvantaged business concern, as a party to a joint venture, may not be a party to more than 2 awarded contracts in a fiscal year solely by reason of this subparagraph.

(E) Nothing in this paragraph shall prohibit any member of a racial or ethnic group that is not listed in subparagraph (B)(i) from establishing that they have been impeded in establishing or developing a business concern as a result of racial ethnic discrimination.

The CHAIRMAN. The gentleman from New Jersey [Mr. ROE] will be recognized for 15 minutes.

Is there a Member in opposition to adoption of the amendment?

Mr. WALKER. Mr. Chairman, I claim the time on behalf of the minority.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, over the past two decades, the Clean Air Act has been amended several times, but the research and development provisions of the bill have remained essentially untouched. When one contemplates the overwhelming changes that have transpired during those 20 years, one is left wondering why such an essential part of the Clean Air Act has been virtually ignored.

Since passage of the original Clean Air Act, the nature of environmental air problems has changed dramatically. When we first set up an air pollution research program at EPA, we were mostly concerned with dirty, visible smokestack emissions.

Today, that problem has largely diminished. Instead, we are facing a new multitude of complex air pollution problems, such as air toxics, ozone and carbon monoxide nonattainment, acid rain, and global atmospheric changes.

Yet EPA's research mandate has not changed.

Mr. Chairman, when the Environmental Protection Agency was established in 1970, its single most important mandate was to approach the environment as a complex yet singular and interrelated whole. Research was envisioned as a critical part of that strategy.

Yet, where EPA's regulatory responsibilities have been increasing, the Agency's budget for environmental research has been shrinking. In real dollars the budget has decreased 20 percent in just the last 10 years. As a result EPA's emphasis on the basic research and development has suffered.

We can no longer accept the status quo when it comes to air pollution problems.

A research and development program driven by existing policy conserations will be incapable of anticipating the future.

Mr. Chairman, today I am offering an amendment which substantially incorporates H.R. 4197, the Clean Air Act research Amendments of 1990, which was reported by the Committee on Science, Space, and Technology unanimously on March 14, 1990.

The amendments reflects a number of changes developed with the Energy and Commerce Committee that recognize the need for EPA to coordinate its air pollution research activities with other Federal agencies, such as the Department of Energy, that have related research programs.

I would also like to take this opportunity to thank my colleagues on the Energy and Commerce Committee, particularly the chairman, Mr. DINGELL, and two subcommittee chairmen, Mr. WAXMAN and Mr. SHARP, for their support and cooperation in bringing this amendment to the floor.

I would also like to commend the chairman of the Science Subcommittee who was a major leader in the development of this bill, Mr. SCHEUER, as well as Ms. SCHNEIDER, the ranking republican member of that subcommittee, and Mr. WALKER, the ranking republican member of the full committee, for the bipartisan spirit in which they supported this amendment.

Mr. Chairman, the amendment reauthorizes sections 103 and 104 of the Clean Air Act, provisions which direct EPA to carry out a research, development, and demonstration program in support of the Clean Air Act.

This amendment represents the first major overhaul of the Clean Air Act's research provisions in over 20 years.

Under the existing Clean Air Act, EPA has broad authority to conduct research. In practice, however, most of EPA's research has been narrowly focused on efforts to support specific regulatory requirements, not on understanding the broad effects of air pollution.

The amendment I am offering today will reinvigorate EPA's long-term air pollution research while maintaining the technical support that is necessary to carry out regulatory responsibilities.

It will enable EPA to evaluate the control technologies that we are adopting today and generate tomorrow's solutions to complex air pollution problems.

The amendment will provide direction and emphasis on monitoring and modeling of pollutants, health and ecological effects, pollution prevention

and control technologies and alternative fuels.

Research directed in these areas will enhance EPA's ability to predict the need for future action.

Mr. Chairman, we have learned over the last 20 years that air pollution problems are complex and that easy answers are not readily forthcoming. We know that we face a daunting challenge to provide clean air for future generations of Americans. We also face daunting challenges to protect the Earth's atmosphere.

But this amendment is premised on the belief that without a sound scientific foundation, even our most well intentioned efforts to improve air quality are doomed to failure. The time has come to recognize that air pollution research is just as important in fighting air pollution as regulations.

Mr. Chairman, I urge my colleagues to support the Science Committee clean air research amendment as a the critical first step in rehabilitating our environmental research.

Mr. WALKER. Mr. Chairman, I yield 3 minutes to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Chairman, I rise in support of the Science Committee amendment offered by Mr. ROE. This noncontroversial amendment would update the research title of the Clean Air Act. Most of its provisions derive from H.R. 4197, the Scheuer-Smith Clean Air Act Research Amendments and H.R. 3816, acid rain research legislation I introduced last November.

This amendment calls for broad research and development efforts on air pollution and its health effects, as well as monitoring and control methods. It targets acid rain, and air toxics for continued monitoring, thereby giving us a way of evaluating the future effectiveness of the Clean Air Act in combatting these pollutants. It expands research on pollution prevention methods. It supports improvements in air pollution monitoring equipment.

The addition of our language to the clean air act amendments would strengthen the proposal significantly from an environmental standpoint. As you know, the existing research title of the Clean Air Act is 20 years old. Most of its provisions, which have not even been seriously overhauled since the mid-1960's, were developed when problems like acid rain, air toxics and global warming were little more than obscure scientific phenomena. These provisions need updating and refocusing in order to respond to today's environmental problems. Passage of this amendment would be an essential part of such an effort.

The amendment calls for the continued detection of damage from acid rain after the National Acid Precipitation Assessment Program [NAPAP] expires in 1990. Without passage of the Roe amendment, the Environmental Protection Agency will lack the statutory authority to continue this nationwide research on acid rain.

Finally, the amendment is considered noncontroversial and has drawn bipartisan support, especially from members of the House Science, Space, and Technology Committee. H.R. 4197, the bill from which this amendment derives, cleared the Science Committee in March by unanimous voice vote.

Mr. Chairman, It makes no sense to pass clean air legislation without continuing the research and monitoring on air pollution that will enable us to evaluate its future effectiveness. Support the Roe amendment.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE].

Twenty-five years ago, when the Clean Air Act first focused on the smokestacks that were belching black clouds of pollutants, we thought that the answer to pollution was dilution.

So we had the brilliant idea of building smokestacks 1,000, 1,200 feet high, in order to spread it around, to spread around the goodies. Indeed now we know that air currents carry these pollutants hundreds and sometimes thousands of miles. Canada is the beneficiary, the unhappy beneficiary of our largesse in this matter.

Two-thirds of Canada's acid rain comes from—courtesy of—the Ohio River basin and all those polluting smokestacks and stationary energy users in the Middle West.

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At that time the concept, a quarter of a century ago, of acid rain was little more than a theory. A number of scientists detected increased acidity or precipitation and associated it with the lakes in the Adirondacks, but we had very little information about that program. We had to develop a crash rescue program to begin to get the answers to these problems.

Twenty-five years ago the idea that we might be fundamentally changing our atmosphere was of concern only to an esoteric coterie of atmospheric scientists. Today the hole in the stratospheric ozone area over Antarctica is vivid proof of the problem. Again, we are launching a crash program to get the answers.

Mr. Chairman, we have lurched over the last decade or so from one environmental crisis to the next. Each day we seem to experience some new environmental surprise, and then we throw money at it in a desperate last-minute frantic attempt to do something about it. In part, this is a product of our failure to invest adequately in environmental research. We did not know about acid rain because we did not have a system of monitors that could have told Members about these trends and these effects. We did not know about lead because our health research was limited. We did not know about the stratospheric ozone layer, the hole in the stratosphere, because our computer models were not sophisticated enough and advanced enough to predict this awful phenomenon. In short, we did not have a scientific infrastructure in place to help Members understand better the problems of air pollution.

Mr. WALKER. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey. This amendment would establish a comprehensive set of research and development initiatives relating to air pollution monitoring and emissions inventories, pollution prevention, and the health effects of air pollution. It would also focus new research and development efforts on control measures, such as energy conservation, clean coal technologies, and other control systems.

Mr. Chairman, I know that some question arose that there may be some overlap of research responsibilities between DOE and EPA resulting from this amendment. I also understand that since this question arose, the amendment has been changed to require the EPA administrator to consult with other Federal agencies to insure coordination and to avoid duplication. Furthermore, Mr. Chairman, I understand that the authors of the amendment have committed to working with administration officials to assure that the respective agencies fulfill their proper roles in this research. Both agencies have significant ongoing research efforts and I am very pleased that the gentleman from New Jersey has expressed a willingness to build on these existing programs.

With this understanding in mind, I support the amendment.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, we have a historic opportunity before us today. We have allowed the air above cities, towns, farms, and even above our national parks and wilderness areas to become gray with air pollution. We must recognize that we have failed to a large extent in our stewardship of this planet.

But today we have a chance to reverse past mistakes and start on the

road to a cleaner, healthier environment. The Clean Air Act has not been revised since 1977. It is past time to face difficult problems squarely and stop postponing the decisions that are required to clean up the Earth and our atmosphere.

There has been much debate about the cost of this bill. Those who know my record are aware that I have consistently opposed legislation that would impose unnecessary costs and burdens on consumers or businesses.

Cleaning up the air will be costly. But the long-term costs of not cleaning up the air will be far greater.

To cite just one example, the Environmental Protection Agency has estimated that by reducing the amount of CFC's in the air it may be possible to achieve up to $41 billion in savings from increased agricultural yields.

Perhaps more important, cleaning up the air will have a profound effect on health costs. The EPA has also estimated that reducing CFC's would produce a significant reduction in the incidence of skin cancer and cataracts and the number of cancer deaths caused by increased ultraviolet radiation penetrating our weakened atmosphere.

To those who question whether we can afford this legislation, I say that we cannot afford not to clean up the atmosphere. We cannot afford the respiratory problems, the cancers, the birth defects, the damage to agricultural products, effects of air pollution on fish and wildlife populations and the natural environment. We cannot afford to let these problems continue.

The Roe amendment deserves support. This amendment will expand EPA research programs on air pollution and acid rain.

Someone is diagnosed with cancer every 30 seconds and someone dies of cancer every 60 seconds. This expanded EPA reseach program is essential if we are to conquer this and other health problems. We need to know more about the effects of air pollution on human health and our natural environment before we can take effective action. I urge my colleagues to support Mr. ROE's amendment.

Mr. Chairman, this is among the most important bills we will consider this year. I urge my colleagues to take this first step toward a safer and healthier planet.

Mr. WALKER. Mr. Chairman, I yield myself 3 minutes.

First of all, I rise in favor of the overall bill. A lot of people worked on this particular amendment, and I think we have a good research title to bring to the floor. I discussed it here during the general debate. I do not need to go into it in any detail, but I did want to give some credit to the ranking member of the Subcommittee on Natural Resources, Agricultural Research and Environment, the gentlewoman from Rhode Island [Ms. SCHNEIDER], for the work that she did on crafting this legislation, and the gentleman from New Hampshire [Mr. SMITH], who was also instrumental in helping Members develop language that is in this particular amendment. They worked particularly hard.

Now, we have had a situation up to the last minute that we will deal with here in a few moments, but I want to clarify just where we are. There will be an amendment offered to this title in a few minutes by the gentleman from California [Mr. DYMALLY], relating to disadvantage business. We have been trying to clear up some problems with that amendment, at least problems from my perspective, in the last few minutes. If I understand correctly, the gentleman has now agreed to include in his amendment, individuals who would be disadvantaged under the terms "Asian Americans, women, and disabled." Is that correct?

Mr. DYMALLY. Will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DYMALLY. That is correct.

Mr. WALKER. My suggestion was that you include those. I will tell the gentleman there are also some other things I find in the amendment that are somewhat troubling. For example, the historically black colleges and universities is defined, but having student bodies of 40 percent which are Hispanic, it seems to me we may also want to include women, Asian Americans, the disabled, and some of those in that group. Can I get a commitment out of the gentleman that we can clean up this particular amendment and try to make all of these things workable when we get into conference, and try to get the language which is closer to the language that we have traditionally had along those lines?

Mr. DYMALLY. If the gentleman will yield, I want to commit to the gentleman from Pennsylvania that I am indeed supportive of his effort. I thank the gentleman for his willingness to take this amendment at the last minute, and I do commit to working with the gentleman to clean up whatever questions he may have.

Mr. WALKER. Mr. Chairman, I thank the gentleman. That does, I think, clarify a situation, and we will work it out in terms of a dialog here in a moment that will, I think, help to make the situation better.

I do want to go on the RECORD as supporting the product of the Committee on Science, Space, and Technology. I think we have a very good bill on the floor. The gentleman from New Jersey [Mr. ROE] is to be congratulated for the committee work that went into crafting this particular piece of legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. ROE. Mr. Chairman, in view of the discussion by our distinguished colleague, the gentleman from Pennsylvania [Mr. WALKER], I ask unanimous consent that title X of the amendment under consideration be deleted from the amendment and made in order as a separate amendment to the Roe amendment, the separate amendment to be offered by the gentleman from California [Mr. DYMALLY].

The CHAIRMAN. The unanimous-consent request needs to be that title X of the amendment be a separate amendment to the bill. Under the rule, it cannot be a separate amendment to the Roe amendment.

Mr. ROE. That was the intent, but I see that the Chair's language is much clearer.

Mr. WALKER. Mr. Chairman, reserving the right to object, just to clarify where we are, as I understand the situation, we are going to take the Dymally amendment out of the overall committee amendment, as it was agreed to in the rule, and we are now going to have the Dymally amendment as a separate amendment to our title; is that correct?

The CHAIRMAN. The Chair understands that that is the unanimous-consent request.

The Chair would also observe in light of the fact that the Roe amendment would be subject to a division of the question on title X, if requested, and therefore to a separate vote, the unanimous-consent request can be entertained in Committee of the Whole since not altering the rule adopted by the House it is a proper unanimous-consent request.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The pending amendment is so modified by the deletion of title X. Title X under the unanimous-consent request will come up subsequent to the adoption of the first nine titles of the amendment, but there will be no debate on the Dymally amendment at that point in time.

The text of the amendment, as modified, is as follows:

Page 507, after line 12, insert the following new titles:

TITLE IX—CLEAN AIR RESEARCH

SEC. 901. CLEAN AIR RESEARCH.

(a) REFERENCES IN TEXT.—Unless otherwise specified, references in the text of this section to sections or other provisions are references to sections or other provisions of the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) RESEARCH AND DEVELOPMENT PROGRAM.—Section 103(b) is amended—

(1) in paragraph (6) by striking "and" after "control thereof;";

(2) in paragraph (7) by sriking the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) construct such facilities and employ staff as are necessary to carry out this Act.".

(c) AIR POLLUTANT MONITORING AND EMISSIONS INVENTORIES.—Section 103(c) is amended to read as follows:

"(c) AIR POLLUTANT MONITORING AND INVENTORIES.—In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants, including precursors of acid deposition. Such program shall include the following elements:

"(1) Consideration of individual, as well as complex mixtures of, air pollutants and their chemical transformations in the atmosphere.

"(2) Development of improved monitoring and modeling techniques to increase understanding of the sources of acid aerosols and the precursors of acid deposition.

"(3) Establishment of a national network to monitor, collect, and compile data with quantification of certainty in the status and trends of air emissions, deposition, air quality, surface water quality, forest condition, and visibility impairment, and to ensure the comparability of air quality data collected in different States and obtained from different nations.

"(4) Development of necessary instrumentation and quality assurance protocols for continuous monitoring of precursors of acid deposition.

"(5) The Administrator, in consultation with the Federal Coordinating Council for Science, Engineering, and Technology, shall oversee an experimental and analytical research effort, with the experimental research to be carried out at the Liquefied Gaseous Fuels Spill Test Facility. In consultation with scientists at Lawrence Livermore National Laboratories, the Administrator shall develop a list of chemicals and a schedule for field testing. Analysis of a minimum of 10 chemicals per year shall be carried out, with the selection of a minimum of one chemical for field testing each year. Highest priority shall be given to those chemicals that would present the greatest potential risk to human health as a result of an accidental release from a field site or related to the transport of such chemicals. The purpose of such research shall be to—

"(A) develop improved predictive models for atmospheric dispersion which at a minimum—

"(i) describe dense gas releases in complex terrain with variable winds;

"(ii) improve understanding of the effects of turbulence on dispersion patterns; and

"(iii) consider realistic behavior of aerosols by including physicochemical reactions with water vapor, ground deposition, and removal by water spray;

"(B) evaluate existing and future atmospheric dispersion models by—

"(i) the development of a rigorous, standardized methodology for dense gas models; and

"(ii) the application of such methodology to current dense gas dispersion models using data generated from field experiments; and

"(C) evaluate the effectiveness of hazard mitigation and emergency response technology for fixed site and transportation related accidental releases of toxic chemicals.

Models pertaining to accidental release shall be evaluated and improved periodically for their utility in planning and implementing evacuation procedures and other mitigative strategies designed to minimize human exposure to hazardous air pollutants released accidentally.

"(6) Development of improved monitoring and modeling techniques to increase understanding of the sources of ozone precursors, ozone formation, ozone transport, regional influences on urban ozone, regional ozone trends, and interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

"(A) improve the ability to inventory emissions of volatile organic compounds and nitrogen oxides that contribute to urban air pollution, including anthropogenic and natural sources;

"(B) improve the understanding of the mechanism through which anthropogenic and biogenic volatile organic compounds react to form ozone and other oxidants; and

"(C) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

"(7) Periodic reports to the Congress which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring and modeling data collected pursuant to this subsection.

"(8) Opportunities for participation by industry, public interest groups, scientists, and other interested parties on the development of air pollution models under this subsection.".

(d) HEALTH EFFECTS.—Section 103(d) is amended to read as follows:

"(d) HEALTH EFFECTS.—(1) The Administrator shall conduct a research program on the short- and long-term effects of air pollutants on human health, including the effects of acid deposition and acid aerosols. In conducting such research program the Administrator—

"(A) shall conduct studies, including epidemiological, clinical, and laboratory studies, as necessary to identify and evaluate effects of air pollutants on human health;

"(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

"(C) shall consult with other appropriate Federal agencies to ensure that similar research being conducted in other agencies is coordinated and is not duplicative.

"(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof. Such research program shall include the following elements:

"(A) The creation of an Interagency Task Force to coordinate such program. The Task Force shall include representatives of the National Institute for Environmental Health Sciences, the Environmental Protection Agency, the Agency for Toxic Substances and Disease Registry, the National Toxicology Program, the National Institute of Standards and Technology, the National Science Foundation, and the Department of Energy. This Interagency Task Force shall be chaired by a representative of the Environmental Protection Agency and shall convene its first meeting within 60 days after the date of enactment of this subparagraph.

"(B) An evaluation, within 12 months after the date of enactment of this paragraph, of each of the hazardous air pollutants listed under section 112(b) of this Act, to decide, on the basis of available information, their relative priority for preparation of environmental health assessments pursuant to subparagraph (C). The evaluation shall be based on reasonably anticipated toxicity to humans and exposure factors such as frequency of occurrence as an air pollutant and volume of emissions in populated areas. Such evaluation shall be reviewed by the Interagency Task Force established pursuant to subparagraph (A).

"(C) Preparation of environmental health assessments for each of the hazardous air pollutants referred to in subparagraph (B), beginning 6 months after the first meeting of the Interagency Task Force and to be completed within 60 months thereafter. No fewer than 38 assessments shall be published annually. The assessments shall be prepared in accordance with guidelines developed by the Administrator in consultation with the Interagency Task Force and the Science Advisory Board of the Environmental Protection Agency. Each such assessment shall include—

"(i) an examination, summary, and evaluation of available toxicological and epidemiological information for the pollutant to ascertain the levels of human exposure which pose a significant threat to human health and the associated acute, subacute, and chronic adverse health effects;

"(ii) a determination of gaps in available information related to human health effects and exposure levels; and

"(iii) where appropriate, an identification of additional activities, including toxicological testing, needed to identify the types or levels of exposure which may present significant risk of adverse health effects in humans.".

(e) ECOSYSTEM STUDIES.—Section 103(f) is amended to read as follows:

"(f) ECOSYSTEM STUDIES.—In carrying out subsection (a), the Administrator shall conduct a research program to improve understanding of the causes, effects, and trends of ecosystems damage from air pollutants, including acid deposition. Such program shall include the following elements:

"(1) Identification of regionally representative and critical ecosystems for research.

"(2) Evaluation of risks to ecosystems exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of those effects.

"(3) Development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses assocated with air pollution

"(4) Evaluation of the effects of air pollution on water quality, including assessments of the short-and long-term ecological effects of acid deposition and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and groundwater.

"(5) Evaluation of the effects of air pollution, including acid deposition, on forests, materials, crops, and other terrestrial and aquatic systems exposed to air pollutants.

"(6) Estimation of the ecological damages and their associated costs which have occurred as a result of exposure to air pollutants.".

(f) POLLUTION PREVENTION AND EMISSIONS CONTROL; COORDINATION OF RESEARCH; AND ACID DEPOSITION RESPONSE.—Section 103 is amended by inserting after subsection (f), the following:

"(g) POLLUTION PREVENTION AND EMISSIONS CONTROL.—In carring out subsection (a), the Administrator shall conduct a basic

engineering research and technology program to develop, evaluate, and demonstrate stretegies and technologies for air pollution prevention, including the prevention of acid deposition. Such strategies and technologies shall be developed especially for those pollutants which pose a signficant risk to human health and the environment, and may include nontechnological strategies for pollution prevention. Such program shall include the following elements:

"(1) Improvements in strategies and technologies for simultaneously reducing multiple air pollutants from fossil fuel power plants and other combustion facilities including sulfur oxides, nitrogen oxides, heavy metals, PM-10 (particulate matter), carbon monoxide and carbon dioxide. Such strategies and technologies shall include—

"(A) improvements in the relative cost-effectiveness and long range implications of various air pollutant reduction and control strategies such as flue gas desulfurization, clean coal technologies (including retrofit control technologies for sulfur oxides and nitrogen oxides such as in-duct injection, LIMB, and spray-dry scrubbing processes), energy conservation including end-use efficiency, and fuel-switching to cleaner fuels such as natural gas; and

"(B) improvements in methods for training personnel employed by fossil fuel power plants and other combustion facilities.

"(2) Improvements in air pollution prevention strategies and technologies, especially those which simultaneously prevent multiple air pollutant emissions, for stationary sources other than fossil fuel power plants. Such strategies and technologies shall be considered for existing and new facilities, and shall to the extent possible be considered as part of the design process for new facilities.

"(3) Improvements in strategies and technologies for preventing air emissions from mobile sources, including development of, and evaluation of the relative cost effectiveness of, methods for reducing emissions of carbon dioxide from mobile sources.

"(4) Improvements in strategies and technologies for preventing air emissions from nonpoint pollution sources.

"(5) Improvements in strategies and technologies for preventing, detecting, and correcting accidental releases of hazardous air pollutants.

"(6) An analysis of the relative costs and benefits of tire disposal methods, including a comparison of waste-to-energy methods to alternatives such as asphalt-rubber and polymer treatment of ground rubber, and the promotion of improvements in strategies and technologies that dispose of tires in ways that avoid adverse air quality impacts. Nothing in this subsection shall be construed to authorize the imposition on any person of air pollution control requirements. The Administrator shall consult with other appropriate Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.

"(h) COORDINATION OF RESEARCH.—The Administrator shall develop and implement a plan for identifying areas in which activities authorized under subsections (c), (d), (f), and (g) can be carried out in conjunction with other Federal ecological and air pollution research efforts. The plan, which shall be submitted to Congress within 6 months after the date of enactment of this subsection, shall include—

"(1) an assessment of ambient monitoring stations and networks to determine cost effective ways to expand monitoring capabilities in both urban and rural environments, including monitoring of air pollutants and other airborne chemicals of concern;

"(2) a consideration of the extent of the feasibility and scientific value of conducting the research program under subsection (e) to include consideration of the effects of atmospheric processes and air pollution effects; and

"(3) a methodology for evaluating and ranking pollution prevention technologies, such as those developed under subsection (f), in terms of their ability to reduce cost effectively the emissions of air pollutants and other airborne chemicals of concern.

Not later than 2 years after the date of enactment of this subsection, and every 2 years thereafter, the Administrator shall report to Congress on the progress made in implementing the plan developed under this subsection, and shall include in such report any revisions of the plan.

"(i) DEPOSITION RESPONSE ACTION.—(1) The President shall submit to the Congress, within 6 months after the date of enactment of this subsection, a plan describing activities and assigning responsibilities for Federal research on acid deposition, and including coordination of the activities of the Administrator under this subsection.

"(2) The President shall develop, and submit to the Congress within 1 year after the date of enactment of this subsection, an assessment framework for reporting complicated technical information about acid deposition in a manner useful to policymakers and the public to assist in formulating a response. Such framework should include guidelines for the reporting of—

"(A) actual and projected annual emissions trends;

"(B) actual and projected acid deposition trends;

"(C) effects of such deposition, including changes in the chemistry of surface water quality and forest conditions related to acid deposition;

"(D) average ambient concentrations of acid deposition precursors and their transformation products;

"(E) descriptions of the confidence level associated with each conclusion to aid policymakers in using the information.

"(3) The President shall provide Congress with a report that delineates research activities and results in accordance with the framework provided for in paragraph (2), two years after the date of enactment of this subsection, with updates biennially thereafter.

"(4) On the basis of the information provided in the updated assessments, the President shall report to Congress on the reduction in deposition rates that must be achieved in order to prevent adverse ecological effects.".

(g) MISCELLANEOUS.—(1) Section 104 is amended by striking "low-cost" each place it appears and inserting in lieu thereof "cost-effective".

(2) Section 104(c) is amended to read as follows:

"(c) CLEAN ALTERNATIVE FUELS.—The Administrator shall conduct a research program to identify, characterized, and predict air emissions and other potential environmental effects related to the production, distribution, storage, and use of clean alternative fuels to determine the risks and benefits to human health and the environment relative to those from using gasoline and diesel fuels. The Administrator shall consult with other appropriated Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.".

(h) ASSESSMENT OF INTERNATIONAL AIR POLLUTION CONTROL TECHNOLOGIES.—The Administrator of the Environmental Protection Agency shall conduct a study that compares international air pollution control technologies of selected industrialized countries to determine if there exist air pollution control technologies in countries outside the United States that may have beneficial applications to this Nation's air pollution control efforts. With respect to each country studied, the study shall include the topics of urban air quality, motor vehicle emissions, toxic air emissions, and acid deposition. The Administrator shall, within 2 years after the date of enactment of this Act, submit to the Congress a report detailing the results of such study.

(i) ADIRONDACK DESTRUCTION ASSESSMENT.—The Administrator of the Environment Protection Agency shall establish a program to research the effects of acid deposition on waters where acid deposition has been most acute. The Administrator shall enter into a multi-year contract for such purposes with an independent university which has a year-round field analytical laboratory on a body of water of not less than 25,000 acres nor greater than 75,000 acres, which lies within a geographic region designated as a Biosphere Reserve by the Department of State. The facility must have demonstrated the capability to analyze relevant data on said body of water over a period of 20 years as well as extensive ecosystem modeling capabilities. There is authorized to be appropriated to carry out this subsection not less than $6,000,000.

□ 1300

PARLIAMENTARY INQUIRIES

Mr. ROE. Mr. Chairman, I have a parliamentary inquiry.

I would like to yield 3 minutes to the distinguished gentleman from California [Mr. DYMALLY]. Is that proper at this point?

The CHAIRMAN. Absolutely.

Mr. ROE. That time would be yielded to the gentleman to speak on behalf of the amendment.

The CHAIRMAN. Yes.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, first I have a parliamentary inquiry. Is it appropriate for me to offer the amendment now?

The CHAIRMAN. No. We will have to vote on the Roe amendment first. The Roe amendment will be disposed of, and then under the unanimous-consent request, the Dymally amendment will be the pending order of business.

Mr. DYMALLY. I thank the Chair.

Mr. Chairman, I want to thank the gentleman from New Jersey [Mr. ROE] for his commitment to this concept of providing opportunities for minorities, for women and the disabled, to get an opportunity to participate in the research for this very significant issue before us today.

I also want to thank the gentleman from Pennsylvania [Mr. WALKER] for accommodating me in presenting this amendment at the last minute, and I do make the commitment to him that we will work between now and the time of the conference committee in an effort to work on any differences he may have and to bring about a consensus amendment. I thank the gentleman from New Jersey and the gentleman from Pennsylvania for giving me this opportunity to speak on the measure and a subsequent opportunity to present the amendment.

Mr. WALKER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Rhode Island [Ms. SCHNEIDER].

Ms. SCHNEIDER. Mr. Chairman, as the ranking Republican on the Subcommittee on Natural Resources, Agriculture Research and Environment, I want to state my strong support for the amendment by Chairman ROBERT ROE on behalf of the Science, Space, and Technology Committee. This amendment is based on a bill, H.R. 4197, passed unanimously by our committee.

The proposed amendment by the committee would revise the old research section of the Clean Air Act, giving greater emphasis to expanded monitoring, ongoing effects research, and pollution prevention. This is a balanced amendment that has the support of environmentalists, researchers, States, and industry.

It has been 13 years since Congress last reauthorized the Clean Air Act. One of the reasons it has taken so long to move this legislation is because of the scientific uncertainty surrounding the debate. The passage of this amendment will help ensure that we will never again need to take so long to respond to air pollution problems because of a lack of information.

In addition, great concerns have been expressed about the potential expenses of the new Clean Air Act. Approving the Science Committee amendment could help to reduce those costs by promoting the development of more cost-effective control technologies, especially by giving greater emphasis to pollution prevention strategies.

I believe that accepting this amendment and passing the Clean Air Act will bring long-awaited benefits to the Nation as a whole. However, I would like to take a moment to note a few issues of particular importance to New England States, such as my home State of Rhode Island, that are addressed in this amendment.

First, many New England States have cities that suffer from unacceptably high levels of ozone or smog despite having enacted strict ozone attainment plans approved by EPA.

In many cases, these plans failed because they were based on EPA models that failed to take into account the transport of ozone from other States.

This amendment would help to correct the errors in these models and therefore greatly assist pollution control planning.

In addition the amendment recommends funding for the critically important northeast Regional Planning Commission that can take an interstate approach to this pollution problem.

Second, the amendment would put into place an acid rain monitoring network following enactment of this bill so that we can determine the effectiveness of this control program as it is put into place.

This provision is based on a bill that I support, H.R. 3816, introduced by BOB SMITH of New Hampshire, and he is to be commended for his hard work and leadership.

Acid rain has damaged lakes, forests, and even coastal areas throughout New England; it is time to adopt policies that we can be sure are working.

Finally, dealing with used tires is a growing problem for State and local officials.

Already there are estimated to be between 2.5 and 3 billion tires in stockpiles around the United States, with another 280 million tires being discarded annually. Over 30 million tires are stored in Rhode Island alone.

Yet, tire disposal methods are limited. Land disposal is undesirable because of space constraints, threats to public health and from disease bearing mosquitoes, and fire hazards. The siting of incinerators raised questions about air emissions and other environmental concerns.

That is why I am very glad that a provision of mine has been included in this amendment that will develop and promote alternatives to tire incineration that avoid pollution.

The proposed Clean Air Act reauthorization is hundreds of pages long and will result in thousands of regulatory actions. If Congress is going to enact such a complex piece of legislation, the least we can do is provide the necessary research so that industry and policymakers can have the best available information for its implementation.

The intention of the Science Committee amendment is to guarantee that this information is available. I want to applaud the work of the leadership of this committee, especially Chairman ROBERT ROE, ranking minority member ROBERT WALKER, and subcommittee Chairman JAMES SCHEUER. They have all contributed to a valuable and forward-looking proposal, and are to be congratulated for their efforts.

I urge my colleagues to support it.

Mr. ROE. Mr. Chairman, I reserve the balance of my time.

Mr. WALKER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, too often this body and this Government is accused of using studies to cover up problems or delay making a decision on important issues. There has even been a phrase invented for this procedure, paralysis by analysis.

However, that is not the case with this legislation. We must have the scientific tools to make important decisions impacting our environmental future.

This legislation before the House regulates not only the quality of air that we breathe but that of our children and grandchildren.

In short, it takes action.

At the same time, this amendment will ensure that these regulations will be scientifically sound and that any future changes will be based on research, not on the whim of politics.

My own State of Florida, which increase population at the rate of approximately 5,000 per week, has a growing air-pollution problem. In the past, we have seen attempts to clean the air through inadequate measuring and monitoring.

This amendment directs EPA to conduct research on understanding causes and effects and trends of damages to allow us to take the appropriate action, rather than guessing at solutions and hoping for benefits.

I thank and congratulate Chairman ROE and ranking member WALKER for their leadership in bringing this important amendment before the House, and commend subcommittee Chairman SCHEUER and ranking member SCHNEIDER for their hard work in preparing this wise amendment.

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. First, Mr. Chairman, I would like to engage the chairman of the Science, Space, and Technology Committee, Mr. ROE of New Jersey, in a colloquy.

Mr. ROE. Yes. I will respond, if the gentleman will yield.

Mr. NIELSON of Utah. First, Mr. Chairman, I would like to congratulate you as chairman of the committee and also the ranking member, the gentleman from Pennsylvania [Mr. WALKER], for this fine amendment. I would like to congratulate the gentleman from New Hampshire [Mr. SMITH] for the acid deposition response action part of this amendment. And that relates to my question.

On page 13 of this amendment, it mentions that we are going to develop data for actual and projected acid deposition trends. Among other things, it says this:

On the basis of the information provided in the updated assessments, the President

shall report to Congress on the reduction in deposition rates that must be achieved in order to prevent adverse ecological effects.

Does the gentleman believe that is broad enough to include an analysis of the NAPAP data which will be available next February?

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. NIELSON of Utah. I yield to the gentleman from New Jersey.

Mr. ROE. Yes, we have thoroughly revealed the gentleman's concern on this issue, and we interpret the language exactly as he does, that it does accommodate the gentleman's request.

Mr. NIELSON of Utah. I thank the gentleman. As I stated earlier, I believe we have had more reduction in sulfur dioxide than the Department of Energy has given us credit for and I believe that difference could relax the requirements on middle America and perhaps allow for more growth; is that also true?

The CHAIRMAN. The time of the gentleman from Utah [Mr. NIELSON] has expired.

Mr. ROE. Mr. Chairman, I yield 1 additional minute to the gentleman from Utah [Mr. NIELSON].

Mr. Chairman, let me state that I am not sure I can give the gentleman that answer, but I would say the basic fundamental premise he is working on is covered. But where that will lead to, I am not sure.

Mr. NIELSON of Utah. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] has 2½ minutes remaining, and the gentleman from New Jersey [Mr. ROE] has 3½ minutes remaining.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, as I understand it, the Dymally amendment has to come out of our time yet. Is the gentleman going to yield time for that purpose?

The CHAIRMAN. No. The Chair would advise the gentleman from Pennsylvania that the gentleman from California [Mr. DYMALLY] has spoken on his amendment.

Mr. WALKER. With that, Mr. Chairman, having no further requests for time, I yield back the balance of my time.

Mr. ROE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from New Jersey [Mr. ROE].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Chairman, I offer an amendment.

Mr. CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY:

On page 507, after line 12, insert the following:

TITLE X—DISADVANTAGED BUSINESS CONCERNS

SEC. 1001. DISADVANTAGED BUSINESS CONCERNS.

(a) IN GENERAL.—In providing for any research relating to the requirements of the amendments made by the Clean Air Act Amendments of 1990 which uses funds of the Environmental Protection Agency, the Administrator of the Environmental Protection Agency shall require that each contract which is to be entered into for such research provides that not less than 10 percent of such research will be conducted by a disadvantaged business concern.

(b) DEFINITION.—

(1)(A) For purposes of subsection (a), the term "disadvantaged business concern" means a concern—

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly traded company, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) the management and daily business operations of which are controlled by such individuals.

(B)(i) A for-profit business concern is presumed to be a disadvantaged business concern for purposes of subsection (a) if it is at least 51 percent owned by, or in the case of a concern which is a publicly traded company at least 51 percent of the stock of the company is owned by, one or more individuals who are members of the following groups:

(I) Black Americans.

(II) Hispanic Americans.

(III) Native Americans.

(ii) The presumption established by clause (i) may be rebutted with respect to a particular business concern if it is reasonably established that the individual or individuals referred to in that clause with respect to that business concern are not experiencing impediments to establishing or developing such concern as a result of the individual's identification as a member of a group specified in that clause.

(C) The following institutions are presumed to be disadvantaged business concerns for purposes of subsection (a):

(i) Historically Black colleges and universities, and colleges and universities having a student body in which 40 percent of the students are Hispanic.

(ii) Minority institutions (as that term is defined by the Secretary of Education pursuant to the General Education Provision Act (20 U.S.C. 1221 et seq.)).

(iii) Private and voluntary organizations controlled by individuals who are socially and economically disadvantaged.

(D) A joint venture may be considered to be a disadvantaged business concern under subsection (a), notwithstanding the size of such joint venture, if—

(i) a party to the joint venture is a disadvantaged business concern; and

(ii) that party owns at least 51 percent of the joint venture.

A person who is not an economically disadvantaged individual or a disadvantaged business concern, as a party to a joint venture, may not be a party to more than 2 awarded contracts in a fiscal year solely by reason of this subparagraph.

(E) Nothing in this paragraph shall prohibit any member of a racial or ethnic group that is not listed in subparagraph (B)(i) from establishing that they have been impeded in establishing or developing a business concern as a result of racial ethnic discrimination.

Mr. DYMALLY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROE. Mr. Chairman, reserving the right to object, we have received this amendment on this side, and we have no objection to it.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Chairman, reserving the right to object, I, too, have no objection to the consideration of this amendment. As we specified before, we will seek some modifications of it in order to bring it in line with present civil rights laws, but that can be done in conference.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

MODIFICATION OF AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Chairman, I ask unanimous consent to modify the amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. DYMALLY:

In section 1001(b)(1)(B)(i) of the Dymally amendment add:

"IV Asian.

"V Women.

"VI Disabled."

After "III Native Americans." And add a new section 1002 (at the end of the amendment) as follows:

"SEC. 1002. USE OF QUOTAS PROHIBITED.—Nothing in this title shall permit or require the use of quotas or a requirement that has the effect of a quota in determining eligibility under section 1001.".

The CHAIRMAN. Is there objection to the request of the gentleman from California that the amendment be modified?

Mr. WALKER. Mr. Chairman, reserving the right to object, did the amendment at the desk include the antiquota language originally?

Mr. DYMALLY. Mr. Chairman, if the gentleman will yield, the answer is yes.

Mr. WALKER. So that does not take a modification?

Mr. DYMALLY. It is the last page.

The CHAIRMAN. The response is, yes.

Mr. WALKER. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the modification is accepted.

There was no objection.

The text of the amendment, as modified, is as follows:

On page 507, after line 12, insert the following:

TITLE X—DISADVANTAGED BUSINESS CONCERNS

SEC. 1001. DISADVANTAGED BUSINESS CONCERNS.

(a) IN GENERAL.—In providing for any research relating to the requirements of the amendments made by the Clean Air Act Amendments of 1990 which uses funds of the Environmental Protection Agency, the Administrator of the Environmental Protection Agency shall require that each contract which is to be entered into for such research provides that not less than 10 percent of such research will be conducted by a disadvantaged business concern.

(b) DEFINITION.—

(1)(A) For purposes of subsection (a), the term "disadvantaged business concern" means a concern—

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly traded company, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) the management and daily business operations of which are controlled by such individuals.

(B)(i) A for-profit business concern is presumed to be a disadvantaged business concern for purposes of subsection (a) if it is at least 51 percent owned by, or in the case of a concern which is a publicly traded company at least 51 percent of the stock of the company is owned by, one or more individuals who are members of the following groups:

(I) Black Americans.

(II) Hispanic Americans.

(III) Native Americans.

(IV) Asian.

(V) Women.

(VI) Disabled.

(ii) The presumption established by clause (i) may be rebutted with respect to a particular business concern if it is reasonably established that the individual or individuals referred to in that clause with respect to that business concern are not experiencing impediments to establishing or developing such concern as a result of the individual's identification as a member of a group specified in the clause.

(C) The following institutions are presumed to be disadvantaged business concerns for purposes of subsection (a):

(i) Historically Black colleges and universities, and colleges and universities having a student body in which 40 percent of the students are Hispanic.

(ii) Minority institutions (as that term is defined by the Secretary of Education pursuant to the General Education Provision Act (20 U.S.C. 1221 *et seq.*)).

(iii) Private and voluntary organizations controlled by individuals who are socially and economically disadvantaged.

(D) A joint venture may be considered to be a disadvantaged business concern under subsection (a), notwithstanding the size of such joint venture, if—

(i) a party to the joint venture is a disadvantaged business concern; and

(ii) that party owns at least 51 percent of the joint venture.

A person who is not an economically disadvantaged individual or a disadvantaged business concern, as a party to a joint venture, may not be a party to more than 2 awarded contracts in a fiscal year solely by reason of this subparagraph.

(E) Nothing in this paragraph shall prohibit any member of a racial or ethnic group that is not listed in subparagraph (B)(i) from establishing that they have been impeded in establishing or developing a business concern as a result of racial ethnic discrimination.

SEC. 1002. USE OF QUOTAS PROHIBITED.—Nothing in this title shall permit or require the use of quotas or a requirement that has the effect of a quota in determining eligibility under Section 1001.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from California [Mr. DYMALLY].

The amendment, as modified, was agreed to.

□ 1310

AMENDMENTS EN BLOC OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN. The clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. ROSTENKOWSKI: Page 64, beginning on line 7, strike "the fee provisions under section 185 shall apply within the area,".

Page 64, line 11, strike out the comma after "area".

Page 119, beginning on line 6, strike "or reasonable fees, charges, and other economic incentives (including" and insert "or economic incentives (which shall not include any fee or charge but which may include".

Page 119, strike lines 11 and 12 and insert the following:

"(6) COLLECTIONS.—Amounts collected by the Administrator.

Page 119, line 18, strike "such fees, charges, or collections" and insert "such collections".

Page 129, strike line 5 and all that follows through line 8 on page 132, redesignate the following sections accordingly and make the necessary conforming changes in the table of contents on page 59.

Page 171, beginning on line 14, strike ", such as fees, marketable permits," and insert "which shall not include any fee or charge but which may include marketable permits".

Page 325, strike line 5 and all that follows through line 8 on page 326.

The CHAIRMAN pro tempore. (Mr. HEFNER). Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Indiana [Mr. SHARP] will be recognized in opposition for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I ask unanimous consent to yield 15 minutes of my time to the gentleman from Texas [Mr. ARCHER].

The CHAIRMAN pro tempore. Is there objection to the request of the gentlemen from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the amendments of the Committee on Ways and Means which would delete from H.R. 3030 certain fees which are, in reality, taxes.

Never in my 31 years of service in this body have I seen a bill that so blatantly disregards the prerogatives of the House of Representatives as H.R. 3030 does. Never have I seen the officers of this House, whose duty it is to protect our constitutional prerogatives, walk away from that fundamental responsibility.

Much more is at stake today than just a jurisdictional dispute between two House committees. Nothing less is at stake than the constitutional prerogative of the House of Representatives to originate revenue legislation. For 200 years, that constitutional prerogative has been jealously guarded by the House and reluctantly respected by the Senate.

If, however, the clean air bill is passed in its current form, the House of Representatives and its officers will present the other body an open invitation to originate revenue legislation in the future under the guise of "fees."

I fully concede that the definitional issue of what is a fee and what is a tax is very difficult to resolve. But much more than a simple definitional issue or jurisdictional issue is involved. Beyond our constitutional authority to originate revenue legislation, the particular "fees" contained in the clean air bill would delegate to the executive branch the taxing authority of the U.S. Congress. All the more reason to support Ways and Means Committee amendments.

I am particularly offended by the procedure surrounding the reporting of the clean air bill. The Energy and Commerce Committee approved the clean air bill on April 5. The bill was not officially reported, however, until May 17—a full 6 weeks later. The bill was then referred sequentially to the Committee on Ways and Means and the Committee on Public Works and Transportation for only 2 days. A 2-day sequential referral of an important bill of this magnitude is patently unfair.

What is particularly offensive to me is the fact that the other body itself, appears to have a higher regard and deeper respect for constitutional prerogatives of the House of Representatives than our own officers. During

the Senate's consideration of the clean air bill, "fees" very similar to those contained in the House bill were struck on the Senate floor. The chairman of the Senate Finance Committee gave assurances that his committee would consider raising revenues to fund the enforcement of the clean air bill in an appropriate revenue vehicle later this year. Based on those assurances, the proposed "fees" were struck.

It is the height of irony that the full U.S. Senate respected the House's constitutional prerogative more than the officers of this House. If these "fees" are determined by our own officers and by this House as not being "revenue measures," we will see a flood of such "fees" originated by the Senate in the future, with our action today on these amendments and on the clean air bill cited as a precedent.

And one other thing, if you do not act to support the Ways and Means Committee amendments and remove these fees, those of you who do not want President Bush to change his "no new taxes" stand, will not have to wait for a budget summit agreement. You will have voted for taxes by another name right here.

I want to be absolutely clear in my position. As far as this chairman is concerned, if these amendments are not adopted and the bill is passed in its current form, the issue of what is a "tax" and what is a "fee" will have been decided. I will no longer try to protect the prerogatives of the House singlehandedly. If the House and its officers have so little regard and concern for our constitutional prerogatives under the origination clause, I will not ever object again to the Senate's origination of such "fees" in the future. The other body will be able to originate such "fees" with impunity, and 200 years of constitutional prerogative and pride of the House of Representatives will go out the window. But if that's what the House wants—if that's what its officers want—so be it. But count me out—I won't be party to it.

I urge a "yes" vote on the Ways and Means Committee amendments.

The CHAIRMAN pro tempore. Without objection, the gentleman from California [Mr. WAXMAN] will control the 30 minutes in opposition to the amendment, and the gentleman from California is recognized.

There was no objection.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I thank the gentleman from California [Mr. WAXMAN] for yielding this time to me.

Mr. Chairman, I simply oppose the amendment because it will strip from the bill extremely important provisions to see to it that we have the regulation paid for. We have in here a number of provisions that relate to cost of regulation, which historically has been done on several pieces of legislation to see to it that the regulatory apparatus is paid for. Several of the fees in question are clearly user fees because of the necessary costs involved in this legislation, and third, of course, a number of them are penalties designed to get compliance, which historically again is something that has appeared in many pieces of legislation.

So, the issues between the House and the Senate on this question I think do not come to bear on this particular amendment in the way in which it is being presented. Whether they come to bear as a result of a vote yes is simply to take out of the bill extremely important provisions that get compliance, without which we really might as well not waste our time trying to clean up the air.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support for the amendment offered by the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means. If we pass H.R. 3030 with its revenue provisions called euphemistically user fees, we will be setting a dangerous precedent in regard to the constitutional prerogatives of the House of Representatives to initiate revenue measures.

Mr. Chairman, the Committee on Ways and Means amendment strikes revenue provisions of the bill which are disguised as fees. For example, H.R. 3030 requires major stationary sources of volatile organic compounds to pay a $5,000 fee if they are located in an area which fails to meet certain ozone attainment standards even though the particular company is not in violation of any rule or regulation.

In addition, Mr. Chairman, one of these so-called fees empowers the EPA to levy without limitation as a quote, disincentive any fee that they decide is appropriate. This is not a penalty imposed for violating standards. This is not a user fee. This is simply a method to raise revenue making an end run around the legislative branch and permitting the executive branch to levy taxes and revenue raising requirements at its own discretion.

□ 1320

It is purely a revenue provision. The Ways and Means Committee amendment preserves the constitutional prerogative of the House to originate revenue legislation. If this House rejects the Ways and Means Committee amendment, we will be saying that the so-called fees are not revenue measures and you can be certain that the Senate will take notice and will act accordingly in time to come. They will simply point to our own precedent.

The Ways and Means Committee amendment does not in any way weaken the bill. The Senate struck similar fees from their bill with the concurrence of all parties involved.

Mr. Chairman, I must say that the administration in testimony before our committee is opposed to the type of fee that I just described that is in this bill.

The Senate action plainly shows that these so-called fees are not necessary to have a strong clean air bill. The fees levied by the States are adequate.

There was a recognition on the part of the Senate that these were revenue measures when they struck them out of their bill.

The Ways and Means Committee amendment also avoids a constitutional challenge of the bill. The fees may be an unconstitutional delegation to the executive branch of the taxing authority of the Congress.

Actually, the Ways and Means Committee amendment strengthens H.R. 3030 by reducing the possibility that it will be attacked as unconstitutional.

It is regrettable that today we are in the position of having the House vote whether to protect its constitutional prerogatives or not, but it is an opportunity for the House to rid this bill of areas that were even unknown to members of the Committee on Energy and Commerce until just this morning, to rid it of enormous potential levies of revenue-raising characteristics from our society at large.

Mr. Chairman, I urge adoption of the amendment.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I am happy to yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I commend the gentleman for his typically clear thinking and concise statement and rise in support of the amendment.

I believe, as the gentleman has implied, that we can clean up the environment without dirtying up the Constitution.

"Read my lips, no bureaucratic taxation without representation."

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding me this time.

I just wanted to say in response to something my colleague, the gentleman from Texas [Mr. ARCHER] said earlier, he said the administration is opposed to the type of fee that is included in this bill. I think that is a direct quote.

I would just like to point out to my colleague and to all others here that the fees and the penalties and the sanctions that are in this bill were in this bill when it came to the House from the White House. They were in the original H.R. 3030, so that when

the Committee on Energy and Commerce took this bill up, as I recall, we did not change any of these fees or this fee structure one iota.

Perhaps it is unfortunate that when the bill came and was referred, there was not some provision in there for referral to the Committee on Ways and Means, but the provisions that are under dispute in H.R. 3030 were carefully crafted in the original Bush bill to be either user fees to support the cost of the permitting program, or sanctions, such as the $5,000 per ton sanction for sources in the worst nonattainment areas that fail to attain the ozone standard.

They are not—and I repeat—not revenue enhancing provisions. H.R. 3030 allows the EPA to use reasonable fees, charges, and other economic incentives, including marketable permits and auctions of admission rights as a means to reduce emissions from these many different products. These fees will allow the EPA to maximize the use of market-based principles and minimize the cost of regulations.

These fees also have the advantage of increasing private sector innovation in reducing emissions and of minimizing Government micromanagement. Despite these potential benefits, the Ways and Means Committee amendment would eliminate the use of fees to control emissions from these products and this could in fact seriously cripple the workability of the Clean Air Act which we are now deliberating.

I would just like to respond to one other point, when someone here said this amendment or this bill would dirty up the Constitution, and after all, the Senate had stricken these fees from the Bush bill. If the fees are permitted to stand in the House bill, the Constitution is satisfied, because whether it is a tax or a fee, and we would challenge that it is a tax, we say it is a fee; but even if you are right and it is a tax, it would in effect be originating in H.R. 3030 in the House, so the Constitution is satisfied.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. LENT. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, I would like to make two points. No. 1: The gentleman extensively mentioned support from the administration. The administration came to our committee and testified that they prefer the Ways and Means version, rather than the Energy and Commerce version. So the administration is on the side of the amendment offered now by the Committee on Ways and Means. That's No. 1.

No. 2: If charges that are in fact taxes are deemed to be merely fees by this House, then what is to stop the Senate from beginning to originate bills that have fees in them that we used to call revenues?

The gentleman from New York [Mr. LENT] is right when he says that it is the House which is initiating the charges this time, but the precedent will then be set that these kinds of charges do not fall under the revenue origination clause of the Constitution. Then the Senate will be absolutely free to begin to originate these types of charges into Senate bills in the future.

Mr. LENT. Mr. Chairman, the only thing I can say to the gentleman is that we made some inquiries of the White House. They say they are opposed and want Members to vote against the Rostenkowski amendment.

When the bill came to us, it had this language in it.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. LENT. I am happy to yield to my colleague, the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I thank the gentleman for yielding to me. I know the gentleman is in good faith.

I was just back in the Cloakroom having a discussion with the White House. They are sending up a notice to confirm what they testified to before the Committee on Ways and Means, that they want these fees knocked out and that they support the Ways and Means Committee amendment. That is the current position of the White House as of the last 15 seconds.

It is a matter of record when they testified before our committee on these euphemistically called fees, which are nothing but tax increases, that they were opposed to them. They participated in knocking them out in the Senate.

For those who care about the position of the administration, they are in favor of the Ways and Means Committee amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, I rise in support of the chairman of my committee, the gentleman from Illinois.

I want to make two or three points. This is not a fight between committees. We are attempting to say that the House of Representatives is trying to preserve the constitutional prerogative that we originate revenue measures. That is the entire fight as far as the Constitution is concerned.

Second, of all, I want you to remember now that we are delegating by these so-called fees and revenues, we are delegating to an executive branch, the EPA, the full authority to impose some kind to taxes, we do not know how much, upon your little dry cleaning plants, upon all these small businesses, and at some point you are going to come back and say, "How did they get all that authority?"

Where did they get that from?"

□ 1330

We are now being asked, as the House of Representatives, to delegate this, which we will be doing, and no one will know how much the revenues, the taxes, are going to be. No one will know what businesses will be impacted, and yet Members, going back to their districts, are going to be asked by small business after small business, "How did we ever get to this point?" We are getting to that point today.

If we are going to preserve the right of the Congress to impose taxes, if we are going to reject the right of the executive branch to impose whatever taxes they want, now is our opportunity. Vote for this position of the House of Representatives as the chairman of the Committee on Ways and Means has asked us to do.

I ask the support of the Member of this amendment.

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, my fellow colleagues, let us put this amendment in its simplest and plainest context: A vote for the Committee on Ways and Means amendment is a vote to gut the bill.

Very simply what this amendment does is strike from the carefully crafted enforcement provisions financial disincentives to pollute.

Let me give the Members an example: Section 185 of the bill provides a fee of $5,000 per ton to be paid by those who break the Nation's clean air laws by emitting volatile organic compounds into the atmosphere, known as human carcinogens. This amendment strikes that penalty. The reason? The reason we are going to give to that poor mother whose deformed baby is not going to make it through school is that the House rules "kind of got in the way" maybe. That baby is no better because this amendment passes.

The Committee on Ways and Means amendment strikes the provision in the bill which allows the EPA the authority to issue fees to assure that States comply with Federal environmental law.

If a Member is from the New England area, they have a vested interest in the strong, and vigorous acid rain title. This amendment would strike the authority of the State and the Federal Government to enforce that authority to put in place fees to make sure that the States meet their emissions reduction requirements.

If Members like acid rain and want business as usual, vote for this amendment, for the fact of the matter is absolutely clear. This amendment strikes from the bill the ability of the EPA through the State or Federal level to penalize polluters. If Members like polluters to be able to emit volatile organic compounds into the air, if they

like the prospect of more lead in their drinking water, if they think we should have more acid rain, not less, then vote to strike the penalties, fees, and enforcement provisions of this bill.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I am happy to yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I know this is a controversy over jurisdiction between committees. The Committee on Rules did not see fit to grant a self-executing rule as was requested by the Committee on Ways and Means and instead gave them this opportunity for this amendment.

But I do want to concur with the concerns about the impact of this amendment on the substance of this clean air bill. Should this amendment carry, it would do a great deal of harm to the environmental cause for which the bill is before us. The fees in the bill serve as the basis for pushing forward the incentives for the States and the industries to do the cleanup that is necessary to achieve the clean air standards.

I do want to stress this substantive point, and it is a very important point, because the bill before us is the Clean Air Act, and I would want to see, as the gentleman is addressing, the ability of the Clean Air Act to succeed in its objective.

Mr. ECKART. Mr. Chairman, I thank my colleague.

I would conclude in my remarks by saying that if Members want a bill that is all bark and no bite, vote for the Committee on Ways and Means amendment. If they want more comprehensive and integrated State implementation and planning, vote against the amendment. If they want to achieve maximum available control technology and give the rights to the States and the attorneys general and the EPA to enforce the clean air law, vote against the Ways and Means amendment.

This amendment for no defensible reason, strikes all of the important enforcement regulatory programs upon which compliance is based, and make no mistake about it, fees are an important part of following this Nation's environmental laws.

If Members believe that the polluters should pay, then do not vote for the Ways and Means amendment.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I am happy to yield to the gentleman from California.

Mr. STARK. Mr. Chairman, the gentleman mentioned the EPA and enforcing the laws in New England, but what he neglected to suggest, I think, is that the EPA could enforce an import oil fee under this bill the way it is written unless the Committee on Ways and Means amendment were to pass.

Mr. ECKART. That is not true. The import oil fee is not subject to the provisions of the bill, and it has no relative relationship to the EPA's enforcement of the Clean Air Act.

I urge a "no" vote. Do not coddle polluters. Vote against Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, ladies and gentlemen, this is a very important amendment, and I hope that our colleagues who are in their offices and those who are on the floor will give it the attention it deserves.

What this amendment is about, very frankly, is whether or not we are going to enforce the law that we will pass later today or sometime tomorrow.

This is not an issue about taxes. In fact, many of the provisions within this bill do not even relate to Federal taxes. They relate to the State fees which will be charged.

Striking this portion of the bill will not affect the Senate provisions, unlike what has been said before. What we are talking about here is really just two things.

User fees, very similar to what we charge when FERC operates its agency. User fees, very similar to what we do with the Nuclear Regulatory Commission. But, more importantly, what we are talking about here are penalties, penalties which will put polluters on notice that they cannot pollute without fear of having to pay a fine.

□ 1340

So those who are concerned about whether or not we are going to enforce this clean air bill will have an opportunity in a few minutes to say yes. Not only do we want to have a good bill and move forward on clean air, but we also want to make sure that those who pollute are going to pay for it.

It has been said that the President is opposed to these new taxes, but the President's original bill as introduced, H.R. 3030, had these exact same or similar fees within it. This is very consistent with White House and congressional thinking. If you are going to have a clean air bill, you need to put teeth in it by paying for the cost of its application and implementation, and also paying for it through penalties so polluters will know they must stop polluting.

So do not be confused. This is not an issue of jurisdiction between the Senate and the House, between the Committee on Ways and Means and the Committee on Energy and Commerce. This is an issue of whether or not we are going to enforce the law we are about to pass and whether or not polluters will pay for the damage that they have caused.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, one speaker on the floor said that babies will feel better after they got into some cancer difficulties if fees were collected. I am not sure we would all agree to that.

Another speaker said the fees really were not taxes at all, they were penalties. The Committee on Ways and Means and the House should have no objection to the assessment of real fees or real penalties by any other committee of the House that has jurisdiction to create such fees or penalties.

What we are complaining about is that no committee of the House, save one, should have the opportunity to levy taxes.

We have very few rules in this House. Sometimes we forget about them because we waive them so frequently. There would be no reason for us to be making this amendment had not all rules be waived on the amendment of the Committee on Commerce and Energy.

Some of our few fules are that the Committee on Rules makes rules. Another of our rules is that only appropriators can appropriate. We also tell the appropriators they cannot authorize. The Tax Committee should be the committee to authorize the taxes.

The Constitution is important in this case because, as our chairman has pointed out, this will give the Senate unlimited opportunities to send us taxes in the guise of fees and thereby get around the Constitution. This will create unlimited opportunity for those in the legal fraternity to indulge in what they in this litigious society, do best, to challenge in court whether these fees will stand up.

Please observe one of the very few rules that the House still has. Vote for the amendment of the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, I believe the Constitution states that bills raising revenue must originate in the House of Representatives. We all subscribe to that. But this bill we are considering is a House bill. It is passed through committees in the House. So if there is any contest here, it is between committees of the House, not between the House and the Senate as has been suggested.

But the issues as have been very clearly proclaimed at this juncture, where we are now, transcend any parochial considerations of whether it is one committee or another committee

of this House. As has been very clearly stated, passage of this amendment would gut the bill. A vote for such an amendment would be an antienvironmental vote.

The provisions of this bill allow the EPA to impose fees to include marketable permits. These are provisions which have been in countless provisions before various environmental issues before this House. They have been enacted and they have not been considered revenue.

There is no decision, there is no ruling by the Parliamentarian that says that there are revenue matters. To pass this environmental issue at this particular time transcends the considerations which have been put before us. The argument that this bill originated in the Senate is a bogus argument. It bootstraps the argument that we made to the Senate by the Committee on Ways and Means, which many have been valid at that particular time. But we are now dealing with a House bill from committees in the House which will improve the environment. There is no way to enforce this bill without these provisions coming from the committees.

Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I want to make it very clear there is more to this issue than just the jurisdictional differences. There is a substantive difference between the two sides, and that is in the Committee on Energy and Commerce virtually no one is aware that this bill was also a major new tax bill. If it looks like a duck, it walks like a duck, it quacks like a duck, quoting our most distinguished chairman, it is a duck. It is a tax.

The bill will allow EPA to levy new taxes on industry, on manufacturing industry, in areas hardest hit by foreign imports.

Mr. Chairman, let me just quote from the language of the bill because the gentleman from Oklahoma [Mr. SYNAR] said this was not really a Federal tax. I quote, "the EPA would be authorized to promulgate regulations designed to decrease the emission of volatile organic compounds from consumer"—read housewives—"or commercial products"—read soaps and detergents.

I continue, "these regulations could include the imposition of fees as well as other economic incentives. Any fees collected under these regulations would be deposited in a special fund of the United States Treasury to be used by the EPA."

This is the Federal Government, Washington, DC, who owns that Treasury, not Harrisburg, not Albany. This is a new Federal tax, a new EPA taxing authority that has slipped through almost unnoticed for the Environmental Protection Agency, the new industrial manufacturing tax man in America.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, it is unfortunate that this amendment must be offered. Had our committee had the opportunity to address this problem in the normal course of legislation, we could have corrected it.

We are not doing this to cause damage to the bill. The members on the Committee on Ways and Means are just as committed to protecting the environment as anybody on the other committees. We would not be protesting today except this is a serious constitutional question. I do not think any Member in the House would disagree with that.

The change has been made that if you remove this fee language, you gut the bill. That is not correct. It does not do substantive damage to the bill. It does require the Committee on Ways and Means and in the other body the Finance Committee to meet and from the proper legislation to raise the funds necessary to carry out the legislation.

That would be done. That was offered by the other body. We will do that. But if you proceed under the present language, you are really going to say that tax bills do not have to originate in the House. That is not intended.

Mr. Chairman, I would hope that Members do not believe this is just a squabble between two different committees. It is a serious constitutional question. If you just accept this amendment, we can meet and address it properly.

This should have been done. You kept this bill in mothballs up until about 36 hours before we had to vote on it, and that was not proper. You give us a chance to correct it and we will do it right and all will be proud of the change.

□ 1350

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, I think the gentleman from Texas makes an excellent point, that this conflict is not between committees. It is between the House and the Senate, because if we define these charges as not being revenues, which in fact they are because they go in the General Treasury, then what is to stop the Senate from initiating new measures in the future that reflect these same types of charging activities, and calling them fees instead of revenues?

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, under the reported bill the EPA would be required to issue a Federal implementation plan for any State that fails to submit a required State plan or submits a State plan that fails to meet EPA's minimum criteria.

The fact of the matter is the amendment we are considering now, the Ways and Means Committee amendment, would strip EPA of this authority to include these cost of regulation fees and user fees as part of a Federal implementation plan. I think this is extremely important because the heart of a strong clean air program in this country is to make sure that the Federal Government, through the Environmental Protection Agency, can move when the States fail to act.

If we pass this amendment, particularly as it relates to the State plans, we will not have that Federal hammer that will push the States to act and to get tough with polluters. So I hope my colleagues will reject the amendments, and I thank the gentleman from California for the time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, this amendment involves an issue of paramount importance and establishes a very dangerous precedent.

This is not a debate about the environment and clean air, or about politics or about policies, nor a debate between two committees. The bill was originally assigned to the Ways and Means Committee.

There is a larger question. What is at stake is the constitutional authority of the House. What is at stake is the constitutional principle, devised very carefully and crafted by our forefathers some 200 years ago.

This principle has served our country well for these past two centuries, and the principle is in jeopardy today. I urge support of the amendment.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. MCGRATH].

Mr. MCGRATH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Rostenkowski-Archer amendment, a measure to preserve the constitutional prerogatives of the House to raise revenues.

There have been an awful lot of questions regarding this bill. We have heard a lot of rhetoric about this particular amendment gutting the bill. This amendment does just a couple of things.

One, the Ways and Means Committee strikes the revenue provisions of the bill which are disguised as fees. There is no relationship between these fees, or what I call taxes, and the service provided for these fees. So, there-

fore, it is not a fee, it is a tax. It is a new tax.

In fact, there is no relationship between those who are the polluters and who have to pay these fees and those who are not polluters who also have to pay these fees. Therefore, it is a tax.

The Ways and Means Committee avoids a constitutional challenge to the bill. How would we be serving our constituents and our environment by having this law struck down by a constitutional challenge to it because it imposes reveneus and taxes that were not started by the Ways and Means Committee in the House of Representatives?

Then there is the question of whether or not this provision actually weakens the bill, and I say no. The four sections that we strike are striking the fee component of that section, not the permit, not the permit component of that section, so that is a bogus argument.

The Senate struck similar fees from the bill in concurrence with everybody, all parties involved on both sides of the aisle, and I think that tells the story.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Chairman, I thank the gentleman from California for yielding this time.

Mr. Chairman, I just want to say that I am amazed that we come to this point, and then with the country waiting for the House of Representatives to pass a bill in this week before the Memorial Day recess that we get into this kind of a squabble between two committees. The truth of the matter is it is much more than a squabble between these committees.

The Ways and Means Committee provision would fundamentally strike the enforcement provisions of this bill. These are fees and penalties that have traditionally been used to enforce measures that the Congress enacts. It would be a tragedy if the whole effort to develop a Clean Air Act in this session of Congress were to be derailed by the kind of hiatus that would occur if this amendment were enacted.

So I hope all Members will think hard about this and its implications and support the Energy and Commerce Committee provisions in this bill.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I had the privilege back in 1983, of introducing the bill to create the Bicentennial on the Constitution that was subsequently passed by this body and the other, and that produced an entity, the Bicentennial Commission, to honor the workings of the Founding Fathers that were consummated back there in 1787, and finally ratified and implemented in 1789. And here we are still in the bicentennial observances.

We have before us today, I think, the most important constitutional question that I can think of in the 20-odd years that I have served in this body. And it has to do with article I, section 7: All revenues shall be originated by the House of Representatives.

This is not a committee battle. It is a battle to preserve those most vital ingredients of our Constitution, and those go back to the Magna Carta, whether the king can impose taxes. I do not care who sits down there at EPA. Whether it is a Republican or whether it is a Democrat administration is really irrelevant. What is vital is to preserve the integrity of this body.

There is a fundamental distinction between a fee and a tax. I just referred to the dictionary. A fee is to pay for services rendered, a charge fixed for services, a gratuity. A tax, by contrast, is a pecuniary charge levied by government for the public purposes.

We are talking about transferring that authority to the Executive Branch, and also opening up a Pandora's Box to let the other body, in violation of article I, section 7, initiate fees, a euphemism in this instance for the imposition of taxes.

I would urge all Members to recognize this is not an either/or conflict. There are alternatives, as the chairman has already recommended. The committee of jurisdiction here on tax questions and the House as the body that has the original jurisdiction can remedy any shortfall. That can be accomplished.

And I would remind Members also of that oath they all took, the very first act when you got elected and you swore to uphold that Constitution, so help you God.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

□ 1400

Mr. TAUZIN. Mr. Chairman, the adoption of the Committee on Ways and Means amendment will have one singular effect upon this excellent, I think, package of bills that have been combined into one massive attempt to do something about the Nation's air.

It will take from it the fuel that makes it work. The fuel that makes it work, like any other regulatory scheme, is the fees that are collected to make sure that the agency can carry out its obligations under the act. The fuel that makes it work is the penalties that encouarge those who would violate the act not to violate it. The fuel that makes this system work is the dedication of those monies in special funds for those purposes, not to be used for other general revenue purposes.

Now, you may not like the way this bill has come down. You may not like the rule. You may not like the fact that we have not had 8 weeks of debate on this floor as we had in the E&C committee. I understand that. I wish we had more time to get it done in the way, in the form, in the process that everybody liked. But let me assure you, you take the fuel out of this bill because you do not like the procedure and you just as soon not have the bill.

For this bill to succeed, it must be fueled right, it must be carried out right, and we must carry this function to its conclusion as rapidly as we can.

Clean air will not wait, clean air decisions on this House floor cannot wait for us to find a better procedure, a better day, a better time to act. Clean air demands that we act now.

I ask you please to put aside jurisdictional battles, to put aside your concerns about how you might prefer we were doing things today, and consider the fact that without the fuel, this mechanism that is driving us toward clean air for America and for the world eventually will have been deprived of the engine performance that will take us to that goal, I think, as rapidly as this bill demands that we do it.

Remember when we started this process, clean air was our goal. Clean air has got to be our goal in this amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, it is so important that we keep the facts straight in this debate when both sides feel so strongly. The fact of the matter is this amendment does not weaken the bill, the very important bill before us, at all.

The second thing: Have we not stopped playing games with whether it is a license or a user fee or what we call it that is important? All these things that we are talking about are taxpayers' dollars, revenues raised, revenues that should be raised by the Committee on Ways and Means.

But the main reason I am standing is, as the gentleman before me said, we should put aside jurisdictional questions. We are talking about the Constitution of the United States, about article 1, section 7, that these fees are an unconstitutional delegation to the executive branch.

EPA gets taxing ability. We really should not do it. The piece of legislation is too important that is in front of us to do something we do not have to do.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to address two issues, the issue of taxes and the issue of the prerogatives of the House and the Senate.

Mr. Chairman, I rise in strong support of the amendment of the gentleman from Illinois, who is submitting that on a bipartisan basis.

H.R. 3030 needs this amendment. It contains fees that are taxes, it is a duck by anybody's measure. So I would say to my colleagues, the issue is not about enforcement, it is about the constitutional prerogative of the House of Representatives.

Calling a tax a fee does not alter the fact that it is still a tax.

So I would say to my friends from the Northeast, if this occurs and this amendment is defeated and the Senate originates an oil import fee, is that a tax or not a tax? Of course it is a tax. We are giving them that opoortunity to introduce taxes into this body. Calling that an oil import fee does not make any difference, it is still a tax.

This is not about teeth, it is not the teeth, it is about the dentist. Do you want the House to do that, or the Senate?

Let us not give up our constitutional prerogatives.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, this is an unfortunate and unnecessary battle.

Mr. Chairman, I intend to vote for the bill. I also intend to vote for this amendment.

It has been said here by several speakers that fees are involved, not taxes. Fees, not taxes.

But then why was the bill sent to the Committee on Ways and Means? There clearly are taxes in this bill within the jurisdiction of the committee.

The Senate deleted these provisions. What is done is to not only avoid the jurisdiction of the Committee on Ways and Means, but to give taxing authority to EPA.

When you read the authority given to it, it is very broad, indeed carte blanche; it seems to me an unwise measure.

We ought to uphold the traditions and rules of this House and vote for the amendment of the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the committee amendment. Where was the outcry when this very same action was taken in the Senate, if in fact this guts the clean air bill? This was done because it does not gut the clean air bill.

We are united in support of a strong clean air bill, but these provisions set a terrible precedent. They are dangerous to our own future, to deficit reduction, to sensible legislating, to fiscal responsibility, to the structure our Constitution create to enable us to control the future destiny of our Nation.

Mr. Chairman, these are not penalties. They are not user fee. They are general revenue raisers, and that is why the bill was referred to the Committee on Ways and Means to begin with.

If we do not support the committee here today, we set the precedent of literally inviting every committee of the House, as well as the Senate, to meet their tough obligations under our budget resolution by creating general fees rather than constraining spending.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Chairman, let us make no mistake about this: This is a tax that we are going to allow a bureaucratic agency, the EPA, to impose on small businesses around this country.

Congress is not going to have any input into this tax. So what we are going to say here today, "It is all right if we shirk our responsibilities, it is all right if we let the bureaucrats at EPA set the tax rates on businesses in this country."

You know what else is horrible about this provision? We are going to guarantee that small businesss in their country that live within their permits, that do not add pollution to the air, are going to have to pay this tax regardless.

Is that the kind of authority we want to give to the EPA? If that is what you want to do, then you vote against this amendment. But if you want responsible tax legislation, if you want the agencies to be responsible to the Congress and not to the executive, you vote for this amendment and make sure that the bureaucratic tax is kicked out of this bill.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I would like to urge my colleagues to oppose the Committee on Ways and Means amendment to this legislation.

As a member of the Committee on Energy and Commerce, you might expect me to say something like that. But I have worked firsthand with the authors of this legislation. We have a fine product here. It is important to keep it on track and reject the Committee on Ways and Means' advice.

It is also important to realize that the fee structure set up by this legislation is integral to its working. Despite the good intentions of the Committee on Ways and Means, it is vital to keep this fee structure together.

□ 1410

We have tried to strike a fair and equitable balance. I understand some of the jurisdictional concerns of my colleagues, but remember above all we need cleaner air in this country. The best way to get that cleaner air is to stick with the committee version.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to underscore again that many Members have told me how pleased they are that we have carefully crafted this bill and avoided a lot of contention we have seen even on the Senate side, as they deliberated for weeks.

The Committee on Ways and Means amendment would take out the fees that the States would impose and be available for EPA to make sure that the law works. So I hope the people who care about this clean air bill and care about its environmental consequences will oppose the amendment.

The CHAIRMAN. The Chair will inform the gentleman from Illinois [Mr. ROSTENKOWSKI] that he has 2½ minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, some people would like to look at this as just a turf dispute for jurisdiction between committees. However, it is really a question as to what is a fee and what is a tax.

Clearly, the Parliamentarian decided that question when the bill was referred to the Committee on Ways and Means, but as I see the Congress passing more and more of its authority to the President, really running away from its own, as I see our legislation now through summit, rather than through congressional leadership, it seems to me that maybe we ought to let the Committee on Energy and Commerce decide the issues by having the President of the United States not ask Members to read his lips, but to decide what fees he would need in order to close the deficit.

Clearly, if Members think it is the Committee on Ways and Means losing, I suggest to Members that it is the House of Representatives that is losing. It is the Senate that will be losing, and it is the executive branch that is the winner.

The CHAIRMAN. The gentleman from California [Mr. WAXMAN] has 5 minutes remaining.

Mr. WAXMAN. Mr. Chairman, I yield the remaining 5 minutes to the gentleman from Michigan [Mr. DIN-

GELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, the quarrel on the floor today was not of my seeking, nor was it of the seeking of the Committee on Energy and Commerce. We were presented with a bill which was delivered to Members by the administration. That bill is now before us. It is a proposal which has been received well by all Members, the Members of this body, the administration, environmentalists, and others.

My good friends from the Committee on Ways and Means have said that the subject of this amendment are taxes. They have said the fact it was referred sequentially to the Committee on Ways and Means means that in fact it was taxes. That is sort of curious ad hoc reasoning, and I think it should be addressed.

The hard fact of the matter is that this bill was not referred jointly to the Committee on Ways and Means, nor was it referred for more than a brief period by the Speaker to the Committee on Ways and Means. I have indicated to the Speaker that it was my feeling that the Committee on Ways and Means needed a substantial amount of time, and that we needed a significant amount of time, to address the jurisdictional concerns of the Committee on Ways and Means. I have talked to the chairman of the Committee on Ways and Means about negotiating out our differences. I have sought to do so in a spirit of good will and friendship. Regrettably, we have not been able to come to an agreement on the question of substance. However, the question of whether or not these are taxes can be addressed fairly easily by the Members here.

First of all, they are called penalties and fees. Second of all, the Speaker referred this matter to the Committee on Ways and Means for only a brief period of time. If the Committee on Ways and Means has a quarrel, that quarrel is with the Speaker. It must be observed that the Committee on Rules has not ruled that these are tax matters. They have afforded, in good part at my suggestion, the chairman of the Committee on Ways and Means and that committee, the opportunity to address these via amendment to strike. I believe that is a fair way in which this matter should be handled, and the House can then decide both the substantive, the jurisdictional, and procedural issues on this particular point.

I have told the chairman of the Committee on Ways and Means that if these are taxes I will join him in an amendment to strike. However, that has not been the ruling as of this time. Indeed, it is the judgment of the Speaker, as nearly as I can read it, that these are, in fact, penalties and fees, not taxes.

Now, having dealt with those matters, let me address the question: What do the amendments that are offered by the Committee on Ways and Means do? They first strike from the ozone reduction title EPA's authority to include user fees and cost of regulation fees in its regulatory scheme, an essential part of the regulatory scheme. And if Members are ready for clean air, Members should look with sympathy on this language of the bill and oppose the amendment.

The amendment strikes the provision in the bill calling for these fees to be deposited in a special Treasury account, to be used by EPA solely for its ozone control activities. Again, a user fee, a cost imposed upon the regulated individual for benefit conferred by regulation. The amendment strikes from the legislation the provision in our permit program allowing EPA to assess fees when a State has failed to do its duty. This is essential, not only as a sanction upon the State, but as a device to procure compliance with the law. Clearly, that is not a tax. The amendment strikes from the bill an entire section that would assess penalties against polluters in severe and extreme nonattainment areas, if those areas fail to reach compliance. Now, this compliance does not have to be reached today or tomorrow, but in the year 2005 and in the year 2010.

Now, why does the Committee on Ways and Means seek to do this? They say that it is on a procedural and jurisdictional ground, that these are taxes. I would point out, as I already have, that this issue has already been addressed by the Parliamentarian, by the Speaker, by the Committee on Rules. There is nothing in any of the actions of any of those individuals that would indicate in any fashion whatsoever that these are, in fact, taxes and not fees or penalties, as has been asserted.

Let Members just take a look at the consequences of this. The Committee on Rules, the Speaker, the Parliamentarian have not ruled with my good friend on the Committee on Ways and Means, but the practical effect of the amendment that is offered by the Committee on Ways and Means is to strike not only fees but to strike sanctions. If Members oppose pollution, if Members believe in clean air, if Members to do something about it, if Members want to see to it that there are teeth in this law, then I believe as a matter of conscience Members have no choice but to oppose the amendment that is offered by the gentleman from Illinois. I say that with affection to the gentleman because we are old friends and have been here a long time. However, I believe that clearly at stake here is clean air and provisions of a bill offered in good faith, ruled upon by the Speaker, ruled upon by the Committee on Rules, which impose fees upon wrongdoing, and which impose fees which deal with the cost of providing an essential government service. They are essential to the enforcement of the law. They are essential to clean air. They assure that what we are addressing here will give Members clean air and will do so in an expeditious and a wholesome fashion.

I urge that this amendment, which is mostly mischievous in character, be rejected by my colleagues.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself the remainder of my time.

It has been suggested here that the Committee on Ways and Means amendment has an effect on the way States are taxed. The Committee on Ways and Means amendment has no effect at all on the manner in which States can tax. It has also been suggested here that the amendment eliminates sanctions needed to clean up the environment. None of this is true at all.

I agree with the chairman of the Committee on Energy and Commerce on at least one thing. The Committee on Ways and Means only had this bill for 48 hours, and I think that that is very, very impractical—if fact impossible way to legislate.

Let me point out, too, that the leadership sequentially referred that bill to the Committee on Ways and Means which, in itself, indicates that it is a revenue measure under House rules. Let me also point out that the administration testified before our committee in support of the committee amendment. This Senate has already struck similar fees from its bill in light of our constitutional concerns, acknowledging that these are not fees but these are taxes that should originate in the House of Representatives. In addition these fees involve an unconstitutional delegation of our authority to impose taxes, from the House of Representatives and the Congress to executive branch.

□ 1420

If the executive branch is going to be able to impose fees, what sense is there in having the revenue-raising authority in the House of Representatives?

Mr. Chairman, this is a constitutional issue, not for the Committee on Ways and Means, but for the prerogatives of the House of Representatives. If we announce today to the Senate that we are surrendering our authority to originate revenue legislation, you can bet your life we will see a great deal of that occurring in the Senate.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 253, not voting 9, as follows:

[Roll No. 131]

AYES—170

| | | |
|---|---|---|
| Andrews | Guarini | Myers |
| Annunzio | Hamilton | Ortiz |
| Anthony | Hammerschmidt | Panetta |
| Applegate | Hancock | Pashayan |
| Archer | Hansen | Pease |
| Armey | Hastert | Pelosi |
| AuCoin | Hatcher | Penny |
| Ballenger | Hayes (IL) | Pickett |
| Bartlett | Hefley | Pickle |
| Bateman | Hefner | Porter |
| Beilenson | Herger | Poshard |
| Bentley | Hiler | Quillen |
| Boggs | Holloway | Rahall |
| Borski | Hopkins | Rangel |
| Boxer | Houghton | Regula |
| Brooks | Hughes | Rhodes |
| Brown (CO) | Hunter | Ritter |
| Bunning | Hyde | Rogers |
| Burton | Inhofe | Rohrabacher |
| Byron | Ireland | Rose |
| Cardin | Jacobs | Rostenkowski |
| Chandler | Jenkins | Roybal |
| Clement | Johnson (CT) | Russo |
| Clinger | Jones (GA) | Sabo |
| Coble | Jones (NC) | Sangmeister |
| Combest | Kanjorski | Savage |
| Costello | Kasich | Schulze |
| Cox | Kennelly | Schumer |
| Coyne | Kleczka | Shaw |
| Crane | Kolter | Shumway |
| Crockett | Kostmayer | Shuster |
| Dannemeyer | Kyl | Sisisky |
| de la Garza | Lancaster | Skelton |
| DeLay | Laughlin | Slaughter (VA) |
| Derrick | Leath (TX) | Smith (IA) |
| Dickinson | Levin (MI) | Smith (TX) |
| Donnelly | Lewis (FL) | Smith, Denny (OR) |
| Dorgan (ND) | Lipinski | |
| Dornan (CA) | Livingston | Staggers |
| Downey | Lloyd | Stangeland |
| Dreier | Long | Stark |
| Duncan | Lowey (NY) | Stenholm |
| Durbin | Matsui | Stump |
| Dyson | McCloskey | Sundquist |
| Edwards (CA) | McDermott | Tallon |
| Edwards (OK) | McEwen | Thomas (WY) |
| Erdreich | McGrath | Torres |
| Foglietta | Michel | Torricelli |
| Ford (TN) | Miller (CA) | Traficant |
| Frenzel | Miller (OH) | Udall |
| Frost | Mineta | Vander Jagt |
| Gaydos | Mollohan | Visclosky |
| Gekas | Moody | Vucanovich |
| Geren | Morrison (WA) | Walker |
| Goss | Mrazek | Yates |
| Gradison | Murphy | Yatron |
| Grandy | Murtha | Young (AK) |

NOES—253

| | | |
|---|---|---|
| Ackerman | Browder | Cooper |
| Anderson | Brown (CA) | Coughlin |
| Aspin | Bruce | Courter |
| Atkins | Bryant | Darden |
| Baker | Buechner | Davis |
| Barnard | Bustamante | DeFazio |
| Bates | Callahan | Dellums |
| Bennett | Campbell (CA) | DeWine |
| Bereuter | Campbell (CO) | Dicks |
| Berman | Carper | Dingell |
| Bevill | Carr | Dixon |
| Bilbray | Chapman | Douglas |
| Bilirakis | Clarke | Dwyer |
| Bliley | Clay | Dymally |
| Boehlert | Coleman (MO) | Early |
| Bonior | Coleman (TX) | Eckart |
| Bosco | Collins | Emerson |
| Boucher | Condit | Engel |
| Brennan | Conte | English |
| Broomfield | Conyers | Espy |
| Evans | Markey | Schaefer |
| Fascell | Marlenee | Scheuer |
| Fawell | Martin (IL) | Schiff |
| Fazio | Martin (NY) | Schneider |
| Feighan | Martinez | Schroeder |
| Fields | Mavroules | Schuette |
| Fish | Mazzoli | Sensenbrenner |
| Flake | McCandless | Serrano |
| Ford (MI) | McCollum | Sharp |
| Frank | McCrery | Shays |
| Gallegly | McCurdy | Sikorski |
| Gallo | McDade | Skaggs |
| Gejdenson | McHugh | Skeen |
| Gephardt | McMillan (NC) | Slattery |
| Gibbons | McMillen (MD) | Slaughter (NY) |
| Gillmor | McNulty | Smith (FL) |
| Gilman | Meyers | Smith (NE) |
| Gingrich | Mfume | Smith (NJ) |
| Glickman | Miller (WA) | Smith (VT) |
| Gonzalez | Moakley | Smith, Robert (NH) |
| Goodling | Molinari | |
| Gordon | Montgomery | Smith, Robert (OR) |
| Grant | Moorhead | |
| Gray | Morella | Snowe |
| Green | Morrison (CT) | Solarz |
| Gunderson | Nagle | Solomon |
| Hall (OH) | Natcher | Spence |
| Hall (TX) | Neal (MA) | Spratt |
| Harris | Neal (NC) | Stallings |
| Hawkins | Nielson | Stearns |
| Hayes (LA) | Nowak | Stokes |
| Henry | Oakar | Studds |
| Hertel | Oberstar | Swift |
| Hoagland | Obey | Synar |
| Hochbrueckner | Olin | Tanner |
| Horton | Owens (NY) | Tauke |
| Hoyer | Owens (UT) | Tauzin |
| Hubbard | Oxley | Taylor |
| Huckaby | Packard | Thomas (GA) |
| Hutto | Pallone | Towns |
| James | Parker | Traxler |
| Johnson (SD) | Parris | Unsoeld |
| Johnston | Patterson | Upton |
| Jontz | Paxon | Valentine |
| Kaptur | Payne (NJ) | Vento |
| Kastenmeier | Payne (VA) | Volkmer |
| Kennedy | Perkins | Walgren |
| Kildee | Petri | Walsh |
| Kolbe | Price | Washington |
| LaFalce | Pursell | Watkins |
| Lagomarsino | Ravenel | Waxman |
| Lantos | Ray | Weber |
| Leach (IA) | Richardson | Weiss |
| Lehman (CA) | Rinaldo | Weldon |
| Lehman (FL) | Roberts | Wheat |
| Lent | Roe | Whittaker |
| Levine (CA) | Ros-Lehtinen | Whitten |
| Lewis (CA) | Roth | Williams |
| Lewis (GA) | Roukema | Wilson |
| Lightfoot | Rowland (CT) | Wise |
| Lowery (CA) | Rowland (GA) | Wolf |
| Luken, Thomas | Saiki | Wolpe |
| Machtley | Sarpalius | Wyden |
| Madigan | Sawyer | Wylie |
| Manton | Saxton | Young (FL) |

NOT VOTING—9

| | | |
|---|---|---|
| Alexander | Flippo | Ridge |
| Barton | Lukens, Donald | Robinson |
| Craig | Nelson | Thomas (CA) |

□ 1439

The Clerk announced the following pair:

On this vote:

Mr. Thomas of California for, with Mr. Nelson against.

Messrs. HAWKINS, SMITH of Vermont, BROWDER, and GILLMOR changed their vote from "aye" to "no."

Messrs. BARTLETT, HUGHES, DERRICK, SAVAGE, COX, DYSON, PENNY, ERDREICH, and DENNY SMITH, Mrs. BOXER, Mrs. LOWEY, of New York, Mr. AuCOIN, and Mr. HAYES of Illinois changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

□ 1440

AMENDMENT OFFERED BY MR. WISE

Mr. WISE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WISE: Page 178, after line 20, insert the following:

Subtitle B—Clean Air Employment Transition Assistance

SEC. 111. TRANSITION ASSISTANCE.

The Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subtitle:

"Subtitle B—Clean Air Employment Transition Assistance

"SEC. 210. SHORT TITLE; ETC.

"(a) GENERAL RULE.—This subtitle may be cited as the "Clean Air Employment Transition Act".

"(b) COORDINATION.—Except as otherwise specifically provided—

"(1) the provisions of this title which precede this subtitle shall not apply for purposes of this subtitle, and

"(2) any reference to the Federal-State Extended Unemployment Compensation Act of 1970 shall be treated as referring only to the provisions of this Act which precede this subtitle.

"PART I—PETITIONS AND DETERMINATIONS

"SEC. 211. PETITIONS.

"(a) IN GENERAL.—A petition for certification of eligibility to apply for clean air employment transition assistance under this subtitle may be filed with the Secretary of Labor (hereinafter in this subtitle referred to as the "Secretary") by a group of workers or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

"(b) PUBLIC HEARING.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

"SEC. 212. GROUP ELIGIBILITY REQUIREMENTS.

"(a) IN GENERAL.—The Secretary shall certify a group of workers as eligible to apply for clean air employment transition assistance under this subtitle if the Secretary determines—

"(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

"(2) that sales or production, or both, of such firm or subdivision have decreased absolutely; and

"(3) that compliance by such firm or subdivision with the Clean Air Act contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) The term 'production' includes the provision of services.

"SEC. 213. DETERMINATIONS BY SECRETARY OF LABOR.

"(a) IN GENERAL.—As soon as possible after the date on which a petition is filed under section 211, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 212 and shall issue a certification of eligibility to apply for assistance under this subtitle covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

"(b) TIME LIMITATION ON SEPARATIONS BEFORE CERTIFICATION.—A certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm before his application under section 211 occurred——

"(1) more than one year before the date of the petition on which such certification was granted; or

"(2) more than 6 months before the effective date of this subtitle.

"(c) NOTICE OF DETERMINATION.—Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register together with his reasons for making such determination.

"(d) TERMINATION OF CERTIFICATION.—Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 212, he shall terminate such certification and promptly have notice of such termination published in the Federal Register together with his reasons for making such determination. Such termination shall apply only with respect to total or partial separations occuring after the termination date specified by the Secretary.

"SEC. 214. BENEFIT INFORMATION TO WORKERS.

"(a) IN GENERAL.—The Secretary shall provide full information to workers about the benefit allowances available to under this subtitle and the training and other employment services available under section 325 of the Job Training Partnership Act and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to ensure that cooperating State agencies fully comply with the agreements entered into under section 231(a) and shall periodically review such compliance. The Secretary shall inform the Council established under section 122 of the Job Training Partnership Act or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 213 and of projections, if available, of the needs for training under section 325 of the Job Training Partnership Act as a result of such certification.

"(b) WRITTEN NOTICE OF BENEFITS.—(1) The Secretary shall provide written notice through the mail of he benefits available under this subtitle 325 of the Job Training Partnership Act to each worker whom the Secretary has reason to believe is covered by a certification made under this part——

"(A) at the time of such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification; or

"(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

"(2) The Secretary shall publish notice of the benefits available under this subtitle or section 325 of the Job Training Partnership Act to workers covered by each certification made under this subtitle in newspapers of general circulation in the areas in which such workers reside.

PART II—CLEAN AIR EMPLOYMENT TRANSITION ALLOWANCES

SEC. 221. QUALIFYING REQUIREMENTS FOR WORKERS.

"(a) IN GENERAL.—Payment of a clean air employment transition allowance shall be made to an adversely affected worker covered by a certification under part I who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 211, if the following conditions are met:

"(1) Such worker's total or partial separation before his application under this subtitle occurred—

"(A) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment;

"(B) before the expiration of the 2-year period beginning on the date on which the determination under section 213 was made; and

"(C) before the termination date (if any) determined pursuant to section 213(d).

"(2) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purpose of this paragraph, any week in which such worker——

"(A) is on the employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training;

"(B) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States; or

"(C) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision,

shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks described in subparagraph (A) or (C), or both, may be treated as weeks of employment under this sentence.

"(3) Such worker——

"(A) was entitled to (or would be entitled to if he applied therefor) unemployment insurance for a week within the benefit period——

"(i) in which such total or partial separation took place, or

"(ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by such worker after such total or partial separation;

"(B) has exhausted all rights to any unemployment insurance to which he was entitled (or would be entitled if he applied therefor); and

"(C) does not have an unexpired waiting period applicable to him for any such unemployment insurance.

"(4) Such worker, with respect to such week of unemployment, would not be disqualified for extended compensation payable under this title by reason of the work acceptance and job search requirements in section 202(a)(3) of this title.

"(5) Such worker——

"(A) is enrolled in a training program approved by the Secretary under section 325(b) of the Job Training Partnership Act; or

"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 325(b) of the Job Training Partnership Act; or

"(C) has received a written statement certified under subsection (c)(1) after the date described in subparagraph (B).

"(b) FAILURE TO MEET TRAINING REQUIREMENTS.—(1) If——

"(A) the Secretary determines that——

"(i) the adversely affected workers——

"(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

"(II) has ceased to participate in such training program before completing such training program; and

"(ii) there is no justifiable cause for such failure or cessation; or

"(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2),

no clean air employment transition allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 325(b) of the Job Training Partnership Act.

"(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins——

"(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 211; and

"(B) before the first week following the week in which such certification is made under part I.

"(c) TRAINING NOT FEASIBLE OR INAPPROPRIATE.—(1)(A) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 325(b) of the Job Training Partnership Act, the Secretary shall submit to such worker a written statement certifying such finding.

"(B) If a State or State agency has an agreement with the Secretary under section 231 and the State or State agency finds that it is not feasible or appropriate to approve a

training program for a worker pursuant to the requirements of section 325(b) of the Job Training Partnership Act, the State or State agency shall——

"(i) submit to such worker a written statement certifying such finding; and

"(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

"(2) The Secretary shall submit to the appropriate committees of the Congress an annual report on the number of workers who received certifications under paragraph (1) during the preceding year and the number of certifications made under paragraph (1) that were revoked during the preceding year.

"SEC. 222. WEEKLY AMOUNTS.

"(a) IN GENERAL.—Subject to subsections (b) and (c), the clean air employment transition allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 221(a)(3)(B)) reduced (but not below zero) by——

"(1) any training allowance deductible under subsection (c); and

"(2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

"(b) PAYMENT DURING APPROVED TRAINING.—Any adversely affected worker who is entitled to clean air employment transition allowances and who is undergoing training approved by the Secretary shall receive for each week in which he is undergoing any such training, a clean air employment transition allowance in an amount (computed for such week) equal to the amount computed under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such clean air employment transition allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

"(c) OFFSETS IF TRAINING ALLOWANCE PAYABLE UNDER OTHER FEDERAL LAW.—If a training allowance under any Federal law is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to any disqualification under section 221(b)) or to a clean air employment transition allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of clean air employment transition allowance otherwise payable to him under section 223(a) when he applies for a clean air employment transition allowance and is determined to be entitled to such allowance. If such training allowance paid to such worker for any week of unemployment is less than the amount of the clean air employment transition allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a clean air employment transition allowance and is determined to be entitled to such allowance, a clean air employment transition allowance for such week equal to such difference.

"SEC. 223. LIMITATIONS ON CLEAN AIR EMPLOYMENT TRANSITION ALLOWANCES.

"(a) MAXIMUM AMOUNT PAYABLE.—(1) The maximum amount of clean air employment transition allowances payable with respect to the period covered by any certification to an adversely affected worker shall be the amount which is the product of 52 multiplied by the clean air employment transition allowance payable to the worker for a week of total unemployment (as determined under section 222(a)), but such product shall be reduced by the total sum of the unemployment insurance to which the worker was entitled (or would have been entitled if he had applied therefor) in the worker's first benefit period described in section 221(a)(3)(A).

"(2) A clean air employment transition allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

"(A) within the period which is described in section 221(a)(1); and

"(B) with respect to which the worker meets the requirements of section 221(a)(2).

"(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 325 of the Job Training Partnership Act, and in accordance with regulations prescribed by the Secretary, payments may be made as clean air employment transition allowances for up to 26 additional weeks in the 26-week period that——

"(A) follows the last week of entitlement to clean air employment transition allowances otherwise payable under this subtitle; or

"(B) begins with the first week of such training, if such training begins after the last week described in subparagraph (A).

Payments for such additional weeks may be made only for weeks in such 26-week period during which the individual is participating in such training.

"(b) APPLICATION FOR TRAINING.—No clean air employment trnsition allowance may be paid for an additiona! week specified in subsection (a)(3) if the adversely affected worker who would receive such allowance did not make a bona fide application to a training program approved by the Secretary under section 325 of the Job Training Partnership Act within 210 days after the date of the worker's first certification of eligibility to apply for transition assistance issued by the Secretary, or, if later, within 210 days after the date of the worker's total or partial separation referred to in section 221(a)(1).

"(c) ADJUSTMENT OF AMOUNTS.—Amounts payable to an adversely affected worker under this subtitle shall be subject to such adjustment on a week-to-week basis as may be required by section 222(b).

"(d) OFFSET FOR EXTENDED BENEFITS.—Notwithstanding any other provision of this title or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that such worker would, but for this subsection, be entitled to in that extended benefit period shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to clean air employment transition allowances under this part. For purposes of this subsection, the terms 'benefit year' and 'extended benefit period' shall have the same respective meanings given to them by sections 203 and 205 of this title.

"(e) ON-JOB-TRAINING EXCLUSION.—No clean air employment transition allowance shall be paid to a worker under this part for any week during which the worker is receiving on-the-job training in employment for which compensation is paid.

"(f) PARTICIPATION IN TRAINING.—For purposes of this title, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 14 days if—

"(1) the worker was participating in a training program approved under section 325(b) of the Job Training Partnership Act before the beginning of such break in training; and

"(2) the break is provided under such training program.

"SEC. 224. EFFECT ON OTHER BENEFITS.

"(a) LIMITATION ON DETERMINING INELIGIBILITY OR DISQUALIFICATION FOR BENEFITS.—A worker may not be determined to be ineligible or disqualified for unemployment insurance or progrm benefits under this subtitle because—

"(1) the individual is in training approved under section 325 of the Job Training Partnership Act,

"(2) of leaving work which is not suitable employment to enter such training, or

"(3) of the application to any such week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

The Secretary shall submit to the Congress a quarterly report regarding the amount of funds expended during the quarter concerned to provide training under such section 325(a) and the anticipated demand for such funds for any remaining quarters in the fiscal year concerned.

"(b) DEFINITION OF SUITABLE EMPLOYMENT.—For purposes of this section, the term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

"SEC. 225. APPLICATION OF STATE LAWS.

"Except where inconsistent with the provisions of this subtitle and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law—

"(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance); or

"(2) if he is not so entitled to unemployment insurance, of the State in which he was totally or partially separated,

shall apply to any such worker who files a claim for clean air employment transition allowances. The State law so determined with respect to a separation of a worker shall remain applicable, for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance under another State law (whether or not he has filed a claim for such insurance).

"PART III—GENERAL PROVISIONS

"SEC. 231. AGREEMENTS WITH STATES.

"(a) IN GENERAL.—The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this part as 'cooperating States' and 'cooperating

State agencies', respectively). Under such an agreement, the cooperating State agency—

"(1) as agent of the United States, will receive applications for, and will provide, payments on the basis provided in this subtitle,

"(2) will make any certification required under section 221(c)(2), and

"(3) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this title.

"(b) AGREEMENT TERMS AND CONDITIONS.—Each agreement under this part shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

"(c) UNEMPLOYMENT INSURANCE.—Each agreement under this part shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of right to payments under this subtitle.

"(d) REVIEW.—A determination by a cooperating State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law only in that manner and to that extent.

"(e) COORDINATION OF ADMINISTRATION OF EMPLOYMENT SERVICES, TRAINING, AND ADMINISTRATION.—Any agreement entered into under this section shall provide for the coordination with the administration of the provisions for employment services, training, and supplemental assistance under title III of the Job Training Partnership Act upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this title.

"(f) STATE AGENCY FUNCTIONS.—Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each worker who applies for unemployment insurance of the benefits under this subtitle and the procedures and deadlines for applying such benefits,

"(2) facilitate the early filing of petitions under section 211 for any workers that the agency considers are likely to be eligible for benefits under this subtitle, and

"(3) advise each adversely affected worker to apply for training under section 325(b) of the Job Training Partnership Act before, or at the same time, the worker applies for clean air employment transition allowances under part III.

"SEC. 232. ADMINISTRATION ABSENT STATE AGREEMENT.

"(a) IN GENERAL.—In any State where there is no agreement in force between a State or its agency under section 231, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under part II of this subtitle, including provision for a fair hearing for any worker whose application for payments is denied.

"(b) JUDICIAL REVIEW.—A final determination under subsection (a) with respect to eligibility for program benefits under part II of this subtitle is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act.

"SEC. 233. PAYMENTS TO STATES.

"(a) CERTIFICATION OF PAYMENTS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable such State as agent of the United States to make payments provided for by this subtitle.

"(b) APPLICATION OF PAYMENTS.—All money paid a State under this section shall be used solely for the purposes for which it is paid; and money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this part to the Secretary of the Treasury.

"(c) SURETY BONDS.—Any agreement under this part may require any officer or employee of the State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this subtitle.

"SEC. 234. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.

"(a) CERTIFYING OFFICERS.—No person designated by the Secretary, or designated pursuant to an agreement under this part, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this subtitle.

"(b) DISBURSING OFFICERS.—No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this subtitle if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a).

"SEC. 235. FRAUD AND RECOVERY OF OVERPAYMENTS.

"(a) LIABILITY FOR REPAYMENT.—(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this subtitle for which the person was not eligible, including a payment referred to in subsection (b), such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary may waive such repayment if such agency or the Secretary determines, in accordance with guidelines by the Secretary, that—

"(A) the payment was made without fault on the part of such individual, and

"(B) requiring such repayment would be contrary to equity and good conscience.

"(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State agency or the Secretary shall recover the overpayment by deductions from any sums payable to such person under this subtitle, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and, notwithstanding any other provisions of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this subtitle by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

"(b) FRAUD.—If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that an individual—

"(1) knowingly has made, or caused another to make, a false statement or representation of a material fact, or

"(2) knowingly has failed, or caused another to fail, to disclose a material fact,

and as a result of such false statement of representation, or of such nondisclosure, such individual has received any payment under this subtitle to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under this subtitle.

"(c) NOTICE AND HEARING.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the State agency or the Secretary, as the case may be, has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

"(d) DISPOSITION OF RECOVERED AMOUNTS.—Any amount recovered under this section shall be returned to the Treasury of the United States.

"SEC. 236. PENALTIES.

"Whoever makes a false statement of material fact knowing it to be false,

or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this subtitle or pursuant to an agreement under section 231 shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"SEC. 237. AUTHORIZATION OF APPROPRIATIONS.

"(a) TRANSITION ALLOWANCES.—There are authorized to be appropriated to the Department of Labor to pay transition allowances under this subtitle—

"(1) $30,000,000 for fiscal year 1992,

"(2) $34,000,000 for fiscal year 1993,

"(3) $36,000,000 for fiscal year 1994,

"(4) $37,000,000 for fiscal year 1995, and

"(5) $38,000,000 for fiscal year 1996.

Sums appropriated under this subsection shall remain available until expended.

"(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of this subtitle, the authority to make payments under this subtitle is subject to the availability of funds appropriated therefor.

"SEC. 238. DEFINITIONS.

"For purposes of this title—

"(1) The term 'adversely affected employment' means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for clean air employment transition assistance under this subtitle.

"(2) The term 'adversely affected worker' means an individual who, because of lack of work in adversely affected employment—

"(A) has been totally or partially separated from such employment, or

"(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

"(3) The term 'average weekly wage' means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual's total wages were highest among the first 4 of the last 5 completed calendar

quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

"(4) The term 'average weekly hours' means the average hours worked by the indivdual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (3).

"(5) The term 'partial separation' means, with respect to an individual who has not been totally separated, that he has had—

"(A) his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment, and

"(B) his wages reduced to 80 percent or less of his average weekly wage in such adversely affected employment.

"(6) The term 'State' includes the District of Columbia and the Commonwealth of Puerto Rico; and the term 'United States' when used in the geographical sense includes such Commonwealth.

"(7) The term 'State agency' means the agency of the State which administers the State law.

"(8) The term 'State law' means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of the International Revenue Code of 1986.

"(9) The term 'total separation' means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

"(10) The term 'unemployment insurance' means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act. The terms 'regular compensation', 'additional compensation', and 'extended compensation' have the same respective meanings that are given them in section 205 (2), (3), and (4) of this Act.

"(11) The term 'week' means a week as defined in the applicable State law.

"(12) The term 'week of unemployment' means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

"(13) The term 'benefit period' means, with respect to an individual—

"(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or

"(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.

"(14) The term 'on-the-job training' means training provided by an employer to an individual who is employed by the employer.

"SEC. 239. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subtitle.

"SEC. 240. SUBPOENA POWER.

(a) IN GENERAL.—The Secretary may require by subpoena the attendance of witnesses and the production of evidence necessary for him to make a determination under the provisions of this subtitle.

"(b) COMPLIANCE.—If a person refuses to obey a subpoena issued under subsection (a), a United States district court within the jurisdiction of which the relevant proceeding under this title is conducted may, upon petition by the Secretary, issue an order requiring compliance with such subpoena.".

SEC. 112. AMENDMENT TO JOB TRAINING PARTNERSHIP ACT.

(a) TRAINING PROGRAMS AUTHORIZED.—Title III of the Job Training Partnership Act is amended by adding at the end thereof the following new section:

"TRAINING FOR WORKERS ADVERSELY AFFECTED BY CLEAN AIR ACT COMPLIANCE

"SEC. 325. (a) EMPLOYMENT SERVICES.—The Secretary shall ensure that adversely affected workers covered by a certification under part I of the Clean Air Employment Transition Act receive the counseling, testing, and placement services, and supportive and other services, provided for under this Act or any other Federal law. The Secretary shall, whenever appropriate, procure such services through agreements with the States.

"(b) TRAINING.—If the Secretary determines that—

"(A) there is no suitable employment (which may include technical and professional employment) available for an adversely affected worker,

"(B) the worker would benefit from appropriate training,

"(C) there is a reasonable expectation of employment following completion of such training,

"(D) training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers),

"(E) the worker is qualified to undertake and complete such training, and

"(F) such training is suitable for the worker and available at a reasonable cost.

the Secretary shall approve such training for the worker. Upon such approval, the worker shall be eligible to have payment of the costs of such training (subject to the limitations imposed by this section) paid on his behalf by the Secretary directly or though a certificate system. Insofar as possible, the Secretary shall provide or assure the provision of such training on the job, which shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

"(2) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under paragraph (1).

"(3)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

"(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

"(i) have already been paid under any other provision of Federal law, or

"(ii) are reimbursable under any other provision of Federal law and a portion of such costs have aleady been paid under such other provision of Federal law.

"(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.

"(4) The training programs and activities that may be approved under paragraph (1) include, but are not limited to—

"(A) on-the-job training,

"(B) any program or activities under this title,

"(C) any other program or activity under this Act for which the individual is eligible,

"(D) any program of remedial education,

"(E) any training program (other than a training program described in paragraph (6)) for which all, or any portion, of the costs of training the worker are paid—

"(i) under any Federal or State program other than this section, or

"(ii) from any source other than this section, and

"(F) any other training program approved by the Secretary.

"(5)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

"(i) under any Federal or State program other than this subtitle, or

"(ii) from any source other than this section.

"(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subparagraph (A).

"(6) The Secretary shall not approve a training program if—

"(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

"(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

"(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this subtitle or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

"(7) The Secretary may approve training for any adversely affected worker who is a member of a group certified under part I of the Clean Air Employment Transition Act at any time after the date on which the group is certified under part I of such Act, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

"(8) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).

"(c) SUPPLEMENTAL ASSISTANCE.—The Secretary may, where appropriate, authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a work-

er's regular place of residence. The Secretary may not authorize—

"(1) payments for subsistence that exceed whichever is the lesser of (A) the actual per diem expenses for subsistence, or (B) payments at 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations, or

"(2) payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations.

"(d) ON-THE-JOB-TRAINING COSTS.—The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (b)(1) in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—

"(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

"(2) such training does not impair existing contracts for services or collective bargaining agreements,

"(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

"(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

"(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

"(6) the job for which such adversely affected worker is being trained is not created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

"(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 212 of the Clean Air Employment Transition Act,

"(8) the employer certifies to the Secretary that the employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment,

"(9) the employer has not received payment under subsection (b)(1) with respect to any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1), (2), (3), (4), (5), and (6), and

"(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (b)(1).

"(e) JOB SEARCH ALLOWANCES.—Any adversely affected worker covered by a certification under part I of the Clean Air Employment Transition Act may file an application with the Secretary for a job search allowance. Such allowance, if granted, shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by regulations of the Secretary; except that—

"(1) such reimbursement may not exceed $800 for any worker, and

"(2) reimbursement may not be made for subsistence and transportation expenses at levels exceeding those allowable under subsection (c) (1) and (2).

"(f) CRITERIA FOR GRANTING ALLOWANCES.—A job search allowance may be granted only—

"(1) to assist an adversely affected worker who has been totally separated in securing a job within the United States;

"(2) where the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides; and

"(3) where the worker has filed an application for such allowance with the Secretary before—

"(A) the later of—

"(i) the 365th day after the date of the certification under which the worker is eligible, or

"(ii) the 365th day after the date of the worker's last total separation; or

"(B) the 182nd day after the concluding date of any training received by the worker, if the worker was referred to such training by the Secretary.

"(g) REIMBURSEMENT FOR NECESSARY EXPENSES.—The Secretary shall reimburse any adversely affected worker for necessary expenses incurred by such worker in participating in a job search program approved by the Secretary.

"(h) RELOCATION ALLOWANCES.—(1) Any adversely affected worker covered by a certification under part I of the Clean Air Employment Transition Act may file an application with the Secretary for a relocation allowance, subject to the terms and conditions of this section, if such worker files such application before—

"(A) the later of—

"(i) the 425th day after the date of the certification, or

"(ii) the 425th day after the date of the worker's last total separation; or

"(B) the 182nd day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.

"(2) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides and that such worker—

"(A) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate, or

"(B) has obtained a bona fide offer of such employment, and

"(C) is totally separated from employment at the time relocation commences.

"(3) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days after the filing of the application therefor or (in the case of a worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training.

"(i) DEFINITIONS.—for the purposes of this section—

"(1) The term 'relocation allowance' means—

"(A) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under subsection (c) (1) and (2)) specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family, if any, and household effects, and

"(B) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $800.

"(2) The term 'adversely affected worker' means an individual who is determined to be eligible for a transition allowance under section 221 of the Clean Air Employment Transition Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—section 3(c) of the Job Training Partnership Act is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by inserting "(1)" after "(c)", and

(3) by inserting "(other than section 325)" after "title III",

(4) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated to carry out section 325—

"(A) $15,000,000 for fiscal year 1991, and

"(B) such sums as may be necessary for each of fiscal years 1992, 1993, 1994, and 1995,

except that the total amount appropriated for all five such fiscal years shall not exceed $75,000,000. Sums appropriated pursuant to this paragraph are authorized to remain available until expended.".

SEC. 113. GAO ASSESSMENTS OF EFFECTS OF CLEAN AIR ACT COMPLIANCE ON EMPLOYMENT.

The Comptroller General of the United States shall—

(1) identify and assess, on a continuing basis, the effects on employment that are attributable to compliance with the provisions of Clean Air Act; and

(2) submit to the Congress on the 3rd anniversary of the date of the enactment of this subtitle a written report on the assessments required under paragraph (1).

After submission of the report required on the 3rd anniversary of such date of enactment, the Comptroller General shall submit to the appropriate committees of the Congress such periodic updates regarding the assessments as are considered necessary or appropriate by the Comptroller General or such committees.

SEC. 114 APPROPRIATIONS REQUIRED

Notwithstanding any other provision of this subtitle or any amendment made by this subtitle, the authority to make payments under this subtitle (or under any such amendment) is subject to the availability of funds appropriated therefor.

Page 5, after line 4, insert the following:

"Subtitle A—In General.".

Conform the tables of contents accordingly.

The CHAIRMAN. Pursuant to the rule, the gentleman from West Virginia [Mr. WISE] will be recognized for 30 minutes, and a Member opposed to the amendment will be recognized for 30 minutes.

Mr. LENT. Mr. Chairman, I am opposed to the amendment

The CHAIRMAN. The gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

Mr. WISE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very simple straightforward amendment, the worker transition amendment.

The Wise-Ridge-Downey amendment says very simply that workers who lose

their jobs due to implementation of the Clean Air Act may apply to the Department of Labor for a program of limited benefits, patterned exactly after the already existing Trade Adjustment Assistance Act, and that they can then receive these limited benefits, which would be 6 months of unemployment compensation, for a total of 1 year and up to 2 years of training.

I would like to talk for just a minute about what this amendment is and what it is not. This amendment is a transition program. It is not a protection program.

This amendment applies to all workers in this country in all industries; auto workers, chemical workers, coal miners, utility workers, aluminum workers, steel workers, you name it, it applies to all workers. It is not limited to one group of workers.

This amendment applies to all regions of the country. It is not limited to one region of the country.

This amendment is a limited amendment in that it is capped at the spending level of $250 million over a 5-year period, averaging $50 million a year.

It is not an unlimited entitlement. It is not an uncapped entitlement. Indeed, there is specific language in the amendment that says all spending is subject to the appropriations process.

This amendment does not create any new programs in that it provides the same level of benefits, namely, 6 months of unemployment compensation and up to 2 years of training that already exists under the Trade Adjustment Assistance Act.

It has the same process of applying for these benefits as in the Trade Adjustment Assistance Act.

This amendment is supported by representatives of organized labor, by the business community through the Clean Air Working Group, and by the environmental community through the National Clean Air Coalition.

There is one significant opponent to this amendment. It is the White House.

I would like to read to you a quote by a distinguished American: "I want to be known as the environmental President."

□ 1450

"I want to be known as the environmental President. I also want to be concerned about a person's ability to hold a job and have a job. The jobs of many thousands of people, it is a human equation, and whole communities are at stake." It could not have been said better. It was said on Monday by President George Bush in Oregon, and that is what this amendment is about, helping make the transition for the jobs of many thousands of people.

Unfortunately the White House has sent us a letter saying that Mr. Sununu is recommending a veto of the bill if the Wise-Ridge-Downey amendment passes. I question their reasoning. For instance, they talk about spending, new spending, and yet the White House estimates that this clean air bill in toto will cost something like $19 billion to $20 billion a year, and we are talking about on the average $50 million for worker transition, less than about one-fourth of 1 percent of the total cost of this package.

The White House fears new programs, they say. Of course, there is a check on that, the check of the veto and the check of congressional passage.

The White House, interestingly enough, is not saying in its letter what is said in the CONGRESSIONAL RECORD dating from the debate, and, indeed, in the proceedings in the other body in March, it is interesting to note that the package that was being proposed by the joint leadership and the White House was made part of the record of the proceedings and, indeed, its benefit package exceeded our benefit package. If they are concerned about the camel's nose under the tent, they just about let the whole first hump in.

Once again, I do not think that that is a relevant argument.

Finally, Mr. Chairman, I would say that if it is not done here today in this bill, where is it going to get done? Because we know that no other major piece of legislation is going to be able to incorporate a worker transition bill or amendment such as the one that I am offering. That is a prime reason why it is germane and must be included in today's legislation.

We have taken care of energy interests, we have taken care of environmental interests, we must now take care of the people's interest.

Mr. Chairman, I reserve the balance of my time.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Wise amendment. A vote for the Wise amendment is a vote against clean air. It is a vote against the improved health and labor productivity that will result from enactment of the Clean Air Act amendments. It is a vote against the hard work and compromise that went into bringing this bill to the floor. It is a vote against a speedy House-Senate conference.

The issue of labor protection was bitterly divisive in the Senate, with the distinguished majority leader in that body leading the opposition to labor protection, and ultimately it is a vote against the President's oft-stated desire to have a bill which is balanced, reasonable, and achieves the greatest pollution reduction for the least cost.

The precedents set by enactment of the Wise amendment are enormous. For the first time, environmental benefits will be held hostage to labor protection. In the future, how will we, in the Congress, be able to pass environmental legislation and not include labor-protection provisions for industries adversely affected by that legislation? In the future, how will we choose which industries deserve protection? Do any of us want to be in the position, for example, of saying that workers in the steel industry can have labor protection, but workers in the oil industry cannot?

Mr. Chairman, that is what the Wise amendment will do to us. What will we do when we pass defense cutbacks which are in the offing? Will we do less for the unemployed aircraft worker than we do for the unemployed auto worker?

The Wise amendment has many technical flaws. The $250 million ceiling on the program is illusory. There is really no cap. The amendment would create, in effect, an open-ended liability for the Federal Government.

The cost of compensating coal miners in phase 1 alone could be $475 million. Job losses in other industries have ranged as high as 250,000. The amendment could add $3.9 billion to the cost of this bill, and be veto bait.

At a time when environmental protection is at the top of many Americans' lists of things to be done and at a time when our congressional leadership is even now striving to resolve a severe deficit problem, passage of the Wise amendment is an unnecessary shot in the congressional foot. Why do we do these things to ourselves in the midst of a budget crisis passing a new entitlement program?

The amendment is not workable. It will be very difficult to separate workers who are displaced by acid rain legislation from those displaced for other reasons.

Let me give the Members one example: the administration projects that high-sulfur mining employment will drop by 12,800 slots between 1987 and 2000.

Mr. Chairman, in closing then, I encourage all Members to resist the temptation to vote for the Wise amendment. An amendment similar to the Wise amendment, the Byrd amendment, was very bitterly fought and defeated in the Senate. The leading opponent of that amendment was Senator MITCHELL.

Why did the majority leader of that body oppose a labor-protection amendment similar to the Wise amendment? Because he supports enactment of clean air legislation this year. So do I.

I would urge all of my colleagues to vote against this very unwise amendment.

Mr. WISE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, first of all, let me say that I am honored to join the gentleman from West Virginia [Mr. WISE] and the gentleman from Pennsylvania [Mr. RIDGE] as a sponsor of this amendment.

I do not know if many of the Members saw Mr. Seidman's testimony the other day. He suggested to us that it would be upward of $500 billion to bail out the bonded savings and loans in this country, an astonishing figure.

We are going to protect the deposits of people who have $100,000 or more in those institutions, but we are, in the same breath, going to say that we cannot spend $250 million over 5 years to protect some workers who are going to be displaced by a policy that benefits us all? Shame on us, my colleagues, shame on us.

If we want to have a productive economy, it means that we need to have educated workers who are nurtured and respected. They need to be nurtured and respected by the National Government, and when the National Government changes policy, as we are doing with clean air and, that is going to jeoplardize their jobs, it is part of the National Government's responsibility to help these workers.

We are not being lavish here. We are not providing an open-ended entitlement. It is a capped amount of money, $50 million a year. The Secretary of Labor must determine who is eligible and who is not, these workers will be allowed to receive 6 months' extended unemployment benefits while they look for other work they must also get retrained, and they will be given an opportunity for job placement. This is eminently reasonable.

On Long Island, as in other parts of the country, we may not have workers who will be displaced, but we will materially benefit by the clean air that we breathe and the better environment that we have. We will live longer and be happier because of this bill.

We owe a responsibility to the people who are going to be put out of work not to neglect them.

If this Congress can appropriate hundreds of billions of dollars to protect property, in the savings and loan bail out, we can spend a couple of hundred million to protect hard working men and women.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD], a member of the committee.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. I am happy to yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by Congressman WISE of West Virginia.

I want to clear the air about some of the misconceptions surrounding the Wise amendment that I have heard over the past few days.

First of all, Wise amendment is not a budget buster. At $250 million the Wise amendment is a modest, arguably too modest, authorization.

The Wise amendment has been characterized as costing the Federal Government $250 million per year. That is simply not true. The Wise amendment is a 5-year program that will cost a total of $250 million. That averages out to a cost of $50 million per year.

What I find so amazing is that with enactment of this reauthorization, compliance with the Clean Air Act is expected to exceed $50 billion—annually. At an average cost of one-tenth of 1 percent of the compliance cost $50 million—this employment transition program is a drop in the bucket.

Another commonly held misconception is that the Wise amendment is almost identical to the Byrd amendment offered in the Senate. Again, not true.

The Wise amendment would offer benefits not only to coal miners, who are displaced because of reauthorization of the Clean Air Act, but also to textile workers, to utility workers, to steelworkers, to petrochemical workers, to all of those workers who are certifiably displaced because of passage of the bill.

In order to receive the additional benefits, eligible workers would be required to enter a retraining program, the program is not a giveaway.

I strongly urge my colleagues to assist those Americans who will lose their jobs because of enactment of the Clean Air Act amendments.

It is this group of American workers that we are asking to bear the greatest burden.

The least we can do is offer these individuals an opportunity to be retrained so that they may once again be gainfully employed.

In closing, let me remind the Members of this body, when a company is forced to close its doors, it is not just the workers who lose out. There will be a ripple effect and entire communities dependent upon those displaced workers will suffer. I know because I have watched this happen to coal mining communities in my very district.

By passing the Wise amendment, displaced workers can be retrained for other jobs that may be available in the community, thus averting a community destroying exodus.

Support American workers, support communities—vote for the Wise amendment.

□ 1500

Mr. MOORHEAD. Mr. Speaker, I rise to speak in opposition to the Wise amendment. I think it is unfortunate that we are being asked to vote today on an amendment that pits labor against the environment. Indeed, I do not understand why the Committee on Rules thought it was a good policy to make this amendment in order.

The amendment is clearly not germane to the Clean Air Act amendments. If introduced as a bill, the Wise amendment would be referred to the Committee on Education and Labor and probably to the Committee on Ways and Means.

In our area we are losing 10,000 workers as Lockheed Aircraft closes down in Burbank. All displaced people should be considered in one piece of legislation if we are going to consider this kind of legislation. It should not be included in an important bill such as the one we are considering today.

I certainly would speak on behalf of my constituents who are losing their jobs because of cutbacks in the aerospace industry. I think to single out any particular group certainly is wrong.

The Wise amendment is very similar to the Byrd amendment which was bitterly fought and defeated in the Senate. The leading opponent of the Byrd amendment was Senator MITCHELL. Why we in the House have to go through a fight comparable to that suffered by the Senate is a mystery, especially as House passage of the Wise amendment raises questions about the scope and speed of the House-Senate conference on clean air.

My biggest complaint about the Wise amendment, however, is that it interferes with the enactment of the Clean Air Act amendments this year. At a time when the Committee on Commerce and the House should feel proud that we are on the verge of fulfilling the desires of many Americans for cleaner air, we are instead voting on an amendment, which, if adopted, could well end our progress toward this achievement. Moreover, every Member of the House knows that if we adopt labor protection for workers adversely affected by the Clean Air Act, we will have to justify not adopting similar labor protections every time we pass environmental legislation in the future.

Rather than fall into that trap, I urge all my colleagues to vote against the Wise amendment.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I would like to compliment my friend from Glendale, the gentleman from California [Mr. MOORHEAD] for his fine statement, and I would like to underscore a very important point he made, Mr. Chairman, that being that we in California are beginning to suffer from some of the cutbacks in a number of industries, specifically defense and aerospace.

What kind of package are we going to be putting together to deal with that? I think the statement of the gentleman is right on target, and I join him in opposition to the amendment.

Mr. WISE. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in strong support of the Wise amendment and am proud to say that I consulted with the authors of the amendment, as did the staff of the Committee on Education and Labor. I am shocked to hear the gentleman from New York, my friend, use inflammatory language like, "You have got a choice between clean air and workers."

Mr. Chairman, that is not what is involved here at all. This in no way could be imagined to be holding clean air as a hostage for workers' benefits.

As to the question of how it will work, do we know how it will work? Can it be done? Yes, because we have been doing it for years. Under the Trade Adjustment Assistance Program, the Department of Labor makes a determination that a particular group of jobs are lost because of the impact of foreign imports. That was the tradeoff that we made during the Reagan administration years for very generous free trade provisions in trade legislation.

The tradeoff was we understood that those policies were going to result inevitably in the loss of jobs. We said that there ought to be a transitional effort made for the people who lost their jobs. Not to put them on the dole permanently. This does not do that. As a matter of fact, one of the salient points of this is the experience we have had before which dictated this. No transition allowance may be paid to a worker who is not enrolled in a training program for a new job unless the Secretary of Labor certifies that no program is available. So you cannot just go down and apply for this and say, "My job is gone."

In the first place, nobody is considered for this transitional assistance unless the Department of Labor makes a determination that as a direct effect of the implementation of any of the provisions of this act the jobs are lost, and therefore the people should be relocated into new jobs and retrained in many instances.

The need for this amendment is so obvious that I find it really surprising that anybody is opposing it. To suggest that it creates a conflict between labor and clean air is absolute nonsense.

We are not talking about labor here, we are talking about people here. We are talking about people who may have a job in almost anything.

The gentleman from California [Mr. MOORHEAD] who just spoke is arguing against the Byrd amendment which addresses itself to a simple compensation program for coal miners. This bears no resemblance to that at all.

Mr. Chairman, I rise in strong support of the Wise amendment, which creates a Clean Air Employment Transition Assistance Program to help the thousands of employees who may lose their jobs if the Clean Air Act is enacted.

The policy behind this amendment is so obviously just that I hope no one will oppose it. The Congress and the President, on behalf of the American people, are about to order drastic changes in the way many industries in our country operate. We are making those changes for the benefit of the American people and even for the benefit of the entire Earth. But these changes entail costs in addition to their benefits, and one of the costs is the loss of jobs in certain industries.

In effect, Congress and the President are choosing to destroy the jobs of certain coal miners, certain auto workers, certain steel workers, and others for the benefit of the rest of us. We are taking from those workers and their families their most valuable property—their jobs, their ability to earn an income and support themselves. In good conscience, we can't take their property without compensating them.

The Environmental and Energy Study Conference described the Wise amendment as "Cash benefits for displaced workers." I think that that shorthand was unfortunate. It does authorize up to 6 months of additional weekly unemployment compensation benefits, on the same terms as the Trade Adjustment Assistance Program. But its principal benefit is the offer of retraining, job search assistance, and relocation assistance to help get the dislocation workers back into productive jobs.

In fact, no transition allowance may be paid to a worker who has not enrolled in a training program, unless the Secretary of Labor certifies that no program is available. The amendment makes it the Secretary's duty to see that training is available.

The need for this amendment is obvious in the case of high sulfur coal miners in West Virginia, Tennessee, and Kentucky. There are no other jobs in many of their communities. If no one buys their coal they will have to be retrained and helped to relocate if they are to continue to be productive contributors to the economy.

But auto, steel, chemical, and paper workers are at risk, too, and many of them will not be able to find jobs that pay wages that will support their families if they do not get the help this amendment will provide. JTPA title III, which this amendment amends, has not been funded at a level to provide help to even half of the workers dislocated in the normal course of events. Defense cutbacks have already begun, and the budget resolution has taken account of them by recommending another $300 million in fiscal year 1991 beyond the baseline of $464 million.

But we cannot predict the extent of the additional dislocation the Clean Air Act will cause. So, wisely, this amendment provides an additional cushion of $75 million over 5 years—a separate line item that can be appropriated as needed.

I urge my colleagues to support this very modest, obviously just amendment. Ultimately, we all will benefit by being fair and humane to the people whose jobs will be sacrificed in the fight to achieve clean air.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I would simply like to identify with the remarks of the gentleman from Michigan [Mr. FORD], and indicate when government removes a job, we ought to protect that worker.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. BLILEY], a member of the committee.

Mr. BLILEY. Mr. Chairman, I rise in strong opposition to this amendment, for several reasons. First of all, it is an entitlement program. We have been advised, language in the amendment notwithstanding, that court rulings would be against us and we would be in effect creating a new entitlement.

In addition to that, it reopens this issue in conference, because it is not in the Senate bill. This will reopen the issue in conference and there is no telling where it will go.

The third reason, there have been no hearings on this. Now, you remember the last time we brought a measure to the floor without the benefit of any hearings? It was the catastrophic health insurance bill. What a catastrophe that turned out to be.

My friends, what about other industries? There are a number of Members in this body who would like to put my tobacco workers and my tobacco farmers out of business. Are they going to get special labor protection? I do not think so.

What about the military? We are apt to adopt numbers for the defense budget this year that will force the forced retirement and furlough of many young men and women who have signed up for a career in the military. Are we going to give the same benefits to them? I think not.

Mr. Chairman, this is a dangerous precedent, one that should not be adopted on the floor of this House without proper hearings and proper referral to the proper committees. I urge Members to resist this temptation and to vote no on the amendment.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I rise in support of the amendment offered by my friend and colleague from West Virginia, and I would like to offer my thanks to the gentleman from Michigan [Mr. DINGELL] for his extraordinary leadership and his dedication to this body.

Mr. Chairman, we are preparing to vote for an amendment to provide a transitional period of relief and retraining for thousands of working men and women who will lose their jobs because of the Clean Air Act. And in some cases, it will mean not just the end of a particular job, but of a way of life.

In the time that I have served in this body, the administration has never

had a national energy policy and it still doesn't. The progress that we have made in energy has come through the enormous character and leadership abilities of Senator BYRD. And I would submit to you that had all of Senator BYRD's proposals for clean coal technology been followed over those years, there would be little disagreement over the provisions of title V of this act, because we would not have an acid rain problem.

But here we are today, on the one hand we must do something to protect the environment for our children, and on the other hand we have to throw thousands of their mothers and fathers out of work to do it. For every side that wins something in this legislation, there are other sides that lose. I have a thousand letters from my constituents who ask that I vote for amendment X or Y to strengthen the bill, and I have a thousand letters from my constituents who say if you vote for amendment X or Y, I won't be able to feed my family or educate my children. This bill will raise electric rates, but it will cut health care costs. For every positive there is a negative.

This amendment is an intelligent and compassionate attempt to bring some balance to these choices. Those who oppose this amendment do so because it dramatically underscores the cost this bill will have. This amendment not only acknowledges the cost, but it does something about it. The procedure is workable, because it has been done before.

This is a vote, Mr. Chairman, for the little guys. And let us be clear on who these little guys are and who they are not. These are not the S&L crooks whose dirty dealing are bleeding our economy of billions of tax dollars that could be better spent on education. These are coal miners by whose blood and sweat our industrial base has been built.

These are not foreign countries to which the administration is always so eager to send our tax dollars, when they could be better spent at home fighting the war on drugs. These are steel and iron workers who ask nothing from their government but that they be allowed to do a day's work for a day's pay.

These are not white collar criminals that the Justice Department want to go easy on in sentencing. These are blue collar workers who live paycheck to paycheck, and whose days are filled with worrying about putting enough food on the supper table.

These are America's working families. They are our past, our present and, if we allow them, they will be our future. Mr. Chairman, my wife and I had our second child this past weekend, and like all my colleagues and like all Americans, I want our children to have clean air to breathe, clean water to drink, and green parks to play in.

There are times when in our haste to join a good cause we don't always consider the effect. Clean air is a good cause but it comes with dramatic effects, and this is one time when we must not only consider those effects, but we must act to protect those who will be hurt through no fault of their own.

Mr. Chairman, a vote for the Wise amendment is a vote for the American worker. I urge passage of the amendment.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], a member of the committee.

Mr. FIELDS. Mr. Chairman, the Wise amendment, while well-intentioned, is bad public policy. Adoption of the Wise amendment would create an open ended liability for the Federal Government, making it impossible to distinguish between displacements caused by the bill and other economic factors. Workers who lose their jobs due to the Clean Air Act already qualify for unemployment insurance and job-training assistance. Providing additional benefits to these workers is unfair to workers who lose their jobs for other reasons.

Mr. Chairman, no hearings have been held on this proposal. We have no idea what the budgetary implications would be while the sponsors of this amendment argue that its fiscal impact is moderated by the authorization language, we all know that authorization language cannot provide real assurances against future Federal spending.

Finally, Mr. Chairman, the Wise amendment jeopardizes enactment of the Clean Air Act. It violates the principles of balance which President Bush has indicated will be the basis for his decision on whether ultimately to sign clean air legislation.

I urge my colleagues to vote "No" on the Wise amendment.

□ 1510

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, as the Congressman for nine high-sulfur coal producing counties in western Kentucky, I speak in support of the Wise amendment.

Moments ago, my colleagues from California and Texas were emphasizing that we haven't had proper hearings on the Wise amendment. Surely, we all realize that almost every day the House meets we vote on amendments which haven't been the subjects of hearings.

Earlier today, a colleague was asking that I support protecting the spotted owls. I then learned he doesn't give a hoot about the Wise amendment which will help people who may lose their jobs. I now know that Congressman's priorities.

Also, just yesterday, some of my colleagues who oppose the Wise amendment, which will help American coal miners and others, were urging Members of Congress to vote more Federal dollars for foreign aid. I hope there is a majority of us who believes that American people should also be considered for Federal dollars along with people who live in Egypt, Israel, Nicaragua, Panama, and El Salvador.

Some of us represent coal districts where already depressed economies face further economic devastation. For us, this amendment spells relief.

The Wise amendment offers those individuals whose families have mined for generations an opportunity to be retrained so that they may again compete in the work force.

Falsely accused of being another entitlement program or of creating a new regulatory framework, in reality this amendment does neither. In fact, it actually establishes a program which is only authorized for 5 years and requires that workers demonstrate that their group was displaced as a direct result of the Clean Air Act. Furthermore, this amendment requires a GAO study to assess effects on employment attributable to compliance with the Clean Air Act and it amends two existing statutes. Needless to say, this amendment is well written, fair, and comprehensive in nature.

Provide wise relief to those who may otherwise become an economic drain, who could just collect welfare instead of being retrained and become assets to the work force. Support the Wise amendment and give the workers you displace a fighting chance.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman from New York for yielding time to me.

Mr. Chairman, every single Member of this House does support or will support programs to help the person who loses his job because of circumstances of the economy. All of us do that, and we are doing it this moment whether or not we pass this legislation, because there are dozens of programs already in place which do exactly that.

I would go to the wall, as anybody in this House would, to support and help a displaced coal miner who comes to my office and says: "I just lost my job because my mine has closed down for good," and so would all of the Members here. There are dozens of programs that will help us help that coal miner right here and now.

That alone gives us reason not to support this particular amendment, but there is another basic reason, the cost.

We can throw $250 million around like nothing these days, and I understand that, but I still refuse to throw it around wantonly. Second, this is to me an acknowledgment, a sad acknowledgment, the offering of this amendment, that the coal industry of this country is dead, or dying, or moribund, or absent from the future of this country. That is what this bill does.

I feel badly for the coal miner at this moment because the proponents of this legislation say you are going to lose your job, this clean air bill in the name of clean air is going to wipe out king coal forever. It is the coal industry for whom this bill tolls.

Mr. MURPHY. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Pennsylvania.

Mr. MURPHY. Mr. Chairman, I thank the gentleman for yielding and for his evenhanded approach. Even though we differ on our opinions on this measure, he has sacrificed me a few seconds to express mine.

The corporations that are affected by this will decide between their profit and loss column what to do. The automobile companies will add $100 to the price of an automobile. The utility companies will go before the utility commissions and seek a rate increase.

But what will the unemployed coal miner or utility worker receive? Unless this amendment is passed he will have no recourse.

We merely urge that if the proponents of this legislation are correct, that there will be no job loss, then there will be no cost; but if there is a job loss, let us protect the one who is least able to protect himself, and that is the unemployed worker.

I urge Members to support the Wise amendment, and thank my colleague from Pennsylvania for yielding me part of his time.

Mr. GEKAS. Seeking back my time, I hope the gentleman from Pennsylvania recognizes even if this bill should fail that he and I and others can help the displaced worker of any type with the existing programs.

Mr. MURPHY. We would like that assurance now, and I thank the gentleman.

Mr. Chairman, I rise in strong support of the Wise amendment to H.R. 3030 which provides for environmental adjustment assistance.

With so much attention directed towards CFC's VOC's, MACT's stationary sources, et cetera, it is easy to lose sight of those workers who will inevitably be affected by the passage of this clean air bill.

Clean air has a cost. We have been hearing this over and over throughout this debate. But this bill is not a budget buster. It is projected to cost about $250 million and will benefit only those who have no recourse. The automobile manufacturers can raise their prices to meet any cost increases. The utilities will turn to their regulatory bodies for the necessary rate adjustments. Major industries will be permitted to pass along every added cost of this legislation. They do not need our help today.

Where can the displaced worker turn? Who can he or she turn to for a cushion? If we are successful here today, they will be able to turn to the protections contained in this amendment. It is only fair that we provide some assistance to those who will be caught up in the changes that our legislation mandates.

Some argue that the Wise amendment is unnecessary. That it will not be needed because the impact will not be as great as some predict. I hope and I pray that they are right but I am not quite as optimistic. If they are right, the amendment will have not cost, no loss to the Treasury. But if they are wrong, and I believe that they are, this amendment will be needed and needed badly. We should and we must provide this protection. Those least able to adjust should be given the extra boost that they will need to face the uncertain future.

A Congress which can approve an open ended appropriation of some $300 billion to bail out the failing savings and loan industry, can certainly put aside partisan differences to approve an amendment which will cost just a fraction of 1 percent of the banking scandal's ultimate impact.

I urge all of my colleagues to join me and vote for the Wise amendment. It is right. It is fair. It is just.

Mr. WISE. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, I rise today in support of the job protection amendment offered to H.R. 3030 by the gentleman from West Virginia.

The debate over acid rain has shifted. We're no longer arguing about whether the problem exists. Now, we're trying to work out ways to solve it. We're no longer arguing about who will pay the cost. Now, we're trying to work out ways to help those paying the bill.

Mr. Chairman, it has been estimated that in my own home State of Illinois, provisions of H.R. 3030 would mean the loss of 19,000 jobs and cause coal production to plummet from 60 million to 30 million tons a year.

Five thousand out of fifteen thousand coal miners in Illinois are already out of work because of reduced demand for our high-sulfur coal. For those who remain—and for the thousands of other workers whose livelihoods will be affected by this legislation—we must provide an opportunity for retraining and temporary support while they prepare for a new life.

Americans are a fair people, Mr. Chairman. We have a tradition of helping each other achieve common goals. Whether it is maintaining the solvency of our banking institutions, recovering from natural disasters—be it earthquakes or hurricanes—or providing a helping hand to drought-stricken farmers, we work together.

This legislation is an extension of that fair, cooperative spirit that makes America great. It is not a worst example of regionalism, Mr. Chairman. Rather, it is the best example of federalism.

I urge my colleagues to vote for the Wise amendment.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I oppose the Wise amendment to H.R. 3030. It is, of course, simply the Byrd amendment in sheep's clothing. That was the amendment that failed in the other body.

I oppose this because, as someone has already suggested, it does not follow our appropriate procedures. We do not know what criteria we should use in trying to determine exactly what put these people out of their jobs. The coal industry has lost 100,000 people in the last few years already. For the next person who is unemployed, is it because the industry is on a downgrade, or is it because of the Clean Air Act? The Department of Labor is going to have to figure that out, and, on the record, it is not very good at figuring that out.

Since no committee has had hearings, the Department of Labor will not have the advantage of any of our thoughts on this matter.

It establishes a new program strikingly similar to the Trade Adjustment Assistance Program which has been such a spectacular failure since 1970. The definition of workers who could seek certification is very broad, not limited to any industry and including services as well.

It provides up to 2 years of retraining as well as the extra unemployment compensation. Let me tell Members the huge amount of compensation they are going to get to protect workers here.

We are going to give them $30 million a year. The one estimate available is that 350,000 workers will be displaced. That means we are going to have no more than $86 per worker in additional unemployment compensation, not a very handsome purse. That amount is hardly worth filing for. If only the people mentioned by the gentlewoman from Illinois [Mrs. MARTIN] are to be unemployed, there will still be only a tiny amount, $1,500 of unemployment compensation for her 19,000 workers.

The wonderful training benefits, if there are 350,000 displaced workers, will be spread on the basis of $43 per worker—$43 a year won't buy much training. Obviously we are not talking real money here. We are talking about a program which somebody expects to expand into a multibillion dollar program.

We already have a well developed Jobs Partnership Training Program and Displaced Workers Program and a full-blown Unemployment Compensation Program. All of this amendment is extra, and it is unnecessary.

If this amendment is enacted, unrealizable expectations will be raised; applications will flood in; lawsuits will follow; and chaos will prevail. We can prevent all that by saying "no."

Mr. Chairman, I will read briefly from a letter from John Sununu, Chief of Staff, and William Reilly, Administrator of the EPA to the Speaker of the House on this amendment. It says:

*Washington, DC, May 22, 1990.*

Hon. THOMAS S. FOLEY,
*Speaker, U.S. House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: As the full House prepares to consider H.R. 3030, the clean air bill which has been reported by the Committee on Energy and Commerce, we would like to offer the Administration's views on both the bill as reported by the Committee and several likely amendments.

The Administration's goal is to secure passage of clean air legislation which obtains the urgently needed environmental benefits called for in the President's original bill in the most efficient and cost-effective manner possible. We are pleased that the bill incorporates many of the features which were included in the President's proposal for the purpose of achieving this goal.

We are particularly pleased that the bill contains the following central features:

An acid rain control program, built on the principles which the President put forward, which will achieve a permanent reduction in sulfur dioxide emissions of 10 million tons below 1980 levels by the year 2000; which will allow utilities the freedom to choose how to achieve the required reductions; and which incorporates the concept of emissions trading in order to reduce the impact on the nation's electric ratepayers;

A program to reduce air toxics emissions by 75 to 90 percent in the first phase by adopting a technology standard, Maximum Available Control Technology (MACT), similar to that proposed by the President; and

Provisions designed to bring the overwhelming majority of America's cities into attainment with standards for ozone, carbon monoxide, and particulate matter within 10 years; and provisions suggested by the President to ensure steady progress toward attainment by requiring annual percentage reductions in ozone-forming emissions.

We do, however, have several concerns with the Committee bill and with several amendments that may be offered on the House floor.

On January 19th, the President sent a letter to the leadership of the Senate outlining five minimum tests of balance and reasonableness that must be met in any Clear Air legislation which he would sign. Specifically, the President believes that:

The environmental protections in the Administration's bill must be maintained and preserved over time;

The bill should not impose aggregate costs on the economy which exceed those embodied in the Administration's bill by more than 10 percent;

Controls in the bill should achieve reductions in the most cost effective way;

The system of acid rain emissions trading must be preserved and allowed to work; and

The legislation must not include a national electricity tax to pay for controls.

The estimated cost of the Committee bill is already at or slightly above the cost threshold outlined in the President's letter. Certain amendments could, if adopted, cause the bill to violate this and several other of the President's tests. These amendments are discussed below. Several additional concerns that the Administration has with the Committee bill as reported are discussed in the attachment.

TERMINATED WORKER ASSISTANCE

Representative Wise is planning to offer an amendment which is similar to the Byrd Amendment that was defeated in the Senate, and which the Administration opposes for similar reasons. The amendment would provide additional unemployment insurance benefits to workers who are deemed to have lost their jobs as a result of implementation of the Act.

This amendment would create a potentially open-ended liability for the Federal government because it contains no effective means of distinguishing whether workers lose their jobs because of the Clean Air Act or because of other factors. Employment in the coal industry, for example, has declined by over 100,000 in the last ten years for reasons totally unrelated to clean air.

As worded, it is not clear that the "cap" on Federal outlays would be enforceable or effective. This amendment sets an undesirable precedent that would have massive budget implications if similarly applied to workers affected by job shifts as a result of any other environmental initiatives or, for that matter, other Federal actions. It would open a multi-billion dollar deficit-increasing door that may never be closed. Unless the various adverse characteristics of the amendment are addressed, the President's senior advisers would recommend that the bill be vetoed.

PERMITTING AND ENFORCEMENT

The Administration believes that the permitting and enforcement provisions in the final bill must be both effective and efficient. Provisions that are unduly cumbersome, that allow counterproductive and inappropriate citizen lawsuits, or that impose unnecessary regulatory burdens on the economy will only result in frustrating the goal of a workable permitting and enforcement system.

We are especially concerned about provisions which would:

Expand judicial micromanagement far beyond that authorized in current law;

Inappropriately expand the power of the courts to collect fines and distribute them;

Fail to make a distinction between modifying and codifying permits;

Fail to provide the flexibility needed for industrial innovation.

ALTERNATIVE FUELS AND VEHICLE PRODUCTION REQUIREMENTS

Representative Waxman is planning an amendment with automobile production mandate requirements which go far beyond those proposed in either the Administration's original bill or the Senate-Administration compromise. The amendment effectively dictates certain types of fuels and violates the "fuel neutrality" principle on which both the Administration and Senate-passed bills were based.

The Administration has consistently favored any combination of vehicles and fuels which achieves needed environmental benefits, with an option provided to the states to increase the contribution of alternative fuels toward cleaner air if this is needed to come into attainment.

UNILATERAL CFC PRODUCTION RESTRICTIONS

Representative Bates is planning an amendment which contains phaseout and other requirements for chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), halons, and methyl chloroform that go far beyond what is likely to be agreed to under the Montreal Protocol negotiations. This amendment may not be technically feasible, and in any event ties the hands of U.S. negotiators who are now seeking multilateral agreement on a worldwide phaseout of CFCs.

A unilateral phaseout will have little environmental effect, and if pursued on the schedule required in the amendment, could actually impede the development of safe substitutes. The Administration believes that any unilateral provisions adopted in the bill should not supersede or undo the terms of the ongoing Montreal Protocol negotiations if a successful outcome is achieved.

OTHER AMENDMENTS

The Administration is aware that Committee amendments are likely to be offered on the floor concerning accidental releases of air toxics, "visibility" provisions in the acid rain title, and requirements for reformulated gasoline and oxygenated fuels. While the Committee compromises on these subjects represent substantial improvements over the original versions of the amendments, the Administration remains concerned that their adoption would result in few additional environmental benefits while causing the aggregate cost of the bill to exceed the levels which the Administration would support. The Administration will therefore be working in conference to modify these provisions.

CONCLUSION

The Administration, the House, and the Senate have all devoted a remarkable amount of time to consideration of clean air legislation during the current Congress. We believe that the outlines of a consensus bill that affords significantly increased environmental protection in a cost-effective manner are clear.

We now have an opportunity to break a decade-long logjam on clean air. The Administration believes that the House should seize this unique opportunity, and avoid the adoption of any unnecessarily costly amendments which provide little incremental environmental benefit.

We urge Members of the House to support a bill which meets the President's five tests of balance and reasonableness so that clean air legislation can be signed at the earliest opportunity this year.

Thank you very much for your consideration.

Sincerely,

WILLIAM K. REILLY,
*Administrator, Environmental Protection Agency.*
JOHN H. SUNUNU,
*Chief of Staff.*

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ATTACHMENT—KEY ADMINISTRATION CONCERNS WITH COMMITTEE BILL AS REPORTED

FIP's.—The House has delegated language that relieved EPA of its current obligations to complete federal implementation plans (FIP's). If current FIP obligations are not

relieved, EPA must impose acoss-the-board, draconian measures devastating the country's largest industrial area. In light of the new regime for state plan submissions, it makes no sense for EPA to impose FIPs before the states have had a chance to meet their new obligations. For these reasons, the Administration strongly objects to the Committee's approach.

In addition to current FIP obligations, the House Committee bill requires EPA to promulgate comprehensive FIPs in the future, regardless of how unworkable such federal measures would be or how impracticable it would be for EPA to implement the FIP. This requirement ignores the dismal history of the current attainment-FIP requirement, including the public uproar and virtual collapse of Title I of the Act that resulted from previous FIPs. It would be counterproductive to signal in this new law that states can avoid their new obligations by simply delaying and waiting for EPA to impose the necessary controls. As in the past, attainment FIPs would be an excuse for state inaction and an albatross around EPA's neck. It would be more responsible for the law to recognize the limitations EPA faces in this area and either allow partial FIPs on a discretionary basis or, as in the Senate bill, mandate only partial FIPs that would assure progress toward attainment.

Controls on small businesses in non-attainment areas.—The Committee bill extends controls on small businesses much further than under current law. By altering the definition of a "major source" from the current 100 tons per year of VOC emissions to 50, 25, and even 10 tons per year in many cities, the bill will extend controls to thousands of small businesses, greatly expanding both technology and paperwork requirements on small businesses and further restricting economic growth.

Offsets and netting.—The Committee bill requires any plant wishing to expand in most of America's largest cities to offset new VOC emissions by more than 1 to 1. The higher offset ratios will restrict economic growth in these cities more than either the Senate or Administration proposals. Since progress toward attainment is guaranteed by the annual percent reduction requirements already in the bill, these restrictions reduce flexibility and drive up the cost of the bill needlessly.

Permitting veto.—H.R. 3030 no longer includes authority for EPA to veto state permits, which was in the Administration's proposal to enhance the EPA's ability to enforce the Clean Air Act. Without this authority, violations of the Clean Air Act will occur more often and for up to a year before concluding the time-consuming revocation proceeding. Additionally, H.R. 3030 does not include the numerous enhancements made to the operating permits program through recent Administration changes. The key Committee omission is the so-called "codifying/modifying" permits scheme, which greatly simplifies the permits title, while maintaining necessary federal oversight.

Enforcement.—H.R. 3030 should include provisions that were in the Administrations bill authorizing EPA to stop the operation of new sources which are violating new source review requirements. Additionally, H.R. 3030 should provide a process for challenging administrative compliance orders under Sections 113(a), 167, and 303 of the Act. The appropriate balance between swift enforcement and opportunities to challenge these orders is to provide administrative hearings, with such decisions appealable to federal district court for review on the administrative record.

Clean coal technologies.—by restricting the use of Federal Clean Coal Technology (CCT) Demonstration funds to companies which own Phase I plants, the full benefits of the CCT program will not be realized. It is short-sighted and detrimental to the national interest to prevent projects which could provide long-term economic and environmental benefits from competing for these funds simply because they are not owned by one of 62 companies affected by Phase I, and located in one of the 21 states.

Acid rain implementation.—The committee amendments of Title V confuse the trading system and will drive the industry toward more conservative and costlier responses. Because of the numerous reserves, special allowance allocations, alternative allocation elections, and ratchet provisions, no company can be sure of its emission reduction obligations until all other companies have selected their control actions and EPA has recalculated and reallocated allowances. Under such uncertainty, companies are more likely to overcontrol and/or hoard allowances, and less likely to use innovative pollution reduction technologies. Litigation with its attendant uncertainty is likely to be greater, and the economic benefits of the market/based approach are likely to be lost.

Progress waiver.—There are no provisions to allow waivers from the 3 percent requirement after the first 6 years for high cost controls or where lesser reductions are needed to attain. By adopting relevant provisions from the Administration bill that allow less than 3 percent after the first 6 years on the basis of feasibility (including costs) or attainment, more fair and realistic expectations will be placed on local agencies. For example, this provision could result in controls in many areas equivalent to those required in Los Angeles, despite the dramatic differences between the nonattainment problems in Los Angeles and those experienced elsewhere.

Mobile source toxics.—The Administration opposes the requirement that EPA regulate emissions of formaldehyde and benzene, regardless of the results of a mobile source study on regulating mobile source toxic air emissions. The original Administration proposal required EPA to conduct such a study, but enabled the Administrator to determine whether regulations were appropriate. That discretion should be restored.

$NO_x$ requirements.—The Committee bill encourages EPA to promulgate regulations to control $NO_x$ from power plants which go far beyond the cost-effective of low $NO_x$ burners by requiring a 2.5 million ton reduction. The additional cost of such measures would be far out of proposition to the additional benefits which they would provide.

Mr. Chairman, the administration has the same objections to this particular feature that I do. If it indeed is necessary, it is a matter that should be determined through the regular committee process at the proper time. I urge a vote against the Wise amendment.

Mr. WISE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I rise as a consponsor of the amendment offered by the gentleman from West Virginia [Mr. WISE], and in very strong support of his proposal.

I rise as a cosponsor of the amendment offered by Congressman WISE, and in very strong support of this proposal.

The area I represent in Pennsylvania knows all too well about displaced workers. With steel, with coal, with textiles, we've seen our workers have to restart a career. It's tough on the workers, it's tough on the family, it's tough on the community.

The proposal we are offering today is reasonable. More to the point: it is needed.

If we are going to pass a law to continue our progress on clean air—and let me add that we should pass such a law, and should continue the progress—then we are also going to have to protect the workers affected by that law.

This amendment does that, and it's why it deseves to be passed.

I believe that overall we have crafted a solid clean air bill, a bill that minimizes the economic and job impact of continued clean air progress. But where industries are affected, we must protect those jobs and those lives. That's why we need this amendment.

In too many cases, that basic American worker that is the backbone of our economy has become the forgotten American. Let us not forget him today; let us pass this amendment and make sure he is protected.

□ 1520

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I rise in strong support of this amendment. First of all, it should be noted that the Clean Air Act has created in this country many jobs, and the bill before us will create some additional jobs, whether it is for canisters, catalytic converters, or technology to burn coal. But the fact is we know there are also prices to pay for this legislation. Most of us will pay that price at slight increases on the products we buy. But some people in this country will pay with their jobs, and their families will be disrupted.

It is for those people that I think we have an obligation to try to do something to help them in short transition—what we hope will be short—for them to get another job.

So we are only asking for some additional weeks of unemployment compensation and training for them to find another way to provide for their families. That is only fair.

This bill is important to our public health. It will add jobs to our economy in many ways, but it will take some jobs away. Let us remember those people; let us be sensitive to their needs.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON ], a member of the committee.

Mr. NIELSON of Utah. Mr. Chairman, I rise in opposition to the amend-

ment offered by Mr. WISE. I do not feel that this amendment would be in the best interest of the American people.

It could create an open-ended liability for the Federal Government because there is no effective means of determining whether workers lost jobs because of the this act.

In my opinion this amendment is too ambiguous with regards to the cap placed on Federal outlays. I am not sure whether such a cap would be enforceable or effective. Because of this ambiguity there is no way to determine the effect on our already overburdened Federal budget.

This amendment could also set a dangerous precedent on making the Federal Government responsible for job losses due to environmental initiatives or other Federal actions.

This amendment could have a severe impact on future actions by this body as well as the current legislation under consideration. May I remind my colleagues of the five tests of balance and reasonableness that our President will apply to the final package.

I would ask that as you consider this amendment you review it through those five tests. It is my opinion that it doesn't pass the tests. Therefore, I urge my colleagues to vote against it.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALGREN], the newest subcommittee chairman of the Committee on Energy and Commerce.

Mr. WALGREN. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Wise amendment to the Clean Air Act Amendments of 1989 for one simple reason: Its fairness. If anything, this amendment falls under the department "This is the least we can do."

It is only fair that there be some compensation when people are hurt by steps we as Government take to protect others.

The Wise amendment provides limited steps, a limited level of assistance to those who may be dislocated as a result of this bill.

This amendment reflects the spirit of the Congress that has been reflected in so many other areas where American workers have been disadvantaged through forces beyond their control.

The Congress has a record of support for trade adjustment assistance, unemployment compensation, job training, and skills development programs. I would only like to ask: Where is a kinder and gentler America now?

The President hangs his hat on the excuse that you cannot tell who lost their work because of the Clean Air Act. Those who lose their jobs in high-sulfur coal areas, that will be clear.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr Chairman, I thank the gentleman for yielding.

Mr Chairman, this is not a Wise amendment. This bird did not fly in the Senate and it should not fly here. We could jeopardize, literally, months of work—we could literally jeopardize months of work on the environment because of the tremendous cost that this particular amendment may bring about. That is what the White House is worried about. If you do not think the cost is a problem and you consider the amounts of money that are in this amendment, consider this: All of these things that you are hearing will be done for these workers are going to be done for $7 a month? Come on, get serious. You people do not intend for this to be $7 per month per worker. And that is what you are talking about if you accept those limits.

So, in fact, either this is an unlimited bill where we intend to spend vastly more money, or you intend to do all these good things for $7 a month. And I do not believe that you intend to do everything for $7 a month.

The fact is we have passed a number of bills with costs in terms of labor. We have done so this year. Have we provided the labor exemptions on this that we want here? No, because we said the costs are too high.

We said it on bills like the minimum wage bill. Now what has changed?

I hope it is not a desire to render this bill unsignable by the President, because we could have a real environmental disaster if that is what you are intending to do here.

I have to tell you that the one thing we have go to look at when we consider this kind of legislation is a new ethic developing in this country and in the world.

One of the parts of the new ethic is the environmental ethic. What it says is that you are going to have job shifts. You are going to have job shifts away from the old way of doing things to the new way of doing things.

There are going to be people that will in fact be hurt by this particular bill. But those people may be reemployed in businesses like mine—for instance, like one in my district. We have a business in my district that is going to build scrubber technology. They are going to want all kinds of new workers.

Now, true, people may have to move. They have had to shift in times past when we moved from an agrarian economy to an industrial economy. But I think we ought to be in line with the new ethic, not in line with the status quo.

Mr. WISE. Mr Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Chairman, you know, as I stand here I support the Wise amendment. But it is a shame, it is a shame to have this amendment in front of us, but it is a result of a bad bill.

All economic impact studies show that between 400,000 and 4 million jobs are going to be lost. I think that is bad.

I have a copy here of a letter from John Sununu, chief of staff of George Bush, to our Speaker, which is devoid of sympathy for American workers and which absolutely distorts the truth. And I want the Republicans here who read this to listen to what I have to say.

First of all, he says that it is similar to the Byrd amendment. Absolutely wrong.

The Byrd amendment says $500 million and only to coal workers. Our bill says $250 million for all workers. And there is no comparison.

It sets a precedent, he says, and it is wrong. We have a precedent in TRA, trade adjustment assistance, which we are still funding.

Mr. Sununu says there is no way to distinguish if a job is lost because of clean air or anything else. Wrong.

It is the direct effect of the clean air bill just as it is in TRA. He says 100,000 coal jobs were lost in the last 10 years not because of the Clean Air Act. He is absolutely wrong. They are a result of the Clean Air Act of 1977.

He says it is a multibillion dollar deficit door, and he should know about deficits. He is wrong there. It is only $250 million for 5 years.

Calling it anything else is wrong, it is a massive job loss bill.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, every responsible legislative body has an obligation to take care of that which it causes. The steel workers in my district—and I can speak with some authenticity—I had 30,000 to 35,000, and I now have 4,000.

□ 1530

That is the result of a bad trade policy. This body passed legislation which provided exactly what this amendment has provided. While the gentleman raised a question as to cost, I raise a question as to what this foreign aid costs? Fifteen, twenty billion a year? What has the savings and loan, as brought up by one of my colleagues earlier, cost Members? We are in to hundreds of billions of dollars.

I am suggesting to my colleagues that we have done this before. I know from practical experience of seeing this program work as a result of the GRA, as a result of the trade policy, and telling Members this is a good leg-

islation. It is necessary legislation. I stand in full 100 percent support of my colleague on this amendment.

Mr. Chairman, Throughout this week, we have been debating H.R. 3030, the Clean Air Act Amendments of 1990, a bill that could have a vast impact on us and many of our constituents.

In these few moments, I would like to focus on just one portion of this legislation, that part that deals with the manufacture of coke, a vital element in the steelmaking process.

Mr. Chairman, no one can be absolutely positive that what we are attempting to do in this bill will work exactly as we hope it will, but I think it is incumbent on each of us to consider how it might affect those whom we represent.

Some 10 or so years ago, I represented about 30,000 steelworkers who were employed in several steel facilities on the Monogahela River.

Today, Mr. Chairman, I represent about 4,000 steelworkes in just three plants and, of those, one, the Clairton Works, is solely devoted to the production of coke.

I must, in all fairness, speak out for my constituents who are still working in the Clairton Works and who have told me that they want to continue working there.

I am concerned that in our haste to achieve perfection, we may be guestinating too much about the future, especially about the future of steel demand.

Yes, the steel industry has changed. Steel products have changed. A number of smaller steel plants, the so-called minimills, use electric furnaces which don't require coke.

But that is not the whole story. Much of the American steel industry still needs coke, and a lot of that coke is made in my district.

No one among us can predict with certainty what steel demand will be 15 or 20 years down the road. There have been indications that the demand we experienced over the past 2 or 3 years may ease, but that is not to say that demand might not increase again in the very near future. In fact, there are some indications that demand will remain steady over the next year and may even pick up.

What that means is that we must maintain our steel making capability. We must ensure that we can produce sufficient coke for that production.

H.R. 3030 provided for a 6-year study to assess emission control technologies for coke ovens and to assist in the development of new technologies for reducing emissions from those coke ovens.

That study is important. It will give us the opportunity to find ways to reduce any harmful emissions that might pose risks for the general public living around or near coke oven operations as well as to the employees working in those facilities.

That last point is especially necessary, Mr. Chairman, from my perspective as chairman of the Subcommittee on Health and Safety, which deals with occupational health and safety issues.

I have spoken to both industry representatives and to the representatives of the men and women who work in the Clairton Coke Oven Works. They are unanimous in their support for the coke oven emissions study.

But I must tell you all that they are also unanimously opposed to portions of H.R. 3030 that could force the shutdown of those coke oven batteries before the study is even completed.

I think it is in the wrong interests of my constituents, the men and women whose livelihoods depend on the continued operation of these and other coke oven batteries, to put their jobs in jeopardy.

As long as we are going forward with this important study on which we will spend some $30 million—$5 million a year for 6 years, then isn't it logical to wait before imposing the stringent coke oven standards suggested in this legislation?

Aren't we defeating the purpose of the study? The idea is to find out where we are in terms of coke oven emissions and then to develop technologies for controlling those emissions.

If we insist that current technologies be put into use now, during the course of that study, then how can the study be valid?

Mr. Chairman, the people who worked on this bill deserve a lot of credit for bringing together many diverse interests in an attempt to craft legislation that will work and will improve our lives.

It is hard for me to believe that they don't understand the potential tragedy they are creating by suggesting that the Administrator of the Environmental Protection Agency go forward with rulemaking to restrict emissions from coke ovens without waiting for the 6-year, $30 million study.

I urge my colleagues to consider this portion of H.R. 3030 carefully. It is almost as if we were preparing to play a game of Russian roulette—except that today, we are pointing the gun at several thousand American workers.

Mr. Chairman, I rise in support of the Clean Air Employment Transition Program amendment, and I want to commend the gentleman from West Virginia [Mr. WISE] for offering it.

President Ronald Reagan once said:

When it comes to the bottom line, all of us are striving for the same thing—a strong and healthy America, and a fair shake for the working people.

H.R. 3030, the Clean Air Act Amendments of 1990, could lead to a stronger and healthier America, but it also carries a heavy price—potentially stripping many Americans of their present livelihoods.

This amendment by Mr. WISE which creates the Clean Air Employment Transition Program will help those workers who are displaced because of the effects of H.R. 3030.

This 5-year program would provide $15 million for retraining activities and $34 million for cash benefits to displaced workers each year—a modest sum to help soften the pain and suffering that usually follow such widespread employment and economic depression.

In order to be eligible for the program, which includes 6 extra months of unemployment benefits, workers would have to enter a retraining program operating under current job training partnership guidelines.

What Mr. WISE is proposing is more than feasible. I have seen the benefits of similar programs in my congressional district and those adjacent to mine.

In 1979, more than 26,000 people worked at United States Steel, a major employer in the Mon Valley, the heart of my district. Today, 11 years later, only about 4,000 workers are employed at the three remaining USX plants there.

The region around this steel valley lost more than 100,000 manufacturing jobs and 30 percent of its population in the worst industrial dislocation of the decade.

Despite a 1985 Department of Labor study showing that steelworkers are among the hardest workers to retrain, many are working in other fields because they were trained by already existing job training programs.

In the last 3 years, nearly 35,000 displaced workers in Pennsylvania alone have been retrained under title III of the Job Training Partnership Act [JTPA]. Roughly two-thirds of these workers were placed immediately after finishing their retraining.

Many companies like the Anchor Hocking Packaging Co. of Connellsville will hire only those new workers who have participated in JTPA programs.

Another 5,000 Pennsylvania workers displaced by unfair foreign competition have likewise been trained under the Trade Adjustment Assistance Program. Some of the intensive training programs offered can last up to 2 years, and workers are also eligible for financial benefits for that time, as long as they are in retraining.

These are people who received help after they lost the only careers they knew. These successful programs enabled them to regain their self-dignity and support themselves and their families.

The workers who will be displaced by H.R. 3030 are no different. They also need a fair shake. I am not just talking about Pennsylvania workers, but also about workers across the country.

This amendment is not only for steelworkers or coal miners. It would cover workers in the aluminum, textile, chemical, aerospace, and utility industries, who could be left jobless because of H.R. 3030.

They need somewhere to turn. This amendment will ease the pain of areas hardest hit, perhaps helping to train between 40,000 and 50,000 displaced workers for new careers.

It will give them hope for the future.

Yes, a sounder environment means we have to make sacrifices, but it does not mean that we have to destroy the lives of our working men and women.

I urge my colleagues to vote for the Wise amendment.

Mr. WISE. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. MCCLOSKEY. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the Wise amendment.

This legislation deals with more than environmental issues. It is, in fact, as much an

economic matter for thousands of working men and women and their families.

The question we are faced with is this: Are we going to compensate those workers who lose their jobs as a result of this legislation or not?

If we are honest with ourselves and with the American people, we will say yes, there are adverse employment impacts associated with obtaining cleaner air. We will vote for the pending amendment

Now, some of you may be saying, oh, there's NICK RAHALL, from West Virginia.

They have high-sulfur coal mining jobs that may be displaced under the acid rain control provisions of this bill.

You may also be thinking that this is a parochial issue for those Members who represent the coalfields of West Virginia, Pennsylvania, Ohio, Kentucky, Indiana, and Illinois and that you do not need to concern yourself with it.

This gentleman from West Virginia is here to tell you that the coal in his congressional district is extremely low in sulfur content.

Not all Appalachian region coal is high-sulfur, as many of you may think. In southern West Virginia, southeastern Virginia, and eastern Kentucky we have vast reserves of premium quality low-sulfur coal.

My constituents will not be adversely affected by the acid rain provisions of this bill. In fact, we will gain job opportunities in our southern West Virginia coalfields as a result of this legislation.

But that does not mean we will turn our backs on those hard-working individuals who may very well lose their jobs because of this bill.

So I would ask that you closely examine your conscience.

Think about the massive dislocation, the fear, the agony this legislation may bring to those who mine this country's high-sulfur coal. Those honest and hard-working individuals who engage in the dangerous occupation of coal mining so as to provide you with electricity, with comfort from the cold and the heat.

We owe these people. Do not turn your backs on them. I urge a "yes" vote on this amendment.

Mr. McCLOSKEY. Mr. Chairman, we have heard a lot of misguided criticism from the other side of the aisle today as to problems with this bill. I think all of this has basically totally missed the mark, but particularly this bill has been called unhealthy, unproductive, and indeed unwise and detrimental to the health of workers.

I think nothing could be further from the truth. Really, other than a very few specific problems in life, what is more unhealthy or detrimental or depressing and debilitating than to be without a job?

There is a lot of talk that this bill does not do it for everybody, so let's not do anything. That is a spurious argument. We should be helping the people in the defense industries that will be facing layoffs and the end of their careers.

I would make a bipartisan call for all Members on both sides of the aisle to get together, to work, so that the working people of America, the taxpayers of this country who put Members here, have basic jobs for the good of their families and for the good of this country.

As has been mentioned, the President campaigned for a "kinder, gentler" America, and the people in my district believed. My workers and others probably voted for him to the tune of almost 60 percent, but Mr. President, where is your "kinder, gentler" with the warning of a veto of this very reasonable legislation.

In these days of $5 billion S&L bailouts and an outrageous request for 132 B-2 bombers, why not invest one-quarter of one B-2 bomber in the working people of the United States? Vote yes on the Wise amendment.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I rise in support of the Wise amendment. I think it is disingenuous to impose a potentially $200 billion price tab on the American worker, motorist, and consumer over the next 5 years, and then to balk at a $250 million attempt to help workers who are thrown out of their jobs.

Perhaps if we knew how much environmental and health benefits we were getting, if we knew they were really worthwhile, we could justify the sacrifices of our workers, but there are too many scientific studies which indicate what we are doing here is marginal. We are not just talking about coal workers, we are talking about steelworkers. We are talking about workers in all American industries. Yes, all of American manufacturers use chemicals.

Given the intensity of this powerful regulatory instrument over manufacturers, energy, and transportation, and its uncertainty regarding environmental and health benefits, it is only basic fairness to take care of some of the workers. Mark my words, because far more workers than would be covered by the $250 million in the Wise amendment are at stake here. Far more than coal miners.

The CHAIRMAN. The gentleman from West Virginia [Mr. WISE] has 10½ minutes remaining, the gentleman from New York [Mr. LENT] has 8 minutes remaining, and the gentleman from West Virginia [Mr. WISE] has the right to close.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. POSHARD] who has been a leader in this effort.

Mr. POSHARD. Mr. Chairman, I rise in support of the Wise amendment and congratulate its sponsors for helping people who are certainly going to need it.

It is fair. It applies to all workers who lose their jobs because of this bill, including miners, truckers, electricians, and others. The benefits are meaningful, but not indefinite. An additional 6 months of unemployment insurance benefits, providing the worker is willing to enter into job retraining.

There are plenty of good reasons for me to support this amendment. As a matter of fact, there are about 10 to 19,000 of them. That is the number of people from Illinois, mostly in my district, who could be put out of work by this bill. It is a good amendment. It will help. It is the minimum that we can do to assist the working people of this country. It gives them a little more time and at least one additional opportunity to provide for their families.

Surely, we can help in this one small act to show the miners and others that we still care. Clean air is a worthy goal, but we could and should have done much more for the miners and other working people of this Nation.

Mr. Chairman, I rise in support of the Wise-Ridge-Downey amendment to the Clean Air Act.

The sponsors deserve great credit for being willing to help people who are really going to need it.

The amendment is a measure of fairness for working men and women who are about to be put out of work by this bill.

It is very reasonable. It applies to all workers, the benefits are helpful but do not run indefinitely, and there is retraining available for new job searches.

There are plenty of good reasons for me to support this amendment. In fact there are between 10 to 19,000 reasons. That's the number of people in Illinois, most of them in my district, who are going to be put out of work by this bill.

This is not easy for me to do.

Not that I don't think this is a good amendment. I do. And not that I don't think it will do some good for the people who are put out of work. It will.

But it's very tough for me to come here and accept that we're willing to pass this clean air bill, knowing that it will disrupt thousands and thousands of lives.

It reminds me of the old line "here's your hat, what's your hurry?"

We say this is an environmentally sound bill that's good for our environment and economy, while at the very same time we offer benefits for people we expect to put out of work.

I know we labored long and hard to come to this point. And clean air is as worthy a goal as any we can aim for. But I just can't get rid of this feeling that we could have—should have—done better for the workers who have no individual responsibility for what's about to be done.

Over the past year I've talked a lot about approaching this with a sense of balance. I've been before you with 1 minute and special orders on numerous aspects of this bill. Unfortunately, my district and other high-sulfur coal States ended up on the light end of the scales. And now we're left hanging.

Let me identify just a few of the most gross inequities.

First, the bill requires the Midwest and some Southern States to shoulder almost all of the cleanup burden. That's where the high-sulfur coal is mined, that's where the utilities that burn that coal are located. So it might seem logical to seek the emission reductions there, since that's what acid rain is traditionally blamed on.

But what about the industrial polluters who play a nearly equal role in putting sulfur dioxide and nitrogen oxides into the air? They are left untouched by the emission reduction requirements in this bill. That's hardly a polluter pays principle. If we can identify other potential sources that are blamed for acid rain, then we can surely ask them to take on some of the cleanup burden. That's what you would think. But that's not what we're doing.

Emission or generation fees on utilities and industries that would help pay for control technology were also rejected. I suppose we didn't want to tread in the no new taxes minefield—although more and more we see that ground's already been broken. Up-front assistance for installing scrubbers and other forms of technology control would have helped clean the air while at the same time saved thousands of jobs in the coal industry.

I introduced a bill last year (H.R. 3316) to reach the same clean air goals we all support but to do it in a more just way. My bill relied on a cost-sharing approach by imposing a fee on domestic and imported electricity. It would have spread the burden of compliance and asked for a little from everyone, instead of gouging particular areas of the country. I was willing to accept some changes, to work with other parts of the country to modify my bill to meet some of their needs, so long as we recognized the absolute necessity of sharing the load. But the climate for this kind of approach just does not exist. That's unfortunate, and I think we'll regret it in the long run.

And to add insult to injury, some States will even be allowed to increase the amount of pollution they send up in the air. The list of inequities just goes on and on.

When the hurricane hit South Carolina, or the earthquake rocked the California bay, or when the floods that are still a problem swept into the mid-South and West, we immediately rallied to help those people with Federal assistance.

I think that's a great idea. That's what we're all about here in Congress. We identify needs and problems that demand national solutions, and we find a way to take a little from all of us to help our neighbor who can't quite find the means to take care of it himself. We have done that all through history. When the Western States needed help getting water, we've provided subsidies for them. When farmers, many in my State, were hit so hard by the drought a few years ago, we helped, and that was greatly appreciated.

And we can't forget the savings and loan bailout. What a fiasco. The administration now says the estimates on paying for this disaster of fraud and contempt is up to $61 billion, and we all know it will probably go higher. That problem was most severe in a few States, Texas and California most notably, and lax State regulation was a contributing factor. But we didn't tell those States to go it alone, we came through with Federal money to help bail out the whole system, because it has some value for each of us. I wish the same was being said for the coal mines and utilities of southern Illinois and the rest of the Midwest.

But the best we can do for these working men and women, the bedrock of our society, the middleclass that buys the cars and houses and appliances that keep our economy moving, we can't do more than offer extra unemployment benefits.

The generations of workers in the coal fields and factories who have paid their taxes to keep the schools open, to run the local governments and maybe they've made just enough to send their kids to college, now we're turning our back on them.

This despite the $400 million study we launched to figure out the mysteries of acid rain that now we're more than willing to ignore, even before all the facts are in.

I brought the Small Business Subcommittee on Labor and the Environment to my district for a hearing on clean air legislation. The testimony was unanimous. The people in my district, coal miners, coal companies, utilities, and the business community in general, all recognized their obligation to help improve the Nation's air quality. Even in an area that's about to be pulverized by this legislation, we supported it, because it's the right thing to do.

And we probably did that because we thought in return we would be treated with similar fairness.

The subcommittee heard at length the impact the jobs losses in the coal fields will have on my district. Schools, local governments, small businesses, hardly anyone escapes untouched the way some polluters do in this clean air bill. We might as well have an earthquake or hurricane hit for all the damage that's going to be done, because at least then we might get some help. But instead of a purely natural disaster, this one has a human partner.

It's not the fault of the miners in my area that they live on top of and work with high-sulfur coal. But because we've assigned them the villain's role in this drama, the curtain is about to come down on a way of life that has sustained generations of people in my area.

I've met with groups of miners and the businessmen who depend on their paychecks as well on numerous occasions. One weekend I went back to my district and visited at fish frys, dinners, dances, a whole weekend of activities where the United Mine Workers celebrated their jobs and a way of llfe. Make no mistake. These people enjoy their work and want very much to keep their jobs.

I told them what kind of odds we were up against. And although they were realistic about what was going on, they never once lost faith in this Congress, in our Government, that in the end we would do the right thing for all of our citizens. I wish I could bring them here to the floor right now to tell their story, and to look you in the eye and describe what will happen under this bill. They don't want anything more than opportunity to compete for a piece of the American dream and the way of life they hold so dear.

If we were completely unwilling to accept any change, or recognize any need for sacrifice, we would not deserve special consideration. We are only asking to be met halfway.

I also sought an amendment to the bill to fund an economic impact study, a study that just might disprove the popular theory that utilities now have no option but to switch from high-sulfur coal to low-sulfur coal to meet their emission requirements.

When you factor in the job losses, the increased costs to bring that coal to the utilities, and the extra amount of low-sulfur coal you have to buy to get the same amount of power, it just might be that staying with the high-sulfur coal and toughing out the emission reductions makes the most sense.

We need a way to explain that to the utilities and coal companies, to help them analyze all of the economic factors involved in this decision. I suggested bringing in the expertise of a university in a high-sulfur coal area to provide that study. I asked for a 4-year program at $1 million a year, to help keep some high-sulfur coal contracts intact and some people on their jobs.

That amendment will not be heard in this debate. It is disappointing that we won't even have the chance to ask for a vote on this important idea.

I'm still hopeful that an expanded version of the amendment I sought to offer will be given consideration. The National Coal Institute which I have introduced (H.R. 4776) would be a valuable tool for economic and environmental impact studies and analysis under the requirements of this clean air bill.

And what about our national energy policy? Are we so confident of our energy future that we are willing to forsake such a plentiful and important natural resource? I hope we are able to convince the utilities to stay with the high-sulfur coal, but if for some reason they decide not to, and those mines do shut down, it will be awfully hard to open them up again. Once these contracts are lost, when the people are displaced, and the equipment is allowed to fall into disrepair, it will take a pretty big battery to jump start them again.

Have we already forgotten the long lines at the gas station back in the 1970's? Are we so eager to achieve clean air improvements that we look at this solution with tunnel vision?

We are heading down an uncertain path. In the end, the utilities may stay with their contracts and the job loss may be minimized. Hope and pray that is so. I wish I could believe it right now.

Behind the facade of clean air, there lurks a real monster of economic ruin. I hope we remember that 2 and 5 and 10 years down the road, when people look at this and wonder "What were they thinking when they passed that one?" Southern Illinois is already asking that very question.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, protecting the environment is not cheap. The two sides of this issue have really failed to face up to the twin aspects of environmental protection: Industry and sometimes labor have used economic cost as a weapon to fight environmental initiatives.

Many in the environmental movement find those costs very inconvenient to their cause, and they try to hide behind anticorporate rhetoric, because corporations do not have to put food on the table or pay the mortgage.

But the fact is, there are costs, and the real tragic costs are those that are shouldered by individuals and families and small communities. I support this bill as essential for our citizens if they are to be able to breathe air which is by medical definition healthy. However, I also support the Wise amendment as a responsible acknowledgment that these health gains cost, and that those costs must be addressed, too. To do otherwise is to bury part of the truth: that this good bill has some ill effects. To be responsible, we must address those.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER], a member of the committee.

Mr. COOPER. Mr. Chairman, I rise in reluctant opposition to the Wise amendment. That amendment seems to be very popular on the House floor right now, but I feel it is a very misguided policy for this body to undertake.

Let me give Members the reasons. The Wise amendment is basically a form of cost sharing. Cost sharing, when thoughtfully and carefully considered, has been rejected this year by every subcommittee and every committee in the House and the Senate. This is the last chance for the cost sharing idea to be promoted. Cost sharing will increase the cost of the bill dramatically. Cost sharing is an open-ended liability that knows no bounds.

Although it is promoted as only $250 million right now, that cost is completely unrealistic. We are talking here today about a new entitlement program, a multibillion-dollar liability that could be a permanent one. Are Members only going to help workers who are caught out by phase I of the bill, and deny workers caught out by phase II? We are talking about a gigantic program whose authors are not willing to talk about the size of the program. Wait until conference and Senator BYRD get another crack. The size could grow exponentially, especially when we consider the precedent on the House floor.

Are we to have trade adjustment assistance for every piece of legislation that goes on this floor? Is this going to be a continual practice? I would suggest even my colleagues in organized labor would not like to see legislation like this appended to minimum wage bills or double-breasting bills or other pieces of labor legislation that are near and dear to their hearts.

This sets a terrible precedent, and one that I hope this House will reject. It is tempting now because it seems small, it seems harmless, it seems appropriate, but I would suggest to my colleagues that that is an illusion, and an illusion that we must be aware of. This House must reject the Wise amendment.

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Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RIDGE], one of the real stalwarts among the supporters of the amendment.

Mr. RIDGE Mr. Chairman, this amendment highlights the fact that there is truly a human cost to this massive environmental undertaking involved in the clear air bill.

We know there are going to be some predictable consequences of this legislation. We know there will be enormous environmental benefits. We want that, we desire it. That is why so many of us support this legislation.

We know there are going to be increased costs for utility companies and consumers, and, unfortunately, Government can only give as much environmental protection as the people out there are willing to pay for.

We also know that people are going to lose their jobs as a direct result of this legislation, and, oh, indeed what a bitter irony that is. The good news for the people is that they are going to have cleaner air to breathe. The bad news is that they probably will have a little more time to enjoy the outdoors, to hunt and fish and generally enjoy this clean air, because they are going to be out of work as a result of this particular piece of legislation.

Mr. Chairman, this is a simply a transitional period, and this would provide some transitional aid. These men and women who will lose their jobs as a direct consequence of this legislation are certainly entitled to it.

Mr. Chairman, I rise today in support of the Wise/Ridge/Downey amendment to H.R. 3030. This amendment would establish a Clean Air Employment Transition Program to address the unfortunate side-effects of passing this clean air legislation. I would just like to take this opportunity to commend Mr. WISE for this far-sighted amendment that will aid workers displaced by provisions of this act. Establishing a program to effectively deal with such individuals is good, sound policy that I believe is necessary to help workers adjust to conditions presented by passage of clean air legislation. And I emphasize the word adjust, because that is exactly what this amendment is intended to do. It is intended to help workers in the transition period between losing their jobs and finding new work. It is not an effort to give excessive benefits to workers in a way that has never been done before. One of most important aspects of this program is that it is modeled after the Trade Adjustment Assistance Program which helps workers who have been displaced as a result of our foreign trade practices.

This program would provide retraining opportunities and discretionary benefits to displaced workers by extending 6 extra months of unemployment benefits beyond the 6 months of Federal benefits to which workers are currently entitled. However, as I mentioned, these benefits are discretionary. Let me stress that workers must demonstrate eligibility for these benefits so that members do not incorrectly assume that we are attemping to create an entitlement program.

Another important aspect of this amendment is the cost. This program would be authorized for 5 years at $250 million. This is a modest cost in terms of the benefits that our economy can reap from helping displaced workers get back on their feet to play productive roles in our economy.

Most importantly, I believe that this program is equitable. No worker will receive preferential treatment under this program but rather it will provide benefits similar to unemployment benefits to all workers who can demonstrate that Clean Air Act was an important contributing factor in causing job loss. This is a particularly important point to remember when you vote on this amendment, since I think we are all concerned with the after effects of this legislation. Why not take a necessary step now to make sure that we have a safety net in place to help workers who will be faced with a very unfortunate situation.

In addition, this legislation is not intended to help only workers in Pennsylvania. Let us think about the utility plant employee in New York, the chemical manufacturing employee in Texas, the coal miner in Illinois or any employee in the aerospace, aluminum, automobile, steel, or textile industry. This amendment provides the needed insurance to these workers that can enable each and every Member to support this amendment, and also final passage of the Clean Air Act.

This amendment is a thoughful solution to one of the many unfortunate side effects of providing the Nation with cleaner air. While I intend to support passage of this legislation, I believe that this amendment is needed if we are to help explain to the many workers who will be affected why they are suddenly out of work. We must let them know that Congress did not blindly craft legislation that allow them to breathe clean air but does not allow them to pay their bills or feed their families. Let us not do this to the American worker.

You vote for this amendment does not weaken the clean air bill. On the contrary, this amendment only serves to strengthen what we are about to pass by providing the long-term vision that we so often lack when passing comprehensive legislation such as this. I urge you, Mr. Speaker, and Members of the House to vote in favor of the Wise/Ridge/Downey amendment.

Mr. WISE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. SIKORSKI], a real advocate of the Clean Air Act.

Mr. SIKORSKI. Mr. Chairman, I rise in support of the Wise amendment. It is a matter of simple justice, compassion, and humanity.

The America I love has always stood for a fair shake and a helping hand for working families. Today, here and now, it is the Wise amendment. It

helps the working man or woman who has been temporarily knocked down to get back up on his or her feet. It gives them job training, it gets them back to work.

I am here today and I have been proud to have been here all along, for many years, working for clean air and for working Americans. I carried acid rain bill after acid rain bill that went further than this bill goes, further than this proposal goes in protecting workers and their families and the environment. I did it against intense opposition from some in my home State, from the special interests, and even from some of my friends, because for me it is a matter of common sense and compassion.

I come from a working family. All their lives my parents worked hard. My dad was a railroad worker. Next to coal mining, that is the most dangerous occupation in America. He was a union man for over 40 years. My mom gutted turkeys in a processing plant. They did not ask for a handout, just a fair shake.

The committee tried hard to give working families some job protection. But we can do better. All the studies tell us that clean air legislation and acid rain legislation will create more jobs than they eliminate. That is good. But for those who will be displaced, America should not turn a cold shoulder; it should extend a helping hand.

The Wise amendment extends a helping hand. It gets workers back on their feet and back to work, no more and no less. It deserves our support.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Chairman, I rise today to express strong support for my esteemed colleague's amendment. This amendment, modeled after the Trade Adjustment Assistance Program of the Trade Act, is a prudent and realistic approach to any job loss that this legislation may cause.

Mr. Chairman, we should keep in mind that there is a form of pollution just as insidious, just as devastating, as anything coming out of a smokestack. It is the pollution of the spirit, the pollution of diminished self worth, in short, the pollution of unemployment, of out of work, dispirited parents, and their hungry children.

I assure you that if this type of pollution goes unchecked, it will be as devastating as any toxic substance we are attempting to control in our debate here today.

We speak about America's role in an increasingly challenging age. The latest buzzword—competitiveness—is on everyone's lips. Well, my colleagues, if we want to adopt the soundest environmental course, let us do so while maintaining our competitive edge in the process. It is time to put up, or shut up.

Let us not abandon the thousands of miners, steel workers, and other employees who will bear the brunt of this legislation.

If we realistically expect them to be part of a competitive work force which will compete globally, let us, at a minimum provide them with the fruits of this amendment, instead of simply providing them with a bunch of pink slips to accompany their final paychecks.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN] who has also been one of the real innovators on this legislation.

Mr. DURBIN. Mr. Chairman, they go to work with lanterns on their helmets and their canteens in hand. They descend hundreds of feet into the earth. They work in dungeon-like darkness, with danger at every turn. They labor at the most dangerous jobs in America. They are coal miners in my district and around this Nation who risk their lives to feed their families and make our lives a little easier.

And President Bush and some of the authors of the Clean Air Act who would put thousands of these coal miners out of work tell us we cannot afford to help these men and women find another job. Is it really too expensive for this Nation to retrain the thousands of men and women who will be unemployed by this bill?

It is disgraceful that those of us who stand up for working families in this Nation have to beg for a few dollars to help these people who want to find work. It is shameful that so-called fiscal conservatives would rather see workers on a dole than on a job.

The gentleman from West Virginia offers this House a chance to vote for a sensible and economical transition from job loss to job opportunity. And now we hear that the White House opposes the Wise amendment. This is the same White House that tells a mother who is fired because she needs to stay home with a critically ill child to take another job, and now this White House tells the coal miners who are out of work to take a hike.

Mr. Chairman, I ask the Members of the House to support this compassionate and sensible amendment offered by the gentleman from West Virginia [Mr. WISE].

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER], a member of the committee.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from California for yielding.

Mr. Chairman, as a cosponsor of similar legislation, I rise in support of the Wise amendment.

This amendment forces us to look at the human side of this bill, the human costs in terms of job losses and its impact on families and communities dependent on coal mining and coal related production. It is predicted that hundreds of thousands of jobs will be lost as a result of this bill, a high percentage of these job losses are targeted in a direct fashion at the miners in high-sulfur coal areas but other groups especially those in energy intense industries such as aluminum and steel will also feel the devastating economic impact of this legislation.

When a Federal law such as this one severely affects the economic viability of a given area of the country and the major industries within that area, the bill in the interest of equity should make provisions for those job losses especially so when the region targeted has at best limited employment alternatives. We must make every possible effort to provide them with adequate, well targeted job readjustment assistance. For those that say there is no precedence for such benefits, I say not so.

This is not new ground. In fact, the history of congressional support for those displaced by new laws and regulations reflects a true interest in, and support for, those thrown out of work. Trade adjustment assistance has been made available to those affected by job losses to foreign competition. Job retraining is on the books for workers in industries which have been forced to reduce employment rolls. Approval of this amendment would not be out of step with the Clean Air Act. In fact, it would simply be extending the assistance Congress has traditionally given those most in need and most deserving.

If this truly is a bill for our children and future generations, we must address the human side of the equation in a very real manner as well and pass this amendment.

I trust my colleagues will support the Wise amendment when it comes time to vote in the House.

Mr. DANNEMEYER. Mr. Chairman, after listening to this debate, I am almost of a mind to believe that we have the money. I remind my colleagues that this year we are increasing the national debt by about a quarter of a trillion dollars. This is all academic again. We do not have the money even if we wanted to support it.

I am tempted to vote for the amendment offered by the gentleman from West Virginia [Mr. WISE] because he is going in the right direction. I have just one little modification I would ask the Members to accept. In the last 18 months we have lost 5,000 workers from Hughes' ground system located in hometown in Fullerton, CA, because of a decline in defense and aerospace business in America. Will the Member bring those 5,000 workers into this bill? My suspicion is, no.

What Members should do is go home and tell their constituents why they voted no for this bill that is not needed. This bill we are debating is not needed, and let me tell the Members why.

The preliminary report produced by $600 million of Federal taxpayers' money called the NAPAP study concluded that 2 percent of our lakes are acidic, and most of the acidic lakes in the Northeast have been that way since preindustrial times. NAPAP concluded that even if we do nothing, the number of acidic lakes in the Northeast will decrease over the next 20 years and increase only marginally over the next 50 years.

Similarly, the NAPAP scientists found no evidence of widespread forest decline in North America related to acidic deposition.

So I say to the gentleman from West Virginia [Mr. WISE], when you go home and tell your constituents you voted for this bill and they read this document that reflects the conclusions of the best scientists we Americans can produce that there is no casual connection between the emission of $SO_2$ and what they find in acidic deposition, they are going to ask, "What are you people doing? Are you legislating on the basis of perception or reality?"

Mr. Chairman, I submit that the responsible thing is just to vote this turkey down, because it ain't broke, and we do not need this Clean Air Act.

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. MOLLOHAN], who is well versed in this area.

Mr. MOLLOHAN. Mr. Chairman, I rise in support of my West Virginia colleague's amendment to provide retraining and unemployment compensation to workers whose jobs are lost as a direct result of the Clean Air Act amendments.

I am not, frankly, happy that we are debating this amendment today, because its very introduction, in a sense, reflects the deep flaws in the acid deposition title of the bill. The acid deposition legislation on the floor today should be based on good science and technology. It should be based on sound economics. It should be reasoned and it should be reasonable. Unfortunately, this legislation is none of those things. It is the triumph of politics over policy, it is the abandonment of reasoned deliberation to shallow posturing.

Over this past decade, the environmental lobby has screamed about the need for a 10-million-ton acid rain bill so loudly and so often that its validity has become a part of our political culture. The debate, in the press and all too often in this body, has degenerated into a caricatured white hat-black hat argument between, on the one side, the selfless defenders of trees, fish-filled streams, and little babies' health, and, on the other side, those dirty, greedy industrialists whose only concern is making an extra buck.

This is, of course, utterly ridiculous. We have heard a great deal of talk this week about the NAPAP study, the National Acid Precipitation Assessment Program, which, after 10 years and over half a billion dollars, is going to issue its final report later this year. Those on my side of this debate wonder about drafting, let alone enacting, an acid deposition bill before we get the results of the NAPAP study. We ask why are we doing this? We ask it loudly and we ask it often, but we don't get much of a response from the bill's proponents.

The reason, of course, is simple: The more we know about the NAPAP study, the more obvious it becomes that the need for this acid rain bill is—putting it as politely as I can on the floor of the House—unnecessary.

The NAPAP study shows that only 4 percent or so of all potentially vulnerable lakes have, in fact become acidic. The premise of this bill today was that thousands or even tens of thousands of lakes would lie dead across the land because of acid rain.

The NAPAP study shows that there is no evidence—I repeat, no evidence—that acid rain has caused a general decline in forests. And yet, the bill we consider today was designed to save us from the sort of severe forest damage that plagued Germany and other European countries and that alarmists pointed to as the threat acid rain poses to the Adirondacks.

I could go on, Mr. Chairman, but we are beyond all of that. Rather than suffer the embarrassment of having the truth undermine their decade-long litmus test, the environmentalists have convinced us to ignore the NAPAP study and to get this bill passed quickly so that they can turn to the next great issue.

The benefits of this acid deposition legislation are marginal and speculative, Mr. Chairman, but the costs are large and definite. This bill is going to put a lot of people out of work. The most conservative estimate is that 3,000 to 5,000 high-sulfur coal miners will lose their jobs because of this bill. Other estimates go much higher.

Equally important, Mr. Chairman, is the nature of this job loss. These jobs are not spread evenly throughout the economy and the country. They are localized and they are localized largely in small communities that are already economically depressed. This country's economy could absorb the loss of 5,000 jobs, or even the loss of 10,000, 15,000, or 30,000 jobs. The communities of West Virginia cannot. The towns of Kentucky and Pennsylvania and Ohio cannot absorb them. This bill, however, demands that they do so. The least—the very least—that this House can do is help these towns shoulder this burden.

That simple request has ample precedent in the law. Aside from the More Generic Trade Adjustment Assistance Program, the Congress has enacted specific relief measures for workers displaced by the 1970 Amtrak legislation, the 1973 Conrail legislation, and the 1978 expansion of the Redwood National Park. Each of these relief measures provided benefits much more generous than what we are asking the House to adopt today.

The amendment—in contrast, I might add, to the bill itself—is a reasonable and reasoned proposal to help our areas. It is modeled on the Trade Adjustment Assistance Program and would provide up to 6 months unemployment compensation and 2 years retraining benefits. It will give our towns a chance to survive—and I choose that word carefully—the costs of this bill, and I urge my colleagues to support it.

□ 1550

Mr. WISE. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, my constituents, like people all over the United States, are becoming increasingly concerned about the environment and favor strengthening the Clean Air Act. As an original cosponsor of H.R. 3030, I also support reasonable efforts to reauthorize and amend the Clean Air Act.

However, many of the people who live and work in Alabama's Seventh District are also concerned for their own employment. Job loss estimates vary, but it stands to reason that H.R. 3030 will have some negative effect on employment in certain fields. Coal miners, steel workers, people who work in the automotive industry, and many others have expressed their deep concern to me that this bill could put them out of work.

I would never argue that public health and other benefits of H.R. 3030 should be sacrificed in order to prevent job loss in some sectors of the economy. But, I think it is fair that we try and compensate the people who do lose their jobs as a result of this bill, so that they may be retrained and continue to be productive members of society. Congress has already done something like this with the Worker Readjustment Program under the Trade Act.

As you will recall, the Worker Readjustment Program was set up to provide comprehensive assistance for workers displaced as a result of unfair trade practices. Similarly, the Wise amendment would provide benefits and compensation to workers displaced as a result of the Clean Air Act.

In my home State of Alabama, there are thousands of hard working men and women whose livelihood may be adversely affected by enactment of this bill. The Wise amendment would help retrain them and tide them over with additional unemployment benefits until they could become reemployed.

Mr. Chairman, we all want clean air. But let us do what we can to soften the blow to those who will lose their jobs as a result of these tighter clean air regulations. I urge my colleagues to vote "yes" on the Wise amendment.

Mr. WISE. Mr. Chairman, I yield I minute to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, what we have in this legislation before us today is a landmark piece of legislation that reaches out and will try to change the environment of this country in a very positive fashion. That is something that we should all be proud of and think that this is a good piece of legislation that we are looking at.

At the same time, Mr. Chairman, we must realize that while we are doing good in a broad sweep of the brush, that someone is there that will have to pay the costs for what is occurring, and the people that are going to be paying the costs are those people in high sulfur coal mine areas across this country.

Mr. Chairman, I have low-sulfur coal in my district. My district will actually gain jobs. But what about the miner; what about the people's families that are going to be bearing our benefits on their shoulders? That is what this legislation is dealing with.

Mr. Chairman, we are dealing here with the lives of people, and the gentleman from West Virginia [Mr. WISE] is only asking that they have some small recompense and some assistance in their time of need.

I urge my colleagues' support for the amendment of the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN] who is well known for his environmental efforts.

Mr. WYDEN. Mr. Chairman, I want to commend my colleague, the gentleman from West Virginia [Mr. WISE]. Environmental reforms do not come free. They can carry a heavy price tag for working families who do not have the resources to prepare for the changes forced by new environmental laws.

It just does not seem fair to this Member to come to the floor and vote for those issues that show up on the environmental score cares while ignoring the families who can be hurt by one of those votes. Maybe it is a miner. Maybe it is a timberworker who is affected by the spotted owl. But, as public support for environmental policy grows, as our society becomes more urbanized, we are going to face this issue again and again.

My colleagues vote for the Wise amendment and let us take the first steps toward a government that puts a human face on environmental reform.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. TAUZIN] to close debate on behalf of this side.

Mr. TAUZIN. Mr. Chairman, a rose is still a rose is still a rose, and cost sharing, no matter how one glosses it up, and makes it look pretty and puts a nice-smelling aroma around it, is still cost sharing, and we are debating today cost sharing. Make no mistakes about it.

Now, if there is a single Member of this Chamber who understands the impact upon workers and families of Federal environmental and energy policy, it is the Member who speaks today. Mr. Chairman, I represent a part of this country that is big in energy. It is big in oil and gas. Mr. Chairman, we watched as this body, the Congress of the United States, in the 1970's decided on energy policy. They placed a price on our product, natural gas, an artificially low price, and then forced us to sell it at prices below market value in the world. We watched as this Congress decided that our best product, natural gas, could not even be used in plants or in utilities in America. We could not sell it to whom we wanted. We could not use it for the purposes we wanted. We were told in our part of the country that we had to import coal. We were told we had to build nuclear plants on top of gas fields, if that made any sense. We were told that was good energy policy, and it did not matter that our utility bills doubled and tripled. It did not matter that workers by the thousands lost their jobs in the oil and gas fields. It did not matter that we suffered the worst depression that I ever witnessed in my life.

Mr. Chairman, when all that energy policy was passed, and our utilities were being charged those enormous sums, and we looked to Congress for help, we looked at weatherization funds and energy assistance funds, and we saw they were all tilted in favor of cold weather days, not the hot weather days like we experience in Louisiana. We watched people die of heat prostration without the help of Federal assistance to families who needed to pay for high energy bills in the summer. We watched, in fact, as over 200,000 jobs left my State alone, and we went from the middle income levels to the lowest in the Nation. We watched depression sink into the hearts, and minds and soul of our people until we were robbed, robbed indeed, of the very essence of our humanity in Louisiana. We watched our children leave in droves.

Mr. Chairman, this Congress did not provide us relief. We asked for foreign trade adjustment assistance. We could not get it from this Congress. No bleeding heart stood in this well and said, "Ah, it's time for oil field workers to get this kind of relief." It didn't happen.

So, Mr. Chairman, I understand the impacts of Federal legislation which impacts upon the lives of working families. My colleagues should ask me, "Why then won't you support the Wise amendment here today?

Mr. Chairman, I am here to tell my colleagues that I would have a hard time looking those oil field workers in the eye if I told them we were going to take care of coal mine workers, but we could not take care of oil field workers. But more importantly I am here to tell my colleagues this is a ruse. This is cost sharing, and, if my colleagues have any doubt about it, just check what happened on the Senate side and what this is all about. If my colleagues have any doubt about who pays for this cost sharing, go back to the families devastated in Louisiana and ask them.

The cost sharing is an effort to ask States like ours who have borne the burden of cleaning up already, who have borne the burden of accepting nuclear in a State that should never have a nuclear plant to now pay someone else's cleanup. And we ended up paying enormous taxes on a product as a consequence of Federal energy tax policy. Ninety percent of the profits we made off of the sale of our oil products are taxed away by this Congress in a windfall profits tax. This amendment would be asking that part of the country now to bear the burden of cleanup in other parts of America. That is wrong.

Mr. Chairman, this is not a wise amendment. This is an unwise amendment. This is cost sharing, and we ought to defeat it.

The CHAIRMAN. The gentleman from West Virginia [Mr. WISE] has 1½ minutes remaining, and he has the right to close.

Mr. WISE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let us talk about cost sharing, what is and is not. That issue was decided in the Committee on Energy and Commerce many months ago. This, I reiterate, is all workers in all regions. It is the auto worker in Detroit, or the auto worker in California or Georgia. It is a chemical worker, yes, in Louisiana, the chemical worker in West Virginia, the chemical worker in California or Texas City. It is the steel workers across this country. It is the dry cleaning employee anywhere in small town America who may lose their jobs due to implementation of the Clean Air Act.

□ 1600

It is a universal bill, so those who would try to wave the red herring of its being an isolated bill dedicated to one small group, that is wrong.

Also, please remember that the Bush administration was over in the other body offering a bigger package to try to stave off that amendment several months ago.

I just want to point out one thing, Mr. Chairman. You know, when you build a house and then the highway department says, "We want this house for a public purpose," they have got to

move you and relocate you and help you make a transition.

It just seems to me if you are going to run a highway through a house and you think you ought to give people a transition, that when you run a law through their livelihood, you have to help them make the same transition. That is why we urge a yes vote for the Wise-Ridge-Downey worker transition amendment.

Mr. COSTELLO. Mr. Chairman, I rise in strong support of the amendment offered today by Mr. WISE. This clean air legislation will have a devastating effect on the Illinois economy and on those in the coal industry in my State, an effect that can be softened through efforts such as this amendment.

By establishing a program of trade adjustment assistance for those displaced by clean air legislation, we can provide workers who lose their jobs the opportunity to seek retraining assistance and find other employment, to care for their families and be a productive part of our economy.

The President's approach to this entire issue has been a philosophy where the polluter pays, so that just a few Midwestern States will be more harshly penalized than those without a strong coal industry. The result of this legislation could be a 15- to 25-percent increase in Illinois utility rates, and the loss of thousands of coal-related jobs. Retraining assistance is the least we can offer to those who will suffer under this bill.

Mr. Chairman, we all want to pass legislation to clean up our air. It must be done. However, I would like to remind my colleagues that under the savings and loan bailout, we shared the cost of the rescue nationwide. Why can't this same principle be applied to clean air? Why does the President apply this standard only to financial institutions, and not to the working people of this country?

This is a fair amendment which will provide our Nation with a stronger, more skilled work force after implementation of this clean air bill. This small step will make an enormous difference to an industry and its employees that have been the backbone of American economic strength and energy for over 200 years. I urge my colleagues to support the Wise amendment.

Mr. SCHEUER. Mr. Chairman, today we have an opportunity to help the working men and women of America make the change to a cleaner, healthier Nation. The people who have built America should be protected when America's priority for a safe environment could result in a loss of jobs.

In the past 50 years, this Nation's largest industries, steel, textile, auto, and coal have undergone major shifts, often adversely affecting the workers. Painful market adjustments from North to South, union to nonunion, labor to capital intensive, export of jobs, competition from abroad have required workers to cinch their belts in another notch.

The fair and just congressional response is assistance for retraining, relocation, and education. These workers lose their jobs through no fault of their own. They need our support to adjust and reenter the working world. This amendment would provide up to $250 million over a 5-year period for retraining and income maintenance.

Not only should we support this amendment, but when appropriation time rolls around we should fully fund this program. Too often we have made a commitment to the people who are the backbone of our society and then pulled the rug from under their feet by reducing or eliminating authorized amounts of money for retraining. That's no money for retraining, no money for education, no money for relocation and no chance for workers to find new jobs. This zero sum formula would equal zero sum gain for the Clean Air Act. We may have cleaner air, but we would have more poverty; and poverty is the biggest polluter.

Labor is not condoning dirty air, denuded forests and illness caused by pollution. We should not condone poverty created by a national mandate for a better environment. Please support American workers and vote for this amendment.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the Wise amendment to H.R. 3030, the Clean Air Act Amendments of 1990. I oppose the Wise amendment because it establishes a new program right at the time that budget negotiations are attempting to reduce the enormous deficits now facing our country. This is not the time to be voting on creation of a new program.

I further oppose the Wise amendment because it is not following the appropriate House procedure. It has not been considered by the committees of jurisdiction—no committee hearings have been held and we are not yet certain what impact these clean air amendments will have on businesses and employment. I do not believe that it is appropriate to rush this proposal through the House with limited debate at this time.

This amendment establishes a new program strikingly similar to the Trade Adjustment Assistance Program created in 1970, providing extended unemployment benefits to eligible persons displaced due to effects of the Clean Air Act Amendments. The definition of workers who could seek certification by the Secretary of Labor is very broad—it is not limited to any particular industry and includes services as well as production. The Secretary of Labor is required to certify groups of workers that meet the requirements of this amendment. Certified workers would then be eligible for the extended unemployment benefits.

The amendment also provides up to 2 years of retraining assistance under the Job Training Partnership Act to workers in industries who lose their jobs due to the Clean Air Act amendments.

The amendment states that payments for extended unemployment benefits may only be made from funds appropriated and authorizes $30 million for fiscal year 1992 and $175 million over 5 years for such purpose. It is my understanding that the parliamentarian has determined that this general appropriation language is sufficient to assure that this amendment does not create a new entitlement program.

In addition, the amendment authorizes $15 million for worker retraining in fiscal year 1991—$75 million over 5 years. Therefore, the total authorization for extended benefits and retraining is $250 million over 5 years.

My concern arises from the fact the amendment is very broad in scope and does not provide a mechanism to reduce the extended unemployment benefits proportionately to comply with the spending limits. My fear is that a large number of groups will be certified, resulting in persons applying for benefits far in excess of the $30 million limit in fiscal year 1992 and $175 million over 5 years. If that is the case, I am certain that litigation will ensue. The courts may then look more to the specifics of law requiring the certifications to be made if criteria are met, resulting in benefit payments, rather than to the general spending limitation.

I believe that this issue must be studied and that this proposal should proceed through the proper House procedure. Therefore, I urge my colleagues to vote "no" on the Wise amendment.

Mr. McCLOSKEY. Mr. Chairman, we have heard a lot of misguided criticism from the other side of the aisle today as to the problems with this bill, and I think that all of them basically totally miss the mark. In particular, this bill has been called unhealthy, unproductive, and indeed unwise and detrimental to the health of workers. I think nothing could be further from the truth. Really, other than a very few specific problems in life, what is more unhealthy and detrimental, or depressing and debilitating than to be without job?

And there's a lot of talk about "Well, this bill doesn't do it for everyobdy, so let's not do anything." Let me say, that's also a spurious argument. We should be helping the people in the defense industries that are going to be facing layoffs and the end of their careers. I would make a bipartisan call for all of us on both sides of the aisle to get together to work so that the working people of America, the taxpayers of this country who put us here, have adequate jobs and basic futures for the good of this country.

The President campaigned for a "kinder, gentler" America, and the people of my district believed him. And the people, the mine workers and others, voted for him to the tune of 60 percent. But, Mr. President, where is your "kinder, gentler" with the warning of a veto of this very reasonable legislation? In these days of $500 billion S&L bailouts and outrageous requests for 132 B-2 bombers, why not invest one quarter of one B-2 bomber in the working people of the United States? Vote "yes"on Wise.

Mr. BRUCE. Mr. Chairman, there are nearly 19,000 people in my State who could loose their jobs as a result of the clean air bill; 19,000 families who will have their lives dislocated, who will face rent and grocery bills and car payments with nothing but an uncertain future.

If these people had lost their jobs because of the action of a foreign government, the

U.S. Government would be there to help, with extended unemployment insurance and retraining assistance to help these families get back on their feet leading productive, working lives. But because it's our own Government that will put them out of work, they will have nothing from us. Is that right? I say no.

I say that these people have not been responsible for pollution, yet the clean air act bill cleans up the Nation's air at the cost of their jobs. Mr. Chairman, I urge my colleagues to ask themselves, isn't it fair that we extend the same benefits to workers affected by actions of the Federal Government that we would to those who fall victim to the actions of a foreign government?

We need cleaner air, no one is arguing that. But what about the human cost of the legislation? What about the lost jobs and the dislocated lives that this bill will cause? The wise amendment will help us get cleaner air without forgetting the average working family—not just in Illinois or the midwest, but across the country.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from West Virginia [Mr. WISE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LENT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 274, noes 146, not voting 12, as follows:

[Roll No. 132]

AYES—274

| | | |
|---|---|---|
| Ackerman | Costello | Geren |
| Anderson | Coyne | Gibbons |
| Annunzio | Crockett | Gilman |
| Anthony | Darden | Glickman |
| Applegate | Davis | Gonzalez |
| Aspin | de la Garza | Goodling |
| Atkins | DeFazio | Gordon |
| AuCoin | Dellums | Gray |
| Barnard | Derrick | Guarini |
| Bates | DeWine | Hall (OH) |
| Bennett | Dicks | Hamilton |
| Bentley | Dingell | Harris |
| Berman | Dixon | Hatcher |
| Bevill | Donnelly | Hawkins |
| Bilbray | Dorgan (ND) | Hayes (IL) |
| Boggs | Downey | Hayes (LA) |
| Bonior | Duncan | Hefner |
| Borski | Durbin | Henry |
| Bosco | Dwyer | Herger |
| Boucher | Dymally | Hertel |
| Boxer | Dyson | Hoagland |
| Brennan | Eckart | Hochbrueckner |
| Brooks | Edwards (CA) | Hopkins |
| Broomfield | Emerson | Horton |
| Browder | Engel | Houghton |
| Brown (CA) | English | Hoyer |
| Bruce | Erdreich | Hubbard |
| Bryant | Espy | Hughes |
| Bunning | Evans | Jacobs |
| Bustamante | Fascell | Johnson (CT) |
| Byron | Fazio | Johnson (SD) |
| Campbell (CO) | Feighan | Johnston |
| Cardin | Fish | Jones (GA) |
| Carper | Flake | Jones (NC) |
| Carr | Foglietta | Jontz |
| Chapman | Ford (MI) | Kanjorski |
| Clay | Ford (TN) | Kaptur |
| Clement | Frank | Kasich |
| Coleman (TX) | Frost | Kastenmeier |
| Collins | Gaydos | Kennedy |
| Condit | Gejdenson | Kennelly |
| Conyers | Gephardt | Kildee |
| Kleczka | Oberstar | Skaggs |
| Kolter | Obey | Skelton |
| Kostmayer | Olin | Slattery |
| LaFalce | Ortiz | Slaughter (NY) |
| Lancaster | Owens (NY) | Smith (FL) |
| Lantos | Owens (UT) | Smith (IA) |
| Laughlin | Oxley | Smith (NJ) |
| Leath (TX) | Pallone | Smith, Robert (OR) |
| Lehman (CA) | Panetta | Solarz |
| Lehman (FL) | Pashayan | Solomon |
| Levin (MI) | Patterson | Spratt |
| Levine (CA) | Payne (NJ) | Staggers |
| Lewis (GA) | Payne (VA) | Stangeland |
| Lipinski | Pease | Stark |
| Lloyd | Pelosi | Stokes |
| Long | Penny | Studds |
| Lowey (NY) | Perkins | Swift |
| Luken, Thomas | Poshard | Synar |
| Manton | Price | Tallon |
| Markey | Pursell | Tanner |
| Martin (IL) | Quillen | Taylor |
| Martin (NY) | Rahall | Thomas (GA) |
| Martinez | Rangel | Torres |
| Matsui | Regula | Torricelli |
| Mavroules | Richardson | Towns |
| Mazzoli | Ridge | Traficant |
| McCloskey | Rinaldo | Traxler |
| McDade | Ritter | Udall |
| McDermott | Roe | Unsoeld |
| McEwen | Rogers | Upton |
| McGrath | Rose | Vento |
| McHugh | Rostenkowski | Visclosky |
| McMillen (MD) | Rowland (GA) | Volkmer |
| McNulty | Roybal | Walgren |
| Mfume | Russo | Walsh |
| Miller (CA) | Sabo | Washington |
| Miller (OH) | Sangmeister | Watkins |
| Mineta | Sarpalius | Waxman |
| Moakley | Savage | Weiss |
| Mollohan | Sawyer | Weldon |
| Moody | Schaefer | Wheat |
| Morrison (CT) | Scheuer | Whitten |
| Mrazek | Schiff | Wilson |
| Murphy | Schroeder | Wise |
| Murtha | Schuette | Wolpe |
| Nagle | Schulze | Wyden |
| Natcher | Schumer | Yates |
| Neal (MA) | Serrano | Yatron |
| Nowak | Sharp | |
| Oakar | Sikorski | |

NOES—146

| | | |
|---|---|---|
| Andrews | Gingrich | Molinari |
| Archer | Goss | Montgomery |
| Armey | Gradison | Moorhead |
| Baker | Grandy | Morella |
| Ballenger | Grant | Morrison (WA) |
| Bartlett | Green | Myers |
| Bateman | Gunderson | Neal (NC) |
| Beilenson | Hall (TX) | Nielson |
| Bereuter | Hammerschmidt | Packard |
| Bilirakis | Hancock | Parker |
| Bliley | Hansen | Parris |
| Boehlert | Hastert | Paxon |
| Brown (CO) | Hefley | Petri |
| Buechner | Hiler | Pickett |
| Burton | Huckaby | Pickle |
| Callahan | Hunter | Porter |
| Campbell (CA) | Hutto | Ravenel |
| Chandler | Hyde | Ray |
| Clarke | Inhofe | Rhodes |
| Coble | Ireland | Roberts |
| Coleman (MO) | James | Rohrabacher |
| Combest | Jenkins | Ros-Lehtinen |
| Conte | Kolbe | Roth |
| Cooper | Kyl | Roukema |
| Coughlin | Lagomarsino | Rowland (CT) |
| Courter | Leach (IA) | Saiki |
| Cox | Lent | Saxton |
| Crane | Lewis (CA) | Schneider |
| Dannemeyer | Lewis (FL) | Sensenbrenner |
| DeLay | Lightfoot | Shaw |
| Dickinson | Livingston | Shays |
| Dornan (CA) | Lowery (CA) | Shumway |
| Douglas | Machtley | Shuster |
| Dreier | Madigan | Sisisky |
| Early | Marlenee | Skeen |
| Edwards (OK) | McCandless | Slaughter (VA) |
| Fawell | McCollum | Smith (NE) |
| Fields | McCrery | Smith (TX) |
| Frenzel | McCurdy | Smith (VT) |
| Gallegly | McMillan (NC) | Smith, Denny (OR) |
| Gallo | Meyers | Smith, Robert (NH) |
| Gekas | Michel | |
| Gillmor | Miller (WA) | |
| Snowe | Tauzin | Whittaker |
| Spence | Thomas (WY) | Wolf |
| Stearns | Valentine | Wylie |
| Stenholm | Vander Jagt | Young (AK) |
| Stump | Vucanovich | Young (FL) |
| Sundquist | Walker | |
| Tauke | Weber | |

NOT VOTING—12

| | | |
|---|---|---|
| Alexander | Flippo | Robinson |
| Barton | Holloway | Stallings |
| Clinger | Lukens, Donald | Thomas (CA) |
| Craig | Nelson | Williams |

□ 1617

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Craig against.

Mr. Williams for, with Mr. Thomas of California against.

Mr. CRANE changed his vote from "aye" to "no."

MR. LEHMAN of Florida, Mr. SPRATT, and Mrs. BYRON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SIKORSKI

Mr. SIKORSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SIKORSKI: Page 241, in lines 17 and 18, and page 242, in line 1, strike "5 years or 50,000 miles" in both places such phrase appears and insert in lieu thereof in both such places "8 years or 80,000 miles".

Page 241, before the period in line 21, insert ", except that the Administrator may designate any other pollution control device or component as a specified major emission control component if—

"(A) the device or component (except in the case of onboard emission control diagnostic equipment required by section 216) was not in general use on vehicles and engines manufactured prior to the model year 1990; and

"(B) the Administrator determines that the retail cost (exclusive of installation costs) of such device or component exceeds $200 (in 1989 dollars, adjusted for inflation or deflation as calculated by the Administrator at the time of such determination".

The CHAIRMAN. Pursuant to the rule, the gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 15 minutes, and a Member in opposition will be recognized for 15 minutes.

Is there any Member in opposition to the amendment?

Mr. DANNEMEYER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 15 minutes in opposition to the amendment.

□ 1620

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, cleaning up America's air requires making new cars clean and keeping the cars on our roads clean. That is why the gentleman from New York [Mr. GREEN] and I brought this amendment to you.

What does it do? It requires the free replacement of the two big and expensive pollution control parts, the catalytic converter and the electronic control unit [ECU], if they fail in the first 8 years or the first 80,000 miles. It preserves the new 2-year 24,000-mile warranty on all the other emission-related parts.

Who supports this amendment? Small businesses, in a big way, support the amendment.

Which ones? There have been a lot of small businesses all over the place on this warranty issue. But the five big associations, trade associations representing over 15,000 small businesses affected by this bill support this amendment.

The real mom and pop auto repair businesses represented by the Automotive Service Association, the largest and oldest organization with average employees of its members 4.2 employees, support my amendment.

The auto parts manufacturers, distributors, retailers—people like Crown, Champion, Pep Boys—support this amendment.

So Mr. Chairman, we have got the mom and pop repair shops and the auto parts manufacturers and affiliates and the manufacturers of specialty parts for the vans, the trucks, the RVs, all supporting this amendment.

Why are they supporting this? For business reasons. The repair shops want to be able to repair your car and repair your auto parts, including the pollution controlling parts. The manufacturers, the distributors, the retailers, want to sell those parts to you.

Right now they lose, they believe, tens of millions of dollars because consumers are confused about the warranties and automatically go to the big auto dealerships. Mom and pop small businesses are locked out, especially when the bolts, the hoses, the batteries and other things are being replaced, because they are replaced without warranties anyway and without competition from the little guys.

So what did they do? Last August, they negotiated an agreement with the consumers, the environmentalists, and the local government groups to provide an enforcible, useable warranty to the consumers.

They believe their agreement now reflected in this amendment is balanced. They believe it protects the consumer and the environment and the small businesses who hope to compete against the big boys. And they are sticking with their agreement. That is why they asked for this amendment.

Consumer groups also support it. Why? Because the consumers get freedom of choice as to where to repair, and they get a usable, valuable, enforcible warranty on the big ticket items. And they get cost savings and cost competition on the small ticket items.

Environmental and health groups support it because these longer warranties, combined with durable pollution control equipment, could reduce emissions by 25 percent. That is a big deal. Think of the vandalized national monuments, the human misery, the fractured lives, the coughed up lungs that will be saved with a 25-percent cut.

Let me make four points and sit down. Without this amendment, H.R. 3030, the clean air bill before us, will actually weaken existing clean air law, actually weaken clean air without this amendment.

Second, this amendment is identical to the language that the Senate produced from the very beginning—in subcommittee, committee, and on the floor.

Third, this amendment is identical to the language the Bush administration embraced in their Senate agreement.

Fourth and finally, this restores the balanced agreement on warranties reached last August and is supported by the environmental, the consumer, the small business, and the local government groups.

Now, it is not every day in this Chamber you get to vote for small business and environmental groups and consumers and make your counties and your Governors and your local cities happy. You get to do that today by voting "yes" on Sikorski-Green.

Mr. Chairman, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, for years I have been a member of the Energy and Commerce Committee and have been present for both sides of the debate on numerous occasions on the warranty issues. During committee consideration of this issue there was extensive discussion, both in and out of the hearing room, and by a major bipartisan 29 to 14 vote we rejected the amendment being offered today to increase the warranties to 8 years/80,000 miles. We did increase emissions system durability protection and EPA recall authority without having the adverse impacts that would be generated by the longer warranties in the amendment. There has never been one shred of evidence produced to show that the warranties in the act have had any beneficial impact on the environment or on system durability. The committee believed that the extension of the system durability testing and recall authority more than adequately protected the consumer and readily agreed to those provisions.

I urge my colleagues to vote for consumer choice and against Sikorski-Green.

□ 1630

Who opposes this amendment? The Automotive Parts Rebuilders Association, the Automotive Service Industry Association, the Automotive Wholesaler Association Executives, the Clean Air Working Group, Motor and Equipment Manufacturers Association, the National Federation of Independent Business, the Service Station Dealers of America, and the U.S. Chamber of Commerce.

This is a bad amendment. I urge my colleagues to vote it down.

Mr. SIKORSKI. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I rise in support of the Sikorski-Green amendment and I urge my colleagues to adopt it. The amendment is good for small business, and that is why the Automotive International Association, the Automotive Parts and Accessories Association, the Automotive Service Association, the Automotive Warehouse Distributors Association and the Speciality Equipment Market Association all are endorsing it.

The amendment is good for the environment because it is absolutely essential that cars be kept in good condition if the pollution control requirements of this act are going to be effective. That is why such groups as the American Lung Association, the National Clean Air Coalition, the National Wildlife Federation and the Sierra Club are endorsing this amendment.

Local governments feel that the amendment is essential if they are going to meet the requirements that are imposed on them by this legislation, and that is why the National Association of Counties and the National League of Cities have endorsed it.

But most of all, this is a consumer protection measure, and that is why it has been endorsed by the Consumer Federation of America, the Center for Auto Safety, Public Citizen, and the U.S. Public Interest Research Group.

Members should understand very clearly what they are doing to their constituents if they vote against the Sikorski-Green amendment. At the present time, under the existing law, your constituents have protection for 5 years or 50,000 miles on all of the pollution control equipment on their cars. As the bill now stands, they will have taken away from their protection on the smaller parts for 3 years. That will be reduced from 5/50 to 2/24, and there is nothing in the bill before us

which compensates our constituents for that loss of warranty protection.

The Sikorski-Green amendment gives them a tradeoff. It gives them a tradeoff of having 8 years or 80,000 mile protection on the two big-ticket items, the electronic control unit and the catalytic converter. Those are the things for which a used car owner in the sixth year to the eighth year of operation is going to have a hard time ponying up the money if they go bad and he has to fix them. So we give that tradeoff to the consumer.

The bill without our amendment simply takes away from your constituents and gives them nothing back in return. I do not think I should want to go back to my automobile-owning constituents and tell them that I had taken away important protections they have under existing law and given them nothing in return for it.

So if Members vote "no," that is what they are doing, they are taking away consumer protection, they are taking away warranty protection from automobile owners and giving them nothing back in return.

If Members vote for Sikorski-Green, they are giving consumers something in return, something that is extremely valuable to them, something that the administration endorsed, something that the Senate endorsed. At the same time we shall be helping to protect the environment and satisfying the needs and economic requirements of the mom and pop service station industry and the parts industry.

I cannot think of any amendment we are going to see on this bill which has such a broad base of endorsement as the Sikorski-Green amendment, and I urge Members to vote for it.

Mr. DANNEMEYER. Mr. Chairman, I yield 2 minutes to my colleagues, the gentlemam from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment offered by Representatives SIKORSKI, GREEN, and WAXMAN. This issue was fully addressed by our committee and rejected 29 to 14.

The attempt being made to indicate that extension of the warranties under the amendment are proconsumer and proenvironment, flies in the face of the facts.

H.R. 3030 as adopted by the committee increases the emission system durability testing to 100,000 miles and EPA recall authority to 7 years/75,000 miles. That gives us what we were looking for. Increased emission system durability and the consumer protection without the anticonsumer and anticompetitive impacts of the longer warranties.

The House Small Business Committee unanimously determined that the warranties in the act were anticonsumer in that they eliminate the consumer's freedom of choice as to where he can have his car serviced, or work on it himself, without voiding the warranty and that they mandate a monopoly to the franchised dealer on all parts and service for the length of the warranty.

Extension of the warranties is totally unnecessary and would have no benefit to the environment as claimed by its proponents. There's never been any evidence produced that the warranties have had any impact on clean air. This is simply an economic issue which has the unfortunate effect of severe dislocation in the marketplace. The independent automotive aftermarket industry has done 75 to 80 percent service work in this country for well over 75 years by consumer choice. Consumers voted with their pocketbook and to force them back for emission service only to the franchised dealer for the life of the warranty, only eliminates the consumer's prerogative regarding the servicing of his vehicle, for fear of voiding the warranty he paid for in the price of the car.

This is the only federally mandated warranty on the books and it has an already severe competitive disadvantage built in for the independent service industry and consumers. If consumers can't shop around for service prices and are forced only to the dealer, the likelihood is monopoly pricing.

H.R. 3030 contains warranty coverage for the catalytic convertor and electronic control module for 5 years or 50,000 miles. Along with the expanded initial testing certification and EPA recall authority, this is a strong proconsumer provision of the bill and one that should be retained as adopted by the committee.

I urge my colleagues to oppose the Sikorski-Green-Waxman amendment and support H.R. 3030 as adopted by the House Energy and Commerce Committee.

Mr. SIKORSKI. Mr. Chairman, could the Chair advise how much time remains on each side?

The CHAIRMAN. The gentleman from Minnesota [Mr. SIKORSKI] has 6 minutes remaining and the gentleman from California [Mr. DANNEMEYER] has 11 minutes remaining.

Mr. DANNEMEYER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the committee.

Mr. DINGELL. Mr. Chairman, this is a bad amendment which appears to be good. It is of no environmental value and confers no environmental benefit. But the amendment has the practical effect of stripping independent garagemen and little businessmen of the ability to do business involving parts which would otherwise be covered by the extended warranty which is included in this amendment.

The amendment is not needed. It ensures that hundreds of parts that are not now subject to the manufacturer warranty of 5 years and 50,000 miles will become subject to a warranty. This strips them of business and moves it to the dealers who really do not solicit the business and do not greatly care.

The question here is whether or not the Congress should cavalierly increase the warranty on certain named parts. Many people in the aftermarket industry have told the Congress that this will cut them out entirely of the business. If Members are interested in the small businessman and they want to vote with him in an environmentally neutral fashion, my suggestion is to vote strongly and speak against, oppose, vote against this particular amendment.

It looks good; it sounds good. It is illusory in the extreme. It confers no environmental benefit, but it is going to hurt hundreds of thousands of small businessmen by denying them access to business which will be moved under warranty.

If Members want to favor the dealerships, the big businessmen and that sort of folks, then by all means vote for the amendment.

I have worked on this legislation for years. The little businessmen, the small independent garagemen have consistently opposed this legislation, and I urge the House to do likewise.

Mr. Chairman, I rise in opposition to this amendment. This has been a long-standing battle inside the Energy and Commerce Committee. The amendment is opposed by the small operators in the aftermarket industry and by others. That is because it is not needed and it ensures that hundreds of parts are not subject to the manufacturer warranty of 5 years and 50,000 miles. The basic and most important—the catalytic converter and the electronic emissions control unit—are already subject to the 5-year, 50,000 miles warranty for the consumer.

The question is whether or not the Congress should cavalierly increase the warranty for certain named parts. Many people in the aftermarket industry believe that this will cut them out entirely if it is done—cut them out of both repair and sales of parts. This is extremely important to the small businessman who exists in large part on the repair of automobiles after the warranty on those automobiles have expired.

It is also unfair to the manufacturing companies. I think that if we are interested in being fair to the small business people of this country who operate independently, who manufacture parts independently, who are not major manufacturers for automobiles or of automobiles or for automobile companies, we should reject this amendment being offered.

I would point out that if we go the other route and extend the warranty periods for these and all of the other parts, particularly the small parts, we will be robbing the small businessman, both manufacturers and the small installers and repairmen of a major part of the business that they do now and you will

be compelling them to cease their functions either as manufacturers or as repairers of automobiles.

I urge my colleagues to vote against the amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I thank the gentleman for yielding time to me, and would only reiterate a couple of points that the chairman of the full committee made. There is no free lunch here.

□ 1640

I saw a dear colleague coming around somehow talking about free warranties and extended warranties. Believe me, there is no free lunch, there are no freebies, when the individual owner is deprived of his freedom of choice as to where he is going to have the particular work on his automobile completed. That is exactly what we are talking of here, is the opportunity for that owner of that vehicle to decide where he is going to have that work completed.

There is certainly no environmental benefit, no one who supports the amendment in any way can stand up and say that somehow we are going to have cleaner air as a result of these extended warranties under the Sikorski-Green amendment.

The full committee debated this issue long and hard. It has been an issue that has been before our committee on more than one occasion, and in fact the vote was 29 to 14, better than 2 to 1 against the Sikorski-Green amendment.

The National Federation of Independent Business, the U.S. Chamber of Commerce, both are on record as opposed to this amendment. Let us work toward clean air and at the same time give our constituents the right of free choice in this matter.

I urge you to reject the Sikorski-Green-Waxman amendment.

Mr. SIKORSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. WAXMAN], a cosponsor of the amendment.

Mr. WAXMAN. Mr. Chairman, this issue has been with us for some time in the following form: Existing law says that there has to be a warranty for the antipollution devices for 5 years, 50,000 miles. Some of the service station owners were concerned about the anticompetitive aspect of that.

So an overall agreement was reached, which is embodied in the Sikorski amendment, to have parts of the warranties extended for 8 years and 80,000 miles, but other parts shortened so more service options were available.

Now, establishing the 8-year/80,000 mile warranty on major pollution devices is a significant environmental issue and it is a significant consumer question. It is a significant environmental issue because if the antipollution control devices are not going to be covered under warranty for an adequate period of at least 5 years. 50,000 miles or, more preferably, 8 years, 80,000 miles, but instead covered as in the bill for only 2 years or 24,000 miles, then that means that if after that limited period of time the devices are not working as they should, then either the consumer is going to be faced with a large out-of-pocket expense or pollution is going to start increasing from those very cars.

If people don't want to spend the dollars to fix the devices then pollution will increase. That is the first problem. That is an environmental problem.

The consumer aspect of it is also significant because in order to fix the devices, the consumer will have to pay directly—the warranty will have run out. In many areas there are going to be inspection and maintenance programs to make sure that these antipollution control devices are working, so the repairs will have to be made.

If there is only a warranty for 2 years, 24,000 miles, as in the committee bill, then after that time the dealer and manufacturer will have no further responsibility. Who has the responsibility to make sure that the devices are working? Who pays the bill? The consumer.

The consumer is going to have to come up with $450 out of their own pockets to pay to repair and restore what should have been warranted to begin with.

The committee provision is not good enough. We ought to replace it with the Sikorski-Green provision. It will have an important environmental consequence, it will have an important consumer consequence. That is why the environmental groups and the consumer groups are supporting the Sikorski-Green amendment.

This amendment reflects a balance, a compromise, between the people who run the independent garages and those consumer and environmental groups. The garages are for this amendment because it given them a chance for business from people bringing their cars in for repairs rather than taking them exclusively to the dealers. And it encourages keeping pollution devices in order.

So it is a good compromise amendment. It is good for the consumer, it is good for the environment.

I would strongly urge Members of this House to vote "yes" for the Sikorski-Green amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am really puzzled in my mind why this amendment is being offered. The reason I say that is because we all know it is a Clean Air Act to which it is being offered. But there is no evidence that I have been able to find that by extending the warranty in the manner that the amendment describes from what is in the bill, 5 years and 50,000 miles to 8 years and 80,000 miles, that we are going to improve air quality. There is no evidence to establish that, that I have been able to find. What this fight is about is over turf, who gets the repair business. If you vote for the amendment by my colleague from Minnesota, the price of this extended warranty will be reflected in what we consumers pay for the car.

We will be paying for that repair work up front.

Now, I do not know what that cost could be. I have seen estimates varying anywhere from $80 to several hundred dollars additional for the additional warranty in the manner that my colleague from Minnesota suggests.

If you vote for the version of the bill before the House, 5 years and 50,000 miles, when the warranty work period has expired, the consumer is going to go to his or her own source for repair work. That means the local gas station, the local garage or whatever.

So that local service operator gets the business. That is the difference is: Pay the cost up front, or pay it later if the warranty has expired and repair work is necessary.

This amendment is opposed by a wide range of organizations that speak for their constituencies: Service Station Dealers of America, National Federation of Independent Business, National Automotive Parts Association, Motor and Equipment Manufacturers Association, Clean Air Working Group, Automotive Wholesaler Association Executives, Automotive Service Industry Association, Automotive Parts Rebuilders Association, and the U.S. Chamber of Commerce.

That is an impressive list of organizations opposing this amendment.

Finally, let me add we argued this in committee extensively. By a vote of 29 to 14 the amendment failed.

Now, it was a bipartisan list of members of the Committee on Energy and Commerce who voted to keep the bill the way it is, 5 years and 50,000 miles. I would submit that that is fairly indicative of how the committee looked at it.

I would hope the members of the Committee of the House will look at it the same way and reject this change. It is actually going to result, as I say, in not increasing the price that we consumers pay for the car, and it is going to protect the small businessmen located in our communities. And for these reasons I ask for a vote against this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. DANNEMEYER] has consumed 3½ minutes and has 3½ minutes remaining. The gentleman from Minnesota [Mr. SIKORSKI] has 3 minutes remaining. The gentleman from Minnesota has the right to close, and the Chair understands he is going to use the balance of his time to close.

Mr. DANNEMEYER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from Minnesota [Mr. SIKORSKI] is recognized for the purpose of closing.

Mr. SIKORSKI. I thank the chairman. Mr. Chairman, I will not take a lot of time.

We have heard a lot of arguments in opposition to the Sikorski-Green-Waxman amendment.

□ 1640

All of them are curious. It seems to me if Members are concerned about the impact on small businesses, we should ask the small businesses, the ones that really are affected by this amendment. The members of the Automotive Service Association have an average of 4.2 employees. They are the largest and are the oldest of the mom-and-pop repair shops. The small businesses we like to brag about protecting, and they are supporting this amendment. It is their amendment. Ask them. Not the big boys—not the big automakers or the big businesses that are funding the campaign in opposition to this amendment. If we are concerned about consumers and their freedom of choice—the ability to take their car here or there, to the big boys or to the neighborhood garage—ask the consumer groups. They are unamimously in support of the this Green-Sikorski amendment. If we are concerned about the environment, ask the environmental groups. They say we get a 25-percent reduction in auto emissions with this amendment and the other usable life durability provisions of the legislation.

Finally, if Members are concerned about how this will have an impact on clean air enforcement, ask the Governors' Association. They are in favor of it. The counties; they are in favor of it. The League of Cities; they are in favor of it. And if none of those groups interest a Member, ask the League of Women Voters, they are in favor of it, too.

Mr. Chairman, I yield back the balance of my time.

Mr. SKAGGS. Mr. Chairman. I strongly support the Sikorski-Green amendment. This amendment will require automobile manufacturers to provide 8-year or 80,000-mile warranties for the two most important auto emissions control devices—catalytic converters and electronic control units.

As we all know, the largest single source of urban air pollution is cars and trucks. H.R. 3030 includes many important new requirements for manufacturers to produce cars meeting tougher emission standards. However, unless we also ensure that those standards are met in real life—during a vehicle's actual use, and not just when it is being certified in an EPA laboratory—we will have lost much of the advantage of tightening the standards in the first place.

Sadly, under a compromise reached in 1977, when Congress last amended the Clean Air Act, we have hobbled our ability to ensure that cars meet emission standards for the entire time they are in use. Because of that compromise, when a manufacturer warrants emission controls, the period of that warranty is only for 5 years or 50,000 miles, whichever comes first. I think everyone here knows that most people drive their cars for more than 5 years of 50,000 miles. But under current law, the manufacturers need to design and build emission control systems that only have to last for that artificially short period. After that, if they fail, regardless of the reason, the manufacturer has no responsibility, and the burden of making the necessary repairs falls entirely on the car owner.

Because of this problem, last year I introduced a clean air bill that, among other things, would have changed the statutory definition of a car's useful life to reflect reality, by setting it at 10 years of 100,000 miles, whichever comes first. One of the consequences of making this change would be to extend the warranty period for major emission control items. I know that many of my colleagues here have also indicated that they would support such a change.

The Sikorski-Green amendment would not go that far, but it would help to remedy part of this problem. It would specify a longer warranty period of 8 years of 80,000 miles for the two most important pieces of emission control equipment—the catalytic converter and the engine's electronic controls. These pieces of equipment can and should be designed and built to last that long. The longer warranty period would, for the first time, give manufacturers an incentive—a very strong incentive—to make these parts so they last through at least most of a vehicle's real life.

The longer warranty would also mean that when one of these devices does malfunction, it will be more likely to be fixed, because in more cases the replacement or repair will be made at no expense to the care buyer. And, of course, when defective emission control systems are fixed more often, and quicker, the air will be cleaner for all of us.

This amendment makes good sense for the consumer and good sense for the environment. I urge my colleagues to join me in voting for it.

Mr. HALL of Texas. Mr. Chairman, I rise in opposition to the amendment by Representatives SIKORSKI, GREEN, and WAXMAN to increase the warranties in H.R. 3030 to 8 years/80,000 miles.

As a long-time member of the House Energy and Commerce Committee, this is an issue we have debated extensively on a number of occasions over the past several years.

Our committee, after exhaustive consideration, defeated this amendment in a decisive 29 to 14 bipartisan vote.

Chairman DINGELL and Mr. WAXMAN, during consideration of H.R. 3030, agreed to increase the emission system durability testing to 100,000 miles and to increase EPA's recall authority for emissions systems failure to 7 years/75,000 miles. There is no doubt in my mind that this gives the consumer major durability protection for the emissions system without the well acknowledged anticompetitive and anticonsumer impacts carried by the warranties. To increase the warranties to 8 years/80,000 miles in light of our committee debate the issue is just not necessary, based on the facts.

There has never been any evidence produced that the warranties have had any impact on clean air. There has been a great deal of evidence regarding their negative impact on consumers and small business as evidenced by the findings of the House Small Business Committee.

I would urge rejection of the Sikorski-Green-Waxman amendment and support of the warranty provisions as adopted after long deliberation and debate by the committee contained in H.R. 3030.

Mr. MCMILLEN of Maryland. Mr. Chairman, the merits of this issue have been bandied about for some time now—it boils down to the fact that this warranty vote will not affect the quality of the Nation's air. It is simply a business/consumer issue, the decision being who should have access to servicing onboard catalytic converters and other emission control devices. Consumers are already protected by the durability requirements and recall liability protections previously added to the bill—Mr. DINGELL and Mr. WAXMAN expanded emission system durability testing requirements to the 100,000 mile/10-year mark, and extended the EPA's recall authority to 75,000 miles or 7 years. So consumers have nothing to fear. The question then becomes—are we going to deny small businesses the right to service people's emissions control systems? The House Small Business Committee ruled earlier this year that federally mandated extended warranties are inherently antismall business, discriminating against independent aftermarket servicers. Is that the kind of system that we want to create?—one that endangers the livelihood of somewhere between 1.5 to 2 million Americans? I think not—a vote for Sikorski-Green takes away from good environmental policy and moves us toward an anticompetitive policy. Looking at it from another tangent, this amendment is anticonsumer—the extension of a parts warranty is assuredly going to be passed onto the consumer in the way of a higher price tag for the vehicle.

I urge a vote against the Sikorski-Green amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. SIKORSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SIKORSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 239, noes 180, not voting 13, as follows:

[Roll No. 133]

AYES—239

| | | |
|---|---|---|
| Ackerman | Gunderson | Pease |
| Anderson | Hall (OH) | Pelosi |
| Andrews | Hawkins | Penny |
| Annunzio | Hayes (IL) | Perkins |
| Anthony | Hefner | Petri |
| Atkins | Hertel | Pickle |
| AuCoin | Hoagland | Poshard |
| Bates | Hochbrueckner | Price |
| Beilenson | Horton | Rahall |
| Bennett | Houghton | Rangel |
| Berman | Hoyer | Ravenel |
| Bilbray | Hughes | Richardson |
| Boehlert | Ireland | Ridge |
| Boggs | Jacobs | Rinaldo |
| Borski | James | Roe |
| Boxer | Johnson (CT) | Ros-Lehtinen |
| Brennan | Johnson (SD) | Rose |
| Brooks | Johnston | Rostenkowski |
| Brown (CA) | Jontz | Roukema |
| Brown (CO) | Kanjorski | Rowland (CT) |
| Bryant | Kaptur | Roybal |
| Buechner | Kastenmeier | Russo |
| Campbell (CA) | Kennedy | Sabo |
| Cardin | Kennelly | Sangmeister |
| Carper | Kildee | Savage |
| Clarke | Kleczka | Sawyer |
| Clay | Kostmayer | Scheuer |
| Coleman (MO) | LaFalce | Schneider |
| Coleman (TX) | Lagomarsino | Schroeder |
| Collins | Lancaster | Schulze |
| Condit | Lantos | Schumer |
| Conte | Leach (IA) | Serrano |
| Costello | Lehman (CA) | Shaw |
| Coughlin | Lehman (FL) | Shays |
| Courter | Levine (CA) | Sikorski |
| Coyne | Lewis (GA) | Skaggs |
| Crane | Lloyd | Slattery |
| Crockett | Long | Slaughter (NY) |
| Davis | Lowey (NY) | Smith (FL) |
| de la Garza | Machtley | Smith (IA) |
| DeFazio | Markey | Smith (NJ) |
| Dellums | Martin (NY) | Smith (VT) |
| Derrick | Martinez | Snowe |
| Dicks | Matsui | Solarz |
| Dixon | Mavroules | Solomon |
| Donnelly | Mazzoli | Spence |
| Douglas | McCloskey | Spratt |
| Downey | McCollum | Stallings |
| Dreier | McCurdy | Stark |
| Dwyer | McDade | Stearns |
| Dymally | McDermott | Stokes |
| Early | McGrath | Studds |
| Edwards (CA) | McHugh | Swift |
| Engel | McNulty | Synar |
| Erdreich | Meyers | Tallon |
| Evans | Mfume | Tauke |
| Fascell | Miller (CA) | Taylor |
| Fazio | Miller (WA) | Torres |
| Feighan | Mineta | Torricelli |
| Fish | Moakley | Udall |
| Foglietta | Molinari | Unsoeld |
| Ford (TN) | Moody | Valentine |
| Frank | Morella | Vento |
| Frost | Morrison (CT) | Visclosky |
| Gallegly | Mrazek | Walgren |
| Gallo | Murtha | Walker |
| Gaydos | Nagle | Walsh |
| Gejdenson | Natcher | Washington |
| Gephardt | Neal (MA) | Waxman |
| Gibbons | Neal (NC) | Weber |
| Gillmor | Nowak | Weiss |
| Gilman | Oberstar | Weldon |
| Glickman | Obey | Wheat |
| Gonzalez | Olin | Wilson |
| Gordon | Owens (NY) | Wolpe |
| Goss | Owens (UT) | Wyden |
| Grant | Pallone | Wylie |
| Gray | Panetta | Yates |
| Green | Patterson | Young (FL) |
| Guarini | Payne (NJ) | |

NOES—180

| | | |
|---|---|---|
| Applegate | Ballenger | Bereuter |
| Archer | Barnard | Bevill |
| Armey | Bartlett | Bilirakis |
| Aspin | Bateman | Bliley |
| Baker | Bentley | Bonior |
| Bosco | Henry | Porter |
| Boucher | Herger | Pursell |
| Broomfield | Hiler | Quillen |
| Browder | Hopkins | Ray |
| Bruce | Hubbard | Regula |
| Bunning | Huckaby | Rhodes |
| Burton | Hunter | Ritter |
| Bustamante | Hutto | Roberts |
| Byron | Hyde | Rogers |
| Callahan | Inhofe | Rohrabacher |
| Campbell (CO) | Jenkins | Roth |
| Carr | Jones (GA) | Rowland (GA) |
| Chandler | Jones (NC) | Saiki |
| Chapman | Kasich | Sarpalius |
| Clement | Kolbe | Schaefer |
| Coble | Kolter | Schiff |
| Combest | Kyl | Schuette |
| Conyers | Laughlin | Sensenbrenner |
| Cooper | Leath (TX) | Sharp |
| Dannemeyer | Lent | Shumway |
| Darden | Levin (MI) | Shuster |
| DeLay | Lewis (CA) | Sisisky |
| DeWine | Lewis (FL) | Skeen |
| Dickinson | Lightfoot | Skelton |
| Dingell | Lipinski | Slaughter (VA) |
| Dorgan (ND) | Livingston | Smith (NE) |
| Dornan (CA) | Lowery (CA) | Smith (TX) |
| Duncan | Luken, Thomas | Smith, Denny (OR) |
| Durbin | Madigan | Smith, Robert (NH) |
| Dyson | Manton | Smith, Robert (OR) |
| Eckart | Marlenee | Staggers |
| Edwards (OK) | Martin (IL) | Stangeland |
| Emerson | McCandless | Stenholm |
| English | McCrery | Stump |
| Espy | McEwen | Sundquist |
| Fawell | McMillan (NC) | Tanner |
| Fields | McMillen (MD) | Tauzin |
| Flake | Michel | Thomas (GA) |
| Ford (MI) | Miller (OH) | Thomas (WY) |
| Frenzel | Mollohan | Towns |
| Gekas | Montgomery | Traficant |
| Geren | Moorhead | Traxler |
| Gingrich | Morrison (WA) | Upton |
| Goodling | Murphy | Vander Jagt |
| Gradison | Myers | Volkmer |
| Grandy | Nielson | Vucanovich |
| Hall (TX) | Oakar | Watkins |
| Hamilton | Ortiz | Whittaker |
| Hammerschmidt | Oxley | Whitten |
| Hancock | Packard | Wise |
| Hansen | Parker | Wolf |
| Harris | Parris | Yatron |
| Hastert | Pashayan | Young (AK) |
| Hatcher | Paxon | |
| Hayes (LA) | Payne (VA) | |
| Hefley | Pickett | |

NOT VOTING—13

| | | |
|---|---|---|
| Alexander | Flippo | Saxton |
| Barton | Holloway | Thomas (CA) |
| Clinger | Lukens, Donald | Williams |
| Cox | Nelson | |
| Craig | Robinson | |

□ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Craig against.

Mr. Williams for, with Mr. Barton of Texas against.

Mr. Robinson for, with Mr. Thomas of California against.

Mr. ANDREWS, Ms. KAPTUR, and Mr. SERRANO changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, pursuant to the rule, I offer a compromise amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 281, line 17, after "reconstruction" insert "or modification" and on line 20 after the period insert: "For purposes of the section, the term 'modification' means any physical change in, or change in the method of operation of, a major source which increases the amount of any hazardous air pollutant emitted by such source by more than a de minimus amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimus amount.".

Page 293, line 13, strike "be at least" and all that follows through "similar sources." on page 293, line 24, and insert:

"not be less stringent, and may be more stringent than—

"(A) the average emissions limitation achieved by the best performing 15 percent of the existing sources (for which the Administrator has emissions information and excluding those sources that have achieved, within 12 months prior to promulgation of such standards, a level of emissions rate or emissions reduction which complies, or would comply if the source is not subject to such standard, with lowest achievable emission rate (as defined by section 171) applicable to the source category and prevailing at the time) in the category or subcategory for categories or subcategories with 30 or more sources, or

"(B) the average emissions limitation achieved by the best performing 5 sources (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory for categories or subcategories with fewer than 30 sources.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the gentlewoman from Illinois [Mrs. COLLINS] for purposes of explaining the amendment.

Mrs. COLLINS. Mr. Chairman, first of all, I would like to compliment my colleagues on the Energy and Commerce Committee for their determined efforts toward compromise on the important issue of control standards for toxic air emissions from major, existing, stationary sources. This is an issue with which I have been intimately involved since last year. I planned to offer an amendment today on this exact issue that would set a floor for Maximum Achievable Control Technology or MACT. Not only would it have provided concrete certainty but it also would have done so in an extremely stringent way, along the lines of the Senate's provisions on the issue. Under my amendment, the average of emissions from the 10 percent cleanest sources would be the MACT standard. In cases where there are less than 30 sources in a category or subcategory, the average of the 3 cleanest sources would determine the standard. Additionally, it established that a modification must conform to the standard for new sources. In essence, it was the most environmentally—oriented language.

However, certain legitimate concerns about my amendment were raised and had to be acknowledged. Consequently, I was willing to compromise a bit in order to have strong environmental language which is also fair, workable and balanced. The result is the committee amendment on the MACT standard which is, in essence, the Collins amendment with a few modifications. It remains a solid, definite, stringent floor for the MACT standard and it continues to hold a modification to the standard for new sources.

The problem addressed by this amendment is caused by major stationary sources which litter our air with a wide variety of poisons. During 1988, in the Chicago area alone, 46 million pounds of toxic chemicals were spewed into the air by Chicago-area industries, up from 38 million pounds the year before. Equally troubling is that 1.4 million pounds of 1988's toxic emissions were cancer-causing carcinogens. State-wide, Illinois industries coughed 92 million pounds of toxics into the air in 1987. Nationwide, 2.7 billion pounds of toxic air pollutants were pumped into our air during 1987, according to EPA estimates. Obviously, this crisis compels prompt concrete action.

Presently, H.R. 3030, at subsection 112(d)(3), allows economic and other impacts to be considered in interpreting the MACT standard that determines which emission control technologies are acceptable. It is feared that such factors would, in effect, gut the standards. While costs are by no means irrelevant, they should by no means be the determining factors. There needs to be a minimum degree of control in relation to the control technologies that have already been attained by the best existing sources. EPA's past interpretation of provisions containing the word "best" or "maximum" shows how essential it is to specify a floor for control levels.

For example, under current law, EPA was supposed to set standards for diesel trucks that represented the maximum degree of control. The House report on the issue in 1977 said that EPA should base the standards on the best performing engines. When the standard was finally set, EPA defined best performing to mean every engine except the very worst. In effect, EPA neutralized any meaning in the word maximum.

Additionally, it is not clear what constitutes the "best controlled similar sources", mentioned in that same provision. There is so much play in the meaning of the word sources that EPA could again define the best to mean anything except the very worst. In the Clean Air Act, a variety of "new source performance standards" established under section 111 have never required even new sources to perform as well as the best existing sources in spite of the statutory mandate.

The committee amendment would replace H.R. 3030's language with language based on the Senate bill that would plug the holes. It draws a clear line between what is "maximum achievable control technology" [MACT] and what is not. MACT for existing stationary sources would be the average of the best 15 of technologies within each category or subcategory. For categories or subcategories where there are less than 30 sources, the standard is based on the average emissions from the best performing 5 sources.

Under the amendment I was going to offer, MACT for existing stationery sources would be the average of the best 10 percent of technologies within each category or subcategory and where there are less than 30 sources, the best performing 3 sources. I can live with the approach in this amendment because the standard would still be based on the cleanest sources.

The amendment would also clarify that a substantially modified existing source would be expected to comply with the standard for new sources rather than existing sources. This is because, in the course of a substantial modification, for example, a facility that emits hazardous air pollutants has the opportunity to install new emission control technology. That opportunity should be utilized to install technology that conforms to the higher standard. This would not apply to minor repairs, for example, as they generally would not constitute a modification for purposes of title III. But a change which substantially increases the source's emissions of a hazardous pollutant certainly would be subject to this provision.

Mr. Chairman, I believe that this amendment offers both sound public policy and sound environmental policy. In essence, a House-passed Clean Air bill without this language would be a Clean Air bill with a defective MACT standard, replete with holes. I encourage my colleagues to support this amendment for the sake of both the environment and public health.

Mr. WOLPE. Mr. Chairman, I rise in support of the amendment to title III, concerning hazardous air pollutants, introduced by Chairman DINGELL and my colleague from Illinois, Congresswoman COLLINS. There is no more important title of these Clean Air Act amendments than the air toxics provisions. Although these pollutants are not the most voluminous in the atmosphere, they are certainly the most deadly.

That is why we need the toughest air toxic provisions we can reasonably require. We can't have those living next to chemical plants exposed to risks of cancer as high as 1 in 100. There are some toxic pollutants whose true risks are still unknown. We must ensure that as future risks become known they are properly regulated. These air toxics provisions will help give us these assurances.

In my judgment, this legislation is critical in two respects. First it will provide direct protection for the public against hazardous emissions. And second, it will significantly advance the cause of pollution prevention. The air toxic standards established in this legislation will provide important incentives for companies to seek ways to reduce or eliminate chemicals from their production processes. An ounce of prevention is worth a pound of cure. If companies developed methods that eliminated their toxic pollutants, they would not have to spend millions to control them. Pollution prevention makes both environmental and economic sense.

For two decades, we have regulated at the end-of-the-pipe. This bill contains that tradition, but H.R. 3030 begins to recognize the importance of pollution prevention and source reduction.

I applaud the alternative emissions limits provisions which reward those who have made and will continue to make voluntary reductions in their toxic chemical emissions. These provisions give companies incentive to reduce their toxic emissions before the mandatory features of the law would be triggered.

But I still fear that some companies will not receive adequate credit for impressive reductions in the toxic pollutants they made before the baseline year of 1987. I only hope we are not punishing those who were the first to recognize the importance of pollution prevention.

In 1985, for example, Dow Chemical embarked on a voluntary emissions program with a goal of 95 percent reductions by 1992. Although Dow has reduced its toxic emissions by 82 percent since 1985, under this bill they would not get credit for the 54 percent reduction made between 1985 and 1987. My only point here is that we must be careful not to intentionally penalize companies who were ahead of their time. We run a risk, if we are not careful, of creating disincentives for more aggressive pollution prevention efforts in the future. My hope is that the provision which, in any event, must be reconciled with the Senate legislation, will be revisited in the conference committee.

We have made major strides in pushing pollution prevention approaches to environmental protection. Tough air toxics standards will nudge industry a little further. I urge this House to support the amendment before us.

□ 1720

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 498, after line 4, insert:

SEC. 707A. STRATOSPHERIC OZONE.

Part B of title I is amended by striking sections 150 through 155, by redesignating 156 as section 159E, by striking section 156, 158, and 159, and by inserting after the heading for such part the following:

"TABLE OF CONTENTS

"Sec. 150. Definitions.
"Sec. 151. Listing of ozone depleting substances.
"Sec. 152. Monitoring and reporting requirements.
"Sec. 153. Production phaseout for class I substances.
"Sec. 154. Phase out of class II substances.
"Sec. 155. Accelerated schedule.
"Sec. 156. Alternatives.
"Sec. 157. National recycling and disposal program.
"Sec. 158. Servicing of motor vehicle air conditioners.
"Sec. 159. Labeling.
"Sec. 159A. Nonessential products containing chlorofluorocarbons.
"Sec. 159B. Federal procurement.
"Sec. 159C. Federal enforcement.
"Sec. 159D. International cooperation.
"Sec. 159E. Regulations.
"Sec. 159F. International cooperation.

"SEC. 150. DEFINITIONS.

"As used in this part:

"(1) The terms 'ozone-depleting substance' and 'substance covered by this part' means any substance which is known, or may reasonably be anticipated, to cause or contribute to stratospheric ozone depletion. Such term includes, at a minimum, all class I and class II substances.

"(2) The term 'class I substance' means each of the substances listed as provided in section 151(a).

"(3) The term 'class II substance' means each of the substances listed as provided in section 151(b).

"(4) The term 'ozone-depletion factor' means a factor established by the Administrator to reflect the ozone depletion potential of a substance, on a mass per kilogram basis, as compared to tricholorofluoromethane (CFC-11). Such factor shall be based upon the substance's atmospheric lifetime, the molecular weight of bromine and chlorine, and the substance's ability to be photolytically disassociated, and upon other factors determined to be an accurate measure of relative ozone-depletion potential.

"(5) The term 'medical device' means any device used for medical purposes, any diagnostic product, any drug (as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) and any drug delivery system—

"(A) which utilizes a class I or class II substance for which no safe and effective alternative has been developed, and where necessary, approved by the Commissioner, and

"(B) which, after notice and opportunity for public comment, has been approved and determined to be essential by the Commissioner in consultation with the Administrator.

"(6) The term 'Commissioner' means the Commissioner of the Food and Drug Administration.

"(7) The term 'to produce' means—

"(A) to manufacture in the United States a substance or item from any raw material or feedback chemical; or

"(B) to supply any raw material or feedstock chemical for consumption which has not been domestically manufactured, recycled, or reused.

Such terms does not include the manufacture of substances that are used and entirely consumed in the manufacture of other chemicals.

"(8) The term 'household and commercial applicance' means any appliance used for households or commercial purposes, including any air conditioner, refrigerator, chiller, and freezer.

"(9) The term 'baseline year' means the calender year 1986 (1989 in the case of tetrachloromethane (carbon tetrachloride) and methyl chloroform), except that in the case of any substance added to the list of class I substances after the enactment of this section, and in the case of class II substances, such term shall mean a representative calendar year selected by the Administrator.

"(10) The term 'Montreal Protocol' means the Montreal Protocol to the Vienna Convention for the Protection of the Ozone Layer.

"SEC. 151. LISTING OF OZONE DEPLETING SUBSTANCES.

"(a) LIST OF CLASS I SUBSTANCES.—Within 90 days after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish a list of Class I Substances. The list shall contain, at a minimum, the following substances.:

"Trichlorofluoromethane (CFC-11),
"Dichlorodifluoromethane (CFC-12),
"Trichlorotrifluoromethane (CFC-113),
"Dichlorotetrafluoroethane (CFC-114),
"(Mono)chloropentafluoroethane (CFC-115),
"Bromotrifluoromethane (Halon-1301),
"Bromochlorodifluoromethane (Halon-1211),
"Tetrachloromethane (carbon tetrachloride),
"Methyl chloroform (1,1,1 trichlorocthane),
"Dibromotetrafluoroethane (Halon-2402).

Pursuant to subsection (c), the Administrator shall add to the list of class I substances any other ozone-depleting substance that causes or contributes significantly to depletion of the stratospheric ozone layer, including, at a minimum, all ozone-depleting substances having an ozone depletion factor of 0.15 or greater.

"(b) LIST OF CLASS II SUBSTANCES.—Within 90 days after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish a list of Class II Substances. Such list shall contain, at a minimum, the following substances:

"Hydrochlorodifluoromethane (HCFC-22)
"Hydrochlorofluorocarbon-123
"Hydrochlorofluorocarbon-124
"Hydrochlorofluorocarbon-141(b)
"Hydrochlorofluorocarbon-142(b)

Pursuant to subsection (c) the Administrator shall add to the list of class II substances any other ozone-depleting substances that has a potentially significant ozone depletion potential.

"(c) ADDITIONS TO THE LISTS.—(1) The Administrator may add, in accordance with the criteria set forth in subsection (a) or (b), as the case may be, any substance to the list of class I or class II substances under subsection (a) or (b).

"(2) Periodically, but not less frequently than every 3 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall list as additional class I or class II substances those substances which he finds meet the criteria of subsection (a) or (b), as the case may be.

"(3) At any time, any person may petition the Administrator to add a substance to the list of class I or class II substances. Within 180 days after receiving such a petition, the Administrator shall either add the chemical to such list or publish an explanation of the petition denial.

"(4) Only a class II substance which is added to the list of class I substances may be removed from the list of class II substances. No substance referred to in subsection (a) may be removed from the list of class I substances.

"(d) OZONE-DEPLETION FACTORS.—Simultaneously with publication of the lists under this section and simultaneously with any addition to either of such lists, the Administrator shall assign to each listed substance a numerical value representing the substance's ozone depletion potential. In addition the Administrator shall publish the chlorine loading potential and the atmospheric lifetime of each listed substance. In the case of the substances referred to in Table 1, the ozone-depletion factor shall be as specified in Table 1, unless the Administrator adjusts any such factor based on criteria referred to in section 150(4):

"TABLE 1

| Substance | Ozone depletion factor |
|---|---|
| Trichlorofluoromethane (CFC-11) | 1.00 |
| Dichlorodifluoromethane (CFC-12) | 1.00 |
| Trichlorotrifluoroethane (CFC-113) | 0.80 |
| Bromotrifluoromethane (Halon-1301) | 10.00 |
| Bromochlorodifluoromethane (Halon-1211) | 3.0 |
| Tetrachloromethane (carbon tetrachloride) | 1.06 |
| Dichlorotetrafluoroethane (CFC-114) | 1.0 |
| (Mono)chloropentafluoroethane (CFC-115) | 0.60 |
| Methyl chloroform | 0.15 |
| Dibromotetrafluoroethane (Halon-2402) | 6.0 |
| Chlorodifluoromethane (CFC-22) | 0.05 |
| Chlorofluorocarbon-123 | 0.02 |
| Chlorofluorocarbon-124 | 0.02 |
| Chlorofluorocarbon-141(b) | 0.1 |
| Chlorofluorocarbon-142(b) | 0.06 |

"SEC. 152. MONITORING AND REPORTING REQUIREMENTS.

"(a) REGULATONS.—Within 180 days after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall amend the regulations of the Administrator in effect on such date regarding monitoring and reporting of class I and class II substances. Such amendments shall conform to the requirements of this section. The amended regulations shall include requirements with respect to the time and manner of monitoring and reporting as required under this section.

"(b) ANNUAL PRODUCTION LEVEL REPORTS.—On July 1 of each year beginning after the enactment of the Clean Air Act Amendments of 1990 (or after the date on which a substance is added to the list of class I or class II substances by the Administrator) each person producing a class I or class II substance shall file a report with the Administrator setting forth the amount of the substance that such person produced in the preceding calendar year. No such report shall be required after such person permanently ceases production of the substance. Each such report shall be signed and attested by a responsible corporate officer.

"(c) BASELINE REPORTS FOR CLASS I SUBSTANCES—Unless such information has previously been reported to the Administrator, on the date on which the first annual report under subsection (b) is required to be filed, each person producing a class I substance

(other than a substance added to the list after the enactment of the Clean Air Act Amendments of 1990) shall file a report with the Administrator setting forth the amount of such substance that such person produced during baseline year. In the case of a substance added to the list of class I substances after the Clean Air Act Amendments of 1990, the regulations shall require that each person producing such substance shall file a report with the Administrator within 180 days after the date on which such substance is added to the list, setting forth the amount of the substance that such person produced in the baseline year.

"(a) MONITORING AND REPORTS TO CONGRESS.—(1) The Administrator shall monitor and, not less often than every 2 years following enactment of the Clean Air Act Amendments of 1990, submit a report to Congress on the production and use of class I and class II substances. Such report shall include data on domestic production and use, and an estimate of worldwide production and use of such substances.

"(2) The Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall monitor, and not less often than every 2 years following enactment of the Clean Air Act Amendments of 1990, submit a report to Congress on the current average tropospheric concentration of chlorine and bromine in the atmosphere, the level of depletion of the stratospheric ozone layer. Not less frequently than every 2 years the Administrator shall report to Congress on the environmental and economic effects of any depletion of the stratospheric ozone layer.

"SEC. 153. PRODUCTION PHASEOUT FOR CLASS I SUBSTANCES.

"(a) REGULATIONS.—The Administrator shall promulgate regulations within 1 year after the enactment of the Clean Air Act Amendments of 1990 phasing out the production of class I substances in accordance with this section, subject to acceleration of the phase out under section 155. The phase out shall provide for equal annual percentage reductions in each of the following periods: July 1, 1991 to July 1, 1993; July 1, 1993 to July 1, 1995; and July 1, 1995 to July 1, 2000.

"(b) 1993 AND 1995 LIMITS.—Effective July 1, 1993, it shall be unlawful for any person to produce any class I substance in an annual quantity greater than 80 percent of the quantity produced by such person in the baseline year. Effective July 1, 1995, it shall be unlawful for any person to produce any class I substance in an annual quantity greater than 50 percent of the quantity produced by such person in the baseline year.

"(c) 2000 LIMIT.—Effective July 1, 2000, it shall be unlawful for any person to produce any amount of a class I substance, except as provided in subsection (e).

"(d) METHYL CHLOROFORM.—In the class of methyl chloroform, the phase-out schedule under subsections (b) and (c) shall not apply but effective July 1, 1993, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 80 percent of the baseline amount; effective July 1, 1994, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 70 percent of the baseline amount; effective July 1, 1995, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 60 percent of the baseline amount; effective July 1, 1996, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 50 percent of the baseline amount; and effective July 1, 2005, it shall be unlawful for any person to produce any amount of methyl chloroform, except as provided in subsection (e).

"(e) EXCEPTIONS.—

"(1) MEDICAL PURPOSES.—Notwithstanding the prohibitions set forth in subsection (c) and (d), the Administrator, after notice and opportunity for public comment, shall authorize the production of limited quantities of class I substances solely for use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for such purposes.

"(2) AVIATION SAFETY.—Notwithstanding the prohibitions set forth in subsection (c) and (d), the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of bromochlorodifluoromethane (halon-1211), bromotrifluoromethane (halon-1301), and dibromotetrafluoroethane (halon-2402) solely for purposes of aviation safety if the Administrator of the Federal Aviation Administration, in consultation with the Administrator, determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation safety purposes.

"(3) CAP ON EXCEPTIONS.—Under no circumstances may the authority set forth in paragraphs (1) and (2) of this subsection be applied to authorize any person to produce a class I substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

"(4) FIRE SUPPRESSION.—Notwithstanding the prohibition set forth in subsection (c), the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of bromochlorodifluoromethane (halon-1211), bromotrifluoromethane (halon-1301), and dibromotetrafluoroethane (halon-2402) solely for purposes of fire suppression if the Administrator, in consultation with the Administrator of the United States Fire Administration, determines that no safe and effective substitute has been developed and that such authorization is necessary for fire suppression purposes. The Administrator shall not authorize production under this paragraph for purposes of fire safety training or testing of fire suppression equipment. In no event, shall the Administrator grant an exception under this paragraph that permits production after December 1, 1999.

"(f) NEW CLASS I SUBSTANCES.—In the case of substances added to the list of class I substances after the enactment of the Clean Air Act Amendments of 1990, the Administrator may extend the compliance deadlines in subsections (b) and (c) if the deadlines are unattainable. No such extension may extend the compliance deadline in subsection (b) to a date more than 4 years after the addition of the substance to the Class I list, and no such extension may extend the compliance deadline under subsection (c) to a date more than 7 years after the date of addition of the substance to such list.

"(g) EXCHANGES.—The Administrator shall, within 18 months after the enactment of the Clean Air Act Amendments of 1990, promulgate rules under this part pursuant to which any person may produce a class I or class II substance in annual quantities greater than those specified pursuant to this section, section 154, or section 155 if such person acquires production allowances, directly or indirectly, from another person who will be subject, under such rules, to an enforceable and quantifiable reduction in the annual production of such substance which—

"(1) exceeds the reduction otherwise applicable to such other person under this part,

"(2) exceeds the production allowance transferred by such other person, and

"(3) would not have occurred in the absence of such transaction.

Such rules shall insure that the transactions under the authority of this subsection will result in greater total reductions in the annual production of substances covered by this part than would occur in the absence of such transactions.

"(h) EXCEPTION FOR EXPORT TO DEVELOPING COUNTRIES.—Notwithstanding the prohibition set forth in this section, the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of a substance listed under subsection (a) of section 504 solely for export to and use in developing countries that are parties to the Montreal Protocol and are operating under Article 5 of such Protocol. Any production authorized under this subsection shall be solely for purposes of satisfying the basic domestic needs of such countries.

"SEC. 154. PHASE OUT OF CLASS II SUBSTANCES.

"(a) REGULATIONS.—By December 31, 1999, the Administrator shall promulgate regulations phasing out the production and use of class II substances in accordance with this section, subject to any acceleration of the phase out under section 155.

"(b) PHASE-OUT OF USE.—Effective January 1, 2015, it shall be unlawful for any person to produce or use any class II substance unless such substance—

"(1) has been used, recovered, and recycled;

"(2) is used and entirely consumed in the production of other chemicals; or

"(3) is used to maintain and service household and commercial appliances manufactured prior to January 1, 2015.

In the case of any class II substance with an atmospheric lifetime equal to or shorter than hydrochlorofluorocarbon-123, in applying this subsection, the date January 1, 2020 shall be substituted for the date January 1, 2015.

"(c) PRODUCTION PHASE-OUT.—(1) Effective January 1, 2015, it shall be unlawful for any person to produce any class II substance in an annual quantity greater than the average annual quantity of such substance produced by such person during the baseline year.

"(2) Effective January 1, 2030, it shall be unlawful for any person to produce any class II substance. In the case of any class II substance with an atmospheric lifetime equal to or shorter than hydrochlorofluorocarbon-123, in applying this subsection, the date January 1, 2020 shall be substituted for the date January 1, 2035 and the date January 1, 2020 shall be substituted for the date January 1, 2030.

"(d) EXCEPTION.—

"(1) MEDICAL PURPOSES.—Notwithstanding the prohibitions set forth in subsections (b) and (c), the Administrator, after notice and opportunity for public comment, shall authorize the production and use of limited quantities of class II substances solely for purposes of use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for such purposes.

"(2) CAP ON EXCEPTIONS.—Under no circumstances may the authority set forth in paragraph (1) of this subsection be applied to authorize any person to produce a class II substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

"SEC. 155. ACCELERATED SCHEDULE.

"The Administrator shall promulgate regulations, after notice and opportunity for public comment, which establish a schedule for phasing out the production and use of substances covered by this part that is more stringent than set forth in section 153 or 154, or both, if—

"(1) based on the latest assessment of information regarding the harmful effects on the stratosphere which may be associated with a class I or class II substance, the Administrator determines that such more stringent schedule may be necessary to protect human health and the environment.

"(2) based on the availability of substitutes for a listed substance, the Administrator determines that such more stringent schedule is attainable, or

"(3) the Montreal Protocol is modified to include a schedule to control or reduce production or use of any substance more rapidly than the applicable schedule set forth in this part.

Any person may petition the Administrator to promulgate regulations under this section. The Administrator shall grant or deny the petition within 180 days after receipt of any such petition. If the Administrator denies the petition, he shall publish an explanation of why the petition was denied. If the Administrator grants such petition, such final regulations shall be promulgated within 1 year.

"SEC. 156. ALTERNATIVES.

"(a) REVIEWS AND REPORT.—(1) The Administrator shall initiate, not less than 30 days after enactment of the Clean Air Act Amendments of 1990, a review of relevant professional, technical, and scientific sources that may contain information concerning potential chemicals or product substitutes and alternative manufacturing processes that are potential replacements for class I substances. The Administrator shall report interim findings to the Congress no later than 12 months after enactment of the Clean Air Act Amendments of 1990. A final report shall be issued no later than 2 years after enactment of the Clean Air Act Amendments of 1990.

"(2) The report required under this section shall include the Administrator's findings with regard to each of the following:

"(A) The identify of potential replacement chemicals, product substitutes, or alternative production processes.

"(B) A chemical profile or an abstract that describes each replacement chemical and alternative production process identified in subparagraph (A) and any health or environmental hazards, including ozone depletion potential associated with each.

"(C) The earliest date upon which each chemical and production process identified pursuant to subparagraph (A) can be available for commercial use.

"(3) The Administrator shall require any person who produces a chemical substitute to provide the Administrator with their unpublished health and safety studies on chemical substitutes for class I substances and require producers to notify the Administrator before existing chemicals are introduced into interstate commerce for significant new uses as substitutes for such substances.

"(4) The Administrator shall update the review required by this subsection every 2 years. Effective no more than 4 years after enactment of the Clean Air Act Amendments of 1990, potential alternatives to class II substances shall be included in the Administrator's annual review under this subsection.

"(b) REPLACEMENT.—Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate rules under this section applicable to the replacement of class I and class II ozone-depleting substances. Such rules shall require that replacement chemicals, product substitutes, and alternative production processes, products, and raw materials that reduce overall risks to human health and the environment are used, to the maximum extent practicable, for the replacement of such substances.

"(c) ALTERNATIVES FOR CLASS I SUBSTANCES.—The rules under this section shall provide that, not more than 2 years after enactment of the Clean Air Act Amendments of 1990, it shall be unlawful to replace any class I substance with any substitute substance which the Administrator determines may present adverse effects to human health or the environment, where the Administrator has identified an alternative to such replacement that—

"(1) reduces the overall risk to human health and the environment; and

"(2) is currently or potentially available.

The Administrator shall publish a list of (A) the substitutes prohibited under this subsection for specific uses and (B) the safe alternatives identified under this subsection for specific uses.

"(d) RIGHT TO PETITION.—Any person may petition the Administrator to add a substance to the lists under subsection (c) or to remove a substance from either of such lists. The Administrator shall grant or deny the petition within 90 days after receipt of any such petition. If the Administrator denies the petition, he shall publish an explanation of why the petition was denied. If the Administrator grants such petition the Administrator shall publish such revised list within 6 months thereafter.

"SEC. 157. NATIONAL RECYCLING AND DISPOSAL PROGRAM.

"(a) IN GENERAL.—The Administrator shall, within 2 years after the enactment of the Clean Air Amendments of 1990, promulgate regulations establishing standards and requirements regarding the use and disposal of class I and II substances. Such standards and requirements shall become effective not later than 12 months after promulgation of the regulations. Such regulations shall include requirements that—

"(1) reduce the use and emission of such substances to the lowest achievable level, and

"(2) maximize the recapture and recycling of such substances. Such regulations may include requirements to use alternative substances (including substances which are not class I or class II substances) or to minimize use of class I or class II substances, or to promote the use of safe alternatives pursuant to section 156, or any combination of the foregoing.

"(b) SAFE DISPOSAL.—The regulations under subsection (a) shall establish standards and requirements for the safe disposal of class I and II substances. Such regulations shall include each of the following—

"(1) Requirements that class I or class II substances contained in bulk in appliances, machines or other goods (including but not limited to refrigerators and air-conditioners) shall be removed from each such appliance, machine or other good prior to the disposal of such items or their delivery for recycling.

"(2) Requirements that any appliance, machine or other good containing a class I or class II substances in bulk shall not be manufactured, sold, or distributed in interstate commerce or offered for sale or distribution in interstate commerce unless it is equipped with a servicing aperture or an equally effective design feature which will facilitate the recapture of such substance during service and repair or disposal of such item.

"(3) Requirements that any product in which a class I or class II substances is incorporated so as to constitute an inherent element of such product shall be disposed of in a manner that reduces, to the maximum extent practicable, the release of such substance into the environment. If the Administrator determines that the application of this paragraph to any product would result in producing only insignificant environmental benefits, the Administrator shall include in such regulations an exception for such product.

"(d) PROHIBITION.—Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of a household or commercial appliance, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance in a manner which permits such substance to enter the environment. De minimis releases associated with good faith attempts to recapture and recycle or safely dispose of any such substance shall not be subject to the prohibition set forth in the preceding sentence.

"SEC. 158. SERVICING OF MOTOR VEHICLE AIR CONDITIONERS.

"(a) REGULATIONS.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations in accordance with this section establishing standards and requirements regarding the servicing of motor vehicle air conditioners.

"(b) DEFINITIONS.—As used in this section—

"(1) The term 'refrigerant' means any class I or class II substance used in a motor vehicle air conditioner.

"(2)(A) The term 'approved refrigerant recycling equipment' means equipment certified by the Administrator (or an independent standards testing organization approved by the Administrator) to meet the standards established by the Administrator and applicable to equipment for the extraction and reclamation of refrigerant from motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of the date of the enactment of the Clean Air Act Amendments of 1990 and applicable to such equipment (SAE standard J-1990).

"(B) Equipment purchased before the proposal of regulations under this section shall be considered certified if it is substantially identical to equipment certified as provided in subparagraph (A).

"(3) The term 'properly using' approved refrigerant recycling equipment means using such equipment in conformity with standards established by the Administrator and applicable to the use of such equipment. Such standards shall, at a minimum,

be at least as stringent as the standards of the Society of Automotive Engineers in effect as of the date of the enactment of the Clean Air Act Amendments of 1990 and applicable to the use of such equipment (SAE standard J-1989).

"(4) The term 'properly trained and certified' means training and certification in the proper use of approved refrigerant recycling equipment for motor vehicle air conditions in conformity with standards established by the Administrator and applicable to the performance of service on motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as specified, as of the date of the enactment of the Clean Air Act Amendments of 1990 in SAE standard J-1989 under the certification program of National Institute for Automotive Service Excellence (ASE) or under a similar program such as the training and certification program of the Mobile Air Conditioning Society (MACS).

"(b) SERVICING MOTOR VEHICLE AIR CONDITIONERS.—Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner involving the refrigerant for such air conditioner without properly using approved refrigerant recycling equipment and no such person may perform such service unless such person has been properly trained and certified. The requirements of the previous sentence shall not apply until the date 3 years after the enactment of the Clean Air Act Amendments of 1990 in the case of a person repairing or servicing motor vehicles for consideration at an entity which performed service on fewer than 100 motor vehicle air conditioners during calendar year 1990 and if such person so certifies, pursuant to subsection (c)(2), to the Administrator by the date 2 years after the enactment of the Clean Air Act Amendments of 1990.

"(c) CERTIFICATION.—Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, each person performing service on motor vehicle air conditioners shall certify to the Administrator either—

"(1) that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified; or

"(2) that such person is performing such service at an entity which serviced fewer than 100 motor vehicle air conditioners in 1990.

Each certification under this subsection shall contain the name and address of the person and the serial number of each unit of approved recycling equipment acquired by such person and shall be signed by the owner or another responsible corporate officer. Certifications under paragraph (1) may be made by submitting the required information to the Administrator on a standard form provided by the manufacturer of certified refrigerant recycling equipment.

"SEC. 159. LABELING.

"(a) REGULATIONS.—The Administrator shall promulgate regulations to implement the labeling requirements of this section within 12 months after enactment of the Clean Air Act Amendments of 1990, after notice and opportunity for public comment.

"(b) CLASS I SUBSTANCES.—Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, no container in which a class I substance is stored or transported, no product containing such substance, and no product manufactured with a process that uses a Class I substance shall be introduced or reintroduced into interstate commerce unless it bears a clearly legible and conspicious label stating either of the following, as appropriate:

"(1) 'Warning: Contains [insert name of substance] a substance which harms public health and environment by destroying ozone in the upper atmosphere.

"(2) 'Warning: Manufactured with [insert name of substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere.

For purposes of any provision of law which requires the labeling of commodities, such a container shall be treated as lawfully labeled only if it complies with this subsection.

"(c) CLASS II SUBSTANCES.—(1) The requirements of this section shall also apply to any container in which a class II substance is stored or transported, any product containing a class II substance, and any product manufactured with a process that uses a class II substance if the Administrator finds that there is an alternative for such substance or for the use of such substance (in the case of products containing, or manufactured with, the substance) and that such alternative—

"(A) reduces the overall risk to human health and the environment; and

"(B) is currently or potentially available.

"(2) Effective January 1, 2015, the requirements of this section shall apply to containers in which a class II substance is stored or transported, products containing a class II substance, and products manufactured with a process that uses a class II substance.

"(d) RELATIONSHIP TO OTHER LAW.—Neither the labeling requirement nor any other provision of this part, shall constitute, in whole or in part, a defense to liability or a cause for reduction in damages in any suit, whether civil or criminal, brought under the law, whether Federal or State, other than a suit for failure to comply with the labeling requirements of this section.

"SEC. 159A. NONESSENTIAL CONTAINING CHLOROFLUOROCARBONS.

"(a) REGULATIONS.—The Administrator shall promulgate regulations to carry out the requirements of this section within 1 year after the enactment of the Clean Air Act Amendments of 1990.

"(b) NONESSENTIAL PRODUCTS.—The regulations under this section shall identify nonessential products that release class I substances into the environment (including any release occurring during manufacture, use, storage, or disposal) and prohibit any person from selling or distributing any such product, or offering any such product for sale or distribution, in interstate commerce. At a minimum such regulations shall apply to chlorofluorocarbon-propelled plastic party streamers and noise horns, chlorofluorocarbon-containing cleaning fluids for noncommercial electronic and photographic equipment, and other consumer products that—

"(1) release class I substances into the environment (including any release occurring during manufacture, use, store, or disposal), and

"(2) are determined by the Administrator not to be essential.

"(b) EFFECTIVE DATE.—Effective 24 months after the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce any nonessential product to which regulations under subsection (a) are applicable.

"(c) OTHER PRODUCTS.—Effective January 1, 1994, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce—

"(1) any aerosol product or other pressurized dispenser which contains a class II substance; or

"(2) any plastic foam product (other than a foam insulation product) which contains, or is manufactured with, a class II substance.

"(d) SMALL CONTAINERS OF CLASS I OR CLASS II SUBSTANCES.—Effective 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce to any person (other than a person performing service for consideration on motor vehicle air-conditioning systems in compliance with section 158) any class I or class II substance that is suitable for use as a refrigerant in a motor vehicle air-conditioning system and that is in a container which contains less than 20 pounds of such refrigerant.

"(e) MEDICAL DEVICES.—Nothing in this section shall apply to any medical device as defined in section 150.

"SEC. 159B. FEDERAL PROCUREMENT.

"Not later than 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Administrator of the General Services Administration, shall promulgate regulations requiring each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of this part and to maximize the substitution of safe alternatives identified in section 156 for class I and class II substances.

"SEC. 159C. FEDERAL ENFORCEMENT.

"The provisions of sections 113, 114, 116, and 304 shall apply for purposes of this part in the same manner and to the same extent as such provisions apply for purposes of enforcement of a standard under section 111, and for purposes of such provisions a violation of any requirement of this part (or of any regulation under this part) shall be treated as a violation of section 11(e). For purposes of sections 116 and 118, the requirements of this part shall be treated as requirements for the control and abatement of air pollution.

"SEC. 159D INTERNATIONAL COOPERATION.

"The Administrator, in consultation with the Secretary of State, shall support global participation in the Montreal Protocol by providing technical and financial assistance to developing countries that are parties to the Montreal Protocol and operating under Article 5 of the Protocol. There are authorized to be appropriated not more than $30,000,000 to carry out this section in fiscal years 1991, 1992 and 1993.

"SEC. 159E STATE LAWS CONCERNING HOUSEHOLD AND COMMERCIAL APPLIANCE DESIGN

"During the 2-year period beginning on the enactment of the Clean Air Act Amendments of 1990, no State or local government may enforce any requirement concerning the design of any new or recalled household and commercial appliance for the purpose of protecting the stratospheric ozone layer.".

(b) CONFORMING AMENDMENTS.—Section 157 is amended by striking subsection (b),

striking in subsection (a) the words "any time prior to the submission of the final report referred to in section 155", and by redesignating such section as section 159E.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the amendment which has just been offered has been offered with the concurrence of the gentleman from New York [Mr. LENT], the gentleman from California [Mr. WAXMAN], and the gentleman from Illinois [Mr. MADIGAN].

It is offered by us on behalf of the gentleman from California [Mr. BATES], the gentleman from New York [Mr. BOEHLERT], the gentleman from Illinois [Mr. BRUCE], and the gentleman from Ohio [Mr. OXLEY].

It is an amendment, as I have indicated, dealing with chlorinated fluorocarbons.

Mr. Chairman, each of the gentlemen I have mentioned has worked very hard on this matter, and each has played a significant role and has made major efforts to bring us to the point of an acceptable compromise.

Mr. Chairman, I ask unanimous consent that I now be permitted to yield control of the time on this side to the gentleman from Illinois [Mr. BRUCE] for purposes of managing this particular amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Bates-Boehlert-Bruce-Oxley compromise amendment on CFC's.

As many of you know, the Bruce-Oxley amendment, for which a rule had been provided today, was originally intended to be similar to the phaseout dates for ozone depletion contained in the Montreal protocol. Just prior to the Rules Committee deadline for amendment submission, however, we all made tremendous changes in our proposals in hopes that our bottom line approach would spur an agreement on this issue.

The gentleman from California [Mr. BATES] and the gentleman from New York [Mr. BOEHLERT] changed their amendments in a similar fashion, trying to effectuate a compromise. All-night negotiations did not lead to a compromise by 5:45 this morning, when there seemed to be little light at the end of the short tunnel separating Bruce-Oxley from Bates-Boehlert.

Later this morning, however, working with Chairman WAXMAN and his excellent staff, we were able to come together on what can be termed as a tough ozone protection amendment.

The amendment combines a rapid phaseout for CFC's, halons, and carbon tetrachloride with a tough outyear standard on methyl chloroform and HCFC's. This compromise does not represent exactly what I believe should be contained in this agreement, but that is always the nature of a compromise. Not everyone gets what they want.

It was our intent that tough early reductions of CFC's be implemented to reduce the peak chlorine concentration in the atmosphere.

At the same time, we wanted to encourage U.S. users and countries which are not signatories to the Montreal protocol to convert from use of CFC's to much less harmful HCFC's.

This amendment takes strong steps to encourage countries like India and China to limit their uses of ozone-depleting substances. This Congress must continue to make international compliance with the Montreal protocol a key item on our legislative agenda.

Without encouraging these countries to get out of the ozone depletion business, we will be doing nothing to protect our ozone layer from developing a hole that expands beyond the Antarctic region. Only through complete cooperation of all countries with the protocol can we protect the stratospheric ozone layer.

The process of reaching an agreement on this amendment has been difficult, and I appreciate the thoughtful input that my good friend, the gentleman from Ohio [Mr. OXLEY], as well as the gentleman from Georgia [Mr. ROWLAND], the gentleman from Texas [Mr. HALL], the gentleman from Ohio [Mr. THOMAS A. LUKEN], the gentleman from Louisiana [Mr. TAUZIN], and many other members of the committee.

I want to particularly thank Chairman DINGELL, Chairman WAXMAN, the gentleman from New York [Mr. LENT], and the gentleman from Illinois [Mr. MADIGAN] for their work, and single out for particular praise the gentleman from New York [Mr. BOEHLERT] and the gentleman from California [Mr. BATES], with whom we have worked over these last weeks trying to get a compromise, and although last night at 5:45 in the morning it did not seem like one was possible, we have in fact brought this compromise to the floor.

Finally, on behalf of my own excellent staff, Jay Hawkins last year who started this process, and to Mike Bushman of my staff who spent many an hour trying to get this compromise to the floor, I congratulate them, and I urge adoption of this amendment to protect the atmosphere of our country.

Mr. BRUCE. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, early debate over this amendment reminded me of the classic Jack Benny sketch. You know the one—a robber accosts Jack Benny and tells him, "Your money or your life." No answer. "Your money or your life." No answer. "Mister, I said, your money or your life." Finally, the exasperated response, "I'm thinking, I'm thinking."

"Your money or your life?" is the question science has put before us today. We can invest in safer chemicals or we can suffer the health and economic consequences of increased ultraviolet radiation. "I'm thinking it over" is an absurd answer to such a choice.

Scientists have produced incontrovertible evidence that the ozone layer has been damaged, imperiling human health. Scientists have come to a solid consensus that this damage results largely from chlorofluorocarbons [CFC's] which also contribute greatly to the greenhouse effect. And scientists have come up with widely accepted targets for the reductions in CFC use that must—must—occur for the damage to the ozone layer to be repaired.

This is not some numbers game like the budget. We cannot say, we will shift CFC production to some earlier or some later fiscal year, and the problem will appear to vanish. We may be able to fool ourselves, but we will not be able to fool Mother Nature.

Scientific evidence indicates that the real reductions required by this bill are the only way—I repeat, the only way—to shield the planet from ultraviolet radiation. If we try to do less, we will succeed in doing nothing.

We have compromised to the fullest extend possible. We have pushed the ban on CFC and halon production back to the year 2000—a target almost everyone seems to agree is reasonable. We have permitted the production of methyl chloroform—an early CFC substitute for the electronics industry and some others—we have permitted that chemical to be phased out more slowly, with production ending in 2005. We have pushed back the HCFC production ban—HCFC's are the first generation of CFC substitutes—we have pushed back that ban to the year 2030, and in some cases, to 2035.

So what we have here is not exactly a radical measure. The Senate approved tougher provisions on methyl chloroform and HCFC's by overwhelming margins. And this measure has the backing of such hotbeds of radicalism as the National Conference of State Legislatures and the National Association of Counties. We are not talking about anything more than reasonable steps that are firmly rooted in scientific data.

So what is the complaint? Is it that clean air is bad for business? Is it a fear that American industry is suddenly incapable of innovation? I hope not.

This amendment promises nothing more than what the chemical industry has always promised us—"better living through chemistry."

And I have no doubt that American industry is up to this challenge—and will benefit from this challenge. Finding CFC replacements early is good business. CFC replacements are without question the wave of the future, and whoever designs them first will corner the market.

You know, the American auto industry thought that fuel efficient cars were bad business, and have ceded enormous market share because they did not recognize that sound environmental policy was also sound economic policy. We cannot allow the same mistakes to occur in the chemical industry.

This is a view that is held by some of industry's strongest supporters. An expert on halon research, for example, said to me that a phase out before the year 2000 would be very difficult, but setting no date or a distant date would be worse because industry would then just put off the inevitable research and investment.

We also need tough but reasonable deadlines to prod Federal agencies. The American Electronics Association reports, for example, that it has tried for 3 years to get the Department of Defense to remove CFC requirements from just a single military specification. Here is a case where industry is ahead of the Government in recognizing the need for progressive action.

American industry will find the CFC substitutes we need, if we ensure that the necessary investment is made. If we fail to take this step, we risk damaging our economy as well as our ecology.

Mr. Chairman, I have put a lot of stress this afternoon on how closely we have worked with the scientific community and how we have come up with an amendment that is firmly grounded in scientific understanding of atmospheric chemistry.

But the imperative to pass this amendment is also grounded in evolutionary theory. It is evolutionary theory that concludes that humans have progressed to the point where the survival of our species will be determined by how we use our brains rather than our bodies.

Scientists have given us the information we need to survive. Let us use our brains and guarantee our survival. I urge you to support the Bates-Boehlert-Waxman amendment.

□ 1730

If Members believe that we need to improve our quality of life with cleaner air, a cleaner environment, not just for us but for future generations, support the Bates-Boehlert-Oxley-Bruce amendment. If Members believe in and have confidence in the American industrial ability to be competitive in the international marketplace, support this amendment. If they believe, as I do, in the American scientific and technological genius, they will support this amendment.

I would like to compliment my cosponsors for this amendment, and I would like to thank the chairman of the Committee on Energy and Commerce for his diligent effort to work with us to fashion a compromise to get this important section included in this bill.

Finally, let me say, in addition to complimenting the gentleman from California [Mr. WAXMAN], who has been so magnificent during all of these deliberations, we have accomplished what we set out to accomplish. One last word of praise, and that goes for a dedicated member of my staff, my legislative assistant, Dean D'Amore, who worked countless hours to make this day a reality. He can stand tall as we all can as this amendment passes.

Mr. BRUCE. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Illinois [Mr. BRUCE] has 19 minutes remaining.

Mr. BRUCE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BATES].

Mr. BATES. Mr. Chairman, for 8 years, I have served in this body. For 6 years, I have hoped to bring this floor the resolve and the issue that will mean healthier, longer lives for our children.

The Clean Air Act itself offers us a far healthier world to live in, with reduced carbon monoxide from cars, less toxic emissions from factories and better regulation of dangerous chemical processes.

But, what good is clean air, without a strong and rapid phase-out of chemicals that deplete the threatened Earth's protective ozone layer?

If we deplete our ozone layer in the upper atmosphere, we leave half of the equation unsolved and the Earth unprotected from radiation that can cause a deadly increase in skin cancer, melanoma and cataracts.

Soon, we will be voting on a historic piece of legislation—legislation that offers us the opportunity give our children and future generations the gift of clean air and a strong ozone layer. I can think of nothing more important.

This amendment will phase-out chlorofluorocarbons and other ozone depleting chemicals. Our amendment exponentially increases the value of the clean air by looking forward, using foresight—for once—and facing one of the greatest environmental threats facing the earth to date: ozone layer depletion.

Chlorofluorocarbons or CFC's and other related chemicals cause significant depletions of the Earth's stratospheric ozone layer.

A 3-percent decrease in the ozone layer will result in 4,000 additional cases and 1,000 additional deaths per year from malignant melanoma.

A 3-percent depletion by CFC's and hydrochlorofluorocarbons or HCFC's will also result in approximately 200,000 additional cases of other forms of skin cancer and 400,000 additional cases of cataracts annually. The Northern Hemisphere is currently experiencing an average annual ozone depletion of 2.5 percent.

Our amendment will protect the stratospheric ozone layer by eliminating potent ozone depleters and by requiring the CFC's be recycled, thereby prohibiting preventable releases of these chemicals when they are in use.

This amendment is the result of months of staff work and years of research which has proven that ozone depletion is a reality caused by man!

We must act now to save the ozone layer. Researchers are now concerned that massive chunks of ozone depleting air could begin drifting over the United States and other Northern Hemisphere countries beginning around 2000. These massive patches of air—roughly the size of Texas—could allow large amounts of ultraviolet radiation to reach highly populated areas.

Our amendment is similar to the Stratospheric Ozone Protection Act, which has 158 cosponsors in the House of Representatives. Our amendment also has the support of the National Clean Air Coalition, the Sierra Club, the U.S. Public Interest Research Group, the National Wildlife Federation, the American Lung Association, the National League of Cities, the National Association of Counties, and the Northeast States for Coordinated Air Use Management.

This is an opportunity for Congress to take a positive step toward solving the serious problems associated with depletion of the ozone layer. It is an opportunity that should not be missed. I urge you to vote in favor of this amendment.

□ 1740

This amendment is the result of months of staff work, and I want to thank in particular the staff on the committee, and on the subcommittee of the gentleman from California [Mr. WAXMAN], my own staff, Kris Edmunds and others, who have been invovled in the producing of this final compromise amendment.

Mr. BRUCE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, crafting national policy on ozone depletion is no easy task. At the beginning of this process I sought to protect the strato-

spheric ozone layer without unnecessary burdens to our economy. I sought to begin phaseouts of ozone depleting chemicals in the United States and to allow sufficient time for the reduction of CFC substitutes so as not to encourage developing countries to continue using CFC's.

The compromise before us includes phaseout dates that are more stringent than I believe is needed environmentally, but I reluctantly support this agreement because we have struck a compromise on HCFC phaseout dates that provide for better policy than did the Senate.

Our amendment allows more time for industry to use some of the interim substitutes. It is my hope that it will also allow sufficient time for the development of safe, energy efficient, and environmentally sound third generation equipment.

Mr. Chairman, if we are to be the world leader in the effort to phase down the uses of chloroflourocarbons and other ozone-depleting chemicals, we must allow adequate time for CFC alternatives to be used. I would hope that in conference with the Senate we can combine environmental protection with our need to encourage countries like India and China to sign on to the Montreal protocol. We must not pursue a policy on ozone-depleting chemicals which encourages other countries to continue using CFC's until the time third generation substitutes can be found.

The stratosphere is global, as are the production and use of CFC's. Therefore the United States must act both domestically and internationally. We have made a significant effort to reduce the use of CFC's at home and internationally, we have been a major contributor to the international regulation of CFC's.

Mr. Chairman, I would hope that in our zeal to be the world leader we do not infact lead other nations away from the use of CFC substitutes.

Mr. Chairman, this amendment is a good starting place and I intend to continue my efforts to further protect the stratospheric ozone layer without unduly burdening the U.S. economy.

Mr. BRUCE. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Chairman, I would like to focus our attention on the benefits to human health that will result from an accelerated phaseout in the production of ozone depleting chemicals. I believe this is the central issue in this debate.

The Bruce-Oxley-Bates amendment is the only amendment before us today that offers a complete and rapid phaseout of all ozone-depleting chemicals. This action will prevent tens of millions of cases of skin cancer, millions of deaths by cancer, and millions of cases of cataracts in our country alone. It is a simple choice for me—any delay in the phaseout of these chemicals means millions of additional and preventable deaths and diseases.

In addition, many communities across this world are struggling to install refrigeration systems as a means of combating chronic under nourishment and disease. The refrigeration systems will allow them to diversify their diets and preserve vaccines. This bill will accelerate the development of safe and affordable alternatives to the ozone depleting systems currently available.

Finally, passing this amendment will not adversely affect the followup negotiations to the Montreal protocol as critics claim. To the contrary, I believe it will strengthen our hand in leading the world community to the correct decision. I urge my colleagues to vote for this important amendment.

Mr. BRUCE. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. McMILLAN].

Mr. McMILLAN of North Carolina. Mr. Chairman, I rise in support of the compromise amendment combining the efforts of the gentleman from Illinois [Mr. BRUCE], the gentleman from Ohio [Mr. OXLEY], the gentleman from New York [Mr. BOEHLERT], and the gentleman from California [Mr. BATES]. It sounds like we are merging two law firms. But I want to congratulate the gentleman on coming together on this important issue, which I think all of us agree that we must address this problem and eliminate further deterioration of the stratospheric ozone layer in the shortest practical time.

However, I think we must bear in mind that the American people have more than 135 billion dollars' worth of equipment relying upon CFC compounds. They are used in refrigerators and freezers, automobile air conditioners, sterilants for medical instruments, and cleaning agents for electronic equipment, and many others. We take these things for granted.

It is important that we phase out CFC's in a fashion that assures ultimate success. Less harmful substitutes can be used while manufacturers are developing safe alternatives. Otherwise, the change could do so abrupt that public resistance could well develop and undermine our constructive efforts to resolve this problem.

Mr. Chairman, I think industry has demonstrated that it is prepared to address this problem. The Du Pont Co. has already unilaterally decided to cease production of this chemical by the year 2000.

Any legislation that Congress passes should ultimately be consistent with the Montreal protocol, which I am sure that we will undertake through the negotiating process, and hopefully bring our trading partners to the same standards that we are willing to adhere to ourselves. The 54 signatories to the protocol will meet as I understand in June to agree to strengthening provisions.

Mr. Chairman, I urge my colleagues to support this responsible CFC amendment to H.R. 3030.

PARLIAMENTARY INQUIRY

Mr. BRUCE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRUCE. Mr. Chairman, might I inquire how much time I have remaining?

The CHAIRMAN. The gentleman has 7 minutes remaining.

Mr. BRUCE. Mr. Chairman, under the rule for debate of this amendment there were 60 minutes allowed. I was allocated 30 minutes. My request for time exceeded that 30 minutes.

The CHAIRMAN. The Chair would advise the gentleman from Illinois [Mr. BRUCE] that there were 30 minutes allocated to a proponent and 30 minutes allocated to an opponent. No one has risen in opposition. The Chair would entertain a request for unanimous consent that the 30 minutes be allotted to a proponent.

Mr. BRUCE. Mr. Chairman, I ask unanimous consent that I be allotted the additional 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois.

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. BRUCE] now has 37 minutes.

Mr. BRUCE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, with reservations, I am going to support the CFC compromise. We are all aware of the need to phase out these CFC's and HCFC's, but I am not certain that we know enough at this point to make these decisions.

The new technology we hear of is not yet proven to be capable of providing an adequate substitute. I would hate to see the phase out date come and have no way of meeting the needs of our country that are currently met by HCFC's. I feel we need to reserve the right to make adjustments in this phasing-out program if we need to in the future.

This amendment really pushes for the phaseout of HCFC's, which I have some knowledge about, but it will establish the United States as a positive leader in the Montreal protocol—the aggressive, affective, international effort to phase out these compounds.

This bill is more positive than the Senate version in that it allows more time for technology to come up with a substitute for important HCFC's before we phase them out. This is vital if we intend help the global situation

in this matter—allowing all countries to participate in the pursuit of an environmentally sound and technologically feasible alternative.

With these reservations, I support the amendment offered by Mr. BATES.

Mr. BRUCE. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, let me begin by complimenting the members of the Energy and Commerce Committee for their work on this critical legislation. I join a chorus of my colleagues in commending the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], the gentleman from California [Mr. WAXMAN], and the gentleman from Illinois [Mr. MADIGAN] for their tireless work on this very complex subject.

I rise today in support of the compromise amendment. Like most of us in this Chamber, I am concerned about the effect of CFC's on the ozone layer. I am pleased to support the compromise which takes strong and substantive action to help protect the atmosphere. However, I rise today as the chairman of the congressional fire services caucus to explain a very important provision of this amendment that will limit the loss of life and property to fire.

This amendment has been carefully crafted to provide a narrow exemption for chemicals known as halons. Halons are the most advanced fire suppressant in use today. They are nontoxic, nonconductive, and noncorrosive. In other words, they can be used in close proximity to people without affecting sensitive electrical wiring, electronic equipment, and computers.

For that reason, halons are the agent of choice for many specialized fire suppression applications. The Nuclear Regulatory Commission requires that powerplant control rooms be protected by halons. The Federal Aviation Administration requires halon extinguishers on every airplane. Oil production facilities on the North Slope of Alaska are similarly protected. The military is the single largest user of halons, consuming 30 percent of the domestic production. Even priceless historical objects, such as the bill of rights, are guarded by halons. The computer center in the Senate is protected by these chemicals. Some of us may doubt the value of the work produced in the Senate computer center, but none will question the need to provide it with adequate fire protection.

Halons were not included in the original draft of the CFC amendment because they can contribute to the depletion of the ozone layer. But halon production is insignificant compared to other CFC's, 18 million pounds versus 700 million pounds last year. Most of the halons produced are not used, but are held in reserve tanks. Most importantly, however, when halons are actually used to extinguish a fire, their chemical structure is altered so that they no longer post a threat to the atmosphere. I hope that this exemption can be expanded to permit limited use of halons beyond the year 2000 for purposes of protecting national security interests, especially our military and energy production facilities.

The halon industry, both producers and consumers, has recognized the ozone depletion threat and has diligently worked to prevent any unnecessary discharges. In addition, the manufacturers are working to develop an environmentally safe alternative. Last week, one of the halon producers announced that it has developed a possible replacement and is submitting it to the EPA for limited production and further testing.

This compromise amendment does not leave the halon industry unregulated. Instead, it permits halon production and use through the year 2000 for fire suppression only. And it eliminates discharge testing and training which do pose a real threat to the environment.

This amendment strikes a balance. Is it better to protect oil production facilities from fire or should we risk a major environmental incident? I submit to you that it is better that we continue to produce and use halons for fire suppression so that we may prevent a greater tragedy.

I would like to commend my colleagues, Mr. DINGELL, Mr. WAXMAN, Mr. BATES, Mr. BRUCE, Mr. OXLEY, and particularly Mr. BOEHLERT for their work in crafting this bipartisan compromise. Passage of this amendment will protect the ozone layer without risking the greater environmental damage which could result from a fire or explosion. I urge my colleagues, and especially the 300 House Members of the congressional fire services caucus, to support the compromise amendment.

□ 1750

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. WELDON. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, my colleague has hit upon a very important point.

We were mindful of the special need for halons for fire suppressant and the congressional fire services caucus played an outstanding role in making certain that need was recognized in the compromise that we were able to fashion. So we have moved in the right direction. The firefighters of America are protected, and I am so very pleased to be identified as a cochair of the congressional Fire Services Caucus.

Mr. Chairman, I particularly want to commend my colleague from Pennsylvania [Mr. WELDON] for his leadership in this area.

Mr. WELDON. I thank the gentleman, and thank the leader of this compromise for his tremendous work in reaching this compromise on a very important component of it.

Mr. BRUCE. Mr. Chairman, I would like to echo the comments of the gentleman from New York about the work of the gentleman from Pennsylvania [Mr. WELDON] in the fire safety area of this particular compromise.

Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, first I want to commend my colleague, the gentleman from Illinois [Mr. BRUCE) for all of the efforts that he has made to put this compromise together. Also the gentleman from southern California [Mr. BATES] has spent an enormous amount of time working on this, and in my view has done an excellent job. I know that SHERRY BOEHLERT from New York has put a tremendous amount of effort into the compromise, as well as MIKE OXLEY of Ohio. It is a bipartisan compromise, and I am very pleased to be supportive of it.

This is a particularly important issue in the Pacific Northwest because it has special impacts on a very fast growing segment of our economy, the electronics industry. CFC's are of special concern to the electronics industry because of its heavy reliance on certain CFC compounds in the manufacturing of virtually every electronic product that is on the market today. We see CFC's used in virtually everything from aircraft control equipment to computer environmental tracking and testing equipment, and this compromise attempts to address the concerns of those industries while at the same time moving aggressively to protect our environment from these particular chemicals. So I am pleased to support it.

I think it is also worth noting that the gentleman from Michigan [Mr. DINGELL] has had a longstanding interest in this particular issue. The chairman joined with a number of our colleagues in cosponsoring a joint resolution several years ago in support of the administration's adoption of an international protocol that ultimately became the Montreal protocol on ozone depleting substances of September 1987. The chairman has followed the issue for a long time and is particularly interested that the Oversight and Investigations Subcommittee monitor this particular issue in a very careful fashion.

This is both an international environmental issue and one that we have to face within our own national borders.

As a result of the excellent work of the gentleman from Illinois [Mr. BRUCE], our colleague, the gentleman from Southern California [Mr. BATES], the gentleman from Ohio [Mr. OXLEY], the gentleman from New York [Mr. BOEHLERT], and others, we move forward with this compromise. I commend our colleagues for their effort. It does give the United States an opportunity to take the lead based on the latest scientific information to deal with CFC's, and I commend my colleagues for their effort.

Mr. BRUCE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, I rise to recognize the accomplishments and contributions of the gentleman from Illinois [Mr. BRUCE], the gentleman from California [Mr. BATES], the gentleman from New York [Mr. BOEHLERT], and the gentleman from New York [Mr. LENT].

HCFC's are the principal alternative that is scheduled to be used as a replacement for more damaging CFC's. I am leery of some of the legislative proposals that were made which were inconsistent with the international cooperative efforts of the Montreal Protocol which has been signed and ratified by 47 countries, including the United States.

But we are looking for and I hope finding in this bill reasonable regulation. After all, premature adoption of an accelerated, unilateral phaseout schedule might have little positive effect on the stratospheric ozone layer and, in fact, could cause maintenance of devices using substances with higher ozone depleting factors than HCFC-22. The potential outcome of legislative proposals is regulated obsolescence. Consumers will have no choice but to replace their CFC-12 systems with HCFC-22, and them to replace those systems with an unknown substance since there are no current replacements for HCFC-22 that have passed toxicity testing and have the needed lubricants.

Without effective replacements for HCFC-12, consumers are likely to opt for the system that has the longest likelihood of being available, which may promote the use of gas absorption or ammonia driven systems.

□ 1800

This bill, this amendment, however, requires the rapid closeout of the substance with the highest ozone depleting potential. That is the good news. The highest ozone depleting potential, first, and provides additional time for the phaseout of less harmful substitutes, all bringing time for the acknowledged development of new alternatives.

The compromise include a critical provision which would allow appliance manufacturers to make a smooth, less costly transition to CFC substitutes. This provision would provide for a 2-year moratorium of enforcement of State or local laws which control household appliance design. Without this amendment, the one we are considering, the costs of instant bans on certain appliances would be prohibitive to everyone.

In addition, let me finally mention one additional factor, halons, a very important subject. This compromise allows for the production of certain halons for the purposes of fire suppression if no safe and effective substitute is available. This recognizes the critically important use of these halons for which there are currently no substitutes to suppress fires.

Halon is the only substitute which can suppress fires and explosions while not at the same time causing harmful effects on human health even with the halon released in enclose environment with workers present.

I am very pleased that environmental regulation is not given precedence over human life.

I think we have a blend of the two here. I commend my colleagues, the gentleman from Illinois [Mr. BRUCE], the gentleman from California [Mr. BATES], and others for accomplishing this purpose.

Mr. BRUCE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman and colleagues, in 1977 I heard about chlorofluorocarbons for the very first time. People talked about this theory that these pollutants caused a hole in the ozone layer. Many of us who heard about the claims of dire consequences—and threats to the world's atmosphere, and all of that looked with some skepticism upon that notion. But science has moved very, very rapidly on this question.

We held hearing as recently as last year on this issue. While sometimes your hear about scientific theories that are unproven, in this short period of time we have now a scientific consensus in this Nation and internationally that chlorofluorocarbons cause a deterioration of the upper ozone layer.

Sometime when we talk about clean air, we talk about the problem of ozone, which is a problem in our cities. And people say, "Why can't we just take the ozone that we have too much of from our cities and move it up to the upper ozone layer?" If only we could.

But that upper ozone layer is being depleted. We know that it is causing excess skin cancers, cancers occurring because of ultraviolet light that is getting through.

Experts tell us we have much more to fear than that, that in fact changes are going on in our ecosystem that are very, very subtle but very, very dangerous.

This scientific consensus brought together a number of nations to reach the Montreal protocol. Obviously we need international cooperation on these threats to our planet.

But no sooner had they reached an agreement in Montreal than they realized that that protocol was too weak, that not enough was going to be done to reduce the chemicals that cause the depletion of the ozone layer.

Many of us who have labored on clean air, have dealt with the ozone carbon monoxide problem smog; we have known about acid rain since 1970; we have had the toxic air pollutant issues. We have been struggling to deal with each of them, then suddenly this new environmental danger came on the horizon and came at us very fast.

I am delighted that this amendment is now before us and that we have a consensus behind us. When the consensus is reached and everybody is on board, it is easy for all of us to congratulate each other.

But I want to single out the people who were the pioneers in making sure we got this legislation.

JIM BATES, from San Diego, authored the legislation to reduce the chlorofluorocarbons that are causing this damage. He went to Members of the House, and I think he got over 160 cosponsors. SHERRY BOEHLERT has been a leading environmentalist for his whole political life; he became concerned about this problem as well. The two of them got together to propose this amendment to this bill.

Some people have suggested we wait, deal with it another time, wait until we get international agreements together, "don't act unilaterally here at home." But that notion has fallen by the wayside. We recognize the United States must be the leader, not only to reach international agreements but to act responsibly ourselves so that other nations can see that we have confidence that there are going to be alternatives, that we are working to develop these alternatives, and that we are acting responsibly to try to protect life on this planet.

Mr. BRUCE and Mr. OXLEY made an enormous contribution to the proposal that is before us. They have given suggestions for changes that have made this proposal before us one that is obviously going to reach a unanimous vote of the House. We can move forward into the conference on this question with a strong consensus behind us.

When I talk about the pioneers on this issue, I have to recognize Senator CHAFEE, who authored the legislation on the Senate side calling for the reductions in chlorofluorocarbons. We will meet with Senator CHAFEE and the leaders in the Senate on this question

with two strong provisions from the two houses.

I am confident that, with the adoption of the Bates-Boehlert-Bruce-Oxley amendment, we will make an enormous step forward.

We need that step forward so that the next international meeting can have before it our work product, our recommendations and our leadership.

Some people asked, "Well, is this the same thing as global warming?" Well, let us relate it. We hear about the threat of global warming and what that is going to do to this planet. But this is a different issue with equally severe global consequences. There may be some who dispute global warming, although the consensus is certainly developing on that as well, but there is very little doubt about the dangers of the depletion of the ozone layer.

We need to act, we need to act responsibly. I congratulate JIM BATES, SHERRY BOEHLERT, TERRY BRUCE, and MIKE OXLEY, Chairman DINGELL, Congressman LENT, Mr. MADIGAN, all of us who have been involved with this issue and who have tried to fashion a responsible proposal to be part of this legislation.

I am pleased that we have it before us. I urge all Members to support the Bates amendment and send it on into law.

Mr. BRUCE. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the CFC compromise agreement.

No recent environmental problem is more troubling than the discovery of the hole in the ozone layer over Antarctica. While human life has existed on Earth for millions of years, this may be the first instance where humans have permanently altered the planet and its atmosphere.

Mr. Chairman, 6 to 30 miles above our heads a fragile, invisible layer of ozone shields the Earth's surface against dangerous ultraviolet [UV] radiation from the Sun. Man-made chemicals are now causing massive depletion of this protective shield.

Once released during production and use, ozone-depleting chemicals remain in the atmosphere for decades, some even for centuries. Within a few years of their release, they begin to reach the stratosphere. There they are broken down by UV radiation, releasing chlorine or bromine compounds that destroy ozone by converting it to ordinary oxygen, which is useless for screening out dangerous UV radiation.

□ 1810

As ozone is depleted, more UV radiation reaches the Earth's surface.

Unless ozone depletion is rapidly checked, we will suffer global health and enviromental consequences on a genuinely catastrophic scale. The EPA has predicted increased UV radiation due to ozone depletion would cause between 163 million and 308 million extra cases of skin cancer among people alive today and born by 2075. This is the United States alone.

At a minimum, harm from reduction in the ozone layer can increase the incidence of skin cancer. At its worst, the change in the ozone layer may be the first sign we have created problems we cannot completely fix. Thus, we can all understand the urgency of producing a sensible cost-effective appoach to phasing out CFCs, and eventually the other ozone damaging chemicals which will follow.

The authors of this compromise, the gentleman from Illinois [Mr. BRUCE], the gentleman from Ohio [Mr. OXLEY], the gentleman from New York [Mr. BOEHLERT], the gentleman from California [Mr. BATES], as well as the gentleman from Michigan [Mr. DINGELL], and the gentleman from California [Mr. WAXMAN], should be commended for all their hard work.

Mr. BRUCE. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Chairman, I am very pleased with this compromise, and I want to commend the gentlemen who are responsible for it. We have seen a good bit of compromise take place in working on this clean air bill on the subcommittee and on the full committee. We have seen compromises even when we have gotten to the floor.

Therefore, this CFC compromise, I think, is very good indeed. So I compliment the gentleman from California [Mr. BATES], and the gentleman from New York [Mr. BOEHLERT], the gentleman from Illinois [Mr. BRUCE], and the gentleman from Ohio [Mr. OXLEY] for the hard work they have done and for the compromise that they have reached here.

I was concerned particularly about the methyl chloroform, and I am very pleased there has been an extension of the time that methyl chloroform will be phased out. I was particularly concerned about it because of the use in the textile industry. The textile industry is very important in the district that I represent, and since there is no other substitute that can be used for methyl chloroform in the textile industry, extending this period of time that we will be phased out gives an opportunity to develop some other method to be used in the process. It is also used in the cleaning of metal surfaces, particularly in aircraft, and it is used in detecting flaws, also in the metal of engines. No other substance can be used other than methyl chloroform to do so.

Mr. BRUCE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BATES].

Mr. BATES. Mr. Chairman, I think it is important for those Members who have heralded the compromise and wondered what actually is in the compromise, I think it is important to state for those Members who are looking for an amendment which would begin the rapid phaseout of these chemical depleters of the ozone layer.

The Stratospheric Ozone Protection Act is still intact in this amendment. The Bates-Boehlert amendment is still essentially intact in the compromise. That compromise is still the strongest legislative proposal exceeding both the Senate and the Montreal protocol. For example, with the phaseout of the CFC's, it begins with approximately 6⅓ percent phaseout in 1991. The Senate does not begin until 1993, the protocol in 1993. The same is true with methyl chloroform, in 1993, a 20-percent reduction, while the Senate version is 30 percent in 1996, and the protocol 50 percent by the year 2000.

In addition, I think this is important that this amendment does include the comprehensive recycling labels disposal, and safe alternatives. These programs are still intact in this amendment, and I think will allow Members to move forward as quickly as possible to solve this problem.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BATES. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I think it is very important to emphasize here that scientific consensus is with Members. We are phasing out CFC's by the year 2000. The scientific community says that is a realistic attainable goal. Methyl chloroform, the EPA says the scientific consensus says, we could probably achieve a year 2000 phaseout, but we have extended it to 2005. The HCFC's, the phaseout is extended from the year 2015 to the year 2030.

I have confidence that a technological and scientific genius in America will find substitutes there in the next generation, and more importantly, I think we should do it before the other guys do at distant points of the globe.

Mr. BRUCE. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, the previous statement is correct: Science is now clear on the point that CFC, HFC, and also methyl chloroform clearly now has been identified in their migration upward to the destruction of the ozone layer. Clearly, the destruction of the ozone layer is not good for mankind. Clearly, we ought to be on a track that leads the rest of the world in not only the reduction but the elimination of these chemicals in use in the world.

For those Members who have followed the science and scientific jour-

nals and watched the hole in the ozone develop over Antarctica and the Arctic, there are some other interesting implications of changes in the ozone protection for our planet. I am not sure Members are aware of it, but if all the ice melted in the Antarctic tonight, the seas would rise not 5 feet, not 10 feet, not 20, not 50, but 187 feet. That is how much ice is contained in the Antarctic itself.

Is that ice melting? I can only tell Members a chunk the size of New Jersey recently broke away and melted from the Antarctic pack. As that ice melts, we can expect the oceans to rise, in fact, now the EPA estimate is that in the next 40 years, the oceans will probably rise somewhere between 3 and 4 feet. Now, if Members live in a nice high-rise in New York, I guess they would not worry about that. If Members live in the coastal marshlands where most of my Cajun brothers live, we have to worry about 3 or 4 feet more of water. Most of our land is at or near seawater, and 3 or 4 feet more of water means we will be inundated in the next 40 years, and the accelerated land loss we are experiencing on the coast will be incredible, and valuable acres will be lost. Not only home lands, but ways of life will be destroyed.

Am I dramatic? No, the destruction of the ozone layer is part and parcel of conseqences to our planet and our lives. We cannot even begin to understand or predict. We can only guess at it. We can only worry. We can only now try to take some action to prevent this. This compromise, and I do want to compliment the gentleman from Illinois [Mr. BRUCE] for the excellent effort he has made in working with the gentleman from California [Mr. BATES] and others on this issue of compromise, is a fair one. It says to those products now in some cases that are irreplaceable, they will be replaced, so get busy finding the alternatives. It says to those that need time to be replaced, that we are extending a little bit in the compromise a time to be replaced, but we are clearly saying they must be replaced. They have to find better solutions than the chemical products that clearly threaten not only the health and safety of the world but, indeed, provide consequences that science has not yet even been able to determine.

I compliment all those who have worked on this particular issue. I represent an area that produces some of these chemicals, and so we can see that for those Members who represent the jobs in the production from which these chemicals come, that it is with mixed feelings that we come to a conclusion that produces compromise.

□ 1820

Mr. Chairman, I can only tell the Members that those of us who represent those areas and those chemical plants are all in agreement that these chemicals must be phased out. These chemicals must be phased out soon. We must show leadership. We must be ahead of the curve of the Montreal protocol. We must encourage all the nations of this Earth to join us in making sure that something so precious to this nation and this globe as our ozone protective layer must indeed be protected from these chemicals.

The science is there. It is time for us to make good policy. The science is still developing. It is time for us to make sure that as the science develops, the awful and catastrophic consequences that could befall our planet are avoided by good policy this year. I believe the compromise makes good sense, and I believe it leads the world. I believe it says to the rest of the nations who will join us in the Montreal protocols that we mean business in America, that we intend to see to it that products that threaten the rest of our brethren on Earth are going to be phased out in America, as we expect them to be phased out across the world.

Again, Mr. Chairman, I extend my compliments to those who have worked out the compromise. I think when we go to the conference committee, we will find a receptive group on the Senate side and we will eventually settle this problem in advance of the protocols.

Mr. BRUCE. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, just in closing, let me say that this is an incredibly complex but far-reaching compromise. It says that for CFC's and carbon tetrachloride and halons, we will start immediately on ramping down the use of these chemicals and phase them out by the year 2000.

When it comes to methyl chloroform, we will start ramping down immediately so that we will only, by 1996, be using 50 percent of methyl chloroform, and staying with that through the remainder of the century and phasing out completely its usage by the year 2005.

On HCFC's, we make sure there is a ban on new equipment, that there is a production freeze in the year 2015 and that we phase it out completely by the year 2030. For HCFC's, the less harmful low-ozone depletion potential HCFC's, 123 and 124, we stop the production of new equipment by 2020 and stop the use of it by 2035.

At the suggestion of the gentleman from New York [Mr. BOEHLERT] and members of our compromise group, we have a Committee on International Cooperation that authorizes $30 million to support global participation in the Montreal protocol process. That is extremely necessary so that we encourage others like India and China to reduce harmful CFC emissions and then come into compliance with the Montreal protocol.

Because of the work of the gentleman from Pennsylvania [Mr. WELDON] and others, there are exceptions given for medical practices and for aviation safety, as stated by the gentleman from Georgia [Mr. ROWLAND] and other Members who came to us and said for safety reasons and inspection of aircraft wings and engines, this is an important, critical need and also for fire suppression. We made sure that both in aviation and for all kinds of fire suppression, halon was available in limited quantities for that safety purpose. And also on exports to developing countries, we made sure we would be out of business by the year 2010, though countries that are using it now have an exception, and that is crucial to take care of the problem of industrial needs in other countries. But we say they cannot receive from this country critical CFC production technology. That continues to be banned.

This also contains important provisions on recycling and on the recapture of ozone-depleting substances and mandates that within 12 months after the passage of this legislation rules and regulations are in effect.

Finally, Mr. Chairman, it sets standards for car air-conditioning servicing.

This is a broad-ranging agreement. It is a broad-ranging compromise that needs to be passed by this House, and I ask that there be favorable consideration of this compromise amendment.

Mr. BRENNAN. Mr. Chairman, I would like to take this opportunity to thank the Energy and Commerce Committee for their long hours of hard work crafting the compromise bill we have before us today, and for the compromise amendment currently before us, which is a giant step forward in protection of our stratospheric ozone layer.

Mr. Chairman, Congress passed the Clean Air Act in 1970. But in the 30 years since that historic bill's passage, our Nation's air has suffered: Many of our country's largest cities are choking on air pollution, and even the relatively untouched skies of Maine are beginning to suffer the ravages of acid rain and ozone pollution.

In my home State of Maine, in the city of Presque Isle, rain fell in 1987, that was 126 times more acidic than normal rainfall. That same city of Presque Isle has a particulate matter pollution problem that the EPA deems serious. Our cities of Portland and Lewiston suffer from ozone pollution, as do four of our counties.

And according to EPA figures, 121 million Americans live in areas where air-pollution levels exceed at least one of our health-based air-quality standards.

These figures tell me that the time has come to act, before our health is seriously threatened.

We have before us today a comprehensive bill, one which tackles the pressing problems of acid rain, automobile pollution, industrial

emissions, and hazardous chemicals in the air we breathe.

This bill is a compromise which promises our Nation's best hope for clean air in the years to come. Based on the principle of "polluter pays," it carefully balances economic and environmental concerns, and curbs automobile and industry emissions while allowing for future economic growth.

The 42 to 1 vote in the Energy and Commerce Committee dramatically illustrates the bipartisan support behind this bill, and the amendments we have approved today substantially strengthen the measure. I strongly believe that passage of H.R. 3030 will result in a significant improvement in our Nation's air quality, and in the health of our citizens.

I have always believed that we have strong responsibility to leave a clean Earth for our children. H.R. 3030 will help fulfill this duty that we owe future generations.

I strongly urge my colleagues to support this historic bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 416, noes 0, not voting 16 as follows:

[Roll No. 134]

AYES—416

| | | |
|---|---|---|
| Ackerman | Callahan | Duncan |
| Anderson | Campbell (CA) | Durbin |
| Andrews | Campbell (CO) | Dwyer |
| Annunzio | Cardin | Dymally |
| Anthony | Carper | Dyson |
| Applegate | Carr | Early |
| Archer | Chandler | Eckart |
| Armey | Chapman | Edwards (CA) |
| Aspin | Clarke | Edwards (OK) |
| Atkins | Clay | Emerson |
| AuCoin | Clement | Engel |
| Baker | Coble | English |
| Ballenger | Coleman (MO) | Erdreich |
| Barnard | Coleman (TX) | Espy |
| Bartlett | Collins | Evans |
| Barton | Combest | Fascell |
| Bateman | Condit | Fawell |
| Bates | Conte | Fazio |
| Beilenson | Conyers | Feighan |
| Bennett | Cooper | Fields |
| Bentley | Costello | Fish |
| Bereuter | Coughlin | Flake |
| Berman | Courter | Foglietta |
| Bevill | Cox | Ford (MI) |
| Bilbray | Coyne | Ford (TN) |
| Bilirakis | Craig | Frank |
| Bliley | Crane | Frost |
| Boehlert | Crockett | Gallegly |
| Boggs | Dannemeyer | Gallo |
| Bonior | Darden | Gaydos |
| Borski | Davis | Gejdenson |
| Bosco | de la Garza | Gekas |
| Boucher | DeFazio | Gephardt |
| Boxer | DeLay | Geren |
| Brennan | Dellums | Gibbons |
| Brooks | Derrick | Gillmor |
| Broomfield | DeWine | Gilman |
| Browder | Dickinson | Gingrich |
| Brown (CO) | Dingell | Glickman |
| Bruce | Dixon | Gonzalez |
| Bryant | Donnelly | Goodling |
| Buechner | Dorgan (ND) | Gordon |
| Bunning | Dornan (CA) | Goss |
| Burton | Douglas | Gradison |
| Bustamante | Downey | Grandy |
| Byron | Dreier | Grant |
| Green | McDermott | Scheuer |
| Guarini | McEwen | Schiff |
| Gunderson | McGrath | Schneider |
| Hall (OH) | McHugh | Schroeder |
| Hall (TX) | McMillan (NC) | Schuette |
| Hamilton | McMillen (MD) | Schulze |
| Hammerschmidt | McNulty | Schumer |
| Hancock | Meyers | Sensenbrenner |
| Hansen | Mfume | Serrano |
| Harris | Michel | Sharp |
| Hastert | Miller (CA) | Shaw |
| Hatcher | Miller (OH) | Shays |
| Hawkins | Miller (WA) | Shumway |
| Hayes (IL) | Mineta | Shuster |
| Hayes (LA) | Moakley | Sikorski |
| Hefley | Molinari | Sisisky |
| Hefner | Mollohan | Skaggs |
| Henry | Montgomery | Skeen |
| Herger | Moody | Skelton |
| Hertel | Moorhead | Slattery |
| Hiler | Morella | Slaughter (NY) |
| Hoagland | Morrison (CT) | Slaughter (VA) |
| Hochbrueckner | Morrison (WA) | Smith (FL) |
| Hopkins | Mrazek | Smith (IA) |
| Horton | Murphy | Smith (NE) |
| Houghton | Murtha | Smith (NJ) |
| Hoyer | Myers | Smith (TX) |
| Hubbard | Nagle | Smith (VT) |
| Huckaby | Natcher | Smith, Denny (OR) |
| Hughes | Neal (MA) | |
| Hunter | Neal (NC) | Smith, Robert (NH) |
| Hyde | Nielson | |
| Inhofe | Nowak | Smith, Robert (OR) |
| Ireland | Oakar | |
| Jacobs | Oberstar | Snowe |
| James | Obey | Solarz |
| Jenkins | Olin | Solomon |
| Johnson (CT) | Ortiz | Spence |
| Johnson (SD) | Owens (NY) | Spratt |
| Johnston | Owens (UT) | Staggers |
| Jones (GA) | Oxley | Stallings |
| Jones (NC) | Packard | Stangeland |
| Jontz | Pallone | Stark |
| Kanjorski | Panetta | Stearns |
| Kaptur | Parker | Stenholm |
| Kasich | Parris | Stokes |
| Kastenmeier | Pashayan | Studds |
| Kennedy | Patterson | Stump |
| Kennelly | Paxon | Sundquist |
| Kildee | Payne (NJ) | Swift |
| Kleczka | Payne (VA) | Synar |
| Kolbe | Pease | Tallon |
| Kolter | Pelosi | Tanner |
| Kostmayer | Penny | Tauke |
| Kyl | Perkins | Tauzin |
| LaFalce | Petri | Taylor |
| Lagomarsino | Pickett | Thomas (GA) |
| Lancaster | Pickle | Thomas (WY) |
| Lantos | Porter | Torres |
| Laughlin | Poshard | Torricelli |
| Leach (IA) | Price | Towns |
| Lehman (CA) | Pursell | Traficant |
| Lehman (FL) | Quillen | Traxler |
| Lent | Rahall | Udall |
| Levin (MI) | Rangel | Unsoeld |
| Levine (CA) | Ravenel | Upton |
| Lewis (CA) | Ray | Valentine |
| Lewis (FL) | Regula | Vander Jagt |
| Lewis (GA) | Rhodes | Vento |
| Lightfoot | Richardson | Visclosky |
| Lipinski | Ridge | Volkmer |
| Livingston | Rinaldo | Vucanovich |
| Lloyd | Ritter | Walgren |
| Long | Roberts | Walker |
| Lowery (CA) | Roe | Walsh |
| Lowey (NY) | Rogers | Watkins |
| Luken, Thomas | Rohrabacher | Waxman |
| Machtley | Ros-Lehtinen | Weber |
| Madigan | Rose | Weiss |
| Manton | Rostenkowski | Weldon |
| Markey | Roth | Wheat |
| Marlenee | Roukema | Whittaker |
| Martin (IL) | Rowland (CT) | Whitten |
| Martin (NY) | Rowland (GA) | Wilson |
| Martinez | Roybal | Wise |
| Matsui | Russo | Wolf |
| Mavroules | Sabo | Wolpe |
| Mazzoli | Saiki | Wyden |
| McCandless | Sangmeister | Wylie |
| McCloskey | Sarpalius | Yates |
| McCollum | Savage | Yatron |
| McCrery | Sawyer | Young (AK) |
| McCurdy | Saxton | Young (FL) |
| McDade | Schaefer | |

NOES—0

NOT VOTING—16

| | | |
|---|---|---|
| Alexander | Gray | Robinson |
| Brown (CA) | Holloway | Thomas (CA) |
| Clinger | Hutto | Washington |
| Dicks | Leath (TX) | Williams |
| Flippo | Lukens, Donald | |
| Frenzel | Nelson | |

□ 1842

So the amendment was agreed to.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. COX. Mr. Speaker, on rollcall 133, the Sikorsky-Green amendment to the Clean Air Act Amendments of 1990, I was unavoidably absent, due to my participation in a panel discussion of budget reform in connection with the White House-Congress budget summit, which took place off Capitol Hill.

Had I been present, I would have voted "Aye."

## PERSONAL EXPLANATION

Mr. HUTTO. Mr. Speaker, earlier this evening I was unavoidably detained at a meeting and was not able to vote on rollcall No. 134, the compromise amendment on CFC's of the Clean Air Act.

Had I been here, I would have voted "aye."

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 498, after line 4, insert:

SEC. 708A. OCS AIR POLLUTION.

Title III of the Clean Air Act is amended by adding the following new section after section 327:

"SEC. 328. AIR POLLUTION FROM OUTER CONTINENTAL SHELF ACTIVITIES.

"(a)(1) APPLICABLE REQUIREMENTS FOR CERTAIN AREAS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, following consultation with the Secretary of the Interior, and the Commandant of the U.S. Coast Guard, the Administrator, by rule, shall establish requirements to control air pollution from Outer Continental Shelf sources located offshore of the States along the Pacific, Arctic, and Atlantic Coasts, and along the U.S. gulf coast off the State of Florida eastward of longitude 87 degrees and 30 minutes ('OCS sources') to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I. For such sources located within 25 miles of the seaward boundary of such States, such requirements shall be the same as would be applicable if the source were located in the corresponding onshore area, and shall include, but not be limited to, State and local requirements for emission controls, emission limitations, offsets, permitting, monitoring, testing, and reporting. New OCS sources shall comply with such requirements on the date of promulgation and

existing OCS sources shall comply on the date 12 months thereafter. The Administrator shall update such requirements as necessary to maintain consistency with onshore regulations. The authority of this subsection shall supersede section 5(a)(8) of the Outer Continental Shelf Lands Act but shall not repeal or modify any other Federal, State, or local authorities with respect to air quality. Each requirement established under this section shall be treated, for purposes of sections 113, 114, 116, 120, and 304, as a standard under section 111 and a violation of any such requirement shall be considered a violation of section 111(e).

"(2) EXEMPTIONS.—The Administrator may exempt an OCS source from a specific requirement in effect under regulations under this subsection if the Administrator finds that compliance with a pollution control technology requirement is technically infeasible or will cause an unreasonable threat to health and safety. The Administrator shall make written findings explaining the basis of any exemption issued pursuant to this subsection and shall impose another requirement equal to or as close in stringency to the original requirement as possible. The Administrator shall ensure that any increase in emissions due to the granting of an exemption is offset by reductions in actual emissions, not otherwise required by this Act, from the same source or other sources in the area or in the corresponding onshore area. The Administrator shall establish procedures to provide for public notice and comment on exemptions proposed pursuant to this subsection.

"(3) STATE PROCEDURES.—Each State adjacent to an OCS source included under this subsection may promulgate and submit to the Administrator regulations for implementing and enforcing the requirements of this subsection. If the Administrator finds that the State regulations are adequate he shall delegate to that State any authority he has under this Act to implement and enforce such requirements. Nothing in this subsection shall prohibit the Administrator from enforcing any requirement of this section.

"(4) DEFINITIONS.—For purposes of subsections (a) and (b)—

"(A) OUTER CONTINENTAL SHELF.—The term 'Outer Continental Shelf' has the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

"(B) CORRESPONDING ONSHORE AREA.—The term 'corresponding onshore area' means, with respect to any OCS source, the onshore attainment or nonattainment area that is closest to the source, unless the Administrator determines that another area with more stringent requirements with respect to the control and abatement of air pollution may reasonably be expected to be affected by such emissions. Such determination shall be based on the potential for air pollutants from the OCS source to reach the other onshore area and the potential of such air pollutants to affect the efforts of the other onshore area to attain or maintain any Federal or State ambient air quality standard or to comply with the provisions of part C of title I.

"(C) OUTER CONTINENTAL SHELF SOURCE.—The terms 'Outer Continental Shelf source' and 'OCS source' include any equipment, activity, or facility which—

"(i) emits or has the potential to emit any air pollutant,

"(ii) is regulated or authorized under the Outer Continental Shelf Lands Act, and

"(iii) is located on the Outer Continental Shelf or in or on waters above the Outer Continental Shelf.

Such activities include, but are not limited to, platform and drill ship exploration, construction, development, production, processing, and transportation. For purposes of this subsection, emissions from any vessel servicing or associated with an OCS source, including emissions while at the OCS source or en route to or from the OCS source within 25 miles of the OCS source, shall be considered direct emissions from that OCS source.

"(D) NEW AND EXISTING OCS SOURCES.—The term 'new OCS source' means an OCS source which is a new source within the meaning of section 111(a). The term 'existing OCS source' means any OCS source other than a new OCS source.

"(b) REQUIREMENTS FOR OTHER OFFSHORE AREAS.—For portions of the U.S. gulf coast Outer Continental Shelf that are adjacent to the States not covered by subsection (a), which are Texas, Louisiana, Mississippi, and Alabama, the Secretary shall consult with the Administrator to assure coordination of air pollution control regulation for Outer Continental Shelf emissions and emissions in adjacent onshore areas. Concurrently with this obligation, the Secretary shall complete within 3 years of enactment of this section a research study examining the impacts of emissions from Outer Continental Shelf activities in such areas that fail to meet the national ambient air quality standards for either ozone or nitrogen dioxide. Based on the results of this study, the Secretary shall, consult with the Administrator, and determine if any additional actions are necessary. There are authorized to be appropriated such sums as may be necessary to provide funding for the study required under this section.

"(c)(1) COASTAL WATERS.—The study report of section 112(n) of the Clean Air Act shall apply to the coastal waters of the United States to the same extent and in the same manner as such requirements apply to the Great Lakes, the Chesapeake Bay, and their tributary waters.

(2) The regulatory requirements of section 112(n) of the Clean Air Act shall apply to the coastal waters of the States which are subject to subsection (a) of this section, to the same extent and in the same manner as such requirements apply to the Great Lakes, the Chesapeake Bay, and their tributary waters.".

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the gentleman from Louisiana [Mr. TAUZIN] be permitted to control the time in support of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The gentleman from Louisiana [Mr. TAUZIN] will be recognized for 30 minutes.

The Chair will inquire, is there any Member in opposition to the amendment?

Mr. LENT. Mr. Chairman, if the gentleman will yield, so far as I know, there is no opposition, but I do have a number of Members who would like time.

Mr. Chairman, I ask unanimous consent that I be given 30 minutes, not in opposition, but in lieu of opposition, so that speakers can be recognized.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from Louisiana [Mr. TAUZIN] will be recognized for 30 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to announce that a compromise has been reached on the so-called OCS amendments to the Clean Air Act. These amendments, in fact, will represent a compromise between those who proposed the amendment and those who had an amendment to offer in the alternative.

This compromise reflects both the author's intent to extend clean air protections to OCS developments adjacent to onshore air attainment problems, as well as the concerns of some of us who represent areas of OCS development that are conducted in distant parts away from onshore attainment air problems. As a consequence, those differences have been ironed out, and the compromise amendment before the House at this time is one to which I think all parties are in accord.

In regard to explaining the author's intent on the amendment, I now yield to the gentleman from California [Mr. LEVINE] such time as he may consume for that purpose.

□ 1850

Mr. LEVINE of California. Mr. Chairman, I want to commend the leadership of the committee on a bipartisan basis, first, for bringing this important bill before us today, and for moving us in the direction that for many years we should be moving with regard to significant clean air legislation.

Second, I would like to commend the leadership of the committee on a bipartisan basis for their help and their support with regard to this amendment. This is an amendment that is offered by myself, by the gentleman from California [Mr. LAGOMARSINO], by the gentleman from California [Mr. LOWERY], and by the gentleman from Florida [Mr. BILIRAKIS].

Mr. Chairman, the four of us have brought this bipartisan amendment before the House to plug one of the most gaping loopholes in the Clean Air Act.

Before describing the content of the amendment, let me mention that we had, the authors, had extensive conversations with Members who had some concerns with certain aspects of this amendment, particularly as it originally affected the gulf coast, the western gulf coast of the United States. Those concerns have been compromised, and the Members, particularly my good friend, the gentleman from Louisiana [Mr. TAUZIN], and my good friend, the gentleman from North Carolina [Mr. JONES], are pleased, I believe, with the compromise result that has been achieved. I believe that has eliminated the opposition that existed among the membership to the legislation.

Mr. Chairman, as I indicated, this amendment closes one of the most gaping loopholes in the Clean Air Act, that of the oil and gas platforms in Federal waters which escape any regulation under the Clean Air Act. The failure of the Federal Government to regulate offshore oil operations has given the oil companies a license to pollute our air, our oceans, and perhaps even our food.

One platform off the coast of California produces daily emissions equal to 15,000 to 100,000 automobiles. Yet, half of the 20 or so active platforms in California's Federal waters are currently uncontrolled for all emissions.

Under the 1978 Outer Continental Shelf Lands Act, the Department of the Interior is to regulate emissions from the platforms and their service vessels. Unfortunately, Mr. Chairman, 12 years after the enactment of that legislation the Department of the Interior has yet to promulgate a satisfactory rule for California.

As recently as last year, the Department of the Interior published a draft rule for California which was so inadequate that it was soundly denounced by the EPA, by the State of California, and by the local air districts which would have been affected by that promulgation. The result has been that offshore development has contributed to the violation of Federal and State clean air standards along the California coastline.

Because of the uncontrolled offshore emissions, local onshore businesses must, therefore, shoulder a greater burden of emission reductions. Offshore platforms are the only major industrial source in the Nation which are currently exempt from regulation under the Clean Air Act. Even platforms in State waters are regulated under the Clean Air Act by the environmental Protection Agency.

Mr. Chairman, this must change, and by virtue of this amendment to the Clean Air Act, it will change. Only the EPA has the technical expertise and resources appropriately to regulate offshore platforms, and perhaps more importantly, Mr. Chairman, EPA has the legal mandate and the internal commitment to regulate these platforms.

Time and again DOI's Minerals Management Service has demonstrated its willingness to seriously compromise the environment. In just the last 2 years, we have learned of three instances in which the Department of the Interior or the Minerals Management Service has persuaded the Fish and Wildlife Service, the Coast Guard, and NOAA to alter findings or actions in such a way as to adversely impact the environment.

Mr. Chairman, let me say that the authors of this amendment do not all agree on the future of offshore oil development. For example, I oppose any new development along the California coastline, although others of the authors of this amendment do not. However, we all agree, wherever we stand on the issue of offshore development off of our coastline, we all agree that this loophole in the Clean Air Act must be closed. Our amendment would resolve much of the conflict. It would require the EPA to regulate platforms and their service vessels along the Pacific, Atlantic, Arctic, and eastern gulf coasts.

For sources in these areas within 25 miles of State waters, regulations would be the same as that of similar onshore sources. Our amendment also addresses another key air pollution issue for coastal communities, that of airborne toxics which may adversely affect the marine environment.

In recent years, there has been growing concern that toxic air pollutants end up in the Nation's great bodies of water. We are very concerned that a range of toxics may be bioaccumulating in the food chain. Such toxic bioaccumulation would present a direct threat to human health, and it would clearly impair the integrity of our coastal waters.

In the Committee on Energy and Commerce, Members agreed to address this problem in the Great Lakes and in the Chesapeake Bay. Our amendment will extend the same protection to the coastal waters of the Pacific, Arctic, Atlantic, and eastern gulf. The EPA would be required to monitor and complete a study of the sources of atmospheric deposition of toxics in coastal waters, and this study would apply to the entire coast of the United States of America. This study would review any tendency of toxics to bioaccumulate in the environment and the adverse effects the deposition might have on human health.

In the event that the EPA found that other provisions of the Clean Air Act did not adequately prevent serious adverse impacts, the EPA would be required to develop regulations to prevent such adverse impacts with regard to the Pacific, Arctic, Atlantic, and eastern gulf coasts.

Mr. Chairman, this amendment will provide much of our Nation's coastline with extremely important protection against sources of air pollution which are not currently regulated.

Again, I want to thank the leadership of the committee and of the subcommittee, particularly my coauthors, the gentleman from California [Mr. LAGOMARSINO], the gentleman from California [Mr. LOWERY], the gentleman from Florida [Mr. BILIRAKIS], and I would also like to thank the bipartisan membership and leadership from the Florida delegation, particularly the gentleman from Florida [Mr. FASCELL] and the gentleman from Florida [Mr. IRELAND], with whom I have worked very closely in developing this legislation.

Mr. Chairman, I believe that this coalition which has developed has been important to the protection of our coastline in both the Pacific and the Atlantic coasts of this country, and I strongly urge my colleagues to support this amendment.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the rule made in order two amendments on the Outer Continental Shelf, the Levine amendment and the Tauzin amendment. Had they been called up separately, I would have supported the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

However, I want to add my congratulations to all of the Members, the gentleman from California [Mr. LEVINE], the gentleman from California [Mr. LAGOMARSINO], the gentleman from California [Mr. LOWERY], the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Louisiana [Mr. TAUZIN], who worked so hard.

I was part of that deliberation last night and then earlier today in working out this compromise. The compromise proposal applies everywhere but the gulf coast of Texas, Louisiana, Alabama, and Mississippi. I think that is a reasonable exception, a reasonable cutout, because it is off the coasts of those States and our gulf coast where most of the oil and gas production that is so important to our Nation comes from.

I heartily support this compromise, and I would hope my colleagues would also support it.

Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 5 minutes to my friend, the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of the

Levine-Lagomarsino amendment to H.R. 3030.

Mr. Chairman, at a time when population growth along our coasts is straining the capacity of coastal waters to support aquatic life, when oilspills, nonpoint source pollution, sewage, and other forms of waste threaten to convert our once pristine coastlines into enormous dumpsites, we must ensure that efforts to combat these problems are not diminished by a failure to address the threat of toxic air pollution.

The amendment offered by Mr. LEVINE and Mr. LAGOMARSINO would extend to coastal areas requirements to study and respond to the impact of toxic air pollution on the Nation's coastal waters. Under the committee bill, EPA would be required to conduct a study of the impact of air toxic deposition on water quality in the Great Lakes and Chesapeake Bay and promulgate new air toxics regulations in response to the study's findings.

This provision was prompted by EPA estimates that up to 50 percent of the toxic loading of the Great Lakes comes from air toxics. The evidence also indicates that toxic air pollutants threaten severe damage to the Nation's coastal waters.

Over the last 20 years, the United States has spent billions of dollars to clean up sewage and industrial discharges entering coastal waters. In the Great Lakes and some coastal areas, however, that's only half the battle. It just doesn't make sense to leave out coastal waters in this important study of air toxic deposition.

The Levine-Lagomarsino amendment would extend to coastal waters the scope of provisions which the House Energy and Commerce Committee unanimously agreed to for the Great Lakes and Chesapeake Bay. The amendment would require EPA to complete a study to analyze sources of air toxics deposition, any tendency of toxics to accumulate in the environment, and the adverse effects toxic deposition may have on human health.

Under the amendment, if EPA finds that the Clean Air Act does not adequately minimize dangers to human health and the environment from toxic depositions, EPA is authorized to develop regulations to prevent such adverse effects. The closer we look at the threat of air toxics to our waters and to human health, the more serious the danger appears.

With more and more people moving to coastal areas, coastal waters will be subjected to ever increasing ecological pressure. People in coastal areas are exposed to a double dose of danger in the air they breathe and the fish they eat. Population growth in coastal areas means that more Americans lives will be affected by the fate of our coastal waters.

The Great Lakes and the Chesapeake Bay are indeed national treasures. But so is Long Island Sound, Buzzard's Bay, Puget Sound, and the Florida Keys. We must not overlook these areas and other coastal resources. I urge my colleagues to support the Levine-Lagomarsino amendment so that H.R. 3030's response to the threat of air toxic deposition doesn't neglect the needs of coastal waters.

□ 1900

Mr. LENT. Mr. Chairman, I yield 6 minutes to the gentleman from Florida [Mr. BILIRAKIS], a member of the committee.

Mr. BILIRAKIS. Mr. Chairman, I rise in support of the amendment offered by myself and my colleagues, Mr. DINGELL, Mr. LEVINE, Mr. LAGOMARSINO, Mr. TAUZIN, and Mr. LOWERY.

This amendment is the product of general agreement on a basic principle: That it should not matter whether sources contributing to air pollution are located on land or on platforms rising above the sea.

The air we breathe on land is the same whether or not it is the product of an onshore or an offshore breeze. It is only logical that the regulatory framework for controlling air emissions from oil and gas drilling activities be identical.

The amendment would subject OCS sources—whether from platforms or ancilliary activities including transportation—to Clean Air Act requirements. Moreover, States and localities would be given a direct say in the air that sourrounds their citizens. EPA would be required to adopt State and local requirements to attain and maintain air quality standards.

This latter facet on the amendment is important. Not only does the amendment transfer authority from the Department of the Interior to the EPA over this matter—it grants States and localities express authority to incorporate OCS facilities into their plans to secure clean air. No longer will we have the situation where onshore gains in air quality by towns and cities can be negated by offshore activities out of their jurisdiction and control.

In this regard, for many years, I, and my Florida colleagues, have been unanimous in opposing plans for oil and gas exploration activities proposed by the Department of the Interior. We have stood united in the sentiment that fragile ecological areas off our coast should not be put at risk while other domestic drilling rigs stand idle across the country.

In the case of OCS emissions, obviously Florida has not been subject to the air quality impact felt by other States, most notably California. However, my State maintains an intense and abiding interest in all matters affecting OCS drilling.

In brief, we are concerned about our future and the future of Florida's environment. We do not want our future jeopardized by activities over which we literally have no direct control. The present structure of the Outer Continental Shelf Lands Act has made it difficult for our State to effectively express its concerns over offshore drilling plans. We do not want to repeat this situation in the context of clean air.

Therefore, I believe we must settle this question before air emissions ever present a threat. We need to act before a potential problem becomes a real problem. We should make certain that the body of Federal law controlling air pollution is responsive to the citizens who live beneath the moving sea of Florida air.

In addition, I should make reference to another important section of this amendment. The amendment incorporates the so-called Great Lakes provisions we approved in the Energy and Commerce Committee during our markup of H.R. 3030 and extends this provision to all coastal areas.

Very briefly, EPA will be required to study toxic substances which might "bioaccumulate" in the environment and ultimately pose a threat to human health. The amendment further grants authority to EPA to regulate such substances should it find that the amended Clean Air Act is inadequate to prevent serious adverse effects on human health and the environment.

The basic intent of this provision is to address the concern that toxic substances are building up in the food chain and can ultimately end up in fish and waterfowl that people eat. While not explicitly related to OCS activities, I think it is clear that the EPA should assess whether the new bill we reported and hopefully will pass tonight is adequate to the task of protecting our citizens in this matter.

Altogether, I was pleased to work over the past few days with the chairman of the Energy and Commerce Committee, Mr. DINGELL, and with Messrs. LEVINE, LAGOMARSINO, TAUZIN, and LOWERY on this important amendment. I know my California colleagues have long been concerned with coastal emissions and I was pleased to be able to join them in this bicoastal and bipartisan effort.

Although we discussed OCS activities at length during our Energy and Commerce Committee markup, jurisdictional limitations prevented amendment at that stage. Therefore, I was pleased that language could be worked out to resolve the concerns of the four amendments filed on this subject, including an amendment I authored. What we have in this amendment may not be perfect from all perspectives—

but it is far stronger and more comprehensive than the language contained in S. 1630.

The amendment grants more complete protection to coastal areas from airborne toxics and pollutants formerly out of jurisdictional control. It allows energy production to continue in the western gulf, while seeking to provide full protection to the coastal areas of Florida and the Nation. In brief, the amendment will produce a 25-mile wide atmospheric buffer to allow States and communities to implement their clean air plans.

Again, I want to thank Chairman DINGELL and Mr. LEVINE for their commitment to this effort. I urge my colleagues to support this amendment and to grant the citizens of coastal areas more comprehensive authority to preserve and protect their environment and their quality of life.

Mr. TAUZIN. Mr. Chairman, I yield 6 minutes to my good friend, the French gentleman from the State of Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I thank my Cajun friend, the gentleman from Louisiana [Mr. TAUZIN], for yielding me this time.

Mr. Chairman, I want to join with those who have spoken in support of the Levine provision in this bill before us dealing with the Outer Continental Shelf, and particularly want to associate myself with the remarks of the immediate previous speaker.

I have had some familiarity with the Outer Continental Shelf since the beginning of my service here in the Congress 16 years ago. I served on the Committee on Merchant Marine and Fisheries upon my arrival. I was appointed as a freshman Member of the House to the Joint Committee on the Outer Continental Shelf. I helped fashion the law that now exists governing activities on the Outer Continental Shelf, and now serve as a member of the Committee on Appropriations on the Subcommittee on the Interior, where we handle the budget of the Minerals and Management Service, and, of course, within the jurisdiction watch the activities of oil drilling operations on the Outer Continental Shelf.

□ 1910

I come from the State of Oregon where we have no offshore oil drilling. I want to make it very clear that we are very pleased to be in that position. We want to keep that condition in the Outer Continental Shelf of Oregon.

But I am very sensitive to those who are concerned not only with oil drilling off their States and the potential for new, unstable oil drilling off their continental shelf off their States, but I am also concerned and sensitive to the concerns of those who have existing oil drilling rigs which do emit pollutants, and who are concerned about making sure that Federal law is sufficient and in place with teeth in that law to adequately deal with emissions from this offshore pollution.

It is crucial I think to make sure that these operations are in the spirit of the clean air amendments that we are considering today. I think it is crucial that we do that.

I think it is also crucial that we go forward very carefully, I might say, on additional offshore oil drilling which is another fight, but related to this.

I can say to Members that serving on the Interior Appropriations Subcommittee where we have reviewed the budgets of the Minerals and Management Service and the Department of the Interior that I think it is a better proposition to have the regulatory authority over emissions on existing oil drilling operations, oil rigs that are currently in operation under the jurisdiction of the EPA rather than under the jurisdiction of the Minerals and Management Service or the Department of the Interior. I am certain that there are well-meaning people in MMS and in the Department of the Interior, but I really must tell my colleagues that I do not believe that either MMS or the Department of Interior is up to the task, at least to my comfort level, in ensuring that as we go forward into the future in monitoring and enforcing a standard of emissions controls on offshore oil drilling operations, that they are up to the task for this regulatory effort. I think EPA is better suited.

I would just share with my colleagues this observation. After being on the Interior Appropriations Subcommittee for 10 years, I really do believe that the industry has a very strong presence and a very strong influence, historically in the Minerals and Management Service. That should not be a great revelation to Members of Congress who have watched the issue on this floor for a number of years, and it is for that reason that I make the recommendation that Members support this amendment before us today.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to my colleague and friend from Oregon.

Mr. WYDEN. Mr. Chairman, I thank my colleague for yielding. I think he has summed it up very well. I know he is very experienced in this area, serving on the committee.

As I understand it, what it really comes down to is the question of making sure that emissions off shore are regulated like emissions on shore, and that this important jurisdiction be handled, as my colleague from Oregon suggests, through the EPA.

So I think the gentleman has summed it up very well, and I want to associate myself with his remarks and urge our colleagues to support this strong bipartisan effort.

Mr. AUCOIN. I would say to my friend from Oregon that I cannot tell him how pleased I am that he took this time to express how much he agrees with my remarks.

I would also make this point. We have watched the bureau, the Department of the Interior working with its own task force on the OCS for the States of Oregon and Washington. They have a task force to report to them, to tell them, to set policy on new oil drilling in an area that is a frontier area where almost nothing is known about the marine environment, almost nothing. It is amazing to me that the task force that has been formed off the coast of Oregon and Washington by the Department of the Interior to report to the Secretary of the Interior, where the Secretary of the Interior has had a representative of his own department on that task force involving the citizens of Oregon and Washington and officials of Oregon and Washington, appointees of the Governors of those two States, where that task force, with representation from the Federal Department of the Interior has unanimously recommended no drilling for the foreseeable future, until we can get basic ecological information, that in the face of that kind of a recommendation, with the Department of the Interior's own representation, I am offended that in the face of that the Secretary of the Interior has refused to act on the unanimous report of the Task Force on the Outer Continental Shelf of Oregon and Washington where his own representative voted as a part of that unanimous recommendation to say no new drilling.

So I think it shows that with regard to emissions on those oil drilling rigs where they do exist that we need to have this regulatory authority vested where it belongs, which is in the EPA, and that is why this provision of this act must pass.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, as a former member of the Select Committee on the Outer Continental Shelf, I applaud the agreement prompted by my colleague, the gentleman from Louisiana [Mr. TAUZIN], and reached between the various members of the committee on this amendment affecting air standards for off- and on-shore drilling. It is a compromise that accounts for substantial differences existing between the well-defined California coastline and that of Louisiana, which as Members are aware, includes hundreds of thousands of acres of swamp and wetlands, and is

an area that does not easily lend itself to a precise boundary.

It is important that we emphasize rational, sensible regulation of OCS emissions in the Gulf of Mexico, accepting its unique and distinct physical and ecological characteristics.

However, Mr. Chairman, despite these advantages of this amendment and this compromise, though well meaning, it is really intended overall as nothing more than one more assault on the drilling in the Outer Continental Shelf as a whole throughout the continental United States. Opponents of a prudent OCS program have already loaded down Interior Department appropriation bills over the last several years with moratoria restrictions, and that trend has virtually shut down Outer Continental Shelf activity outside the central and western Gulf of Mexico. And even that does not seem to be enough for some folks, for in spite of the fact that the Untied States now imports over 50 percent of our oil from foreign countries, in spite of the fact that this adds tens of billions of dollars to America's trade deficit because we are importing oil, in spite of the fact that the Department of the Interior's Minerals and Management Service is the only agency which understands the problem of OCS emissions after dealing with the problem for many years, in spite of all of this, proponents of the Levine amendment want to really strip the Department of the Interior of its local jurisdiction and turn it over to the inexperienced regulators at EPA. That could easily mean the virtual end of oil production on the Outer Continental Shelf.

This, Mr. Chairman, mark my words, would be a catastrophe to America's long-range energy independence, because our resources are already stretched too thin.

□ 1920

We have shut down nuclear energy in the last 10 years, and we are right now, with this bill, pretty well shutting down coal. Now we are making it almost impossible to drill for oil on the Outer Continental Shelf. You shut down OCS drilling, and those gas lines that we saw in 1973 and again in 1978—only a distant memory for many of us—will return with a vengeance. I hope every Member participating in this activity will recall this moment.

You shut down the OCS drilling, and those gas lines will come back and your people will start complaining about the higher prices that they are paying for utilities just like the people in the northeastern section of this country started talking about high prices of gasoline in December of last year when we got hit with a hard freeze, only this time it is going to be multifold, many times worse than what we saw last December.

You start raising the prices of the gas that goes into our cars and the natural gas that heats homes—and of course we are not going to have coal or nuclear energy—and you are going to start paying tremendous prices for all of that energy that moves this Nation.

Believe me, when you start realizing that you are mortgaging your automobiles, your homes and your lives in favor of the OPEC nations, you will remember this moment and you will wish that we really had not shut down the Outer Continental Shelf.

Mr. Chairman, that is the real issue that is before us. If we do not start drilling again, if we don't start getting an understandable, acceptable rationale for an energy policy in this Nation, then we are going to close this Nation down.

Mr. TAUZIN. Mr. Chairman, what time remains on this side?

The CHAIRMAN. The gentleman from Louisiana [Mr. TAUZIN] has 11 minutes remaining, and the gentleman from New York [Mr. LENT] has 18 minutes remaining.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I thank the gentleman for yielding this time to me.

I want to take the floor at this moment to commend the great bipartisan effort that has ensued here in bringing about this very important legislation that would require EPA to establish regulations to control air pollution from offshore and gas platforms on the Outer Continental Shelf.

This is very important legislation, especially the amendment here that would also expand the scope of the bill's requirements for an EPA study of the health and environmental effects of atmospheric deposition of toxins in the coastal waters and, of course, in our air.

The chairman knows that I submitted similar language in an amendment that would also have established a study by EPA, that would have required the study of ships, coastal ships beyond the 3-mile limit that burn used motor oil, used motor oil that is disposed of from automobiles, vehicles, industrial machinery, that is now being sold through a black-market system to cargo ships that sail up and down the west coast, the Gulf of Mexico and the Great Lakes and burn this used motor oil as fuel.

It is called bunker fuel.

Now, the great problem here is that when you burn this contaminated used motor oil, you are emitting lead, benzene, cadmium, any number of dangerous toxins into the air. Certainly the people in California, especially in southern California, but, as I said, not only limited to California but the Gulf of Mexico, the Great Lakes, would be subjected to this. I believe that it is important the EPA regulate and study the effects of this burning beyond the 3-mile limit.

I am happy to note that the language would be contained in the bill. I am glad to know this other similar action that has been taken by our good colleagues on both sides of the aisle. Certainly it is time for our Nation to begin to realize that we are affected by great dangers of burning of contaminated used motor oil, used industrial oil, these dangerous chemicals spewing into our atmosphere, into our waters, into our agricultural fields and on to our urban and rural areas.

The time has come to stop this insidious habit that is being perpetrated by unscrupulous individuals across the country.

The CHAIRMAN. The gentleman from New York [Mr. LENT] has 18 minutes remaining.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, as a key sponsor of the Levine-Lagomarsino-Lowery amendment and as a Member who has worked very hard to see that OCS facilities come under strict clean air regulations under the Clean Air Act, I rise in support of this compromise amendment and urge my colleagues to support it.

I am glad that we were able to work with Chairman DINGELL to obtain compromise language on this important issue without weakening any of the original language contained in the Levine-Lagomarsino-Lowery amendment as it pertained to protection of Santa Barbara and Ventura Counties, in my district, and for the entire California coast. Hence, there is no longer any need for me to offer a separate amendment on this critical issue.

I have continually worked hard to see that my district is not unfairly penalized for air pollution from OCS activities it can't control. By requiring the Environmental Protection Agency to regulate platforms on the Federal OCS and the vessels that service them, and requiring sources within 25 miles of the seaward State boundary to meet the same regulation as that of similar onshore sources and sources in State waters, the Levine-Lagomarsino-Lowery amendment, and now the Dingell compromise, ensures that OCS facilities meet their fair share of air pollution reductions.

As I have stated before, I have been a supporter of limited OCS development as long as it was conducted in an environmentally acceptable manner, and in environmentally acceptable areas. Therefore, it is not my inclination to support legislation which needlessly attacks OCS facilities or development. Rather than attack an industry, the amendment before us addresses a major source of air pollution ef-

fecting a number of coastal areas and would, in my opinion, remove one of the most serious objection to OCS progress.

The district I represent has one of the most serious ozone problems in the country. This problem remains despite extensive air pollution control efforts implemented by both Santa Barbara and Ventura Counties. A major reason the counties of my district still exceed the health standards set by Federal and State law is the lack of adequate controls on ozone transport from OCS facilities.

Because of the possibility of misinformation, I feel the need also to indicate what the amendment does not do. The amendment does not allow for excessive, burdensome regulation. In fact, it contains language which exempts pollution control technology requirements which are technically infeasible or are an unreasonable threat to health and safety. Also, the amendment does not mandate that all OCS facilities meet the same requirements as facilities off the coast of California. For example, facilities off Florida would only have to meet the same requirements as the corresponding onshore areas in Florida. If onshore facilities are loosely regulated, or not regulated, the OCS facility would also be loosely regulated or not regulated. In addition, the amendment would not mandate that OCS facilities in Federal waters implement pollution controls that have yet to be tested. In reality, OCS facilities located in State waters already come under EPA jurisdiction, already meet the requirements of State and local jurisdictions, and have implemented cost-effective pollution control techniques. Those facilities have continued to run with significant reductions in air emissions.

Truly, the current situation must change. The few projects which were recenty allowed to move forward in California did so only after extensive disputes, delays and litigation. In fact, one project was delayed by over 15 years in large part due to uncertainty over air quality regulations. Once the oil company involved agreed to air pollution regulations consistent with State and local requirements, the entire project was permitted and under construction in less than 1 year.

By exempting offshore oil facilities in Federal waters from clean air requirements, the burden of mitigating offshore pollution has shifted to onshore industries and other emission sources including the defense industry and defense installations like Vandenberg Air Force Base. Continued failure to control pollution from offshore oil facilities will force coastal industries, including onshore and State water oil production, to incur great costs compensating for unnecessary offshore air pollution.

Currently, offshore oil and gas platforms in Federal waters are the only major industrial source in the Nation that are not regulated by the EPA under the Clean Air Act. This remains despite the fact that offshore platforms are already regulated by the EPA under the Clean Water Act with little objection from the industry.

The amendment also covers another serious problem facing our coastal waters. To address the growing problem of air toxics in coastal waters, the amendment would require the EPA to monitor and complete a study of the sources of atmospheric deposition of toxics in coastal waters, their tendency to bioaccumulate, and their effects on human health. If the EPA finds that other provisions of the Clean Air Act do not adequately prevent depositions, the EPA would be authorized to develop regulations to prevent such adverse effects.

The concern is that these toxics are bioaccumulating in the food chain, including fish and waterfowl, which are taken for human consumption, and thus present a direct threat to human health. Our amendment extends the same protection to all coastal waters which the energy and commerce committee agreed to for the Great Lakes and the Chesapeake Bay.

In the future, the EPA is to become the Department of Environmental Protection. I believe that the Federal agency with proven historical experience and necessary staff should be given full jurisdiction over all the clean air problems facing our country. We must not allow one industrial source of air pollution to be exempted from the Clean Air Act for no viable reason.

I urge all Members to vote for the Dingell compromise amendment.

□ 1930

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LOWERY]

Mr. LOWERY of California. Mr. Chairman, I rise in support of the coastal protection amendment which I have worked for the past year to adopt into law, and I urge my colleagues to support this much needed reform to the Clean Air Act. I would like to thank Chairman DINGELL for his efforts in bringing this measure to the floor.

Presently, the Department of the Interior has jurisdiction over the oil and gas leasing on the Outer Continental Shelf [OCS] in Federal waters. However, the Department also is responsible for regulating pollution from the rigs. Theoretically, the Department of the Interior could balance environmental and developmental concerns. Historically, this had not been the case. While Interior has been working for more than 10 years to come up with acceptable regulations to address the OCS drilling pollution problem in California, they have been unsuccessful.

The Department of the Interior, the Environmental Protection Agency, and certainly the citizens of southern California have for years acknowledged the air pollution problem OCS facilities contribute to the area. As Congress begins to take the first concrete steps in over a decade toward cleaning the Nation's air, now is not the time to continue to exclude a known specific source of air pollution.

As my colleagues have stated, this amendment would require the Environmental Protection Agency in specified areas to regulate oil and gas drilling platforms on the Outer Continental Shelf. Logic would tell you, the regulation of known pollution-causing emissions from a known specified source would be under the direction of the EPA. While we are all well aware that Federal law is not always logical, we are being presented with a rare opportunity here to correct one of these inconsistencies.

Why are offshore platforms within the 3-mile limit required to meet on shore standards under EPA regulation but those 3 miles and beyond are not and are under a separate reviewing agency? This amendment will correct this inconsistent and illogical process and put all regulation of air quality under EPA.

In addition, the amendment would address the mounting concern with respect to toxics bioaccumulating in our Nation's waters. The measure reported by committee, already contains a provision requiring the EPA to monitor and complete a study of the sources of atmospheric deposition of toxics, of any tendency of toxics to bioaccumulate in the environment, and of the adverse affects the deposition might have on human health in the waters of the Great Lakes and Chesapeake Bay. This amendment would simply extend this same protection to the specified coastal waters.

Mr. Chairman, this is a sound amendment which moves to strengthen the bill, not dilute it, and I urge my colleagues to support it.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I want to commend the gentleman for the excellent way he is running this debate, and measuring this time out, drop by drop.

The pithy statements made by the gentleman from Oregon who preceding me in the well a few moments ago should be taken as part of the real reason that this amendment is so important, and in fact needs to be passed. I commend the gentleman from California, Mr. LEVINE, and some of my colleagues from Florida, includ-

ing Mr. BILIRAKIS, Mr. IRELAND, and Mr. FASCELL, for all of the work that they have put together.

There is no doubt that the EPA really has become the one agency which should have the mandated responsibility for control over this kind of reality, the emissions, for a reason that most people have not yet discussed. We in California and Florida and other States have been engaged in a major battle to prevent any further leasing of offshore oil areas for further exploration because of the major environmental damage. If we are not successful in securing a permanent ban, a moratorium permanently on such leasing, what will happen is that there will be an enormous proliferation of rigs running on the Outer Continental Shelf area, producing the kinds of pollutants again that this amendment will, in fact, try to reduce or prevent, and will provide the framework for policing of.

We cannot afford, at this juncture in our country's environmental history, with the fragility of the system in question, the fragility of the shelf, the fragility of the atmosphere, we cannot afford to have scattered responsibility, scattered through agencies of the government. It has to reside in one place. We have to look to a small group of bureaucrats to be responsible, the ones with the most expertise. And importantly, we have to make sure that if we do not, in fact, succeed in limiting the future growth of these rigs, that the ones that are established subsequently, together with the ones that exist currently, are safe as possible for the future of our environment. The toxic waste and other things must be controlled.

This amendment will do that. I commend the gentlemen who have worked on it.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, this amendment once again highlights energy as a very valuable national asset and once again highlights the leadership of the gentleman from Louisiana in the energy field.

While I want to reserve some judgment on this provision until we get a conference report, I do want to support this agreement on OCS air quality as it stands now. This amendment addresses the concerns of those in California and Florida, while at the same time allowing OCS operations adjacent to Texas, Louisiana, Mississippi, and Alabama to continue unhampered while the Interior Department conducts a 3-year study of emissions in that area.

Mr. Chairman, the gulf is currently this country's most productive offshore petroleum area, and OCS drilling operations are already heavily regulated under Federal and State laws. We desperately need the oil and natural gas from the gulf in order to lessen our dependence on foreign imports—which, foreign imports, as my colleagues know, now account for one-half of the oil we consume. This agreement ensures the continued usage of this valuable national resource while we study the impact of drilling operations on ambient air quality in the OCS. While I do harbor some reservations about the manner in which this agreement is structured, it is an important compromise, and hopefully we can move toward further refinement in conference.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS], a member of the committee.

Mr. FIELDS. Mr. Chairman, I was not going to say anything tonight. I was going to sit and let this just go by, and then I heard all of the misleading statements on the real purpose of this amendment. I want to get up and call this for what it is. The purpose of this amendment is to make future offshore exploration and production off the coast of California and off the coast of Florida more difficult, if not impossible.

I think that is sad. I think it is very sad for our country because the safest energy extraction program is offshore oil and gas activity. Let me just give Members a few facts, Mr. Chairman.

First of all, 37,000 exploratory wells have been drilled in our Nation's waters without one blowout. To give Members another fact, of the 60 major oilspills of crude oil in our Nation's waters, only one has come about because of OCS activity. Fifty-nine spills have been because of tankers. The majority of those tankers have been foreign owned. The majority of those tankers have been carrying foreign oil. In fact, this year, we pierced the 50-percent level for the first time in terms of oil imports. The largest portion of our Nation's foreign trade deficit is linked to the importation of foreign oil.

Another fact, of 5 billion barrels that have been produced in the last 15 years in our Nation's waters, less than 90 barrels have been spilled in our Nation's waters. Another fact, 18,000 to 300,000 barrels a year seep from the floor of the ocean off California. If Members want to do something about oil pollution, go out and do something about those seeps.

I think it is sad, and I have a letter from both Administrator Reilly and also Secretary Lujan, who oppose the transfer that this amendment brings about.

□ 1940

We are transferring to an agency with no enthusiasm and no experience, and I think if we want to become more energy independent, we have to look offshore, and we have to recognize that the issue is not the environment; the issue is view. People do not want to see platforms.

Mr. Chairman, I think it is sad because we are going to have to look forward in this Nation, and the way we do it to become more energy independent is to look offshore.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for years now there has been a raging debate among those of us who represent the part of America that is contributing the most in offshore development to this Nation's oil supplies, that is, those of us who represent the gulf coast located between Mississippi and Alabama and Texas and Louisiana, and those who represent areas of the country such as Florida and California and the Eastern Seaboard who have been less willing to accept offshore drilling.

For many years we have battled over moratoria, and we have battled over offshore leasing plans of the Interior Department, and this probably represents the first time our two conflicting views have come together in compromise. We have come together, I think, in this compromise on the basis of a single fundamental principle, and that is that when it comes to regulating that offshore industry, those who represent those portions of the country who have more problems with offshore drilling than we have in the Gulf of Mexico should have a greater say, and, therefore, through this amendment, they can determine it for themselves if they wish, and in fact they will have, if this amendment is adopted in conference, EPA oversight over that regulatory process.

At the same time those Members representing those parts of America who are not so favorable to offshore drilling have, in compromise with us, recognized our right in representing the Gulf Coast States to be satisfied with the mineral management system regulation and in fact to adopt in this compromise a study by mineral management of what emissions are affecting our gulf region and to accept in compromise provisions that will allow a study to go forward in our area regarding the bioaccumulation of hazardous materials in the seafood products of our region. In essence we have compromised, understanding each other's peculiar and personal concerns about the regions we represent.

Perhaps this is the basis for new understandings, and perhaps it can mean for us in future energy debates more chances for such compromises. In short, we have come to respect one another, however much we disagree with the opinions of those who represent other coastal areas, and I think in this compromise those who represent those coastal areas have come to respect us,

however much they may disagree with our particular view of how our coast and our regulations should be implemented on that coast.

So, Mr. Chairman, I thank the gentleman from California for what I believe is somewhat of a historic compromise and for his patience and generosity in reaching this compromise.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding, and I would like to commend the gentleman for the comments he just made. I believe they are significant, and I believe they indicate as he frames them a substantial change, both in the substance and in the process of the OCS debate that has occurred for the past decade in the Congress.

As the gentleman indicates, those of us who have been working on this legislation now for some time worked with the gentleman from Louisiana and some of his colleagues. As much as we disagree with each other on the issue of OCS development, we have accepted a compromise that will allow the people and the residents of the western Gulf States to make their own judgments with regard to this regulatory scheme, whereas the rest of us from the Pacific Coast and the Florida Coast and the Atlantic Coast want to pursue a different and, I believe, more stringent and more appropriate regulatory scheme for our coastlines.

Mr. Chairman, I hope that the membership will look to this compromise in the future, as the gentleman from Louisiana indicates he is willing to do, to demonstrate the same type of sensitivity that the different regions of the country can illustrate to the unique concerns and the unique interests of the particular parts of the country that look at these issues differently, one from the other.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for his comments, and I would only add, as we wrap up this debate, that we will continue, I am sure, to debate future energy policy for America in the same spirit we have always debated it.

It is simply, I think, an important step that we take today in understanding the sensitivities we each have in the development of our own particular regions. I thank the gentleman for recognizing them, as I have today, and I think the others who are part of this compromise are to be congratulated for coming to a similar framework for discussion that may indeed serve us well in the future.

There will be indeed more debate and more disagreeements, but if we can continue to recognize that we each have an economy and a sensitivity that may be different, one region from the other, that we may have different environmental concerns from one region to the other, and that in fact our topography and our geography may be considerably different, as it is in our case in Louisiana where the oil rigs are located far from our cities and where they are located in California closer to cities, those differences might be taken into account as we form national policy that is at the same time flexible to those differences.

Mr. Chairman, I thank the gentleman for those efforts, and I yield again to the gentleman from California.

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding.

Just briefly on this point, I think the specific distinctions that he outlines are distinctions a number of us in California have tried to make in the course of other aspects of the OCS debate.

The fact that these distinctions have been explicitly recognized in this debate and lead to different results in different parts of the country can hopefully provide a precedent and a beginning for demonstrating that those distinctions should apply to other aspects of the OCS debate as well.

Mr. Chairman, I thank the gentleman for his sensitivity and his leadership on that aspect of the issue.

The CHAIRMAN. All time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

The gentleman from New York [Mr. LENT] has 7 minutes remaining.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I just want to say, as I said in my remarks earlier, that I do not oppose offshore oil drilling, providing it is done in an acceptable environmental way and in an acceptable environmental area. However, from two standpoints, I strongly support this amendment.

One is the fairness of it. I think it is very unfair to burden onshore communities with increase air pollution from offshore when indeed some of those very communities have been the strongest supporters of offshore oil drilling. But they have to account for that. They have to reduce the use of their industry and so on, including, ironically, oil rigs in State waters, to say nothing of defense plants and defense bases.

The other reason that I support this amendment and do support some offshore drilling is that as a practical matter there is no offshore oil drilling taking place in California today where there has not been an agreement worked out on air quality. That is just a fact.

So I think if we are going to get on with a rational debate on that, we have to solve that problem as well as the other environmental problems.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Let me simply say that we could in fact, I think, take a parochial view and say that if in fact oil drilling is not occurring off the western coast of the United States or off the eastern coast of the United States, then perhaps more jobs will flow to the depressed economy in Louisiana. But that is not the purpose of this compromise.

The compromise is, as the gentleman said, in fact to create an environment where oil drilling may be conducted in environmentally safe areas wherever it may be appropriate to do so and at the same time to respect the legitimate concerns of those who represent different regions of the country.

Mr. Chairman, I thank the gentleman for coming to that very same conclusion that I have reached as we came to this compromise.

The CHAIRMAN. The time of the gentleman from California [Mr. LAGOMARSINO] has expired.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding time to me.

I think, as the gentleman from California aptly indicated in his opening remarks and as I tried to indicate in my own statement, the two of us have been working closely on this amendment for some time. The gentleman from California and I have different positions for each other on the subject of further OCS development along the California coastline.

□ 1950

Mr. Chairman, we do come together on the appropriateness and the need for this particular amendment. I think it is unfortunate that the gentleman from Texas characterized this amendment as one which is designed to slow or stop OCS development. Frankly, this gentleman would be very happy to try to slow or stop additional OCS development off the California coast line, and I intend to use whatever means I can at my disposal to accomplish that result.

However, Mr. Chairman, in fairness to the gentleman from California [Mr. LAGOMARSINO], my colleague, and our other colleagues who have been working with us on this issue, who do not share our point of view, and who do support additional development, this is an issue in which those of us on both

sides of the issue of additional development agree that appropriate regulation is necessary because of the clean air aspects of this concern.

The CHAIRMAN. The gentleman from New York [Mr. LENT] has 3 minutes remaining.

Mr. LENT. Mr. Chairman, I yield 2 of those 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I appreciate the gentleman from New York [Mr. LENT] yielding this time to me. I will not take the entire 2 minutes.

However, Mr Chairman, I did want to commend one of the officers of the Santa Barbara air pollution control district, assistant director Bill Masters, for the very good work that he has done on this issue, and I think people should be aware of that.

Mr. TAUZIN. Mr. Chairman, I yield the balance of my time.

Mr. LENT. Mr. Chairman, I have one last request for time. I yield the balance of my time to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I just want to ask the gentleman from Louisiana [Mr. TAUZIN] a question.

My question is: "Do you think the gentleman from California [Mr. LEVINE] would use this to stop or hinder OCS development off California or off Florida? In your esteemed opinion?"

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, the answer lies only in the mind of the gentleman from California [Mr. LEVINE]. I would not want to presume his mind.

Mr. FIELDS. In that case, Mr. Chairman, I ask the gentleman from Louisiana if in his mind he has an answer.

Mr. TAUZIN. I have some very strong opinions about what is occurring in California, but——

Mr. FIELDS. Mr. Chairman, I know the answer.

Mr. DINGELL. Mr. Chairman, I rise to congratulate the Members who worked so hard to achieve this compromise. In particular, I want to single out the efforts of Mr. TAUZIN and Mr. LEVINE. This amendment strikes a balance between the need to protect clean air in our off-shore areas and the need to continue oil and natural gas production in our off-shore areas. Striking the proper balance is the essence of good environmental legislation, and I thank the Members who have crafted this agreement.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TAUZIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 411, noes 5, not voting 16, as follows:

[Roll No. 135]

AYES—411

| | | |
|---|---|---|
| Ackerman | Dicks | Huckaby |
| Anderson | Dingell | Hughes |
| Andrews | Dixon | Hunter |
| Annunzio | Donnelly | Hutto |
| Anthony | Dorgan (ND) | Hyde |
| Applegate | Dornan (CA) | Inhofe |
| Archer | Douglas | Ireland |
| Armey | Downey | Jacobs |
| Aspin | Dreier | James |
| Atkins | Duncan | Johnson (CT) |
| AuCoin | Durbin | Johnson (SD) |
| Baker | Dwyer | Johnston |
| Ballenger | Dymally | Jones (GA) |
| Barnard | Dyson | Jones (NC) |
| Bartlett | Early | Jontz |
| Barton | Eckart | Kanjorski |
| Bateman | Edwards (CA) | Kaptur |
| Bates | Edwards (OK) | Kasich |
| Beilenson | Emerson | Kastenmeier |
| Bennett | Engel | Kennedy |
| Bentley | English | Kennelly |
| Bereuter | Erdreich | Kildee |
| Berman | Espy | Kleczka |
| Bevill | Evans | Kolbe |
| Bilbray | Fascell | Kolter |
| Bilirakis | Fawell | Kostmayer |
| Bliley | Fazio | Kyl |
| Boehlert | Feighan | LaFalce |
| Boggs | Fields | Lagomarsino |
| Bonior | Fish | Lancaster |
| Borski | Flake | Lantos |
| Bosco | Foglietta | Laughlin |
| Boucher | Ford (MI) | Leach (IA) |
| Boxer | Ford (TN) | Lehman (CA) |
| Brennan | Frank | Lehman (FL) |
| Brooks | Frost | Lent |
| Broomfield | Gallegly | Levin (MI) |
| Browder | Gallo | Levine (CA) |
| Brown (CA) | Gaydos | Lewis (CA) |
| Brown (CO) | Gejdenson | Lewis (FL) |
| Bruce | Gekas | Lewis (GA) |
| Bryant | Gephardt | Lightfoot |
| Buechner | Geren | Lipinski |
| Bunning | Gibbons | Livingston |
| Burton | Gillmor | Lloyd |
| Bustamante | Gilman | Long |
| Byron | Gingrich | Lowery (CA) |
| Callahan | Glickman | Lowey (NY) |
| Campbell (CA) | Gonzalez | Luken, Thomas |
| Campbell (CO) | Goodling | Machtley |
| Cardin | Gordon | Madigan |
| Carper | Goss | Manton |
| Carr | Gradison | Markey |
| Chandler | Grandy | Marlenee |
| Chapman | Grant | Martin (IL) |
| Clarke | Gray | Martin (NY) |
| Clay | Green | Martinez |
| Clement | Guarini | Matsui |
| Coble | Gunderson | Mavroules |
| Coleman (MO) | Hall (OH) | Mazzoli |
| Coleman (TX) | Hall (TX) | McCandless |
| Collins | Hamilton | McCloskey |
| Condit | Hammerschmidt | McCollum |
| Conte | Hancock | McCrery |
| Conyers | Hansen | McCurdy |
| Cooper | Harris | McDade |
| Costello | Hastert | McDermott |
| Coughlin | Hatcher | McEwen |
| Courter | Hayes (IL) | McGrath |
| Cox | Hayes (LA) | McHugh |
| Coyne | Hefley | McMillan (NC) |
| Craig | Hefner | McMillen (MD) |
| Crane | Henry | McNulty |
| Crockett | Herger | Meyers |
| Dannemeyer | Hertel | Mfume |
| Darden | Hiler | Michel |
| Davis | Hoagland | Miller (OH) |
| de la Garza | Hochbrueckner | Miller (WA) |
| DeFazio | Hopkins | Mineta |
| Dellums | Horton | Moakley |
| Derrick | Houghton | Molinari |
| DeWine | Hoyer | Mollohan |
| Dickinson | Hubbard | Montgomery |
| Moody | Roberts | Solomon |
| Moorhead | Roe | Spence |
| Morella | Rogers | Spratt |
| Morrison (CT) | Rohrabacher | Staggers |
| Morrison (WA) | Ros-Lehtinen | Stallings |
| Mrazek | Rose | Stangeland |
| Murphy | Roth | Stark |
| Murtha | Roukema | Stearns |
| Myers | Rowland (CT) | Stenholm |
| Nagle | Rowland (GA) | Stokes |
| Natcher | Roybal | Studds |
| Neal (MA) | Sabo | Sundquist |
| Neal (NC) | Saiki | Swift |
| Nielson | Sangmeister | Synar |
| Nowak | Sarpalius | Tallon |
| Oakar | Savage | Tanner |
| Oberstar | Sawyer | Tauke |
| Obey | Saxton | Tauzin |
| Olin | Schaefer | Taylor |
| Ortiz | Scheuer | Thomas (GA) |
| Owens (NY) | Schiff | Thomas (WY) |
| Owens (UT) | Schneider | Torres |
| Oxley | Schroeder | Torricelli |
| Packard | Schuette | Towns |
| Pallone | Schulze | Traficant |
| Panetta | Schumer | Traxler |
| Parker | Sensenbrenner | Udall |
| Parris | Serrano | Unsoeld |
| Pashayan | Sharp | Upton |
| Patterson | Shaw | Valentine |
| Paxon | Shays | Vander Jagt |
| Payne (NJ) | Shumway | Vento |
| Payne (VA) | Shuster | Visclosky |
| Pease | Sikorski | Volkmer |
| Pelosi | Sisisky | Vucanovich |
| Penny | Skaggs | Walgren |
| Perkins | Skeen | Walker |
| Petri | Skelton | Walsh |
| Pickett | Slattery | Watkins |
| Pickle | Slaughter (NY) | Waxman |
| Porter | Slaughter (VA) | Weber |
| Poshard | Smith (FL) | Weiss |
| Price | Smith (IA) | Weldon |
| Pursell | Smith (NE) | Wheat |
| Quillen | Smith (NJ) | Whittaker |
| Rahall | Smith (TX) | Whitten |
| Rangel | Smith (VT) | Wilson |
| Ravenel | Smith, Denny (OR) | Wise |
| Ray | Smith, Robert (NH) | Wolf |
| Regula | Smith, Robert (OR) | Wolpe |
| Rhodes | Snowe | Wyden |
| Richardson | Solarz | Wylie |
| Ridge | | Yates |
| Rinaldo | | Yatron |
| Ritter | | Young (FL) |

NOES—5

| | | |
|---|---|---|
| Combest | Stump | Young (AK) |
| DeLay | Washington | |

NOT VOTING—16

| | | |
|---|---|---|
| Alexander | Jenkins | Rostenkowski |
| Clinger | Leath (TX) | Russo |
| Flippo | Lukens, Donald | Thomas (CA) |
| Frenzel | Miller (CA) | Williams |
| Hawkins | Nelson | |
| Holloway | Robinson | |

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Mr. STUMP changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 180, strike lines 3 through 8 and renumber the following paragraphs accordingly.

Page 180, strike line 16 and all that follows down through line 15 on page 181, and insert:

"(1) COVERED FLEET.—The term 'covered fleet' means 10 or more motor vehicles which are owned or operated by a single person. In determining the number of vehicles owned or operated by a single person for purposes of this paragraph, all motor ve-

hicles owned or operated, leased or otherwise controlled by such person, by any person which controls such person, by any person controlled by such person, and by any person under common control with such person shall be treated as owned by such person. The term 'covered fleet' shall not include motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers (including demonstration vehicles), motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, or nonroad vehicles (including specialty farm vehicles).

"(11) COVERED FLEET VEHICLES.—The term 'covered fleet vehicles' means only motor vehicles in a covered fleet which are centrally fueled (or capable of being centrally fueled).

Page 181, strike line 19 and all that follows down through line 22 on page 207, insert the following, and redesignate subsection (g) as subsection (c) in line 23 on page 207:

"(a) URBAN BUSES.—

"(1) IN GENERAL.—Not later than January 1, 1992, the Administrator shall promulgate regulations requiring the use of clean alternative fuels in new urban buses operated primarily in a metropolitan statistical area or consolidated metropolitan statistical area with a 1980 population of 750,000 or more. The regulations shall provide that all new urban buses purchased or placed in service by owners or operators of urban buses in such areas shall be clean-fuel vehicles and shall be exclusively operated on clean alternative fuel. The Administrator shall prescribe a schedule phasing in the applicability of the requirements established by this paragraph over the 1994 through 1996 model years as follows: 25 percent of new urban buses purchased or placed into service in model year 1994; 60 percent of new urban buses purchased or placed into service in model year 1995; 100 percent of new urban buses purchased or placed into service in 1996 and later model years.

"(2) EXISTING URBAN BUSES.—The regulations under this subsection shall provide that all urban buses operated primarily in the areas referred to in paragraph (1) which have their engines replaced or rebuilt after January 1, 1996, shall be clean-fuel vehicles and shall be exclusively operated, while in such areas, on clean alternative fuel.

"(3) EMISSION STANDARDS FOR CLEAN-FUEL VEHICLES.—

"(A) IN GENERAL.—Not later than January 1, 1992, the Administrator shall promulgate regulations under section 202(a) containing specific emission standards applicable to clean fuel vehicles under this subsection. Such standards shall be based on the best technology that can reasonably be anticipated to be available at the time such measures are to be implemented, taking costs, safety, energy, lead time, and other relevant factors into account. Except to the extent that specific requirements are promulgated under subparagraph (B) of this paragraph, the standards applicable to such vehicles shall require compliance with the standard applicable under section 202 to emissions from conventional heavy-duty vehicles of the same type and model year.

"(B) SPECIFIC REQUIREMENTS.—The standards under this subsection shall require that (i) emissions of either oxides of nitrogen or particulate matter shall not exceed 50 percent of the emissions of such air pollutant allowed under the emission standard applicable for such air pollutant for a conventional heavy-duty vehicle or engine of the same type and model year pursuant to standards under section 202 and (ii) emissions of particulate matter shall not exceed 0.10 grams per brake horsepower-hour. The Administrator shall increase the level of emissions allowed under clause (i) if the Administrator determines that the 50 percent reduction is not technologically achievable, taking into account durability, costs, lead time, safety, and other relevant factors, except that the Administrator may not increase such level of emissions above 70 percent.

"(C) DETERMINATION.—As part of the rulemaking under this paragraph, the Administrator shall make a determination as to whether the 50 percent reduction referred to in subparagraph (A) is technologically achievable, taking into account durability, costs, lead time, safety, and other relevant factors.

"(4) PARTICULATE MATTER.—The regulations under section 202(a)(1) applicable to emissions of particulate matter from 1991 through 1992 model year urban buses capable of operating on diesel fuel shall contain a standard which provides that emissions of particulate matter from such buses may not exceed 0.25 grams per brake horsepower hour. Emissions of particulate matter from such buses after model year 1992 shall not exceed 0.10 grams per brake horsepower hour.

"(b) CENTRALLY FUELED FLEETS.—

"(1) FLEET PROGRAMS FOR SERIOUS, SEVERE, AND EXTREME OZONE NONATTAINMENT AREAS.—

"(A) IN GENERAL.—Each State in which there is located all or part of an ozone nonattainment area with a population of 250,000 or more classified under subpart 2 of part D of title I of this Act as Serious, Severe, or Extreme and each State in which there is located all or part of a carbon monoxide nonattainment area with a population of 250,000 or more and a 1988 carbon monoxide design value at or above 16.0 parts per million (as calculated according to the most recent interpretation methodology issued prior to enactment of this section by the United States Environmental Protection Agency), excluding those carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide concentrations, shall submit, within 24 months after the enactment of the Clean Air Act Amendments of 1990, a State implementation plan revision under section 110 and part D of title I to establish a clean-fuel vehicle program for fleets under this subsection.

"(B) PHASE-IN OF REQUIREMENTS.—Except as provided in clause (ii), the plan revision required under this subsection shall contain provisions requiring at least 30 percent of all new covered fleet vehicles operated by each covered fleet operator in each such area beginning in 1995, at least 50 percent of such vehicles in 1996, and at least 50 percent of such vehicles in 1996, and at least 70 percent in 1998, to be clean-fuel vehicles and to use clean alternative fuels when operating in the area.

"(ii) In the case of vehicles of 8,500 lbs. and above gross vehicle weight rating (gvwr), the plan revision required under this subsection shall contain provisions requiring at least 30 percent of all new covered fleet vehicles operated by each covered fleet operator in each such area beginning in 1998, at least 50 percent of such vehicles in 1999, and at least 70 percent of such vehicles in 2000 to be clean-fuel vehicles and to use clean alternative fuels when operating in the area.

"(C) CONSULTATION; CONSIDERATION OF FACTORS.—Each such State shall develop its implementation plan revision under this subsection in consultation with fleet operators, vehicle manufacturers, fuel producers and distributors, motor vehicle fuel system convertors, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, conversion capability, costs, safety, resale values of vehicles and equipment and other relevant factors.

"(D) CHOICE OF VEHICLES AND FUEL.—The plan revision under this subsection shall provide that the choice of clean-fuel vehicles and clean alternative fuels shall be made by the covered fleet operator subject to the requirements of this subsection.

"(E) CREDITS.—The State plan revision required under this subsection may provide for this issuance by the State of appropriate credits to each covered fleet operator for the use of clean-fuel vehicles which achieve on a per vehicle basis greater emission reductions than those required on a per vehicle basis under this subsection or for the use of more clean-fuel vehicles than required under this subsection. Such credits may be used by the person receiving such credits to demonstrate compliance with this subsection or may be traded or sold for use by any person to demonstrate compliance with other requirements applicable under this subsection in the same nonattainment area. Within 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidelines for the credit progam.

"(2) RECLASSIFIED AREAS.—In the case of ozone nonattainment areas reclassified as Serious, Severe, or Extreme, a plan revision meeting the requirements of this subsection shall be submitted within 1 year after reclassification. Such plan revision shall implement the requirements applicable under this subsection at the time of reclassification and thereafter, except that the Administrator may adjust for a limited period the deadlines for compliance where compliance with such deadlines would be infeasible.

"(3) AVAILABILITY TO THE PUBLIC.—At any facility owned or operated by a department, agency, or instrumentality of the United States where vehicles subject to this subsection are supplied with clean alternative fuel, such fuel shall be offered for sale to the public for use in other vehicles during reasonable business times and subject to national security concerns, unless such fuel is commercially available for vehicles in the vicinity of such Federal facilities.

"(4) EMISSION STANDARDS FOR CLEAN-FUEL VEHICLES.—Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administration shall promulgate regulations under section 202(a) containing specific emission standards applicable to clean-fuel vehicles under this subsection. Such standards shall be based on the best technology that can reasonably be anticipated to be available at the time such measures are to be implemented, taking into account costs, safety, energy, lead time, and other relevant factors. In addition to the specific requirements set forth in this paragraph, the standards applicable to such vehicles shall require compliance with the most stringent standard applicable under section 202 to emissions from conventional vehicles of the same type and model year.

"(A) LIGHT-DUTY VEHICLES AND TRUCKS.—For light-duty vehicles and trucks of less than 3,750 pounds (loaded vehicle weight)

and not more than 8,500 pounds gross vehicle weight rating (gvwr):

"(i) Beginning with model year 1995, the standards under this subsection shall require that the total vehicle emissions of ozone forming volatile organic compounds shall not exceed 0.66 grams per mile (gpm).

"(ii) Beginning with model year 2000 the standards under this subsection shall require that the total vehicle emissions of ozone forming volatile organic compounds shall not exceed 0.25 grams per mile (gpm). The Administrator shall by rule waive for a period not to exceed 3 model years, the standards for oxides of nitrogen in the case of vehicles subject to the standard for volatile organic compounds under the clause and establish a different standard for oxides of nitrogen if the Administrator determines that such different standard is necessary in order to achieve the .25 grams per mile standard under this clause. Such different standard for oxides of nitrogen shall not exceed 0.7 grams per mile (gpm). The Administrator shall during such 3-model-year period conduct a study, and report the results to the Congress, concerning the technological feasibility of achieving the reductions required under this clause and the standard for oxides of nitrogen without such waiver.

"(B) LIGHT-DUTY VEHICLES AND TRUCKS OF 3,750 LVW OR GREATER.—For light-duty vehicles and trucks of 3,750 pounds (loaded vehicle weight) or more but less than 8,500 gross vehicles weight rating (gvwr) the standards under this subsection shall be, during Phase I, the light duty truck equivalent of a passenger car at 0.53 gpm emissions of ozone producing volatile organic compounds and, during Phase II, such eqivalent of a passenger car at 0.25 gpm, and shall include, for each phase an equivalent reduction in emissions of hazardous air pollutants.

"(C) VEHICLES OF 8,500 POUNDS (GVWR) AND ABOVE.—(i) For vehicles of 8,500 pounds and above (gross vehicle weight rating) the standard under this subsection shall, at a minimum, require that (I) emissions of either oxides of nitrogen or particulate matter shall not exceed 50 percent of the emissions of such air pollutant allowed under this emission standard applicable for such air pollutant for a conventional heavy-duty vehicles or engine of the same type and model year pursuant to standards under section 202 and (II) emissions of particulate matter shall not exceed 0.10 grams per brake horsepower-hour. The Administrator shall increase the level of emissions allowed under clause (I) if the Administrator determines that the 50 percent reduction is not technologically achievable for clean diesel engines, taking into account durability, costs, lead time, safety, and other relevant factors, except that the Administrator may not increase such level of emission above 70 percent.

"(ii) DETERMINATION.—As part of the rulemaking under this paragraph, the Administrator shall make a determination as to whether the 50 percent reduction referred to in clause (i) is technologically achievable, taking into account durability, costs, lead time, and safety.

"(5) TRANSPORTATION CONTROL MEASURES.—The Administrator shall by rule within 1 year after the enactment of the Clean Air Act Amendments of 1990 ensure that certain transportation control measures including high-occupancy vehicle lanes, time-of-day or day-of-week restrictions, and other similar measures that restrict vehicle usage, do not apply to any clean-fuel vehicle that is subject to the requirements of this subsection.

Page 212, strike line 3 and all that follows down through line 25 on page 218, and insert the following new subsection:

"(d) CALIFORNIA PILOT TEST PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator shall establish a pilot program in the State of California to demonstrate the effectiveness of clean-fuel vehicles in controlling air pollution ozone nonattainment areas.

"(2) APPLICABILITY.—The provisions of this subsection shall only apply to passenger cars and light-duty trucks of less than 3,750 leaded vehicle weight (l.v.w.) and only in the State of California (hereinafter referred to as the 'covered area').

"(3) PROGRAM REQUIREMENTS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing requirements under this subsection. The regulations shall provide the following:

"(A) CLEAN-FUEL VEHICLES.—Clean-fuel vehicles shall be produced, sold, and distributed in accordance with normal business practices and applicable franchise agreements to ultimate purchasers in the covered area (including owners of covered fleets referred to in subsection (b)) in numbers that meet or exceed the following schedule (as may be revised under subparagraph (D)): 150,000 vehicles in model years 1994 through 1996; 300,000 in model years 1997 and thereafter. The Administrator may by regulation grant a manufacturer an appropriate amount of credits toward fulfillment of the requirements prescribed under this subparagraph for selling more clean-fuel vehicles than regulations under this subparagraph require. A manufacturer granted credits may transfer some or all of the credits for use by one or more other manufacturers in demonstrating compliance with the requirements prescribed under this subparagraph. The Administrator may make the credits available for use after consideration of enforceability, environmental, and economic factors and upon such terms and conditions as he finds appropriate. The Administrator shall grant credits in accordance with this subparagraph, notwithstanding any requirements of State law or any credits granted with respect to the same vehicles under any State, law, rule, or regulation.

"(B) CLEAN ALTERNATIVE FUELS.—(i) The clean alternative fuels on which the vehicles required under subparagraph (A) can operate shall be produced by fuel refiners and made available in the covered area. At a minimum, sufficient clean alternative fuels shall be produced to assure that all clean-fuel vehicles required under this subsection can operate, to the maximum extent practicable, exclusively on such fuels in such area and one such fuel shall be offered for retail sale at service stations dispensing at least 50,000 gallons of motor vehicle fuel per month, on average. The Administrator shall determine the clean alternative fuels to be produced and made available based on motor vehicle manufacturers' projections of future sales of clean-fuel vehicles and consultations with the affected State and local governments. The Administrator may by regulation grant persons subject to the requirements prescribed under this subparagraph an appropriate amount of credits for exceeding such requirements, and any person granted credits may transfer some or all of the credits for use by one or more persons in demonstrating compliance with such requirements. The Administrator may make the credits available for use after consideration of enforceability, environmental, and economic factors and upon such terms and conditions as he finds appropriate. The Administrator may also by regulation specifications for any clean alternative fuel produced and made available under this subparagraph as he finds necessary to reduce or eliminate an unreasonable risk to public health, welfare, or safety associated with its use or to ensure acceptable vehicle maintenance and performance characteristics.

"(ii) If a retail gasoline dispensing facility would have to remove or replace one or more motor vehicle fuel underground storage tanks and accompanying piping in order to comply with the provisions of this subsection, and it had removed and replaced such tank or tanks and accompanying piping in order to comply with subtitle I of the Solid Waste Disposal Act prior to the date of the enactment of the Clean Air Act Amendments of 1990, it shall not be required to comply with this subsection until a period of 7 years has passed from the date of the removal and replacement of such tank or tanks.

"(4) EMISSION STANDARDS FOR CLEAN-FUEL VEHICLES.—Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under section 202(a) containing specific emission standards applicable to clean-fuel vehicle under this subsection. Such standards shall be based on the best technology that can reasonably be anticipated to be available at the time such measures are to be implemented, taking costs, safety, energy, and other relevant factors into account. In addition to the specific requirements set forth in this paragraph, the standards applicable to such vehicles shall require compliance with the most stringent standard applicable under section 202 to emissions from conventional vehicles of the same type and model year.

"(A) LIGHT-DUTY VEHICLES AND TRUCKS.—For light-duty vehicles and trucks of less than 3,750 pounds loaded vehicle weight (l.v.w.) and less than 8,500 gross vehicle weight rating (gvwr):

"(i) Beginning with model year 1995, the standards under this subsection shall require emission reductions representing a 50 percent reduction in emissions of ozone-forming volatile organic compounds and a 50 percent reduction from those of a baseline vehicle in total vehicle emissions of benzene, 1,3-butadiene, gasoline vapors, polycyclic organic material (POM), including POM and diesel particulates, and formaldehyde and such other hazardous air pollutants as the Administrator may by rule determined to warrant regulation.

"(ii) Unless the Administrator determines that it is not technologically feasible (considering durability, costs, lead, time, safety, and other relevant factors) beginning with model year 2003 in the case of clean-fuel vehicles subject to the requirements of this subsection, the standards under this subsection shall, at a minimum, require emission reductions representing a 75 percent reduction in ozone-forming volatile organic compounds and a 75 percent reduction from a baseline vehicle in total vehicle emissions of benzene, 1,3-butadiene, gasoline vapors, polycyclic organic material (POM), including POM and diesel particulates, and formaldehyde and such other hazardous air pollutants as the Administrator may by rule warrant regulation. If the Administrator determines that it is not technologically feasible (considering durability, costs, lead, time,

safety, and other relevant factors) to require such 75 percent reduction, the Administrator shall increase the level of emissions allowed under this clause, except that the Administrator may not increase such level of emissions above 50 percent.

For purposes of this subparagraph, the term 'baseline vehicle' means a conventional gasoline-fueled vehicle of the same type and model year meeting the most stringent standards in effect for that vehicle under section 202.

"(B) OTHER FUELS.—The standards under this paragraph shall permit clean-fuel vehicles to use a fuel other than a clean alternative fuel, if, when operated on any such other fuel, such vehicle complies with the emission standards applicable under section 202 to conventional gasoline-fueled vehicles of the same type and model year.

"(5) PROGRAM EVALUATION.—Not later than June 30, 1998 the Administrator shall complete and submit a report to Congress on the effectiveness of the California pilot program under this subsection. The report shall evaluate the level of emission reductions achieved under the program, the costs of the program, the advantages and disadvantage of extending the program to other nonattainment areas, and desirability of continuing or expanding the program in California. The program cannot be extended or terminated by the Administrator except by Act of Congress enacted after the date of the Clean Air Act Amendments of 1990. Section 177 of this Act does not apply to the program under this subsection.

"(e) INCENTIVE PROGRAM.—(1) At the time the Administrator submits the report to Congress under paragraph (5) of subsection (d), the Administrator shall promulgate regulations establishing an incentive program to encourage the purchase of clean-fuel vehicles. Such regulations may include any of the following:

"(A) A State registration fee on new motor vehicles registered in the State which are not clean-fuel vehicles in the amount of at least 1 percent of the cost of the vehicle. The proceeds of such fee shall be used to provide financial incentives to purchasers of clean-fuel vehicles and to vehicle dealers who sell high volumes or high percentages of clean-fuel vehicles and to defray the administrative costs of the incentive program.

"(B) Provisions to exempt clean-fuel vehicles from high occupancy vehicle or trip reduction requirements.

"(C) Provisions to provide preference in the use of existing parking spaces for clean-fuel vehicles.

"(D) The incentives under this subsection shall not apply in the case of covered fleet vehicles.

"(2) The regulations shall include a procedure under which States may submit implementation plan revisions to incorporate incentive programs consistent with the Administrators regulations under this paragraph.

"(f) STATE REFUELING FACILITIES.—If any State adopts enforceable provisions in an implementation plan applicable to a nonattainment area which provides that existing State refueling facilities will be made available to the public for the purchase of clean alternative fuels or that State-operated refueling facilities for such fuels will be constructed and operated by the State and made available to the public at reasonable times, taking into consideration safety costs, and other relevant factors, in approving such plan under section 110 and part D, the Administrator may credit a State with the emission reductions for purposes of part D attributable to such actions.

"(g) NO PRODUCTION MANDATE.—The Administrator shall have no authority under this section to mandate the production of clean fuel vehicles except as provided in the California test pilot program or to specify as applicable the models, lines, or types of, or marketing or price practices, policies, or strategies for, vehicles subject to this section. Nothing in this section shall be construed to give the Administrator authority to mandate marketing or pricing practicing policies, or strategies for fuels.

"(h) VEHICLE CONVERSIONS.—(1) The requirements of this section may be met through the conversion of existing gasoline or diesel-powered vehicles to a clean-fuel vehicle which comply with the applicable requirements of this section.

"(2) The Administrator shall, within 12 months after the enactment of the Clean Air Amendments of 1990, consistent with the requirements of this title applicable to new vehicles, promulgate regulations governing such conversions. Such regulations shall establish criteria for such conversions which will ensure that a converted vehicle will, when operating on a clean alternative fuel, comply with the applicable standards under this section. Such regulations shall provide for the application to such conversions of the same provisions of this title as are applicable to standards under section 202 (including the provisions of section 206, 207, 208, and 209) except that in the case of conversions the Administrator may modify the applicable regulations implementing such provisions as the Administrator deems necessary to implement this subsection. Such provisions shall be enforced in the case of conversions the same manner and to the same extent as in the case of vehicles subject to standards under section 202.

"(3) Any person who obtains, pursuant to paragraph (2), a certification under section 206 shall be considered a manufacturer for purposes of sections 206 and 207 and related enforcement provisions. Nothing in the preceding sentence shall require a person who obtains such a certification to warrant any part or operation of a vehicle other than what is required under section 206 and 207. Nothing in this paragraph shall limit the applicability of any other warranty to unrelated parts or operations.

"(4) The conversion from a vehicle capable of operating on gasoline or diesel fuel only to a clean-fuel vehicle shall not be considered a violation of section 203(a)(3) if such conversion complies with the regulations promulgated under this subsection.

"(5) The Secretary of Transportation shall, if necessary, promulgate rules under applicable motor vehicle laws regarding the safety of converted vehicles.

Page 219, strike line 7 and all that follows through line 5 on page 220.

Page 263, strike line 14, and all that follows down through page 266, line 19 and make the necessary conforming changes.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I seek recognition for the purpose of controlling 30 minutes in support of the amendment.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes, and a Member in opposition will be recognized for 30 minutes.

Mr. DINGELL. Mr. Chairman, if there is no Member in opposition, I ask unanimous consent that the gentleman from New York [Mr. LENT] be recognized to control the other 30 minutes under the rule in lieu of an opponent.

The CHAIRMAN. Is there any Member in opposition? If not, without objection, the gentleman from New York [Mr. LENT] is recognized for 30 minutes.

There was no objection.

Mr. BURTON of Indiana. Mr. Chairman, I do not wish to control the time, but the Chair asked if anyone is in opposition, and I am.

The CHAIRMAN. The gentleman from New York [Mr. LENT] will yield time to the gentleman.

Mr. LENT. Mr. Chairman, I will assure the gentleman that he will be given ample opportunity to present his opposition.

The CHAIRMAN. Without objection, therefore, the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the most contentious issue that this committee confronted today was the issue of clean motor vehicles and fuels for those motor vehicles.

The issue of the fuels was compromised away earlier. In the past few minutes, Mr. Chairman, the issue of the number and the requirements of the motor vehicles has been addressed, and by agreement between my three colleagues, the gentleman from New York [Mr. LENT], the gentleman from California [Mr. WAXMAN], the gentleman from Illinois [Mr. MADIGAN], and I, we have brought the Members what we think is a compromise which is worthy of consideration by the committee.

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Mr. Chairman, the original amendment offered by my friend and colleague, the gentleman from California [Mr. WAXMAN], would have required that there be mandated production of vehicles. The compromise before the

committee does not. The compromise goes on to address some problems which a number of Members find to be particularly difficult with regard to the amendment offered by the gentleman from California [Mr. WAXMAN].

As mentioned, the compromise eliminates the mandates requiring national production of certain categories of heavy and light duty vehicles to meet prescribed Federal standards. It sets up a special pilot program in California. It establishes a program for heavy duty vehicles in fleets. It permits certain waivers in connection with pollutants which would be produced by vehicles within those fleets.

It also establishes a light duty vehicle fleet program. That program was one which was started by the President, and I would note that the package that is before us is in fact fuel neutral.

It is my belief that we have many difficult questions yet to address with regard to this matter. Those questions will be dealt with in the rather difficult conference which I anticipate with our colleagues in the other body.

Mr. Chairman, I would urge my colleagues to vote in favor of the substitute which is offered by agreement under the rule between myself, the gentleman from New York [Mr. LENT], the gentleman from California [Mr. WAXMAN], and the gentleman from Illinois [Mr. MADIGAN].

Mr. Chairman, I reserve the balance of my time.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the compromise proposal on clean alternative fuel vehicles which has been worked out between those of us who supported the committee-passed bill and those who sought a production mandate of one million new clean fuel vehicles each year as proposed by the Waxman-Lewis amendment.

Clean alternative fuels were a key ingredient of President Bush's clean air proposal when it was announced last June. Unfortunately, the issue divided us in the Subcommittee on Health and the Environment and during markup in the full Committee on Energy and Commerce. There was never a disagreement about the goal of promoting fuels which are cleaner than conventional gasoline—only honest disputes about how to do so.

The President's proposal was for alternative fuels in new vehicles. The concern that a production mandate did not work, and that requiring a premature introduction of exotic fuels, like methanol, would be unwise, resulted in the oil industry and auto industry coming forward with various proposals, including ways to reformulate gasoline. Such cleaner gasoline could be run in conventional vehicles, including those now on the road. The amendment we adopted earlier today in the Energy and Commerce Committee amendment package will mean that such reformulated gasoline will be the only gasoline sold in the Nation's nine smoggiest cities.

Particularly after taking that action, we do not need to mandate the production and sale of vehicles on a mass basis—as the Waxman-Lewis amendment would have done. This compromise deletes the mandated production requirement and replaces it with a demonstration program in the State of California. This program will test the use of very clean fuels, again making California a national laboratory for clean air requirements—just as it has done with respect to tailpipe controls.

The compromise amendment also contains provisions so that fleets which are centrally fueled in one of the 27 most serious ozone nonattainment areas, will phase in requirements that an increasing portion of the new vehicles acquired by fleets be much cleaner burning. In the second phase—which begins in model year 2000—the emissions standard is such that fleets in these smoggy areas will be required to burn fuels like compressed natural gas, methanol, and electric power. It makes more sense to put these clean fuel requirements on fleets rather than the general public, as would have been the case in many instances had the production mandate gone forward. I appreciate the efforts which went into making the fleet requirement for heavy duty trucks more flexible than would otherwise have been the case. Finally, the compromise keeps the urban bus program which President Bush proposed and which the committee expanded to include more metropolitan areas.

This compromise is appropriate, coming as it does near the end of the consideration by the House of the Clean Air Act Amendments of 1990. No one would ever have guessed that the Energy and Commerce Committee could bring such a unified position on so many issues to the House. This last remaining issue, as contentious as it has been at times, has now been resolved. The House is in debt to Chairman JOHN DINGELL and Subcommittee Chairman HENRY WAXMAN, and to all of our committee colleagues who worked so hard on these issues, such as JACK FIELDS, and RALPH HALL, and ED MADIGAN.

Again, Mr. Chairman, I am pleased that so many issues have been resolved to the mutual satisfaction of the parties involved. With the notable exception of the adoption of the Wise amendment, I am pleased with the outcome of our deliberations, and urge favorable support for this compromise and an "yea" vote on final passage.

Mr. DINGELL. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I thank the gentleman from Michigan [Mr. DINGELL] for yielding time to me to support this agreement which is now before the House. What I saw as the inadequacy of the bill that came out of the Committee on Energy and Commerce was that it did not have a program for urban buses. It did not have a program to develop fleets—cars in fleets that would run on alternative fuels. It did not start us down the path to get passenger cars that are going to run on alternative fuels.

Mr. Chairman, this amendment would accomplish those results. The urban fleet program, the urban bus program, would apply in major cities. It would require that buses run on clean fuels in 1994 and would apply to existing urban buses that are retrofitted.

The fleet program would apply in all seriously polluted areas, 31 cities, for fleets of 10 or more that have the capability of being centrally refueled. The pilot project in the State of California would mean 150,000 cars in 1994 that would achieve a 50-percent reduction in pollution, going up to 300,000 cars in 1997 that would be 50 percent cleaner.

Mr. Chairman, I believe we must move in this direction of clean burning cars. We are not about to restrict the transportation use of vehicles. We are going to have motor vehicles. If we are going to have motor vehicles, we have got to get motor vehicles that will use alternatives to gasoline, that will reduce pollution.

The importance of this amendment is enormous for its environmental benefits. It is tremendously significant as well for our national security. We are overly dependent on oil as a monopoly; we need to run our cars on alternative fuels. We know about natural-gas powered cars. We are hearing a lot from General Motors about electric cars and hydrogen cars. There may be alternative fuels that we do not even know about today. But we have got to set in place the infrastructure to move us in that direction.

Mr. Chairman, I am pleased with this amendment and I am pleased with this bill. I want to thank particularly the gentleman from the State of California [Mr. LEWIS] for working with me on this amendment and for his important leadership in this whole area of clean air. We come from southern California. It is the worst polluted area in the country. We know we have got to do more there. But we also know that the rest of the country will face pollution problems just like Los Angeles if efforts are not made to reduce air pollution from the industries and vehicles that cause pollution.

□ 2030

And we also know that Los Angeles is going to be like Mexico City if we do not reduce the pollution there.

I think that those who want the status quo, especially in the automobile industry, who do not want to be told to do anything or encouraged to do anything to change, are going to look back at this moment and welcome it, because there is a market not only in this country for these clean-burning cars, but all around the world in cities that are so heavily polluted even worse than our own.

The amendment before us is a worthwhile amendment. It moves us in the direction that we ought to take. It is a direction that President Bush said we needed to take if we are going to be innovative in reducing pollution and moving our Nation forward to energy independence.

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentlewoman from California for the purposes of a colloquy on a related issue.

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding and congratulate him on all of his hard work on this bill.

Would the gentleman agree that increasing fuel economy is critical not only to addressing our Nation's energy needs, but to stemming the threat of global warming, and if so, would you explain why increasing fuel economy standards for auto manufacturers was not pursued in this bill?

Mr. WAXMAN. I agree that raising automobile fuel economy standards is necessary for the environmental and energy reasons the gentlewoman mentioned. It is my belief, however, that increasing the fuel economy standards for automakers at this time would have jeopardized the passage of this badly needed clean air legislation.

Mrs. BOXER. I understand and agree that it is essential that the Congress move to strengthen the Clean Air Act to protect public health and the natural environment.

Since 1985 I have introduced fuel economy legislation in the House. Although it has been well over a decade since the body seriously addressed the urgent needs for improvement in our fuel economy, I am pleased to report that the Senate's Commerce Committee has marked up companion legislation to my bill, H.R. 4532, the Motor Vehicle Fuel Efficiency Act of 1990. The bill is expected to reach the floor sometime this summer.

Since the gentleman agrees that this type of legislation is needed, is it his intention once Congress has passed clean air legislation to work with me on this important issue?

Mr. WAXMAN. I share the gentlewoman's concern about this issue. I want to explore it with her and work with her and our other colleagues on the committee. It is a major national policy matter, and I hope we can get moving in this area as soon as is reasonably possible.

Mrs. BOXER. I thank my colleague and I look forward to working with him.

Mr. WAXMAN. Mr. Chairman, I urge the adoption of the amendment and I yield back the balance of my time.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, overall this is a very reasonable compromise, and I think Chairman DINGELL, Chairman WAXMAN, Mr. LENT, Mr. HALL, Mr. TAUZIN, Mr. SYNAR, and Mr. LEWIS of California should be congratulated, along with all of the staff. Certainly it is a significant improvement over what we would have been debating tonight.

I think this amendment maintains the integrity of the fleet program that was originally put together by the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Texas [Mr. HALL], and myself. However, this goes a little further. It sets up a demonstration program which mandates the production of ultra-clean cars sold exclusively in California, and it does not make the rest of the country pay for a problem that is unique to California. It continues to allow vehicles outside of California to run on reformulated gasoline, and it allows the marketplace to work. It gives the consumers choice at the lowest possible cost.

However, I still have some concerns, and I hope that my colleagues will work with me and others to address these in conference.

I am very concerned that this California-only program mandates excessive reductions in toxins, in phase I 50 percent, and in phase II 75 percent. These are lofty goals and I hope the goals can be achieved. But as I understand the California program, it currently does not require that. It requires reductions only for volatile organic compounds, and we do not even know if a fuel can be made to meet those type of toxic standards. I hope that it can.

Also I am a little concerned that this amendment does not include a provision which was in my amendment which allows a 5-year phasein for service stations in the placement of new tanks. If this phasein is not allowed, then service stations could close their doors. But I did receive a commitment from Chairman WAXMAN and Chairman DINGELL to address this concern. I feel we will as we move to conference.

Overall, I feel this is a reasonable compromise, and I urge my colleagues to support it, and yield back the balance of my time to the gentleman from New York.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of this amendment. It includes strong fleet provisions which are going to be the key to the use of newer and cleaner fuels. It includes cars and trucks in the private and government sectors, and it will make significant improvements in cleaning the air.

It helps build the needed infrastructure for the new fuels by making Federal agency refueling stations open to the public, and it gives the incentives to fleet operators by exempting clean fuel vehicles from transportation control measures.

The agreement ensures the availability of clean alternative fuels in the amounts necessary to fuel the new vehicles.

The California pilot project, with its earlier dates, will convince others in other areas that these vehicles and fuels can and will make a difference for a cleaner environment.

My friends, we have come a long way. It has taken us over 10 years to get to this point, but tonight, because of the outstanding efforts of Mr. DINGELL, Mr. WAXMAN, Mr. LENT, Mr. MADIGAN, Mr. ECKART, Mr. FIELDS, Mr. HALL, Mr. TAUZIN, and others, we are here, and we have offered a very darn good compromise on a long, long overdue bill.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I just want to use this moment to express to the gentleman from Oklahoma my deep heartfelt thanks for all of his efforts in this area. He has been a champion of fleets running on these alternative fuels, and I am pleased that we have the provision that we do. It is primarily due to the kind of efforts that the gentleman has put in to make sure that we did not let this issue go by the wayside. The gentleman from Oklahoma has been a champion for the environment, and for alternative fuels. He has been a good friend to me, and I thank him so much for yielding.

Mr. SYNAR. I thank the gentleman.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I rise in support of H.R. 3030 and the Richardson-Madigan provisions.

Mr. Chairman, this Member rises in strong support of the so-called Richardson-Madigan

provisions which were a part of the Dingell en bloc amendment and in support of H.R. 3030, as amended. This amendment would require an oxygen content of 2.7 percent in reformulated gasoline sold in nonattainment areas by 1992. This provision would not only serve to clean up our air, but also would boost market opportunities for renewable, domestically produced alcohol fuels. Use of ethanol in reformulated fuels can reduce CO emissions by up to 25 percent, and reduce ozone pollution. Reformulated gasoline will help reduce pollution from older vehicles, which pollute much more than the newer models. Some companies are already selling reformulated gasoline at no extra cost, potentially making this provision the most cost-effective way to reduce pollution in the entire Clean Air Act.

The benefits of alcohol fuels are numerous. Most important after their potential to reduce air pollution, is the fact that the use of agriculturally produced ethanol fuels supports family farmers, rural main street businesses, and a whole array of agribusinesses which support and rely on economic activity in rural areas and agricultural regions. Alcohol fuels are not only renewable, but are produced domestically, making them even more attractive.

This Member would strongly encourage his colleagues to support the Richardson-Madigan provisions and alcohol based fuels. In doing so you will support economic development in rural America, reduce our dependence on imported oil, and clean up our air. These provisions are pro-environment, pro-agriculture, and pro-rural development.

Mr. BURTON of Indiana. Mr. Chairman, I will not belabor the point. I do not want to be the fly at the picnic, but there are some problems with this amendment as far as I am concerned.

I represent thousands of autoworkers in Anderson, IN, at the Guide and Delco Division of General Motors, and I have received 2,000 to 3,000 petitions from them expressing concern about the original amendment. They want clean air, but they do not want the auto industry severely hurt and their jobs jeopardized by fixes that are not well thought out and rushed through, and I think that is what is happening tonight.

This is the camel's nose under the tent, and it is likely we will be back here next year expanding dramatically this program.

This test program is limited to California, and I just asked the gentleman from California how many cars there are in Los Angeles. Do my colleagues know how many? There are 7 million in Los Angeles alone. So how is a test program with 150,000 units going to clean up the environment? It is not going to make a dent. We are going to be back here next year wanting to expand this program dramatically, and if it is not well thought out and put in over a period of time we are going to throw thousands and thousands of autoworkers out of jobs in the process of trying to clean up the air problems in this country that have been created over a long period of time just like that.

We are moving too fast on this thing.

Let me just tell my colleagues some things that concern me about this. They say that it is not a mandated production line they are going to have to have to get these things built. But they are going to have to have a production line, and these cars are going to cost, under the old plan, the Waxman-Lewis plan, $500 to $2,000 more. Because of limited production, they are going to cost $4,000 to $5,000 more per unit. I am telling Members they are going to be hard to sell, and the people of California are going to have to bear the brunt of that additional expense. It is going to take two to three times as long to fill these tanks of these cars, and there are not going to be a lot of service stations running to put these products in their tanks because they are not going to have that much demand for it.

□ 2040

So they are going to be few and far between, regarding the Waxman-Lewis vehicles that are supposed to produce less carbon monoxide. But what has not been expressed here tonight is that these cars will produce more hydrocarbons and nitrogen oxide. So there is going to be another environmental problem created by these vehicles.

The bottom line is this is the camel's nose under the tent. In a year they will want to expand this to 1 million, 2 million units. It is going to put a lot of Americans out of work, put us in an uncompetitive situation with respect to our foreign trading partners overseas. More Japanese cars will be sold in this country, in my view.

I think we are moving too fast. This amendment should be killed tonight, given more thought. We should come back in a year and see what we come up with.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise in support of the alternative fuels amendment compromise. this is a critical part of this legislation; let me tell you why.

The fact is that many of our cities have a terrible pollution problem which affects the health of our citizens and our economy.

My home of Houston ranks as one of the most polluted cities in the country. We have the fourth worst ozone pollution problem behind cities like Los Angeles and Chicago. Our air pollution is worse than New York City's.

To show you how bad the problem is, consider that smog is mostly comprised of ozone. In the last 10 years, Houston managed to exceed the Environmental Protection Agency's ozone pollution standard 537 times. That's over a year and a half of days when Houstonians breathed dangerously dirty air.

About half of our smog comes from cars, trucks, and buses. We have the technology—today—to run these vehicles on very clean-burning alternative fuels like natural gas which can cut smog forming emissions by over half. We need to get such vehicles on the road as quickly as possible.

One recent study shows that a strong fleet program would remove enough pollution from Houston's air every year to fill 12 Houston Astrodomes.

But the benefits do not stop with the environment. A strong alternative fuels program will also benefit the domestic energy industry. We are currently importing over 50 percent of our oil. Our economy will benefit to the extent that we can replace this oil with domestic natural gas—one of the primary clean-burning fuels. In Texas we have lots of natural gas—it is cleaner, cheaper, and it is domestic. By one estimate, significantly increasing natural gas use will result in 15,000 new jobs for Texans.

Our decision today will impact Houston's air quality into the next century. Continuing on our present course condemns Houston and other big cities to polluted air. It will hurt our ability to attract new industry. It will hurt our quality of life.

Mr. Chairman, I am from an energy State. Houston is proud to be the energy capital of the world. And I am here to tell you that Houston needs the strongest clean-burning fuel program that we can provide.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I rise in strong support of the Tauzin-Dingell-Waxman-Lewis, et cetera, compromise. If there is one lesson to be learned from world events in Eastern Europe in the last 12 months, it is that private entrepreneurship is more effective in getting a job done than simple government fiat.

That was the choice before the House before this compromise. Should we have approved a proposal which set only federally mandated production quotas on private companies, whether the American consumer bought the product or not? Or should we focus on the market and give the private sector the incentive to spur development of clean-burning cars and trucks, vehicles that could dramatically improve urban air?

I am pleased to say that except for California, the market-oriented approach in the Tauzin-Dingell amendment has been incorporated into the compromise and will encourage America's auto manufacturers to produce

clean fuel passenger vehicles. And they will be of sufficiently good quality that the American consumers will want to buy those vehicles.

For the vast majority of this country, this compromise establishes incentives rather than mandates, not only for the passengers vehicles themselves but also for the infrastructure necessary for fuel distribution.

It also increases the number of cities having clean fuel fleets from 9 to 31, pending approval of EPA.

Passage of this amendment will foster and enhance our natural gas industry, and since we are shutting down the oil drilling on the OCS tonight and the burning of coal, obviously, natural gas is one of the few fuels. left. This is the rightway for us to go.

It emphasizes the market over the government, incentive over mandate; it encourages the use of clean-burning, efficient fuels and it promises cleaner, healthier air for all Americans.

I urge my colleagues to support this compromise.

Mr. DINGELL. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] has 16½ minutes remaining, and the gentleman from New York [Mr. LENT] has 19 minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. SHARP].

Mr. SHARP. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the compromise.

The goal of trying to bring cleaner fuels into the marketplace is an extremely important one for achieving environmental benefits for the public and protecting our health. Our problem for more than a year and a half has been to figure out how, as a practical matter, we can accomplish that.

The approach of trying to dictate production, trying to allocate the market, trying to outguess the consumer is one fraught with great danger and great potential for failure.

In the compromise, we have overwhelmingly rejected much of that approach. In the compromise, however, remain tough standards to meet, an ambitious schedule and still is fraught with risk because our knowledge about the pollution components of these other fuels, our knowledge about the economics and our knowledge about what the American consumer will do remains sketchy.

So we are going to have to continue to learn as we go. But I think we are wise to make this journey, I think we will make a contribution to the clean-up of our environment. But we are also going to have to be very sensitive to learn along the way.

I hope our colleagues will support this amendment.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTON], a member of the committee.

Mr. BARTON of Texas. Mr. Chairman, first let me say that I want to thank all of my colleagues in the House who have asked about the status of my father-in-law, who underwent open-heart surgery today.

His operation lasted approximately 4½ hours. He is resting well. I appreciate the House giving me leave to be at the hospital this morning in Dallas.

Mr. Chairman, I am here to support this compromise amendment that has been arranged between the chairman of the committee, the ranking Republican on the committee, Mr. WAXMAN, Mr. FIELDS, Mr. TAUZIN, and Mr. HALL. I think it is a good compromise.

The original title that is being compromised is over 50 pages in the committee bill. It is very complex. It deals with general vehicles, the standards for 1995 and the year 2000, fleet vehicle standards 1995 and the year 2000 and buses from the years 1992 through 1997.

I can say that the VOC standards that remain in this amendment are very tough. General vehicles have to meet a 9.5-percent reduction by 1995 and 24-percent reduction by the year 2000.

Our fleet vehicles have to meet a 30-percent reduction by the year 1995 and 74-percent reduction by the year 2000. The bus provisions, as amended, will require that all buses in cities of 250,000 or larger, in the 31 nonattainment areas, potentially nonattainment areas, that 30 percent of these must be using an alternative fuel by the year 1995. This is a very tough amendment.

The pilot program that Congressman WAXMAN has talked about in the State of California is going to give us an opportunity to evaluate the mandated use of alternative-fuel vehicles in a certain part of the country.

□ 2050

So all in all, I think this is a good step forward.

I might add that an amendment that has been included earlier in the bill that I offered in committee, that I called a clean air smog trap, is going to identify the existing vehicles that are polluting, as they are actually driving down the highways and byways, and that in combination with this should move Members toward meeting the ozone standards in the bill.

I supported it, and I would hope that my colleagues would, also.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I certainly support this agreement forged by the gentleman from Michigan [Mr. DINGELL] and the minority member, the gentleman from New York [Mr. LENT], and the gentleman from California [Mr. WAXMAN]. I particularly want to thank the gentleman from Texas [Mr. FIELDS] with whom I worked on the Fields-Hall amendment. I particularly want to thank the other Texas members on the Committee on Energy and Commerce, including Mr. BARTON, Mr. BRYANT, and the late Mickey Leland, who worked toward cleaning the air and bringing Members to this moment.

While this amendment before Members is a very comprehensive amendment in dealing with the promotion of alternative fuels in passenger cars, in government and private fleets, I want to speak for a moment on the fuels issue.

I became involved in this bills proposal for the use of an alternative fuels program to set aside the singular and narrow-in-vision pursuit of establishing methanol as the only fuel that could meet the bill requirement and be utilized. That was an ineffective approach to the problem of mobile source pollution, and restrictive use of what we have learned about the possibility of using natural gas, ethanol, electricity or combinations thereof. The scope of this regulation is too far reaching to allow only one solution.

Technology is the driving force in discovering the best alternative fuel under this amendment. It creates, in a sense, an open market system for competition between the fuels. As in any market system, the product that best satisfies performance and economic requirements placed upon it, will prevail.

Mandating one certain fuel by specific reference, or by establishing standards attainable only by that fuel, will kill the opportunity for technology to come up with a truly great alternative fuel.

Personally, I hope that compressed natural gas prevails as the winner in the competition for fuel utilization.

When President Carter passed a Fuel Use Act, he did so partially basing his action on his mistaken belief that we were out of natural gas. We were not out of natural gas. We were simply out of incentives to search for it.

But as I previously stated, this is too vast a program to think in local terms only.

Supporting this amendment along with the reformulated gasoline provisions in the committee amendment means you are supporting the most fair and most efficient method of alternative fuel development and use in the greatest number of vehicles. If you sent twenty people to one destination, but let each take his own way, somebody is going to find a shorter route on a smoother road.

So it will be fuel of the future that will prevail not from a geographic location or strength of representation,

but the cleanest and most efficient use of our Nation.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Chairman, I simply want to express congratulations to the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], the gentleman from California [Mr. WAXMAN], and the gentleman from Illinois [Mr. MADIGAN] for their ability in crafting this amendment that we have presented this evening, Certainly, the removal of 1 million vehicles of mandated production vehicles as being proposed is a positive step.

Do I still have concerns? Yes. So when we go to the conference, it is important that these items are worked out to make sure that we are competitive, that we are providing jobs for people, and that our air is clean.

Now, this bill has dealt with many items, from emissions, both stationary and mobile source, CFC's permit and enforcement. The intent of this bill was to have a balance, a balance of America's air and America's jobs. The ecology and the economy. For the most part, we were able to put that in balance. However, mandated production went too far. It tipped the balance, would have put people out of work, hurt our competitiveness—and people in this place always talk about our trade imbalance. Are we competitive? Let Members make sure in the future we remain competitive.

If we were to force 1 million cars to be produced, in centralized planning, bad medicine for autoworkers. Nobody wanted them, nobody would buy them, they would sit in dealers' lots and cause people to be laid off. My point in talking about this today is, let me issue a warning. Let Members make sure in the future we do not have "son of mandated production," "cousin of mandated production," and "in-law" coming to visit. There can be no mandated production in the future, because that would tip the balance, that would not be the ecology and the economy hand in hand. It would not be America's air and America's jobs.

So let Members be careful as we work through the conference, and in other legislation where we want to have air, healthy air for Americans, and jobs for real people, because if we go too far, the autoworkers take the hit. They will be laid off. That is not sound policy for this House, either. So let me say that I will support this amendment with a watching eye, making sure in the future we balance these twin competing goals that can be achieved, but not in a conflicting way.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, this was not an easy compromise. I think this House owes a debt of gratitude to our chairman, the gentleman from Michigan [Mr. DINGELL], and the chairman, the gentleman from California [Mr. WAXMAN], the gentleman from New York [Mr. LENT], and particularly the gentlemen from Texas [Mr. HALL and Mr. FIELDS], the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Kansas [Mr. SLATTERY], and all those Members who worked so diligently to find a compromise. I also see the gentleman from Ohio [Mr. ECKART], and I want to thank him for his efforts, and the staff of those committees and the members who worked so diligently.

This bill is not only a good compromise now, but it is also a working compromise. If Members have doubts about it, let me speak of one fuel. In this community, just a few minutes away, the gas company that serves this region has 200 natural gas fueled vehicles operating in this community. In my own community in Louisiana, near Raceland, Southco Gas converted 25 of its cars to natural gas and saved $23,000 in fuel costs, and cut maintenance in half, operating on a fuel so clean a person can hold a handkerchief under the tailpipe and not see damage. I traveled with the Columbia Natural Gas bus built by Cummings Diesel who specified an engine for natural gas, and by the biggest bus manufacturer in America, I traveled with that bus and saw its fuel efficiency and its economy. One bus fueled on that fuel will replace 500 dirty cars in America. It is already happening.

All who worked to make this compromise possible tonight, I think they have given America something special. There are two provisions in this compromise that I want to highlight. One, we have protected those people in America who wanted to convert their vehicles from warranty problems in this bill; and second, we have incentive to make sure there are fuel stations in the community so if a person wants to go to alternative clean fuel, they can get the vehicles refueled. Those kinds of incentives, built into this compromise, will make the bill work. The clean air bill will make it happen. It is happening already. I congratulate all who were a part of this compromise.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I rise only to express my deep appreciation for members of this committee on which I do not serve, for their kind patience with me, because this issue is so important not only in my district, but to my State as well. I express my appreciation to them, while I also express great appreciation to members of the administration, not just here in Washington but in California, where the California Resources Board, the Energy Commission, people in our regional district, were extremely helpful in this effort. Both the staff and the Members who worked out this compromise today have allowed Members to move forward with renewal of the Clean Air Act, and indeed that is the most important step of solving clean air in my State, and I believe in our country.

Mr. Chairman, in addition, I wish to make specific note of why I feel this compromise is so important to my State, California. We face the paradox of having the most stringent air program and yet the Nation's worst pollution problem. This compromise gives Federal sanction to our effort to once again lead in the fight for innovative solutions to our country's worst clean air problems.

The bill and compromise we have before us today is the result of the leadership and initiative of our President. The compromise tracks very closely with the amendment which was offered by Senator WILSON and Senator WIRTH in the other body and yet was narrowly defeated. The leadership of President Bush will be central to the delicate and sensitive work which lies ahead in conference. More importantly, and this is a most significant message for the entire environmental community, a Republican administration has clearly recognized your message.

A dedicated Congress has delivered a product which is deserving of bipartisan support. We can do more. We can bring more cities into attainment. We can improve public health. With the Waxman-Lewis compromise, I believe we will make the most significant of inroads in the years ahead.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I want to thank the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], and the gentleman from Illinois [Mr. MADIGAN] for their cooperation and hard work on this legislation. I know my colleagues are anxious to leave, but I do want to take this moment to express, before we conclude our business, an acknowledgment of the extraordinary efforts of our staffs over this past year.

The full committee staff, led by John Orlando, Jack Clough, David Finnegan, Margaret Durbin, Chuck Knauss and John Schelk, were tireless in moving the bill forward and made the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT] proud.

Also, staff members of personal offices like Ann Forestal and Dirk Forrester, and many others too numerous to mention, aided not only their Members but all the committee members in their work on this bill. Similarly, Matt Tunitsky, Dennis Bunk, Molly Edwards, Norah Mail and Pat Delgado, and most particularly, Phil Schiliro, my administrative assistant, who per-

formed incredible tasks under difficult circumstances. Most of all, I want to thank Greg Wetstone and Phil Barnett of my subcommittee staff.

□ 2100

Mr. Chairman, I cannot tell the Members how many hours they have given to this legislation. Their work has never been short of superb, and I think they have earned the gratitude of all of us. I do not know how we could have passed clean air legislation without them.

Lastly, I want to note the enormous contribution of Pope Barrow as our legislative counsel. He has put in countless hours to bring this bill before the House.

Mr. Chairman, I think we can all be proud of this legislation. We can be proud of the work that has been done by the leadership staff of the House of Representatives. I would extend our commendations to Jack Dooling from the Rules Committee, to George Stephanopoulous from the majority leader's office, and George Kundanis and Mimi McGee of the Speaker's office. They served the House well in helping this legislation move forward.

Mr. Chairman, we can be proud of this legislation. We have accomplished a great deal. I thank everyone involved in this effort, and I thank my chairman as well for yielding me this time.

Mr. RAHALL. Mr. Chairman, the House is called upon to make many decisions on many subjects. In doing so, I believe we should be fully aware of all the consequences of our actions.

We have adopted an amendment to H.R. 3030 which has the effect of mandating the production and distribution of certain types of reformulated gasoline to reduce pollution levels in a number of large urban areas. That proposal was discussed at length. The debate focused on the environmental aspects of the amendment and the correctness of congressional action to legislate formulas for fuels.

While I agree with the action taken by the House, I must call the attention of the House to the adverse impact the widespread use of reformulated gasoline will have on our ability to arrest the deterioration of the national highway system.

At the present time, gasoline is subject to a Federal tax of 9 cents per gallon. This revenue is deposited in the highway trust fund to finance most of the Federal share of highway programs and, to a lesser degree, mass transit activities.

A few years ago, in an effort to promote the development and use of gasohol—a mixture of gasoline and ethanol—the Congress decreed that gasohol would be taxed at 6 cents less than gasoline. Current levels of gasohol use result in an annual loss of $550 million to the trust fund.

Now, in the context of reducing air pollution, we have taken a step which could lead to a greatly increased use of reformulated gasoline, or gasohol, and will result in greater losses of revenues to the highway trust fund. If this action becomes law, it is estimated that the loss to the trust fund will climb to more than $1 billion a year. This is money that could be committed to improving the flow of traffic in the very cities where we seek to reduce pollution levels by requiring the use of gasohol.

Mr. Chairman, we have moved from encouraging to requiring the use of gasohol in automobiles. If this is to be our choice, it is logical that we also remove at the earliest possible date the unfair subsidy enjoyed by the producers of gasohol and tax this fuel at the same rate as gasoline. It is a case of equity and of recapturing funds to carry out urgently needed highway improvements.

Mr. BRYANT. Mr. Chairman, I am pleased to rise in support of the compromise to strengthen the alternative fuels proposal in the Clean Air Act.

I support the alternative fuels provisions for very good reasons. Enactment of these provisions will give us a cleaner environment, incentives for developing new cars and fuels, and create new jobs.

The legislature in my home State of Texas last year passed one of the most innovative clean air packages in the country, including strong fleet vehicle requirements, some of which are already in place with great success.

Currently, government fleet vehicles and schoolbuses in Texas are required to begin using alternative fuels, and each year more vehicles will be covered.

Half the air pollution in the United States comes from mobile sources. However, in densely populated areas, the percentage can be much higher. For example, in Dallas, vehicles cause between 68 and 70 percent of the air pollution.

Past cleanup attempts have focused on the hardware of gasoline and diesel-powered vehicles—catalytic converters and the like. Recently, reformulated gasoline has been marketed in California for cars built before 1975, and light trucks before 1980, that use leaded gasoline—a step in the right direction of cleaner fuels.

Because the infrastructure exists to distribute gasoline and diesel fuel, there is no incentive for alternative fuel development due to tradition and vested interests in maintaining the status quo.

The only way to break this deadlock is with an alternative fuel program for fleet vehicles. This approach solves the refueling and servicing problems through centralized operations. It is also easier to convert fleet vehicles, as well as to monitor the economic and environmental benefits of conversion.

A study done by the Radian Corp. of Austin, TX, for the Texas General Land Office showed that the city of Houston could achieve up to 17 million tons reduction of air pollutants if new clean fueled vehicles are put on the streets, at the same time saving up to $17 million in lower fuel and maintenance costs.

By breaking the chicken or egg first mind set—proving that fleet operations work, such as that in the Garland Independent School District in Texas, the Washington Gas Co.'s compressed natural gas fleet refueling and maintenance operation just south of us in Virginia, or any number of other projects around the country—we establish the track record necessary to encourage a general expansion of the refueling and service operations necessary for use of an alternative fuel like CNG in standard passenger vehicles.

There are 3½ million fleet vehicles in the nine worst nonattainment areas in the country. Fleet vehicles are driven an average of 23,000 miles per year, versus the 9,500 miles for private passenger vehicles. Fleet vehicles account for only 7 percent of the vehicles on the road, but log in 15 percent of the miles driven each year.

It stands to reason that we should have a strong program in effect for vehicles which contribute to our pollution problem out of proportion to their numbers.

Only when we here in Congress push Detroit and Tokyo to offer cleaner burning engines for our vehicles and when we push refiners to develop and offer cleaner fuels will we solve our mobile pollution problems.

In the 1970's when we forced fuel economy standards on automobile manufacturers, the American public finally got greater fuel economy. The Japanese seemed to be ahead of the game at that time. I hope that Detroit will remember that financially painful experience and take the initiative now to put clean cars—cars that use cleaner fuels and pollute far less—on the road first.

American industry—the auto industry and the various components of our energy industry—can and should take the lead in the fight for clean air rather than be dragged kicking and screaming into a cleaner 21st century.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 15, not voting 12, as follows:

[Roll No. 136]

AYES—405

| | | |
|---|---|---|
| Ackerman | Brooks | Coughlin |
| Anderson | Broomfield | Courter |
| Andrews | Browder | Cox |
| Annunzio | Brown (CA) | Coyne |
| Anthony | Brown (CO) | Craig |
| Applegate | Bruce | Crockett |
| Archer | Bryant | Dannemeyer |
| Aspin | Buechner | Darden |
| Atkins | Bunning | Davis |
| AuCoin | Bustamante | de la Garza |
| Baker | Byron | DeFazio |
| Barnard | Callahan | Dellums |
| Bartlett | Campbell (CA) | Derrick |
| Barton | Campbell (CO) | DeWine |
| Bateman | Cardin | Dickinson |
| Bates | Carper | Dicks |
| Beilenson | Carr | Dingell |
| Bennett | Chandler | Dixon |
| Bereuter | Chapman | Donnelly |
| Berman | Clarke | Dorgan (ND) |
| Bevill | Clay | Dornan (CA) |
| Bilbray | Clement | Douglas |
| Bilirakis | Coble | Downey |
| Bliley | Coleman (MO) | Dreier |
| Boehlert | Coleman (TX) | Duncan |
| Boggs | Collins | Durbin |
| Bonior | Combest | Dwyer |
| Borski | Condit | Dymally |
| Bosco | Conte | Dyson |
| Boucher | Conyers | Early |
| Boxer | Cooper | Eckart |
| Brennan | Costello | Edwards (CA) |

| | | |
|---|---|---|
| Edwards (OK) | Leach (IA) | Rahall |
| Emerson | Lehman (CA) | Rangel |
| Engel | Lehman (FL) | Ravenel |
| English | Lent | Ray |
| Erdreich | Levin (MI) | Regula |
| Espy | Levine (CA) | Rhodes |
| Evans | Lewis (CA) | Richardson |
| Fascell | Lewis (FL) | Ridge |
| Fawell | Lewis (GA) | Rinaldo |
| Fazio | Lightfoot | Ritter |
| Feighan | Lipinski | Roberts |
| Fields | Livingston | Roe |
| Fish | Lloyd | Rogers |
| Flake | Long | Rohrabacher |
| Foglietta | Lowery (CA) | Ros-Lehtinen |
| Ford (MI) | Lowey (NY) | Rose |
| Ford (TN) | Luken, Thomas | Rostenkowski |
| Frank | Machtley | Roth |
| Frost | Madigan | Roukema |
| Gallegly | Manton | Rowland (CT) |
| Gallo | Markey | Rowland (GA) |
| Gaydos | Marlenee | Roybal |
| Gejdenson | Martin (IL) | Russo |
| Gekas | Martin (NY) | Sabo |
| Gephardt | Martinez | Saiki |
| Geren | Matsui | Sangmeister |
| Gibbons | Mavroules | Sarpalius |
| Gillmor | Mazzoli | Savage |
| Gilman | McCandless | Sawyer |
| Gingrich | McCloskey | Saxton |
| Glickman | McCollum | Schaefer |
| Gonzalez | McCrery | Scheuer |
| Goodling | McCurdy | Schiff |
| Gordon | McDade | Schneider |
| Goss | McDermott | Schroeder |
| Gradison | McGrath | Schuette |
| Grandy | McHugh | Schulze |
| Grant | McMillan (NC) | Schumer |
| Gray | McMillen (MD) | Sensenbrenner |
| Green | McNulty | Serrano |
| Guarini | Meyers | Sharp |
| Gunderson | Mfume | Shaw |
| Hall (OH) | Michel | Shays |
| Hall (TX) | Miller (CA) | Shuster |
| Hamilton | Miller (OH) | Sikorski |
| Harris | Miller (WA) | Sisisky |
| Hastert | Mineta | Skaggs |
| Hatcher | Moakley | Skeen |
| Hawkins | Molinari | Skelton |
| Hayes (IL) | Mollohan | Slattery |
| Hayes (LA) | Montgomery | Slaughter (NY) |
| Hefner | Moody | Slaughter (VA) |
| Henry | Moorhead | Smith (FL) |
| Herger | Morella | Smith (IA) |
| Hertel | Morrison (CT) | Smith (NE) |
| Hiler | Morrison (WA) | Smith (NJ) |
| Hoagland | Mrazek | Smith (TX) |
| Hochbrueckner | Murphy | Smith (VT) |
| Hopkins | Murtha | Smith, Denny (OR) |
| Horton | Myers | |
| Houghton | Nagle | Smith, Robert (NH) |
| Hoyer | Natcher | |
| Hubbard | Neal (MA) | Smith, Robert (OR) |
| Huckaby | Neal (NC) | |
| Hughes | Nielson | Snowe |
| Hunter | Nowak | Solarz |
| Hutto | Oakar | Solomon |
| Hyde | Oberstar | Spence |
| Inhofe | Obey | Spratt |
| Ireland | Olin | Staggers |
| Jacobs | Ortiz | Stallings |
| James | Owens (NY) | Stangeland |
| Jenkins | Owens (UT) | Stark |
| Johnson (CT) | Oxley | Stearns |
| Johnson (SD) | Packard | Stenholm |
| Johnston | Pallone | Stokes |
| Jones (GA) | Panetta | Studds |
| Jones (NC) | Parker | Sundquist |
| Jontz | Parris | Swift |
| Kanjorski | Pashayan | Synar |
| Kaptur | Patterson | Tallon |
| Kasich | Paxon | Tanner |
| Kastenmeier | Payne (NJ) | Tauke |
| Kennedy | Payne (VA) | Tauzin |
| Kennelly | Pease | Taylor |
| Kildee | Pelosi | Thomas (WY) |
| Kleczka | Penny | Torres |
| Kolbe | Perkins | Torricelli |
| Kolter | Petri | Towns |
| Kostmayer | Pickett | Traficant |
| Kyl | Pickle | Traxler |
| LaFalce | Porter | Udall |
| Lagomarsino | Poshard | Unsoeld |
| Lancaster | Price | Upton |
| Lantos | Pursell | Valentine |
| Laughlin | Quillen | Vander Jagt |
| Vento | Weber | Wise |
| Visclosky | Weiss | Wolf |
| Volkmer | Weldon | Wolpe |
| Walgren | Wheat | Wyden |
| Walsh | Whittaker | Wylie |
| Washington | Whitten | Yates |
| Watkins | Williams | Yatron |
| Waxman | Wilson | Young (FL) |

NOES—15

| | | |
|---|---|---|
| Armey | Hammerschmidt | Shumway |
| Bentley | Hancock | Stump |
| Burton | Hansen | Vucanovich |
| Crane | Hefley | Walker |
| DeLay | McEwen | Young (AK) |

NOT VOTING—12

| | | |
|---|---|---|
| Alexander | Frenzel | Nelson |
| Ballenger | Holloway | Robinson |
| Clinger | Leath (TX) | Thomas (CA) |
| Flippo | Lukens, Donald | Thomas (GA) |

□ 2120

The Clerk announced the following pair:

On this vote:

Mr. Robinson for, with Mr. Thomas of California, against.

Mrs. VUCANOVICH changed her vote from "aye" to "no."

Mr. CRAIG changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COOPER

Mr. COOPER. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COOPER: Page 498, after line 9, at the end of title VII of H.R. 3030, insert:

SEC. 709. INFORMATION GATHERING ON GREENHOUSE CASES CONTRIBUTING TO GLOBAL CLIMATE CHANGE.

(a) MONITORING.—The Administrator of the Environmental Protection Agency shall promulgate regulations within 18 months after the enactment of the Clean Air Act Amendments of 1990 to require that all affected sources subject to title V of the Clean Air Act shall also monitor carbon dioxide emissions according to the same timetable as in section 511(b) and (c). The regulations shall require that such data be reported to the Administrator. The provisions of section 511(e) of title V of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 511.

(b) PUBLIC AVAILABILITY OF CARBON DIOXIDE INFORMATION.—For each unit required to monitor and provide carbon dioxide data under subsection (a) the Administrator shall compute the unit's aggregate annual total carbon dioxide emissions, incorporate such data into a computer data base, and make such aggregate annual data available to the public.

The CHAIRMAN. The gentleman from Tennessee [Mr. COOPER] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a simple commonsense amendment, and I can assure my colleagues that the gentleman from California [Mr. MOORHEAD] and I will be very brief. We plan on taking no more than the 5 minutes.

This is a simple data collection amendment having to do with carbon dioxide emissions. We seek to get utilities across America to collect and report data on carbon dioxide emissions. Right now this data is not available and it needs to be collected.

Mr. Chairman, it is important to stress that this amendment does not force $CO_2$ reductions.

Also, this amendment does not require installation of expensive monitoring equipment. You can fulfill the requirements of this amendment by fuel sampling or fuel analysis, so this is not an expensive amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to tell the gentleman from Tennessee that he has an excellent amendment. I think we should all support it.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Chairman, I have discussed the fact of changing the word "monitoring" to "calculating" on line 7, and striking lines 10 to 14, but I think the gentleman has set out his intent in his "Dear Colleague" letter, dated May 23, 1990, signed by the gentleman from Tennessee and the gentleman from California [Mr. MOORHEAD].

Mr. Chairman, the "Dear Colleague" letter referred to is as follows:

HOUSE OF REPRESENTATIVES,
*Washington, DC, May 23, 1990.*

KEY GLOBAL WARMING VOTE

DEAR COLLEAGUE: The Clean Air Act addresses many air quality problems, but it ignores the global warming problem. The Cooper-Moorhead amendment, which will be offered at the end of the debate on H.R. 3030, is probably going to be your main opportunity to do something about global warming in this legislation.

Cooper-Moorhead requires that electric utilities monitor and report on their carbon dioxide emissions, the key global warming gas. The EPA does not currently collect this information.

Cooper-Moorhead does not force reductions in $CO_2$, but it does begin the process of measuring $CO_2$ so that we can better understand the global threat, so that we can more intelligently fashion U.S. policy, and so that we can better negotiate with other nations.

Cooper-Moorhead is not unduly expensive or burdensome to utilities. $CO_2$ emissions can be monitored or calculated in a variety of ways, including in-stack monitors or fuel sampling. The key point is to get accurate numbers on utility $CO_2$ emissions.

This amendment is supported by the National Clean Air Coalition. It is important we get this issue to conference because the Senate bill has no equivalent provision.

Support the Cooper-Moorhead amendment.

Sincerely,

CARLOS MOORHEAD,
JIM COOPER,
*Members of Congress.*

Mr. COOPER. Mr. Chairman, that does convey the intent of the authors of the amendment.

Mr. Chairman, I would like to point out that this amendment is supported by the Clean Air Coalition.

With the help of Ned Helme of the Center for Clean Air Policy, and also from the Environmental Defense Fund, Bill Roberts, and Dan Dudek of the Center for Clean Air Policy, we feel that this is a very important global warming greenhouse effect amendment.

The Senate bill has no equivalent provision.

Mr. Chairman, I yield whatever time I have remaining to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I yield to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, I rise in support of the amendment.

Mr. MOORHEAD. Mr. Chairman, I rise today to speak in support of the Copper-Moorhead amendmemt, a simple, but important amendment that will give scientists a critical tool to use to measure the impact of one of the most serious potential problems facing our planet: global warming.

The Clean Air Act Amendments of 1990 will go a long way to improve air quality in our Nation's cities, curtail acid rain, reduce pollution from the cars we drive, and limit toxic emissions from industrial plants. But, despite these improvements on a domestic level, we must still consider the effects our emissions may have on the global climate.

Scientists have disagreed about the scope and magnitude of global climate change from manmade air pollution, and much of that disagreement stems from lack of necessary data to assess the impact these emissions may have on the Earth's climate. The Cooper-Moorhead amendment helps fill this information gap.

The Cooper-Moorhead amendment will require U.S. utilities to monitor their emissions of carbon dioxide, which many scientists believe to be one of the major contributors to global warming.

Although many scientists estimate that utility emissions account for roughly one third of our Nation's contribution to global carbon dioxide emissions, EPA does not collect data on these emissions and the current Clean Air Act does not require these emissions to be monitored.

Whether manmade carbon dioxide emissions actually increase the Earth's temperature will continue to be a hotly contested issue, but we can hardly expect to make responsible decisions about controlling these emissions if we fail to take the necessary steps to improve our understanding of the magnitude and rate of increase in these emissions.

In fact, the President has recognized the importance of understanding the scope of global climate change by launching an aggressive program to collect the information we need to assess the magnitude of this potentially serious problem. The Cooper-Moorhead amendment will directly further that effort.

The Cooper-Moorhead amendment will also give us a head start if and when we need to take steps to reduce our carbon dioxide emissions. By establishing an early record of carbon dioxide emissions for our domestic utility companies, we will put the United States in a position to take credit for its efforts to control emissions.

This is an important point. What I hope to achieve with this amendment is the elimination of the possibility that U.S. utilities will reduce $CO_2$ emissions as a consequence of compliance with these Clean Air Act amendments and not get credit for these reductions in the future if the United States signs an international treaty on global climate change.

Cooper-Moorhead is a cost-effective, responsible approach to a problem of growing concern. Mr. COOPER and I have worked together to develop this amendment and, we both believe it is a responsible and measured next step to address global climate change concerns. This amendment has received the endorsement of several utilities and the National Clean Air Coalition.

I urge my colleagues to support this amendment.

Mr. Chairman, in closing, I am proud of the efforts of the Committee on Energy and Commerce in producing this legislation and with the help they have gotten from other committees that have been involved.

Certainly the gentleman from Michigan [Mr. DINGELL], the gentleman from California [Mr. WAXMAN], the gentleman from New York [Mr. LENT], and all of the other people involved have worked together closely in bringing to the House a bill that I think we can all be proud of and which will certainly help us as we move together with the Senate in establishing a final version of the Clean Air Act.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Tennessee [Mr. COOPER].

The amendment was agreed to.

Mr. GEPHARDT. Mr. Chairman, I first want to congratulate JOHN DINGELL, HENRY WAXMAN, PHIL SHARP, NORM LENT, and many of our colleagues who have worked so hard to strengthen our Nation's air pollution laws.

Up to now, deep disagreements have dominated the clean air debate. In spite of growing evidence of the enormous health costs of air pollution, these divisions had remained formidable. Some within the administration had predicted publicly that these divisions would lead Congress to weaken the President's bill.

But because of the hard work and leadership of many Members, today we have a bill that achieves broad agreement on many major issues—and significantly strengthens the administration bill.

House Democrats have taken the lead in tightening controls on toxic air pollution, in cleaning up gasoline and the automobile, in reducing acid rain, in protecting air quality in our national parks and in confronting the issue of global ozone depletion. Our bill raises the quality of air across the country and improves the health of the American people. It gets cleaner air faster than the President's bill, and it does so in the most effective and efficient manner.

Let me retrace briefly how our bill strengthens current law.

First, it reduces emissions that contribute to acid rain by 10 million tons per year and maintains a nationwide cap on those emissions. This will reduce the continuing damage to our forests, protect human health and improve visibility. And it will achieve these goals with less economic disruption and the President's proposal.

Second, this bill sharply reduces emissions of airborne toxics. In the last decade or more, regulations have been promulgated for only seven hazardous air pollutants—even though toxic air pollution causes as many as 3,000 cancer deaths per year. This bill imposes tough controls on polluters and assures regulation of all major industrial sources—twice the number proposed for action by President Bush.

Third, this bill attacks urban smog. It imposes tougher tailpipe standards than those proposed by the President and removes 25 percent of the worst pollutants from gasoline by 2000. Moreover, the House legislation—more effectively than the President's proposal—promotes the use of alternative fuels that can be produced domestically and that can reduce our dependence on imported oil.

Fourth, our legislation includes an important initiative to strengthen dramatically the nation's laws protecting air quality in our national parks. We will not allow national jewels like the Grand Canyon to remain obscured in haze.

Fifth, this legislation reduces the use of CFC's and other chemicals known to contribute to global warming and to deplete the Earth's ozone layer. The growth of the ozone hole over the Antarctic, the appearance of a similar hole over the Arctic, and the reduction in ozone concentrations at all latitudes have raised concerns that millions of skin cancers and other disorders will occur in future decades unless stronger controls are implemented now. This bill will position the United States as a leader in the international effort to protect the ozone layer.

While we all want a bill that properly balances strong environmental protection with a healthy economy, the administration has tended to either loosen its standards of environmental protection or ignore the issue of job displacement.

Our legislation strikes a different balance. Our legislation imposes tougher environmental standards. But we have also adopted a modest 5-year transition program to assist workers displaced by the provisions of this bill.

Unfortunately, the administration has cited this provision as a reason to issue a veto threat of the clean air bill. This is an affront to those who may bear the heaviest cost of this legislation and to Americans who breathe polluted air.

The House has sought earnestly to strike a balance between strong protection of the environment and a healthy economy that provides good jobs. If the administration is serious about its own rhetoric, it will support this legislation and discard its heavy-handed veto threat.

Air pollution imposes on this country a $100 billion annual health care cost, tens of thousands of premature deaths and a diminished quality of life. While there will be costs, this bill is of critical importance to the American people. It makes an important investment in our health and in the quality of life of this and future generations. It is an investment we must make.

I urge Members to support this bill.

Mr. SKAGGS. Mr. Chairman, today we will vote on one of the most important pieces of legislation in more than a decade—the Clean Air Amendments of 1990. The long road leading to this vote has been fraught with political and ideological detours. In the process, the critical reasons we need clean air legislation—the health of our Nation's people and even, ultimately, the survival of the planet—have too often been obscured.

As the cold war winds down, we may not be as threatened with a sudden death by nuclear war as with a gradual suicide by environmental decay.

Because air pollution is often as invisible as it is insidious, it's sometimes easy to miss what's at stake. But Mother Nature has recently sent us a clear wake-up call, including a growing, life-threatening hole in the Earth's protective ozone layer; striking evidence of global warming; and increasing incidence of cardiovascular disease and cancer related to toxic pollutants.

The need for this bill is great and clear. Best estimates are that nearly half of all Americans are breathing air that doesn't meet national health standards. And that's a national disgrace. What's more, it will only get worse as population growth drives increasing demand for energy, cars, and trucks—the principal sources of air pollution. H.R. 3030 will help counter all this, with tough new standards for mobile sources, toxic chemicals and for utility emissions.

As a member of the Committee on Public Works and Transportation, I'm particularly pleased with provisions of H.R. 3030 that require greater conformity of regional transportation system plans with State plans to improve air quality. Increased use of motor vehicles is the key reason that it is difficult to continue making progress in improving air quality. That's why we must support the development of transportation programs and policies that can be a coherent part of the solution to air pollution. The language recommended by the Committee on Public Works and Transporation and included in this bill will further that goal.

In addition, there are several provisions in H.R. 3030 of special importance to the people of Colorado. I am proud that some of these provisions closely parallel ones I authored last year, when I introduced the toughest vehicle-emissions bill in Congress. These include a new authorization for a high-altitude emissions test center; a provision requiring manufacturers to ensure that cars can meet tougher carbon monoxide emission standards at cold temperatures; and, a provision requiring light-duty trucks to meet the same standards as autos. Another provision I authored, which was approved by the Committee on Science, Space and Technology and has been incorporated in the bill, would require the Environmental Protection Agency to identify ways to reduce carbon dioxide emissions from mobile sources—one of the major causes of global warming.

There is no way to know for sure whether the unintended consequences of human activity may have already pushed this Earth past the point of no return. We do know for sure that we can't delay action any longer. If we continue to wait for tomorrow, there may eventually be no tomorrow. I urge my colleagues to join me in voting for this bill. It is important for all of us who breathe

Mr. MCMILLEN of Maryland. Mr. Chairman, a necessary component of any effective clean air bill is a research and development section. This is critical if we are to ascertain and understand the effects of air pollution beyond the year 2000. Better understanding of our air quality dilemma will invariably help us define appropriate remediation technologies. The science committee under the aegis of Representative BOB ROE of New Jersey has worked diligently on a set of research initiatives that are a perfect addition of H.R. 3030.

Mr. Chairman, I have the distinct pleasure of serving on both the Science Committee and the Energy and Commerce Committee—given this combination of assignments has given me a special overview of the intent and direction of this landmark piece of legislation. One omission that I saw was that in the clean air debate, we are operating somewhat in an informational vacuum. We go about updating the Clean Air Act of 1972 without a full and complete understanding of air pollution control efforts by other countries across the globe. For example, can we be sure that another country hasn't developed a technology that would have beneficial applications to the United States? Possibly there is something that international environmental organizations have learned that is applicable to our own set of environmental circumstances.

I am proud to have introduced—and had accepted—language that authorizes the EPA to conduct an assessment of international air pollution control efforts and problems. This was included in the Science Committee's R&D amendments that are presently being offered for inclusion in H.R. 3030. I view this measure as an elementary first step in achieving a full understanding of the best possible methods available—here or abroad—in combating poor air quality.

Ms. OAKAR. Mr. Chairman, recently, there has been a great deal of media attention focused on the issue of reformulated gasolines. The bill on the floor before us today sets up a formula or performance standards for gasolines to be used in ozone nonattainment areas, as well as mandating the use of oxygenates in 44 cities in America that have carbon monoxide problems. What concerns me today from a substantive policy perspective is whether the Congress is prescribing a formula for gasoline lines tomorrow. My concern is focused very simply on whether there is enough supply of oxygenates to comply with the bill's provisions.

Let us look at some simple arithmetic. Today in America, there are two oxygenates available in commercial quantities: ethanol an MTBE. Current ethanol production, according to my constituents, is around 50,000 barrels per day, while MTBE production totals around 100,000 barrels per day. The biggest supplier in my State believes that only 50,000 to 100,000 barrels per day of capacity can be added by 1994 by both foreign and domestic plants.

According to my sources, approximately 340,000 barrels per day of oxygenates would be required to cover the 44 carbon monoxide nonattainment cities at the 2.7 percent level required in the bill. Additionally, approximately 230,000 barrels of oxygenates per day would be required in the nine ozone nonattainment cities. Allowing for the overlap between the carbon monoxide areas and the ozone areas, roughly 480,000 barrels per day of oxygenates would be required by this legislation. Given the current amount of MTBE and ethanol, equated for their oxygen capacities, we would need almost three times the amount of total oxygenates currently available.

Given the numbers, it is clear that this legislation is a formula not for a new gasoline but for a supply shortage. As I recall, constituents did not enjoy the gas lines of the early 1970's, and I sure don't want to create them in 1992. At the very least, this legislation should recognize the supply constraints and provide for a waiver process for shortages of domestic supply for both ozone and carbon monoxide. This legislation does not do so.

In addition, the carbon monoxide section which moves the compliance date up to 1992 should addtionally provide waivers for areas, such as Cleveland, where other less expensive control techniques will bring the city into attainment without the threat of gas lines. If the authors are insistent on this type of mandate, authority should be given to the Administration of EPA to allocate oxygenates to areas most in need to comply with the attainment schedules.

In summary, it is clear that not enough supply of oxygenates exists to meet the requirements of the bill, and the legislation needs modification to recognize these problems in conference.

Mr. SYNAR. Mr. Chairman, this historic Clean air Act compromise will ensure that all Americans can breathe healthier air. It cor-

rects many deficiencies of past clean air acts, but it attempts to do so in cost-effective, efficient ways. Controversial issues considered impossible to reconcile—even just a few days ago—have been negotiated, but not at the expense of a better environment.

In addition, the bill does not neglect the country's need for a sound economy. Whenever possible, both costs and paperwork requirements were kept to a minimum.

The House bill provides new economic opportunities for Oklahoma by encouraging the use of our clean-burning natural gas for both acid rain control and as the fuel for a new generation of clean cars and trucks.

The section dealing with smog addresses cities—like Tulsa—which EPA considers to have exceeded the health-based standard for ozone. Fortunately, Tulsa is ready to come off EPA's noncompliance list. The bill contains language I offered during committee negotiations which help Tulsa tremendously by enabling the city to complete its required compliance activities without interference from this new act. This will help clear the path for new growth and new jobs in Tulsa.

The fuels section contains new requirements for pollution caused by gasoline. Beginning in 1992, gasoline will need to be reformulated to meet the needs of nine especially polluted cities. This is a monumental task for the petroleum industry but, through negotiations, the bill now contains language which I offered to give oil companies alternative ways to meet the strong performance standards more efficiently. This would provide the industry with the flexibility it needs to avoid excessive costs and potentially disastrous supply disruptions.

Several provisions which would have been particularly damaging to Oklahoma industries were also negotiated before the bill reached the floor.

The toxic air pollution section addresses a list of about 200 especially dangerous air pollutants created by a wide variety of industries. Under this bill, industrial plants must install the kinds of technologies used by the best facilities in their sector.

I am pleased that the bill includes language I offered in committee which prevents EPA from adding together the emissions from oil and gas exploration and production facilities located near each other and considering them as one source for purposes of this section. This means that only a few of these sources in Oklahoma—rather than thousands—will be considered for regulation under the toxic air pollution provisions. Without this protection, even stripper wells might have been subjected to requirements so costly that they might have been shut in.

The committee also eliminated an amendment which could have had a serious financial impact on refineries, including those owned by Phillips Petroleum, which use the hydrofluoric [HF] alkylation process. As originally drafted, the amendment would have required that all refineries using the hydrofluoric acid process convert to sulfuric acid with 3 years. Since both the processes use hazardous chemicals, I wanted to be sure that extremely costly conversions actually yielded on overall environmental benefit.

The amendment I negotiated and which is now included in the bill requires a comparison study of both processes before any regulations. If the HF process ultimately is found to be more hazardous, companies which use it will have the time they need to move to safer technologies. If, on the other hand, the HF process is found to be environmentally superior, no conversions would have to be made.

The bill also contains alternative fuels provisions to promote the use of cleaner fuels such as compressed natural gas, propane, and ethanol. During deliberations in committee, I negotiated a better deal for alternative fuels like natural gas, by setting new, higher fuel standards for new vehicles purchased by fleets, such as the U.S. Post Office, delivery companies, or big city bus companies. Fleet purchases of alternative fuels and vehicles offer the best way to introduce these products to the general market, to pave the way for public demand for new vehicles and fuels and to create a new system for fuel marketing.

The bill aggressively deals with acid rain by cutting the emissions of sulfur dioxide from power plants. Since Oklahoma's powerplant emissions are relatively clean, the State is impacted far less than most others by this section. I fought successfully to remove the tax which Oklahomans would have had to pay to help reduce emissions in dirtier States and ensured that all States could have the benefit of using Oklahoma's clean natural gas to clean up their dirty plants.

In addition, the bill will provide Oklahoma with the emission credits it needs to grow, and extra credits if our utilities implement additional energy conservation technologies.

Both of these provisions will lessen the bill's cost impact on Oklahomans and were principles for which I successfully fought in committee.

The bill also includes one item especially close to my heart: Protection for America's crown jewels, our national parks and wilderness areas. Last March, my Environment, Energy, and Natural Resources Subcommittee held a hearing on EPA's failure to protect these unique public assets. I'm proud that the amendment accepted by the House, which I cosponsored, addresses almost all of the problems exposed by my hearing and will help ensure the extra protection American's want for these national treasures.

Finally, the measure includes an amendment to provide assistance to workers who lost their jobs, or have their wages or hours reduced, as a direct result of the bill's requirements. The amendment would provide additional unemployment benefits, retraining assistance, and job counseling. The amendment makes a valuable point: Clean air and worker protection should not be contradictory goals.

In short, while this bill is not without new economic costs, it also presents many bold new economic opportuntites and, most of all, a clean and healthy environment for all of our citizens.

Mr. MURTHA. Mr. Chairman, the steel industry is a major employer in my district, and I want to bring to the attention of the House the concerns this important industry has with the pending Clean Air Act legislation. The steel industry supports reauthorization of the Clean Air Act, and is committed to doing their part in implementing the new statute. There are a number of areas, however, in which H.R. 3030 has raised serious concerns for the steel industry. First, I want to share with the House the substantial record of investment in air pollution control that the steel industry has already made.

The American steel industry is committed to the implementation of the Clean Air Act and has allocated tremendous resources to this end over many years. Today air pollution controls are employed at every step of the steelmaking process, ranging from massive dust control devices such as electrostatic preceipitators, baghouses, and scrubbers on steelmaking furnaces and other processes, to vacum sweeper trucks on plant roadways and water sprays on raw material piles. Gaseous emissions such as sulfur dioxide and nitrogen oxides have been substantially curtailed by the use of low-sulfur fuels, coke oven gas desulfurization, and increases in energy usage efficiency. Under recently promulgated benzene emission standards under section 112, the industry will be installing extensive additional controls before September 1991 at a cost of over $200 million.

This is an industry that has already invested more than $6 billion for facilities to control pollution. Two thirds of that, or $4 billion, has been for air pollution control facilities. During the decade of the 1970's, over 15 percent of the industry's capital spending was for environmental facilities. The dividends from these massive investments are impressive—the discharge of air pollutants has been reduced by over 90 percent by the steel industry from pre-1970 levels. As a result, the air in American steelmaking cities today is dramatically cleaner.

The typical steel plant now has many workers whose jobs are devoted entirely to pollution control, and many environmental professionals who strive to meet all standards while optimizing processes. Operation and maintenance of air pollution control facilities adds $10 to $20 per ton to the cost of steel produced by the industry, an amount which exceeds industry profits even in prosperous years.

The steel industry is also committed to the control of toxic air pollutants through the application of maximum achievable control technology. For example, controls already in place on coke oven batteries have reduced emissions by over 90 percent over those prevalent in the 1960's. However, coke oven emissions continue to pose a particularly difficult problem for the industry. Although much progress has been made, the industry appears to be reaching the limits of what can be done to control emissions from these inherently difficult to control coke oven batteries. Even with these substantial improvements, the coking process still consists of driving volatile organic compounds out of coal under positive pressure in a refractory structure—a pile of bricks. Coke ovens are almost certain to leak, even new ones, at some time during their life cycle.

Steelmaking is highly capital-intensive, and during the 1980's, the industry has undergone a major restructuring and modernization of facilities. The cost of retaining the superior productivity of the U.S. industry and of making its costs of production competitive with foreign suppliers has required $9 billion in capital in-

vestment since 1982, and much more will be necessary. We all recognize, of course, that new plants are inherently cleaner than old plants. New facilities are equipped with far more superior environmental controls than can be retrofitted into older facilities.

Dramatic strides have also been made by the steel industry in energy usage and conservation. The amount of energy required to produce a ton of steel decreased by 36 percent from 1972 to 1982, as a result of technological improvements and energy conservation measures. These efforts continue, and decreasing energy usage will of itself reduce the generation of air pollutants.

The American steel industry remains committed to further essential modernization and to a cleaner environment. While steelmakers are committed to compliance with the requirements of the Clean Air Act, I remind my colleagues that the Congress must consider the effects on competitiveness which unreasonable further control requirements can have.

Many of the concerns the steel industry had with the original introduced version of H.R. 3030, and with the many other clean air bills, have been addressed in the reported bill. Some new concerns have been raised by some of the proposed floor amendments. It is possible that more of the concerns I will describe will be eased by amendments adopted this week. As H.R. 3030 stands now, however, these are issues that still trouble the steel industry.

AIR TOXICS

Title III of H.R. 3030 substantially modifies the Clean Air Act's scheme for regulating hazardous air pollutants. The steel industry supports major revision to section 112, to reorient it to a technology-based standard approach. This is the most important issue in the current legislation for the steel indsutry, as proposed risk-based emission standards for coke ovens could force the shutdown of many coke oven batteries. This would be devastating to integrated steelmaking.

While supporting technology-based standards, the steel industry has consistently opposed any arbitrary risk-based standards or any so-called shutdown standards. The reported bill takes the approach of establishing technology-based MACT standards, and postponing any risk-based standards until after an EPA/Surgeon General study, at least 11 years after enactment. At that time, the risk standard would be that of current law: To provide an ample margin of safety to protect public health. While I understand the steel industry supports this approach, I believe they hope for a reasonable interpretation of current section 112, perhaps akin to that in the recent benzene NESHAP, and certainly they will want to avoid any shutdown of coke ovens due to a risk-based standard which might occur as early as 13 years after enactment.

It is also important to the steel industry that the MACT determinations for coke ovens not be made on the basis of a few batteries allegedly meeting very stringent performance levels. The committee report says, "MACT is not intended to * * * drive sources to the brink of shutdown." A super MACT standard, based on a few plants that have had to meet LAER or BACT standards, would surely drive many existing coke oven batteries to shutdown. We need to assure that the steel industry will not be faced with this dilemma.

$NO_x$ CONTROLS

As reported, title I of H.R. 3030 requires controls on oxides of nitrogen [$NO_x$] more stringent than ever before suggested under the Clean Air Act. These controls would include new source review with offsets and LAER requirements, and reasonably available control technology [RACT] requirements for existing sources. The size of source to which these requirements will apply would reduce substantially with the severity of the ozone nonattainment problem of the area in which they are located. Almost the entire Northeast, in the ozone transport region, would be subject to RACT requirements for $NO_x$ sources even outside of nonattainment areas.

Beyond these specific controls, each nonattainment area is subject to an $NO_x$ emission inventory reduction requirement, with a specific percentage of the area's inventory that must be reduced over a set number of years. This is likely to require substantial reductions in $NO_x$, even beyond those required by LAER and RACT.

These provisions appear to apply to industrial sources of $NO_x$ in addition to utility sources, although $NO_x$ controls are not nearly as cost effective for industrial sources as for utility sources. $NO_x$ controls for industrial sources can easily reach many thousands of dollars per ton removed. While RACT requirements by definition require only reasonably available controls, such restraint do not apply to LAER, offsets, or the emission inventory reduction requirement. Even if RACT for $NO_x$ is affordable, the total cost to the steel industry of these new $NO_x$ controls could be massively expensive, and possibly constrain steelmaking operations in some areas. To the extent this issue is not addressed in House floor amendments, it is vitally important that some relief is found in the conference on this legislation.

ACID RAIN CONTROLS

Just as nearly every other industry in America, the steel industry will be paying higher electric bills as a result of the acid rain control provisions of H.R. 3030. Their major concern, however, has been the possibility that direct $SO_2$ controls would be required for industrial sources. I am gratified that H.R. 3030 as reported does not require any $SO_2$ reductions for industrial sources. There is a provision in the Senate bill under which EPA might be required to establish emission limitations for industrial sources of $SO_2$ at some point in the future. I hope the conferees will approach this in a way that minimizes the steel industry's concerns.

PM-10 PROVISIONS

H.R. 3030 substantially revises the regulation of particulate matter. EPA has promulgated a change from implementing standards for total suspended particulates [TSP] to standards for the fraction of particulates below a certain particle size, called PM-10. The steel industry has been contesting the basis for these new standards. If not implemented in a reasonable and cost effective manner, attainment with PM-10 standards could be very costly to the industry, with very little associated improvement in public health protection.

The title I PM-10 provisions of H.R. 3030 somewhat reschedule the attainment dates that would otherwise apply under the PM-10 standards as promulgated by EPA. The fundamental control strategy appears to be RACT requirements. As long as the Agency and the States implement RACT in a truly reasonable manner, the consequences of PM-10 control for the steel industry may be manageable. If overly stringent controls result from the new title I PM-10 subpart added to the Clean Air Act by H.R. 3030, however, it could impose a very costly burden on the steel industry. As I noted earlier, the steel industry has already achieved reductions in particulate matter greater than 90 percent from uncontrolled levels.

This is not intended to be an exhaustive list of the steel industry's concern with clean air legislation. I did want, Mr. Speaker, to provide my colleagues with a idea of the areas of greatest concern to the steel industry. Again, I thank the members of the Energy and Commerce Committee for the many improvements they made in this legislation. I hope they will continue to follow this approach in the upcoming conference with the Senate.

Mr. WOLPE. Mr. Chairman, I rise in strong support of H.R. 3030, the Clean Air Act Amendments of 1990, and I commend Mr. DINGELL and Mr. WAXMAN and the other members of the Energy and Commerce Committee for all their diligent effort over many months which produced this extraordinary piece of environmental legislation.

The Clean Air Act, first enacted in 1970, is the cornerstone of our public health and environmental protection efforts. For more than a decade, Congress has been sharply divided over the issue of clean air. Today, however, the House is on the verge of passing landmark legislation. The House clean air bill far surpasses both the version of the legislation initially crafted by the administration, and the bill passed by the Senate. The bill before us today would not have been possible to achieve had it not been for the incredible grassroots effort by citizens all across the country. The House bill is both stronger from an environmental standpoint and more flexible and cheaper for industry to implement.

This legislation reflects a new public—and congressional—awareness that clean air is not simply a matter of aesthetics; it is also a matter of economics and survival. Indeed, we are today paying dearly for our earlier inability to recognize the economic and human consequences of our failure to provide adequate protection for our environment. The truth is that our future economic growth is directly dependent on the health and stability of our environment and resource base.

The clean air bill we are debating today represents a light-year's advance in our thinking in yet another respect: We are beginning to understand that pollution prevention must be given much higher priority in the management of our hazardous wastes. My hope is that we will not only insist on the toughest possible enforcement but that we will move increasingly to emphasize prevention of pollution at the source. We are just now becoming aware that pollution prevention pays. It is a "win-win" sit-

uation both for the environment and for industry.

While, for many, pollution prevention represents a new way of thinking about environmental protection, it is clearly the best way to deal with environmental problems. Rather than trying to control or clean up the pollution after it has been created, the source of the problem—the waste itself—is reduced.

Additionally, pollution prevention contributes to our competitiveness in a global economy by reducing industry's costs for raw materials, waste management and liability. U.S. industries have a tremendous, untapped potential for reducing wastes through cost-effective changes in production processes, housekeeping methods, and raw materials use.

The Clean Air Act Amendments of 1977 focused almost entirely on the two issues of urban smog and motor vehicle emissions. While progress has been made in resolving some of the air quality problems, others have proved intractable. In fact, levels of certain pollutants have actually increased in some areas over the past two decades and new problems not anticipated in the orginal legislation have emerged.

Today, the U.S. Environmental Protection Agency estimates that 110 million Americans breathe air that is unhealthy and the American Lung Association claims the national health care bill for air pollution-related illnesses is $40 billion a year. Additionally, standards for ozone—the main ingredient in urban smog—were violated in 101 U.S. cities during the 1986–88 period. And despite massive reductions in emissions of some pollutants, even in Michigan, industries still pumped 91 million pounds of toxic chemicals into the air in 1988.

H.R. 3030 goes a long way toward correcting many of the air pollution problems caused by smog, motor vehicles, air toxics, and acid rain—all of which are covered by major titles in the clean air bill. Among the significant accomplishments in H.R. 3030 are provisions to revise schedules and mechanisms for achieving Federal air quality standards in polluted areas, tougher tailpipe emissions standards for motor vehicles, and a new system of technology-based controls on air emissions of hazardous pollutants.

I urge my colleagues to support passage of this urgently needed environmental measure.

Mr. MCMILLEN of Maryland. Mr. Chairman, a necessary component of any effective clean air bill is a research and development section. This is critical if we are to ascertain the effects of air pollution beyond the year 2000. Better understanding of our air quality dilemma will invariably help us define appropriate remediation technologies. The Science Committee under the AEGIS of Representative BOB ROE of New Jersey has worked diligently on a set of research initiatives that are a perfect addition to H.R. 3030.

Mr. Chairman, I have the distinct pleasure of serving on both the Science Committee and the Energy and Commerce Committee—this combination of assignments has given me a special overview of the intent and direction of this landmark piece of legislation. One omission that I saw was that in the clean air debate, we are operating somewhat in an informational vacuum. We go about updating the Clean Air Act of 1972 without a full and complete understanding of air pollution control efforts by other countries across the globe. For example, can we be sure that another country hasn't developed a technology that would have beneficial applications to the United States? Possibly there is something that international environmental organizations have learned that is applicable to our own set of environmental circumstances.

I am proud to have introduced—and had accepted—language that authorizes the EPA to conduct an assessment of international air pollution control efforts and programs. This was included in the Science Committee's R&D amendments that are presently being offered for inclusion in H.R. 3030. I view this measure as an elementary first step in achieving a full understanding of the best possible methods available—here or abroad—in combating poor air quality.

Mr. WEISS. Mr. Chairman, today, Congress has a rare opportunity to improve the environment. The Clean Air Act addresses many of the environmental problems facing this Nation. I especially want to congratulate my colleagues—Congressman DINGELL and Congressman WAXMAN—who have worked so hard to produce this bill.

I also urge my colleagues to strengthen the bill through a series of important amendments. Those efforts are amendments on clean vehicles, on auto emissions equipment warranties, and on phasing out ozone-depleting chemicals.

Perhaps the most critical area left unaddressed by the Clean Air Act is the issue of worker protection provisions. Fortunately, the amendment offered by Congressman BOB WISE softens the economic dislocation suffered by thousands of workers affected by the Clean Air Act.

The Federal Government has a responsibility to provide for the adequate retraining of and support for displaced workers. I take issue with my colleagues who argue that such a role for the Federal Government is improper and even dangerous.

Just as military budget cuts will disrupt hundreds of communities and thousands of lives across the Nation, so will the Clean Air Act. The Federal Government cannot abandon these workers. I have introduced legislation—the Defense Adjustment Act—to respond to this problem for defense workers. The Wise amendment will provide similar protection for workers displaced by the Clean Air Act. I feel these two bills are kindred spirits in helping workers adversely affected by our Government's actions. I congratulate and strongly support Congressmen WISE's efforts to ease the effects of the Clean Air Act on communities and individuals. This amendment is vital and timely, and I urge my colleagues to support it.

With the adoption of the Wise amendment and other strengthening amendments, H.R. 3030 will finally give the issue of environmental protection much-needed attention and puts us on the path toward a cleaner and healthier America.

Mr. SANGMEISTER. Mr. Chairman, a new direction for American environmental policy was set today by the landmark passage of the Clean Air Act of 1990 in the House of Representatives. I take great pride in voting in favor of the Clean Air Act. The House took a vital step toward addressing the problems of smog, acid rain, ozone depletion, and toxic pollutants. I believe this legislation is long overdue. If the threat of global warming is to be reduced, responsible action is needed, not more hot air.

Today, the House took action. It is easy to put a price tag on how much it costs to clean up the environment. It is more difficult to determine the health costs if pollution is not reduced.

According to the American Lung Association, studies indicate the annual health cost of air pollution to the American public is nearly $100 billion. One can debate the number, but there is no doubt that pollution is exacting a great price, economically and physically. The ones most at risk are children, pregnant women, and the elderly. Long-term exposure to air pollution includes reproductive health problems, nervous system disorders, and liver and kidney damage. Other chemicals pose health threats when they are released in large amounts. These effects include headaches, dizziness, nausea, skin rashes, severe eye irritation, and in some cases, even death.

PCB's and other contaminants have also severely affected fish and wildlife in the Great Lakes region. Over 30 species of fish have been deemed unsafe for consumption mainly due to airborne sources of PCB's. Each year, more than 45 million tons of sulfur dioxide and nitrogen oxide are released into the air over the United States. This type of pollution causes acid rain which is responsible for the death of more than 3,000 lakes and 23,000 miles of rivers and streams.

The Office of Technology Assessment estimates that every year 50,000 lives are ended prematurely due to air pollution. In the air of Southeast Chicago, the Illinois Environmental Protection Agency has found unhealthy amounts of the carcinogens, benzene, and toluene, along with heavy metals such as arsenic, beryllium, chromium, and cadmium. The Clean Air Act provides goals and guidelines which are fundamental to solving this environmental crisis.

For example, by the year 2000, the legislation's provisions are expected to reduce sulfur dioxide emissions by 10 million tons annually and nitrogen oxide emissions by 2.5 million tons. In addition, the bill directs the EPA to investigate the sources of atmospheric deposition of hazardous pollutants into the Great Lakes and to evaluate any harmful effects on human health and the environment.

An old Chinese proverb says that a journey of 1,000 miles begins with one step. Passing this legislation today was the first step. Let us now walk forward together and finish the journey to a healthier world.

Mr. GEJDENSON. Mr. Chairman, I rise to express my support for H.R. 3030, the Clean Air Act Amendments of 1990. This legislation takes important steps toward improving the quality of the air we breathe, to improving the health of the American people, to reducing the emissions that cause acid rain that kills our forests, lakes, and rivers, and most importantly, to revising the clean air laws that have not been updated since 1977. Because of the increased number of polluting sources, many

of the air quality problems which were meant to be addressed in the original legislation have gotten worse, and new unanticipated problems have emerged as serious environmental and public health problems.

Mr. Chairman, floor consideration of this bill is long overdue. When I came to Congress in 1981, scientists identified some of the most serious air quality problems facing this Nation. Acid rain is killing our forests, our lakes, and our rivers. Cities and States across the Nation are experiencing dangerous levels of ozone pollution which is sacrificing the health and safety of the American people. We have known what the problems are, and we know the best ways to resolve these environmental and public health problems. Finally, after many years, the political logjam has been removed, and I compliment my colleagues, Mr. DINGELL and Mr. WAXMAN, and countless others, who have worked so diligently to resolve the many regional and political differences that exist. Though this bill is not perfect, it is a good start, and with some of the amendments that will be considered, we can make very real progress to address the very serious health and environmental problems associated with our Nation's air quality.

In 1988, the National Wildlife Federation released a report listing 1,734 large lakes that the Environmental Protection Agency [EPA] identified as acidic or in danger of becoming acidic because of acid rain. In my home State of Connecticut, the report revealed that 11 large lakes are on that list, 7 of those in eastern Connecticut. These are 11 lakes that are no longer habitable for many species of fish and marine life and that are no longer usable for recreational purposes. For some of these lakes, the damage has been done, but for others, the prospects for recovery are good if we act soon.

This legislation takes that important first step toward protecting those vulnerable areas. Enactment of H.R. 3030 should make progress toward reducing the emissions of acid rain causing nitrogen oxide and sulfur dioxide by requiring the reduction of sulfur dioxide emissions by 10 million tons and requiring nitrogen oxide emission reductions of 2.5 million tons by December 31, 2000.

Mr. Chairman, many parts of my home State of Connecticut are considered nonattainment areas because of unhealthy levels for a wide variety of pollutants. Both southwestern Connecticut and the Hartford area are listed as in serious or extreme violation of the national air quality standards for ozone. The Hartford-Middletown area is designated as a nonattainment area for carbon monoxide. The I-95 corridor in Connecticut, in Fairfield, and New Haven is designated as having serious levels of small particulate pollution. All this despite an aggressive air pollution program that has seen demonstrated reductions in ozone levels through controls on in-State stationary sources, in-use motor vehicles, and gasoline volatility. But according to the Connecticut Department of Environmental Protection, which monitors and enforces Connecticut's stringent air quality standards, if Connecticut industry completely stops emissions and if motorists stopped driving on Connecticut's roads, our State would still be out of attainment. Connecticut's air quality problems are attributable to pollutants transported from the south and west. In addition, Connecticut's geographic location also contributes to the high frequency of days with elevated ozone levels. As a result, Connecticut, through no fault of its own, could face sanctions including cutoffs in Federal highway funds or Federal economic development grants, because of its nonattainment status.

As a result of this landmark legislation, however, this very serious problem can be addressed for the first time. H.R. 3030 creates multi-State ozone nonattainment areas to ensure that neighboring States that share air quality problems and pollution sources coordinate the air quality programs to ensure that each State takes care of its own pollution sources and is responsible for the air quality problems that it may create for others. H.R. 3030 also allows States, that are part of a multi-State area, that fail to attain the national ambient air quality standards because of transported air, to be exempted from sanctions if it can demonstrate that it took appropriate action to reach healthy air quality levels. This is crucial to a State like Connecticut that could face sanctions as a result of the pollution generated elsewhere and for which it had little control over.

Mr. Chairman, many opponents of strengthening the Clean Air Act claim that we cannot afford this bill and cannot afford to make the required emissions reductions. I say we cannot afford to wait any longer. The Office of Technology Assessment estimates that some 500,000 premature deaths are caused each year by the chemical precursors to acid rain. The Congressional Research Service reported that the annual forest damage from acid rain deposition in the Eastern United States alone could cost more than $1.75 billion. Studies estimate that a 50-percent reduction in wet deposition could result in $140 million annual benefits from increased soybean yields alone. And the damage to buildings and historic monuments is estimated to cost business directly and the taxpayers indirectly approximately $60 million per year. Not acting now would be a mistake for this Nation. It would not only be bad policy from an environmental standpoint, but also from a public health, an agricultural, a business, and an economic standpoint.

To those who say that our economy and our society cannot affort this measure, I say that we cannot afford to wait.

We have already waited too long. Though this legislation is not perfect, it is an important start. And though some of the health problems, the environmental, and the ecological damage due to acid rain, toxic pollutants, and poor air quality are irreparable, there is still time for other areas and for our children to live in a country where they can breathe clean air and swim and fish in lakes that are not dead because of acid rain.

Mrs. ROUKEMA. Mr. Chairman, I rise today to assert my strong support for the Clean Air Act Amendments of 1990. First and foremost, I must acknowledge the leadership of President George Bush. His administration has put forward a comprehensive program and thereby breaking a 10-year stalemate.

I also want to take this opportunity to commend my colleagues on the Energy and Commerce Committee and the other committees of jurisdiction who have worked with dedication and commitment in bringing this bill to the floor.

The Nation has waited too long for Congress to break the impasse and reach consensus on this critical legislation. After the 1977 Clean Air Act was enacted, the National Commission on Air Quality reported, that by 1981 nearly all areas would be in attainment. As we all know, this did not happen.

With this bill, we are not on the brink of enacting landmark legislation. This bill clearly sets priorities, ranking the health of the American people and of future generations as primary.

This legislation before us is a culmination of a decade of work to develop amendments to the Clean Air Act that would resolve ozone smog in the urban areas, emissions of toxic chemicals from industrial plants and acid rain. Currently, over 100 areas in the United States do not meet health standards under the Clean Air Act for ozone smog; more than 40 areas are failing to attain the carbon monoxide standards; and an estimated 58 areas exceed the health standard for particulate matter [PM-10].

This sweeping bill divides cities into six categories for ozone reduction. It requires the reduction of mobile source emissions which are responsible for up to 45 percent of total emissions of both volatile organic compounds [VOC's] and nitrogen oxides [$NO_x$], the two pollutants which are main compounds of urban smog. It requires a 10 million ton reduction of sulfur dioxide [$SO_2$] and nitrogen oxide [$NO_x$], two chemicals which cause acid rain.

Not only will this bill help to control the emission of hazardous air pollutants, but it helps make the Clean Air Act more readily enforceable and consistent with recent environmental statutes, like the Clean Water Act and Resource Conservation and Recovery Act. This bill also creates a broad array of new enforcement authorities which will provide the necessary penalties to fit the severity of the violation.

I have long been concerned about the effects of acid rain on our lives and our environment. It is gradually, but certainly ruining our forests, lakes, and streams. There is a wealth of evidence that emissions responsible for acid pollution also pose a major threat to human health. The rain in the Eastern United States, as well as in pockets in the West, averages 30 to 40 times more acid than normal. And acid deposition is also an international problem, with half of the Canadian acid precipitation coming from emissions in the United States.

The pollutants that cause acid rain, sulfur dixoide, and nitrogen oxides aggravate human respiratory illness. Airborne sulfates are implicated in thousands of premature deaths each year, increased infant mortality, and reduced lung function in many Americans. Acid rain damage to forests, crops, soils, lakes and streams, and buildings costs Americans billions of dollars each year.

Mr. Chairman, as my colleagues from the New Jersey delegation will certainly agree, the time is late. Coming from the most densely populated State in the country, I have been

made painfully aware of the excessive cancer-causing emissions that plague New Jersey. We suffer from severe levels of mobile source emissions—carbon monoxide, nitrogen oxides, hydrocarbons, and diesel particulates from motor vehicles. It is estimated that 150 million people in our Nation are affected adversely from exposure to these pollutants. Therefore, I am particularly pleased this legislation in title II—mobile source emission reduction, addresses this issues in a commonsense approach by calling for the reduction of pollution from cars, trucks, buses, and other vehicles. This bill strengthens standards to control tailpipe emissions from cars and light-duty trucks and establishes programs to encourage the use of clean fuels. I strongly support the reduction of $No_x$ emissions, as well as the use of clean fuels and alternative fueled vehicles.

This opportunity to restore and protect our precious environment must not be squandered. We have come far. Let us be realistic in our expectations and work to get this important job done by passing this bill and preserving our environment. Once lost, we cannot restore the health of those afflicted. The longer we delay, the higher the price we will have to pay to restore and repair the damage for ourselves, our children, and their children.

Mr. YOUNG of Alaska. Mr. Chairman, the North Slope Alaska oilfields are currently producing 25 percent of the Nation's domestic oil production. The large oil and gas production and handling facilities utilized in this energy production are protected by halon fire and explosion suppression systems. In the interest of national security, it is essential that safe and adequate fire and explosion suppression systems be available to accommodate continued energy production in a sustained and safe manner.

The proposed phaseout of halon production and utilization by the year 2000 could jeopardize national security with respect to arctic energy production, if an equally effective fire and explosion suppression agent is not available. Due to the extreme climatic conditions in the arctic, all facilities are constructed as large enclosed modules. The ideal fire suppression system in these manned, heated, enclosed modules must be nonhazardous to personnel and nondestructive to hydrocarbon-processing equipment. The low toxicity of Halon 1301 allows it to be safely discharged from total-flood systems in occupied spaces, an advantage which no other gaseous agent has. The explosion suppression capabilities of halon, in addition to this low toxicity, provides a unique fire protection agent for use in hydrocarbon-processing facilities in Alaska's arctic region.

The arctic energy producing companies are fully aware of the need to reduce or eliminate halon releases to the atmosphere. Halon is only released in the production facilities during infrequent emergency conditions, or by accident. The latter occurrences have been substantially reduced during the past several years through effective training and improvements to fire and gas detection systems.

The arctic energy producing companies have also joined the Halon Alternatives Research Corp., a nonprofit organization that is working closely with a Government working group led by the EPA, to develop halon alternatives.

In view of the fact that suitable halon replacements may not be available at any known time in the future, it is essential that current and proposed legislation provide the flexibility for limited halon usage in critical areas such as arctic energy production. To do otherwise, may subsequently impact national security.

Mr. MACHTLEY. Mr. Chairman, one of the successes of the past decade has been a growing attention to more efficient use of our energy sources. Not so many years ago, power companies were pumping out energy with little or no attention to the damaging effects of unrestrained energy production on our environment.

This outlook is changing. In my region of New England, New England Electric has put into effect an innovative and far-reaching plan to encourage energy conservation.

We need to support these actions by providing incentives for both power producers and consumers to meet greater levels of energy efficiency.

My colleagues, ED MARKEY and CARLOS MOORHEAD, crafted a powerful amendment in the Energy and Commerce Committee to encourage utilities to promote conservation and the use of renewable energy sources.

A better organized use of our energy resources can go a long way toward preserving our environment. As the cochair with ED MARKEY of the New England energy caucus, I have supported the idea of integrated, regional planning for energy needs as an alternative to the construction of new powerplants.

In addition, as a member of the Armed Services Committee, I am looking closely at the need to ensure that military facilities are making the most environmentally efficient use of energy.

The Clean Air Act reauthorization provides a strong catalyst for conservation and the use of renewable energy sources. Let's take advantage of this opportunity to ensure a safer, cleaner world for the future.

Mr. OWENS of Utah. Mr. Chairman, Utah is fortunate to be the proud possessor of five national parks—the crown jewels of our public lands. But we have been remiss in our care, and the jewels have grown dusty. When Utahns or Americans travel to a national park, they are seeking, in part, an illusion of America as it was. But that illusion vanishes when smog obscures the view. I strongly favor protecting the vistas which draw tourists to Utah from all over the world.

The State of Utah requires very clean powerplants, and our future energy growth is in no way impaired by supporting this amendment. I am sorry that the provision establishing a regional commission has been eliminated, although I commend Chairman DINGELL and Mr. WAXMAN, Mr. WYDEN, and Mr. CONTE for their efforts to find compromise. The Western States need to confer together to discuss proposed projects which could affect the quality of air across State borders. A case in point is the proposed 2,000-megawatt Thousand Springs power project just 20 miles across the Utah border in Nevada, which we fear will have serious consequences, not just to the pristine air of our parks, but also to the already polluted air of the Salt Lake Valley.

I have seen the Grand Canyon on a perfectly clear day, the kind John Wesley Powell saw 130 years ago, and I have also seen the canyon on a day when I could barely see the other rim, only 10 miles away. There is no comparison in the level of the experience. A few months ago, I rose to speak in favor of a protected water right in wilderness areas, and I rise today for a similar reason. It makes little sense to protect an area for the enjoyment of future generations if it cannot be seen. Admittedly, the national parks experience is an illusion of primitive America. But it is an illusion worth maintaining and preserving. I strongly support this amendment to protect the air quality of our parks in the West. It will help Utah by preserving its vistas without impeding our growth. I am pleased to endorse the amendment joining my colleague from Utah, HOWARD NIELSON, and the other members of the Energy and Commerce Committee.

Mr. DEWINE. Mr. Chairman, the Congress has been struggling for some time to put together a comprehensive clean air bill. I think we all agree on the need for legislation to control air pollutants and protect our environment. Clean air is a vital national problem—there is no dispute about this. It had been my hope that the Congress could produce a clean air bill that makes deep reductions in air pollutants, but also ensure that the burden of these reductions is distributed fairly among all the States.

It is also clear that this bill will have a grave impact on the Midwestern States, particularly my State—Ohio. Unfortunately, Mr. Speaker, I cannot support this legislation. I would like to, but I cannot. The economic burden placed on Ohio is simply too great, especially by title V, the acid rain provisions. Under this bill, the Midwestern States are forced to make a disproportionate share of sulfur dioxide [$SO_2$] emission reductions. Ohio, for example, could be required to make up to 18 percent of the $SO_2$ reductions under the bill, while the State's 1980 contribution was only 11 percent of the national total.

Ultimately, the bill could cost Ohio well over $1 billion a year after phase 2. According to the Governor's office, Ohioans may be paying anywhere from 17 percent to 40 percent for electricity. The effects on Ohio businesses could be even more burdensome, jeopardizing their ability to compete on equal footing with businesses in other States. In addition, 10,000 or more Ohio coal mining and related jobs could be lost as a direct result of this legislation.

According to a study by two professors at Carnegie-Mellon University, Robert Hahn and Wilbur Steger, H.R. 3030 would place over 2 million jobs at risk nationally. For Ohio the effect is severe, over 200,000 jobs would be placed at risk—over 320,000 jobs under the Senate bill. For my district, Professors Hahn and Steger estimate that H.R. 3030 could place about 31,000 jobs and as many as 700 plants and businesses at risk. The Senate bill could imperil 50,000 jobs in my district. Although the Wise amendment, the worker's employment benefit program, is an extremely important and needed improvement, it is too little too late to provide the kind of assistance

that Ohio needs as it begins to comply with this legislation.

The citizens of Ohio are willing to do their part. They only want a fair shake. Ohio citizens have paid their share during the savings and loan crisis, which primarily helped Texas, California, and the Southwest. They have paid for water projects which benefit the Western States. And, for every dollar that Ohio contributes to the Federal Highway Trust Fund, Ohio receives back only 85 cents. Ohioans have done their part, Mr. Speaker. There is no reason, then, that Ohioans should be expected to pay for more than their fair share of the acid rain cleanup. Yet, that is exactly what this legislation does.

I agree with my colleagues that clean air is a vital national problem. Controls on air pollutants are necessary. That is not at issue. The question simply is: Who is going to pay for this cleanup? Because acid rain and clean air are national problems, no one State or region should be forced to shoulder the enormous cost of cleaning up our Nation's air. But the emphasis of this legislation on auto emissions and acid rain, impose uniquely burdensome costs on Ohio because of its high concentration of high sulfur coal and auto related businesses.

Historically, Ohio taxpayers have been there to help other States in need. Yet this legislation imposes such a costly and disproportionate burden on the State of Ohio that I cannot support it.

Mr. MARKEY. Mr. Chairman, I would like to rise in support of an important provision in H.R. 3030, the Clean Air Act Amendments of 1990, which would authorize funding for the National Institute of Environmental Health Sciences [NIEHS] to conduct basic research on the effects of air pollution on humans and to establish an educational program for health care providers to recognize and treat those effects.

This health research and training provision has also been incorporated in S. 1630, the Senate's clean air bill, under the sponsorship of Senator EDWARD KENNEDY. In the House of Representatives this amendment was sponsored by Representatives JOSEPH MOAKLEY, RON WYDEN, and myself. There was widespread support from many quarters for this provision, which was included in the Energy and Commerce Committee amendment to H.R. 3030.

This provision authorizes funding over 5 years for the NIEHS to conduct a program of basic research on the risks to human health from air pollutants. NIEHS has already contributed indispensable data from long-term population studies on air pollution's health effects. But to realize fully the goals of H.R. 3030 it is crucial to understand the long-term health effects of the various air pollutants that affect the American public. NIEHS can help provide that understanding.

EPA does important work here, but they do not provide data on the long-term health impacts experienced by people who are exposed in their everyday environment to air pollutants. The work of the NIEHS is essential by supplying EPA with health data upon which to base H.R. 3030's new air quality standards, including the many additional toxic air substances which will be regulated. Only by acquiring more scientific data can we expect to aid people affected with respiratory illnesses and other diseases caused by these airborne poisons.

In addition to authorizing funding for the NIEHS for these health studies, this provision will authorize funding for the NIEHS to conduct an educational and training program for healthcare providers in the area of environmental health. NIEHS currently sponsors a program of grants to prepare graduate students in a range of scientific disciplines to conduct research on the impacts of air pollution, but does not include medical students; in fact, medical schools now rarely focus on the issues raised by this legislation. By working with medical educators and students, the NIEHS will be able to promote the correct diagnosis and treatment of medical problems resulting from air pollution.

Without a feasible program that builds a base of doctors who are trained to recognize and correctly treat the damage caused by airborne pollutants, the serious health effects of air pollution will be difficult to control. This amendment will help healthcare personnel fully recognize how to aid those who are affected with air pollution-related ailments.

We have not authorized a specific funding level in this provision. I am confident that the Appropriations Committees of both Houses will provide sufficient funding for work of this importance; certainly the NIEHS should receive at least $120 million over the next 5 years.

Mr. Chairman, I am very pleased that H.R. 3030 will authorize the National Institute of Environmental Health Sciences to conduct this essential research and education. Investment in public health research and education will certainly prove to be one of the best bargains in the Clean Air Act Amendments of 1990.

Mr. BLILEY. Mr. Chairman, we seem to have overlooked the fact that the 1977 Clean Air Act has actually been doing what it was supposed to: cleaning up the air. In 1988, the Environmental Protection Agency released its air quality and emissions trends report that shows that over the last 10 years the Clean Air Act has been working. For instance, from 1977–87: ambient ozone levels improved 21 percent; ambient carbon monoxide levels improved 32 percent; and ambient sulfur dioxide levels improved 27 percent.

Despite these gains it is clear the Clean Air Act did not go far enough. For instance, this past August, over 100 areas failed to reach the desired health level for carbon monoxide and/or ozone. Even more disturbing is preliminary data that show yet another 28 cities not previously noted are now in nonattainment. Acid rain has proven to be an irritant to our environment and a continued source of friction in our Nation's relationship with Canada. Finally, recent research has shown the need to mitigate the emissions of hazardous pollutants into our air.

The Clean Air Act of 1977 had done an excellent job of picking the low-hanging fruit, the easily identified and relatively easily controlled sources. But the problem persisted. Congress realized that it must devise a measure to effectively control those harder to reach fruit. But despite this general agreement, as Bismark once said: "The devil is in the details."

For the past 8 years I have had the privilege of serving on the Subcommittee on Health and Environment of the Energy and Commerce Committee which, as you know, has direct jurisdiction over the Clean Air Act. Throughout this time, the committee had heard countless hours of testimony and had engaged in countless hours of debate without being able to agree on an appropriate measure.

This is not to say that there has not been progress. At the start, sketchy science and an incomplete understanding of this complex issue led to widely varying perspectives on what needed to be done. Over the last few years, a greater degree of certainty in our data and more mature understanding of the issue has shrunken the parameters of the debate and led us closer to a consensus.

For this reason, I wrote President Bush asking that his administration prepare a proposal for a comprehensive Clean Air Act amendment. It was my hope that the new administration would draft a strong measure that protected our environment without threatening the economic well-being of our Nation. The proposal should reflect the varied strengths and needs of our communities. Just as important, the measure should set reasonable short-term goals that recognize the long-term promise of new emerging technologies.

It was my feeling that Presidential leadership was the final ingredient needed to produce a Clean Air Act amendment that we could all be proud of.

And I'll tell you, President Bush did not disappoint. His administration drafted a proposal that thoroughly addressed most of the issues regarding the Clean Air Act. Most importantly, Presidential leadership on the issue did make a great difference in tone of the debate in Congress.

My committee, the Committee on Energy and Commerce, used the President's bill as a starting point and has spent a great amount of time and energy refining, strengthening and improving the proposal. I am proud of the document that emerged from the many vigorous rounds of negotiations. It is a strong yet balanced bill that will touch every American's way of life. The bill will call on the best and brightest in academia, business, and State and local governments to push to the administrative and technological limits.

I am particularly proud of my role in the committee's strengthening of title I of the bill which deals with the nonattainment issues. I believe the changes that we made will give State and local planners the tools to reach that low-hanging fruit. I strongly pushed language that prevailed that freed these planners to look beyond the antiquated local boundaries and to consider the entire consolidated metropolitan statistical area when devising control strategies. I feel this gives them a much more realistic picture of the problems and the solutions.

I am also pleased that the bill includes language that I advocated that recognized the unique problems faced by the shipbuilding and repair industry. This language requires the

EPA to develop a separate control technique for this industry.

Finally, I am pleased that language was included that I authored that instructs EPA to make all emission control regulations from this group to be consistent with other air control regulations.

I strongly support the committee agreement to further clamp down on tailpipe emissions from existing automobiles; require cleaner standards for gasoline in the near future; and provisions that will sensibly introduce alternate fueled vehicles into our communities.

I also want to take note of language that I amended that will instruct EPA to issue a rule for implementation of onboard cannisters as long as they are safe to the motorist. Upon promulgation of this rule, the requirement for stage II in moderate nonattainment areas will be lifted. I feel that this is a more efficient and equitable method for reducing the emission from refueling.

The committee also agreed to control almost all major sources for toxic air pollutants which will greatly aid in our combat against cancer and birth defects. I am particularly proud of a provision that I was able to incorporate into this section that calls for a separate study of the toxic air pollutants effects on the Chesapeake Bay. I am grateful for the cooperation of my colleagues, Mr. SIKORSKI and Mr. MCMILLEN, with this matter.

I want to point to an amendment that I offered that passed unanimously that struck the original language that gave EPA veto power over every individual permit. This language represented yet another attempt to take away any local control over their destiny. If the State is the permitting body, they should have the appropriate authority. In addition to this assault on States rights, this language would have created an expensive and duplicate Federal level of bureaucracy.

I am pleased to have played a role in the agreement which produced the toughest acid rain control bill that has ever come before the House. Better yet, it achieves this environmental goal in a least cost fashion by building in flexibility and introducing market forces into the bill. I strongly support President Bush's innovative emission allowance trading system and am pleased that my idea of an auction, designed to prevent allowance hoarding, has been incorporated into the bill.

Finally, I am very pleased with the agreement reached to improve the visibility in our national parks. The hard-won agreement is carefully tailored to allow additional measures to be developed to enhance the visibility in our national parks in the Western United States while recognizing that the best step toward improving the visibility in the Eastern United States is to pass the emission control measures incorporated in the other sections of the bill. I want to express my appreciation my colleague, Mr. WYDEN, for his tremendous cooperation and reasonableness in this matter. I also want to note the efforts of Mr. SYNAR, Mr. NEILSON, Mr. SCHAEFER, and Mr. SWIFT in resolving this issue.

The reaction has been interesting: Industry has cried that this bill goes too far, that it is too costly for the severity of the problem while others argue that it is a sellout to industry and that it does not go far enough. This section leads me to believe that we might be on to something.

I commend the chairman of the full committee, Mr. DINGELL, for his foresight and leadership on this bill. I also want to recognize the contributions of our ranking member on the full committee, Mr. LENT and the chairman of the Health Subcommittee. I also want to congratulate all of my colleagues on the committee for their excellent work. Mr. Speaker, it is a tough bill that we can all be proud of.

Mr. BORSKI. Mr. Chairman, I rise today in strong support of H.R. 3030, the Clean Air Act amendments.

Mr. Speaker, Congress passed the Clean Air Act in 1970 and has not amended it in 13 years. That means that many Members, myself included, were not here when legislation to improve air quality was first passed, or when that legislation was later revised.

No, Mr. Chairman, I was not in Congess when the Clean Air Act was first passed, or when the 1977 amendments were approved.

But as a lifelong resident of Philadelphia, now one of the nine smoggiest cities, I saw the early benefits of the Clean Air Act; cleaner, clearer, sweeter air. This landmark legislation went a long way toward improving air quality across America.

In the intervening years, however, events have eroded much of the progress of the original Clean Air Act.

The sheer number of cars on the road today has virtually negated the fact that those cars were much cleaner than they were 20 years ago. More people are driving more cars more places. The volume of traffic has cities throughout the United States choking on smog.

Powerplants spew sulfur dioxide and nitrogen oxide into the air, which then falls as acid rain, a phenomenon virtually unknown in 1970. That acid rain is now damaging lakes and forests in Pennsylvania and other States.

The Clean Air Act led to the regulation of only a handful of toxic pollutants. Since then, there have been discoveries of new toxics and more information is now available on their effects on the public's health.

Now, Mr. Chairman, in this 20th anniversary year of Earth Day and the first Clean Air Act, Congress is acting to amend that act and return breathable, healthy air to the United States.

This is a comprehensive clean air bill. H.R. 3030 will tighten tailpipe emissions standards for cars, to help reduce urban smog. This legislation will reduce sulfur dioxide and nitrous oxide emissions and place a nationwide cap on those emissions, to protect our lakes and forests. H.R. 3030 will also reduce and regulate over 100 of the worst toxic pollutants, to protect the public's health.

The time has come to renew the promise of the Clean Air Act of 20 years ago: clean air for all Americans. H.R. 3030 will renew that pledge and I strongly support its passage.

My only regret is that H.R. 3030 does recognize and encourage the use of mass transit as a resource to help clean the air. Public transit is the cleanest, safest and most efficient way to move people.

Millions of cars are creating thousands of traffic jams and spewing tons of pollution into the air. By reinvesting in America's mass transit system, we could reduce the number of cars on the road, eliminate at least some of the traffic jams and significantly cut down on the smog in our cities.

I will continue to work for a return to mass transit in this country. Having said that, I urge my colleagues to join me in supporting H.R. 3030, the Clean Air Act amendments.

Mr. VENTO. Mr. Chairman, I rise in support of this critical legislation to clean our Nation's air.

Our actions today will have a profound effect on the health and quality of life of the people of this Nation. By breaking the 10-year deadlock on clean air, we are making great progress toward fulfilling the promise made to the American people of a clean, safe environment.

The bill before us is a strong and comprehensive rewrite of our outdated clean air laws. It is long overdue. Yet the bill is not perfect, and its passage will not automatically guarantee clean air. Today I supported amendments to strengthen the provisions of the bill relating to clean cars, protection of the ozone layer, visibility in pristine areas, reformulated gas and clean coasts. These amendments will help improve the bill further and ensure adequate protection for public health and the environment.

Even with these amendments adopted, we have much work to do to fulfill our promise of healthy air to the American people. We cannot rest our clean air laurels on a single new law. The assault on our environment is dynamic and everchanging and we must defend the quality of our air with constant vigilance. First we must ensure that the stronger provisions of the House bill are preserved in conference. We also must be vigorous in overseeing the implementation of the new law. The Environmental Protection Agency's enforcement of the Clean Air Act has been at its best spotty and at its worst, dismal.

Mr. Chairman, I have had a longstanding interest in improving air quality. Minnesota the State I represent proudly places a premium on its natural resources values. Minnesotans have a strong conservation and environmental ethic. Minnesotans don't take clean air and clean water for granted. They expect and demand sound State and national law and policy to achieve and maintain clean air. Naturally we are concerned about acid rain in lakes in northern Minnesota, or about health advisories for fish caught in Lake Superior because of airborne toxic contamination. Minnesota has strong environmental laws, including one of the few State acid rain control laws in the country.

I have attempted to take an active role in congressional efforts to overhaul the Clean Air Act for the past decade. In 1982, Jerry Lewis and I introduced the commitment to the Clean Air Act resolution, a proposal which garnered the bipartisan support of over 100 Members of Congress. In 1985, the Subcommittee on National Parks and Recreation I led investigated the impacts of air pollution on national park units. These hearings documented the deterioration of cultural resources and the impaired visibility occurring at our Nation's crown jewels, the national parks. I have worked on and cosponsored legislation to control acid

deposition and pay for it in an equitable fashion.

In 1987, my colleague BILL GREEN and I sent out a letter calling on the Engery and Commerce Committee to report out strong and comprehensive legislation to reauthorize our Nation's clean air laws. The Vento-Green letter identified the serious air quality problems facing our Nation at the time—smog, acid rain, ozone depletion and global warming, airborne toxics and air pollution in pristine areas. The letter suggested broad goals for pollution reduction as well as specific targets and means of meeting those targets. Two hundred and thirty Members, a bipartisan majority, signed our letter. Today our votes are the core support for a strong Clean Air Act. The 1988 words and promises have become performance in 1990, today Mr. Chairman.

Although no clean air legislation was passed in the 100th Congress, the Vento-Green letter was a strong and clear demonstration of the significant support that existed in the House for a timely and tough Clean Air Act. It reflected the deep feelings of the American people about the importance of clean air. The American people were tired of poor quality air and they wanted their Government to act. Another Vento-Green letter was sent last year in 1989, urging President Bush to submit strong and comprehensive clean air legislation to the House. This letter also received strong bipartisan support. The submission of a bill by President Bush was a welcome change from the poor environmental leadership exhibited by the previous administration. The President's bill set the stage for House and Senate action on this complex issue. A final Vento-Green letter was sent last November urging the Energy and Commerce Committee to complete its consideration of H.R. 3030 in a timely fashion.

Mr. Chairman, the length and complexity of this bill prohibit me from explaining the many important changes contained in it which will clean our Nation's air. I support many features of this bill. The bill sets in place new requirements for the control of emissions from mobile sources, which cause 50 percent of urban ozone pollution. New actions would be required for carbon monoxide nonattainment areas such as my district of St. Paul, MN. The acid rain program was carefully developed to achieve the reductions in emissions needed to protect public health while being fair to States which will have to bear the disproportionate share of the burden for reducing acid rain. The program will achieve a 10-million-ton reduction in sulfur dioxide and up to a 4-million-ton reduction in nitrogen oxides. This bill also establishes a program to regulate 170 toxic substances which are responsible for thousands of cancer cases annually. Finally, thanks to the work of Representative WYDEN and others, the bill was amended to reduce regional haze and preserve visibility in our national parks and wilderness areas. I worked with Mr. WYDEN to develop this response addressing the serious threat to our national treasures posed by air pollution.

Mr. Chairman, we have heard a lot about the costs of this bill. All in the House Chamber recognize that this bill has a stiff price. However the scare tactics and outlandish estimates being touted by industry lobbyists have transparently self-serving goals. The House, however, has wisely recognized the enormous costs of not acting on a sound clean air law. The total costs of continued air pollution to the Nation's health, environment and economy can't be measured. I believe this bill balances the needs of the industries and businesses which have made our Nation prosperous with the needs of protecting human health and the natural environment.

So many people have been essential to reaching the historic agreements made here today. I commend the chairman and ranking member of the Energy and Commerce Committee, Mr. DINGELL and Mr. LENT for their patience and dedication to achieving passage of a new clean air act. Of course, the commitment of Representative WAXMAN to this process has been extraordinary. The compromises reached by Mr. DINGELL and Mr. WAXMAN on a number of issues represent the finest type of cooperation this House has to offer.

I urge my colleagues to support strengthening amendments and vote for final passage of H.R. 3030, the Clean Air Act amendments.

Mr. HOUGHTON. Mr. Chairman, I rise in strong support of H.R. 3030, clean air legislation.

It has been 13 years since our clean air laws have been revised. This process has been difficult, divisive, complex—pitted region against region—industry against industry—fraying nerves and shortening tempers.

But since H.R. 3030 was introduced last year, we have managed to set aside most conflicts and produce a tough, fair piece of legislation. It has put us on the forefront. H.R. 3030 is the most comprehensive environmental bill written so far.

The most important environmental problems of the day—urban smog, motor vehicle emissions, cleaner burning fuels, toxic emissions, and acid rain—have been resolved in a series of bipartisan, almost virtually unanimous agreements. So by this action we will have the greatest environmental and health benefits of anyone. However, the bill will impose burdens on American business, its employees, and eventually the consumer.

Let me mention a few. While some mandates are good—I wouldn't want to see U.S. manufacturers unduly burdened particularly if our foreign trading partners will not be abiding by the same environmental standards. I would like to see that we ensure that the playing field is level—meaning not give foreign manufacturers an advantage because of an inequitable lost burden. Our rules should be their rules and vice versa. U.S. industries should not be unfairly disadvantaged in the global market.

The bill in a way addresses this concern. H.R. 3030 encourages international negotiations on environmental standards for industries worldwide. It also calls on the President to assess any trade imbalance which may have been caused by the passage of our environmental laws. So I promise that if an imbalance is found, I will do what I can to see that we respond with appropriate tariff action.

Looking into the United States—we should not ignore the impact new clean air mandates will have on U.S. worker dislocation if this be required. Employees should be helped in the transition to new jobs. That's why I support an effort to ensure that employees who have lost jobs as a result of this bill are provided job training and 6 months of additional unemployment benefits.

Having said all this, I believe that we all must do our part to clean up our air. So utility companies, auto manufacturers, a small dry cleaner, a bakery, as well as the American people are all in order. We will pay more for cleaner, healthier air. So let's make sure it works.

Is the bill reasonable and balanced? I believe it is. The 34th District of New York has long felt the impact of acid rain. $SO_2$ and $NO_x$ emissions from electric utilities have long eroded lakes, streams, and forests in upstate New York. Resolving this issue has been on hold for years. A compromise has been struck, a 10-million-ton sulfur dioxide reduction. This produces the strongest acid rain provision ever considered by Congress. This is a compromise that works for environmentalists and utilities who will have to share the greatest share of the cleanup cost.

I must believe that we have met the challenge to solve the scientific, economic, and environmental controversies surrounding clean air. Every step along the way, we try to build upon our knowledge, to improve the health and economic opportunity for our communities.

I've heard many times from constituents and friends in the 34th district. The overwhelming message: Support clean air legislation, even if it means having to pay more for a healthier environment.

We supported H.R. 3030 when it was first introduced. We support the changes that have been made along the way in committee hearings. I support the bill before us today.

Mr. MCMILLAN of North Carolina. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Tennessee Mr. [COOPER] and the gentleman from California [Mr. MOORHEAD]. Currently, there has been no data collected on carbon dioxide emissions from electric utilities, and with the rising emphasis on "global warming," this should better our understanding of the situation.

There was some concern expressed initially regarding application of monitoring equipment. This was clarified by Mr. COOPER. Utilities have a range of options with which to calculate carbon dioxide emissions, including fuel sampling and devices already required for measuring other gases.

I would hope that such information may be analyzed geographically and compared to electric energy output from all sources, including hydroelectric and nuclear. That should shed light on possible energy alternatives that will not contribute to global warming and the degree to which they are being utilized.

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of H.R. 3030, the Clean Air Act Amendment of 1990. The provisions in this legislation were extremely contentious and took hundreds of hours of negotiation to restore. As a result, the bill we have before us represents genuine compromise and give and take on all sides.

I must bring to the attention of my colleagues, the exceptional work of Chairman DINGELL and Chairman WAXMAN in passing

out a strong environmentally sound Clean Air Act. They must be commended.

During the committee process we reached strengthening compromises on State responsibilities in the pursuit of clean air. In this area, I must particularly commend my colleagues, Representative AL SWIFT and DENNY ECKART who kept the negotiations moving and on track.

TITLE I—STATE IMPLMENTATION PLANS

Under title I, a system of graduated controls was adopted whereby more heavily polluted areas must adopt more stringent controls. An important milestone program was also added in which areas must review their attainment progress. If areas fail to achieve milestone reductions on time, the area must adopt additional control measures.

An additional environmental change included the adoption of tough but realistic sanctions including a ban on new highway funds and a 2 to 1 offset ratio. Previously, sanctions included a ban on new drinking water hookups that was so severe it was never used.

TITLE III—AIR TOXICS

In the regulation of toxic emissions, the environment won out again. While H.R. 3030 as introduced only regulated half of the major sources of hazardous air pollutants, the amendment adopted by the committee regulates 100 percent of major sources as well as 90 percent of area source emissions with respect to acid rain.

TITLE V—ACID RAIN (INDEPENDENT POWER PRODUCERS)

The bill also contains several amendments I offered during committee markup with respect to Independent Power Producers. The next 10 years will be an important transition period for the Nation's clean air and energy supply goals. Old powerplants will have to be cleaned up or replaced by new, clean facilities. Independents have proven to be a clean, reliable source of electricity accounting for about 4 percent of the Nation's electric supply, with the potential to provide a far greater share. The bill ensures a competitive market for these independent power producers.

I would also like to take this opportunity to ask my colleague's support for two amendments I will offer during consideration of H.R. 3030, the Richardson-Madigan reformulated gasoline amendment and the Richardson-Bryant-Slattery-Barton Accidental Air Toxics Release amendment.

I am pleased to advise my colleagues that bipartisan committee agreements have been reached on both of these important issues.

RICHARDSON-MADIGAN REFORMULATED GASOLINE AMENDMENT

Richardson-Madigan will require the use of reformulated gasoline in the 9 worst ozone nonattainment cities. Other cities may opt-in as the program gets under way. More importantly, gasoline sold in these cities will contain 15 percent less ozone-forming compounds and toxic air pollutants respectively.

Additionally, all 44 carbon monoxide nonattainment cities will be required to sell gasoline containing a minimum oxygen content level of 2.7 percent to reduce carbon monoxide to healthy levels.

Among others, our amendment addresses two of the major concerns expressed by the oil industry. These include the charge that the amendment mandates a recipe for reformulated gasoline and that the amendment will increase nitrogen oxide emissions.

On the first point, Richardson-Madigan establishes minimum standards to reduce ozone forming and toxic compounds. So long as equivalent or greater emissions reductions are achieved, oil companies are free to formulate their fuels any way they choose. On the second point, our amendment specifically prohibits a fuel from being certified for sale if it results in incresed ozone or nitrogen oxide emissions.

In short, this amendment has substantial environmental and health benefits by controlling ozone forming and carcinogenic air toxic compounds, trade and economic benefits by reducing dependence upon foreign oil, expanding the domestic renewable fuels industry, and reducing farm price supports.

RICHARDSON-BRYANT-SLATTERY-BARTON ACCIDENTAL AIR TOXICS RELEASE

I will also be offering a strong accidental air toxic release amendment. There have been more than 11,000 accidental releases of toxic chemicals in the United States between 1980 and 1987. As a result, more than 300 people died and more than 10,000 were injured. Moreover, since 1980, the United States has had 17 different air toxic accidents with potential effects greater than the Bhopal, India, catastrophe.

My amendment requires EPA to establish a list of at least 100 accident hazard chemicals. Moreover, EPA would be required to promulgate rules establishing risk management plans to detect and prevent or minimize accidental releases. Chemical companies would be required to develop risk management plans, including hazard assessments, prevention and response programs, and employee training.

This amendment would also establish an independent Chemical Safety and Hazard Assessment Board to investigate the causes of chemical accidents. Finally, my amendment includes language offered on the Senate floor by Senator JEFFORDS clarifying the roles of the Occupational Safety and Health Administration and EPA, and requiring OSHA to promulgate a chemical process safety standard requiring employers to take steps to prevent toxic accidents.

DIESEL DESULFURIZATION

Finally, I will be offering an amendment that would allow small diesel refiners to earn marketable allowances for reductions in $SO_2$ emissions.

In order to achieve heavy-duty diesel engine emission requirements established by the Environmental Protection Agency, sulfur content in diesel fuel must be reduced to a level of 0.05 percent by October 1, 1993. The cost of diesel desulfurization has an extraordinary impact on small refiners and threatens the continued operation of many facilities.

Since the desulfurization of diesel fuel reduces $SO_2$ emissions, small refiners should be able to acquire allowances for these emissions reductions. EPA estimates this amendment will reduce $SO_2$ emissions by as much as 15,000 tons per year beginning the year 2000. The amendment fosters greater $SO_2$ emissions reductions while helping a class of refiners to achieve compliance.

PLAINS ELECTRIC

In closing, I would like to address an issue relating to a specific powerplant in New Mexico, the Escalante Generating Plant operated by Plains Electric. The Escalante plant is a super-clean coal burning plant that has a sulfur dioxide emissions rate of 0.2 or below that began operating in 1985. Under the acid rain provisions of this bill, allowances for existing units are based on the average of 1975–87 emissions levels. These emission levels are recorded by the Department of Energy on form 767. Plants that filed these forms by 1985 would use a baseline established by the 1985 National Acid Precipitation Assessment Program Emissions Inventory. For plants filing after 1985 the baseline is established using the National Utility Reference file [NURF].

Plains Electric, however, filed form 167 for financing purposes only in 1985. Thus, the most appropriate baseline established for Plains Electric should be calculated from the NURF data instead of using the figures from form 767. The NURF data provides a more realistic account of the Escalante plant and would provide a sufficient number of allowances so that this plant can continue to operate at current levels and meet future growth demands. I urge my colleagues to support this distinction.

Mr. FRENZEL. Mr. Chairman, today I rise to support H.R. 3030 as reported out of the Energy and Commerce Committee. Amendments to the Clean Air Act are long overdue. I believe that Congress' failure to pass amendments to the Clean Air Act since 1977, have helped create the problems we are facing today and probably increased their costs. I am glad to see this issue finally being resolved here on the House floor.

This legislation is a positive step in the "clean" direction. Many groups have claimed H.R. 3030 is either too stringent or too weak. I would be worried if either preservationists or the industrialists loved the bill. H.R. 3030 has made it this far because environmentalists and industries have been willing to compromise. This legislation, like many budget matters I work on, is going to require sacrifice from industry and lifstyle changes from citizens.

I feel we owe the thanks to President Bush for getting the ball rolling by introducing a clean air bill, and demanding that Congress act after all these years.

I also want to commend the Committee on Energy and Commerce for bringing this enormous bill to the floor. The committee worked out three major compromises in the smog, acid rain, and toxic sections of the bill.

As one of 166 sponsors of H.R. 3030 as originally introduced by Representatives DINGELL and LENT, I am satisfied with the bill that has come out of committee. I am concerned about the costs it will place on industry and on the job losses that it will cause. The overall costs of H.R. 3030 are expected to be around $20 billion. And this is probably a conservative estimate.

I do not think that pollution controls are incompatible with economic growth. However, we have to take economic growth into ac-

count when mandating reductions and new technologies. I am not in favor of achieving a few more percentage points at more than doubling the cost. In this bill, our late start justifies stern measures.

Two of my primary concerns with the clean air bill are that it achieve the necessary cleanup and that we do not unfairly burden some regions in order to help others which did not help themselves. For example, in the acid rain section, companies in Minnesota who have spent money installing scrubbers should not foot the bill for cleaning up dirtier plants in other States.

Several amendments will be offered on the House floor this week. I want to caution my colleagues to look at the big picture and avoid amendments that will unravel the tenuous compromises that are in the bill. I also want to advise my colleagues that some of these amendments will surely initiate a Presidential veto. We have a duty to pass a sensible clean air bill and to pass it now.

Consideration of this bill is long overdue. It is my goal that Congress pass a prudent and environmentally conscious bill that helps clean up the environment without placing an undue burden on industry. I believe that H.R. 3030 fits these criteria and I urge my colleagues to swiftly pass the bill unamended.

Mr. RINALDO. Mr. Chairman, the passage of H.R. 3030, the Clean Air Act amendments will mean far healthier, much cleaner air for New Jersey. For over 8 years, I have worked to clean up our atmosphere and to end acid rain. I am proud to have sponsored the first comprehensive approach to ending acid rain. With that beginning, the legislation evolved into the first overall reexamination of our efforts to clean up the atmosphere since 1977.

Since the original Clean Air Act was passed in 1970, a great deal of progress has been made in eliminating some types of atmospheric pollution. Unfortunately, neither the 1970 bill nor its 1977 rewrite anticipated some of the problems that we face today. As a result, over 121 million Americans live in areas where air pollution exceeds federal health standards.

Air pollution imposes a very real cost on our society. In addition to causing various respiratory problems, it is also responsible for increased incidents of cancer, birth defects and other diseases. Air pollution and acid rain kills fish and wildlife, while also destroying forests and fields. It reduces agricultural yields and forest productivity.

Today, the House of Representatives approves a tough, but fair bill that will sharply reduce the pollution that people in New Jersey have had to breathe every day. There are many types of air pollution, and this legislation is a comprehensive approach to almost all of them.

Passage of H.R. 3030 means that in time acid rain will no longer be a threat to our forests and lakes, and the bill represents a major step toward fighting global warming and protecting our ozone layer. In addition, it also deals with smog, toxic air emissions, pollution from cars and trucks, visibility at our national parks, and a number of other problems. There are some areas where the bill should be stronger, but in general, this is good legislation.

The controls that it contains are strong, but realistic. While large plants will be subject to strict emissions controls, this bill also addresses the small sources that together cause most air pollution.

It would have been simple to slap controls on small businesses, and to leave it up to them to figure out how to comply. However, the permits and enforcement sections take a balanced approach that makes it very clear that emissions must be controlled, but also provides for technical assistance and eased permitting procedures for small businesses.

Smog is a very real problem for New Jersey. Title I of H.R. 3030 establishes strong new standards that will require States and localities to develop smog control programs. Interim goals will have to be established and met to ensure that real progress is being made.

I am especially pleased that this bill addresses the air pollution that comes into our State from other areas. It sets up regional councils to ensure that a State with strict air quality controls does not suffer because its neighbors have looser standards. This is a major problem for New Jersey, since it is surrounded by industrial areas in other States. I have seen studies that show that even if every plant and business in New Jersey totally stopped operations, and every car, truck, and bus in the State were idle, New Jersey would still be out of compliance because of the pollution blown in from other States.

Pollution from cars, trucks, and buses is also a severe problem for New Jersey, and a realistic approach to cleaner cars and cleaner fuels was legislated. Because of the leadership of the chairman and ranking minority member of both the full Energy and Commerce Committee and the Health and the Environment Subcommittee, auto manufacturers and fuel companies will have to meet strict new emissions standards. The new fuel and vehicle standards will force advances in technology that are badly needed. We cannot simply sit back and let clean cars and fuels develop slowly and haphazardly. At the same time, there is is no way that Congress can legislate chemistry or engineering. Today we are doing neither, but we are letting producers know that while we appreciate their efforts up until now, much more is needed, and quickly.

Since New Jersey leads the Nation in chemical production, it is also very important to our citizens that H.R. 3030 includes a section on toxic air pollutants. While our companies have an excellent safety record, the effects of many pollutants have simply not been known or effectively controlled.

Title III includes a list of 170 hazardous pollutants, and directs EPA to identify the major sources of their emissions, and to require the maximum achievable reduction in the danger that they pose. A similar effort was made in 1970, but in 20 years only seven pollutants have been controlled. This time, we make it very clear that the EPA is to control these toxics without any further delays or excuses.

The bill also sets up special procedures for handling potentially dangerous accidental releases of toxic gases. For the first time, safety standards and emergency programs will be established to help to prevent these accidents, and to deal with them if they do occur.

The acid rain section is especially important to me. It does more than just reduce sulfur dioxide emissions by 10 million tons a year and nitrogen oxide emissions by 2.5 million tons annually. It placed an absolute cap on the total amount of these pollutants that can be emitted in the future. We will not face a situation in 2020 where pollution has again crept up to critical levels. For every new ton of these emissions, one will have to be reduced from another source.

The mechanism to achieve this will be a system of allowances that can be bought and sold as they are needed. The House version fairly distributes these allowances among the various areas of the country, and allows for future growth. There was no easy way to do this, but through the efforts of members of the Energy and Commerce Committee, sectional conflicts were avoided.

Today, we have made this bill even better, by ensuring that both our national parks and the outer continental shelf will be specially protected so that our grandchildren can enjoy their pristine beauty.

Finally, we have informed the world that this country will take the leadership in eliminating the CFC's and HCFC's that are destroying the ozone layer and causing global warming. As the world's leading industrial nation, we can do no less, and we invite them to follow our lead.

Mr. CHAIRMAN, this is a good bill. It is not a perfect bill, but it is much better than most of us expected when the Energy and Commerce Committee began to work on it a year ago. I believe that this legislation will provide greater reductions in pollution at a lower cost to our economy than its companion in the other Chamber. I am proud to support it today, and to bring it before the people of New Jersey as an answer to one of our State's most critical needs.

Mr. THOMAS of Wyoming. Mr. Chairman, there is an issue important to the State of Wyoming, as well as the United States, that was not addressed in H.R. 3030, the "Clean Air Act Amendments of 1990."

The issue I'm referring to is that of dual regulation of radionuclides. Radionuclides are currently regulated by both the Environmental Protection Agency [EPA] and the Nuclear Regulatory Commission [NRC]. Dual regulation by these agencies affects not only nuclear powerplants, but also hospitals and clinics. Dual regulation is a costly hardship for those who are regulated and those who are regulating. But in the end, it's the consumer who will pay for the increase in costs.

During the last day of Senate floor debate on S. 1630, the Senate's clean air legislation, the Senate adopted by voice vote, an amendment offered by Senator ALAN SIMPSON. The language contains a provision that no standard for radionuclide emissions from facilities licensed by the NRC is required to be promulgated if the Administrator of EPA determines, after consultation with the NRC, that the regulatory program established by the NRC pursuant to the Atomic Energy Act provides an ample margin of safety to protect the public health.

Given the stated position of EPA—in its December 15, 1989, radionuclide rulemaking—

that emissions from NRC licensee sources are currently being regulated in a manner that adequately protects public health with an ample margin of safety, Senator SIMPSON'S amendment favorably addresses the concerns of the uranium industry.

This is an important issue and it is my hope that the conferees will retain Senator SIMPSON'S language in the final version of this legislation.

Mr. BRYANT. Mr. Chairman, I am pleased to rise in support of the compromise to strengthen the alternative fuels proposal in the Clean Air Act.

I support the alternative fuels provisions for very good reasons. Enactment of these provisions will give us a cleaner environment, incentives for developing new cars and fuels, and create new jobs.

The legislature in my home State of Texas last year passed one of the most innovative clean air packages in the country, including strong fleet vehicle requirements, some of which are already in place with great success.

Currently, government fleet vehicles and school buses in Texas are required to begin using alternative fuels, and each year more vehicles will be covered.

Half the air pollution in the United States comes from mobile sources. However, in densely populated areas, the percentage can be much higher. For example, in Dallas, vehicles cause between 68 and 70 percent of the air pollution.

Past cleanup attempts have focused on the hardware of gasoline- and diesel-powered vehicles—catalytic converters and the like. Recently, reformulated gasoline has been marketed in California for cars built before 1975, and light trucks before 1980, that use leaded gasoline—a step in the right direction of cleaner fuels.

Because the infrastructure exists to distribute gasoline and diesel fuel, there is no incentive for alternative fuel development due to tradition and vested interests in maintaining the status quo.

The only way to break this deadlock is with an alternative fuel program for fleet vehicles. This approach solves the refueling and servicing problems through centralized operations. It is also easier to convert fleet vehicles, as well as to monitor the economic and environment benefits of conversion.

A study done by the Radian Corp. of Austin, TX, for the Texas General Land Office, showed that the city of Houston could achieve up to 17 million tons reduction of air pollutants if new clean fueled vehicles are put on the streets, at the same time saving up to $17 million in lower fuel and maintenance costs.

By breaking the "chicken or egg first" mindset—providing that fleet operations work, such as that in the Garland Independent School District in Texas, the Washington Gas Co., compressed natural gas fleet refueling and maintenance operation just south of us in Virginia, or any number of other projects around the country—we establish the track record necessary to encourage a general expansion of the refueling and service operations necessary for use of an alternative fuel like CNG in standard passenger vehicles.

There are 3½ million fleet vehicles in the nine worst nonattainment areas in the country. Fleet vehicles are driven an average of 23,000 miles per year, versus the 9,500 miles for private passenger vehicles. Fleet vehicles account for only 7 percent of the vehicles on the road, but log in 15 percent of the miles driven each year.

It stands to reason that we should have a strong program in effect for vehicles which contribute to our pollution problem out of proportion to their numbers.

Only when we here in Congress push Detroit and Tokyo to offer cleaner burning engines for our vehicles and when we push refiners to develop and offer cleaner fuels will we solve our mobile pollution problems.

In the 1970's when we forced fuel economy standards on automobile manufacturers, the American public finally got greater fuel economy. The Japanese seemed to be ahead of the game at that time. I hope that Detroit will remember that financially painful experience and take the initiative now to put clean cars—cars that use cleaner fuels and pollute far less—on the road first.

American industry—the auto industry and the various components of our energy industry—can and should take the lead in the fight for clean air rather than be dragged kicking and screaming into a cleaner 21st century.

Mr. FEIGHAN. Mr. Chairman, Congress approved the original Clean Air Act in 1970 and strengthened it once in 1977. Thirteen years later, we've seen air pollution grow worse. While cars and fuels are cleaner, there are more cars, buses, and trucks on the road. Toxic chemical emissions are threatening a new generation of Americans and acid rain is still killing our lakes, rivers, and streams.

The bill before us will change this. H.R. 3030, the Clean Air Act Amendments of 1990, will help solve the acid rain problem. It will sharply reduce dangerous sulfur dioxide ($SO_2$) and nitrogen oxide (NO) emissions, the main components of acid rain. While I remain concerned by the potentially detrimental effects of the acid rain provisions on my home State of Ohio, I was heartened by the adoption of the Wise amendment. This provision will provide $275 million over 5 years for the retraining and readjustment of workers who are negatively impacted by this legislation. The Wise amendment proves that we're not only a nation of action but a nation of compassion. I urge President Bush to show compassion and sign this bill with the Wise amendment.

The title covering automobiles and fuel standards started out strong and we made it stronger. The clean fuel amendment which will require the use of reformulated gasoline—with a higher oxygen content—is a vital part of this section. Clean fuels combined with the clean car provisions of the Waxman/Dingell/Lewis compromise will go a long way toward lowering ozone-forming and toxic emissions in cities throughout the country.

H.R. 3030 also cracks down on emissions of air toxics. While air toxics seem to be a new issue, their cancer-causing consequences have been around for too long. My State, Ohio, ranked No. 1 nationwide last year in total volume of air toxic emissions that pose a serious threat to our most valuable asset, Lake Erie. That's why I voted for the tough air toxics section.

The Clean Air Act amendments take action on the three major air pollution issues—acid rain, urban smog, and air toxics. But, it doesn't stop there. H.R. 3030 includes an amendment—which I supported—to phase out chlorofluorocarbons [CFC's] and other dangerous ozone-depleting chemicals. In addition, the final version includes important provisions to erase pollution from America's national parks, to extend pollution regulations to offshore as well as onshore areas and to extend warranties on the two most important automotive emissions-control devices.

I congratulate the Energy and Commerce Committee for their fine work. I am proud to support this legislation—both the core and the strengthening amendments. As the bill moves to conference, I urge the House negotiators to fight for our version. After 13 years, it is hard to say that it's been worth the wait. In fact, it is easier to say it's about time. Either way, the Clean Air Act amendments are a great step forward.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 2130

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HOYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air, pursuant to House Resolution 399, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 401, noes 21, not voting 10, as follows:

[Roll No. 137]

AYES—401

| | | |
|---|---|---|
| Ackerman | Dymally | Kastenmeier |
| Anderson | Dyson | Kennedy |
| Andrews | Early | Kennelly |
| Annunzio | Eckart | Kildee |
| Anthony | Edwards (CA) | Kleczka |
| Archer | Edwards (OK) | Kolbe |
| Aspin | Emerson | Kolter |
| Atkins | Engel | Kostmayer |
| AuCoin | English | Kyl |
| Baker | Erdreich | LaFalce |
| Ballenger | Espy | Lagomarsino |
| Barnard | Evans | Lancaster |
| Bartlett | Fascell | Lantos |
| Barton | Fawell | Laughlin |
| Bateman | Fazio | Leach (IA) |
| Bates | Feighan | Lehman (CA) |
| Beilenson | Fields | Lehman (FL) |
| Bennett | Fish | Lent |
| Bentley | Flake | Levin (MI) |
| Bereuter | Foglietta | Levine (CA) |
| Berman | Ford (MI) | Lewis (CA) |
| Bevill | Ford (TN) | Lewis (FL) |
| Bilbray | Frank | Lewis (GA) |
| Bilirakis | Frost | Lipinski |
| Bliley | Gallegly | Livingston |
| Boehlert | Gallo | Lloyd |
| Boggs | Gaydos | Long |
| Bonior | Gejdenson | Lowery (CA) |
| Borski | Gekas | Lowey (NY) |
| Bosco | Gephardt | Luken, Thomas |
| Boucher | Geren | Machtley |
| Boxer | Gibbons | Madigan |
| Brennan | Gillmor | Manton |
| Brooks | Gilman | Markey |
| Broomfield | Gingrich | Martin (IL) |
| Browder | Glickman | Martin (NY) |
| Brown (CA) | Gonzalez | Martinez |
| Brown (CO) | Goodling | Matsui |
| Bruce | Gordon | Mavroules |
| Bryant | Goss | Mazzoli |
| Buechner | Gradison | McCandless |
| Bunning | Grandy | McCloskey |
| Bustamante | Grant | McCollum |
| Byron | Gray | McCrery |
| Callahan | Green | McCurdy |
| Campbell (CA) | Guarini | McDade |
| Campbell (CO) | Gunderson | McDermott |
| Cardin | Hall (OH) | McGrath |
| Carper | Hall (TX) | McHugh |
| Carr | Hamilton | McMillan (NC) |
| Chandler | Hammerschmidt | McMillen (MD) |
| Chapman | Hansen | McNulty |
| Clarke | Harris | Meyers |
| Clay | Hastert | Mfume |
| Clement | Hatcher | Michel |
| Coble | Hawkins | Miller (CA) |
| Coleman (MO) | Hayes (IL) | Miller (WA) |
| Coleman (TX) | Hayes (LA) | Mineta |
| Collins | Hefley | Moakley |
| Condit | Hefner | Molinari |
| Conte | Henry | Montgomery |
| Conyers | Herger | Moody |
| Cooper | Hertel | Moorhead |
| Coughlin | Hiler | Morella |
| Courter | Hoagland | Morrison (CT) |
| Cox | Hochbrueckner | Morrison (WA) |
| Coyne | Hopkins | Mrazek |
| Craig | Horton | Murphy |
| Crockett | Houghton | Murtha |
| Darden | Hoyer | Nagle |
| Davis | Huckaby | Natcher |
| de la Garza | Hughes | Neal (MA) |
| DeFazio | Hunter | Neal (NC) |
| Dellums | Hutto | Nielson |
| Derrick | Hyde | Nowak |
| Dickinson | Inhofe | Oakar |
| Dicks | Ireland | Oberstar |
| Dingell | Jacobs | Obey |
| Dixon | James | Olin |
| Donnelly | Jenkins | Ortiz |
| Dorgan (ND) | Johnson (CT) | Owens (NY) |
| Dornan (CA) | Johnson (SD) | Owens (UT) |
| Douglas | Johnston | Oxley |
| Downey | Jones (GA) | Packard |
| Dreier | Jones (NC) | Pallone |
| Duncan | Jontz | Panetta |
| Durbin | Kanjorski | Parker |
| Dwyer | Kaptur | Parris |
| Pashayan | Scheuer | Swift |
| Patterson | Schiff | Synar |
| Paxon | Schneider | Tallon |
| Payne (NJ) | Schroeder | Tanner |
| Payne (VA) | Schuette | Tauke |
| Pease | Schulze | Tauzin |
| Pelosi | Schumer | Taylor |
| Penny | Sensenbrenner | Thomas (GA) |
| Perkins | Serrano | Thomas (WY) |
| Petri | Sharp | Torres |
| Pickett | Shaw | Torricelli |
| Pickle | Shays | Towns |
| Porter | Shumway | Traficant |
| Price | Sikorski | Traxler |
| Pursell | Sisisky | Udall |
| Quillen | Skaggs | Unsoeld |
| Rahall | Skeen | Upton |
| Rangel | Skelton | Valentine |
| Ravenel | Slattery | Vander Jagt |
| Ray | Slaughter (NY) | Vento |
| Regula | Slaughter (VA) | Visclosky |
| Rhodes | Smith (FL) | Volkmer |
| Richardson | Smith (IA) | Vucanovich |
| Ridge | Smith (NE) | Walgren |
| Rinaldo | Smith (NJ) | Walker |
| Ritter | Smith (TX) | Walsh |
| Roberts | Smith (VT) | Washington |
| Roe | Smith, Denny (OR) | Watkins |
| Rogers | Smith, Robert (NH) | Waxman |
| Rohrabacher | Smith, Robert (OR) | Weber |
| Ros-Lehtinen | Snowe | Weiss |
| Rose | Solarz | Weldon |
| Rostenkowski | Solomon | Wheat |
| Roth | Spence | Whittaker |
| Roukema | Spratt | Whitten |
| Rowland (CT) | Staggers | Williams |
| Rowland (GA) | Stallings | Wilson |
| Roybal | Stangeland | Wise |
| Russo | Stark | Wolf |
| Sabo | Stearns | Wolpe |
| Saiki | Stenholm | Wyden |
| Sangmeister | Stokes | Wylie |
| Sarpalius | Studds | Yates |
| Savage | Sundquist | Yatron |
| Sawyer | | Young (AK) |
| Saxton | | Young (FL) |
| Schaefer | | |

NOES—21

| | | |
|---|---|---|
| Applegate | DeLay | McEwen |
| Armey | DeWine | Miller (OH) |
| Burton | Hancock | Mollohan |
| Combest | Hubbard | Myers |
| Costello | Kasich | Poshard |
| Crane | Lightfoot | Shuster |
| Dannemeyer | Marlenee | Stump |

NOT VOTING—10

| | | |
|---|---|---|
| Alexander | Holloway | Robinson |
| Clinger | Leath (TX) | Thomas (CA) |
| Flippo | Lukens, Donald | |
| Frenzel | Nelson | |

□ 2148

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2150

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3030, CLEAN AIR ACT AMENDMENTS OF 1990

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 3030, the Clerk be authorized to correct section numbers, cross-references, punctuation, and indentation, and to make other technical and conforming changes necessary to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PRIVILEGES OF THE HOUSE—RETURNING S. 1630 TO THE SENATE

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. —) returning to the Senate the bill S. 1630.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. —

*Resolved*, That the bill of the Senate (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER. The gentleman from Illinois states a privilege of the House, and the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House resolution — is a simple resolution returning to the Senate the bill, S. 1630, because it contravenes the constitutional requirement that revenue measures originate in the House of Representatives. Title 7 of S. 1630, which passed the Senate on March 5, 1990, adds a new title 5 to the Clean Air Act. Section 512(a) of that title would prohibit the importation of ozone depleting substances and products containing such substances, unless the country in which the substance or product was manufactured and from which it is imported is a party to, and in compliance with, the Montreal protocol on substances that deplete the ozone layer. The bill also authorizes the President to prohibit the importation of goods manufactured with ozone depleting substances.

Title 7 of the Senate bill could have a substantial impact on Customs revenues. The list of products potentially covered by the import ban is broad, ranging from CFC's and other ozone depleting substances to any product which the President has reason to believe may have been made with such a substance. The ban could cover virtually all electronics products, for example. This change in our tariff laws constitutes a revenue measure in the constitutional sense, because it would

have an immediate impact on Customs revenues. Therefore, I am asking that the House insist on its constitutional prerogatives.

There are numerous precedents for taking the action I am requesting. For example, on July 30, 1987, the House passed House Resolution 235, returning to the Senate S. 829, an appropriation bill which included provisions prohibiting the importation of gold ore, agricultural machinery, and other products from the Soviet Union. On June 16, 1988, the House passed House Resolution 474, returning to the Senate S. 1748, which would have prohibited the importation of all products of Iran.

The House, by adopting this resolution tonight, will preserve its prerogative to orginate revenue matters. However, I want to make it clear to all Members that our action does not constitute a rejection of their provisions of the Senate bill on their merits. The fact that the House has just passed its own version of the Clean Air Act Amendments, H.R. 3030, makes that clear. Thus, our action tonight is merely procedural in nature. It makes it clear to the Senate that the appropriate procedure for dealing with tariff matters that affect revenues is for the House to act first on a revenue bill and the Senate to add its amendments and seek a conference.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Missouri

Mr. GEPHARDT. Mr. Speaker, on behalf of the leadership, I commend Chairman ROSTENKOWSKI for raising an issue of fundamental importance involving the prerogatives of the House of Representatives. The leadership fully agrees that the constitutional prerogatives of the House to originate revenue legislation must be protected.

In the interest of expediting the bill to conference, however, I would request the Chairman to withhold this resolution until the clean air conference report is presented to the House. In the event that the Senate-originated revenue provision is not deleted in conference, I want to assure the chairman that all his parliamentary rights will be preserved including any appropriate points of order and the right to offer a "blue slip" resolution on the conference report.

Mr. ROSTENKOWSKI. I want to thank the majority leader for his assurances on behalf of the leadership that all parliamentary rights and privileges will be protected on the conference report. I want to inform my colleagues that I have spoken to the Senate majority leader, Mr. MITCHELL, who informed me that inclusion of this revenue measure in the Senate bill was inadvertent. Furthermore, Majority Leader MITCHELL has given me his personal assurances that he will do all in his power to see that the other body does not send us other Senate-originated revenue measures in the future.

Mr. Speaker, on the basis of these assurances from both the leadership of the House and Senate, I withdraw the privileged resolution.

The SPEAKER. The gentleman from Illinois withdraws the resolution.

Mr. DINGELL. Mr. Speaker, pursuant to House Resolution 399, I call up the Senate bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves to strike out all out after the enacting clause of the Senate bill. S. 1630, and insert in lieu thereof the provisions of H.R. 3030 as passed by the House, as follows:

S. 1630

*SECTION 1. SHORT TITLE, REFERENCE, AND TABLE OF CONTENTS.*

*(a) SHORT TITLE.—This Act may be cited as the "Clean Air Act Amendments of 1990".*

*(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Clean Air Act.*

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*Subtitle A—In General*

*SEC. 101. GENERAL PLANNING REQUIREMENTS.*

*(a) AREA DESIGNATIONS.—Section 107(d) (42 U.S.C. 7407(d)) is amended to read as follows:*

*"(d) DESIGNATIONS.—*

*"(1) DESIGNATIONS GENERALLY.—*

*"(A) SUBMISSION BY GOVERNORS OF INITIAL DESIGNATIONS FOLLOWING PROMULGATION OF NEW OR REVISED STANDARDS.—By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of a new or revised national ambient air quality standard for any pollutant under section 109, the Governor of each State shall (and at any other time the Governor of a State deems appropriate the Governor may) submit to the Administrator a list of all areas (or portions thereof) in the State, designating as—*

*"(i) nonattainment, any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant,*

*"(ii) attainment, any area (other than an area identified in clause (i)) that meets the national primary or secondary ambient air quality standard for the pollutant, or*

*"(iii) unclassifiable, any area that cannot be classified on the basis of available information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant.*

*The Administrator may not require the Governor to submit the required list sooner than 120 days after promulgating a new or revised national ambient air quality standard.*

*"(B) PROMULGATION BY EPA OF DESIGNATIONS.—(i) Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) submitted under subparagraph (A) as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.*

*"(ii) In making the promulgations required under clause (i), the Administrator may make such modifications as the Administrator deems necessary to the designations of the areas (or portions thereof) submitted under subparagraph (A) (including to the boundaries of such areas or portions thereof). Whenever the Administrator intends to make a modification, the Administrator shall notify the State and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate. The Administrator shall give such notification no later than 120 days before the date the Administrator promulgates the designation, including any modification thereto. If the Governor fails to submit the list in whole or in part, as required under subparagraph (A), the Administrator shall promulgate the designation that the Administrator deems appropriate for any area (or portion thereof) not designated by the State.*

*"(iii) If the Governor of any State, on the Governor's own motion, under subparagraph (A), submits a list of areas (or portions thereof) in the State designated as nonattainment, attainment, or unclassifiable, the Administrator shall act on such designations in accordance with the procedures under paragraph (3)(B) (relating to redesignation).*

*"(iv) A designation for an area (or portion thereof) made pursuant to this subsection shall remain in effect until the area (or portion thereof) is redesignated pursuant to paragraph (3) or (4).*

*"(C) DESIGNATIONS BY OPERATION OF LAW.—(i) Any area designated with respect to any air pollutant under the provisions of paragraph (1) (A), (B), or (C) of this subsection (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated, by operation of law, as a nonattainment area for such pollutant within the meaning of subparagraph (A)(i).*

*"(ii) Any area designated with respect to any air pollutant under the provisions of paragraph (1)(E) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated by operation of law, as an attainment area for such pollutant within the meaning of subparagraph (A)(ii).*

*"(iii) Any area designated with respect to any air pollutant under the provisions of paragraph (1)(D) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated, by operation of law, as an unclassifiable area for such pollutant within the meaning of subparagraph (A)(iii).*

*"(2) PUBLICATION OF DESIGNATIONS AND REDESIGNATIONS.—(A) The Administrator shall publish a notice in the Federal Register promulgating any designation under paragraph (1) or (5), or announcing any designation under paragraph (4), or promulgating any redesignation under paragraph (3).*

*"(B) Promulgation or announcement of a designation under paragraph (1), (4) or (5) shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (relating to notice and comment), except nothing herein shall be construed as precluding such public notice and comment whenever possible.*

*"(3) REDESIGNATION.—(A) Subject to the requirements of subparagraph (E), and on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate, the Administrator may at any time notify the Governor of any State that available information indicates that the designation of any area or portion of an area within the State or interstate area should be revised. In issuing such notification, which shall be public, to the Governor, the Administrator shall provide such information as the Administrator may have available explaining the basis for the notice.*

*"(B) No later than 120 days after receiving a notification under subparagraph (A), the Governor shall submit to the Administrator such redesignation, if any, of the appropriate area (or areas) or portion thereof within the State or interstate area, as the Governor considers appropriate.*

*"(C) No later than 120 days after the date described in subparagraph (B), the Administrator shall promulgate the redesignation, if any, of the area or portion thereof, submitted by the Governor in accordance with subparagraph (B), making such modifications as the Administrator may deem necessary, in the same manner and under the same procedure as is applicable under clause (ii) of paragraph (1)(B), except that the phrase '60 days' shall be substituted for the phrase '120 days' in that clause. If the Governor does not submit, in accordance with subparagraph (B), a redesignation for an area (or portion thereof) identified by the Administrator under subparagraph (A), the Administrator shall promulgate such redesignation, if any, that the Administrator deems appropriate.*

*"(D) The Governor of any State may, on the Governor's own motion, submit to the Administrator a revised designation of any area or portion thereof within the State. Within 18 months of receipt of a complete State redesignation submittal, the Administrator shall approve or deny such redesignation. The submission of a redesignation by a Governor shall not affect the effectiveness or enforceability of the applicable implementation plan for the State.*

*"(E) The Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless—*

*"(i) the Administrator determines that the area has attained the national ambient air quality standard;*

"(ii) the Administrator has fully approved the applicable implementation plan for the area under section 110(k);

"(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

"(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

"(v) the State containing such area has met all requirements applicable to the area under this Act.

"(F) The Administrator shall not promulgate any redesignation of any area (or portion thereof) from nonattainment to unclassifiable.

"(4) NONATTAINMENT DESIGNATIONS FOR OZONE, CARBON MONOXIDE AND PARTICULATE MATTER (PM-10).—

"(A) OZONE AND CARBON MONOXIDE.—(i) Within 120 days after the date of the enactment of the Clean Air Act Amendments of 1990, each Governor of each State shall submit to the Administrator a list that designates, affirms or reaffirms the designation of, or redesignates (as the case may be), all areas (or portions thereof) of the Governor's State as attainment, nonattainment, or unclassifiable with respect to the national ambient air quality standards for ozone and carbon monoxide.

"(ii) No later than 120 days after the date the Governor is required to submit the list of areas (or portions thereof) required under clause (i) of this subparagraph, the Administrator shall promulgate such designations, making such modifications as the Administrator may deem necessary, in the same manner, and under the same procedure, as is applicable under clause (ii) of paragraph (1)(B), except that the phrase '60 days' shall be substituted for the phrase '120 days' in that clause. If the Governor does not submit, in accordance with clause (i) of this subparagraph, a designation for an area (or portion thereof), the Administrator shall promulgate the designation that the Administrator deems appropriate.

"(iii) No nonattainment area may be redesignated as an attainment area under this subparagraph.

"(iv) Notwithstanding paragraph (1)(C)(ii) of this subsection, if an ozone or carbon monoxide nonattainment area located within a metropolitan statistical area or consolidated metropolitan statistical area (as established by the Bureau of the Census) is classified under part D of this title as a Serious, Severe, or Extreme Area, the boundaries of such area are hereby revised (on the date 45 days after such classification) by operation of law to include the entire metropolitan statistical area or consolidated metropolitan statistical area, as the case may be, unless within such 45-day period the Governor (in consultation with State and local air pollution control agencies) notifies the Administrator that additional time is necessary to evaluate the application of clause (v). Whenever a Governor has submitted such a notice to the Administrator, such boundary revision shall occur on the later of the date 8 months after such classification or 14 months after the date of the enactment of the Clean Air Act Amendments of 1990 unless the Governor makes the finding referred to in clause (v), and the Administrator concurs in such finding, within such period. Except as otherwise provided in this paragraph, a boundary revision under this clause or clause (v) shall apply for purposes of any State implementation plan revision required to be submitted after the date of the enactment of the Clean Air Act Amendments of 1990.

"(v) Whenever the Governor of a State has submitted a notice under clause (iv), the Governor, in consultation with State and local air pollution control agencies, shall undertake a study to evaluate whether the entire metropolitan statistical area or consolidated metropolitan statistical area should be included within the nonattainment area. Whenever a Governor finds and demonstrates to the satisfaction of the Administrator, and the Administrator concurs in such finding, that with respect to a portion of a metropolitan statistical area or consolidated metropolitan statistical area, sources in the portion do not contribute significantly to violation of the national ambient air quality standard, the Administrator shall approve the Governor's request to exclude such portion from the nonattainment area. In making such finding, the Governor and the Administrator shall consider factors such as population density, traffic congestion, commercial development, industrial development, meteorological conditions, and pollution transport.

"(B) PM-10 DESIGNATIONS.—By operation of law, until redesignation by the Administrator pursuant to paragraph (3)—

"(i) each area identified in 52 Federal Register 29383 (Aug. 7, 1987) as a Group I area (except to the extent that such identification was modified by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990) is designated nonattainment for PM-10;

"(ii) any area containing a site for which air quality monitoring data show a violation of the national ambient air quality standard for PM-10 before January 1, 1989 (as determined under part 50, appendix K of title 40 of the Code of Federal Regulations) is hereby designated nonattainment for PM-10; and

"(iii) each area not described in clause (i) or (ii) is hereby designated unclassifiable for PM-10.

Any designation for particulate matter (measured in terms of total suspended particulates) that the Administrator promulgated pursuant to this subsection (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall remain in effect for purposes of implementing the maximum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(d), until the Administrator determines that such designation is no longer necessary for that purpose.

"(5) DESIGNATIONS FOR LEAD.—The Administrator may, in the Administrator's discretion at any time the Administrator deems appropriate, require a State to designate areas (or portions thereof) with respect to the national ambient air quality standard for lead in effect as of the date of the enactment of the Clean Air Act Amendments of 1990, in accordance with the procedures under subparagraphs (A) and (B) of paragraph (1), except that in applying subparagraph (B)(i) of paragraph (1) the phrase '2 years from the date of promulgation of the new or revised national ambient air quality standard' shall be replaced by the phrase '1 year from the date the Administrator notifies the State of the requirement to designate areas with respect to the standard for lead'.".

(b) GENERAL REQUIREMENTS FOR IMPLEMENTATION PLANS.—Section 110(a)(2) (42 U.S.C. 7410(a)(2)) is amended to read as follows:

"(2) Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—

"(A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;

"(B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—

"(i) monitor, compile, and analyze data on ambient air quality, and

"(ii) upon request, make such data available to the Administrator;

"(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D;

"(D) contain adequate provisions—

"(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

"(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or

"(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility,

"(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);

"(E) provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision;

"(F) require, as may be prescribed by the Administrator—

"(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

"(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and

"(iii) correlation of such reports by the State agency with any emission limitations

or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection;

"(G) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;

"(H) provide for revision of such plan—

"(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and

"(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act;

"(I) in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas);

"(J) meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection);

"(K) provide for—

"(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

"(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;

"(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover—

"(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

"(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title IV;

"(M) provide for consultation and participation by local political subdivisions affected by the plan; and

"(N) provide for establishment (consistent with the requirements of this Act) of a small source technical assistance entity that shall—

"(i) offer to audit the operations of small sources to determine compliance with all requirements of this Act or offer to refer small sources to qualified auditors;

"(ii) provide information on alternative technologies, including equipment, chemical products, and methods of operation, which will help reduce air pollution; and

"(iii) facilitate lawful cooperation among small generators and other persons where such cooperation would further comply with this Act.".

(c) ADDITIONAL PROVISIONS.—Section 110 (42 U.S.C. 7410) is amended by adding the following at the end thereof:

"(k) ENVIRONMENTAL PROTECTION AGENCY ACTION ON PLAN SUBMISSIONS.—

"(1) COMPLETENESS OF PLAN SUBMISSIONS.—

"(A) COMPLETENESS CRITERIA.—Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate minimum criteria that any plan submission must meet before the Administrator is required to act on such submission under this subsection. The criteria shall be limited to the information necessary to enable the Administrator to determine whether the plan submission complies with the provisions of this Act.

"(B) COMPLETENESS FINDING.—Within 60 days of the Administrator's receipt of a plan or plan revision, but no later than 6 months after the date, if any, by which a State is required to submit the plan or revision, the Administrator shall determine whether each part of the plan or revision meets the minimum criteria established pursuant to subparagraph (A). Any plan or plan revision that a State submits to the Administrator, and that has not been determined by the Administrator (by the date 6 months after receipt of the submission) to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria.

"(C) EFFECT OF FINDING OF INCOMPLETENESS.—Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to subparagraph (A), the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof).

"(2) DEADLINE FOR ACTION.—Within 12 months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the minimum criteria established pursuant to paragraph (1), if applicable (or, if those criteria are not applicable, within 12 months of submission of the plan or revision), the Administrator shall act on the submission in accordance with paragraph (3).

"(3) FULL AND PARTIAL APPROVAL AND DISAPPROVAL.—In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall approve such submittal as a whole if it meets all of the applicable requirements of this Act. If a portion of the plan revision meets all the applicable requirements of this Act, the Administrator may approve the plan revision in part and disapprove the plan revision in part. The plan revision shall not be treated as meeting the requirements of this Act until the Administrator approves the entire plan revision as complying with the applicable requirements of this Act.

"(4) CONDITIONAL APPROVAL.—The Administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

"(5) CALLS FOR PLAN REVISIONS.—Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date prescribed under part D, unless such date has elapsed).

"(6) CORRECTIONS.—Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

"(l) PLAN REVISIONS.—Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

"(m) SANCTIONS.—The Administrator may apply any of the sanctions listed in section 179(b) at any time (or at any time after) the Administrator makes a finding, disapproval, or determination under paragraphs (1) through (4), respectively, of section 179(a) in relation to any plan or plan item (as that term is defined by the Administrator) required under this Act, with respect to any portion of the State the Administrator determines reasonable and appropriate, for the purpose of ensuring that the requirements of this Act relating to such plan or plan item are met. The Administrator shall, by rule, establish criteria for exercising his authority under the previous sentence with respect to any deficiency referred to in section 179(a) to ensure that, during the 24-month period following the finding, disapproval, or determination referred to in section 179(a), such sanctions are not applied on a statewide basis where one or more political subdivisions covered by the applicable implementation plan are principally responsible for such deficiency.

"(n) SAVINGS CLAUSES.—

"(1) EXISTING PLAN PROVISIONS.—Any provision of any applicable implementation plan that was approved or promulgated by the Administrator pursuant to this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect as part of such applicable implementation plan, except to the extent that a revision to such provision is approved or promulgated by the Administrator pursuant to this Act.

"(2) ATTAINMENT DATES.—For any area not designated nonattainment, any plan or plan revision submitted or required to be submitted by a State—

"(A) in response to the promulgation or revision of a national primary ambient air quality standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990, or

"(B) in response to a finding of substantial inadequacy under subsection (a)(2) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990),

shall provide for attainment of the national primary ambient air quality standards within 3 years of the date of the enactment of the Clean Air Act Amendments of 1990 or within 5 years of issuance of such finding of substantial inadequacy, whichever is later.

"(3) RETENTION OF CONSTRUCTION MORATORIUM IN CERTAIN AREAS.—In the case of an area to which, immediately before the date of the enactment of the Clean Air Act Amendments of 1990, the prohibition on construction or modification of major stationary sources prescribed in subsection (a)(2)(I) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) applied by virtue of a finding of the Administrator that the State containing such area had not submitted an implementation plan meeting the requirements of section 172(b)(6) (relating to establishment of a permit program) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990) or 172(a)(1) (to the extent such requirements relate to provision for attainment of the primary national ambient air quality standard for sulfur oxides by December 31, 1982) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, no major stationary source of the relevant air pollutant or pollutants shall be constructed or modified in such area until the Administrator finds that the plan for such area meets the applicable requirements of section 172(c)(5) (relating to permit programs) or subpart 5 of part D (relating to attainment of the primary national ambient air quality standard for sulfur dioxide), respectively.".

(d) CONFORMING AMENDMENTS.—Section 110 (42 U.S.C. 7410) is amended as follows:

(1) Strike out subparagraph (D) of section 110(a)(3).

(2) Strike out paragraph (4) of section 110(a).

(3) In subsection (c)—

(A) strike out subparagraph (A) of paragraph (2);

(B) strike out paragraph (2)(C);

(C) strike out paragraph (4); and

(D) in paragraph (5)(B) strike out "(including the written evidence required by part D),".

(4) Strike subsection (d) and in section 302 (42 U.S.C. 7602) add the following new subsection after subsection (p):

"(q) For purposes of this Act, the term 'applicable implementation plan' means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110, or promulgated under section 110(c), or promulgated or approved pursuant to regulations promulgated under section 301(d) and which implements the relevant requirements of this Act.".

(5) strike out subsection (e).

(6) In subsection (g), strike "the required four month period" and insert "12 months of submission of the proposed plan revision".

(7) In subsection (h)—

(A) strike "one year after the date of enactment of the Clean Air Act Amendments of 1977 and annually thereafter" and insert "5 years after the date of the enactment of the Clean Air Act Amendments of 1990, and every 3 years thereafter"; and

(B) strike the second sentence of paragraph (1).

(8) In subsection (a)(1) strike "nine months" each place it appears and insert "3 years (or such shorter period as the Administrator may prescribe)".

(e) FEDERAL FACILITIES.—Section 118(a) (42 U.S.C. 7418(a)) is amended by inserting ", including fees that meet the requirements of title IV or any other reasonable service charges that are equally applicable to, and paid by, facilities owned or operated by State, regional, or local government entities," immediately after "respecting the control and abatement of air pollution".

(f) CONFORMITY REQUIREMENTS.—Section 176(c) (42 U.S.C. 7506(c)) is amended by striking "(1)", "(2)", "(3)" and "(4)" where they appear, by inserting "(1)" after "(c)", and by adding the following at the end thereof: "Conformity to a plan means—

"(A) conformity to a plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and

"(B) that such activities will not, considering any growth likely to result from such activities—

"(i) cause or contribute to a failure to attain any standard in any area; or

"(ii) delay timely attainment of any standard or any required interim emission reductions.

"(2) In the case of a plan or program developed pursuant to the comprehensive planning process under section 134 of title 23 of the United States Code (hereinafter in this subsection referred to as a 'transportation plan') conformity to a plan approved or promulgated under section 110 (hereinafter in this subsection referred to as an 'applicable implementation plan') shall be determined for the transportation plan taken as a whole and shall not be determined for projects included in such plan, except as provided in paragraphs (3) and (4). In determining conformity in the case of any such transportation plan, subparagraphs (A) and (B) of paragraph (1) shall apply and in addition, the transportation plan shall provide for the implementation of the transportation provisions of the applicable implementation plan in accordance with the schedule set forth in such applicable implementation plan. In making a determination of conformity under subparagraph (A) of paragraph (1), emissions resulting from such plans and programs shall be required to be consistent with baseline emission inventories and emission reduction projections and schedules assigned to those plans and programs in the applicable implementation plan.

"(3) If a transportation plan has been found to conform to an applicable implementation plan as provided in paragraph (2), any project included in such conforming transportation plan shall be treated as conforming to the applicable implementation plan if—

"(A) it is a control measure from the applicable implementation plan; or

"(B) it comes from the conforming transportation plan and the design and scope of such project have not changed since the conformity finding regarding such transportation plan.

"(4) If a transportation plan has been found, within the previous 2-year period, to conform to an applicable implementation plan as provided in paragraph (2), any project not referred to in paragraph (3) shall be treated as conforming to the applicable implementation plan only if it is demonstrated—

"(A) that the projected emissions from such project would not cause the transportation plans and programs within the nonattainment area to exceed the emission reduction projections and schedules assigned to such plans and programs, or

"(B) that any emissions resulting from such project are, before such project is approved, taken into account (i) in a revised transportation plan which conforms as provided in paragraph (2), or (ii) in a revised applicable implementation plan.

"(5) No later than one year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria and procedures for determining conformity (except in the case of transportation plans and projects) of, and for keeping the Administrator informed about, the activities referred to in paragraph (1). No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate criteria and procedures for demonstrating and assuring conformity in the case of transportation plans and projects. Such procedures shall include a requirement that each State containing an ozone or carbon monoxide nonattainment area shall submit to the Administrator and the Secretary of Transportation, within 24 months after such date of enactment, a revision to its implementation plan that includes, for each such nonattainment area, criteria and procedures for assessing the conformity of any plan, program or project subject to the conformity requirements of this subsection.".

SEC. 102. GENERAL PROVISIONS FOR NONATTAINMENT AREAS.

(a) DEFINITIONS.—(1) Part D of title I is amended by inserting immediately after "PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS" the following:

"Subpart 1—Nonattainment Areas in General

"Sec. 171. Definitions.
"Sec. 172. Nonattainment plan provisions.
"Sec. 173. Permit requirements.
"Sec. 174. Planning procedures.
"Sec. 175. Environmental Protection Agency grants.
"Sec. 176. Limitations on certain Federal assistance.
"Sec. 177. New motor vehicle emission standards in nonattainment areas.
"Sec. 178. Guidance documents.".

(2) Section 171 (42 U.S.C. 7501) is amended as follows:

(A) In the introductory language, strike out "and section 110(a)(2)(I)".

(B) Amend paragraph (1) to read as follows:

"(1) REASONABLE FURTHER PROGRESS.—The term 'reasonable further progress' means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.".

(C) Amend paragraph (2) to read as follows:

"(2) NONATTAINMENT AREA.—The term 'nonattainment area' means, for any air pollutant, an area which is designated 'nonattain-

ment' with respect to that pollutant within the meaning of section 107(d).".

(b) NONATTAINMENT PLAN PROVISIONS IN GENERAL.—Section 172 (42 U.S.C. 7502) is amended to read as follows:

"SEC. 172. NONATTAINMENT PLAN PROVISIONS IN GENERAL.

"(a) CLASSIFICATIONS AND ATTAINMENT DATES.—

"(1) CLASSIFICATIONS.—(A) On or after the date the Administrator promulgates the designation of an area as a nonattainment area pursuant to section 107(d) with respect to any national ambient air quality standard (or any revised standard, including a revision of any standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990), the Administrator may classify the area for the purpose of applying an attainment date pursuant to paragraph (2), and for other purposes. In determining the appropriate classification, if any, for a nonattainment area, the Administrator may consider such factors as the severity of nonattainment in such area and the availability and feasibility of the pollution control measures that the Administrator believes may be necessary to provide for attainment of such standard in such area.

"(B) The Administrator shall publish a notice in the Federal Register announcing each classification under subparagraph (A), except the Administrator shall provide an opportunity for at least 30 days for written comment. Such classification shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (concerning notice and comment) and shall not be subject to judicial review until the Administrator takes final action under subsection (k) or (l) of section 110 (concerning action on plan submissions) or section 179 (concerning sanctions) with respect to any plan submissions required by virtue of such designation.

"(C) This paragraph shall not apply with respect to nonattainment areas for which classifications are specifically provided under other provisions of this part.

"(2) ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(A) The attainment date for an area designated nonattainment with respect to a national primary ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable, but no later than 5 years from the date such area was designated nonattainment under section 107(d), except that the Administrator may extend the attainment date to the extent the Administrator determines appropriate, for a period no greater than 10 years from the date of designation as nonattainment, considering the severity of nonattainment and the availability and feasibility of pollution control measures.

"(B) The attainment date for an area designated nonattainment with respect to a secondary national ambient air quality standard shall be as expeditiously as practicable after the date such area was designated nonattainment under section 107(d).

"(C) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the attainment date determined by the Administrator under subparagraph (A) or (B) if—

"(i) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(ii) in accordance with guidance published by the Administrator, no more than a minimal number of exceedances of the relevant national ambient air quality standard has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this subparagraph for a single nonattainment area.

"(D) This paragraph shall not apply with respect to nonattainment areas for which attainment dates are specifically provided under other provisions of this part.

"(b) SCHEDULE FOR PLAN SUBMISSIONS.—At the time the Administrator promulgates the designation of an area as nonattainment with respect to a national ambient air quality standard under section 107(d), the Administrator shall establish a schedule according to which the State containing such area shall submit a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2). Such schedule must, at a minimum, include a date or dates, extending no later than 3 years from the date of the nonattainment designation, for the submission of a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2).

"(c) NONATTAINMENT PLAN PROVISIONS.—The plan provisions (including plan items) required to be submitted under this part shall comply with each of the following:

"(1) IN GENERAL.—Such plan provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards.

"(2) RFP.—Such plan provisions shall require reasonable further progress.

"(3) INVENTORY.—Such plan provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of this part are met.

"(4) IDENTIFICATION AND QUANTIFICATION.—Such plan provisions shall expressly identify and quantify the emissions, if any, of any such pollutant or pollutants which will be allowed, in accordance with section 173(a)(1)(B), from the construction and operation of major new or modified stationary sources in each such area. The plan shall demonstrate to the satisfaction of the Administrator that the emissions quantified for this purpose will be consistent with the achievement of reasonable further progress and will not interfere with attainment of the applicable national ambient air quality standard by the applicable attainment date.

"(5) PERMITS FOR NEW AND MODIFIED MAJOR STATIONARY SOURCES.—Such plan provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with section 173.

"(6) OTHER MEASURES.—Such plan provisions shall include enforceable emission limitations, and such other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date specified in this part.

"(7) COMPLIANCE WITH SECTION 110(a)(2).—Such plan provisions shall also meet the applicable provisions of section 110(a)(2).

"(8) EQUIVALENT TECHNIQUES.—Upon application by any State, the Administrator may allow the use of equivalent modeling, emission inventory, and planning procedures, unless the Administrator determines that the proposed techniques are, in the aggregate, less effective than the methods specified by the Administrator.

"(9) CONTINGENCY MEASURES.—Such plan shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator.

"(d) PLAN REVISIONS REQUIRED IN RESPONSE TO FINDING OF PLAN INADEQUACY.—Any plan revision for a nonattainment area which is required to be submitted in response to a finding by the Administrator pursuant to section 110(k)(5) (relating to calls for plan revisions) must correct the plan deficiency (or deficiencies) specified by the Administrator and meet all other applicable plan requirements of section 110 and this part. The Administrator may reasonably adjust the dates otherwise applicable under such requirements to such revision (except for attainment dates that have not yet elapsed), to the extent necessary to achieve a consistent application of such requirements. In order to facilitate submittal by the States of adequate and approvable plans consistent with the applicable requirements of this Act, the Administrator shall, as appropriate and from time to time, issue written guidelines, interpretations, and information to the States which shall be available to the public, taking into consideration any such guidelines, interpretations, or information provided before the date of the enactment of the Clean Air Act Amendments of 1990.

"(e) FUTURE MODIFICATION OF STANDARD.—If the Administrator relaxes a national primary ambient air quality standard after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, within 12 months after the relaxation, promulgate requirements applicable to all areas which have not attained that standard as of the date of such relaxation. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas designated nonattainment before such relaxation.".

(c) NEW SOURCE PERMIT REQUIREMENTS.—Section 173 (42 U.S.C. 7503) is amended as follows:

(1) Strike the center heading and "SEC. 173." and insert:

"SEC. 173. PERMIT REQUIREMENTS.".

(2) Insert "(a) IN GENERAL.—" before the first sentence.

(3) Insert the following after "(1)": "in accordance with regulations issued by the Administrator for the determination of baseline emissions in a manner consistent with the assumptions underlying the applicable implementation plan approved under section 110 and this part,".

(4) Make the following amendments in subparagraph (A) of paragraph (1):

(A) Insert "sufficient offsetting emissions reductions have been obtained, such that" immediately after the comma following "commence operation".

*(B) Strike "allowed under the applicable implementation plan" and insert "(as determined in accordance with the regulations under this paragraph)".*

*(5) Make the following amendments in subparagraph (B) of paragraph (1):*

*(A) Insert "in the case of a new or modified major stationary source which is located in a zone (within the nonattainment area) identified by the Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted," at the beginning thereof.*

*(B) Strike "'172(b)" and insert "172(c)".*

*(6) Make the following amendments in paragraph (4):*

*(A) Insert "the Administrator has not determined that" after "(4)".*

*(B) Strike "being carried out" and insert "not being adequately implemented".*

*(C) Replace the period at the end thereof with "; and".*

*(7) Add the following new paragraph after paragraph (4):*

*"(5) an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.".*

*(8) Strike "(1)(A) shall be legally binding" in the concluding sentence of subsection (a), as redesignated by this subsection and insert "(1) shall be federally enforceable".*

*(9) Add a new subsection (b) to read as follows:*

*"(b) PROHIBITION ON USE OF OLD GROWTH ALLOWANCES.—Any growth allowance included in an applicable implementation plan to meet the requirements of section 172(b)(5) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall not be valid for use in any area that received or receives a notice under section 110(a)(2)(H)(ii) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or under section 110(k)(1) that its applicable implementation plan containing such allowance is substantially inadequate.".*

*(10) Add the following new subsections at the end thereof:*

*"(c) OFFSETS.—(1) The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant only by obtaining emission reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the State may allow the owner or operator of a source to obtain such emission reductions in another nonattainment area if (A) the other area has an equal or higher nonattainment classification than the area in which the source is located and (B) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located. Such emission reductions shall be, by the time a new or modified source commences operation, in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.*

*"(2) Emission reductions otherwise required by this Act shall not be creditable as emissions reductions for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by this Act shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of paragraph (1).*

*"(d) CONTROL TECHNOLOGY INFORMATION.—The State shall provide that control technology information from permits issued under this section will be promptly submitted to the Administrator for purposes of making such information available through the RACT/BACT/LAER clearinghouse to other States and to the general public.*

*"(e) ROCKET ENGINES OR MOTORS.—The permitting authority of a State shall allow a source to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:*

*"(1) Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this subsection.*

*"(2) The source demonstrates to the satisfaction of the permitting authority of the State that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.*

*"(3) The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate Federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.*

*"(4) The source will comply with an alternative measure, imposed by the permitting authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the permitting authority may impose an emissions fee to be paid to such authority of a State which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous 3 years. The permitting authority shall utilize the fees in a manner that maximizes the emissions reductions in that area.".*

*(d) PLANNING PROCEDURES.—Section 174 (42 U.S.C. 7504) is amended to read as follows:*

*"SEC. 174. PLANNING PROCEDURES.*

*"(a) IN GENERAL.—For any ozone or carbon monoxide nonattainment area, the State containing such area and elected officials of affected local governments shall, before the date required for submittal of the inventory described under sections 182(a)(1) and 187(a)(1), jointly review and update as necessary the planning procedures adopted pursuant to this subsection as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, or develop new planning procedures pursuant to this subsection, as appropriate. In preparing such procedures the State and local elected officials shall determine which elements of a revised implementation plan will be developed, adopted, and implemented (through means including enforcement) by the State and which by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. The implementation plan required by this part shall be prepared by an organization certified by the State, in consultation with elected officials of local governments and in accordance with the determination under the second sentence of this subsection. Such organization shall include elected officials of local governments in the affected area, and representatives of the State air quality planning agency, the State transportation planning agency, the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, the organization responsible for the air quality maintenance planning process under regulations implementing this Act, and any other organization with responsibilities for developing, submitting, or implementing the plan required by this part. Such organization may be one that carried out these functions before the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(b) COORDINATION.—The preparation of implementation plan provisions and subsequent plan revisions under the continuing transportation-air quality planning process described in section 108(e) shall be coordinated with the continuing, cooperative and comprehensive transportation planning process required under section 134 of title 23, United States Code, and such planning processes shall take into account the requirements of this part.*

*"(c) JOINT PLANNING.—In the case of a nonattainment area that is included within more than one State, the affected States may jointly, through interstate compact or otherwise, undertake and implement all or part of the planning procedures described in this section.".*

*(e) MAINTENANCE PLANS.—After section 175 insert:*

*"SEC. 175A. MAINTENANCE PLANS.*

*"(a) PLAN REVISION.—Each State which submits a request under section 107(d) for redesignation of a nonattainment area for any air pollutant as an area which has attained the national primary ambient air quality standard for that air pollutant shall also submit a revision of the applicable State implementation plan to provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation. The plan shall contain such additional measures, if any, as may be necessary to ensure such maintenance.*

*"(b) SUBSEQUENT PLAN REVISIONS.—8 years after redesignation of any area as an attainment area under section 107(d), the State shall submit to the Administrator an additional revision of the applicable State implementation plan for maintaining the national primary ambient air quality standard for 10 years after the expiration of the 10-year period referred to in subsection (a).*

*"(c) NONATTAINMENT REQUIREMENTS APPLICABLE PENDING PLAN APPROVAL.—Until such plan revision is approved and an area is redesignated as attainment for any area designated as a nonattainment area, the requirements of this part shall continue in force and effect with respect to such area.*

*"(d) CONTINGENCY PROVISIONS.—Each plan revision submitted under this section shall contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the*

redesignation of the area as an attainment area. Such provisions shall include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area before redesignation of the area as an attainment area. The failure of any area redesignated as an attainment area to maintain the national ambient air quality standard concerned shall not result in a requirement that the State revise its State implementation plan unless the Administrator, in the Administrator's discretion, requires the State to submit a revised State implementation plan.".

(f) INTERSTATE TRANSPORT PROVISIONS.—

(1) INTERSTATE TRANSPORT COMMISSIONS.—After section 176 (42 U.S.C. 7506) insert:

"SEC. 176A. INTERSTATE TRANSPORT COMMISSIONS.

"(a) AUTHORITY TO ESTABLISH INTERSTATE TRANSPORT REGIONS.—Whenever, on the Administrator's own motion or by petition from the Governor of any State, the Administrator has reason to believe that the interstate transport of air pollutants from one or more States contributes significantly to a violation of a national ambient air quality standard in one or more other States, the Administrator may establish, by rule, a transport region for such pollutant that includes such States. The Administrator, on the Administrator's own motion or upon petition from the Governor of any State, or upon the recommendation of a transport commission established under subsection (b), may—

"(1) add any State or portion of a State to any region established under this subsection whenever the Administrator has reason to believe that the interstate transport of air pollutants from such State significantly contributes to a violation of the standard in the transport region, or

"(2) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the attainment of the standard in any area in the region.

The Administrator shall approve or disapprove any such petition or recommendation within 18 months of its receipt. The Administrator shall establish appropriate proceedings for public participation regarding such petitions and motions, including notice and comment.

"(b) TRANSPORT COMMISSIONS.—

"(1) ESTABLISHMENT.—Whenever the Administrator establishes a transport region under subsection (a), the Administrator shall establish a transport commission comprised of (at a minimum) each of the following members:

"(A) The Governor of each State in the region or the designee of each such Governor.

"(B) The Administrator or the Administrator's designee.

"(C) The Regional Administrator (or the Administrator's designee) for each Regional Office for each Environmental Protection Agency Region affected by the transport region concerned.

"(D) An air pollution control official representing each State in the region, appointed by the Governor.

Decisions of, and recommendations and requests to, the Administrator by each transport commission may be made only by a majority vote of all members other than the Administrator and the Regional Administrators (or designees thereof).

"(2) RECOMMENDATIONS.—The transport commission shall assess the degree of interstate transport of the pollutant or precursors to the pollutant throughout the transport region, assess strategies for mitigating the interstate pollution, and recommend to the Administrator such measures as the Commission determines to be necessary to ensure that the plans for the relevant States meet the requirements of section 110(a)(2)(D). Such commission shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(c) COMMISSION REQUESTS.—A transport commission established under subsection (b) may request the Administrator to issue a finding under section 110(k)(5) that the implementation plan for one or more of the States in the transport region is substantially inadequate to meet the requirements of section 110(a)(2)(D). The Administrator shall approve, disapprove, or partially approve and partially disapprove such a request within 18 months of its receipt and, to the extent the Administrator approves such request, issue the finding under section 110(k)(5) at the time of such approval. In acting on such request, the Administrator shall provide an opportunity for public participation and shall address each specific recommendation made by the commission. Approval or disapproval of such a request shall constitute final agency action within the meaning of section 307(b).".

(2) AMENDMENTS CONFORMING TO TRANSPORT PROVISIONS.—Section 106 (42 U.S.C. 7406) is amended as follows:

(A) Insert "or of implementing section 176A (relating to control of interstate air pollution) or section 184 (relating to control of interstate ozone pollution)" immediately following "section 107".

(B) Insert "any commission established under section 176A (relating to control of interstate air pollution) or section 184 (relating to control of interstate ozone pollution) or" immediately following "program costs of".

(C) Insert "or such commission" in the last sentence immediately following "such agency".

(D) Insert "or commission" at the end thereof, immediately before the period.

(g) SANCTIONS.—After section 178 (42 U.S.C. 7508) insert:

"SEC. 179. SANCTIONS AND CONSEQUENCES OF FAILURE TO ATTAIN.

"(a) STATE FAILURE.—For any implementation plan or plan revision required under this part (or required in response to a finding of substantial inadequacy as described in section 110(k)(5)), if the Administrator—

"(1) finds that a State has failed, for an area designated nonattainment under section 107(d), to submit a plan, or to submit 1 or more of the elements (as determined by the Administrator) required by the provisions of this Act applicable to such an area, or has failed to make a submission for such an area that satisfies the minimum criteria established in relation to any such element under section 110(k),

"(2) disapproves a submission under section 110(k), for an area designated nonattainment under section 107, based on the submission's failure to meet one or more of the elements required by the provisions of this Act applicable to such an area,

"(3)(A) determines that a State has failed to make any submission as may be required under this Act, other than one described under paragraph (1) or (2), including an adequate maintenance plan, or has failed to make any submission, as may be required under this Act, other than one described under paragraph (1) or (2), that satisfies the minimum criteria established in relation to such submission under section 110(k)(1)(A), or

"(B) disapproves in whole or in part a submission described under subparagraph (A), or

"(4) finds that any requirement of an approved plan (or approved part of a plan) is not being implemented,

unless such deficiency has been corrected within 18 months after the finding, disapproval, or determination referred to in paragraphs (1), (2), (3), and (4), one of the sanctions referred to in subsection (b) shall apply, as selected by the Administrator, until the Administrator determines that the State has come into compliance, except that if the Administrator finds a lack of good faith, both of such sanctions shall apply until the Administrator determines that the State has come into compliance. If the Administrator has selected one of such sanctions and the deficiency has not been corrected within 6 months thereafter, both of such sanctions shall apply until the Administrator determines that the State has come into compliance. In addition to any other sanction applicable as provided in this section, the Administrator may withhold all or part of the grants for support of air pollution planning and control programs that the Administrator may award under section 105.

"(b) SANCTIONS.—The sanctions referred to in subsection (a) are as follows:

"(1) HIGHWAY FUNDS.—The Secretary of Transportation shall not approve any project or award any grant under title 23, United States Code, other than for safety or mass transit.

"(2) OFFSETS.—In applying the emissions offset requirements of section 173 to new or modified sources or emissions units for which a permit is required under part D, the ratio of emission reductions to increased emissions shall be at least 2 to 1.

"(c) NOTICE OF FAILURE TO ATTAIN.—(1) As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.

"(2) Upon making the determination under paragraph (1), the Administrator shall publish a notice in the Federal Register containing such determination and identifying each area that the Administrator has determined to have failed to attain. The Administrator may revise or supplement such determination at any time based on more complete information or analysis concerning the area's air quality as of the attainment date.

"(d) CONSEQUENCES FOR FAILURE TO ATTAIN.—(1) Within 1 year after the Administrator publishes the notice under subsection (c)(2) (relating to notice of failure to attain), each State containing a nonattainment area shall submit a revision to the applicable implementation plan meeting the requirements of paragraph (2) of this subsection.

"(2) The revision required under paragraph (1) shall meet the requirements of section 110 and section 172. In addition, the revision shall include such additional measures as the Administrator may reasonably prescribe, including all measures that can be feasibly implemented in the area in light of

technological achievability, costs, and any nonair quality and other air quality-related health and environmental impacts.

"(3) The attainment date applicable to the revision required under paragraph (1) shall be the same as provided in the provisions of section 172(a)(2), except that in applying such provisions the phrase 'from the date of the notice under section 179(c)(2)' shall be substituted for the phrase 'from the date such area was designated nonattainment under section 107(d)' and for the phrase 'from the date of designation as nonattainment'.".

(h) FEDERAL IMPLEMENTATION PLANS.—Section 110(c)(1) (42 U.S.C. 7410(c)) is amended to read as follows: "(1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—

"(A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under section 110(k)(1)(A), or

"(B) disapproves a State implementation plan submission in whole or in part.".

SEC. 103. ADDITIONAL PROVISIONS FOR OZONE NONATTAINMENT AREAS.

Part D of title I is amended by adding the following new subpart at the end thereof:

**"Subpart 2—Additional Provisions for Ozone Nonattainment Areas**

"Sec. 181. Classifications and attainment dates.
"Sec. 182. Plan submissions and requirements.
"Sec. 183. Federal ozone measures.
"Sec. 184. Control of interstate ozone air pollution.
"Sec. 185. Enforcement for Severe and Extreme ozone nonattainment areas for failure to attain.
"Sec. 185A. Transitional areas.
"Sec. 185B. $NO_x$ and VOC study.

"SEC. 181. CLASSIFICATIONS AND ATTAINMENT DATES.

"(a) CLASSIFICATION AND ATTAINMENT DATES FOR 1989 NONATTAINMENT AREAS.—(1) Each area designated nonattainment for ozone pursuant to section 107(d) shall be classified at the time of such designation, under table 1, by operation of law, as a Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for ozone shall be as expeditiously as practicable but not later than the date provided in table 1.

"TABLE 1

| Area class | Design value * | Primary standard attainment date ** |
|---|---|---|
| Marginal | 0.121 up to 0.138. | 3 years after enactment |
| Moderate | 0.138 up to 0.160. | 6 years after enactment |
| Serious | 0.160 up to 0.180. | 9 years after enactment |
| Severe | 0.180 up to 0.280. | 15 years after enactment |
| Extreme | 0.280 and above. | 20 years after enactment |

* The design value is measured in parts per million (ppm).

** The primary standard attainment date is measured from the date of the enactment of the Clean Air Amendments of 1990.

"(2) Notwithstanding table 1, in the case of a severe area with a 1988 ozone design value between 0.190 and 0.280 ppm, the attainment date shall be 17 years (in lieu of 15 years) after the date of the enactment of the Clean Air Amendments of 1990.

"(3) At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each ozone nonattainment area, the Administrator shall publish a notice announcing the classification of such ozone nonattainment area. The provisions of section 172(a)(1)(B) (relating to lack of notice and comment and judicial review) shall apply to such classification.

"(4) If an area classified under paragraph (1) (Table 1) would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the initial classification, by the procedure required under paragraph (3), adjust the classification to place the area in such other category. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for ozone in the area, the level of pollution transport between the area and other affected areas, including both intrastate and interstate transport, and the mix of sources and air pollutants in the area.

"(5) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in table 1 of subsection (a) if—

"(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

"(b) NEW DESIGNATIONS AND RECLASSIFICATIONS.—

"(1) NEW DESIGNATIONS TO NONATTAINMENT.—Any area that is designated attainment or unclassifiable for ozone under section 107(d)(4), and that is subsequently redesignated to nonattainment for ozone under section 107(d)(3), shall, at the time of the redesignation, be classified by operation of law in accordance with table 1 under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(3), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified under this paragraph.

"(2) RECLASSIFICATION UPON FAILURE TO ATTAIN.—(A) Within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date. Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a) to the higher of—

"(i) the next higher classification for the area, or

"(ii) the classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

No area shall be reclassified as Extreme under clause (ii).

"(B) The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each area that the Administrator has determined under subparagraph (A) as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

"(3) VOLUNTARY RECLASSIFICATION.—The Administrator shall grant the request of any State to reclassify a nonattainment area in that State in accordance with table 1 of subsection (a) to a higher classification. The Administrator shall publish a notice in the Federal Register of any such request and of action by the Administrator granting the request.

"(4) FAILURE OF SEVERE AREAS TO ATTAIN STANDARD.—(A) If any Severe Area fails to achieve the national primary ambient air quality standard for ozone by the applicable attainment date (including any extension thereof), the fee provisions under section 185 shall apply within the area, the percent reduction requirements of section 182(c)(2)(B) and (C) (relating to reasonable further progress demonstration and $NO_x$ control) shall continue to apply to the area, and the State shall demonstrate that such percent reduction has been achieved in each 3-year interval after such failure until the standard is attained. Any failure to make such a demonstration shall be subject to the sanctions provided under this part.

"(B) In addition to the requirements of subparagraph (A), if the ozone design value for a Severe Area referred to in subparagraph (A) is above 0.140 ppm for the year of the applicable attainment date, or if the area has failed to achieve its most recent milestone under section 182(g), the new source review requirements applicable under this subpart in Extreme Areas shall apply in the area and the term 'major source' and 'major stationary source' shall have the same meaning as in Extreme Areas.

"(C) In addition to the requirements of subparagraph (A) for those areas referred to in subparagraph (A) and not covered by subparagraph (B), the provisions referred to in subparagraph (B) shall apply after 3 years from the applicable attainment date unless the area has attained the standard by the end of such 3-year period.

"(D) If, after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator modifies the method of determining compliance with the national primary ambient air quality standard, a design value or other indicator comparable to 0.140 in terms of its relationship to the standard shall be used in lieu of 0.140 for purposes of applying the provisions of subparagraphs (B) and (C).

"(c) REFERENCES TO TERMS.—(1) Any reference in this subpart to a 'Marginal Area', a 'Moderate Area', a 'Serious Area', a 'Severe Area', or an 'Extreme Area' shall be considered a reference to a Marginal Area, a Mod-

*erate Area, a Serious Area, a Severe Area, or an Extreme Area as respectively classified under this section.*

*"(2) Any reference in this subpart to 'next higher classification' or comparable terms shall be considered a reference to the classification related to the next higher set of design values in table 1.*

*"SEC. 182. PLAN SUBMISSIONS AND REQUIREMENTS.*

*"(a) MARGINAL AREAS.—Each State in which all or part of a Marginal Area is located shall, with respect to the Marginal Area (or portion thereof, to the extent specified in this subsection), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection except to the extent the State has made such submissions as of the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(1) INVENTORY.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.*

*"(2) CORRECTIONS TO THE STATE IMPLEMENTATION PLAN.—Within the periods prescribed in this paragraph, the State shall submit a revision to the State implementation plan that meets the following requirements—*

*"(A) REASONABLY AVAILABLE CONTROL TECHNOLOGY CORRECTIONS.—For any Marginal Area (or, within the Administrator's discretion, portion thereof) the State shall submit, within 6 months of the date of classification under section 181(a), a revision that includes such provisions to correct requirements in (or add requirements to) the plan concerning reasonably available control technology as were required under section 172(b) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in guidance issued by the Administrator under section 108 before the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(B) SAVINGS CLAUSE FOR VEHICLE INSPECTION AND MAINTENANCE.—(i) For any Marginal Area (or, within the Administrator's discretion, portion thereof), the plan for which already includes, or was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included, a specific schedule for implementation of a vehicle emission control inspection and maintenance program, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision that includes any provisions necessary to provide for a vehicle inspection and maintenance program of no less stringency than that of either the program defined in House Report Numbered 95-294, 95th Congress, 1st Session, 281-291 (1977) as interpreted in guidance of the Administrator issued pursuant to section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or the program already included in the plan, whichever is more stringent.*

*"(ii) Within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review, revise, update, and republish in the Federal Register the guidance for the States for motor vehicle inspection and maintenance programs required by this Act, taking into consideration the Administrator's investigations and audits of such program. The guidance shall, at a minimum, cover the frequency of inspections, the types of vehicles to be inspected (which shall include leased vehicles that are registered in the nonattainment area), vehicle maintenance by owners and operators, audits by the State, the test method and measures, including whether centralized or decentralized, inspection methods and procedures, quality of inspection, components covered, assurance that a vehicle subject to a recall notice from a manufacturer has complied with that notice, and effective implementation and enforcement, including ensuring that any retesting of a vehicle after a failure shall include proof of corrective action and providing for denial of vehicle registration in the case of tampering or misfueling. The guidance which shall be incorporated in the applicable State implementation plans by the States shall provide the States with continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer. No later than 2 years after the Administrator promulgates regulations under section 202(m)(3) (relating to emission control diagnostics), the State shall submit a revision to such program to meet any requirements that the Administrator may prescribe under that section.*

*"(C) PERMIT PROGRAMS.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that includes each of the following:*

*"(i) Provisions to require permits, in accordance with sections 172(c)(5) and 173, for the construction and operation of each new or modified major stationary source (with respect to ozone) to be located in the area.*

*"(ii) Provisions to correct requirements in (or add requirements to) the plan concerning permit programs as were required under section 172(b)(6) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in regulations of the Administrator promulgated as of the date of the enactment of the Clean Air Act Amendments of 1990.*

*"(3) PERIODIC INVENTORY.—*

*"(A) GENERAL REQUIREMENT.—No later than the end of each 3-year period after submission of the inventory under paragraph (1) until the area is redesignated to attainment, the State shall submit a revised inventory meeting the requirements of subsection (a)(1).*

*"(B) EMISSIONS STATEMENTS.—(i) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the State implementation plan to require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement, in such form as the Administrator may prescribe (or accept an equivalent alternative developed by the State), for classes or categories of sources, showing the actual emissions of oxides of nitrogen and volatile organic compounds from that source. The first such statement shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. Subsequent statements shall be submitted at least every year thereafter. The statement shall contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.*

*"(ii) The State may waive the application of subparagraph (A) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State, in its submissions under subparagraphs (1) or (3)(A), provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.*

*"(4) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.1 to 1.*

*The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. The requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the ozone standard by the applicable attainment date in any Marginal area. Section 172(c)(9) (relating to contingency measures) shall not apply to Marginal Areas.*

*"(b) MODERATE AREAS.—Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area, make the submissions described under subsection (a) (relating to Marginal Areas), and shall also submit the revisions to the applicable implementation plan described under this subsection.*

*"(1) PLAN PROVISIONS FOR REASONABLE FURTHER PROGRESS.—*

*"(A) GENERAL RULE.—(i) By no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for volatile organic compound emission reductions, within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, of at least 15 percent from baseline emissions, accounting for any growth in emissions after the year in which the Clean Air Act Amendments of 1990 are enacted. Such plan shall provide for such specific annual reductions in emissions of volatile organic compounds and oxides of nitrogen as necessary to attain the national primary ambient air quality standard for ozone by the attainment date applicable under this Act. This subparagraph shall not apply in the case of oxides of nitrogen for those areas for which the Administrator determines (when the Administrator approves the plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment.*

*"(ii) A percentage less than 15 percent may be used for purposes of clause (i) in the case of any State which demonstrates to the satisfaction of the Administrator that—*

*"(I) new source review provisions are applicable in the nonattainment areas in the same manner and to the same extent as required under subsection (e) in the case of Extreme Areas (with the exception that, in applying such provisions, the terms 'major source' and 'major stationary source' shall include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 5 tons per year of volatile organic compounds);*

*"(II) reasonably available control technology is required for all existing major sources (as defined in subclause (I)); and*

"(III) the plan reflecting a lesser percentage than 15 percent includes all measures that can feasibly be implemented in the area, in light of technological achievability.

To qualify for a lesser percentage under this clause, a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher category.

"(B) BASELINE EMISSIONS.—For purposes of subparagraph (A), the term 'baseline emissions' means the total amount of actual VOC or $NO_x$ emissions from all anthropogenic sources in the area during the calendar year of the enactment of the Clean Air Act Amendments of 1990, excluding emissions that would be eliminated under the regulations described in clauses (i) and (ii) of subparagraph (D).

"(C) GENERAL RULE FOR CREDITABILITY OF REDUCTIONS.—Except as provided under subparagraph (D), emissions reductions are creditable toward the 15 percent required under subparagraph (A) to the extent they have actually occurred, as of 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, from the implementation of measures required under the applicable implementation plan, rules promulgated by the Administrator, or a permit under title IV.

"(D) LIMITS ON CREDITABILITY OF REDUCTIONS.—Emission reductions from the following measures are not creditable toward the 15 percent reductions required under subparagraph (A):

"(i) Any measure relating to motor vehicle exhaust or evaporative emissions promulgated by the Administrator by January 1, 1990.

"(ii) Regulations concerning Reid Vapor Pressure promulgated by the Administrator by the date of the enactment of the Clean Air Act Amendments of 1990 or required to be promulgated under section 211(h).

"(iii) Measures required under subsection (a)(2)(A) (concerning corrections to implementation plans prescribed under guidance by the Administrator).

"(iv) Measures required under subsection (a)(2)(B) to be submitted immediately after the date of the enactment of the Clean Air Act Amendments of 1990 (concerning corrections to motor vehicle inspection and maintenance programs).

"(2) REASONABLY AVAILABLE CONTROL TECHNOLOGY.—The State shall submit a revision to the applicable implementation plan to include provisions to require the implementation of reasonably available control technology under section 172(c)(1) with respect to each of the following:

"(A) Each category of VOC sources in the area covered by a CTG document issued by the Administrator between the date of the enactment of the Clean Air Act Amendments of 1990 and the date of attainment.

"(B) All VOC sources in the area covered by any CTG issued before the date of the enactment of the Clean Air Act Amendments of 1990.

"(C) All other major stationary sources of VOCs that are located in the area.

Each revision described in subparagraph (A) shall be submitted within the period set forth by the Administrator in issuing the relevant CTG document. The revisions with respect to sources described in subparagraphs (B) and (C) shall be submitted by 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, and shall provide for the implementation of the required measures as expeditiously as practicable but no later than May 31, 1995.

"(3) GASOLINE VAPOR RECOVERY.—

"(A) GENERAL RULE.—Not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to require all owners or operators of gasoline dispensing systems to install and operate, by the date prescribed under subparagraph (B), a system for gasoline vapor recovery of emissions from the fueling of motor vehicles. The Administrator shall issue guidance as appropriate as to the effectiveness of such system. This subparagraph shall apply only to facilities which sell more than 10,000 gallons of gasoline per month (50,000 gallons per month in the case of an independent small business marketer of gasoline as defined in section 325).

"(B) EFFECTIVE DATE.—The date required under subparagraph (A) shall be—

"(i) 6 months after the adoption date, in the case of gasoline dispensing facilities for which construction commenced after the date of the enactment of the Clean Air Act Amendments of 1990;

"(ii) one year after the adoption date, in the case of gasoline dispensing facilities which dispense at least 100,000 gallons of gasoline per month, based on average monthly sales for the 2-year period before the adoption date; or

"(iii) 2 years after the adoption date, in the case of all other gasoline dispensing facilities.

Any gasoline dispensing facility described under both clause (i) and clause (ii) shall meet the requirements of clause (i).

"(C) REFERENCE TO TERMS.—For purposes of this paragraph, any reference to the term 'adoption date' shall be considered a reference to the date of adoption by the State of requirements for the installation and operation of a system for gasoline vapor recovery of emissions from the fueling of motor vehicles.

"(4) MOTOR VEHICLE INSPECTION AND MAINTENANCE.—For all Moderate Areas, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan that includes provisions necessary to provide for a vehicle inspection and maintenance program as described in subsection (a)(2)(B) (without regard to whether or not the area was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included a specific schedule for implementation of such a program).

"(5) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.15 to 1.

"(c) SERIOUS AREAS.—Except as otherwise specified in paragraph (4), each State in which all or part of a Serious Area is located shall, with respect to the Serious Area (or portion thereof, to the extent specified in this subsection), make the submissions described under subsection (b) (relating to Moderate Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Serious Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 50 tons per year of volatile organic compounds.

"(1) ENHANCED MONITORING.—In order to obtain more comprehensive and representative data on ozone air pollution, not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 the Administrator shall promulgate rules, after notice and public comment, for enhanced monitoring of ozone, oxides of nitrogen, and volatile organic compounds. The rules shall, among other things, cover the location and maintenance of monitors. Immediately following the promulgation of rules by the Administrator relating to enhanced monitoring, the State shall commence such actions as may be necessary to adopt and implement a program based on such rules, to improve monitoring for ambient concentrations of ozone, oxides of nitrogen and volatile organic compounds and to improve monitoring of emissions of oxides of nitrogen and volatile organic compounds. Each State implementation plan for the area shall contain measures to improve the ambient monitoring of such air pollutants.

"(2) ATTAINMENT AND REASONABLE FURTHER PROGRESS DEMONSTRATIONS.—Within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan that includes each of the following:

"(A) ATTAINMENT DEMONSTRATION.—A demonstration that the plan, as revised, will provide for attainment of the ozone national ambient air quality standard by the applicable attainment date. This attainment demonstration must be based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.

"(B) REASONABLE FURTHER PROGRESS DEMONSTRATION.—A demonstration that the plan, as revised, will result in VOC emissions reductions from the baseline emissions described in subsection (b)(1)(B) equal to the following amount averaged over each consecutive 3-year period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, until the attainment date:

"(i) at least 3 percent of baseline emissions each year; or

"(ii) an amount less than 3 percent of such baseline emissions each year, if the State demonstrates to the satisfaction of the Administrator that the plan reflecting such lesser amount includes all measures that can feasibly be implemented in the area, in light of technological achievability.

To lessen the 3 percent requirement under clause (ii), a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher classification. Any determination to lessen the 3 percent requirement shall be reviewed at each milestone under section 182(g) and revised to reflect such new measures (if any) achieved in practice by sources in the same category in any State, allowing a reasonable time to implement such measures. The emission reductions described in this subparagraph shall be calculated in accordance with subsection (b)(1) (C) and (D) (concerning creditability of reductions). The reductions creditable for the period beginning 6 years after the date of the enactment of the Clean Air Act

Amendments of 1990, shall include reductions that occurred before such period, computed in accordance with subsection (b)(1), that exceed the 15-percent amount of reductions required under subsection (b)(1)(A).

"(C) $NO_x$ CONTROL.—The revision may contain, in lieu of the demonstration required under subparagraph (B), a demonstration to the satisfaction of the Administrator that the applicable implementation plan, as revised, provides for reductions of emissions of VOC's and oxides of nitrogen (calculated according to the creditability provisions of subsection (b)(1) (C) and (D)), that would result in a reduction in ozone concentrations at least equivalent to that which would result from the amount of VOC emission reductions required under subparagraph (B). Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidance concerning the conditions under which $NO_x$ control may be substituted for VOC control or may be combined with VOC control in order to maximize the reduction in ozone air pollution. In accord with such guidance, a lesser percentage of VOCs may be accepted as an adequate demonstration for purposes of this subsection.

"(3) ENHANCED VEHICLE INSPECTION AND MAINTENANCE PROGRAM.—

"(A) REQUIREMENT FOR SUBMISSION.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for an enhanced program to reduce hydrocarbon emissions and $NO_x$ emissions from in-use motor vehicles registered in each urbanized area (in the nonattainment area), as defined by the Bureau of the Census, with a 1980 population of 200,000 or more.

"(B) EFFECTIVE DATE OF STATE PROGRAMS; GUIDANCE.—The State program required under subparagraph (A) shall take effect no later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, and shall comply in all respects with guidance published in the Federal Register (and from time to time revised) by the Administrator for enhanced vehicle inspection and maintenance programs. Such guidance shall include—

"(i) a performance standard achievable by a program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under section 202; and

"(ii) program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard.

Compliance with the performance standard under clause (i) shall be determined using a method to be established by the Administrator.

"(C) STATE PROGRAM.—The State program required under subparagraph (A) shall include, at a minimum, each of the following elements—

"(i) Computerized emission analyzers, including on-road testing devices.

"(ii) No waivers for vehicles and parts covered by the emission control performance warranty as provided for in section 207(b) unless a warranty remedy has been denied in writing, or for tampering-related repairs.

"(iii) In view of the air quality purpose of the program, if, for any vehicle, waivers are permitted for emissions-related repairs not covered by warranty, an expenditure to qualify for the waiver of an amount of $450 or more for such repairs (adjusted annually as determined by the Administrator on the basis of the Consumer Price Index in the same manner as provided in title IV).

"(iv) Enforcement through denial of vehicle registration (except for any program in operation before the date of the enactment of the Clean Air Act Amendments of 1990 whose enforcement mechanism is demonstrated to the Administrator to be more effective than the applicable vehicle registration program in assuring that noncomplying vehicles are not operated on public roads).

"(v) Annual emission testing and necessary adjustment, repair, and maintenance, unless the State demonstrates to the satisfaction of the Administrator that a biennial inspection, in combination with other features of the program which exceed the requirements of this Act, will result in emission reductions which equal or exceed the reductions which can be obtained through such annual inspections.

"(vi) Operation of the program on a centralized basis, unless the State demonstrates to the satisfaction of the Administrator that a decentralized program will be equally effective. An electronically connected testing system, a licensing system, or other measures (or any combination thereof) may be considered, in accordance with criteria established by the Administrator, as equally effective for such purposes.

"(vii) Inspection of emission control diagnostic systems and the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems.

Each State shall biennially prepare a report to the Administrator which assesses the emission reductions achieved by the program required under this paragraph based on data collected during inspection and repair of vehicles. The methods used to assess the emission reductions shall be those established by the Administrator.

"(4) CLEAN-FUEL VEHICLE PROGRAMS.—(A) Except to the extent that substitute provisions have been approved by the Administrator under subparagraph (B), the State shall submit to the Administrator, within 42 months of the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan for each area described under section 212 to include such measures as may be necessary to ensure the effectiveness of the applicable provisions of the clean-fuel vehicle program prescribed under section 212, including all measures necessary to make the use of clean alternative fuels in clean-fuel vehicles (as defined in section 216) economic from the standpoint of vehicle owners. Such a revision shall also be submitted for each area that opts into the clean fuel-vehicle program as provided in section 212.

"(B) The Administrator shall approve, as a substitute for all or a portion of the clean-fuel vehicle program prescribed under section 212, any revision to the relevant applicable implementation plan that in the Administrator's judgment will achieve long-term reductions in ozone-producing and toxic air emissions equal to those achieved under section 212, or the percentage thereof attributable to the portion of the clean-fuel vehicle program for which the revision is to substitute. The Administrator may approve such revision only if it consists exclusively of provisions other than those required under this Act for the area. Any State seeking approval of such revision must submit the revision to the Administrator within 24 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve or disapprove any such revision within 30 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall publish the revision submitted by a State in the Federal Register upon receipt. Such notice shall constitute a notice of proposed rulemaking on whether or not to approve such revision and shall be deemed to comply with the requirements concerning notices of proposed rulemaking contained in sections 553 through 557 of title 5 of the United States Code (related to notice and comment). Where the Administrator approves such revision for any area, the State need not submit the revision required by subparagraph (A) for the area with respect to the portions of the Federal clean-fuel vehicle program for which the Administrator has approved the revision as a substitute.

"(C) Where the Administrator approves under section 214 any market-based alternative emissions reduction plan applicable in an area, the Administrator may approve a plan revision for the area providing for changes to the plan provisions otherwise required by this paragraph to ensure consistency with such alternative emissions reduction plan.

"(D) If the Administrator determines, under section 179, that the State has failed to submit any portion of the program required under subparagraph (A), then, in addition to any sanctions available under section 179, the State may not receive credit, in any demonstration of attainment or reasonable further progress for the area, for any emission reductions from implementation of the corresponding aspects of the Federal clean-fuel vehicle requirements established in section 212.

"(5) TRANSPORTATION CONTROL.—(A) Beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990 and each third year thereafter, the State shall submit a demonstration as to whether current aggregate vehicle mileage, aggregate vehicle emissions, congestion levels, and other relevant parameters are consistent with those used for the area's demonstration of attainment. Where such parameters and emissions levels exceed the levels projected for purposes of the area's attainment demonstration, the State shall within 18 months develop and submit a revision of the applicable implementation plan that includes a transportation control measures program consisting of measures that will reduce emissions to levels that are consistent with emissions levels projected in such demonstration. The revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall include implementation and funding schedules that achieve expeditious emissions reductions in accordance with implementation plan projections. In the alternative, the State may offset the impact of increased vehicle miles traveled and congestion levels by implementing other controls on other source categories that will produce reductions comparable to those that would be achieved by implementation of such transportation demand management program, consistent with the emission reduction schedules in the plan.

"(B) Any plan revision under this subsection shall include measures to reduce congestion, including passenger vehicle trips and miles traveled per trip.

"(6) DE MINIMIS RULE.—The new source review provisions under this part shall ensure that increased emissions of volatile organic compounds resulting from any physical change in, or change in the method of operation of, a stationary source located in the area shall not be considered de minimis for purposes of determining the applicability of the permit requirements established by this Act unless the increase in net emissions of such air pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred.

"(7) SPECIAL RULE FOR MODIFICATIONS OF SOURCES EMITTING LESS THAN 100 TONS.—In the case of any major stationary source of volatile organic compounds located in the area (other than a source which emits or has the potential to emit 100 tons or more of volatile organic compounds per year), whenever any change (as described in section 111(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that such increase shall not be considered a modification for such purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds concerned from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such election, such change shall be considered a modification for such purposes, but in applying section 173(a)(2) in the case of any such modification, the best available control technology (BACT), as defined in section 169, shall be substituted for the lowest achievable emission rate (LAER). The Administrator shall establish and publish policies and procedures for implementing the provisions of this paragraph.

"(8) SPECIAL RULE FOR MODIFICATIONS OF SOURCES EMITTING 100 TONS OR MORE.—In the case of any major stationary source of volatile organic compounds located in the area which emits or has the potential to emit 100 tons or more of volatile organic compounds per year, whenever any change (as described in section 111(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of section 173(a)(2) (concerning the lowest achievable emission rate (LAER)) shall not apply.

"(9) CONTINGENCY PROVISIONS.—In addition to the contingency provisions required under section 172(c)(9), the plan revision shall provide for the implementation of specific measures to be undertaken if the area fails to meet any applicable milestone. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator upon a failure by the State to meet the applicable milestone.

"(10) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.2 to 1.

Any reference to 'attainment date' in subsection (b), which is incorporated by reference into this subsection, shall refer to the attainment date for serious areas.

"(d) SEVERE AREAS.—Each State in which all or part of a Severe Area is located shall, with respect to the Severe Area, make the submissions described under subsection (c) (relating to Serious Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Severe Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of volatile organic compounds.

"(1) VEHICLE MILES TRAVELED.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that includes all reasonably available techniques for reducing aggregate vehicle emissions and, at a minimum, identifies and adopts specific enforceable strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area. The State shall consider, at a minimum, measures specified in section 108(f). If the State fails to include any such measure, the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to attain the national primary ambient air quality standard for ozone.

"(2) OFFSET REQUIREMENT.—For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.3 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

"(3) ENFORCEMENT UNDER SECTION 185.—By December 31, 2000, the State shall submit a plan revision which includes the provisions required under section 185.

Any reference to the term 'attainment date' in subsection (b) or (c), which is incorporated by reference into this subsection (d), shall refer to the attainment date for Severe Areas.

"(e) EXTREME AREAS.—Each State in which all or part of an Extreme Area is located shall, with respect to the Extreme Area, make the submissions described under subsection (d) (relating to Severe Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. The provisions of clause (ii) of subsection (c)(2)(B) (relating to reductions of less than 3 percent) and the provisions of clause (ii) of subsection (b)(1)(A) (relating to reductions of less than 15 percent) shall not apply in the case of an Extreme Area. For any Extreme Area, the terms 'major source' and 'major stationary source' includes (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 10 tons per year of volatile organic compounds.

"(1) OFFSET REQUIREMENT.—For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.5 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

"(2) MODIFICATIONS—Any change (as described in section 111(a)(4)) at a major stationary source which results in any increase in emissions from any discrete operation, unit, or other pollutant emitting activity at the source shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that for purposes of complying with the offset requirement pursuant to section 173(a)(1), any such increase shall not be considered a modification if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of the air pollutant concerned from other discrete operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. The offset requirements of this part shall not be applicable in Extreme Areas to a modification of an existing source if such modification consists of installation of equipment required to comply with the applicable implementation plan, permit, or this Act.

"(3) USE OF CLEAN FUELS OR ADVANCED CONTROL TECHNOLOGY.—For Extreme Areas, a plan revision shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990 to require, effective 8 years after such date, that each new, modified, and existing electric utility and industrial and commercial boiler which emits more than 25 tons per year of oxides of nitrogen—

"(A) burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low polluting fuel), or

"(B) use advanced control technology (such as catalytic control technology or other comparably effective control methods) for reduction of emissions of oxides of nitrogen.

For purposes of this subsection, the term 'primary fuel' means the fuel which is used 90 percent or more of the operating time. This paragraph shall not apply during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act of 1978).

"(4) TRAFFIC CONTROL MEASURES DURING HEAVY TRAFFIC HOURS.—For Extreme Areas, each implementation plan revision under this subsection may contain provisions establishing traffic control measures applicable during heavy traffic hours to reduce the use of high polluting vehicles or heavy-duty vehicles, notwithstanding any other provision of law.

"(5) NEW TECHNOLOGIES.—The Administrator may, in accordance with section 110, approve provisions of an implementation plan for an Extreme Area which anticipate development of new control techniques or improvement of existing control technologies, and an attainment demonstration based on such provisions, if the State demonstrates to the satisfaction of the Administrator that—

"(A) such provisions are not necessary to achieve the incremental emission reductions required during the first 10 years after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions.

Such contingency measures shall be submitted to the Administrator no later than 3 years before proposed implementation of the plan provisions and approved or disapproved by the Administrator in accordance with section 110. The contingency measures shall be adequate to produce emission reductions sufficient, in conjunction with other approved plan provisions, to achieve the periodic emission reductions required by subsection (b)(1) or (c)(2) and attainment by the applicable dates. If the Administrator determines that an Extreme area has failed to achieve an emission reduction requirement set forth in subsection (b)(1) or (c)(2), and that such failure is due in whole or part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with subsections (b)(1) and (c)(2).

Any reference to the term 'attainment date' in subsection (b), (c), or (d) which is incorporated by reference into this subsection, shall refer to the attainment date for Extreme Areas.

"(f) $NO_x$ Requirements.—The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of this section) of oxides of nitrogen. This subsection shall not apply in the case of oxides of nitrogen for those sources for which the Administrator determines (when the Administrator approves a plan or plan revision) that net air quality benefits are greater in the absence of reductions of oxides of nitrogen from the sources concerned. This subsection shall also not apply in the case of oxides of nitrogen for—

"(1) nonattainment areas not within an ozone transport region under section 184 if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment of the national ambient air quality standard for ozone in the area, or

"(2) nonattainment areas within such an ozone transport region if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not produce net ozone air quality benefits in such region.

"(g) MILESTONES.—

"(1) REDUCTIONS IN EMISSIONS.—6 years after the date of the enactment of the Clean Air Amendments of 1990 and at intervals of every 3 years after, the State shall determine whether each nonattainment area (other than an area classified as Marginal or Moderate) has achieved a reduction in emissions during the preceding intervals equivalent to the total emission reductions required to be achieved by the end of such interval pursuant to subsection (b)(1) and the corresponding requirements of subsections (c)(2) (B) and (C), (d), and (e). Such reduction shall be referred to in this section as an applicable milestone.

"(2) COMPLIANCE DEMONSTRATION.—For each nonattainment area referred to in paragraph (1), not later than 90 days after the date on which an applicable milestone occurs (not including an attainment date on which a milestone occurs in cases where the standard has been attained), each State in which all or part of such area is located shall submit to the Administrator a demonstration that the milestone has been met. A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require, by rule. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) SERIOUS AND SEVERE AREAS; STATE ELECTION.—If a State fails to submit a demonstration under paragraph (2) for any Serious or Severe area within the required period or if the Administrator determines that the area has not met any applicable milestone, the State shall elect, within 90 days after such failure or determination—

"(A) to have the area reclassified to the next higher classification,

"(B) to implement specific additional measures adequate, as determined by the Administrator, to meet the next milestone as provided in the applicable contingency plan, or

"(C) to adopt an economic incentive program as described in paragraph (4).

If the State makes an election under subparagraph (B), the Administrator shall, within 90 days after the election, review such plan and shall, if the Administrator finds the contingency plan inadequate, require further measures necessary to meet such milestone. Once the State makes an election, it shall be deemed accepted by the Administrator as meeting the election requirement. If the State fails to make an election required under this paragraph within the required 90-day period or within 6 months thereafter, the area shall be reclassified to the next higher classification by operation of law at the expiration of such 6-month period. Within 12 months after the date required for the State to make an election, the State shall submit a revision of the applicable implementation plan for the area that meets the requirements of this paragraph. The Administrator shall review such plan revision and approve or disapprove the revision within 9 months after the date of its submission.

"(4) ECONOMIC INCENTIVE PROGRAM.—(A) An economic incentive program under this paragraph shall be consistent with rules published by the Administrator and sufficient, in combination with other elements of the State plan, to achieve the next milestone. The State program may include a nondiscriminatory system, consistent with applicable law regarding interstate commerce, of State established emissions fees or a system of marketable permits, or a system of State fees on sale or manufacture of products the use of which contributes to ozone formation, or any combination of the foregoing or other similar measures. The program may also include incentives and requirements to reduce vehicle emissions and vehicle miles traveled in the area, including any of the transportation control measures identified in section 108(f).

"(B) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish rules for the programs to be adopted pursuant to subparagraph (A). Such rules shall include model plan provisions which may be adopted for reducing emissions from permitted stationary sources, area sources, and mobile sources. The guidelines shall require that any revenues generated by the plan provisions adopted pursuant to subparagraph (A) shall be used by the State for any of the following:

"(i) Providing incentives for achieving emission reductions.

"(ii) Providing assistance for the development of innovative technologies for the control of ozone air pollution and for the development of lower-polluting solvents and surface coatings. Such assistance shall not provide for the payment of more than 75 percent of either the costs of any project to develop such a technology or the costs of development of a lower-polluting solvent or surface coating.

"(iii) Funding the administrative costs of State programs under this Act. Not more than 50 percent of such revenues may be used for purposes of this clause.

"(5) EXTREME AREAS.—If a State fails to submit a demonstration under paragraph (2) for any Extreme Area within the required period, or if the Administrator determines that the area has not met any applicable milestone, the State shall, within 9 months after such failure or determination, submit a plan revision to implement an economic incentive program which meets the requirements of paragraph (4). The Administrator shall review such plan revision and approve or disapprove the revision within 9 months after the date of its submission.

"(h) RURAL TRANSPORT AREAS.—(1) Notwithstanding any other provision of section 181 or this section, a State containing an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census), which area is treated by the Administrator, in the Administrator's discretion, as a rural transport area within the meaning of paragraph (2), shall be treated by operation of law as satisfying the requirements of this section if it makes the submissions required under subsection (a) of this section (relating to marginal areas).

"(2) The Administrator may treat an ozone nonattainment area as a rural transport area if the Administrator finds that sources of VOC (and, where the Administrator determines relevant, $NO_x$) emissions within the area do not make a significant contribution to the ozone concentrations measured in the area or in other areas.

"(i) RECLASSIFIED AREAS.—Each State containing an ozone nonattainment area reclassified under section 181(b)(2) shall meet such requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.

"(j) MULTI-STATE OZONE NONATTAINMENT AREAS.—

"(1) COORDINATION AMONG STATES.—Each State in which there is located a portion of a single ozone nonattainment area which covers more than one State (hereinafter in this section referred to as a 'multi-State ozone nonattainment area') shall—

"(A) take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State implementation plans applicable to the nonattainment area concerned; and

"(B) use photochemical grid modeling or any other analytical method determined by the Administrator, in his discretion, to be at least as effective.

The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a multi-State ozone nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

"(2) FAILURE TO DEMONSTRATE ATTAINMENT.—If any State in which there is located a portion of a multi-State ozone nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for ozone in that portion within the required period, the State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 182 (relating to plan submissions and requirements for ozone nonattainment areas). If the Administrator makes such finding, the provisions of section 179 (relating to sanctions) shall not apply, by reason of the failure to make such demonstration, in the portion of the multi-State ozone nonattainment area within the State submitting such petition.

"SEC. 183. FEDERAL OZONE MEASURES.

"(a) CONTROL TECHNIQUES GUIDELINES FOR VOC SOURCES.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines, in accordance with section 108, for 11 categories of stationary sources of VOC emissions for which such guidelines have not been issued as of such date of enactment, not including the categories referred to in paragraphs (3) and (4) of subsection (b) of this section. The Administrator may issue such additional control techniques guidelines as the Administrator deems necessary.

"(b) EXISTING AND NEW CTGS.—(1) Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, and periodically thereafter, the Administrator shall review and, if necessary, update control technique guidance issued under section 108 before the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) In issuing the guidelines the Administrator shall give priority to those categories which the Administrator considers to make the most significant contribution to the formation of ozone air pollution in ozone nonattainment areas, including hazardous waste treatment, storage, and disposal facilities which are permitted under subtitle C of the Solid Waste Disposal Act. Thereafter the Administrator shall periodically review and, if necessary, revise such guidelines.

"(3) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines in accordance with section 108 to reduce the aggregate emissions of volatile organic compounds into the ambient air from aerospace coatings and solvents. Such control techniques guidelines shall, at a minimum, be adequate to reduce aggregate emissions of volatile organic compounds into the ambient air from the application of such coatings and solvents to such level as the Administrator determines may be achieved through the adoption of best available control measures. Such control technology guidance shall provide for such reductions in such increments and on such schedules as the Administrator determines to be reasonable, but in no event later than 10 years after the final issuance of such control technology guidance. In developing control technology guidance under this subsection, the Administrator shall consult with the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration with regard to the establishment of specifications for such coatings. In evaluating VOC reduction strategies, the guidance shall take into account the applicable requirements of section 112 and the need to protect stratospheric ozone.

"(4) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines in accordance with section 108 to reduce the aggregate emissions of volatile organic compounds and PM-10 into the ambient air from paints, coatings, and solvents used in shipbuilding operations and ship repair. Such control techniques guidelines shall, at a minimum, be adequate to reduce aggregate emissions of volatile organic compounds and PM-10 into the ambient air from the removal or application of such paints, coatings, and solvents to such level as the Administrator determines may be achieved through the adoption of the best available control measures. Such control techniques guidelines shall provide for such reductions in such increments and on such schedules as the Administrator determines to be reasonable, but in no event later than 10 years after the final issuance of such control technology guidance. In developing control techniques guidelines under this subsection, the Administrator shall consult with the appropriate Federal agencies.

"(c) ALTERNATIVE CONTROL TECHNIQUES.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue technical documents which identify alternative controls for all categories of stationary sources of volatile organic compounds and oxides of nitrogen which emit, or have the potential to emit 25 tons per year or more of such air pollutant. The Administrator shall revise and update such documents as the Administrator determines necessary.

"(d) GUIDANCE FOR EVALUATING COST-EFFECTIVENESS.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall provide guidance to the States to be used in evaluating the relative cost-effectiveness of various options for the control of emissions from existing stationary sources of air pollutants which contribute to nonattainment of the national ambient air quality standards for ozone.

"(e) CONTROL OF EMISSIONS FROM CERTAIN SOURCES.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) BEST AVAILABLE CONTROLS.—The term 'best available controls' means the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

"(B) CONSUMER OR COMMERCIAL PRODUCT.—The term 'consumer or commercial product' means any substance, product (including paints, coatings, and solvents), or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of volatile organic compounds. The term does not include fuels or fuel additives regulated under section 211, or motor vehicles, non-road vehicles, and non-road engines as defined under section 216.

"(C) REGULATED ENTITIES.—The term 'regulated entities' means—

"(i) manufacturers, processors, wholesale distributors, or importers of consumer or commercial products for sale or distribution in interstate commerce in the United States; or

"(ii) manufacturers, processors, wholesale distributors, or importers that supply the entities listed under clause (i) with such products for sale or distribution in interstate commerce in the United States.

"(2) STUDY AND REPORT.—

"(A) STUDY.—The Administrator shall conduct a study of the emissions of volatile organic compounds into the ambient air from consumer and commercial products (or any combination thereof) in order to—

"(i) determine their potential to contribute to ozone levels which violate the national ambient air quality standard for ozone; and

"(ii) establish criteria for regulating consumer and commercial products or classes or categories thereof which shall be subject to control under this subsection.

The study shall be completed and a report submitted to Congress not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) CONSIDERATION OF CERTAIN FACTORS.—In establishing the criteria under subparagraph (A)(ii), the Administrator shall take into consideration each of the following:

"(i) The uses, benefits, and commercial demand of consumer and commercial products.

"(ii) The health or safety functions (if any) served by such consumer and commercial products.

"(iii) Those consumer and commercial products which emit highly reactive volatile organic compounds into the ambient air.

"(iv) Those consumer and commercial products which are subject to the most cost-effective controls.

"(v) The availability of alternatives (if any) to such consumer and commercial products which are of comparable costs, considering health, safety, and environmental impacts.

"(3) REGULATIONS TO REQUIRE EMISSION REDUCTIONS.—

"(A) IN GENERAL.—Upon submission of the final report under paragraph (2), the Administrator shall list those categories of consumer or commercial products that the Administrator determines, based on the study, account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer or commercial products in areas that violate the NAAQS for ozone. Credit toward the 80 percent emissions calculation shall be given for emission reductions from consumer or commercial products made after the date of enactment of this section. At such time, the Administrator shall divide the list into 4 groups establish-

ing priorities for regulation based on the criteria established in paragraph (2). Every 2 years after promulgating such list, the Administrator shall regulate one group of categories until all 4 groups are regulated. The regulations shall require best available controls as defined in this section. Such regulations may exempt health use products for which the Administrator determines there is no suitable substitute. In order to carry out this section, the Administrator may, by regulation, control or prohibit any activity, including the manufacture or introduction into commerce, offering for sale, or sale of any consumer or commercial product which results in emission of volatile organic compounds into the ambient air.

"(B) REGULATED ENTITIES.—Regulations under this subsection may be imposed only with respect to regulated entities.

"(C) USE OF CTGS.—For any consumer or commercial product the Administrator may issue control techniques guidelines under this Act in lieu of regulations required under subparagraph (A) if the Administrator determines that such guidance will be substantially as effective as regulations in reducing emissions of volatile organic compounds which contribute to ozone levels in areas which violate the national ambient air quality standard for ozone.

"(4) SYSTEMS OF REGULATION.—The regulations under this subsection may include any system or systems of regulation as the Administrator may deem appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or reasonable fees, charges, and other economic incentives (including marketable permits and auctions of emissions rights) concerning the manufacture, processing, distribution, use, consumption, or disposal of the product.

"(5) FEES, ETC.—Any fees, charges, or other funds established and collected by the Administrator under such regulations shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available until expended, subject to annual appropriation Acts, solely to carry out the activities of the Administrator for which such fees, charges, or collections are established or made.

"(6) ENFORCEMENT.—Any regulation established under this subsection shall be treated, for purposes of enforcement of this Act, as a standard under section 111 and any violation of such regulation shall be treated as a violation of a requirement of section 111(e).

"(7) STATE ADMINISTRATION.—Each State may develop and submit to the Administrator a procedure under State law for implementing and enforcing regulations promulgated under this subsection. If the Administrator finds the State procedure is adequate, the Administrator shall approve such procedure. Nothing in this paragraph shall prohibit the Administrator from enforcing any applicable regulations under this subsection.

"(8) SIZE, ETC.—No regulations regarding the size, shape, or labeling of a product may be promulgated, unless the Administrator determines such regulations to be useful in meeting any national ambient air quality standard.

"(9) STATE CONSULTATION.—Any State which proposes regulations other than those adopted under this subsection shall consult with the Administrator regarding whether any other State or local subdivision has promulgated or is promulgating regulations on any products covered under this part. The Administrator shall establish a clearinghouse of information, studies, and regulations proposed and promulgated regarding products covered under this subsection and disseminate such information collected as requested by State or local subdivisions.

"(f) MARINE VESSEL STANDARDS.—

"(1) SCHEDULE FOR STANDARDS.—(A) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate standards applicable to the emission of VOCs and any other air pollutant from loading and unloading of marine tank vessels which the Administrator finds causes, or contributes to, air pollution that may be reasonably anticipated to endanger public health or welfare. Such standards shall require the application of reasonably available control technology, considering costs, any nonair-quality benefits, environmental impacts, energy requirements and safety factors associated with alternative control techniques. To the extent practicable such standards shall apply to loading and unloading facilities and not to marine vessels.

"(B) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds (after consultation with the Secretary of the department in which the Coast Guard is operating) necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period, except that the effective date shall not be more than 2 years after promulgation of such regulations.

"(2) REGULATIONS ON EQUIPMENT SAFETY.—Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Secretary of the Department in which the Coast Guard is operating shall issue regulations to ensure the safety of the equipment and operations which are to control emissions from the loading and unloading of marine tank vessels, under section 3703 of title 46 of the United States Code and section 6 of the Ports and Waterways Safety Act (33 U.S.C. 1225). The regulations issued by a State or political subdivision regarding emissions from the loading and unloading of marine tank vessels shall be consistent with the regulations regarding safety of the Department in which the Coast Guard is operating.

"(3) AGENCY AUTHORITY.—(A) The Administrator shall ensure compliance with the vessel emission standards prescribed under paragraph (1)(A).

"(B) The Secretary of the Department in which the Coast Guard is operating shall ensure compliance with the regulations issued under paragraph (2).

"(4) STATE OR LOCAL STANDARDS.—After the Administrator promulgates standards under this section, no State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions from marine vessels subject to regulation under paragraph (1) unless such standard is no less stringent than the standards promulgated under paragraph (1).

"(5) ENFORCEMENT.—Any standard established under paragraph (1)(A) shall be treated, for purposes of enforcement of this Act, as a standard under section 111 and any violation of such standard shall be treated as a violation of a requirement of section 111(e).

"(g) OZONE DESIGN VALUE STUDY.—The Administrator shall conduct a study of whether the methodology in use by the Environmental Protection Agency as of the date of the enactment of the Clean Air Act Amendments of 1990 for establishing a design value for ozone provides a reasonable indicator of the ozone air quality of ozone nonattainment areas. The Administrator shall obtain input from States, local subdivisions thereof, and others. The study shall be completed and a report submitted to Congress not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The results of the study shall be subject to peer and public review before submitting it to Congress.

"SEC. 184. CONTROL OF INTERSTATE OZONE AIR POLLUTION.

"(a) OZONE TRANSPORT REGIONS.—A single transport region for ozone (within the meaning of section 176A(a)), comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia, is hereby established by operation of law. The provisions of section 176A(a) (1) and (2) shall apply with respect to the transport region established under this section and any other transport region established for ozone, except to the extent inconsistent with the provisions of this section. The Administrator shall convene the commission required (under section 176A(b)) as a result of the establishment of such region within 6 months of the date of the enactment of the Clean Air Act Amendments of 1990.

"(b) PLAN PROVISIONS FOR STATES IN OZONE TRANSPORT REGIONS.—(1) In accordance with section 110, not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 (or 9 months after the subsequent inclusion of a State in a transport region established for ozone), each State included within a transport region established for ozone shall submit a State implementation plan or revision thereof to the Administrator which requires the following—

"(A) that each area in such State that is in an ozone transport region, and that is a metropolitan statistical area or part thereof with a population of 100,000 or more comply with the provisions of section 182(c)(2)(A) (pertaining to enhanced vehicle inspection and maintenance programs); and

"(B) implementation of reasonably available control technology with respect to all sources of volatile organic compounds in the State covered by a control techniques guideline issued before or after the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study identifying control measures capable of achieving emission reductions comparable to those achievable through vehicle refueling controls contained in section 182(b)(3), and such measures or such vehicle refueling controls shall be implemented in accordance with the provisions of this section. Notwithstanding other deadlines in this section, the applicable implementation plan shall be revised to reflect such measures within 1 year of completion of the study. For purposes of this section any stationary source that emits or has the potential to emit at least 50 tons per year of volatile organic compounds shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area were

classified as a Moderate nonattainment area.

"(c) ADDITIONAL CONTROL MEASURES.—

"(1) RECOMMENDATIONS.—Upon petition of any State within a transport region established for ozone, and based on a majority vote of the Governors on the Commission (or their designees), the Commission may, after notice and opportunity for public comment, develop recommendations for additional control measures to be applied within all or a part of such transport region if the commission determines such measures are necessary to bring any area in such region into attainment by the dates provided by this subpart. The commission shall transmit such recommendations to the Administrator.

"(2) NOTICE AND REVIEW.—Whenever the Administrator receives recommendations prepared by a commission pursuant to paragraph (1) (the date of receipt of which shall hereinafter in this section be referred to as the 'receipt date'), the Administrator shall—

"(A) immediately publish in the Federal Register a notice stating that the recommendations are available and provide an opportunity for public hearing within 90 days beginning on the receipt date; and

"(B) commence a review of the recommendations to determine whether the control measures in the recommendations are necessary to bring any area in such region into attainment by the dates provided by this subpart and are otherwise consistent with this Act.

"(3) CONSULTATION.—In undertaking the review required under paragraph (2)(B), the Administrator shall consult with members of the commission of the affected States and shall take into account the data, views, and comments received pursuant to paragraph (2)(A).

"(4) APPROVAL AND DISAPPROVAL.—Within 9 months after the receipt date, the Administrator shall (A) determine whether to approve, disapprove, or partially disapprove and partially approve the recommendations; (B) notify the commission in writing of such approval, disapproval, or partial disapproval; and (C) publish such determination in the Federal Register. If the Administrator disapproves or partially disapproves the recommendations, the Administrator shall specify—

"(i) why any disapproved additional control measures are not necessary to bring any area in such region into attainment by the dates provided by this subpart or are otherwise not consistent with the Act; and

"(ii) recommendations concerning equal or more effective actions that could be taken by the commission to conform the disapproved portion of the recommendations to the requirements of this section.

"(5) FINDING.—Upon approval or partial approval of recommendations submitted by a commission, the Administrator shall issue to each State which is included in the transport region and to which a requirement of the approved plan applies, a finding under section 110(k)(5) that the implementation plan for such State is inadequate to meet the requirements of section 110(a)(2)(D). Such finding shall require each such State to revise its implementation plan to include the approved additional control measures within one year after the finding is issued.

"(d) BEST AVAILABLE AIR QUALITY MONITORING AND MODELING.—For purposes of this section, not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria for purposes of determining the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone. Such criteria shall require that the best available air quality monitoring and modeling techniques be used for purposes of making such determinations.

"SEC. 185. ENFORCEMENT FOR SEVERE AND EXTREME OZONE NONATTAINMENT AREAS FOR FAILURE TO ATTAIN.

"(a) GENERAL RULE.—Each implementation plan revision required under section 182(d) and (e) (relating to the attainment plan for Severe and Extreme ozone nonattainment areas) shall provide that, if the area to which such plan revision applies has failed to attain the national primary ambient air quality standard for ozone by the applicable attainment date, each major stationary source of VOCs located in the area shall, except as otherwise provided under subsection (c), pay a fee to the State as a penalty for such failure, computed in accordance with subsection (b), for each calendar year beginning after the attainment date, until the area is redesignated as an attainment area for ozone. Each such plan revision should include procedures for assessment and collection of such fees.

"(b) COMPUTATION OF FEE.—

"(1) FEE AMOUNT.—The fee shall equal $5,000, adjusted in accordance with paragraph (3), per ton of VOC emitted by the source during the calendar year in excess of 80 percent of the baseline amount, computed under paragraph (2).

"(2) BASELINE AMOUNT.—For purposes of this section, the baseline amount shall be computed, in accordance with such guidance as the Administrator may provide, as the lower of the amount of actual VOC emissions ('actuals') or VOC emissions allowed under the permit applicable to the source (or, if no such permit has been issued for the attainment year, the amount of VOC emissions allowed under the applicable implementation plan ('allowables')) during the attainment year. Notwithstanding the preceding sentence, the Administrator may issue guidance authorizing the baseline amount to be determined in accordance with the lower of average actuals or average allowables, determined over a period of more than one calendar year. Such guidance may provide that such average calculation for a specific source may be used if that source's emissions are irregular, cyclical, or otherwise vary significantly from year to year.

"(3) ANNUAL ADJUSTMENT.—The fee amount under paragraph (1) shall be adjusted annually, beginning in the year beginning after the year of enactment, in accordance with section 402(b)(3)(B)(v) (relating to inflation adjustment).

"(c) EXCEPTION.—Notwithstanding any provision of this section, no source shall be required to pay any fee under subsection (a) with respect to emissions during any year that is treated as an Extension Year under section 181(a)(5).

"(d) FEE COLLECTION BY THE ADMINISTRATOR.—If the Administrator has found that the fee provisions of the implementation plan do not meet the requirements of this section, or if the Administrator makes a finding that the State is not administering and enforcing the fee required under this section, the Administrator shall, in addition to any other action authorized under this title, collect, in accordance with procedures promulgated by the Administrator, the unpaid fees required under subsection (a). If the Administrator makes such a finding under section 179(a)(4), the Administrator may collect fees for periods before the determination, plus interest computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes), to the extent the Administrator finds such fees have not been paid to the State. The provisions of clauses (ii) through (iii) of section 402(b)(3)(C) (relating to penalties and use of the funds, respectively) shall apply with respect to fees collected under this subsection.

"(e) EXEMPTIONS FOR CERTAIN SMALL AREAS.—For areas with a total population under 200,000 which fail to attain the standard by the applicable attainment date, no sanction under this section or under any other provision of this Act shall apply if the area can demonstrate, consistent with guidance issued by the Administrator, that attainment in the area is prevented because of ozone or ozone precursors transported from other areas. The prohibition applies only in cases in which the area has met all requirements and implemented all measures applicable to the area under this Act.

"SEC. 185A. TRANSITIONAL AREAS.

"If an area has not violated the NAAQS for ozone for the 36-month period commencing on January 1, 1987, and ending on December 31, 1989, the Administrator shall suspend the requirements of this subpart until December 31, 1991. By June 30, 1992, the Administrator shall determine by order, based on the area's design value as of the attainment date, whether the area attained such standard by December 31, 1991. If the Administrator determines that the area attained the standard, the Administrator shall require, as part of the order, the State to submit a maintenance plan for the area within 12 months of such determination. If the Administrator determines that the area failed to attain the standard, the Administrator shall, by June 30, 1992, designate the area as nonattainment under section 107(d)(4).

"SEC. 185B. $NO_x$ AND VOC STUDY.

"The Administrator, in conjunction with the National Academy of Sciences, shall conduct a study on the role of ozone precursors in tropospheric ozone formation and control. The study should examine the roles of oxides of nitrogen and volatile organic compounds emission reductions, the role of biogenic volatile organic compounds emissions, and the basic information required for air quality models. The study should be completed and a report submitted to Congress within 2 years of the date of the enactment of the Clean Air Act Amendments of 1990.".

SEC. 104. ADDITIONAL PROVISIONS FOR CARBON MONOXIDE NONATTAINMENT AREAS.

Part D of title I is amended by adding the following new subpart at the end:

"Subpart 3—Additional Provisions for Carbon Monoxide Nonattainment Areas

"Sec. 186. Classifications and attainment dates.

"Sec. 187. Plan submissions and requirements.

"SEC. 186. CLASSIFICATION AND ATTAINMENT DATES.

"(a) CLASSIFICATION BY OPERATION OF LAW AND ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(1) Each area designated nonattainment for carbon monoxide pursuant to section 107(d) shall be classified at the time of such designation under table 1, by operation of law, as a Moderate Area or a Serious Area based on the design value for the area. The design value shall be calculated according to

the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for carbon monoxide shall be as expeditiously as practicable but not later than the date provided in table 1:

"TABLE 1

| Area classification | Design value | Primary standard attainment date |
|---|---|---|
| Moderate | 9.1–16.4 ppm. | December 31, 1995. |
| Serious | 16.5 and above. | December 31, 2000. |

"(2) At the time of publication of the notice required under section 107 (designating carbon monoxide nonattainment areas), the Administrator shall publish a notice announcing the classification of each such carbon monoxide nonattainment area. The provisions of section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

"(3) If an area classified under paragraph (1), table 1, would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the date of the enactment of the Clean Air Act Amendments of 1990 by the procedure required under paragraph (2), adjust the classification of the area. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for carbon monoxide in the area, the level of pollution transport between the area and the other affected areas, and the mix of sources and air pollutants in the area. The Administrator may make the same adjustment for purposes of paragraphs (2), (3), (6), and (7) of section 187(a).

"(4) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter in this subpart referred to as the 'Extension Year') the date specified in table 1 of subsection (a) if—

"(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(B) no more than one exceedance of the national ambient air quality standard level for carbon monoxide has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

"(b) NEW DESIGNATIONS AND RECLASSIFICATIONS.—

"(1) NEW DESIGNATIONS TO NONATTAINMENT.—Any area that is designated attainment or unclassifiable for carbon monoxide under section 107(d)(4), and that is subsequently redesignated to nonattainment for carbon monoxide under section 107(d)(3), shall, at the time of the redesignation, be classified by operation of law in accordance with table 1 under subsections (a)(1) and (a)(4). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(2), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified.

"(2) RECLASSIFICATION OF MODERATE AREAS UPON FAILURE TO ATTAIN.—

"(A) GENERAL RULE.—Within 6 months following the applicable attainment date for a carbon monoxide nonattainment area, the Administrator shall determine, based on the area's design value as of the attainment date, whether the area has attained the standard by that date. Any Moderate Area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a)(1) as a Serious Area.

"(B) PUBLICATION OF NOTICE.—The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each area that the Administrator has determined, under subparagraph (A), as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

"(c) REFERENCES TO TERMS.—Any reference in this subpart to a 'Moderate Area' or a 'Serious Area' shall be considered a reference to a Moderate Area or a Serious Area, respectively, as classified under this section.

"SEC. 187. PLAN SUBMISSIONS AND REQUIREMENTS.

"(a) MODERATE AREAS.—Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area (or portion thereof, to the extent specified in guidance of the Administrator issued before the date of the enactment of the Clean Air Act Amendments of 1990), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection, within such periods as are prescribed under this subsection, except to the extent the State has made such submissions as of such date of enactment:

"(1) INVENTORY.—No later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.

"(2) VEHICLE MILES TRAVELED.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall contain a forecast of vehicle miles traveled in the nonattainment area concerned for each year before the year in which the plan projects the national ambient air quality standard for carbon monoxide to be attained in the area. The forecast shall be based on guidance which shall be published by the Administrator within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990. The plan revision shall provide for annual updates of the forecasts to be submitted to the Administrator together with annual reports regarding the extent to which such forecasts proved to be accurate. Such annual reports shall contain estimates of actual vehicle miles traveled in each year for which a forecast was required.

"(3) CONTINGENCY PROVISIONS.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall provide for the implementation of specific measures to be undertaken if any estimate of vehicle miles traveled in the area which is submitted in an annual report under paragraph (2) exceeds the number predicted in the most recent prior forecast or if the area fails to attain the national primary ambient air quality standard for carbon monoxide by the primary standard attainment date. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator if the prior forecast has been exceeded by an updated forecast or if the national standard is not attained by such deadline.

"(4) SAVINGS CLAUSE FOR VEHICLE INSPECTION AND MAINTENANCE PROVISIONS OF THE STATE IMPLEMENTATION PLAN.—Immediately after the date of the enactment of the Clean Air Act Amendments of 1990, for any Moderate Area (or, within the Administrator's discretion, portion thereof), the plan for which is of the type described in section 182(a)(2)(B) any provisions necessary to ensure that the applicable implementation plan includes the vehicle inspection and maintenance program described in section 182(a)(2)(B).

"(5) PERIODIC INVENTORY.—No later than September 30, 1995, and no later than the end of each 3 year period thereafter, until the area is redesignated to attainment, a revised inventory meeting the requirements of subsection (a)(1).

"(6) ENHANCED VEHICLE INSPECTION AND MAINTENANCE.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 in the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, a revision that includes provisions for an enhanced vehicle inspection and maintenance program as required in section 182(c)(3) (concerning serious ozone nonattainment areas), except that such program shall be for the purpose of reducing carbon monoxide rather than hydrocarbon emissions.

"(7) ATTAINMENT DEMONSTRATION AND SPECIFIC ANNUAL EMISSION REDUCTIONS.—In the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, no later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to provide, and a demonstration that the plan as revised will provide, for attainment of the carbon monoxide NAAQS by the applicable attainment date and provisions for such specific annual emission reductions as are necessary to attain the standard by that date.

The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. In the case of Moderate Areas with a design value of 12.7 ppm or lower at the time of classification, the requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the carbon monoxide standard by the applicable attainment date.

"(b) SERIOUS AREAS.—Each State in which all or part of a Serious Area is located shall, with respect to the Serious Area, make the submissions applicable under subsection (a) to Moderate Areas with a design value of 12.7 ppm or greater at the time of classification, and shall also submit the revision and other items described under this subsection. Within 2 years after the date of the enact-

ment of the Clean Air Act Amendments of 1990 the State shall submit a revision that includes the transportation control measures as required in section 182(d)(1) except that such revision shall be for the purpose of reducing CO emissions rather than volatile organic compound emissions. Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to require that gasoline sold, supplied, offered for sale or supply, dispensed, transported or introduced into commerce in the larger of—

"(1) the Consolidated Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) (CMSA) in which the area is located, or

"(2) if the area is not located in a CMSA, the Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) in which the area is located,

be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide (as determined by the Administrator), with fuels containing such level of oxygen as is necessary, in combination with other measures, to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area. The revision shall provide that such requirement shall take effect no later than October 1, 1993, and shall include a program for implementation and enforcement of the requirement consistent with guidance to be issued by the Administrator. Notwithstanding the preceding provisions of this paragraph, the revision described in this paragraph shall not be required for an area if the State demonstrates to the satisfaction of the Administrator that the revision is not necessary to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area.

"(c) AREAS WITH SIGNIFICANT STATIONARY SOURCE EMISSIONS OF CO.—

"(1) SERIOUS AREAS.—In the case of Serious Areas in which stationary sources contribute significantly to carbon monoxide levels (as determined under rules issued by the Administrator), the State shall submit a plan revision within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, which provides that the term 'major stationary source' includes (in addition to the sources described in section 302) any stationary source which emits, or has the potential to emit, 50 tons per year or more of carbon monoxide.

"(2) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive any requirements that pertain to transportation controls, inspection and maintenance, or oxygenated fuels where the Administrator determines by rule that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in the area.

"(3) GUIDELINES.—Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidelines for and rules determining whether stationary sources contribute significantly to carbon monoxide levels in an area.

"(d) CO MILESTONE.—

"(1) MILESTONE DEMONSTRATION.—By March 31, 1996, each State in which all or part of a Serious Area is located shall submit to the Administrator a demonstration that the area has achieved a reduction in emissions of CO equivalent to the total of the specific annual emission reductions required by December 31, 1995. Such reductions shall be referred to in this subsection as the milestone.

"(2) ADEQUACY OF DEMONSTRATION.—A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) FAILURE TO MEET EMISSION REDUCTION MILESTONE.—If a State fails to submit a demonstration under paragraph (1) within the required period, or if the Administrator notifies the State that the State has not met the milestone, the State shall, within 9 months after such a failure or notification, submit a plan revision to implement an economic incentive and transportation control program as described in section 182(g)(4). Such revision shall be sufficient to achieve the specific annual reductions in carbon monoxide emissions set forth in the plan by the attainment date.

"(e) MULTI-STATE CO NONATTAINMENT AREAS.—

"(1) COORDINATION AMONG STATES.—Each State in which there is located a portion of a single nonattainment area for carbon monoxide which covers more than one State ('multi-State nonattainment area') shall take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State implementation plans applicable to the nonattainment area concerned. The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a multi-State nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

"(2) FAILURE TO DEMONSTRATE ATTAINMENT.—If any State in which there is located a portion of a multi-State nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for carbon monoxide in that portion within the period required under this part the State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 187 (relating to plan submissions for carbon monoxide nonattainment areas). If the Administrator makes such finding, in the portion of the nonattainment area within the State submitting such petition, no sanction shall be imposed under section 179 or under any other provision of this Act, by reason of the failure to make such demonstration.

"(f) RECLASSIFIED AREAS.—Each State containing a carbon monoxide nonattainment area reclassified under section 186(b)(2) shall meet the requirements of subsection (b) of this section, as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than the attainment date) where such deadlines are shown to be infeasible.

"(g) FAILURE OF SERIOUS AREA TO ATTAIN STANDARD.—If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that a program of incentives and requirements as described in section 182(g)(4) shall be applicable in the area, and such program, in combination with other elements of the revised plan, shall be adequate to reduce the total tonnage of emissions of carbon monoxide in the area by at least 5 percent per year in each year after approval of the plan revision and before attainment of the national primary ambient air quality standard for carbon monoxide.".

SEC. 105. ADDITIONAL PROVISIONS FOR PARTICULATE MATTER (PM-10) NONATTAINMENT AREAS.

(a) PM-10 NONATTAINMENT AREAS.—Part D of title I is amended by adding the following new subpart after subpart 3:

**"Subpart 4—Additional Provisions for Particulate Matter Nonattainment Areas**

"Sec. 188. Classifications and attainment dates.
"Sec. 189. Plan provisions and schedules for plan submissions.
"Sec. 190. Issuance of guidance.

"SEC. 188. CLASSIFICATIONS AND ATTAINMENT DATES.

"(a) INITIAL CLASSIFICATIONS.—Every area designated nonattainment for PM-10 pursuant to section 107(d) shall be classified at the time of such designation, by operation of law, as a moderate PM-10 nonattainment area (also referred to in this subpart as a 'Moderate area') at the time of such designation. At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each PM-10 nonattainment area, the Administrator shall publish a notice announcing the classification of such area. The provisions of section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

"(b) RECLASSIFICATION AS SERIOUS.—

"(1) RECLASSIFICATION BEFORE ATTAINMENT DATE.—The Administrator may reclassify as a Serious PM-10 nonattainment area (identified in this subpart also as a 'Serious Area') any area that the Administrator determines cannot practicably attain the national ambient air quality standard for PM-10 by the attainment date (as prescribed in subsection (c)) for Moderate Areas. The Administrator shall reclassify appropriate areas as Serious by the following dates:

"(A) For areas designated nonattainment for PM-10 under section 107(d)(4), the Administrator shall propose to reclassify appropriate areas by June 30, 1991, and take final action by December 31, 1991.

"(B) For areas subsequently designated nonattainment, the Administrator shall reclassify appropriate areas within 18 months after the required date for the State's submission of a SIP for the Moderate Area.

"(2) RECLASSIFICATION UPON FAILURE TO ATTAIN.—Within 6 months following the applicable attainment date for a PM-10 nonattainment area, the Administrator shall determine whether the area attained the standard by that date. If the Administrator finds that any Moderate Area is not in attainment after the applicable attainment date—

"(A) the area shall be reclassified by operation of law as a Serious Area; and

"(B) the Administrator shall publish a notice in the Federal Register no later than 6 months following the attainment date,

identifying the area as having failed to attain and identifying the reclassification described under subparagraph (A).

"(c) ATTAINMENT DATES.—Except as provided under subsection (d), the attainment dates for PM-10 nonattainment areas shall be as follows:

"(1) MODERATE AREAS.—For a Moderate Area, the attainment date shall be as expeditiously as practicable but no later than the end of the sixth calendar year after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the attainment date shall not extend beyond December 31, 1994.

"(2) SERIOUS AREAS.—For a Serious Area, the attainment date shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the date shall not extend beyond December 31, 2001.

"(d) EXTENSION OF ATTAINMENT DATE FOR MODERATE AREAS.—Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in paragraph (c)(1) if—

"(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(2) no more than one exceedance of the 24-hour national ambient air quality standard level for PM-10 has occurred in the area in the year preceding the Extension Year, and the annual mean concentration of PM-10 in the area for such year is less than or equal to the standard level.

No more than 2 one-year extensions may be issued under the subsection for a single nonattainment area.

"(e) EXTENSION OF ATTAINMENT DATE FOR SERIOUS AREAS.—Upon application by any State, the Administrator may extend the attainment date for a Serious Area beyond the date specified under subsection (c), if attainment by the date established under subsection (c) would be impracticable, the State has complied with all requirements and commitments pertaining to that area in the implementation plan, and the State demonstrates to the satisfaction of the Administrator that the plan for that area includes the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State, and can feasibly be implemented in the area. At the time of such application, the State must submit a revision to the implementation plan that includes a demonstration of attainment by the most expeditious alternative date practicable. In determining whether to grant an extension, and the appropriate length of time for any such extension, the Administrator may consider the nature and extent of nonattainment, the types and numbers of sources or other emitting activities in the area (including the influence of uncontrollable natural sources and transboundary emissions from foreign countries), the population exposed to concentrations in excess of the standard, the presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and the technological and economic feasibility of various control measures. The Administrator may not approve an extension until the State submits an attainment demonstration for the area. The Administrator may grant at most one such extension for an area, of no more than 5 years.

"(f) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive any requirement applicable to any Serious Area under this subpart where the Administrator determines that anthropogenic sources of PM-10 do not contribute significantly to the violation of the PM-10 standard in the area. The Administrator may also waive a specific date for attainment of the standard where the Administrator determines that nonanthropogenic sources of PM-10 contribute significantly to the violation of the PM-10 standard in the area.

"SEC. 189. PLAN PROVISIONS AND SCHEDULES FOR PLAN SUBMISSIONS.

"(a) MODERATE AREAS.—

"(1) PLAN PROVISIONS.—Each State in which all or part of a Moderate Area is located shall submit, according to the applicable schedule under paragraph (2), an implementation plan that includes each of the following:

"(A) For the purpose of meeting the requirements of section 172(c)(5), a permit program providing that permits meeting the requirements of section 173 are required for the construction and operation of new and modified major stationary sources of PM-10.

"(B) Either (i) a demonstration (including air quality modeling) that the plan will provide for attainment by the applicable attainment date; or (ii) a demonstration that attainment by such date is impracticable.

"(C) Provisions to assure that reasonably available control measures for the control of PM-10 shall be implemented no later than December 10, 1993, or 4 years after designation in the case of an area classified as moderate after the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) SCHEDULE FOR PLAN SUBMISSIONS.—A State shall submit the plan required under subparagraph (1) no later than the following:

"(A) Within 1 year of the date of the enactment of the Clean Air Act Amendments of 1990, for areas designated nonattainment under section 107(d)(4), except that the provision required under subparagraph (1)(A) shall be submitted no later than June 30, 1992.

"(B) 18 months after the designation as nonattainment, for those areas designated nonattainment after the designations prescribed under section 110(b)(4).

"(b) SERIOUS AREAS.—

"(1) PLAN PROVISIONS.—In addition to the provisions submitted to meet the requirements of paragraph (a)(1) (relating to Moderate Areas), each State in which all or part of a Serious Area is located shall submit an implementation plan for such area that includes each of the following:

"(A) A demonstration (including air quality modeling)—

"(i) that the plan provides for attainment of the PM-10 national ambient air quality standard by the applicable attainment date, or

"(ii) for any area for which the State is seeking, pursuant to section 188(e), an extension of the attainment date beyond the date set forth in section 188(c), that attainment by that date would be impracticable, and that the plan provides for attainment by the most expeditious alternative date practicable.

"(B) Provisions to assure that the best available control measures for the control of PM-10 shall be implemented no later than 4 years after the date the area is classified (or reclassified) as a Serious Area.

"(2) SCHEDULE FOR PLAN SUBMISSIONS.—A State shall submit the demonstration required for an area under paragraph (1)(A) no later than 4 years after reclassification of the area to Serious, except that for areas reclassified under section 188(b)(2), the State shall submit the attainment demonstration within 18 months after reclassification to Serious. A State shall submit the provisions described under paragraph (1)(B) no later than 18 months after reclassification of the area as a Serious Area.

"(3) MAJOR SOURCES.—For any Serious Area, the terms 'major source' and 'major stationary source' include any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 70 tons per year of PM-10.

"(c) MILESTONES.—(1) Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 171(1), toward attainment by the applicable date.

"(2) Not later than 90 days after the date on which a milestone applicable to the area occurs, each State in which all or part of such area is located shall submit to the Administrator a demonstration that all measures in the plan approved under this section have been implemented and that the milestone has been met. A demonstration under this subsection shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration under this subsection is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) If a State fails to submit a demonstration under paragraph (2) with respect to a milestone within the required period or if the Administrator determines that the area has not met any applicable milestone, the Administrator shall require the State, within 9 months after such failure or determination to submit a plan revision that assures that the State will achieve the next milestone (or attain the national ambient air quality standard for PM-10, if there is no next milestone) by the applicable date.

"(d) FAILURE TO ATTAIN.—In the case of a Serious PM-10 nonattainment area in which the PM-10 standard is not attained by the applicable attainment date, the State in which such area is located shall, after notice and opportunity for public comment, submit within 12 months after the applicable attainment date, plan revisions which provide for attainment of the PM-10 air quality standard and, from the date of such submission until attainment, for an annual reduction in PM-10 or PM-10 precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for such area.

"(e) PM-10 PRECURSORS.—The control requirements applicable under plans in effect under this part for major stationary sources of PM-10 shall also apply to major stationary sources of PM-10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM-10 levels which exceed the standard in the area. The Administrator shall issue guidelines regarding the application of the preceding sentence.

"SEC. 190. ISSUANCE OF RACM AND BACM GUIDANCE.

"The Administrator shall issue, in the same manner and according to the same procedure as guidance is issued under section 108(c), technical guidance on reasonably available control measures and best available control measures for urban fugitive dust, and emissions from residential wood combustion (including curtailments and exemptions from such curtailments) and prescribed silvicultural and agricultural burning, no later than 18 months following the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall also examine other categories of sources contributing to nonattainment of the PM-10 standard, and determine whether additional guidance on reasonably available control measures and best available control measures is needed, and issue any such guidance no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. In issuing guidelines and making determinations under this section, the Administrator (in consultation with the State) shall take into account emission reductions achieved, or expected to be achieved, under title V and other provisions of this Act.".

(b) PM-10 INCREMENTS IN PSD AREAS.—Section 166 (42 U.S.C. 7476) is amended by adding the following new subsection at the end:

"(f) PM-10 INCREMENTS.—The Administrator is authorized to substitute, for the maximum allowable increases in particulate matter specified in section 163(b) and section 165(d)(2)(C)(iv), maximum allowable increases in particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers. Such substituted maximum allowable increases shall be of equal stringency in effect as those specified in the provisions for which they are substituted. Until the Administrator promulgates regulations under the authority of this subsection, the current maximum allowable increases in concentrations of particulate matter shall remain in effect.".

SEC. 106. ADDITIONAL PROVISIONS FOR AREAS DESIGNATED NONATTAINMENT FOR SULFUR OXIDES, NITROGEN DIOXIDE, AND LEAD.

Part D of title I is amended by adding a new subpart after subpart 4 as follows:

**"Subpart 5—Additional Provisions for Areas Designated Nonattainment for Sulfur Oxides, Nitrogen Dioxide, or Lead**

"Sec. 191. Plan submission deadlines.
"Sec. 192. Attainment dates.
"Sec. 193. General savings clause.
"Sec. 194. Air Pollution Release Investigation Board.

"SEC. 191. PLAN SUBMISSION DEADLINES.

"(a) SUBMISSION.—Any State containing an area designated or redesignated under section 107(d) as nonattainment with respect to the national primary ambient air quality standards for sulfur oxides, nitrogen dioxide, or lead subsequent to the date of the enactment of the Clean Air Act Amendments of 1990 shall submit to the Administrator, within 18 months of the designation, an applicable implementation plan meeting the requirements of this part.

"(b) STATES LACKING FULLY APPROVED STATE IMPLEMENTATION PLANS.—Any State containing an area designated nonattainment with respect to national primary ambient air quality standards for sulfur oxides or nitrogen dioxide under section 107(d)(1)(C)(i), but lacking a fully approved implementation plan complying with the requirements of this Act (including part D) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, shall submit to the Administrator, within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990, an implementation plan meeting the requirements of subpart 1 (except as otherwise prescribed by section 192).

"SEC. 192. ATTAINMENT DATES.

"(a) PLANS UNDER SECTION 191(a).—Implementation plans required under section 191(a) shall provide for attainment of the relevant primary standard as expeditiously as practicable but no later than 5 years from the date of the nonattainment designation.

"(b) PLANS UNDER SECTION 191(b).—Implementation plans required under section 191(b) shall provide for attainment of the relevant primary national ambient air quality standard within 5 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(c) INADEQUATE PLANS.—Implementation plans for nonattainment areas for sulfur oxides or nitrogen dioxide with plans that were approved by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990 but, subsequent to such approval, were found by the Administrator to be substantially inadequate, shall provide for attainment of the relevant primary standard within 5 years from the date of such finding.".

SEC. 107. PROVISIONS RELATED TO INDIAN TRIBES.

(a) DEFINITION OF AIR POLLUTION CONTROL AGENCY.—Section 302(b) (42 U.S.C. 7602(b)) is amended by—

(1) deleting "or" at the end of paragraph (3);

(2) striking the semicolons at the end of paragraphs (1), (2), and (3) and inserting periods at the end of each such paragraph; and

(3) adding the following new paragraph after paragraph (4):

"(5) An agency of an Indian tribe.".

(b) DEFINITION OF INDIAN TRIBE.—Section 302 (42 U.S.C. 7602) is amended by adding new subsection (r) to read as follows:

"(r) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(c) SIPS.—Section 110 (42 U.S.C. 7410) is amended by adding the following new subsection after subsection (n):

"(o) INDIAN TRIBES.—If an Indian tribe submits an implementation plan to the Administrator pursuant to section 301(d), the plan shall be reviewed in accordance with the provisions for review set forth in this section for State plans, except as otherwise provided by regulation promulgated pursuant to section 301(d)(2). When such plan becomes effective in accordance with the regulations promulgated under section 301(d), the plan shall become applicable to all areas (except as expressly provided otherwise in the plan) located within the exterior boundaries of the reservation, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.".

(d) TRIBAL AUTHORITY.—Section 301 (42 U.S.C. 7601) is amended by adding at the end thereof the following new subsection:

"(d) TRIBAL AUTHORITY.—(1) Subject to the provisions of paragraph (2), the Administrator—

"(A) is authorized to treat Indian tribes as States under this Act, except for purposes of the requirement that makes available for application by each State no less than one-half of 1 percent of annual appropriations under section 105; and

"(B) may provide any such Indian tribe grant and contract assistance to carry out functions provided by this Act.

"(2) The Administrator shall promulgate regulations within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, specifying those provisions of this Act for which it is appropriate to treat Indian tribes as States. Such treatment shall be authorized only if—

"(A) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(B) the functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and

"(C) the Indian tribe is reasonably expected to be capable, in the judgment of the Administrator, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and all applicable regulations.

"(3) The Administrator may promulgate regulations which establish the elements of tribal implementation plans and procedures for approval or disapproval of tribal implementation plans and portions thereof.

"(4) In any case in which the Administrator determines that the treatment of Indian tribes as identical to States is inappropriate or administratively infeasible, the Administrator may provide, by regulation, other means by which the Administrator will directly administer such provisions so as to achieve the appropriate purpose.

"(5) Until such time as the Administrator promulgates regulations pursuant to this subsection, the Administrator may continue to provide financial assistance to eligible Indian tribes under section 105.".

SEC. 108. MISCELLANEOUS PROVISIONS.

(a) TRANSPORTATION PLANNING GUIDANCE.—(1) Section 108(e) (42 U.S.C. 7408(e)) is amended by revising the first sentence to read as follows: "Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990 and periodically thereafter as necessary to maintain a continuous process of transportation and air quality planning, including emissions inventory development, the Administrator shall, after consultation with the Secretary of Transportation and State and local officials, update the June 1978 Transportation-Air Quality Planning Guidelines.".

(2) So much of subsection (f)(1) of section 108 (42 U.S.C. 7408) as precedes subparagraph (B) is amended to read as follows:

"(f) INFORMATION TO BE AVAILABLE.—(1) Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish and make available to appropriate Federal, State, and local environmental and transportation agencies, and from time to time thereafter the Administrator shall revise—

"(A) information, prepared as appropriate after consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, regarding the emission reduction potential of transportation control measures, including—

"(i) trip-reduction ordinances;

"(ii) employer-based transportation management plans;

"(iii) transit improvements;

"(iv) traffic-flow improvements;
"(v) areawide rideshare programs;
"(vi) park-and-ride and fringe parking programs;
"(vii) work-schedule changes;
"(viii) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high occupancy vehicles;
"(ix) programs to control extended idling of vehicles;
"(x) vanpool purchase incentives;
"(xi) incentives for employer-based transportation management plans;
"(xii) programs to limit portions of road surfaces to the use of nonmotorized vehicles or pedestrian use, both as to time and place;
"(xiii) programs for secure bicycle storage facilities and other facilities, including bicycle lanes;
"(xiv) programs for new construction and major reconstruction of paths or tracks solely for use by pedestrian or other nonmotorized means of transportation; and
"(xv) telecommuting.

In considering such measures for inclusion in any State implementation plan or revision thereto as may be required under this Act, the State shall choose from among and implement such measures as necessary, and should ensure adequate access to downtown, other commercial, and residential areas and avoid measures that increase or relocate emissions and congestion rather than reduce them.".

(b) RACT/BACT/LAER CLEARINGHOUSE.—Section 108 (42 U.S.C. 7408) is amended by adding the following at the end thereof:

"(h) RACT/BACT/LAER CLEARINGHOUSE.—The Administrator shall make information regarding emission control technology available to the States and to the general public through a central database. Such information shall include all control technology information received pursuant to State plan provisions requiring permits for sources, including operating permits for existing sources.".

(c) STATE REPORTS ON EMISSIONS-RELATED DATA.—Section 110 (42 U.S.C. 7410) is amended by adding the following new subsection after subsection (o):

"(p) REPORTS.—Any State shall submit, according to such schedule as the Administrator may prescribe, such reports as the Administrator may require relating to emission reductions, vehicle miles traveled, congestion levels, and any other information the Administrator may deem necessary to assess the development effectiveness, need for revision, or implementation of any plan or plan revision required under this Act.".

(d) NEW SOURCE STANDARDS OF PERFORMANCE.—(1) Section 111(b)(1)(B) (42 U.S.C. 7411(b)(1)(B)) is amended as follows:

(A) Strike "120 days" and insert "one year".

(B) Strike "90 days" and insert "one year".

(C) Strike "four years" and insert "8 years".

(D) Immediately before the sentence beginning "Standards of performance or revisions thereof" insert "Notwithstanding the requirements of the previous sentence, the Administrator need not review any such standard if the Administrator determines that such review is not appropriate in light of readily available information on the efficacy of such standard.".

(E) Add the following at the end: "When implementation and enforcement of any requirement of this Act indicate that emission limitations and percent reductions beyond those required by the standards promulgated under this section are achieved in practice, the Administrator shall, when revising standards promulgated under this section, consider the emission limitations and percent reductions achieved in practice.".

(2) Section 111(f)(1) (42 U.S.C. 7411(f)(1)) is amended to read as follows:

"(1) For those categories of major stationary sources that the Administrator listed under subsection (b)(1)(A) before the date of the enactment of the Clean Air Act Amendments of 1990 and for which regulations had not been proposed by the Administrator by such date, the Administrator shall—

"(A) propose regulations establishing standards of performance for at least 25 percent of such categories of sources within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990;

"(B) propose regulations establishing standards of performance for at least 50 percent of such categories of sources within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(C) propose regulations for the remaining categories of sources within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990.".

(e) SAVINGS CLAUSE.—Section 111(a)(3) (42 U.S.C. 7411(f)(1)) is amended by adding at the end: "Nothing in title II of this Act relating to nonroad engines shall be construed to apply to stationary internal combustion engines.".

(f) REGULATION OF EXISTING SOURCES.—Section 111(d)(1)(A)(i) (42 U.S.C. 7411(d)(1)(A)(i)) is amended by striking "or 112(b)(1)(A)" and inserting "or emitted from a source category which is regulated under section 112".

(g) CONSULTATION.—The penultimate sentence of section 121 (42 U.S.C. 7421) is amended to read as follows: "The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to ensure adequate consultation.".

(h) DELEGATION.—The second sentence of section 301(a)(1) (42 U.S.C. 7601(a)(1)) is amended by inserting "subject to section 307(d)" immediately following "regulations".

(i) DEFINITIONS.—Section 302 (42 U.S.C. 7602) is amended as follows:

(1) Insert the following new subsections after subsection (r):

"(s) VOC.—The term 'VOC' means volatile organic compound, as defined by the Administrator.

"(t) PM-10.—The term 'PM-10' means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers, as measured by such method as the Administrator may determine.

"(u) NAAQS AND CTG.—The term 'NAAQS' means national ambient air quality standard. The term 'CTG' means a Control Technique Guideline published by the Administrator under section 108.

"(v) $NO_x$.—The term '$NO_x$' means oxides of nitrogen.

"(w) CO.—The term 'CO' means carbon monoxide.

"(x) SMALL SOURCE.—The term 'small source' means a source that emits less than 100 tons of regulated pollutants per year, or any class of persons that the Administrator determines, through regulation, generally lack technical ability or knowledge regarding control of air pollution.

"(y) FEDERAL IMPLEMENTATION PLAN.—The term 'Federal implementation plan' means a plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a State implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as fees, marketable permits, or auctions of emissions allowances), and provides for attainment of the relevant national ambient air quality standard.".

(2) Section 302(g) (42 U.S.C. 7602(g)) is amended by adding the following at the end: "Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term 'air pollutant' is used.".

(j) POLLUTION PREVENTION.—Section 101 (42 U.S.C. 7401) is amended as follows:

(1) Amend subsection (a)(3) to read as follows:

"(3) that air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of States and local governments; and".

(2) Amend subsection (b)(4) by inserting "prevention and" immediately after "pollution".

(3) Add a new subsection (c) to read as follows:

"(c) POLLUTION PREVENTION.—A primary goal of this Act is to encourage or otherwise promote reasonable Federal, State, and local governmental actions, consistent with the provisions of this Act, for pollution prevention.".

(k) Title I is amended by adding the following after section 192:

"SEC. 193. GENERAL SAVINGS CLAUSE.

"Each regulation, standard, rule, notice, order and guidance promulgated or issued by the Administrator under this Act, as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect according to its terms, except to the extent otherwise provided under this Act, inconsistent with any provision of this Act, or revised by the Administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in any area which is a nonattainment area for any air pollutant may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.".

(l) BOUNDARY CHANGES.—Section 162(a) (42 U.S.C. 7472(a)) is amended by adding at the end thereof the following: "The extent of the areas designated as Class I under this section shall conform to any changes in the boundaries of such areas which have occurred subsequent to the date of the enactment of the Clean Air Act Amendments of 1977, or which may occur subsequent to the date of the enactment of the Clean Air Act Amendments of 1990.".

(m) BOUNDARIES.—Section 164(a) (42 U.S.C. 7474(a)) is amended by inserting immediately before the sentence beginning "Any area (other than an area referred to in paragraph (1) or (2)" the following: "The extent of the areas referred to in paragraph (1) and (2) shall conform to any changes in the boundaries of such areas which have occurred subsequent to the date of the enact-

ment of the Clean Air Act Amendments of 1977, or which may occur subsequent to the date of the enactment of the Clean Air Act Amendments of 1990.".

(n) ASSESSMENTS.—Section 108 (42 U.S.C. 7408) is amended by adding at the end thereof a new subsection (g) to read as follows:

"(g) ASSESSMENT OF RISKS TO ECOSYSTEMS.—The Administrator may assess the risks to ecosystems from exposure to criteria air pollutants (as identified by the Administrator in the Administrator's sole discretion).".

(o) REVIEW OF REPORTS AND PUBLIC PARTICIPATION.—Section 307 (42 U.S.C. 7607) is amended by adding the following after subsection (g):

"(h) REPORTS.—No report required by this Act to be submitted to Congress shall be subject to judicial review.

"(i) PUBLIC PARTICIPATION.—It is the intent of Congress that, consistent with the policy of the Administrative Procedures Act, the Administrator in promulgating any regulation under this Act, including a regulation subject to a deadline, shall ensure a reasonable period for public participation of at least 30 days, except as otherwise expressly provided in section 107(d), 172(a), 181(a) and (b), and 186(a) and (b).".

(p) ETHICS, FINANCIAL DISCLOSURE, AND CONFLICTS OF INTEREST.—Section 318 (42 U.S.C. 7618) is repealed.

(q) INFORMATION PROMOTING COMPLIANCE BY SMALL SOURCES.—The following new section is added after section 128:

"SEC. 129. INFORMATION FOR SMALL SOURCES.

"(a) IN GENERAL.—The Administrator shall develop, collect, evaluate, and coordinate information on compliance methods and technologies for small sources. The Administrator shall maintain a central reference library of such information, and shall disseminate such information to States or other persons seeking to comply with this Act.

"(b) EDUCATION PROGRAMS FOR SMALL SOURCES.—The Administrator shall, in cooperation with the States and their small source technical assistance programs created pursuant to section 110(a)(2)(N), develop programs for educating small sources about their obligations under this Act and means to comply.".

SEC. 109. INTERSTATE POLLUTION.

(a) AMENDMENTS TO SECTION 126.—Section 126 (42 U.S.C. 7426) is amended as follows:

(1) In subsection (b)—

(A) in the first sentence, following "major source", insert "or group of stationary sources"; and

(B) strike "110(a)(2)(E)(i)" and insert in lieu thereof "110(a)(2)(D)(ii) or this section".

(2) In subsection (c)—

(A) in the first sentence, following the words "violation of", insert "this section and"; and

(B) strike "110(a)(2)(E)(i)" wherever it appears and insert in lieu thereof "110(a)(2)(D)(ii) or this section".

(b) AMENDMENT TO SECTION 302.—Section 302(h) (42 U.S.C. 7602(h)) is amended by inserting before the period ", whether caused by transformation, conversion, or combination with other air pollutants".

SEC. 110. CONFORMING AMENDMENTS.

The Clean Air Act is amended as follows—

(1) Strike, in section 161 (42 U.S.C. 7471), "identified pursuant to section 107(d)(1)(D) or (E)" and insert "designated pursuant to section 107 as attainment or unclassifiable".

(2) Strike, in section 162(b) (42 U.S.C. 7472(b)), "identified pursuant to section 107(d)(1)(D) or (E)" and insert "designated pursuant to section 107(d) as attainment or unclassifiable";

(3) Strike, in section 167 (42 U.S.C. 7477), the reference to "included in the list promulgated pursuant to paragraph (1)(D) or (E) of subsection (d) of section 107 of this Act" and insert "designated pursuant to section 107(d) as attainment or unclassifiable".

(4) Strike subsections (a) and (b) of section 176 (42 U.S.C. 7506).

(5) Amend section 307(d)(1) (42 U.S.C. 7607(d)(1)) as follows:

(A) Subparagraph (C) is amended to read as follows:

"(C) the promulgation or revision of any standard of performance under section 111, or emission standard or limitation under section 112(d), any standard under section 112(f), or any regulation under section 112(g)(1)(D) and (F), or any regulation under section 112(m) or (n),".

(B) Subparagraph (F) is amended to read as follows:

"(F) the promulgation or revision of any regulation under title V (relating to control of acid deposition),".

(C) Delete "and" at the end of subparagraph (M), redesignate subparagraph (N) as subparagraph (U), and add the following new subparagraphs after subparagraph (M):

"(N) the promulgation or revision of any regulation pertaining to consumer and commercial products under section 183(e),

"(O) the promulgation or revision of any regulation pertaining to field citations under section 113(d)(3),

"(P) the promulgation or revision of any regulation pertaining to urban buses or the clean-fuel vehicle, clean-fuel fleet, and clean fuel programs under section 212,

"(Q) the promulgation or revision of any regulation pertaining to nonroad engines or nonroad vehicles under section 213,

"(R) the promulgation or revision of any regulation relating to motor vehicle compliance program fees under section 217,

"(S) the promulgation or revision of any regulation pertaining to market-based alternative controls under section 214, the promulgation or revision of any regulation under title IV,

"(T) the promulgation or revision of any regulation under section 183(f) pertaining to marine vessels, and".

### Subtitle B—Clean Air Employment Transition Assistance

SEC. 111. TRANSITION ASSISTANCE.

The Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subtitle:

### "Subtitle B—Clean Air Employment Transition Assistance

"SEC. 210. SHORT TITLE; ETC.

"(a) GENERAL RULE.—This subtitle may be cited as the 'Clean Air Employment Transition Act'.

"(b) COORDINATION.—Except as otherwise specifically provided—

"(1) the provisions of this title which precede this subtitle shall not apply for purposes of this subtitle, and

"(2) any reference to the Federal-State Extended Unemployment Compensation Act of 1970 shall be treated as referring only to the provisions of this Act which precede this subtitle.

### "PART I—PETITIONS AND DETERMINATIONS

"SEC. 211. PETITIONS.

"(a) IN GENERAL.—A petition for certification of eligibility to apply for clean air employment transition assistance under this subtitle may be filed with the Secretary of Labor (hereinafter in this subtitle referred to as the 'Secretary') by a group of workers or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

"(b) PUBLIC HEARING.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

"SEC. 212. GROUP ELIGIBILITY REQUIREMENTS.

"(a) IN GENERAL.—The Secretary shall certify a group of workers as eligible to apply for clean air employment transition assistance under this subtitle if the Secretary determines—

"(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

"(2) that sales or production, or both, of such firm or subdivision have decreased absolutely; and

"(3) that compliance by such firm or subdivision with the Clean Air Act contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) The term 'production' includes the provision of services.

"SEC. 213. DETERMINATIONS BY SECRETARY OF LABOR.

"(a) IN GENERAL.—As soon as possible after the date on which a petition is filed under section 211, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 212 and shall issue a certification of eligibility to apply for assistance under this subtitle covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

"(b) TIME LIMITATION ON SEPARATIONS BEFORE CERTIFICATION.—A certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm before his application under section 211 occurred—

"(1) more than one year before the date of the petition on which such certification was granted; or

"(2) more than 6 months before the effective date of this subtitle.

"(c) NOTICE OF DETERMINATION.—Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register together with his reasons for making such determination.

"(d) TERMINATION OF CERTIFICATION.—Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such

*firm or subdivision are no longer attributable to the conditions specified in section 212, he shall terminate such certification and promptly have notice of such termination published in the Federal Register together with his reasons for making such determination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.*

*"SEC. 214. BENEFIT INFORMATION TO WORKERS.*

*"(a) IN GENERAL.—The Secretary shall provide full information to workers about the benefit allowances available under this subtitle and the training and other employment services available under section 325 of the Job Training Partnership Act and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to ensure that cooperating State agencies fully comply with the agreements entered into under section 231(a) and shall periodically review such compliance. The Secretary shall inform the Council established under section 122 of the Job Training Partnership Act or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 213 and of projections, if available, of the needs for training under section 325 of the Job Training Partnership Act as a result of such certification.*

*"(b) WRITTEN NOTICE OF BENEFITS.—(1) The Secretary shall provide written notice through the mail of the benefits available under this subtitle or section 325 of the Job Training Partnership Act to each worker whom the Secretary has reason to believe is covered by a certification made under this part—*

*"(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification; or*

*"(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.*

*"(2) The Secretary shall publish notice of the benefits available under this subtitle or section 325 of the Job Training Partnership Act to workers covered by each certification made under this subtitle in newspapers of general circulation in the areas in which such workers reside.*

***"PART II—CLEAN AIR EMPLOYMENT TRANSITION ALLOWANCES***

*"SEC. 221. QUALIFYING REQUIREMENTS FOR WORKERS.*

*"(a) IN GENERAL.—Payment of a clean air employment transition allowance shall be made to an adversely affected worker covered by a certification under part I who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 211, if the following conditions are met:*

*"(1) Such worker's total or partial separation before his application under this subtitle occurred—*

*"(A) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment;*

*"(B) before the expiration of the 2-year period beginning on the date on which the determination under section 213 was made; and*

*"(C) before the termination date (if any) determined pursuant to section 213(d).*

*"(2) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purpose of this paragraph, any week in which such worker—*

*"(A) is on the employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training;*

*"(B) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States; or*

*"(C) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision,*

*shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks described in subparagraph (A) or (C), or both, may be treated as weeks of employment under this sentence.*

*"(3) Such worker—*

*"(A) was entitled to (or would be entitled to if he applied therefor) unemployment insurance for a week within the benefit period—*

*"(i) in which such total or partial separation took place, or*

*"(ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by such worker after such total or partial separation;*

*"(B) has exhausted all rights to any unemployment insurance to which he was entitled (or would be entitled if he applied therefor); and*

*"(C) does not have an unexpired waiting period applicable to him for any such unemployment insurance.*

*"(4) Such worker, with respect to such week of unemployment, would not be disqualified for extended compensation payable under this title by reason of the work acceptance and job search requirements in section 202(a)(3) of this title.*

*"(5) Such worker—*

*"(A) is enrolled in a training program approved by the Secretary under section 325(b) of the Job Training Partnership Act; or*

*"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 325(b) of the Job Training Partnership Act; or*

*"(C) has received a written statement certified under subsection (c)(1) after the date described in subparagraph (B).*

*"(b) FAILURE TO MEET TRAINING REQUIREMENTS.—(1) If—*

*"(A) the Secretary determines that—*

*"(i) the adversely affected worker—*

*"(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or*

*"(II) has ceased to participate in such training program before completing such training program; and*

*"(ii) there is no justifiable cause for such failure or cessation; or*

*"(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2),*

*no clean air employment transition allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 325(b) of the Job Training Partnership Act.*

*"(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins—*

*"(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 211; and*

*"(B) before the first week following the week in which such certification is made under part I.*

*"(c) TRAINING NOT FEASIBLE OR INAPPROPRIATE.—(1)(A) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 325(b) of the Job Training Partnership Act, the Secretary shall submit to such worker a written statement certifying such finding.*

*"(B) If a State or State agency has an agreement with the Secretary under section 231 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 325(b) of the Job Training Partnership Act, the State or State agency shall—*

*"(i) submit to such worker a written statement certifying such finding; and*

*"(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.*

*"(2) The Secretary shall submit to the appropriate committees of the Congress an annual report on the number of workers who received certifications under paragraph (1) during the preceding year and the number of certifications made under paragraph (1) that were revoked during the preceding year.*

*"SEC. 222. WEEKLY AMOUNTS.*

*"(a) IN GENERAL.—Subject to subsections (b) and (c), the clean air employment transition allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 221(a)(3)(B)) reduced (but not below zero) by—*

*"(1) any training allowance deductible under subsection (c); and*

*"(2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.*

*"(b) PAYMENT DURING APPROVED TRAINING.—Any adversely affected worker who is entitled to clean air employment transition allowances and who is undergoing training approved by the Secretary shall receive for each week in which he is undergoing any such training, a clean air employment transition allowance in an amount (computed for such week) equal to the amount computed under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training*

of workers, if he applied for such allowance. Such clean air employment transition allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

"(c) OFFSETS IF TRAINING ALLOWANCE PAYABLE UNDER OTHER FEDERAL LAW.—If a training allowance under any Federal law is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to any disqualification under section 221(b)) or to a clean air employment transition allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of clean air employment transition allowance otherwise payable to him under section 223(a) when he applies for a clean air employment transition allowance and is determined to be entitled to such allowance. If such training allowance paid to such worker for any week of unemployment is less than the amount of the clean air employment transition allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a clean air employment transition allowance and is determined to be entitled to such allowance, a clean air employment transition allowance for such week equal to such difference.

"SEC. 223. LIMITATIONS ON CLEAN AIR EMPLOYMENT TRANSITION ALLOWANCES.

"(a) MAXIMUM AMOUNT PAYABLE.—(1) The maximum amount of clean air employment transition allowances payable with respect to the period covered by any certification to an adversely affected worker shall be the amount which is the product of 52 multiplied by the clean air employment transition allowance payable to the worker for a week of total unemployment (as determined under section 222(a)), but such product shall be reduced by the total sum of the unemployment insurance to which the worker was entitled (or would have been entitled if he had applied therefor) in the worker's first benefit period described in section 221(a)(3)(A).

"(2) A clean air employment transition allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

"(A) within the period which is described in section 221(a)(1); and

"(B) with respect to which the worker meets the requirements of section 221(a)(2).

"(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 325 of the Job Training Partnership Act, and in accordance with regulations prescribed by the Secretary, payments may be made as clean air employment transition allowances for up to 26 additional weeks in the 26-week period that—

"(A) follows the last week of entitlement to clean air employment transition allowances otherwise payable under this subtitle; or

"(B) begins with the first week of such training, if such training begins after the last week described in subparagraph (A).

Payments for such additional weeks may be made only for weeks in such 26-week period during which the individual is participating in such training.

"(b) APPLICATION FOR TRAINING.—No clean air employment transition allowance may be paid for an additional week specified in subsection (a)(3) if the adversely affected worker who would receive such allowance did not make a bona fide application to a training program approved by the Secretary under section 325 of the Job Training Partnership Act within 210 days after the date of the worker's first certification of eligibility to apply for transition assistance issued by the Secretary, or, if later, within 210 days after the date of the worker's total or partial separation referred to in section 221(a)(1).

"(c) ADJUSTMENT OF AMOUNTS.—Amounts payable to an adversely affected worker under this subtitle shall be subject to such adjustment on a week-to-week basis as may be required by section 222(b).

"(d) OFFSET FOR EXTENDED BENEFITS.—Notwithstanding any other provision of this title or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that such worker would, but for this subsection, be entitled to in that extended benefit period shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to clean air employment transition allowances under this part. For purposes of this subsection, the terms 'benefit year' and 'extended benefit period' shall have the same respective meanings given to them by sections 203 and 205 of this title.

"(e) ON-THE-JOB-TRAINING EXCLUSION.—No clean air employment transition allowance shall be paid to a worker under this part for any week during which the worker is receiving on-the-job training in employment for which compensation is paid.

"(f) PARTICIPATION IN TRAINING.—For purposes of this title, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 14 days if—

"(1) the worker was participating in a training program approved under section 325(b) of the Job Training Partnership Act before the beginning of such break in training; and

"(2) the break is provided under such training program.

"SEC. 224. EFFECT ON OTHER BENEFITS.

"(a) LIMITATION ON DETERMINING INELIGIBILITY OR DISQUALIFICATION FOR BENEFITS.—A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subtitle because—

"(1) the individual is in training approved under section 325 of the Job Training Partnership Act,

"(2) of leaving work which is not suitable employment to enter such training, or

"(3) of the application to any such week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

The Secretary shall submit to the Congress a quarterly report regarding the amount of funds expended during the quarter concerned to provide training under such section 325(a) and the anticipated demand for such funds for any remaining quarters in the fiscal year concerned.

"(b) DEFINITION OF SUITABLE EMPLOYMENT.—For purposes of this section, the term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

"SEC. 225. APPLICATION OF STATE LAWS.

"Except where inconsistent with the provisions of this subtitle and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law—

"(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance); or

"(2) if he is not so entitled to unemployment insurance, of the State in which he was totally or partially separated,

shall apply to any such worker who files a claim for clean air employment transition allowances. The State law so determined with respect to a separation of a worker shall remain applicable, for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance under another State law (whether or not he has filed a claim for such insurance).

"PART III—GENERAL PROVISIONS

"SEC. 231. AGREEMENTS WITH STATES.

"(a) IN GENERAL.—The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this part as 'cooperating States' and 'cooperating State agencies', respectively). Under such an agreement, the cooperating State agency—

"(1) as agent of the United States, will receive applications for, and will provide, payments on the basis provided in this subtitle,

"(2) will make any certification required under section 221(c)(2), and

"(3) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this title.

"(b) AGREEMENT TERMS AND CONDITIONS.—Each agreement under this part shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

"(c) UNEMPLOYMENT INSURANCE.—Each agreement under this part shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this subtitle.

"(d) REVIEW.—A determination by a cooperating State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

"(e) COORDINATION OF ADMINISTRATION OF EMPLOYMENT SERVICES, TRAINING, AND ADMINISTRATION.—Any agreement entered into under this section shall provide for the coordination with the administration of the provisions for employment services, training, and supplemental assistance under title III of the Job Training Partnership Act upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this title.

"(f) STATE AGENCY FUNCTIONS.—Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each worker who applies for unemployment insurance of the benefits under this subtitle and the procedures and deadlines for applying for such benefits,

"(2) facilitate the early filing of petitions under section 211 for any workers that the agency considers are likely to be eligible for benefits under this subtitle, and

"(3) advise each adversely affected worker to apply for training under section 325(b) of the Job Training Partnership Act before, or at the same time, the worker applies for clean air employment transition allowances under part III.

"SEC. 232. ADMINISTRATION ABSENT STATE AGREEMENT.

"(a) IN GENERAL.—In any State where there is no agreement in force between a State or its agency under section 231, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under part II of this subtitle, including provision for a fair hearing for any worker whose application for payments is denied.

"(b) JUDICIAL REVIEW.—A final determination under subsection (a) with respect to eligibility for program benefits under part II of this subtitle is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act.

"SEC. 233. PAYMENTS TO STATES.

"(a) CERTIFICATION OF PAYMENTS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable such State as agent of the United States to make payments provided for by this subtitle.

"(b) APPLICATION OF PAYMENTS.—All money paid a State under this section shall be used solely for the purposes for which it is paid; and money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this part to the Secretary of the Treasury.

"(c) SURETY BONDS.—Any agreement under this part may require any officer or employee of the State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this subtitle.

"SEC. 234. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.

"(a) CERTIFYING OFFICERS.—No person designated by the Secretary, or designated pursuant to an agreement under this part, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this subtitle.

"(b) DISBURSING OFFICERS.—No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this subtitle if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a).

"SEC. 235. FRAUD AND RECOVERY OF OVERPAYMENTS.

"(a) LIABILITY FOR REPAYMENT.—(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this subtitle for which the person was not eligible, including a payment referred to in subsection (b), such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary may waive such repayment if such agency or the Secretary determines, in accordance with guidelines by the Secretary, that—

"(A) the payment was made without fault on the part of such individual, and

"(B) requiring such repayment would be contrary to equity and good conscience.

"(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State agency or the Secretary shall recover the overpayment by deductions from any sums payable to such person under this subtitle, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and, notwithstanding any other provisions of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this subtitle by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

"(b) FRAUD.—If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that an individual—

"(1) knowingly has made, or caused another to make, a false statement or representation of a material fact, or

"(2) knowingly has failed, or caused another to fail, to disclose a material fact,

and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under this subtitle to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under this subtitle.

"(c) NOTICE AND HEARING.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the State agency or the Secretary, as the case may be, has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

"(d) DISPOSITION OF RECOVERED AMOUNTS.—Any amount recovered under this section shall be returned to the Treasury of the United States.

"SEC. 236. PENALTIES.

"Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this subtitle or pursuant to an agreement under section 231 shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"SEC. 237. AUTHORIZATION OF APPROPRIATIONS.

"(a) TRANSITION ALLOWANCES.—There are authorized to be appropriated to the Department of Labor to pay transition allowances under this subtitle—

"(1) $30,000,000 for fiscal year 1992,

"(2) $34,000,000 for fiscal year 1993,

"(3) $36,000,000 for fiscal year 1994,

"(4) $37,000,000 for fiscal year 1995, and

"(5) $38,000,000 for fiscal year 1996.

Sums appropriated under this subsection shall remain available until expended.

"(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of this subtitle, the authority to make payments under this subtitle is subject to the availability of funds appropriated therefor.

"SEC. 238. DEFINITIONS.

"For purposes of this title—

"(1) The term 'adversely affected employment' means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for clean air employment transition assistance under this subtitle.

"(2) The term 'adversely affected worker' means an individual who, because of lack of work in adversely affected employment—

"(A) has been totally or partially separated from such employment, or

"(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

"(3) The term 'average weekly wage' means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual's total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

"(4) The term 'average weekly hours' means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (3).

"(5) The term 'partial separation' means, with respect to an individual who has not been totally separated, that he has had—

"(A) his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment, and

"(B) his wages reduced to 80 percent or less of his average weekly wage in such adversely affected employment.

"(6) The term 'State' includes the District of Columbia and the Commonwealth of Puerto Rico; and the term 'United States' when used in the geographical sense includes such Commonwealth.

"(7) The term 'State agency' means the agency of the State which administers the State law.

"(8) The term 'State law' means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

"(9) The term 'total separation' means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

"(10) The term 'unemployment insurance' means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act. The terms 'regular compensation', 'additional compensation', and 'extended compensation' have the same respective meanings that are given them in section 205(2), (3), and (4) of this Act.

"(11) The term 'week' means a week as defined in the applicable State law.

"(12) The term 'week of unemployment' means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

"(13) The term 'benefit period' means, with respect to an individual—

"(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or

"(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.

"(14) The term 'on-the-job training' means training provided by an employer to an individual who is employed by the employer.

"SEC. 239. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subtitle.

"SEC. 240. SUBPOENA POWER.

"(a) IN GENERAL.—The Secretary may require by subpoena the attendance of witnesses and the production of evidence necessary for him to make a determination under the provisions of this subtitle.

"(b) COMPLIANCE.—If a person refuses to obey a subpoena issued under subsection (a), a United States district court within the jurisdiction of which the relevant proceeding under this title is conducted may, upon petition by the Secretary, issue an order requiring compliance with such subpoena.".

SEC. 112. AMENDMENT TO JOB TRAINING PARTNERSHIP ACT.

(a) TRAINING PROGRAMS AUTHORIZED.—Title III of the Job Training Partnership Act is amended by adding at the end thereof the following new section:

"TRAINING FOR WORKERS ADVERSELY AFFECTED BY CLEAN AIR ACT COMPLIANCE

"SEC. 325. (a) EMPLOYMENT SERVICES.—The Secretary shall ensure that adversely affected workers covered by a certification under part I of the Clean Air Employment Transition Act receive the counseling, testing, and placement services, and supportive and other services, provided for under this Act or any other Federal law. The Secretary shall, whenever appropriate, procure such services through agreements with the States.

"(b) TRAINING.—(1) If the Secretary determines that—

"(A) there is no suitable employment (which may include technical and professional employment) available for an adversely affected worker,

"(B) the worker would benefit from appropriate training,

"(C) there is a reasonable expectation of employment following completion of such training,

"(D) training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers),

"(E) the worker is qualified to undertake and complete such training, and

"(F) such training is suitable for the worker and available at a reasonable cost,

the Secretary shall approve such training for the worker. Upon such approval, the worker shall be eligible to have payment of the costs of such training (subject to the limitations imposed by this section) paid on his behalf by the Secretary directly or through a certificate system. Insofar as possible, the Secretary shall provide or assure the provision of such training on the job, which shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

"(2) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under paragraph (1).

"(3)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

"(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

"(i) have already been paid under any other provision of Federal law, or

"(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

"(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.

"(4) The training programs and activities that may be approved under paragraph (1) include, but are not limited to—

"(A) on-the-job training,

"(B) any program or activity under this title,

"(C) any other program or activity under this Act for which the individual is eligible,

"(D) any program of remedial education,

"(E) any training program (other than a training program described in paragraph (6)) for which all, or any portion, of the costs of training the worker are paid—

"(i) under any Federal or State program other than this section, or

"(ii) from any source other than this section, and

"(F) any other training program approved by the Secretary.

"(5)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

"(i) under any Federal or State program other than this subtitle, or

"(ii) from any source other than this section.

"(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subparagraph (A).

"(6) The Secretary shall not approve a training program if—

"(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

"(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

"(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this subtitle or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

"(7) The Secretary may approve training for any adversely affected worker who is a member of a group certified under part I of the Clean Air Employment Transition Act at any time after the date on which the group is certified under part I of such Act, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

"(8) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).

"(c) SUPPLEMENTAL ASSISTANCE.—The Secretary may, where appropriate, authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary may not authorize—

"(1) payments for subsistence that exceed whichever is the lesser of (A) the actual per diem expenses for subsistence, or (B) payments at 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations, or

"(2) payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations.

"(d) ON-JOB-TRAINING COSTS.—The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (b)(1) in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—

"(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

"(2) such training does not impair existing contracts for services or collective bargaining agreements,

"(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

"(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

"(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

"(6) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

"(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 212 of the Clean Air Employment Transition Act,

"(8) the employer certifies to the Secretary that the employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment,

"(9) the employer has not received payment under subsection (b)(1) with respect to any other on-the-job training provided by such employer which failed to meet the re-

quirements of paragraphs (1), (2), (3), (4), (5), and (6), and

"(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (b)(1).

"(e) JOB SEARCH ALLOWANCES.—Any adversely affected worker covered by a certification under part I of the Clean Air Employment Transition Act may file an application with the Secretary for a job search allowance. Such allowance, if granted, shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by regulations of the Secretary; except that—

"(1) such reimbursement may not exceed $800 for any worker, and

"(2) reimbursement may not be made for subsistence and transportation expenses at levels exceeding those allowable under subsection (c) (1) and (2).

"(f) CRITERIA FOR GRANTING ALLOWANCES.—A job search allowance may be granted only—

"(1) to assist an adversely affected worker who has been totally separated in securing a job within the United States;

"(2) where the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides; and

"(3) where the worker has filed an application for such allowance with the Secretary before—

"(A) the later of—

"(i) the 365th day after the date of the certification under which the worker is eligible, or

"(ii) the 365th day after the date of the worker's last total separation; or

"(B) the 182nd day after the concluding date of any training received by the worker, if the worker was referred to such training by the Secretary.

"(g) REIMBURSEMENT FOR NECESSARY EXPENSES.—The Secretary shall reimburse any adversely affected worker for necessary expenses incurred by such worker in participating in a job search program approved by the Secretary.

"(h) RELOCATION ALLOWANCES.—(1) Any adversely affected worker covered by a certification under part I of the Clean Air Employment Transition Act may file an application with the Secretary for a relocation allowance, subject to the terms and conditions of this section, if such worker files such application before—

"(A) the later of—

"(i) the 425th day after the date of the certification, or

"(ii) the 425th day after the date of the worker's last total separation; or

"(B) the 182nd day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.

"(2) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides and that such worker—

"(A) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate, or

"(B) has obtained a bona fide offer of such employment, and

"(C) is totally separated from employment at the time relocation commences.

"(3) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days after the filing of the application therefor or (in the case of a worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training.

"(i) DEFINITIONS.—For the purposes of this section—

"(1) The term 'relocation allowance' means—

"(A) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under subsection (c) (1) and (2)) specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family, if any, and household effects, and

"(B) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $800.

"(2) The term 'adversely affected worker' means an individual who is determined to be eligible for a transition allowance under section 221 of the Clean Air Employment Transition Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(c) of the Job Training Partnership Act is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by inserting "(1)" after "(c)",

(3) by inserting "(other than section 325)" after "title III", and

(4) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated to carry out section 325—

"(A) $15,000,000 for fiscal year 1991, and

"(B) such sums as may be necessary for each of fiscal years 1992, 1993, 1994, and 1995,

except that the total amount appropriated for all five such fiscal years shall not exceed $75,000,000. Sums appropriated pursuant to this paragraph are authorized to remain available until expended.".

SEC. 113. GAO ASSESSMENTS OF EFFECTS OF CLEAN AIR ACT COMPLIANCE ON EMPLOYMENT.

The Comptroller General of the United States shall—

(1) identify and assess, on a continuing basis, the effects on employment that are attributable to compliance with the provisions of the Clean Air Act; and

(2) submit to the Congress on the 3rd anniversary of the date of the enactment of this subtitle a written report on the assessments required under paragraph (1).

After submission of the report required on the 3rd anniversary of such date of enactment, the Comptroller General shall submit to the appropriate committees of the Congress such periodic updates regarding the assessments as are considered necessary or appropriate by the Comptroller General or such committees.

SEC. 114. APPROPRIATIONS REQUIRED.

Notwithstanding any other provision of this subtitle or any amendment made by this subtitle, the authority to make payments under this subtitle (or under any such amendment) is subject to the availability of funds appropriated therefor.

## TITLE II—PROVISIONS RELATING TO MOBILE SOURCES

Sec. 201. Clean fuel requirements.
Sec. 202. Emission standards for certain motor vehicles.
Sec. 203. Conforming amendment.
Sec. 204. Carbon monoxide emissions at cold temperatures.
Sec. 205. Evaporative emissions.
Sec. 206. Control of vehicle refueling emissions.
Sec. 207. Mobile source-related air toxics.
Sec. 208. Emission control diagnostics systems.
Sec. 209. Auto warranties.
Sec. 210. Heavy-duty trucks.
Sec. 211. Nonroad engines and vehicles.
Sec. 212. Vehicle certification.
Sec. 213. In-use compliance—recall.
Sec. 214. Compliance program fees.
Sec. 215. Information collection.
Sec. 216. Fuel volatility.
Sec. 217. Diesel fuel sulfur content.
Sec. 218. Lead substitute gasoline additives.
Sec. 219. Nonroad fuels.
Sec. 220. Fuel waivers.
Sec. 221. State fuel regulation.
Sec. 222. Enforcement.
Sec. 223. High altitude testing.
Sec. 224. Technical amendments.

SEC. 201. CLEAN FUEL REQUIREMENTS.

(a) DEFINITIONS.—Section 216 (42 U.S.C. 7550) is amended by adding the following at the end:

"(7) URBAN BUS.—The term 'urban bus' has the meaning provided under regulations of the Administrator promulgated under section 202(a).

"(8) CLEAN ALTERNATIVE FUEL.—The term 'clean alternative fuel' means any fuel (including methanol, ethanol, or other alcohols (including any mixture thereof containing 85 percent or more by volume of such alcohol with gasoline or other fuels), reformulated gasoline, diesel, natural gas, liquefied petroleum gas, and hydrogen) or power source (including electricity) used in a clean-fuel vehicle (or clean-fuel fleet vehicle) that complies with the standards and requirements applicable to such vehicle under this title when using such fuel or power source.

"(9) EMISSIONS OF OZONE-FORMING VOLATILE ORGANIC COMPOUNDS.—The term 'emissions of ozone-forming volatile organic compounds' means motor vehicle exhaust and evaporative, refueling, and running loss emissions of oxygenated and nonoxygenated hydrocarbons, excluding methane, and, after such exclusion, adjusted for reactivity.

"(10) COVERED FLEET.—The term 'covered fleet' means 10 or more motor vehicles which are owned or operated by a single person. In determining the number of vehicles owned or operated by a single person for purposes of this paragraph, all motor vehicles owned or operated, leased or otherwise controlled by such person, by any person which controls such person, by any person controlled by such person, and by any person under common control with such person shall be treated as owned by such person. The term 'covered fleet' shall not include motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers (including demonstration vehicles), motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, or nonroad vehicles (including specialty farm vehicles).

"(11) COVERED FLEET VEHICLES.—The term 'covered fleet vehicles' means only motor vehicles in a covered fleet which are centrally fueled (or capable of being centrally fueled).

(b) CLEAN FUEL REQUIREMENTS.—Section 212 (42 U.S.C. 7546) is amended to read as follows:

"SEC. 212. CLEAN FUEL REQUIREMENTS.

"(a) URBAN BUSES.—

"(1) IN GENERAL.—Not later than January 1, 1992, the Administrator shall promulgate regulations requiring the use of clean alternative fuels in new urban buses operated primarily in a metropolitan statistical area or consolidated metropolitan statistical area with a 1980 population of 750,000 or more. The regulations shall provide that all new urban buses purchased or placed in service by owners or operators of urban buses in such areas shall be clean-fuel vehicles and shall be exclusively operated on clean alternative fuel. The Administrator shall prescribe a schedule phasing in the applicability of the requirements established by this paragraph over the 1994 through 1996 model years as follows: 25 percent of new urban buses purchased or placed into service in model year 1994; 60 percent of new urban buses purchased or placed into service in model year 1995; 100 percent of new urban buses purchased or placed into service in 1996 and later model years.

"(2) EXISTING URBAN BUSES.—The regulations under this subsection shall provide that all urban buses operated primarily in the areas referred to in paragraph (1) which have their engines replaced or rebuilt after January 1, 1996, shall be clean-fuel vehicles and shall be exclusively operated, while in such areas, on clean alternative fuel.

"(3) EMISSION STANDARDS FOR CLEAN-FUEL VEHICLES.—

"(A) IN GENERAL.—Not later than January 1, 1992, the Administrator shall promulgate regulations under section 202(a) containing specific emission standards applicable to clean fuel vehicles under this subsection. Such standards shall be based on the best technology that can reasonably be anticipated to be available at the time such measures are to be implemented, taking costs, safety, energy, lead time, and other relevant factors into account. Except to the extent that specific requirements are promulgated under subparagraph (B) of this paragraph, the standards applicable to such vehicles shall require compliance with the standard applicable under section 202 to emissions from conventional heavy-duty vehicles of the same type and model year.

"(B) SPECIFIC REQUIREMENTS.—The standards under this subsection shall require that (i) emissions of either oxides of nitrogen or particulate matter shall not exceed 50 percent of the emissions of such air pollutant allowed under the emission standard applicable for such air pollutant for a conventional heavy-duty vehicle or engine of the same type and model year pursuant to standards under section 202 and (ii) emissions of particulate matter shall not exceed 0.10 grams per brake horsepower hour. The Administrator shall increase the level of emissions allowed under clause (i) if the Administrator determines that the 50 percent reduction is not technologically achievable, taking into account durability, costs, lead time, safety, and other relevant factors, except that the Administrator may not increase such level of emissions above 70 percent.

"(C) DETERMINATION.—As part of the rulemaking under this paragraph, the Administrator shall make a determination as to whether the 50 percent reduction referred to in subparagraph (A) is technologically achievable, taking into account durability, costs, lead time, safety, and other relevant factors.

"(4) PARTICULATE MATTER.—The regulations under section 202(a)(1) applicable to emissions of particulate matter from 1991 through 1992 model year urban buses capable of operating on diesel fuel shall contain a standard which provides that emissions of particulate matter from such buses may not exceed 0.25 grams per brake horsepower hour. Emissions of particulate matter from such buses after model year 1992 shall not exceed 0.10 grams per brake horsepower hour.

"(b) CENTRALLY FUELED FLEETS.—

"(1) FLEET PROGRAM FOR SERIOUS, SEVERE, AND EXTREME OZONE NONATTAINMENT AREAS.—

"(A) IN GENERAL.—Each State in which there is located all or part of an ozone nonattainment area with a population of 250,000 or more classified under subpart 2 of part D of title I of this Act as Serious, Severe, or Extreme and each State in which there is located all or part of a carbon monoxide nonattainment area with a population of 250,000 or more and a 1988 carbon monoxide design value at or above 16.0 parts per million (as calculated according to the most recent interpretation methodology issued prior to enactment of this section by the United States Environmental Protection Agency), excluding those carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide concentrations, shall submit, within 24 months after the enactment of the Clean Air Act Amendments of 1990, a State implementation plan revision under section 110 and part D of title I to establish a clean-fuel vehicle program for fleets under this subsection.

"(B) PHASE-IN OF REQUIREMENTS.—(i) Except as provided in clause (ii), the plan revision required under this subsection shall contain provisions requiring at least 30 percent of all new covered fleet vehicles operated by each covered fleet operator in each such area beginning in 1995, at least 50 percent of such vehicles in 1996, and at least 70 percent in 1998, to be clean-fuel vehicles and to use clean alternative fuels when operating in the area.

"(ii) In the case of vehicles of 8,500 lbs. and above gross vehicle weight rating (gvwr), the plan revision required under this subsection shall contain provisions requiring at least 30 percent of all new covered fleet vehicles operated by each covered fleet operator in each such area beginning in 1998, at least 50 percent of such vehicles in 1999, and at least 70 percent of such vehicles in 2000 to be clean-fuel vehicles and to use clean alternative fuels when operating in the area.

"(C) CONSULTATION; CONSIDERATION OF FACTORS.—Each such State shall develop its implementation plan revision under this subsection in consultation with fleet operators, vehicle manufacturers, fuel producers and distributors, motor vehicle fuel system convertors, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, conversion capability, costs, safety, resale values of vehicles and equipment and other relevant factors.

"(D) CHOICE OF VEHICLES AND FUEL.—The plan revision under this subsection shall provide that the choice of clean-fuel vehicles and clean alternative fuels shall be made by the covered fleet operator subject to the requirements of this subsection.

"(E) CREDITS.—The State plan revision required under this subsection may provide for the issuance by the State of appropriate credits to each covered fleet operator for the use of clean-fuel vehicles which achieve on a per vehicle basis greater emission reductions than those required on a per vehicle basis under this subsection or for the use of more clean-fuel vehicles than required under this subsection. Such credits may be used by the person receiving such credits to demonstrate compliance with this subsection or may be traded or sold for use by any person to demonstrate compliance with other requirements applicable under this subsection in the same nonattainment area. Within 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidelines for the credit program.

"(2) RECLASSIFIED AREAS.—In the case of ozone nonattainment areas reclassified as Serious, Severe, or Extreme, a plan revision meeting the requirements of this subsection shall be submitted within 1 year after reclassification. Such plan revision shall implement the requirements applicable under this subsection at the time of reclassification and thereafter, except that the Administrator may adjust for a limited period the deadlines for compliance where compliance with such deadlines would be infeasible.

"(3) AVAILABILITY TO THE PUBLIC.—At any facility owned or operated by a department, agency, or instrumentality of the United States where vehicles subject to this subsection are supplied with clean alternative fuel, such fuel shall be offered for sale to the public for use in other vehicles during reasonable business times and subject to national security concerns, unless such fuel is commercially available for vehicles in the vicinity of such Federal facilities.

"(4) EMISSION STANDARDS FOR CLEAN-FUEL VEHICLES.—Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under section 202(a) containing specific emission standards applicable to clean-fuel vehicles under this subsection. Such standards shall be based on the best technology that can reasonably be anticipated to be available at the time such measures are to be implemented, taking into account costs, safety, energy, lead time, and other relevant factors. In addition to the specific requirements set forth in this paragraph, the standards applicable to such vehicles shall require compliance with the most stringent standard applicable under section 202 to emissions from conventional vehicles of the same type and model year.

"(A) LIGHT-DUTY VEHICLES AND TRUCKS.—For light-duty vehicles and trucks of less than 3,750 pounds (loaded vehicle weight) and not more than 8,500 pounds gross vehicle weight rating (gvwr):

"(i) Beginning with model year 1995, the standards under this subsection shall require that the total vehicle emissions of ozone forming volatile organic compounds shall not exceed 0.66 grams per mile (gpm).

"(ii) Beginning with model year 2000 the standards under this subsection shall require that the total vehicle emissions of ozone forming volatile organic compounds shall not exceed 0.25 grams per mile (gpm). The Administrator shall by rule waive for a period not to exceed 3 model years, the standards for oxides of nitrogen in the case of vehicles subject to the standard for volatile organic compounds under this clause and establish a different standard for oxides of nitrogen if the Administrator determines that such different standard is necessary in order to achieve the 0.25 grams per mile standard under this clause. Such different standard for oxides of nitrogen shall not exceed 0.7 grams per mile (gpm). The Administrator shall during such 3-model-year

period conduct a study, and report the results to the Congress, concerning the technological feasibility of achieving the reductions required under this clause and the standard for oxides of nitrogen without such waiver.

"(B) LIGHT-DUTY VEHICLES AND TRUCKS OF 3,750 LVW OR GREATER.—For light-duty vehicles and trucks of 3,750 pounds (loaded vehicle weight) or more but less than 8,500 gross vehicle weight rating (gvwr) the standards under this subsection shall be, during Phase I, the light-duty truck equivalent of a passenger car at 0.53 gpm emissions of ozone producing volatile organic compounds and, during Phase II, such equivalent of a passenger car at 0.25 gpm, and shall include, for each phase an equivalent reduction in emissions of hazardous air pollutants.

"(C) VEHICLES OF 8,500 POUNDS (GVWR) AND ABOVE.—(i) For vehicles of 8,500 pounds and above (gross vehicle weight rating) the standards under this subsection shall, at a minimum, require that (I) emissions of either oxides of nitrogen or particulate matter shall not exceed 50 percent of the emissions of such air pollutant allowed under the emission standard applicable for such air pollutant for a conventional heavy-duty vehicle or engine of the same type and model year pursuant to standards under section 202 and (II) emissions of particulate matter shall not exceed 0.10 grams per brake horsepower hour. The Administrator shall increase the level of emissions allowed under clause (I) if the Administrator determines that the 50 percent reduction is not technologically achievable for clean diesel engines, taking into account durability, costs, lead time, safety, and other relevant factors, except that the Administrator may not increase such level of emissions above 70 percent.

"(ii) DETERMINATION.—As part of the rulemaking under this paragraph, the Administrator shall make a determination as to whether the 50 percent reduction referred to in clause (i) is technologically achievable, taking into account durability, costs, lead time, and safety.

"(5) TRANSPORTATION CONTROL MEASURES.—The Administrator shall by rule, within 1 year after the enactment of the Clean Air Act Amendments of 1990, ensure that certain transportation control measures including high-occupancy vehicle lanes, time-of-day or day-of-week restrictions, and other similar measures that restrict vehicle usage, do not apply to any clean-fuel vehicle that is subject to the requirements of this subsection.

"(c) OXYGENATED FUELS.—

"(1) CO NONATTAINMENT AREAS.—Each State in which there is located all or part of an area classified under section 186 as a Moderate or Serious Area for carbon monoxide shall submit to the Administrator a State implementation plan revision under section 110 and part D of title I for such area. The plan revision shall be submitted within 1 year after the classification of the area. The plan revision shall contain provisions to require that gasoline sold, or dispensed, to the ultimate consumer or sold or dispensed directly or indirectly by fuel refiners or marketers to persons who sell or dispense to ultimate consumers, in the larger of—

"(A) the Consolidated Metropolitan Statistical Area (CMSA) in which the area is located, or

"(B) if the area is not located in a CMSA, the Metropolitan Statistical Area in which the area is located,

be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide (as determined by the Administrator), to contain not less than 2.7 percent oxygen. The revision shall provide that such requirement shall take effect no later than October 1, 1992, and shall include a program for implementation and enforcement of the requirement consistent with guidance to be issued by the Administrator. The Administrator shall waive, in whole or in part, the requirements of this paragraph upon a demonstration by the State to the satisfaction of the Administrator that the use of oxygenated fuels would prevent or interfere with the attainment by the area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide. The Administrator shall, upon demonstration by the State satisfactory to him, waive the requirement of this paragraph where he determines that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in an area.

"(2) FUEL DISPENSING SYSTEMS.—Any person selling oxygenated fuel at retail pursuant to this subsection shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that the fuel is oxygenated and will reduce the carbon monoxide emissions from the motor vehicle and indicate such other pertinent information for the benefit of the public.

"(3) GUIDELINES.—The Administrator shall promulgate guidelines, within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, allowing the use of marketable oxygen credits from fuels with higher oxygen content than required to offset the sale or use of fuels with a lower oxygen content than required.

"(4) DEADLINE ADJUSTMENT.—For any area classified as a Serious Area under section 186(b), the Administrator shall adjust the deadlines referred to in this subsection where necessary.

"(5) CONSTRUCTION.—Nothing in this subsection shall be interpreted as requiring an oxygenated fuels program in an area which is in attainment for carbon monoxide and such program is not necessary to maintain such standard thereafter in the area.

"(6) If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that the minimum oxygen content of gasoline referred to in paragraph (1) shall be 3.1 percent by weight unless such requirement is waived in accordance with the provisions of this section.

"(d) CALIFORNIA PILOT TEST PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator shall establish a pilot program in the State of California to demonstrate the effectiveness of clean-fuel vehicles in controlling air pollution ozone nonattainment areas.

"(2) APPLICABILITY.—The provisions of this subsection shall only apply to passenger cars and light-duty trucks of less than 3,750 loaded vehicle weight (l.v.w.) and only in the State of California (hereinafter referred to as the 'covered area').

"(3) PROGRAM REQUIREMENTS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing requirements under this subsection. The regulations shall provide the following:

"(A) CLEAN-FUEL VEHICLES.—Clean-fuel vehicles shall be produced, sold, and distributed in accordance with normal business practices and applicable franchise agreements to ultimate purchasers in the covered area (including owners of covered fleets referred to in subsection (b)) in numbers that meet or exceed the following schedule (as may be revised under subparagraph (D)): 150,000 vehicles in model years 1994 through 1996; 300,000 in model years 1997 and thereafter. The Administrator may by regulation grant a manufacturer an appropriate amount of credits toward fulfillment of the requirements prescribed under this subparagraph for selling more clean-fuel vehicles than regulations under this subparagraph require. A manufacturer granted credits may transfer some or all of the credits for use by one or more other manufacturers in demonstrating compliance with the requirements prescribed under this subparagraph. The Administrator may make the credits available for use after consideration of enforceability, environmental, and economic factors and upon such terms and conditions as he finds appropriate. The Administrator shall grant credits in accordance with this subparagraph, notwithstanding any requirements of State law or any credits granted with respect to the same vehicles under any State law, rule, or regulation.

"(B) CLEAN ALTERNATIVE FUELS.—(i) The clean alternative fuels on which the vehicles required under subparagraph (A) can operate shall be produced by fuel refiners and made available in the covered area. At a minimum, sufficient clean alternative fuels shall be produced to assure that all clean-fuel vehicles required under this subsection can operate, to the maximum extent practicable, exclusively on such fuels in such area and one such fuel shall be offered for retail sale at service stations dispensing at least 50,000 gallons of motor vehicle fuel per month, on average. The Administrator shall determine the clean alternative fuels to be produced and made available based on motor vehicle manufacturers' projections of future sales of clean-fuel vehicles and consultations with the affected State and local governments. The Administrator may by regulation grant persons subject to the requirements prescribed under this subparagraph an appropriate amount of credits for exceeding such requirements, and any person granted credits may transfer some or all of the credits for use by one or more persons in demonstrating compliance with such requirements. The Administrator may make the credits available for use after consideration of enforceability, environmental, and economic factors and upon such terms and conditions as he finds appropriate. The Administrator may also by regulation establish specifications for any clean alternative fuel produced and made available under this subparagraph as he finds necessary to reduce or eliminate an unreasonable risk to public health, welfare, or safety associated with its use or to ensure acceptable vehicle maintenance and performance characteristics.

"(ii) If a retail gasoline dispensing facility would have to remove or replace one or more motor vehicle fuel underground storage tanks and accompanying piping in order to comply with the provisions of this subsection, and it had removed and replaced such tank or tanks and accompanying piping in order to comply with subtitle I of the Solid Waste Disposal Act prior to the date of the enactment of the Clean Air Act Amendments of 1990, it shall not be required to comply

with this subsection until a period of 7 years has passed from the date of the removal and replacement of such tank or tanks.

"(4) EMISSION STANDARDS FOR CLEAN-FUEL VEHICLES.—Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under section 202(a) containing specific emission standards applicable to clean-fuel vehicles under this subsection. Such standards shall be based on the best technology that can reasonably be anticipated to be available at the time such measures are to be implemented, taking costs, safety, energy, and other relevant factors into account. In addition to the specific requirements set forth in this paragraph, the standards applicable to such vehicles shall require compliance with the most stringent standard applicable under section 202 to emissions from conventional vehicles of the same type and model year.

"(A) LIGHT-DUTY VEHICLES AND TRUCKS.—For light-duty vehicles and trucks of less than 3,750 pounds loaded vehicle weight (l.v.w.) and less than 8,500 gross vehicle weight rating (gvwr):

"(i) Beginning with model year 1995, the standards under this subsection shall require emission reductions representing a 50 percent reduction in emissions of ozone-forming volatile organic compounds and a 50 percent reduction from those of a baseline vehicle in total vehicle emissions of benzene, 1,3-butadiene, gasoline vapors, polycyclic organic material (POM), including POM and diesel particulates, and formaldehyde and such other hazardous air pollutants as the Administrator may by rule determine to warrant regulation.

"(ii) Unless the Administrator determines that it is not technologically feasible (considering durability, costs, lead time, safety, and other relevant factors) beginning with model year 2003 in the case of clean-fuel vehicles subject to the requirements of this subsection, the standards under this subsection shall, at a minimum, require emission reductions representing a 75 percent reduction in ozone-forming volatile organic compounds and a 75 percent reduction from a baseline vehicle in total vehicle emissions of benzene, 1,3-butadiene, gasoline vapors, polycyclic organic material (POM), including POM and diesel particulates, and formaldehyde and such other hazardous air pollutants as the Administrator may by rule warrant regulation. If the Administrator determines that it is not technologically feasible (considering durability, costs, lead time, safety, and other relevant factors) to require such 75 percent reduction, the Administrator shall increase the level of emissions allowed under this clause, except that the Administrator may not increase such level of emissions above 50 percent.

For purposes of this subparagraph, the term 'baseline vehicle' means a conventional gasoline-fueled vehicle of the same type and model year meeting the most stringent standards in effect for that vehicle under section 202.

"(B) OTHER FUELS.—The standards under this paragraph shall permit clean-fuel vehicles to use a fuel other than a clean alternative fuel, if, when operated on any such other fuel, such vehicle complies with the emission standards applicable under section 202 to conventional gasoline-fueled vehicles of the same type and model year.

"(5) PROGRAM EVALUATION.—Not later than June 30, 1998, the Administrator shall complete and submit a report to Congress on the effectiveness of the California pilot program under this subsection. The report shall evaluate the level of emission reductions achieved under the program, the costs of the program, the advantages and disadvantages of extending the program to other nonattainment areas, and desirability of continuing or expanding the program in California. The program cannot be extended or terminated by the Administrator except by Act of Congress enacted after the date of the Clean Air Act Amendments of 1990. Section 177 of this Act does not apply to the program under this subsection.

"(e) INCENTIVE PROGRAM.—(1) At the time the Administrator submits the report to Congress under paragraph (5) of subsection (d), the Administrator shall promulgate regulations establishing an incentive program to encourage the purchase of clean-fuel vehicles. Such regulations may include any of the following:

"(A) A State registration fee on new motor vehicles registered in the State which are not clean-fuel vehicles in the amount of at least 1 percent of the cost of the vehicle. The proceeds of such fee shall be used to provide financial incentives to purchasers of clean-fuel vehicles and to vehicle dealers who sell high volumes or high percentages of clean-fuel vehicles and to defray the administrative costs of the incentive program.

"(B) Provisions to exempt clean-fuel vehicles from high occupancy vehicle or trip reduction requirements.

"(C) Provisions to provide preference in the use of existing parking spaces for clean-fuel vehicles.

"(D) The incentives under this subsection shall not apply in the case of covered fleet vehicles.

"(2) The regulations shall include a procedure under which States may submit implementation plan revisions to incorporate incentive programs consistent with the Administrator's regulations under this paragraph.

"(f) STATE REFUELING FACILITIES.—If any State adopts enforceable provisions in an implementation plan applicable to a nonattainment area which provides that existing State refueling facilities will be made available to the public for the purchase of clean alternative fuels or that State-operated refueling facilities for such fuels will be constructed and operated by the State and made available to the public at reasonable times, taking into consideration safety, costs, and other relevant factors, in approving such plan under section 110 and part D, the Administrator may credit a State with the emission reductions for purposes of part D attributable to such actions.

"(g) NO PRODUCTION MANDATE.—The Administrator shall have no authority under this section to mandate the production of clean-fuel vehicles except as provided in the California test pilot program or to specify as applicable the models, lines, or types of, or marketing or price practices, policies, or strategies for, vehicles subject to this section. Nothing in this section shall be construed to give the Administrator authority to mandate marketing or pricing practices, policies, or strategies for fuels.

"(h) VEHICLE CONVERSIONS.—(1) The requirements of this section may be met through the conversion of existing gasoline or diesel-powered vehicles to a clean-fuel vehicle which comply with the applicable requirements of this section.

"(2) The Administrator shall, within 12 months after the enactment of the Clean Air Act Amendments of 1990, consistent with the requirements of this title applicable to new vehicles, promulgate regulations governing such conversions. Such regulations shall establish criteria for such conversions which will ensure that a converted vehicle will, when operating on a clean alternative fuel, comply with the applicable standards under this section. Such regulations shall provide for the application to such conversions of the same provisions of this title as are applicable to standards under section 202 (including the provisions of sections 206, 207, 208, and 209), except that in the case of conversions the Administrator may modify the applicable regulations implementing such provisions as the Administrator deems necessary to implement this subsection. Such provisions shall be enforced in the case of conversions in the same manner and to the same extent as in the case of vehicles subject to standards under section 202.

"(3) Any person who obtains, pursuant to paragraph (2), a certification under section 206 shall be considered a manufacturer for purposes of sections 206 and 207 and related enforcement provisions. Nothing in the preceding sentence shall require a person who obtains such a certification to warrant any part or operation of a vehicle other than what is required under sections 206 and 207. Nothing in this paragraph shall limit the applicability of any other warranty to unrelated parts or operations.

"(4) The conversion from a vehicle capable of operating on gasoline or diesel fuel only to a clean-fuel vehicle shall not be considered a violation of section 203(a)(3) if such conversion complies with the regulations promulgated under this subsection.

"(5) The Secretary of Transportation shall, if necessary, promulgate rules under applicable motor vehicle laws regarding the safety of converted vehicles.

"(i) TANK AND FUEL SYSTEM SAFETY.—The Secretary of Transportation shall, in accordance with the National Motor Vehicle Traffic Safety Act of 1966, promulgate applicable regulations regarding the safety and use of fuel storage cylinders and fuel systems, including appropriate testing and retesting, in conversions of motor vehicles.

"(j) CONSULTATION WITH DEPARTMENT OF ENERGY AND DEPARTMENT OF TRANSPORTATION.—The Administrator shall coordinate with the Secretaries of the Department of Energy and the Department of Transportation in carrying out the Administrator's duties under this section.".

(c) CONFORMING AMENDMENT.—Section 202(a)(4) (42 U.S.C. 7521(a)(4)) is amended by striking out "standards prescribed under this subsection" every place it occurs and inserting "requirements prescribed under this title".

(d) REFORMULATED GASOLINE.—Section 211 is amended by adding the following new subsection at the end thereof:

"(k) CLEAN FUELS FOR CONVENTIONAL VEHICLES.—(1) Within 1 year after the enactment of the Clean Air Act Amendments of 1990 the Administrator shall promulgate regulations under this section establishing requirements for cleaner gasoline to be used in gasoline-fueled vehicles. Such regulations shall require the greatest reduction in emissions of ozone forming volatile organic compounds (during the period referred to in subparagraph (B)(i)) and emissions of hazardous air pollutants achieveable through the reformulation of conventional gasoline, taking into consideration the cost of achieving such emission reductions, any nonair-quality and other air-quality related health and environmental impacts, including reactivity and relative toxicity, and energy require-

ments. Such requirements shall comply with the more stringent of either the requirements set forth in subparagraph (A) or the requirements set forth in subparagraph (B), except that the requirements of subparagraph (A) (iii) and (iv) shall apply in all cases. For purposes of determining the more stringent provision, subparagraphs (B)(i) and (B)(ii) shall be considered independently. The requirements of subparagraph (C) shall apply in all cases.

"(A)(i) The benzene content of the fuel shall not exceed 0.8 percent by volume.

"(ii) The aromatic hydrocarbon content of the fuel shall not exceed the following limits: 30 percent by volume after January 1, 1992, 28 percent by volume after January 1, 1994, and 25 percent by volume after January 1, 1996.

"(iii) The fuel shall have no lead content.

"(iv) The fuel shall contain additives to prevent the accumulation of deposits in engine fuel supply systems.

"(v) The oxygen content of the fuel shall equal or exceed the following: 2.0 percent by weight as of January 1, 1992, 2.5 percent by weight by January 1, 1993, and 2.7 percent by weight by January 1, 1994, except as otherwise required by this Act.

"(B)(i) During the high ozone season (as defined by the Administrator), the total emissions of ozone forming volatile organic compounds from representative model year 1990 vehicles when using the fuel shall, in the aggregate, be at least 15 percent below the total emissions of ozone forming volatile organic compounds from such vehicles when using 1990 certification fuel. Effective in calendar year 1997 and thereafter, 20 percent shall be substituted for 15 percent in applying this subparagraph. Effective in calendar year 2000 and thereafter, 25 percent shall be substituted for 20 percent in applying this clause.

"(ii) During the entire year, the total emissions of hazardous air pollutants from representative model year 1990 vehicles when using the fuel shall, in the aggregate, be at least 15 percent below the total emissions of hazardous air pollutants from such vehicles when using 1990 certification fuel (or to such other levels as the administrator determines will achieve at least as great a reduction in aggregate adverse health effects as such 15 percent reduction). Effective in calendar year 1997 and thereafter, 20 percent shall be substituted for 15 percent in applying this subparagraph. Effective in calendar year 2000 and thereafter, 25 percent shall be substituted for 20 percent in applying this clause. For purposes of this clause, within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, by rule, determine appropriate measures of and methodology for ascertaining the emissions of harzardous air pollutants (including calculations, equipment, and tolerances) and their aggregate health effects.

"(C) The total emissions of oxides of nitrogen from representative vehicles when using the fuel shall in the aggregate be no greater than the level of such emissions from such vehicles when using conventional gasoline (as defined by the Administrator) of the same grade which meets the requirements applicable under this section.

"(2) The regulations promulgated under this subsection shall include procedures under which the Administrator shall certify fuels as complying with the requirements established pursuant to paragraph (1). Under such regulations, the Administrator shall establish procedures for any person to petition the Administrator to certify an alternative fuel formulation, or slate of fuel formulations. The Administrator shall certify a fuel formulation or slate of fuel formulations if such fuel or fuels (A) achieves equivalent or greater reductions in emissions of ozone forming volatile organic compounds and emissions of hazardous air pollutants than are achieved by a fuel meeting the requirements of paragraph (1) and (B) complies with the requirements of subparagraph (C) of paragraph (1). Such procedures shall further require that the Administrator shall approve or deny such petition within 90 days of receipt, and failure to act within such time shall be deemed a denial of such petition. Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall determine the level of emissions of ozone forming volatile organic compounds and emissions of hazardous air pollutants emitted by representative model year 1990 motor vehicles when operating on 1990 certification fuel.

"(3)(A) Effective January 1, 1994, no person may sell or dispense to the ultimate consumer, and no fuel refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers, in any ozone nonattainment area classified under subpart 2 of part D of title I as Severe or Extreme any fuel for use in conventional gasoline-fueled vehicles that has not been certified by the Administrator under this subsection.

"(B) Effective January 1, 1992, until January 1, 1994, no person may sell or dispense to the ultimate consumer, and no fuel refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers, in any such area any fuel for use in conventional gasoline-fueled vehicles that has not been certified by the Administrator under this subsection as complying with subparagraph (A) (ii) and (v) and subparagraph (C) of paragraph (1).

"(4)(A) Upon the application of the Governor of a State, the Administrator shall apply the prohibition set forth in paragraph (3) in any area in the State classified under subpart 2 of part D of title I as a Marginal, Moderate, or Serious Area, and in any such case, the Administrator shall establish an effective date for such prohibition as he deems appropriate, not later than January 1, 1994, or 1 year after such application is received, whichever is later. The Administrator shall publish such application in the Federal Register upon receipt.

"(B) If the Administrator determines, on his own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient domestic capacity to produce fuel certified under this subsection, the Administrator shall, by rule, extend the effective date of such prohibition in Marginal, Moderate, or Serious Areas for one additional year, and may, by rule, renew such extension for 2 additional one-year periods. The Administrator shall act on any petition submitted under this paragraph within 6 months after receipt of the petition. The administrator shall issue such extensions for areas with a lower ozone classification before issuing any such extension for areas with a higher classification.

"(5)(A) The regulations promulgated under this subsection shall provide for the granting of an appropriate amount of credits to a person who produces and certifies a fuel that—

"(i) has an oxygen content that exceeds the minimum oxygen content specified in paragraph (1); or

"(ii) has an aromatic hydrocarbon content that is less than the maximum aromatic hydrocarbon content specified in paragraph (1).

"(B) The regulations described in subparagraph (A) shall also provide that a person who is granted credits may use such credits, or transfer all or a portion of such credits to another person, for the purpose of complying with this subsection.

"(C) The regulations promulgated under subparagraphs (A) and (B) shall ensure the enforcement of the requirements for the issuance, application, and transfer of the credits. Such regulations shall prohibit the granting or transfer of such credits for use with respect to any fuel in a nonattainment area, if the use of such credits would result in—

"(i) an average fuel aromatic hydrocarbon content (taking into account all fuel used in all conventional gasoline-fueled vehicles in the nonattainment area) higher than the average fuel aromatic hydrocarbon content that would occur in the absence of such credits; and

"(ii) an average fuel oxygen content (taking into account all fuel used in all conventional gasoline-fueled vehicles in the nonattainment area) lower than the average fuel oxygen content that would occur in the absence of such credits.

"(6) Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations applicable to gasoline to ensure that gasoline (other than gasoline subject to the requirements of paragraph (1)) does not result in emissions of ozone forming volatile organic compounds, nitrogen oxides, or carbon monoxide, or aggregate emissions of hazardous air pollutants from representative motor vehicles in excess of the levels of emissions of such pollutants that would result if conventional gasoline of a similar grade sold in calendar year 1989 were used in such vehicles. Such regulations shall take effect no later than January 1, 1992.

"(7) For purposes of this subsection, the term '1990 certification fuel' means fuel used in exhaust and evaporative emissions testing for 1990 model year vehicles.".

SEC. 202. EMISSION STANDARDS FOR CERTAIN MOTOR VEHICLES.

(a) STANDARDS.—Section 202 (42 U.S.C. 7521) is amended by adding the following at the end thereof:

"(g) NMHC AND CO STANDARDS FOR MODEL YEARS AFTER 1993.—Effective with respect to the model year 1994 and thereafter, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC) and carbon monoxide (CO) from passenger cars and light-duty trucks (LDTs) shall contain standards which provide that emissions from a specified percentage of each manufacturer's sales volume of such cars and trucks shall comply with the levels specified in table 1. The specified percentage shall be 40 percent in model year 1994, 80 percent in 1995, and 100 percent thereafter.

"TABLE 1.—EMISSION STANDARDS FOR NHMC AND CO FROM GASOLINE AND DIESEL FUELED PASSENGER VEHICLES AND LIGHT-DUTY TRUCKS OF UP TO 6,000 LBS. GVWR

| Vehicle type | Column A * (5 yrs/50,000 mi) | | Column B ** (10 yrs/100,000 mi) | |
|---|---|---|---|---|
| | NMHC | CO | NMHC | CO |
| Passenger Cars.... | 0.25 | 3.4 | 0.31 | 4.2 |
| LDT's (0-3,750 lbs LVW). | 0.25 | 3.4 | 0.31 | 4.2 |
| LDT's (3,751-5,750 lbs LVW). | 0.32 | 4.4 | 0.40 | 5.5 |

Standards are expressed in grams per mile (gpm).

LVW refers to loaded vehicle weight and GVWR refers to gross vehicle weight rating each as defined by EPA in regulations in effect as of the date of the enactment of the Clean Air Act Amendments of 1990.

* In the case of the standards under column A, for purposes of certification under section 206, the applicable useful life shall be 5 years or 50,000 miles (or the equivalent) whichever first occurs.

** In the case of the standards under column B, for purposes of certification under section 206, the applicable useful life shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs.

"(h) $NO_x$ AND PM STANDARDS FOR MODEL YEARS AFTER 1993.—Effective with respect to the model years after 1993 in the case of passenger cars, and effective with respect to model years after 1994 in the case of light-duty trucks (LTDs), the regulations under subsection (a) applicable to emissions of oxides of nitrogen ($NO_x$) and particulate matter (PM) from such cars and trucks shall contain standards which provide that such emissions from a specified percentage of each manufacturer's sales volume of such cars and trucks shall comply with the levels specified in table 2. In the case of passenger cars, the specified percentage shall be 40 percent in model year 1994 and 100 percent thereafter. In the case of light-duty trucks, the specified percentage shall be 40 percent in model year 1995 and 100 percent thereafter.

"TABLE 2.—EMISSION STANDARDS FOR $NO_x$ and PM From Gasoline and Diesel Fueled Passenger Cars and Light-Duty Trucks (LDTs) OF UP TO 6,000 LBS. GVWR

| Vehicle type | Pollutant | Standard * |
|---|---|---|
| Passenger cars and LDT's with LVW of 3,750 lbs. or less. | $NO_x$..... | 0.4 gpm |
| | PM..... | 0.08 gpm |
| LDT's with LVW of 3,751 to 5,750 lbs. | $NO_x$..... | 1.0 gpm |
| | PM..... | 0.08 gpm |

Standards are expressed in grams per mile (gpm).

LVW refers to loaded vehicle weight and GVWR refers to gross vehicle weight rating each as defined by EPA in regulations in effect as of the date of the enactment of the Clean Air Act Amendments of 1990.

* For these standards, for purpose of certification under section 206, the applicable useful life shall be 5 years or 50,000 miles (or the equivalent), whichever first occurs.

"(i) PHASE II STUDY.—(1) The Administrator, with the participation of the Office of Technology Assessment, shall study whether or not further reductions in emissions from passenger cars and light-duty trucks should be required pursuant to this title. The study shall consider whether to establish with respect to model years commencing after January 1, 2003, the standards and useful life period for gasoline and diesel-fueled passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less specified in the following table:

"TABLE 3.—PENDING EMISSION STANDARDS FOR GASOLINE AND DIESEL FUELED PASSENGER VEHICLES AND LIGHT-DUTY TRUCKS WITH 3,750 LBS. LVW OR LESS

| Pollutant | Emission level* |
|---|---|
| NMHC..... | 0.125 gpm |
| $NO_x$..... | 0.2 gpm |
| CO..... | 1.7 gpm |

* Emission levels are expressed in grams per mile (gpm). For vehicles and engines subject to this subsection for purposes of section 202(d) and any reference thereto, the useful life of such vehicles and engines shall be a period of 10 years or 100,000 miles (or the equivalent), whichever first occurs.

Such study shall also consider other standards and useful life periods which are more stringent or less stringent than those set forth in table 3 (but more stringent than those referred to in subsections (g) and (h)).

"(2)(A) As part of the study under paragraph (1), the Administrator shall examine the need for further reductions in emissions in order to attain or maintain the national ambient air quality standards, taking into consideration the waiver provisions of section 209(b). As part of such study, the Administrator shall also examine—

"(i) the availability of technology (including the costs thereof), in the case of passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less, for meeting more stringent emission standards than those provided in subsections (g) and (h) for model years commencing not earlier than after January 1, 2003 and not later than model year 2006, including the lead time and safety and energy impacts of meeting more stringent emission standards; and

"(ii) the need for, and cost effectiveness of, obtaining further reductions in emissions from such passenger cars and light-duty trucks, taking into consideration alternative means of attaining or maintaining the national primary ambient air quality standards pursuant to State implementation plans and other requirements of this Act, including their feasibility and cost effectiveness.

"(B) The Administrator shall submit a report to Congress no later than June 1, 1997, containing the results of the study under this subsection, including the results of the examination conducted under subparagraph (A). Before submittal of such report the Administrator shall provide a reasonable opportunity for public comment and shall include a summary of such comments in the report to Congress.

"(3)(A) Based on the study under paragraph (1) the Administrator shall determine, by rule, within 3 calendar years after the report is submitted to Congress, but not later than December 31, 1999, whether—

"(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003 and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

"(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii).

The rulemaking under this paragraph shall commence within 3 months after submission of the report to Congress under paragraph (2)(B).

"(B) If the Administrator determines under subparagraph (A) that—

"(i) there is no need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will not be available as provided in paragraph (2)(A)(i), in the case of passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); or

"(iii) obtaining further reductions in emissions from such vehicles will not be needed or cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall not promulgate more stringent standards than those in effect pursuant to subsections (g) and (h). (Nothing in this paragraph shall prohibit the Administrator from exercising the Administrator's authority under subsection (a) to promulgate more stringent standards for passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less at any other time thereafter in accordance with subsection (a).)

"(C) If the Administrator determines under subparagraph (A) that—

"(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of passenger cars and light-duty trucks with a loaded vehicle weight (lvw) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

"(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall either promulgate the standards (and useful life periods) set forth in table 3 of paragraph (1) or promulgate alternative standards (and useful life periods) which are more stringent than those referred to in subsections (g) and (h). Any such standards (or useful life periods) promulgated by the Administrator shall take effect with respect to any such vehicles or engines no earlier than the model year 2003 but not later than model year 2006, as determined by the Administrator in the rule.

"(D) Nothing in this paragraph shall be construed by the Administrator or by a court as a presumption that any standards (or useful life period) set forth in table 3 shall be promulgated in the rulemaking required under this paragraph. The action required of the Administrator in accordance with this paragraph shall be treated as a nondiscretionary duty for purposes of section 304(a)(2) (relating to citizen suits).

"(E) Unless the Administrator determines not to promulgate more stringent standards as provided in subparagraph (B) or to postpone the effective date of standards referred to in table 3 of paragraph (1) or to establish alternative standards as provided in subparagraph (C), effective with respect to model years commencing after January 1, 2003, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), oxides of nitrogen (NOx), and carbon monoxide (CO) from motor vehicles and motor vehicle engines in the classes specified in table 3 of paragraph (1) above shall contain standards which provide that emissions may not exceed the pending emission levels specified in table 3 of paragraph (1).".

(b) CONFORMING AMENDMENT.—Section 202(d)(1) (42 U.S.C. 7521(d)(1)) is amended by inserting ", except as otherwise specifically provided in this title" before the semicolon at the end thereof.

(c) REVISED STANDARDS.—Subparagraph (C) of section 202(b)(1) (42 U.S.C. 7521(b)(1)(C)) is amended to read as follows:

"(C) The Administrator may promulgate regulations under subsection (a)(1) revising any standard prescribed or previously revised under this subsection, as needed to protect public health or welfare, taking costs, energy, and safety into account. Any revised standard shall require a reduction of emissions from the standard that was previously applicable. Any such revision under this title may provide for a phase-in of the standard.".

(d) PROMULGATION.—Section 202(b)(2) (42 U.S.C. 7521(b)(2)) is amended to read as follows:

"(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of the enactment of the Clean Air Act Amendments of 1990), shall be promulgated by regulation within 180 days after such date.".

SEC. 203. CONFORMING AMENDMENT.

Section 206(f)(1) (42 U.S.C. 7525(f)(1)) is amended by inserting "and light-duty trucks" immediately after "light-duty vehicles and engines".

SEC. 204. CARBON MONOXIDE EMISSIONS AT COLD TEMPERATURES.

Section 202 (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (i):

"(j) COLD CO STANDARD.—(1) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under subsection (a) of this section applicable to emissions of carbon monoxide from 1993 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit. The regulations shall contain standards which provide that emissions of carbon monoxide from a manufacturer's vehicles when operated at 20 degrees Fahrenheit may not exceed, in the case of light-duty vehicles, 10.0 grams per mile, and in the case of light-duty trucks, a level comparable in stringency to the standard applicable to light-duty vehicles. The standards also shall provide that each manufacturer's light-duty vehicle and light-duty truck fleets shall comply with applicable standards according to the following schedule: at least 40 percent of 1993 model year vehicles shall comply with applicable standards; at least 80 percent of 1994 model year vehicles shall comply with applicable standards; and 100 percent of 1995 and later model year vehicles shall comply with applicable standards.

"(2)(A) Not later than December 31, 1993, the Administrator shall complete a study assessing the need for further reductions in emissions of carbon monoxide and the maximum reductions in such emissions achievable from 1998 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit.

"(B) The Administrator may promulgate (and from time to time revise) regulations under subsection (a)(1) of this section applicable to emissions of carbon monoxide from 1998 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit, as needed to protect public health and welfare, taking costs into account.

"(3) The Administrator also may promulgate regulations under subsection (a)(1) applicable to emissions of carbon monoxide from heavy-duty vehicles and engines when operated at cold temperatures.".

SEC. 205. EVAPORATIVE EMISSIONS.

Section 202 (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (j):

"(k) CONTROL OF EVAPORATIVE EMISSIONS.—The Administrator shall promulgate (and from time to time revise) regulations applicable to evaporative emissions of hydrocarbons from all gasoline-fueled motor vehicles—

"(1) during operation; and

"(2) over 2 or more days of nonuse;

under ozone-prone summertime conditions (as determined by regulations of the Administrator). The regulations shall take effect as expeditiously as possible and shall require the greatest degree of emission reduction achievable by means reasonably expected to be available for production during any model year to which the regulations apply, giving appropriate consideration to fuel volatility, and to cost, energy, and safety factors associated with the application of the appropriate technology. The Administrator shall commence a rulemaking under this subsection within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990. If final regulations are not promulgated under this subsection within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall submit a statement to the Congress containing an explanation of the reasons for the delay and a date certain for promulgation of such final regulations in accordance with this Act. Such date certain shall not be later than 15 months after the expiration of such 18 month deadline.".

SEC. 206. CONTROL OF VEHICLE REFUELING EMISSIONS.

Section 202(a)(6) (42 U.S.C. 7521(a)(6)) is amended to read as follows:

"(6) ONBOARD VAPOR RECOVERY.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate standards under this section requiring that all new light-duty motor vehicles manufactured in the third model year after the model year in which the standards are promulgated and thereafter shall be equipped with vehicle-based ('onboard') systems for the control of evaporative emissions during vehicle refueling. The Administrator shall determine, in consultation with the Secretary of Transportation, that such systems are safe. The standards shall require that such systems provide a minimum evaporative emission capture efficiency of 95 percent. The requirements of section 182(b)(3) (relating to stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards and the Administrator may revise or waive the application of the requirements of such section 182(b)(3) for areas classified under section 181 as Serious, Severe, or Extreme for ozone, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this paragraph are in widespread use throughout the motor vehicle fleet.".

SEC. 207. MOBILE SOURCE-RELATED AIR TOXICS.

Section 202 (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (k):

"(l) MOBILE SOURCE-RELATED AIR TOXICS.—

"(1) STUDY.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study of the need for, and feasibility of, controlling emissions of toxic air pollutants which are unregulated under this Act and associated with motor vehicles and motor vehicle fuels, and the need for, and feasibility of, controlling such emissions and the means and measures for such controls. The study shall focus on those categories of emissions that pose the greatest risk to human health or about which significant uncertainties remain, including emissions of benzene, formaldehyde, and 1, 3 butadiene. The proposed report shall be available for public review and comment and shall include a summary of all comments.

"(2) STANDARDS.—Within 54 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on the study under paragraph (1), promulgate (and from time to time revise) regulations under subsection (a)(1) or section 211(c)(1) containing reasonable requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels. The regulations shall contain standards for such fuels or vehicles, or both, which the Administrator determines reflect the greatest degree of emission reduction achievable through the application of technology which will be available, taking into consideration the standards established under subsection (a), the availability and costs of the technology, and noise, energy, and safety factors, and lead time. Such regulations shall not be inconsistent with standards under section 202(a). The regulations shall, at a minimum, apply to emissions of benzene and formaldehyde.".

SEC. 208. EMISSION CONTROL DIAGNOSTICS SYSTEMS.

(a) EMISSION CONTROL DIAGNOSTICS.—Section 202 (42 U.S.C. 7521) is amended by adding the following after subsection (l):

"(m) EMISSIONS CONTROL DIAGNOSTICS.—

"(1) RULEMAKING.—The Administrator, after consideration of environmental benefits, technology, safety, and economic factors, shall promulgate (and from time to time revise) regulations requiring manufacturers to install on all new motor vehicles and motor vehicle engine diagnostics systems capable of—

"(A) accurately identifying, to the extent practicable, emission-related systems deterioration or malfunction which could cause or result in failure of the vehicle to comply with emission standards established under this section,

"(B) alerting the vehicle's owner or operator to the likely need for emission-related components or systems maintenance or repair,

"(C) storing and retrieving fault codes specified by the Administrator, and

"(D) providing access to stored information in a manner specified by the Administrator.

"(2) EFFECTIVE DATE.—The regulations prescribing emission control diagnostics systems under paragraph (1) of this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period and energy and safety factors.

"(3) STATE INSPECTION.—The Administrator, by regulation, may require States that have implementation plans under section 110 containing motor vehicle inspection and maintenance programs to amend their plans within 2 years of promulgation of the regulations to provide for inspection of emission control diagnostics systems (as prescribed by regulations under paragraph (1) of this subsection) and the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems.

"(4) EMISSIONS CONTROL DIAGNOSTICS.—The Administrator shall, by regulation, require manufacturers—

"(A) to provide standardized connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, or repair on all motor vehicles and motor vehicle engines;

"(B) to provide standardized access to the emission control diagnostics system through such connectors which shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer; and

"(C) to provide standardized output of the data from the emission control diagnostics system through such connectors to a scanning device which shall be usable without the need for any unique decoding information or device.

"(5) INFORMATION AVAILABILITY.—The Administrator, by regulation, shall require (subject to the provisions of section 208(c) regarding the protection of methods or processes entitled to protection as trade secrets) manufacturers, including motor vehicle or motor vehicle engine manufacturers, to make available in a timely manner, under reasonable terms and conditions to any person engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines any information reasonably necessary to utilize fully the emission control diagnostic system and to make effective emissions related repairs and service. No such information may be withheld under section 208(c) if that information is provided (directly or indirectly) by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines. Such information shall also be available to the Administrator, subject to section 208(c), in carrying out the Administrator's responsibilities under this section.

"(6) REVIEW OF DATA.—The Administrator may, in promulgating regulations under this section, review data output from emission control diagnostic systems and revise such regulations to improve the emissions repair effectiveness by use of such data. In the review process, the Administrator should consult with the industry, including vehicle manufacturers, parts manufacturers, diagnostic equipment manufacturers, and motor vehicle repair service providers, regarding the quality and usefulness of the data provided by the emission control diagnostic system, technology developments in motor vehicle emission control diagnostics, and any other matters that would lead to improving the effectiveness of emission control systems repairs and maintenance.

"(7) BRAND, CORPORATE, AND TRADE NAMES.—The Administrator, in promulgating regulations under this subsection, shall require that information and data from the emissions control diagnostics systems not require the use of any component or service which is identified by brand, trade, or corporate name, as provided by subparagraphs (A) and (B) of section 207(c)(3).

"(8) RULEMAKING.—The Administrator shall commence a rulemaking under this subsection within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990. If the final regulations under this subsection are not promulgated within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall submit a statement to the Congress containing an explanation of the reasons for the delay and a date certain for promulgation of such final regulations in accordance with this Act. Such date certain shall not be later than 15 months after such 18-month deadline.".

(b) SCHEDULED REPLACEMENT.—The last sentence of section 207(a)(3) (42 U.S.C. 7541(a)(3)) is amended to read as follows: "The term 'designed for emission control' as used in the preceding sentence means a catalytic converter, a thermal reactor, an emission control diagnostics system, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions (not including those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control).".

SEC. 209. AUTO WARRANTIES.

Section 207 (42 U.S.C. 7541) is amended as follows:

(1) Strike out "useful life (as determined under section 202(d))" each place it appears in subsection (b) and insert "the warranty period (as determined under subsection (i))".

(2) Strike so much of section 207(b) as follows the third sentence thereof.

(3) Add the following new subsection at the end thereof:

"(i) WARRANTY PERIOD.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) and subsection (b), the warranty period, effective with respect to new motor vehicles and engines manufactured in the model year 1995 and thereafter, shall be the first 2 years or 24,000 miles of use (whichever first occurs), except as provided in paragraph (2).

"(2) SPECIFIED MAJOR EMISSION CONTROL COMPONENTS.—In the case of a specified major emission control component, the warranty period for purposes of subsection (a)(1) and subsection (b) shall be 8 years or 80,000 miles of use (whichever first occurs). As used in this paragraph, the term 'specified major emission control component' means only a catalytic converter or electronic emissions control unit, except that the Administrator may designate any other pollution control device or component as a specified major emission control component if—

"(A) the device or component (except in the case of onboard emission control diagnostic equipment required by section 216) was not in general use on vehicles and engines manufactured prior to the model year 1990; and

"(B) the Administrator determines that the retail cost (exclusive of installation costs) of such device or component exceeds $200 (in 1989 dollars, adjusted for inflation or deflation as calculated by the Administrator at the time of such determination.

Nothing in this Act shall be construed to provide that any part (other than a part referred to in the preceding sentence) shall be required to be warranted under this Act for the period of 8 years or 80,000 miles referred to in this paragraph.

"(3) INSTRUCTIONS.—Subparagraph (A) of subsection (b)(2) shall apply only where the Administrator has made a determination that the instructions concerned conform to the requirements of subsection (c)(3).".

(4) Amend subsection (a)(1) by adding the following at the end thereof: "In the case of vehicles and engines manufactured in the model year 1995 and thereafter such warranty shall require that the vehicle or engine is free from any such defects for the warranty period provided under subsection (i).".

SEC. 210. HEAVY-DUTY TRUCKS.

Section 202(a)(3) (42 U.S.C. 7521(a)(3)) is amended as follows:

(1) Strike subparagraphs (A), (B), (C), (D), and (E) and insert the following:

"(A)(i) Unless the standard is changed as provided in subparagraph (B), regulations under paragraph (1) of this subsection applicable to emissions of hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter from classes and categories of heavy-duty vehicles or engines manufactured during or after model year 1983 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology.

"(ii) In establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may base such classes or categories on gross vehicle weight, horsepower, type of fuel used, or other appropriate factors.

"(B) On the basis of information available to the Administrator concerning the effects of air pollutants emitted from heavy-duty vehicles or engines and from other sources of mobile source related pollutants on the public health and welfare, and taking costs into account, the Administrator may promulgate regulations under paragraph (1) of this subsection revising any standard promulgated under or before the date of the enactment of the Clean Air Act amendments of 1990 (or previously revised under this subparagraph).".

(2) Redesignate subparagraph (F) as subparagraph (C).

(3) Add a new subparagraph (D) to read as follows:

"(D) The Administrator shall study the practice of rebuilding heavy-duty engines and the impact rebuilding has on engine emissions. On the basis of that study and other information available to him, the Administrator may prescribe requirements to control rebuilding practices, including standards applicable to emissions from any rebuilt heavy-duty engines (whether or not the engine is past it's statutory useful life), which in the Administrator's judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare taking costs into account. Any regulation shall take effect after a period the Administrator finds necessary

to permit the development and application of the requisite control measures, giving appropriate consideration to the cost of compliance within the period and energy and safety factors.".

SEC. 211. NONROAD ENGINES AND VEHICLES.

(a) DEFINITIONS.—Section 216 (42 U.S.C. 7550) is amended by adding the following at the end thereof:

"(13) NONROAD ENGINE.—The term 'nonroad engine' means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 or section 202.

"(14) NONROAD VEHICLE.—The term 'nonroad vehicle' means a vehicle that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.".

(b) DEFINITION OF MANUFACTURER.—Paragraph (1) of section 216 (42 U.S.C. 7550) is amended by striking out "new motor vehicles or new motor vehicle engines" every place it occurs and inserting "new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines".

(c) EMISSION STANDARDS.—Section 213 (42 U.S.C. 7547) is amended to read as follows:

"SEC. 213. NONROAD ENGINES AND VEHICLES.

"(a) EMISSIONS STANDARDS.—(1) The Administrator shall conduct a study of emissions from nonroad engines and nonroad vehicles to determine if such emissions cause, or significantly contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Such study shall be completed within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) After notice and opportunity for public hearing, the Administrator shall determine within 12 months after completion of the study under paragraph (1), based upon the results of such study, whether emissions of carbon monoxide, oxides of nitrogen, and volatile organic compounds from new nonroad engines or nonroad vehicles are significant contributors to ozone or carbon monoxide concentrations in more than 1 area which has failed to attain the national ambient air quality standards for ozone or carbon monoxide.

"(3) If the Administrator makes an affirmative determination under paragraph (2), within 18 months thereafter the Administrator shall promulgate (and from time to time revise) such regulations as the Administrator deems appropriate containing standards applicable to emissions from those classes or categories of new nonroad engines and new nonroad vehicles which in the Administrator's judgment cause, or contribute to, such air pollution, taking into account costs, noise, safety and energy factors associated with the application of technology which the Administrator determines will be available for the engines and vehicles to which such standards apply. The regulations shall apply to the useful life of the engines or vehicles (as determined by the Administrator).

"(4) If the Administrator determines that any emissions from new nonroad engines or vehicles not covered by paragraph (2) significantly contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, the Administrator may promulgate (and from time to time revise) such regulations as the Administrator deems appropriate containing standards applicable to emissions from those classes or categories of new nonroad engines and new nonroad vehicles which in the Administrator's judgment cause, or contribute to, such air pollution, taking into account costs, noise, safety, and energy factors associated with the application of technology which the Administrator determines will be available for the engines and vehicles to which such standards apply. The regulations shall apply to the useful life of the engines or vehicles (as determined by the Administrator).

"(b) EFFECTIVE DATE.—Standards under this section shall take effect at the earliest possible date considering the lead time necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period and energy and safety.

"(c) SAFE CONTROLS.—Effective with respect to engines or vehicles to which standards under this section apply, no emission control device, system, or element of design shall be used in a new nonroad engine or new nonroad vehicle for purposes of complying with such standards if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function. In determining whether an unreasonable risk exists, the Administrator shall consider factors including those described in section 202(a)(4)(B).

"(d) ENFORCEMENT.—The standards under this section shall be subject to sections 206, 207, 208, and 209, with such modifications of the applicable regulations implementing such sections as the Administrator deems appropriate, and shall be enforced in the same manner as standards prescribed under section 202. The Administrator shall revise or promulgate regulations as may be necessary to determine compliance with, and enforce, standards in effect under this section.".

(d) STATE STANDARDS.—Section 209 (42 U.S.C. 7543) is amended by adding the following at the end thereof:

"(e) STATE STANDARDS.—No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from new nonroad engines or nonroad vehicles subject to regulation under this Act. Subsection (b) shall not apply for purposes of this subsection.".

SEC. 212. VEHICLE CERTIFICATION.

(a) ADDITIONAL TESTING PROCEDURES.—Section 206(a) (42 U.S.C. 7525(a)) is amended by adding the following after paragraph (3):

"(4)(A) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall revise the regulations promulgated under this subsection to add test procedures capable of determining whether 1993 and later model year light-duty vehicles and light-duty trucks, when properly maintained and used, will pass the inspection methods and procedures established under section 207(b) for that model year, under conditions reasonably likely to be encountered in the conduct of inspection and maintenance programs, but which those programs cannot reasonably influence or control. The conditions shall include fuel characteristics, ambient temperature, and short (30 minutes or less) waiting periods before tests are conducted. The Administrator shall not grant a certificate of conformity under this subsection for any 1993 or later model year vehicle or engine that the Administrator concludes cannot pass the test procedures established under this paragraph.

"(B) From time to time, the Administrator may revise the regulations promulgated under subparagraph (A), as the Administrator deems appropriate.".

(b) PROJECTED SALES NOT EXCEEDING 300.—Section 206(a)(1) (42 U.S.C. 7525(a)(1)) is amended by striking the third sentence and inserting the following: "In the case of any original equipment manufacturer (as defined by the Administrator in regulations promulgated before the date of the enactment of the Clean Air Act Amendments of 1990) of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed 300, the Administrator shall not require, for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine, operation of any vehicle or engine manufactured during such model year for more than 5,000 miles or 160 hours, respectively, unless the Administrator by regulation prescribes otherwise. The Administrator shall apply any adjustment factors that the Administrator deems appropriate to assure that each vehicle or engine will comply during its useful life (as determined under section 202(d)) with the regulations prescribed under section 202.".

SEC. 213. IN-USE COMPLIANCE—RECALL.

Section 207(c) (42 U.S.C. 7541(c)) is amended by adding the following at the end thereof:

"(4) INTERMEDIATE IN-USE STANDARDS.—

"(A) MODEL YEARS 1994 AND 1995.—For passenger cars and light-duty trucks of less than 6,000 lbs. gross vehicle weight rating (GVWR) which are subject to standards under table 1 of section 202(g) in model years 1994 and 1995 (40 percent of the manufacturer's sales volume in model year 1994 and 80 percent in model year 1995), the standards applicable to NHMC and CO for purposes of this subsection shall be those set forth in table A in lieu of the standards for such air pollutants otherwise applicable under this title, except that any more stringent standards in effect for such purpose before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect until a more stringent standard takes effect as provided in paragraph (5).

"TABLE A.—INTERMEDIATE IN-USE STANDARDS

| Vehicle type | NMHC | CO |
|---|---|---|
| Passenger cars | 0.32 | 5.2 |
| LDT's (0-3,750 LVW) | 0.32 | 5.2 |
| LDT's (3,751-5,750 LVW) | 0.41 | 6.7 |

"(B) MODEL YEARS 1996 AND 1997.—In the model years 1996 and 1997, passenger cars and light-duty trucks of less than 6,000 lbs. gross vehicle weight rating (GVWR) which are not subject to final in-use standards under paragraph (5) (60 percent of the manufacturer's sales volume in model year 1996 and 20 percent in model year 1997) shall be subject to the standards for NHMC and CO for purposes of this subsection set forth in table A in lieu of those set forth in paragraph (5), except that any more stringent standards in effect for such purpose before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect until a more stringent standard takes effect as provided in paragraph (5).

"(C) USEFUL LIFE.—In the case of the in-use standards applicable under this paragraph for purposes of applying this subsection the applicable useful life shall be 5 years or

50,000 miles or the equivalent (whichever is less).

"(5) FINAL IN-USE STANDARDS.—After the model year 1995, for purposes of applying this subsection, in the case of the percentage specified in Implementation Schedule B of each manufacturer's sales volume of passenger cars and light-duty trucks of less than 6,000 lbs. gross vehicle weight rating (GVWR), the standards applicable to NHMC and CO shall be those set forth in table B in lieu of the standards for such air pollutants otherwise applicable under this title:

"TABLE B.—FINAL IN-USE STANDARDS

| Vehicle type | Column A * | | Column B ** | |
|---|---|---|---|---|
| | NMHC | CO | NMHC | CO |
| Passenger cars..... | 0.25 | 3.4 | 0.31 | 4.2 |
| LDT's (0-3,750 LVW). | 0.25 | 3.4 | 0.31 | 4.2 |
| LDT's (3,751-5,750 LVW). | 0.32 | 4.4 | 0.40 | 5.5 |

Standards are expressed in grams per mile (gpm). LVW refers to loaded vehicle weight as defined by EPA in regulations in effect as of the date of the enactment of the Clean Air Act Amendments of 1990.

* In the case of the standards under column A, for purposes of applying this subsection the applicable useful life shall be 5 years or 50,000 miles (or the equivalent), whichever first occurs.

** In the case of the standards under column B, for purposes of applying this subsection the applicable useful life shall be 7 years or 75,000 miles (or the equivalent), whichever first occurs.

"IMPLEMENTATION SCHEDULE B—IMPLEMENTATION OF FINAL IN-USE STANDARDS

| Model year | Percent |
|---|---|
| 1996 | 40 |
| 1997 | 80 |
| 1998 | 100.". |

SEC. 214. COMPLIANCE PROGRAM FEES.

Part A of title II is amended by adding the following new section at the end thereof:

"SEC. 217. MOTOR VEHICLE COMPLIANCE PROGRAM FEES.

"(a) FEE COLLECTION.—Consistent with section 9701 of title 31, United States Code, the Administrator may promulgate (and from time to time revise) regulations establishing fees to recover all reasonable costs to the Administrator associated with—

"(1) new vehicle or engine certification under section 206(a),

"(2) new vehicle or engine compliance monitoring and testing under section 206(b), and

"(3) in-use vehicle or engine compliance monitoring and testing under section 207(c).

The Administrator may establish for all foreign and domestic manufacturers a fee schedule based on such factors as the Administrator finds appropriate and equitable and nondiscriminatory, including the number of vehicles or engines produced under a certificate of conformity.

"(b) SPECIAL TREASURY FUND.—Any fees collected under this section shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.

"(c) LIMITATION ON FUND USE.—Moneys in the special fund referred to in subsection (b) shall not be used until after the first fiscal year commencing after the first July 1 when fees are paid into the fund.

"(d) ADMINISTRATOR'S TESTING AUTHORITY.—Nothing in this subsection shall be construed to limit the Administrator's authority to require manufacturer or confirmatory testing as provided in this part.".

SEC. 215. INFORMATION COLLECTION.

Section 208 (42 U.S.C. 7542) is amended to read as follows:

"SEC. 208. INFORMATION COLLECTION.

"(a) MANUFACTURER'S RESPONSIBILITY.—Every manufacturer of new motor vehicles or new motor vehicle engines, and every manufacturer of new motor vehicle or engine parts or components, and other persons subject to the requirements of this part, shall establish and maintain records, perform tests where such testing is not otherwise reasonably available under this part (including fees for testing), make reports and provide information the Administrator may reasonably require to determine whether the manufacturer or other person has acted or is acting in compliance with this part and regulations thereunder, or to otherwise carry out the provision of this part, and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to and copy such records.

"(b) ENFORCEMENT AUTHORITY.—For the purposes of enforcement of this section and section 207(c), officers or employees duly designated by the Administrator upon presenting appropriate credentials are authorized—

"(1) to enter, at reasonable times, any establishment of the manufacturer, or of any person whom the manufacturer engages to perform any activity required by subsection (a), for the purposes of inspecting or observing any activity conducted pursuant to subsection (a), and

"(2) to inspect records, files, papers, processes, controls, and facilities used in performing any activity required by subsection (a), by such manufacturer or by any person whom the manufacturer engages to perform any such activity.

"(c) AVAILABILITY TO THE PUBLIC; TRADE SECRETS.—Any records, reports, or information obtained under this part shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or a particular portion thereof (other than emission data), to which the Administrator has access under this section, if made public, would divulge methods or processes entitled to protection as trade secrets of that person, the Administrator shall consider the record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. Any authorized representative of the Administrator shall be considered an employee of the United States for purposes of section 1905 of title 18 of the United States Code. Nothing in this section shall prohibit the Administrator or authorized representative of the Administrator from disclosing records, reports or information to other officers, employees or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under the Administrator's control from the duly authorized committees of the Congress.".

SEC. 216. FUEL VOLATILITY.

Section 211 (42 U.S.C. 7545) is amended by adding the following new subsection after subsection (g):

"(h) REID VAPOR PRESSURE REQUIREMENTS.—(1) Not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations making it unlawful for any person during the high ozone season (as defined by the Administrator) to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch (psi). Such regulations shall also establish more stringent Reid Vapor Pressure standards in a nonattainment area as the Administrator finds necessary to generally achieve comparable evaporative emissions (on a per-vehicle basis) in nonattainment areas, taking into consideration the enforceability of such standards, the need of an area for emission control, and economic factors. Such regulations shall not make it unlawful for any person to sell, offer for supply, transport, or introduce into commerce gasoline with a Reid Vapor Pressure of 9.0 pounds per square inch (p.s.i.) or lower in any area designated under section 107 as an attainment area.

"(2) Such regulations shall provide that the requirements of this subsection shall take effect not later than the high ozone season for 1992, and shall include such provisions as the Administrator determines are necessary to implement and enforce the requirements of this subsection.

"(3) In establishing standards for fuel volatility under this subsection, the Administrator shall permit a 1.0 pound per square inch (psi) tolerance level for gasoline containing at least 10 percent ethanol. A manufacturer or processor of gasoline containing at least 10 percent ethanol shall be deemed to be in full compliance with such standards if the Administrator provides a certification (based on testing) or other evidence acceptable to the Administrator that—

"(A) the gasoline portion of the blend complies with the gasoline volatility standards under this subsection,

"(B) the ethanol portion of the blend does not exceed its waiver conditions under subsection (f)(4), and

"(C) no additional alcohol or other additive has been added to increase the Reid Vapor Pressure of the ethanol portion of the blend.

"(4) The provisions of this subsection shall apply only to the 48 contiguous States and the District of Columbia.".

SEC. 217. DIESEL FUEL SULFUR CONTENT.

Section 211 (42 U.S.C. 7545) is amended by adding the following new subsection after subsection (h):

"(i) SULFUR CONTENT REQUIREMENTS FOR DIESEL FUEL.—(1) Effective October 1, 1993, no person shall manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 per centum (by weight) or which fails to meet a cetane index minimum of 40.

"(2) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations to implement and enforce the requirements of paragraph (1). The Administrator may require manufacturers and importers of diesel fuel not intended for use in motor vehicles to dye such

*fuel in a particular manner in order to segregate it from motor vehicle diesel fuel.*

*"(3) The sulfur content of fuel required to be used in the certification of 1991 through 1993 model year heavy-duty diesel vehicles and engines shall be 0.10 percent (by weight). The sulfur content and cetane index minimum of fuel required to be used in the certification of 1994 and later model year heavy-duty diesel vehicles and engines shall comply with the regulations promulgated under paragraph (2).*

*"(4) The States of Alaska and Hawaii may be exempted from the requirements of this subsection in the same manner as provided in section 324. The Administrator shall take final action on any petition filed under section 324 for an exemption from the requirements of this subsection, within 12 months from the date of the petition.".*

*SEC. 218. LEAD SUBSTITUTE GASOLINE ADDITIVES.*

*(a) ADDITIVES.—Section 211 (42 U.S.C. 7545) is amended by adding the following at the end thereof:*

*"(j) LEAD SUBSTITUTE GASOLINE ADDITIVES.—(1) After the date of the enactment of the Clean Air Act Amendments of 1990, any person proposing to register any gasoline additive under subsection (a) or to use any previously registered additive as a lead substitute may also elect to register the additive as a lead substitute gasoline additive for reducing valve seat wear by providing the Administrator with such relevant information regarding product identity and composition as the Administrator deems necessary for carrying out the responsibilities of paragraph (2) of this subsection (in addition to other information which may be required under subsection (b)).*

*"(2) In addition to the other testing which may be required under subsection (b), in the case of the lead substitute gasoline additives referred to in paragraph (1), the Administrator shall develop and publish a test procedure to determine the additives' effectiveness in reducing valve seat wear and the additives' tendencies to produce engine deposits and other adverse side effects. The test procedures shall be developed in cooperation with the Secretary of Agriculture and with the input of additive manufacturers, engine and engine components manufacturers, and other interested persons. The Administrator shall enter into arrangements with an independent laboratory to conduct tests of each additive using the test procedures developed and published pursuant to this paragraph. The Administrator shall publish the results of the tests by company and additive name in the Federal Register along with, for comparison purposes, the results of applying the same test procedures to gasoline containing 0.1 gram of lead per gallon in lieu of the lead substitute gasoline additive. The Administrator shall not rank or otherwise rate the lead substitutive additives. Test procedures shall be established within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990. Additives shall be tested within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990 or 6 months after the lead substitute additives are identified to the Administrator.*

*"(3) The Administrator may impose a user fee to recover the costs of testing of any fuel additive referred to in this subsection. The fee shall be paid by the person proposing to register the fuel additive concerned. Such fee shall not exceed $20,000 for a single fuel additive.*

*"(4) There are authorized to be appropriated to the Administrator not more than $1,000,000 for the first full fiscal year after the date of the enactment of the Clean Air Act Amendments of 1990 to establish test procedures and conduct engine tests as provided in this subsection. Not more than $500,000 per year is authorized to be appropriated for 5 subsequent fiscal years.*

*"(5) Any fees collected under this subsection shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.".*

*SEC. 219. NONROAD FUELS.*

*(a) FUELS AND FUEL ADDITIVES.—Section 211(a) (42 U.S.C. 7545(a)) is amended by inserting "(including any fuel or fuel additive used exclusively in nonroad engines or nonroad vehicles)" immediately after "fuel or fuel additive".*

*(b) ANALYTICAL TECHNIQUES.—Section 211(b)(2)(B) (42 U.S.C. 7545(2)(B)) is amended by striking "or" after "vehicle" and inserting in lieu thereof a comma, and by inserting immediately after "vehicle engine," the phrase: "nonroad engine or nonroad vehicle,".*

*(c) REGULATION.—Section 211(c)(1) (42 U.S.C. 7545(c)(1)) is amended by striking "or" after "motor vehicle" and inserting in lieu thereof a comma, and by inserting immediately after "motor vehicle engine" a comma followed by "or nonroad engine or nonroad vehicle".*

*SEC. 220. FUEL WAIVERS.*

*(a) COVERAGE.—Section 211(f)(1) (42 U.S.C. 7545(f)(1) is amended by inserting "(A)" immediately after "(1)" and by adding the following new subparagraph at the end thereof:*

*"(B) Effective upon the date of the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206.".*

*(b) CONFORMING AMENDMENT.—Section 211(f)(3) (42 U.S.C. 7545(f)(3)) is amended by inserting "(A)" immediately after "(1)".*

*SEC. 221. STATE FUEL REGULATION.*

*(a) IN GENERAL.—Section 211(c)(4)(A) (42 U.S.C. 7545(c)(4)(A)) is amended as follows:*

*(1) Strike out "use of a" and insert "any characteristic or component".*

*(2) In clause (i) after "control or prohibition" insert "of the characteristic or component of a fuel or fuel additive".*

*(3) In clause (ii) after "such" insert "characteristic or component of a".*

*(b) FINDING OF NECESSITY.—Section 211(c)(4)(C) (42 U.S.C. 7545(c)(4)(C)) is amended by adding the following at the end: "The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measures that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable. The Administrator may make a finding of necessity under this subparagraph even if the plan for the area does not contain an approved demonstration of timely attainment.".*

*SEC. 222. ENFORCEMENT.*

*(a) INSPECTIONS AND TESTING.—Section 203(a)(2) (42 U.S.C. 7522(a)(2)) is amended to read as follows:*

*"(2)(A) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under section 208;*

*"(B) for any person to fail or refuse to permit entry, testing or inspection authorized under section 206(c) or section 208;*

*"(C) for any person to fail or refuse to perform tests, or have tests performed as required under section 207(c) or section 208;".*

*(b) TAMPERING WITH VEHICLE EMISSION CONTROLS.—(1) Section 203(a)(3) (42 U.S.C. 7522(a)(3)) is amended to read as follows:*

*"(3)(A) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or*

*"(B) for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use; or".*

*(2) At the end of section 203(a) (42 U.S.C. 7522(a)) insert the following: "No action with respect to any device or element of design referred to in paragraph (3) shall be treated as a prohibited act under that paragraph if (i) the action is for the purpose of repair or replacement of the device or element, or is a necessary and temporary procedure to repair or replace any other item and the device or element is replaced upon completion of the procedure, and (ii) such action thereafter results in the proper functioning of the device or element referred to in paragraph (3). No action with respect to any device or element of design referred to in paragraph (3) shall be treated as a prohibited act under that paragraph if the action is for the purpose of a conversion of a motor vehicle for use of a clean alternative fuel (as defined in this title) and if such vehicle complies with the applicable standard under section 202 when operating on such fuel, and if in the case of a clean alternative fuel vehicle (as defined by rule by the Administrator), the device or element is replaced upon completion of the conversion procedure and such action results in proper functioning of the device or element when the motor vehicle operates on conventional fuel.".*

*(c) DEFINITION.—Section 216 (42 U.S.C. 7550) is amended by adding the following at the end:*

*"(15) MOTOR VEHICLE OR ENGINE PART MANUFACTURER.— The term 'motor vehicle or engine part manufacturer' as used in sections 207 and 208 means any person engaged in the manufacturing, assembling or rebuilding of any device, system, part, component or element of design which is installed in or on motor vehicles or motor vehicle engines.".*

(d) CIVIL AND ADMINISTRATIVE PENALTIES.—Section 205 (42 U.S.C. 7524) is amended to read as follows:

"SEC. 205. CIVIL PENALTIES.

"(a) VIOLATIONS.—Any person who violates sections 203(a)(1) or 203(a)(4), any manufacturer or dealer who violates section 203(a)(3)(A), or any person who violates regulations prescribed under sections 212 (a), (b), (d), or (h) shall be subject to a civil penalty of not more than $25,000. Any person other than a manufacturer or dealer who violates section 203(a)(3)(A) or any person who violates section 203(a)(3)(B) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (3)(A), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. Any such violation with respect to section 203(a)(3)(B) shall constitute a separate offense with respect to each part or component. Any person who violates section 203(a)(2), or regulations prescribed under section 212(c), shall be subject to a civil penalty of not more than $25,000 per day of violation.

"(b) CIVIL ACTIONS.—The Administrator may commence a civil action to assess and recover any civil penalty under subsection (a) of this section, section 211(d), or section 213(d). Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has the Administrator's principal place of business, and the court shall have jurisdiction to assess a civil penalty. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

"(c) ADMINISTRATIVE ASSESSMENT OF CERTAIN PENALTIES.—

"(1) ADMINISTRATIVE PENALTY AUTHORITY.—In lieu of commencing a civil action under subsection (b), the Administrator may assess any civil penalty prescribed in subsection (a) of this section, section 211(d), or section 213(d), except that the maximum amount of penalty sought against each violator in a penalty assessment proceeding shall not exceed $200,000, unless the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review. Assessment of a civil penalty under this subsection shall be by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person. The Administrator may compromise, or remit, with or without conditions, any administrative penalty which may be imposed under this section.

"(2) DETERMINING AMOUNT.—In determining the amount of any civil penalty assessed under this subsection, the Administrator shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require.

"(3) EFFECT OF ADMINISTRATOR'S ACTION.—(A) Action by the Administrator under this subsection shall not affect or limit the Administrator's authority to enforce any provision of this Act; except that any violation,

"(i) with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or

"(ii) for which the Administrator has issued a final order not subject to further judicial review and the violator has paid a penalty assessment under this subsection,

shall not be the subject of civil penalty action under subsection (b).

"(B) No action by the Administrator under this subsection shall affect any person's obligation to comply with any section of this Act.

"(4) FINALITY OF ORDER.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (5).

"(5) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed in accordance with this subsection may seek review of the assessment in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, within the 30-day period beginning on the date a civil penalty order is issued by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall file in the court a certified copy, or certified index, as appropriate, of the record on which the order was issued within 30 days. The court shall not set aside or remand any order issued in accordance with the requirements of this subsection unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion, and the court shall not impose additional civil penalties unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any proceedings, the United States may seek to recover civil penalties assessed under this section.

"(6) COLLECTION.—If any person fails to pay an assessment of a civil penalty imposed by the Administrator as provided in this subsection—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to that amount and interest, the United States' enforcement expenses, including attorneys fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be in an amount equal to 10 percent of the aggregate amount of that person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.".

(e) ENFORCEMENT OF FUELS REGULATIONS.—Section 211(d) (42 U.S.C. 7545(d)) is amended to read as follows:

"(d) PENALTIES AND INJUNCTIONS.—

"(1) CIVIL PENALTIES.—Any person who violates subsection (a), (f), (g), or (k) of this section or the regulations prescribed under subsection (c), (h), (i), or (k) of this section or the regulations prescribed under subsection 212(c) or who fails to furnish any information or conduct any tests required by the Administrator under subsection (b) of this section shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation. Any violation with respect to a regulation prescribed under subsection (c) of this section or section 212(c) which establishes a regulatory standard based upon a multiday averaging period shall constitute a separate day of violation for each and every day in the averaging period. Civil penalties shall be assessed in accordance with subsections (b) and (c) of section 205.

"(2) INJUNCTIVE AUTHORITY.—The district courts of the United States shall have jurisdiction to restrain violations of subsections (a), (f), (g), and (k) of this section and of the regulations prescribed under subsection (c), (h), (i), or (k) of this section or section 212(c), to award other appropriate relief, and to compel the furnishing of information and the conduct of tests required by the Administrator under subsection (b) of this section. Actions to restrain such violations and compel such actions shall be brought by and in the name of the United States. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.".

(f) MISFUELING.—Section 211(g) (42 U.S.C. 7545(g)) is amended to read as follows:

"(g) MISFUELING.—No person shall introduce, or cause or allow the introduction of, leaded gasoline into any motor vehicle which is labeled 'unleaded gasoline only,' which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, which is a 1990 or later model year motor vehicle, or which that person knows or should know is a vehicle designed solely for the use of unleaded gasoline. Nothing in this section shall limit the applicability of section 211(d)(3).".

SEC. 223. HIGH ALTITUDE TESTING.

Section 215 (42 U.S.C. 7549) is amended by adding the following at the end thereof:

"(e) HIGH ALTITUDE TESTING.—The Administrator shall promptly establish at least one testing center (in addition to the testing centers existing on the date of the enactment of the Clean Air Act Amendments of 1990) lo-

cated at a site that represents high altitude conditions, to ascertain in a reasonable manner whether, when in actual use throughout their useful life (as determined under section 202(d)), each class or category of vehicle and engines to which regulations under section 202 apply conforms to the emissions standards established by such regulations. For purposes of this subsection, the term 'high altitude conditions' refers to high altitude as defined in regulations of the Administrator in effect as of the date of the enactment of the Clean Air Act Amendments of 1990.".

SEC. 224. TECHNICAL AMENDMENTS.

The Clean Air Act is amended as follows:

(1) In section 202(b)(3) (42 U.S.C. 7521(b)(3)), strike out "(3) For purposes of this part—" and redesignate subparagraphs (A), (B) and (C) of section 202(b)(3) as paragraphs (16), (17), and (18) of section 216, redesignate clauses (i) and (ii) of new paragraph (16) as subparagraphs (A) and (B), respectively, in new subparagraph (B) strike "as provided in clause (i)" and insert "as provided in subparagraph (A)", and after "by subsection (b)" insert "of section 202".

(2) Strike out section 202(b)(4) (42 U.S.C. 7521(b)(4)).

(3) Strike out section 202(b)(5) (42 U.S.C. 7521(b)(5)).

(4) In section 202(b)(6) (42 U.S.C. 7521(b)(6))—

(A) strike out "(A)" after "(6)",

(B) strike out subparagraph (B), and

(C) redesignate paragraph (6) as paragraph (3) and redesignate clauses (i) through (iii) as subparagraphs (A) through (C).

(5) Strike out section 202(b)(7) (42 U.S.C. 7521(b)(7)).

(6) Strike out section 203(c) (42 U.S.C. 7522(c)).

(7) Strike out "announce in the Federal Register and" in section 206(e) (42 U.S.C. 7525(e)).

(8) In section 206(f) (42 U.S.C. 7525(f))—

(A) strike out "(1)" after "(f)", and

(B) strike out paragraph (2).

(9) In section 207(g) (42 U.S.C. 7526(g)), strike out "(but not designed for emission control under the terms of the last three sentences of section 207(a)(1)" and insert "(but not designed for emission control under the terms of the last sentence of section 207(a)(3))".

(10) In section 231(a) (42 U.S.C. 7571(a)), strike out paragraph (1) and redesignate paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

TITLE III—HAZARDOUS AIR POLLUTANTS

Sec. 301. Technology-based standards for hazardous air pollutants.
Sec. 302. Chemical process safety management.

SEC. 301. TECHNOLOGY-BASED STANDARDS FOR HAZARDOUS AIR POLLUTANTS.

Section 112 (42 U.S.C. 7412) is amended to read as follows:

"SEC. 112. HAZARDOUS AIR POLLUTANTS.

"(a) DEFINITIONS.—For the purposes of this section—

"(1) MAJOR SOURCE.—The term 'major source', for pollutants other than radionuclides, means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 metric tons per year or more of any hazardous air pollutant or 25 metric tons per year or more of any combination of hazardous air pollutants which have been listed pursuant to subsection (b). The Administrator may establish a lesser quantity for a major source other than specified in the previous sentence on the basis of the potency, characteristics of the air pollutant, or other relevant factors. For radionuclides, such term shall have the meaning specified by the Administrator by rule, considering radiation dose.

"(2) AREA SOURCE.—The term 'area source' means any source that is not a major source but that is a member of a source category listed under this section based on aggregate emissions, or potential aggregate emissions, of a listed pollutant or pollutants.

"(3) NEW SOURCE.—The term 'new source' means a stationary source the construction or reconstruction or modification of which is commenced after the Administrator proposes regulations under this section establishing an emission standard applicable to such source category or subcategory pursuant to subsection (d) or (f). For purposes of the section, the term 'modification' means any physical change in, or change in the method of operation of, a major source which increases the amount of any hazardous air pollutant emitted by such source by more than a de minimus amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimus amount.

"(4) ELECTRIC UTILITY.—The term 'electric utility steam generating unit' means any fossil fuel fired steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the facility.

"(5) OTHER TERMS.—The terms 'stationary source', 'owner or operator', and 'existing' source shall have the same meaning as such terms have under section 111(a).

"(b) HAZARDOUS AIR POLLUTANT LIST.—

"(1) ESTABLISHMENT OF LIST.—The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

| CAS number | Chemical name |
|---|---|
| 75070 | Acetaldehyde |
| 60355 | Acetamide |
| 75058 | Acetonitrile |
| 98862 | Acetophenone |
| 53963 | 2-Acetylaminofluorene |
| 107028 | Acrolein |
| 79061 | Acrylamide |
| 79107 | Acrylic acid |
| 107131 | Acrylonitrile |
| 107051 | Allyl chloride |
| 92671 | 4-Aminobiphenyl |
| 62533 | Aniline |
| 90040 | o-Anisidine |
| 1332214 | Asbestos |
| 71432 | Benzene (including benzene from gasoline) |
| 92875 | Benzidine |
| 98077 | Benzotrichloride |
| 100447 | Benzyl chloride |
| 92524 | Biphenyl |
| 117817 | Bis(2-ethylhexyl)phthalate (DEHP) |
| 542881 | Bis(chloromethyl)ether |
| 75252 | Bromoform |
| 106990 | 1,3-Butadiene |
| 156627 | Calcium cyanamide |
| 105602 | Caprolactam |
| 133062 | Captan |
| 63252 | Carbaryl |
| 75150 | Carbon disulfide |
| 56235 | Carbon tetrachloride |
| 463581 | Carbonyl sulfide |
| 120809 | Catechol |
| 133904 | Chloramben |
| 57749 | Chlordane |
| 7782505 | Chlorine |
| 79118 | Chloroacetic acid |
| 532274 | 2-Chloroacetophenone |
| 108907 | Chlorobenzene |
| 510156 | Chlorobenzilate |
| 67663 | Chloroform |
| 107302 | Chloromethyl methyl ether |
| 126998 | Chloroprene |
| 1319773 | Cresols/Cresylic acid (isomers and mixture) |
| 95487 | Cresols/Cresylic acid (isomers and mixture) |
| 108394 | Cresols/Cresylic acid (isomers and mixture) |
| 106445 | Cresols/Cresylic acid (isomers and mixture) |
| 98828 | Cumene |
| 94757 | 2,4-D, salts and esters |
| 3547044 | DDE |
| 334883 | Diazomethane |
| 132649 | Dibenzofurans |
| 96128 | 1,2-Dibromo-3-chloropropane |
| 84742 | Dibutylphthalate |
| 106467 | 1,4-Dichlorobenzene(p) |
| 91941 | 3,3-Dichlorobenzidene |
| 111444 | Dichloroethyl ether (Bis(2-chloroethyl)ether) |
| 542756 | 1,3-Dichloropropene |
| 62737 | Dichlorvos |
| 111422 | Diethanolamine |
| 121697 | N,N-Diethyl aniline (N,N-Dimethylaniline) |
| 64675 | Diethyl sulfate |
| 119904 | 3,3-Dimethoxybenzidine |
| 60117 | Dimethyl aminoazobenzene |
| 119937 | 3,3'-Dimethyl benzidine |
| 79447 | Dimethyl carbamoyl chloride |
| 68122 | Dimethyl formamide |
| 57147 | 1,1-Dimethyl hydrazine |
| 131113 | Dimethyl phthalate |
| 77781 | Dimethyl sulfate |
| 534521 | 4,6-Dinitro-o-cresol, and salts |
| 51285 | 2,4-Dinitrophenol |
| 121142 | 2,4-Dinitrotoluene |
| 123911 | 1,4-Dioxane (1,4-Diethyleneoxide) |
| 122667 | 1,2-Diphenylhydrazine |
| 106898 | Epichlorohydrin (1-Chloro-2,3-epoxypropane) |
| 106887 | 1,2-Epoxybutane |
| 140885 | Ethyl acrylate |
| 100414 | Ethyl benzene |
| 51796 | Ethyl carbamate (Urethane) |
| 75003 | Ethyl chloride (Chloroethane) |
| 106934 | Ethylene dibromide (Dibromoethane) |
| 107062 | Ethylene dichloride (1,2-Dichloroethane) |
| 107211 | Ethylene glycol |
| 151564 | Ethylene imine (Aziridine) |
| 75218 | Ethylene oxide |
| 96457 | Ethylene thiourea |
| 75343 | Ethylidene dichloride (1,1-Dichloroethane) |
| 50000 | Formaldehyde |
| 76448 | Heptachlor |
| 118741 | Hexachlorobenzene |
| 87683 | Hexachlorobutadiene |
| 77474 | Hexachlorocyclopentadiene |
| 67721 | Hexachloroethane |
| 822060 | Hexamethylene-1,6-diisocyanate |
| 680319 | Hexamethylphosphoramide |
| 110543 | Hexane |
| 302012 | Hydrazine |
| 7647010 | Hydrochloric acid |
| 7664393 | Hydrogen fluoride (Hydrofluoric acid) |
| 123319 | Hydroquinone |
| 78591 | Isophorone |
| 58899 | Lindane (all isomers) |
| 108316 | Maleic anhydride |
| 67561 | Methanol |
| 72435 | Methoxychlor |
| 74839 | Methyl bromide (Bromomethane) |
| 74873 | Methyl chloride (Chloromethane) |
| 71556 | Methyl chloroform (1,1,1-Trichloroethane) |
| 78933 | Methyl ethyl ketone (2-Butanone) |
| 60344 | Methyl hydrazine |
| 74884 | Methyl iodide (Iodomethane) |

| CAS number | Chemical name |
|---|---|
| 108101 | Methyl isobutyl ketone (Hexone) |
| 624839 | Methyl isocyanate |
| 80626 | Methyl methacrylate |
| 1634044 | Methyl tert butyl ether |
| 101144 | 4,4-Methylene bis(2-chloroaniline) |
| 75092 | Methylene chloride (Dichloromethane) |
| 101688 | Methylene diphenyl diisocyanate (MDI) |
| 101779 | 4,4'-Methylenedianiline |
| 91203 | Naphthalene |
| 98953 | Nitrobenzene |
| 92933 | 4-Nitrobiphenyl |
| 100027 | 4-Nitrophenol |
| 79469 | 2-Nitropropane |
| 684935 | N-Nitroso-N-methylurea |
| 62759 | N-Nitrosodimethylamine |
| 59892 | N-Nitrosomorpholine |
| 56382 | Parathion |
| 82688 | Pentachloronitrobenzene (Quintobenzene) |
| 87865 | Pentachlorophenol |
| 108952 | Phenol |
| 106503 | p-Phenylenediamine |
| 75445 | Phosgene |
| 7803512 | Phosphine |
| 7723140 | Phosphorus |
| 85449 | Phthalic anhydride |
| 1336363 | Polychlorinated biphenyls (Arolors) |
| 1120714 | 1,3-Propane sultone |
| 57578 | beta-Propiolactone |
| 123386 | Propionaldehyde |
| 114261 | Propoxur (Baygon) |
| 78875 | Propylene dichloride (1,2-Dichloropropane) |
| 75569 | Propylene oxide |
| 75558 | 1,2-Propylenimine (2-Methyl aziridine) |
| 91225 | Quinoline |
| 106514 | Quinone |
| 100425 | Styrene |
| 96093 | Styrene oxide |
| 1746016 | 2,3,7,8-Tetrachlorodibenzo-p-dioxin |
| 79345 | 1,1,2,2-Tetrachloroethane |
| 127184 | Tetrachloroethylene (Perchloroethylene) |
| 7550450 | Titanium tetrachloride |
| 108883 | Toluene |
| 95807 | 2,4-Toluene diamine |
| 584849 | 2,4-Toluene diisocyanate |
| 95534 | o-Toluidine |
| 8001352 | Toxaphene (chlorinated camphene) |
| 120821 | 1,2,4-Trichlorobenzene |
| 79005 | 1,1,2-Trichloroethane |
| 79016 | Trichloroethylene |
| 95954 | 2,4,5-Trichlorophenol |
| 88062 | 2,4,6-Trichlorophenol |
| 121448 | Triethylamine |
| 1582098 | Trifluralin |
| 540841 | 2,2,4-Trimethylpentane |
| 108054 | Vinyl acetate |
| 593602 | Vinyl bromide |
| 75014 | Vinyl chloride |
| 75354 | Vinylidene chloride (1,1-Dichloroethylene) |
| 1330207 | Xylenes (isomers and mixture) |
| 95476 | Xylenes (isomers and mixture) |
| 108383 | Xylenes (isomers and mixture) |
| 106423 | Xylenes (isomers and mixture) |
| | Antimony Compounds |
| | Arsenic Compounds (inorganic including arsine) |
| | Beryllium Compounds |
| | Cadmium Compounds |
| | Chromium Compounds |
| | Cobalt Compounds |
| | Coke Oven Emissions |
| | Cyanide Compounds[1] |
| | Glycol ethers[2] |
| | Lead Compounds |
| | Manganese Compounds |
| | Mercury Compounds |
| | Fine mineral fibers[3] |
| | Nickel Compounds |
| | Polycylic Organic Matter[4] |
| | Radionuclides (including radon)[5] |
| | Selenium Compounds |

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

[1] X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)2

[2] includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH2CH2)n-OR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH2CH)n-OH Polymers are excluded from the glycol category.

[3] includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

[4] includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100 °C

[5] a type of atom which spontaneously undergoes radioactive decay.

"(2) ADDITIONS AND DELETIONS.—The Administrator may add or delete a substance from the list under paragraph (1).

"(A) ADDITIONS.—A substance may be added to the list under paragraph (1) if the Administrator determines in the Administrator's judgment that the substance is an air pollutant and that there is sufficient evidence to establish that the pollutant is known to cause or can reasonably be anticipated to cause in humans one or more of the following:

"(i) cancer or developmental effects, or

"(ii) serious or irreversible—

"(I) reproductive dysfunctions,

"(II) neurological disorders,

"(III) heritable gene mutations,

"(IV) other chronic health effects, or

"(V) adverse acute human health effects.

"(B) DELETIONS.—The Administrator may delete a pollutant from the list under paragraph (1) if the Administrator determines that the criteria described in subparagraph (A) do not apply. For pollutants on the list which do not have a CAS number and which are comprised of more than one unique chemical substance, the Administrator may determine that one or more of such substances shall not be considered a hazardous air pollutant if the Administrator determines that such substance or substances do not meet the criteria described in subparagraph (A).

"(C) FURTHER INFORMATION.—If the Administrator determines that information on the health effects of a substance is not sufficient to make a determination required by this paragraph, the Administrator may use any authority available to the Administrator to acquire such information.

"(3) PETITIONS.—Beginning at any time after the list is published under subsection (c), any person may petition the Administrator to modify the list of hazardous air pollutants under this subsection by adding or deleting a substance. Within 18 months after receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision. Any such petition shall include a showing by the petitioner that there is adequate data on the health effects of the pollutant or other evidence adequate to support the petition. The Administrator may not deny a petition solely on the basis of inadequate resources or time for review. No air pollutant which is listed under section 108(a) may be added to the list under this section.

"(4) REVIEW.—The Administrator shall periodically review the list established by this subsection and publish the results thereof and, where appropriate, revise such list by rule.

"(c) SOURCE CATEGORY LIST.—(1) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish, and shall from time to time, but no less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and area sources designated under paragraph (3) of the air pollutants listed pursuant to subsection (b)(1).

"(2) For the categories and subcategories the Administrator lists, the Administrator shall establish emission standards under subsection (d), according to the schedule in subsection (e).

"(3) The Administrator shall list and designate, based on actual or estimated aggregate emissions of a listed pollutant or pollutants, sufficient categories and subcategories of area sources to ensure that area sources representing 90 percent of the area source emissions of each hazardous air pollutant are subject to regulation under this section. For purposes of this section, the term 'area sources' shall not include motor vehicles or nonroad vehicles subject to regulation under title II.

"(4) The Administrator may, in the Administrator's discretion, list any category or subcategory previously regulated under this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990.

"(5) The Administrator may decide not to list a source category or subcategory, and the Administrator may withdraw a source category or subcategory from the list under this subsection, on petition of any person or on the Administrator's own motion, whenever the Administrator makes the following determination or determinations, as applicable:

"(A) In the case of hazardous air pollutants emitted by sources in the category or subcategory that may result in cancer in humans, a determination that no source in the category or subcategory (or group of sources in the case of area sources) emits such hazardous air pollutants in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual in the population who is most exposed to emissions of such pollutants from the source (or group of sources in the case of area sources).

"(B) In the case of hazardous air pollutants that may result in adverse health effects in humans other than cancer, a determination that emissions from no source in the category or subcategory concerned (or group of sources in the case of area sources) exceed a level which is adequate to protect public health with an ample margin of safety.

The Administrator shall grant or deny a petition under this paragraph within 1 year after the petition is filed.

"(6) The Administrator shall establish a separate category or subcategory covering research or laboratory facilities, as necessary to assure the equitable treatment of such facilities. For purposes of this section, 'research or laboratory facility' means any stationary source whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner.

"(d) MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY EMISSION STANDARDS.—(1) The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources in accordance with the schedule provided in subsection (e). The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards. The Administrator may set standards for emissions of radionuclides from a category or subcategory separately from regulating other listed pollutants emitted by that category or subcategory.

"(2) Emission standards promulgated under this subsection shall be applicable to new and existing major sources and area sources in each category or subcategory, and shall require the maximum degree of reduction in emissions of the air pollutants subject to this section (including a prohibition of such emissions, if achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any nonair quality and other air quality-related health and environmental impacts, and energy requirements, determines is achievable through application of measures, processes, methods, systems or techniques including measures which—

"(A) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications such as reuse or recycling;

"(B) enclose systems or processes to eliminate emissions;

"(C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

"(D) are design, equipment, work practice or operational methods, or radiation dose standards;

"(E) establish requirements for operator training or certification; or

"(F) are a combination of the above.

If the Administrator finds that it is not feasible to prescribe or enforce an emission standard, the Administrator may instead issue regulations requiring any of the measures identified in this paragraph, or any combination of such measures. None of the measures described in subparagraphs (A) through (D) shall, consistent with the provisions of section 114(c), in any way compromise any United States patent or United States trademark right, or any confidential business information, or any trade secret or any other intellectual property right.

"(3) The maximum degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator. Emissions standards promulgated under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in the same category or subcategory but shall not be less stringent, and may be more stringent than—

"(A) the average emissions limitation achieved by the best performing 15 percent of the existing sources (for which the Administrator has emissions information and excluding those sources that have achieved, within 12 months prior to promulgation of such standards, a level of emissions rate or emissions reduction which complies, or would comply if the source is not subject to such standard, with lowest achievable emission rate (as defined by section 171) applicable to the source category and prevailing at the time) in the category or subcategory for categories or subcategories with 30 or more sources, or

"(B) the average emissions limitation achieved by the best performing 5 sources (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory for categories or subcategories with fewer than 30 sources. Emission standards under this section for radionuclides shall be set based upon radiation dose.

"(4) Emission standards or other regulations promulgated under this subsection shall be effective upon promulgation.

"(5) In promulgating emission standards for a source category under this subsection, the Administrator shall prescribe a date for compliance with the standards for existing sources. In no event shall such date be later than 3 years after promulgation of the standards.

"(6) With respect only to categories and subcategories of area sources listed pursuant to subsection (c), the Administrator may, in lieu of the authorities provided in paragraph (2) and subsection (f), elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of listed hazardous air pollutants.

"(7) The Administrator shall from time to time, but no less often than every 8 years after promulgation of standards under this subsection, review and, if appropriate, revise such standards.

"(e) SCHEDULE FOR STANDARDS.—(1) The Administrator shall promulgate standards for categories and subcategories listed under subsection (c) according to the following schedule:

"(A) Emission standards for not less than 10 categories or subcategories shall be promulgated not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) Emission standards for 25 per centum of the listed categories and subcategories shall be promulgated not later than 4 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(C) Emission standards for an additional 25 per centum of the listed categories and subcategories shall be promulgated not later than 7 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(D) Emission standards for the remaining categories and subcategories shall be promulgated not later than 10 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(E) In the case of source categories and subcategories listed after publication of the initial list required under subsection (c)(1), emission standards under this section for the category or subcategory shall be promulgated within 10 years after the date of the enactment of the Clean Air Act Amendments of 1990, or within 2 years after the date on which such category or subcategory is listed, whichever is later.

"(2) In determining priorities for promulgating standards under subsection (d), the Administrator shall consider—

"(A) the quantity and location of emissions or reasonably anticipated emissions of air pollutants subject to this section that each category or subcategory will emit;

"(B) the known or anticipated adverse effects of such pollutants on public health; and

"(C) the efficiency of grouping categories or subcategories according to the pollutants emitted, or the processes or technologies used.

"(f) RESIDUAL RISK.—(1) Not later than 8 years after the date of the enactment of the Clean Air Act Amendments of 1990 the Administrator shall investigate and report, after consultation with the Surgeon General and after an opportunity for public comment, to Congress on:

"(A) Methods of calculating the risk to public health remaining, or likely to remain, from sources subject to regulation under this section after the application of standards under subsection (d).

"(B) The public health significance of such estimated remaining risk and the technologically and commercially available methods and costs of reducing such risks.

"(C) The actual health effects with respect to persons living in the vicinity of sources, any available epidemiological or other health studies, risks presented by background concentrations of hazardous air pollutants, any uncertainties in risk assessment methodology or other health assessment technique, and any negative health consequences to the community of efforts to reduce such risks.

"(D) Recommendations as to legislation regarding such remaining risk.

"(2) If Congress does not act on any recommendation submitted under paragraph (1), the Administrator shall, within 8 years after promulgation of standards for each category or subcategory of sources pursuant to subsection (d), promulgate standards for such category or subcategory in accordance with this section (as in effect before the date of the enactment of the Clean Air Act Amendments of 1990) if promulgation of such standards is required in order, in the Administrator's judgment, to provide an ample margin of safety to protect public health in accordance with this section (as in effect before the date of the enactment of the Clean Air Act Amendments of 1990). The Administrator shall determine whether or not to promulgate such standards, and if the Administrator decides to promulgate such standards, shall promulgate the standards, 8 years after promulgation of the standards under subsection (d) for each source category or subcategory concerned. In the case of categories or subcategories for which standards under subsection (d) are required to be promulgated within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall have 9 years after promulgation of standards under subsection (d) to make the determination under the preceding sentence and, if required, to promulgate the standards under this paragraph. Nothing in subsection (c)(5) or (g)(1)(A) or in any other provision of this section shall be construed as affecting, or applying to, the Administrator's interpretation of this section, as in effect before the date of the enactment of the Clean Air Act Amendments of 1990.

"(3) Any emission standard established pursuant to this subsection shall become effective upon promulgation.

"(4) No air pollutant to which a standard under this subsection applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

"(A) such standard shall not apply until 90 days after its effective date, and

"(B) the Administrator may grant a waiver permitting such source a period of up to 2 years after the effective date of a

standard to comply with the standard if the Administrator finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

"(g) ALTERNATIVE EMISSIONS LIMITATIONS.—(1) Notwithstanding the requirements of subsection (d), a State with a program approved under title IV, may issue a permit that authorizes—

"(A) a major source (or area sources in a category or subcategory in an area) to comply with alternative emission limitations in lieu of standards under this section, if the owner or operator presents evidence sufficient to demonstrate that emissions from the source (or such area sources) in compliance with such limitations—

"(i) in the case of hazardous air pollutants emitted by the source (or such area sources) which may result in cancer in humans, do not cause a lifetime risk of cancer greater than one in 1,000,000 to the actual person who is most exposed to emissions of such pollutants from such source (or group of sources in the case of area sources); and

"(ii) in the case of hazardous air pollutants that may result in adverse health effects in humans other than cancer, do not exceed a level which is adequate to protect public health with an ample margin of safety;

"(B)(i) any existing source, for which the owner or operator demonstrates that it has achieved a reduction of 90 percent or more in emissions of listed pollutants (95 percent or more in the case of listed particulate pollutants) from the source before proposal of an applicable standard promulgated pursuant to subsection (d), to meet emission limitations based on such reduction in lieu of such standard for a period of 5 years from the otherwise applicable compliance date; the reduction shall be determined with respect to verifiable and actual emissions on an annual average basis and in a base year not earlier than calendar year 1987, unless emissions in the base year are artificially or substantially greater than emissions in other years before implementation of emissions reduction measures;

"(ii) any existing source to comply with a standard under subsection (d) 5 years after promulgation if the source, within 5 years before proposal of the standard under subsection (d), has achieved a level of emission rate or emission reduction which complies (or would comply if the source is not subject to such standards) with the best available control technology determination (as defined in section 169(3)), which is applicable to the source category and prevailing at the time the reduction is achieved; and

"(iii) any existing source to comply with a standard under subsection (d) 5 years after promulgation if the source, within 5 years before proposal of the standard under subsection (d), has achieved a level of emission rate or emission reduction which complies (or would comply if the source is not subject to such standard) with the lowest achievable emissions rate (as defined by section 171) which is applicable to the source category and prevailing at the time the reduction is achieved.

The Administrator shall review emissions from sources subject to emissions limitations under subparagraph (B) according to subsection (f) at the same time that other sources in the category or subcategory are reviewed.

"(2) The Administrator shall promulgate regulations to carry out paragraph (1) as expeditiously as practicable, but not later than 24 months after the date of the enactment of the Clean Air Act Amendments of 1990.

"(3) Rules published pursuant to paragraph (1) may identify categories or subcategories of sources listed under subsection (c) for which no alternative emission limitations may be established, including categories or subcategories of area sources for which emission standards are promulgated to control combined emissions from sources, rather than emissions of individual sources.

"(4) The regulations under paragraph (1) shall establish methods for assessing the significance of public health risks and methods for evaluating evidence presented by an owner or operator applying for alternative emissions limitations under this subsection. Any modeling demonstration performed to support a showing under subsection (g)(1)(A) shall comply with such regulations. Any stack height credit used in a modeling demonstration shall be based on the lesser of actual stack height of the source as it existed on January 1, 1989, or the stack height credit as provided in regulations issued by the Administrator.

"(5) An existing source which achieves the reduction referred to in paragraph (1)(B)(i) after the proposal of an applicable standard but before January 1, 1994, may qualify under paragraph (1)(B)(i) if the source makes an enforceable commitment to achieve such reduction before the proposal of the standard. Such commitment shall be enforceable to the same extent as a regulation under this section.

"(6) Any State with a program approved under title IV may issue a permit that grants an extension permitting an existing source up to 2 additional years to comply with standards under subsection (d) if such additional period is necessary for the installation of controls. An additional extension of up to 3 years may be added for mining waste operations if the 5-year compliance time is insufficient to dry and cover mining waste in order to reduce emissions of any pollutant listed under subsection (b).

"(7) No alternative emission limitation under this paragraph shall take effect until it is approved by the Administrator.

"(8) If the State in which a source is located does not have a program approved under title IV, the Administrator may grant any extensions authorized under this subsection for such source.

"(h) PRECONSTRUCTION AND OPERATING REQUIREMENTS.—After the effective date of any standard or under subsection (d) or (f), or an alternative emission limitation under subsection (g)—

"(1) no person may construct any new major source subject to such emission standard or limitation unless the Administrator, or a State with a permit program approved under title IV, determines that such source, if properly constructed and operated, will comply with the standard or limitation; and

"(2) no person may operate any new or existing source subject to an emission standard or limitation except in compliance with such standard or limitation (and any schedule which is applicable under subsection (d)(5) or (f)(4)).

"(i) TECHNICAL ASSISTANCE.—The Administrator shall establish and maintain an air toxics clearinghouse and center to provide technical information and assistance to State and local agencies and, on a cost recovery basis, to others on control technology, health and ecological risk assessment, risk analysis, ambient monitoring and modeling, and emissions measurement and monitoring. The Administrator shall use the authority of section 103 to examine methods for preventing, measuring, and controlling emissions and evaluating associated health and ecological risks. Where appropriate, such activity shall be conducted with not-for-profit organizations.

"(j) PRESIDENTIAL EXEMPTION.—The President may exempt any stationary source from compliance with any standard or limitation under this section for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed 2 years. The President shall report to Congress with respect to each exemption (or extension thereof) made under this subsection.

"(k) SAVINGS PROVISION.—(1) Any standard under this section in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in force and effect after such date unless modified as provided in this section before the date of the enactment of such Amendments or under such Amendments. Each such standard shall be reviewed and, if appropriate, revised, to comply with the requirements of subsection (d) within 10 years after the date of the enactment of the Clean Air Act Amendments of 1990. If a timely petition for review of any such standard under section 307 is pending on such date of enactment, the standard shall be upheld if it complies with this section as in effect before that date. If any such standard is remanded to the Administrator, the Administrator may in the Administrator's discretion apply either the requirements of this section, or those of this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) Notwithstanding paragraph (1), no standard shall be established under this section, as amended by the Clean Air Act Amendments of 1990, for radionuclide emissions from (A) elemental phosphorous plants, (B) grate calcination elemental phosphorous plants, (C) phosphogypsum stacks, or (D) any subcategory of the foregoing. This section, as in effect prior to the date of the enactment of the Clean Air Act Amendments of 1990, shall remain in effect for radionuclide emissions from such plants and stacks.

"(3) Notwithstanding section 307 of this Act, no action of the Administrator adding a pollutant to the list under subsection (b), listing or designating a source category or subcategory under subsection (c), or determining whether or not to promulgate a standard under subsection (f)(2), shall be final agency action subject to judicial review, except that any such action may be reviewed under such section 307, if otherwise final, when the Administrator issues emission standards for such pollutant or category.

"(l) ELECTRIC UTILITIES.—The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall develop and describe in the Administrator's report to Congress alternative control strate-

gies for emissions which may warrant regulation under this section. The Administrator shall regulate electric utility steam generating units under this section if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required in this subsection.

"(m) ACCIDENT PREVENTION, DETECTION, AND RESPONSE.—

"(1) REGULATIONS AND GUIDANCE.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate, in consultation and coordination with the Secretaries of Transportation and Labor and the laws administered by the Secretaries, reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases into the ambient air of an air pollutant listed under this subsection from a stationary source as defined in this subsection and for response to such releases by the owners or operators thereof. The Administrator shall utilize the expertise of such Secretaries and others in promulgating such regulations. As appropriate, such regulations shall cover the use, operation, repair, replacement, and maintenance of equipment to monitor, detect, inspect, and control such releases, including the training of persons in the use and maintenance of such equipment and in the conduct of periodic inspections. The regulations shall include procedures and measures for emergency response after an accidental release in order to protect public health and the environment. The regulations shall cover storage, as well as operations. To ensure effectiveness, reasonableness, and avoidance of duplication, such regulations shall be promulgated and implemented in a manner consistent with other applicable law, including the other provisions of this section, and consolidated to the maximum extent practicable with similar requirements under other law. The regulations shall, as appropriate, recognize differences in size, operations, processes, class and categories of sources, and the voluntary actions of such sources to prevent such releases and respond to such releases. The regulations shall take effect 3 years after the date of promulgation, or 3 years after the addition of a substance to the list under this subsection, whichever is later.

"(2) LIST.—As part of the regulations under paragraph (1), the Administrator shall promulgate not later than 24 months after enactment of this subsection an initial list of significant air pollutants which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause serious adverse effects to public health or the environment. For purposes of promulgating such list, the Administrator shall use the list of extremely hazardous substances published under the Superfund Amendments and Reauthorization Act of 1986, with such modifications as the Administrator deems appropriate. The initial list shall include chlorine, anhydrous ammonia, methyl chloride, ethylene oxide, vinyl chloride, methyl isocyanate, hydrogen cyanide, tetrachloroethylene, ammonia, hydrogen sulfide, phosgene, and bromine, anhydrous hydrogen chloride, hydrogen fluoride, anhydrous sulfur dioxide, sulfur trioxide. The initial list shall include at least the 100 air pollutants which pose the greatest risk of causing serious adverse effects to public health or the environment from accidental releases. The list shall include ammonia (CAS Number 7664417) and hydrogen sulfide (CAS Number 7783064). The regulations shall include an explanation of the basis for establishing the list. The list may be revised from time to time by the Administrator on his own motion or by petition and shall be reviewed at least every 5 years. No air pollutant for which a national primary ambient air quality standard has been established shall be included on any such list. No substance, practice, process, or activity regulated under part B shall be subject to regulation under this subsection. At the time any air pollutant is listed, the Administrator shall establish a reasonable minimum quantity for the pollutant, taking into account toxicity, dispersibility, combustibility, or flammability and the likelihood of an accidental release. The Administrator shall establish procedures for the addition and deletion of substances from the list established under this subsection consistent with those applicable to the list in section 112(b).

"(3) FACTORS TO BE CONSIDERED.—In listing substances under this subsection, the Administrator shall consider each of the following criteria:

"(A) The severity of any acute adverse health effects associated with accidental releases of the substance.

"(B) The likelihood of accidental releases of the substance.

"(C) The potential magnitude of human exposure to accidental releases of the substance.

"(4) THRESHOLD QUANTITY.—At the time any substance is listed pursuant to this subsection, the Administrator shall establish by rule, a threshold quantity for the substance, taking into account the amount of the substance which, as a result of an accidental release, is known to cause or may reasonably be anticipated to cause the serious acute adverse effects to human health for which the substance was listed. The Administrator shall exempt from the requirements of this subsection, a cargo tank (commonly known as a nurse tank and considered an implement of husbandry) transporting anhydrous ammonia, and operated by a private carrier exclusively for agricultural purposes, as described in the regulations under section 173.315(m) of title 49 of the Code of Federal Regulations, as in effect on the date immediately preceding the date of the enactment of the Clean Air Act Amendments of 1990 and used in agriculture.

"(5) RISK MANAGEMENT PLANS.—The regulations under this subsection shall require the owner or operator of stationary sources at which a substance listed under this section is present in quantities greater than a threshold quantity established pursuant to paragraph (4) to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of substances listed under this subsection from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment. Such plan shall provide for compliance with the requirements of this subsection and shall also include each of the following:

"(A) HAZARD ASSESSMENT.—A hazard assessment to assess the potential effects of, an accidental release of any substance listed under this section from the stationary source. This assessment shall include an estimate of potential release quantities and a determination of downwind effects, including potential exposures to affected populations. Such assessment shall include a previous release history of the past 5 years, including the size, concentration, and duration of releases, and shall include an evaluation of worst case accidental releases.

"(B) PREVENTION PROGRAM.—A program for preventing accidental releases of substances listed under this section, including safety precautions and maintenance, monitoring and employee training measures to be used at the source.

"(C) RESPONSE PROGRAM.—A response program providing for specific actions to be taken in response to an accidental release of a listed substance so as to protect human health and the environment, including procedures for informing the public and local agencies responsible for responding to accidental releases, emergency health care, and employee training measures.

At the time regulations are promulgated under this section, the Administrator shall promulgate guidelines to assist stationary sources in the preparation of risk management plans. The guidelines shall, to the extent practicable, include model risk management plans.

"(6) COMPLIANCE WITH RISK MANAGEMENT PLAN.—The owner or operator of each stationary source covered by paragraph (5) shall register a risk management plan prepared under this section with the Administrator before the effective date of regulations under this section in such form and manner as the Administrator shall, by rule, require. Plans prepared pursuant to this subsection shall also be submitted to the Air Pollutant Release Investigation Board, to the State in which the facility is located, and to any local agency or entity having responsibility for planning for or responding to accidental releases which may occur at such source, and shall be available to the public under section 114(c). The Administrator shall establish, by rule, an auditing system to regularly review and, if necessary, require revisions in risk management plans to assure that the plans comply with this section. Each such plan shall be updated periodically as required by the Administrator, by rule.

"(7) CONSISTENCY WITH CERTAIN STANDARDS; SMALL BUSINESS CONCERNS.—Any regulations promulgated pursuant to this subsection shall, to the maximum extent practicable consistent with the purposes of this subsection, be consistent with the recommendations and standards established by the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), the American Society of Testing Materials, and other organizations. The Administrator shall take into consideration the concerns of small businesses in promulgating regulations under this subsection.

"(8) ACCIDENTAL RELEASE INVESTIGATION BOARD.—(A) There is hereby established an independent board to be known as the 'Accidental Release Investigation Board'.

"(B) The Board shall consist of 5 members, including a Chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, toxicology, or air pollution regulation. The terms of office of members of the Board shall be established by the President. Any member of the Board, including the Chairperson, may be removed for inefficiency, neglected duty, or malfeasance in office. The Chairperson shall be the Chief Executive Officer of the Board and shall exercise the executive and administrative functions of the Board.

"(C) The Board shall investigate or cause to be investigated (in such detail as it shall

prescribe), and determine the facts, conditions, circumstances, and causes or probable causes of any significant accidental release of a regulated substance or a substance which is unregulated (but could reasonably satisfy the factors of paragraph (3)) into the ambient air from a stationary source resulting in a fatality or serious injury, except for the following:

"(i) Any release of source, byproduct, or special nuclear material from a nuclear incident which the Nuclear Regulatory Commission is authorized to investigate.

"(ii) Any transportation-related release, including marine oil spills, which the National Transportation Safety Board (NTSB) is authorized to investigate.

The Board may utilize the expertise and experience of other agencies.

"(D) The Board shall coordinate its activities with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related. The Board shall enter into a memorandum of understanding with the Occupational Safety and Health Administration so as to limit duplication of activities. In no event shall the Board forego an investigation where a sudden, accidental release involving the production, processing, handling, or storage of a chemical substance causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.

"(E) For any investigation performed under subparagraph (A), the Board shall develop a written report on the facts, conditions, circumstances, cause or probable causes of the release. No report of the Board shall be subject to review by the Administrator or any Federal agency or to judicial review in any court. No part of the conclusions, findings, or recommendations of any report of the Board relating to any accidental release or the investigation thereof shall be admitted as evidence or used in any action or suit for damages arising out of any matter mentioned in such report.

"(F) Any report of the Board pursuant to paragraph (3)(B) may include recommendations to the Administrator or the Secretary of Labor for the adoption of regulations concerning the detection and prevention of accidental releases into the ambient air of regulated substances and for the mitigation of the potential effects of such releases under the authority of this section or under the Occupational Health and Safety Act. Any such recommendations shall be specific and shall identify the regulated substances or class of regulated substances to which the recommendations apply.

"(G) Within 2 years after enactment of this section and every 2 years thereafter, the Board shall issue reports to Congress, Federal, State, and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, and other interested persons recommending the adoption of regulations for the prevention of accidental releases of regulated substances into the ambient air and for the mitigation of the potential adverse effect on human health or the environment as a result of accidental releases. The Board may include proposed rules or orders which should be issued by the Administrator under the authority of this section or by the Secretary of Labor under the Occupational Health and Safety Act. Any such recommendations shall be specific and shall identify the regulated substance or class of regulated substances to which the recommendations apply. The Administrator and the Administrator of the Occupational Safety and Health Administration shall respond to the recommendations within 12 months after receipt thereof. If either the Administrator or the Administrator of the Occupational Safety and Health Administration fail to conform to the recommendations, such Administrator shall publish an explanation of the reasons for not conforming to such recommendations.

"(H) The Board shall establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigatory jurisdiction. Reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations. The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

"(I)(i) The Board, or upon the authority of the Board, any member thereof, may, for the purpose of carrying out this subsection, hold such hearings, sit and act at such times and places, and administer such oaths, as the Board or such officer or employee deems advisable.

"(ii) In addition to that described in paragraph (A), the Board may use any information gathering authority of the Administrator under this Act, including the subpoena power provided in section 307(a)(1) of this Act.

"(J) Any records, reports, or information obtained by the Board shall be available to the Administrator, the Secretary of Labor, the Congress and the public, except that upon a showing satisfactory to the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position, the Board shall consider such record, report, or information, or particular portion thereof confidential in accordance with section 1905 of title 18, United States Code, except that such record, report, or information may be disclosed to other officers, employees, and authorized representatives of the United States concerned with carrying out this Act or when relevant under any proceeding under this Act. This paragraph does not constitute authority to withhold records, reports, or information from the Congress. Whenever the Board conducts an investigation of a facility pursuant to this subsection, employees and their representatives shall have the same rights to participate in such inspections as provided for in the Occupational Safety and Health Act.

"(9) DEFINITIONS.—For the purposes of this section—

"(A) The term 'accidental release' means an unanticipated emission of a regulated substance (except as provided in section 9(c)) into the ambient air from a stationary source.

"(B) The term 'regulated substance' means a substance listed pursuant to this subsection.

"(C) The term 'stationary source' means any buildings, structures, or installations (i) which belong to the same industrial grouping, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) at which a regulated substance is present in excess of threshold quantities established by the Administrator.

"(n) PROTECTION OF GREAT LAKES AND CHESAPEAKE BAY.—

"(1) STUDY AND REPORT TO CONGRESS.—The Administrator shall investigate the sources of atmospheric deposition of hazardous air pollutants (and their atmospheric transformation products) on the Great Lakes, the Chesapeake Bay, and their tributary waters and evaluate the adverse effects to human health and the adverse environmental effects, including the tendency to bioaccumulate and effects resulting from indirect exposure pathways, caused by such deposition. Such investigation and evaluation shall include monitoring of listed substances in the ambient air, biological sampling for such substances (or their organic forms) in fish and wildlife within the Great Lakes, the Chesapeake Bay, and their tributary waters, and an analysis to characterize the sources of such substances. The Administrator shall report to Congress on the results of the investigation and evalution within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall afford an opportunity for public review of the report before submitting it to Congress and shall include a summary of the public comments with the report.

"(2) ADDITIONAL REGULATION.—As part of the report to Congress, the Administrator shall determine whether the other provisions of this section are adequate to prevent serious adverse effects to human health and serious or widespread environmental effects, including such effects resulting from indirect exposure pathways, associated with atmospheric deposition on the Great Lakes, the Chesapeake Bay, and their tributary waters of hazardous air pollutants (and their atmospheric transformation products). The Administrator shall take into consideration the tendency of such pollutants to bioaccumulate. Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on such report and determination, promulgate, in accordance with this section, such further emissions standards or control measures as may be necessary and appropriate to prevent such effects, including effects due to bioaccumulation and indirect exposure pathways.

"(o) TECHNICAL ASSISTANCE FOR SMALL SOURCES.—The Administrator (and States with permit programs) shall establish means and measures to supply technical assistance and information to area sources and stationary sources that are not major stationary sources to help carry out the requirements of this section, including meeting the applicable standards and obtaining needed permits. The assistance should cover information on availability and types of equipment, measures, methods, practices, processes, and techniques in reducing emissions of air pollutants and preventing and detecting accidents. The Administrator should establish and maintain a clearinghouse of such information.

"(p) HYDROFLUORIC ACID.—(1) Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study to determine if there is a net benefit to public safety, human health, and the environment from the use by oil refineries of any sub-

stance or process which is an alternative to hydrofluoric acid. The study shall include an analysis of the loss of human life or damage to human health in the event of a reasonable worst-case accidental release of hydrofluoric acid or sulfuric acid or other alternative substance, the customary air and water emissions associated with the use of hydrofluoric acid or sulfuric acid or other alternative, the production of waste from the customary use of hydrofluoric acid or sulfuric acid or other alternative, and the risk and consequences of accidents from the transportation of hydrofluoric acid or sulfuric acid or other alternative. In making the determination regarding net benefit, the Administrator shall not consider the financial costs associated with the use of any alternative accidental release mitigation systems which could be rendered inoperable in the event of an earthquake, or the cause of a worst-case accidental release. In making the determination regarding net benefit, if the Administrator considers the likelihood of the risk or danger to human health and the environment from a worst-case accidental hydrofluoric acid release, the Administrator shall also consider similar probabilities resulting from the use of any alternative. In the event that existing data on hydrofluoric acid or sulfuric acid or alternative proves inadequate for the study, the Environmental Protection Agency shall perform the necessary data collection or field tests. The study shall examine both acute and chronic risks.

"(2) If the Administrator determines there is an alternative that provides a net benefit to public safety, human health, and the environment, not later than 1 year and 3 months after the completion of the study under paragraph (1), the Administrator shall promulgate regulations requiring each oil refinery in the Nation to convert to such alternative within 10 years. The Administrator is authorized to make differing determinations on a site-specific basis.

"(3) Not later than 2 years after the completion of the study under paragraph (1), the Administrator shall make recommendations to Congress, and is authorized to promulgate regulations to implement, methods to mitigate or eliminate the danger of a worst-case accidental release of hydrofluoric acid at all other commercial facilities, including the use of alternative processes or substances which provide a net benefit to public safety, human health, and the environment, and relocation of facilities to unpopulated areas.

"(q) MICKEY LELAND URBAN AIR TOXICS RESEARCH CENTER.—

"(1) ESTABLISHMENT.—The Administrator shall oversee the establishment of a National Urban Air Toxics Research Center, to be located at a university, a hospital, or other facility capable of undertaking and maintaining similar research capabilities in the areas of epidemiology, oncology, toxicology, pulmonary medicine, pathology, and biostatistics. The center shall be known as the Mickey Leland National Urban Air Toxics Research Center. The geographic site of the National Urban Air Toxics Research Center should be further directed to Harris County, Texas, in order to take full advantage of the well developed scientific community presence currently on site at the Texas Medical Center as well as the extensive data previously compiled from the comprehensive monitoring system currently in place.

"(2) BOARD OF DIRECTORS.—The National Urban Air Toxics Research Center shall be governed by a Board of Directors to be comprised of 9 members, the appointment of which shall be allocated pro rata among the Speaker of the House, the majority leader of the Senate and the President. The members of the Board of Directors shall be selected based on their respective academic and professional backgrounds and expertise in matters relating to public health, environmental pollutions, and the industrial hygiene. The duties of the Board of Directors shall be to determine policy and research guidelines, submit views from center sponsors and the public and issue periodic reports of center fundings and activities.

"(3) SCIENTIFIC ADVISORY PANEL.—The Board of Directors shall be advised by a Scientific Advisory Panel, the 13 members of which shall be appointed by the Board, and to include eminent members of the scientific and medical communities. The Panel membership may include scientists with relevant experience from the National Institute of Environmental Health Sciences, the Center for Disease Control, the Environmental Protection Agency, the National Cancer Institute, and others, and the Panel shall conduct peer review and evaluate research results. The Panel shall assist the Board in developing the research agenda, reviewing proposals and applications, and advise on the awarding of research grants.

"(4) FINDINGS.—The center shall be established and funded with both Federal and private source funds.

"(r) OIL AND GAS WELLS.—(1) Notwithstanding the provisions of this section, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources, and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this section.

"(2) In the case of oil and gas wells listed under this section, in promulgating regulations under this section, the Administrator shall determine whether oil and gas wells present a risk greater than that referred to in subsection (g)(1)(A). If the Administrator determines that such wells do present a risk greater than the levels referred to in subsection (g)(1)(A) the Administrator shall promulgate standards under this section applicable to such wells.

"(s) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—(1) The Secretary of Energy and the Administrator shall jointly undertake a 6-year study to assess coke oven production emission control technologies and to assist in the development and commercialization of technically practicable and economically viable control technologies which will have the potential to significantly reduce emissions of hazardous air pollutants from coke oven production facilities. In identifying control technologies, the Secretary and the Administrator shall consider the range of existing coke oven operations and battery design and the availability of sources of materials for such ovens as well as alternatives to existing coke oven production design.

"(2) The Secretary and the Administrator are authorized to enter into agreements with persons who propose to develop, install, and operate coke production emission control technologies which have the potential for significant emissions reductions of hazardous air pollutants provided that Federal funds shall not exceed 50 percent of the cost of any project assisted pursuant to this subsection.

"(3) The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study shall make recommendations to the Administrator identifying practicable and economically viable control technologies for coke oven production facilities to reduce residual risks remaining after implementation of the standard under subsection (d) (MACT).

"(4) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1996 to carry out the program authorized by this subsection.

"(t) REPORT ON COSTS AND BENEFITS.—Commencing on January 1, three years after the date of the enactment of the Clean Air Act Amendments of 1990 and annually thereafter, the Government Accounting Office, in consultation with other agencies, such as the Environmental Protection Agency, the Department of Labor, the Department of Commerce, the United States Trade Representative, the National Academy of Sciences, the National Academy of Engineering, the Council on Environmental Quality, and the Surgeon General, shall provide a report to Congress on the incremental human health and environmental benefits and incremental costs associated with compliance with the provisions of the Maximum Achievable Control Technologies prescribed by the Clean Air Act Amendments of 1990. The report shall include, for each source category and subcategory for which MACT is prescribed, the effects on human life, human health, the environment, and the economy (including both positive impacts and impacts detrimental to jobs and communities resulting from loss of employers and employment, etc.), energy security impacts, the actual emissions reductions as a result of the Clean Air Act Amendments of 1990, the effect on United States products and industrial competitiveness in national and international markets and any impacts on employment in the affected areas contributed to by the emission control requirements.

"(u) In the case of any category or subcategory of sources the air emissions of which are regulated under subtitle C of the Solid Waste Disposal Act, the Administrator shall take into account any regulations of such emissions which are promulgated under such subtitle and shall, to the maximum extent practicable and consistent with the provisions of this section, ensure that the requirements of such subtitle and this section are consistent.".

SEC. 302. CHEMICAL PROCESS SAFETY MANAGEMENT.

(a) The Secretary of Labor shall act under the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) to prevent accidental releases of chemicals which could pose a threat to employees. Not later than 12 months after the date of enactment of this section, the Secretary of Labor, in coordination with the Administrator, shall promulgate, pursuant to the Occupational Safety and Health Act, a chemical process safety standard designed to protect employees from hazards associated with accidental releases of highway hazardous chemicals in the workplace.

(b) The Secretary shall include as part of such standard a list of highly hazardous chemicals, which include toxic, flammable, highly reactive and explosive substances. The list of such chemicals may include those chemicals listed by the Administrator under

section 302 of the Emergency Planning and Community Right to Know Act of 1986, title III of the Superfund Amendments and Reauthorization Act (SARA). The Secretary may make additions to such list when a substance is found to pose a threat of serious injury or fatality in the event of an accidental release in the workplace.

(c) Such standard shall, at minimum, require employers to—

(1) develop and maintain written safety information identifying workplace chemical and process hazards, equipment used in the processes, and technology used in the processes;

(2) perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of the workplace effects of a range of releases, estimation of the health and safety effects of such a range on employees;

(3) consult with employees on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

(4) establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation, and emergency responses;

(5) periodically review the workplace hazard assessment and response system;

(6) develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

(7) provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

(8) ensure contractors and contract employees are provided appropriate information and training;

(9) train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(b) of SARA;

(10) establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

(11) establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

(12) conduct pre-start-up safety reviews of all newly installed or modified equipment;

(13) establish and implement written procedures to manage change to process chemicals, technology, equipment and facilities; and

(14) investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

(d) Nothing in this section may be construed to diminish the authority of the States and political subdivisions thereof.

(e) In exercising any authority under this subsection, the Administrator shall not, for the purposes of section 653(b)(1) of title 29, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

TITLE IV—PERMITS

Sec. 401. Permits.

SEC. 401. PERMITS.

Add the following new title IV after title III:

"TITLE IV—PERMITS

"Sec. 401. Definitions.
"Sec. 402. Permit programs.
"Sec. 403. Permit applications.
"Sec. 404. Permit requirements and conditions.
"Sec. 405. Notification to Administrator and contiguous states.
"Sec. 406. Other authorities.
"Sec. 407. Small source and technical and environmental compliance assistance program.

"SEC. 401. DEFINITIONS.

As used in this title—

"(1) AFFECTED SOURCE.—The term 'affected source' shall have the meaning given such term in title V.

"(2) MAJOR SOURCE.—The term 'major source' means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is either of the following:

"(A) A major source as defined in section 112.

"(B) A major stationary source as defined in section 302 or part D of title I.

"(3) TERMS DEFINED IN SECTION 112.—For sources subject to standards under section 112, the terms 'new source', 'stationary source', and 'area source' shall have the meaning given such terms in that section.

"(4) TERMS DEFINED IN SECTION 111.—For sources subject to standards under section 111, the terms 'new source', 'modification', 'existing source', and 'stationary source' shall have the meaning given such terms in that section.

"(5) SCHEDULE OF COMPLIANCE.—The term 'schedule of compliance' means a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation or emission prohibition.

"(6) PERMITTING AUTHORITY.—The term 'permitting authority' means the Administrator or the air pollution control agency authorized by the Administrator to carry out a permit program under this title.

"SEC. 402. PERMIT PROGRAMS.

"(a) VIOLATIONS.—After the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate an affected source (as provided in title V), a major source, any other source (including an area source) subject to standards or regulations under sections 111 or 112, any source required to have a permit under parts C or D, or any other stationary source category or subcategory designated (in whole or in part) by regulations promulgated by the Administrator which shall include a finding setting forth the basis for such designation, except in compliance with a permit issued by a permitting authority under this title. Nothing in this subsection shall be construed to alter the requirements of sections 165, 172, and 173 regarding the requirement that a permit be obtained before construction. The Administrator may, in the Administrator's discretion, promulgate regulations to exempt 1 or more source categories or subcategories (in whole or in part) from the requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories or subcategories, except that the Administrator may not exempt any major source from such requirements.

"(b) REGULATIONS.—The Administrator shall promulgate within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990 regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include each of the following:

"(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of applications.

"(2) Monitoring and reporting requirements.

"(3)(A) A requirement under State law that the owner or operator of all sources subject to the requirement to obtain a permit under this title pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this title, including section 407, including the reasonable costs of—

"(i) reviewing and acting upon any application for such a permit,

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of the enactment of the Clean Air Act Amendments of 1990, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

"(iii) emissions and ambient monitoring,

"(iv) preparing generally applicable regulations, or guidance,

"(v) modeling, analyses, and demonstrations, and

"(vi) preparing inventories and tracking emissions.

"(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

"(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in subparagraphs (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than $25 per ton of each regulated pollutant, or such other amount as the Administrator may determine adequately reflects the reasonable costs of the permit program.

"(ii) As used in this subparagraph, the term 'regulated pollutant' shall mean (I) a volatile organic compound; (II) each pollutant regulated under section 111 or 112; and (III) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

"(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

"(iv) The requirements of clause (i) shall not apply if the permitting authority demonstrates that collecting an amount less than the amount specified under clause (i) will meet the requirements of subparagraph (A).

"(v) The fee calculated under clause (i) shall be increased (consistent with the need

to cover reasonable costs authorized by subparagraph (A)) in each year beginning after the year of the enactment of the Clean Air Act Amendments of 1990 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For purposes of this clause—

"(I) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year, and

"(II) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

"(C)(i) If the Administrator determines, under subsection (d), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under subsection (i), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this title, collect reasonable fees from the sources identified under subparagraph (A) without regard to the requirements of subparagraph (B).

"(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes).

"(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected. Any fee required to be collected by a State or interstate agency under this subsection shall be utilized solely to support the air pollution control permit program of such State or interstate agency as provided in this paragraph.

"(4) Requirements for adequate personnel and funding to administer the program.

"(5) A requirement that the permitting authority have adequate authority to:

"(A) issue permits and assure compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this Act;

"(B) issue permits for a fixed term, not to exceed 5 years;

"(C) assure that upon issuance or renewal permits incorporate emission limitations and other requirements in an applicable implementation plan;

"(D) terminate, modify, or revoke and reissue permits for cause; and

"(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in an amount not less than $10,000 per day for each violation, and appropriate criminal penalties.

"(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, for processing such applications, for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications, renewals, or revisions, and including an opportunity for judicial review of the final permit action by the applicant or any person who participated in the public comment process.

"(7) Authority, and reasonable procedures consistent with the need for expeditious action by the permitting authority on permit applications and related matters, to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 403(e), subject to the provisions of section 114(c) of this Act.

"(8) A requirement that the permitting authority, in the case of permits with a term of 3 or more years for major sources, shall require revisions to the permit to incorporate applicable standards and regulations promulgated under this Act after the issuance of such permit. Such revisions shall occur as expeditiously as practicable and consistent with the procedures established under paragraph (6) but not later than 18 months after the promulgation of such standards and regulations. No such revision shall be required if the effective date of the standards or regulations is a date after the expiration of the permit term. Such permit revision shall be treated as a permit renewal if it complies with the requirements of this title regarding renewals.

"(9) Provisions to allow changes within a permitted facility (or one operating pursuant to section 403(d)) without requiring a permit revision, if the changes are not modifications under any provision of title I and the changes do not exceed the emissions allowable under the permit, provided that the facility provides the Administrator and the permitting authority with advance notification of the changes.

"(c) SINGLE PERMIT.—A single permit may be issued for a facility with multiple sources.

"(d) SUBMISSION AND APPROVAL.—(1) Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Governor of each State shall develop and submit to the Administrator a permit program under State law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority to carry out the program. Not later than 1 year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator may approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b). If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within 180 days after receiving notification.

"(2)(A) Except in the case of a program referred to in subparagraph (B), if the Governor does not submit a program as required under paragraph (1) or if the Administrator disapproves a program submitted by the Governor under paragraph (1), in whole or in part, the Administrator may, in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

"(B) If the Governor does not submit a program as required under paragraph (1) which is applicable to each nonattainment area (as defined in part D of title I) in the State and which applies to all air pollutants for which national ambient air quality standards have been promulgated, or if the Administrator disapproves any such program submitted by the Governor under paragraph (1) in whole or in part, within 18 months after the date required for such submittal or the date of such disapproval, as the case may be, the Administrator shall apply such sanctions in the same manner and conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

"(3) If a program meeting the requirements of this title has not been approved in whole for any State within 2 years after the date required for submission of such a program under paragraph (1), the Administrator shall promulgate a program under this title for that State.

"(e) SUSPENSION.—The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may, in such notice, retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this subsection should be construed to limit the Administrator's ability to enforce permits issued by a State.

"(f) PARTIAL PERMIT PROGRAM.—The Governor of a State may submit, and the Administrator may approve, a partial permit program. No partial permit program shall be approved unless, at a minimum, it applies, and ensures compliance with, this title and each of the following:

"(1) All requirements established under title V applicable to 'affected sources'.

"(2) All requirements established under section 112 applicable to 'major sources', 'area sources,' and 'new sources'.

"(3) All requirements of title I (other than section 112) applicable to sources required to have a permit under this title.

Approval of a partial program shall not relieve the State of its obligation to submit a complete program, nor from the application of any sanctions under this Act for failure to submit an approvable permit program.

"(g) INTERIM APPROVAL.—If a program (including a partial permit program) submitted under this title substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than 2 years after such approval, and may not be renewed.

"(h) EFFECTIVE DATE.—The effective date of a permit program, or partial or interim program, approved under this title, shall be the effective date of approval by the Administrator. The effective date of a permit program, or partial permit program, promulgated by the Administrator shall be the date of promulgation.

"(i) ADMINISTRATION AND ENFORCEMENT.—(1) Whenever the Administrator makes a deter-

mination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, the Administrator may, in the Administrator's discretion, apply any of the sanctions specified in section 179(b), except as provided in paragraph (2).

"(2) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title in the case of a program applicable to a nonattainment area (as defined in part D of title I), within 18 months after the date of the notice under paragraph (1), the Administrator shall apply the sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the cast of a determination, disapproval, or finding under section 179(a).

"(3) Whenever the Administrator has made a finding under paragraph (1) with respect to any State, unless the State has corrected such deficiency within 18 months after the date of such finding, the Administrator shall, within 2 years after the date of such finding, promulgate a program under this title for that State. Nothing in this paragraph shall be construed to affect the validity of a program which has been approved under this title or the authority of any permitting authority acting under such program until such time as such program is promulgated by the Administrator under this paragraph.

"SEC. 403. PERMIT APPLICATIONS.

"(a) APPLICABLE DATE.—Any source specified in section 402(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates—

"(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 402(a).

"(b) COMPLIANCE PLAN.—(1) The regulations required by section 402(b) shall include a requirement that there is submitted with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months.

"(2) The regulations shall further require the permittee to periodically certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report, consistent with provisions of the United States Constitution regarding self-incrimination, any violations of such requirements to the permitting authority.

"(c) DEADLINE.—Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The permitting authority shall approve or disapprove a completed application (consistent with the procedures established under this title for consideration of such applications) within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-quarter of such permits will be acted on by such authority annually over a period of not to exceed 4 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications not subject to subsection (d).

"(d) TIMELY AND COMPLETE APPLICATIONS.—Except for sources required to have a permit before construction under sections 165, 172, or 173, if an applicant has submitted a timely and complete application for a permit required by this title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit under this title shall be in violation of section 402(a) before the date on which the source is required to submit an application under subsection (c).

"(e) COPIES; AVAILABILITY.—A copy of each permit application, compliance plan, emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

"SEC. 404. PERMIT REQUIREMENTS AND CONDITIONS.

"(a) CONDITIONS.—Each permit issued under this title shall include emission limitations and standards, a schedule of compliance, and such other conditions as are necessary to assure compliance with applicable requirements of this Act. Such conditions shall be consistent with this title and the regulations under section 402.

"(b) MONITORING AND ANALYSIS.—The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance and shall not be required if technology for such monitoring is unavailable for a source category. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of title V, or where required elsewhere in this Act.

"(c) INSPECTION ENTRY, MONITORING CERTIFICATION AND REPORTING.—Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

"(d) GENERAL PERMITS.—The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this title. No source covered by a general permit shall thereby be relieved from the obligation to file an application under section 403.

"(e) TEMPORARY SOURCES.—The permitting authority may issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including ambient standards and compliance with any applicable increment or visibility requirements under part C of title I. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

"(f) COMPLIANCE.—Compliance with a permit issued under this title shall be deemed compliance with section 402. Except as otherwise provided by the Administrator by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of this Act if the permit includes the applicable requirements of such provisions or if the permitting authority in acting on the permit application and the written record of the permit proceeding, made a determination in writing that such other provisions are not applicable (whether or not such determination is expressed in the permit). The preceding sentence shall not apply in the case of a standard issued under section 112(f). Compliance with a permit issued under a partial program under section 402(f) shall be deemed compliance only with those requirements for which the program was approved.

"SEC. 405. NOTIFICATION TO ADMINISTRATOR AND CONTIGUOUS STATES.

"(a) TRANSMISSION AND NOTICE.—(1) Each permitting authority shall transmit to the Administrator a copy of each permit application, including any compliance plan and any application for alternative emission limitations under section 112(g), or for a permit modification, submitted under this title, and shall provide notice, in accordance with regulations promulgated by the Administrator, of each permit proposed to be issued and issued by the authority.

"(2) The permitting authority shall notify all States whose air quality may be affected and that are contiguous to the State in which the emission originates of each permit application or proposed permit forwarded to the Administrator under this section, and shall provide an opportunity for such States to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and the reasons therefor.

"(b) OBJECTION BY EPA.—The permitting authority shall respond in writing if the Administrator (1) within 45 days after receipt of the proposed permit under subsection (a)(1), or (2) within 45 days after receiving notification under subsection (a)(2), objects in writing to its issuance as not in compliance with the requirements of this Act, including the requirements of section 110(a)(2)(D). With the objection, the Administrator shall provide a statement of the rea-

sons for the objection. A copy of the objection and statement shall be provided to the applicant.

"(c) ISSUANCE OR DENIAL.—If the permitting authority fails within 90 days after the date of an objection under subsection (b), to submit a permit revised to meet the objection, the Administrator shall issue or deny the permit in accordance with the requirements of this title. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection.

"(d) WAIVER OF NOTIFICATION REQUIREMENT.—(1) The Administrator may waive the requirements of subsections (a) and (b) at the time of approval of a permit program under this title for any category (including any class, type, or size within such category) of sources covered by the program other than major sources.

"(2) The Administrator may, by regulation, establish categories of sources (including any class, type, or size within such category) to which the requirements of subsections (a) and (b) shall not apply. The preceding sentence shall not apply to major sources.

"(3) The Administrator may exclude from any waiver under this subsection notification under paragraph (a)(2). Any waiver granted under this subsection may be revoked or modified by the Administrator by rule.

"(e) REFUSAL OF PERMITTING AUTHORITY TO TERMINATE, MODIFY, OR REVOKE AND REISSUE.—If the Administrator finds that cause exists under section 402(b)(5)(D) to terminate, modify, or revoke and reissue a State permit under this title, the Administrator shall notify the permitting authority and the source of the Administrator's finding. The permitting authority shall, within 90 days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend such 90 day period for an additional 90 days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b). If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within 90 days, the Administrator may, after notice and in accordance with fair and reasonable procedures, terminate, modify, or revoke and reissue the permit.

"SEC. 406. OTHER AUTHORITIES.

"Nothing in this title shall prevent a State, or interstate permitting authority, from establishing additional permitting requirements not inconsistent with this Act.

"SEC. 407. SMALL SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.

"(a) PLAN REVISIONS.—Consistent with sections 110 and 112, each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under this section, plans for establishing a small source technical and environmental compliance assistance program. Such submission shall be made within 24 months after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve such program if it includes each of the following:

"(1) Adequate mechanisms for developing, collecting, evaluating, and coordinating information concerning compliance methods and technologies for small sources.

"(2) Adequate mechanisms for advising small sources on pollution prevention, including providing information concerning alternative technologies, process changes, products, and methods of operation that help reduce air pollution.

"(3) A designated State office within the relevant State agency to serve as ombudsman for small sources in connection with the implementation of this Act.

"(4) A program for permits that meets the requirements of subsection (c).

"(5) Adequate mechanisms to assure that small sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under this Act.

"(b) PROGRAM.—The Administrator shall establish within 9 months after the date of the date of the enactment of the Clean Air Act Amendments of 1990 a small source technical assistance program. Such program shall—

"(1) assist the States in the development of the program required under subsection (a) and section 112(o) (relating to technical assistance for small sources);

"(2) issue technical guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution prevention methods applicable to small sources; and

"(3) provide for implementation of the program required under subsection (c) in any State that fails to submit an applicable program under that paragraph.

"(c) STATE PERMIT PROGRAM.—The State shall establish a permit program for small sources located within a nonattainment area, ozone transport area, or subject to a standard under section 112 consistent with the other provisions of this title. Such program shall provide that—

"(1) a small source shall have the option of obtaining an individual permit under this subsection as a substitute for any general permit issued under this title;

"(2) such individual permit shall be developed after consultation with the small source or with duly authorized representatives of the small sources;

"(3) individual permits issued under this subsection to small sources shall require compliance with applicable standards, regulations, or requirements under this Act, including emission limitations, pollution control measures, and recordkeeping and reporting requirements under this Act, except that prescribed work practice or technological methods of compliance with any such standard or requirement or the schedule for implementing such methods, if any may be modified for a small source in such permit based on the technical and financial capability of the small source or group of sources and the availability of less burdensome alternatives, and, in particular, pollution prevention measures; any such modifications shall achieve equivalent emission reductions for each regulated air pollutant subject to the permit and shall be consistent with the public health, welfare, and environmental protection goals and deadlines of this Act;

"(4) any individual permit issued to a small source under this subsection shall be issued in accordance with the procedures of this title, and shall be subject to review by the Administrator, as provided in this title;

"(5) the State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of a small source; and

"(6) requirements for continuous emission monitoring will not be imposed on a small source (or sources) unless the State (or the Administrator) has determined that such requirements are necessary and appropriate.

"(d) ELIGIBILITY.—For purposes of this section, eligibility for participation in the program under this section shall be limited to small sources (as defined in this Act) which are not major sources and which are small businesses (as defined in the Small Business Act). The State may include by petition small sources that are major sources. The State shall grant or deny the petition within 6 months after the petition is filed. The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from coverage any category or subcategory of sources that the Small Business Administrator determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(e) MONITORING.—The Administrator shall direct the Agency's Office of Small and Disadvantaged Business Utilization through the Small Business Ombudsman (hereinafter in this section referred to as the 'Ombudsman') to monitor the Small Business Environmental Compliance Assistance Program under this subsection. In carrying out such monitoring activities, the Ombudsman shall—

"(1) render advisory opinions on the overall effectiveness of the Small Source Technical and Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(2) make periodic reports to the Congress on the compliance of the Small Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(3) review information to be issued by the Small Source Technical and Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(4) have the Small Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(f) COMPLIANCE ADVISORY PANEL.—(1) There shall be created a Compliance Advisory Panel (hereinafter referred to as the 'Panel') on the State level of not less than 7 small business owners. This Panel shall—

"(A) render advisory opinions concerning the effectiveness of the Small Source Technical and Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(B) make periodic reports to the Administrator concerning the compliance of the State Small Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(C) review information for small stationary sources to assure such information is understandable by the layperson; and

"(D) have the Small Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(2) The Panel shall consist of—

"(A) 2 members selected by the Governor;

"(B) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and subparagraph (C) shall not apply);

"(C) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(D) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs.".

TITLE V—ACID DEPOSITION CONTROL

Sec. 501. Acid deposition control.
Sec. 502. New source performance standards.

SEC. 501. ACID DEPOSITION CONTROL.

Add the following new title after title IV:

"TITLE V—ACID DEPOSITION CONTROL

"Sec. 501. Findings and purposes.
"Sec. 502. Definitions; data.
"Sec. 503. Allowance program.
"Sec. 504. First Phase sulfur dioxide emission reduction program.
"Sec. 505. Second Phase sulfur dioxide emission reduction program.
"Sec. 506. Nitrogen oxides emission reduction program.
"Sec. 507. Permits and compliance plans.
"Sec. 508. Repowered sources.
"Sec. 509. Election for additional sources.
"Sec. 510. Excess emissions enforcement penalty
"Sec. 511. Monitoring, reporting, and recordkeeping requirements.
"Sec. 512. Compliance with other provisions.
"Sec. 513. Enforcement.
"Sec. 514. Report to Congress.
"Sec. 515. Clean coal technology incentives.
"Sec. 516. Severe energy supply interruptions and energy fuel supply shortages.
"Sec. 517. Protection of low-income households.
"Sec. 518. DOE units.
"Sec. 519. Auction.
"Sec. 520. Regulatory reforms to reduce air emissions.
"Sec. 521. Effect of provisions on certain Federal agencies.

"SEC. 501. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the presence of acidic compounds and their precursors in the atmosphere and in deposition from the atmosphere represents a threat to natural resources, ecosystems, materials, visibility, and public health;

"(2) the principal sources of the acidic compounds and their precursors in the atmosphere are emissions of sulfur and nitrogen oxides from the combustion of fossil fuels and other industrial processes;

"(3) the problem of acid deposition is of national and international significance and cannot be addressed adequately without effective State-Federal and international cooperation;

"(4) strategies and technologies for the control of precursors to acid deposition exist now that are economically feasible, and improved methods are expected to become increasingly available over the next decade;

"(5) current and future generations of Americans will be adversely affected by delaying measures to remedy the problem;

"(6) reduction of total atmospheric loading of sulfur dioxide and nitrogen oxides will enhance protection of the public health and welfare and the environment;

"(7) control measures to reduce acid deposition precursor emissions from steam-electric generating units should be initiated without delay.

"(b) PURPOSES.—The purpose of this title is to reduce the adverse effects of acid deposition through reductions in annual emissions of sulfur dioxide of approximately 10,000,000 tons from 1980 emission levels, and reductions in annual emissions of oxides of nitrogen of approximately 2,500,000 tons relative to their levels in the year 2000, in the 48 contiguous States and the District of Columbia, while providing for the continued use of all fossil fuels for electric generation and ensuring electric reliability. It is also the purpose of this title to encourage energy conservation and the use of renewable resources and to encourage pollution prevention as a long range strategy, consistent with the provisions of this title, for reducing air pollution and other adverse impacts of energy production and use and, to the greatest extent possible, to prevent or mitigate potential losses or shifts in employment and other socioeconomic impacts caused by such reductions and prevention.

"(c) COVERAGE.—This title shall apply only in the 48 contiguous States and the District of Columbia.

"SEC. 502. DEFINITIONS; DATA.

"(a) DEFINITIONS.—As used in this title—

"(1) AFFECTED SOURCE.—The term 'affected source' means a source that includes one or more affected units.

"(2) UNIT.—The term 'unit' means a fossil fuel-fired steam production device such as a boiler or furnace used to combust fuel to produce steam.

"(3) AFFECTED UNIT.—The term 'affected unit' means a unit for which annual allowances are allocated under this title.

"(4) ELECTRIC UTILITY STEAM GENERATING UNIT.—The term 'electric utility steam generating unit' has the meaning provided by section 112(a)(4), except that such term does not include any qualifying small power production facility or qualifying cogeneration facility (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) (A) that sells power pursuant to a long-term contract to supply electricity executed on or before December 31, 1989, or (B) with respect to which a State regulatory authority issued an order on or before December 31, 1989, directing the purchasing utility to execute such a contract with such a facility.

"(5) EXISTING ELECTRIC UTILITY STEAM GENERATING UNIT.—The term 'existing electric utility steam generating unit' means an electric utility steam generating unit that commenced commercial operation before the date of the enactment of the Clean Air Act Amendments of 1990. Any such unit which is modified, reconstructed or repowered after such date shall continue to be an existing electric utility steam generating unit for purposes of this title.

"(6) NEW ELECTRIC UTILITY STEAM GENERATING UNIT.—The term 'new electric utility steam generating unit' means any electric utility steam generating unit which is not an existing electric utility steam generating unit.

"(7) ALLOWANCE.—The term 'allowance' means an authorization, as described in section 503(f), issued by the Administrator under this title, to emit, during any single calendar year, a ton of sulfur dioxide (or nitrogen oxides in the case of nitrogen oxide allowances issued under section 509).

"(8) BASELINE.—Except as otherwise provided in this title, the term 'baseline' means the annual quantity of fossil fuel consumed, measured in millions of British thermal units ('mmBtu'), calculated as follows:

"(A) For each electric utility steam generating unit in commercial operation before January 1, 1985, the baseline shall be the average annual quantity of fuel (in mmBtu) consumed during calendar years 1985, 1986, and 1987, as recorded pursuant to Department of Energy Form 767. For any unit for which these forms were not filed, the baseline shall be the annual fuel consumption level specified for that unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2 (including where applicable, the National Utility Reference File (NURF)). The Administrator shall exclude periods during which a unit is shut down for a continuous period of 4 months or longer, and make appropriate adjustments under this paragraph. Upon petition of the owner or operator of any unit, the Administrator may make appropriate baseline adjustments for accidents that caused prolonged outages.

"(B) For each existing electric utility steam generating unit that commenced commercial operation on or after January 1, 1985, the baseline shall be the unit's average annual fuel consumption (in mmBtu) at a 65 percent capacity factor, except that upon petition of the owner or operator, the Administrator may establish as the baseline for any such unit—

"(i) the annual average fuel consumption (in mmBtu) for the first 3 full consecutive calendar years beginning after the unit commenced commercial operation, or

"(ii) if it is not feasible to use such 3-calendar year period, the unit's annual average fuel consumption (in mmBtu) for a representative calendar year after 1985, as calculated pursuant to a method which the Administrator shall, by regulation, prescribe.

"(C) For any other unit, the baseline shall be the average annual quantity of fuel consumed (in mmBtu) by that unit, as established by the Administrator by rule.

"(9) COMPLIANCE PLAN.—The term 'compliance plan' means the compliance plan required under title IV.

"(10) CONTINUOUS EMISSION MONITORING SYSTEM.—The terms 'continuous emission monitoring system' and 'CEMS' mean the equipment used to sample, measure, analyze, and provide, on a continuous basis, a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs./mmBtu), pounds per hour (lbs./hr.)), or such other items as the Administrator may, by rule, prescribe under section 511(a).

"(11) FIRST AND SECOND PHASE.—The term 'First Phase' means the period after December 31, 1995, and before January 1, 2001, and the term 'Second Phase' means the period beginning January 1, 2001.

"(12) PERMITTING AUTHORITY.—The term 'permitting authority' has the meaning given that term in title IV.

"(13) CLEAN COAL TECHNOLOGY.—The term 'clean coal technology' means any technology, including any technology applied at the precombustion, combustion, or postcombustion stage, at a new or existing electric utility steam generating unit which will achieve significant reductions in air emissions of

any pollutant or pollutants associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of the enactment of the Clean Air Act Amendments of 1990.

"(14) REPOWERING.—The term 'repowering' means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or a derivative of one or more of these technologies, or any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and of achieving significantly greater waste reduction relative to the performance of technology in widespread commercial use as of the date of the enactment of the Clean Air Act Amendments of 1990, as determined by the Administrator, in consultation with the Secretary of Energy.

"(15) STATE.—The term 'State' means one of the 48 contiguous States or the District of Columbia.

"(16) ACTUAL 1985 EMISSION RATE.—For any unit, the term 'actual 1985 emission rate' means the lesser of the rate described in subparagraph (A) or (B), expressed in lbs./mmBtu—

"(A) The unit's average emission rate for sulfur dioxide or oxides of nitrogen for the calendar year 1985 as reported in the National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2 (National Utility Reference File (NURF), if applicable).

"(B) The emission rate (if any) applicable to the unit under the applicable implementation plan for the calendar year 1985, based on documentation in existence before January 1, 1990.

In the case of an existing unit that was not in commercial operation in calendar year 1985, the term 'actual 1985 emissions rate' means the unit's emissions rate for a representative calendar year after 1985, as determined by the Administrator. The Administrator shall select the representative calendar year to be used for such purposes within 1 year after the enactment of the Clean Air Act Amendments of 1990.

"(b) CORRECTION OF DATA.—The Administrator shall, upon application or on the Administrator's own motion, by December 31, 1991, correct any factual errors in data from which affected Second Phase units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under this title. The failure of the Administrator to correct any alleged factual error in such reports shall not be subject to judicial review.

"SEC. 503. ALLOWANCE PROGRAM.

"(a) ALLOCATION OF ANNUAL ALLOWANCES FOR EXISTING UNITS.—The Administrator shall allocate annual allowances to the owner or operator of the affected units at an affected source in the annual amounts calculated under this title. First Phase allowances may not be allocated or issued for the Second Phase. Nothing in the preceding sentence shall be construed to prohibit the banking of unused First Phase allowances to be carried forward and added to allowances allocated in subsequent years, including years in the Second Phase. Except as provided in section 508(d) and 509, the removal of an existing affected unit or source from commercial operation at any time after the date of the enactment of the Clean Air Act Amendments of 1990 (whether before or after commencement of the First Phase or Second Phase) shall not terminate or otherwise affect the allocation of allowances for the First Phase or for the Second Phase to which the unit is entitled. Allowances shall be allocated and issued by the Administrator without cost to the recipient.

"(b) EPA ALLOWANCE SYSTEM REGULATIONS.—

"(1) IN GENERAL.—(A) Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate such regulations under this section as may be necessary to implement the allowance system established under this section.

"(B) The regulations under this section shall ensure that (i) allowances are issued and allocated in a timely manner, (ii) the allowance system functions effectively, efficiently, and competitively and without discrimination, (iii) allowances are reasonably transferable temporarily or permanently by purchase, lease, or otherwise, and (iv) allowances are not used to impede access to, or competition for, electric energy in any market.

"(C) The regulations under this section shall otherwise protect the integrity and value of such allowances and of the allowance system from fraud or misuse.

"(D) The regulations under this section shall be consistent with requirements for electric utility reliability, including central dispatch and the need to meet or cope with emergencies of any kind, and shall govern the issuance, transfer, holding, use, and banking of all allowances.

"(E) The regulations under this section shall provide that the allowances issued under this title may be transferred among the owners or operators of affected sources and other persons, including a multistate electric utility and new independent power producer units. Such regulations shall permit the transfer of the right to receive allowances prior to the issuance of such allowances. Such regulations shall permit transfers, including transfers by auction or through the mechanism of a reserve, only within each of the 2 major geographic regions of the country as defined by the Administrator in such regulations, except as provided in subsection (e) in the case of new units, and except that an owner or operator, as of the date of enactment of the Clean Air Act Amendments of 1990, of 2 or more affected units may transfer allowances among such units, irrespective of regional boundaries.

"(2) REVIEW AND REVISION.—The Administrator shall review the allowance program established under this section, and the regulations implementing such program, at intervals of at least every 4 years after promulgation of such regulations and shall make the results of such review public. Based on such review, the Administrator shall amend such regulations to the extent necessary, consistent with the purposes and provisions of this title.

"(3) CONSULTATION.—In the development and promulgation of regulations under this section and in the administration of the allowance program established under this section, the Administrator shall consult with, and utilize the expertise of, the Secretary of Energy and the Federal Energy Regulatory Commission. In the case of State regulated electric utilities, the Administrator shall also consult with, and obtain the advice of, the applicable electric utility ratemaking authority of the State. The Administrator shall also consult with, and obtain the advice of, representatives of regulated and nonregulated electric utilities. The Administrator shall also consult with the interested public. The Administrator shall particularly consult with the Commission and such ratemaking authorities concerning issues of operation and ownership of affected units under applicable laws, tariffs, regulations, and contractual arrangements to ensure that the allowances are properly issued and recorded and that the allowance system functions as provided by paragraph (1).

"(4) MULTIPLE OWNERSHIP.—(A) The Administrator shall include in the regulations under this section requirements under this paragraph regarding the issuance of allowances for an affected unit where the affected unit is owned by more than one person. Such regulations shall require that, unless the owners of the unit otherwise provide by contract, allowances for the affected unit shall be issued to each person owning a share in the unit in proportion to the ownership shares.

"(B) The regulations under this paragraph shall also require that, unless the owners of the unit otherwise provide by contract, whenever any owner is required by contract to contribute to the costs of control of emissions at the unit and the level of emissions control at such unit makes allowances issued to such unit available for transfer, the owners required to contribute to such costs of control shall share such transferable allowances in proportion to each owner's contribution to such costs.

"(C) The regulations under this paragraph shall also provide, for the purpose of this section, that—

"(i) the term 'owner' shall include the holder of a leasehold interest in an affected unit or any part thereof and shall not include a passive lessor, or a person who has an equitable interest through such passive lessor, whose rental payments are not based directly or indirectly upon the revenues or income from the affected unit; and

"(ii) where a utility purchases power from an affected unit under a life-of-the-unit, firm power contractual arrangement, such utility shall be considered an owner in proportion to its contractual share.

For the purposes of clause (ii) of this subparagraph, the term 'life-of-the-unit, firm power contractual arrangement' means a contractual arrangement under which a utility receives a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs for the life of the unit.

"(c) INTERPOLLUTANT TRADING.—The regulations under subsection (b) shall provide, subject to any applicable restrictions pursuant to section 520, for trading and banking of allowances for sulfur dioxide and oxides of nitrogen, including the establishment of a baseline under section 509 for emissions of oxides of nitrogen. Such regulations shall provide that, for trading purposes, 1.5 pounds of oxides of nitrogen shall be equivalent to 1.0 pound of sulfur dioxide. Interpollutant trades of allowances for use in areas failing to meet the applicable national primary ambient air quality standard for ozone, nitrogen dioxide, sulfur dioxide, or PM-10 shall be subject to approval by the Administrator in accordance with such regulations.

"(d) ALLOWANCE TRACKING SYSTEM.—(1) The Administrator shall establish a system for issuing, recording, and tracking allowances under this title, and shall specify by regula-

*tion, promulgated as provided in subsection (b), the procedures and requirements for that system.*

*"(2) All allowance allocations and transfers shall, upon recordation by the Administrator, be deemed a part of each unit's permit for purposes of section 507.*

*"(3) The Administrator shall take such steps as may be necessary to ensure that allowance transfers are recorded within 14 working days after receipt of a properly certified notice of such transfer and that persons receiving or transferring allowances file accurate annual reports regarding such transactions and that persons holding allowances during any year file accurate annual reports regarding the number of such allowances held. Transfers of allowances shall not be effective until written certification of the transfer on a proper form (signed by a responsible official of each party to the transfer) is received and recorded by the Administrator. All such transfers shall be consistent with the purposes and requirements of this title and shall not result in emissions of sulfur dioxide (or, if applicable, nitrogen oxides) in any year in excess of the total number of allowances authorizing such emissions in that year, including allowances carried forward from previous years.*

*"(4) In order to insure electric reliability, such regulations shall not prohibit or affect temporary increases and decreases in emissions within utility systems or power pools that result from their operations, including emergencies and central dispatch, and such temporary emissions increases and decreases shall not require transfer of allowances among units nor shall it require recordation. Notwithstanding the preceding sentence, the total tonnage of emissions in any calendar year (calculated at the end thereof) from each unit involved shall not exceed the allowances allocated to the unit for the calendar year concerned and issued to the owner or operator of the unit for that year, plus or minus allowances transferred to or from the unit for such calendar year or carried forward to that year from prior years.*

*"(5) Regulations under this section shall provide, consistent with the purposes of this title, for the identification of unused allowances and for such unused allowances to be carried forward and added to allowances allocated in subsequent years.*

*"(6) No allowance allocated to any unit for a subsequent year may be carried backward and added to allowances in an earlier year.*

*"(7) The provisions of section 1001 of title 18 of the United States Code shall apply to reports under this section and to the recordation of allowance transactions and holdings under this section.*

*"(e) NEW ELECTRIC UTILITY STEAM GENERATING UNITS.—In the Second Phase, the owner or operator of each new electric utility steam generating unit must hold allowances equal to the annual tonnage of sulfur dioxide emitted by the unit. Notwithstanding the geographic limitations referred to in subsection (b), such new units may obtain allowances from any person, consistent with the regulations issued under this section.*

*"(f) NATURE OF ALLOWANCES.—An allowance issued under this title is a limited authorization to emit sulfur dioxide or nitrogen oxides in accordance with the provisions of this title. Nothing in this title or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization by Act of Congress. Consistent with section 512, nothing in this section relating to allowances shall be construed as affecting the application of, or compliance with, any other provision of this Act to an affected unit or source, including the provisions related to applicable National Ambient Air Quality Standards and State implementation plans. Allowances under this title may not be extinguished by the Administrator. Nothing in this section shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges or affecting any State law regarding such State regulation or as limiting State regulation (including any prudency review) under such a State law. Nothing in this section shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established. Allowances, once issued to a person by the Administrator, may be received, held, and temporarily or permanently transferred in accordance with this title and the regulations of the Administrator without regard to whether or not a permit is in effect under title IV or section 507 with respect to the unit for which such allowance was originally issued and recorded. Each permit under this title and each permit issued under title IV for any affected unit shall provide that the affected unit may not emit an annual tonnage of sulfur dioxide in excess of the allowances allocated to that unit for the year concerned and issued to the owner or operator of the unit for that year, plus or minus the allowances transferred to or from the unit for that year or carried forward to that year from prior years. Nothing in title IV or section 507 shall be construed as affecting any allowances issued in accordance with this title or as authorizing a permitting authority to modify or revoke any allowance issued under this title or, in issuing a permit to establish conditions affecting allowances issued under this title.*

*"(g) PROHIBITION.—It shall be unlawful for any person to hold or transfer any allowance issued under this title, except in accordance with regulations issued by the Administrator.*

*"(h) ISSUANCE.—The Administrator shall issue First Phase allowances under this title promptly following the promulgation of regulations under this section. The Administrator shall issue Second Phase allowances under this title promptly following publication of the list and the making of any required adjustments under subsection (i), but no later than 6 months after publication of the final list under subsection (i).*

*"(i) 8,900,000 TONS OF SECOND PHASE ALLOWANCES.—*

*"(1) LIST OF ALLOWANCES TO BE ISSUED.—The Administrator shall publish, not later than December 31, 1991, but before issuing Second Phase allowances, a proposed list of all Second Phase allowances to be allocated and issued under this section based on this title (other than section 509). After notice and opportunity for public comment on such proposed list, but no later than December 31, 1995, the Administrator shall publish the final list of all Second Phase allowances.*

*"(2) 3,980,000 TONS FOR CLEAN UNITS AND SMALL UNITS.—If the Administrator determines that the total of Second Phase allowances to be issued under this title (other than under section 509) to units with an actual 1985 emissions rate below 1.2 lbs/mmBtu and to units with a nameplate capacity below 75 Mwe would be more or less than 3,980,000 tons per year, the Administrator shall adjust the number of allowances to be issued under this title for the Second Phase to those units to ensure that such tonnage will equal 3,980,000 tons per year. The Administrator shall reallocate any reduction or increase in allowances to each such affected unit on the basis of the ratio which the allowances which (but for the preceding sentence) would be issued to such unit bears to the total allowances which (but for the preceding sentence) would be issued to all of such units.*

*"(3) 4,920,000 TONS FOR LARGE UNITS EMITTING AT 1.2 OR ABOVE.—If the Administrator determines that the total tonnage of Second Phase allowances to be issued under this title (other than section 509) to units with an actual 1985 emissions rate of 1.2 lbs/mmBtu or greater and a nameplate capacity of 75 Mwe or greater would be more or less than 4,920,000 tons per year, the Administrator shall adjust the allowances to be issued under this title for the Second Phase to those units to ensure that such allowances will equal 4,920,000 tons per year. The Administrator shall reallocate any reduction or increase in allowances to each such affected unit on the basis of the ratio which the tonnage of allowances which (but for the preceding sentence) would be issued to such unit bears to the total allowances which (but for the preceding sentence) would be issued to all of such units.*

*"(4) TOTAL LIMIT.—In no event shall the Administrator issue Second Phase allowances in excess of 8,900,000 tons per year under this title (other than under section 509).*

*"(5) DEDUCTION AND RESERVE TO COMPENSATE FOR INTERRUPTIBLE GAS PROVISIONS.—In order to compensate for potential emissions of sulfur dioxide from interruptible gas units as described in section 505(h), in calculating under this subsection the allowances to be issued under this title (other than section 509), the Administrator shall deduct from the total allowances which would otherwise be issued to all affected units referred to in paragraph (2) for the Second Phase allowances equal to 75,000 tons per year. The Administrator shall credit such allowances to a Reserve for Gas Supply Interruptions. Every 3 years after establishing such reserve the Administrator shall allocate the unused allowances to all affected units referred to in paragraph (2) on a pro rata basis. For purposes of this paragraph, for any such unit, the term 'pro rata basis' means the ratio which the allowances allocated under this title to that unit bears to the allowances allocated under this title to all such units.*

*"(j) ENERGY CONSERVATION AND RENEWABLE ENERGY.—*

*"(1) DEFINITIONS.—As used in this subsection:*

*"(A) The term 'qualified energy conservation measure' means a cost effective measure, as identified by the Administrator in consultation with the Secretary of Energy, that increases the efficiency of the use of electricity provided by an electric utility to its customers.*

*"(B) The term 'qualified renewable energy' means energy derived from biomass, solar, geothermal, or wind as identified by the Administrator in consultation with the Secretary of Energy.*

*"(C) The term 'electric utility' means any person, State agency, or Federal agency, which sells electric energy.*

"(2) ALLOWANCES FOR EMISSIONS AVOIDED THROUGH ENERGY CONSERVATION AND RENEWABLE ENERGY.—

"(A) IN GENERAL.—The regulations under paragraph (4) of this subsection shall provide that for each ton of sulfur dioxide emissions avoided by an electric utility, during the applicable period, through the use of qualified energy conservation measures or qualified renewable energy, the Administrator shall allocate and issue a single allowance to such electric utility, on a first-come-first-served basis from the Conservation and Renewable Energy Reserve established under subsection (k), to the extent allowances are available for issuance from such Reserve.

"(B) REQUIREMENTS FOR ISSUANCE.—The Administrator shall issue allowances to an electric utility under this subsection only if all of the following requirements are met:

"(i) Such electric utility is paying for the qualified energy conservation measures or qualified renewable energy directly or through purchase from another person.

"(ii) The emissions of sulfur dioxide avoided through the use of qualified energy conservation measures or qualified renewable energy are quantified in accordance with regulations promulgated by the Administrator under this subsection.

"(iii)(I) Such electric utility has adopted and is implementing a least cost energy conservation and electric power plan which evaluates a range of resources, including new power supplies, energy conservation, and renewable energy resources, in order to meet expected future demand at the lowest system cost.

"(II) The qualified energy conservation measures or qualified renewable energy, or both, are consistent with that plan.

"(III) Electric utilities subject to the jurisdiction of a State regulatory authority must have such plan approved by such authority. For electric utilities not subject to the jurisdiction of a State regulatory authority such plan shall be approved by the entity with rate-making authority for such utility.

"(iv) In the case of a State regulated electric utility, the Secretary of Energy certifies that the State regulatory authority with jurisdiction over the electric rates of such electric utility has established rates and charges which ensure that the net income of such electric utility after implementation of specific cost effective energy conservation measures is at least as high as such net income would have been if the energy conservation measures had not been implemented. Upon the date of any such certification by the Secretary of Energy, all allowances which, but for this paragraph, would have been issued under subparagraph (A) before such date, shall be issued to the electric utility.

"(v) Such utility or any subsidiary of the utility's holding company owns or operates at least one affected unit.

"(C) USE OF ALLOWANCES.—The allowances issued under this subsection may be used to authorize emissions only at units owned or operated by an electric utility which is implementing a least cost energy plan meeting the requirements of subparagraph (B)(iii)(I) and approved as provided in subparagraph (B)(iii)(III).

"(D) PERIOD OF APPLICABILITY.—Allowances under this subsection shall be issued only with respect to kilowatt hours of electric energy saved by qualified energy conservation measures or generated by qualified renewable energy after January 1, 1992 and before the earlier of (i) December 31, 2000, or (ii) the date on which any electric utility steam generating unit owned or operated by the electric utility to which the allowances are issued becomes subject to this title (including those sources that elect to become affected by this title, pursuant to section 509).

"(E) DETERMINATION OF AVOIDED EMISSIONS.—

"(i) APPLICATION.—In order to receive allowances under this subsection, an electric utility shall make an application which—

"(I) designates the qualified energy conservation measures implemented and the qualified renewable energy sources used for purposes of avoiding emissions,

"(II) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

"(III) demonstrates that the requirements of subparagraph (B) have been met.

Such application for allowances by a State-regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility. The authority shall review the application for accuracy and compliance with this subsection and the rules under this subsection. Electric utilities whose retail rates are not subject to the jurisdiction of a State regulatory authority shall apply directly to the Administrator for such approval.

"(F) AVOIDED EMISSIONS FROM QUALIFIED ENERGY CONSERVATION MEASURES.—For the purposes of this subsection, the emission tonnage deemed avoided by reason of the implementation of qualified energy conservation measures for any calendar year shall be a tonnage equal to the product of multiplying—

"(i) the kilowatt hours that would otherwise have been supplied by the utility during such year in the absence of such qualified energy conservation measures, by

"(ii) 0.004,

and dividing by 2,000.

"(G) AVOIDED EMISSIONS FROM THE USE OF QUALIFIED RENEWABLE ENERGY.—The emissions tonnage deemed avoided by reason of the use of qualified renewable energy by an electric utility for any calendar year shall be a tonnage equal to the product of multiplying—

"(i) the actual kilowatt hours generated by, or purchased from, qualified renewable energy, by

"(ii) 0.004,

and dividing by 2,000.

"(H) PROHIBITIONS.—(i) No allowances shall be issued under this paragraph for the implementation of programs that are exclusively informational or educational in nature.

"(ii) No allowances shall be issued for energy conservation measures or renewable energy that were operational before January 1, 1992.

"(3) SAVINGS PROVISION.—Nothing in this subsection precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

"(4) REGULATIONS.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 and in conjunction with the regulations required to be promulgated under subsections (b) and (c), the Administrator shall, in consultation with the Secretary of Energy, promulgate regulations under this subsection. Such regulations shall list energy conservation measures and renewable energy sources which may be treated as qualified energy conservation measures and qualified renewable energy for purposes of this subsection. Allowances shall only be issued if all requirements of this subsection and the rules promulgated to implement this subsection are complied with. The Administrator shall review the determinations of each State regulatory authority under this subsection to encourage consistency from electric utility to electric utility and from State to State in accordance with the Administrator's rules. The Administrator shall publish the findings of this review no less than annually.

"(k) CONSERVATION AND RENEWABLE ENERGY RESERVE.—The Administrator shall establish a Conservation and Renewable Energy Reserve under this subsection. The reserve shall contain total allowances equal to 400,000 tons which shall be available for issuance following promulgation by the Administrator of regulations under this section, 200,000 tons of which may be used to authorize emissions after January 1, 2001 and the remaining 200,000 tons of which may only be used to authorize emissions after January 1, 2006. The Administrator shall issue allowances which can be used to authorize emissions after January 1, 2001 before issuing allowances which can only be used to authorize emissions after January 1, 2006. In order to establish 300,000 tons of such reserve, the Administrator shall reduce—

"(A) the tonnage specified in subsection (i)(2) by 10,000 tons per year for the first 10 years of the Second Phase, and

"(B) the tonnage specified in subsection (i)(3) by 20,000 tons per year for the first 10 years of the Second Phase.

The remaining 100,000 tons of such 400,000 ton total in the reserve shall be credited to the reserve, without regard to any limitations set forth in subsection (i). If allowances remain in the reserve after January 2, 2011, the Administrator shall allocate and issue 75 percent of such allowances to Second Phase affected units on a pro rata basis. For purposes of this paragraph, for any Second Phase unit, the term 'pro rata basis' refers to the ratio which the reductions made in such unit's allowances in order to establish the reserve under this paragraph bears to the total of such reductions for all Second Phase units.

"(l) CONTINGENCY GUARANTEE FOR CERTAIN NEW INDEPENDENT POWER PRODUCTION FACILITIES.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'independent power producer' means any person who owns or operates, in whole or in part, one or more new independent power production facilities.

"(B) The term 'new independent power production facility' means a facility that—

"(i) is used for the generation of electric energy, 80 percent or more of which is sold at wholesale;

"(ii) is project-financed (as such term is defined by the Secretary of Energy within 3 months of the date of the enactment of the Clean Air Act Amendments of 1990);

"(iii) does not generate electric energy sold to any affiliate (as defined in section 2(a)(11) of the Public Utility Holding Company Act of 1935) of the facility's owner or operator; and

"(iv) is a new unit required to hold allowances under subsection (e).

"(C) The term 'required allowances' means the allowances required to operate such unit for so much of the unit's useful life as occurs after commencement of the Second Phase.

"(2) ENTITLEMENT TO WRITTEN GUARANTEE.—Any independent power producer that submits an application to the Administrator establishing that such independent power producer—

"(A) proposes to construct a new independent power production facility for which allowances are required under this title;

"(B) will apply for financing to construct such facility after January 1, 1990, and before the date of the early auction under section 519(a);

"(C) has submitted to each owner or operator of an affected unit listed in table A (in section 504) a written offer to purchase the required allowances for $750 per ton; and

"(D) has not received (within 180 days after submitting offers to purchase under subparagraph (C)) an acceptance of the offer to purchase the required allowances

shall, within 30 days after submission of such application, be entitled to receive the Administrator's written guarantee (subject to the eligibility requirements set forth in paragraph (3)) that such required allowances will be made available for purchase from the reserve established under section 519(c) and at a guaranteed price. The guaranteed price at which such allowances shall be made available for purchase shall be $1,500 per ton, adjusted by the percentage, if any, by which the Consumer Price Index (as determined under section 402(b)(3)(B)(v)) for the year in which the allowance is purchased exceeds the Consumer Price Index for the calendar year in which the auction takes place.

"(3) ELIGIBILITY REQUIREMENTS.—The guarantee issued by the Administrator under paragraph (2) shall be subject to a demonstration by the independent power producer, satisfactory to the Administrator, that—

"(A) the independent power producer has—

"(i) submitted a good faith bid in the auction under section 519(a);

"(ii) made good faith efforts (after the auction under section 519(a)) to purchase the required allowances from the owners or operators of affected units to which allowances will be allocated, including efforts to purchase at annual auctions under section 519(b), and from industrial sources that have volunteered to become affected units pursuant to section 509; and

"(iii) such bids and efforts were unsuccessful in obtaining the required allowances; and

"(B) the independent power producer will continue to make good faith efforts to purchase the required allowances from the owners or operators of affected units and from industrial sources.

"(4) ISSUANCE OF GUARANTEED ALLOWANCES FROM RESERVE UNDER SECTION 519(C).—From the reserve established under section 519(c)(2), upon payment of the guaranteed price, the Administrator shall issue to any person exercising the right to purchase allowances pursuant to a guarantee under this subsection the allowances covered by such guarantee. Persons to which guarantees under this subsection have been issued shall have the opportunity to purchase allowances pursuant to such guarantee from such reserve before the allowances in such reserve are offered for sale to any other person.

"(m) INCENTIVE ALLOWANCES FOR EARLY REDUCTIONS.—(1) The Administrator shall promulgate regulations under this subsection within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990. Following promulgation of such regulations, the Administrator shall allocate and issue allowances during the First Phase to the owner or operator of each unit which is a First Phase affected unit if the owner or operator of the unit establishes to the satisfaction of the Administrator that—

"(A) the unit has reduced sulfur dioxide emissions in any year after the such date of enactment, but before the First Phase (hereinafter in this subsection referred to as the 'prior year'),

"(B) such emission reductions are not otherwise required under this Act,

"(C) such emission reductions are obtained solely through the installation or additional use of a technological system of continuous emission reduction which achieves at least a 70 percent reduction from the potential combustion concentration, and

"(D) the unit complies with section 511 (relating to monitoring, reporting, and recordkeeping).

"(2) Each allowance issued as provided in this subsection shall authorize a single ton of sulfur dioxide emissions for a single year during the First or Second Phase. Except as provided below, the tonnage of allowances issued under this subsection for any unit shall be equal to the amount by which (A) the product of the unit's baseline multiplied by the unit's 1985 actual sulfur dioxide emissions rate (in lbs per mmBtu), divided by 2,000 lbs./ton exceeds (B) the unit's actual tonnage of sulfur dioxide emissions for the prior year concerned. No allowances shall be allocated as provided in this subsection for emission reductions resulting from reduced utilization. Allowances may be allocated under this subsection only for emission reductions achieved after the enactment of the Clean Air Act Amendments of 1990 as the result of the installation or additional use of a technological system of continuous reduction meeting the requirements of subparagraph (C) of paragraph (1).

"(3)(A) For purposes of receiving allowances for early reductions under this subsection, the requirements of subparagraph (C) of paragraph (1) and the last sentence of paragraph (2) shall not apply in the case of a unit that receives authorization from the Governor of the State in which such unit is located to make early reductions and that is part of a utility system that meets the following requirements: (i) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1980, and December 31, 1985; and (ii) the weighted capacity factor of all coal-fired units within the utility system averaged over the period from January 1, 1985, through December 31, 1987, was below 50 percent. A unit that is a Second Phase affected unit (but not also a First Phase affected unit) and part of a utility system that includes 1 or more First Phase affected units shall receive allowances for early reductions made during the First Phase if the unit meets the requirements of this subsection (other than subparagraph (C) of paragraph (1) and the last sentence of paragraph (2)) and the requirements of the preceding sentence, except that for the purposes of applying this subsection to any such Second Phase affected unit, the prior year concerned shall be any year after the commencement of the First Phase but prior to the Second Phase.

"(B) In the case of a First Phase affected unit described in subparagraph (A), the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which (i) the product of the unit's baseline multiplied by the unit's 1985 actual sulfur dioxide emission rate (in lbs. per mmBtu), divided by 2,000, exceeds (ii) the allowances specified for such unit in table A, reduced by 6 percent. In the case of a Second Phase affected unit described in subparagraph (A), the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which (I) the product of the quantity of fossil fuel consumed by the unit (in mmBtu) in the prior year multiplied by the lesser of 2.35 or the most stringent emission rate (in lbs. per mmBtu) applicable to the unit under the applicable implementation plan, divided by 2,000, exceeds (II) the unit's actual tonnage of sulfur dioxide emission for the prior year concerned. Allowances allocated under this subsection to units referred to in subparagraph (A) may be allocated only for emission reductions achieved as a result of physical changes or changes in the method of operation made after the date of enactment of the Clean Air Act Amendments of 1990, including changes in the type or quality of fossil fuel consumed.

"(C) In no event shall the provisions of this paragraph be interpreted as an event of force majure or a commercial impracticability or in any other way as a basis for excused nonperformance by any utility system under a coal sales contract in effect before the date of the enactment of the Clean Air Act Amendments of 1990.

"(4) Paragraph (1)(C) and the last sentence of paragraph (1) shall not apply to units which are located in a State that has enacted as of January 1, 1990, a law, the effective date of which occurs in calendar year 1993, requiring reductions in statewide annual $SO_2$ emissions by at least 40 percent below such State's 1980 levels. Such units may receive allowances under this subsection only for reductions achieved (through any means) after enactment of the Clean Air Act Amendments of 1990 and prior to the effective date of such State law and only so long as there is no net decrease in high sulfur and mining jobs attributable to the application of this paragraph.

"(n) ALTERNATIVE ALLOWANCE ALLOCATION FOR UNITS IN CERTAIN UTILITY SYSTEMS WITH OPTIONAL BASELINE.—

"(1) OPTIONAL BASELINE FOR UNITS IN CERTAIN SYSTEMS.—In the case of a First Phase unit which (as of the date of the enactment of the Clean Air Act Amendments of 1990)—

"(A) has an emission rate below 1.0 lbs mmBtu,

"(B) has decreased its emissions rate by 60 percent or greater since 1980, and

"(C) is part of a utility system which has a weighted average emission rate for all fossil fueled-fired units below 1.0 lbs/mmBtu,

at the option of the owner or operator of such unit, the unit's baseline may be calculated (i) as provided under section 502(a)(8), or (ii) by utilizing the unit's average annual fuel consumption at a 60 percent capacity factor. Such election shall be made no later than March 1, 1991.

"(2) ALLOWANCE ALLOCATION.—Whenever a unit referred to in paragraph (1) elects to calculate its baseline as provided in clause (ii) of paragraph (1), the Administrator shall allocate allowances to the unit for the First and Second Phase in an amount equal to the baseline selected multiplied by the lower of the average emission rate for such unit in 1989, or 1.0 lbs./mmBtu. Such allowance allocation shall be in lieu of any allocation of allowances under sections 504 and

*505. For purposes of applying subsection (i), the units referred to in this subsection shall be treated as units with an actual 1985 emission rate of 1.20 lbs./mmBtu or greater, regardless of the option elected.*

*"SEC. 504. FIRST PHASE SULFUR DIOXIDE EMISSION REDUCTION PROGRAM.*

*"(a) FIRST PHASE AFFECTED UNITS.—(1) For the First Phase (beginning December 31, 1995) each unit listed in table A is a First Phase affected unit under this section. Each source that includes one or more of such affected units is an affected source under this section.*

*"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)*

| State | Plant Name | Unit | Phase I Allowances |
|---|---|---|---|
| Alabama | Colbert | 1 | 13,570 |
| | | 2 | 15,310 |
| | | 3 | 15,400 |
| | | 4 | 15,410 |
| | | 5 | 37,180 |
| | E.C. Gaston | 1 | 18,100 |
| | | 2 | 18,540 |
| | | 3 | 18,310 |
| | | 4 | 19,280 |
| | | 5 | 59,840 |
| Florida | Big Bend | 1 | 28,410 |
| | | 2 | 27,100 |
| | | 3 | 26,740 |
| | Crist | 6 | 19,200 |
| | | 7 | 31,680 |
| Georgia | Bowen | 1 | 56,330 |
| | | 2 | 54,770 |
| | | 3 | 71,750 |
| | | 4 | 71,740 |
| | Hammond | 1 | 8,780 |
| | | 2 | 9,220 |
| | | 3 | 8,910 |
| | | 4 | 37,640 |
| | J. McDonough | 1 | 19,910 |
| | | 2 | 20,600 |
| | Wansley | 1 | 70,770 |
| | | 2 | 65,430 |
| | Yates | 1 | 7,210 |
| | | 2 | 7,040 |
| | | 3 | 6,950 |
| | | 4 | 8,910 |
| | | 5 | 9,410 |
| | | 6 | 24,760 |
| | | 7 | 21,480 |
| Illinois | Baldwin | 1 | 42,010 |
| | | 2 | 44,420 |
| | | 3 | 42,550 |
| | Coffeen | 1 | 11,790 |
| | | 2 | 35,670 |
| | Grand Tower | 4 | 5,910 |
| | Hennepin | 2 | 18,410 |
| | Joppa Steam | 1 | 12,590 |
| | | 2 | 10,770 |
| | | 3 | 12,270 |
| | | 4 | 11,360 |
| | | 5 | 11,420 |
| | | 6 | 10,620 |
| | Kincaid | 1 | 31,530 |
| | | 2 | 33,810 |
| | Meredosia | 3 | 13,890 |
| | Vermilion | 2 | 8,880 |
| Indiana | Bailly | 7 | 11,180 |
| | | 8 | 15,630 |
| | Breed | 1 | 18,500 |
| | Cayuga | 1 | 33,370 |
| | | 2 | 34,130 |
| | Clifty Creek | 1 | 20,150 |
| | | 2 | 19,810 |
| | | 3 | 20,410 |
| | | 4 | 20,080 |
| | | 5 | 19,360 |
| | | 6 | 20,380 |
| | E. W. Stout | 5 | 3,880 |
| | | 6 | 4,770 |
| | | 7 | 23,610 |
| | F. B. Culley | 2 | 4,290 |
| | | 3 | 16,970 |
| | F. E. Ratts | 1 | 8,330 |
| | | 2 | 8,480 |
| | Gibson | 1 | 40,400 |
| | | 2 | 41,010 |
| | | 3 | 41,080 |
| | | 4 | 40,320 |
| | H. T. Pritchard | 6 | 5,770 |
| | Michigan City | 12 | 23,310 |
| | Petersburg | 1 | 16,440 |
| | | 2 | 32,380 |
| | R. Gallagher | 1 | 6,490 |
| | | 2 | 7,280 |
| | | 3 | 6,530 |
| | | 4 | 7,650 |
| | Tanners Creek | 4 | 24,820 |
| | Wabash River | 1 | 4,000 |
| | | 2 | 2,860 |
| | | 3 | 3,750 |
| | | 5 | 3,670 |
| | | 6 | 12,280 |
| | Warrick | 4 | 26,980 |
| Iowa | Burlington | 1 | 10,710 |
| | Des Moines | 7 | 2,320 |
| | George Neal | 1 | 1,300 |
| | M.L. Kapp | 2 | 13,800 |
| | Prairie Creek | 4 | 8,180 |
| | Riverside | 5 | 3,990 |
| Kansas | Quindaro | 2 | 4,220 |
| Kentucky | Coleman | 1 | 11,250 |
| | | 2 | 12,840 |
| | | 3 | 12,350 |
| | Cooper | 1 | 7,450 |
| | | 2 | 15,320 |
| | E.W. Brown | 1 | 7,110 |
| | | 2 | 10,910 |
| | | 3 | 26,100 |
| | Elmer Smith | 1 | 6,520 |
| | | 2 | 14,410 |
| | Ghent | 1 | 28,410 |
| | Green River | 4 | 7,820 |
| | H.L. Spurlock | 1 | 22,780 |
| | Henderson II | 1 | 13,340 |
| | | 2 | 12,310 |
| | Paradise | 3 | 59,170 |
| | Shawnee | 10 | 10,170 |
| Maryland | Chalk Point | 1 | 21,890 |
| | | 2 | 24,330 |
| | C. P. Crane | 1 | 10,330 |
| | | 2 | 9,230 |
| | Morgantown | 1 | 35,260 |
| | | 2 | 38,480 |
| Michigan | J. H. Campbell | 1 | 19,280 |
| | | 2 | 23,060 |
| Minnesota | High Bridge | 6 | 4,270 |
| Mississippi | Jack Watson | 4 | 17,910 |
| | | 5 | 36,700 |
| Missouri | Asbury | 1 | 16,190 |
| | James River | 5 | 4,850 |
| | Labadie | 1 | 40,110 |
| | | 2 | 37,710 |
| | | 3 | 40,310 |
| | | 4 | 35,940 |
| | Montrose | 1 | 7,390 |
| | | 2 | 8,200 |
| | | 3 | 10,090 |
| | New Madrid | 1 | 28,240 |
| | | 2 | 32,490 |
| | Sibley | 3 | 15,580 |
| | Sioux | 1 | 22,570 |
| | | 2 | 23,690 |
| | Thomas Hill | 1 | 10,250 |
| | | 2 | 19,390 |
| New Hampshire | Merrimack | 1 | 10,190 |
| | | 2 | 22,000 |
| New Jersey | B.L. England | 1 | 9,060 |
| | | 2 | 11,720 |
| New York | Dunkirk | 3 | 12,600 |
| | | 4 | 14,060 |
| | Greenridge | 4 | 7,540 |
| | Milliken | 1 | 11,170 |
| | | 2 | 12,410 |
| | Northport | 1 | 19,810 |
| | | 2 | 24,110 |
| | | 3 | 26,480 |
| | Port Jefferson | 3 | 10,470 |
| | | 4 | 12,330 |
| Ohio | Ashtabula | 5 | 16,740 |
| | Avon Lake | 8 | 11,650 |
| | | 9 | 30,480 |
| | Cardinal | 1 | 34,270 |
| | | 2 | 38,320 |
| | Conesville | 1 | 4,210 |
| | | 2 | 4,890 |
| | | 3 | 5,500 |
| | | 4 | 48,770 |
| | Eastlake | 1 | 7,800 |
| | | 2 | 8,640 |
| | | 3 | 10,020 |
| | | 4 | 14,510 |
| | | 5 | 34,070 |
| | Edgewater | 4 | 5,050 |
| | Gen. J.M. Gavin | 1 | 79,080 |
| | | 2 | 80,560 |
| | Kyger Creek | 1 | 19,280 |
| | | 2 | 18,560 |
| | | 3 | 17,910 |
| | | 4 | 18,710 |
| | | 5 | 18,740 |
| | Miami Fort | 5 | 760 |
| | | 6 | 11,380 |
| | | 7 | 38,510 |
| | Muskingum River | 1 | 14,880 |
| | | 2 | 14,170 |
| | | 3 | 13,950 |
| | | 4 | 11,780 |
| | | 5 | 40,470 |
| | Niles | 1 | 6,940 |
| | | 2 | 9,100 |
| | Picway | 5 | 4,930 |
| | R.E. Burger | 3 | 6,150 |
| | | 4 | 10,780 |
| | | 5 | 12,430 |
| | W.H. Sammis | 5 | 24,170 |
| | | 6 | 39,930 |
| | | 7 | 43,220 |
| | W.C. Beckjord | 5 | 8,950 |
| | | 6 | 23,020 |
| Pennsylvania | Armstrong | 1 | 14,410 |
| | | 2 | 15,430 |
| | Brunner Island | 1 | 27,760 |
| | | 2 | 31,100 |
| | | 3 | 53,820 |
| | Cheswick | 1 | 39,170 |
| | Conemaugh | 1 | 59,790 |
| | | 2 | 66,450 |
| | Hatfield's Ferry | 1 | 37,830 |
| | | 2 | 37,320 |
| | | 3 | 40,270 |
| | Martins Creek | 1 | 12,660 |
| | | 2 | 12,820 |
| | Portland | 1 | 5,940 |
| | | 2 | 10,240 |
| | Shawville | 1 | 10,320 |
| | | 2 | 10,320 |
| | | 3 | 14,220 |
| | | 4 | 14,080 |
| | Sunbury | 3 | 8,760 |
| | | 4 | 11,450 |
| Tennessee | Allen | 1 | 15,320 |
| | | 2 | 16,770 |
| | | 3 | 15,670 |
| | Cumberland | 1 | 86,700 |
| | | 2 | 94,840 |
| | Gallatin | 1 | 17,650 |
| | | 2 | 17,310 |
| | | 3 | 20,020 |
| | | 4 | 21,260 |
| | Johnsonville | 1 | 7,790 |
| | | 2 | 8,040 |
| | | 3 | 8,410 |
| | | 4 | 7,990 |
| | | 5 | 8,240 |
| | | 6 | 7,890 |

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—Continued

| State | Plant Name | Unit | Phase I Allowances |
|---|---|---|---|
| | | 7 | 8,980 |
| | | 8 | 8,700 |
| | | 9 | 7,080 |
| | | 10 | 7,550 |
| West Virginia | Albright | 3 | 12,000 |
| | Fort Martin | 1 | 41,590 |
| | | 2 | 41,200 |
| | Harrison | 1 | 48,620 |
| | | 2 | 46,150 |
| | | 3 | 41,500 |
| | Kammer | 1 | 18,740 |
| | | 2 | 19,460 |
| | | 3 | 17,390 |
| | Mitchell | 1 | 43,980 |
| | | 2 | 45,510 |
| | Mount Storm | 1 | 43,720 |
| | | 2 | 35,580 |
| | | 3 | 42,430 |
| Wisconsin | Edgewater | 4 | 24,750 |
| | La Crosse/ Genoa | 3 | 19,090 |
| | Nelson Dewey | 1 | 6,010 |
| | | 2 | 6,680 |
| | N. Oak Creek | 1 | 5,220 |
| | | 2 | 5,140 |
| | | 3 | 5,370 |
| | | 4 | 6,320 |
| | Pulliam | 8 | 7,510 |
| | S. Oak Creek | 5 | 9,670 |
| | | 6 | 12,040 |
| | | 7 | 16,180 |
| | | 8 | 15,790 |

"(2) For the First Phase, each existing electric utility steam generating unit with nameplate capacity of 100 MWe or greater, not included in table A, that emits sulfur dioxide at an annual rate of 2.50 lbs./mmBtu or greater, for any calendar year after the date of the date of enactment of the Clean Air Act Amendments of 1990 and prior to the Second Phase is also a First Phase affected unit under this section.

The Administrator shall promulgate regulations to prevent abuse of this paragraph, which shall provide that no unit shall be treated as a First Phase affected unit to which allowances are allocated under section 503 where the Administrator finds that the owner or operator of the unit has increased the unit's emissions rate for any calendar year after such date of enactment for the purpose of becoming a First Phase affected unit under this section eligible to receive such allowances.

"(3) After the commencement of the First Phase, no First Phase affected unit referred to in paragraph (1) or (2) shall emit sulfur dioxide in any calendar year in a tonnage amount which exceeds the annual First Phase allowances allocated for that unit and issued to the owner or operator of the unit, plus or minus the allowances transferred to or from the unit, or carried forward from prior years.

"(b) FIRST PHASE EMISSION TONNAGES.—For each affected unit listed in table A, for the First Phase, the Administrator shall allocate to the unit and issue to the owner or operator of the unit the annual tonnage of sulfur dioxide allowances specified in table A, reduced by 6 percent. For each affected unit described in subsection (a)(2), for the First Phase, the Administrator shall allocate to the unit and issue to the owner or operator of the unit annual tonnage of sulfur dioxide allowances equal to the product of such unit's baseline multiplied by an emission rate of 2.35 lbs/mmBtu, divided by 2,000 lbs/ton. The allowances calculated under this section shall apply only during the First Phase. Nothing in this subsection shall be construed to treat any unit which does not emit sulfur dioxide at a rate in excess of 2.50 lbs/mmBtu as a First Phase affected unit.

"(c) AUTHORITY TO SUBSTITUTE UNITS.—The owner or operator of an affected unit under subsection (a) may submit a proposal to substitute for any unit which is an affected unit under this section any other unit or units under the control of the same owner or operator. In order to make such substitution, the owner or operator shall submit an alternative proposal to the Administrator for approval in conjunction with submission of a permit application and compliance plan under section 507(c)(1). Any proposal must include—

"(1) designation of the substitute affected units to which the tonnage amounts under subsection (a) shall apply, in addition to, or in lieu of, the original affected units designated under that subsection;

"(2) specification of the baseline, the actual 1985 sulfur dioxide emission rate, and the authorized annual tonnage amount for the original affected unit;

"(3) calculation of the calendar year 1985 annual tonnage emitted by the substitute units, based on the baseline for each unit, as defined in section 502, multiplied by the unit's actual 1985 emission rate;

"(4) specification of the emission rates, and the annual tonnage amounts that would be applicable to the original and substitute affected units;

"(5) documentation, satisfactory to the Administrator, that the reassigned tonnage amounts will, in total, achieve the same or a greater reduction in emissions than the reduction that would have been achieved by the requirements of subsection (a); and

"(6) such other information as the Administrator may require.

The Administrator shall review and act on any proposal in accordance with subsection (d).

"(d) ADMINISTRATOR'S ACTION ON A PROPOSAL.—(1) The Administrator shall review and approve any proposal meeting the requirements of subsection (c). If a proposal does not meet the requirements of subsection (c), the Administrator shall disapprove it. The Administrator shall act on a proposal within 6 months after receipt of a complete submission.

"(2) For an approved proposal, each substitute unit and source shall be deemed affected under this title and the Administrator shall act on the submission in accordance with section 507(c). The Administrator shall allocate allowances to the affected units in accordance with the approved proposal. For a disapproved proposal, the Administrator shall issue allowances in accordance with subsection (a). The Administrator's action on any proposal submitted under subsection (c) shall not require a hearing or opportunity for public comment, and shall not be subject to judicial review.

"(e) COMPLIANCE EXTENSION FOR CERTAIN SOURCES USING CERTAIN TECHNOLOGICAL MEANS OF EMISSIONS REDUCTION.—No allowances shall be issued or required for calendar year 1996 for any affected unit which uses a technological means of continuous emission reduction (that commences operation after the enactment of the Clean Air Act Amendments of 1990 and achieves at least a 70 percent reduction from the potential combustion concentration) to control sulfur dioxide emissions for purposes of compliance with the requirements of this title during the First Phase. For any such unit, the allowances allocated to the unit for the last 4 years of the First Phase shall be reduced, under rules promulgated by the Administrator, by a total tonnage amount over such 4-year period equal to the amount by which the actual emissions of sulfur dioxide from the unit during the calendar year 1996 exceed the allowances which would (but for this subsection) be allocated to that unit for calendar year 1996. This subsection shall not apply to any unit for which allowances are allocated under subsection (m) (relating to incentive allowances for early reductions).

"(f) TWO FOR ONE ALLOWANCE PROGRAM.—

(1) RESERVE: TOTAL TONNAGE.—The Administrator shall establish a reserve of First Phase allowances to be allocated based on this subsection. The total tonnage of allowances in the reserve shall be equal to 6 percent of the total allowances specified (prior to the 6 percent reduction under section 504(b)) in table A for the First Phase (other than the allowances specified in such table for the units referred to in section 518, relating to DOE units and any units which are not treated as First Phase affected units by reason of the last sentence of subsection (b)) multiplied by 5.

"(2) ADDITIONAL ALLOWANCES FOR CERTAIN UNITS.—In addition to allowances allocated to units described in this paragraph under other provisions of this section, the Administrator shall allocate First Phase allowances under this paragraph to each First Phase affected unit which—

"(A) uses a technological means of continuous emission reduction (achieving at least a 70 percent reduction from the potential combustion concentration) to control sulfur emissions for purposes of compliance with the requirements of this title during the First Phase, which technological means commences operation after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(B) emits sulfur dioxide during the First Phase at an annual rate of 1.20 lbs/mmBtu or less.

"(3) ADDITIONAL ALLOWANCE ALLOCATIONS.—The tonnage of additional allowances allocated under paragraph (2) to each unit referred to in paragraph (2) shall be equal (to the extent adequate allowances are available in the reserve referred to in paragraph (1)) to the amount by which (A) the product of 1.2 lbs/mmBtu multiplied by the unit's baseline, divided by 2,000 exceeds (B) the projected actual annual tonnage emitted by the unit during the First Phase, as determined by the Administrator under regulations promulgated by the Administrator. Such regulations shall insure that such allowances are allocated equitably among the units referred to in paragraph (2) and that the projected emission reductions are achieved by the units to which such allowances are issued. If allowances remain in the reserve at the end of the First Phase, such remaining allowances shall be allocated and issued to all First Phase affected units on a pro rata basis. For purposes of the preceding sentence, for any First Phase unit, the term 'pro rata basis' refers to the ratio which the First Phase allowances allocated to that unit under this title (determined without regard to this subsection) bears to the total of all First Phase allowances allocated to all First Phase units under this title (determined without regard to this subsection).

"SEC. 505. SECOND PHASE SULFUR DIOXIDE EMISSIONS REDUCTION PROGRAM.

"(a) SECOND PHASE AFFECTED UNITS.—(1) During the Second Phase each unit for which an annual tonnage of Second Phase allowances is allocated as provided in this section shall be a Second Phase affected unit under this section. Each source that includes one or more Second Phase affected units under this section shall be an affected source for the Second Phase.

"(2) During the Second Phase, no Second Phase affected unit shall emit sulfur dioxide in an annual tonnage amount which exceeds the Second Phase allowances allocated for that unit and issued to the owner or operator of the unit under section 503, plus or minus the allowances transferred to or from the unit, or carried forward from prior years.

"(b) ELECTRIC UTILITY STEAM GENERATING UNITS 75 MWE OR ABOVE EMITTING 1.20 LBS MMBTU OR ABOVE.—For each year during the Second Phase, the Administrator shall allocate and issue allowances under section 503 for each existing electric utility steam generating unit with a nameplate capacity of 75 MWe or greater and an actual 1985 emissions rate of 1.20 lbs/mmBtu or greater (as certified by the owner or operator thereof) in an amount equal to the product of the unit's baseline, multiplied by an emissions rate equal to 1.20 lbs/mmBtu, divided by 2,000 lbs/ton.

"(c) ELECTRIC UTILITY STEAM GENERATING UNITS BELOW 75 MWE EMITTING 1.20 LBS MMBTU OR ABOVE.—

"(1) IN GENERAL.—For each year during the Second Phase, the Administrator shall allocate and issue allowances under section 503 for each existing electric utility steam generating unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate of 1.20 lbs/mmBtu or greater in accordance with the same rules as are applicable under subsection (b), except as otherwise provided in this subsection.

"(2) ELECTION FOR SMALL SYSTEMS.—(A) If a unit referred to in paragraph (1) is owned by an electric utility with, as of December 31, 1989, a total steam electric generating capacity of 500 megawatts or less, the owner or operator of the unit may make an election to be covered by this paragraph for the period January 1, 2001 to December 31, 2010 (or for such shorter period as adequate allowances are available in the Small System Account established under this paragraph). Such election shall be made by January 1, 1997, and may be revoked at any time after that date. During the period that any such election is in effect, the unit may emit sulfur dioxide in excess of the allowances allocated to the unit under paragraph (1) if the unit does not exceed an annual emissions rate equal to the unit's 1985 annual average emissions rate. The allowances allocated to the unit pursuant to paragraph (1) for such 10-year period shall be treated as used by the unit and may not be transferred or banked for as long as the election remains in effect.

"(B) No later than January 1, 1998, and before January 1 of each successive year through 2009, for each unit for which an election is in effect under this paragraph, the Administrator shall forecast or calculate, as appropriate, the annual tonnage of sulfur dioxide emissions from the unit in excess of the allowances allocated for that unit under paragraph (1). Such excess shall hereinafter in this paragraph be referred to as the 'excess tonnage'. Allowances equal to the excess tonnage shall be deducted from the Small System Account established under subparagraph (D) of this paragraph. On each of the dates referred to in the preceding sentence, the Administrator shall issue a public report specifying the number of allowances to be deducted from the Small System Account for units for which an election is in effect under this paragraph, the number of allowances previously deducted from the Account, the number of allowances remaining available in the Account, and the projected period for which allowances will be available in the Account under this paragraph.

"(C)(i) The Administrator is authorized, on petition of an owner or operator of a unit with a nameplate capacity below 75 Mwe that is part of an electric utility system as described to clause (ii) that is particularly well controlled and primarily dependent on units with a nameplate capacity below 75 Mwe, to treat any such unit as a unit owned by a utility referred to in subparagraph (A) for purposes of participation in the Small System Account so long as such units do not exceed a 2.5 lb/mmBtu emission rate for sulfur dioxide.

"(ii) The electric utility system referred to in clause (i) is any system (I) which, as of the date of the enactment of the Clean Air Act Amendments of 1990, had at least 20 percent of its fossil-fuel capacity controlled by flue gas desulfurization devices, (II) which has more than 10 percent of its fossil-fuel capacity consisting of coal-fired units of less than 75 Mwe, and (III) which has no large units (greater than 400 Mwe) with easy or modest FGD Retrofit Cost Factors (according to the Emissions and the FGD Retrofit Feasibility at the 200 Top Emitting Generating Stations, prepared for the United States Environmental Protection Agency on January 10, 1986).

"(D) For purposes of this paragraph, the Administrator shall establish a Small System Account which shall contain (prior to any deductions under this paragraph) total allowances equal to the difference between—

"(i) 2.5 lbs/mmBtu multiplied by the baseline of each of the units subject to section 518 (relating to DOE units), and

"(ii) 0.4 lbs/mmBtu multiplied by the baseline of each of such units,

multiplied by 5 and divided by 2,000 lbs per ton.

"(d) ELECTRIC UTILITY STEAM GENERATING UNITS EMITTING BELOW 1.20 LBS/MMBTU IN 1985.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, for each year during the Second Phase the Administrator shall allocate and issue allowances under section 503 for each existing electric utility steam generating unit with an actual 1985 sulfur dioxide emission rate below 1.20 lbs/mmBtu in an annual amount equal to the product of the unit's baseline multiplied by the unit's 1985 actual emissions rate, divided by 2,000 lbs/ton, unless the owner or operator of the unit elects an alternative allowance amount under subsection (e). Such election and any other election under subsection (e), shall be made no later than March 1, 1991.

"(2) 100 PERCENT GAS UNITS.—Allowances shall not be required during the Second Phase for, and the Administrator shall not allocate or issue Second Phase allowances for, an electric utility steam generating unit with an actual 1985 sulfur dioxide emission rate below 0.20 lbs/mmBtu which burns only natural gas as a fuel and which burned only natural gas as a fuel during the calendar years 1985 through 1987. If a unit covered by this paragraph exceeds any fuel or emissions requirement set forth in this subsection, this subsection shall not apply and the unit shall be treated as a new electric utility steam generating unit required to obtain allowances under this title.

"(3) CERTAIN ULTRA CLEAN UNITS WITH LOW CAPACITY FACTORS IN 1985.—For the purposes of this section, in the case of any unit operated by a utility that furnishes electricity, electric energy, steam, and natural gas within an area consisting of a city and 1 contiguous county, and in the case of any unit owned by a State authority, the output of which unit is furnished within that same area consisting of a city and 1 contiguous county, the Administrator shall allocate and issue under section 503 from the reserve under paragraph (5), to the extent allowances are available in such reserve, in addition to the allowances otherwise allocated to such units under this section, 7,000 allowances to the utility and 2,000 allowances to the State authority. Such allowances shall be hereinafter referred to in this subsection as 'additional allowances'.

"(4) UNITS WHICH CONVERTED TO COAL.—For each year during the Second Phase, the Administrator shall allocate and issue under section 503 from the reserve under paragraph (5), to the extent allowances are available in such reserve, allowances for each existing utility unit located east of the Mississippi that has completed conversion from predominantly gas fired operation to coal fired operation between January 1, 1985, and December 31, 1987, for which there has been issued a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq., repealed 1987) in an annual amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable sulfur dioxide emissions rate, divided by 2,000 lbs/ton, unless the owner or operator of such unit has obtained allowances equal to its actual emissions. Allowances allocated and issued under this paragraph to any such unit that are additional to the allowances which would otherwise be issued to the unit under this section shall be hereinafter in this subsection referred to as 'additional allowances'.

"(5) SPECIAL RESERVE FOR ADDITIONAL ALLOWANCES UNDER PARAGRAPHS (3) AND (4).—For purposes of allocating and issuing the additional allowances referred to in paragraphs (3) and (4), the Administrator shall reserve from the allowances allocated and issued during the Second Phase to units referred to in section 503(i)(3) allowances equal to 13,300 tons per year. For purposes of adjusting the allowances issued under this Act pursuant to section 503(i)—

"(A) the additional allowances allocated and issued to any unit under paragraph (3) and (4) shall be treated as allowances for units referred to in section 503(i)(3) and shall not be treated as allowances for units referred to in section 503(i)(2), but

"(B) such additional allowances shall not be subject to adjustment and reallocation under section 503(i).

Nothing in the preceding sentence shall be construed to affect the application of section 503(i) or any other provision of this title to allowances allocated and issued to units referred to in paragraph (3) or (4) which are not additional allowances within the meaning of paragraph (3) or (4).

"(e) ELECTION FOR CERTAIN UNITS EMITTING BELOW 1.20 LBS/MMBTU—

"(1) COAL UNITS EMITTING 0.6 OR LESS.—For the Second Phase, at the election of the owner or operator of an existing electric utility steam generating unit which is a coal-fired unit with an actual 1985 sulfur dioxide emission rate of 0.60 lbs/mmBtu or less, the Administrator shall allocate and issue allowances under section 503 to the unit in an annual amount equal to the product of the rate computed under subparagraph (A) multiplied by the fuel consumption computed under subparagraph (B), divided by 2,000 lbs/ton.

"(A) The rate computed under this paragraph shall be the most stringent of:

"(i) 0.60 lbs/mmBtu, or

"(ii) the most stringent emission rate (if any) (in lbs/mmBtu) applicable to the unit under the applicable implementation plan, as in effect on December 31, 1989, based on documentation in existence before January 1, 1990.

"(B) The fuel consumption computed under this subparagraph shall be one of the following (as elected by the owner or operator):

"(i) the unit's fuel consumption at a 60 percent capacity factor, or

"(ii) the unit's baseline multiplied by 120 percent.

An election to use either clause (i) or (ii) for purposes of this subparagraph for any unit owned by any owner or operator shall apply with respect to all other units owned or operated by the owner or operator which are subject to this paragraph.

"(2) COAL UNITS EMITTING 0.6 TO 1.2.—During the Second Phase, at the election of the owner or operator of an existing electric utility steam generating unit which is a coal-fired unit with an actual 1985 sulfur dioxide emission rate greater than 0.6 lbs/mmBtu (but less than 1.2 lbs/mmBtu), the Administrator shall allocate and issue allowances under section 503 to the unit in an annual amount equal to the product of the unit's 1985 actual emissions rate, multiplied by one of the following (as elected by the owner or operator), divided by 2,000 lbs/ton:

"(A) the unit's fuel consumption at a 60 percent capacity factor, or

"(B) the unit's baseline multiplied by 120 percent.

An election to use either subparagraph (A) or (B) for purposes of this paragraph for any unit owned by any owner or operator shall apply with respect to all other units which are owned or operated by that owner or operator and which are subject to this paragraph.

"(3) CERTAIN OIL OR GAS UNITS EMITTING 0.6 OR LESS.—During the Second Phase, at the election of the owner or operator of an existing electric utility steam generating unit which is an oil- or gas-fired unit with an actual 1985 sulfur dioxide emission rate of 0.6 lbs/mmBtu or less, the Administrator shall allocate and issue allowances under section 503 to the unit in an annual amount equal to the product of 120 percent of the unit's baseline multiplied by the most stringent of the following, and divided by 2,000 lbs/ton:

"(A) 0.6 lbs/mmBtu.

"(B) The most stringent emission rate for fuel oil, if any, in lbs/mmBtu applicable to the unit under the applicable implementation plan in effect on December 31, 1989, based on documentation in existence before January 1, 1990.

No unit which burned as its fuel during the period 1980 through 1989 on average more than 90 percent natural gas may elect to have allowances allocated and issued as provided in this paragraph.

"(4) OIL OR GAS UNITS EMITTING 0.6 TO 1.2.—During the Second Phase, at the election of the owner or operator of an existing electric utility steam generating unit which is an oil- or gas-fired unit with an actual 1985 sulfur dioxide emission rate greater than 0.6 lbs/mmBtu (but less than 1.2 lbs/mmBtu), the Administrator shall allocate and issue allowances under section 503 to the unit in an annual amount equal to the product of 120 percent of the unit's baseline, multiplied by the unit's actual 1985 emissions rate, divided by 2,000 lbs/ton.

"(f) CERTAIN UNITS TREATED AS EXISTING UNITS.—For the Second Phase, the Administrator shall allocate and issue allowances under section 503 to each electric utility steam generating unit which is listed in table B of this subsection in an annual amount equal to the amount specified in table B.

TABLE B

| Unit | Allowances |
|---|---|
| Brandon Shores | 8,907 |
| Miller 4 | 9,197 |
| TNP One 2 | 2,507 |
| Zimmer 1 | 18,458 |
| Spruce 1 | 7,647 |
| Clover 1 | 2,796 |
| Clover 2 | 2,796 |
| TNP One 3 | 2,506 |
| Twin Oak 1 | 9,158 |
| Cross 1 | 6,401 |
| TNP One 4 | 2,506 |

For purposes of making adjustments under section 503(i), the units referred to in this subsection shall be treated as units described in section 503(i)(3).

"(g) BASELINE FOR CERTAIN UNITS IN STATE EXPERIENCING 25 PERCENT POPULATION GROWTH.—(1) For each existing electric utility steam generating unit in commercial operation before January 1, 1985 and operating in a State which—

"(A) has experienced population growth in excess of 25 percent between 1980 and 1988 (according to State Population and Household Estimates, with Age, Sex, and Components of Change: 1981-1988, issued by the United States Department of Commerce), and

"(B) had an installed electric generation capacity of more than 30,000,000 kw in 1988, the baseline for purposes of this section shall be the annual average fuel consumption (in mmBtu) during any 3 consecutive calendar years between 1980 and 1989 (as selected by the owner or operator) in lieu of the years otherwise applicable for such purposes under section 502(a)(8). Such election shall be made not later than March 1, 1991.

"(2) The Administrator shall calculate the amount by which annual allowances allocated to the units referred to in paragraph (1) exceeds the amount of annual allowances which would be allocated to such units in the absence of paragraph (1). The amount of such excess allowances (if any) issued to such units shall be adjusted pro rata to ensure that the total of such excess allowances allocated to all such units will equal 40,000. For such purposes, the term 'pro rata' refers to the ratio which the allowances which would be issued to each such unit (without regard to the 40,000 allowance limitation) bears to the allowances which would be issued to all such units (without regard to such 40,000 allowance limitation).

"(3) In order to allocate and issue allowances to the units referred to in paragraph (1), the Administrator shall reserve allowances in the amount of 40,000 each year from the Second Phase allowances withheld under section 519(b).

"(h) INTERRUPTIBLE GAS UNITS.—(1) This subsection shall apply only to electric utility steam generating units which burned as their fuel during the period 1980 through 1989 more than 90 percent natural gas, and which purchase natural gas under an interruptible contract. Each such unit shall be referred to in this subsection as an 'interruptible gas unit'.

"(2) So long as sufficient allowances are available in the Reserve for Gas Supply Interruptions established under section 503(i)(5), the Administrator shall issue to the owner or operator of any interruptible gas unit (and deduct from such reserve) allowances for emissions of sulfur dioxide for any year during the Second Phase at a tonnage level in excess of the allowances otherwise allocated and issued to the unit under this section if each of the following requirements are met:

"(A) The excess emissions referred to in this paragraph are temporary emissions during a period or periods in which natural gas supplies are interrupted (as certified by the owner or operator in such form as the Administrator may require) under—

"(i) an interruptible contract, or

"(ii) State law,

by reason of either weather or other unusual factors not under the control of the owner or operator of the unit. The total of the periods of such interruption in any calendar year may not exceed 25 percent of that calendar year (hereinafter in this paragraph referred to as the 'interruption period').

"(B) During the interruption period, emissions of sulfur dioxide from the unit shall not exceed the lower of—

"(i) 0.5 lbs per million Btu, or

"(ii) the most stringent rate applicable to the unit under the applicable implementation plan.

"(C) The unit burns as its fuel more than 90 percent natural gas during any period other than the interruption period.

"(3) If an interruptible gas unit fails to meet any requirement of this subsection, the owner or operator of the unit shall be required to obtain allowances under this title for the excess emissions referred to in paragraph (2).

"SEC. 506. NITROGEN OXIDES EMISSION REDUCTION PROGRAM.

"(a) PROGRAM.—Emission rate requirements for nitrogen oxides shall be met in the Second Phase by coal-fired electric utility steam generating units with a nameplate capacity of 75 MWe or greater. Emission rate requirements under this section shall not apply to cyclone or wet-bottom boilers unless the Administrator promulgates a rule under subsection (c), and includes in such rule the finding referred to in the last sentence of subsection (c). For cell burners, any such emission rate requirement shall be based on commercially available burner technology.

"(b) $NO_x$ EMISSION RATE LIMITATIONS.—The Administrator shall, by rule, within 3 years after the enactment of the Clean Air Act Amendments of 1990 establish a program under this section and section 111 to reduce total nitrogen oxide emissions by approximately 2,500,000 tons below 1989 projected emissions for calendar year 2000. Pursuant to such program, the Administrator shall establish emission rate limitations under this section, to take effect at the beginning of Second Phase based on the application of low nitrogen oxides burner technology for each type of boiler. In establishing such limitations the Administrator shall take into

consideration boiler age and configuration, safety, efficiency, technology, and other relevant factors. In addition, if necessary for purposes of such program, the Administrator shall, consistent with the requirements of section 111, revise new source performance standards under section 111 for emissions of oxides of nitrogen from electric utility steam generating units to insure that such new source performance standards are no less stringent than the emission rate limitations required under this subsection. Any unit subject to an emission rate limitation under this section shall not be an affected unit for nitrogen oxides for purposes of this title, except as provided in section 509.

"(c) ADJUSTMENT OF 2,500,000 TON REDUCTION.—The Administrator may promulgate a rule in calendar year 1996 or any time thereafter increasing the tonnage of reductions in oxides of nitrogen required to be achieved under this section from 2,500,000 tons up to not more than 4,000,000 tons if the Administrator finds, in such rule, that such reductions are—

"(1) needed either for purposes of reducing acid deposition or for meeting the national primary ambient air quality standard for ozone, and

"(2) cost effective, taking into consideration alternative means of reducing such deposition or achieving such standard under this Act, and the practicability of the necessary control technology.

In making any finding under item (1) above, the Administrator shall take into account (A) the reductions in oxides of nitrogen achieved or expected to be achieved under other provisions of this Act and (B) the findings of the study under section 185B. Such rule shall include an explanation of the basis for such findings. To provide such reductions, the Administrator (as part of such rule) may establish or revise new source performance standards under section 111 for nitrogen oxide control. Such rule shall provide reasonable lead time, taking into consideration safety, costs, technology, and other relevant factors, including the requirements of subsection (b). Any such rule may apply to cyclone or wet-bottom boilers, or both, if the Administrator finds that methods are available for reducing emissions from such boilers that are as cost effective as the application of low nitrogen oxides burner technology in the case of wall-fired or tangentially-fired boilers.

"SEC. 507. PERMITS AND COMPLIANCE PLANS.

"(a) PERMIT PROGRAM.—The provisions of this title shall be implemented, subject to section 503, by permits issued to units subject to this title in accordance with the provisions of title IV, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

"(1) annual emissions of sulfur dioxide or nitrogen oxides (if applicable) in excess of the allowances allocated to that unit for the year concerned and issued to the owner or operator of the unit for that year, plus or minus the allowances transferred to or from the unit for that year or carried forward to that year from prior years;

"(2) exceedances of applicable emissions rates, and

"(3) contravention of any other provision of the permit.

Permits issued to implement this title shall be issued for a period of 5 years, notwithstanding title IV.

"(b) COMPLIANCE PLAN.—Each initial permit application shall be accompanied by a compliance plan for the source to comply with its requirements under this title. Where an affected source consists of more than one affected unit, such plan shall cover all such units, and for purposes of section 402(c), such source shall be considered a 'facility'. Nothing in this section regarding compliance plans or in title IV shall be construed as affecting allowances. The compliance plan shall provide all necessary information on the schedule and means by which the source will achieve compliance with its First or Second Phase requirements, including specification of any additional allowances beyond the initial allocation that will be used to achieve compliance. The Administrator may also require—

"(1) for a source, a demonstration of attainment of national ambient air quality standards, and

"(2) from the owner or operator of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance at the affected sources.

"(c) FIRST PHASE PERMITS.—The Administrator shall issue permits to First Phase affected sources under section 504.

"(1) PERMIT APPLICATION AND COMPLIANCE PLAN.—(A) Not later than 27 months after the date of the enactment of the Clean Air Act Amendments of 1990, the owner or operator of each First Phase affected source under section 504 shall submit a permit application and compliance plan for that source in accordance with regulations issued by the Administrator under paragraph (3). The permit application and the compliance plan shall be binding on the owner or operator for purposes of this title and section 402(a), and shall be enforceable in lieu of a permit until a permit is issued by the Administrator for the source.

"(B) In the case of a compliance plan for a First Phase affected source under section 504 for which the owner or operator proposes to meet the requirements of that section by reducing utilization of the unit by 20 percent or more, as compared with the baseline prescribed in section 502(8)(A), or by shutting down the unit, the owner or operator of the unit shall include in the compliance plan a specification of the means to compensate for the reduced output of the affected source, including a specification of (i) any other source of electric energy, (ii) any energy conservation or load management programs, and (iii) any imported energy or the other energy that will provide electrical generation. The affected source, and any unit to be used for such compensating generation, if not otherwise affected under section 504, shall be deemed affected under section 504 and subject to the Phase I requirements of this title, except that allowances shall be allocated to such unit in an amount equal to the product of the unit's baseline multiplied by the unit's actual 1985 emission rate, divided by 2000 lbs/ton.

"(2) EPA ACTION ON COMPLIANCE PLANS.—If the Administrator determines that a proposed compliance plan does not satisfy the requirements of this title or title IV, the plan shall be disapproved within 6 months after receipt of a complete submission. If a plan is disapproved, it may be resubmitted for approval with such changes as the Administrator shall require consistent with the requirements of this title and within such period as the Administrator prescribes as part of such disapproval.

"(3) REGULATIONS; ISSUANCE OF PERMITS.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations, in accordance with title IV, to implement a Federal permit program to issue permits for affected sources under this title. Following promulgation, the Administrator shall issue a permit to implement the requirements of section 504 and the allowances provided under section 503 to the owner or operator of each affected source under section 504. Such a permit shall supersede any permit application and compliance plan submitted under paragraph (1).

"(4) FEES.—During the First Phase, no fee shall be required to be paid under section 402(b)(3) or under section 110(a)(2)(L) with respect to emissions from any unit which is a First Phase affected unit under section 504.

"(d) GOVERNOR'S APPROVAL.—Any owner or operator submitting a First Phase permit application and compliance plan under subsection (c) shall request an approval from the Governor of any State within which the source is located that the application and compliance plan are consistent with State law. Where required by State law, the Governor's approval may preclude the use of coal produced outside the State at the source. The Governor's approval shall be a condition of any permit issued by the Administrator to the source unless the Administrator, within 60 days after receipt, notifies the Governor that the approval is inconsistent with the provisions or purposes of the Act or with other compelling national interest. In the event that the Governor fails or refuses to act on a request for approval within 90 days after receipt of the request, the requirements of this subsection shall be waived with respect to such application and compliance plan.

"(e) SECOND PHASE PERMITS.—(1) To provide for permits for (A) new electric utility steam generating units required under section 503(e) to have allowances, (B) affected units or sources under section 505, and (C) existing coal-fired electric utility steam generating units subject to nitrogen oxide emission reductions under section 506, each State in which one or more such units or sources are located shall submit in accordance with title IV, a permit program for approval as provided by that title. Upon approval of such program, for the units or sources subject to such approved program the Administrator shall suspend the issuance of permits as provided in section 402(e) of title IV.

"(2) The owner or operator of each affected source under section 505 shall submit a permit application and compliance plan for that source to the permitting authority, not later than January 1, 1996.

"(3) Not later than December 31, 1997, each State with an approved permit program shall issue permits to the owners or operators of affected sources under section 505 (Second Phase affected sources) that satisfy the requirements of title IV and this title and that submitted to such State a permit application and compliance plan pursuant to paragraph (2). In the case of a State without an approved permit program by July 1, 1996, the Administrator shall, not later than January 1, 1998, issue a permit to the owner or operator of each such affected source. In the case of affected sources for which applications and plans are timely received under paragraph (2), the permit application and the compliance plan, including amendments thereto, shall be binding on the owner or operator and shall be enforceable as a permit for purposes of this title and section 402(a) until a permit is issued by the permitting

*authority for the affected source. The provisions of section 558(c) of title V of the United States Code (relating to renewals) shall apply to permits issued by a permitting authority under this title and title IV.*

*"(4) The permit issued in accordance with this subsection for an affected source shall provide that the affected units at the affected source may not emit an annual tonnage of sulfur dioxide in excess of the allowances allocated to each such unit and issued to the source for the year concerned, plus or minus the allowances transferred to or from such units for that year or carried forward from prior years. In the case of a unit referred to in section 505(c)(2), relating to election for small systems, the permit shall also provide that such unit may not exceed the annual emissions rate specified in that section.*

*"(f) UNITS SUBJECT TO CERTAIN OTHER LIMITS.—The owner or operator of any unit subject to an emission rate requirement under section 506 shall submit a permit application and compliance plan for such unit to the permitting authority, not later than January 1, 1998. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of title IV and this title, including any appropriate monitoring and reporting requirements. Unless designated under section 509, such a unit shall not receive, and is not obligated to emit oxides of nitrogen in conformance with, allowances issued for oxides of nitrogen under this title.*

*"(g) NEW UNITS.—The owner or operator of each source that includes a new electric utility steam generating unit shall submit a permit application and compliance plan to the permitting authority not later than 24 months before the later of (1) the date of the commencement of the Second Phase, or (2) the date on which the unit commences operation. The permitting authority shall issue a permit to the owner or operator of the unit that satisfies the requirements of title IV and this title.*

*"(h) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section. In considering any permit application and compliance plan under this title, the permitting authority shall ensure coordination with the applicable electric ratemaking authority, in the case of regulated utilities, and with unregulated public utilities.*

*"(i) PROHIBITION.—(1) It shall be unlawful for an owner or operator required to submit a permit application or compliance plan under this title to fail to submit such application or plan in accordance with the deadlines specified in this section or to otherwise fail to comply with regulations implementing this section.*

*"(2) It shall be unlawful for any person to operate any source subject to this title except in compliance with the terms and requirements of a permit application and compliance plan (including amendments thereto) or permit issued by the Administrator or a State with an approved permit program. For purposes of this subsection, compliance, as provided in section 404(g), with a permit issued under title IV which complies with this title for sources subject to this title shall be deemed compliance with this subsection as well as section 402(a).*

*"(3) In order to ensure reliability of electric power, nothing in this title or title IV shall be construed as requiring termination of operations of an electric utility steam generating unit for failure to have an approved permit or compliance plan, except that any such unit may be subject to the applicable enforcement provisions of section 113.*

*"SEC. 508. REPOWERED UNITS.*

*"(a) AVAILABILITY.—Not later than January 1, 1998, the owner or operator of any Second Phase affected unit may demonstrate to the permitting authority that such unit will be repowered with a qualifying clean coal technology to comply with the requirements applicable to that unit pursuant to section 505 or 506. The owner or operator shall, as part of any such demonstration, provide, not later than December 31, 2000, satisfactory documentation of a preliminary design and engineering effort for such repowering, an executed contract for the majority of the equipment to repower such unit, and such other information as the Administrator may require by regulation. The replacement of an existing electric utility steam generating unit with a new electric utility steam generating unit using a repowering technology referred to in section 502(a)(14) which is located at a different site, shall be treated as repowering of the existing unit for purposes of this title and such replacement unit shall not be treated as a new electric utility steam generating unit within the meaning of section 502 if—*

*"(1) the replacement unit is designated by the owner or operator to replace such existing unit,*

*"(2) the existing unit is retired from service on or before the date on which the designated replacement unit enters commercial operation, and*

*"(3) the designated replacement unit is located in the same air quality control region as the existing unit.*

*"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) for any unit shall be granted an extension of the date on which such unit is required to comply with Second Phase requirements. Such date shall be extended from December 31, 2000 to December 31, 2003. The extension shall be specified in the permit issued to the source under section 507, together with any compliance schedule and other requirements, consistent with this title, necessary to meet Second Phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j).*

*"(2) If (A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to repower such unit with a clean coal unit, and (B) such owner or operator demonstrates to the satisfaction of the Administrator that the repowering technology to be utilized by such unit has been properly constructed and tested on such unit, but nevertheless has been unable to achieve the emission reduction limitations and is economically or technologically infeasible, such existing unit may be retrofitted or repowered with equipment or facilities utilizing another clean coal technology or other available control technology.*

*"(c) CONTROL REQUIREMENTS.—A repowered unit replacing an existing unit qualifying for an extension under this section shall not be required to meet any standard of performance under section 111. A repowered unit replacing an existing unit qualifying for an extension under this section shall not be subject to the requirements of part C or D of this Act if the projected emissions from the repowered unit will not result in an increase in emissions, relative to predemonstration actual emissions of the existing unit, as determined by the Administrator, of any pollutant regulated under this Act. For purposes of calculating projected emissions for purposes of this paragraph, a 70 percent capacity factor shall be used. Notwithstanding the provisions of this subsection, no new unit (1) designated as a replacement for an existing unit, (2) qualifying for the extension under subsection (b), and (3) located at a different site than the existing unit shall receive an exemption from the requirements imposed under section 111 and parts C and D of the Act.*

*"(d) ALLOWANCES.—(1) For the 3-year extension period granted to an affected unit under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of—*

*"(A) emissions limit for sulfur dioxide applicable to the unit under the applicable implementation plan, or*

*"(B) its actual emission rate for 1996.*

*Such allowances may not be transferred or used by any other source to meet requirements of this title.*

*"(2) The owner or operator of the affected unit for which an extension has been granted under this section shall notify the Administrator 60 days in advance of the date on which the affected unit is to be removed from operation to install the repowering technology. Effective on that date, allowances shall be issued for the unit in the tonnage calculated by multiplying 1.20 lbs/mmBtu times the units baseline, divided by 2,000 lbs/ton. Allowances for the year in which the source is removed from operation to install the repowering technology shall be prorated accordingly, and are transferable.*

*"(3) In the case of any unit for which an extension has been granted under this section, the allowances allocated and issued for calendar years after repowering is complete shall be equal to 1.20 lbs/mmBtu multiplied by the unit's baseline, divided by 2,000 lbs/ton.*

*"(4) Allowances shall be allocated and issued under this section for a designated replacement unit which replaces an existing unit (as provided in the last sentence of subsection (a)) in lieu of allocating and issuing allowances for the existing unit.*

*"(5) For the purpose of making adjustments under section 503(i), the units with an extension under this subsection shall be treated as having allowances allocated and issued under paragraph (3).*

*"(e) CERTAIN UNITS SELECTED FOR NEGOTIATIONS.—For purposes of allocating and issuing Second Phase allowances under this title, in the case of any oil and gas fired electric utility steam generating unit which has been selected for negotiations leading to award of clean coal demonstration funding by the Secretary of Energy before July 27, 1989, the Administrator shall allocate allowances to such unit in accordance with paragraph (3) of subsection (d), in lieu of allocating allowances to that unit pursuant to section 505, but no such unit shall be eligible for an extension under this section.*

*"(f) PROHIBITION.—It shall be unlawful for the owner or operator of a repowered source to fail to comply with the requirements of this section, and any regulations to implement this section.*

*"SEC. 509. ELECTION FOR ADDITIONAL SOURCES.*

*"(a) APPLICABILITY.—The owner or operator of any existing unit or process source that is*

not an affected unit for sulfur dioxide or oxides of nitrogen, or both as the case may be, may elect to designate that unit or process source as an affected unit under this section for such pollutant or pollutants. Such an election may be submitted to the Administrator for approval anytime after promulgation of regulations under this section. The Administrator shall approve a designation that meets the requirements of this section. Following approval, such designated unit or process source shall be treated as an affected unit for purposes of this title and shall receive allowances as provided in this section for periods following such approval.

"(b) ESTABLISHMENT OF BASELINE.—The baseline for a unit designated as an affected unit under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if not available, the Administrator may prescribe a baseline based on alternative representative data.

"(c) ALLOWANCES FOR AFFECTED UNITS.—(1) Allowances allocated and issued under this title for sulfur dioxide or nitrogen oxides to a unit which is an affected unit under this section shall be equal to the product of the unit's baseline multiplied by the unit's actual 1985 emission rate in lbs/mmBtu, divided by 2,000 lbs/ton.

"(2) Beginning in the Second Phase, the allowances for oxides of nitrogen for a unit for which an election is in effect under this section for oxides of nitrogen shall be determined based on the rate prescribed under section 506 for any unit subject to that section and any such unit shall be required only to comply with such allowances and shall not also be subject to an emission rate requirement under section 506.

"(3) This subsection shall not apply to any process source.

"(d) PROCESS SOURCES.—The Administrator shall establish, by regulation by 1995, a program for designation of process sources which commenced operation before the date of the enactment of the Clean Air Act Amendments of 1990 as affected units for purposes of this section. The Administrator shall define the sources that may be included (not including any unit as defined under this title), specify the emission baseline and other data requirements, prescribe CEMS or other monitoring requirements, and promulgate permit, reporting, and any other requirements necessary to implement such a program.

"(e) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the allowances calculated under subsection (c) or (d), in accordance with section 503. Section 503(i) shall not apply to the allowances issued under this section. Such allowances may be transferred and banked in accordance with the provisions of this title. The permitting authority shall issue a permit for units and process sources which are designated as affected units under this section in the same manner as provided in section 507.

"(f) LIMITATION.—Any unit or process source which is designated under this section as an affected unit shall not transfer or bank allowances produced as a result of emission reductions resulting from reduced utilization or shutdown or compliance with any other provisions of this Act (other than section 112 of this title) except that in the case of a reduced utilization or shutdown such allowances may be transferred or carried forward for use in subsequent years to the extent that—

"(1) any such reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section with thermal energy generated by any other unit or units subject to the requirements of this title, and

"(2) the designated unit's allowances are transferred or carried forward for use only at such other replacement unit or units.

"(g) IMPLEMENTATION.—The Administrator shall issue regulations to implement this section not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990.

"SEC. 510. EXCESS EMISSIONS ENFORCEMENT PENALTY.

"(a) EXCESS EMISSIONS ENFORCEMENT PENALTY.—The owner or operator of any affected source that emits sulfur dioxide or nitrogen oxides for any calendar year in excess of the allowances it possesses for that calendar year (hereinafter referred to as 'excess emissions') shall be liable for the payment of an excess emission penalty. That penalty shall be equal to the excess emissions multiplied by $2,000. The penalty shall be due and payable without demand to the Administrator as provided in regulations issued by the Administrator. Any such funds shall be deposited in the United States Treasury pursuant to 31 U.S.C. 3302 (the 'Miscellaneous Receipts Act'). Any penalty due and payable under this section shall not diminish any fine, penalty or fee imposed on the same source under any other section of this Act.

"(b) EXCESS EMISSIONS OFFSET.—The owner or operator of any affected source liable for payment of a penalty under subsection (a) shall also offset the excess emissions by reducing emissions of the air pollutant concerned by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The owner or operator of the source shall, within 60 days after the end of the year in which such excess emissions occurred, submit to the Administrator, and the State, a plan to achieve the required offsets. The Administrator shall also deduct allowances equal to the excess emissions tonnage from those issued for the source for the calendar year, or succeeding years, following the year in which the excess emissions occurred.

"(c) PENALTY ADJUSTMENT.—The Administrator shall, by regulation, adjust the penalty specified in subsection (a) for inflation, based on the Consumer Price Index, beginning in calendar year 1996 and annually thereafter.

"(d) PROHIBITION.—It shall be unlawful for the owner or operator of any source liable for a penalty and offset under this section to fail to pay the penalty under subsection (a) or to fail to provide, and thereafter comply with, a plan as required by subsection (b), or to fail to offset excess emissions as required by subsection (b).

"(e) SAVINGS PROVISION.—Nothing in this title shall limit or otherwise affect the application of section 113 or section 304.

"SEC. 511. MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS.

"(a) APPLICABILITY.—All affected sources subject to this title shall be required to install and operate CEMS and quality assure the data for sulfur dioxide, nitrogen oxides, opacity and volumetric flow for each unit subject to this title. The Administrator shall, by regulations issued not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, specify the requirements for CEMS, for alternative methods that provide sufficiently reliable and timely information, and for recordkeeping and reporting of information from such systems. Where 2 or more units utilize a single stack, a separate CEMS shall not be required for each unit, and for such units the regulations shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for each such unit.

"(b) FIRST PHASE REQUIREMENTS.—Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, the owner or operator of each unit subject to section 504 shall install and operate CEMS, quality assure the data, and keep records and report in accordance with regulations issued under subsection (a).

"(c) SECOND PHASE REQUIREMENTS.—Not later than January 1, 1995, the owner or operator of each source subject to sections 505 or 506 which has not previously met the requirements of subsection (a) shall comply with those requirements. Upon commencement of commercial operation of each new electric utility steam generating unit, the unit shall comply with the requirements of subsection (a).

"(d) UNAVAILABILITY OF CEMS.—If CEMS data is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner and, by regulation, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions penalties and offsets under section 510 in accordance with such regulation which shall be issued not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990.

"(e) PROHIBITION.—It shall be unlawful for the owner or operator of any source subject to this title to operate a source without complying with the requirements of this section, and any regulations implementing this section.

"SEC. 512. COMPLIANCE WITH OTHER PROVISIONS.

"(a) GENERAL.—Except as otherwise expressly provided in this Act, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any source subject to this title from compliance with any other applicable requirements of this Act.

"(b) NEW SOURCE REVIEW OF COMPLIANCE.—No physical change in, or change in the method of operation of, a stationary source for purposes of reducing emissions from such source in order to comply with this title shall be treated as a modification for purposes of section 111 or part C of title I of this Act if such change does not increase the potential emissions of any air pollutant from such source above the potential emissions before the change.

"SEC. 513. ENFORCEMENT.

"A violation by the owner or operator of a source subject to this title of the prohibitions of, requirements of, or regulations promulgated pursuant to, this title shall be a violation of this Act. Operation of an affected source to emit sulfur dioxide or nitrogen oxides in excess of its allowances shall be deemed a violation, with each ton emitted in excess of allowances held constituting a separate violation.

"SEC. 514. REPORT TO CONGRESS.

"Not later than January 1, 2003, the Administrator shall assess and submit a report

to Congress on the environmental effects of the emission reductions under this title.

"SEC. 515. CLEAN COAL TECHNOLOGY INCENTIVES.

"(a) REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATIONS.—The Administrator shall promulgate regulations under this section to revise requirements under section 111 and parts C and D of title I, as appropriate, to facilitate temporary and permanent clean coal demonstration projects, consistent with the attainment and maintenance of national ambient air quality standards and prevention of significant deterioration as provided in subsections (b) and (c). Such regulations shall address physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration means—

"(1) a project using funds appropriated under the heading 'Department of Energy—Clean Coal Technology', or

"(2) a similar project funded through appropriations for the Environmental Protection Agency.

"(b) TEMPORARY PROJECTS.—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with all State implementation plans and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or parts C or D of title I.

"(c) PERMANENT PROJECTS.—Any permanent demonstration project that complies with all State implementation plans and other requirements necessary to attain and maintain the national ambient air quality standards shall not be subject to the requirements of part C or D of title I or section 111 if the projected emissions from the project will not result in an increase in emissions, relative to its predemonstration actual emissions, as determined by the Administrator, of any pollutant regulated under this Act. For purposes of calculating projected emissions for purposes of this paragraph, a 70 percent capacity factor shall be used.

"(d) PREEXISTING REQUIREMENTS.—Any clean coal demonstration technology project shall be subject to its preexisting obligations under this Act until such time as it qualifies under regulations implementing this section for alternate requirements.

"(e) PHASE I AFFECTED SOURCES.—(1) A clean coal technology demonstration project defined in subsection (a)(1) of this section may use funds allocated to procurements issued subsequent to May 1, 1989, only if the project is installed at a facility owned or operated by the owner of an affected source subject to section 504(a) (relating to First Phase sulfur dioxide tonnage allowances).

"(2) A clean coal technology demonstration project defined in subsection (a)(2) of this section may be funded after enactment of the Clean Air Act amendments of 1990 only if the project is installed at a facility owned or operated by the owner or operator of an affected source subject to section 504(a) (relating to First Phase sulfur dioxide tonnage allowances).

"SEC. 516. SEVERE ENERGY SUPPLY INTERRUPTIONS AND ENERGY FUEL SUPPLY SHORTAGES.

"(a) EPA ORDER.—(1) The owner or operator of any unit or source required to have allowances under this title as a condition of operation may apply to the Administrator for an order under this subsection whenever, by reason of one or more of the conditions specified in subparagraph (A), (B), or (C) of paragraph (2), the total calendar year emissions of sulfur dioxide from such units and sources owned or operated by such owner or operator exceeds the allowances held by such owner or operator for that calendar year (including allowances held in reserve for contingencies). If, upon such an application, the Administrator finds, after consultation with the Secretary of Energy, that by reason of one or more of such conditions—

"(A) the ability of the owner or operator to comply with the requirements of this title has been significantly impaired,

"(B) the unit or source has emitted an amount of sulfur dioxide or oxides of nitrogen which exceeds the allowances held by the owner or operator (including allowances held in reserve for contingencies), and

"(C) the owner or operator had, before the occurrence of the condition referred to in subparagraph (A), (B), or (C) of paragraph (2), established a reasonable reserve for contingencies but that reserve did not contain sufficient allowances to cover such excess,

the Administrator shall promptly issue an order providing that allowances shall not be required to authorize such excess emissions. The Administrator shall act upon any application under this subsection in an expedited manner. Upon issuance of any such order, the emissions covered by such order in excess of the allowances held by the owner or operator shall not be treated as a violation for purposes of section 513 or for purposes of any other provision of this Act.

"(2) The conditions referred to in paragraph (1) are as follows:

"(A) A severe energy supply interruption (as defined in section 3(8) of the Energy Policy and Conservation Act) has been declared or a determination has been published by the President (including the basis of such determination) that there exists a national or regional fuel supply shortage which is, or is likely to be, of significant scope and duration and of an emergency nature and it causes or may cause a major adverse impact on public health or safety or welfare or on the economy and results, or is likely to result, from an interruption in the supply of fuel or from sabotage or an act of God.

"(B) A catastrophe has occurred that the President finds gives rise to an emergency (as defined in section 102(1) of the Disaster Relief and Emergency Assistance Act) in any part of the United States that requires an assured supply of electricity to save lives and protect property, public health and to avert or lessen the threat of a major disaster.

"(C) A catastrophe has occurred which the President finds gives rise to a major disaster (as defined in section 102(2) of the Disaster Relief and Emergency Assistance Act) in any part of the United States that requires an assured supply of electricity to alleviate the damage, loss, hardship, or suffering caused by such major disaster.

Any order under this subsection shall include such terms and conditions as the Administrator, in consultation with the Secretary of Energy, deems necessary to lessen or minimize the impact of the order consistent with the purposes of this title. The Administrator shall submit a report to Congress on all orders issued under this section. The authority of the President under this section may not be delegated to any other person.

"(b) GAS CURTAILMENTS.—Notwithstanding any emission limitation or allowance requirement applicable under this title, any electric utility steam generating unit that burned as its fuel during the period 1985 through 1987 more than 90 percent natural gas may emit during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act of 1978), sulfur dioxide at the lower of—

"(1) 0.5 lbs per million Btu, or

"(2) the most stringent rate applicable to the unit under the applicable implementation plan

if the unit burns oil during such curtailment. Notwithstanding section 505 no such unit shall be treated as a new unit required to obtain allowances under this title by reason of this subsection.

"SEC. 517. PROTECTION OF LOW-INCOME HOUSEHOLDS.

"(a) APPLICATION.—This section shall apply to each electric utility, subject to rate regulation by a State regulatory authority whose annual sales of electric energy exceed 500,000,000 kilowatt hours.

"(b) IDENTIFICATION OF EXPENDITURES.—Each State regulatory authority may, in accordance with the applicable procedures thereof, require each utility referred to in subsection (a) to identify, for purposes of this subsection, expenditures needed for purposes of compliance with First Phase or Second Phase of this title and to identify on an annual basis the expenditures made for such purposes within the past 12 months and the expenditures projected to be made for such purposes within the succeeding 24 months. These expenditures shall include both capitalized items and expensed items. Normal cost allocation principles shall apply where costs incurred may be related in part to other purposes or requirements. Such authority may make exceptions from the requirements of this section where the authority determines that the amount of such expenditures cannot be reasonably segregated and identified.

"(c) TREATMENT OF EXPENDITURES.—No utility which has identified expenditures under subsection (b) may, as determined by such authority, include in the rates and charges imposed on any income-eligible retail ratepayer any portion of the expenditures made by such utility to comply with this title. There shall be provision for notice and a public hearing on the sole issue of whether to exempt low-income residents. Any decision whether or not to exempt low-income residents and the reasons therefor must be provided to local officials. This subsection shall apply with respect to the first utility bill submitted by the utility to an income eligible ratepayer after the documentation referred to in subsection (d) is received by the utility (or after the ratepayer is found by the utility to be automatically eligible.)

"(d) INCOME-ELIGIBLE RETAIL RATEPAYER.—

"(1) IN GENERAL.—For purposes of this section, during any 12-month period an income-eligible retail ratepayer shall be any ratepayer of an electric utility subject to the provisions of subsection (b) who provides documentation to the utility (in such form and manner as the State regulatory authority shall, by rule, specify) satisfactory to establish that such ratepayer is an individual who is eligible at the commencement of such period for benefits under any of the following:

"(A) The Low-Income Home Energy Assistance Program (LIHEAP).

"(B) The supplemental security income program under title XVI of the Social Security Act.

"(C) Women, Infants and Children (WIC).
"(D) Food stamps.
"(E) Medical assistance under title XIX of the Social Security Act.
"(F) The Weatherization Assistance Program (WAP).
"(G) A State plan approved under section 402 of the Social Security Act (AFDC).

"(2) APARTMENTS.—Such term also includes any ratepayer who provides documentation to the utility (in such form and manner as the State regulatory authority shall, by rule, specify) satisfactory to establish that such ratepayer leases units in a multiple unit residential dwelling to individuals if ⅔ or more of the units are occupied by individuals who, at the commencement of such period, are eligible for any of the benefits referred to above.

"(3) AUTOMATIC ELIGIBILITY.—No documentation shall be required under this subsection in any case in which a ratepayer is known to the utility to be eligible for one of the types of assistance specified above.

"(4) STATE, LOCAL, PRIVATE NONPROFIT ORGANIZATIONS.—An electric utility shall accept documentation regarding any individual ratepayer under this subsection from any State, local, or private nonprofit organization which administers any of the programs referred to in paragraph (1).

"(e) OUTREACH.—Each utility subject to this section as provided in subsection (a) shall undertake measures, directly or through the services of low-income assistance organizations, to publicize the program under this section to the low-income community.

"(f) FALSE DOCUMENTATION.—Any person who is not an income-eligible ratepayer within the meaning of subsection (d) and who fraudulently provides false documentation to an electric utility purporting to establish that such person is an income-eligible ratepayer within the meaning of subsection (d) shall be liable to the utility for an amount equal to three times the full amount of any reduction in rates obtained by reason of such false documentation.

"SEC. 518. DOE UNITS.

"(a) ALLOWANCE ALLOCATIONS FOR CERTAIN UNITS.—In lieu of allocating allowances to the units at the Joppa, Kyger Creek, and Clifty Creek powerplants as provided in section 504 and section 505, the Administrator shall allocate and issue First Phase and Second Phase allowances pursuant to section 503 to each such unit in an amount equal to 0.4 lbs/mmBtu multiplied by the unit's baseline, divided by 2,000.

"(b) COMPLIANCE.—The Secretary of Energy shall require that affected units at each powerplant listed in Table A of section 504(a) which provides, by contract with the Secretary of Energy, more than 75 percent of the energy generated to Federal facilities on a regular basis may only utilize, for purposes of compliance with this title, a technological system of continuous emission reduction or the purchase of allowances, or any combination of the foregoing. Subject to appropriation, the Secretary of Energy shall pay the costs of construction and installation of such system of continuous emission reduction and a share of the operating costs of such system proportional to the energy purchased by the Secretary of Energy.

"SEC. 519. AUCTION.

"(a) EARLY AUCTION.—

"(1) IN GENERAL.—The Administrator, in consultation with the Secretary of the Treasury, shall conduct an auction before March 31, 1992, at which owners or operators of affected units may offer allowances for sale (hereinafter referred to as the 'early auction').

"(2) DOCUMENTATION.—Before the early auction, the Administrator shall issue to affected units such documentation as may be necessary for the owner or operator of such units to legally transfer through such auction their rights to receive allowances and for the Administrator to record such transfers. If the Administrator fails to provide such documentation within such period, for purposes of the auction, Table A in section 504 (adjusted by the 6 percent amount referred to in section 504) shall be treated as entitling the owners or operators of the units specified in Table A to receive the allowances specified in Table A (as so adjusted) during the First Phase.

"(3) LIMIT ON SALE OF SECOND PHASE ALLOWANCES.—No owner or operator of a unit or units for which Second Phase allowances are to be issued may sell at the early auction more than 50 percent of the allowances to be allocated to those units, based on the list of Second Phase allowances to be published by the Administrator by December 31, 1991.

"(4) SEALED OFFER TO SELL.—Owners or operators of units that elect to participate in the early auction shall specify (by a date set by the Administrator) in a sealed offer to sell: (A) the number of allowances to be offered for sale at the early auction, and (B) the minimum price at which such allowances may be sold at such auction.

"(5) NOTICE.—The Administrator shall publish a notice of the total number of allowances to be offered for sale at the early auction under this section.

"(6) SEALED BID SCHEDULES.—Any person may submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowances at specified prices.

"(7) SALES.—The Administrator shall match the lowest offers to sell under this subsection with the highest bids submitted in the bid schedules. All allowances for which the Administrator has established a match shall be sold at the bid price.

"(8) EFFECT OF SALE AT AUCTION.—Any sale of allowances completed through the auction under this section shall constitute—

"(A) an immediate obligation by the buyer to pay to the purchaser an amount equal to the matched bid price multiplied by the total number of allowances; and

"(B) an obligation of the seller to provide the allowances subject to such bid to the purchaser.

The failure of any person to comply with such obligations shall be considered a violation punishable by the Administrator as provided in section 113(c).

"(9) FUNDS TRANSFERRED.—No funds transferred from a purchaser to a seller of allowances under this subsection shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or to the Administrator.

"(b) ANNUAL ALLOWANCE AUCTIONS.—

"(1) 5 PERCENT TAP.—The Administrator shall withhold 5 percent of the allocation of allowances for each year which would (but for this subsection) be issued for each affected unit at an affected source. The Administrator shall record such withholding for purposes of transferring the proceeds of the allowance sales under this subsection. Except for the allowances reserved for sale or other distribution under subsection (c) and section 505(g) (relating to States experiencing population growth in excess of 25 percent), all allowances withheld under this paragraph shall be offered for sale by the Administrator at auctions under paragraph (2).

"(2) ANNUAL AUCTIONS.—Commencing in June of 1993 and in June of each year thereafter, the Administrator shall conduct auctions at which the allowances referred to in paragraph (1) shall be offered for sale in accordance with regulations promulgated by the Administrator, in consultation with the Secretary of the Treasury. One-third of the allowances referred to in paragraph (1) which authorize emissions in calendar year 1996 shall be offered for sale at the auction held under this paragraph in 1993; one-third of such allowances shall be offered for sale at the auction held under this paragraph in 1994; and one-third of such allowances shall be offered for sale at the auction held under this paragraph in 1995. In 1996 and thereafter, all of the allowances referred to in paragraph (1) which authorize emissions in the next calendar year shall be offered for sale. The auction shall be open to any person. A person wishing to bid for such allowances shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowances at specified prices. Such regulations shall allocate the auctioned allowances on the basis of bid price, starting with the highest-priced bid and continuing until all allowances for sale at such auction have been allocated. The regulations shall not permit that a minimum price be set for the purchase of withheld allowances. Allowances purchased at the auction may be used for any purpose and at any time after the auction, subject to the provisions of this title.

"(3)(A) Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, within 90 days of receipt, the Administrator shall transfer the proceeds from the auction under paragraph (2), on a pro rata basis, to the owners or operators of the affected units at an affected source from whom allowances were withheld. No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

"(B) At the end of each year, any withheld allowances not sold at the auction shall be returned, without charge, on a pro rata basis to the owners or operators of the affected units from whose allocation the allowances were withheld. For purposes of this paragraph, for any affected unit, the term 'pro rata basis' refers to the ratio which the allowances allocated to that unit bears to the allowances allocated to all affected units.

"(4) Any person holding allowances not withheld under paragraph (1) which authorize emissions of sulfur dioxide for the same year as the allowances being sold at any auction under this subsection may submit those allowances to the Administrator to be offered for sale at such auction. The proceeds of any such sale shall be transferred by the purchaser to the person submitting such allowances for sale. The holder of allowances offered for sale under this paragraph may specify a minimum sale price. Any person may purchase allowances offered for auction under this paragraph. Such allowances shall be allocated to purchasers on the basis of bid price after the auction under paragraph (2) is complete. No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by

any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

"(5) The Administrator shall record and publicly report the nature, prices and results of each auction under this subsection, including the prices of successful bids, and shall record the transfers of allowances as a result of each auction in accordance with the requirements of this section. The transfer of allowances at such auction shall be recorded in accordance with the regulations promulgated by the Administrator under this section.

"(c) SPECIAL RESERVATIONS OF ALLOWANCES WITHHELD UNDER SUBSECTION (b).—

"(1) RESERVES.—Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing the reserves referred to in paragraphs (2), (3), (4) and section 505(g) (relating to States experiencing population growth in excess of 25 percent). A portion of the Second Phase allowances withheld under subsection (b) shall be placed in such reserves, as provided in such provisions.

"(2) RESERVE FOR DIRECT SALE AT $1,500 PER TON.—(A) In accordance with regulations under paragraph (1), the Administrator shall establish a Direct Sale Reserve containing allowances in the amount of 100,000 tons per year to be offered for sale as provided in this paragraph. Allowances in the Direct Sale Reserve shall be offered for sale at a price of $1,500 per allowance, adjusted by the Consumer Price Index.

"(B) Requests to purchase allowances from the Direct Sale Reserve under this paragraph shall be approved in the order of receipt until no allowances remain in such Reserve, except that an opportunity to purchase such allowances shall be provided to the independent power producers referred to in section 503(l) before such allowances are offered to any other person. Each applicant shall be required to pay 50 percent of the total purchase price of the allowances within 6 months after the approval of the request to purchase. The remainder shall be paid on or before the transfer of the allowances.

"(C) If the Administrator determines that, during any period of 3 consecutive calendar years after 1997, less than 50 percent of the allowances available in the Direct Sale Reserve established under this paragraph have been purchased under this paragraph, the Administrator shall terminate the reserve and make such allowances available for auction under subsection (b)(2).

"(3) RESERVE FOR DIRECT SALE TO UNITS IN STATES WITH AVERAGE EMISSION RATES BELOW 0.9 MMBTU.—(A) In accordance with regulations under paragraph (1), the Administrator shall establish a Direct Sale Reserve containing allowances in the amount of 25,000 tons per year during the first 10 years of the Second Phase to be offered for sale as provided in this paragraph. Allowances in the Direct Sale Reserve shall be offered for sale at a price of $750 per allowance, adjusted by the Consumer Price Index.

"(B) Requests to purchase allowances from the Direct Sale Reserve under this paragraph shall be approved in the order of receipt until no allowances remain in such Reserve. Each applicant shall be required to pay 50 percent of the total purchase price of the allowances within 6 months after the approval of the request to purchase. The remainder shall be paid on or before the transfer of the allowances.

"(C) Only an owner or operator of a unit located in a State with a Statewide average sulfur dioxide emission for electric utility steam generating units of 0.9 lbs per mmBtu shall be eligible to purchase allowances under this paragraph.

"(D) If the Administrator determines that, during any period of 3 consecutive calendar years, less than 50 percent of the allowances available in the Direct Sale Reserve established under this paragraph have been purchased under this paragraph, the Administrator shall terminate the reserve and make such allowances available for auction under subsection (b)(2).

"(4) RESERVE FOR DISTRIBUTION TO CERTAIN UNITS.—The Administrator shall reserve allowances in the amount of 62,000 tons per year from the Second Phase allowances withheld under subsection (b) for distribution under this paragraph. The Administrator shall distribute such reserved allowances to coal fired electric utility steam generating units which have 1985 sulfur dioxide emission rates less than 1.75 lbs/mmBtu and greater than 1.2 lbs/mmBtu and which are part of a utility system with a 1985 system-wide average sulfur dioxide emission rate for coal fired units of 1.5 lbs/mmBtu or less. Each such unit shall receive such allowances in a tonnage amount equal to 50 percent of the amount computed as follows: multiply 1.2 lbs/mmBtu by the amount by which the unit's fuel consumption at a 60 percent capacity factor exceeds the unit's baseline. The allowances computed under the preceding sentence shall be adjusted to ensure that the total of the allowances distributed under this paragraph is equal to 62,000. The Administrator shall reallocate to each unit any reduction or increase in the allowances to be distributed based on such adjustment on the basis of the ratio which the allowances which would (but for such adjustment) have been distributed to such unit bears to the total allowances which would (but for such adjustment) have been distributed to such units.

"(5) PROCEEDS.—Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, the Administrator shall require that the proceeds of any sale under this subsection be transferred, within 90 days after the sale, without charge, on a pro rata basis to the owners or operators of the affected units from whom the allowances were withheld and that any unsold allowances be returned, without charge, on a pro rata basis, to such owners or operators. No proceeds of any sale under this subsection shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or to the Administrator. For purposes of this paragraph, for any affected unit, the term 'pro rata basis' refers to the ratio which the allowances allocated to that unit bears to the allowances allocated to all affected units.

"SEC. 520. REGULATORY REFORMS TO REDUCE AIR EMISSIONS.

"(a) PROHIBITION.—No State regulated electric utility shall be eligible for interpollutant trading under section 503(c) unless the State regulatory authority exercising ratemaking authority over such utility has certified by January 1, 1995, to the Administrator that the State regulatory authority and such utility have complied with subsection (b) of this section.

"(b) STATE REGULATORY RULEMAKING—Not later than January 1, 1995—

"(1) each such utility shall undertake and complete a planning process and prepare a plan which evaluates a range of resources, including both new power supplies and energy conservation, in order to meet expected future demand at the lowest system cost and provide to such State regulatory authority such plan;

"(2) each such State regulatory authority shall review and consider each plan provided under paragraph (1) and identify and implement appropriate State regulatory mechanisms to ensure that implementation of the plan referred to in paragraph (1) is profitable to the utility; and

"(3) each such utility shall implement any plan approved by the State regulatory authority.

The State regulatory authority shall specifically identify under paragraph (2) regulatory mechanisms to ensure that utility investments in energy conservation and load management measures do not restrict or impair a utility's ability to earn its authorized rate of return.

"(c) UNREGULATED UTILITIES.—All owners or operators of affected units under Phase I whose wholesale rates are not subject to the jurisdiction of the Federal Energy Regulatory Commission or of a State regulatory authority, shall develop and implement, through a public hearing process, a least-cost plan as described in section 520(b)(1) by January 1, 1995. The plan shall be submitted to the Administrator, the Secretary of Energy, and Congress and shall be updated every 2 years.

"(d) STATES CHOOSING NOT TO ADOPT.—If a State regulatory authority chooses not to implement the regulatory reforms under subsection (b)(2), it shall submit by January 1, 1995, to the Administrator a written statement of its determination not to implement such proposed reforms together with its reasons for not doing so.

"(e) SAVINGS PROVISION.—Nothing in this section precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

"(f) DEFINITIONS.—As used in this section:

"(1) The term 'State regulatory authority' means any State agency which has ratemaking authority with respect to the sale of electric energy or energy services by any electric utility (other than such State agency).

"(2) The term 'State regulated electric utility' means any electric utility with respect to which a State regulatory authority has ratemaking authority.

"SEC. 521. EFFECT OF TITLE ON CERTAIN FEDERAL AGENCIES.

"Nothing in this title shall be construed to prohibit the Tennessee Valley Authority from receiving, retaining, and using, in accordance with other applicable law, any funds received under this title from the sale of allowances.".

SEC. 502. NEW SOURCE PERFORMANCE STANDARDS.

(a) REPEAL.—Section 111(a)(1) (42 U.S.C. 7411(a)(1)) is amended to read as follows:

"(1) The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.".

(b) REVISED REGULATIONS.—Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate revised regulations for standards of performance for new

*electric utility steam generating units commencing construction after the date on which such regulations are proposed that, at a minimum, require any source subject to such revised standards to emit any pollutants for which a standard has been promulgated pursuant to section 109 at a rate not greater than would have resulted from compliance by such source with the applicable standards of performance under this section before such revision.*

*(c) APPLICABILITY.—The provisions of subsections (a) and (b) apply only so long as section 503(e) of the Clean Air Act (relating to new electric utility steam generating units) remains in effect.*

*TITLE VI—PROVISIONS RELATING TO ENFORCEMENT*

*Sec. 601. Section 113 enforcement.*
*Sec. 602. Compliance certification.*
*Sec. 603. Administrative enforcement subpoenas.*
*Sec. 604. Enforcement of administrative orders.*
*Sec. 605. Scope of emergency orders.*
*Sec. 606. Contractor listings.*
*Sec. 607. Judicial review pending reconsideration of regulation.*
*Sec. 608. Citizen suits.*
*Sec. 609. Enhanced implementation and enforcement of new source review requirements.*
*Sec. 610. Movable stationary sources.*
*Sec. 611. Enforcement of new titles of the Act.*

*SEC. 601. SECTION 113 ENFORCEMENT.*

*Section 113 is amended to read as follows:*

*"SEC. 113. FEDERAL ENFORCEMENT.*

*"(a) IN GENERAL.—*

*"(1) ORDER TO COMPLY WITH SIP REQUIREMENTS.—Whenever, on the basis of any information available to him, the Administrator finds that any person has violated or is in violation of any requirement of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of the violation is issued, the Administrator may, without regard to the period of violation (subject to section 2462 of title 28 of the United States Code)—*

*"(A) issue an order requiring such person to comply with the requirements of such plan or permit,*

*"(B) issue an administrative penalty order in accordance with subsection (d), or*

*"(C) bring a civil action in accordance with subsection (b).*

*"(2) STATE FAILURE TO ENFORCE SIP OR PERMIT PROGRAM.—Whenever, on the basis of information available to him, the Administrator finds that violations of an applicable implementation plan or an approved permit program under title IV are so widespread that such violations appear to result from a failure of the State in which the plan or permit program applies to enforce the plan or permit program effectively, he shall so notify the State. In the case of a permit program, the notice shall be made in accordance with title IV. If the Administrator finds such failure extends beyond the 30th day after such notice (90 days in the case of such permit program), he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan or permit program (hereafter referred to in this section as 'period of federally assumed enforcement'), the Administrator may enforce any requirement of such plan or permit program with respect to any person by—*

*"(A) issuing an order requiring such person to comply with such requirement,*

*"(B) issuing an administrative penalty order in accordance with subsection (d), or*

*"(C) bringing a civil action in accordance with subsection (b).*

*"(3) EPA ENFORCEMENT OF OTHER REQUIREMENTS.—Except for a requirement enforceable under the preceding provisions of this subsection, whenever, on the basis of any information available to him, the Administrator finds that any person has violated, or is in violation of, any requirement of section 111(e) of this title (relating to new source performance standards), section 112 of this title (relating to standards for hazardous emissions), section 114 of this title (relating to inspections, etc.), section 402(a) or 403(c) of title IV (relating to permits), or any prohibition of title V (relating to acid deposition control) (including a requirement of any rule, order, waiver, or permit promulgated or approved under any provision of such sections or titles and including any requirement for the payment of any fee owed to the United States under this Act), the Administrator may—*

*"(A) issue an administrative penalty order in accordance with subsection (d),*

*"(B) issue an order requiring such person to comply with such requirement,*

*"(C) bring a civil action in accordance with subsection (b) or section 305, or*

*"(D) request the Attorney General to commence a criminal action in accordance with subsection (c).*

*"(4) REQUIREMENTS FOR ORDERS.—An order issued under this subsection (other than an order relating to a violation of section 112) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1)) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate officers. An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State or the Administrator from assessing any penalties nor otherwise affect or limit the State or the United States' authority to enforce under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act or with a term or condition of any permit or applicable implementation plan promulgated or approved under this Act.*

*"(5) FAILURE TO COMPLY WITH PART C OR PART D OF TITLE I.—Whenever, on the basis of information available to him, the Administrator finds that a State is not acting in compliance with any requirement of part C or part D of title I, he may—*

*"(A) issue an order prohibiting the construction or modification of any major stationary source in any area to which such requirement applies;*

*"(B) issue an administrative penalty order in accordance with subsection (d), or*

*"(C) bring a civil action under subsection (b)(5).*

*"(6) DE MINIMIS TECHNICAL VIOLATIONS.—This section shall not apply to any de minimis or technical violations, as determined by the Administrator.*

*"(b) CIVIL JUDICIAL ENFORCEMENT.—The Administrator shall, as appropriate, in the case of any person which is the owner or operator of an affected source, a major emitting facility, or a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day for each violation, or both, in any of the following instances:*

*"(1) Whenever such person violates any requirement of an applicable implementation plan or permit as provided in subsection (a). Such an action shall be commenced (A) during any period of federally assumed enforcement, or (B) more than 30 days following the date of the Administrator's notification under subsection (a)(1) that such person is violating such requirement.*

*"(2) Whenever such person violates any other requirement of title I, III, IV, or V, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated or approved under this Act or for the payment of any fee owed the United States under this Act.*

*"(3) Whenever such person attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) has been made.*

*Any action under this subsection may be brought in the district court of the United States in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty, to collect any fees owed the United States and any noncompliance assessment and nonpayment penalty owed under section 120 and to award any other appropriate relief. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.*

*"(c) CRIMINAL PENALTIES.—(1) Any person who knowingly violates any requirement of an applicable implementation plan (during any period of federally assumed enforcement or more than 30 days after having been notified under subsection (a)(1) by the Administrator that such person is violating such requirement), any order under subsection (a) of this section, any requirement of part B of title I, requirement of section 111(e) of this title (relating to new source performance standards), section 112 of this title (relating to standards for hazardous emissions), section 114 of this title (relating to inspections, etc.), section 165(a) of this title (relating to preconstruction requirements), an order under section 167 of this title (relating to preconstruction requirements), an order under section 303 of title III (relating to emergency orders), section 402(a) or 403(c)*

of title IV (relating to permits), or any prohibition of title V (relating to acid deposition control), (including a requirement of any rule, order, waiver, or permit promulgated or approved under such sections or titles, and including any requirement for the payment of any fee owed the United States under this Act) shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not to exceed 5 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(2) Any person who knowingly—

"(A) makes any false statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan, or other document required to be filed or maintained under this Act (whether with respect to the requirements imposed by the Administrator or the State pursuant to the requirements of this Act applicable to the State);

"(B) fails to notify or report as required under this Act; or

"(C) falsifies, tampers with, or renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this Act

shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 2 years, or both.

"(3) Any person who knowingly fails to pay any fee owed the United States under title I, III, IV, or V shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 1 year, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(4) Any person who negligently releases into the ambient air any hazardous air pollutant listed pursuant to section 112 or any extremely hazardous substance listed pursuant to section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11002(a)(2)) that is not listed in section 112, and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment for not more than 1 year, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(5)(A) Any person who knowingly releases into the ambient air any hazardous air pollutant listed pursuant to section 112 or any extremely hazardous substance listed pursuant to section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11002(a)(2)) that is not listed in section 112, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment of not more than 15 years, or both. Any person committing such violation which is an organization shall, upon conviction under this paragraph, be subject to a fine of not more than $1,000,000 for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any air pollutant for which the Administrator has set an emissions standard or for any source for which a permit has been issued under title IV, a release of such pollutant in accordance with that standard or permit shall not constitute a violation of this paragraph or paragraph (4).

"(B) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury—

"(i) the defendant is responsible only for actual awareness or actual belief possessed; and

"(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant;

except that in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

"(C) It is an affirmative defense to a prosecution that the conduct charged was freely consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(i) an occupation, a business, or a profession; or

"(ii) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subparagraph by a preponderance of the evidence.

"(D) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

"(E) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(6) For the purpose of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer.

"(d) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES.—(1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000, per day of violation, whenever, on the basis of any available information, the Administrator finds that such person—

"(A) violates any requirement of an applicable implementation plan (such order shall be issued (i) during any period of federally assumed enforcement, or (ii) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person is violating such requirement); or

"(B) violates any other requirement of title I, III, IV, or V, including a requirement of any rule, order, waiver, or permit promulgated or approved under this Act or for the payment of any fee owed the United States under this Act; or

"(C) attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $200,000 and the first alleged date of violation occurred no more than 12 months prior to the initiation of the administrative action, except where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount or longer period of violation is appropriate for administrative penalty action. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review.

"(2)(A) An administrative penalty assessed under paragraph (1) shall be assessed by the Administrator by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person.

"(B) The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under this subsection.

"(3) The Administrator may implement, after consultation with the Attorney General and the States, a field citation program through regulations establishing appropriate minor violations for which field citations assessing civil penalties not to exceed $5,000 per day of violation may be issued by officers or employees designated by the Administrator. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or to request a hearing on the field citation. If a request for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, or to assess the statutory maximum penalty pursuant to other authorities in the Act, if the violation continues.

"(4) Any person against whom a civil penalty is assessed by the Administrator under this subsection may seek review of such assessment in the United States District Court for the District of Columbia or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, within 30 days following the date the civil penalty order is issued under paragraph (2), or the final decision in a hearing under paragraph (3) is rendered, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. The Administra-

tor or Attorney General, as appropriate, shall promptly file in such court a certified copy, or certified index, as appropriate, of the record on which the order or final decision was issued within 30 days. Such court, in the case of an assessment under paragraph (2), shall not set aside or remand such order or final decision unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any such proceedings, the United States may seek to recover civil penalties assessed under this section.

"(5) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment or field citation has become final as provided in this subsection, or

"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter.

"(e) PENALTY ASSESSMENT CRITERIA.—(1) In determining the amount of any penalty to be assessed under this section or section 304(a), the Administrator or the court, as appropriate, shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

"(2) A penalty may be assessed for each day of violation. For purposes of determining the number of days of violation for which a penalty may be assessed under this section or section 304(a), or an assessment may be made under section 120, the violation shall be deemed to commence on the first provable date of violation and to continue each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

"(f) REWARDS.—The Administrator may pay a reward, not to exceed $10,000, to any person who furnishes information or services which lead to a criminal conviction or a judicial or administrative civil penalty for any violation of titles I, III, IV, or V of this Act enforced under this section. Such payment is subject to available appropriations for such purposes as provided in annual appropriation Acts. Any officer, or employee of the United States or any State or local government who furnishes information or renders service in the performance of an official duty is ineligible for payment under this subsection. The Administrator may, by regulation, prescribe additional criteria for eligibility for such a reward.

"(g) SETTLEMENTS; PUBLIC PARTICIPATION.—At least 30 days before a consent order or settlement agreement of any kind under this Act (other than enforcement actions under section 113, 120, or title II, whether or not involving civil or criminal penalties, or judgments subject to Department of Justice policy on public participation) is final or filed with a court, the Administrator shall provide a reasonable opportunity by notice in the Federal Register to persons who are not named as parties or intervenors to the action or matter to comment in writing. The Administrator or the Attorney General, as appropriate, shall promptly consider any such written comments and may withdraw or withhold his consent to the proposed order or agreement if the comments disclose facts or considerations which indicate that is inappropriate, improper, inadequate, or inconsistent with the requirements of this Act. Nothing in this subsection shall apply to civil or criminal penalties under this Act.

"(h) OPERATOR.—For purposes of the provisions of this section and section 120 the term 'operator', as used in such provisions, shall include any person who is senior management personnel or a corporate officer. Such term shall not include any person who is a stationary engineer or technician responsible for the operation, maintenance, repair, or monitoring of equipment and facilities and who often has supervisory and training duties but who is not senior management personnel or a corporate officer. For purposes of subsection (c)(4) of this section, the term 'a person' shall not include an employee who is carrying out his normal activities and who is not a part of senior management personnel or a corporate officer. For purposes of paragraphs (1), (2), (3), and (5) of subsection (c) of this section the term 'a person' shall not include an employee who is carrying out his normal activities and who is acting under orders from the employer.".

SEC. 602. COMPLIANCE CERTIFICATION.

(a) RECORDS, REPORTS, MONITORING, ETC.—Section 114(a)(1) is amended to read as follows:

"(1) the Administrator may require any person who owns or operates any emission source, who manufactures emission control equipment or process equipment, who the Administrator believes may have information necessary for the purposes set forth in this subsection, or who is subject to any requirement of this Act (other than a manufacturer subject to the provisions of section 206(c) or 208 with respect to a provision of title II) on a one-time, periodic or continuous basis to—

"(A) establish and maintain such records;

"(B) make such reports;

"(C) install, use, and maintain such monitoring equipment, and use such audit procedures, or methods;

"(D) sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Administrator shall prescribe);

"(E) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical;

"(F) submit compliance certifications in accordance with section 114(a)(3); and

"(G) provide such other information, as he may reasonably require; and".

(b) MONITORING AND COMPLIANCE CERTIFICATIONS.—Section 114(a) is amended by adding the following new paragraph at the end:

"(3) The Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (A) identification of the applicable requirement that is the basis of the certification, (B) the method used for determining the compliance status of the source, (C) the compliance status, (D) whether compliance is continuous or intermittent, (E) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be public information. Nothing in this paragraph shall be construed as requiring disclosure of information subject to exemption from disclosure under subsection (c) of this section as trade secrets or that is subject to applicable law concerning self-incrimination. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement this Act. The Administrator shall promulgate rules to provide guidance and to implement this paragraph within 2 years after the enactment of the Clean Air Act Amendments of 1990.".

(c) JUDICIAL REVIEW.—Section 307(b)(1) is amended by inserting "or revising regulations for enhanced monitoring and compliance certification programs under section 114(a)(3) of this Act," immediately before "or any other final action of the Administrator".

SEC. 603. ADMINISTRATIVE ENFORCEMENT SUBPOENAS.

Section 307(a) is amended by striking out "(1)" after "(a)" and by striking "or section 202(b)(5)" and immediately after "section 202(b)(4) or 211(c)(3)" inserting ", any investigation, monitoring, reporting requirement, entry, compliance inspection, or administrative enforcement proceeding under section 113, section 114, section 120, section 205, section 206, section 208, section 303 or section 306".

SEC. 604. ENFORCEMENT OF ADMINISTRATIVE ORDERS.

Section 303 is amended by striking "(a)" and by striking out subsection (b).

SEC. 605. SCOPE OF EMERGENCY ORDERS.

Section 303 of the Clean Air Act, as amended by section 604 of this Act, is further amended as follows:

(1) Strike "the health of persons," and insert "public health or welfare, or the environment" and after the words "abate such sources" insert "or have not acted adequately to abate such sources".

(2) Amend the second sentence to read "If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment.".

(3) Strike the last 2 sentences in their entirety.

SEC. 606. CONTRACTOR LISTINGS.

Section 306(a) is amended as follows:

(1) Strike "113(c)(1)" and insert "113(c), 205(d), 211(d)(3), and 212(e)".

(2) Insert at the end thereof: "For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.".

SEC. 607. JUDICIAL REVIEW PENDING RECONSIDERATION OF REGULATION.

Section 307(b)(1) is amended by adding at the end thereof: "The filing of a petition for reconsideration by the Administrator of any otherwise final rule or action shall not affect the finality of such rule or action for purposes of judicial review nor extend the time within which a petition for judicial review of such rule or action under this section may be filed, and shall not postpone the effectiveness of such rule or action.".

SEC. 608. CITIZEN SUITS.

(a) CIVIL PENALTIES.—Section 304(a) is amended by inserting immediately before the period at the end thereof: ", and to apply any appropriate civil penalties (except for actions under paragraph (2))".

(b) PENALTY FUND.—Section 304 is amended by adding the following new subsection after subsection (f):

"(g) PENALTY FUND.—(1) Penalties received under subsection (a) shall be deposited in a special fund in the United States Treasury for licensing and other services. Amounts in such fund and authorized to be appropriated shall remain available until expended, for use by the Administrator to finance air compliance and enforcement activities. The Administrator shall annually report to the Congress about the sums deposited into the fund, the sources thereof, and the actual and proposed uses thereof.

"(2) Notwithstanding paragraph (1) the court in any action under this subsection to apply civil penalties shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in paragraph (1), be used in beneficial mitigation projects which are consistent with this Act and enhance the public health or the environment. The court shall obtain the view of the Administrator in exercising such discretion and selecting any such projects. The amount of any such payment in any such action shall not exceed $100,000.".

(c) INTERVENTION BY EPA.—Paragraph (2) of section 304(c) is amended to read as follows:

"(2) In any action under this section, the Administrator, if not a party, may intervene as a matter of right at any time in the proceeding. A judgment in an action under this section to which the United States is not a party shall not, however, have any binding effect upon the United States.".

(d) SERVICE OF COMPLAINT; CONSENT JUDGMENTS.—Section 304(c) is amended by adding the following new paragraph after paragraph (2):

"(3) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the Government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.".

(e) OTHER REQUIREMENTS.—Section 304(f) is amended by striking the period at the end of paragraph (3), inserting "; or" and adding the following new paragraph at the end thereof:

"(4) any other standard, limitation, or schedule established under any permit issued pursuant to title IV or under any applicable State implementation plan approved by the Administrator, any permit term or condition, and any requirement to obtain a permit as a condition of operations.".

(f) UNREASONABLE DELAY.—Section 304(a) is amended by adding the following at the end thereof: "The district courts of the United States shall have jurisdiction to compel (consistent with paragraph (2) of this subsection) agency action unreasonably delayed, except that an action to compel agency action referred to in section 307(b) which is unreasonably delayed may only be filed in a United States District Court within the circuit in which such action would be reviewable under section 307(b). In any such action for unreasonable delay, notice to the entities referred to in subsection (b)(1)(A) shall be provided 180 days before commencing such action.".

(g) PAST VIOLATIONS.—Section 304(a) is amended by inserting immediately before "to be in violation" in paragraphs (1) and (3) "to have violated (if there is a prima facie demonstration that the alleged violation has been repeated or continuous) or". The amendment made by this subsection shall take effect with respect to actions brought after the date 2 years after the enactment of the Clean Air Act Amendments of 1990.

(h) DEFERRED ACTIONS.—Section 307(b)(2) is amended by adding the following at the end thereof: "Where a final decision by the Administrator defers performance of any nondiscretionary statutory action to a later time, any person may challenge the deferral pursuant to paragraph (1).".

SEC. 609. ENHANCED IMPLEMENTATION AND ENFORCEMENT OF NEW SOURCE REVIEW REQUIREMENTS.

Section 167 is amended by striking "the construction of a major emitting facility" and inserting "the construction or modification of a major emitting facility".

SEC. 610. MOVABLE STATIONARY SOURCES.

Section 302 is amended by adding the following subsection at the end thereof:

"(z) STATIONARY SOURCE.—The term 'stationary source' means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216.".

SEC. 611. ENFORCEMENT OF NEW TITLES OF THE ACT.

Section 120(a)(2)(A) is amended as follows:

(1) Insert ", 167, 303," after "111" in clause (ii).

(2) Redesignate clause (iii) as (iv) and in new clause (iv) strike "clause (i) or (ii)", and insert "clause (i), (ii), or (iii)".

(3) Insert the following new clause after clause (ii):

"(iii) a stationary source which is not in compliance with any requirement of title IV, V or VII of this Act, or".

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Grants for support of air pollution planning and control programs.
Sec. 702. Annual report repeal.
Sec. 703. Review and revision of criteria and standards.
Sec. 704. Emission factors.
Sec. 705. Land use authority.
Sec. 706. Virgin Islands.
Sec. 707. Provisions regarding asbestos.
Sec. 708. Class I areas.
Sec. 709. Regional haze impairing visibility in class I areas.
Sec. 710. Creation of centers for prevention of lead poisoning.
Sec. 711. Stratospheric ozone.
Sec. 712. OCS air pollution.
Sec. 713. Authorization.
Sec. 714. Hydrogen fuel cell vehicle study and test program.
Sec. 715. Information gathering on greenhouse gases contributing to global climate change.

SEC. 701. GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND CONTROL PROGRAMS.

(a) GRANTS.—Subparagraphs (A) and (B) of section 105(a)(1) are amended to read as follows:

"(A) The Administrator may make grants to air pollution control agencies, within the meaning of paragraph (1), (2), (3), (4), or (5) of section 302, in an amount up to three-fifths of the cost of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. For the purpose of this section, 'implementing' means any activity related to the planning, developing, establishing, carrying-out, improving, or maintaining of such programs.

"(B) Subject to subsections (b) and (c) of this section, an air pollution control agency which receives a grant under subparagraph (A) in which contribute less than the required two-fifths minimum shall have 3 years following the date of the enactment of the Clean Air Act Amendments of 1990 in which to contribute such amount. If such an agency fails to meet and maintain this required level, the Administrator shall reduce the amount of the Federal contribution accordingly.".

(b) CONFORMING AMENDMENT.—Section 105(a)(1)(C) is amended by striking "(B)" and inserting "(A)".

(c) LIMITATION ON GRANTS.—Section 105(b) is amended by—

(1) inserting "(1)" immediately after "(b)"

(2) striking all that follows "(3) the financial need of the respective agencies."; and

(3) redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C) respectively.

(d) LIMITATION.—Section 105 is amended by redesignating subsection (c) as paragraph (2) of subsection (b) and by striking all that follows "into which such area extends." in the newly designated paragraph (2) and inserting "Subject to the provisions of paragraph (1) of this subsection, no State shall have made available to it for application less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.".

(e) MAINTENANCE OF EFFORT.—Section 105 is amended by inserting the following new subsection after subsection (b):

"(c) MAINTENANCE OF EFFORT.—(1) No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year. In order for the Administrator to

award grants under this section in a timely manner each fiscal year, the Administrator shall compare an agency's prospective expenditure level to that of its second preceding fiscal year. The Administrator shall revise the current regulations which define applicable nonrecurrent and recurrent expenditures, and in so doing, give due consideration to exempting an agency from the limitations of this paragraph and subsection (a) due to periodic increases experienced by that agency from time to time in its annual expenditures for purposes acceptable to the Administrator for that fiscal year.

"(2) The Administrator may still award a grant to an agency not meeting the requirements of paragraph (1) of this subsection if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such a grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds. No grants shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.".

(f) COSTS.—Section 106 is amended by striking "three-fourths of the air quality planning program costs of such agency" and inserting "three-fifths of the air quality implementation program costs of such agency".

SEC. 702. ANNUAL REPORT REPEAL.

Section 313 is repealed.

SEC. 703. REVIEW AND REVISION OF CRITERIA AND STANDARDS.

(a) REVIEW AND REVISION OF CRITERIA.—Section 109(d)(1) is amended to read as follows:

"(1)(A) Not later than 5 years after enactment of the Clean Air Act Amendments of 1990 and thereafter as provided in subparagraph (C), the Administrator shall (i) complete a review of the criteria published under section 108 and the standards promulgated under this section (ii) make such revisions in the criteria as may be appropriate to reflect advances in scientific knowledge, and (iii) determine whether it is appropriate to propose revisions of the standards based on the applicable criteria. In making revisions or determinations under this subparagraph, the Administrator may use such procedures as the Administrator deems appropriate. Notice of revisions and determinations made under this subparagraph shall be published in the Federal Register not later than 30 days after the revisions or determinations, respectively, are made, and copies shall be made available to the general public.

"(B) If the Administrator determines under subparagraph (A) that it is appropriate to propose revision of a standard, the Administrator shall commence rulemaking proceedings under section 307(d) and make such revisions as are appropriate as expeditiously as practicable but not later than 3 years after such determination is made. The Administrator may elect to follow the same procedure with respect to a determination that it is inappropriate to propose a revision of a standard.

"(C) After the first review and (as appropriate) revision of a standard under this paragraph, the Administrator shall repeat the process specified in subparagraphs (A) and (B) from time to time for such standard. The review specified in subparagraph (A) shall be completed not later than 5 years after completion of the last review of the standard or, if the standard was revised as a result of such review (or judicial review), not later than 5 years after completion of such revision. For any new standard promulgated after the date of the enactment of the Clean Air Act Amendments of 1990, the first review under subparagraph (A) shall be completed not later than 5 years after the date of promulgation.

"(D) A determination under subparagraph (A) that it is inappropriate to propose a revision of a standard shall be reviewable as a final action under section 307(b). If the Administrator elects to commence rulemaking proceedings under subparagraph (B) with respect to such a determination, the determination shall be reviewable only upon completion of the rulemaking. A determination under subparagraph (A) that it is appropriate to propose revision of a standard shall not be subject to judicial review under section 307(b) or otherwise.

"(E) The Administrator may review and revise criteria or standards earlier or more frequently than required under this paragraph.".

(b) CONFORMING AMENDMENT.—Section 109(d)(2)(B) is amended by striking "January 1, 1980, and at five-year intervals thereafter," and inserting "5 years after the date of the enactment of of the Clean Air Act Amendments of 1990 and thereafter at intervals corresponding to the Administrator's review of criteria and standards under paragraph (1).".

(c) ISSUANCE OF AIR QUALITY CRITERIA.—Section 108(a)(2) is amended by striking "12 months" and inserting "3 years".

(d) CONFORMING AMENDMENT.—Section 108(c) is amended by striking "criteria or" in the first sentence.

(e) PROMULGATION.—Section 109(a)(2) is amended by striking "the Administrator shall" and all that follows down through the period at the end of such paragraphs and inserting "the Administrator shall promulgate proposed national primary and secondary ambient air quality standards as appropriate for such air pollutant not later than 3 years after such issuance. The procedure provided for in subsection (d) shall apply to the revision of such standards.".

(f) REVISION OF STANDARDS.—Section 109(b) is amended by striking the second sentence of paragraph (1) and the second sentence of paragraph (2).

(g) Section 103 is amended by adding the following new subsection at the end thereof:

"(g) STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences shall conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, cooperative agreements, and contracts, as well as through intramural studies and contracts. The procedures applicable to grants and contracts under title IV of the Public Health Service Act shall be followed for purposes of this subsection.

"(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of health care providers in environmental health.

"(3) The Director of the National Institute of Environmental Health Sciences shall assure that programs under this subsection shall not duplicate other research undertaken by the Administration.

"(4) There is authorized to be appropriated to the National Institute of Environmental Health Sciences to carry out this subsection such sums as may be necessary, to remain available until expended.".

SEC. 704. EMISSION FACTORS.

Part A of title I, as amended by section 108(g) of the Act, is amended by adding the following new section at the end thereof:

"SEC. 130. EMISSION FACTORS.

"Within 6 months after enactment of the Clean Air Act Amendments of 1990, and at least every 3 years thereafter, the Administrator shall review and, if necessary, revise, the methods ('emission factors') used for purposes of this Act to estimate the quantity of emissions of carbon monoxide, volatile organic compounds, and oxides of nitrogen from sources of such air pollutants (including area sources and mobile sources). In addition, the Administrator shall establish emission factors for sources for which no such methods have previously been established by the Administrator. The Administrator shall permit any person to demonstrate improved emissions estimating techniques, and following approval of such techniques, the Administrator shall authorize the use of such techniques. Any such technique may be approved only after appropriate public participation. Until the Administrator has completed the revision required by this section, nothing in this section shall be construed to affect the validity of emission factors established by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990.".

SEC. 705. LAND USE AUTHORITY.

Part A of title I, is amended by section 706 of this Act, is amended by adding the following at the end thereof:

"SEC. 131. LAND USE AUTHORITY.

"Nothing in this Act constitutes an infringement on the existing authority of counties and cities to plan or control land use, and nothing in this Act provides or transfers authority over such land use.".

SEC. 706. VIRGIN ISLANDS.

Section 324(a)(1) (42 U.S.C. 7625-1(a)(1)) is amended by inserting "the Virgin Islands," after "American Samoa,".

SEC. 707. PROVISIONS REGARDING ASBESTOS

(a) TRAINING.—The National Institute of Environmental Health Sciences is authorized to award one-time start-up grants under this section to joint labor-management trust funds and to nonprofit government employee organizations to establish and operate (for the duration of the period of authorized funds) programs for the training and education of workers who are or may be engaged in abatement, removal, and response with respect to friable asbestos containing material in nonschool public and commercial buildings. Applications for grants under this paragraph shall be submitted in such form and manner, and contain such information, as the National Institute for Environmental Health Sciences prescribes. There is authorized to be appropriated to carry out this paragraph the sum of $10,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994. For purposes of this subsection, the term "public and commercial buildings" has the meaning given such term by section 202 of the Toxic Substances Control Act (15 U.S.C. 2642).

(b) ASBESTOS ACCREDITATION REGULATIONS.—(1) For purposes of protecting

human health from asbestos emissions during response actions carried out with respect to asbestos-containing materials in nonschool public and commercial buildings, the Administrator of the Environmental Protection Agency shall promulgate regulations to require accreditation for persons who—

(A) inspect for asbestos-containing material in nonschool public or commercial buildings; or

(B) design or conduct response actions with respect to friable asbestos-containing material in nonschool public or commercial buildings.

(2) The accreditation program contained in the regulations shall include requirements identical to those in the model contractor accreditation plan promulgated by the Administrator under section 206(b) of the Toxic Substances Control Act (15 U.S.C. 2646(b)), except that the requirements with respect to number of hours of training for workers conducting response actions shall be as follows:

(A) To become accredited, any worker conducting response actions in a nonschool public and commercial building shall undergo not fewer than 40 hours of training, at least 12 of which shall be nonclassroom, hands-on training.

(B) To maintain accreditation, such a worker shall complete an 8-hour refresher course annually.

(3) In exercising authority under this subsection, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(4) For purposes of this section, the terms "asbestos-containing material", "public and commercial building", "response action", and "friable asbestos-containing material" have the meaning given those terms by section 202 of the Toxic Substances Control Act (15 U.S.C. 2642).

(5) Regulations shall be promulgated under this section not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990.

SEC. 708. CLASS I AREAS.

(a) CLASS I AND II AREAS.—Section 164(a)(1) is amended by adding after "seashore" the words ", regardless of the date on which established".

(b) NATIONAL PARK AND WILDERNESS AREA.—Section 164(a)(2) is amended by striking out "ten thousand acres in size" and inserting "5,000 acres in size (in the case of a national wilderness area) or 6,000 acres in size (in the case of a national park)".

(c) PUBLIC HEARINGS.—Section 164(b)(1)(A) is amended by inserting in the first sentence after "redesignated" the phrase "(or as near as practicable to such area in the case of a wilderness area)".

(d) ADVERSE IMPACTS ON AIR QUALITY-RELATED VALUES.—Section 165(d)(2)(C) is amended by striking out clause (ii), by inserting "or air quality-related values" after "air quality" and by adding the following at the end of clause (i) "A permit shall also not be issued if the Federal land manager of such lands, or the Administrator, or the Governor of an adjacent State containing such an area, files a notice making a showing, together with documentation, that such emissions may cause or contribute to an adverse impact on the air quality-related values (including visibility) of such lands, unless the owner or operator of the facility demonstrates that such emissions will not cause or contribute to the alleged adverse impact on the air quality-related values (including visibility) identified in such showing.".

(e) NOTICE TO FEDERAL LAND MANAGERS.—Section 165(d)(2)(A) is amended to read as follows: "(A) At the same time as the State transmits a copy of a permit application and notice under paragraph (1) to the Administrator, the State shall also provide a copy thereof to the Federal land manager and the Federal official charged with direct responsibility for management of any lands within a class I area, or an area described in paragraph (1) or (2) of section 164(a), which may be affected by emissions from the proposed facility. The Administrator shall require applications submitted under paragraph (1) to contain sufficient information to enable the Federal land manager of such Federal lands to determine the effects of such facility on the air quality-related values (including visibility) of such Federal lands. The permitting authority shall consult with the Federal land manager for each such area to determine if the application is complete.".

(f) POLLUTANTS COVERED.—Section 165(d)(2)(C)(i) is amended by striking out "particulate matter and sulfur dioxide" and inserting "any air pollutant for which maximum allowable increases or other measures are in effect under section 163 or 166".

(g) POSTCONSTRUCTION MONITORING.—Section 165(a)(7) is amended by adding the following before the "; and" the phrase "and on air quality-related values, including visibility, in class I areas which may be affected by emissions from the proposed facility".

(h) ADVERSE IMPACTS.—Section 165(d)(2)(C) is amended by adding the following at the end thereof:

"(v) In determining under this subparagraph or subparagraph (B) whether emissions from a facility will have an adverse impact on air quality-related values (including visibility), allowable emissions from other existing and permitted sources shall also be taken into account.".

(i) PRECONSTRUCTION MONITORING.—The first sentence of section 165(e)(2) is amended by inserting the following before the period at the end thereof: "and to determine the effect emissions from such facility may have on air quality-related values, including visibility, in class I areas which may be affected by emissions from the proposed facility.".

(j) IDENTIFICATION OF POTENTIAL ADVERSE IMPACTS.—Section 165(d)(2)(B) is amended by adding the following at the end thereof: "In addition to the other authority provided by this section, the Federal land manager charged with the direct responsibility for management of such lands may, by rule, identify the air quality-related values of such lands and the potential adverse impacts of air pollution on such values.".

(k) CLASS I PARKS.—Section 162 is amended by adding the following at the end thereof:

"(c) Upon enactment of this subsection all national parks which exceed 6,000 acres in size which were established after the enactment of the Clean Air Amendments of 1977 and before January 1, 1990, shall be class I areas and may not be redesignated.".

(l) REGULATIONS.—Section 301(a)(1) is amended by adding the following at the end thereof: "Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall amend the regulations under part C of title I to assure that the requirements of the amendments made by section 708A of the Amendments (relating to class I areas) are met.".

SEC. 709. REGIONAL HAZE IMPAIRING VISIBILITY IN CLASS I AREAS.

(a) DEFINITIONS.—(1) Section 169A(g) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end thereof:

"(8) the term 'regional haze' means widespread regionally homogeneous haze resulting from manmade air pollution.".

(2) Section 169A(g) is amended by striking "nonair quality" in each place it appears in paragraphs (1) and (2).

(b) ADDITIONAL REQUIREMENTS.—Section 169A of the Clean Air Act is amended by adding the following after subsection (g):

"(h) PROTECTING VISIBILITY AND AIR QUALITY-RELATED VALUES IN CLASS I AREAS.—

"(1) EPA RULES.—Not later than 1 year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall propose rules, and within 2 years after such date of enactment, promulgate final rules, amending the regulations under subsection (a)(4) to assure that the requirements of this part are met with regard to visibility protection and the protection of air quality related-values in areas protected under this part.

"(2) STATE PLAN REVISIONS.—The regulations under paragraph (1) shall require that revisions of the implementation plans for visibility protection under section 169A, and for the prevention of significant deterioration of air quality under this part, be submitted to the Administrator within one year after promulgation of such amendments. Such plan revisions shall comply with the requirements of this part.

"(3) REGIONAL HAZE PLANS.—The Administrator shall provide information to States regarding control measures for specific classes of sources for which guidance has not been provided under other provisions of this Act and which may reasonably be anticipated to cause or contribute to regional haze impairing visibility in an area identified under subsection (a)(2). In amending the regulations under subsection (a)(4), the Administrator shall provide guidelines for the identification by States of areas where sources may reasonably be anticipated to cause or contribute to regional haze. In addition the Administrator shall promulgate guidelines for the establishment of control strategies in those areas for use by the States if necessary to achieve reasonable progress toward the national goal specified in subsection (a).

"(4) REASONABLE PROGRESS.—The regulations under paragraph (1) shall establish criteria and procedures for determining whether reasonable progress toward the national goal specified in subsection (a) is being made in accordance with this section. The criteria shall include a method for determining baseline visibility in each class I area identified under subsection (a)(2) and for determining whether reasonable progress toward the national goal is being achieved. In adopting such criteria, the Administrator shall consider both annual average visibility and shorter periods that may reflect seasonal patterns and the frequency of severe visibility impairment episodes. The regulations may allow the use of not more than 3 years as the baseline period, and shall require commencement of baseline monitoring within 6 months following promulgation.

"(i) REVIEW OF PROGRESS TOWARD NATIONAL GOAL.—(1) The Administrator, in consultation with the Federal land manager for each mandatory class I area referred to in subsection (a)(2), shall periodically review the status of visibility impairment in such areas and determine whether reasonable progress toward the national goal set forth in subsection (a) is being achieved. The first review under this subsection shall be completed 6 years after the date required for promulgation of the regulations required by subsection (h), and subsequent reviews shall be completed at 5-year intervals thereafter.

"(2) Whenever the Administrator determines that reasonable progress toward the national goal set forth in subsection (a) is not being achieved, the Administrator shall require such revisions of the applicable implementation plan or plans for such area as are necessary to make reasonable progress toward such national goal. The Administrator shall require that such plan revisions be submitted within one year after making any such determination. The Administrator shall not require plan revisions in any State if he determines that such State has adopted all feasible measures that can be expected to achieve reasonable progress. For the purpose of regional haze control, in determining best available retrofit technology, the Administrator may consider the estimated average contribution to visibility impairment from a source or group of sources located in an area identified under guidelines issued under subsection (h)(3). The determinations made by the Administrator under this subsection shall be after notice and an opportunity for public comment.

"(3) At a minimum, for any class I area to which this section applies, reasonable progress toward the national goal set forth in subsection (a) shall include each of the following:

"(A) Preservation of the frequency of days in which the visibility in the area is least impaired by manmade air pollution.

"(B) Over each review period, there shall be a perceptible improvement in average visibility in the area, as compared to the average visibility in the area during the prior review period or the baseline in the case of the first review period.

"(C) Over each review period, there shall be a perceptible improvement in frequency of days when the worst visibility attributable to manmade air pollution occurs, as compared to the frequency of days of the worst visibility attributable to manmade air pollution during the prior review period or the baseline in the case of the first review period.

"(4) The Administrator shall adopt numeric standards for measuring and modeling perceptible improvement, and a reference method specifying a technological method for measuring such improvement.

"(j) RELATIONSHIP TO OTHER PROVISIONS.—In promulgating regulations and amendments to regulations under this section, the Administrator shall take into account the reductions in air pollution obtained pursuant to other provisions of this Act, including the reductions obtained under title V (relating to acid deposition control). States may take credit for emission reductions required by other provisions of this Act (including provisions of an applicable implementation plan) in determining whether additional control strategies are needed to achieve reasonable progress toward the national goal. Nothing in this section shall be construed to require emission reductions of any air pollutant in any area designated as a nonattainment area for that air pollutant at a more rapid rate than required under part D.

"(k) IMPACT OF UNCONTROLLED SOURCES.—(1) The Administrator shall undertake and complete, within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, studies to measure the impact of any uncontrolled major stationary source emitting more than 7,000 tons/year of sulfur dioxide on the air quality-related values (including visibility) of class I areas listed under subsection (a)(2) located within 100 miles of the uncontrolled major stationary source. The Administrator shall conduct studies of such sources under this subsection in accordance with priorities established by the Administrator based on aggregate emissions, location in relation to the class I area, weather patterns and likelihood of impact on the air quality-related values (including visibility) of such area. Studies under this section shall be conducted in consultation with the Federal official charged with direct responsibility for the management of each such class I area and the Federal land manager of each such class I area. These studies may include, but are not limited to, tracer studies requiring the source to release continuously tracers in the source's emissions to enhance the studies' ability to attribute impacts to the source. As part of the studies, the Administrator may require the source to install continuous emission monitors for sulfur oxides and nitrogen oxides or for other air pollutants as he deems necessary or to conduct tracer studies. The study shall include the identification of alternative regulatory strategies that could achieve the goal of section 169A(a)(1) and the costs (economic, energy, and social) of each such alternative. Within 1 year following completion of the study of any source under this subsection, the Administrator shall, in consultation with the Federal land managers, make a determination under subsection (b)(2)(A) with respect to the uncontrolled major stationary source and determine whether the applicable State plan needs to be revised in accordance with such determination. Such determination shall be made after notice and opportunity for comment.

"(2) For purposes of this subsection, the term 'uncontrolled major stationary source' means a major stationary source which—

"(A) does not use a technological means of emission control achieving at least a 50 percent reduction in emissions of sulfur dioxide from the potential combustion concentration; and

"(B) had an actual 1985 emission rate for sulfur dioxide below 1.2 lbs./mmBtu.

"(l) SAVINGS PROVISION.—The requirements and authorities established pursuant to this section shall be in addition to, and not in lieu of any other requirement or authority under any other provision of this Act or under any other authority of law.

"(m) AREAS COVERED.—The provisions of subsections (h) through (l) of this section shall not apply east of the 100th meridian.".

SEC. 710. CREATION OF CENTERS FOR PREVENTION OF LEAD POISONING.

The Toxic Substances Control Act is amended by inserting after section 31 the following:

"SEC. 32. CENTERS FOR PREVENTION OF LEAD POISONING.

"(a) ESTABLISHMENT.—The Administrator shall establish, and provide funding through grants, one or more centers for prevention of lead poisoning. The centers shall be established at institutions of higher education in the United States and shall assist the Administrator in carrying out this title.

"(b) APPLICATIONS.—An institution of higher education may apply for grants under subsection (a) by submitting an application to the Administrator in the form, at the time, and containing the information that the Administrator shall require.

"(c) SELECTION CRITERIA.—The Administrator shall award grants under subsection (a) to institutions of higher education pursuant to the following criteria:

"(1) The capability to provide leadership in making national contributions to the prevention of lead poisoning.

"(2) Demonstrated capacity to conduct research of lead poisoning prevention, including the development of innovative and safe methods for lead paint abatement.

"(3) The appropriateness of the projects proposed to be carried out by the grant recipient.

"(4) The recipient's commitment of at least $100,000 in budgeted institutional funds to research of lead poisoning prevention.

"(5) The presence at the institution of an interdisciplinary staff with demonstrated expertise in lead poisoning prevention.

"(6) The institution's demonstrated ability to disseminate results of its research and educational programs through an interdisciplinary continuing education program.

"(d) FEDERAL SHARE.—The Federal share of a grant awarded under subsection (a) shall not exceed 80 percent of the cost of establishing and operating the center and related research activities carried out by the recipient.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'center' means a center for prevention of lead poisoning; and

"(2) the term 'institution of higher education' has the meaning given that term in section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)).".

SEC. 711. STRATOSPHERIC OZONE.

(a) Part B of title I is amended by striking sections 150 through 155, by redesignating section 156 as section 159F, by striking sections 158 and 159, and by inserting after the heading for such part the following:

"TABLE OF CONTENTS

"Sec. 150. Definitions.
"Sec. 151. Listing of ozone-depleting substances.
"Sec. 152. Monitoring and reporting requirements.
"Sec. 153. Production phaseout for class I substances.
"Sec. 154. Phase out of class II substances.
"Sec. 155. Accelerated schedule.
"Sec. 156. Alternatives.
"Sec. 157. National recycling and disposal program.
"Sec. 158. Servicing of motor vehicle air conditioners.
"Sec. 159. Labeling.
"Sec. 159A. Nonessential products containing chlorofluorocarbons.
"Sec. 159B. Federal procurement.
"Sec. 159C. Federal enforcement.
"Sec. 159D. International cooperation.
"Sec. 159E. State laws concerning household and commercial appliance design.
"Sec. 159F. Regulations.
"Sec. 159G. International cooperation.

"SEC. 150. DEFINITIONS.

"As used in this part:

"(1) The terms 'ozone-depleting substance' and 'substance covered by this part' means any substance which is known, or may rea-

sonably be anticipated, to cause or contribute to stratospheric ozone depletion. Such term includes, at a minimum, all class I and class II substances.

"(2) The term 'class I substance' means each of the substances listed as provided in section 151(a).

"(3) The term 'class II substance' means each of the substances listed as provided in section 151(b).

"(4) The term 'ozone-depletion factor' means a factor established by the Administrator to reflect the ozone-depletion potential of a substance, on a mass per kilogram basis, as compared to tricholorofluoromethane (CFC-11). Such factor shall be based upon the substance's atmospheric lifetime, the molecular weight of bromine and chlorine, and the substance's ability to be photolytically disassociated, and upon other factors determined to be an accurate measure of relative ozone-depletion potential.

"(5) The term 'medical device' means any device used for medical purposes, any diagnostic product, any drug (as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) and any drug delivery system—

"(A) which utilizes a class I or class II substance for which no safe and effective alternative has been developed, and where necessary, approved by the Commissioner, and

"(B) which, after notice and opportunity for public comment, has been approved and determined to be essential by the Commissioner in consultation with the Administrator.

"(6) The term 'Commissioner' means the Commissioner of the Food and Drug Administration.

"(7) The term 'to produce' means—

"(A) to manufacture in the United States a substance or item from any raw material or feedstock chemical; or

"(B) to supply any raw material or feedstock chemical for consumption which has not been domestically manufactured, recycled, or reused.

Such term does not include the manufacture of substances that are used and entirely consumed in the manufacture of other chemicals.

"(8) The term 'household and commercial appliance' means any appliance used for household or commercial purposes, including any air conditioner, refrigerator, chiller, and freezer.

"(9) The term 'baseline year' means the calendar year 1986 (1989 in the case of tetrachloromethane (carbon tetrachloride) and methyl chloroform), except that in the case of any substance added to the list of class I substances after the enactment of this section, and in the case of class II substances, such term shall mean a representative calendar year selected by the Administrator.

"(10) The term 'Montreal Protocol' means the Montreal Protocol to the Vienna Convention for the Protection of the Ozone Layer.

"SEC. 151. LISTING OF OZONE-DEPLETING SUBSTANCES.

"(a) LIST OF CLASS I SUBSTANCES.—Within 90 days after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish a list of class I substances. The list shall contain, at a minimum, the following substances:

"Trichlorofluoromethane (CFC-11),
"Dichlorodifluoromethane (CFC-12),
"Trichlorotrifluoroethane (CFC-113),
"Dichlorotetrafluoroethane (CFC-114),
"(Mono)chloropentafluoroethane (CFC-115),
"Bromotrifluoromethane (Halon-1301),
"Bromochlorodifluoromethane (Halon-1211),
"Tetrachloromethane (carbon tetrachloride),
"Methyl chloroform (1,1,1 trichloroethane),
"Dibromotetrafluoroethane (Halon-2402).

Pursuant to subsection (c), the Administrator shall add to the list of class I substances any other ozone-depleting substance that causes or contributes significantly to depletion of the stratospheric ozone layer, including, at a minimum, all ozone-depleting substances having an ozone depletion factor of 0.15 or greater.

"(b) LIST OF CLASS II SUBSTANCES.—Within 90 days after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish a list of class II substances. Such list shall contain, at a minimum, the following substances:

"Hydrochlorodifluoromethane (HCFC-22),
"Hydrochlorofluorocarbon-123,
"Hydrochlorofluorocarbon-124,
"Hydrochlorofluorocarbon-141(b),
"Hydrochlorofluorocarbon-142(b).

Pursuant to subsection (c) the Administrator shall add to the list of class II substances any other ozone-depleting substance that has a potentially significant ozone-depletion potential.

"(c) ADDITIONS TO THE LISTS.—(1) The Administrator may add, in accordance with the criteria set forth in subsection (a) or (b), as the case may be, any substance to the list of class I or class II substances under subsection (a) or (b).

"(2) Periodically, but not less frequently than every 3 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall list as additional class I or class II substances those substances which he finds meet the criteria of subsection (a) or (b), as the case may be.

"(3) At any time, any person may petition the Administrator to add a substance to the list of class I or class II substances. Within 180 days after receiving such a petition, the Administrator shall either add the chemical to such list or publish an explanation of the petition denial.

"(4) Only a class II substance which is added to the list of class I substances may be removed from the list of class II substances. No substance referred to in subsection (a) may be removed from the list of class I substances.

"(d) OZONE-DEPLETION FACTORS.—Simultaneously with publication of the lists under this section and simultaneously with any addition to either of such lists, the Administrator shall assign to each listed substance a numerical value representing the substance's ozone-depletion potential. In addition the Administrator shall publish the chlorine loading potential and the atmospheric lifetime of each listed substance. In the case of the substances referred to in table 1, the ozone-depletion factor shall be as specified in table 1, unless the Administrator adjusts any such factor based on criteria referred to in section 150(4):

"TABLE 1

| Substance | Ozone-depletion factor |
|---|---|
| Trichlorofluoromethane (CFC-11) | 1.00 |
| Dichlorodifluoromethane (CFC-12) | 1.00 |
| Trichlorotrifluoroethane (CFC-113) | 0.80 |
| Bromotrifluoromethane (Halon-1301) | 10.00 |
| Bromochlorodifluoromethane (Halon-1211) | 3.0 |
| Tetrachloromethane (carbon tetrachloride) | 1.06 |
| Dichlorotetrafluoroethane (CFC-114) | 1.0 |
| (Mono)chloropentafluoroethane (CFC-115) | 0.60 |
| Methyl chloroform | 0.15 |
| Dibromotetrafluoroethane (Halon-2402) | 6.0 |
| Chlorodifluoromethane (CFC-22) | 0.05 |
| Chlorofluorocarbon-123 | 0.02 |
| Chlorofluorocarbon-124 | 0.02 |
| Chlorofluorocarbon-141(b) | 0.1 |
| Chlorofluorocarbon-142(b) | 0.06 |

"SEC. 152. MONITORING AND REPORTING REQUIREMENTS.

"(a) REGULATIONS.—Within 180 days after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall amend the regulations of the Administrator in effect on such date regarding monitoring and reporting of class I and class II substances. Such amendments shall conform to the requirements of this section. The amended regulations shall include requirements with respect to the time and manner of monitoring and reporting as required under this section.

"(b) ANNUAL PRODUCTION LEVEL REPORTS.—On July 1 of each year beginning after the enactment of the Clean Air Act Amendments of 1990 (or after the date on which a substance is added to the list of class I or class II substances by the Administrator) each person producing a class I or class II substance shall file a report with the Administrator setting forth the amount of the substance that such person produced in the preceding calendar year. No such report shall be required after such person permanently ceases production of the substance. Each such report shall be signed and attested by a responsible corporate officer.

"(c) BASELINE REPORTS FOR CLASS I SUBSTANCES.—Unless such information has previously been reported to the Administrator, on the date on which the first annual report under subsection (b) is required to be filed, each person producing a class I substance (other than a substance added to the list after the enactment of the Clean Air Act Amendments of 1990) shall file a report with the Administrator setting forth the amount of such substance that such person produced during the baseline year. In the case of a substance added to the list of class I substances after the Clean Air Act Amendments of 1990, the regulations shall require that each person producing such substance shall file a report with the Administrator within 180 days after the date on which such substance is added to the list, setting forth the amount of the substance that such person produced in the baseline year.

"(d) MONITORING AND REPORTS TO CONGRESS.—(1) The Administrator shall monitor and, not less often than every 2 years following enactment of the Clean Air Act Amendments of 1990, submit a report to Congress on the production and use of class I and class II substances. Such report shall include data on domestic production and use, and an estimate of worldwide production and use of such substances.

"(2) The Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall monitor, and not less often than every 2 years following enactment of the Clean Air Act Amendments of

1990, submit a report to Congress on the current average tropospheric concentration of chlorine and bromine in the atmosphere and on the level of depletion of the stratospheric ozone layer. Not less frequently than every 2 years the Administrator shall report to Congress on the environmental and economic effects of any depletion of the stratospheric ozone layer.

"SEC. 153. PRODUCTION PHASEOUT FOR CLASS I SUBSTANCES.

"(a) REGULATIONS.—The Administrator shall promulgate regulations within 1 year after the enactment of the Clean Air Act Amendments of 1990 phasing out the production of class I substances in accordance with this section, subject to acceleration of the phase out under section 155. The phase out shall provide for equal annual percentage reductions in each of the following periods: July 1, 1991 to July 1, 1993; July 1, 1993 to July 1, 1995; and July 1, 1995 to July 1, 2000.

"(b) 1993 AND 1995 LIMITS.—Effective July 1, 1993, it shall be unlawful for any person to produce any class I substance in an annual quantity greater than 80 percent of the quantity produced by such person in the baseline year. Effective July 1, 1995, it shall be unlawful for any person to produce any class I substance in an annual quantity greater than 50 percent of the quantity produced by such person in the baseline year.

"(c) 2000 LIMIT.—Effective July 1, 2000, it shall be unlawful for any person to produce any amount of a class I substance, except as provided in subsection (e).

"(d) METHYL CHLOROFORM.—In the case of methyl chloroform, the phase-out schedule under subsections (b) and (c) shall not apply but effective July 1, 1993, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 80 percent of the baseline amount; effective July 1, 1994, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 70 percent of the baseline amount; effective July 1, 1995, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 60 percent of the baseline amount; effective July 1, 1996, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 50 percent of the baseline amount; and effective July 1, 2005, it shall be unlawful for any person to produce any amount of methyl chloroform, except as provided in subsection (e).

"(e) EXCEPTIONS.—

"(1) MEDICAL PURPOSES.—Notwithstanding the prohibitions set forth in subsections (c) and (d), the Administrator, after notice and opportunity for public comment, shall authorize the production of limited quantities of class I substances solely for use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for such purposes.

"(2) AVIATION SAFETY.—Notwithstanding the prohibitions set forth in subsections (c) and (d), the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of bromochlorodifluoromethane (halon-1211), bromotrifluoromethane (halon-1301), and dibromotetrafluoroethane (halon-2402) solely for purposes of aviation safety if the Administrator of the Federal Aviation Administration, in consultation with the Administrator, determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation safety purposes.

"(3) CAP ON EXCEPTIONS.—Under no circumstances may the authority set forth in paragraphs (1) and (2) of this subsection be applied to authorize any person to produce a class I substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

"(4) FIRE SUPPRESSION.—Notwithstanding the prohibition set forth in subsection (b), the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of bromochlorodifluoromethane (halon-1211), bromotrifluoromethane (halon-1301), and dibromotetrafluoroethane (halon-2402) solely for purposes of fire suppression if the Administrator, in consultation with the Administrator of the United States Fire Administration, determines that no safe and effective substitute has been developed and that such authorization is necessary for fire suppression purposes. The Administrator shall not authorize production under this paragraph for purposes of fire safety training or testing of fire suppression equipment. In no event, shall the Administrator grant an exception under this paragraph that permits production after December 1, 1999.

"(f) NEW CLASS I SUBSTANCES.—In the case of substances added to the list of class I substances after the enactment of the Clean Air Act Amendments of 1990, the Administrator may extend the compliance deadlines in subsections (b) and (c) if the deadlines are unattainable. No such extension may extend the compliance deadline in subsection (b) to a date more than 4 years after the addition of the substance to the class I list, and no such extension may extend the compliance deadline under subsection (c) to a date more than 7 years after the date of addition of the substance to such list.

"(g) EXCHANGES.—The Administrator shall, within 18 months after the enactment of the Clean Air Act Amendments of 1990, promulgate rules under this part pursuant to which any person may produce a class I or class II substance in annual quantities greater than those specified pursuant to this section, section 154, or section 155 if such person acquires production allowances , directly or indirectly, from another person who will be subject, under such rules, to an enforceable and quantifiable reduction in the annual production of such substance which—

"(1) exceeds the reduction otherwise applicable to such other person under this part,

"(2) exceeds the production allowances transferred by such other person, and

"(3) would not have occurred in the absence of such transaction.

Such rules shall insure that the transactions under the authority of this subsection will result in greater total reductions in the annual production of substances covered by this part than would occur in the absence of such transactions.

"(h) EXCEPTION FOR EXPORT TO DEVELOPING COUNTRIES.—Notwithstanding the prohibition set forth in this section, the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of a substance listed under subsection (a) of section 504 solely for export to and use in developing countries that are parties to the Montreal Protocol and are operating under article 5 of such Protocol. Any production authorized under this subsection shall be solely for purposes of satisfying the basic domestic needs of such countries.

"SEC. 154. PHASE OUT OF CLASS II SUBSTANCES.

"(a) REGULATIONS.—By December 31, 1999, the Administrator shall promulgate regulations phasing out the production and use of class II substances in accordance with this section, subject to any acceleration of the phase out under section 155.

"(b) PHASE OUT OF USE.—Effective January 1, 2015, it shall be unlawful for any person to produce or use any class II substance unless such substance—

"(1) has been used, recovered, and recycled;

"(2) is used and entirely consumed in the production of other chemicals; or

"(3) is used to maintain and service household and commercial appliances manufactured prior to January 1, 2015.

In the case of any class II substance with an atmospheric lifetime equal to or shorter than hydrochlorofluorocarbon-123, in applying this subsection, the date January 1, 2020 shall be substituted for the date January 1, 2015.

"(c) PRODUCTION PHASE OUT.—(1) Effective January 1, 2015, it shall be unlawful for any person to produce any class II substance in an annual quantity greater than the average annual quantity of such substance produced by such person during the baseline year.

"(2) Effective January 1, 2030, it shall be unlawful for any person to produce any class II substance. In the case of any class II substance with an atmospheric lifetime equal to or shorter than hydrochlorofluorocarbon-123, in applying this subsection, the date January 1, 2020 shall be substituted for the date January 1, 2015 and the date January 1, 2035 shall be substituted for the date January 1, 2030.

"(d) EXCEPTION.—

"(1) MEDICAL PURPOSES.—Notwithstanding the prohibitions set forth in subsections (b) and (c), the Administrator, after notice and opportunity for public comment, shall authorize the production and use of limited quantities of class II substances solely for purposes of use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for such purposes.

"(2) CAP ON EXCEPTIONS.—Under no circumstances may the authority set forth in paragraph (1) of this subsection be applied to authorize any person to produce a class II substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

"SEC. 155. ACCELERATED SCHEDULE.

"The Administrator shall promulgate regulations, after notice and opportunity for public comment, which establish a schedule for phasing out the production and use of substances covered by this part that is more stringent than set forth in section 153 or 154, or both, if—

"(1) based on the latest assessment of information regarding the harmful effects on the stratosphere which may be associated with a class I or class II substance, the Administrator determines that such more stringent schedule may be necessary to protect human health and the environment,

"(2) based on the availability of substitutes for a listed substance, the Administrator determines that such more stringent schedule is attainable, or

"(3) the Montreal Protocol is modified to include a schedule to control or reduce production or use of any substance more rapidly than the applicable schedule set forth in this part.

Any person may petition the Administrator to promulgate regulations under this section. The Administrator shall grant or deny the petition within 180 days after receipt of

*any such petition. If the Administrator denies the petition, he shall publish an explanation of why the petition was denied. If the Administrator grants such petition, such final regulations shall be promulgated within 1 year.*

*"SEC. 156. ALTERNATIVES.*

*"(a) REVIEWS AND REPORT.—(1) The Administrator shall initiate, not less than 30 days after enactment of the Clean Air Act Amendments of 1990, a review of relevant professional, technical, and scientific sources that may contain information concerning potential chemicals or product substitutes and alternative manufacturing processes that are potential replacements for class I substances. The Administrator shall report interim findings to the Congress no later than 12 months after enactment of the Clean Air Act Amendments of 1990. A final report shall be issued no later than 2 years after enactment of the Clean Air Act Amendments of 1990.*

*"(2) The report required under this section shall include the Administrator's findings with regard to each of the following:*

*"(A) The identity of potential replacement chemicals, product substitutes, or alternative production processes.*

*"(B) A chemical profile or an abstract that describes each replacement chemical and alternative production process identified in subparagraph (A) and any health or environmental hazards, including ozone-depletion potential associated with each.*

*"(C) The earliest date upon which each chemical and production process identified pursuant to subparagraph (A) can be available for commercial use.*

*"(3) The Administrator shall require any person who produces a chemical substitute to provide the Administrator with their unpublished health and safety studies on chemical substitutes for class I substances and require producers to notify the Administrator before existing chemicals are introduced into interstate commerce for significant new uses as substitutes for such substances.*

*"(4) The Administrator shall update the review required by this subsection every 2 years. Effective no more than 4 years after enactment of the Clean Air Act Amendments of 1990, potential alternatives to class II substances shall be included in the Administrator's annual review under this subsection.*

*"(b) REPLACEMENT.—Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate rules under this section applicable to the replacement of class I and class II ozone-depleting substances. Such rules shall require that replacement chemicals, product substitutes, and alternative production processes, products, and raw materials that reduce overall risks to human health and the environment are used, to the maximum extent practicable, for the replacement of such substances.*

*"(c) ALTERNATIVES FOR CLASS I SUBSTANCES.—The rules under this section shall provide that, not more than 2 years after enactment of the Clean Air Act Amendments of 1990, it shall be unlawful to replace any class I substance with any substitute substance which the Administrator determines may present adverse effects to human health or the environment, where the Administrator has identified an alternative to such replacement that—*

*"(1) reduces the overall risk to human health and the environment; and*

*"(2) is currently or potentially available.*

*The Administrator shall publish a list of (A) the substitutes prohibited under this subsection for specific uses and (B) the safe alternatives identified under this subsection for specific uses.*

*"(d) RIGHT TO PETITION.—Any person may petition the Administrator to add a substance to the lists under subsection (c) or to remove a substance from either of such lists. The Administrator shall grant or deny the petition within 90 days after receipt of any such petition. If the Administrator denies the petition, he shall publish an explanation of why the petition was denied. If the Administrator grants such petiton the Administrator shall publish such revised list within 6 months thereafter.*

*"SEC. 157. NATIONAL RECYCLING AND DISPOSAL PROGRAM.*

*"(a) IN GENERAL.—The Administrator shall, within 2 years after the enactment of the Clean Air Act Amendments of 1990, promulgate regulations establishing standards and requirements regarding the use and disposal of class I and II substances. Such standards and requirements shall become effective not later than 12 months after promulgation of the regulations. Such regulations shall include requirements that—*

*"(1) reduce the use and emission of such substances to the lowest achievable level, and*

*"(2) maximize the recapture and recycling of such substances. Such regulations may include requirements to use alternative substances (including substances which are not class I or class II substances) or to minimize use of class I or class II substances, or to promote the use of safe alternatives pursuant to section 156, or any combination of the foregoing.*

*"(b) SAFE DISPOSAL.—The regulations under subsection (a) shall establish standards and requirements for the safe disposal of class I and II substances. Such regulations shall include each of the following—*

*"(1) Requirements that class I or class II substances contained in bulk in appliances, machines or other goods (including but not limited to refrigerators and air conditioners) shall be removed from each such appliance, machine or other good prior to the disposal of such items or their delivery for recycling.*

*"(2) Requirements that any appliance, machine or other good containing a class I or class II substance in bulk shall not be manufactured, sold, or distributed in interstate commerce or offered for sale or distribution in interstate commerce unless it is equipped with a servicing aperture or an equally effective design feature which will facilitate the recapture of such substance during service and repair or disposal of such item.*

*"(3) Requirements that any product in which a class I or class II substance is incorporated so as to constitute an inherent element of such product shall be disposed of in a manner that reduces, to the maximum extent practicable, the release of such substance into the environment. If the Administrator determines that the application of this paragraph to any product would result in producing only insignificant environmental benefits, the Administrator shall include in such regulations an exception for such product.*

*"(d) PROHIBITION.—Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of a household or commercial appliance, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance in a manner which permits such substance to enter the environment. De minimis releases associated with good faith attempts to recapture and recycle or safely dispose of any such substance shall not be subject to the prohibition set forth in the preceding sentence.*

*"SEC. 158. SERVICING OF MOTOR VEHICLE AIR CONDITIONERS.*

*"(a) REGULATIONS.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations in accordance with this section establishing standards and requirements regarding the servicing of motor vehicle air conditioners.*

*"(b) DEFINITIONS.—As used in this section—*

*"(1) The term 'refrigerant' means any class I or class II substance used in a motor vehicle air conditioner.*

*"(2)(A) The term 'approved refrigerant recycling equipment' means equipment certified by the Administrator (or an independent standards testing organization approved by the Administrator) to meet the standards established by the Administrator and applicable to equipment for the extraction and reclamation of refrigerant from motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of the date of the enactment of the Clean Air Act Amendments of 1990 and applicable to such equipment (SAE standard J-1990).*

*"(B) Equipment purchased before the proposal of regulations under this section shall be considered certified if it is substantially identical to equipment certified as provided in subparagraph (A).*

*"(3) The term 'properly using' approved refrigerant recycling equipment means using such equipment in conformity with standards established by the Administrator and applicable to the use of such equipment. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of the date of the enactment of the Clean Air Act Amendments of 1990 and applicable to the use of such equipment (SAE standard J-1989).*

*"(4) The term 'properly trained and certified' means training and certification in the proper use of approved refrigerant recycling equipment for motor vehicle air conditioners in conformity with standards established by the Administrator and applicable to the performance of service on motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as specified, as of the date of the enactment of the Clean Air Act Amendments of 1990 in SAE standard J-1989 under the certification program of the National Institute for Automotive Service Excellence (ASE) or under a similar program such as the training and certification program of the Mobile Air Conditioning Society (MACS).*

*"(b) SERVICING MOTOR VEHICLE AIR CONDITIONERS.—Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner involving the refrigerant for such air conditioner without properly using approved refrigerant recycling equipment and no such person may perform such service unless such person has been properly trained and certified. The requirements of the previous sentence shall not apply until the date 3 years after the enactment of the Clean Air Act*

*Amendments of 1990 in the case of a person repairing or servicing motor vehicles for consideration at an entity which performed service on fewer than 100 motor vehicle air conditioners during calendar year 1990 and if such person so certifies, pursuant to subsection (c)(2), to the Administrator by the date 2 years after the enactment of the Clean Air Act Amendments of 1990.*

*"(c) CERTIFICATION.—Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, each person performing service on motor vehicle air conditioners shall certify to the Administrator either—*

*"(1) that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified; or*

*"(2) that such person is performing such service at an entity which serviced fewer than 100 motor vehicle air conditioners in 1990.*

*Each certification under this subsection shall contain the name and address of the person and the serial number of each unit of approved recycling equipment acquired by such person and shall be signed by the owner or another responsible corporate officer. Certifications under paragraph (1) may be made by submitting the required information to the Administrator on a standard form provided by the manufacturer of certified refrigerant recycling equipment.*

*"SEC. 159. LABELING.*

*"(a) REGULATIONS.—The Administrator shall promulgate regulations to implement the labeling requirements of this section within 12 months after enactment of the Clean Air Act Amendments of 1990, after notice and opportunity for public comment.*

*"(b) CLASS I SUBSTANCES.—Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, no container in which a class I substance is stored or transported, no product containing such substance, and no product manufactured with a process that uses a class I substance shall be introduced or reintroduced into interstate commerce unless it bears a clearly legible and conspicuous label stating either of the following, as appropriate:*

*"(1) 'Warning: Contains [insert name of substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere'.*

*"(2) 'Warning: Manufactured with [insert name of substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere'.*

*For purposes of any provision of law which requires the labeling of commodities, such a container shall be treated as lawfully labeled only if it complies with this subection.*

*"(c) CLASS II SUBSTANCES.—(1) The requirements of this section shall also apply to any container in which a class II substance is stored or transported, any product containing a class II substance, and any product manufactured with a process that uses a class II substance if the Administrator finds that there is an alternative for such substance or for the use of such substance (in the case of products containing, or manufactured with, the substance) and that such alternative—*

*"(A) reduces the overall risk to human health and the environment; and*

*"(B) is currently or potentially available.*

*"(2) Effective January 1, 2015, the requirements of this section shall apply to containers in which a class II substance is stored or transported, products containing a class II substance, and products manufactured with a process that uses a class II substance.*

*"(d) RELATIONSHIP TO OTHER LAW.—Neither the labeling requirement nor any other provision of this part, shall constitute, in whole or part, a defense to liability or a cause for reduction in damages in any suit, whether civil or criminal, brought under any law, whether Federal or State, other than a suit for failure to comply with the labeling requirements of this section.*

*"SEC. 159A. NONESSENTIAL PRODUCTS CONTAINING CHLOROFLUOROCARBONS.*

*"(a) REGULATIONS.—The Administrator shall promulgate regulations to carry out the requirements of this section within 1 year after the enactment of the Clean Air Act Amendments of 1990.*

*"(b) NONESSENTIAL PRODUCTS.—The regulations under this section shall identify nonessential products that release class I substances into the environment (including any release occurring during manufacture, use, storage, or disposal) and prohibit any person from selling or distributing any such product, or offering any such product for sale or distribution, in interstate commerce. At a minimum such regulations shall apply to chlorofluorocarbon-propelled plastic party streamers and noise horns, chlorofluorocarbon-containing cleaning fluids for noncommercial electronic and photographic equipment, and other consumer products that—*

*"(1) release class I substances into the environment (including any release occurring during manufacture, use, storage, or disposal), and*

*"(2) are determined by the Administrator not to be essential.*

*"(b) EFFECTIVE DATE.—Effective 24 months after the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce any nonessential product to which regulations under subsection (a) are applicable.*

*"(c) OTHER PRODUCTS.—Effective January 1, 1994, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce—*

*"(1) any aerosol product or other pressurized dispenser which contains a class II substance; or*

*"(2) any plastic foam product (other than a foam insulation product) which contains, or is manufactured with, a class II substance.*

*"(d) SMALL CONTAINERS OF CLASS I OR CLASS II SUBSTANCES.—Effective 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce to any person (other than a person performing service for consideration on motor vehicle air-conditioning systems in compliance with section 158) any class I or class II substance that is suitable for use as a refrigerant in a motor vehicle air-conditioning system and that is in a container which contains less than 20 pounds of such refrigerant.*

*"(e) MEDICAL DEVICES.—Nothing in this section shall apply to any medical device as defined in section 150.*

*"SEC. 159B. FEDERAL PROCUREMENT.*

*"Not later than 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Administrator of the General Services Administration, shall promulgate regulations requiring each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of this part and to maximize the substitution of safe alternatives identified in section 156 for class I and class II substances.*

*"SEC. 159C. FEDERAL ENFORCEMENT.*

*"The provisions of sections 113, 114, 116, and 304 shall apply for purposes of this part in the same manner and to the same extent as such provisions apply for purposes of enforcement of a standard under section 111, and for purposes of such provisions a violation of any requirement of this part (or of any regulation under this part) shall be treated as a violation of section 111(e). For purposes of sections 116 and 118, the requirements of this part shall be treated as requirements for the control and abatement of air pollution.*

*"SEC. 159D. INTERNATIONAL COOPERATION.*

*"The Administrator, in consultation with the Secretary of State, shall support global participation in the Montreal Protocol by providing technical and financial assistance to developing countries that are parties to the Montreal Protocol and operating under article 5 of the Protocol. There are authorized to be appropriated not more than $30,000,000 to carry out this section in fiscal years 1991, 1992 and 1993.*

*"SEC. 159E. STATE LAWS CONCERNING HOUSEHOLD AND COMMERCIAL APPLIANCE DESIGN.*

*"During the 2-year period beginning on the enactment of the Clean Air Act Amendments of 1990, no State or local government may enforce any requirement concerning the design of any new or recalled household and commercial appliance for the purpose of protecting the stratospheric ozone layer.".*

*(b) CONFORMING AMENDMENTS.—Section 157 is amended by striking subsection (b), striking in subsection (a) the words "any time prior to the submission of the final report referred to in section 155", and by redesignating such section as section 159G.*

*SEC. 712. OCS AIR POLLUTION.*

*Title III of the Clean Air Act is amended by adding the following new section after section 327:*

*"SEC. 328. AIR POLLUTION FROM OUTER CONTINENTAL SHELF ACTIVITIES.*

*"(a)(1) APPLICABLE REQUIREMENTS FOR CERTAIN AREAS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, following consultation with the Secretary of the Interior and the Commandant of the United States Coast Guard, the Administrator, by rule, shall establish requirements to control air pollution from Outer Continental Shelf sources located offshore of the States along the Pacific, Arctic and Atlantic Coasts, and along the United States Gulf Coast off the State of Florida eastward of longitude 87 degrees and 30 minutes ('OCS sources') to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I. For such sources located within 25 miles of the seaward boundary of such States, such requirements shall be the same as would be applicable if the source were located in the corresponding onshore area, and shall include, but not be limited to, State and local requirements for emission controls, emission limitations, offsets, permitting, monitoring, testing, and reporting. New OCS sources shall comply with such requirements on the date of promulgation and existing OCS sources shall comply on the date 12 months thereafter. The Administrator shall update such requirements as necessary to maintain consistency with*

onshore regulations. The authority of this subsection shall supersede section 5(a)(8) of the Outer Continental Shelf Lands Act but shall not repeal or modify any other Federal, State, or local authorities with respect to air quality. Each requirement established under this section shall be treated, for purposes of sections 113, 114, 116, 120, and 304, as a standard under section 111 and a violation of any such requirement shall be considered a violation of section 111(e).

"(2) EXEMPTIONS.—The Administrator may exempt an OCS source from a specific requirement in effect under regulations under this subsection if the Administrator finds that compliance with a pollution control technology requirement is technically infeasible or will cause an unreasonable threat to health and safety. The Administrator shall make written findings explaining the basis of any exemption issued pursuant to this subsection and shall impose another requirement equal to or as close in stringency to the original requirement as possible. The Administrator shall ensure that any increase in emissions due to the granting of an exemption is offset by reductions in actual emissions, not otherwise required by this Act, from the same source or other sources in the area or in the corresponding onshore area. The Administrator shall establish procedures to provide for public notice and comment on exemptions proposed pursuant to this subsection.

"(3) STATE PROCEDURES.—Each State adjacent to an OCS source included under this subsection may promulgate and submit to the Administrator regulations for implementing and enforcing the requirements of this subsection. If the Administrator finds that the State regulations are adequate he shall delegate to that State any authority he has under this Act to implement and enforce such requirements. Nothing in this subsection shall prohibit the Administrator from enforcing any requirement of this section.

"(4) DEFINITIONS.—For purposes of subsections (a) and (b)—

"(A) OUTER CONTINENTAL SHELF.—The term 'Outer Continental Shelf' has the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

"(B) CORRESPONDING ONSHORE AREA.—The term 'corresponding onshore area' means, with respect to any OCS source, the onshore attainment or nonattainment area that is closest to the source, unless the Administrator determines that another area with more stringent requirements with respect to the control and abatement of air pollution may reasonably be expected to be affected by such emissions. Such determination shall be based on the potential for air pollutants from the OCS source to reach the other onshore area and the potential of such air pollutants to affect the efforts of the other onshore area to attain or maintain any Federal or State ambient air quality standard or to comply with the provisions of part C of title I.

"(C) OUTER CONTINENTAL SHELF SOURCE.—The terms 'Outer Continental Shelf source' and 'OCS source' include any equipment, activity, or facility which—

"(i) emits or has the potential to emit any air pollutant,

"(ii) is regulated or authorized under the Outer Continental Shelf Lands Act, and

"(iii) is located on the Outer Continental Shelf or in or on waters above the Outer Continental Shelf.

Such activities include, but are not limited to, platform and drill ship exploration, construction, development, production, processing, and transportation. For purposes of this subsection, emissions from any vessel servicing or associated with an OCS source, including emissions while at the OCS source or en route to or from the OCS source within 25 miles of the OCS source, shall be considered direct emissions from the OCS source.

"(D) NEW AND EXISTING OCS SOURCES.—The term 'new OCS source' means an OCS source which is a new source within the meaning of section 111(a). The term 'existing OCS source' means any OCS source other than a new OCS source.

"(b) REQUIREMENTS FOR OTHER OFFSHORE AREAS.—For portions of the United States Gulf Coast Outer Continental Shelf that are adjacent to the States not covered by subsection (a) which are Texas, Louisiana, Mississippi, and Alabama, the Secretary shall consult with the Administrator to assure coordination of air pollution control regulation for Outer Continental Shelf emissions and emissions in adjacent onshore areas. Concurrently with this obligation, the Secretary shall complete within 3 years of enactment of this section a research study examining the impacts of emissions from Outer Continental Shelf activities in such areas that fail to meet the national ambient air quality standards for either ozone or nitrogen dioxide. Based on the results of this study, the Secretary shall, consult with the Administrator, and determine if any additional actions are necessary. There are authorized to be appropriated such sums as may be necessary to provide funding for the study required under this section.

"(c)(1) COASTAL WATERS.—The study report of section 112(n) of the Clean Air Act shall apply to the coastal waters of the United States to the same extent and in the same manner as such requirements apply to the Great Lakes, the Chesapeake Bay, and their tributary waters.

"(2) The regulatory requirements of section 112(n) of the Clean Air Act shall apply to the coastal waters of the States which are subject to subsection (a) of this section, to the same extent and in the same manner as such requirements apply to the Great Lakes, the Chesapeake Bay, and their tributary waters.".

SEC. 713. AUTHORIZATION.

Section 327 is amended to read as follows:

"SEC. 327. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act such sums as may be necessary.

"(b) GRANTS FOR PLANNING.—There are authorized to be appropriated (1) not more than $50,000,000 to carry out section 175 beginning in fiscal year 1991, to be available until expended, to develop plan revisions required by subpart 2, 3, or 4 of part D of title I, and (2) not more than $15,000,000 for each of the fiscal years 1991, 1992, and 1993 to make grants to the States to prepare implementation plans as required by subpart 2, 3, or 4 of part D of title I.".

SEC. 714. HYDROGEN FUEL CELL VEHICLE STUDY AND TEST PROGRAM.

The Administrator of the Environmental Protection Agency, in conjunction with the National Aeronautics and Space Administration, and the Department of Energy shall conduct a study and test program on the development of a hydrogen fuel cell electric vehicle. The study and test program shall determine how best to transfer existing NASA hydrogen fuel cell technology into the form of a mass-producible, cost effective hydrogen fuel cell vehicle. Such study and test program shall include at a minimum a feasibility-design study, the construction of a prototype, and a demonstration. This study and test program should be completed and a report submitted to Congress within 3 years after the enactment of the Clean Air Act Amendments of 1990. This study and test program should be performed in the university or universities which are best exhibiting the facilities and expertise to develop such a fuel cell vehicle.

SEC. 715. INFORMATION GATHERING ON GREENHOUSE GASES CONTRIBUTING TO GLOBAL CLIMATE CHANGE.

(a) MONITORING.—The Administrator of the Environmental Protection Agency shall promulgate regulations within 18 months after the enactment of the Clean Air Act Amendments of 1990 to require that all affected sources subject to title V of the Clean Air Act shall also monitor carbon dioxide emissions according to the same timetable as in section 511 (b) and (c). The regulations shall require that such data be reported to the Administrator. The provisions of section 511(e) of title V of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 511.

(b) PUBLIC AVAILABILITY OF CARBON DIOXIDE INFORMATION.—For each unit required to monitor and provide carbon dioxide data under subsection (a) the Administrator shall compute the unit's aggregate annual total carbon dioxide emissions, incorporate such data into a computer data base, and make such aggregate annual data available to the public.

## TITLE VIII—OTHER PROVISIONS

Sec. 801. Establishment of program to monitor and improve air quality in regions along the border between the United States and the United States of Mexico.
Sec. 802. Equivalent air quality controls among trading nations.
Sec. 803. Report on costs and benefits.
Sec. 804. United States-Mexico office within EPA.
Sec. 805. Combustion of contaminated used oil in ships.
Sec. 806. American made products.

SEC. 801. ESTABLISHMENT OF PROGRAM TO MONITOR AND IMPROVE AIR QUALITY IN REGIONS ALONG THE BORDER BETWEEN THE UNITED STATES AND THE UNITED STATES OF MEXICO.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") is authorized, in cooperation with the Department of State and the affected States, to negotiate with representatives of the United States of Mexico to establish a program to monitor and improve air quality in regions directly along the border between the United States and the United States of Mexico. The program established under this section shall be conducted for a period of 60 months beginning on July 1, 1990.

(b) MONITORING AND REMEDIATION.—

(1) MONITORING.—The monitoring component of the program conducted under this section shall identify and determine sources of pollutants for which National ambient air quality standards (hereinafter referred to as "NAAQS") and other air quality goals have been established in regions along the border between the United States and the United States of Mexico. Such monitoring component of the program shall include, but not be limited to, the collection of meteorological data, the measurement of air quality, the compilation of an emissions inventory,

and shall be sufficient to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. Such monitoring component of the program shall collect and produce data projecting the level of emission reductions necessary in both the United States of Mexico and the United States to bring about attainment of both primary and secondary NAAQS, and other air quality goals, in regions along the border in the United States. Such monitoring component of the program shall include to the extent possible, data from monitoring programs undertaken by other parties.

(2) REMEDIATION.—The Administrator, in cooperation with the Department of State is authorized to negotiate with appropriate representatives of the United States of Mexico to develop joint remediation measures to reduce the level of airborne pollutants to achieve and maintain primary and secondary NAAQS, and other air quality goals, in regions along the border between the United States and the United States of Mexico. Such joint remediation measures may include, but not be limited to measures included in the Environmental Protection Agency's Control Techniques and Control Technology documents. Such remediation program shall also identify those control measures implementation of which in the United States of Mexico would be expedited by the use of material and financial assistance of the United States. With respect to those control measures identified as requiring funding of the United States for projects within the United States of Mexico, the Administrator shall attempt to the maximum extent practicable to utilize resources of the United States of Mexico that would offset costs of the United States in implementing joint remediation measures under this section. Such joint remediation measures shall be included as enforceable control strategies in the state implementation plan for the respective nonattainment area.

(c) STUDY AND REPORTS.—

(1) GAO STUDY.—The Comptroller General of the General Accounting Office shall, conduct a study and issue a report to Congress not later than January 1, 1994, on the program conducted under this section. Such study shall—

(A) summarize the project to date,

(B) make recommendations on ways to improve the program; and

(C) make recommendations on the advisability of continuing the program or expanding the program to include Canada and other nations.

(2) REPORT OF ADMINISTRATOR.—The Administrator shall, not later than July 1, 1991, and each year thereafter during the operation of the program described in this section, report to Congress on the progress of the program in bringing nonattainment areas along the border of the United States into attainment with primary and secondary NAAQS. The report issued by the Administrator under this paragraph shall include recommendations on funding mechanisms to assist in implementation of monitoring and remediation efforts.

(d) FUNDING AND PERSONNEL.—The Administrator shall, where necessary, make available, subject to appropriation Acts, such funds, personnel, and equipment as may be necessary to implement the provisions of this section. In those cases where direct financial assistance of the United States is provided to implement monitoring and remediation programs in the United States of Mexico, the Administrator shall develop grant agreements with appropriate representatives of the United States of Mexico to assure the accuracy and completeness of monitoring data and the performance of remediation measures which are financed by the United States. Such funding agreements, subject to appropriation Acts, shall include authorization for the Administrator to—

(1) review and agree to plans for monitoring and remediation;

(2) inspect premises, equipment and records to insure compliance with the agreements established under and the purposes set forth in this section; and

(3) where necessary, develop grant agreements with affected States to carry out the provisions of the section.

(e) CONSIDERATION OF FACTORS IN NONATTAINMENT AREAS.—When approving state implementation plans for nonattainment areas (as defined in section 171(2) (42 U.S.C. 7501(2)), the Administrator shall take into account the impacts of the sources of pollutants coming from the United States of Mexico and the role of the United States in developing monitoring and remediation plans with the United States of Mexico to bring about attainment of both primary and secondary NAAQS and other air quality goals in regions along the border in the United States.

SEC. 802. EQUIVALENT AIR QUALITY CONTROLS AMONG TRADING NATIONS.

(a) FINDINGS.—The Congress finds that—

(1) all nations have the responsibility to adopt and enforce effective air quality standards and requirements and the United States, in enacting this Act, is carrying out its responsibility in this regard;

(2) as a result of complying with this Act, businesses in the United States will make significant capital investments and incur incremental costs in implementing control technology standards;

(3) such compliance may impair the competitiveness of certain United States jobs, production, processes, and products if foreign goods are produced under less costly environmental standards and requirements than are United States goods; and

(4) mechanisms should be sought through which the United States and its trading partners can agree to eliminate or reduce competitive disadvantages.

(b) ACTION BY THE PRESIDENT.—

(1) IN GENERAL.—Within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the President shall submit to the Congress a report—

(A) identifying and evaluating the economic effects of—

(i) the significant air quality standards and controls required under this Act, and

(ii) the differences between the significant standards and controls required under this Act and similar standards and controls adopted and enforced by the major trading partners of the United States,

on the international competitiveness of United States manufacturers; and

(B) containing a strategy for addressing such economic effects through trade consultations and negotiations.

(2) ADDITIONAL REPORTING REQUIREMENTS.—(A) The evaluation required under paragraph (1)(A) shall examine the extent to which the significant air quality standards and controls required under this Act are comparable to existing internationally-agreed norms.

(B) The strategy required to be developed under paragraph (1)(B) shall include recommended options (such as the harmonization of standards and trade adjustment measures) for reducing or eliminating competitive disadvantages caused by differences in standards and controls between the United States and each of its major trading partners.

(3) PUBLIC COMMENT.—Interested parties shall be given an opportunity to submit comments regarding the evaluations and strategy required in the report under paragraph (1). The President shall take any such comment into account in preparing the report.

(4) INTERIM REPORT.—Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, the President shall submit to the Congress an interim report on the progress being made in complying with paragraph (1).

SEC. 803. REPORT ON COSTS AND BENEFITS.

Commencing on the second year after the date of the enactment of the Clean Air Act Amendments of 1990 and annually thereafter, the Comptroller General of the General Accounting Office, in consultation with other agencies, such as the Environmental Protection Agency, the Department of Labor, the Department of Commerce, the United States Trade Representative, the National Academy of Sciences, the Office of Technology Assessment, the National Academy of Engineering, the Council on Environmental Quality, and the Surgeon General, shall provide a report to the Congress on the incremental human health and environmental benefits, and incremental costs beyond current clean air requirements of the new control strategies and technologies required by this Act. The report shall include, for such strategies and technologies, an analysis of the actual emissions reductions beyond existing practice, the effects on human life, human health and the environment (including both positive impacts and those that may be detrimental to jobs and communities resulting from loss of employers and employment, etc.), the energy security impacts, and the effect on United States products and our industrial competitiveness in national and international markets.

SEC. 804. UNITED STATES-MEXICO OFFICE WITHIN EPA.

Title III is amended by inserting the following after section 325:

"SEC. 325A. UNITED STATES-MEXICO AIR QUALITY.

"(a) ESTABLISHMENT OF OFFICE.—In coordination with the Secretary of State, the Administrator shall establish in the Office of International Activities a United States-Mexico Air Quality Office to be under the direction of a Director for United-States-Mexico Air Quality affairs (hereinafter in this section referred to as the Director).

"(b) DUTIES OF DIRECTOR.—In addition to such other air quality duties as may be delegated to the Director, the Director shall have the responsibility to carry out each of the following:

"(1) A binational study of the prospects in Mexico for clean fuel automobiles and clean fuels (especially natural gas given Mexico's competitive advantage in this area).

"(2) A study on the possibility of standardized regulations between the United States and Mexico on air quality to contribute to greater coordination between the two jurisdictions.".

SEC. 805. COMBUSTION OF CONTAMINATED USED OIL IN SHIPS.

Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator of the Environmental Protection Agency shall complete a study and submit a report to Congress evaluating the

health and environmental impacts of the combustion of contaminated used oil in ships, the reasons for using such oil for such purposes, the alternatives to such use, the costs of such alternatives, and other relevant factors and impacts. In preparing such study, the Administrator shall obtain the view and comments of all interested persons.

SEC. 806. AMERICAN MADE PRODUCTS.

It is the sense of the Congress that—

(1) existing equipment and machinery retrofitted to comply with the Clean Air Act's "Best Available Control Technology" language and all other specifications within the Act be produced in the United States and purchased from American manufacturers.

(2) The construction of new industrial and utility facilities comply to the Act's specifications through the incorporation of American made equipment and technology.

(3) Individuals, groups, and organizations in the public sector strive to purchase and produce American made products that improve our nation's air quality.

TITLE IX—CLEAN AIR RESEARCH

SEC. 901. Clean air research.

SEC. 901. CLEAN AIR RESEARCH.

(a) REFERENCES IN TEXT.—Unless otherwise specified, references in the text of this section to sections or other provisions are references to sections or other provisions of the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) RESEARCH AND DEVELOPMENT PROGRAM.—Section 103(b) is amended—

(1) in paragraph (6) by striking "and" after "control thereof;";

(2) in paragraph (7) by striking the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) construct such facilities and employ staff as are necessary to carry out this Act.".

(c) AIR POLLUTANT MONITORING AND EMISSIONS INVENTORIES.—Section 103(c) is amended to read as follows:

"(c) AIR POLLUTANT MONITORING AND INVENTORIES.—In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants, including precursors of acid deposition. Such program shall include the following elements:

"(1) Consideration of individual, as well as complex mixtures of, air pollutants and their chemical transformations in the atmosphere.

"(2) Development of improved monitoring and modeling techniques to increase understanding of the sources of acid aerosols and the precursors of acid deposition.

"(3) Establishment of a national network to monitor, collect, and compile data with quantification of certainty in the status and trends of air emissions, deposition, air quality, surface water quality, forest condition, and visibility impairment, and to ensure the comparability of air quality data collected in different States and obtained from different nations.

"(4) Development of necessary instrumentation and quality assurance protocols for continuous monitoring of precursors of acid deposition.

"(5) The Administrator, in consultation with the Federal Coordinating Council for Science, Engineering, and Technology, shall oversee an experimental and analytical research effort, with the experimental research to be carried out at the Liquefied Gaseous Fuels Spill Test Facility. In consultation with scientists at Lawrence Livermore National Laboratories, the Administrator shall develop a list of chemicals and a schedule for field testing. Analysis of a minimum of 10 chemicals per year shall be carried out, with the selection of a minimum of one chemical for field testing each year. Highest priority shall be given to those chemicals that would present the greatest potential risk to human health as a result of an accidental release from a fixed site or related to the transport of such chemicals. The purpose of such research shall be to—

"(A) develop improved predictive models for atmospheric dispersion which at a minimum—

"(i) describe dense gas releases in complex terrain with variable winds;

"(ii) improve understanding of the effects of turbulence on dispersion patterns; and

"(iii) consider realistic behavior of aerosols by including physicochemical reactions with water vapor, ground deposition, and removal by water spray;

"(B) evaluate existing and future atmospheric dispersion models by—

"(i) the development of a rigorous, standardized methodology for dense gas models; and

"(ii) the application of such methodology to current dense gas dispersion models using data generated from field experiments; and

"(C) evaluate the effectiveness of hazard mitigation and emergency response technology for fixed site and transportation related accidental releases of toxic chemicals.

Models pertaining to accidental release shall be evaluated and improved periodically for their utility in planning and implementing evacuation procedures and other mitigative strategies designed to minimize human exposure to hazardous air pollutants released accidentally.

"(6) Development of improved monitoring and modeling techniques to increase understanding of the sources of ozone precursors, ozone formation, ozone transport, regional influences on urban ozone, regional ozone trends, and interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

"(A) improve the ability to inventory emissions of volatile organic compounds and nitrogen oxides that contribute to urban air pollution, including anthropogenic and natural sources;

"(B) improve the understanding of the mechanism through which anthropogenic and biogenic volatile organic compounds react to form ozone and other oxidants; and

"(C) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

"(7) Periodic reports to the Congress which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring and modeling data collected pursuant to this subsection.

"(8) Opportunities for participation by industry, public interest groups, scientists, and other interested parties on the development of air pollution models under this subsection.".

(d) HEALTH EFFECTS.—Section 103(d) is amended to read as follows:

"(d) HEALTH EFFECTS.—(1) The Administrator shall conduct a research program on the short- and long-term effects of air pollutants on human health, including the effects of acid deposition and acid aerosols. In conducting such research program the Administrator—

"(A) shall conduct studies, including epidemiological, clinical, and laboratory studies, as necessary to identify and evaluate effects of air pollutants on human health;

"(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

"(C) shall consult with other appropriate Federal agencies to ensure that similar research being conducted in other agencies is coordinated and is not duplicative.

"(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof. Such research program shall include the following elements:

"(A) The creation of an Interagency Task Force to coordinate such program. The Task Force shall include representatives of the National Institute for Environmental Health Sciences, the Environmental Protection Agency, the Agency for Toxic Substances and Disease Registry, the National Toxicology Program, the National Institute of Standards and Technology, the National Science Foundation, and the Department of Energy. This Interagency Task Force shall be chaired by a representative of the Environmental Protection Agency and shall convene its first meeting within 60 days after the date of enactment of this subparagraph.

"(B) An evaluation, within 12 months after the date of enactment of this paragraph, of each of the hazardous air pollutants listed under section 112(b) of this Act, to decide, on the basis of available information, their relative priority for preparation of environmental health assessments pursuant to subparagraph (C). The evaluation shall be based on reasonably anticipated toxicity to humans and exposure factors such as frequency of occurrence as an air pollutant and volume of emissions in populated areas. Such evaluation shall be reviewed by the Interagency Task Force established pursuant to subparagraph (A).

"(C) Preparation of environmental health assessments for each of the hazardous air pollutants referred to in subparagraph (B), beginning 6 months after the first meeting of the Interagency Task Force and to be completed within 60 months thereafter. No fewer than 38 assessments shall be published annually. The assessments shall be prepared in accordance with guidelines developed by the Administrator in consultation with the Interagency Task Force and the Science Advisory Board of the Environmental Protection Agency. Each such assessment shall include—

"(i) an examination, summary, and evaluation of available toxicological and epidemiological information for the pollutant to ascertain the levels of human exposure which pose a significant threat to human health and the associated acute, subacute, and chronic adverse health effects;

"(ii) a determination of gaps in available information related to human health effects and exposure levels; and

"(iii) where appropriate, an identification of additional activities, including toxicological testing, needed to identify the types or levels of exposure which may present significant risk of adverse health effects in humans.".

(e) ECOSYSTEM STUDIES.—Section 103(f) is amended to read as follows:

"(f) ECOSYSTEM STUDIES.—In carrying out subsection (a), the Administrator shall conduct a research program to improve understanding of the causes, effects, and trends of

ecosystems damage from air pollutants, including acid deposition. Such program shall include the following elements:

"(1) Identification of regionally representative and critical ecosystems for research.

"(2) Evaluation of risks to ecosystems exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of those effects.

"(3) Development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses associated with air pollution.

"(4) Evaluation of the effects of air pollution on water quality, including assessments of the short- and long-term ecological effects of acid deposition and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and groundwater.

"(5) Evaluation of the effects of air pollution, including acid deposition, on forests, materials, crops, and other terrestrial and aquatic systems exposed to air pollutants.

"(6) Estimation of the ecological damages and their associated costs which have occurred as a result of exposure to air pollutants.".

(f) POLLUTION PREVENTION AND EMISSIONS CONTROL; COORDINATION OF RESEARCH; AND ACID DEPOSITION RESPONSE.—Section 103 is amended by inserting after subsection (f) the following:

"(g) POLLUTION PREVENTION AND EMISSIONS CONTROL.—In carrying out subsection (a), the Administrator shall conduct a basic engineering research and technology program to develop, evaluate, and demonstrate strategies and technologies for air pollution prevention, including the prevention of acid deposition. Such strategies and technologies shall be developed especially for those pollutants which pose a significant risk to human health and the environment, and may include nontechnological strategies for pollution prevention. Such program shall include the following elements:

"(1) Improvements in strategies and technologies for simultaneously reducing multiple air pollutants from fossil fuel power plants and other combustion facilities including sulfur oxides, nitrogen oxides, heavy metals, PM-10 (particulate matter), carbon monoxide, and carbon dioxide. Such strategies and technologies shall include—

"(A) improvements in the relative cost effectiveness and long-range implications of various air pollutant reduction and control strategies such as flue gas desulfurization, clean coal technologies (including retrofit control technologies for sulfur oxides and nitrogen oxides such as in-duct injection, LIMB, and spray-dry scrubbing processes), energy conservation including end-use efficiency, and fuel-switching to cleaner fuels such as natural gas; and

"(B) improvements in methods for training personnel employed by fossil fuel power plants and other combustion facilities.

"(2) Improvements in air pollution prevention strategies and technologies, especially those which simultaneously prevent multiple air pollutant emissions, for stationary sources other than fossil fuel power plants. Such strategies and technologies shall be considered for existing and new facilities, and shall to the extent possible be considered as part of the design process for new facilities.

"(3) Improvements in strategies and technologies for preventing air emissions from mobile sources, including development of, and evaluation of the relative cost effectiveness of, methods for reducing emissions of carbon dioxide from mobile sources.

"(4) Improvements in strategies and technologies for preventing air emissions from nonpoint pollution sources.

"(5) Improvements in strategies and technologies for preventing, detecting, and correcting accidental releases of hazardous air pollutants.

"(6) An analysis of the relative costs and benefits of tire disposal methods, including a comparison of waste-to-energy methods to alternatives such as asphalt rubber and polymer treatment of ground rubber, and the promotion of improvements in strategies and technologies that dispose of tires in ways that avoid adverse air quality impacts.

Nothing in this subsection shall be construed to authorize the imposition on any person of air pollution control requirements. The Administrator shall consult with other appropriate Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.

"(h) COORDINATION OF RESEARCH.—The Administrator shall develop and implement a plan for identifying areas in which activities authorized under subsections (c), (d), (f), and (g) can be carried out in conjunction with other Federal ecological and air pollution research efforts. The plan, which shall be submitted to Congress within 6 months after the date of enactment of this subsection, shall include—

"(1) an assessment of ambient monitoring stations and networks to determine cost effective ways to expand monitoring capabilities in both urban and rural environments, including monitoring of air pollutants and other airborne chemicals of concern;

"(2) a consideration of the extent of the feasibility and scientific value of conducting the research program under subsection (e) to include consideration of the effects of atmospheric processes and air pollution effects; and

"(3) a methodology for evaluating and ranking pollution prevention technologies, such as those developed under subsection (f), in terms of their ability to reduce cost effectively the emissions of air pollutants and other airborne chemicals of concern.

Not later than 2 years after the date of enactment of this subsection, and every 2 years thereafter, the Administrator shall report to Congress on the progress made in implementing the plan developed under this subsection, and shall include in such report any revisions of the plan.

"(i) ACID DEPOSITION RESPONSE ACTION.—(1) The President shall submit to the Congress, within 6 months after the date of enactment of this subsection, a plan describing activities and assigning responsibilities for Federal research on acid deposition, and including coordination of the activities of the Administrator under this subsection.

"(2) The President shall develop, and submit to the Congress within 1 year after the date of enactment of this subsection, an assessment framework for reporting complicated technical information about acid deposition in a manner useful to policymakers and the public to assist in formulating a response. Such framework should include guidelines for the reporting of—

"(A) actual and projected annual emissions trends;

"(B) actual and projected acid deposition trends;

"(C) effects of such deposition, including changes in the chemistry of surface water quality and forest conditions related to acid deposition;

"(D) average ambient concentrations of acid deposition precursors and their transformation products; and

"(E) descriptions of the confidence level associated with each conclusion to aid policymakers in using the information.

"(3) The President shall provide Congress with a report that delineates research activities and results in accordance with the framework provided for in paragraph (2), two years after the date of enactment of this subsection, with updates biennially thereafter.

"(4) On the basis of the information provided in the updated assessments, the President shall report to Congress on the reduction in deposition rates that must be achieved in order to prevent adverse ecological effects.".

(g) MISCELLANEOUS.—(1) Section 104 is amended by striking "low-cost" each place it appears and inserting in lieu thereof "cost-effective".

(2) Section 104(c) is amended to read as follows:

"(c) CLEAN ALTERNATIVE FUELS.—The Administrator shall conduct a research program to identify, characterize, and predict air emissions and other potential environmental effects related to the production, distribution, storage, and use of clean alternative fuels to determine the risks and benefits to human health and the environment relative to those from using gasoline and diesel fuels. The Administrator shall consult with other appropriate Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.".

(h) ASSESSMENT OF INTERNATIONAL AIR POLLUTION CONTROL TECHNOLOGIES.—The Administrator of the Environmental Protection Agency shall conduct a study that compares international air pollution control technologies of selected industrialized countries to determine if there exist air pollution control technologies in countries outside the United States that may have beneficial applications to this Nation's air pollution control efforts. With respect to each country studied, the study shall include the topics of urban air quality, motor vehicle emissions, toxic air emissions, and acid deposition. The Administrator shall, within 2 years after the date of enactment of this Act, submit to the Congress a report detailing the results of such study.

(i) ADIRONDACK DESTRUCTION ASSESSMENT.—The Administrator of the Environmental Protection Agency shall establish a program to research the effects of acid deposition on waters where acid deposition have been most acute. The Administrator shall enter into a multi-year contract for such purposes with an independent university which has a year-round field analytical laboratory on a body of water of not less than 25,000 acres nor greater than 75,000 acres, which lies within a geographic region designated as a Biosphere Reserve by the Department of State. The facility must have demonstrated the capability to analyze relevant data on said body of water over a period of 20 years as well as extensive ecosystem modeling capabilities. There is authorized to be appropriated to carry out this subsection not less than $6,000,000.

### TITLE X—DISADVANTAGED BUSINESS CONCERNS

Sec. 1001. Disadvantaged business concerns.
Sec. 1002. Use of quotas prohibited.

*SEC. 1001. DISADVANTAGED BUSINESS CONCERNS.*

*(a) IN GENERAL.—In providing for any research relating to the requirements of the amendments made by the Clean Air Act Amendments of 1990 which uses funds of the Environmental Protection Agency, the Administrator of the Environmental Protection Agency shall require that each contract which is to be entered into for such research provides that not less than 10 percent of such research will be conducted by a disadvantaged business concern.*

*(b) DEFINITION.—*

*(1)(A) For purposes of subsection (a), the term "disadvantaged business concern" means a concern—*

*(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly traded company, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and*

*(ii) the management and daily business operations of which are controlled by such individuals.*

*(B)(i) A for-profit business concern is presumed to be a disadvantaged business concern for purposes of subsection (a) if it is at least 51 percent owned by, or in the case of a concern which is a publicly traded company at least 51 percent of the stock of the company is owned by, one or more individuals who are members of the following groups:*

*(I) Black Americans.*

*(II) Hispanic Americans.*

*(III) Native Americans.*

*(IV) Asian Americans.*

*(V) Women.*

*(VI) Disabled.*

*(ii) The presumption established by clause (i) may be rebutted with respect to a particular business concern if it is reasonably established that the individual or individuals referred to in that clause with respect to that business concern are not experiencing impediments to establishing or developing such concern as a result of the individual's identification as a member of a group specified in that clause.*

*(C) The following institutions are presumed to be disadvantaged business concerns for purposes of subsection (a):*

*(i) Historically Black colleges and universities, and colleges and universities having a student body in which 40 percent of the students are Hispanic.*

*(ii) Minority institutions (as that term is defined by the Secretary of Education pursuant to the General Education Provision Act (20 U.S.C. 1221 et seq.)).*

*(iii) Private and voluntary organizations controlled by individuals who are socially and economically disadvantaged.*

*(D) A joint venture may be considered to be a disadvantaged business concern under subsection (a), notwithstanding the size of such joint venture, if—*

*(i) a party to the joint venture is a disadvantaged business concern; and*

*(ii) that party owns at least 51 percent of the joint venture.*

*A person who is not an economically disadvantaged individual or a disadvantaged business concern, as a party to a joint venture, may not be a party to more than 2 awarded contracts in a fiscal year solely by reason of this subparagraph.*

*(E) Nothing in this paragraph shall prohibit any member of a racial or ethnic group that is not listed in subparagraph (B)(i) from establishing that they have been impeded in establishing or developing a business concern as a result of racial ethnic discrimination.*

*SEC. 1002. USE OF QUOTAS PROHIBITED.—Nothing in this title shall permit or require the use of quotas or a requirement that has the effect of a quota in determining eligibility under section 1001.*

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3030) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1630, CLEAN AIR ACT AMENDMENTS OF 1990

Mr. DINGELL. Mr. Speaker, pursuant to House Resolution 399, I move to insist on the House amendments to S. 1630 and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER. The Chair will make the appointment of conferees on tomorrow.

PERSONAL EXPLANATION

Mrs. BENTLEY. Mr. Speaker, due to a prior commitment I was unable to be present to vote for H.R. 770, the Family and Medical Leave Act. I was on a trade delegation mission with the Governor of Maryland, William Donald Schaefer, to Eastern Europe.

For the record, had I been present to vote for H.R. 770, I would have voted "nay."

I ask unanimous consent that my statement be inserted immediately following the vote in the permanent RECORD.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

## PERSONAL EXPLANATION

Mr. CLINGER. Mr. Speaker, I was absent from the Chamber so that I could attend a meeting with representatives of U.S. air carriers to review their efforts to protect the traveling public from terrorists since the tragedy over Lockerbie, Scotland. Had I been present I would have voted "aye" on rollcall 132; "aye" on rollcall 133; "aye" on rollcall 134; "aye" on rollcall 135; "aye" on rollcall 136 and "yea" on rollcall 137.

## PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, during consideration of the Clean Air Act Amendments, I was on the House floor and voted "aye" on rollcall vote No. 136. Unfortunately, because of a computer glitch in the House system, I am not recorded as voting on this particular amendment. Please let the record show that I supported the Dingell-Waxman-Lent-Madigan compromise on clean alternative fuel vehicles.

## PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall Nos. 134, 135, 136, and 137.

## REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-495) on the resolution (H. Res. 400) waiving points of order against consideration of the conference report and amendments reported from conference in disagreement on the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## PROVIDING FOR USE OF THE CAPITOL ROTUNDA

Mr. KOLTER. Mr Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 133) providing for the use of the Capitol rotunda, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. PARKER). Is there objection to the request of the gentleman from Pennsylvania?

Mr. GILLMOR. Mr. Speaker, reserving the right to object, I would ask the gentleman from Pennsylvania to explain the resolution.

Mr. KOLTER. Mr. Speaker, if the gentleman will yield, the resolution provides for the use of the rotunda for Members of Congress to assemble in conjunction with a ceremony commemorating American military heroism. The Senate adopted the resolution on Monday and the ceremony is tomorrow.

□ 2200

It is essential that we adopt it at this time in order to insure that the rotunda is available for the ceremony in the event of inclement weather.

Mr. GILLMOR. Mr. Speaker, further reserving the right to object, I join in supporting this resolution. I think it is only appropriate, and I particularly feel, as an Air Force veteran, that we should have this ceremony in the rotunda tomorrow recognizing the bravery of Americans.

Mr. Speaker, I would ask my colleagues to join in supporting the resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. PARKER). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 133

Whereas America can never forget the sacrifices of our brave military heroes: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Rotunda of the Capitol may be used on Thursday, May 24, 1989, at 10:30 a.m., to allow the assembling of Members of Congress for ceremonies celebrating American Military Heroism.

SEC. 2. The Architect of the Capitol may prescribe conditions for physical preparations with respect to the use of the Rotunda authorized by the first section.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. KOLTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on (S. Con. Res. 133) the Senate concurrent resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## ORDER OF BUSINESS

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent that the 60-minute special order granted for today to Mr. BURTON of Indiana be vacated, and that he be permitted to take a 5-minute special order today instead.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## TRIBUTE TO DR. EDWARD STEITZ

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I rise to pay tribute to one of the great names in the sport of basketball, Dr. Edward Steitz of Springfield, MA. Dr. Steitz died on Monday and anyone who has dribbled, passed or shot a basketball mourns his passing.

There is not enough time here to cover all of the accomplishments of Ed Steitz. He served Springfield College for 42 years, 33 of those as athletic director. We in Springfield knew him as a coach, a teacher, a vital force in the community and a friend. The world knew him as Dr. Ed Steitz—"master of college and international basketball rules" and "father of the three-point shot." For more than 20 years, Dr. Steitz worked hard to promote the great American game of basketball in international competition and the Olympics. It is a testament to his efforts that the game that Dr. James Naismith invented in Springfield is now played everywhere on the planet.

Mr. Speaker, I here include some material on Dr. Edward Steitz from Tuesday's Springfield Union-News. I would also like to express my sympathy to his wife, June, and their three children. I was proud to have worked with Dr. Steitz. He will be missed.

BASKETBALL WORLD MOURNS SC'S STEITZ

(By Jerry Radding)

Dr. Edward S. Steitz, one of the world's leading contributors to a sport that had its beginning in the city of Springfield, died suddenly yesterday.

Steitz and the game of basketball were synonymous for more than three decades.

He played a prominent part in the growth of the game that was started at Springfield College with the hanging of peach baskets by Dr. James Naismith nearly 100 years ago.

"Ed Steitz's death is a great loss to the city of Springfield," said Mayor Mary E. Hurley. "He was one of the warmest and kindest men I ever met.

"He was so proud of the Basketball Hall of Fame and the city. He gave all his efforts to the game of basketball internationally, nationally and to the city and I'm very, very sad."

Steitz, who retired as athletic director at Springfield College a year ago after 33 years on the job, was known around the world as the NCAA national basketball rules editor and interpreter, a position he held since 1976.

"Certainly we at the Basketball Hall of Fame are shocked," said Executive Director Joe O'Brien. "We don't have words to express our emotions.

"Sometimes you underestimate the kind of jobs that people in rules do, but you just can't replace a man like Ed. He truly made his mark on the great American game of basketball."

A memorial service for Steitz will be held tomorrow at 10 a.m. at SC's Blake Arena.

In honor of Steitz, elected to the Hall of Fame in 1983 as a contributor, the museum will be closed until 11 a.m. tomorrow, O'Brien said.

Springfield College had planned a testimonial to Steitz next year, coinciding with the 100th anniversary of basketball.

Steitz' contracts around the country with the top college basketball coaches and administrators played a vital role in the success of the Tip-Off Classic, an annual game showcasing championship-caliber teams at the Springfield Civic Center.

"His contacts with the coaches and athletic directors opened the door for us," said Burt Weinbaum, former president of the Tip-Off Classic.

"Ed wasn't the kind of a guy to sit back and let things happen—he made things happen. He had to be in the action."

"As a relative newcomer to Springfield College, I was struck with Steitz's powerful personality," said President Frank S. Falcone. "He was a major force in the life of Springfield College—a guy who brought attention to the school. He was a major figure not just to the college but to basketball. We don't have too many people like that."

"I know I speak for everybody at the college when I say that it's like losing a father," said assistant director of athletics Frank Wolcott, retired gymnastics coach.

"He bragged about Springfield College's 'Who's Who' of coaches. But he was the one responsible because he made sure they were involved with the NCAA championships and the like."

Steitz took special pride in the accomplishments of veteran Springfield College coaches like Archie Allen, Charles "Red" Silvia, Irv Schmid and Doug Parker, all now retired.

"We were awful close. . . . He was so great to my baseball progra," said Allen from his Florida home. "He started at the college as my assistant coach in '49—I think baseball was his first love."

"I feel I was a friend of Ed's—we were on the same wavelengths," said Silvia, the school's longtime swimming coach. "I think he was unique in that authority didn't change him. He was always approachable . . . a man of extreme integrity."

Schmid, who was a graduate student with Steitz in 1946 before going on to coach soccer at SC for 38 years, noted that "Ed might have gone to Cornell but he was a real Springfield College man. He took real pride in the school and as athletic director he was fair to everybody."

"He carried the torch that was lighted by Dr. Naismith," said Vern Cox, who has been coaching at SC since 1947.

Both Cox and Steitz started at Springfield as assistant basketball coaches under John Bunn.

"He was goal-oriented driven—one of the hardest-working people I ever came across," said Parker, who ran the wrestling program at SC for 38 years.

There was a time when controversial Indiana basketball coach Bob Knight wasn't happy with Steitz. It was back in 1986 after the veteran rules editor introduced the three-point field goal.

But after that first season with the trifecta, and after Knight's Hoosiers won the NCAA championship with the three-point shooting of Steve Alford, the IU coach felt differently.

"Ed Steitz is a guy that I personally liked and enjoyed," said Knight yesterday. "I thought he made a tremendous selfless contribution to basketball over the years. He worked harder than anybody ever has at the protection and development of the rules and in that regard, made a great contribution to college basketball."

"The game will miss his integrity and enthusiasm."

And Dean Smith, a Hall of Famer and a premier member of the coaching fraternity at North Carolina, also admitted being unhappy with the three-point basket.

"Personally I'll miss Ed even though we didn't always agree," said Smith. "We knew that his intent was always for the betterment of the game. What a giant he was in our game worldwide. His love for the game seemed to grow with each year."

"We're deeply saddened by this news," said Dave Gavitt, commissioner of the Big East Conference, who was attending meetings in Jacksonville, Fla. yesterday. "No one has provided more quality service to the

sport of college basketball. He will be missed and treasured for a long time."

Steitz returned from Denver and the scene of the NCAA basketball Final Four early last month after his annual meetings with the Rules Committee. That was less than a month after he was hospitalized after suffering a severe angina attack.

"Ed represented a very unique group of people involved in basketball—he was the guiding light for the game," said Brice Durbin, the executive director of the National Federation of High School Associations.

"The game will go on but there's going to be a big void," said Durbin, who served on the Rules Committee under Steitz for 17 years.

"In my judgment, Ed Steitz's commitment and dedication to the game is unparalleled," said NCAA assistant executive director Tom Jernstedt. "I can think of no one who has contributed more to the game both nationally and internationally. He served with distinction on the NCAA Executive Committee and also was the NCAA's primary representative in the dispute between the school/college community and the AAU for basketball's leadership. He led the charge. He also was a leader on the NCAA convention floor. He had the knowledge and conviction to stand up and speak—and people listened."

"Ed was an innovative thinker—he was singularly responsible for many rules changes that in the past 30 years have made the game what it is today," said Frosty Francis, executive director of International Association of Approved Basketball Officials.

"He was a life member of our association and for over 25 years we looked forward to his presentations at our annual meetings."

Steitz was co-founder of the Amateur Basketball Association, now called USA Basketball, the governing body for all international amateur basketball. He served as its president for 10 years.

"I've lost a great friend and a former boss," said Bill Wall, the executive director of USA Basketball "Basketball has lost an international treasure."

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AMBASSADOR WHO WILL BE MISSED

(By Jim Fox)

Ed Steitz laughed when he told the little story, but he was proud as well.

He was in a familiar place, a room in a foreign country—was it Munich?—with representatives from around the world, talking, maybe arguing, about the rules of basketball.

Because, after all, it was the game that had started at his school and spread around the world.

Springfield College was defender of the faith, writer of the law.

"We were discussing things a bit," Steitz recalled, "and finally the Russian looked at me and said, "Ya, we play Edward's rules. Edward has best rules."

Ed Steitz did have the best rules because he had taken them from Naismith and his successors, played and coached the game, saw it grow, saw it spread and kept studying its subtleties.

He was Mr. Rules, here and around the world, acknowledged at FIBA, Olympics, NCAA, USA (ABAUSA) and the local IAABO board.

But rules were only part of the Steitz story, which grew to near legendary proportions in this part of the world and beyond. He was an ambassador and prophet, and battler for his cause.

All around the world he sang the song of Springfield College, the city, and the game.

So the sudden death of Ed Steitz yesterday hit with an especially stunning impact. Many of us had seen him within the week, shaken his hand or passed a few pleasantries.

Tuesday night at the Civic Center I could see him three or four tables away. It was a place where he looked entirely natural, the place one expected to see him every year forever.

Hall of Fame director Joe O'Brien talked about Steitz yesterday morning.

"He was very proud of his induction into the Hall of Fame. But in recent years what made him prouder I'd say was the number of enduring things he had done in the game of basketball.

"I can't think of anyone more dedicated to the game. And don't forget he was an initial incorporator of the Basketball Hall of Fame. At the time of his death he was the only charter member of the board of trustees active since the corporation was founded in 1953."

Up at Springfield College, athletic director Ed Bilik, assistant AD Frank Wolcott, the coaches, women who had worked with him for years and the entire college were stunned.

Bilik, who had played for him and been his coaching assistant, agreed Steitz could be demanding as a coach. He had a 160-86 won lost record.

Wolcott smiles at an incident from their earlier days. "When he first started as athletic director, he didn't seem to like me, and I didn't know why. Finally, after about a year I went to him and asked him why.

"Well, it seems that in old Judd Hall there had been about eight old basketball nets hanging from the balcony. They were interfering with our gymnasium work, so I took them down.

"Well one day, unknown to me, Ed had brought around a group from India and was going to show them how the game was played. But no baskets. I think he was a little embarrassed. It taught me to clear things with him ahead of time."

Steitz was a world traveler without peer in these parts, an unmatched frequent flyer. "He could do more work on the plane to Chicago said Wolcott, than I could in a week."

I used to kid Steitz about getting his old blazers, though we were hardly the same size. He had a silk number from India that would get anyone past the gate at the Taj-Mahal.

And he loved to collect souvenirs and mementos of his trips. He knew how to come up with the Olympic pins and flags and posters. He had been to eight.

There's a story up at Springfield College about the foreign lady traveler looking for the Hall of Fame, which was then just up Alden St.

Somehow misdirected, she wondered into Dr. Steitz's office and was impressed with the colorful decor. In fact she wanted to pay admission and thought it was a perfectly grand Hall of Fame.

If Ed Steiz had fun when he traveled he also accomplished a backbreaking amount of work. He worked for the U.S. Olympic Committee, the NCAA, FIBA, or went to a clinic for kids with equal zeal.

Bilik recalls that Steitz was an analytical coach. "He had an analytical mind. We would scout and he would pick up an amazing number of things. He just transferred the analysis to coaching."

As an administrator at Springfield Steitz will be remembered for two things:

"When he was at an NCAA or similar meeting and they asked who would run the championship he always had his hand up."

Wolcott can remember the NCAA's Jerry Miles blanching when Steitz volunteered to run the men's and women's swimming and gymnastics meets the same week.

"And he pushed our coaches to get on all the committees," remembers Wolcott. "We had a who's who staff. He pushed us for positions and that is how we traveled and the college became well known."

Ironically, much of Ed Steitz's work, until the recent recognition for nurturing the three-point basket, was carried on very much off camera.

"All the earlier work had been done behind the scenes," says O'Brien.

"The true measure is trying to replace a man like that. I think he is irreplaceable."

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[From the Springfield Union-News]

ED STEITZ LEFT MARK ON BASKETBALL

"Mr. Basketball Rules" they called him and it was a title he carried proudly.

Other than James Naismith, who invented basketball at Springfield College 99 years ago, Edward S. Steitz probably put the college and city on the nation's basketball map more than any other individual.

Steitz, 69, died yesterday at his East Longmeadow home, the day after he had served as grand marshal at the college's graduation and less than a week after he marched to his place and other notables at the annual basketball Hall of Fame induction ceremonies.

He served as athletic director of Springfield College for 33 years before retiring last year. But it was probably the world's foremost authority on the rules of the sport that he made his mark.

His numerous accomplishments involving amateur basketball are noted elsewhere in today's Union-News, all of which contributed to his well-merited election to the Hall of Fame in 1983.

But in years to come, he probably will be best remembered as the father of the 45-second shot clock and the three-point shot in college basketball.

Those two rules changed the game immeasurably, America's sport—basketball—wouldn't be what it is today without the dedication, administrative skills and steadfastness of Ed Steitz. He will be missed.

## TOM LANTOS—A CHAMPION FOR LIBERTY AND FREEDOM

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, this morning on "Good Morning America," there was a presentation by a Member of this House as well as a Member of the other body concerning the most-favored-nation status for the People's Republic of China. The spokesman for those who prefer that China be held accountable for its deeds over the past year was a Member from this House, the gentleman from California [Mr. LANTOS].

I would commend my colleague for his presentation. If there is any way it can be duplicated, I will attempt to

insert it in the RECORD. It is one of the most articulate presentations of the values that this Nation stands for that I have ever heard. It was a brilliant statement on behalf of those of us who believe in freedom and democracy versus tyranny and Communist oppression.

I commend the gentleman from California [Mr. LANTOS] for what he stands for, for the honor that he brings to this body, and for his articulate statements on behalf of freedom. This refugee, this person who came to this country seeking liberty, now champions that cause in an unprecedented manner, perhaps better than anyone on the globe today. I commend him for it, and I say again, that he brings honor to this body by his service.

ABC "GOOD MORNING AMERICA" INTERVIEW WITH SENATOR JOHN CHAFEE AND REPRESENTATIVE TOM LANTOS, MAY 23, 1990

CHARLES GIBSON. President Bush yesterday told Republican congressional leaders that he wants to extend China's Most Favored Nation trade status with the United States. Because the first anniversary of the Tiananmen Square massacre is fast approaching, some are bothered by the President's decision, and it will cause debate.

So joining us now from Washington are Senator John Chafee, Republican of Rhode Island, who was at the White House leadership meeting yesterday, and also Representative Tom Lantos, Democrat of California, member of the House Foreign Affairs Committee. And gentlemen, you are both nice to join us this morning.

Sen. CHAFEE. A pleasure to be here.

Mr. GIBSON. Senator, the images of Tiananmen Square are very much still in people's minds. Why is the President pressing ahead with this idea of extending what basically is a privilege to the Chinese?

Sen. CHAFEE. Well, I don't consider it necessarily a privilege. It's something that we grant to nearly every nation in the world, including Iraq, Syria and Yemen, for example. What the President's point is—and by the way, he hasn't completely made up his mind on this subject, decided exactly what he is going to do. He sought views yesterday. But what his view is, is that we've got to keep some contact with China, and to cut them off totally is a grievous mistake. With our contacts, we encourage those ideals that we believe in such as the freedoms, the freedom of the press, assembly, and speech. So to just isolate China totally would be a great mistake in the President's view, and I heartily agree with him, and so do most of those who one could consider experts in China, if there are such things.

Mr. GIBSON. Congressman Lantos, I know you disagree.

Rep. LANTOS. Well, with all due respect to my friend, Senator Chafee, this agrument, I think, is absurd. The Soviet Union doesn't enjoy Most Favored Nation treatment, and we certainly haven't cut off all contact with the Soviet Union. Next week, there will be a summit between the United States and the Soviet Union, and we have a tremendous array of contacts. No one is arguing terminating contact with China. But it is just the first anniversary of the bloodbath on Tiananmen Square. And after that bloodbath, the United States had an option. It could either go in the direction of putting serious sanctions on China, sanctions that matter, or it could take a very conciliatory attitude. The administration decided to take a conciliatory attitude, and that policy failed.

What we saw last June was the oriental-mascarade of Chinese communism being torn away, and there was this brutal regime in all its cruelty. Everybody agrees that human rights today in China are in wore shape than they were a year ago. No one is arguing about terminating relations with China. We want to do the thing which is principled and practical.

Mr. GIBSON. All right, Congressman, let me interrupt you, because you make a mention of sanctions. Even if the President does extend Most Favored Nation trade status, we do have sanctions on against China. There are—there's a suspension in military sales, for instance. There is a veto on World Bank loans. There is no foreign aid. Those are real sanctions, and nobody is talking about lifting those, even if we keep the Most Favored Nation trade status.

Rep. LANTOS. If I may comment on the military sanctions, it was China itself that cancelled the largest military contract they had with the United States, a $500 million contract, because of the changed international military situation and their lack of foreign exchange. The only sanctions that would matter would be to hit them in the pocketbook. They are benefitting from this trade relationship enormously. We are not. As a matter of fact, what we import from China is basically textiles and toys. There are not strategic good coming to the United States from China. There are plenty of other places that are ready to sell toys and textiles to us.

Mr. GIBSON. Let me go back to the Senator, and you have talked, Senator, about keeping lines open to China. We've kept them open for a year now. Do we have anything to show for it?

Sen. CHAFEE. No, but I don't think you can expect that with a government that has turned machine guns on its own people in Tiananmen Square a year ago that they're going to do a complete change. The point is, what are we trying to achieve? We are trying to bring China back into the family of nations, to respect those ideals we believe in. And certainly, we're not going to achieve that by just cuttng off everything, sending them into a corner as a pariah, drawing up the bidges and saying to China, "Retreat into your isolationism as you have in the past, and as you are perfectly prepared to do." I don't think that's the correct thing to do. We want to keep these lines of communcations, slim though they may be. The only contract we have with China is through our trade. We've cut off everything else.

Mr. GIBSON. But Senator, bottom line, isn't this a sort of basic decision? I mean, are we going to say we absolutely will stand behind human rights, or not?

Sen. CHAFEE. I don't think—yes, we're going to stand behind human rights. But how do you achieve the human rights? Is it by saying we're dropping every—all contact with you? It's through these very people that we trade with that we have the greatest chance of bringing to China some of the opening, some of the fostering of the beliefs that we consider so important. And certainly, we're not going to achieve that by just isolating them totally, which would be a grievous mistake.

Mr. GIBSON. Congressman, let me come back to you. Some people say that if we were to lift Most Favored Nation trade status, it actually wouldn't hurt the Chinese, it would hurt mostly the people of Hong Kong who are the middlemen in the trade between the United States and China, and that therefore they are the ones who would get hit, and therefore it would be mistake to do this.

Rep. LANTOS. Well, unfortunately, there would be some people hurt, both in China and in Hong Kong, and that's not our purpose. But we have done that and the heroes on Tiananmen Square who were mowed down by the tanks of that brutal communist regime, because they stood up for our principles? I think it's unprincipled and impractical to continue to kowtow to Deng Xiaoping and his octogenarian clique.

Mr. GIBSON. On that impassioned statement, I will leave it. Congressman, thank you. Senator, thank you for being with us. We appreciate your both being here this morning.

## THE NORTHWEST TIMBER SUPPLY CRISIS

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, President Bush has just returned from a trip to the Northwest, where he called for balance in the spotted owl and timber supply crisis.

To speak of balance, as the President has, can provide a calming affect for the Northwest. Emotions are running high. People in our timber towns are fearful, anxious, and angry.

Banning exports of raw logs from public lands is the first step toward giving real relief to our timber towns.

I am calling on the President to support the bipartisan legislation to get timber to our starving mills. A conference committee is working to achieve a compromise bill before we recess for Memorial Day.

The President has said he wants to "hear more about" the timber supply crisis, and I have urged him to use his existing authority to hold hearings in the Northwest. Working together, the President's forest management agencies and the people of the Northwest can strike the balance we seek.

## HUMAN RIGHTS ABUSES IN KASHMIR AND PUNJAB

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON], is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, for a long, long time the people in Kashmir in northwestern India and in the Punjab, right next to Kashmir, there has been a great deal of repression by the Indian Government. There has been torture that has taken place, women have been raped, children have been murdered, innocent people have been killed, and we have been working on the human rights issue, many of us, for a long time trying to get human rights orga-

nizations in there to verify what has happened, tell the world about it so that we can put pressure on the Indian Government to stop it. But the Indian Government has said time and again they will not allow even the International Red Cross into the Punjab or Kashmir because they do not want the world to see what is going on.

Now, this past Monday Mr. Maulvi Mohammad Farooq, a religious leader in Kashmir, was gunned down by three unidentified assailants with AK-47 machineguns, which are the weapons used by the Indian troops in that area. The people of that area were enraged. But they did not do anything about it.

Instead, about 100,000 of them decided to take him to the burial grounds en masse to show their respect and admiration for the man.

The Indian troops blocked the highway to the burial grounds and they opened fire on unarmed civilians carrying this man's body, and over 100 Kashmiris were killed and over 400 were wounded.

This is just another manifestation of the inhuman attitude that the Indian Government has toward the people in Punjab and Kashmir.

Now, I wish that my colleagues would pay attention to this and join me in supporting a resolution out of this body which would cut off some aid to India until they allow human rights organizations and the International Red Cross into that area so that we can stop these atrocities from happening.

The people in Kashmir want peace, they want freedom and democracy. They are not being given it by the Indian Government. The people in Punjab likewise want the same thing. They are not getting it.

Instead, because they have cried out for freedom and democracy in those areas, they are getting inhuman treatment, atrocities are taking place, men, women, and children are being killed, women are being raped, and the world does not know about it.

ABC, CBS, NBC, CNN, where are you? We hear about what is going on on the West Bank of Israel. We hear about what is going on in other parts of the world. But nobody is talking about what is going on in the Kashmir and in the Punjab.

I say to my friends in the media, pay attention to the atrocities that are going on in the northwestern part of India. The world cries out to know about this.

These inhuman acts must stop. The only way they will stop is for the world to see them, for the media to focus attention on them and for human rights organizations to be allowed into the Punjab along with the International Red cross.

This is a terrible thing that is going on over there. It must stop. For God's sake, humanity demands it.

## SENSELESS ACTIONS IN EGYPT AND ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GREEN] is recognized for 5 minutes.

Mr. GREEN. Mr. Speaker, on October 5, 1985, an Egyptian border policeman went mad and senselessly opened fire on a busload of Israeli tourists in the Sinai. Seven of the passengers lost their lives that day, four of them children. An Egyptian policeman was also slain. At the time of the shooting, it was reported that Egyptian soldiers did not permit an Israeli medical team to aid the victims. It is still not understood why the border policeman was carrying an automatic weapon instead of a handgun while on duty.

The Egyptian assailant was sentenced to life in prison. At the time of the trial, groups of Egyptians demonstrated againt his prison sentence, expressing their opinion that his atrocious action was somehow justified.

While there was great mourning in Israel for the tragedy that fell on her citizens, there were no anti-Arab riots staged by Israelis. Jewish Americans did not hold angry demonstrations in front of Egyptian diplomatic missions. No one asked the United Nations to intervene. The world recognized that the tragedy was the act of one demented man. Egypt's President Mubarak described the massacre as "a limited incident that can happen anywhere, carried out by an insane man."

Now, alas, there has been a very similar act. A dishonorably discharged Israeli solider with equal lack of provocation tragically killed a group of Arab laborers in Israel several days ago. Again, a senseless act was committed and innocent lives have been lost. The deranged gunman has been arrested by Israeli authorities. To compound the tragedy, violent riots have broken out between Israeli-Arabs, Palestinians and security forces in Israel. There have been several deaths and hundreds have been wounded. Arab anger has been incited by some Palestinians who are irresponsibly claiming that the former soldier's actions are somehow attributable to the Israeli government. Such absurd comments are inflammatory and serve only to aggravate a situation already out of control. PLO leaders, who should be calling for immediate calm in order to save lives, have also used the shooting tragedy to encourage Arab-Israeli violence and Palestinian rioting.

I ask those who seek to escalate this second shooting tragedy into still further violence or controversy, why does a different standard apply to the act of this second demented man? Why is it not in President Mubarak's words, "a limited incident that can happen anywhere, carried out by an insane man"?

□ 2210

## TWENTY-YEAR HISTORY OF TOTAL FORCE POLICY

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to continue to share with my colleagues a series of articles which appeared in the Roll Call newspaper in the April 30, 1990, edition in a special policy brief, titled "National Guard and Reserves in a Changing World." This brief was developed to describe the roles and missions of the Reserve components and to educate the readers. I wrote the lead article in hopes of generating interest by the readers to learn more about the Guard and Reserve. I commend my colleagues to read these articles to gain a better appreciation of the Guard and Reserve. Today I'm sharing another in the series of articles that appeared in that April 30 Roll Call edition.

[From the Roll Call, Apr. 30, 1990]

20-YEAR HISTORY OF TOTAL FORCE POLICY

(By Maj. Gen. Charles Kiefner)

Almost 20 years ago, the changing world situation and pressure to reduce the defense budget resulted in development of the Total Force Policy.

Similar circumstances exist today.

The changing geopolitical environment, the growing call for military force reductions, and the reality of smaller defense budgets make it time to revisit the basic objectives of the Total Force Policy.

Then-Secretary of Defense Melvin Laird outlined the original concept in an August 1970 memo.

He wrote: "The President requested reduced expenditures during fiscal year 1971 and extension of these economies into future budgets. Within the Department of Defense, these economies will require reductions in overall strengths and capabilities of the Active Forces, and increased reliance on the combat and combat support units of the Guard and Reserves.

After indicating that the Service Secretaries should provide the necessary resources to balance development of Active, Guard, and Reserve Forces, Secretary Laird went on to say:

"Emphasis will be given to concurrent consideration of the Total Forces, Active, and Reserve to determine the most advantageous mix to support national strategy and meet the threat. A Total Force concept will be applied in all aspects of planning, programming, manning, equipping, and employing Guard and Reserve Forces.

"Application of the concept will be geared to recognition that in many instances the lower peacetime sustaining costs of Reserve Force units, compared to similar Active units, can result in larger Total Force for a given budget or the same size force for a lesser budget.

"In addition, attention will be given to the fact that Guard and Reserve Forces can perform peacetime missions as a by-product or

adjunct of training with significant manpower and monetary savings."

The end result, according to Laird, would be that "Guard and Reserve units and individuals of the Selected Reserves will be prepared to be the initial and primary source for augmentation of the Active Forces in any future emergency. . . "

In August 1973, his successor, Secretary James Schlesinger, made the following statement:

"An integral part of the central purpose of this Department—to build and maintain the necessary forces to deter war and to defend our country—is Total Force Policy as it pertains to the Guard and Reserve.

"It must be clearly understood that implicit in the Total Force Policy, as emphasized by Presidential and National Security Council documents, the Congress and Secretary of Defense policy, is the fact that the Guard and Reserve Forces will be used as the initial and primary augmentation of the Active Forces.

"Total Force is no longer a 'concept.' It is now the Total Force Policy which integrates the Active, Guard, and Reserve Forces into a homogeneous whole."

We have now come full cycle through the defense buildup of the early 1980s to the constrained budgets and potential drawdowns of the 1990s. Certainly, our national defense goal is no different today.

We must determine the mix of Active, Guard, and Reserve Forces necessary to support national strategy and meet the current and anticipated threats.

At no time in recent history has that been a greater challenge than in today's turbulent period—a result of both the evolving threat and the increasing pressure to rapidly decrease the level of defense budgets.

But developments over the past two decades make it relatively clear that there is no better way to achieve that goal than to continue to nurture and apply the Total Force Policy. As a low-cost peacetime deterrent force, the Guard and Reserve cannot be matched.

Their readiness and capability as an initial and primary source for augmentation of the Active Forces, even in emergencies requiring rapid deployment, has been shown in recent events in several areas of the world, including Panama. Twenty years of application of the Total Force Policy has had the intended positive result.

Of course, at this point there are a number of unanswered questions about the future. Although there is an apparent disintegration of the Warsaw Pact as a cohesive military force, the Europe that is emerging still harbors the same national, ethnic, and religious divisions that inflamed the pre-World War II Europe.

Certainly, large scale land warfare in Europe against a solid Warsaw Pact force is less probably in the near term, since current political realignment in East European countries is probably not easily reversible, at least on a broad scale.

When coupled with announced Soviet military drawdowns, this change in perceived threat may drive US force changes at a pace faster than our nation's leader can revise or restate our defense strategy.

Certainly changes are coming faster than the defense programming and budget cycle can be adjusted.

With evidence of continued modernization of Soviet strategic nuclear systems, we can assume a continued emphasis on modernization of at least some of the programs in this country. We can also assume there will be pressure to continue emphasis on research and development of new systems to be able to meet any future threat.

At the same time, there are calls for a reduction in production of what many consider redundant and costly high-tech advanced conventional and strategic systems. A partial absorption of budget reductions will most likely fall in these areas.

As a result of anticipated decreasing budget levels, in the FY 1990 Defense Authorization Act Congress directed the Secretary of Defense to convene a study group to review and make recommendations on the operation, effectiveness and soundness of the Total Force Policy; the assignment of missions to the Active, Guard and Reserve components of the Armed Forces; and the optimum force structure within these components.

The final report is due by Dec. 31.

The National Guard association believes the timing of the DoD study is such that it can serve as the most crucial review of our nation's defense forces since the beginning of the Cold War era.

With an increased perception of a changing threat, extended warming times, higher probability of low-intensity or limited conflicts, and reductions in defense resources, neither Congress nor the public will be satisfied with a simple fine-tuning of current forces or a token reduction of costs.

However, the time constraint placed on the study group may preclude achievement of the stated objectives.

At a turbulent time like this, those who are responsible for the defense of our nation want to ensure that sufficient forces are maintained to respond to a possible reversal of the perceived movement to a lower threat.

So it is a difficult time to step back and reevaluate requirements and make finite force decisions.

But it is also a time when such decisions must be made—to achieve not only short-term budget savings but to maintain adequate forces to support our national strategy and meet any evolving threat.

The DoD study can accomplish that goal, provided it is conducted in a manner which considers all factors and takes an openminded look at long-term requirements.

While the national defense strategy and the Total Force Policy may need some refinement, they have been successful in bringing us to an apparent time of peace. No doubt, significant force realignments will be undertaken to meet the changing threat.

There is also little doubt that such realignments and the impact of shrinking budget targets will require changes to the force structure of all the military components.

But all actions should recognize the proven success of the defense strategy and the Total Force Policy of the past 20 years.

It's time now to capitalize on the lessons learned in the past two decades. The DoD study should help to define the least costly, most effective realignment of Active, Guard, and Reserve Forces necessary to provide our mission with an adequate defense through the '90s and beyond.

We have a greater opportunity to realign and improve our Total Force posture than at any time since the beginning of the Cold War.

We must make sure we do it right.

## INAUGURATION OF ADMINISTRATION OF REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] is recognized for 30 minutes.

Mr. HAMMERSCHMIDT. Mr. Speaker, it was a great honor to attend the May 20 inauguration of Li Teng-hui and Li Yuan-zu as the eighth President and Vice President of the Republic of China.

Our U.S. Presidential delegation to the inauguration, in addition to myself, was comprised of Senator STEVE SYMMS and Tom Kleppe, a former House colleague and former Secretary of the Interior, attending as the President's personal representative.

We returned from Taiwan just last night. Today, I want to share with my colleagues in the Congress the excellent inaugural address of president Li Teng-hui.

The American people consider him and the citizens of the Republic of China to be close friends. I know of the warm ties between my congressional colleagues and many citizens in Taiwan, both in and out of government.

We have been impressed by the economic miracle of Taiwan and welcome the political reforms being continued by President Li.

I recommend the reading of his inaugural address to all of you as an indication of the ROC's dedication to moving forward to a new era.

[Inaugural address—the eighth President of the Republic of China, May 20, 1990]

OPENING A NEW ERA FOR THE CHINESE PEOPLE

My Dear Countrymen and Distinguished Guests:

The eighth session of the National Assembly elected me, Lee Teng-hui, to the eighth presidential term of the Republic of China. Today I, together with Vice President Li Yuan-zu, will take my oath of office in accordance with the stipulations of our Constitution. The entire people have charged me with a solemn office. With such a heavy responsibility on my shoulders, I will naturally do my utmost to adhere to the terms of the presidential oath, devoting my full efforts to protecting the country and enhancing the welfare of the people.

A look at the current world situation reveals that we now find ourselves in a great era of rapid change. The pursuit of political democracy, economic liberalization, and world peace by all of humanity is now a raging, irresistible tide that will inevitably destroy the shackles of systems that refuse to change with the times and the stockades of closed, totalitarian ideologies. Accordingly, the international situation has progressed from antagonism to conciliation. We, the Chinese people, naturally cannot exclude ourselves from this massive tide. Rising up to take advantage of this opportunity and lay a comprehensive and lasting foundation for the future of the Chinese people is the common responsibility of the 1.2 billion Chinese at home and abroad. It is also the duty of the people on our bastion of national revival, civilian and military alike, to lead the way with great wisdom, determination, and solidarity, based on our many years of experience and achievements in implementing political democracy and an economy that benefits the people. Accepting the people's high expectations and trust in

these extraordinary times, I feel the weight of my responsibility is multiplied many times over. I earnestly hope that all compatriots continue to offer your support and encouragement, so that over the coming six years of this presidential term, I can execute my duties to the fullest and fulfill the mission history has given us.

The Constitution of the Republic of China was drafted in accordance with the bequeathed teachings of our founding father, Dr. Sun Yat-sen. Its goal is to clearly delineate the distribution of power, and incorporate the strengths of China and the West to establish a sound democratic system. However, the process of drafting the Constitution involved many twists and turns and compromises. At the time it was first put into effect, the nation was embroiled in war and chaos. In view of these special circumstances, the Temporary Provisions Effective During the Period of Mobilization for the Suppression of the Communist rebellion were enacted. For the past forty-some years, under the leadership of the late presidents Chiang Kai-shek and Chiang Ching-kuo, this painstakingly executed design has made an undeniable contribution to maintaining stability on our bastion of national revival, and creating the miracle of the "Taiwan experience." Nevertheless, with the changing domestic and international situation and the increasingly ardent desire of the people for democratic rule of law, the political environment of our bastion of national revival is not the same as in the past. Everybody now recognizes that normal development of a system of constitutional democracy is the only path to thoroughly implementing political democracy. Thus it is my hope that a termination of the Period of Mobilization for the Suppression of the Communist Rebellion can be declared, in accordance with the law, in the shortest possible period of time. Furthermore, based on the many years of experience we have accumulated in implementing our Constitution and on the needs arising from the current national environment, forward-looking and necessary revisions will be made to portions of the Constitution concerning such matters as the parliamentary organs of the central government, the system of local government, and government organization to provide the Chinese people with a legal code that is in accord with the trends of our times, and to establish a great model of political democracy for all times. This difficult task cannot be achieved in a single leap. The government will, in fully sincerity and a spirit of selflessness, solicit the suggestions of people of all walks of life and cautiously and actively work at this task, with the participation and encouragement of the people, it can be completed within a period of two years.

Equally important as innovation in our system of consitutional government is the institutionalization of party politics. Fair competition among political parties and entrusting decisions to the will of the people are the best ways to ensure thorough implementation of constitutional democracy. I have tested stressed on many occasions that we must invest our full efforts in building up our system and in cultivating a sound concept of the rule of law, so that all political activities can be carried out within the framework of the system, and operate according to the standards of the law. However, I also wish to emphasize that any responsible political proposition must have identification with the Republic of China as its premise, and the welfare of all the people as its basis. The government will accelerate renovation of the judical system to solidify our foundation for the rule of law, make the civil service system sounder to raise administrative efficiency, and ensure clean elections so that outstanding members of society can achieve their goal of serving the people through a process of fair elections. If we proceed gradually, one step at a time, our system of party politics will naturally become sounder over time, our foundation of democracy will naturally become firmer, and the time when the country is well-governed and enjoys lasting stability will naturally be in sight.

We know that there is a mutually complementary and mutually reinforcing relationship between a prosperous economy and the development of political democracy. Because the Taiwan-Penghu-Kinmen-Matsu area has over the past forty years implemented a free economic system oriented toward enhancing the people's livelihood, it has a brilliant record of both rapid growth and equitable distribution of wealth. This fruit of the efforts of all the people has long been known throughout the world, and it has served to create a successful theory and model for all the developing countries of the world. Looking to the future, the government will, in addition to adhering to its set policies of liberalization and internationalization so as to maintain the continued growth of the economy and trade, design a comprehensive plan for the use and development of our land, accelerate state-of-the-art scientific and technological research and transfer, advance the upgrading of industry, improve the production structure of agriculture and fishery, open up markets for foreign trade, and strengthen international cooperation, so that through a concerted effort, our economic development can in the six years to come expand its scope and horizons in its march toward a new level of achievement.

We believe that ensuring the people's well-being is the most important task of all development, and the fruits of all development should be enjoyed by all the people. In the process of economic development, the government should actively invest more in social welfare, and should, based on the particular circumstances of our country, learn from the experiences of more advanced countries and design a concrete program for the welfare of all the people, so that our citizens can live and work in safety and harmony, and the aged, weak, and handicapped can receive the care they need. At the same time, the government should also thoroughly implement ecological protection and prevention of public hazards, while improving traffic, public safety, and living environment conditions. In this way the people will not only have access to plentiful resources for their everyday life, but will also enjoy rich and meaningful spiritual life, thus thoroughly realizing the ideals of prosperity and equitable distribution of wealth as prescribed in our Principle of the People's Well-Being.

We understand that culture and education are our nation's roots, and are the foundation of further national development. Any material or institutional development is destined to remain at a superficial level unless it is able to enrich our culture and raise our academic level. Through regional integration and cultural exchanges, the overall development of the international community is gradually moving toward becoming an indivisible whole. This age of unprecedented vigorous development in our bastion of national revival is also the ideal time for making an objective review of our culture, and to choose and retain the best portions of it, and incorporate the strengths of other cultures where appropriate. We must begin with elementary school education, cultivating sound growth according to a plan, so as to set the minds and spirits of our people on the right track, mold their temperaments, and develop in them the life attitudes of placing a high value on ethics, being public-spirited and trustworthy, maintaining honor and discipline, and respecting the law. This will in turn promote the development of the Chinese cultural characteristic of being able to accommodate many diverse influences, thus making a valuable contribution to the well-being of mankind and world peace.

Fellow Countrymen, Distinguished Guests: Although development in the Republic of China over the past forty years has been restricted to the Taiwan-Penghu-Kinmen-Matsu area, all plans have been conceived with the future of all of China in mind. Taiwan and the mainland are indivisible parts of China's territory, and all Chinese are compatriots of the same flesh and blood. At this time when all of humanity longs for peace and is pursuing conciliation, all Chinese should work together to seek peaceful and democratic means to achieve our common goal of national reunification. In this time when the Communist countries of the world, including the Soviet Union, are declaring their renouncement of one-party dictatorship and the communist economic system, the Chinese Communists truly have no reason, and no strength, to continue to resist this trend over the long term. We sincerely hope that the Chinese Communists will become cognizant of the trends of the times, face up to the future, quicken this pace, and boldly march toward the goals of political democratization, economic liberalization, and social pluralization.

I would like at this point to earnestly declare that, if the Chinese Communist authorities can recognize the overall world trend and the common hope of all Chinese, implement political democracy and a free economic system, renounced the use of military force in the Taiwan Straits and not interfere with our development of foreign relations on the basis of a one-China policy, we would be willing, on a basis of equality, to establish channels of communication, and completely open up academic, cultural, economic, trade, scientific, and technological exchange, to lay a foundation of mutual respect, peace, and prospertiy. We hope then, when objective conditions are ripe, we will be able to discuss the matter of our national reunification, based on the common will of the Chinese people on both sides of the Taiwan Straits.

Reunification, prosperity, and strength for China are the common hopes of all Chinese people. But in addition to the unshirkable responsibility borne by the people on both sides of the Taiwan Straits, overseas Chinese the world over, always loyal and patriotic, also play an important role. The government must expend its greatest efforts to assist overseas Chinese in their economic enterprises and in cultural and educational work. We have particular concern for our compatriots in Hongkong and Macao, and hope that the Chinese Communist authorities will fully respect their rights to political and economic freedom. The government of the Republic of China will not pull out its organizations now based in that area, so as to help maintain the prosperity and stabili-

ty of the Hongkong-Macao area and the well-being of all Chinese people.

At the same time, I wish to reiterate that the Republic of China is an independent and sovereign nation. We express our utmost admiration to the friendly countries who have maintained formal diplomatic relations with us over the years, and we value these relations highly. We also hope to be able to strengthen and upgrade mutual cooperation with countries who would like to treat us with friendship on a foundation of substantive relations. As a member of the international community, the Republic of China has, on a basis of equality and reciprocity, long adhered to international standards, participated in international organizations, and worked to carry out its international responsibilities. We will work even more actively and pragmatically to expand our freedom of action in international activities, promote international cooperation, and contribute our efforts toward greater prosperity and peace for the world community. It is our hope that we can continue to expand bilateral exchanges with the United States on the current basis, so as to enhance our traditional friendship and mutual interests. We hope that Japan will make even more constructive contributions to the future of both Japan and the Republic of China with a view to the long term. And we hope that through close cooperation with neighboring countries in the Asian-Pacific region we can together advance economic development in the region, to usher in the early arrival of the Age of the Pacific.

Fellow Countrymen, Distinguished Guests: Over two thousand years ago, Chinese culture gave birth to the ideal of a great world commonwealth of peace and prosperity. The political, economic, and social systems and goals that it entails are in full accord with those implemented and sought by modern free and democratic nations. A goal of these many years of untiring effort of the government of the Republic of China is also to achieve a renaissance and enhanced development of Chinese culture. We sincerely hope that during this generation, we can establish a political model of democratic rule of law, to lay the foundation for a prosperous and equitable economic system and to create a peaceful, happy, trusting, and harmonious society. We want Chinese the world over to be able to raise their heads and be proud, and live with meaning and dignity. We wish to solemnly declare to all Chinese as well as to the whole world that beginning now we are prepared with incomparable confidence to open a great and brilliant new era for the entire Chinese people.

Thank you.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLINGER (at the request of Mr. MICHEL), for today at 4 p.m. and for the balance of the week, on account of official business.

Mr. ALEXANDER (at the request of Mr. GEPHARDT), for today after 2 p.m., on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GILLMOR) to revise and extend their remarks and include extraneous material:)

Mr. GREEN, for 6 minutes, today.

Mr. HAMMERSCHMIDT, for 30 minutes, today.

(The following Members (at the request of Mr. HARRIS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. POSHARD, for 60 minutes, today.

Mr. MCMILLEN of Maryland, for 60 minutes, today.

Mr. GAYDOS, for 60 minutes, on June 5 and 6.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BEVILL, on the Wise amendment on H.R. 3030 in the Committee of the Whole today.

Mr. WOLPE, on the Dingell amendment, on H.R. 3030, today.

(The following Members (at the request of Mr. GILLMOR) and to include extraneous matter:)

Mr. GILMAN.
Mr. GINGRICH for two instances.
Mr. RITTER.
Mr. CONTE.
Mr. LAGOMARSINO.
Mr. RINALDO.
Ms. ROS-LEHTINEN in two instances.
Mr. SCHULZE in two instances.
Mr. HYDE.
Mr. SOLOMON in two instances.
Mr. DOUGLAS.
Mr. BAKER.
Mr. BARTLETT.
Mr. COX.
Mr. MACHTLEY in four instances.
Mr. HAMMERSCHMIDT.
Mr. ROTH.
Mr. MORRISON of Washington.
Mr. CRAIG of Idaho.
Mr. MARLENEE.
Mr. BLILEY.
Mr. HOUGHTON.

(The following Members (at the request of Mr. HARRIS) and to include extraneous matter:)

Mr. THOMAS A. LUKEN.
Mr. WYDEN.
Mrs. BYRON.
Mr. LAUGHLIN.
Mr. LANTOS.
Mr. KANJORSKI.
Mr. ROE.
Mr. HAMILTON.
Mr. RANGEL.
Mr. PANETTA.
Mr. DE LA GARZA.
Mr. JACOBS.
Mr. SAWYER.
Mr. FAZIO.
Mr. TRAXLER.
Mr. MCMILLEN of Maryland.
Mr. MAZZOLI.
Mr. LIPINSKI.
Mr. MATSUI.
Mr. DELLUMS.
Mr. ENGEL.
Mr. FALEOMAVAEGA in two instances.
Mr. LEVINE of California.
Mr. CARDIN.
Mr. SCHEUER.
Mr. CAMPBELL of Colorado.
Mr. FEIGHAN.
Mr. APPLEGATE.
Mr. TOWNS.
Mr. KENNEDY.
Mr. DYSON.

## SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 231. Joint resolution to designate the week of June 10, 1990, through June 16, 1990, as "State-Supported Homes for Veterans Week."

## ADJOURNMENT

Mr. GREEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 13 minutes p.m.), the House adjourned until tomorrow, Thursday, May 24, 1990, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3227. A letter from the Assistant Secretary of the Army (Financial Management), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter January 1, 1990, through March 31, 1990, pursuant to Public Law 101-165, section 9008 (103 Stat. 1130); to the Committee on Appropriations.

3228. A letter from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notification of emergency munitions disposal, pursuant to 50 U.S.C. 1512(4) and 1518; to the Committee on Armed Services.

3229. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on confidence building measures by Poland and Hungary, pursuant to Public Law 101-179, section 702 (103 Stat. 1320); to the Committee on Foreign Affairs.

3230. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the President's determination that he has exercised the authority granted him under section 451(a)(1) of the Foreign Assistance Act of 1961, as amended, to provide emergency assistance to Nicaragua, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on Foreign Affairs.

3231. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO in April 1990, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3232. A letter from the Director, Office of Management and Budget, transmitting the annual report on the financial management by State and local governments of Federal financial assistance programs for the period ending January 30, 1990, pursuant to 31 U.S.C. 7507(b); to the Committee on Government Operations.

3233. A letter from the Acting Assistant Secretary for Indian Affairs, Department of the Interior, transmitting the first annual report on the implementation of the Indian Self-Determination and Education Assistance Act, pursuant to Public Law 100-472, section 205 (102 Stat. 2293); to the Committee on Interior and Insular Affairs.

3234. A letter from the Chairman, Federal Labor Relations Authority, transmitting a draft of proposed legislation to provide for a pay adjustment for the Chairman, members, and general counsel of the Federal Labor Relations Authority; to the Committee on Post Office and Civil Service.

3235. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the President's memorandum of justification for the transfer of funds to the international narcotics matters account for law enforcement training and for equipment for law enforcement units in Colombia, Bolivia, and Peru, pursuant to 22 U.S.C. 2349aa-3(a)(1); Public Law 101-231, section 3(f); jointly, to the Committees on Appropriations and Foreign Affairs.

3236. A letter from the Chairman, Architectural and Transportation Barriers Compliance Board, transmitting the Board's annual report of its activities during fiscal year 1989, pursuant to 29 U.S.C. 792; jointly, to the Committees on Education and Labor and Public Works and Transportation.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR: Committee on Rules. Supplemental report on House Resolution 399 (Rept. 101-494, Pt. 2). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 400. Resolution waiving points of order against consideration of the conference report and amendments reported from conference in disagreement on H.R. 4404 (Rept. 101-495). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TAUZIN:

H.R. 4886. A bill to provide for Federal recognition of the United Houma Nation of Louisiana, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEWIS of Florida (for himself, Mr. ROE, Mr. WALKER, Mr. NELSON of Florida, Mr. SCHEUER, Mr. WALGREN, Mr. HALL of Texas, Mr. BUECHNER, Mr. PACKARD, Mr. MCMILLEN of Maryland, Mrs. LLOYD, Mr. TANNER, Mr. GLICKMAN, Mr. MINETA, and Mr. TORRICELLI):

H.R. 4887. A bill to amend the Federal Aviation Act of 1958 relating to research for prevention of defects, failures, and malfunctions of aircraft, aircraft engines, propellers, and appliances, which could result in a catastrophic failure of an aircraft; to the Committee on Science, Space, and Technology.

By Mr. TAUZIN (for himself, Mr. JONES of North Carolina, Mr. BATEMAN, Mr. ORTIZ, Mr. PALLONE, and, Mr. DAVIS):

H.R. 4888. A bill to improve navigational safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Energy and Commerce.

By Mr. BARTLETT:

H.R. 4889. A bill to amend the Civil Rights Act of 1964 to streamline and strengthen the enforcement of laws that ban discrimination in employment, and for other purposes; to the Committee on Education and Labor.

By Mr. HALL of Texas:

H.R. 4890. A bill to provide disaster assistance for agricultural producers, and for other purposes; to the Committee on Agriculture.

By Mr. ANTHONY (for himself, Mr. ALEXANDER, Mr. HAMMERSCHMIDT, Mr. DURBIN, Mr. CHAPMAN, Mr. WATKINS, Mr. SYNAR, Mr. BRYANT, and Mr. HALL of Texas):

H.R. 4891. A bill to provide disaster assistance to agricultural producers, and for other purposes; to the Committee on Agriculture.

By Mr. CHAPMAN (for himself, Mr. WATKINS, Mr. ANTHONY, Mr. ENGLISH, Mr. MCCRERY, Mr. WILSON, Mr. HALL of Texas, Mr. ANDREWS, Mr. BARTON of Texas, and Mr. FROST):

H.R. 4892. A bill to provide disaster assistance to agricultural producers, and for other purposes; to the Committee on Agriculture.

By Mr. CONTE (for himself and Mr. MILLER of California):

H.R. 4893. A bill to amend the Food Security Act of 1985 to protect wetlands threatened by agricultural development; to the Committee on Agriculture.

By Mr. CONTE (for himself and Mr. DINGELL):

H.R. 4894. A bill to amend the Food Security Act of 1985 to preserve and restore wetlands threatened by agricultural development, and for other purposes; to the Committee on Agriculture.

By Mr. ESPY (for himself and Mr. ANTHONY):

H.R. 4895. A bill to amend the Federal Crop Insurance Act to expand the powers of the Federal Crop Insurance Corp., to provide for the offering of crop insurance to cover the cost of crop production, to establish regional crop insurance advisory committees, and for other purposes; to the Committee on Agriculture.

By Mr. KOSTMAYER:

H.R. 4896. A bill to amend section 21A of the Federal Home Loan Bank Act to establish additional procedures and requirements relating to the identification and disposition of environmentally sensitive land and other property with natural, cultural, recreational, or scientific values of special significance by the Resolution Trust Corp.; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEACH of Iowa:

H.R. 4897. A bill regarding the establishment of free trade areas between the United States and certain East European countries; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia (for himself, Mr. CLAY, Mr. CONYERS, Mr. DIXON, Mr. DYMALLY, Mr. ESPY, Mr. FAUNTROY, Mr. FLAKE, Mr. FORD of Michigan, Mr. GRAY, Mr. HAWKINS, Mr. HUGHES, Mr. KILDEE, Mr. MFUME, Mr. MURPHY, Mr. OWENS of New York, Mr. RANGEL, Mr. STOKES, Mr. TOWNS, Mr. WASHINGTON, Mr. WHEAT, Mr. WYDEN, and Mr. BROOKS):

H.R. 4898. A bill to amend the act of August 30, 1890 (commonly known as the Second Morrill Act), to remove language purporting to permit racial segregation in land-grant colleges that receive funds under that act; to the Committee on Agriculture.

By Mr. MORRISON of Connecticut:

H.R. 4899. A bill to extend for 2 years the operation of sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; to the Committee on the Judiciary.

By Mr. MORRISON of Washington (for himself, Mr. YOUNG of Alaska, Mr. CRAIG, Mr. STALLINGS, Mr. MARLENEE, Mr. ROBERT F. SMITH, and Mr. CHANDLER):

H.R. 4900. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. RANGEL (for himself, Mr. STARK, Mr. FRENZEL, Mr. GRADISON, and Mr. MCGRATH):

H.R. 4901. A bill to clarify the deductibility of liabilities incurred in connection with minimum premium plans; to the Committee on Ways and Means.

By Mr. RIDGE:

H.R. 4902. A bill to amend title 23 of the United States Code relating to toll roads, bridges, and tunnels; to the Committee on Public Works and Transportation.

By Mr. RIDGE (for himself, Mr. SAWYER, Mr. GILMAN, Mr. FORD of Michigan, Mr. GOODLING, Mr. CLINGER, Mr. FOGLIETTA, Mr. KANJORSKI, Mr. MCDADE, Mr. MURTHA, Mr. MURPHY, Mr. YATRON, Mr. KLECZKA, Mr. WELDON, Mr. UPTON, Mr. BURTON of Indiana, Mr. GALLO, Mr. GREEN, Mr. WOLPE, Mr. HORTON, Mr. OBEY, Mr. ASPIN, Mr. KASTENMEIER, Mr. MOODY, Ms. KAPTUR, Mr. GEKAS, Mr. WALGREN, Mr. SHUSTER, Mr. COYNE, Ms. SLAUGHTER of New York, Mr. FISH, Mr. DWYER of New Jersey, Mr. PAYNE of New Jersey, Mrs. BYRON, Mr. RINALDO, and Mr. SCHUMER):

H.R. 4903. A bill to amend title 13, United States Code, to ensure that military personnel stationed outside the United States are not excluded from any census of population; to the Committee on Post Office and Civil Service.

By Mr. RITTER:

H.R. 4904. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty for senior citizens in the standard deduction and the tax on Social Security benefits and to amend title II of the Social Security Act to increase the

exempt amount under the retirement test for individuals who have attained retirement age; to the Committee on Ways and Means.

By Mrs. SAIKI (for herself and Mr. BLAZ):

H.R. 4905. A bill to consolidate certain U.S. territories within existing organized U.S. jurisdictions; to the Committee on Interior and Insular Affairs.

By Mr. SCHEUER:

H.R. 4906. A bill to authorize research and evaluation programs for monitoring, detecting, and abating lead-based paint and other lead exposure hazards in housing, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. SLAUGHTER of Virginia:

H.R. 4907. A bill to exempt receipts of the Federal Hospital Insurance Trust Fund from the calculation of revenues for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. SMITH of Florida (for himself, Mr. FASCELL, Mr. LEHMAN of Florida, Mr. NELSON of Florida, Mr. JOHNSTON of Florida, Mr. GOSS, Mr. SHAW, and Mr. BENNETT):

H.R. 4908. A bill amending the Outer Continental Shelf Lands Act with respect to procedures for the cancellation of leases; to the Committee on Interior and Insular Affairs.

By Mr. ROBERT F. SMITH (for himself and Mr. DENNY SMITH):

H.R. 4909. A bill to assure stability of communities dependent on outputs of timber and other resources from national forests and public lands, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. WYDEN (for himself, Mr. AUCOIN, and Mr. DEFAZIO):

H.R. 4910. A bill to amend the Federal Water Pollution Control Act relating to oil and hazardous substance liability; to the Committee on Public Works and Transportation.

By Mr. YATRON:

H.J. Res. 576. Joint resolution concerning nondiscriminatory (most-favored-nation) trade status for the People's Republic of China; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. KENNEDY:

H. Con. Res. 332. Concurrent resolution concerning the status of Dr. Fang Lizhi and other prodemocracy activitists in China; to the Committee on Foreign Affairs.

By Mr. RINALDO (for himself, Mr. ROYBAL, Mr. HAWKINS, Mr. GOODLING, Mr. KILDEE, Mr. TAUKE, Mr. DOWNEY, Ms. SNOWE, Mr. HUGHES, Mrs. LLOYD, Mr. REGULA, Mr. COURTER, Mr. BLAZ, Ms. SLAUGHTER of New York, Ms. OAKAR, Mr. SKELTON, Mr. BORSKI, Mr. DERRICK, Mr. MANTON, Mr. CLARKE, Mr. CROCKETT, Mr. MCGRATH, Mr. FAWELL, Mr. FORD of Tennessee, Mr. TOWNS, Mrs. BENTLEY, Mr. GRANT, Mr. SMITH of New Jersey, Mr. VOLKMER, Mr. BILBRAY, Mrs. SAIKI, Mr. YATRON, Mr. DIXON, Mr. ERDREICH, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. GORDON, Mr. HENRY, Mr. STAGGERS, Mr. WAXMAN, Mr. NEAL of Massachusetts, Mr. JAMES, Mr. HORTON, Mr. DWYER of New Jersey, Mr. DYSON, Mr. WEISS, Mr. SYNAR, Mr. ACKERMAN, Mr. BRENNAN, Mr. PORTER, Mrs. PATTERSON, Mrs. MARTIN of Illinois, Mr. HAYES of Illinois, Mr. RICHARDSON, Mr. DURBIN, Mr. SHUMWAY, Mr. FAUNTROY, Mr. OWENS of Utah, Mr. MILLER of California, Mr. LEHMAN of Florida, Mr. RHODES, Mrs. BYRON, Mr. JOHNSTON of Florida, Mr. KANJORSKI, Mr. JONTZ, Mr. RANGEL, Mr. FALEOMAVAEGA, Mr. BATES, Mr. FROST, Mr. HERTEL, Mrs. BOXER, Ms. ROS-LEHTINEN, Mr. DYMALLY, Mr. SCHUETTE, Mr. SOLARZ, Mr. PAYNE of New Jersey, Mr. EVANS, Mr. STUDDS, Mr. BROWN of California, Mr. BOUCHER, Ms. SCHNEIDER, Mr. RIDGE, Mr. SAXTON, Mr. SPENCE, Mr. MCNULTY, Mrs. MORELLA, Mr. AUCOIN, Mr. PALLONE, Mrs. UNSOELD, Mr. WALSH, Mr. DUNCAN, Mr. KENNEDY, Mr. VENTO, Mr. UDALL, Mr. STALLINGS, Mr. EMERSON, Mr. GALLO, Mr. LIGHTFOOT, Mr. CLINGER, Mr. COSTELLO, Mr. WISE, Mr. BOEHLERT, Mrs. MEYERS of Kansas, Mr. MRAZEK, Mr. WYDEN, Mr. BILIRAKIS, Mr. SAWYER, Mr. POSHARD, Mrs. LOWEY of New York, Mr. STEARNS, Mr. THOMAS A. LUKEN, Mr. LANTOS, Mr. FRANK, Mr. SISISKY, Mr. PANETTA, Mr. HAMMERSCHMIDT, and Mrs. SCHROEDER):

H. Con. Res. 333. Concurrent resolution expressing the sense of the Congress concerning a 1991 White House Conference on Aging; to the Committee on Education and Labor.

## MEMORIALS

Under clause 4 of rule XXII,

399. The SPEAKER presented a memorial of the General Assembly of the State of Vermont, relative to artistic freedom; jointly, to the Committees on Appropriations and Education and Labor.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 60: Mr. BARNARD, Mr. HOAGLAND, Mr. ROHRABACHER, and Mr. CLARKE.

H.R. 101: Mr. BRUCE.

H.R. 539: Mr. QUILLEN and Mr. HOAGLAND.

H.R. 917: Mr. MCMILLEN of Maryland and Mr. CONDIT.

H.R. 1200: Mr. CONDIT.

H.R. 1400: Mr. MAZZOLI, Mr. NATCHER, Mr. WATKINS, Mr. ENGLISH, Mr. SCHUMER, Mr. CARPER, and Mr. PALLONE.

H.R. 1784: Mr. DWYER of New Jersey, Mr. LAFALCE, and Mr. DEFAZIO.

H.R. 1807: Mr. LEWIS of Georgia.

H.R. 2098: Mr. SABO and Mr. BORSKI.

H.R. 2319: Mr. HARRIS, Mr. CARR, and Mr. CAMPBELL of Colorado.

H.R. 2353: Mr. HAMILTON and Mr. NEAL of North Carolina.

H.R. 2386: Mr. MARKEY and Mr. COURTER.

H.R. 2418: Mr. COX.

H.R. 2437: Mr. MCCLOSKEY, Mr. STAGGERS, Mr. SOLOMON, and Ms. SCHNEIDER.

H.R. 2575: Mr. WOLPE, Mr. HOCHBRUECKNER, Mr. GEJDENSON, Mr. DE LA GARZA, Mr. SCHEUER, Mr. MILLER of Ohio, Mr. STANGELAND, Mr. HAMILTON, Mrs. LLOYD, Mr. MCDERMOTT, Mr. HANSEN, Mr. CONYERS, Mr. IRELAND, Mr. VENTO, Mr. SMITH of New Hampshire, Mr. KASICH, Ms. OAKAR, Mr. BLILEY, Mr. BROOKS, Mr. TOWNS, Mr. FEIGHAN, and Mr. COYNE.

H.R. 2600: Mr. KOLTER.

H.R. 3004: Mr. ALEXANDER and Mr. DYSON.

H.R. 3102: Mr. SCHAEFER.

H.R. 3106: Mr. SIKORSKI.

H.R. 3212: Mr. LANTOS.

H.R. 3347: Mr. DOUGLAS.

H.R. 3389: Mr. JAMES, Mrs. MORELLA, Mr. BATES, Mr. GIBBONS, and Mr. UDALL.

H.R. 3501: Mr. GILLMOR.

H.R. 3511: Mr. BRENNAN.

H.R. 3556: Mr. SOLOMON, Mr. SPRATT, and Mr. JOHNSON of South Dakota.

H.R. 3582: Mr. GOSS.

H.R. 3621: Mr. SMITH of New Jersey.

H.R. 3684: Mr. MARKEY, Mr. BOEHLERT, Mr. CLINGER, and Mr. IRELAND.

H.R. 3686: Mr. KYL.

H.R. 3859: Mr. FUSTER, Mr. SHAYS, and Ms. PELOSI.

H.R. 3896: Mr. EVANS.

H.R. 3906: Mr. HUGHES, Mr. ATKINS, Mr. VENTO, and Mr. GILLMOR.

H.R. 3957: Mr. CHAPMAN and Mr. MILLER of Washington.

H.R. 3965: Mr. HORTON.

H.R. 3970: Mr. YOUNG of Alaska and Mr. RAVENEL.

H.R. 3972: Mr. ROHRABACHER.

H.R. 3980: Mr. DYSON.

H.R. 4003: Mr. BUSTAMANTE.

H.R. 4042: Mr. BROOMFIELD and Mr. PETRI.

H.R. 4125: Mr. WATKINS, Mr. MRAZEK, Mr. JONTZ, Mrs. BOXER, Mr. COSTELLO, Mr. HYDE, and Mr. SMITH of Florida.

H.R. 4138: Mr. COSTELLO.

H.R. 4225: Mrs. ROUKEMA.

H.R. 4250: Mrs. BYRON.

H.R. 4262: Mr. MADIGAN, Mr. ERDREICH, Mr. SCHAEFER, and Mr. MACHTLEY.

H.R. 4274: Mr. COLEMAN of Missouri.

H.R. 4300: Mr. MARTINEZ.

H.R. 4355: Mr. LANCASTER, Mr. HUTTO, Mr. SUNDQUIST, and Mr. SPENCE.

H.R. 4369: Mr. MARLENEE.

H.R. 4371: Mr. MILLER of Ohio and Mr. BARTLETT.

H.R. 4405: Mr. JACOBS and Mr. LANCASTER.

H.R. 4417: Mr. FRANK, Mr. TOWNS, and Mr. ROE.

H.R. 4486: Mrs. MARTIN of Illinois.

H.R. 4487: Mr. UDALL, Mr. DINGELL, Mr. LANCASTER, Mr. MARLENEE, Mr. COMBEST, Mr. OBERSTAR, Mr. BATES, Mr. MATSUI, Mr. PENNY, Mr. DEFAZIO, Mr. COLEMAN of Texas, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. GEJDENSON, Mr. ECKART, Ms. PELOSI, Mr. KOLTER, Mr. SABO, Mr. KENNEDY, Ms. SLAUGHTER of New York, Mr. GRANDY, Mr. BEILENSON, Mrs. BOXER, Mr. LEVINE of California, Mr. SKELTON, Mr. TAUZIN, Mr. LAFALCE, Mr. FAZIO, Mr. MOODY, Mr. EVANS, Mr. KILDEE, Mr. NEAL of North Carolina, Mr. CAMPBELL of Colorado, Ms. KAPTUR, and Mr. COLEMAN of Missouri.

H.R. 4492: Mr. MAVROULES, Mr. WILSON, Mr. DONNELLY, Mr. SPRATT, Mr. BEREUTER, and Mr. BORSKI.

H.R. 4495: Mr. MCEWEN, Mr. BURTON of Indiana, Mr. FAZIO, Mr. FEIGHAN, Mr. COBLE, and Mr. SCHAEFER.

H.R. 4498: Mr. BUSTAMANTE, Mr. KASTENMEIER, Mr. FALEOMAVAEGA, Mr. DURBIN, Mr. BONIOR, Mr. CONTE, and Mr. MACHTLEY.

H.R. 4518: Mr. WILLIAMS, Mr. ACKERMAN, Mr. ENGLISH, Mr. BOUCHER, Mr. FAZIO, Mr. ATKINS, Mr. LANCASTER, Mr. FRANK, Mr. YATRON, Mr. PEASE, Mr. AUCOIN, and Mr. BROWN of California.

H.R. 4529: Mr. MILLER of California, Mr. TOWNS, Mr. FORD of Tennessee, Mr. FALEOMAVAEGA, Mr. ROYBAL, Mr. CROCKETT, Mr. FOGLIETTA, Mr. FAUNTROY, Mr. EVANS, and Mr. FROST.

H.R. 4590: Mr. TRAFICANT, Mr. WHEAT, Mr. ENGEL, and Mr. FOGLIETTA.

H.R. 4597: Mrs. MORELLA.

H.R. 4608: Mrs. MORELLA, Mr. SOLARZ, Mr. BUNNING, and Mr. KOLBE.

H.R. 4652: Mr. FAZIO and Mr. OWENS of New York.

H.R. 4700: Mr. NEAL of North Carolina, Mr. CLAY, Mr. HORTON, Mr. HUBBARD, Mr. TOWNS, Mr. DURBIN, Mr. SIKORSKI, Mr. HOCHBRUECKNER, Mr. WOLPE, Mr. ROE, Mr. YATES, and Mr. NELSON of Florida.

H.R. 4721: Mr. QUILLEN and Mr. FAWELL.

H.R. 4770: Mr JOHNSON of South Dakota, Mr. BLAZ, Mr. PALLONE, Mr. HORTON, Mr. MRAZEK, Mr. WALGREN, Mr. YATES, Mr. STAGGERS, Mr. WYDEN, Mr. UDALL, Mr. MATSUI, Mr. FAUNTROY, Mr. KOSTMAYER, Mr. MCDERMOTT, and Mr. MILLER of California.

H.R. 4788: Mr. KOLTER, Mr. HORTON, Mr. WOLF, and Mr. PENNY.

H.R. 4808: Mr. BATES.

H.R. 4814: Mr. GALLEGLY.

H.R. 4840: Mr. BROWN of California, Ms. KAPTUR, Mr. HAYES of Illinois, Mr. STUDDS, Mr. TRAXLER, Mr. WOLPE, and Mr. MCDERMOTT.

H.J. Res. 57: Mr. MCMILLEN of Maryland.

H.J. Res. 431: Mr. QUILLEN, Mr. PACKARD, Mr. MARKEY, Mr. MARTIN of New York, Mr. DYSON, Mr. BILBRAY, and Mr. BROWN of Colorado.

H.J. Res. 459: Mr. DARDEN, Mr. SAWYER, Mr. GINGRICH, Mr. BORSKI, Mr. MILLER of Washington, and Mr. KASICH.

H.J. Res. 467: Mr. THOMAS of Wyoming, Mr. FIELDS, Mrs. MORELLA, Mr. DUNCAN, Mr. RITTER, Mr. PETRI, Mr. LEWIS of Florida, Mr. GALLO, Mr. HAMMERSCHMIDT, Mr. LIGHTFOOT, Mr. HUNTER, Mr. BROWN of Colorado, Mrs. SAIKI, Mr. IRELAND, Mr. COX, Mr. DELAY, Mr. TAUKE, Mr. COBLE, Mr. GOSS, Mr. MCCANDLESS, Mr. HYDE, Mr. ROBERT F. SMITH, Mr. ROBERTS, Mr. DREIER of California, Mr. RHODES, Mr. NIELSON of Utah, Mr. CLINGER, Mr. MILLER of Ohio, Mr. MCCOLLUM, Mr. SMITH of New Jersey, Mr. PACKARD, Mr. ROGERS, Ms. SNOWE, Mr. GRANDY, Mr. DORNAN of California, Mr. CONTE, and Mrs. JOHNSON of Connecticut.

H.J. Res. 486: Mr. BROWDER, Mr. WHITTAKER, Mr. PARKER, Mr. LEWIS of Florida, and Mr. TALLON.

H.J. Res. 502: Mr. MCEWEN, Mr. LANCASTER, Mr. FROST, Mr. EMERSON, Mr. DAVIS, Ms. SLAUGHTER of New York, Mr. PARRIS, Mrs. UNSOELD, Mr. FRENZEL, Mr. CALLAHAN, Mr. CLINGER, Mr. LENT, Mr. HANSEN, Mr. SPENCE, and Mr. SCHAEFER.

H.J. Res. 516: Mr. LEWIS of California, Mr. BOEHLERT, Mrs. LLOYD, Mrs. BENTLEY, Mr. FLIPPO, Mr. SCHUETTE, Mr. DAVIS, Mr. HORTON, Mr. SCHULZE, Ms. MOLINARI, Mrs. ROUKEMA, Mr. VALENTINE, Mr. EMERSON, Mr. BUSTAMANTE, Mr. CONYERS, Mr. WOLF, Mr. TANNER, Mr. DWYER of New Jersey, Mr. ENGEL, Mr. LAGOMARSINO, Mr. HARRIS, Mr. FEIGHAN, Mr. COURTER, Mr. FUSTER, Mr. CARDIN, Mr. GALLO, Mr. HAYES of Illinois, Mr. HENRY, Mr. HYDE, Mr. HUTTO, Mr. DE LUGO, Mr. MINETA, Mr. PAYNE of New Jersey, Mr. WELDON, Mr. YATES, Mr. WEISS, Mr. GUARINI, Mr. GALLEGLY, Mr. BENNETT, Mr. MARTINEZ, Mr. WAXMAN, Mr. GREEN, Mr. GINGRICH, Mr. TALLON, Mr. MAVROULES, Mr. VANDER JAGT, Mr. WALSH, Mr. FORD of Tennessee, Mr. ESPY, Mr. GONZALEZ, Mrs. BOXER, Mr. FOGLIETTA, and Mr. SUNDQUIST.

H.J. Res. 524: Mr. FALEOMAVAEGA, Mr. RAY, Mr. HORTON, Mr. OWENS of Utah, Mr. SAVAGE, Mr. FROST, Mr. ERDREICH, Mr. LANCASTER, Mr. CHAPMAN, Mr. CLEMENT, Mr. HARRIS, Mr. DWYER of New Jersey, Mr. HATCHER, Mr. NIELSON of Utah, Mr. HAWKINS, Mrs. COLLINS, Mr. CRAIG, Mr. PARKER, Mr. HUGHES, Mr. RAHALL, Mr. STOKES, Mrs. LLOYD, and Mr. SERRANO.

H.J. Res. 538: Mr. HARRIS, Mr. TOWNS, Ms. KAPTUR, Mr. FOGLIETTA, Mr. TRAXLER, Mr. HENRY, Mr. HORTON, Mr. SMITH of Florida, Mr. JONTZ, Mr. FAZIO, Ms. SLAUGHTER of New York, and Mr. MCDERMOTT.

H.J. Res. 554: Mr. JONTZ, Mr. GEJDENSON, Mr. WOLF, Mr. FAZIO, Mr. ENGEL, Mr. PAYNE of Virginia, Mr. MURTHA, and Mr. NATCHER.

H.J. Res. 555: Mr. ANNUNZIO, Mr. ANTHONY, Mr. ARMEY, Mr. AUCOIN, Mr. BAKER, Mr. BARNARD, Mr. BERMAN, Mr. BLILEY, Mr. BROWN of Colorado, Mr. BRYANT, Mr. BUECHNER, Mr. BUNNING, Mr. BURTON of Indiana, Mrs. BYRON, Mr. CALLAHAN, Mr. CLINGER, Mr. CONYERS, Mr. COUGHLIN, Mr. COX, Mr. CRANE, Mr. DAVIS, Mr. DELAY, Mr. DICKINSON, Mr. DINGELL, Mr. DOUGLAS, Mr. DYSON, Mr. ECKART, Mr. EMERSON, Mr. EVANS, Mr. FASCELL, Mr. FRANK, Mr. GEREN, Mr. GILMAN, Mr. GINGRICH, Mr. GLICKMAN, Mr. GOSS, Mr. GRADISON, Mr. GUNDERSON, Mr. HANSEN, Mr. HEFNER, Mr. HERGER, Mr. HOAGLAND, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HUNTER, Mr. INHOFE, Mr. JENKINS, Mr. KANJORSKI, Mrs. KENNELLY, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. LOWERY of California, Mr. MARTIN of New York, Mr. MCCRERY, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCHUGH, Mrs. MEYERS of Kansas, Mr. MILLER of California, Mr. MURTHA, Mr. MYERS of Indiana, Mr. NIELSON of Utah, Mr. NOWAK, Ms. OAKAR, Mr. OBEY, Mr. ORTIZ, Mr. OXLEY, Mr. PACKARD, Mr. PALLONE, Mr. PARKER, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PETRI, Mr. PICKETT, Mr. PICKLE, Mr. PORTER, Mr. PURSELL, Mr. RAVENEL, Mr. REGULA, Mr. RIDGE, Mr. RINALDO, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROSE, Mr. ROWLAND of Connecticut, Mr. ROYBAL, Mr. RUSSO, Mr. SARPALIUS, Mr. SAWYER, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHUETTE, Mr. SHUMWAY, Mr. SIKORSKI, Mr. SISISKY, Mr. SLAUGHTER of Virginia, Mr. SMITH of New Hampshire, Mr. STANGELAND, Mr. STENHOLM, Mr. STUMP, Mr. SWIFT, Mr. TALLON, Mr. TAUZIN, Mr. TAYLOR, Mr. UDALL, Mr. UPTON, Mr. VALENTINE, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WALSH, Mr. WELDON, Mr. WHITTAKER, Mr. WHITTEN, Mr. WILSON, Mr. WISE, Mr. WYDEN, and Mr. YOUNG of Florida.

H. Con. Res. 172: Mr. DOUGLAS.

H. Con. Res. 259: Mr. WEISS, Mr. DURBIN, Mr. FEIGHAN, Mr. WOLPE, Mr. SKAGGS, Mr. MINETA, Mr. WILLIAMS, Mr. FORD of Tennessee, Mr. EVANS, Mr. CLARKE, Mr. LEVINE of California, Mr. LANTOS, Mr. KLECZKA, Mr. FLIPPO, Mr. DEFAZIO, Mr. MADIGAN, and Mr. TOWNS.

H. Con. Res. 279: Mr. CONDIT.

H. Con. Res. 313: Mr. LEWIS of California, Mr. SCHEUER, Mr. FAWELL, Mr. LENT, Mr. HERGER, Mrs. MARTIN of Illinois, Mr. HORTON, Mr. ARMEY, Mr. BUECHNER, Mr. PORTER, Mr. DONNELLY, Mr. COSTELLO, Mr. NIELSON of Utah, Mr. STEARNS, Mr. LAGOMARSINO, Mr. ANNUNZIO, Mr. DENNY SMITH, Mr. HYDE, Ms. LONG, Mr. LIPINSKI, Mr. KLECZKA, Mr. HERTEL, Mr. BATEMAN, Mr. FEIGHAN, Mr. BLILEY, and Ms. SLAUGHTER of New York.

H. Con. Res. 330: Mr. PAXON, Mr. MADIGAN, Mr. HILER, Mr. OXLEY, and Ms. MOLINARI.

H. Res. 134: Mr. RAHALL and Mr. FUSTER.

H. Res. 383: Mr. BALLENGER, Mr. BILIRAKIS, Mr. BURTON of Indiana, Mr. CRANE, Mr. DORNAN of California, Mr. KOLBE, Mr. KYL, Mr. LIVINGSTON, Mr. MACHTLEY, Mrs. MARTIN of Illinois, Mr. MILLER of Washington, Mr. PORTER, Mr. ROHRABACHER, Mr. SCHIFF, Mr. STUMP, and Mr. THOMAS of Wyoming.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

178. The SPEAKER presented a petition of the Board of County Commissioners, Monroe County, FL, relative to the interstate allocation of grant funds relative to the payment of Florida taxes; which was referred to the Committee on Government Operations.

# EXTENSIONS OF REMARKS

## HON. SIDNEY YATES OUTSTANDING CONTRIBUTIONS TO THE ARTS

**HON. RICHARD J. DURBIN**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. DURBIN. Mr. Speaker, I would like to take this opportunity to recognize my colleague, the Honorable SIDNEY YATES, for his outstanding contributions to the arts. As chairman of the House Appropriations Subcommittee on the Interior, Congressman YATES has worked hard to preserve the right of artistic freedom of expression. It is with great pleasure I submit the text of Congressman YATES' May 18 commencement address at the Juilliard School in New York, where he was presented with an honorary doctorate degree.

COMMENCEMENT ADDRESS OF SIDNEY R. YATES, RECIPIENT OF HONORARY DOCTORATE DEGREE

Thank you very much for your very gracious and generous statements. It's a very high honor you bestow upon me today.

I don't remember any other ceremony where my family—all my family—has come to see me honored. My wife, my son, my daughter-in-law, my three grandchildren—all have come here today to witness and enjoy this occasion.

To show you how they and I regard Juilliard, let me tell you about my grandson's reaction. Jonathan, aged 15, is a pianist for the Chicago Youth Orchestra. His sister, Lauren, who plays the violin, is a member of the Chicago Strings Orchestra.

When I told Jonathan I had been offered an honorary degree from a midwestern university, he didn't react. When I told him I'd been offered an honorary degree from another college, he dismissed it with an off handed—"That's nice."

When I told him that Juilliard had decided to give me an honorary degree his eyes widened and he exclaimed, "Juilliard—wow!" When I said, "Would you like to attend the ceremony," he said, "Would I? You know it, grandpa!" So, he and the family are here today.

At the hearing on the arts which I held as chairman of the Appropriations Subcommittee last Tuesday, the eminent cellist, Yo-Yo Ma, was a witness. As he sat down at the witness table, he congratulated me upon receiving an honorary degree from Juilliard. I thanked him and said: "You should be receiving the degree instead of me." He smiled and said: "I got mine last year." And then, Yo-Yo Ma sat down and played an unaccompanied Bach selection for us. That's the way to testify to a congressional committee.

I'm doubly honored to be part of the honorary class with Jessye Norman, Arthur Mitchell and Kevin Kline. I don't know why I've been asked to speak today when such stars are available—you can always hear a congressman—but think of hearing Jessye Norman's glorious voice, even her speaking voice. That would provide an everlasting memory.

Or Arthur Mitchell, whose eloquence is as charming, graceful and impressive as his dancing and choreography. Or Kevin Kline, the movie hero, now our modern-day Hamlet. As Kevin would say in Hamletese: "O, what an opportunity was missed here!"

I might be able to rise to the occasion, if I were as talented as Charlie Chaplin. I'm told that Charlie Chaplin, who was a wonderful mimic, gave a party one night for his friends in Hollywood. After dinner, he rose to entertain his guests, and in a magnificant tenor voice he sang "Una Furtiva Lagrima," as beautifully as Pavorotti or Domingo.

"Why, Charlie," exclaimed one of his friends, "I didn't know you could sing like that."

"I can't " replied Chaplin. "I was just imitating Enrico Caruso."

But, unfortunately, I'm no Charlie Chaplin. I'm a congressman—and for those who have an interest in the arts as you do, it is understandable that your suspicions should be aroused immediately, because the relationship between the Congress and the arts has not always been a happy one.

We might go back to ancient Greece to find the reason. We think of the ancient Greek civilization as one of glorious beauty—the sculptures, the ceramics, the architecture—But there was also the politician philosopher, the great Plato who called for the exiling of artists from his ideal republic because, he said, they endangered the stability of the state. They questioned too much. * * * They experimented, they reacted to emotion, rather than reason. They called for change. No wonder the politicians did not trust them.

If an enlightened person such as Plato looked upon artists with such a jaundiced eye, one can appreciate why members of Congress are not likely to be friendly to an artist's view of the life and society of his time.

When I came to Congress in 1949, a real Donnybrook was taking place between Congress and a number of acclaimed American artists over what was charged to be communist influence over the arts. It was the time of McCarthyism, and an exhibit of their works which was touring Europe was halted because of a congressional uproar that this was a show of communist art. The paintings were shipped back to the United States. Among the artists whose works were then sold for a fraction of their worth were some by Jackson Pollack, Mark Rothko, David Smith, Yasuo Kuniyoshi.

In 1950 while we were debating an appropriations bill for the Department of State, Congressman Busby from Chicago's south side offered an amendment to delete funds for a State Department art exhibit he had just seen in Paris. The communist influence in the paintings was overwhelming, he said. When I asked him to yield and to tell the House how he recognized communist influence, he replied, "I am glad you asked me that question. I spent a whole afternoon at the show with an art critic who pointed out the communist influence to me. For example, a painting which showed buildings tilted on an angle rather than upright—that was significant—it showed a tumbling of society's structure." Acid-tongued, John Rooney of New York then propounded the question, "Would the gentleman say that the leaning tower of Pisa is communistic?"

The fight that is taking place in the Congress today over federal funding for the arts is just as emotional and just as intense as was the fight over alleged communist influence in the arts. Except that today, it is not communism that is the bogey man. Today it is pornography—obscenity. Not all pornography, but only pornography is part of a National Endowment for the Arts (NEA) grant.

Suddenly NEA has become an embattled agency. Two grants to two little known photographers, Robert Mapplethorpe and Andre Serrano, became famous when far right conservatives attacked their photographs as obscene. Interestingly, those who attacked the grants had shown earlier their intention to end Federal funding for the arts. In concerted attacks, over and over again they use Mapplethorpe and Serrano as examples of typical NEA grants in the hope that constant repetition will impress the public—and the Congress—that NEA is the government's Sodom and Gomorrah.

Nothing is further from the truth. In the twenty-five years that NEA has been in existence there have been literally only a handful of grants that were controversial—about 20 out of 85,000 grants. 20 out of 85,000!

But the NEA opponents continue to talk of nothing else * * * Mapplethorpe and Serrano—M&S. The letters Members of Congress receive cite Mapplethorpe and Serrano indicating the belief that the NEA does nothing else but approve pornography. As far as they are concerned, NEA's other activities are meaningless. To them, fewer than 10 photographs by Mapplethorpe and Serrano, are much more important than the works done by NEA in building symphonies, chamber music, jazz, folk music, dance, theater, opera, museums, visual arts, and expansion arts throughout the country.

In reality, opponents of the NEA are demanding an impossibility—that NEA be the perfect agency, unlike any other government agency—that it not be allowed to make one error—one error that is alleged to be pornographic.

If we compare NEA's record with those of other government agencies:

The Department of Defense with its $700 toilet seats and the Stealth Bomber which rose in price from an estimate of $75 million to a cost of over $500,000,000 per plane.

Or the Savings and Loan debacle which will cost taxpayers hundreds of billions of dollars.

Or the corruption in the Housing Agency. These are examples of true obscenity.

The eminent violinist, Isaac Stern has written about that very special day in 1965 when he and many of his colleagues, world-renowned artists, gathered together with President Lyndon Johnson to sign the bill creating the National Endowments for the Arts and the Humanities:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"Our task," said Stern, "was to help devote excellence in the arts and to make that excellence more widely available and accessible to all our people. In the course of our first deliberations, we also knew that we had responsibilities to the creative minds and spirits in this country to make possible more and more opportunities for them to experiment, to have as we said, "the right to fail" without which the arts do not flourish. It was a memorable time. It produced remarkable results." That was Isaac Stern and his belief is still NEA's mission—NEA must not be afraid to carry out that mission because of congressional criticism.

Art is freedom, the freedom to follow one's own instincts and impulses. The freedom to explore the forbidden. The freedom to create something new and original.

The great artists of our time, or of any time, have been rebels and risk-takers. Like the Impressionists, who were called Les Fauves—the Wild Beasts, or the Abstract Expressionists—The New York School, whose paintings? Do you remember what your neighbor said: "Why, my 5 year old could paint that."

Listen to the wise words of a man who understands what censorship is, because he has suffered under it. The famous cellist, Mstislav Rostropovich, who played under censorship and under American freedom, testified before a Senate committee that: "Art and literature should be judged by the conscience of the creator, his peers in the field and all of the people, not by a separate bureaucracy, artificially compressing the arteries and veins of this life-sustaining circulation. Art is the soul of its people. 'Not by bread alone' does man survive. Especially the United States, with its great number of diverse ethnic and religious groups, must preserve in an untouchable state the right of each person to express himself."

Europe is freeing itself from communist authoritarianism. How ironic that in America some would impose government standards upon our art.

The conflict in the Congress over NEA will reach a showdown in a few weeks. I believe we will be able to defeat the conservatives' efforts to restrict the right of artistic freedom of expression. I believe we will win the battle to continue government funding for the arts.

I want to commend you upon achieving your degrees today. Graduating from Juilliard which is one of the preeminent centers of artistic excellence in the country is a wonderful achievement. Today, I ask you to go further—to take up the fight for other rights—to complement the priceless and magical gifts with which you are endowed—to assure your being able to be seen, to be heard, to be enjoyed. Become an active participant in other social problems so that your precious talent can be shared.

Being an artist is not enough. You must be a citizen, as well, for only through the participation of talented people like you can our country survive.

I urge you, I challenge you to become involved in fostering our country's well-being. We need better schools—better race relations—better care for the poor—better care for the elderly—health services for the indigent—civil rights—work experience and training for the unemployed and the youth who have never had a chance. We need expanded horizons on science—cleaner environment—decent housing—the elimination of religious bigotry—food for those who are ill-fed—and safer foods—research for crippling and deadly diseases like cancer, AIDS, strokes, heart attacks—and a myriad of other needs.

You, the fortunate, the able, the blessed, are needed desperately. Give of yourself more than your great artistic talent. Give so that the unfortunate can join with you in a more beautiful and enhanced society. It's your future. It's your world. You must couple your talent with civic participation. It will bring even more satisfaction and joy than you can imagine.

I'm very proud to receive this degree today when you receive yours. I wish you good music—good theater—good dance—good luck—and a good, good life.

## WHITE HOUSE CONFERENCE ON AGING

### HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. RINALDO. Mr. Speaker, today, I am introducing a concurrent resolution to urge President Bush to announce the convening of the 1991 White House Conference on Aging as soon as possible. Joining me as original sponsors of this resolution are the chairman of the House Aging Committee, Representative ED ROYBAL, the entire membership of the committee, Representative GUS HAWKINS, chairman of the House Education and Labor Committee, and the chairman and ranking Republican member of the Human Resources Subcommittee, Representatives DALE KILDEE and TOM TAUKE.

The 1991 White House Conference on Aging was authorized by the Older Americans Act Amendments of 1987, Public Law 100-175. It would continue an important tradition of decennial conferences on issues affecting senior citizens, a tradition that has its roots in 1951 during the administration of President Harry Truman and which includes White House Conferences on Aging in 1961, 1971, and 1981. Previous White House Conferences have provided a nonpartisan forum for dialog on aging issues, and we believe that the 1991 Conference, adequately planned and administered, can be just as successful and constructive as its precedessors.

Unless this Conference is announced soon, however, its success will be jeopardized. Planning for the 1981 conference, for example, was begun in 1979, and many aging organizations have expressed deep apprehension at the delay in the announcement and preparations for the 1991 Conference.

I urge my colleagues to join me in pressing ahead to begin work on this Conference without delay.

## A TRIBUTE TO THE COALITION OF HISPANIC AMERICAN WOMEN

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pleasure that I come before you today to recognize the tremendous contributions by the Coalition of Hispanic American Women and to salute the individuals who will be honored at their annual Vivian Salazar Quevedo Awards Banquet on June 6, 1990.

The Coalition of Hispanic American Women was founded in the fall of 1979 in Miami. CHAW's founders recognized the need for a unified forum to promote and advance Hispanic women. Today, Mr. Speaker, CHAW is among the most influential organizations in south Florida, with a membership comprised of civic, professional, and business leaders.

CHAW's objectives are threefold: To propel Hispanic American women to leadership positions in the workplace and in the community, to seek equal access and opportunity for the entire community, and to create public awareness of the presence and concerns of Hispanic American women. Throughout the year, CHAW sponsors a variety of activities that highlight the needs and interests of Hispanic American women. These include legislative and political forums, a job-assistance seminar conducted in Spanish for Hispanic American women in transition, the Women's History Month celebration, the Vivian Salazar Quevedo Memorial Award for an outstanding community woman, scholarship awards to exceptional female graduating seniors of Hispanic heritage, and the December "Holiday Happening"—of which proceeds go to the battered women's shelter.

Mr. Speaker, the theme of the Coalition of Hispanic American Women's Vivian Salazar Quevedo Banquet is "The Hispanic Woman: Inspiration for the 90's." Viewing the contributions of the honorees, their actions are truly inspirational. During this annual event, the 1990 board of directors and officers will be installed, the Vivian Salazar Quevedo "Woman of the Year" Award will be presented to a Hispanic woman who has made significant contributions to other women as well as the local community. The Woman of the Year Award is presented in memory of Vivian Salazar Quevedo, a founding member of CHAW who distinguished herself for her service to the community and local media as a channel 23 executive.

In addition to the Woman of the Year Award, five high school graduates will receive the Elena Mederos/Concha Melendez Scholarship for their outstanding academic and community service records. The program is named in honor of Elena Mederos, a Cuban-American human rights activist, and Concha Melendez, a Puerto Rican educator, who paved the way for access and success for many young women with limited opportunities. Another award for leadership will be presented posthumously to Leslie Pantin, Sr., who was an insurance executive who was a true inspiration to all Cuban-Americans due to his extensive public service.

I would like to commend the Coalition of Hispanic American Women for all of their tireless efforts to further the role of the Hispanic woman in our great Nation. Mr. Speaker, I would also like to congratulate all past recipients of the awards and scholarships, and I would like to congratulate all the nominees for the Vivian Salazar Quevedo Award which includes Josie Romano, Luisa Garcia-Toledo, Aleida Leal, Aida Levitan, and Ana Maria Haar

and also the scholarship recipients: Clara Sanchez, Laura Escandel, Oxana Gonzalez, Hilda Abad, and Eugenia Vega.

The actions of all members of CHAW and the banquet's honorees deserve commendation for their civic pride, efforts of good will, and philanthropic activities.

## PUBLIC SCHOOL 93 IN THE BRONX CELEBRATING ITS 60TH ANNIVERSARY—1930-90

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. SERRANO. Mr. Speaker, Public School 93, the Bronx, was erected in 1928-29 by the George Colon Construction Co., Inc., at the cost of $770,000 and was ready for occupancy on February 3, 1930. At the time of the opening of the school, no streets were cut through to it. Story Avenue existed only for the block on which the school lies. The school was erected on land formerly owned by the Watson family.

At the time of its construction, Public School 93 was considered state of the art for the semi-rural Bronx community it served. The school contained 33 classrooms, an auditorium, and a gymnasium. As was typical of the 1930's, the schoolyard was covered with ashfill until it was later covered with cement.

During the last 60 years, thousands of school children have passed its portals into American society. Its former students owe their successes to the labor of dedicated teachers. All who have studied and taught at Public School 93 found happiness and a lifetime of profit.

On this day our Nation takes pride in recognizing Public School 93's 60 years of educational service to the Soundview community in the Bronx, NY.

## THE FAMILY AND MEDICAL LEAVE ACT

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. MAZZOLI. Mr. Speaker, I wish to commend to the attention of my colleagues the following editorial from the Louisville Courier-Journal on the Family and Medical Leave Act which the House approved—with my support—on May 10.

[From the Courier-Journal, May 10, 1990]

AN ALL-AMERICAN BILL

Like Lemmings rushing into the sea, the Republicans in the White House could not resist opposing legislation in support of the American family—even at the risk of belying their claims of being "pro-family," motherhood and apple pie.

At stake is a bill that ought to delight President Bush and others who champion those traditional values: It would require larger employers to provide minimal, unpaid leaves of absence following the birth or adoption of a child or to cope with major illnesses.

When the House of Representatives takes up the bill—which could occur today—it should ignore the veto threat delivered earlier this week by White House Chief of Staff John H. Sununu and enact the Family and Medical Leave Act.

The White House, meanwhile, might rethink its opposition to this modest step toward adapting the workplace to dramatic social changes that have occurred over the last two decades. If the Bush administration truly wants to be "pro-family," it should examine the workplace more carefully, for that's where more and more of America's moms and dads are.

The basic, non-ideological point behind the Family and Medical Leave Act is that supportive public policy must be enacted to help growing numbers of working families cope with the competing demands of work and home. With single-parent and two-worker families forming a larger majority in America each year, such policies are no longer "fringe" benefits but essential aids to the well-being of families—and of children.

More simply, people should not have to risk losing their jobs to cope with the birth or adoption of a child or a serious illness. Yet thousands of Americans do that each year—and often end up collecting unemployment as a result.

Virtually every industrialized nation already recognizes that, including many that boast more productive workforces than America's. Most provide more generous benefits than any contemplated in Congress.

The bill under consideration substantially reduces the scope of the original Family Leave proposal introduced four years ago. It would require employers to provide up to 12 weeks a year of unpaid leave for workers to care for newborn or newly adopted children or to deal with serious medical problems in the immediate family.

Both male and female workers would be eligible, an important principle of equity. But the bill's scope is decidedly limited: Companies employing fewer than 50 workers—about 95 percent of all businesses—would be exempt.

The most compelling criticism of the bill is that, because the leaves would be unpaid, they would benefit only workers who can afford to forego their wages temporarily. It would begin, however, to provide basic job security for people who have no choice, including women who must take time off from work to recuperate from pregnancy.

The Family and Medical Leave Act is far from the definitive word on this complex issue. It will not eliminate the stress on American families—or on businesses that value mothers and fathers as workers. But it represents a step toward reducing the sometimes overwhelming conflict that exists between those two roles.

## CHAPIN HOME FOR THE AGING HONORS JOHN A. GAMBLING

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. ACKERMAN. Mr. Speaker, I rise so I may share with you and all of our colleagues a little bit of the glorious history of New York City—my hometown.

In a few days, the citizens of the city will celebrate the anniversary of the Chapin Home for the Aging.

Mr. Speaker, this place is truly among the institutions of New York. Shortly after the Civil War, an outstanding woman of vision and energy, Mrs. Edwin H. Chapin, realized a growing need within the growing city was for a humane home where the senior citizens who served their city and Nation so well could find support and rest. So in 1869, the Chapin Home was opened.

As the new century took hold, so too did the industrial revolution with its associated hustle, bustle, and pollution. As I have indicated Mrs. Chapin was a woman of great vision and, in 1910, she moved the home to a better location. She chose a new home for her home in Queens, a Borough of New York without equal, and my home county.

Today, Mr. Speaker, on the 121st anniversary of the Chapin Home for the Aging, plans are underway for more improvements, including a new 220-bed building.

As part of this year's celebration, the wise trustees of the Chapin Home have decided to honor another institution equally essential to New York—radio personality, John A. Gambling. John A. is the current host of WOR Radio's "Rambling With Gambling" program.

For 65 years, the city has started its day listening to "Rambling With Gambling." John A.'s father, John B., inaugurated the broadcast in 1925. In the future, the station will continue to bring news, information, and intelligent conversation to the city with John A.'s son, John R., at the helm.

Today, when Billboard magazine formally recognizes John A. Gambling as "Air Personality of the Year," these experts are simply acknowledging fact.

When the listeners of the metropolitan area choose John A. as New York's favorite radio personality, they merely confirm what is already well known to John A.'s fans and competitors alike.

Not as well known, John A. and his wife, Sally, are the proud parents of three children and five grandchildren. Besides John R., the Gambling daughters, Ann and Sarah, pursue their own professional careers while maintaining their families.

New York City ia a richer place because both John A. Gambling and the Chapin Home are there.

Mr. Speaker, I call upon all my colleagues in the U.S. House of Representatives to join me in paying tribute to John A. Gambling and the Chapin Home for the Aging.

## IN RECOGNITION OF BEVERLY LANG, R.N., CRITICAL CARE NURSE OF THE YEAR, 1990

### HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mrs. BYRON. Mr. Speaker, I would like to take this opportunity to recognize and honor Beverly Lang, R.N., head nurse of the intensive care unit, Sacred Heart Hospital in Cumberland, MD. Ms. Lang was named the 1990 Critical Care Nurse of the Year on May 19, 1990. This award, which is sponsored by Critical Care magazine and Siemens Medical Sys-

tems, Inc., is given annually to the outstanding critical care nurse in the country. Western Maryland is fortunate to have such a skilled and caring person among its health care providers. Ms. Lang is an inspiration to all who come in contact with her, and we send her our congratuations.

I would like to insert the testimonial prepared by her colleagues:

CRITICAL CARE NURSE RECOGNITION AWARD

(Submitted by Mary D. Simmons, R.N., on behalf of nominee, Beverly Lang, R.N.)

For Intensive Care Nurse Manager Beverly Lang, caring, compassion, empathy, competence and professionalism are more than words; they are descriptions of her life. Her twenty years of outstanding contributions and dedicated service as a critical care nurse can be summarized in three words, success, achievement and humanitarianism.

Mrs. Lang's success is a measure of what she is, a sensitive, caring person who places the needs of her patients and their families first and foremost in everyday practice. She is a true patient advocate. She does not simply believe her patients deserve the best, she delivers it. Whether it is an arm around a grieving family member or an active participant in a code situation, Mrs. Lang is there giving her best.

Mrs. Lang's achievements are expressed by her in-depth knowledge of critical care, by her astute observations and professional judgement that has many times provided a favorable outcome for a patient during a life and death situation. She is a nurse who dedicates herself to upholding the standards of care as outlined by the AACRN with the utmost of professionalism and practice. She is ever learning, ever sharing, ever striving to improve the already perfected quality of patient care she offers and is ever giving of herself for others. She has achieved the respect of her co-workers, the gratitude of her patients and a degree of professionalism which is admired by all who know her.

Mrs. Lang is a humanitarian in every sense of the word. To the family weary from waiting she is as a drop of fresh water cooling their thirst for information, for understanding, for empathy. She has developed a form of communication whereby words are not always necessary but where the expression of understanding is always obvious. She has the ability to touch the heart of another human being with love and compassion. To her patients she is a nurse, a teacher, a counselor, a gentle, competent guide through a world of pain and suffering. To her co-workers she is a leader, a teacher, a helper, a friend. To a family member she is someone to talk to, to lean on, to laugh with, to cry with.

Mrs. Lang is a success by what she is, she is an achiever by what she does and a humanitarian through it all. Mrs. Lang is an outstanding example of nursing at its best.

## INTRODUCE LEGISLATION TO PLACE PROPERTY AND CASUALTY INSURANCE COMPANIES IN A "CATCH-22" SITUATION

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. RANGEL. Mr. Speaker, I am pleased today to join with Representatives PETE STARK, BILL FRENZEL, BILL GRADISON, and RAY MCGRATH in introducing legislation that would address a problem that places property and casualty insurance companies in a "catch-22" situation with the Internal Revenue Service over the treatment of termination reserves on minimum premium plans.

A minimum premium plan is a funding arrangement for accident and health insurance under which most of what would otherwise be paid as premiums is paid into a separate account which is then drawn upon by the insurance company to fund the payment of benefits under the plan. Economically, a minimum premium plan is indistinguishable from a conventional accident and health insurance plan.

This bill would clarify that amounts reflected as reserves or other liabilities on a property and casualty company's annual statement for future claim payments under minimum premium accident and health plans are properly deductible during the policy period.

These companies need legislative relief because the IRS has reached alternative, but inconsistent, conclusions on these minimum premium plans. In two separate determinations—Technical Advice Memorandum 87-05-003 and GCM 39609—the IRS denied any unpaid loss deduction for the taxpayer's minimum premium plan reserves on the ground that the risk of loss does not arise until the policy terminates or until the employer ceases to make required payments. In the same rulings, however, the IRS denied an unearned premium deduction for the same amounts, arguing that the risk of loss already occurred. These two conclusions are inconsistent.

An essentially identical provision was included in the Senate Committee on Finance's version of the 1989 tax bill last year. The provision was dropped, however, when all miscellaneous amendments were deleted on the Senate floor. During debate on the 1989 tax bill on the House floor, it was stated that the Committee on Ways and Means would revisit this problem early this year if it was not resolved at the administrative level; similar comments were made on the Senate floor. It has not been satisfactorily resolved, and therefore it is necessary to proceed with legislation.

I urge other Members of the House to join with me in supporting this legislation.

## THE WILLIAM LLOYD GARRISON SCHOOL IN THE BRONX CELEBRATING ITS 90TH ANNIVERSARY OF EDUCATION IN THE SOUTH BRONX 1900-90

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. SERRANO. Mr. Speaker, in John McNamara's book, "McNamara's Bronx," he describes Special Primary School 31 as the "Castle on the Concourse." Situated at the Grand Concourse and East 144th Street, Special Public School 31 is an impressive edifice. Named in honor of the abolitionist and editor of the Liberator, the antislavery newspaper, the William Lloyd Garrison School is a prime example of the collegiate gothic styles. The school is marked by tudor arches, gabled bays, label moldings, stone tracery, and central entrance tower.

Only July 15, 1986, the Landmarks Preservation Commission of the city of New York designated Special Public School 31 an official New York City landmark.

The school has won other honors as well. Public School 31 has long been noted for its effective administration, leadership, and superior achievement in meeting the needs of its pupils. Public School 31 has established an enviable scholastic record. The school has been in the forefront of low income children with a high quality education in the liberal arts. Nearly 72 percent of its pupils read at or above grade level.

When former Secretary of Education William S. Bennett visited in January 1987, he stated that "Public School 31 is a school that works in circumstances where many believe schools cannot work."

The school has been recognized by successive New York City schools chancellors, the United Kingdom Secretary of State for Education, the New York State Commissioner of Education, journalists and scholars.

In the 90 years since the Garrison School opened its doors its teaching staff has pursued a commitment toward a quality education for the poor.

When inaugurating his antislavery newspaper, the Liberator, William Lloyd Garrison wrote, "I am in earnest—I will not equivocate—I will not excuse—I will not retreat a single inch and I will be heard." Those same words reverberate throughout the Garrison School in the South Bronx. Shared by their principal, Carol Russo, the teachers and students crusade for educational excellence.

In recognition of the 90th anniversary of Special Public School 31—the William Lloyd Garrison School—I ask that this body offer salutatory praise.

## TRIBUTE TO ADM. WILLIAM NARVA

SPEECH OF

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 10, 1990*

Mr. ACKERMAN. Mr. Speaker, I want to join with my colleagues in thanking and saying goodbye to Adm. William Narva. This remarkable American has devoted 35 years of his life to the service of our country. And, within the Congress, we have been fortunate indeed to call Admiral Narva our doctor for the past 4 years.

I consider Bill Narva my friend, even though he often ordered me away from the delicious New York foods that I love the most—those with the high cholesterol count.

Many times he made a personal sacrifice and separated me from a corned beef sandwich, which he would then eat himself in order to save me.

He also certainly has been a friend to this House. As consultant to the Attending Physician to the Congress from 1966 through the

assumption of that position himself in 1986, Admiral Narva has offered wise counsel and advice to all of us.

Permit me for a moment, Mr. Speaker, to touch upon just a few of Bill's other accomplishments. He holds the Defense Superior Service Medal, the Legion of Merit, the Navy Meritorious Service Medal, and the Navy Commendation Medal.

The good Doctor headed the Dermatology Service at Bethesda Naval Hospital. He was the man in charge of the Surgeon General's Office at the Navy Department. The admiral also has served as special assistant to the Secretary of the Navy and, for two decades, he was consultant to the White House Physician.

In short, Mr. Speaker, this great American has given a great deal of talent, energy, and creativity to all of us. And, he permitted us to answer the question, "Is there a doctor in the house?"

Goodbye, Bill. Thank you. We all wish you good luck and good health. I will miss you.

## INTRODUCES LEGISLATION TO INDEX BASE AMOUNTS FOR SOCIAL SECURITY TAXATION

### HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. RINALDO. Mr. Speaker, I recently introduced legislation to index the base amounts for the taxation of Social Security benefits and eliminate the bracket creep which reclaims Social Security benefits from an additional 390,000 older Americans every year. My bill, H.R. 4601, would provide an annual inflation adjustment to the income thresholds which trigger the tax on benefits, finally bringing this tax into line with our overall national tax policy.

The taxation of Social Security benefits was first enacted with the 1983 Social Security Reform Act. At the time the outlook for Social Security was dire and the collapse of the system seemed imminent. In view of the severity of the crisis, Congress chose to adopt the recommendations of the National Commission on Social Security Reform in their entirety rather than risk a fractious debate.

Today, things are different. In the 6 years since this debate, the Social Security trust fund has grown substantially, and cost-of-living adjustments for beneficiaries are routinely provided. Inflation, in the meantime, has eroded these income thresholds by 20 percent, and it will continue unless we take action to stop it. Eacy year that these thresholds are not adjusted for inflation, more people will be indexed into this tax bracket and find themselves relinquishing a portion of their Social Security benefits as taxable income. Moreover, while the law was intended to affect only the rich, each year it bites more and more deeply into the fabric of the middle class.

This tax works silently and stealthily against our Nation's senior citizens. Each year, without benefit of a vote, our failure to index these thresholds casts the pall of taxation over an additional 390,000 older Americans.

When this matter was first debated, indexing tax brackets was a new and unfamiliar concept, but the system has changed significantly. Following the Tax Reform Act of 1986, indexation formed the foundation of a more equitable tax system. Clearly, now is the time to index the base amounts for Social Security benefit taxation as well. I urge my colleagues to join me in this fight by cosponsoring H.R. 4601.

## HIALEAH GARDENS CELEBRATES FLAG DAY

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Ms. ROS-LEHTINEN. Mr. Speaker, one of the most emotion-filled days of my first few months in Congress was the day when I led my colleagues in reciting the Pledge of Allegiance: "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice of all." Those words fill me with pride in being American, a Member of this illustrious body, and a representative of the people of the 18th District of Florida. On June 14, 1990, we will be celebrating National Flag Day. It is a pleasure to commend the city of Hialeah Gardens for their leadership in celebrating this holiday.

Mayor Gilda Oliveros has planned an event which will be the largest in the Miami area. It will concur with the 7 p.m. Pledge of Allegiance celebration in Washington, DC, "Pause for the Pledge of Allegiance." It is Mayor Oliveros' wish to encourage our young people to love and respect our flag, symbol of our national pride and of everything which we are.

Americans everywhere will pause for a moment on June 14, 1990, at 7 p.m. to say simultaneously the 31 words of the Pledge of Allegiance to the flag. The effect of this simple ceremony each year is a stimulating experience at home and a sign of unity abroad. This concept transcends age, race, religion, national origin, and geographic differences. The idea of the annual "Pause for the Pledge of Allegiance" originated in Baltimore, MD, in 1980. Since then, the concept has swept across the country in a grassroots movement supported by a broad spectrum of individuals, organizations, and businesses. In 1987, Mrs. Nancy Reagan became honorary chairman of the national "Pause for the Pledge of Allegiance" program.

As Americans, we taken pride in observing and celebrating this day honoring our flag and at the same time celebrating our history as a people, united under this great symbol of democracy and equality. I am proud to join the people of Hialeah Gardens, Mayor Oliveros, and Americans everywhere in reciting the Pledge of Allegiance to the flag.

Mr. Speaker, as a Florida certified teacher, and the mother of two young girls, I know how very important it is to educate our children, teaching them with our example to love this wonderful land of ours, the true home of the free and the brave, and an example for so many nations to follow.

## TRIBUTE TO THE LATE HENRY JULIUS BRZEZANSKI

### HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mrs. BYRON. Mr. Speaker, the Library of Congress and Maryland's Sixth Congressional District lost a faithful public servant with the passing of Henry Julius Brzezanski.

Mr. Brzezanski was born in Poland and defended that country during World War II. He was captured by the Nazis and kept as a POW for almost 5 years. He was able to escape, and rejoin the allies, first with the French Foreign Legion before being repatriated with the Polish Free Army. For this the French Government recognized his sacrifices and awarded him several decorations.

Mr. Brzezanski worked at the Library of Congress for 34 years as senior staff reference bibliographer. His last assignment, prior to his retirement in 1982 was in the newspaper and current periodical reading room. During his 34 years in Government service he served the President of the United States as well as Members of Congress and the U.S. Senate.

Henry Brzezanski was a patriot, a dedicated public servant, and a father who instilled in his children—first generation Americans—the love of freedom he so desired for his native Poland. He was a true American and will be missed.

## AMBASSADOR JEANE KIRKPATRICK ON THE ADMINISTRATION'S SHORT-SIGHTED POLICY IN THE MIDDLE EAST

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. LANTOS. Mr. Speaker, Ambassador Jeane Kirkpatrick was the distinguished representative of our Government to the United Nations. Earlier this week, the Washington Post published an excellent analysis of the administration's policy in the Middle East by Ambassador Kirkpatrick.

She notes that the administration "views Israel rather the same way the 'moderate' Arab States view Israel: As the source of the problem, the state that has disrupted the peace of the region." In fact, Israel is the only democracy in the region, the only country that shares our commitment to a parliamentary democracy with full and free elections, the only state committed to freedom of speech, a free press, and the rule of law.

The administration's misguided view of the Middle East has already provoked the collapse of the grand coalition government in Israel. An unfortunate statement from the administration on Jerusalem forced the Congress to adopt legislation reaffirming that Jerusalem is the capital of Israel, and this vote took place at a time when it was not particularly helpful to the administration's efforts to

bring peace in the area. The administration has bent over backward to be accommodating to the PLO, but at the same time the PLO has continued to provoke and incite unrest among the Palestinian population of Israel. At the same time the PLO continues to support terrorist activites.

Mr. Speaker, I insert Ambassador Kirkpatrick's outstanding article in the CONGRESSIONAL RECORD, and I urge my colleagues to give it the careful and thoughtful attention it deserves.

[From the Washington Post, May 21, 1990]

BUSH'S MIDEAST MYOPIA

(By Jeane Kirkpatrick)

The whole world knows that George Bush is not enthusiastic about "the vision thing"—about discussing or even articulating broad principles. Nonetheless, Bush does have perspectives on the world and its many problems, and his widely touted "pragmatism" has not prevented these perspectives from becoming progressively clear during the past year. They can be discerned in his choices and in his rhetoric in concrete situations.

Last week, for example, Bush welcomed to the White House Tunisia's President Zine al-Abidine Ben Ami, who in November of 1987 seized power from Tunisia's aging leader, Habib Bourguiba. Neither President Ben Ami's manner of arriving in power nor of retaining it through an uncontested presidential "election" diminished Bush's enthusiasm for this man, whom he described as "an intermediary between Arab countries and the West." Bush also described Tunisia as having "consistently supported a peaceful negotiated resolution to the Middle East issues, including the Arab-Israeli conflict."

Tunisia is, of course, the site of U.S. conversations with PLO representatives and, although the main purpose of Ben Ami's trip to the United States was to seek help with his country's pressing economic problems, he brought to the White House a president-to-president message for Bush from Yasser Arafat.

Though little specific information on the Bush-Ben Ami conversations was released, the assistant secretary of state for the New East, John Kelly, told reporters that the two leaders shared a concern about continuing Israeli settlements in the "occupied territories."

Indeed, Bush and the State Department seldom miss an opportunity to underscore their opposition to Israeli settlements on the West Bank, Gaza, and sometimes East Jerusalem. This attitude toward settlements is but one of a number of indicators of Bush's perspective on the Arab-Israeli conflict. Even though the president probably thinks of himself as "even-handed", the evidence suggests that Bush views Israel rather the same way the "moderate" Arab states view Israel: as the source of the problem, the state that has disrupted the peace of the region.

Administration proposals for the area usually assume that the Palestinian dream of a homeland should be fulfilled and that it is the duty of the smallest state in the region—Israel—to provide the land to satisfy that dream. Thus, Bush Administration proposals regularly focus on settlements as a major obstacle to peace, as if, of all the possible elements in a peace process, the United States should first demand a unilateral Israeli concession.

From this perspective it is natural, almost inevitable, that the Bush administration should have felt irritation with Yitzhak Shamir and his government. If you start from the premise that Israeli is the obstacle and that the peace process depends on preliminary Israeli concessions, and you have no great revulsion to the character of the PLO, then naturally Shamir's refusal to negotiate with the PLO—and his insistence on dealing on questions concerning the West Bank and Gaza with residents of the West Bank and Gaza—would seem tenacious, rigid, inflexible. A terrible irritation.

If you believe, as the Bush administration does, that of all conflicts in the Middle East and the world, you have a special vocation for settling this one, then you will not be overly concerned about whether your pressure causes the collapse of a government that you see as an obstacle to peace.

The Bush Administration's perspective on the Arab-Israeli conflict ignores a number of other factors, such as, for example, the necessary role of Jordan in any resolution of the conflict. In fact, the president and Secretary of State James Baker maintain an eerie silence on Jordan's absent contributions to the peace process—as it maintains silence on Syria's continuing occupation of Lebanon and its assistance to the most extreme PLO factions, silence on Iraq's threats and silence on the continuing Arab boycott.

I desire to be fair and accurate. The Bush administration has protected Israel in the United Nations Security Council. Only last week the United States made it clear that it would veto a draft Arab resolution accusing Israel of violating the Fourth Geneva Convention, declaring settlements in the West Bank and Gaza illegal, affirming a contentious Palestinian "right to return" and defining Jerusalem as an "occupied Arab territory."

There is room for the state of Israel within the Bush administration's perspective. It would be an Israel stripped of the West Bank, Gaza and East Jerusalem, coexisting with the Palestinian "entity" governed by the PLO and already recognized as a full-fledged state by a majority of governments in the world.

But a stripped-down Israel—with a PLO state on one border, an intimidated Jordan on another, a Syrian-occupied and terror-infested Lebanon on the third, a growing Islamic fundamentalist movement on all sides and with Iraq's Saddam Hussein brandishing weapons of mass destruction—would hardly satisfy the hopes of most israelis or most Americans for peace in the Middle East.

There is a better vision of peace for the area. It begins, as in Europe, with an end to war, free elections, economic cooperation and negotiations among the parties. But seeking that better vision requires a different perspective.

## JACK KEMP'S VISION

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 23, 1990*

Mr. RANGEL. Mr. Speaker, there is one Cabinet Secretary who stands tall with a vision about how to confront drugs and other social problems falling on our Nation. He is Jack Kemp, Secretary of Housing and Urban Development.

Jack Kemp knows that until we as a Nation attack the root causes of drug abuse—homelessness, joblessness, lack of education, lack of health care, lack of family, lack of opportunity, and above all, poverty—drug addiction and drug-related crime will continue to be a plague upon our land.

For benefit of our colleagues, I would like to place into the RECORD an article in the Washington Post, May 7, 1990, by William Raspberry, "Kemp Believes."

The article follows:

[From the Washington Post, May 7, 1990]

KEMP BELIEVES

(By William Raspberry)

The thing to understand about Jack Kemp, secretary of Housing and Urban Development, is that he believes.

Another secretary, given the budget restraints of the no-new-taxes Bush administration, might have been content to clean up the scandal-plagued agency he inherited 16 months ago. But Kemp believes he can make a difference—that he really can expand housing opportunities for the poor.

Another Republican administrator might have taken the growing enthusiasm for converting public housing to tenant ownership as a way of getting the government out of the public-housing business. Kemp believes it can be a way of transforming the poor.

Another fast-talking conservative might have found himself blaming "tax and spend" Democrats for the budget deficits that have become an all-purpose excuse for not helping the poor. Kemp has convinced himself that while more money would be helpful, a lot of good can be accomplished by using existing funds more intelligently.

He believes it. Thus he was in Dallas last week, pledging to create a million new homeowners from the ranks of the poor by 1992: not by shoveling out money to developers but by using existing law to deliver financial aid and technical assistance to the poor themselves.

There will be no more HUD scandals like those now the subject of congressional hearings, he told a public-housing tenant-management convention. "We've depoliticized it," he said. "There's no longer any room for political influence or profiteering at the expense of low-income people and neighborhoods. President Bush gave me a mandate to clean up, and we're doing that."

But he hopes to do a lot more than that, he said on his recent tour, which also included stops in Milwaukee and Detroit. On each of the visits, he repeated his pledge of a million new home owners, many of them to come from rehabilitating vacant public housing and selling it to the poor. And at every stop, he plumped for tenant-management of existing public housing, citing the success of programs in Washington and St. Louis.

"You wrote a piece about [Washington University assistant professor] Michael Sherraden and his idea that ownership of assets changes behavior," he told me in an interview after his return to Washington. "That's exactly right. Owning something changes behavior in ways that no amount of preaching middle-class values ever could. Democracy can't work without the component that goes to the heart of what freedom is all about—the chance to own a piece of property. That's why I'm determined to do what I can to put assets in the hands of the poor."

Kemp has discovered a truth that still escapes many of the traditional advocates of the poor: that ownership and control of assets is a surer path out of dependency than even the most generous income-transfer programs. And he is preaching that gospel to the poor themselves.

"Jack Kemp has talked face to face with more poor people in the last four years than most of the civil rights leaders have in the last 20," said Robert L. Woodson of the Center for Neighborhood Enterprise, who was in Dallas when the secretary made his pledge of a million new homeowners. "He understands that how you get something matters more than what you get. Just giving people money and free housing only earns you contempt for the gift. Giving them a chance to manage or own their housing gives them a stake in maintaining it."

A visit to to the tenant-managed Kenilworth-Parkside project in Washington or Cochran Gardens in St. Louis confirms the idea. Not only is the condition of the properties vastly improved since the tenants assumed management, but the rental collections are up to the point that they are actually turning a profit.

Still not everyone is convinced. Two weeks before Kemp's visit, Detroit Housing Authority Director Thomas Lewis said in an interview with the Free Press that training tenants to manage their own public-housing properties was too expensive and that HUD management rules were too complicated for them to learn.

He said it was all right for tenants to "play a role" in reviewing tenant applications or helping to maintain buildings and grounds, but insisted that actual management was best left to "what is already in place: a network of professionals—like myself—men who have made this their life's work."

Kemp minced no words when he learned of Lewis' remarks.

"I'm profoundly disappointed with Mr. Lewis for saying it would be too difficult for low-income people to do what I and President Bush want to do—give all public housing residents in America a chance . . . to manage and control and ultimately own public housing units within three to four years," he said. "What is [Lewis] saying? That low-income people don't know how to train? Are they to be perpetually poor?"

Kemp stressed that Lewis, whose agency's 9,500 units has a vacancy rate of 55 percent, does not work for HUD. "If he had been a HUD employee, he'd be looking for a new job right now." But he added that he had invited Lewis to Washington to see tenant-management at first hand.

"I think it's a new war on poverty, with or without Mr. Lewis," he said. "And it's one I intend to pursue, with or without Mr. Lewis."

Jack Kemp believes.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 24, 1990, may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### MAY 25

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

2:00 p.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

#### MAY 29

10:00 a.m.
Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings to examine competitive issues in infant formula pricing.
SD-226

#### JUNE 1

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for May.
Room to be announced

#### JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to examine certain Federal agency ethics programs.
SD-342

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.
SD-138

#### JUNE 6

9:00 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume hearings on S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on the B-2 program.
SD-106

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine the Federal Trade Commission's (FTC) antitrust jurisdiction over foreign companies.
SR-253

Veterans' Affairs
To hold hearings on the nominations of Donald L. Ivers, of New Mexico, and Jonathan R. Steinberg, of Maryland, each to be an Associate Judge of the U.S. Court of Veterans Appeals.
SR-418

#### JUNE 7

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Judiciary
To hold hearings to examine the effects on judicial nominees belonging to private clubs that discriminate.
SD-226

Veterans' Affairs
To hold oversight hearings on veterans prosthetics and special-disabilities programs.
SR-418

10:00 a.m.
Finance
To hold hearings on S. 2411, to establish quotas on U.S. imports of textiles and textile products, and non-rubber footware, from all countries, with the exception of certain textiles and textile products from Canada and Israel.
SD-215

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

#### JUNE 12

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration's satellite programs.
SR-253

Select on Ethics
To hold hearings on matters relating to the investigation involving Senator Durenberger.
SH-216

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on Eastern Europe.
SD-138

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2358, providing U.S. consumers the opportunity to enjoy the technological advancement in sound recording by use of digital audio tape recorders.
SR-253

Rules and Administration
Business meeting, to consider proposed legislation authorizing funds for fiscal year 1991 for the Federal Election Commission, proposed legislation providing for the management of Senate official mail, proposed legislation authorizing the purchase of 1991 "We the People" calendars for the use of the Senate, and other pending calendar business.
SR-301

2:00 p.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 1884, to establish a Bureau of Recyclable Commodities within the Department of Commerce to promote the use of recycled materials derived from municipal refuse.
SR-253

Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold hearings on proposed U.S. military training for Peru.
S-116, Capitol

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration's ocean and coastal programs.
SR-253

Veterans' Affairs
To hold hearings on title II and section 402 of S. 2100, relating to veterans physician pay and health issues, S. 1860, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war, S. 2455, to provide for recovery by the United States of the cost of medical care and services furnished for a nonservice-connected disability, S. 2456, to extend expiring laws authorizing the Department of Veterans Affairs to contract for needed care and to revise authority to furnish outpatient dental care, and other proposed legislation.
SR-418

JUNE 19

9:30 a.m.
Veterans' Affairs
To hold hearings on the nominations of James W. Holsinger, Jr., of Virginia, to be Chief Medical Director, and Stephen A. Trodden, of Virginia, to be Inspector General, both of the Department of Veterans Affairs.
SR-418

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1974, to require new televisions to have built in decoder circuitry designed to display closed-captioned television transmissions.
SR-253

JUNE 21

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the effectiveness of the Program Fraud Civil Remedies Act.
SD-342

Rules and Administration
To hold hearings on S. Con. Res. 122, to establish an Albert Einstein Congressional Fellowship Program, and S. Res. 206, to establish a point of order against material that earmarks research moneys for designated institutions without competition.
SR-301

JUNE 26

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.
Room to be announced

2:00 p.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 1772, to prohibit State lotteries from misappropriating professional sports service marks.
SD-226

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.
Room to be announced

JUNE 28

9:30 a.m.
Veterans' Affairs
Business meeting, to consider pending legislation relating to veterans compensation and health-care benefits.
SR-418

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485